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PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, September 2, 1976*

The House met at 12 o'clock noon.

Rev. Charles A. Mallon, St. Matthias Church, Lanham, Md., offered the following prayer:

The Lord is just in all His ways and holy in all His works. The Lord is near to all who call upon Him, to all who call upon Him in truth.—Psalms 145: 18.

Father, why do You draw near to some and yet remain hidden from others? Is it this element of truth Your Word proclaims. Send Your Holy Spirit upon us that we might see ourselves in truth as You see us.

Allow us to enter into Your presence that we might adopt Your ways and Your works.

For You are sovereign, righteous, just, and loving. You have eternal life. You are all-present, all-powerful, and all-knowing. You are both immutable and truthful. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 2710. An act to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2228) entitled "An act to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MONTOYA, Mr. RANDOLPH, Mr. MUSKIE, Mr. MCCLURE, and Mr. BAKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3131. An act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes; and

S. 3651. An act to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

CONGRESSMAN KETCHUM REINTRODUCING BILL TO REPEAL THE BILINGUAL PROVISIONS OF VOTING RIGHTS ACT AMENDMENTS OF 1975

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, several weeks ago, I had the privilege to attend a swearing-in ceremony of new citizens in my hometown of Bakersfield, Calif. The first question asked me by this new group of American citizens was, "Why is election material printed in Spanish when we had to demonstrate a written and spoken comprehension of English in order to become naturalized citizens?"

That is a question I pose to my colleagues today. Congress, in its infinite wisdom, has decreed that ballots and election material be printed in languages other than English when 5 percent of the population in a given area consists of language minorities with a fifth grade education or less, yet the law states that individuals cannot become citizens unless they are able to comprehend the Constitution. The Constitution, incidentally, is written in English—not Spanish, or Chinese, or French, or German.

My constituents, intensely proud of their new American citizenship, cannot comprehend the rationale behind making election material available in languages other than English. Quite frankly, neither can I. I will be reintroducing my bill to repeal the bilingual provisions of the Voting Rights Act Amendments of 1975 and I urge you to join me as a cosponsor.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON HOUSE ADMINISTRATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on House Administration:

WASHINGTON, D.C.,
September 2, 1976.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of Title 44, Section 1 of the United States Code, I would like to inform you of the membership of the Joint Committee on Printing. The statute requires that the Chairman and two members of the Committee on House Administration serve as the representatives of the House on the Joint Committee on Printing.

The membership consists of Frank Thompson, Jr., John Brademas, and William L. Dickinson.

Similarly, Section 132b of Title 2 of the United States Code requires that the Chairman and four other members of the Committee on House Administration be members of the Joint Committee of Congress on the Library.

Pursuant to the terms of that statute, the following members of the Committee on House Administration are members of the Joint Committee of Congress on the Library: Frank Thompson, Jr., Lucien N. Nedzi, John Brademas, Samuel L. Devine, and W. Henson Moore.

With kind regards,
Cordially,
FRANK THOMPSON, Jr.

JIMMY CARTER'S TAX REFORM SHOULD APPLY TO HIS OWN INCOME TAX

(Mr. LATTA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. LATTA. Mr. Speaker, we have heard a lot about the need for tax reform from a certain Democratic candidate for President, notwithstanding the fact that his party has been in control of the Congress for the last 22 years, and have played the major role in writing all of our tax laws during that period. Yesterday, it was revealed that this certain candidate for President paid only $17,484.14 in 1975 on a total income of $136,138.92.

Yes, Jimmy Carter, we do need tax reform so that people with $136,138.92 in income in 1 year will pay more than $17,484.14 in Federal income taxes. This figures out to only 12.8 percent of your income. During this same year, President Ford paid $94,568 in Federal income taxes on a gross income of $251,991. President Ford's Federal income taxes amounted to 37.5 percent of his gross income for the same period.

OMNIBUS ANTITRUST BILL

(Mr. McCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up-or-down vote on its amendment next Wednesday afternoon.

Now, it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House conferees rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith" and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the conference committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO HAVE UNTIL MIDNIGHT SEPTEMBER 7, 1976, TO FILE REPORT

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may have until midnight Tuesday, September 7, 1976, to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO MEET TODAY DURING 5-MINUTE RULE

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to sit during the 5-minute rule today, Thursday, September 2, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

VISITORS CENTER COMPLETION SHOULD NOT BE DELAYED

(Mr. PEPPER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. PEPPER. Mr. Speaker, I noticed in the paper yesterday that the Department of the Interior was requesting a House committee to defer the completion of the Visitors Center at the old Union Station here in Washington. I think we should not lose sight of the fact that this Capital belongs to the people of this country and not to us here.

But, we do have the responsibility for making this Capital accessible to the men and women, the boys and girls and children of this great America who want to receive here the inspiration they always receive from visiting the Capital of this country. We have been years trying to provide some suitable tourist center for the people of this country so that they can have appropriate restroom facilities, eating facilities, and parking facilities for their cars and the like. We have made a lot of progress now toward the completion of that project. It will not cost any less to finish it in the future than it costs now, so I hope that we will go straight ahead with the completion of this project so that the people of this country can come here and enjoy their visit to the Nation's Capital.

REPLY TO IZVESTIA

(Mr. FASCELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, if the Soviet Union had a free press, I would be tempted to write to the editor of the newspaper Izvestia, which published an article on August 29 criticizing Radio Liberty, Radio Free Europe, and the Commission on Security and Cooperation in Europe.

According to the article, Radio Liberty and Radio Free Europe are creatures of the CIA. The article also said that the Commission, which was formed by Congress to monitor implementation of the Helsinki accord, should probe the stations for harming international cooperation.

In truth, the radio stations seek to carry out the goals of the Helsinki agreement "to facilitate the freer and wider dissemination of information of all kinds."

The Soviet Union, however, is in blatant violation of the agreement by its continued jamming of the radio broadcasts, and the same is true of other East European countries. The jamming is inconsistent with the Helsinki agreement and should be terminated.

If the Commission could involve itself in the internal affairs of another nation, which it cannot, it would strive to eliminate the harassment and humiliation of Soviet Jews and others who are not being permitted to emigrate.

Instead, the Commission's role is to monitor and encourage compliance with the Helsinki agreement. In this connection, the Commission staff has participated in an intensive 3-day review conference conducted by the Board for International Broadcasting at the headquarters of Radio Free Europe and Radio Liberty in Munich.

The staff has reported that the activities of both radio stations are fully consistent with the agreement. The stations are no longer affiliated with the CIA in any way. They are independent by an act of Congress. It is unfortunate that their broadcasts of news, information, entertainment, and cultural and education programs are not permitted to reach the people as provided for by the agreement.

To prevent citizens of any state from exercising their basic right to be informed does great harm to the relaxation of international tensions.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE REPORT ON H.R. 15

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tonight to file its report on the bill H.R. 15.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT SEPTEMBER 3, 1976, TO FILE REPORT ON S. 22

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight Friday, September 3, 1976, to file a committee report on S. 22 relating to copyright revisions.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

THE HOUSE OF REPRESENTATIVES HAS REJECTED ITS PUBLIC RESPONSIBILITY

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, the freewheeling faction which controls this House has now dealt a blow to hopes for reforming it: Not only does the legislative appropriations bill which we debated yesterday pose several glaring targets for reform, but the rule by which the leadership required us to debate it would not allow those reforms to be offered. In fact, I find myself speaking here a day late because even that rule could not be fully debated yesterday in the time allotted. I am very disappointed that the House, by only a 4-vote margin, has rejected its public responsibility.

Instead, the controlling faction chose to throw the public a mere three amendments as a sop. It did not allow even the consideration of an amendment making our expenditure records more accessible and informative; or, an amendment making our barbershops, restaurants, and other hidden privileges pay their own way; or, an amendment refusing any additional money to the problem-plagued House Administration Committee. Previously, general appropriations bills have always been open to amendments, which this year have ranged in number up to 14 or 15 a bill.

Mr. Speaker, if this Congress continues to bellow nothing more than "The public be damned," then I sincerely hope that it will hear a resounding echo this November 2. These reforms were needed months ago, they are certainly needed now.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1472) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1472

Resolved, That effective August 10, 1976, the expenses of investigations and studies to be conducted by the Select Committee on Narcotics Abuse and Control, not to exceed $111,667, including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Organization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such select committee, signed by the chairman of such select committee, and approved by the Committee on House Administration. Not to exceed $7,500 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Narcotics Abuse and Control shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1472 is sponsored by the distinguished gentleman from New York (Mr. Wolff), the distinguished gentleman from Florida (Mr. Burke), with the strong support and deep interest of the chairman of the Committee on the Judiciary, the dean of the New Jersey delegation, the gentleman from New Jersey (Mr. Rodino). It calls for an amount not to exceed $111,667 for the work of the Select Committee on Narcotics Abuse and Control, a matter of great interest to all of us, I am sure.

Mr. Speaker, the enabling resolution, House Resolution 1350, was the subject of House Report No. 94-135. The funding resolution, House Resolution 1472, in the amount of $111,667, is effective August 10, 1976. The funds are requested for 145 days, through the remaining days of the Congress.

This was unanimously agreed to by the Committee on House Administration.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING EMPLOYMENT OF SPECIAL COUNSEL TO REPRESENT THE SERGEANT AT ARMS

Mr. THOMPSON. By direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1497) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1497

Resolved, That the Sergeant at Arms is authorized to employ with the approval of the Speaker a special counsel to represent the Sergeant at Arms in all civil proceedings relating to the pending action entitled Larry Pressler against William E. Simon, et al., civil action numbered 76–0792 in the United States District Court for the District of Columbia, in which action the Sergeant at Arms is named as a defendant.

Sec. 2. Such expenses as are necessary to employ a special counsel shall be paid from the contingent fund of the House on vouchers signed by the Sergeant at Arms and approved by the Speaker.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Strike out all after "*Resolved*", and insert in lieu thereof the following: That the Sergeant at Arms is authorized to employ with the approval of the Speaker and the chairman of the Committee on House Administration a special counsel to represent the Sergeant at Arms in all civil proceedings relating to the pending action entitled Larry Pressler against William E. Simon, et al., civil action numbered 76–0782 in the United States District Court for the District of Columbia, in which action the Sergeant at Arms is named as a defendant.

Sec. 2. Such expenses as are necessary to employ a special counsel shall be paid from the contingent fund of the House on vouchers signed by the Sergeant at Arms and approved by the Speaker and the chairman of the Committee on House Administration, and shall not exceed the sum of $50,000 without the further approval of the Committee on House Administration.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. Thompson) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, House Resolution 1497 would provide the Sergeant at Arms of the House with counsel to undertake his representation in the matter of Pressler against Valeo.

It is the opinion of the Committee on House Administration that a necessary defense against such motion for summary judgment which is currently pending on the subject of the one-House veto provision of the Federal Salary Act provides sufficient control over the delegation of legislative authority to preserve the proper separation of powers.

Subsequent to the plaintiff's motion for summary judgment the Justice Department moved to intervene as a plaintiff in the case of *Clark* v. *Valeo*, Civil Action No. 76-1227 in the U.S. District Court for the District of Columbia, in order to challenge the constitutionality of the one-house veto provisions of the Federal Elections Campaign Act of 1971, as amended. As a result, the Justice Department, without separate counsel, might be in a position of having to argue both sides on this very significant issue.

There is a limitation on the expenditure available for counsel to the Clerk. It is the considered judgment of the gentleman from New Jersey and his colleagues on the Committee on House Administration that this is essential.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I am delighted to yield to my distinguished friend, the gentleman from Ohio, for purposes of debate only.

Mr. DEVINE. That is the only purpose of my asking the gentleman to yield, and I thank the gentleman for yielding.

Mr. Speaker, I think it should be pointed out for purposes of the record that the Justice Department requested this be done in order that they not be in a position of representing conflicting interests, and that is why the legislation is here today.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman. That is exactly the case.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. DEVINE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ROSENTHAL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 690]

Abzug
Alexander
Andrews, N.C.
Armstrong
Badillo
Bell
Bolling
Brinkley
Broomfield
Burton, John
Chappell
Chisholm
Collins, Ill.
Conlan
Corman
de la Garza
Diggs
Drinan
du Pont
Early
Esch
Eshleman
Forsythe
Fuqua
Goldwater
Green
Harrington
Hawkins
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Horton
Hutchinson
Jarman
Jones, Ala.
Karth
Kindness
Lehman
Lott
McCloskey
McCollister
McEwen
McKinney
Mathis
Matsunaga
Meeds
Melcher
Meyner
Mitchell, Md.
Murphy, Ill.
O'Hara
Peyser
Railsback
Rees
Riegle
Ruppe
Ryan
St Germain
Santini
Scheuer
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Teague
Udall
Waxman
Young, Alaska
Zeferetti

The SPEAKER. On this rollcall 358 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PRINTING THE REPUBLICAN PLATFORM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, may I make the observation that this is $400 less than the cost of putting the Democratic platform in the RECORD.

Mr. Speaker, I also wish to state that this is not the only way this platform is the better of the two.

PERSONAL EXPLANATION

Mr. PATTEN. Mr. Speaker, on August 31, 1976, I was unable to be on the floor to record my approval of the conference report on the Government in the Sunshine Act, rollcall No. 677. Unfortunately, I was occupied in an important meeting.

Mr. Speaker, I have long supported the legislation, and had I been able to be present to vote on the Senate bill, S. 5, I would have repeated my original vote in favor of passage.

PROVIDING PROTECTION FOR THE SPOUSES OF MAJOR PRESIDENTIAL AND VICE-PRESIDENTIAL NOMINEES

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15371) to provide for protection of the spouses of major Presidential and Vice-Presidential nominees, and ask that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama for the immediate consideration of the bill?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman from Alabama explain to us the importance of this bill?

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield.

Mr. FLOWERS. Mr. Speaker, I will say to the gentleman from Maryland, this bill, I think, really corrects a deficiency in the current law which now extends Secret Service protection to the President and to his immediate family and to the Vice President, as well as to the nominees for President and Vice President. If we obtain this unanimous consent and the House considers the amendment that I am about to offer, this would allow for the Secret Service to accord to the spouses of the Vice Presidential nominee of the Republican Party and the Presidential and Vice Presidential nominees of the Democratic Party the same kind of protection that is now afforded to the President's wife.

Under the amendment that I would offer, it would call for Secret Service protection to be afforded to the President-elect and the Vice President-elect in the same manner as is now afforded to the President and the Vice President.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Alabama and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: Page 2, following line 2, insert the following new section:

"SEC. 2. Section 3056 of title 18, United States Code is amended to read as follows:

"(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, the members of his immediate family, the President-elect, the Vice President or other officer next in the order of succession to the office of President, and the Vice President-elect, *and the members of their immediate families unless the members decline such protection*; protect the person of a former President and his wife during his lifetime, the person of a widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined; protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad; detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; detect and arrest any person violating any of the provisions of sections 508, 509, and 871 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907 and 1909 of this title; execute warrants issued under the authority of the United States; carry firearms; offer and pay rewards for services or information looking toward the apprehension of criminals; pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on his certificate; and perform such other functions and duties as are authorized by law. In the performance of their duties under this section, the Director, Deputy Director, Assistant Directors, Assistants to the Director, inspectors, and agents of the Secret Service are authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable in their the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Moneys expended from Secret Service appropriations for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.

"(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service or other Federal law enforcement agent engaged in the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170) or by section 1752 of title 18, United States Code, shall be fined not more than $300 or imprisoned not more than one year or both."

Mr. FLOWERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill, H.R. 15371, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

EXTENSION OF LEAA

Mr. CONYERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13636) to amend title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13636, with Mr. ROSENTHAL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, August 31, 1976, title I was considered as having been read, and pending was an amendment offered by the gentleman from California (Mr. WIGGINS).

Without objection, the Clerk will re-report the amendment.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 16, line 2, strike "(a)" and on lines 10 through 24, and on page 17, lines 1 through 5, strike the whole of section 108 (b) and (c).

Mr. WIGGINS. Mr. Chairman, present law requires that the administrator promulgate physical and service standards for the improvement or renovation of local jails. The committee, in the bill before us, has expanded this obvious intrusion into matters which are within a locality's jurisdiction by adding, in addition to renovation and improvements, the word "construction," so that the duty of the administrator is to promulgate physical and service standards with respect to new construction, renovation and improvement of all State and local correctional institutions and facilities which may be funded in part by LEAA funds. No Federal funds made available under this act are available for these purposes unless the States and localities accept the Federal standards.

The amendment which I have offered strikes this responsibility. Why is it, ladies and gentleman—why is it that the Federal Government is getting into the business of design and construction of local detention facilities, and I emphasize service standards, with respect to activities conducted therein? The answer, according to the committee, has been that there is a failure on the part of some of the States and some communities to design and construct "modern" facilities, or "enlightened" detention facilities.

To be sure, some States and some localities have erred, but what makes anyone in this Chamber think that the Federal administrator is infallible? If a locality makes a mistake, only its citizens suffer, and the Nation may indeed profit from the experience; but if a Federal administrator errs, the Nation as a whole suffers.

We all feel strongly, I think, about the elimination of unnecessary Federal bureaucratic intrustion into local affairs. Removing the Federal Government from the business of setting standards for the construction, modification, renovation or improvement of all local detention facilities is an opportunity to put up or shut up on our often-expressed convictions. This is a modest step, of course, but even such a modest step can leave a footprint in the shifting bureaucratic sands which others may follow.

The administrator, if my amendment is adopted, still will have the power to develop suggested standards in jail and prison design, but localities would have the option of accepting his advice or rejecting it, and they should be given that option. Unless my amendment is accepted, however, every item of construction for jail facilities will require the locality to seek prior approval of a Federal administrator and, Members of the Committee, that is simple foolishness.

Keep the faith, I say, that the people who sent us here have enough commonsense to build a local jail without Federal guidance. I urge support of my amendment.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. GOLDWATER. Would the gentleman explain to the House, if his amendment is adopted, what then would be the conditions under LEAA funds as it pertains to the penal institutions in the local community?

Mr. WIGGINS. If a State wished to utilize its LEAA funds for the construction of a jail, subject to the dollar limitation, it could do so, but it would not have to come hat-in-hand to the Federal administrator to supervise its design in order to gain a determination as to whether it meets standards promulgated by the administrator.

Mr. GOLDWATER. In other words, if **the gentleman's amendment** is adopted, those funds could be used for the planning and construction of a jail, but the construction and the standards will be left up to the local restraints and conditions and desires.

Mr. WIGGINS. Of course. There is no limitation on the availability of funds for jails. It just says the architect is not going to be here in Washington.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to continue the discussion raised by the gentleman from California (Mr. GOLDWATER) whose question goes to the reason that this provision was incorporated rather easily by the subcommittee and accepted by the full Committee on the Judiciary and, as a matter of fact, extended in the full committee by the gentleman from Wisconsin (Mr. KASTENMEIER) whose subcommittee it is to oversight correctional facilities of a Federal nature.

The reason is that this amendment does not restrict or inhibit the nature of the kinds of facilities that would be constructed or designed by correctional administrators at the local and even at the State level. I repeat to the gentleman from California that this would not inhibit it. There is a requirement that there be established minimal standards, both physical and service in nature.

The reason that this was added was not on the whim of some members of the committee, but it was based upon the GAO reports that were fully circulated to each and every Member of the House, which attempted to prove that, even though we had set aside 20 percent of the part E funds for corrections since 1971, the fact of the matter is that the results have been much less than satisfactory.

It was based on these considerations that it was thought that we ought to require that these minimal standards be incorporated and required as a matter of law.

As the gentleman's question suggested, they do not inhibit in any way the nature of the kinds of facilities or the philosophy that the correctional officials would employ or the nature of the program that State or local units might apply for funding through LEAA.

So this provision, we think, is the result of some of the oversight that this committee was able to have made effective since the last time we considered this legislation.

For those reasons, I urge its consideration.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding.

When the gentleman speaks of acceptable physical and service standards, that, in the case of construction, might be so many square feet to each individual, and so on; in other words, a very general standard?

Mr. CONYERS. The gentlewoman is correct.

Mrs. FENWICK. If the gentleman would yield further, I would like to ask about the service standards, which are far more complex. Could the gentleman give me an example of what the service standards would be? What does the gentleman suggest?

Mr. CONYERS. We would be talking about the number of people that would be incarcerated and how many of them would be allocated to each one of them, in terms of minimal standards of that nature.

Mrs. FENWICK. If the gentleman will yield further, what about services?

Mr. CONYERS. So far as the services themselves, for example, we found that there are inadequate toilet facilities, wash bowls, and other essential facilities in places where there have been rather substantial LEAA grants. And so this language is incorporated directly as a result of the GAO study.

Mrs. FENWICK. If the gentleman will yield further, I am confused because it seems to me we have two elements here. One is construction, and certainly the facilities would be involved, the square footage, and so on.

What I thought the gentleman meant by "services" would be certain kinds of programs or services.

Mr. CONYERS. Yes. Mr. Chairman, if the gentlewoman will allow me to respond, in a correctional facility we need probation officers, we need psychologists, and we need those people who are working in an ancillary capacity with the people in the correctional facilities.

What this attempts to do is to suggest that there ought to be some relationship between those services provided and the physical standards and the plan which is now offered and which is using Federal moneys through LEAA.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to pursue

this subject a little bit because the gentlewoman from New Jersey (Mrs. FENWICK) raises some very pertinent questions.

The Administrator of LEAA does not seek the authority which is reposed in him by the language presently in the bill and would prefer an elimination of the provision as recommended by the amendment offered by the gentleman from California (Mr. WIGGINS).

Under this language every improvement and every change in a local jail would have to be approved here in Washington by LEAA. They would have to develop nationwide standards to apply to every community and every county jail and every local jail, including every improvement to be made. As the gentlewoman from New Jersey indicates, it has nothing to do with services or the training of jailers or the facilities or the food or the light or the work-release programs. It has nothing whatever to do with those items; they are not covered at all by this law.

What the Administrator has recommended and what he has undertaken to do is to establish a National Advisory Commission on Standards and Goals, and this is headed by the Governor of New Jersey, Governor Byrne. There are 15 members on this advisory commission. As a matter of fact, I will offer an amendment as soon as I get an opportunity—and I believe the amendment will be accepted—to give effect to this National Advisory Committee which has been established informally—at present.

The Advisory Committee on Standards and Goals can set standards and goals with regard to local jails, with regard to local jail services, with regard to probation officers, with regard to training, with regard to work-release programs, and with regard to all kinds of practices which relate to criminal justice and in the enforcement of law. That is something that the Administrator of LEAA definitely requires for the benefit of every community in the country.

However, to establish here by rigid legislation a requirement that the Administrator of LEAA has to pass upon every building plan or every building change that is made in every local jail is just the kind of Federal bureaucracy we want to get rid of, and I believe I can say that on behalf of the Members on both sides of the aisle, liberals and conservatives.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is the question that comes into my mind: In the light of the GAO report, in the light of my own personal experience from traveling around the country and having served in law enforcement and seeing the differences in penal institutions, and in the light of my own personal knowledge as to the deprivations and the denials of basic human comforts. I believe attention should be given somewhere along the line to those problems. I think it is the Federal responsibility to provide minimal basic standards.

Mr. McCLORY. Mr. Chairman, the gentleman is correct, and I am sure we agree that there should be standards and goals. These can be set forth very comprehensively; we can set forth standards and goals which would be generally applicable. There would be input in respect to the States and the local areas as to what those standards and goals should be.

As a matter of fact, the Advisory Committee is not only headed by Governor Byrne, of New Jersey, but is also served by Chief Justice House, of Connecticut, and by Mayor Pete Wilson, of San Diego, and by a number of other persons who are authorities, including sheriffs and other law enforcement officers who are capable of providing good input.

We do not have the bureaucratic expertise down here in Washington to pass on all these matters, and we do need comprehensive standards and goals. I believe they should be authorized by legislation and should be made available to the administration.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, the federal system is a magnificent laboratory for experimentation and innovation. The States should be encouraged to try new ideas. However, this repudiates that philosophy. It says that infinite wisdom with respect to design of jail facilities rests here in Washington.

I ask the Members to reject that. That is inconsistent with the philosophy underpinning our federal system which says that here is an opportunity to avoid a little redtape, to save a little money, and thereby to conserve.

Mr. Chairman, I urge the adoption of the amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding.

I just want to read the language so that the committee will not be misguided in terms of what we are doing here.

The requirements sought to be stricken say "sets forth minimally acceptable physical and service standards agreed upon by the administration and the State to construct, improve or renovate State and local correctional institutions and facilities."

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has expired.

(By unanimous consent, Mr. McCLORY was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, what the gentleman is reading should be read in the context of the physical and service standards for the construction, improvement, and renovation of State and local correctional institutions and facilities. In other words, it relates to construction, the physical aspects of the local jail or the county jail.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield further, what the provision in paragraph (13) attempts to do is that it merely suggests that since our funding to LEAA has not been successful—and that is in a GAO report; it dates from 1971 when we earmarked money to correctional facilities—that this cooperation would ensue to set minimal standards for local facilities.

I say that that does not create a bureaucracy or something that liberals and conservatives can fight about in terms of whether it is too big or too little. This points toward cooperation, and I urge its retention.

Mr. McCLORY. Mr. Chairman, I would just say that I think while it relates to construction, what it does is to result in the establishment here in Washington of rigid standards which would have to be complied with. As a matter of fact, it mandates or puts this requirement on the administration. It says that the administration shall, in consultation with the States, develop minimally acceptable standards.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield further, may I point out that there is nothing rigid about it. It says "minimally acceptable physical and service standards agreed upon."

That does not specify the standards. It requires in each instance with respect to these funds only that they meet a test with respect to what these standards would be, and that then, and only then, would there be any agreement about what the minimally acceptable standard is. There is nothing rigid about it.

Mr. McCLORY. I realize that, but the Administrator has the responsibility.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say that I understand the need for some of this. I have visited every prison in my State many, many times over; and until we get some real incentive to require that when money is used it is going to be used to produce a situation or an atmosphere in which human beings can live, no matter for how long or how short a time, we are not going to get compliance.

While these advisory commissions with goals and objectives are very inspiring, I am afraid that we have to do something about this situation.

We have a prison in my State that has a wing built in 1835 for one man, and it is now housing three and sometimes four. This is what we have to come to grips with.

Mr. Chairman, I would like to ask the chairman and the ranking member if we could possibly make a change in here. There should be construction, yes; but if we are going to mandate that, in order to get money to help to construct or change or renovate one of these disgraceful places, we commit the States to expenses that they cannot meet, there we will not get construction.

Mr. Chairman, this is what I was trying to clairfy: If we mean by "services" psychiatrists and job trainers involving the States and localities in programs with continuing expenses they cannot meet, we are not going to get the construction changes that they so urgently need as a first step.

Mr. Chairman, would the gentleman be willing to accept the elimination of the word "services" so that it would be clear?

Mr. CONYERS. Mr. Chairman, if the gentlewoman from New Jersey (Mrs. FENWICK) will yield, I appreciate, first of all, her concern on the subject of prisons and reform institutions because she has reflected this position in our committee many times before.

The gentlewoman from New Jersey should be clear that these amendments to part E are places in which money for prisons can come from the Federal Government. This, in other words, only points toward projects that are federally funded. These do not impose any requirements that a State institution make innovations which it would be unable to meet.

Mrs. FENWICK. We are talking about psychoanalysts and social workers and that will continue to go on when this appropriation is finished.

Would the gentleman be willing to remove the word "services" and leave in "construction"?

Mr. CONYERS. If the gentlewoman will yield further, Mr. Chairman, we do not think that that is the appropriate interpretation of the language that is already in the bill, so that the gentleman whose subcommittee has exclusive jurisdiction over correctional facilities, the gentleman from Wisconsin (Mr. KASTENMEIER) and I am sorry to say that he is not on the floor at this time, thought our bill was consonant with his oversight responsibility over institutional facilities, in addition to the local correctional institutions, that was in the original language.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, the gentleman from Michigan (Mr. CONYERS) has mentioned the fact that funds are available from other sources in the paragraph that would be stricken by the amendment offered by the gentleman from California (Mr. WIGGINS) it says:

> A plan incorporating such standards shall be a condition for acquiring Federal Funds for construction, improvement and renovation of state and local correctional institutions and facilities.

So that it would be a continuing thing no matter where the funds came from; that is the way the language is in the bill at the present time.

Mr. CONYERS. Mr. Chairman, as the gentlewoman from New Jersey is well aware, the LEAA program is not a continuing grant that would run ad infinitum.

Mrs. FENWICK. That is what I mean.

Mr. CONYERS. So that there would be no requirements and no way that our language, either inadvertently or unintentionally could be binding upon the States and their correctional facilities programs that would extend beyond the term of the grant.

Mrs. FENWICK. What I am trying to find out, does the gentleman maintain that we cannot get money to improve the construction or renovation of an old jail unless we also have programs as a part of the securing of that money?

The CHAIRMAN. The time of the gentlewoman has expired.

(On request of Mr. CONYERS, and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding me the additional time.

In other words, why are we stuck with the word "services" and what does it mean? Does it mean bathroom or shower facilities or psychoanalysts or social workers?

Mr. CONYERS. If the gentlewoman will yield further, I will say it again so that everyone may understand correctly, it means that within the grant in the funds appropriated, if the services of an educational program, or vocational program or a counseling program may be planned for. I say to the gentlewoman from New Jersey that it is a condition to be agreed upon in terms of a plan to be incorporated by the officials and by LEAA and the States.

I would also say to the gentlewoman from New Jersey that if that has not been the outcome of her experience in traveling through all of the places of incarceration, institutions, and so forth, in New Jersey, I would frankly ask that she examine again the GAO report which did not particularly dwell upon the State of New Jersey, and the gentlewoman will find that the reasonableness of this request is consonant with the findings of the gentleman from Wisconsin (Mr. KASTENMEIER) whose subcommittee studies involve correctional institutions exclusively.

Mrs. FENWICK. I can only say I am sure that the GAO report is correct. But let me say further that I have worked in correctional institutions in my State for over 10 years. I know all of them. I know all about what is going on there. This would be a continuing cost that they could not meet; they cannot do it because they cannot get the money.

Mr. CONYERS. That is precisely why we put the language in so they will know what they are supposed to do with the Federal money.

Mrs. FENWICK. If we put "services" in the law, it is because we want the programs. The States and localities cannot afford the programs. The Federal money is going to stop, as the gentleman wisely said.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. WIGGINS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 159, not voting 60, as follows:

[Roll No. 691]

AYES—211

Abdnor
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bevill
Boggs
Boland
Bowen
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Dent
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Fenwick
Fish
Fithian
Flowers
Flynt
Fountain
Frenzel
Frey
Gaydos
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harkin
Harsha
Hechler, W. Va.
Hefner
Henderson
Hightower
Hillis
Holt
Howard
Howe
Hubbard
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lujan
McClory
McDade
McDonald
McEwen
McKay
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nix
Nowak
O'Brien
Ottinger
Passman
Paul
Pickle
Poage
Pressler
Preyer
Quie
Quillen
Randall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roush
Rousselot
Runnels
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.

NOES—159

Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Annunzio
Ashley
Aspin
Baucus
Beard, R.I.
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conyers
Cornell
Cotter
Daniels, N.J.
Delaney
Dellums
Diggs
Dingell
Dodd
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fisher
Flood
Florio
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gilman
Gonzalez
Gude
Haley
Hall, Ill.
Hanley
Hannaford
Harris
Hayes, Ind.
Hicks
Holtzman
Hughes
Hungate
Jacobs
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Koch
Krebs
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McHugh
Madden
Maguire
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mink
Moakley
Moffett
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Natcher
Nolan
Oberstar
Obey
O'Hara
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pike
Price
Pritchard
Railsback
Rangel
Reuss
Richmond
Rodino
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
Spellman
Stark
Stokes
Stratton
Studds
Sullivan
Symington
Thompson
Tsongas
Udall
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Yates
Young, Ga.
Zablocki

NOT VOTING—60

Abzug
Badillo
Bell
Brinkley
Broomfield
Chappell
Conlan
Corman
Danielson
de la Garza
du Pont
Early
Esch
Findley
Foley
Forsythe
Fuqua
Green
Harrington
Hawkins
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holland
Horton
Hutchinson
Jones, Ala.
Karth
Kindness
Lehman
Lott
McCollister
McKinney
Matsunaga
Meeds
Meyner
Mitchell, Md.
Murphy, Ill.
Nedzi
Nichols
Pepper
Pettis
Peyser
Rees
Riegle
Ruppe
Ryan
St Germain
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Teague
Wilson, Tex.
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Sikes for, with Mr. Corman against.

Mr. Hébert for, with Mrs. Meyner against.

Mr. Teague for, with Mr. Murphy of Illinois against.

Mr. Nichols for, with Mr. Mitchell of Maryland against.

Mr. Chappell for, with Mr. Zeferetti against.

Mr. Conlan for, with Mr. McKinney against.

Mr. Horton for, with Ms. Abzug against.

Mr. Kindness for, with Mr. Badillo against.

Mr. Steiger of Arizona for, with Mr. Hawkins against.

Mr. Young of Alaska for, with Mr. Helstoski against.

Mr. NIX changed his vote from "no" to "aye."

Mr. LONG of Maryland, Mrs. SULLIVAN, and Mr. JOHN L. BURTON changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 17, immediately after line 24 insert the following new section:

"GRANTS TO COMBAT HIGH FEAR CRIMES IN HIGH CRIME AREAS

"SEC. 109. (a) Title I of such Act is amended by inserting immediately after part E the following:

" 'PART F—GRANTS TO COMBAT HIGH FEAR CRIMES IN HIGH CRIME AREAS

" 'SEC. 476. It is the purpose of this part to encourage and enable areas characterized by high incidence of violent crimes and burglary to develop and implement programs and projects to reduce and prevent crimes such as murder, nonnegligent manslaughter, forcible rape, aggravated assault, robbery, and burglary.

" 'SEC. 477. The Administration shall make grants under this part to units of general local government or any combinations of such units which make application in accordance with the requirements of this part and which are identified by the Administration as having a high incidence of crimes such as those listed in section 476 and a special and urgent need for Federal financial assistance.

" 'SEC. 478. In order to receive a grant under this part a unit of general local government or combination of such units shall submit an application to the Administration in such form and containing such information as the Administration shall require. Such application shall set forth a plan to reduce the incidence of crimes such as those listed in section 476 and such plan shall—

" '(1) provide for the administration of such grant by the grantee in keeping with the purposes of this part;

" '(2) set forth specific goals for the reduction of any or all of such crimes; and

" '(3) comply with the requirements of paragraphs (13), (15), (16), (17), and (20) of section 303(a).

The limitations and requirements contained in the unnumbered paragraph in section 306 (a) shall apply, to the extent appropriate, to grants made under this part.

" 'SEC. 479. (a) The Administration shall give special emphasis, in allocating funds among units of general local government or combinations thereof under this part, to (1) the incidence of crimes such as those listed in section 476 within such unit or combination, (2) the population of such unit or combination, (3) the likely impact of the programs or projects for which funding is sought on the incidence of such crimes within such unit or combination, and (4) the capacity of such unit or combination to administer a grant effectively and in accordance with the requirements of this part.

" '(b) Upon receipt of an application under this part, the Administration shall notify the State planning agency of the State in which the applicant is located of such application, and afford such State planning agency a reasonable opportunity to comment on the application with regard to its conformity to the State plan and whether the proposed programs or projects would duplicate, conflict with, or otherwise detract from programs or projects within the State plan.'

"(b) Parts G, H, and I of such Act are redesignated as parts H, I, and J, respectively.

"(c) Section 520 of such Act is amended by adding at the end thereof the following: 'From the amount appropriated in the aggregate for the purposes of this title such sums shall be allocated as are necessary for the purposes of part F, but such sums shall not exceed $12,500,000 for the period July 1, 1976 through September 30, 1976, and $50,000,000 for each of the fiscal years enumerated above, and shall be in addition to funds made available for those purposes from other sources.' ".

Renumber succeeding sections accordingly.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. Mr. Chairman, this amendment is offered on behalf of myself and the gentleman from Illinois (Mr. MCCLORY). It is an amendment that is supported by the Justice Department.

Mr. Chairman, our amendment targets some of the LEAA funds to fight high-fear crimes—violent crimes—in areas which have a high rate of such crimes. The amendment establishes a $50 million annual fund for use in fighting crimes such as murder, rape, robbery, aggravated assault, and burglary. The focus is on areas with a high incidence of these crimes—whether urban or suburban or rural. Funds will be awarded on the basis of an area's crime rate, the quality of the program for which funding is sought, the capacity of the local government to administer the grant, and population.

Let me point out to my colleagues here that the crimes which this amendment seeks to attack are crimes that affect and frighten Americans most. In order for people to feel secure in the streets of their cities and towns, and in their homes, we must cut the rate of violent crime and burglary. In addition crime is not uniform throughout the Nation, but is concentrated in certain areas. What this amendment would do is enable those areas that have a high incidence of high-fear crime to develop special programs to fight these crimes.

I would like now to anticipate one objection to this program. People will say, "We have had it before, and it has not worked."

Mr. Chairman, let me say to my colleagues that this argument is incorrect. We have not had a program like this before. Unlike past programs, this amendment sets specific standards. For example, cities, countries, and other local governments cannot obtain money under this $50 million program unless they demonstrate two very important things: They have to demonstrate that they would administer the grant effectively, and they also have to demonstrate that the program or the project which they want to fund is likely to have an impact on reducing crime.

There was a "high-impact" crime program in the past; but that program simply threw funds at eight cities in the country without first requiring any demonstration that the projects were likely to succeed and without requiring any demonstration that the county or the city or combinations thereof showed a capacity to administer the program.

Mr. ALLEN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, may I ask the gentlewoman a question. Would this $50 million which would be earmarked for the purposes enumerated by the gentlewoman from New York (Ms. Holtzman) come in the form of additional appropriations or would it come out of other funds?

Ms. HOLTZMAN. Let me say to my friend, the gentleman from Tennessee, that the appropriations for the program have already been voted on by the House of Representatives and that the LEAA has already budgeted $40 million out of this $50 million amount for this kind of program. Therefore, if the House does not accept this program, then the $40 million that has been budgeted by LEAA could be used for other purposes.

Mr. ALLEN. If the gentlewoman will yield further, if I understand the gentlewoman correctly, does this mean that this would not increase the price of this bill?

Ms. HOLTZMAN. That is correct.

Mr. KAZEN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Texas.

Mr. KAZEN. My understanding is that we have $700 million total.

Ms. HOLTZMAN. Seven hundred and fifty-three million dollars.

Mr. KAZEN. Seven hundred and fifty-three million dollars, and out of that we are going to earmark $50 million for the purposes for which the gentlewoman has stated to be expended under those conditions, is that correct?

Ms. HOLTZMAN. Let me say to my friend, the gentleman from Texas (Mr. Kazen) that $50 million is the authorization figure. In talking about the appropriation figures, the amount to be considered would be $40 million instead of $50 million. This is an authorization bill but in actuality, this year, we are talking about a $40 million allocation out of a $753 million appropriation.

Mr. KAZEN. Mr. Chairman, what I am questioning is this, that that money will be spread all over all of the LEAA units all over our country.

Ms. HOLTZMAN. Not really.

Mr. KAZEN. But all of them would be eligible.

Ms. HOLTZMAN. Not really.

Mr. KAZEN. If they meet the criteria.

Ms. HOLTZMAN. But the criteria are very specific. You have to have, first, a high incidence of violent crime, and, thank goodness, not every county and city in the country meets that requirement.

The CHAIRMAN. The time of the gentlewoman has expired.

(On request of Mr. Kazen, and by unanimous consent, Ms. Holtzman was allowed to proceed for 3 additional minutes.)

Ms. HOLTZMAN. Not only does a county, or a combination of counties and cities, have to show a high incidence of these violent crimes to qualify under my amendment, but it has to show, as well, that it has a project that is likely to succeed, that is likely to have an impact on cutting down these crimes. Cities or counties cannot just come in and say, "We have a terrible crime problem and we will develop some program." They have to have something that is demonstrably likely to succeed.

Then they must show they can administer the grant, and that the program can be administered soundly.

I think these requirements will mean that only the best projects, and only the counties and cities that can administer them properly, will be awarded funds under this program.

Mr. KAZEN. Mr. Chairman, if the gentlewoman will yield further, that is the point that I am trying to make, that this money is going to be spread awfully thin because apparently, according to latest statistics, this type of crime has risen all over the country. There are many counties and localities that can administer this properly, and could handle this program, and the $50 million is not going to do this.

Ms. HOLTZMAN. I share the concern of the gentleman from Texas but the problem is that if we do not have this kind of a program then there is no incentive for these localities to spend money to develop effective crime fighting capabilities to deal with these violent crimes.

Mr. KAZEN. Mr. Chairman, let me say to the gentlewoman wrom New York (Ms. Holtzman) that I appreciate what the gentlewoman is trying to do and I commend her for it. The only thing is that the way this is set up I doubt that it is really going to amount to anything because it will not do the job that the gentlewoman wants done.

Ms. HOLTZMAN. Mr. Chairman, I would assure my friend, the gentleman from Texas (Mr. Kazen) that this, in my judgment, would not be a giveaway. The areas that can qualify are the ones that are hardest hit by these crimes, and they must develop effective programs and effective administrative capability before they can qualify for the funds.

Let me also say, because I see my friend, the gentleman from Michigan (Mr. Conyers) rising to oppose me, that the argument that the "high-impact anticrime" program was a failure is not entirely accurate. I would point out to my colleagues on the floor that there was an evaluation of the prior program.

The evaluation of the prior program said that it had worked in eight cities of the country, and I will quote from that evaluation.

The CHAIRMAN. The time of the gentlewoman has again expired.

(By unanimous consent, Ms. Holtzman was allowed to proceed for 1 additional minute.)

Ms. HOLTZMAN. Mr. Chairman, let me quote from the evaluation that was done on the prior "high impact anticrime" program: "Impact cities used the Federal moneys as they were intended to be used for worthwhile anticrime efforts that could not otherwise have been funded." "Eight cities in the United States now possess . . . a system capability to rationally plan, implement and evaluate their anticrime program." "Anticrime effectiveness was demonstrated at the project level for 35 impact projects representing an expenditure of about $35 million in Federal funds."

I would reiterate, as well, that my amendment contains a number of provisions that make it far superior to the program which achieved these results.

Mr. Chairman, I would urge my colleagues to support this amendment as an effort on the part of the House of Representatives to help the States and localities that are hardest hit by violent crimes develop an effective capacity to deal with these crimes.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from New York.

CORRECTION OF TECHNICAL AMENDMENTS

Mr. Chairman, I ask unanimous consent that, in the technical amendments previously agreed to by the Committee, the reference to page 36 be changed to page 35, to correct a typographical error.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, I do not know how long we will consider an appropriate time to spend on a $50 million amendment in a package that for 1 year sends to LEAA over $700 million. If the object of this amendment is to create money to combat high crime and the fear of crime in the high crime areas, and I read from the amendment, I would like to point out that this is just giving the Director of LEAA $50 million to do with as he wishes. If one is from an area in which major crime is not rising, then he is one of the unique Members of this body.

We are spending, Mr. Chairman, nearly $1 billion of Federal money each year and the rate of crime is increasing. Now we come up with an amendment which was rejected in the committee and in the subcommittee. As a matter of fact the idea is right out of an administration bill on the LEAA, a program which has been unfortunately roundly criticized.

I am from an area which would need a program such as this as much as the district of anybody in this body. The $50 million would not get the west side of Detroit started, much less the entire United States where there are LEAA units, coordinating councils, and local units of government who would all be entitled to apply for this money based on the fact that there was a rising incidence of crime.

The rate of crime is rising everywhere. As a matter of fact it is rising in the suburbs at a rate greater than it is in the cities of our Nation.

Mr. Chairman, if that is not bad enough, there is a second reason Members should be considering. We are raising totally false hopes in those districts and those units that are going to be trying to apply for this money if they qualify. How far is $50 million going to go among several hundred qualifying units?

We are taking a billion dollar program and doing just that. So it is going to breed senseless competition.

I think that should be considered.

Finally this program has been criticized by every impartial evaluating organization that has analyzed the previous programs sponsored by this amendment, and I refer to the report entitled "Law and Disorder," the 20th Century Fund report, the General Accounting Office report on "Pilot Cities," and the Mitre Corp. funded by LEAA itself to evaluate the program.

I will close by a quote from the Mitre Corp., not my most favorite corporation, incidentally:

> "Impact City" violent crime rates considerably worsened overall.

That is, among those cities that got money under a previous project of this nature, the crime statistics worsened.

So I ask my colleagues not to spend an unduly long amount of time on this amendment. If the Members want to have $50 million going to LEAA to allocate to an indeterminate number of cities, counties, and suburbs in a nearly $1 billion program, if they think this is going to add something to it, then I think they can agree with the gentlewoman from New York.

If the Members think a billion dollars that is fairly sensibly distributed, and for which we are providing oversight, is more desirable, then we have LEAA on a short leash, which is a more sensible approach, and then I would urge the Members to reject the Holtzman amendment.

Mr. FISH. Mr. Chairman, will the gentelman yield?

Mr. CONYERS. I yield to my colleague, the gentleman from New York (Mr. Fish) briefly.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to my colleague, the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to clarify something that bothers me, that is, the need for this amendment. Why isn't it possible for localities to seek help under State plans?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Conyers) has expired.

(At the request of Mr. Fish, and by unanimous consent, Mr. Conyers was allowed to proceed for an additional 2 minutes.)

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Chairman, my point is, why cannot this be done under existing law? Why cannot the State plan incorporate emphasis on areas of high violent crime within their jurisdictions?

Mr. CONYERS. Mr. Chairman, I say to the gentleman from New York, that is the precise point. We have a State planning agency for that. We spend 9 percent of our funds planning, not only among the States, within the States, but on a regional basis with coordinating local units of government. We spend 9 percent of the $1 billion we get for that precise purpose. Each local unit that has an incidence of crime can create its own plan. Many of the metropolitan area plans would call for more than $50 million from the beginning.

So I agree with the logic behind the gentleman's question.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I would just like to respond to the gentleman from New York. There is nothing to prevent any State from developing a plan to deal with the high incidence of violent crimes; but neither is there any incentive or requirement for them to do so.

The point of my amendment, in which the gentleman from Illinois (Mr. McClory) joins, is to provide a financial incentive to the States with the highest incidence of violent crime to develop programs to reduce this kind of crime.

Mr. CONYERS. Mr. Chairman, with the millions of dollars going into each State planning agency, with the hundreds of millions of dollars that will go to combat crime, if anybody here thinks for a minute that a $50 million amendment proposed by the administration is going to have some serious impact on the major crime, that according to the FBI has risen 18 percent, I would say he is sadly mistaken.

Mr. Chairman, I urge rejection of the amendment.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that the last statement of the gentleman from Michigan (Mr. Conyers) is most significant. I must agree that the amount allocated in high crime areas is a wholly inadequate amount insofar as fighting violent crime in America is concerned; but at least it is a $40 million allocation of Federal funds for the purpose of helping to combat violent crime in those areas which have the highest incidence of such crome; burglarly, rape, murder, and so on.

It seems to me that the effort of the Federal Government today is very, very puny. As a matter of fact, we put in about 5 percent or less of the total funds to fight crime in America. It certainly is a very minor contribution which the Federal Government is making; not that we want to take over the problem of crime in America, but we should be making larger contributions to enable the local communities to undertake a better effort against crime.

Now, the Mitre Corp. report while it does show that the impact area program has not had the effect of reducing crime in the areas studied, there are some areas where certain crimes did show a reduction. The evaluation report is very valuable in establishing what kinds of programs seem to be the best in the large cities, where we have a high incidence of crime.

Mr. Chairman, this modest amendment is an initiative which has been recommended by the attorneys general to try to get at this problem of street crime and violent crime in our cities and other areas where crime is increasing. It seems to me we should support this. This is, in a sense, a separate program. It has been separately funded. It is independent of the discretionary and the block grant programs. It is an additional effort. It is a new initiative and it is something it seems to me we should certainly strongly support.

I am very pleased, in my own behalf and in behalf of the administration, which has recommended this measure, to give my support to it.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

I would just like to respond to some of the points that have been previously made in opposition to this amendment. The gentleman from Michigan, who argues that the amendment has too little money, argued against it in committee when it called for an expenditure of $100 million.

I think that the $50 million is better than nothing; it is better to try to help States and localities deal with the most serious crime problems in this country than ignore the matter totally.

The second argument made is that this amendment is going to create "senseless competition." That argument seems to me absolutely incomprehensibe. Competition to find effective answers to violent crime could hardly be called senseless.

I would urge my colleagues to support this amendment.

Mr. McCLORY. I would say that some of these criticisms that have been made against the Impact Anti-Crime Program are just the traditional, proverbial critics, and are not the kinds of criticisms made by the gentleman from Michigan. I think this is a very good amendment, and I hope that it will have overwhelming support.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I respectfully rise in opposition to this amendment. I am a member of the subcommittee, and have taken part in this effort that has taken place over the last year and a half. I would like to point out that LEAA, at best, should be at this time on probation. The programs that it has promoted have really not worked very well. The purpose was excellent, and it should be encouraged where possible, but actually nothing has been done by LEAA of any substantial value in contributing to the control of street crime.

I am convinced that if we were to pass this amendment and lift another $50 million out of the funds which would be available to local units of government, to the States for the control of urban crime, we would be making a great error.

Fifty million dollars taken out of the funds that would otherwise be available to each Member's State and mine to meet our own problems, invested in a discretionary government program to combat crime in high impact areas, would be a waste. If we spread out $50 million in high impact areas—heaven knows how many there are—we are going to have a drop in the bucket in each instance. The money would have no beneficial effect whatsoever.

I would like to state that the opinion I have just given the Members is not just my own. During the past year, a study was made by the Center for National Security Studies, and I would like to quote very briefly from a press story reflecting their findings of what has happened in the LEAA programs, and particularly high impact areas:

> LEAA's performance in the high impact program was an irresponsible, ill-conceived and politically motivated effort to "throw money at a social program."
>
> "Many of the cities had no idea how to effectively spend such a high level of funding in such a short period of time and complained bitterly about LEAA's lack of assistance," it added.
>
> The high impact program "imposed multiple levels of red tape," the study said.

I want to point out that it is not just one level of red tape but multiple levels.

> It criticized the program for having "no clear objective and no preconceived idea of what would work."
>
> And, finally, it said, the program "did not produce significant results in regard to crime."

That is not my opinion. That is the opinion of an independent agency which has made a study as to what LEAA has accomplished.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois.

Mr. McCLORY. There is no report which has been published by this organization—or individual. The Center for National Security Studies is a proverbial critic of LEAA without basis for criticizing. I will insert at this point a statement which really, clearly describes this organization:

> Center for National Security Studies
>
> (Sara Carey—"Law and Disorder IV")
>
> The Members should be very cautious about basing their decisions and actions on the press accounts of the report by Miss Sara Carey of the Center for National Security Studies for several reasons:
>
> 1. Copies of the Report are not available from the Center.
> 2. LEAA, the subject of the alleged report, has not even been given a copy.
> 3. The author of the report has issued three previous attacks on LEAA and testified before the Subcommittee in both 1973 and 1976 with essentially the same criticisms.
> 4. The sponsoring group, the Center for National Security Studies has no established expertise or reputation for objectivity in matters of this kind.
>
> One might wonder who the Center represents or from whom does it obtain policy direction. According to the available information, the Center lists as an "advisor" Mr. Stuart Mott, of Chicago, and as a member of its "staff", Mr. Morton Halperin.
>
> The Center is funded by the Fund for Peace of New York City, which is, in turn, funded by the Abalard Foundation, the Field Foundation and the Stearne Foundation.
>
> The Center's seven ongoing projects are identified as follows:
>
> 1. Democracy in the Military
> 2. Intelligence and the CIA
> 3. South African National Security
> 4. Project on National Security and Individual Rights
> 5. LEAA
> 6. Police and Military Arms Control
> 7. Internship Program.
>
> Source: Congressional Research Service, Lib. of Congress.

Mr. DANIELSON. Mr. Chairman, I will reclaim my time at this point to state that the report has not yet been published. However, the person from the organization that wrote the report did appear before the subcommittee and did testify, and I have every reason to believe that the language I have just quoted which, as I did tell the Members was from a press report, will appear in the report.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I have only this comment to add to the gentleman's statement, in which I concur. If this amendment were to carry, we would be enacting into statutory language two pilot programs that have failed and were criticized, and now we come back, disregarding the oversight of the Judiciary Subcommittee, and enact it into statute.

Mr. DANIELSON. I thank the Chairman.

Mr. Chairman, I would like to point out, in closing, that putting $50 million of added discretionary money in the bureaucracy downtown is not going to end street crime in our cities. I respectfully submit that the people of Kentucky, the people of Tennessee, the people of New Jersey, the people of Illinois, the people of New York, the people of Michigan and the people of the Carolinas have a far better idea of the status of crime in their cities and in their States than some bureaucrat downtown in Washington.

For heaven's sake, let us put this money where it will do some good. I urge the Members to vote no on the amendment.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to respond to my friend, the gentleman from California, who has quoted from a newspaper article which inaccurately describes the evaluation by Mitre Corp. I am presently holding the evaluation in my hand. It is called the Executive Summary, High Impact Anticrime Program, National Level, Final Evaluation Report, dated January, 1976. I would like to direct the attention of my colleagues to the report's conclusion which appears on page 56:

> Impact cities used the Federal money as they were intended to be used, for worthwhile anticrime efforts which could not otherwise have been funded. Eight United States cities now possess the system capability to rationally plan and implement anticrime programs.

It also indicates that the program had beneficial impact on the crime rate rankings.

I know that the gentleman from California is well aware that a press report is not the same thing as the document itself, and I would ask the gentleman from California, before he makes statements about what the evaluation report shows, that he read the document itself.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out to the gentlewoman from New York that the report cited by the gentleman from California is not the final version because when the subcommittee held its hearings the final version was not in print.

The major author of that report testified in person before the subcommittee, and I think it is the subcommittee's conclusions and that testimony that the gentleman is making reference, if he is, to these reports.

We have had four reports. The GAO is not a partisan body. The Twentieth Century Fund is a generally highly regarded agency. The Law and Disorder Group has written about LEAA for two legislative sessions. So we have four units, Government and citizens, that have criticized the program and the genesis from which it is derived. I do not think that is in dispute, whether we support the amendment or not.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I would like to say, in response to this statement of the gentleman from California (Mr. WIGGINS) the high crime area funds are going to be disbursed at the local level. Decisions are going to be made by the local people. It is not that we are going to send out the Federal police, or anything like that, to handle local crime. It is going to be handled locally. The funds are going to be handled locally.

We are going to be giving some Federal support to local law enforcement people in these critical areas.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I know I cannot clear up the confusion in 5 minutes, but let me start.

The gentleman from Illinois (Mr. McCLORY) has stated that this is a separate amount of money. The gentleman from Tennessee (Mr. ALLEN) asked a question and did not get the right answer.

If we do not agree to this amendment, this money is going to the States and local governments under the bill and under the appropriations act. If this amendment is agreed to, that money will be taken away from the States and local governments. It is already appropriated, but it will be taken away from the States and local governments and given to the LEAA to conduct an exercise in grantsmanship. Now, I will ask the Members to dispute that, please.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, it says specifically in the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN) that—

> The Administration shall make grants under this part to units of general local government or any combinations of such units . . .

This provision says that it is going to go to governmental units and not revert to the LEAA fund.

Mr. MANN. I hope they do not give it to the Federal Government, and I hope this is not a Federal law enforcement program. The gentleman is not telling me anything.

Mr. McCLORY. This is just detailing the Federal funds being used, but they are being applied and administered by units of local government.

Mr. MANN. Under this bill all of the $753 million is Federal funds, and under this bill as of right now $340 million would go to States under part C of the grant program. If we agree to this amendment, $306 million will go to States and local governments, and next year, if we agree to this amendment, $42.5 million will be taken away from States and local governments for this program.

I make the distinction between this year and next year because LEAA only plans to use $40 million of this high impact money this year, and we are authorizing $50 million, which you can be sure they will plan to use next year.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield further, it is my understanding that in the package of the appropriation bill we appropriated $40 million for this specific purpose.

It may be true that if we do not adopt this amendment, the funds may be reallocated, but the Committee on Appropriations and the House have already acted to appropriate and allocate the funds for this purpose, and if this purpose is defeated by the defeat of this amendment, then there may be a reallocation.

Mr. MANN. Mr. Chairman, the gentleman is mistaken. The funds are not earmarked in the appropriation bill for this program. The gentleman is mistaken.

Mr. CONYERS. Mr. Chairman, if my colleague, the gentleman from South Carolina, will yield, unfortunately, because the appropriation process preceded the authorization process, the amendment proposed by the gentlewoman from New York was offered and did succeed. So we have completed the appropriation authorization.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield, I never offered any such amendment to any appropriation bill.

Mr. CONYERS. Then I withdraw my statement and agree that my colleague, Mr. MANN, is correct.

Mr. MANN. Mr. Chairman, it was cleaned up in conference, but if it had not been, the Committee on the Judiciary, with its great effort to acquire some oversight responsibility, could not and would not have accepted the verdict of the Appropriations Committee. We do not have authorizing responsibility with reference to the Justice Department, so we latched onto LEAA. This is our great oversight responsibility. If we let the Committee on Appropriations write this bill, then we do not have anything left.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, I suggest most charitably that the gentleman from South Carolina has not cleared up the confusion which exists here in the House.

Mr. MANN. No, I probably have not, in the gentleman's mind, cleared up the confusion.

What we have here is a program that LEAA has maintained through the use of its discretionary funds, and it can still do that through the use of its discretionary funds, as it has over the last 8 years.

We have a program that LEAA has administered through the use of its discretionary funds, and it still has its discretionary power. LEAA has used almost all of its discretionary funds—as a matter of fact, they have used $190 million—over the past several years for a pilot cities program, $30 million, and $160 million for a high impact crime area program. And we have heard what the results are. There are virtually no beneficial results.

Mr. Chairman, another bit of confusion that I would like to clear up in my own mind and perhaps in someone else's is occasioned by the assertion that having this fund under the discretionary control of LEAA creates incentives for communities to use this money.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. MANN) has expired.

(By unanimous consent, Mr. MANN was allowed to proceed for 2 additional minutes.)

Mr. MANN. To continue, Mr. Chairman, we create incentives for those communities that are good at grantsmanship, and we create a preconception here that I hate to refer to; but every time I inquire about why LEAA seems to want this program—and of course, they failed twice and maybe they want the third strike—I find that their plans downtown are labeled a "major cities program." That is the way it is labeled. I am curious about it, but that is the way it is labeled.

In any event, concerning the incentive itself to fight violent crimes, if it calls for more money to give your town or your county or your State the incentive to fight high crime or to stop violent crime if it means that in order to get it they have to get a discretionary grant from LEAA, then there is something basically wrong with our law enforcement direction and motivation.

Mr. Chairman, I am sure that their incentive would be encouraged much more if we gave them the money in the first instance, which the bill will now do. However, to require them to have to undergo competition with Detroit or New York or somewhere else is not an incentive-creating mechanism, as I see it.

If LEAA wants to have a discretionary program for demonstration purposes—and that has been our big problem; we have no evaluation of what they have done that is any good; we do not know what we have accomplished with all this money, but we do know that the crime problem is on the State and local level—if LEAA wants to put money there for demonstration and evaluation purposes, for a demonstration program, they have $54 million for that purpose in the bill as it is written.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could I point out to the gentleman, in order to supplement his remarks, that LEAA has discretionary power with respect to 9 percent of the total of this $1 billion already?

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. MANN) has again expired.

(By unanimous consent, Mr. MANN was allowed to proceed for 1 additional minute.)

Mr. MANN. Mr. Chairman, I will conclude now.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield further, I might point out that the discretionary power of LEAA is not an inconsiderable one. Under the allocations for 1976 we have $71.544 million. It was a little less than at other times, but that is in the general area of $50 million or $60 million in discretionary funds; and now they are asking to enact into law a $50 million program that has been proved a failure.

Mr. MANN. Mr. Chairman, in conclusion, I would like to read from a staff memorandum presented when the full committee voted down such an amendment as is offered here today. It reads as follows:

> The National League of Cities, U.S. Conference of Mayors does not think this is the appropriate way of addressing the needs of the cities and counties. They do not need uncertain amounts of additional money, nor do they need the extra work of writing additional plans. What they need is autonomy in planning and implementing their projects within their own formula of allocated sums.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I asked for this time in order to set forth accurately in the RECORD what the situation is insofar as appropriation and budgeting of funds are concerned.

I think that the RECORD will show, when I make an insertion in it, that the statement which I made in support of the position of the gentlewoman from New York (Ms. Holtzman) was accurate, in that there are separate funds budgeted, requested, allocated, and appropriated. It is true that we reduced the amount from $50 million to $40 million. But the $40 million is neither in the appropriation for the discretionary grant program, nor in the block grant appropriation. It is a separate appropriation. I refer you to the President's budget request and the committee's subsequent action not altering that request. In order to reprogram these funds approvals would have to be given by the Department of Justice and the Office of Management and Budget—as well as the approval of the House and Senate Appropriations Committees. None of those approvals have been given to date.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

I would like to respond to the objection just made by Mr. Mann, to the effect that this is just a major cities program. It is not. Counties, rural areas, and the suburbs are eligible also, if they have a high incidence of violent crime.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Holtzman).

The question was taken; and on a division (demanded by Ms. Holtzman) there were ayes 5, noes 28.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: On page 15, after line 24, insert the following:

"(d) Add a new section to such act as follows:

"'Sec. 420(a). There is hereby established the National Advisory Committee on Criminal Justice Standards and Goals which shall consist of fifteen members including the chairman.

"'(b) Members of the Committee shall be appointed by the Administrator of the Law Enforcement Assistance Administration. The membership shall include persons who by virtue of their training and expertise have special knowledge concerning prevention and control of crime and juvenile delinquency.

"'(c) Members appointed by the Administrator to the Committee shall serve for terms of three years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. A member may serve as chairman for no more than two years.

"'(d) The Committee shall—

"'(1) assess and evaluate existing standards and goals for the improvement of juvenile and criminal justice systems at all levels of government;

"'(2) make recommendations for the modification or elimination of existing standards where assessment and evaluation indicate the necessity to do so;

"'(3) develop, as necessary, new standards and goals for the improvement of juvenile and criminal justice systems;

"'(4) make recommendations for actions which can be taken by Federal, State, and local governments and by private persons and organizations to facilitate the adoption of the standards and goals;

"'(5) assess the progress of Federal, State, and local governments in implementing standards and goals; and

"'(6) carry out a program of collection and dissemination of information on the implemention, assessment, and evaluation of standards and goals for the improvement of juvenile and criminal justice systems.

"'(e) The Administrator of LEAA is authorized to appoint and fix the compensation of the Executive Director and such other personnel as may be necessary to enable the Committee to carry out its functions. Such positions shall be in the excepted service.

"'(f) Members of the Committee may be allowed travel expenses and per diem in lieu of the subsistence as authorized by law for persons employed intermittently.

"'(g) Members of the Committee not otherwise employed by the United States shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for a GS-18 of the General Schedule by § 5332 of Title V of the United States Code including travel time for each day they are engaged in the performance of their duties as members of the Advisory Committee.

"'(h) Agencies and instrumentalities of the Federal Government are authorized to furnish the Committee with such information and assistance, consistent with law, as it may require in the performance of its functions and duties.

"'(i) The Committee is authorized to carry out any standard setting obligations imposed on the Administration or its Advisory Committees.

"'(j) No later than January 1, 1978 and January 1 of each succeeding year, the Advisory Committee shall submit to the Administrator, to the President, and to the Congress, a report on its actions taken under this section.

"'(k) The Advisory Committee shall make such reports and recommendations from time to time as it deems suitable to carry out the purposes of this section.'"

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that this amendment be considered as read and printed in the Record.

The Chairman. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this is an amendment which I discussed with the other side. It merely provides the authority for the establishment of the Advisory Committee on Standards and Goals, to which reference was made before.

I urge the adoption of the amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to advise the Committee that we are now coming together on both sides and I am in total support of this amendment.

Mr. McCLORY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McClory).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi:

Page 35, immediately after line 17, insert the following new section:

LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS

Sec. 115. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by redesignating parts G, H, and I as parts H, I, and J, respectively, and by inserting immediately after part E the following new part:

"PART F—LAW ENFORCEMENT OFFICERS

"'BILL OF RIGHTS

"Sec. 471. Beginning with the first fiscal year commencing not less than two years after the date of the enactment of this part, no grant under parts B, C, or E of this title shall be made directly or indirectly, to any State, unit or general local government, or public agency, unless there is an effect with respect to such State, unit of general local government, or public agency, a law enforcement officers' bill of rights which substantially provides as a minimum the following rights for the law enforcement officers of such State, unit of general local government, or public agency:

"BILL OF RIGHTS

"'POLITICAL ACTIVITY OF LAW ENFORCEMENT OFFICERS

"'Section 1. Except when on duty or acting in his official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

"'RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION

"'Sec. 2. Whenever a law enforcement officer is under investigation for alleged malfeasance, misfeasance, or non-feasance of official duty, with a view to possible disciplinary action, demotion, dismissal, or criminal charges, the following minimum standards shall apply:

"'(1) No adverse inference shall be drawn and no punitive action taken from a refusal of the law enforcement officer being investigated to participate in such investigation or be interrogated other than when such law enforcement officer is on duty, or when exigent circumstances otherwise require.

"'(2) Any interrogation of a law enforcement officer shall take place at the offices of those conducting the investigation, the place where such law enforcement officer reports for duty, or such other reasonable place as the investigator may determine.

"'(3) The law enforcement officer being investigated shall be informed, at the commencement of any interrogation, of the nature of the investigation, the names of any complainants, and the identity and authority of the person conducting such investigation, and at the commencement of any interrogation of such officer in connection with any such investigation shall be informed of all persons present during such interrogation. All questions asked in any such interrogation shall be asked by or through a single interrogator.

"'(4) No formal proceeding which has authority to penalize a law enforcement officer may be brought except upon charges signed by the persons making those charges.

"'(5) Any interrogation of a law enforcement officer in connection with an investigation shall be for a reasonable period of time, and shall allow for reasonable periods for the rest and personal necessities of such law enforcement officer.

"'(6) No threat, harassment, promise, or reward shall be made to any law enforcement officer in connection with an investigation in order to induce the answering of any question, but immunity from prosecution may be offered to induce such answering.

"'(7) All interrogations of any law enforcement officer in connection with the investigation shall be recorded in full.

"'(8) The law enforcement officer shall be entitled to the presence of his counsel or any other one person of his choice at any interrogation in connection with the investigation.

"'REPRESENTATION ON COMPLAINT REVIEW BOARDS

"'Sec. 3. Whenever a police complaint review board has been established which includes in its membership persons other than law enforcement officers of the agencies under the jurisdiction of such board, such board shall also include a fair representation of such officers.

"'CIVIL SUITS OF LAW ENFORCEMENT OFFICERS

"'Sec. 4. Any law enforcement officer shall have the right, and shall receive public legal assistance when requested, to recover pecuniary and other damages from persons violating any of the rights established under the law enforcement officer's Bill of Rights.

"'DISCLOSURE OF FINANCES

"'Sec. 5. No law enforcement officer shall be required to disclose, for the purposes of promotion or assignment, any item of his property, income, assets, debts, or expenditures or those of any member of such officer's household.

"'NOTICE OF DISCIPLINARY ACTION

"'Sec. 6. Whenever a personnel action which will result in any loss of pay or benefits, or is otherwise punitive is taken against a law enforcement officer, such law enforcement officer shall be notified of such action and the reasons therefor a reasonable time before such action takes effect.

"'RETALIATION FOR EXERCISING RIGHTS

"'Sec. 7. There shall be no penalty nor threat of any penalty for the exercise by a law enforcement officer of his rights under this Bill of Rights.

"'LAW ENFORCEMENT OFFICERS' GRIEVANCE COMMISSION

"'Sec. 8. (a) There shall be a commission composed of an equal number of—

"'(1) representatives of the general public,

"'(2) of law enforcement agencies of the jurisdiction, and

"'(3) of other public agencies;

with the authority and duty to receive, investigate, and determine grievances of any law enforcement officer. Grievances considered by the commission shall be limited to those alleging violations of rights under this Bill of Rights.

"'(b) A duly certified or recognized employee organization representing law enforcement officers, when requested by a law enforcement officer in writing, may act on behalf of such law enforcement officer before the commission with respect to any grievance. Such an organization may itself initiate the grievance procedure on behalf of two or more law enforcement officers.

"'(c) The commission shall have authority to require testimony under oath and the production of documents, to issue orders to protect the rights of law enforcement officers and to institute appropriate actions in court to enforce such orders.

"'OTHER REMEDIES NOT DISPARAGED

"'Sec. 9. Nothing in this Bill of Rights shall disparage or impair any other legal remedy any law enforcement officer shall have with respect to any rights under this Bill of Rights.'.

"Sec. 472. As used in this part—

"(1) 'law enforcement officer' means any officer or employee of a public agency, if the principal official function of such officer or employee is to investigate crimes, or to apprehend or hold in custody persons charged or convicted of crimes, and include police, sheriffs, bailiffs, and corrections guards;

"(2) 'complainant' means the person whose information was the basis for the initiation of an investigation; and

"(3) 'complaint review board' means any public body with specific lawful authority to investigate and take public action, including making reports, on charges of improper conduct by law enforcement officers, but is not a law enforcement agency, a grand jury, or other entity similar to a grand jury; and

"(4) 'law enforcement agency' means any public agency charged by law with the duty to investigate crimes, apprehend and hold in custody persons charged with crimes.".

Redesignate succeeding sections accordingly.

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I rise to offer an amendment to H.R. 13636 the LEAA reauthorization bill. My amendment requires that States, units of local government, and public agencies which seek funds from the LEAA enact a law enforcement officers bill of rights as part of their plan. Passage of this amendment could have a profound effect on the morale of thousands of law enforcement officers in this Nation who continue to strive for the same basic civil rights and protection provided to the citizens they serve.

This amendment is identical to legislation I have introduced in each of the past three Congresses, most recently H.R. 2788 which is cosponsored by some 90 of my colleagues.

This amendment embodies a multipoint program which will guarantee that law enforcement officers are afforded the same basic civil and political rights as all other Americans enjoy.

First. Law enforcement personnel would have the right to participate in political activities while off duty and out of uniform.

Second. Law enforcement officers under investigation must be notified from the outset the nature of the complaint, all complaintants as well as those who will be present during the interrogation, and their legal rights including right to counsel.

Third. All interrogations must be conducted in a reasonable manner and while being conducted no threats of disciplinary action shall be made.

Fourth. The complete interrogation proceeding must be recorded.

Fifth. A law enforcement officer must be notified and given reasons for any punitive action taken against him prior to the effective date of such action.

Sixth. Law enforcement officers have the right to bring civil suits against all those who violate their rights under the bill of rights.

Seventh. No law enforcement officer shall be required to disclose information on personal finances as a basis for promotion.

Eighth. Adequate representation of law enforcement personnel must be provided whenever a police complaint review board is established.

Ninth. A law enforcement officers grievance commission shall be established to investigate all allegations of violations of civil rights emanating under the bill of rights.

The legislation would apply to police, sheriffs, bailiffs, and correction officers. The amendment is identical to H.R. 2788 which has 90 cosponsors. I urge your support for this most important effort.

I consider this amendment both germane and necessary to this legislation. My colleagues may recall that a great deal of criticism was heard during the hearings on this bill relative to allegations that LEAA funds and programs were being distributed in a discriminatory fashion by those States and units of local government which themselves engaged in discrimination. As a result, strong new affirmations of civil rights protections were written into H.R. 13636, including a provision which could suspend funds for up to 120 days in any unit of government which is not in full compliance with the civil rights law in their distribution of LEAA funds. My amendment is quite consistent with this argument as it further mandates that the civil rights of law enforcement officers must also be recognized and provided for by a unit of government seeking LEAA funds.

Further on the germaneness question, I refer my colleagues to the decision of the Chair during the House consideration of my amendment to an LEAA authorization bill in 1973:

> The committee bill seeks to establish a comprehensive approach to the financing of programs aimed at improving State and local law enforcement systems. Included in this comprehensive approach is the subject of the welfare of law enforcement officers as it relates to their official duties. The issue of a grievance system for law enforcement officers is within the general subject of the improvement of State and local law enforcement systems and the amendment is germane to the bill.

As one who has been closely affiliated with law enforcement for 23 years as a member of the police department, and for 8 years a constant advocate of law enforcement legislation in Congress, I continue to be appalled over the fact that the members of the law enforcement community continue to be in the position of second-class citizens with their own departments. We do not tolerate such widespread and rampant abuses of civil rights among any other segment of our population. We have enacted landmark laws, such as the Civil Rights Act of 1964 which protects citizens and imposes civil and criminal penalties against persons public or private who encroach upon the civil rights of others.

We have established grievance commissions such as the equal employment opportunity commissions which operate virtually every government agency to protect against employment discrimination. Large sums of money are provided each year for an Office of Civil Rights in HEW to investigate alleged civil rights violations and the issuing of corrective regulations. On State and local levels, we have human rights commissions. Yet, what do the brave men and women of law enforcement have at their disposal when their civil rights have been violated? How can we expect our law enforcement personnel to go out day after day—risk their lives to protect the rights of others knowing that if their rights are violated they are almost helpless under law. An extreme example of how we extend guarantees of civil rights to Americans can be evidenced by a decision handed down several years ago by a Federal court judge for the eastern district of Virginia. The highlight of the decision was its provision calling for a basic bill of rights for prison inmates. In his decision the judge said:

> The administration of discipline within prisons disclosed a disregard of constitutional guarantees of so grave a nature as to violate the most common notions of due process and humane treatment. It is further held that in order to discipline prisoners in State penal institutions, certain due process rights are necessary.

The circumstances which lead to that court decision are similar in nature to the circumstances facing law enforcement officers today and clearly demonstrate the need for legislative relief.

Consider these other facts. Criminals from the moment of arrest are provided with their legal rights, including the right to counsel for all proceedings, a criminal can and does face his accuser, a criminal does not have to take a lie detector test, a criminal cannot be grilled for unreasonably long hours without rest. These are some of the things we do to protect criminals. How many of these basic privileges do our law enforcement personnel enjoy when they are subjects of investigation? I daresay a very few, and only in certain jurisdictions.

A point also worth remembering during the consideration of this amendment. We are dealing with civil rights guaranteed under the law. We have seen other groups in this Nation who have felt rightfully or otherwise that their civil rights have been violated advocated or actually engaged in violent activities to focus attention on their grievances. Coercive persuasion has worked. Yet the law enforcement personnel of this Nation have not resorted to violence, they continue to work, waiting, hoping that someone will hear their call for justice. We have an excellent opportunity to respond in a most affirmative manner, an opportunity we should capitalize on immediately.

Many rank and file law enforcement personnel across the Nation are aware of and strongly support my efforts to gain passage of the law enforcement officers bill of rights. Two States, Maryland and most recently California, where Governor Brown on August 18 signed into law a policeman's bill of rights, have enacted similar laws to what we are trying to pass today. In addition, the cities of Milwaukee, Seattle, and New York have enacted city ordinances which provide for a bill of rights for their law enforcement personnel. Other cities including Memphis, Tenn., and Greensboro, N.C., have included a bill of rights for law enforcement officers in the contract between the police department and the city. Certainly the actions of these States and localities demonstrates that there is support for this type of proposal. It is now time to make it a Federal law.

Failure to pass this amendment today would cause great frustration and embitterment among the law enforcement officers of this Nation. They are fully aware of the inordinately long period of time it has taken the House Judiciary Committee to complete action on the law enforcement officers bill of rights. They have heard promises but they thus far have been nothing more than empty rhetoric. I was content to allow this legislation to go through the normal legislative channels and be considered and passed as a separate bill. The men and women of our law enforcement units are tired of waiting; let us act today, now, and clearly demonstrate our solidarity with the law enforcement officers of this Nation.

If we are going to continue to spend millions of dollars in finding ways to fight crime, let us not forget or neglect the very cornerstone of an effective crime prevention program—the men and women in charge of enforcing our laws. Let us assure our law enforcement personnel that they too can be protected by the same laws they enforce every day. Let us help bolster sagging police morale by allowing them to remove the stigma of being second-class citizens under the law. If we are successful, both the morale and the efficiency of our law enforcement personnel will improve and the effect on crime reduction will be significant.

I offer this amendment with a deep sense of personal pride. The pride of having served as a police officer for 23 years. The pride of knowing the essential roles which the brave men and women of law enforcement play toward making this a safer and better Nation. The pride of knowing how well received the passage of this amendment would be in the law enforcement community. I implore my colleagues to join with me in supporting this effort, for it is not only for the good of this legislation, it is for the good of this Nation.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BIAGGI. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. CONYERS. Mr. Chairman, reserving the right to object, and I shall not object, I do so merely to say to my colleague that if everyone takes this amount of time we are not ever going to get out of here.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Sure, I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I sat through the entire debate on the LEAA and listened to amendment after amendment, and even an accepted amendment that had consumed far more time.

Mr. CONYERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I would like to say when we started consideration of this legislation some 6 years ago it was a novel notion and there was discussion pro and con and some valid criticism. That was subsequently accommodated.

Mr. ASHBROOK. Mr. Chairman, I think what the gentleman is saying is important. I think a quorum should be present. It is very important.

Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, in connection with this Bill of Rights, I have enumerated some of its provisions. I believe I started to recount its history. I introduced a motion some 6 years ago in this Congress. Each time the bill was cosponsored by 90 or 100 or 120 Members. People said it could not work, we would be interfering with the local communities, there would be conflicting jurisdiction.

I disputed them then; I dispute them now. The advantage of history, the advantage of the passage of time, the passage of time and events have proven that I was right, because in the intervening period, the State of Maryland, through the State legislature, enacted a bill of rights for police officers. On the 18th of August, of this year, Gov. Jerry Brown of California signed legislation providing for a bill of rights for police officers. By city ordinance, the city of New York, the city of Seattle, and the city of Milwaukee have passed a bill of rights for police officers. During negotiations, Memphis, Tenn., and Greensboro, N.C., have contracted a bill of rights for police officers.

What they are really saying is that we, who should have assumed the leadership and are in a position to demonstrate that leadership, failed by our dilatory conduct. The bill of rights in those areas is working, and nothing has gone awry—no chaos, no diminution in the effectiveness of law enforcement, no conflict in personnel. The bill of rights has been adopted and pursued.

Some people say, "Well, this is not the way to legislate, with an amendment avoiding procedure."

I have accommodated every criticism made during debate in the previous sessions of Congress. We have adjusted our bill. We did in fact have hearings by the subcommittee of the Committee on the Judiciary, with the gentleman from Pennsylvania, Mr. EILBERG, presiding. We have a record here of those hearings. We accommodated every criticism. So the product that is before the Members today is not a trifling submission. It is not one that is given without thought. My respect for law enforcement, my respect for the responsibility of government supersedes many other considerations. But they are not divided here. They are consistent. They are concurrent. All of our concerns are met. I do not understand those civil libertarians who would find themselves in opposition to providing basic civil rights, some of which I enumerated in the early part of my discussion, to police officers.

Is it necessary to be an intellectual and be victimized before the civil libertarians respond?

Or do we believe in the philosophy and apply it universally to every American and to every human being in this country?

I prefer to believe the latter. I am realistic enough that the former is the policy adhered to by some, but not by the majority. I am hopeful that the majority today will sustain my belief and my feeling that we do believe in civil rights and equal justice for all.

Mr. Chairman, I urge the adoption of this amendment.

Mr. CONYERS. Mr. Chairman, I rise reluctantly in opposition to the amendment.

Mr. SYMMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. DOWNEY of New York). The Chair will count. Sixty-three Members are present, not a quorum.

The Chair announces that pursuant to clause 2 of rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Mr. Chairman, I yield to my colleague, the gentleman from Illinois (Mr. RUSSO), a former member of the Committee on the Judiciary.

Mr. RUSSO. Mr. Chairman, I thank my colleague, the gentleman from Michigan (Mr. CONYERS) for yielding to me.

Mr. Chairman, I rise in strong support of the amendment offered by my good friend and colleague, the champion of law enforcement, Representative MARIO BIAGGI. Passage of the law enforcement officers bill of rights would be considered a legislative landmark in congressional history of which we could be exceptionally proud.

After his election to Congress following an outstanding career as a New York City police officer, Congressman BIAGGI immediately introduced the law enforcement officers bill of rights. Nearly 90 other Members have also cosponsored this meritorious proposal and I am sure are working hard for its passage today.

At this late stage in our Nation's history, it seems an anomaly to me that our country's courageous law enforcement officials should be denied the same constitutional protections guaranteed to all other Americans. Many Americans take these liberties and rights for granted, but for those citizens who have ever experienced life without them the saga reads very differently. Congress has extended these safguards to other groups not previously protected and should continue this process today. This amendment seeks to add legislative substance to the constitutional provisions that protect citizens who are under criminal investigations.

Congressman BIAGGI's amendment will mandate that in order for States and localities to receive LEAA funding they must enact statutes and ordinances establishing mechanisms to guarantee law enforcement officials procedural due process. Foremost among the rights involved the sixth amendment's right to counsel and the right to be fully informed of the nature and cause of the accusation.

In an effort to encourage the orderly protection of these rights, a grievance commission must also be established by the States and localities to investigate law enforcement officials' complaints that their rights have been violated under this bill of rights. These commissions' powers are narrowly defined in the amendment and would prevent the commissions from straying outside their prescribed areas. Members of the public, law enforcement agencies, and other public agencies would compose the commissions, while the accused could be represented by a certified employee organization. Under this concept, which is similar to the Equal Employment Opportunity Commission procedure, disputes could be handled internally without the monetary expense of a court battle.

In addition to the grievance commission, the sponsor has wisely chosen to include a section authorizing a civil suit by any official who contends that his rights under any provision of the amendment have been violated. The grievance commission procedure, and the civil suit are not mutually exclusive remedies and neither are they the only statutory provisions upon which an action might be brought; other civil rights laws will remain available. A decision this past term by the Supreme Court interpreted one civil rights statute as providing the exclusive avenue upon which particular individuals could bring suit and I think that the language of this amendment will preclude any such strict interpretation by the Federal courts.

Finally, Mr. Chairman, I would like to voice my strong support for that section of the amendment that permits all law enforcement officials the right to engage in partisan political activities when off duty and out of uniform. My colleague has been assured by the distinguished chairman of the Judiciary Committee that the amendment's language will conform to that language in the Hatch Act which allows certain public officials to engage in partisan political activities. Participating in politics is probably the most basic right guaranteed in America because all other rights flow from participation in the democratic process. The First Amendment guarantees freedom of speech to all Americans, including law enforcement officials.

Mr. CONYERS. Mr. Chairman, and members of the Committee, I would want the Members to know immediately that I do not associate myself with the remarks of the gentleman from Illinois (Mr. RUSSO), to whom I rather graciously yielded because of some time constraints of his.

Mr. Chairman, on a more serious level, I would ask the Committee to do what they have had to do on occasions in the past, that is to, with some reluctance, reject this amendment regardless of its good intentions.

The short and the simple objection to this is that if we were to pass a bill of rights for policemen at the Federal level the question that would occur would be: What about correction officers? What about other people in the law enforcement field? What of all the other members that comprise the law enforcement agencies in the several States?

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to my colleague, the gentleman from New York (Mr. BIAGGI), the author of the amendment.

Mr. BIAGGI. Mr. Chairman, to begin with, the gentleman from Michigan makes a valid point, except the fact of the matter is that provisions for correction officers and for sheriffs have been made and if I have, in fact, left anyone out, then it is incumbent, I would say to my friend, for the Congress to seek out those that have been denied these basic rights and provide for them.

Mr. CONYERS. That raises perhaps a more fundamental question, Mr. Chairman: What suggests to the gentleman from New York, or any Member of this body, that policemen are denied their constitutional rights? They are included within the purview of the Constitution, within the meaning of all the State constitutions and the Federal rules of evidence and procedure, and those at the State level apply to police officers as well as they do to citizens engaged in any other pursuit. So that it would seem, on the surface, highly unusual to suggest that they are in need of this special legislation, which the gentleman from New York additionally has pointed out is being passed by a number of States already? And I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, to begin with, the gentleman says why do they need it? The fact remains there must be a need, and before I enumerate the reasons, we have in the State of California just enacted legislation that answered that need. And in the State of Maryland, they did likewise.

Mr. CONYERS. Then why should the

Federal Government engage in this same action?

Mr. BIAGGI. Because at long last somebody responded. The Federal Government failed to provide the leadership despite the fact that this legislation was introduced 6 years ago.

I voted with the gentleman from Michigan earlier on this afternoon when the gentleman attempted to—condition—providing funding for the correctional facilities on establishing basic standards. I agreed with the concept. I agree with it still. The gentleman says, "Well, why is it necessary?" It is necessary because we know, unfortunately, that people out in the hinterlands of our Nation do not always do the right thing, and therefore it is incumbent upon us to enact legislation that will compel them to do that.

What I am trying to do here is to establish a similar condition.

Mr. CONYERS. Why do not probation officers get included in this bill? The first thing we know, someone will be saying they need such provisions too.

Mr. BIAGGI. If the gentleman will yield further, when the facts are brought to my attention that justify, because of the peculiar nature of their work and conditions developing within that structure, that there is a need, I will be the first to include them in any legislation.

Mr. CONYERS. I should point out to the gentleman that in the hearings that were held in the Judiciary Committee, which were recommended in the previous session in 1973, when this matter came before the entire House for disposition, it was rejected at that time.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield briefly?

Mr. WIGGINS. I yield.

Mr. CONYERS. I thank my colleague for yielding. I would conclude here my point which is that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary held hearings and they failed to report this bill to the full committee. I wanted to make that fact known.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield so I may respond?

Mr. WIGGINS. I have just a limited period of time.

Mr. Chairman, I oppose the amendment. The amendment purports to grant to police officers something called a bill of rights. Let us understand what we are talking about. We are not talking about constitutional rights, of course, because police officers are entitled to the full protection of the U.S. Constitution, whether we have an LEAA bill or an amendment to it or not. And we are not talking about civil rights, as that term is generally understood, because the civil rights statutes of the United States already are of general application. They apply to every police officer in the land.

No, we are talking about something else under the rubric of a bill of rights. We are talking about employee benefits which police officers would like to obtain. They have been successful in some places and unsuccessful in others.

The amendment proposes federally mandated benefits to police officers.

Let me explain it just a bit further so Members will understand that these benefits accorded to police officers are not granted to other people in our society and are indeed special benefits.

First of all, all funding is conditioned upon the States and localities accepting these standards. What are these standards?

Any time a police officer is being investigated, an administrative investigation with respect to his conduct, even though no crime is alleged, these are some of the things he is entitled to.

First, no inference can be drawn against him if he refuses to cooperate with the investigation. How does that strike the Members as a matter of simple common sense?

The interrogation of the police officer can be conducted only in the police station or some regularly assigned place of duty. It could not be conducted, for example, in the home of the police officer even though that might work to his benefits.

What else?

The police officer is entitled to the name of the person making the complaint. I will tell the Members, if a citizen is accused of a crime and is interrogated by a police officer, he is not entitled to the name of his accuser. That right only ripens when the matter gets to the court, not during the investigative stage.

There is more.

The interrogation can be conducted only by one police officer. If two or three are conducting the investigation, the duty of asking questions must be assigned only to one.

The interrogation cannot be extended over an unreasonable period of time. I think that is fair.

The police officer shall be entitled to counsel during the interrogation.

This is not constitutional right. Unless the focus of an investigation points to a particular person as the one likely to be accused of a crime, Miranda rights do not arise. Nobody else in our society is entitled to an attorney during an investigative stage.

There is more.

The amendment permits police officers, if they wish to sue to recover private damages, to receive public legal assistance. Legal fees are apparently payable even to unsuccessful litigants. They are entitled to receive public legal assistance for the purpose of preparation of even a frivolous lawsuit.

And it goes on and on.

Mr. Chairman, the reason this proposal did not survive the Subcommittee of the Judiciary and has not moved forward in the last 6 years is because it is not a meritorious proposal.

I want it fully understood for the benefit of my police officer friends that I have no objection to them going to their employers and bargaining as best they can for such rights as they can extract in the normal bargaining process. But I certainly object to deciding a matter of normal labor bargaining by statute.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, of course, a police officer would be entitled to the benefits of the Miranda rule, the same as anyone else, if he was being held for a possible trial.

Mr. WIGGINS. Oh, indeed.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, for that very reason he does not need to have additional protection concerning his right to counsel.

Mr. WIGGINS. That is correct.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment proposed by my distinguished colleague, the gentleman from New York, Mr. BIAGGI, an amendment which would establish a policemen's bill of rights. Although our law enforcement officers, like any other citizen, are protected by the freedoms guaranteed by our Constitution, it is essential in these troublesome times to provide our policemen with an additional cloak of protection; namely, a restatement of the basic rights of police—a policemen's bill of rights. We are living during a time in which violence and disregard for the law has assumed epidemic proportions: violence pervades every aspect of our lives and oftentimes the most visible and readily identifiable representatives of the law, our law enforcement officers, are victims of the violence they are compelled to control and eradicate. It is certainly not too much for us to state for these men and women, whose life-sustaining and vital services insure our own well-being, the basic rights to which they are entitled as protectors of the peace, and as personifiers of the law.

Accordingly, Mr. Chairman, in light of the sacrifices that these law enforcers are daily called upon to make, I give my wholehearted support to the policemen's bill of rights, which I have previously cosponsored. Provisions in this bill include some very basic statements: That any investigation of an officer which might lead to "disciplinary action, demotion, dismissal, or criminal charges" should take place at a reasonable hour; that a law enforcement official should be informed of the nature of the investigation; that a complaint against the officer should be authorized; that the policeman investigated should have the right to counsel. These are basic rights guaranteed to all of us and are in no way extensions of privileges not granted to each and every citizen. Rather, the policeman's bill of rights is merely a restatement of these basic rights, a commemoration and proclamation of our gratitude to the officers in whom our safety and well-being lie.

Accordingly, Mr. Chairman, I am pleased to support the amendment of the gentleman from New York (Mr. BIAGGI), to the LEAA appropriations bill and urge my colleagues to favorably consider this measure.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I do not expect to take the 5 minutes, but I do want to say that anything we can do to encourage good citizens to become police officers we ought to do. I have noticed over the years a great number of rights that we did not think were rights at one time being extended to many groups.

Mr. Chairman, we are accused at times of doing too much for lawbreakers. There was a shootout, which turned out to be a big one, in one of the shopping centers last year in western Pennsylvania. Two police officers tried to apprehend persons in an attempted robbery. A shooting took place. One police officer was killed and the other police officer is standing trial for the death of one of the suspects.

I do not know how much it is going to cost this officer. I do not know what the total cost is going to be or who is going to pick up the bill, but on the police officer's side we know just about what the lawyers' costs will be, much more than he earns. I would imagine that he is in a very, very sad situation at this time.

I do not know how many Members of this Congress would, under any conditions, volunteer to become an everyday patrol cop in any of our cities, any of our major cities. I have talked to a few policemen on our highways. There have been some bad incidents when stopping cars at night. There is an element of danger getting out of their cars to go up to the drivers of the cars that they stop. I would not be surprised if they are tempted to just let the speeder go, especially when they have an alert on someone who is considered to be a dangerous person and are patrolling alone. The officer has to get out of his car, and he is at the mercy of the driver of the stopped car.

I had an incident where one of my colleagues in the House told me of being stopped by a police officer. My colleague was going 5 miles over the speed limit on the Pennsylvania Turnpike. When he was stopped, he got out of his car and walked back to the policeman's car. The policeman said, "Thank you very kindly."

In the old days, a police uniform was all we needed to respect an officer. He did not need any clubs. In our small town there was one officer for the whole community, but what that uniform meant to everyone was that it represented authority. However, today it is completely ignored by a growing legion of citizens in this country who believe that police officers are some kind of tax-eating, nonworking entities, and are fair game.

I would not want to be a policeman. I do not think I would be a policeman under any conditions. I cannot conceive of anything that would force me into that uniform, because there is no respect for the uniform. Those having no respect for the uniform, have absolutely no respect for the wearer of the uniform.

It crosses all lines in this country, and especially today when so many, at times, are not themselves; some are drinking, some are hopped up, and there is no way that a policeman has any idea of what he is going to run into. Here is a broad daylight robbery attempt, and one of the suspected thieves was shot. A policeman was shot, too. They were both killed, and the surviving policeman is being tried.

This bill of rights does not bring any spectacular benefits to the police which we do not enjoy ourselves. For instance, it contains the right to counsel, along with other provisions.

Mr. Chairman, I believe the amendment ought to be accepted.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this amendment. I am very proud to have been one of the original cosponsors, starting several years ago, of the legislation which underlies this. The amendment is offered by a joint sponsor who probably knows more about the police and their problems than any other Member of this body, my friend and colleague, MARIO BIAGGI, who before he came here was the most decorated police officer in the State of New York.

I think this bill of rights is important for psychological reasons as much as anything else. The profession of police officer is one of the very, very few where a man is asked to put his life on the line every day, to risk his life to protect ours and to protect our property. Today the police, I think with considerable justification, are very demoralized.

They feel they do not have the support of the community. They feel that they are taking many of these risks and we do not provide adequate money for courts to quickly process the arrests that they make. They see people who they know are criminals going free, and the community does not seem to care.

I have examined the points in this bill of rights very carefully. I do not think there is anything objectionable from the civil rights point of view. I think I am as strong an advocate of civil rights as anybody in this body. I think this will give an acclamation by the Congress of the United States that it supports the important work that the police do for us and it wants to give a vote of confidence to those policemen and women. I think we should adopt the amendment.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Chairman, I would like to respond to several points that were made by the gentleman from California (Mr. WIGGINS). He said a police officer could be confronted and not answer and avoid interrogation.

Nothing could be further from the truth. He could be subjected to charges and he could be subjected to due process. The question is, while he is subjected to interrogation he must have the right of counsel. In many cases that is denied him. That is the point.

Another reference was made to the provision of the bill which says a man should be interrogated by one interrogator, and he finds that objectionable.

The days of Humphrey Bogart, James Cagney, and all of these gangster movies, are over, with the dark room, the big light and 10 or 12 people interrogating from different parts of each room. We have case law established that that is improper. That is improper and shall not be practiced. They cannot be used on the worst of criminals. They must be interrogated by a single interrogator. He can be provided with as much as he likes, in the form of questions, but multiple interrogation is regarded as cruel and harassing.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I would like the gentleman to know, and all of those who are considering the support of this amendment, that it went through another subcommittee of the Committee on the Judiciary, and they failed to report it. This amendment has nothing whatever to do with LEAA, even ignoring the constitutional defects, which are very serious in nature. If the gentleman asks me what they are, I simply say to the gentleman that we would be passing some additional constitutional rights for one class of employee in this country, when all of the others which are now on the books, both Federal and State, apply to police officers. I know of no constitutional provisions that exclude a citizen who happens to be in law enforcement. We would be embarking upon most dangerous constitutional grounds.

Mr. OTTINGER. Mr. Chairman, I decline to yield further at this time.

It seems to me that we implement constitutional protection in all kinds of ways, in all kinds of laws, all the time. There is no class of people more deserving of protection than our police.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Chairman, to begin with, I would not want to put the nine men sitting on the Supreme Court out of business. It is not for us to determine the constitutional questions.

No. 2, so far as the Constitution and its provisions for all of the people of the United States, they have been there since our Founding Fathers put it together. If that was properly implemented, as it should be, there would be no need for all of the civil rights legislation. But the fact of the matter is that it has not been, and it has required specific legislation from many different areas. If it requires more from another area, then so be it. But why deny any group any of their rights?

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment, with all due respect to the gentleman from New York.

Mr. Chairman, the gentleman's amendment would make receipt of LEAA grants by all State and local governments participating in the program contingent upon those governments adopting a law enforcement officer's bill of rights. This means that every government unit in the country must adopt the specified bill of rights or lose their LEAA funds. The amendment establishes formalized procedures for the redress of grievances of law enforcement officers as well as specifying these officers' rights, including the right to engage in political activity.

Mr. Chairman, the Federal Government should not be involved in prescribing to State and local governments the nature of relationships with their own law enforcement personnel. This is a matter for collective bargaining. The amendment represents an unwarranted intrusion of Federal authorities into the activities of these jurisdictions. It also places a new string on the Federal funds which may cause participants in the LEAA program to drop rather than be coerced into adopting particular changes. It is contrary to our federal system and goes against the clear intent of the LEAA program. In fact, the LEAA legislation explicitly prohibits Federal direction of local law enforcement practices.

This is not the first time that a proposal to establish federally dictated law enforcement officers' rights has been introduced in the Congress. Legislation which would accomplish this has been introduced and considered in the last several Congresses. The Department of Justice has consistently opposed its enactment, and the Congress has repeatedly declined to act favorably on it. I strongly urge that my colleagues again reject this unwise proposal.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I do not want to belabor this point. I think it has been spoken to sufficiently and in detail. I reluctantly oppose the amendment offered by my good friend, the gentleman from New York (Mr. Biaggi).

Everything that has been said in opposition to it is basically correct. There are many constitutional problems connected with some of the provisions of the so-called Bill of Rights. It would create, one might say, a preferred class of citizens, the police officers, giving them, if it is possible under our Constitution—although I do not think so—greater rights than those of other people, including employees of municipalities of counties. This is not the place for it. That has been said over and over again. It is not the place for this kind of action.

Any matter of this magnitude ought to be considered on its own merits. Perhaps there is room for a so-called policeman's bill of rights in the Federal statutes. I do not think this particular version thereof ought to be in the Federal statutes, but perhaps something else could be proposed. I believe it ought to be considered on its own merits.

There are mechanisms for bringing something like this to the floor, whether or not the subcommittee of the Committee on the Judiciary approves it. I do not serve on the subcommittee, but it apparently does not approve this action either.

Let us do this in due course and not try to attach it hodge-podge onto another piece of legislation that in and of itself is most important in protecting the rights of policemen as well as the rights of citizens.

This bill needs to be passed soon, and action like this will only impede its passage. Let us vote down this amendment. I say that although I can certainly understand there will be some political problems to some Members if they do so, but let us exercise some courage here and vote down the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Biaggi).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 17, noes 33.

Mr. BIAGGI. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, role XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. Biaggi) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 213, not voting 69, as follows:

[Roll No. 692]

AYES—148

Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Archer
Ashbrook
Aspin
AuCoin
Bauman
Beard, R.I.
Bevill
Biaggi
Blanchard
Bolling
Breaux
Brodhead
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Clausen, Don H.
Cleveland
Collins, Tex.
Conte
Cotter
Crane
D'Amours
Daniels, N.J.
Davis
Delaney
Dent
Derwinski
Devine
Dodd
Downey, N.Y.
Duncan, Tenn.
Edgar
Eilberg
Evans, Ind.
Fary
Fascell
Flood
Florio
Ford, Mich.
Gaydos
Giaimo
Gilman
Ginn
Guyer
Hanley
Hannaford
Harsha
Hechler, W. Va.
Hefner
Hicks
Hillis
Holland
Holt
Howard
Hubbard
Hughes
Hyde
Jacobs
Jones, N.C.
Karth
Kemp
Keys
Krebs
LaFalce
Lent
Lloyd, Calif.
Lloyd, Tenn.
Lundine
McDade
Madden
Maguire
Mathis
Melcher
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Morgan
Mottl
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nowak
Oberstar
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Paul
Pepper
Perkins
Pike
Pressler
Price
Quillen
Rangel
Rinaldo
Risenhoover
Roe
Roncalio
Rooney
Rostenkowski
Rousselot
Russo
Santini
Sarasin
Sarbanes
Schroeder
Schulze
Shipley
Shriver
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Stanton, James V.
Stratton
Symms
Thone
Traxler
Vigorito
Walsh
Waxman
Weaver
Winn
Wolff
Wydler
Yatron
Zablocki

NOES—213

Abdnor
Adams
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Ashley
Bafalis
Baldus
Baucus
Beard, Tenn.
Bedell
Bennett
Bergland
Biester
Bingham
Blouin
Boland
Bowen
Brademas
Breckinridge
Brooks
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Butler
Cederberg
Clawson, Del
Clay
Cochran
Cohen
Conable
Conyers
Cornell
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
Dellums
Derrick
Dickinson
Diggs
Dingell
Downing, Va.
Drinan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fenwick
Findley
Fish
Fisher
Fithian
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Gibbons
Goldwater
Gonzalez
Gradison
Grassley
Gude
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harkin
Harris
Hayes, Ind.
Hébert
Henderson
Hightower
Holtzman
Hungate
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Koch
Krueger
Lagomarsino
Landrum
Latta
Leggett
Levitas
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McDonald
McFall
McHugh
McKay
Madigan
Mahon
Mann
Martin
Mazzoli
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mineta
Mink
Mitchell, Md.
Montgomery
Moorhead, Pa.
Mosher
Moss
Myers, Ind.
Myers, Pa.
Nolan
Obey
O'Neill
Passman
Pattison, N.Y.
Pickle
Poage
Preyer
Pritchard
Quie
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Rogers
Rose
Rosenthal
Roush
Roybal
Runnels
Satterfield
Scheuer
Seiberling
Sharp
Shuster
Simon
Skubitz
Smith, Iowa
Spence
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thornton
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wirth
Wylie
Yates
Young, Fla.
Young, Ga.
Young, Tex.

NOT VOTING—69

Abzug
Alexander
Badillo
Bell
Boggs
Bonker
Brinkley
Broomfield
Brown, Calif.
Broyhill
Chappell
Chisholm
Clancy
Collins, Ill.
Conlan

Corman
de la Garza
Duncan, Oreg.
du Pont
Early
Esch
Forsythe
Fuqua
Goodling
Green
Harrington
Hawkins
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Horton
Howe
Hutchinson
Jones, Ala.
Kindness
Lehman
McCollister
McCormack
McEwen
McKinney
Matsunaga
Meeds
Meyner
Murphy, Ill.
Neal
Nichols
Pettis
Peyser
Rees
Riegle
Ruppe
Ryan
St Germain
Schneebeli
Sebelius
Sikes
Sisk
Staggers
Steelman
Steiger, Ariz.
Stuckey
Studds
Sullivan
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Zeferetti

Messrs. TALCOTT, LONG of Maryland, BUCHANAN, HÉBERT and HANSEN changed their vote from "aye" to "no."

Mr. HUGHES changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had originally intended to introduce an amendment which would deal with the very vital and pressing problems in cities in connection with law enforcement, but after some conversation with the chairman of the full committee and my colleague, the gentleman from New Jersey (Mr. Rodino), it is my understanding that we will have hearings in connection with this problem and, as a consequence, I will not introduce the following amendment:

Amendment to H.R. 13636, As Reported Offered by Mr. Biaggi

Page 35, immediately after line 25, insert the following:

ASSISTANCE TO PREVENT POLICE LAYOFFS CAUSED BY BUDGETRY PROBLEMS

Sec. 116. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is further amended by adding at the end the following:

"Part J—Assistance To Prevent Police Layoffs Caused by Budgetary Problems

"Sec. 680. The Administration is authorized to make grants under this part to eligible units of general local government to enable such units to retain or reattain employment levels of essential law enforcement and criminal justice personnel which would have to be reduced or have been reduced because of such units' bona fide budgetary problems.

"Sec. 681. A unit of general local government may receive grants under this part if the Administration determines, upon such application as the Administration shall by regulation require, that—

"(1) the essential law enforcement and criminal justice personnel who, during a period commencing on or after January 1, 1975, have been released, or would but for assistance under this part be released, from employment as such personnel equals or exceeds 5 percent of the total law enforcement and criminal justice work force employed by that unit;

"(2) such release of such personnel resulted or would result from the bona fide budgetary problems of such unit; and

"(3) the most recent available rate of reported crime as determined by the Administration for such unit of general local government equals or exceeds the national average rate of reported crime as determined by the Administration for the same time period for which such most recent available rate is computed.

"Sec. 682. The amount of assistance under this part to a unit of general local government during a Federal fiscal year shall equal, subject to the availability of appropriated money for such grants, the sum needed by the grantee unit for such year to retain or reattain the level of employment of essential law enforcement and criminal justice personnel which existed or exists before the release referred to in paragraph (1) of section 681."

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I want to assure the gentleman from New York (Mr. Biaggi) that I recognize there is a need to consider the amendment which he was about to offer. I think, however, it is a matter that should be discussed thoroughly, that should be aired thoroughly, and in committee before acting on it. And I assured the gentleman from New York that we would hold hearings in the Committee on the Judiciary in the next session of Congress.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York (Mr. Koch).

Mr. KOCH. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Illinois (Mr. McClory) concerning an amendment that I had proposed introducing but which I will not, because it has been brought to my attention by general counsel that the thrust of the amendment may already be in the law. I would like to verify that and certify it, to some extent.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, the purpose of section 301(d) is to limit the use of LEAA funds to pay for salaries of personnel engaged in the routine, day-to-day activities of law enforcement. The purpose of the entire act has been—and continues to be—the promotion of innovative programs in law enforcement and criminal justice. That is why in prior Congresses we have indicated our intention that LEAA funds should not be used simply to increase the size of the regular police force or to provide for salary increases. However, it has always been our intention that such funds be used to pay for personnel engaged in innovative programs designed to improve and strengthen law enforcement and criminal justice. In my opinion, the last sentence of section 301(d) permits the use of funds for such purposes without any reservation. That sentence is as follows:

> The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs.

This sentence makes unnecessary any provision that LEAA have the authority to waive the limitations of section 301 (d) for innovative programs.

Mr. KOCH. Mr. Chairman, I thank the gentleman for that clarification, because the fact is, so far as I understand it up until now, that it had been thought by many that there was this limitation. This discussion will make it clear to LEAA that there is no artificial one-third limitation in the program as described by the gentleman.

Mr. Chairman, again I thank the gentleman for the clarification.

Mr. Chairman, will the gentleman yield for one additional point?

Mr. CONYERS. Yes, I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, for the purposes of clarification and for the benefit of those reading the Record, I wish to include at this point the amendment that I would have offered.

The amendment is as follows:

Amendment to H.R. 13636, as Reported Offered by Mr, Koch

On page 6, insert immediately after line 3 the following new subsection (c) and redesignate succeeding subsections accordingly:

(c) Section 301(d) of such Act is amended by inserting immediately after the second sentence the following: "The limitations contained in this subsection may be waived when the Administration finds that such waiver is necessary to encourage and promote innovative programs designed to improve and strengthen law enforcement and criminal justice.".

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: Page 5, beginning on line 7, strike out everything down through "justice;" on line 11 and insert in lieu thereof:

"(10) The definition, development, and implementation of programs and projects designed to improve the functioning of courts, prosecutors, defenders, and supporting agencies, reduce and eliminate criminal case backlog, accelerate the processing and disposition of criminal cases, and improve the administration of criminal justice in the courts;".

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. Mr. Chairman, this is a technical amendment that is offered simply to clarify language in the existing bill. It amends section 106(b)(4) of the bill, which makes speeding criminal trials and eliminating trial delay specific objectives of State plans. My amendment removes an unintended emphasis on mechanical rather than human components of the trial process, and recognizes the integral roles of the prosecution and defense in speeding criminal trials.

The amendment is being offered at the suggestion of the National District Attorneys Association and the National District Attorneys Association and the National Legal Aid and Defender Association.

Mr. McCLORY. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I have examined the amendment, and we have no objection to the amendment.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, we are perfectly satisfied with the amendment, and we are prepared to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania: Page 29, line 20, immediately after "title", insert the following: "No money authorized to be appropriated by this title shall be made available for the interstate transportation or out-of-State sustenance of persons held in custody and convicted of armed robbery, homicide (other than involuntary manslaughter), rape, or an analogous crime under applicable State law as determined by the Administration, if such transportation or sustenance is for the purpose of facilitating participation in an athletic event in a State other than the State in which such person is so held".

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MYERS of Pennsylvania. Mr. Chairman, the Pittsburgh Post Gazette carried a front-page story on May 25 telling of two convicted murderers who were given 10-day, all-expenses-paid vacations to Las Vegas, Nev., to participate in the National Golden Gloves boxing championships. The trip was made possible through the cooperation of the Amateur Athletic Union and the State Bureau of Correction. The Bureau of Correction program was financed through an LEAA grant. Even though one of the boxers was eliminated on the fifth day of the competition and the other on the sixth, both were permitted to remain in Las Vegas until the competition ended.

Although the Governor of Pennsylvania's justice commission justified these long trips by felons convicted of violent crimes as a "fitness training experience for sociably dormant inmates," I feel that cross-country trips by men convicted of violent crimes were unjustifiable under the circumstances.

Mr. Chairman, there have been events which have led to undesirable results by the release of violent criminals. I think the use of LEAA funds to not only release criminals for events such as this but to transport them interstate and across a number of State borders presents an unreasonable risk to the general society. I would like to think that the Governor's office could use LEAA grants without strings attached at the Federal level.

However, I think this is one example of an extreme use for which we should not permit the funds to be put.

Mr. Chairman, it is this type of example that frustrates Congressmen like myself in trying to answer constituents' questions about how Federal funds are wasted. I think it is an example of irresponsibility at the State level and that the funds could be used to improve the facilities rather than in transporting a couple of violent criminals to a sporting event.

For these reasons, Mr. Chairman, I offer this amendment to restrict the Governors from transporting violent criminals for these purposes.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think that I have the amendment, and I will ask the gentleman if this is correct, that no money be authorized from LEAA funds for the transportation of convicted felons for the purpose of engaging in athletic activities; is that the thrust of the gentleman's amendment?

Mr. MYERS of Pennsylvania. Mr. Chairman, if the gentleman will yield, the thrust of the amendment is to prohibit the interstate transportation of violent criminals through the use of LEAA funds. It does not prevent the Governors from transporting them intrastate.

Mr. CONYERS. Does the gentleman mean convicted felons, not unapprehended criminals? Is that correct?

Mr. MYERS of Pennsylvania. I am not sure of the point that the gentleman is making.

Mr. CONYERS. Is the gentleman from Pennsylvania talking about persons who have been convicted pursuant to State or Federal law and are in an incarcerated condition and are then engaging in athletic activities and that LEAA funds are involved? Is that correct?

Mr. MYERS of Pennsylvania. The thrust is that they cannot take the prisoners out of the correctional institution and transport them somewhere for an athletic event.

Mr. CONYERS. Then, Mr. Chairman, understanding that to be the purpose of this amendment, I am not unsympathetic with the fact that this has caused problems in the past.

It has occurred. I think the incidents that the gentleman has in mind, which motivated this amendment, are very few in number; but I think it would be highly unusual in this kind of legislation for us to determine a point as remote as this one.

Mr. Chairman, I would think that the corrections officials and certainly LEAA authorities in the several States, as a result of the incidents that the gentleman has in mind, which motivated his amendment, would certainly try to preclude and to minimize the kind of incident about which the gentleman complains.

For that reason, Mr. Chairman, I would really feel reluctant to accept or support an amendment of this nature. I would oppose it and call for a vote if there is no further discussion.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I support the position of the gentleman from Michigan (Mr. CONYERS).

I likewise am going to oppose this amendment. It certainly would impose a limitation on the penal authorities and on those undertaking programs of rehabilitation.

Therefore, Mr. Chairman, I urge that the amendment be defeated.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

I would say that a vote against the amendment essentially is a vote to condone this type of activity. I think the American public would view it that way, and that is the reason that I have brought the amendment to the floor.

Mr. CONYERS. Mr. Chairman, I want everyone in the committee to know that a vote against this amendment would not condone or support or in any way demonstrate any kind of approval of the activity of which the gentleman complains. That would not be correct at all.

There are a number of other ways to correct a situation of this kind, such as through the Governors of the several States, through the penal or correction authorities; and there are various associations and organizations which would not approve of this kind of incident.

However, I think that on the basis of one incident, for us to raise this to the level of an amendment to a Federal law would be highly inappropriate.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the attention of the distinguished chairman of the subcommittee, the gentleman from Michigan (Mr. CONYERS), who is handling this bill and say that I strongly support the Federal Government's participation in trying to curb and punish crime in this country. I think on the whole the law enforcement administration has made a saluatory contribution toward the suppression and punishment of crime in this country. But, Mr. Chairman, I have been very much disappointed that LEAA seems to have put its principal emphasis upon the orthodox approach to the crime problem rather than innovative procedures and inquiries. It would appear that primarily LEAA is not putting sufficient emphasis on the preventive aspects of crime, employing innovative procedures to find the causes of and to prevent juvenile crime.

As an example, Mr. Chairman, I asked the staff of the distinguished gentleman from Michigan a few minutes ago to see a statement of how the money of LEAA was being expended. They showed me some figures that 5 percent, that is about $50 million of the amount that LEAA received of nearly $1 billion, was spent on juvenile justice cases and the whole area of juvenile crime—$50 million out of about $1 billion. Yet I think the distinguished gentleman from Michigan (Mr. Conyers) will agree with me that about one-half of all the arrests for serious crime in this country is of people under 18 years of age. So it would appear one-half of the crime population is getting 5 percent of the funds of the Federal Government designed to curb crime in this country.

Just recently I have been in touch with some people who are thinking in terms of setting up a national institute to study the cases of young people who just do not seem to fit into the community, who drop out of school, who although intelligent are unable to learn, and the like.

It would seem to me, Mr. Chairman, that LEAA should be encouraging this kind of innovative research into this problem of dealing with young people and trying to keep a bent limb from growing up into a twisted tree.

I would like to invoke the comments of the distinguished gentleman from Michigan (Mr. Conyers), who I know is so much interested in curbing all aspects of crime, to speak upon that subject.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, the gentleman from Florida (Mr. Pepper), makes an extremely important point, and it is one of major concern to the subcommittee. We cannot tell the gentleman how much money has been spent in preventive operations because we do not have that kind of a breakdown. I hope that we will. But the gentleman is correct that about 5 percent of the total allocation of some $810,677,000 in 1976, or about $39 million, went into the juvenile justice system. Part C of the State action program could, of course, contain as many programs, that the gentleman would prefer, as they choose, but we do not have any evidence on how much they are. The National Institute could also be engaged in research but we cannot pull out their total research activities directed toward this. So I must say to the gentleman that it may be more than merely 5 percent that we have reported to the gentleman.

But, Mr. Chairman, the point of the remarks made by the gentleman from Florida (Mr. Pepper), are quite accurate that until we who are involved with LEAA begin revising the percentages, as well as the day-to-day operational activities, the procedural and the planning and the technology of the programs, we are still going to be closing our minds and our attention to that great area in which juveniles are getting pulled into the system and becoming hardened criminals in the process, and frequently becoming the recidivists which cause the great trouble.

Mr. PEPPER. Mr. Chairman, we certainly hope that the distinguished chairman, the gentleman from Michigan (Mr. Conyers), and his committee will indicate to the LEAA that we are looking toward the time when it will be more innovative particularly in preventing youth crimes in its program in the future.

Mr. CONYERS. Mr. Chairman, let me say to the gentleman from Florida that we will certainly do that. I want to assure the gentleman from Florida that, as my predecessor on the Select Committee on Crime, as the chairman, that we are very sensitive indeed to his remarks.

The CHAIRMAN. The time of the gentleman has expired.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Breaux: Page 12, in line 10, strike out "and" and in line 18, strike out "needs." and insert in lieu thereof the following: "needs; and

"(22) provides for the direct grant to the chief law enforcement official of each county in the State of at least that percent of an amount equal to 20 percent of the money available under section 306(a)(1) of this title which equals the percent of the population of such State that resides in such county, as determined by the Administration.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, I do support H.R. 13636, legislation to extend the Law Enforcement Assistance Administration, as I realize that it has contributed to combating crime in the United States; however, my amendment would channel funds directly to the chief law enforcement official of each county which in the case of Louisiana is the sheriff of each parish (county). I feel that my amendment would greatly improve this legislation.

In my own State of Louisiana, there is an unusual local government structure which provides that the local parish (county) governing body, the police jury, does not have law enforcement jurisdiction but, rather, law enforcement responsibility is the function of the sheriff's department, an entirely separate constitutional body.

One result is that when local parish governing bodies receive Federal revenue sharing funds, many are not distributing a portion of these funds to the parish sheriff departments. "Public safety" is merely a suggested area in which these funds may be spent. There is no legal requirement that funds be spent in any particular category, as one goal of Congress was to get away from big government in Washington telling local governments what they should do, a goal which I strongly support.

In addition, in some parishes, as a result of Federal revenue sharing, local police juries are able to cut back on parish taxes, an action which subtracts from the operating budget of the sheriffs which is based on tax collections in the parish. The end result is that sheriffs are not being helped by Federal revenue sharing, but are actually being hurt by a reduction in their revenues caused indirectly by Federal revenue sharing.

Since, in most instances, local funds are sent directly to the local governing units, I think that those individuals directly responsible for providing law enforcement and who bear the brunt of the burden insofar as fighting crime is concerned, should receive a direct portion of the LEAA funds.

Direct funding to these chief enforcement officials will provide increased funds for demonstration projects involving new criminal justice concepts and for those criminal justice programs that address their most pressing needs. Since the block grant concept is to give the local governments the leading voice in how to set up their crime reduction programs and use of funds, direct funding to chief law enforcement officials will enhance the block grant concept.

These law enforcement officers have demonstrated acute needs for assistance in the development and implementation of projects and programs to combat criminal activities and LEAA was created for the purpose of assisting State and local governments in their law enforcement activities to reduce crime. Any reauthorization of LEAA should satisfactorily recognize the responsibility and role of chief law enforcement officers.

My amendment to section 303 of H.R. 13636 would provide for the direct grant to the chief law enforcement official of each county in the State of at least that percent of an amount equal to 10 percent of the money available under section 306(a)(1) of this title which equals the percent of the population of such State that resides in such county, as determined by the administration.

Although I do realize that this problem is one that is unique to Louisiana, I do not wish to give the impression that our police juries are not equally and responsibly distributing Federal revenue sharing funds. However, since the chief law enforcement officer in Louisiana is an independent governing agency, direct grants under LEAA will increase the amount of funds coming into their department and can be used for such important matters as drug enforcement, equipment, construction, increasing the salaries of their employees which may be low as compared to the national level, and most importantly, assisting them in their overall efforts to reduce crime.

I am hopeful that my colleagues will see fit to support me in my efforts.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, may I ask my friend, the gentleman from Louisiana, a question. The amendment I have says: "an amount equal to 10 percent of the money available under section 306(a)(1)."

Has there been a change during the time when the gentleman was waiting to get this amendment before us? Did this rate increase?

Mr. BREAUX. Mr. Chairman, if the gentleman will yield, the chairman of the subcommittee makes a wise observation. Had the discussion gone on an additional day, we might have seen 30 percent instead of 20 percent.

But in all seriousness, in checking out all the figures, the figure of 20 percent was determined to be an appropriate figure in the light of what we have done.

Mr. CONYERS. Mr. Chairman, I oppose the amendment, but I guess I am grateful the 20 percent did not go to 30 percent during the time the gentleman was waiting to get his amendment before the committee.

I would point out to our colleagues that of course this strikes at the very heart of the theory under which LEAA disburses its funds, since under the part C action grants we, of course, direct millions of dollars to each of the several States—including, of course, the gentleman's own State.

Now, the police, of course, have been the prime beneficiaries of LEAA. I am sure the gentleman is aware that much of the directed criticism across the years has derived from the inordinate amount of money that has gone to law enforcement agencies and organizations that were put together to derive funds from the LEAA. It started off, they were getting an unbelievably 75 percent of all of the LEAA money. I am happy to report that in 1975 the amount that went to the police, as opposed to courts and correction agencies, has diminished to about 40 percent; but what the gentleman would do now is require, if I understand correctly, that in addition to the part C moneys that go to the several States that the chief law enforcement official in each county would get 20 percent of the State money.

Now, who would be the chief law enforcement official?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, in terms of who is the chief law enforcement official in each county is a determination made at the State level and made by the State constitution and set up on the State level.

Mr. CONYERS. May I ask my colleague, what objection does the gentleman have to the present method of distribution, which would allow any police agency and the local sheriff or the highest-ranking county law enforcement officer to make application through part C of the funds to the State planning agency to become a beneficiary of the several millions dollars that already go to each State?

Mr. BREAUX. Mr. Chairman, will the gentleman yield further?

Mr. CONYERS. I yield.

Mr. BREAUX. Mr. Chairman, I have a little problem about the concept. I just think this concept is a better concept. It would insure that the local government law enforcement official is the one that, indeed, gets the funding necessary.

Mr. CONYERS. Mr. Chairman, I am sorry that my colleague feels that way. We have had no testimony in the subcommittee. We have had no one from the law enforcement agencies; as a matter of fact, certainly none of the organizations that join us in evaluating LEAA as a program that have made this request. It is rather unusual.

Mr. Chairman, I hope that the gentleman will study the methods that are presently employed and any corrections that the gentleman has, I hope the gentleman will bring to the attention of the subcommittee, whose oversight activities will be generated to a very high degree in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: On page 16, line 16, strike "and" following "physical" and on page 16, line 17, strike out "services" and on page 17, line 3, following "physical" strike out "and services".

Mrs. FENWICK. Mr. Chairman, I do not think I will take more than a minute.

Mr. Chairman, this is a correction which I hope we can replace in the bill. It provides that the States, the localities, can receive money for construction, provided they have certain proper standards that are agreeable to both the State and the Administrator. It strikes the word "services," so that the States would not be required to establish long-term programs that they may not be able to fund.

Mr. McCLORY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, do I understand the gentlewoman's amendment would attempt to reinsert into the bill the entire language that was deleted by the Wiggins amendment, with the exception that the gentlewoman is keeping out two words?

Mrs. FENWICK. Three words. I think maybe there were four, "and services," and "and services" would be removed, so that the construction elements would remain as they were in the original bill and we would replace that authorization.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would like to indicate a willingness to support this amendment. I would like a moment to explain why.

Mr. Chairman, I think that this amendment is consistent with the findings that the GAO has made about LEAA grants that have gone under section E to correctional institutions; but they have found necessary to report that the conditions remain inadequate, despite the Federal funding improvements which have gone on since 1971, as the gentlewoman knows.

Mrs. FENWICK. If the gentleman does not mind, I do not want to take the time of the House because this was debated earlier, but we have many, many very bad prisons, jails, and county lockups in our States. This amendment would require that if we are going to renovate and build new facilities, some care is going to be taken as to the square feet allotted in the cell; as to the numbers that can be put in one cell. There is a shocking situation now, and I really think that we must put back some kind of teeth in the bill. We have an advisory committee which has objectives and goals as to what we should do in construction and renovation of prisons, but without any teeth.

This amendment says, "If you want some Federal money, you are going to have to sit down with us and talk about what kind of standards you are going to provide for people who are incarcerated."

Mr. CONYERS. If the gentlewoman would yield further I would be grateful to her. I think the section that this cures was in the original bill. It was the gentlewoman's fear that the line that contains "service" be subject to the coordination of both LEAA and State corrections officials, or LEAA grantees, whichever they may be, and would lead to the requirements of services that might go beyond the expiration of the LEAA grant, thereby encumbering the State with an obligation which it might not be able to sustain.

If that is the point of the gentlewoman's amendment, I am very happy to announce that I have reached an agreement with her, and I hope the amendment will be restored to the bill.

Mrs. FENWICK. Mr. Chairman, I apologize to the gentleman. My amendment refers to the original of the bill, and not to the section which has been cut out by the Wiggins amendment.

PARLIAMENTARY INQUIRY

Mr. WIGGINS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WIGGINS. Mr. Chairman, I regret that I was not on the floor at the time the amendment was read, but listening to the discussion leads me to the conclusion that the gentlewoman from New Jersey is offering to amend a section of the bill which has been deleted by an earlier amendment.

If, in fact, that is the amendment, it is rather late for me to make a point of order with respect to it, but we are amending something which is not in the bill to be amended.

The CHAIRMAN. The Chair has examined the Wiggins amendment, which struck out, on page 16, lines 10 to 24, down through line 5 on page 17. For that reason, in response to the gentleman's parliamentary inquiry, the gentlewoman's amendment would have no effect.

Mrs. FENWICK. Mr. Chairman, I should have included in my amendment the restoration of the original phraseology, omitting only those three or four words.

The CHAIRMAN. Would the gentlewoman perhaps seek unanimous consent to withdraw her amendment, and at her leisure and prerogative redraft the amendment consistent with the situation the bill is in as of now?

Mrs. FENWICK. Mr. Chairman, I do so.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. McCLORY. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman will state his reservation of objection.

Mr. McCLORY. The reservation of objection is this, Mr. Chairman: The committee has already taken out, with respect to this section, by deleting it. The reason for my reservation is to inquire of the Chair whether or not it is appropriate to reconsider, without a motion to reconsider by which the vote was taken, the identical section which is already omitted.

The CHAIRMAN. The motion to reconsider is not in order in the Committee of the Whole. By unanimous consent, the gentlewoman may withdraw her amendment.

Is there objection to the request of the gentlewoman from New Jersey?

Mr. McCLORY. Mr. Chairman, I obobject.

The CHAIRMAN. Objection is heard.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

Mr. WIGGINS. Mr. Chairman, I have another parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WIGGINS. Mr. Chairman, if I understood the Chairman's ruling on the previous parliamentary inquiry, there is nothing to be amended and we are voting on nothing.

The CHAIRMAN. In respect to the gentleman's very thoughtful parliamentary inquiry, the Chair has previously stated that the amendment offered by the gentlewoman from New Jersey would in fact be null and void. But under the parliamentary situation and the objection of the gentleman from Illinois, the Chair has no choice but to put the question on the amendment, and the members of the Committee will make such decision as they deem appropriate under these circumstances.

PARLIAMENTARY INQUIRIES

Mr. McCLORY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman objected. Objection has been heard.

The gentleman will state his parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, on my reservation of objection, I made my parliamentary inquiry as to whether or not it was appropriate to reinsert language which had already been deleted.

The CHAIRMAN. The Chair will state that language which has been stricken cannot be inserted; but other language can be inserted that is germane to the bill.

Mr. McCLORY. Mr. Chairman, did I understand accurately the request of the gentlewoman, that she wanted to reinsert the language except for these words?

The CHAIRMAN. The gentlewoman's request was to withdraw the amendment and she would offer another amendment, which is her total prerogative.

Mr. McCLORY. Mr. Chairman, I have no objection to the gentlewoman withdrawing the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. MANN. Mr. Chairman, I object to the unanimous consent request.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 23, noes 20.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. KRUEGER

Mr. KRUEGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Krueger: Page 6, at the end of line 3, strike out the quotation mark and period which follows, and insert immediately after line 3, the following:

"(12) The establishment of early case assessment panels under the authority of the appropriate prosecuting official for any unit of general local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible after the time of the bringing of charges, to determine the feasibility of successful prosecution, and to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes.".

The CHAIRMAN. The gentleman from Texas (Mr. Krueger) is recognized for 5 minutes in support of his amendment.

Mr. KRUEGER. Mr. Chairman, a program of early case assessment employs a panel of experienced prosecutors under the authority of the district attorney to study cases immediately upon their entrance into the criminal justice. It is the job of these panels to assure the expeditious trying of repeat offenders and those charged with violent crimes. I believe that swift trials, an idea envisioned by our forebears as a guarantee to individual liberty, will also prove a significant deterrent to crime. Our distinguished colleague in the other body, Mr. Robert Morgan, former attorney general of the State of North Carolina has stated:

> As one who has spent 25 years of his life in the law, I am not convinced that severity of punishment is as important a deterrent to crime as is swift and sure justice.

It is also the function of these early case assessment panels to examine a case, pointing out its strengths and weaknesses to the prosecutor. Through this mechanism, frivolous cases will be removed from the docket of our already overcrowded court system.

To conclude my brief presentation I would like to make two points. First, this amendment in no way alters the form of our Nation's criminal justice system. The district attorney has always had the authority to choose which cases will be prosecuted.

My amendment does not abrogate this authority. It simply enables the district attorney to empanel a group of criminal justice experts to assist him in the discharge of his duties. Second, it should be noted that this amendment does not require the establishment of early case assessment panels. It simply expresses the opinion of the Congress that such action would be in keeping with the purposes for which LEAA was established.

I urge my colleagues to support the passage of this amendment, and, thereby, to further the movement of our justice system toward the notion of reducing recidivism by speeding the procedures whereby repeat offenders may be brought to trial.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the distinguished gentleman from Illinois (Mr. McClory).

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I just want to say that we have had occasion to examine the amendment offered by the gentleman from Texas (Mr. Krueger) and we accept the amendment on this side.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, we feel the same way on this side. The amendment is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Krueger).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania: On page 34 after line 6 add the following:

Sec. 113. After section 527 of the Omnibus Crime Control and Safe Streets Act of 1963 as redesignated by section 10(c) of this Act, add the following new section:

"SUNSHINE IN GOVERNMENT

"Sec. 520. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this act; and

"(2) has any known financial interest in any person who applies for or receives financial assistance under this Act;

"Shall, begin on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the proceeding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MYERS of Pennsylvania. Mr. Chairman, this amendment is the so-called sunshine-in-Government amendment that the gentleman from West Virginia (Mr. HECHLER) and I have been offering to a number of authorization bills.

What the amendment does is it simply requires those individuals in the agency who are involved in policymaking decisions and who can affect grants to disclose any financial problems in relation to those grants. It does not require a full financial disclosure on the part of persons who are not in this position, but where a conflict of interest would be occurring it would be the responsibility of those members of the agency to reveal that conflict.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, there is nothing offensive to the committee in this amendment, and we are delighted to accept it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MYERS).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments to title I, the Clerk will read.

The Clerk read as follows:

TITLE II—REQUIREMENT FOR SPECIFIC AUTHORIZATION OF JUSTICE DEPARTMENT APPROPRIATIONS

SEC. 201. No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning after October 1, 1977, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning after October 1, 1977.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 28, lines 18 and 19, strike out "after October 1, 1977" and insert in lieu thereof "on or after October 1, 1978".

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 28, lines 18 and 3, strike out "after October 1, 1977" and insert in lieu thereof "on or after October 1, 1978".

The committee amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. ROSENTHAL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13636) to amend title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, pursuant to House Resolution 1246, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 324, nays 8, not voting 98, as follows:

[Roll No. 693]

YEAS—324

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hefner
Henderson
Hicks
Hightower
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Krebs
Krueger
LaFalce
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pike
Poage
Preyer
Price
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose,
Rosenthal
Rostenkowski
Roush
Runnels
Russo
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Symington
Taylor, Mo.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—8

Crane
Fascell
Goodling
Hansen
McDonald
Paul
Simon
Weaver

NOT VOTING—98

Abzug
Alexander
Armstrong
Ashbrook
Badillo
Bell
Brinkley
Broomfield
Brown, Calif.
Broyhill
Burgener
Burke, Calif.
Chappell
Chisholm
Clancy
Clawson, Del
Conlan
Corman
Cotter
de la Garza
Devine
du Pont
Early
Esch
Eshleman
Fish
Forsythe
Frey
Fuqua
Green
Gude
Harrington
Hawkins
Hébert
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Horton
Howe
Hutchinson
Jones, Ala.
Karth
Ketchum
Keys
Kindness
Koch
Lagomarsino
Landrum
Lehman
McCollister
McCormack
McKay
McKinney
Matsunaga
Meeds
Meyner
Minish
Mitchell, N.Y.
Moorhead, Pa.
Mottl
Murphy, Ill.
Nichols
O'Brien
Patterson, Calif.
Pettis
Peyser
Pickle
Pressler
Pritchard
Rees
Riegle
Roncalio
Rousselot
Roybal
Ruppe
Ryan
St Germain
Santini
Schneebeli
Sebelius
Sikes
Sisk
Staggers
Stanton, J. William
Steelman
Steiger, Ariz.
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, N.C.
Teague
Wampler
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mrs. Keyes with Mr. Karth.
Mrs. Chisholm with Mr. Jones of Alabama.
Ms. Abzug with Mr. Conlan.
Mr. Zeferetti with Mr. Horton.
Mr. Corman with Mr. Kindness.
Mrs. Meyner with Mr. Steiger of Arizona.
Mr. Murphy of Illinois with Mr. Young of Alaska.
Mr. Badillo with Mr. McKinney.
Mr. Hawkins with Mr. du Pont.
Mr. Helstoski with Mr. Forsythe.
Mr. Sikes with Mr. Esch.
Mr. Chappell with Mr. Bell.
Mr. Nichols with Mr. Steelman.
Mrs. Burke of California with Mr. Ruppe.
Mr. Lehman with Mr. Peyser.
Mr. Meeds with Mr. Heinz.
Mr. Sisk with Mr. Fish.
Mr. St Germain with Mr. Rees.
Mr. Fuqua with Mrs. Pettis.
Mr. Riegle with Mr. Pressler.
Mr. de la Garza with Mr. Hillis.
Mr. Moorhead of Pennsylvania with Mrs. Heckler of Massachusetts.
Mr. Minish with Mr. Armstrong.
Mr. Matsunaga with Mr. Ashbrook.
Mr. Cotter with Mr. Broomfield.
Mr. Mottl with Mr. Broyhill.
Mr. Early with Mr. Hutchinson.
Mr. Green with Mr. Lagomarsino.
Mr. Harrington with Mr. Landrum.
Mr. Hébert with Mr. McCollister.
Mr. Pickle with Mr. McKay.
Mr. Alexander with Mr. Mitchell of New York.
Mr. Brinkley with Mr. O'Brien.
Mr. Brown of California with Mr. Rousselot.
Mr. Koch with Mr. Sebelius.
Mr. McCormack with Mr. Schneebeli.
Mr. Howe with Mr. Burgener.
Mr. Patterson of California with Mr. Clancy.
Mr. Roncalio with Mr. Eshleman.
Mr. Roybal with Mr. Ketchum.
Mr. Ryan with Mr. William J. Stanton.
Mr. Teague with Mr. Del Clawson.
Mr. Taylor of North Carolina with Mr. Stuckey.
Mr. Studds with Mr. Frey.
Mr. Santini with Mrs. Sullivan.
Mr. Staggers with Mr. Devine.
Mr. Talcott with Mr. Symms.
Mr. Wampler with Mr. Gude.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2212

An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Control Act of 1976".

Sec. 2. The "Declaration and Purpose" of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) by inserting between the second and third paragraphs the following additional paragraph: "Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title."; and

(b) by deleting the fourth paragraph and substituting in lieu thereof the following new paragraph:

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this title to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.".

Sec. 3. Section 101(a) of title I of such Act is amended by inserting a comma after the word "authority" and adding "policy direction, and control" and by adding the following: "There shall be established in the Administration an appropriate organizational unit for the coordination and management of community anticrime programs. Such unit shall be under the direction of the Deputy Administrator for Policy Development. Such unit shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

"(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizens participation in law enforcement and criminal justice activities; and

"(3) provide information on successful programs of citizen and community participation to citizen and community groups.".

Part B—Planning Grants

Sec. 4. Section 201 of title I of such Act is amended by adding after the word "part" the words "to provide financial and technical aid and assistance".

Sec. 5. Section 203 of title I of such Act is amended to read as follows:

"Sec. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1979. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

"The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials.

"(b) The State planning agency shall—

"(1) develop, in accordance with part C, a comprehensive statewide plan and necessary revisions thereof for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice;

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State; and

"(4) assure the participation of citizens and community organizations at all levels of the planning process.

"(c) The court of last resort of each State or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75 percent judges, may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75 percent judges, and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts.

"(d) The judicial planning committee shall—

"(1) establish priorities for the improvement of the courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

"(3) develop, in accordance with part C, an annual State judicial plan, for the improvement of the courts of the State to be included in the State comprehensive plan.

The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. Except to the extent disapproved by the State planning agency for the reasons stated in section 304(b), the annual State judicial plan shall be incorporated into the comprehensive statewide plan.

"(e) If a State court of last resort or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75 percent judges, does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this title.

"(f) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least $50,000 of the Federal funds granted to such agency under this part for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

"(g) The State planning agency and any other planning organization for the purposes of this title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (A) the State plan, or (B) any application for funds under this title. The State planning agency and any other planning organiaztion for the purposes of this title shall provide for public access to all records relating to its functions under this Act, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.".

Sec. 6. Section 204 of title I of such Act is amended by inserting "the judicial planning committee and" between the words "by" and "regional" in the first sentence; and by striking the words "expenses, shall" and inserting in lieu thereof "expenses shall".

Sec. 7. Section 205 of title I of such Act is amended by—

(a) inserting ", the judicial planning committee," after the word "agency" in the first sentence;

(b) deleting "$200,000" from the second sentence and inserting in lieu thereof "$250,000"; and

(c) inserting the following sentence at the end thereof: "Any unused funds reverting to the Administration shall be available for reallocation among the States as determined by the Administration.".

Sec. 8. Part B is amended by inserting at the end thereof the following new section:

"Sec. 206. At the request of the State legislature (or a legislative body designated by it), the comprehensive statewide plan or revision thereof shall be submitted to the legislature for its review, comment, or suggested amendment of the general goals, priorities, and policies that comprise the basis of that plan or revision prior to its submission to the Administration by the chief executive of the State. The State legislature shall also be notified of substantial modifications of such general goals, priorities, and policies, and, at the request of the legislature, these modifications shall be submitted for review, comment, or suggested amendment. If the legislature (while in session) or an interim legislative body designated by the legislature (while not in session) has not reviewed, commented on, or suggested amendments to the general goals, priorities, and policies of the plan or revision within forty-five days after receipt of such plan or revision, or within thirty days after receipt of substantial modifications, such plan or revision or modifications thereof shall then be deemed approved.".

Part C—Grants for Law Enforcement Purposes

Sec. 9. Section 301 of title I of such Act is amended by—

(a) inserting after the word "part" in subsection (a) the following: ", through the provision of Federal technical and financial aid and assistance,";

(b) deleting the words "Public education relating to crime prevention" from paragraph (3) of subsection (b) and inserting in lieu thereof "Public education programs concerned with the administration of justice";

(c) deleting the words "the approval of" from paragraph (7) of subsection (b) and inserting in lieu thereof "notification to";

(d) deleting the words "and coordination" from paragraph (8) of subsection (b) and inserting in lieu thereof ", coordination, monitoring, and evaluation";

(e) inserting after paragraph (10) of subsection (b) the following new paragraphs:

"(11) The development, demonstration, evaluation, implementation, and purchase of methods, devices, personnel, facilities, equipment, and supplies designed to strengthen courts and to improve the availability and quality of justice; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; training of judges, court administrators, and support personnel of courts; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; equipping of court facilities; and multiyear systemwide planning for all court expenditures made at all levels within the State.

"(12) The development and operation of programs designed to reduce and prevent crime against elderly persons.

"(13) The development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers) and the establishment of procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abuse Office and Treatment Act of 1972 and section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970.

"(14) The establishment of early case assessment panels for any unit of local government within the State having a population of two hunderd and fifty thousand or more to screen and analyze cases as early as possible from the time of the bringing of charges, to determine the feasibility of successful prosecution, to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes, and to concentrate prosecution efforts on cases with a high probability of successful prosecution.

"(15) The development and operation of crime prevention programs in which members of the community participate, including but not limited to 'block watch' and similar programs."; and

(f) inserting the following sentence after the second sentence of subsection (d): "The limitations contained in this subsection may be waived when the Administration finds that such waiver is necessary to encourage and promote innovative programs designed to improve and strengthen law enforcement and criminal justice.".

Sec. 10. Section 302 of title I of such Act is amended by redesignating the present language as subsection (a) and adding the following new subsections:

"(b) Any judicial planning committee established pursuant to this title may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan, for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

"(1) provide for the administration of programs and projects contained in the plan;

"(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including but not limited to bail and pretrial release services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

"(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

"(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

"(6) provide for research, development, and evaluation;

"(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

"(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title.

"(c) Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 304(b), into the comprehensive State plan which is submitted to the Administration pursuant to part B of this title. Such annual State judicial plan shall conform to the purposes of this part.".

Sec. 11. Section 303 of title I of such Act is amended by—

(a) striking out subsection (a) up to the sentence beginning "Each such plan" and inserting in lieu thereof the following:

"(a) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan or an approved revision thereof (not more than one year in age) which conforms with the purposes and requirements of this title. In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 223 of that Act. No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive unless it includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice.";

(b) deleting paragraph (4) of subsection (a) and substituting in lieu thereof the following:

"(4) specify procedures under which local multiyear and annual comprehensive plans and revisions thereof may be submitted to the State planning agency from units of general local government or combinations thereof to use funds received under this part to carry out such plans for the improvement of law enforcement and criminal justice in the jurisdictions covered by the plans. The State planning agency may approve or disapprove a local comprehensive plan or revision thereof in whole or in part based upon its compatibility with the State comprehensive plan and subsequent annual revisions and modifications. Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approval parts of their plans;";

(c) inserting after the word "necessary" in paragraph (12) of subsection (a) the following language: "to keep such records as the Administration shall prescribe";

(d) deleting "and" after paragraph 14 of subsection (a), deleting the period at the end of paragraph 15 and inserting in lieu thereof ": and", and adding the following new paragraph after paragraph 15:

"(16) Provide for the development of programs and projects for the prevention of crimes against the elderly, unless the State Planning Agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State.";

(e) deleting subsection (b) and substituting in lieu thereof the following:

"(b) Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime. No award of funds that are allocated to the States under this part on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.";

(f) inserting in subsection (c) after the word "unless" the words "the Administration finds that"; and

(g) inserting after subsection (c) the following new subsection:

"(d) In making grants under this part, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs. In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion of backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this part; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this title.".

Sec. 12. Section 304 of title I of such Act is amended to read as follows:

"Sec. 304. (a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

"(b) After consultation with the State planning agency pursuant to subsection (e) of section 203, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this title is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan in the State comprehensive plan to be submitted to the Administration.".

Sec. 13. Section 306 of title I of such Act is amended by—

(a) inserting the following between the third and fourth sentences of the unnumbered paragraph in subsection (a): "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary."; and

(b) amending subsection (b) by striking "(1)" and inserting in lieu thereof "(2)".

Sec. 14. Section 307 of title I of such Act is amended by deleting the words "and of riots and other violent civil disorders" and substituting in lieu thereof the words "and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system".

Sec. 15. Section 308 of title I of such Act is amended by deleting "302(b)" and inserting in lieu thereof "303".

Sec. 16. Part C of title I of such Act is amended to include the following new section—

"Sec. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

"(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

"(1) provide for the administration of such plan by the attorney general of such State;

"(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

"(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

"(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

"(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

"(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

"(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

"(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

"(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

"(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section;

"(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this part which is being carried out by such State and which is not involved in the noncompliance.

"(h) As used in this section the term—

"(1) 'State' includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(2) 'attorney general' means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

"(3) 'State officers and employees' includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

"(i) There are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979.".

Part D—Training, Education, Research, Demonstration, and Special Grants

Sec. 17. Section 402 of title I of such Act is amended by—

(a) deleting "Administrator" in the third sentence of subsection (a) and inserting in lieu thereof "Attorney General";

(b) deleting "and" at the end of paragraph (7) of subsection (b); changing the period to a semicolon at the end of paragraph (8) of subsection (b) and inserting "and" thereafter; and adding the following new paragraph to that subsection:

"(9) to conduct studies and undertake programs of research, in consultation with the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, to determine the relationship between drug abuse and crime, and between alcohol abuse and crime; to evaluate the success of the various types of treatment programs in reducing crime; and to report its findings to the President, the Congress, the State planning agencies, and units of general local government,"; and

(c) adding the following sentence at the end of the second paragraph of subsection (e): "The Institute shall also assist the Administrator in the performance of those duties mentioned in section 515(a) of this title."; and

(d) adding at the end of such section the following new paragraph: "The Institute shall, before September 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State, and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, the General Accounting Office, Federal, State, and local criminal justice agencies and other appropriate public and private agencies.".

Sec. 18. Part D is amended by adding the following new section:

"Sec. 408. (a) The Administration is authorized to make high crime impact and serious court congestion grants to State planning agencies, units of general local government, or combinations of such units. Such grants are to be used to provide impact funding to areas which are identified by the Administration as high crime or serious court congestion areas having a special and urgent need for Federal financial assistance. Such grants are to be used to support programs and projects which will improve the law enforcement and criminal justice system or the capability of the courts to eliminate congestion and backlog of criminal matters.

"(b) Any application for a grant under this section shall be consistent with the approved comprehensive State plan or an approved revision thereof.".

Sec. 19. (a) Section 453 of such Act is amended by—

(1) striking out "and" at the end of paragraph (11);

(2) striking out the period at the end of paragraph (12) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(13) sets forth minimally acceptable physical and service standards to construct, improve or renovate State and local correctional institutions and facilities funded under this part.".

(b) Section 454 of such Act is amended by adding at the end thereof the following: "The Administration shall, in consultation with the States, develop minimally acceptable physical and service standards for the construction, improvement and renovation of State and local correctional institutions and facilities funded under this part.".

Sec. 20. Section 455 of title I of such Act is amended by—

(a) deleting the word "or" in paragraph (a)(2) and inserting "or nonprofit organizations," after the second occurrence of the word "units," in that paragraph; and

(b) inserting the following at the end of subsection (a): "In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.".

Part F—Administrative Provisions

Sec. 21. Section 501 of title I of such Act is amended by inserting the following sentence at the end thereof: "The Administration shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application.".

Sec. 22. Section 507 of title I of such Act is amended to read as follows:

"Sec. 507. Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this title and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out its powers and duties under this title.".

Sec. 23. Section 509 of title I of such Act is amended by deleting the language "reasonable notice and opportunity for hearing" and substituting in lieu thereof the following: "notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code,".

Sec. 24. Section 512 of title I of such Act is amended by striking the words "June 30, 1974, and the two succeeding fiscal years" and inserting in lieu thereof "June 30, 1976, through fiscal year 1981".

Sec. 25. Section 515 of title I such Act is amended to read as follows:

"Sec. 515. (a) Subject to the general authority of the Attorney General, and under the direction of the Administrator, the Administration shall—

"(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in said comprehensive plan;

"(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

"(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs; and

"(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

"(b) The Administration is also authorized—

"(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

"(2) to cooperate with and render technical assistance to States, units of general local governments, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

"(c) Funds appropriated for the purposes of this section may be expanded by grant or contract, as the Administration may determine to be appropriate.".

SEC. 26. Section 517 of title I of such Act is amended by adding the following new subsection:

"(c) The Attorney General is authorized to establish an Advisory Board to the Administration to review programs for grants under sections 306(a)(2), 402(b), and 455(a)(2). Members of the Advisory Board shall be chosen from among persons who, by reason of their knowledge and expertise in the areas of law enforcement and criminal justice and related fields, are well qualified to serve on the Advisory Board.".

SEC. Section 519 of title I of such Act is amended to read as follows:

"SEC. 519. On or before December 31 of each year, the Administration shall submit a comprehensive report to the President and the Congress on activities pursuant to the provisions of this title during the preceding fiscal year. The report shall include—

"(a) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(b) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies;

"(c) the number of comprehensive State plans approved by the Administration without substantial changes being recommended;

"(d) the number of comprehensive State plans approved or disapproved by the Administration after substantial changes were recommended;

"(e) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

"(f) the number of programs funded under this title discontinued by the Administration following a finding that the program had no appreciable impact in reducing and preventing crime or improving and strengthening law enforcement and criminal justice;

"(g) the number of programs funded under this title discontinued by the State following the termination of funding under this title;

"(h) a financial analysis indicating the percentage of Federal funds to be allocated under each State plan to the various components of the criminal justice system;

"(i) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this title in order to determine the impact and value of such programs;

"(j) an analysis of the manner in which funds made available under section 306(a)(2) of this title were expended; and

"(k) a description of the Administration's compliance with the requirements of section 454 of this title.".

SEC. 28. Section 520 of title 5 of such Act is amended by—

(a) striking subsection (a) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed $250,000,000 for the period July 1, 1976, through September 30, 1976, $1,000,000,000 for the fiscal year ending September 30, 1977, $1,100,000,000 for the fiscal year ending September 30, 1978, $1,100,000,000 for the fiscal year ending September 30, 1979, $1,000,000,000 for the fiscal year ending September 30, 1980, and $1,100,000,000 for the fiscal year ending September 30, 1981. From the amount appropriated in the aggregate for the purposes of this title, such sums shall be allocated as are necessary for the purposes of providing funding to areas characterized by both high crime incidence and high law enforcement and criminal justice activities or serious court congestion and backlog, but such sums shall not exceed $12,500,000 for the period July 1, 1976, through September 30, 1976, and $50,000,000 for each of the fiscal years enumerated above and shall be in addition to funds made available for these purposes from the other provisions of this title as well as from other sources. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter, there shall be allocated for the purpose of part E an amount equal to not less than 20 per centum of the amount allocated for the purpose of part C.";

(b) striking subsection (b) and inserting in lieu thereof the following:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least the same level of financial assistance for juvenile delinquency programs that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972; namely, 19.15 per centum of the total appropriation for the Administration.".

SEC. 29. Section 601 of title I of such Act is amended by—

(a) inserting after "Puerto Rico," in subsection (c) the words "the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands,"; and

(b) inserting at the end of the section the following new subsections:

"(p) The term 'court of last resort' shall mean that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch.

"(q) The term 'court' or 'courts' shall mean a tribunal or tribunals having criminal jurisdiction recognized as a part of the judicial branch of a State or of its local government units.

"(r) The term 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.".

SEC. 30. Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (88 Stat. 1129) is amended by striking subsection (b) and inserting in lieu thereof the following:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least the same level of financial assistance for juvenile delinquency programs that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972; namely, 19.5 per centum of the total appropriation for the Administration.".

SEC. 31. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting at the end of the section the following new subsection:

"(e) There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section.".

SEC. 32. Section 301(c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting at the end of the section the following: "In the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof, to the extent it deems necessary.".

SEC. 33. Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended as follows:

(a) After section 225(c)(6) add a new paragraph as follows:

"(7) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than forty thousand, located within States which have no city with a population over two hundred fifty thousand.".

(b) Add a new subsection (d) as follows:

"(d) No city should be denied an application solely on the basis of its population.".

SEC. 34. (a) One year after the date of enactment of this Act, all positions in the Drug Enforcement Administration, which was established under section 4 of the Reorganization Plan Numbered 2 of 1973, as amended, to which grades GS-15 or above of the General Schedule under section 5332(a) of title 5, United States Code, apply are excepted from the competitive service.

(b) The incumbents of such positions occupy positions in the excepted service and the provisions of sections 7501 and 7512 of title 5, United States Code, shall not apply to such incumbents.

(c) Under regulations prescribed by the Civil Service Commission, any incumbent of such position may—

(1) transfer to a similar position to the

competitive service in another agency if such incumbent is qualified for such position, or

(2) within one year of the date of enactment of this Act transfer to another position in the Drug Enforcement Administration to which grade GS-14 of the General Schedule under section 5332(a) of title 5, United States Code, applies.

Any individual who transfers to another position in the Drug Enforcement Administration shall be entitled to have his initial rate of pay for such position set at a step of grade GS-14 which is nearest to but not less than the rate of pay which such individual received at the time of such transfer. If the rate of pay of such individual at the time of such transfer is greater than the rate of pay for step 10 of grade GS-14, such individual shall be entitled to have his initial rate of pay for such position set at step 10 but such individual shall be entitled to receive the rate of pay he received at the time of such transfer until the rate of pay for step 10 is equal to or greater than such rate of pay.

(d) Subsection (c) of section 5108 of title 5, United States Code is amended by:

(1) repealing paragraph (8); and

(2) substituting in lieu thereof the following new paragraph:

"(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS-16, 17, and 18;".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(105) Commissioner of Immigration and Naturalization, Department of Justice.

"(106) United States attorney for the Northern District of Illinois.

"(107) United States attorney for the Central District of California.

"(108) Director, Bureau of Prisons, Department of Justice.

"(109) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.".

(f) Section 5316 of title 5, United States Code, is amended by:

(1) repealing paragraph (44);

(2) repealing paragraph (115);

(3) repealing paragraph (116);

(4) repealing paragraph (58); and

(5) repealing paragraph (134).

SEC. 35. Section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code, shall apply to any individual appointed under this section.".

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves to strike out all after the enacting clause of the Senate bill, S. 2212, and insert in lieu thereof the provisions of H.R. 13636, as passed, as follows:

TITLE I—LAW ENFORCEMENT ASSISTANCE

AUGMENTED AUTHORITY OF ATTORNEY GENERAL

SEC. 101. Section 101(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after "authority" the following: ", policy direction, and general control".

OFFICE OF COMMUNITY ANTI-CRIME PROGRAMS

SEC. 102. Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(c) There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the 'Office'). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

"(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizens participation in law enforcement and criminal justice activities; and

"(3) provide information on successful programs of citizen and community participation to citizen and community groups.".

STATE LEGISLATURES

SEC. 103. Part B of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"SEC. 206. At the request of the State legislature while in session or a body designated to act while the legislature is not in session, the comprehensive statewide plan, or any revisions or modifications thereof, shall be submitted to the legislature for an advisory review prior to its submission to the Administration by the chief executive of the State. In this review the general goals, priorities, and policies that comprise the basis of that plan, or any reviews or modifications thereof, including possible conflicts with State statutes or prior legislative Acts, shall be considered. If the legislature or the interim body has not reviewed the plan, or revision or modifications thereof within forty-five days after receipt, such plan, or revisions or modifications thereof, shall then be deemed reviewed.".

JUDICIAL PARTICIPATION IN PLANNING AGENCY

SEC. 104. Section 203(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately before the last sentence the following: "Not less than two of the members of such State planning agency shall be appointed from a list of nominees submitted by the chief justice or chief judge of the court of last resort of the State to the chief executive of the State, such list to contain at least six nominees. State planning agencies which choose to establish regional planning units shall utilize, to the maximum extent practicable, the boundaries and organization of existing general purpose regional planning bodies within the State.".

CITIZEN AND COMMUNITY PARTICIPATION

SEC. 105. Section 203(b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof the following: "; and"; and

(3) by adding at the end the following:

"(4) assure the participation of citizens and community organizations at all levels of the planning process.".

AMENDMENTS TO PART C

SEC. 106. (a) Section 301(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately bfore "improve and strengthen" the following: "reduce and prevent crime and to".

(b) Section 301(b) of such Act is amended—

(1) by striking out paragraph (6);

(2) by redesignating paragraph (7) as paragraph (6);

(3) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and

(4) by adding at the end the following:

"(10) The definition, development, and implementation of programs and projects designed to improve the functioning of courts, prosecutors, defenders, and supporting agencies, reduce and eliminate criminal case backlog, accelerate the processing and disposition of criminal cases, and improve the administration of criminal justice in the courts; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; the development of uniform sentencing standards for criminal cases; training of judges, court administrators, and support personnel of courts having criminal jurisdiction; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; and equipping of court facilities.

"(11) The development and operation of programs and projects designed to prevent crime against elderly persons.

"(12) The establishment of early case assessment panels under the authority of the appropriate prosecuting official for any unit of general local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible after the time of the bringing of charges, to determine the feasibility of successful prosecution, and to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes.".

(c) Section 303 of such Act is amended by striking out all that follows the sentence that ends with "and section 223 of that Act.", and inserting in lieu thereof the following:

"(b) No State plan shall be approved as comprehensive unless the Administrator finds that the plan—

"(1) includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice;

"(2) provides for adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity;

"(3) provides for attention to the special problems of prevention and treatment of crime against the elderly;

"(4) is a total and integrated analysis of the problems regarding the law enforcement and criminal justice system throughout the State, establishes goals, priorities, and standards, and addresses methods, organization, and operation performance, and the physical and human resources necessary to accomplish crime prevention, the identification, detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures;

"(5) provides for the administration of such grants by the State planning agency;

"(6) provides that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

"(7) adequately takes into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

"(8) provides for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan;

"(9) incorporates innovations and advanced techniques and contains a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(10) provides for effective utilization of existing facilities and permits and encourages units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

"(11) provides for research and development;

"(12) provides for appropriate review of procedures or actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

"(13) demonstrates the willingness of the State and units of general local government to assume the costs of imrovements funded under this part after a reasonable period of Federal assistance;

"(14) demonstrates the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

"(15) sets forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

"(16) provides for such fund accounting, audit, monitoring, and evaluation procedures as may be neecssary to assure fiscal control, proper management, and disbursement of funds received under this title;

"(17) provides for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Crinimal Justice may reasonably require to evaluate pursuant to section 402(c) programs and projects carried out under this title and as the Administration may reasonably require to administer other provisions of this title;

"(18) provides funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice;

"(19) provides for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of any such application or part thereof to the State planning agency at a later date;

"(20) provides for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State plan, and their effectiveness in reducing crime and strengthening law enforcement and criminal justice; and

"(21) identifies the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers) and establishes procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(e)(1)) in responding to such needs.

Any portion of the per centum to be made available pursuant to paragraph 6 of this subsection in any State in any fiscal year not required for the purposes set forth in such paragraph 6 shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

"(c) The requirement of subsection (b)(6) shall not apply to funds used in the development or implementation of a statewide program of evaluation, in accordance with an approved State plan, but the exemption from said requirement shall extend to no more than 10 per centum of the funds allocated to a State under section 306(a)(1).".

(d) Section 306(a)(2) is amended by inserting immediately after "to the grant of any State," the following: "plus any additional amounts that may be authorized to provide funding for the purposes of section 301(b)(6),".

(e) Section 306(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately after the sentence beginning with "nI the case of a grant under such paragraph" the following: "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liablity and pursue such legal remedies as are necessary.".

(f) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out section 307 and by redesignating section 308 as section 307.

(g) Section 307 of such Act, as so redesignated by subsection (f) of this section, is further amended by striking out "302(b)" and inserting "303" in lieu thereof.

AMENDMENTS TO PART D

SEC. 107. (a) Section 401 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "reducing and preventing crime by" immediately before "improving law enforcement and criminal justice".

(b) Section 402(c) of such Act is amended—

(1) in the second paragraph, by striking out "to evaluate" and inserting in lieu thereof the following: "to make evaluations and to receive and review the results of evaluations of";

(2) in the second paragraph, by adding at the end the following: "The Institute shall, in consultation with State planning agencies, develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this title, and shall disseminate infomation about such criteria and procedures to State planning agencies."; and

(3) by inserting immediately before the final paragraph the following:

"The Institute shall, in consultation with the National Institute on Drug Abuse, make continuing studies and undertake programs of research to determine the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime and shall report its findings to the President, the Congress, and the State planning agencies and, upon request, to units of general local government.

"The Institute shall identify programs and projects carried out under this title which have demonstrated success in improving law enforcement and criminal justice and in furthering the purpose of this title, and which offer the likelihood of success if continued or repeated. The Institute shall compile lists of such programs and projects for the Administrator who shall disseminate them to State planning agencies and, upon request, to units of general local government.".

(c) Section 402(b)(3) of such Act is amended by striking out ", and to evaluate the success of correctional procedures".

(d) Add a new section to such Act as follows:

"SEC. 402 (a). There is hereby established the National Advisory Committee on Criminal Justice Standards and Goals which shall consist of fifteen members including the chairman.

"(b) Members of the Committee shall be appointed by the Administrator of the Law Enforcement Assistance Administration. The membership shall include persons who by virtue of their training and expertise have special knowledge concerning prevention and control of crime and juvenile delinquency.

"(c) Members appointed by the Administrator to the Committee shall serve for terms of three years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. A member may serve as chairman for no more than two years.

"(d) The Committee shall—

"(1) assess and evaluate existing standards and goals for the improvement of juvenile and criminal justice systems at all levels of government;

"(2) make recommendations for the modification or elimination of existing standards where assessment and evaluation indicate the necessity to do so;

"(3) develop, as necessary, new standards and goals for the improvement of juvenile and criminal justice systems;

"(4) make recommendations for actions which can be taken by Federal, State, and local governments and by private persons and organizations to facilitate the adoption of the standards and goals;

"(5) assess the progress of Federal, State, and local governments in implementing standards and goals; and

"(6) carry out a program of collection and dissemination of information on the implementation, assessment, and evaluation of standards and goals for the improvement of juvenile and criminal justice systems.

"(e) The Administrator is authorized to appoint and fix the compensation of the Executive Director and such other personnel as may be necessary to enable the Committee to carry out its functions. Such positions shall be in the excepted service.

"(f) Members of the Committee may be allowed travel expenses and per diem in lieu of the subsistence as authorized by law for persons employed intermittently.

"(g) Members of the Committee not otherwise employed by the United States shall receive compensation at a rate not to exceed the rate now or hereafter prescribed for a GS–18 of the General Schedule by § 5332 of Title V of the United States Code including travel time for each day they are engaged in the performance of their duties as members of the Advisory Committee.

"(h) Agencies and instrumentalities of the Federal Government are authorized to furnish the Committee with such information and assistance, consistent with law, as it may require in the performance of its functions and duties.

"(i) The Committee is authorized to carry out any standard setting obligations imposed on the Administrative or its Advisory Committee, .

"(j) No later than January 1, 1978 and January 1 of each succeeding year, the Advisory Committee shall submit to the Administrator, to the President, and to the Congress, a report on its actions taken under this section.

"(k) The Advisory Committee shall make such reports and recommendations from time to time as it deems suitable to carry out the purposes of this section.".

AMENDMENTS TO PART E

SEC. 108. (a) Section 453(10) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) complies with the same requirements established for comprehensive State plans under paragraphs (5), (7), (9), (10), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (21) of section 303(b) of this title;".

(b) Section 455(a)(2) of such Act is amended by inserting immediately after "combinations of such units," the following: "or private nonprofit organizations,".

(c) Section 507 of such Act is amended—

(1) by inserting "(a)" immediately after "SEC. 507."; and

(2) by adding at the end the following new subsection:

"(b) In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.".

CIVIL RIGHTS ENFORCEMENT PROCEDURES

SEC. 109. (a) Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "Whenever the Administration" and inserting in lieu thereof "Except as provided in section 518 (c), whenever the Administration".

(b) Section 518(c) of such Act is amended to read as follows:

(c)(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

(2)(A) Whenever there has been—

(i) receipt of notice of a finding, after notice and opoprtunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administrator under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c)(1); or

(ii) a determination after an investigation by the Administrator (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination with respcet to the funding of such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c)(1); the Administrator shall, within 10 days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title, United States Code.

(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administrator and the Attorney General. On or prior to the effective date of the agreement, the Administrator shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administrator detailing the step taken to comply with the agreement. Within 15 days of receipt of such reports, the Administrator shall send a copy thereof to each such complainant.

(C) If, at the conclusion of 90 days after notification under subparagraph (A)—

(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Administrator shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under subparagraph (G), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Administrator after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1).

(D) Payment of the suspended funds shall resume only if—

(i) such State government or unit of general local government enters into a compliance agreement approved by the Administer and the Attorney General in accordance with subparagraph (B);

(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Administrator in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

(iii) after a hearing the Administrator pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the law, the Administrator shall suspend further payment of any funds under this title to that State government or that unit of local government until such time as the court orders resumption of payment.

(F) Prior to the suspension of funds under subparagraph (C), but within the 90-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (F).

(G)(i) At any time after notification under subparagraph (A), but before the conclusion of the 120-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within 30 days of such request.

(ii) Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in subparagraph (C), the Administrator shall make a finding of noncompliance, the Administrator shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

(iii) If the Administrator makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

(H) Any State government or unit of general local government aggrieved by a final determination of the Administrator under subparagraph (G) may appeal such determination as provided in section 511 of this title.

(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

(4)(A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

(B) In any civil action brought by a private person to enforce compliance with any provision of this title, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

(C) In any action instituted under this section to enforce compliance with section 518(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

EXTENSION OF PROGRAM; AUTHORIZATION OF APPROPRIATIONS

SEC. 110. (a) Section 520(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated for the purposes of carrying out this title not to exceed $220,000,000 for the period beginning on July 1, 1976, and ending on September 30, 1976, and not to exceed $880,000,000 for the fiscal year ending September 30, 1977. In addition to any other sums available for the purposes of grants under part C of this title, there is authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending September 30, 1977, for the purposes of grants for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 301(b)(6) of this title.".

(b) Title I of such Act is amended by striking out section 512.

ANNUAL REPORTS AMENDMENT

SEC. 111. Section 519 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 519. On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

"(1) an analysis of each State's comprehensive plan and the programs and projects funded thereunder including:

"(A) the amounts expended for each of the components of the criminal justice system,

"(B) the methods and procedures followed by the State in order to audit, monitor, and evaluate programs and projects,

"(C) the descriptions and number of programs and projects, and the amounts expended therefore, which are innovative or incorporate advanced techniques and which have demonstrated promise of furthering the purposes of this title,

"(D) the descriptions and number of programs and projects, and amounts expended therefore, which seek to replicate programs and projects which have demonstrated success in furthering the purposes of this title,

"(E) the descriptions and number of program areas and related projects, and the amounts expended therefor, which have achieved the specific purposes for which they were intended and the specific standards and goals set for them,

"(F) the descriptions and number of program areas and related projects, and the amounts expended therefor, which have failed to achieve the specific purposes for which they were intended or the specific standards and goals set for them, and

"(G) the descriptions and number of program areas and related projects, and the amounts expended therefor, about which adequate information does not exist to determine their success in achieving the purposes for which they were intended or their impact upon law enforcement and criminal justice;

"(2) a detailed explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies and programs and projects funded thereunder;

"(3) the number of comprehensive State plans approved by the Administration without recommending substantial changes;

"(4) the number of comprehensive State plans on which the Administration recommended substantial changes, and the disposition of such State plans;

"(5) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

"(6) the number of programs and projects with respect to which a discontinuation, suspension, or termination of payments occurred under section 509, or 518(c), together with the reasons for such discontinuation, suspension, or termination;

"(7) the number of programs and projects funded under this title which were subsequently discontinued by the States following the termination of funding under this title;

"(8) a detailed explanation of the measures taken by the Administration to audit, monitor, and evaluate criminal justice programs funded under this title in order to determine the impact and value of such programs in reducing and preventing crime;

"(9) a detailed explanation of how the funds made available under sections 306(a)(2), 402(b), and 455(a)(2) of this title were expended, together with the policies, priorities and criteria upon which the Administration based such expenditures; and

"(10) a complete and detailed description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 454 of this Act.".

REGULATIONS REQUIREMENT

SEC. 112. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by inserting immediately after subsection (c) the following:

"(d) Within one hundred and twenty days after the enactment of this subsection, the Administration shall promulgate regulations establishing—

(1) reasonable and specific time limits for the Administration to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint, and

"(2) reasonable and specific time limits for the Administration to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of this title."; and

(2) by redesignating subsection (d) as subsection (e).

SEC. 113. After section 527 of the Omnibus Crime Control and Safe Streets Act of 1963 as redesignated by section 10(c) of this Act, add the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 520(a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest in any person who applies for or receives financial assistance under this Act;

Shall, begin on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the proceeding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

DEFINITIONS AMENDMENTS

SEC. 114. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking out subsection (m);

(2) by redesignating subsections (n) and (o) as (m) and (n), respectively; and

(3) by adding at the end the following:

"(c) The term 'local elected officials' means chief executive and legislative officials of units of general local government.

"(p) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two courts with highest and final appellate authority, court of last resort shall mean the highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort', the term 'court' means a tribunal or judicial system having criminal or juvenile jurisdiction.".

TRUST TERRITORY OF THE PACIFIC

SEC. 115. Section 601(c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico,".

CONFORMING AMENDMENT TO JUVENILE JUSTICE ACT

SEC. 116. Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking out "section 303(a) (1), (3), (5), (6), (8), (10), (11), (12), and (15)" and inserting in lieu thereof the following: "paragraphs (5), (7), (9), (10), (12), (14), (15), (16), (19), and (20) of section 303(b)".

TITLE II—REQUIREMENT FOR SPECIFIC AUTHORIZATION OF JUSTICE DEPARTMENT APPROPRIATIONS

SEC. 201. No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning on or after October 1, 1978.

Amend the title so as to read: "An Act to amend title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.".

The SPEAKER. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to amend title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 13636, was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 13636

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill, the Clerk be authorized to correct punctuation and section numbers and cross-references to reflect the will and action of the House.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill, H.R. 13636, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CORRECTING ENGROSSMENT OF SENATE AMENDMENTS TO H.R. 10612

Mr. BURLESON of Texas. Mr. Speaker, on behalf of the gentleman from Oregon (Mr. ULLMAN), who as we all know is now occupied in conference on the tax bill, I ask unanimous consent to take from the Speaker's table the Senate Concurrent Resolution (S. Con. Res. 137) to correct the engrossment of the Senate amendments to H.R. 10612, and consider the Senate concurrent resolution in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 137

Resolved by the Senate (the House of Representatives concurring), That the following language be inserted in the engrossment of the Senate amendments to H.R. 10612 and be considered as being in conference:

"SEC. 1510. TREATMENT OF CERTAIN LIFE INSURANCE CONTRACTS GUARANTEED RENEWABLE.

"(a) IN GENERAL.—Paragraph (d)(5) of section 809 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following sentence: 'For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable.'.

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957.".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 14940, AUTHORIZING OBLIGATION AND EXPENDITURE OF FUNDS TO IMPLEMENT FOR FISCAL YEAR 1977 PROVISIONS OF TREATY OF FRIENDSHIP AND COOPERATION BETWEEN UNITED STATES AND SPAIN

Mr. MOAKLEY, from the Committee on Rules, reported the following privileged resolution (H. Res. 1519, Rept. No. 94–1466), which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF S. 2371 PROVIDING FOR REGULATION OF MINING ACTIVITY WITHIN NATIONAL PARK SYSTEM

Mr. MOAKLEY, from the Committee on Rules, reported the following privileged resolution (H. Res. 1520, Rept. No. 94–1467), which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, SEPTEMBER 7, 1976, TO FILE REPORT ON H.R. 15069

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight Tuesday, September 7, 1976, to file a report on the bill (H.R. 15069), the National Forest Management Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON S. 327, AMENDING LAND AND WATER CONSERVATION ACT OF 1965, AS AMENDED

Mr. SEIBERLING submitted the following conference report and statement on the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1468)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 327) To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendment: In lieu of the matter proposed to be inserted by the House amendment, to strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—LAND AND WATER CONSERVATION FUND

Sec. 101. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended (16 U.S.C. 4061–4 et seq.), is further amended as follows:

(1) Amend section 2 to read as follows:

"Sec. 2. Separate Fund.—During the period ending June 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the "fund", the following revenues and collections:

"(a) Surplus Pproperty Sales.—All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485(b)(e), title 40, United States Code, or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this Act shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

"(b) Motorboat Fuels Tax.—The amounts provided for in section 201 of this Act.

"(c)(1) Other Revenues.—In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for fiscal year 1977, $600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989.

"(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S. 1331 et seq.): *Provided*, That notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act.".

(2) Amend section 5 to read as follows:

"ALLOCATION OF LAND AND WATER CONSERVATION FUND FOR STATE AND FEDERAL PURPOSES

"Sec. 5. Allocation.—There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes.".

(3) Amend section 6 to read as follows:

"FINANCIAL ASSISTANCE TO STATES

"Sec. 6. General Authority; Purposes.—(a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

"(b) Apportionment Among States; Notification.—Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

"(1) Forty per centum of the first $225,000,000; thirty per centum of the next $275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and

"(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

"(3) The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 10 per centum of the total amount allocated to the several States in any one year.

"(4) The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection, without regard to the 10 per centum limitation to an individual State specified in this subsection.

"(5) For the purposes of paragraph (1) of this subsection, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (when such islands achieve Commonwealth status) shall be treated collectively as one State, and shall receive shares of such apportionment in proportion to their populations. The above listed areas shall be treated as States for all other purposes of this title.

"(c) Matching Requirements.—Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to the date of approval of this Act.

"(d) Comprehensive State Plan Required; Planning Projects.—A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this Act: *Provided*, That no plan shall be approved unless the Governor of the respective State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall constitute the basis for the certification by the Governor. The plan shall contain—

"(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

"(2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

"(3) a program for the implementation of the plan; and

"(4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

"The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

"(e) Projects for Land and Water Acquisition; Development.—In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

(1) Acquisition of Land and Waters.—For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.

Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Reallocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of that Act.

"(2) Development.—For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to States for terms of twenty-five years or more: *Provided*, That no assistance shall be available under this Act to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may permit local funding, and after the date of enactment of this Proviso not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

"(f) Requirements for Project Approval; Condition.—(1) Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this Act. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: *Provided,* That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired to be developed for public outdoor recreation use.

(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

"(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

"(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this Act, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under this Act.

"(5) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(6) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"(7) Each State shall evaluate its grant programs annually under guidelines set forth by the Secretary and shall transmit such evaluation to the Secretary, together with a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project. Such evaluation and the publication of same shall be eligible for funding on a 50–50 matching basis. The results of the evaluation shall be annually reported on a fiscal year basis to the Bureau of Outdoor Recreation, which agency shall forward a summary of such reports to the Committees on Interior and Insular Affairs of the United States Congress. Such report to the committees shall also include an analysis of the accomplishments of the fund for the period reported, and may also include recommendations as to future improvements for the operation of the Land and Water Conservation Fund program.

"(8) With respect to property acquired or developed with assistance from the fund, discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

"(g) Coordination With Federal Agencies.—In order to assure consistency in policies and actions under this Act, with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing Act of 1961 and section 701 of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations."

(4) Amend section 7 to read as follows:

"Sec. 7. (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

"(1) For the acquisition of land, waters, or interests in land or waters as follows:

National park system; recreation areas.—Within the exterior boundaries of areas of the National Park System now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

National forest system.—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act, all of which other areas are primarily of value for outdoor recreation purposes: *Provided,* That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: *Provided further,* That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

National wildlife refuge system.—Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k–1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715–715s); (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

"(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation, and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

"(b) Acquisition Restriction.—Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law.".

(5) Amend section 8 to read as follows:

"Sec. 8. Moneys derived from the sources listed in section 2 of this Act shall not be available for publicity purposes: *Provided, however,* That in each case where significant acquisition or development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Land and Water Conservation Fund. Such signing may indicate the per centum and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes moneys derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of such signing to assure consistency of design and application.".

(6) Add the following new section:

"Sec. 12. Within one year of the date of enactment of this section, the Secretary is authorized and directed to submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, including the resources potentially available for meeting such needs. The report shall include site specific analyses and alternatives, in a selection of geographic environments representative of the Nation as a whole, including, but not limited to, information on needs, local capabilities for action, major site opportunities, trends, and a full range of options and alternatives as to possible solutions and courses of action designed to preserve remaining open space, ameliorate recreational deficiency, and enhance recreational opportunity for urban populations, together with an analysis of the capability of the Federal Government to provide urban-oriented environmental education programs (including, but not limited to, cultural programs in the arts and crafts) within such options. The Secretary shall consult with and request the views of, the affected cities, counties, and States on the alternatives and courses of action identified.".

TITLE II—NATIONAL HISTORIC PRESERVATION FUND

Sec. 201. The Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is amended as follows:

(1) Amend section 102 to read as follows:

"Sec. 102. (a) No grant may be made under this Act—

"(1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

"(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

"(3) for more than 50 per centum of the total cost involved, as determined by the Secretary and his determination shall be final;

"(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

"(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

"(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

"(b) The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this Act to the National

Trust for Historic Preservation in the United States, in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary.

"(c) The Secretary may in his discretion waive the requirements of paragraph (3) of subsection (a) of this section for the purposes of making grants for the preparation of statewide historic preservation plans and surveys and project plans. Any grant made pursuant to this subsection may not exceed 70 per centum of the cost of a project; and the total of such grants made pursuant to this subsection in any one fiscal year may not exceed one-half of the funds appropriated for that fiscal year pursuant to section 108 of this Act.

"(d) No State shall be permitted to utilize the value of real property obtained before the date of approval of this Act in meeting the remaining cost of a project for which a grant is made under this Act.".

(2) Amend section 103(a) by deleting "*Provided, however*, That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary.".

(3) Amend section 106 by inserting after the words "included in" the phrase "or eligible for inclusion in".

(4) Amend section 108 to read as follows:

"Sec. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the 'fund') in the Treasury of the United States.

There shall be covered into such fund $24,400,000 for fiscal year 1977, $100,000,000 for fiscal year 1978, $100,000,000 for fiscal year 1979, $150,000,000 for fiscal year 1980, and $150,000,000 for fiscal year 1981, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.".

(5) Amend section 201 to read as follows:

"Sec. 201. (a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the 'Council') which shall be composed of twenty-nine members as follows:

"(1) The Secretary of the Interior;

"(2) The Secretary of Housing and Urban Development;

"(3) The Secretary of Commerce;

"(4) The Administrator of the General Services Administration;

"(5) The Secretary of the Treasury;

"(6) The Attorney General;

"(7) The Secretary of Agriculture;

"(8) The Secretary of Transportation;

"(9) The Secretary of State;

"(10) The Secretary of Defense;

"(11) The Secretary of Health, Education, and Welfare;

"(12) The Chairman of the Council on Environmental Quality;

"(13) The Chairman of the Federal Council on the Arts and Humanities;

"(14) The Architect of the Capitol;

"(15) The Secretary of the Smithsonian Institution;

"(16) The Chairman of the National Trust for Historic Preservation;

"(17) The President of the National Conference; and

"(18) Twelve appointed by the President from outside the Federal Government. In making these appointments, the President shall give due consideration to the selection of officers of State and local governments and individuals who are significantly interested and experienced in the matters to be considered by the Council.

"(b) Each member of the Council specified in paragraphs (1) through (17) of subsection (a) may designate another officer of his department, agency, or organization to serve on the Council in his stead.

"(c) Each member of the Council appointed under paragraph (18) of subsection (a) shall serve for a term of five years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of from one to five years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not less than one nor more than two of them will expire in any one year.

"(d) A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term).

"(e) The Chairman and the Vice Chairman of the Council shall be designated by the President. During the absence or disability of the Chairman or when the office is vacant, the Vice Chairman shall act in the place of the Chairman.

"(f) Fifteen members of the Council shall constitute a quorum.".

(6) Amend section 204 by deleting the term "(10)" in the first sentence and inserting in lieu thereof the term "(17)", and by striking the term "(11)" in the second sentence and inserting in lieu thereof the term "(18)".

(7) Amend section 205 to read as follows:

"Sec. 205. (a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

"(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

"(c) The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5, United States Code: *Provided, however*, That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of title 5, United States Code.

"(d) The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949.

"(e) The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5, United States Code.

"(f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 665 (g)) shall apply to appropriations of the Council: *And provided further*, That the Council shall not be required to prescribe such regulations.

"(g) The members of the Council specified in paragraphs (1) through (16) of section 201(a) shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties.".

(8) Amend section 206 (c) to read as follows:

"(c) For the purposes of this section there are authorized to be appropriated not more than $175,000 per year for fiscal years 1977, 1978, and 1979: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization."

(9) Add the following new sections:

"Sec. 207. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act.

"Sec. 208. Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer.

"Sec. 209. The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of the Administrative Procedure Act (80 Stat. 381) shall govern the operations of the Council.

"Sec. 210. Whenever the Council transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs. No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendation, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

"Sec. 211. The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act.

"Sec. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of this title, there are authorized to be appropriated not more than $1,500,000 in fiscal year 1977, $1,750,000 in fiscal year 1978, and $2,000,000 in fiscal year 1979.

"(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs."

Sec. 202. Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(135) Executive Director, Advisory Council on Historic Preservation.".

TITLE III—STATES OIL SHALE FUNDS

Sec. 301. Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: "; *And provided further*, That all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by such State and its subdivisions for planning, construction, and maintenance of public facilities, and provision of public services, as the legislature of the State may direct, giving priority to those subdivisions of the State socially or economically impacted by the development of the resource.".

Roy A. Taylor,
Harold T. Johnson,
Abraham Kazen, Jr.,
Jonathan B. Bingham,
John F. Seiberling,
Bob Eckhardt,
Allan T. Howe,
Keith G. Sebelius,
Virginia Smith,
Managers on the Part of the House.
Henry M. Jackson,
J. Bennett Johnston,
Lee Metcalf,
Floyd K. Haskell,
Dale Bumpers,
Mark O. Hatfield,
Dewey F. Bartlett,
Managers on the Part of the Senate.

Joint Statement of the Committee of Conference

INTRODUCTION

The Managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the Act of October 15, 1966, to establish a program for the preservation of additional properties throughout the Nation, as amended, and for other purposes submit this joint statement in explanation of the effect of the language agreed upon by the Managers and recommended in the accompanying Conference Report.

The language agreed upon by the Managers is the language of the Senate bill with modifications incorporating various provisions of the House amendment. There were numerous points of difference between the Senate version and the House amendment which were the subject of discusssion and action by the Committee of Conference. The major points at issue, and the disposition of them are discussed below.

Title I and Title II, as approved by both the House and Senate, included numerous complex technical changes in the Land and Water Conservation Fund Act and in the National Historic Preservation Act. To simplify and clarify these changes, the amendment recommended has been drafted to incorporate the changes in context. While this requires some repetition of existing law in which no substantive change has been made, it facilitates complete understanding of the recommendation and minimizes the possibility of error in the consideration of this legislation and in the future, should further amendments be proposed.

LAND AND WATER CONSERVATION FUND PROVISIONS

Level of the fund

Both the House and Senate versions of the legislation provided for a substantial expansion of the Land and Water Conservation Fund. The Senate approved a $1 billion per year authorization for the life of the program (through 1989). In the House, the funding level was to increase in stages to $800 million by fiscal year 1980. The Conference Committee recommends that the House staging provision be adopted, but that the levels be increased to $600 million in fiscal year 1978, $750 million in fiscal year 1979, and ultimately to $900 million in fiscal year 1980 and annually thereafter through 1989.

Allocation formula

This provision provides that in any appropriation, not less than 40 percent shall be for Federal purposes. The conferees are concerned over the continuing backlog of unappropriated funds despite the critical needs for land acquisition in the National Park System and elsewhere. The current backlog is, in large measure, the result of past years when the Federal portion was reduced drastically. The conferees are aware that both Senate and House Interior Committees have been required to significantly increase the authorization ceilings at many units of the National Park System because the needed funds have not been forthcoming and inflation and land price escalation have driven the cost of these areas up.

While the Conference Committee did not approve the mandatory 60–40 division in the House version of this legislation, because of its inflexibility, it did recognize that the States may sometimes be unable to provide the amounts necessary to match their share of the appropriations from the fund. Generally, appropriations should continue to reflect the 60–40 allocation established by the Act, to allow the States to have an opportunity to match their full share of the fund but the conferees believe that if the situation arises when the States are unable to match their portion of a full appropriation, then the unmatched moneys should be distributed to the Federal agencies. The conferees strongly believe that the present unappropriated moneys in the fund should be immediately released and that no backlog should be permitted to occur again. The ability of the Congress to control the activities of the Federal agencies should insure that any portion of the normal 60 percent available to the States which could not be matched is in fact spent by the Federal agencies to preserve and protect those areas which the Congress and, the President have agreed should be preserved for future generations.

Apportionment of funds among the states

Another major point of difference involved the House-approved provision which would have modified the present formula for distribution of Land and Water Conservation Fund moneys among the States to benefit the more populous States. The Senate version was silent on this issue and would have retained the present formula which works to the benefit of the less populous States. In reaching the recommended solution, the Committee of Conference agreed to a three-stage formula which retains the 40 percent equal distribution for the first $225 million (the same as existing law), but once the level of the fund begins to grow, the portion of the incremental sums to be divided equally will decrease. Of the first $225 million, 40 percent ($90 million) will be equally divided among the States. When the States share of the fund exceeds that amount then 30 percent ($82.5 million) of the next $275,000,000 is to be equally divided. Finally, when the States share exceeds $500 million, then only 20 percent of that incremental amount will be divided equally. In addition, both versions of the bill increased the maximum share of the fund which any single State may receive from 7 percent to 10 percent and the conferees agreed that the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, and the Northern Marianas (when the latter achieves Commonwealth status) should be entitled to receive, on the basis of their relative populations, an amount equal to the share of one state in terms of the portion of the fund apportioned equally among the States.

Sheltered facilities

The Senate version of S. 327 proposed permitting States to use up to 25 percent of their allocation to shelter ice skating rinks and swimming pools in areas where the severity of the climate and the increased use made possible by the sheltering justifies such action. The House version permitted unrestricted use of local funds for shelters, but prohibited any Federal matching assistance from being used for such shelters. The conferees agreed that the basic concept of the Land and Water Conservation Fund as a source of financial assistance for *outdoor recreation* should remain paramount, but the conferees recognize that modest enclosures and shelters in northern tier areas can provide significantly increased recreation opportunities for the normal outdoor activities of ice skating and swimming. Therefore, the conferees agreed that States may use up to 10 percent of their annual allocation (including the matching funds for that 10 percent) for future sheltered facilities for ice skating rinks and swimming pools.

The conferees also agreed that it would be appropriate to permit States to use local funds to shelter existing facilities or new facilities. The conferees, however, have retained the limitations contained in the Senate version that there may not be any sheltering unless the severity of the climate and the increased public use thereby made possible justifies such sheltering. The conferees understand severity of climate to mean extreme cold, heavy snow, or high winds with respect to ice skating rinks; warm weather is *not* contemplated as justification. For swimming pools, the conferees again are concerned with the onset of cold weather which unduly restricts the available days in which the facility may be used.

The conferees wish to emphasize that for the purposes of computing the 10 percent of a state's allocation, the entire cost of a sheltered facility is to be used not just the cost attributable to the shelter.

Urban recreation

The House version of the bill addressed the issue of expanding urban recreation needs and the planning which is needed in order to find a solution to this matter. The Conference Committee recommendation provides that within 1 year from the date of enactment of this section, the Secretary of the Interior shall prepare and submit a *comprehensive* review and report on urban recreation.

This language was proposed in response to nearly a year of difficulties experienced in obtaining urban recreation study data and alternatives from the Department of the Interior. Hypothetical examples and general studies of past policies are not a useful tool for congressional decisionmaking on these issues. The cities and metropolitan areas selected for study need not include locations on which the Congress has already acted or which it has under active consideration since for these areas sufficient data has already been developed. The more populous regions should be examined in detail sufficient to distill a policy and program agenda for the future.

The study would neither accept nor reject any feasible alternative, from full Federal acquisition and management as a part of the National Park System to total financial and operating responsibility at the local level or in the private sector. It is the sense of the Conference Committee that for each of the areas studied, the National Park Service should provide a professional analysis and opinion on the significance and suitability of sites identified as to their possible inclusion in the National Park System. It is understood such findings do not commit the Department to support National Park System status. Such analysis can, however, assist the Congress in gauging relative significance, and subsequent priorities in considering options and alternatives.

Numerous efforts have been made in the past in considering strategies for coping with urban recreation needs. The study directed by this legislation should, therefore, be as specific as possible. The land and water resources which could satisfy the unmet needs in particular urban areas should be identified, and various approaches to meeting recreation needs in each of these areas should be detailed. Federal land managing agencies, particularly the National Park Service, which might be involved under some of the options to be identified, should play an active role in the study from the time of its inception through its presentation to the committees.

This study should have been an integral part of the Nationwide Outdoor Recreation Plan and, in fact, was included in early drafts of that document. Unfortunately, when that plan finally surfaced, it was so severely compromised as to be virtually useless as a guide for congressional action. What is necessary for proper consideration of the various proposals before both the Senate and House of Representatives is a series of options which can be related directly to resources.

To satisfy the requirements of this provision, it is recognized that the study cannot be quickly completed; however, the conferees expect that it can be accomplished in 1 full year. This will allow the Secretary to consult with affected States and localities in developing options with respect to each site to assure their maximum participation and cooperation in future planning and implementation. In developing the options, the Secretary is required to analyze the potential role of Federal agencies in providing interpretive programs and support functions for such activities as environmental education, the performing arts, and so forth.

HISTORIC PRESERVATION FUND PROVISIONS

Level of Historic Preservation Funding

Both the House and the Senate approved the creation of an Historic Preservation Fund similar to the Land and Water Conservation Fund. The Committee of Conference recommends the adoption of the 5-year program approved by the Senate rather than the longer program in the House amendment. In making this recommendation, the conferees recognize that the program must be extended in order to accomplish the objectives of the original National Historic Preservation Act, but it was agreed that at the end of the 5-year authorization, the Congress would be in a better position to judge what future needs might be.

Upon agreeing to limit this authorization to 5 years, the conference adopts the staged implementation of the incremental increases contained in the House amendment, but recommends that the funding levels increase to the Senate-approved level. If approved as recommended, the funding level will be $24.4 million in fiscal year 1977, $100 million annually in fiscal years 1978 and 1979, and $150 million for fiscal years 1980 and 1981.

The conferees agreed that Federal matching grants might provide up to 70 percent of the cost of statewide planning for historic preservation. This limited use of a greater matching ratio was considered justified to encourage the States to proceed with their inventories of historic properties. Identification of potential National Register properties and planning for their preservation will be vital to the effective use of the expanded matching grants program for the restoration of historic properties.

Advisory Council on Historic Preservation

The Committee of Conference recommends approval of the Senate provisions dealing with the Advisory Council on Historic Preservation. As approved by the Senate, the legislation recognizes the Council as an independent agency and makes all of the necessary changes in the National Historic Preservation Act of 1966 to accomplish this purpose, including the changes required to staff the Council with its own personnel. In light of the great need for administrative personnel to carry out the functions assigned to the National Park Service throughout the United States, it is expected that the personnel ceiling applicable to this agency will remain unchanged so that the number of positions now assigned to the Council can be utilized elsewhere in the National Park System where the needs are greatest.

Extension of participation in the International Centre for the Study of the Preservation and Restoration of Cultural Property

The Committee of Conference recommends the approval of the provision in the House amendment extending U.S. participation in the Centre for 3 additional years. In accordance with the House provision this authorization is limited to not more than $175,000 for each of the 3 fiscal years involved.

OIL SHALE FUNDS

On August 4, the Federal Coal Leasing Amendments Act (S. 391) was enacted into law. Section 9(a) of Public Law 94–377 relates to the sharing of Federal mineral leasing revenues with the States. It provides in part that:

> Such funds now held or to be received, by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as "C–A"; "U–A" and "U–B" shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.

Section 301 of the Conference Report makes it clear that this provision of Public Law 94–377 applies to *all* money paid to Colorado and Utah, from the oil shale leases, specified in the Act. In addition, section 301 would apply to *all* moneys paid to *any* State as its share of Federal oil shale revenues.

CONCLUSION

There are other differences between the House and Senate versions of the legislation; however, the key issues in disagreement have been discussed above. The recommendation reported represents the agreements reached by the Committee of Conference and has been reported in context to facilitate comprehension of the changes to be made in the Land and Water Conservation Fund Act and National Historic Preservation Act if S. 327 is approved as recommended.

Roy A. Taylor,
Harold T. Johnson,
Abraham Kazen, Jr.,
Jonathan B. Bingham,
John F. Seiberling,
Bob Eckhardt,
Allan T. Howe,
Keith G. Sebelius,
Virginia Smith,
Managers on the Part of the House.

Henry M. Jackson,
J. Bennett Johnston,
Lee Metcalf,
Floyd K. Haskell,
Dale Bumpers,
Mark O. Hatfield,
Dewey F. Bartlett,
Managers on the Part of the Senate.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. Rogers).

The motion was agreed to.

The SPEAKER. The Chair requests the gentleman from North Carolina (Mr. Neal) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10498, with Mr. Neal (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, August 4, 1976, the gentleman from Florida (Mr. Rogers) had consumed 1 hour and 30 minutes, and the gentleman from Kentucky (Mr. Carter) had consumed 49 minutes.

The Chair recognizes the gentleman from Kentucky.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, the bill before us represents more than a year of work by the committee, and tons of material produced by a broad range of interested groups and individuals. I appreciate all the work that has been done and certainly cannot argue with the ultimate objectives of the proposal. I voted for the Clean Air Act in 1970 when it passed this House and could not agree more that the Congress must be on top of the environmental problems facing this country and should take steps to see that a sound policy is put into force which will protect our natural resources and guarantee a healthy environment for future generations.

But at the same time, I am concerned about a number of provisions in the bill before us and the impact this will have on the all-around well-being of this country. We are moving down the road of sound economic recovery; we are seeing a steady decline in the unemployment rate; we have weathered one energy crisis and have witnessed comprehensive planning toward setting long-range goals which will avert another one. In short, the prognosis for our Nation's economic recovery and growth is good. But we still have a way to go, and I am concerned that we allow this development to proceed and not throw a monkey wrench in the works. And while I am in favor of appropriate measures to preserve our environment, I fear we may be leaping from one extreme to another and are expecting too much, too fast in this particular bill.

I feel it essential that we consider the importance of industrial growth to our economy, especially employment, and maintain a balanced approach to the problem. Thus I continue to be concerned with the proposed nondeterioration section of the bill. Quite frankly, I do not believe we are yet capable of adequately determining the full effect such a policy will have on our future industrial-economic development, and, consequently, would hope that section would be deleted from the bill. The issue needs considerable clarification before we approve such a far-reaching policy.

Furthermore, many of the standards established in the bill were based on the belief that they can be achieved by using the best available control technology. I personally have serious questions as to what the best available technology really is. We are told that industry should be required to install flue gas desulfurization systems, commonly labeled "scrubbers," at all coal-burning facilities. Yet from the material I have seen, I have not been convinced that this prototype model is the best pollution-control device. It would seem a better policy to allow industry the ability to study the feasibility of such a prototype model prior to constructing such a model at all coal-burning facilities, especially those industries which have shown good faith through installing at least one scrubber at one of their major facilities.

In addition, I am concerned about the requirement that pollution-control equipment be operated 24 hours a day, even when the company's coal-burning facilities are not reaching unacceptable levels of pollution. It would seem to me that intermittent controls, required when specified levels of pollution have been reached, would permit continued maintenance of air quality standards, but would be much less costly in terms of energy since the "scrubbers" themselves consume a tremendous amount of energy when in operation.

We have been deluged with material regarding automobile emissions controls, but neither side has been able to present cold, hard facts which show that proposed standards can now be met on an industrywide, all-inclusive basis. I do not think we can promote a single model automobile in the name of clean air. By the same token, I question the proposed reduction of emissions required for heavy-duty diesel engines. I am concerned that requirements be based on available technology and that our expectations are not only reasonable, but necessary to maintain an acceptable air quality standard.

In short, I have serious reservations about this bill and expect a lot more answers before we end this debate and adopt any comprehensive policy in such an important and far-reaching area affecting our health and well-being.

Mr. CARTER. Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I have no further requests for time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NEAL, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire as to whether the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) can inform the House as to the program for the balance of the day, the balance of the week, and for next week.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. O'NEILL. I thank the gentleman for yielding.

Mr. Speaker, the program for the House of Representatives for the week of September 8, 1976, is as follows:

Monday and Tuesday is the Labor Day recess.

On Wednesday the House will consider:

House Concurrent Resolution 728, second budget resolution, fiscal year 1977, with 10 hours of debate, general debate only.

I am sure the gentleman is aware that is in the law, and we do not anticipate it will take 10 hours.

That will immediately be followed by the continued consideration of H.R. 10498, the Clean Air Act amendments.

On Thursday and the balance of the week, the House will consider:

House Concurrent Resolution 728, second budget resolution, fiscal year 1977, with votes on amendments and the resolution. We will complete consideration of that.

Then we will go back to H.R. 10498, the Clean Air Act amendments, and we will conclude consideration of that bill.

Conference reports may be brought up at any time, and any further program will be announced later.

There is a possibility of the DOD conference report being brought up.

If we finish the Clean Air Act amendments, there is a possibility we will not work on Friday. But we do want to finish the clean air bill.

Mr. RHODES. I understand that if the Clean Air Act amendments are not concluded, there will be a Friday session?

Mr. O'NEILL. If the gentleman will yield, that is the present plan.

Mr. RHODES. That is the present plan?

Mr. O'NEILL. Yes.

Mr. RHODES. Am I correct in understanding that there will be no votes on Wednesday?

Mr. O'NEILL. No. There will be votes on the Clean Air Act amendments on Wednesday, but there will be no votes on the second budget resolution.

Mr. RHODES. Of course that assumes that we finish the general debate on the second budget resolution on Wednesday?

Mr. O'NEILL. It is my understanding that the chairman feels it will not take more than 3 hours.

Mr. RHODES. I thank the gentleman.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Wednesday, September 8, 1976, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED BY THE TWO HOUSES AND FOUND TRULY ENROLLED, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Wednesday, September 8, 1976, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 8, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, before that permission is granted I wonder if the gentleman from Massachusetts can tell us if and when the estate tax bill will be brought up.

Mr. O'NEILL. If the gentleman will yield, I have no answer on that. I can just assure the gentleman that it will be brought up. As the gentleman knows, the Committee on Ways and Means is in conference at the present time.

As I understand it, the estate tax provision was in the Senate bill. Now, whether it will be brought up through the conference report, I do not know, but if it is not, I know that the Committee on Ways and Means has been examining the various amendments and giving thought as to whether we would go with that bill or bring up a rule from the Committee on Rules, thereby meeting the will of the House as concerning the actions on the floor the other day.

Mr. BAUMAN. Mr. Speaker, if the other body includes these provisions in a conference report, that would preclude the House from having any further debate on or consideration of the estate tax bill in the House under a rule. The rule has been passed, and it could be called up in the regular order of business. Possibly the provisions of Calendar Wednesday rule would provide an opportunity for consideration and therefore should be left available to the Members if they so desire for consideration of this bill under the Calendar Wednesday rule.

Therefore, Mr. Speaker, I object to the request.

The SPEAKER. Objection is heard.

APPOINTMENT AS MEMBER OF U.S. GROUP OF NORTH ATLANTIC ASSEMBLY AND DESIGNATION OF CHAIRMAN THEREOF

The SPEAKER. Pursuant to the provisions of section I, Public Law 689, 84th Congress, as amended, the Chair appoints as a member of the U.S. Group of the North Atlantic Assembly the following Member on the part of the House: The gentleman from Wisconsin, (Mr. ZABLOCKI) to fill the existing vacancy thereon; and the Chair designates the gentleman from Texas (Mr. BROOKS) to serve as chairman of the delegation for the remainder of the 94th Congress.

THE PROFIT '76 ADVISORY COMMITTEE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 60 minutes.

Mr. CHARLES H. WILSON of California. Mr. Speaker, the mobility of personnel between defense and industry has often been brought to the attention of this body. Any number of inquiries have established the presence of conflicts of interest involving high defense officials and the companies dependent on their good will, if not their objective analysis, for the production contracts and profits vital to their survival. Less well known, however, is the metastasis between political committees and sectors of defense, both in industry and in Government.

A recent example came to my attention in an excellent article written by Sheila Hershow of the Federal Times. Ms. Hershow discovered that Deputy Secretary of Defense William P. Clements, a former cochairman of the Texas Committee to Re-Elect the President, had apopinted the treasurer of the President Ford Committee to head a special advisory committee to evaluate a new policy expected to increase the profits of shipbuilders and missile manufacturers.

Naturally, we may expect the shipbuilders and missilemakers to express their gratitude. Was this not the kind of hamfisted politics we left behind with Nixon?

On the face of it, the appointment of Ford Treasurer Robert C. Moot was improper. When reached for comment, Clements replied through an aide, "I made a mistake, I blew it." It was a disclaimer I found hard to take from a man who has himself been the subject of controversy and investigation relating to conflicts of interest. Had not Clements himself promulgated a DOD policy in October 1975, in which he admonished Department officials to "avoid even the appearance of a conflict of interest"?

After personally studying "Profit '76" for the last 6 weeks, I would like to bring my preliminary results to the attention of the Congress because, as a member of the Armed Services Committee and as a taxpayer, I am appalled at the possible consequences of "Profit '76." Under its proposals for revision of the Armed Services Procurement Regulations rule on productivity, defense contractors would be formally encouraged in their tendency to massive cost overruns.

I am even more concerned as to the reasons behind the public association of the President Ford Committee with the "Profit '76" study through its treasurer and study participant, Robert Moot. While Mr. Moot avows that President Ford had nothing to do with "Profit '76," we learned from Watergate the excesses to which powerful subordinates are prone.

Our work uncovered a complex buddy system between the President Ford Committee and the Department of Defense built on prior acquaintance and revolving around short-term considerations of political expediency, prior involvement in conflicts of interest, personal considerations of private benefit, and anxiety over congressional commitment to an adequately funded defense.

The old Texas Nixon campaign team—James A. Baker, chairman of the President Ford Committee; Robert Mosbacher, Ford's chief fundraiser; and William Clements—have joined the Pentagon bailout squad of former Deputy Secretary of Defense and Lockheed lobbyist David Packard and former defense comptroller, Robert Moot.

The interests of Baker and Mosbacher in winning Presidential primaries coincided with the massive claims submitted by the shipbuilders in the spring. Our work attempts to establish a link between the two situations and to inquire whether "Profit '76" has been exploited for political profit. We have also examined whether "Profit '76" has institutionalized a bailout of the shipbuilding concerns—a bailout far less controversial and apparent than asking Congress for bailout appropriations.

I believe that the public ought to be alerted to the kind of conduct and impropriety I have discovered. Perhaps other offices, with other resources, can take the case further.

I believe the facts deserve to be put in the public domain. It is important that we realize that unhappy precedents compel a close examination of the President Ford Committee and "Profit '76."

In March 1975 President Gerald Ford and George Steinbrenner were named, innocuously enough, among the best dressed men in America. Two years earlier, Mr. Steinbrenner was chairman of the American Shipbuilding Co. and in September 1973 his name surfaced in connection with the investigations of the Watergate grand jury. The jury discovered that officials of the American Shipbuilding Co. had made a secret $100,000 donation to President Nixon's political campaign while that concern was trying without success to win payment of a $6 million overrun on a Government contract. Today, three major shipbuilding companies are experiencing major cost overruns in their contracts with the Navy and have submitted $1.4 billion in claims for resolution. Although the claims settlement has reached an impasse, little public attention has been called to the convening of a Department of Defense advisory committee whose recommendations, if adopted, would quietly but substantially amortize the massive overruns over time. In the words of the Office of Secretary of Health, Education, and Welfare:

> The adoption of the policy may well result in a massive windfall to government contractors.

The chairman of the advisory committee is the treasurer of the President Ford Committee, Robert C. Moot.

He was appointed by the former Texas CREEP cochairman and present Deputy Secretary of Defense, William P. Clements. With all the earmarks of Nixon's tactics, President Ford has identified himself with a policy bearing gifts to shipbuilders in trouble. They may feel inclined to return the favor, and the juxtaposition of Gerald Ford and George Steinbrenner—so innocent in 1975—may have become more sinister in 1976.

The DOD study which Robert Moot was called to pass on is entitled "Profit '76." The profit policy it recommends places an emphasis on greater rewards for contractor investment in capital facilities. The present weighted guidelines determining the level of profit on negotiated contracts are to be amended accordingly. Because of their already large investment in facilities, shipbuilders and missilemakers stand to make an automatic and dramatic increase in their allowable costs, and thus in their profits. It is a change which these particular industries had long been pressing for. The timing surrounding the promulgation of the change and the empaneling of an advisory committee to add authority to it illuminates a number of conflicts of interests and some subtle political engineering. In addition to Moot and Clements, the cast of characters includes the present chairman of the President Ford Committee, James A. Baker; Ford's chief fundraiser, Robert Mosbacher; and former Ford campaign finance chairman, David Packard.

On May 11, on the heels of his loss to Reagan in Texas, President Ford lost the Nebraska primary. The central issue of both campaigns had been national defense, and the central touchstone of that issue, as Joseph Harsh noted that week in the Christian Science Monitor, was the adequacy of American seapower. On May 12 the Senate Armed Services Committee rejected an expanded naval shipbuilding plan; earlier, the House Armed Services Committee had decided to limit funds for settling shipbuilders' claims on their overruns. Now the shipbuilders threatened to stop work on their Navy contracts and this threat, in turn, jeopardized Ford's ability to project himself, at a critical point in his campaign, on the defense issue. The need to defuse defense as an issue, the need to diminish the Reagan factor, the need, in short, to prevent the shipbuilders from further disrupting the Ford counterattack may have been on the mind of Ford's campaign strategist, Stuart Spencer, who was known for his artful timing of official announcements. Although the DOD rarely uses advisory committees, Moot was appointed by Clements on May 12. Significantly, the committee which Moot was to head was not legally extant until June 17, when notification of its empaneling was published in the Federal Register.

On May 17, Adm. Hyman Rickover alerted Representative LES ASPIN to the fact that—

> (Shipbuilding company officials) recommended that the Navy adjust its contracts and modify its procurement policies to ensure profitability in future contracts.

On May 19, Secretary Clements addressed those procurement policies by proposing to the shipbuilders a new "inflation escalator contract" which would turn their projected losses on overruns into profits of at least $74 million. Members of the Armed Services Committee charged that the Clements proposal amounted to a bailout. Representative STRATTON commented:

> You're going to turn a deficit situation into a substantial profit. That's a bailout.

When pressed further, Mr. Clements pulled back from the figure but said that his proposal would give the shipyards about a 1-percent profit.

Coincidentally, 1 percent happens to be the additional profit which the shipbuilders would realize if the "Profit '76" recommendations were adopted. Should Clements' new inflation escalator contract have failed in the Armed Services Committees, reweighting the profit guidelines could be a way of accomplishing the bailout without calling it a bailout. Furthermore, if institutionalized in new DOD regulations, the bailout would become far less controversial and apparent than asking Congress for bailout appropriations. Known for his distrust of congressional commitment to defense funding, Clements may have rationalized a method of appropriations "entrapment," and his old friends from Texas CREEP campaigns, James Baker and Robert Mosbacher, may have encouraged it in the political crisis facing the Ford campaign in May. By "entrapment," Congress may be restricted from making a decision on the justice of proposals for increased funding, for if the contractor has complied with DOD regulations, how can Congress equitably refuse him? This, perhaps, was the promise held out to the contentious shipbuilders in May.

The advisory committee which Clements appointed included, in addition to Robert Moot, J. Ronald Fox, Herbert Stein, Ronald Ross, and Herman W. Bevis. Before joining the Ford campaign, Moot was a vice president of Amtrak and, earlier, an Assistant Secretary of Defense—Comptroller. Of his appointment to the Ford campaign, columnists Evans and Novak wrote in June 1975:

> A career government employee who started out in the Truman administration, Moot's credentials as a nuts-and-bolts certified public accountant are gilt-edged, exactly what is wanted by political advisors of Mr. Ford, equeamish about any financial hanky-panky.

He served under his former boss at the Pentagon, David Packard, who had been appointed the Ford finance chairman.

Mr. Fox also served with Secretary Packard as the then-Assistant Secretary of the Army for Installations and Logistics. He sat with Mr. Moot in 1969 to 1971 as the chairman of the Defense Industry Advisory Committee on Contract Financing and Profit Policy, whose recommendations are substantially recapitulated in "Profit '76."

Mr. Stein was Chairman of the President's Council of Economic Advisers between 1972 and 1974.

Mr. Ross is a senior vice president of the Bank of America N.T. & S.A. and has worldwide responsibility for the bank's relationships in aerospace, transportation, and related fields.

Mr. Bevis is a former senior partner of Price Waterhouse. He served as an adviser to Mr. Moot when Moot was at the Pentagon.

In addition to the obvious impropriety and putative conflict of interest inherent in having a political campaign treasurer chairing a committee to restructure defense profits to the benefit of selected industries, real conflicts of interest existed among certain committee members.

Mr. Bevis, for example, is a member of the Cost Accounting Standards Board. The Board issued a new standard CAS 414 on which the DOD profit study is structured. As a member of the Board, how can Mr. Bevis be expected to pass objective judgment on policies that embody his own recommendations?

Mr. Ross, as a representative specializing in the aerospace interests of the Bank of America, must admit to an intense interest in the profit policy—it is a policy weighted in favor of those most troubled industries to which his bank has tied itself with its loans. On June 7, 1976, Rohr Industries, who teamed with Litton Industries for the preliminary design and hardware planning for the 2,200 ton surface effects ship, was forced to transfer its interest-most-company assets to the Bank of America to secure its loans. Rohr won its $35.2 million Navy contract in July 1974, and is competing for the production contract on the ship. After disengaging itself from its transportation interests, Rohr is concentrating on its aerospace assets. The Bank of America is also one of the major banks in the 24-bank consortium which holds more than $500 million in outstanding loans to the Lockheed Corp. Lockheed is in parlous circumstances; its missile and shipbuilding operations would benefit under the new policy.

In order to get a better fix on the benefits of "Profit '76," two simple questions ought to be asked and answered. What do the shipbuilders want? What does "Profit '76" give them?

In his remarks to the Naval Postgraduate School on April 6, 1976, Mr. Edwin M. Hood, the president of the Shipbuilders Council of America declared:

> Since 1970, the active U.S. Navy fleet has dropped from 976 to 477 vessels and private shipbuilders have, for the most part, become increasingly disillusioned with naval ship construction work. There is no derivative connection between these two developments, but a cure to the latter industrial malady will be fundamental to achievement of superior naval capabilities.

Mr. Hood further stated that the shipbuilders sought provisions which would relieve them of the burden of interest for financing ship construction.

The problem of cash flow, exacerbated by the claims dispute, is extremely important. John Finney reported in the New York Times on May 15, 1976, that an official close to Defense Secretary Donald H. Rumsfeld said he could "not shoot down" a theory by a reporter that the—Clements'—plan was originally devised to provide emergency relief for Litton Industries, which reportedly is having cash flow problems. A month later, Litton's O'Green took the position that the Defense Department was not being generous enough and was adopting a take-it-or-leave-it attitude toward the claims. When asked what he wanted, O'Green replied:

> One thing is money, another is a better method of contracting. As it stands, the risks are unacceptable to contract for Navy ships.

In addition to these demands, John Diesel, president of Newport News Shipbuilding, has urged the widespread use of cost-plus contracts. The shipbuilders also have urged that contractor informational systems be relied on to the maximum practical extent and, concommitantly, that Government-imposed reporting requirements be reduced.

The claims dispute is an outgrowth of the particular disputes noted above: $1.4 billion is being claimed by Newport News, Litton, and General Dynamics against the Navy for damages to contractors from late Government-furnished equipment, bad Naval management, and the effects of inflation. The Electric Boat Division of General Dynamics is losing $137.4 million; Litton Ingalls, of Pascagoula, Miss., is losing $207 million; Newport News is losing $127.4 million. These losses stand in addition to prior-year losses, so that the total outstanding in claims approaches $1.4 billion.

Secretary Clements attempted in May to rewrite the shipbuilders' contracts under a 1958 law invoked for "national emergencies." Mr. Clements hoped to give the companies additional money in return for their dropping these claims against the Navy. At that time, Senator PROXMIRE charged that the Pentagon and the shipbuilders have "conspired to cover up cost overruns and possible false claims. Litton Industries could collect hundreds of millions of dollars partly on the basis of vague estimates, phony assertions and inflated figures."

How does "Profit '76" meet the concerns of the shipbuilders? The new DOD policy will give the shipbuilders more money—in fact, nearly $200 million more per year. The reweighted guidelines will take care of that. Further, the policy affords limited recognition, in competitively awarded fixed-priced contracts, for withholding government scrutiny. It affords compensation for "risk," and looks toward a better method of contracting.

As far as claims, per se, were concerned, among the recommendations of the conference board convened by the financial community was that there be prompter and more equitable resolution of disputes. The board could supply, however, no statistics on the relationship between profits and DOD sales, and thus no background on the legitimacy of the disputes themselves.

"Profit '76" takes no stand on the claims dispute. It provides guidelines for negotiating contracts, and not for reconciling contract overruns. Nonetheless, as the issue at the heart of both contracts and claims is the adequacy of profit, some relationship is imputed. Congress recognized as much in the House-passed version of the defense procurement authorization bill on April 9. The bill included general provisions which attempted to change procurement policy, and involved requiring initial contractor certification of the accuracy and completeness of requests for price adjustments; the hiring of outside lawyers to process requests for equitable price adjustments; and giving the Government the right to appeal to the Armed Services Board of Contract Appeals. The provisions were opposed by the shipbuilders.

In the administration's January budget, Secretary Rumsfeld presented $320 million for claims and $1.1 billion for cost growth and escalation. The House disallowed the $320 million of claims on the basis that, as no settlements were expected in the calendar year, the amount was not expendable in fiscal year 1977. The House authorized $217 million in cost growth and $256 million in escalation. The Senate, however, included the full amount and this was sustained in conference and passed by both Houses on June 30 and July 1. It should be noted that although the Senate authorized payment of claims, it sought an important caution:

> None of the funds appropriated in this Act may be used to pay any claim against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Armed Services Committees and Appropriations Committees as to the validity of those claims.

The practical effect of this language was to enjoin Secretary Clements from precipitous action with the emergency powers he was seeking in order to resolve the claims.

The "Profit '76" study, echoing the concerns of John Diesel of Newport News Shipbuilding, maintains the cost-plus type contract in the research and development phase of system engineering. The General Accounting Office has already found that while cost-plus may be an acceptable way of performing on Naval contracts, "the shipbuilders have taken extraordinary liberties with it." It should also be pointed out that since published financial statements do not disclose the difference between profit on defense business and profit on commercial business, the "Profit '76" researchers had to turn to defense contractors themselves for their data. GAO cautioned against the use of contractor estimates as a reliable base for forecasting program costs; "Profit '76" has no similar reservation against using contractor estimates as a reliable base for establishing profit levels.

What "Profit '76" finds is that missile manufacturers made an average profit on defense contracts between 1970 and 1974—before taxes—of 6.1 percent; shipbuilders made 2.9 percent. While the average profit for the shipbuilders on commercial contracts was 3.5 percent, they are making a 5.8-percent return on their investment in defense contracts as compared with a 4.2-percent return on commercial contracts. "Profit '76" does not explain why a sector of industry would need special financial encouragement to invest in capital for Government contracts when in fact normal business logic would compel increased investment in a sector in which the return on investment is greater, that is, in defense investment.

The objectives of Secretary Clements, as articulated in the claims dispute, compounds the irrationalities of the logic cited above. On its very first page, the "Profit '76" memorandum notes that "the automatic application of a predetermined percentage to the total estimated cost of a product does not provide the motivation to accomplish such performance." In March of this year, however, Clements prodded the Navy to "promise" to create a contracting climate under which the yards could earn real—as distinguished from target—profits as high as 8 percent. In other words, no matter what the guidelines, Clements is going to insure the shipbuilders an 8-percent profit. It is an unprecedented level of profit. Profit rates on completed contracts in fiscal years 1959 to 1969 showed, for example, that for the two types of contracts most likely to be employed in negotiations in the future—cost-plus-fixed-fee and cost-plus-incentive-fee—the profit rates were 7 and 6.2 percent respectively.

In making the cost of capital "allowable" as a cost instead of forcing contractors to compensate for it in their profits, the "Profit '76" group hoped to reduce the portion of contractor's profit which had previously accounted for it. Now, however, Secretary Clements has assured the shipbuilders of an 8-percent profit—a profit which, with the adoption of "Profit '76," need not be reduced by the previously unallowable cost of capital. Consequently, the shipbuilders receive a windfall benefit on both the profit and cost sides of their contracts.

In order to understand Clements behavior in this matter it is necessary to point to his long-held fears of an inadequately funded national defense and to his prior involvement in conflict of interest situations. Also important are the short-term considerations of Republican political expediency and, perhaps, personal considerations of private benefit. As the lodestone of this examination lies in the "Profit '76" study, it is appropriate to begin with the connection between Ford Treasurer Robert Moot and Secretary Clements.

Why appoint Robert Moot?

Mr. Moot, as a former Pentagon Comptroller, had both the familiarity and expertise with the problem of defense profits which a formal review of the "Profit '76" study would have required. Yet given his association with the President Ford Committee, his appointment as chairman of the advisory committee was, on the face of it, wholly improper. When confronted with the impropriety of Moot's appointment, Secretary Clements replied through an aide, "I made a mistake, I blew it." For a man who had himself been the subject of Congressional scrutiny for impropriety, for a man who had cautioned Defense Department officials to avoid "even the appearance of a conflict of interest," the disclaimer is quite lame.

Clements wrote on April 2 to Senator JOHN STENNIS, the chairman of the Senate Armed Services Committee that—

> The cumulative effect of the many problems that have beset the Navy shipbuilding program has had a crippling impact on the Navy's ability to acquire the ships needed for our national defense.

Clements attempted to force both the Navy and the shipbuilders into line, but as the primary campaign season heated up around the issue of national defense, thė shipbuilders found themselves with the strongest hand and continued to balk.

One way or another—Clements declared in June—

> We intend to get those ships built.

The association of President Ford, through Moot, with the "Profit '76" study so favorable to the shipbuilders, may have been one way of publicly proving the administration's good faith in the matter. Given that the Ford campaign was in retreat on defense issues, given that Clements publicly considered the shipbuilding dispute a "national security issue," and given that Clements once avowd that "rules are made to be broken" in the interest of national security, the exploitation of "Profit '76" as both a partisan exercise and a way round a supposedly untrustworthy Congress is plausible.

Robert Moot saw nothing extraordinary about his appointment to the advisory committee. In a telephone conversation, July 28, he avowed that he did not see any apparent conflict of interest between his role on the "Profit '76" advisory committee and his role on the President Ford committee. He said that the report to be produced by the committee would be impossible to construe as favoring certain political interests. President Ford, he said, was not familiar with the "Profits '76" committee and had had nothing to do with it.

What is at issue, however, is not the political content of the committee's report, but rather the use of that report for political gain. The cast of characters swirling about Clements and the President Ford committee, and the historical circumstances themselves, make it difficult to trust in the Moot-Clements disavowal. Too many men had too much to gain at a very critical time. The sense of unease with their explanations is heightened by an examination of the backgrounds of the individuals and of the particular pressures of the Republican primary campaign.

William P. Clements' career in defense began in October 1969 with his appointment to President Nixon's blue-ribbon defense panel. The panel was directed to study the procurement and management practices of the Pentagon. Immediately, however, the panel was criticized by Senator WILLIAM PROXMIRE for the apparent bias of its appointees. He said:

> These are eight men, who will be asked to view critically possibly their own companies and recommend changes in procurement policies . . . they may be faced with recommending changes which may hurt their own interests.

Of the eight major participants on the panel, each man, through his company associations, had interests on the average of over $100 million in either defense contracts or defense industry business of over $300 million. From the vantage of "Profit '76," it is interesting to note that, with Clements, the panel also included the present Supreme Court Justice, Lewis F. Powell, Jr., who was then a member of the law firm of Wiliams, Gay, Powell, and Bibson. This law firm represented, and continues to represent, the major participant in the present shipbuilding claims dispute, the Newport News Shipbuilding and Drydock Co. David Packard, then Deputy Secretary of Defense and chairman of the panel, has now returned to his electronics firm, one which stands to gain by the profit recommendations of the present "Profit '76" study. Mr. Packard did not divest himself of his Hewlett-Packard holdings to avoid conflict of interest in 1969, but placed his $300 million block of stock in trust. Tom Wicker commented:

> Since he retained ownership of the stock he retained the conflict.

Further irregularities in Packard's conduct will be taken up below.

The panel's top staff man was J. Fred Buzhardt, at that time Special Assistant to Assistant Secretary of Defense Robert Froehlke, later a participant in the controversial bailout negotiations with the Grumman Aircraft Corp. in 1973, and later Counsel to President Nixon during the Watergate affair.

Since his appointment to the Nixon panel, Mr. Clements has been involved in numerous controversies concerning his oil and defense associations; he has usually landed on his feet. But the number and severity of the controversies may suggest that Mr. Clements may in fact be telling the truth when he remarks that he "blew it" by appointing the Ford treasurer to head the profit advisory committee—falling into conflicts of interest comes naturally.

As a former chairman of SEDCO, an oil drilling company in which he continues to hold over $120 million in stock, Mr. Clements was barred by then-Defense Secretary James Schlesinger from making any decision on oil exploration. SEDCO had partnered with another company in a contract for construction of a part of the controversial trans-Alaska pipeline. The Defense Department's largest untapped petroleum reserve lies in the Arctic, south of Point Barrow, Alaska. A task group appointed by Clements in November 1973 recommended a 10 year, $5 billion program for the field. Later, columnist Jack Anderson printed memos that showed Clements still involved in oil decisions after he supposedly had removed himself, in Schlesinger's words, "to avoid even the appearance of a possible conflict of interest."

In early 1973, Clements was a key figure in the controversial negotiations leading to the restructuring of the Grumman Aircraft Corp.'s F-14 fighter production contract with the Navy; indeed, later that year, Clements played a central role in showing the Grumman plane in the Paris Air Show—an event which probably saved the fighter from extinction. As noted above, J. Fred Buzhardt, the Nixon lawyer, was present in the negotiating meetings. Not present, but very concerned, was the former chairman of the Committee To Reelect the President, Clark MacGregor, who had signed on as the vice president of United Technologies. Its subsidiary, Pratt & Whitney engines, stood to lose $800 million had the F-14 project been discontinued. Clements, as cochairman of Texas CREEP, had had close contact with MacGregor.

In August 1973, Clements' oil company had 11 oil drilling rigs under contract to an oil consortium working the nationalized Iranian oil fields. The firm earned $11 million from that operation alone in 1972. In June of 1973, SEDCO formed a new drilling subsidiary, Sediran, an Iranian company to be owned half by SEDCO and half by an Iranian bank and the Pahlevi foundation, headed by the Shah of Iran, a personal friend of Mr. Clements.

In late 1973, the Shah made an agreement with President Nixon to purchase 80 F-14 fighters.

In December 1974, then-Interior Secretary Rogers Morton warned that President Ford might have to allocate steel and shipyard space to construction of offshore oil-drilling rigs to meet domestic energy needs. SEDCO, whose chief executive officer is William Clements' son, B. G. Clements, still maintains a strong interest in the proposal. As of June 30, 1975, the company and its affiliates operated 16 semisubmersible drilling units—two, 50 percent owned; three, 95 percent owned. Under construction were five semisubmersible drilling units and two drill ships, scheduled for delivery by October 1977, at an estimated total cost of $335,000,000. SEDCO also guarantees the payments on the construction of six ships by its affiliate, SEDCO Maritime. Stockholder Clements would benefit by Government initiatives such as "Profit '76" which increase the amount of cash flowing into shipbuilding. For the record it ought to be noted that SEDCO's long-term debt includes U.S. Government insured merchant marine bonds, to a value of $72 million, and U.S. Government guaranteed ship financing bonds, to a value of $74 million. The trustee and registrar for the bonds is the First National Bank of Dallas, for which Clements is a director and in which he holds stock.

Clements' bank association reveals a most glaring conflict of interest in the context of "Profit '76." First National has long been the financial mainstay of the LTV Corp., LTV Aerospace, an LTV subsidiary, is the prime contractor for the Cruise missile and stands to profit by the "Profit '76" guidelines. In 1973, First National was one of several banks involved in providing a $75 million line of credit and a $25 million loan to LTV. At present, the bank is the trustee for the corporation in its 5-percent subordinate debentures due January 15, 1988. The total outstanding amount at December 31, 1975, was $283,385,000.

Finally, Secretary Clements' national defense concerns in shipbuilding dovetail nicely with his private concerns in SEDCO's Iranian operations. In June 1973, the same month in which SEDCO entered into its Iranian partnership, Clements declared at a news conference that because of a potential future dependence on foreign oil supplies, "particularly from the Persian Gulf area," renewed consideration was being given to the construction of nuclear-powered ships for the Navy. Sealanes to the Gulf would also have to be protected.

At the time of Clements' news conference, David Packard, his predecessor, had returned to his chairmanship of the Hewlett-Packard Corp. While Deputy Secretary of Defense, however, he had specialized in the kind of management and procurement problems which "Profit '76" addresses. In fact, Packard chaired the now-defunct Defense Industry Advisory Committee which, with the assistance of corporate heads in the defense sector, authored recommendations virtually indistinguishable from those contained in "Profit '76."

The most notable procurement problem with which Packard had to deal was the Public Law 83-804 "bailout" of Lockheed Aircraft Corp. in 1970. While the bailout involved a number of complex arrangements, Packard showed a particular solicitation for the shipbuilding aspect of Lockheed's difficulties.

Lockheed made its original claim in 1969, the beginning of Packard's term, for $160 million on its shipbuilding projects. The Board of Contract Appeals looked over the work and made an offer, through the Bureau of Ships, for a $62 million settlement. Lockheed agreed to the terms. However, the process required that such agreements be approved by the Chief of Naval Materiel and the Assistant Secretary of the Navy for Installations and Logistics. Both refused to initial off on the deal because a higher review panel, the Navy Claims Review Board, had indicated to them that Lockheed had not supplied sufficient justification for the $62 million, much less the $160 million. When the Claims Review Board requested that Lockheed supply additional documentation on the work performed, they, like the shipbuilders in the 1976 dispute, refused. The matter went into litigation.

In November of 1974, Packard surfaced as a lobbyist for Lockheed. Senator PROXMIRE roundly scored him for "actively lobbying" in the Pentagon and Congress in an effort to force the Navy to pay the Lockheed Aircraft Corp. what the Wisconsin Democrat described as an "inflated" $62 million shipbuilding claim. PROXMIRE noted that Packard had sent his successor at the Pentagon, William P. Clements, a memorandum in which Packard said that the Navy had a "legal and moral obligation" to make a settlement, and he urged Clements to urge the Navy to pay and, if necessary, to order the Navy to pay. Packard also wrote to the Armed Services Committee chairman. Senator PROXMIRE said:

> Mr. Packard's contacts with the powerful committee chairmen could be interpreted as an effort to use political influence to alter the outcome of administrative proceedings. The mere fact that the letters were sent, and distributed within the Pentagon could be enough to create pressure to settle the claim for an amount that could not be justified on the fact.

Packard's active interest in the claim may have represented Hewlett-Packard's concerns. Lockheed is one of Hewlett-Packard's best customers.

In 1975, the Criminal Division of the Department of Justice began investigating Lockheed for fraud on the $62 million claim which Packard was promoting.

Packard now holds a position on the President Ford Committees' Executive Committee after resigning as finance chairman of the campaign on October 31, 1975. Prior to his resignation, however, he had split the duties of finance chairman and treasurer with Robert Moot. The recommendations of the "Profit '76" advisory committee which Moot chairs are most welcome to interests such as those of Lockheed's hard-pressed shipbuilding subsidiary—the interests, indeed, which Packard sought to promote in 1974. Also of interest is the fact that when Packard came to the Ford campaign in May of 1975, he was recommended to President Ford by Clark MacGregor, William Clements' Nixon campaign contact.

In addition to their historical plausibility, the confluence of private interests in the recommendations of "Profit '76" become explicit in the political relationships between Clements and the Ford campaign managers, James A. Baker and Robert Mosbacher.

Clements, Baker, and Mosbacher were together in Texas in the heyday of the 1972 Nixon campaign. Baker, now Chairman of the President Ford Committee, is a former Texas oilman and member of the board of Welltech, Inc. A former 1972 finance chairman of the Texas State GOP, he resigned as Under Secretary of Commerce to follow Rogers Morton on May 8, 1976 to the Ford campaign. Robert Mosbacher became Ford's new fundraiser in early December 1975 after the departure of Packard. A Houston oil and gas "wildcatter," Mr. Mosbacher was the Republican National Finance Chairman for Texas in 1971 and early 1972. He later worked, he said in an interview, on "business and industry for the Nixon reelection."

The question raised by "Profit '76" is just how closely the Republicans are working with business and industry for Ford's election. While the answer to this question may be buried in finance reports or in invisible transactions, the importance of "Profit '76" as a means, perhaps, of bringing the vocal shipbuilders to terms while the Ford campaign was under the Reagan cannonade on defense would have had a political import not lost on Packard, Moot, Baker, or Mosbacher.

In the primary season, the delay resulting from the shipbuilding claims dispute was seen to jeopardize the realization of the Navy's modernization program. It was a threat that played right into the hands of administration opponents. Wrote Joseph Harsch:

> Governor Ronald Reagan, has won solidly over President Ford in Texas, Indiana, Alabama, and Georgia and has used as the main instrument of his success a demand for more seapower.

Thus, while in December 1975 Ford agreed with recommendations that the Navy defer plans to start work in 1976 on a new class of smaller nuclear-powered aircraft carriers and that production be ended of the Boeing Minuteman III intercontinental nuclear missile, after an upset defeat in North Carolina and in anticipation of a close campaign in Texas, he reversed his decision on April 26 and asked Congress for $322.4 million to continue production of the Minuteman missile. The suspicion of political expediency surrounding this decision is increased by reference to the explanation given by then-Pentagon spokesman William I. Greener, now director of communications for the President Ford Committee. While no decision had yet been made to produce the extra missile, Greener noted that the money request was submitted to Congress "so we could review the situation in late summer and retain the option to build the missile at that time."

Greener may have inadvertently let slip a future Ford campaign salvo. After using the Minuteman announcement for what it was worth in the immediate battle with Reagan, the Ford camp may also have been looking toward "late summer" and their campaign against Carter on similar issues. Should it find itself in trouble, the Ford campaign could announce the administration's intention to stand strong on defense and "build the missiles." Ford could milk the Minuteman for two campaigns.

Reagan certainly was not oblivious to the shift. On April 29, he said in Atlanta that his warning about America's defense position had led President Ford to request funds for strengthening the Minuteman missile system.

Actually—

Said Reagan:

> I think he would have the defense budget that he requested reduced by billions of dollars if I had not made this position in this campaign.

Earlier, in January, Ford had attempted to take the initiative on the touchstone of defense issues embraced by "Profit '76"—shipbuilding and missile-making. In an interview with New Hampshire journalists, Ford stated his commitment to continued operation of the Portsmouth Naval Shipyard in southeastern New Hampshire. Asked about his plan to create efficiencies in the Defense Department, Mr. Ford said that there was "no plan whatsoever to close Portsmouth Naval Yard." The Wall Street Journal editorialized:

> After his pro-Navy speech, Mr. Ford swept the wards near the Portsmouth navy yards, a significant contribution to his razor-thin New Hampshire victory over Ronald Reagan.

In this context, it is not difficult to imagine "Profit '76" being employed for similar ends. In fact, an examination of the momentum of the primary campaign invites this interpretation.

After close calls in New Hampshire and Florida, and on the heels of a campaign-sapping loss in North Carolina, Ford strategist Stuart Spencer declared:

> I've been yelling for 90 days that Reagan was going to use national defense to try to kill us. We've got to go on the defensive.

No one doubted that Spencer had the wherewithal to expand the ploy of the Portsmouth Naval Yard announcement into an enlarged campaign gambit.

The Washington Post took note of Spencer's tactics. During the Florida campaign there had been artful timing of official announcements—mass transit funds for Miami, an international convention in Orlando, a possible new veterans hospital in St. Petersburg. Again, with reference to "Profit '76," Spencer may have leaned on William Clements, through his Nixon-Ford acquaintances, for "artful" exploitation of an official report. The Post wrote:

> On the surface at least, the reason for Mr. Ford's dramatic gains appear to be a campaign organization that began to mesh smoothly after Ford campaign director Stuart Spencer imported his old partner Bill Roberts from California plus Mr. Ford's effective and unsubtle political use of his office.

Appointing the treasurer of the President Ford Committee to chair a panel on restructuring millions in defense profits was, if anything, certainly "unsubtle."

In addition to his difficulties on the campaign trail, President Ford anticipated setbacks in Washington. Although the House approved a $33.4 billion authorization bill on April 9, it was understood that the bill's shipbuilding provisions stood to lose in the Senate.

On April 11, the headline in the New York Times read "Reagan's Issues Pursue Ford in Texas." The article found that everywhere the President went as he campaigned for the State's May 1 primary, he was greeted by questions his Republican rival had raised about national defense, the Panama Canal, and détente. Four days later, the officers of the Strategic Air Command in the critical primary State of Nebraska contended that, on the basis of intelligence reports, American improvements were well behind those made by the Soviet Union since the conclusion of the first strategic arms limitation talks.

On May 1, Reagan demolished Ford in the Texas primary.

The same day, President Ford and the National Security Council were weighing a multibillion dollar decision on whether to embark upon an expanded Navy shipbuilding program. Key to the success of the program would be the cooperation of the shipbuilders, whose dissatisfaction with the administration's handling of their claims had become more vocal. Notably, of the $894 million increase in ceiling prices requested in the claims submitted, $665 million was submitted betweed the New Hampshire and Texas primaries.

The New York Times commented:

> The future size of the Navy, which at 480 ships is now at the lowest level since 1939, is regarded within the Pentagon as the most important military issue confronting the Administration. The issue has also become involved in domestic politics as Ronald Reagan has pressed his charge, in the contest for the Republican Presidential Nomination, that the Administration has allowed the Nation to slip into a position of military inferiority, including naval power.
>
> White House officials have insisted that the timing of the decision was in no way related to or dependent on the outcome of the critical primary in Texas today. But Pentagon officials reported that the decision-making process had taken on an evident urgency as the Administration becomes more concerned about the Reagan challenge.

On May 4, the administration asked Congress to increase the Navy's shipbuilding funds $974 million to $7.3 billion to include a fourth *Nimitz*-class carrier.

The Washington Post editorialized:

> Reagan is also in effect supplying ammunition to the Navy, whose judgment of American naval requirements reflects an alarm not entirely untinged by service self-interest. One result is that the other day the administration, which in January had asked for $6.3 billion to build 16 more ships, asked for an extra $1.2 billion to build five extra ships and to start on a new multi-billion aircraft carrier. The only new development of note since January is, of course, the Reagan campaign.

If the administration request was part of its campaign strategy, resistance by the shipbuilders could undermine it from the start.

On May 4, Ford lost in Alabama, Georgia, and Indiana. On May 7, he began going at Reagan point-for-point on the defense issue. On May 11, he lost the Nebraska primary.

On May 12, William Clements appointed Robert Moot to head the "Profit '76" advisory committee. That same day, the Senate Armed Services Committee rejected the expanded Naval shipbuilding plan proposed by Ford. The Senate felt that the House program did not provide the proper mix of nuclear and conventionally powered warships. The committee decided that the expanded shipbuilding program could not be accommodated within the limits adopted by Congress for the military budget in the coming fiscal year.

It will be remembered that Secretary Clements had expressed his preference for nuclear-powered ships. It should be noted that the "Profit '76" study which he engineered increases the costs of shipbuilding so that, irrespective of Congress appropriation limits, if Congress wants the ships, it is compelled to pay the inflated prices. Thus, "Profit '76" incorporates an expanded shipbuilding program into national defense posture while eluding strict congressional accounting. In the end, minimal damage is experienced to the expansion-oriented themes of the Ford campaign.

While "Profit '76" seemed to meet the political requirement of defusing the shipbuilding-defense issue in the critical primary month of May, it obviously meets the profit needs of the shipbuilders themselves. But how justified are those needs?

An examination of shipbuilding claims history reveals a concatenation of fraud and mistrust.

The 1971 bailout of the Lockheed Aircraft Corp. sets the context for the present claims. The affected businesses are in some kind of trouble, the banks who finance them are anxious, the services who have contracted with them are fearful that the hardware will never be delivered, and Congress is driven to the wall by byzantine "emergency" appropriation requests.

In 1972, the Comptroller General accused then-Treasury Secretary John Connally of a "clear violation of the law" in refusing to let the investigating arm of Congress audit records of the Government's guarantee of a $250 million loan. In 1975, Connally surfaced as a representative of the First Arabian Corp., an Arab-owned private investment banking concern in Beirut, Lebanon, that tried to buy the Lockheed Aircraft Corp. and which was then negotiating for an unidentified American bank. That same year, the General Accounting Office questioned Lockheed's accounting methods and criticized it for omitting from its original defense bids several employee pay increases it knew were imminent. Grumman Aircraft, earlier in trouble on its F–14 contract, had pulled a similar stunt by not including employee bonuses in its bid.

David Packard's involvement with the Lockheed affair in 1971 has been described earlier. That he returned later as a lobbyist on behalf of the deal he had arranged for Lockheed has also been noted. Interestingly, of the $62 million offered as a tentative settlement—an amount under Justice Department investigation—the Navy had already given Lockheed a provisional payment of $49 million. If the FBI and the Justice Department ever prove fraud on the $62 million, Lockheed will owe $49 million plus interest plus all the money it was not entitled to on the original contract. It will also go bankrupt.

It was Ford treasurer Robert Moot who, as Pentagon Comptroller, attempted in 1968 to prevent A. Ernest Fitzgerald, an Air Force efficiency expert, from testifying before the Joint Economic Committee and blowing the whistle on Lockheed's enormous cost overruns on the C–5A transport plane.

In February 1976, the GAO disclosed that Lockheed may not be able to repay its federally guaranteed loans on time because of the financial difficulties attendant to the revelation of its bribes to Japanese and Netherlands officials; $195 million in loans is still outstanding. The company paid $24.4 million in kickbacks in order to grease the way for its contracts. Any policy designed to increase the profits of Lockheed's shipbuilding and missilemaking subsidiaries would, naturally, be welcome. That Moot and Packard have a history of concern for Lockheed profits and that they have chosen to associate the President Ford Committee with machinery to increase those profits is, by any account, a clear conflict of interest.

The claims submitted by the Ingalls Shipbuilding Division of Litton Industries have had a long and equally controversial history. In 1972, Nixon appointed the chief executive of Litton, Roy L. Ash, head of the Office of Management and Budget. At that time, Litton had $500 million in disputed contract claims against the Navy. Congress was warned, prophetically it seems, that it might be expected to bail out the shipbuilding enterprises.

Senator PROXMIRE learned that Litton had been overpaid for completed work on submarines by "as much as $30 million," and advised that a team of investigators from the Navy Ship Systems Command was looking into "a serious possibility of fraudulent misrepresentation" in the pending claims as well as in the overpayments. The Navy signed a contract with Litton to build nine landing helicopter assault ships in Pascagoula, Miss., for $133 million each. As things stood in 1972, each of the five ships will cost $237 million; even then, Litton had filed claims to increase the price to $294 million. The whole situation is now under investigation by a Federal grand jury in Alexandria for possible fraud. Adm. Hyman Rickover, in a letter to Congressman Les Aspin in May of this year wrote that—

> It has become increasingly common for some shipbuilders who overrun their contracts to submit large, after-the-fact claims in an effort to get the government to pay for the overrun plus a desired profit . . . The amount claimed is often inflated sufficiently to produce the profit desired.

The admiral estimated that at least 30 percent of the claims were excessive.

Responding to criticism that profits are often kept up by keeping costs up, Gen. James Stansberry, the director of "Profit '76" remarked in July that—

> Over the past year, I have found this to be a valid criticism.

He continued:

> Profit is often bilateral. [The Defense contractors and their auditors] use the Armed Services Procurement Regulations to back into the numbers they select between themselves.

He also made an important observation in defense contractor performance, an issue at the heart of the shipbuilding claims dispute.

> We don't know how to measure performance—

Stansberry said—

> It is used as a factor to back into agreed-upon profit.

The taxpayer has a precedent to set against the present profits and claims disputes and it is not an encouraging one.

The present dispute has seen threats of closedowns by the shipbuilders unless they receive satisfaction; the dispute has felt the impact of the attempt to use the "emergency law," Public Law 85-804, to meet those threats; it has involved questionable and perhaps fraudulent claims on behalf of the manufacturers in order to increase profits on a shrinking business base. These same matters were rehearsed in the Grumman Aircraft Corp. contract dispute in 1972 and 1973.

Grumman informed the Navy that its performance of lots IV through VIII of the Navy's F-14 fighter was commercially impracticable under existing contractual terms. The corporation sought to break its fixed-price contract and restructure it. The shipbuilding companies want to restructure their own contracts—"Profit '76" will do the job. Should the restructuring be unsatisfactory, the shipbuilders threaten to close down all production lines. In the case of one shipbuilder with pending claims, Ingalls of Litton Industries, the Navy was forced to go to court and acquire an injunction against stoppage.

At one point in the spring, Secretary Clements announced his intention to use Public Law 85-804 in order to clear up the claims. He hoped to settle at about 50 percent of the $1.4 billion total, a move which would, however, have effectively prevented a Government audit of the claims. Public Law 85-804 settlements have been particularly generous. Total program costs of Grumman's F-14 have increased $2,347 million or 38 percent from the development estimate of 1969, while the quantity has decreased by 66 percent. The greatest part, $2,035 million, or 86 percent, has been experienced since the contract was renegotiated in fiscal year 1974 under Public Law 85-804 provisions. The new contracts have no penalty clause for late delivery. Under existing contracts, the shipbuilders have a clause designed to cover the increasing costs of labor and materials during economic inflation, but the escalator clause expires the date the ship is to be delivered. Clements proposed in May to rewrite the contracts to extend the escalator clause until the date the ship has actually been delivered—in effect, no penalty for late delivery.

Grumman also embraced a number of questionable financial dealings. It included $140 million in profits in its projected losses—losses which themselves included the restructuring of certain subcontracts when these subcontractors had testified that the contracts would hold. William Cardwell, a former auditor at one of the shipbuilders involved in the dispute, the Newport News Shipbuilding and Drydock Co., testified before the Joint Economic Committee this year that his sole job was to create a basis for supporting shaky claims. One of the arguments he said he created was that Newport News had been the victim of subcontractor delay and materials inflation when, in fact, subcontractors had met their obligations.

In explaining the rationale behind Grumman's poor cost estimating, the Congressional Research Service observed that the corporation's pricing was based on unrealistic inflation expectations and an overly optimistic estimate of the company's future business base. The base eroded by 20 percent while the contract was in progress. The shipbuilders, as Clements' spring proposal made clear, have made questionable assumptions on the rate of inflation; and like Grumman, their business base has been eroding. Demand for their major construction item, tankers, is off. Newport News Shipbuilding has commercial contracts for three liquefied natural gas—LNG—carriers and three 390,000-ton tankers. The facility is also constructing a new 157-acre yard for the construction of very large ships, such as the 390,000-tonners, to be built for the Shell Oil Co. operation. A 900-ton crane that will straddle a new graying dock is already in place. Plans for these major new additions were made when the outlook for tanker orders was much brighter than it is now. At midyear, Newport News had planned to idle 2,000 men. Todd Shipyards, which may see its orders for eight tankers cancelled, recently received a $295.6 million contract to build six guided missile frigates. Seatrain Lines, among the top 100 defense contractors in 1974, had in March 1975 two 225,000 deadweight ton tankers lying partially completed but without buyers or charterers. Only a Federal loan guarantee of $40 million prevented widescale layoffs.

While the Government may be setting itself up on the Grumman precedent for compensating the shipbuilders for a reduction in their business base, the shipbuilders themselves would prefer that the Government not examine that base at all, and a David Packard policy serves as their rationale.

The shipbuilders are plumping for the implementation of Packard's July 13, 1971 DOD Directive 5000.1. That Directive states that—

> Contractor management informational program control systems, and reports emanating therefrom, shall be utilized to the maximum extent possible.

Some recognition is accorded his directive in "Profit '76" in the case of fixed-price contracts. Some recognition ought also to be accorded to the fact that Mr. Packard was, at that time, a former director of one of the shipbuilders whose claims are now in dispute, General Dynamics.

If the question of precedent is unsettled as far as the contractor business base is concerned, the shipbuilders are not oblivious to the advantages that can be taken with the idea of a precedent itself. The door opened with Lockheed and Grumman; it will be kicked wide with the present claims.

In March of this year, Bath Iron Works won a Navy contract to build five guided missile frigates. John F. Sullivan, president of Bath, admitted, "We lowered our price some," but he declared that he was happy with the $238.8 million to build five of the ships. Three months later John Finney of the New York Times reported that Bath had asked the Defense Department that it be granted the same contractual relief being offered the three other shipbuilders on their contracts with the Navy. In a May 4th letter to William Clements, Sullivan said his company should be "accorded the same treatment" as the others. Sullivan believed that his company was entitled to the same special treatment because it had gone through the same inflationary problems as the other shipbuilders in their contracts with the Navy. Mr. Sullivan said he had no idea why Mr. Clements had not included Bath Iron Works on his original list of shipbuilders deserving emergency relief except that "maybe we did not bring our case to his attention forcefully enough." Or, perhaps, it was difficult to make a case for emergency inflation relief after only 3 months operation on a contract.

Congressman Thomas Downey took a look in June at the emergency contractual relief being contemplated by Clements for the shipbuilders and asked the GAO to study whether the Grumman Corp. might be entitled to the same relief on its F-14 contract. A bandwagon effect is shaping up among the contractors.

Work on the "Profit '76" objective of determining prenegotiation profit objectives was begun formally by the Logistics Management Institute—LMI—in 1962. President of LMI at that time was

Barry Shillito, who later, as an Assistant Secretary of Defense, paired with Robert Moot on the Lockheed bailout. Today Shillito heads a subsidiary of Teledyne, Inc., makers of the engines for the Navy's Harpoon missile system. Teledyne will benefit substantially by the "Profit '76" recommendations endorsed by Shillito's old Pentagon friend, Robert Moot.

The product of the LMI study formed the basis of the current "weighted guideline" policy for determining prenegotiation profit objectives, and was implemented DOD-wide in 1966. In 1971, a Subcommittee chaired by Dr. Ronald Fox of the defunct Industry Advisory Council, now of the "Profit '76" committee, formally announced the basis for the modifications of the Armed Services Procurement Regulations which, after further review, analysis, and internal staff work, led to the recommendations of the "Profit '76" study. Dr. Fox's subcommittee made the following recommendations:

1. Provide a mechanism to adjust profits to reflect changes in contract financing without distinguishing between sources of capital.
2. Correct weaknesses in current cost-based profit policy to the extent practicable.
3. Reduce inequities in contractor profit on capital.
4. Provide incentives for cost reducing investments.
5. Reduce earnings volatility.

The subcommittee also recommended that ASPR section 15-205.17 be amended to allow interest on claims against delayed payments resulting from amounts in dispute. "Profit '76's" most significant addition to the foregoing is that it places a weight on contractor "risk."

In private conversations, with OMB concurring, the GAO has indicated that DOD has demonstrated no clear mathematical path by which the profit objectives can be achieved. Ineffective or inefficient results seem likely in light of the fact that DOD objectives are neither linked together nor are consolidated into a corporate plan. Little emphasis seems placed on the critical factors of quantification, measurement, and control. There is, GAO noted, a significant confusion over the term "capital," the very basis for the new profit guidelines. The suggestion was that the policy is simply not sufficient to initiate a $200 million change.

There are already DOD regulations that address many of the concerns of "Profit '76". Should the new profit policy come into force in addition to these regulations—and no assurance has yet been given that they will not—the defense industries will experience what Senator PROXMIRE called double dipping.

For example, a procedure is currently available which recognizes and provides an adequate return on company capital employed. This procedure develops a ratio of capital per dollar of annual depreciation in a profit center performing defense work. It is used throughout the ensuing year to allocate the net book value of facilities located in that profit center to that portion of the profit center's total work which pertains to defense. Likewise, the operating capital ratio—which relates an approximation of net working capital used per dollar of annual cost—is developed once annually and applied over the forthcoming year.

Unless the DOD revises its profit guidelines to omit the above considerations given contractor capital, the contractors would realize windfall profits. When Senator PROXMIRE brought this situation to the attention of DOD officials, Frank Shrontz, the Assistant Secretary for Installations and Logistics, replied, "We understand your concern," without addressing the concern at all.

Also not addressed in the profit policy and conducive to windfall profits in the event of a policy change were such factors as: First, the risk-free return—circa 8 percent—at Treasury Department-established rates which will be provided as a cost; second, the incentive for economic expansion and recovery being provided by another arm of the Federal Government which permits companies to recover 10 percent of the cost of any needed cost-reducing facility as an investment credit in the year of acquisition; and third, the accelerated depreciation methods followed by most DOD contractors resulting in substantial recovery of the facilities costs in the early years, thus reducing the risk of nonrecovery of the facilities costs because of cancellations or reductions in defense programs.

Although one of the major reasons behind the adoption of the new profit policy is, in the opinion of its makers, to increase competition, the Navy had already consciously chosen a policy of limiting the number of yards participating in ship construction. Indeed, the Navy may be faced with the fact that it is too late to bring economics to the shipyards.

Already, for example, to realize the savings of multiyear procurement, acquisition must be applied to a single souce. The Navy finds itself locked into the paradox of attempting to secure the economics of sole source procurement in an environment where sole source procurement is itself uneconomical by virtue of the liberties the sources take with their privileged position. The hope was that cost advantages would accrue to the taxpayer from the "learning curve" or, more accurately, the "progress curve" effect. Furthermore, with a stable future workload, the shipbuilding contractor is encouraged to make improvements to his production facilities and methods in order to improve the efficiency of production. What has in fact happened is that the sole sources have found little incentive to make the efficiencies commensurate with the concept that justified them. The Government is simply held to ransom. And as long as the Government artificially sustains their profit rate, there is little real need for the shipbuilders to sustain it themselves. Indeed, analysis has determined that investment by many defense contractors has failed to achieve any significant reduction in costs. The contractors are not compelled to show any cost reduction as a result of those investments for which they receive Government bonuses. Many simply retain a vestigial and surplus work force over and above labor-saving investment in order to maintain their leverage in Congress. Senator LEE METCALF, the deciding vote in the Senate on the Lockheed bailout, voted in its favor because he "could not put 20,000 people out of work."

It has been shown above that the Navy has been disappointed in its belief that the "progress curve" on multiship contracts would, after the first buy, decrease total ship costs to the taxpayer: The more ships that are purchased, the less each will cost. The adoption of "Profit '76" will eliminate forever the opportunity for cost-savings once held out by this logic.

"Profit '76" proposes to change ASPR section 3-808.1 on productivity by creating a "productivity award" for contractors. The change is introduced, "reliable cost data is available to establish a fair and reasonable cost baseline." From this baseline, future costs will be estimated and, should a contractor beat the estimate, he will receive a "productivity" bonus. Here lies the real giveaway; here is the heart of the "windfall profits" which have appalled the Department of Health, Education, and Welfare. Simply stated, the "actual cost data" which DOD proposes to use is itself the historical result of overruns, and would encourage future overruns. The cost of ships built, for example, with monumental mismangement and cost blunders would serve as the "actual cost data" for estimating future costs of those ships. In order to win his productivity bonus, a contractor would have to come in under the inflated "actual cost" of his first ship. In effect, the taxpayer would find himself paying the contractor bonuses for merely doing the job expected of him. Under "Profit '76" the taxpayer is compelled to bribe contractors not to foul up.

The implications are severe. In order to acquire the benefits of the bonus policy, contractors are almost encouraged to go over ceiling on their first contract in order to establish the "actual cost data" which they will be rewarded for beating in future contracts. Whatever was spent on the first ship will become the baseline for future ships and for future "rewards." Thus, if the first ship on a multiship contract costs the contractor $100 million, he may be tempted to claim an overrun to $200 million in order to receive rewards, in the future, for actually producing the ship at $100 million.

On August 26, William P. Clements was designated the Defense Department's principal acquisition executive. He and Robert Moot, alined with the continued political interests of James Baker and Robert Mosbacker, have identified themselves with policies that can only mean trouble for the taxpayer. It is a combination that bears watching.

I include the following articles:

[From the Christian Science Monitor, May 7, 1976]

PRIMARIES HONE EDGE OF U.S. FOREIGN POLICY

(By Joseph C. Harsch)

The American political campaign will raise the level of American seapower and may also give American foreign policy a more assertive edge but this is not yet certain.

These two propositions emerge from the

latest rounds of voting in the American primary elections.

On the Republican side former California Gov. Ronald Regan has won solidly over President Ford in Texas, Indiana, Alabama, and Georgia, and has used as the main instrument of his success a demand for more seapower and for a more assertive posture toward Panama and the Soviet Union (This twinning of tiny Panama with mighty Moscow must seem flattering in Panama.)

The Reagan success with seapower and the * * * Panama and anti-Soviet issue has tilted the balance in the Congress decisively toward more appropriations for naval shipbuilding. The administration denies as "false" and "plain outrageous any suggestion that it has raised its naval budget proposals because of Mr. Reagan's charges of U.S. naval inferiority. The fact is that Mr. Reagan has ridden those charges to a substantial victory in a series of primary campaigns. And it is a twin fact that the Ford administration has raised its recommendations for the naval shipbuilding budget by $22 billion. This would raise the building program for the next fiscal year from 16 ships to 21 ships. It probably means a decision to raise the target size of the U.S. fleet from the present level of 480 ships to a future level of 600 ships.

The U.S. Navy Department has been seeking a 600-ship fleet for a long time. It contends that anything less would mean the loss of capacity to keep open the sea-lanes from the United States to its allies in Western Europe and in Asia. The administration has until now been holding out on the proposition that a 480-ship fleet would be adequate. Until recently the pressures from the political left for cuts in military spending have seemed to outweigh the pressures for more such spending.

The emergence of the Reagan factor on the American political scene has obviously changed the balance of forces bearing both on the White House and on the Congress. There is no longer the slightest serious likelihood of any military spending cuts. The candidates who have carried the torch for cutting down military spending have disappeared. Fred Harris of Oklahoma was the last of those who shouted from the buslines the old religion of welfare over defense. Fred Harris has been sunk without trace by the new Reagan chauvinism.

THE U.S. NAVY IS THE BENEFICIARY

American seapower will certainly begin soon to rise above the 480-ship level. Perhaps more importantly, the emphasis in the changed naval plans will be on more of the smaller ships designed for control of the sea-lanes. The change should be welcome to allies who have wondered about the security of those sea-lanes. The new administration plan adds four patrol frigates to previous intentions.

The current round of Reagan election successes can also give a more assertive edge to American foreign policy in general. However, this is less than certain. On the seapower issue there was already a "big Navy" inclination in the Congress. It is a popular cause in many parts of the country. The recent Reagan election scored added weight where little more was needed. Policy toward Panama and the Soviet Union is a different matter.

The most respected voice in the Republican Party today is that of Sen. Barry Goldwater of Arizona. It has been raised loud and clear against the Reagan position on Panama. He accuses the new leader of the Republican right wing of "gross factual errors" which could needlessly lead this country into open military conflict.

On the subject of policy toward the Soviet Union the essential fact is that majority sentiment in the United States as tested in recent public opinion polls still supports the foreign policies of Secretary of State Henry A. Kissinger. Mr. Reagan can make some votes from an anti-Soviet posture, but his ability to destroy "detente" is far less than his ability to raise the naval estimates.

Persons outside the United States who are trying to appraise the future foreign policy results of the voting should note the factor of numbers of votes involved. For example, in Texas Mr. Reagan won over President Ford by 2 to 1 in the Republican primaries. But the total Republican vote was only about 400,000. In the Texas Democratic primaries, which Jimmy Carter won handily, the total vote was over 1½ million. Mr. Carter got more votes than Mr. Reagan and President Ford.

However, there is an edge of chauvinism in the American mood today. It seems to be a belated reaction to American humiliation in Vietnam and the failure of Kissinger policy in Angola. Mr. Reagan is the cutting edge of that feeling.

WASHINGTON, D.C.,
May 3, 1976.

HON. HUGH E. WITT,
Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C.

DEAR MR. WITT: I want to thank you and your staff for arranging for the DOD presentation on the proposed CASB Standard on Cost of Money. We have had reservations about the Standard particularly if it were made to apply to HEW and other civilian agency contractors and grantees. Having known of the Department of Defense's official support for the Standard, which we had asumed was based on factors either not in evidence in the non-defense agencies or which we may have otherwise overlooked, we were reluctant to take a stand against the Standard on the basis of its being poor public policy.

However, after having been exposed to the Department of Defense's rationale for supporting the policy, we share what I understand is the generally held opinion of the other civilian agencies that the issuance of this Standard is not good public policy and we would hope that the Department of Defense could be dissuaded from its current position.

I offer the following observations as a means of focusing the issues and to assist you in formulating an Executive Branch position on the Standard.

It is our view that in this Standard the Board has exceeded the authority vested in it by the Congress. Public Law 91–379, Section 719(g) states that "the Board shall from time to time promulgate cost accounting standards designed to achieve uniformity and consistency in the cost accounting principles followed by Defense contractors and subcontractors under Federal contracts." The term 'cost' is used elsewhere in that law, for example paragraph h (1) in which reference is made to direct cost and indirect cost. It is abundantly clear from the published legislative history of the bill, specifically Senate Report #91890 that the term 'cost' is used, and is meant to be used, in its traditional accounting sense, that is as a proxy for the term 'expenses' or 'expenditures.' For example, page 3530 of the history states "—cost accounting is concerned with allocating a part of a company's total expenses to a specific product or service" and "The essential problem in cost accounting is to develop methods for allocating expenses to a particular contract." Nowhere in the law itself, or the history leading up to the passage of the law, is there any indication of the Board's authority to, or the intent of the Congress that the Board deal with, "cost" in any terms other than that envisioned under what was conceived of as generally accepted accounting principles, i.e., expenditures and accrued liabilities. Indeed, the Board's own definition of cost falls outside the scope of the current Standard. Part 401(a) Definitions, states "actual costs—an amount determined on the basis of the cost incurred as distinguished from forecasted cost includes standard cost properly adjusted for applicable variance." The word incurred is significant and properly reflects the jurisdiction of the Board's authority.

Finally, Public Law 91–379 and the history before it make it abundantly clear that the purpose of the Board is to bring about consistency and uniformity in accounting practices by Defense contractors. There is no inference that the Board's authority extends to breaking new ground in accounting theory on what does or does not constitute 'cost'.

Aside from this issue, the seven reasons offered by General Stansbury as DOD's rationale for endorsement of the Standard and the discussions of that rationale, limited as it was at Wednesday's meeting, was so superficial and so open to dispute as to make their use as a basis for justifying the Standard highly questionable. Those reasons and our reactions to them are as follows:

1. Reason—It will directly motivate contractor capital investment.

Response—To accept this rationale, one has to accept as fact that all contractors are undercapitalized and that they will remain so indefinitely. Both of these conditions are implausible. Furthermore, the conclusion (for different reasons) reached by General Stansbury and Mr. Schoenhaut was that the relative budgetary impact of the Standard would not be material. Indeed the General's reference to the total DOD level of procurement led him to observe that the impact was insignificant. One then must ask how this contractor motivation will come about or what controls will be established by DOD to assure and determine that contractors, in fact, increase their capital investment. Not only do we not believe that the Standard is likely to motivate contractor investment, but we believe that where such stimulation is desired there are better, more direct and controllable ways to do it; for example, through modifications to current DOD profit policy, cost sharing in new facility investments, or tax incentives, etc.

2. Reason—It will enhance contractor confidence that its cost of capital will be recovered during performance of contracts.

Response—This assumes that all costs of Federal contracts will be reimbursed to a contractor without regard to overrun conditions and without regard to the risks inherent in fixed price contracts. It also assumes recoveries of additional monies by a contractor, a condition which both General Stansbury and Mr. Schoenhaut contend will not occur because of off-setting adjustments made to the profit factor. Again, there are more direct and better ways to accomplish this objective.

3. Reason—It will avoid the erosion of profit to contractors.

Response—We frankly don't understand how erosion occurs except perhaps through the incurrance of overruns, or a change in the scope of work during contract performance, or a change in the mix of factors on which the fee or profit is based. Again, the remedy to this phenomenon, if indeed a remedy is necessary, lies in a revision to the current profit or fee setting policies rather than the hybridization of Federal cost policies.

4. Reason—It will improve contractor cash flow.

Response—To the extent that it provides contractors with more money than they were entitled to in the past, the Standard would obviously improve their cash flow. However, if cash flow is an important consideration, the remedy would seem to lie in the payment procedures of the Department of Defense. It is inconceivable to us that cash flow could be cited as a justification for the fundamental change in Federal accounting concept evidenced in the proposed Standard.

5. Reason—It adds balance to other CASB promulgations.

Response—This, from what we have been able to glean from various conversations, is the real reason for DOD's endorsement of the Standard. We fully appreciate the need for compromise at various points in issuing cost standards, or any other policies affecting the contractor community which reflect judgments as opposed to hard facts. We would normally support such compromise where it did not constitute a violation of principle. But this Standard does compromise principle. We believe balance can be achieved by the Executive Branch reassessing its current prohibition against the reimbursement of contractor interest expense and recognizing it as a legitimate cost of doing business. Such a position could be taken within the conceptual framework of generally accepted accounting principles and current Federal costing concepts and would have wide and strong support from both the contractors and the Federal agencies. The proposed Standard goes too far.

6. Reason—It would correct an inequity of the past by making interest expense allowable.

Response—As noted in No. 5 we would support making interest expense an allowable cost. But going beyond that the "cost of money", overcorrects what may have been a prior inequity against the contractor (an inequity which was at least partially alleviated through the fee mechanism).

7. Reason—Past efforts by DOD to provide use of capital payments to contractors via the profit factor were unsuccessful.

Response—It was unfortunate that General Stansbury could provide no insight as to why past efforts of DOD were unsuccessful. That lack of success however, would argue not in favor of the proposed standard but rather for a more concerned effort by DOD in "reforming" its profit policies.

The Standard as proposed in the Federal Register exempts organizations which are reimbursed for the use of their facilities via a use charge as opposed to depreciation, i.e., colleges and universities, State and local units of government and non-profit organizations. Additionally, it applies only to contracts and not to grants. However, these exemptions are illusory. The Standard will entice those organizations into a depreciation mode resulting in a higher claim for the use of facilities (use charges invariably result in less costs to the government than depreciation) without any commensurable benefit to the Government. Additionally, since few of these organizations receive a profit or fee under Federal awards the Standard will have further major budgetary impact upon Federal contracts performed by them, unlike the apparent minor dollar impact on profit making institutions. Finally, if the "cost of money" is accepted as a legitimate cost of an organization's operations, as it is in the proposed Standard, it will be difficult for the Executive Branch to stave off arguments that such "cost" should not also be recognized as a charge to grants as well as contracts.

If the Standard is made to apply to universities, the "cost of money" aspect, per se, will result in a minimum overall increase of indirect cost rates of 8-10%. Put another way, it will double that portion of the rate which represents use charges on equipment and buildings. The impact of universities switching from a use charge to a depreciation mode is less certain, but an estimate of 1-3% of the average indirect cost rate is not unrealistic. The budgetary impact for non-profit institutions and State and local units of government are more difficult to estimate, but we believe that it would be at least equal to that of colleges and universities.

Issuance of the proposed Standard will have a profound effect on future costing policies of the Federal Government as well as the more immediate effect on Federal programs resulting from its budgetary and outlay consequences. It opens the door and leaves the Government vulnerable to such concepts as inflation accounting, replacement cost, opportunity cost, etc., concepts which have their place in managerial planning and decision making, and perhaps in deliberations on fee setting, but not in determining reimburseable cost.

For all these reasons, we recommend the Cost of Money Standard not be adopted.

Sincerely yours,

Henry G. Kirschenmann, Jr.,
Director, Division of Financial Management Standards and Procedures, Office of the Assistant Secretary, Comptroller.

[From the Federal Times, July 19, 1976]

Arms Profits Study

The treasurer of President Ford's campaign finance committee will head a special advisory committee set up by the Defense Department to evaluate a new policy expected to increase the profits of shipbuilders and missile manufacturers.

Robert C. Moot told *Federal Times* that he was asked to lead the "Profit '76" panel by Deputy Defense Secretary William P. Clements Jr. "two or three months ago."

Moot, formerly a DoD comptroller and ex-member of the Cost Accounting Standards Board, said the four other members of the advisory committee were "really all my recommendations."

The committee will meet July 19 and 20 to "take a disinterested look" at the methods, findings and recommendations of the "Profit '76" project, Edward J. Rader, a "Profit '76" staff member and DoD procurement analyst, said.

"Profit '76" was created by the Pentagon in May 1975 to draft new rules for determining the profits on the $17 billion in contracts negotiated by the Defense Department each year. The term has proposed reweighting the profit formula to place more emphasis on the contractor's investment and risks and to permit contractors to include in their costs the attributable cost of property, equipment and facilities used for Defense work, Rader said.

The results, according to Defense officials, will be an estimated one or two percent rise in profits for contractors who invest heavily in buildings and machinery and a slight dip in profits for light investors. Shipyards and missile contractors are expected to benefit but aircraft manufacturers may see their profits drop. Although the price of major weapons may increase by as much as one percent, the Pentagon hopes the new policy will promote efficiency and eventually lead to lower weapon prices.

Sen. William Proxmire, D-Wis., has termed "Profit '76" "unjustified profiteering."

According to Rader, "Profit '76" is "Clements' ballgame all the way." All the appointments to the special advisory committee reviewing the project were "made with Clements' cognizance and approval," Rader said.

Clements was unavailable for comment.

The committee's charter expires September 30 but the group will actually "only be in existence" for the two-day session in July, Rader said. Both the committee's recommendations and the new profit rules will be completed before the presidential election.

Moot said he did not think there was a conflict of interest between his work as treasurer of the Ford Finance Committee and his assignment to judge whether the profits of major Defense contractors are properly determined. "I am going to take an objective look at [the project's] conclusions and recommendations. The special advisory committee is a good group and an objective group," he said.

The other members of the committee are: Herman W. Bevis, former senior partner of Price Waterhouse & Co. and a member of the Cost Accounting Standards Board; J. Ronald Fox, a former assistant secretary of the Army for installations and logistics and author of *Arming America;* Ronald G. Ross, senior vice president of Bank of America; and Herbert Stein, former chairman of the Council of Economic Advisers.

The Cost Accounting Standards Board is an agent of Congress set up to achieve uniformity and consistency in the cost accounting principles used by Defense contractors. Both Moot and Bevis were appointed to the board by Comptroller General Elmer B. Staats, who is also the board's chairman.

In his former role as DoD comptroller, Moot attempted to stop A. Ernest Fitzgerald, then deputy for management systems in the Air Force, from testifying about the massive C5A cost overruns before Proxmire's subcommittee on economy in government. According to Fitzgerald, Moot was "adamant" in opposing Fitzgerald's appearance at the hearing, saying that it was widely believed that Fitzgerald "intended to present testimony that would leave blood on the floor."

Questioned about the 1968 incident, Moot said, "You are going way back in history." He described the episode as "just one of those things." Fitzgerald "was volunteering testimony" and Moot told him that testifying before the Proxmire subcommittee would "not be prudent," Moot said.

Moot said his current assignment as chairman of the special advisory committee would affect the well-being of the Defense industry. "It's an important area," he said. "The soundness of the Defense industry base is most important to all of us as citizens and taxpayers."

Washington, D.C.,
June 15, 1976.

Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

Dear Senator Proxmire: Thank you for your letter of May 27, 1976 in which you discuss the impact of Cost Accounting Standard (CAS) 414 on contractors' profits. We understand your concern that policies developed based upon the Profit 76 Study take into account the effects of CAS 414.

I believe we share a common objective to provide incentives to contractors which will lead to their investment in cost savings capital equipment for defense production. I assure you that we will proceed toward this objective in a balanced manner which will include consideration of the effects of CAS 414.

Sincerely,

Frank A. Shrontz,
Assistant Secretary of Defense, Installations and Logistics.

June 28, 1976.

Hon. William P. Clements,
Deputy Secretary of Defense,
Washington, D.C.

Dear Mr. Clements: On June 25, 1976, the Conference Committee resolved the differences between the House bill, H.R. 12438, and the Senate amendments authorizing appropriations for the Department of Defense for Fiscal Year 1977. As a part of the overall compromise, the House receded to the Senate position with respect to the line items for "cost growth" and "escalation" incident to Fiscal Year 1975 and prior year Naval shipbuilding programs.

So that there will be no misunderstanding of the status of the $533.7 million agreed to for "cost growth" and the $1,089.5 million agreed to for "escalation," I am taking this opportunity to review the facts.

The $533.7 million "cost growth" item was justified in testimony before the House Committee on Armed Services, and subsequently to the House of Representatives during debate on H.R. 12438, as necessary to fully fund certain growth items incident to ongoing contracts ($213.7 million) and to provide a reserve against shipbuilding claims settlements expected to be made during the fiscal year ($320.0 million).

The $1,089.5 million "escalation" item was justified before the Committee as necessary to fully fund anticipated escalation payments under clauses contained in shipbuilding contracts authorized in Fiscal Year 1975 and prior years.

The House included $213.7 million for "cost growth" on the basis that there was no demonstrated requirement to obligate the $320.0 million requested for claims settlements during Fiscal Year 1977. Also, the House included only $256.5 million for "escalation"—the amount required for obligation in Fiscal Year 1977. The Senate, on the other hand, included the entire amounts requested for the "cost growth" and "escalation" line items, citing strong support for the full funding policy. The report of the Senate Committee on Armed Services, however, contained language which would grant full flexibility to the Department of Defense to use the funds authorized for "cost growth" and "escalation" for those purposes or for "any actions pursuant to Public Law 85-804".

In his letter of appeal, dated April 23, 1976, Secretary Rumsfeld strongly urged the Congress to restore the "cost growth" and "escalation" funds. Without them, he said, "the U.S. Navy will be unable to meet its legal obligations". He cited a recent Comptroller General decision (B-184830) and Section 3679 of the Revised Statutes which, he said, "create significant doubt as to whether the Department can proceed with FY 1975 and prior year programs on an orderly basis."

The issues before the Conference Committee were: (a) whether to recommend authorization of all or part of the $320.0 million requested as a reserve against claim settlements, and (b) whether to recommend authorization of an amount greater than $256.4 million as a reserve against future contract escalation payments. The House receded from its position and agreed to the Senate provisions.

In view of the history of the 1977 Appropriations Authorization Act outlined above and the current uncertainty as to the ultimate use of the $1.6 billion authorized for "cost growth" and "escalation" relating to Fiscal Year 1975 and prior year shipbuilding programs, the Committee will insist upon a strict accounting of the use of these funds, including normal reprogramming actions where the Department proposes to obligate any part of them for purposes other than those for which the funds were justified to the Committee.

Sincerely yours,

MELVIN PRICE,
Chairman.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 12, 1976.

Mr. PHILIP G. READ,
Director, Federal Procurement Regulations, General Services Administration, Federal Supply Service, Washington, D.C.

DEAR SIR: At the June 24 meeting of the Interagency Procurement Policy Committee comments were requested on the DOD profit policy proposal and of the extension of that policy and CAS 414 to non-defense contracts.

We are already on record several times as opposed to CAS 414, we believe the Standard is economically unsound, ill-conceived to accomplish the objectives expounded by DOD in its Profit '76 presentation and contrary to generally accepted accounting principles. It is, in short, poor public policy and perceived to be so by virtually all who have had reason to evaluate it. Therefore, even though we are advocates of government-wide uniformity in costing and other procurement regulations, we are absolutely opposed to incorporating CAS 414 into FPR.

In regard to the DOD profit proposal itself, we have no recommendation to DOD. It is appropriate and logical to encourage contractor capital investment through the profit mechanism. Whether the formula proposed by DOD sufficiently weights the various factors prescribed for determining profit to favor capital investment is not determinable without testing under actual or realistically simulated conditions. If such tests have been made, the results and data have not been presented.

But regardless, the formula will only be as effective as the contracting officers' application of it. DOD has stated that the current formula is not being followed for a variety of reasons (e.g., contracting officer insistence on low profit rates irrespective of formula results, practical problems in applying weighting factors in actual negotiations, etc.). Nothing in the proposed formula modification would change the conditions that make the current formula ineffective. Thus, without some concerted action in addition to the revision of the profit policy itself, there is little reason to expect any change in practice. On the other hand, if such actions were undertaken, the current formula might well be adequate without modification.

Although we have no recommendation for DOD (all of the above must already be obvious to DOD), we believe that the proposed formula should not be incorporated into FPR until there has been a suitable testing of it and the results of the test (or DOD experience with the formula) are known. Additionally, the following questions needed to be answered affirmatively before the formula is incorporated into FPR:

1. Is the current profit policy contained in FPR resulting in inadequate competition for government work, i.e., is it resulting in fewer firms competing for Federal business? One of the principal reasons cited by DOD for its proposed formula was an alleged decrease in contractors willing and able to bid on defense work.

2. Are the facilities of those firms which contract with the civilian agencies outdated, inefficient or inadequate for Federal work and will adoption of the DOD proposed policy alleviate or solve that condition? The need for facility replacement is another major goal of DOD's profit policy, but to date facility inadequacies have not been identified as a problem with civilian agency procurements.

3. Is the rate of return earned by civilian agency contractors on Federal work less than earned by those firms on non-government work per dollar invested in facilities? If so, should it be?

4. All things considered (risk investment etc.) is the return on non-defense work unfair to contractors in comparison to their return on non-government work?

We are of the view that the conditions cited by DOD as underlying its proposed profit policy are unique to DOD procurement and that its proposed policy is designed in light of that uniqueness and CAS 414. Given that this is so, the desirability of policy consistency between the defense and civilian sectors becomes considerably less important, if not moot. This is especially true of the non-profit segment (i.e., colleges and universities, States and localities, and other non-profit institutions such as community action agencies, economic development agencies, Indian tribes, associations, foundations, research institutes, etc.). Indeed, the whole concept underlying CAS 414 and the DOD profit policy is inappropriate to these types of organizations. They do not exist to earn profits or maximize their return on investments and they receive maximum direct Federal aid for facilities in the form of construction and facilities awards.

It is our opinion that adoption of CAS 414 and the DOD profit policy may well result in a massive windfall to government contractors. We believe that the GSA and OFPP have a responsibility to taxpayers which precludes extension of those documents into FPR.

Sincerely,

HENRY G. KIRSCHENMANN, Jr.,
Director, Division of Financial Management Standards & Procedures, OASC.

MURRAY WEINSTEIN,
Director, Division of Procurement Policy & Regulations Development.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., August 20, 1976.

Hon. CHARLES H. WILSON,
House of Representatives,
Washington, D.C.

DEAR MR. WILSON: This letter is in response to a telephone request of August 17, 1976, from your Research Assistant, Mr. Gregg Moore, to Mr. Pete McGough, Office of Congressional Relations, concerning our involvement with the Department of Defense's Profit '76 Study and proposed new profit policy.

The General Accounting Office first became involved with the Profit '76 Study in August 1975 when we learned that the Study was expected to be used in effecting a DOD profit policy change. We believed such a change could increase DOD's procurement expenditures and hence total U.S. defense costs. We believed that a survey was warranted to oversee the Study and any policy changes that would result from it.

Profit '76 was formally initiated in May 1975 to study contractor's investment and contribution toward increased productivity and reduced costs on defense contracts. DOD's stated goal was to develop policy revisions needed to motivate defense contractors to make investments which will reduce Defense Department acquisition costs. Sufficient data was accumulated by June 1976 by DOD to permit commencement of our survey.

We are still evaluating various aspects of DOD's Study and proposed new profit policy. The Logistics Management Institute, which was awarded a contract by DOD to develop indicators to show how the defense industrial base has changed during the past 5 or 10 years, is expected to issue its final report in about a month. Coppers and Lybrand, a public accounting and management consulting firm which was awarded a contract by DOD to gather and summarize financial data from defense contractors, is expected to issue its final report in about 3 weeks. The Defense Department told us that its summary report will be completed by October 1, 1976.

We expect to complete our report within a reasonable time after DOD issues its final summary. When our report is completed, we intend to make it available to all interested parties. We will be pleased to forward a copy to your office at that time.

Sincerely,

R. W. GUTMANN,
Director.

[From the Washington Star, Aug. 25, 1976]

DID CLEMENTS IGNORE PLEDGE ON IRAN DEAL?

(By Vernon A. Guildry, Jr.)

Deputy Defense Secretary William P. Clements Jr.'s performance in office is under scrutiny for conflicts of interest as part of a closed-door congressional examination of U.S. fighter plane sales to Iran.

Clements has substantial business interests in Iran, some of them involving the ruling royal family. The Senate multinational corporations subcommittee has taken testimony on Clements' involvement in Defense Department decision-making on arms sales to Iran.

That involvement came despite Clements' official, public pledge to refrain from any actions involving Iran "to avoid even the appearance of conflict. . . ."

The subcommittee has received testimony that Clements not only had conflicts of interest, but was insensitive to them.

In an interview last month, Clements maintained that his duties demanded involvement, at least on policy matters involving sales large enough or of a nature to have an impact on the material state of U.S. forces. But he said at the time that he took no part in discussions on the details of sales to Iran.

By a number of accounts, however, Clements became specifically involved in at least one of the more controversial and financially significant decisions on the sale of 80 sophisticated F14 fighter planes to Iran by the Grumman Corp.

The issue was whether Grumman was to be allowed an additional 1 to 4 percent profit on its $1.3 billion sale. The Pentagon's Armed Services Purchasing Regulations, known generally as the "ASPERs," give officials the discretion to award the extra money.

It is called "special profit consideration" for foreign military sales and is intended to compensate for special marketing initiatives, additional risks involved in international marketing and for responsibility assumed for delivery.

It is in the interest of buying countries to keep costs down as much as possible. And Iran, according to knowledgeable officials, was not happy about paying even a 1 percent fee charged by the Pentagon's arms sale operation for administering the large F14 contract.

Indeed, Iranian officials have raised a question of whether Grumman was making "too much" profit on the contract in an as yet unsettled dispute over agents' fees.

It is against this backdrop that a number of sources say Clements stepped in to reject any additional profit for Grumman under the "special profit consideration" authority.

"The word very specifically came from Clements," said one individual in a position to have thorough knowledge of the F14 deal.

Another source well placed to follow the sequence of events says Clements made his viewpoint known to the Navy flag officers handling the issue in the summer of 1974.

One of those officers involved, Adm. I. C. Kidd Jr., said through a spokesman that the no-additional-profit decision was national policy set by the State Department. Kidd said he issued instructions conforming with this policy in the summer of 1974 when he was chief of naval material.

Neither Clements nor then-Defense Secretary James R. Schlesinger issued instructions contrary to that policy, Kidd said.

One source involved in the issue said that while Clements' position may have coincided with policy, "he wasn't supposed to be involved in it at all."

Defense Department spokesmen were not able yesterday to secure comment from Clements himself or from the agency within the Pentagon which is responsible for administering arms sales abroad.

Clements is the founder and a primary stockholder in a highly successful international oil drilling contracting firm, SEDCO, Inc. The firm is now headed by his son, B. Gill Clements. Through jointly owned firms and subsidiaries, SEDCO has been in business in Iran for 18 years, chiefly in supplying the know-how and equipment to drill for oil.

Pentagon officials in 1973 began to say that Clements would remain aloof from matters affecting Iran. And as recently as January of this year, Clements reiterated in a signed memorandum that he would disqualify himself in, among other things, questions affecting Iran.

When the Pentagon was asked last month about his involvement in Iranian affairs, a denial was prepared in Clements' absence in the department's public affairs apparatus. It read in part: "Mr. Clements, throughout his service in the Department of Defense, has disqualified himself from any actions in his official capacity which have an impact on the country of Iran."

That was in line with his signed pledge to keep hands off. But the Pentagon's denial didn't hold up even in Clements' own version in the later interview, in which he said his job demanded at least involvement in broad policy issues.

A recent staff report of the Senate foreign assistance subcommittee said Clements was "to a limited degree . . . personally involved at various times" in the questions of selling arms to Iran. The report however, offered no specifics.

The current examination of Clements' conflicts is but one of a number of congressional attacks on the issue. Two congressional staff members who have examined the issue of Clements' conflicts from different angles say that his pledges to disqualify himself in such matters as energy policy or arms sales to Iran aren't being adhered to—and couldn't be.

"There's no way he could totally keep himself out of it," said one, raising the question of why so much lip service is paid to the notion of avoiding "even the appearance of conflict."

Defense Department standards of conduct say that "personnel are bound to refrain from any private business or professional activity or from having any direct or indirect financial interest which would place them in a position where there is a conflict between their private interests and the public interests of the United States, particularly those related to their duties and responsibilities as DOD personnel."

One congressional staff member who looked at the Iran question says "we found no evidence that he (Clements) was anxious to take himself out" of Iranian matters.

Others characterize Clements as anxious to put himself in, using expertise gained during several years in a competitive business in the Middle East.

Others, both in the executive branch and in Congress, suggest that if the Defense Department has a problem with Clements' conflicts, it is one that should have been dealt with by the Senate Armed Services Committee.

That committee, during Clements' confirmation proceedings in 1973, permitted him to resign his position as an officer of the corporation but retain a large stockholding. According to papers filed by SEDCO with the Securities and Exchange Commission late last year, Clements then owned 750,058 shares of common stock. SEDCO stock, which is traded on the New York Stock Exchange, closed at 27¼ yesterday. Its high so far this year has been 35⅞.

Clements started the firm 28 years ago with one oil rig in northern Mississippi. Since then, it has become an industry leader, doing $230 million worth of business in 1975. Most of the firm's income comes from contract drilling, but it also provides engineering, pipeline construction and equipment for the oil industry.

Land drilling earned about 22 percent of SEDCO's oil drilling income for 1975, and the majority of land operations were in Iran. In addition to a number of wholly owned rigs, the corporation also operates SEIDRAN, a joint venture company 50 percent owned by SEDCO. Thirty percent is owned by Bank Bazargani Iran and 20 percent by the Pahlavi Foundation, a charitable trust under the control of the royal family. This spring, SEDCO-Khuzistan Construction Co., a 60 percent-owned subsidiary, began a large pipeline construction job in Iran.

REMOVE UNFAIR OSHA PROVISIONS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. McClory) is recognized for 5 minutes.

Mr. McCLORY. Mr. Speaker, today I am offering an amendment to the Occupational Safety and Health Act of 1970 to provide that employers who do not supervise the activities of other employers at a workplace shall not be subject to certain requirements of such act with respect to hazards resulting from such activities.

Due to the fact that at present some subcontractors are being held responsible for hazards they did not cause and are being sued and fined by OSHA for such hazards, I feel this amendment is legitimate and long overdue. I, therefore, request the indulgence and support of this House of Representatives.

This problem was brought to my attention by my constituent, Mr. James L. Althoff, president of Althoff Industries, a plumbing contractor. This company is presently being sued by OSHA in a small amount—$50—for allowing the accumulation at the jobsite of "debris such as cut-off pieces of conduit, brick, cement block, metal banding, scrap lumber, wood pallets, and empty wasteboard containers." These materials are obviously not related to plumbing. My constituent, a plumbing subcontractor, is being held responsible for allowing his employees to work on the jobsite where such hazards have been created by another contractor or subcontractor. I maintain that this is not right. The safety and health of employees is important and should be maintained. However, I believe the employers actually responsible for safety hazards should be held responsible for the safety and health not only of their own employees but of any and all other employees who have to work in the same area.

It is my understanding that at present many small businesses, such as Althoff Industries, are fined for allowing hazards created by another company. In order for such a small business to fight such a suit, lawyer's fees, court costs, loss of time from work over a long period of time, and damage to the company's reputation are incurred. These injuries would very likely be more costly than payment of the fine. Therefore, I understand that many small businesses are paying these fines rather than taking the time, effort, and expense to fight the Department of Labor—but these same small businesses are developing a growing bitterness toward unfair governmental controls and public officials, including hostility toward their U.S. Representatives, who are criticized for allowing such unfair harassment of them to take place.

Mr. Speaker, as you and my other colleagues will remember, there were debates during this Congress and the last

Congress on the Labor/HEW appropriations bill in which allegations were made by many Members about the problems OSHA has created for small business—and attempts were made to limit the power of OSHA because of these complaints.

There were also complaints about OSHA harassment of small business during the House oversight hearings of 1974, 1975, and 1976 and these hearings resulted in the onsite consultation bill which was passed in November 1975 to allow employers who requested it to have consultation with OSHA personnel without penalty, with priority being given to small businesses and hazardous industries. The Republican Members of the House supported that bill almost unanimously. In 1974 Representative Hungate chaired hearings of the Permanent Select Committee on Small Business, Subcommittee on Environmental Problems Affecting Small Business. The subject of the administration of OSHA and its effects on small business was considered during those hearings. As my distinguished colleagues will recall, problems related to the administration of OSHA have been and continue to be numerous—while at the same time, much good has also resulted in the form of protection for employees.

Mr. Speaker, I express my views and invite favorable action on this bill in order that not only employees but also employers may be protected from unfair treatment. Because of the existing situation emanating from the implementation of the OSHA program, there appears a strong indication that remedial legislation is required to alleviate the problem.

The bill reads as follows:

H.R. 15410

A bill to amend the Occupational Safety and Health Act of 1970 to provide that employers who do not supervise the activities of other employers at a workplace shall not be subject to certain requirements of such Act with respect to hazards resulting from such activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(a)) is amended—

(1) by striking out "Each" and inserting in lieu thereof "Except as provided in subsection (b), each";

(2) by inserting immediately after "each of his employees" the following: ", and to any other employee engaged in any employment controlled, coordinated, or otherwise supervised by such employer,"; and

(3) by striking out "his" the second place it appears therein and inserting in lieu thereof "such".

Sec. 2. Section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b) If two or more employers are engaged in activities at any workplace and any such employer engages in any activity at such workplace which results in any hazard referred to in subsection (a)(1) or which is in violation of any standard referred to in subsection (a)(2), the requirements of subsection (a) shall apply only to—

"(1) the employer whose activity results in such hazard or violates such standard; and

"(2) any other employer at such workplace who controls, coordinates, or otherwise supervises such activity.".

A TRIBUTE TO HON. CHARLES A. MOSHER

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. Whalen) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, our distinguished colleague, the learned gentleman from Ohio (Mr. Mosher), was the commencement speaker at the summer graduation ceremonies of the Ohio State University on Friday, August 27.

Approximately 1,800 degrees were awarded on this occasion which also saw the institution confer upon our highly regarded friend the honorary doctor of laws degree. It is also worth noting that Kent State University on the following day did the gentleman from Oberlin further honor by investing him with the honorary doctor of humane letters at its summer commencement. That Chuck Mosher should be the focus of so much praise is entirely appropriate since he is now serving his final term as a Member of this body. Suffice it to say his tenure in this House has been marked by many notable accomplishments which are a tribute to his own abilities and of incalculable value to all Americans. The country will lose one of its most skilled legislators when Chuck Mosher retires at the end of this session.

Congressman Mosher's remarks on the occasion of the Ohio State University commencement centered on his belief that the public is ill informed about how the Congress operates. The former newspaper editor contended that the people crucially need and deserve "the hard truth" to stimulate them into more hard thinking.

Because of the unique vantage point that Chuck has for the basis of his observations, Mr. Speaker, I insert herewith the full text of his "as delivered" remarks of last Friday:

The Congress and the Incongruous

(Remarks by Congressman Charles A. Mosher, Ohio State University summer commencement, August 27, 1976)

President Enarson, distinguished guests, trustees, faculty, and especially today's accomplished scholars . . . ladies and gentlemen:

One year ago, speaking here to the OSU degree candidates of August 1975, Hugh Sidey, a keen observer of presidents and other people, suggested that we Americans "need nothing so much as to recover our national sense of humor."

Sidey's good advice, to all of us, is that we need to cultivate humor, and especially that people who hold great power need the wisdom and humility to recognize their own absurdities and to invite laughter.

He argued that true humor is a product of knowledge and understanding, of courage, confidence, love of life, and hope, of seeing life and ourselves in honest perspectives.

That seems particularly wise advice for each of us today who might be unduly puffed up because we are receiving very coveted degrees, earned or honorary, from this great university.

I shall attempt no additional advice for you this morning.

Instead, I will talk briefly about the Congress of the United States, and about Congressmen and Congresswomen, my own attempt to see these in honest perspective.

I remember being taught, in a freshman literature course, that the essence of humor is incongruity. And I must say there is much about the Congress that does seem incongruous!

Today's opinion polls say that no other institution, no other professions are lower in popular esteem. And yet, I suggest, no other institution today, nor any other profession wields such pervasive influence in the lives of all Americans. Some will say, not so pervasive as perverse. Either way, this situation is incongruous!

It is said that familiarity breeds contempt. Is that the reason for popular ridicule of the Congress? I will argue that genuine familiarity does not exist in this relationship; the public's knowledge and understanding of the congressional process is woefully inadequate. That, too, is an incongruity.

The Congress is supposed to represent the people. But I will argue it is in some ways too representative; too accurately it merely mirrors the popular mood and opinions of the moment, rather than being representative in the sense that Congressmen are elected not only to be public servants, but also exemplars and leaders.

An ancestral uncle of Mrs. Mosher, Hiram Pease, writing to his brother nearly 150 years ago, declared that "politicians are the meanest ticks that ever festered God's sheep." Thus, Uncle Hiram stated forcefully a view widely held throughout all 200 years of our history, and which undoubtedly will be popular 100 years hence. It is a hallowed, and largely healthy tradition that citizens have the right to make public officials and public institutions the butt of ridicule, to freely vent their frustrations and sometimes their angers on politicians. And Hugh Sidey is right, we politicians must accept with good grace and humor that humbling role of being the frequent target of ridicule, and we must learn from each such experience.

However, there is another side to that coin. Again, I suggest that the Congress is an accurate reflection of the very people who ridicule it, a microcosm which mirrors the American public as a whole . . . its diversity, its confusions and frustrations, its lack of adequate information and understanding, its complex mixture of strengths and weaknesses, genius and mediocrity, hopes, ambitions, anxieties, and essentially the same standards of personal morality. So, the humor in this relationship works both ways, the joke's on all of us!

The congressional process is intrinsically American and profoundly human, it is percolating always and everywhere, it is as large, dynamic, complicated and difficult to comprehend as is the nation itself. In more than a mystical sense, the congressional process *is* the whole people.

In Washington, it is cause for unhappy laughter that each year so many thousands of school children and other gullible tourists are told that they really are seeing the Congress in action, as they briefly and bewilderedly look down from the visitors' galleries upon the usually routine proceedings in the House and Senate chambers. With rare exceptions, those floor proceedings comprise the least significant, tiniest tip of the huge and fascinating legislative process which is not adequately reported by the news media, is not explained by congressmen to their constituents, is not adequately taught in the schools, and which goes largely unheeded by the people whom it affects the most.

I suspect that too few of you here this morning are fully aware, or perhaps care, that the Congress as an institution, this dynamic process of which you yourselves are part, plus the ways and responsibilities of congressmen, all are in a period of great stress and flux, of rapid, substantial change.

Of course, it should be obvious, a truism, that all our free institutions always will change, will evolve. That is the genius of the American system ... and especially of our Constitution and the Bill of Rights ... that it is so flexible, not rigid or brittle; it is designed to encourage and protect diversity, complexity, growth, change, evolving, and to reconcile dynamic tensions. That is inherently why with pride we now are able to celebrate the amazing stability of our nation, the miracle of America's resilience during 200 years of revolutionary experiments; but also recognizing that ours is a revolution never fully consummated, our stated principles only partly fulfilled; and that is why we can look ahead with assurance to the next century of opportunity for fruitful, revolutionary change.

Yes, all our institutions change. But the public seems too little aware of the extraordinary pace of changes in the Congress.

I have a running argument with the very bright editor of a leading daily paper in my district. I argue that his pages are too full of trivia. I say that he has an obligation . . . especially because of his first amendment privileges . . . a very demanding obligation to publish more substantive information and solid discussion, more enlightenment and less entertainment, especially concerning government. I tell him his paper's reporting of the Congress is scandalously superficial, that he gives far more attention to the local bowling league scores than to the how and why of voting decisions by the legislators elected from our area.

And the editor partly agrees with me. But he says that if he added more substantive reporting of the Congress, not ten percent of his readers would read it. "People don't care, aren't interested." he says. For the past year, his paper has published regularly a brief summary of voting by the congressmen who represent its circulation area, and he tells me his readership survey shows that hardly one percent read those voting summaries. Presumably many times that percent study the bowling scores!

But I say a pox on those readership surveys and on listener ratings that too much influence the content of our news media. And similarly a pox on those opinion polls to which too many politicians seem subservient. In several ways, the press and politicians are so often similar. There is raw humor in the way too many in both those professions (not all) pander largely to popular tastes rather than hold to their own professed standards.

Even if "only ten percent" of the public would read the more substantive information about Congress, I argue that the ten percent have an influence far greater than their numbers. Those relatively few readers could be, should be, the community leaders, the opinion makers, and I am convinced the media owe it to America to try harder, to provide a larger dose of quality and substance, to appeal more to that ten percent, and thus multiply their number to 20 percent. Is it not the supreme irony, cause for appreciative laughter in a democracy, that so-called popular government, in order to be viable, seems forever dependent on the vigilance and innovative leadership of the few?

But I refuse to accept the cynical premise that most Americans lack the wit or the will to be actively, perceptively interested in their own government. To accept that is, in effect, to surrender our fundamental belief that government shall be by consent of those governed . . . presumably, the *informed* consent of the governed. I submit that this nation's most vulnerable weakness today is a "bread and circuses" syndrome . . . government's over emphasis on merely indulging the public's desire to live in comfort, and the media's extreme over emphasis on indulging the public's appetite for mere entertainment. A prime example is seen in the fact that we Americans continue blithely, recklessly in the "fools paradise" ways we are burning scarce energy, and we in the Congress, and the media too, still largely pamper this popular insanity.

More people crucially need, they deserve, and I believe a much larger proportion can be stimulated, galvanized into wanting hard information, the hard truths. And both the politicians and the press are seriously remiss in not providing that stimulation. It is imperative that the people not be so coddled, imperative that they be exposed constantly to more substantive information, provoked to do more hard, thorough thinking. They can and should acquire the habit of being more interested, alert, responsible . . . even though that habit would seriously threaten some now popular office holders, popular but superficial writers and media shows.

But I do assume that most of you who take your university degrees this morning shall be for years to come actively of the 10 percent part of that vigilant, effective leadership few who do galvanize and shape America.

Therefore, I think it important, I now dare to challenge today's popular skepticism concerning the Congress, to challenge your own skepticism, by offering here ten assertions of fact and of opinion somewhat contrary to what you read, hear and see in headlines and capsulized in the news media.

There is not time here to justify these ten assertions about the Congress with specific examples or other proof. And I do state them in oversimplified form. I recognize that all such truth, when analyzed, is fraught with paradox. Nevertheless, from my own 16 years on Capitol Hill, I am convinced the following statements are valid, and I ask each of you to try to believe, at least until you find sure proof that I am mistaken.

First. Even though earlier I said that the Congress focuses and mirrors too accurately the standards and mores of our society as a whole, I really do believe that the average integrity of men and women elected to the Congress is fully as high, and probably several degrees higher than the average integrity in other professions and in private industry. I am confident that I am not blind, nor naive in making that claim. All my adult life, as newsman and editor working in typical American communities and observing closely people of all classes and professions, I never have known any group whom I respected more than I do most (not all!) of my colleagues on Capitol Hill.

Two. Yes, obviously, their frailties are real, will continue, and deserve to be publicized. And more deserve to be defeated and replaced by persons of greater courage and wisdom, than will be. Nevertheless, I am convinced that the capabilities, breadth of knowledge, understanding, alert concern, and the conscientious effort tof today's members certainly does average higher than among earlier generations elected to the House of Representatives.

And the mix of those elected does change markedly, reflecting America's mobilities. The average age of congressmen is younger. More women are elected, more blacks, and a wider range of ethnic groups now are represented.

Now, as a footnote: I know, many of you will see ironic humor here . . . that despite its better brains and advertised intentions, its improved staffing and better sources of information, more meetings, more roll calls . . . despite all these, this 94th Congress is notoriously indecisive, ineffective.

You will see ironic humor also . . . that despite my claims for its greater integrity, its increased awareness of ethical standards, during this 94th Congress the scandalous revelations about several members seem more sensational than ever before. But I urge you to understand that the behavior of these few is *not* typical.

Those two ironies would merit further discussion here. I wish we had the time and opportunity for a lively, informal two-way exchange of views, to probe the causes for indecision and other frailties in America today, as reflected in the Congress.

Three. There are tremendously significant, fascinating changes in the substantive nature and the load of legislative and policy issues which now burden the Congress, an increasing variety and breadth of subject matter, much more complex, technical, sophisticated, much more difficult to fathom. Thus, there is much greater need for better trained people in Congress, and in its supporting roles.

Four. The ombudsman function of congressmen also has burgeoned rapidly; the insistence, variety and volume of constituent demands compounds!

Five. The rhythm and intensity of congressional life is changed. Only a few years ago, it still was assumed to be a part-time job. The sessions usually ended in July or August and representatives went back to their home districts for the rest of the year, where most had other active vocations and depended on other sources of income. They practiced law, farmed, ran banks, were physicians, teachers, editors, insurance salesmen . . . or what else? But today, being in Congress is more than a full-time, year-round job; most members make only hurried, hectic, weekend visits to their district. Obviously, that makes much more difficult any person-to-person communing with the proverbial man in the street.

Six. Today, each congressman's outside interests and income are required to be publicized and are severely scrutinized as suspect. It is generally deemed as unethical to serve in the House while also practicing law or being a banker. And not only in these new rules against conflict of interest, but concerning the whole gamut of behavior standards demanded of congressmen, there is a strong shift in the public's mood from indifferent tolerance, to awareness, vigilance, insistence.

Seven. Undoubtedly the most crucial need in this changing Congress is for better coordinated, more effective procedures and resources to process coherently the mounting volume and complexity of information we need . . . to get it, sort it, submit it to extremely thorough, systematic analysis, present it cogently, to comprehend it . . . to understand better the very difficult problems we must attack, the historic opportunities we should grasp, the priorities we shall choose, the options available, and their probable consequences.

Atempting to meet these needs, we have expanded and strengthened the professional calibre of our staffs, have organized new research and investigative groups, have devised other ways to borrow and buy expertise. (And, as a footnote, I want to attest personally to my own indebtedness to excellent staff support. Good staff can make a mediocre congressman look very good . . .or, sometimes, vice versa.)

But responsibility and jurisdictional lines in our committees remain scandalously fragmented and overlapping in the Congress; in desperate need of enlightened reorganization. A new revolution there would have been the superb way to celebrate this bicentennial year. But we muffed that opportunity miserably!

Eight. We have indeed adopted several hopeful reforms. The longtime, very rigid seniority system is under strong attack, is giving, bending, but is still operable. Practically all committee sessions . . . notably including the crucial markup and conference committee sessions, which always were closed as recently as four years ago . . . all these now are open to the public. Literally hundreds of voting decisions which very recently would have been hidden, off the record, are now made in the public glare, strictly on the record, both in committees and on the House floor. In the last Congress there were a total of 632 roll calls of the yeas and nays in the House, compared with only 240 during 1961–62, my first term. That contrast will be even greater by the end of this 94th Congress for an almost three-fold increase. And similarly, there were a total of 5,888 meetings of House committees during the last Congress, and there will be more than 7,000 in the present term, compared with less than half that number only 16 years ago.

Nine. Probably the most desired and urgent need for the individual congressman or congresswoman today is time and opportunity to be quiet, to do the necessary reading and study one never gets done, to reflect, to stand away and try to see it all in clearer perspective, with greater understanding and assurance . . . and, yes, with more humor.

But it is the very essence of every congressman's life that he (or she) has no privacy, is enslaved to hub-bub, the incessant buffeting by demanding people and on-rushing events, problems, opportunities, decisions. His are extremely crowded, fragmented, hectic, hop-skip-and-jumpful days. This is the proverbial fishbowl existence. The attractive emoluments and perquisites of congressional service are frequently publicized; but the disadvantages, the penalties are seldom recognized.

Is it significant that a record number of incumbent congressmen who have "safe" seats, who know they could be reelected, have voluntarily decided to retire this year? (A young Ohio colleague of mine ruefully tells me that he and his wife have thought it through and have decided that the second worst possible thing that could happen to them this fall, would be for him to be reelected to the Congress!)

Ten. The Congress often is described as a central arena in which innumerable, diverse interests . . . economic, regional, social, vocational, political, etc., including the diverse interests of this university . . . all these are in fierce, ceaseless competition, each competing for its share of America. Another way to describe the Congress is as an assembly of 535 individuals . . . 100 Senators, 435 Representatives . . . highly individualistic, willful, ambitious, aggressive, and of many differing traditions, distinctly different training and experience, elected to represent very different constituencies. Thus, the myriad differing voices of this restless, dynamic nation are heard on Capitol Hill.

But the prime function of the Congress is to be much more than an arena of competing interests, more than a cacophony of many voices. Its imperative function should be to achieve coherent, effective national policy. That is why the Congress is best described as process, essentially a process intended to achieve understanding and at least majority agreement out of disagreement.

And that is largely a conceptual process, requiring long periods of time and varied means to obtain basic information and advice, in the search for understanding . . . long sessions of taking testimony, of probing questions, of intensive study, analysis and synthesis, of discussion and argument, argument, argument, of skillfully writing decisions into legislative form; and also of bargaining, amending, accommodating, compromising . . . moving the bills through cumbersome, tortuous parliamentary procedures and levels to that point of final agreement by both houses, and then the President's signature which makes these decisions an Act, the law.

Now, to summarize, I have listed these ten aspects of the Congress (and others, perhaps more significant, could be told) . . . I have listed these to emphasize that this is a process undergoing historic stress and change: I commend it to you as fascinating, exciting, powerful, profoundly important. It is essentially a conceptual process, thus it deserves to be of particular fascination and concern to this university community. It is an increasingly open process, to which each of you has new, more significant access. It is all this, and yes, amusing, too.

You who receive academic awards today are of that most influential ten percent who have a very special responsibility to be actively part of this decision-making process. And there are so many, many ways beckoning to you to become more actively part of it.

If any of you doubt that it does beckon to you, I now invite you to write to me personally, so that I can try to respond to your particular doubts. I would welcome that opportunity.

In fact, that responsibility (to be active in the process) really is inescapable for each of us present this morning. Even the so-called "turned off" citizen who says, "what's the use?" who cynically scorns government and tries to escape by way of boob-tube entertainment, or some other opiate . . . even that citizen's ignorance and abstention is no zero, it is unwittingly an overt influence, a significant part of the process.

But I ask each of you now to play the more active, more responsible, positive role. Returning to Hugh Sidey's wise advice, that people in positions of power need the grace to recognize and admit their own sometime absurdities, I say that almost every healthy individual in this land of the free . . . but particularly each of you in the more influential ten percent . . . each is in fact a powerful person; each should have the wit to be a positive part of this process and to avoid the absurdity of not participating.

I assure you, there is hardly any more effective influence on your congressman than an individual constituent's knowledgeable opinion, your opinion, cogently and forceably stated . . . and, for emphasis, best stated repeatedly.

Please do.

REPRESENTATIVE JACK KEMP TESTIFIES IN SUPPORT OF ENVIRONMENTAL PROTECTION AND PUBLIC WORKS PROGRAMS FOR WESTERN NEW YORK

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, earlier today I presented a statement to the Subcommittee on Water Resources of the House Committee on Public Works and Transportation. That subcommittee is presently considering various environmental protection and public works programs and projects for incorporation in the Water Resources Development Act of 1976.

I presented a case for a number of important projects for western New York, as well as extension of the navigation season on the Great Lakes and the national shoreline and beach erosion control and small projects programs.

A copy of that statement follows:

Statement of the Honorable Jack Kemp, Representative to Congress From the 38th District of New York, on the Water Resources Development Act of 1976, Before the Subcommittee on Water Resources, House Committee on Public Works and Transportation, Washington, D.C., September 2, 1976

Mr. Chairman and Members of the Committee, I thank the Committee for providing me this opportunity to testify today. I am here in support of environmental protection and public works projects in Western New York, but I am also here to ask additional funding authority for a regional program—extending the navigation season on the Great Lakes—and for two national programs—the shoreline and beach erosion control program and the § 205 small projects program.

As a Member of the Committee on Appropriations, which must find the funds for undertaking the programs and projects which this Committee authorizes, I know first hand the difficult task faced by you in striking a balance between what the Federal Government wants to do for the people and what we have the money to do. It is not an easy assignment. I think the chairmen and ranking minority members of the Committee and Subcommittee, as well as all their Members, have done a commendable job in getting us to these hearings last and this week.

Financial assistance from the Government in Washington to aid in the planning and construction of works of improvement, such as those which would be funded through the Water Resources Development Act, is a form of aid as longstanding as the Nation itself. Originally justified as an activity designed to facilitate commerce among the States under the Commerce Clause of article I of the Federal Constitution, such assistance has become an important aspect of the Federal-State-local cooperation which has pervaded our sense of national unity. It has resulted in incalculable benefits to the people, especially in the protection it has afforded them and their property against natural disasters.

These works of improvement are designed to carry out important environmental objectives. They are investments to help us protect our environment against the ravages of floods, to improve navigation for both commercial and recreational purposes, to enhance crucially needed water supplies for our municipalities—a problem of rising dimensions again for the first time since the mid-1960's, to reduce losses to our economy, and to alleviate the human misery which accompanies any failure to come to grips with these problems.

The problem in assuring the adequacy of the Government's commitment to these programs is money. And let me spend a moment discussing this point. As my colleagues know, there are few Members who have voted as heavily for reductions in total authorizations and total appropriations as I have, usually coming to about $20 billion each year. But, as my colleagues are also aware, there are few that have as consistently supported public works programs as I have, provided that their funding did not increase total authorizations or appropriations, but rather came from a shift of authority or funds available to us. It seems to me that we who are Members of the Committees on Public Works and Transportation and Appropriations must do a more effective job of telling our colleagues, the agencies, the media, and our constituents of the crucial importance of using dollars in tight supply to provide benefits to our States and communities which are of a permanent nature.

At a time when the Federal Government must maximize the impact of every dollar it spends, authorizations and appropriations for public works take on a crucial character. How much more intelligent it is and how much more beneficial to our communities and their residents it is to spend money for these permanent works of improvement—which leave lasting, physical benefits—than to spend the same amount of money on make-work, public service jobs.

Calling a job a job does not make it a job. To be a real job, as defined by economists, it must be productive. I do not subscribe to the notion that Government ought to address the problem of high unemployment by automatically putting people on its own payroll. Instead, I believe Government ought to remove the disincentives to jobs creation in the private, productive sector of our economy—disincentives found in our high tax rates, our regulatory policies, etc. But, as long as Government is going to address the problem of high unemployment by using its dollars to create employment and that is the present policy, then I firmly believe we should use those dollars for activities which leave, as I indicated a few sentences ago, permanent, physical benefits to the Nation.

It makes more sense to me as a matter of policy, economics, logic, and even politics—and to the vast majority of taxpayers as well—to use Federal dollars to complete a public works project, than it does to create "make-work jobs", the former being the intent of a Water Resources Development Act and the latter being an example from the Federal public service, Comprehensive Employment and Training Act jobs program in all too many instances.

I think we should articulate these points more widely.

Within this framework, let me discuss, first, the status of our major projects in Western New York, some of which need additional authority through the Water Resources Development Act.

CAZENOVIA CREEK FLOOD CONTROL PROJECT

The final survey report of the Corps of Engineers for this important project is now before this Committee, and I hope it will be incorporated in the Water Resources Development Act. It is our area's number one priority for authorization.

The Corps report describes in detail the nature and extent of the flood damage along the creek and the remedial undertakings which it is proposing to the Congress. I would like, however, to summarize briefly the Corps' recommendations.

This project is located principally in West Seneca, N.Y., and encompasses 144 square miles of watershed, the basin extending over Erie and small portions of Genesee and Wyoming Counties. The Corps survey report shows a 1970 population in this watershed of 164,000, with the estimate for the year 2000 standing at 252,000.

The purpose of the project is to prevent flooding in the watershed area, principally in West Seneca and portions of the City of Buffalo. The project will consist of cleaning debris from the channel, straightening that channel, and construction of an ice retaining, concrete gravity dam and ice boom structure. This would be located near Mill Road in West Seneca and would be constructed in the earliest stages of the project.

The total estimated cost is $1,683,000, of which Federal participation would equal $1,395,000. The benefit-cost ratio is a healthy 2.8:1, with average annual benefits equaling $237,644.

The Cazenovia Creek project is the first of three expected to arise from Buffalo Metropolitan Area Study approved by this Committee on June 14, 1972, at the request of former Congressman Thaddeus Dulski and myself. The study area covers all of the 38th Congressional District which I represent, all of the 37th District, represented by a Member of this Committee, Congressman Henry Nowak, and portions of the 35th, 36th, and 39th Districts, Congressmen Conable, LaFalce, and Lundine, respectively. The final feasibility reports on the other two components of this study, Cayuga Creek and Tonawanda Creek, are in the final stages of preparation.

Mr. Chairman, this project is badly needed in our area to reduce heavy losses of property and threats to life from severe and frequent flooding. If this Committee provides for its authorization, I will work diligently to secure its funding during the consideration of the next appropriations bills. This project can be completed within the next three to four years, if, and only if, we authorize it this year and fund it next. To fail to do this will, of course, push the entire time table further away from us.

ELLICOTT CREEK FLOOD CONTROL PROJECT

This project should serve as a model for the Nation on how to resolve disagreements among divergent local interests and ameliorate concerns over potential adverse impacts arising from Corps construction. Many once believed this project would never go forward. The Federal Government had taken one position. The State had taken another. Local community groups were badly divided over various plans to control flooding. Environmentalists were convinced that the project, designed to protect the environment, would end up making matters even worse.

Through the personal leadership of the then-District Director of the Corps, Col. Bernard Hughes, a citizens advisory team was organized, on which every point of view was represented. It was the first occasion for many antagonists and protagonists to even see each other, much less commit themselves over the weeks that followed to resolving their differences.

This project will bring badly needed flood control along the creek in the Towns of Tonawanda and Amherst. At the present time, preconstruction planning continues, and Congress has provided adequate funding for that planning.

SCAJAQUADA CREEK FLOOD CONTROL PROJECT

Through the cooperation of the House and Senate Committees on Appropriations, this project was kept on its time table this year.

The Administration, as you are aware, had requested no new starts for fiscal year 1977. This enabled the Administration to more effectively hold the line on the growth in spending, an effort for which they should receive our praise and our general support. But by taking a blanket position against *any* new construction starts for a full year, the Administration failed to consider, at least on a case by case basis, the loss of life and property and the additional high costs to the government in the form of disaster relief and assistance caused by failing to have flood control structures in place. In an effort to reduce the budget in one place, I contended we were running a very high risk of increasing it even more in others. What we were to save on Corps construction, we would probably forfeit on disaster assistance, and not building flood control structures will certainly not improve the weather and make floods go away. And even if there were a dollar-for-dollar tradeoff in appropriations between construction starts on one hand and disaster assistance on the other, it would not take into consideration the hardships inflicted upon the people by failing to provide adequately for their protection against floods.

Congressman Nowak and I appeared jointly before the Subcommittee on Public Works of the House Committee on Appropriations, and we were able to secure the $400,000 needed to keep this project on track. The design has been completed. There are no environmental issues. Assurances have been given by the Corps that the stream channelization will be stable and the stream banks restored to prevent silting in Delaware Park Lake. The $400,000 provided this year will allow the Corps to complete plans and specifications for the project, award a construction contract and initiate construction of the project during fiscal year 1977.

No additional Committee action appears necessary on this project.

CATTARAUGUS CREEK NAVIGATION AND FLOOD CONTROL PROJECT

The final design for this multi-purpose project will be completed momentarily.

The project was slowed because it had not received assurances of non-Federal share funding from local interests—Erie County, Chautaugua County, the Town of Hanover and the Seneca Nation of Indians. Now, however, the State of New York has provided assurances of funding, permitting the Corps to include this project in its 1978 request for a construction start, while the State continues to negotiate with local interests on the respective shares of non-Federal costs to be borne between the State and local units.

CAYUGA CREEK AND TONAWANDA CREEK FLOOD CONTROL PROJECTS

As I indicated a few moments ago, the Cayuga Creek and Tonawanda Creek floor control projects are two of the three arising from the Buffalo Metropolitan Area Study. I wish to return to these two projects briefly.

The Cayuga Creek project is within the § 205 small flood control projects authority and can, therefore, be proceeded upon without Congressional approval. It is a $375,000 project, and the Corps is currently working on the detailed project report, expecting completion of this report in fiscal year 1977. The project envisions construction of a levee along the creek.

The Tonawanda Creek project will most probably consist of two water detention areas above Batavia, New York. The report on that project went out for review just this week.

THE PROPOSED SQUAW ISLAND DIVERSION CHANNEL

Many proposals for regulating the water level of the Great Lakes or various combinations of those Lakes have been offered in recent years. One of those is the proposed Squaw Island diversion channel, a 1300-foot-long and 75-foot-wide channel to be cut across Squaw Island, an island situated immediately off the City of Buffalo in Lake Erie at the beginning of the Niagara River, the water course connecting Lakes Erie and Ontario.

The Squaw Island diversion channel, known in Corps parlance as Plan SEO-17P, has been actively supported in recent months by a majority of the Members of the Conference of Great Lakes Congressmen. I might add that other Members of that Conference, including myself and Congressmen Nowak, Horton, Conable, and LeFalce, have voiced reservations about the plan.

We are skeptical about the potential effectiveness of this project—whether it will accomplish its intended goals—and there are a number of problems with it as well.

First, the Corps has contended this project will reduce the water level of Lake Erie by as much as 10 inches, but the Director of the Great Lakes Laboratory of the State University College at Buffalo, itself a contractor on other hydrological matters on the Lakes, feels it could be much less, perhaps only 3 to 5 inches. The benefits—along the shoreline and on the benefit-cost ratios of the Corps—would be dramatically different, if the water level is reduced by only 30- to 50-percent of projected reduction.

Second, the reduction of the water level of Lake Erie through expanding the water flow out of the Lake through Squaw Island would dump that excess water into the next lake down the chain—Lake Ontario—thus creating too-high water problems on that Lake. The water level on Lake Ontario could then be reduced only if the channel were deepened in the St. Lawrence River through an area where that channel bed is virtually solid granite, a matter which would require the dollar participation of the Canadian Government as well.

Third, the diversion channel would discharge the highly polluted waters of the neighboring Black Rock Canal, as well as deflect the effluent from the Buffalo sewage treatment plant, at such location and velocity that they could enter the west channel of the Niagara River and contaminate the drinking water of over 1 million individuals in the town and city of Tonawanda, North Tonawanda, Niagara Falls, Lockport, and numerous other areas of Erie and Niagara Counties or incur major additional costs to those communities through expenses required to restore the water quality. This change in water flow may also contaminate the waters at Beaver Island State Park on the southern tip of Grand Island, the only swimming area on the U.S. side of the Upper Niagara and a major recreational area.

Fourth, by cutting across Squaw Island, the channel would increase the Buffalo Sewer Authority's cost by $300,000 to $500,000 annually to carry and dump residue from the Squaw Island incinerator to other disposal sites.

Fifth, the rowing site for the West Side Rowing Club would be adversely effected by the additional flow of 18,000 c/ft. per second.

It was for these reasons that we felt the Squaw Island project should be put in abeyance until either the questions raised were answered satisfactorily or another alternative to accomplish the same goal was devised.

At a meeting of the Conference of Great Lakes Congressmen on June 30, at which representatives of the International Joint Commission and the Corps of Engineers testified, a solution to the Great Lakes water level problem emerged. Inasmuch as the person offering the suggestion asked that it be off the record, I will not ascribe the proposal to anyone, but it should be stressed that the individual has had a vast amount of experience in this subject area. The recommendation was for immediate action on increased diversion from Lake Michigan at Chicago, plus consideration of the Squaw Island diversion channel in combination with channel improvements in the St. Lawrence River and resolution of all the questions raised about SEO–17P.

The Chairman of the Conference, our colleague from Michigan, Congressman James O'Hara introduced legislation this week calling for a five-year demonstration program to establish the feasibility of increased diversion from Lake Michigan at Chicago. I support this legislation, and I am encouraged by the cosponsorship of it by the Chairman of this Subcommittee and the probable Chairman of the full Committee during the 95th Congress.

With respect to the Squaw Island-St. Lawrence River combined projects, suggestions raised at the June 30 meeting indicate that most objections could be overcome. The placement of locks in the diversion channel would permit the regulation of water flow from Lake Erie into Lake Ontario at rates which at times would produce ten inch reductions in Lake Erie water levels, while lessening that additional flow at times when Lake Ontario could not absorb the flow or wetland areas along Lake Erie were in danger of becoming too high above the water line. Those locks could also be closed at times when the rowing club was operating in the vicinity. The deepening of a portion of the channel through the St. Lawrence River would allow, in combination with the Eisenhower Lock and other structures, the water level of Lake Ontario to be regulated in such a way as to assure against high water and against the formation of ice in a manner which would permit it breaking and flowing into the lock system. The construction of a deflection levee at the exit from the diversion channel would assure against the flow of water into the west channel of the Niagara River. The Federal Government could absorb the additional cost of carrying and dumping residue from the Squaw Island incinerator as part of its contribution to annual maintenance.

I note, however, that the new District Director of the Corps in Buffalo, Col. Daniel D. Ludwig, indicated in an interview carried in the Buffalo Evening News of August 26, 1976, that "the Corps will not press for a proposed diversion channel across Squaw Island." I assume, therefore, that this proposal is now in the state of abeyance which the Western New York delegation sought in June.

I wish to now turn my attention to the regional program in need of additional authorization. I refer to the extension of the navigation season on the Great Lakes.

EXTENSION OF THE NAVIGATION SEASON ON THE GREAT LAKES

Mr. Chairman, I support the Great Lakes-St. Lawrence Seaway Navigation Season Extension Demonstration Program and the funding recommended through H.R. 14677.

Extending the navigation season on the Great Lakes is of major importance to the Port of Buffalo. Traffic moving from the upper lakes, down the chain, and into the St. Lawrence Seaway frequently uses the facilities at the Port of Buffalo; thus, the longer the navigation season on the entire lakes, the greater the use of the Port of Buffalo.

There has been a remarkable increase in tonnage after December 15 over the years the demonstration program has been extended, with increased tonnage through the Soo Locks and St. Mary's River operations up from 400,000 tons to 9.1 million tons.

Any adverse environmental effects are minimal, and some environmental benefits have actually been obtained through controlling damage caused by free-flowing ice.

This demonstration program has worked effectively and efficiently. The savings and benefits of the extended season include direct shipping costs, inventory, warehousing and distribution costs, increased and stabilized incomes and employment, and many other regional benefits. There are estimates of $1.9 billion increase in regional output and $560 million in wages per year, which would create about 38,000 new jobs within the Great Lakes region. These are estimates that have been made by the Bureau of Economic Analysis of the Department of Commerce.

Congress in 1970 recognized the urgency for improving waterborne commerce in the system, when it put the Winter Navigation Board to work to study and demonstrate the feasibility of year-round, system-wide navigation.

In the 1974–75 and 1975–76 winter seasons, traffic has moved full-season through the Soo Locks from Lake Superior into the lower lakes, carrying millions of tons of cargo. This has resulted in a benefit-cost ratio for upper lakes navigation through January each year in excess of 3 to 1. For full-system, year-round service, the benefit to cost ratio is estimated to be 9 to 1.

Extension of the season will do a number of things. It results in fuel savings. It disturbs the environment less than other modes of transportation which would have to be used. It increases use of vessels and port facilities. It makes greater use of capital facilities, and it provides for more stable employment, providing jobs on a 12-month basis for labor.

I hope the Committee acts favorably and incorporates H.R. 14677 in the Water Resources Development Act.

SHORELINE AND BEACH EROSION CONTROL

A recent, major General Accounting Office study concluded that the Federal shoreline erosion control program has been "irregular and incomplete." That study pinpointed six problem areas with the program: first, the inability or reluctance of Federal, State, and local agencies to provide the necessary funds; second, the requirement that public access be provided to beaches developed or improved with Federal funds; third, the inability to agree on the Federal financial participation rate; fourth, the inability to locate suitable sand and other source materials necessary for restoration projects; fifth, the State laws and local requirements which conflict with Federal requirements; and sixth, the changes in environmental conditions which lessen the public's sense of urgency for project implementation.

What emerged from this study was the conclusion that there was only a minimal commitment on the part of the Congress and successive Administrations to the program.

It is time to undertake a thorough commitment.

I know personally of the tragic damage which has been caused to both personal property and to the environment by shoreline erosion from the onside inspections of damaged areas along the Great Lakes and from the conversations and correspondence I have had with property owners along Lake Erie. I have seen instances where property in which entire life savings have been invested simply washed away. A single storm which battered the southern shore of Erie County, N.Y., in 1973 caused an estimated $1 million in property damage, and there have been severe storms since then.

Homes are jeopardized and sometimes totally lost, and these are not always the "second" or "weekend" homes of the well-to-do. They are more often the sole residences of families which have placed the bulk of all their personal earnings into their equity and furnishings.

Commercial and industrial facilities, ranging from manufacturing plants to marinas, are damaged and, in some instances, must be relocated or abandonded.

Public service facilities and structures, such as roads, storm and sanitary sewers, utilities—are damaged or destroyed.

Economically vital sections of real estate are wholly or partially abandoned to the elements, causing distress and turmoil in local economics.

Important recreational and park areas are lost or severely damaged.

Pollution occasioned by silt is worsened.

And, because of inadequate Federal assistance and disaster relief coverage, local government is called upon to bear costs far exceeding its normal taxing capacity. The same thing I said at the beginning of this statement about having to pay in disaster relief that which could have been provided in protection applies here as well.

This is why it is so hard to understand why Federal progress in controlling beach and shoreline erosion has been so slow. Of a total of 64 projects authorized since 1946 on the Federal level and made subject to the GAO study, only 20 have been completed. The average time to complete the 20 projects or project segments has been about 10 years from the date of the local request. These delays in scheduling and completing Federal projects have resulted in increased construction costs, the loss of additional shoreline property, the need for projects to be restudied—which means ever more delay, and the need for the construction of temporary measures—which means even more cost.

Under the leadership of this Committee, Congress began in 1973 a major new effort to deal with beach and shoreline erosion. The Committee included in its Water Resources Act of that year a provision, section 54, to authorize a shoreline erosion control demonstration program. Having passed the House and Senate, it was signed into law, Public Law 93–251, on March 7, 1974, as the Shoreline Erosion Control Demonstration Act of 1974. But the major, new commitment which many of us foresaw did not materialize.

The Administration did not request any supplemental fiscal year 1974 funding nor any fiscal year 1975 funding, although $100,000 was reprogrammed to finance the initial activities of the Shoreline Erosion Advisory Panel, a panel authorized by the 1974 act.

I think the most salient comment about the implementation of this act was that of Maj. Gen. J. W. Morris, the Chief of Engineers for the Corps, when he said last summer in a letter to me:

"Until funds for planning, design, construction, operation, maintenance, monitoring, reporting on the demonstration projects are available, the goals of the Act remain elusive."

There has been little improvement since then. Funding was not requested by the Administration for fiscal year 1976, but the Congress had the foresight to increase the zero-funding for the program to $320,000. The Administration requested only $200,000 for fiscal year 1977.

I find it difficult to understand why the Congress and the Administrations have not elevated beach and shoreline erosion control to the status of the Corps other major undertakings. Considering the consequences of doing nothing or continuing to do little, it seems to me Congress ought to elevate the importance of this program, moving it more in line with flood control, navigation, and related programs. It's time to move from the demonstration stage to full-scale participation in these types of projects.

The failure to more fully undertake this program will continue to lead to other ways of providing relief which, no matter how well-intended, are not as direct. On May 20 of this year, I introduced a bill, H.R. 13935, a bill to amend the Internal Revenue Code of 1954 to provide that certain losses from shoreline erosion shall be deductible for purposes of individual income taxes. I believe this is a stop-gap measure which is necessary, nonetheless, because other means have not been undertaken to protect people's property. On August 26, our colleague from New York, Congressman John LaFalce introduced a measure, H.R. 15299, which expanded upon that first bill and set forth qualified erosion prevention expenditure tests. I said at the time of the introduction of H.R. 13935 that I did not regard it as the most effective approach; that I regarded an expansion of the program through the Water Resources Development Act as the best route. I still feel that way, even though I will, of course, pursue both avenues.

Perhaps it is time to change the way in which the Corps addresses these types of projects, expanding the definitions under the various statutes to allow beach erosion and streambank erosion to be treated just like any other project—if under a certain dollar amount, handled through the section 205 program; if over that amount, handled by seeking a specific authorization and appropriation.

SECTION 205 SMALL PROJECTS

I think the Committee should give consideration also to the expansion of the dollar authority for the section 205 small projects program. I know we have problems in our area because there are insufficient funds to meet all the national small project needs, yet small projects, by virtue of being small, tend to be more numerous. We have recently obtained a badly needed section 205 commitment to remove certain abutments in the vicinity of Michigan Avenue in Buffalo, abutments which were preventing full use of the waterways. Several weeks thereafter, it was brought to our attention that certain reaches on Scajaquada Creek could be made into a section 205 project, but, unfortunately, having committed the funds to the first, we could not take care of the second. That worked a disadvantage to those in the area of Scajaquada Creek whose only reason for not getting the funding was that they were last in time in asking.

Mr. Chairman, I appreciate the courtesy of the Committee. I hope that we can proceed with these matters through the legislation which you will report to the Floor.

PROBLEMS WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 15 minutes.

Mr. DENT. Mr. Speaker, today marks an important anniversary in the field of pension protection, for it was 2 years ago today that the Employee Retirement Income Security Act of 1974 became law.

The development of ERISA was a lengthy and turbulent affair. It took over 10 years for the Congress to move from a general feeling that there was a need for Federal regulation of private pension systems to the point where a bill containing a comprehensive scheme of Federal regulation could be sent to the President. The genesis for this pension reform was clearly the horror stories with which we all became familiar—the Studebaker experience comes to mind quickly. Our files are literally stuffed with similar stories, written by old and tired workers, who suddenly discovered that their pension promises, for which they had labored so strenuously and upon which they were relying for a decent and comfortable retirement, were in reality worthless. Further investigation revealed a critical need for Federal pension reform on virtually every aspect of private pension and welfare plans. Participation requirements and vesting schedules needed to be reformed, so that workers would be brought into a plan quickly and achieve vested rights within a reasonable period. Funding requirements were needed, so that plans would remain solvent and so that there would be funds in the plan to back up the promises the plan made to its participants. Uniform fiduciary standards were urgently needed, in order to protect the assets of pension and welfare plans against depletion because of imprudent or dishonest actions by those persons with the power to control and invest those plan asets. Effective access to the courts was needed, lest participants and beneficiaries be frustrated in their attempts to enforce their pension rights because of procedural technicalities. And finally, it was clear that an insurance program was needed, was needed to guarantee the benefits promised by plans which terminated with assets insufficient to cover the promises made.

We were finally able to write and move through the legislative process a bill that addressed the issues that were raised. Many hearings, discussions, conferences, and compromises ultimately resulted in ERISA. We thought in 1974 and we still believe it to be true today that ERISA is basically a good piece of legislation. We know when it was passed that problems would arise that were unforeseeable, and that certain legislative impressions, no matter how well thought out in advance, would prove less than completely satisfactory in the real world of pension plan operation. Indeed, it was clear to those of us who worked most closely with pension reform that no single piece of legislation could fully and effectively regulate every aspect of pension and welfare plans. And so ERISA was intended as a first step toward effective Federal regulation of private pension and welfare plans—a significant first step, to be sure, but nonetheless, only a beginning. As the experiences with the law would develop, we expected that problems would undoubtedly arise, and that revisions in the statute itself would become necessary.

And let us not deceive ourselves, problems have arisen with ERISA.

The approach ERISA takes toward transactions between plans and parties in interest to the plan, for instance, has clearly proven unworkable. Many long-standing and completely above-board practices which have always benefited plan participants and beneficiaries are now prohibited, unless and until exemptions permitting the practices are granted by two separate agencies. Few exemption applications have even been processed, much less approved. This approach to prohibited transactions, which others, I might add, insisted upon, clearly is proving detrimental to efficient pension plan operation.

Problems with the reporting and disclosure provisions of ERISA have arisen as well. The Labor Department in particular has been unable to consistently issue direct and appropriate forms to gather the information it needs and is required to collect under the statute. This recurring problem has created huge paperwork burdens which create huge administrative costs for pension plans as they attempt to decipher and complete the forms. Every dollar a plan spends on an unnecessarily complex form means one less dollar to pay out in pension benefits. These reporting and disclosure problems are serious, and must be recognized as such and cured.

A third major problem that has arisen concerns the dual administration of the law. The Labor Department has exclusive jurisdiction over part of ERISA; so does the Internal Revenue Service. And these two agencies share jurisdiction over other parts of the law. While theoretically this kind of cooperative administration should work, in practice it is increasingly clear that it does not work well. We must resolve this problem of dual administration by eliminating it. The creation of a single agency to administer all of ERISA must be considered as one viable alternative.

Other parts of ERISA require careful review at this time. A recent Federal court decision raises the specter that yet another Federal agency, the Securities and Exchange Commission, will become involved in the regulation of employee benefit plans, a result clearly unintended when we enacted ERISA. Certainly Congress must be prepared to act if in fact this case is not reversed on appeal.

Another serious problem involves the relatively large number of plans which are filing notices of intent to terminate as compared to the small number of plans which are requesting qualification. Although the reasons for this contrast is not yet clear, we in Congress must closely monitor future developments. ERISA, above all, was intended to encourage the growth of employee benefit plans. If that is not what is in fact occurring, it is our duty to take corrective action.

But despite the presence of these problems, there is on this second anniversary of ERISA's enactment much that is positive and heartening about our experience with ERISA.

Vigorous oversight activities of the Subcommittee on Labor Standards have on occasion been successful in pointing out to the agencies certain problems as well as solutions to those problems. In numerous hearings, and less formal meetings and conversations, we have, with some exceptions, found the personnel at the agencies to be conscientious and hard-working and willing to recognize problems and take corrective actions. The members of the Subcommittee on Labor Standards and the Committee on Education and Labor, in their vigorous support of amendments to ERISA contained in H.R. 7597, have demonstrated a willingness to understand the law and improve it.

Most gratifying of all is the simple conclusion that must be drawn by every truly objective observer of ERISA: ERISA, overall, is accomplishing precisely what it set out to accomplish. Workers are being brought into their plans and they are becoming vested in their pensions within reasonable periods of time. Solid funding standards are in place. Effective fiduciary standards are on the books and being enforced daily. Procedural problems in participants' gaining access to the courts to redress grievances against plan officials are eliminated, and a comprehensive insurance program is in place and paying benefits regularly to participants and beneficiaries of plans that have terminated with insufficient assets.

ERISA, in short, is working, and it is working well. With continued vigorous oversight by the Congress, I am confident that the law can be more effectively administered and, if necessary, altered. The goals of ERISA—to encourage the growth and stability of employee pension and welfare plans—are noble and worthy ones. We have in the last 2 years made considerable progress toward achieving these goals. Let us resolve on this second anniversary of ERISA's enactment to continue that progress, so that the goals of ERISA will draw closer to reality in the months and years ahead.

FED DELAY UNFAIR TO CONSUMERS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, consumers are not being represented as Congress had intended in the Federal Reserve System because of the Fed's delay in establishing a Consumer Advisory Council.

The mandate for this Council came with the signing by the President of the Equal Credit Opportunity Act amendments on March 23 but to date, the Fed has done little toward implementing that order.

The purpose of the Council is to advise and consult with the Board on matters related to consumer protection under the various consumer credit laws but despite this, no appointments have been made, nor has the Fed made a statement as to when the Council can be expected to start work.

Congress was very specific in its outline for this Advisory Council in the equal credit amendments. It is to take the place of the Advisory Committee created by the Truth in Lending Act in the 91st Congress and is to be made up of a fair representation of both consumer and credit interests.

The Fed did go as far as to set a deadline for having nominations in April 30. Almost immediately, several hundred persons expressed interest in serving on the Council. But in 4 months, not one has been selected. The best the agency is saying now is that they hope to make some appointments "soon, probably in September."

I am particularly upset because almost daily, the Fed continues to write important regulations for the Truth in Lending Act, the Truth in Leasing Act, the Equal Credit Opportunity Act, and others without the benefit of the opinions of either the original committee or the new Council. The input that Congress had intended is just simply not being provided.

Consumers certainly deserve more than this. They deserve to know when the Fed intends to see that their interests are better represented through the organization of this Council and I call on the agency to make a statement soon as to when the Council will begin its advisory job.

WOMEN AND DRUG ABUSE

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I rise to call my colleagues' attention to the President's action last month in signing into law Public Law 94–371, the Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act Amendments of 1976.

I vigorously supported this legislation when it was considered by the House and I am hopeful that it will effectively address the severe problems of drug abuse and alcoholism in this country.

In particular, I am very gratified that Public Law 94–371 places special emphasis on the unmet needs of female substance abusers—a subject which has deeply concerned me for some time.

In fact, last October I had the distinct pleasure of addressing a conference in Miami which was convened to consider this serious problem.

That conference, entitled "Drugs, Alcohol and Women: A National Forum," brought together professionals from the various disciplines concerned with the causes and societal implications of these unmet needs.

In many respects the conference served as a catalyst for congressional action in this area and it focused public attention on the unique problems confronting female drug abusers. This subject had been ignored for too many years by program planners and policymakers at all levels of government and I am confident that the provisions contained in Public Law 94–371 will result in the establishment of programs and projects to assist this vulnerable population group.

Because the Miami conference, which was chaired by the director of the Program for Women's Concerns at the National Institute on Drug Abuse, Ms. Alberta Henderson, generated a new level of awareness and activity among public and private officials, regional groups and ad hoc organizations were formed to consider this significant issue.

I firmly believe that this conference can be viewed as a significant first step in addressing this issue and I am therefore pleased that portions of the proceedings and some of the data collected have been published in the form of a source book on "Drugs, Alcohol, and Women." This valuable document will serve as a unique reference to all concerned citizens. This publication was edited by Muriel Nellis, and in her forward to the document, she has appropriately stated that:

> This benchmark publication will provide insight and information to the issues and persons engaged in this significant colloquium and will provoke the continued commitment and action necessary for influencing effective change.

It is indeed disturbing to hear of the debilitating effect that drug and alcohol abuse have had on family life in this country. Even more troubling are recent studies which show that drug-related crimes committed by women are increasing at an exponential rate.

Unfortunately, to date these staggering facts have not been reflected in programs for the care of substance-dependent females.

Preliminary findings contained in a recent survey conducted by the National League of Cities, U.S. Conference of Mayors, of cities having over 30,000 in population, indicates that in well over 40 percent of those responding, drug abuse is cited as a high priority issue. That result, coupled with the recently released DAWN report, a warning network established in 1972 by NIDA and DEA, which in this case reported from 29 major cities—covering a period from April 1974 to April 1975—showing that alcohol used with other drugs was related to almost 200,000 cases of illness or death, points up the need for our continued vigilance and review of the sufficiency of the direction of our national effort. It is important to note that the DAWN report concentrated on the 10–29 age group and that females outnumbered males in emergency room cases. These and other information which has surfaced since the Miami conference validate the significance of that event.

I sincerely hope that Congress, by recently establishing a Select Committee on Narcotics Abuse and Control, and by processing the legislation which became Public Law 94–371, will improve the national response to the general problem of drug abuse and the specific problems confronting female drug abusers.

In order to develop an effective Federal program to combat these problem areas, we must also receive the close cooperation and support of the executive branch.

The need for a total commitment in attacking the problem of drug abuse was succinctly stated by Alberta Henderson in her introductory remarks during the Miami conference as follows:

> The problems and concerns of the female abuser are the responsibility of every segment of society . . . No decision-maker and planner at any level of responsibility within our administrative, legislative, or judicial systems is exempt from making positive efforts to eliminate this threat to the very survival of a Nation.

REPRESENTATIVE BELLA S. ABZUG INTRODUCES HOUSING CRIME PREVENTION BILL

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, today I am introducing a measure which would amend the National Housing Act of 1937 to authorize and fund activities in public housing which will deter crime. This legislation authorizes double the amount of expenditures that the U.S. Department of Housing and Urban Development now commits to crime prevention programs. Such activities include security personnel and housing police as well as tenants' advisory groups.

This legislation, by recognizing the central role that security plays in the overall success of any housing endeavor, and by authorizing as a priority crime prevention services, should contribute significantly to our ongoing struggle to overcome faults in the national housing programs.

It is time to maximize the utility of those facilities already constructed; and in the case of public housing facilities this means crime prevention. Nobody wants to live in or bother to maintain a crime-ridden building. Taxpayers are tired of watching their dollars go down the drain when housing projects fail. There are nationwide examples of such failure; perhaps the most obvious case is the Pruitt-Igoe project constructed in St. Louis in 1957, which was recently demolished following its abandonment caused by the high rates of crime and vandalism.

I know that in my own city of New York, 127 housing police—nearly 10 percent of the total force—have been laid off due to the growing inability of the New York City budget to adequately accommodate such services necessary to our citizens' protection. The fact of the matter is that a majority of the housing police force in New York City, even including those in Federal projects, are paid for by the city. This is an unrealistic burden for cities to bear. I submit that it is time for the Federal Government to pay for services vital to the well-being of tenants, in order to insure the viability of existing housing projects.

This proposed amendment basically covers two strategies for eliminating housing crime. The first strategy is the authority for the provision of housing police and physical security measures, as may be needed to patrol the buildings and to prevent criminals from entering the housing units in the first place. A major reason for high crime rates in public housing projects—compared with higher income apartment complexes which are usually safe and secure environments—is that higher income residents can afford to hire doormen and security personnel, and they can afford to purchase extra locks and security devices. The simple fact is that public housing units are not as well-protected and patrolled due to the lack of funds available for housing authorities to commit to crime prevention.

In addition to granting authority for housing police and security personnel, this bill proposes a second strategy, the formation of residents' associations to provide residents with technical and educational asistance in formulating their own plans for safety. Community involvement in crime prevention is a major factor in the overall success of comprehensive crime-prevention programs, according to testimony given during hearings held by the Select Committe on Aging on the subject of elderly crime victimization. Capt. Stanley Friedman of the Wilmington, Del., Bureau of Police Crime Resistance Program noted in these hearings last May that educational programs and citizen-initiated escort service have a remarkable potential in the reduction of crime on the streets. Such approaches could be encouraged in housing projects under the authority granted by this amendment.

It is time for Congress to strengthen the ability of the Department of Housing and Urban Development to improve Federal housing projects. This bill is a necessary step in the direction of assuring every American a safe, decent living environment.

The text of the bill follows:

H.R. 15424

A bill to amend the United States Housing Act of 1937 to enable local public housing agencies to enter into security arrangements designed to prevent crimes and otherwise insure the safety and well-being of public housing tenants

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that—

(1) the safety and well-being of persons residing in public housing projects are being threatened as a result of inadequate security arrangements for the prevention of theft, burglary, physical violence, drug traffic, and other crimes; and

(2) most local public housing authorities are unable, as a result of the lack of funding and specific authority, to protect the lives and property of the tenants in projects under their jurisdiction.

(b) It is the purpose, therefore, of this Act to provide for the authority to enter into security arrangements which will assist in remedying the situation described in subsection (a).

Sec. 2. (a) Section 9(a) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "Public housing agencies may utilize the authority under this section to enter into agreements (A) for the purpose of providing services which are designed to secure the safety and well-being of residents of dwelling units under the authority of such agencies, including the services of security staff and special housing police, the installation of properly equipped safety systems, and the establishment and maintenance (with the assistance and association of tenants) of special security committees to eliminate crime and insure that proper priorities are followed in resolving security and crime problems, and (B) for the purpose of planning other services and assistance as may be necessary to prevent crimes and maximize the safety of such residents."

(b) Section 9(c) of such Act is amended—

(1) by inserting ", except for the last sentence of subsection (a)," immediately after "to this section"; and

(2) by adding the following new sentence at the end thereof: "There are authorized to be appropriated, for the purpose of financing agreements described in the last sentence of subsection (a), not to exceed $7,000,000 for the fiscal year ending September 30, 1977, and $7,000,000 for the fiscal year ending September 30, 1978."

NATIONAL CONDOMINIUM AND PLANNED UNIT DEVELOPMENT CONSUMER PROTECTION ACT

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. Minish) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, on behalf of the gentleman from Maryland (Mr. Mitchell), the gentleman from New York (Mr. Lundine), the gentleman from Texas (Mr. Gonzalez), the gentleman from Indiana (Mr. Hayes), the gentleman from Rhode Island (Mr. St Germain), the gentleman from Connecticut (Mr. McKinney), the gentleman from Ohio (Mr. Ashley), the gentleman from Wisconsin (Mr. Reuss), and myself, I am today introducing the National Condominium and Planned Unit Development Consumer Protection Act.

The bill embodies the recommendations of a report on condominium development and sales practices issued by the Subcommittee on General Oversight and Renegotiation of the Committee on Banking, Currency and Housing. This report, based on 4 days of hearings and an intensive staff analysis, details the rapid growth of condominium and related forms of housing, and documents the existence of serious consumer problems.

Almost 4 million Americans currently reside in the condominiums, and it is our belief that condominiums will continue to account for a significant share of the Nation's housing in the years to come. In fact, experts have described condominiums as the best housing alternative available to Americans given the economic and environmental realities of the present time. We are introducing this bill to help insure that condominium purchasers obtain good and decent housing and that condominium development keeps pace with the Nation's housing needs.

One of the major conclusions of the Oversight Subcommittee was that consumer dissatisfaction is based in large measure on purchaser unfamiliarity with the concept of shared property ownership. To remedy this situation, our bill requires developers to disclose to prospective purchasers in a brief easy to understand format the information necessary to enable consumers to reach a sound purchase decision. As a further protection, the bill grants purchasers the right to cancel a sales contract within 15 days of its execution. This "cooling-off" period is warranted by the lengthy and complicated nature of condominium documents as well as the high-pressure sales techniques of certain condominium developers.

One of the most frequently cited consumer complaints in the area of condominium housing is poor quality construction. Unlike purchasers of single family homes, condominium buyers, especially in high-rise structures, are unable to perform adequate inspection of a building's major structural systems. Our bill, therefore, provides a limited 1-year warranty against major structural defects for both the individual dwelling unit and a project's common areas. For converted structures, the warranty would extend for an additional year.

Condominiums also pose problems for tenants whose rental apartments are converted into condominiums. HUD estimates that 100,000 dwelling units have already undergone such conversion, and testimony before our subcommittee indicated that the conversion process will continue to be of significant proportions during the next decade. Too often tenants in projects undergoing conversion cannot afford to purchase their apartments and are given inadequate notice of the landlord's intention to convert. They are, therefore, unable to locate suitable alternative housing. Our bill proposes that tenants in buildings undergoing conversion be afforded written notice of a landlord's intention to convert at least 120 days prior to their being required to vacate their apartments.

Let me stress, Mr. Speaker, that the consumer protection measures set out in our bill are designed as minimum standards. The States are free and are, in fact, encouraged under this bill to develop more stringent protective measures than those we propose. This is possible because we have left enforcement of the rights and obligations set out in this bill to individual unit owners through suit in Federal court. This enforcement mechanism will permit the States that wish to regulate condominiums to formulate their own programs unhampered by a conflicting and duplicitous Federal enforcement scheme. In addition, placing responsibility for enforcement in the hands of those citizens most directly affected obviates the need for a costly and cumbersome new bureaucracy. We believe that nothing in this bill will result in a substantial increase in costs to condominium purchasers or discourage honest developers from initiating new condominium construction.

ON THURSDAY, SEPTEMBER 9, 1976, CONGRESSMAN DANIEL J. FLOOD WILL ADDRESS THE HOUSE CONCERNING RECENT PANAMA CANAL DEVELOPMENTS

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, as all Members of the Congress know, the question of the continued undiluted sovereign control of the U.S.-owned Canal Zone and Panama Canal has become a major national issue.

In the Congressional Record of March 16, 1976, page 6550, I presented a summary of the more significant factors involved in this vital matter.

Just as foreseen, since that time, the Isthmian question has been increasingly discussed in all the 50 States, especially by thoughtful citizens who see through the current campaign of sophistry and mendacious propaganda spearheaded by the Department of State and more recently, by the Department of Defense, including the Secretary of the Army, for the cession of U.S. sovereignty over the Canal Zone to Panama.

To show that the people of the United States are not fooled by the sustained propaganda, a recent poll showed that 89 percent are opposed to the projected surrender.

On Thursday, September 9, 1976, I plan to make another address on new aspects of the canal problem. This address will analyze some of the recent propaganda, stress certain of the perils involved in the surrender proposal, outline a canal policy derived from experience and offer a program for implementing such policy.

Accordingly I trust that as many Members as possible will be on the floor and take part in the discussions that will follow.

BILL TO SAFEGUARD PRIVACY OF CUSTOMERS' BANK RECORDS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, I am today introducing H.R. 15450, a bill to assure that the rights of individuals to privacy of their bank records will be protected. The bill provides procedural safeguards to assure an individual's constitutional rights to privacy, while at the same time enabling the Government to obtain access to bank records needed in pursuit of legitimate governmental objectives. It is my expectation that the House Committee on Banking, Currency and Housing will hold hearings on this bill early next year.

The problem of governmental access to bank records has been with us for a long time, but it has been exacerbated by the Bank Secrecy Act of 1970. That law authorized the Secretary of the Treasury to require financial institutions to keep very comprehensive records of the customers' financial transactions, and to turn these records over to the Treasury upon request. The effect of the act is to create a vast pool of information about an individual's personal and financial life. The legislative history of the act shows that Congress assumed that privacy and confidentiality of bank records would be safeguarded. Nevertheless, the act does not deal specifically with the question of governmental access to these records, and many complaints have arisen about the application of the act.

At present, the financial institution has considerable discretion on the question of turning over customer records to governmental agencies. Nothing requires a bank to comply with a Government request for information, in the absence of a subpena or any other legal process. However, nothing prohibits a bank from complying, and the customer often has no way of knowing his records are being examined, and no opportunity to challenge disclosure of information. Banks will be the first to say that they are often not capable of judging the validity of a governmental request for information, and consequently, would welcome clarification of the procedure under which such information is to be disclosed.

The bill I am introducing today will establish a process to insure that Government agencies can continue to obtain the information they need for proper law enforcement, while also insuring that individual rights will be protected.

The bill would allow a bank to disclose confidential personal data only under the following procedures:

First. Prior written consent of the customer.

Second. Administrative subpena served on the customer and financial institution, followed by the customer's consent or a court order directing disclosure of the records.

Third. Search warrants issued for probable cause pursuant to law, which may be used without prior notice to the customer.

Fourth. Judicial subpena which gives a customer 10 days to object before the financial institution must disclose the required records.

I include the material in the Record at this point:

Memorandum

Re Privacy of Bank Customer Records.
To Henry S. Reuss.
From Steve Verdier.

The Bank Secrecy Act (Public Law 91–508) created a great amount of confidential personal data which has been vigorously sought by law enforcement agencies. However, the Act did not provide any safeguards to protect the privacy of these records. The attached bill would allow a bank to disclose such records only under the following procedures:

"First, prior written consent of the customer, second, administrative subpena served on the customer and financial institution, followed by the customer's consent or a court order directing disclosure of the records, third, search warrants issued for probable cause pursuant to law, which may be used without prior notice to the customer, and fourth, judicial subpena which gives a customer 10 days to object before the financial institution must disclose the required records."—CONGRESSIONAL RECORD, July 19, 1973, Page 24850.

H.R. 15450

A bill to require that the disclosure of records maintained by financial institutions respecting their customers to officers, employees, or agents of the United States or of any State or political subdivision thereof occur only in accordance with the provisions of this Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title I of the Act entitled "An Act to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in United States currency be reported to the Department of the Treasury, and for other purposes", approved October 26, 1970 (Public Law 91-508), is amended by inserting at the end thereof the following new chapter:

"Chapter 3.—DISCLOSURE OF CERTAIN FINANCIAL INFORMATION

"Sec.
"141. Definitions.
"142. Confidentiality of records—Government.
"143. Confidentiality of records—financial institutions.
"144. Customer authorization.
"145. Administrative subpenas and summonses.
"146. Search warrants.
"147. Judicial subpena.
"148. Access.
"149. Exceptions.
"150. Recordkeeping and reporting.
"151. Jurisdiction.
"152. Civil penalties.
"153. Criminal penalties.
"154. Injunctive relief.
"155. Waiver of rights.
"156. Inconsistent provisions of law.

"§ 141. Definitions

"For the purposes of this chapter—

"(a) The term 'financial institution' means—

"(1) a bank or trust company organized under the laws of any State or of the United States;

"(2) a savings and loan association or building and loan association organized under the laws of any State or of the United States;

"(3) a credit union organized under the laws of any State or of the United States; and

"(4) any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State.

"(b) The term 'financial records' means any original or any copy of—

"(1) any debit or credit to a customer's deposit or share account with a financial institution; or

"(2) any record held by a financial institution containing information pertaining to a customer's relationship with the financial institution.

"(c) The term 'person' means an individual, partnership, corporation, association, trust, or any other legal entity organized under the laws of a State or the United States.

"(d) The term 'customer' means any person patronizing a financial institution and utilizing service offered by that financial institution.

"(e) The term 'supervisory agency' means—

"(1) the Federal Deposit Insurance Corporation;

"(2) the Federal Savings and Loan Insurance Corporation;

"(3) the Federal Home Loan Bank Board;

"(4) the National Credit Union Administration;

"(5) the Federal Reserve Board;

"(6) the Comptroller of the Currency;

"(7) any State department or agency which is required by law to perform periodic examination or audit of the financial records of non-Federal financial institutions; or

"(8) any authority of any State or local government which the Secretary of the Treasury determines by regulation exercises supervisory functions substantially similar to those exercised by the agencies referred to in clauses (1) through (7) of this paragraph.

"§ 142. Confidentiality of records—Government

"(a) Except as provided in section 148, no officer, employee, or agent of the United States, or any agency or department thereof, or of State or local governments may obtain copies of, access to, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and:

"(1) such customer has authorized such disclosure in accordance with section 144; or

"(2) such financial records are disclosed in response to an administrative subpena or summons which meet the requirements of section 145; or

"(3) such financial records are disclosed in response to a court order which meets the requirements of section 146; or

"(4) such financial records are disclosed in response to a judicial subpena which meets the requirements of section 147.

"(b) In any proceeding relating to such subpenas, summonses, and court orders, the customer shall have the same rights as if the records were in his possession.

"§ 143. Confidentiality of records—financial institutions

"(a) No financial institution, or any officer, employee, or agent of a financial institution, may provide to any officer, employee, or agent of the United States, or any agency or department thereof, or of State or local governments copies of, access to, or the information contained in, the financial records of any customer except in accordance with the requirements of sections 144, 145, 146, and 147.

"(b) This section shall not preclude a financial institution from notifying appropriate officials of Federal, State, or local governments of violations of the criminal law suspected of being committed against the financial institution itself: *Provided, however,* That any access to customer records shall be governed by sections 142 and 143(a) of this chapter.

"§ 144. Customer authorization

"(a) A customer may authorize disclosure under section 142(a)(1) if he or those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer—

"(1) authorizes such disclosure for a period not in excess of one year; and

"(2) identifies the financial records which are authorized to be disclosed; and

"(3) specifies the purposes for which, and the agencies to which, such records may be disclosed.

"(b) No such authorization shall be required as a condition of doing business with such financial institution.

"(c) The financial institution shall keep a record of all examinations of the customer's financial records, including the identity and purpose of the person examining the financial records, the governmental agency or department which he represents and a copy of the authorization. The financial institution shall notify the customer that he has the right at any time to revoke any authorization of disclosure and to obtain a copy of the aforementioned record of examinations.

"§ 145. Adminstrative subpenas and summonses

"(a) An officer, employee, or agent of the United States, or any department or agency thereof, or of State or local governments may obtain financial records under section 142 (a)(2) pursuant to an administrative subpena or summons otherwise authorized by law only if—

"(1) those serving such administrative summons or subpena have first served a copy of the subpena or summons on the customer in person or by certified mail, return receipt requested; and

"(2) the subpena or summons includes the name of the intended recipient and, if applicable, the statutory purpose for which the information is to be obtained; and

"(3) the customer directs the financial institution to comply, or

"(4) the financial institution is served with a court order directing it to comply, issued after notice to and opportunity for the customer to challenge such subpena or summons.

"(c) Nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpena.

"§ 146. Search warrants

"An officer, employee, or agent of the United States or any agency or department thereof, or of State or local governments, may obtain financial records under section 142 (a)(3) only if he obtains a search warrant pursuant to the Federal Rules of Criminal Procedure or to applicable State law. The search warrants shall be served upon both the customer and the financial institution. Examination of financial records may occur as soon as the warrant is served on the financial institution and the customer.

"§ 147. Judicial subpena

"An officer, employee, or agent of the United States or any department or agency thereof or of State or local governments may obtain financial records under section 142(a)(4) pursuant to a judicial subpena only if—

"(a) the subpena specifies:

"(1) that the subpena is issued for good cause and is material to the inquiry pursuant to which the subpena has been issued; and

"(2) that a copy has been served on the customer, in person or by certified mail, return receipt requested; and

"(b) ten days pass without notice to the financial institution that the customer has moved to quash the subpena. Where so notified, the financial institution may comply with the subpena only when it is served with a court order directing it to comply, issued after determination of the customer's motion.

"§ 148. Access

"Copies of, or the information contained in, financial records, obtained pursuant to section 142 shall not be used or retained in any form for any purpose other than the specific statutory purpose for which the information was originally obtained, nor shall such information or records be provided to any other Gvernmental department or agency or other person except where the transfer of such information is specifically authorized by statute.

"§ 149. Exceptions

"(a) Nothing in this chapter prohibits the dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

"(b) Subject to the limitations in section 148, nothing in this chapter prohibits examination by or disclosure to any supervisory agency of financial records solely in the exercise of its supervisory function or the making of reports or returns required under the Internal Revenue Code of 1954.

"§ 150. Recordkeeping and reporting

"Notwithstanding any other provision of law, the Secretary of the Treasury may not require an institution to maintain any financial records or to transmit any reports relating to customers unless—

"(a) such records are required for use by a supervisory agency in the supervision of that institution; or

"(b) such records are required to be maintained by the Internal Revenue Code of 1954.

"§ 151. Jurisdiction

"An action to enforce any provision of this chapter may be brought in any appropriate United States district court without regard to the amount in controversy or in any other court of competent jurisdiction within three years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

"§ 152. Civil penalties

"Sec. 14. (a) Any person, financial institution, or any officer, employee, or agent of a financial institution of the, United States or any agency or department thereof, or of State or local governments, who obtains or discloses one or more financial records in violation of this chapter is liable to the customer to whom such records relate in an amount equal to the sum of—

"(1) $100 for each violation,

"(2) any actual damages sustained by the customer as a result of the disclosure,

"(3) such punitive damages as the court may allow, where the violation is found to have been knowing or willful, and

"(4) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

"§ 153. Criminal penalties

"(a) Any person, officer, employee, or agent of a financial institution, of the United States or any agency or department thereof, or of State or local governments who willfully and knowingly participates in a violation of this chapter shall, upon conviction, be imprisoned for not more than one year, or fined not more than $5,000, or both.

"(b) Any person, officer, employee, or agent of a financial institution, the United States or any agency or department thereof, or of State or local governments, who induces or attempts to induce a violation of this chapter shall, upon conviction, be imprisoned for not more than one year, or fined not more than $5,000 or both.

"§ 154. Injunctive relief

"In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this chapter. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered.

"§ 155. Waiver of rights

"No waiver of any right under this chapter shall be valid, whether oral or written, and whether with or without consideration.

"§ 156. Inconsistent provisions of law

"Should any other law of the United States or any other jurisdiction grant or appear to grant power or authority to any person to violate the provision of this chapter, the provisions hereof shall supersede and protanto override and annul such law, except those statutes hereafter enacted which specifically refer to this chapter.".

(b) The table of chapters of title I of such Act is amended by inserting immediately after item two the following:

"3. Disclosure of certain financial information ---------------------------------- 141".

Sec. 2. The first section of this Act and the amendments made by it shall take effect on the one hundred and eightieth day beginning after the date of its enactment.

MEDICAID ABUSE: UP TO $500 MILLION OVERPAID ANNUALLY BECAUSE OF FAILURE TO COLLECT FROM RESPONSIBLE "THIRD PARTIES"

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. Pepper) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, as chairman of the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging, I would like to congratulate my colleague in the Senate, Frank Moss, for his recent daring exposé of fraud and abuse within the medicaid program. The Senator deserves the respect of the House for boldly bringing this fraud and abuse to the public light, including prescription of unnecessary services and drugs, billing for services which were never provided, and kickbacks. However, other types of abuse exist within medicaid, abuses which do not get page 1 newspaper coverage, but abuses which must be stopped nonetheless. For example, up to $500 million is being overpaid by medicaid annually because liable persons and insurance companies are not paying their legal obligations.

I am today introducing legislation which will eliminate this area of serious abuse to the medicaid program, reduce fraud against medicaid recipients, and help avoid incorrect payments by the medicaid program.

The Congress intended that the medical expenses of a person eligible for medicaid would not be paid by medicaid if a "third party"; that is, an insurance company—had a legal obligation to pay for such care. In order to insure that medicaid would not pay for services for which a third party is liable, the Social Security Act requires each State to take all reasonable measures to ascertain the legal liabilities of third parties to pay for covered medical services. The act also requires that each State treat such legal liability as a resource of the individual on whose behalf the care and services are made available.

The term "third party" includes among others, health insurance companies, many of which provide group coverage to employees who are also eligible for medicaid, and automobile no-fault insurance programs which provide medical coverage for injuries.

Although the intent of the law is clear, historically States have not implemented comprehensive third-party programs to identify medicaid costs which should be paid by liable third parties. Thirty-seven HEW State audit agency reports detained by our subcommittee have cited deficiencies in State third-party programs. Twenty-nine examples of these reported deficiencies are included elsewhere in this Record for the information of our colleagues.

Very little action has been taken by the Department of Health, Education, and Welfare to enforce the law in this area. In 1970, a General Accounting Office report recommended that HEW provide guidelines requiring the States to identify medicaid recipients who have private health insurance coverage and provide this information to the medicaid claims processing agents. HEW did not agree that guidelines were necessary, and none were issued at that time. In 1975, the GAO again reviewed third-party liability programs. In response to this review, HEW finally issued guidelines in June of this year, as requested by the GAO back in 1970.

HEW estimated, in a news release of July 28, that comprehensive programs of collecting from liable third parties will result in savings to medicaid of between $200 and $500 million each year. Our subcommittee will be monitoring HEW's actions in this area. We are most concerned with waste in the medicaid program. We encourage HEW to take the appropriate actions to make sure States follow the law and require liable third parties to pay for medical expenses of medicaid recipients.

However, there is a problem in the implementation of comprehensive third-party programs. This problem is a loophole in the law which allows the enactment of rules, regulations, and other procedures which result in medicaid being placed in a primary liability position, even though insurance coverage would otherwise be available. For example, Hawaii has a no-fault automobile insurance program that provides coverage for all reasonable expenses of medical care. However, the law has a catch with regard to medicaid recipients. The program contains a provision which states:

> All no-fault benefits shall be paid secondarily and net of any benefits a person receives, because of accidental harm, from social security laws, workmen's compensation laws, or public assistance laws.

As a result of this provision, the automobile medical insurance coverage is not treated as a liable third party in Hawaii and medicaid is considered as the primary resource.

Other States have situations which could allow medicaid to be placed in a primary liability role. For example:

The State of Michigan's no-fault program states that benefits provided under the laws of any State or the Federal Government shall be subtracted from the insurance benefits otherwise payable for injury.

The Oklahoma insurance commissioner has approved health and accident insurance policies which contain a provision that limits the insurance company's liability to the amount not covered by medicaid.

These exclusions, in the various programs and insurance policies, are not consistent with the intent of the Congress that medicaid should be the payor of last resort. The insurance programs argue that they are not liable, because their policies contain an exclusion of liability for medicaid recipients. Under present law, these arguments are true. But this should not be allowed to continue in violation of the intent of the Congress.

The purpose of medicaid is to enable States to provide a medical assistance program for people with low incomes. It makes funds available to States to meet the costs of medical care for individuals whose income and resources are insufficient to pay the cost of necessary medical services.

The Congress intended, as pointed out in a Senate Finance Committee report (No. 90–744, November 14, 1967), that the medical expenses of a person eligible for medicaid would not be paid by medicaid if a third party had a legal obligation to pay for such care. The report said that—

> It is obvious that many people need medical care because of an accident or illness for which someone else has fiscal liability; for example, a health insurer, or a party who is determined by a court to have legal liability.

In order to insure that medicaid would not pay for services for which a third party is liable, the Congress required each State to take "all reasonable measures" to ascertain the legal liabilities of third parties to pay for covered medical services. The Social Security Act requires that each State treat such legal liability as a resource of the individual on whose behalf the care and services are made available.

If any person covered by medicaid is paying the same premium for health and accident insurance coverage as a person not eligible for medicaid, there may be a fraud being acted on the medicaid recipient if the insurance company is not liable because of an exclusion clause. This is not fair and must be stopped. This loophole being used by some insurance programs should be closed.

The legislation I am introducing would prohibit the State medicaid programs from recognizing any such exclusionary clause in an insurance program which limits its liability in cases of medicaid applicants or recipients. In this manner, the person would not have medicaid benefits to the extent of insurance coverage and the exclusion clause would not be effective. The result of this would be that insurance companies would be forced to pay for services in accordance with their policies held by medicaid recipients. There would be direct savings to the medicaid program.

In addition, the age limitation prohibiting the recovery of medicaid costs from the estates of deceased recipients under age 65 is unduly restrictive. Millions of dollars could be collected from these estates when a medicaid recipient dies leaving no spouse or dependent children. Many States have collected over one-half million dollars annually from the estates of persons over age 65, as current law limits collection only to amounts paid by medicaid after age 65. This legislation I am introducing would simply remove the arbitrary age limitation and allow larger recovery of medicaid costs.

The medicaid program simply costs too much. Proper administration of third-party collections can serve to reduce these costs by as much as $500 million per year, according to the Department of Health, Education, and Welfare's own estimate. It is important that we make every effort to seek ways to reduce unnecessary costs.

It is unfortunate that only now is HEW beginning to take step to solve this problem. Four billion dollars may have been lost since medicaid began in 1967 because of HEW inaction.

The legislation I am introducing would result in significant savings each and every year by insuring that liable third parties, including insurance companies and other insurange programs, pay their fair share of medical costs of medicaid recipients.

I encourage all interested persons to send their comments on this important proposed legislation to me at room 715, House Annex No. 1:

H.R. 15449

A bill to amend title XIX of the Social Security Act to provide that Medicaid is a payor of last resort and to permit recovery by States from certain estates of Medicaid expenses incurred by individuals before reaching the age of 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

MEDICAID AS PAYOR OF LAST RESORT

SECTION 1. Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking out "and" at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and "; and

(3) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide that no expenditure may be made under the plan to pay for care and services available under the plan for an individual to the extent to which an entity (other than a member of the individual's family) would be liable for payment for (or provision of) such care and services but for a provision of a contract or a State law which has the effect of limiting or excluding such liability because the individual is eligible or entitled to receive care or services under the plan.".

RECOVERY OF MEDICAID EXPENSES INCURRED BEFORE AGE 65 FROM CERTAIN ESTATES

SEC. 2. Section 1902(a)(18) of the Social Security Act (42 U.S.C. 1396a(a)(18)) is amended by striking out "(except, in the case of an individual who was 65 years of age or older when he received such assistance, from his estate, and then only after the death of his surviving spouse" and inserting in lieu thereof "(except from a deceased individual's estate after the death of his surviving spouse".

WHO MAKES THE LAWS?

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, the question still recurs: Who makes the laws in this country? The elected Congress? Or the unelected bureaucracy? The examples of administrative excess, if not abuse, are numerous. On other occasions, we find the legislation which Congress passes to get something done frustrated by the bureaucracy's actions on its own. Time and time again, agency rules completely pervert and distort the intention of Congress in originally passing a law.

A remedy for this problem exists, but it is bottlenecked in the Rules Committee. I am referring to H.R. 12048, the Administrative Rulemaking Reform Act, which provides for congressional veto of administrative rules and regulations.

On nine separate occasions, the Members of the House have overwhelmingly approved amendments embodying the veto concept of the Administrative Rulemaking Reform Act to other pieces of legislation. The sentiments of the House have been clearly expressed, yet the Rules Committee continues to prevent the House from working its will. H.R. 12048 was reported by the Judiciary Committee almost 6 months ago and has been pending ever since in the Rules Committee, which also has original jurisdiction of the bill. While the Rules Committee held 2 days of hearings on H.R. 12048 last spring, no further action has been scheduled as yet.

Mr. Speaker, I would like to bring to the attention of my colleagues a column by Art Buchwald which appeared August 26 in various newspapers and deals with bureaucratic excess in a humorous light. The article would be very funny, if it were not so true—and sad:

NOBODY VOTED FOR PLOTKIN

(By Art Buchwald)

WASHINGTON.—Everybody thinks that the Democratic and Republican conventions and the November election decide who is going to run the country.

I hate to be the one to throw cold water on this idea, but neither the President of the United States nor Congress can really do much to change anything.

The guy who runs this country is Plotkin. He is neither elected by the American people nor does he have to answer to them.

Plotkin, and thousands like him, are civil servants averaging somewhere around $20,000 a year. They are stashed away in large brick and glass buildings all over Washington, Maryland and Virginia, and no matter what Congress or the President decides, they are the people in charge.

Let us say that the President wants a Pothole Reform Bill. He sends it up to Congress where, after two years, it is passed. The President signs it and everyone in the U.S. believes it is the law of the land.

Except Plotkin.

Plotkin gets the bill and examines it. The wording after the lobbyists get through with it, is, of course, vague. What kind of potholes does the law cover? How much money should be spent to fill each pothole? Should the work be contracted to private industry or to the Army Corps of Engineers? Was it Congress' intent to deal with all potholes or just those on federal property? And, finally, what constitutes a pothole in the first place?

Plotkin, who has been a civil servant for 20 years, knows if he takes any action on his own he could be criticized and could blot his career.

So he calls a meeting of all his department heads and asks them to write him memoranda on the best way to administer the Pothole Act. He tells them it is a matter of urgency and he wants to hear from everybody in six months.

Six months later, the people under Plotkin all submit memoranda. A majority of them suggest that a study be made of potholes by a commission made up of engineering experts from companies, universities and government that will report back to the bureau in a year.

Plotkin likes the idea and approves it. But to play it safe he also hires his own experts to check out the report of the commission. This means larger office space and Plotkin decides to move the bureau to a new building. The move requires tremendous logistics, but also causes fierce competition among all of Plotkin's subordinates as to where their offices will be located, as well as carpeting, furniture and the location of the water cooler.

There is so much controversy over the new quarters that Plotkin hasn't had too much time to worry about the potholes.

Finally the move is made, new people are hired and everyone settles down to the task of administering the Pothole Act. The outside commission has submitted its report, which is circulated throughout the bureau for comments.

The comments are all negative and it is decided to scrap the commission's report. The fear of most of the people in Plotkin's office is that, if they accept the recommendations of the commission, they will have to put them into action. If they turn them down, they'll have to come up with their own, which would mean expanding the bureau, thus guaranteeing everyone a promotion to the next civil service grade.

By this time Congress and the President have forgotten they even passed a Pothole Bill. But one day the President is driving on U.S. Highway 95 and he hits a pothole. His head bumps the ceiling of the limousine and an AP photographer gets a picture of it. This makes the President very mad and he says to his aide, "Whatever happened to the pothole Bill I signed?"

That night Plotkin gets a call from the White House and the aide says, "The President wants a progress report on what you're doing about the potholes in this country."

"We're working on a report right now," Plotkin assures him. "But just because the President signs a bill doesn't mean he can expect results overnight."

VIRGINIA WATER BILLS SUBSIDIZE DISTRICT

The **SPEAKER**. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, I am very proud to join today with my distinguished colleagues, Mr. GUDE and Mr. FISHER, in introducing legislation designed to establish equitable water rates for water delivered to Washington, D.C., and Virginia, and to encourage water conservation in the Washington metropolitan area.

This legislation is the result of ongoing investigations by the District of Columbia Committee's Subcommittee on the Environment into Potomac River water supply and water treatment problems. This investigation has revealed that Arlington and Falls Church, Va., are paying 54 percent more than the District of Columbia for the same water pumped in the same way, by the same Corps of Engineers from Dalecarlia reservoir.

The Virginia suburbs are not only being overcharged but this year's estimated $700,000 in excess payments flow directly into the District's coffers and can be used however the city chooses.

I believe that this investigation provides a dramatic endorsement of the wisdom of the Congress in recently enacting legislation to audit the District of Columbia's finances. Who knows what the District's true financial picture is when a water conservation probe reveals that the Virginia suburbs are subsidizing the District's budget through excessive water charges?

On July 1, 1976, Virginia's water rates were increased 30 percent, to $1.75 per 10,000 gallons. The District of Columbia water rates remained unchanged at approximately $1.13. Enactment of this legislation could result in a 30-percent reduction of Arlington and Falls Church water bills and an increase of about 10 percent to the District. The estimated new rate would be approximately $1.25 per 10,000 gallons to Virginia and the District.

The Corps of Engineers sells water to Arlington and Falls Church under a pricing formula established in 1926 when the Virginia suburbs hooked into the Washington Aqueduct system. The formula, applied by the Secretary of the Army, includes a premium to recoup the original aqueduct investment plus current operating and maintenance costs.

The District is not actually billed by the corps for water it uses. Rather, the cost of operating the aqueduct, although owned and operated by the corps, appears as an expense item in the District budget. Amounting to approximately $9 million a year, this expense is paid out of the $20 million the District collects in water fees from Virginia, the Federal Government, and its own residential and commercial customers. In addition to the costs of running the adqueduct, the moneys collected pay for the costs of distribution of the water by the city.

The pricing formula may have been equitable in 1926, but over the past 50 years Virginia has contributed about $14 million toward the operating and maintenance costs of the system, and another $14 million for capital improvements. Arlington and Falls Church have more than paid their fair share. It is time to set rates that are equitable for all users of the aqueduct.

Under current billing procedures, money collected by the corps from Arlington and Falls Church is turned over to the District treasury. This is a carryover from the days before the District gained home rule, but until this year the money stayed in a special water fund that could be used only for special water utility related purposes.

In January the D.C. City Council eliminated the water fund so the money collected from Virginia goes into general operating funds. I think it is wrong that Virginia water payments can be used to underwrite the District budget.

This bill will also help to encourage water conservation among jurisdictions served by the Washington Aqueduct by permitting the corps to estabilsh a seasonal rate structure based on higher fees in peak summer use period and lower rates in the winter.

All other water authorities in the Washington area have already adopted similar pricing systems to discourage wastage during the summer when the Potomac is at its lowest level.

On Thursday, September 9, the Committee on the District of Columbia Subcommittee on the Bicentennial, the Environment and the International Community, of which I am chairman and Mr. GUDE is ranking minority member, will conduct hearings to question the District of Columbia and the U.S. Army Corps of Engineers about their rates and billing procedures.

A CALL FOR REFORM OF CONGRESS PAY RAISE MECHANISM

The **SPEAKER**. Under a previous order of the House, the gentleman from New York (Mr. PATTISON) is recognized for 5 minutes.

Mr. PATTISON of New York. Mr. Speaker, I am pleased that we voted yesterday to block the Congress from receiving cost-of-living salary increases during the coming fiscal year. But I also wish to remind my colleagues that we would not have to go through this embarrassing exercise if we had acted by now on meaningful reform of our pay raise mechanism.

Yes, I did vote last year in support of the cost-of-living system we now have. I did so because I think it is reasonable to raise congressional salaries from time to time and it was apparent to me that this was the only measure that would be permitted to come to the floor for a vote.

However, I have made it abundantly clear from the start that I do not like this new system. Last year, I returned my pay raise to my constituents in the form of pro-rated contributions to the county governments in New York's 29th Congressional District, and I have done so again this year. More importantly, I have given my full support to proposed reform legislation.

While I do see the necessity for periodic adjustments in our salaries—indeed such changes are essential if we are to prevent the Congress from becoming the exclusive province of millionaires and scoundrels, who would be the only people who could be comfortable with a pay scale that changes only once every 6 years or so—I also think it is a poor arrangement for Members of Congress to have to vote on changing their own salaries in the midst of their term of office.

Consequently, I am again urging action on legislation that would delay any congressional pay raise until the start of the subsequent Congress. With such a policy, congressional pay levels could change; we could conduct rational debate on the subject; everyone would know in advance exactly how much their elected Representatives will earn during the coming term; and the public would be able to make known its views at the ballot box.

You know, Mr. Speaker, the National Archives here in Washington has on display, right next to the Constitution, an original copy of the Bill of Rights as they were first proposed. The copy on display is the one that was sent to my home State of New York.

When the Bill of Rights was proposed to the States there were actually 12 amendments listed, the second of which was a proposal to require that no Member of Congress could receive a pay increase during the same term in which the pay raise was voted.

New York State ratified all 12 amendments, but a number of States rejected the pay raise proposal, contending that this was a matter better dealt with by simple statute.

Well, the people of New York State are still waiting for that statute.

Thus far, Chairman HENDERSON of the Post Office and Civil Service Committee has "stonewalled" this issue. He has refused to even convene a hearing on the proposal and he has refused to permit any of the subcommittees to take up the matter. This despite the fact that at least three different bills have been put forward, with a total of about a hundred cosponsors for them; and this despite the fact that the Senate has already voted once in favor of such legislation. Now I like DAVE HENDERSON well enough, we all like DAVE HENDERSON, but I am dismayed by his dilatory tactics on this important issue.

Therefore, I urge my colleagues to join me in saying that reform of the congressional pay raise mechanism must be a high priority for action early in the next Congress. We are now laboring under an unsavory, downright embarrassing system for which there is a readily available, eminently logical alternative. There can be no good justification for any further delay in setting our House in order.

AIDING THE VISUALLY HANDICAPPED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the Division for the Blind and Physically Handicapped of the Library of Congress estimates that there may be as many as 7.6 million individuals in this country who suffer from some visual or physical handicap that prevents them from reading print material. For these individuals, who are not able to use conventional library materials, the Division provides invaluable alternatives in braille books and magazines and in the use of casette and flexible disc recordings.

The Division for the Blind and Physically Handicapped is a free National Library service first established by an act of Congress in 1931 to serve blind adults. This program was expanded in 1952 to include children, and again in 1966 by Public Law 89–522 to include individuals with physical impairments that prevent the reading of standard print.

With copyright permission granted by authors and publishers, the Library of Congress selects and produces full-length books and magazines in braille and on recorded discs and casettes. These books and magazines are then distributed to a cooperating network of 54 regional and nearly 100 subregional—local—libraries that circulate them to eligible borrowers. Reading materials are sent to readers and returned to libraries by postage-free mail.

Today I am pleased to be able to announce that in addition to the above services, the Division for the Blind and Physically Handicapped will provide recorded summaries of legislation that is introduced in Congress to aid the disabled. Having been active for some time in developing legislation for the handicapped, and having worked closely with numerous organizations serving the handicapped, I became concerned about how difficult it seemed to be for the disabled members of our society not actively involved in groups or organizations to be able to find out about legislation that was being introduced in their behalf. My belief was that this majority of the Nation's disabled probably know little of the legislative process, both because it is far removed from their daily lives, and because individual disabilities probably preclude active following of legislation in Washington.

Yet I feel very strongly that this information concerning the Nation's political process should be readily available to those disabled persons who want it. I am therefore very pleased that with the facilities available at the Division for the Blind and Physically Handicapped, it has been arranged for this legislative information to become accessible to many handicapped people through the Division's mailing list and through its regional and subregional libraries.

Through the cooperative efforts of the Division and the Congressional Research Service—CRS—computer printouts of summaries of legislation that is introduced to aid the handicapped will be delivered by CRS to the Division on a continuing basis. The Division will record the summaries it receives, and announcements of the availability of these summaries will appear in the Division's publication Talking Book Topics. Talking Book Topics is issued bimonthly and is automatically sent to the 500,000 individuals on the Division's mailing list, as well as to the Division's regional and subregional libraries. Interested persons will be able to request recorded copies on free loan, in the same way that recorded books and magazines are now requested and delivered.

Mr. Speaker, I am excited about this expansion of the Division's services to disabled persons throughout the country because I think it will give them an increased opportunity to know what is happening in Washington in their behalf. It will also enable them to respond and to offer their suggestions for legislation to the proper individuals in Congress. This simply provides an opportunity that our Nation's disabled deserve to have. Participation by handicapped individuals in the political process and support for legislation is important and should be encouraged and I am very glad to have been part of the effort to provide this additional service.

I wish to thank particularly Mr. Frank Cylke, Chief of the Division for the Blind and Physically Handicapped, and Mr. Norman Beckman, Acting Director of CRS, for their cooperation and swift action in implementing this proposal. Together with the members of their staffs, they will be providing a service that will be much appreciated by the Nation's disabled.

I am appending my correspondence with the Library of Congress' and the Division for the Blind and Physically Handicapped arranging for this additional service:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 11, 1976.

Mr. NORMAN BECKMAN,
Acting Director, Congressional Research Service, Library of Congress, Washington, D.C.

DEAR MR. BECKMAN: The Division for the Blind and Physically Handicapped of the Library of Congress estimates that there are 7.6 million individuals in this country who suffer from some visual or physical handicap that prevents them from reading print material. As you know, the Division for the Blind and Physically Handicapped provides numerous free services for these individuals who want them through its regional and subregional libraries, and through its mailing service to 500,000 households across the country.

It is my understanding that the Division provides these disabled persons with recorded and braille copies of books and magazines in two ways. Those names on the Division's mailing list automatically receive the bi-monthly publication Talking Book Topics, which outlines the materials available to each household. Braille copies and cassette and flexible disc recordings are made by the Division and are sent to individuals upon request. The second method of dissemination is through the Division's regional and subregional libraries. On the state level, regional libraries distribute reading materials directly to eligible persons, primarily through a free mailing privilege. On the local level, the Division's subregional libraries keep collections of recent releases for use by those who wish to take advantage of the service.

Ms. Susan Poor of my staff has been in contact with the Division's Chief, Mr. Frank Cylke, Ms. Hylda Kamisar, and Ms. Ellen Zabel about extending the Division's services in the talking book area to include summaries of legislation that has been introduced that would affect the handicapped. Mr. Cylke was very optimistic that such summaries could be recorded with the facilities and personnel already utilized for this purpose at the Division. In addition, Mr. Cylke indicated that the service could be announced in the bi-monthly publications of Talking Book Topics, and distributed upon request as books and magazines are now distributed.

I understand, however, that what needs to be worked out is a transfer of the summaries between the Library of Congress and the Division. I have received from the Library a computer print-out of the legislation, but need to know from you about the feasibility and procedures of providing the print-out to the Division.

I am interested in receiving your comments on this proposal. If you have any questions or would like to meet with Ms. Poor, please don't hesitate to contact my office.

Thank you for your time and assistance. All the best.

Sincerely,

EDWARD I. KOCH.

DIVISION FOR THE BLIND AND PHYSICALLY HANDICAPPED, THE LIBRARY OF CONGRESS,
Washington, D.C., August 27, 1976.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: I am writing in reply to your inquiry directed to Norman Beckman, Acting Director, Congressional Research

Service, regarding current legislation affecting the handicapped. My staff has been in contact with the Congressional Research Service and has arranged for this information to be delivered to us on a continuing basis.

The Division for the Blind and Physically Handicapped intends to record summaries of legislation derived from the SCORPIO data base maintained by the Congressional Research Service. Announcements of the availability of these summaries will appear in Talking Book Topics. Interested individuals will then be able to request copies on free loan.

Both the Congressional Research Service and the Division for the Blind and Physically Handicapped are pleased to cooperate in filling the information needs of handicapped persons in this vital area. Your initiative in this matter is appreciated.

We will keep Ms. Susan Poor of your staff informed of our progress.

Sincerely yours,

Frank Kurt Cylke,

Chief.

HARD QUESTIONS REQUIRE HARD ANSWERS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to bring to the attention of our colleagues, a superb editorial which appeared in the Washington Star on Saturday, August 28, 1976. That editorial commented on the U.S. Civil Rights Commission's recent report on school desegregation. The editorial concluded that the Commission's report did not adequately address the real issue. I agree with that conclusion. Both the Star editorial and I had difficulty with several contentions contained in the Commission's report.

The Commission report stated,

> There is a mistaken belief that the courts have required desegregation as a means to attain what some refer to as "quality" education.

I have consistently voted for busing as one way of accomplishing racial balance in the classroom. But I believe, and I am convinced that many of my colleagues who have voted the same way also believe, that the only legitimate premise for compulsory racial balance, and busing as a tool to achieve it, is quality education. If there is no relationship between compulsory racial balance in the classroom and quality education, then I am not for it. On the other hand, if that tie is established, then I shall continue to vote for busing as one of the allowable means of accomplishing racial balance in the classrooms of the Nation.

The Commission report also states,

> Commission studies have shown . . . that as a result of school desegregation, most school district officials feel there has been an improvement in the quality of education for all school children.

The Star editorial comments by saying,

> Without impugning the honesty or good intentions of the Commission, we would be pleasantly surprised if "most school district officials" feel that way, although many would naturally defend their own handiwork.

On another aspect of the effects of compulsory racial balance and busing to accomplish that end, to wit so-called white flight, the Commission states, "The role that desegregation of schools plays in the movement of whites to the suburbs is not clear" and goes on to say, "Evidence does not support the widely held belief that urban school desegregation causes massive white flight and the consequent resegregation of urban schools." Perhaps the Commission is right and observers of the scene across the Nation who have commented on that matter are wrong—but would it not be important to know what the facts are?

The Washington Star editorial concludes with this statement:

> Hard questions, in this report, draw soft and inconclusive answers.

I could not agree more.

Because I believe that the American public and the Congress which legislates on this subject are entitled to the facts. On January 29, 1976, I introduced legislation to establish a commission to study the results of and other questions relating to the racial integration of public schools and the use of busing to achieve it. The purpose of that Commission would be to obtain answers to the hard questions. The Commission would have 13 members, 11 to be appointed by the chief judge of each Federal judicial circuit and 2 by the Chief Justice of the U.S. Supreme Court. Let me cite some of the questions the Commission would be required to address:

First. What are the fundamental goals of racial integration of our educational systems, and how effective have been the various methods to achieve them?

Second. What are the standards that should be used in evaluating the quality of education in our schools?

Third. What has been the impact of compulsory racial integration, achieved through busing or other means, on the quality of education and on other social goals?

Fourth. What has been the impact of measures other than busing taken by communities to achieve the goals of racial balance among schools, and have these methods been more or less effective than busing in meeting educational and social goals?

Fifth. What has been the impact of the effort to insure racial balance among schools on school enrollment, on violence and discipline problems, and on the reported movement of middle-class families from central city areas?

Sixth. Has the effort to insure racial balance in school systems had a positive effect in promoting the goal of a racially integrated society or has it intensified racial divisions within the community?

Seventh. What has been the effect of differing allocations of resources—Federal, State, and local—among and within school districts on the quality of education, and to what extent does the taxing method—for example, local property tax versus general appropriations—affect these disparities?

Eighth. Are there any important educational or social values to be gained by maintaining a commitment to the so-called neighborhood school?

Ninth. What disparities, if any, exist in the training, experience, and qualifications of teachers assigned to schools whose pupils are predominantly white, black, Puerto Rican, Mexican American, Indian, or any other race?

Tenth. What are the effects, if any, of the racial balance or imbalance of the teaching staff on the educational program of a racially balanced or imbalanced school? What are the problems of maintaining a racially integrated teaching staff in a racially imbalanced school?

I believe this Congress has failed to respond to this issue. I am distressed that the only time we discuss this matter is in the course of emotional debate on the floor of the House concerning some antibusing amendment which I voted against and which on every occasion in the last several years has passed overwhelmingly. Shouldn't this House and its relevant committees having jurisdiction take the time required to consider this very controversial matter and hold hearings on my legislation, H.R. 11613, and other legislation which deals with the subject? Let me paraphrase the Washington Star by saying, hard questions require hard answers. Regrettably this Congress does not seem interested in obtaining the facts but would rather, whether they are part of the antibusing or probusing forces, deal in emotion and rhetoric. H.R. 11613 has been cosponsored by Koch, Dodd, Downey, DuPont, Gilman, Gude, Howe, Mazzoli, Neal, Pattison, Schneebeli, Spellman, and Waxman.

I urge my colleagues to become sponsors and perhaps if they did, the House Education and Labor Committee and the Judiciary Committee would hold hearings on the bill. A copy of the Star editorial follows:

Cheerleading for Desegregation

In the U.S. Civil Rights Commission's current report on school desegregation, *Fulfilling the Letter and Spirit of the Law*, stern and detached analysis of the state of the schools takes a backseat to special pleading.

Perhaps the role of cheerleader for any and all measures making for at least temporary desegregation, of however impermanent effect, is the role Congress intended. But the Commission's value as a critic and analyst of civil rights progress is not advanced thereby.

To one major point emphasized in the report—that desegregation plans tend to work better when community leaders unite behind them—few would take exception. "The record shows that where such leadership exists, desegregation is more likely to be achieved with minimal difficulty," says the Commission. "Where it is lacking, desegregation may be accompanied by confusion, anxiety, and perhaps disruption on the part of students or, more likely, parents." This is a truism, a banal one at that.

A more important question, asked by many who are neither segregationists nor obstructionists of the law, is whether those plans are working as intended. But such questions arouse the Commission's robust instinct for special pleading. "There is a mistaken belief," says the report, "that the courts have required desegregation as a means to obtain what some refer to as 'quality' education. No court has made a connection between these two concerns. Courts have required desegregation as a means of ensuring equality of educational opportunity."

Does the Commission suggest, then, that quality doesn't matter? Not unambiguously. It devotes a good deal of space to a not very convincing argument that improvement in educational quality has been an all but universal by-product of desegregation. More, it declares that "Commission studies have shown. . . that as a result of school desegregation, most school district officials feel there has been an improvement in the quality of education for all school children."

An interesting claim—worthy, one would think, of at least one of the dozens of footnotes sprinkled throughout the report. But there is no documentary footnote. Without impugning the honesty or good intentions of the Commission, we would be pleasantly surprised if "most school district officials" feel that way, although many would naturally defend their own handiwork.

The Commission is free, as it is certainly entitled to be, with criticism of everyone from local school officials in Boston and Louisville to President Ford and Congress for questioning the efficacy of court-ordered busing. It sharply scolds the Boston School Committee, which after a five-day hearing the Commission found "an elected body so belligerent and so derelict in its duties that the Commission recommended that the court consider suspending the school committee's authority. . ." Nowhere else does the report's high-minded tone soar higher.

But perhaps the Boston School Committee's belligerency reflected that of its constituents. Maybe it feared the chaotic side-effects of the attempt to wrench South Boston from its attachment to neighborhood schools and historic ethnic identities. Certainly among the apparent side effects was a drain, now estimated at 20,000 students, away from the Boston schools.

On the matter of so-called "white flight," however, the Commission combines high-mindedness with evasion. "The role that desegregation of schools plays in the movement of whites to the suburbs is not clear," it says. ". . . Evidence does not support the widely-held belief that urban school desegregation causes massive white flight and the consequent resegregation of urban schools." The Commission cites in support a "preliminary report" on "The Political and Social Impact of School Desegregation Policy" read to the American Political Science Association last September. Would the studies of Dr. James Coleman also support this denial? If not, which studies are the more reliable? Isn't it—shouldn't it be—the role of the Civil Rights Commission to find out more about this intriguing and overriding question—as, for instance, by questioning some of the thousands of students who have disappeared from the Boston schools in the last two years?

The conviction that racial discrimination needs rooting out of the schools requires no gingering up by the Commission, but gets plenty. The conviction held by many observant and thoughtful parents, students and school officials that some measures recently pursued in search of that goal have undercut the goal itself deserves some careful and forebearing analysis, but gets none. Hard questions, in this report, draw soft and inconclusive answers.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was unable to be present on the floor of the House of Representatives for one vote during the session of Monday, August 30, 1976. Had I been present, I would have voted "aye' on Rollcall 676, the conference report on H.R. 8410, the amendments to the Packers and Stockyards Act of 1921.

NATIONAL REPUBLICAN CONVENTION PLATFORM

(Mr. RHODES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RHODES. Mr. Speaker, the Republican Party at its convention selected an outstanding ticket for the November election. It backed up this winning combination with a sound platform, a blueprint for a better America over the years ahead.

In contrast to the left turn incorporated in the platform worked out by the opposition party in New York, our platform recognizes the fact that our Nation has grown great and strong because the free enterprise system has worked better here than anywhere else in the world. Our platform, rather than being a jumble of antibusiness, big government planks, encourages and provides stimulation for expansion and prosperity, for real jobs, not make-work.

It is a realistic platform, both in the areas of foreign policy and in meeting domestic challenges with pragmatic solutions. It emphasizes the need for America to deal with other nations from a position of strength—in our defenses and in our economy.

Our platform looks the facts of our governmental and economic life today squarely in the eye. We promise no painless remedies, no Garden of Eden run by a paternalistic Federal overseer. We reassert our basic belief in the free enterprise system.

In order that my colleagues may compare the Republican approach toward realistic programs with the offerings of the opposition party, I am placing our platform in the Record and urge that the Members of this body examine it closely. It outlines workable and practical ways for the next Congress to enact a program for progress.

Text of the platform is as follows:

NATIONAL REPUBLICAN CONVENTION PLATFORM

Adopted by the Republican National Convention, August 18, 1976, at Kansas City, Mo.

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PREAMBLE

To you, an American citizen:

You are about to read the 1976 Republican Platform. We hope you will also find time to read the Democrats' Platform. Compare. You will see basic differences in how the two parties propose to represent you.

"The Platform is the Party's contract with the people." This is what it says on the cover of the official printing of the Democrat Platform. So it should be. The Democrats' Platform repeats the same thing on every page: more government, more spending, more inflation. Compare. This Republican Platform says exactly the opposite—less government, less spending, less inflation. In other words, we want you to retain more of your own money, money that represents the worth of your labors, to use as you see fit for the necessities and conveniences of life.

No matter how many statements to the contrary that Mr. Carter makes, he is firmly attached to a contract with you to increase vastly the powers of government. Is bigger government in Washington really what you want?

Make no mistake: you cannot have bigger programs in Washington and less government by Washington. You must choose.

What is the cost of these added or expanded programs? The Democrats' Platform is deliberately vague. When they tell you, as they do time after time, that they will "expand federal support," you are left to guess the cost. The price tag of five major Democrat Platform promises could add as much as $100 billion to the annual cost of government. But the Democrats' Platform proposes over 60 new or expanded spending programs and the expansion or creation of some 22 Washington agencies, offices or bureaus. In fact, the total of all Democrat proposals can be as high as $200 billion a year. While this must be a rough estimate, it does give you a clue to the magnitude and direction of these commitments. The Democrats' Platform can increase federal spending by 50 percent. If a Democrat Congress passes the Democrat Platform and it is signed by a Democrat President, what happens then? The Democrats could raise your taxes by 50 percent to pay for the new programs. Or the Democrats could not raise taxes and the result would be a runaway inflation. Of course, contract or no contract, the Democrats may not honor their promises. Are you prepared to risk it?

In stark contrast to the Democrats' Platform, we offer you a responsive and moderate alternative based on these principles:

We believe that liberty can be measured by how much freedom you have to make your own decisions—even your own mistakes. Government must step in when your liberties impinge on your neighbor's. Government must protect your constitutional rights. Government must deal with other governments and protect you from aggressors. Government must assure equal opportunity. And government must be compassionate in caring for those citizens who are unable to care for themselves.

Our federal system of local-state-national government is designed to sort out on what level these actions should be taken. Those concerns of a national character—such as air and water pollution that do not respect state boundaries or the national transportation system or efforts to safeguard your civil liberties—must, of course, be handled on the national level.

As a general rule, however, we believe that government action should be taken first, by the government that resides as close to you as possible. Governments tend to become less responsive to your needs the farther away they are from you. Thus, we prefer local and state government to national government, and decentralized national government wherever possible.

We also believe that you, often acting through voluntary organizations, should have the opportunity to solve many of the social problems of your community. This spirit of freely helping others is uniquely American and should be encouraged in every way by government.

Every dollar spent by government is a dollar earned by you. Government must always ask: Are your dollars being wisely spent? Can we afford it? Is it not better for the country to leave your dollars in your pocket?

Your elected officials, their appointees, and government workers are expected to perform their public acts with honesty, openness, diligence, and special integrity. At the heart of our system must be confidence that these people are always working for you.

We believe that your initiative and energy create jobs, our standard of living and the underlying economic strength of the country. Government must work for the goal of justice and the elimination of unfair practices, but no government has yet designed a more productive economic system or one which benefits as many people.

The beauty of our land is our legacy to our children. It must be protected by us so that they can pass it on intact to their children.

The United States must always stand for peace and liberty in the world and the rights of the individual. We must form sturdy partnerships with our allies for the preservation of freedom. We must be ever willing to negotiate differences, but equally mindful that there are American ideals that cannot be compromised. Given that there are other nations with potentially hostile designs, we recognize that we can reach our goals only while maintaining a superior national defense.

We support these principles because they are right, knowing full well that they will not be easy to achieve. Acting with restraint is most difficult when confronted by an opposition Congress that is determined to promise everything to everybody. And this is what the Democrat Congress has been doing. A document, such as this Platform, which refuses to knuckle under to special interest groups, will be accused of being "uncaring." Yet it is exactly because we do care about your basic freedom to manage your own life with a minimum of government interference, because we do care about encouraging permanent and meaningful jobs, because we do care about your getting paid in sound dollars, because we do care about resisting the use of your tax dollars for wasteful or unproven programs—it is for these reasons that we are proposing only actions that the nation can afford and are opposing excessive tinkering with an economic system that works better than any other in the world.

Our great American Republic was founded on the principle: "one nation under God, with liberty and justice for all." This bicentennial year marks the anniversary of the greatest secular experiment in history: That of seeking to determine that a people are truly capable of self-government. It was our "Declaration" which put the world and posterity on notice "that Men are . . . endowed by their Creator with certain unalienable Rights" and that those rights must not be taken from those to whom God has given them.

Recently, Peggy Pinder, a 23-year-old student from Grinnell, Iowa, who is a delegate to this convention, said that she joined our party "because Republicans understand the place of government in the people's lives better than the Democrats. Republicans try to find ways to take care of needs through the private sector first while it seems automatic for Democrats to take care of them through the governmental system."

The perception of Peggy Pinder governs this Platform. Aren't these the principles that you want your elected representatives to have?

JOBS AND INFLATION

We believe it is of paramount importance that the American people understand that the number one destroyer of jobs is inflation. We wish to stress that the number one cause of inflation is the government's expansion of the nation's supply of money and credit needed to pay for deficit spending. It is above all else deficit spending by the federal government which erodes the purchasing power of the dollar. Most Republicans in Congress seem to understand this fundamental cause-and-effect relationship and their support in sustaining over 40 Presidential vetoes in the past two years has prevented over $13 billion in federal spending. It is clear that most of the Democrats do not understand this vital principle, or, if they do, they simple don't care.

Inflation is the direct responsibility of a spendthrift Democrat-controlled Congress that has been unwilling to discipline itself to live within our means. The temptation to spend and deficit spend for political reasons has simply been too great for most of our elected politicians to resist. Individuals, families, companies and most local and state governments must live within a budget. Why not Congress?

Republicans hope every American realizes that if we are permanently to eliminate high unemployment, it is essential to protect the integrity of our money. That means putting an end to deficit spending. The danger, sooner or later, is runaway inflation.

Wage and price controls are not the solution to inflation. They attempt to treat only the symptom—rising prices—not the cause. Historically, controls have always been a dismal failure, and in the end they create only shortages, black markets and higher prices. For these reasons the Republican Party strongly opposes any reimposition of such controls, on a standby basis or otherwise.

Unfortunately, the Democrat-controlled Congress now persists in attempting to obtain control over our nation's money creation policies by taking away the independence of the Federal Reserve Board. The same people who have so massively expanded government spending should not be allowed politically to dominate our monetary policy. The independence of the Federal Reserve System must be preserved.

Massive, federally-funded public employment programs, such as the Humphrey-Hawkins Bill currently embraced by the new National Platform of the Democrat Party will cost billions and can only be financed either through very large tax increases or through ever increasing levels of deficit spending. Although such government "make-work" programs usually provide a temporary stimulus to the economy, "quick-fix" solutions of this sort—like all narcotics—lead to addition, larger and larger doses, and ultimately the destruction of far more jobs than they create. Sound job creation can only be accomplished in the private sector of the economy. Americans must not be fooled into accepting government as the employer of last resort.

Nor should we sit idly by while 2.5 million American jobs are threatened by imports of textile products. We encourage the renewal of the GATT Multifiber Arrangement and the signing of other necessary bilateral agreements to protect our domestic textile industry.

In order to be able to provide more jobs, businesses must be able to expand; yet in order to build and expand, they must be profitable an able to borrow funds (savings) that someone else has been willing to part with on a temporary basis. In the long run, inflation discourages thrift, encourages debt and destroys the incentive to save which is the mainspring of capital formation. When our government—through deficit spending and debasement of the currency—destroys the incentive to save and to invest, it destroys the very wellspring of American productivity. Obviously, when production falls, the number of jobs declines.

The American people are beginning to understand that no government can ever add real wealth (purchasing power) to an economy by simply turning on the printing presses or by creating credit out of thin air. All government can do is confiscate and redistribute wealth. No nation can spend its way into prosperity; a nation can only spend its way into bankruptcy.

TAXES AND GOVERNMENT SPENDING

The Republican Party recognizes that tax policies and spending policies are in separable. If government spending is not controlled, taxes will inevitably rise either directly or through inflation. By failing to tie spending directly to income, the Democrat-controlled Congress has not kept faith with the American people. Every American knows he cannot continually live beyond his means.

The Republican Party advocates a legislative policy to obtain a balanced federal budget and reduced tax rates. While the best tax reform is tax reduction, we recognize the need for structural tax adjustments to help the working men and women of our nation. To that end, we recommend tax credits for college tuition, postsecondary technical training and child care expenses incurred by working parents.

Over the past two decades of Democrat control of the Congress, our tax laws have become a nightmare of complexity and unfair tax preferences, virtually destroying the credibility of the system. Simplification should be a major goal of tax reform.

We support economic and tax policies to insure the necessary job-producing expansion of our economy. These include hastening capital recovery through new systems of accelerated depreciation, removing the tax burden on equity financing to encourage more capital investment, ending the unfair double taxation of dividends, and supporting proposals to enhance the ability of our working and other citizens to own "a piece of the action" through stock ownership. When balanced by expenditure reductions, the personal exemption should be raised to $1,000.

AGRICULTURE AND RURAL DEVELOPMENT

The bounty of our farms is so plentiful that we may tend to forget what an amazing production achievement this really is. Each American farmer and rancher produces enough food to feed over 56 people—a threefold increase in productivity in 20 years.

Rural America must be maintained as a rewarding place to live. To accomplish this, our rural areas are entitled to services comparable to their urban neighbors, such as water and sewer systems, improved electricity and telephone service, adequate transportation, available and adequate financial credit, and employment opportunities which will allow small farms to supplement their incomes.

Farm exports have continued to expand under the policies of this Republican Administration—from a low of $6 billion in 1968, the last Democratic year, to $22 billion in 1975. These exports are not giveaway programs; most are earning dollars from the marketplaces of the world, establishing a favorable balance of trade and a higher standard of living for all. Through our farm exports we fight the problem of world hunger, especially with the humanitarian Food for Peace Program (Public Law 480) of the Eisenhower Administration and the Republican-controlled Congress of 1954.

Republican farm policy has permitted farmers to use their crop land fully. We are at last moving toward making effective use of our superb resources. Net farm income from 1972 through 1975 averaged $26 billion, more than double the average of the 1960's. Government should not dictate to the productive men and women who work the land. To assure this, we support the continuation of the central principles of the Agricultural Act of 1973, with adjustments of target prices and loan levels to reflect increased production costs.

We oppose government-controlled grain reserves, just as we oppose federal regulations that are unrealistic in farm practices, such as those imposed by the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA).

We urge prompt action by Congress in amending the Grain Inspection Act to strengthen the present inspection system and restore its integrity.

We firmly believe that when the nation asks our farms to go all out to produce as much as possible for world-wide markets, the government should guarantee them unfettered access to those markets. Our farmers should not be singled out by export controls. Also, when a foreign nation subsidizes its farm exports, our farmers deserve protection against such unfair practices. The federal government should assure that foreign imported commodities are equal in quality to our domestic commodities. Nations from whom we buy commodities should not be allowed to circumvent import restriction laws, such as the Meat Import Quota Act of 1964.

We recognize the importance of the multilateral trade negotiation now in progress and urge our representatives to obtain the most beneficial agreements for our farmers and the nation's economy.

In order to assure the consumers of America an uninterrupted source of food, it is necessary to pass labor relations legislation which is responsive to the welfare of workers and to the particular needs of food production. Such legislation should recognize the need to prevent work stoppages during the critical harvest periods.

We must help farmers protect themselves from drought, flood and other natural disasters through a system of all-risk crop insurance through Federal government reinsurance of private insurance companies combined with the existing disaster payment program.

As in 1972, we urge prompt passage of the Republican-sponsored legislation now pending in Congress which will increase the estate tax exemption to $200,000, allow valuation of farm property on a current use basis and provide for extension of the time of payment in the case of farms and small businesses. This overdue estate and gift tax legislation must be approved this year. We favor a liberalized marital deduction and oppose capital gains tax at death.

Innovations in agriculture need to be encouraged by expanding research programs including new pest and predator control measures, and utilization of crops as a new energy resource. If we expect our farmers to produce an abundant food supply, they must have all the energy they need to produce, market and process their crops and livestock.

We continue to support farmer cooperatives, including rural electric and telephone cooperatives, in their efforts to improve services to their members. We support the Capper-Volstead Act.

We believe that non-farm corporations and tax-loss farming should be prevented from unfairly competing against family farms, which we support as the preferred method of farm organization.

Since farmers are practicing conservationists, they should not be burdened with unrealistic environmental regulations. We are concerned about regulations issued by the Army Corps of Engineers that will regulate all "routine" agricultural and forestry activities on "all" our waters and wetland, and support legislation to exempt routine farming operations from these requirements. The adjudication of water rights should be a matter of state determination.

SMALL BUSINESS

Small business, so vital to our economic system, is free enterprise in its purest sense. It holds forth opportunity to the individual, regardless of race or sex, to fulfill the American dream. Small businesses are the base of our economy and its main source of strength. Some 9.6 million small firms generate 55 percent of our private employment—or the livelihood of over 100 million Americans. Yet while small businesses have a unique place in our society, they also have unique problems that government must address. Therefore, we recommend that the Small Business Administration (SBA):

Assure adequate financing to those credit worthy firms that cannot now obtain funds through conventional channels;

Include the proper mix of loan programs to meet the needs of the many different types of firms that constitute the American small business community;

Serve as an aggressive advocate for small business and provide procurement, management and technological assistance.

For survival, small businesses must have relief from the overwhelming burden placed on them by many regulatory bodies. Paperwork proliferation has grown out of control, and small business is not equipped to deal with this aggravation.

The present tax structure does not allow small firms to generate enough capital to grow and create jobs. Estate taxes need liberalization to benefit the family business in the same manner as the family farm. Encouraging investment in small businesses through more equitable tax treatment remains the best and least expensive method of creating productive employment.

The Republican Party, recognizing that small and independent business is the backbone of the American competitive system, pledges itself to strengthen this vital institution.

ANTITRUST

The Republican Party believes in and endorses the concept that the American economy is traditionally dependent upon fair competition in the marketplace. To assure fair competition, antitrust laws must treat all segments of the economy equally.

Vigorous and equitable enforcement of antitrust laws heightens competition and enables consumers to obtain the lowest possible price in the marketplace.

BUREAUCRATIC OVERREGULATION

We believe that the extent of federal regulation and bureaucratic interference in the lives of the American people must be reduced. The programs and activities of the federal government should be required to meet strict tests of their usefulness and effectiveness.

In particular, we consider essential an analysis of the extensive growth of laws and regulations governing production processes and conditions and standards for consumer products, so as to determine whether the services and benefits the American people receive are worth the price they are paying for these services in higher taxes and consumer prices.

We are intensely aware of the need to protect our environment and provide safe working conditions in American industry, while at the same time preventing the loss of jobs and the closing of small businesses through unrealistic or over-rigorous government regulations. We support a balanced approach that considers the requirements of a growing economy and provides jobs for American workers.

The average businessman and employer is being overwhelmed by government-required paperwork. We support legislation to control and reduce the burden of federal paperwork, particularly that generated by the Internal Revenue Service and the Census Bureau.

GOVERNMENT THAT WORKS

We believe that Americans are fed up with and frustrated by national government that makes great promises and fails to deliver. We are! We think that Democrat Congresses—in control for 40 out of the last 44 years—are the grand masters of this practice. We think that a national government grown so big that the left hand doesn't know what the right hand is doing has caused the condition we are in.

What we now have is a government organization that doesn't make any sense. It has not developed by design. It just grew—by whim, bureaucratic fighting, and the caving in of Democrat Congresses to special interest demands. So today we find that nine federal departments and twenty independent agencies are involved in education; seven departments and eight agencies in health; federal recreation areas are administered by six agencies in three departments; and so forth.

What we need is a top-to-bottom overhaul. Two high level presidential commissions under two Presidents—one a Democrat, one a Republican—have investigated and come up with the same answer: There must be functional realignment of government, instead of the current arrangement by subject areas or constituencies.

We want federal domestic departments to reflect the major purposes of government, such as natural resources, human resources, community development and economic affairs. Unfortunately, the Democrat Congress has refused to address this problem. Now we insist that attention must be paid.

Too often in the past, we have been content with organizational or procedural solutions to complex economic and social regulatory problems. We should no longer accept rhetoric as a substitute for concrete results. The President has proposed to Congress the Agenda for Government Reform Act, which would guarantee the systematic re-examination and reform of all federal regulatory activities within the next four years. This legislation requires Congress and the President to agree to undertake an exhaustive reassessment of the combined effects of all government regulations, and it requires them to adhere to a disciplined timetable to assure annual results. The American people deserve no less. Every agency of government must be made efficient, and every government regulation should be subjected to cost-benefit analysis. The Occupational Safety and Health Administration (OSHA) is a typical example of a well-intentioned regulatory effort which has imposed large costs but has not solved our problems.

The beauty of America's original concept of government was its diversity, the belief that different purposes are best served by governments at different levels. In our lifetime, however, Democrat Congresses have allowed this system to become warped and over-nationalized. As powers have flowed to Washington, the ability to attend to our problems has often dried up in our communities and states. This trend must be reversed. Local government is simply more accountable to the people, and local people are perfectly capable of making decisions.

We reaffirm the long standing principle of the Republican Party that the best government is the one closest to the people. It is less costly, more accountable, and more responsive to the people's needs. Our confidence in the people of this nation was demonstrated by initiating the Revenue Sharing Program. To date, $30 billion of federal tax dollars have been returned to the states and localities. This program is administered with fewer than 100 people and a computer. Revenue Sharing is an effort to reverse the trend toward centralization. Revenue Sharing must continue without unwarranted federal strictures and regulations.

As a further step in this direction, the Republicans in Congress promoted the new concept of federal block grants to localities for much greater flexibility. Under block grants, federal funds can be tailored by the states and localities to the wishes of each community. There are now two block grant programs—in community development and employment training. Block grant programs should be extended to replace many existing categorical health, education, child nutrition and social services programs. The Democrat Congress stands guilty of failing to enact these vital reforms. Our ultimate goal is to restore taxing and spending to the local level.

The Republican Party has always believed that the proper role of government is to do only those things which individuals cannot do for themselves. We encourage individual initiative and oppose the trend of ever expanding government programs which is destroying the volunteer spirit in America. We firmly believe that community involvement is essential to the development of effective solutions to the problems confronting our country.

While we oppose a uniform national primary, we encourage the concept of regional presidential primaries, which would group those states which voluntarily agree to have presidential primaries in a geographical area on a common date.

We encourage full participation in our electoral process. We further recognize the sanctity and value of the ballot. In that regard, we oppose "federal post card registration." The possibilities of fraud are inherent in registration by mail. Such possibilities could not only cheapen our ballot, but in fact threaten the entire electoral process.

Control of the United States Congress by the Democrat Party for 40 of the past 44 years has resulted in a system dominated by powerful individuals and riddled with corruption. Recent events have demonstrated an unwillingness and inability by the Democrat Party to cleanse itself. Selective morality has been the order of the day. Positive Republican initiatives have languished in Democrat-controlled Congressional Committees while business as usual has continued in Washington. The American people demand and deserve reform of the United States Congress. We offer these proposals of far-reaching reform:

Repeal of legislation which permits automatic increases in the salaries of Members of Congress, congressional staffs, and official expense allowances. Public accountability demands that Members publicly vote on increases on the expenses of their office. Members' salary increases should not become effective until a new Congress is elected.

Elimination of proxy voting which allows Members to record votes in Committee without being present for the actual deliberations or vote on a measure.

Elimination of Democrat Caucus rules which allow a Party to bind its Members' votes on legislation. Each Member of Congress represents his constituency and must be free to vote in accordance with the dictates of his constituency and individual conscience.

A complete audit by the General Accounting Office of all congressional allowances and appropriate disciplinary measures for those who have violated the public trust.

Full public disclosure of financial interests by Members and divestiture of those interests which present conflicts of interests.

Changes in the House rules which would allow a House majority to require the House Ethics Committee to conduct an investigation into alleged misconduct by any Member of Congress if the Committee refuses to act on its own.

A complete overhaul and streamlining of the system which has permitted the proliferation of subcommittees with overlapping responsibility, vague jurisdictional definitions and a lack of legislative production.

Quarterly publication of names, titles and salaries of all Congressional employees.

Improved lobby disclosure legislation so that the people will know how much money is being spent to influence public officials.

Citizens are demanding the end to the rapid and wasteful increase in the size of Washington government. All steps must be taken to insure that unnecessary federal agencies and programs are eliminated and that Congress carefully scrutinize the total budget of each agency. If it is determined that sunset laws and zero-based budgeting can accomplish these ends, then they will have our support. Washington programs must be made as cost-effective as those in the states and localities. Among the many serious complaints that we wish to register on behalf of the American people is the poor operation of the United States Postal Service.

We note the low respect the public has for Congress—a Democrat-controlled institution—and wonder how the Democrats can possibly honor their pledge to reform government when they have utterly failed to reform Congress.

A SAFE AND JUST SOCIETY

Every American has a right to be protected from criminals. Violence has no place in our land. A society that excuses crime will eventually fall victim to it. The American people have been subjected to an intolerable wave of violent crime.

The victim of a crime should be treated with compassion and justice. The attacker must be kept from harming others. Emphasis must be on protecting the innocent and punishing the guilty. Prevention of crime is its best deterrent and should be stressed.

Fighting crime is—and should be—primarily a local responsibility. We support the continuation of the federal help given through the Law Enforcement Assistance Administration (LEAA) to law enforcement officials in our states, counties and municipalities. Each state should have the power to decide whether it wishes to impose the death penalty for certain crimes. All localities are urged to tighten their bail practices and to review their sentencing and parole procedures.

The federal criminal code should include automatic and mandatory minimum sentences for persons committing offenses under federal jurisdiction that involve the use of a dangerous weapon; that involve exceptionally serious crimes, such as trafficking in hard drugs, kidnapping and aircraft hijacking; and that involve injuries committed by repeat offenders.

The work presently being done to tighten the antiobscenity provisions of the criminal code has our full support. Since the jurisdiction of the federal government in this field is limited to interstate commerce and the mails, we urge state and local governments to assume a major role in limiting the distribution and availability of obscene materials.

We support the right of citizens to keep and bear arms. We oppose federal registration of firearms. Mandatory sentences for crimes committed with a lethal weapon are the only effective solution to this problem.

Sure and swift justice demands additional judges, United States Attorneys and other court workers. The Democrat Congress has created no new federal judgeships since 1970; we deplore this example of playing politics with the justice system.

Drug abuse is not simply a health problem, but also a very real law enforcement concern and a problem of worldwide dimension. Controlling drug abuse calls for the ratification of the existing international treaty on synthetic drugs, increased emphasis on preventing the diversion of amphetamines and barbiturates into illegal markets, and intensive efforts to keep drugs out of this country. Heroin continues to come across our borders. Drug enforcement agents and international cooperation must cut off this supply. We say: Treat the addicts, but, at the same time, remove the pushers from the street and give them mandatory sentences.

Juveniles now account for almost half the arrests for serious crimes—murder, rape, robbery and aggravated assault. The cost of school violence and vandalism is estimated at $600 million annually, about what is spent on textbooks. Primary responsibility for raising our children, instilling proper values and thus preventing juvenile delinquency lies with the family, not the government. Yet when families fail, local law enforcement authorities must respond. Law enforcement block grant funds can be used by states in correcting and preventing juvenile delinquency. The LEAA should promote additional research in this area. The structure of the family must be strengthened. All enterprises have to be encouraged to find more jobs for young people. A youth differential must be included in the minimum wage law. Citizen action should let the television industry know that we want it to curb violence in programming because of its effect on our youth.

The criminal justice system must be more vigilant in preventing rape, eliminating discrimination against the victim and dealing with the offenders.

States should recognize that antiquated and overcrowded prisons are not conducive to rehabilitation. A high priority of prison reform should be to help the young first-time offender. There should be adequate separation of young from adult offenders, more relevant prison industries, better counseling, community-based alternatives and more help in getting a job for the offender who has served his or her time.

Terrorism—both domestic and international—must be stopped. Not only must the strongest steps be taken in the United States, but collective action must come from all nations. Deterring every form of hijacking calls for sanctions against countries that aid terrorists. The world community should take appropriate action to deal with terrorist organizations. We applaud the daring rescue by Israel of innocent civilian hostages who were kidnapped by terrorists. While we regret that loss of life was involved, the courageous manner in which the hostages were freed speaks eloquently to our abhorrence of world bandits.

THE RIGHT TO PRIVACY

Liberty depends in great measure on the privacy that each American retains.

We are alarmed by Washington's growing collection of information. The number of federal data banks is now estimated at between 800 and 900 and more than 50 agencies are involved. We question the need for all these computers to be storing the records of our lives. Safeguards must protect us against this information being misused or disclosed. Major changes, for example, are needed to maintain the confidentiality of tax returns and Social Security records.

Recent Supreme Court decisions have held that an individual has no constitutional right to the privacy of records held in banks or other depository institutions and that they can be readily obtained by law enforcement agencies without a person's consent or knowledge. Law enforcement authorities must be able to pursue criminal violators, yet, at the same time, there should be reasonable controls imposed to protect the privacy of law-abiding citizens. We support legislation, now pending, to assure this protection.

Too many government records, on the other hand, are unnecessarily classified. Congress and the Executive should devise a more reasonable system for classifying and handling government information.

The President's achievements in protecting privacy are unequalled by past administrations and must be built upon in the future. We particularly note changes in federal record-keeping systems, the appointment of the Commission on the CIA, the reorganization of the intelligence community and the restriction of White House access to income tax returns.

THE AMERICAN FAMILY

Families must continue to be the foundation of our nation.

Families—not government programs—are the best way to make sure our children are properly nurtured, our elderly are cared for, our cultural and spiritual heritages are perpetuated, our laws are observed and our values are preserved.

If families fail in these vitally important tasks, there is little the government, no matter how well-intentioned, can do to remedy the results. Schools cannot educate children adequately if families are not supportive of the learning process. Law enforcement authorities are nearly helpless to curb juvenile delinquency without family cooperation in teaching young people respect for property and laws. Neither medicine nor school feeding programs can replace the family's ability to provide the basis for good health. Isolation from meaningful family contact makes it virtually impossible for the elderly to avoid loneliness or dependence. The values of hard work and responsibility start with the family.

As modern life brings changes in our society, it also puts stresses on families trying to adjust to new realities while maintaining cherished values. Economic uncertainty, unemployment, housing difficulties, women's and men's concerns with their changing and often conflicting roles, high divorce rates, threatened neighborhoods and schools, and public scandal all create a hostile atmosphere that erodes family structures and family values. Thus it is imperative that our government's programs, actions, officials and social welfare institutions never be allowed to jeopardize the family. We fear the government may be powerful enough to destroy our families; we know that it is not powerful enough to replace them.

Because of our concern for family values, we affirm our beliefs, stated elsewhere in this Platform, in many elements that will make our country a more hospitable environment for family life—neighborhood schools; educational systems that include and are responsive to parents' concerns; estate tax changes to establish more realistic exemptions which will minimize disruption of already bereaved families; a position on abortion that values human life; a welfare policy to encourage rather than discourage families to stay together and seek economic independence; a tax system that assists rather than penalizes families with elderly members, children in day care or children in college; economic and employment policies that stop the shrinkage of our dollars and stimulate the creation of jobs so that families can plan for their economic security.

EDUCATION

Our children deserve quality education.

We believe that segregated schools are morally wrong and unconstitutional. However, we oppose forced busing to achieve racial balances in our schools. We believe there are educational advantages for children in attending schools in their own neighborhoods and that the Democrat-controlled Congress has failed to enact legislation to protect this concept. The racial composition of many schools results from decisions by people about where they chose to live. If Congress continues to fail to act, we would favor consideration of an amendment to the Constitution forbidding the assignment of children to schools on the basis of race.

Our approach is to work to eradicate the root causes of segregated schools, such as housing discrimination and gerrymandered school districts. We must get on with the education of all our children.

Throughout our history, the education of our children has been a community responsibility. But now federal categorical grant programs pressure local school districts into substituting Washington-dictated priorities for their own. Local school administrators and school boards are being turned into bookkeepers for the federal government. Red tape and restrictive regulations stifle imagination and creativity. We are deeply concerned about the decline in the performance of our schools and the decline in public confidence in them.

We favor consideration of tax credits for parents making elementary and secondary school tuition payments.

Local communities wishing to conduct non-sectarian prayers in their public schools should be able to do so. We favor a constitutional amendment to achieve this end.

We propose consolidating federal categorical grant programs into block grants and turning the money over to the states to use in accordance with their own needs and priorities and with minimum bureaucratic controls. A single program must preserve the funding that is directed at the needs of such special groups as the handicapped and the disadvantaged.

Responsibility for education, particularly on the elementary and secondary levels, belongs to local communities and parents. Intrusion by the federal government must be avoided. Bureaucratic control of schools by Washington has the potential for destruction of our educational system by taking more and more decisions away from parents and local school authorities. Financial dependence on the federal government inevitably leads to greater centralization of authority. We believe, therefore, that a study should be authorized concerning funding of elementary and secondary education, coupled with a study regarding return to the states of equivalent revenue to compensate for any loss in present levels of federal funding.

Unless steps are taken immediately, soaring prices will restrict a college education to the rich and those poor enough to qualify now for government aid. Federal higher education policy should continue to focus on financial aid for needy individuals, but because the financial ability to go to college is fast slipping out of the grasp of middle income families, more realistic eligibility guidelines for student aid are essential.

Government interference in the management of colleges and universities must be stopped. Federal support to assist in meeting the grave financial problems of higher education should be forthcoming, but such funds should never be used as devices for imposing added controls.

Diversity in education has great value. Public schools and non-public schools should share in education funds on a constitutionally acceptable basis. Private colleges and universities should be assisted to maintain healthy competition and to enrich diversity. The cost of expanding public campuses can be kept down if existing private institutions are helped to accommodate our student population.

We favor continued special federal support for vocational education.

HEALTH

Every American should have access to quality health care at an affordable price.

The possibility of an extended illness in a family is a frightening prospect, but, if it does happen, a person should at least be protected from having it wipe out lifetime savings. Catastrophic expenses incurred from major illnesses and accidents affect only a small percentage of Americans each year, but for those people, the financial burden can be devastating. We support extension of catastrophic illness protection to all who cannot obtain it. We should utilize our private health insurance system to assure adequate protection for those who do not have it. Such an approach will eliminate the red tape and high bureaucratic costs inevitable in a comprehensive national program.

The Republican Party opposes compulsory national health insurance.

Americans should know that the Democrat Platform, which offers a government-operated and financed "comprehensive national health insurance system with universal and mandatory coverage," will increase federal government spending by more than $70 billion in its first full year. Such a plan could require a personal income tax increase of approximately 20 percent. We oppose this huge, new health insurance tax. Moreover, we do not believe that the federal government can administer effectively the Democrats' cradle-to-grave proposal.

The most effective, efficient and economical method to improve health care and extend its availability to all is to build on the present health delivery and insurance system, which covers nine out of every ten Americans.

A coordinated effort should be mounted immediately to contain the rapid increase in health care costs by all available means, such as development of healthier life styles through education, improved preventive care, better distribution of medical manpower, emphasis on out-of-hospital services and elimination of wasteful duplication of medical services.

We oppose excessive intrusions from Washington in the delivery of health care. We believe in preserving the privacy that should exist between a patient and a physician, particularly in regard to the confidentiality of medical records.

Federal health programs should be consolidated into a single grant to each state, where possible, thereby allowing much greater flexibility in setting local priorities. Our rural areas, for example, have different health care delivery needs than our cities. Federal laws and regulations should respect these differences and make it possible to respond differently to differing needs. Fraud in Medicare and Medicaid programs should be exposed and eliminated.

We need a comprehensive and equitable approach to the subject of mental health. Such a program should focus on the prevention, treatment and care of mental illness. It should cover all aspects of the interrelationships between emotional illness and other developmental disabilities that seek to remove us from the dark ages in these areas.

Alcoholism and drug abuse, growing problems in America today, should receive the utmost attention.

While we support valid medical and biological research efforts which can produce life-saving results, we oppose any research on live fetuses. We are also opposed to any legislation which sanctions ending the life of any patient.

CHILD NUTRITION

Every child should have enough to eat. Good nutrition is a prerequisite of a healthy life. We must focus our resources on feeding needy children. The present school lunch programs provide a 20 percent subsidy to underwrite the meals of children from middle- and upper-income families.

The existing 15 child nutrition programs should be consolidated into one program, administered by the states, and concentrated on those children truly in need. Other federal programs should insure that low-income people will be able to purchase a nutritionally adequate food supply.

EQUAL RIGHTS AND ENDING DISCRIMINATION

Roadblocks must be removed that may prevent Americans from realizing their full potential in society. Unfair discrimination is a burden that intolerably weighs morally, economically and politically upon a free nation.

While working to eradicate discriminatory practices, every citizen should be encouraged to take pride in and foster the cultural heritage that has been passed on from previous generations. Almost every American traces ancestry from another country; this cultural diversity gives strength to our national heritage.

There must be vigorous enforcement of laws to assure equal treatment in job recruitment, hiring, promotion, pay, credit, mortgage access and housing. The way to end discrimination, however, is not by resurrecting the much discredited quota system and attempting to cloak it in an aura of new respectability. Rather, we must provide alternative means of assisting the victims of past discrimination to realize their full worth as American citizens.

Wiping out past discrimination requires continued emphasis on providing educational opportunities for minority citizens, increasing direct and guaranteed loans to minority business enterprises, and affording qualified minority persons equal opportunities for government positions at all levels.

Women

Women, who comprise a numerical majority of the population, have been denied a just portion of our nation's rights and opportunities. We reaffirm our pledge to work to eliminate discrimination in all areas for reasons of race, color, national origin, age, creed or sex and to enforce vigorously laws guaranteeing women equal rights.

The Republican Party reaffirms its support for ratification of the Equal Rights Amendment. Our Party was the first national party to endorse the E.R.A. in 1940. We continue to believe its ratification is essential to insure equal rights for all Americans. In our 1972 Platform, the Republican Party recognized the great contributions women have made to society as homemakers and mothers, as contributors to the community through volunteer work, and as members of the labor force in careers. The Platform stated then, and repeats now, that the Republican Party "fully endorses the principle of equal rights, equal opportunities and equal responsibilities for women." The Equal Rights Amendment is the embodiment of this principle and therefore we support its swift ratification.

The question of abortion is one of the most difficult and controversial of our time. It is undoubtedly a moral and personal issue but it also involves complex questions relating to medical science and criminal justice. There are those in our Party who favor complete support for the Supreme Court decision which permits abortion on demand. There are others who share sincere convictions that the Supreme Court's decision must be changed by a constitutional amendment prohibiting all abortions. Others have yet to take a position, or they have assumed a stance somewhere in between polar positions.

We protest the Supreme Court's intrusion into the family structure through its denial of the parents' obligation and right to guide their minor children. The Republican Party favors a continuance of the public dialogue on abortion and supports the efforts of those who seek enactment of a constitutional amendment to restore protection of the right to life for unborn children.

The Social Security System, our federal tax laws, and unemployment and disability programs currently discriminate against women and often work against married couples as well. These inequities must be corrected. We recognize that special support must be given to the increasing number of women who have assumed responsibility as the heads of households while also being wage earners. Programs for job training, counseling and other services should be established to help them attain their dual role in society.

We reiterate the pledges elsewhere in this platform of support for child care assistance, part-time and flexible-time work that enables men and women to combine employment and family responsibilities, estate tax reform, small business assistance for women, rape prevention and elimination of discriminatory housing practices.

Ethnic Americans

Ethnic Americans have enriched this nation with their hard work, self-reliance and respect for the rights and needs of others. Ethnic groups reaching our shores at various times have given our country its unique identity and strength among the nations of the world. We recognize and value the contributions of Ethnic Americans to our free and democratic society.

Hispanic-Americans

When language is a cause of discrimination, there must be an intensive educational effort to enable Spanish-speaking students to become fully proficient in English while maintaining their own language and cultural heritage. Hispanic-Americans must not be treated as second-class citizens in schools, employment or any other aspect of life just because English is not their first language. Hispanic-Americans truly believe that individual integrity must be paramount; what they want most from government and politics is the opportunity to participate fully. The Republican Party has and always will offer this opportunity.

Indians and Alaska Natives

We have a unique commitment to Native Americans; we pledge to continue to honor our trust relationship with them, and we reaffirm our federal Indian policy of self-determination without termination. This means moving smoothly and quickly away from federal domination to effective participation and communication by Indians in the political process and in the planning, content and administration of federal programs. We shall pursue our joint effort with Indian leaders to assist in the orderly development of Indian and native-owned resources and to continue to attack the severe health, education and unemployment problems which exist among Indians and Alaska Natives.

Puerto Rico, the District of Columbia and the Territories

The principle of self-determination also governs our positions on Puerto Rico and the District of Columbia as it has in past platforms. We again support statehood for Puerto Rico, if that is the people's choice in a referendum, with full recognition within the concept of a multicultural society of the citizens' right to retain their Spanish language and traditions; and support giving the District of Columbia voting representation in the United States Senate and House of Representatives and full home rule over those matters that are purely local.

We will continue to negotiate with the Congress of Micronesia on the future political status of the Trust Territories of the Pacific Islands to meet the mutual interests of both parties. We support a plebiscite by the people of American Samoa on whether they wish to elect a territorial governor. We favor whatever action is necessary to permit American citizens resident in Guam, Puerto Rico and the Virgin Islands to vote for President and Vice President in national elections. With regard to Guam and the Virgin Islands, we urge an increased degree of self-sufficiency and support maximum broadening of self-government.

Responsibilities

Finally, the most basic principle of all: Achievement and preservation of human rights in our society is based on the willing acceptance by millions of Americans of their responsibilities as free citizens. Instead of viewing government programs with ever increasing expectations, we must readily assume the obligations of wage-earners, taxpayers and supporters of our government and laws. This is often forgotten, and so it is appropriate to remnd ourselves in this Platform that this is why our society works.

HANDICAPPED CITIZENS

Handicapped persons must be admitted into the mainstream of our society.

Too often the handicapped population of the nation—over 30 million men, women and children—has been denied the rights taken for granted by other citizens. Time after time, the paths are closed to the handicapped in education, employment, transportation, health care, housing, recreation, insurance, polling booths and due process of law. National involvement is necessary to correct discrimination in these areas. Individual incentive alone cannot do it.

We pledge continued attention to the problems caused by barriers in architecture, communication, transportation and attitudes. In addition, we realize that to deny education and employment simply because of an existing disability runs counter to our accepted belief in the free enterprise system and forces the handicapped to be overly dependent on others. Similarly, the denial of equal access to credit and to acquisition of venture capital on the basis of a handicap or other disability conflicts with Republican philosophy. We advocate the elimination of needless barriers for all handicapped persons.

WORKING AMERICANS

Free collective bargaining remains the best way to insure that American workers receive a fair price for their labors.

The special problems of collective bargaining in state and local government should be addressed at those levels. Washington should not impose its standards on local governments. While we oppose strikes by public employees, we recognize that states have the right to permit them if they choose.

Union membership as a condition of employment has been regulated by state law under Section 14(b) of the Taft-Hartley Act. This basic right should continue to be determined by the states. We oppose strikes by federal employees, the unionization of our military forces and the legalization of common-situs picketing.

Employees of the federal government should not engage in partisan politics. The Civil Service System must remain non-partisan and non-political. The Hatch Act now protects federal employees; we insist that it be uniformly administered.

Among the rights that are the entitlement of every American worker is the right to join a union—large, small or independent; the right to be protected against racial discrimination and misuse of dues; the right to union elections that are fair and democratic; and the right to be assured of ultimately receiving his or her promised pension benefits.

Safe and healthful working conditions are goals of utmost importance. We should expect the Occupational Safety and Health Administration to help employers, particularly in small businesses, comply with the law, and we will support legislation providing on-site consultation.

There should be considerable concern over the presence of several million illegal aliens in the country who fill jobs that otherwise would be available to American workers. We support increased efforts to deal more effectively with this problem and favor legislation prohibiting employers from knowingly hiring illegal aliens. The Democrat leaders in Congress have systematically killed every attempt to debate this legislation in recent years.

Increased part-time and flexible-hour work should be encouraged wherever feasible. In keeping with our belief in family life, we want to expand more opportunities for men and women to combine family responsibilities and employment.

WELFARE REFORM

The work of all Americans contributes to the strength of our nation, and all who are able to contribute should be encouraged to do so.

In every society there will be some who cannot work, often through no fault of their own. The measure of a country's compassion is how it treats the least fortunate.

We appreciate the magnificent variety of private charitable institutions which have developed in the United States.

The Democrat-controlled Congress has produced a jumble of degrading, dehumanizing, wasteful, overlapping and inefficient programs failing to assist the needy poor. A systematic and complete overhaul of the welfare system should be initiated immediately.

The following goals should govern the reform of the welfare system: (1) Provide adequate living standards for the truly needy; (2) End welfare fraud and prevent it in the future with emphasis on removing ineligible recipients from the welfare rolls, tightening food stamp eligibility requirements, and ending aid to illegal aliens and the voluntarily unemployed; (3) Strengthen work requirements, particularly directed at the productive involvement of able-bodied persons in useful community work projects; (4) Provide educational and vocational incentives to allow recipients to become self-supporting; (5) Better coordinate federal efforts with local and state social welfare agencies and strengthen local and state administrative functions. We oppose federalizing the welfare system; local levels of government are most aware of the needs of their communities. Consideration should be given to a range of options in financing the programs to assure that state and local responsibilities are met. We also oppose the guaranteed annual income concept or any programs that reduce the incentive to work.

Those features of the present law, particularly the food stamp program, that draw into assistance programs people who are capable of paying for their own needs should be corrected. The humanitarian purpose of such programs must not be corrupted by eligibility loopholes. Food stamp program reforms proposed by Republicans in Congress would accomplish the twin goals of directing resources to those most in need and streamlining administration.

We must never forget that unemployment compensation is insurance, not a welfare program. It should be redesigned to assure that working is always more beneficial than collecting unemployment benefits. The benefits should help most the hard-core unemployed. Major efforts must be encouraged through the private sector to speed up the process of finding jobs for those temporarily out of work.

OLDER AMERICANS

Older Americans constitute one of our most valuable resources.

Families should be supported in trying to take care of their elderly. Too often government laws and policies contribute to the deterioration of family life. Our tax laws, for example, permit a deduction to the taxpayer who gives a contribution to a charitable institution that might care for an elderly parent, but offer little or no incentive to provide care in the home. If an elderly parent relinquishes certain assets and enters a nursing home, the parent may qualify for full Medicaid coverage, but if parents live with their children, any Supplemental Security income benefit for which they are eligible may be reduced. Incentives must be written into law to encourage families to care for their older members.

Along with loneliness and ill health, older Americans are deeply threatened by inflation. The costs of the basic necessities of life—food, shelter, clothing, health care—have risen so drastically as to reduce the ability of many older persons to subsist with any measure of dignity. In addition to our program for protecting against excessive costs of long-term illness, nothing will be as beneficial to the elderly as the effect of this Platform's proposals on curbing inflation.

The Social Security benefits are of inestimable importance to the well-being and financial peace-of-mind of most older Americans. We will not let the Social Security system fail. We will work to make the Social Security system actuarially sound. The Social Security program must not be turned into a welfare system, based on need rather than contributions. The cost to employers for Social Security contributions must not be raised to the point where they will be unable to afford contributions to employees' private pension programs. We will work for an increase in the earned income ceiling or its elimination so that, as people live longer, there will not be the present penalty on work. We will also seek to correct those provisions of the system that now discriminate against women and married couples.

Such programs as Foster Grandparents and Senior Companions, which provide income exempt from Social Security limitations, should be continued and extended to encourage senior citizens to continue to be active and involved in society. Appropriate domiciliary care programs should be developed to enable senior citizens to receive such care without losing other benefits to which they may be entitled.

We favor the abolition of arbitrary age levels for mandatory retirement.

The Medicare program must be improved to help control inflation in health care costs triggered by present regulations.

Other areas of concern to the elderly that need increased attention are home and outpatient care, adequate transportation, nutrition, day care and homemaker care as an alternative to costly institutional treatment.

A nation should be judged by its ability to help make all the years of life as productive and gainful as possible. This nation still has a job to do.

VETERANS

The nation must never forget its appreciation and obligation to those who have served in the armed forces.

Because they bear the heaviest burdens of war, we owe special honor and compensation to disabled veterans and survivors of the war dead.

We are firmly committed to maintaining and improving our Veterans Administration hospital system.

Younger veterans, especially those who served in the Vietnam conflict, deserve education, job and housing loan benefits equivalent to those of world War II and the Korean conflict. Because of our deep and continuing concern for those still listed as Prisoners of War or Missing in Action in Vietnam, the Foreign Policy section of this Republican Platform calls for top priority actions.

And we must continue to provide for our veterans at their death a final resting place for their remains in a national cemetery and the costs of transportation thereto.

A NATIONAL URBAN STRATEGY

The decay and decline of communities in this country is not just a physical and economic crisis, but is traceable to the decline of a real "sense of community" in our society. Community development cannot be achieved merely by throwing dollars and mortar at our community problems; what must be developed is a new sense of mutual concern and responsibility among all members of a community for its improvement.

We recognize the family, the neighborhood and the private volunteer sector to be the most basic and vital units within our communities and we recognize their central role in revitalizing our communities. We propose a strategy for urban revitalization that both treats our urban areas as soical organisms and recognizes that the family is the basic building block in these organisms.

Effectively helping our cities now requires a coordinated National Urban Policy. The cornerstone of this policy must be to curb inflation. This policy must be based on the principle that the levels of government closest to the cities' problems are best able to respond. Thus federal and state assistance to cities and counties could give the greatest flexibility to those directly on the scene, the local elected officials. Such a policy should replace the welter of confusing and often conflicting federal categorical grant programs—the approach of the Democrat Congress—with block grant programs that allow cities and counties to set their own priorities.

Without an urban policy, the Democrat-controlled Congress has created a hodgepodge of programs which have all but destroyed our once vital cities. At the same time, urban crime rates have skyrocketed and the quality and promise of metropolitan education systems have plummeted. All this has happened during the years that the number of federal urban programs has increased almost tenfold: from 45 in 1946 to 435 in 1968; and expenditures have increased 3000 percent; from $1 billion to $30 billion.

The Republican programs of revenue sharing and block grants for community development and manpower have already helped our cities and counties immensely. We favor extension of revenue sharing and the orderly conversion of categorical grants into block grants. When federal assistance programs for general purpose local governments are administered through the states, there should be direct pass-through and effective role for cities and counties in the planning, allocation and use of the funds.

Federal, state and local government resources combined are not enough to solve our urban problems. The private sector must be the major participant. Economic development is the best way to involve business and industry. Government support should emphasize capital formation and technical assistance for small and minority businesses.

We can bring about a new birth of freedom by following the example of those individuals, organizations and community leaders who have successfully solved specific undesirable conditions and problems through private efforts. Government officials should be aware of these successes in developing new approaches to public problems.

Financial institutions should be encouraged to participate in the financial requirements of urban development. Each institution should recognize its responsibility in promoting and maintaining economic growth and stability in the central cities.

Our urban policies should encourage families and businesses to improve their neighborhoods by means of participation in neighborhood self-help groups, improving and rehabilitating their homes and businesses, and investing in and managing local businesses. We support the revision of federal business assistance programs to encourage joint efforts by local merchants' associations.

We need a comprehensive approach to plan, develop and implement a variety of programs which take into account the many diverse needs of each neighborhood. The establishment of a National Neighborhood Policy will signal a commitment to the improvement of the quality of our life in our neighborhoods.

We call for an expansion of the President's Committee on Urban Development and Neighborhood Revitalization to include representatives of elected state and local officials and the private sector.

Taken together, the thrust of the proposals in this section and in such related areas as housing, transportation, safety and taxes should contribute significantly to making our cities again pleasant places to live. The Republican National Urban Strategy has been formed in the realization that when the bell tolls for the cities it tolls for all of America.

HOUSING

In the United States today we are the best housed nation in the history of world civilization. This accomplishment was achieved by a private enterprise system using free market concepts.

All of our citizens should be given the opportunity to live in decent, affordable housing.

We believe that we should continue to pursue the primary goal of expanding housing opportunities for all Americans and we should pursue the companion goal of reducing the degree of direct federal involvement in housing.

To most Americans the American dream is a home of their own. The time has come to face some hard realities, primarily that the greatest impediment to decent and affordable housing is inflation. It logically follows that one effective housing program would be simply to elect a Republican Congress which would balance the federal budget.

To meet the housing needs of this country there must be a continuous, stable and adequate flow of funds for the purpose of real estate mortgages at realistic interest rates.

To continue to encourage home ownership, which now encompasses 64 percent of our families, we support the deductibility of interest on home mortgages and property taxes.

We favor the concept of federal revenue sharing and block grants to reduce the excessive burden of the property tax in financing local government.

We are concerned with the excessive reliance of financing welfare and public school costs primarily by the property tax.

We support inflation-impact studies on governmental regulations, which are inflating housing costs.

Current enconomic problems and environmental concerns must be balanced in each community by a policy of "Sensible Growth."

We oppose discrimination in housing, whether by individuals or by institutional financing policies.

We urge continued incentives to support the development of low and moderate income housing in order to assure the availability of adequate shelter for the less fortunate.

Rehabilitation and preservation of existing housing stock should be given high priority in federal housing policy.

We urge the continuation of the self-help restoration of housing, such as urban homesteading, which is providing housing for low-income families.

TRANSPORTATION

The federal government has a special responsibility to foster those elements of our national transportation system that are essential to foreign and interstate commerce and national defense. In other transportation systems that primarily support local needs, the federal government's responsibility is to encourage the greatest possible decision-making and flexibility on the part of state and local governments to spend funds in ways that make the best sense for each community. Thus all levels of government have an important role in providing a balanced and coordinated transportation network.

In keeping with national transportation goals, the Railroad Revitalization and Regulatory Reform Act of 1976 has begun the task of removing regulatory constraints of the Interstate Commerce Commission on America's ailing railroads. Now we should carefully assess the need to remove many of the regulatory constraints imposed on the nation's airlines and motor carriers. Consumers pay too high a price for the artificial fare and rate structures imposed by federal regulations.

The great Interstate Highway System, initiated by President Eisenhower, has brought new freedom of travel to every American and must be completed and maintained. Our road network should always stress safety through better design as well as bridge maintenance and replacement.

We must also have a safe and efficient aviation system capable of responding to the air transportation needs of the future and of reducing exposure to aircraft noise. This includes airport development, navigational and safety facilities, and the design and adequate staffing of advanced air traffic control systems. In airplane use as in other modes of transportation, the impact on the physical environment must always be a basic consideration in federal decisions and such decisions should also include appraisals of impact on the economy. We deplore unfair treatment of United States airlines under foreign landing regulations.

Research must be continued to find safe, more fuel-efficient automobile engines and airplanes; safer, faster rail service; and more convenient, less expensive urban transportation. Tax policies should be considered which would stimulate the development and installation of new energy sources in transportation, such as railroad electrification.

The disorganization of a Democratic-controlled Congress frustrates the coordination of transportation policy. Currently there are more than 50 congressional subcommittees with independent jurisdiction in the transportation field. This hopelessly disjointed and disorganized approach must be reformed.

In keeping with the local goal getting in transportation, the Republican Party applauds the system under which state and local governments can divert funds from interstate highway mileage not essential to interstate commerce or national defense to other, more pressing community needs, such as urban mass transit.

We support the concept of a surface transportation block grant which would include the various highway and mass transit programs now in existence. This will provide local elected officials maximum flexibility in selecting and implementing the balanced transportation systems best suited to each locality. It will encompass both capital and operating subsidies for urban mass transit. It will eliminate red tape and over-regulation. We regret that the Democrat-controlled Congress has not adopted such reform.

ENERGY

In 1973, Americans were shocked to discover that a plentiful supply of energy could no longer be assumed. Unfortunately, the Democrat majority in Congress still has not responded to this clear and urgent warning. The United States is now consuming more imported oil than it was three years ago and our dependence on foreign sources has continued to increase to the point where we now import more than 40% of our oil.

One fact should now be clear: We must reduce sharply our dependence on other nations for energy and strive to achieve energy independence at the earliest possible date. We cannot allow the economic destiny and international policy of the United States to be dictated by the sovereign powers that control major portions of the world's petroleum supplies.

Our approach toward energy self-sufficiency must involve both expansion of energy supply and improvement of energy efficiency. It must include elements that insure increased conservation at all levels of our society. It must also provide incentive for the exploration and development of domestic gas, oil, coal and uranium, and for expanded research and development in the use of solar, geothermal, co-generation, solid waste, wind, water, and other sources of energy.

We must use our non-renewable resources wisely while we develop alternative supplies for the future. Our standard of living is directly tied to a continued supply of energy resources. Without an adequate supply of energy, our entire economy will crumble.

Unwise government intervention in the marketplace has caused shortage of supply, unrealistic prices and increased dependence on foreign sources. We must immediately eliminate price controls on oil and newly-discovered natural gas in order to increase supply, and to provide the capital that is needed to finance further exploration and development of domestic hydrocarbon reserves.

Fair and realistic market prices will encourage sensible conservation efforts and establish priorities in the use of our resources, which over the long run will provide a secure supply at reasonable prices for all.

The nation's clear and present need is for vast amounts of new capital to finance exploration, discovery, refining, and delivery of currently usable forms of energy, including the use of coal as well as discovery and development of new sources. At this critical time, the Democrats have characteristically resorted to political demagoguery seeking short-term political gain at the expense of the long-term national interest. They object to the petroleum industry making any profit. The petroleum industry is an important segment of our economy and is entitled to reasonable profits to permit further exploration and development.

At the height of the energy crisis, the Republican Administration proposed a strong, balanced energy package directed at both expansion of supply and conservation of energy. The response from the Democrats in Congress was to inhibit expanded production through artificially set price and allocation controls, thereby preventing market forces from working to make energy expansion economically feasible.

Now, the Democrats propose to dismember the American oil industry. We vigorously oppose such divestiture of oil companies—a move which would surely result in higher energy costs, inefficiency and undercapitalization of the industry.

Democrats have also proposed that the federal government compete with industry in energy development by creating a national oil company. We totally oppose this expensive, inefficient and wasteful intrusion into an area which is best handled by private enterprise.

The Democrats are playing politics with energy. If they are permitted to continue, we will pay a heavy price in lost energy and lost jobs during the decades ahead.

Immediate removal of counter-productive bureaucratic redtape will eliminate hindrances to the exploration and developments of hydrocarbons and other energy resources. We will accelerate development of oil shale reserves, Alaskan petroleum and the leasing of the Outer Continental Shelf, always within the context of preserving the fullest possible protection for the environment. We will reduce complexity and delays involved in siting, licensing and the regulatory procedures affecting power generation facilities and refineries.

Coal, America's most abundant energy resource, is of inestimable value to the American people. It can provide the energy needed to bridge the gap between oil and gas and nuclear and other sources of energy. The uncertainties of governmental regulation regarding the mining, transportation and use of coal must be removed and a policy established which will assure that governmental restraints, other than proper environmental controls, do not prevent the use of coal. Mined lands must be returned to beneficial use.

Uranium offers the best intermediate solution to America's energy crisis. We support accelerated use of nuclear energy through processes that have been proven safe. Government research on the use of nuclear energy will be expanded to include perfecting a long-term solution to the problems of nuclear waste.

Among alternative future energy sources, fusion, with its unique potential for supplying unlimited clean energy and the promise of new methods of natural resource recovery, warrants continued emphasis in our national energy research program, and we support measures to assure adequate capital investment in the development of new energy sources.

ENVIRONMENT AND NATURAL RESOURCES

A clean and healthy natural environment is the rightful heritage of every American. In order to preserve this heritage, we will provide for proper development of resources, safeguards for clean air and water, and protection and enhancement of our recreation and scenic areas.

As our environmental sophistication grows, we must more clearly define the role of the federal government in environmental protection.

We believe that it is a national responsibility to support scientific and technological research and development to identify environmental problems and arrive at solutions.

We are in complete accord with the recent Supreme Court decision on air pollution that allows the level of government closest to the problem and the solution to establish and apply appropriate air quality standards.

We are proud of the progress that the current Republican Administration has made toward bringing pollution of water, land and air under control. We will meet the challenges that remain by stepping up efforts to perfect our understanding of pollutants and the means for reducing their effects. Moreover, as the nation develops new energy sources and technologies, we must insure that they meet safe environmental standards.

We renew our commitments to the development of additional water supplies by desalinization, and to the more efficient use and re-use of waters currently available.

We are determined to preserve land use planning as a unique responsibility of state and local government.

We take particular pride in the expanded use of the National Park system in recent years, and will provide for continued improvement of the national parks and historic sites.

We support establishment of a presidential panel, including representatives of environmental groups, industry, the scientific community and the public to assist in the development of national priorities on environmental and energy issues. This panel will hear and consider alternative policy recommendations set forth by all of the interested groups, and then develop solutions that represent the overall public interest on environmental and energy matters.

One of this nation's greatest assets has been our abundant natural resources which have made possible our strong economic and strategic role in the world. We still have a wealth of resources, but they are not of infinite quantity. We must recognize that our material blessings stem from what we grow in the soil, take from the sea, or extract from the ground. We have a responsibility to future generations to conserve our non-renewable natural resources. Consistent with our needs, conservation should remain our national policy.

The vast land holdings of the federal government—approximately one-third of our nation's area—are the lands from which much of our future production of minerals must come. Public lands must be maintained for multiple use management where such uses are compatible. Public land areas should not be closed to exploration for minerals or for mining without an overriding national interest.

We believe Americans want their resources developed properly, their environment kept clean and their recreational and scenic areas kept intact.We support appropriate measures to achieve these goals.

We also believe that Americans are realistic and recognize that the emphasis on environmental concerns must be brought into balance with the needs for industrial and economic growth so that we can continue to provide jobs for an ever-growing work force.

The United States possesses the most productive softwood forests in the world, as well as extensive hardwood forests. Demands for housing, fuel, paper, chemicals and a multitude of other such needs require that these renewable resources be managed wisely on both public and private forest lands—not only to meet these needs, but also to provide for soil conservation, wildlife habitats and recreation.

Recognizing that timber is a uniquely renewable resource, we will use all scientifically sound means to maximize sustained yield, including clear-cutting and replanting where appropriate. We urge the Congress to strengthen the National Forest Service so that it can realize its potential in becoming an effective participant in the reforestation program.

We will support broader use of resource recovery and recycling processes through removal of economic disincentives caused by unnecessary government regulation.

One of the important issues at stake in the United Nations Law of the Sea Conference is access to the mineral resources in and beneath the sea. Technology, developed by United States industry, is at hand which can unlock resources of petroleum, manganese, nickel, cobalt, copper and other minerals. We will safeguard the national interest in development and use of these resources.

SCIENCE AND TECHNOLOGY

Every aspect of our domestic economy and well-being, our international competitive position, and national security is related to our past and present leadership in basic and applied research and the development of our technology. But there can be no complacency about our continued commitment to maintain this leadership position.

In the past, most of these accomplishments have been achieved through a unique partnership between government and industry. This must continue and be expanded in the future.

Because our society is so dependent upon the advancement of science and the development of technology, it is one of the areas where there must be a central federal policy. We support a national science policy that will foster the public-private partnership to insure that we maintain our leadership role.

The national space program plays a pioneer role in exploring the mysteries of our universe and we support its expansion.

We recognize that only when our technology is fully distributed can it be assimilated and used to increase our productivity and our standard of living. We will continue to encourage young Americans to study science and engineering.

Finally, we support new initiatives to utilize better the recoverable commodities from solid waste materials. We can no longer afford the luxury of a throw-away world. Recycling offers environmental benefits, economic expansion, resource conservation and energy savings. We support a policy which will reward recycling and economic incentives which will encourage its expansion.

ARTS AND HUMANITIES

The arts and humanities offer an opportunity for every American to become a participant in activities that add fullness, expression, challenge and joy to our daily lives. We Republicans consider the preservation of the rich cultural heritages of our various ethnic groups as a priority goal.

During our bicentennial year we have celebrated our anniversary with cultural activities as varied and colorful as our cultural heritage. The Republican Party is proud of its record of support to the arts and humanities during the last eight years. We are commited to steadily increase our support through the National Endowments for the nation's museums, theaters, orchestras, dance, opera and film centers as well as for individual artists and writers.

This upward trend in funding for the National Arts and Humanities Endowments deserves to continue. But Washington's presence should never dominate; it must remain limited to supporting and stimulating the artistic and cultural lives of each community.

We favor continued federal assistance to public broadcasting which provides us with creative educational and cultural alternatives. We recognize that public broadcasting is supported mainly through private sector contributions and commend this policy as the best insurance against political interference.

In 1976, we have seen vivid evidence that America's history lives throughout the nation. We support the continued commemoration throughout the bicentennial era by all Americans of those significant events between 1776 and 1789 which contributed to the creation of this nation. We support the efforts of both the public and private sectors, working in partnership, for the historic preservation of unique and irreplaceable historic sites and buildings.

We propose safeguarding the rights of performing artists in the copyright laws, providing tax relief to artists who contribute their own talents and art works for public enjoyment, and encouraging the use of one percent of the cost of government buildings for art works.

Much of the support of the arts and humanities comes from private philanthropy. This generosity should be encouraged by government policies that facilitate charitable donations.

FISCAL RESPONSIBILITY

As Republicans, we are proud that in this Platform we have urged tax reductions rather than increased government spending. With firm restraint on federal spending this Platform pledges that its proposals for tax changes—reductions, structural adjustments, differentials, simplifications and job-producing incentives—can all be achieved within the balanced federal budgets we also demand as vital to the interests of all Americans. Without such spending restraint, we cannot responsibly cut back taxes. We reaffirm our determination that any net reduction of revenues must be offset by reduced government spending.

FOREIGN POLICY, NATIONAL DEFENSE AND INTERNATIONAL ECONOMIC POLICY

Prologue

The foreign policy of the United States defines the relationships we seek with the world as a whole, with friends and with adversaries. Our policy must be firmly rooted in principle and must clearly express our goals. Our principles cannot be subject to passing whim; they must be true, strong, consistent and enduring.

We pledge a realistic and principled foreign policy designed to meet the needs of the nation in the years ahead. The policies we pursue will require an informed consensus; the basis of that consensus will be the American people, whose most cherished desire is to live in freedom and peace, secure from war or threat of war.

The United States is a world power with worldwide interests and responsibilities. We pledge the continuation of efforts to revitalize our traditional alliances and to maintain close consultation with our friends. International cooperation and collaboration is required because we can achieve neither our most important objectives nor even our own security in the type of "splendid isolation" which is urged upon us by so many strident voices. The regrettable emergence of neo-isolationism often expressed in Congress and elsewhere is detrimental, we believe, to a sound foreign policy.

The branches of government can and should work together as the necessary prerequisite for a sound foreign policy. We lament the reckless intrusion of one branch into the clear constitutional prerogative of another. Confronted by so many challenges and so many crises, the United States must again speak with one voice, united in spirit and in fact. We reject partisan and ideological quarrels across party lines and urge Democrats to join with us to lay the foundations of a true bipartisan spirit. Let us speak for this country with one voice, so that our policies will not be misunderstood by our allies or our potential adversaries.

Effective policy must rest on premises which are understood and shared, and must be defined in terms of priorities. As the world has changed in a dynamic fashion, so too have our priorities and goals, and so too have the methods and debating and discussing our objectives. When we assumed Executive office eight years ago, we found the national security and foreign policy machinery in shambles. Last-minute reactions to crises were the practice. The Nation Security Council, so effective under President Eisenhower, had fallen into disuse. As an important first step, the National Security Council machinery was streamlined to cope with the problems of the moment and long-range planning. This restored process allows once again the exhaustive consideration of all the options from which a President must choose. Far from stifling internal debate and dissent as had been the practice in the past, Republican leadership now invites and stimulates evaluation of complex issues in an orderly decision-making process.

Republican leadership has also taken steps to report comprehensively its foreign policy and national security objectives. An annual "State of the World" message, designed to increase communication with the people and with Congress, has become a permanent part of Presidential practice.

A strong and effective program of global public diplomacy is a vital component of United States foreign policy. In an era of instant communications, the world is infinitely and forever smaller, and we must have the capacity to communicate to the world—to inform, to explain and to guard against accidental or willful distortion of United States policies.

Interdependence has become a fact of international life, linking our actions and policies with those of the world at large. The United States should reach out to other nations to enrich that interdependence. Republican leadership has demonstrated that recognition of the ties that bind us to our friends will serve our mutual interests in a creative fashion and will enhance the chances for world peace.

Morality in foreign policy

The goal of Republican foreign policy is the achievement of liberty under law and a just and lasting peace in the world. The principles by which we act to achieve peace and to protect the interests of the United States must merit the restored confidence of our people.

We recognize and commend that great beacon of human courage and morality, Alexander Solzhenitsyn, for his compelling message that we must face the world with no illusions about the nature of tyranny. Ours will be a foreign policy that keeps this ever in mind.

Ours will be a foreign policy which recognizes that in international negotiations we must make no undue concessions; that in pursuing detente we must not grant unilateral favors with only the hope of getting future favors in return.

Agreements that are negotiated, such as the one signed in Helsinki, must not take from those who do not have freedom the hope of one day gaining it.

Finally, we are firmly committed to a foreign policy in which secret agreement, hidden from our people, will have no part.

Honestly, openly, and with firm conviction, we shall go forward as a united people to forge a lasting peace in the world based upon our deep belief in the rights of man, the rule of law and guidance by the hand of God.

National defense

A superior national defense is the fundamental condition for a secure America and for peace and freedom for the world. Military strength is the path to peace. A sound foreign policy must be rooted in a superior defense capability, and both must be perceived as a deterrent to aggression and supportive of our national interests.

The American people expect that their leaders will assure a national defense posture second to none. They know that planning for our national security must be a joint effort by the President and Congress. It cannot be the subject of partisan disputes. It should not be held hostage to domestic political adventurism.

A minimum guarantee to preserve freedom and insure against blackmail and threats, and in the face of growing Soviet military power, requires a period of sustained growth in our defense effort. In constant dollars, the present defense budget will no more than match the defense budget of 1964, the year before a Democrat Administration involved America so deeply in the Vietnam War. In 1975 Soviet defense programs exceeded ours in investment by 85 percent, and exceeded ours in operating costs by 25 percent, and exceeded ours in research and development by 66 percent. The issue is whether our forces will be adequate to future challenges. We say they must be.

We must always achieve maximum value for each defense dollar spent. Along with the elimination of the draft and the creation, under a Republican President, of all-volunteer armed services, we have reduced the personnel requirements for support functions without affecting our basic posture. Today there are fewer Americans in the uniformed services than at any time since the fall of 1950. Substantial economies have been made in weapons procurement and we will continue to act in a prudent manner with our defense appropriations.

Our national defense effort will include the continuation of the major modernization program for our strategic missile and bomber forces, the development of a new intercontinental ballistic missile, a new missile launching submarine force and a modern bomber—the B-1—capable of penetrating the most sophisticated air defenses of the 1980's. These elements will comprise a deterrent of the first order.

We will increase our army to 16 divisions, reinforce our program of producing new tanks and other armored vehicles, and support the development of new, highly accurate precision weapons.

Our Navy, the guarantor of freedom of the seas, must have a major shipbuilding program, with an adequate balance between nuclear and non-nuclear ships. The composition of the fleet must be based on a realistic assessment of the threat we face, and must assure that no adversary will gain naval superiority.

An important modernization program for our tactical air forces is under way. We will require new fighters and interceptor aircraft for the Air Force, Navy and Marines. As a necessary component of our long-range strategy, we will produce and deploy the B-1 bomber in a timely manner, allowing us to retain air superiority.

Consistent with our total force policy, we will maintain strong reserve components.

Our investments in military research and development are of great importance to our future defense capabilities. We must not lose the vital momentum.

With increasing complexity of weapons, lead times for weapons systems are often as long as a decade, requiring careful planning and prudent financial decisions. An outstanding example of this process is the development and deployment of the cruise missile, which incorporates pinpoint precision by means of sophisticated guidance systems and is an exceptionally economical weapon to produce.

Security assistance programs are important to our allies and we will continue to strengthen their efforts at self-defense. The improvement of their capabilities can help to ensure that the world balance is not tipped against us and can also serve to lessen chances for direct U.S. involvement in remote conflicts.

As a vital component of our over-all national security posture, the United States must have the best intelligence system in the world. The effectiveness of the intelligence community must be restored, consonant with the reforms instituted by President Ford. We favor the creation of an independent oversight function by Congress and we will withstand partisan efforts to turn any part of our intelligence system into a political football. We will take every precaution to prevent the breakdown of security controls on sensitive intelligence information, endangering the lives of United States officials abroad, or affecting the ability of the President to act expeditiously whenever legitimate foreign policy and defense needs require it.

NATO and Europe

Fundamental to a stable, secure world is the continuation of our traditional alliances. The North Atlantic Treaty Organization (NATO) now approaching the end of its third decade, remains healthy and vigorous.

The threat to our mutual security by a totalitarian power bent on expansion brought 15 nations together. The expression of our collective will to resist resulted in the creation and maintenance of a military deterrent which, while not without occassional strains, has served our vital interests well. Today that threat continues.

We have succeeded in extending our cooperation within NATO and have taken bold new steps in economic cooperation with our partners. Faced with a serious crisis in the energy field following the imposition of the oil boycott, we demonstrated that it was possible to coordinate our joint activities with the other NATO nations.

The economic strength of Western Europe has increased to the point where our NATO partners can now assume a larger share of the common defense; in response to our urging, our allies are demonstrating a greater willingness to do so. This is not the time to recommend a unilateral reduction of American military forces in Europe. We will, however, pursue the balanced reduction of forces in both Western and Eastern Europe, based on agreements which do not jeopardize the security of the Alliance. With our Alliance partners, we affirm that a strong NATO defense, based on a United States military presence, is vital to the defense of Western Europe.

Some of our NATO allies have experienced rapid and dynamic changes. We are encouraged by developments in the Iberian peninsula, where both Portugal and Spain now face more promising futures. Early consideration should be given to Spain's accession to NATO.

At the same time we would view with concern any political developments elsewhere in Europe which are destabilizing to NATO interests. We support the right of all nations to choose their leaders. Democracy and freedom are best served by ensuring that those fundamental rights are preserved and extended for future generations to choose in freedom.

The difficult problem of Cyprus, which separates our friends in Greece and Turkey, should be addressed and resolved by those two countries. The eastern flank of NATO requires restored cooperation there and, eventually, friendly relations between the two countries.

Republican leadership has strengthened this nation's good relations with the European Economic Community (EEC) in an age of increasing competition and potential irritations. We will maintain and strengthen the excellent relations we have achieved with the EEC.

In the final analysis, the NATO Alliance will be as effective as our will and determination, as well as that of our allies, to support it. The function of collective security is to deter wars and, if necessary, to fight and win those wars not successfully deterred. Our vigilance is especially required during periods of prolonged relaxation of tensions with our adversaries because we cannot permit ourselves to accept words and promises as a substitute for deeds. We are determined that the NATO Alliance shall not be lulled into a false sense of security. It can and must respond vigorously when called upon to act.

Asia and the Pacific

The United States has vital interests in the entire Pacific Basin and those interests lie foremost in Asian tranquility and stability.

The experience of ending direct American involvement in a difficult and costly war initiated during Democrat Administrations has taught us a great deal about how we ought to define our interests in this part of the world. The United States is indisputably a Pacific power. We have sought to express our interests in the area through strengthening existing friendly ties and creating new ones.

Japan will remain the main pillar of our Asian policy. We have helped to provide the framework, over the course of thirty years, for the development of the Japanese economy, which has risen to second place among free world nations. This nation, without natural resources, has maximized its greatest resource, the Japanese people, to achieve one of the world's most significant economic advances. We will continue our policy of close consultation and cooperation with this valued friend. We have succeeded in establishing an exceptional relationship with Japan. Our long-range goals of stability and economic cooperation are identical, forming the essential strength of a relationship which both countries seek actively to deepen.

With respect to the Republic of Korea, a nation with which we have had traditionally close ties and whose economy has grown rapidly in recent years, we shall continue our policy of military and economic assistance. United States troops will be maintained in Korea so long as there exists the possibility of renewed aggression from North Korea. Time has not dimmed our memories of the sudden assault against South Korea. We reaffirm the commitment of the United States to the territorial integrity and the sovereignty of the Republic of Korea. Simultaneously we encourage the Governments of South Korea and North Korea to institute domestic policy initiatives leading to the extension of basic human rights.

When Republicans assumed executive office in 1969, we were confronted with a war in Vietnam involving more than 500,000 United States troops, and to which we had committed billions of dollars and our national honor and prestige. It was in the spirit of bipartisan support for Presidential foreign policy initiatives, inaugurated in the postwar era by Senator Arthur Vandenberg, that most Republicans supported the United States commitment to assist South Vietnam resist Communist-sponsored aggression. The human cost to us was great; more than 55,000 Americans died in that conflict, and more than 300,000 were wounded.

A policy of patient, persistent and principled negotiations extricated the United States from that ill-fated war with the expectation that peace would prevail. The refusal of the Democrat-controlled Congress to give support to Presidential requests for military aid to the beleaguered nations of South Vietnam, Cambodia and Laos, coupled with sustained military assaults by the Communists in gross violation of the Paris Peace Accords, brought about the collapse of those nations and the subjugation of their people to totalitarian rule.

We recognize that there is a wide divergence of opinion concerning Vietnam, but we pledge that American troops will never again be committed for the purpose of our own defense, or the defense of those to whom we are committed by treaty or other solemn agreements, without the clear purpose of achieving our stated diplomatic and military objectives.

We must achieve the return of all Americans who may be held in Southeast Asia, and a full accounting for those listed as Missing in Action. We strongly urge continued consultation between the President and the National League of Families of American Prisoners and Missing in Southeast Asia. This country owes at least this much to all of these courageous people who have anguished so long over this matter. To this end, and to underscore our top priority commitment to the families of these POWs and MIAs, we recommend, among other actions, the establishment of a presidential task force headed by a special presidential representative.

We condemn the inhumane and criminal retributions which have taken place in Cambodia, where mass executions and forced resettlements have been imposed on innocent civilians.

The important economic developments taking place in Singapore, Indonesia, Malaysia, the Philippines and other Asian countries, will lead to much improved living standards for the people there. We reaffirm our firendship with these nations. Equally, our relationships with Australia and New Zealand are historic and important to us; they have never been better and provide a firm base on which to build.

United States-Chinese relations

A development of significance for the future of Asia and for the world came to fruition in 1972 as our communications were restored with the People's Republic of China. This event has allowed us to initiate dialogue with the leaders of a quarter of the earth's population, and trade channels with the People's Republic have been opened, leading to benefits for each side.

The People's Republic of China can and will play an increasingly important role in world affairs. We shall seek to engage the People's Republic of China in an expanded network of contacts and trade. Such a process cannot realistically proceed at a forced or incautious pace; the measured but steady growth of our relations best serves our interests. We do not ignore the profound differences in our respective philosophies, governmental institutions, policies and views on individual liberty, and we are hopeful that basic human rights will be extended to the Chinese people. What is truly fundamental is that we have established regular working channels with the People's Republic of China and that this process can form an important contribution to world peace.

Our friendly relations with one great power should not be construed as a challenge to any other nation, large or small. The United States government, while engaged in a normalization of relations with the People's Republic of China, will continue to support the freedom and independence of our friend and ally, the Republic of China, and its 16 million people. The United States will fulfill and keep its commitments, such as the mutual defense treaty, with the Republic of China.

The Americas

The relations of the United States with the Americas are of vital and immediate importance. How we conduct our affairs with our neighbors to the North and South will continue to be a priority.

In the recent past our attention has at

times been diverted to more distant parts of the world. There can be no sensible alternative to close relationships and understanding among the nations of the hemisphere.

It is true for a series of new departures in our relations with Canada. Canada is our most important trading partner, and we are hers. We, as Americans, feel a deep affinity for our Canadian friends, and we have much at stake in the development of closer relationships based on mutual understanding and complete equality.

To our neighbors in Mexico, Central America and South America, we also say that we wish the opportunity to expand our dialogue. The needs of our friends are great, but this must not serve as an obstacle for a concerted effort to work together more closely. The United States has taken steps to adjust tariffs so as to maximize access to our markets. We recognize that our neighbors place no value on complex and cumbersome aid schemes; they see self-help modernization, and expanded trade as the main sources of economic progress. We will work with them to define specific steps that we can take to help them achieve greater economic strength, and to advance our mutual interests.

By continuing its policies of exporting subversion and violence, Cuba remains outside the Inter-American family of nations. We condemn attempts by the Cuban dictatorship to intervene in the affairs of other nations; and, as long as such conduct continues, it shall remain ineligible for admission to the Organization of American States.

We shall continue to share the aspirations of the Cuban people to regain their liberty. We insist that decent and humane conditions be maintained in the treatment of political prisoners in the Cuban jails, and we will seek arrangements to allow international entities, such as the International Red Cross, to investigate and monitor the conditions in those jails.

The present Panama Canal Treaty provides that the United States has jurisdictional rights in the Canal Zone as "if it were the sovereign." The United States intends that the Panama Canal be preserved as an international waterway for the ships of all nations. This secure access is enhanced by a relationship which commands the respect of Americans and Panamanians and benefits the people of both countries. In any talks with Panama, however, the United States negotiators should in no way *cede, dilute, forfeit, negotiate or transfer any rights, power, authority, jurisdiction, territory or property that are necessary for the protection and security of the United States and the entire Western Hemisphere.*

We reaffirm our faith in the ability of the Organization of American States, which remains a valuable means of inter-American consultation.

The Middle East

The preservation of peace and stability in the Middle East is a paramount concern. The efforts of two Republican Administrations, summoning diplomatic and political skills, have been directed toward reduction of tensions and toward avoiding flashpoints which could serve as an excuse for yet another round of conflict between Israel and the Arab countries.

Our commitment to Israel is fundamental and enduring. We have honored and will continue to honor that commitment in every way—politically, economically and by providing the military aid that Israel requires to remain strong enough to deter any potential aggression. Forty pecent of all United State's aid that Israel has received since its creation in 1948 has come in the last two fiscal years, as a result of Republican initiatives. Our policy must remain one of decisive support for the security and integrity of Israel.

An equally important component of our commitment to Israel lies in continuing our efforts to secure a just and durable peace for all nations in that complex region. Our efforts have succeeded, for the first time since the creation of the state of Israel, in moving toward a negotiated peace settlement which would serve the interests and the security of all nations in the Middle East. Peace in the Middle East now requires face-to-face, direct negotiations between the states involved with the recognition of safe, secure and defensible borders for Israel.

At the same time, Republican Administrations have succeeded in reestablishing communication with the Arab countries, and have made extensive progress in our diplomatic and commercial relations with the more moderate Arab nations.

As a consequence of the Middle East conflict of 1973, the petroleum producing states imposed an embargo on the export of oil to most of the advanced industrial countries. We have succeeded in creating numerous cooperative mechanisms to protect ourselves, working in concert with our allies, against any future embargoes. The United States would view any attempt to reimpose an embargo as an essentially hostile act. We will oppose discriminatory practices, including boycotts of any type.

Because we have such fundamental interests in the Middle East, it will be our policy to continue our efforts to maintain the balance of power in the Mediterranean region. Our adversaries must recognize that we will not permit a weakening of our defenses or any attempt to disturb valued Alliance relationships in the Eastern Mediterranean.

We shall continue to support peace initiatives in the civil war in Lebanon; United States envoys engaged in precisely such an initiative were murdered, and we express our sorrow for their untimely deaths and for all other dedicated government employees who have been slain elsewhere while in service to their country. In Lebanon, we stand ready to provide food, medical and other humanitarian assistance.

Africa

The United States has always supported the process of self-determination in Africa. Our friendship for the African countries is expressed in support for continued peaceful economic development, expansion of trade, humanitarian relief efforts and our belief that the entire continent should be free from outside military intervention. Millions of Americans recognize their historical and cultural ties with Africa and express their desire that United States policy toward Africa is a matter of great importance.

We support all forces which promote negotiated settlements and racial peace. We shall continue to deplore all violence and terrorism and to urge all concerned that the rights of tribal, ethnic and racial minorities be guaranteed through workable safeguards. Our policy is to strengthen the forces of moderation recognizing that solutions to African problems will not come quickly. The peoples of Africa can coexist in security, work together in freedom and harmony, and strive together to secure their prosperity. We hope that the Organization of African Unity will be able to achieve mature and stable relationships within Africa and abroad.

The interests of peace and security in Africa are best served by the absence of arms and greater concentration on peaceful development. We reserve the right to maintain the balance by extending our support to nations facing a threat from Soviet-supplied states and from Soviet weapons.

United States-Soviet relations

American foreign policy must be based upon a realistic assessment of the Communist challenge in the world. It is clear that the perimeters of freedom continue to shrink throughout the world in the face of the Communist challenge. Since 1917, totalitarian Communism has managed through brute force, not through the free electoral process, to bring an increasingly substantial portion of the world's land area and peoples under its domination. To illustrate, most recently South Vietnam, Cambodia, and Laos have fallen under the control of Communist dictatorships, and in that part of the world the Communist pressure mounts against Thailand, the Republic of China, and Republic of Korea. In Africa, Communist Cuban forces, brazenly assisted by the Soviet Union, have recently imposed a Communist dictatorship upon the people of Angola. Other countries in Africa and throughout the world generally await similar fates. These are the realities of world power in our time. The United States is thoroughly justified in having based its foreign policy upon these realities.

Thirty years ago relations between United States and the Soviet Union were in a phase of great difficulty, leading to the tensions of the Cold War era. Although there have been changes in this crucial superpower relationship, there remain fundamental and profound differences between us. Republican Presidents, while acknowledging the depth of the gulf which separates our free society from Soviet society, have sought methodically to isolate and develop those areas of our relations which would serve to lessen tension and reduce the chance of unwanted conflict.

In a world beset by countless opportunities for discord and armed conflict, the relationship between the United States and the Soviet Union is critically important; on it rests the hope of the world for peace. We offer a policy that maintains our fundamental strength and demonstrates our steadfast determination to prevent aggressive use of Soviet power.

The role of a responsible, participating Congress in maintaining this diplomatic and military posture is critical to success. The United States must remain a loyal and dependable ally, and must be prepared to carry out commitments and to demonstrate a willingness to act. Resistance to open aggression, such as the Soviet-sponsored Cuban intervention in Angola, must not be allowed to become the subject of a partisan debate, nor can it be allowed to become an unchallenged and established pattern of international behavior, lest our credibility and deterrent strength be greatly diminished.

Soviet military power has grown rapidly in recent years, and while we shall prevent a military imbalance or a sudden shift in the global balance of power, we shall also diligently explore with the Soviet Union new ways to reduce tensions and to arrive at mutually beneficial and self-enforcing agreements in all fields of international activity. Important steps have been taken to limit strategic nuclear arms. The Vladivostok Agreement of November 1974 placed a ceiling on the strategic forces of both the United States and the Soviet Union. Further negotiations in arms control are continuing. We shall not agree for the sake of agreement; on the contrary, we will make sure that any agreements yield fundamental benefits to our national security.

As an example of hard-headed bargaining, our success in concluding agreements limiting the size of peaceful nuclear explosions and nuclear weapons tests will, for the first time, permit the United States to conduct on-site inspections in the Soviet Union itself. This important step can now be measured in practical terms. All such agreements must stand the test of verification. An agreement that does not provide this safeguard is worse than no agreement at all.

We support the consolidation of joint efforts with our allies to verify that our policies regarding the transfer of technology to the Soviet Union and its allies are in concert and that consultation will be designed to preclude the sale of those technology-intensive products to the Soviet Union by the United States and our allies which will directly or indirectly jeopardize our national security.

Our trade in non-strategic areas creates jobs here at home, substantially improves our balance-of-payments position, and can contribute to an improved political climate in the world. The overseas sale of our agricultural products benefits American farmers and consumers. To guard against any sudden shift in domestic prices as the consequence of unannounced purchases, we have instituted strict reporting procedures and other treaty safeguards. We shall not permit concessional sales of agricultural products to the Soviet Union, nor shall we permit the Soviet Union or others to determine our agricultural export policies by irregular and unpredictable purchases.

The United States and the Soviet Union remain ideological competitors. We do not shrink from such a challenge; rather, we welcome the opportunity to demonstrate that our way of life is inherently preferable to regimentation and government-enforced orthodoxy. We shall expect the Soviet Union to implement the United Nations Declaration on Human Rights and the Helsinki Agreements, which guarantee the conditions for the free interchange of information and the right to emigrate, including emigration of Soviet Jews, Christians, Moslems and others who wish to join relatives abroad. In this spirit we shall expect the immediate end of all forms of harassment, including imprisonment and military services, aimed at preventing such emigration. America must take a firm stand to bring about liberalization of emigration policy in countries which limit or prohibit free emigration. Governments which enjoy the confidence of their people need have no fear of cultural, intellectual or press freedom.

Our support for the people of Central and Eastern Europe to achieve self-determination will continue. Their ability to choose their future is of great importance to peace and stability. We favor increasing contacts between Eastern and Western Europe and support the increasing economic ties of all the countries of Europe. We strongly support the continuation of the Voice of America, Radio Free Europe and Radio Liberty with adequate appropriations. Strict reciprocity must govern our diplomatic relations with the Soviet Union. We express our concern for the safety of our diplomatic representatives in the Soviet Union, and we insist that practices such as microwave transmissions directed at the United States Embassy be terminated immediately.

Thus our relations with the Soviet Union will be guided by solid principles. We will maintain our strategic and conventional forces; we will oppose the deployment of Soviet power for unilateral advantages or political and territorial expansion; we will never tolerate a shift against us in the strategic balance; and we will remain firm in the face of pressure, while at the same time expressing our willingness to work on the basis of strict reciprocity toward new agreements which will help achieve peace and stability.

International cooperation

Strong support for international cooperation in all fields has been a hallmark of United States international policy for many decades. Two Republican Administrations have strengthened agencies of international cooperation not only because of our humanitarian concern for others, but also because it serves United States interests to be a conscientious member of the world community.

The political character of the United Nations has become complex. With 144 sovereign members, the U.N. experiences problems associated with a large, sometimes cumbersome and diverse body. We seek to accommodate to these changes in the spirit of friendly concern, but when the United Nations becomes arrayed against the vital interest of any of its member states on ideological or other narrow grounds, the very principles of the organization are threatened. The United States does not wish to dictate to the U.N., yet we do have every right to expect and insist that scrupulous care be given to the rights of all members. Steamroller techniques for advancing discriminatory actions will be opposed. Actions such as the malicious attempt to depict Zionism as a form of racism are inconsistent with the objectives of the United Nations and are repugnant to the United States. The United States will continue to be a firm supporter and defender of any nation subjected to such outrageous assaults. We will not accept ideological abuses of the United States.

In the many areas of international cooperation which benefit the average American—elimination of terrorism, peacekeeping, non-proliferation of nuclear weapons, termination of the international drug trade, and orderly use of ocean resources—we pledge to build new international structures of cooperation. At the same time, we shall seek to insure that the cost of such new structures, as well as the cost of existing structures, are more equitably shared among participating nations. In the continued tradition of American concern for the quality of human life everywhere, we shall give vigorous support to the non-political work of the specialized agencies of the United Nations which deal with such areas as nutrition and disaster relief for the world's poor and disadvantaged.

The United States should withdraw promptly from the International Labor Organization if that body fails to stop its increasing politicization.

Eight years ago we pledged to eliminate waste and to make more business-like the administration of United States foreign aid programs. We have endeavored to filfull these pledges. Our foreign economic assistance programs are now being operated efficiently with emphasis on helping others to help themselves, on food production and rural development, on health programs and sound population planning assistance, and on development of human resources.

We have sought to encourage others, including the oil producing countries, to assume a larger share of the burden of assistance. We shall continue our efforts to secure adequate sources of financing for economic projects in emerging countries.

The world's oceans, with their vast resources, must become areas of extended cooperation. We favor a successful conclusion to the Law of the Sea Conference provided it will suitably protect legitimate national interests, freedom of the seas and responsible use of the seas. We are determined to maintain the right of free and unmolested passage for ships of all nations on the high seas and in international waterways.

We favor an extension of the interritorial sea from three to twelve miles, and we favor in principle the creation of a 200-mile economic zone in which coastal states would have exclusive rights to explore and develop natural resources.

We strongly condemn illegal corporate payments made at home and abroad. To eliminate illegal payments to foreign officials by American corporations, we support passage of President Ford's proposed legislation and the OECD Declaration on Investment setting forth reasonable guidelines for business conduct.

The growth of civilian nuclear technology, and the rising demand for nuclear power as an alternative to increasingly costly fossil fuel resources, combine to require our recognition of the potential dangers associated with such developments. All nations must work to assure that agreements and treaties currently governing nuclear technology and nuclear exports are carefully monitored. We shall work to devise new multilateral policies governing the export of sensitive nuclear technologies.

International economic policy

The tumultuous events of the past several years in the world economy were an enormous challenge to our creativity and to our capacity for leadership. We have emerged from this difficult period in a new position in the world, and we have directed and guided a sound recovery.

To assure the permanence of our own prosperity, we must work with others, demonstrating our leadership and the vitality of our economy. Together with the industrial democracies, we must ensure steady, non-inflationary growth, based on expanded international cooperation.

The Republican Administration will cooperate fully in strengthening the international trade and monetary system, which provides the foundation for our prosperity and that of all nations. We shall bargain hard to remove barriers to an open economic system, and we shall oppose new restrictions to trade. We shall continue to represent vigorously our nation's economic interests in the trade negotiations taking place in Geneva, guard against protectionism, and insist that the principles of fair trade be scrupulously observed. When industries and jobs are adversely affected by foreign competition, adjustment assistance under the Trade Act of 1974 is made available. This Act must be under continuous review to ascertain that it reflects changing circumstances.

The Republican Party believes that cooperation in the energy field is indispensable to international stability. Most of the industrial democracies and the less developed countries are increasingly dependent on imported oil, which causes them to be politically, economically and strategically vulnerable. Through the establishment of the International Energy Agency, steps have been taken to expand consumer cooperation. We shall also continue the dialogue with the oil producing countries.

We shall continue to work closely with the less-developed countries to promote their economic growth. Those countries will be encouraged to enter into mutually beneficial trade relationships with us that contribute to world peace. To achieve this, we must strengthen the confidence of the major industrial countries as they take part in discussions with less-developed countries. There is no reason for us to be defensive; our combined assets can be used in a coordinated strategy to make our influence effective. We will not yield to threats or confrontational politics.

While we shall support a global increase of investment in natural resources of all types, we shall also oppose the replacement of the free market mechanism by cartels, price-fixing arrangements or commodity agreements. We shall continue policies designed to assure free market consumers abroad that the United States will remain a dependable supplier of agricultural commodities.

Conclusion

The American people can be proud of our nation's achievements in foreign policy over the past eight years.

We are at peace.

We are strong.

We re-emphasize the importance of our ties with the nations of the Americas.

Our relations with allies in the Atlantic community and with Japan have never been closer.

Significant progress has been made toward a just and durable settlement in the Middle East.

We have sought negotiation rather than confrontation with our adversaries, while maintaining our strategic deterrent.

The world economic recovery, led by the United States, is producing sustainable growth.

In this year of our nation's bicentennial, the American people have confidence in themselves and are optmistic about the future.

We, the Republican Party, proudly submit our record and our Platform to you.

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ENDING MEDICAID ABUSE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I introduced legislation today to close a major loophole in the medicaid payment system. This loophole, allowing medicaid to make health insurance payments that should be made instead by "third-party" insurers, costs taxpayers as much as $500 million per year.

For the information of our colleagues, enclosed are 29 HEW audit report summaries of State programs, obtained by the House Subcommittee on Health and Long-Term Care, which I have the privilege of chairing. These audit reports of the State programs clearly demonstrate the need for corrective legislation:

SUMMARY OF 29 HEW AUDIT AGENCY REPORTS REGARDING DEFICIENCIES IN STATE THIRD-PARTY PROGRAMS

CALIFORNIA—FEBRUARY 1976

The State has not had an effective program for recovering, from insurance companies, costs which were paid by medicaid on behalf of beneficiaries who had other health insurance. In March 1974, project analysts for the recovery section estimated there was a backlog of about 370,000 unbilled claims valued at between $50 million and $78 million.

MASSACHUSETTS—FEBRUARY 1976

The State agency procedures did not provide for the identification of medical claims for which third parties might have been liable. In May 1975, a total of 17,113 cases were identified as having health insurance; but the State did not consider such coverage prior to medicaid payment. An estimated $8.8 million could be saved biennially by establishing a system to apply third-party resources in the payment of provider claims.

MASSACHUSETTS—FEBRUARY 1976 (SECOND REPORT)

It cannot be determined whether or not there were sufficient reasons to accept less than full reimbursement and whether or not settlements were in the best interests of the Federal and State governments. Analysis of data could alert officials to the need for possible changes in statutes, regulations, policies, procedures, and practices to achieve even greater recoveries from liable third parties. In 45 percent of the cases examined, the State secured less than full reimbursement for benefits provided, while the recipient retained part of the proceeds of the claim.

NORTH CAROLINA—AUGUST 1975

The purpose of the review was to evaluate the State's implementation of the recommendations in the audit report of June 1971. In the area of third party collections, the State agency needs to further improve its corrective actions. The review showed that the State received only 91% of the monies due. Some $126,000 of monies due the State remain uncollected.

OREGON—JUNE 1975

Collection of resources available in the form of liabilities against third parties had not been effectively pursued. Medical payments were made on behalf of medicaid recipients without the investigative steps needed to collect reimbursements from liable third parties. As a result, funds awarded in injury settlements in favor of recipients were not always obtained to reduce medicaid expenditures.

KENTUCKY—JUNE 1975

This review was made to follow up on action taken on unresolved findings identified in a previous follow-up audit of 1972. The prior review showed that the State had not taken timely action to strengthen its procedures to identify third party resources. The current follow-up review showed that the State still had not taken action to resolve the third party resources problem.

INDIANA—JUNE 1974

Amounts due from patients, under the third party liability provision and the Social Security Act, were not collected from the patients in all instances. The cost of care, instead was paid with Medicaid funds. This condition is attributed to the improper use of a State Agency procedure established to account for personal resources.

KENTUCKY—JULY 1973

The review disclosed that up to 90 percent of potential medicaid third party liabilities were not properly examined. The State presently collects over $100,000 per month from liable third parties, but could realize an even larger return if new procedures were enforced. These procedures require that vendors identify injury related services and submit accident reports. Most vendors were not complying with this and the effectiveness of the third party collection activity is reduced.

KENTUCKY—OCTOBER 1972

In the original audit, July 1970, five areas were identified which needed to be improved. Concerning the identification of third party resources, the current review found that action taken by the State was not sufficient to adequately resolve the deficiency noted in this area. Originally, it was pointed out that there were no procedures for the identification of claims in which third parties might have been liable.

NORTH CAROLINA—JUNE 1971

State Agency procedures were not adequate to identify third party resources, to prevent duplicate payments under Medicaid and other State administered health programs. Determinations were not made by the State Agency as to whether the providers took advantage of any available third party resources prior to requesting payment from the State Agency. The State Agency does not have a method of identifying potential third party claims.

KANSAS—JUNE 1971

Procedures and controls have not been established to identify third party liability prior to payment of Medicaid benefits. Medicare and a supplementary insurance plan sold by the fiscal agent have been considered in processing Medicaid claims; however, other types of insurance have not been identified or considered in evaluating the propriety of Medicaid billings. Consequently, some Medicaid payments may have been excessive. The development of a control system was given a low priority since the number of recipients with financial resources was considered negligible. However, the auditors believe the potential savings warrant such a system.

SOUTH CAROLINA—NOVEMBER 1970

Adequate measures were not taken by the State or county agencies to ascertain the existence of third party liability for medical claims. As a result, Medicaid funds may have been used to pay claims which were the responsibility of others. Third party liability may exist through Medicaid recipients' health insurance coverage or from various forms of involvement such as accidents.

FLORIDA—OCTOBER 1970

Based upon a review made by the State legislative auditors, it was determined that the State had not implemented adequate procedures to assure that all collections of third party liability were refunded to the State Agency. It was estimated that for the period from January 1, 1970 through June 30, 1970, the liability of third parties could be as much as $342,139 or 9% of the total inpatient medical payments of $3,801,548.

SOUTH DAKOTA—SEPTEMBER 1970

Adequate procedures had not been established by the State Agency to identify third party liability on medical claims or to assure the recovery from third parties of payments made from the Medicaid program. Detailed procedures were not established for implementing the necessary controls in the vendor payment processing system, either at the State level or at the fiscal agents.

CONNECTICUT—SEPTEMBER 1970

The State Agency had not established systematic procedures for determining the allowability of claims by physicians, for inpatient hospital, or surgical care, in those instances where third party liability may be indicated on the monthly Medicaid eligibility listings.

MONTANA—AUGUST 1970

A case was cited where a nursing home was billing Medicaid and not attempting to obtain coverage under Medicare for eligible patients. The nursing home board of directors had instructed the Administrator not to attempt to obtain coverage for patients under Medicare because of difficulty in getting the intermediary to determine eligibility.

UTAH—AUGUST 1970

Procedures for determining and obtaining payments from liable third parties are not in conformity with requirements of the State Medicaid plan. Although the presence of insurance is determined through a declaration form, the information is not routed to the State office. There is no system by which the State office can establish that a third party liability may exist or for obtaining payment from third parties when such liabilities do exist. No formal procedures appear to exist for identifying and collecting third party liabilities when such a liability results from an accident.

NEBRASKA—AUGUST 1970

Third party liability was not recognized in various instances, thereby causing the Medicaid program to absorb costs, at least temporarily, which were properly chargeable to the Medicare program or to private insuance carriers. Problems were identified in procedures used by both providers and county welfare offices.

KENTUCKY—JULY 1970

Claims were being paid from Medicaid funds without any assurance that providers of services had attempted to collect the cost of services from third parties prior to requesting payment from the State agency.

DISTRICT OF COLUMBIA—JULY 1970

Improvements are required in procedures for processing claims involving potential third party liability, preventing duplicate and erroneous payments, and assuring that all claims paid were for eligible recipients. It is estimated that about $146,000 annually is being charged to the Medicaid program without adequate assurances that potential third party sources have been billed or that reasonable efforts are being made by vendors to obtain reimbursement from such sources.

MASSACHUSETTS—JULY 1970

A number of cases were noted where vendors made refunds to the Boston Welfare Service office because the recipients were covered by third party insurance. Since the records of the fiscal division show that this fact had been reported by the social worker, claims are being paid in spite of information on hand that the recipient is covered by insurance and that there may be no liability on the part of Medicaid. The Boston office does not know the extent to which vendors or recipients are retaining insurance proceeds that should be refunded.

NORTH DAKOTA—JUNE 1970

Adequate measures were not taken by the State agency or county welfare boards to ascertain third party liability on medical claims, causing the Medicaid program to absorb costs properly chargeable to private insurance carriers. The counties needed written guidance to assist in implementing the provisions of the State plan relating to third party liability.

NEVADA—MAY 1970

Potential third party liability claims are not identified by the State because providers do not disclose information critical to such a determination. The billing forms provide for this information and initial detection of such potential liability could result in increased recovery from liable third parties. The State has not provided regulations nor other means for ascertaining the existence of liable third parties or for effecting reimbursement from such parties.

PENNSYLVANIA—JANUARY 1970

Invoices processed by the State were not verified for third party liability resources when making payments for medical services on behalf of eligible individuals. It was found that the records at the local agencies identify the existence of potential third party resources but that the State agency failed to establish the necesary procedures to be provided with such information.

MINNESOTA—JULY 1969

It was evident from the conditions found in the examination at 14 counties that there was a need for policies and procedures for the State and county agencies to effectively control the payment of Medicaid funds in cases where liable third parties were responsible. The Medicaid program has the responsibility for payment of medical vendor claims only when the third party liability does not exist.

CALIFORNIA—JUNE 1969

Potential third party liability claims were not always identified because Blue Cross did not have guidelines and criteria for processing such claims. This resulted in monies being lost to the program. Potential third party liability claims are not always identified during claims processing and have remained unidentified with the resultant loss of Federal and State funds.

WASHINGTON—APRIL 1969

More effective procedures were needed to assure that amounts collectible from liable third parties were correctly determined. Tests of the records indicated cases where the State had not collected the correct amount from the responsible third party. There are inadequate procedures for identifying potential third party liability cases when vendors used magnetic tape for billings.

TEXAS—MARCH 1969

The review disclosed that the State relied only upon provider statements as to the existence of third party liability. Numerous instances were found where these statements were incorrect and providers had made subsequent refunds. As a result, the State had little assurance that program funds were not used to pay for medical care which could be provided from other sources.

CALIFORNIA—OCTOBER 1968

Potential third party liability claims were not always identified because processing procedures were not followed or were not adequate. As a result, collection action was not initiated and Medicaid funds were used to pay claims for which third parties were liable. The States does not have procedures to obtain a lien against the recipient for any settlement received as a result of a third party being liable.

ALTERNATIVES NEEDED TO MEET MORTGAGE DEMANDS OF TODAY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the most knowledgeable men in the savings and loan industry, and incidentally in banking in the country, is Arthur H. Courshon, chairman of the board of Washington Federal Savings & Loan Association of Miami Beach. Mr. Courshon was president of the National League for Insured Savings, during which time he made a most significant contribution to developing housing for the American people and improving the structure of the savings and loan associations and also in the establishment of savings and loan associations in Latin America—nonexistent until then—so that they could serve the housing needs of the people of that important part of this Hemisphere. Mr. Courshon is now chairman of the executive committee of the National League of Insured Savings.

In the June 1976 issue of the National Savings and Loan League Journal, Mr. Courshon has written a most challenging and stimulating article on the subject "Alternatives Needed To Meet Mortgage Demands of Today." In this article Mr. Courshon proposes seven alternatives to meet the mortgage demands of today. Mr. Courshon emphasizes in this very meaningful article his belief that there ought to be a hard-hitting housing program in this country that is aimed at bringing back to reality a decent home and suitable environment for every American. He puts particular emphasis upon the need to develop a housing program adapted to young families. Mr. Courshon points out how the mortgage instrument used by the savings and loan associations today should be made more flexible. In addition to new mortgage instruments, he suggests there could be large amounts of funds made available by tax-free interest mortgages, low cost term insurance, mortgage backed bonds, experimental indexing of savings and certificate accounts, as well as mortgages during periods of inflation and as a deterrent to inflation. He also forcefully advocates the revitalizing of the Federal Housing Administration.

Mr. Courshon concludes:

> These seven proposals could be added to but what is attempted here is to urge a stand for bringing housing back down to the level of the people in this country—and away from the concept of "housing for the rich," which we have been living with for most of the decade.
>
> In short, the creation of a legislative task force, whose sole purpose should be limited to the examination of existing legislation involving housing and housing finance in this country, should be encouraged. The aim of the task force would be to modernize that legislation for the purpose of creating more housing for more people at lower cost and with less burden on the taxpayer.

This, I believe, is the most innovative proposal made in the housing field and I strongly commend it for the consideration of the Congress and of those who read this RECORD. Mr. Speaker, I include Mr. Courshon's article in the RECORD immediately following these remarks:

ALTERNATIVES NEEDED TO MEET MORTGAGE DEMANDS OF TODAY: STR-R-RETCHING THE MORTGAGE INSTRUMENT

(By Arthur H. Courshon)

It is a not-too-pleasant notion to face up to, but in the United States of America, in our land of plenty, the overwhelming majority of our citizens cannot afford to purchase the home of their choice.

Housing, in recent years, has fallen on bad times. The combination of high unemployment, outrageous levels of inflation, and the skyrocketing costs for land, materials, and money, all have served to bring home this picture and to focus attention on the fact that the construction industry of this nation has as much, if not more, effect on employment and the welfare of the American economy than any other single industry.

Although there certainly are other pressing issues in the national economy, it is my belief that there ought to be a hard hitting housing program in this country that is aimed at bringing back to reality the Congressional mandate of "a decent home and suitable living environment for every American."

We must once again develop the means of providing decent housing to young families getting started. We ought not to accept as gospel the notion that since these families don't have sufficient cash for the required downpayment that they should be forced out of the housing market.

We ought not to accept the idea that housing is not for everybody. Indeed, housing in the United States should be for anyone who wants a home of his own.

BULK OF FUNDS SHOULD BE IN HOUSING

We already have the vehicles with which to accomplish this. What is required is a fine tuning of the legislation and regulation of financial institutions which place the bulk of their funds into housing.

This does not suggest a restructuring of financial institutions, as is proposed by pending legislation. It rather attacks the heart of the problem insofar as housing is concerned: that is, how do you bring more families into the housing market at prices they can afford today.

That is the issue that should be addressed. It is the issue that has been ignored in the past, and housing and the American economy have taken an entirely predictable beating as a result.

What we have in our nation is a structure, through our thrift institutions, of providing long term mortgage money. What we are missing is the ability of these thrift institutions to provide that money in a flexible manner.

At the present time, the insured savings and loan associations are basically limited to long-term, fixed rate, monthly amortizing loans—a vehicle which worked beautifully in the years following the Great Depression until the mid-1960s.

But the long term, fixed rate mortgage no longer accomplishes the job year-in and year-out of providing housing to all Americans who desire a home. Reformers have taken this to indicate that institutions servicing the home mortgage market are inefficient.

This is erroneous. What is inefficient is the mortgage itself. It, and not the institution, should be changed to reflect current economic developments.

SHOULD RE-WRITE MORTGAGE REGULATIONS

There is no question but a major rewriting of the regulation affecting mortgage lending by thrift institutions should be undertaken. The inability of current regulations to meet today's pressing needs is seen every time a young family, whose head earns a reasonable wage, tries unsuccessfully to secure a mortgage.

The Federal Home Loan Bank Board has, in recent years, attempted to broaden the scope of mortgage lending of insured savings and loan associations. But without legislative changes, it lacks the authority to do the job well.

An updating of the Home Owners' Loan Act of 1933 seems necessary. This is the basic law under which the nation's savings and loan associations operate. If it were revised and tailored to suit today's needs, we might well provide the answer to housing all Americans at affordable prices.

The basic problem is an inflexible mortgage instrument. Today's economy, because we have had high inflation rates, high unemployment, and high land, material and money costs, requires the mortgage to be varied to suit the borrower. Some of the types of mortgages that today's economy requires are as follows:

NEW MORTGAGE INSTRUMENTS NEEDED

For the young family, and here is a critical need today, a long term mortgage that would require little or no amortization during its early period, and a lower repayment amount. As the borrower ages and matures, and can afford to pay more, this mortgage instrument would provide for increased payments, and at the end of the term it would be fully paid out.

The advantage is, in qualifying more families—mostly young families—for housing they otherwise wouldn't be able to purchase. There obviously would have to be some screening process of applicants, in the sense they should be "upwardly mobile" in future employment prospects. But the concept is to qualify hundreds of thousands, and perhaps millions, of families and individuals who could buy the home of their choice today if the mortgage instrument were made flexible enough to accommodate their particular needs.

TAX FREE INTEREST MORTGAGES

We need to address ourselves once again to housing the poor. This is an area that has been given only lip service during the current decade. I propose, however, that we relieve the taxpayer of the burden of having tax dollars allocated to low cost and public housing. Rather, we should have in our national arsenal of mortgage instruments a mortgage whose interest is tax free to the lender who makes the loan, provided that these tax free mortgages are limited to housing loans for low cost housing.

Such a tax free mortgage instrument would open the doors once again to inner city housing, but in a manner that would insure the program's success. With this type of tax exempt mortgage, we would be encouraging much more funds into one of the nation's more pressing housing needs.

LOW COST TERM INSURANCE

We should also consider legislation that would allow low cost term insurance to be used in conjunction with low cost housing loans. This proposal would retire the mortgage debt of the borrower without requiring the borrower to amortize the loan during the borrower's lifetime. All he need do is (a) be insurable, and (b) pay the annual premium of the term insurance.

The savings and loan, under this proposal, would advance the funds for the home and retain title to the property. There is no subsidy involved in this and no impacting on the Federal Treasury. Yet, although simplistic in nature, it appears to be able to do the job of housing the poor through term life insurance.

At the borrower's death, the proceeds of the term insurance policy would be used to repay the lender—including interest on the advanced funds—and the borrower's family then owns the property free and clear.

This proposal, I would add, is a risk free loan on the part of the lender, since the insurance proceeds would come to the lender and, until then, he retains title to the property. As such, this type of investment would be an attractive one for thrift institutions up to a certain percentage of their assets.

MORTGAGE BACKED BONDS

Another innovation could be tax free mortgage backed bonds. The proceeds from the sale of such bonds would be earmarked for low cost housing.

Because of the experience of New York City, people are seeking tax free investments with features built in. These could be offered where a public purpose is served, and there is no greater public purpose than to shelter the poor and elderly of our country without adding to the tax burden.

EXPERIMENTAL INDEXING

Legislation should be enacted authorizing an experimental program to index savings and certificate accounts as well as mortgages, during periods of inflation and as a deterrent to inflation.

As a nation to date we have turned our backs on the thought of indexing. We look upon it as a kind of giving in to inflation. As I see it, however, rather than being a giving in to inflation, it is a recognition that we are battling inflation. We ought to do something to allow families to retain the value of their life savings, and permit lenders to retain the value of their investments.

This type of program has worked well in some South American countries. The author of this article wrote the law in Chile that set up that country's savings and loan system. The law contained—and continues to contain—an indexing feature. What is done in Chile is the indexing of the principal on savings and on mortgages, based on a cost of living index.

In other words, if take home pay rises, say, 5 percent in a given year, the principal on savings accounts rises a like amount, as does the principal on mortgage balances.

I believe we ought to take the bold step of supporting an experimental program of this type in the United States—while we continue to strive to bring inflation under control.

One of the most significant innovations in the thrift industry has been the advent of annuity programs—offshoots of so-called Keogh and IRA accounts—which offer tax sheltered savings programs to anyone. The annuity account represents a probable wave of the future for savings in our nation, and consideration should be given to legislation allowing increased use of this increasingly valuable savings incentive.

REVITALIZE THE FHA

We should press forward with a real effort to revitalize the Federal Housing Administration, to simplify its laws and regulations and rid that system of the many evils which experience has shown us are inherent in FHA.

These seven proposals could be added to but what is attempted here is to urge a stand for bringing housing back down to the level of the people in this country—and away from the concept of "housing for the rich," which we have been living with for most of this decade.

In short, the creation of a legislative task force, whose sole purpose should be limited to the examination of existing legislation involving housing and housing finance in this country, should be encouraged. The aim of the task force would be to modernize that legislation for the purpose of creating more housing for more people at lower cost and with less burden on the taxpayer.

INJUSTICE OF UPPER LEVEL CIVIL SERVICE PAY FREEZE

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I have repeatedly stated that Members of Congress as elected officials are in a special position to set an example of sacrifice and prudence in difficult economic times. This is why I have consistently voted against pay hikes for Members.

However, I am deeply distressed that pay hikes for upper level civil servants in the General Schedule are contingent upon pay hikes for Members of Congress. As such, these deserving civil servants many of whom have taken cuts in pay to work for the civil service have been denied a pay raise—except for a small cost-of-living increase last year—for the past 7 years.

This is why I have sponsored a measure to untie General Schedule pay hikes from those of Members of Congress. The Government is losing extraordinary talent as these public servants are now deciding to go back to private industry where salary levels for their particular expertise are much higher than the pay ceiling will allow.

The following remarks which I made before the Subcommittee on Retirement and Employee Benefits on July 15, 1975, detail the injustices of this situation which heighten each day:

STATEMENT OF THE HONORABLE GILBERT GUDE BEFORE THE SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS

Mr. Chairman, I applaud the efforts of this Subcommittee in its recognition of a severe and demoralizing pay situation within our distinguished civil service.

As you well know, the salaries of top level civil servants have never been allowed to rise above the executive schedule which in turn may not exceed the salaries of Members of Congress. As a result, 16 different steps in the general schedule from GS 15–18 are all bumping against a $36,000 salary ceiling. I have introduced legislation to redress this situation by computing in the annuity formula the amount of pay a supergrade would have received were this ceiling not in effect. In addition, I have introduced a measure to untie the supergrade from the executive schedule.

Since 1969, the Country has experienced runaway inflation and the Congress has refused to vote itself a pay raise.

In those 6 years the cost-of-living has risen 48%. Salaries in private enterprise have risen 44% and pay rates for the lower level general schedule employees increased by more than 50%.

All the while the salary of the supergrade has remained the same. It is estimated that the purchasing power of these top level civil servants decreases in many cases by one-third. The purchasing power of the GS–18 had fallen to about $27,000 in December of 1974 and will have decreased to about $24,000 by January 1977. By 1977—after 8 years without a salary increase—the supergrade levels will encompass some 50,000 career civil servants.

At the same time, as Comptroller General Staats pointed out in a GAO study of this matter, Congress has recognized the impact of inflation by generously raising allowances for office expenses. The Senate decided that its top staffers had labored too long under a $36,000 ceiling and raised its ceiling level to $38,760 with salary levels of $40,000 for legal counsel, the Sergeant at Arms and the Secretary of the Senate.

No one would question the age old work ethic: equal work for equal pay. Yet, as I have stated, employees in 16 different general schedule salary steps from GS 15 to GS 18 are all currently receiving the same salary. The next pay adjustment in October will reach 22 different salary steps from GS 14 to GS 18.

The fact is that this government is already losing its battle with private industry to compete for highly talented administrators, scientists and doctors. No wonder, a 1974 Civil Service study showed that a GS 16 equivalent in private enterprise earned an average of $45,145, a GS 17 earned an average of $56,011 and a GS 18 an average of some $71,076. It is estimated that those figures would be 8–10% higher today.

The Civil Service Commission's executive director, assistant director and general counsel have already resigned citing the $36,000 salary limitation. Last December the Director of the Congressional Research Service resigned because of the salary compression.

The GS 18 position of Chief Actuary in the Social Security Administration has been vacant for well over 10 months—no one will accept the position at the $36,000 level. In one month alone 4 private industry actuaries refused the job citing reduction in salary levels.

The Clinical Director and Surgery Chief of the National Cancer Institute has resigned to accept a higher paying job at a university. The Chief Commerce Department Economist of the Bureau of Economic Analysis resigned for a higher paying job in the private sector.

In addition, I have received numerous letters from doctors at the Veterans Administration hospital. To date, at least 3 doctors have left the hospital's Department of Medicine and Surgery. Six doctors have refused promotions or re-assignments. Over 100 doctors have declined V.A. job offers in the period from March 1974 to March 1975.

At the Atomic Energy Commission, two managers in the Division of Reactor Research and Development and one in the Division of Management Information of Telecommunications Systems resigned to accept higher paying positions.

The Director of the Office of Nutrition and Consumer Sciences within HEW is vacant. The acting director resigned in March due to the salary limitation.

To add insult to injury, the civil servant eligible for retirement faces a decreasing annuity level the longer he stays in service. As you may know, each year of additional service increases retirement by 2 percent of the "high-3" which is far less than current cost-of-living increases. Last fall, I received letters from my constituents inquiring as to the status of legislation to repeal the pay limitation—their stated intent was to retire should the outlook for passage of such legislation be dim. Indeed, I received word that such retirements had taken place.

The result of the annuity loss is that supergrades are retiring at almost 3 times the level of all other employees. The greatest frequency occurs in the youngest of retirement eligibles in the 55 to 59 year old bracket. In January 1975 for instance, the Justice Department reported 29 retirements. Seventeen of those retiring cited the salary compression as a factor in their decision to retire. There are some GS 18's currently receiving more than $36,000 in annuities. Two former Congressman received annuities higher than the current Congressional salary level.

Whether we compare the $36,000 figure to the lower national median income or to higher salaries in private industry, one thing is certain: our government is severely threatened by the loss of highly trained individuals responsible for managing programs critical to the Nation's welfare and security.

Should action on the supergrade salary compression not be taken this government will have in effect asked deserving civil servants to work for 8 years without a single salary increase.

This is why I asked this Subcommittee—at the very least—to report out legislation to compute in the annuity formula the amount of pay a supergrade would have received were this ceiling not in effect.

LEGISLATION TO ENCOURAGE WATER CONSERVATION IN THE DISTRICT OF COLUMBIA, ARLINGTON, AND FALLS CHURCH

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, today I am introducing legislation designed to encourage the conservation of water taken from the Potomac River; my colleagues from northern Virginia, Mr. Harris and Mr. Fisher join me in cosponsorship. It is a much-needed measure for the Washington metropolitan area. Water is no longer a free and boundless resource for this community as for many other communities of the United States. Indeed, the summer demand for water in this city has gone as high as 448 million gallons a day; the summer supply of water from the Potomac has dropped to as low as 388 million gallons a day. Had these days coincided, Washington would have used up the Potomac and still been short 60 million gallons.

Both the Maryland suburbs and Fairfax County have seen the need to encourage summer conservation of water through the use of seasonal rates that charge more during the period of peak demand and low supply. However, the District of Columbia, Arlington, and Falls Church have not adopted such rates. Together these jurisdictions comprise one-third of Washington area water users, but they are "weak sisters" insofar as water conservation is concerned.

My bill will require the Washington Aqueduct, the Federal agency that supplies water to those three jurisdictions, to sell its water for more in the summer and less in the winter. Although there is no requirement for the local governments to pass these rates along to their residents, it is hoped that they would adopt the seasonal rate structure voluntarily.

Water conservation might reduce or eliminate the need for additional Potomac River impoundments to insure minimum flows and meet peak demands. Since water utility investments are guided by peak demands which are not being appropriately restrained, incentive pricing of water can well have a long-range effect of holding down future rate increases to finance the construction of unnecessary dams.

Water conservation must be a community effort if it is to succeed. With seasonal rates already in effect in the WSSC and Fairfax County Water Authority service areas, it is entirely appropriate for this legislation to prod the few remaining jurisdictions into adopting a similar conservation approach. With the desperate need for conservation in this city, it is unfair that the water the Maryland suburbs now conserve might be wasted by the users downstream.

Water conservation saves a precious natural resource and provides many other benefits: It reduces the hydraulic load upon sewage treatment plants, which in turn reduces the need for plant expansion; if less water is used, it increases storm water treatment capacity, as well as the reducing raw sewage overflows directly into the Potomac during summer storms; there can be savings in energy that would have been needed to heat and pump the saved water; and, of course, more pressure will remain in the water mains. Water conservation saves money, time, and helps protect the environment. It is an idea whose time has come; I hope that the Congress acts favorably upon this bill which I include at this point:

H.R. 15434

A bill to provide for the establishment of an equitable rate structure for water delivered to the District of Columbia and to encourage water conservation in the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) not later than the end of the 180-day period beginning on the date of enactment of this Act, the Mayor of the District of Columbia shall, on behalf of the District of Columbia, enter into an agreement with the appropriate Federal official regarding the rates to be paid by the District of Columbia for the delivery of water from the Potomac River through the Washington Aqueduct, District of Columbia. Such agreement shall provide separate rate schedules for the period beginning May 1 of each year and ending October 31 of such year and for the period beginning November 1 of each year and ending April 30 of the succeeding year. The rate schedule for each such period shall reflect the availability of water from the Potomac River and the operational and capital costs of delivery of water during such period.

(2) The agreement entered into by the Mayor of the District of Columbia pursuant to paragraph (1) shall provide for the periodic adjustment of the rate schedules established by such agreement in order that such schedules accurately reflect changes in the availability of and the demand for water and the costs associated with meeting such demand.

(b) Notwithstanding any other Act or any agreement entered into under any other Act, the rate schedules established pursuant to this section shall apply with respect to any delivery of water from the Potomac River through the Washington Aqueduct to the District of Columbia or any other unit of government.

(c) The agreement entered into by the Mayor of the District of Columbia pursuant to paragraph (1) of subsection (a) and any other agreement entered into in carrying out this Act may contain such terms and items as may be appropriate to encourage equitable water conservation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Corman (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hansen) to revise and extend their remarks and include extraneous material:)

Mr. McClory, for 5 minutes, today.

Mr. Whalen, for 5 minutes, today.

Mr. Whalen, for 5 minutes, on September 8, 1976.

Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Fithian) to revise and extend their remarks and include extraneous material:)

Mr. Dent, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Ms. Abzug, for 15 minutes, today.

Mr. Minish, for 10 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Shipley, for 5 minutes, today.

Mr. Pepper, for 15 minutes, today.

Mr. Levitas, for 5 minutes, today.

Mr. Harris, for 5 minutes, today.

Mr. Pattison of New York, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rhodes, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $4,137.

Mr. Charles H. Wilson of California, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,073, pursuant to the special order granted to Mr. Charles H. Wilson of California today.

(The following Members (at the request of Mr. Hansen) and to include extraneous matter:)

Mr. Young of Florida in five instances.

Mr. Schulze.

Mr. Gilman in three instances.

Mr. Steiger of Wisconsin.

Mr. Pressler.

Mr. Shuster.

Mr. Hyde.

Mr. Paul in two instances.

Mr. Kasten.

Mr. Derwinski in two instances.

Mr. Ashbrook in three instances.

Mr. McClory.

Mr. Kemp in two instances.

Mr. Railsback in two instances.

Mr. Butler.

Mr. Brown of Ohio in two instances.

Mr. Findley.

Mr. Mosher in three instances.

Mr. Goldwater.

Mrs. Holt.

Mr. Johnson of Pennsylvania.

(The following Members (at the request of Mr. Fithian) and to include extraneous material:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. McCormack in two instances.

Mr. Johnson of California.

Mr. Dodd in two instances.

Mr. LAFALCE in two instances.
Mr. CARNEY.
Mr. PEPPER.
Mr. VANIK.
Mr. MIKVA.
Mr. MOORHEAD of Pennsylvania.
Mr. KREBS.
Mr. HANLEY in two instances.
Mr. MILFORD in two instances.
Mr. RUSSO.
Mr. OTTINGER in two instances.
Mr. RANGEL.
Mr. HANNAFORD.
Mr. JAMES V. STANTON.
Mr. FRASER.
Mr. MCDONALD.
Mr. EILBERG.
Mr. LLOYD of California.
Mr. RICHMOND.
Mr. STOKES in two instances.
Mr. BEVILL.
Mr. WOLFF.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On September 1, 1976:

H.R. 3052. An act to amend section 512 (b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities;

H.R. 8410. An act to amend the Packers and Stockyards Act of 1921, as amended and for other purposes;

H.R. 8800. An act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles;

H.R. 11481. An act to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes;

H.R. 11670. An act to authorize appropriations for the Coast Guard for the Procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes; and

H.R. 13372. An act to amend the Wild and Scenic Rivers Act (82 Stat. 90*; 16 U.S.C. 1271), and for other purposes.

On September 2, 1976:

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

ADJOURNMENT

Mr. FITHIAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 136 of the 94th Congress, the Chair declares the House adjourned until 12 o'clock noon on Wednesday, September 8, 1976.

Thereupon (at 5 o'clock and 2 minutes p.m.), pursuant to Senate Concurrent Resolution 136, the House adjourned until Wednesday, September 8, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3913. A letter from the President of the United States, transmitting an Executive order generally prohibiting the employment of aliens in the competitive service (H. Doc. No. 94-600); to the Committee on Post Office and Civil Service and ordered to be printed.

3914. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of two construction projects to be undertaken by the Naval Reserve, pursuant to 10 U.S.C. 2233a (1); to the Committee on Armed Services.

3915. A letter from the Senior Adviser and Coordinator for International Narcotics Matters, Department of State, transmitting the actual and planned changes in allocation of fiscal year 1976 and interim quarter funds authorized and appropriated for the international narcotic control program, pursuant to section 653; to the Committee on International Relations.

3916. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-15), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3917. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Israel (transmittal No. 7T-16), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3918. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Morocco (transmittal No. 7T-17), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3919. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Singapore (transmittal No. 7T-18), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3920. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Korea (transmittal No. 7T-19), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3921. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-20), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3922. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-21), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3923. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of intention of the Department of the Army to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-22), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3924. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of intention of the Department of the Army to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-23), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3925. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of intention of the Department of the Navy to sell certain defense articles to Pakistan (transmittal No. 7T-24), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3926. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to sell certain defense articles and services to Iran (transmittal No. 7T-25), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3927. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Israel (transmittal No. 7T-26), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3928. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to sell certain defense articles and services (transmittal No. 7T-27), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3929. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Iran (transmittal No. 7T-28), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3930. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Iran (transmittal No. 7T-29), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3931. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Pakistan (transmittal No. 7T-30), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3932. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Iran (transmittal No. 7T-31), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3933. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice to the intention of the Department of the Navy to sell certain defense articles and services to Iran (transmittal No. 7T-32), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3934. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to sell certain defense articles to Australia (transmittal No. 7T-33), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3935. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles and services to Iran (transmittal No. 7T-34), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3936. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-35), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3937. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles and services to Iran (transmittal No. 7T-36(a) and (b)), pursuant to section 36(b) of the Arms Export Control Act; to the Committtee on International Relations.

3938. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-37), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3939. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to sell certain defense articles to Saudi Arabia (transmittal No. 7T-38), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3940. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-39), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3941. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-40), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3942. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Israel (transmittal No. 7T-41), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3943. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Norway (transmittal No. 7T-42), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3944. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Korea (transmittal No. 7T-43), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3945. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles and services to the Philippines (transmittal No. 7T-44), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3946. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to sell certain defense services to the Federal Republic of Germany (transmittal No. 7T-45), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3947. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Iran (transmittal No. 7T-46), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3948. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to sell certain defense articles to Israel (transmittal No. 7T-47), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3949. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to sell certain defense articles to Pakistan (transmittal No. 7T-48), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3950. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to sell certain defense articles to Pakistan (transmittal No. 7T-49), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3951. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Pakistan (transmittal No. 7T-50), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3952. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Korea (transmitted No. 7T-51), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3953. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act [8 U.S.C. 1254(c)]; to the Committee on the Judiciary.

3954. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the operation of lake regulation control works under the jurisdiction of the Department of the Army in the St. Marys River at Sault Ste. Marie, Mich., in the interest of minimizing damages to shore property on the Great Lakes during periods of high lake levels and for other purposes; to the Committee on Public Works and Transportation.

3955. A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for July 1975 to May 1976, pursuant to section 10(d) of the Small Business Act, as amended;to the Committee on Small Business.

3956. A letter from the Administrator of Veterans' Affairs, transmitting reports for fiscal year 1976 on the exchange of medical information and sharing of medical resources programs, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

3957. A letter from the Acting Comptroller General of the United States, transmitting the third annual report of the joint financial management improvement program; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under caluse 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRASER: Committee on International Relations. H. Res. 1506. Resolution relating to the sentencing of 18 South Koreans; with amendments (Rept. No. 94-1462). Referred to the House Calendar.

Mr. SOLARZ: Committee on International Relations. H. Res. 1509. Resolution urging the President not to extend diplomatic or other recognition to the Transkei territory, (Rept. No. 94-1463). Referred to the House Calendar.

Mr. MORGAN: Committee on International Relations. H. Con. Res. 726. Concurrent resolution to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own conscience (Rept. No. 94-1464). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14041. A bill to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes; with amendments (Rept. No. 94-1465, pt. I). Ordered to be printed.

Mr. PEPPER: Committee on Rules. House Resolution 1519. A resolution providing for the consideration of H.R. 14940. A bill to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes (Rept. No. 94-1466). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1520. A resolution providing for the consideration of S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the national park system, and for other purposes (Rept. No. 94-1467). Referred to the House Calendar.

Mr. TAYLOR of North Carolina: Committee of conference. Conference report on S. 327 (Rept. No. 94-1468). Ordered to be printed.

Mr. MORGAN: Committee on International Relations. H.R. 15377. A bill to amend the Export Administration Act of 1969; with an amendment (Rept. No. 94-1469). Referred to the Committee of the Whole on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 13374. A bill to establish the Minnesota River Valley National Wildlife Refuge, and for other purposes; with amendments (Rept. No. 94-1470). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. S. 1414. An act to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes; with amendments (Rept. No. 94-1472). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNGATE: Committee on the Judiciary. H.R. 15319. A bill to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code; with amendments (Rept. No. 94–1471). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 15276. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for inclusion of officers and members of the U.S. Park Police force under the Federal pay comparability system and to require submittal of a report on the feasibility and desirability of codifyng the laws relatng to the U.S. Park Police; with amendments (Rept. No. 94–1473). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOWERS: Committee on the Judiciary. H.R. 15. A bill to regulate lobbying and related activities; with an amendment (Rept. No. 94–1474, pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 15404. A bill to amend the Water Resources Development Act of 1974, relating to the New York Harbor collection and removal of drift project; to the Committee on Public Works and Transportation.

By Ms. ABZUG (for herself, Ms. Collins of Illinois, and Ms. Holtzman):

H.R. 15405. A bill to establish a department of Women's Affairs in the executive branch of the Federal Government; to the Committee on Government Operations.

By Mr. ANDREWS of North Dakota:

H.R. 15406. A bill to modify the project for flood protection on the Souris River at Minot, N.Dak., to require the Secretary of the Army, acting through the Chief of Engineers, to reimburse the designated non-Federal interest for certain additional expenses incurred by it as part of the project; to the Committee on Public Works and Transportation.

By Mr. ASHLEY:

H.R. 15407. A bill to establish a corporation to administer a self-sustaining program of residential mortgage loan insurance in certain urban areas; to the Committee on Banking, Currency and Housing.

By Mr. EMERY:

H.R. 15408. A bill to amend the Commercial Fisheries Research and Development Act of 1964 in order to amend the formula for calculating yearly apportionments to the States of funds available under such act; to the Committee on Merchant Marine and Fisheries.

By Mr. GRADISON:

H.R. 15409. A bill to provide improved and expedited procedures for foreclosure of multifamily mortgages owned or held by the United States pursuant to the National Housing Act and other Federal laws; to the Committee on Banking, Currency and Housing.

By Mr. McCLORY:

H.R. 15410. A bill to amend the Occupational Safety and Health Act of 1970 to provide that employers who do not supervise the activities of other employers at a workplace shall not be subject to certain requirements of such act with respect to hazards resulting from such activities; to the Committee on Education and Labor.

By Mr. MINISH (for himself, Mr. Reuss, Mr. Ashley, Mr. Mitchell of Maryland, Mr. Hayes of Indiana, Mr. Gonzalez, Mr. St Germain, Mr. Lundine, and Mr. McKinney):

H.R. 15411. A bill to provide national standards of protection for purchasers of dwelling units in condominium or planned unit developments and for tenants of rental housing being converted to dwelling units in condominium developments; to the Committee on Banking, Currency and Housing.

By Mr. MYERS of Pennsylvania (for himself, Mr. Emery, Mr. Whitehurst, Mr. Lent, Mr. Derwinski, Mr. Dan Daniel, Mr. Schulze, Mr. Eilberg, Mrs. Lloyd of Tennessee, Mr. Preyer, Mr. Kemp, Mr. Roe, Mr. Flood, Mr. Traxler, and Mr. McHugh):

H.R. 15412. A bill to allow fire departments to transmit nonemergency communications relating to official fire department business over fire department radio frequencies; to the Committee on Interstate and Foreign Commerce.

By Mr. MYERS of Pennsylvania (for himself, Mr. Lujan, Mr. Gilman, and Mr. Baucus):

H.R. 15413. A bill to provide an opportunity to individuals to contribute $1, in connection with the payment of their Federal income tax, to the U.S. Olympic Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. NOLAN:

H.R. 15414. A bill to enact the National School-Age Mother and Child Health Act of 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Badillo, Mr. Bedell, Mr. Edwards of California, Mr. Koch, and Mr. Richmond):

H.R. 15415. A bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to establish regional demonstration programs to encourage secondary school students from a disadvantaged background to pursue careers in the health professions; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Badillo, Mr. Bedell, Mr. Edwards of California, Mr. Koch, and Mr. Richmond):

H.R. 15416. A bill to amend the Higher Education Act of 1965 to provide grants to certain eligible institutions of higher education for regional medical academic summer enrichment programs to prepare undergraduate students from disadvantaged backgrounds for careers in the several medical professions; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Badillo, Mr. Bedell, Mr. Edwards of California, Mr. Koch, and Mr. Richmond):

H.R. 15417. A bill to provide capitation grants to medical, osteopathic, and dental schools for increasing the enrollment of students from disadvantaged backgrounds; to the Committee on Education and Labor.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 15418. A bill to amend section 651 of title 10, United States Code, to provide that female persons who become members of the Armed Forces shall have a 6-year statutory military obligation and for other purposes; to the Committee on Armed Services.

By Mr. PRICE (for himself and Mr. Anderson of Illinois):

H.R. 15419. A bill to provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

By Mr. SCHULZE:

H.R. 15420. A bill to provide for the striking of medals commemorating the 200th anniversary of the encampment of the American Army during the bitter winter of Valley Forge; to the Committee on Banking, Currency and Housing.

By Mr. SHARP:

H.R. 15421. A bill to amend the worker adjustment assistance provisions of the Trade Act of 1974 in order to repeal the requirement that workers may not be covered under certification of eligibility to apply for such assistance unless they are totally or partially separated from adversely affected employment within 1 year before the date of petitioning for such certification; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. Baucus, Mr. Bingham, Mr. Byron, Mr. Carr, Mr. Don H. Clausen, Mr. Cotter, Mr. de Lugo, Mr. Dodd, Mr. Duncan of Tennessee, Mr. Giaimo, Mr. Johnson of California, Mr. Kastenmeier, Mr. Lagomarsino, Ms. Lloyd of Tennessee, Mr. McKinney, Mr. Meeds, Mr. Moffett, Mr. Roncalio, Mr. Sarasin, Mr. Sebelius, Mr. Seiberling, Ms. Smith of Nebraska, Mr. Steelman, and Mr. Stephens):

H.R. 15422. A bill to amend the Wild and Scenic Rivers Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina (for himself and Mr. Won Pat):

H.R. 15423. A bill to amend the Wild and Scenic Rivers Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. ABZUG:

H.R. 15424. A bill to amend the United States Housing Act of 1937 to enable local public housing agencies to enter into security arrangements designed to prevent crimes and otherwise insure the safety and well-being of public housing tenants; to the Committee on Banking, Currency and Housing.

By Mr. DON H. CLAUSEN:

H.R. 15425. A bill to amend the act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, relating to offenses against individuals 60 years of age or older; to the Committee on the District of Columbia.

H.R. 15426. A bill to require the payment of interest by Federal agencies on overdue contract payments, to amend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

H.R. 15427. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the personal exemptions from $750 to $1,000, to provide for automatic cost-of-living adjustments in the individual tax rates, and to provide a credit for a certain portion of the expenses of higher education; to the Committee on Ways and Means.

By Mr. DOWNEY of New York:

H.R. 15428. A bill to require the Federal Communications Commission to increase the channels available for use in the citizens radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. DRINAN (for himself, Mr. Kastenmeier, Mr. Danielson, Mr. Badillo, Mr. Pattison of New York, Mr. Railsback, and Mr. Wiggins):

H.R. 15429. A bill to extend the Civil Rights Attorney's Fees Awards Act of 1976; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. Downey of New York, Mr. Ottinger, Mr. Bedell, Mr. Edwards of California, Mr. Harris, Mr. Hughes, Mr. Long of Maryland, Mr. McKinney, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Sarbanes, Mr. Simon, Mrs. Spellman, and Mr. Wolff):

H.R. 15430. A bill to provide for certain research and demonstration respecting the disposal of sludge, the reclamation of waters damaged by sludge and sewage, the regulation of hazardous sludge, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and to provide that grants for waste treatment works shall be made only if such works provide for environmentally sound sludge management; to the Committee on Public Works and Transportation.

By Mr. ECKHARDT:

H.R. 15431. A bill to modify the project for navigation at Houston ship channel (Greens Bayou), Tex., to increase the depth of the channel in Greens Bayou; to the Committee on Public Works and Transportation.

By Mr. GILMAN:

H.R. 15432. A bill to amend title XVI of the Social Security Act to provide an increase in the benefits payable to aged, blind, and disabled individuals under the supplemental security income program; to the Committee on Ways and Means.

By Mr. GOLDWATER:

H.R. 15433. A bill to amend the Airport and Airway Development Act of 1970 to make privately owned public use airports eligible for funding under the act; to the Committee on Public Works and Transportation.

By Mr. GUDE (for himself, Mr. Harris, and Mr. Fisher):

H.R. 15434. A bill to provide for the establishment of an equitable rate structure for water delivered to the District of Columbia and to encourage water conservation in the District of Columbia, and for other purposes; jointly, to the Committees on the District of Columbia and Public Works and Transportation.

By Mr. HAGEDORN (for himself, Mr. Pattison of New York, Mr. Taylor of Missouri, Mr. Don H. Clausen, Mr. Breaux, Mr. Snyder, Mr. Walsh, Mr. Ginn, Mr. Mineta, Mr. Frenzel, Mr. Myers of Indiana, and Mr. Holland):

H.R. 15435. A bill to amend the act of March 3, 1899, relating to Federal regulations of rivers and harbors; to the Committee on Public Works and Transportation.

By Mr. HUGHES:

H.R. 15436. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to establish a procedure for zero-based review of Government programs every 5 years, and for other purposes; to the Committee on Rules.

By Mr. HUNGATE:

H.R. 15437. A bill to amend the Internal Revenue Code of 1954 to provide for payment by the Government of all reasonable litigation expenses to prevailing taxpayers in legal action; to the Committee on Ways and Means.

By Mr. JONES of Alabama (by request):

H.R. 15438. A bill to increase the exemption from Commission approval for certain motor carrier transfers, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of Alabama (by request):

H.R. 15439. A bill to authorize the Interstate Commerce Commission to require adequate compensation for owner-operator fuel costs in a transportation emergency, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of Alabama (by request):

H.R. 15440. A bill to amend section 409 of the Interstate Commerce Act to authorize contracts by freight forwarders for certain purposes on an experimental basis, and for other purposes; jointly, to the Committees on Public Works and Transportation and Interstate and Foreign Commerce.

By Mr. JONES of Alabama (by request):

H.R. 15441. A bill to authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes; jointly, to the Committees on Public Works and Transportation, Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

By Mr. JONES of Alabama (by request):

H.R. 15442. A bill to amend the Interstate Commerce Act, to reform the procedures of the Interstate Commerce Commission regarding common carriers by motor and by water, and freight forwarders, and for other purposes; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

By Mr. JONES of Alabama (by request):

H.R. 15443. A bill to amend the Interstate Commerce Act, to grant additional authority to the Interstate Commerce Commission regarding conglomerate holding companies involving carriers subject to the jurisdiction of the Commission and noncarriers, and for other purposes; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

By Mr. JONES of Alabama (by request):

H.R. 15444. A bill to authorize the Interstate Commerce Commission to approve, on an expedited basis, pooling arrangements between common carriers other than railroads that are not of major transportation importance and are not likely unduly to restrain competition, and for other purposes; jointly, to the Committee on Public Works and Transportation, and Interstate and Foreign Commerce.

By Mr. LEGGETT:

H.R. 15445. A bill to save the gray whale; to the Committee on Merchant Marine and Fisheries.

By Mr. MELCHER (for himself, Mr. Udall, Mr. AuCoin, Mr. Bafalis, Mr. Baucus, Mr. Bell, Mr. Bergland, Mr. Boland, Mr. Breaux, Mr. Burlison of Missouri, Mr. Phillip Burton, Mr. Don H. Clausen, Mr. Danielson, Mr. Edwards of California, Mr. Hannaford, Mr. Johnson of California, Mr. Krebs, Mr. Leggett, Mr. Lehman, Mr. Lujan, Mr. Meeds, Mr. Patterson of California, Mr. Roncalio, Mr. Symington, and Mr. Weaver):

H.R. 15446. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. MELCHER (for himself, Mr. Udall, Ms. Abzug, Mr. Lloyd of California, Mr. Moss, Mr. Nix, Mr. Ottinger, Mr. Stark, and Mr. Taylor of Missouri):

H.R. 15447. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania:

H.R. 15448. A bill to establish a commission to investigate the factors contributing to the decline of urban neighborhoods and the factors necessary to neighborhood survival and revitalization, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. PEPPER:

H.R. 15449. A bill to amend title XIX of the Social Security Act to provide that medicaid is a payor of last resort and to permit recovery by States from certain estates of medicaid expenses incurred by individuals before reaching the age of 65; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS:

H.R. 15450. A bill to require that the disclosure of records maintained by financial institutions respecting their customers to officers, employees, or agents of the United States or of any State or political subdivision thereof occur only in accordance with the provisions of this act; to the Committee on Banking, Currency and Housing.

By Mr. SMITH of Iowa (for himself, Mr. Bergland, Mr. Quie, Mr. Long of Louisiana, Mr. Badillo, Mr. Gaydos, Mr. Hagedorn, Mr. Symington, Mr. Shipley, Mr. Melcher, Mr. Bowen, Mr. Findley, Mr. Charles Wilson of Texas, Mr. Flowers, Mr. Flood, Mr. Breaux, Mr. Abdnor, Mr. Montgomery, Mr. Price, Mr. Hall of Illinois, Mr. Hungate, and Mr. McClory):

H.R. 15451. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STOKES (for himself, Mr. Rodino, Mr. Metcalfe, Mr. Conyers, Mr. Nix, Mr. Dellums, Mr. Beard of Rhode Island, Mr. Udall, Mr. Traxler, Mr. Rostenkowski, Mr. Carney, Mr. Mitchell of Maryland, Ms. Burke of California, Mr. Clay, Mr. Badillo, Mr. Flood, Mr. Richmond, Mr. Brodhead, Mr. Rangel, Mr. Fraser, Mr. Stark, Mr. Roybal, Mr. Ford of Tennessee, Ms. Abzug, and Mr. Harrington):

H.R. 15452. A bill to require that any person holding a federally related home mortgage shall provide certain services and follow certain procedures before instituting foreclosure proceedings with respect to such mortgage; to the Committee on Banking, Currency and Housing.

By Mr. STOKES (for himself, Mr. Dodd, Mr. Fary, Mr. Seiberling, Mr. Benitez, Ms. Heckler of Massachusetts, and Ms. Chisholm):

H.R. 15453. A bill to require that any person holding a federally related home mortgage shall provide certain services and follow certain procedures before instituting foreclosure proceedings with respect to such mortgage; to the Committee on Banking, Currency and Housing.

By Mr. ADDABBO (for himself, Mr. Blouin, Ms. Burke of California, Mr. Symington, and Mr. Young of Florida):

H.J. Res. 1083. A resolution authorizing the President to proclaim September 8 of each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

By Mr. J. WILLIAM STANTON:

H.J. Res. 1084. A resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. GREEN:

H. Con. Res. 733. A resolution expressing the sense of the Congress with respect to the importation of canned mushrooms into the United States; to the Commission on Ways and Means.

By Mr. FINDLEY (for himself, Mr. Baucus, Mr. Beard of Tennessee, Mr. Bevill, Mr. Boland, Mr. Cleveland, Mr. Cornell, Mr. Dan Daniel, Mr. Dominick V. Daniels, Mr. Derwinski, Mr. Duncan of Oregon, Mr. Eilberg, Mr. English, Mr. Eshleman, Mr. Fascell, Mr. Flood, Mr. Fountain, Mr. Fraser, Mr. Gradison, Mrs. Heckler of Massachusetts, Mr. Howe, and Mr. Hyde):

H. Con. Res. 734. A resolution directing interment of an unknown soldier from the Vietnam war in Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. FINDLEY (for himself, Mr. Ketchum, Mr. Kindness, Mr. Koch, Mrs. Lloyd of Tennessee, Mr. Mazzoli, Mrs. Meyner, Mr. Miller of Ohio, Mr. Murphy of Illinois, Mr. Nichols, Mrs. Pettis, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Simon, Mr. Skubitz, Mr. Thone, Mr. Treen, Mr. Waggonner, Mr. Whitehurst, and Mr. Young of Florida):

H. Con. Res. 735. A resolution directing interment of an unknown soldier from the Vietnam war in Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. CARR (for himself, Mr. Edgar, Ms. Keys, Mr. Hall of Illinois, Mr. Neal, Mr. Downey of New York, Mr. Blouin, Mr. Hechler of West Virginia, Mr. Lundine, Mr. Harkin, Mr. Pattison of New York, Mrs. Schroeder, Mr. Harris, Mr. Fithian, Mr. Hughes, Mr. Sharp, Mr. Traxler, Mr. Weaver, Mr. AuCoin, Mr. Baucus, Mr. Brodhead, Mr. Bonker, Mr. Bedell, and Mr. Nolan):

H. Res. 1521. A resolution to amend the Rules of the House of Representatives to require committee approval of certain travel proposals, and for other purposes; to the Committee on Rules.

By Mr. PATTEN (for himself, Mr. Annunzio, Mr. Cleveland, Mr. Conlan, Mr. Conte, Mr. Coughlin, Mr. Crane, Mr. Fish, Mr. Forsythe, Mr. Gude, Mr. Horton, Mr. Hyde, Mr. Johnson of Pennsylvania, Mrs. Meyner, Mr. Murphy of New York, Mr. Rinaldo, Mr. Winn, and Mr. Wydler):

H. Res. 1522. A resolution expressing the sense of Congress with regard to the rights of minorities in Romania; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. LEVITAS:

Page 199, strike out line 3 and all that follows down through line 6 and redesignate the following paragraphs accordingly.

Page 203, line 18, strike out "designating authorities" and insert in lieu thereof "State".

Page 204, line 9, insert "who may make an initial designation" after "Administrator".

Page 205, line 15, insert "who may make an initial designation" after "Administrator".

Page 205, line 19, strike out "State law" and insert in lieu thereof "the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such designation or redesignation must be specifically approved by State legislation)".

Page 207, line 20, insert "or the State (in accordance with the regulations of the Administrator)" after "Administrator".

H.R. 12112

By Mr. HECHLER of West Virginia:

On page 59 (which is part of the Science and Technology Committee amendment and which relates to the "Sunshine in Government" provisions of that amendment), after the word "Administration" on line 8 and on line 17 of page 60, insert "and the Secretary of the Treasury" and after the word "Administrator" on lines 20 and 23 and on lines 9 and 16 on page 60, insert "or said Secretary, as appropriate,".

On page 100 (which is part of the Banking, Currency and Housing Committee amendment and which relates to the "Sunshine in Government" provisions of that amendment), after the word "Administration" on line 10 and on line 20 of page 101 insert "and the Secretary of the Treasury", and after the word "Administrator" on line 22 of page 100 and on lines 1, 12, and 19 on page 101 insert "or said Secretary, as appropriate,".

By Mr. MAGUIRE:

On page 99 (which is part of the Banking, Currency and Housing Committee amendment), after "(r)" on line 11 insert "(1)" and between lines 14 and 14 insert the following:

"(2) The Administrator shall require, as a condition of issuing one or more guarantees with respect to a project which guarantees in the aggregate exceed $20,000,000, that the applicant for such guarantee agree (or obtain any agreements necessary to assure) that any proprietary or patented process (other than a process to which paragraph (1) applies)—

"(A) which is used in the project,

"(B) which is necessary for general commercial application of the technology utilized in the project, and

"(C) which is known to the Administrator or the applicant at the time such obligation is entered into,

shall be available for general commercial application in similar projects in the United States at such fee and on such other terms and conditions as the Administrator determines are reasonable. Such fee, or the manner for determining it, and such terms and conditions shall be specified in the guarantee agreement or in a separate agreement (executed before the guarantee is issued) with the persons controlling the rights to use such process."

On page 58 (which is part of the Science and Technology Committee amendment), after "(r)" on line 10 insert "(1)" and between lines 13 and 14 insert the following:

"(2) The Administrator shall require, as a condition of issuing one or more guarantees with respect to a project which guarantees in the aggregate exceed $20,000,000, that the applicant for such guarantee agree (or obtain any agreements necessary to assure) that any proprietary or patented process (other than a process to which paragraph (1) applies)—

"(A) which is used in the project,

"(B) which is necessary for general commercial application of the technology utilized in the project, and

"(C) which is known to the Administrator or the applicant at the time such obligation is entered into,

shall be available for general commercial application in similar projects in the United States at such fee and on such other terms and conditions as the Administrator determines are reasonable. Such fee, or the manner for determining it, and such terms and conditions shall be specified in the guarantee agreement or in a separate agreement (executed before the guarantee is issued) with the persons controlling the rights to use such process."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of September 1, 1976, page 28905:

HOUSE BILLS

H.R. 15001. August 2, 1976. House Administration. Amends the Mutual Security Act of 1954 to provide that foreign currencies owned by the United States shall be available for use by the Select Committee on Aging and the Select Committee on Narcotics Abuse and Control of the House of Representatives in connection with foreign travel by the members and employees of such select committees.

H.R. 15002. August 2, 1976. Education and Labor. Amends the Older Americans Act of 1965 to direct the Commissioners on Aging to establish a program to make supplemental food available to older persons determined to be nutritional risks because of inadequate nutrition and inadequate income. Directs the Commissioner to establish a program to make medical services and medical supplies available to older persons determined to be in special need of such services and supplies because of their medical condition and inadequate income.

H.R. 15003. August 2, 1976. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to require that any determination of teachers' allowances in Department of Defense overseas dependents' schools be made without regard to whether the teacher was recruited outside or inside the United States.

H.R. 15004. August 2, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private entities which are engaged in the development of new schools of veterinary medicine to assist in such development.

H.R. 15005. August 2, 1976. Merchant Marine and Fisheries; Public Works and Transportation; International Relations; Science and Technology. Prohibits discharges of fuel by vessels into United States territorial waters. Directs the Secretary of Commerce to initiate comprehensive research on the adverse effects of fuel discharges on coastal, territorial, and oceanic waters.

H.R. 15006. August 2, 1976. Interstate and Foreign Commerce. Amends the National Traffic and Motor Vehicle Safety Act of 1966 to require the installation of passive occupant restraints in the front seats of all passenger cars.

H.R. 15007. August 2, 1976. Interior and Insular Affairs. Authorizes the administrators of certain Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act to authorize the use of community development block grants for payments to assist in the acquisition and installation of solar energy equipment.

H.R. 15008. August 2, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15009. August 2, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15010. August 2, 1975. Judiciary. Requires liquidation and refund of duties paid by a certain corporation pursuant to the importation of specified cattle, notwithstanding available protest procedures against decisions of appropriate customs officers under the Tariff Act of 1930.

H.R. 15011. August 2, 1976. Judiciary. Requires liquidation and refund of duties paid by a certain corporation pursuant to the importation of specified cattle, notwithstanding available protest procedures against decisions of appropriate customs officers under the Tariff Act of 1930.

H.R. 15012. August 2, 1976. Judiciary. Authorizes the issuance of a visa to a certain individual notwithstanding membership in a class of excludable aliens under the Immigration and Nationality Act.

H.R. 15013. August 3, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require identifying markings on aircraft so as to be readily identifiable by persons on the ground whenever such aircraft is operated at low altitudes.

H.R. 15014. August 3, 1976. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such act for the solar heating or cooling of residential structures on family farms.

H.R. 15015. August 3, 1976. Banking, Currency and Housing. Stipulates that the cost of furnishing water to public organizations for waterfowl conservation purposes in the Grasslands areas of the San Joaquin Valley in California shall be nonreimbursable where specified conditions are satisfied.

H.R. 15016. August 3, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to make loans and loan guarantees to veterans for the purchase of solar heating and cooling systems to be used in any dwelling or farm residence to be owned and occupied by the veteran as his home.

H.R. 15017. August 3, 1976. Education and Labor. Authorizes appropriations for the continuation through fiscal year 1977 of specified grants under the Indian Elementary and Secondary School Assistance Act, the Elementary and Secondary Education Act, and the Adult Education Act.

H.R. 15018. August 3, 1976. Ways and Means. Authorizes any amount received from appropriated funds as a scholarship by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program from an educational institution to be treated as a scholarship, excludable from gross income under the Internal Revenue Code for calendar years 1976, 1977, and 1978.

H.R. 15019. August 3, 1976. Ways and Means. Amends the Tariff Schedules of the United States to limit the importation of mushrooms.

HOUSE JOINT RESOLUTIONS

H.J. Res. 1051. August 23, 1976. Judiciary. Proposes a constitutional amendment to assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year and that the Federal indebtedness is eliminated.

H.J. Res. 1052. August 23, 1976. Post Office and Civil Service. Designates January 13, 1977 as "Religious Freedom Day."

H.J. Res. 1053. August 24, 1976. Judiciary. Proposes a constitutional amendment to assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year and that the Federal indebtedness is eliminated.

H.J. Res. 1054. August 24, 1976. Post Office and Civil Service. Designates March 13 to 19, 1977, as "National Community Health Week."

H.J. Res. 1055. August 24, 1976. Post Office and Civil Service. Designates March 13 to 19, 1977, as "National Community Health Week."

H.J. Res. 1056. August 24, 1976. Post Office and Civil Service. Designates the third week of September of 1977 as "National Rehabilitation Week."

H.J. Res. 1057. August 24, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1058. August 25, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Prevention Day."

H.J. Res. 1059. August 25, 1976. Judiciary. Proposes a constitutional amendment which provides that the term of office of the President and Vice President shall be six years, and no person shall be elected to the office of President more than once.

H.J. Res. 1060. August 25, 1976. Post Office and Civil Service. Designates February of each year as "American History Month."

EXTENSIONS OF REMARKS

INCREASED BENEFITS FOR SSI RECIPIENTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing legislation to provide increased benefits for the needy aged, the blind, and the disabled under the supplemental security income program.

Under my proposal, SSI benefits for an individual recipient would be increased from $1,752—the current cost-of-living adjustment is $2,013—to $2,500; for couples, the SSI benefits would be increased from $2,628—the current cost-of-living adjustment is $3,021—to $3,750. The estimated cost of these increases for the calendar year 1977 would amount to approximately $3 billion.

Mr. Speaker, these increased benefits would be targeted to more than 4.3 million needy aged, blind, and disabled citizens who currently receive SSI benefits—2.3 million needy aged, 75,000 blind, and 1.9 million disabled—citizens who are on the threshold of poverty and whose eligibility for SSI benefits are limited to savings of less than $1,500—excluding home, car, and personal effects.

It is my understanding that the national poverty level for an individual is pegged at $2,352, and for couples, it is $2,958. Obviously, these figures mask the fact that the poverty-level threshold varies from State to State and from region to region, but one fact is unmistakenly clear: Increasing the SSI benefits for these needy citizens barely meets their needs for economic survival. After all, how far can the July 1976 SSI monthly benefit—which for an individual is $167.80 and for couples is $251.80—be stretched? Clearly, this monthly benefit is being stretched to the breaking point. But increasing these benefits may mean the difference between starvation and survival for this Nation's needy citizens. It means money to purchase food, to pay the rent or the winter fuel, and to meet the everyday economic needs of survival.

This week the House overwhelmingly passed by a vote of 374 to 3, H.R. 8911, the Supplemental Security Income Amendments of 1976, making certain equitable changes in the SSI program. Mr. Speaker, in the interest of continuing to meet the needs of SSI recipients, I am inserting the full text of my bill at this point in the RECORD, and I welcome the support of my colleagues on this measure:

H.R. 15432

A bill to amend title XVI of the Social Security Act to provide an increase in the benefits payable to aged, blind, and disabled individuals under the supplemental security income program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act are each amended by striking out "$1,752" and inserting in lieu thereof "$2,500".

(b) Sections 1611(a)(2)(A) and 1611(b)(2) of such Act are each amended by striking out "$2,628" and inserting in lieu thereof "$3,750".

SEC. 2. The amendments made by the first section of this Act shall apply (notwithstanding any increase under section 1617 of the Social Security Act taking effect prior to January 1, 1977, but subject to any increase under such section taking effect on or after that date) with respect to payments for months after December 1976.

AN AVIATION PIONEER—GONE WEST

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. MILFORD. Mr. Speaker, this Nation has lost a leading citizen and a true pioneer, Maj. Bill Long.

Anyone with a pilot's license number consisting of six digits or less, is probably very familiar with Maj. Bill Long. Many knew him personally.

In the next monthly meeting in "Quiet Birdmen" hangars, all over the world, Major Bill's name will be specifically mentioned in the traditional toast to "all QB's who have gone West." For the nonflyer, the "Quiet Birdmen," more popularly known as the QB's, is a professional pilot's fraternity with local chapters—hangars—located throughout the world. Major Bill's membership in the fraternity dates back to its origin.

I was privileged to know Major Long personally, as did practically every pilot in the north Texas area. We loved him and we will miss him.

Mr. Speaker, I feel that this man's record is an outstanding example of good citizenship, worthy of the attention of the U.S. Congress and the citizens of this Nation.

I asked an outstanding aviation journalist, Mr. Al Harting, to take pen in hand and outline a sketch of the character and life of Maj. Bill Long. The following is the characterization compiled by Mr. Harting:

AN AVIATION PIONEER—GONE WEST

(By Al Harting)

This Nation lost one of the legendary architects of American airpower when Major

William Francis (Bill) Long passed away in his hometown of Dallas on Thursday night, August 19, 1976, at the age of 81.

A World War I pilot-observer in combat overseas, Major Long became one of America's first civilian flying school operators at Dallas' Love Field. He was among eight such men to be summoned to Washington, D.C., by his friend, the late General H. H. (Hap) Arnold, for a meeting in 1939 in Room 1020 of the War Munitions Building that marked the birth of this country's mighty World War II Air Force.

He quoted General Arnold as saying "Gentleman, make no mistake—we are next on Germany's list. As of the moment, I have 1,006 airplanes that will fly, and 1,042 officers who can fly them after a fashion.

"I want you to go home, mortgage your houses, sell your wives' furs, borrow all the cash you can lay your hands on, and build the world's best flying schools. At the end of the month, I'm giving you each 100 cadets and on July 1 I'm giving you all the government planes and training equipment I can find."

Through fierce patriotism and deep-seated faith in General Arnold, Bill Long joined the others in following the General's request.

He began training U.S. cadets in old wire-spoked PT-3's at Dallas Love Field which had begun in 1917 as a pilot training base for World War I. Some months later, he received the first young Britishers to come to this country to win their wings for combat duty with the Royal Air Force. They trained first at Love Field and then Major Long created a facility exclusively for them at Terrell, Texas, east of Dallas.

Through all the war years, Major Long operated U.S. Air Force contract training schools at Dallas, Terrell, Fort Worth, and Brady, Texas. By the time history's greatest air armada had helped crush Nazi Germany and Japan, his schools had turned out nearly 25,000 pilots and technicians.

For these services, Bill Long received the President's Certificate of Merit and was made a member of the Civil Division of the Order of the British Empire by King George VI. Hap Arnold had put his trust in the right man at a time of unparalleled national crisis.

William Francis Long was born in 1895, the son of a farmer near New Florence, Montgomery County, Missouri. As a lad, he develop a free spirit of adventuring and a love of the land and animals that characterized this unique man throughout his long and eventful life.

Until the time of his death, Bill Long loved his vast Rough Creek Ranch near Walnut Springs, Somervell County, Texas, where he raised some of the Lone Star State's finest Hereford cattle and restored the land and the native game to conditions of a century past. He and his beloved wife, Wayne Pettit, herself a member of one of Texas' pioneer families, regularly spent days and weeks at the ranch enjoying the rolling meadows, the lakes and spring-fed streams.

Bill Long for many years in his prime was a noted horseman and polo player. Mounted on a thoroughbred horse, he was an aggressive and skillful master of the game who gave no quarter—and asked none.

He was an expert marksman who competed in—and often won—shooting contests in both North and Latin America.

When World War I ended, Major Long remained in Europe with the Army of Occupation, returning in 1920 to qualify for commercial pilot's license No. 476. He sold surplus Curtiss Jennies and Standards both in San Antonio and in Dallas and throughout Latin America. He also was a barnstormer, bringing the miracle of flight for the first time to thousands of rural Americans, and he flew payrolls in and out of Mexico.

In 1926, he acquired several World War I hangars at Dallas Love Field where he operated Dallas Aero Service and Dallas Aviation School until selling the property in 1961. He was among the first distributors of such early-day commercial airplanes as the Laird Swallow, Stinson, American Eagle, Eagle Rock, Buhl, and others.

In partnership with his close friend Billy Parker, the famed chief pilot of Phillips Petroleum, Bill Long for many years sold more advanced, multi-engine business airplanes.

He was a founder and chief executive of two commercial airlines—Long & Harmon which sold its routes to Braniff in the late 1930's, and Pioneer which merged with Continental in 1954.

Bill Long was a friend of the legendary names of aviation who often taxied up to visit and seek his advice at Love Field—names like Lindbergh, Amelia Earhart, Jimmy Doolittle, Admiral Richard Byrd, Frank Hawks, Roscoe Turner, Doug Corrigan, Wiley Post, Al Williams, and others.

In addition to military pilots for World War II, Major Long's Dallas Aviation School turned out a legion of airline captains and professional pilots commanding business and executive airplanes in every corner of the land.

After selling his service and training facilities, Bill Long remained on his beloved Love Field in a suite of offices where he frequently met with his old friends and worked as a wise and genial aviation consultant to all comers. At the time of his death he was an active director of the Gates Learjet Corp., Wichita, Kansas, and of the Hillcrest State Bank in Dallas. He was a member of the elite Conquistadores del Cielo, comprised of the country's top aviation industry executives, and cherished meetings with the group twice each year—one of them annually a week-long session at a Rocky Mountain ranch. He also was a member of the Dallas Gun Club where he still shot remarkable rounds of skeet, the Calyx Club and the Cipango Club. He was a QB (Quiet Birdmen).

Bill Long was an extremely well-read and "practical" scholar with interests ranging through history and nearly every known pursuit of man. He was a religious man, with a profound love of God. He was a yarn-spinner without equal, embellishing his narratives with hearty good humor. He liked fashionable clothes, gourmet food and Rolls Royce and Cadillac automobiles, but was at home with men and women in every walk of life. He was a humble person who had the common touch.

Major Long and his lovely, vivacious wife, Wayne, made their home at 3525 Turtle Creek in Dallas.

LONG BEACH AREA ATHLETES PARTICIPATE IN OLYMPICS

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. HANNAFORD. Mr. Speaker, I take this opportunity to laud the accomplishments of 30 young men and women from the Long Beach area in southern California who will be honored by the Long Beach Century Club on September 14, 1976. Deborah A. Ayars, Jack Babashoff, Les Berman—coach, Sherry L. Calvert, Gene Davis, Pat Donnelly, Rayfield Dupree, Lelei A. Fonoimoana, Bruce M. Furniss, Steve C. Furniss, Lisa C. Hansen, Lawrence T. Hart, Annette L. Hilliard, Joni Huntley, Francie Larrieu, Joan L. Lind, Mark E. Lutz, Karen McCloskey, Thomas McKibbon, Anthony J. Montrella—coach, Irene Moreno, Joan K. Schmidt, Claudia Schneider, Albert Schoenfield—assistant manager, Tim A. Shaw, Dwight E. Stones, Rodney Strachan, John Van Blom, Martha Watson, and Leslie Wolfberger were members of the 1976 U.S. Olympic team which rerecently finished competition in Montreal, Canada.

I am sure that all of us in the Congress feel a deep pride in the achievements of the Olympic team at Montreal. But few of us can understand the sacrifice these athletes have made and the painfully hard work they have invested in reaching the Olympics. The Olympic athlete and coach are the personifications of self-discipline, commitment, and competitive excellence, and each of these individuals represents the finest of these ideals.

It is the obligation of the Congress not only to assess the liabilities of our country but to call attention to its assets. Men and women such as these clearly fall into the latter category. It is my privilege, therefore, to enter the names of these individuals into the RECORD of the Congress of the United States and to commend them for their outstanding achievement.

WALKER COLLEGE CIRCLE K CLUB

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BEVILL. Mr. Speaker, on August 17, the Walker College Circle K Club was named the most outstanding chapter in the entire Circle K International organization.

I want to use this RECORD as a means of congratulating the outstanding Walker College Circle K Club on this monumental accomplishment.

For those who might not be familiar with the organization, Circle K is the college affiliate of Kiwanis International.

Since 1956, I have been privileged to serve on the board of trustees of this greatly admired 2-year institution. During these 2 decades, I have continually been impressed with the way the college has progressed.

Under the leadership of its president, Dr. David Rowland, Walker has developed a reputation as an institution totally dedicated to serving the academic and extracurricular needs of its students.

The fact that more than 85 percent of its graduates go on and obtain degrees at 4-year institutions reflects the image Walker College has fostered for itself.

So the fact the school's Circle K chapter has been afforded such a lofty honor comes as no shock to me, since it seems to fit in comfortably with the school's overall goals.

But the thought of what went into making the Circle K award a reality is staggering.

The award is one which most chapters would only dream about.

When the judges at the Circle K International Convention named Walker

College the most outstanding chapter in the organization's largest classification, the gold division, literally thousands of hours of work took on new degrees of satisfaction.

After being named the No. 2 chapter in Circle K International in 1975, the Walker club put in more than 7,500 man-hours of community service during the past year in an effort to take home the top prize.

Much of the credit for the club's success must go to Hank West, a political science instructor at Walker College who serves as club sponsor. Under his guidance, the club has risen from the ranks of the ordinary to the pinnacle it finds itself on today.

Since the Walker College club was revitalized 5 years ago, it has become increasingly dominant in district and national competition with other chapters.

The latest honor bestowed on the club is a fitting tribute to an organization and an institution dedicated to high standards of excellence.

CHERISH THE HONOR CODE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mrs. HOLT. Mr. Speaker, the Personnel Subcommittee of the House Armed Services Committee is presently hearing witnesses regarding the violation of the honor code at the U.S. Military Academy.

The academies must do considerably more than produce officers with physical and technical skills. They must produce officers committed to duty and honor, to moral excellence. Their strength of character is an important part of the strength of our Nation in a very hostile and dangerous world. Those who cannot achieve the standard of moral excellence do not belong at the academies.

The current cheating scandal is a source of grievous concern to me. Cadets are facing expulsion because of cheating in an examination. The Secretary of the Army has modified the penalty to allow applications for readmission after 1 year.

This penalty seems to be an honest effort by the Secretary to cope with this difficult problem, especially when we consider that the academies must be dedicated to a moral standard much higher than that prevailing in civilian life.

As we deliberate on the problems of West Point, I am shocked by the attitude of some Members. They seem to want to abolish the honor code because it has been violated.

I commend those who have brought this matter to the attention of this subcommittee and the chairman for holding very revealing hearings. They have shown strongly that if the honor code at West Point has flaws that need correcting, then responsible officers and the corps of cadets must do the correcting. If enforcement and disciplinary procedures need improvement, responsible officers and the corps of cadets must do the improving.

But Congress must stay out of it. I greatly fear the tendency of politicians to reduce standards to enable everybody to succeed, regardless of merit. In the military ranks of our country, merit must never be replaced by mediocrity.

I have confidence in the responsible officers and the corps of cadets. Their proud and historic institution, which has served our country with great honor, has been sorely shamed by the current scandal. They will remedy the problem. And they will do it in a way that preserves the standards of moral excellence which is the tradition of our service academies.

AMENDMENT TO 1964 MEAT IMPORT ACT

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. KREBS. Mr. Speaker, I rise today to express my deep concern over the ever-increasing amount of processed meats entering the United States through the foreign trade zone in Mayaguez, Puerto Rico. This meat, originating in large part in Australia and New Zealand, by virtue of the processing to which it is subject, directly violates the intent of the Meat Import Act of 1964 and the voluntary agreements correspondingly negotiated with exporting countries under authority of section 204 of the Agricultural Act of 1956.

In an effort to stem this unrestrained flow of processed meat imports, which is a significant factor in the economically perilous situation facing domestic livestock producers, my colleague, the Honorable BERKLEY BEDELL, and I are today introducing a bill to limit the amount of processed meat imported into the United States. This measure closes a loophole in the Meat Import Act of 1964—Public Law 88–482—which fails to limit the amount of processed meat entering the United States. Public Law 88–482 simply places an upper lid on the amount of fresh, chilled, or frozen beef or veal which we import into the continental United States. Under that law, import quotas are mandated when estimates of imported meats equal or exceed 110 percent of an adjusted base quantity. That base quantity was established at a time when processing was not commonly employed—1959 to 1964. Thus, those who drafted the legislation probably did not find it necessary to include processed meat within the base quantity.

Our bill sets a base amount for processed beef and veal, determined by average amounts imported over a recent 10-year period—1966 to 1975. When 110 percent of that adjusted base quantity is exceeded, quotas would be imposed—just as mandated by the 1964 law for fresh, chilled, and frozen beef or veal.

The U.S. Department of State has negotiated voluntary restraints for this year at 1.223 billion pounds. This is just 10 million pounds below the level at which quotas would be imposed. However, 29 million pounds of meat ground, shredded, flaked, chunked, or otherwise processed had entered the continental United States this year as of August 20. In other words, more than enough meat has passed through the Puerto Rican processing plant to cause total U.S. imports to exceed the trigger level for this year.

In mid-August, USDA announced a proposal that certain meats being processed in foreign trade zones would count against the Nation's meat import limitations. We commend Secretary Butz for this action, but nonetheless, it is not as comprehensive a solution as the one which our bill proposes. The spectre of unlimited processed meats which are shredded, flaked, and so forth in the country of origin continues to loom in the background, in spite of the USDA proposal.

In addition, the Foreign Trade Zones Board has repeatedly announced that hearings will be held to decide whether imports of the meats processed in Mayaguez are detrimental to the public interest. However, no positive action has occurred to date. Again, we are pleased that Secretary Richardson has directed the Department of Commerce to investigate this matter. However, even if hearings are held, a positive finding is made, and meat processing in Mayaguez is curtailed, the problem could well recur in the future in Mayaguez or in another foreign trade zone.

Next year, the voluntary restraint agreements, if they are instituted, may well take into account processed meat and require that it be included as a part of the level established in the voluntary agreements. However, once again, this is a solution which is only temporary in nature—1 year—the duration of the agreement—and lacking in comprehensiveness. Processed meat originating abroad would not be covered.

We feel strongly that limitations on the importation of such meat are vital to assist in the recovery of our American livestock industry which has suffered from extremely low returns and rapidly rising costs over the past 2 to 3 years.

In the interest of easing some of the oppressive market pressures facing our domestic cattle industry, it is imperative to enact a measure such as this one. There is little we in the Congress can do about rising costs of production, but we can alleviate unfair market competition by amending the 1964 Meat Import Act to extend its coverage to take into account processed meats.

COST-OF-LIVING PAY INCREASE FOR MEMBERS OF CONGRESS

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. GREEN. Mr. Speaker, I do not believe that Members of Congress should receive automatic cost-of-living pay increases. If the Members of this body feel that their salaries are insufficient, then the House should take up the matter in a public fashion and accept the responsibility.

Mr. Speaker, had I been present yesterday, I would have voted for the Shipley amendment to H.R. 14238, which eliminated the automatic cost-of-living pay increase for Members of Congress during this coming fiscal year.

HOUSING COMPLEX DOOMED

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. PAUL. Mr. Speaker, I am happy to have the opportunity to praise the Washington Post. On August 26, it ran an excellent article about the problem with public housing in this country.

This article details the demolition of a low-income housing project in Prince Georges County called Baber Village. Apparently it has come as a great surprise to the Department of Housing and Urban Development that people who pay little or nothing for housing do not take very good care of it. This is what led to the downfall of Baber Village. The people who lived there simply decimated the place.

Actually, anyone with any foresight or understanding of human nature could have predicted that someone who gets something for nothing is not likely to take the same care of it as someone who must work to pay for it. This is the weakness of all public housing programs. Consequently, so that my colleagues may avoid similar mistakes in the future, I urge them to read this article:

HOUSING COMPLEX DOOMED—ONCE LAUDED BABER VILLAGE BEING DEMOLISHED

(By Elizabeth Becker)

Bulldozers yesterday began demolishing Prince Georges County's decaying Baber Village, eight years after the housing complex was hailed at its opening by federal officials as a model of how government and business can build housing for the poor.

Touted as one of the first of a new wave of such federally guaranteed but privately financed projects, this $2.9 million low-income housing project was being torn down because it didn't work.

In the opinion of County Executive Winfield M. Kelly, Jr., and many other county officials present at the demolition yesterday, the project had deteriorated to such a point that the best solution was to destroy most of it and spend $2 million constructing a new apartment complex and rehabilitating one salvageable building.

The $2 million for construction and rehabilitation will be paid by the Department of Housing and Urban Development under its conventional public housing grant program.

That comes on top of the $2.9 million mortgage that the federal government, as guarantor of the private loan, had to absorb when the church group that took over management of the project defaulted on repayment of the mortgage last year. HUD also gave $1 million to the county so it could purchase the project from the federal government.

Ironically, HUD's financing for the new Baber project is being made under a public housing grant program that was to have been replaced by the kind of government-guaranteed privately financed program that built the original complex in 1968.

In a project already rife with ironies, the arrival of the bulldozers at Baber Village's vandalized and neglected 220-unit complex coincides with a fiercely escalating debate over just how much low-income housing the county should support.

That debate has been symbolized by another low-income project called Pumpkin Hill in Laurel, built, like Baber, under HUD's section 221–D–3 funding program, which allowed a private builder to construct a housing project under a federal government-insured mortgage. Both projects had a federal commitment to give substantial monies for rent supplement programs to the projects' managers.

Back in the mid-60s, Prince George's quickly became the center for low-income housing project construction in the Washington area. Today those projects, many charge, are centers for crime and, as Kelly himself says, "magnets for the poor."

To change the county's image, Kelly has proposed a "new quality" campaign to create a "solid middle-class" county. He has decried what he calls the county's unfair share of low-income housing projects and said he wants no more to be built there. One way to break up the concentration, he said, is to individually subsidized low-income families, rather than subsidize entire projects, such as Baber Village.

At the time of its construction, Baber Village was hailed by HUD Secretary Robert Weaver as the ideal coupling of private ingenuity with public financing.

Shortly after construction of the complex, Baber's developers, which included Charles S. Bresler, a friend of then-Vice President Spiro T. Agnew, deeded the project over to the African Methodist Episcopal Church. The developers then left the project with their own profits assured.

The church served as a sponsoring group and was responsible for managing the complex and meeting mortgage payments, according to Earl Morgan, county housing director.

"The church group had no experience in this field. They had trouble managing it and the developers got off scot-free," said Kelly.

Within three years, 22 of the units that received 100 per cent rent supplements had deteriorated so badly that they were condemned by the county. Despite citations from housing authorities, the garden-style apartments went from bad to desperate and by 1973 Baber Village was synonymous with the vandalism, debris, boarded-up windows and decayed buildings that characterize the dead-end street of poverty.

At that point HUD agreed to spend $2.7 million to rehabilitate the project. But before HUD's offer could be implemented, the church defaulted on its mortgage last year and the eyesore became the burden of the government. In a check passing agreement, the county bought the complex for $1 million in funds granted it by HUD for that purpose.

"Every time you talk about subsidies they (the officials) say they don't want another Baber Village. But they're the only ones who can prevent it," said State Senator Tommie Broadwater (D-Prince George's) at yesterday's demolition. "It's not the poor people who are completely responsible. It's the way the programs are managed."

Like other officials present yesterday Broadwater, who represents this primarily black community, said the demolition was a long time coming. But he emphasized that, although the project would continue to be subsidized, it would not carry the old stigma. It would be designed for 100 fewer units and have ample recreation space.

"Individual subsidies aren't the only answer," said Broadwater. "In fact, we haven't even used up the certificates (for federal subsidies) that we have. Realtors won't rent their nice apartments if they know someone is on subsidies. We need legislation that will force all complexes to accept them and not just those in the inner beltway."

The housing complex, though, symbolizes more than the problems of subsidized housing. Almost one-quarter of the apartment stook in the county could deteriorate as Baber Village has within five years, according to an independent study released this summer. Most of those complexes are the hastily and shabbily constructed projects of the '60s that have made "garden-style apartment" almost a mockery in some eyes in the county.

Despite that, and Kelly's opposition to similar projects, the newly constructed Baber Village will remain an across-the-board subsidized project. Tenants will be selected on a basis of need and will pay no more than 25 per cent of their income for the two and three-bedroom apartments.

HAMILTON SUPPORTS EDUCATION LEGISLATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. HAMILTON. Mr. Speaker, the 84th Congress has taken several important steps, with my support, to improve the quality of American education. About one-third of our population is directly involved in the educational process, and our society depends on education in many vital ways.

This Congress acted on a great deal of education legislation. Among the bills already enacted in the past 2 years are these:

First, a law extends the Rehabilitation Act through fiscal 1978 to assist States to meet the needs of handicapped individuals.

Second, another law provides financial assistance to the States to insure the right to an education for all handicapped children.

Third, a new law authorizes funds for a demonstration project on dissemination of health, education, and public or social service information via the broadcast media.

Fourth, nationwide reading improvement projects have been authorized.

The Congress also enacted two bills over the President's veto: A bill extending and strengthening the National School Lunch and Child Nutrition Act, and legislation appropriating funds for Federal education-support programs for fiscal 1976.

Other measures await final congressional action this year. I am hopeful that action can be completed on them before adjournment. They include legislation to:

Extend the Library Services and Construction Act for 5 years, through fiscal 1981;

Reimburse State and local educational agencies for the costs of educating Indochinese refugee children;

Extend and expand the guaranteed student loan program and to curb the rate of defaults under this program;

Authorize funding through fiscal 1977 for Federal higher education efforts in the areas of student assistance, construction, and community college and occupational education aid; and

Extend the Vocational Education Act for several years, with increased funding.

I look forward to working with members of the educational community to pass this and other legislation that improves the quality of education in this country.

10TH DISTRICT FOOD PRICES STABLE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. MIKVA. Mr. Speaker, food prices in the 10th District of Illinois seem to be leveling off, according to the latest survey of major grocery stores in the district conducted by my staff. This trend varies from the national average food prices, which appear to be decreasing slightly.

From June to July, the increase in food prices in the 10th District was the smallest increase in nearly a year. The price of a 27-item market basket of food items and household supplies rose an average of only 0.1 percent, from $20.31 on June 19 to $20.33 on July 17.

Of the 32 items surveyed, only 12 items increased in cost, which is the largest number of unchanged prices since October. The most constant price has been that of a 20-ounce loaf of bread, which has held at an average of 57 cents since April. The greatest drop in the price of a single item is that of a pound of fresh green beans, a seasonal item, from an average price of 59 cents on June 19 to 42 cents on July 17, or a drop of 28.8 percent.

The average prices of the six supermarket chains we surveyed showed the smallest price difference for the 27-item market basket since September 1975.

The item that displayed the greatest average price increase from the June to the July survey was sirloin steak, which has been a constantly fluctuating item. Steak rose 10.3 percent in price, from $1.55 a pound in June to $1.71 in July.

My staff has been charting food prices in 10th District grocery stores since June 1974. The 26 stores surveyed each month are members of the following chains: A & P, Dominick's, Jewel, Kohl's, National, and Treasure Island. The stores are located in Des Plaines, Evanston, Glenview, Lincolnwood, Morton Grove, Niles, Northbrook, Park Ridge, Skokie, Wilmette, and Winnetka.

Of all the supermarkets surveyed, the Jewel stores had the lowest average price as a chain for both the 27-item market basket and the meat case items on July 17: $20.10 for the market basket, a drop of 1.9 percent from the June total of $20.49 and $10.66 for the meat items, a drop of 5.9 percent from the June total of $11.33.

The July survey was conducted by the following members of my high school intern program: Mary Anderson of Des Plaines; Esther Levin of Evanston; Rich Berman of Northbrook; David Barclow, Dina Ciccia, and Bob Wagner of Park Ridge; Greg Marmel of Skokie; Chuck Cohen, Mindy Cranous, Ann McCoskri and Larry Shulruff of Wilmette; and Lynn Fitz-Hugh of Winnetka.

Peter Burchard, Joel Lieberman and Carol Markin of my Des Plaines staff coordinated the survey.

The information follows:

FOOD SURVEY RESULTS, CHANGE PER STORE FROM JUNE 19, TO JULY 17, 1976

Town and store	Market basket		Meat case	
	Price	Percent change	Price	Percent change
Evanston:				
Dominick's	$20.30	+1.4	$10.67	+2.2
Jewel	20.08	—.3	10.25	—9.1
Park Ridge:				
Dominick's	20.39	+2.9	11.92	+12.3
Jewel	20.15	—.4	10.43	—5.0
Wilmette:				
Jewel	20.05	—1.4	10.88	—1.8
National (Skokie)	20.48	+.1	11.70	+7.6
National (Central)	20.62	—2.8	11.66	+.8
Treasure Island	20.55	+1.0	11.44	+1.4
Lincolnwood:				
Kohl's	20.42	+4.8	11.09	+6.7
National	20.75	+1.7	12.52	+15.2
Winnetka:				
A & P	20.45	+1.5	10.99	—3.6
Jewel	20.07	—4.8	10.97	—4.9
Northbrook:				
Jewel	20.17	—2.6	11.08	—4.6
National	20.37	—.5	11.56	+6.2
Des Plaines:				
Dominick's	20.32	+1.4	11.41	—15.1
Jewel	19.99	—1.2	10.58	—1.7
National	20.01	—1.3	11.40	+6.1
Niles:				
Jewel	20.05	—3.8	10.49	—11.2
National	20.79	+1.3	11.85	+8.8
Morton Grove:				
Dominick's	20.19	+2.9	11.11	+7.2
Jewel	20.15	—1.9	10.58	—8.0
Glenview:				
Dominick's	20.38	+3.5	11.92	+13.0
National	20.79	—.4	11.60	+.2
Skokie:				
Dominick's	20.44	+3.1	11.21	+7.2
Jewel	20.23	—.4	10.67	—6.7
National	20.53	+.5	11.77	+8.3
District average	20.33	+.1	11.22	+2.1
By chain:				
Dominick's	20.34	+2.6	11.87	+9.5
National	20.54	—.1	11.76	+6.6
Jewel	20.10	—1.9	10.66	—5.9
A. & P	20.45	+1.5	10.99	—3.6
Kohl's	20.42	+4.8	11.09	+6.7
Treasure Island	20.55	+1.0	11.44	+1.4

FOOD SURVEY RESULTS—CHANGE PER STORE FROM JUNE 19 TO JULY 17, 1976

Item	Price	Percent change
Meats:		
Sirloin steak (with bone)	$1.71	+10.3
Boneless rolled rump roast	1.45	−2.0
Pork chops, loin/rib	1.94	+1.6
Oscar Mayer beef hot dogs	1.27	−1.5
Chicken, whole fryers	.57	−9.5
Round steak (with bone)	1.42	+2.9
Ground beef (75 percent lean)	.98	0
Armour bacon	1.87	+5.6
Produce:		
Bananas	.27	0
String beans	.42	−28.8
Iceberg lettuce (per head)	.59	+3.5
Dairy:		
Eggs (dozen, grade A large)	.83	+6.4
½ gallon 2 percent low-fat milk	.79	0
Kraft American cheese (16 slices)	1.09	.9
Small curd cottage cheese (16 oz)	.79	+1.3
Bakery products:		
Wonder bread (20 oz)	.57	0
Nabisco salted saltines	.65	+1.6
Kellogg's special K (11 oz)	.73	0
Frozen foods:		
Frozen mixed vegetables	.53	+3.9
Swanson's hungry man turkey dinner	1.30	+1.6
Minute Maid frozen orange juice (12 oz)	.66	0

FOOD SURVEY RESULTS

[Change per store from June 19 to July 17, 1976]

Item	Price	Percent change
Canned fruit: Del Monte peach halves (29 oz)	$0.62	+1.6
Staples: Crisco shortening	.59	−1.7
Miscellaneous prepared foods:		
20-oz. Heinz ketchup	.63	+1.6
Peter Pan peanut butter	.69	0
Strawberry Jello	.21	0
Campbell's chicken noodle soup	.21	0
Kal-Kan chunky beef (dogs and cats)	.31	3.1
Nonfoods:		
Scott paper towels (double roll)	.69	0
Tide detergent (49 oz)	1.36	0
Reynolds aluminum foil (75 ft)	.95	0

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because I was absent from the Chamber, I missed some rollcall votes on August 9.

Had I been present and voting, I would have voted in the following manner.

No, on rollcall no. 621;

No, on rollcall no. 622;

Yea, on rollcall no. 624, and

Yea, on rollcall no. 625.

THE STEPHEN E. JOHNSTON BEACH AND PAVILION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. OTTINGER. Mr. Speaker, on August 15, 1976, the village of Mamaroneck, N.Y., dedicated the Harbor Island beach and pavilion to Mr. Stephen E. Johnston in honor of "a man whose devotion to youth and aquatics shall always be remembered with affection and esteem."

Born and raised in Mamaroneck, Mr. Johnston's contributions to his community span over 50 years. He played baseball and basketball with several clubs in the area. He organized Mamaroneck All-Stars football team in 1923. In 1924–25–26–27–28 his team won without a loss. He coached basketball teams; umpired high school and semipro baseball; refereed basketball games. He also coached competitive swimming for 45 years and taught thousands of children swimming. He was a director and instructor for the American Red Cross, Mamaroneck Branch, Water Safety and First Aid. In addition to these activities, Mr. Johnston served as village fire chief for 52 years, and as a member of countless civic organizations.

Stephen Johnston continues to reside in Mamaroneck, and has remained active in the life of the community. Today, his favorite hobby is playing in the Larchmonth and Mamaroneck Senior Citizen Orchestra.

We are all familiar with men and women who go through life working tirelessly for the benefit of others. At times their good works are publicly recognized; at other times, life slips by so quickly that their good deeds never receive acclaim. Nevertheless, these selfless people are the heart of a healthy and flourishing society. I am thankful that such good people exist, and am pleased to join the community of Mamaroneck in publicly thanking Mr. Stephen E. Johnston—a man who has dedicated his life to make this world and his community a better place in which to live.

LARRY PIANTO

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. RUSSO. Mr. Speaker, for many years I was fortunate enough to have as a friend, an exceptionally good and decent human being. Now that he is gone, I realize with dreadful certainty the gap his passing will leave in my life. And I am equally aware, having seen the results of his work and commitment in my district, the impact his death will have on the entire community. He touched many lives and those lives were greatly enriched by his presence.

When Larry Pianto passed away on August 7, he was, as ever, involved in his community. In his hometown of Riverdale, he was serving as park commissioner, as he had since 1971. He also was clerk of Calumet Township, a post to which he was first elected in 1973. Larry was employed by the Chicago Metropolitan Sanitary District and was a member of the Blue Island Sertoma, a good will organization. He was an active volunteer in the Riverdale Little League and his strong belief in our governmental process meant countless hours of work and personal contact in furthering that belief.

In his all-too-short lifespan, Larry gave of himself freely and unselfishly. He worked to restore confidence in our Government. He cared. He was loyal. He had a patriot's commitment to our Nation and exemplified good citizenship in his activities.

How we will miss him. I know my colleagues join with me in extending deepest sympathy to his children and to Ann, his beloved wife of 37 years.

REVERSAL OF VOTE ON PAY RAISE AMENDMENT

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. MOSHER. Mr. Speaker, 2 days ago I placed a statement in the CONGRESSIONAL RECORD, referring to a proposed amednment to the legislative appropriations bill, to bar Members of Congress from receiving a cost-of-living salary increase during the coming fiscal year.

In that statement I said, "I expect to vote in support of this amendment." Yesterday, when the bill was debated, I voted against the amendment.

Consequently, I am making this brief statement to explain what caused me to change my decision as to how I would vote.

Basically, my attitude and position remained constant, but the proposed amendment was changed, and I found the proposal in its revised form to be unacceptable.

As it was originally proposed, the Shipley amendment would simply have barred Members of Congress, but no one else, from receiving the automatic cost-of-living pay increase that is due next month. As I said Tuesday, I approved of this idea, although I also added:

> I regret that we must attempt to correct our previous legislative mistake by means of an amendment to an appropriations bill. Also, I regret that the House has totally failed to respond to repeated suggestions that we improve our system of salary determination.

Well, Mr. Speaker, instead of improving the system yesterday, we may have worsened it.

Before we had a chance to vote on it, the Shipley amendment was changed so that it freezes the salaries not only of Members of Congress, but also those of Federal judges and of the so-called supergrade civil servants. Now, why should these people be penalized because of our political machinations?

It is my long-held belief that congressional salaries should not change between elections. We should not change our own salaries whenever the spirit moves us. Rather, because of our unique position as the only Federal officials able to raise or lower their own salaries, we should allow the public a proper voice by deferring salary changes to the subsequent Congress. That is, we should provide that you cannot receive an agreed upon salary increase until after you are reelected and serving in the next Congress.

Instead of moving toward that logical course, though, we have instead gone the proverbial two steps forward and three steps back.

What we have done is to return almost exactly to the situation where we have no salary adjustments whatsoever, where Federal executives and judges are subject to an intolerable wage freeze and there is no rationality or order to the procedures followed.

Mr. Speaker, by my "no" vote yesterday, I sought to indicate my unwillingness to participate in this charade.

I was willing to acquiesce and vote against the congressional pay raise, because I continue to believe the present system is inexcusable, but I cannot justify penalizing civil servants and justices for our own perverse purposes. Merely because we in Congress have been stung by the criticisms of public and private gadflies who object to the miserable system we adopted last year, this is not reason enough to justify our swinging about wildly and inflicting injury on innocent bystanders.

Instead of playing political games with the appropriations bill, Mr. Speaker, we should be buckling down to the serious business of enacting meaningful reform legislation. Until we do this, we will continually have to go through this silly routine.

TRIBUTE TO AL HAUFFE—A LIFETIME OF SERVICE TO RURAL ELECTRIC PROGRAMS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. PRESSLER. Mr. Speaker, the rural electrification movement lost a genuine friend and leader when Al Hauffe, Leola, S. Dak., passed away recently.

Al served as president of the South Dakota Rural Electric Association for 21 years; he was South Dakota's representative on the NRECA board for 27 years, serving as president for 2 years, vice president for 2 years and secretary for 5 years.

There has been no more dedicated and enthusiastic supporter of the rural electric program than Al. Although my formal association with Al has been short, it has been a high point of my service in Congress to have gotten to know Al Hauffe.

A fine tribute to Al by Tom Fennel appeared in the South Dakota Rural Electric Association's weekly notes. Tom speaks for all of us in his tribute to a fine gentleman—Al Hauffe.

The Tribute follows:

> We'll miss him. Boy, how we'll miss him! Al Hauffe: family man, farmer, cooperative leader and as solid a citizen as I've had the privilege of knowing died Wednesday.
>
> I first met Al when I was being interviewed for the job of High Liner editor by then SDREA Manager Dail Gibbs back in 1963. Al was president of SDREA at that time and also was serving as president of our national association, NRECA. If I live to be 101 I'll never forget the sight of this tall, rawboned South Dakotan presiding at the first national meeting of NRECA that I ever attended. It was down in Dallas, Texas, and I can assure

you that it was an impressive sight to watch Al at that podium before 10,000 people, appearing as relaxed and comfortable with that audience as he would be back in Ipswich presiding at a meeting of the FEM Board.

But that was Al. He was comfortable with people of whatever level of society or in whatever numbers and I guess that's why he made such a great cooperative leader—he just naturally liked and understood people.

I only knew him for 13 years. Many of you were privileged to know him much longer. But, of whatever the length of friendship, we're all better off for having known Al and for having had the pleasure of working with him in the rural electric program.

THE COST OF REGULATION

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. MILFORD. Mr. Speaker, Federal regulation of businesses continues to cost our economy millions of dollars in lost funds. These funds are lost in meeting restrictive, and often unnecessary, guidelines, and are lost to foreign nations, where our own firms may do business without the cost and delay of redtape.

An editorial in the Arlington Daily News, the Grand Prairie Daily News, and the Irving Daily News—all members of the News Texan Group—deals with the problem.

I share it with my colleagues:

[From the Irving Daily News, Aug. 29, 1976]

THE COST OF REGULATION

Is federal regulation of business beneficial? Since many of the purported results of regulation—cleaner air, safer products—are simply difficult to price, a categorical cost-benefit analysis of regulation is difficult.

Fortunately, an account of costs imposed by federal agencies is readily available; and Mr. Milton Copolus, under the aegis of The Heritage Foundation, has published a paper ("The Costs of Regulatory Agencies") which refutes the alleged insignificance of regulatory costs. Regulation inhibits domestic investment and productivity; it imposes enormous costs on individual corporations and the economy.

Investment diverted overseas, primarily to Japan or Germany to avoid unnecessarily restrictive red tape at home, hinders domestic productivity and, thus, stimulates inflation. American fixed investment, which between 1960 and 1973 accounted for only 17.5% of the Gross National Product, has lagged behind that of 11 other major industrial countries. Of course, the flight of American capital stimulates higher levels of investment abroad, where capital is looked upon as necessary to a nation's future employment.

This attitude contrasts with Congress's, which emphasizes the confiscation of, rather than the production of, wealth. Consequently, productivity, increasing annually by 4% from 1948 to 1954, dropped to 3.1% in the next ten years, and declined further to 2.1% in the decade following. Unfortunately, it has failed to improve: the current rate is 1.5%, a figure half that of other Western industrial economies—even Great Britain's. In part because of lower productivity, inflation which was 4% in 1966, rose to 5% in 1969, and surpassed 12% in 1974.

Corporate balance sheets more directly indicate the increasing expense and complexity of federal regulation. General Motors must obey the proscriptions of 29 federal laws, which cost it nearly $1.3 billion. Quaker Oats is accountable to 27 federal agencies, and Goodyear to 36. While last year it spent $27 million on compliance, Goodyear projects this year's outlays for regulation near $38 million. Eli Lilly, the drug manufacturer, expends $15 million to complete 27,000 reports for the federal government.

In 1970 Dow Chemical Company paid out $164,000 to meet federal standards; in 1975, the figure was $1.5 million.

Yet the nation, not the individual company, pays the regulation bill in terms of higher prices and potential unemployment. The Office of Management and Budget estimates that regulation will absorb $130 billion this year alone, approximately 8.1% of the Gross National Product; another $60 billion is now taken from the taxpayers to finance the 60,000 employes who administer the 24 agencies Congress established between 1962 and 1973. Moreover, if current policies remain law, the New York Stock Exchange, Chase Econometrics, and General Electric attest that future investment will fall short of that necessary to provide for high employment by $500 to $600 billion. However, if less than half of regulatory costs were diverted to fixed investment, more than 700,000 private jobs would be created, an employment figure near 70% of that for proposed public—that is, taxpayer financed—jobs.

Thus, regulation diverts capital abroad and to unproductvie domestic uses. Domestic investment and production are impaired; prices are inflated. Certainly, federal regulations are an expense from which Congress's and the taxpayer's attention has been diverted for too long.

HELSINKI FINAL ACT

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. HANLEY. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem, and at this time I would like to bring to the Members' attention the situation of the Yankilovich family—Isaac and his wife, Ninel, and their children, Marina and Grecia, who have been detained in Moscow despite their request in August of 1972 to emigrate to Israel. It is contended that since Ninel worked in the Russian aviation industry as an economic engineer she had access to secret information and because of this her request to emigrate was denied. Ninel left that position in 1971 and has not worked since. Not only has emigration been denied the family, but their telephone has been disconnected to preclude contact with her mother who now lives in Israel. Her husband has never had access to secret Russian information. Although a graduate road construction engineer, her son has been denied a job in his field and has had to accept work as an ordinary laborer.

This oppression is obviously retaliation by the Russian authorities as a result of the Yankilovich's request to emigrate.

My colleagues and I want to make known to the Soviet Union and to the rest of the world that we strongly oppose oppression of this nature. As Representatives in a nation which is dedicated to the principle of freedom to pursue life, liberty, and happiness, we hope that our opposition will be noted and will lend impetus to a change of philosophy on the part of the Soviets toward those wishing to begin life anew in another land.

STATEMENT OF MR. RAILSBACK ON THE OMNIBUS ANTITRUST BILL

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. RAILSBACK. Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the CONGRESSIONAL RECORD, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one judges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body, and were generally recognized as such. The Senate versions, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the Houses conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

MORE BUREAUCRACY?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. ASHBROOK. Mr. Speaker, the American people are opposed to the ever increasing size of the Federal Government which is growing larger and less responsive. What is not needed is more agencies being created. Let us take a look at the position of the Democrat platform on this issue.

CONSUMER PROTECTION AGENCY

Proposals for a Consumer Protection Agency on the Federal level have raised much controversy. Small businesses particularly are concerned with the addition of yet another agency which will bury them under paperwork and only add to costs.

The Democrat platform comes out foursquare for another agency and another level of bureaucracy. In part, the platform supports "the creation and maintenance of an independent consumer agency with the staff and power to intervene in regulatory matters."

JUDGE CARTER—A GREAT SON OF CALIFORNIA

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. JOHNSON of California. Mr. Speaker, this summer California and the Nation lost a man whose dedication to his profession, whose unimpeachable integrity, and whose compassion for his fellow man sets an example all of us would do well to follow.

The Honorable Oliver J. Carter, presiding judge of the U.S. District Court of Northern California, achieved a notoriety of sorts in the few months before his death because it was he who had presided over the trial of Patty Hearst. During that trial, he was described as "a blunt, old fashioned, Trumanesque man * * * who would brook no nonsense, but who could laugh at himself." This is an apt description, but having known Ollie Carter for many, many years, I find it inadequate because it fails to reach to the heart of the individual who, I believe, was one of the State's and the Nation's outstanding jurists.

I have known Ollie Carter since the mid-1940's when he was a California State Senator. I was attracted first by his vitality, his concern for his fellow man and most of all by his devotion and dedication to serve the people. No challenge was too great for him. When a job was to be done, he tackled it and solved it. He never backed away from a task, no matter how difficult.

Judge Carter was elected to the California State Senate to succeed his father, the Honorable Jessie W. Carter, who had been appointed to the California State Supreme Court. At that time, he was the youngest man ever to serve in the California State Senate, but youth was not an obstacle. He quickly won the respect and admiration of his colleagues, many of whom were of his father's and grandfather's generation.

A devoted Democrat, Ollie Carter spearheaded the Northern California campaign for Harry Truman in 1948. As we all recall this was the campaign that was supposed to be doomed for failure. Here again, is another mark of the measure of the man that was Ollie Carter. I was privileged to work with him in this campaign and never once did he show any sign that the final result would be anything but victory. We all know what happened in 1948. It was, of course, the scrappy, determined, hard work of fighters such as Harry Truman and Ollie Carter which made it possible.

Mr. Speaker, much has been said about Ollie Carter since his death, but one of the finest commentaries on this great man was by Earl G. Waters, an old friend of mine and of Ollie Carter's. Earl had known Ollie and watched him with affection for many, many years. His column on the late Judge Carter, "A Great Son of California," was written from the heart and I include it to be inserted in the RECORD at this point so that others in this House may know and appreciate the type of man that was Judge Oliver J. Carter:

LATE JUDGE CARTER A GREAT SON OF CALIFORNIA

(By Earl G. Waters)

The passing of Federal Judge Oliver J. Carter removes from the scene one of California's truly great sons. It is, in a sense, unfortunate that his greatest fame was the result of a notorious trial involving a tragic happening in another great California family. For Carter will now be remembered by most as the judge who presided over the trial of Patty Hearst. A lifetime of achievement will be over-shadowed by that one case.

It was, of course, fitting that Carter should be the judge for such a trial. For he brought to that difficult role 25 years of experience as a trial judge. But he brought far more than that.

He brought unimpeachable integrity with an innate back country humor and wisdom, along with an overwhelming balance of fairness and self-deprecation.

His own opinion of himself was almost as if Tennyson had known Carter when he wrote:

> "In me there dwells no greatness,
> "Save it be some far off touch of greatness
> "To know I am not great."

Although born in San Francisco, the city in which he was to die, he was raised in the backwoods of Shasta County in the town of Redding where his father, Jesse W. Carter, practiced law. He attended Stanford University and graduated from Hastings College of Law to return to Redding and join his father's firm.

Shortly thereafter his father was elected to the Senate, only to be named soon after to the State Supreme Court by Gov. Culbert L. Olson where he served until his death.

The appointment opened the door to a political career for Oliver Carter who, at 29, became the youngest state senator to serve up until that time. He was also one of the few legislators ever elected to directly succeed a father, family dynasties not being well received in this state's politics.

His election was to be a test of his mettle. Thrown into a forum where the average age was near 60, he was viewed as somewhat of an upstart, best seen and not heard.

Another obstacle was that of being a Democrat in a house long dominated by Republicans. As such his views weren't likely to be welcomed regardless of his age.

But Carter, constrained though he was by age and party affiliation, was to develop fast, winning both the respect and friendship of his elders. For he had an affability that was hard to reject and when he did rise to speak his fairness, logic and sound expositions of the law earned him the attention of his peers.

In the torrid battles which ensued in the late 1940s over the gasoline tax proposals to finance the freeway programs proposed by

Sen. Randolph Collier, it was Carter who was chosen by the Senate as the mediator between opposing forces. While Collier gets the credit for launching California's modern highway system, it was Carter's equanimity which made it possible, a fact duly recognized at the time by Gov. Earl Warren.

Because legislators were paid only $100 a month in those days, financial pressures forced Carter to retire from the Senate after two terms. He had planned to devote his full attention to his law practice but he was prevailed upon to take the chairmanship of the State Democratic Central Committee.

It was the year of 1948 and President Harry Truman was seeking election in his own right. Republican Thomas Dewey had already been elected by the polls, the media and almost everyone else except the people. Carter had much to do with Truman carrying California and defeating Dewey.

As a result, Truman, who had intense loyalty for those who helped him, named Carter to the federal court. His nomination was held up for more than a year while Nevada's Sen. Pat McCarran, as chairman of the Judiciary Committee, sought to compel the appointment of his candidate to a judgeship in his home state.

Judge Carter served on the federal bench for 26 years and handled many important cases. But, like his contributions as a state senator, those decisions will be blotted from public memory by his last case.

Fortunately, then, his conduct in that exemplified a lifetime of honor and ability.

THE HONORABLE E. D. E. ROLLINS, SR.

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BAUMAN. Mr. Speaker, many Marylanders were saddened recently by the passing of the Honorable Edward D. E. Rollins, Sr., of Elkton, Md. Judge Rollins was a distinguished member of the judiciary in the State of Maryland, as well as having served with distinction as the attorney general for the State of Maryland from 1952 to 54. I was proud to know this great man and to call him my friend. He died at the age of 76 on July 5 and leaves behind him an illustrious career of achievement in our State.

Both Mrs. Bauman and I extend to the family of Judge Rollins our sympathies with the knowledge they are comforted by the many achievements of this great man.

Mr. Speaker, at this point I include in the RECORD a copy of an article from the Cecil Whig of July 7, 1976, which takes note of the career of Judge Rollins:

JUDGE E. D. E. ROLLINS, SR., FORMER STATE ATTORNEY GENERAL, DIES

Judge Edward D. E. Rollins Sr., of Elkton, who was attorney-general for the State of Maryland from 1952 to 1954, died Monday, July 5, at the age of 76 in Union Hospital in Elkton.

A former Circuit Court judge here, he had been ill several months. His home was at 131 East Main Street, Elkton.

Appointed attorney general for Maryland by Governor Theodore R. McKeldin, Judge Rollins assumed his duties on Nov. 14, 1952.

He was prominent in the activities of the National Conference of Attorneys General and served on the Tidelands Committee until June 20, 1955.

He was appointed to the bench as Associate Judge of the Second Judicial Circuit Court, which includes Cecil County, by Governor McKeldin in June, 1957. In an election held Nov. 4, 1958 he was elected for a 15-year term as Circuit Court judge.

Judge Rollins was a member of the American Bar Association, the Maryland Bar Association, the Cecil County Bar Association and the Second Judicial Circuit Bar Association.

He was a member of the Board of Directors of Union Hospital and was finance chairman in 1941 and 1943 in charge of raising funds for the erection of the new hospital.

In 1944 he was an alternate delegate to the Republican National Convention and a delegate to the Republican National Convention in 1952.

During World War II, he served as chief air raid warden in charge of Civil Defense in Cecil County.

Judge Rollins was a member of the American Legion and 40 et 8 Society and had served as commander of Cecil Post 15 in Elkton and one term as Judge Advocate of the Legion's Department of Maryland.

He was a member of the Benevolent and Protective Order of Elks, the Kiwanis Club of Elkton and the Knights of Columbus of Elkton.

Judge Rollins received the "Citizen of the Year" award from the Elkton Chamber of Commerce on Feb. 13, 1968.

In 1974 he was general co-chairman of the Cecil County Tricentennial celebration that marked the 300th anniversary of the county's formation.

Born in Baltimore, Judge Rollins was reared there, where he attended public schools. After being graduated from Baltimore City College, he enlisted in the United States Navy.

Later he returned to Baltimore, where he entered the Law School of the University of Maryland from which he was graduated in June, 1922.

In 1921 he became secretary of the Medical Service of the Supreme Bench of Baltimore, with which he was connected until 1927, when he moved to Elkton and entered the private practice of law.

He married the former Miss Elizabeth Regina Andrew in 1925.

In 1931 he was elected state's attorney of Cecil County and served for three successive terms until January, 1943.

Funeral services were scheduled for 11 a.m. today (Wednesday) in Immaculate Conception Roman Catholic Church. Burial was to be in Bethel Cemetery at Chesapeake City.

Survivors include the widow, Elizabeth; a son, Edward D. E. Rollins Jr. of Elkton; two daughters, Mrs. Nancy Rollins Crowgey of Charlotte, N.C., and Mrs. Elizabeth Lloyd Pagano of Vienna, Va., 13 grandchildren and one great-grandchild.

Memorial contributions may be made to Immaculate Conception Church Building Fund.

SPRINKLERS FOR NURSING HOMES

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. RUSSO. Mr. Speaker, I wish to take this opportunity to announce my cosponsorship of H.R. 14406, and to discuss my support for this important legislation.

This legislation requires the installation of automatic sprinkler systems in all nursing homes receiving medicare or medicaid funds. Additionally, it provides direct loans to the affected homes for the purpose of installing these systems.

Between 1951 and 1974 there were, according to statistics compiled by the National Fire Protection Association, 68 nursing home fires in which three or more people died. These fires, known as multiple-death fires, took 629 lives. Moreover, each year some 300 to 500 of our elderly citizens perish in single-death fires.

Elderly Americans living in nursing homes are easily victimized by smoke and flames. The average age of a nursing home resident is 82. These individuals are often plagued by a variety of physical and mental disabilities. Some patients may be heavily sedated or confined by artificial restraints when a fire strikes.

As these fires spread, Mr. Speaker, some patients may struggle with those attempting to rescue them. Others run toward the flames. At times unable to adapt to the realities of advancing age, or unwilling to succumb slowly and painfully to a terminal illness, the elderly may find fire the most accessible method of suicide.

The elderly, then, Mr. Speaker, are tragically easy to kill and, far too often, all too hard to save. That makes it imperative that we in Congress insure that their living quarters are as safe as we can possibly make them. Study after study has shown that there has never been a multiple-death fire in a nursing home equipped with a complete automatic sprinkler system. Approximately one-half of our Nation's 16,500 nursing homes are not required to have automatic sprinklers. H.R. 14406 would help close that gap.

In January and February of this year two nursing home fires in the Chicago area took some 30 lives. I invited the House Select Committee on Aging, which is chaired by the distinguished gentleman from Missouri (Mr. RANDALL) to hold hearings on the problems of the elderly in the Third Congressional District. At those hearings, held in early August, Francis J. Murphy, chief of the Chicago fire department's fire prevention bureau, a man with a wealth of wisdom and experience in these matters, talked about the tragic fire at the Wincrest Nursing Home, in which 23 people perished.

I hope my colleagues will read with care the words of Chief Murphy as he called for the installation of sprinklers in every nursing home.

Mr. MURPHY. Gentleman, you know, your mother, my mother, your father, can we put a price on their body? There is no money in this world that can put a price on their body.

So I say let us go the full route. And the best thing that I know of is a sprinkler system which is 98 percent perfect. So why fool around and why not go for the best.

Mr. Speaker, I hope we will heed the words of Chief Murphy and pass H.R. 14406 as soon as is humanly possible.

THE SPACE PROGRAM'S SURPRISING SPIN-OFFS

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. GOLDWATER. Mr. Speaker, a recent article in the National Observer entitled "The Space Program's Surprising Spin-Offs," outlines the almost incredible down-to-earth benefits our space program has produced.

Since this aspect of the space program is so easily forgotten and ignored, I present the article for my colleagues' edification:

[From the National Observer, July 3, 1976]

THE SPACE PROGRAM'S SURPRISING SPIN-OFFS: SPORTS TOGS, PACEMAKERS, SEWAGE TREATMENT

(By Jaime Friedman)

A Cleveland fireman with specialized medical training rushes to help a 62-year-old woman, a heart-attack victim. Artificial respiration produces no pulse. He pumps an intravenous mixture of dextrose and water into her veins to prevent their collapsing, then tries repeated blows to her chest. Still no response.

In the tense moments that follow, he does something to save her that wasn't possible a year ago. With a two-way radio hookup, he transmits her electrocardiogram to a monitor, in a hospital miles away. Under a doctor's moment-to-moment direction, the fireman uses electroshock to jolt the woman's heart back to beating and keep her alive until she can get intensive medical care.

This device for relaying and monitoring a heart-attack victim's condition is part of a "Telecare" emergency package derived from the Skylab telemetry system that transmits an astronaut's vital signs from space to earth. Now used by rescue squads in Cleveland, Houston, and other cities, Telecare is a dramatic illustration of the many ways advanced space technology is being applied on earth.

DOWN-TO-EARTH APPLICATIONS

The space-exploration program required the development of new inventions in practically every field of science and engineering, among them, metallurgy, chemistry, and electronics. Break-throughs had to be made in miniaturizing products, cutting their weight, and achieving new standards of reliability. There has always been speculation that the technology of the $60 billion space program might have a wide-ranging practical impact on life on earth.

Communications and weather satellites are the most familiar applications of space technology. But there are numerous products in everyday use that appear to have nothing at all to do with the space program yet would not have been developed without it.

Take the suit developed to ensure that astronauts returning from the moon would not contaminate the earth with unknown and possibly dangerous micro-organisms. This special outfit was worn between the time the astronauts splashed down and when they were placed in quarantine on a recovery ship. Today a similar suit has been developed for those children born without normal immunities; the suit envelops the child, has its own purification system, and provides a germ-free environment that lets the easily infected child spend as long as four hours outside hospital confinement.

Take another example. The precise explosive devices created to separate the Gemini space craft from the Titan launch vehicle have now been adapted for the controlled demolition of buildings and bridges. Instead of blasting in all directions, the specially shaped charges cut an entire structure as cleanly as a torch or saw. Placed at the base of the main supports of a building, the charges slice through the girders and the building collapses.

In July the Viking Mars landers will waft gently to that planet's surface, suspended from a large parachute by only three straps. The material used for these straps is five times stronger than steel. A tire company is adapting this material for cords for radial tires that are expected to boost tread life to 10,000 miles.

Xenon-arc lights, developed to test space equipment, have been re-engineered into an intense, battery-powered portable searchlight. It weighs seven pounds, lasts 200 hours, and is 50 times brighter than an auto's high-beam headlights.

PROGRAM PAYS ITS WAY

To get off the ground, the Saturn rocket guzzles thousands of gallons of fuel every minute. Its pumping system is being adapted to douse shipboard fires with huge amounts of sea water.

The transfer of technology from space to other uses has become a major issue for the National Aeronautics and Space Administration in its budgetary battles with Congress and the Administration. For years the moon race produced generous support for the space program. But now that the race is over and earthbound economic and social problems hold the limelight, the once open hand is turning into a tighter and tighter fist. NASA annual budgets have dropped from about $4 billion in 1969, the year of the moon walk, to $3.5 billion in 1976.

Louis Mogavero, director of the NASA Technology Utilization Office, says funds have been cut back because "people aren't aware of the contribution the space program has made to almost every aspect of daily life."

DISSEMINATING INFORMATION

NASA has an ambitious program to disseminate its technological information. "Tech Briefs," a free booklet issued quarterly, announces potentially transferable technological developments. The agency has set up six Industrial Applications Centers around the country, mainly on university campuses, to provide scientific and engineering assistance to industries.

This network can tap a giant data bank that contains more than eight million technical documents and grows by 50,000 documents each month. Several thousand companies use this data bank each year. NASA also has four biomedical teams and three technical-assistance teams to help municipal, state, and Federal agencies adapt space technology to problems in fields such as health, public safety, construction, and transportation.

In co-operation with fire departments in Houston, Los Angeles, and New York City, NASA researchers have developed a lighter, more compact air tank and breathing system for firemen, based on concepts and materials designed for moon walking.

PRACTICAL CONSUMER GOODS

A space contractor who developed a quartz crystal for the precision-timing equipment used in Apollo missions has adapted the device to make more accurate mechanisms for timepieces.

Sportswear manufacturers have taken a form of aluminized mylar, created first for space-suit insulations, to make jackets, ski parkas, sleeping bags, and other gear.

Space technology has been widely applied in medicine. The pacemaker, which delivers small, regular electric shocks to pace an irregular heartbeat, grew out of the miniaturized, solid-state circuitry developed in the space program. Using NASA-developed techniques, industry researchers have now designed a device that recharges the pacemaker's battery from outside the body. Before the life of a pacemaker was about two years. When power ran out, surgery was necessary to implant a new battery. Now, once a week, patients simply put on a charger vest that passes an electromagnetic field through their chests, recharging the battery in an hour.

MEDICAL ADVANCES

A transducer is a small device for monitoring changes in mechanical or sound pressure aboard a space craft. It can pick up the vibration in the wall of a space vehicle and change it into an electrical impulse that can then be printed out by a computer on earth. NASA transducer technology is now being used in early detection of arteriosclerosis, or hardening of the arteries.

The normal test involves inserting a hollow needle into the artery to measure the arterial pulse, a process that is both time-consuming and painful. Now an "arterial pulse wave transducer," placed next to the patient's skin, can determine the flexibility of arteries externally in only a few minutes.

The device uses a transistor that converts the pressure of blood against the walls of the blood vessels into electrical signals; they then can be recorded on an electrocardiograph.

The ability of the space program to compete for Federal funds increasingly will depend on the technological spin-off it can generate. Says Mogavero: "You can see the impact of space technology across the whole economy; in computer science, in farm plows, building materials, packaged foods; in safety devices, sewage treatment, pollution detection, energy conservation, and exploration. Whether these spin-offs are enough to change the doubts about investment in space programs is hard to say."

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BROWN of Ohio. Mr. Speaker, in a continuing attempt to provide my voting record for the first session of the 94th Congress for the benefit of anyone who would like to examine that record, I would like to have printed here my votes on matters ranging from military construction appropriations to emergency housing assistance. The material follows:

H.R. 10029. MILITARY CONSTRUCTION APPROPRIATIONS FOR FISCAL YEAR 1976

Amendment to delete $64.9 million from the bill for the construction of an armed services medical school in Bethesda, Maryland rejected 161–255, No.

Final passage of a bill to appropriate $3,518,723,000 for Defense Department construction projects in FY 1976 and $359,100,000 for the budget transition period, passed 353–51, Yea; 10–8–75.

Conference report on the bill to appropriate $3,585,014,000 for military construction projects in the U.S. and overseas in FY 1976 and $359.1 million for the budget transition period, passed 349–59; Yea; 11–18–75.

H.R. 5210 MILITARY CONSTRUCTION AUTHORIZATION

Amendment to cut $562,000 from the bill for construction of facilities at Pine Bluff, Arkansas to produce binary nerve gas munitions, adopted 219–185, no; Amendment to cut $64.9 million for continued construction of the Uniform Health Services University of the Health Sciences at Bethesda, Maryland, rejected 191–221, No.

Final passage of the bill to authorize $4,067,523,000 for military construction projects in FY 1976 and the three month transition period, passed 369–47, Yea; 7–28–75.

H.R. 9721 INTER-AMERICAN DEVELOPMENT BANK

Adoption of the rule (H. Res. 817) providing for House Floor consideration of the bill to authorize $2.25 billion as the U.S. share of the replenishment of the Inter-American Bank and to authorize participation of up to $25 billion in the African development fund, adopted 353–24, Yea; motion to recommit and thus kill the bill to authorize $2.25 billion as the U.S. share of the replenishment of the Inter-American Development Bank and to authorize participation up to $25 million in the African Development Fund, rejected 140–276, Nay.

Final passage of H.R. 9721, passed 249–166, Yea; 12–9–75.

H.R. 3035 TAX AND LOAN ACCOUNTS

Motion to suspend the rules and pass the bill to require the payment of interest on certain funds of the United States held on deposit in commercial banks and to provide for reimbursement to commercial banks for services performed by the Federal government, agreed to 391–0, Yea; 12–15–75.

H. CON. RES. 133 SENSE OF THE CONGRESS

The Federal Reserve should conduct monetary policy in the first half of 1975 so as to lower interest rates, adopted 367–55, Nay; 3–4–75.

Conference report adoption of report of Conduct of Monetary Policy, adopted 335–46, Yea; 3–24–75.

H.R. 4415 INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS

Amendment to delete a committee provision requiring the Federal government to continue paying 75 percent of the cost of programs to strengthen state and local government personnel systems through October 1, 1978, (Under existing law, the Federal share of the program costs would drop to 50 percent on July 1, 1975), adopted 226–168, Aye; Amendment to the pending Rousselot amendment to delete a section of the bill to authorize grants to employment organizations under certain circumstances, rejected 189–213, Aye.

(The Rousselot amendment which would have barred the use of grant funds for programs relating to labor-management relations subsequently was rejected by voice vote, and the bill was passed by voice vote.)

H.R. 8773 INTERIOR DEPARTMENT APPROPRIATIONS FISCAL YEAR 1976

Amendment to increase appropriations for acquisition of wetlands as a habitat for migratory birds to $10 million from $1 million, adopted 220–203, No; 7–23–75.

Final passage of the bill to appropriate $4,101,962,000 for FY 1976 and $1,143,572,900 for the July 1–September 30, 1976 transition period for the Interior Department and related agencies, passed 417–8, Yea; 7–23–75.

Conference report on the bill to appropriate $4,234,621,000 for FY 1976 and $1,155,538,900 for the July 1–September 30, 1976 transition period for activities of the Interior Department and related agencies, adopted 407–5, Yea; 12–11–75.

H.R. 9005 FOREIGN ECONOMIC AID AUTHORIZATION

Amendment to forbid aid to countries that consistently denied internationally recognized human rights to its citizens, adopted 238–164, No.

Final passage of the bill to authorize $2.9 billion dollars for foreign economic and development assistance for FY 1976 and FY 1977, passed 244–155, Nay; 9–10–75.

Conference report on the bill to authorize $3.1 billion for foreign economic and development assistance for FY 1976 and FY 1977, adopted 265–150, Nay; 12–9–75.

H.R. 5884 COUNCIL ON INTERNATIONAL ECONOMIC POLICY AUTHORIZATION

Final passage of the bill to authorize $1,657,000 in FY 1977 for the Council on International Economic Policy, passed 345–58, Yea; 7–9–75.

H.R. 9968 TAX TREATMENT ON IRRIGATION FACILITIES

Motion to suspend the rules and pass the bill to amend Section 103 of the Internal Revenue Code to grant tax-exempt status for development bonds used to construct dams if they are used substantially for irrigation purposes at a reasonable cost to the public, passed 286–111, Yea; 10–6–75.

H.R. 5900 COMMON-SITE PICKETING

Amendment to require that the issues of the labor dispute at a construction site do not involve employees of an employer who is not engaged primarily in the construction business industry, rejected 176–223, Nay; Amendment to prohibit common-site picketing where state laws require direct and separate contracts on state or municipal projects, agreed to 229–175, Aye; Amendment to prohibit common-site picketing on all direct and separate contracts, rejected 176–222, Aye; Amendment to prohibit an extension of product boycotts to an entire construction site, agreed to 204–188. Aye: Amendment to exempt residential structures less than three stories and without an elevator from the provisions of the bill, rejected 200–202, Aye.

Final passage of the bill to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers through the use of secondary boycotts, passed 230–178, Nay; 7–25–75.

Conference report on the bill to make it legal for a construction union with a grievance against one contractor to picket all the other contractors on the same construction site and to establish a Construction Industry Collective Bargaining Committee, adopted 229–189, Nay; 12–11–75.

H.R. 8069 LABOR-HEW APPROPRIATIONS FY 1976

Amendment to prohibit any funds in the bill from being used by the Occupational Safety and Health to issue penalties for first violations of Federal safety and health rules by firms employing 25 or fewer persons, rejected 186–231, aye; Amendment to appropriate $30,949,000 for maternal and child health programs, adopted 279–138, no.

Final passage of the bill to make appropriations of $44.9-billion for FY 1976 and the subsequent three month transition period, for the Department of Labor, the health and welfare divisions of the Health, Education and Welfare Department and related agencies, passed 368–39, Nay; 6–25–76.

Motion to recommit to conference (and thus kill) the bill to make FY 1976 appropriations for the Departments of Labor, HEW and related agencies, rejected 156–265; Yea.

Conference report to make FY 1976 appropriations of $36,073,748,318 and transition period appropriations of $8,933,216,000 for the Department of Labor, HEW and related agencies, adopted 321–91, Nay; 12–4–75.

Motion to concur with a Senate Amendment barring the Department of HEW from using any funds in the bill to require school districts to bus children beyond their neighborhood schools with a modification to allow HEW to order busing to the school closest or next closest to the student's home, rejected 133–259, yea; 12–4–75.

Question on whether the House should concur in the Senate amendment to prohibit the Department of HEW from using either directly or indirectly any funds in the bill to require school districts to bus students beyond the school closest to their homes for the purpose of school integration, concurred 260–146, No; 12–4–75.

Motion to postpone until January 27, 1976, an override attempt to President Ford's Veto of the bill appropriating $45-billion for the Departments of Labor and HEW and related agencies for FY 1976 and the July-September 1976 transition period, agreed to 319–71, Nay; 12–19–75.

H.R. 9500 CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING

Final passage of the bill to establish within the Department of Labor a committee composed of labor and contractor representatives to assist in negotiating new contracts to stabilize the collective bargaining process within the construction industry, passed 302–95, Nay; 10–7–75.

S. 267 COLORADO NATIONAL FORESTS

Final passage, a motion to suspend the rules and pass the bill to add 235,230 acres in the state of Colorado to the National Wilderness Preservation System, passed 369–1, Yea; 12–1–75.

H.R. 1589 AMEND THE FOOD STAMP ACT OF 1964

Final passage, a bill to prevent an increase in food stamp cost becoming effective 3–1–75, passed 374–38, No; 2–4–75.

H.R. 4592 FOREIGN AID APPROPRIATIONS

Final passage, a bill to provide $3,498,420,000 for FY 1975, adopted 212–201, Nay; 3–13–75.

Conference report passed 193–185, Nay; 3–24–75.

H.R. 7706 DAY CARE CENTERS

Conference report of a bill to suspend the duty on imported natural graphite until 1978 and to suspend staffing requirements for federally funded day care centers until January 31, 1976, adopted 383–10, Yea; 10–9–75.

H.R. 9019 HEALTH MAINTENANCE ORGANIZATION AMENDMENTS

Motion that the House resolve itself into the Committee of the Whole for Floor consideration of the bill, adopted 347–0, Not voting.

Final passage of the bill to modify or repeal provisions of a 1973 act (PL 93–222) providing federal assistance to health maintenance organizations, which provide a range of services to patients who pay a set monthly fee in advance rather than separate fees for each service after it is actually provided, passed 309–45, Not voting; 11–7–75.

H.R. 5546 HEALTH MANPOWER PROGRAMS

Interstate and Foreign Commerce Committee Amendment to require students in health professional schools either to repay the amount of the basic federal assistance paid on their behalf to their schools or to practice in a medically underserved area for as many years as their schools received this assistance in their behalf, adopted 209–153, No; Amendment to delete provisions of the bill that would have limited the number of post-graduate residency training positions in the U.S., beginning in 1978, and require private professional organizations to allocate residency positions by specialty, adopted 207–146, Aye.

Final passage, a bill to authorize $1.76 billion for FY 1976–78 for federal health manpower assistance programs, passed 296–58, Nay; 7–11–75.

H.R. 4925 HEALTH SERVICE PROGRAMS

Motion to recommit to the House Commerce Committee the bill to authorize $1.4 billion in FY 1976–77 for health services programs, including formula grants to states, family planning, community mental health centers, migrant health centers and community health centers for the medically underserved. The bill would also extend the programs through FY 1975 at the FY 1974 authorization level of $663 million, rejected 9-352, Nay.

S. 66 HEALTH SERVICES PROGRAM

Vote to override Presidential Veto of the bill to authorize $2 billion in FY 1976-78 for federal health service program and the National Health Service Corps, passed 384-43 Nay; 7-29-75.

H.R. 4114 NATIONAL HEALTH SERVICE CORPS

Final passage of a bill to extend and revise the National Health Service Corps program, passed 399-4, Yea; 5-7-75.

H.R. 7988 HEART, LUNG AND BLOOD DISEASES

Final passage of the bill to authorize $1.2 billion over two years, FY 1976-77, for federal programs to combat heart, lung and blood diseases and to provide research training for graduate and post-doctoral students in scientific fields, passed 375-5, Yea; 10-20-75.

H.R. 30 HELLS CANYON

Final passage of the bill to establish the Hells Canyon National Recreation Area in Oregon, Idaho and Washington and thus preventing the proposed construction of two hydroelectric power dams on the Snake River, passed 342-53, Yea; 11-18-75.

H.R. 3787 HIGHWAYS AND THE ENVIRONMENT

Final passage of the motion to suspend the rules and pass the bill to make clear that, if adopted by Federal officials, state-prepared environmental impact statements were acceptable for Federal highway projects in New York, Vermont and Connecticut, passed 275-99, Yea; 4-21-75.

H.R. 8235 FEDERAL AID HIGHWAY PROGRAM

Amendment to reduce annual authorizations for Interstate Highway System construction for FY 1977-78 by $750 million and delete language giving the transportation secretary discretionary authority for distribution of $750 million annually in FY 1977 and FY 1978, rejected 103-309, Aye; Amendments to provide that (1) the cost of interstate highway projects rejected in favor of mass transit or other highway projects be based on 1972 cost estimates; (2) the interstate mileage withdrawn from a system in one state be available for redesignation in another state only; and (3) the proceeds from sale of right-of-way purchased with Highway Trust Fund money be returned to the Federal government, rejected 122-294, Aye; Amendment to roll back the maximum weight of trucks allowed on interstate highways to 73,280 pounds from 80,000, rejected 139-275, Aye; Amendment to allow cities of over 200,000 population that supplied over 50 percent of funds for an area program to plan a highway project and to submit a plan directly to the Transportation Department for funding if the state had not forwarded the plan to the department within a year of the plan's approval, rejected 121-290, No.

Final passage of the bill to authorize $10.94 billion for federal aid highway programs in FY 1977 and FY 1978 and $4 billion annually for construction of segments of the Interstate Highway System through FY 1988, passed 410-7, Yea; 12-18-75.

H.R. 5398 EMERGENCY MORTGAGE RELIEF PROGRAM

Final passage of an authorization of $500 million to establish a temporary Federal loan program to aid unemployed persons faced with the loss of homes due to mortgage defaults, passed 321-21, Yea; 4-14-75.

H. RES 138 SELECT COMMITTEE ON INTELLIGENCE

Amendment to provide Committee with an equal number of Democrats and Republicans, rejected 141-265, Aye.

Adoption of resolution to establish Select Committee on Intelligence to determine whether Federal law agencies (enforcement and intelligence) had engaged in "illegal or improper" activities, passed 286-120, Yea; 2-19-75.

H. RES 591 HOUSE SELECT INTELLIGENCE COMMITTEE

Amendment to abolish the House Select Intelligence Committee established by H. Res. 138 on February 19, rejected 122-293, Aye; Amendment in the nature of a substitute, to abolish Select Intelligence Committee created February 19, and direct the House to create a permanent House-Senate committee on intelligence, rejected 178-230, Aye; Motion that a Committee of the Whole rise, thus halting further debate on the resolution, motion agreed to 242-162, No; Amendment to restrict the House investigation of the U.S. intelligence activities to the Central Intelligence Agency and to lower the membership of the Select Committee from 10 to 7 members, rejected 125-285 Aye; Amendment to allow members of the Select Committee created by H. Res. 138 on February 19 to become members of the new committee authorized by H. Res. 591 if they choose, rejected 119-274, No; 7-17-75.

H. RES. 335 SELECT COMMITTEE ON MIA'S

Adoption of the resolution to establish a select committee to investigate United States servicemen missing in action in Indochina, adopted 394-3, Yea; 9-11-75.

SEN. CON. RES. 23 PRINTING AUTHORIZATION

Motion to recommit the House Administration Committee the resolution to authorize the printing of an additional 20,000 copies of "The Congressional Program of Economic Recovery and Energy Sufficiency," with instructions to substitute Democrat for Congressional, rejected 133-264, Yea.

Final passage of Printing Authorization Resolution, passed 262-138, No; 5-7-75.

H. RES. 46 CODE OF OFFICIAL CONDUCT

Adds clause to H. Rule 43 stating that any member who pleaded guilty to a crime or was convicted and sentenced to two or more years imprisonment, should refrain from voting on the Floor or in Committee, adopted 360-37 Yea; 4-16-75.

H.R. 4485 EMERGENCY HOUSING ASSISTANCE

Motion to order previous question ending further debate and possibility of amendments on rule, H. Res. 337, agreed to 242-142, No; Amendment to Committee amendment to Section 7 to include other areas, rejected 101-274, No; Amendment to provide not more than 50 percent of aggregate mortgage amounts may be allocated for use with respect to existing previously occupied buildings not substantially rehabilitated and for new, unsold dwelling units prior to bill's enactment; no more than 10 percent of aggregate mortgage amounts approved to be allocated with respect to dwelling units valued in excess of $38,000, rejected 46-207, Aye; Amendment requiring that a homeowner commit 25 percent of his income toward payment of principal, interest, taxes and insurance in order to qualify for a mortgage subsidy, rejected 137-229, Aye; Amendment in the nature of a substitute to provide additional housing assistance by expanding 1974 Emergency Home Purchase Assistance Act, rejected 126-242, Aye.

Final passage Emergency Housing Assistance, passed 259-106, Nay; 3-21-75.

HIGHWAY BRIDGE SAFETY NEEDED

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. SHUSTER. Mr. Speaker, a frequently overlooked but enormously important problem in every State in our Nation is highway bridge safety. Like rail-highway grade crossings, it commands little publicity until a tragedy occurs, such as the collapse of the Silver Bridge in West Virginia that claimed 46 lives. Then, the sensationalism of the disaster strikes an anguished chord in the sensibilities of most Americans, which unfortunately fades swiftly and without fanfare. Yet, 150 bridges collapse each and every year, and fully 90,000 bridges are in critical need of replacement.

I am proud that my good friend and colleague from Pennsylvania, H. JOHN HEINZ III, has faced up to this problem and done something about it. Congressman HEINZ, who represents a district in Pennsylvania with 19 unsafe bridges, is not unfamiliar with the problem and has devoted a great deal of time and effort to develop a legislative proposal that makes sense. His bill, the Bridge Safety Act of 1976, would address the nationwide disgrace by focusing on areas of severe need now, while guaranteeing a long-term Federal commitment for repairing or replacing all identified unsafe bridges.

As ranking minority member of the House Surface Transportation Subcommittee, with jurisdiction over bridge programs, I enthusiastically support the Heinz bill as a thoughtful, pragmatic, yet forceful, solution to unsafe bridges, and I commend him for taking the initiative in this critically important area.

In a recent address before the 1976 Republican National Convention Committee on Resolutions, Congressman HEINZ eloquently described the nature and scope of the problem and his proposed solution. Unsafe "killer bridges" have no political affiliation and demands bipartisan attention. Therefore, Mr. Speaker, I include the statement by Congressman HEINZ to be inserted in the RECORD at this point, and I urge my colleagues to carefully heed the message contained therein:

ORAL TESTIMONY OF HON. H. JOHN HEINZ III, AUGUST 9, 1976

I appreciate this opportunity to discuss the very serious issue of unsafe bridges in the United States.

The subject is not exactly alien to most, if not all, of you and certainly not to myself.

Not quite ten years ago the Silver Bridge between Point Pleasant in West Virginia and Kanaqua in Ohio tore loose from its supports and thundered into the Ohio River during the height of the evening rush hour.

The 1,753-foot suspension bridge carried 46 adults and children to their deaths.

Last year, near Winston-Salem, North Carolina, a bridge over the Yadkin River collapsed killing four persons and injuring sixteen others.

And bridges continue to collapse all over our country at the rate of about 150 a year.

Notwithstanding widespread news coverage of these disasters and notwithstanding renewed focus and national attention, State and Federal efforts directed at bridge safety remain totally inadequate.

Spurred by the tragedy at Silver Bridge, Congress established the Special Bridge Reconstruction and Replacement Program as part of the Federal Highway Act of 1970.

Among other things, that Act required the inspection and rating of all bridges in the nation. The inspection is now almost complete.

The results are not comforting.

Let's take a look at the results, compiled by the United States Department of Transportation;

There are more than 563,000 bridges in the United States;

Of that number 89,800 have been classified as "critically deficient."

That is a euphemism for saying that one out of every six bridges across our great country is a Killer Bridge.

Add to those unhappy results, the following:

407,000 of the 563,0000 bridges in the United States, or 72 per cent, were built prior to 1935.

Most of the older bridges were designed for the lighter, slower traffic of more than a generation earlier and certainly and obviously not for the highspeed, heavier traffic of today.

Let me call to your attention the significant fact that the average age of bridges in the United States is more than 40 years.

And that on August 1 of this year a bridge over the Danube River in Vienna collapsed because of metal fatigue, killing and injuring a number of people.

That bridge over the Danube was exactly 40 years old.

In our traditional dealings with highway problems, we have addressed ourselves to the questions of roads and streets.

Bridges, somehow, were taken for granted—as if there were no major difference between a piece of pavement and the structure needed to cross a river.

For this reason those Killer Bridges still span the countryside, menacing our travelling public with the uncertainty of when it is that they will no longer withstand the ravages of time and inadequate construction.

The problems of the unsafe bridge is nationwide.

It touches every state in our nation.

We must adopt a nationwide solution to the problem.

And we cannot afford to waste any time.

Because tomorrow it might be you or me or our children who are crossing one of our Killer Bridges.

The biggest impediment to bridge safety is money.

During its entire history, the Special Bridge Reconstruction and Replacement Program has not had sufficient funding to carry out its directive. Currently only $180 million is authorized each year for the next two years. But we need, without hesitation, between $10 and $31 billion to replace bridges that currently are classified by the Department of Transportation as being candidates for replacement.

Moreover, these estimates exclude consideration of continued deterioration of presently deficient bridges, normal deterioration of safe bridges, and inflation.

To date, there have been only 670 bridges replaced under the federal program, a rate of about one bridge, per state, per year.

At this rate it will take a minimum of 80 years to bring our Nation's bridges to a standard of safety which citizens of this country have every right to expect.

For those who remember the Silver Bridge disaster, 80 years is too long a time to gamble that more rotting bridges won't collapse.

As an example of the magnitude of the problem in individual states, a 1975 report to Congress by the Comptroller General of the United States listed 960 bridges in my state of Pennsylvania as being unsafe. Allegheny County, my district, has 19 bridges that are candidates for replacement. Yet, Pennsylvania ranks 13th among the states having unsafe bridges. Those that exceed Pennsylvania are as follows: Oklahoma, 2,783; Louisiana, 2,618; Illinois, 2,071; Nebraska, 1,676; Kansas, 1,563; Arkansas, 1,320; West Virginia, 1,180; South Dakota, 1,123; Florida, 1,040; and Georgia, 988.

Recently, I introduced the Bridge Safety Act of 1976.

This act resulted from months of study and consultation with highway and transportation officials throughout the country. The Safety Act recognizes that the problem of unsafe bridges in the United States is so great that it will never be solved by piecemeal legislation.

This Act builds on the present Federal Aid Highway Act by providing $720 million per year for the Special Bridge Reconstruction and Replacement Program, an amount that is realistic and commensurate with the magnitude of the nationwide problem that my Act will solve. It also extends the highway trust fund through 1990 to provide sufficient time to get the job done. Most importantly, this Act provides for the immediate repair of the Killer Bridges, thus reducing the threat to human life. And by repairing these Killer Bridges now, the effect of inflation and the cost of total replacement later will be greatly reduced.

Although the Bridge Safety Act of 1976 will be of great benefit to all states, it also recognizes that for various reasons, including their essentiality for public use, topography, population, length spans, load carrying capacity, certain States and counties depend on bridges much more than others.

This bill directs the Department of Transportation to identify these areas and to give first priority to those with the most critical need.

Moreover, a certain percentage of the total appropriation each year will be set aside so that individual counties may apply for emergency funds, irrespective of their State's appropriation.

The Bridge Safety Act of 1976 is aimed, not at the abandonment of bridges:

But the rehabilitation of bridges.

What we are talking about is what all of us are concerned with;

Making our public resources safe and useful again.

What we are talking about is revitalizing our nation.

UAW LEADER JOINS ENVIRONMENTALISTS' DISASTER LOBBY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. ASHBROOK. Mr. Speaker, the New York Times on May 4 carried a headline which reported the alliance of labor's most radical leader and the radical environmentalists. A few days ago I noted in the RECORD that this same Leonard Woodcock was joining a group of leftists and dupes to advance the cause of giving our Communist enemies in Russia trade advantages and taxpayer support.

One wonders when the rank and file will wake up. Their leaders support forced busing, aid to the Communists, gun control and inflationary spending despite the strong feelings of the average union member for exactly the opposite policies.

How can Leonard Woodcock join those radical zealots who block nuclear generating plants and harm their jobs? The answer is simple: He is a liberal first, last, and always and the rank and file can be damned.

Rank and file workers may well wonder what possible advantages will come from the alliance of their leaders with the disaster lobby of environmental misfits who place jobs and industry on a very low priority. Never mind the gradual loss of American jobs and the increase in imported products because of the environmentalists and Ralph Nader, radical liberals stick together as witnessed by this article:

[From the New York Times, May 4, 1976]

WOODCOCK CALLS FOR AN ALLIANCE OF LABOR AND ENVIRONMENTALISTS

(By Gladwin Hill)

BLACK LAKE, MICH.—One of the nation's top union leaders called last night for a "new alliance" between labor and environmentalists in the political arena to thwart industries' "environmental blackmail" and hasten full employment.

Only such collaboration, said Leonard Woodcock, president of the United Automobile Workers, will help resolve, on the one hand, workers' fear of environmentally induced unemployment and, on the other, some corporations' resistance to pollution abatement.

Mr. Woodcock spoke at the opening of a five-day national conference of 300 union officials, ecology activists and community leaders aimed at exploring common interests and easing friction between environmental and economic progress.

The conference, entitled "Working for Environmental and Economic Justice and Jobs," is sponsored by the U.A.W. and more than 100 other labor, environmental and civic organizations. It is being held at the auto union's Reuther Educational Center here.

CAUGHT IN THE MIDDLE

Initial conference discussion groups brought forth pronounced differences in outlook among the participants, with union officials expressing some of the same apprehensions cited by Mr. Woodcock.

"We often find ourselves caught in the middle between the movement to clean up the environment and our mission of protecting workers' jobs," said Tom Donahue, executive assistant to George Meany, president of the American Federation of Labor and Congress of Industrial Organizations.

"We don't see eye to eye with the environmental community in its opposition to nuclear power. On the other hand, we thoroughly supported legislation to regulate strip mining.

"We haven't agreed with them on banning nonreturnable containers, but we're with them in seeking national land use legislation."

Dr. Barry Commoner, Washington University ecologist, suggested that as a basis toward reconciling the divergent interests law in a needed reorientation of the nation's economy away from "inefficient" use of both energy and capital in ways prejudicial to labor.

He suggested: "We face a big debate on how we're going to devote resources for the common good rather than for private profit. There's a whole question of inventing a new form of socialism."

COMMON CAUSE

Organized labor and the environmental community, Mr. Woodcock said, had common cause in fighting "the corporate tactic of trying to make workers and communities choose between jobs and ending pollution" by threatening to close down or move.

"It's frequently a false conflict," he continued, "but to a worker confronted with the loss of wages, health care benefits and pension rights, it can seem very real."

MARION G. FOWLER'S NOTES ON THE HISTORY OF CANFIELD, OHIO, TRANSCRIBED BY KAY SITTIG

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. CARNEY. Mr. Speaker, in keeping with our Bicentennial celebration, Mrs. Kay Sittig has transcribed the notes of Marion G. Fowler on the History of Canfield, Ohio. Marion Fowler (1890–1973) probably knew more about Canfield than any person. She had an extraordinary memory for people, places, and events, and she took copious notes. Because of her background with the Mahoning Dispatch, a weekly newspaper owned and published by the Fowler family for 91 years, she gathered a great deal of information about the early Western Reserve and Canfield. From the tape recordings, speeches, and notebooks of Marion G. Fowler, as well as from personal conversations with her, Mrs. Kay Sittig produced this history of Canfield.

During the early 1700's, both France and England laid claim to the lands west of the Allegheny Mountains. After the Revolutionary War, 7 of the original 13 States claimed this land. One of the 7, Connecticut, retained a portion of its original claim known as the "Western Reserve." The Connecticut Land Co. purchased this land from the State and sold it to various groups of people. One of these groups bought part of the Reserve now known as Canfield Township. The author traces the journey of one of the members of this group of landowners, Mr. Nathaniel Church.

On May 24, 1798, after nearly a month of rigorous travel on horseback and on foot, eight men led by Nathaniel Church arrived in what is now Canfield. These men spent the spring and summer clearing, surveying, and developing the land. In the spring of the following year, settlers began to move into this area and named it Canfield, in honor of the largest landowner, Judson Canfield.

In 1845, the Ohio State Legislature established a separate county with the county seat at Canfield. At one time, Canfield was larger than Youngstown. Mrs. Sittig points out, however,

> As Youngstown increased in size partially due to river transportation which made industry possible, the city began to agitate to have the county seat taken from Canfield to Youngstown. Finally the legislature granted the change and the records were moved in August, 1876. Many tales have been told of how the records were stolen at night but this is pure fiction. Charles C. Fowler, who was born in Canfield June 17, 1859 and spent his entire life in the community, was a teenage boy at the time of the moving of the records. He said there wasn't a hand raised and that one afternoon the records were loaded on forty wagons and taken to Youngstown, without disturbance of any kind. That day, however, was a sad one for the village.

One of the most important events each year in the State of Ohio is the Canfield Fair. The first fair was held in 1847 in a park. Today, the fair covers an area of 212 acres with many fine buildings for the exhibition of clothing, furniture, livestock, appliances, and automobiles. The largest attendance was 449,010 in 1971, the centennial celebration when the fair lasted 6 days. The Canfield Fair still maintains its reputation as one of the finest fairs in the Nation.

In addition to the history of Canfield, Mrs. Sittig includes a pictorial survey of the architecture of Canfield—from the early Georgian style of the colonial period, to the Italianate mode of the post-Civil War period and the Queen Ann style of the Victorian era. One of these houses, known as the Loghurst House, was part of the underground railroad before the Civil War, which served as a station for helping slaves get from the South into Canada.

Mr. Speaker, I would like to take this opportunity to heartily commend Mrs. Kay Sittig for her civic pride in writing this concise and interesting history of Canfield, Ohio, based on the notes of Marion G. Fowler.

THE HOSTILITY TOWARD SOLZHENITSYN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. McDONALD. Mr. Speaker, the nationally syndicated columnists Rowland Evans and Robert Novak have recently written a column giving additional background on the hostility of the "foreign policy establishment" toward Alexander Solzhenitsyn. The column, appearing in the Washington Post on September 2, 1976, related the circumstances under which Mr. Winston Lord, director of the State Policy Planning Staff, came to call Mr. Solzhenitsyn a "Fascist." That in itself is a strange term for Mr. Lord to use—it is the same term the Communists nearly always apply to their enemies. Anyone who has read Mr. Solzhenitsyn carefully, realizes he still retains a great deal of respect for socialism, while abhorring its brutal excesses, but he is not a Fascist. The real crux of the matter is that Solzhenitsyn was and is speaking about the real world we live in and to accept his views is to see détente for what it really is—surrender on the installment plan. I commend the column to the attention of my colleagues:

THE HOSTILITY TOWARD SOLZHENITSYN

(By Rowland Evans and Robert Novak)

Two days after the Republican national platform extolled Alexander Solzhenitsyn as a "great beacon of human courage and morality," one of Henry Kissinger's top aides used the word "Fascist" in describing the anti-Communist Russian novelist.

The comments were made Aug. 19 by the highly respected Winston Lord, State Department policy planning director, in an off-the-record session with the department's student interns. Some of the interns present quote Lord as saying Solzhenitsyn "is just about a Fascist." Lord says he did not call the writer a Fascist but does not deny using the word.

Behind this unfortunate hyperbole is an undeniable truth: Hostility toward Solzhenitsyn within the policymaking machinery headed by Secretary of State Kissinger has not subsided since June 1975, when it convinced President Ford he should snub the Nobel laureate. At the State Department, Solzhenitsyn is still viewed as a threat to world peace rather than a symbol of freedom.

Judging from his reluctance to accept the Solzhenitsyn plank at Kansas City, Mr. Ford shares this view as he does Dr. Kissinger's other positions. Nor is he likely to be challenged on this point by Jimmy Carter, whose foreign policy advisers agree with Foggy Bottom in branding Solzhenitsyn as a slightly balmy 19th century Russian mystic.

Thus, the bipartisan foreign policy establishment has been successful in downgrading Solzhenitsyn since his triumphant arrival here a year ago. He has been a key target of the detentists, both in the Kremlin and on the State Department's seventh floor.

The view from the seventh floor was revealed in Lord's Aug. 19 session with the student interns when he was asked about Solzhenitsyn. He replied that it had been a mistake not to invite the Russian expatriate to the White House—an admission that is now State Department doctrine.

Lord went on to praise Solzhenitsyn's brilliance and courage but added that his views, if carried out, could threaten world peace. Then, as reported immediately thereafter by one intern and later confirmed by others, Lord said in matter-of-fact tones: "Let's face it, he's just about a Fascist." He concluded by saying Solzhenitsyn fulfilled a desire by many Westerners to feel moral.

When asked to confirm or deny this, Lord told us: "I did not call him a Fascist. He's not a Fascist." As to whether he used the word "Fascist," Lord said he would have to consult the transcript. However, no transcript was kept.

The spirit of what Lord said was faithful to private views held inside the Ford administration. That explains the fierce opposition to any mention of Solzhenitsyn in the Republican platform. When Mr. Ford backed down rather than risk a disastrous floor fight with the Reagan forces, Kissinger was furious. He even threatened to resign the next day if the amendment were accepted (prompting an admonition from one sharp-tongued Ford operative that he ought to quit today, not tomorrow, to generate more delegates for the President).

The Ford-Kissinger attitude is duplicated on the Democratic side. A pro-Solzhenitsyn plank was quietly rejected by the Democratic platform-drafting group and never reappeared in open sessions. Key advisers, contending that Solzhenitsyn has taken on a right-Republican coloration, advise Carter not to raise the matter in speeches or in forthcoming debates with the President.

Since Solzhenitsyn is neither a right-wing Republican nor a Fascist and might be considered rather moderate considering his life's experience, the real objection is not to his ideology but to the threat he poses to detente. That threat was expressed bluntly in the State Department's memorandum to the White House on June 26, 1975:

"The Soviets would probably take White House participation in the affair (a banquet honoring Solzhenitsyn) as either a deliberate negative signal or a sign of administration weakness in the face of domestic anti-Soviet pressures. . . . Not only would a meeting with the President offend the Soviets but it would raise some controversy about Solzhenitsyn's views of the United States and its allies. . . . We recommend that the President not receive Solzhenitsyn."

While that recommendation is now conceded to be a political error, the philosophy behind the memorandum flourishes in the Ford administration. When Winston Lord told student interns that the Russian expatriate's political views threaten world peace, he was unveiling the hard consensus of the U.S. foreign policy establishment, which now seems the conventional wisdom in Washington.

CULTURAL EDUCATION COLLABORATIVE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BRADEMAS. Mr. Speaker, the Boston Globe recently carried a most interesting story concerning the work of the Cultural Education Collaborative of Boston, Mass.

The Cultural Education Collaborative—CEC—is an organization working in cooperation with over 100 cultural institutions and school districts throughout the State of Massachusetts to bring cultural programs to the public schools.

Since the program was originated 3 years ago in Boston, the demand for such services has greatly increased and has spread to other communities in Massachusetts.

Mr. Speaker, I commend the CEC, and its able director, Ms. Anne Hawley, for this innovative use of cultural resources and insert at this point in the Record the text of the Globe article:

Pupils Learn Colonial Crafts From Boston Museum Experts

(By James Worsham and Phyllis Coons)

Michael Reynolds learned about tinsmithing, Ed Hamlett and Mona Lofton found out about colonial dress first-hand and Theresa Barry and Maria Garcia made their own wooden ladle.

All are students at the Champlain Middle School, nestled among the frame houses of working class families in Boston's Dorchester section.

And all are in an American Crafts program, carried out with the aid of Boston's Museum of Fine Arts (MFA), a Fenway landmark that is one of the nation's most prestigious cultural institutions.

The unlikely relationship between the Champlain and the MFA came about as part of the historic Phase 2 desegregation order for Boston's schools in which US District Judge W. Arthur Garrity Jr. enlisted the help of area colleges, universities, cultural institutions and businesses.

The Champlain is one of a score of Boston public schools now benefitting from the Phase 2 "pairings" as well as the outreach approach now being taken by museums and performing arts groups, spurred on by state desegregation aid and a chance to be a part of the historic Boston school desegregation saga.

Museums have for years welcomed students for day-long tours but, says state Education Comr. Gregory Anrig, "here they're taking the institution to the people and finding out how to make it appeal to a great diversity of kids."

It's also part of a national trend, says Gaby Dundin, education director at the Museum of Comparative Zoology at Harvard. "Museums are going to the general public now, and not just seeing themselves as curators and keepers of things," she says.

For the children at the Champlain School, being "paired" with the MFA turned out to be more than just visiting and getting out of schools for a day. This past year, artists came from the MFA and from Sturbridge Village to teach early American crafts. The students—90 of them—learned to work like early Americans and solve some of their problems at woodwork and tinsmith benches in the school basement.

And the experience carried over when they went back to their classroom to study industrial technology, family life, survival problems and government by comparing Colonial patterns to today's.

Bob Harrington, project director at the Champlain, said the program involves all 96 sixth graders at the Champlain and that instruction in their core subjects—English, social studies, science and math—was coordinated with what was being taught in the crafts program.

In addition, he said, all students made at least three trips each to the MFA and went on field trips to Plimoth Plantation and the Saugus Iron Works.

The Champlain is one of 20 Boston schools paired with 14 cultural institutions this year.

The Harvard Museum of Comparative Zoology provided special programs on animals and human cultures for students at the Shaw School in Dorchester and the Fuller School in Jamaica Plain. Students there came to the museum and worked on their program at their schools as well.

The approximately 100 Shaw and Fuller students studied the role of animals in four different human societies: China's T'ang dynasty, late medieval Germany, the classic Mayan culture and a West African tribe.

Part of the project involved the students' putting together their own museum while employing—and reinforcing, say program coordinators—basic skills in social science, science, reading and writing, especially in preparing displays.

Stage One, a performing arts group, worked with 40 students at the Hernandez School in Dorchester, introducing them to the theater world while helping the students write, rehearse and perform their own play, which involved language skills.

Other institutions involved this year included: New England Aquarium, Boston Zoological Society, Dorchester House Arts Program, Concert Dance Company, Museum of Transportation, Theater Workshop of Boston, Pocket Mine Theater, Jazz Coalition, Proposition Theater, Cooperative Artists Institute, Children's Museum and Neighborhood Arts Center.

Joining the programs next year will be eight more institutions bringing the total to 23. They are are Learning Guild, Next Move Workshop, Shakespeare & Co., Children's Art Center, New England Conservatory of Music, Boston Ballet, the Museum of Science and the Theater Company of Boston.

This year, some 6000 Boston school students were involved in the programs, and the Cultural Education Collaborative, which administers the programs, expects 8000 to 9000 Boston children involved in programs next year.

The collaborative, which began as the education project of the Metropolitan Cultural Alliance, screens proposals before sending them to the State Dept. of Education as candidates for state desegregation did under the 1974 amendments to the 1965 racial imbalance law.

Anne Hawley, director of the collaborative, says that for the next year, each of Boston's nine school districts has been allocated a certain amount of money for cultural institution pairings.

Programs are being proposed and approved in that context.

This format fits in with the state Dept. of Education's aim of spreading state and Federal funds more evenly among Boston's 162 public schools, she added.

Hawley said that several programs at the Hernandez School are tailored for bilingual students, and that many programs had included special education students, which under Massachusetts law, are integrated with regular students.

Looking beyond the current pairings in Boston, Hawley said: "I would like to see programs become an integral part of the school curriculum and that we could develop a funding for it."

To that end, the collaborative, even before its break with the alliance, had sought passage of a bill in the Legislature to authorize programs that would encourage school systems to make use of the education programs offered by cultural institutions. The bill has passed the Senate and is now in House committee.

The measure only authorizes programs. A separate appropriation bill would have to be filed later. A study found that 100 of the state's cultural institutions could provide field trips or performances for two million students and in-depth programs for 47,000.

Hawley said that many institution officials see the pairings with Boston's schools as a way to expand their educational programs. As a result, she said, a number of institutions have brought on education directors, many of them former teachers.

Marion VanArsdell, a member of the Citywide Education Coalition who has monitored some of the school pairings with cultural institutions and screened some proposals, said that while "some of the programs are excellent" others suffered from little coordination between a school and an institution before the project was approved.

That situation, she says, is improving for next year. But she said the situation is still a long way from being a "marketplace" so that parents, teachers and students from a school can choose any museum or performing arts program they want for their children.

Even though some parents feel the programs are "fluff" when their children really need basic skills, she said, "these kinds of programs can offer a lot to the Boston schools in that children can learn a lot of reading and math if they really get interested in their (museum) project."

Anrig sees the cultural institution pairings in Phase 2 as an expansion of their roles. "They've been open in the past, but never in a way in which they can get their teeth into working with a school," he said.

"The cultural institutions have had to change" says Anrig, "and I think that's healthy."

A COMMENT ON THE GAO'S SYNTHETIC FUEL REPORT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BROWN of California. Mr. Speaker, earlier this week the Committee on Science and Technology and the Committee on Interstate and Foreign Commerce held open hearings to review the conclusions of the General Accounting Office concerning synthetic fuel development in the United States. Many Members were concerned with the conclusions of this report, which were quite negative toward synthetic fuel demonstration projects, at least partly because the GAO report differed so dramatically from other reports on the same subject.

My own observations on the GAO report dealt with the energy demand and price assumptions used by the GAO. While it is necessary to make some assumptions, the continued demand for liquid fuels and gas is unlikely to end, and the need for domestic production of synthetic fuels is likely to grow.

Obviously there are alternatives to oil and gas that are more desirable than synthetic fuel, such as energy conservation and solar energy. Unfortunately, the energy demand is not going down as rapidly as I would like to see.

The Los Angeles Times reviewed this same GAO report, and had similar reaction.

I would like to insert this editorial in the RECORD at this time:

SYNTHETIC FUEL: A SYNTHETIC VIEW

The General Accounting Office is a highly respected agency that, in its role as a fiscal watchdog, has done a lot to advance the cause of more efficiency and less waste in government spending. Unfortunately, the GAO has taken a very shortsighted view in its study of synthetic-fuel development.

In a report released last week, the agency concluded that oil and gas produced synthetically from shale or coal are "not price-competitive" with foreign petroleum, and that the federal government should therefore refrain from subsidizing expensive projects for synthetic-fuel development.

It would be better national policy, the GAO suggested, to emphasize energy-conservation measures and development of solar and geothermal energy—meanwhile depending, to the extent necessary, on rising oil imports.

Oil produced from coal or oil shale could cost as much as $18 a barrel, the report pointed out, compared with the present price of $12 a barrel for imported petroleum. Gas produced from coal would cost roughly twice as much as the ceiling price recently set by the federal power commission for new natural-gas supplies.

There is no question that, partly as a result of environmental considerations, synthetic-fuel technology is still uncertain. Knowledgeable people understand that synthetic fuels are almost sure to cost more than the present price of oil. But it is a long leap from there to the conclusion that growing reliance on imported oil is a sensible alternative.

There is no reason to assume, as the GAO did in making its cost-effectiveness comparisons, that foreign oil will continue to sell for $12 per barrel. The Organization of Petroleum Exporting Countries is widely expected to agree on a new price increase later this year, to the degree that U.S. reliance on the foreign oil producers' cartel increases, further price boosts are bound to occur.

U.S. dependence on foreign oil supplies already is far higher than at the time of the Arab oil embargo. And with imports from Canada and Venezuela down sharply, the reliance on Arab oil has doubled in the past year alone.

Even in the absence of another embargo, there can be no guarantee that Saudi Arabia, the chief Arab oil producer, will continually increase its output to satisfy U.S. needs if a policy of holding the oil in the ground might suit its own needs better.

A vigorously pursued energy-conservation program will help; so will oil from Alaska's North Slope and from expanded offshore production. But this country has vast reserves of oil shale and coal that must be exploited as part of a sensible long-range national energy policy.

Very real obstacles exist—economic, technological and environmental. The name of the game, however, must be to recognize these problems and overcome them as soon as possible.

Synthetic-fuel production would be expensive, but excessive reliance on undependable, cartel-controlled foreign oil would be even more expensive.

CONGRESSMAN JOHNSON OF PENNSYLVANIA URGES THOROUGH STUDY OF FTC HOLDER-IN-DUE-COURSE RULING

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I appreciate this opportunity to offer additional remarks with respect to a trade regulation rule which has been promulgated by the Federal Trade Commission pursuant to the Magnuson-Moss warranty—Federal Trade Commission Improvement Act—Public Law 93-637—and a proposed amendment to that trade regulation rule. The rule requires that a prescribed notice be included in consumer credit contracts in order to foreclose the possibility of a creditor becoming a holder-in-due-course or an assignee or lender not subject to consumers' claims and defenses.

Mr. Speaker, I believe the Commission has failed to adhere to congressional intent both as to the manner in which the preservation of consumers' claims and defenses rule was promulgated and to the rule's unlimited application. I addressed this aspect of my concern on August 10, 1976, and the appropriate remarks appeared in the CONGRESSIONAL RECORD.

In those remarks I stated that the rule as presently drafted would have a pervasive effect upon all participants in this Nation's consumer credit community and that adverse ramifications may abound for marginal and low-income consumers due to the fact that the financial institutions of this Nation may be exposed to inequitable and innumerable legal actions.

As you are aware, the rule pertaining to sellers became effective May 14, 1976, and the proposed amendment applicable to creditors is presently before the Commission. The Commission has clarified the seller rule to some degree, however, additional clarifications and necessary refinements remain.

Mr. Speaker, my concern as voiced earlier last month appears to have been appropriate. Recently, hearings have been conducted by the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce. The testimony offered at these hearings clearly discloses the confusion surrounding this rule and the apprehension existent within the consumer credit community. A factual editorial with respect to these hearings appeared in yesterday's issue of the American Banker. The editorial concludes with this statement:

> But the surveys presented so far to the House Subcommittee demonstrate most clearly that statistics can be found to speak on any side of an issue, and what is needed here is a thorough, objective study of the effects of the FTC rule.

I wholeheartedly concur with this concluding statement. I believe Congress should rigorously examine in detail not only the Commission's action, but the rule's possible effect upon our Nation's economy. I have joined Mr. BROYHILL of North Carolina and Mr. MCCOLLISTER of Nebraska in cosponsoring H.R. 15082. Briefly, H.R. 15082 will suspend, pending review, the effect of the Commission rule. The General Accounting Office is directed to examine the Commission's basis for issuing the rule, the effect of the rule on consumer credit markets and present avenues of consumer redress for grievances arising from consumer sales. GAO will then submit its written report to Congress and the Commission as to its findings and recommendations on the desirability of promulgating the rule. Having considered the report and followed appropriate rulemaking procedures, the Commission may repeal the rule or give it effect either in its present form or as amended.

Mr. Speaker, H.R. 15082 provides the "prudent gradualism" needed at this time:

IMPACT OF DUE-COURSE CHANGE: BANKS VS. FTC

A Federal Trade Commission rule abolishing the holder-in-due-course doctrine went into effect last May 14 amid predictions of a serious impact on consumer lending and the economy.

A period of less than four months is too short to gauge the effect with any certainty, but several attempts have been made and results of surveys released. The findings differ.

"To date, elimination of holder-in-due-course provisions has had little impact on the consumer credit policies, practices and activities," said the FTC itself.

That agency, which has spent more than five years formulating its rule, engaged the firm of Yankelovich, Skelly & White to interview 127 lending institutions in four states. The FTC submitted some of the preliminary results to Congress last week.

Two banking organizations presented their findings Tuesday to the subcommittee on consumer protection and finance of the House Interstate and Foreign Commerce Committee, and viewed the results with foreboding.

Whereas the Yankelovich/FTC survey reached only about 20 banks, the American Bankers Association surveyed 104 banks and said a significant number have begun to cut back on several types of indirect loans.

Walter W. Vaughan, vice president of Lincoln First Bank of Rochester, N.Y., testifying for the ABA, said the banks cutting back on indirect home improvement loans increased from 13% in April to 24% in July, and those cutting back on indirect auto loans increased from 7% to 13% in the same period.

"The cutback in direct loans was not discernible," Mr. Vaughan went on, "presumably because many banks have been advised by counsel that direct loans are not yet subject to the FTC rule."

The Independent Bankers Association of America surveyed its members on Aug. 7 and obtained responses from 1,784. Chales O. Maddox Jr., IBAA president, said they show the FTC rule cannot be justified, "given the disruptions it is causing for consumers and small businessmen obtaining financing."

Mr. Maddox said 61% of the IBAA banks cut back auto loans as a result of the rule and 51% cut back mobile-home loans. Of the banks which have not curtailed lending, most have taken steps to reduce their liability by the use of recourse agreements or tightening lending policies.

In reporting on the Yankelovich survey, the FTC said virtually no lenders had changed their interest rates on direct loans. Mr. Maddox said 326 of the IBAA respondents had increased their rates as a result of the FTC rule. But he said at least 600 of the banks do not buy or sell consumer paper, so they would not have felt the full impact.

The FTC and ABA also differ in their findings on dealer relationships.

Said the FTC: "Except in six out of 123 cases, cutoffs of dealers have been selective, affecting at most 13% of the total number of dealers dealt with by any given lender. Lenders described the dealers they have cut off as 'shady' and 'fly-by-nights.' "

Said the ABA: "A number of banks reported significant reductions in the number of dealers from which they purchase indirect consumer loans."

To substantiate this, Mr. Vaughan said 31% of the ABA respondents reduced the number of dealers from whom they purchase consumer loans by an average of 6.6, and only 14% increased them, by an average of 6.2 dealers.

Furthermore, he said that six weeks after the FTC rule went into effect, responding banks had reduced the number of auto dealers from whom they purchase loans by an average 3.5%. Since the full impact is months away, Mr. Vaughan said, this six-week decline of 3.5% is significant.

But the surveys presented so far to the House subcommittee demonstrate most clearly that statistics can be found to speak on any side of an issue, and what is needed here is a thorough, objective study of the effects of the FTC rule.

FOOD STAMP REFORM BILL NEGLECTS NEEDY

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. RICHMOND. Mr. Speaker, my colleague GEORGE BROWN, JR., and I have joined together in opposing the food stamp reform bill recently reported by the Agriculture Committee. We believe it is a step backward in our commitment to end hunger and malnutrition.

For the benefit of our colleagues who may not be familiar with the final committee bill, I am inserting our dissenting views in the RECORD. I hope they will be read with an understanding of the need to restore cutbacks and legislate meaningful reform on the House floor:

DISSENTING VIEWS TO H.R. 13613

We would have preferred, after three month's effort at reforming the Food Stamp Program, to join our colleagues and endorse the Committee bill, H.R. 13613. Unfortunately, the Committee has taken the path of least resistance. It has voted 21-19 to report a bill which pleases no one and angers as few as possible, while allowing members to say, "we've done something about the Food Stamp mess." We refuse to endorse an effort that stops short of true food stamp reform and which is a step backward in our commitment to end hunger and malnutrition in this nation.

Certainly the program, and the needy millions who depend on its assistance, deserve more than the Committee has offered. The program does need reform but the Committee has not faced up to that task. In our view, reform is *not* simply reducing benefits; it is *not* solely saving money. True reform is guaranteeing that those who need assistance to obtain a nutritionally adequate diet receive it.

MISINFORMATION ABOUT THE PROGRAM

The Committee started its work under the weight of a distorted public view of the Food Stamp Program, a view shared by many Members of Congress. This public perception was not based on fact, but instead formed by overblown rhetoric, political partisanship, and a number of simple manipulations of the truth. It was fueled by deceptive advertisements in the national media ("You can make up to $16,000 a year and qualify for Food Stamps"), by the Ford Administration's use of public forums to feed prejudices ("a well known haven for chiselers and rip-off artists") and by creating false perceptions ("The Program has gone 'out of control' "). Certainly we would be furious if the ranks of food stamp recipients were filled with people earning $16,000; we could not tolerate scores of cheats robbing the public till; and we would indeed be worried if any program we created had gone beserk. But the facts simply do not support those charges.

PROGRAM FACTS

A. Participants

At the commencement of the Committee's efforts, the Committee staff undertook a major study of food stamp recipients to determine their economic make-up and living circumstances. The study confirmed what many of us had learned from previous USDA data: food stamp participants are among the poorest of the poor, and there were very few households with high incomes participating in the Program. The Committee study—and later USDA investigations—shows that the average food stamp household has an average income of less than $300 per month, that only four percent of all households have gross incomes exceeding $7,500, and that nearly all households who are above this level are large working families who qualify for food stamps because they are permitted to deduct taxes and work-related expenses from their gross incomes.

B. Fraud and error rates

According to the data USDA has, the fraud rate in the program appears to be very low. The problem's complexity and demeaning application procedures—has been confused with recipient fraud. Such confusion only distorts the character of the people who use food stamps and improperly creates public hostility to the program. In addition, USDA's accounting procedures, which lump such things as failure to properly fill out forms or missing signatures, together with incorrect benefit computations, create distortions of the true error rates.

C. Program expansion

Most importantly, we have learned that the program expanded because of some very logical and sensible reasons. The growth of the Program for the years prior to 1974 was caused by expansion from a pilot program to the food stamp program—a switchover mandated by an act of Congress passed in 1973. The other aspect of this Program expansion was that many counties entered a food program for the first time, a stage of expansion which was completed in 1974 because of a requirement in the 1973 legislation.

The major factor in the post-1974 expansion—the growth that triggered such hysterical reactions from Treasury Secretary Simon, among others were the economic policies initiated by the Secretary himself and the Ford Administration. Unemployment jumped 60 percent between August 1974 and spring 1975, and food stamp participation increased only 30 percent. For all too many Americans out of work, food stamps made the difference between undernutrition and a more decent diet. Significantly, as unemployment has lessened to some degree, food stamp participation has decreased radically, as have program costs. In the last three months alone, over one million people have left the program; projected fiscal 1977 costs have been lowered $1.8 billion from the Administration's figure of $7.3 billion one year ago. The Congressional Budget Office currently projects a cost of $5.5 billion.

THE PROBLEMS IN THE PROGRAM

True reform of the Food Stamp Program involves rewriting the law so that the benefit delivery system is structured to encourage participation, not discourage it. True reform would have attacked the problems that plague the program: 1) participation by only half of the people who are eligible; 2) an administrative morass that makes applying for food stamps a cumbersome and time-consuming task; 3) overly-complex bookkeeping and application procedures that create error by both the states and recipients; 4) food stamp purchase prices that too many indigent citizens cannot afford; 5) a food plan that perpetuates the inadequate diets we are trying to improve; and 6) a program that forces people to suffer a stigma they do not deserve.

The Committee worked hard, and the Chairman deserves credit for his attempt to balance the great diversity of views and legislative proposals before him. The bill he offered the Committee at the outset was an approach we thought merited our consideration; and, with minor variations, one which moved in the direction of real Food Stamp Program reform. However, in the process of its work, the Committee was sidetracked to a final bill that does not meet the needs of the people the program should serve.

THE COMMITTEE BILL

Unfortunately, too many of our colleagues on the Agriculture Committee and their constituents—have bought the false arguments and myths and reported a bill designed to be acceptable to critics, rather than true reform.

These distorted views are reflected in a bill that cuts $184 million in benefits for current participants; eliminates almost half a million households from the program; reduces benefits for another 1.5 million households; and otherwise limits the program's flexibility to meet the needs of the unemployed, underemployed, and low-income working households to adequately nourish themselves and their famillies.

A. The standard deduction is too low

The major problem with the bill is its standard deduction—the amounts by which households lower their gross income in order to measure disposable income.

A standard deduction is, of course, a step forward in program administration. It should help reduce error and simplify application. But the deduction levels in the Committee bill are so low—much lower than either the Senate bill or the Administration's regulations that they have a dramatic adverse effect on program participants.

Smaller households are especially hurt by the bill's provisions, especially one-and-two-person households, two-thirds of which are headed by non-elderly persons. These one-and-two-person households are harmed because their standard deductions—$45 and $55 per month respectively—are too low to meet high living costs in urban areas, high medical expenses for the elderly, high fuel costs in colder areas and other living expenses.

Households headed by women are the hardest hit by the bill. Of all the one-two-and-three-person households in the program—the households which receive a disproportionate share of reductions under the bill—about 69% are female-headed. And nearly 80% of the women who head these households are not elderly, thus ineligible for the extra $25 deduction accorded to the aged. Under the Committee bill, 50% of all two-person households would either be cut off the program or lose needed assistance; and 46% of the three-person household would be terminated from the program or lose benefits.

In addition, the bill takes square aim at urban food stamp recipients. Based on preliminary data from the Committee staff, participants living in counties with a population of at least 100,000 people would lose several hundred million dollars a year in benefits. Counties with populations in excess of one million people—the major urban areas—are the hardest hit due to higher living costs in the big cities.

These cutbacks result from the fixed standard deduction scheme in the Committee bill. The bill's standard deductions are the same for all counties in the country, regardless of population. This formula is at odds with findings in the Committee staff's study of non-public assistance households which showed that deductions increased as the county population increased. For example, the average deduction claimed in counties with populations below 25,000 people was $52.61 in April, 1975; the corresponding figure for households in counties with populations exceeding one million was $113.89, a $61.28 difference. For the deductions allowed for shelter and utilities alone, there was almost a $50 differential between the low population area and the higher. The result of this non-regionalized deduction formula, then, is to redistribute benefits to smaller population centers to the detriment of more urban areas.

The fixed deduction is largely responsible for the harsh treatment accorded certain regions of the country under the Committee bill. Again based on Committee staff findings the northeast region would lose 14% of its benefits and the northwest would lose significant assistance as well. Participants in these areas, under the current rules, are allowed to subtract a portion of their higher shelter and fuel costs, a practice which would be ended under the non-regionalized standard deductions in the Committee bill.

B. The poverty line is an inadequate measure of program eligibility

The Committee bill sets the program's eligibility level at the "poverty line", $5,500 for a family of four. We do not think the poverty line is an adequate measure of the need for food assistance. It is unreasonably low—especially for urban areas—and as such is not a proper device to which food stamp eligibility should be linked. We prefer the current program's method of using coupon allotments to determine net income eligibility levels. The poverty line figure in virtually all the proposed legislation is nothing more than a response to cries that the rich are using food stamps—a patently false issue disproven by the Committee's own study.

C. Prohibiting categorical eligibility increases administrative costs and reduces participation

There are two provisions in the bill which will significantly increase program costs to the states. The first is prohibiting the current practice of "categorical eligibility," through which all public assistance recipients and Supplemental Security Income (SSI) recipients are deemed automatically eligible for food stamp assistance if they live alone or with other such recipients. Since virtually all, if not all, these people would be eligible in any case by virtue of their low income, the advantage of "categorical eligibility" is twofold. It is an important administrative convenience and ensures that these eligible people are enrolled in a program in which currently only 50% of those eligible are participating.

With categorical eligibility, there is no need for welfare households to submit a separate food stamp application; their benefits are automatically determined on the basis of their grant levels, minus deductions, and their authorization to purchase cards are automatically processed. The result is a significant savings on administrative costs. If the practice were eliminated, it would increase administrative costs for the states and administrative obstacles for participants, without serving any positive program purpose nor more effectively targeting benefits.

D. State cost sharing is a step backward in the effort to federalize welfare costs

The second provision which increases state costs is the requirement that, effective October 1977, states must pay for two percent of the "bonus value" of stamps received by their participants (The "bonus" is the difference between what the household pays and what it receives in food stamps). This move to force the state to shoulder a percentage of the benefits comes at a time when state funds are severely strained. This provision is estimated to cost the states $104 million. This requirement is also counter-productive to the purposes of the Food Stamp Program. In virtually all states, the money to fulfill the cost sharing requirement will come from welfare budgets. as a result end up increasing food stamp welfare assistance states may provide and as a resut end up increasing food stamp benefits and food stamp costs.

E. Striking workers should not be discriminated against by the government

The "strikers issue" has been a fiercely debated issue in many Congresses, and has always been resolved in favor of treating strikers in the same manner as all other households: if they are in need and meet the income and assets test, they receive assistance; if not, they are ineligible. We believe the government should be neutral in labor disputes. If the Congress were to discriminate against strikers by not providing food stamps, we would be ending that neutrality. Moreover, we feel a very real compassion for the families of strikers who had no say in a strike vote, especially those workers and their families who were in the minority opposed to the strike. Workers do not like to strike and the collective bargaining process should be allowed to operate unencumbered by government heavy-handedness. Moreover, most strikers do not use food stamps, or at any rate, strikers compose an insignificant percentage of food stamp participants. The staff of the Committee found that only 0.2% of food stamp households, only 5200 people were headed by a striker on April, 1975.

F. Poor people should not be deprived food stamps because they are students

The bill also eliminates all students, regardless of economic circumstances, unless they have dependents. We do not favor nonneedy students receiving food stamp aid. But we object strongly to the blanket assumption that students do not need food assistance. In opposing the bill's ban on most students, we are not advocating on behalf of the person from a well-to-do family who has chosen to be "poor"; we are concerned, however, about the members of a poor family who are struggling to improve themselves educationally and whose limited resources are tied up in the cost of obtaining an education. Since the Committee's and USDA's studies have shown that only about 1.3% or 200,000 food stamp users are students or their dependents, we believe we should maintain the current rules regarding students—which allow students to receive food stamps if they are financially eligible and if they are not claimed as tax dependents by another household.

G. Increased purchase requirement reduces benefits

The Committee bill increases the purchase requirement for all non-elderly households to 27.5% of net income. Currently, the average purchase price for all households is 25.6%; for one-and-two-person households it is closer to 20%. To raise the purchase requirement higher than it already is (while the average American is only paying 17% of his income for food) only reduces further the amount of nutrients available with food stamps. Recipients will be forced to spend more money from their own pockets to buy the same amount of food they are currently purchasing under the Food Stamp Program.

H. Reduced outreach means eligible households will not participate

Currently, states are required to conduct outreach activities that "insure the participation of eligible households." This language formed the basis of a 1974 federal court decision requiring expanded state outreach programs.

Under the Committee bill, this language is dropped, and states will no longer have to take the affirmative action required by the 1974 court decision. In fact, in areas where a community action agency is conducting outreach, state outreach programs would be limited to "informational efforts" only.

Such disregard for the more than 15 million eligible persons who are not participating in the program will continue to impair the effectiveness of food stamp assistance. Those who truly want to reform the program should consider whether reform goals are served by ignoring malnutrition and not reaching out to the malnourished and undernourished or by attempting to provide nutritional assistance to all those in need, particularly those not now participating.

TRUE REFORMS IN THE COMMITTEE BILL

The bill contains some features which deserve to be called true food stamp reform. There are obvious shortcomings with using an inflexible standard deduction system, although the Chairman's approach to gearing such deductions to household size is an improvement over the Senate bill. We also applaud the efforts to maintain the work incentives—allowing the deduction of work-related expenses and income taxes—which are part of the current program.

In this regard, Representative Heckler's amendment in the Committee to deduct the cost of child care from the computation of food stamp income is an especially worthwhile provision. It simply makes no sense to count as "income" funds needed to pay for expenses that allow a person to work.

Mr. Jefford's successful effort to "cash-out" the elderly, blind and disabled moves in the proper direction of reform. It recognized one of the most serious obstacles to food stamp participation for the poor—the purchase price—while also understanding the stigma felt by many food stamp recipients, especially the elderly.

Unfortunately, the Jeffords amendment has a limited effect in that it eliminates the purchase requirement only for the aged, blind and disabled, and not for the entire food stamp caseload. The total elimination of the purchase requirement which limits the participation of the poor and near poor in the food stamp program is the step that should have been taken. To give people their food stamp "bonus" at no cost would not increase benefits; it would simply allow those targetted in need of assistance to get it. This programmatic change is needed because many eligible recipients, especially the poorest of the poor, cannot scrape together enough cash to afford the purchase price. Rather than tie up needed cash in food stamps, many poor people feel the need to use the cash for extra expenses which always come up. As a result, they cannot afford their stamps and run out of food in the third week of the month. Elimination of the purchase requirement is an idea whose time has come.

CORRECTIVE LEGISLATIVE ACTION

Overall, H.R. 13613 as reported eliminates 7.2% of all food stamp households (1¼ million people) from the program, reduces benefits to another one-third of the households, and increases benefits to one-third of the households. Conservative critics of the program will attempt further cutbacks on the House Floor.

At a minimum supporters of food stamp reform should focus their efforts on four key areas during floor consideration:

Strong opposition to any further cutbacks in the Committee bill and to any amendments that would terminate or reduce benefits for additional recipients.

Support for an amendment to raise the standard deductions in the Committee bill, especially for small households. As the bill now stands, over half of all one and two person households would have their benefits reduced or terminated because the standard deductions are so low.

Support for an amendment to eliminate from the Committee bill a requirement that states pay two percent of food stamp bonus costs. In many states, the money would come out of already strained welfare budgets and could lead to lower welfare payments.

Support for an amendment to eliminate the ban on households containing a striker and to allow these households to continue to face the same eligibility requirements as everyone else.

If these positions are not maintained, the bill should be defeated and an attempt made to legislate meaningful reform next year.

AN INNOVATIVE APPROACH TO THE ISSUE OF WHETHER WE NEED A PERMANENT "WATERGATE" PROSECUTOR

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. JAMES V. STANTON. Mr. Speaker, one of the important issues confronting our Nation is whether we ought to establish by statute a permanent special prosecutor with jurisdiction over crimes committed by Federal officials. On September 1 my administrative assistant, Sanford Watzman, appeared before a Subcommittee of the House Judiciary Committee and shared with that distinguished panel some of his ideas on this subject. Because the ideas are new and innovative, I commend them to the attention of the House as a whole and, therefore, I insert Mr. Watzman's testimony in the RECORD:

STATEMENT OF SANFORD WATZMAN

Mr. Chairman, I deeply appreciate your affording me an opportunity to appear here today. Before the Watergate incident occurred, I had become interested in the matter that is now before this Subcommittee—whether we can establish in the federal government some institutional mechanism to assure the American people appropriate action will be taken against executive, legislative and judicial officials who violate the public trust.

I became interested when I was an investigative reporter and Washington correspondent for the Cleveland Plain Dealer, and I wrote a book which concluded with some suggestions for dealing with this problem. Respectfully, I submit that these proposals might be helpful today to your Subcommittee, which is considering whether there ought to be a "Watergate" prosecutor in the Justice Department and, if so, how that office ought to be structured and how much authority the incumbent should have. I happen to believe, Mr. Chairman, it is possible to take a different route to the goal all of us are seeking—that we can adopt a strategy giving us most of the benefits of an independent prosecutor while avoiding many of the pitfalls that are inherent in the proposals already before you.

It is proper to ask first, I suppose, whether it is advisable for the Congress to take any action at all. Given the nature of human beings and of government, won't there always be a Watergate somewhere on the horizon, and—as a practical matter—can we really avert the more frequent mini-Watergates that historically have been part of our day-to-day political environment? And, besides, do we not have a system that has already proved itself to be self-cleansing? Have we not deposed both a President and a Vice President, and a few years earlier, a Justice of the Supreme Court—and, more recently, certain leaders of this Congress?

These of course are leading questions, and I think it behooves us to be careful. For the indicated answers, however valid, simply are not going to be acceptable to the American people. Americans never have adhered to the proposition that official wrongdoing is inevitable—that they are indeed fortunate when it is held to some putative irreducible minimum. If in every generation the media keep erupting with stories about government scandals, obviously this is because Americans continue to care; they think something ought to be done about the wrongdoing. In fact, they have been conditioned to believe it is possible to enact laws forcing public officials into an ethical straitjacket.

The conditioning stems from the admiration we hold for our Founding Fathers. We have been taught that they were not fools. As historian Richard Hofstadter put it: "To them, a human being was an atom of self-interest. They did not believe in man, but they did believe in the power of a good political constitution to control him." The men who prompted the most worry, of course, were those who were about to be granted powers over the rest of us. So a good non-trusting Constitution was adopted, with checks and balances and a separation of powers. But if, even then, we have become preoccupied over these last 200 years with adding still more controls, this is because our education has programmed us to go on with the task—not to be satisfied with slow progress, however steady it might be. Rather, we continue to take our cue—and our goal—from that passage in the Federalist Papers which states: "The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess the most wisdom to discern, and most virtue to pursue, the common good of society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust." All of this was summed up by Mr. Dooley, Finley Peter Dunne's political commentator, when he said: "Trust everyone—but cut the cards."

I submit, Mr. Chairman, that as I see it there is an overriding reason why this task still remains to be completed after 200 years. It is this: Contrary to the spirit of our Constitution, we have settled into a rut where in every decade we deal only reactively with incidents of malfeasance. If and when we are finally moved to lift a finger we keep putting it in the dike. We have never seized the problem with both hands, as it were, in an attempt to master it preemptively and comprehensively. In this area, and in my opinion for self-serving reasons, the government officials who say they are interested in reform march only to the border where they find a separation of powers—and then they declare there can be no crossing.

The result is that a system of ethical surveillance has evolved which, by and large, finds each branch of the government looking after itself—drafting general rules of conduct for its personnel and then deciding when to enforce or not to enforce them. This has brought us not only disparity between the branches but internal disorder as well in all three. In the judiciary, conflict-of-interest rules are promulgated by a Judicial Conference with dubious enforcement powers; some judges of the lower courts reject its authority, and the Conference itself acknowledges it has no jurisdiction over the nine justices of the Supreme Court. In the Congress, there is one code for the Senate and another for the House, with no ongoing program in either chamber to verify the completeness or accuracy of Members' disclosure statements. In the executive branch, the situation has not changed much since a detailed study in 1960 concluded: "Regardless of the administration in office, the Presidency has not provided central leadership for the executive branch as a whole. . . . Administration of conflict-of-interest restraints can be observed only on a fragmented basis—department by department, agency by agency."

No wonder the citizen loses patience. No wonder there is a growing distrust of government. For however we might differentiate ourselves here in Washington, we of the three branches are seen by the people as part of a single governmental establishment, resting on a single tax base. For their money, it is about time that the people were provided with a cop on the beat in Washington—some anti-corruption machinery in the government that is free-wheeling, having no place in the driver's seat for the politicians who are being policed.

But where would we put this enforcement unit? Certainly not in the Congress or the courts, which are not in the enforcement business; not equipped to take on this responsibility; and not, in any event structured to speak with one authoritative voice because each judge, each Senator and each Congressman is—and ought to be—a sovereign individual. Nor is it advisable, as I see it, to vest the enforcement power in an independent board or commission—or in a special office such as that of the Comptroller General—because these are bureaucratic entities with no great visibility, no popular constituency and therefore lacking public confidence and support.

Obviously, then, this is an operation that should be established in the executive branch of government, and to do so would of course preserve and follow the lines of authority set forth in the Constitution. But now we come to the question: Where in the executive branch? The only appropriate agency, at first glance, appears to be the Justice Department. Here we have two choices. We could entrust the task to a separate government crimes division reporting directly to the Attorey General, or we could rely on an autonomous figure—a special Watergate-type prosecutor.

The first alternative has, for openers, the advantage of tampering the least with an existing system which periodically puts officials out of office—and sometimes in jail, to boot—without disrupting our form of government. Another advantage is that it keeps responsibility where it belongs, putting pressure on the Attorney General, and ultimately the President, to perform their Constitutional duties. The salutary effect of all this on Justice Department morale perhaps should not be underestimated. Yet the weakness of the status quo, beyond which this approach hardly takes us, is evident. To say it did not spare us Watergate is to understate the case against it; neither has it spared us the lesser but recurring scandals that have plagued us throughout our history. In our political world it is a fact of life that the work of the Justice Department, from time to time, is subverted when someone under investigation is able to reach an influential official—perhaps, but not necessarily, the President himself. In any event this strategy does not help us out of the predicament we started with: How can the President really convince the people that self-monitoring will guarantee his own good behavior?

Or that of his appointees in the executive branch? Or of his friends in the courts or in the Congress—personages who can make or break a President's programs?

The second alternative of surrendering all responsibility to a special Watergate-type prosecutor seems to overcome these difficulties. After all, during Watergate it worked. What better justification do we need for keeping an independent prosecutor in the line-up? Would it not be ill-advised at this time, in view of the exceedingly skeptical mood of the electorate, to bench the prosecutor, and to try to justify this with a declaration that probity in officialdom is back to "normal"?

I submit, Mr. Chairman that we certainly ought to bench the special prosecutor, but that there are valid and more credible reasons for doing so. Among these reasons, three stand out.

First. instead of making it clear to the American people where the buck stops (President Truman took pride in advertising that it stopped on his desk), establishing an office of independent prosecutor would cause the buck to be passed back and forth—or to stop short of the White House. I doubt that we would want to allow our chief enforcement officer the political luxury, when it suits him, of ducking the responsibility we have vested in him. Confusion would arise as to who is really responsible—the see-no-evil, hear-no-evil President or the special prosecutor who, while appointed by the President, operates autonomously on a turf where the boundaries cannot be precisely defined.

Second, the prosecutor at times might have to pay too dearly for his putative independence if he pushes it too far. He could be denied the full cooperation of the expert, well-staffed enforcement agencies that form part of the President's administration. This foot-dragging by other officials would not always be provable by the prosecutor or even visible to him, let alone to the people. But he might suspect it, and then be tempted to make a quiet accommodation rather than bear the public sting of losing his case. As to any open clash with the President or chieftains in the Congress, the prosecutor would have to start with the handicap of having no popular constituency. The voters might not side with him because they do not really know him. They could be persuaded by the politicians to whom they entrusted their vote that he was acting in his own interest rather than in the public interest.

A determined prosecutor would then have to reach for his ultimate weapon—the threat to resign. But martyrdom might not become him or his cause as it did Archibald Cox. It was strictly the uncommon notoriety of Watergate that finally produced a victory for Cox. Yet, Mr. Chairman, we ought not be worrying just about the Watergates; our primary concern should be day-to-day honesty in government. Battles have to be fought regularly inside the bureaucracy, where entrenched officials have the advantage. In these ever-recurring, convoluted little wars the special prosecutor would constantly be forced to play David against the governmental Goliath. Such odds, Mr. Chairman, will ultimately wear a David down.

Third, we ought to be wary of any prosecutor so resourceful and strong that he overcomes such odds. His success would be no guarantee of his virtue. This official, to the extent that he is truly independent, would be operating outside the constraints that normally bind other appointees. Though no one had elected him, he could become a power in his own right. And a menacing one at that. If he is a zealot, he could discover trivial misbehavior and launch "crusades" that disrupt the legitimate business of government agencies. If he is a charlatan, he could embark on McCarthyite persecution of wholly dedicated public servants. If he is politically ambitious he could become a free-wheeling rival to the President in his own house. And if he is venal, he could use confidential information to blackmail public officials. We had no such problems with Cox or Leon Jaworski or Henry Ruth. But the point is that they themselves, not knowing who their successor might be, have warned us to be alert. These men, who ought to know, would feel more comfortable if a special prosecutor were weighted down with some of the same checks and balances that keep other officials in line. Yet to put a leash on an independent prosecutor would seem to destroy his raison d'etre.

So we come to an apparent dilemma, Mr. Chairman. If we agree that a new institutional arrangement is needed to restore and sustain public trust in our Federal officials; if we must reject all governmental entities except the executive branch as the locus for this powerful new instrumentality; if we contemplate putting it in the Justice Department but then conclude that simply fitting such a unit into the existing structure there would prove ineffectual; if we ponder the establishment there of a special and autonomous prosecuting office, only to hold back because doing so would blur lines of responsibility, or because this strategy would seem to promise more than it could deliver, or because we fear that we might create a Frankenstein monster—then what possibility remains?

In my opinion, Mr. Chairman, what remains is the best possible arrangement we could devise. It is innovative, but it requires no drastic overhaul of our government. It is in accord with the Constitution, and therefore it need not bring into play the slow, cumbersome process of amending it. It is likely to work, because it is based on the same premises about human nature and intragovernmental relationships that have accorded longevity to our Constitution.

My proposal, Mr. Chairman—and, with your leave, I will need a while longer to explain it—is to establish a federal board of ethics at the White House level, and to put the President in charge of the board as its chairman. He could of course function through a surrogate, but the latter would act in the name of the President. The interaction between the President and the board, and the separate and shared responsibilities of each of them, would be such as to afford us maximum assurance that they could accomplish their mission—without any abuses of power—while operating at the highest level of visibility. The voters, looking on, would be witness to the fact that they finally do have a couple of tough cops on the beat and, furthermore, that the two cops are watching each other.

Why should the President be in charge? Our first answer must be that, in any enforcement operation under our Constitution, he already is—and ought to be. Normally, this responsibility is delegated to an agency such as the Justice Department, but we have already reviewed what is likely to come of this. The issue of governmental integrity is so important to the American people that it would please them, for a change, to have the responsibility for it elevated to the White House level. Morever, with the board exercising oversight with respect to the President's peers in the legislative and judicial branches, nothing less than a Presidential presence on it would seem to be appropriate.

Is there, after all, anyone else in our federal government big enough to take on this job? As Woodrow Wilson said of the Chief Executive: "His is the only national voice in affairs. . . . His position takes the imagination of the country. He is the representative of no constituency, but of the whole people. When he speaks in his true character, he speaks for no special interest."

Moreover, is there anyone else who is accountable to all the voters? Or anyone in government who is better known—or more closely watched? If the President were to be given this assignment by law, it would become politically impossible for him to make light of it. His performance in this one area could well become the measure of his Presidency.

It is through the mechanism of the board that the President could act on his own initiative; be prodded into acting; or restrained from acting, when his motivation might be self-aggrandizement. Watergate has alerted us to two perils stemming from a President's direct involvement in law enforcement. First, without really wanting to act, he might pretend to do so, by creating a distraction (the John Dean "investigation"). Second, he might use his powers to thwart justice by covering up for himself or others (John Mitchell, H. R. Haldeman, John Ehrlichman), or by misusing a governmental agency he controls (the CIA, the IRS). But under the proposal I present here, Mr. Chairman, the President would be a Siamese twin of a board whose members could tug him in the opposite direction. His being conjoined with the board means that the members would be looking over his shoulder, tending to inhibit any malfeasance by him. For comfort's sake, the President would quickly learn that, first, he must march, and second, that this would be painful unless he were in step with the board.

The board would be an independent body divorced from the rest of the executive bureaucracy. Its members—two Democrats and two Republicans—would be appointed by the President with the advice and consent of the Senate. As a guarantee of their independence, the board members would need lifetime appointments, in the manner of the federal judiciary. A member appointed to a fixed term could be confronted with the need to make a particularly sensitive decision on the brink of the expiration of his term; he might then vote—or be suspected of voting—in a way to best assure reappointment by the President. In exchange for indefinite terms that could be ended only by impeachment, the board members would be disqualified from ever holding another office should they step down. This would prevent the board from being used as a launching pad by members with political ambitions. And it would assure the public of the integrity of board decisions.

Since most board members would survive a President who appointed them and since, in any event, he could not oust them, we could be confident that the White House connection would not compromise their independence. With no stake in any program administered by the executive branch, and sharing none of the institutional or personal loyalties that develop in the bureaucratic principalities, the board members would have no reason to gloss over an incident merely to protect an official, his agency or its mission. Having no concern, either, about who is elected or re-elected to the Congress, the board need not feel inhibited about taking on a member of the House or Senate. And having no role in the selection of judges, the board would have no reason to indulge those who betrayed that office.

We could take steps to preclude either the President, acting alone, or his two party members, acting with him, from manipulating the board for partisan ends. First, we could require that at least four members constitute a quorum. Second, we could stipulate that the President could vote only to join in a unanimous decision of the board or to break a tie. Should it ever become necessary for him to cast a tie-breaking vote, maximum public attention would be focsued on him and he would have to answer convincingly for his action. But it is evident that in most cases he would wield little control because he would not be participating in board actions as a voting member. Yet the board would have the clout that comes from functioning in his name, and the President would be under an obligation, too, to exercise leadership.

A McCarthyite board need not be feared. Extremist action could not be mounted by one aberrant member; he would need the concurrence of his colleagues. Besides, we could expect the President to exercise a restraining influence, if it came to that. Also, the courts would be watching from a distance and Congress could disestablish any such board, writing it off as an unsuccessful experiment in ethical enforcement.

To needle the President, as required, the board would have the power of subpoena and authority to conduct public hearings. But we ought not to overlook the fact that a well-motivated President might actually welcome the help of the board. An observer of presidents has noted that bureaucrats chronically fail to report anything to their superiors that might reflect badly on their agencies or the programs they administer. He concluded: "A President doesn't get much straight talk from his subordinates."

However, the board—by maintaining its distance from all three branches—would be strategically situated to receive information on a confidential basis. Civil servants would not have to worry that their tip about an agency would reach the boss himself; they could feel confident that their information would be investigated, rather than brushed aside. In fact, there could develop a symbiotic relationship between the President and the board. The board would need the President to enforce its decisions; the President would need the board to feed him information. The board would have the advantage of being on the White House stage, while the President could retreat behind the board when his friends or allies are under assault.

No such board could operate without a large staff—its own built-in bureaucracy. But because I believe that the people need another agency like they need more corruption, I propose that in establishing the board we disestablish the Federal Elections Commission, which even today is not known to the average American, and where the leadership lacks a popular following. The board would necessarily operate anyway on the Commission's turf. In addition, we could reduce the size of some other governmental entities—such as the Civil Service Commission—to the extent that we cause them to cede to the board some of their authority. As the central clearinghouse for ethical concerns in the government, the board could work with Congress in helping to anticipate and solve problems. For instance, it could recommend a single standard as to what constitutes a conflict of interest, applicable to all three branches. I submit, Mr. Chairman, that the taxpayers would not begrudge payment for this type of service.

Thank you Mr. Chairman, I would be happy to answer any questions you might have—orally now, or later in writing. It has been a pleasure to appear before this distinguished panel.

BERNARD G. SEGAL AWARDED AMERICAN BAR ASSOCIATION'S ABA MEDAL

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. DODD. Mr. Speaker, I was recently pleased to learn that a lifelong family friend, Philadelphia attorney Bernard G. Segal, has been awarded the American Bar Association's ABA Medal. Mr. Segal was presented the American Bar Association's highest award on August 11, 1976, during the association's annual convention in Atlanta.

I congratulate Mr. Segal on receipt of the ABA award, and would like to insert in the RECORD the following article from the Legal Intelligence regarding Mr. Segal's distinguished record of public and professional service:

BERNARD G. SEGAL VOTED AMERICAN BAR ASSOCIATION MEDAL

Philadelphia attorney Bernard G. Segal has been selected unanimously by the American Bar Association's Board of Governors to receive the ABA Medal, highest award given by the 208,000-member organization.

ABA President Lawrence E. Walsh will present the medal to Segal on August 11th in Atlanta during the association's annual meeting.

The medal is awarded for "innovative contribution to American jurisprudence, that is, the search of the American people for true and universal justice."

In making the announcement, Walsh said that Segal is known not only nationally, but also internationally, as a "champion of human rights."

Last October, Segal was given the World Peace Through Law Center's World Lawyer Award for "inspiring the legal profession . . . to assume a leadership role in the critical process of curing the afflictions of our time."

Segal has a distinguished record of public and professional service. He was president of the ABA in 1969–70 and has served in the association's policy-making House of Delegates, and as chairman of several special and standing committees.

Segal was appointed by Presidents John F. Kennedy and Lyndon B. Johnson as co-chairman of the Lawyers' Committee for Civil Rights Under Law.

Other government posts in which he has served have been as chairman of a congressional Commission on Judicial and Congressional Salaries by appointment of President Eisenhower; a charter member of the Standing Committee on Rules of Practice and Procedure Judicial Conference of the United States, by appointment of Chief Justice Earl Warren; and a member of the United States Attorney General's National Commmittee to Study the Antitrust Laws.

Segal also served on the Executive Committee, United States Attorney General's National Conference on Court Congestion and Delay in Litigation; National Citizens' Committee for Community Relations; Advisory Committee to the United States Mission at United Nations; Department of State Advisory Panel on International Law; and chairman, Executive Committee of the National Advisory Committee on National Legal Services Program of Office of Economic Opportunity.

He is a director, member of the Executive Committee, and life member of the American Bar Foundation, first vice president of the American Law Institute, former president of the American College of Trial Lawyers, former chairman of the board, American Judicature Society, and a Fellow of the Institute of Judicial Administration.

Segal received B.A. and LL.D. degrees from the University of Pennsylvania, of which he is a Life Trustee and a member of the Executive Board. He has received honorary degrees from several universities including his alma mater. He was admitted to the Pennsylvania Bar in 1932.

Segal was the youngest Deputy Attorney General in the history of Pennsylvania from 1932–35 and was Chancellor of the Philadelphia Bar Association in 1952 and 1953. Segal has also been a member of the Federal Judicial Center Committee on the Workload of the United States Supreme Court, by appointment of Chief Justice Warren E. Burger; the Administrative Conference of the United States, and the United States Commission on Executive, Legislative and Judicial Salaries, of the Ninety-third Congress. Last week he was appointed a member of the commission in the current Congress.

Earlier this year, he was elected by the World Association of Lawyers as president for the Americas.

LIBERAL CENTRAL PLANNING: HERE WE GO AGAIN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. ASHBROOK. Mr. Speaker, the U.S. Departments of Commerce and Labor have recently released their figures for the second quarter of 1976. The figures show some interesting changes. First, economic improvement has somewhat slowed over the last quarter. At the same time the rate of inflation has increased.

While the inflation rate is not at the same levels of a few years ago, any increases in the rate must be viewed with concern. A constantly increasing cost of living hurts the homemaker, the worker, the retired person, the businessman. What is not needed is a rebirth of the old liberal notion that a little bit of inflation is all right and even good for the country. As has been seen in this country and in many others, what some consider a little inflation can quickly turn into a double digit increase. The cost of living skyrockets.

Although the liberal economic theory of spending more and more has come up against hard reality, there are still too many in Washington, D.C., who refuse to recognize the fact. Some liberals are willing to castigate big government and in speeches they may oppose continuing increases in Federal spending but their proposals and votes usually tell a different story. They propose and vote for big spending programs.

One of these proposals is the Humphrey-Hawkins bill. Its proper title is the Full Employment and Balanced Growth Act. Its title is impressive; its contents are less impressive.

The basic thrust of the bill is to get the Federal Government further involved in the economic life of this country. The

Federal Government would become involved in comprehensive economic planning. It would place responsibility for the economic life of our Nation in the hands of central planners in Washington, D.C. For example each year the President would be required to prepare and submit to Congress a national economic plan.

In my opinion the bill seems to be modelled on the failures of the socialism in Great Britain. The American free enterprise system would not be improved but exchanged for a centrally directed economic system that has had a consistent record of failure and weakness. This country does not need more bureaucracy and red tape. But that is where the Humphrey-Hawkins would lead. It is past time to bring the Federal Government under control. It is not the time to greatly expand its costs and involvement in American life as this bill would do.

BICENTENNIAL FLAGS WAVE OVER CLAYTON

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. FINDLEY. Mr. Speaker, the flags are flying in Clayton, Ill.—Bicentennial flags that is. I have the honor to represent this small midwestern community as a part of the 20th District and I am very proud to report to this House about Clayton's outstanding Bicentennial project.

Not content with any of the usual Flag Day proceedings this past June, the community of Clayton decided to decorate their Main Street with 25 hand-sewn flags, each representing a different segment of American history. The flags were designed to display such themes as the Viking, New England, the Union, Bunker Hill, and also included replicas of the continental and colonial flags.

Over 100 local citizens were involved in the project. Church organizations worked to create the flags and the local Boy Scout troop painted the fire hydrants and planted flowers in the park in honor of the Bicentennial flag ceremony. At the celebration to unveil the flags there was a program of music and speakers along with the firing of a cannon by the Muzzleloaders of the 37th Regiment of Quincy. All enjoyed the calliope music that ended the day.

The flags will continue to grace Maine Street through the summer. I am inspired by this endeavor as I know the residents of that outstanding community are when they walk down that beautiful street. In this Bicentennial Year, their actions symbolize more than ever the individual freedom and commitment which serve as the cornerstone of our great Nation. The flags remind each of us of the sacrifices which have been required to both achieve and sustain our Nation's precious heritage. Long may they wave.

TROTSKYISM AND TERRORISM: PART VI—TERRORISTS ACTIVITIES IN EUROPE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. McDONALD. Mr. Speaker—

GREAT BRITAIN AND IRELAND

The British section of the Fourth International has always been under the domination of the International movement. In 1963, the British section was reorganized by the Fourth International and cadres were sent from Canada to supervise the operations. Alan Harris was one of these and had his salary paid by the Fourth International.[1]

The British section now called the International Marxist Group later complained that Harris was being subsidized by the Socialist Workers Party to carry out factional activities against the IMG leadership.[2] The leadership of the IMG support the pro-terrorist International Majority Tendency of the Fourth International. Harris works with the SWP in the Leninist-Trotskyist faction.

Ernest Mandel is now in complete control of the IMG. He even wrote the political resolution for the 1976 IMG convention. That resolution was adopted at the December 22–23, 1975 meeting of the United Secretariat of the Fourth International and then presented to the English section.[3]

The IMG supports the terrorist activities of a small grouplet in Ireland. This organization called Saor Eire considers itself part of the IRA, but has engaged in assassinations of other IRA members. A history of the relationship between the IMG and Irish terrorists was given by SWP member, Gerry Foley, in a lengthy discussion article entitled "The Test of Ireland." Foley wrote:

> The first sign of the IMG's interest in the Official republican movement came when the May 1970 issue of the *Red Mole* reprinted an interview with the Official leader Malachy McGurran from *Intercontinental Press*. Contacts seem to have developed subsequent to that, leading to Comrade Purdie's visit to Belfast in July 1970 and to the Official Ard Fheis in December 1970. But at the same time, the IMG came in contact with, or began to take more seriously, a group of adventurers expelled from the republican movement in the 1960s. These adventurers were associated with Gery Lawless, an "independent" Trotskyist who had broken with the republican movement in 1955, accusing it of reluctance to begin the guerrilla campaign for which it began preparing with the arms raids in the early 1950s. Many of them were ex-members of the Irish Workers Group, a heterogeneous grouping led by Comrade Lawless which disintegrated in early 1968. The IMG's interest in this group seemed to increase at the end of 1970 when Comrade Lawless joined the IMG and became the coleader of its Irish work.
>
> AN IRISH ERP
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> In its January 1–15, 1971, issue, the *Red Mole* published an interview with a representative of this grouping, Saor Eire, which offered a different version of the movement toward politics in the Official IRA. This interview was announced on a cover with a picture of a guerrilla pointing a gun at the reader. In answer to a question about the split in the republican movement, this anonymous spokesman said:
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> "Well, we have seen the inevitability of such a split occurring for the last eight years. We did not particularly favour it since, unfortunately, it happened over wrong issues. In the official section, we have an amalgam of peaceful roadmen, reformers, and left-wingers; and within the Provisionals, we have more militant elements, but right-wing politics. In practice, we have found ourselves more closely aligned to the Provisionals, it is among those elements that we draw a lot of our support.
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> "Of course, it is important to draw a distinction between the leadership and the rank-and-file in both these organisations. Both leaderships seem equally opposed to us and equally capable of spreading slanders about us, whereas with both rank-and-files we have very much in common. We are grateful for the help that Cathal Goulding, the chief of staff of the official IRA, sent in relation to Frank Keane's case. But we condemn unequivocally their actions in issuing disclaimers and thereby helping police to finger our organization in the Arran Quay robbery."
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> The representative described the origins of his organization in this way:
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> "I'll have to go back to the '60s and trace the development of the Republican movement. After the failure of the mid-'50s military campaign in the Six Counties, a certain amount of disillusionment set in within the IRA and Sinn Fein. People saw the futility of a purely military campaign not backed up by some form of political action. In the early '60s some people connected with the London-based 'Irish Democrat' joined the movement. Their Stalinist politics were not accepted overnight, but on account of the lack of clear-cut politics within the Republican movement, the position was that any brand of politics was accepted. With the influx of these people, political classes were started, which were good in themselves, as they gave many members of the Republican movement their first knowledge of left-wing politics; but hand in hand with the growing political awareness, there began a running-down of the armed section, the IRA. This unfortunately led to a lot of people equating left-wing politics with reformism. Many of our members at this stage started to voice their objections to this running down of the IRA. These people were either dismissed on trumped-up charges or left of their own accord. Other members saw through the politics of Stalinism and left on a political basis.
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> "At this time too, many English-based revolutionary groups started to spring up. People saw in these groups alternatives to the Irish Communist Party and to the current Stalinist orientation of the Republican movement, and thought that maybe, through such organisations, a new fusion could be made between left-wing politics and the traditional military of Republicanism. Some people who had been involved in the Trotskyist English-based Irish Workers' Group formed an important section of Saor Eire and began to form links with these dissident elements of the Republican movement. This resulted in a loose organisation being formed in Dublin about three to four years ago, which carried out some arms raids and some bank raids in an attempt to try to get a militant politically conscious, armed group off the ground.
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> "After these initial actions there was not such a mass movement toward this grouping as was expected, since its actions were seen as more in the tradition of the international revolutionary movement, as opposed to the Irish movement. The next period was spent in discussion with various political groupings, and with various mem-

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Footnotes at end of article.

bers of the Republican movement, in an attempt to win them over to this new concept of political action."

The method by which this tiny adventurist group hoped to stimulate a "mass movement" toward itself was explained as follows:

"Saor Eire is a left-wing armed group which is attempting to act as a fuse or detonator to the Irish revolutionary struggle. It is attempting to step up the tempo of development of political life. It is part of the Republican tradition but also draws from the international revolutionary movement, both politically and in a military sense. As opposed to past forms the Republican struggle took, Saor Eire is centered around the cities and could be called an urban guerrilla group, inasmuch as it sees the main struggle taking place in the cities, and within the working class directly."

As for Saor Eire's activities, although they did not exactly depend on mass support, they were designed to win mass sympathy:

"Unfortunately due to publicity given to us by the bourgeois press, people seem to think that we are only involved in robbing banks and living high lives, etc. etc. This could not be further from the truth. We *have* robbed many banks and taken responsibility for them. But we have also been involved in armed raids, in industrial disputes, in direct confrontations with the state and its agents, also in local disputes and tenants' disputes. The money expropriated from the banks is used to purchase arms and equipment for the forthcoming struggle in Ireland. A lot of our finances have gone to aid the Catholic population of the North who have been under attack from British imperialism. This took the form of money, ammunition, and equipment. The money is also used for the maintenance of our revolutionaries in the field, who, at the moment, number quite a few. It is also used for political education, the arrangement of classes, camps, and all of the other running expenses that any armed group is liable to. We're also involved in military training of members of other left-wing groups in Ireland, people from the North, and the broad Republican movement, who have not been able to get this training within their own organisations." (Emphasis in original.)

Despite a certain autonomy from the masses, Saor Eire was not, it was explained, a foquista group: "We don't believe that the foco itself can become the party or has any monopoly on the revolution. But small guerrilla groupings, to a certain extent independent of the working class, *can* help to raise the level of the working class and so help to create the party." (Emphasis in original.)

In fact, Saor Eire was a very special kind of guerrilla group, one sympathetic to the Fourth International and especially to the International's support for "armed struggle," an Irish facsimile of the Argentine Ejército Revolucionario del Pueblo! An exemplification of the correctness of the line of the Ninth World Congress. . . .

"As regards the Fourth International: we recognise the revolutionary role it has played since its inception; how it came to the aid of the Algerian revolution with arms and weapons while other so-called revolutionary organisations failed to fulfill their duty. We also admire how they came to the aid of the Cuban and Vietnamese revolutions and defended them against imperialism, in America and throughout the world. We are particularly sympathetic to the political assistance it is giving the Irish struggle at the moment. While the Stalinists have consistently dilly-dallied and vacillated on the question of Ireland and on the role of armed struggle in Ireland, the Fourth International is probably the only organization which has consistently given it support. A lot of our members have been, at some time or other, members of Trotskyist groupings."[4]

When Peter Graham, an active member of IMG and Saor Eire, was murdered by a rival IRA group strong statements advocating violence were made by IMG activists. Concerning this Foley wrote:

THE TROTSKYIST MARTYRS; OR THE INTERNATIONAL "SECRET ARMY"

But it is not necessary to wait for the truth about Comrade Graham's death to draw some conclusions about the way the IMG and its European cothinkers responded to this tragic incident.

"After recalling Peter Graham's life as a revolutionist, Comrade Tariq Ali issued a warning: 'At present we do not know what criminal brute shot Peter Graham to death; but we will find out; and when we do we have ways of dealing with this type of individual.'

"An investigation is now in progress, but as Saor Eire declared (cf. *Rouge*, no 126), any investigation must be directed at the offices of the Special Branch (political police) in Dublin." (*Rouge*, November 6, 1971.)

Comrade Ali's solemn warning could not fail to make the headlines. This was particularly true since the Dublin papers were giving sensational coverage to the Graham killing, treating it as a mysterious gang war among the republican and far-left fringe.

Comrade Ali's threats were made even more newsworthy by an article in the independent left-liberal news weekly *This Week* by Sean Boyne.

"The Dublin Trotskyist leader Peter Graham (26) may have been murdered in the middle of a gun-running operation. Informed sources in both Dublin and London link him with a plan to smuggle guns through the 26 Counties for the IRA war against British troops in the North.

"Graham would have been in a key position for any such operation. He was the Irish representative of the Fourth International, an influential, pro-IRA Trotskyist organisation with a world-wide network of branches and previous gun-running experience. He had very close contacts with Saor Eire almost since its inception. He was reported to have had access to large sums of money and he was held in very high esteem by important members of the Provisional IRA.

"There is no evidence that the Fourth International has been involved in gun-running to Ireland. But through the organisation he would have been able to make valuable contacts abroad. The Fourth International in recent years has supplied arms for the rebellions in Cuba, Algeria and Hungary, and it has now decided on a policy of 'maximum support' for the IRA.

"But even if Graham had been running arms, and there is no conclusive proof for this, who should want to kill him? His close associates in Dublin have ruled out the possibility that he was sentenced to death as an informer by Saor Eire or any Republican organisation.

" 'Peter Graham was no informer and he was most security conscious,' said Tariq Ali, sentiments which were echoed by all who knew the dead man. The Young Socialists have however recalled some allegations made some weeks ago by Saor Eire that "murder squads" had been formed among right-wing gardai [police] and Special Branch men. And a London-based friend of Graham's has mentioned the possibility of a move by British Intelligence to thwart a Trotskyist intervention in the Northern Ireland situation.

"But there is also a theory that the shooting may have been ordered by some rival bank-robbing group to Saor Eire which for some reason wanted to teach the 'Trots' a lesson. It may be significant that Saor Eire men have stated in recent weeks that they were not responsible for every bank raid carried out in the 26 Counties.

"One thing is certain. Whoever was responsible for the murder is in a rather delicate position. As one London Trotskyist said ominously: 'There is an awful lot of anger about the shooting of Peter Graham.' "

Boyne's version of Comrade Ali's remark was: "We have our own ways of dealing with such people."

There is unfortunately no doubt that the IMG appreciated this kind of publicity, with all its exciting suggestions that the Fourth International was engaged in international gun-running and had its "own ways of dealing" with assassins. Comrade Ali in fact protested because *Intercontinental Press* did not reprint this flattering article in full.

In fact, one organ of a section supporting the IEC Majority Tendency seemed really to strain itself to present the situation of the Irish Trotskyists in the most heroic light.

"In difficult conditions after the cowardly assassination of Peter Graham and the mysterious death in January 1972 of Mairin Keegan, another leader of the RMG, our comrades of the Irish section are assuming an enormous task. They have to offer real support to the two branches of the republican movement (the Official and Provisional IRA), to develop Marxist analyses of the Irish question, and above all to coordinate the struggles in the North as well as the South because they alone of all the revolutionary organizations have a base both in Ulster and the Republic." (*Rouge*, June 3, 1972.)

Tragic as Comrade Keegan's death was, it was not unexplainable. She died of a long illness. She was, however, a member of Saor Eire, as a member of the RMG pointed out at a memorial meeting held for her in London.

"She was not simply an armchair Marxist, she allied theory to action. In May 1968 in Paris she took part in the struggle of the workers and students which has opened the new era of working class revolution. And in 1969, back in Ireland, as a member of the Dublin Citizens Committee and more importantly Saor Eire, she gave aid to the national revolution that has been developing in Northern Ireland. . . .

"I might conclude by wishing a long life to the FI (Fourth International) but this would be contrary to that body's aims. It wants world revolution and the world includes Ireland as soon as possible. So I prophesy a short and successful life to the FI and to Saor Eire. Let our enemies which are those of the working class beware. We are only beginning." (*The Red Mole*, January 24, 1972.)

The dangers that this kind of romantic rodomontade by the supporters of the IEC Majority Tendency represent for the entire International are only too obvious. From the standpoint of revolutionary morality, moreover, it was extremely dubious. It did not honor Graham's sacrifice but exploited it, threatening to build a farcical tissue of romantic pretensions around this death that could only discredit the Irish Trotskyists.

At the same time, this type of boastfulness and lurid imagining had a powerful momentum. For many months after the death of Comrade Graham, adventurist fantasies tended to dominate the discussions in the RMG. This was particularly noticeable in the conference of February 1972. The representative of the IMG, Comrade Lawless, to his credit, stopped this trend at one point in the discussion as it reached a dangerous point. (As for the representative of the International leadership, he was apparently not disturbed by it and in fact was anxious to reassure me when I showed signs, no doubt, of getting rather agitated.) However, it is clear from the line of *The Red Mole* and the IMG speaker at Comrade Graham's funeral

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Footnotes at end of article.

that the British organization and the International leadership encouraged precisely this sort of thing. It is fortunate that Comrade Lawless decided to retreat from the logic of their adventurist line. One wonders what the IMG would have done if this kind of talk had resulted in an actual adventure and victimizations. Would they have sent a commando team to "avenge" the Irish comrades? It is much more likely that a few more martyrs would have been exploited to add to the luster of the "revolutionary pole of attraction." [5]

Alan Harris also complained that the IMG was, "giving full support to a small group that was expelled from the Republican movement, Saor Eire, an anti-Leninist terrorist grouping based in the Irish Republic." [6]

The British press, however, has accused Saor Eire of doing some of the bombings in London and other English cities.

The SWP has given considerable publicity to a group in Ireland called the Irish Republican Socialist Party. There is reason to believe that this group is closely linked to Saor Eire. In an interview with an IRSP leader, Seamas Costello, the SWP's Gerry Foley asked about the warfare between his group and the official IRA.

Q. The "Officials" say that a shadowy military organization linked to the IRSP has carried out attacks on their members. They draw two different conclusions from this. Some say that you don't control it. Others say that you are trying to use it as your assassination squad without taking responsibility for what it does. What is the relationship between the IRSP and the military groupings that have expressed support for it in the conflict with the "Officials"?

A. Well, the relationship with the PLA [People's Liberation Army] and the other armed groups that have acted in this way is as follows: The PLA and other groups that haven't chosen to say publicly what their names are offered to assist us in defending our members against the "Officials." This followed the death of one of our members in Belfast. The Belfast Regional Executive accepted that offer. The basis of this acceptance was that as long as the "Officials" attacked IRSP members, these groups would defend IRSP members against such actions and retaliate for such actions.

It's true to say that we don't control the individual actions carried out in pursuit of this policy, any more than the Army Council of the "Official" IRA controls the individual actions of members of its organization. But we are quite satisfied that as soon as agreement is reached between the IRSP and the "Official" IRA and as soon as we have some concrete indication that the "Officials" are going to call off its campaign, there will be no difficulty whatsoever about ensuring that there are no attacks on members or supporters of the "Official" IRA. [7]

IMG leader, Tariq Ali, has publicly supported terrorism and boasted that if Governor Wallace had visited his university he would have killed him. [8]

FOOTNOTES

[1] Report of the Fact-Finding Commission of the United Secretariat on the internal situation within the International Marxist Group, British section of the Fourth International, March 12, 1972, p. 18 and 22.

[2] Ibid., p. 11 and 13.

[3] Mary-Alice Waters Memo, January 15, 1976, Report by Stateman and minutes of United Secretariat.

[4] International Internal Discussion Bulletin, Volume X, No. 17, October, 1973, p. 15–17.

[5] Ibid, p. 37–38.

[6] International Internal Discussion Bulletin, Volume X, No. 23, November, 1973, p. 10.

[7] Intercontinental Press, July 21, 1975.

[8] Internal Information Bulletin, No. 3, April, 1971, p. 28.

DR. RON PAUL: FEDERAL FINANCING OF ABORTIONS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. HYDE. Mr. Speaker, the following is a speech delivered before this body by my colleague, Dr. Ron Paul, during the debate over Federal financing of abortions. When Congressman Paul's remarks originally appeared in the Record, there was an error in printing which caused a portion of his statement to be left out. Dr. Paul has been a physician for 15 years and was in the practice of obstetrics and gynecology prior to coming to Congress.

I now commend Dr. Paul's corrected statement to the attention of my colleagues, many of whom may not have been present on the floor to have the benefit of his views on the day they were expressed. Since this matter is still under debate in a House/Senate conference, we likely will be voting on it once again before Government funding of abortions is resolved once and for all. His well-reasoned arguments merit the thoughtful consideration of my colleagues:

STATEMENT BY DR. RON PAUL

Mr. Speaker, abortion and its ramifications is probably the most complex, controversial, social, legal, religious, medical issue of all times. There is no simple answer to satisfy all persons involved. Those who believe there is an easy solution are kidding themselves. Sincere deliberation with the hope and intention of reducing the subjective emotional response to objective reasoning is of the utmost importance if the social antagonism that has arisen over this issue is to be alleviated. Those who would belittle its importance fail to see the significance of the impact that Presidential aspirant Ellen McCormick has made this past 6 months. What other single social issue since slavery has prompted such political activism.

Today we must decide whether or not to continue to support Mr. Hyde's proposal to prohibit Federal tax dollars from being used to promote or perform abortion. I am in agreement with Congressman Hyde and oppose the use of tax dollars to perform abortions.

Up until April of 1976 I had been practicing obstetrics and gynecology. I have been involved in medicine for 19 years. After medical school the specialty training that I received took 5 years. In other words, I have treated thousands of obstetrical cases and delivered an estimated 4,000 babies. During this period of time I never saw one case which required therapeutic abortion in order to preserve the life of the mother. The issue of "the 'threat' to the mother" is not realistic since it is so rare. This is emotionally concocted and does not do justice to those who use this as the reason for legislation.

When it does exist the Hyde amendment would not prevent treatment to the mother. Today we do not need to abort women for heart disease and diabetes; that is for the medical illnesses. The conditions that require treatment for the mother in order to save her life are today limited to cancer. This amendment would not prevent this treatment and the loss of fetal life would be incidental to the radiation treatment or the hysterectomy, if required. One other item—there are many examples of some chronic illnesses improving with pregnancy when at one time the medical community believed pregnancy increased the severity of the disease.

Many use as the justification to abort, the potential birth of a malformed child. This to me is the worst reason conceivable. This literally justifies the elimination of newborn defective life and those who are apparently useless. Most would classify this as murder and even many of the pro-abortionists would agree. However, there are many who reason that the decisionmaking should extend up to 1 year of life. The question you must be forced to ask then is, What about defective and useless ideas that disrupt society. History shows that others have justified this also and destroyed life for causes such as religious and political beliefs.

I did not always draw rather stringent lines on abortion until I was forced as a young physician to face up to the problem. I was called to assist one day as many young residents are in an operation performed by a staff member. It turned out to be a hysterotomy, a type of caesarian section with the removal of a 2-pound infant that cried and breathed. The infant was put in the trash and left to die. At that time it was even in defiance of all current laws. We as physicians can now save many infants that are born weighing 2 pounds. The Supreme Court now permits abortion up to 6 months of gestation and later under special circumstances. Frequently this will involve infants weighing as much as 3 pounds. Following this experience I reconsidered my position of "necessary abortion" and came up with an entirely different perspective. One physician who ran an abortion clinic for years and supervised thousands of abortions has recently joined me in reassessing his position and now opposes abortion due to the callousness with which it is administered. Young people came to my office asking for an abortion as if it were requesting an aspirin for a headache. This lack of concern for human life is an ominous sign of a decaying culture. We as a Congress must not contribute to this decay.

Civil libertarians must oppose tax dollars for abortion if they choose to be consistent. The use of tax dollars for abortion flaunts the first amendment protection of religious liberty. The advice I give to the pro-abortionists is "Do not use the dollar of citizens with devout religious beliefs against abortion to carry out this procedure." This is like waving a red flag in front of a bull and providing an incentive for the antiabortionist to organize and rally with great strength. Just remember how the antiwar groups rallied and changed a bad situation in the 1960's when kids were forced to serve and die and taxpayers forced to pay for an undeclared illegal war pursued by an ill-advised administration.

The 14th amendment protects depriving any person of life. Government exists to protect life, not to destroy it. Those of you who still believe that life is not involved need to visit more operating rooms and possibly you would be converted like I was.

Legally there is good historic precedent to establish the rights of the unborn and to recognize their legal existence. Right of inheritance is recognized for the conceived but unborn infants when the death of the father occurs prior to the birth. The right of suit by the unborn is recognized in accidents that kill or injure an unborn. The right of suit by the unborn is recognized in injury that harm the unborn in such cases as drug injury. The injured unborn can sue MD's after birth for malpractice if we as physicians injure the infant with bad medical judgment. From day one in medical school we are taught two lives are involved and the responsibility is ominous, in that we need to give deep concern for the new life to be and protect it in the best way possible so that it can enter its new environment free of injury since its more vulnerable predelivered state is so precarious and needs specific help, assistance, protection, and consideration.

The sickest argument for abortion is that the poor black population needs to be reduced. Keep them off the welfare rolls some conservatives argue. Even liberals have argued with me that since I oppose the welfare state this would fit into my desire. I am for reducing the welfare state but certainly not this way. The welfare state will be reduced when the welfare ethic of materialistic redistribution by force is challenged and changed.

Frequently abortion is performed at the desire of an aggressive social worker who fears food may become scarce and for various other personal prejudices. Teenage abortion now is done with specific exclusion of parental consent, if the Government so chooses; another attack on religious convictions regarding the sanctity of the family. Opposite to this is the abortion for the mother of the pregnant girl "to save face." In the private practice I had, this was the strongest motivating factor for abortion. The pregnant girl usually had a great psychological need and desire to be pregnant and deliver a baby. A symbol to her of something that represented love and affection. Abortion carelessly given, financed by the Government, hardly will settle this deep psychological problem.

My entire political philosophy is built on the firm conviction of the absolute right to one's life and property but precludes all violent activity. Some challenge my position on abortion as saying that I violate the mother's right to her life by preventing abortion. Since the key lies in whether or not one or two lives exist my decision is based on my medical knowledge that life does exist prior to birth and after conception. If the mother can reject that same life in her body because it just happens to be there she could reject that same life in her house. Besides a strong argument exists that the mother's rights are violated by a newborn, screaming hungry, naked infant much more so than by the inconvenience of an innocent silent warm contented unborn. The newborn demands a much greater amount of care, concern, time, and effort, and therefore is a so-called violation of the mother's rights and yet we recognize caring for a child as a responsibility both legal and moral once birth occurs.

A SPECIAL THANKS TO FATHER BEDE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. OTTINGER. Mr. Speaker, the community of Mount Vernon, N.Y., recently honored a most extraordinary person, Father Bede Ferrara. I would like to join in their admiration of this man, and thank Father Bede for the time and energy he spent to improve the life of his parish and his community.

He is an extraordinary man, not content to restrict his activities to the important work of religious guidance to his parishioners, but an active force for good in the entire community. His dramatic organization of a "God Squad" to combat vice and delinquency in Mount Vernon, his involvement in virtually every worthy community activity, be it help to the poor, housing, recreation, youth programs, has been a force for good in Mount Vernon that will be sorely missed.

We all wish him well in Boston, and shall always remember the special care he gave to his friends and neighbors in Westchester County.

In paying tribute to Father Bede, the Chamber of Commerce of Mount Vernon presented him with a well-deserved citation which I would ilke to share with you today:

MESSAGE AND PRESENTATION TO REV. FATHER BEDE FERRARA, OFM, PASTOR OF OUR LADY OF MOUNT CARMEL CHURCH

(Made by Salvatore Quaranta, Executive Vice President of the Mount Vernon Chamber of Commerce)

I am pleased to have this opportunity to express best wishes and appreciation to Father Bede.

During the past several years, I have had the opportunity of becoming involved in community programs in association with Father Bede.

In addition to his chosen avocation in serving God, he devoted endless hours to serving the total community. His interests have extended to the concern for the religious, social health and recreational needs of our community.

In the two areas close to my field of work, namely the Chamber of Commerce and the United Way, Father Bede has been of immeasurable help and for this I am most grateful.

And to this most concerned gentlemen, I have the priviledge of presenting to him a Citation which reads as follows:

"Citation for Community Service Awarded to Rev. Father Bede Ferrara, OFM, Pastor of Our Lady of Mount Carmel Church in Recognition of Outstanding Achievement in Serving the Human Needs of Our Community"

In closing, I extend most sincere best wishes to Father Bede and thank him for he has helped to make the Community of Mount Vernon, New York, a better place in which to live, worship, work and do business.

Good Bye my friend, may you be blessed by everlasting good health so that you may enjoy serving the needs of all the people in your new assignment in the Boston area.

TURKEY, DRUGS, AND THE UNITED STATES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. RANGEL. Mr. Speaker, the recent creation of the Select Committee on Narcotics Abuse and Control is representative, I feel, of a long overdue recognition by the Members of this House, of the seriousness of the narcotics problem in this Nation. Its existence will provide the Congress with an arm with which it can oversee the entire world drug scene and thereby, hopefully, significantly reduce illegal narcotics trafficking into the United States.

The geographical areas of greatest concern to narcotics control officials have traditionally been Mexico, Southeast Asia, and the Middle East. In particular, Turkey was, for many years, the primary provider of opium to the dealers who eventually brought heroin to the streets of our cities and towns.

In 1971, the Turkish Government ordered a cessation of poppy growing which resulted in a significant reduction in the heroin entering this country. Subsequently, an executive agreement was signed by the leaders of the two nations aimed at solidifying the opium ban. Then, abruptly last year, in apparent contravention of this agreement, the Turkish Government ended the ban on opium growing, thereby opening up once again the threat of a vast potential supply of this dangerous plant.

Fortunately, despite resumption of opium growing, the predicted increased flow of illicit narcotics from Turkey has not materialized. In this respect, Turkish officials clearly deserve praise. They have regulated the actions of the opium farmers in accordance with guidelines established by their Government in consultation with the United Nations Division of Narcotic Drugs and the International Narcotic Control Board, and, most importantly, their oversight in conjunction with the implementation of a new harvesting process, has apparently resulted in a massive reduction in the quantity of Turkish poppy origin heroin reaching the United States.

I should make it clear that despite the impressive statistics concerning the diversionary efforts by the Turkish Government, I remain deeply disturbed by the resumed growing of opium. Although I certainly recognize both Turkey's right to make decisions which are in her own national interest, and the fact that the executive agreement was signed by leaders who are no longer in power, I feel strongly that the agreement should have remained in force or at the very least been renegotiated. I now only fervently hope that the strong enforcement actions by the Turkish Government will continue to yield satisfactory results.

I am pleased to insert the following excerpts from comments made by United Nations officials who toured Turkey in July of this year. This release from the Turkish Embassy is important both because of its verification of the results which had been claimed previously and for the spirit of cooperation between Turkey and the United Nations of which it is a symbol.

The quotations follow:

U.N. OFFICIALS PRAISE TURKISH CONTROLS OF OPIUM POPPY CULTIVATION

Prof. Paul Reuter of France, President of the International Narcotics Control Board:

"We believe that Turkey has set an unprecedented example in this field. She has fully implemented her decisions and also the proposals made to her for a solution to this issue (the illegal use of the Turkish opium poppy crop).

"The success registered in the purchase of all unlanced poppy capsules by the Government not only has shown the effectiveness of this method, but also proved that the Turkish nation is a 'developed country' in this field, for this method is not expected to succeed so well in every country. In this respect, Turkey has a special position among other countries."

Ambassador Jacobus Gilbertus Debeus of Holland, Executive Director of the U.N. Fund for Drug Abuse Control:

"Last year a certain percentage of the Fund budget was set aside for technical assistance to Turkey in the control of poppy production. With these funds, the jeeps used by the control teams were equipped with two-way radios and the teams were provided with additional vehicles. This year an airplane will be furnished for aerial control. The Turkish Government did not apply for the $5 million fund that had been earmarked to offset the loss the Turkish farmers might have suffered as a result of selling their poppy capsules without lancing them. In fact, the Turkish Government did not even mention it. Because it precluded any loss to the farmers by implementing a satisfactory price policy. We are pleased by this attitude of Turkey. The success of this vital project is not fully known by other governments and the general public in other countries. The Turkish Government is being very modest about this subject and is not publicizing it adequately. This project has succeeded with the cooperation of the Turkish farmer and the determination of his Government. We must work to make the whole world aware of this."

Dr. George M. Ling of Canada, Director of the U.N. Division of Narcotic Drugs:

"This is the most successful program carried out by my department to this date. The trust of the Turkish people in this program, their honesty and realistic attitude, the smooth coordination among the relevant Turkish agencies and the effective control of prescriptions by the Ministry of Health have all been highly instrumental in this.

"When the alkaloid factory starts its production, the Turkish people will be able to buy medicines cheaper, and Turkey's export possibilities will be increased. We view this factory with great appreciation."

In another press conference held in Ankara on July 14, 1976, a question was raised regarding the allegations in the Greek and Greek Cypriot press to the effect that opium poppy was being cultivated in the Turkish sector of Cyprus and was being smuggled to other countries. Prof. Reuter and Dr. Long answered these allegations:

"There is not the slightest evidence or indication that opium is grown in the Turkish sector of Cyprus. It is not possible to conclude that just because contraband opium was discovered on a ship sailing under Turkish Cypriot flag, the narcotic originated in the Turkish sector. It is always possible that it could have been gotten on board from other sources. Since we have witnessed many times that countries with disputes with each other try to discredit one another with such false propaganda, we investigate these allegations very carefully and thoroughly. An allegation made by a certain country to the effect that narcotics were being smuggled out of mainland China, took us four years to investigate. At the end we determined that the accusation was baseless. Similarly, no evidence was found to prove that opium poppy was being cultivated in the Turkish sector of Cyprus."

At the same press conference the U.N. officials were asked whether programs were being carried out in other countries similar to that in Turkey and what was their degree of success. Their comment was:

"Different programs are being implemented in different countries. But it is true that none of them is as successful as the one in Turkey. The reasons for this are evident. The poppy cultivation area in Turkey are close to one another. Also, communications facilities are sufficient and well organized. Furthermore, there exist effective police and gendarmarie controls. These forces are well organized and efficient. Turkey is a developed country in this regard. In other countries poppy cultivation is done on hillsides and other areas that are difficult to reach, and this hinders controls.

"The personnel of the Soil Products Office have greatly contributed to the success of controlled poppy cultivation in Turkey. Also, the understanding and good faith displayed by the Turkish farmers cannot be denied. The farmers express their satisfaction with this system."

JULIUS A. POLANSKY, WEATHER OBSERVER, RECEIVES AWARD

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. PICKLE. Mr. Speaker, in the last few years, various social observers and critics have expressed dismay about the lack of the volunteer spirit in America. It seems to me that many have stated that no one will do anything unless he is paid for it.

Perhaps this is a legitimate concern, but I continue to see example after example that the citizens of this country are willing to perform selfless deeds.

Such an individual is Julius A. Polansky, who lives in the 10th Congressional District at Dime Box, Tex. For more than 30 years Mr. Polansky has been a volunteer rainfall observer for the National Weather Service.

Recently, Mr. Polansky was recognized for his outstanding accomplishment in this meaningful area, by being selected for the John C. Holm Award, an annual National Weather Service award sponsored by the U.S. Department of Commerce.

I include a news release from the Department of Commerce with more information about this prestigious award:

WASHINGTON.—Julius A. Polansky, a volunteer rainfall observer for the National Weather Service at Dime Box, Texas, has been selected to receive the John Campanius Holm Award. The names of 35 winners selected nationwide to receive this annual award were announced today by the U.S. Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), parent agency of the National Weather Service.

John Campanius Holm Awards, created in 1959 by the National Weather Service, are made annually to honor volunteer observers for outstanding accomplishments in the field of meteorological observations. The award is named for a Lutheran minister who is the first person known to have taken systematic weather observations in the American colonies. The Reverend John Campanius made records of the climate, without the use of instruments, in 1644 and 1645, near the present site of Wilmington, Delaware. These observations were published in Sweden by his grandson, Thomas Campanius Holm, in 1702.

Mr. Polansky has been an accurate, consistent observer for 35 years. He has generously shared these daily observations with this community in south central Texas. His rainfall amounts are also published by the Giddings, Texas, newspaper.

The National Weather Service has nearly 12,000 volunteer observers who make and record daily weather observations in all parts of the United States. The valuable information they gather is processed and published by the Environmental Data Service, another major component of NOAA, and becomes a valuable part of the Nation's weather history.

ENERGY NEEDS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. LLOYD of California. Mr. Speaker, in 1952, the President's Materials Policy Commission published a report, "Resources For Freeodm," which warned of the energy crisis this Nation would face in the 1970's if we did not commit ourselves to seek alternative sources of fuel and adopt meaningful conservation measures. Because oil was cheap and plentiful, few paid attention to that report. Today, however, we can no longer afford to ignore the long-term energy crisis that still confronts us.

During my first term in Congress, I have received many letters from constituents of the 35th Congressional District about energy issues. Some offered suggestions which have been translated into law. I would like to outline specific action the 94th Congress has taken to meet our present and future energy needs.

Energy policy: The Energy Policy and Conservation Act established a comprehensive national energy policy that brought down gasoline prices in the first half of 1976, and provides for oil price decontrol over 40 months. The act also authorizes a strategic petroleum reserve and provides for energy conservation, energy efficient cars and appliances, and aid to small coal mine operators. The bill became law.

ERDA authorization: The House and Senate are soon expected to agree upon fiscal 1977 authorization for the Energy Research and Development Administration—ERDA. Included in this bill will be increased funding for solar energy research and development. Earlier this year, ERDA had requested $116 million for all solar programs for fiscal 1977. Congress, however, recognizing the great potential of solar energy, is expected to provide over one-quarter billion, in effect, doubling the ERDA request. ERDA is also strongly supporting nuclear, synthetic, and traditional fuel research and development.

FEA authorization: The fiscal 1977 Federal Energy Administration authorization includes a 3-year program to help low-income persons weatherize their homes; a series of demonstration programs to encourage other homeowners to weatherize their homes to save fuel; information for homeowners on the costs and savings of energy conservation investments; and a loan guarantee program to encourage large energy users to make energy-saving improvements in buildings that could not be reasonably financed with Federal backing.

Automobile research bills: Congress voted to establish a 5-year, $160 million project for research and demonstration of electric and "hybrid" cars using new fuels or using fuels in a new way. The bill now goes to President Ford for his signature. The House also approved a House-Senate conference version of a bill to authorize $100 million through fiscal 1978 for research into cars that pollute less.

Natural gas: Legislation to encourage natural gas production by reregulating the price for major producers and deregulating it for independents has passed both House and Senate in different forms.

Coastal Zone Management Act amendments: This bill accelerates the orderly development of vast offshore reserves. Perhaps the most important feature of this bill is that, for the first time, recognition is given to State and local governments in our Federal energy program. They will become partners with the Federal Government in the development of our offshore oil and gas fields.

Elk Hills: Congress enacted a law which will convert the 33-billion barrel Alaska naval petroleum reserve into a national reserve and authorize production from Elk Hills, Buena Vista, and Teapot Dome Reserves. Strict production limitations will match reserves for a national defense emergency.

Mr. Speaker, as a member of the Science and Technology Committee, I have had the opportunity to review the work being done by the Energy Research and Development Administration—ERDA—in identifying alternative energy sources and the role the Federal Government can play in commercially developing these sources. The ERDA has published a report, "Creating Energy Choice for the Future," which I recommend to my colleagues. How tragic it would be for this Nation if we ignored this report, in the same manner as was done in 1952.

"Creating Energy Choices for the Future," a proposed national plan for energy research, development, and demonstration, describes programs now underway and supported by the Federal Government. It does not include energy research and development in industry or elsewhere unless Federal funds are involved. It describes technologies being investigated and activities underway and planned in Federal energy research and development programs. It presents ERDA's views on the courses of action that the Federal Government should take in assisting the private sector in finding solutions to the national energy problem.

The primary responsibility for bringing new technologies into use for energy conservation and expanding domestic energy production rests with the private sector. The Federal Government's responsibility is to assist the private sector in the development and market penetration of new energy technologies by establishing an appropriate policy for private action, sharing risks with the private sector in some cases, and conducting a supporting research, development program.

Overall, the Federal energy research and development program provides assistance to industry in developing and using new or improved energy technologies when such innovations are in the public interest but cannot be accomplished by industry acting alone. Accordingly, it is the Federal Government's intent to minimize the public financial commitment and to press for the highest levels of industry cooperation and involvement. This approach was chosen in order to accelerate the development of new technologies, to make maximum use of industry's expertise and speed the process of bringing technology into use.

The private sector has the primary responsibility for developing and bringing into use the technology needed to fulfill our energy needs. Accordingly, ERDA believes that industry should play a significant part in the development of future plans and programs. The ERDA is encouraging the participation of the private sector to help insure the economic viability of research and development efforts supported by the Government.

This document does not commit the Federal Government to support specific large demonstrations, but identifiies projects that may have potential and warrant further consideration. I offer a brief summary from the ERDA report on promising alternative energy sources:

FOSSIL ENERGY

Research, development, and demonstration activities are supported by the federal government to assist industry in developing and bringing into use technologies to extend the recoverable base of domestic oil and natural gas resources, and to make coal and oil shale more economically and environmentally attractive.

The coal program comprises several RD&D activities designed to assist industry in developing second generation technologies to convert coal to more widely useful and cleaner synthetic fuels; develop environmentally acceptable and economic methods to burn coal; and find more efficient means to generate electric power from coal resources.

Petroleum and natural gas programs are being conducted jointly with industry to determine the optimum application of tertiary recovery and stimulation techniques to the multiplicity of domestic resource reserves.

The unique aspects of in-situ resource recovery techniques are being explored and developed for potential application in coal gasification and shale oil recovery in another program receiving federal support.

Programs in resource appraisal and extraction technologies seek to determine the extent and quality of domestic fossil fuel resource and improved methods for mining that incorporate greater efficiency and safety and enhance environmental integrity.

SOLAR ENERGY

Solar heating and cooling is comprised of those technologies that make use of the radiant energy of the sun on a decentralized basis to provide space conditioning and hot water for a variety of uses. The technologies are now at a sufficient level of sophistication to allow for practical application, but have failed to achieve effective market penetration owing to a number of constraints, notably economic and institutional. The federal effort is largely centered on demonstration programs in cooperation with industry designed to show the applicability of solar heating and cooling systems to a number of uses and in a number of environments. These include residential and commercial space conditioning and hot water production, and agricultural crop drying.

The longer-range goal of harnessing the sun's radiation for centralized energy production is being approached simultaneously in a variety of ways: solar thermal collection, wind power, ocean thermal gradient, and fuels from biomass.

Several types of solar thermal collection techniques are being brought to the pilot plant phase of development to test systems concepts and validate economic projections. These include a 5 MWe solar thermal test facility and the conceptual design of a 10 MWe central receiver pilot plant, both to be completed in FY 1977.

A photovoltaic program aimed at systems definition and cost reduction of photovoltaic cells represents another unique approach to the development of solar energy technology for electric power production. A price of less than $2000 per peak kilowatt (its present cost) for planar solar cells and the establishment of the viability of the technology by 1982 are primary objectives of the ERDA program.

The wind power program will build and test successively larger wind-powered electrical-generating machines to determine applications and economic feasibility.

Ocean thermal gradients offer potential for energy production in several forms. The federal program for this technology currently emphasizes system studies, criteria development for testing facilities, and component design and testing.

Agricultural and forest residues and marine biomass offer potential for clean fuels and industrial chemicals. The federal program emphasizes the demonstration of an economically feasible technology for the development of this energy source.

GEOTHERMAL ENERGY

Program efforts are intended to aid in the establishment of a geothermal industry to encourage the commercial use of existing technologies to recover useful energy from low-salinity hydrothermal resources. Federal support includes geothermal resource exploration and assessment, the development and demonstration of improved plant components, and a loan guaranty program.

Other program highlights consist of advanced technology development activities designed to improve means to recover energy from higher-salinity hydrothermal resources, including verification of the use of binary cycles, demonstrating the feasibility of removing useful energy from hot dry rock sources with circulating fluids, and continuing research on concepts for economical extraction of energy from geopressured zones.

Federal coordination is effected through a Geothermal Advisory Council. The Council advises one the direction and relevance of the research, studies, educational programs, land leasing policies, environmental standards development, and the other federal agency activities that must be coordinated to bring about viable technical and industrial bases for geothermal energy development.

CONSERVATION

Federal programs in this area attempt to assist industry in developing technology to aid in reducing wasteful patterns of energy consumption and increasing efficiency of equipment used in energy conversion, distribution and consumption. The aim is to encourage more efficient patterns of energy use through the development of new technologies and approaches that will have a major impact on energy consumption in the future.

The RD&D Conservation efforts are supported by the following programs: Electric Energy Systems, Energy Storage Systems, Industry Conservation, Buildings Conservation, Transportation Energy Conservation, and Energy Conservation.

Representative ongoing activities include: testing of alternative energy-saving building designs; development of building design standards; testing of devices to reduce energy losses in existing structures; improvement in the energy efficiency of processes (such as distillation) common to many industries; development and testing of alternative transportation vehicle propulsion systems; testing of approach to improve driver operation and maintenance practices; development of electrical system management techniques and components to meet future needs for efficient and reliable operation and exploration of processes and components (e.g., storage devices, heat recuperators, and combustion processes) fundamental to end-use energy efficiency in a number of areas.

FUSION POWER R&D

The Fusion program comprises two substantially different technological approaches to the production of usable energy from controlled thermonuclear reactions: magnetic confinement, and inertial confinement. FY 1977 funding (Budget Authority) for the program has increased a substantial 57 percent over FY 1976 levels, most of which is required to sustain the technical directions already in progress. Primary programmatic emphasis is shifting from basic physics research towards more practical systems development. Such a transition inherently involves costlier equipments and facilities, and larger and more diverse technical staffs.

The magnetic confinement approach has recently achieved reactor-level temperatures and a ten-fold increase in plasma confinement conditions in a magnetic mirror device. A similar advance was achieved in a tokamak device. Current work includes further testing of a superconducting magnet system for plasma confinement, and completion and operation of a rotation target neutral beam source for plasma heating.

NUCLEAR FUEL CYCLE R&D AND SAFEGUARDS

This effort consists of six major program activities: Uranium Resource Assessment, Support of the Nuclear Fuel Cycle, Waste Management (Commercial), Nuclear Materials Security and Safeguards, Uranium Enrichment Process Development, and Advanced Isotope Separation Technology. The program activities in this effort are wide in scope. For example, activities are directed toward assessing the extent of uranium resources, and assisting industry in overcoming technical and institutional uncertainties in the areas of fuel reprocessing and recycle and waste management, and developing and demonstrating efficient and effective safeguards systems for the light water reactor and advanced fuel cycle systems.

Other activities are directed toward continuing the development of gaseous diffusion technology for use in increasing production capacity at existing gaseous diffusion plants, continuing the development of gas centrifuge technology to be available for early use by an expanding domestic uranium enrichment industry. Finally, there are activities to investigate and develop additional isotope separation processes which have the potential for significantly reducing the cost of enriched materials and enhancing the introduction of these technologies into the marketplace.

FISSION POWER

There are six major program areas: Liquid Metal Fast Breeder Reactors; Water Cooled Breeder Reactors; Gas Cooled Reactors; Light Water Reactor Technology; Supporting Activities; and Reactor Safety Facilities.

Near-term increases in the amount of energy produced from nuclear sources may be possible through cooperation with industry to improve licensability, constructability, and operating availability of light water reactors, which are now being marketed by industry and operated by the utilities.

Mid-term impact is possible on both energy supply and energy resources through continued improvements in these reactors which make more efficient use of available nuclear fuel. Long-term impact on energy resources will be realized with the successful commercial introduction of breeder reactors which have the capability to increase energy available from the reactor by a factor of sixty. The availability of breeder reactors can assure our nation clean and economic energy for centuries.

Substantial involvement of the private sector is necessary to ensure that the technologies which are being developed and improved are commercially viable. A major federal involvement is necessary because of the long-term payoff inherent in the program. Safety and environmental research activities are uppermost in the development program due to public concern, although the safety record of fission power is unequaled by any other industry.

Mr. Speaker, as demonstrated by legislation considered and acted upon by the 94th Congress, and by the ERDA report, we have begun to deal with the energy crisis. We have much more to do, but we have taken steps to offer viable short- and long-term energy alternatives to the American public.

STRIKING MEDALS TO COMMEMORATE VALLEY FORGE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. SCHULZE. Mr. Speaker, as the ranking minority member of the House Banking, Currency and Housing Subcommittee on Historic Preservation and Coinage, I am proud to introduce legislation today which would provide for the striking of medals to commemorate the 200th anniversay of the encampment of the American Army during the bitter winter at Valley Forge—1777–78. This action appropriately follows enactment of legislation which I sponsored to provide for the establishment of the Valley Forge National Historical Park in the Commonwealth of Pennsylvania.

Now that Valley Forge will secure its proper identfication in our national life, it is appropriate that we commemorate the bicentennial of the event which forged the cause of our American freedoms.

My bill will provide for the manufacture of up to 500 silver and 50,000 bronze National Mint medals—each bearing a common design approved by the Treasury Secretary and concurred with by the Fine Arts Commission.

I have inserted a new provision in this bill which provides that the designs of the medals be approved by the Commission on Fine Arts. They have the authority, in accordance with an Executive order issued by President Harding, to approve the designs of all coins and medals. Although this practice has not been utilized in recent years, I believe, and the General Counsel of the Mint concurs, that it is appropriate to include the provision in the bill since the Commission has recently expressed concern over the fact that their function is being bypassed. I am a firm believer of the role that the Commission is, by law, mandated to perform.

I urge my colleagues to join me in support of this legislation to etch in coin one of the most meaningful events of our history—a symbol and reminder of the spirit and strength which makes us free.

The text of my legislation follows:

H.R. 15420

A bill to provide for the striking of medals commemorating the 200th anniversary of the encampment of the American Army during the bitter winter at Valley Forge

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in commemoration of the 200th anniversary of the encampment of the American Army commanded by General George Washington during the bitter winter at Valley Forge, Pennsylvania, the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall strike and deliver to the Valley Forge Historical Society, Incorporated, Valley Forge, Pennsylvania (hereinafter in this Act referred to as the "Society"), not more than fifty thousand sterling silver and bronze medals, 1 5/16 inches in diameter, with suitable emblems, devices and inscriptions to be determined by the Society, with the concurrence of the Commission on Fine Arts, subject to approval by the Secretary.

(b) Such medals—

(1) are national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368); and

(2) may be disposed of by the Society at a premium.

SEC. 2. (a) Except as provided in subsection (b), the medals authorized to be struck and delivered under section 1 shall be delivered at such times as may be required by the Society in quantities of not less than two thousand, but no such medals shall be struck after December 31, 1978.

(b) The Secretary shall deliver—

(1) five hundred sterling silver medals, the first two hundred and fifty of which shall be in sequence, and

(2) five thousand bronze medals,
by September 1, 1977.

SEC. 3. The Secretary shall cause the medals authorized to be struck and delivered under section 1 to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

PROTECTING PROPERTY RIGHTS OF THE WIFE UNDER FEDERAL ESTATE TAX LAWS

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. KASTEN. Mr. Speaker, yesterday, I introduced an amendment to H.R. 14844 which would modify section 3(c), "Fractional Interest of Spouse," to allow exclusion from the value of an estate of a spouse's interest in any joint tenancy after December 31, 1976.

One of my original concerns with Federal estate tax reform was the failure of current law to recognize joint tenancies by allowing a wife to exclude her share of the property from the value of her husband's estate.

A typical example of the inequity of

the current law would be the case of a couple who purchased a small farm, literally on a shoestring, 20 or 30 years ago. The effects of inflation, particularly dramatic appreciation of land values over the years, and the capital improvements made by an industrious couple have resulted in a moderate-sized operation with a paper value many times their original investment.

They have long since established joint ownership under State law and, by all standards, the wife has been an equal partner in building what they have achieved. Yet, when the husband dies the entire property, in the eyes of the Federal Government, will be treated as though he were the sole owner.

Under current law, the wife will not be allowed to exclude her half of the property from the value of the estate and will, in fact, have to pay estate tax on what she herself has earned.

Recognizing the injustice of similar policies, States are moving to correct their own inheritance tax laws. Just this year the State of Wisconsin enacted legislation allowing up to a 50-percent inheritance tax exemption for all surviving joint tenants. Past law required proof of contribution "in money or money's worth" to the estate's value in order to qualify for the exemption.

It was encouraging when the Ways and Means Committee addressed the inequity in Federal law by including a section in H.R. 14844 allowing half of a jointly held property to be excluded from the estate tax.

However, close examination of this provision reveals a cure that, in some cases, could be worse than the illness. At best, it offers a tradeoff as to which kind of tax you want the Federal Government to impose.

The allowance in the committee bill for exclusion of the wife's half of the property is only under the condition that after December 31, 1976, the husband and wife elect to create a joint tenancy, and elect to take the tax liability of transfering a gift to each other. They are subject to the gift tax liability even if they already have established joint tenancy under State law.

In other words, Mr. Speaker, even if the property is already jointly owned, we are saying, "You have a choice: the Federal Government will tax your joint property now; or we will tax it twice later, once when your husband dies and again when you die."

Mr. Speaker, it is patently unfair to impose a gift tax on that which is not a gift, and joint property is owned half by each.

How can we justify taxing it as a gift if we are serious about "reforming" the major inequities in the Federal estate tax laws.

My amendment to H.R. 14844 eliminates the gift tax election and redefines a "qualified joint interest" as any joint tenancy between a husband and wife, applicable to all estate after December 31, 1976.

It is not my intention to establish Federal guidelines as to what kind of interests can qualify as jointly held property. That is a legal question that varies widely from State to State. I believe the Federal role should be to give recognition to State laws in this regard by allowing exclusion of the spouse's interest where a joint tenancy exists in accordance with State law.

It also is not my intention to single out any particular kind of property for special treatment. A family's home should qualify as well as their business, farm, or antique collection, if the property is jointly owned.

I strongly urge my colleagues to look closely at the difficulties inherent in ignoring a wife's share of the family's property when computing the value of the husband's estate. This amendment will correct a longstanding injustice, and I urge its inclusion in the estate tax reform bill.

Mr. Speaker, the second amendment I have offered is to Mr. BURLESON's substitue for H.R. 14844. Mr. BURLESON's amendment, which is identical to the language of H.R. 1973, does not contain any provision recognizing joint tenancy interests of a spouse. Therefore, my amendment would add a new section to Mr. BURLESON's bill identical to section 3(c) of H.R. 14844, "Fractional Interest of Spouse," as amended by my proposal to eliminate gift tax liability in creating a joint tenancy.

THE POWER TO TAX INVOLVES THE POWER TO DESTROY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. PAUL. Mr. Speaker, Chief Justice John Marshall, in his famous decision, "McCulloch against Maryland" (1819), set forth the incontrovertible principle, "the power to tax involves the power to destroy; * * *" The estate tax is the worst tax of all taxes that might be conceived, for the power to tax a dead man's estate confers on the civil government the power to undermine the integrity of the family.

The estate tax should be abolished at the Federal level, the State level, and any other level of civil government that attempts to impose it. I will vote if I have the chance to raise the exemption figure to $200,000, not because I think it is right or wise to tax an estate that is worth more than $200,000, but because this proposal will at least remove many families out from under the atrocious burden of this odious tax. If I had the opportunity to vote for a proposal that would exempt estates up to $200 million, I would vote for it with equal enthusiasm.

This tax is the product of envy, one of the most devastating evils of the human personality. Envy wants to tear down anything that is above it, socially, economically, and culturally. No one who has studied the distribution of wealth in this Nation could sensibly believe that a redistribution of wealth from the very rich to the whole population could raise the level of income of the poor to any great extent or for more than a few weeks. There are not that many rich people, and there are too many poor people. Therefore, the politically hypnotic slogan, "soak the rich," is a fool's catch phrase. The rich are not soaked. They have their family equity trusts that remove them from the tax collector's grasping hands. Their estates are not held personally, so they do not suffer the effects of the estate tax. The famous family of the Vice President—grandfather, father, brothers, or cousins—has not been "soaked" by the estate tax. But average upper middle-class farmer has no knowledge of the family equity trust. He has not set up an inexpensive Delaware corporation for his family. He has only worked hard, poured his earnings back into the improvement of his land and equipment, and when he dies, his assets wind up in the hands of the tax collector.

Those who wanted to "soak the rich" through discriminatory legislation have seen the fruition of their envious schemes: The soaking of the not-so-rich. It will be interesting to see whether Congress will acknowledge the error of the present levels of estate taxation and remove the burden imposed on the not-so-rich. I hope we do. When we finally get this odious tax levied only on the truly rich, then it will become a dead letter, which it dearly deserves to become. I do not worry too much about the very rich, for they have their tax lawyers, their accountants, their tax-free trusts on the Grand Cayman Island, their family equity trusts, and all the other so-called "loopholes" that we in Congress yell about but will not, cannot, and should not close.

What this country needs is "loopholes" for everyone. Let the little guy get a piece of the "loophole" action. Let everyone get out from under the massive burden of taxation that has been placed on his back, all in the name of soaking the rich or helping the needy. The people helped are the upper middle-class bureaucrats who administer these boondoggles, and now the inflation tax is catching up to them, too.

What this country needs is a loophole in every pot and two-family equity trusts in every garage. More loopholes and fewer tax lawyers. Democratize the loopholes.

And, of course, cut Federal spending to accommodate the loopholes.

In defense of my statement that the inheritance tax or estate tax is the worst of all possible taxes, since it jeopardizes the integrity of the family, I offer the analysis of Rev. Rousas John Rushdoony:

> Where the father possesses private property and provides for his children's care and future, and controls their inheritance, it is the authority of the father which governs the family. Where the state assumes the responsibility for the welfare and education of the children, and assures them of future social security, it is the authority of the state which governs the children. Power over property is authority. Where the state controls property, income, and inheritance, power has been transferred to the state.

No one should consider the estate tax bill and its provision for raising the exemption without being aware of Reverend Rushdoony's analysis, which appears in his outstanding little book, "Law and Liberty," Craig Press, 1971. I am inserting the relevant passages into the RECORD for the consideration of my colleagues:

THE FAMILY AND INHERITANCE

Property is power, and the control of property is therefore the key to power. Basic to all control of property is the control of inheritance. According to the Columbia Encyclopedia, inheritance in law is the "right to acquire property on the death of the owner. . . . In Anglo-American law inheritance is by the grace of the state, which may exercise any degree of control over the property of the decedent (i.e., the owner who dies), including the total escheat (i.e., government acquisition of title)." "By the grace of the state"! And how much grace does a state have? Since when has the state been the source of grace?

When the state enters into the question of inheritance, property gradually is transferred from the family to the state. The inheritance tax is simply a first step in that program of confiscation. For the family to maintain itself, the family must control inheritance, and the Biblical laws of inheritance are entirely family laws. The Bible kept property immune from taxation and from anything but family control of inheritance.

Inheritance, according to the Bible, was a sign of faith, character, and godliness on the part of a man. The Bible declares, "A good man leaveth an inheritance to his children's children" (Prov. 13:22). And, as H. B. Clark, a law editor, stated in his study of Biblical Law, "There is nothing in Jewish law to warrant the belief that the King or the State has any right to inherit property upon the death of the owner without lawful heirs." The control of property and inheritance is entirely within the jurisdiction of the family in Biblical law.

What was the consequence of the Biblical law of inheritance? It meant simply that power was concentrated into the hands of the family. This meant that the authority of the family over its children was a very real one, and an undiminished power. The discipline of the parents over their children was unquestioned, because authority and economic power rested in the family. The Bible is a realistic book. God knows that man respects only authority which has power behind it. When an order is given, that order is futile unless it can be supported by the power to enforce it. If power is transferred from the family to the state, then the ability to give orders and to maintain order is transferred from the family to the state. Educational philosophers begin to speak of "the children of the state," because parental authority has been transferred to the state.

According to Carle C. Zimmerman and Lucius F. Cervantes, in their study, Marriage and the Family. Western society has had a family organization since Christianity became the faith of the West. A man's life, from birth to death, is guided, affected, and colored by family relations. The basic unit of the social order is the family. The family is the socially stable unit where the family has liberty and property.

As a result, the totalitarians hate the family and declare it to be the enemy of social change. Totalitarianism hates the family because it is the basic thesis of all totalitarians that man's first loyalty must be to the state, whereas the Christian family's first allegiance is to the triune God. The totalitarian therefore seeks to abolish the family. Lenin said, "No nation can be free when half of the population is enslaved in the kitchen." As a result, the Communist state abolished the family as a legal entity until 1936, and the family since then has merely been a legal breeding ground for the state. The Soviet Union, two years after the Revolution, announced, "The family has ceased to be a necessity, both for its members and for the State." Women were "freed" from the kitchen only to become the unskilled labor force of the Soviet Union. According to Zimmerman and Cervantes, among the means taken by the Soviet Union "to abolish the family" were the following:

"The forbidding of parents to give religious instruction to their children, the encouraging of children to denounce their parents, the abolishing of inheritance, the equalization of the 'nonregistered marriage' with the registered one, the promulgation of three forms of common menage contract: for an indefinite period, for a definite period, for a single occasion. This latter legal expedient was a propaganda piece aimed to demolish the difference between prostitution, promiscuity, and monogamy. The legalization of bigamy and the abolishing of the legal differences between legitimacy and illegitimacy were other minor steps with the same purport of the destruction of the family."

"Free love in a free state" became the ideal. Family life was declared to be "especially harmful to collective life" (Carle C. Zimmerman and Lucius F. Cervantes, Marriage and the Family, Chicago: Regnery, 1956, p. 525).

In the United States, the attack on the family is being steadily mounted. The state increasingly claims jurisdiction over the family, its children, income, and property. The state assumes that it knows what is best for the children, and it claims the right to interfere for the children's welfare. As a result, the family is progressively weakened in order to strengthen the power of the state. The authority of parents is legally weakened and children are given legal rights to undercut their parents. According to Zimmerman and Cervantes, the reality today in our courts is a very startling one. They report:

"Thus in New York, Chicago, and Boston, children are now allowed to sue second spouses of a parent some years later for 'alienation' of the love and affection of the parent. In New York and Chicago the children have won these cases, but they are still pending in Boston. Thus, also, we have the New York case where a divorced mother—custodian of children—was imprisoned for neglect some years after the divorce. The husband was safe because he was not given custody, although the earlier 'discoloration' theory would have blamed him also" (ibid., p. 598).

Such powers, when given to the child, are not for the child's welfare. They are destructive of the family and of the child, and the more the state legislates over the family, supposedly for its welfare, the more it destroys the family.

No institution can long exist if it is not free. The more controlled an institution becomes, the less life it has. Its life and functions are transferred to the controlling agent, or they simply cease to be. How long would a club last, if its every act were controlled by the state? The life and authority of the family depends on the liberty of the family, and the economic expression of the family's independence is the right to private ownership of property and the right of inheritance.

Now where the family controls inheritance, it also controls marriage. This Frederick Engels noted in his study of The Origin of the Family, Private Property, and the State. But the Bible long ago plainly recorded it. When Jacob became the heir, his father Isaac "blessed him and charged him, and said unto him, Thou shalt not take a wife of the daughters of Canaan" (Gen. 28:1). In other words, the father had the power to require a godly marriage; because Isaac was leaving a sizable inheritance, he had a stake in the future, and because he had a stake in that future, he had a right to control it by requiring a godly marriage. This was a legitimate and godly power. The Bible as a result gives a great deal of space to laws of inheritance Roger Sherman Galer, in his classification of Biblical law, takes more than seven pages merely to list these laws (Roger Sherman Galer, Old Testament Law for Bible Students, New York: Macmillan, 1922, pp. 85–101).

Where the father possesses private property and provides for his children's care and future, and controls their inheritance, it is the authority of the father which governs the family. Where the state assumes the responsibility for the welfare and education of the children, and assures them of future social security, it is the authority of the state which governs the children. Power over private property is authority. Where the state controls property, income, and inheritance, power has been transferred to the state. Honor and authority go hand in hand, and, where parents have authority, they are more readily honored. The Biblical law declares, "Honour thy father and thy mother; that thy days may be long upon the land which the LORD thy God giveth thee" (Ex. 20:12). It is because God gave this law that He gave also the laws concerning private ownership of property and the right of inheritance. The two go hand in hand. God forbids adultery, because He has ordained and established the family as the basic and central social unit of mankind. God therefore commands private ownership of property and private control of inheritance in order that the family may be maintained in its honor and authority. We do not honor the family or parents if we strip them of their powers.

In fact, we are now being told that the family is obsolete. One prominent and influential churchman has said that the family is, like the tribe, a relic of the past. The tribe served its purpose and is now gone; the family, a great institution for its time, has also seen its day, and it must make way for a new structuring of society.

The death of the family is therefore planned, and, on every continent, the executioners are at work. Together with the death of the family, the "death" of God is also proclaimed, and we are assured that the new age has no need for God or the family. The menace and intensity of dedication of these hostile forces cannot be underestimated. They are an active, powerful, and highly organized force in modern society.

But, even more, we dare not underestimate the power of the triune God, Who rules the nations and fulfills His holy purpose despite all the vain conspiracies and wild imaginations of men. But none can share in God's victory unless they stand forth clearly in terms of Him and His holy cause, unless they separate themselves unto Him. Jesus Christ said, "He that is not with me, is against me: and he that gathereth not with me, scattereth abroad" (Matt. 12:30). And you, where do you stand?

THE INTRODUCTION OF FEDERAL SHARED-RISK INSURANCE ACT OF 1976

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. ASHLEY. Mr. Speaker, we are all very much aware that existing housing is this country's primary housing resource and that preservation of that housing stock is of paramount importance if we are to achieve our national goal of providing decent and adequate housing for all Americans. However, we are now confronted with the continuing waste of that valuable resource through neighborhood decline. As new, suburban communities and neighborhoods have appeared, older, residential areas lying closer to the core of our central cities have gone through a process of costly decline. The continuation of this decline and the resulting depletion of existing housing stock immeasurably affects our ability to provide decent housing for every citizen.

However, the problems of housing, and those of urban decline in particular are diverse. Their causes are numerous, complex, and often interrelated. These problems will not be solved by a single stroke. Rather any number of approaches will be required if we are to achieve our goal. The proposal for an alternative mortgage instrument tailored to meet the needs of a specific segment of the public seeking housing, which Senator BROCK and I introduced, is an example of the type of approach that will be required. The bill I am introducing today, the Federal Shared-Risk Insurance Act of 1976 is analogous to the Housing Incentive Investment Act. It, too, is specifically designed to alleviate one facet of the problem of urban decline—that of the reluctance of mortgage lenders to make certain loans in certain urban neighborhoods. The bill would establish a corporation to provide mortgage loan insurance. The availability of this insurance would enable the Government and private lenders to share the risk of loss in situations where the risk is greater than private lenders can reasonably be expected to bear on their own. This bill will make additional mortgage funds available for lending on existing homes located in older, residential neighborhoods.

However, it should be stressed that the insurance company created in this bill would avoid the problems and pitfalls of previous, well-intentioned efforts to "insure the inner city." Rather it would only provide the assistance and impetus necessary to encourage private lenders to voluntarily make safe and sound loans on older properties without impairing their own safety and soundness.

I would like first to outline the proposal and then to highlight certain things that it will do and certain things it will not do.

Briefly, the Federal Shared-Risk Insurance Act of 1976 would establish a self-sustaining corporation, the Federal shared-risk insurance fund, which would insure mortgage loans made in neighborhoods with a recent history of low mortgage investment. Areas qualifying for the insurance program will be determined by reference to the actual lending activity of depository institutions in prior years. Only loans made in areas that received less than a certain percentage of the overall average dollar amount of loans originated per area would be eligible for the insurance. Census tracts would be utilized to establish the geographical boundaries of the "shared-risk" areas. Depository institutions would certify that a particular loan is eligible for insurance, under guidelines established by the fund. This insurance would be available to all federally regulated depository institutions and would insure up to a maximum of 80 percent of the risk of loss on eligible loans. To be eligible a loan would have to be secured by residential property located in a qualifying area and the borrower would be required to have a minimum of 15 percent equity—downpayment—in the property. The fund, an independent corporation, although initially capitalized by the Government, would be required to operate on a fiscally sound basis and would be managed by a three-person board of directors, appointed by the President and confirmed by the Senate.

I would like to now highlight certain things the bill will do and certain things it will not do.

First, the bill will represent an opportunity for the exercise of private initiative in meeting the problem of urban decline. The fund will rely on determinations made by the depository institutions seeking to use the insurance. Use of this insurance will be wholly voluntary. Reliance on the private sector obviates the need for creation of a bureaucracy attempting to administer from afar to local needs.

Second, the bill will provide a constructive use of the information collected pursuant to the Home Mortgage Disclosure Act as this information may serve as the data base on which the decision as to which neighborhoods qualify is made.

Third, the bill will encourage sound underwriting on the part of the lenders. Insurance coverage is limited to a maximum of 80 percent of the risk of loss. The remainder of that risk of loss lies with the lender. This sound underwriting, together with the statutory mandate that the Fund operate on a fiscally sound basis, distinguishes this proposal from the massive subsidy approaches which have too often led to disappointment and failure.

Fourth, this bill will create a flexible program. Although the recent lending history of depository institutions will be the primary factor in the insurance qualification process, the fund is granted sufficient discretion to enable it to target its resources to those areas where maximum benefits will obtain. Further, this flexibility should enhance the attractiveness of the insurance to the private market.

Thus, the bill will do a number of things, but so too, there are a number of things it will not do. First, it will not totally solve the problem of urban decline. The insurance is neither envisioned nor designed as a cure-all for urban decline. However, the bill will provide an additional, and I believe, important tool to those who seek to preserve existing neighborhoods.

Second, the bill will not be effective in terminally blighted neighborhoods characterized by extremely low incomes, heavy absentee ownership, severe vandalism, abandonment, and demolition. But it will be useful in those neighborhoods which are in the beginning stages of a cycle that would probably lead to a blighted condition if not stayed.

Third, the bill will not replace the Neighborhood Housing Services program which is already successful. NHS programs have amply demonstrated that safe and sound loans—even without insurance—are to be found in many older, residential neighborhoods. The bill may, however, serve to complement the efforts of NHS in turning around declining neighborhoods. Equally as important, it will serve to encourage lending in neighborhoods not presently served by NHS programs.

This, in essence, is what the Federal Shared-Risk Insurance Act of 1976 is, and what it will and will not do. I am committed to the goals that this legislation would help us achieve and I am encouraged by its potential. I urge its early consideration.

A DEEPER ANALYSIS OF CARTER'S REFRAIN

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, each night's newscasts bring us film clips of former Gov. Jimmy Carter asserting that "it is time," pause, "that we had a President," pause, "who will work with harmony with Congress."

This theme itself requires a pause—a pause perhaps less for effect than for deeper analysis.

In a short but eloquent essay on this theme, the Washington Star's columnist Edwin M. Yoder points out that "harmony" such as President Johnson found when he sought support on the Gulf of Tonkin—to pick one example—is not quite what Mr. Carter may intend for the people to remember.

I commend the Yoder column because it bears rereading:

[From the Washington Star, Aug. 26, 1976]

A CARTER THEME THAT NEEDS RE-THINKING

(By Edwin M. Yoder, Jr.)

When clearer words fail, the political correspondents call Gov. Jimmy Carter a "populist" or "neo-populist." They seem to mean a politician who extols the unfiltered wisdom of the "average man." The Average Man, that paragon of judgment, turned up several times in the governor's Los Angeles speech this week.

"We have seen a wall go up," Mr. Carter had said in his New York acceptance speech, "which separates us from our own government. . . . Each time our nation has made a serious mistake, the American people have been excluded from the process." This is indeed the populist theme pure and simple—very simple. Government goes awry only when it ignores or thwarts popular wisdom; its errors are an imposition on an innocent and infallible public.

Governor Carter's populist theme isn't going to cost him votes. People don't vote no to flattery. But there is a certain mindlessness in this theme that could become tiresome. In Los Angeles, again, Mr. Carter said "there is something seriously wrong when the members of Congress, all of whom were elected by the people, repeatedly passed legislation the country needs, only to have it vetoed by an appointed President." Mr. Ford has vetoed too many bills, he said, more than 50 in all.

Politically, the gravity of the charge would depend on a piece-by-piece analysis of the bills vetoed, which was not supplied. Institutionally, the charge comes near being vacuous.

There is a dirty little secret about American government that seems to have escaped Governor Carter's consideration. American government functions in this wicked way by the design of the founders, who with topheavy congressional majorities in mind loaded the Constitution with every conceivable device of dilution, delay and dilatoriness. Theoretical democrats, they made the people sovereign; but they shrank from equating the instant judgment of any temporary majority with wisdom.

Alexander Hamilton's defense of the presidential veto, which appeared in one of the "Federalist Papers" in March, 1788, speaks to the point:

"It may perhaps be said that the power of preventing bad laws includes that of preventing good ones. But this objection will have little weight with those who can properly estimate the mischief of that inconstancy and mutability in the laws which form the greatest blemish in the character and genius of our governments. . . . The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones."

On yet another score Mr. Carter's charge falters. If President Ford, an "appointed President," lacks a national elective mandate, so does Congress. Governor Carter may be impressed by the congressional tendency to put national interest ahead of regional and parochial interest. But that tendency has eluded most observers of its recent labors on energy legislation—and much besides.

Strictly speaking, President Ford is no more an "appointed President" than were Lyndon Johnson and Harry Truman and by some relevant considerations less so. After all, a Democratic Congress weighed and approved his elevation to the vice presidency, even with good reason to suspect that Mr. Nixon's days were numbered. By contrast, no congressional hearings attended the "appointment" of other vice presidents who assumed the presidency. On the face of the matter, it can be argued that Mr. Ford was for better or worse the most carefully scrutinized "appointed President" we have had in this century. Perhaps Governor Carter's real quarrel is with Congress, or with the 25th Amendment.

The point of all this is not to quarrel with Mr. Carter's assault on the "negativism" and "dormancy" of Mr. Ford's presidency. It is only to say that the proposition calls for deeper analysis.

"It is time," proclaimed Mr. Carter in Los Angeles, "that we had a President . . . who will work with harmony with Congress for a change." Maybe so. But as Mr. Madison and Company foresaw, the dangers of mindless "harmony" between the President and Congress sometimes exceed the dangers of mindless conflict. Has Mr. Carter forgotten that the Gulf of Tonkin Resolution passed Congress with only two dissenting votes? Oh, for a bit of "dormancy" then!

ELECTRIC DEMAND INCREASING SHARPLY

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. McCORMACK. Mr. Speaker, as we continue to try to forge a rational energy policy for this Nation, we too often hear arguments relating to an isolated aspect of our energy situation which fail to make sense in the context of the total energy picture. The costs and benefits of any single energy source can be rationally evaluated only by taking into account the availability and desirability of other energy sources, rational projections of energy demand, conservation opportunities, and the consequences of failure to meet the demand.

A refreshingly comprehensive article by Hal Lancaster, which appeared in the Wall Street Journal, describes the dilemma in which the utilities find themselves as demand for electricity continues to increase while the cost and difficulty of adding all types of generating capacity continues to increase.

His description of the problems of diminishing gas supply, expensive oil, unresolved problems of air pollution and strip mining associated with coal plants, and the snarls of redtape and long lead times impeding the use of nuclear power, offer a valuable insight into the situation we face.

The article follows:

WORRIED UTILITIES: ELECTRICITY USE BEGINS TO TOP FORECASTS, STIRS FEAR OF LAG IN CAPACITY—PICKUP IN INDUSTRIAL DEMAND CHILLS HOPE FOR CUTBACKS IN POWER PLANT SPENDING

(By Hal Lancaster)

A year or so ago, the nation's problem-plagued electric utilities thought they saw a glimmer of hope.

They projected a slackening in the growth of demand for power as huge rate increases, forced by a surge in fuel prices and other costs, spurred conservation of electricity. They expected demand to be moderated further by slower population growth. And thus they hoped to be able to cut back costly projects to add generating capacity.

But the hope may be fading.

The utilities are beginning to see indications that demand may exceed the sharply reduced forecasts made in the wake of the Arab oil embargo. A resurgence of demand, if continued, would have serious import for utilities and power buyers.

Utilities could face unexpected strains on their capacity. And higher-than-anticipated demand would aggravate their other problems: uncertain fuel supplies, huge increases in plant costs, environmental opposition, tangles of regulatory red tape, and diminished financing capacity.

Power buyers could face blackouts and brownouts in some areas. Some pessimistic observers already are predicting industrial production cutbacks, lost jobs and occasionally juiceless households.

ENERGY MALNUTRITION

"We've already cast the die for trouble. We are headed for energy malnutrition," says Chauncey Starr, president of the industry-supported Electric Power Research Institute.

Environmentalists battling big generating projects argue that the power companies are crying wolf. But evidence that lower growth in demand is far from a certainty keeps trickling in.

Figures from the Edison Electric Institute, another industry group, show the trend. Following 1973's 6.8% raise in total electricity consumption—for many years, a typical gain—growth collapsed to zero in 1974 in the wake of the oil embargo and was only 2.2% in 1975. But last year was deceptive; a sizable decline in use by industry, which generally was operating far below capacity because of the recession, masked a substantial rise in residential and commercial use. Clearly, families and shopkeepers had become accustomed to the higher electricity rates and weren't switching off the lights as much as expected.

Now, with the economy recovering, industrial use is no longer declining. Total consumption in the first 32 weeks of the year has grown 5.2%. and the growth rate is "moving upward," an Edison institute spokesman says. The institute expects growth to reach 6% for the whole years.

UNEVEN IMPACT

Although all utilities would be affected by an unexpected surge in demand, some companies and areas would be particularly troubled. One such area is the Southwest, where the power industry is having its more spectacular conflicts with environmentalists and where utilities already are straining to cope, with a boom in population.

Utilities in those six states—California, Arizona, New Mexico, Utah, Nevada and Colorado—haven't ignored the fact that the area's population gain, at 8.2% since 1970, has far exceeded the 4.8% national average. They have projected power growth rates higher than most utilities'. But within the past year or so they, too, have lowered their projections on the assumption that energy conservation was here to stay. Now some of those reduced projections are being overrun.

Southern California Edison Co., for example, originally predicted a power consumption growth rate of 6% a year for the next few years, and gradually lowered it to 4.1%. But the company, one of the nation's biggest utilities, has chalked up actual growth of 5% through July, and demand is still picking up.

Even utilities managing to stay within lowered forecasts now discern the beginnings of a surge in demand. An unusually mild winter kept power consumption in bounds at both Arizona Public Service Co. and Public Service Co. of Colorado through May. But Arizona PS had 13% increases in June and July from a year earlier and the Colorado utility about 8%; both rates topped forecasts.

LITTLE LEEWAY

However, utilities in the Southwest and elsewhere have little reason to be seriously concerned about consumption just yet; it will take much longer to see whether the preliminary indications become a long-term trend. But if they do, power companies will have to try to meet the extra demand at a time when their options are severely restricted.

Even now, fuel supplies are a major problem. Experts agree that supplies of natural gas, the cleanest source of boiler fuel, are in an irreversible slide. Most utilities already have had to stop using gas as boiler fuel except in emergencies, and some industrial users of gas are seeing their supplies interrupted more and more frequently so that residential and commercial customers can get enough. To save fuel, Arizona has banned all new gas hookups, and California is curtailing low-priority uses. Meanwhile, plans to import liquefied natural gas and to make gas from coal are still untested on a large scale and are certain to be costly.

With gas fading as a generating fuel, additional pressure will be put on nuclear, coal and oil suppliers. No one sees much help coming before the end of the century from so-called exotic sources such as geothermal energy, solar power and wind. "Anyone who says differently is perpetrating a fraud on the public," declares Mr. Starr of the Power Research Institute.

Nuclear power passed a severe test in June, when California voters defeated a proposal that utilities say would have throttled the use of nuclear energy in the state. To placate antinuclear sentiment, however, the legislature passed stringent safety bills that will increase lead times and costs of new plants. And 15 to 20 other states are preparing similar measures. But in any event, nuclear power isn't suitable for meeting unexpected demand quickly. Nuclear plants cost more than any other type, and red tape makes it nearly impossible to get them from the proposal stage into operation in less than 10 years.

More oil is being burned by gas-short utilities. But oil, though currently in ample supply, involves the danger of another embargo since so much of it is imported. Also, air-quality standards in some areas practically rule out anything but low-sulphur oil, which is in hot demand world-wide and, at about $15 a barrel, is the most expensive of generating fuels.

Coal is relatively cheap and is abundant domestically, particularly in the West, and many utilities use it extensively. They plan to use more; an Arthur D. Little & Co. study indicates that power companies' appetite for coal will double by 1980 to 925 million tons a year.

But coal—even low-sulphur coal—raises many environmental problems. Needed reserves may not be developed, due to resistance to strip-mining projects and the possibility of tough federal restrictions on them. Coal shortages and higher prices are likely, Bruce Old, senior vice president of Arthur D. Little, says. And even if utilities get enough coal, they face increasing resistance to burning it; in a growing number of places, coal simply can't be burned at all, even with the latest antipollution equipment, because of tightening air-quality standards.

Utilities say a constricting net of environmental legislation and regulations also is stifling their plant-building plans. For example, preparation of environmental-impact statements alone can cost several million dollars and has added about two years to the "lead time" for major projects. Then still more time is consumed in negotiating with, and getting approvals from, a horde of other federal, state and local agencies.

COSTLY DELAYS

The delays have had a crushing impact. After seven years, Pacific Lighting still is trying to nail down the more than 100 regulatory approvals from 40 different agencies needed before it can build a big coal gasification plant in New Mexico. During the years of paper-shuffling, the plant's projected cost has risen from $600 million to $850 million; at that price. Pacific Lighting says, it must get federal loan guarantees, or financing can't be obtained and the project is dead; in addition, a utility group led by Southern California Edison has already given up on plans for a mammonth coal-fired plant in Utah; years of delay had pushed the costs out of sight.

Plant costs have soared also because of big wage settlements with construction unions and the extra expense of legally mandated safety and pollution-control gear. Southern California Edison's San Onofre Nuclear Unit No. 1 cost $215 per kilowatt of capacity in 1968; two additional units currently under construction will cost about $1,000 a kilowatt. In six years, prices of some coal-fired plants have tripled, mostly because of pollution-control equipment. Utah Power & Light Co. is spending $54 million to fit its Mountain No. 3 unit with a coal scrubber; that's $2 million more than the whole unit cost in 1971.

Such cost increases, along with projected declines in consumption growth rates, have led utilities to cut back or delay construction plans, even though right now they would have difficulty meeting a big surge in demand. Many plants originally scheduled to operate in the late 1970s won't open until the 1980–85 period, when the industry is expected to go on a spending spree—if it can get the money.

MONEY-RAISING PROBLEMS

Utilities' ability to attract capital at reasonable rates has been drastically reduced by the soaring costs. Rate-setting regulators, aghast at the huge rate increases the utilities were seeking, dug in their heels; in many states, rate hearings have dragged on for 18 months or more, and when finally granted the new rates (often far less than the companies had sought) already had been outstripped by inflation. The companies' short-term debt ballooned, their earnings suffered and their coverage of bonded debt shrank. Bond ratings fell, raising the cost of borrowing. Investors, noting the havoc, cooled on utility stocks, and share prices slumped. Many utilities were forced to sell common stock at bargain-basement rates.

Despite some recent recovery, the industry still has major financial woes. "We just finished selling stock at 53% of our book value," laments Charles Lenzie, vice president, finance, at Nevada Power Co. "We were dragged into it, kicking and screaming. But the banks get pretty exercised when you run your short-term debt up to $85 million." To raise money, San Diego Gas & Electric Co. recently sold and leased back its own headquarters building; its stockholders didn't want dilution of their equity through more stock sales.

There isn't any assurance utilities will be healthier four or five years from now, when they will have to build heavily. Meanwhile, they are trying to squeeze the most out of present plants with power pooling and experiments in trying to flatten peak usage (utilities' capacity must cover the peaks in daily or seasonal demand, not just average demand). Some are charging more for power during peak hours. But what really is needed, they insist, is quick rate relief and higher permissible rates of return on investments in new plants.

One possible solution is an indexing plan similar to New Mexico's, under which utility rates are raised or lowered quarterly in accordance with a formula based on all of a company's costs and the level of its earnings. In effect for a year, indexing has already saved Public Service Co. of New Mexico about $2 million in interest costs alone, Jerry Geist, president, says.

FIRST IN 1980 OLYMPICS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. LAFALCE. Mr. Speaker, the meaning of the international Olympics can often be attributed to its symbolization of excellence and achievement. The teams with the greatest display at the Olympics command the respect and admiration of other competing countries—whether they be free nations or Third-World countries.

Although it may be infrequently verbalized, the implication is evident that the Olympics is a confrontation of not only athletes and nations, but also a contest of national beliefs and morals.

It is to America's distinct advantage at this point in time to cultivate greater national support for our Olympic athletes and to vigorously pursue a better Olympic victory record. With this might come the subtle triumph of the free democracy philosophy.

I think Michael Novak has said it succinctly in his recent article printed in the National Review:

> If a free society could prevail against the totalitarian disciplines . . . the moral satisfaction for the rest of the world would be very great indeed. Power in our world is very much affected by symbolic status.

I have submitted Novak's comments here along with some of my own thoughts on the future of the Olympics in an accompanying article:

[From the National Review, Sept. 3, 1976]

WAR GAMES: FACTS AND COVERAGE

(By Michael Novak)

When sportswriters turn to political commentary—especially the more pretentious commentators—their minds turn sentimental in a new way. The old sportswriters were sentimental about petty things, like Babe Ruth, or the Dodgers, or dear old Alma Mater U. The new sportswriters are sentimental about weighty things, like world revolution, socialism, universalism, and eye-wetting "humanistic" values.

Thus, Dick Schaap took three minutes on NBC news to tell us that a brilliant Cuban runner, Alberto Juantorena, was running solely for the honor of a "poet and former baseball player," Fidel Castro, and for the Revolution—which is even more incredible than saying Joe Rudi and Rollie Fingers give their all for the love of Charlie Finley. Howard Cosell, too, only tells about half of it like it is, that half composed of shilling entertainment values—touting new favorites as Ed Sullivan used to tout new jugglers and rock stars. The comments from the press box are not investigative, calm, reportorial, full, accurate; they sell entertainment and the newest chic politics. Cosell couldn't even get the names of the opposition right: he resorted to calling them "the Bulgarian," "the Russian," "the Pole," while treating the Americans to lavish nicknames and lavish praise.

Marvin Kitman of Newsday voted "the stone medal" to ABC for its incompetent coverage of the Olympics. Most of Europe (I am told) saw eight or more hours of sports each day—and they saw sports. Most of what ABC showed us was Jim McKay talking endlessly, night club sports, romantic "Up Close and Personals" to shame Grantland Rice, and Jim McKay talking endlessly.

One lucky day, I had the chance to watch Canadian television. In 45 minutes of CBC I saw more athletic action than in any four hours of ABC. The CBC used tapes to show each attempt of the broad-jumpers—short cuts, each several seconds long, so that one could see the cumulative efforts in a single sequence. In this fashion, whole events can be summarized in a few minutes. The beauty of these deeds stays in the mind.

ABC has not yet discovered that what fans want to watch is sports, not the travelogues that corporations produce for high schools. Jim McKay seemed all agog that ABC could show us so many events live. Who cares? With tape, ABC could have multiplied the number of events we witnessed fivefold.

Soccer, which we missed, is the most popular planetary game. Field hockey and water polo would have been delights to see. Volleyball, fencing, shooting, archery—dozens of events were barely, if at all, scanned by ABC. The version of the Olympics shown in the United States was over-inflated, narrow, parochial, star-struck. When ABC's Keith Jackson twice informed the world that "our leader," Roone Arledge, had been a high-school wrestler, nausea rumbled in at least one disgusted stomach. A stone medal is too good.

THE ONE-WORLDERS OF SPORTS

Yet ABC's confusion of sports with "entertainment" is like that of Silver Screen, Screen Romances, or New York magazine. At the level of The New York Review of Books, the most commonly bruited ideas about the Olympics were also pretty silly. The idealists of the press would like to ban "nationalism" from the Games, and celebrate "individual excellence." James Tuite of The New York Times countered this trend effectively by pointing to the tears in the eyes of many of the U.S. basketball players on the victory stand as the flags were raised and our National Anthem was played—and to the intense national pride exhibited at the boxing and swimming contests. Let's face it, he wrote, nationalism is the name of the game.

I happened to be at the Finn Fest in Michigan's Upper Peninsula when Lasse Viren won the 10,000 meters. To imagine that Finns, either Finnish-Americans or visitors, reacted to his victory as they would have to one by someone from any other nation is to misunderstand the nature of human beings. We are nearly as limited as plants—each of us rooted in the belly of a single woman, in a single family, a single village or city, region, and nation. No one of us speaks for the whole human race, for it is the nature of our race to be diversified by flesh, culture, and history. God made human diversity, Aquinas wrote, to mirror back God's infinity, each variation reflecting a different glory of the Infinite.

Theologically, our one-worlders are gnostics, thinking it a scandal that flesh, time, and history diversify us. The Christian "mystery" of the Incarnation, like the Jewish "mystery" of Jahweh's election of a single chosen people, flies in the face of gnosticism. Our flesh and finiteness are as integral to our identity as our "universal reason." One value of sports in our world is that they are by their nature a scandal to gnosticism. They are embodied.

They depend on a supporting political and economic system. Many of our commentators seem to think that communications, a shrinking world, and the Coca-Colanization and Pepsification of the planet tend to "unite" the human race. They miss the great fact of the last third of the twentieth century: modernization engenders, not unity, but intense feelings of identity, loyalty, and difference. Not only is Great Britain now more weakly Great, it is less and less a United Kingdom, the Scots and the Welsh feeling new impulses toward independence. "National Liberation" is proving to be a human tendency deeper than International Socialism. Homogenizing tendencies spread across the world's surface, but the deep dynamism of our times is differentiation, not conformity.

The very conception of the Olympics reflects a dual awareness of this truth. The Games are international and help to focus world attention on a shared set of symbols in one system of laws and rules. But the only source of energy, passion, interest, and (not incidentally) money capable of bringing off an international event of such magnitude is national loyalty—and, if not necessarily the nation-state, committees nationally organized for the Herculean task. Our gnostics may say that we should cheer excellence wherever it is found, and in part we do. But television's practices prove that at the same time we do not. Cameras follow national heroes. Intensity of feeling builds up around national rivalries.

SPORTS AS WAR

The Olympics without the intense feeling that marked the volleyball battle between the Poles and the Russians—a feeling that reaches back hundreds of years—would be flat, indeed. More than physical excellence is at stake; rootedness and spirit are at stake. The Olympics are what William James so earnestly sought everywhere except where it might be found: a moral equivalent of war. Great passions may here be purged. Even a single gold medal can enthrall a nation; virtually every nation wins (gold, silver, bronze) something. Even a nation of 17 million like East Germany, which is smaller in population than California, can become a superpower if it has the native culture to support the required disciplines.

Put the two halves of Germany together—East Germany with ninety medals and West Germany with 39—and one seems to get in the Olympic Games a fair enough sense of the distribution of moral, cultural, and political power in the present world: Germany 129, USSR 125, U.S.A. 94. One realizes why Germany was kept divided.

The incredible performance of the Eastern bloc tells us something very important about psychic power in our world. Combined, the athletes of the USSR, East Germany, Poland, Yugoslavia; Rumania, Czechoslovakia, Hungary, and Bulgaria won 328 medals out of a possible 615. When Moscow's Literary Gazette intones that "The Olympic Games are not just a major sports festival but are one of the fronts of fierce struggle between the supporters and opponents" of the way Communists view the world, we get the message. On this front, they are demonstrably superior.

And what is this front? It is not mere excellence. It is not mere "sport." It is assuredly not entertainment. It is not even a moneymaker; on the contrary, its financial costs are very high. It is deadly serious discipline, dedication, morale, work, organized effort, and individual sacrifice—in order to prevail. It is a kind of war. Socialism is not only physically obtrusive in the Olympic Games; it prevails.

Bill Dwyre of the Milwaukee Journal tried to show in an intelligent column that American sportswriters were confusing politics with sports, especially in the case of the East German women, who thrashed the U.S. women. He doesn't like the "win-at-all-costs sentiment that prevails in most sports circles in the U.S." Let East Germany, or all the Communist countries, he argues, consider it a high-priority item to win Olympic medals. Let them pursue that goal and choose their lifestyle accordingly. We should not.

WIN AT WHICH COSTS?

Shouldn't we? That depends. "Win-at-all-costs" is a weasel word. Which costs? Surely, there are many costs that a free people can willingly sustain in order to reach certain goals, goals themselves morally neutral or good. Surely, too, a free nation can so organize itself, not only freely but nongovernmentally, to attain such goals. There is no reason why free societies cannot prevail in fair competition.

If a free society could prevail against the totalitarian disciplines of athletes single-mindedly dedicated to proving the superiority of their regimen, the moral satisfactions for the rest of the world would be very great indeed. Power in our world is very much affected by symbolic status.

Sports transcend both entertainment and business. They also transcend politics. Losing a basketball game is not at all like losing a tank battle (as the Czechs and Slovaks lost one in 1968); being inferior in swimming is not at all like being inferior in political independence. Besides, to participate at all is to accept international rules that, in principle, transcend political interests. But if we are to "tell it like it is," we have to say that the left-wing critics of sports in America are right about the politicization of sports, but wrong about the central source of the politicization. The Eastern bloc does regard sports as one front in a political battle that they wage on every front—in literature, in science, in religion, as well as in sports. We have two choices: Pretend differently. Or accept their challenge.

Were we to accept the challenge and win, then we could say that sports transcend politics. Then we could say that just because we prevail at the Olympics, we do not believe that athletic pre-eminence is the be-all and end-all of a free society. As winners, we could say our piece and even speak convincingly of love. As losers, now, we sting like a butterfly.

Perhaps my competitive instincts are overdeveloped (perhaps it is merely an East European seriousness about such things); but I would prefer to win before I tried to make my moral points. I would like to see the U.S. go to Moscow in 1980 and come home with the highest point total of any nation in the world. If the Eastern bloc wants a fight, let's stick it to them right in Moscow. Frank Merriwell would have done no less. What cheers would echo through the world, even to the farthest cell of the Gulag Archipelago!

[News from Congressman John J. LaFalce]

THE FUTURE OF THE OLYMPICS

The thousands of Americans who attended the Olympic Games in Montreal, and the millions who watched them on TV, swelled with pride when the swimmers and boxers from the U.S. gave such creditable performances. We shared an inner glow when the two 400 meter hurdlers—one black and one white—embraced after their thrilling one/two finish in that race.

Our athletes performed ably, from the first victory by John Naber in the swimming events to the brilliant record performance by Bruce Jenner in the decathlon. And they did what they did under a severe handicap—lack of total support by the American people.

For while we watched a lot of victories and medal-winning performances by the Americans, the overall standing of the U.S. team was third, behind both the Soviet Union and East Germany. That country is smaller in population than New York State, yet it spends $50 million a year on its sports development programs.

In 1980 the Olympics will be held in Moscow. I think that the U.S. should make it a national goal to regain its supremacy in sports by that time. Jesse Owens reminded Hitler about the strength of Americans and our society in Berlin in 1936; what could be more fitting than to duplicate that demonstration in Moscow four years from now?

A number of ideas have been presented to beef up our support for the Olympics. I believe that now is the time to look into this issue in depth and come up with one or more ways to help our athletes. In this column I will review some of the suggestions which have been put forth, but I also want to ask all of my readers to forward any ideas they might have on this subject as well.

GOVERNMENT FINANCING

East Germany is far from alone in subsidizing its sports programs, although on a per capita basis it may be into this area more heavily than most other countries. A great many nations subsidize, in whole or in part, their athletes and the development programs which produce them. I don't think, frankly, that we should emulate this approach, although there are some limited areas where I do think government involvement might be justified.

VOLUNTARY SUPPORT FROM PRIVATE ENTERPRISE

In its "wrap-up" coverage of the Olympics, the American Broadcasting Company made a big point of plugging for America's free enterprise system to rise to the occasion and support Olympic athletes by giving them jobs which permit them to train, etc. I hope that ABC puts its money where its mouth is and does just that, as an example to other private firms. And I would like to see this idea catch on in a big way, for I agree that this is the kind of support which our society ought to provide. It's not a proposed feather-bedding scheme, but rather an idea which calls on private firms to do what they're best at doing—devising innovative and flexible solutions to difficult problems.

REORGANIZATION OF THE AMATEUR ATHLETIC SUPPORT STRUCTURE

The President's Commission on Olympic Sports, in a preliminary report in February of 1976, recommended that an initial step toward providing better support for our Olympic effort should be to reform the organizational structure governing amateur athletics in the U.S. They called for establishment of a "highest sports authority" to coordinate policies, programs, and other aspects of this issue and eliminate the present chaos and confusion. The Commission went on to tell the President that it is studying details of this proposal as well as fiscal and other problems.

I think the call for re-organization of our amateur athletic system is long overdue, and I support it heartily.

SOME POSSIBLE CONGRESSIONAL ACTIONS

Congress may be asked to act in this situation. One idea has already been circulated by one of my colleagues—a proposal to permit a $1 check-off, like the presidential campaign financing check-off—on an individual's tax return. I don't favor this approach, but we certainly should begin to consider some forms of limited government support for some aspects of our athletic program.

Whatever comes before us, I hope it will be soon and that it can contribute to a first place finish in Moscow. We should try for nothing less.

OUTLAWING ARAB BOYCOTTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. GILMAN. Mr. Speaker, this week the House International Relations Committee, of which I am a member, marked up legislation to extend the Export Administration Act. One of the most important amendments to be considered deals with the prohibition of compliance by the U.S. firms with the Arab boycott against Israel.

In June of this year, I testified before the International Relations Committee on the subject of foreign trade boycotts, and on that occasion, I pointed out that although present U.S. policy states its opposition to such restrictive trade policies and boycotts, the very fact that they continue to occur demonstrates the need for more stringent Federal laws. We need not only to discourage such practices but we should also prohibit them. The appropriate vehicle to effectuate this change is the Export Administration Act.

I have cosponsored several pieces of legislation to end these discriminatory practices of foreign trade boycotts and I am currently a cosponsor of the prohibiting amendment now before the committee.

I would like to urge not only the members of the House International Relations Committee but all of my colleagues to join in supporting this legislation. The full text of my testimony before the House International Relations Committee follows:

STATEMENT OF HON. BENJAMIN A. GILMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, JUNE 1976

Mr. Chairman: I welcome this opportunity to appear before the Committee on International Relations to express my strong support for proposed legislation to end the discriminatory practices of foreign trade boycotts.

The implementation of economic boycotts against the State of Israel for political purposes has been a common practice among the Arab states for more than 25 years. Generally, these efforts have been met with little opposition due to their lack of enforcement and success. However, with the imposition of the oil embargo, new strength and life was added to these efforts. The shocking results of these new efforts have revealed broad scale cooperation by American business to the threats and demands of one nation against another.

The Arab embargo against Israel is not the center of this controversy. The right of one nation to refuse direct interaction with another is not a question. What is at stake is the extension of this embargo to U.S. firms in an attempt to prevent them from trading with Israel. This type of boycott extends far beyond any recognized right of one nation to prevent trade with its enemies.

This form of economic blackmail must not be allowed to continue. Even the slightest forms of cooperation encourage more and more demands that extend far beyond economic matters and take aim at U.S. foreign policy. This not so subtle attack which pits one American against another because of his racial, ethnic or religious background must be stopped.

As a recent editorial in the Charlotte Observer points out, the issue of Arab boycotts is much greater than the struggle of one nation against another.

"The larger question, however is one of morality. The Arab boycott and blacklisting of firms has been aimed not only at Israel but also against American Jews. If an Arab nation wants to do business with an American firm, it can abide by this country's rules of decency and fair play—or go elsewhere. We doubt that those countries, which are being developed largely by American enterprise, would go elsewhere."

The United States as a nation must take a stand on this issue. We must not allow foreign governments to manipulate the internal affairs of this country. We must remove the pressures that are brought to bear on individual companies to comply or face the repercussions of discrimination. The solution to this problem, as the Observer's editorial states, is: "the best way to counter the Arab governments' pressures is to have a law on the books which requires them not to yield. Then they could simply tell Arab governments: We have no choice but to comply with the American law."

We can and should prevent boycott compliance and the appropriate vehicle is now before us, the Export Administration Act.

While the present U.S. policy states clearly its opposition to such restrictive trade policies and boycotts, the fact that these practices do occur demonstrates the need for stronger federal laws. The policy statements in the current Export Administration Act are commendable but ineffective. We need not only to discourage such practices, but to prohibit them. I urge the adoption of amendments to outlaw the disclosure of discriminatory information and participation in the restrictive trade practices of foreign nations including both secondary and tertiary boycotts.

Currently, there are several pieces of legislation before this committee aimed at the heart of this problem. I am a co-sponsor of H. Con. Res. 173, offered by Congressman Addabbo, H.R. 6431 offered by Congressman Drinan and H.R. 11463 offered by Congressman Koch. In addition Congressmen Bingham and Rosenthal have both offered constructive proposals that deserve your consideration and support.

As we proceed to consider the Export Administration Act, I am convinced that from these proposals and the committee deliberations that will follow, an effective policy against the discriminatory practices of boycotts can be achieved. It is only fitting that in this bicentennial year, as we reflect on the founding principles of this great nation that we apply those same concepts of freedom from repression, non-discrimination and rights of religious tolerance to the conduct of commerce.

Accordingly, I urge my colleagues on this committee to support the concepts contained in the anti-boycott proposals before you in order to end the divisive effects of these discriminatory acts.

Mr. Chairman, I request permission to insert, in full, at this point in the record, the Charlotte Observer Editorial dated June 14th, 1976, entitled "Arab Intrusion".

[Editorial From the Charlotte Observer, June 14, 1976]

ARAB INTRUSION—JONES' ADVICE IS WRONG

Neither common decency nor the best interests of the United States are served by the practices acknowledged by Edwin L. Jones Jr. of Charlotte in his testimony Thursday to a House committee. Mr. Jones, president of J.A. Jones Construction Co., said his company in some instances has gone along with demands by Arab countries to boycott Israel.

Why? Not to create jobs for Americans, but to make money. The company does a substantial business in Saudi Arabia.

Mr. Jones' testimony showed that while the company is responsive to the Arab countries' foreign policy requirements it is ignoring American policy. We think the company has no business acting, for whatever reason, in a matter that is against the policy of the United States.

Arab pressures of various kinds have been brought to bear upon American companies. Many firms have been blacklisted because they had Jewish ownership or high-level Jewish executives; some of the biggest corporations in America have been blacklisted for other reasons, chief among which, apparently, is that they do business with Israel.

In other words, some of the Arab countries not only have told American companies they cannot do business with both Israel and Arab nations; they also have brought subtle pressures to bear which might persuade some companies to violate American law by discriminatory practices within. Congress has declared the first part of this to be against American policy; the second part is against the law.

As we said some time ago, this is a reprehensible and unacceptable intrusion in American affairs. No American company should accept such interference.

In his testimony before the House International Relations Committee, Mr. Jones not only acknowledged that his company has yielded to the boycott-Israel pressure but also urged Congress not to enact proposed legislation which would make this a punishable violation of law rather than simply an expression of disregard for American policy.

He should have been on the opposite side, as are many American business executives. They know that the best way to counter the Arab government's pressures is to have a law on the books which requires them not to yield. Then they could simply tell Arab governments: We have no choice but to comply with American law.

Would that put them out of business in the Arab world? It is conceivable, though unlikely, that in a few cases it would. But it is virtually inconceivable that those developing countries would choose to do without American technology, American scientific development and American management know-how. Such a law, in our view, overnight would break the back of this impudent intrusion in American life.

The larger question, however, is one of morality. The Arab boycott and blacklisting of firms has been aimed not only at Israel but also against American Jews. If an Arab nation wants to do business with an American firm, it can abide by this country's rules of decency and fair play—or go elsewhere. We doubt that those countries, which are being developed largely by American enterprise would go elsewhere.

Congress should make American policy—not a bunch of oil kings and sheiks.

TROTSKYISM AND TERRORISM: PART V—TERRORIST ACTIVITIES IN EUROPE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. McDONALD. Mr. Speaker, the Trotskyite Communist Fourth International not only has been vociferously supporting terrorist activities—bombings, kidnappings, assassinations, and armed robberies, "expropriations" as the revolutionaries term them—by non-Troskyite revolutionaries and nationalist groups, but also has conducted terrorist activities itself.

FRANCE

During the 1960's, the French section of the Fourth International led by Pierre Frank was able to recruit some of the violence-oriented New Left. These New Leftists recruited by Frank, were similar in their outlook and desire for street violence to the SDS Weatherman faction which led major street riots in New York, Berkeley, Boston, and Chicago during 1969 and 1970 before disappearing underground.

In April 1966, a New Left segment split away from the Communist Party controlled Union Estudiants Communistes de France and declared itself Trotskyist. It affiliated with Pierre Frank's Fourth International section which was then called the Parti Communiste Internationaliste. The youth group, led by Alain Krivine, was then called the Jeunesse Communiste Revolutionnaire and expressed its strong admiration for Castro and Che Guevara.

For their prominent role in leading the student and worker riots which nearly precipitated a civil war, in April 1968, the French Government outlawed the Trotskyite group. However, the Trotskyites merely changed the names of their organizations and continued to function. The Jeunesse Communiste Revolutionnaire became the Cercles Rouge—Red Circle—then changed its name to Ligue Communiste. For its involvement, in continuing violence the Ligue was dissolved again in June 1973, by the French Government. However, the Ligue merely changed its name again to Front Communiste Revolutionnaire, LCR. LCR's top leaders include the aging Pierre Frank, Gerard Vergeat, Alain Krivine, Charles Micheloux, and Daniel Bensaid.[1]

The involvement of the French Trotskyites in terrorism was revealed by SWP Political and National Committee member, Mary-Alice Waters, alias Therese, who is one of the SWP members on the Fourth International United Secretariat. On behalf of her minority faction, Waters submitted a report attacking the "terrorism now" position of the Fourth International majority to the December 2–6, 1972, United Secretariat meeting.

Incidentally at the opening of her report Waters listed "six comrades who are members of the United Secretariat—Adair, Hans, Juan, Pedro, Stateman, and Therese."[2] Comparison with other internal Fourth International documents indicates that Adair is the Canadian Alan Harris who was sent by the Fourth International to Great Britain to help lead the British section; Hans is an alias for SWP National Secretary, Jack Barnes; Juan was Joseph Hansen; Pedro is Peter Camejo and Statemen is apparently Barry Sheppard.

The Waters report which was of course rejected by the majority attacked "violent minority actions":

She wrote:

> Let us turn now to one of the most important questions being debated in the European movement—a question so vital that it can prove fateful for our sections in the immediate future. The issue is what several comrades of the Ligue Communiste refer to as the need for "a deliberate somewhat voluntaristic initiative by the vanguard" to reintroduce "violence" into the class struggle. [See Appendix, "The Debate in the Ligue Communiste."]
>
> This idea is not developed clearly in the European document, but the essence is included in Section 19, which states: "The spirit in which our sections will have to educate the entire mass vanguard moreover, is this: to show the bourgeoisie *in practice* that the price it will have to pay for any attempt to establish an open dictatorship will be a civil war in which both camps will use *arms.*" (p. 25. Emphasis added.)
>
> One interpretation of this line has already been initiated in France to a sufficient degree to indicate what it entails.
>
> The May 13, 1972, issue of *Rouge*, the official paper of the French section of the Fouth International, prominently featured a "last minute" news bulletin that announced:
>
> "In response to the intensification of imperialist aggression in Indochina, on Wednesday, May 10, at 6:30 a.m. revolutionary militants attacked the offices of Honeywell-Bull and the machine display at the Trade Center. Molotov cocktails were thrown and the machines were seriously damaged. Simultaneously, a similar action took place against the Toulouse headquarters of Honeywell-Bull.
>
> "The Ligue Communiste supports and salutes the revolutionary militants who have thus demonstrated their determination not to let the new arrogance of imperialism go unanswered. By these acts they have denounced the war profiteers who furnish the matériel for imperialist aggression. And they have demonstrated their solidarity with the Indochinese people—at the very moment when the French government was trying vainly to ban the mass demonstrations that took place Wednesday night."
>
> On September 2, 1972, *Rouge* carried another special article, which approvingly reproduced the press release issued by a commando squad that firebombed the Argentine embassy in Paris, following the murder of the Argentine comrades in Trelew. As *Rouge* reported it:
>
> "In France in the dawn hours of August 25 revolutionary Marxist militants attacked the Argentine embassy with Molotov cocktails. The following communique was issued by these revolutionists shortly after their actions:
>
> " 'Today revolutionary Marxist militants attacked the Argentine embassy in Paris. This symbolic action is part of the worldwide wave of protest developing in the wake of the savage murder of sixteen unarmed Argentine revolutionists by the mercenaries of Lanusse. On the defensive today politically, the imperialists and their watchdogs are escalating their extortions and crimes in Latin America and throughout the world.
>
> " 'They will not go unpunished because the day is near when the Argentine and Latin American masses, mobilized by their vanguard on the road of revolutionary war, will sound the death knell of the murderers' system and make them pay the full retribution for their accumulated debt of blood.
>
> " 'Long live the Argentine socialist revolution.
>
> " 'Long live the Latin American revolution.
>
> " 'Hasta la victoria siempre. Venceremos.
>
> " 'Cuarta Internacional' "
>
> The signature of the communique falsely gave the impression that this was an action approved by the Fourth International and carried out by its forces.

"Cuarta Internacional" is of course Fourth International. Despite Water's denial of responsibility, Pierre Frank, a leader of both the French section and the International took full responsibility for the terrorist acts.

Waters went on to say,

> The rationale for such actions has been explained at length in a number of articles in *Rouge*.
>
> For example, the June 10, 1972, issue carried an article entitled "Terrorism and Revolution" by Daniel Bensaid, a member of the Political Bureau of the Ligue. He states:
>
> "As far as we're concerned, we have not hesitated to resort to violent minority actions when the actions were tied up with mass activity. In December 1970, at the time of the Burgos verdict, the Ligue Communiste supported the attack of a group of militants against the Bank of Spain, but that was parallel with leading the mass campaign on behalf of the Basques threatened with death. We also led actions against General Ky when he visited Paris, against the U.S. consulate, an action that led to the indictment of Alain Krivine, and we supported the action led by militants against the firms profiting from the U.S. war. But this was parallel with systematic mass work on behalf of the Indochinese revolution, within the framework of the FSI [Front Solidarite Indochine—Indochina Solidarity Front] in particular."
>
> Such actions, we are told, have a basis in theory—the theory of the "dialectics of mass violence and minority violence." According to this "theory," violent actions organized by a small group can show the way, stimulate actions by the masses of workers through raising their combativity, and prove to the workers that they can and should use violence on a mass scale.
>
> For example the June 10 article takes up the question of kidnapping factory owners or supervisors. "It is clear that the occupation of a factory that mobilizes a mass of workers to control the means of production and eventually passes over to active administration has a far greater significance than the kidnapping of a supervisor or a boss . . . But if the kidnapping expresses a genuine anger, if it is not presented as an end in itself, a pure revolt, but rather as a means of breaking up a passivity and resignation of the masses by beginning to overthrow its hierarchical idols, then kidnapping can be a correct initiative the workers ought to defend and even in certain cases promote."

Waters argued, however, that Trotskyites should engage violence at the proper time:

Footnotes at end of article.

The Leninist method of educating the working masses in effective anticapitalist action is not through the exemplary action of small, clandestine groups, violent or otherwise. It is by organizing and leading the masses in struggle to achieve their demands. As those struggles unfold, the masses themselves come to understand the need to defend their interests against the violence of the rulers. As that point approaches, we help the masses to organize their defense of their struggles.

As in every other aspect of the struggles of the masses, we play a vanguard role. We take the initiative within the masses on such questions as the formation of strike pickets and workers militias or, in certain situations, guerrilla units to defend the mass struggles of the peasants. We take these initiatives as members of the mass organizations, and in the name of the mass organizations, even if initially few besides ourselves are involved. The course followed by Hugo Blanco in Peru and the course followed by the Trotskyist leaders of the 1934 teamsters strike in Minneapolis offer instructive examples.[3]

Pierre Frank answered:

The use of force is not in itself terrorism and it is necessary to take care not to use the critiques made in our classics, for example against the Narodniks, incorrectly. Let's listen to what Trotsky himself said:

"It must be said that the Narodnik terrorists took their own words very seriously: bomb in hand they sacrificed their lives. We argued with them: 'under certain circumstances a bomb is an excellent thing but we should first clarify our minds.'" (P. 79, In Defense of Marxism.)

Under certain circumstances a bomb is an excellent thing! Under certain circumstances, Trotsky, according to Comrade Mary-Alice, fell prey to adventurism and terrorism.

The article in question denounces two "adventurist" actions, the one against the Argentine Embassy and the one against Honeywell-Bull. They were "in no way related to the needs of the masses or of any section of the masses." (P. 25)

In our opinion, the crime of Trelew required an immediate response and, as everyone knows, one cannot always summon up mass demonstrations. Thus the question of a vigorous action was posed, and we were of the opinion that the Trelew crime required more than a telegram or a customary gesture. But in the question of Honeywell-Bull, one finds a problem posed that Comrade Mary-Alice didn't seem to suspect. Why did revolutionary militants attack this American firm if not because it made material used against the Vietnamese revolution? We are for the defense and victory of that revolution, of the workers state of Vietnam. On this question we are not just for mass actions but also for the sabotage of the capitalist troops and of their armament: "The Fourth International has established firmly that in all imperialist countries, independent of the fact as to whether they are in alliance with the USSR or in a camp hostile to it, the proletarian parties during the war must develop the class struggle with the purpose of seizing power. At the same time the proletariat of the imperialist countries must not lose sight of the interests of the USSR's defense (or of that of colonial revolutions) and in case of real necessity must resort to the most decisive action, for instance, strikes, acts of sabotage, etc." (P. 30, *In Defense of Marxism.*)

The action against Honeywell-Bull, symbolic as it had been, fell into this category. It was "related to the needs" of the Vietnamese masses, and one can simply regret that there weren't more of them and more vigorous ones.

In peremptorily asserting that minority violence and mass violence cannot be complementary, that they are politically contradictory, Comrade Mary-Alice rejects en toto all the actions taken on by the Ligue Communiste that had a minority character. But the Ligue concretely showed the contrary within the framework of solidarity actions toward the Indochinese revolution. On the day after the presidential "elections" in Saigon, the Ligue clandestinely organized a demonstration of 400 militants in front of the American consulate in Paris. This demonstration, like the others (against the South Vietnamese consulate in Paris, Honeywell-Bull . . .) politically prepared the January 20, 1973, demonstration, in the course of which 15,000 demonstrators violently confronted the police in order to make their way to the American Embassy. That demonstration even had an echo in the ranks of the French CP. It represented a step forward in the anti-imperialist mobilization. It would have been much more difficult to carry out if it hadn't been prepared by the Ligue.[4]

Ernest Mandel, writing under his pseudonym Ernest Germain, answered the charge that the French section wanted the terrorist violence to escalate into guerrilla warfare. Mandel wrote:

We repeat: what we threaten the fascists with is not "guerrilla war," but civil war of the Spanish type, which, let us repeat again, was started by relatively limited vanguard forces.[5]

FOOTNOTES

[1] Trotskyite Terrorist International.

[2] Internal Information Bulletin, January, 1972, No. 1 in 1972.

[3] Ibid.

[4] International Internal Discussion Bulletin, Volume X, No. 14, August, 1973.

[5] International Internal Discussion Bulletin, No. 4, April, 1973.

TESTIMONY OF COMMISSIONER THOMAS K. STANDISH, CONNECTICUT PUBLIC UTILITIES CONTROL AUTHORITY, ON ELECTRIC UTILITY REGULATORY REFORM

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. DODD. Mr. Speaker, at hearings before the Senate Committee on Commerce, testimony was presented by Commissioner Thomas K. Standish, of the Public Utilities Control Authority in my State of Connecticut, on the subject of legislation to reform electric rate regulation by the Federal Power Commission and by State regulatory bodies.

Commissioner Standish presents a clear and straightforward picture of the complex issues involved in electric rate regulatory reform; this issue is one which has long been a concern to me, and I know, to many of my colleagues.

Legislation to reform the electric rate regulatory process is pending further action by both bodies of Congress, and is expected to come to the floor before the close of this session. In light of the importance of this legislation, I know we will all want to be fully informed when it comes before us for consideration. I therefore include the following excerpts from the commissioner's testimony in the RECORD, and I commend them to the attention of my colleagues:

[Testimony of Commissioner Thomas K. Standish Before the Committee on Commerce, U.S. Senate, April 27, 1976]

NEED FOR ENERGY CONSERVATION PROGRAMS AT THE FEDERAL LEVEL

CONSIDERABLE POTENTIAL EXISTS FOR ENERGY SAVINGS THROUGH THE CONSERVATION OF ELECTRICITY

Because of the dramatic changes which have taken place in the supply of energy within the last three years, there presently exists considerable potential for a shift to a reduced dependence upon electric energy per unit of goods and services consumption by the household, government, and business sectors of the economy. This is not to say that total electric consumption by these sectors will not increase as output and consumption expands in the future, but significant adjustments have yet to take place in the economy to adapt to the reality of higher energy costs.

ADAPTATION TO NEW ELECTRICITY PRICES WILL BE SLOW

Even though the price of electric power has increased by a multiple factor over the last three years, we can expect that economic adjustments to the new prices will be slow. This is because, unlike most purchases, the consumption of electricity is indirect. A durable piece of equipment is required as the vehicle through which electricity is consumed.

When a business, household or government consumer considers the alternatives available to utilize his dollar income on the purchase of electricity-using equipment, the consumer must include in the calculation the future stream of costs for repair, maintenance and certain imputs to the long-term utilization of the equipment. Often these future costs are larger in total than the cost of the equipment at time of purchase. Absent evidence to the contrary, consumers generally assume that present prices of repair, maintenance and inputs (e.g. electricity) are a reasonable guide to prices which will prevail over the lifetime of producer or consumer equipment.

Stocks of electricity-using equipment existing in the economy today were purchased at a time when electric energy costs were relatively low and the design of these stocks reflects past input costs. At today's electricity costs this equipment is wasteful. The problem is, however, that because of the inability to rapidly shift to equipment which is less electric-energy intensive, consumers are forced to use electricity at or near rates of consumption (per unit of output) which prevailed prior to the energy crisis. The shift to less wasteful patterns will result as consumers (1) make investments in retrofit modifications of existing equipment (insulation, motor rewiring and the like) (2) make investments in new equipment which has been designed to adapt to present electric prices, and (3) as producers make available durable equipment which has energy saving technology embodied in it.

IF LEFT ALONE, PRICE MECHANISM WILL EVENTUALLY PRODUCE A ONCE-OVER SHIFT TO ELIMINATE ECONOMIC WASTE

Even if no conservation program is undertaken, it is certain that the price mechanism will eventually bring about the adjustments which are necessary to shift consumption patterns away from the waste of electric energy. At some point in the future, old equipment will have been phased out and all classes of consumer will have adjusted their equipment stocks to account for the new electricity price level. This process will, in all likelihood, take more than 25 years to accomplish if no steps are taken to accelerate the shift.

INCREASING DEPENDENCE ON FOREIGN OIL REQUIRES IMMEDIATE RESPONSE ON CONSERVATION PROGRAMS

Dependence upon foreign sources of oil has grown from 13% of our consumption needs in 1950 to 37% in 1974; and in January the

Federal Energy Agency announced that for a brief period 50% of America's oil needs came from imports. This trend can be expected to continue in the near future. According to the Energy Research and Development Administration, U.S. production of oil will peak in the late 1980's and natural gas production in the U.S. will peak in the early 1980's.

In the longer run, programs to develop nuclear, coal and other suppliers of energy will reduce the energy gap between U.S. production and demand; until the U.S. energy supply strategy bears fruit, however, the risk of supply interruptions at the political whim of foreign nations will increase. This fact makes it imperative that, in the short run (until 1985), a demand strategy be developed to reduce the waste of energy. In states (like Connecticut) in the northeastern part of the United States where dependence on foreign oil is the highest, the ability to implement conservation programs to curb demand is critical to our development over the coming decade.

THE FORD ADMINISTRATION'S PROGRAM ON CONSERVATION IS HIGHER PRICES

The fact that the national administration has allocated only 1%–2% of its total energy budget to conservation indicates that embraced a price-mechanism strategy in this important area. In this light I take as a positive development the announcement on April 19, 1976 that ERDA will give "the highest priority" to conservation of energy, placing it on a par with the development of new energy supplies.

BECAUSE OF INTER-REGIONAL COMPETITION, CONSERVATION PROGRAMS FOR ELECTRIC POWER INDUSTRY MUST BE FEDERAL

The principle of the division of powers and responsibilities between the State and Federal government is important to successful regulation of public utility industries. In most instances, the geographic and economic uniqueness of each state makes it more efficient to regulate at the state level. The case of utilizing electric power rates as an instrument to promote conservation and economic efficiency is an exception. While it is my belief that implementation of programs to reinforce the price mechanism (such as those which will operate within the constraints set forth in Sections 203 and 204 of S3310) should be on a state by state basis, the operation of the competitive system makes it imperative that the Federal government set the standards for such programs. This is because those states which, on their own, undertake to implement time-of-day pricing or shift to a new principle of electricity pricing will be placed at a comparative disadvantage in the competition for new industry investment.

Although approximately 40% of economic activity is non-market oriented, the underpinning of our economic system is the competitive market. On a geographic basis, the economic system is comprised of many regions which compete with each other for new investments. The Atlantic region competes with Baltimore, Houston, etc. To be more specific, within each metropolitan region certain industries—those which export a good or service to the other regions and parts of the world—are the foundation upon which the rest of the regional economy is built. Two examples of such industries in the Hartford region are the insurance and aircraft industries. It is these "regional export" industries which bring dollars into the regional economy, which are the major source of tax payments to local and state government, and which are the first step in the income multiplier process supporting other industries and businesses which serve only the local market. An increase in the costs of operation for regional export industries, either directly, or indirectly through those businesses which supply them with inputs, will put the region at a comparative disadvantage in the competition to retain and attract this important type of industry.

SHORT RUN EFFECT OF ADOPTING CONSERVATION RATES FOR ELECTRIC POWER MAY BE TO INCREASE COSTS FOR "REGIONAL EXPORT" INDUSTRIES

If the adoption of electric rates on the basis of conservation, load management and/or full costing principles is to be nondiscriminatory, then it is probable that such rates must be adopted for all classes of customer. There is reason to believe that certain industries would bear a greater hardship than others, particularly in the short run, if the existing design were changed by regulatory agencies to conform with conservation, load management and/or full cost principles. Hence, even if regulators in a geographic jurisdiction favor the adoption of time-of-day or interruptible rate for electric consumers, they are effectively prevented from doing so because of the certainty that, undertaken unilaterally, these rate reforms will inhibit new investment in certain of those industries which are the lifeblood of regional economic development.

As outlined later in this testimony, the adoption of rates which lead to electric load leveling does have a long run beneficial effect for all ratepayers. National minimum standards for electric ratemaking, such as those found in S3310, are an essential context for regulatory reform at the state level. In this context, the design of rates which will promote the conservation of energy and efficiency of electric power generation can be implemented.

CRITICAL IS THE CHOICE OF THE STANDARD USED IN THE DESIGN OF RATES TO ACHIEVE CONSERVATION, AND EFFICIENCY IN ELECTRIC POWER GENERATION

Fair and reasonable rates gauged in past by marginal cost standard

The design of rate structures for public utility companies must have the result of not being unreasonably discriminatory between and among customer classes and must be fair in their impact upon (1) the public at large, (2) consumers of utility service and (3) upon utility investors. In the past, the standard of economic efficiency, drawn from traditional micro-economic theory, has been used as a measure of the "fairness" and "reasonableness" of rates. This economic reasoning, and the social welfare precepts following from it, was fully developed in the period from the late 1860's to the turn of the century. In essence, this complex system of thought can be summarized as follows: If the prices charged consumers are the result of perfect competition and, if perfect competition exists in all markets for products, services, and resources (including labor), then the prices which are thereby charged consumers will be equal to the full marginal costs of producing each good and service in the economy. Further, it can be demonstrated that, under these restrictive assumptions, the effect of full marginal cost pricing will be to bring about an optimum, the most economically efficient allocation of society's resources.

For regulated industries, the conclusion which flows from this theory is that, absent the forces of competition to bring about full marginal cost pricing of utility services, a regulatory result should be imposed whereupon, to the extent practicable, rate structures are designed to be reflective of full marginal costs.

Marginal cost standard is inappropriate for the design of rates

It is my belief that the full marginal cost standard for the design of electric utility rates is not only theoretically inappropriate for use in the design of rate structures for electric utility companies but, more important, it is virtually impossible to apply this standard under today's economic conditions. Further, I believe that, because of the fatal defects in the use of marginal cost as the standard for rate design, fair and reasonable rates can only be achieved for electric customers if an alternative standard is employed. Let me first address the defects in the use of full marginal costs as the standard for rate design and then the issue of an appropriate alternative standard.

Although a complete analysis of traditional micro-economic theory cannot be undertaken here, an exposition of some of the underlying assumptions will clearly indicate the obsolescence of the traditional theory. The important assumptions, with editorial comment, are as follows:

1. That a general equilibrium can be attained wherein all firms in all markets are producing at their optimum point of equilibrium. This assumption is critical because, once out of equilibrium, the interaction between supply and demand in individual markets has the result of altering the income distribution which, in turn alters demand which, in turn, alters supply offerings which, in turn alters the income distribution—and so on.

2. That there is no government sector in the economy. This assumption is necessary because the "pricing" of services and the levels of output in the government sector are determined according to non-market principles which conflict with the allocation of resources according to competitive market principles. To gauge the degree to which the relaxation of this assumption will impair the usefulness of marginal cost theory, Federal, State and local governments produced output equal to 39.5% of gross national product, annualized for the 3rd quarter of 1975.

3. That long-run marginal costs are not increasing nor decreasing. This restrictive assumption is needed to prevent regulated industries from making exorbitant profits (in the case of increasing lnog-run marginal costs), or incurring excessive losses. Most observers believe that the electric utility industry is presently operatng under conditions of increasing long-run marginal costs; thus, to price electricity equal to long-run marginal costs will virtually assure electric utility companies of huge excess profits (Not withstanding Section 203(d) of S3310).

4. That all firms and all markets for resources in the American economy are perfectly competitive. Translated in the real world, this means that there are no unions, no large firms which dominate markets; in essence, this assumption requires that the very fabric of the American economy be ignored when using the marginal cost standard for utility rate design. Suffice it to say that 500 firms now produce over 70% of all industrial output in our economy.

5. That private costs, internal to the firm, are the only costs which are appropriate in determining prices for goods and services. This assumption has two serious defects; first, even if all the other assumptions essential to the theory were descriptive of conditions in the real world, social costs of production such as pollution, income distortions of social welfare, cannot be reflected in market prices and, second, once the existence of the government sector is admitted into the theory, it is impossible for prices of goods and services produced in the private sector to reflect total economic costs of production. This is because federal subsidies, municipally financed industrial parks, tax differentials, government supported labor training, and the myraid government programs which alter private costs of production have the effect of "socializing" private costs. It is exactly this phenomenon which is produced when one state or municipality competes against another for new business and industry. Each government competitor is attempting to socialize a greater portion of private costs in order to attract and retain investment. In the

real world, the full cost to society of producing goods and services does not even approximate the prices paid by the consumer.

6. That monopoly, perfect competition and other industry organizations will tend to promote the same rate of technological change. Reduced to its simpliest form, this assumption requires that large firms and the complex of industries which supply them will not promote technological progress at a faster rate than small firms operating in competitive markets.

7. That income transfers; the many regulatory agencies at the local, state, and federal level; public support of research and development; and any other institutional deviation from general equilibrium conditions do not exist.

Rather than continue any further, I believe that it is clear that the theory of marginal cost pricing cannot be used as a standard for rate design in the electric utility industry. I am of the opinion that the concept of marginal cost pricing is being promoted at this time precisely because the long-run costs in electric power have turned upward within the last few years and, under these conditions, use of the concept in rate design will tend to promote excess profits for electric utility companies. I urge this Committee to strike from S3310 and reference to costs which might be construed as relating to the marginal cost standard of rate design.

FEDERAL STANDARDS NEEDED TO REQUIRE THAT STATES IMPLEMENT RATE FORMS WHICH PROMOTE CONSERVATION AND LOAD MANAGEMENT

The widespread adoption of peak load, time-of-use pricing promises to produce a regulatory result consistent with two goals found desirable by government agencies at the federal, state, and local levels. First, it is expected that this rate form will promote the conservation of petroleum and gas used in the production of electricity conservation of petroleum and gas used in the production of electricity and, second, it is expected that peakload rate forms will foster internal efficiencies for electric companies.

According to the theory of peak load, time-of-use pricing, the consumer will shift consumption of electricity from on-peak to off-peak periods if sufficient price and technological incentives exist in the marketplace. This levels the load for the electric power supplier, producing the following effects:

1. The percentage of base load units in the generation mix increases. Because base load units have more efficient heat rates than intermediate cycling or peak-load units and, because intermediate cycling units tend to burn oil or gas as fuel, load leveling reduces the amount of these fossil fuels burned per KWH. The conservation effect of load leveling will be even more pronounced as the percentage of nuclear base load units continues to increase over time.

2. All fossil units on the generation system will require less minute-to-minute incremental control and can operate a greater percentage of the time at optimum efficiencies. This too has both a conservation effect and an efficiency effect on system operation.

3. Those fossil units which operate at nearly constant loads, because of the increased off-peak load and the reduced peak load, have reduced thermal and physical stresses and corresponding reductions in maintenance costs.

4. Certain planning and management efficiencies result from a more stable load pattern.

In light of the above and, taking into consideration that these conservation and efficiency effects increase in the long run and, considering that there is likelihood that peak load, time-of-use rate forms will not be implemented absent federal constraints which require state regulatory agencies to implement such rate forms, Section 204 of S3310 will have a constructive effect on the state public utility regulatory process.

RESOLUTION ON THE RELIGIOUS SITUATION IN CZECHOSLOVAKIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. EILBERG. Mr. Speaker, the Conference of Czech hierarchy, clergy and laymen of most of the Catholic institutions and organizations in America and others elsewhere, held under presidency by the Most Reverend John L. Morkovsky, Bishop of Galveston-Houston in Texas, on Monday, August 9 at Chestnut Hill College, Philadelphia, deliberated concerning the tragic religious situation in present-day Czechoslovakia. They have decided to call this critical situation to the attention of the authorities of free nations with the urgent request that they extend their help to restore religious freedom in Czechoslovakia, to stop the blatant violation of precious human rights, which should not and cannot longer be condoned.

The following resolution of protest and indignation at these blatant violations by the Czechoslovak Communist regime, is aimed at awakening the conscience of the world and at eliciting the sympathy and solidarity with those suffering much under the yoke of Communism. It reads:

RESOLUTION

The people of Czechoslovakia call you from Philadelphia in the United States because they cannot call from Prague in Czechoslovakia. They call for your attention from the 41st International Eucharistic Congress in Philadelphia, held from August 1 to 8, 1976.

Representatives of Czechoslovak Catholics gathered in Philadelphia wish to thank the Almighty for the freedom enjoyed by the people of the United States of America and they pray that the Czechoslovak people may likewise participate in its benefits. Almost 200,000 Czechoslovak citizens of a total of some 15 million were obliged to leave their native land because the biggest tyranny of modern history has since 1948 engulfed Czechoslovakia. They wish to thank God that a significant portion of the population of Czechoslovak descent living in the United States (1% and numbering more than 2 million of a total of American citizenry well over 200 million) has been saved from a similar fate.

The principal conditions of a free development of the human personality are the freedoms of thought, of conscience and of religion. These basic human rights have in Czechoslovakia the value alone of a historical document, because they exist only on paper of the Helsinki Conference of August 1, 1975 (Art. VII) and of the Czechoslovak Constitution of July 11, 1960 (Art. 32). Yet, the Concluding Act of the Helsinki Conference was signed by thirty-five nations, including as well the President of the United States of America, and the President of the Czechoslovak Socialist Republic.

Freedom of religion requires for its existence not alone the inner freedom of thought and conviction, but likewise the freedom of public expression of religion. Man is not only a thinking but also an acting creature who wishes to express himself by participating in religious acts. In Czechoslovakia, however, any form of participation in religious liturgy and dissemination of religion by word is persecuted as a foreign and subversive ideology which, according to the Czechoslovak Constitution, contradicts the state ideology of Marxism-Leninism (Art. 16).

The Czechoslovak ecclesiastical hierarchy is a burning problem of Church-State relations. The Communist regime in Prague perfected the absolutist centralized power which two hundred years ago culminated in the absolute monarchy in Vienna. As once the Austrian Emperor Joseph II (1780–1790) in Vienna, so also the present absolutist government in Prague considers bishops to be state officials and usurps the right to appoint an obedient ecclesiastical hierarchy. The parallel of the 200-year anniversary is this: in the United States—freedom—in Czechoslovakia—tyranny. Emperor Joseph II, however, was enough of an enlightened monarch not to force the subjugated bishops to preach atheism. Less enlightened and candid are the rulers of today's Czechoslovak Communist regime, who by law (October 14, 1949), established the Government Bureau for Church Affairs with such a wide jurisdiction as was promulgated by Cabinet Decree (November 4, 1949) as to make the Church a slave of an atheistic State. The monstrosity of the Penal Code of 1950 and of the Administrative Penal Code, issued by the Czechoslovak Ministerium of the Interior on August 1, 1950, by which the Communist State terrorizes the Church, seems to exceed the cruelty of infamous tyrants of the past. It is urgent that, in the name of human decency, these laws be abrogated without any delay.

The Czechoslovak ecclesiastical hierarchy was liquidated in the staged trials of the early 1950s. In November, 1950, in Prague, nine church dignitaries were tried, of whom Abbot Dr. Stanislav Jarolimek was sentenced to 20 years, Abbot Jan Opasek to life imprisonment, and Bishop S. Zela to 25 years in prison, to name but a few. In January 1951 in Bratislava, Bishops Dr. M. Buzalka and P. Gojdio were sentenced to life, and Bishop Jan Vojtassak to 24 years in prison. In 1951 the dissolution of the church organization was roughly achieved and the Church was separated from its center in Rome.

In Czechoslovakia, there were two Roman Catholic cardinals who went through both Nazi and Communist prisons; after their deaths the episcopal sees remained vacant. Cardinal Joseph Beran (Dec. 29, 1888–May 17, 1969) was the last Archbishop in Czechoslovakia. Cardinal Stephen Trochta (March 26, 1905–April 6, 1974) was the last residing bishop in Bohemia and Moravia.

All seven episcopates in Czech Lands are vacant. Two dioceses are administered by Titular Bishops-Apostolic Administrators (Praha, Olomouc), and five dioceses (Litoměrice, Hradec Králové, Ceské Budějovice, Brno, Těšin) administered by Capitular Vicars appointed under government pressure. In Slovakia are seven episcopates: two are occupied (Nitra, Banská Bystrica); one administered by a Titular Bishop-Apostolic Administrator (Trnava); and four dioceses (Roznava, Spis, Kosice, Presov) are also vacant.

The Catholic Church in Czechoslovakia has been a most powerful mainstay of the thousand-year old Christian tradition. Before World War II, the Roman Catholic Church had 10,831,669 (73.54%) and the Greek-Catholic Church 585,041 (3.97%) members out of a total of 14,729,536 inhabitants of the country. After the Coup d'Etat (February 25, 1948) no official statistical data about religion were published, but these results of the persecution of Church and religion are known:

Approximately 8,000 Roman Catholic priests were in Czechoslovakia before World War II. There are now fewer than half in the Church administration. Being a priest is a hazardous and dangerous profession. Many clergy are in prison because they fought atheism from the pulpit or disseminated religious literature. Some are seriously ill without medical attendance (Rev. J. Studeny); some were executed during the forced collectivization (Babice, Morava, 1951) or beaten to death in prison (Rev. J. Toufar).

Liquidation of the Church organization is still the main goal of the struggle in which not the old but other equally effective methods of force are being used. Priests are removed from the ecclesiastical administration and transferred into production or prematurely retired, or, on the other hand, state approval for their priestly profession is denied. At the end of 1974, more than 500 priests were denied state approval, forbidden to pursue their ecclesiastical profession, and even to say Mass in private. More than 1600 Roman Catholic parishes of a total of 4600 remained vacant; many churches were closed or turned into museums or warehouses. It is not an infrequent case that one priest is in charge of six or more vacant parishes in today's cultural Czechoslovakia, as in uncivilized countries elsewhere in the world.

Monastic life was illegally liquidated (in the night of April 14–15, 1950) when police invaded the monasteries and drove the arrested monks into concentration camps. This action, appropriately called "Night and Fog" (according to the *London Catholic Herald*), hit all the monasteries: 226 male monasteries with 2,221 monks, of whom 881 were still alive after the Prague Spring in 1970, and 720 convents for women, with 10,448 religious, of whom 3,247 died in concentration camps.

The Communist regime in Czechoslovakia liquidated all monasteries and confiscated their property, while the absolutist regime of Joseph II had abolished approximately half the monasteries and used their property to establish a Religious Foundation.

According to the Czechoslovak Constitution, citizens have the right to education (Art. 14), but this constitutionally guaranteed right does not cover catholic education in theological seminaries. The strict *numerus clausus* limits Catholic access to theological education in such a way that 90% of the applicants were rejected. In the Czech Lands, there is one Theology Faculty in the city of Litomerice (since 1953) and in the school year of 1976 only 20 students of the 200 petitioners were accepted—not in accordance with the recommendation of the hierachy but of that of the Communist Party and Police. In 1950 the Communist regime abolished the Theological Faculties in Prague and Olomouc, where even the Emperor Joseph II had once founded General Seminaries.

Schools in Czechoslovakia today are the center of anti-religious and atheistic propaganda which is spread freely in text books. On the other hand, dissemination of religion is punished just as the dissemination of forbidden literature. Religious education contradicts the state doctrine of Marxism-Leninism. Therefore, it is not permitted. Only exceptionally is religious instruction allowed in some schools, for one hour in two weeks or in a month, but this is extremely difficult to get. For this parents face retaliatory measures of social and economic pressure. The children are, as a rule, excluded from higher education. But a small fraction (2–4%) of those attending grammar or high schools have the courage to apply for religious instruction, while the greater majority yields to the religious terror wrought by the Communist regime.

Because the faithful are second-class citizens, the constitutional principle of equality of citizens (Art. 20) is violated. Believers live under constant existential terror which hits hardest the clergy. The priest is isloated even in the church where he by himself carries two small cans since without wine and water he cannot offer mass even in an empty church. In deserted parishes, the chilly autumnal sleet and the winter weather of blizzard and icy wind within the damp walls of an empty church, he is sometimes alone. Without a single believer, the priest makes a sacrifice, next-to-the-last step to sanctity.

Considering these harassing measures of the Prague regime, we ask, therefore: that the actual situation, concealed by the Communist Government in Czechoslovakia, be made properly known to the public of the United States of America and of all the free world; that the Governments of the free countries, when dealing with Czechoslovakia, be aware of the violations of basic human rights; and that they persist in reminding their Communist partners of these facts at every suitable occasion; that the public of all free countries, especially Christian Churches and their leaders, help the oppressed and endangered Christianity in Czechoslovakia.

We appeal to the Holy See also, in her laudable effort to help the Church in Czechoslovakia, not to confirm the ecclesiastical structure insofar only as it helps to build up the authentic Christianity in human hearts.

We are asking finally all who believe in God to help by their prayers those who are endangered by the militant and intolerant atheism of the totalitarian Czechoslovak regime.

The more than a thousand-year-old Christian tradition cannot be buried even by today's Czechoslovak Communist regime. The eternally young Christian tradition has survived revolutionary changes of history and was at the grave of great despots and tyrants. Since the arrival of the Slavonic missionaries, Saints Cyril and Methodius in Great Moravia (863), the Czech and Slovak Lands have contributed greatly to the world of culture, and their skies are lighted by many stars of national saints of the past.

Reflecting on this glorious Christian past, one is impelled to highlight Karl Marx's *Communist Manifesto* of 1848 with our call: Christians of all lands unite! Help to liberate from hate and assist the restoration of fundamental civil and religious freedom. Help in our struggle against the terror of communism and the present equal rights for all Catholics. Tolerate not that Catholics and other religious bodies and Churches in Czechoslovakia be but second-class citizens because they never submitted to the government doctrine of Marxism-Leninism. Help to gain freedom for the people who suffer under communism's yoke. Protect the religious, cultural and national freedom, which postulate for their existence not only the internal freedom of thought and persuasion, but also freedom for its public cultural and religious expression. Help the people of Czechoslovakia to kindle a spark of hope for the emergence of a Czech free man who well may be forerunner of a "free religious man." In the euphoria generated by the Bicentennial of the U.S.A., it is easy to forget the sobering fact that one-third of the world, and well over half the world's population, suffer under the crushing yoke of communist tyranny. This should be a salutary warning to all. Help the people of Czechoslovakia in pursuit of happiness in freedom: cultural freedom and religious, that they may enjoy the dignity of man created in the image of God.

DOVIE SWEET'S CLOSING CAREER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. STOKES. Mr. Speaker, I have on many occasions brought the achievements of different Clevelanders to the attention of my colleagues in this House. It is a special treat for me to bring to your attention and to the attention of my colleagues, the retirement of Mrs. Dovie Sweet from the Cleveland Board of Education school system. Mrs. Sweet retires from an active teaching position in the Cleveland public schools after 26 years in the field.

Mr. Speaker, I have known this dedicated and highly qualified woman for many years. While she has been an outstanding teacher, she has also dedicated many years to civic, social, and political activities in our community. Mrs. Sweet has been one of the NAACP's most active and ardent supporters.

Mr. Speaker, those of us who know Dovie Sweet cannot imagine her complete retirement. She will probably be even more involved in her community now that she is not restricted to her teaching activities in the schools.

Mr. Speaker, I submit for the RECORD a recent article which appeared in the Cleveland Call and Post regarding Mrs. Dovie Sweet and I call to the attention of my colleagues her beautiful poem entitled: "My Closing Career."

Mr. Speaker, I am sure that you and all of my colleagues in the U.S. House of Representatives join with me in congratulating Mrs. Sweet for a job well done.

DOVIE SWEET RETIRES FROM 26-YEAR TEACHING CAREER

After 26 years of teaching with the Cleveland Board of Education School System, Dovie D. Sweet announced her retirement from the field of teaching at the monthly faculty meeting of Harvey Rice Elementary School, E. 115th & Buckeye, on May 12.

With no regrets, Mrs. Sweet stated she had paid her dues and done her work. She said she would miss her children at school but felt confident that someone younger would replace her and give the students the love, patience, and understanding they need.

Many of Mrs. Sweet's fellow teachers were tearful as they congratulated her and extended regrets over the school's loss.

Alfred Aielio, principal of Harvey Rice Elementary School, commented that he envied her but added that she deserved a break from many years of tireless and sometimes thankless service.

Aielio remarked that Mrs. Sweet was still youthful and had much to give.

In keeping with her involved and concerned nature, Mrs. Sweet plans to notify by personal letters the parents of her students, who do not as yet know of her retirement.

Dovie states that she is leaving the field of teaching but not the field of education. "I'll be some place getting education over in a different way," she says.

Dovie Sweet wrote the following poem, "My Closing Career" to sum up her sentiments about the career she chose at age six.

MY CLOSING CAREER

(By Dovie D. Sweet)

I've come to my conclusion
  In the field of education;
I hope that I have made it felt
  Throughout the entire nation.

By training adults, boys and girls
  To read, write and count;
To find out things for themselves
  And I am sure it mounts.

I said when I was six years old
  Just what I wanted to be:
That was my first day in school
  And the teaching rubbed off on me.

I wanted to train boys and girls
  To spell, and read, and write,
To count and play together
  Being sure there were no fights.

I said to Mamma when I went home
  I want to be a teacher;
I want to help the boys and girls
  Who all would be our future.

My mother said, just study hard
  Do what the teacher says;

Regardless of the other crowd
  Get A's at the end of the day.

I put forth every effort
  To do my very best in school;
I studied all the books I had
  I obeyed all the rules

And now the time has come for me
  To lay my life's work down;
I feel that I should make a place
  For some of our young.

RADIO COMMENTARY ON ABORTION

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BUTLER. Mr. Speaker, with reference to the recent debate on the Hyde amendment to the Labor-HEW appropriations bill, I call attention to the following WTOP commentary by James J. Kilpatrick of August 30:

WTOP COMMENTARY

(By James J. Kilpatrick)

There is something especially cruel, pointless, and indefensible in the position taken by the House of Representatives in the latest controversy over abortion. The House is insisting upon an amendment to the pending $57 billion appropriations bill for HEW. The amendment would prohibit the expenditure of Medicaid funds for the purpose of abortions. The Senate has refused to go along.

If the effect of this amendment were absolutely to prohibit abortions anywhere, any time, by anybody, for anybody, perhaps it would make some sense. But Congress has no such power to define abortion as a crime and to impose a sweeping ban. That is the business of the separate States.

What we have here is a misguided proposal to make therapeutic abortions more difficult for the very class of women least able to fend for themselves—the poor women on welfare. The amendment won't prevent them from getting abortions. It will merely drive them into the hands of the underground abortion mills; or it will foster the birth of more unwanted children who will form a new generation of supplicants on the public dole.

No useful public purpose will be served by the House amendment. The money that might be saved will be spent, now or later in aid to families with dependent children. Middle-income and upper-income women, able to afford abortions, will get them. Only the poor will be denied the safety and security of proper medical care. Maybe this is good politics—I doubt it—but it is a mean-spirited act. I hope the House retreats. I'm James J. Kilpatrick.

SENATE—*Tuesday, September 7, 1976*

(Legislative day of Friday, August 27, 1976)

The Senate met at 12 o'clock noon, on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, God of all history, whose goodness and mercy has followed us all our days, and whose love will not let us go, let the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord, our Strength and our Redeemer.

Renew our faith in the victory of Thy purposes. Bring us to a new and simple trust in Thee. Show us the way to directness, to clarity, to simplicity. Deliver us from confused thinking and ambiguous speech. Nourish our minds by the grace and truth of Thy Word. Hold us securely to the eternal verities which make a people great and good and strong.

We pray in the name of that One whose life is the light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 7, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, September 1, 1976, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet today to consider ambassadorial nominations and S. 3309, authorizing distribution of a USIS film on George Washington, H.R. 14681, investment insurance and guarantees issued by OPIC, and H.R. 14973, the Tiajuana flood control project.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on September 8 to consider nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on September 8, to consider bills on which final action is assured this Congress.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet on September 8 and 9 to consider the role of U.S. corporations in South Africa.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Public Welfare be authorized to meet on September 8 to consider railroad retirement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND YOUTH OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Children and Youth of the Committee on Labor and Public Welfare be authorized to meet on September 8 and 9 concerning children in foster care.

The ACTING PRESIDENT pro tempore. Without objection, is it so ordered.

SUBCOMMITTEE ON MULTINATIONAL CORPORATIONS OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Multinational Corporations of the Committee on Foreign Relations be authorized to meet on September 9 and 10 to continue hearings on the Grumman Corp.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REQUEST FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO MEET ON SEPTEMBER 14

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on September 14 to consider black lung legislation.

Mr. GRIFFIN. Mr. President, on behalf of several other Senators, I respectfully object.

The ACTING PRESIDENT pro tempore. Objection is heard.

COMMITTEE ON LABOR AND PUBLIC WELFARE AND SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on September 15 on a nomination; and that the Subcommittee on Health of the Committee on Labor and Public Welfare be authorized to meet on September 17 to consider diabetes legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered 1112, 1117, 1120, 1130, 1136, and 1137.

DEL CITY AQUEDUCT

The bill (H.R. 6622) to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1179), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 6622 authorizes the Secretary of the Interior to enter into an amendatory contract with the Central Oklahoma Master Conservancy District in order that the Secretary may participate financially in the cost of repairing a defective pipeline installed by the United States as a feature of the Norman project in Oklahoma.

BACKGROUND

The Norman project (authorized in 1960) consists of a multipurpose storage reservoir and a system of pumping plants and aqueducts for delivery of municipal and industrial water to three cities in Central Oklahoma. As soon as the project began water delivery in 1966, breaks began to occur in the 6.2-miles Del City aqueduct, with 84 breaks to date. Responsibility for repairing the pipeline was borne by the contractor until 1972, when the Bureau of Reclamation assumed repair costs as part of a research program to determine the causes of failure. Since then the Bureau of Reclamation has assumed the costs for the repair of 10 breaks in the pipeline.

The Administration, in testimony before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs on June 15, 1976, testified in favor of enactment of H.R. 6622.

ANALYSIS

H.R. 6622 would authorize the Secretary of the Interior to amend the prepayment contract with the Conservancy District in such a way as to contemplate a credit on the district's annual repayment obligation to the United States in an amount determined by the Secretary to represent extraordinary maintenance as distinct from routine maintenance. This determination would be based on an analysis of the maintenance history of a representative sample of comparable projects and would be subject to negotiation with the Conservancy District.

Administration testimony indicated that based on historical records, an average of six breaks will occur in the 36-inch pre-cast concrete pipe each year for the foreseeable future. Average annual costs of the repairs are estimated to be $3,000 and it is anticipated that repairs will be undertaken by the district with the costs being credited toward the annual repayment obligation for the project to the United States.

LEGISLATIVE HISTORY

A hearing to take public and Administration testimony on H.R. 6622 was held before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs on June 15, 1976.

H.R. 6622 was reported to the floor of the House on September 15, 1975, and was approved by the House in October 6, 1975.

COST AND BUDGETARY CONSIDERATIONS

Pursuant to section 401 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared a 5-year cost estimate for H.R. 6622 and the repair of the Del City aqueduct, a feature of the Norman Federal Reclamation project.

It was assumed that the legislation will be enacted during the transition quarter and that repair costs would be paid by the disproved by the House on Ocober 6, 1975.

The cost estimate is derived by estimating the total number of breaks expected in the aqueduct and the average cost to repair a given break. The estimate of the number of breaks is based on the recent historical experience and excludes those expected to occur under normal operating conditions.

The Bureau of Reclamation provided an estimate of the cost of repairing a single break in the Aqueduct based on 1975 price levels. This cost has been adjusted in the estimate for fiscal year 1977 to reflect costs of concrete pipeline based on 1976 price levels. This adjustment was based on Bureau of Reclamation construction cost indices. The adjusted cost for fiscal year 1978, fiscal year 1979, fiscal year 1980, and fiscal year 1981, was based on projected increases in the implicit price deflator for nonresidential structures.

Cost estimate

Revenue loss:	
Fiscal year:	
1977	$3, 100
1978	3, 300
1979	3, 400
1980	3, 600
1981	3, 800

In accordance with section 252(a) of the Legislative Reorganization Act of 1970, the committee provides the following estimate of costs.

H.R. 6622, as reported by the committee would result in an estimated total reduction in revenue to the Federal Government of $150,000 over the 40-year period of the repayment contract.

McGEE CREEK PROJECT, OKLAHOMA

The Senate proceeded to consider the bill (S. 2194) to authorize the Secretary of the Interior to construct, operate, and maintain the McGee Creek project, Oklahoma, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 2, line 1, after "area," insert "a wildlife management area,";

On page 2, line 4, strike "conveyance facilities, public outdoor recreation facilities, and a scenic recreation area." and insert "conveyance facilities and public outdoor recreation facilities.";

On page 2, line 12, strike: "lands as he determines necessary to develop a scenic recreation area adjacent to the McGee Creek Reservoir of not to exceed twenty thousand acres. The Secretary is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic area for the safety, health, protection, and compatible recreational use of the visiting public." and insert in lieu thereof: "lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.";

On page 3, line 3, strike out: "with the State of Oklahoma, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the development of a recreational management plan, and for the management of recreation including the operation and maintenance of the facilities within the area." and insert in lieu thereof: "a non-Federal public body or bodies for operation and maintenance of the scenic recreation and wildlife management areas.";

On page 3, line 23, strike out: "costs: *Provided,* That the costs of the lands and facilities for developing the scenic recreation area, authorized by section 2 of this Act, shall be nonreimbursable." and insert in lieu thereof: "costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 2 of this Act shall be nonreimbursable.".

On page 4, line 5, strike "contract has" and insert "contracts have";

On page 5, line 13, strike "$40,000,000 (January 1975 price levels)" and insert "$83,239,000 (January 1976 price levels)";

So as to make the bill read:

S. 2194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to construct, operate, and maintain the McGee Creek project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this Act for the purposes of storing, regulating, and conveying water for municipal and industrial use, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, developing a scenic recreation area, a wildlife management area, and controlling floods. The principal features of the project shall consist of a dam and reservoir on McGee Creek, appurtenant conveyance facilities and public outdoor recreation facilities.

SEC. 2. In order to provide for the protection, preservation, use, and enjoyment by the general public of the unique scenic and esthetic values of the existing pristine canyon area adjacent to the upper portion of the McGee Creek Reservoir, the Secretary of the Interior is hereby authorized to purchase privately owned lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.

SEC. 3. The Secretary of the Interior shall make such rules and regulations as are necessary to carry out the provisions and intent of section 2 of this Act and may enter into an agreement or agreements a non-Federal public body or bodies for operation and maintenance of the scenic recreation and wildlife management areas.

SEC. 4. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 5. (a) The Secretary is authorized to enter into a contract with a qualified entity or entities for delivery of water and for repayment of all the reimbursable construction costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 2 of this Act shall be nonreimbursable.

(b) Construction of the project shall not be commenced until suitable contracts have been executed by the Secretary with a qualified entity or entities.

(c) Such contract may be entered into without regard to the last sentence of section 9, subsection (c), of the Reclamation Project Act of 1939.

(d) Upon execution of the contract referred to in section 5(a) of this Act, and upon completion of construction of the project, the Secretary shall transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works; and, after such transfer is made, will reimburse the contractor annually for that portion of the year's operation and maintenance costs, which, if the United States had continued to operate the project, would have been nonreimbursable. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall agree to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish, wildlife, and recreation.

(e) Upon execution of the contract referred to in section 5(a) of this Act, and upon completion of construction of the project, the contracting entity or entities, their designee or designees, shall have a permanent right to use the reservoir and related facilities of the McGee Creek project in accordance with said contract.

SEC. 6. The conservation and development of the fish and wildlife resources, and the enhancement of recreation opportunities in connection with the McGee Creek project, except the scenic recreation area authorized by section 2 of this Act shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 7. There are hereby authorized to be appropriated to defray construction costs of the McGee Creek project the sum of $83,239,000 (January 1976 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1184) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 2194 which was introduced on July 28, 1976, by Senators Bartlett and Bellmon of Oklahoma, is to authorize the construction, operation, and maintenance of the McGee Creek project in Atoka County, located in southeastern Oklahoma. Project purposes include provision of a municipal and industrial water supply, flood control, recreation, and fish and wildlife enhancement.

BACKGROUND AND NEED

Studies of projected population and economic growth in the Oklahoma City Standard Metropolitan Statistical Area and Atoka County indicate that demand for water will exceed available supplies before the year 2000, which will require development of additional sources. The Oklahoma City SMSA is located in a relatively dry part of the State and the McGee Creek area has long been considered a potential source of municipal and industrial water. Oklahoma City has filed for and been granted the rights to 40,000 acre feet annually from the McGee Creek Basin by the State of Oklahoma.

Pursuant to Public Law 93–122, the Bureau of Reclamation has prepared an interim feasibility report on the McGee Creek project which was forwarded to the Congress on June 9, 1976. The report was prepared utilizing the guidelines established by the Water Resources Council for multi-objective planning of water resource projects and sets forth four alternative plans for meeting the following identified project objectives: a municipal and industrial water supply for the Oklahoma City SMSA and Atoka County; preservation and management of the ecosystem and natural resources of the McGee Creek Basin; improvement of the economic base of Atoka County; flood protection to agricultural lands; and preservation of water quality. Of the four alternate proposals described in the report, "Plan D" is presented as best meeting the Principle's and Standards for Planning Water and Related Land Resources as prepared by the Water Resources Council.

DESCRIPTION OF THE PROJECT

The recommended project plan provides for the construction of an earth-fill dam on McGee Creek, an auxiliary dike, a pipeline and appurtenant works including a pumping plant for the conveyance of municipal and industrial water to the existing Atoka Reservior approximately 16 miles distant and provision of recreation and fish and wildlife facilities.

A summary of project data is as follows:

McGee Creek Dam: Type, earthfill; height, 156 feet; crest length, 2,300 feet; reservoir capacity, 277,900 acre-feet; surface area, 6,840 acres (maximum).

Auxiliary Dike: Type, earthfill; height, 59 feet; crest length, 4,800 feet.

Delivery System: 630 feet 90 inch concrete pipe; 10.75 miles of 78 inch concrete pipe; 6.6 miles of 72 inch concrete pipe; appurtenant facilities such as pumping plant, surge tank, regulating tank, and control station.

The project will provide an estimated firm yield of 68,000 acre feet of water annually for municipal and industrial purposes. It is anticipated that prior to realization of municipal and industrial demands, surplus waters will be released to McGee Creek thereby enhancing water quality.

Included in Plan D is the proposed acquisition of 10,000 acres for mitigation of wildlife losses and provision of a wildlife management area. In addition, it is proposed that 8,900 acres be acquired in order to preserve an outstanding scenic area adjacent to the reservoir. Testimony during the hearing on S. 2194 advocated preservation of this area because of its natural beauty and pristine character and ability to provide a wilderness-type recreation experience.

FINANCIAL AND ECONOMIC ANALYSIS

The total estimated cost of the McGee Creek project is $83,239,000 based on January 1976 price levels, of which $72,261,000 would be reimbursable with interest for the costs allocated to the municipal and industrial water supply function of the project. The allocation of project costs is as follows:

	Amount	*Percent*
Municipal and industrial water supply	$72, 261, 000	87
Flood control	1, 469, 000	2
Fish and wildlife	933, 000	1
Recreation	2, 397, 000	3
Natural and scenic areas	5, 339,000	6
Archeology	840, 000	1
Total	83, 239, 000	100

Annual benefits based upon the report prepared by the Bureau of Reclamation are estimated to be $7,241,600 with annual costs estimated to be $5,781,000 resulting in a net beneficial effect of $1,460,000 annually. Based on January 1976 price levels, the estimated benefit cost ratio is 1.2 to 1.

LEGISLATIVE HISTORY

A hearing to take public and Administration testimony on S. 3394 was held before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee on June 15, 1976. A hearing on a companion measure was held before the House Interior Committee's Subcommittee on Water and Power Resources on June 17, 1976. Authorization of the McGee Creek project was subsequently included in H.R. 14578, a bill to authorize various Federal Reclamation projects and programs, which was reported to the floor of the House on August 3, 1976, and was offered as an amendment to S. 3283, which was approved by the House on August 26, 1976. S. 3283 is presently pending before the Senate Interior and Insular Affairs Committee.

ADMISSION OF ADDITIONAL FOREIGN NATIONALS TO THE COAST GUARD ACADEMY

The Senate proceeded to consider the bill (H.R. 11407) to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy, which had been reported from the Committee on Commerce with an amendment on page 1, beginning with line 9, strike out through page 2, line 13, and insert in lieu thereof:

"(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

"(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 195 of title 14, United States Code, is amended to read as follows:

"§ 195. Admission of foreign nationals for instruction; restrictions; conditions

"(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

"(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

"(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

"(d) A person receiving instruction under this section is—

"(1) not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

"(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1187) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to increase the number of foreign nationals who may be admitted to receive instruction at the Coast Guard Academy from the present ceiling of 24 to 36.

BACKGROUND

Under the existing provisions of section 195 of title 14, United States Code, the Secretary of the Department in which the Coast Guard is operating may permit up to four Philippine nationals designated by the President of the United States to receive instruction at the Coast Guard Academy. In addition, the President is authorized to permit 20 citizens of the American Republics to attend the Coast Guard Academy, under the terms of Executive Order 7964, which implements the provisions of section 221 of title 20, United States Code. Executive Order 7964 requires the American Republics to furnish the pay, allowances, emoluments, and travel funds of persons from those countries attending the Academy, while the provisions of 14 U.S.C. 195 authorizes the United States to fund the pay and allowances for Philippine nationals at the Academy. Under the provisions of the Executive Order 7964, Canadian nationals are not eligible to attend the Academy as nationals of an "American Republic."

H.R. 11407 was introduced in the House of Representatives on January 20, 1976 at the request of the Department of Transportation. As introduced, the bill consolidated the authority of 14 U.S.C. 195 and 20 U.S.C. 221 and its implementing executive order into one section of law. It also authorized the admission to the Coast Guard Academy of 12 additional foreign nations from countries friendly to the United States and included Canadian nationals within the total number of citizens from the American Republics authorized to attend the Academy. Thus the ceiling on the number of foreign nationals attending the Academy at any one time was raised to 36. The provision of 14 U.S.C. 195 regarding the distinction in funding authority between Philippine and other foreign nationals was maintained. The restrictions and conditions imposed on foreign nationals by the terms of 14 U.S.C. 195(c) were unchanged in the House bill.

H.R. 11407 was reported without amendment by the House Committee on Merchant Marine and Fisheries on May 10, 1976 and on May 18, 1976 it passed the House of Representatives without amendment.

COMMITTEE ACTION

The Committee clearly recognizes the value of the training of foreign nationals at U.S. educational institutions. The growing international character of the mission of the U.S. Coast Guard makes the exchange between future Coast Guard officers and their foreign counterparts particularly beneficial to both the United States and other nations. There is also no doubt that the opportunity this training affords citizens of nations without such facilities is extremely valuable. The Committee is in strong accord with the program of foreign national training at the Coast Guard Academy.

On June 17, 1976 the Committee, in open executive session, ordered reported without objection H.R. 11407 with an amendment in the nature of a substitute.

The Committee amendment eliminated the specific geographic and national designations and ceilings therefor. In lieu thereof, the overall ceiling on foreign nationals was consolidated at 36 and the President granted the authority to designate such individuals without geographic limitation. The Committee amendment also substituted for the provision which creates a distinction between Philippine and other foreign nationals in the funding of such training, one which requires all countries whose nationals attend the Academy to agree in advance to reimburse the United States for the costs, including pay and allowances, for such instruction. However, recognizing in certain circumstances it may be in the best interests of the United States to provide such training without cost to a foreign country, authority to waive the agreement for reimbursement is granted to the Secretary.

The Committee amendment provides necesssary and sufficient flexibility to permit the designation of nationals from any foreign country to receive training at the Coast Guard Academy. The amendment recognizes that the expense for foreign trainees should not be borne by the United States but does provide necessary flexibility in that regard.

ESTIMATED COSTS

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that there will be no additional cost to the Federal Government as a result of the enactment of this legislation.

KANOPOLIS UNIT, PICK-SLOAN MISSOURI BASIN, KANSAS

The Senate proceeded to consider the bill (S. 1821) to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis unit of the Pick-Sloan Missouri Basin program, Kansas, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 2, line 1, strike "recreation" and insert "recreation, environmental preservation,";

On page 2, line 3, after "Interior" insert "in collaboration with the Secretary of the Army acting through the Chief of Engineers";

On page 3, line 1, after the period, insert the following:

"Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this Act. Costs allocated to environmental preservation shall be nonreimbursable and nonreturnable under Federal reclamation law."

On page 4, beginning with line 4, insert the following:

"SEC. 6. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior."

On page 4, beginning with line 14, strike out all through line 21, and insert in lieu thereof:

"SEC. 7. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the Kanopolis unit the sum of $30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for postauthorization planning, design, and construcion of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Kanopolis unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as part of that project. The construction, operation, and maintenance of the Kanopolis unit for the purposes of providing irrigation water for approximately twenty thousand acres of land, municipal and industrial water supply, fish and wildlife conservation and development, public outdoor recreation, environmental preservation, and other purposes shall be prosecuted by the Secretary of the Interior in collaboration with the Secretary of the Army acting through the Chief of Engineers in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Kanopolis unit shall include the modification of the existing Kanopolis Dam and Lake, an irrigation diversion structure, the Kanopolis North and South Canals, laterals, drains and necessary facilities to effect the aforesaid purposes of the unit.

SEC. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Kanopolis unit shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213) as amended.

SEC. 3. The Kanopolis unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the irrigator's ability to repay as determined by the Secretary of the Interior, and the terms of such contracts shall not exceed 50 years following the permissible development period. Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this Act. Costs allocated to environmental preservation shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 4. For a period of ten years from the date of enactment of this Act, no water from the unit authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment of this Act, no water from the unit authorized by this marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (52 Stat. 31, 41), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 5. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimburseable costs of the Kanopolis unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 6. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

SEC. 7. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the Kanopolis unit the sum of $30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reasons of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for postauthorization planning, design, and construction of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit.

Mr. DOLE. Mr. President, as the sponsor of this bill to reauthorize the Kanopolis irrigation district in Kansas, I want to say a few words to my colleagues about its importance to my State. The Senate Interior Committee has, with the concurrence of OMB and the Department of the Interior, reported the measure favorably and, I understand, enthusiastically. Last month, the House of Representatives unanimously approved the project as part of an omnibus authorization bill. I am confident that the Senate will do likewise today.

VALUABLE PROJECT

The Kanopolis irrigation proposal is expected to provide an important water supply for some 20,000 acres of land immediately below the existing Kanopolis Reservoir, which was constructed in 1948. Currently, this valuable grain and cattle land is watered by undependable ground water and river-flow sources. Indications are that the unit would also prove to be a significant source of municipal and industrial water supply for surrounding communities, including Salina and McPherson, and that it would have a favorable impact on wildlife habitation in the area.

It is my understanding that, in weighing the relative benefits and costs of this proposed irrigation project, the Bureau of Reclamation has computed a "b/c ratio" of 3.54/1, which is exceptionally favorable by most project standards. In fact, the Bureau has advised that annual benefits for the project would exceed estimated annual costs by some $5,390,200. Just as significant, from a cost perspective, is the fact that future water users in the Kanopolis irrigation district would be able to repay approximately 78 percent of the total project construction cost of $26,530,000. This factor is especially reassuring at a time when sincere efforts are being made to place restraints on Federal expenditures in Washington. I am convinced, therefore, of the economic justification for, and the soundness of, the Kanopolis project.

NEED TO EXPEDITE APPROVAL

The principal threat to the Kanopolis irrigation project is, and has been for some time, the simple factor of delay. I and several of my colleagues in the Kansas delegation have supported this project for more than a decade, and we have been disappointed to see the necessary authorization repeatedly postponed.

Fortunately, it now appears that approval will be forthcoming during this session of Congress. The Bureau of Reclamation and the Army Corps of Engineers have worked closely together in preparing the feasibility report and proposed draft environmental statement which have been favorably reviewed by appropriate Federal agencies here in Washington, as well as by interested State and local officials. Support for the project has been duly registered by the Governor of Kansas and by the Kansas Water Resources Board.

LITTLE THREAT TO WILDLIFE

The anticipated loss of some surrounding areas of wildlife habitat would, I understand, be partially compensated for through agreements with the Corps of Engineers for the Kansas Forestry, Fish and Game Commission to manage certain Federal lands within the reservoir rights-of-way for wildlife purposes. Also, acquisition of an additional 350 acres of private land within the reservoir rights-of-way is provided for. The Fish and Wildlife Service has itself advised that there is no indication that development of this project would modify or destroy any endangered species' habitat.

CONCERNS ANSWERED

I am aware of earlier concern among some area residents that development of irrigation facilities would affect the level of Kanopolis Reservoir to such an extent that flood control and recreational functions might be impaired. The Department of the Interior has discounted such fears, however, pointing out that a portion of the flood control responsibility could be easily transferred to the existing Cedar Bluff Reservoir upstream on the Smoky Hill River. The Bureau also indicates that Kanopolis Reservoir should not be subject to drawdown conditions sufficient to harm recreational opportunities. Both of these factors should be watched carefully, I believe, as development of the unit proceeds.

In addition, an analysis of the possible effects on water quality has been coordinated with the Environmental Protection Agency. The EPA has determined that the operation for a municipal and industrial water supply and the return flows from the irrigated land would not pose any significant water quality problems in the Smoky Hill River basin. Careful monitoring should insure the safety of the water quality.

CONCLUSION

In closing, I want to emphasize to my colleagues the important job-producing and food-producing impact of this irrigation project. Situated in the heart of our Nation's cattle and wheat country, farms in the area promise to provide important food supplies for the Nation in the years ahead. Preliminary studies indicate that this unit will have valuable potential as a source of water for these supplies and it is estimated that the net farm income in the irrigation district will be increased by more than $2.5 million annually as a result of this project.

I am confident that the Senate will see fit to approve this project today, and I intend to carefully monitor development of the Kanopolis irrigation project through its completion.

The amendments were agreed to.

The bill was ordered to be engrossed

for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1196), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE MEASURE

The purpose of S. 1821, which was introduced on May 22, 1975, by Senator Dole of Kansas, is to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis reclamation project in central Kansas in order to provide a municipal and industrial water supply for the City of Salina and the State of Kansas, an irrigation supply for 20,000 acres, conservation stream flows, and project-related recreational facilities.

BACKGROUND AND NEED

The Proposed Kanopolis unit is located in central Kansas on the Smokey Hill River. Kanopolis Dam and Lake is an existing Corps of Engineers single purpose facility and was authorized as a flood control project by the Flood Control Acts of 1944 and 1946. However, Public Law 88–442 of August 14, 1964, was enacted which requires that all units of the Pick-Sloan Missouri River Program (which includes the Kanopolis Unit) not under construction as of that date must be specifically authorized by Congress; hence the introduction of S. 1821.

In anticipation of the construction of the Kanopolis reclamation project, the Corps of Engineers and the Bureau of Reclamation reached an agreement in 1949 whereby the Bureau of Reclamation would include in the then-authorized upstream Cedar Bluff Reservoir, 191,860 acre feet of flood control storage in exchange of the right to utilize 162,500 acre feet of storage in the Kanopolis reservoir. The Bureau of Reclamation's Cedar Bluff Reservoir was completed in 1951, and the agreed-upon flood storage has been made available for control of floods in the Smokey Hill, Kansas, and Missouri River System.

The Bureau of Reclamation, pursuant to Public Law 89–561, has completed a feasibility investigation of the Kanopolis Unit which became available for examination in February, 1976. The Principles and Standards for Planning Water and Related Land Resources developed by the Water Resources Council as well as the Bureau of Reclamation's multiobjective planning procedures were used in developing the report on the Kanopolis Unit. During the planning process, several alternative proposals were examined which lead to the formulation of the "recommended plan" as contained in the feasibility investigation.

The proposed project will provide a municipal and industrial water supply judged adequate to meet the projected needs for the City of Salina for the next thirty years. In addition, a full service water supply for 20,000 irrigated acres will contribute significantly to the local and regional economy. Testimony on S. 1821 indicated strong support for the contribution to water quality downstream from the Kanopolis Dam that would be made as part of the projected operational schedule for the Dam and Reservoir.

DESCRIPTION OF THE PROJECT

The recommended project plan calls for the conversion of the presently single-purpose Kanopolis Dam and Reservoir into a multi-purpose project directed to meet a variety of needs. Minor modifications are proposed for the dam with principal project features consisting of 42.5 miles of main service canal and 76 miles of laterals with appurtenant control structures and relift pumping plants necessary to serve 20,000 acres of prime agricultural lands downstream from the reservoir. Soil types are excellent, about 4,500 acres are Class I lands; 7,600 acres are Class II; and 4,400 acres are Class III. The remaining 3,500 acres are presently considered Class IV because of the need for pumping facilities to serve them. With water made available they will be comparable to Class I lands in productivity. Of particular note will be the conversion of the cropping pattern which presently produces 50 bushels of sorghum or 30 bushels of wheat per unirrigated acre to the production of corn at an estimated 118 bushels per acre with irrigation water.

Municipal and industrial water supplies will be released from Kanopolis Dam to the Smokey Hill River for later diversion near the point of consumption.

FINANCIAL AND ECONOMIC ANALYSIS

The total estimated cost of the Kanopolis project is $30,900,000 based on January 1976 price levels. The allocation of project costs is as follows:

Flood control	$1,423,000
Irrigation	26,052,000
Municipal and industrial water supply	1,832,300
Fish and wildlife	112,000
Environmental preservation	420,000
Preauthorized studies	1,060,000

Costs allocated to irrigation are reimbursable without interest in keeping with Reclamation Law. Agricultural water users of the Kanopolis unit will repay over the allowable fifty-year period approximately $19,850,000 or over 76 percent of the irrigation allocation. The Committee notes that this is one of the highest repayment ratios encountered on an irrigation project in recent years.

Costs associated with the provision of a municipal and industrial water supply will be repaid with interest while costs for fish and wildlife and environmental preservation will be nonreimbursable.

Annual benefits based upon the report prepared by the Bureau of Reclamation are estimated to be $8,214,200 with annual costs estimated to be $2,824,000 resulting in a net beneficial effect of $5,390,200 annually. Based on January 1976 price levels, the estimated benefit cost ratio is 3.54 to 1 which the Committee notes is unusually high.

LEGISLATIVE HISTORY

A hearing to take public and Administration testimony on S. 1821 was held before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee on May 6, 1976. A hearing on a companion measure was held before the House Interior Committee's Subcommittee on Water and Power Resources on April 27, 1976. Authorization of the Kanopolis Unit was subsequently included in H.R. 14678, a bill to authorize various Federal Reclamation projects and programs, which was reported to the floor of the House on August 3, 1976, and was offered as an amendment to S. 3283, which was approved by the House on August 26, 1976. S. 3283 is presently pending before the Senate Interior and Insular Affairs Committee.

COST AND BUDGETARY CONSIDERATIONS

Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared a five-year cost estimate for the expenditures authorized by S. 1821 and the construction of the Kanopolis Unit. It is assumed that construction would not be initiated until fiscal year 1978 at the earliest and cost estimates have been adjusted to reflect expected future increases.

Fiscal year:	*Expenditures (in millions)*
1978	$0.5
1979	4.5
1980	11.6
1981	10.6
1982	3.7

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970, the Committee provides the following estimate of costs:

S. 1821, as reported by the Committee, would authorize the appropriation of $30,900,000 based on January 1976 price levels.

WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO S. 3554

The resolution (S. Res. 513) waiving the provisions of section 402(a) of the Congressional Budget Act of 1974 with respect to S. 3554 was considered and agreed to, as follows:

Resolved, That the provisions of section 402(a) of the Congressional Budget Act of 1974 are waived with respect to S. 3554, a bill to establish a National Commission on Neighborhoods.

WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 3081

The resolution (S. Res. 515) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3081, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) are waived with respect to the consideration of S. 3081, a bill to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 per centum the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes. Such waiver is necessary to permit consideration of statutory authority to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system and thereby encourage States to retain their inspection programs, rather than terminating their programs and obligating the Federal Government to perform the inspection and bear 100 per centum of the costs.

EXECUTIVE P, 94TH CONGRESS, 2D SESSION—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Tax Convention with the Republic of Korea, signed at Seoul June 4, 1976 (Executive P, 94th Cong., 2d sess.), transmitted to the Senate on September 3, 1976, by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention signed at Seoul on June 4, 1976, between the Government of the United States of America and the Government of the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Encouragement of International Trade and Investment, together with a related exchange of notes.

There is no convention on this subject presently in force between the United States and Korea.

The Convention follows generally the form and content of most conventions of this type recently concluded by the United States. Its primary purpose is to identify clearly the tax interests of the two countries to avoid double taxation and to help prevent the illegal evasion of taxation.

For the information of the Senate, I also transmit, a covering report of the Department of State with respect to the Convention.

This Convention would promote closer economic cooperation and more active trade between the United States and Korea.

I urge the Senate to act favorably at an early date on this Convention and its related exchange of notes and to give its advice and consent to ratification.

GERALD R. FORD.
THE WHITE HOUSE, *September 3, 1976.*

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of two additional bills that have been cleared on both sides, calendar orders No. 979 and No. 988.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATE-FEDERAL MEAT AND POULTRY INSPECTION AMENDMENTS

The Senate proceeded to consider the bill (S. 3081) to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 percent the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes, which had been reported from the Committee on Agriculture and Forestry with amendment as follows:

On page 2, line 8, strike "89–718" and insert "87–718";

On page 2, beginning with line 11, strike out: "The percentage of the total cost of any cooperative arrangement for meat or poultry inspection purposes to be contributed to any State by the Secretary under this Act shall be equal to the highest percentage contributed to any State under section 301 (a)(3) of the Federal Meat Inspection Act in the case of a cooperative arrangement for meat inspection or the highest percentage contributed to any State under section 5(a) (3) of the Poultry Products Inspection Act in the case of a cooperative arrangement for poultry inspection.". and insert in lieu thereof:

"The amount to be contributed to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes under this Act in any year shall be that percentage of the estimated cost of such cooperative arrangement for such year equal to the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 301(a)(3) of the Federal Meat Inspection Act in the case of a cooperative arrangement for meat inspection purposes or the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 5(a)(3) of the Poultry Products Inspection Act in the case of a cooperative arrangement for poultry inspection purposes: *Provided*, That the amount to be contributed in any year to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes entered into under this Act after June 30, 1976, may not exceed 50 per centum of the estimated total cost of the cooperative arrangement.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of paragraph (3) of section 301(a) of the Federal Meat Inspection Act, as amended (21 U.S.C. 661(a)(3)), is amended by striking out "50 per centum" and inserting in lieu thereof "80 per centum".

SEC. 2. The second sentence of paragraph (3) of section 5(a) of the Poultry Products Inspection Act, as amended (21 U.S.C. 454(a)(3)), is amended by striking out "50 per centum" and inserting in lieu thereof "80 per centum".

SEC. 3. The Act entitled "An Act to provide further for cooperation with States in administration and enforcement of certain Federal laws" (Public Law 87–718) is amended by adding the following new paragraph at the end thereof:

"The amount to be contributed to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes under this Act in any year shall be that percentage of the estimated cost of such cooperative arrangement for such year equal to the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 301(a)(3) of the Federal Meat Inspection Act in the case of a cooperative arrangement for meat inspection purposes or the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 5(a)(3) of the Poultry Products Inspection Act in the case of a cooperative arrangement for poultry inspection purposes: *Provided*, That the amount to be contributed in any year to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes entered into under this Act after June 30, 1976, may not exceed 50 per centum of the estimated total cost of the cooperative arrangement.".

SEC. 4. The amendments made by this Act shall be effective beginning with the fiscal year which begins October 1, 1976.

Mr. DOLE. Mr. President, the Senator from Kansas rises to support this legislation which increases the amount that may be paid as the Federal Government's share of cooperative meat or poultry inspection programs in the individual States from 50 to 80 percent of the total.

Under provisions of the Federal Meat and Poultry Inspection Acts, the U.S. Department of Agriculture is required to assume responsibility for inspecting intrastate meat or poultry plants in States which are unwilling or unable to conduct an inspection program equal to Federal requirements. At the present time, the Federal Government does all poultry inspection in 21 States. Another 17 States have allowed the Federal Government to take over meat inspection.

The trend has been to let the Federal Government assume meat and poultry inspections since this shifts the cost of inspection from State governments to the Federal Government. State meat inspection programs were either never certified or found not equal to Federal inspection in only six States. The remaining 11 States requested the Federal Government to take over meat inspection. All poultry inspection has been undertaken at the request of individual States.

Mr. President, I believe that many livestock producers and packers would like to maintain State inspection services. However, State governments realize that they would have no direct costs for inspection if they simply let the Federal Government take over.

By the Federal Government's assumption of 80 percent of the inspection costs, State inspection would be a much more viable alternative to many State governments than the current 50 percent of costs they must cover. The Federal Government obviously would also make a smaller total outlay than would be necessary by the complete takeover of all State inspection services.

Legislation to amend section 301 of the Federal Meat Inspection Act and section 5 of the Poultry Products Inspection Act has passed the Senate in both the 92d and 93d Congresses. In both cases this legislation failed to pass the House of Representatives.

I urge the Senate to again approve this legislation.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1040) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

SHORT EXPLANATION

S. 3081 would increase the maximum Federal contribution to the cost of any State meat or poultry inspection system under title III of the Federal Meat Inspection Act, or section 5 of the Poultry Products Inspection

Act, respectively, to 80 percent of such cost. The maximum Federal contribution now authorized in each case is 50 percent.

The bill provides that the new 80–20 cost-sharing formula would—with respect to the Talmadge-Aiken Act (Public Law 87–718)—only apply to cooperative arrangements for meat or poultry inspection purposes entered into on or before June 30, 1976.

BACKGROUND AND NEED FOR LEGISLATION

I.

The Federal Meat Inspection Act and the Poultry Products Inspection Act require the Secretary of Agriculture to inspect the slaughter of certain domestic livestock and poultry and the processing of meat and poultry products. The Secretary has jurisdiction from the time livestock and poultry are received at the slaughtering establishments until the finished products are distributed in commerce to consumers, or otherwise distributed subject of the Acts. The primary objective of these laws is to assure that meat and poultry products distributed to consumers are wholesome, not adulterated, and properly marked, labeled, and packaged.

Poultry and animals are examined for signs of disease or abnormality before slaughter. Following slaughter, each individual carcass and its viscera are scrutinized carefully. This inspection establishes the wholesomeness of carcasses and organs passed for human consumption. Those that do not pass inspection are condemned and destroyed. The magnitude of the overall task can be measured by the number of animals and birds inspected in 1975—over 113 million livestock and 3 billion birds.

Establishments preparing meat and poultry products for sale or distribution in interstate or foreign commerce are required to have Federal inspection unless exempted under the Acts. Those doing intrastate business in certain "nondesignated" States operate under State inspection programs that are required to apply standards at least equal to those under the Federal Acts. Federal inspection is required to be extended to intrastate operations in those "designated" States that do not maintain an inspection program with requirements at least equal to those under the Federal Acts.

During 1975, Federal inspection was provided by the Animal and Plant Health Inspection Service of the Department at 6,782 plants, and supervision was exercised over 5,645 plants under State inspection. To provide the inspection and supervision required by the meat and poultry inspection laws, 9,038 Federal employees and 4,500 State employees were required.

The Department of Agriculture is responsible for applying uniform standards with respect to sanitation, inspection procedures, and product labeling at all plants under Federal inspection. It is also responsible for assessing the effectiveness of State inspection programs to assure that standards at least equal to those under the Federal Meat Inspection Act and the Poultry Products Inspection Act are being applied by the States to meat and poultry establishments under their jurisdiction. In addition, support is extended by the Department to State programs in the form of funds, training, and technical assistance.

II.

Following the amendment of the Federal Meat Inspection Act by the Wholesome Meat Act in December 1967, and following the amendment of the Poultry Products Act in August 1968, considerable efforts were made by all States to develop and maintain—with respect to intrastate operations in the States—meat and poultry products inspection programs having requirements at least equal to the requirements under the Federal Acts. Thirty-three and 26 States, respectively, developed and continue to maintain "at least equal" State meat and poultry inspection programs. Nearly all of these States had inadequate meat and poultry products inspection programs at the time of enactment of the Wholesome Meat Act and the Wholesome Poultry Products Act. That the States were able to develop "at least equal" programs in a short period of time was a significant accomplishment. Most important, it demonstrated their commitment to the partnership approach to Government contained in the Federal Meat and Poultry Products Inspection Acts.

Unfortunately, the Federal Meat and Poultry Products Inspection Acts provide little incentive for States to continue their meat inspection programs; in fact, the Acts provide a financial disincentive. A State must now bear at least 50 percent of the cost of carrying out its inspection program. Since 1971, the Department of Agriculture has been obligated to assume State inspection programs if the State wishes to give up its program. Under the Federal Meat and Poultry Products Inspection Acts, States which are not able to or do not wish to maintain their inspection systems may simply turn those responsibilities over to the Federal Government.

Recent inflation has produced severe budgetary pressures on the States. This inflationary pressure has, in several cases, motivated States to give up their inspection programs. If a State fails to develop and effectively enforce an "at least equal" State program, the Secretary is required to designate the State. Thirty days after such designation is published in the Federal Register, the Federal program and provisions of the Federal Acts apply with respect to inspection of establishments and operations and transactions wholly within the State as provided by the Acts.

Seven States turned their meat programs over to the Department of Agriculture in the past year and six relinquished their poultry inspection programs.

With the assumption of the State of California inspection activities, the Department of Agriculture will be operating the complete meat inspection programs in 17 States and the poultry inspection programs in 24 States. Of the 17 States that have been designated under the Federal Meat Inspection Act in the past 6 years, 11 were designated at the request of the States involved. All of the 24 States designated under the Poultry Products Inspection Act were designated at the request of the individual States.

CHRONOLOGY OF DESIGNATIONS OF STATE MEAT INSPECTION PROGRAMS

States	Date	Reason for designation
North Dakota	June 22, 1970	Failed to meet inspection requirements.
Montana	Apr. 27, 1971	Do.
Minnesota	May 16, 1971	Do.
Nebraska	Oct. 10, 1971	Do.
Kentucky	Jan. 14, 1972	Do.
Oregon	July 1, 1972	Requested designation.
Pennsylvania	July 17, 1972	Failed to maintain inspection requirements.
Missouri	Aug. 18, 1972	Requested designation.
Washington	June 1, 1973	Do.
Nevada	July 1, 1973	Do.
New Jersey	July 1, 1975	Do.
Colorado	do	Do.
New York	July 16, 1975	Do.
Connecticut	Oct. 1, 1975	Do.
Tennessee	do	Do.
Massachusetts	Jan. 12, 1976	Do.
California	Apr. 1, 1976	Do.

CHRONOLOGY OF DESIGNATIONS OF STATE POULTRY INSPECTION PROGRAMS

States	Date	Reason for designation
Arkansas	Jan. 2, 1971	Requested designation.
Colorado	do	Do.
Georgia	do	Do.
Idaho	do	Do.
Maine	do	Do.
Michigan	do	Do.
Minnesota	do	Do.
Montana	do	Do.
West Virginia	do	Do.
North Dakota	do	Do.
Oregon	do	Do.
South Dakota	do	Do.
Utah	do	Do.
Kentucky	Aug. 31, 1971	Do.
Nebraska	do	Do.
Pennsylvania	Oct. 31, 1971	Do.
Missouri	Aug. 18, 1972	Do.
Washington	June 1, 1972	Do.
Nevada	July 1, 1973	Do.
New Jersey	July 1, 1975	Do.
Connecticut	Oct. 1. 1975	Do.
Tennessee	do	Do.
Massachusetts	Jan. 12, 1976	Do.
California	Apr. 1, 1976	Do.

In the absence of legislation increasing the level of Federal assistance, it appears likely that the Federal Government will be required to assume responsibility for inspection in a great many more States.

At its March 4, 1976, meeting, the National Meat and Poultry Inspection Advisory Committee—which is composed of State officials who have responsibility for inspection systems within their States—voted to endorse legislation providing for 80–20 funding and expressed concern to the Department of Agriculture that unless increased financial assistance is provided, the Federal Government may ultimately have to assume responsibility for all or most State inspection systems.

iv.

The bill would also permit an increase in the level of Federal financial assistance under existing cooperative arrangements for meat and poultry inspection entered into pursuant to the Talmadge-Aiken Act (Public Law 87–718).

The Talmadge-Aiken Act authorizes the Secretary of Agriculture, when he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture to attain greater economy in the enforcement of Federal laws and regulations. Many States, in keeping with their interest in participation in consumer protection activities, cooperate in programs under the Talmadge-Aiken Act to assist the Department of Agriculture in performing Federal functions under the Federal Meat Inspection Act and the Poultry Products Inspection Act. The Federal Government presently bears 50 percent of the cost of such Federal programs. Section 3 of the bill provides that the Federal share of such existing cooperative programs would be equal to the highest percentage contributed to any State under the Acts in the cooperative programs for administering State meat or poultry products inspection laws.

COMMITTEE CONSIDERATION

During the 93d Congress, the Senate adopted S. 1201, a bill almost identical to S. 3081, as introduced.

The Subcommittee on Agricultural Research and General Legislation held hearings on a similar bill (S. 1316) on May 26, 1971. The bill was generally favored by witnesses other than the American Meat Institute.

On March 4, 1976, Senator Dole introduced S. 3081. On June 16, 1976, the Committee—meeting in Executive session—considered the bill, amended it in certain respects, and ordered it reported to the Senate.

It is the Committee's hope that increasing the Federal share of meat and poultry inspection program expenses to 80 percent will be an incentive to States with existing inspection programs to continue the programs. The increased Federal contribution could also encourage designated States to redevelop their inspection systems.

COST ESTIMATE

I.

The Committee estimates that in fiscal year 1977 the cost of increasing the Federal contribution as provided by S. 3081 would be $16.8 million—30 percent of the estimated total cost of State inspection programs for 1977. Costs for the succeeding four years would depend upon numerous factors, especially the impact of the legislation on discontinued State inspection programs. A change in the funding formula could cause designated States to redevelop their inspection systems. Therefore, accurate estimates are impossible to make. However, the estimates provided by the Congressional Budget Office for fiscal years 1978–1981 approximate, in the Committee's opinion, the maximum increase in Federal expenditures in carrying out S. 3081.

Without greater Federal assistance for State inspection, all the States may discontinue their inspection programs, leaving the Federal Government to bear the whole cost of inspection. The higher Federal contribution authorized by the bill could be expected to encourage States to maintain their inspection systems and, therefore, result in a savings for the Federal Government.

II.

The cost estimate prepared by the Congressional Budget Office reads as follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 1, 1976.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 3081, legislation dealing with the Cooperative Meat and Poultry Inspection Program.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 3081.

2. Bill title: Cooperative Meat and Poultry Inspection Program.

3. Purpose of bill: Amends Section 301 of the Federal Meat Inspection Act, as amended, and Section 5 of the Poultry Products Inspection Act, as amended, to increase from 50 to 80 percent the Federal government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes.

4. Cost estimate: Costs are incurred primarily as a result of grants made to States having cooperative meat and/or poultry inspection programs. The funds are used for State and local employee salaries. The increase in Federal costs is shown in the table below.

Increase in Federal Costs Under 80 Percent Formula

Fiscal year:	*Millions*
1977	$16.8
1978	18.4
1979	20.1
1980	22.0
1981	24.2

5. Basis for estimate: In fiscal year 1977, 33 meat and 26 poultry inspection programs will be in effect on a cooperative basis. The Federal cost of these programs is estimated to be $28 million under the 50 percent formula. An 80 percent funding formula in fiscal year 1977 would raise Federal costs to $44.8 million. The fiscal year 1977 costs under both formulas were inflated through fiscal year 1981 using CBO estimates of changes in the Consumer Price Index. The figures in the table represent the net increase that results from moving to an 80 percent formula. The estimate assumes that the number of States participating in cooperative meat and/or poultry inspection programs will remain the same through fiscal year 1981.

6. Estimate comparison: The U.S. Department of Agriculture estimated that the Federal cost for fiscal year 1977 would increase from $33.6 million with the 50 percent formula to $53.8 million with the 80 percent formula, an increase of $20.2 million. The CBO estimate reflects the recent withdrawal of California from the program whereas the Department of Agricultures' estimate does not. The Department did not attempt to project costs beyond fiscal year 1977.

7. Previous CBO estimate: None.

8. Estimate prepared by: Kathleen E. Montgomery.

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

III.

According to the Department of Agriculture, the estimated increased cost of carrying out S. 3081 for fiscal year 1977 would be $20.2 million.

NATIONAL NEIGHBORHOOD POLICY ACT

The bill (S. 3554) to establish a National Commission on Neighborhoods, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Neighborhood Policy Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that existing city neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote that objective.

(b) The Congress further finds that the tendency of public policy incentives to ignore the need to preserve the built environment can no longer be defended, either economically or socially, and must be replaced with explicit policy incentives encouraging conservation of existing neighborhoods. That objective will require a comprehensive review of existing laws, policies, and programs which affect neighborhoods, to assess their impact on neighborhoods, and to recommend modifications where necessary.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is hereby established a commission to be known as the National Commission on Neighborhoods (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members, to be appointed as follows:

(1) two Members of the Senate appointed by the President of the Senate;

(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) sixteen public members appointed by the President of the United States from among persons specially qualified by experience and training to perform the duties of the Commission, at least five of whom shall be elected officers of recognized neighborhood organizations engaged in development and revitalization programs, and at least five of whom shall be elected or appointed officials of local governments involved in preservation programs. The remaining members shall be drawn from outstanding individuals with demonstrated experience in neighborhood revitalization activities, from such fields as finance, business, philanthropic, civic, and educational organizations.

The individuals appointed by the President of the United States shall be selected so as to provide representation to a broad cross section of racial, ethnic, and geographic groups. The two members appointed pursuant to clause (1) may not be members of the same political party, nor may the two members appointed pursuant to clause (2) be members of the same political party. Not more than eight of the members appointed pursuant to clause (3) may be members of the same political party.

(c) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the public members.

(d) The executive director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals recommended by the Commission.

DUTIES

SEC. 4. (a) The Commission shall undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization. Such study and investigation shall include, but not be limited to—

(1) an analysis of the impact of existing Federal, State, and local policies, programs, and laws on neighborhood survival and revitalization;

(2) an identification of the administrative, legal, and fiscal obstacles to the well-being of neighborhoods;

(3) an analysis of the patterns and trends of public and private investment in urban areas and the impact of such patterns and trends on the decline or revitalization of neighborhoods;

(4) an assessment of the existing mechanisms of neighborhood governance and of the influence exercised by neighborhoods on local government;

(5) an analysis of the impact of poverty and racial conflict on neighborhoods;

(6) an assessment of local and regional development plans and their impact on neighborhoods; and

(7) an evaluation of existing citizen-initiated neighborhood revitalization efforts and a determination of how public policy can best support such efforts.

(b) The Commission shall make recommendations for modifications in Federal, State, and local laws, policies, and programs necessary to facilitate neighborhood preservation and revitalization. Such recommendations shall include, but not be limited to—

(1) new mechanisms to promote reinvestment in existing city neighborhoods;

(2) more effective means of community participation in local governance;

(3) policies to encourage the survival of economically and socially diverse neighborhoods;

(4) policies to prevent such destructive practices as blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote homeownership in urban communities;

(5) policies to encourage better maintenance and management of existing rental housing;

(6) policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;

(7) modification in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods; and

(8) reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

(c) Within two years after the date on which funds first become available to carry out this Act, the Commission shall submit to the Congress and the President a comprehensive report on its study and investigation under this subsection which shall include its findings, conclusions, and recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

COMPENSATION OF MEMBERS

SEC. 5. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reimbursement for travel, subsistence, and for other necessary expenses incurred in the performance of such duties.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, but at rates not in excess of a maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including traveltime. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) Each department, agency, and instrumentality of the United States is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(d) The Commission may award contracts and grants for the purposes of evaluating existing neighborhood revitalization programs and the impact of existing laws on neighborhoods. Awards under this section may be made to—

(1) representatives of legally chartered neighborhood organizations;

(2) public interest organizations which have a demonstrated capability in the area of concern;

(3) universities and other not-for-profit educational organizations.

(e) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this Act; hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereo. Hearings by the Commission will be held in neighborhoods with testimony received from citizen leaders and public officials who are engaged in neighborhood revitalization programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated not to exceed $2,000,000 to carry out this title.

EXPIRATION OF THE COMMISSION

SEC. 8. The Commission shall cease to exist thirty days after the submission of its report under section 4.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1052), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

HISTORY OF LEGISLATION

In the course of investigating and devising a remedy for the problem of "red-lining", or the unjustified denial of mortgage credit to older urban neighborhoods, the Committee became increasingly aware of the absence generally of policies, programs, or laws that promote the preservation of existing housing in established city neighborhoods. In many cases, the impact of existing policies deliberately or inadvertently contributes to the decline of our neighborhoods. In the case of mortgage credit, the Committee found a reluctance on the part of some mortgage lenders to lend on older housing in moderate income neighborhoods. Consequently, terms are often more attractive on new suburban housing. Confronted with this dual credit market, many residents who might have stayed were pushed out—or pulled out—of the older neighborhoods.

The Committee believes that other structural allocations of resources exist in the form of subsidies, programs, and habits; taken together, these have the effect of favoring new expansion at the expense of preservation. From the Committee's review of housing programs and policies, preservation of established neighborhoods has been a stepchild of federal policy. There has never been an explicit recognition of established neighborhoods and existing housing as the Nation's principal housing resource. Indeed, as one witness commented, existing housing is not only our main housing resource, it is the largest single component of the country's national wealth.

The Committee held hearings on May 5, 6, 7 and 8, 1975 on the red-lining problem. The Home Mortgage Disclosure Act, which was signed January 2, 1976, should help to deter red-lining. It requires the disclosure, by census tract or zip code, of the number and dollar amount of mortgage loans made by virtually all of the Nation's depository institutions. The first statistics required under that Act will be available September 30.

The Committee believes, however, that availability of credit on equal terms is only one prerequisite for nighborhood preservation. The National Neighborhood Policy Act, introduced by Senators Proxmire and Garn, is intended to address broader issue. A hearing was held June 14 to receive testimony on the bill from representatives of communities where preservation is a major concern, and from Federal, state and local officials familiar with preservation efforts.

SUMMARY OF THE LEGISLATION

The bill includes a congressional finding that existing neighborhoods are a national resource that should be conserved, and that public policy should promote that objective. It further finds that existing policies and programs do not adequately do so.

Section 3 of the bill establishes a National Commission on Neighborhoods which shall have two years to make an assessment of existing policies laws and programs that impact neighborhoods, and to recommend modifications. The recommendations shall include, but not be limited to:

1. New mechanisms to promote reinvestment in existing City neighborhoods.

2. More effective means of community participation in local governance.

3. Policies to encourage the survival of economically and socially diverse neighborhoods.

4. Policies to prevent blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote urban homeownership.

5. Policies to encourage better maintenance and management of existing rental housing.

6. Policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures.

7. Modifications in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods.

8. Reorientation of existing housing and community development programs, and other tax and subsidy policies that affect neighborhoods, to better support preservation objectives.

The legislation provides that the Commission shall have 20 members, including 16 public members appointed by the President and 4 members of Congress. Of the public members, at least 5 must be officers of neighborhood organizations engaged in preservation activities, and 5 must be local public officials involved in preservation programs. The Commission must reflect a broad ethnic, racial, geographic and political diversity.

The Commission's chairman and executive director require Senate confirmation. The Commission may award grants and contracts to carry out its research. Its budget shall be $2 million. Two years after commencing activity, the Commission must make its report to Congress. The Committee also expects an interim report after not more than one year. Thirty days after transmitting its final report, the Commission shall cease to exist.

NEED FOR THE LEGISLATION

In the past, neighborhood preservation has been a very minor component of housing policy. The Committee believes preservation must become its fundamental objective. This cannot be accomplished by piling new programs on top of existing incentives and practices that frustrate preservation. Rather, more successful preservation will require shifts in emphasis in a wide range of policies and programs.

The National Neighborhood Policy Act will provide an official recognition of the importance of preserving neighborhoods, as well as a Commission to assess the impact on neighborhoods of existing policies and programs, and to recommend the necessary changes.

For example, many Federal housing programs historically have been insensitive to the ecology of the neighborhoods into which they intrude. The criticisms of Federal urban renewal and highway building programs as destroyers of neighborhoods are well known. In some communities, careless FHA underwriting and administrative practices have contributed to abandonment of otherwise viable neighborhoods.

Advocates of greater preservation efforts have also urged that in new construction, Federal policy should require localities to make "in fill" the top priority in their use of subsidized housing programs. Infill refers to new construction on vacant land in established neighborhoods, as a means of shoring up such neighborhoods. Some cities have had great success by using a variety of housing programs (public housing, Sec. 235, urban homesteading, Sec. 312 loans, and direct purchase using state housing bond funds) to acquire abandoned or dilapidated housing units that are blighting otherwise viable neighborhoods, and rehabilitate such units.

The Commission will be in a position both to evaluate the negative aspects of existing programs that affect neighborhoods, and to identify model approaches that could be augmented by appropriate modifications in Federal policies and programs. The Committee expects the Commission to recommend both administrative and legislative measures that will convert Federal housing programs into better allies of housing preservation.

The Commission will also be in a position to assess the impact of the Community Development Block Grant program on neighborhood preservation. At the Committee's hearings, criticisms were voiced by some neighborhood groups that an inadequate portion of these funds may be going for uses consistent with neighborhood preservation. The Commission may find that this is an entirely appropriate decision for local officials to make; or it may find that there should be greater incentives in the block grant program for use of the funds for direct preservation activities. For example, one of the Committee's witnesses urged the Committee to adopt as an incentive a "double dollars" provision, under which HUD would match, dollar for dollar, block grant funds spent on preservation.

Beyond direct subsidy and grant-in-aid programs, Federal policies affect neighborhoods in more subtle ways. The presence or absence of reinvestment incentive for lending institutions affects the availability of loans. So do the policies of secondary market institutions. Lending institutions invest more than a hundred dollars in residential mortgages for every dollar of direct Federal housing aid. The Commission will assess the impact of lending policies on preservation. It may recommend enactment of additional incentives or vehicles, to encourage depository institutions to invest in preservation, or it could recommend creation of a new form of community development bank, or both.

A third area affecting preservation whose significance is often ignored is tax policy. The discussion of the impact of the tax code on housing is usually couched in terms of its stimulus to investment in new construction. Yet the form of tax deductions available to investors in existing rental housing has a great influence on patterns of ownership, quality of management, adequacy of maintenance. Local tax policies have similar affects. Discussions of tax reform have focused largely on tax equity, rather than housing policy. The Commission will be in a unique position to analyze the tax code from the viewpoint of its impact on neighborhood preservation objectives. Is it conducive to good management and maintenance? If not, what modifications would make it more consistent with preservation objectives? Are there exaggerated tax incentives for demolition and speculation. How could these be modified?

Do local tax assessment practices discourage investment in rehabilitation and preservation? Have localities experimented with more appropriate formulas? Have these facilitated preservation? What is the impact on preservation of other local policies, such as zoning, and the provision of basic municipal services and community improvements?

Thus far, most successful neighborhood preservation strategies have leaned heavily on home ownership. This can work well in row house communities or other older neighborhoods with a preponderance of 1–4 family structures well suited to traditional home ownership. But there is also a need to preserve multi-family housing. The Commission will be able to recommend new strategies for fostering preservation of multiple dwellings, including new forms of ownership.

NEIGHBORHOOD HOUSING SERVICES

The Committee commends the Urban Reinvestment Task Force as the single most effective Federal initiative on behalf of neighborhood preservation. The Task Force was a joint creation of HUD and the Federal Home Loan Bank Board, which has now been expanded to include representatives of the other financial regulatory agencies. The Task Force sponsors a program called Neighborhood Housing Services (NHS), with a budget of $2.5 million a year. NHS provides a model for neighborhoods interested in grass roots preservation efforts. As described by William Whiteside, staff director of the Task Force:

"The program has five basic elements. First a group of residents who want to preserve their neighborhood, improve their homes, and who are willing to put in the necessary effort to establish and operate a NHS program. Second, local government which is willing to improve the neighborhood by making the necessary improvements in public amenities and public services and by conducting a sensitive housing inspection program coordinated with NHS activities. Third, a group of financial institutions which agree to reinvest in the neighborhood by making normal market rate loans to homeowners meeting their credit standards which will make tax deductible contributions to the NHS to support its operating cost. Fourth, a high risk revolving loan fund to make loans at flexible rates and terms to residents not meeting commercial credit standards. And fifth, a NHS organization, which is a private, non-profit corporation having a board of directors of which a majority are community residents, along with significant representation from financial institutions, and normally a three-member staff.

"Neighborhood Housing Services programs represent a working partnership of community residents, lenders and local government with each group strongly represented and respectful of the other's position. This partnership must be constructed with the greatest care.

"Key features of the NHS model are: Neighborhood Housing Services is a local program. The program is non-governmental. The program is non-bureaucratic. The program is a self-help effort. The program is not a give-away and the program is concentrated in specific neighborhoods."

The Committee believes the NHS program should be expanded—carefully—in a manner that does not disrupt its unusual virtues, as a nonbureaucratic program which is tailored to fit local circumstances and which builds on what exists, namely the energy and consent of existing community residents as well as the bricks and mortar of existing housing.

As NHS is an unusual program, Mr. Whiteside is apparently a rare bureaucrat: In his testimony before the Committee, he warned against too much funding:

"Our success thus far has resulted from the carefulness of our works and the quality of our staff and that we have acted primarily as a catalyst in stimulating local initiative. Any immediate large scale expansion of the Task Force's activity that would damage these qualities would be counterproductive."

The Committee particularly commends the approach of the Urban Reinvestment Task Force to promote reinvestment by lending institutions in older neighborhoods by bringing together neighborhood voluntary associations with lending institutions and local public officials in a manner that maximizes the positive impact on the preservation of the community. The Committee does not see the Commission as a substitute or a rival to the Urban Reinvestment Task Force, and expects that Neighborhood Housing Services program and other programs of the Task Force will continue as the Commission goes about its work. The Commission would do well to draw on the resources of the Task Force, and it would be highly appropriate for a representative of the Task Force staff to serve on the Commission.

CONCLUSION

The Committee anticipates that the work of the Commission will result in a shift of emphasis in Federal programs that affect cities, in order to make the impact of Federal policies and laws more consistent with the objective of neighborhood preservation that is given official recognition as a national goal in this Act. This will not be accomplished by a single new program, but by a change in emphasis in numerous programs, laws and policies.

The Committee views this as a continuing process, and does not see the Commission's work as a pretext for legislative inaction during the next two years, but as an additional resource that will assist the Congress and the executive branch, both in its final report and in its ongoing work.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. Mr. President, I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, is there an order for the recognition of a Senator this morning?

The ACTING PRESIDENT pro tempore. Under the order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

I yield to the Senator from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

THE PRESIDENT'S BICENTENNIAL LAND HERITAGE PROGRAM

Mr. JACKSON. Mr. President, President Ford's recent announcement of his "Bicentennial Land Heritage Program" appeared, at first, to be a welcome change in the administration's attitude toward national parks and Federal public recreation programs. When the details are examined, however, the new program turns out to be a mix of actions already underway by congressional direction, ostensible support for appropriations after the appropriation progress has been completed, and a large measure of rhetoric.

The Interior Committee, on a bipartisan basis, has struggled against the administration for 3 years to achieve an increase in the land and water conservation fund while the President's representatives threatened to veto any new spending.

Now, after the budget process is complete, after the battles are over, after the administration has insisted on every cut in funding for land acquisition, operations, maintenance and personnel it could get, now the administration comes in with a spending package. It is now 4 weeks before adjournment and immediately after the second resolution on the budget has been reported.

The timing of this proposal leads me to believe that the President cynically expects the Congress to fail to act. I cannot accord any sincerity to the action whatsoever.

What about new authorizations? The $1.5 billion which the President says he wants authorized in title I of this measure is already authorized. Section 101 (b) requests authorization of the appropriation of the backlogged land and water fund moneys. That authorization already exists, and what is worse, the backlog exists because this administration refused to request the full amount back in fiscal year 1974 when they requested only $55 million of the $300 million authorized. Only a few weeks ago this administration fought to prevent the appropriation of these same moneys and succeeded.

Section 101(b) also requests authorization for appropriations for the operation of the national park system. The fact is that the act of August 25, 1916, already authorizes those sums and the amounts contained in the President's message are less than one-sixth of what is actually needed according to the National Park Service.

The most appalling part of title I is section 101(b) (2) which would appear to be an initiative to provide needed money for urban open space. In 1961 the open space grant program was established. It fell victim to "the new federalism" of the Nixon years and was folded into the community development block grant program. What this meant was the end of the open-space program. If the President were serious about urban open space, he would administratively revive the open space program and fund it year after year rather than issuing press releases.

The President's reference to doubling the acreage of the national park system was highlighted in the press. This increase is nearly all a matter of designating public lands in Alaska for park purposes. The process of selection was initiated by the Congress in 1970.

Mr. President, with respect to this supplemental appropriation request, I ask unanimous consent that an excerpt from the Interior Committee's submittal to the Budget Committee of March of this year on the fiscal year 1977 budget, and a letter signed by Senator J. BENNETT JOHNSTON, chairman of the Subcommittee on Parks and Recreation, and Senators PAUL J. FANNIN and CLIFFORD P. HANSEN, ranking mineroity members on the full committee and subcommittee, to the Appropriations Committee, supporting the same increases, be printed in the RECORD at the conclusions of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. I offer these materials to show that meeting these needs is critical and has been constantly supported in the Congress. I hope the Congress will approve the supplemental appropriation without the 10-year authorization requested by the President so that the funds are actually spent and not impounded once the elections are over.

Mr. JACKSON. I also submit for the RECORD a copy of the administration's letter of opposition to the enactment of the increases in the Land and Water Conservation Fund. I ask unanimous consent that that be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

APRIL 26, 1976.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: We are writing to urge your favorable consideration of the recommendations made by the Committee on Interior and Insular Affairs for increased funding for land acquisition by Federal agencies through the Land and Water Conservation Fund and for increased personnel levels and development funds for the National Park Service in the budget for fiscal year 1977.

In the submittal by the Interior Committee to the Budget Committee we indicated that we believe that a significant increase is needed in appropriations from the Land and Water Conservation Fund, specifically (as indicated in footnote 13 on page 20) that the National Park Service should have an additional $120 million, the Forest Service an additional $25 million, and the Fish and Wildlife Service an additional $8.5 million, with the remainder of the present backlogged funds going to the States in grant monies. The Committee justification for personnel and development increases for the National Park Service are contained on pages 45 and 46 of the enclosed report. We believe these funds are also critically needed.

This need has also been recognized by the Budget Committee in its report on the first concurrent resolution on the Budget and is consistent with the proposed levels for function 300.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
PAUL J. FANNIN,
Ranking Minority Member.
J. BENNETT JOHNSTON,
Chairman, Parks and Recreation.
CLIFFORD P. HANSEN,
Ranking Minority Member, Parks and Recreation Subcommittee.

PARKS AND RECREATION SUBCOMMITTEE

NATIONAL PARK SERVICE

The National Park Service has three major areas in which additional budgetary authority is needed: Personnel, land acquisition, and development.

Personnel.—The National Park Service is presently over 1,000 permanent personnel below the authorized ceiling. The closure of Crater Lake National Park last summer was a direct result of the lack of adequate personnel. It is, in fact, remarkable that no deaths have resulted from this situation which applies to all park units. The report of Senator Hatfield on the Crater Lake closure stated:

"Of considerable concern was the lack of adequate staffing at the national park. The entire episode might have been avoided had the park not been understaffed and a permanent employee with the specific responsibility been present rather than having water quality as an additional responsibility of an electrician or painter. The ultimate responsibility for the understaffing rests not with the National Park Service, but rather with the Office of Management and Budget and the Congress. The Crater Lake situation is not unique. Testimony received at oversight hearings on Yellowstone National Park indicated that Yellowstone could use about 130 more permanent staff. That impact of the understanding is that the professionalism and public responsibilities of the Park Service are being sacrificed. They are being sacrificed because the duties must be undertaken by seasonal or temporary personnel or be undertaken by permanent staff with other full time responsibilities, or not be undertaken at all.

"At Crater Lake, for example, there are only 16 permanent employees out of the authorized level of 24. One of the absent staff is a plumber who would have had the full time responsibilities for checking the sewage and water systems and testing the water. Had Crater Lake been adequately staffed, this episode would not have occurred. A quick check of other areas shows that National Capital Parks for example is almost 200 positions short of its authorized level despite the approaching tourist influx to Washington for the Bicentennial.

"Specific park situations vary. North Cascades is 16 percent below authorized level. Coulie Dam is 24 percent below level as is Mount Ranier. Lava Beds Park Service is failing to do the job they are entrusted to do. Whether the missing employees are rangers who could prevent an assault or other crime, a technician who could prevent a Crater Lake incident, or an interpretive specialist who could explain a geologic formation or a flower to a child, the public is being shortchanged. We, the Federal Government, are not doing what we promised the American people when they entrusted us with the care and interpretation of our National Park System. The National Park Service is not the culprit, and it is this Senator's intention to make that point. The Office of Management and Budget is an excess of budgetary zeal has presented the Congress with reduced budgets. The Congress, with all appropriate hand wringing has deplored the state of the economy and acquiesced. The economy is certainly important, but so also is the level of unemployment in this country and the health, safety, and enjoyment of the American people who visit our national parks. We have been as guilty of neglecting the welfare of the American people when we piously accept foolish manpower and funding cuts as when a doctor from the Public Health Service overrules his staff recommendations in favor of more experiments. This problem is all the more serious in this period of high unemployment when the Park Service must turn away dedicated people because the Congress is unwilling to provide funds."

The committee agrees with Senator Hatfield's analysis and urges that the personnel levels be increased immediately to authorized levels. The enormous demands being placed on the Park System, which will be aggravated during this Bicentennial Year, necessitate the immediate hiring of the additional 1,000 personnel. The committee believes that it is unconscionable in a period of high unemployment that the Park Service must turn away qualified and dedicated people and that the public's health, safety, and enjoyment of the national parks should be jeopardized.

Land acquisition.—The backlog in land acquisition for the National Park System exceeds $700 million (some ceilings need to be raised) and is constantly growing due to land price escalation, inflation, and the addition of new units. The failure to fully appropriate the land and water conservation fund (which has been carrying a backlog of $230-plus million for several years) is evidenced at such units as Sleeping Bear Dunes where costs have risen from $19 million when the unit was authorized in 1970 to $57 million. Similarly, in 1962 Point Reyes would have cost $14 million but will now cost in excess of $57 million also.

The committee recommends an additional $120 million to the Park Service together with 150 new positions to begin to acquire what the Congress promised the American people we would acquire and preserve when the various units were established. It should be noted that no new authorization is needed for this appropriation due to the backlog in the land and water conservation fund from prior years.

Development.—The development backlog of the National Park Service exceeds $2.7 billion of which $1.6 billion is basic repair and rehabilitation, and about $1.1 billion is construction of new facilities mainly at newer units. The condition of facilities and historic sites at many national parks is appalling. The damage to the C. & O. Canal from Hurricane Agnes in 1972, for example, has not yet been repaired. It should be noted that expenditures in this area can have a salutary effect on the private sector providing new employment opportunities in the construction and trade industries. For the most part, new budgetary authority will result in greater outlays in fiscal year 1978 and succeeding years, but the authority should be granted for fiscal year 1977.

CONTINUING PROGRAMS AND COMMITTEE RECOMMENDATIONS—SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

[Dollars in thousands; fiscal years]

						Budget authority			Outlays		
			Authorization			President's budget for 1977			President's budget for 1977		
Program name	Administering agency(s)/bureau(s)	Appropriation account No.	1975	1976	1977	1976 estimate	1977 estimate	Committee recommendation	1976 estimate	1977 estimate	Committee recommendation
PARKS AND RECREATION SUBCOMMITTEE											
Operation of NPS	NPS	10–24–1036–0–1–303.			Open	$251,736	$272,864	[10] $311,000	$240,834	$273,495	[10] $311,000
Road construction, NPS	NPS	10–24–1037–0–1–303.			Open	0	0	10,000	39,000	22,900	43,000
Planning and construction, NPS	NPS	10–24–1039–0–1–303.			Open	27,215	33,200	[11] 48,20	54,819	54,536	[11] 55,000
Preservation of historic properties	NPS	10–24–1040–0–1–303.	$25,000	$25,000		24,666	14,500	[12] 154,500	17,066	21,000	[12] 154,500
Land and water conservation fund	BOR	10–16–5005–0–2–303.	300,000	536,000	536,000	338,086	330,000	[13] 563,000	300,000	329,000	[13] 563,000

Footnotes 1 to 9 omitted.

[10] Provides for 1,000 persons to meet National Park Service authorized ceiling.

[11] Represents additional authority to let contracts.

[12] This figure reflects $150,000,000 in grants which would be authorized by title II of S. 327.

[13] Increase is for $120,000,000 (150 positions) for NPS; $25,000,000 for Forest Service; $8,500,0 for Fish and Wildlife Service; $124,500,000 to States.

EXHIBIT 2

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 9, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 327, a bill "To amend the Land and Water Conservation Act of 1965 as amended and to establish the National Historic Preservation Fund."

We recommend against the enactment of S. 327 because we believe that such a massive increase in the authorized level of the Fund at this time would jeopardize the Administration's efforts to hold down Federal spending.

Title I of S. 327 would increase the existing $300 million annual income level of the Land and Water Conservation Fund to $1 billion each fiscal year through FY 1989 by utilizing Outer Continental Shelf mineral leasing receipts. The bill would also amend the Land and Water Conservation Fund Act to increase the percentage of the total State allocation available to any one State from 7 percent to 10 percent and allow a State to use up to 50 percent of its share for planning or development projects and up to 70 percent for land acquisition. In addition, the bill would require a State requesting assistance from the Fund to submit its plan to the areawide planning agencies designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1968 and for Title IV of the Intergovernmental Cooperation Act of 1968. The States would also be authorized to use not more than 25 percent of their total annual allocation for the planning and development of sheltered facilities for recreation activities normally pursued outdoors under certain conditions. The bill would also amend the Act to authorize funds for the acquisition of lands for inclusion in the National Wildlife Refuge System administered by the Fish and Wildlife Service of this Department.

Title II would amend Section 108 of the Act of October 15, 1966 (80 Stat. 915) to authorize the Secretary of the Interior to waive the 50 percent matching requirement with respect to Statewide historic preservation plans and project plans, but would require that any such grant not exceed 70 percent of the cost of such plans. In addition, Title II would amend Section 108 of the 1966 Act by creating a separate fund in the Treasury of the United States, termed the "national historic preservation fund," from which appropriations may be made for grant purposes. This fund would comprise $150 million annually derived from revenues due and payable to the United States under the Outer Continental Shelf Lands Act and/or the Act of June 4, 1920, the Mineral Leasing Act.

Title III would require the Presidential appointment and Senate confirmation of the Directors of the Bureau of Land Management, National Park Service and Bureau of Outdoor Recreation as well as the Governor of American Samoa and the Commissioner of Reclamation.

Title IV would authorize the States to use their share of the receipts from oil shale leases on public lands for the planning, construction and maintenance of such public facilities and services as the State legislature may direct. Current law now limits the State's use of such receipts to the construction and maintenance of public roads or for the support of public school or other public educational institutions. We would note that separate legislation (S. 834) similar to Title IV of S. 327 passed the Senate on April 22, 1975.

The Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 78 Stat. 897) established a fund in the United States Treasury to provide a program for (1) the acquisition of lands for federally administered recreation areas; and (2) matching grants to State and local governments for planning, acquisition and development of recreation lands and facilities. The Fund is administered by the Bureau of Outdoor Recreation of this Department and revenues are derived from the sale of Federal surplus real property, the Federal motorboat fuel tax, and Outer Continental Shelf mineral receipts.

The amount of land authorized to be acquired with funds from the LWCF and the value of this land has increased substantially since the enactment of the program. For example, the National Park Service will have approximately $573 million worth of land to acquire after fiscal year 75. This includes over $215 million of land at Big Cypress, Big Thicket, and Cuyahoga National Recreation Area which are areas that the Congress directed that the acquisition be substantially completed within six years.

However, our economy today is plagued by the twin problems of inflation and recession. Unless we develop a strategy both to reduce the rate of inflation and selectively to stimulate recovery, our economy and the high standard of living it has brought us will be imperiled. Meeting our economic goals of recovery and future growth without an eroding inflation rate is a more immediate priority than increasing the funding authorization for these programs.

As you are aware there is $262 million currently authorized for the Land and Water Conservation Fund but not appropriated to date. This amount excludes the $300 million recommended in the President's Budget for 1976. If fiscal policy constraints can be diminished in the future, we could propose as a Departmental budget initiative the use of the approximately $200 million portion of these unappropriated funds which is not needed to repay advances to the Fund to finance the acquisition of authorized lands. This could be done without increasing the authorized level of the Fund at this time.

The Act of October 15, 1966 (80 Stat. 915), was a landmark in this Nation's commitment to preserve the significant aspects of our historic heritage at all levels—Federal, State and local. The 1966 Act authorized matching grants to the States and the National Trust for Historic Preservation in the United States for planning and for projects having as their purpose the acquisition and development of "any district, site, building, structure, or object that is significant in American history, architecture, archeology, and culture." Since the 1966 Act was passed, a total of more than $52 million has been appropriated for grants to States, and the National Trust, for State, local, and private historic preservation projects and plans. Active projects to preserve historic districts, sites, and structures are now continuing in all 50 States, the District of Columbia, American Samoa, and Guam.

As it was last amended by Public Law 93-54 of July 1, 1973, 87 Stat. 139, the Act authorizes funds for grants only through fiscal year 1976. We have recently transmitted to the 94th Congress a legislative proposal which would amend the existing law to extend the authorization through FY 1978 at the FY 1976 level of $24.4 million.

This recommendation is consistent with the President's moratorium on new Federal spending programs other than those involving energy production, national defense and certain humanitarian efforts, and his stated policy to avoid excessive growth of Federal spending in the long run.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of S. 327 would not be in accord with the President's program.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

Mr. JACKSON. Mr. President, I yield such time as he may need of my remaining time to the distinguished Senator from Louisiana (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. President, if I were the President of the United States and my record were as dismal on the subject of parks and recreation, as is the President's, I would avoid bringing up the subject during this campaign. I would certainly not raise the issue through a new program under the billing of a "bold new initiative."

Mr. President, last week we held hearings on the President's "bold new" program in my Subcommittee on Parks and Recreation, a subcommittee of the Interior and Insular Affairs Committee. What we found was that the President's Bicentennial heritage program, far from being a bold new initiative, is nothing more than a collection of sound, smoke, mirrors, and rhetoric.

Specifically, the President's plan is deafening in its silence on the subject of the Land and Water Conservation Fund Act Amendments of 1976, which bill has been to conference and will soon be considered for final passage by both of the legislative bodies.

I was most interested to know if the President's grand proposal was in lieu of or in addition to these Land and Water Conservation Fund Act amendments. However, Mr. President, the Secretary of the Interior, who is charged with administering these programs, could not answer that question. Indeed, he could neither tell the committee whether the President was going to sign this legislation which is now so close to final passage, nor, for that matter, whether or not he would recommend that the President sign the legislation.

Mr. President, as you probably know, the conferees on the Land and Water Conservation Fund Act amendments have agreed to increase the Fund from $300 million per year, as at present, to $600 million per year in fiscal year 1978; $750 million in fiscal year 1979; and $900 million for each year thereafter through fiscal year 1989. As amended, the act will provide $4.14 billion through 1989 for acquisition of Federal recreation lands, and $6.21 billion in grants to assist States and local governments to purchase park and recreation areas.

In addition, the amendments will provide $100 million each in fiscal years 1978 and 1979 and $150 million each in fiscal years 1980 and 1981 in grants for historic preservation projects.

From what I could glean from Mr. Kleppe's testimony, Mr. President, this "bold new initiative" seeks no additional funding authorization either for the acquisition of parks and recreation areas or for historic preservation grants. Apparently, the President's plan is only a supplemental appropriation request for funds that we long ago authorized him to spend, but which he has consistently refused to spend despite the appeals of this Congress and a number of agencies in his own administration.

The President knows full well that this last minute appropriation request comes at a most inopportune time: only days after the second budget resolution had been marked up in the Budget Committee. His request exceeds his own budget and the budget this Congress has adopted. Nevertheless, Mr. President, I will pledge my full support of this program, and I am sure my colleagues will as well, if we can get a few clarifications from the President.

First, and at a minimum, he ought to immediately promise the American people that he will not veto the Land and Water Conservation Fund Act Amendments of 1976.

Second, he should immediately state that his proposal is merely a supplemental appropriation request in order to avoid any time-consuming jurisdiction disputes which might arise between the committees of Congress.

Third, he should state whether his request exceeds his budget and, if it does, whether he will seek a reduction in appropriations to other Federal programs in order to balance the budget or whether he will seek to increase his own budget.

Fourth, if he will seek to cut other Federal programs, he should specify these programs and the amount of the reductions he will seek.

Again, if President Ford will immediately supply satisfactory information in these four areas, Mr. President, I, and I am sure my colleagues, will work for the passage of this proposal. If he does not, then this proposal is truly without substance, a proposal filled with nothing more than political hypocrisy proffered to the American people here on the very eve of the adjournment of Congress. Indeed, this whole message was sent to us only 23 days before the Congress adjourns. If, indeed, the President is serious, and I seriously doubt that the President is serious in wishing the Congress to pass this legislation, then it is up to him to be forthcoming with the needed additional information.

Mr. President, I ask unanimous consent that a letter, dated April 30, 1976, to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), from the Senator from Louisiana (Mr. JOHNSTON) be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
April 30, 1976.

Hon. ROBERT BYRD,
Chairman, Senate Interior Appropriations Subcommittee, Washington, D.C.

DEAR MR. CHAIRMAN: Recently I wrote you with three of my colleagues on the Senate Interior Committee—Senators Jackson, Fannin, and Hansen—to urge increases in funding for parts of the National Park Service budget in Fiscal Year 1977. That letter was rather brief, and in substance reiterated the conclusions reached by the Interior Committee in its submittal to the Budget Committee. Because I believe strongly that this need is a high national priority, I wanted to elaborate on some of these funding requests.

I would propose that we make the following specific additions to the budget for the National Park Service:

1. Personnel—It is my understanding that the National Park Service is now more than a 1,000 permanent personnel below its required level. The Park Service lacks the men and women it needs to properly maintain the parks; to properly conduct interpretive programs in the parks; to properly provide visitor services and visitor protection; and to properly conduct the administration that is naturally part of a $300 million operation.

The effects of our economizing each year on Park Service personnel are now becoming clear. Senator Hatfield filed an excellent report on the occurrences in one of the National Parks in his state, Crater Lake National Park. He has documented the shortage of personnel at Crater Lake as well as in the National Parks throughout the country. If we had filled a position at Crater Lake with a person who had full responsibility for water quality, as the table for manning in that National Park required, then we could have avoided a situation that threatened the health and safety of many American people who visited that part of our National Park Service.

Because problems like this are much too commonplace, I am requesting that we add the funding for 1,000 personnel in the National Park System in FY 1977. The estimate that I have received from the National Park Service is that the average salary of each of these people is approximately $13,000 and therefore the dollar amount that I would request is $13 million. I am also requesting that we provide in the statute for the additional positions, so that the will of the Congress in this particular area will not be thwarted by personnel ceilings imposed by the Office of Management and Budget after the legislation has passed.

2. Historic Preservation—As you know, for several years now the National Park Service has operated a historical preservation grant program of some $20 million. The President proposes in his budget that this amount be halved—that only $10 million be provided for grants to states for the purpose of historic preservation. It is ironic that the President would propose such a massive reduction in such an important area at the same time that the full Senate has twice passed legislation proposing expenditures of $150 million a year for the next five years; also, it is noteworthy that the President's own authorization request is $20 million.

When we neglect the opportunities that we have in our country for historic preservation, we often forego the opportunity for such preservation entirely. If we cannot invest funds now in historical structures that require preservation and restoration, it is almost inevitable that those structures will deteriorate to the point where they can no longer be meaningfully preserved. It is for this reason that a far more substantial federal commitment is required at this time.

Even recognizing the budget constraints under which we work this year, I would hope that we could fund the historical preservation grant program in an amount well in excess of last year's figure, particularly in light of the Senate's passing a bill that has such substantial funding levels. As a very minimum, our Committee should maintain last year's funding level.

3. Construction—The proposed budget for the National Park Service includes $57 million in construction projects for next year. This figure represents less than 10% of the total construction needs that presently exist in the National Park Service. Clearly with a need that is so great, we cannot in any single year take more than a few partial steps toward finishing the work that needs to be done. In a year such as 1977, when we face substantial unemployment, I think it would be especially appropriate to increase our investment in National Park construction somewhat. Besides meeting the needs of the National Park Service, this would also be a job creation measure.

Therefore, I would recommend that we include $20 million over the President's budget request for construction projects in the National Parks. I would also recommend that we include in our report specific language that indicates that these projects will be of the type that will be important in terms of job creation. I am aware of correspondence between Congressman Yates and Secretary Kleppe which makes a proposal very similar to the one that I am offering at this time. I believe that this additional $20 million would be a great opportunity not only to enhance facilities in our National Parks but also to put people to work in the most constructive kinds of jobs.

4. Land Acquisition—The President this year has recommended that the normal annual allocation of $300 million from the land and Water Conservation Fund be made. Of this amount it is anticipated that only $77 million will go towards acquisition of land and become part of the National Park System. This will leave an outstanding backlog in land acquisition needs after the 1977 fiscal year of $372 million.

There is presently a backlog of $246 million in the Land and Water Conservation Fund. I would not propose that we appropriate that full amount this year, but I believe that some portion of that money should be made available to the National Park Service so that we can continue land acquisition in major park areas. Specifically, I would recommend that up to $120 million of backlog be appropriated for priority areas as determined by the National Park Service. I make this recommendation in light of the fact that the costs of acquiring parcels for our National Park System are increasing every year. When we delay in buying this year, we will have to pay more for the same land in 1978, and in every subsequent year. Therefore, with a backlog in the Land and Water Conservation Fund, we insure that this money buy the maximum acreage by using it now.

I would also like to indicate at this time that the Senate Interior Committee has favorably reported, and the Senate has passed, pieces of legislation to create National Recreation Areas in the Santa Monica Mountains in California and on Nantucket Island off the coast of Massachusetts. Both of these projects, as well as a project along the Chatahoochee River in Georgia, rely upon a new concept in funding recreational areas. Under this new concept, all of the daily operational responsibility and expense will lie with states and localities after the initial federal investment in new recreational areas.

I believe that this new concept is a critically important one for continuing to develop our recreational resources in this country. Therefore, I think it will be essential that we immediately fund these programs at such time that the authorizing legislation has passed both houses of Congress and has been signed into law by the President. The amounts with which we are dealing are:

Santa Monica—$50 million.
Nantucket—$10 million.
Chatahoochee—$12 million.

I wanted to inform you of these exciting new plans in the park area.

I certainly appreciate your consideration of these proposals, and I trust that the final appropriation measures as passed by the Senate this year will reflect a renewed Federal commitment to do nothing less than what we must do to preserve our natural resources, our historical resources, and to create sufficient recreational opportunities for all Americans.

With kindest personal regards,
Sincerely,
J. BENNETT JOHNSTON,
U.S. Senator.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. JACKSON. I yield for a question.

Mr. NELSON. Mr. President, I have listened with great interest to the remarks of the distinguished chairman of the committee (Mr. JACKSON) and the Senator from Louisiana, and I must admit that I am somewhat perplexed respecting the President's proposal which they have discussed. When I read the President's remarks at Yellowstone Park, I thought that the administration had come around and was going to begin to attempt to undo the damage it has done over the past few years. I would appreciate it if I could have a few points clarified.

The President mentioned that this program would double the acreage in our National Park and Wildlife Refuge System. I do not see any mention of that in the legislation transmitted to the Congress.

I wonder if the Senator from Washington, as chairman of the committee which has the legislative responsibility, would help clarify that point.

Mr. JACKSON. Mr. President, I am happy to respond. The administration legislation has absolutely nothing to do with doubling the acreage of our park and recreation resources. As the Senator remembers, when the Congress was considering the Alaska Native Land Claims Settlement Act, Senator BIBLE and I proposed an amendment to require the Secretary of the Interior to withdraw not to exceed 80 million acres in Alaska for inclusion within the four major recreation and preservation systems. The administration recommendation pursuant to that congressional mandate, would add approximately 32.2 million acres to the National Park System and 31.5 million acres to the National Wildlife Refuge System. These are the areas to which the President apparently referred.

Mr. NELSON. But this is based, then, upon legislative decisions made some time ago?

Mr. JACKSON. That is correct.

Mr. NELSON. Then there are not, despite what the headlines indicated at the time of the President's statement, any new park proposals in this legislation?

Mr. JACKSON. No, there are none. If you examine the 11 areas mentioned in the background information provided by the administration, you will notice that all the areas are already authorized and some were passed despite administration objections.

Mr. NELSON. I remember the fight with the administration especially with respect to Cuyahoga Valley National Recreation Area and the amount of acreage which we felt was imperative for Big Thicket. What the Senator is saying, and I regret that he is right, is that there is nothing in this new program which has not either already occurred or will occur without any further action by the administration. Is that correct?

Mr. JACKSON. The Senator is correct.

Mr. NELSON. I understand that the conference report on the Land and Water Conservation Fund Act Amendments of 1976 has been filed in the House and will be filed in the Senate today. Is that correct? Does the Senator from Louisiana have any comment on that?

Mr. JOHNSTON. That is correct, the report was filed in the House on September 2, 1976, and I am filing the Senate report today. The House, of course, will act first on the report.

Mr. NELSON. Do the amendments provide the $1 billion per year which was in the Senate version of S. 327, pursuant to an amendment I proposed in the last Congress?

Mr. JOHNSTON. No. As the Senator knows, the administration strongly opposed the billion dollar per year funding level. The House version called for incremental increases of the fund to $800,000,000 per year in fiscal year 1980. In conference, over the administration's threats of veto, we were able to raise that funding level to $900,000,000 per year beginning in fiscal year 1980 by an increase in the level of funding to $600,000,000 for fiscal year 1978 and $750,000,000 for fiscal year 1979.

Mr. NELSON. How much will this new funding level provide for the purchase of federal recreation land?

Mr. JOHNSTON. As the Senator knows, 40 percent of the Land and Water Conservation Fund is set aside for acquisition of Federal recreation lands. The fund now provides $120 million each year for Federal acquisition. In fiscal year 1978 that sum will increase to $240 million; in fiscal year 1979, the sum will be $300 million; and in fiscal year 1980 and each year thereafter through fiscal year 1989, there will be $360 million for Federal recreation area acquisition. Through 1989, these amendments will provide a total of $4.14 billion for acquisition of Federal recreational areas.

Mr. NELSON. What is the current cost backlog of already authorized but unacquired Federal recreation lands?

Mr. JOHNSTON. At present there is approximately $3 billion in backlog, and these amendments will provide the money to begin to attack this backlog problem.

Mr. NELSON. Not all of that backlog is in the National Park System, as I recall; is it?

Mr. JOHNSTON. The Senator is correct. Taking into account new areas, land price escalation, and inflation, the National Park System accounts for about one-fourth of the total backlog.

Mr. NELSON. All those funds have been authorized; have they not?

Mr. JOHNSTON. No. As you recall, the Senate just passed an omnibus ceiling, increase for the National Park System which totaled over $60 million. That legislation represents the cost to the taxpayers of the continued intransigence of the administration in refusing to agree to the appropriation of moneys to purchase the threatened lands within our national parks.

Mr. NELSON. The land and water conservation fund amendments also would provide needed grant money to the States, under provisions of current law; would they not?

Mr. JOHNSTON. Yes, absolutely. S. 327 as agreed to in conference would provide a total of $6.12 billion in matching grants over the remaining life of the fund.

Mr. NELSON. It appears that this new "parks bill" is somewhat inconsistent with the administration position in the past on providing needed revenue for national parks; does it not?

Mr. JOHNSTON. The Senator is absolutely right. If anything, that is an understatement. Not only was the President's original budget submission lower than what was needed, the administration blocked any attempt to increase funding to responsible levels.

This new appropriation request barely agrees with the Interior Committee's original request to the Budget Committee made back in March. In fiscal year 1976, for example, the Park Service asked for $397 million for operations, the President budgeted $354 million, and Congress—over administration objections—raised that figure to $364 million. Again, in the new fiscal year beginning October 1, the President asked for $359 million, substantially less than the Park Service had requested, and Congress raised it to $377 million. The Fish and Wildlife Service had a special fund to buy wetlands for migratory birds. Last year, Congress appropriated $7.5 million for the fund and this year $4 million. In both years the Ford administration asked that nothing be appropriated for this purpose.

Mr. NELSON. Well, among other things, I am somewhat confused about the President's request for 2,000 new positions. Will this be in addition to the 942 positions already authorized by Congress?

Mr. JOHNSTON. The President's proposed legislation would appear to request 1,000 persons above the 942 which the Congress has authorized over the last 2 years. You may remember, however, that for fiscal year 1976 the Congress provided 395 new positions for the National Park Service which the President refused to fill. Instead he proposed 400 new positions for fiscal year 1977, in effect an increase of five positions over what he had already been granted. The Congress for fiscal year 1977 provided 548 new permanent positions in addition to the 395 previously authorized. In the subcommittee hearing last Wednesday, Secretary Kleppe assured us that those 548 positions were not included in the 1,000, but old habits are hard to break and I personally would feel better if I received the President's assurance that this is not the same old shell game that we have had for these last few years.

Mr. NELSON. Am I correct, then, after having read the widespread front page publicity in papers all over the United States about the President's proposal to double the park system, there is, in fact, nothing additional or new proposed by the President?

Mr. JOHNSTON. That is correct, and in fact, if the President's program is a substitute for the Land and Water Conservation Fund Amendments of 1976, which are presently ready to be acted on by this Congress and sent to him for signature, then it constitutes a significant step backward, pulling back about halfway from what Congress proposed.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 5 minutes each.

SENATE CONCURRENT RESOLUTION 140 THROUGH SENATE CONCURRENT RESOLUTION 176—SUBMISSION OF CONCURRENT RESOLUTIONS OBJECTING TO PROPOSED SALE OF WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. NELSON submitted the following concurrent resolutions:

S. CON. RES. 140

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Korea (transmittal number 7T–51), transmitted on September 1.

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of tanks to Korea (transmittal number 7T–43), transmitted on September 1.

S. CON. RES. 142

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of vehicles to Pakistan (transmittal number 7T–50), transmitted on September 1.

S. CON. RES. 143

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Pakistan (transmittal number 7T–48), transmitted on September 1.

S. CON. RES. 144

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of bombs to Israel (transmittal number 7T–26), transmitted on September 1.

S. CON. RES. 145

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft support to Iran (transmittal number 7T–29), transmitted on September 1.

S. CON. RES. 146

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of ammunition to Iran (transmittal number 7T–28), transmitted on September 1.

S. CON. RES. 147

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of bombs to Israel (transmittal number 7T–41), transmitted on September 1.

S. CON. RES. 148

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of vehicles to Pakistan (transmittal number 7T–49), transmittal on September 1.

S. CON. RES. 149

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of ammunition to Pakistan (transmittal number 7T–30), transmittal on September 1.

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of anti-tank weapons to Saudi Arabia (transmittal number 7T–30), transmitted on September 1.

S. CON. RES. 151

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of helicopters to Israel (transmittal number 7T–47), transmitted on September 1.

S. CON. RES. 152

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Norway (transmittal number 7T–42), transmitted on September 1.

S. CON. RES. 153

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of torpedoes to Pakistan (transmittal number 7T–24), transmitted on September 1.

S. Con. Res. 154

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Morocco (transmittal number 7T-17), transmitted on September 1.

S. Con. Res. 155

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft maintenance and training to Germany (transmittal number 7T-45), transmitted on September 1.

S. Con. Res. 156

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Korea (transmittal number 7T-19), transmitted on September 1.

S. Con. Res. 157

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to the Philippines (transmittal number 7T-44), transmitted on September 1.

S. Con. Res. 158

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft and missiles to Singapore (transmittal number 7T-18), transmitted on September 1.

S. Con. Res. 159

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of construction to Saudi Arabia (transmittal number 7T-20), transmitted on September 1.

S. Con. Res. 160

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of construction to Saudi Arabia (transmittal number 7T-22), transmitted on September 1.

S. Con. Res. 161

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Saudi Arabia (transmittal number 7T-21), transmitted on September 1.

S. Con. Res. 162

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Iran (transmittal number 7T-46), transmitted September 1.

S. Con. Res. 163

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Iran (transmittal number 7T-32), transmitted on September 1.

S. Con. Res. 164

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Iran (transmittal number 7T-36), transmitted on September 1.

S. Con. Res. 165

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Iran (transmittal number 7T-34), transmitted on September 1.

S. Con. Res. 166

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of vehicles to Saudi Arabia (transmittal number 7T-35), transmitted on September 1.

S. Con. Res. 167

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of ammunition to Israel (transmittal number 7T-16), transmitted on September 1.

S. Con. Res. 168

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Israel (transmittal number 7T-27), transmitted on September 1.

S. Con. Res. 169

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of air defense weapons to Saudi Arabia (transmittal number 7T-38) transmitted on September 1.

S. Con. Res. 170

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of torpedoes to Iran (transmittal number 7T-25), transmitted on September 1.

S. Con. Res. 171

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Saudi Arabia (transmittal number 7T-15), transmitted on September 1.

S. Con. Res. 172

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of training equipment to Saudia Arabia (transmittal number 7T-40), transmitted on September 1.

S. Con. Res. 173

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Saudia Arabia (transmittal number 7T-37), transmitted on September 1.

S. Con. Res. 174

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of helicopters to Iran (transmittal number 7T-31), transmitted on September 1.

S. Con. Res. 175

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of construction to Saudi Arabia transmittal number 7T-23), transmitted on September 1.

S. Con. Res. 176

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Australia (transmittal number 7T-33), transmitted on September 1.

Mr. NELSON. Mr. President, I send to the desk 37 concurrent resolutions of objection of Congress, pursuant to section 36(b) of the Arms Export Control Act of the proposed sales to various countries, and ask that they be properly referred.

The PRESIDING OFFICER. The concurrent resolutions will be received and appropriately referred.

Mr. NELSON. Mr. President, over 3 years ago I first offered legislation which eventually formed the basis for the law providing for congressional oversight and veto over the sales of U.S. arms overseas. Today that section of the law—section 36(b) of what is now known as the Arms Control Export Act—is undergoing its most serious test. Today is the first legislative day that Congress can act to examine a disturbing package of 37 separate reports stating that the administration intends to offer to sell arms to 11 separate countries for a total dollar figure of $6.024 billion. On Wednesday evening, September 1, on the eve of Congress traditional Labor Day recess, the President informed Congress of this series of decisions. This single day's work obligates the United States to sell the equivalent of 13.7 percent of all arms sales made by this country in the past quarter century.

The sheer magnitude of this announcement is clearly sufficient cause for Congress to act. But there are other disturbing aspects of the Executive's decision. Starting from the moment Congress received the executive announcement, the clock began ticking toward the 30-day deadline which Congress statutorily has to act to block any or all of these proposed sales. Failure to act means that the sales can go through as proposed by the President. The clock has been ticking over the recess. And today is the first legislative day—the first day that Congress has been in session—since the proposed sales were announced. Now Congress has only 24 days in which to act. This test of the law may very well prove that the statute providing congressional oversight should be amended to adhere to my original proposal—that Congress should have 30 days in which it is in continuous session rather than merely 30 calendar days in order to consider adequately arms sales proposed by the executive branch.

In any case, by introducing resolutions of objection on all 37 reports, I am asking the appropriate committee in Congress, the Committee on Foreign Relations, to hold hearings and call administration witnesses to explore in detail the underlying rationale for so extensive an arms sales plan to be advanced at this particular moment. The Committee on Foreign Relations is being asked to serve as a brake on this runaway roller-coaster which the executive branch prefers to call its "arms sales policy." In introducing these resolutions on all 37 reports, I do not expect nor wish to see all the sales stopped. Rather, it is intended to avoid prejudicing the case against sales to any single country before hearings have actually been held.

Mr. President, despite the fact that the executive branch has extensive expertise available to evaluate the military, political, and foreign policy implications of its arms sales, it is clear from the history of these sales that we have become the world's leading arms merchant willy nilly without an overall plan or policy and without any careful judgment whether we are serving our national interests and the interests of world peace and stability. It is urgent that Congress become a partner in the evaluation of the overall implications of these latest Administration arms sales proposals.

Mr. President, I am here to question just how well the executive branch has conducted its examination of these plans. Merely observing the manner in which notice of these proposed sales was transmitted to the Committee on Foreign Relations raises disturbing questions. Comparing the orignial laundry list of proposed sales and the resultant individual notifications reveals serious discrepancies, even though both transmissions were prepared by the Department of Defense. For instance, the day after receiving the overall list of offers, the Committee on Foreign Relations was surprised to find in its box an additional arms sales notification to Israel, boosting obligations to that country by something over $72 million. That same communication brought news that the dollar value of proposed arms sales to Saudi Arabia had mysteriously increased by $40 million. In transmittal No. 7T-40 for training equipment to Saudi Arabia, there is $1 million discrepancy between the cover letter and the actual notification. Now DOD may not be disturbed by these clerical errors. After all, $1 million is a drop in the bucket for Saudi Arabia which is planning to buy $702 million worth of FMS goods and services on just this 1 day. But, Mr. President, a $1 million clerical error is at least a good indication that not everything is exactly shipshape in America's arms sales policy. Discovery of these errors should lead us to probe further.

Did the proper authorities in the executive branch really ask all the questions they should have about these sales? Did they really do all their homework? Are they coordinating with one another? What do these sales mean in terms of regional arms races in the various areas to which these weapons are destined? Are these weapons destabilizing by virtue of their offensive capabilities? What provisions have been made to guard against transfer of these weapons to third countries? What is the extent of political commitment implied by U.S. transfer of weapons to these different nations? Are we treating the transfer of weapons to Norway the same as we are treating the transfer of even more sophisticated equipment to Iran? Should we treat the sales to these two very different countries on the same basis?

These are bothersome questions. But not raising them would be a dereliction of duty on the part of Congress and on the part of the executive branch. Foreign military sales constitute major foreign policy decisions involving the United States in military activities.

Making decisions without sufficient deliberation has gotten us into trouble in the past and could easily do so again. Furthermore, the record of the past several years yields disturbing evidence that the conduct of America's arms sales policy is simply in a shambles. The bare statistics for the foreign military sales program tell much of the story why. For some time now, but during the past 6 years in particular, we have witnessed an exponential growth in the volume of military equipment sold abroad by the United States. In fiscal year 1975, U.S. foreign military sales orders totaled $9.5 billion. They dropped slightly in fiscal year 1976 to $8.3 billion, but if last week's announcement stands unchallenged the 1976 fiscal year total will reach $14.4 billion. Only 6 years before, in 1970, the foreign military sales program accounted for less than $1 billion worth of equipment. That means we have increased transfers 14 times in 6 years.

Paralleling this rapid growth in the sheer volume and cost of arms sales has been a steady tendency for the United States to sell increasingly destructive and sophisticated military equipment. We are selling some of our most advanced weapons, even before our own Armed Forces is fully supplied—as in the case of the sale of 80 F-14's to Iran and now in the sale that the President proposes to make of 160 F-16 aircraft to Iran with a total dollar value of $3.8 billion.

Additionally, the major recipients of U.S. arms have dramatically changed. A program originally designed to assist major NATO allies has become the chief means by which many nations of the so-called Third World acquire weapons. More than half of our foreign military sales in recent years have been made to nations of the newly oil-rich Persian Gulf and Mideast. Such sales have major foreign policy implications, but there is little if any evidence that the administration has given adequate thought to the long-range diplomatic or military consequences of such weapons transfers.

A recent study conducted by the Committee on Foreign Relations reports that President Nixon in May 1972 gave Iran an open-ended commitment to buy "virtually any conventional weapons it wanted." The report concluded, "to let Iran buy anything it wanted effectively exempted Iran from arms sales review processes in the State and Defense Departments. This lack of policy review on individual sales requests inhibited any inclinations in the Embassy, the U.S. military mission in Iran—ARMISH-MAAG—or desk officers in State and DOD to assert control over day-to-day events."

This willy-nilly selling to the Shah has locked us into a commitment which I warned about back in 1974 when I was still fighting for the first step toward congressional oversight in the arms sales area. At that time, I stated that:

> Selling to Iran means more than just a fast buck for U.S. defense contractors or a shot in the arm for the U.S. trade balance. It means we are deeply involving U.S. military in the military future of Iran—a nation to which under a 1959 agreement, the United States is committed to "take such appropriate action, including the use of armed forces, as may be mutually agreed upon." We are pouring rivers of sophisticated arms into a nation whose dubious military adventures include the occupation in 1971 of three small strategically located islands at the entrance to the Persian Gulf, which the Arabs in the area also claim.

Today, in light of the Iran report by the Foreign Relations Committee, that statement delivered 2 years ago has proved sadly prophetic. States the committee report:

> The U.S. having sold sophisticated arms in large quantities to Iran, has assumed a growing and significant "commitment" in terms of supporting that equipment. . . .

And lest the Iran report overshadow the entire U.S. arms sales program, let me remind my colleagues of a statement of a U.S. military official which I quoted back in 1974 regarding U.S. arms sales policy toward Saudi Arabia. The statement about Saudi-American relations is practically a paraphrase of the U.S. policy toward Iran:

> I do not know of anything that is non-nuclear that we would not give the Saudis.

Commenting on our policy then, I described "an incredible policy which attempts to be 'even-handed' in the Middle East but which boggles the mind for its shortsightedness. The same policymakers in our Government who approve sales to Iran are also pushing sales to the Arab powers in the Persian Gulf region—Saudi Arabia and Kuwait—thus fueling the arms race."

What has the administration done to analyze the long-term commitments and consequences of these sales besides approving more sales? Where are its studies to confirm or deny the fears I expressed several years ago? It would seem that the administration has been too busy making sales to bother about making policy. Indeed the sum total of ad hoc decisions appears to be its only policy. For whatever reasons, it simply has not gotten around to analyzing and forecasting the future implications of its sales program. Since May of last year, the executive branch has been batting around a NSSM—National Security Staff Memorandum—on the subject. The study has apparently been abandoned after bogging down in the bureaucratic echelon below the Secretary of State level. It would appear that that will also be the fate of a comprehensive study in the Persian Gulf which has been in the works for months. In any case, the lack of a comprehensive analysis and a lack of coherent planning has not hampered the arms sales momentum which has reached breakneck speed.

In light of the administration's shocking record on arms sales, it will take a great deal of convincing to prove to me that the United States must commit itself this month to sell 160 F–16's to Iran. Telling Congress that this decision is in the national interest just will not wash. The public is still digesting the mounting evidence that several years ago a President acting practically alone—save for the assistance of the commercial arms salesmen and their agents who may have employed bribery—set the stage for the sale of the 80 F–14's to Iran.

Mr. President, clearly Congress must act to impose a more cautious note in our arms sales policy. The President has demonstrated that he is incapable of so acting by sending up his Labor Day packet. The chaotic manner in which his announcement was delivered reveals a deeper chaos in his arms sales program which only a responsible Congress can now temper.

Mr. President, I ask unanimous consent that an editorial from this morning's Washington Post, entitled "A Congressional Test on Arms Sales," an article from Harvard magazine of June 1976, entitled "America the Arsenal!" and an article from Newsweek of September 6, 1976, entitled "Anatomy of the Arms Trade," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 7, 1976]

A CONGRESSIONAL TEST ON ARMS SALES

Rising apprehension over the sale of American arms abroad lends special significance to the hearing that a Senate subcommittee has scheduled on the proposed $3.8 billion sale of sophisticated F–16 jet fighters to Iran. For Iran two years ago from the oil-price increases revenues finally commensurate with its military ambitions. It has been buying arms with a kind of drunken fervor.

The administration has been coasting on the premise that Iran's good will in oil, diplomacy and strategy—not to speak of the billions in proceeds from the sales—is sufficient cause to continue this extraordinary supply relationship. If officials have pondered what Iran's larger purposes might be, or what risks the United States might be taking sponsoring Iran's arsenal and providing the thousands of technicians to make it work, they have kept their puzzlement to themselves. There are reports that in addition to some $10 billion worth of military hardware and services already sold, Secretary of State Kissinger discussed another whopping package on his recent trip to Teheran. The new F–16 item is apparently a part of it.

Just this year, in belated response to just such apparent arms orgies, Congress enacted legislation giving itself new powers to review executive-sponsored commercial arms sales. This is the category in which the huge deals with Iran, and the Arabs, are made. Previously, legislators had tended to limit their concern to the now relatively smaller category of deals in which the U.S. government plays a financial part. It is under the new legislation, which gives Congress 30 days in which to disapprove a sale, that the Senate foreign relations aid subcommittee is preparing a hearing on the F–16s.

The time is relatively short in which the Congress can draft an intelligent questionnaire. Any useful inquiry, for instance, must go beyond hand-wringing into exploration of the whole broad range of policies, commitments and interests of which this projected sale is but one part. It is rather like trying to shoe a running horse. Yet the beast must be slowed and the effort made, if the Congrss is to exercise in practice the powers and responsibilities it is so eager to claim in theory. This is an important test.

Characteristically, the administration, having removed the restraints from its arms sales to the oil-happy states in greater or lesser degree, is muttering in dark dismay now that the Congress is finally trying to catch up. Rather than concede earlier fault, the administration complains that the Congress is rudely butting in. It's true. But there's no choice. In a runaway situation, restoring policy to the kind of reasonable standard which will command an informed Washington-wide consensus is tough going. It not only requires a blending of complex policy factors. It also forces a confrontation of institutions, as the one attempts to share power in an area which the other is accustomed to regarding as its private preserve. That is why the F–16 hearing, which touches just one arms deal among many that the administration has in train, cannot be the end of the road.

Like other foreign governments, Iran is troubled to find that it must deal increasingly with several often competing sources of power in Washington. It feels it entered in good faith into a relationship with the appropriate American authority, and it is tempted to question the motives as well as the judgment of the party now trying to get into the act. One almost begins to pity poor Iran, and poor Saudi Arabia, which is in the Sidewinder missile market, or would like to be, in a big way—and poor Who's Next. But there is a larger moral to all this. The executive must be readier to share its power with Congress. The Congress, in turn, must accept the broader "executive" context in which decisions on particular arms deals must be made. And even then, foreign buyers accustomed to working within the frame of a rigidly authoritarian government (as most of our arms buyers tend to be) will have to take into account the fact that when they are doing business with the United States, they are dealing with a free-wheeling political system that cannot always guarantee a final, authoritative, and irreversible answer.

[From Harvard magazine, June 1976]

AMERICA THE ARSENAL: WHAT SHOULD U.S. ARMS-TRADE POLICY BE?

(By Anne Hessing Cahn)

Why should we concern ourselves with America's arms-trade policy? After all, there is nothing new about arms trading.

Throughout history, few nations or groups of people have perceived themselves as self-sufficient in producing the weapons they felt necessary to pursue their interests; an arms trade between neighbors, tribes, clans, or nations is as old as warfare itself. In the Bible, we find not only arms transfers, but all the ancillary aspects of trade restrictions, competition, and maintenance of equipment. The First Book of Samuel, in chapter 13 (19–22), relates:

"Now there was no smith found throughout all the land of Israel: for the Philistines said, Lest the Hebrews make them swords or spears:

"But all the Israelites went down to the Philistines, to sharpen every man his share, and his coulter, and his ax, and his mattock.

"Yet they had a file for the mattocks, and for the coulters, and for the forks, and for the axes, and to sharpen the goads.

"So it came to pass in the day of battle, that there was neither sword nor spear found in the hand of any of the people that were with Saul and Jonathan: but with Saul and with Jonathan his son was there found."

The United States has been sending military advisers abroad for over a hundred years. In 1869, American military advisers were in Egypt, and in 1885, military officers were sent to Korea. What is new, and what makes the subject worthy of our attention, is the extraordinary rate of growth in arms trade. In 1961, worldwide trade in arms involved $2.4 billion; last year, total orders exceeded $20-billions' worth, nearly a tenfold increase in fourteen years.

The United States has aptly been called the General Motors of this industry, with weapons transactions yielding well over $10 billion for each of the last two years. The Soviet Union lags far behind, with sales of about $5 billion, followed by France with $4 billion and Great Britain selling about $1.5-billions' worth. These four nations are responsible for nearly 90 percent of the world's total arms sales. But a study conducted by the Arms Control and Disarmament Agency found that between 1961 and 1971, 57 nations each exported at least half a million dollars' worth of weapons, and 113 countries imported arms valued at a similar amount. So it is a multiplayer game we are trying to understand.

The increase in arms sales has been very rapid. In 1970, the United States sold approximately $1-billions' worth of weapons. By fiscal 1973, this had tripled to $3.8 billion, and the following year it tripled once more to over $10 billion. Any instrument of United States policy that grows so dramatically over such a short period of time should be of concern to the citizenry.

Most of us would assume that such a shift—which, as Thomas Hughes of the Carnegie Endowment for International Peace recently wrote, has turned America from the arsenal of democracy into just the arsenal—would be the result of rational governmental decision-making. One would think that the policy would be carefully scrutinized by all the executive agencies involved (in this case, the State Department, the Department of Defense, the Treasury, and the Commerce and the Arms Control and Disarmament Agencies) prior to making commitments to foreign governments. Further, one might expect that the military, technical, political, strategic, and arms-control implications of major transactions would be thoroughly communicated both to Congress and to the American people. In fact, none of these conditions has been met. Despite a tenfold dollar increase in four years, no government-wide policy study has been issued; no "white paper" on arms sales has been made public. The famous National Security Study Memorandum was not even initiated until May 1975, which was after the United States had signed orders to sell over $25-billions' worth of weapons within a four-year time span. As an indication of the lack of urgency with which the subject of arms trade is considered by this Administration, that study is still continuing, a year later.

Thus, another reason for concern about America's arms-trading policies is that the policy-making machinery within the executive branch has collapsed. Sales decisions are devoid of serious assessments of the risks, benefits, or long-range implications of arms races. We are witnessing ad hoc decision-making with elements of a "satchel" philosophy, by which visiting heads of state are not allowed to return home empty-handed, but are sold or given a helicopter or a few missiles as "goodwill" gestures. Contemporary decisions seem also to be heavily based on the competition principle—if we do not sell the planes, tanks, or widgets, the British, French, or Russians will. And there are balance-of-payments considerations, too.

But adding up these disparate elements leaves us far short of a well-articulated policy publicly debated and widely discussed.

Yet another reason for concern is the sophistication of the weapons being traded today. In the past, we, and other supplier nations, used to sell or give away our secondhand, obsolete weapons (last year's models, as it were), as part of a program to update and modernize the inventories of our own forces. Now we are selling front-line technology hot off the drawing boards. For example, the Bell gunship helicopter ordered by Iran, which can fire cannon, rockets, and antitank missiles, is more advanced than any helicopter now in the United States forces; these helicopters will be delivered to Iran at the same time they are introduced into our own armed forces. The Tow antitank missile, which was made available to Israel in just the last two days of the Yom Kippur War, is now being exported to twenty countries. The Russians have supplied and trained Arab countries with similar types of weapons.

Our own military is beginning to question the wisdom of this headlong rush to sell our latest weaponry abroad. Defense Department officials now worry about the combat readiness of our own forces because of our extensive sales from existing inventories.

Training foreign armed forces to use, maintain, and repair the huge quantity of planes, ships, tanks, and missiles that are beginning to flow across the seas will require a large commitment of United States military and civilian personnel abroad. Our own all-volunteer armed forces are finding that they will have to compete with foreign governments for these highly trained personnel.

The manner in which the subject of United States advisers overseas was communicated to Congress and to the public illustrates the need for concern. The initial public announcement in February 1975 of the $77-million contract awarded to the Vinnell Corporation to train the Saudi Arabian national guard did not identify the country in which the Americans would be working nor the nature of their jobs. When the information was given to Congress, it was on a classified basis.

Similarly, the agreement between Iran and Rockwell International in February–March of 1975 to establish a communications-intelligence facility—capable of intercepting civilian and military communications in the Persian Gulf—was not made public until June. This was despite the fact that the agreement called for recruitment of past and present staff of the United States National Security Agency and the Air Force Security Service, many of whom have, or have had, access to this country's most closely guarded intelligence techniques.

One defense analyst recently estimated that by 1980 there may be well over 150,000 Americans in Iran alone associated in some way with servicing Iranian military forces. We should know by now that arms supplies and military advisers abroad can be the first step down a perilous slope. If this will be one of the eventual side effects of today's arms-sales policies, the American people ought at least to be informed about it.

Just as the quality and quantity of our arms shipments have changed, so too have the recipients of our largess. In the immediate post-World War II period, the main receivers were our European allies and the "forward-defense countries," those on the perimeter of the Soviet Union and China. The rationales were phrased in the terminology of the Cold War: to contain monolithic Communism, to bolster our allies to withstand the onslaught of Red armies marching across Europe, and to secure base and landing rights for our own forces. Today, more than 80 percent of our arms sales are to the Persian Gulf and the Middle East. In 1974, Iran signed orders to buy more American military equipment than the rest of the world combined had ordered from any country in any previous year. Yet the same rationales of twenty years ago are being used to justify today's sales to these countries.

One important by-product of these prodigious arms sales to the Persian Gulf countries, is the spillover effect on the volatile Middle East. The arms we are now furnishing to Jordan, Saudi Arabia, Kuwait, and Lebanon, by heightening Israel's sense of insecurity, are fueling the very arms race in the Middle East we say we are committed to avoiding. Our massive infusion of highly sophisticated weaponry into the region can hardly be seen as conducive to stability.

Lastly, we should consider the lack of public and Congressional control in the formulation of arms-trade policies. Just as the quantity and quality and the recipients of arms have changed, so too has the method of payment, and with it Congress participation in the transactions. When weapons were furnished to our allies after the Second World War, they were donated as military aid and Congress had to authorize and appropriate the necessary funds. As the European allies recovered and our foreign-policy horizons began to broaden, credit was then extended to loan nations money to buy American weapons. Again, Congress had to authorize and appropriate the money. In both cases—the extension of aid and of credit—mechanisms existed for the participation (albeit often perfunctory) of Congress.

The transition from aid and credit to cash transactions occurred simultaneously with the rapid rise in United States arms sales. Until 1974, Congress effectively had no voice in cash arms transactions. It seemed to many that there was an inverse relationship between the importance of arms transactions as implements of United States foreign policy and the amount of Congressional involvement.

By 1974 three factors coalesced presaging change:

Congress began to reassert its prerogative in the formulation of foreign policy in general, and in the area of arms sales in particular.

Congress reacted sharply to the disclosure in the news media of some large arms deals.

Congress responded to public concern about the growing volume of arms traffic. Harris polls a year ago showed that, by an overwhelming 65-to-22-percent majority, Americans opposed United States military aid to foreign countries. A 53-to-35-percent majority opposed military sales (as contrasted with military aid).

The Nelson Amendment to the Foreign Military Sales Act, passed in 1974, provided for a Congressional veto of any weapon sale valued at $25 million or more (by a concurrent resolution of both Houses passed within twenty calendar days of notification of the impending sale by the executive branch).

Since the amendment became effective, 45 notifications of pending sales have appeared in the Congressional Record. Examining these reports, one finds that 22, or just under half, are in part classified or leave some of the required information unspecified. One such notification, reported on March 3, 1975, transmitted no information whatsoever, since the name of the recipient country, the equipment sold, the quantity, and the cost were all classified.

This year, both Houses of Congress realized that the Nelson Amendment involves Congress too late in the process. Too many bureaucratic and diplomatic wheels have been set in motion by the time Congress is notified of the pending sale. What Congress needs, as Carl Marcy, former chief of staff of the Senate Foreign Relations Committee, recently wrote, is "to be in on the takeoffs as well as the crash landings."

In early April, the International Security Assistance and Arms Export Control Act of 1975 was referred back to the House and Senate by a joint House-Senate Conference for final approval. The bill:

Unifies the procedures of arms sales by commercial and government-to-government channels,

Establishes an over-all annual ceiling for all military sales of 9 billion constant 1975 dollars, subject to a case-by-case Presidential waiver,

Phases out all military-assistance programs and military-assistance advisory groups by September 30, 1977,

Requires all military sales of $25 million or more and all sales of "major defense equipment" to be handled on a government-to-government rather than commercial basis,

Requires the President to submit an annual country-by-country justification of the government-to-government sales program to Congress,

Requires the President to conduct a comprehensive study of the arms-sales policies and practices of the United States government, and to report the finding to Congress,

Expands the reporting procedures on military exports, including agents' fees and political contributions,

Limits the President's authority to draw on Department of Defense stocks for military-assistance programs unless he certifies that such a transfer is vital to United States security, and

Increases the time available for Congressional consideration to thirty calendar days.

With this capsulation of how arms-trade policy is formed in the executive and legislative branches, we can now address the question of what should America's trade policies be?

First, and foremost, America's basic policy should be not to sell weapons as a matter of policy at all. Only in certain cases, when there exists a broad, well-defined consensus or when there is a longstanding United States commitment or a special and well-understood close relationship, should our general policy be one of arms sales. Areas that fall into this category are our NATO allies, Israel, Japan, and possibly Korea. For all other countries, the burden of proof should be on those who want to make the sale. How would the sale benefit long-term United States objectives? What alternative options exist for meeting those objectives, other than the sale of arms? What are the arms-control and arms-race implications of the proposed transfer? What alternative sources of supply are available? How would United States national interests be affected if another nation supplied the weapon?

Second, international affairs is not, as some would have us believe, the exclusive domain of the executive branch. The Constitution divides between the two branches of government the power to determine the nation's foreign policies and to shape their content. American arms-sales policies must be fashioned in a cooperative spirit between them.

Third, we must stop abusing the national-security classification system as we have been doing by withholding information about arms sales from the American people. It is difficult to see how disclosure of American arms sales or training can be construed as injurious to the security interests of the United States, and that is the only legal basis for such a classification. It is the recipient countries that do not want their neighbors, rivals, or potential adversaries to know how many of what kind of weapons they are acquiring from whom. But for the United States government to acquiesce in this practice is a warped use of the nation's security classification program and should be immediately disavowed, along with all other forms of clandestine dealings.

Lastly, the American public ought to be more actively involved in the determination and formulation of our arms-trade policies. There are no absolute experts in determining the national interest and there is nothing in the realm of basic foreign policy—or any other policy—that cannot be understood by most Americans.

The executive branch, which will always strive to present current policies in their most favorable light, also has an obligation to furnish materials that would facilitate the expression of alternative views. Newsletters, digests, public debates, increased availability of documents—all of these can help to increase the public's awareness of and interest in foreign policy and arms-trade issues.

On the legislative side, I would advocate more Congressional foreign-policy debates, with opposing witnesses cross-questioning each other; opening more Congressional debates to television; and using Congressional newsletters as a means to educate constituents on questions such as pending arms sales.

Can this be done? In the words of Albert Schweitzer, "As to the question of whether I am a pessimist or an optimist, I answer that my knowledge is pessimistic but my willing and hoping are optimistic."

[From Newsweek, Sept. 6, 1976]

Anatomy of the Arms Trade

What on earth is the true faith of an Armorer?

To give arms to all men who offer an honest price for them, without respect of persons or principles: to aristocrat and republican, to Nihilist and Tsar, to Capitalist and Socialist, to Protestant and Catholic, to burglar and policeman, to black man, white man and yellow man, to all sorts and conditions, all nationalities, all faiths, all follies, all causes and all crimes.—G. B. Shaw, "Major Barbara"

The arms business is no longer quite the freebooting enterprise that Shaw described 70 years ago, when the "merchants of death" peddled their munitions worldwide without restriction. These days, the trade is controlled, not by privateers, but by governments that regard their arms exports, in Henry Kissinger's words, as "a fundamental element in the over-all design of . . . foreign policy." But the arms trade is nonetheless one of the world's largest and fastest-growing businesses—and it is now under sharp and sometimes moralistic attack.

From a mere $300 million in 1952, international arms sales soared to an estimated $20 billion last year. With nearly half the total, the U.S. is the world's biggest dealer, shipping an arsenal of weapons—from old M1 rifles to swing-wing supersonic fighters—to dozens of countries, with the lion's share going to the volatile Middle East (chart, page 41). Just recently, the U.S. announced a step-up in sales to Black Africa, largely to counter a massive infusion of Soviet weaponry. Because wars of the future, like the 1973 Arab-Israeli conflict, are expected to be intensive struggles that consume arms rapidly, many nations are eager to build massive stockpiles—and the oil-rich countries have little difficulty buying the best. In all, American arms sales abroad create about 350,000 jobs in the U.S., account for 7 per cent of U.S. exports and directly affect the fortunes of McDonnell Douglas, Grumman, Lockheed, Northrop and other major suppliers.

OUT OF CONTROL

Now critics are sounding their own call to arms. In a recent report on sales to Iran, the Senate Foreign Relations Committee warned bluntly that the nation's military sales program is "out of control." Earlier this year, Congress passed the Arms Export Control Act, which gives it 30 days to veto any sale over $25 million, and bars sales to nations that violate human rights or transfer U.S. weapons to other countries without U.S. approval. Even within the military itself, critics are speaking out.

The government, charges Rear Adm. Gene R. Larocque, head of the Center for Defense Information, is pursuing an "uncontrolled, unplanned, hectic effort . . . to sell weapons all over the world to any country which can afford them." That, he says, "will reduce national security in the long run."

Most significant of all, the arms business is shaping up as a big issue in the Presidential campaign. Jimmy Carter has pledged to try to reduce the arms traffic. "Can we be both the world's leading champion of peace and the world's leading supplier of the weapons of war?" Carter asked in a speech to the Foreign Policy Association last June. "We cannot have it both ways."

To defense planners, though, selling arms *is* the best way to champion peace. U.S. sales are needed, they say, to counter Soviet influence and to insure regional balances of power, especially in the Middle East, that will deter aggression. By helping friendly nations defend themselves, the U.S. hopes to avoid involving itself in another Vietnam-type war. The key question is not whether to halt arms sales altogether—just about everyone agrees that would be dangerously impractical—but rather how the trade should be managed so that the right nations get the right weapons.

But managing the arms business is a much more complicated task than it once was. In the 1950s and 1960s, the U.S. shipped arms free to its allies as part of its foreign-aid program. Because the taxpayer was footing the bill, there was a builtin fiscal constraint, and proposals were more carefully scrutinized in Congress. But today more than 90 percent of the nation's "defense equipment transfers" are sales paid for by the foreign customer. Military sales have thus become a tax-free way of offsetting some of the nation's sky-rocketing oil-import bill and an easy way of providing business for defense contractors without additional Pentagon spending. As a result, complains one Capitol Hill staffer, "there's no natural constituency for opposition to arms sales."

BYPASSING THE EXPERTS

The change has also effectively transferred nearly all authority from Congress to the State Department. A customer nation routes its requests to State, which determines on its own whether the sale is in the U.S. interest. If it so deems, the Pentagon then acts as the purchasing agent, negotiating the best deal it can with a U.S. manufacturer on behalf of its overseas client. Often, even the experts at the State Department are bypassed. In 1972, for example, President Nixon gave the Shah of Iran virtual carte blanche to buy just about any non-nuclear American weapon that he wanted—and the Shah promptly purchased from Grumman 80 F–14 jets, one of the most sophisticated planes made in the U.S.

In all, the Shah has purchased $10 billion worth of military goods and services since then. Last week Kissinger reported Iran would spent another $3.4 billion to buy 160 F–16 fighters, a new plane to be made by General Dynamics. Though Congress now has veto power over such deals, it is hard put to examine every sale over $25 million. "We do not have the time or the staff to set U.S. arms policy," says Robert Mantel, a staffer on the Foreign Relations Committee. "About all we can do is hope to force the Administration to face the issues."

In the eyes of the critics, several issues need to be faced:

The "back-end" problem. Many of the U.S. weapons sold abroad are so complex that the U.S. needs to furnish huge training and support staffs. By 1980, it is estimated, as many as 60,000 U.S. advisers and their families will be needed in Iran alone—raising the specter that they could be held hostage in a war or even that the U.S. would get directly involved. Just last week, terrorists in Teheran murdered three Americans who worked for Rockwell International.

The unfriendly take-over. While both Iran and Saudi Arabia are considered friendly to the U.S., there is always the risk that either government could fall. "I would hate to have an unfriendly regime take over in a country such as Iran, where an F–14 could be thoroughly examined," says former Defense Intelligence Agency analyst Dale Tahtinen.

The nuclear danger. While the United States doesn't sell nuclear weapons to foreign countries, it has, according to Admiral Larocque, sold or given away more than 18,000 missile ships and aircraft capable of carrying such weapons. "It is now within the capacity of almost every nation to develop or obtain nuclear weapons to go with those missiles, ships and aircraft," he warns.

Escalation of limited wars. In the 1965 India-Pakistan war, both sides used U.S. weapons, increasing the violence and extending what otherwise might have been a brief and primitive skirmish. Similarly, Newsweek's Arnaud de Borchgrave reports that arms from a dozen countries have clandestinely poured into Lebanon in recent months, escalating the conflict there. And now that both the Soviet Union and the U.S. are arming their respective allies in Africa, there is increased danger that a new arms race could trigger a war there, too.

Officials at both State and Defense say such risks are slight, though they do concede that the Nixon-approved sales to Iran did not allow analysts time to study all the implications. As a rule, though, all proposed arms deals are carefully screened, says Deputy Defense Secretary William P. Clements Jr., who oversees the Pentagon's foreign military-sales program. "Overloading any foreign country with weapons and equipment cannot properly serve our own interests in the long run," he maintains. "I don't approve a sale unless it serves our national interest." Indeed, the Pentagon claims it turns down 40 per cent of the requests for arms sales made by foreign governments. "We could sell a lot more than we do if we booked all the orders that come in," says Lt. Gen. Howard M. Fish, director of the Pentagon's Defense Security Assistance Agency.

To Clements and Fish, arms sales are a necessary and valuable policy tool—and they draw support from a General Accounting Office study released last June, which termed the sales program "a useful and highly effective instrument of foreign policy." Among other things, the GAO report notes, the State Department was able to use arms sales as a lever to pry "a more flexible response from Israel in the Middle East negotiations." In addition to extending U.S. influence, officials contend, arms sales also enable the U.S. to maintain military bases overseas and provide an opportunity to influence future foreign leaders. "These arms-sales programs form an important link, a bridge, to foreign countries," says Clements. "The foreign governments are grateful and they develop strong bonds with us."

IF WE REFUSE

At bottom, however, Washington seems to be committed to the arms trade because of a deeply held conviction that if the U.S. doesn't sell arms to a country that wants them, someone else will. "Put bluntly," says General Fish, "our friends want to deal with us. But if we refuse, there are others waiting in the wings."

There is considerable truth to that. The arms business is one of the most fiercely competitive around—and even Israel is selling $320 million in weapons to 40 countries this year. Few nations say no to an eager customer. When, for example, the U.S. refused to sell F–5 fighters to Brazil in the mid 1960s, the French quickly sold Brazil sixteen of their Mirage fighter-bombers.

France is now the world's No. 3 arms dealer, just ahead of Britain but well behind the Soviet Union. In 1974, the latest year for which statistics are available, France sold nearly $4 billion in arms worldwide. And it spares no effort to win customers. "If I'm competing with a Frenchman to sell my equipment," says a British arms salesman, "I can practically guarantee that within 48 hours a French Air Force plane will arrive on the scene crammed with equipment and a team of experts." French Government officials often double as arms salesmen.

The British are not quite as hard-driving. "We're not allowed to peddle arms as if they were furniture," complains one salesman. But like the French, they openly use embassy personnel to drum up arms business. One result: Iran's army now owns more British-made Chieftain tanks than the British Army.

Despite French and British inroads, the Soviet Union is America's main rival. Since 1950, Moscow has sold more than $40 billion worth of arms worldwide. Although it currently claims 30 per cent of the world market—to America's 46 percent—Russia outsells the U.S. in the Third World by a wide margin. What's more, says Fish, the Russians have been "the most accommodating of the major arms suppliers in providing modern equipment" to the Third World. The Soviet Union was the first arms dealer to export jet fighters (in 1956), surface-to-air missiles (1961) and surface-to-surface missiles (1973). According to Dr. Michael Checinski, a former Polish intelligence officer now living in Israel, Moscow is producing 3,000 tanks a year (vs. 900 made in the U.S.), on the assumption that any future ground war in Europe will wipe out entire combat divisions in days.

Because the Russians maintain large stocks of hand-me-down weapons ready for export they can afford to sell their materiel at discounts of up to 40 per cent. "Soviet arms are priced lower than comparable Western equipment," says Fish, and Moscow often arranges generous terms. But, says Fish, Kremlin officials "set a [high] political price for the arms."

The U.S. is also motivated mainly by politics, not economics. Indeed, economic arguments are seldom heard in Washington these days, partly because they smack of the old "merchants of death" philosophy but partly because a total halt to arms sales abroad would boost unemployment by only 0.3 points. Still, the economic pressures are often intense because most of America's major defense contractors are dependent on foreign sales. Grumman, for instance, expects fully 15 per cent of its sales this year to come from foreign buyers.

Arms sales also reduce the nation's own defense costs. Foreign orders mean bigger production runs for arms manufacturers—and that makes each plane or tank rolling off the assembly line a bit cheaper. According to the Congressional Budget Office, $8 billion a year in foreign arms sales shave $560 million off the Pentagon's annual procurement bill. As a result, says a State Department official, "the armed services fall all over each other trying to make [foreign] sales."

IMPRESSING THE SHAH

Though the government contends it doesn't try to drum up business, it often assists domestic arms manufacturers. When, for example, Grumman wanted to impress the Shah with the capabilities of its F–14, the Navy obligingly lent it a pilot to put the plane through its paces at the Paris air show in 1973. Later, the government invited the Shah to Washington to see a "fly-off" between the F–14 and McDonnell Douglas's F–15. Grumman representatives greeted him with a tailor-made flying suit embossed with a royal crest. "We're not exactly passive in all this," admits president Peter Oram of Grumman International.

Indeed, while foreign arms sales are largely controlled by the government, most manufacturers station their own people abroad "to acquaint foreign governments with the advantages of our products," as one puts it. Grumman keeps a staff of 90 in Teheran, while Hughes Aircraft, whose TOW anti-tank missile has been bought by twenty countries, maintains offices in nearly a dozen foreign capitals. At one point, the rush by these representatives to sell arms to Iran grew so intense that it resembled "bees swarming around a pot of honey," according to the recent Senate report. Former Defense Secretary James Schlesinger had to dispatch a special Pentagon troubleshooter to Iran to calm things down. The vast amounts of cash changing hands have also made overnight fortunes for such middlemen as Saudi Arabia's Adnan Khashoggi and besmirched the reputation of Prince Bernhard of the Netherlands.

As the critics see it, huckstering is all but inevitable as long as the government continues to support massive arms deals. The critics urge several reforms. "My criteria on any arms transfer would be the existence of a direct American security interest," says former Assistant Defense Secretary Paul Warnke, now one of Jimmy Carter's defense advisers. That, he notes, would eliminate any sales made to maintain a "global balance" or extend U.S. influence. Nations like Israel and Iran would continue to get weapons, though shipments to the Shah would probably be sharply curtailed and limited to far less sophisticated arms. "They need F–5s rather than F–14s," Warnke says.

FORCING PRIORITIES

Moreover, some say, the government should set an annual ceiling on arms sales—as Congress failed to do earlier this year. Even if the ceiling is very high (the Congressional effort would have put it at $9 billion), "it'll force the Administration to start setting priorities," argues Harvard research fellow Anne Cahn. "As things are now, people on the Saudi desk [in the State Department] don't have to worry about what Iran's going to get."

Such reforms may improve control, but they will not do much to alter the basic imperatives that underlie the arms trade. Wars occur with astonishing frequency—in the last 30 years, there have been 119 armed conflicts involving 69 nations—and now that the U.S. has reduced its role as the world's policeman, regional powers feel the need to protect themselves. The question is whether shipping billions of dollars worth of weapons is the best way to world peace.

THE PRESIDENT'S BICENTENNAL HERITAGE PROGRAM

Mr. HANSEN. Mr. President, I was keenly interested in the colloquy that took place earlier in the Chamber between good friends of mine, the chairman of the Committee on Interior and Insular Affairs, the ranking member of the Subcommittee on Parks and Recreation, the distinguished Senator from Louisiana, with whom I worked very closely and for whom I have great admiration, as well as for the chairman of the full committee and for my good friend from Wisconsin, the senior Senator.

I might state that as these good friends of mine from the other side of the aisle know I share their interest in trying to take all such steps as we can to seize upon this opportunity we now have to expand our national park system, not only acreagewise but to see that we have the proper staffing in order that these cherished national treasures may be given the full protection that they deserve to have in order that the benefits which will flow from them, I hope for all time to come, will not only be undiminished but might even be enhanced by the tender loving care that could be possible through more adequate funding.

I was a cosponsor of the bill to increase from the present Federal level funding to $1 billion annually the land and water conservation fund, believing as I do that it is important and is necessary to acquire the in holdings that presently are found scattered throughout many elements of the national park system. Mr. President as you know, we were not successful in getting that authorization increased to the point where Senator NELSON, I, and others, felt that it might very well have been increased.

I guess by agreeing in such great degree as I do Senators may wonder why I disagree at all. I disagree for quite another reason in the thrust of what was said this morning. I would have asked to be recognized but I did not want to interrupt the colloquy that was taking place because it was obvious that my good friends were having a little bit of difficulty at times trying to read the script in a way to know who was supposed to speak when, and I did not want to add to their burdens.

But I must say that I think the American people understand very well why the President's priorities have been what they have been in the past. It is our duty, responsibility, and job as members of the Committee on Interior and Insular Affairs to focus on the needs of that committee and the obligations of the Department of the Interior in the overall context of our national effort.

I make no apology for setting priorities that may be somewhat different insofar as parks and monuments are concerned as compared with other needs.

As we know, a number of people have suggested it is no problem to balance the budget—you just cut the national defense effort. I have not gone along with that concept. I know you, Mr. President, have not gone along with that concept, and I know that the chairman of the Committee on Interior and Insular Affairs has not gone along with it. He shares my view, or rather I suspect I should say more honestly I share his view, because I think he had studied the area of national defense in greater detail long before I had, in concluding that there are some nations in this world that we cannot trust too far and the only way to continue to secure the blessings of freedom and liberty for all Americans, and indeed to expand those concepts throughout the world, is to keep America strong.

So I have rejected outright, as Senator JACKSON has, the idea that we could change our priorities around, as many recommend right today in this Congress, by putting more money into domestic programs and cutting back on the national defense effort that I believe and he believes we should be making.

I know, too, that not everyone shares my view or the view of the distinguished Senator from Louisiana that energy is important in this country. Senator JOHNSTON and I think that a greater effort should be made to see that we are not so dependent upon foreign nations as is the case at the present moment. We are importing today between 41 and maybe 43 percent of all of the oil we use in the United States.

Not everyone is fully aware of the significance of the fact that about three-fourths of the energy that we consume in the United States comes from oil and natural gas. When one contemplates how increasingly dependent we are becoming upon foreign sources of supply for our energy, I believe that the very knowledgeable leadership demonstrated by the junior Senator from Louisiana would chart a course that we well might heed. He has said repeatedly,

> Let us do everything we can to bring about an enlargement of the domestic supplies that come from energy sources in this country.

I share that view completely.

What I am trying to say, Mr. President, simply is this: Our priorities do change, and we have different ideas about what priorities should be. I am sure that the President of the United States, whether it was, as was true in the past, Richard Nixon; today, Gerald Ford; tomorrow, I do not know who—I have my choices and other people have their choices—but whoever it may be is going to have to articulate for the people of America those goals and those priorities that he feels are most important.

Certainly, no one can argue that national defense is not important, that inflation is not important, that jobs are not important. I think that what the President has been saying is that, as the economy grows steadily stronger, as more people become employed in the United States, as various indices of business activity give the green light for tomorrow in the business world for the likelihood of additional jobs tomorrow, it is time now to look at some of our other priorities. Indeed, that is what the President did when he came forward a couple of weeks ago, in Yellowstone Park, with the proposal that has been discussed here this morning. It is a proposal that I recognize constitutes a change in the priorities that we had; but I think it reflects a change in conditions as the business activity in this country has increased, as jobs have become more plentiful, as every indication is that we are going to have continued good business activity, a good economic climate in America. Then I agree with the Preident that the time has come to look at some of these long-range continuing goals, to see that we take steps now which not only will add more acreage to our National Park System, on the one hand, but also, on the other, provide the additional slots, the additional appropriations, to insure that all elements of the National Park System and of our recreational opportunities, insofar as public lands in America are concerned, will be adequate to meet the demands of an increasing population with greater leisure time.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. JOHNSTON. First, I thank the distinguished Senator from Wyoming for his nice comments about me personally.

Second, I thank him for his leadership in the field of parks and recreation.

Quite frankly, Mr. President, if the Senator from Wyoming were making the policy for the administration with respect to parks and recreation, I am quite sure that not only would I agree with that policy, not only would I praise it, but also, it would be substantially greater in terms of priority and in terms of a thrust for the people of this country than we presently have.

Not only has the President in the past 2 years not given a high priority to parks and recreation but, indeed, he has opposed every effort of Congress to increase it.

This may be a bold, new thrust, it may be a change of opinion, and I sincerely hope it is. If it is, I think it is not the place of Congress to sit and simply wring its hands and criticize the past; but, rather, it is the place of Congress to celebrate the present, to welcome home the prodigal son, and to join him in enacting a bold, new program for parks and recreation.

All we are simply saying is that we do not want to be given the promise of a bold, new plan without having the substance of it as well.

So I hope the Senator from Wyoming will continue his leadership in urging the President to sign the Land and Water Conservation Fund Amendments of 1976; because if the President does not sign that measure, I am sure the Senator from Wyoming will agree that his new program, his Bicentennial heritage program, is not a step forward but is a step backward. I hope we both can join the President not only in signing that bill but also in promising fully to implement and fully to fund that bill when and if it is enacted.

I thank the Senator from Wyoming.

Mr. HANSEN. I thank my colleague and friend from Louisiana for the observations he has made and the sincerity which impels him to speak as he has. I do not question for a moment, in any respect, the sincerity of the junior Senator from Louisiana.

I hope we do not find ourselves in the situation I saw on the floor of the Senate years ago, when a very distinguished Member of this body from Arkansas, who had long sought the repeal of the Gulf of Tonkin Resolution, was so infuriated because a Republican happened to propose its repeal—and indeed it was repealed—that he insisted a day or two later on repealing it a second time around, because he simply had not had the satisfaction of having made the proposal himself.

I am sure that I share the feeling, as I know my good friend from Louisiana does, that we want to help move this program. The President has called for it. Let us go forward, ascribing good faith to him, as I believe is merited; and I think we can work jointly with the people of America to insure the benefits that can come from such a fine program.

I thank my colleague very much.

Mr. JOHNSTON. I thank the Senator.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under authority of the order of September 1, 1976, messages from the President of the United States submitting sundry nominations were received on September 2 and September 3, 1976, and were referred to the appropriate committees.

(The nominations received during the recess are printed at the end of today's Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under authority of the order of September 1, 1975, the following messages from the House of Representatives were received during the recess of the Senate:

On September 1, 1976, a message stating that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes (subsequently referred to the Committee on Appropriations).

H.R. 14886. An act to revise the appropriation authorization for the Presidential Transition Act of 1963, and for other purposes (subsequently referred to the Committee on Government Operations).

ENROLLED BILLS SIGNED

The message also stated that the Speaker had signed the following enrolled bills:

H.R. 3052. An act to amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities; and

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

(The enrolled bills were signed September 1, 1976, by the Acting President pro tempore (Mr. METCALF.)

On September 2, 1976, a message stating that the Speaker had signed the following enrolled bills:

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

(The enrolled bills were signed September 2, 1976, by the Acting President pro tempore (Mr. METCALF).)

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under authority of the order of September 1, 1976, the following reports of committees were submitted on September 3, 1976, during the recess of the Senate:

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1201).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 513. A resolution waiving the provisions of section 402(2) of the Congressional Budget Act of 1974 with respect to S. 3554 (Rept. No. 94–1202).

S. Res. 515. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3081 (Rept. No. 94–1203).

S. Con. Res. 139. A concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1977 (Rept. No. 94–1204).

By Mr. HATFIELD, from the Committee on Interior and Insular Affairs, without amendment:

S. 828. A bill to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes (Rept. No. 94–1205).

By Mr. CRANSTON (for Mr. HARTKE), from the Committee on Veterans' Affairs, with an amendment:

S. 2908. A bill to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes (Rept. No. 94–1206).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 13367. An act to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes (Rept. No. 94–1207).

EXECUTIVE REPORTS SUBMITTED DURING ADJOURNMENT

Under authority of the order of September 1, 1976, the following executive reports of the Committee on Foreign Relations were received during the adjournment of the Senate:

Exec. X, 93d Congress, 1st session. Customs Convention on Containers, 1972, as corrected by a Proces-Verbal of Rectification issued on April 29, 1974, and the International Convention for Safe Containers, both signed at Geneva on December 5, 1972, without reservation (Exec. Rept. No. 94–33).

Exec. I, 94th Congress, 1st session. Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973, without reservation (Exec. Rept. No. 94–34).

Exec. K, 94th Congress, 1st session. Convention for the Conservation of Antarctic Seals, with Annex, done at London, June 1, 1972, without reservation (Exec. Rept. 94–35).

Exec. M, 94th Congress, 2nd session. 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, which Protocol was signed at Washington on May 7, 1976, on behalf of the Governments Party to the Convention, without reservation (Exec. Rept. No. 94–36).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

APPROVAL OF BILL

A message from the President of the United States announced that on September 3, 1976, he approved and signed the bill (S. 3435) to increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

RESCISSION IN BUDGET AUTHORITY FOR FOREIGN MILITARY CREDIT SALES—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $126,750,000 in budget authority available in the transition quarter for the Foreign military credit sales program. Approval of this rescission proposal would reduce Federal spending by $83 million through 1979.

Unusual circumstances not provided for by the Impoundment Control Act of 1974 have brought about the transmission of this special message at a time that will not allow for a 45-day period of continuous session of the Congress prior to the end of the transition period when the affected funds lapse. These circumstances result from the coincidence of (1) the late approval of the Foreign Assistance Appropriations Act, 1976, on June 30, 1976, the eve of the transition quarter, (2) the short duration of the unique transition quarter itself, and (3) the schedule of congressional recesses of more than three days during this period. In view of this unusual situation, I ask the Congress to give prompt consideration to the proposed rescission.

The details of the proposed rescission are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *September 7, 1976.*

MESSAGE FROM THE HOUSE

At 3:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 137) to correct the engrossment of the Senate amendments to H.R. 10612.

The message also announced that the House has passed the bill (H.R. 15371) to provide for protection of the spouses of major Presidential and Vice-Presidential nominees, in which it requests the concurrence of the Senate.

The message further announced that the Speaker has appointed Mr. ZABLOCKI as a member of the U.S. Group of the North Atlantic Assembly; and that Mr. BROOKS was designated to serve as chairman of the delegation for the remainder of the 94th Congress.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT laid before the Senate the following letters, which were referred as indicated:

STATUS OF REJECTED RESCISSIONS

A letter from the Acting Secretary of Health, Education, and Welfare relating to two errors in the GAO report on the status of certain rescissions; to the Committee on Appropriations, the Budget, and Banking, Housing and Urban Affairs, jointly, pursuant to the order of January 30, 1975.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operations of Amtrak during the month of July 1976 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Improvements Needed in Defense's Efforts To Use Work Measurement" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE DEPARTMENT OF STATE

A letter from the Senior Adviser and Coordinator for International Narcotic Matters of the Department of State transmitting, pursuant to law, a report entitled "Fiscal Year 1975 International Narcotics Control Program Budget" (with an accompanying report); to the Committee on Appropriations.

REPORT OF THE DEPARTMENT OF DEFENSE

A letter from the Acting Assistant Secretary of Defense transmitting a secret report entitled "F–15 Selected Acquisition Report and the SAR Summary Tables" for quarter ending June 30, 1976 (with accompanying report); to the Committee on Armed Services.

APPROVAL OF LOAN BY THE REA

A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, a report on an approved REA-insured loan to East River Electric Power Cooperative, Inc., of Madison, South Dakota (with accompanying report); to the Committee on Appropriations.

PROPOSED CONSTRUCTION PROJECTS BY THE DEPARTMENT OF DEFENSE

Three letters from the Deputy Assistant Secretary of Defense transmitting report on (1) six construction projects to be undertaken by the Air National Guard; (2) seven construction projects to be undertaken by the Army National Guard; and (3) two construction projects to be undertaken by the Naval Reserve (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE ARMY

A letter from the Assistant Secretary of the Army transmitting a draft of proposed legislation to amend section 4349(a) of title 10, United States Code (with accompanying papers); to the Committee on Armed Services.

REPORTS OF THE DEPARTMENT OF THE NAVY

A letter from the Commander, Naval Facilities Engineering Command, transmitting, pursuant to law, reports covering July 1, 1975 through June 30, 1976 relating to contracts awarded on other than competitive bid basis (with accompanying reports); to the Committee on Armed Services.

REPORTS OF THE DEPARTMENT OF THE ARMY

A letter from the Acting Assistant Secretary of the Army transmitting, pursuant to law, reports on research and development contracts in excess of $50,000 for the period January 1, 1976 through June 30, 1976 (with accompanying reports); to the Committee on Armed Services.

REPORT OF THE DEPARTMENT OF DEFENSE

A letter from the Acting Assistant Secretary of Defense transmitting, pursuant to law, the report of Department of Defense procurement from small and other business firms for July 1975 through May 1976 (with accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF THE FEDERAL MARITIME COMMISSION

A letter from the Chairman of the Federal Maritime Commission transmitting, pusuant to law, volume 17 of the Reports of the Federal Maritime Commission containing decisions rendered between July 1974 and June 1975 (with accompanying report); to the Committee on Commerce.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A communication from the Assistant Legal Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 3, 1976, to the Committee on Foreign Relations.

REPORT OF THE JOINT FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM

A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, the third annual report of the Joint Financial Management Improvement Program on productivity trends from fiscal year 1967 to fiscal year 1975, to the Committee on Government Operations.

REPORTS ON PROPOSED CHANGES IN CERTAIN SYSTEMS OF RECORDS

Communications from the Acting Secretary of Agriculture, the Assistant Secretary of Commerce for Administration, and the Executive Secretary of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, reports on proposed changes in the system of records in their various Departments, Agencies, etc., for implementing the Privacy Act, to the Committee on Government Operations.

DEPARTMENT OF DEFENSE EFFORT TO USE WORK MEASUREMENT

A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Department of Defense's efforts to use work measurement, Department of Defense, to the Committee on Government Operations.

REPORTS OF THE GENERAL ACCOUNTING OFFICE

Two communications from the Acting Comptroller General of the United States, transmitting, pursuant to law, reports entitled as follows: "Improving Fiscal, Budgetary, and Program-Related Information for the Congress"; "Implementation of the Health Maintenance Organization Act of 1973"; to the Committee on Government Operations.

DOCUMENTATION FOR THE PROJECT INDEPENDENCE EVALUATION PROGRAM

A communication from the Administrator of the Federal Energy Administration, transmitting, pursuant to law, a report containing complete structural and parametric documentation for the Project Independence Evaluation System, to the Committee on Interior and Insular Affairs.

REPORT ON CHANGES IN MARKET SHARES OF PETROLEUM PRODUCTS

A communication from the Administrator of the Federal Energy Administration, transmitting, pursuant to law, a report on changes in market shares of the statutory categories of retail gasoline marketers with estimates of gallonage sales by marketing type for May 1976 (preliminary estimates) and April 1976 (final), to the Committee on Interior and Insular Affairs.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Four communications from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports as follows:

A report stating all the facts and pertinent provisions of law in the cases of certain aliens whose deportation has been suspended (pursuant to section 244(a)(1) of the act) together with the statements of the reasons for such suspensions;

A report on certain aliens granted temporary admission into the United States under section 212(d)(3) of the Immigration and Nationality Act;

A report stating all the facts and pertinent provisions of law in the cases of certain aliens granted admission into the United States under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; and

A report on the adjustment of the status of certain aliens under section 13(c) of the Act of September 11, 1957, to the Committee on the Judiciary.

STUDY ON THE FEASIBILITY OF A SECURITY AGENCY WITHIN THE NUCLEAR REGULATORY COMMISSION

A communication from the Chairman of the United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the results of a study to determine the feasibility of establishing a security agency within the Commission, to the Joint Committee on Atomic Energy.

EDUCATION REGULATIONS PRINTED IN THE FEDERAL REGISTER

A communication from the Director of the Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on certain published regulations regarding various aid to education programs administered by the Department of Health, Education, and Welfare, to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION CONCERNING SHORE DAMAGE ON THE GREAT LAKES

A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the operation of lake regulation control works under the jurisdiction of the Department of the Army in the St. Marys River at Sault Ste. Marie, Michigan, in the interest of minimizing damages to shore property on the Great Lakes during periods of high lake levels and for other purposes, to the Committee on Public Works.

REPORT ON ACTIONS TAKEN ON THE RECOMMENDATIONS CONTAINED IN THE REPORT OF THE CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

A communication from the Chairman of the Council on Environmental Quality, Executive Office of the President, transmitting, pursuant to law, a report on actions taken on recommendations contained in the 1975 Annual Report of the Citizens' Advisory Committee on Environmental Quality, to the Committee on Public Works.

REPORT ON THE BUILDING PROJECT SURVEY FOR JEFFERSON CITY, MISSOURI

A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a 'report of the building project survey for Jefferson City, Missouri, to the Committee on Public Works.

EXCHANGE OF MEDICAL INFORMATION AND SHARING OF MEDICAL INFORMATION PROGRAMS OF THE VETERANS' ADMINISTRATION

A communication from the Administrator of the Veterans' Administration, transmitting pursuant to law, a report on the Exchange of Medical Information and Sharing of Medical Resources programs of the Veterans' Administration for fiscal year 1976, to the Committee on Veterans' Affairs.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

A resolution relating to the religious situation in Czechoslovakia, adopted by the 41st International Eucharistic Congress, Czech Committee, Philadelphia, Pa.; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. Res. 532. An original resolution authorizing printing for the use of the Senate Committee on Foreign Relations 2,000 additional copies of a Committee print of the 94th Congress entitled "U.S. Military Sales to Iran." Referred to the Committee on Rules and Administration.

S. Res. 533. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3621 (Rept. No. 94–1208). Referred to the Committee on the Budget.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 2, 1976, he presented to the President of the United States the following enrolled bill:

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3792. A bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and the National Wildlife Refuge System areas and to increase grants to communities to improve park and recreation facilities. Referred jointly, by unanimous consent, to the Committees on Appropriations, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

By Mr. SCHWEIKER:

S. 3793. A bill for the relief of Rosalinda Flores Vaow. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself and Mr. Fannin) (by request):

S. 3792. A bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and the National Wildlife Refuge System areas and to increase grants to communities to improve park and recreation facilities. Referred jointly, by unanimous consent, to the Committees on Appropriations, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. Fannin) a bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and the National Wildlife Refuge System areas and to increase grants to communities to improve park and recreation facilities.

Mr. President, this draft legislation was submitted and recommended by the President of the United States, and I ask unanimous consent that the Presidential message accompanying this proposal from the President be printed in the Record.

There being no objection, the message was ordered to be printed in the Record, as follows:

To the Congress of the United States:

I am today submitting to the Congress the Bicentennial Land Heritage Act. This proposal establishes a 10-year national commitment to double America's heritage of national parks, recreation areas, wildlife refuges, urban parks, and historic sites. The Bicentennial Land Heritage Act would authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Parks System and National Wildlife Refuge System and increase grants to communities to improve park recreation facilities.

Enactment of my proposal would establish a $1.5 billion program to:

- —provide *$141 million* to be used to acquire lands for parks, wildlife refuges, and recreation areas, and historic sites.
- —provide *$700 million* to develop new and existing parklands and refuges into recreation and conservation resources ready to serve the public.
- —provide *$459 million* for upgrading and increased staffing for the national parks and wildlife refuges systems.
- —provide *$200 million* for grants to cities to upgrade present park areas in disrepair.

This bill also contains a supplemental budget request for appropriations totaling $1.32 billion for fiscal year 1977, $1.30 billion to remain available for obligation until 1986.

The Bicentennial Land Heritage Program will significantly influence the future of the 31-million acre National Park System. The System, with its 287 areas, contains outstanding natural features and historical sites. These areas often suffer from overuse or deficient maintenance, and areas with high recreation potential often lack adequate access roads and visitor facilities.

Many of the nationally significant historical and archeological sites are deteriorating from lack of proper protection and suitable resource management planning and execution. The addition of lands to the System, coupled with effective resource management, will increase opportunities for outdoor recreation, as well as insure the protection and perpetuation of these resources for future generations. Their inclusion would also help to alleviate overcrowding problems at areas currently in the System, where sharply accelerated visitation during recent years has seriously impacted park resources.

The Bicentennial Land Heritage Program will also be important to the National Wildlife Refuge System. The 378 National Wildlife Refuges, which encompass 32 million acres, provide habitat for a wide variety of the Nation's fish and wildlife. The Refuge System, like the National Park System, has deteriorated seriously. In the last two decades, the System has doubled in size, and public visitation has quadrupled to 30 million visitors a year. Yet, staffing has not been increased in the last ten years. Many facilities such as roads, buildings, and water management structures have deteriorated for lack of maintenance. Of even more concern is the daily destruction of the Nation's essential wildlife habitat which is being bought, developed, polluted, or otherwise altered.

To assist in improving community parks and recreation facilities the Program would also authorize funds, pursuant to the Housing and Community Development Act of 1974, in the amount of $200 million to be available for communities to use in their recreation programs.

As part of the Bicentennial Land Heritage Program, I again urge the Congress to act expeditiously and to enact the proposed Alaska Conservation Act which was first proposed in December 1973 and resubmitted in March 1975. I am disappointed that the 94th Congress has failed to take action on this initiative. My hope is that the Congress will take positive action on this important conservation measure, which would add more than 64 million acres of land to the National Park System and the National Wildlife Refuge System and thus double the size of both of these systems.

The program I now present to the Congress will reaffirm our Nation's commitment to preserve the best of our vast and beautiful country and the wildlife inhabiting it. It will be a sound investment in America which will pay off handsomely by permanently insuring and enriching the natural treasures to be inherited by future generations. All Americans must stand committed to conserve and cherish our incomparable natural heritage—our wildlife, our air, our water resources and our land itself. As our nation begins its third century, we must renew our commitment to save this great natural heritage for the enjoyment of future generations of Americans.

Accordingly, I strongly urge the Congress to enact the proposed "Bicentennial Land Heritage Act of 1976", which establishes a program designed to insure the fulfillment of this national commitment.

Gerald R. Ford.

The White House, *August 31, 1976.*

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from Washington (Mr. Jackson) for himself and Mr. Fannin, be referred jointly to the Committees on Appropriations, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 2001

At the request of Mr. Eagleton, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 2001, to amend title II of the Social Security Act.

S. 3468

At the request of Mr. Gary Hart, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 3468, to provide for payments to local governments for certain public lands.

SENATE RESOLUTION 524

At the request of Mr. Javits, the Senator from Florida (Mr. Stone), the Senator from California (Mr. Tunney), and the Senator from Indiana (Mr. Bayh) were added as cosponsors of Senate Resolution 524, relating to terrorism.

AMENDMENT NO. 2219

At the request of Mr. Muskie, the Senator from Minnesota (Mr. Humphrey) and the Senator from Maryland (Mr. Mathias) were added as cosponsors of Amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

AMENDMENT NO. 2245

At the request of Mr. Hugh Scott, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of Amendment No. 2245, intended to be proposed to H.R. 13367, the revenue sharing bill.

AMENDMENTS NOS. 2245 AND 2246

At the request of Mr. Hugh Scott, the Senator from South Dakota (Mr. McGovern), the Senator from Alaska (Mr. Stevens), the Senator from South Carolina (Mr. Thurmond), and the Senator from North Dakota (Mr. Young) were added as cosponsors of Amendments Nos. 2245 and 2246, intended to be proposed to H.R. 13367, the revenue sharing bill.

SENATE RESOLUTION 531—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE submitted the following resolution:

S. Res. 531

Resolved, That there be printed for the use of the Committee on Agriculture and Forestry one thousand four hundred additional copies of its committee print of the current session entitled "Farm and Food Policy—1977."

SENATE RESOLUTON 532—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following resolution:

S. RES. 532

Resolved, That pursuant to section 402(c)
Resolved, That there be printed for the use of the Senate Committee on Foreign Relations two thousand additional copies of a Committee print of the 94th Congress entitled "U.S. Military Sales to Iran."

SENATE RESOLUTION 533—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 3621

(Referred to the Committee on the Budget.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following resolution:

S. RES. 533

of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3621, a bill to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic. Such waiver is necessary because Sec. 611 of S. 3621 authorizes the appropriations of such sums as may be necessary to enable the Foreign Claims Settlement Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions in connection with the East German claims program. The Administration expects to request $1.7 million to cover its administrative expenses for the four-year period necessary to complete the program.

AMENDMENTS SUBMITTED FOR PRINTING

DUTY-FREE IMPORTATION OF GLASS PRISMS—H.R. 8656

AMENDMENT NO. 2274

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 8656) to amend the Tariff Schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets.

FLAVORS USED ON BONDED WINE CELLAR PREMISES—H.R. 8283

AMENDMENT NO. 2275

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 8283) to amend the Internal Revenue Code of 1954 with respect to the type of flavors which may be used on bonded wine cellar premises in the production of special natural wines.

COMMON TRUST FUND PROVISIONS—H.R. 5071

AMENDMENT NO. 2276

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 5071) to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

JOINT ECONOMIC COMMITTEE TO HOLD HEARING ON YOUTH UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, the Joint Economic Committee will hold a 1-day hearing on youth unemployment on Thursday, September 9.

The purpose of this hearing will be to examine the causes and effects of high unemployment among youths and the problems youths face in the transition from school to work. Specifically, we will look for programs and policies that might be undertaken at the Federal, State, and local levels, using both the private and public sectors, to improve the job counseling and job placement services available to our Nation's young people and to provide the millions of useful and productive jobs that our young people need to take their rightful places in our economy and our society.

The Joint Economic Committee is holding this hearing now, even though we are only 3 weeks away from adjournment, because high unemployment among youths has been one of our most pressing economic problems and remains a problem despite the economic recovery.

According to last Friday's "Employment Situation" release from the Bureau of Labor Statistics, there were 3.5 million youths under the age of 25 who were unemployed in August. Of these, 1.8 million were aged 16 to 19, and 1.7 million were aged 20 to 24. These young people comprised almost half the total number of American workers who were jobless last month.

The discouraging job situation among young people is reflected in the high unemployment rates they suffer. For example, in August, the unemployment rate for teenagers 16 to 17 years old was 22.5 percent, for 18 and 19 year olds, it was 18 percent, and for youths 20 to 24 years old it was 11.8 percent.

For black teenagers, the situation is even worse. Their unemployment rate in August was 40.2 percent, the highest for any labor market group. In addition, black teenagers have experienced a declining rate of participation in the labor force for the past 20 years, so that their official unemployment rate greatly understates the effect of joblessness among black youths.

This high incidence of unemployment among our Nation's youths means that our economy is denying more than 3.5 million young people the opportunity to work, the opportunity to develop job skills, the opportunity to learn the ins and outs of the job market, and the opportunity to become productive members of our economy and our society.

This is a hostile environment for our young people entering the job market today.

The Federal Government does provide some help to young people who are entering the job market—including job training programs under title I of the Comprehensive Employment and Training Act, some public service jobs under titles II and VI of CETA, the Job Corps, the Youth Conservation Corps, and the Summer Jobs program—but these reach only one-fourth to one-third of the youths who need job help each year.

We must do more, and we must start doing it soon. I hope this hearing will provide some new ideas for programs and policies to help alleviate the job market woes of our Nation's youths.

The hearing will begin at 9:30 a.m. on September 9 in room 1318 Dirksen Senate Office Building.

The witnesses will be: Congressman ANDREW YOUNG of Georgia; Mayor Pete Flaherty of Pittsburgh; Jesse Jackson, Operation PUSH; Mr. Howard Samuel, vice-president of the Amalgamated Clothing and Textile Workers Union; Dr. Beatrice Reubens, professor of economics at Columbia University; Dr. Bernard Anderson, professor of economics at the Wharton School, University of Pennsylvania; and Mr. Paul Barton, executive director of the National Manpower Institute.

In addition, because of the importance of this problem and the limited amount of time available to explore it, statements for the hearing record from individuals and groups concerned about youth unemployment will be welcome. These statements will be most useful if they focus on solutions to the problem, and may be submitted by contacting JEC staff economist William Buechner at the committee office before September 30.

NOTICE OF HEARINGS AND BUSINESS MEETINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 3 weeks:

September 8. Full committee, 10 a.m., room 3110, business meeting, pending calendar business.

September 15. House-Senate conference, 2 p.m., room S-407, Capitol, S. 507, Federal Land Policy and Management Act of 1976.

September 21. Full committee and national fuels and energy policy study, 10 a.m., room 3110, hearing on west coast oil supply.

September 22. Full committee and national fuels and energy policy study, 10 a.m., room 3110, hearing, S. 3486, to amend the Emergency Petroleum Allocation Act of 1973.

ADDITIONAL STATEMENTS

NATIONAL AVIATION DAY CELEBRATED THROUGHOUT THE UNITED STATES—FAA ADMINISTRATOR JOHN McLUCAS URGES VIGOROUS COMMITMENT

Mr. RANDOLPH. Mr. President, on August 19, National Aviation Day was celebrated throughout the United States. The accomplishments of aviation since that first flight by Orville Wright on December 17, 1903, have been extraordinary. Man has set foot on another planet and airliners now fly faster than the speed of a bullet.

It was in 1939 that President Franklin D. Roosevelt signed into law a bill authored by Senator CLAUDE PEPPER, Democrat of Florida, and this Senator, then a Member of the U.S. House of Representatives, designating August 19 of each year—the birthdate of Orville Wright—as National Aviation Day.

Scheduled airlines today are carrying more than one-half million passengers daily on 12,088 scheduled flights. Commercial carriers, together with general aviation, provide exceptionally convenient, safe and reliable means of travel.

In this our Bicentennial Year, it is especially important that we call attention to the beneficial impact of aviation in our society. Accordingly, during the week of August 16, hundreds of communities across the Nation sponsored events commemorating the role flight has exercised in the growth of America.

In West Virginia, several communities participated in activities associated with National Aviation Day. Parkersburg's Gill Robb Wilson Field, under the direction of Airport Manager Dick Allen, displayed exhibits during a week-long recognition.

Significant in the course of events which have occurred this year was the opening of the National Air and Space Museum. More than 2.7 million persons have entered the doors of this monumental tribute to aviation since its opening on July 4. It is especially gratifying to witness this tremendous response since I am the author of the original legislation which brought the museum into being.

The over 200 million passengers who fly on airliners portray only a part of the story of the phenomenon we call aviation. More than that number fly annually in corporate and private aircraft to conduct business and for recreational opportunities. Products and foods we consume almost daily—as well as 35 percent of our first-class mail—are transported by air.

One of the basic foundations of our national defense is air power. Our combat readiness is enhanced by air superiority which serves as a deterrent to armed aggression. Air power helps to preserve peace throughout the world.

John L. McLucas, Administrator of the Federal Aviation Administration, noted in a recent informative letter to me that the U.S. aviation industry—its aerospace manufacturing and air transportation elements combined—is the Nation's largest employer. He stressed that aerospace manufacturing in 1975 recorded total sales of $28 billion, including exports of $6.5 billion. Dr. McLucas indicated the export of aeronautical products is exceeded only by the U.S. export of agricultural products. This bolsters our favorable international trade balance.

Mr. President, Dr. McLucas' comments on aviation should be shared with colleagues and readers of the CONGRESSIONAL RECORD. I ask unanimous consent that his letter, dated August 11, 1976, be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., August 11, 1976.
Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Through your good efforts and those of Congressman Claude Pepper, the birthdate of Orville Wright—August 19, 1871—was proclaimed by President Roosevelt in 1939 to be National Aviation Day.

In this Bicentennial year, as we approach the 38th annual observance of National Aviation Day, we have a special incentive for celebrating the progress of the past and for being thankful that we live in a country where progress has been and still is possible. Air transportation is a field where our continental dimensions and our sense of adventure have combined since the turn of the century to produce some dramatic developments.

In the pioneering days of aviation, the best planes of the air transport companies—open cockpit DH-4's, the Lincoln-Pages and so forth—were hard put to carry as many as two passengers. Later, the "giant" Ford Trimotors could carry ten passengers and a little cargo at speeds approaching 135 miles per hour. Then, it was the redoubtable and legendary DC-3 . . . . Today, the luster of those aeronautical achievements has been dulled and overshadowed by the spectacular performance of American jet transports capable of carrying upwards of 300 passengers in luxurious comfort and safety at velocities nudging the speed of sound.

Air transportation provides almost unlimited mobility to hundreds of millions of people all over the world. Many of the most distant and hitherto inaccessible regions of the globe are easily reached by air, a fact of immense importance to industry and national economies. For example, the tremendously important activity resulting from oil discoveries on the north slope of Alaska has been heavily dependent on the airplane and helicopter. And Hawaii relies primarily on air transportation to deliver the tourists which are the major source of income for our 50th state.

The United States aviation industry—its aerospace manufacturing and air transportation elements combined—is by far the nation's largest employer. Aerospace manufacture in 1975 recorded total sales of $28 billion, including exports of $6.5 billion. The export of aeronautical products is exceeded only by the U. S. export of agricultural products, and significantly bolsters this nation's international trade balance. In fact, 90 percent of the world's general aviation fleet and upwards of 75 percent of the world's jet liners are the proud products of this country's industrial prowess.

The cultivation and regulation of this nation's highly complex air transportation industry are the responsibility of the Federal Aviation Administration, the largest operating administration of the Department of Transportation. Specifically, the agency has been charged by the Congress to provide for the orderly development of U.S. aviation; to develop and maintain a dependable air traffic control and air navigation system for the nearly three-quarters of a million pilots who use the nation's airways; to certify the safety and reliability of the nation's aeronautical products and the capability of the U.S. pilots and crewmen who use them; and to provide for the flight safety of all those who use American airspace or who, to some degree, depend upon air transportation for their economic, social and cultural well being. These directives also are the operational tenets by which the 56,000 employees of the agency conduct their daily professional routines.

Contributing to the phenomenal growth of the aviation industry in America has been the steady, unstintingly encouragement received from the Congress. The entire aviation community, I'm confident, is aware of this. Looking toward the future, it is obvious that air transportation is to play a dominant role. If we are to maintain a healthy aviation industry, keep our world trade position, we must all exhibit new dedication and vision. The time has come for a vigorous national commitment to continuous and aggressive advancement of this vital industry.

The 38th annual observance of National Aviation Day must not pass unheralded. The rich heritage of the Wright brothers—their endowment in America's future—deserves the rededication of us all.

Sincerely,

JOHN L. MCLUCAS,
Administrator.

SUNSHINE CONFERENCE REPORT
(S. 5)

Mr. JAVITS. Mr. President, I am pleased to be associated with the final version of S. 5, the Government in the Sunshine Act, as it is brought to the floor for consideration of the conference report. It is a product better than either of the original bills which achieved this status through the bipartisan efforts of both Senate and House Members.

I particularly commend the efforts of Senator CHILES, without whom this bill would never have worked its way to final passage and probable enactment. It is on his commitment and inspiration, powered by the example set in his home State of Florida, that moved first the Government Operations Committee and then the entire Senate unanimously to embrace these concepts and procedures in the conduct of our Government meetings and proceedings.

The Sunshine concept will be another principal tool in the continuing effort to make the Federal Government the most open and responsive to citizen needs in the entire world. When combined with the Freedom of Information Act, it provides Americans with the ability to see firsthand the processes and procedures of government, and therefore to be able to petition their Government more effectively to achieve their goals. I am confident that Sunshine will provide the beginning, rather than the end, of currently unimaginable reforms to shape the processes of government so that they respond quickly and fairly to the needs of all Americans. There can be no harm, but there can be great benefit, from operating in full public view.

The bill is carefully constructed to protect the rights of individuals and other entities from disclosure of sensitive or private information. When necessary in the public interest, procedures exist for the closing of meetings to protect persons and to insure that the contemplated agency action is not undermined. But I am sure that these closed meetings will be the exception, and that a large majority of our executive branch agency meetings—just as the overwhelming percentage of our Senate committee meetings—will be open to the public.

We have had a great amount of cooperation from the administration and from various independent agencies on the bill, and I believe the legislation is a far better product for their input.

I am confident that the mood of openness and candor that has been so important a part of the President's administration will now permeate even further into the executive branch and independent agencies of the Government. With the President's support and encouragement, which will surely be forthcoming, this bill will guarantee in law the open Government concept that the President so deeply believes in.

I am pleased to have been a part of this effort and I remind my colleagues that the effort does not end with enactment of this bill. It now becomes even more incumbent upon us to closely follow the actions of our Government agencies and use this new oversight tool effectively and continuously to safeguard the interests of all Americans.

TRIBUTE TO WILLIAM J. FOOTE

Mr. RIBICOFF. Mr. President, it is with a sense of deep personal sorrow and loss that I call to our colleagues' attention the death of William J. Foote of West Hartford, Conn.

Formerly editorial page editor and managing editor of the Hartford Courant, Mr. Foote's career spanned four decades with this historical publication. He was a newspaperman's newspaperman and, as the Courant so aptly observed in this morning's editorial, he "combined keen perception, wise judgment and tough moral fiber with that other all-tempering ingredient—humbleness arising from true worth."

Bill Foote's many activities reached far beyond the newsroom. He served as a director of the Connecticut Child and Family Services, a Pulitzer Prize juror and chairman of the Associated Press Managing Editors Association which drafted the famous AP style book. During his distinguished career, Mr. Foote became an integral part of the Courant and helped it grow and expand. He had a particular fondness for Long Island Sound and his yearly columns on the sea, sailing and the season's last voyage were particularly nostalgic and poignant.

I was honored to know Bill Foote throughout my public career in Connecticut and I will certainly miss his wisdom, his counsel and his guidance. Mrs. Ribicoff and I extend our deepest sympathies to his family.

I ask unanimous consent to have printed in the RECORD an article and editorial appearing in this morning's Hartford Courant on William Foote's life and valuable contributions to his community and State.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAM J. FOOTE DIES; RETIRED COURANT EDITOR

(By Joel Lang)

William Jenkins Foote, former editorial page editor and former managing editor of The Courant, whose Yankee blood was mixed with printers' ink and seawater, died of cancer Monday morning at Hughes Convalescent Home in West Hartford.

He was 71 and lived at 114 Steele Road in West Hartford and at a family compound on Long Island Sound in Branford, where a succession of wooden sailboats, the last named "Gungee," was moored.

Foote started as an editorial columnist for The Courant in 1930, after brief stints as a reporter with the former New York Herald Tribune and Fortune magazine.

By the time he retired on Jan. 1, 1974, Foote had seen bodies carried from the ashes of the 1944 Hartford circus fire, glamorous Zsa Zsa Gabor cry in his office over the poor notice given her appearance in Hartford, and The Courant itself transformed from "The Old Lady of State Street" to a newspaper of modern design with the largest circulation in the state.

Foote's first stories were set by slow and clanky Linotype machines and his last by superfast and nearly silent computers.

But only at the first and last did his byline appear at all. Most of his career was spent behind the scenes, managing the news operation or writing unsigned editorials.

He was managing editor in August 1955 when hurricane flood waters cut electrical power to The Courant. Reporters typed stories by flashlight. Copy was rushed to The Hartford Times where a 12-page edition was printed, keeping alive The Courant's two-century-old record of continuous publication.

In 1950, Foote supervised the move from State Street to the present plant on Broad Street. There he redesigned the cramped vertical layout of The Courant to a more modern appearance. A few years later, the new design won a national award for typography and makeup.

Despite his artful writing and his Ivy League education, Foote reveled in the practical and often hectic aspects of newspaper work. At his retirement he said:

"Really the most interesting thing is the organization of a newspaper—the simple miracle of a tremendous production like a newspaper getting out every damn day of the year without a break. The floods come, the ice storms come, but without a break."

He was assistant managing editor from 1941 to late 1949 when he became managing editor. He became editorial page editor in 1966.

In those years his name appeared more often in the paper as a newsmaker than as a writer. He was director of Child and Family Services of Connecticut and was a leader in the successful effort to reform the state's child welfare laws.

He was a Pultizer Prize juror and a trustee or director of many organizations including the Wadsworth Atheneum and Hillyer College, the forerunner of the University of Hartford. He chaired the committee of the Associated Press Managing Editors Association that drafted the style book used by the AP and many newspapers.

Foote also was a strong proponent of freedom of information laws. In 1956, the city fathers of Rockville voted in secret session to create a separate school district for then rural Vernon. They wanted to delay announcement of the decision, but The Courant obtained a copy and Foote ordered it pubilshed immediately.

The Rockville mayor called Foote's action "highly irregular" and a "violation of journalistic ethics.

Foote responded that the transaction of public business in private was "highly improper and probably illegal."

Foote was born April 27, 1905 in New Haven. His father was Sterling Professor of Chemistry at Yale University and served as naturalist on the 1911 expedition to Peru that discovered Machu Picchu, the lost city of the Incas. His mother ran a private school.

He spent his childhood on a farm in Salem, where he remembered shooting chickens for Sunday dinner during World War I, and in New Haven, where his family had the first car on the block.

For a time he attended an "open air" school in New Haven based on the latest education concept that fresh air was good for children. The school was a tent and the floor, wooden planks. The sides were kept rolled up even during winter. On some days the ink froze in the desk wells and the children danced to keep warm. Foote remembered.

One of his classmates was Dr. Benjamin Spock. Foote attributed their poor penmanship to learning to write while wearing mittens.

As a young man, his contacts with relatives and other acquaintances expanded. He tramped the Northumberland moors with the English historian George Macaulay Trevelyan and crossed the Atlantic with Leo Stein, the art critic who was Gertrude Stein's brother.

Foote went to secondary school at Phillips Academy in Andover, Mass., and was graduated from Yale University's Sheffield School of Engineering.

Though he spent a summer working 14-hour shifts in a steel mill, Foote on gradution in 1927 took a job with the Tribune. At the time, Morse code operators still worked at the paper to receive messages too urgent for the newer, but slower teletype machines.

For a time he covered the art beat. Among his assignments was the auction of the tin bath tub in which Charlotte Corday was said to have stabbed Jean Paul Marat to death.

Later he worked on prototype editions of Fortune magazine. But soon after the stock market crashed. Foote came to The Courant.

To escape the pressures of newspapering over the years. Foote most often retreated to Long Island Sound and his sailboat.

He wrote of the sea and sailing frequently in the columns he began after he became editorial page editor. In simple words they conveyed a reverence for the sea and nature.

Each year in the fall he wrote columns about the last voyage of the season and putting his boat in drydock for the winter. Usually those columns had a tender quality, that looked back with pleasure to the summer just ended and forward to the summer to come.

The tone changed dramatically in the fall of 1974. That spring Foote had been seriously ill. By summer he was well enough to sail again. After the last voyage, he wrote in a column.

"But when she is stripped and heading under power for the shipyard, the boat no longer talks. Unmuffled by the half ton or so of living gear that has been stripped from her cabin, she merely chatters and rattles without sense or purpose.

"Lockers slide and floorboards Vibrate, Hooks and other fittings rattle and new and alarming sounds pour from the engine, with the whole tumult thrown back and forth and up and down like a brass band playing under a tight canopy. She isn't fit to live with and, when she talks that way, it is, indeed, time to leave her."

He leaves his wife, Mrs. Dorothy Bennett Foote; three sons, Christopher S. Foote of Los Angeles, Calif., Edward J. Foote of West Hartford and William J. Foote, Jr. of Boston, a daughter, Mrs. Mary Rounsavall of Louisville, Ky.; a sister, Mrs. Margaret Oppenheimer of Washington, D.C., and Cornwall and five grandchildren.

The funeral is Thursday at 1:30 p.m. at St. John's Episcopal Church, West Hartford. Burial will be in the Ward family cemetery in the Nut Plains section of Guilford. There will be no calling hours. The James T. Pratt Funeral Home, 71 Farmington Ave., is in charge of arrangements.

Memorial donations may be made to the Wadsworth Atheneum or to the American Cancer Society.

WILLIAM J. FOOTE

William Jenkins Foote had a quality without which no newspaper can become and remain great. Mr. Foote, whose career at The Courant spanned more than four decades, combined keen perception, wise judgment and tough moral fiber with that other all-tempering ingredient—humbleness arising from true worth.

Mr. Foote, scholarly, well informed, proud but not boastful of his deep family roots in Connecticut, was respected as a man and this respect accrued to the newspaper he represented. His humbleness was not subserviency, it was more self-effacement when to be otherwise would be pretentious and unnecessary. He performed quietly and managed unabrasively to have his paper hew to the high standards of the craft, both as managing editor and editor of the editorial page.

Mr. Foote saw high calling in the work of a newspaper, he was of a school and background that never sought to turn stones over just to see what squirmed beneath, but would spare no effort if he believed or was shown those stones were disruptive to others or impeded important social progress.

The life and career of Mr. Foote is broadly outlined in today's notice of his death, and the telling conveys much of the caliber of the man. However, only those who have known him, personally and intimately, his family, his close friends, his older colleagues, can be fully and more gratefully aware of the sensitivities, the shy but constant immersion in life and events, the genuine concerns, the active responses that were intrinsically his.

A man's epitaph is but chapter headings of his life. A eulogy is but an attempt to describe what can best be articulated inwardly and silently by those who knew him well. Receptive and gently firm, Mr. Foote touched many lives and in many more ways than could ever be totally recalled and adequately related—nor would he want it any different for those in that wide circle to be better for having known him is the best legacy he could have left his family, his friends and the newspaper which was his working life.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census approximations, the total population of the United States as of September 1, 1976, reached 215,861,167. This represents an increase of 1,450,153 since September 1 of last year. It also represents an increase of 82,052 since August 1 of this year, that is, in just 1 short month.

Thus, in this last year, we have added enough additional people to our population to more than fill the combined cities of Des Moines, Iowa; San Jose, Calif.; and Cleveland, Ohio. And in 1 month our population has grown enough to more than fill the city of Evanston, Ill.

DEATH OF HARVEY OLSON

Mr. RIBICOFF. Mr. President, it is with deep regret that I note the death yesterday of Harvey H. Olson of Wethersfield, Conn.

Long involved with the radio and television industry, Harvey Olson served as the public relations consultant for the Connecticut Education Association and had previously served as the executive director of the State board of education. Formerly associated with the University of Hartford, Mr. Olson was active in numerous charitable organizations in Connecticut.

Mrs. Ribicoff and I extend to Mr. Olson's wife, Phillis, and family our deepest sympathies on this great loss, not only to them but to the community at large as well.

I ask unanimous consent to have printed in the Record an article from this morning's Hartford Courant on Mr. Olson's career.

There being no objection, the article was ordered to be printed in the Record, as follows:

H. H. Olson Dies; Was Announcer

Harvey H. Olson, 64, of 25 Garden St., Wethersfield, an area radio announcer for many years and the public relations consultant for the Connecticut Education Association, died Monday at his home.

Born in New York City, he lived in the area more than 40 years.

In 1935 he joined the staff of WDRC radio as an announcer. He was named program manager for the station in 1945. He was named vice-president of public relations for WDRC in 1958, the same year he resigned from the station.

In 1959 he was named the first Alumni Secretary for the University of Hartford. Mr. Olson's connection with the school went back to 1941 when he began teaching a course in radio and platform speaking at Hillyer College which later merged and became part of the University of Hartford. He had been a part-time teacher at the university for many years.

In 1960 he joined WHNB–TV 30 as the news director. He became program manager for the station in 1965, and left TV–30 that same year.

He was named executive director of the State Board of Education in 1966 and he stayed in that position until he became public relations consultant for the Connecticut Education Association.

Before his radio career, Olson was active in the theater. He appeared in the 1932 Broadway production of "The Great Magoo." He was involved with many theaters throughout New England.

He was active in the Easter Seal Movement, and he aided in TB societies. He also was active in the Prevention of Blindness campaigns for many years.

He leaves his wife, Mrs. Phillis V. Olson, three sons, H. Erik Olson of Newington, Rolf H. Olson of Wethersfield, and Maj. Neil H. Olson, M.D., Hanscom Field, Bedford, Mass.; his father, A. H. Olson of N. Dartmouth, Mass., and five grandchildren.

The funeral and burial will be private. There are no calling hours. James T. Pratt Funeral Home has charge of arrangements. Donations may be sent to the Heublien Oncology Center at Hartford Hospital.

WELFARE REFORM

Mr. RIBICOFF. Mr. President, there has been evidence over the past few months of increasing interest in welfare reform. This is a complex issue not easily discussed during an election. It is an issue complicated both in theory and implementation. I believe that it will be an important issue in the next Congress.

This spring I participated in a roundtable discussion of welfare reform sponsored by the American Enterprise Institute. Other participants were Congressman Conable, Wilbur Cohen, former Secretary of HEW and Paul W. MacAvoy of the President's Council of Economic Advisors.

The transcript of this discussion has just been published by the American Enterprise Institute. I believe it is worth examining because of the different approaches taken to the issue of welfare reform. I believe my colleagues will be interested to read Dr. MacAvoy's defense of the current welfare system—a position rarely taken today. I myself am committed to phasing in or piloting out any massive reworking of the welfare system.

Today I would like to share with my colleagues the transcript of this discussion. Tomorrow I will call their attention to the wider discussion which we had with the audience.

I ask unanimous consent that the first half of the transcript of the welfare reform roundtable be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Robert H. Bork, solicitor general of the United States and moderator of the Round Table. This Round Table, which is jointly presented by the American Enterprise Institute and the Hoover Institution, will consider the issue of welfare reform.

The welfare issue appears to have become a permanent feature of the American political landscape. The problem has always been with us and, as we become increasingly egalitarian, is likely to remain with us. Our dilemma is that we want the poor to have better lives, but we seem also to be unhappy about the results of our attempts to achieve that goal. Federal spending on income security has risen more than $100 billion since 1964 when President Lyndon Johnson called on his countrymen to wage a war on poverty. Yet, more than 20 million Americans still live below the officially defined poverty level. The public perception, whether accurate or not, is that something is very wrong.

To begin our discussion, let me turn first to Senator Abraham Ribicoff, a former secretary of health, education, and welfare. Why, senator, do you think there is so much criticism of the nation's welfare program?

Abraham A. Ribicoff, United States Senate (Democrat, Connecticut). I think, first, because politicians, from the President of the United States down, have found it politically profitable to play the demagogue with respect to the poor and the black. Second, the criticism reflects a guilty conscience of the American middle class because American society has failed to solve its problems.

Our annual welfare bill, some $40 billion, is high. But, when you compare that with our gross national product of $1.4 trillion, you find that less than 3 percent of GNP represents the overhead of American society for its failure.

Beyond these reasons, I believe the dissatisfaction arises because political leaders really don't have the guts to face up to the problem.

Mr. Bork. Congressman Conable, as a senior Republican member of the House Ways and Means Committee, can you tell us why welfare costs have skyrocketed in recent years?

Barber B. Conable, United States House of Representatives (Republican, New York). Well, it is a very expensive program. The $40 billion the senator mentioned is the cost of only the three largest programs—cash payments, food stamps, and Medicaid. There are lots of other programs, as well as severe costs, because of an administrative hodgepodge.

Also, costs have gone up sharply in recent years primarily because more people now, a total of about 29 million, are participating in these major welfare programs. Welfare is a needs program, and the poor are hit hardest in an inflation as the value of the dollar goes down. Obviously, needs will go up and welfare costs will increase in these circumstances. Third, administration is expensive. It costs over $3 billion a year to administer our welfare program at this point—8 percent of the total cost.

All these things have combined to make welfare not just a highly visible part of our government system, as the senator mentioned, but a controversial and increasingly expensive part.

Mr. Bork. Dean Cohen, as a former secretary of HEW, do you think our present welfare system is the most efficient way of helping the poor?

Wilbur J. Cohen, dean, School of Education, University of Michigan. No. The present system is not only inadequate, but it has been built up over the years in such a way that it fails to benefit all the poor equitably. There are better ways of helping the poor, but all of them involve more cost and more problems, economic, political, administrative, and otherwise. Part of the reason why we don't have a better welfare system, or a substitute system, is because it is difficult, in a country as large as ours, to agree on what an adequate standard is for, say, both New York and Mississippi, and because of various other complex decisions which are necessary to administer a system in a country as big and diverse as the United States.

If one were to attempt to develop a better system to meet the needs of the poor, one wouldn't start with the current system.

Mr. Bork. Dr. MacAvoy, you now serve as a member of the President's Council of Economic Advisers. How well do you think our present welfare programs are meeting their objective of helping the poor?

Paul W. MacAvoy, member, Council of Economic Advisers. Robert, I'm intimidated by the prestige and seniority of the other members of this panel. As the youngest member of the panel, it's not my position to judge these distinguished gentlemen, who all played some role in the development of the existing institution. [Laughter.] I might add that they have done that job very well themselves. Their remarks were severely critical of where we now are—in other words, they're tearing down their own edifice. So perhaps I should be in the position of building it up a bit. As I understand the original intent of these programs, it was to help persons who are in no position to help themselves to obtain the necessities of life—food, clothing, shelter, the minimum of transportation, and other goods and services. These persons may have been ill; they may, for one reason or the other, be incapacitated for various periods. The programs have attempted to help them as part of the American dedication to equality. In good part, the programs have done that.

The criticism that I could make, as an economist, of present operations is that they have gone beyond their original intent by helping many individuals who may not qualify under these standards. If we were to take the expenditures that Representative Conable mentioned and distribute them only to those who meet the original qualifications, we would provide 130 percent of the poverty level of income; that is, we are spending more than enough to bring above the poverty line every member of the population who is considered poor. That poverty still exists indicates that others who do not meet the original qualifications must be receiving substantial amounts of income through the programs for one reason or the other.

We also have an extensive federal and state bureaucracy administering the programs—so intricate that it is extremely difficult to find out how much we spend on them. Members of my staff, back in the Executive Office Building, are tracing these expenditures now, trying to find out how much goes to which part of which program. They will be late for the session this evening. [Laughter.] But when I left to come to this meeting, they had found well over $2 billion of annual outlay for salaries and other operating expenditures for overlapping federal, state, and local programs. It might be a very good idea to redesign programs, not to achieve perfect government, but to reduce costs by reducing the specificity of the programs, the extreme detail, the opportunities for legalisms to determine who qualifies and who does not that add up to a lawyer's and bureaucrat's dream.

Mr. Bork. I am going to object: we don't use *legalism* as a pejorative term here this evening. [Laughter.]

Dr. MacAvoy. You were brought on to this panel to prevent violence from breaking out, not to create it. [Laughter.]

Mr. Bork. I thought I heard a murmuring on my left. Senator Ribicoff?

Senator Ribicoff. Well, I think Barber and Professor MacAvoy make a good point—that the administrative costs are high. The reason is that there are some 1,150 separate agencies throughout the United States, administering every conceivable type of welfare program. It makes no rhyme or reason.

I think the professor makes another good point. I too am convinced that we could take this pot that we spend on welfare, simply divide it up—without any administration—and put checks through the computer, and we'd end up saving the American taxpayers billions of dollars. I think President Nixon tried to do that, to a certain extent, with his proposed family assistance plan, which was very well conceived, but, while the House did act—twice, in fact—the Senate couldn't agree; and then Mr. Haldeman and Mr. Ehrlichman finally did in the plan.

Dean Cohen. But does't that illustrate the problem? It's very easy to criticize the system—which I have done—but it's very difficult to find a solution that everybody will accept.

When welfare reform is discussed in any kind of a general situation, one person will go away and say, "Well, I'm for that because it will cut the welfare rolls in half." But the fact is that most of the working poor of the United States are not in the present welfare system, except for food stamps.

If we were to generalize the program in the way you just did, senator, we'd end up spending $15 billion to $25 billion a year more. That's the reason why the Nixon plan and the other proposals for a negative income tax have not passed both houses of Congress. The solution to the problem is to find a plan that includes an equitable level for the whole United States and an income disregard that will be a work incentive. I haven't yet seen a proposal that meets those criteria that cost less than $15 billion a year more than the present program. Now, is that what the American people mean when they talk about welfare reform?

Senator Ribicoff. I think the problem is that no one in this country has the answer. I lived with it as secretary of HEW, before that I lived with it as governor, and now I live with it as a United States senator. I am convinced that there is no one solution, no one answer. And I think that we ought to realize that, before we put into action any particular program involving millions of people and billions of dollars, we should undertake a pilot effort.

I would like us to take some of the best ideas, and spend some money for four or five pilot programs to see if they work. As a matter of fact, one of the tragedies of President Nixon's family assistance plan is that when it was stalled in the Senate Finance Committee—and I had been able to obtain unanimous agreement for the expenditure of $500 million for a four-year experiment on pilot programs—the secretary of HEW and the President wanted all or nothing. So they ended up with nothing. I would hope that, when we approach welfare reform again, when some President has the courage to come up with a proposal, men like Barber in the Ways and Means Committee, myself, and others would try to test it out before we commit the country to a $40 billion program.

Congressman Conable. Senator, I have a different version of what happened to the family assistance plan. It was my understanding that the Senate Finance Committee was unwilling to accept the standards that were laid down in that plan because it felt they were too low. And because it couldn't get agreement on a higher level of benefits, the whole thing died.

Senator Ribicoff. No, Barber. Before it got to that—

Congressman Conable. We sent you a bill in early 1970 that provided for an income floor of $2,400 a year, for a family of four.

Senator Ribicoff. And then the so-called liberals wanted more, the conservatives wanted less. To break the impasse I suggested pilot programs. Then Senator Long, Senator Williams, everybody around the Finance Committee table—liberals, conservatives, the middle-of-the-roaders—agreed unanimously to go up to $500 million to try it out, to see if it worked. I thought that was a great idea.

But the Nixon administration wanted to go for broke, so nothing happened. Later on, in 1972, when Secretary of HEW Elliot Richardson and I had worked out a compromise for an income floor of $2,600, it collapsed because the secretary could not even get by Ehrlichman and Haldeman to talk to the President of the United States.

Mr. Bork. Well, let's try the future before we replay that loss.

Dean Cohen. I think that the problem that Senator Ribicoff just discussed is still here today. What amount could be agreed on as a proper minimum for the entire United States? At the present time the poverty yardstick for a family of four is around $5,500. Now, could you get Congress to approve, as a political compromise, a federal minimum that is close to $5,500? Obviously, I would say—and you gentlemen may correct me—the amount would have to be substantially lower than that. But the lower amount wouldn't satisfy many states, particularly the industrial ones; and you wouldn't be able to get a compromise, since there are two senators from every one of those states.

Dr. MacAvoy. You're not asking the right question. The question for us is not to determine a specific minimum level of income for everyone, but how we can best help those who are, in some way, unable to work within the economic system to raise their level of income.

There are many people who have temporarily low incomes, and they would be caught up, and rewarded, in any program that simply sent out checks to everyone whose income was below a certain level. But we're not really aiming at guaranteed incomes. As a first priority we seek to provide the opportunity to consume to those unable to generate their own assets and income.

Dean Cohen. Well, what income level would you propose?

Dr. MacAvoy. This is just the problem. We shouldn't propose a single level of income that would apply universally. We should propose a new program, one which can be so specific as to separate persons without income, wealth, or any opportunity to earn from those who have low levels of income or the capacity to earn a steady income, albeit a low one.

Dean Cohen. All right. I ask you again: for people who have no income, what level would you set?

Dr. MacAvoy. My next door neighbor is a medical student who has no income and who would qualify under a check-receiving program during this period when he's in school—before he begins to earn $20,000 or $75,000 or $150,000 a year.

Dean Cohen. Well, I'm perfectly willing to exclude all physicians and medical students, because they are going to have a lot of income.

Dr. MacAvoy. Ah, but then you have a special program, and there are lots of other exclusions that you must make, Mr. Cohen, as well.

Dean Cohen. Make all the exclusions you want, and tell me what is the income level that you would propose for a minimum?

Dr. MacAvoy. Now we're back to the present program.

Mr. Bork. No. We're not back to the present program.

Dr. MacAvoy. Yes, we are. We're back to 1,100 programs.

Senator Ribicoff. What bothers me with Professor MacAvoy's points—and this is the problem every time you look for welfare reform—is that everybody talks in generalities. You're one of the President's economic advisers, professor. Give me a specific program that you would advise President Ford to submit to the Congress of the United States.

Dr. MacAvoy. Mr. Ribicoff, I have that program in hand.

Senator Ribicoff. Good. Let's hear it. [Laughter.]

Dr. MacAvoy. You keep tearing down your building, and I keep trying to patch it back together again.

Mr. Bork. This is a historic moment, I think. [Laughter.]

Dr. MacAvoy. Our existing welfare programs can be improved. They can be made more efficient by introducing more advanced government-operation techniques and by removing from these 1,100 programs those that we all agree are clearly redundant—

Dean Cohen. The computers broke down on the SSI program [Supplementary Security Income].

Dr. MacAvoy. —and that suggestion differs from Mr. Cohen's, which is to tear the current system down and start issuing checks.

Congressman Conable. Can we agree on this, gentlemen—that we're not likely to achieve the millennium overnight, and shouldn't expect to? Can we agree that we should be taking concrete steps toward a more rational welfare system, through a process of consolidating some programs, cashing out others, building a federal floor under benefit levels in order to reduce the disparity between the high- and low-welfare states, and so forth?

Senator Ribicoff. Barber, would you go for national standards and for the federal government's assuming the entire welfare load? Those two changes would begin to eliminate the disparities, and would also eliminate the tragedy of New York City, the only city in the United States that has an annual tax bill of $1 billion for welfare. If New York City were like practically every other city of the United States and did not have to pay for welfare, its budget would show a surplus instead of a deficit.

Congressman Conable. Senator, that's the point. We can't have a single national standard because it's politically unachievable. But we can move in that direction. We could start building a floor under the existing structure.

Senator Ribicoff. I believe we could have regional standards reflecting the different standards of living throughout the United States. Certainly, it doesn't cost as much to live in, say, Mississippi as in New York City. There could be one standard for New York City, Chicago, the other industrial parts of the United States; another for rural areas; another for farm states; and another for the deep South. I think we could have national standards built on a regional basis.

In other words, what I am arguing for is not a uniform program for this country—that just couldn't be done—but for a common sense approach, for pilot programs that are developed cooperatively by the legislative and the executive branch. Before we spend $40 billion we should first spend $500 million over three or four years to find out what works. Then we can adopt those that do and junk those that don't.

Mr. Bork. We've heard remarks that the welfare system is terribly complicated—it's balkanized, it has 1,150 different agencies, and so forth—and that must be part of the problem. Yet Dr. MacAvoy says he doesn't want a check-writing program because it would necessarily include all kinds of people we don't wish to include. What would be wrong with combining all of these programs—in fact, doing away with individual programs like social security, aid to the disabled, aid to the blind—and simply using a check program? Wouldn't that eliminate a large portion of bureaucracy, a lot of overlap?

Congressman Conable. We supposedly took that step with SSI. We combined three programs—

Dr. MacAvoy. But you took another step in that case, congressman. Once you cashed the programs out, you started adding benefits on top. And that may be the real problem—the Congress just can't keep from adding a few more goodies.

Congressman Conable. Part of the difficulty there is that everybody wants a piece of the action. There are eleven House committees, ten Senate committees, and nine executive agencies all participating in welfare, and they operate on a competitive basis. The minute you cash out, say, the food stamp program as part of any cash welfare program, you'll find the agriculture committees fighting to create some new type of food stamp program in order to get a piece of that action for the jurisdictional benefits it will give them in getting through their agricultural bills.

Mr. Bork. Are you telling the American public, tonight, that the welfare problem is entirely a jurisdictional problem?

Congressman Conable. Oh, I didn't say entirely. All I'm saying is that that's a serious complicating factor; and the competition among participating agencies and committees is unseemingly.

Dean Cohen. Could I join my colleagues in agreeing on two points that have been made here? One, I think it is possible to improve the present welfare system without having a millennial program. Two things could be done. First, we could remedy—as we have tried to do for many years—the exclusion of the working poor, who are not covered, for the most part at least by Aid to Families for Dependent Children [AFDC]. Of course, broadening the program to include the working poor would require an increase in cost, and that presents a difficulty. But I think that the discriminatory treatment that now exists, where a man or woman who tries to keep the family intact cannot, except in some states and localities, get on welfare, embodies a wrong philosophy. It gives the head of the family an incentive to desert the family, and it ought to be corrected.

Second, I think that Barber's suggestion for minimizing interstate disparities is a good one. It would not preclude having a different system later on if we moved now to set some kind of minimum and then raised that over a period of five years, so that when we did get an opportunity for more comprehensive welfare reform, the disparities wouldn't be as large as they now are. It's my understanding that one of the major reasons why the famiy assistance plan couldn't be enacted was the size of the disparities.

Congressman Conable. Wilbur, it's always entertaining to see people advocating the federalization of welfare when, I think, almost half the welfare passed out in the country is passed out through three states—California, New York, and Massachusetts. Thus, the federal representatives of the other forty-seven states would have to pay a substantial fiscal dividend to those three states, a politically unlikely vote under the circumstances.

Senator Ribicoff. That's unfair, Barber. The Supreme Court has eliminated the residency requirement. Keep in mind that New York City, for example, has been the magnet for the blacks from the South and for the Puerto Ricans, who have a right, as citizens, to move there; and New York has been defenseless. Welfare is a national problem, the obligation of the whole country. And if New York is defenseless against poor immigrant U.S. citizens, why should the people of New York—or Connecticut, or Massachusetts, or Washington—suffer the burden alone?

Congressman Conable. Senator, I wish I could agree with you. I agree that that's an unfair condition, but nothing is a national issue that is not recognized as such by the national legislators. And I think it's still unlikely that the federal representatives of forty-seven states will give a major fiscal dividend to the representatives of three, no matter how equitable the latter's claims.

Senator Ribicoff. Well, once we lifted the welfare burden from their states and counties, they might do it. Because, don't forget, in that event they too would not have the bills to pay.

This is why I don't believe, gentlemen, that we are ever going to have welfare reform until we have a courageous, farsighted President who is willing to go to the American people to explain it, and go to the Congress to fight for it. The problem is so complex that none of us, as individuals, can galvanize public opinion and public understanding to do this job. The opportunity can only come with a President who is concerned and is willing to take his lumps. But, having been a cabinet secretary and a senator, I have seen that most Presidents are unwilling to do that. As I mentioned today, the reason we have had so many secretaries of HEW is that no President is willing to go as far as a secretary of HEW must go in order to try to solve the problems facing the country. Politically, a President finds that unacceptable.

Congressman Conable. I think we've had a good many more lumpy Presidents lately than we've had congressmen. [Laughter.]

Mr. Bork. I have a feeling that some member of the executive branch should have a right to answer that, but I'll pass it by.

I really want to know whether you think that, at the national level, there is anything to be gained by moving towards a check system, a negative income tax, or a family assistance plan, and by doing so eliminating the large bureaucracies that give specific programs.

Dean Cohen. I agree that it's entirely desirable to have what you call a check-writing system, whether you call it a negative income tax or a family assistance plan—which is really a basic payment plus an income disregard as a work-incentive provision. But I think that it shouldn't be established until the computers are able to handle that problem. Judging from experience with existing programs, I don't think we've done so much better with the computers than we did with individualized treatment. Therefore, I am very skeptical about computerization without adequate attention to the human side of the equation—to making it possible for these people to get their checks and their eligibility in their local community.

Mr. Bork. I understand that. But are there savings to be gained—and in this company I hesitate to say it—by the abolition of bureaucracies like HEW and HUD—savings large enough to make a check system viable?

Senator Ribicoff. I never thought I'd disagree with my friend Wilbur on anything when it comes to welfare. But I think eventually that's where we must go. It makes the most sense. It's the simplest way, and we must face up to it. Why are people poor? It's very simple: they don't have money. When we face up to the simple fact, we'll start to understand how to solve the problem. But all the social workers and all the welfare bureaucracies certainly compound the problem. I think, too, that HEW should have been split up into its three basic components—health, education, and welfare—a long time ago. I thought so back when I was secretary of the department, and I still do.

I also think that eventually we'll have to take the Milton Friedman approach, the negative income tax approach.

Dr. MacAvoy. Robert, let me provide a somewhat different view. It appears to me that some people are poor because they have low incomes at present, but that those same people might have much higher incomes in the future. My daughter is in that class: she's thirteen. Then there are other people who are poor because they have low incomes even though they have considerable wealth. That's my grandfather: he's eighty-six. Finally, there are of course the people who are truly poor because they have little or no income, wealth, or earning power.

This third class is the one, I think, that we seek to aid in welfare programs. At this time it is not possible with our information systems to differentiate among those three classes with a check-writing program that provides negative income taxes.

Mr. Bork. You mean, suppose you had to fill out a questionnaire like an income tax return?

Dr. MacAvoy. Yes. Put it to the IRS officer to compare the IBM salesman, who fills out a tax return in which he pays taxes on an income of $85,000 a year, with a welfare mother, who pays taxes on the basis of negative income. Now, the first has assets, a pattern of expenditure, previous income levels, and the names, addresses, and birth certificates of his children. But the second may have none of these. In the second case all of the indicators that an IRS officer would use to determine the level of income and wealth, and to determine how wealth has been generated in the last year or two, are not there. So the problem of ascertaining whether one qualifies is compounded enormously. That's what Mr. Cohen is saying.

Mr. Bork. You mean an audit system wouldn't do it?

Dr. MacAvoy. Mr. Cohen is saying that the computer systems would not do that well. And, even though I criticize the level of expenditure on bureaucracies now, it's my judgment that the savings on staff and the like in HEW would be more than cancelled out by increased expenditures in the IRS, plus the additional cost of payments to persons who would receive checks even though they would not qualify under the original intent of the program. Mr. Cohen is saying that it would cost $15 billion more under a check-writing, negative income tax program because that approach is so general that it cannot get at only the people one wants to help. And, therefore, we would have to spray the landscape with that much more expenditure.

Mr. Bork. And you would say that even if we could eliminate programs like subsidies to housing, subsidies to agriculture, and all of those bureaucracies?

Dr. MacAvoy. I would eliminate subsidies to housing, which I consider among the redundant programs. There are serious problems of excess coverage in the food stamp program; those are now being dealt with administratively. I believe there are other programs where there is a specific record of waste.

Mr. Bork. But you're telling us that the elimination would not free enough funds to finance a negative income tax program?

Dr. MacAvoy. I don't think we need that program when we can reform the present system, program by program, and have a structure of half-a-dozen specific programs that get at what we're trying to do—which is to provide necessities to those who have no income and no wealth.

Mr. Bork. It sounds like the welfare mess is a mess without a cure.

Senator Ribicoff. I think that the professor's comparisons are so invidious that we're never going to solve the problem if we take his explanation. How can he put his thirteen-year-old daughter in the same category of not having any money with someone without education, without a skill, without a job, without a house, without clothes, without a piece of bread for his belly, for heaven sakes? I think Wilbur is wrong too. The two professors are wrong.

Mr. Bork. Not unlikely, not unlikely. [Laughter.]

Senator Ribicoff. I don't think this country is so incompetent that we can't devise a form, or a system, to take care of the person who's really poor, and hungry, and homeless, and uneducated.

Dr. MacAvoy. But that's not the question. We are doing that, senator; but we're also taking care of a number more. Not my thirteen-year-old daughter; that was an exaggeration, of course.

Senator Ribicoff. Well, you were the one that brought it up.

Dr. MacAvoy. I'm sorry I did that. I made a mistake which gave you an opening that you didn't deserve. What I'm saying is that a check-writing program will not be able to distinguish, as the current programs do, between the wealth and earnings power of those who should be covered and the wealth and earnings power of those who should not.

Mr. Bork. Let's suppose we institute a program to provide income up to a fairly substantial level. I'd like to hear the congressman's views on whether work incentives would be so reduced that we'd really be paying for leisure, and be supplied with leisure?

Congressman Conable. The problem is that our present system gives very little work incentive. As Wilbur mentioned, a large number of people on welfare are absolutely disqualified for it if they accept work. Although they have marginal skills, they get on welfare because, that way, they can take home as much as, or more than, they could if they went to work. Working costs them money.

This is one of the reasons why we've got to move toward the sort of thing the senator is talking about. Perhaps we won't be able to achieve it with today's technology. But we certainly aren't going to achieve it unless we have a plan, unless we start working toward consolidating food stamps with a cash program in order to reduce administrative complexity.

Now, I don't think we're going to save a lot of money this way. And I think we'll continue to have abuses, because in a democracy everybody is entitled to try to find his own rip-off, apparently. [Laughter.] But I do think that we can gradually improve the system; and it's terribly important that the system be conceptually sound and based on a long-range plan. The problem, right now, is that we seem to be "piece-mealing" everything. Somebody says, "Oh, that's a terrible problem, we ought to have a program for it." So we pile a new program right on top of all the others, making things so much more complicated that ultimately we throw up our hands in despair, and say, "What are we going to do? We've got to take care of the poor."

Of course, we don't want to brutalize society, to ignore the poor. In a competitive society, we have to accept the fact that some people are going to lose, and that they, too, are part of the society and have to be maintained in some way. But we've got to have a plan; and we must be sure that the concept we're working toward involves incentives, not disincentives as is true in the present hodgepodge.

Dean Cohen. Can I rise to the defense of professors? [Laughter.]

Mr. Bork. It's a losing fight, but—

Dean Cohen. Professor MacAvoy has drawn attention to a fundamental question. No negative income tax proposal that I have seen deals with the question of assets. I think what we are both trying to say is that, inevitably, the matter of assets would come into play, even though Milton Friedman and other proponents of the negative income tax fail to recognize it in their plans. Once you include assets, you're right back to the same problem the present system poses of individualized analysis of assets in relation to a person's lack of income from work.

Mr. Bork. Well, wouldn't that be easier than having 1,100 programs—giving food stamps, giving medicine, giving——

Dean Cohen. Well, in the first place, there aren't 1,100 programs.

Mr. Bork. I heard that number from an expert a moment ago.

Senator Ribicoff. There are 1,150 separate federal, state, county, and city units administering welfare throughout the United States.

Dean Cohen. But that's a gross exaggeration, senator. When you take the fundamental component of the welfare system, AFDC, which has 11 million recipients, you'll find only fifty states administer that program. It is under the complete control of the fifty states and the federal government.

There's no reason why we couldn't broaden AFDC to include the working poor and to provide a minimum. Doing that would solve about 75 percent of our current problems. It wouldn't be a perfect program, but it would meet two of the greatest unfulfilled needs. Then, after we'd done that, we could undertake your experimental and pilot programs on the work incentive to see what works best. Then, we might be able to select a better program than what we now have. But until we analyze and deal with this matter of assets, we're not going to solve the problem, because I don't think IRS could do it.

Senator Ribicoff. Well, Wilbur, do you mean to say that Barber Conable and Abe Ribicoff couldn't take the asset factor into account in writing a welfare bill? Certainly, if a man has $50,000 in the bank, he shouldn't be given $5,000 a year on a negative income tax check.

Mr. Bork. What have been the results of the pilot programs on negative income tax?

Dr. MacAvoy. Pilot programs were run in Seattle, Denver, and New Jersey. The New Jersey set of experiments came first; they were quite detailed and, incidentally, have been the subject of great controversy related to the construction of the sample and to the meaningfulness of the results given the short time frame of the experiment.

Mr. Bork. Did we learn anything about the administrative costs of dealing with assets, with the young, and so forth?

Dr. MacAvoy. No. The programs looked centrally at the question of whether work incentives were reduced as a result of receiving income through a negative income tax.

Dean Cohen. But those were artificial programs. I don't think they really prove anything—

Dr. MacAvoy. They got better, Mr. Cohen, as the program design was improved. The later of the pilot programs, those in Seattle and Denver, indicate that there are significant work disincentives under a negative income tax scheme.

Mr. Bork. When you say "significant," do you mean that if the program were applied nationally, we'd have a serious problem of buying leisure for the population?

Dr. MacAvoy. Many individuals with low income, male workers as well as women with children, would decide—for short- or medium-term periods, perhaps—not to go into the labor market, but to stay on the negative income tax instead.

Mr. Bork. So that program is not a panacea in that sense either?

Dean Cohen. I want to emphasize that those particular experiments were artificial and unreal, because they were short term and because the people who participated in them knew that.

Dr. MacAvoy. That's true of the New Jersey experiment, but not the Seattle and Denver experiments.

Dean Cohen. Well, the Seattle and Denver experiments are so limited and so small, and not necessarily representative of the wide range of income, racial, and family mixes, that—while I happen to agree with your general observation about the work incentive—I would not take them as the ultimate test.

What the senator and I are proposing is to allow several states—say, Delaware, Rhode Island, and Arizona, so that we would have both urban and rural states—to convert their present AFDC programs plus SSI and the food stamp program, into a new program—say, a negative income tax, applied statewide. Then we would see if the work incentive, at different rates of income disregard and under very different but real conditions, would work. I think that's what the senator has in mind.

Senator Ribicoff. That's exactly what I have in mind, because my feeling is that the last thirty years have proven that social programs don't always work out. [Laughter.] Everything looks good on paper, but when you're dealing with human beings, it's altogether different. I, personally, am convinced that I'll never vote to commit the nation to a multi-million dollar social program, unless it has first been tested and found to work.

Mr. Bork. How would you conduct the state-by-state experiment?

Senator Ribicoff. We'd take varied states—a small state, an industrial state—

Mr. Bork. No. No. You let the state decide whether it wants to do it.

Senator Ribicoff. That's right. We're not telling them. Never. In the first place, a state couldn't afford to do it.

Mr. Bork. But you'd help them do it.

Senator Ribicoff. Yes. We'd find a state that would be willing, because it couldn't be done without the cooperation of the federal government and the state.

Dr. MacAvoy. Have any states come forward, senator?

Mr. Bork. There's nothing to volunteer for, yet.

Dean Cohen. There are two deficiencies now. There's no financial incentive for a state to do it, and it's not legal for them to do it under the present law.

Dr. MacAvoy. Have you gone around and asked the states, Mr. Cohen, "At what price would you do it?"

Dean Cohen. Well, they would do it if the federal government paid the additional cost for programs beyond what the states are doing now.

Dr. MacAvoy. Have you tried auctioning it off to see who would do it for the least?

Dean Cohen. If you recommend to the President that we auction it off, I'll be glad to help find the states.

Congressman Conable. I think we're making a mistake here in overemphasizing the value of work incentives, because the assumption is that the great proportion of people on welfare can work if only they wanted to, if only they had adequate incentives to do so. I suspect that there are a great many people—I'm sure Wilbur would know the statistics—who are going on welfare indefinitely—during their childhood, anyway—because they simply don't have the skills to work, or to get a job at all, whether or not they have the incentive.

Dean Cohen. Well, it's even more difficult, Barber, because such a large proportion of both the people who are poor in this country and the people who are on welfare are in families headed by a woman. If they do want to go to work—and I'm sure many of them do—we would have to finance a child care program. That is another reason why costs would balloon—

Mr. Bork. Well, now we're being told that work incentives aren't too important, because there aren't that many people in the welfare population who would respond to them.

Dean Cohen. No. We're not saying they're not important for some people, but there's a group among the poor for whom work incentives are inoperative because of sickness, disability, education, or the number of children in the family.

Mr. Bork. I was trying to find out whether if we established such a plan, we would be risking a major loss of national efficiency by paying people not to work, and I can't get any estimate of the size of that problem, or find out even if it exists.

Dr. MacAvoy. You can get different estimates from different members of the panel.

Mr. Bork. Dr. MacAvoy thinks that the problem is substantial, and I gather some of the others do not; and I guess we'll never find out until we try it on a statewide basis.

Dr. MacAvoy. But the results of the existing experiments are intimidating; they suggest that a statewide experiment could be extremely expensive. If you've got two or three good small-scale econometric studies, they can be sufficient to deter you from going to a statewide pilot program.

Dean Cohen. I don't think the work incentive is really as important as it's been made out to be for the whole group of the 25 million who are poor, because 40 percent of them are children of the worker, or of the woman, who's the head of the family.

The issue turns on your philosophic view about encouraging, either by incentive or compulsion, the woman who's the head of the family to go to work, leaving her children in child care. That underlies this whole problem. If your point is that every woman ought to go to work and not take care of her own children, then you come to a different kind of conclusion from the one that follows from saying that only a small proportion of them—those who choose to—should go to work. And that's the difficulty in dealing with the problem.

Mr. Bork. We're coming to the end of our time. I wonder, Congressman Conable, if you'd like to comment on this before we wrap up?

Mr. Conable. Oh, I'll go along with Wilbur on what he just said.

Dr. MacAvoy. Let me add a remark at this point. The AFDC program as now constructed appears to me, after some investigation, to be working well. The idea of making it over into a check-writing program applicable to the entire population and at the same time expecting strong work incentives to operate is absurd. The problem in designing a better approach rests with the additional people who would qualify under the low-income aspects of a comprehensive negative income tax scheme. They're not the working mothers without husbands who are already in the base load of our welfare system. We are talking about the addition of prospective beneficiaries who will alter their work status, or falsify it, to qualify for bigger benefits.

Dean Cohen. Well, AFDC is a check-writing program at the present time. But what you mean by a check-writing program, I assume, is the same amount for every person—

Dr. MacAvoy. Qualified only on self-reported income.

Dean Cohen. Well, then you get back to the asset question and to the problem of excluding, or including, various groups. Until that's decided, you can't have a program.

PRESERVATION OF THE HOUSATONIC RIVER

Mr. RIBICOFF. Mr. President, in August 1975 the Senate passed S. 10, a measure I authorized to add a segment of the scenic and historic Housatonic River in Connecticut to the list of rivers to be studied for inclusion in the National Wild and Scenic Rivers System. This is an important river which merits inclusion in the Wild and Scenic Rivers System, particularly as three State parks, a State forest and two State fish and game sites are located within the Housatonic corridor.

Last month the House Interior Subcommittee on National Parks and Recreation conducted hearings on S. 10 and similar legislation introduced by Representative Moffett and others. In supporting the enactment of this legislation, John W. Crutcher, Director of the Bureau of Outdoor Recreation, noted that a mid-1972 review of the segment of the Housatonic to be included in the national system "indicated it is a clean white-water route with significant esthetic, recreation, fishery and historical values." I was encouraged to learn that Mr. Crutcher further testified that priority would be given to the study of the Housatonic as a potential addition to the national system when the enabling legislation is enacted.

I understand that the Housatonic has been included in an omnibus bill introduced by the chairman of the House subcommittee last week. I urge the House to take prompt and favorable action on this measure so that affirmative steps can be taken to undertake a long overdue study of the Housatonic.

Mr. President, in order that our colleagues may know more about the outstanding qualities and importance of the Housatonic, I ask unanimous consent to have printed in the Record testimony presented at the House hearing on August 27.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Wilma Frey

Mr. Chairman and Members of the Committee:

My name is Wilma Frey, and I am representing the Northeast Region of the Sierra Club, comprising the states of Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, New York, and New Jersey. We would like to affirm our support for H.R. 5958 to include the Housatonic River for study under the Wild and Scenic Rivers Act. It is a beautiful stream, and highly deserving of such consideration. The populous Northeast too, deserves this consideration. The Northeast, with increasingly severe pressures for development and increasingly scarce land resources, needs more than ever to protect its scenic beauty and places of solitude and recreation. And yet there is so far only one river in the area designated part of the National Rivers System—the Allagash—and only one more currently under study—the Shepaug.

The proposal before you for the Housatonic, which would connect to the Shepaug study, could potentially result in a protected open space corridor of significant dimensions. We have one additional suggestion however. The present bill would have the study area extend only as far north as the Massachusetts border. We would strongly urge that the Housatonic in Massachusetts be included in the study. The Housatonic in Massachusetts, particularly in its southern portion near Sheffield, Mass., is also a beautiful river. It loops in broad curves through a pastoral New England landscape of floodplain meadows, cornfields, woodlots and country roads. It embraces Bartholemew's Cobble, an unusual limestone hill formation, the Col. Ashley farm, one of the oldest in Massachusetts. These are both owned by the Trustees of Reservations, a private Massachusetts organization holding land for the public, the equivalent of the Nature Conservancy. The Housatonic in Massachusetts is deserving of study for protection also.

We thank you for this opportunity to present our views, and look forward to working with you on this matter in the future.

HFFA,
Hamden, Conn., August 25, 1976.

Subcommittee on National Parks and Recreation,
U.S. House of Representatives,
Washington, D.C.

Gentleman: Water flows downhill. The application of this basic law of physics soon makes a trout fisherman aware that the quality of his sport is totally dependent on and directly related to the quality of the watershed.

There has been and is now an excellent trout fishery in the upper Housatonic River. This fishery is almost totally dependent upon land and water quality and it cannot be protected or preserved without coordinated control of their development. The Wild and Scenic Rivers Bill appears to us to be the best available approach to guard the river against uncontrolled development.

The Housatonic Fly Fisherman's Association was organized in 1961. We currently have three hundred members from five states. One of our objectives is to preserve, protect and to improve the trout fishery in the Housatonic. Enclosed with this statement are letters, editorials, and magazine articles which tend to support our contention that the river has a regional following and a national reputation.

The prime trout habitat, stocked by the state, is approximately ten miles long from Falls Village downstream. Within this area is a three and one-half mile stretch designated for "fly fishing only". Downstream from the stocked area to the confluence with the Ten Mile River lies another ten mile long stretch. This run provides smallmouth bass fishing plus intermittent pockets of good trout water. Warm water fish predominate below the Ten Mile.

The Housatonic Fly Fisherman's Association does not own property on the river. Our improvements have always been made on the public, state stocked waters, and these have not been limited to the "fly only" waters. We do not limit our activities to the Housatonic, but this river and its trout have always been our primary concern.

We are currently working with the Connecticut Department of Environmental Protection (D.E.P.) on a three year survey to determine the hold-over potential of trout in the river. Our own club tagging and stocking program shows a 17% hold-over return for 1976, an improvement over the 1975 return of 13%. Our tagging program is also providing valuable information on stocking methods and on fish migration.

The river itself flows through the limestone region of Connecticut. This unique geological characteristic helps to make the Housatonic the most fertile river in our state. Fisheries biologists describe the Housatonic as having the best environment for fish growth of any waterway in Connecticut. The pH and the mineral content of the water and the great variety and quantity of aquatic life in the food supply are prime factors in this growth potential. The steep gradient of the riverbed assures the aeration necessary for fish survival during the warmer months.

Pollution control programs upstream have dramatically improved water quality. This improvement in water quality has made it possible for HFFA to successfully re-introduce the Green Drake (*E. guttulata*) to the river. This species, once a major part of the food supply, disappeared after the disastrous floods of 1955. Trout eggs will not survive in polluted waters. January 1977 will mark the third year that HFFA has used Vibert and Whitlock boxes to hatch trout fry in the Housatonic and its tributaries. 50,000 eggs will be given to us by D.E.P.

The river's scenic appeal can perhaps be best summed up by a view of the covered bridge in West Cornwall, the only one in the state still carrying traffic.

The river is bordered by State Forests and by large private holdings. These serve to protect the quality of the watershed. The state Chief of Wildlife considers the unbroken tracts of forest and woodland immediately adjacent to the river to be of utmost importance to the state program of restoring the wild turkey. These same woodlands attract scenic viewers, campers, hikers and other outdoor enthusiasts from throughout the Northeast. Canoeists have discovered that the river and its varied gradient offers opportunities ranging from a leisurely float trip on class 1 water to challenging class 4 runs, closed boat only.

The Housatonic Valley has an historical appeal as well. The United States iron industry had its start in the valley in 1734. The Appalachian Trail traverses the area, and other hiking trails border the river. Well used public campsites of excellent quality are also available.

The section of the Housatonic River currently under consideration is a relatively unspoiled area. Situated in the Northeast megalopolis, it has wide appeal as a scenic and a recreational attraction.

All of the varied recreational and aesthetic uses of the Housatonic River have grown tremendously over the past few years. So too has pressure grown to commercially exploit this public resource.

It is critical then that this truly unique section of the Housatonic Valley be evaluated on the basis of its regional importance. Steps must be taken now to save this area for the use and enjoyment of present and future generations and to prevent its destruction.

The Housatonic Fly Fisherman's Association therefore respectfully requests that H.R. 5958 be accepted.

Respectfully submitted,
Edward A. Kluck,
President.

Testimony of the Housatonic Valley Association

Mr. Chairman and members of the Committee, the Housatonic Valley Association is most appreciative of this opportunity to present information about one of Southern New England's most valuable natural resources, the Upper Housatonic River.

The Housatonic Valley Association (HVA) is a tax-exempt, nonprofit corporation chartered under the laws of the State of Connecticut, first in 1954 under the name the Housatonic Valley Planning Association, and again in 1968 under its present name when planning had become an accepted fact. HVA is entirely supported by contributions from the more than 1300 individuals who have memberships. Since 1968 the Association has focussed its endeavors upon the preservation of the unique resources of the River Valley. Fourteen Towns are represented on the Board of the Association at the present time.

Passage of H.R. 5958 and H.R. 8436 would provide the absolutely necessary protection of the River from Federally funded or licensed projects which might have an adverse and irreversible impact on the River during the time the study is in process to determine whether the Stretch of River in question should be eventually included in the Federal River system. The Federal study would serve best to coordinate similar interests in an area jurisdictionally divided. Also the study should help to heighten public awareness of the River Valley's importance both as an ecosystem and a recreational resource. If these are not passed, there is little if any hope that the River and its immediate surroundings will be preserved.

Nine Towns border the River segment that would be studied. These Towns have a combined population of 38,773. 25,566 persons live in two of the three southernmost Towns. The largest of these experienced a growth rate of 175% in the last ten years. The next largest Town has grown 248% in the same period. Less than 5 miles (3.78) south from the confluence of the Housatonic with the Shepaug River, which is the southern terminus of the proposed study, Interstate Route 84 crosses the Housatonic River. The State of Connecticut is currently constructing a four-lane limited access highway north from I–84 along the Housatonic Valley. Although State plans do not currently call for extension of the highway north of New Milford, development is leap-frogging north in anticipation of such extension of Route 7, and without concern for the Valley's scenic preservation. There has recently developed a trend towards the resettlement of former New York City based corporations in the I–84 area. If this trend continues, development pressures along the Housatonic will increase even more drastically. Of the approximately 14,720 acres of land which constitute the Housatonic's "wild and scenic" corridor (46 mi. of River, ¼ mi. on each side) less than 1,000 acres are permanently protected through State ownership, less than 2,000 are protected by private land trusts. In short, that portion of the Housatonic River Valley in question represents precisely the situation for which the Federal Wild and Scenic Rivers Bill was designed, namely: the protection at the highest level of Government of a national resource.

If such protection is not provided an invaluable recreational resource and wildlife habitat must be lost. Last year the Housatonic River corridor north of Lake Lillinonah was used by 1,150 hunters. State parks along the corridor experienced an average yearly useage of 33,427 camper days from 1973–75. Each year the state stocks 18,000 trout into the Housatonic. This year's holdover trout population is being estimated at 9–15% of what was stocked last year. Approximately 2,500 fishermen fish for these trout from the river's banks. The Appalachian Trail in Connecticut runs along the Housatonic River for much of its length. Over 10,000 hikers traverse this trail and other trails in the study area. At least 8,000 white water canoe trips were made on the Housatonic last year. The Housatonic has lazy meanders which any canoeist can navigate as well as rapids which range from Class I through Class V. It is considered by some white water boaters to be the best white water river in the Northeast. Appendix A to these comments demonstrates that water quality in the area of the Housatonic suggested for study conforms to Connecticut's standards for class B waters (suitable for bathing or other recreational purposes, agricultural uses, industrial processes and cooling; excellent fish and wildlife habitat good aesthetic value). The only exception is in one area where the pH is .1 higher than that recommended. However it should be noted that because the Housatonic river bed is cut through marble for many miles (appendix B) it tends naturally towards alkalinity.

The study area lies within two hours

travel time (100 mi.) from the urban and suburban populations of greater New York City, Nassau and Westchester counties, and only a few miles further from greater Boston. It lies less than half that distance from Springfield, Mass. and Hartford, Conn. Yet even with the recent growth at the southern end of the study area, the Housatonic River from its confluence with the Shepaug north to its headwaters at Pittsfield, Mass., and the adjacent small New England Towns, have been miraculously preserved in almost a pristine state. There is no River Valley of comparable beauty even in Vermont and New Hampshire. 13.2% of the land in the upper River Towns is open-space. 66.2% of it is in agriculture or forest. Population density is 58.5 persons per 1 square mile. This compares with a State population density of 600 persons per square mile. Utilized for recreation by residents of many, many other States, it is a small but irreplaceable vestige of New England's rapidly vanishing heritage.

The Board of Directors of the Housatonic Valley Association resolved unanimously on March 10, 1975 approval of amending section 5a of P.L. 90–542, to include the Housatonic River. The Department of the Interior can anticipate the fullest co-operation from HVA in developing information, immediately following passage of H.R. 5958 and H.R. 8436 and implementation of the study called for.

Respectfully submitted,

MONTGOMERY HARE,
Vice President.

APPENDIX A

	State water classification standards			Housatonic River data, July 1974 to June 1975, mean value (percent)		
	A (drinkable)	B (swimable)	C (boatable)	North Canaan	New Milford	Lake Lillinonah
DO percent	75 percent (16 hr per day)	75 percent (16 hr per day)	No percent minimum	98.0	103.0	89.0
DO mgl	5 mgl (24 hr per day)	5 mgl (24 hr per day)	5 mgl for 6 hr, 4 mgl for 24 hr	11.7	12.0	10.2
Sludge	Natural origin	Small amounts from treatment facilities	Small amounts from treatment facilities	[1]	[1]	[1]
Silt and sand	Natural origin and normal activity	Normal activity, or natural origin	Natural origin or normal activity	[1]	[1]	[1]
Color and turbidity	do	Secci visibility at 1 meter	25 JTU	[1]	[1]	[1]
Coliform per 100 ml	Median 100, normal 500 in 10 percent of samples.	Median of 1,000 normal 2,400 in 20 percent, of samples.	30 day maximum of 5,000, normal 5,000 in 20 percent of samples.	379.0	149.0	19.0
pH	As natural	6.5 to 8	6.5 to 8	7.6	8.1	7.6

[1] Not measured.

FORD ADMINISTRATION'S RECORD ON ENVIRONMENTAL ISSUES

Mr. BUMPERS. Mr. President, the Ford administration has had a record on environmental issues which is worse than the Nixon administration. That should be all that needs to be said, but I will elaborate.

Look at the administration's attitude towards parks, forests, fish and wildlife refuges, and natural resources in general. The record demonstrates a policy of deterioration of the environment in our national parks and national forests. The neglect that has characterized the President's attitude toward our national parks can hardly be called benign.

But last week we were told of the "Bicentennial Land Heritage Program," which will be introduced into the Congress with only 23 days left in the legislative session, and only a day or two before the Senate is to consider the second, and binding, concurrent resolution on the budget. This bill would seemingly substantially alter the administration's attitude toward our national parks and environment.

I applaud the President's change of heart, if it is genuine. But I fear that this is election-year rhetoric, and the people of this country will suffer while our national parks continue to deteriorate.

In order to evaluate this apparent change in direction by the administration, let us do as Al Smith said, and look at the record:

First. Both Houses have overwhelmingly passed the Land and Water Conservation Fund Act Amendments, S. 327, which would boost Federal funding levels for expanding and developing the Nation's parks and recreation system. The conference report on this bill was filed just last Thursday in the House. The administration has consistently threatened to veto the bill unless spending levels are substantially reduced.

Second. The National Park Service has about a $3 billion backlog in maintenance and repair needs and new construction projects. The administration has consistently opposed appropriations that would meet these needs.

Third. The national parks are woefully understaffed. The Appropriations Committee has provided funds for 942 additional staff for the Park Service over the last 2 years, only 395 of which have been filled. For fiscal year 1977, the Senate Interior Committee requested 1,000 additional people over the 395. The administration requested only 400 positions including the 395. Now, after the appropriations bill for the National Park Service has passed and the budget process is almost completed, the administration, which blocked the original request for 1,000 people, comes forward and asks for the same level of funding that it opposed.

Fourth. The Interior Committee recommended increasing the authorization for many national parks and recreation areas several weeks ago, and the Senate has passed H.R. 13713 for that purpose. A considerable portion of the amount used to cover inflated land prices would not have been necessary if the administration had been supportive of the programs in which they now claim to be interested. The administration has been hostile to several parts of this bill. For example, in hearings before the Senate Interior Committee on a request for an authorization increase of $2.2 million for Arkansas Post National Memorial—originally introduced as S. 1516, the Office of Management and Budget resisted the increase on general budgetary grounds. Fortunately, the committee disregarded this attempt at obstruction.

Fifth. The clue to the administration's bill is that the President will request an immediate appropriation of $141 million from the Land and Water Conservation Fund to remain available for 10 years. Why is there a 10-year figure? If the money is not going to be spent now, why appropriate it? Why will he not tell us what he wants to do with the money for the next 10 years?

Sixth. The President's request for an appropriation of an additional $141 million from the Land and Water Conservation Fund is the most drastic change in the administration's position. In the appropriations for the Land and Water Conservation Fund, Congress appropriated $97 million more than the President had requested. Now, in the heat of the fall campaign and with Congress preparing for adjournment, the administration decides that Congress was correct in the first place. This money which is already authorized could have been appropriated 2 months ago.

This is not a complete listing of the administration's obstructionism. This new "initiative" should also be examined in light of several other major legislative issues now pending in the Congress.

If the President has finally recognized the error of his ways and wants to demonstrate his support for our national parks, he should promptly sign the Land and Water Conservation Act Amendments of 1976, S. 327, as well as the omnibus parks bill, H.R. 13713, when we complete action on them. Several other important bills will probably be presented to him in September, and we will know if his apparent change in attitude toward environmental issues is real when we know the answers to the following:

Will the President sign the Clean Air Act amendments, S. 3219?

Will the President sign the Outer Continental Shelf Lands Act, S. 521?

Will the President veto a strip mine bill a third time?

Our goal is to provide adequate funding for our national parks and recreation areas in order to provide a better quality of life for the people of this country. This objective is too important to become a pawn in Presidential politics.

Three excellent articles reviewing the President's program to aid the national park system have appeared in the September 1 edition of the Washington Post, the September 2 edition of the New York Times. and the September 5 edition of the Washington Star. I ask unanimous consent that each of the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 2, 1976]

DISCOVERING THE PARKS

Public opinion polls consistently report that conditions in the national parks—and conservation issues generally—are of concern to a wide spectrum of voters. It is not surprising, therefore, that as President Ford seeks to win election in his own right, he should manifest a sudden enthusiasm for the national parks.

The parks, including Yellowstone which Mr. Ford visited this week, have experienced the bad as well as the good effects of the tourism explosion. Overcrowding, crime, vandalism, polluted air—the very conditions that city people journey to the national parks to escape—have become common in the more accessible and better-known sections of the park system.

The National Park Service of the U.S. Department of the Interior in recent years has repeatedly petitioned the Office of Management and Budget and the White House for additional funds to cope with these new pressures. Unfortunately, neither the O.M.B. nor the White House has been responsive to these requests. In both of the budgets he has submitted, President Ford asked for substantially less money for staffing, maintenance and land acquisittion than the Park Service has sought and than conservation organizations regarded as necessary.

In fiscal 1976, for example, the Park Service asked for $397 million, the President budgeted $304 million and Congress—over Administration objections—raised that figure to $312 million. Again, in the new fiscal year beginning October 1, the President asked for $337 million, substantially less than the Park Service had requested, and Congress raised it to $355 million.

The Fish and Wildlife Service has a special fund to buy wetlands for migratory birds. Last year, Congress appropriated $7.5 million for the fund and this year $4 million. In both years, the Ford Administration asked that nothing be appropriated for this purpose.

Against this background, the President's discovery that the parks and wildlife refuge system need additional money for land acquisition seems to have more to do with Mr. Ford's political needs than with the needs of the parks, which have not changed much since January when his last budget was submitted. The same is true of his decision that the understaffed Park Service requires 1,500 more employees now than he thought then.

President Ford initially generated confusion when he asserted that his recommendations would more than double the number of acres in the parks and wildlife refuges: the sum he mentioned for land acquisition would fall far short of that target. Interior Department officials subsequently explained that Mr. Ford was merely referring to the 32 million acres in Alaska that have been reserved for parks and refugees under the Alaskan Native Claims Act of 1971 but not yet actually established. A program authorized five years ago hardly constitutes a new initiative. It is also unclear how the President relates his land acquisition program to the far more ambitious bill now nearing enactment in Congress.

An eleventh-hour conversion is better than none at all. But President Ford's pledge would carry more conviction had he shown by word and deed in the last two years that he really cared about national parks and wildlife refuges.

[From the Washington Post, Sept. 1, 1976]

OLD FAITHFUL PRESIDENTIAL POLITICS

Out at Yellowstone National Park, Old Faithful erupted on schedule on Sunday—right in the middle of President Ford's speech proposing a 10-year, $1.5 billion "Bicentennial land heritage program." Mr. Ford no doubt viewed the geyser as a perfect prop, epitomizing all the natural treasures that he seeks to save. And that is certainly one image that could reasonably be evoked by Old Faithful on this occasion. It is, after all, a splendid spectacle, beauteous to behold and well worth preserving in its natural state. But it is also vaporous and transitory, a spasmodic, passing thing of no great substance. And now that we have carefully studied the ingredients of the President's grand-sounding plan for the national parks, Old Faithful seems to us to have been the perfect prop for this occasion in a way quite different from that intended by the President's advance-men. For what, when you think about it, is older and more faithful than the time-honored tradition that impels candidates for President (and above all incumbent candidates) to spout campaign promises that dance in the sunlight and delight the multitudes—and then, predictably, evaporate into thin air? As it is with Old Faithful, so, alas, it is with the President's "new" aid program for the national parks: there may have been quite a lot of steam behind it for a brief moment or two, but the suggestion of substance is largely illusory. There is really not much there that hasn't been there all along, or that Mr. Ford couldn't have put there long before now.

So we think that in this case, at least, Jimmy Carter was entitled to let off a little steam of his own. Jody Powell, Mr. Carter's press secretary, interrupted a softball game in Plains to accuse the President of "a calculated election-year flip-flop" intended "to cover up eight years of Republic mismanagement of our nation's park system." There is considerable basis for this charge. The national parks and wildlife refuges have been sadly neglected for much of the past decade. Budgets have not kept pace with rising costs and great increases in public use. Established parks have been allowed to deteriorate for want of proper maintenance and care. New areas have been authorized but not fully acquired or adequately staffed. Although Congress must bear part of the responsibility for this, the major barrier has been the Office of Management and Budget, which has insisted on pinching pennies for several years—while allowing a billion-dollar backlog of park problems to build up.

Mr. Ford has indeed flip-flopped. His new attitude was first evident some months ago when, under growing pressure from Congress, he overrode OMB and insisted that the National Park Service's personnel ceilings be raised. His new proposals go much farther along the same constructive line: he wants more funds to carry out commitments that the federal government has already made. The $1.5 billion in supplemental funds would be spent over the next decade primarily to develop and rehabilitate existing parks and wildlife refuges, to provide more adequate staffing, and to buy some of the nearly half-million acres already designated for inclusion in various parks and refuges. The plan amounts to a declaration that the penny-pinching has to stop, and that a much larger, continuing investment must be made to protect these priceless resources against decay.

In theory, then, Mr. Ford's proposal is very sound. But in practice it is suspect in two ways. The first is timing: the plan comes very late for legislative purposes, however useful its proferring may be for the fall campaign. The second problem is the packaging. Besides attaching a superfluous and irrelevant "Bicentennial" label to the plan, the White House declared that it would "double America's heritage" of parks, refuges and historic sites. That suggests a vast expansion of acreage, a claim that is supported by the numbers only if you include almost 64 million acres in Alaska, which the administration proposed to set aside for parks and refuges almost three years ago. Such dubious arithmetic only detracts from the real merits of the new spending requests—and gives Mr. Carter another target. It also perpetuates the notion that expanding the store of parklands is more important than enhancing what we have. Doubling the acreage may sound more appealing. But the greater need is for a redoubling of efforts to safeguard and improve existing national preserves. Mr. Ford has now recognized that need, which is good news. It would have been much better news—and more persuasive, as well—if it had come to us in a proposal to Congress at the beginning of his two years in office, rather than in a stagey ceremony at the beginning of his presidential campaign.

[From the Washington Star, Sept. 5, 1976]

AH, WILDERNESS

Calling President Ford's $1.5 billion National Park and Wildlife Refuge program a "Bicentennial birthday present to future generations" gives it an aura of lavishness that seems almost frivolous. A billion dollars worth of bird sanctuaries and campgrounds sounds like a lot of bird sanctuaries and campgrounds.

Until it's matched against the dimensions of need and possibility, it does.

The fact is that we have been using our parks—all of them, national, state and local—at a rate that nullifies everything parks are supposed to mean. Looking at a great mountain or lake over a sea of tents and house-trailers isn't exactly reliving Thoreau at Walden Pond. Neither is moving bumper-to-bumper through a redwood forest, however grand the trees.

Furthermore, congestion in public parks is killing more than the quality of the wilderness experience. Many of the most famous and naturally beautiful parks have become places of trampled wildflowers, exhaust-choked air and despoiled animal breeding grounds as well as of litter and violated stillness, simply because so many people want to enjoy them.

In a report issued last June, the House Government Operations Committee noted that the last 15 years have raised the number of park service installations from 185 to 285 while visitor days have jumped from 71 million to 239 million. No wonder the authors called their report "The Degradation of the National Parks."

Even with so large a clientele for parks and wilderness areas, Congress has tended to be tight-fisted about putting money into them. When appropriation votes come up, the parks always seem like good places to economize. Locally, in the last few years, Regional Park Authorities have managed to keep in operation but not to buy new properties.

There have been small-scale successes worth noting, however. The Interior Department's Bureau of Outdoor Recreation is a quiet model of ingenuity and achievement, bringing together public and private resources to acquire and develop recreation land and facilities on state and local levels.

The 16,000 projects assisted in the last 12 years have included such modest offerings as bike trails, sports fields, marinas and urban green space. The $1.2 billion channeled into them has come both from the matching of federal and local funds and from the encouragement of private donations.

Further funding of this program is part of the President's proposal and is warmly welcomed by park officials down the line from state governments to small communities. Hard as it has been to find any funds for such purposes, this degree of commitment from the Ford administration has been a source of celebration even among environmentalists who think it should have been bigger.

There are many such. A Senate-House conference committee has just agreed on legislation that would set aside $1 billion for parkland acquisition over the next three years and $3 billion in the next decade—considerably more than the President's birthday package.

The key element in the whole picture is the Land and Water Conservation Fund, which is the treasury for new parkland purchases. It is filled from special federal revenues, including offshore oil royalties. Congress has now worked out a plan for enlarging these revenues. How well both the lawmakers and the administration follow through on it will decide how much of the Bicentennial birthday present is rhetorical and how much of it is real. It will also give or withhold some fundamental physical and spiritual satisfactions for a good many people.

NUCLEAR WASTE DISPOSAL

Mr. DOMENICI. Mr. President, one of the most critical problems facing the burgeoning nuclear power industry today is the establishment of an effective nuclear waste disposal system. A significant step toward the solution of this problem took place last month with the dedication of the Energy Research and Development Administration's new radioactive waste treatment development facility—TDF—at the Los Alamos Scientific Laboratory in New Mexico. As the first ERDA facility dedicated solely to nuclear waste management research, the TDF will be used to study various methods of treating low-level contaminated waste from plutonium processing facilities. An excellent description of the TDF and of plans for its extensive utilization appeared in the El Paso Times on August 8, 1976.

Mr. President, I ask unanimous consent that the article, "Nuclear Waste Research Facility Planned for New Mexico" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR WASTE RESEARCH FACILITY PLANNED FOR NEW MEXICO

LOS ALAMOS, N. MEX.—Nuclear waste, unlike conventional garbage, cannot be flushed down a kitchen sink disposal unit or hauled off to the municipal dump.

The classic dilemma posed by the disposal of radioactively contaminated waste material is therefore being tackled on an accelerating scale by the Energy Research and Development Administration (ERDA) through programs such as the broad waste management research effort at the University of California's Los Alamos (N.M.) Scientific Laboratory (LASL).

Funding for LASL's waste management program is expected to be boosted from the current $1 million in fiscal year 1976 to about $4 million in fiscal 1977, with part of the money earmarked for the operation of a new radioactive waste Treatment Development Facility (TDF) that will be dedicated in Los Alamos Aug. 19.

The new plant is the first ERDA facility dedicated soley to the study of waste management methods. It was constructed at a cost of $900,000 through ERDA's Division of Nuclear Fuel Cycle and Production. It's goals are to find safer, cheaper ways to reduce the volume and eliminate the combustibility of low-level contaminated waste from plutonium processing facilities.

Dr. Thomas K. Keenan, head of the LASL Waste Management Program, said the new facility will become the focal point of the Los Alamos program and will house a broad spectrum of waste handling research in its 10,600 square feet.

The search for suitable storage for high-level waste from nuclear reactors has been very well publicized. However, as Kennan points out, every item that is taken into a plutonium processing area must be regarded as contaminated and must be handled and disposed of accordingly.

"It is to this area that the new facility is dedicated," he says. "To look for the best and most economical ways of reducing the volume of low-level waste, stabilizing its chemical composition, and eliminating its combustibility."

In the last decade, ERDA's predecessor, the U.S. Atomic Energy Commission (AEC) mounted an intensive study of radioactive waste disposal methods. One result was a 1973 directive that established new criteria for disposal of low-level contaminated waste.

The AEC established an upper limit of 10 nanocuries per gram (a measure of specific radioactivity) for immediate burial of such contaminated waste, and directed that all material containing more than this amount of radioactivity should be stored for eventual retrieval.

LASL scientists, as part of their waste management research, developed new techniques for accurately measuring the amount of radioactivity in contaminated trash. In other parts of the waste management program they are testing materials to determine those that will be best for storing waste, identifying the residue of waste coming from processing areas and looking for ways to cut down on the amount generated, and, with construction of the new TDF, they will search for safer, cheaper ways to reduce the fire potential of buried waste and evaluate methods for reducing waste volume.

Lee Borduin, who will head the day-to-day operation of LASL's new facility, says one of the findings of an AEC task force appointed to study the waste disposal problem was that incineration promised to be the best way to achieve the major goals of low-level waste handling.

The new facility will employ a conventional incinerator such as is used in many municipal disposal programs. It will be modified, however, to confine radioactivity and protect workers from contamination.

Borduin says the facility will handle up to 100 pounds of waste per hour, in a program designed to provide an economic comparison of this method of volume reduction versus other methods. The TDF is strictly a research and development facility, he points out, and results of the "figure of merit" economic comparison will be passed on to industry.

Typical low-level-contaminated waste from LASL's plutonium processing areas includes rubber, paper, cardboard, wood, plastic, glass, ceramics, and metal.

Beginning in mid-1977, material generated in LASL plutonium operations will first be assayed for transuraic content (the amount of heavy elements, primarily plutonium, present in the trash), then shipped in sealed cartons to the new Treatment Development Facility.

Before being burned, it will again be counted for plutonium, scanned for metal objects with an x-ray machine such as is used on luggage of airports, then fed to the lower chamber of a dual-chamber incinerator by a ram feeder through a series of air locks.

Fired by natural gas burners, the lower incinerator chamber will reach a temperature of 1,500 degrees Fahrenheit. Small particles and hot combustion gases will rise to an upper chamber where the temperature will reach more than 2,000 degrees.

Material will be reduced in volume to perhaps 5 per cent of its initial bulk, Borduin says. The cooled ash will be vacuumed from the chamber and measured for plutonium content once more. Repeated measurements are necessary because all plutonium handlers must account to the government for every scrap of plutonium in their either retrievable storage or burial.

An intricate cleaning and cooling system has been designed for the "off-gas" section of the facility. Gases at temperatures over 2,000 degrees Fahrenheit will be quenched with water to 200 degrees, then "scrubbed" repeatedly to remove particles.

Hydrochloric acid (and other acids generated by the burning of certain materials) will be removed by water contact. Process cooling water will be circulated through an evaporative cooling tower to minimize the amount of liquid effluent discharged from the facility. Various neutralizing compounds will be added to scrubbing solutions in a pretreatment process before the water is discharged to LASL's nearby liquid waste treatment plant.

Air ultimately discharged to the atmosphere will be well below the air pollution standards set by Environmental Protection Agency.

One important long-range goal of the volume reduction search of LASL will be the study of the feasibility of recovering more valuable plutonium from incinerator ashes than is possible from solid waste. Kennan says recovery of plutonium from ash might be easier, and therefore, cheaper, than it is from bulky material.

SEATTLE B'NAI B'RITH CELEBRATES 75TH ANNIVERSARY

Mr. JACKSON. Mr. President, on September 19, the Jewish community of Seattle will celebrate the 75th anniversary of the founding of its B'nai B'rith Chapter. In those 75 years, the Seattle Chapter of B'nai B'rith has established itself as a strong force for social progress and improved human relations. I am especially pleased that Jack Spitzer, a distinguished Washingtonian, is playing a prominent role as the national chairman of B'nai B'rith's efforts on behalf of its youth agencies.

B'nai B'rith's record in support of fundamental human rights both at home and abroad has been especially outstanding. It embodies the best of America's democratic and humane tradition. It is a pleasure to salute the Seattle Chapter of B'nai B'rith on this important occasion.

I ask unanimous consent that a brief history of B'nai B'rith's activities in the Seattle area and in the State of Washington be printed in the RECORD.

There being no objection, the history was ordered to be printed in the RECORD, as follows:

HISTORY OF THE SEATTLE CHAPTER OF B'NAI B'RITH

On September 19, 1976 Seattle's Jewish Community commemorates the seventy-fifth anniversary of the establishment of the first B'nai B'rith lodge in Seattle, a date that precedes by only twenty-four days the one hundred thirty-third anniversary of the founding of the Order in New York City in 1843, making it the oldest service organization of any kind founded in the United States.

If the accomplishments of the Order since its institution in a room above Sinsheimer's Cafe in New York's east side were to be compiled and laid before us, we would stand in awe and amazement at the visionary foresight of the twelve founders of the Organization and the thousands upon thousands of Jews in many parts of the world who have in the past and who are today part of the movement that is B'nai B'rith.

While its original purpose was to be a unifying force of the American Jewish Community of that time and to integrate new immigrants into the mainstream of the young American nation, the preamble of its constitution is as applicable in our jet-age computer oriented society as it was when our nation was only sixty-seven years old.

"B'nai B'rith has taken upon itself the mission of uniting persons of the Jewish faith in the world of promoting their highest interests and those of humanity; of developing and elevating the mental and moral character of the people of our faith; of inculcating the purest principles of philanthropy, honor and patriotism; of supporting science and art; alleviating the wants of the poor and needy; visiting and caring for the sick; coming to the rescue of victims of persecution; providing for, protecting and assisting the aged, the widow and the orphan on the broadest principles of humanity."

When the first B'nai B'rith lodge was founded in Seattle, the city itself was only forty-nine years old with 80,000 residents and growing rapidly. The after effects of the Alaska Goldrush were still felt when the new lodge was chartered on October 28, 1900 with Herman Kessler as its first President. Over the decades many B'nai B'rith leaders have emerged as prominent business and community leaders who have significantly contributed to the growth and development of their city. Such names as Otto and Maurice Grunbum, Nathan Eckstein, Herbert and L. Kenneth Schoenfeld, Samuel Schwabacher, Louis Friedlander, Leo Weisfield, and Max Silver are only a few of the many whose names are remembered to this day for their contributions to Seattle's progress.

This new group of B'nai B'rith members from its very beginning to this day enthusiastically support the many national institutions and philanthropies of its Order such as The Bellefaire Institution, Cleveland, Ohio founded in 1868; The B'nai B'rith Home for the Aged, Yonkers, New York founded in 1881; The B'nai B'rith Home for the Aged, Memphis, Tennessee founded in 1927; The National Jewish Hospital, Denver, Colorado founded in 1899; and The Leo N. Levi Memorial Hospital, Hot Springs, Arkansas founded in 1914. All medical facilities are available to all who need them regardless of religion or ability to pay.

B'nai B'rith has aided disaster victims regardless of race, religion or nationality as early as during the Chicago Fire of 1871; the Johnson Flood of 1889; the Irish Famine of 1903; the San Francisco Earthquake of 1906; the Balkan Wars of 1923; floods in Winnipeg, Kansas, Missouri, the Netherlands, Belgium, and Great Britain; tornado victims in Worcester, Massachusetts; Waco, Texas; Flint, Michigan; Toronto, Canada; up to the recent earthquake in Guatemala when it adopted an entire town for rehabilitation.

The local membership over the years participated in the National B'nai B'rith efforts of $1,500,000 in direct aid to victims of the Nazi terror, in the collection and shipping of tons of clothing to post war China and Europe. B'nai B'rith adopted thousands of families in war ravaged countries after World War I, sending food and clothing. All this in addition to the ongoing programs such as summer camps for the under privileged children, free milk and lunch stations, play grounds, hospitals, among other projects.

On a local level Seattle B'nai B'rith lodges which had grown over the years to include Hildersheimer, Rainier, Seattle, Cascade, and Overlake lodges, initiated and espoused numerous projects and programs that served many segments of the human family.

Following World War I Seattle B'nai B'rith members "adopted" some one hundred European war orphans, contributing to their rehabilitation and support and provided the means to place them in foster homes in Western Europe; a project chaired by the late Herman Schocken.

While large numbers of Seattle B'nai B'rith members served in the armed forces during World War II, others engaged in home front projects such as the selling of more than $3,000,000 in United States war bonds. This effort, under the chairmanship of Joe Gluck, was recognized by our government by naming a Seattle built Boeing B–17 flying fortress "Seattle B'nai B'rith." Other lodge efforts were devoted to equipping military recreation establishments, providing entertainment and special aids to service men and women.

The Seattle Lodge "adopted" the 220 men of the destroyer escort U.S.S. Farquar while on convoy duty in the Atlantic by providing the complete recreational programs for her crew. The U.S.S. Farquar was the naval vessel that sunk the last enemy submarine in Atlantic waters during World War II.

Among the many volunteers to serve in the war and post war service were: Ed Brashen, Sol Esfeld, Lou Blackfield, Myer Cohen, Harry J. Cohn, Joe Feldman, Abe Goldman, Leo Steinhauer, Joe Hornstein, Herman Keisler, Rube Gross, P. Allen Rickels, Mendel Levin, Ben Z. Levin, Dr. Joseph Cohen, Harry Steiner, Irving C. Lewis, Rabbi Arthur Zuckerman, Jacob Lighter and Max Tobias.

In 1927 Seattle B'nai B'rith sponsored a radio program to assist in the fund raising efforts to construct the Elks convalescent home for crippled children. Appeals over the air waves by Dr. Samuel Koch and Sol Esfeld produced excellent results. During the depression era Seattle B'nai B'rith operated an employment service under the chairmanship of Leo Meltzer to find needed jobs for many unemployed. In 1936 an Americanization Program was initiated under Irving Levitin's leadership which assisted non-citizens in their naturalization efforts.

Nineteen hundred and thirty-seven saw the beginning of a massive adult education effort started by Barney Harvitz and in later years carried on by Jacob Rockov, Rabbi Arthur Jacobovitz, Cantor Joseph Frankel and Jack Cohen.

Community service programs included the March of Dimes and Heart Fund campaigns, blood donor drives, community children's parties, and the "Toy Project" which collected and repaired used toys throughout the year and distributed thousands of toys to under privileged families at Christmas time. This project grew to such large proportions that it is now carried on by public agencies. Essay contest such as "Abraham Lincoln" for Seattle area school children and "What the American free enterprise system means to me" for junior achievement participants were sponsored by local judges.

Prominent among the many participants in these projects were: David Lipman, Nathan Eckstein, Leon Greenman, Philip Tworoger, Mandel Nieder, Alvin Block, Jacob Rockov, Eddie and Sollie Barrat, Morris Steinberg and Jack Haleva.

The most recent addition to Seattle's B'nai B'rith community services programs is "Project Brotherhood" led by Arthur Siegal and Dalbert Rychter which enables many Seattle area Christians in service related jobs who would normally have to work on Christmas Day and Eve to spend the holiday with their families and attend religious services while members of the Puget Sound Jewish Community organized by B'nai B'rith fulfill their duties without compensation and loss of wages to them.

In 1923 B'nai B'rith founded the first Hillel Foundation, a Jewish Campus Organization, at the University of Illinois. Shortly before the outbreak of World War II, a Hillel unit took shape in Seattle with Rabbi Arthur Zuckman as its first director. Under the leadership of Jacob Lighter, Seattle B'nai B'rith initiated an effort to establish a Hillel Foundation at the University of Washington which culminated in the dedication of the first Hillel Foundation Building near the campus in 1948, at which time the former national Hillel Director, Dr. Abram Sachar, was the guest speaker, a function that he will fulfill at the seventy-fifth anniversary celebration on September 19, 1976.

It is the function of the Hillel Foundations, located in campuses throughout the free world, to strengthen the Jewish identity of students by such means as religious services, seminars, cultural programs consisting of lectures, panel discussions, films, and debates. Rabbi Arthur Jacobovitz, who has served as the local director since 1959, engages in personal and religious counseling. His outreach programs serve Jewish students in other institutions of higher learning throughout the state. The reference library on Judaica at the Seattle Hillel Foundation is considered the finest and most complete in this area and is available to the campus and general community for research and study. Such lay leaders as Meyer Cohen, Ernest Stiefel, Joe Woron, Howard Michel, Sol Halfon, and many others have made the Hillen Foundation at the University of Washington a potent force for Jewish youth.

One of the most widely known and most highly respected activities of B'nai B'rith throughout the free world is the Anti-Defamation League of B'nai B'rith. Brought into being in 1913, it addressed itself initially to combating anti-semitism and the race hatred inspired by a resurgence of the Ku Klux Klan. The ADL vigorously joined in the fight against prejudice, bigotry, and racism long before it became popular and fashionable.

The local ADL office was established on a part-time basis at the outbreak of World War II by P. Allen Rickels, attorney and community leader, followed by Sam Holcenberg. In April of 1947 the work of the local office had grown to such proportions that it became a full-time operation that fought the seeds of anti-semitism sewn by Nazi and German Bund efforts before World War II. Stanley Jacobs and Seattle attorney Leonard Shroeter served as directors when Seymour Kaplan assumed directorship in 1955 until his untimely death in 1974. Under his devoted leadership, ADL addressed itself not only to the vices of anti-semitism but bigotry in all its forms and became a potent force in civic and equal rights for all Americans. Prominent contributions were made in the field of education that fostered a better understanding of teachers and students alike of the different ethnic and religious groups that comprise the American nation.

Many ADL lay leaders have made significant contributions to make the Puget Sound area a better place to live for all its citizens. Among them are Merle Cohn, Melville Oseran, Judge Solie Ringold, Murray Guterson, Robert Miller, Henry Wolf, Arthur Siegal, and many others who now continue their work under the guidance of the current director, David Stahl.

The B'nai B'rith Youth Organization founded in 1924 in Omaha, Nebraska has as its objective the training of leaders of tomorrow; to enable them to make their own individual contributions of distinctive Jewish values to the mosaic of our country's culture; to offer young people group life experiences which give them an understanding of and loyalty to our democratic heritage; to provide supervised leisure time activities and learning experience whereby young people become ethical and altruistic in human relationships, devoted and competent in the fulfillment of family and community responsibilities.

The first local BBYO unit, the seventy-third in the nation, was established in 1927 followed by others in the ensuing years involving youth leaders like Bert Klatzker, Sam Stusser, Richard Aronson, Harry Ash, Leo Levine, and Myron Rosenthal among many dedicated men and women.

In 1922 Seattle B'nai B'rith became actively involved in the scout movement under the guidance of Sol G. Levy who, until his death, had been a national scouting personality and Rubin Raport. Over the years Seattle lodges have sponsored many scout and Sea scout troops and afforded countless youngsters from disadvantaged families the opportunity to be part of this character building program. Sol Sharin, Bob Adler, and Walter Oppenheimer are some of the many B'nai B'rith scout leaders that have organized scouting units throughout the Puget Sound area.

Since 1865 B'nai B'rith has maintained an active program of support for their brethren in Palestine and later the State of Israel. In 1865 American B'nai B'rith launched a massive fund raising campaign to aid the cholera plague victims, Jews and Arabs alike. At the turn of the century the young Seattle B'nai B'rith lodge participated in a national effort of direct support for the Hebrew National Library in Jerusalem and the Haifa Technicum. After World War II both the scope and the nature of assistance to the Jewish homeland expanded to establish housing for new immigrants, scholarships in support of the newly established Hebrew University on Mount Scopus. Later B'nai B'rith contributed to aid the victims of the 1929 Arab riots and the Tiberias Flood of 1933. The men, women, and youth of B'nai B'rith in Seattle and throughout our nation assisted the Jewish National Fund in raising the monies to purchase land from the mid-thirties to 1941 to settle the increasing number of immigrants. Since the establishment of the State of Israel in 1948, B'nai B'rith in Seattle and around the free world has initiated many programs to buy and sell Israel Development Bonds, plant forests to solidify the soil and give employment to new immigrants to support the tremendous industrial and commercial developments of Israel that are carried on in spite of the military burden of self-defense.

Seattle's B'nai B'rith Israel programs under Joseph L. Woolfe, Max Silver, Ben Maslan, Albert Youngman and many others have a proud history of service to their people.

THE NEED FOR A MARITIME AFFAIRS COORDINATOR

Mr. TAFT. Mr. President, on August 24 I sent a letter to the Members of the Senate asking them to cosponsor S. 3581, a bill to create an Office of Maritime Affairs Coordinator. It would be the job of the Coordinator to make sure this country uses all of its maritime assets, especially its merchant marine, to serve the needs of national security.

A recent article in the Christian Science Monitor discusses the way the Soviet Union does use all of its maritime resources for national security. The Soviet merchant marine, the Soviet fishing fleet, and Soviet oceanography all serve Soviet state policy.

I do not believe we can continue to waste much of our total maritime effort through lack of coordination. The Soviet naval challenge is too serious for us to ignore in any of its aspects.

Mr. President, I ask unanimous consent that this article, "Soviet Navy Runs Fishing Fleet," be printed in the Record. I hope it will serve to encourage my colleagues to give study to S. 3581.

There being no objection, the article was ordered to be printed in the Record, as follows:

Soviet Navy Runs Fishing Fleet

(By Paul Wohl)

The Soviet Union has gone on record that its far-flung fishing fleet is, indeed, under Navy supervision.

The West has long suspected that Soviet fishing vessels served naval purposes. Confirmation came during the Soviet observation of Navy Day in mid-July.

Adm. Sergei G. Gorshkov, the Navy's commander in chief, stated in an interview with Pravda, the Communist Party newspaper, on July 25, that "maritime transportation, fishing, and scientific research on the sea are part of the Soviet Union's naval might."

It was the first time that the Soviet Union had acknowledged that these apparently peaceful activities of the world's largest and most modern fishing fleet are under Admiral Gorshkov's jurisdiction.

Admiral Gorshkov also proclaimed that "our fleet has scaled new heights in improving the material and technical foundations of armed strength at sea, . . . enhancing our state's naval might still further."

In his recent book, "The State's Sea Power," Admiral Gorshkov highlighted the Navy as an implement of world socialism. He cited "the ability of the Soviet state to make effective use of the world ocean in the defense of socialism against imperialist aggression."

Rejuvenation of the officers' corps also was stressed by Admiral Gorshkov in the Pravda interview. "People born since the Great Patriotic War [World War II] now are commanding our warships," he said.

All the major Navy Day speakers emphasized "the nonaggressive nature" of the Navy.

But Admiral V. V. Mikhaylin, deputy commander in chief, at the same time mentioned the growing importance of nuclear submarines and missile-carrying naval aircraft. "Nuclear missile-carying submarines armed with long-range ballistic missiles and homing torpedoes are the embodiment of bold, creative thought and the pride of our native shipbuilding," he said.

In Krasnaya Zvezda, the daily of the Defense Ministry, Admiral of the Fleet N. Smirnov, first deputy commander in chief of the Navy, wrote, "The potential of our [four] fleets has increased many times over."

Adm. Vasily M. Grishanov, chief political officer of the Navy, also spoke glowingly of the "supersonic missile-carrying maritime aviation."

"The motherland—a great continental and maritime power—needs a powerful fleet," he said. "The length of our sea borders exceeds 24,000 miles."

CURBING PALM OIL IMPORTS

Mr. HUMPHREY. Mr. President, I was pleased to see that the Department of Agriculture at long last has taken steps to recognize the threat which unbridled palm oil imports hold for our soybean and cottonseed producers in the United States.

Beginning late in 1975, I repeatedly called this matter to the attention of the Department of Agriculture.

At that time a number of our railroads had requested a reduction in freight rates on palm oil entering the entering the United States through the west coast, but the Interstate Commerce Commission rejected this proposal.

However, the tide of palm oil imports has continued, and the executive branch has not been willing to do much more than study the matter. Domestic use of palm oil in this country has risen from 124 million pounds in 1970 to 870 million pounds in 1975.

The Senate earlier in Senate Resolution 444 instructed the International Bank for Reconstruction and Development to direct its loan activities to underdeveloped countries to the production of food and fiber needed internally to prevent starvation and to upgrade the diets of all their citizens, and to cease further encouragement of palm oil production for export as long as the United States remains the only entirely open major import market for palm oil.

The Senate on July 19, 1976 passed my bill, Senate Resolution 487, which first requests the President to initiate negotiations with nations exporting palm oil to the United States in order to limit such exports voluntarily; second, requests the International Bank for Reconstruction and Development and other development agencies to review the impact of their assistance for increasing agricultural production in developing countries on agricultural adjustment in other nations; and third, calls for assistance for agricultural development in developing countries to be directed primarily at the relief of hunger and malnutrition.

While the administration has not yet taken steps to limit the imports of palm oil, a recent news release by the Department of Agriculture indicates that it at least has begun to recognize the source of the problem and has begun to take action to deal with this problem.

Mr. President, I ask unanimous consent that the release along with a copy of the report accompanying Senate Resolution 487 be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. To Stop Funds for Palm Oil Development

Washington, July 29.—Assistant Secretary of Agriculture Richard E. Bell said today the U.S. government no longer will support loans by international money-lending institutions to develop more palm oil production for international export trade purposes.

This firms up an interim policy position tentatively established last March. Mr. Bell believes the U.S. position will effectively dry up funding from lending institutions which the U.S. supports. This will cut the amount of palm oil that would be produced in absence of the U.S. action. No exact estimates of the cut have been made.

Palm oil imports into the U.S. are slowing, may total about a billion pounds this year. Government officials believe a tariff or direct limitations on palm oil imports would encourage palm oil producers to compete with U.S. soybean producers in the big European market. Such limitations would thereby be self-defeating, according to such views.

Negotiation of Voluntary Restraints on Palm Oil Imports

The Committee on Agriculture and Forestry, reports an original resolution (S. Res. 487) relating to the negotiation of voluntary restraints on palm oil imports into the United States, and recommends that the resolution do pass.

PURPOSES

The purposes of this resolution are (1) to request the President to initiate negotiations with nations exporting palm oil to the United States in order to limit such exports voluntarily; (2) to request the International Bank for Reconstruction and Development and other development agencies to review the impact of their assistance for increasing agricultural production in developing countries on agricultural adjustment in other nations; and (3) to insure that assistance for agricultural development in developing countries is directed primarily at the relief of hunger and malnutrition.

BACKGROUND

I.

American oilseed production represents an important and strong component of our farm economy. Production of vegetable oil in the United States is mostly from soybeans and cottonseed. Vegetable oil accounts for nearly 75 percent of our total production of fats and oils. Over 10 percent of the total United States farm income is earned from the production of oilseeds, and about 15 percent of the total United States cropland is devoted to the production of oilseeds. Clearly, the strength of our oilseed economy is essential to the health of our overall economy.

American oilseeds, particularly soybeans, directly compete with imported palm oil for the domestic vegetable oil market.

World palm oil production has increased dramatically over recent years. Total world palm oil production rose from 1.7 million metric tons in 1970 to an estimated 3.2 million metric tons in 1976. During this period, palm oil has increased its share of the world market for fats and oils from 4.3 percent in 1970 to 6.3 percent in 1975.

II.

Palm oil is produced in Malaysia, Indonesia, Zaire, Nigeria, Ivory Coast, Dahomey, and Cameroon. More than 50 percent of palm oil production is accounted for by Malaysia.

Over 60 percent of palm oil production moves in world trade. The United States represents the largest importer of palm oil, with 25 percent of total world imports. The next largest importer is West Germany with 12 percent of world imports, followed by the United Kingdom, the Netherlands, and Pakistan. For calendar year 1975, palm oil imports into the United States are expected to total approximately 400,000 metric tons or more than double the volume of the previous year. This means that the United States will absorb almost three-fifths of the increase in palm oil exports.

Domestic use of palm oil in the United States has risen sharply—from 124 million pounds in 1970 to 870 million pounds in 1975. Eighty-five to 90 percent of these imports go into shortening. Though still relatively small, use is up also in margarine and in cooking oil manufacture.

The major advantage that palm oil has enjoyed in world oilseed markets stems almost entirely from price. During the 1974/75 crop year, palm oil prices averaged 22.9 cents per pound against an average soybean oil price of 30.7 cents per pound. Converting palm oil products to value based upon 1971–75 average prices, the value per acre for oil palms was $665 compared with $162 for United States soybeans.

III.

A substantial share of the expansion of world palm oil production is the result of international development assistance programs. The International Bank for Reconstruction and Development (World Bank) has loaned $272 million for palm oil projects in nine countries. The combined output of palm oil as a result of these projects is expected to be 430,000 metric tons for 1980 and 610,000 metric tons for 1985. About 75 percent of the palm oil from World Bank supported projects moves into world trade. Other international lending institutions have also financed the production of palm oil, most of which is for export from the producing nations.

The United States is the only entirely open major import market for palm oil, where no quotas or customs duties are imposed. The expansion of palm oil production is projected to be 2.6 million tons by 1985, of which 2.3 million tons will be exported. And if present trends continue, the United States will continue to absorb a disproportionate share of increases in world palm oil exports, and palm oil may displace 10 percent or more of the potential growth of soybean and cottonseed oil markets in the United States.

IV.

On May 6, 1976, the Senate Committee on Agriculture and Forestry reported S. Res. 444. The resolution instructed the International Bank for Reconstruction and Development to (1) direct its loan activities in underdeveloped countries to the production of food and fiber needed internally to prevent starvation and to upgrade the diets of all their citizens, and (2) cease further encouragement of palm oil production for export so long as the United States remains the only entirely open major import market for palm oil. On May 11, 1976, the Senate passed S. Res. 444.

This resolution goes further to request Presidential action on the negotiation of voluntary restraint agreement with exporting nations; to request the International Bank for Reconstruction and Development and other development agencies to review their policies in regard to agricultural production assistance; and to insure that assistance for agricultural development in the developing countries is directed primarily at the relief of hunger and malnutrition.

V.

The Committee on Agriculture and Forestry believes that the potential impact of further increases in palm oil imports would be detrimental to American oilseed production and to the American economy generally. Therefore, the Committee believes that the only way to insure that palm oil imports do not lead to such consequences is to negotiate voluntary agreements with the exporting nations to restrain such imports. To prevent the pattern of the problems created by palm oil imports on the domestic economy from recurring with regard to other commodities, the Committee believes that the World Bank and other development agencies should review all of their lending activities with respect to agricultural production assistance. Assistance by the United States and multilateral development agencies for agricultural development in developing countries should be directed primarily at the relief of hunger and malnutrition.

SENATOR WILLIAM L. SCOTT REPORTS

Mr. WILLIAM L. SCOTT. Mr. President, our office is in the process of sending our periodic newsletter to constituents, and I ask unanimous consent that the September newsletter be printed in the RECORD for the information of colleagues.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

YOUR SENATOR, BILL SCOTT REPORTS, SEPTEMBER 1976

BLUE RIDGE POWER PROJECT

A few days ago the Senate approved a measure previously passed by the House to make a portion of the New River in North Carolina a part of the National Wild and Scenic River System. It was argued that this river was one of the oldest in the world and must be preserved. However, the real purpose of the measure was to prevent the Appalachian Power Company from constructing a major hydroelectric power project in Grayson County, Virginia.

The power company filed an application with the Federal Power Commission to construct a two-dam hydroelectric and pumped storage project in 1965. Various individual states and government agencies intervened over the years and 7500 pages of testimony were taken, resulting in the issuance of a license by the Commission to construct the dam on June 14, 1974 by unanimous vote, later unanimously approved by a Federal Court of Appeals.

As you may know, only 5 miles of the main stem of New River are in North Carolina before it branches into two forks. The south fork would be a part of the Scenic River System but the north fork would not as there already is some industry located on it. It should be noted, however, that the remainder of the river, consisting of more than 250 miles, is in Virginia and West Virginia. Nevertheless, the Senate overwhelmingly voted to reverse the Federal Power Commission and the Circuit Court in approving the bill and, at least for the time being, killing the Blue Ridge hydroelectric power project.

Moreover, it appeared with all construction being in Virginia and two-thirds of the lake created by the dam being in our State, with both Senators, the Governor and Attorney General favoring the construction of the project, Virginia had a much greater interest than North Carolina. There is also a serious legal question as to whether the Federal Government will have to pay the power company for the cancellation by the Congress of the license after its issuance by the Federal Power Commission.

I opposed the measure for a number of reasons: 1) the project would provide much needed energy without damage to the environment; 2) there would be no cost to the taxpayer as the $845 million project would be privately financed; 3) 1500–2000 jobs would be provided in a high unemployment area; 4) several dams are already in existence along the river in Virginia and West Virginia; 5) a license to construct the dam in Virginia had already been granted after exhaustive adversary proceedings lasting more than nine years and approved by the Circuit Court.

Should you desire a copy of my detailed comments while the bill was under consideration in the Senate, please let us know.

DEEP SEA MINING

Recent advances in our marine technology have made it possible for man to recover from the ocean floor important minerals such as cobalt, nickel, manganese, and copper, and many American mining companies have expressed an interest in minerals from the ocean bottom. The United States must now obtain many minerals from foreign sources. While experts believe that American firms may well dominate this new industry in the future, overseas mining concerns fear that competition from U.S. deep sea mining will lower the price of minerals they now produce.

Since 1967, a permanent standing committee of the United Nations has been attempting to conclude a Law of the Sea Treaty which, among other things, will include regulation of sea mining. American firms, fearful of overregulation, have been reluctant to begin mining.

The Deep Seabed Hard Minerals Bill, now on the Senate Calendar, which has been considered by a number of Committees, including Armed Services, requires the Department of Interior to license and regulate American firms choosing to mine the ocean floor, rather than waiting for an international treaty. Although this measure does not prevent the President from signing an international agreement, it does encourage American firms to begin recovering important minerals and insures them against potential economic losses from international organizations.

DEFAMATION OF CHARACTER

In recent years, public officials have had little recourse to recover damages for slander and libel against them. Various court cases have held that the First Amendment protection of free speech and press is almost absolute, particularly with regard to defamation of character of public officials. In recent weeks, eleven Senators have joined me in co-sponsoring legislation that would provide Federal officials with reasonable opportunity to recover damages for malicious, false and defamatory communications.

Of course constituents and the media should have the right to criticize the performance of any government official. But, it would also appear that there should be a balance between the right of the public to know and to comment fairly on various activities of officials, and the desire to encourage competent persons to offer themselves for elective office and to be permitted to perform their official duties without being subjected to character assassination.

The bill's sponsors believe there is a responsibility on the part of Congress to see that Federal officials are afforded reasonable recourse against malicious attacks. Under this measure the news media and citizens generally could be held responsible for circulating false, defamatory information knowing it to be false or without making a reasonable effort to determine whether it is true or false. While the bill, now before the Judiciary Committee, cannot be acted upon this year, it was co-sponsored by both the Chairman and senior Republican member of the Committee and hopefully can be considered in the new Congress. Copies of the measure and my comments are available for distribution.

RICHMOND VISIT

We will be making our periodic visit to the Richmond office on Friday, September 24. The office is located in the Federal Building, 400 North 8th Street, and you are welcome to visit and discuss any matter of concern.

Of course our principal office and most of our staff are in Washington, and you are welcome to visit there at any time. Our Richmond office has a full-time manager, and you may desire to contact her by calling 804/649-0049.

FOREIGN ASSISTANCE

In the next few weeks, the Senate will again be asked to approve an appropriation for direct economic and military assistance to foreign nations—this year $5.4 billion. Since the end of World War II, foreign aid of this kind has cost our taxpayers $219 billion, an amount including interest that is somewhat greater than the national debt accrued during this period. Thus, our country has spent nearly $500 billion during the period on foreign aid, overseas military operations, and interest on the resulting debt, not including our contributions to N.A.T.O., the U.N., and various international banks.

Frequently such aid is requested to assist underdeveloped nations and to help allies resist totalitarian expansion. For example, during the past thirty years, we have given $23.6 billion to West Germany, South Korea, and the Republic of China. However, during those same thirty years, we have also provided $32 billion directly to nations which are now Communist, and this year alone we will be asked to provide $157 million simply to aid refugees from countries which have fallen to dictatorships.

Although consideration of the needs of fellow human beings on an individual nation basis is highly desirable, I have reservations against broad brush foreign aid, regardless of the government or whether the recipient is friendly or unfriendly to the United States.

MILITARY CONSTRUCTION

Congress recently passed but the President vetoed legislation authorizing numerous military construction projects throughout the country for Fiscal Year 1977. Since the Senate sustained the veto, a new military construction bill has been proposed; and final action on the revised bill is expected soon.

While the President found the previously approved legislation generally acceptable, he did object to one provision which would have restricted his authority regarding the closing of military bases. The revised bill eliminates this section but retains authorization for various construction projects nationwide, including those previously recommended for Virginia.

The measure authorizes the Army, Navy, Marine Corps and Defense Supply Agency more than $100 million for military construction in our state. It is my understanding that Radford Army Ammunition Plant would receive the largest authorization, totaling over $25 million; but other significant construction is proposed for Norfolk, Oceana, Portsmouth and Richmond, as well as installations at Forts Belvoir, Eustis, and Lee.

POSTAL SERVICE

A bill to amend the Postal Reorganization Act has passed the Senate and awaits House acceptance of the conference report. The bill authorizes the appropriation of an additional $1 billion subsidy in two installments to be applied against the Postal Service's accumulated operating deficit. Otherwise, the Postal Service would end fiscal year 1977 with an accumulated deficit of approximately $4.5 billion. The bill also temporarily freezes service cuts, post office closings and rate increases.

The measure requires the Postal Service to submit its budget request to the Congress annually and to testify before the House and Senate Post Office and Civil Service Committees. The legislation also creates a commission to study various problems of the Postal Service and to report back to the Congress not later than March 15, 1977. In view of the failure of the postal reorganization legislation of 1970 to result in a fiscally sound postal service, a return of legislative oversight to the Congress and administrative responsibility for the operation of the post office to the executive branch of the government may be warranted.

VETERANS CEMETERY

The Armed Services Committees of both Houses of Congress have approved without objection the transfer by the Navy Department of 726 acres at the Quantico Marine Corps Base to the Veterans Administration under existing law.

The General Services Administration is the coordinating agency for the land transfer. Although our bill to establish a National Cemetery on this land was referred to the Senate Committee on Veterans Affairs, the Veterans Administration expressed a preference for creating the cemetery by use of its present authority. It is hoped that this additional property can soon relieve the acute shortage for burial of veterans now existing at Arlington National Cemetery.

TAX REFORM

The Senate passed the proposed Tax Reform Act of 1976, after taking action on many amendments during six weeks of floor debate. It is now before a joint Senate-House conference committee to reconcile differences between the Senate's version and the House of Representatives' original bill. Included in this huge bills' numerous provisions are an extension of last year's increases in personal exemptions, individual income tax credits, special credits for lower income families, and retention of the 50 percent maximum rate on earned income.

In addition, the bill includes an extension of the benefits of individual retirement accounts to homemakers, increased deductions for child care services and for the care of incapacitated dependents, and estate tax relief. Closing of tax loopholes will result in over $1 billion of additional revenue. It is anticipated that the Senate and House differences will be resolved in time to send the bill to the President for consideration before Congress adjourns.

LAND USE RESTRICTIONS

As you may know, the Senate has passed and the House of Representatives is considering legislation that would expand Federal regulation of air pollution control requirements. It would also have the effect of granting Federal officials new authority to challenge land use decisions which previously have been reserved to the States and localities. During floor debate, a number of us argued against establishing new non-degradation standards for certain regions of the country beyond those now required to protect public health and welfare throughout the country.

We offered separate amendments eliminating the non-degradation concept entirely from Federal law and preventing the Environmental Protection Agency from enforcing such a far-reaching policy by regulation during a proposed study period but they did not prevail. Copies of my detailed floor remarks regarding the clean air amendments are available upon request.

LORTON STATUS

The Judiciary Committee has issued a report of hearings on the bill to transfer the location of the Lorton Penal Institutions now in Fairfax County to a site within the District of Columbia, and we will be glad to forward a copy to you should you desire one.

Inasmuch as the Congress will only be in session for about one more month this year and many measures are already on the calendar for consideration, there is little chance that a Lorton bill will be reported but the Subcommittee Chairman has assured me that serious consideration will be given this proposal when we reconvene in January. Suggestions made by witnesses before our Subcommittee will be considered in a revised bill at that time.

We are advised that the Lorton facilities are the only non-Federal prisons located outside jurisdictions which operate them; and Fairfax officials, among others, have been concerned with the manner in which the penitentiary is supervised. In fact, the County brought suit in a Federal District Court, and after hearings, the judge ruled that Lorton is a public nuisance and gave the District of Columbia 90 days to devise a plan to improve it.

SOMETHING TO PONDER

The punishment of wise men who refuse to take part in the affairs of government is to live under the government of unwise men.—PLATO.

GOODWILL GESTURE OR SUPREME INSULT?

Mr. DOMENICI. Mr. President, the Vietnamese Government yesterday, September 6, 1976, announced the names of 12 U.S. servicemen described as having been killed during the Vietnam war. In what must be the supreme insult to the families of up to 1,300 servicemen still unaccounted for Southeast Asia, the Vietnamese Government, in self-serving fashion typically classified this tardy and incomplete list as a "goodwill gesture."

Far from having such a noble purpose, this is simply another incredibly audacious demonstration of cruelty and total disregard of humanitarian principles.

I do not know, Mr. President, what true objective the Vietnamese Government may be pursuing in releasing these few names, but we can safely eliminate the stated purpose of a goodwill gesture. The past track record of the North Vietnamese and their allies needs only to be recalled to place a tremendous burden of proof on any current Vietnamese claim to be trying to establish an atmosphere of goodwill. That burden is not discharged by simply revealing that 12 American airmen were killed while the fate of over 1,000 other U.S. servicemen continues to be withheld. Is that a gesture of goodwill? I think not, and I call upon our leaders who are dealing with the Vietnamese on this and related matters, to stand firm and demand a complete and accurate accounting of all our missing servicemen, some of whom we know at one time were alive and well in enemy prison camps.

When the total accounting has been accomplished, it may be time to speak of "goodwill," but until then, let us recognize this scheme for what it is—a supreme insult to the families of our missing servicemen and through them to all the people in the world who deplore the inhumane approach thus far followed by North Vietnam and its successor government.

ACCOUNTING FOR MIA'S

Mr. DOLE. Mr. President, the Senator from Kansas believes the announcement by the Vietnamese Government yesterday regarding MIA's, while encouraging points even more vividly to the lack of action by the authorities in Hanoi.

The release yesterday of the names of 12 American servicemen who died in Vietnam, by the government of Hanoi, is a source of some relief to the families of these men. For this, I am gratified. But they, along with the families of the 1,300 U.S. servicemen still unaccounted for, have lived with excruciating uncertainty about the fates of their loved ones for far too long. Now, the agonizing wait for these few families is ended, and I share in their sorrow.

SMALL ACTION

But the release of this information represents only a minuscule portion of Hanoi's commitment, under the terms of the 1973 peace agreement, to provide a full accounting of all missing American servicemen in Vietnam. The single act yesterday does not represent compliance, but only a preliminary step toward fulfillment of Hanoi's promise and responsibility under the terms of the peace accord.

The Vietnamese Communists apparenty expect that the United States will now rush to grant them their wishes regarding entry into the U.N. It is my hope that the American public will not be misled by this small step by Hanoi that could—and should—have been taken long ago.

There have been literally hundreds of actions taken in good faith by U.S. Government agencies, by the Congress, and by private parties. Essentially, our efforts have been ignored.

Hanoi officials have consistently scorned the resolutions which I, and other Members of Congress, have sponsored calling for full and detailed accounting for all MIA's and POW's in Southeast Asia. The actions by the Department of Defense and the State Department fill many pages. Their efforts have been rebuffed.

HOLD POSITION

I am pleased the President has recognized the Hanoi action for what it is and is holding firmly to his previous demands. Discussion of Vietnam's future—of U.S. recognition, of war reparations, of United Nations membership, or of any other "normalization" of relations—is out of the question unless, and until, the government of Hanoi fully meets the terms of the 1973 agreement. For only when the U.S. Government has been provided with a complete accounting, and when the families of missing U.S. servicemen have their questions resolved, can a basis for further negotiations be established.

This does not represent any new conditions on our part. Rather, it represents this administration's continuing commitment to honor the provisions of an accord executed in good faith by this Government almost 4 years ago. Hanoi's action yesterday indicates that they have the capability of fulfilling their pledge when faced with an incentive to do so. I believe our Government must stand fast in sustaining that important incentive.

The Vietnamese Communists are trying to barter, in the most despicable and selfish way, the sorrow and grief of thousands of Americans to obtain concessions from the United States. I urge my colleagues and all Americans to keep yesterday's small but welcome action in the perspective of the enormous record of our previous efforts and almost complete absence of any meaningful response from Hanoi. I hope we can stand strong and united on our present position until there is a full accounting of all our MIA's.

PARTY PLATFORMS ADDRESS NEEDS OF CHILDREN

Mr. HUMPHREY. Mr. President, it is important, in this vital election year, that the American people have a clear understanding of the choices that are theirs to make.

The American Parents Committee, Inc., has made an important contribution to this effort in its development of a comparison between the Democratic and Republican platforms as they relate to issues concerning children.

I call this item to the attention of my colleagues in the Congress, as well as the voters of America, in an effort to foster understanding of the issues which are at stake in this Bicentennial election year.

I ask unanimous consent, therefore, Mr. President, that this study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE DEMOCRATIC AND REPUBLICAN PLATFORMS ON ISSUES FOR AND ABOUT CHILDREN

(Prepared by the APC in co-operation with the Child Welfare League of America, Inc.)

THE DEMOCRATIC PLATFORM	THE REPUBLICAN PLATFORM
Social Services: Social services should be extended to include treatment for alcoholism, mental retardation, child abuse and neglect, mental illness and day care services to low and middle income families. The social services ceiling, set at $2.5 billion in 1972, should be raised "to compensate for inflation and to encourage states and localities to expand social services to low and moderate income families."	Social Services: The Republican party platform states that "Block grant programs should be extended to replace many existing categorical health, child nutrition and social services programs."
Welfare: The Democrats believe "existing welfare programs encourage family instability" and propose to replace our present welfare system with a simplified system of income maintenance. This new system would be "substantially financed by the Federal government and include a requirement that those able to work (except mothers with dependent children) be provided with appropriate available jobs or job training opportunities." As an interim step, the platform supports gradual federalization of welfare costs. The proposed income maintenance system would incorporate these features:	Welfare: The platform emphasizes the need to prevent and end welfare fraud. It urges involvement of able-bodied individuals receiving welfare payments in "useful community work projects." The party does not favor federalization of the welfare system nor a guaranteed annual income maintenance program. The Republicans propose certain goals which they believe should be embodied in welfare reform:
(1) an income floor both for the working poor and the poor not in the labor market;	(1) adequate living standards for the truly needy;

The Democratic and Republican Platforms on Issues for and About Children—Continued

(Prepared by the APC in co-operation with the Child Welfare League of America, Inc.)

THE DEMOCRATIC PLATFORM	THE REPUBLICAN PLATFORM
(2) equal treatment of stable and broken families; (3) simple schedule of work incentives which would guarantee equitable levels of assistance for the working poor.	(2) strengthen work requirements; (3) end welfare fraud; (4) provide educational and vocational incentives for self-support; (5) coordinate federal efforts with local and state social welfare agencies; (6) strengthen local and state administrative functions.
Education: The platform advocates "Federally financed, family centered developmental and educational child care programs—operated by the public schools or other local organizations, including both private and community—and that they be available to all who need and desire them." Expanded Federal support for education of the handicapped, bilingual education, and early childhood education—areas where public schools are not yet meeting all needs—is supported by the Democrats.	Education: The platform proposes "consolidating categorical grant programs into block grants and turning the money over to the States to use in accordance with their own needs and priorities and with minimum bureaucratic control." The platform also says "Total financial dependence on the Federal government inevitably leads to greater centralization of authority. We believe, therefore, that a study should be authorized concerning funding of elementary and secondary education, coupled with a study regarding return to the States of equivalent revenue to compensate for any loss in present levels of Federal funding." The platform does endorse continued funding for the handicapped, disadvantaged, and special Federal support for vocational education.
Juvenile Justice: The Democrats pledge funding and implementation of the Juvenile Justice and Delinquency Prevention Act which "has been ignored by the Republican Administration."	Juvenile Justice: The Republicans believe that the family has primary responsibility for raising children, instilling proper values, and thus preventing juvenile delinquency. However, when families fail, the local law enforcement agency must respond. The platform supports the use of law enforcement block grants to correct and prevent juvenile delinquency and additional Law Enforcement Assistance Administration (LEAA) research in the area of juvenile delinquency. They advocate prison reform urging the separation of youth and adult offenders and the provision of better counseling and "community-based alternatives."
Nutrition: The party supports continued Federal programs providing the basic nutritional needs of students.	Nutrition: The platform endorses consolidation of the existing 15 child nutrition programs and concentration on those children truly in need.
Health: The platform recommends an incremental approach to a "comprehensive national health insurance system with universal and mandatory coverage financed by a combination of employer-employee shared payroll taxes and general tax revenues. Until national health insurance is enacted, emphasis should be placed on (1) preventive medicine; (2) increased programs of screening, diagnosis and treatment of disease; (3) early detection of major cripplers and killers of the American people; (4) development of a responsive consumer-oriented health care delivery; (5) prepaid health plans.	Health: The Republicans oppose compulsory national health insurance but support extension of catastrophic illness protection to everyone who cannot obtain it. They claim that national health insurance "will increase Federal government spending by more than $70 billion in its first year and require a personal income tax increase of about 20%." The party proposes to contain rising health care costs by (1) eliminating wasteful duplication of medical services; (2) emphasizing out-of-hospital services; (3) developing healthier life styles through education.
	The Republicans encourage the development of a comprehensive approach to mental health which would include "all aspects of the interrelationships between emotional illness and other specific disabilities."
Unemployment: Observing that unemployment leads to "strained family relationships, deprivation of children and youth, alcoholism, drug abuse and crime," the Democrats support legislation to reduce unemployment to three percent over a four-year period. Youth development programs should be promoted according to the Democratic party platform.	Unemployment: The platform emphasizes that the number one destroyer of jobs is inflation. According to the Republican platform, "Inflation is the direct responsibility of a spendthrift Democrat-controlled Congress that has been unwilling to discipline itself to live within our means." They advocate sound job creation through the private sector of the economy. They do not mention the impact of unemployment, inflation and price instability on child welfare or the family.
	The American Family: The party pledges "support for child care assistance, part-time and flexible-time work that enables men and women to combine employment and family responsibilities." The Republicans advocate minimal governmental and institutional interference with the family. They charge that in the current epidemic of dissolving families, the party should be concerned with the government's control of the family. "It is imperaive that our government's programs, actions, officials, and social welfare institutions never be allowed to jeopardize the family. *We fear the government may be powerful enough to destroy our families; we know that it is not powerful enough to replace them.*"
Abortion: The Democratic platform opposes a constitutional amendment to ban abortion.	Abortion: The Republican platform supports the efforts of "those who seek enactment of a constitutional amendment" to prohibit abortion.
School Busing: The Democratic platform says: "Mandatory transportation of students beyond their neighborhoods for the purpose of desegregation remains a judicial tool of the last resort."	School Busing: The Republican platform says in part: "Segregated schools are morally wrong and unconstitutional," but "we oppose forced busing to achieve racial balances" and "favor consideration of an amendment to the Constitution forbidding the assignment of children to school on the basis of race."

CONTINUING RELIGIOUS PERSECUTION IN THE SOVIET UNION

Mr. DOMENICI. Mr. President, I am pleased to join with Senators Case, Hatfield, Humphrey, Jackson, Pastore, Stevens, and Taft in cosponsoring Senate Concurrent Resolution 118. I am aware that an identical resolution was introduced in the House by Mr. Buchanan and presently has 122 cosponsors. This resolution reflects the sense of Senate that the Government of the Soviet Union should allow Christians and other religious believers to worship freely according to their own conscience. This resolution restates the basic human freedoms ratified last August by the Soviet Union in the Helsinki Agreements.

However, the Soviet people have not gained the religious freedoms promised to them by the accords. Although some prominent dissidents have been allowed to emigrate, it is apparent that conditions for remaining prisoners and others attempting to practice religious freedoms have worsened. For example, Jewish emigration is far below that in 1973 and has not improved since Helsinki.

Conditions for Christians in the Soviet Union, as I discovered on my recent trip to Moscow, are not as we are led to believe. The case of Georgi Vins, secretary of the Council of Churches of the Evangelical Christians and Baptists, is one of many social injustices against the Soviet people and is well documented.

Vins is presently serving a 5-year sentence at hard labor for the alleged crime of administering to the congregation that elected him as their pastor. Persecution of Vins' family is longstanding. Both of his parents were imprisoned for their religious beliefs. His father, interestingly, was trained in the United States as a Baptist minister, died during his third prison sentence in a Far East Labor Camp. Vins' children have resolved to die alongside their father if he is not released.

Georgi Vins was a founder of the Council of Churches of Evangelical Christians and Baptists, a dissident Baptist movement that the Government says is illegal. Because of his involvement in the movement, Vins was arrested first in 1966 and was given a 3-year sentence at hard labor. In 1968, while Vins was serving this term, the Soviet Government ratified the International Covenant on Civil and Political Rights. The Covenant insures religious freedom by stating:

> No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

Soon after Vins' release, the Government initiated a new case against him. In February 1975, 6 months before the Soviets signed the Helsinki agreements, Vins was convicted by a court in Kiev of harming the interests of Soviet citizens under a pretext of carrying out religious activity. The Helsinki Accords include this provision:

> The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

Georgi Vins' imprisonment is in direct violation of the letter and spirit of these agreements. How many others are suffering similar plight in the Soviet Union? What was the true Soviet objective of signing the Helsinki document? According to a Washington Post article this month, Soviet publications brimmed with "self-congratulatory accounts of the Soviet accomplishment at Helsinki—where East and West met with contradictory objectives." I believe that our objectives for basic human freedoms for all peoples have not been met—certainly not in the case of Georgi Vins.

Let us demolish this facade of freedom and demand the release of Georgi Vins and the meaningful recognition of the principles for which he is imprisoned—religious freedom for all peoples throughout the world.

Mr. President, I ask unanimous consent that Senate Concurrent Resolution 118 be printed in the Record.

There being no objection, the concurrent resolution was ordered to be printed in the Record, as follows:

S. Con. Res. 118

Whereas Christians and other religious believers in the Soviet Union are being persecuted simply because they desire to worship God according to the dictates of their conscience and the precepts of their faith rather than according to the dictates of the state;

Whereas a symbol of the denial of basic human rights by the Soviet Union is the imprisonment for five years at hard labor of Georgi Vins, secretary for the Council for the Evangelical Christians and Baptists, for the alleged crime of administering to the congregation that elected him as their pastor, and the continuing persecution of the Vins family, which for three generations has suffered imprisonment and death in imprisonment for preaching the Baptist faith;

Whereas the continued denial of this fundamental human right in the Soviet Union could have adverse implications for the growth of amicable relations between our two countries; and

Whereas such Soviet policy contravens the spirit, if not the letter, of the Helsinki Agreement, and by so doing raises serious doubts as to the commitment of the Soviet Union to that agreement: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Soviet Union should immediately release Georgi Vins from imprisonment and allow him and all other Christians and other religious believers within its borders to worship God freely according to their own conscience, as the Soviet Union is committed to do by the provisions of its constitution and by the provisions of the United Nations Covenant on Civil and Political Rights which the Soviet Union has ratified.

DO THE DEMOCRATS HAVE AN ECONOMIC ISSUE?

Mr. HUMPHREY. Mr. President, I would like to call the attention of the Senate to an article which appeared in the Sunday, August 29, issue of the New York Times. Its title "Do the Democrats Have an Economic Issue?" gives ample indication of the questions it raises and deals with.

Do the Democrats have an economic issue? Consider the case of inflation; "in the 1968–76 period—about three-fourths of the dollar increase in GNP reflected nothing more than price increases." Consider industrial production, where three-fifths of the increase in physical volume between 1952 and the present occurred in the Democratic years 1960-68. Consider corporate profits, where "almost all the increase from 1968 through mid-1976 was in inflation dollars," or the stock market, where prices today are "just about the same as in December 1968," which, by the way, is an improvement over most of that period. Or on the other hand, one could compare the "extraordinarily high" budget deficits of the past 8 years with those compiled during the Democratic administrations. As the article states, it would appear that "the economic record of the past 7½ years is a vulnerable record, and the Democrats do have an economic issue."

Mr. President, this article by Frederick L. Deming, former Under Secretary of the Treasury, former president of the Minneapolis Federal Reserve Bank, and current president of the National City Bank Corp. of Minneapolis, clearly presents the facts on our Nation's economic performance in the Democratic sixties and the Republican seventies. It is, I believe, the clearest and most concise indictment of Republican economic mismanagement I have seen. Mr. Deming, a talented man and a good friend, has provided the people with vital facts as they prepare for the November elections. Therefore, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Do the Democrats Have an Economic Issue?

(By Frederick L. Deming)

Do the Democrats have an economic issue?

The public opinion polls indicate that economic problems head the list of voter concerns. At the same time they point to more interest on the part of voters in the character of the candidates than in their specific stands on issues or programs. Also, we are told that voters, particularly the younger voters and the liberal voters, perceive the economic questions not only to embrace growth, jobs and income but also to include urban problems, the environment and resource conservation. Finally, there are some indications that more austerity in public finance is becoming fashionable, especially among the liberal establishment.

Taking these points into consideration, it may make sense to view the American voter as the stockholder of a corporation, concerned more with results than with explanations. A vote contest—like a proxy contest—may not have to rest on a detailed plan by a contender for management to improve the country; it may rest primarily on the record of the current management as against the voter-stockholder perception of what it should have been and the perception of what the contender can and will do in terms of results.

What is suggested here is that the big economic issue for the coming election is the eight-year Nixon-Ford record in contrast to the previous eight-year Democratic record rather than any detailed Democratic economic program. The Democratic case is that results can be better; they were better in the 1960–68 period. In this case a detailed, specific program is less consequential than an expressed desire for and a will to produce a better result. The Kennedy statements that "we've got to get this country moving again" and "a rising tide lifts all the boats" probably had more impact than the platform in 1960.

Operating from a base of fully-employed resources, the American economy should grow at an annual average rate of 4 percent in real terms. The labor force increases about 2 percent a year; the long-term rate of productivity gain seems to run about 2.5 to 3 percent a year. Adding these factors together and allowing for a little slippage yields the 4 percent real growth rate which should be attainable without any appreciable inflation. If the economy is operating at less than capacity, the real growth rate can be higher without inflation.

Take that 4 percent as the standard against which performance is measured (the standard for 1952–60 probably should be a bit lower, say 3.5 percent). The eight Nixon-Ford years, even assuming a 7 percent gain for 1976, will show five below-standard years and an average performance of 65 percent of standard—or about 2.6 percent annual average gain. The Eisenhower years, measured against a 3.5 percent standard, produced an almost identical record. In sharp contrast, the Kennedy-Johnson period showed six of eight years above 4 percent and the 4.8 percent average was 12 percent of standard. The Democratic case in simple form then is: Does a 65 percent record justify retaining the current management? We Democrats have done better in the past and we can do better in the future.

A likely Republican rebuttal would be that they inherited a lot of problems from the Democrats who escalated the Vietnam war, and with their guns-and-butter approach and costly social programs created big budget deficits and sowed the seeds of inflation, and that Democrats got a lot of help on unemployment and output from the war itself.

That case contains some truth but lacks overall credibility. After the Korean war, begun in the Democratic Truman Administration and ended in the Republican Eisenhower Administration, the armed forces dropped from 3.5 million to 2.5 million by the end of 1960 while unemployment rose by 3 million. By the end of 1968, the armed forces were back up to 3.5 million, but unemployment was 2 million less. By the end of 1975, the armed forces were down to 2.2 million while unemployment was up more than 5 million. Both real gross national product and industrial production averaged larger gains from the end of 1960 to the end of 1964 than in the next four years when Vietnam was building up rapidly, and then showed quite small gains in 1969 and 1970, while the war was still big.

It is true that failure to get a solid tax increase until late in the Johnson Administration led to budget deficits that were unhealthy and to upward price pressures. The consumer price index rose 4.8 percent in 1968 against only 1.3 percent in 1964, but it jumped 8.8 percent in 1973 and 12.2 percent in 1974. The Republicans undoubtedly did inherit some problems, but they got worse rather than better the longer they were in power, and only began to be reduced in the last few months.

One point needs to be kept in mind. The American economy at mid-1976 is a lot bigger than in 1952. There are 56 million more people and almost 28 million more jobs. In terms of actual dollars (with the inflation counted in) the G.N.P. is $1.3 trillion bigger; in constant 1972 dollars it is almost $650 billion bigger. Most of the inflation fluff is in the 1968–76 period where about three-fourths of the dollar increase in G.N.P. reflected nothing more than price increases. That same kind of picture is true in the key plant and equipment spending measure, which at mid-1976 was $95 billion more than in 1952. In real terms the gain was less than half of that, and in 1968–76 almost nine-tenths of the increase was in higher prices.

Industrial production, which is measured in physical volume, rose about 139 percent from 1952 through mid-1976. Three-fifths of that gain came between 1960 and 1968. Housing starts, also a physical volume measurement, is a good sample of what a bigger market produces. There actually were 1.2 million more housing starts in the past seven and one-half years than in the previous eight. Nevertheless the number of starts was significantly larger in 1968 than in 1960 but a little smaller at mid-1976 than in 1968.

The central point is that the bulk of the growth in the American economy came between 1960 and 1968. The Nixon-Ford years, even assuming a good 1976, will not show a much better growth record in absolute gains than the Eisenhower years despite the fact that the market base has been much larger.

Thus with respect to jobs, output and investment there would seem to be reason for the voter-stockholder to be less than satisfied.

Let's look at the gains of citizens and corporations.

Disposable income per capita is one key measure. It rose by more than $3,900 from 1952 to mid-1976 in actual dollars but less than half that in real dollars. Of the $1,050 gain in the Kennedy-Johnson years more than $800 came through as a real purchasing power gain. Of the $2,500 gain in actual dollars in the last seven and one-half years, less than $700 came through in real purchasing power. Consumer prices rose in each administration but more than seven-tenths of the total rise from 1952 through mid-1976 occurred in the last seven and one-half years.

Corporate profits after tax at mid-1976 were $62 billion more than in 1952 but again less than half that gain was in real dollars and almost all of the increase from 1968 through mid-1976 was in inflation dollars. Actually, the profit figures may well have been worse than that in the last seven and one-half years. The Commerce Department publishes figures on what is called "inventory valuation adjustment" which are used to adjust figures on profits before taxes. In both the Eisenhower and the Kennedy-Johnson years the inventory valuation adjustment averaged about $1 billion a year so that stated profits before tax were not much larger than profits after adjustment for value of inventories. In the last seven and one-half years the inventory valuation adjustment has averaged about $13 billion. In other words, stated corporate profits before tax were almost $13 billion more on the average than was really true even without any allowance for inflation except as related to inventories. The average corporation and its shareholders have not been very happy about profits in general over the last seven years and it is easy to understand why.

Both profits and general confidence have been factors in the malaise in the stock market. Today, prices are just about the same as in December 1968, and for most of the past seven and one-half years they have been below that figure.

The slow-growth, low-interest-rate, price-stable Eisenhower years were good years for investors in stocks. The high-growth economy of the Kennedy-Johnson Administrations had higher interest rates and less stable prices but apparently these were acceptable to investors for market prices also rose significantly. The low-growth, high-interest-rate, high-price economy of 1968–76 obviously has had little appeal for investors in the stock market.

Neither businessmen, farmers, consumers, house builders nor house buyers can be very happy about interest rates over the past few years. Those who loaned funds and received high rates still found that they had not obtained enough of an inflation premium. Those who borrowed paid extraordinarily high costs for their money and in many cases now are locked into those high money costs for a long time. Thus neither borrowers nor lenders should be ardent supporters of the current management.

Because of the weak economy in 1968–76 it might be expected that the Nixon-Ford budget deficits would be large. Nevertheless, the average growth rate in 1968–76 was not much different from that of 1952–60. Thus, even after adjustment for growth in size of the economy and the inflation, the average budget deficit of the past eight years seems extraordinarily high. And the general weakness of the balance of payments and the disappearance of the trade surplus, even allowing for the inflation, seems odd in the light of a weak economy and a sharp depreciation of the dollar against foreign currencies.

Viewed in perspective, the economic record of the past seven and one-half years is a vulnerable record and the Democrats do have an economic issue. If that issue is exploitable it would seem most likely to be so if the Democrats stick to their traditional economic approach. That approach need not be wasteful of resources nor of finance. It need not ignore the cities nor the environment. What it must have is conviction and the sense of will to accomplish more for all the people. That is the issue for the general electorate and probably also for those who claim to be issue-oriented.

URBAN HOMESTEADING: A SUCCESS

Mr. BIDEN. Mr. President, in 1973, I introduced the National Homestead Assistance Act whereby the Department of Housing and Urban Development would facilitate the implementation of urban homesteading programs by State and local governments. This act subsequently became law as part of the Housing and Community Development Act of 1974.

Under urban homesteading programs, HUD transfers vacant property it owns to State and local governments which then sell the homes at a nominal fee—usually $1—to a buyer who must agree to rehabilitate the home and to live in that home for several years. While no one advocated this program as the answer to the ills of the cities, homesteading programs, under the right kind of conditions, could be used to turn vacant, boarded-up homes into usable, livable homes, at little cost to the Government.

Quite naturally, there have been some problems with the homesteading program. Whether through redtape, unavailability of rehabilitation loan money, too ambitious a program, or legal problems, some homesteading programs have not met their expectations. Yet, for the most part, according to a Washington Post article, the homesteading program is working quite well.

As the article states:

> Based on telephone interviews with homesteading coordinators in 12 of the 23 cities, HUD's national progress statistics, and a one-week tour of four demonstration cities . . . it appears that most cities and homesteaders are quite successful.

In conclusion, Mr. President, as I have mentioned before, homesteading cannot be viewed as a panacea for our urban housing problems, but it can be used as part of an overall program of urban rehabilitation. I think the article in the Washington Post points this out quite clearly. I ask unanimous consent that the article from the Washington Post be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 7, 1976]

HOMESTEAD PLAN A HIT ACROSS UNITED STATES

(By Charles A. Krause)

INDIANAPOLIS.—"We plan to live like the Rockefellers," Shon Casey said as he proudly showed a visitor through the small, ranch-style home he and his wife, Jane, are remodeling here at a cost of more than $20,000.

"Ever since I heard mention of homesteading," Casey said recently, "I said I was going to get one of those homes for a dollar." Last Christmas Eve, Casey did. His name was picked out of a bowl by former Indianapolis Mayor Richard G. Lugar.

In South Bend, 120 miles north, nurse's aide Ruth Tilley already has moved into the three-bedroom 50-year-old house on Marine Street that she and her family applied for and won in that city's homestead lottery.

"We just never thought we'd own a home," she said, bouncing on a tattered sofa as she talked about how "terrific" she feels about her new home. "My mom kept saying she'd sell us her house when my dad dies—but, shoot, he might live another 25 years."

And in Chicago, Craig Martin has moved his mother out of a depressing, crime-ridden public housing project into a small, wood-frame house on West 104th Street, a house that had been vacant and boarded up for more than a year before the Martins moved in.

Martin, 23, plans to fix the place and live in it for three years with his mother and other members of his immediate family and then use the house either as collateral to start his own business or to buy a larger, better house for himself.

"I didn't have anything when I was coming up," he said last week. The home he plans to rehabilitate at a cost of almost $10,000 "will give me a financial boost in the future," he said.

The Caseys, Tilleys and Martins are among 500 families in 23 cities now participating in the Department of Housing and Urban Development's urban homesteading program. The $5 million experiment has met an unusually cordial reception from cities in which it is being tried and from families making it go.

"The program really has a lot of hope," said Michael A. Carroll, deputy mayor of Indianapolis, during an interview about homesteading in his city. "The concept of the program is sound."

When urban homesteading was conceived several years ago in Wilmington, Del., and Philadelphia, the plan received a lot of attention because it seemed sensible and appealed to old-fashioned American values—give someone a piece of land, or in this case a vacant old house that nobody would buy, and let them use wits and hard labor to fashion their economic destiny.

The early homesteading programs ran into trouble, because homesteaders often were unable to do the complicated heating, plumbing and roofing work that was needed and were just as often unable to obtain financing to have the work done professionally. Many early homesteaders in Wilmington and Philadelphia simply gave up, although some notable success stories emerged.

In 1974, Congress enacted federal urban homesteading legislation and gave HUD money to start the program. Last year, after Carla A. Hills was appointed its secretary, HUD began planning and implementing a "demonstration" homesteading program in 23 cities of more than 60 cities that applied.

The program was attractive because it enabled HUD to rid itself of some of tens of thousands of homes it owned in cities across the country. The homes, boarded and vacant, had been foreclosed on by the Federal Housing Administration, part of HUD, which insured more than $1 billion worth of unsound mortgages under various programs in the late 1960s and early 1970s.

The cities were eager to participate because the homesteading program promised to put families back in HUD-owned homes, that often stood vacant for years while FHA tried to resell them.

The boarded-up homes often had a depressing and destabilizing effect on urban neighborhoods in which they were concentrated because the homes were fire hazards, eyesores, tempting magnets for juvenile crime and graphic reminders that the neighborhoods were decaying, often very seriously.

At the outset, neither HUD nor the cities had much to lose by implementing the proposed federal homesteading program by making a few HUD-owned homes available in hundreds of cities and waiting to see what might happen.

But, according to Sybil Phillips, who administers the program here for HUD, a series of tantalizing questions arose during a planning conference attended by HUD officials and representatives of more than 100 cities, in June, 1975:

Could something of lasting value be gained from the program beyond reducing the number of HUD-owned homes and finding families to live in them?

Could urban homesteading serve as a catalyst for reviving entire neighborhoods rather than simply resulting in a few rehabilitated houses scattered in neighborhoods and cities throughout the country?

If the houses chosen for the program were concentrated in "target neighborhoods," could enough other improvements be made in these areas to induce other homeowners to want to improve their homes and stay in marginal city neighborhoods rather than flee to the suburbs?

Could the program, by revitalizing one or two sections of a city, become a symbol of urban reresurgence that would attract middle- and upper-middle-class suburbanites back to the nation's core cities?

The federal homesteading demonstration program was designed to answer these questions. HUD decided that only a limited number of cities could participate in the initial program and that homesteading would be concentrated in certain neighborhoods within those cities.

"The demonstration design is based on the assumption that an urban homesteading program should not stand by itself but must be integrated into a program of neighborhood revitalization," HUD wrote in its official invitation to cities to apply for the program.

"HUD is interested in homesteading programs in cities that are willing to specify the neighborhoods in which they will coordinate conservation efforts and provide the public services and amenities commensurate with the need to arrest decline and encourage private investment," the invitation said.

In other words, HUD would give the selected cities 1,000 properties, and homesteaders would be eligible for $5 million in low interest federal rehabilitation loans. That was intended to remedy the problem faced by Philadelphia and Wilmington homesteaders who had trouble obtaining rehabilitation financing from private lenders.

The cities had to select target neighborhoods and promise to use federal community bloc grant money or other local funds to upgrade roads, schools, police and fire protection or other services in the homestead areas.

From a planning viewpoint, the goal was to achieve an immediate and positive impact on neighborhoods and cities selected to participate.

An obviously important side effect was to provide 1,000 families this year with a home for $1 plus whatever they spent to rehabilitate the home and meet housing code standards.

Last Oct. 10, HUD announced the 23 cities selected for the homesteading program. By last April, most had selected the federally-owned homes they wanted homesteaded, HUD had conveyed their titles to the cities and the cities began selecting homesteaders.

Most of the cities have held widely publicized local homestead drawings or lotteries after an initial screening process designed to eliminate applicants who were not at least 18 years of age or did not have the financial resources to pay for rehabilitating the homes, utilities and taxes.

Some cities, such as New York, Atlanta, Wilmington, Boston and Gary, Ind., are moving at a relatively slow pace. The reasons include poor local administration of the program, legal problems associated with selling property for less than its appraised worth, slow HUD processing of rehabilitation loan applications and refusal by some lending institutions to provide interim or long-term financing for homesteaders.

Some cities attempted to rely on local private lenders rather than the federal loan program because they initially thought private financing could be obtained more quickly.

Based on telephone interviews with homesteading coordinators in 12 of the 23 cities, HUD's national progress statistics and a one-week tour of four demonstration cities—Indianapolis, South Bend, Gary and Chicago—it appears that most cities and homesteaders are quite successful.

"It is just one of the very, very best programs we could have," said Warren C. Ditch, who administers the homestead plan for the Minneapolis Housing and Redevelopment Authority.

Minneapolis has awarded 34 of the 52 homes in its federal homesteading program. Fourteen of the 34 will cost between $15,000 and $17,000 to rehabilitate and already are occupied. Ditch said his office has received an average of 150 applications for each of the 34 homes.

"Young people are going into these neighborhoods, taking the boards off these houses and becoming part of the community," Ditch said with an enthusiasm typical of most city officials and homesteaders interviewed.

In Dallas, all 77 homes have been awarded and 35 are occupied, according to Pink A. Voss, chief of field operations at the Dallas department of housing and urban rehabilitation.

Voss said Dallas deliberately sought homesteaders with the ability and desire to do much of the rehabilitation work themselves. That is an integral feature of the original homestead programs that has been discarded by many cities in the demonstration plan.

To help the homesteaders, Voss said the Dallas housing authority is providing counseling, a tool-lending program for homesteaders and various services.

Dallas also has created an innovative financing arrangement with seven local banks. In return for $66,000 in city funds deposited with the banks as security against defaults, the banks have agreed to make $500,000 worth of rehabilitation loans to the 77 homesteaders.

On the other hand, only a few homesteaders in Gary, Ind., have started working on their homes, and none has moved in. Richard Comer, director of the Gary Housing Development Corp., said that Gary banks have been reluctant to lend money in the city and that federal rehabilitation loans have taken months to process.

Without the loans, Comer said, homesteaders cannot hire contractors to do heating, plumbing and roofing that most houses need before homesteaders can move in.

Comer said that the knowledge that boarded-up homes in Gary's Horace Mann neighborhood will be rehabilitated soon and occupied, has given present Horace Mann homeowners "an enormous psychological lift."

There is a clear evidence that such homeowners are responding to prospective homesteading just as HUD had hoped. Neighborhood houses are being painted, new shrubbery is being planted, other improvements are being made, and Comer believes the neighborhood may have been saved from irreversible decay.

Gary's Horace Mann section is typical of neighborhoods in the homesteading program. It is similar to the Oak Cliff section of Dallas, the Park Heights section of Baltimore, the Wynnefield section of Philadelphia and the Forest Manor section of Indianapolis.

These neighborhoods have experienced rapid racial change over the past 5 to 10 years and are older, but still quite pleasant, city neighborhoods with single family homes on tree-shaded streets.

While the worst slums in most cities receive most attention from planners, the news media and politicians, it is moderate-income neighborhoods such as Horace Mann or Studebaker Park in South Bend with vacant and abandoned homes that many cities now see as the keys to their future.

If sections such as Horace Mann, which only a few years ago was a middle and upper middle income Jewish neighborhood, become irreversibly blighted, cities will lose what remains of their black and white middle class and their residential tax base. Homesteading is designed to preserve and stabilize such sections.

Most homesteaders are upwardly mobile young couples, black and white, who earn from $10,000 to $25,000 a year in family income, easily can afford the costs of home ownership but may have had trouble saving the down payment needed to buy a home with a conventional mortgage.

Martin Orlowski, 22, seems typical. A South Bend fireman, he earns $8,250 a year and plans to be married this month. He and his fiancee, Michelle Boosi, 19, have worked together on the two-bedroom home Orlowski won in the South Bend drawing last February.

They have spent more than $5,000 for a new bathroom, electrical system, furnace, roof and aluminum siding—to meet building code regulations. Today, it is almost impossible to believe that the home was a boarded-up wreck only six months ago.

Located in South Bend's integrated Belleville section, the home will belong to the Orlowski's in three years if they stay in it, and they say they will. HUD has imposed a three-year residency requirement for all homesteaders to discourage speculators from taking advantage of the program.

Orlowski's fiancee said she loves the house. "We never could have bought a house. Homesteading gives people a chance," she said.

AFFIDAVITS RELATING TO WEST POINT CADETS

Mr. NUNN. One of the attorneys for West Point cadets involved in the current cheating scandal has offered to turn over, on a confidential basis, affidavits alleging additional violations of the Honor Code. The subcommittee refused this offer because of the conditions attached.

It is already clear from the large numbers of cadets who have been implicated and convicted in this cheating scandal and from the testimony before the subcommittee, that cheating at West Point has been widespread. New allegations of more cheating do not alter this conclusion. Two things are important now. One is to resolve all, including any new allegations of honor violations in a just and equitable way. The other is to make whatever changes in the honor system are necessary to make it a living and credible force among cadets.

I believe that an open and unfettered inquiry is essential to the attainment of both goals. Acceptance of these affidavits on a confidential basis would mean continued secrecy, with all its attendant rumors and suspicions. It would also continue to impede the vigorous and fair investigations of these allegations. It has always been my view that any and all allegations of cheating and other honor violations be thoroughly investigated, and where warranted, adjudicated to final conclusion. To accept these affidavits under the condition imposed by defense counsel would make the subcommittee party to an ongoing attempt to limit the scope of the Army's inquiry into the extent of cheating at the Military Academy. The extent of the cheating at West Point must be thoroughly exposed and dealt with if a viable honor system, commanding the full support and respect of the Corps of Cadets, is to be restored.

WILLIAM H. EDWARDS

Mr. PELL. Mr. President, William H. Edwards, a truly great citizen of our State of Rhode Island, died peacefully on Wednesday, September 1, 1976.

Bill Edwards was educated at Moses Brown School and Brown and Howard Universities. He then entered the distinguished law firm of Edwards and Angell, founded by his father, and has always enjoyed the respect, regard, and affection of all his fellow citizens. Throughout the past half century he has immersed himself in a tremendously wide range of activities, but all with one goal, that of helping his fellow citizens. His was truly a life richly and well spent.

These activities are well described and related in an obituary which appeared in the Providence Journal on Thursday, September 2, 1976, and in an editorial which appeared in the Providence Evening Bulletin of the following day, both of which I ask unanimous consent to print following my remarks.

My own personal regard for Bill Edwards is immense. I well recall his tremendous help to me as my campaign vice chairman and also the support he was to my wife for the several years that it took for our constitutional convention of 1965–68 to run its course.

I extend all my sympathy and condolences to his widow, Mrs. Mary Edwards, to his son, Knight Edwards and to his daughter, Mrs. Louise Saul.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Evening Bulletin, Sept. 3, 1976]

WILLIAM H. EDWARDS

With the death of William H. Edwards, Rhode Island has lost one of her most distinguished citizens, a humanist in the classical sense, a man of broad interests and substantial achievements, who left an indelible and shining mark on almost every educational, charitable, and artistic institution in this state.

A lawyer and a student of the law, he served his state with unflagging zeal, and in the closing years of his life, he worked indefatigably in the effort to modernize the state's Constitution. Aware of deep resistance to change, disappointed by the politicizing of the effort to effect change, he never ceased to urge change for the better.

In the humanist sense, his interests were broad and deep, centered on those institutions dedicated to the improvement of man's state, from the charitable work of the United Fund to the educational work of Brown University which he served for years as a trustee. He wore the honors that came to him with self-effacing modesty.

Mr. Edwards wrote occasionally for these newspapers, most notably perhaps in reviewing books, but also in writing commentary for the editorial page on aspects of the law, particularly federal constitutional law. His observations were pointed, reflecting a keen mind; he wrote with rare skill out of a deep affection for the English language.

To those who got to know him professionally or socially, Mr. Edwards displayed a wry wit that delighted in finding and uttering the right phrase or quotation. He was patient with ignorance; he was generous in explaining the arcane elements of the law; he was a memorable human being.

It would amuse him, perhaps, to have a quotation pointed at him, but there are a few lines from Chaucer's Canterbury Tales about the Knight that come to mind easily these days:

And though that he were worthy, he was wys,
And of his port as meke as is a maybe.
He never yet no vileinye ne sayde.
In al his lyf, un-to no matter wight.
He was a verry parfait gentil knight.

[From the Providence Journal, Sept. 2, 1976]

WILLIAM EDWARDS DIES, LAWYER, CIVIC LEADER

(By John Kiffney)

PROVIDENCE.—William H. Edwards, retired attorney who was long a leader in the civic, charitable, cultural and scholarly life of Providence, died yesterday afternoon at the Hattie Ide Chaffee Home in East Providence at the age of 77. He suffered a stroke in June.

Mr. Edwards retired Jan. 1, 1969, from the law firm of Edwards & Angell, announcing his intention in typical ironical fashion by passing out a typewritten quote from an English bishop's letter of resignation to King George III:

"Sir, every wise man would at the latter end of his life wish to have an interval between the Fatigue of Business and Eternity."

The irony compounded itself when, within weeks, at the behest of then Gov. Frank Licht, he was working on a commission studying the problems of the state prison system.

That was one of many ventures on behalf of human rights and liberal causes, particularly equal housing opportunities, which led to his being presented brotherhood awards from the National Conference of Christians and Jews and the Rhode Island Jewish War Veterans.

He also had a long and influential association with the United Fund, Women and Infants Hospital, the Rhode Island School of Design, and many other civic organizations.

Likewise, he tried to have an imprint on state government, heading in the early 1960s the first commission ever to recommend revisions to the state Constitution. His far-reaching proposals were watered down in the constitutional convention which followed.

Mr. Edwards lived at 154 Arlington Ave. with his wife, Mary R. (McGinn) Edwards. His first wife, the former Mabel Potter, died in 1969.

He was born in Providence, Dec. 5, 1898, a son of the late Seeber and Sarah Estella (Gurney) Edwards. His father was a founder of Edwards & Angell. He graduated from

Moses Brown School and Brown University and in 1921 received his law degree with distinction from Harvard University.

He began practicing law the next year with the family firm. In reminiscent interviews, he would ironically tell newspapermen that he wanted to be a journalist but law was a lot easier than writing news.

He said he found most cases dull, but loved courtroom work, using "the quiet approach."

He was once president of the Rhode Island Bar Association and served on the commission that sold state officials on the need for a Family Court system.

His hobby was reading, alone in his study and aloud to his family, and this flowed into his good-humored, zesty conversation, sprinkled with literary quotations ranging from the Greeks and the Romans to Ring Lardner's gibe: "I learned at my mother's knee always to tell the truth and never draw to an inside straight."

In a similar vein, his long months of revising the state Constitution at an end, he insisted that his commission's report go to the governor with the following quotation from Amy Lowell as she read a new poem to an audience:

"If you don't like this, hiss; if you do like it, applaud. But, for heaven's sakes, do something."

Until only a few months before his death, he reviewed books for the *Journal-Bulletin,* his preferences being American and legal history, constitutional law, and contemporary fiction. He donated his extensive library of books by and about United States Supreme Court justices to the Providence Public Library.

For years, he was a director of the Rhode Island affiliate of the American Civil Liberties Union and a member of Citizens for Fair Housing.

In a retirement interview, he extolled the virtues of Providence—its universities, proximity to the sea, New England traditions—and concluded: "I think this community is great to live in. But not for the Negro and the poor."

When the Rhode Island Urban Coalition formed in 1969 in an attempt to channel some of the resources of business and industry into solving the state's social problems, Mr. Edwards and a local black leader shared the podium at the opening convocation.

In politics, he broke from past family tradition, and was a Democrat, although he never ran for public office. He liked to joke that the Democrats didn't believe he was one of them because of his East Side associations. He traced his political beliefs to the Republican scuttling of President Woodrow Wilson's hopes for American participation in the League of Nations.

He was the first president of the United Fund, for more than 40 years was secretary of the Rhode Island School of Design, for almost 30 years a trustee of Providence Lying-In Hospital, now Women and Infants, and for many years was a trustee of Brown University, where he was an active alumnus.

He was director of a half-dozen business corporations and was formerly associated with the national board of the National Municipal League, the national board of Planned Parenthood, the English Speaking Union, Rhode Island Alpha of Phi Beta Kappa, the Foreign Policy Association, the National Conference of Christians and Jews, and the boards of trustees of Vassar College, the Lincoln School and Moses Brown School.

From 1940 to 1942, he was chairman of the appeal board of the state Selective Service System. He resigned to accept a Naval Reserve commission. He left the military after three years' service in Boston with the rank of lieuteant commander. He served in the Army in World War I.

Most recently, he was appointed by Governor Noel to be chairman of the state Advisory Commission on Aging.

Mr. Edwards held honorary degrees from Brown, the University of Rhode Island, and Providence College. His 1965 Brown citation commended him for "serving nearly every educational, charitable and artistic institution in this area as the very archetype of the interlocking director."

His memberships included the University Club, Hope Club, Agawam Hunt, Providence Art Club, and Turks Head Club in Rhode Island, Harvard Club and Century Association in New York, and Army and Navy Club in Washington.

He also leaves a son, Knight Edwards, an attorney with Edwards & Angell; a daughter Mrs. Louise Saul, and six grandchildren.

The funeral arrangements were incomplete last night.

LOAN GUARANTEES SHOULD BE INCLUDED IN THE BUDGET

Mr. GARY HART. Mr. President, during the past 2 years, I have been a vocal critic of proposals in Congress to provide loan guarantees for the development of a commercial synthetic fuel industry. Most recently I stood in opposition to a synthetic fuel loan guarantee program attached to the Senate version of the ERDA authorization.

I stated at that time that this type of financial incentive was inappropriate for the Federal Government to be making in light of the questionable economics of synthetic fuel development. Currently, however, there are several proposals in the House which confirm the same features I objected to in the Senate progam H.R. 12112, as reported by the House Science and Technology Committee is one such measure.

It authorizes loan guarantees or direct grants for a modular sized plant, and once proven, loan guarantees for commerical development. The version by the House Banking Committee goes even further by authorizing price supports as well as loan guarantees for oil shale modular and commercial size plants, alike.

Such multiple Federal subsidies will never make shale oil or other synthetic fuels "economically feasible" and will likely result in the taxpayers being burdened by several white elephants.

My concern about H.R. 12112 is heightened by the findings of an August 30 staff report entitled "Federal Energy Financing" and prepared by the Senate Task Force on Energy, chaired by Senator Frank E. Moss of the Committee on the Budget. While not making any recommendations supporting or opposing this legislation, the report is helpful in providing greater insight into the impact of loan guarantees of this magnitude and financial commitments of this nature on our economy. This is particularly important in light of the long-term economic incentives proposed in H.R. 12112.

One passage in the report is of particular importance in this regard. It states:

> Federal loan guarantees do more than simply change calculations of risk. By assuring investors that the full faith and credit of the Government stands behind a loan, guarantees tend to weaken the process by which proposed activity is elevated. Loan guarantees, do little to ensure that the disciplines of the private market will come to bear on selected projects.

The Energy Task Force report goes on to stress that in light of the impact of H.R. 12112 on "national priorities and the budget," "careful attention" should be paid to this legislation by the Senate.

I ask unanimous consent that this report be printed in the Record at this point for my colleagues to read and also a brief statement from the General Accounting Office Report, "An Evaluation of Proposed Federal Assistance for Financing Commercialization of Emerging Energy Technologies," August 24, 1976, which concludes that these guarantees be "on-the-budget" in full.

There being no objection, the material was ordered to be printed in the Record, as follows:

Federal Energy Financing—Financial and Budgetary Implications of Government Guarantees

LETTER OF TRANSMITTAL

United States Senate,
Task Force on Energy,
Committee on the Budget,
Washington, D.C. August 30, 1976.

Hon. Edmund S. Muskie,
Chairman, Committee on the Budget, U.S. Senate.

Dear Senator Muskie: The President's budget for fiscal year 1977 included proposals for "off-budget" energy funding that far exceeded those on-budget proposals of the Administration. The Budget Committee did not have adequate information on the appropriate budgetary treatment of these "off-budget" proposals and their relationship to other energy spending at the time the First Concurrent Resolution was being developed last spring. Accordingly, the Resolution the Committee recommended and the Congress approved in May accorded a high priority to on-budget energy proposals with the understanding that the "off-budget" proposals would be reviewed in light of the Budget Resolution and later information.

Major energy legislation now before the Congress is designed to assist in financing energy production and developing new energy technologies. Two key bills under consideration concern uranium enrichment and synthetic fuels. The Federal financial incentives included in these proposals are basically Government guarantees to help private ventures borrow in capital markets by sharing with the private sector the risk of project failure. These incentives which include loan, price, and project guarantees constitute contingent liabilities of the Federal Government that must be honored. However, the Administration proposes that they appear only partially on-budget or not at all.

Such contingent liabilities tend to reorder priorities, may have an impact on our economy and may require considerable future expenditure of the public's money. Thus, it is important to understand the financial commitments that will be required to carry out such programs if the Congress decides to approve them. Toward this end, this staff report, prepared at the request of the Committee's Energy Task Force and based in part upon the Task Force hearings on Financing Energy Development held on July 26 and 27, examines the above mentioned Federal financial incentives, reviews their financial and budgetary implications, and presents options to serve as a basis for the Budget Committee's actions in developing the Second Concurrent Resolution which the Congress must adopt in September.

Along with thanking the Task Force, I also want to express special appreciation to: Terence Finn, Arnold Packer, Dan Twomey, Donald Campbell, Charles McQuillen, and

Heather Ross of the Budget Committee staff; and to Nicolai Timenes, David Montgomery and Richard Dowd of the Congressional Budget Office without whose efforts this report would not have been possible.

Nothing in this study should be interpreted as representing the views or recommendations of the Budget Committee or any individual member thereof.

Sincerely,

FRANK E. MOSS,
Chairman.

SUMMARY

Increasingly, the Federal Government is being asked to assist in the financing of energy development projects. This assistance is rendered primarily through various guarantee mechanisms, most notably loan guarantees, price guarantees, and project guarantees.

The Budget Committee is concerned with the growing use of these guarantees for energy and other activities. While Federal guarantees appear to be cost free, they in fact can be costly tools of public policy. Guarantees may reallocate capital from one economic sector to another and in turn drive interest rates up in sectors which lose capital. Should defaults occur, they can have a major impact on budget totals. In addition, loan, price, and project guarantees can affect national priorities by influencing the allocation of investment funds.

The Budget Committee is also concerned with the budgetary treatment of these guarantee programs. How these programs are scored—there seems to be no uniform pattern—can affect not only the budgetary totals but also the decision to establish such guarantees.

Financing energy development

Underlying the increasing use of guarantees in the energy area is the need to finance new sources of energy. So far, the private sector has for the most part been hesitant to develop new energy sources such as synthetic fuels, the sun, and geothermal heat. The obstacles to private investment are the scale of the capital required, the uncertainty of future prices for petroleum energy, technological uncertainty, and regulatory policy. By making use of guarantee mechanisms, the Government enters the private financial market in such a way as to reduce or remove the risks associated with these obstacles thereby allowing the private sector to proceed with the capital investment.

When the Government uses such guarantees, private participants in a selected venture are protected from some or all of the effect of its economic failure. By employing such guarantees direct Federal expenditures appear to be avoided and a major private role is assured. At the same time, the Government assumes most of the risks associated with the enterprise. These risks must be considerable because the investment community has chosen not to provide the capital.

Federal guarantee mechanisms as incentives

Although the Budget Committee's Energy Task Force has focused on guarantees proposed to finance energy development, guarantees were also considered in general as tools to carry out public policy.

The private market allocates resources according to calculations of the risks and the potential returns attributed to alternative projects. Because these calculations focus on the flow of funds to private investors, outcomes of market decisions may not conform with perceptions of the national interest. Public policy often promotes the allocation of resources based on calculations of costs and benefits to the economy as a whole. Private investors evaluate a project more narrowly than would be appropriate for Government. Projects that are in the national interest but have an unfavorable risk/return ratio are not ordinarily undertaken by private industry.

If Government is effectively to stimulate private investment in a desired project the Government must first analyze the role expected profits and risks have played in hindering that investment. Government action to reduce uncertainty will not stimulate investment if a project is unattractive primarily because its expected profits are too low. On the other hand Government action which increases a project's expected profits may still not make it attractive to investors if the risks of failure are too great.

Unlike tax incentives, for example, which are available to all investments that satisfy stated criteria, these guarantees are made available only to selected projects. Thus, they are appropriate to remedy specific obstacles to investment, rather than obstacles arising from general economic conditions.

LOAN GUARANTEES: A SPECIAL PROBLEM

Because loan guarantees are a mechanism that is increasingly popular—net new loans guaranteed now average $48 billion each year—and because new proposals are believed to have a different impact on the budget and on the economy than earlier guarantee programs, they deserve special consideration. From the perspective of their budgetary impact, there are three types of loan guarantees, those designated to:

(1) *Correct Imperfections in the Capital Markets.*—The earliest guarantee programs were created because lenders were unable to estimate the risks attached to important types of relatively small loans.

(2) *Allocate Credit to Classes of Marginal Borrowers.*—Federal guarantees have also been used to help extend credit to small borrowers who are demonstrably greater than ordinary risks.

(3) *Finance Discrete Ventures by Allocating Credit.*—More recent programs have made use of loan guarantees in order to allocate private credit to specific projects favored by public policy.

In type 3 loan guarantees the loans are often large loans to one or a few borrowers who may face common risks. This category includes the loan guarantees for energy development. For this type of guarantee it may be impossible to anticipate the magnitude and timing of outlays. Moreover, deciding the proper budgetary treatment of these guarantees is especially difficult. Many of the reasons for concern inherent in type 3 loan guarantees are found as well in project guarantees such as those proposed in the Nuclear Fuel Assurance Act, an $8 billion measure that has passed the House and is pending before the Senate.

Federal loan guarantees do more than simply change calculations of risk. By assuring investors that the full faith and credit of the Government stands behind a loan, guarantees tend to weaken the process by which proposed activity is elevated. Loan guarantees, and for that matter, price and project guarantees, do little to ensure that the disciplines of the private market will come to bear on selected projects.

Federal Financing Bank

Guaranteed obligations may be purchased by the Federal Financing Bank (FFB) which was created in 1974 to coordinate the impact of Federal agency debt issues on the capital markets. The FFB is now the primary investor in guaranteed loans. By using the FFB a Federal agency can finance large loans more cheaply and easily than if funds had come from private lenders. When the Federal Financing Bank purchases a guaranteed obligation the Government is no longer just a guarantor but the direct lender. The FFB can buy all of an obligation which may only be guaranteed in part. Since the FFB finances its investments by issuing obligations to the Treasury, Treasury borrowing increases by the full amount of the loan. This undercuts the argument that partial guarantees force the private sector to bear some risks inherent in a proposed project.

Loan guarantees have consequences for both Government decision making and the private sector. Such guarantees may result in Federal outlays although neither the timing nor the magnitude of these outlays can be forecast. Another Governmental consequence, stemming from the mistaken belief that loan guarantees do not have an impact on the budget, is that a proposal may get inadequate review with resulting distortions in the allocation of public resources. Consequences for the private sector may include increasing the probability of default and of premature shutdowns and higher interest rates for borrowers who do not benefit from the guarantees.

Major energy financing proposals

Two major energy financing proposals may soon be before the Senate. They are the Nuclear Fuel Assurance Act (H.R. 8401) and the Synthetic Fuels Commercialization Program (H.R. 12112). These bills provide for loan guarantees and project guarantees. Many observers believe that the latter bill will require price guarantees as well. Because of the legislation's impact on national priorities and on the budget, as well as the issues they raise regarding budgetary treatment, the Energy Task Force believes that the bills require the Senate's careful consideration.

Budgetary treatment of guarantee mechanisms

Because the budget is a decisionmaking tool, it is important that the full scope of Federal activity be reflected, including the nature and extent of the Government's liabilities.

Loan guarantees are specifically excluded from the definition of "budget authority" provided in Section 401(c)(2)(C) of the Congressional Budget Act of 1974. This "off-budget" characteristic of loan guarantees has meant that guarantee programs tend not to compete with regular spending programs for scarce Federal dollars. This has contributed to the growth in number of guarantee programs, a growth which James L. Mitchell, an Associate Director of OMB, termed "astonishing."

Now that net new loans guaranteed annually average $48 billion, a problem is how best to include potential cost to the taxpayers in budget decisions. Placing loan guarantees "on budget" facilitates the control of public policy through the budget but provides a seriously exaggerated picture of the size of the budget.

An alternative for treating loan guarantees in the budget is to estimate each year the amount of Federal payments likely to result from loan guarantees and have that estimated amount appear in the budget as budget authority, accompanied by the associated estimate of outlays. The full exposure of the guarantees would not be reflected in the budget, only the amount of expected expenditures. This is the treatment being accorded the proposed synthetic fuels bill. For 1977, H.R. 12112 (as reported by the Committee on Science and Technology), if enacted, would show on-budget $515 million in budget authority and $15 million in outlays for a $2 billion exposure through guarantees of Federal funds in the first year.

Price guarantees do not pose too great a problem in terms of budgetary treatment. Authority to implement a price guarantee program is requested through the normal authorization and appropriations process, funds from which would appear in the budgetary totals. The difficulty with price guarantees is not budgetary treatment but rather budgetary control. Price guarantees are entitlement programs. Once in place they can make demands upon the budget that must be honored.

Budgetary treatment of project guarantees

The budgetary treatment of project guarantees can best be discussed in terms of specific proposals. The $8 billion in project guarantees contemplated by the Nuclear Fuel

Assurance Act could be treated in several ways. One option would be to score the full $8 billion as budget authority, an approach akin to scoring the full exposure of a loan guarantee program. Another option would be to score the full value of each project as the guarantee is ratified. Still another option would be to score partial amounts, representing the actual Government liability year-by-year, as the liability grows. A different way of treating the bill would be to score some fraction of the $8 billion as budget authority based upon an estimated rate of default greater than zero. A final option would be to score nothing at all because the liabilities extended by the Nuclear Fuel Assurance Act are *contingent* liabilities. This final option is the one the Administration believes is appropriate. All the other options, of course, would affect the budget totals. Thus, if the bill were enacted and the Administration's position rejected, budget authority would be created and reflected in budget totals.

CHAPTER I. INTRODUCTION

Increasingly, the Federal Government is being asked to assist in the financing of energy development projects. This assistance is rendered primarily through various guarantee mechanisms, most notably loan guarantees, price guarantees, and project guarantees. Congress, for example, recently enacted a $2 billion loan guarantee program to finance energy conservation projects. The Administration is proposing an $8 billion uranium enrichment program that contemplates specific project guarantees, and some observers believe that the proposed synthetic fuels commercialization program will not be viable without price guarantees.

The Budget Committee is concerned with the increasing use of these guarantee mechanisms. Loan guarantees, price guarantees, and project guarantees are tools of Federal policymaking that at first glance appear to be cost free. When a guarantee is extended, the Government incurs no immediate expenditures and the possible future spending is not included in the budget totals. Moreover, unlike typical spending and tax proposals, guarantee mechanisms are neither displayed in one place nor reviewed in the context of competing programs. Even regulatory proposals are typically scrutinized by affected interest groups with a view to illuminating costs. But the costs of guarantee mechanisms are not readily apparent.

Costly policy tools

In fact, loan guarantees, price guarantees, and project guarantees can be costly policy tools. They may reallocate capital, and drive up interest rates in sectors which receive less capital. Some other projects—possibly worthwhile projects—may be unable to secure financing. They thus have an overall impact on the economy that should not be ignored. They also can have a major impact on budget totals, should a default occur or price support become necessary.

Certainly no economic activity of the Federal Government should go unchallenged nor should the potential for spending be free of critical examination. In fulfilling its responsibilities under the Congressional Budget and Impoundment Control Act of 1974 the Committee on the Budget can provide some of the necessary focus and review.

This responsibility extends also to questions of national spending priorities. The task mandated by Section 301(a) of the new Budget Act to set forth in the Concurrent Resolution an estimate of budget outlays and an appropriate level of new budget authority by the functional categories of the budget is in effect a setting of national priorities. This allocation of fiscal resources along functional lines allows the Senate and House to debate such priorities. The amounts contemplated for energy expenditures and the urgency underlying the development of energy supplies make Federal spending for energy—actual and potential, direct and indirect, current and future—a priority item to be considered in formulating the functional targets of the Budget Resolution.

Technical nature of guarantee mechanisms

The responsibility of the Budget Committee also extends to the more technical issues of budgetary treatment. How various forms of Federal spending such as guarantee mechanisms are scored in the budget can be a complex subject requiring knowledge of budget concepts and past budgetary procedures. For example, the most appropriate means to account in the budget for the $8 billion in project guarantees authorized under the pending Nuclear Fuel Assurance Act (H.R. 8401) is particularly complicated. Unfortunately, past practices offer no clear guide on how best to treat guarantee mechanisms. There is no "traditional way" to account for loan, price, and project guarantees in the budget totals. Yet how these guarantees are scored can influence not only budget totals but also the decision whether to establish such guarantees. The technical nature of guarantee mechanisms for financing energy and the importance of their budgetary treatment thus requires the Committee on the Budget to review the various mechanisms that are under consideration.

Purpose and organization of report

This staff paper reviews the budgetary impact of these mechanisms and examines their financial implications. The paper is intended to serve as background for the Senate Budget Committee's markup of the Fiscal Year 1977 Second Concurrent Resolution. It contains no recommendations but does present options that the Committee may wish to consider in developing the Resolution. The paper also is intended to contribute to the Committee's major study on the use of Federal financial guarantees. Such guarantees are by no means limited to the area of energy. They are an increasingly important element of public policymaking that deserves far more attention than is possible in this paper. By reviewing the impact on the economy and the effect on national priorities of these financial guarantees, the Committee's major study can focus on a dimension of public policy that has by and large escaped comprehensive public scrutiny.

The organization of this staff report is relatively simple. Chapter I has noted that guarantee mechanisms are increasingly being used to assist in the financing of energy development projects and that the Committee on the Budget has a responsibility to consider this activity. Chapter II discusses the reasons why these guarantee mechanisms are deemed necessary and lists several recent examples of Federal guarantees. Chapter III discusses how guarantee mechanisms serve as incentives for private investment. Because loan guarantees are a prevalent form of Federal guarantees. Chapter IV reviews how these guarantees operate and what different types of loan guarantees there are. Chapter V discusses two major energy financing proposals, synthetic fuels and the Nuclear Fuel Assurance Act, that may soon be before the Senate for consideration. Chapter VI reviews the budgetary treatment of guarantee mechanisms while Chapter VII, the final chapter, relates this treatment to the 1977 Second Concurrent Resolution.

CHAPTER II. FINANCING ENERGY DEVELOPMENT

Underlying the increasing use of guarantee mechanisms to assist in financing energy development is a desire to develop new sources of energy. These sources include synthetic fuels, the sun and geothermal heat. Together with an expansion of present nonpetroleum based energy sources such as nuclear power and coal, they can—if new technologies are developed and adequate funding is forthcoming—reduce our vulnerability to the petroleum exporting nations while providing increased domestic energy at reasonable cost to the American consumer.

The task of developing these energy sources will require considerable financial resources. Investments from both the private sector and the public sectors are necessary. Exactly where and how the two sectors interface is not yet clear. What is clear is that both must focus their attention and direct their resources to the common task of assuring that our energy needs will be met.

Obstacles to private investments

So far the private sector has been unwilling to finance many of the projects which seek to develop these new energy sources. Several obstacles to investment have emerged.

Capital requirements

The first obstacle is the scale of the capital required. The cost of commercially developing synthetic fuels, geothermal heat, nuclear power, coal and the almost limitless energy of the sum is substantial. The Congressional Budget Office estimates that the total investment in energy production needed to keep petroleum imports in 1985 at current levels is $560 billion. Individual projects are also costly. A single high Btu synthetic gas plant will cost approximately $1.0 billion. A single gas contrifuge plant to enrich uranium will cost over $3.0 billion. To place such costs in context, we must remember that in 1975 only 160 U.S. corporations had total assets in excess of $1.0 billion. While private industry has financed extremely large projects—the Trans-Alaskan pipeline was financed without Federal assistance at a cost of $7.7 billion—the scale of financing energy development will test the resources of America's capital markets.

Price uncertainty

A second obstacle to the private sector in financing the development of new energy is the uncertainty in the future price of petroleum energy. The semi-controlled nature of domestic oil and gas prices plus the leverage of OPEC in establishing the price of world oil creates a climate that hinders energy investment. Prudence requires that a reasonable rate of return on investment plus the amortization of debt be assured before committing risk capital. Investors will be reluctant to risk capital in new energy projects if external price policies can undercut their economic viability. For example, as long as OPEC can suddenly drop petroleum prices below what synthetic fuel plants must charge, the capital to finance these plants will not be forthcoming. The risk of failure is simply too great.

Technology uncertainty

The third obstacle is technological uncertainty. The technologies to derive sufficient energy at reasonable costs from synthetic fuels, geothermal heat, the sun and even some forms of nuclear power do not yet fully exist. While we can be confident that our research, development and demonstration programs will ultimately be successful, the outcome is not preordained. Advances in technology do not occur simply from spending money. Ingenuity, perseverance and luck are also necessary, and even then we may not achieve our goals. Moreover, the advances in energy technology that we need are substantial. In some instances, like synthetic fuels, quantum steps are necessary. Investors understand that risks are associated with technological advances. In the energy field they perceive these risks as another reason to exercise caution in exposing capital.

Regulatory policy

Another obstacle to financing energy development is regulatory policy. Like other areas of public policy, energy is beset by a wide array of regulatory agencies whose rules and regulations can mean the difference between failure and success. The Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the Nuclear Regulatory Commission, the Interstate Commerce Commission, the Occupational Health and Safety Administration and the Department of Justice are all Federal agencies whose responsibilities encompass the energy field. Their rules and regulations are supplemented by those of State and local agencies whose responsibilities are similar. These agencies generally perform a useful task in our society, but a side effect of this regulatory environment is a web of obstacles that hinders development. This web acts as an impediment to financing energy projects. Potential investors are aware of the many opportunities for delay. They are aware also that a seemingly arbitrary decision on the part of a regulatory agency can curtail a project, well after capital has been invested.

Government action to assure future energy supplies

Taken together these obstacles have inhibited the private sector from investing in the development of new energy sources. Given the priority that such energy development constitutes, the public sector—primarily the Federal Government—believes it must act to assure that future energy supplies are sufficient. One course of action would be for the Government to make the necessary investments directly. This presumably would ensure that energy development would occur but would severely tax the fiscal resources of the Federal Government. It might also unalterably revise the boundaries in this country between the private and public sectors.

Another course of action would be for the Government to make use of available mechanisms that enable the private sector to overcome the obstacles to investment. The Government would enter into the private financial market in such a way as to reduce or remove the risks to financing energy development. This would allow the private sector to proceed with the necessary capital investment.

Some financial mechanisms that allow the Government to so act are loan guarantees, price guarantees and project guarantees. By using such guarantees, the Government assures the ultimate financial viability of the particular enterprise to which the guarantee is extended. Moreover, by employing such guarantees, direct Federal expenditures appear to be avoided and a major private role is assured. At the same time, the Government assumes most of the risks associated with the enterprise. These risks must be considerable because the investment community has chosen not to provide the capital. (Were no risks involved, guarantees would not be needed.) If the enterprise does not succeed, the guarantees are invoked and the Government must absorb some of the loss. With energy development projects, these losses could entail substantial budgetary expenditures.

INCREASED USE OF FEDERAL GUARANTEES

Energy legislation utilizing these guarantee mechanisms is appearing with increasing frequency. In 1975 Congress enacted the Energy Policy and Conservation Act. Section 102 of this act established a $750 million loan guarantee program to develop new underground coal mines. The year before, Congress enacted the Geothermal Energy Research, Development and Demonstration Act which established a loan guarantee program for developing geothermal resources. This act placed no limit upon the extent of liabilities.

This year Congress has enacted the Energy Conservation and Production Act. This law, which extended the Federal Energy Administration until December 31, 1977, also established a $2 billion loan guarantee program for investments in energy conservation. Currently pending before Congress is a version of Administration's proposal for a Synthetic Fuels Commercial Demonstration Program (H.R. 12112). This program contemplates a $2 billion loan guarantee program as well as a program of price guarantees. Indeed, many observers believe that the price guarantees are essential to the program's success. Also pending is the Nuclear Fuel Assurance Act (H.R. 8401), a version of the Administration's proposal to extend $8 billion in project guarantees to private uranium enrichment plants. This act has passed the House and is now before the Senate.

CHAPTER III. FEDERAL GUARANTEE MECHANISMS AS INCENTIVES

Although the Task Force attention focused on proposals included in pending energy legislation, guarantees were also considered in general as tools to carry out public policy.

The private market allocates resources according to calculations of the risks and the potential returns attributed to alternative projects. Because these calculations focus on the flow of funds to private investors, outcomes of market decisions may not conform with perceptions of the national interest. Public policy often promotes the allocation of resources based on calculations of costs and benefits to the economy as a whole. Private investors evaluate a project more narrowly than would be appropriate for Government. Projects that are in the national interest but have an unfavorable risk/return ratio are not ordinarily undertaken by private industry. Three factors can lead to the private allocation of resources in a way which is not optimal for society as a whole:

1. A private investor cannot capture enough of the economic benefits associated with a project.

2. A project can have non-economic benefits accruing to the public.

3. Private firms may perceive risks differently than the Government such as the risk of adverse regulatory decisions.

By altering private risks and returns in specific projects the Government can play a powerful role in altering the outcomes of private market decisions. However, for public action effectively to stimulate private investment in a desired project, the Government must first analyze the role expected profits and risks have played in hindering that investment. Government action to reduce uncertainty will not stimulate investment if a project is unattractive primarily because its expected profits are too low. On the other hand, Government action which increases a project's expected profits may still not make it attractive to investors if the risks of failure are too great.

Incentives for specific ventures

Three mechanisms are now being proposed to provide incentives for investment in energy development: loan guarantees, price guarantees, and project guarantees. By their nature, the guarantees considered in this report are specific to an individual project or a class of projects. Unlike tax incentives, for example, which are available to all investments that satisfy stated criteria, these guarantees are made available only to selected projects. Thus, they are appropriate to remedy specific obstacles to investment, rather than obstacles arising from general economic conditions.

Loan guarantees

The Federal Government can increase the attractiveness of an investment to a lender by removing or reducing his risk of default with a guarantee that principal and interest will be paid. The attractiveness of an enterprise can be greatly increased also for stockholders or other owners by making use of "non-recourse" loan guarantees which provide that, in the event of default, the Federal Government will only be able to require payment from the assets of the guaranteed project itself and not from the general assets of the participating firms. The extent to which risks to stockholders are reduced depends on the fraction of total project investment eligible for loan guarantees.

If investors are confident of prompt payment in the event of a default, they will view guaranteed loans as near equivalents to obligations of the U.S. Government. Guaranteed loans, therefore, usually have interest rates lower than those normally required even of the highest quality private borrowings of comparable maturity and terms. Recipients of loan guarantees may be required to pay a fee to the Government for the risk it has assumed. Unless that fee is large enough to cover the expected cost of defaults, a loan guarantee constitutes a subsidy to the borrower.

Obstacles in the financial markets

Although loan guarantees can alter the perception of risk and return by both borrowers and lenders, they are most appropriately used when factors in the financial markets are the major obstacle to a desired investment.

H.R. 12112, now pending in the House would authorize loan guarantees for synthetic fuel production.

Price guarantees

In general, these guarantees replace an uncertain future in which a product must be sold at prices set by changing market forces and substitute a certain future in which the product can be sold at or above a price established before a project is undertaken. They can be used (1) to subsidize production when market prices are expected to be too low to cover costs plus an adequate profit; and (2) to shift the risks of changes in market prices from the private producer to the Government. Depending on its design, a price guarantee can have various effects on investment decisions and Government costs. For example, a guarantee may specify the price that a producer would receive, with the Government paying the difference if the market price is below the guarantee price and collecting the difference if the market price exceeds the guaranteed price. On the other hand, the guarantee may place a floor on prices, with the Government making up the difference if market price falls below the floor but the private producer retaining all profits if market prices exceed the floor.

The price guarantee also contains an element of subsidy unless two conditions are met:

1. The guaranteed price must equal or be less than the expected market price.

2. The Government must share in profits when unexpectedly high prices prevail to the same extent that it shares losses when low prices prevail. This could be done, for example, if the Government purchases the product in all events at the guaranteed price and resells it at market price.

Obstacles in the sales markets

Price guarantees at an appropriate level can be effective if a major hindrance to private investment is either uncertainty about the market in which products must be sold or certainty that market prices would be too low. Price guarantees do nothing to reduce uncertainty associated with the costs of production unless the guaranteed price is set on a cost-plus basis. If the guaranteed price is set by a formula that excludes costs of production, private investors bear all risks inherent in completing a plant that can achieve planned output on schedule and under budget.

Two versions of H.R. 12112 authorize price guarantees to synthetic fuel producers.

Project guarantees

The Government can also provide a broad "safety net" under all of the private participants in a desired project. Under a project guarantee, the Government commits itself to step in when continuation of a project becomes undesirable for private participants, to assume the obligations incurred in the operation of the project, to repay lenders, and, if certain conditions are met, to compensate investors. These, of course, are very broad forms of guarantee which significantly reduce or remove the private parties' exposure to risks inherent in future market prices, and in product and process technology. They share many of the budget problems of loan guarantees which are discussed in the next chapter.

Such incentives are contemplated by the Nuclear Fuel Assurance Act (H.R. 8401).

CHAPTER IV. LOAN GUARANTEES: A SPECIAL PROBLEM

Although loan guarantees have long been used to encourage private lenders to invest in accordance with Federal objectives, they have characteristics which can create significant problems for public policy. These guarantees deserve special consideration. One reason is that the use of loan guarantees has increased rapidly in recent years. Net new loans guaranteed now average $48 billion each year. By the end of FY 77, guaranteed and insured loans outstanding—for all purposes—are expected to total $235.1 billion. Guaranteed loans outside the budget in FY 1977 are estimated at $174.6 billion. Outlays for existing "off-budget" programs are estimated at $11.1 billion for the same period. Another reason is that some of the recent guarantee programs and proposals have, or are likely to have, a very different impact on the Federal budget and on the economy from that of earlier guarantee programs.

Powerful policy tool

As it reviewed ways to budget Federal incentives for energy development, the Task Force had to consider loan guarantees carefully. It became clear that loan guarantees are a powerful policy tool and their use may have unforeseeable fiscal consequences. Certain characteristics of loan guarantees call for careful review so that guarantees, when inappropriate, are not used to achieve desirable ends.

This chapter of the staff report will highlight several features of guaranteed loans. It considers, first, the three types of loan guarantees, when inappropriate, are not used to achieve desirable ends.

This chapter of the staff will highlight several features of guaranteed loans. It considers, first, the three types of loan guarantees, and second, the operation of loan guarantees. The Congressional Budget Act's exclusion of loan guarantees from the definition of "budget authority" is an important feature that will be treated in a later chapter.

Types of loan guarantee programs

Loan guarantee proposals have greatly changed in purpose and design since the 1930's when they were first used extensively. Programs using the mechanism vary widely from one another because each was designed to fit the characteristics of a particular credit market and the politics of a specific time. Their treatment in the budget has been guided by no consistent theory. However, from the perspective of their budgetary impact there are three types.

Type 1: Correcting imperfections in the capital markets

The earliest guarantee programs were created because lenders were unable to estimate the risks attached to important types of lending.

For example, during the depression widespread foreclosures and bankruptcies were triggered because homes tended to be financed with short-term loans. Federal policymakers were convinced that, if homeownership were to be possible for most families, general acceptance had to be created for the self-amortizing long-term residential mortgage covering 80 percent of a property's value. Bankers, however, had no experience with that form of lending and were reluctant to offer acceptable interest rates. So, FHA mortgage guarantees were instituted in 1934 in the conviction that the actual risk involved in the new form of mortgage was significantly less than mortgage lenders were estimating. By assuming risks which otherwise would be borne by lenders, the Government reduced the cost of borrowing for consumers and rental investors and provided the private market with information on the risks involved in this federally preferred form of lending. The strategy was immensely successful. Lenders were encouraged to adopt the new mortgage instrument, eventually even without Federal guarantees.

The budgetary impact of these guarantees has been negligible. The programs involved many small loans with liens on property and were designed to be actuarially sound. Defaults in FHA's basic single family insurance fund have been about 5 percent of total guarantees—so low that fees and premiums have more than covered the fund's losses and other expenses. These programs thus involve neither Federal budget authority nor outlays.

Type 2: Allocating credit to classes of marginal borrowers

Federal guarantees have also been used to help extend credit to borrowers who were demonstrably greater than ordinary risks. Higher risks resulted from a greater than normal probability of default, or from the lack of acceptable collateral. So, Federal agencies assumed risks which private insurers were unwilling to accept at socially tolerable rates of interest. For example, loans in urban renewal areas were guaranteed to help coordinate private investment with public efforts. Residents of these areas typically had not established a record of credit worthiness and the future value of properties in these areas was too uncertain. These guarantees were not a simple extension of prior FHA activity. In fact, they caused considerable tension between the older FHA personnel—committed to actuarially sound guarantee programs—and the newer urban renewal staffs committed to the attainment of social goals.

Loans guaranteed under these programs usually are numerous and relatively small. It is thus possible to accumulate experience upon which to estimate and thus provide a reserve for defaults. These programs typically involve social objectives which hinder their operating on an actuarially sound basis. The guarantee also is often combined with interest subsidies, operating subsidies or other incentives. These programs, therefore, do lead to Federal outlays.

Both type pool risks

Because Type 1 guarantees require sharply different treatment in the budget from those in Type 2, the distinction is an important one to make. However, these two types of guarantee programs share important characteristics. They have usually involved large numbers of relatively small loans. With the guarantees, the Government pools risks across many transactions. If the risk of default is randomly distributed among individual transactions, the statistically expected cost of defaults can approximate the actual costs. Government pooling of risks may be especially appropriate when defaults are not random but are heavily influenced by regional economic shifts or by cyclical swings in the economy. For such cases the lessons of experience come more slowly and less clearly than in the case of risks that are fairly uniform nationally or over long periods of time.

Type 3: Financing discrete ventures by allocating credit

Other programs have made use of loan guarantees in order to finance specific public programs by allocating private credit rather than by on-budget spending. The loans being guaranteed are often very large loans to one or a very few borrowers who may face common risks. This of course is the category in which the loan guarantees for energy development fall. Many of the reasons for concern inherent in Type 3 loan guarantees are found as well in broader project guarantees such as are proposed in the Nuclear Fuel Assurance Act.

Timing of outlays

For this type of guarantee it may be impossible to anticipate the magnitude and timing of outlays. When guaranteed loans are for single purpose plants the Federal guarantor agency may be unable to recoup a large proportion of the guaranteed payments by reselling assets after a default. Outlays may also be driven above guarantee amounts by the need to manage a troubled project to which a major Federal commitment has been made. Finally, the timing of major outlays—a central issue for Federal fiscal policy—can rarely be estimated when such a guarantee program is being considered.

In the case of Type 3 guarantees, deciding the proper treatment of budget authority is especially troublesome. If every loan guarantee program were required to establish through appropriation a reserve for defaults equal to the best estimates of its expected outlays, one could argue that the probable budget impact of all loan guarantee programs as a group would best be reflected. But, rather than being a solution, this would bring great pressure on program advocates to place a low estimate on the probability of defaults. If defaults occurred, the existence of a reserve covering only a fraction of the needed outlays would solve few problems; on the other hand, if the program succeeded, *none* of the budget authority would be used.

Operation of loan guarantees

Sources of financing

When the use of loan guarantees is being advocated, it is often claimed that they provide a relatively mild form of Federal intervention in a basically private transaction. It is implied that the soundness of a proposed venture is assured because a particular private borrower will have to deal with private lenders. This suggests that the Government guarantee merely changes calculations of risk in a transaction similar to most others in the private sector. This argument is based on the premise that private lenders will be motivated to evaluate the prudence and strength of the project being financed. That premise may not be valid. Even when banks or other lending institutions play an active role in loan guarantee programs, they tend to be more concerned about evaluating the terms of the Government guarantee than evaluating the merits of the activity. For example, private institutions play an active role in loan guarantee programs which require the origination and servicing of large numbers of small loans. However, even in these cases private lenders may take no role in weeding out ill-conceived ventures. The involvement of private lenders in the Section 235 Homeownership Assistance Program did not prevent widespread defaults resulting from questionable loans.

Similar to Federal agency debt

Private lenders may be even less interested in evaluating a venture which involves a Type-3 loan guarantee. Programs guaranteeing large corporate borrowing have typically involved Federal guaranteed corporate bonds sold in the securities market. In the past, these guaranteed loans were often so designed that investors treated them as if they were not the debt of a private borrower, but rather the debt of a Federal agency. For example, announcements of the debt issue prominently displayed information about the Federal agency which gave the guarantee—the identity of the private firm receiving the proceeds of the debt issue was of little interest to the investors. Once the trustworthiness of the guarantee mechanism assured investors that the full faith and credit of the Federal Government stood behind the loan, the nature of the project being financed was almost of no concern. Thus, loan guarantees may have little value as a way to insure that the disciplines of the private market will come to bear on the operations of selected projects. Understanding the role of the Federal Financing Bank may make this even clearer.

Federal Financing Bank

The Federal Financing Bank (FFB) was created in 1974 in order to coordinate the impact of Federal agency debt issues on the capital markets. Because many guaranteed loans differed only technically from Federal agency obligations, the FFB was authorized to purchase any obligation guaranteed in whole or in part by an agency of the Federal Government. The FFB has now become the primary investor in guaranteed loans and is expected to acquire 63 percent of the net loans guaranteed by Federal agencies in fiscal year 1976. The Federal Financing Bank charges interest which is only ⅛ of 1 percent above the yield of comparable Treasury securities. Therefore, by using FFB, a Federal agency can finance a very large guaranteed loan much more cheaply and easily than if funds had come from private lenders.

When the FFB purchases a guaranteed obligation, the Federal Government, of course, is no longer just a guarantor, it becomes the direct lender. Note that the FFB buys *all* of an obligation which may only be guaranteed in part. For example, a private borrower can sell the FFB, let's say, $100 million in bonds of which only $80 million may be guaranteed by some Federal agency. Since the FFB finances its investments by issuing obligations to the Treasury, Treasury borrowing would increase by the full $100 million and not just by the $80 million covered by the Federal guarantee. This undercuts the argument that partial guarantees force the private sector to bear *some* risks inherent in a proposed project and therefore to carry out its own evaluation of the project's merits.

As will be discussed in a later chapter, loan guarantees can be used as a way to provide a project with Federal financing which does not appear in the Federal budget.

Useful role of FFB

It would be misleading to imply that the FFB purchase increases the impact of a guaranteed loan on the capital markets. The guaranteed borrowing, without FFB, could come to the private markets but at higher cost. This FFB role is useful in coordinating the impact of guaranteed borrowing on the capital markets. Understanding the FFB actively should highlight the need for careful Government scrutiny of new guarantee programs.

Consequences for government decisionmaking

Uncontrollable outlays

A loan guarantee is a contingent liability of the Government that must be honored. A guarantee for a loan that defaults results in Federal outlays. Therefore, the budget will rise automatically unless an appropriate contingency arrangement is made to cover such an eventuality. However, neither the timing nor the magnitude of resulting outlays can ordinarily be forecast when a guarantee program receives legislative approval. Once a guarantee is given, the timing of any outlays is largely out of Government control. As James Mitchell, an Associate Director of OMB, mentioned in his testimony to the Committee's Energy Task Force, with loan guarantees the problem of "trying to estimate a cash disbursement in the future is a very, very tough question."

Danger of inadequate review

By using loan guarantees, Government action supplants the risk and return calculations through which the private economy evaluates a proposed project and therefore the Government stimulates the flow of credit into a favored project. As we have noted, there are many instances in which the decision of the private market *should* be overridden because it does not conform with the public interest. When this intervention is made, however, the Government must substitute its own evaluative processes for those of the private market. No major economic activity of the Government should go on unchallenged by anybody as if it were a free good, as if there were no opportunity costs, as if it were not drawing resources away from other priorities. As Dr. Barry Bosworth testified:

"You must realize that when you extend loan guarantee programs, the Government must replace the market. The Government must step in and do its own evaluation of projects before it extends the loan guarantee program. Then the question arises of whether or not in very many situations it is true that the Federal Government knows something that the private market doesn't know. Does the Government know that these are really good projects, but for some reason the private market is foolish. Although it wants to earn a profit, it simply cannot realize that these are really profitable undertakings."

When decisionmakers think that loan guarantees do not have an impact on the budget, a proposal may get inadequate public review, and serious distortions in the allocation of public resources may result. There are, of course, many ways in which the Government can affect the distribution of resources in the economy without the activity appearing in the budget. Taxation and regulatory powers are obvious examples. Most proposals affecting these, however, are subject to review in adversary proceedings, such as congressional hearings and the courts.

High political costs

Once a project is in operation the existence of a loan guarantee may significantly alter the bargaining position of the Federal guarantor agency. A major default would usually bring high political costs, even when a project was originally undertaken with broad public recognition that the Government was being exposed to significant risks. When such a default looms, a guarantor agency may be very reluctant to undergo the intense scrutiny of a congressional and media investigation. By quietly threatening default, the sponsor of a project could put great pressure on the Federal officials to develop a rationale for additional subsidies and other incentives in order to avoid the cost and embarrassment of a full Government bailout. Additional problems for the Government might also be created if important sectors of the economy have become dependent upon the output of the project. Even if the economics of the project were so unfavorable as to force a default, the Government may be politically unable to terminate the project.

Consequences for the private sector

Encourages default

Loan guarantees also have a significant impact on the operating decisions of a participating private firm. As Dr. Bosworth pointed out in his testimony, "Although loan guarantees may encourage the initiation of a desired project, they also tend to increase the probability of default and premature project shutdown." This is especially true for firms with large net worth. The standard criterion for deciding to abandon a project once it is operative is whether or not the project's revenues cover its variable costs (that is, the total cost less such fixed charges as interest and amortization of debt). An operating project would ordinarily be continued as long as its revenues cover *variable costs* and make *some* contribution to payment of fixed charges. The only exception is if the entire corporation would be bankrupted by the fixed charges. However, with a loan guarantee, it might be profitable to abandon the project when it becomes apparent that revenues will not cover *total costs*, that is variable costs plus fixed charges. It is important, therefore, that the guarantee agreement be designed carefully so that it motivates the private participants in the project not to default precipitately.

Who pays for projects?

The Government's choice of a mechanism to stimulate investment in a particular project largely determines who pays for it. In any year, the level of the Federal deficit or surplus results from major political decisions which are reached independently of decisions on individual programs. For fiscal year 1977, as an example, the President with his January Budget Message announced a projected deficit of $43 billion and the Congress, in its First Budget Resolution, established a target deficit of $50.8 billion. Both figures had great symbolic importance as summary statements of Federal fiscal policy. Each figure constrained the budget requests of executive departments or the actions of congressional committees. So when a major new activity is financed with on-budget expenditures—if the deficit remains the same—it will be "paid for" by diverting resources from competing governmental activities through spending cuts, or by diverting resources from private current consumption through increased taxes. Advocates of other priorities, therefore, will give the new proposal careful review.

When financing for a new project is obtained with loan guarantees, it is "paid for" by drawing resources out of the capital markets. This is true whether or not the guaranteed loan is purchased by the Federal Financing Bank. With the guarantee, a borrower becomes a price competitor for available credit. Unfortunately, this does not mean the resources are diverted from activities which from the perspective of the Government are of lower priority. The increased demand tends to drive up interest rates in sectors which lose capital. The operation of the private market decides which activities will now not get credit. Traditionally, the weakest competitors in periods of high interest rates have been those demanders of credit most dependent on long-term financing: housing and the capital needs of State and municipal government.

Limited resource

As is the case with Federal revenues, private credit is a limited resource. The widespread use of loan guarantees may largely convert a visible competition among Federal programs for fiscal resources into an invisible competition of Federal programs for private credit. The Federal use of loan guarantees, therefore, must be systematically evaluated by policymakers determining the impact of Federal Government on the economy. Each new loan proposal—especially if it is a Type-3 guarantee—should receive especially careful scrutiny.

CHAPTER V. TWO MAJOR ENERGY FINANCING PROPOSALS

Two major proposals to finance energy development may soon be before the Senate. They are the Nuclear Fuel Assurance Act (H.R. 8401) and the Synthetic Fuels Commercialization Program (H.R. 12112). These bills provide for loan guarantees and project guarantees. Many observers believe that the latter bill will require price guarantees as well.

This chapter discusses these two major energy financing proposals in order to provide background and specificity for the previous discussion of guarantee mechanisms. Chapter VII of this report will review the budgetary treatment of these two bills as it relates to the forthcoming Second Concurrent Resolution.

Uranium enrichment

Uranium must be enriched before it can fuel nuclear power plants. Three U.S. uranium enrichment facilities now exist, all owned and managed by the U.S. Government but operated by private industry under contract.

Currently planned expansion of existing Government-owned enrichment facilities will increase U.S. capacity but ERDA indicates that this entire capacity has already been committed to customers—the equivalent of 208 domestic power plants and 121 foreign plants.

Two enrichment technologies

Two principal enrichment technologies have been developed: diffusion and centrifuge. To date, the gaseous diffusion process developed during World War II has provided all U.S. capacity. It is a mature, reliable process that has been used on a large scale for 30 years. The newer centrifuge process is anticipated to have several advantages over the diffusion method, and is generally considered to be the enrichment technology of the future. Nevertheless, because the centrifuge has not yet been commercially proven, the older diffusion process is expected to be used in the next enrichment facility constructed.

Need for enrichment capacity

With continued growth in electricity generated by nuclear fission, the eventual need for new enrichment capacity is clear, but the timing and magnitude of that need are not. How much additional enrichment capacity we need, and when we must have it depends on projections of nuclear power growth which can be either optimistic or pessimistic and on assumptions about the foreign markets to be served. Analysis by the Congressional Budget Office, however, suggests that the four private enrichment plants contemplated under H.R. 8401 will produce more nuclear fuel will be immediately needed but that this surplus will be used during the 1990's.

Nuclear Fuel Assurance Act

Enactment of the pending Nuclear Fuel Assurance Act (H.R. 8401), would permit private financing, construction, ownership, and operation of new uranium enrichment plants subject to action by the Appropriations Committee and to approval by Congress of each of the individual project guarantees. The bill would authorize ERDA to provide private industry with classified uranium enrichment technology, for which users would pay royalties. Private developers could purchase certain unique materials, services, and equipment from the Government on a "full-cost recovery" basis (i.e., ERDA would be reimbursed for all costs except certain R. & D. expenses recoverable through royalties). The Government would warrant that the enrichment technology would perform to specification. H.R. 8401 as amended on the House Floor, says that any future liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the technology will work. To ease startup of the new private facitilies, the Government could provide access to its enriched uranium stockpile, either purchasing production overruns if private customers were not ready to take delivery or providing stockpiled enriched uranium to customers at cost if initial private production were insufficient.

Government responsibility in the event of default

To implement the warranties and to protect private lenders, ERDA would be authorized—if a particular private project faltered—to take over the plants, assume domestic assets and liabilities including project debt, and—depending on the reasons for failure—to compensate domestic equity investors. These warranties and conditions would be spelled out in cooperative agreements entered into by the private companies and ERDA and approved by Congress under the terms of the Nuclear Fuel Assurance Act.

The bill also directs ERDA to begin the work necessary to build an add-on diffusion plant at the existing Portsmouth, Ohio, facility, in addition to any private cooperative agreements and plants that may be approved.

Guarantees to overcome obstacles

The guarantees authorized by the bill are designed to overcome three major obstacles to private development: classified technology, size of initial investment, and potential risks to investment. Warranties of Government technology would eliminate uncertainty about the performance of classified technologies. The other obstacles would be removed by the Government's agreement to take over a project and compensate investors, if necessary.

An agreement that the Government would, if necessary, assume the loan obligations of a project would remove the risks facing lenders and, simultaneously, enable the project to raise a large portion of invested capital through borrowing. That ability reduces problems arising from the size of the investment required.

The ability of a project to raise a large portion of its financing through debt that is unsecured by the general assets of the equity investors also reduces the risk faced by equity investors (stockholders). When firm contracts with customers ensure a steady stream of revenues upon project completion, the main risk to equity investors would be the possibility of losing their initial capital investment. A high debt/equity ratio made possible by guarantees would limit this risk because the maximum that equity investors could lose would be the relatively small equity investment.

Investment tax credit

The investment tax credit acts, in addition to the guarantees, to reduce even further the capital investment actually contributed by equity investors. Under some circumstances, tax benefits accruing to equity investors could exceed their investment in the project.

ERDA has received four proposals to construct uranium enrichment plants from firms anticipating utilization of the assistance that would be provided by the Nuclear Fuel Assurance Act. The existence of these proposals indicates that the incentives proposed in H.R. 8401 would be sufficient to stimulate private investment.

Who should own the enrichment plants?

Underlying the issue of whether to enact the Nuclear Fuel Assurance Act is the broad question of who should construct and operate future enrichment facilities. Several options exist. They are Government ownership, cooperative arrangements with industry (which H.R. 8401 proposes), and mixed Government-private ownership. In addition, the existing enrichment plants could be sold to private interests or the question itself could be postponed beyond fiscal year 1977.

Case for Government ownership

The case for Government ownership rests, to a considerable extent, on the belief that the degree of competition required to realize the potential benefits of private ownership is unlikely to develop and that, despite the large initial outlays, additional Federal enrichment activities would ultimately return large revenues to the Government. Another form of Government ownership would be to create a Government-owned corporation to enrich uranium. The case for this suboption rests on the desirability of retaining Government ownership of a Government-developed technology and revenues from it, while avoiding large direct Federal budget impacts and realizing some of the efficiencies associated with corporate (versus Government) business practices.

If the Government were to own all new capacity (here assumed at 6 plants by year 2000), substantial annual outlays, according to CBO, would be required to finance construction. The annual outlays will rise to a peak of approximately $2.7 billion by 1984 and diminish thereafter. Annual revenues from sales would also increase but would not exceed annual outlays until 1988. Cumulative revenues would exceed cumulative outlays, including assumed interest in 1983.

Case for private ownership

The case for private ownership rests generally on the presumption that broad efficiencies characterize private undertakings, and on the philosophical belief that production of materials is an activity best suited in our society to the private sector.

If private industry were to own all new capacity, no Federal outlays beyond those currently planned would be required—assuming contingencies would not occur—and no revenues from new sales would be received. However, the Government would receive royalties for the use of Government-owned technology. If, for example, a royalty rate were negotiated at 3 percent of gross revenues for 17 years, each large private facility could pay the Government more than $400 million in cumulative royalties during those years, and annual revenues from six plants could reach $150 million by the early 1990's.

However, in order to encourage private sector ownership the Federal Government could be at risk for amounts ranging up to $8 billion ($1.4 billion for the diffusion plant, $1 billion for each smaller centrifuge plant, plus contingencies and an inflation factor) from initiation of construction to sometime after the date of full commercial operation. While ERDA believes default is very unlikely it is a possibility and hence a risk.

Mixture of private/Government ownership

The case for a mixture of private and Government-ownership rests on the belief that the need for the first new increment of capacity in the mid-1980's is such that planning and construction should begin in the very near future and that Government, with its experience in building and managing three existing facilities using a proven technology, is in the best position to own this next facility, which is likely to be the last one using this older technology. Private industry would then assume responsibility for providing other future additions to capacity using new technologies. This option would be provided by the Nuclear Fuel Assurance Act which directs ERDA to construct another enrichment plant in addition to any private facilities.

If ownership were mixed, with the Government owning the next facility and the private sector owning further additions, the Government would receive both royalties and enrichment revenues. Royalties would reach about $125 million annually by the early 1990's. Initial Government outlays would reach a maximum of $0.9 billion in 1983, with the cumulative debt (including assumed interest) repaid by 1993, and cumulative net revenues reaching over $4 billion in year 2000.

An additional option would be to delay any decision on future enrichment facilities for at least 1 year. Since the Government-owned additional plant has been authorized independently of H.R. 8401 the next diffusion plant would proceed even if the action on the bill were to be delayed. Thus, the primary effect on enrichment development might be to delay initial work on centrifuge facilities.

A final additional option would be to sell existing plants to private corporations. If this alternative were considered in lieu of the Nuclear Fuel Assurance Act, it would clearly settle the issue of whether uranium enrichment facilities should be private. It would require the Federal Government to forego revenues from the existing plants which, from 1976 through 1990, could total $9.2 billion. In place of this revenue source would be the value of the plants to be sold.

This alternative alone, however, would not address the issue of providing for future increases in enrichment capacity.

Synthetic fuels

Synthetic fuels are usually considered to include gas and oil made from such sources as coal, oil shale, or urban or other waste, but not gas made from oil. Production of such synthetic fuels would be eligible for support under H.R. 12112 which is now being considered in the House of Representatives.

Present technology

Several processes for producing synthetic fuels have been developed. Some of the older processes have been demonstrated to work, and have been put to use in foreign countries. However, much of that production is subsidized, and the scale of production is considerably smaller than that envisioned for programs proposed in the United States.

ERDA conducts an extensive research program aimed at developing "second-generation" processes for producing synfuels that promise to be more economically attractive, efficient in use of resources, and environmentally acceptable. Nevertheless, such technologies are not yet available, and economics of existing processes have not, in the past, been sufficient to induce industry to produce synthetic fuels commercially in the United States.

Costs of producing synthetic fuels

Current estimates of the cost of producing synthetic fuels exceeded by a considerable margin the prices at which competing fuels can now be purchased. For example, Dr. William McCormick, Director of ERDA's Office of Commercialization, testified at the hearings of the Energy Task Force that while high-Btu pipeline gas might cost $3.25 to $3.50 per million Btu, the highest price at which natural gas now sells (in intrastate markets) is under $2 per million Btu. Mr. Frank Cannon of the Koppers Company agreed, stating that for 4 years Koppers which has 17 plants overseas has tried to market its gasification process in the United States without success, because the cost of producing gas with that process was too high for potential U.S. customers at current prices.

Relevance of future price/cost to profitability

However, as Dr. McCormick remarked in his testimony, the relevant comparison is between future energy prices and future costs of synthetic fuels. If energy prices were to increase rapidly, synthetic fuel production could become a profitable enterprise. Studies performed for ERDA have indicated that it is unlikely that energy prices will rise rapidly enough to make synthetic fuel production profitable before 1985, but that such market forces probably would create a private synthetic fuel industry after 1985.

Goals of a synthetic fuel program

In proposing a synthetic fuels commercialization program, the Administration specified three goals for 1985: (1) development of technical, environmental, and economic information on synfuel production processes; (2) accumulation of experience with synfuel production in American industry; and (3) production of significant quantities of synthetic oil and gas. To achieve these goals, the President initially proposed price guarantees, loan guarantees, and construction grants designed to achieve an interim synthetic fuel production target equivalent to 350,000 barrels of oil per day, with an option of expanding the program to 1 million barrels per day by 1985. The first part of the Administration's program, $6 billion in loan guarantees, was defeated in the House of Representatives last year. This year the Administration is requesting a smaller $2 billion program of loan guarantees.

The relative importance given to the production and the information goals can influence the desirable size of a synthetic fuel program. The information objective might be achieved, according to CBO, with a program too small to increase domestic energy production significantly. That objective could be pursued effectively if a target production of 350,000 barrels per day by 1985 were chosen, but substantial information might also be generated by a smaller program. One with a target of 125,000 barrels per day would allow construction of one plant to produce each type of fuel included in the larger program. To achieve a 125,000 barrel per day target might require $1.5 billion in loan guarantee authority, $1.7 billion in price guarantee authority, and $230 million in construction grants. Such a program might support construction of five plants.

Different versions of synfuels bill

Congress is considering a variety of options for assistance to synthetic fuel production. The version of H.R. 12112 reported by the Committee on Science and Technology of the U.S. House of Representatives would provide only *loan* guarantees as an incentive. The House Banking Committee and the House Commerce Committee reported amendments to H.R. 12112 that would add authorization of price guarantees. The Commerce Committee amendments also altered the scope of assistance by excluding all fuels produced from coal from receiving guarantees and by allowing synthetic gas at prices higher than those allowed by the Federal Power Commission if customers can be found.

Direct Government ownership

If a decision were made to restrict the scale of synfuel production while pursuing the information goal vigorously, direct Government ownership of a small number of plants constructed and operated by private contractors (much like present uranium enrichment plants) might be desirable. Such an approach appears well-suited to dealing with environmental and socioeconomic consequences and to acquiring public knowledge of synfuel technology and economics. On the other hand, it would not foster creation of a private synfuel industry, but would put the Government in the oil and gas business (directly competing with private industry) if high production targets were chosen.

Alternatively, the Government could construct synthetic fuel plants and then sell or lease them to private industry, as suggested by Senator Bellmon. Such an approach would remove the "front-end" risks of constructing synthetic fuel plants, because plants would not be transferred to the private sector until they were completed and licensed successfully. However, if the costs of producing synthetic fuels were to prove to be higher than the selling price of alternative fuels, the Government would be unable to recover its entire cost through sale or lease to private investors. Resale "at a discount" would then provide a mechanism through which the Government would provide an adequate subsidy to induce the private sector to produce synthetic fuels.

Government cost-sharing with private industry could similarly reduce the initial cost borne by private enterprise, and thus reduce the price private industry would have to charge to recover its investment and earn an adequate profit.

According to CBO, to construct the same plants included in the program budget provided by ERDA in testimony on the loan guarantees of H.R. 12112 would cost about $5.9 billion; those outlays would occur between 1977 and 1985. If current projections of prices and costs are correct; revenues would not be sufficient to repay this investment with interest: the shortfall would probably be on the order of $1 billion over the life of the plants.

Development of new technologies

ERDA is developing several advanced synfuels processes that could improve the economics, reliability, and environmental impact of synfuel processes. Pilot plans for several second-generation processes are under construction or operating, and a request for proposal has been issued for a demonstration-scale plant to produce synthetic boiler fuels from coal.

In many cases adequate private investment in research is not forthcoming without Government support since the enterprise which bears the costs and risks of research cannot share in its full social benefits. In the commercialization stage the rewards to private enterprise may more closely approximate the social benefits. If these considerations apply in the case of synthetic fuels, Congress may find it appropriate to emphasize Federal involvement in support of research while giving responsibility for commercialization to private enterprise.

Demonstration plants

The President's budget for 1977 proposed authorization for three new demonstration plants: one designed to convert high-sulfur coal to clean boiler fuel, one to convert coal to a "high-Btu" gas of quality sufficient to ship by pipeline, and one to convert coal to a "low-Btu" fuel gas for electric utilities and larger industrial users.

These demonstrations could require up to a total of $400 million in outlays by the late 1980's. Such projects would not be completed before 1985. Consequently, the new technologies probably would not be available for inclusion in synthetic fuel plants constructed before 1985.

By the year 2000, ERDA anticipates that advanced technologies will lead to production of 2 million barrels per day of oil from coal and possibly 10 quads (5 million barrels per day equivalent) of gas from coal.

Further research and development into new technologies for synthetic fuel production would provide a better technical basis for establishment of a commercial synthetic fuels industry.

If it is decided that a commercial synthetic fuels industry should be established immediately, a choice must be made among Government-ownership, provision of loan guarantees alone, or provision of loan and price guarantees.

Options to reduce risks

Loan guarantees can reduce "front-end" risks, especially those due to uncertainty about the cost or performance of new technologies. Government construction of a synthetic fuel plant, with later sale to a private firm, can perform a similar service. If concern about the market on which synthetic fuels would be sold is an obstacle to private development, such devices may be insufficient. Price guarantees, set at an appropriate level, could be effective in removing such an obstacle. Government construction of a plant then leased to the private sector could, depending on lease terms, reduce both regulatory and market risks.

CHAPTER VI. BUDGETARY TREATMENT OF GUARANTEE MECHANISMS

The budget

As noted by the 1967 report of the President's Commission on Budget Concepts the budget presents the financial plan of the Federal Government. This plan includes appropriations, receipts, expenditures, net lending, the means to finance a budget deficit (or the way to use a budget surplus) and information about Government borrowing and loan programs.

The budget is a "road map" of where we are going. It is both a statement of national priorities and an instrument which can be used to reorder those priorities. The budget is also an element of economic policy and a tool to shape that policy. Finally, the budget of the United States Government tends to reflect boundaries of activity between the private and Government sectors and between the States and the National Government.

The budget should reflect the full scope of Federal activity. Action by the private sector ought not to appear in the budget, but the various financial transactions of the Government, including its liabilities, should be reflected in some way. Otherwise, policymakers in both the Executive and the Legislative Branches may be unable to assess the full impact of their decisions.

Criteria for a budget

It is important that the budget fully disclose the nature and extent of the Government's liabilities. This includes contingent liabilities as these may have a significant budgetary impact. Moreover, it would be useful to know the beneficiaries of the resulting assistance or subsidies. Certain types of financial incentives will assist the consumer, some are designed to assist industry, and some would shift costs to one or the other.

In addition to reflecting the full scope of Federal activity, the budget should be precise in terms of amounts and clear in terms of concepts. Distinctions between budget authority and outlays, between contract authority and borrowing authority, between potential liabilities and actual expenditures ought to be recognized, "Federal spending" takes many shapes and to lump them all together at times ignores the complexity of budgetary concepts which themselves seek only to reflect the complex reality of public policymaking.

At the same time the budget should be understandable. With knowledge of a few basics, policymakers ought to be able to interpret the budget. The vast sums and the technical complexities must not obscure the fact that the budget is a tool for decisionmakers. It is also an instrument by which the general public can become informed as to the scope and direction of public policy. Unless the budget is understandable it cannot serve this important function.

Effects of guarantee

The various mechanisms to finance energy development all have an impact on the budget. Loan guarantees, price guarantees, and project guarantees are integral parts of the Government's financial plan. How the budget accounts for all guarantees will affect the amounts in the Fiscal Year 1977 Second Concurrent Resolution and future years, and may in the long run, affect the nature of the congressional budgetary process itself.

Loan guarantees

"The authority to insure or guarantee the indebtedness incurred by another person or government" is specifically excluded from the definition of "budget authority" provided in section 401(c)(2) of the Congressional Budget Act of 1974. Loan guarantees, therefore, have an "off-budget" characteristic which distinguishes them from most alternative methods of financing public objectives. Prior to passage of the Congressional Budget Act, many programs had been designed with "backdoor" spending mechanisms that provided budget authority without advance action by appropriations committees. In his testimony before the Committee's Energy Task Force, James L. Mitchell, an Associate Director of OMB, noted that in recent years there have been an "astonishing" number of loan guarantee proposals. "We have moved," Mr. Mitchell said, "from the old backdoor on appropriations into the guarantee technique."

Outside budget totals

The President's Commission on Budget Concepts report, which recommended that loan guarantees be reflected outside budget totals, stated that these guarantees were likely to become increasingly important. The Commission recommended that loan guarantees be summarized as a note in the budget and that serious consideration be given to "new forms of coordinated surveillance" of such guarantees. As stated in the report:

"Otherwise, an appropriate choice in terms of effective resource allocation may be difficult to achieve and the inclusion of direct loans in the budget may encourage an undue expansion of guaranteed and insured loans to avoid being counted in the budget."

Budget treatment of loan guarantees

At the Task Force hearings Stanley Lewand, a vice president of Chase Manhattan Bank, noted that Government support of private ventures such as loan guarantees "is not without cost to the taxpayers who assume all or part of the business risk in lieu of the venture's beneficiaries." Now that "total primary guaranteed loans (adjusted)" outside the budget total $174.6 billion, a major problem is how best to include that cost to the taxpayers in budget decisions. The Task Force hearing brought to light a conflict between the needs of budgetary control and the needs of economic analysis. Unless the cost of a program appears on the budget so that the program competes against other claims upon the Government's financial priorities, or the program is subject to some other adversary proceeding, it may escape adequate congressional review. Loan guarantees are therefore of concern to those interested in control. Philip S. Hughes, Assistant Comptroller at the General Accounting Office stated GAO's position "that there should be full disclosure of the budget impact of all existing and proposed Federal credit and credit support programs. Only by full disclosure can the full impact of such programs and the trade-offs with other Federal programs be evaluated." On the other hand, Dr. Arnold Packer, the Budget Committee's Chief Economist, stated that economists ordinarily exclude Government lending from those activities which should appear in the Federal budget. Treating loan guarantees as a Federal outlay, he felt, would provide a seriously exaggerated picture of the size of the Federal sector in the economy. "I would think that it would be distorting from a macro-economic point of view to put the lending in the budget," said Dr. Packer "Now if the Federal Government is going to operate a synthetic fuels plant or a nuclear enrichment plant, then it is a Federal activity and it belongs there, but not if it is the guarantee area or even in the lending area."

Another way to treat loan guarantees in the budget would be to estimate each year the amount of Federal payments likely to result from loan guarantee defaults and have that estimated amount appear in the budget as budget authority, accompanied by the associated estimate of outlays. The full exposure of the guarantees would not be reflected in the budget. Only the amount of expenditures that we anticipate will be needed would appear. For example, if a $2 billion solar energy loan guarantee program were established and were expected to have a 10-percent rate of default, the budget would show $200 million. The advantage of this approach is precision. Only the amount that is estimated to be necessary and that in all likelihood will be spent appears in the budget totals. The disadvantage is that the extent of the Federal liability is not shown nor is the economic impact of the guarantee upon the private sector. The Government might have to spend far more than the amount estimated to cover defaults than is shown in the budget. The budget thus would not reflect the complete potential for Federal spending.

This approach is how some (but not all) loan guarantee programs have been treated in the budget. In the case of the $2 billion synthetic fuels programs, the Administration has estimated a default rate of 25 percent and is requesting budget authority of $500 million that would appear in the budget to cover anticipated spending.

Treatment of assumed debt

If a default were to occur when Federal loan guarantees have been extended, the Government might well take over operation of the facility and assume its assets and liabilities. These liabilities will probably include debt. Whether this debt, when it is held by the Government, becomes part of the Federal debt subject to limitation that is reflected in the budget and shown in the concurrent resolutions of the Congressional budget is uncertain. The Task Force hopes that this issue can be reviewed in the Committee's major study of Federal financial guarantees.

Price guarantees

Price guarantees do not pose too great a problem in terms of budgetary treatment. Authority to implement a price guarantee program is requested through the normal authorization and appropriations process. If approved, an estimate is made of the program's costs, and the anticipated amount of budget authority is then provided through appropriations. This budget authority appears in the budget totals. One issue that does arise with such programs is in what year the budget authority should be carried? Should it be carried in the year the program is enacted? Or should it be carried in the year that the price support payments are required? The principle that budgetary costs should be acknowledged when the decision to establish a program is made argues in favor of showing the budget authority up front. Outlays of course would appear in the year they occurred. But the difficulty with estimating accurately what level of price supports might be required several years hence argues in favor of carrying the budget authority in the year for which it is necessary.

Budgetary treatment vs. budgetary control

The difficulty with programs that support prices is not budgetary treatment but rather budgetary control. Price guarantees can be entitlement programs. Once in place they can make demands upon the budget that must be honored. Given the unstable nature of prices, particularly in the energy area, these demands can be considerable.

Project guarantees

Project guarantees are intended to protect participants in a venture from the failure of a particular project. Guarantees are extended not to the financial institutions lending capital to the ventures but to the project itself. Much of the analysis in this staff report on the affect of loan guarantees applies equally well to project guarantees. But the liabilities incurred by project guarantees—unlike those of loan guarantees—are not specifically excluded by law from the budget totals. Because project guarantees are relatively rare, a discussion of their budgetary treatment can best occur in reference to a specific guarantee. The next chapter of this paper in part will discuss the budgetary treatment of the guarantees contemplated by the proposed Nuclear Fuel Assurance Act.

CHAPTER VII. THE SECOND CONCURRENT RESOLUTION

In the First Concurrent Resolution the Committee assumed $5.1 billion in budget authority and $4.2 billion in outlays for energy. These amounts were considerably above what the President had requested and reflected the Committee's view that energy ought to rank as an important budgetary priority. However, no provision was made in the Resolution for funding off-budget energy proposals. This exclusion was not meant to prejudice Senate action. The Committee simply believed that sufficient information was not then available to review these proposals. As stated in the report:

". . . by not including any funds in the First Concurrent Resolution for the Presidents' off-budget proposals, the Committee does not preclude any action on the specific proposals if they are brought to the Senate Floor. Both the off-budget issue and the specific program proposals themselves could then be reviewed in light of the First Concurrent Resolution and any available information. If significant on-budget expenditures were deemed appropriate by the Congress, an adjustment could be made by the Second Concurrent Resolution."

Since passage of the First Concurrent Resolution relating to both uranium enrichment and synthetic fuels has moved forward. The Committee must now determine in the Second Concurrent Resolution whether or not to adjust Function 300 targets to accommodate such legislation and, if those targets are to be adjusted, what budgetary treatment of budget authority and outlays is appropriate.

Available options

A number of options for treating the Nuclear Fuel Assurance Act and the synthetic fuels commercial demonstration program—if they are enacted—are available to the Committee. Each of these options is defensible from a technical viewpoint and yet each one has a very different effect on functional totals. In addition, the selection of one or another of the available options may establish a precedent.

Uranium enrichment scoring options [1]

The $8 billion in guarantees contemplated in H.R. 8401 could be treated in a number of ways. The Committee could choose to:

Score the full $8 billion as budget authority at the time of the appropriation. This approach is akin to scoring the full exposure of a loan guarantee program.

—Score the full value of each contract with a private venture at the time of ratification of each individual contract.

—Score partial amounts, representing the actual Government liability year-by-year, as the liability grows. For example, if all the contracts are approved, the first year of liability would be approximately $300 million.

—Score some fraction of the $8 billion as budget authority based upon an estimated rate of default greater than zero. This is the procedure presently contemplated by the Administration and the House Budget Committee for treating the synthetic fuels bill.

—Score nothing at all because the liabilities are contingent.

Score nothing at all

The position of the Administration is that no budget authority should appear since budget authority as defined in the Budget Act is authority to enter into obligations which *will* result in future outlays. If this approach is followed, Function 300 targets for fiscal year 1977 would require no adjustment. In the event the default occurred in some future year, that year's budget authority and outlay would have to be adjusted to reflect the actual level of Federal liability. It should be noted that this off-budget treatment is, in the view of the General Accounting Office, permissible but undesirable. In an opinion requested by SBC staff, the GAO stated that while the authority authorized in H.R. 8401 did not establish "budget authority" within the meaning of the Budget Act, the authority should be reflected in the budgetary totals if Congress is to achieve the maximum effectiveness of the new budget process.

Score some fraction

The case for scoring some fraction of the project guarantees is predicated on the assumption that some defaults will occur and future outlays will be required. In this instance, the Committee's final action could reflect the probability of failure associated with each of the component elements of the package. The components include the construction of one new gaseous diffusion plant and three centrifuge plants. It appears unlikely that the gaseous diffusion plant will fail for technological reasons. Therefore, a case can be made for not scoring the $1.4 billion of liability associated with its construction in the SCR. In the case of the three centrifuge process plants, however, some technological risk does exist since the process, at the commercial scale, proposed is new. If the Committee wished to show in the budget the amount of liability under H.R. 8401 associated with the gas centrifuge technology, $3 billion would be added to the budget totals.

Centrifuge plants are constructed as a series of "cascades". When the first such "cascade" is complete, the technological risk will have been resolved. At this time, success or failure is evident. Additional "cascades" need not be constructed. In the event that the process is not successful, construction could be suspended and the project guarantees paid out. The amount of Federal exposure under H.R. 8401 necessary to support the development of the first "cascade" is estimated to be approximately $400 million per centrifuge facility. If, as is planned three facilities, are extended guarantees and all three centrifuge plants fail, the Federal liability would total $1.2 billion. The Committee could, if it wished show this amount in the budget totals.

Score partial amount

Another option for the Committee would be to score a partial amount of the $8 billion in project guarantees contemplated by the Nuclear Fuel Assurance Act representing the actual liability on a year-by-year basis. Because the $8 billion constitutes the total liability over a period of several years, reflecting the $8 billion in the budget for any one year might distort the budget totals and exaggerate the liabilities. The amount of the Federal liability for the one year in question could be shown instead. If all the contracts anticipated under H.R. 8401 were reflected in the budget in this way, the liabilities for fiscal year 1977 would total approximately $300 million.

Score full value of each contract

Another budgetary treatment option for the Committee would be to score the full value of each contract with a private venture at the time of each individual contract. The $8 billion authorized in H.R. 8401 is the upper level of contingent liability that the Government could conceivably assume with regard to the four private enrichment plants expected to request project guarantees. Of the $8 billion, $1.4 billion is attributed to the one gaseous diffusion plant being planned, $3.0 billion is attributed to three centrifuge projects, and $3.6 attributed to contingencies and inflation. The budget could reflect the liability of the Government assumed through the project guarantees for each of the four enrichment projects or as many as are approved by Congress.

Score full amount—$8 billion

Another option would be for the Committee to score on budget the full amount of the liabilities contemplated by the proposed Nuclear Fuel Assurance Act. Thus $8 billion in budget authority—the upper level of liability—would be added to the budget totals at the time of the Second Concurrent Resolution. The Administration believes this option to be unwise because it artificially inflates budgetary totals while distorting the macroeconomic impact on the budget. As noted above, the Administration also believes that this option is unnecessary given the specific definition of budget authority in the Budget Act. Nevertheless the Committee might want to exercise this option because the $8 billion is the amount that the Federal Government is obligated to pay if a series of events concluding in the default of all the project guarantees were to occur.

When to score uranium enrichment options

In addition to the problem of what or how much to score in order to accommodate legislation such as H.R. 8401, the Budget Committee must determine when to score the required budget authority if at all. In the event that budget authority is required, should that budget authority be available at the time the Appropriations Committee takes action or at the time the contract is signed and the liability created? Or should budget authority be scored only when an actual Federal payment is required? It may well be most appropriate to score the budget authority at the time the resolution approving the individual contract is passed for it is at this time that the liability, however contingent, is established. In any event, accommodating current legislation dealing with uranium enrichment poses the questions of what to score and when to score.

Synthetic fuels scoring options

Many of the problems relating to how much and when to score budget authority for uranium enrichment are not present in the legislation relating to Federal guarantees for the development of a commercial synthetic fuels industry. H.R. 12112 provides for loan guarantees in the amount of $14 billion and allocates that amount equally in fiscal years 1977 and 1978. S. 2864, a version of the bill that passed the Senate last year, provides for $6 billion in guarantees allocated all in fiscal year 1977. For the loan guarantees in the House bill, it has been suggested that $500 million in 1977 budget authority be included in the budgetary totals subject to action by the Appropriations Committee. This amount represents a default reserve of 25 percent based upon a $2 billion loan guarantee program. This treatment of loan guarantees as budget authority, which the Administration accepts, would appear to be consistent with the Budget Act although guarantees have at times been treated differently in the past. In marking up the First Concurrent Resolution the House Budget Committee also accepted this budgetary treatment of loan guarantees and assumed $500 million in budget authority for a synthetic fuels commercialization program.

Price guarantees

Problems peculiar to synthetic fuels development and the legislative initiatives which support it are related to price guarantees. This is so whether or not the price guarantees are specifically contemplated in synthetic fuels legislation. Legislation reported by both the House Banking, Currency and Housing Committee and the House Committee on Interstate and Foreign Commerce contemplates varying levels of price guarantees over the 30-year life of the facility. No price guarantees are mentioned in the Science and Technology Committee's version of the bill. Yet there is little doubt that synthetic fuels, in the short run, will fail to be price competitive with either petroleum or natural gas. Hence some type of price guarantee seems inherent with synthetic fuels commercialization. The Administration's initial $6 billion synthetic fuel loan guarantee proposal recognized this for it specifically contemplated $4.5 billion in price guarantees for which authority was to be requested later on.

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[1] This section deals exclusively with the $8 billion in contract authority authorized in H.R. 8401 in as much as the $255 million authorized in section 4 of the bill for a new Federal enrichment plant is a traditional type of authorization. If the bill were enacted and funds were appropriated, the amount provided would appear on budget as budget authority with resulting outlays.

The exact time at which energy from synthetic sources will become price competitive is highly conjectural. Therefore the level and duration of the financial commitments associated with such price guarantees cannot be calculated. And their budgetary treatment thus becomes difficult. It may be that the Committee wishes to have budget authority scored for the year in which price payments are made, or the Committee may wish to estimate the amount in the budget for the year in which the synthetic fuels program was established. In either case members of the Committee and of the full Senate as well will want to realize that some form of price assistance may be necessary for the proposed synthetic fuels programs.

[GAO Office Report, August 24, 1976]

LOAN GUARANTEES SHOULD BE INCLUDED IN THE BUDGET

The Congressional Budget Act of 1974 (Titles I–IX of Public Law No. 93-344, July 12, 1974) is a comprehensive statute which sets forth many of the procedures by which the Federal budgetary process is to operate. Our interpretation of the Act's language and the intent of the Congress in enacting this legislation is that the total amount of loan guarantees including associated contingent liabilities are not required to be included in the Federal budget. Review of S. 2532 and H.R. 12112 indicate that such disclosure is not contemplated.

However, one must look beyond the language of the Act and consider that one of the fundamental objectives of the Congressional Budget Act of 1974 was to establish a process through which the Congress could systematically consider the total Federal budget and determine priorities for the allocation of budget resources. We believe this process achieves its maximum effectiveness when the budget represents as complete as possible a picture of the financial activities of Federal agencies. We further believe it is vital to maximizing the effectiveness of the process that Federal financial resources be measured as accurately as possible because priorities are actually established through decisions on the conferring of the authority to enter into obligations which will result in immediate or future outlays of Government funds. From this standpoint, therefore, the budget should (a) encompass all actions which confer authority to spend money, (b) reflect as accurately as possible the amount of such authority which is conferred, and (c) recognize the point at which control over the spending of the money passes from the Congress to the administering agency. The consequence of excluding loan guarantees and their associated contingent liabilities from the budget is to thwart Congress' achieving the maximum effectiveness of the process it established to review the Federal budget and determine priorities.

In the case of Federal loan guarantees for housing and other programs, historical experience permits the default rate to be estimated with reasonable accuracy and included in the budget. However, if the Congress enacts S. 2532, H.R. 12112, or similar legislation, authorizing a relatively small number of very large loan guarantees, we believe that it will be difficult to accurately predict the extent of default, and therefore, the total amount approved for loan guarantees should be shown in the budget.

CONSTITUTIONAL AUTHORITY EXISTS FOR RATIFICATION OF GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, once again I rise to address my colleagues concerning the necessity for congressional ratification of the Genocide Treaty.

Opponents to the treaty have long asserted that the entire subject of human rights is not appropriate for international agreement.

It is my view that genocide must be the concern of the community of nations, however, as the horror of its consequences knows no geographic boundaries. We should not allow the frightening memories of the World War II holocaust fade from our minds. Under the Constitution, the President has the power to make treaties by and with the advice and consent of the Senate. The Genocide Treaty falls within the realm of this constitutional authority. According to former Supreme Court Justice Thomas C. Clark:

> Treaties which deal with the rights of individuals . . . as a matter of international concern may be a proper exercise of the treatymaking power of the United States.

The United States not only has the authority to enter into such agreements but, there is no question that adequate precedent exists. A quarter of a century has passed since this country used its treaty powers to become a party to the United Nations Charter, one of whose basic purposes is the promotion of human rights for all. America has previously acted in conjunction with other nations to condemn those who violate agreements regarding seal hunting, opium trade, and slave trade.

Mr. President, in failing to ratify the Genocide Convention, the United States can no longer plead that it is constitutionally impotent to do so. The fact that genocide is an issue appropriate for concern and action seems obvious. It is our moral obligation and within our legal power to ratify this document. We must do so.

REVISED LIST OF PENDING ARMS SALES

Mr. HUMPHREY. Mr. President, on Wednesday, September 1, I placed in the RECORD a list of advance notifications of pending arms sales submitted to the Congress pursuant to section 36(b) of the Arms Export Control Act. At that time I noted that the information was fragmentary due to what I considered to be excessive classification by the executive branch. Since that time we have discussed this problem with officials of the Department of State and are now able to provide a few more details regarding the transactions in question.

Unfortunately, the executive branch still insists on classifying the identification of many items being sold. They base this decision on a rather vague reference to the "national security." In many instances the real reason such classifications are maintained is that either the seller or the buyer has asked that such details not be made public. While in some instances such requests might be justified, I think these instances are rare and I do not believe that they should be cloaked with the excuse that we are somehow protecting our security.

I ask unanimous consent that there be printed in the RECORD at the conclusion of these remarks a revised list of the notifications received September 1.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SEC. 36(b) NOTIFICATIONS RECEIVED SEPT. 1, 1976

Country, transmittal number, and quantity description	Value (million)
Israel:	
7T–41—Bombs	$26.8
7T–16—Ammunition	72.8
7T–26—Bombs	46.0
7T–27—Missiles	31.8
7T–47—Helicopters	64.0
Saudi Arabia:	
7T–15—Missiles	25.0
7T–21—Missiles	30.0
7T–22—Additional construction work AF Headquarters	160.0
7T–23—Family housing at Tabuk	88.0
7T–20—Training Center equipment	130.0
7T–35—Armored personnel carriers	10.0
7T–37—Aircraft	23.3
7T–38—Guns	12.4
7T–39—Launchers/missiles	7.9
7T–40—Saudi Arabian National Guard funds for training and modernization	215.0
Iran:	
7T–25—Torpedoes	20.5
7T–32—Missiles	39.0
7T–46—Missiles	150.0
7T–34—Missiles	52.0
7T–29—RH–53D aircraft support for 6 aircraft	25.0
7T–28—Conventional ammunition	105.0
7T–31—Helicopter repair parts	200.0
7T–36 (a and b)—Aircraft	(1)
Pakistan:	
7T–24—Torpedoes	16.1
7T–48—Missiles	14.2
7T–50—25 M88A1 tank recovery vehicles	20.3
7T–49—Armored personnel carriers	13.2
7T–30—Ammunition	15.7
Korea:	
7T–19—24 OV–10 aircraft	58.2
7T–51—733 AIM–9 Sidewinder missiles	20.8
7T–43—421 M48A1 tanks	37.7
Norway:	
7T–42—40 fire units and 900 Roland missiles	100.0
Philippines:	
7T–44—11 F–5E aircraft, training, and support	61.4
Australia:	
7T–33—Aircraft	(1)
Germany:	
7T–45—F–104G maintenance support/pilot training	38.8
Morocco:	
7T–17—20 T–2 aircraft, training, and support	88.9
Singapore:	
7T–18—21 F–5E/F aircraft, 200 AIM–9J1 missiles, training, support	109.7

[1] Confidential.

PRELIMINARY NOTIFICATION: PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practices.

I wish to inform Members of the Senate that such notifications were received on September 1, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LEGISLATIVE APPROPRIATIONS, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14238, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, on behalf of the Committee on Appropriations I am pleased to finally bring to the Senate H.R. 14238 and our recommendations for fiscal year 1977. The delay is certainly not our fault as the subcommittee marked up the bill back on June 24 anticipating House action a few days later. Unfortunately, the bill was twice pulled off the House schedule and finally was considered and approved by the House last Wednesday, September 1. Anticipating the House action, the full Committee on Appropriations reported the bill, subject to receipt of the bill from the House, on August 28 as we had anticipated Senate consideration before Labor Day.

Mr. President, I ask unanimous consent that Miss Mary Jo Manning of my staff be permitted access to the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. I ask unanimous consent that Dave Newhall and Dick Vodra be granted privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, will the Senator yield?

I ask unanimous consent that Jane Ellsworth of my staff have permission of the floor during consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill, as thus amended, be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

Mr. ALLEN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. I correct that. The Senator reserves the right to object?

Mr. ALLEN. I am reserving the right to object.

I would like to suggest to the distinguished floor manager of the bill that we agree to all of the Senate amendments as original text with two exceptions, one being the amendment on page 17 having to do with the compensation of Members of Congress and certain other officials, and also the amendment starting on page 36 having to do with the acquisition of another, fourth, Senate Office Building.

And if the floor manager of the bill would like to offer amendments striking the House amendments in the one instance or adding the Senate amendment in the other that would be in order. But I would be loath to agree to granting approval of all of the amendments, which would put the laboring oar on those who oppose the Senate committee action in these two areas.

So if the Senator would like to get all of the Senate amendments approved except those two, the Senator from Alabama would interpose no objection.

Mr. TAFT. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. TAFT. Will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I concur in the request of the distinguished Senator from Alabama. I just say that I think it would facilitate procedure with what I hope to bring up by way of amendment, when the amendment is offered.

I hope to offer an amendment to the committee amendment relating to salaries which would eliminate the salary increase only for Senators and Members of the House and would not eliminate the increases for the judiciary or the other officers that might otherwise be affected.

I think it would move more easily if this were done.

The PRESIDING OFFICER (Mr. GLENN). Is there objection to the unanimous-consent request?

Mr. HOLLINGS. I will amend the unanimous-consent request, that it be considered as original text en bloc, save and except two exceptions pointed out by my distinguished colleague from Alabama relative to the matter of pay on page 17, compensation and mileage for Members and compensation of Members, and on page 36 relative to the acquisition of property in square 630 in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as amended by the Senator from South Carolina?

Mr. ALLEN. Mr. President, I have no objection to offer.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

Beginning on page 2, insert:

TITLE I

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSES ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $5,052,630.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND MAJORITY AND MINORITY LEADERS

For expense allowance of the Vice President, $10,000; Majority Leader of the Senate, $3,000; and Minority Leader of the Senate, $3,000; in all, $16,000.

SALARIES, OFFICERS, AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $615,015.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the Majority and Minority Leaders, $251,540.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For offices of the Majority and Minority Whips $195,260.

OFFICE OF THE CHAPLAIN

For office of the Chaplain, $31,800.

OFFICE OF THE SECRETARY

For office of the Secretary, $3,323,290, including $151,370 required for the purpose specified and authorized by section 74b of Title 2, United States Code: *Provided*, That, effective October 1, 1976, the Secretary may appoint and fix the compensation of a Bill Clerk at not to exceed $25,440 per annum in lieu of not to exceed $19,080 per annum; an Assistant Bill Clerk at not to exceed $19,080 per annum in lieu of not to exceed $12,720 per annum; a Secretary at not to exceed $17,172 per annum in lieu of a Receptionist at not to exceed $17,172 per annum; a Registrar at not to exceed $16,218 per annum in lieu of a Secretary to the Curator at not to exceed $16,218 per annum; a Clerk at not to exceed $10,812 per annum in lieu of an Assistant Messenger at not to exceed $10,812 per annum; an Historian at not to exceed $29,574 per annum; an Associate Historian at not to exceed $18,126 per annum; a Photo Historian at not to exceed $25,281 per annum; a Research Assistant to Historian at not to exceed $10,335 per annum; a Secretary to Historian at not to exceed $11,130 per annum; an Information Clerk, Digest, at not to exceed $10,017 per annum; and a Secretary, Stationery Room, at not to exceed $13,356 per annum: *Provided further*, That, effective October 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $37,842.

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $9,660,685.

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $227,255 for each such committee; in all $454,510.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, $48,190,355.

LEGISLATIVE ASSISTANCE TO SENATORS

For legislative assistance to Senators, $5,500,000.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of the Sergeant at Arms and Doorkeeper, $15,579,010: *Provided*, That, effective October 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Administrative Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $36,729 per annum in lieu of not to exceed $35,298 per annum; a Superintendent, Service Department at not to exceed $35,457 per annum in lieu of not to exceed $31,482 per annum; a Director, Computer Center at not to exceed $35,457 per annum in lieu of not to exceed $34,344 per annum; a Director, Recording Studio at not to exceed $35,457 per annum in lieu of not to exceed $34,662 per annum; a Telecommunications Adviser at not to exceed $29,574 per annum in lieu of not to exceed $27,348 per annum; a Chief Cabinetmaker at not to exceed $22,737 per annum in lieu of not to exceed $20,670 per annum; a Chief Janitor at not to exceed $19,557 per annum in lieu of not to exceed $17,808 per annum; an Assistant Superintendent, Service Department at not to exceed $22,578 per annum in lieu of not to exceed $20,988 per annum; a Night Supervisor, Service Department at not to exceed $19,875 per annum in lieu of not to exceed $15,264 per annum; a Supervisor, Printing Section at not to exceed $18,921 per annum in lieu of a Foreman of Duplicating Department at not to exceed $17,808 per annum; a Supervisor, Folding Section at not to exceed $18,921 per annum in lieu of a Chief Machine Operator at not to exceed $15,582 per annum; a Supervisor, Addressograph Section at not to exceed $18,921 per annum in lieu of not to exceed $14,628 per annum; two Audio Engineers at not to exceed $13,356 per annum each in lieu of an Audio Engineer at not to exceed $13,356 per annum; a Micrographics Supervisor at not to exceed $21,147 per annum; an Assistant Micrographics Supervisors at not to exceed $16,536 per annum; a Secretary-Receptionist at not to exceed $10,812 per annum; a Senior Folding Machine Operator at not to exceed $12,243 per annum; a Senior Addressograph Operator at not to exceed $12,243 per annum; twenty Laborers, Service Department at not to exceed $9,222 per annum each in lieu of seventeen Laborers, Service Department at not to exceed $9,222 per annum each; ten Office Systems Specialists at not to exceed $15,582 per annum each in lieu of seven Office Systems Specialists at not to exceed $15,582 per annum each; ten Senior Programer Analysts at not to exceed $25,122 per annum each in lieu of eight Senior Programer Analysts at not to exceed $25,122 per annum each; three Network Technicians at not to exceed $20,352 per annum each in lieu of a Network Technician at not to exceed $20,352 per annum; two Secretary-Typists at not to exceed $12,402 per annum each; three Systems Supervisors at not to exceed $29,892 per annum each in lieu of a Systems Supervisor at not to exceed $29,892 per annum; an Operations Supervisor at not to exceed $20,988 per annum; eight Lead Operators at not to exceed $14,628 per annum each in lieu of six Lead Operators at not to exceed $14,628 per annum each; two Data Conversion Operators at not to exceed $10,017 per annum each in lieu of a Data Conversion Operator at not to exceed $10,017 per annum; a Training Specialist at not to exceed $20,034 per annum; five Printing Operators at not to exceed $14,946 per annum each; three Quality Controllers at not to exceed $14,946 per annum each; three Assistant Chief Telephone Operators at not to exceed $13,356 per annum each and an Auditor at not to exceed $13,356 per annum in lieu of four Assistant Chief Telephone Operators at not to exceed $13,356 per annum each; twenty-one Telephone Operators at not to exceed $10,494 per annum each, a Secretary at not to exceed $10,494 per annum, four Clerks at not to exceed $10,494 per annum each, and an Auditor at not to exceed $10,494 per annum in lieu of twenty-seven Telephone Operators at not to exceed $10,494 per annum each; a Chief Barber at not to exceed $12,084 per annum in lieu of a Foreman of Skilled Laborers at not to exceed $12,084 per annum; a Chief Barber at not to exceed $10,971 per annum; two Barbers at not to exceed $11,130 per annum each in lieu of two Skilled Laborers at not to exceed $11,130 per annum each; three Barbers at not to exceed $9,381 per annum each; forty-eight Laborers at not to exceed $9,222 per annum each and a Barber Shop Attendant at not to exceed $9,222 per annum in lieu of forty-nine Laborers at not to exceed $9,222 per annum each; a Barber Shop Attendant at not to exceed $4,134 per annum; seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; sixteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K–9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each: Provided further, That not to exceed $45,000 of this appropriation may be used to employ special deputies.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $311,645.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $5,500,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, $629,700.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $422,855 for each such committee; in all, $845,710.

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, $45,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including $600,385 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, $21,354,485.

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $4.07 per hour per person, $90,905.

MISCELLANEOUS ITEMS

For miscellaneous items, $17,807,000.

POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $420; Chaplain, $200; and for air mail and special delivery stamps for the office of the Secretary, $610; office of the Sergeant at Arms and Doorkeeper, $240; and the President of the Senate, as authorized by law, $1,215; in all, $2,685.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, and for committees and officers of the Senate, $27,150; in all, $31,650.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Effective October 1, 1976, section 105(d) (1) of the Legislative Branch Appropriation Act, 1968, as amended and modified, is amended by striking out "calendar year" each place it appears and inserting in lieu thereof "fiscal year".

(b) Subject to the provisions of section 105(d) (2) of the Legislative Branch Appropriation Act, 1968, as amended and modified, the amount of accrued surplus available to any Senator under section 105(d) (1) of such Act at the close of September 30, 1976, shall be available to that Senator during the period beginning on October 1, 1976, and ending on December 31, 1976, for the purposes of fixing the number and rates of compensation of employees in his office.

SEC. 102. Section 108(c) of the Legislative Branch Appropriation Act, 1976, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) If (A) a Senator's service on a committee terminates (other than by reason of his ceasing to be a Member of the Senate) or a Senator's status on a committee as the chairman or ranking minority member of such committee or a subcommittee thereof changes, and (B) the appointment of an employee appointed under this section and designated to such committee by such Senator would (but for this paragraph) thereby terminate, such employee shall, subject to the provisions of subsection (e), be continued as an employee appointed by such Senator under this section until whichever of the following first occurs: (1) the close of the tenth day following the day on which such Senator's service on such committee terminates or his status on such committee changes or (2) the effective date on which such Senator notifies the Secretary of the Senate, in writing, that such employee is no longer to be continued as an employee appointed under this section. An employee whose appointment is continued under this paragraph shall perform such duties as the Senator who appointed him may assign.".

SEC. 103. Section 5533(c)(1) of title 5, United States Code, is amended by inserting before the period at the end thereof "($10,540, in the case of pay disbursed by the Secretary of the Senate)".

SEC. 104. (a) The Secretary of the Senate is authorized to reimburse any bank which clears items for the United States Senate for the costs incurred therein. Such reimbursements shall be made from the contingent fund of the Senate.

(b) The Secretary of the Senate is authorized to prescribe such regulations as he deems necessary to govern the cashing of personal checks by the Disbursing Office of the Senate.

(c) Whenever an employee whose compensation is disbursed by the Secretary of the Senate becomes indebted to the Senate and such employee fails to pay such indebtedness, the Secretary of the Senate is authorized to withhold the amount of the indebtedness from any amount which is disbursed by him and which is due to, or on behalf of, such employee. Whenever an amount is withheld under this section, the appropriate account shall be credited in an amount equal to the amount so withheld.

SEC. 105. (a) Effective October 1, 1976, except as provided in subsections (b) and (c), the maximum annual compensation of a mail carrier in the Senate post office shall not exceed $8,109.

(b) In the case of a mail carrier in the Senate post office who was serving as such a mail carrier on September 30, 1976, the maximum annual rate of compensation shall not exceed $11,130, so long as his service as such a mail carrier remains continuous.

(c) In the case of a mail carrier in the Senate post office (other than a mail carrier whose compensation is fixed under subsection (b)) whose regularly scheduled daily tour of duty begins on or before 6 a.m., the annual rate of compensation may be increased, in the discretion of the Sergeant at Arms and Doorkeeper, by not to exceed 10 percent. If such annual rate of compensation, as so increased, is not a multiple of the figure set forth in the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, such rate shall be adjusted to the next higher multiple of such figure.

SEC. 106. (a) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Employees Barber Shop Revolving Fund (hereafter in this section referred to as the "revolving fund").

(b) All moneys received by the Senate employees barber shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for additional compensation of personnel of the Senate employees barber shop, as determined by the Sergeant at Arms and Doorkeeper of the Senate, and for necessary supplies for the Senate employees barber shop.

(c) On or before December 31 of each year, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts an amount equal to the amount in the revolving fund at the close of the preceding fiscal year, reduced by the amount of outlays from the revolving fund after the close of such year attributable to obligations incurred during such year.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The Sergeant at Arms and Doorkeeper of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) This section shall take effect on October 1, 1976.

SEC. 107. No provision of this Act or of any Act hereafter enacted which specifies a rate of compensation (including a maximum rate) for any position or employee whose compensation is disbursed by the Secretary of the Senate shall, unless otherwise specifically provided therein, be construed to affect the applicability of section 4 of the Federal Pay Comparability Act of 1970 to such rate.

SEC. 108. The second paragraph under the heading "Administrative Provisions" in the Legislative Branch Appropriation Act, 1959 (72 Stat. 442; 2 U.S.C. 65b), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000 during any fiscal year".

SEC. 109. Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) is amended—

(1) by inserting after "Joint Committee on Congressional Operations" the following: "and the Select Committee on Intelligence of the Senate"; and

(2) by adding at the end thereof the following new sentence: "In the case of the Select Committee on Intelligence of the Senate, such consolidated report may, in the discretion of the chairman of such select committee, omit such information as would identify the foreign countries in which members and employees of such select committee traveled.".

SEC. 110. (a)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Government Operations is authorized, during the fiscal year ending September 30, 1977, to employ one additional professional staff member at a per annum rate not to exceed the rate provided for the four professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if the individual who was a reemployed annuitant and was employed by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, ceases to be so employed at such rate.

(b)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Commerce is authorized, during the fiscal year ending September 30, 1977, to pay one additional professional staff member at a per annum rate not to exceed the rate provided for the two professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if any of the individuals who were paid by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, cease to be paid at such rate.

On page 17, in line 4, strike out "I" and insert "II".

On page 23, in line 19, strike out "II" and insert "III".

On page 24, in line 10, after "$263,000" insert a colon and the following:

Provided, That, not to exceed $100,000 of the funds appropriated under this heading for fiscal year 1976 and for the period ending September 30, 1976, shall remain available until June 30, 1977.

On page 26, in line 12, strike out "$1,400,400" and insert "$1,618,860".

On page 29, in line 10, after "incumbent" insert a colon and the following:

Provided further, That $109,230 of this amount is provided to cover the costs of a 6 percent salary increase, approved retroactive to October 1, 1975, for the purpose of reimbursing the District of Columbia government for the costs of that salary increase from October 1, 1975, through September 30, 1976.

On page 30, in line 5, strike out "$178,600" and insert "$180,200".

On page 31, line 11, strike out "III" and insert "IV".

On page 31, in line 16, strike out "$6,624,000" and insert "$8,000,000".

On page 31, in line 17, strike out "IV" and insert "V".

On page 32, in line 9, strike out "V" and insert "VI".

On page 33, in line 25, strike out "$5,725,900" and insert "$5,853,900".

On page 34, in line 4, strike out "$147,500" and insert "$193,500".

On page 34, beginning with line 9, insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended: Provided, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts including costs-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other services and other expenses as may be necessary to carry out this paragraph: Provided further, That any cost-plus-a-fixed-fee general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: Provided further, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and apppurtenant thereto, which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

On page 40, in line 2, strike out "$11,172,000" and insert "$11,672,000".

On page 40, beginning with line 3, insert:

MODIFICATIONS AND ENLARGEMENT, CAPITOL POWER PLANT

For an additional amount for "Modifications and Enlargement, Capitol Power Plant", $12,000,000, to remain available until expended, and the limit of cost authorized by Public Law 93–50 (87 Stat. 109–110) for such project is increased by such additional amount.

On page 40, in line 20, strike out "VI" and insert "VII".

On page 41, in line 13, strike out "VII" and insert "VIII".

On page 41, in line 25, strike out "$66,589,400" and insert "$67,591,000".

On page 42, in line 5, strike out "$8,277,300" and insert "$9,408,300".

On page 42, in line 6, strike out $552,000" and insert "$1,683,000".

On page 42, beginning at the end of line 13, strike out the colon and lines 14 and 15.

On page 42, in line 21, strike out "$19,293,200" and insert "$19,900,000".

On page 44, in line 5, strike out "$20,800,800" and insert "$21,729,000".

On page 44, in line 18, strike out "$2,909,700" and insert "$3,087,000".

On page 47, in line 7, strike out "$88,500" and insert "$95,500".

On page 50, beginning with line 1, insert:

TITLE IX

COPYRIGHT ROYALTY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Commission, $268,000, which shall be available only upon enactment into law of S. 22 or equivalent legislation.

On page 50, in line 7, strike out "VIII" and insert "X".

On page 53, in line 1, strike out "IX" and insert "XI".

On page 54, in line 18, strike out "X" and insert "XII".

On page 55, in line 1, strike out "XI" and insert "XIII".

On page 55, in line 3, strike out "1101" and insert "1301".

On page 55, in line 9, strike out "1102" and insert "1302".

On page 55, in line 21, strike out "1103" and insert "1303".

On page 55, in line 24, strike out "1104" and insert "1304".

On page 56, in line 2, strike out "Senate and".

On page 56, in line 4, after "1975.", insert: on June 30, 1975. Effective October 1, 1976, the gross annual maximum rate of compensation of Pages of the Senate shall be $9,063, and such rate shall not be adjusted under any Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, except to the multiple specified in any such Order which is nearest to but not less than $9,060.

SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate and who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum.

(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months.

Mr. HOLLINGS. Mr. President, the House difficulty apparently had to with possible amendments relating to the allowances of the Members of the House. There is not one item in this bill that increases any Senator's staff or his allowances—except that in changing the allowance for administrative and clerical assistance from a calendar to a fiscal year basis, we do permit a Senator to carry over for 3 months any balance accrued as of September 30.

Our recommendations are summarized on the front page of the report. We are $16,559,520 over the amended budget estimates and we are within the committee's allocation of the first concurrent budget resolution for this bill.

While the committee recommends no changes in the Senator's staff and consolidated office allowances, we have not retreated in our support of the research, evaluation, mechanical assistance and workspace that modern legislators need in this age of specialized and technological issues.

SENATE

For instance, in the Senate we have established 45 new statutory positions, including 7 for the Secretary of the Senate that are mainly to make permanent personnel formerly on the Secretary's administrative roll. The remaining 38 new Senate positions are to assist our new Sergeant at Arms, who has renewed the vitality of that Office. The bulk of those new positions 24 are for the Computer Center to support the comprehensive legislative information system that will be operational later this year and the correspondence management system now being tested in 14 Senate offices. We also recommend the establishment of the grade of private first class for the privates on the Senate detail of the Capitol Police force that have served 2½ years in order to help Chief Powell stay competitive with the other D.C. police forces in retaining and recruiting good officers.

As usual, this bill takes care of many of the housekeeping functions of the Senate and we have inserted 10 new administrative provisions at the end of title I. The most noteworthy of these provisions cuts the salaries of the mail carriers in the Senate Post Office appointed on or after October 1, 1976 to $8,109 for the 26 to 28 hours a week that they work instead of the current salary of $11,130. The higher rate will prevail for the mail carriers on board September 30, 1976, for as long as they maintain continuous service as mail carriers.

JOINT ITEMS

There is little to say about the joint items except that they now amount to $55,488,860 of which $46,904,000 is for the franked mail sent out by the Congress. The official estimate from the U.S. Postal Service is in the hearings and the amount is based on the Congress mailing 328 million pieces of mail during 1977 and they project this volume rising by 6 million pieces a year in the future.

OTA AND CBO

During the 4 years I have chaired the Legislative Branch Appropriations Subcommittee I have tried to be fully supportive to the congressional research and evaluation agencies that can greatly assist us in performing and evaluation duties. During my tenure, the Office of Technology Assessment and the Congressional Budget Office have been established. The OTA has certainly demonstrated its ability to the Committee on Appropriations in the area of transportation, and has now completed a total of 33 assessments for the committees of Congress and we recommend the continuation of the controlled growth of that Office. The CBO got off to a bad start last year so the Director trimmed her original request to basically a continuation level plus 15 additional positions, which both the House and the committee recommends to strengthen CBO's work in national security and international affairs, and budget, tax, and fiscal analysis.

CRS AND GAO

For our two other research and evaluation units we are recommending a total of 866 positions for the Congressional Research Service and 5,144 for the General Accounting Office. In the case of the CRS, as well as the rest of the Library of Congress, the House allowance was more harsh than in other areas of the bill, and we have restored the full request for in-depth analysis for committees. A large part of the GAO increase is for the additional duties assigned by the Energy Policy and Conservation Act and to maintain GAO's reviews of Federal programs. The recent report by our Defense Subcommittee certainly reflects the assistance of the GAO to this committee, and I know also of the good work of the GAO for Senators and other committees.

LIBRARY OF CONGRESS

As I indicated earlier, the House made 54 percent of their cuts in the Library of Congress. The new Librarian made a good appearance at our hearings and we recommend the restoration of 31 positions to strengthen the reference and processing departments and other areas of the Library. We have also provided $1,951,000 and 61 positions to carry out the proposed Copyright Revision Act that was authored by our distinguished chairman, Senator MCCLELLAN, and passed the Senate as S. 22. It now appears likely that S. 22 will become law before Congress adjourns and the committee has made provision for the Copyright Royalty Commission that is expected to be part of the final act. Finally, for the Library we have restored the full revised request for the books for the blind and physically handicapped.

ARCHITECT OF THE CAPITOL

For the Architect of the Capitol, the committee recommends a total of $124,479,500 including the full amounts requested for the Senate Office buildings and Senate Garage that were not considered by the House. We have also inserted $12 million in additional authorization and appropriation to complete the modifications to the Capitol powerplant, with the approval of the Committee on Public Works; in order that adequate heat and cooling capacity will be ready when the Dirksen extension and James Madison Memorial buildings are ready in 1979.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. CURTIS. Mr. President, I commend the distinguished chairman and his committee for their work on this appropriations bill. At a time when there are increasing pressures on budget and inflation and, at the same time, an increasing load of work for the Senate, it becomes a difficult task, I am sure.

They are to be commended for their attention and for the dedication they have given this.

There is an amendment that I offered a year ago relating to staff members. It was my intention to ask for an opportunity to appear before the distinguished chairman's committee to further elaborate on it. About 40 or 44 Senators supported it last year.

It has to do with what we have called a pooling arrangement for the hiring of a staff member.

The House of Representatives permits

two or more Members to employ the same staff member. The Senate is not permitted to do that. Here is how it could be used:

Perhaps two Senators from the same State have a problem they would like to have some specialized work done with. They would like to employ one technician and pay half of his salary by one office and half by the other. Under our existing rules and law in the Senate, that cannot be done. The only way we can do it is to have one Senator employ the technician for a month and then another Senator employ him for a month.

There are other situations. For instance, the minority of the Committee on Finance have used all their assignments, but we are desperately in need of a technician in the field of health. There are a great many qualified people in the field of taxation, but someone who is knowledgeable about all the programs and the laws relating to health, as well as the State laws involved, is a little bit difficult to find. Even if we found one, we have no place on the minority to place one.

If two or three Senators could go together and pay one staffer to serve them all, it would seem to me it would be a wise utilization of our resources. It would not add any dollar amounts to the total appropriation. At the same time, I think the Senators could work out a plan whereby they could render better service.

My question is this: Does the distinguished chairman have a position on such a proposal, and would he look with favor upon an amendment that would make such a practice possible?

Mr. HOLLINGS. Mr. President, in responding to our distinguished colleague from Nebraska, whom I admire, and who has served here for so many years, the way he presents this is so reasonable and so rational that one would almost jump to the chance to say, "You have persuaded me and I agree." He said, "Here is how it could be used." Our hard experience has been how it can be abused. That is why Wayne Hays is out of the Congress today, partially, because in addition to having them on the House post office payroll, he had them serving back in the district. This is the kind of thing we get into, identifying an individual and his particular pay and doing work for a particular Senator or a committee or at one particular post of duty.

I think having just suffered an abuse of it on the House side, which the Senator cited as an example, maybe we ought to be a little bit more cautious before we do that. I know when we get these very expensive consultants, and the Senators do not have adequate allotments to get the best, perhaps, as the Executive Department may be able to employ.

In any event, I would not look with favor upon this, and we did not include it. I know and appreciate the position of the distinguished Senator, but I would not favor the amendment because I think while he can cite that as an example of how it would work, unfortunately we have just gotten through a hiatus on Capitol Hill of how it does not work.

Mr. CURTIS. I thank the Senator for his candid observation.

I would like to suggest this: Certainly, we do not want to legislate any possibilities for loopholes, for staffs to be ballooned, or for the employment of people who do not perform service. If I elect not to offer the amendment at this time, and that is very likely to be my decision, I wonder if, by the time this bill comes around in another year, we could be granted a few minutes hearing before the committee to further explore the matter and to see if there is any possible way, after a hearing the next time, to restrict the language so that it could be used for full-time people right here in Washington under certain limitations that would give us the maximum protection against abuses.

On that basis, I would not offer the amendment now, if the committee would be willing to explore it between now and another year, on the condition, of course, that I would make the request to appear before the committee.

Mr. HOLLINGS. Certainly. The committee would want to hear from the Senator because he has a clear insight and view as to this particular need and its potential. We would be delighted to hear from the Senator. We will set it on our agenda during the year, and perhaps before the year is out on one of the supplementals. We will look at it and see if we can include the proper caveats to be sure there are no monkey shines and to be sure that we can get the job done. I know what the Senator intends.

Mr. CURTIS. I would not want to be a party to an amendment that would open up the possibility of abuses. We have enough of that now. I thank the distinguished chairman.

Mr. HOLLINGS. I thank the Senator.

400 NORTH CAPITOL STREET

The committee recommends language and appropriations totaling $39 million to enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire, maintain and make certain alterations of the property contained in lot 71 in square 630 in the District of Columbia—the 400 North Capitol Street Building—for Senate office building purposes. This building containing approximately 500,000 square feet of usable office space is immediately adjacent to the Capitol grounds and the committee believes that the acquisition of this building is the best and most economical solution to the Senate's critical office space and parking requirements.

As you will recall the Supplemental Appropriation Act, 1976 authorized the Sergeant at Arms and Doorkeeper to negotiate a lease for Senate use of this building. Negotiations with the advice and assistance of the Architect of the Capitol, General Accounting Office and General Services Administration were conducted earlier this year but it was not possible to come to an acceptable lease agreement. In fact, over the minimum 8-year period the Senate requires this additional space, the lowest level of rent negotiated with the owners, plus the taxes the Senate would have to pay, would amount to 98 percent of the $31,500,000 fair market value established by a GSA preliminary appraisal of the building with the tenant improvements included in the offer to sell the property to the Senate.

I reported these developments to the Committee on Public Works on March 18, 1976, a report that our ranking minority member, Senator SCHWEIKER, fully supports. The result was a request to the Commission on the Operation of the Senate for a study of the Senate's space needs. The Commission has indicated it would be difficult to accomplish this additional task in view of their already established plans to finish their work by the end of the year. No one knows better than this subcommittee of the need for planning on Capitol Hill since in 1973, and again in 1974, the Senate approved my recommendation for funds for a master plan. Each time the House turned us down, but finally last year we obtained an appropriation for a master plan. However, a contract was not entered into until April 19, 1976 and it will be next October before we see that master plan proposal.

Some 160,000 square feet of additional office space has been acquired since 1970 in square 724 immediately north of the Dirksen Building, but the Senate has experienced a 75-percent increase in employees over the same period so that these additional facilities are virtually all committed. This expansion has included the addition of two new committees—Budget and Intelligence—the additional personnel authorized for Senators (S. Res. 60) that in part, has required the assignment of 136 additional rooms above the prescribed allocation to 60 Senators; and the establishment of the Commission on the Operation of the Senate and the Committee on Committees; as well as major investigations of Watergate and intelligence activities. This expansion is not over as the Committee on Rules and Administration is now considering the "Sunset Bill" (S. 2925), that undoubtedly will require a major increase in staff to review the Federal programs as prescribed within that bill.

Even if we do not buy the building, the Sergeant at Arms requires 38,000 square feet in additional space to house the expanded computer center, including the second computer to be delivered early next year to provide the long awaited Senate comprehensive legislative information system. The Office of Technology Assessment, which is currently crammed into four different locations on Capitol Hill and must constantly rent expensive space in nearby hotels for meetings of their assessment panels, requires approximately 60,000 square feet. The most likely place to locate these two activities is in the 400 North Capitol Street building at an annual rental cost exceeding $800,000 a year, which undoubtedly will be followed by further leases to house additional Senate activities as the Senate continues to grow to meet the challenges of modern legislative age. We all know the result of following such a shortsighted path: One, the landlord will love us as we pay off his mortgage with our rent payments; second, a few years from now we will be beating our breast and bewailing the fact that we did not buy the building when we had the opportunity to do so.

The Architect of the Capitol has testified that $8 million in inflation costs could be saved if the Senate staff now housed in the Square 724 buildings could be transferred to the 400 North Capitol Street building, construction of the long needed underground garage for the Senate could be initiated some 3 to 4 years earlier than previously planned. The Senate moved into these inefficient and almost unsafe buildings because there was nothing else available at the time, but now we have what may well prove our only and last opportunity to house our employees in close proximity in proper and suitable space.

The 400 North Capitol Street building would carry a bonus of 948 additional parking spaces which would help terminate the silly situation we now have of 2,758 permits issued for the 595 unreserved spaces in the general parking lot with the result that the surrounding neighborhood is inundated with the cars of Senate staff. This situation will be further aggravated by the D.C. government plan to restrict curb parking on Capitol Hill to 2 hours during the day. In 1972 when the Committee on Appropriations approved the construction of the Dirksen extension, we deferred on the underground garage because of the 4,000 parking spaces planned for the Visitors Center. Last week the Interior Department announced that they were "buttoning up" that project without providing any additional parking facilities for tourists and visitors to Capitol Hill. This reinforces my conviction that we need to move promptly on the garage so that the visitors to our offices can eventually have some place to park their cars.

The completion of the Dirksen extension will not obviate the need for acquiring the 400 North Capitol Street building. As I have detailed above there is a demonstrated need for over half of that building right now, whatever portion the Senate does not need could always be used to satisfy the space needs of other compatible activities. The Architect of the Capitol has also indicated that after the extension is completed, no earlier than mid-1979 at best, there will be a continuing requirement for a reservoir of 150,000 square feet to allow the alterations contemplated for the Russell Office Building.

So that in sum, there is a justifiable Senate requirement for this building for at least 8 years. As I have indicated it would be approximately the same cost to purchase as it would be to lease the building for that period of time; the purchase would be at a price that, in the opinion of the Architect, is far less than it would cost to build such a structure today; and the Senate, instead of some outside landlord would be in the control of the building.

WEST CENTRAL FRONT

The committee has also inserted language and an appropriation of $25 million in the bill to authorize the Architect to restore the West Central Front of the Capitol without change in either location or architectural appearance. In my opinion, the present condition of the West Front is a shameful disgrace, particularly during our Bicentennial Year when the Capitol is being visited by unprecedented numbers of visitors. As the Members will recall, the Senate has twice voted for restoration and the last time in 1974 the House did not go along because construction would be underway during the Bicentennial observance. The major Bicentennial activities are now behind us and it is time we keep faith with our citizens who view their Capitol as the shrine of freedom and get work underway to maintain and preserve the last remaining wall of the original Capitol.

RESTRICTIONS OF COST-OF-LIVING INCREASES

As I indicated at the beginning of my remarks, the Committee on Appropriations considered H.R. 14238 before the House of Representatives took action on the bill. While this is indeed an unusual procedure, the committee has had to resort to this device several times in the consideration of the appropriation bills this year in order to maintain the rigid schedule prescribed by the Budget Reform and Control Act.

As I am sure that the Senators are fully aware, when the House approved this bill on September 1, several amendments were added on the floor of the House, one of which would prohibit the payment of the cost of living salary increases projected for October 1, 1976, to not only Representatives, but Senators, Federal judges and all other Federal personnel whose salaries are currently $37,800 or more.

This provision upon which no hearings were held and which impacts on all branches of the Government, was hidden in the appropriation for the compensation of Members of the House. The effect of this language is to prohibit the cost of living increases authorized by the Executive Salaries—cost of living—Adjustment Act that passed the Senate on July 28, 1975 by a vote of 58 to 29.

Mr. President, I am informed by the Office of Management and Budget that this amendment would amount to $28 million but that $23 million of that total derives from the cost of living increases for career civil servants in grades GS-15 through 18. It is ironic indeed that the proposed of this far-reaching provision, Mr. UDALL, on March 18, 1969 when the other body was embroiled in a similar battle remarked:

> The one question posed by this legislation is whether you want to penalize, to single out of the whole top echelon of the Federal establishment a few people in the House and Senate leadership and say that they will not get the comparable increases that other people have received.

Mr. President, I submit that we are still facing the same question 6 years later, namely, are we going to cut off our nose to spite our face? If the Members of the House cannot justify a cost of living raise of less than 5 percent for themselves that is one thing but this is one Senator who can testify to the cost of living as I am sure those long held down Federal executives and judges can too, as well as any American homemaker who knows you cannot feed and clothe a family at last year's level.

There is another facet of the cost of living increase that is noteworthy. There are several proposals before the President. The one advanced by his pay agents—the Director of the OMB and the Chairman of the Civil Service Commission—would average 4.83 percent, but on a sliding scale providing lesser amounts for the lower grades and higher increases for the upper grades, which means the upper grades will receive more than 4.83 percent, but the law we enacted last year allows us only the average of 4.83 percent. So the findings are that the top career civil servants are entitled to a greater increase, and while we, in my opinion, are no less worthy of the same increase, we are held to the average under the law.

In view of all this, I believe that this provision is inappropriate since it would reverse our action of last year and fall upon the whole Government without the benefit of any hearing or reports of any committee. It is faultily worded since it goes far beyond merely restricting the salary increases, but makes useless the Commission on the executive, legislative and judicial salaries. It is certainly misplaced as a rider to the appropriation for compensation of Members of the House, as it would impact upon all branches of the Federal Government.

Inasmuch as the committee consideration of this bill preceded the action of the House, the committee, therefore, had no opportunity to meet and consider this matter. As the manager of the bill, I ordered the entire provision stricken since the committee had no opportunity to take a position on this matter one way or the other.

Mr. President our report is on the Senator's desks and it is much longer than usual which I believe is an indication of the great number of substantive matters that were before our committee this year. I believe that the report fully explains the actions we have taken, and I would be pleased to answer any questions the colleagues may have regarding this bill.

Mr. President, in the haste to get our report published in the short time between the House action last Wednesday and the Senate's consideration today, a few small errors occurred in the report. In order to make the record correct I just want to note the following:

> On page 18 we actually propose 10 instead of 8 new administrative provisions, and over on page 19 it should indicate that we are discussing further 5 instead of 3 of the provisions.
>
> On page 20 we are referring to the "location of intelligence activities" instead of "relocation."

However, I would first like to yield to the distinguished ranking minority member of the Legislative Branch Subcommittee, Mr. SCHWEIKER, for whatever remarks he may have.

Mr. President, I want to thank my distinguished counterpart, the Senator from Pennsylvania, who worked very diligently and who has always given leadership to the matter of legislative appropriations, housekeeping in the Senate, and providing the tools for the legislative branch with which to work. He saw an inequality with respect to the pay of the messenger working within the Senate Post Office and those working on the elevators. As a result of his diligence, we have that reconciled in this particular bill.

I yield to him at this particular point for any statement he wishes to make.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I thank the distinguished chairman for yielding.

I just want to say that I commend him for his interest in this legislation, and also in the Capitol Building, the grounds, and Capitol problems. He has provided some sharp insight and some forward-looking thinking in terms of where we are going in the legislative appropriations bill.

Mr. President, I support the distinguished chairman of the Legislative Subcommittee of the Committee on Appropriations, Senator Hollings. He has provided a detailed description of this bill which provides the fiscal year 1977 funds required for the functioning of both houses of Congress, the Library of Congress, Congressional Budget Office, General Accounting Office, Government Printing Office, Joint Committees, and other joint activities.

The total for this bill is $1,008,850,285 as stated by the chairman of the subcommittee, which is $75,801,882 more than was provided in last year's bill. This increase includes inflation, pay raises, and those growth items already mentioned by Senator Hollings.

I would like to emphasize how the total amount of this bill is divided between the requirements for the Senate, the House of Representatives, and the other activities—which includes the GAO, Library, GPO, CBO, and other small activities.

This bill contains: $135,988,875 for the Senate; $241,773,550 for the House of Representatives; $631,087,860 for the other activities—which includes funds for the purchase of 400 North Capitol Street and the restoration of the west front of the Capitol.

It is apparent by this comparison that the Senate is not the biggest user of funds in this bill, even when the $35.5 million is added for the purchase of 400 North Capitol Street and $25.0 million is added for the restoration of the West Front of the Capitol.

Mr. President, the acquisition of the building at 400 North Capitol Street is supported by many of our colleagues who have experienced great difficulty in squeezing their staff into space meant for half as many people. We are all aware of our increasing staffing requirements as our constituencies grow and our mail increases proportionately. The acquisition of the building at 400 North Capitol Street will relieve the overcrowding condition in the Russell and Dirksen Buildings, as well as providing space for those offices now located in the various buildings across the street from the Dirksen Building. The new wing to the Dirksen Building, now named the Philip A. Hart Building, will not provide sufficient space to relieve the existing space requirements much less provide for growth in the future. Lastly, the purchase of the building at 400 North Capitol Street will permit earlier development of the underground garage in the area across the street from the Dirksen Building. Earlier development of the underground garage will reduce the inflation costs expected for the years after completion of the Hart extension to the Dirksen Building. I firmly believe that acquisition of this new building is a proper and prudent action for the Senate at this time.

Mr. President, I urge my colleagues' support for this bill as reported to the Senate.

Mr. HOLLINGS. I thank my distinguished colleague, Mr. President.

As I understand, the remaining committee amendments now to be considered before other amendments are offered.

I am looking on page 17, beginning at line 21, relative to the proviso, and including the language for the first six lines on page 18, that no money shall be used for increases in salaries of the Members of the House, or no moneys appropriated for the salary of an individual or the position or office referred to.

I call up that amendment, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 17, beginning at the end of line 21, strike out the colon and the language following through line 6 on page 18.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. HOLLINGS. I am sure the Senator from Alabama wants to be recognized.

Mr. ALLEN. Mr. President, I believe the distinguished Senator from Ohio (Mr. Taft) has an amendment he wishes to offer with respect to this committee amendment. The parliamentary situation regarding this amendment is that the House passed an amendment in its bill which we are now considering, H.R. 14238, providing that none of the funds appropriated by this act or any other act could be used to increase the salaries of Members of the House and the Senate, the judiciary and the Cabinet, and certain other agency heads, as I understand it, beyond the salary that they would be receiving on September 30 of this year.

Mr. President, I deplored the fact that last year there was added to a bill having nothing whatsoever to do with the salaries of Members of Congress and of the executives and the judicial departments a provision tying the salaries of the Members of Congress and the executive and judicial officers—not including, however, the President—in with the salaries of Federal employees generally, who are given cost-of-living raises every year. It created a built-in conflict of interest. Every time the President offered an alternate plan to that proposed by the Pay Commission, Congress would be called on and is being called on now to decide between the Pay Commission's plan for a raise based on cost-of-living increases and an alternate plan, if any, by the President.

When the Hatch Act provision bill was before the Senate, I offered an amendment at that time requiring that in this situation where the President offers an alternate plan for a pay increase different from that of the Pay Commission, there be a separate vote as to Members of Congress, so that there would not be any conflict of interest in that area.

That amendment was passed overwhelmingly here in the Senate, and as a matter of fact was accepted by the distinguished chairman of the Post Office and Civil Service Committee, the Senator from Wyoming (Mr. McGee). As I say, it passed overwhelmingly here in the Senate. The amendment, however, was dropped in conference.

So now we have a situation where Members of Congress, the Federal judiciary, the Cabinet, and I think many agency heads, receive well-nigh guaranteed pay increases every year.

That is hardly a factor that increases and embellishes the image of Congress. That provision, tying Members of Congress in with Federal employees generally, came in the back door, and I noticed that over in the House of Representatives last year, while it passed rather substantially here in the Senate, it passed there by just a 1-vote margin.

I believe that was a very bad public relations move on the part of Congress, to provide that Congress shall receive a built-in, guaranteed raise each year. Congress has enough of a problem maintaining a good image before the public, and I do not believe that it adds a great deal to the luster of congressional service to be raising our salary every year.

The House of Representatives has initiated this amendment, which provides that out of funds appropriated by this legislative appropriation bill—and, in order to include other Federal officials, judges, and executive officers, it provides that they shall not receive it from any other act—any compensation greater than that which they shall receive on the 30th of this month, inasmuch as the salary raise will not go into effect until the 1st of October.

The House passed this amendment overwhelmingly, and I assume they are serious about it. I assume they want that provision; they want that freeze. This amendment could well be called a freeze on salaries in the upper levels of all three branches of Federal service.

I think at this time, when we are supposedly fighting inflation and trying to hold down the amount of wage settlements in contract disputes between labor and management, it is not the time for Congress to be stepping in and demanding an annual pay increase for its Members.

The amendment in the House of Representatives does not apply to the rank and file Federal employees, except that it does put the same ceiling on the so-called supergrades in the Federal service—those in the $38,000 and $39,000 a year range, whose salaries have a direct relationship with the salaries paid to Members of Congress.

I assume, as I say, that the House wants that amendment passed over here in the Senate. I do not suppose they expect the Senate to kill their amendment. I do not suppose they expect the conference to drop their amendment, and they will not drop the amendment if we can keep it in.

When the bill was called up, the distinguished floor manager of the bill, the

Senator from South Carolina (Mr. HOLLINGS) asked unanimous consent that all the Senate committee amendments—and there are a number of them, possibly a couple of dozen—be agreed to as the original text, and added on to the bill, displacing, wherever applicable, the action by the House of Representatives.

I objected to that request—or I said that I wanted two of the amendments to be held out for action separately; I did agree to adopting all of the Senate amendments except two. One of those is the Senate committee amendment which would knock out the salary freeze of the House of Representatives. In other words, the Senate committee amendment would allow the pay increase. The other had to do with spending some $35 million in purchasing a fourth office building for the Senate, which, of course, would have to be greatly remodeled at a cost of many millions of dollars more to be put in shape for a serviceable office building.

The distinguished Senator from Iowa (Mr. CULVER) has stated that he is going to oppose the Senate amendment providing for the appropriation of the money for the purchase of this fourth Senate office building; and I shall certainly support him in his opposition.

But the effect of the parliamentary situation now is that the House amendment providing for a salary freeze for top Federal officials in all three branches of Government is before the Senate.

The Senate amendment—the Senate committee amendment I will call it, because it is not a Senate amendment as yet—the Senate committee amendment knocks out the salary freeze contained in the House amendment and it would lift the ceiling or lift the freeze. So rather than allow the Senate committee amendment to be adopted and considered as original text subject to amendment, which would put the laboring oar on those of us who support the pay freeze, I objected to the adoption or agreeing to that amendment, and place the laboring oar on the Senate committee and the floor managers of the bill to strike out the freeze contained in the House amendment.

I hope that the Senate will reject the Senate committee amendment and will leave the freeze in and freeze for this year, with an opportunity to look at it next year, but freeze for a year from October 1 the salaries of the top Members of Congress, the Federal judiciary, and the Federal bureaucracy.

So I believe that we will probably have this come to a vote after the discussion starting at 2 o'clock on the antitrust amendments. But I wanted initially to explain my position in the matter, to the effect, that I do favor the pay freeze put in the bill by the House of Representatives, and I oppose the Senate committee amendment which would strike out the pay freeze.

Mr. President, I call for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

UP AMENDMENT NO. 423

Mr. TAFT. Mr. President, I send an amendment to the desk and ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes unprinted amendment No. 423.

On page 18, line 2, strike out "section 225(f)" and insert "section 225(f)(A)".

On page 18, line 3, strike out "356" and insert "356(A)".

Mr. TAFT. Mr. President, the House adopted an amendment to the legislative appropriations bill which prohibits funds to be used for increases in salaries of Members of the House of Representatives and positions referred to in section 225(f) of the Federal Salary Act of 1967, as amended, at a rate which excludes the salary in effect on September 30, 1976.

There seems to be some question as to whether or not it would have an effect retroactively upon the cost-of-living increase that has already been put into effect. I am not sure which interpretation is the correct one. But perhaps we may have some comment on that later or some action taken to address itself to that situation.

The Senate bill also contains the same provision that the committee amendment would strike.

Section 225(f) of the Federal Salary Act refers to Members of the House and Senate, the Federal judiciary, and executive level positions I through V. Everyone down through level GS-16 will be included under this amendment. This amendment would effectively freeze those salaries—the employees would not be given a cost-of-living raise on October 1, or a salary increase. This would do further harm to our Government's efforts to attract or retain in Federal employment right, successful people.

For some time, I have been pushing legislation to take politics out of salary increases for Members of Congress.

Indeed, back when this Commission procedure was first adopted in the House of Representatives, I was a Member of the House and opposed it on the floor at that time, as representing, I thought, a failure of the House of Representatives to be willing to face up, to take the responsibility that I think the Constitution put on them to adopt their own salaries.

Mr. President, I have introduced legislation (S. 908), which would remove the jurisdiction of the Wage Commission over congressional salaries. The Wage Commission, every 4 years, recommends salary increases for top officials in the Government: The judicial, legislative, and executive branches. Congressional salaries would then be subject to change only by passage of a separate statute. However, my colleagues have not as yet agreed with me, and time and time again, legislation has passed which hides congressional salary increases in with those of other Federal employees. Or, conversely, legislation penalizes other Federal employees while piously depriving Members of a raise.

There are many Members who want raises and they should try to vote themselves one if they think that is correct. However, this raise should be enacted separately, not tied safely to the benefits of others.

In the bill before us today, members of the judiciary and the executive branch, many of whom are already turning elsewhere for more lucrative jobs, are again being penalized by Members of Congress. It is said that it is "demeaning" for Congress to make less money than other Federal officers. Yet the Members of Congress will not vote themselves a raise separately.

My amendment to the committee amendment would strike the provision of the bill that limits salaries of employees in section 225(f) of the Federal Salary Act of 1967. The bill would then apply only to Members of the House and of the Senate.

This Nation is looking at Congress with a critical eye at this time on our integrity, especially in this election year. In using or continuing to use a back-door approach to our salaries I think we are going a route that deprives us of giving the confidence of the American people.

I would be very much surprised if the public does not feel very strongly against an increase given in this backhanded way.

The Government has had a very difficult time in attracting, retaining, and motivating top officials in the executive, legislative, and judicial branches, however, and I recognize this. A pay raise for other Federal employees is fair and necessary to keep first-class people in Government service. However, I point out that there seems to be no lack of candidates for the jobs we hold in the House of Representatives and Senate. People who run for political office do so without regard to the salary offered in large respect. If Members want a change in their salary, they are entitled to vote for one, but they should not penalize other employees and the Government itself by their own actions. •

I shall mention one other aspect of this matter about which I feel rather strongly, and I feel Congress ought to adopt a policy with regard to salary increases that many State legislatures have adopted and, indeed, my own State of Ohio has a constitutional amendment to this effect. It is embodied in a bill which I have introduced, S. 2386, that is pending before the Committee on Post Office and Civil Service at the present time but on which no hearings as far as I know have been scheduled.

The effect of this bill would be to provide that if Congress votes a salary increase for Members of the House of Representatives or Members of the Senate, an increase could not become effective until after the next general election. This would mean that at least the voters in the House of Representatives as to all Members and the voters in the Senate as to one-third of the Members would have a right to express their opinion on the action that might have been taken and in a sense to ratify the recommended increase that had been passed for Members of the House of Representatives and Members of the Senate.

Mr. President, I believe this amendment that I have offered, a perfecting amendment to the committee amendment, or to the House amendment, actually, as it is before us, to be stricken by the committee amendment, is a sound proposal and one I think that merits the support of the Senate.

Mr. HRUSKA. Mr. President, I rise in support of the amendment just proposed by the Senator from Ohio.

Mr. President, we in the Congress have a heavy responsibility to maintain a high degree of quality and competence in our Federal judicial system. As a member of the Committee on the Judiciary I have been active in the confirmation hearings of hundreds of Federal judges, nearly 300 in number in the last 7 years alone.

I have had occasion to consider the history and record of judicial nominees and to question these highly qualified and distinguished lawyers about their backgrounds and abilities for sitting on the Federal bench. I have been impressed with the success and reputation that these men enjoy throughout the legal community and in their individual States and even nationwide. They generally come from the Federal bench, leaving successful and lucrative law practices. Most of them take significant income reductions when they accept appointment to the bench. It is well known that lawyers of the skill and experience we want on the Federal bench can command income far in excess of the current judicial salaries.

If, however, we keep the salaries at their present levels, we can anticipate a reduction in the quality of our judges. We will get what we will be willing to pay for.

Mr. President, the Federal judiciary has an important role in our Federal Government, and that is especially true because of the growth in recent years of new Federal agencies issuing thousands of regulations of which many require judicial review. Also, the many new laws provide for increased access to the court system, and an increase in the caseload.

It is only realistic to recognize that a lawyer's decision as to whether to remain or to serve on the Federal bench may ultimately turn on the consideration of pay. As we know, with the exception of the 5-percent increase in the past year, there have not been any increases since 1969. At the same time, the salaries of State chief judges have increased by approximately 45 percent during that same period. Attorneys' salaries, as surveyed by the U.S. Department of Labor, have risen 53 percent since 1969.

In addition, the report of the Committee on Post Office and Civil Service with respect to H.R. 2559 illustrated several examples of hardships created by the salary freeze. Since November of 1973, eight judges with lifetime tenure have resigned, to return to private life, and some specifically stated that the reason for their decision was the freeze on salaries.

Mr. President, Congress, by its action, created a most difficult administrative situation by freezing the higher salaries at the 1969 level in the executive branch while allowing the lower group salaries to keep pace with the increased cost of living. That cost of living increased for the senior grades as well.

As with the judicial branch, we face and risk in the executive branch the loss of talented, dedicated men and women whose responsibilities to their families must be weighed when they consider private employment with more attractive salaries.

It is my hope, Mr. President, that the Senate will approve, by a substantial margin, the amendment of the Senator from Ohio. In that way, we will be serving the cause of good government and one that would be consistent with our desire to keep the good people we have while continuing to recruit good people as we go along.

If it is the judgment of Congress that they do not want to face the responsibility of increasing their own salaries, that is fine. But we should confine our debate to congressional salaries and not seek to enlarge the company that is suffering misery. We should face the issue of congressional salary increases, our own responsibilities and apply it to ourselves, but for the above mentioned reasons we should not do so in the case of the executive branch and the judicial branch.

I yield the floor.

Mr. HOLLINGS. Mr. President, as I understand the Taft amendment, it would do part of what I am attempting to do. I do not want it to apply to the legislative branch, the executive branch, or the judicial branch—none of the three. As I understand the Taft amendment, it would strike out the matter pertaining to the judicial and executive salaries.

Mr. TAFT. The Senator is correct.

Mr. HOLLINGS. I am not trying to preempt anything, I say to the Senator from Alabama. I am willing to accept that part of the amendment, and then we can debate congressional pay, which I think is the real issue. Is that right? We can have a voice vote on that, if the Senator is willing.

Mr. ALLEN. It is all right with me.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Is the question now on the committee amendment as to strike the House language perfected by the Taft amendment, now the pending question? I would like to debate that a little and probably get the yeas and nays on it.

The PRESIDING OFFICER. The committee amendment has not been affected. The House language has been affected.

Mr. ALLEN. The motion to strike the committee amendment would take with it this amendment as well.

Mr. HOLLINGS. So it would have the same effect. That is right.

Mr. President, I ask for the yeas and nays.

Mr. STEVENS. Mr. President, will the Senator withhold that?

Mr. HOLLINGS. Yes.

Mr. STEVENS. Mr. President, I should like to raise a question about the language that begins on line 21, the first sentence of this amendment. That language, I think, should be plain that it applies to the increases to be recommended in this fiscal year, pursuant to that section.

I, too, am a little worried about what is going to happen to these perfecting amendments; and I call to the attention of the Senator from Alabama and the Senator from South Carolina the fact that this applies only to the House of Representatives. It is in the House of Representatives' title; it is not in the Senate's title.

Mr. HOLLINGS. That is right, it is on the House title and that is why I think it is inappropriate.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. TAFT. If the Senator will look at page 18 of the bill, there is additional language which applies to all those covered in 225(f), which covers the House and the Senate. In subsection (a) it covers the judiciary and the executive positions, and the other subsections of that section of the bill.

Mr. STEVENS. I am going to suggest that if it is to apply to both the House and the Senate, without any conflict, I question it. It should be in an amendment that goes at the end of the bill. I understood that the Senator from Ohio had such an amendment.

My worry about the first amendment, which is called the Shipley amendment, is that it appears to be retroactive. I would like to offer an amendment, but I do not want to offer an amendment if the matter can be stricken, anyway.

Is it the Senator's intention to maintain the committee's position to strike the whole thing?

Mr. HOLLINGS. That is right. I would still move to strike the whole thing. The Senator from Ohio understands that. He has a backup amendment for the last of the bill, in which he would reinsert what we have just agreed to; namely, that it would apply to the House and the Senate and not to judicial salaries.

I have to agree with Mr. UDALL, on the House side. The way the language reads which concerns the Senator and me, it would be retroactive. It says that no increases could be paid from this particular measure under that section, and that would apply not only to the increase for this year but also to the increase authorized last year.

Mr. STEVENS. I wonder whether the Senator from Alabama would agree to the committee procedure to strike this amendment, with the understanding that the amendment of the Senator from Ohio would go at the end of the bill and would apply to both the House and the Senate.

Mr. ALLEN. Does the Senator from Alaska state that his amendment would keep the provision from being retroactive as to the pay increase of last year but that it would not affect the freeze as to the upcoming raise, if any, on October 1? Is that correct?

Mr. STEVENS. That is correct—for Members of Congress.

The Senator from Ohio's version—I think the Senator from Alabama has seen it—has the same effect as the action we have just taken in adopting the first amendment of the Senator from Ohio.

Mr. ALLEN. Let me make this suggestion: Actually, the amendment of the Senator from Ohio was not necessary at this point, because I believe the motion of the committee is to strike the whole thing. If the committee amendment succeeds, the amendment of the Senator from Alaska and the amendment of the Senator from Ohio would be moot. If the motion fails, then there would be plenty of time for the Senator from Alaska to come in with his amendment.

Mr. STEVENS. I say to the Senator from Alabama—may we have 1 minute, Mr. President? I ask unanimous consent that it be permitted.

The PRESIDING OFFICER. Is there objection? Is that a unanimous-consent request?

Mr. STEVENS. That is a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The position of the Senator from Alaska is that where this language comes that was placed in the bill by the House, it will not apply to the Senate. I believe it ought to be applied to the Senate. I urge consent that we strike this now and deal with the section that applies to both the House and the Senate at the end of the bill.

Mr. ALLEN. When the time for the debate has come. I would rather consider the question there.

Mr. TAFT. Will the Senator yield for a moment?

Mr. ALLEN. Yes.

Mr. TAFT. I point out that I think there is a serious question whether the interpretation given here actually exists in the House language. Over on page 18 of the bill, lines 5 and 6, it does say, "salary rate in effect on September 30, 1976." I do not really think it is retroactive in any respect. I point out further that section 225(f) does cover House Members. The same limitation does not exist in the first sentence of the amendment.

Mr. ALLEN. I do not believe it does.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Under the previous order, the hour of 2 o'clock having arrived, plus the 1-minute extension, the Senate will now resume the consideration of H.R. 8532, which the clerk will state.

The legislative clerk read as follows:

AUGUST 24, 1976.

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 8532) entitled "An Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rodino, Mr. Brooks, Mr. Flowers, Mr. Sarbanes, Mr. Seiberling, Ms. Jordan, Mr. Mezvinsky, Mr. Mazzoli, Mr. Hughes, Mr. Hutchinson, Mr. McClory, Mr. Railsback, and Mr. Cohen be the managers of the conference on the part of the House.

The Senate resumed the consideration of the message from the House of Representatives on H.R. 8532.

AMENDMENT NO. 2232

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized to call up an amendment No. 2232. Time for debate on this measure is limited to 2 hours, to be equally divided and controlled by the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Nebraska (Mr. HRUSKA). Who yields time?

Mr. ALLEN. Mr. President, in accordance with the previous order, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ALLEN. I ask unanimous consent that its reading at length be dispensed with.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

I move that the pending motion to concur, with an amendment, in the House amendment to the Senate amendment to the text of the bill (H.R. 8532) be amended by substituting in lieu of the matter therein proposed to be inserted in lieu of the House amendment to the Senate amendment to the text of this bill (H.R. 8532) the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1977".

TITLE I—DECLARATION OF POLICY

SEC. 101. (a) It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement of the antitrust laws, to improve and modernize antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

(b) The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free, democratic society;

(2) the decline of competition in the economy could contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(5) vigorous and effective enforcement of the antitrust laws, and reduction of anticompetitive practices in the economy, can contribute to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms.

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

SEC. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Subsection (a) of section 2 is amended by inserting "and" after the semicolon at the end of subparagraph (1), by striking subparagraph (2) thereof, and by renumbering subparagraph (3) and striking therefrom "(A)" after the words "with respect to," substituting a semicolon for the comma after the words "trade or commerce" and striking the remainder of the subparagraph.

(b) Subsection (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities preparatory to a merger, acquisition, joint venture, or similar transaction, which may lead to any antitrust violation;".

(c) Subsection (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including any natural person or entity acting under color or authority of State law;".

(d) Subsection (h) of section 2 is amended by striking out the words "antitrust document".

(e) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning such information, or to furnish any combination thereof.".

(f) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the investigation and the provision of law applicable thereto or the Federal administrative or regulatory agency proceeding involved; and

"(2)(A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) propound with definiteness and certainty the written interrogatories to be answered; and

"(ii) prescribe a date or dates at which time answers to the written interrogatories shall be made; and

"(iii) identify the custodian to whom such answers shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examinations, and the custodian to whom the transcript of such examination shall be given.".

(g) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any

information that would be privileged from disclosure if demanded by, or pursuant to, a subpena issued by a court of the United States in aid of a grand jury investigation; and

"(2) (A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(h) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand or of any position filed under section 5 of this Act may be made upon any person who, in the opinion of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, is not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(i) Section 3 is further amended by inserting the following new subsections immediately after subsection (h), as redesignated:

"(i) The production of documentary material in response to a demand for production thereof shall be made under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed or, if the person to which the demand is directed is not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer, and the answers shall be submitted under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed, or if the person to which the demand is directed is not a natural person, by a person or persons responsible for the answers, to the effect that all information required by the demand and in the possession, custody, or control of the person to whom the demand is directed, or within the knowledge of such person, has been furnished.

"(k) (1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the custodian. The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts personal business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) When the testimony is fully transcribed, the witness shall be afforded an opportunity to examine the transcript, in the presence of the officer, for errors in transcription. Any corrections of transcription errors which the witness desires to make shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The witness also may clarify or complete answers otherwise equivocal or incomplete on the record, which shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded an opportunity to examine it, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the custodian. Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

"(4) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer any question on grounds of privilege or other lawful grounds; but he shall not otherwise interrupt the examination. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such after having been supenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(5) Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person, not the subject of an antitrust investigation (or an officer, director, employee or agent thereof), who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.".

(j) Subsection (a) of section 4 is amended by striking the words "antitrust document", and by inserting immediately after the word "custodian" the words "of documentary material demanded, answers to written interrogatories served, or transcripts of oral testimony taken, pursuant to this Act".

(k) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(l) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "any" the word "such", by inserting in the first sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the second sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the third sentence immediately after the word "material", in both places where it appears, the words "or information", by inserting in the fourth sentence immediately before the word "documentary" the word "such", and by adding after the fourth sentence the following new sentence: "Such documentary material and answers to interrogatories may be used in connection with any oral testimony taken pursuant to this Act.".

(m) Subsection (d) of section 4 is amended to read as follows:

"(d) (1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding such attorney shall return to the custodian any such materials so delivered that have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony shall deliver to the Federal Trade Commission, in response to a written request, copies of such documentary material; answers to interrogatories, or transcripts of oral testimony for use in connection with any investigation or proceeding under its jurisdiction unless the Assistant Attorney General in charge of the Antitrust Division determines that it would not be in the public interest to provide such material to the Commission. Upon the completion of any such investigation or proceeding, the Commission shall return to the custodian any such materials so delivered that have not been introduced into the record of such case or proceeding before the Commission. While such materials are in the possession of the Commission, it shall be subject to any and all restrictions and obligations which this Act places upon the custodian of such materials while in the possession of the Antitrust Division of the Department of Justice.".

(n) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of—

"(1) the antitrust investigation for which any documentary material was produced pursuat to this Act; and

"(2) any such case or proceeding,

the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(o) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) so produced by such person.".

(p) Subsection (g) of section 4 is amended to read as follows:

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced, answers to written interrogatories served, or transcripts of oral testimony taken, under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material, answers to interrogatories, or transcripts of oral testimony, and (2) transmit in writing to the person who submitted the documentary material notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

(q) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(r) The first sentence of subsection (b) of section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator or investigators named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(s) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: "*Provided*, That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(t) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(u) Subsection (c) of section 5 is amended by striking out the word "delivered", and by inserting immediately after the word "material" in the words "or answers to interrogatories delivered, or transcripts of oral testimony given".

(v) The third paragraph of section 1505 of title 18, United States Code, is amended by inserting between the words "any" and "documentary" the words "oral or written information or any", and by inserting between the third and fourth paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

(w) Section 5 is amended by adding at the end thereof the following:

"(f) Any material or information provided pursuant to any demand under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

Sec. 202. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 16), is amended by adding at the end thereof the following new subsections:

"(j) A plea of nolo contendere in a criminal proceeding under the antitrust laws shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

"(k) The Attorney General, unless he determines it would be contrary to the public interest, shall upon written request from the Federal Trade Commission, after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding or after the termination of any grand jury proceeding which does not result in the institution of such a proceeding, permit the Commission to inspect and copy any documentary material produced in and the transcripts of such grand jury proceeding. While such materials are in the possession of the Commission, the Commission shall be subject to any and all restrictions and obligations placed upon the Attorney General with respect to the secrecy of such materials.

"(l) Any person that institutes a civil action under this Act may, upon payment of reasonable charges therefor and after completion of any criminal proceeding instituted by the United States in which a defendant enters a plea of guilty or nolo contendere and arising out of any grand jury proceeding, inspect and copy any documentary material produced by such defendant in and the transcript of the testimony of such defendant or any other officer, director, employee, or agent of such defendant in such grand jury proceeding concerning the subject matter of such person's civil action. Any action or proceeding to compel the grant of access under this subsection shall be brought in the United States district court for the district in which the grand jury proceeding occurred. The court may impose conditions upon the grant of access and protective orders that are required by the interests of justice.".

Sec. 203. (a) The provisions of this title, except as provided in subsection (b), shall be effective on the date of enactment of this Act, and the provisions providing for the production of documents or information may be employed in respect of acts, practices, and conduct that occurred prior to the date of enactment thereof.

(b) The provisions of section 3(k)(5) of the Antitrust Civil Process Act, as added by section 201(i) of this Act, shall become effective on October 1, 1976, or upon enactment, whichever date is later.

TITLE III—MISCELLANEOUS AMENDMENTS

AFFECTING COMMERCE

Sec. 301. Section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 18), is amended by striking out in the first sentence thereof the words "engaged in commerce" and "engaged also in commerce,"; by striking out in the second sentence thereof the words "engaged in commerce,"; by inserting in the first sentence thereof after the word "corporation", third appearance, the words ", where the activities of either corporation are in or affect commerce and"; by inserting in the first sentence, thereof a comma between the words "where" and "in"; by inserting in the second sentence thereof after the word "corporations" the words ", where the activities of either corporation are in or affect commerce and"; and by inserting in the second sentence thereof a comma between the words "where" and "in".

FOREIGN ACTIONS

Sec. 302. It is the sense of the Congress that, in the interest of promoting an international rule of law and eliminating safe havens for wrongdoers, that in any civil action or proceeding before any court of the United States involving any act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies where a party refuses declines, or fails to furnish discovery, evidence, or testimony on the ground that a foreign statute, order, decree, or other law prohibits compliance, the court should consider utilizing all sanctions available under rule 37(b) of the Federal Rules of Civil Procedure in order to reach a fair and equitable determination of the action or proceeding. In determining proper sanctions under rule 37, the court should take account of good-faith efforts by the party to comply with the request for discovery, evidence, or testimony, the reasonableness of the foreign statute, order, decree, or other law prohibiting such compliance, and the pattern of enforcement thereof.

ATTORNEYS' FEES

SEC. 303. Section 16 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 26), is amended by adding at the end thereof the following new sentence: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.".

SEVERABILITY

SEC. 304. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 305. (a) Section 301 of this title shall apply to acts, practices, and conduct occurring after the date of enactment of this Act.

(b) Section 302 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Nothing contained in this subsection shall be deemed to limit the authority of any court to reenter any discovery order heretofore entered, and thereby make such section 302 applicable thereto.

(c) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

SHORT TITLES

SEC. 306. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 9. This Act may be cited as the 'Sherman Act'.".

(b) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 27. This Act may be cited as the 'Clayton Act'.".

(c) The Act entitled "An Act to promote export trade, and for other purposes", approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 6. This Act may be cited as the 'Webb-Pomerene Act'.".

(d) The Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 78. Sections 73 and 74 of this Act may be cited as the 'Wilson Tariff Act'.".

TITLE IV—PARENS PATRIAE AMENDMENTS

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4B the following new sections:

"SEC. 4C. (a)(1) Any attorney general of a State may bring a civil action, in the name of such State in any district court of the United States having jurisdiction of the defendant, to secure monetary and other relief as provided in this section in respect of any damage sustained, by reason of the defendant's having engaged in any activity deemed a per se offense, or arising out of the fraudulent procurement or enforcement of a patent, in violation of the Sherman Act, by the natural persons residing in such State, or any of them: *Provided*, That no monetary relief shall be awarded in respect of such damage that duplicates any monetary relief that has been awarded or is properly allocable to (i) such natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in subsection (a)(1) of this section; such other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act; and the cost of suit, including a reasonable attorney's fee and other expenses of the litigation.

"(b)(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person may elect to exclude from adjudication in any action brought under subsection (a)(1) of this section the portion of the State claim for monetary relief attributable to him. He shall do so by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b)(1) of this section.

"(3) The final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this Act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b)(2) of this section.

"(c)(1) In any action under section 4(C)(a)(1) in which there has been a determination that a defendant agreed to fix prices or in which it has been determined that a defendant engaged in the procurement by fraud (other than technical fraud) of a patent or the enforcement of a patent procured by fraud (other than technical fraud) in violation of the antitrust laws, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(2) In any action brought under subsection (a)(1) of this section, the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief. In the event that any monetary relief awarded to a State is not completely distributed the court may, in its discretion, after the lapse of a reasonable period of time, direct that the undistributed portion be (A) utilized to reduce future prices of the commodity involved in the violation; or (B) deemed a civil penalty and deposited with the State as general revenues.

"(d) An action brought under this section shall not be dismissed or compromised without approval of the court after providing such notice to persons affected thereby as the court shall direct in the interests of justice.

"(e) In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general cited in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought on action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"SEC. 4E. (a) In any action under section 4 or 4C of this Act, the State or any other plaintiff shall be entitled to recover treble damages in respect to the full amount of overcharges incurred or other monetary damages sustained in connection with expenditures under a federally funded program, notwithstanding the fact that the United States funded portions of the amounts claimed.

"(b) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(c) Out of any damage recovered pursuant to this section, the United States shall be entitled to the portion of the overcharges or other monetary damages, untrebled, that it sustained or funded. Whenever another Federal statute or law provides a specified method of settlement of accounts between the State and Federal Governments, in respect of such recovery, such method shall be used. Otherwise, the court before which the action is pending shall determine the method.

"(d) In the event of multiple actions in respect of the same alleged overcharges or other damages relating to a federally funded program, the defendant shall not be assessed, in total, more than threefold such damages.

"SEC. 4F. For the purposes of sections 4C, 4D, and 4E of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and shall include the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section.

"(2) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restrains and monopolies,' approved July 2, 1890 (15 U.S.C. 1), as amended or as may be hereafter amended.".

SEC. 402. Section 4B of such Act is amended by striking out the words "sections 4 or 4A" and inserting in lieu thereof the words "sections 4, 4A, or 4C".

SEC. 403. Section 5(1) of such Act is amended by striking out the words "private right of action" and inserting in lieu thereof the words "private or State right of action"; and by striking out the words "section 4" and inserting in lieu thereof the words "sections 4 or 4C".

SEC. 404. If any provision of this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by such holding.

SEC. 405. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Act of October 15, 1915 (38 Stat. 730; 15 U.S.C. 12), as amended by section 401 of the Hart-Scott Antitrust Improvements Act of 1976. The authority granted by this subsection (h) shall be liberally construed and applied.".

SEC. 406. This title shall apply to any cause of action accruing subsequent to the date of enactment of this title.

SEC. 407. This title shall be applicable in a State until that State shall provide by law for its nonapplicability as to such State.

TITLE V—PREMERGER NOTIFICATION AND STAY AMENDMENTS

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 7A to read as follows:

"SEC. 7A. (a) Notwithstanding any other provision of law, except as exempted pursuant to subsection (b)(4) of this section, until expiration of the notification and waiting period specified in subsection (b)(1) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce, and—

"(1) stock or assets of a manufacturing company with annual net sales or total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or

"(2) stock or assets of a nonmanufacturing company with total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(3) stock or assets of a person or persons with annual net sales or total assets of $100,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $10,000,000 or more.

"(b)(1) The notification and waiting period required by this section shall expire thirty days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') duplicate originals of the notification specified in paragraph (3) of this subsection, or until expiration of any extension of such period pursuant to subsection (c)(2) of this section, whichever is later, except as the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section.

"(2) Notwithstanding any other provision of law or the applicability of subsection (a) of this section, except as exempted pursuant to subsection (b)(4) of this section no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if—

"(A) the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce; and

"(B) the Federal Trade Commission, with the concurrence of the Assistant Attorney General, by general regulation requires, after notice and submission of views, pursuant to section 553 of title 5, United States Code, that such person or persons, or any class or category thereof, shall not do so until the filing of a notification (specified pursuant to paragraph (3) of this subsection), or until the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section, whichever occurs first.

"(3)(A) The notification required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The fact of the filing of the notification required by this section and all information and documentary material contained therein shall be considered confidential under section 1905, title 18, United States Code, until the fact of such filing or of the proposed merger or acquisition is public knowledge, at which time such notification, information, and documentary material shall be subject to the provisions of section 552 (b), title 5, United States Code. Nothing in this section is intended to prevent disclosure to any duly authorized committee or subcommittee of the Congress, to other officers or employees concerned with carrying out this section or in connection with any proceeding under this section.

"(4)(A) The Federal Trade Commission, with the concurrence of the Assistant Attorney General, is authorized and directed to define the terms used in this section, to prescribe the content and form of reports, by general regulation to except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not inconsistent with the purposes of this section, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The following classes of transactions are exempt from the notification requirements of this section:

"(i) goods or realty transferred in the ordinary course of business;

"(ii) bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(iii) interests in a corporation at least 50 per centum of the stock of which already is owned by the acquiring person or a wholly owned subsidiary thereof;

"(iv) transfers to or from a Federal agency or a State or political subdivision thereof;

"(v) transactions exempted from collateral attack under section 7 of this Act if approved by a Federal administrative or regulatory agency: *Provided*, That duplicate originals of the information and documentary material filed with such agency shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(vi) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), as amended, or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended;

"(vii) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended, section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), as amended, or section 5 of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464), as amended: *Provided*, That duplicate originals of the information and documentary material filed with such agencies shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least thirty days prior to consummation of the proposed transaction;

"(viii) acquisitions, solely for the purpose of investment, of voting securities, if, at the time of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(ix) acquisitions of voting securities, if, at the time of such acquisition, the securities acquired do not increase, directly or indirectly, the acquiring person's share of outstanding voting securities of the issuer; and

"(x) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, other than voting securities or other voting share capital, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business.

"(C) For the purpose of subsection (b)(4)(B) of this section, 'voting security' means any security presently entitling the owner or holder thereof to vote for the election of directors of a company or, with respect to unincorporated issues, persons exercising similar functions.

"(c)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the periods specified in subsection (b)(1) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) The Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsection (b)(1) of this section for an additional period of up to twenty days after receipt of the information and documentary material submitted pursuant to subsection (c)(1) of this section.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that a proposed acquisition or merger violates section 7 of this Act, or section 1 or 2 of the Sherman Act (15 U.S.C. 1-2), and the Federal Trade Commission or the Assistant Attorney General (i) files a motion for a preliminary injunction against consummation of such acquisition or merger pendente lite, and (ii) certifies to the United States district court for the judicial district within

which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b) (1) and (b) (2) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to such acquisition, at any time under any provision of law.

"(f) (1) Whenever any person violates or fails to comply with the provision of this section, such persons shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Nothing in this section shall be construed as a limitation on the equity power of the courts of the United States, or as limiting the power of the courts of the United States as provided under section 1651 of title 28, United States Code.".

SEC. 502. The provisions of this title shall be effective one hundred and twenty days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized and directed to carry out the requirements of section 7A (b) (3) and (b) (4) of the Clayton Act, as amended by this Act.

TITLE VI—ANTITRUST REVIEW AND REVISION COMMISSION

PURPOSE OF THE COMMISSION

SEC. 601. There is hereby established an Antitrust Review and Revision Commission (hereinafter in this title referred to as the "Commission"). In pursuant of title I (Declaration of Policy), the Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revisions, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and sevice;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

SEC. 602. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) POLITICAL AFFILIATION.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) VACANCIES.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 603. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 604. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 605. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 606. (a) (1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

FINAL REPORT

SEC. 607. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 608. Sixty days after the submission to Congress of the final report provided for in section 607, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATION

SEC. 609. There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

SEC. 610. Notwithstanding any other provision of law, this Act shall be effective not sooner than January 1, 1977.

Amend the title so as to read: "An Act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.".

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I ask unanimous consent that I be allowed to call up a conference report. I yield myself 5 minutes out of my time for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDEMNATION OF CERTAIN PUEBLO INDIAN LANDS IN NEW MEXICO—CONFERENCE REPORT

Mr. ABOUREZK. Mr. President, I submit a report of the committee of conference on S. 217, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of August 26, 1976, beginning at page 27874.)

Mr. ABOUREZK. Mr. President, this has been cleared by the Budget Committee and by the minority side. This bill, S. 217, repeals the act of May 10, 1926, which subjected the lands of New Mexico Pueblo Indians to condemnation under State law. The House amendment to S. 217 consisted of adding a new section 3 to the end of the Senate bill. The House version amends a 1928 statute by making certain general statutes requiring tribal consent for rights-of-way across Indian lands applicable to the lands of the Pueblo Indians of New Mexico.

However, the House amendment included a proviso which provided that if agreement to a right-of-way cannot be reached within 60 days, the Secretary of the Interior may grant the right-of-way for appropriate compensation, notwithstanding the absence of Pueblo consent.

The committee of conference accepted the House amendment to the new section 3, but agreed to strike out the proviso. The language substituted in lieu thereof authorizes the Secretary to grant right-of-way renewals across Pueblo lands without Pueblo consent, but only in limited cases and under limited conditions.

Such conditions are where the original right-of-way was obtained through litigation initiated under the 1926 act, or by compromise and settlement in such litigation prior to January 1, 1975. The Secretary is limited to granting only one such renewal for a period not to exceed 10 years and only if the parties fail to negotiate a renewal within 90 days after the request for renewal by the owner of the right-of-way. Additionally, the Secretary must require payment of fair market value as compensation to the Pueblo for such grant. Finally, the conference agreement provides that no renewal of a right-of-way may be authorized without Pueblo consent if such right-of-way is declared invalid because of the invalidity of the 1926 act upon the date of the original acquisition of such right-of-way.

Mr. President, I am satisfied that the agreement reached by the conference committee is a reasonable compromise, and I move the adoption of the conference report.

Mr. DOMENICI. Mr. President, this conference report represents the culmination of well over 3 years of my involvement with legislation to deal with a pressing problem in my home State of New Mexico. Since I entered the Senate in January 1973, this has been a legislative item never far from my attention. Senator Montoya and I introduced the initial piece of legislation on July 15, 1974 as S. 3763 of the 93d Congress. We reintroduced S. 217 in the current Congress on January 17, 1975.

The primary concern which prompted me to support repeal of the act of May 10, 1926 (44 Stat. 498), was my conviction that the act, by subjecting Pueblo Indian land to State condemnation proceedings, made an unjustified distinction between Indian Pueblo land in New Mexico and all other Indian land in the entire United States.

I want to reiterate, Mr. President, that never at any point did information available to me indicate abuses of the power of State condemnation granted by the 1926 act. In fact, over the 50-year period in which such proceedings have been allowed under Federal law, only 12 condemnation orders have been issued through judicial proceedings. This compares with 184 rights-of-ways and other easements reached through mutual agreement of the parties.

In spite of this record, many legitimate interests in New Mexico have expressed extreme concern that without ultimately being able to resort to the condemnation process, rights-of-way and easements would have been much more difficult and expensive to obtain. During the almost 4 years I have been dealing with this bill and the issues involved, I have come to recognize that a potential exists for the abuse of the consent power of the Indian Pueblo. Even though the consent power amounts essentially to a power of veto over any use of Pueblo lands regardless of validity of the public purpose or propriety of proposed compensation. I believe it will be used judiciously.

The conference committee also recognized this as a potential problem, particularly as to existing rights-of-way and easements on Pueblo lands. The House and Senate versions differed on the treatment of such existing easements at their expiration. The conference attempted to resolve these differences by allowing a one-time, 10-year extension of judicially acquired rights-of-way without Indian consent by intervention of the Secretary of the Interior. As previously indicated, this provision could possibly apply to only 12 existing rights-of-way, but since the majority of those 12 are in perpetuity, the provision will have very little effect. The result, of course, is that virtually all of the existing rights-of-way which have an expiration date cannot be renewed without consent of the affected Pueblo.

Mr. President, this circumstance will give the Pueblo leaders and the officials seeking new rights of way and right of way extensions opportunities to prove what both have claimed throughout the development of this legislation. The officials who have occasion to seek rights of way and extensions for public purposes point to the fairness of previous voluntary agreements and pledge to continue to offer fair and equitable compensation. Pueblo leaders, who will now have the power of consent over such requests, will have the opportunity to use that power wisely and fairly, protecting all the interests of Indian people without unduly restricting the realization of valid public purposes, some for the direct benefit of the Pueblo involved.

The House, in House Report 94-800 related to S. 217, considered the possibility that the power of consent might be misused by Pueblo leaders, but concluded that if it should be, there is a remedy since Congress retains the power to enact legislation granting rights of way. In that regard, the House report explicitly specifies that—

> Should public necessity require rights of way across the land of the Pueblo notwithstanding the lack of consent of the Pueblos, the Congress retains its authority to grant rights of way.

Mr. President, I will conclude my remarks by again expressing my pleasure that we have passed a bill which will allow our Pueblo Indians to be treated the same as other Indians across the country with respect to the control of their lands. I feel this is a worthy objective and a notable accomplishment and I am confident the power of consent will be used wisely and fairly. I will be following subsequent developments related to rights-of-way negotiations, particularly as to extension of existing rights of way, and I stand ready to resort to the ultimate power of the Congress to intervene to grant rights of way when public necessity demands such action, if the power of consent should be abused. I frankly do not expect that ever to be the case, since I have always believed the many Indian leaders who have told me they only want the opportunity to control their lands as other Indians over this entire Nation have always had the right to do. I am confident that the Pueblo leaders will exercise this power responsibly and prudently as they have exercised the other prerogatives of Pueblo leadership.

I wish to commend and thank all those Members of Congress, their personal staffs and the staffs of involved committees for all their hard work and diligent efforts to enact this legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

The PRESIDING OFFICER. Is there a second to the motion of the Senator from South Dakota to reconsider the vote on the conference report?

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER (Mr. Case). Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 10 minutes.

Tomorrow, the Senate will have before it two proposals on the subject of the Antitrust Improvement Act. The first, which is known as the Allen amendment, is the one that was approved by this body on June 10. The first vote will occur, then, at 3 o'clock tomorrow. If it is rejected, the second vote will be had on what was originally called a mystery amendment, for a number of reasons. That mystery amendment consists of an amendment in the form of a motion made by Senator Byrd. The origin and the content of the mystery amendment was also quite unknown and unexplained on the day that it first surfaced.

Mr. President, it is not the product of a conference committee; it is not the product of the conferees; it is the product of a few individual Senators and individual Congressmen getting together and deciding that this is what the antitrust bill ought to be. So it is that second venture that will be voted upon if the Allen amendment is not approved.

Mr. President, I intend to vote in favor of the Allen amendment. I intend to oppose the adoption of the substitute proposed by Senator Byrd.

Among the reasons that I favor the Allen amendment is that by approving it, the Senate will affirm its June 10 action.

It is a product of composite judgment of our body as reached in orderly, convention fashion.

Its approval will result in a conference with the other body, with the wholesome result of an end product which will truly represent the will of Congress instead of the imposition of an arbitrarily contrived measure rejecting the studied and balanced judgment of both Houses on a number of very important points.

Mr. President, I will oppose proposition No. 2, the so-called mystery amendment. The mystery is now somewhat dispelled, and the undesirable features are clearly indicated when all of the new elements are considered.

The second proposition, a substitute moved by the Senator from West Virginia, is a betrayal and a rejection of the deliberate judgment and registered wishes of both bodies on one of the most crucial points contained in the title on parens patriae, namely, the rejection of the contingent fees.

This proposition No. 2 is the product of a small, self-designated group of members without the benefit of balanced viewpoints and orientation, thus lacking the elements necessary for serious consideration by our body.

It is a repudiation of what the bill's advocates refer to as the "compromise" of June 10, 1976.

Both House and Senate in previously approved bills on this subject provided against contingency fee basis for attorneys.

Both versions in section 4C empowered any State attorney general to bring suit and provided that the State shall be entitled to threefold the damage sustained "and the . . . cost of suit including a reasonable attorney's fee. . . ."

Both versions also define "State attorney general" to exclude any person employed or retained on a contingency basis. This the House did in section 4G as follows:

> The term "State attorney general" means the chief legal officer of a State, or any other person authorized by State law to bring actions under this Act; except that such term does not include any person employed or retained on a contingency fee basis.

The Senate language in section 4F defined "State attorney general" and provided

> . . . except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded in this section.

The express language amounts to this: no contingency fees.

Now, the amendment which is moved by the Senator from West Virginia (Mr. Robert C. Byrd) overturns this jointly approved provision.

It does so first by adding language to section 4C. A new section 4C(d) which provides that the amount of the plaintiffs' attorneys' fees shall be determined by the Court.

It then adds to the language in section 4G—which defines "State attorney general"—is found particularly in (B).

To place this new language contained in (B) in context, I quote pertinent portions of 4G:

> (1) defines State attorney general as already indicated. That definition concludes with the words
>
> . . . except that such term does not include any person employer or retained on
>
> (A) a contingency fee based on a percentage of the monetary relief awarded under this Section; or
>
> (B) any other contingency fee basis unless the amount of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the Court under Section 4C(d) (1).

Mr. President, up to and including the subparagraph designated (A) is in accord with the previous actions and decisions by the House and the Senate. The language in subsection (B) is new.

When it is conversely stated, this subsection means that any "other contingency fee except that mentioned in subsection (A) is permitted if the Court approves it pursuant to Section 4C(d) (1).

The select group in contriving the "mystery" amendment added another new section, section 302, under the disarming title, "Conforming Amendments." This new section enfolds sections of H.R. 8532 into the Clayton Act at 15 U.S.C. 26. The new language is added to section 16 of the Clayton Act and is as follows:

> In any action under this Section in which the plaintiff substantially prevails, the Court shall award the cost of suit including a reasonable attorney's fee to such plaintiff.

The circle is complete.

Standing alone and unimpeded by qualifying language, the Court is empowered to determine "reasonable attorney's fees."

It is in this way the will of both bodies of Congress is frustrated and overcome by the proposal of the small, self-appointed group which sought to arrogate unto itself the position and office of a regularly appointed conference committee.

The subject of the dangers, the potential abuses, as well as the actual abuses, respecting contingency fees for attorneys in parens patriae class actions has been discussed at length. I do not intend to get into that here because the record is very clear on it.

Mr. President, I ask unanimous consent that there be placed in the Record a brief table showing the experience in the Tetracycline cases on the amount of money that was earmarked for consumers, the amount of money actually paid out, and the attorneys' fees that were paid out, together with an explantory statement preceding it.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, there are other changes.

I yield myself 3 more minutes.

The PRESIDING OFFICER. No, I do not think the Senator had exhausted his time. I was just putting his unanimous-consent request to the body.

There being no objection, the table and statement were ordered to be printed in the Record, as follows:

Attorney Fees and Consumer Payout in Tetracycline Cases

Defendants paid in settlement $200 million, of which $30 million was set aside for consumers. Only $8 million was actually paid out to consumer claimants. This is about 30 percent.

But the attorney fees allowed were astounding. Here are some examples:

	Alabama	*Florida*	*Illinois*
Earmarked for consumers	$661,500	$948,000	$1,319,000
Actually paid out	74,000	183,000	135,000
Attorney fees	309,500	479,000	780,000

Mr. HRUSKA. There are two other changes that facilitate large recoveries in attorney's fees, Mr. President, that are found in this new proposition No. 2, and which are not found in the bill passed by either the Senate or the House, and that is under a newly added section for 4F(b), which was not part of the bill. It passed on June 10, and authorizes State officials and retained private attorneys to request "any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action" available to a State, whenever the Attorney General of the United

States has brought an antitrust action which may affect the States.

For example, in large antitrust cases charging nationwide activities by a national corporation, all affected States would be notified by the Department of Justice.

Under this new provision, State officials and retained private attorneys would be entitled to demand truckloads of investigative materials, which conceivably might be relevant not only to an actual but even to a "potential cause of action."

For example, in the typical big antitrust case, such as the IBM monopoly case, literally millions of documents may be relevant or material to an antitrust cause of action. The Justice Department could thus become a massive document distribution center, for the benefit of State officials and of the enterprising private antitrust attorneys interested in developing a parens patriae lawsuit out of the Justice Department's investigative files.

Second, I call the Senate's attention to the changes which undercut the safeguards passed by the Senate on June 10 against large retroactive liabilities.

Section 406 of the Senate bill expressly provided that the parens patriae title only "shall apply to any cause of action accruing subsequent to the date of enactment of this title."

This safeguard against retroactivity has now been changed by section 304 of the Hart-Scott-Rodino substitute. Under section 304 of the substitute, "the amendments to the Clayton Act made by section 301 of this act shall not apply to any injury sustained prior to the date of enactment of this act."

This unexplained change could permit money claims for business activities which took place long prior to the date of enactment, so long as a claim can be made that there is some monetary injury at a future date.

Enterprising private attorneys are thus invited to bring large parens patriae actions and to assert huge monetary liabilities for alleged antitrust violations based on activities which happened years ago, even though the Senate on June 10 expressly voted to prevent such retroactivity.

It will be up to the courts to interpret or nullify this provision so as to prevent retrospective quasi-penal forfeitures under traditional constitutional limitations and due process of law.

Another significant change incorporated in the Senate proposal over the objection of the Houses conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

It is my understanding that the Senator from Idaho (Mr. McClure) has some questions.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. HRUSKA. I yield to him for the purpose of any questions he may have.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HRUSKA. On his time.

What was the question, Mr. President?

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HRUSKA. Well, I ask for 5 additional minutes.

Mr. McCLURE. I ask the Senator from Nebraska this question: It is my understanding that throughout the hearings and debates in both Houses, great concern has been expressed that the parens patriae provisions would permit unjust enrichment by private lawyers through blackmail litigation, at the expense of the members of the public who are the intended beneficiaries of such actions. The parens patriae title has been called a potential "ripoff for consumers, shakedown for corporations, and the great bicentennial money machine for antitrust entrepreneurs."

Will the Senator explain how the bills which are now approaching a final vote by both Houses undertake to prevent such abuses for the enrichment of private attorneys?

Mr. HRUSKA. Well, the answer to that is, that the long and the short of it is that the bill passed by House on March 18 contained strong safeguards against contingency fees as a means for unjust enrichment of private lawyers through blackmail litigation and blackmail settlements.

The bill passed by the Senate on June 10 kept the House safeguards against contingency fees, but opened a loophole for their easy evasion.

Most important, however, is that Senator Byrd's substitute bill, the so-called Hart-Scott-Rodino Antitrust Improvements Act of 1976, completely destroys both the House and the Senate safeguards against contingency fees by private lawyers. By doing so, it opens up great opportunities for the enrichment of enterprising private attorneys filing large parens patriae actions, and cloaking themselves in the toga of the sovereign states.

Mr. ABOUREZK. Mr. President, will the Senator yield briefly on that point?

Mr. HRUSKA. On his time, yes.

Mr. ABOUREZK. On my time. I want to correct a misstatement made by the Senator from Nebraska. On page 35——

Mr. HRUSKA. I yield for a question. If the Senator wants to discuss the matter I think there is plenty of time remaining under the unanimous-consent agreement.

Mr. ABOUREZK. I think it would be a good point to talk about contingency fees because there has been——

Mr. HRUSKA. I will yield to the Senator for a brief question. If he wants time he can get it otherwise.

Mr. ABOUREZK. I do not want to ask a question, but I want to correct a misstatement. I will do it on my time.

Mr. HRUSKA. Mr. President, I do not yield any further because time is limited, and we have a lot of ground to cover.

Mr. McCLURE. Can the Senator from Nebraska, perhaps, explain to me how it is that since this matter was fully discussed in both the House and the Senate, and this kind of loophole, this kind of provision, was removed or settled by action of both the House and the Senate, that we now seem to be faced with a vote on legislation which wipes out the safeguards approved by the House and by the Senate to prevent the unjust enrichment of private lawyers at the expense of the public?

Mr. HRUSKA. Well, as the Senator knows, under traditional legislative procedures, the differences between the bills passed by the Senate and by the House would be accommodated by conferees of both Houses. We would have reasoned explanation by the conferees of the recommended compromise provisions, and how those provisions carried out the will of both Houses.

As the Senator knows, no conference waws ever held on this far-reaching and complicated legislation.

The Byrd substitute, which is now presented as a so-called compromise, seems to be the result of informal staff meetings. I was amazed to learn that these provisions were never approved by the House conferees, let alone by Senators on both sides familiar with these critical issues.

Indeed, Congressional Record statements of September 2 by two representative members of the House Judiciary Committee and House conferees, Representative McClory—28936—and Representative Railsback—29032-29033—express their indignation at the "misunderstanding" by which Senator Byrd's substitute is being considered as a "compromise" agreement.

I ask unanimous consent, Mr. President, that the remarks of those two gentlemen be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT BY REPRESENTATIVE RAILSBACK

Mr. Railsback. Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the Congressional Record, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one judges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body and were generally recognized as such. The Senate versions, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

STATEMENT BY REPRESENTATIVE McCLORY

OMNIBUS ANTITRUST BILL

(Mr. McCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up-or-down vote on its amendment next Wednesday afternoon.

Now, it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House conferees rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith" and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the conference committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

Mr. McCLURE. I am familiar with the safeguards contained in the Senate bill, in the previous action by the Senate.

Can the Senator from Nebraska explain to me just what safeguards were contained in the House bill, and what has happened to those safeguards?

Mr. HRUSKA. In the bill voted by the House on March 18, the House determined upon an outright and complete prohibition on parens patriae actions brought by private lawyers on a contingency fee basis. It was a flat, unqualified prohibition.

Specifically, section 4G(1) of the House bill provided that the term State attorney general "does not include any person employed or retained on a contingency fee basis."

This provision carried out the determinations of the Committee on the Judiciary of the House, contained in its committee report filed on September 22, 1975.

The PRESIDING OFFICER (Mr. CASE). The Senator's 5 minutes have expired.

Mr. HRUSKA. One more minute.

By virtue of the safeguards enacted by the House, therefore, arrangements by State officials with private lawyers would be based on definite and noncontingent conditions of compensation, paid by the State from its own resources, such as set hourly rates or specific dollar amounts for handling the case. As a result, the award of any monetary recovery, by a money judgment or by a compromise settlement, would go in full to the State residents for whom the action was brought, rather than going into the pockets of the lawyers.

Mr. McCLURE. Were similar safeguards contained in the action taken by the Senate?

Mr. HRUSKA. As reported by the Senate Judiciary Committee, the parens patriae title contained no express prohibition against contingency fee or similar fee arrangements. The sole protection against private lawyer self-enrichment was contained in the general provision requiring court determination and approval of legal fees that would be paid and of compromise of settlements.

However, in light of our debates on this floor and in which the Senator from Idaho took a spirited part, which pointed up the great danger of financial abuse enriching private lawyers, the Senate bill as passed on June 10 added a restriction in section 4F(1), which prohibited the filing of parens patriae actions by "any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section."

Under this watered-down "percentage" contingency ban, smart private lawyers could draft their retainers so as to avoid the word "percentage" of the award, or similar wording, and still collect large contingent fees.

To that extent, the prohibition contained in the House bill was very diluted—in fact, virtually circumvented.

Mr. McCLURE. Will the Senator give me an example of what he means, how this would actually work in practice?

Mr. HRUSKA. For example, a retainer agreement could provide for the private lawyers to be paid a fixed hourly or flat dollar fee, plus an additional sum to be paid out of the proceeds of a settlement, as approved by the court.

Or a shrewd lawyer might volunteer to handle a lucrative antitrust case "for free," but then take a big bite out of a multimillion dollar "blackmail settlement" that occurred.

Since the court, in any event, must approve the settlements, and such approval is typically routine, such a sharing by lawyers in large settlement funds would still give huge fees to the lawyers, and thereby encourage blackmail litigation.

Mr. McCLURE. Ordinarily, if the Senate adopts one provision and the House another, it goes to conference, the conference comes out with an accommodation between the views of the Senate and the House.

Can the Senator explain how the Hart-Scott-Rodino substitute accommodates these different safeguards in the two measures which are designed to prevent unjust enrichment by private lawyers?

Mr. HRUSKA. Without any explanation, the Hart-Scott-Rodino substitute does not accommodate, in any manner, the differing provisions of the two Houses at all. Instead, it goes beyond the text of the House bill and beyond the text of the Senate bill, by inserting a completely new provision, with a new section 4G (1) (B), which has the practical effect of destroying the safeguards enacted by both the House and by the Senate.

Mr. McCLURE. Will the Senator explain how this newly added section destroys the safeguards against unjust lawyer enrichment enacted by both Houses?

Mr. HRUSKA. The text of section 4G(1), at page 35 of the printed Hart-Scott-Rodino bill, and also at page 35 of the unprinted Abourezk amendment No. 410, adds a completely new section 4G (1) (B). This permits any contingency fee arrangement, other than a "percentage" contingency fee forbidden by section 4G(1) (A), if the court determines plaintiffs' attorneys' fees under section 4C(d) (1), with the new section which was devised and which is part of the present bill.

The catch is that all plaintiff's attorneys' fee awards are determined by the court under section 4C(d) (1), anyway, as part of the court's disposition of any parens patriae action.

Consequently, this last-minute sleeper amendment would legitimate virtually any fee arrangement enriching private lawyers, out of settlement funds, out of monetary relief ordered by the court, or otherwise, subject only to routine court approval.

Hence, the total ban on private lawyer contingency fees voted by the House, as well as the partial ban voted by the Senate, are both destroyed and wiped out.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

The Senator is recognized.

Mr. McCLURE. It was explored at length on the floor of the Senate previously, the manner in which private attorneys would be compensated with tremendous sums of money and that they would be the only real parties in interest in such litigation.

I am disturbed that we come to the point now of considering language that was specifically taken out in the House, watering down the provision that was specifically enacted by the Senate in the guise of a compromise between the two.

Can the Senator from Nebraska state whether the House of Representatives has agreed to this last-minute proposed change in this important safeguards provision?

Mr. HRUSKA. I have referred already to the fact that we have no conference report, we have no report of any kind.

We do not have before us any report by conferees. As stated previously, Mr. McCLORY and Mr. RAILSBACK strongly protest and disclaim any such agreement on the part of House conferees. It was not a conferees' report, it was not a conference report. It could not be a conference report, the Senate did not appoint conferees.

Actually, this Senator would be greatly surprised if the many Members of the House who insisted on this important safeguard against ripoffs by private contingency-fee lawyers were to yield knowingly on this hard-fought and hotly debated safeguard voted by the House.

Indeed, this Senator would be surprised if many Members of the House, as of this very day, are even aware of this Catch-22 amendment, which cuts the ground out from under these important contingency fee safeguards. The very substance of this new provision, when offered as an amendment during the House debate, was voted down on March 18 by a vote of 217 to 167—7047.

Mr. McCLURE. As I understand, there are some unprinted amendments to be offered by our colleague from South Dakota (Mr. ABOUREZK).

Do the unprinted amendments submitted by Senator ABOUREZK cure this problem?

Mr. HRUSKA. In my judgment, not at all. Senator ABOUREZK's unprinted amendment No. 410, at page 35, would modify the text of section 4G(1) (A) of the Hart-Scott-Rodino substitute, so as to prohibit parens patriae actions by private attorneys who are retained on "a contingency fee based on a percentage of the monetary relief awarded or recovered by settlement of an action brought under section 4C."

Superficially, this modification would strengthen the ban on percentage contingency fee arrangements, by preventing such percentage contingency arrangements also in connection with settlement funds as well as with money judgments in litigated cases.

On careful reading, however, section 4G(1) (B), which is the Catch-22 provision newly added by the Hart-Scott-Rodino version, appears to sanction any contingency fee award, other than one based on a "percentage," if the routine court determination of plaintiffs attorneys' fees is made under section 4C (d) (1).

Actually, the Abourezk amendment would encourage lawyers to claim that routine court approval of fee awards and settlements permits them to share in settlement funds, which would otherwise go in full to the State or to the individual State residents who are the only intended beneficiaries of the parens patriae action authorized by this title.

Mr. McCLURE. Why would courts approve such large fee awards to private lawyers out of settlement funds if lawyers could share in settlement under the proposed Abourezk amendment?

Mr. HRUSKA. Based on past history, as reflected in our debates, courts have routinely approved $2 million, $5 million, or $10 million fee awards to antitrust plaintiffs' lawyers in the settlement of large antitrust cases. A district judge is understandably happy when a settlement is reached which moves a big antitrust case off his crowded docket. So long as the defendants are willing to settle and pay $10 million, or $20 million, or $50 million, they hardly care whether the plaintiffs' lawyers walk away with a few million dollars more or less in fees, at the expense of the individual plaintiffs. Under such circumstances, many district judges gladly approve a multimillion dollar fee to the plaintiffs' lawyers, when nobody is likely to object to such an award, and the court is eager to clear his docket. As the Senator knows, the antitrust cases in the drug industry have already enriched private antitrust lawyers by over $40 million in court-approved legal fees as part of large settlements.

Mr. McCLURE. At this late day, is there any cure for this problem?

Mr. HRUSKA. If the Senate, in its wisdom, sees fit to pass the Hart-Scott-Rodino substitute for the House bill, notwithstanding these last-minute Catch-22 amendments, I would hope that the members of the other body reflect long and hard before approving a bill which has been stripped of the safeguards on private lawyer contingency fees enacted by the House, and unless it is made completely clear that private lawyers cannot enrich themselves by open-ended fee arrangements, out of settlement funds, or otherwise.

Mr. McCLURE. Does the Hart-Scott-Rodino substitute contain any other changes from the bill passed by the Senate on June 10 which favor the enrichment of private lawyers?

Mr. HRUSKA. I will point the Senator to two other changes to facilitate large recoveries and private attorneys' fees.

First, newly added section 4F(b), which was not part of the Senate bill passed on June 10, authorizes State officials and retained private attorneys to request "any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action" available to a State, whenever the Attorney General of the United States has brought an antitrust action which may affect the States.

For example, in large antitrust cases charging nationwide activities by national corporations, all affected States would be notified by the Department of Justice.

Under this new provision, State officials and retained private attorneys would be entitled to demand truckloads of investigative materials, which conceivably might be relevant not only to an actual but even to a "potential case of action."

For example, in the typical big antitrust case, such as the IBM monopoly case, literally millions of documents may be relevant or material to an antitrust cause of action. The Justice Department could thus become a massive document distribution center, for the benefit of State officials and of the enterprising private antitrust attorneys interested in developing a parens patriae lawsuit out of the Justice Department's investigative files.

Second, I call the Senator's attention to the changes which undercut the safeguards passed by the Senate on June 10 against large retroactive liabilities.

Section 406 of the Senate bill expressly provided that the parens patriae title only "shall apply to any cause of action accruing subsequent to the date of enactment of this title."

This safeguard against retroactivity has now been changed by section 304 of the Hart-Scott-Rodino substitute. Under section 304 of the substitute:

> The amendments to the Clayton Act made by section 301 of this Act shall not apply to any injury sustained prior to the date of enactment of this Act.

This unexplained change could permit money claims for business activities which took place long prior to the date of enactment, so long as a claim can be made that there is some monetary injury at a future date.

Enterprising private attorneys are thus invited to bring large parens patriae actions and to assert huge monetary liabilities for alleged antitrust injuries based on activities which happened years ago, even though the Senate on June 10 expressly voted to prevent such retroactivity.

It will be up to the courts to interpret or nullify this provision so as to prevent retrospective quasi-penal forfeitures under traditional constitutional limitations and due process of law.

Mr. McCLURE. Can the Senator state how the present legislation meets the position of the President

Mr. HRUSKA. In my view, the bill passed by the House on March 18 sought to accommodate the position of the administration in favor of strong but fair antitrust enforcement. However, the last-minute changes reflected in the Hart-Scott-Rodino substitute run counter to the spirit of constructive antitrust legislation and accommodation expressed by the House.

Instead, some of the proponents apparently prefer to create a legislative impasse and to create a controversy, rather than working toward the enactment and approval by the President of constructive antitrust legislation.

Mr. McCLURE. Can the Senator state in which ways the legislation departs from the expressed position of the President?

Mr. HRUSKA. On March 17, the President wrote a letter to the House minority leader. In this letter, he expressed personal reservations about the parens patriae principle. The letter also stated that the administration was "opposed to mandatory treble damage awards in parens patriae suits." The letter further stated that—

> The Administration prefers discretionary rather than mandatory award of attorneys' fees, leaving such awards to the discretion of the courts.

The parens patriae title to be voted by the Senate flatly contradicts this expressed position of the administration in important respects.

First, it enacts a Federal parens patriae authorization, rather than leaving to the States the manner and policy by which the States wish to assert their residents' rights under the antitrust laws.

Second, the bill now before the Senate expressly removes a House-enacted provision for a discretionary reduction of treble damages to single damages where the defendants can demonstrate good faith.

Third, the present bill provides for mandatory rather than discretionary awards of attorneys' fees in parens patriae actions, and opens the door wide to the unjust enrichment of enterprising private lawyers at the expense of the public.

Recently, the distinguished Attorney General of the United States, Edward H. Levi, who is a noted antitrust and constitutional scholar, sounded a warning about such abusive parens patriae provisions. On June 16, he stated that—

> The possible amount of damages can be so terrific that for a large company, the threat of that kind of a case is likely to be inevitably met with a settlement.

He expressed his grave concern as follows:

> I don't want to push the antitrust laws so far in that direction that the reaction will be, "Well, just to protect everyone, wouldn't it be better if there was some kind of a price-fixing governmental board?"

I conclude, therefore, that the present bill is responsive to the express position of the administration with respect to title I—Antitrust Civil Process Act Amendments, and title II—premerger notification.

But title III—parens patriae—remains in substantial conflict with the position expressed by the administration, and is unworthy of approval by the Congress and by the President.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. I yield myself such time as I might consume, Mr. President.

First of all, I regret having to do this, but it has become necessary by virtue of two completely inaccurate statements being made by the Senator from Nebraska. I want to correct those misstatements. I am sorry I have to do this, but it is essential.

First of all, the Senator from Nebraska is trying to mislead the Senate on the contingency fee provision. He knows very well that is a bone that sticks in the craw of a lot of people. In the original Senate version we passed this year, we expressly banned the use of percentage contingency fees because we knew that it would be objected to by a majority of the Senate, and we were opposed to it in any event.

Concerning the motion that we are going to be voting on tomorrow, which is the subject of the dialog between Senator McClure and Senator Hruska, the Byrd substitute which we are supporting specifically and explicitly prevents the awarding of percentage contingency fees.

Surprisingly, the Senator from Nebraska has announced the original Senate version as leaving a large Senate loophole. That is the version he says he is supporting. If so, he should be supporting the Byrd motion on this point. That is the first area where he has attempted to mislead the Senate.

Second, he has attempted to mislead the Senate on the prospects for a conference report. He has denounced the committee members for not submitting a conference report to the Senate. We have said time and time again, and it has been proven by the actions of the opponents of this antitrust bill, that they will not allow us to go to conference and return with a conference report.

Mr. HRUSKA. Mr. President, I rise to a point of order and a point of personal privilege.

The Senator has suggested that the Senator from Nebraska attempted to mislead the Senate by referring to the fact that there is not any conference report, and so on. Mr. President, I recited the facts and they speak for themselves. I resent the inference that the Senator from Nebraska has attempted to mislead the Senate. He has done no such thing beyond a recital of the record itself.

The PRESIDING OFFICER. The Senators will proceed in order.

Mr. ABOUREZK. The very reason that we did not go to conference was because of the opposition and the announced intention of the Senator from Nebraska and his supporters who oppose the bill to continually filibuster and attempt to delay first the motion to go to conference and then, if we succeeded in breaking that filibuster, the conference report itself. Everybody knew, including those of us on the committee, that we would not have the time before adjournment this year to go through two filibusters. We barely made it through the one the other day.

I would hope that the record would be corrected in that respect.

Over the last 3 months, the Senate has been struggling with this antitrust bill. There have been approximately 85 votes, two filibusters, two successful cloture votes, hundreds of printed amendments, unprecedented parliamentary maneuvering, and strained tempers. Before describing the pending precedural situation, I want to assure the Senate that the bill which we will finally pass here is well worth this effort.

The public is often confused by the legal jargon which lawyers and economists use to describe the antitrust laws. This is unfortunate because the antitrust laws are the basic charter of our free enterprise system. Without the antitrust laws, competition in the economy would surely diminish. Only when there is vigorous competition between businesses will the free enterprise system result in wide distribution of economic benefits to the consumer. Therefore, every American has a vital interest in the effective enforcement of these antitrust laws.

The antitrust laws prohibit conspiracies in restraint of trade, such as agreements to fix prices or divide markets. These conspiracies directly result in higher prices for the consumer. In fact, the present Assistant Attorney General for Antitrust, Tom Kauper, has estimated that the cost to the consumer of the lack of effective competition in our economy is $80 billion a year; $80 billion is 10 percent of what consumers spend each year. In other words, if we had monopoly-free competition, consumers would buy at least 10 percent more without any increase in their income.

It is all too apparent that enforcement of the antitrust laws have not been effective in curbing excessive concentration of power in the hands of a few corporations. I find the realities of the concentration of economic power staggering:

First. Although there are approximately 40,000 manufacturing corporations in the United States, the 200 largest control two-thirds of all manufacturing assets. That is a greater share of assets than the thousand largest manufacturing corporations controlled in 1941.

Second. Industries in which four or fewer firm control 50 percent or more of sales account for one-fourth to one-third of all manufacturing sales. This fact is especially significant as many economists consider an industry to be a shared monopoly or oligopoly, when 50 or more percent of the sales for that industry are accounted for by the top four firms. Therefore, one-fourth to one-third of all manufacturing sales come from monopolies or shared monopolies.

Third. We now have five corporations whose sales exceed the total budget of our populous state, California. Only a few countries in the free world have budgets larger than Exxon or GM.

Fourth. The rapid trend toward concentration is illustrated by the fact that between 1962 and 1968 alone, 100 of the 500 largest industrial firms disappeared in mergers, between 1948 and 1968, some 1,200 manufacturing companies, each with assets of $10 million or more, were merged with other firms.

This concentration of economic power necessarily leads to inflation because these large business enterprises have great discretion to distort the pricing process by maintaining, or even increasing, prices in the face of falling demand. Similarly these enterprises fail to lower prices when they enjoy productivity gains. These decisions contradict the normal rules of supply and demand. Because of this use of market power, it is not feasible to attain full employment by resorting only to monetary or fiscal policy. This is why the present administration has failed. Their assumption is that only supply and demand are the causes of the economic depression. It is, therefore, essential that we now invigorate the enforcement of our antitrust laws. Only then will adjustments in monetary and fiscal policy be effective.

H.R. 8532 is free enterprise legislation. It seeks to maintain vigorous competition in our economy.

H.R. 8532 is also states-rights legislation. It delegates antitrust enforcement power to the state attorneys general.

H.R. 8532 is law-enforcement legislation. It will enable both the Federal Government and the States to crack down on violators of the existing antitrust laws. Firms which are violating these laws are just as much a menace to society as the addict who steals to support a habit.

H.R. 8532 is small business legislation. It enables the Antitrust Division of the Department of Justice to stop anticompetitive mergers.

Finally, H.R. 8532 is consumer legislation. It will directly result in lower consumer prices artifically inflated by price fixing.

Let me emphasize one thing. The bill creates no new antitrust liability. It merely provides an effective mechanism for enforcement of the existing antitrust laws. As I said last May when we started consideration of this legislation—

> Companies which are not now violating the antitrust laws will have absolutely nothing to fear in the passage of this bill. Only companies which are presently violating the antitrust laws with impunity have a reason to fear this bill. 122 Cong. Rec. 15314 (May 25, 1976).

The need for the parens patriae provisions of this bill are especially clear. There is presently no effective remedy for the average consumer who is the victim of antitrust violations, such as price fixing. There is no way, for example, that an individual consumer could ever bring suit for a year's overcharge on the bread he purchased, even though the aggregate overcharge for all individuals in a State may run into the tens of millions of dollars.

The bill makes it possible for a State attorney general to vindicate the claims of individual consumers by bringing a class action on their behalf, but the legislation does not reduce the burden of the State attorney general to prove that an antitrust violation has, in fact, occurred. The bill makes it possible to bring these class actions by providing that "damages may be proved and assessed in the aggregate by statistical or sampling methods * * * without the necessity of separately proving the individual claim of, or amount of damage" to each member of the class. (Section 301.) This provision is the heart of this title.

Proof of the extent of damages is the very last event in a long trial. Before the State attorney general even addresses the issue of the extent of damages, he must first prove that the defendants violated the antitrust laws, that consumers were damaged and that the defendant's violation caused that damage. Only once all of this has been established do the provisions in this legislation have any effect.

If a company is found to have violated the antitrust laws and to have caused injury to consumers, it is absurd to argue that the company should escape payment of damages to these consumers. Clearly it makes no sense to bring an antitrust case if the only result is a declaration of guilt without any monetary recovery. It is precisely this sterile result which this provision is intended to avoid.

Furthermore, when a State attorney general does employ statistical and sampling methods to prove the extent of damages, the methods he uses must be sufficient to actually prove the extent of the damages. If the methods used are not used properly or if use of more sophisticated and precise statistical and sampling methods is appropriate, a court can hold that the State attorney general has not met his burden of proving the extent of damages. The point is that this bill does nothing to reduce the burden of proof of the State attorney general.

At the end of a successful antitrust case, the consumers injured by any antitrust violations will each receive their share of the damage recovery. In the tetracycline case over 1 million consumers received $28 million in damages. No legislation being considered by Congress will provide such a direct and justified benefit to consumers.

By giving State attorneys general this new mechanism for enforcing the antitrust laws, Congress will significantly strengthen our federal structure of government. States are closer to their citizens than the Federal Government and closer to the economic transactions which violate the antitrust laws. It is clearly appropriate then that States be given the power and responsibility to protect their own citizens.

Returning to my first point that only companies which violate the antitrust laws should fear this bill, let me note that, predictably, it is precisely this kind of company which opposes this bill. The principle opponent of the bill is the Business Roundtable, the lobbying arm of 157 of the Fortune 500 companies. This group includes the largest automobile manufacturers, the three largest banks, seven of the largest oil companies, as well as IBM and ATT. Within the last 10 years alone nearly half of these companies, 73 to be exact, have been found to violate the antitrust laws, have admitted to have violated antitrust laws, or have charges pending. At my request a list of these companies was printed in the RECORD on May 25—122 CONGRESSIONAL RECORD 15314.

The other leading opponent of this legislation is the National Association of Realtors. As with the Business Roundtable, it should be noted that numerous price-fixing complaints by the Justice Department against boards of realtors are already on the public record and settled by consent decrees.

Opposition to this bill by these companies is utterly lacking in credibility. It is clear that they have every reason to resist any measure which would strengthen enforcement of the antitrust laws. The provisions of this bill represent a major improvement of existing antitrust law—probably the most significant improvement since enactment of the Celler-Kefauver Act of 1950.

Having emphasized that passage of this bill is a notable achievement, I want also to emphasize that this bill is reasonable legislation. Numerous compromises have occurred. In fact, this legislation is not nearly as strong as I would have liked. Let me describe the procedural situation which has forced these compromises.

Under the unanimous-consent agreement of last Wednesday, the pending matter at 3 tomorrow will be a vote on Allen amendment No. 2232, and if that is rejected, a vote on the Byrd motion of August 27, 1976, to concur in the House amendment with an amendment. Before describing how the Senate has arrived at this point, I will first reiterate the bottom line: A vote for the Byrd motion is a vote for an antitrust bill to be enacted into law this Congress. A vote for the Allen amendment is a vote to kill the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

The compromises which the sponsors have agreed to were made at two points in time, during the Senate debate in June and in the Senate amendment now pending.

Let me give some examples of the compromises which the sponsors of the legislation have made to opponents here in the Senate and why these compromises were agreed to.

The principle compromise in the parens patriae section of the bill is to limit the types of antitrust actions in which damages may be assessed in the aggregate. As reported by the Senate Judiciary Committee, the aggregate damage provision was available for all violations of the Sherman Act (S. Rept. 94–803, at page 6). Then, on the floor the sponsors voluntarily agreed to limit the aggregate damage provision to per se violations of the Sherman Act (122 Cong. Rec. 15859–15861, May 27, 1976). Then as a result of the compromise on June 10 the aggregate damage was further limited so that it applied only to price fixing and patent fraud (122 Cong. Rec. 17541, June 10, 1976).

These compromises are significant and go much further than I would have liked. We compromised in June for a reason which most of our colleagues may not have been aware. The cloture vote which occurred on June 3 was a vote to limit debate on the Hart-Scott substitute to H.R. 8532, amendment No. 1701 (122 Cong. Rec. 16471, June 3, 1976). The Hart-Scott substitute was S. 1284 as reported by the Judiciary Committee. It was necessary to offer S. 1284 as an amendment to H.R. 8532 because S. 1284 was a three-titled bill and H.R. 8532 was only a one-titled bill. It was, therefore, necessary for the sponsors to file a second cloture motion on H.R. 8532, to be voted on once time had expired on debate on the Hart-Scott substitute (see 122 Cong. Rec. 16720, June 4, 1976). In other words, the Senate was facing a repetition of the 6-day struggle on the Hart-Scott substitute after that substitute was adopted. This prospect was what led me to reluctantly to agree to the June 10 compromise.

As I said on June 10 I found it particularly hard to rationalize limiting the aggregate damage provision just to price fixing and patent fraud (122 Cong. Rec. 17544, June 10, 1976). I see no reason why the Senate should be any less concerned about enforcement of the antitrust laws to restrain violations of the Sherman Act other than these two, such as division of markets, group boycotts, division of customers, tie-in agreements, reciprocal dealing, refusals to deal, and agreements to limit production, all of which act in restraint of trade and gouge the consumer. I challenge anyone to explain how these other antitrust violations are less serious a threat to the free enterprise system than price fixing and patent fraud.

Then, during last week the sponsors of this legislation were forced to compromise yet again. Contrary to the statements of the opponents of this legislation, we were not allowed to go to conference. Senator ALLEN stated unequivocally that he would not agree to a time limit with respect to the appointment of conferees or for any conference report (122 Cong. Rec. 28271, August 27, 1976). At a meeting in the majority leader's office, Senator ALLEN stated that he did not feel bound by the June 10 agreement on the appointment of conferees or on consideration of a conference report. He stated that he would employ all of his rights under the rules to block these actions. After our experience in June when the opponents of this bill tied up the Senate for 6 days after cloture, it was apparent that we could not wait out two filibusters in the time remaining until adjournment. Just imagine, over 100 amendments and motions filed after the filing of a cloture motion—many of which were substantively identical to amendments defeated in June.

Again, reluctantly we compromised. In order to avoid one of these two filibusters, the Senate sponsors determined that it was necessary to amend the bill upon which the House has called for a conference and send it back to the House. To be more exact, when we learned that the antitrust bill was to be further delayed we communicated that to Chairman RODINO and the other House conferees and asked what provisions they believed the House would accept without going to conference. Chairman RODINO and the other conferees were kind enough to respond to our problems and they met among themselves well into the evening going through and comparing the Senate and House passed bills. The BYRD motion contains the provisions we were advised could be accepted on the House floor without going to conference.

We very much appreciate the extraordinary and unusual effort of our colleagues in the other body and we thank them. On the other hand, we would be less than candid if we said we were totally pleased with the resultant bill. Many important provisions have been deleted. We believe a stronger bill—one closer to the Senate bill—would have come out of a conference. But, as Senator HART said, without being able to go to conference the Senate had no leverage and had to pretty much accept the bill on the House terms. For example, I know that the Senate would not have had to limit the aggregate damage provision to price fixing and exclude patent fraud.

Let me briefly catalog the compromises that the sponsors have been forced to make to the House in this legislation in order to avoid a second filibuster. This list is taken from Senator HART's statement of August 27:

The titles deleted from the Senate-passed bill are:

First. Title I, declaration of policy;

Second. Section 202, grand jury and nolo contendere provision;

Third. Certain provisions of title III, miscellaneous amendments: Section 301, which broadened the Clayton Act's merger provisions to cover activities in or affecting commerce; and section 302, foreign actions; and

Fourth. Title VI, antitrust Review and Revision Commission.

ANTITRUST CIVIL PROCESS ACT

Title II—Antitrust Civil Process Act amendments—of the Senate bill was fairly close to the comparable title of the House passed bill. A major difference between the Senate and House bills related to the standard for quashing a civil investigative demand. The House passed bill contained a standard that included certain rules under the Federal Rules of Civil Procedure. The Senate bill contained no comparable provision. Such a provision is included in the substitute amendment.

The substitute amendment contains the provisions of the House bill respecting judicial procedure to compel a witness to answer questions on oral examination. The Senate bill authorized summary procedures, including contempt, for compelling a witness to respond to appropriate questions. The substitute amendment utilizes the more formalized petition and appeal procedures.

PRE-MERGER NOTIFICATION

Title V (Pre-Merger Notification) of the Senate bill also was fairly close to the House bill. The major modifications made to the Senate bill that are reflected in the substitute amendment are as follow:

First. Acquisitions subject to notification requirements—A third standard in addition to the $100 million—$10 million size tests was added; namely, that the transaction involve an acquisition of $15 million in stock or assets, or 15 percent of the voting securities of the acquired company.

Second. Cash tender offers—The bill's 30 days plus 20 days notification period was shortened for cash tender offers to 15 days plus 10 days; and failure of the acquired company to provide the relevant information may not be used as a basis to delay consummation of the acquisition. However, the acquired company is required to comply and is subject to the penalty provisions of the title.

Third. Freedom of Information Act—The substitute amendment adopts the House provision exempting material filed under this title from the Freedom of Information Act. The Senate bill made such material subject to the Freedom of Information Act.

Fourth. Notification by additional companies—The Senate bill authorized the antitrust authorities to obtain notification from companies not meeting the size criteria in certain instances. The substitute amendment does not contain such a provision.

PARENS PATRIAE

The present Senate version of title IV, the Parens Patriae title, is a compromise between the House- and Senate-passed bills. In this compromise, the scope of the parens patriae action has been enlarged from the Senate version of per se violations and fraud on the Patent Office to the House version of the entire Sherman Act. However, the provisions relating to aggregation, or fluid damage class recovery, have been narrowed from the Senate version. The Senate bill allowed the state Attorney General to utilize the fluid class recovery method of computing damages for two offenses; price fixing and fraud on the Patent Office. The substitute amendment specifically authorizes aggregate damages for price fixing only.

The notice provision was modified to require notice in addition to notice by publication if required by due process of law.

The substitute amendment retains the prohibition on percentage contingency fees and contains some additional clarifying languages with respect to other contingency fees.

The Senate provisions respecting retroactive application, State opt-out authority, damage distribution and consolidation are basically retained.

The Senate provision respecting federally funded programs is deleted.

Mr. ABOUREZK. This list of compromises makes it quite clear that the House has prevailed on a substantial majority of the issues. Of roughly 41 identified points of difference between the Senate and House versions of H.R. 8532, approximately 25 were resolved in favor of the House position, only 10 in favor of the Senate position, and 6 resulted in a compromise. There can be no doubt that the Senate would have fared better in a conference meeting.

Senator ALLEN's pending amendment is identical to his amendment No. 2232 which was defeated on August 31, 1976, by a vote of 62 to 27. Ordinarily, I and the sponsors of the legislation would urge a vote for Senator ALLEN's amendment which embodies the June-passed Senate bill—the very bill Senator ALLEN voted against in June—because it is considerably stronger than the provisions embodied in the Byrd motion. But, as I said before, a vote for the Allen amendment is a vote to kill the antitrust bill.

The Allen amendment is a bill the House will surely reject, and without the negotiating power a conference would provide, there is no way to make the original Senate version, the Allen amendment, acceptable to the House.

As a result of the parliamentary tactics of the opponents of this legislation, if the Byrd motion is adopted the fate of this legislation will be in the hands of the House. Any vote in the House to amend the Senate bill will kill the bill. It should be obvious to everyone by now that the Senate had no opportunity to go to conference. It is clear that if the House disagrees with the Senate bill, there still can be no conference.

I have confidence that the House will quickly pass this legislation and that the President will sign it.

In closing, I quote from a statement Senator HART made during the Senate debate last June:

> Let us remember what we are about. We are attempting to provide in this particular title the opportunity to protect American business against itself. I believe to my fingertips in the principles expounded by the NAM and the Chamber of Commerce. I would have my lobbyists in here seeking to persuade the Senate to do exactly what this bill seeks to do, that is, to permit the honest businessman to compete in a marketplace that is free of restraints that are improper.

Mr. President, I ask unanimous consent that a summary of the provisions in the Byrd motion and a catalog of the differences between the Senate and House passed bills and the Byrd motion be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS IN BYRD MOTION

TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

Title I amends the Antitrust Civil Process Act, originally enacted in 1962. It provides the Antitrust Division of the Department of Justice with the most basic of investigatory tools utilized by virtually every Federal regulatory agency, including the Federal Trade Commission, and by many State attorneys general.

The Antitrust Civil Process Act authorizes the Antitrust Division of the Department of Justice to issue compulsory process (called a "civil investigative demand" or "CID") to investigate violations of the antitrust laws prior to the filing of a case. Under present law, the Division may issue a civil investigative demand to obtain only documentary evidence and then only from nonnatural persons (*e.g.,* corporations) suspected of committing an antitrust violation. Relevant evidence may not be obtained pursuant to a CID from natural persons or from third parties such as competitors, suppliers, customers, or employees. Nor may the Antitrust Division take oral testimony or written interrogatories in the course of such an investigation or issue a CID to investigate the legality of a proposed merger or acquisition until it is consummated—even though it may be publicly announced.

Title I rectifies these glaring deficiencies in the Division's investigatory powers by authorizing the Antitrust Division to:

(1) issue a civil investigative demand to investigate mergers and acquisition prior to consummation;

(2) issue a civil investigative demand to obtain relevant evidence from natural persons and third parties;

(3) take oral testimony and written interrogatories, in addition to obtaining documentary evidence, pursuant to a CID; and

(4) issue a civil investigative demand to obtain relevant competitive evidence for use in on-going regulatory agency proceedings.

TITLE II—PRE-MERGER NOTIFICATION AMENDMENTS

Title II amends the Clayton Act to provide for a 30-day notification to the antitrust authorities prior to consummation of very large mergers and acquisitions (involving transactions between $100 million and $10 million companies of either 15% of the stock or $15 million of assets or stock). The title does not change the standards by which the legality of mergers is judged. Certain types of transactions (e.g., de minimis non-control investments, formation of subsidiary companies, real estate acquisitions for office space, regulated industry and bank mergers) are exempted from the notification requirements. A special, shorter notification period is provided for tender offers. Further authority—to waive the 30-day waiting period, to provide additional exemptions by rule-making, to require additional information, and to extend the 30-day waiting period for an additional 20 days from receipt of such additional information—is conferred upon the antitrust authorities.

TITLE III—PARENS PATRIAE AMENDMENTS

Title III amends the Clayton Act to permit State attorneys general to recover damages for violations of the Sherman Act on behalf of natural persons (consumers) residing in their State.

Substantive standards as to what are or are not violations of the antitrust laws are not changed by Title III. In other words, enactment of Title III would not make any conduct illegal which is not presently illegal under the antitrust laws. Title III merely creates an effective mechanism to permit consumers to recover damages for conduct which is prohibited by the Sherman Act, by giving State attorneys general a cause of action against antitrust violators.

The economic burden of most antitrust violations is borne by the consumer in the form of higher prices for goods and services. Frequently, such antitrust violations as price-fixing, group boycotts, division of markets, exclusive dealings, tie-in arrangements, fraud on the Patent Office, monopolization, attempts to monopolize, conspiracies to limit production, and other violations of the antitrust laws, injure thousands or even millions of consumers, each in relatively small amounts but often on a continuing basis. When every day consumer purchases are involved (e.g., bread, dairy products, gasoline, etc.), the individual dollar amounts are so small that, as a practical matter, an individual antitrust law suit is out of the question. Similarly, consumers have found little relief under the class action provisions of the Federal Rules because of restrictive judicial interpretations of the notice and manageability provisions of Rule 23 and practical problems in the proof of individual consumers damages under section 4 of the Clayton Act. If tens of thousands of consumers are in a class action, courts throw up their hands and say "unmanageable"—and dismiss the case under the manageability standards of Rule 23.

Yet, if an antitrust violation results in an overcharge of but 10 cents on a relatively low-priced consumer item, and 500 million such items are sold, the aggregate impact of the conspiracy upon the consumers and the illegal profits of the conspirators are hardly insignificant—at least $50 million.

Title III is the legislative response to the present inability of our judicial system to afford equal justice to consumers for violations of the antitrust laws. As put by the 9th Circuit Court of Appeals:

> The state most persuasively argues that it is essential that this sort of proceeding be made available if antitrust violations of the sort here alleged are to be rendered unprofitable and deterred. It would indeed appear that the state is on the track of a suitable answer (perhaps the most suitable yet proposed) to problems bearing on antitrust deterrence and the class action as a means of consumer protection. We disclaim any intent to discourage the state in its search for a solution.
>
> However, if the state is to be empowered to act in the fashion here sought we feel that authority must come not through judicial improvisation but by legislation and rule making, where careful consideration can be given to the conditions and procedures that will suffice to meet the many problems posed by one's assertion of power to deal with another's property and to commit him to actions taken in his behalf. *State of California* v. *Frito Lay,* 474, F. 2d 774, 777 (1973).

The very essence of Title III is the provision in section 4C(c)(1) authorizing proof of consumer damage in the aggregate, without separately proving the fact or amount of each consumer's individual injury or damage.

Plaintiff still would have the burden of proving that:

(1) Defendants violated the Sherman Act;

(2) Consumers were damaged by such violation; and

(3) The approximate amount of consumer damage.

Instead of adding up thousands or millions of claims, however, the total amount of consumer damage could be proved in the aggregate from the records of defendants and other entities in the chain of distribution or by other evidence. After the violation by defendants and the fact of some damage to consumers have been proved, the aggregation provisions of section 4C(c)(1) would be utilized to determine the amount of defendant's liability.

The aggregate damage provision is limited to instances involving price fixing.

Differences Between Senate and House Passed Bills and Byrd Motion

I. ANTITRUST CIVIL PROCESS ACT AMENDMENTS

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Standard for quashing CID.	Permits quashing of a CID on any ground that would make a grand jury subpena invalid.	Same as Senate plus permits quashing of a CID on any grounds found in the Federal Rules of Civil Procedure applicable to discovery requests, insofar as such rules are "appropriate and consistent" with the Antitrust Civil Process Act (ACPA).	House
2. Standard for witness obtaining copy of transcript of testimony.	Senate bill limits the obtaining by a witness of a copy of the transcript of his testimony to the same circumstances and standard as if it were the transcript of his testimony in a grand jury proceeding (namely, a showing of particularized need).	House bill allows a witness to obtain a copy of the transcript of his testimony unless, *for good cause,* the Assistant Attorney General limits the witness to an inspection of the transcript.	House
3. Procedure to compel witness to answer questions.	Senate bill authorizes Department of Justice to request an immediate court order to compel a person to answer a question he has refused to answer during an oral examination. Refusal to comply with such a court order is punishable by summary contempt.	House bill requires that Department file a petition and seek enforcement pursuant to section 5 of ACPA which permits appeals.	House
4. Reimbursement of expenses to recipient of CID.	Senate bill provides for reimbursement by Antitrust Division to nontarget recipients of a CID for expenses, including attorney's fee, incurred in producing documentary material and in appearing for oral examination.	House bill provides for reimbursement only of the traditional fees and mileage paid to witnesses in the district courts of the United States.	House

B. Other issues

Subject	Senate	House	Provision in Byrd motion
1. Definition of antitrust law.	Senate bill modifies existing law by deleting FTC Act from definition of antitrust laws for purposes of whether the Department of Justice may issue a CID to investigate a violation of the FTC Act.	House bill retains existing law.	Senate
2. Definition of person.	Senate bill authorizes CID to be issued to natural persons, specifically including entities acting under color or authority of State law.	House bill is silent on this issue.	Senate
3. Disclosure in CID.	Senate provision requires a CID to "state the nature of the investigation and the provision of law applicable thereto".	House provision requires a CID to "state in appropriate detail the nature of the conduct constituting the alleged antitrust violation . . . and the provision of law applicable thereto". The House report states its intention to codify judicial interpretation of existing law.	Compromise
4. Transcript corrections.	Senate provision limits persons giving oral testimony to correcting transcription errors only.	House bill allows such persons to make transcript changes in form or substance as long as the reason for the change is stated.	House
5. Right to counsel.	Senate bill provides that witness may be "accompanied" by counsel.	House bill expands and elaborates on right of counsel, i.e., "accompanied, represented and advised" by counsel "in confidence".	House
6. FTC access to CID material.	Senate bill requires Antitrust Division to transmit CID materials to FTC upon its request unless Assistant Attorney General concludes that it would not be in public interest to do so.	House bill provides that Antitrust Division may provide FTC with such material.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

II. PRE-MERGER NOTIFICATION

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Acquisitions subject to notification requirements.	Both bills utilize $100 million—$10 million size test for transactions subject to the notification requirements.	House bill also provides that before any transaction is subject to the notification provisions, it must result in the ownership of at least 25 percent of the acquired company's stock or $20 million in stock or assets.	Compromise
2. Cash tender offers.	Senate bill contains no special treatment for tender offers. The 30 days plus an additional 20 days waiting period was adopted because of the Williams Act 60 day tender offer provision.	House bill provides for a 21-day notification period for cash tender offers, rather than the ordinary 30 plus 20 day period. In the case of tender offers, it also limits the reporting requirement to the acquiring company.	Compromise
3. Freedom of Information Act.	Senate bill provides that the notification and information transmitted is confidential and may not be disclosed until the fact of the filing or of the merger becomes public knowledge. At such time, the Freedom of Information Act applies and some of the information can be made public while other information will continue to remain confidential in accordance with the specific provisions of FOIA.	House bill provides that no information submitted under the pre-merger notification provision may be publicly disclosed (except in a court proceeding) and that such information is totally and forever exempt from the Freedom of Information Act.	House

B. Other issues

Subject	Senate	House	Provision in Byrd motion
1. Persons subject to notification requirements.	Senate bill applies to "persons", which includes transactions involving natural persons as well as corporations, partnerships, and foreign governments.	House bill applies to "corporations", which includes only transactions involving corporations and excludes transactions involving natural persons, partnerships, unincorporated associations and foreign governments.	Senate
2. Convertible securities.	Senate bill implicitly—but not expressly—covers nonvoting convertible securities which are convertible into voting securities when the convertible security is acquired.	House bill covers such convertible securities only at the time of conversion.	Senate
3. Expiration of notification and waiting period.	Senate bill requires full completion of notification and full compliance with additional information requests of the Department of Justice or FTC before the 30 and 20 day waiting periods commence. The merger, therefore, may not be consummated until there is such full compliance; and companies proceed at their peril if Department of Justice or FTC disagree that the companies fully complied with notification and information requirements.	If notification form and additional information requests are not fully complied with, House bill requires them to contain a statement of the reasons for partial noncompliance. The filing with such statement of partial noncompliance with reasons starts the running of the 30 and 20 day periods. The Department of Justice and FTC are authorized to seek judicial relief to extend the waiting period if the court finds that the companies did not "substantially comply" with the notification form requirements or the additional information request.	Compromise
4. Report to Congress.	The Senate bill contains no comparable provision.	The House bill requires an annual report to the Congress concerning the operation of the premerger provisions and the need for any revisions.	House
5. Notification by additional companies.	The Senate bill permits the antitrust authorities to require premerger notification by additional companies not meeting the minimum size criteria of the bill.	House bill has no comparable provision.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

III. PARENS PATRIAE

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Separate cause of action.	Senate bill creates a separate cause of action in the name of the State.	House bill authorizes parens patriae action under section 4 of Clayton Act by State attorneys general.	Senate
2. Violations for which aggregation of damages is specifically authorized.	Senate bill specifically authorizes aggregate damages for 2 violations: price fixing and Patent Office fraud.	House bill specifically authorizes aggregate damages only for price fixing in willful violation of the antitrust laws.	Compromise
3. Single damages for good faith violations when damages are aggregated.	Senate bill has no comparable provision.	House bill provides for a reduction of traditional treble damages to actual (single) damages, when damages are aggregated, if a defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.	Senate
4. Retroactive application.	The Senate bill applies only "to any cause of action accruing subsequent to the date of enactment of this title".	House bill has no comparable provision.	Senate
5. Contingency fees.	Senate bill prohibits percentage contingency fees.	House bill prohibits all contingency fees.	Compromise
6. State opt-out authority.	Senate bill provides that this title "shall be applicable in a State until that State shall provide by law for its nonapplicability as to such State".	House bill has no comparable provision.	Senate

B. Other issues

Subject	Senate	House	Provision in Byrd motion
1. Scope of parens patriae authority when aggregated damages are not used.	Senate bill authorizes such actions to be filed by State Attorneys General for 2 types of violations: per se offenses and fraud on the Patent Office.	House bill authorizes such actions to be filed for any violation of the Sherman Act.	House
2. Person excludes proprietorships and partnerships.	Senate bill has no comparable provision.	House bill states that "natural persons" do not include proprietorships and partnerships.	House
3. Equitable relief.	Senate bill provides for monetary damage and such "other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act".	House bill contains no comparable provision.	House
4. Notice.	Senate bill provides for notice by publication. If the court finds that notice by publication only would be manifestly unjust, the court is authorized to direct further notice according to the circumstances of the case.	House bill provides for "the best notice practicable under the circumstances".	Senate
5. Damage distribution: (a) In accordance with State law.	Senate bill provides for damages to be distributed to consumers as court directs or in accordance with State law.	House bill provides for damages to be distributed to consumers as district court in its discretion may authorize.	(a) House
(b) Civil penalty.	Senate bill provides that the portion of the damages recovered that remain unclaimed by consumers *may* be deemed a civil penalty and deposited with the State.	House bill contains no comparable provision.	(b) Senate
6. Other expenses of litigation.	Senate bill provides that a prevailing plaintiff shall recover attorney's fees plus other expenses of the litigation.	House bill provides for the recovery of attorney's fees plus cost of suit.	House
7. Actions by U.S. Attorney General.	The Senate bill contains no provision for State Attorneys General to obtain investigative files or other materials from the U.S. Attorney General.	The House bill provides for State Attorneys General to obtain such files and materials from the U.S. Attorney General "to the extent permitted by law", in order to assist the State Attorneys General in evaluating the notice given by the U.S. Attorney General and in bringing parens patriae actions.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

III. PARENS PATRIAE—CONTINUED

B. Other issues—Continued

Subject	Senate	House	Provision in Byrd motion
8. Federally funded programs.	The Senate bill provides for the State to recover treble the full amount of the damages sustained in connection with a federally funded program, with the Federal Government being reimbursed by the State for actual (single) damages paid by the Federal Government.	The House bill has no comparable provision.	House
9. Consolidation.	The Senate bill provides for the mandatory consolidation of cases for both pre-trial and trial purposes, notwithstanding the provisions of the Multidistrict Litigation statute.	The House bill contains no comparable provision.	Senate

IV. MISCELLANEOUS PROVISIONS

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Affecting commerce.	The Senate bill amends section 7 of the Clayton Act to reach activities "in or affecting commerce".	The House bill has no comparable provision.	House
2. Foreign actions.	The Senate bill contains a sense of the Congress provision that courts should consider utilizing all sanctions available under rule 37(b) of the FRCP when a party refuses to comply with a discovery order on the ground that a foreign law prohibits compliance.	The House bill has no comparable provision.	House
3. Access to grand jury documents and transcripts.	The Senate bill provides for access by private plaintiffs to a *defendant's* grand jury documents and transcripts, after completion of the Government's criminal case, in those cases in which such defendant pleads guilty or nolo contendere. The court is authorized to condition access and issue protective orders.	The House bill has no comparable provision.	House
4. Nolo contendere pleas.	The Senate bill provides that a nolo plea in an antitrust case shall be accepted only after due consideration of the views of the parties and the interest of the public in the effectiveness of the administration of justice.	The House bill has no comparable provision.	House
5. FTC access to grand jury material.	The Senate bill provides that after completion of a grand jury proceeding and any case associated therewith, the FTC may obtain access to grand jury documents and transcripts unless the Attorney General determines that providing FTC with such access would be contrary to the public interest. The same secrecy obligations imposed upon the Department of Justice are imposed upon the FTC.	The House bill has no comparable provision.	House
6. Antitrust study.	The Senate bill provides for the establishment of an Antitrust Review and Revision Commission to study and make recommendations as to any revisions in the antitrust laws it deems advisable. The Commission is to make its report within 2 years after its first meeting.	The House bill has no comparable provision.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

V. DECLARATION OF POLICY

Subject	Senate	House	Provision in Byrd motion
Declaration of policy.	Senate omnibus bill has 6 titles, title I of which is a general policy statement underlying the purposes of the bill in particular and of the antitrust laws in general.	The House bill has no counterpart declaration of policy because the 3 main substantive House titles (parens patriae, CID's and premerger) were processed as separate bills.	House

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the Allen amendment. Who yields time?

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. I think we do not vote on it until tomorrow. Is that correct? We do not vote today, do we?

The PRESIDING OFFICER. That is correct. But we have to do something.

Mr. ABOUREZK. I reserve the remainder of my time then.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield 22 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator from Nebraska.

Mr. President, I rise once again to express my opposition to the pending amendment and to Senator ROBERT C. BYRD's motion and to H.R. 8532, the Hart, Scott, Rodino so-called Antitrust Improvements Act of 1976.

I commend the distinguished Senator from Nebraska (Mr. HRUSKA) for his knowledge and wisdom in leading the fight against this bill.

The Senator from Alabama (Mr. ALLEN) is to be commended for his courageous stand. I refer the Senate particularly to his remarks, which appear in the RECORD of Friday, August 27, beginning on page 28251 and continuing through 28276. The strong arm tactics of the majority leadership began that day. Senator ROBERT C. BYRD's broad motion came onto the floor on scratch paper. Few Senators, perhaps the proponent managers, had seen this motion. You will recall that it later covered four pages of the RECORD. No explanation was offered. Cloture was filed and an immediate attempt was made to recess the Senate. Had the Senator from Alabama (Mr. ALLEN) not gained the floor, this hodgepodge of notes called a substitute would not have been exposed for all to see how it came before the Senate.

The substitute was published in the RECORD, as though it were a finished product. An explanation was even included, as an afterthought. We may not have known what was in the substitute until the last day of debate, if it had not been for the persistence of the distinguished Senator from Alabama.

As Senator ALLEN predicted on that Friday, the steamroller had just begun to roll. When those of us who resisted this bill rose to fight this so-called compromise with the House, we did so to do our best to expose to the Senate, the House, and most important the people, the bad features of this bill. We were lectured with cries of "delay," "we must get on with the business of the Senate," and "dilatory tactics."

I answer that very clearly. We were exercising our rights under the rules of the Senate. Those rules are meant to apply to all Senators at all times. They are not meant to be cast aside for convenience when the going is tough.

It appears now that there are Representatives in the House, conferees on this bill, who question whether any agreement or compromise was ever reached. Two House Members say that the Senate's final votes of August 31 on contingency fees and reduction of treble to single damages on a "good faith" showing, took positions rejected by the House. Senator BELLMON and I offered amendments to ban contingency fees on August 31. They were tabled. Senator HRUSKA on August 31 offered an amendment which would have allowed treble damages to be reduced to single damages on a showing of "good faith." It was tabled. These events become important when considered with the statements of Mr. McCLORY and Mr. RAILSBACK in the House of Representatives on September 2, 1976, last Thursday.

On last Thursday, September 2, 1976, Mr. McCLORY rose in the House of Representatives and made these remarks concerning the bill before us:

> Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up or down vote on its amendment next Wednesday afternoon.
>
> Now it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.
>
> The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.
>
> This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith", and it would wipe out the House's absolute ban on contingency fees.
>
> To my knowledge, no member of the Conference Committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

Representative RAILSBACK's words in the RECORD of September 2, 1976, on page 29032 cast further light on the manner of how this proposal came before us.

Now, I turn my attention to the bill. Some of the language has been softened since May 19, the day I first rose to oppose this bill in the Senate. Some of the onerous provisions of S. 1284, the bill we first considered, have been found, recognized as bad, and stricken from this proposed legislation.

Yet when I studied the motion before us last week, still remaining in it is a thinly veiled indictment of our free enterprise system. An indictment against the same system which made our country great. To find it, the bill must be read closely. What is not in the bill may be more significant than what is in it.

The thrust of title I, which is labeled "Antitrust Civil Process Amendments" and expands the law of civil investigative demands, is clear. It further concentrates power in Washington. Increased power is placed in an already powerful Department of Justice and the Federal Trade Commission. Title I is yet another big brother venture by the Government. It does not affect just those under investigation. It extends to anyone who may have some information. Yes, innocent third parties served with a civil investigative demand will be forced to hire lawyers, because they will not understand what is happening to them. Although innocent of any wrongdoing, they will need legal guidance to comply with a maze of demands from the Department of Justice. All of this will take place without the supervision of a court.

Before I leave this title, there is another example of big brotherism which comes to mind. The same innocent third parties will be called on to reproduce documents from their files for the Department of Justice. How many? No one knows. How much will it cost the person who reproduces them? No one knows. What will the Department of Justice do with these documents? When the case is closed, the Department of Justice will keep copies of documents received from those who have done no wrong. When this bill was being considered in June, I recall a speech made by Senator MORGAN condemning abuses in the intelligence community. Senator MORGAN's speech was one to which he had obviously given considerable thought and time in preparation. It impressed me at the time, and it poses a serious question for me on this bill. Why do we now permit the Department of Justice to build a data bank on innocent individuals? Why place the potential for abuse in the hands of the Department of Justice?

Title II, premerger notification, has been improved. It primarily affects big business. Big business can normally take care of itself. There is again in this title, however, the now familiar refrain of overregulation by big Government; the all too familiar theme of big Government saying: We know better than you do what is good for you. This trend in Congress has troubled me for years. It troubles me now.

The most onerous of the titles in this bill is title III—parens patriae. This concept permits the State attorney general to add to the powers of his office. Yet it permits him to evade the responsibilities for his actions. It permits the 50 State attorneys general to parcel out antitrust lawsuits to private attorneys. With the history of blackmail settlements in these cases under rule 23 of the Federal Rules of Civil Procedures, I think it fair to say that private attorneys will quickly step forward and recommend suits against business, small and large, on any pretense. We have seen private attorneys collect over $40,000,000 in the Tetracycline drug litigation. We have seen private attorneys collect $10,000,000 of $75,000,000 settlements in the In re Gypsum cases.

This title tremendously will increase the political power of the State attorneys general. Most of our States attorneys general are fine men, but there have been cases of abuse in the class action suits. The possibilities of political patronage and abuse with antitrust lawyers busily searching for litigation are almost endless.

It seems that history does not teach us a lesson. We have seen, for some time now, attorney fee abuses in the present rule 23 class action cases. The proponents of this bill would continue it unabated. The classic example is the case in which a State attorney general and his assistant pocketed over $1,000,000 in a fee splitting arrangement with a private firm in a class action suit.

The Byrd motion before the Senate does not close the loopholes on abusive attorneys' fees. The amendment I offered on August 31 would have prevented outrageous attorneys' fees. It would have stopped private attorneys from diving into the consumers pot for their fees. It would have stopped judges from awarding shocking attorneys' fees. My amendment would have required in these cases that: "compensation for private attorneys be measured on the same basis as compensation normally paid by the State to private counsel retained." This amendment was tabled on motion of Senator Abourezk by a vote of 55 to 23. This stopped consideration of the amendment on the merits. In addition to this amendment, I had two others on this problem at the desk. Both were drafted to close two other loopholes in the Byrd motion, which would permit bloated fees for private attorneys. The Byrd motion permits the courts to award reasonable attorneys' fees. This is the very same language which has led the courts to award unreasonable fees in previous rule 23 cases. What happened to these amendments? They were found to be dilatory by the proponents and the majority leadership.

Senator Bellmon proposed an amendment which said in pertinent part: "No portion of any monetary relief or recovery shall be paid, awarded, or allocated to any private counsel employed by the State . . ." This amendment was tabled on motion of Senator Abourezk, 52 to 26. Thus, another vote on the merits was prevented.

Senator Allen offered an amendment on this problem. Stated simply, his amendment would have prevented a State attorney general from commencing high visibility antitrust suits to use as a political platform to run for Governor or other high public office. His amendment said:

> No person may participate in bringing an action under this title while seeking the nomination for election or election to any State of Federal public office.

Senator Allen's amendment was tabled on motion of Senator Abourezk, by a vote of 43 to 21. Thus, an opportunity to consider the amendment on the merits was again prevented.

Only one logical conclusion can be drawn from these events. The proponents want the abuses in attorneys' fees, which have grown under rule 23, to remain in the bill. They want the potential for political abuse by State attorneys general to remain in the bill. If these abuses do remain, and I fully expect the proponents to insist, this bill should be called "the State Attorneys General Political Patronage and Antitrust Lawyers Full Employment Act of 1976."

"Parens patriae" is a cruel hoax on the consumer. This title will not help the consumer. Business will react to this title by raising prices to pay for the new boom in lawsuits. The consumer will pay the increased prices. On May 25 and on a later occasion, the people of my State were heard on the same point. On those occasions, I read and placed into the Record a few of the many letters received from the people of my State who oppose this bill. They were primarily from small businessmen. They know who will pay for "parens patriae." They know they will pay and that consumers will pay in the end.

The danger to the small businessman in this title is great. I quote from a letter of February 12, 1976, from Allen P. Stults, former president of the American Bankers Association, to Senator Hruska:

> I understand that the Congress will shortly vote on proposed legislation which would authorize the Attorney General of the States to bring antitrust treble damage actions in the Federal courts on behalf of all or large groups of residents of a State claiming damages from violations of the antitrust laws.
>
> In this connection, I wish to stress the importance for the national economy of a careful assessment as to how potentially huge contingent liabilities, particularly of smaller firms named as co-conspirators in such antitrust actions, may affect their access to financing and capital markets.
>
> I understand that antitrust class actions in the past have asserted multi-million dollar claims for which all named co-conspirators are jointly and severally liable, incuding one recorded case in California claiming $750 million in joint and several liabilities against 2,000 real estate brokers.
>
> In view of SEC disclosure requirements in the financial statement of public corporations which incur material contingent liabilities in pending antitrust litigation, it is my considered opinion that such antitrust actions may have a substantial adverse impact on the financing opportunities particularly of smaller firms named in such actions.
>
> This is so because banks and other financial institutions will necessarily take such substantial contingent liabilities into account in their lending decisions.

The meaning of this letter is clear. The banks will cut off any further credit to small firms not when a verdict is rendered, but when a suit is filed against them. Banks cannot risk small business bankruptcy. In Congress, everyone says he is for small business. Parens patriae will help kill small business.

Let us now look at what the consumer gets. Their damages to be recovered will typically amount to a few dollars, perhaps less than a dollar per person. The history of class actions under the present rule 23 is telling. No one should expect the individual consumer to go through the bother of trying to collect these small sums. They have not shown interest in the rule 23 class action cases. After the lawyers skim their fees off the top, the judge will be faced with the puzzling problem of what to do with the money that is left.

The proponents of this bill say they are for strong antitrust legislation and that this bill is a strong and fair one. Those of us who oppose this bill are also for strong and fair antitrust laws. I have covered some of the major areas in the bill wherein I disagree with the proponents. As mentioned earlier, one must also look to find what is not in this bill. I now turn to that question.

On August 31, before the cloture vote, an amendment was filed in my name. It was entitled "Title IV, Antitrust Labor Law Amendments." Although never raised before during the consideration of this bill, it met the fate of all others at the desk in the late evening of August 31. The majority leadership decided that the amendments were dilatory, and under threat of a change to the Senate rules a time agreement was reached. No more amendments were to be permitted.

This bill ducks evenhandedness. There is a more basic problem to concentration not addressed by the proponents. It is not a loophole, but a gap. The gap is one of inconsistency in the application of the antitrust laws to business and labor. My amendment would have closed that gap. It offered some balance to this bill. Fairness requires that we give the same treatment to business and labor, both can and do on occasion engage in monopolistic practices. Both should be called to task for their actions.

The policy adopted many years ago by Congress to exempt labor from the antitrust statutes has no place today. The unions are certainly no longer the weak and struggling organizations of earlier years.

The monopolistic practices in which

big unions have engaged have resulted in higher costs to consumers in almost every facet of their lives. The inflationary impact continues to be ignored.

My purpose in offering this amendment was clear. I believe we should remove the exemptions for unions in our antitrust laws and allow the courts to decide, as they do for business, whether particular union actions monopolize and restrain trade.

Why duck the issue of removing the antitrust exemptions dating back to 1932 for big unions? Is this fairness or improvement in our antitrust laws?

I do not claim that my amendment was the only solution concerning labor unions to add balance, fairness, and economic sense to this bill. I would have been happy to join others in an effort to correct this imbalance, but I have yet to see any initiative in that direction from the proponents of H.R. 8532, in this bill or any other bill.

Mr. President, in order to give a more in-depth look at this issue, I ask unanimous consent that my remarks of March 3, 1975, on introducing S. 926, reference union monopoly power and the antitrust laws and the attached speech by Mayo J. Thompson, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, in conclusion, I shall vote against this bill with good reasons. They are:

It is a classic example of "backroom steamroller" legislation.

It will add more money to the already bulging pockets of the antitrust lawyers.

It puts more big brotherism in Government.

It fails to achieve balance. It does not require the big unions to follow the antitrust laws that the proponents thrust on business.

It will hurt the small businessman.

It will hurt the consumer.

Mr. President, I ask unanimous consent that the remarks by Congressman Railsback be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Exhibit 1

Statement by Senator Strom Thurmond on the Senate Floor, Reference Union Monopoly Power and Antitrust Laws, March 3, 1975

Mr. President, in the 93rd Congress, I introduced a bill which would remove the exemption presently contained in the antitrust laws for labor unions. Today, I am again introducing legislation which would accomplish this result and call upon the Congress to recognize the serious imbalance presently existing in our economic system. Labor unions monopolistic power has grown to unacceptable levels.

Congress concluded many years ago that in order to protect the public, antitrust legislation should be enacted to prevent large business enterprises from engaging in monopolistic practices that would eliminate competition and restrain trade and commerce.

Through court interpretation and subsequent action by Congress, labor unions were made exempt from the application of the antitrust laws. Basically, the rationale for this was that unions were weak and struggling organizations, and that only by being given special privileges and protections not accorded other economic interests could they successfully stand up to the business giants of that day.

Today labor unions wield such tremendous power that the question must be raised as to whether the exemption of labor unions from the antitrust laws was a serious mistake. The evidence is overwhelming that this special protection given to unions so that they could advance their own self-interest is certainly not justified today.

The labor-management area has been viewed in the past as a power struggle between worker welfare and business gains. But now the struggle is not so much between unions and big business as it is between big unions and the public.

While there has been a great deal of concern shown about the relative power of labor unions and employers, there has been far too little concern shown over the effects of labor union power on the public interest. Union monopoly power aids and abets the development of the monopoly power of business enterprises which the antitrust laws were enacted to prevent. It has produced wage rates and fringe benefits in excess of those justified by increased productivity or competitive levels, work rules that require payments for unneeded work, and boycotts which penalize third parties not involved in labor disputes. It has resulted in the waste of labor resources, distortions in the allocation of productive resources, inflation, balance of payments deficits and the associated deterioration of the U.S. position in world markets. The tragic truth is that the American public is the real victim in all instances.

Labor union monopoly power is not compatible with a free market economy. There are really only two choices facing us. Either the power of unions must be reduced to an extent sufficient that market forces will once again be broadly effective or unions will have to be totally regulated like public utilities with the government controlling wages and work standards and allocating labor. The latter would deal a near fatal blow to our private enterprise economy. Excessive Governmental regulation is one of the causes of our current economic ills.

There are some who see as an alternative the acceptance of "social responsibility" by unions and the sacrificing of some of their self-interest. That is unrealistic. In the absence of legal restraints on union power, unions can logically be expected to continually strive to increase that power. Competition from the non-union sector of the labor force does not deter this drive for more power; rather the effort to unionize the non-union sector is used by the unions as a reason why they need more power. Furthermore, employer resistance cannot be relied upon to restrain the unions, for with the tremendous power already existing on the union side, employers are increasingly willing to give in to the unions in exchange for labor "peace" and uninterrupted operation. The employers are intimidated and the public bears the burden. Wages go up, prices go up, and the consumer has to absorb the higher costs that are the inevitable product of union monopoly power. Nor has competition from foreign industry restrained the growth of union power and union demands. In this competition, what has given way has not been foreign competitors or U.S. unions but our balance of payments and our gold reserves.

It is necessary, therefore, that the Congress take action now to amend the antitrust laws so that labor unions will have to abide by the same regulations as employers of labor. They must be prohibited from taking actions which will unreasonably restrain trade and commerce or eliminate competition in product markets.

Making unions subject to the antitrust laws will not destroy them. Nor will properly drawn legislation interfere with their function as collective bargaining representatives of employees so long as their actions are not in restraint of trade and they do not conspire to restrain trade.

This would be exactly the same as it now is with business organizations. They violate the antitrust laws only when they are large enough to monopolize or when they collude with others to restrain trade.

Since 1932 public policy toward unions has disregarded both the economic laws governing the operations of a free market and the interests of consumers. The Norris-LaGuardia Act of 1932 denied relief in the courts for business firms injured by unions. It freed labor unions to increase their monopoly powers and restrain commerce without regard to the damage inflicted on the public. Then in 1935 the Wagner Act conferred more rights and privileges on unions without corresponding obligations. In 1947 the Taft-Hartley Act preserved the unions' privileges and immunities but attempted to prevent certain "bad" labor practices. It did not, however, place any effective restraints on the further extension of union power. In 1959 the Landrum-Griffin Act added more forbidden "bad" practices with the avowed intent of protecting union members from harmful action by union leadership. It also left intact the structure of union monopoly power. Neither Taft-Hartley or Landrum-Griffin, therefore, have effectively dealt with the problems created by labor unions nor achieved real labor "reform." Rather they have added to the confusing tangle of rules and regulations which leave the power of unions to inflict damage untouched but have fostered increasing government interference in market processes.

Moreover, the body of "administrative law" which has developed around our labor statutes is subject to the shifting interpretations of the National Labor Relations Board, whose members are governed more by their ideological proclivities than by the canons of the judicial process. Thus, while Taft-Hartley outlaws the closed shop, interpretations of the NLRB have weakened the effectiveness of this prohibition. Taft-Hartley also prohibits some types of featherbedding and secondary boycotts, but these limited restraints have been largely circumvented by rulings of the NLRB. Congress' lack of success in formulating effective remedies for labor evils is due to its concentration on legislative attempts to stop the bad practices while neglecting the source from which these practices have emanated—excessive union power.

The severest damage inflicted by unions on the public and the most serious threat they pose to survival of the market economy results from their performance of functions which labor laws authorize them to perform in pursuit of their own self-interest rather than the commission of illegal acts. The problem, then, is the reduction of the legally held powers of unions when such powers unreasonably restrain commerce and eliminate competition. The solution is to bring unions under the antitrust laws.

Removing the exemption for unions from the antitrust laws would not be punitive measure. It would not subject unions to any new and unusual penalties but merely restore the equity in treatment of business enterprise and unions that has been lost because of the free hand given to unions to monopolize and restrain trade. Bringing unions under the scope of the laws that were designed to insure the survival of a competitive economy would no more destroy unions than it has destroyed business enterprises.

It has been argued that bringing unions under the antitrust laws is too difficult and too complicated, and that it would place the antitrust laws and the national labor laws into conflict. These arguments are easily answered.

It was not so difficult to bring business enterprises under the antitrust laws that Congress was unable to achieve it. Bringing unions under antitrust restraints is no more difficult, in fact, it is less so because of the years of experience gained in applying the laws to business firms.

Complexities arise only if an effort is made to spell out in the law the various actions of unions which shall be considered in restraint of trade. This was not done in the Sherman Act with regards to business enterprises, but rather the act simply states that "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal . . ." It leaves to the courts the determination of the meaning and specific application of the words of the statute. The Clayton Act likewise uses broad and non-specific terms, delegating interpretation to the courts.

This same principle should be followed in the case of labor unions. The courts will decide what actions monopolize and restrain trade and are, therefore, illegal under the antitrust laws.

National labor law and the antitrust laws, when made applicable to labor unions, will complement rather than conflict with each other. National Labor law deals with problems and practices in the relationships between unions and employers, without attempting to determine the limits to which union power can accumulate and be exercised without substantially injuring the public interest and endangering the survival of the market economy. Enforcement of the antitrust laws as applied to unions will be concerned solely with the latter and not with the former. Thus a union can violate the National Labor Relations Act without running afoul of the antitrust laws, or it can violate the antitrust laws with an action that is not prohibited by the NLRA. In other words, it will be subject to two different types of regulatory action and in this respect it will be no different from business enterprises, which are subject to a variety of restraints.

Bringing unions under the antitrust laws requires a few very simple amendments to the Sherman and Clayton Acts and an equally simple modification of the application of the Norris-LaGuardia Act. These changes are long overdue.

Mr. President, we have seen inflation ravage our Nation over the last few years. President Ford has called for an end to unnecessary Governmental regulations and strict enforcement of the antitrust laws as a means to combat inflation. Certainly, application of the antitrust statutes to labor unions would assist in such an effort.

In view of the high rate of inflation we have experienced lately, 12.2% just last year for example, I find remarks made by the Honorable Mayo J. Thompson, member of the Federal Trade Commission, in a recent address before the National Fluid Power Association in Palm Springs, California, relevant to the introduction of my bill to remove the exemption in the antitrust laws for labor unions. Commissioner Thompson argues that one of the principal causes of inflation in our country has been the monopoly power of labor unions. Commissioner Thompson's address is as follows:

INFLATION AND THE LABOR UNIONS: "REDISTRIBUTING" INCOME FROM NON-UNION WORKERS TO UNION MEMBERS

(Hon. Mayo J. Thompson)

MONOPOLIZATION AND CONSUMER DECEPTION

Let me begin my remarks by congratulating you on your choice of time and place for this meeting. A trip to a lovely place like Palm Springs, California, is a particularly pleasant way for a Washington bureaucrat to make one of his periodic treks to what I call the "real world"—any place in the United States that is more than 100 miles from that great center of unreality, the nation's Capital. Again, it is a pleasure to be here and I thank you for the kind invitation to participate in your program.

For those of you who aren't familiar with the work of the Federal Trade Commission, let me give you the traditional 60-second summary of the matter. The FTC enforces a group of statutes dealing with, in substance, two categories of commercial activity, monopolization and consumer deception. We have a Washington headquarters, 11 Regional Offices located in various major cities throughout the country—including San Francisco and Los Angeles—and a total staff of roughly 1,500 people, including approximately 600 attorneys. We are authorized by Congress to issue certain kinds of "rules" in the two areas of our alleged expertise and to haul offenders in for a full-scale hearing when we can't find a cheaper way to get them to stop whatever it is they're not supposed to be doing.

REGULATION A "BAD BUSINESS"

Now I want to pause at this point to tell you about a problem I have in my role as a member of a regulatory agency. My difficulty is that I don't really believe in government regulation of business. I took an oath to faithfully enforce the laws entrusted to our agency the day I was sworn in as a member of the FTC and of course I am going to do precisely that. And I even believe that most if not all of these laws our agency enforces are necessary. But they are, in my view, only a necessary evil and I approach the job enforcing them with, I must confess, a heavy heart. Government regulation of business is a bad business, one that a man who loves his country ought to get involved in only for the gravest of reasons.

I had a grave reason for joining the Federal Trade Commission. I thought the country's economic system was being "regulated" to death. I thought we needed less regulation of business in America, not more. And I thought I might be able to make some small contribution in that regard by agreeing to serve on the FTC.

MONOPOLY AND PRICE INFLATION

Now I wouldn't want you to get the idea that I joined the FTC for the purpose of trying to dismantle that particular government agency. On the contrary, it is not the existence of the Federal Trade Commission I deplore but the circumstances that make its existence necessary. Eliminating the FTC wouldn't make false advertising go away. And of course it wouldn't make all of America's great industries as competitive as they're supposed to be, as free of artificial restraints and non-competitive prices as many think they ought to be. If we didn't have a Federal Trade Commission, it would be necessary—to borrow a phrase—for us to "invent" one all over again. The fact of the matter is that we *do* have some dishonest advertising. And we *do* have some industries that are not competitive enough to keep consumer prices at a non-inflationary level. Until commercial honesty and effective competition are the norm in all of our important markets, "regulation" of one sort or another is going to be very much with us, whether we like it or not. And if there is going to be regulation, it ought to be done by people who don't like it.

COMPETITION THE BEST ANTI-INFLATION WEAPON

We once had a phrase in our working vocabularies that summed up my idea of what an economic system ought to be like. It was a two-word French term, "laissez faire," and it translateed into something like "leave it alone." No government interference of any kind in the economic affairs of the people. Let the marketplace do its own regulating.

In a genuinely free economy, one need not be concerned about the prospect of economic overreaching. Individual men will of course pursue their own self-interest but their potential for social harm is cancelled out by competition from other individuals pursuing *their* own self-interest. As the first modern economist summed up the laissez-faire ideal: "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages . . . [E]very individual . . . intends only his own gain, [but] he is in this, as in many other cases, *led by an invisible hand* to promote an end which was no part of his intention . . . By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it." [1]

PRODUCTIVITY AND THE DISTRIBUTION OF INCOME

Sellers may of course try to charge too high a price for their goods—businessmen are, after all, as human as the rest of us—but competition from other sellers will prevent them from *succeeding* in it. And employers may try to *under*pay their workers—and the workers, in turn, may try to get *over*paid for their labor—but competition among the individual members of these two groups will in fact assure that the *actual* wage is fair to both parties.

There is no unemployment and no inflation in such an ideally-competitive economy as this. Only the worker who demands a wage that is higher than the value of his output will be unemployed. And since all prices will be held to the competitive level, there can be no inflation. Invention and innovation will thrive in such a fair and stable society, thus assuring that each man-hour of labor and each dollar of invested capital will yield each year a larger quantity and a better quality of goods and services than it did the year before. The fruits of this increased productivity—higher yields for each man-hour of labor and each dollar of capital—will be divided, thanks to competition, between labor and capital in the same proportions as the lower yields of the past. Competition thus assures both a steady *rise* in a society's aggregate prosperity from year to year and a fair *distribution* of that growing prosperity among its citizens, one based on each individual's social contribution as measured by the value his fellow citizens place on his efforts.

COMPETITION ALIVE BUT ON THE SICK LIST?

Alas, several fingers have been broken off the "invisible hand" so eloquently described by Dr. Smith in his now 200-year-old book, *The Wealth of Nations*, published in 1776. The Industrial Revolution hadn't completed its work then and small-scale industry was still very much the norm in the various economic systems of the world. In short, if the politicians of Smith's day had taken his advice on the matter of avoiding the various "guild" and "mercantile" restraints he railed against, the system would probably have worked very much the way he said it should.

Now, however, the solution to the economic problems of the world are no longer so simple. Modern economic society bears little resemblance to the model Smith saw in 18th century England. Powerful governments, through their own fiscal budgets and their control of national banking systems such as our own Federal Reserve Board, drive their

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[1] Adam Smith, *The Wealth of Nations* (1776) (Modern Lib. Ed., 1936), pp. 14, 423 (emphasis added).

aggregate money supplies up and down like so many yo-yos. Great corporations, many of them operating in scores of counties around the world, control such large segments of their respective markets that only the most romantic of observers still believe that every price in America is set by the "invisible hand" of Dr. Smith's mighty lever, competition. And the price of labor—the wages paid by those corporations—has not been determined by the forces of competition since the passage of our highly restrictive labor laws in the 1930s. Competition is far from dead in America but the prognosis for its future health, if our industrial experts are to be believed, is something less than completely bullish.

UNION WORKERS SUBSIDIZED BY NON-UNION EMPLOYEES?

Consider the effect of monopolistic labor unions in the United States. First, they tend to redistribute income in a perverse way. Approximately 70% of the price paid for all the goods and services produced and sold in America goes to labor as wages and salaries. This particular division of income between labor and capital—70% for the former and 30% for the latter—has remained substantially the same since the turn of the century, thus making it fairly clear that the coming of labor unions in the 1930s has not significantly raised labor's *overall* share of the national income pie. They have succeeded, however, in getting larger shares for their *own members*. Roughly 25% of the country's total workers belong to a labor union and numerous scholars have found that workers belonging to some of the more powerful unions receive wages as much as 20% above those they would be receiving in the absence of the unions.[2] If labor as a *whole* is not receiving a larger income as a result of the coming of the unions, but the union's own members *are* receiving more, then it is obvious that those organizations are simply "transferring" money *from one group of workers to another,* from the non-union worker to the union man. Union members' wages are, in effect, *subsidized* out of the paychecks of the country's non-union employees.

CONSUMERS 75 PERCENT NON-UNION

There is no mystery about how this little exercise in monopoly power operates. Prior to the coming of the union, the workers in a particular industry will usually be receiving a wage set by the free forces of the labor market, by supply and demand. A union is then organized and, under the threat of a strike the employers in the industry will generally agree to raise wages by, let's say, 20%. Since they obviously can't absorb such a wage hike out of profits, they have no choice but to *raise the price of the product they sell to the consumer*. Labor costs, like all other costs incurred by a business firm, are simply "passed on" to the consuming public, a group of people that, as noted, is 75% non-union. And since non-union workers are less affluent, on the average, than union members, it follows that every wage increase won by one of our more powerful labor unions has the effect of re-distributing income regressively—away from the relatively poor and toward the relatively affluent.

INFLATION AND SOCIAL UNREST

Nor can the dilemma created by the monopoly power of our labor unions be solved by simply unionizing *all* workers in the country and thus freeing all wages from the forces of the competitive marketplace. We already have an intolerable rate of inflation in the United States with only a fourth of the labor force unionized, a rate that reached the rather spectacular level of 8.8% in 1973 and that threatens to go even higher in 1974. With 100% of the country's workforce enjoying that kind of monopoly power, our inflation rate might well equal that of some of our less fortunate friends in South America, those whose prices increase by 25% to 50% year after year. A nation that allows its *economic* fabric to unravel at such a pace can hardly expect its social and political garments to hold firm over the long haul. Economic distress leads, in time, to social unrest and, in the end, to political problems of the most alarming dimensions.

LABOR MONOPOLIES EXEMPT FROM ANTITRUST LAWS

When our antitrust laws were first passed—the original Sherman Act was passed in 1890—they were addressed to economic monopoly in all of its various aspects, including both corporate monopolies and labor monopolies. In time, however, Congress enacted a series of statutory provisions that substantially exempted labor from the reach of the antitrust laws. Today, it is lawful for a *single* labor union to exercise a complete monopoly over the *total* supply of labor to even the largest of our great industries and to use that power to exact any wage the firms in the industry can successfully "pass on" to the consuming public—in other words, any wage that won't bankrupt the companies involved. The result, of course, is a continuing escalation of wages—and, in turn, of prices—in all of our industries with strong labor unions and in all related industries that have to compete with them for their labor supply. Monopoly in the country's labor markets assures that prices will rise *faster than productivity* year after year and hence that we will continue to have an inflation problem into all of the foreseeable future. The stronger our unions become—and the more aggressive their members and their leaders become—the greater our future inflation problem will tend to be.

INFLATION AS THE "CAUSE" OF UNEMPLOYMENT

Perhaps the most troublesome aspect of this problem, however, has to do with the link between inflation and unemployment. Since the annual rate of increase in productivity in the United States is approximately 3%, wages could increase by *that* amount each year without causing any inflation. But if some workers insist on getting wage increases of 10% or 12% every year, and if this produces an overall wage increased of, say, 8%, then the result will inevitably be an inflation rate of at least 5%. A 5% cut in the public's purchasing power means, of course, a comparable reduction in the *volume* of goods produced and thus in the number of workers the economy can *employ*. There is a limit, however, to the amount of unemployment the country will tolerate. Beyond some point on the unemployment scale—and that point is certainly a great deal lower than the 24.9% figure we had in the trough year of the Great Depression, 1933—the public can always be expected to demand that the government "do something."

In a democratic society like ours, such a demand by the public will sooner or later be heard in Washington and "something" will in fact be done. In the unemployment situation I've described here, the government invariably responds by opening up the money valves at the Federal Reserve Board and/or by running a deficit in the federal budget, keeping the floodgates open until the unemployment rate has dropped back to a politically tolerable level. By that time, however, the *inflation* rate will be rising even faster than before, thanks to all that new money the government has injected into the system.

THE "BOOM-AND-BUST" CYCLE

We have here, in other words, a familiar boom-and-bust cycle. Wages push up prices. Then output starts to fall. To head off an unacceptable level of unemployment, the government injects enough new money to "cover" those higher wages and prices and thus prevent the worker lay-offs that otherwise would have been caused by that loss in consumer purchasing power. Injecting that new money into the system causes still more inflation. Workers then demand a new "catch-up" wage increase. Prices follow. And so the cycle continues, *ad nauseum,* with little prospect for *either* full employment or stable prices.

A "DE FACTO" EXEMPTION FOR CORPORATE MONOPOLY, TOO?

What does all this have to do with the Federal Trade Commission? We're the agency that—in theory, at least—is supposed to prevent this sort of thing from happening in America. We're supposed to see that the country's economic system is kept free of monopoly, that the economic rails are kept clear of all artificial obstructions. And we *try* to do our job. Our problem, however, is that we've been authorized to clean only *one* of the tracks in the country's two-rail economic system. We can and do investigate monopoly on the *corporate* side of the roadbed but monopoly on the *labor* side is off-limits to us.

Now this one-sided treatment of the monopoly problem in America would be bad enough if it all ended right there. But there's a little more to it. Most fair-minded people recognize the inconsistency and injustice of a law that makes a situation illegal if it is created by *one* group of people and perfectly lawful if it happens to be the work of some *other* group of people. Since labor unions are legally free to and do build up and exercise vast amounts of monopoly power in *their* markets, a lot of our citizens are unable to work up much enthusiasm for reducing whatever monopoly power might be found in our various product or corporate markets. Once the law has given its blessing to monopoly and all its wide ramifications in one area of our economic life, the temptation is very strong to give it a similar blessing in all other areas as well.

INDUSTRYWIDE BARGAINING AN ANTITRUST VIOLATION?

There was undoubtedly a time when the worker in America and elsewhere was denied a fair shake in the economic arena. Nobody has forgotten that we once had sweat-shops where even women and children worked 16 hours a day under grossly unsafe working conditions and for a wage that had been determined not by Adam Smith's "invisible hand" but by the very obvious will of a single monopolistic employer. But now the pendulum has swung much too far in the opposite direction. Many labor unions in the United States and in the other industrialized countries of the world clearly exercise a degree of monopoly power over the world's economies that is grossly inconsistent with the welfare of the great bulk of its citizens.

My conclusion, then, is that the time has come to start cutting back on the monopoly power wielded by the trade unions in this country, perhaps by subjecting those unions to a modified version of our current antitrust laws. It would make eminently sound economic sense in my view, for example, to make it a violation of the antitrust laws for a single union to represent more than the employees of a *single employer*. And to prevent evasion of that provision, the law might also declare it illegal for two or more such unions to agree or conspire with each other in the setting of wages. In short, I think industry-wide bargaining ought to be outlawed on *both* sides of the table, with the individual employer confronting *an opponent that exactly matches it in "size,"* namely, a union representing its *own* employees, not those of an entire industry or a whole industrial sector.

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[2] See, e.g., Albert E. Rees, *Wage Inflation* (National Industrial Conference Board, 1957), pp. 27-28.

NO PUBLIC SUPPORT FOR "DECONCENTRATING" THE UNIONS

A rule like this should have some very interesting effects in a number of dimensions. First, 1-union-for-1-employer would automatically assure the same degree of competition on both the labor and corporate side of each industry. And of course the corollary to this proposition is that, if the antitrusters want to "break up" some alleged corporate monopoly, they would have no choice but to break up the *union* it deals with at the same time. It seems very likely, in other words, that a rule of this kind would cause both wages and prices to fall in some important American industries.

No one in this sophisticated audience, however, will be under any illusion about the chances of any such proposal being enacted into law any time soon. To apply even the most moderate form of antitrust restraint to the country's labor monopolies would be something of a sacrilege to a lot of people in the country. We *talk* a lot about monopoly but, when it comes down to actually *doing* something about it, not many of us seem too anxious to budge very far from the *status quo*. We know we have some labor monopolies and that they keep pushing wages up faster than productivity. And we know we have some corporate monopolies that use every wage boost as an excuse to raise prices even more sharply and thus widen their profit margins again. But we figure a little monopoly is not too bad a thing, so long as we don't "let it get out of hand." We ignore the problem as much as we can. And when a crisis appears in a particular part of the economy—and the public demands that the government "do something"—we say, "Oh, well, a 'little' regulation by the government won't hurt too much, as long as we don't let it get out of hand."

NATIONALIZATION THE "FINAL SOLUTION"?

Government regulation encroaches a little further each year, following the slow but steady march of monopoly. Like the buzzard circling a lame cow in a back pasture, government regulation pounces the moment the last breath of competition leaves the economic carcass. Unlike the buzzard's work, however, economic regulation is not a process that leaves a clean and healthy landscape in its wake. Creating more problems than it solves, it breeds ever more pervasive involvement of the government in economic affairs. New rules and regulations must be passed to solve the problems created by the *old* rules and regulations. The "final solution"? Nationalization. Public ownership of the country's major industries. The railroads. Airlines. Steel. Petroleum. Automobiles. The banks. Insurance. Communications.

It's called Socialism. The stuff it's made out of is called Monopoly. The antidote for both of these poisons is called Competition. The gift it brings is called Freedom. The price we have to pay if we want to keep it is called Responsibility.

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They believe we *already* have so much monopoly in our major labor and product markets that it would be easier to simply go on and turn the whole thing over to the government than to undertake the tedious and difficult task of making competition pulse with life once more in all those dead or dying economic carcasses. I don't believe this. I don't believe this country's business community, for example, is going to let itself be outsmarted by the socialist professors we have running around our universities. I believe this country's businessmen will show the same kind of responsible leadership in whatever economic crises might lie ahead of us that they've shown over the past 200 years in making this great nation the economic marvel of the world that it is today. I believe they have the capacity and the sense of responsibility to understand and apply what I consider the key to this dilemma—the way to aviod government regulation of business is to see that there's no *need* for it in the first place. I believe, in short, that they will pay—and gladly—whatever price is required to keep our free enterprise system free and pass it on, stronger than they found it, to their posterity.

"MONOPOLY IS UN-AMERICAN"

Let me try to sum it all up this way: Competition can do some pretty rough things to your profits and perhaps give you an ulcer besides. But if you ever succeed in *eliminating* it from your industry, *you're beggin' for "regulation"* by the government and, ultimately, perhaps something even worse, government ownership on the British or other European model. Competition may be costly to your purse but economic freedom, as we all know only too well, is a bargain at any price.

My final message is this:

Monopoly is un-American. Show the flag in the fluid-power industry!

Mr. Thurmond. Mr. President, our current economic situation further strengthens the argument for removing the exemption in the antitrust laws for labor unions. Congress has the obligation to restore the balance in our economy between labor and business. Such will insure reasonable and fair wages as well as reasonable and fair prices. Much has been said about the extensive influence of labor unions on members in the 94th Congress. I have long been of the opinion that excessive power wielded by any group, be it labor, business, or other special interest group, poses a threat to our American system. Mr. President, Congress, through the enactment of my bill, has the opportunity to show the American people that this body can maintain a spirit of independence and will not impose a double standard—one for business and one for the labor unions. We all are in the same ball game—there is no justification for a different set of rules for the participants.

Exhibit 2

Statement of Mr. Railsback on the Omnibus Antitrust Bill

Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the Congressional Record, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one pudges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body, and were generally recognized as such. The Senate verisons, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements whereever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of the Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. First of all, there has been a great venting of spleen on the Byrd amendment with regard to contingency fees. I ask unanimous consent that a summary of the House and Senate action on contingent fees be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATE AMENDMENT ON CONTINGENT FEES

In June, the Senate barred all percentage contingency fees in parens patriae actions. This provision remains intact in the Byrd motion (Section 4G(1)(A), page 35).

The same Senate bill also implicitly prohibited other contingency fees unless such fee was approved by the court based primarily on the number of hours worked multiplied by a reasonable hourly rate. The Byrd motion (Section 4G(1)(B), page 35) makes this implicit provision explicit. Section 4G (1)(B) in no way modifies Section 4G(1)(A) which totally bars percentage contingency fees.

DISCUSSION OF HOUSE-SENATE ACTION ON CONTINGENT FEES

In the bill which was reported by the Senate Judiciary Committee there was no express provision barring a state attorney general from retaining private counsel on a contingent fee basis. However, the Judiciary Committee Report stated unequivocally that attorneys fees must—under existing law—be approved by a court under generally accepted standards articulated in *Lindy Bros.* v. *American Radiator and Standard Sanitary*, 487 F.2d 161 (3d Cir. 1973) and *City of Detroit* v. *Grinnell*, 495 F.2d 468 (2d Cir. 1974). It is the Committee's intention that attorney's fees in section 4C cases be approved under the same criteria, and the court is directed to look behind any fee arrangements which may be made between the State and its counsel. As quoted in the Report, the criteria established by the court in *Lindy Brothers* for approving attorneys' fees are as follows:

> In awarding attorneys' fees, the district judge is empowered to exercise his informed discretion.
>
> * * * * *
>
> In detailing the standards that should guide the award of fees to attorneys successfully concluding class suits, by judgment or settlement, we must start from the purpose of the award: to compensate the attorney for the reasonable value of services benefiting the unrepresented claimant. Before the value of the attorney's services can be determined, the district court must ascertain just what were those services. To this end the first inquiry of the court should be into the hours spent by the attorneys. * * * After determining, as above, the services performed by the attorneys, the district court must attempt to value those services.* * * A logical beginning in valuing an attorney's services is to fix a reasonable hourly rate for his time—taking account of the attorney's legal reputation and status (partner, associate). Where several attorneys file a joint petition for fees, the court may find it necessary to use several different rates for the different attorneys. Similarly, the court may find that the reasonable rate of compensation differs for different activities. * * * While the amount thus found to constitute reasonable compensation should be the lodestar of the court's fee determination, there are at least two other factors that must be taken into account in computing the value of attorneys' services. The first of these is the contingent nature of success.* * * In assessing the extent to which attorneys' compensation should be increased to reflect the unlikelihood of success, the district court should consider any information that may help to establish the probability of success.* * * The second additional factor the district court must consider is the extent, if any, to which the quality of an attorney's work mandates increasing or decreasing the amount to which the court has found the attorney reasonably entitled. In evaluating the quality of an attorney's work in a case, the district court should consider the complexity and novelty of the issues presented, the quality of the work that the judge has been able to observe, and the amount of the recovery obtained.* * * The value to be placed on these additional factors will, of course, vary from case to case." (487 F. 2d at 166–169.)

In light of these cases, the Committee voted to reject an amendment to bar the use of all contingent fees. S. Rept. 94–803, at page 80.

The Committee found that a flat ban on contingent fees "would severely limit the usefulness of Title IV for several reasons. First, most States have a small attorney general's office, and an even smaller antitrust staff. A total of 77 attorneys throughout the fifty States are assigned full-time to antitrust matters, and this includes enforcement of State antitrust statutes. Nine States assign no attorneys and 13 assign one on a part-time basis to antitrust matters. States simply do not have the in-house capability of sustaining a complex multi-year antitrust trial. Nor do many State attorneys general's offices have the budget to advance upwards of several hundred thousand or even million dollars in attorneys' fees to outside counsel, or to pay such fees if judgment is rendered for the defendant." S. Rept. 94–803, at 53.

The Report went to emphatically reject the notion that a court approved contingency fee is either immoral or unethical, particularly when, as is the case here, the amount is subject to court approval upon prescribed criteria. To the contrary, it is often the only way to secure effective representation. As put by Virginia attorney general Andrew P. Miller:

> Another way to cripple the effectiveness of this bill would be to deny the Attorneys General, the right every other citizen enjoys, to contract for legal services on whatever basis, in his judgment, suits the needs of a particular case. At this point, substantial antitrust staff are not widespread at the State level. Furthermore, undertaking one major *parens patriae* suit can absorb the time of numerous staff persons for several years. Accordingly, this bill will go unused, and the rights created unenforced to the fullest extent possible, if the Attorneys General are not permitted to contract for expert antitrust counsel whose fees will be paid out of subsequent settlement or judgment, if any. We share the concerns of those who believe that attorneys' fees should be kept within reasonable limits. Therefore, we would support an amendment which would require the approval of the district court for any attorney fee arrangement according to standard attorney fee criteria.

The Report went on to counter the argument that contingency arrangement will encourage the filing of frivolous suits and unnecessarily subject defendants to harassment and to substantial legal and other fees incident to defending suits filed in bad faith. The Committee finds the contrary to be the case, particularly in view of section 4C(f) which provides for the award of reasonable attorneys' fees to a prevailing defendant if the defendant establishes that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

This provision remains in the bill as Section 4(C)(d)(2).

Finally, the Committee Report concurred with the eloquent separate views of Congresswoman Barbara Jordan (D–Tex.) contained at page 27 of House Report No. 94–499 (94th Congress, 1st Sess.). She stated "I am concerned that a flat ban on 'contingency fees' will effectively place the services of perfectly ethical and highly knowledgeable attorneys beyond the reach of the States."

There is another vital point at stake. The contingent fee is not merely an honorable means of financing litigation for those who would otherwise be unable to afford it until the award of final judgment. It is also recognized as an important tool for weeding out the frivolous and unmeritorious case on the basis of expert assessment. It is highly unlikely that a lawyer knowledgeable in any field will be prepared to invest large quantities of his own time and effort in a case on the basis that he will be uncompensated unless he obtains a successful result for the client, unless he believes after careful examination that the case has serious merit.

This point is responsive to two concerns which have been expressed by opponents and critics of the bill. Business interests have argued that the enactment of this legislation will bring a plethora of unfounded lawsuits for enormous sums of money, which they will have to defend at great expense. And members of the committee have on several occasions questioned whether the law might not present irresistible temptations to politically ambitious state officials bent on making a reputation without regard to the ultimate disposition of the cases they bring.

Neither of these unfortunate predictions is remotely likely to come true if the economic judgment of the legal experts is invoked in the evaluation of cases through the use of the contingent fee.

These views are as forceful in relation to the pending Senate bill as they were in the House Judiciary Committee.

When the Senate debated the Judiciary Committee bill in June, after prolonged debate an amendment to ban all contingent fees was twice defeated. 122 Cong. Rec. pages 16717–16720 (June 4, 1976); 122 Cong. Rec. pages 16839–16843 (June 7, 1976); and 122 Cong. Rec. pages 16912–16921 (June 8, 1976). Senator Hart unsuccessfully attempted to obtain unanimous consent to offer an amendment to bar all contingent fees "based on a percentage of the monetary relief awarded." 122 Cong. Rec. S. 8617 (June 8, 1976). In attempting to offer this amendment Senator Hart was attempting to make the point that "there are two kinds of contingency fee arrangements.

One—and I am one who finds no objection to this—that, contingent upon success or failure, counsel shall be reimbursed. I would hope no matter how we lash around on this issue, we will not lose sight of the fact that justice in this country now comes at an increasingly high price. An awful lot of people will find themselves simply out of luck if we develop the notion that contingent fees based upon success or failure are something that should be regarded as evil or unworthy.

I hope none of us ever find ourselves in the position of putting that proposition to a test. But the cost of justice has now reached the point where a good many middle class Americans could not get in the courthouse unless there was an acceptance of the notion and validity of a contingent fee based upon winning or losing the case. But the second approach and the one that is subject to criticism is the contingent fee which is an arrangement that "X percentage of my recovery, X percentage of the settlement shall be paid me in compensation."

It is this second approach which the committee sought to prevent and which we believe language, trusting the ultimate decision to the court, would assure that abuses would not occur." 122 Cong. Rec. pages 16916–16917 (June 8, 1976). Senator Hart and various members of the Senate engaged in the following colloquy on the contingent fee question.

Mr. NUNN. So the Senator from Michigan is saying that a fee of a lawyer hired under this bill would be contingent only in the sense that he would be paid if there is recovery. But the amount of the lawyer's fee would not be contingent as a percentage of recovery. In other words, it would be set by the court on a reasonable basis, based on the work performed. Is that right?

Mr. Philip A. Hart. The Senator is absolutely right.

Mr. Nunn. The Senator from Georgia has been one of those voting to get the Hruska amendment back for consideration, because I felt it was worthy of consideration. But it seems to me that we would be placed in the position, if the Hruska amendment is agreed to, that all we would be doing would be knocking out contingent fees, so that there would be no contingent fee at all based on recovery or nonrecovery.

Mr. Philip A. Hart. The Senator from Georgia perceives it exactly.

Mr. Nunn. Would we not be in the position, then, that if a lawyer took the case, he would be paid on any hourly basis, whether he recovered or not?

Mr. Philip A. Hart. There is that possibility. In the unlikely event that a State could budget for that sort of employment, yes.

This would permit that phantom chased around here yesterday, the too free-wheeling attorney general, to turn somebody loose who would not have any concern about the validity or the legitimacy of his case and who would simply run his meter.

Mr. Nunn. That is exactly right. If there were no attorney's fees unless there was a recovery, a lawyer would be much more likely to make sure he had a meritorious case.

Mr. Philip A. Hart. We believe so.

Mr. Nunn. But if he were to be paid whether or not he won, he could litigate for a number of years, and it could become a lifetime occupation.

Mr. Philip A. Hart. Almost as good as representing a foundation.

Mr. Nunn. It seems to me that the Senator from Michigan has made it very clear that the thing some of us objected to about the present bill has been corrected by this letter.

It seems to me that the Senator from Michigan has corrected the fear some of us had that the attorney's fee would be based on a percentage of recovery.

Mr. Philip A. Hart. Certainly, we seek to insure that that will be forceful.

Mr. McClure. We are not talking about the usual case of an attorney who has no client; therefore, he has nobody paying him. It is saying that if they wish to do so, they could pay whatever reasonable compensation is in order.

Does the Senator from Georgia understand that?

Mr. Nunn. The Senator from Georgia understands that. The point the Senator from Georgia is making is if a lawyer's potential fee is based on whether or not he finally prevails in the case, it seems to the Senator from Georgia that the lawyer is going to use a lot more discretion in deciding to pursue that case, because no lawyer would want to work for several years on a case that is a losing case and thereby be precluded from recovery.

It seems to me that the contingency part of this amendment, when it is not based on the possibility of recovery, is subject to the very hazard that the Senators opposed to the Hruska amendment are trying to prevent.

I do not understand the Hruska amendment because it seems to me the very thing he is trying to protect against—frivolous lawsuits based on attorneys' fees—is much more likely to be prevented by the clarification of the Senator from Michigan than by Senator Hruska's amendment. It seems to me that would be working in the opposite direction.—122 Cong. Rec. page 16918 (June 8, 1976).

Mr. Johnston. Mr. President, I should like to direct a question or two on this amendment. I hope my objections, as Senator Nunn's, will be resolved to it.

As I understand it, under the new proposal, if the Hruska amendment is defeated—I guess this question would be to Senator Hart.

If the Hruska proposal is defeated, contingent fees may remain, but they may not involve a percentage of the monetary relief awarded. Is that correct?

Mr. Philip A. Hart. That is correct.

Mr. Johnston. How would it then work? How would you then structure a contingency fee contract?

Mr. Philip A. Hart. Well, we must remember that there is provision in the Hart-Scott substitute for the court to—let me get the language precisely—"The court shall determine the amount of the plaintiff's attorney's fee."

There is a series of guidelines that have been developed, some of which, indeed, we set forth on pages 51 and 52 of the committee report. But substantially, I think that I could say that in determining the fee, the court would consider the time and the labor spent, the magnitude of the litigation and its complexity, the quality of the service rendered, and whether the plaintiff had the benefit of a prior judgment in favor of the United States on parallel comparable issues.

It is possible that you could have an hourly rate of $25, or $100. It could vary by region, I am sure. But these would be the factors that would operate in connection with the evaluation of the fee that would be presented to the court by an attorney engaged on a contingent basis, namely, if you win you——

Mr. Johnston. Is the Senator saying the court will in all such contingency fee situations fix the fee, the contingency being that the court has the right to fix it based on these factors or other factors if the plaintiff is succesful, but that the court has no such power if the plaintiff does not prevail?

Should I restate that question?

Mr. Abourezk. That is correction. That is the intention of the legislation.—122 Cong. Rec. page 16919 (June 8, 1976).

This series of colloquies persuaded the Senate twice to reject a ban on all contingent fees.

Although Senator Hart could not obtain unanimous to offer his amendment to ban percentage contingent fees at the time the Hruska amendment was debated, that provision became a part of the June 10 compromise. See 122 Con. Rec. page 17541 (June 10, 1976). The Hart amendment banning all percentage contingent fees is carried over in the Senate amendment of August 27, 1976.

Mr. ABOUREZK. Also, Senator Hruska has raised objection to section 4F(b), on page 34 of the Byrd motion. It provides as follows:

> To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

The section specifically limits the Attorney General's power to release documents to whatever his powers are under existing law. Under existing law, he cannot turn over materials given in response to a grand jury demand or to a civil investigative demand. Therefore, the section is limited by existing law to cases where materials were turned over voluntarily. This section is in the bill, because it was requested by the members of the House conferees, who had met on this.

I might say one other thing, Mr. President, about the attorney fees section. I have been listening for several days to talk about gigantic attorneys' fees. Under the Byrd motion, which the opponents are against, percentage contingency fees are specifically prohibited. Page 35 of the Byrd motion bars any—

> (A) "contingency fee based on a percentage of monetary relief awarded under this section;".

That is the exact language. In addition the amount of the plaintiff's attorneys' fees, if any, is to be determined by the court. That provision is to be found on page 33 of the Byrd motion. There is no way that the court, if it is to abide by this law, can award a percentage contingency fee. It can set an hourly fee, and it may be contingent upon whether the plaintiff prevails. There is no possibility of gigantic attorneys' fees under these provisions. In fact, if an attorney brings an action that is not a serious action, if they are trying to blackmail somebody, then the court is entitled to award the defendant attorneys' fees.

In this substitute, there is no question about whether percentage contingency fees are legal; they are not. Despite this fact the opponents continue to bring up the contingent fee question in an effort to convince somebody that enormous contingent fees are permitted under this legislation. I hope that my statement will put this matter to rest.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield the remaining time on this side to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Nebraska for yielding to me.

Mr. President, this bill throughout has cut, or efforts to pass the bill have cut, every imaginable corner in order to achieve passage of the bill. Every strong-arm tactic has been used, and we are soon to consider, after my substitute has been voted on, the so-called compromise, which is no compromise at all, as I will point out.

The proponents of this legislation have been prone to say "compromise" when no compromise exists. First they said there was a compromise with respect to the Senate version of this bill which passed on June 10.

I contended, the distinguished Senator from Nebraska made absolutely plain here on the floor of the Senate, that no compromise was involved. But yet, Mr. President, the substitute offered by the Senator from Alabama is, in fact, the Senate version of the bill passed on June 10.

Well, if, as the proponents of this legislation claim, there was a compromise on the Senate bill, why are they so anxious to defeat the bill?

I was amazed to hear on the floor of the Senate the distinguished Senator from South Dakota (Mr. Abourezk) say that a vote for my amendment would be a vote against the Hart-Scott bill. It is, in fact, the Hart-Scott bill, as passed by the Senate on June 10.

Now, no compromise existed even though the proponents of the legislation say that one did exist. But they are shown not to believe what they say by the fact that I am offering this so-called compromise that the Senate passed on June 10, and they are fleeing from it. They want no part of it. They have offered two separate substitutes to try to kill it. So it was not a compromise then.

Apparently, Mr. President, there is no compromise with regard to the so-called compromise substitute motion offered by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD). That compromise was the result of a rump conference between certain Members of the Senate and, supposedly, certain Members of the House.

Claims were made that an agreement was reached between Members of the Senate and Members of the House as to the so-called compromise. But, Mr. President, that is a unilateral statement. That is not agreed to by Members of the House of Representatives.

Mr. RAILSBACK, in a statement in the RECORD on page 29032 last Thursday said:

> There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

Yet, the proponents of this Robert C. Byrd substitute say that a compromise was reached. Well, it does not seem to be any more compromise on that than there was on the Senate bill they are now rejecting.

Mr. RAILSBACK continues:

> There has been no compromise agreed to between the House and the Senate.
>
> There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

Yet they come back in here with this rump conference substitute—and I say rump conference because the self-elected representatives of the Senate were three strong supporters of the legislation and nobody against the legislation or who had any different views from theirs, who were called on to meet with certain House Members. Said Mr. RAILSBACK:

> In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Yet this work of the rump conference was brought back here to the Senate and offered here supposedly as a compromise.

We did not know anything to the contrary until Thursday when Members of the House went to the House floor and said there was no compromise.

Mr. RAILSBACK continues:

> The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees.
>
> A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.
>
> As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself.

He goes on and explains that. I am going to offer his statement, and I shall ask unanimous consent to do so, in the RECORD, at the conclusion of my remarks.

Another important difference is what Mr. PHILIP A. HART said in his statement that was inserted in the RECORD when the substitute was offered, when he said that the Senate retroactivity provision was basically retained, well, that is not correct, and it is misleading in that it suggests that the retroactivity provision of the Senate bill was retained in the so-called compromise. It is not.

The Senate bill had forbidden a retroactive effect cause of action based on facts occurring before the enactment of the bill. The Byrd substitute or the rump conference substitute—and I have likened the rump conference to the rump Parliament in England under Charles I and Oliver Cromwell, which had no legal standing whatsoever, no authority to act—and yet they come in and try to palm off their own language and claim that it is a compromise reached with the House. The House Members say not so.

So I guess these gentlemen seem prone to a yell "compromise" and they retreat from the very compromise they say was reached as regards the original enactment of the Senate, and here they are not willing to agree to what the House Members said they would take.

Mr. RAILSBACK says that the Senate Members, these three strong supporters of the legislation, Mr. ABOUREZK, Mr. KENNEDY, and Mr. HUGH SCOTT, presented their compromise or their version of what they wanted to adopt; the House then presented to these Members—they never met according to Mr. RAILSBACK—presented to these three Members what they felt the House would accept, and then the Senate presented another version which the House rejected, and there, according to Mr. RAILSBACK, the negotiations ended, ended in the rejection by the House of the rump conference proposal.

Mr. President, I have in my possession a copy of this proposal by the House Members. It is different in three respects from this rump conference proposal which is stated as being the compromise measure. Well, it is no compromise measure, because it changes in at least three other respects what the House said they would accept.

So, Mr. President, this is no compromise. Mr. RAILSBACK said that he believes when the Senate proceeds to send over the results of the rump conference that it will not be accepted on the floor of the House, and if it is accepted that the President, in all likelihood, will veto the measure.

I. BACKGROUND

Mr. President, recapitulating, on Friday, August 27, Senator BYRD filed in the Senate an amendment in the nature of a substitute to the House antitrust package (H.R. 8532), along with a simultaneous petition for cloture on the substitute. I prevented an attempt to adjourn the Senate and objected strenuously to this extraordinary procedure and to the fact that no explanation was forthcoming as to what was in the "mystery package" or where it came from.

That is the Byrd motion, also known as the Byrd substitute, also known as the rump conference proposal.

When the CONGRESSIONAL RECORD for August 27 appeared the next day, Saturday, an "Additional Statement" had been inserted under the name of Mr. PHILIP A. HART at the end of my objection, which, of course, was not delivered here on the floor.

This "Additional Statement" purported to explain the background and contents of the "mystery package" implying that it was an agreement reached at an informal meeting between three Senators, KENNEDY, ABOUREZK, and HUGH SCOTT and the House conferees:

> Senator Kennedy, Senator Abourezk and the distinguished minority leader, Senator Hugh Scott, entered into informal negotiations with Chairman Rodino and the other members of the House Monopolies and Commercial Law Subcommittee as to what the House might favorably consider. The members of that Subcommittee had been appointed by the House to serve as conferees. In spite of the extremely short time period involved, Chairman Rodino and the other members of the House Subcommittee graciously acceded to the request of the Senate sponsors to meet and isolate the major differences between the two bills. (Con. Rec. page 28272, Aug. 27)

This is Senator HART's version.

Press reports commencing on August 28 and continuing the following week constantly referred to the Byrd substitute as a "compromise" measure worked out to avoid a threatened filibuster of the conference proceedings. The widespread assumption that the Byrd substitute was a "compromise" reached at a "rump conference" meeting of the House conferees and the three Senators was reflected in many references throughout the Senate debates the following week—August 30–September 1.

I might say, Mr. RAILSBACK was not the only Member of the House who said no compromise was reached. Mr. MCCLORY also made the same statement, that there was no compromise reached.

Mr. President, I ask unanimous consent at the end of my remarks that Mr. MCCLORY's and Mr. RAILBACK's statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. ALLEN. No effort was made to correct the record on two crucial points, until after the Senate adjourned on Wednesday, September 1, viz: First. The so-called Byrd compromise did not represent a compromise agreed to by the House conferees and any statement here on the floor to that effect is controverted by Members of the House who are supposed to be among those who agreed—and, in fact, there are a number of provisions in it with which the House conferees had specifically disagreed; and

In fact, there are a number of provisions in which the conferees had specifically disagreed. Yet this rump conference proposal also sought to be balanced off here in the Senate as a compromise reached between three Senators who had no standing whatsoever to reach any agreement, with Members of the House who now say that no agreement was reached.

Second. There was, in fact, no meeting with the Senators at all. It turns out there were only some discussions between the three named Senators and some of the House conferees, resulting in someone's version—it still is not known whose—of what the drafter thought the Senate and House might be induced to accept. Statements correcting the record as to the facts surrounding the supposed "compromise" were inserted by Congressman Robert McClory and Thomas Railsback in the Congressional Record on Thursday, September 2, the day after the Senate had reached a unanimous-consent agreement and adjourned.

II. EFFECT OF "BYRD SUBSTITUTE"

The effect of first, the misimpression created by the Added Statement in the August 27 Congreesional Record that the "Byrd substitute" had been agreed to by the House conferees, second, the constant characterization of the Byrd substitute as a "compromise"—see, for example, Senator Abourezk statement at page 28569 of Congressional Record, August 31—and third, the failure to correct such mischaracterization until after the Senate adjourned on September 1, is now likely to have two far-reaching results:

First. It will force the Senate to accept the Byrd substitute without amendment by virtue of the unanimous-consent agreement reached September 1, to hold an up-or-down vote on it on September 8. Arguments had been strenuously made in the Senate debate that any amendment by the Senate of the Byrd substitute would jeopardize House concurrence because the House conferees had already agreed to the "compromise." That this was the general understanding in the Senate is illustrated by the following statement by Senator Javits:

> What we must understand is that the matters taken in the compromise were agreed upon between people in the House and people in the Senate. (Cong. Rec., August 31, page 26810)

Second. It will force the House also to accept the "Byrd substitute" without amendment because it is likely that successful arguments will be made there that the House cannot take the chance of making any changes in whatever the Senate passes, because to do so would then necessitate further Senate action, which might result in a filibuster that could kill the bill.

Exhibit 1

Statement by Reps. Tom Railsback (R.-Ill.) and Robert McClory (R.-Ill.) Criticizing Proposed "Compromise" Version of H.R. 8532, Omnibus Antitrust Bill, Introduction in Senate on August 27, 1976

STATEMENT BY REP. RAILSBACK

Mr. Railsback. Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the Congressional Record, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one judges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body, and were generally recognized as such. The Senate versions, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the Houses conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

STATEMENT BY REPRESENTATIVE M'CLORY

(Mr. McClory asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McClory. Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up-or-down vote on its amendment next Wednesday afternoon.

Now, it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House conferees rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith" and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the conference committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER addressed the Chair.

Mr. ABOUREZK. Mr. President, is there any time remaining to the Senator from Nebraska?

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. CULVER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CULVER. Mr. President, I ask unanimous consent that it be on no one's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, with regard to the "good faith" defense argument that has been raised here with respect to the antitrust bill, I believe that the Senate position is wholly reasonable. The House bill contains a provision which reduces damages from treble to single "if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws." On two different occasions the Senate rejected amendments to reduce damages from treble to single. On June 9 the Senate overwhelmingly rejected an amendment by Senator HRUSKA to reduce all damages under the aggregate damage provision to single damages—122 CONGRESSIONAL RECORD page 17241, June 9, 1976. Later in the same day, the Senate defeated an amendment of Senator GRIFFIN to reduce damages from treble to single "if the State fails to establish that the defendant acted in willful violation of the antitrust laws"—122 CONGRESSIONAL RECORD pages 17250–17253, June 9, 1976.

Both of these amendments were rejected on sound arguments. The concept of treble damages has been a fixture of the antitrust law since the Sherman Act was adopted in 1890. The fears of those who objected to treble damages then were not well founded. Business has not been destroyed by large damage awards. On the other hand, the treble damage concept has a deterrent effect.

If any reduction of damages is authorized in this bill, consumers will be put at a disadvantage. As Senator KENNEDY said:

> If we are to accept the amendment of the Senator from Nebraska, its effect would be to put the consumers of this country at a disadvantage in comparison with the legal actions that could be brought by business interests or even those individual interests that would not be represented in a parens patriae action, because this amendment only applies to the narrow class of actions brought under the parens patriae provision. So in a particular case, where there may be [antitrust] violations . . . were a State attorney general to bring the case to represent the people of his State and were the court to find violations, he would only obtain recovery of single damages. If there are similar violations found in a suit brought by businesses against the same defendant, and they were to win the case, they would be able to recover full treble damages. 122 Cong. Rec. S8789 (June 9, 1976).

This argument applies no matter what rationale is advanced for the reduction in damages.

Furthermore, as amended, the parens patriae provision applies only to price fixing. Let me ask you, how can a businessman agree in "good faith" to fix prices? How can a businessman have "reasonable grounds" to believe that an agreement to fix prices is not a violation of the antitrust violations? Such a situation is clearly absurd. But by providing for such a defense, courts will be inundated with self-serving arguments and testimony by defendants who are about to lose a price-fixing case. This increases the opportunities for defendants to delay an antitrust action. It encourages businesses to lace their price-fixing agreements with sirup and reduces the deterrent of the antitrust laws.

Finally, the Senate amendment makes it clear that the parens patriae provisions "shall not apply to any injury sustained prior to the date of enactment of this act." Therefore, all companies are being given express notice in advance of the liability they may incur if they engage in price fixing. I cannot see how any "good faith" defense would be appropriate given this notice.

For these reasons, I would oppose such a good faith provision even if the bill's aggregate damage provision was not limited to price fixing. However, I can readily see reasonable men disagreeing over the merit of such a provision if aggregate damages were permitted for any violation of the Sherman Act—as the original House bill did.

Now, however, the bill is limited to price fixing. In this context, Mr. President, I see no logic or merit to the good faith provision.

Mr. GARY HART. Mr. President, I will vote for H.R. 8532 despite the fact that I am disappointed at the compromises which had to be made during its consideration in the Senate. The Nation is in need of strong antitrust legislation. Although the bill significantly strengthens the antitrust laws, it is substantially weaker than I would have preferred.

Every Member of the Senate is well aware of the numerous obstacles and delaying tactics which have been used to kill this legislation. I need not recount the 70 votes which occurred during the consideration of this bill by the Senate last June or the repetition of these tactics last week. Every Senator suffered through these long days and—with a clear majority of the Senate—I voted in favor of strong legislation at every opportunity.

After enduring the unreasonable delaying tactics of the opponents of this legislation for approximately 10 days in June, the sponsors of this legislation agreed to a compromise in order to expedite its passage. Even after the filibuster on the Hart-Scott substitute ended, the sponsors knew that there was likely to be a second filibuster before the underlying bill could be adopted. Indeed, after the first cloture motion had been adopted on June 3, on the Hart-Scott substitute—122 CONGRESSIONAL RECORD, page 16471—a second cloture petition was filed on June 4 on H.R. 8532—122 CONGRESSIONAL RECORD, page 16720. This prospect for a second cloture last June may have been a prime consideration in the sponsors agreeing to the June 10 compromise. However, I considered the need for strong antitrust legislation so great that I voted against the compromise version of the Hart-Scott substitute and against H.R. 8532 as amended—122 CONGRESSIONAL RECORD, pages 17571–17572. My votes expressed my hope that the bill which would come back from conference would restore the provisions which the compromise had deleted.

I was particularly concerned that the aggregate damage provisions were only to be available for use in price-fixing and patent fraud cases. The sponsors of the bill had agreed at an earlier point during the debate to limit the aggregate damage section to all per se antitrust violations plus patent fraud—122 CONGRESSIONAL RECORD, pages 15859–15861, May 27, 1976. The bill as reported by the Judiciary Committee extended to all violations of the Sherman Act—122 CONGRESSIONAL RECORD, page 15308. May 25, 1976. When the June 10 compromise proposed to limit the bill to price-fixing and patent fraud, I could see no reason why division of markets, agreements to limit production, group boycotts, division of customers, tie-in arrangements, reciprocal dealing or the other per se violations were any less invidious than price-fixing or patent fraud. I, therefore, voted against the compromise and the bill as my way of supporting restoration of these provisions in conference. I for one would have been willing to suffer a second filibuster in June to retain these provisions.

Now, as we all know, there will be no conference due to the continuation of dilatory tactics by the opponents of this legislation. Due to these tactics, the Senate has been forced to propose a second compromise which estimates what the House would agree to if a conference were held. Of course, the House is in the driver's seat in this situation and the Senate has none of the bargaining leverage it would have if a conference could be held. I am very disappointed that as a result of this situation, the sopnsors have been forced to accept a bill even weaker than one they could have obtained in a conference. Now, the aggregate damage provision covers only price-fixing. Patent fraud is no longer covered, let alone the other per se violations, and let alone the other types of violations of the Sherman Act.

I sympathize with the difficult position in which the sponsors have found themselves. They have battled nobly with the opponents of this legislation and together they have rewritten the Senate procedure manual. I have the greatest respect for Senator HART and the perserverence and patience he has shown during these trying events. These facts temper my deep disappointment in the bill.

Given the circumstances which have made these compromises necessary, I will vote in favor of this legislation. But to our colleagues in the House who might say that the Senate is sending them too strong a bill, let me say that I, for one, believe to the contrary. No one can argue that vigorous enforcement of the antitrust laws to stop price-fixing is not in the public interest.

Because of the difficult parliamentary system in the Senate, any vote by the House to further amend the Senate bill will constitute a vote to kill this legislation. By adopting this second compromise, the Senate is putting the fate of this bill in the hands of the House. We cannot speculate whether this bill is precisely what would have emerged from conference. I believe it is weaker than it would have been. Therefore, rather than speculate on this question or bemoan the lack of flexibility which results from the Senate's action, the House must face the question of whether it wants strong and fair legislation to deter and punish price-fixers.

I trust the House will adopt the Senate proposal and the President will sign this legislation. Nothing would be a more fitting tribute to Senator Philip Hart upon his retirement or to the celebration of our political and economic freedom in this Bicentennial Year.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum, the time not being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The time of the Senator has been yielded back.

LEGISLATIVE APPROPRIATIONS—1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 14238, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Alabama would like to move to reconsider, as I understand, the vote whereby we agreed to the Taft amendment, striking out the limitations on executive and judicial pay. Momentarily the distinguished Senator from Ohio (Mr. TAFT) who is on his way will be present in the Chamber.

Perhaps if the Senator will so move, we can bring it to a vote. I did not want to be rude to move to lay the motion on the table. Maybe we can do this, see where we are, and have a test vote.

I yield to the Senator.

Mr. ALLEN. I would rather wait until the distinguished Senator from Ohio arrives here because it is his amendment. I would hope that he would agree that the vote by which the amendment was agreed to would be set aside so that we could have a vote up and down on his amendment. I do not believe many Senators were here. There were only three or four in the Chamber when the vote took place. I feel that there ought to be a yea and nay vote on it.

So, not wishing to take action until the distinguished Senator from Ohio comes into the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAKER). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, in a moment I shall make a motion, but I wish to discuss it a little bit first. I would hope that we might possibly agree to reconsider the vote by which the Taft amendment was agreed to in order that we might have a yea and nay vote up and down on the amendment.

The situation is this: The House of Representatives passed an amendment freezing the compensation of Members of Congress, House and Senate, the members of the judiciary, and the top ranking members of the executive branch, not including the President. He is not involved. The bill comes to the Senate in that fashion. The Senate committee has an amendment which is pending at the desk which would strike out the House language, freezing the salaries at the September 30, 1976, level.

The distinguished Senator from Ohio then offered a perfecting amendment to the language of the House bill, which would have withdrawn from the freeze all persons other than Members of the House of Representatives and Senate.

That amendment was agreed to by a voice vote with three or four Senators in the Chamber. So, what I wish to do is to make a motion and hope the distinguished Senator from South Carolina (Mr. HOLLINGS) will not move to table it until there has been some discussion and Senators can be apprised of what they are voting on, but I would move to reconsider the vote by which the Taft amendment was agreed to in order that Members of Congress, the executive branch, and the judiciary might stand on the same basis and same level, that they not be exempted from the freeze.

Even though the vote on the amendment is reconsidered, everything would be subject to the committee effort to strike the whole section. But they ought to stand together, it would seem to me, and if any salaries would be frozen they should be frozen for all three branches.

I therefore, Mr. President, move to reconsider the vote by which the Taft amendment was agreed to, and call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, I respectfully oppose the motion to reconsider at this point, or indeed I may in due time move to table it because I think in my opening remarks in offering the amendment I made it abundantly clear that my complaint in this matter is that the House of Representatives and Senate have tied their salaries to the other salaries, the judicial salaries and executive salaries and have in that way I think tried to give an impression of sanctity, or something, for commission proceedings, with which I disagree rather strongly, as to setting our own salaries.

It seems to me in the very beginning of the commission legislation the House of Representatives and Senate ought to be willing to take the position to stand up and vote on their own salaries and vote on them separately from anyone else's salaries. We have seen that this system we currently have has not worked. It has worked adversely actually. What has happened is the Senate and the House of Representatives, if indeed they are due salary increases, have seen their salary increases held back, I think, from what they might have done if they had faced up to the problem, and now they face large jumps if they are really to catch up at some point and at a time when I think the public is not in the least degree ready as a matter of mood to accept such increases.

I also feel that oftentimes we have held back on really what competitive salaries should be for members of the judiciary and the more important members of the executive branch of Government so that the amendment, as I see it, is a first step. I wish to, but, as a matter of procedure cannot, on this particular bill move to take Senate and House Members completely out of this commission legislation as I have tried and as I have a bill in to so do. But I can, I think, separate them insofar as this particular measure is concerned from the members of the judiciary and the higher executive branches who I think are entitled to the increase. I believe it is rather vital in order to keep good men in public service and get them into public service in these two branches of Government to do that.

I do not see that as being a problem of the legislative branch. I think, as we all know, there seem to be plenty of people interested in running for this body and also running for the House of Representatives.

I do not want to cut off anyone from

speaking on the matter, but in due time I do hope to table this motion.

Mr. PASTORE. Mr. President, it makes very little difference to me how this matter is resolved one way or the other. I have already announced my retirement from the Senate of the United States and I will not be here next year. So this will not make any difference to me.

But I think I would be lacking in courage if I did not stand up at this moment to say: How far must we go in demeaning ourselves as Members of the Congress?

I say very frankly that there may be some Members in this body or perhaps in the other side of Congress who are not even worth one-half of what they are paid, and I daresay that there may be many in the executive branch.

When we say that we have to raise the salaries of the judges because they will not remain if we do not raise the salaries, whom are we kidding? There are at least 200 in my State ready to become judges, if only they have the opportunity. Let us face it. I do not see our judges resigning. But I have nothing against them. If they are entitled to a raise because of the cost of living, I am willing to give it to them.

But why do you make an exception as to the Members of Congress? Why are you so frightened? Why do you lack so much courage? That is the question.

I say that what is good for one is good for the other. I am perfectly willing to say that if we are strapped for money—and if people in the higher echelons should not get a raise, then let us deny it to all. But why do we make flesh of one and fish of another?

When I was Governor of my State—this takes me back almost 30 years—do you know what my salary was? It was $8,000 a year. The first year, I received requests for contributions up to $6,000. I could not comply with all of them. My predecessors were all millionaires. I am the first elected Senator from Rhode Island who was not a millionaire.

I have to live on my salary. I have always lived on my salary. I have no business on the outside. I have not practiced law for 30 years. I have to maintain two homes, one in Washington and one in Rhode Island. I have to pay taxes just as everybody else does, and I am glad to do it.

When I came to the Senate of the United States 26 years ago, my salary was $12,500. I pay the secretaries in my office more money than that today. Then our salaries were raised to $20,000 or $22,000, then $30,000, and now it is $44,600. It is a good salary. I am not complaining. I get by.

We have never had a maid in our home from the day I was married, and that is how we get by. We do not get into any fringes. I have never taken my wife on a junket. My wife would not even go. She said, "I will go when you retire, John. That is when I will come."

Yet, someone stands here and says to me that what we should do is separate ourselves from this and then vote on it. That is exactly what we are doing here. Do you know why we are voting against this? Because we do not have the guts to stand up and say what is in our hearts.

I am not one of those who was lucky that his father was born before him. I was born poor. Every nickel I got I earned myself. Nobody left me a quarter. I went to work when I was 9 years old, when I lost my father. I did not even go to college. Do you know why? I was admitted to two Ivy League colleges. But I had to go to work. My family needed the money, so I went to night law school. It has been a struggle all my life. Yet, somebody stands here, who was blessed with an inheritance, and tells me that we should block ourselves out because we do not have the guts to stand up and say what we stand for.

We say, "You'll get a good judge if you pay him enough money," but somehow we do not use the same argument, that you will get a good Senator if you pay him more money.

There you are. So I am going to support the motion to reconsider, and I am going to vote to deny or give it to everybody. If one goes down, we all go down. That is the way I feel about it. If that is my valedictory, let it be my valedictory. I am proud of it.

Mr. STEVENS. Mr. President, the Senator from Rhode Island is very eloquent. I wish he were not taking the position he is taking.

I am sure that those of us who serve on the Committee on Post Office and Civil Service have the duty to speak up for the career civil service. It is a system of career advancement.

With due respect to the Senator from Rhode Island, this is a political year. This subject could be raised, as it was the last time, after the Commission made its report. The only reason it is raised now is that it is a political issue, and we do not have the guts to vote ourselves a pay raise. I am willing to accept that judgment, even though I would be willing to vote for the pay raise. I am willing to accept that judgment, but I am not willing to sacrifice the careers of those who are working their way up through the civil service and tell them, "Stop your ambition at level 15, because you're not going to get a pay raise once you hit the super grades."

What the Senator from Alabama would do would be to put back into this political arena the very people for whom we passed the civil service legislation, to get them out of the political arena.

Judges are not running for office. Those people in the Federal career service are not running for office. They are in a career, where we have told them, as I said, "If you have the ambition, if you work yourself up, you can advance through this system." Once they get to the supergrades, that is some sort of super status in the executive service, and the pay act put them in this area from grade 16 up, because we considered them to be executives.

The impact of the amendment of the Senator from Ohio has been to isolate the political issue. If Senators do not want a pay raise for themselves, if they do not think they are worthy of it, then they should vote for that. I still intend to vote for the committee amendment to strike the whole amendment.

The impact of what the Senator from Rhode Island says is that he is going to vote against the amendment of the Senator from Ohio in order that he can vote against the whole thing. I believe that we have the duty to protect the career civil service system, to protect those who are out there in the nonpolitical arena, and to give them the pay raise that this Commission has indicated it is going to recommend to us.

Again I say that if Senators do not want to do that for the judges and the civil servants who are covered by the pay act, we can face that issue as we did before.

Twenty thousand people in the career civil service are subject to this amendment. We are trying to say to them and to the judges, "We recognize that you should not be political footballs." We are political footballs, I say to the Senator from Rhode Island. We made ourselves political footballs, because, as someone has said, there are hundreds of people who would like to run against us. There are very few people whose nominations we will confirm to be U.S. judges.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. PASTORE. I have always voted for the increase. I say to the Senator that if it was the temper of the Senate to go along with the increase and knock out the provision of the House, I would vote for it, even though it means nothing to me. I have done so before.

All I am saying is that we in this Chamber have developed a habit of demeaning ourselves. It happens time and time again. It always happens that it comes from those who actually would serve for a dollar if they had the privilege to come to the Senate. Do you know why? Because they do not need the salary. I know a lot of Senators who just give it away to charity. I know Presidents who do not take their salary, who give it away to charity. You know why? They were lucky that their parents were born before them.

But there are a lot of people in Government, including in the Congress of the United States, who have to live on their salaries. You know why? Because there is no subterfuge in their lives, such as practicing law on the side, putting their name on the door, running around making speeches for honorariums. We have a lot of people around here who come to work at 8:30 in the morning and go home at 8:30 at night, and they live on their salaries. That is what I am talking about.

Mr. STEVENS. The Senator is talking to one of them.

Mr. PASTORE. Then I am surprised that the Senator from Alaska is taking the position he is taking.

Mr. STEVENS. I am not practicing law any more. I am in exactly the same position as the Senator from Rhode Island. What I am saying is that I think we have a duty to protect these people.

Let me tell about a district judge who just went on the bench in Alaska. He is a good Democrat, as a matter of fact, a good friend of mine. I went to him when he was on the State supreme court and said:

> You are the best man I know to be a district judge. You put your name in and I will do everything I can to see that you are confirmed.

He went from a salary of $50,000 to the Federal district judge's salary of $42,000. He, too, lives on his income and most of the Federal judges I know are not millionaires. They are here. They are not out sitting on a bench.

If the Senator's theory is valid, it is valid for those whom we went out and solicited and asked to become Federal judges. This is a cost-of-living pay increase.

As I say, if the Members of the Senate want to deny it to themselves, fine. But why deny it to those people who have gone into public service, who no longer practice law, no longer have any outside income, most of them? Yet we are asked to deny it to judges.

I feel even more strongly about the career civil service. I know many people in this Government who have worked their way up, literally, rung by rung, on that ladder, and they now are above grade 15. We are going to say to them——

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. STEVENS. I shall yield to my friend in a minute.

We are going to say to them, "No, you don't get this because this is a political year and the pay raise would be a political issue. We don't have the guts to give it to ourselves; therefore, we are not going to let you have it, either."

I do not like that reasoning, with due respect to my great friend, and he knows I have great respect for the Senator from Rhode Island.

I might support him, as a matter of fact, to vote against the Taft amendment if he would argue to the Senate to vote for the committee amendment to strike all the House amendment.

Mr. PASTORE. I might well do that. I might just as well do that, even though it does not mean anything to me.

We did that once before, the Senator will remember.

Mr. STEVENS. I do remember.

Mr. PASTORE. We knocked it sky high. The Senator remembers that.

Mr. STEVENS. Yes.

Mr. PASTORE. I want to ask my good friend from Alaska, does he think it costs that judge he just mentioned more money to live than it costs him?

Mr. STEVENS. It does this judge, because he is living in Alaska, which has a 25 percent higher cost of living.

Mr. PASTORE. Does the Senator not live in Alaska? Where does the Senator come from?

Mr. STEVENS. I come from Alaska. I live here most of the year.

Mr. PASTORE. And he has to go back to Alaska?

Mr. STEVENS. As often as I can.

Mr. PASTORE. The Senator pays taxes in Alaska; does he not?

Mr. STEVENS. Yes, I do. The cost of living for these people is not any less real than it is for us. If we do not take it for ourselves, we should not take it from them.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I promised the Senator from Virginia to yield. Then I shall yield to the distinguished Senator from West Virginia.

Mr. WILLIAM L. SCOTT. The Senator from Alaska serves on the Committee on Post Office and Civil Service. I served on it for 6 years. As the Senator will recall, the concept of comparability was accepted by Congress a number of years ago. He is making a plea for the classified workers. I share his concern for the classified workers. I believe that their pay should be comparable to that in private industry, as nearly as we can make it. They should not live above or below their counterparts in private industry. But if we are going to accept the comparability concept, why should it not apply to Federal judges and why should it not apply to U.S. Senators and Members of the House of Representatives?

I agree with much of what my distinguished friend from Rhode Island has to say. I, too, am dependent on my salary. I do not believe one should have to be a millionaire to serve in the U.S. Senate. In all candor, I find many of the people who are opposed to pay raises and reasonable rates of pay for Members of the Senate are millionaires. I think if we would check the record, we would find this is true. I am not against a millionaire serving in the Senate, but I do not believe we ought to have to be dependent on outside sources of income in order to serve in the Senate.

I think there is a lot of hypocrisy existing in this body, and I think it exists in the House of Representatives when we refuse to pay ourselves, Federal judges, and other people in the top echelon of Federal employment whatever is comparable pay to that that their counterparts would make or do make in the private sector of our economy. I hope that we can strike the entire House provision and then can go on to see that the pay of Members of Congress is comparable to what they would make if they were in private business, whether they are practicing law or running a television station or a newspaper, or something else.

It seems to me that if we want the best caliber of people representing us in Congress, regardless of their independent wealth, they should be paid a comparable pay. I think that we are letting politics decide this question.

I have no hesitancy at all about voting to knock out this provision that the House put in. I think that is the responsible thing for us to do, because we will get better people in Congress by paying them whatever is a fair salary for their services. We should not have to make speeches or choose our parentage in order to serve in the Senate.

I appreciate the Senator's yielding.

Mr. STEVENS. Does the Senator from West Virginia wish me to yield? I shall be happy to if he does.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding.

I find it extremely difficult to become upset about the plight of the Federal judges. I must say that I agree with the distinguished Senator from Rhode Island. There are scores of lawyers in West Virginia who would be glad to be appointed to a Federal judgeship.

The distinguished jurist to which the Senator from Alaska alluded, as I understand it, was a member of the State supreme court, was he?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Is that an elective office?

Mr. STEVENS. No. We have the modified Kansas plan. It is appointive, then elective after 4 years, then every 10 years after that. They run against their own records.

Mr. ROBERT C. BYRD. That is one advantage he has as a Federal judge over being a member of the State supreme court.

Second, as a Federal judge, he will not pay one penny into his own retirement fund. Members of the House and Senate have to pay into a retirement fund.

Moreover, when he retires, he will retire at full pay as a Federal judge. A Member of the Senate can serve 30 years, pay $297 a month out of his salary into a Federal retirement plan, and at the end of that 30 years, he will probably receive about $25,000, after 26 years. A Federal judge does not pay one penny.

Mr. PASTORE. I paid 8 percent of my salary every paycheck, 7.5 or 8 percent. He paid nothing.

Mr. ROBERT C. BYRD. Right; the Federal judge does not pay 1 penny.

Mr. PASTORE. When he gets to be 70 years old, he retires at full pay.

Mr. ROBERT C. BYRD. And if he travels around the State and has to stay at motels, his expenses are paid. The Senator from Rhode Island, if he stays at a motel in Rhode Island, cannot recoup that expense.

Mr. PASTORE. He does not have to bother too much about the United Fund, about every church bazaar, whether Catholic, Protestant, or Jewish, every ad for every function that is running. He does not have to go to the bridge parties, or worry about the Catholic charity drive. Nobody bothers them. We have to pay into everything; otherwise, we do not last.

I told you $6,000 in requests and my pay was only $8,000.

Mr. STEVENS. I do not know whether I am winning or losing. [Laughter.]

Mr. PASTORE. I think the Senator is losing.

Mr. STEVENS. A judge does not have the privilege of running and meeting all his constituents every 6 years, but he also does not have the privilege of voting to confirm a U.S. Senator, do not forget that. We have the power over these people and over their appointments in terms of their confirmations. We see to it that we have selected the best judges, the best people to go on those Federal court benches, and I think that gives us an obligation to think about the subject of whether or not we carry through with the law that Congress passed establishing the Commission on Executive, Legislative and Judicial Salaries.

We are the ones who dreamed up this system of tying ourselves to that Pay

Act, and at the time some of us raised some questions about it, but it was done—to try to make the system the same for all the Federal Government.

We anticipate a pay raise recommendation, I understand, of something like 4.83 percent for those people whc are in this category.

The question really is: Should we deny them the recommended increase—an increase recommended by a commission we created for the specific purpose of dealing with comparability—solely because we do not want to deal with it ourselves?

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENS. I will be happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I think the Senator is basically correct in what he is saying. The fact is that during the past 10 years Congress simply had not really had the guts, if I might use that word, to raise the pay to maintain the purchasing power that its salary would earn, that it would buy at an earlier period.

Now, if Congress does not want to do that—and politics has a lot to do with it, at least expediency has a lot to do with it—it is really not fair to punish a great number of other people or to deny us the benefit of very many other fine people merely because of and largely for political reasons Congress does not see fit to keep its pay in line with what that pay would have bought at an earlier period.

Under those circumstances, I believe we ought to recognize we are losing good judges, and we are losing some other very fine people who simply cannot make the financial sacrifice that would be necessary to serve in high Government office other than Congress.

I really think if Congress wants to go along, taking the view that it just cannot vote itself a pay raise—and you and I know that at least in our judgment the reason we do not do it has to do with political expediency, perhaps people running for office and wanting to be elected would rather have the job at a depreciated value in terms of compensation than to let someone else have the job—but if that is the case they really should not deny those in other places of Government what amounts to a cost-of-living increase so as to take care of their situation.

I have helped to confirm judges who were very fine lawyers, who felt we were doing them a great favor at the time, only to have some of those men speak to me in the most embittered terms in recent years saying that we have failed to maintain the purchasing power of their salaries; they have been victimized, and that if they had known it was going to be this way they would not have taken the job.

I have had men tell me they fully expected to have a 50 percent effective cut in their income when they took the job as Federal judge, but they did not expect to have a one-for-four return for their services. Two-for-one, that is something they could live with, but to have a salary of about one-quarter of what they could earn and could have earned in private life is pretty bad.

I fought very hard to help confirm a fine young man, an outstanding citizen in the New Orleans area, to the Federal bench, only to have that young man, after having served several years, tell me that he could not afford to be a Federal judge anymore. Because he has a large family, the young man just quit while he is still young. He feels fortunate he is young enough to quit the Federal judiciary, to take a job as the president of a bank, and to go to work making a very substantial income in line with what his talents would bring in the lush field of free enterprise. No longer will he have the kind of financial sacrifice that Congress has foisted on the judiciary merely because Congress has not come up with the political courage, one might say, or maybe as a practical matter we are being just too practical politically to take the chance we might lose some votes at election time by voting for a pay raise.

If we cannot maintain the purchasing power of the salary of the judges and the cabinet officers, even our own administrative assistants, we should not penalize them because we think that maybe we would get beaten for office if we voted ourselves a pay raise.

That being the case, we ought to separate their situations from ours, and let them have whatever would be the fair value for them, judge them on a comparability basis with what their talents would bring in other lines of endeavor and quit punishing them because we feel, for one reason or the other, that we should not vote to raise our own pay.

Maybe it is the wrong time. Perhaps some other reason may exist; maybe it is just that we do not have the political courage to do so, but, whatever the reason, if we do not want to vote ourselves the pay raise we should quit punishing other people because, for one reason or the other, and oftentimes it is politics, we do not see fit to vote a pay raise for Congress.

Mr. STEVENS. I agree with the Senator from Louisiana.

I will be short in my comments from here on out. I just want to make sure we know what we are doing because, if we deny this raise, we are saying to those people who are in grade 15, "If you take a job at 16," or those at 16, "If you go to 17," from 17 to 18, 18 on up into the executive service, "you know there is no financial incentive for you to work to get any higher position."

Let me tell you what has happened, for instance, just this past year or so: The assistant commissioner of the Bureau of Reclamation—a career position—left his job to go to the World Bank where he will not be subject to the Pay Act.

We lost both the general counsel and the deputy general counsel of ICC. The NLRB lost 15 administrative law judges last year, I am told, because of pay. EPA regional administrator and regional counsel quit to accept higher paying positions in private industry.

In the IRS—and I am sure the Senator from Louisiana knows this—there were 51 payless promotions where people were promoted to more responsible jobs but no increase in salaries could be given.

The Social Security Administration had 19 supergrades retire at one time last year, and the chief actuary's position remained vacant for over a year; more than 30 prospects refused to take that position because it did not mean more pay, it just meant more work.

The Commissioner of Education and the Deputy Commissioner of Education left the Federal Government to take higher paying jobs out of the Federal Government.

At the National Cancer Institute, more than 100 physicians now earn more money than the Director of the Institute who, as a Ph. D., cannot receive any more money. The only thing he can get from here on out is this annual pay raise that we established in 1970.

Five of the eleven National Institutes of Health directorships have been vacated in the last 3 years, and some of them remained vacant for almost a year. In one, 85 of 87 candidates refused to even be considered for the job because of pay.

The position of Clinical Center Director at the National Institutes of Health has been refused by 23 candidates, and the position remains vacant now after a year.

In 1970 we established the Pay Commission, and we have had people of very great stature from the labor and management field working to tell us annually through the President what should be the fair rate of increase to match cost-of-living increases throughout the country on the basis of comparability.

As I say, later this year we will get that recommendation and we can fight over it as we have in the past. But we should not at this time deny those people the increase they have relied on to meet the cost-of-living increase simply because this is a political year.

The Senator from Louisiana and others have mentioned the question of the difference between our job and theirs. I would take this job at half the money. I took a pay cut of at least 50 percent to come down here. As a matter of fact, at the time it was two-thirds. I earned at least three times the amount we got when we came down here, but I wanted to be in the Senate.

Really, pay is important to my kids as to whether they go through college, but it is not that important to me in terms of that decision. That was my career decision to come here. The people affected by this amendment made the career decision to go into Government, whether it be the executive branch or the judiciary, and they have relied upon this act of Congress.

Here we are, because this is an election year, about to cut them off because we do not save, as the Senator from Rhode Island and I both have said, the guts to face the issue.

I believe that the Senator from Ohio is trying to find a way around the problem as far as the judiciary and the executive branch is concerned.

I did support his amendment. I still

intend to support the committee amendment, which is to strike the whole thing. I think then it would be in conference and the conference could work it out.

I still have a question about another provision that we will discuss later, but, Mr. President, I urge that we consider what we are going to do to people as they approach the career decision as to whether to become an executive in the Federal service—and that is over grade 15—or whether to go on the Federal bench.

That decision is a lifetime decision as far as the Federal Government is concerned, I think. Certainly, they are entitled to rely on an act of Congress that sets up a procedure that is designed to preserve comparability of the rate they received when they went on the bench to the ever-increasing spiral of inflation.

I hope the Senator's motion to reconsider is not agreed to.

Mr. HOLLINGS. Mr. President, I hope this colloquy that ensued since the Senator from Alabama indicated his desire for reconsideration will suffice in the sense he wanted to have some discussion. I think we have had sufficient discussion in that the Senator from Ohio was ready to make his motion. We could then vote.

I wish to point out only a couple of things with regard to executive pay and judicial pay, in that it has been raised and now debated more fully.

I think it my duty as manager of the bill to state that the Executive Office of the President, Office of Management and Budget, sent a letter dated September 7, 1976, opposing the matter of Congressman UDALL's amendment to the Legislative Appropriations Act (H.R. 14238) on the basis of saying that the pay levels for officials of all three branches will be addressed by the forthcoming Quadrennial Commission on Executive, Legislative, and Judicial Salaries. The President's proposals on the Commission's recommendations will appear therein.

Mr. President, I ask unanimous consent that the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 7, 1976.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Legislative Appropriations, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your inquiry concerning the Shipley amendment, as further amended by Congressman Udall, to H.R. 14238, the Legislative Appropriations Act for Fiscal Year 1977.

The entire question of pay levels for officials in all three branches will be addressed by the forthcoming Quadrennial Commission on Executive, Legislative, and Judicial Salaries. The President's proposals on the Commission's recommendations will be submitted to the Congress for consideration with the next budget.

Accordingly, the Administration believes that the Congress should defer action on all amendments affecting Federal pay until the Congress has had an opportunity to consider the President's proposals based on the recommendations of the Quadrennial Commission.

I hope this satisfactorily responds to your inquiry.

With all best wishes.

Sincerely yours,

JAMES T. LYNN,
Director.

Mr. HOLLINGS. Mr. President, also a message from the American Bar Association citing all the increases with respect to inflation and diminution in the judge's salary over the past several years, opposing, of course, the cut that the House language would effect on judicial pay. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 3, 1976.

DEAR SENATOR: As President of the American Bar Association, I write to express our strong opposition to the action taken by the House of Representatives last Wednesday in amending H.R. 14238, the Legislative Branch Appropriations Act for fiscal year 1977, to repeal those provisions of Public Law 94-82 which provide for cost of living adjustments for members of Congress, federal judges and federal executives.

Since 1969, the consumer price index has risen 60% and salaries of top executives in the private sector have increased approximately 55%. During the same period, however, salaries of members of Congress, federal judges, and certain federal executives have gone up only 5%.

In my judgment such discrimination against a relatively small group of skilled, dedicated public servants is not in the best interests of the country.

It has resulted, among other things, in the recent increase in resignations from the federal bench and in the unwillingness of many qualified lawyers to become judges.

Although I cannot speak with any authority with respect to the legislative and executive branches, I would assume that study would disclose similar effects there.

Our Association repeatedly has expressed its support for adequate and just compensation for members of the federal judiciary and of Congress because we believe firmly that public service must not become the exclusive domain of those who can afford financial sacrifice to work for government.

The issue is not a salary increase. The issue is a comparability adjustment to prevent the further shrinking of the real dollar income of public officials and the consequent erosion of quality of the public service. Should the action of the House of Representatives be sustained by the Senate, its ill effects will be felt in time by every citizen of this country.

We urge that past injustices not be compounded through what must be interpreted as a dramatic, election-year gesture.

Respectfully,

JUSTIN A. STANLEY,
President, American Bar Association.

Mr. HOLLINGS. Mr. President, what really is at issue here is nothing more than what the Senator from Rhode Island was really getting to with respect to the body demeaning itself.

They have had some strong times over in the House in the past few weeks. They have had the resignation of Members.

We normally handle the legislative appropriations bill as No. 1, and we were through by May. The distinguished senior chairman from Arkansas (Mr. MCCLELLAN) used to be chairman of this subcommittee. We would handle this with dispatch, it would be out of the way, and we would work down to the defense appropriations bill.

This year we encountered a hiatus in the House whereby they had a difficult time trying to bring it to the floor since they were faced with all kinds of amendments, relative to perquisites, how and why they are paid, Ethics Committee hearings, and what have you.

Finally, what they got, really, was probably a shaky type solution in a modified closed type of rule. In other words, they finally got a working majority to say that they would adopt a rule providing for only three amendments.

And, yes, one of those three amendments would refer to pay because enough fellows were fussing about pay, looking for a political issue, evidently. You do not have the character, you do not have the ability, you don't have the merit, so you have to get a political gimmick. So they decided to yield and give the Members one to argue and try to get reelected on. What they decided to do is have that handled not by a Republican, but a good Democrat, GEORGE SHIPLEY, my friend, the Congressman who is chairman of the Legislative Branch Subcommittee and he had to bring in this amendment.

Now, if you please, look at the amendment and see how really undraftsmanlike it appears.

What it simply says is that none of the funds contained in this act shall be used for increases in salaries for Members of the House of Representatives pursuant to section 204a of Public Law 94-82. That was the Shipley amendment.

It did not say that the salaries would not be increased under the law, but that the funds could not be used for any increases. The basic law is still there. There is a lawsuit about some of those already frozen, and we will apparently have another suit under this one.

These appropriations bills go from year to year and we have supplemental bills. Maybe we will get another supplemental after they have had their day at the polls and gotten reelected in November. They will all come back in and we will provide money. We have not changed the basic law.

We have had Government in the Sunshine on this bill and I have not heard from any Senator, not any Senator, including all of them making amendments now, that they think we ought to vote, that the amendments ought to be heard, and they think this and that.

They could have brought them up all along. We had hearings galore. We went in and out. We marked up and remarked. We did in subcommittee, we did in full committee.

The distinguished majority whip presided at the full committee meeting. It was all Government in the Sunshine. Not one letter, not one word. But now we come here with the politics of the election and everything, and now they suddenly have all their consciences working.

They have not changed the law on the amendment. The law worked in a substantive way last year by a vote. They came in the regular order, the Senate passed it by 58 to 29, I think, and we all voted at that time, and everybody said that is the law.

Then, of course, our friend from Arizona (Mr. UDALL) said:

> If that is the way you want to play the game, I will really put a lock on and say that under the Federal Salary Act, which will get the Senators as well as the House Members and the judges, and the Federal executives.

What about the staff? We keep losing staff. I lost the director of a little Subcommittee on Oceans and Atmosphere. I guess he got a 50-percent increase. Now he is really going to make money.

What about the salaries of those we deal with?

I asked one member of the press gallery how much he was getting paid. He did not say. I said, "35, 45?" He said, "It is less than 45."

That means he is at least getting more than 35. If not, I will hire him as a press secretary, because I can pay that much.

How much are all the people going to get paid? Wherein do we want to set the public servant's salary?

That is what I am talking about.

I watched Jack Nicklaus over the weekend. He got $100,000 and two bogeys. I saw him miss twice.

We will be looking at football all fall, and everyone is going to get at least $60,000, running into each other, just busting heads. If they do it well, they will get double that, or $120,000.

Every one of those business lobbyists who come around are getting paid double what we make. We have got to watch them every minute, listen to them and argue with them. We have to escape their clutches, because at one time this body was clutched by that crowd.

We have come a long way since Bobby Baker in that 15-year period. I entered just about that time.

If we want big steel, big railroad, big oil, to have cash-and-carry government—and that is what happens if Congress does not want to pay public servants—we have to pay it or the business crowd will come in, buy up the young lawyers. They worked it out.

I do not know how the distinguished Senator from Rhode Island was able to sneak past them. I guess they were not watching Rhode Island that year. But they get the firms, the large lawyers, and they get some young fellow and then they have them and have them in their clutches. That is what we had until we started getting the fairness doctrine. That is what the youngsters in Vietnam brought us, the draft law bill, and the tax law. We began cleaning up ourselves. Now we are beginning to have Government in the Sunshine, and we are going to have sunset. We have all of those other things, with the election practices and so on.

We really need the money, for those who want to serve and not go back to the law practice. I made double the amount, too.

By the way, up in Alaska, and I just got back, the jeep driver and the little station wagon driver earned $60,000 a year.

Where is that private free enterprise Senator on the back row? He is missing. If he could come here and let private enterprise pay us there would be $60,000 for truck drivers. One boy's name is Pat Rice. I met him at the Yukon. He said:

> I will make $60,000 and no expenses this year.

Do not tell me about the week they do not work. I went on the oil derrick and they get $1,400 every 2 weeks, 1 week on and 1 week off. I will not yield right now.

Mr. STEVENS. If he is earning $60,000, he is working year-round. If in the Yukon, I can guarantee that sometime between December and February 1 he will have about 3 weeks of below 60° weather.

Mr. HOLLINGS. Right; inside the basketball club and ice cream churn. I gained 3 pounds at the ice cream churn. Every time you walk in they have the finest ice cream. In Alaska, they had a theater bigger than any in my town, showing first-run movies. If we can adjourn by October 1, maybe I can get a 3-month job for October, November, and December and pay some of my bills. It would be a good racket.

Mr. STEVENS. The Senator better hope the South Carolina knitting mills are working, because he will need a couple of sets of long johns.

Mr. HOLLINGS. Mr. President, the reason I moved as manager of the bill to strike the entire matter is because I do not see how in commonsense—it is really a stupidity matter—we are going to pay 14 assistants running around at the White House, giving them an increase in pay, so they are making more than a Senator.

We can go down a long list. It is not just judges. There will be increases in pay to that postal crowd we debated about including the ratemaking commission, the board of governors that does not even meet. We will give them all cost-of-living increases. And OSHA? Is that a great group? We are going to give them all cost-of-living increases, but we do not have sense enough to vote it for ourselves. That is what I am trying to say.

Let us get to the business at hand. We know what we are doing. We are trying our best to let this commission govern, but the way they are doing in the House, we will have to save them from their own folly. They are all coming around saying, "For Heaven's sake, save us. We wish we had not had that vote, but we got in a jam." I think a House Member is worth just as much as a Senator. I think we ought to knock out this language. That is why I took it upon myself to have it stricken.

Now that the gentleman has raised the point of order, I will wait and let the Senator from Ohio make his motion to table, if he will, because then there might be a division and we can keep stirring around in the fire on this one. But the fact of the matter is, Mr. President, we have a much better Congress and Senate than we have ever, ever had.

I know the Presiding Officer cannot talk and I do not want to get political, but the Congress is the one that saved us out of Vietnam. It was the Senator from Montana, not me, the Senator from South Carolina. I was a hawk, still fighting. But I was wrong. The Senator from South Dakota and some of the others got us out quicker. The executive branch would still be off loading equipment and still be taking over. That is how we got out of Vietnam.

The Senator from Iowa (Mr. CLARK) went to Africa and got us out of Angola.

We got us out of the inflation. If we had passed the legislation they wanted, we would have had more inflation. Senators saw the airlines and the other industries. Congress has not been all that bad. We have saved them. It was the plan of Congress, and the Senator from Rhode Island chaired the committee, to turn the economy around. Arthur Burns came in and said:

> Yes, the Congress' prescription was more nearly accurate than what I had proposed with the administration.

As a result of what the Congress proposed; namely, at the $33 billion level rather than the $17 billion level, the Congress that everybody is cussing is what turned this economy around, and everybody is going to run on our record. They are cussing the Congress, but they are running on our record. That is exactly where we are today.

If we are going to continue, as the Senator from Rhode Island said, to demean ourselves—and some not working and, if they do not want to work, that is fine, but it is up to their constituents—those working deserve this increase and double this amount, and everybody in this body knows it. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I will make a motion to table, but before I do I think I should make a few remarks to try to correct a misimpression which seems to have been arrived at by the distinguished Senator from Rhode Island, among others.

First of all, I did not know I was going to trigger off such a magnificent flurry of oratory as has occurred on this issue this afternoon when I offered this rather innocent amendment, I thought, to the amendment of the House.

Second, I would like to disabuse the Senator from Rhode Island and advise him, though he has left the floor now, that I do not consider myself to be descended from robber barons. My father served in this body, I am sure at great financial sacrifice, for a good many years. My grandfather never served in anything but public office at all in his entire life and career. I somewhat resent as a personal matter the inference that somehow I am a scion of wealth who came here. As a matter of fact, I had a very good chance of coming here about 16 years before I came, but I thought it necessary to go out and make some money in the practice of law, which I am glad to say I did. I can also say, along with the Senator from Alaska, that I know more or less, I think, of what my junior partners in the law firm of which I was a member are now making, and the sacrifice, I can assure Members, is one that rounds in, at least to the degree that the Senator from Alaska has indicated, and probably a good deal more.

But beyond that, the Senator from Rhode Island, it seems to me, has missed the point. The whole point of my amendment is not whether the Senate or the House should or should not have an increase at this time.

The point of my amendment is that if the Senate and the House believe that they ought to have an increase at this time or any other time, they ought to be men enough to stand up and vote.

When we set up this commission proceeding we thought we had a nice tactical dodge of facing up to the responsibility of setting our own salaries. We tied it to others to try to make it even more escape proof so we would not have to face up to the voters to say we voted to increase our own salaries. We have been in this mess. We have been tangled in it now for, I think, 12 years. It has not worked. It has to be changed.

The real purpose of my amendment is to point out to the Senate that it does have to be changed. While we cannot change it on this legislation, because of the parliamentary situation involved, if we can raise the issue on this legislation so that we get before the country this issue as to whether the Senate or the House ought to duck behind a commission when they vote on their own salaries, then I think a service has been done.

Mr. President, I move——

Mr. STENNIS. Will the Senator yield?

Mr. TAFT. I yield.

Mr. STENNIS. I shall not take much time of the Senate. I think the Senator from Ohio has hit the nail right on the head as to the basic principle and issue involved here.

May we have quiet in the well, please?

I have heard all the arguments which have been made this afternoon many times when this subject matter has come up. It is always somebody who says we are demeaning ourselves, and somebody else saying, "Well, we do not have the guts to do so and so."

In the years I have been here, I have testified in favor of raising the salaries on a direct vote, at a hearing during the Eisenhower administration. There are not a great many here now who were here then.

Not everyone who differs with me does it because he lacks the guts. I do not like that approach. The real issue here is whether or not we are going to stand up and vote—as I think it is very clear, from the spirit of the Constitution of the United States, that we should—stand up and vote yes or no on the increase of our own salaries. You can compare it with judges and compare it with staff members; I have been active here for years trying to get a little more relief for some staff members who are worth double their salaries to this Government, in my opinion, and they are leaving.

There is a principle involved here concerning the membership of this body. This is not a pleasant duty; it is a very unpleasant duty. But in doing this, which affects us directly, are we going to step behind a screen and let someone else do it?

I submit that is what we are doing. We are leaving it up to this Commission—someone, somewhere, that I do not know and the American public does not know who the members are—we are, in effect, asking them to step in and do this chore for us.

I appreciate very much the efforts of the Senator from South Carolina. No one works harder than he on a lot of sticky subjects we have; and he will run you out of this Chamber if you try to debate with him directly. I have asked him to help me, and I know what a help he can be. I want to thank him for wrestling with these problems; but this is our problem.

We are always glad to get elected. When we are here, we want to come back, regardless of the salary. So I hope we can lay aside this stuff about demeaning ourselves and lacking the guts here, and so forth, to pay ourselves enough.

Let me tell you, if we face this issue straight on, the American people will abide by our decision, I believe, if it is made in that way. But if we use this sort of method year after year, I believe the American people will think less and less of us.

I thank the Senator from Ohio for yielding.

Mr. TAFT. I thank the Senator from Mississippi. Mr. President, I move to lay on the table the motion to reconsider.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GARY HART). Will the Senate be in order? Will Senators take their seats? The clerk will suspend until Senators take their seats. Senators will clear the well. The rollcall is suspended until Senators take their seats. Will Senators take their seats? The vote will not continue so long as Senators are not in their seats.

Will the Senate be in order? Will Senators take their seats?

The rollcall is suspended until Senators take their seats.

The assistant legislative clerk resumed the call of the roll.

Mr. NELSON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order. The rollcall will be suspended until Senators have taken their seats and until order is in the Senate.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. STEVENS. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from Montana (Mr. METCALF), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

On this vote, the Senator from Tennessee (Mr. BROCK) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from Tennessee would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 55, nays 19, as follows:

[Rollcall Vote No. 564 Leg.]

YEAS—55

Abourezk
Baker
Bellmon
Biden
Bumpers
Burdick
Cannon
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hatfield
Hathaway
Hollings
Hruska
Humphrey
Inouye
Johnston
Laxalt
Leahy
Long
McClure
McIntyre
Morgan
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Tower
Young

NAYS—19

Allen
Bartlett
Brooke
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Eastland
Helms
Jackson
McClellan
Muskie
Nunn
Pearson
Scott, Hugh
Scott, William L.
Sparkman
Talmadge
Thurmond
Williams

NOT VOTING—26

Bayh
Beall
Bentsen
Brock
Buckley
Cranston
Fannin
Fong
Goldwater
Hart, Philip A.
Hartke
Haskell
Huddleston
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Tunney
Weicker

So the motion to lay on the table the motion to reconsider the vote by which the amendment of Mr. TAFT was agreed to was agreed to.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President, I support a freeze on congressional salaries. I must oppose the amendment of my good friend from South Carolina (Mr. Hollings) to delete the freeze which was approved by the House of Representatives.

It is never easy for a worker to put a dollar value on his or her performance. We in Congress are no different. We have allowed raises in Cabinet pay and in the salaries of other Government workers. We have hesitated to increase our own pay. And no one who has sat here with us from 8 a.m. until midnight or beyond, who has been with us during these 60-, 70-, or 80-hour weeks, who has been here with us for 600 rollcall votes in a year would argue that we do not earn our pay.

But the question before us is not a question of merit. As elected officials, our special responsibilities go beyond being good representatives. We have another obligation as well.

In times of hardship, we must be willing to tighten our belts by at least as much as we ask our constituents to bear.

If we raise our own salaries, can we tell the more than 7 million unemployed that we understand their special hardships? If we raise our pay can we tell the family which has seen its paycheck raided by 3 years of brutal inflation that we understand the difficult choices the family faces? If we raise our pay, can we tell the disabled worker who relies on less than $200 a month that we understand his needs and his suffering? I think not.

The latest economic news makes it clear that the economy is far from healthy. We should concern ourselves with that problem, and not with questions of our salary.

Mr. HELMS. Mr. President, I strongly oppose the committee amendment to strike the House language as amended by the Taft amendment. Under the bill as it stands no funds appropriated in this act or any other act could be used to provide for automatic salary increases for Members of Congress.

While this bill is not as satisfactory as an outright repeal of the act which allows the automatic salary increases, the amendment approved in the House would prevent implementation of a salary increase brought about by this past year's inflation.

More than any other group in America, the people who will be rewarded with pay increases under the committee amendment, are the people responsible for inflation. That is why I shall vote against the committee amendment.

This pay increase will provide inflation-proofing for the inflation-causers, and that, Mr. President, should not be.

The salary increase will reward the real culprits—those in Congress who vote for spending bills which result in Federal deficits, and subsequent inflation. Inflation is hidden in every political scheme that is approved, and it is hidden in every tax package that does not provide for revenues needed to match spending.

In fact, inflation is in reality a tax; it hits people, and it hurts. It hurts just about everyone except those that are protected by automatic salary increases. It hurts almost all the people who pay congressional salaries with their tax dollars, but if this committee amendment is approved, inflation will not hurt Congressmen and Senators.

I hope the Senate will oppose the committee amendment and support the House language as amended by the Taft amendment.

Mr. HOLLINGS. Mr. President, I am now prepared to ask for the yeas and nays on the committee amendment to strike. I ask for the attention of my colleagues.

I ask them to turn to page 17 and the top of page 18, where they will see the stricken printed language, which is the House language that was added:

> *Provided*, That none of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to section 204a of Public Law 94–82.

That is the Shipley amendment.

Then, the Udall amendment:

> No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or officer.

With respect to the committee amendment to strike all that language, it would be the executive, the judiciary, and the legislative restrictive language that the House included there.

I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. McCLELLAN (when his name was called). Present.

Mr. STEVENS (after having voted in the affirmative). Mr. President, on this vote, I voted "yea." If the distinguished Senator from Connecticut (Mr. Weicker) were here, he would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Philip Hart), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from Montana (Mr. Mansfield), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. Bentsen) would vote "nay."

Mr. GRIFFIN: I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Brock) would vote "nay."

The result was announced—yeas 25, nays 46, as follows:

[Rollcall Vote No. 565 Leg.]

YEAS—25

Bellmon
Brooke
Case
Clark
Culver
Glenn
Gravel
Hart, Gary
Hathaway
Hollings
Hruska
Inouye
Jackson
McIntyre
Morgan
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Tower

NAYS—46

Abourezk
Allen
Baker
Bartlett
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Garn
Griffin
Hansen
Hatfield
Helms
Humphrey
Johnston
Laxalt
Leahy
Long
McClure
Muskie
Nelson
Nunn
Pell
Proxmire
Roth
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Williams
Young

ANSWERED "PRESENT"—1

McClellan

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, for.

NOT VOTING—27

Bayh
Beall
Bentsen
Biden
Brock
Buckley
Cranston
Fannin
Fong
Goldwater
Hart, Philip A.
Hartke
Haskell
Huddleston
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Tunney
Weicker

So the committee amendment was rejected.

The PRESIDING OFFICER. The clerk will state the last committee amendment.

The assistant legislative clerk read as follows:

> Beginning on page 36, line 1, down to line 3 on page 39 insert new language.

UP AMENDMENT NO. 424

Mr. HOLLINGS. Mr. President, now that the Senate has acted, I would refer the body to page 17. What I want to do is clarify the Shipley amendment so that it will not be retroactive. It is not intended as such.

The distinguished chairman of the Legislative Subcommittee on Appropriations, Mr. Shipley, made it clear numerous times in the debate on the House side, but I think if we could add on line 23, page 17, the language "at a rate which exceeds the rate in effect on September 30, 1976," if we could add that particular language in there, then that would clarify the intent and that would not be a matter of issue.

I would so move to amend the bill.

Mr. ALLEN. Mr. President, will the Senator submit the amendment in writing? I am not sure it would accomplish the purpose that he has in mind. I favor the purpose he has in mind. If it would accomplish that, I would certainly be in favor of it.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HOLLINGS. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Kathy Cudlipp and Hal Brayman of the Public Works Committee staff be granted floor privileges and that Dick Getzinger of my staff be granted the same privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the absence of a quorum still suggested?

Mr. HOLLINGS. I withdraw the request.

The PRESIDING OFFICER. Is that request withdrawn?

Mr. HOLLINGS. The request is withdrawn.

Mr. TAFT. Mr. President, I just want to say I believe the language would accomplish it. It may be possible to perfect it, but I think the objective of the amendment of the Senator from South Carolina is very much in order. I do not believe it was ever intended that pay raises already in effect would have been repealed, in effect, by this language, so I will go along with the amendment.

The PRESIDING OFFICER. If the Chair may have the attention of the Senator from South Carolina, the Chair is advised that the Senator from South Carolina is addressing himself to the amendment that was just defeated and not to the pending committee amendment.

Mr. HOLLINGS. That is correct. We are not addressing the next committee amendment.

The PRESIDING OFFICER. The pending committee amendment must be disposed of before further business is considered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent then before we perfect the House language regarding the pay raises of the House Members before going on to the next committee amendment.

Mr. TAFT. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. TAFT. Is it not true that the amendment the Senator is proposing is the language of the bill as it is currently stated?

Mr. HOLLINGS. That is right. The committee amendment was defeated.

The PRESIDING OFFICER. The last committee amendment must be disposed of before the Senator's motion is in order.

Mr. HOLLINGS. Except by unanimous consent.

Mr. President, I ask unanimous consent—in other words, we have another committee amendment relative to 400 North Capitol Street, and before we get into that debate on 400 North Capitol Street, I hope to clarify this section of the bill so that we will once and for all dispose of it. I send the amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. Is that in the nature of a unanimous-consent request?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Hollings) for himself and Mr. Stevens proposes an unprinted amendment No. 424:

On page 17, line 22, strike the complete sentence and insert the following:

That none of the funds contained in this Act shall be used to increase salaries of Members of the House of Representatives pursuant to Section 204a of Public Law 94-82 in excess of the salary rate in effect on September 30, 1976, for such position or officer.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. ALLEN. As I understand the purpose of the Senator's amendment is the contention that under the present language not only would Members of the House of Representatives, as distinct from the Senate, be denied the upcoming increase on October 1, but there is a thought that they might be required to pay back the increase they received last October 1; is that correct?

Mr. HOLLINGS. Well, you have got section 204a of Public Law 94-82 in here, and someone could relate that back and say, "since the salary you now are drawing includes the increase in 1975 pursuant to that section and since none of the moneys could be used, therefore, you have got to reimburse the Government."

Mr. ALLEN. What the Senator's amendment would then do would be to make the same revision for the House that is also contained in this language for the Senate; is that correct?

Mr. HOLLINGS. That is correct.

Mr. ALLEN. The effect being that the Members of the House and Senate both would have their salaries frozen at the September 30, 1976, level, but there would be no retroactive feature to the freeze; is that correct?

Mr. HOLLINGS. That is correct.

Mr. ALLEN. Well, I think that is what the House really intended, and I know that is what the Senate intends, and I would certainly have no objection to this amendment with the legislative history.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER FOR ADJOURNMENT TO 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:15 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, Mr. Bartlett be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the legislative appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator suspend until the Senate is in order. Will Senators conversing retire to the cloakroom so the Senator from West Virginia may be heard.

LEGISLATIVE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the resumption of the consideration of the legislative appropriations bill, Mr. Bartlett be recognized to call up an amendment; that there be a 1-hour time limit on that amendment, and that at no later than the hour of 12 o'clock noon tomorrow the distinguished Senator from Iowa (Mr. Culver) will be recognized to call up his amendment, and that there be a time limitation on that amendment of 1 hour and 45 minutes to the side, 2 hours to begin running at 12 noon, and to expire at the hour of 2 o'clock, at which time the Senate, under an agreement previously entered, will resume consideration of the antitrust measure, and that upon the disposition of the antitrust votes, the Senate resume consideration of the amendment by Mr. Culver on which there will be a time limitation remaining of 1½ hours to be equally divided between Mr. Culver and Mr. Hollings.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King and Kathy Ellis, of my staff, be granted the privilege of the floor during the voting and consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2277

Mr. BARTLETT. Mr. President, I have an amendment at the desk and I would like to have it read and laid before the Senate as the pending business tomorrow.

The PRESIDING OFFICER. There is a pending committee amendment. The Senator's amendment would require unanimous consent to be in order.

Mr. ROBERT C. BYRD. Mr. President, what is the request?

The PRESIDING OFFICER. The Senator from Oklahoma is attempting to offer an amendment. There is a pending committee amendment before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I had gotten consent earlier for the Senator on tomorrow, immediately after the conclusion of routine morning business, to be permitted to call up his amendment on which there will be a time limitation of 1 hour.

The PRESIDING OFFICER. The Senator from Oklahoma wishes to lay the amendment down, but the Chair is advised that is not in order while there is a committee amendment pending.

Mr. ROBERT C. BYRD. Yes, he can do it tomorrow at the conclusion of routine morning business under the unanimous consent request.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in view of the fact that the Senator on tomorrow will be allowed to call up his amendment on the resumption of the consideration of the supplemental appropriations bill, he be allowed at this time to lay it down without any time being charged against it, and at the conclusion of routine morning business tomorrow and resumption of action on this measure, his amendment will be the pending question.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment number 2277:

On page 40, after line 19, insert the following new section:

AUTOMATIC ELEVATOR OPERATORS

No part of the funds appropriated under this Act shall be used for the payment of compensation for more than 46 elevator operator positions under the heading "Architect of the Capitol, Capitol Buildings"; sixteen elevator operator positions under the heading "Architect of the Capitol, Senate Office Buildings"; and twenty-eight elevator operator positions under the heading "Architect of the Capitol, House Office Buildings"; provided, that such provision shall not be applicable to present incumbents of elevator operator positions.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I can say in one or two sentences that the purpose of this amendment is to reduce the number of elevator operators on the automatic elevators roughly in half, to reduce them by 62.

Mr. WILLIAM L. SCOTT. Mr. President, I listened with interest, as I am sure the other Senators did, to the colloquies and the amendments that were offered with regard to executive pay and especially those of the Members of Congress. Obviously, there is a difference of opinion in this body as to whether or not we should exclude Members of Congress from any pay raises that are granted in the future.

I have handed to the ranking Republican Member a suggested draft of a suggested amendment that might be considered and I believe he has shown it to the floor manager of this bill. I hope they give consideration to putting this proposed amendment in proper order and either offer it themselves or permit me to offer it.

I realize that I could offer it, but I am thinking about putting it in proper form.

The gist of the amendment is that any Member of Congress who feels that he does not want to have his pay adjusted upward at any time shall notify the Secretary of the Senate if he be a Member of the Senate, or the Clerk of the House of Representatives if he be a Member of the House of Representatives, and until his request is rescinded, he will not receive any change in his pay status.

This seems to me to be a manner in which those who have independent incomes and do not need additional money, or those who are on the speaking circuit and making income from other sources, can relieve themselves of the onus of receiving an adjustment in their salary, and those of us who devote full time to our duties in the Congress and who do not have outside income can receive a rate of pay that is comparable to that of persons in private industry.

To me, it is a fair arrangement, and we will not in that manner be our brother's keeper, but we could say for ourselves whether we feel that we do not want any adjustment in our salary.

We can go home and tell our constituents, "Well, I notified the Secretary of the Senate that I did not want that pay raise, so I am not receiving it, I am not paying any income tax on it, it is not a part of my emolument of office."

But those who feel they do earn the amount of money that is provided in the bill and that they are entitled to that money can accept it.

In other words, there will be a choice, Mr. President, among the Members of the Congress.

I hope that the distinguished Senator from South Carolina and the distinguished Senator from Pennsylvania will think about this and see if it is fair to be brought before the full Senate for consideration before the measure comes up tomorrow.

Mr. HOLLINGS. Mr. President, if I understand correctly, the proposed language would be a proviso by the Senator from Virginia that the Member would advise the Secretary of the Senate or the Clerk of the House, in either case, as a Senator or House Member, in writing that his salary should not be increased in any manner, and shall continue to receive the same salary until such time as he receives the decision in writing.

Mr. WILLIAM L. SCOTT. Until he rescinds it in writing.

Mr. HOLLINGS. Until he rescinds it in writing, I am sorry.

Mr. WILLIAM L. SCOTT. So anyone that feels offended by receiving an increase in salary would not have to take it. They would not have to pay any taxes on it. It would not be income because by virtue of law it would not be part of their salary.

Mr. HOLLINGS. Has anyone asked for this privilege?

Mr. WILLIAM L. SCOTT. That is up to the individual Senator to make that decision. We have received a lot of votes saying, "Let's exclude Members of Congress."

Mr. HOLLINGS. Right.

Mr. WILLIAM L. SCOTT. As the distinguished Senator knows, many years ago the Congress decided, coming through the Post Office and Civil Service Committee, that Government employees should receive salary comparable to those received in private industry. It seemed reasonable to me that every Government employee, whether he be in the lower ranks or the higher ranks, in the executive branch, whether he be a member of the judiciary or a Member of Congress, should receive this comparability feature.

I just think we are abusing ourselves by the actions that we take here saying, "everybody else receives a pay adjustment, but not me, not a Member of the Congress."

If an individual Member, however, feels so strong about this that he does not want to take the additional money, all he would have to do would be to drop a short note to the Secretary of the Senate, and if a Member of the House to the Clerk of the House, and say he does not want this increase and he would not receive it, he would stay right where he was.

Mr. HOLLINGS. Is that not the law today? Is that not permissible?

For example, I know the distinguished senior Senator from West Virginia made a record, just as we are making public record now on this floor, said he did not desire an increase or a cost-of-living increase.

I think his rationale was to the effect that what we should be doing is vote up or down in relation directly to that salary rather than bringing it indirectly as a cost of living thing with a general proviso. He said he did not like it coming in indirectly, and that Members should be voting directly up or down. He has told me that he has turned it down or he would turn it over to charity, that he would refuse to accept it.

He resisted that and, therefore, he returns, he does not receive it. He returns it. I think that is really the law today.

One can do exactly as the Senator from Virginia wishes.

Mr. WILLIAM L. SCOTT. I am not aware of that provision of law which permits this to be done.

Mr. HOLLINGS. Does the Senator know of any provision of law which prohibits it?

Mr. WILLIAM L. SCOTT. No, I do not, and yet I think it might have some objection taxwise, because when we receive money and then turn it back, I do not know what the tax consequences would be, I think it would be preferable and would get the individual Member of Congress off the hook by putting it in statutory law that he has a right to do this.

Again, I wrote this out in longhand here on the floor of the Senate. It may not be worded in the way it should be worded, but I think it would give the individual Senator, who might be embarrassed by voting for an adjustment of his salary along with that of all other Government employees, an escape hatch, and would do it in a statutory manner.

Mr. HOLLINGS. I understand the Senator, but I have not seen the embarrassment, and I do not think I am going to see that embarrassment. I think these Members would present themselves. They have been getting the pay as they wished, with the exception, of course, as the Senator from Virginia pointed out.

Mr. WILLIAM L. SCOTT. I have heard the phrase used, "Vote no and take the dough," and I expect the distinguished Senator from South Carolina has heard others say, " I am going to vote no, but I hope this bill passes."

I am saying that this would relieve any Senator of embarrassment.

Mr. HOLLINGS. Relieve them of money, not worried about embarrassment. What we are really concerned with is money and any that do not want it can go right now and give it to the Salvation Army, the Community Chest, I have got a long list. As Senator Pastore said, the Catholic Charity. The Virginia is for Lovers Club, is that something the Senator has?

Mr. WILLIAM L. SCOTT. I am not sure that is tax-exempt.

Mr. HOLLINGS. We could find a tax-exempt charity, I am sure.

There is no taxation there.

In all candor, I just did not want to clutter the bill.

Mr. WILLIAM L. SCOTT. All I was asking is that the distinguished Senator think about it between now and tomorrow.

Mr. HOLLINGS. I will be glad to.

COPYRIGHT ROYALTY COMMISSION

Mr. McCLELLAN. Mr. President, the Committee on Appropriations has added to the Legislative Branch Appropriations bill an item of $268,000 for the Copyright Royalty Commission proposed in the House of Representatives version of the copyright revision bill, S. 22. I was consulted by the chairman of the Subcommittee on Legislative Appropriations, Senator Hollings, concerning this item, and supported its inclusion in the bill despite my reservations as to both the proposed Commission and the manner in which this subject has been handled by the Library of Congress. In order that my position is clear on this subject, I wish to recite the chronology which led to the addition of this item.

In both the 93d and present Congress, the Senate determined that the periodic review of certain royalty rates should be accomplished by a Copyright Royalty Tribunal, consisting of ad hoc panels of arbitrators. The jurisdiction of the proposed Copyright Royalty Tribunal has expanded during the processing of the copyright legislation, and it may well be desirable to now provide a more formal structure.

The Senate bill provides that the Copyright Royalty Tribunal shall be located in the Library of Congress. The relationship between the Tribunal and the Library is set forth in both the bill and the committee report and was developed in full consultation with the Register of Copyrights. At no time did I ever hear from the current or former Librarian of Congress that they were not satisfied with the disposition provided.

I was informed quite recently that the Library of Congress was preparing a revised budget estimate because of the developments on the copyright bill in the House. I indicated that I would support appropriate funding in the legislative branch bill, subject to the enactment of S. 22. My office requested the Register of Copyrights to provide further clarification of the Copyright Royalty Commission, but the Register has not done so. Immediately prior to the markup of the Legislative Appropriations bill Senator Hollings made available to me a copy of a letter which he had just received from the Librarian of Congress in which the Librarian was advocating a change in the relationship of the Copyright Commission to the Library. Although I am the chairman of the appropriate legislative subcommittee and the sponsor of the bill, I had not been consulted by the Library, and the Register of Copyrights had still not responded to my requests for clarification. Under these circumstances, I would normally have decided that no action should be taken on this item.

I supported the inclusion, however, because of the special problems in the other body of this appropriations bill. No funding for the Copyright Royalty Commission was provided in the Legislative Branch Appropriations bill reported by the House Appropriations Committee. Certain of the members of the House Judiciary Subcommittee who devised the proposed Commission were supporting a rule that would prevent amendments being presented to this bill in the normal manner. Thus, if I did not consent to the addition of this item no funding would have been available.

I shall support in the conference the position of the Librarian of Congress that whatever royalty review structure is created shall be an independent agency in the legislative branch. My agreement on this point is reflected in the committee report on this bill. As to the other issues relating to the royalty review process, it is the intent of this item that the sum of $268,000 shall be available to whatever royalty review body is established in the legislative branch. The inclusion of funds for the Copyright Royalty Commission is not intended as concurrence in the disposition of this matter by the House Judiciary Committee, nor any change in the previous legislative actions of the Senate on this subject.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the transaction of routine morning business, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 177 THROUGH SENATE CONCURRENT RESOLUTION 200—SUBMISSION OF CONCURRENT RESOLUTIONS OBJECTING TO PROPOSED SALE OF CERTAIN WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. PROXMIRE (for himself and Mr. Durkin) submitted the following concurrent resolutions:

S. CON. RES. 177

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of torpedoes to Pakistan (transmittal number 7T-24, transmitted to Congress on September 1, 1976).

S. CON. RES. 178

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of Sidewinder missiles to Pakistan (transmittal number 7T-48, transmitted to Congress on September 1, 1976).

S. CON. RES. 179

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of ammunition to Pakistan (transmittal number 7T-30, transmitted to Congress on September 1, 1976).

S. CON. RES. 180

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of 25 M88A1 recovery vehicles to Pakistan (transmittal number 7T-50, transmitted to Congress on September 1, 1976).

S. CON. RES. 181

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain vehicles to Pakistan (transmittal number 7T-49, transmitted to Congress on September 1, 1976).

S. CON. RES. 182

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of ammunition to Iran (transmittal number 7T-28, transmitted to Congress on September 1, 1976).

S. CON. RES. 183

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain aircraft to Iran (transmittal number 7T-36 (a) and 7T-36(b), transmitted to Congress on September 1, 1976).

S. CON. RES. 184

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Iran (transmittal number 7T-34, transmitted to Congress on September 1, 1976).

S. Con. Res. 185

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of repair parts for RH-53D aircraft to Iran (transmittal number 7T-29, transmitted to Congress on September 1, 1976).

S. Con. Res. 186

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of helicopter repair parts to Iran (transmittal number 7T-31, transmitted to Congress on September 1, 1976).

S. Con. Res. 187

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Iran (transmittal number 7T-32, transmitted to Congress on September 1, 1976).

S. Con. Res. 188

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Iran (transmittal number 7T-46, transmitted to Congress on September 1, 1976).

S. Con. Res. 189

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain torpedoes to Iran (transmittal number 7T-25, transmitted to Congress on September 1, 1976).

S. Con. Res. 190

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of 11 F-5E aircraft to the Philippines (transmittal number 7T-44, transmitted to Congress on September 1, 1976).

S. Con. Res. 191

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of 18 F5E aircraft, 3F-5F aircraft and 200 AIM-9J1 missiles to Singapore (transmittal number 7T-18, transmitted to Congress on September 1, 1976).

S. Con. Res. 192

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain Air Force headquarters construction to Saudi Arabia (transmittal number 7T-22, transmitted to Congress on September 1, 1976).

S. Con. Res. 193

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Saudi Arabia (transmittal number 7T-21, transmitted to Congress on September 1, 1976).

S. Con. Res. 194

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of a Naval Training Center to Saudi Arabia (transmittal number 7T-20, transmitted to Congress on September 1, 1976.)

S. Con. Res. 195

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Saudi Arabia (transmittal number 7T-15, transmitted to Congress on September 1, 1976).

S. Con. Res. 196

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of Armored Personnel Carriers to Saudi Arabia (transmittal number 7T-35, transmitted to Congress on September 1, 1976).

S. Con. Res. 197

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of National Guard Training and Modernization to Saudi Arabia (transmittal number 7T-40, transmitted to Congress on September 1, 1976).

S. Con. Res. 198

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain air defense weapons to Saudi Arabia (transmittal number 7T-38, transmitted to Congress on September 1, 1976).

S. Con. Res. 198

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sales of certain missile systems to Saudi Arabia (transmittal number 7T-39, transmitted to Congress on September 1, 1976).

S. Con. Res. 200

Resolved by the Senate (the House of Representatives concurring), That the Congress objects tc the proposed sale of certain aircraft to Saudi Arabia (transmittal number 7T-37, transmitted to Congress on September 1, 1976).

Mr. PROXMIRE. Mr. President, today I am submitting 24 resolutions of disapproval to pending arms sales. These resolutions are introduced pursuant to section 36(b) of the Arms Export Control Act—the Nelson amendment.

There are nine resolutions on Saudi Arabia totaling $613.60 million. There are nine resolutions on Iran totaling $4.45 billion. There are five resolutions on Pakistan totaling $79.5 million and one each for the Philippines and Singapore. The grand total is $5.32 billion.

Mr. President, I have submitted these resolutions for a number of specific reasons. First, I firmly believe that the Senate should review these matters, with great caution. There are too many unanswered questions for these proposed sales to go into effect.

For example, what are the implications of providing Israel and various Arab States with identical equipment? How is the issue of transferability being handled? Will these weapons turn up in other countries if in the worst circumstances there is another outbreak of war in the Middle East?

What will these massive sales do to the existing balance of forces in the Middle East. Is it United States policy to turn Iran into the major military power in the Middle East? If so, why and to what end?

If there is a future oil embargo will our own weapons be turned against us? Will there be a technology flow from these countries to the Soviet Union or the Peoples Republic of China?

Do these countries have to have first line military equipment just now entering the U.S. force structure? If so, what is the compelling military rationale?

What effect will these massive sales have on internal development? Under what circumstances would U.S. equipment be used for domestic activities or internal security purposes?

Will these sales encourage a regional arms race between Pakistan and India or Iran and Saudi Arabia? Are there any hidden agreements attached to or a part of any of these sales? Is there a quid pro quo?

How many U.S. personnel will have to be stationed in the recipient country and for what period of time? Are U.S. personnel subject to being held hostage in any future domestic or regional hostility?

Mr. President, my second point is one of concern that much of the data about these arms sales has been classified. Why it has been classified is a mystery. Surely everyone in the Middle East will know as soon as the equipment is shipped. Why then should the details be kept secret from the American public? Why should the Congress allow the Defense and State Departments to restrict our right to a full and free debate on the merits of these proposed sales?

Third, where are these sales heading? Is this just the beginning of a new round of arms sales to the Middle East? What are the long range projections? What U.S. policy guides arms sales?

For all of these reasons, and many more, I have drafted these resolutions, along with my friend the Senator from New Hampshire (Mr. Durkin) and today submit them to the Senate for consideration.

PROTECTION OF SPOUSES OF MAJOR PRESIDENTIAL AND VICE-PRESIDENTIAL NOMINEES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 15371.

The PRESIDING OFFICER laid before the Senate H.R. 15371, an act to provide for protection of the spouses of major Presidential and Vice-Presidential nominees.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, this bill was unanimously passed by the House of Representatives on September 2, 1976, and is supported by the administration.

It amends Public Law 90-331, which authorizes Secret Service protection for major Presidential and Vice Presidential candidates. Public Law 90-331 presently does not authorize the protection of candidates' spouses.

On August 12, 1976, Gov. Jimmy Carter wrote Secretary of the Treasury William E. Simon requesting Secret Service protection for Mrs. Carter and Mrs. Mondale, inasmuch as they contemplate campaigning in the fall separately from their husbands. Secretary Simon referred the request to the Candidates Advisory Committee—consisting of the Senate majority and minority leaders, the Speaker of the House, and the House minority leader—and it unanimously recommended such protection be provided.

The present bill is designed to remedy the lack of statutory authority to provide such protection. It would commence not sooner than 60 days prior to the general Presidential election. In addition, the House bill would provide continuation of Secret Service protection for the spouse of the President-elect between the date of the election and the date of inauguration.

The authority contained in this bill is an appropriate extension of the protective function of the Secret Service in the light of present day campaigning practices by spouses of Presidential and Vice Presidential candidates, and I urge its immediate adoption.

The PRESIDING OFFICER. If there are no amendments to be proposed, the bill will be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 15371) was passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a letter addressed to the Honorable William Simon, Secretary of the Treasury, from Gov. Jimmy Carter, dated August 5, 1976.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ATLANTA, GA., *August 5, 1976.*

Hon. WILLIAM SIMON,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: It is my understanding that protection by the Secret Service is not automatically provided to the wives of the nominees for President and Vice President of the United States.

My wife Rosalynn and Mrs. Mondale will be campaigning this fall separately from me and Senator Mondale, and each will be traveling with only a few staff aides. This lack of protection from large crowds and other potential threats is of great concern to us.

I respectfully request that protection be provided both wives when the election campaign begins on a full-time basis around the first of September. A definite date will be known and provided in the near future.

I will very much appreciate your favorable consideration of this request.

Sincerely,

JIMMY CARTER.

LEGISLATIVE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

Mr. ALLEN. Mr. President, having supported today the prevailing side on the vote by which the first committee amendment to the legislative appropriation bill was rejected, and having cleared the matter with the distinguished manager of the bill (Mr. HOLLINGS), I ask unanimous consent that it be in order to move to reconsider the vote by which the first committee amendment was rejected.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the first committee amendment was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HELMS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow after the two leaders or their designees have been recognized under the standing order, the Senator from North Carolina (Mr. HELMS) be recognized for not to exceed 15 minutes, preceding the recognition under a special order of the Senator from Oklahoma (Mr. BARTLETT).

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from North Carolina (Mr. HELMS) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Oklahoma (Mr. BARTLETT) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which period the Senate will resume the consideration of the legislative appropriation bill, at which time the pending question will be on agreeing to the amendment by Mr. BARTLETT, on which the yeas and nays have been ordered, and on which there is a time limitation of not to exceed 1 hour. Consequently, a rollcall vote is expected to occur at some time around 11:30, or somewhere between 11:30 and 12 noon.

Following the disposition of the amendment by Mr. BARTLETT, and no later than 12 o'clock noon, the Senate will proceed to consider the amendment by the Senator from Iowa (Mr. CULVER), on which there is a time limitation of 3½ hours, 2 hours of which will run from 12 o'clock noon until 2 o'clock, and at 2 p.m. the Senate will resume the consideration of the antitrust measure. At 3 o'clock, after 1 hour of debate, votes will occur on the antitrust measure; I believe the first vote is to occur on the amendment (No. 2232) by the Senator from Alabama (Mr. ALLEN); and then, if that amendment is rejected, a vote will occur on the motion submitted by the junior Senator from West Virginia. A rollcall vote will occur on that motion immediately.

On the disposition of those rollcall votes, the Senate will resume the consideration of the Culver amendment to the legislative appropriation bill, with 1½ hours remaining for debate on that amendment, at the conclusion of which time, or at such time as any portion of that time is yielded back, a vote will occur on the Culver amendment, and I am confident that will be a rollcall vote.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I do not believe the Senator was in the Chamber when the legislative appropriation bill was called up. There was objection to agreeing to the Senate committee amendments as original text, and consequently, what the distinguished Senator has referred to as the Culver amendment actually will be the second committee amendment.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. I thought the Senator might want to make that clear.

Mr. ROBERT C. BYRD. Yes; I thank the distinguished Senator for calling this to my attention. The time will be on the committee amendment. I think Mr. CULVER is opposing the committee amendment.

Mr. ALLEN. Opposing, yes.

Mr. ROBERT C. BYRD. Half the time will be under the control of Mr. CULVER and half the time will be under the control of Mr. HOLLINGS.

So there will be rollcall votes tomorrow. It is hoped that the Senate will be able to complete action on the legislative appropriation bill tomorrow; and in any event I have been asked by the Senator from Maine (Mr. MUSKIE) to follow the legislative appropriation bill with Senate concurent resolution 139, the concurrent resolution revising the congressional budget for the fiscal year 1977.

UNANIMOUS-CONSENT AGREEMENT

I, therefore, ask unanimous consent that tomorrow, upon the disposition of the legislative appropriation bill, the Senate proceed to the consideration of Senate Concurrent Resolution 139.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:15 p.m. the Senate adjourned until tomorrow, Wednesday, September 8, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 2, 1976:

DEPARTMENT OF STATE

Charles A. James, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Executive nominations received by the Senate September 3, 1976:

DEPARTMENT OF STATE

Julius L. Katz, of Maryland, to be an Assistant Secretary of State.

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

DEPARTMENT OF DEFENSE

David Robert Macdonald, of Illinois, to be Under Secretary of the Navy, vice David Samuel Potter, resigned.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. John P. Flynn [redacted]FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. George H. Sylvester, [redacted]FR (brigadier general, Regular Air Force), U.S. Air Force.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of lieutenant colonel:

James M. Chance
Harold A. Erwin
Gerald L. Gill
Herbert C. Johnson
Robert E. Lorch
Kenneth E. Noland
Joseph R. R. Paquette
Roger P. Pilcher
Kenneth E. Shelton
Igor R. Valentine

The following-named women officers of the Marine Corps for permanent appointment to the grade of major:

Kathleen V. Ables
Elaine M. Bowden
Marguerite J. Campbell
Nancy A. Davis
Diane L. Hamel
Ellen T. Laws
Lorraine M. Sadler
Gloria E. Smith
Barbara Weinberger
Carol A. Wiescamp
Carolyn K. Wiseman

The following-named officers of the Marine Corps for temporary appointment to the grade of major:

James J. Ainsworth
Travis M. Aiton
Laney D. Alexander
Cecil J. Amparan
Byron A. Anderson
Lawrence R. Anderson
O. V. Anderson
Ralph C. Anderson
Victor V. Ashford
Raymond P. Ayres, Jr.
Peter R. Badger
David L. Baker
Michael L. Baker
George D. Barnett
Richard L. Barton, Jr.
Benjamin E. Basham
William A. Beebe, II
David E. Belatti
Stephen C. Berg
Richard W. Berger
Kenneth W. Berkey
Timothy L. Berry
Allan C. Bevilacqua
Hubert D. Bible
Walter Robert Bishop
Patrick C. Blackman
Marvin S. Blair, Jr.
Frank R. Blakemore
Jerry M. Blanton
David W. Blizzard
Paul J. Bloom, Jr.
Robert E. Boerner
Jay F. Boswell
Robin R. Bowen
John W. Bowman, Jr.
Thomas A. Braaten
Kenneth L. Bradley
Wayne H. Brandon
Charles D. Breme
John L. Brennan
George L. Brewer
William R. Brignon
Larry W. Britton
Constantinos T. Brown
Jon L. Brown
Michael B. Brown
Thomas E. Brown, Jr.
William R. Bunker
Joseph H. Burney
Glenn F. Burgess
Thomas Buscemi, Jr.
William K. Callahan
Richard L. Callihan
Walter J. Camp
Larry E. Campbell
James M. Canario
Robert J. Carroll
James A. Cathcart
James M. Chapin
James E. Charrier
Jerry D. Chase
Clarence B. Cheatham, Jr.
Richard J. Choate
Clayton C. Christensen
Franklin J. Cizerle
Henry J. Clark
Vernon L. Clark
Dennis C. Clayton
James G. Conard
Roy A. Connelly
Patrick J. Connor
Stephan L. Constantine
Edwin J. Cooke
Robert W. Coop
Robert A. Cornell
Allen M. Coward
Ronald E. Crane
Chandler C. Crangle
John Crone
Eugene J. Cruickshank
Louis A. Culbertson
Timothy J. Cunningham
Terrence R. Dake
Howard D. Daniel
Richard C. Daugherty
Jimmie F. Davis
William J. Davis
Ottie B. Deane
Ronald K. Delabarre
Dennis G. Delmauro
Thomas R. Delux
Henry A. Detering
Eric D. Dick
Harry L. Dietz
Wilbur C. Dishman
Francis J. Donnelly
Charles B. Drake
Paul F. Drnec
Robert J. Eisenlohr
Richard H. Ellis
Gary L. Elsten
Clark D. Embrey
William F. Ellis, Jr.
Robert S. Evasick
Clifford L. Fagen
David E. Feiring
Don W. Fishero
Ronald D. Fleming
Morris O. Fletcher
George S. Ford
James E. French
Barton J. Friebolin
William H. Frizell
Donald E. Frost
Arthur J. Furtney, Jr.
Michael H. Gavlick
Robert P. Gehrdes
Vincent L. Gennaro, Jr.
George E. Germann
Michael L. Gilman
Robert C. Godfrey
Thomas C. Goodwin
Thomas Gotta
Lee C. Gound
Michael J. Graf
U.S. Grant, Jr.
Charles L. Griffin
Robert G. Gulley
Paul S. Hamilton
Thomas J. Hankins
Bruce L. Harjung
Robert J. Harper
John R. Harris
Charles E. Hatch
Edward Hatton III
Jerome D. Hayes
William T. Hayes
Robert B. Haynes
Donald R. Head
Henry Heidbreder Jr.
Frederick P. Heller
David F. Herr
Robert Hickerson
James E. Hillman
Judson D. Hilton, Jr.
Marshall G. Hodges
Terry L. Hodges
George G. Hoffman, Jr.
Richard F. Hoogerwerf
Richard G. Hoopes
Theodore D. Hopper, Jr.
Carl T. Hover
James R. Hughes
Charles J. Hutcheson
Homer G. Hutchinson, III
Larry W. Hutson
Walter L. Jabs
Laurens J. Jansen
Richard M. Jessie, Jr.
Albert P. Johns
Melford M. Johnson
James L. Jones, Jr.
Thomas A. Keene
George R. Keller, Jr.
Thomas E. Kelly
Ronald R. Kersey
Daniel W. Kessler
Richard C. Kindsfater
John S. Kinsman
Novatus N. Kirby
Gerald P. Kirchgessner
John J. Kispert, Jr.
Richard T. Kohl
Donald E. Koppenhaver
Lester A. Kroeger
Earl A. Kruger
John J. Lacy
Scott M. Lamberth
Elbridge W. Lang
Jacob L. Larue
Fred C. Lash
Donald E. Laughner
Robert C. Laverty
William N. Lowe
Michael R. Layman
Robert C. Lewis
Frank LiButti
Frank E. Littlebury
Andrew M. Lloyd, III
Everett Long III
Paul J. Lowery
James T. Lucken, Jr.
Thomas E. MacDermant
Gary W. MacLeod
Vernon R. Maddux
James G. Magee
Gerald O. Mallette
Charles J. Maloney, Jr.
James D. Manley
Gaylord J. Marek
Eugene F. Mares
Ronald W. Marsteller
Michael P. Mastroberti
Lee R. Marsh
James J. Marshall
Thomas D. Martin
E. T. Mattke
Joseph H. Matusic
Carl R. McClain
James F. McCool, III
Daniel J. McCormick
James E. McDaniel
Patrick J. McDonald, Jr.
Francis M. McDonough
Patrick J. McElhinney
Michael M. McElwee
Harold S. McGinnis, Jr.
Alvin McGrath
John M. McInnes
James L. McIntyre, Jr.
James J. McKnight
Raymond J. McManus
John T. Mero
Richard E. Miller
David L. Mix
Charles D. Morgan
Carleton H. Morrison, Jr.
Lawrence W. Moss
Alvin C. Murray, III
John R. Murray
Richard E. Musser
Arthur G. Nadeau
Thomas E. Nadolski
Frank Natt Jr.
Thomas S. Nelson, III
James H. Nelson
Allen D. Nettleingham
Frank E. Odell
Brian J. O'Donnell
Ronald N. O'Leary
George P. Olin
John O. Olsen
Robert J. O'Rourke
Richard E. Ouellette
Nicholas J. Outrakis
Peter Pace
Leslie M. Palm
James D. Panknin
John A. Panneton
Larry D. Parsons
William T. Pedersen, Jr.
James A. Pelli, Jr.
Earl Pennington
Thomas J. Pentony
William N. Perkins
Ralph Pike
Gordon L. Pirtle
Sam Pisacreta
Frank M. Platt III
John R. Pope
Alexander W. Powell
William B. Powell, Jr.
William S. Price, Jr.
William J. Quigley
James E. Quinn
Ronald C. Rachow
Perry A. Ramey
David S. Randall, Jr.
Geoffrey K. Rasmussen
George A. Ravan
Robert K. Redlin
Albert A. Reed, Jr.
Douglas E. Reinika
John E. Rhodes
Arnold A. Rice
Ronald R. Rice
William M. Rice
Charles E. Richardson
Orin J. Riddell IV
Robert E. Rider
Manfred A. Rietsch
Charles N. Riley
Edward J. Ritchie
Kenneth E. Roberts
David B. Robison
Richard D. Rodriguez
George E. Rosental
Leonard H. Ross, Jr.
James A. Rumbley, Jr.
Woodson A. Sadler, Jr.
Martin J. Samuel
Carleton F. Saunders, Jr.
John A. Sawyer, Jr.
James H. Schaefer, Jr.
Klaus D. Schagat
William W. Scheffler
Erwin W. Schomisch
Klaus D. Schreiber
Frank W. Schultz
Peter G. Schutz
Gene D. Schwartzlow
Jerome C. Scott
Frederick H. Seage, Jr.
James W. Seal
Arthur J. Seaman
T. D. Seder
David J. Seeley
Benny R. Sepulveda
Fred D. Seth, Jr.
Terry K. Shaw
Jerry M. Shelton
Bobby L. Sherrow
Dennis D. Shockley
Robert J. Short, Jr.
Thomas J. Singleton
Thomas D. Sizemore
Leonard L. Skatoff, Jr.
Gregory G. Sloan
James C. Smith
Larry E. Smith
Michael Z. Smith
William J. Spangler
James L. Spence
Harry B. Sprague III
John P. Staffieri
Norman S. Stahl
Craig R. Steinmetz
Myles C. Still
Terry W. Stone
Kenneth R. Stuber
James M. Strickland
Richard D. Sullivan
Terry P. Swanger
George P. Sweeney III
Herbert P. Syska, Jr.
Stephen A. Tace
Charles R. Tackett
Norman F. Taft
Aubrey M. Taylor
Bayard V. Taylor
Bobby A. Templeton
Monty J. Tennes III
John W. Theisen
John C. Thomas
Don O. Thompson
Owen J. Toland
Edward L. Trainor
William E. Treadwell
William D. Turnbull
James O. Vaughn
Michael C. Veysey
Eric P. Visser
Sidney S. Wade, Jr.
Jack R. Wagner
Edward P. Wahl, Jr.
Richard G. Walls

Jon M. Walters
Thomas D. Walters
David J. Watson
Robert W. Weeks
John Wegl
Daniel L. Welker
Marshall R. Wells
Donald T. Welsh
John K. Wetter
James A. Wiley
Thomas L. Wilkerson
John F. Williams, Jr.
Joseph H. Williams
Michael J. Williams
John P. Wilson
William H. Wilson
William C. Wolfe
Larry A. Wood
Edward F. Wright, Jr.
William S. Wright
Dale F. Wyrauch, Jr.
John S. Zdanowski
Lawrence R. Zinser

HOUSE OF REPRESENTATIVES—*Tuesday, September 7, 1976*

(The House was not in session today. Its next meeting will be held on Wednesday, September 8, 1976, at 12 o'clock noon.)

CONFERENCE REPORT ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

[The conference report on H.R. 14262, Department of Defense appropriations bill, filed in the House September 3, 1976, pursuant to its previous order, reads as follows:]

CONFERENCE REPORT (H. REPT. No. 94–1475)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 13, 17, 28, 31, 32, 33, 37, 57, 71, 74, 75, 106, 109, 110, and 113.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 6, 7, 8, 9, 14, 15, 23, 29, 30, 38, 41, 47, 48, 49, 50, 51, 52, 53, 54, 56, 58, 62, 72, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 101, 102, and 103, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,564,011,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$6,002,268,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$1,854,334,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$7,136,706,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$7,898,285,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$9,565,164,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$897,130,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$242,800,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$839,800,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$622,270,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,718,900,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$356,100,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"MARINE CORPS STOCK FUND

"For the Marine Corps stock fund, $6,200,000."

And the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$58,800,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"DEFENSE STOCK FUND

"For the Defense Agencies stock fund, $22,800,000."

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$541,900,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$497,400,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$902,900,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$1,366,600,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,173,400,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In lieu of the matter proposed by said amendment insert: "Until February 1, 1977, the obligation of funds appropriated in this Act for the procurement of the B–1 bomber shall be limited to a cumulative rate of not to exceed $87,000,000 per month."

And the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,309,700,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$250,100,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,280,816,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$3,722,792,000"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$3,749,530,000"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$5,000,000"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed by said amendment insert: ", but not to exceed 60 percent of total authorized scholarships".

And the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 745a. None of the funds appropriated in this Act shall be available for the operation and support of more than four Naval districts as established by sections 5221 and 5222, title 10, United States Code, after June 30, 1977."

And the Senate agree to the same.

Amendment numbered 108: That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment as follows: In lieu of the matter proposed by said amendment insert:

"SEC. 748. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces."

And the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 749. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $24,000,000."

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 19, 20, 21, 22, 42, 43, 46, 59, 60, 63, 64, 70, 73, 76, 91, 100, 107, 112, and 114.

GEORGE MAHON,
ROBERT L. F. SIKES,
DANIEL J. FLOOD,
JOSEPH P. ADDABBO,
JOHN J. MCFALL,
JOHN J. FLYNT, Jr.,
ROBERT N. GIAIMO,
BILL CHAPPELL,
BILL D. BURLISON,
JACK EDWARDS,
J. K. ROBINSON,
JACK KEMP,
E. A. CEDERBERG,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
JOHN C. STENNIS,
JOHN O. PASTORE,
WARREN G. MAGNUSON,
GALE W. MCGEE,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
DANIEL K. INOUYE,
LAWTON CHILES,
STUART SYMINGTON,
HENRY M. JACKSON,
MILTON R. YOUNG,
ROMAN L. HRUSKA,
CLIFFORD P. CASE,
HIRAM L. FONG,
TED STEVENS,
RICHARD S. SCHWEIKER,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262), making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—MILITARY PERSONNEL

Military personnel, Army

Amendment No. 1: Appropriates $8,564,011,000 instead of $8,539,249,000 as proposed by the House and $8,601,811,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Army. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

Lump Sum Terminal Leave Payments.—The conferees agreed to the Senate reduction of $10,136,000 for lump sum terminal leave payments. The House made no similar reduction. However, the Senate conferees receded to the House on the matter of including basic allowance for subsistence and basic allowance for quarters within the amounts provided for terminal leave payments. Thus, personnel accumulating leave prior to enactment of Public Law 94–361, the Defense Authorization Act for fiscal year 1977, will be paid for up to 60 days accrued leave, including allowances for quarters and subsistence. Section 746 of this bill has been adjusted to reflect this decision.

Safeguard Operations.—The conferees agreed to the reduction of $1,700,000 as proposed by the Senate.

Permanent Change of Station Travel.—The conferees agreed to a reduction of $52,551,000 instead of a reduction of $90,551,000 as proposed by the House and $14,751,000 as proposed by the Senate. The conferees are also in agreement that the Army should continue to expand measures designed to effect economies in the move program. By so doing, the approximately $638,000,000 contained in this bill for fiscal year 1977 should provide sufficient resources to largely alleviate the current problem of involuntary overseas tour extensions. This program remains of continuing special interest to the Committees.

Helicopter Pilot Training Consolidation.—The conferees agree that undergraduate helicopter flight training should not be consolidated in fiscal year 1977 as proposed in the budget request. The House agreed to the consolidation proposal while the Senate had rejected it. Thus, the conferees have agreed to the financial adjustments made in the Senate-passed version of the bill. In the case of military personnel, Army, the amount provided is $900,000 less than the amount provided by the House.

The conferees believe that this proposal needs further study prior to implementation. There remains some doubt if the cost savings will be as substantial as forecast and doubt whether Army training will meet Navy requirements. The savings should be more clearly documented as to those savings derived solely from increased efficiency from the training consolidation and those savings resulting strictly from a base consolidation (closure) action. The study should determine if the base consolidation savings are possible within the Navy base structure without the helicopter pilot training consolidation. The Congress also needs further assurances that a training syllabus can be developed which will meet valid Navy objections to the proposal prior to implementation. For purposes of this study, the conferees do not consider a requirement for prior fixed wing training to be a valid objection, but believe that objections raised with respect to the amount of instrument training, overwater training, type of helicopter utilized, and the development of special skills for landing aboard ships during the undergraduate training phase should be documented. A detailed report on this matter should be provided by April 15, 1977.

Should the study, taking into consideration all of the elements set out herein, conclude that the consolidation of basic helicopter flight training is appropriate, then the conferees agree that such consolidation should take place only after approval by the Congress.

In addition, the conferees wish to emphasize that the decision not to consolidate undergraduate helicopter pilot training at this time does not imply a lack of support for other training consolidations that have been previously recommended by the Department of Defense or directed by the Congress.

Military Postal Service.—The conferees agreed to the addition of $1,100,000 to the budget request as recommended by the Senate. The House did not address this matter.

Strength Reductions Resulting from Authorization Action.—The conferees agreed to an additional reduction of $6,870,000 as proposed by the Senate. Final authorization action had not been completed prior to the time that the House considered this matter.

Enlistment Bonuses.—The conferees agreed to the addition of $18,268,000 as recommended by the Senate for enlistment bonuses. The conferees also wish to advise that this action constitutes final Congressional review of a proposed $39,300,000 budget amendment submitted by the President on July 28, 1976, for enlistment bonuses. This amendment was submitted too late to be considered by the House. The conferees agreed that neither Committee contemplates further action on all pending requests related to recruiting.

Reserve Special Active Duty Tours.—The conferees agreed to the transfer of $13,000,000 to the Army Reserve and Army National Guard as proposed by the Senate. The House bill included the funds in this appropriation. The House recedes with the understanding that the active force will be prepared to justify all Reserve man-years used to support active force missions.

Military Personnel, Navy

Amendment No. 2: Appropriates $6,002,268,000 instead of $6,008,497,000 as proposed by the House and $5,999,768,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Navy. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

Lump Sum Terminal Leave Payments.—The conferees agreed to the reduction of $7,582,000 as proposed by the Senate. However, payments for leave accrued prior to enactment of the fiscal year 1977 Defense authorization act (Public Law 94–361) will include allowances for quarters and subsistence. Section 746 of this bill has been adjusted to reflect this decision.

Helicopter Pilot Training Consolidation.—The conferees agree that the consolidation is not to take place during fiscal year 1977, and have accordingly agreed to the addition of $4,000,000 as proposed by the Senate. A request for additional information and a report is discussed under the heading Military Personnel, Army.

Naval Districts.—The conferees agreed to provide a total of $2,400,000 under this appropriation for operation of four Naval Districts in fiscal year 1977. The House had recommended abolishing the Navy District management concept and provided $900,000. The Senate bill recommended consolidation and provided $3,900,000 in this appropriation for operation of Naval Districts. The Senate proposal, however, included a restriction on obligation of funds which is superseded by this agreement. The conferees further agreed that the Naval District structure should not be eliminated, but that significant consolidation should be undertaken. The conferees are of the opinion that the number of Districts should be reduced to not more than four. The conference agreement does not preclude the Navy from entirely abolishing Districts as a management concept. The Department is directed to submit by November 15, 1976, its plan for realignment of the District structure. This item is of special interest to the Committees.

Authorization Strength Reductions.—The conferees agreed to a reduction of $4,147,000 instead of a reduction of $8,147,000 as proposed by the Senate. The House made no similar reduction since authorization action had not been completed at the time the bill was under consideration by the House.

Military Personnel, Marine Corps

Amendment No. 3: Appropriates $1,854,334,000 instead of $1,879,173,000 as proposed by the House and $1,844,624,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Marine Corps. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

Lump Sum Terminal Leave Payments.—The conferees agreed to the reduction of $2,593,000 as proposed by the Senate. However, payments for leave accrued prior to enactment of the fiscal year 1977 Defense authorization act (Public Law 94–361) will include allowances for quarters and subsistence. Section 746 of the bill has been adjusted to reflect this decision.

Military Postal Service.—The conferees agreed to the addition of $500,000 for Military Postal Service as proposed by the Senate. The House did not address this matter.

Authorization Strength Reductions.—The conferees agreed to a reduction of $24,466,000 instead of a reduction of $34,176,000 as proposed by the Senate. The House made no similar reduction since authorization action had not been completed at the time the House considered this bill.

Enlistment Bonuses. — The conferees agreed to the addition of $1,700,000 as proposed by the Senate. The total provided for enlistment bonuses is $5,500,000. The conferees further agreed that neither Committee contemplates further action on all pending requests related to recruiting.

Military Personnel, Air Force

Amendment No. 4: Appropriates $7,136,706,000 instead of $7,157,164,000 as proposed by the House and $7,127,991,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Air Force. In addition, the conferees reached agreement with respect to the following areas of differences as explained below:

Lump Sum Terminal Leave Payments.—The conferees agreed to a reduction of $9,151,000 as proposed by the Senate. However, payments for leave accrued prior to enactment of the fiscal year 1977 Defense authorization act (Public Law 94–361) will include allowances for quarters and subsistence. Section 746 of the bill has been adjusted to reflect this decision.

Military Postal Services.—The conferees agreed to the addition of $3,300,000 for Air Force postal services as proposed by the Senate. The House did not address this matter.

Aerial Port Staffing.—The conferees agreed to a reduction of $4,417,000 as proposed by the Senate. The Air Force is directed to proceed with the realignment of Aerial Port responsibilities to the Reserve forces, with such realignment to be completed as soon as possible. Although it may be infeasible to complete this realignment by the end of fiscal year 1977 because sufficient Reserve personnel are not available, the conferees direct that the Department take expeditious action to effect this transfer, and expect that substantial progress will have been made by the end of fiscal year 1977 toward completion of the directed realignment.

Tactical Fighter Maintenance Personnel.—The conferees rejected a Senate proposed reduction of $5,803,000.

Tactical Fighter/Reconnaissance Crew Ratios.—The conferees rejected a reduction of $252,000 as proposed by the Senate.

C–5 Crew Ratio.—The conferees agreed to a reduction of $896,000 as proposed by the Senate. The conferees direct that there be no increase in the active force C–5 crew ratio.

Munitions Standard Personnel.—The conferees agreed to a reduction of $2,660,000 instead of a reduction of $5,320,000 as proposed by the Senate.

Permanent Change of Station Travel.—The conferees agreed to a reduction of $3,534,000 as proposed by the Senate. This is an item of special interest to the Committees.

Reserve Special Active Duty Tours.—The conferees agreed to the transfer of $7,100,000 to the Reserve Components of the Air Force as proposed by the Senate. The House recedes with the understanding that the Active Air Force will be prepared to justify all Reserve man-years used to support active force missions.

EC–121 Deployment to Iceland.—The conferees agreed to restore the $4,000,000 deleted by the House for this item. The House action would have terminated this deployment at the start of fiscal year 1977 (October 1, 1976). The conferees agreed to extend the deployment of the EC–121 aircraft to Iceland through fiscal year 1977 with the understanding that such deployment should be terminated by the start of fiscal year 1978. All EC–121 aircraft should be retired from the active (Air Force Reserve operated) inventory to the military aircraft storage and disposition center at Tucson, Arizona, following termination of the Iceland rotation. The Air Force will take appropriate steps to insure the timely transition of the affected Air Force Reserve unit to other aircraft. This is considered an item of special interest to the Committees.

Reserve Personnel, Army

Amendment No. 5: Appropriates $469,919,000 as proposed by the Senate instead of $469,141,000 as proposed by the House.

Special Active Duty Tours.—The conferees agreed to the transfer of $5,900,000 from Military Personnel, Army, as proposed by the Senate. Future budget justifications will contain additional information as directed in the Senate report.

Authorization Strength Reductions.—The conferees agreed to a reduction of $5,122,000 resulting from an authorized selected reserved strength reduction of 3,300. The House had funded an average strength of 215,000 as requested. Authorization action reduced the strength to 212,400.

Reserve Personnel, Navy

Amendment No. 6: Appropriates $215,010,000 as proposed by the Senate instead of $221,315,000 as proposed by the House.

Authorization Strength Adjustment.—The conferees agreed to a reduction of $6,305,000 as proposed by the Senate. This funding will support an average strength of 96,500 for fiscal year 1977 instead of the 52,000 requested in the budget and the 102,000 funded by the House.

Reserve Personnel, Air Force

Amendment No. 7: Appropriates $163,807,000 as proposed by the Senate instead of $162,807,000 as proposed by the House.

Special Active Duty Tours.—The conferees agreed to the transfer of $1,500,000 from the Military Personnel, Air Force, appropriation as proposed by the Senate. Future budget justifications will contain additional information as requested in the Senate report.

C–130 Rotations.—The conferees agreed to a reduction of $1,000,000 as proposed by the Senate. The House had terminated these rotations but allowed the Air Force Reserve to retain the funds for other missions. This is an item of special interest to the Committees.

EC–121 Deployments.—The conferees agreed to restore $500,000 which had been deleted by the House.

National Guard Personnel, Army

Amendment No. 8: Appropriates $714,665,000 as proposed by the Senate instead of $707,565,000 as proposed by the House.

Special Active Duty Tours.—The conferees agreed to the transfer of $7,100,000 from the Military Personnel, Army appropriation as proposed by the Senate. Future budget justifications will contain additional information as requested in the Senate report.

National Guard Personnel, Air Force

Amendment No. 9: Appropriates $219,515,000 as proposed by the Senate instead of $216,515,000 as proposed by the House.

Authorization Strength Reductions.—The conferees agreed to a reduction of $2,600,000 to provide funding for a selected reserve strength of 93,347. The House had provided funding to increase the strength from the requested 93,347 to 94,800.

Other Matters Related to Title I

The following matters concern report language differences which were agreed to by the conferees as explained below:

Tripler Army Medical Center.—The House requested an audit by the Department of Defense to determine the cost of supporting approximately 330 students, principally enrolled in courses of study offered by the University of Hawaii. The House also directed the Army to collect for any costs incurred. The Senate pointed out that other similar agreements exist and stated a need for an across-the-board investigation and audit of the extent to which educational support is provided by the DOD to civilian medical schools. The conferees agreed that the Department of Defense should perform a nationwide audit covering the points requested in the Senate report and report its findings to the Appropriations Committees. The General Accounting Office is to review the results of this audit. The Department is to include in this report an assessment of the benefits, financial and otherwise, accruing to both DOD and civilian universities, and a discussion of the feasibility of obtaining reimbursement for these benefits. An attempt should be made to quantify nonfinancial benefits to both the government and the schools.

Military Drug and Alcohol Abuse Programs.—The House directed that one-half of the $56,400,000 currently being spent on drug abuse should be shifted to alcohol abuse programs. The House further directed that participation in a drug or alcohol abuse rehabilitation program is of itself not to be considered a reason to deny reenlistment. Also, the House would exclude use of alcohol and drug abuse facilities to civilian employees of the government in the USA when civilian public and private programs are available. The Senate did not endorse a 50% transfer of funds to alcohol abuse programs but said there should be some redistribution of funds.

The conferees agreed that the random urinalysis testing programs should be terminated not later than October 1, 1976, and that the resources made available by the termination of this testing should be redirected to the alcohol abuse program. The conferees further agreed that the Department of Defense should carry out House direction with respect to the reenlistment of personnel who have successfully completed a rehabilitation program and with respect to use by civilian employees of military drug and alcohol abuse facilities. A report is to be submitted to the Committees in conjunction with the submission of the fiscal year 1978 budget request detailing actions taken with respect to the transfer of funds and other matters addressed by the Committees.

Military Personnel Used in Support of Military Sales.—The Senate directed that personnel budgeted in support of foreign military sales were not to be increased above the fiscal year 1976 or transition quarter levels, whichever is lower, and any increases not specifically reduced by the Senate should be reprogrammed elsewhere. The House bill contained no similar language.

The conferees agreed that a manpower ceiling with respect to personnel used in support of military sales should not be established. The conferees, however, did agree that in the future the Department of Defense must more closely account for all personnel associated with these sales and must seek to obtain full reimbursement from the foreign government.

TITLE II—RETIRED MILITARY PERSONNEL

Retired pay, Defense

Amendment No. 10: Appropriates $8,381,700,000 as proposed by the House instead of $8,035,500,000 as proposed by the Senate. The conferees restored $346,200,000 to the bill for the consumer price index (CPI) based on cost of living increases which had been deleted by the Senate. The bill does not include funds to pay the additional one percent "kicker" associated with CPI increases pending resolution of this matter.

TITLE III—OPERATION AND MAINTENANCE

Operation and maintenance, Army

Amendment No. 11: Appropriates $7,898,285,000 instead of $8,050,635,000 as proposed by the House and $7,829,885,000 as proposed by the Senate.

Stock Fund Surcharge

For fiscal year 1977 the Army requested $74,400,000 associated with a Department of Defense stock fund surcharge increase to stabilize stock fund prices. The House allowed $36,100,000 while the Senate approved the full request. The conferees agreed to provide $46,100,000.

Regarding the stock fund surcharge, the conferees direct the Department to implement the plan for a trial period of one year. The conferees further direct that item prices be adjusted so that the funding provided in the Act will be adequate to fully fund the quantities justified in the budget and approved, except where specific reductions have been made.

GSA User Charges

The Army had requested $83,762,000 for GSA standard level user charges. The House provided $78,162,000. The Senate increased the allowance to $80,962,000. The conferees agreed to the House amount.

Recruit advertising

The Army budget for fiscal year 1977 requested $37,350,000 for recruit advertising. The House allowed $31,350,000. The Senate provided $32,950,000 in conjunction with its realignment of funds for the advertising program. The conferees agreed with the Senate position.

Helicopter pilot training

The budget requested $11,600,000 of additional funds for the consolidation of helicopter pilot training. The House allowed this request. The Senate reduced the request by $9,300,000, allowing $2,300,000. The conferees agreed with the Senate position and the House receded.

Safeguard operations

For the operation of the Perimeter Acquisition Radar and final closing of the Safeguard system, the Army requested $26,166,000 for fiscal year 1977. The House reduced the request by $4,800,000. The Senate allowed the total request. The conferees agreed to the Senate position.

Regarding the operation of the Perimeter Acquisition Radar, the Senate recommended that the Department of Defense take expeditious action to transfer responsibility for operation to the Air Force since that service is primarily responsible for providing strategic warning. The House did not address this matter. The conferees agreed that this transfer should take place as expeditiously as possible.

Brigade 76

The Army requested an additional $7,600,000 for support of "Brigade 76" during fiscal year 1977. The House funded the full request, while the Senate reduced the request by $7,100,000. The conferees agreed with the Senate action.

Recruit Canvassers

The conferees agreed to provide $7,000,000 to pay for temporary duty costs of Army personnel used to assist regular recruiters. Senate guidance with respect to the use of such personnel is to be followed by the Army, except that canvassers should complete advanced individual training prior to being assigned to the Recruiting Command. The conferees expect that the average length of such tours will not exceed 30 days and in no case will any assignment be made for more than 60 days.

Civilian Personnel

The Senate reduced the Army's request for civilian personnel compensation by $24,900,000 in accordance with authorization action. The House had allowed the full request. The conferees agreed with the Senate reduction.

Supply Shelf Stockage

The Senate reduced the Army's request of $122,600,000 for supply shelf stockage items by $57,600,000. The conferees agreed that an additional $10,000,000 should be allowed for certain requirements in Europe, thus providing $75,000,000.

Installation Restoration

The Army requested $6,600,000 for the restoration and improvement of certain installations during fiscal year 1977. The House had allowed the full amount. The Senate reduced the request by $5,800,000. The conferees agreed that these funds should be restored and the Senate receded.

Product Improvement Program

The Army budget included a request of $69,577,000 for its product improvement program. The Senate reduced the request by $27,500,000 while the House had provided the full request. The conferees agreed to provide $44,077,000 including $2,000,000 to be used exclusively for improving the Army's tank modernization program.

Industrial Preparedness Program

For its industrial preparedness program for fiscal year 1977, the Army requested $68,005,000. The House allowed the full amount. The Senate reduced the request by $12,500,000. The conferees agreed to the Senate reduction and the House receded.

Real Property Maintenance

The Army requested $532,353,000 for real property maintenance during fiscal year 1977. The Senate reduced the request by $12,300,000 while the House had allowed the total request. The conferees agreed to a reduction of $6,150,000.

Training Activities

For training activities during fiscal year 1977, the Army requested $465,957,000. The House had allowed the full amount. The Senate reduced the request by $11,100,000. The conferees agreed that $8,000,000 should be restored, and a reduction of $3,100,000 applied.

Chemical Warfare Defense Equipment

The Army requested $46,700,000 for defensive chemical equipment, such as protective clothing. The House had allowed the full amount while the Senate only allowed $10,000,000. The conferees agreed that total funding should be approved.

The Senate has requested the General Accounting Office to make a comprehensive review of the threat, requirement and Department's planning for defensive chemical warfare programs. The conferees agreed that approval of full funding in fiscal year 1977 does not imply that the Congress agrees with the total program requirements, operation or method of funding this program and will give it a thorough review in connection with the fiscal year 1978 budget request.

Flying Hour Program

The Senate reduced the Army's flying hour program request of $101,200,000 by $9,800,000. The conferees agreed to this reduction.

European Forces Repair Parts

The budget requested $186,000,000 for repair parts for the Army's European forces during fiscal year 1977. The Senate reduced the request by $20,800,000. The conferees agreed that this request should be fully funded.

Low Altitude Parachute Extraction System

The Army requested $4,000,000 to fund the initial buy of a low altitude parachute extraction system during fiscal year 1977. The House allowed the full amount while the Senate disallowed the total. The conferees agreed to the Senate reduction.

Joint Chiefs of Staff Exercises

The budget requested $29,025,000 for Joint Chiefs of Staff directed and coordinated exercises. The House provided the full amount while the Senate reduced the request by $6,900,000, to an amount of $22,125,000. The conferees agreed that the exercises should be fully funded.

Combat Development Activities

The Army budget included a request of $54,467,000 for combat development activities in fiscal year 1977. The House provided the full amount. The Senate reduced the request to $49,967,000, a reduction of $4,500,000. The conferees agreed to the Senate reduction.

Furniture for Bachelor Quarters

The Senate reduced the Army's request for new furniture for bachelor quarters by $5,800,000, from a request of $47,312,000 to $41,512,000. The conferees agreed with the Senate reduction.

One Station Training Base Operations

The Army requested an additional $13,343,000 to support its one station training base operation. The House provided the full amount, while the Senate reduced the request to $8,643,000. The conferees agreed that $11,043,000 should be provided.

Utilities

The budget included a request for $352,355,000 for utility costs during fiscal year 1977. The Senate reduced the request by $4,000,000. The conferees agreed with the Senate reduction.

Reduction of Printing Backlog

The Army requested an additional $3,900,000 to reduce its printing backlog. The House provided the full amount while the Senate denied the request. The conferees agreed with the Senate reduction.

Military Personnel Support Cost

The Senate reduced the Army's operation and maintenance request by $2,900,000 as a result of authorization reductions in the number of military man-years requested by the Army. The conferees agreed to the Senate action.

Travel Cost

The budget requested $177,255,000 for the travel and transportation of persons employed by the Army. The Senate reduced the request by $1,600,000 and the conferees agreed with the reduction.

Public Affairs

The Senate reduced the Army's request of $5,417,000 for public affairs activities by $100,000. The conferees agreed with the reduction.

Area Handbooks

The Army requested $1,400,000 for the revision and printing of various overseas area handbooks. The Senate denied the total request. The conferees agreed that $700,000 be provided for this purpose. The conferees also direct the Department to carefully examine the requirement for area handbooks and the need to update them as frequently as is now done. In addition, the Department is to examine the feasibility and appropriateness of transferring the funding responsibility for these handbooks to the Department of State and report its findings on this matter to the Committees on Appropriations in conjunction with the submission of the fiscal year 1978 budget request.

Operation and maintenance, Navy

Amendment No. 12: Appropriates $9,565,164,000 instead of $9,553,164,000 as proposed by the House and $9,605,564,000 as proposed by the Senate.

Stock Fund Surcharge

The Navy requested $194,200,000 to implement the new stock fund surcharge procedure in fiscal year 1977. The House allowed $116,100,000, while the Senate provided full funding. The conferees agreed that $136,100,000 is sufficient to support the Navy requirement during 1977.

GSA User Charges

The Navy requested $45,318,000 for GSA standard level user charges during fiscal year 1977. The House reduced the request by $3,100,000, providing $42,218,000. The Senate restored $1,500,000 of the House reduction. The conferees agreed with the House amount.

Helicopter Pilot Training Consolidation

The Senate included $10,500,000 to continue separate Navy helicopter pilot training. The House provided no funds for this purpose. The conferees agreed with the Senate addition.

Naval Districts

The Navy had requested $6,160,000 to support the operation of its Naval Districts during fiscal year 1977. The House reduced the request by $3,000,000 and the Senate provided the full amount. The conferees agreed to a funding level of $4,660,000 for not more than four Naval Districts.

Intelligence Activities

The Navy requested $125,111,000 for intelligence activities during fiscal year 1977. The House allowed $112,011,000, while the Senate provided the full request. The conferees agreed with the Senate restoration.

Flying Hour Program

The Navy requested $475,543,000 for support of its flying hour program during fiscal year 1977. The House provided the full amount while the Senate reduced the request by $27,600,000. The conferees agreed to restore $13,800,000 of the Senate reduction providing a funding level of $461,743,000.

Naval Hospitals

For support of its hospitals in 1977, the Navy requested $282,473,000. The House provided the full amount. The Senate reduced the request by $3,900,000. The conferees agreed to the Senate reduction.

Tugboat Operations

To operate its fleet of tugboats during fiscal year 1977, the Navy requested $7,000,000. The Senate reduced the request by $1,500,000 and the conferees agreed with the Senate action.

Cross Country Flights of P-3 Aircraft

The Senate reduced the Navy request by $700,000 and directed the termination of P-3 aircraft cross country flights. The conferees agreed to this action by the Senate.

Training of P-3 Pilots

The Navy requested $6,964,000 for additional P-3 pilot training. The House provided the full amount while the Senate denied the total request. The conferees agreed to fund the budget request.

Proficiency Flying

The Navy requested $6,964,000 to support its proficiency flying program. The Senate reduced the request by $3,500,000. The conferees agreed to the Senate reduction.

Civilian Personnel

The Senate reduced the Navy's request for civilian personnel compensation by $3,500,000 in accordance with authorization action. The conferees agreed to the Senate reduction.

Military Personnel Support Cost

The Senate reduced the Navy's operation and maintenance request by $4,100,000 as a result of authorization reductions in the number of military man-years requested by the Navy. The conferees agreed to the Senate reduction.

Travel Costs

The budget requested $101,800,000 for the travel and transportation of persons employed by the Navy. The Senate reduced the request by $2,000,000 and the conferees agreed to the reduction.

Public Affairs

The Senate reduced the Navy's request of $1,692,000 for public affairs activities by $100,000. The conferees agreed with the reduction.

Ship repair facility, Guam

Amendment No. 13: The House bill included language which requires a minimum of $22,000,000 of Navy shipyard work at the Ship Repair Facility Guam. The Senate set a minimum level of employment of 500 permanent employees. The conferees agreed to the House language.

Operation and maintenance, Marine Corps

Amendment No. 14: Appropriates $569,288,000 as proposed by the Senate, instead of $577,038,000 as proposed by the House.

Stock Fund Surcharge

The Marine Corps requested $7,100,000 in fiscal year 1977 to implement the stock fund surcharge price stabilization program. The Senate provided the full amount requested, while the House made a reduction of $3,000,000. The conferees agreed to provide $5,000,000.

GSA Standard Level User Charges

The Marine Corps requested $4,520,000 to pay for GSA standard level user charges. The House reduced the request by $300,000, while the Senate made a reduction of only $200,000. The conferees agreed with the House reduction.

Recruit Advertising

The Marine Corps requested $15,562,000 for recruit advertising. The House reduced this by $3,000,000 and the Senate made a further reduction of $2,600,000 in conjunction with its realignment of funds for the advertising program. The conferees agreed with the additional Senate reduction.

Barracks Furniture

A total of $8,165,000 was requested for barracks furniture. The House funded the full request, while the Senate made a $4,400,000 reduction. The conferees agreed to a reduction of $2,200,000.

Military Personnel Manyear Support

The Senate reduced the Marine Corps Operation and Maintenance appropriation request by $3,000,000 because of the authorization reductions in military manyear strength. The conferees agreed to the Senate reduction.

Civilian Personnel

The Senate increased the Marine Corps request for civilian personnel compensation by $100,000 for additional postal employees. The House included no funds for these personnel. The conferees agreed to include the funding for these personnel in the bill.

Travel Costs

The Senate made a reduction of $900,000 below the House bill in the Marine Corps request of $19,444,000 for travel costs in fiscal year 1977. The conferees agreed to the Senate reduction.

Public Affairs

The Senate made a reduction of $50,000 in the Marine Corps request of $226,000 for support of public affairs activities. The conferees agreed with the Senate reduction.

Operation and maintenance, Air Force

Amendment No. 15: Appropriates $8,107,077,000 as proposed by the Senate in lieu of $8,124,109,000 as proposed by the House.

Stock Fund Surcharge

The Air Force requested $226,300,000 to implement the stock fund surcharge/price stabilization program. The Senate provided the full amount requested, while the House made a reduction of $83,300,000. The conferees agreed to provide $205,518,000 for this item.

GSA Standard Level User Charges

The Air Force requested $11,100,000 to pay for GSA standard level user charges. The House reduced the request by $800,000, while the Senate made a reduction of only $400,000. The conferees agreed with the House reduction.

The House made a reduction of $12,741,000 to the Air Force's request of $13,200,000 for airlift costs of the REFORGER exercise. The Senate bill restored this reduction. The conferees agreed to fund the full $13,200,000 requested in the budget.

Aircrew Readiness Training

The Air Force requested $27,727,000 to fly unloaded C-5 aircraft on training missions. The Senate bill included the full budget request, while the House bill did not fund this item. The conferees agreed not to fund this item, as recommended in the House bill, but did fully fund other C-5 flights as discussed later in this section of the report.

Chemical Warfare

The Air Force requested $12,100,000 for chemical protective clothing, equipment and training. The House bill included the full amount, while the Senate bill made a reduction of $11,400,000. The conferees agreed to fund the full amount requested, but with the same stipulations discussed in connection with the Army chemical warfare program.

B-52 Flying Hours

The Air Force requested $332,200,000 for support of B-52 flying hours. The House funded the full request, while the Senate made a $300,000 reduction. The conferees agreed to the Senate reduction.

East-West C-141 Courier Missions

A total of $2,200,000 was budgeted for C-141 courier missions. The Senate deleted these funds, while the House provided the full request. The conferees agreed to delete all of the funds for this item.

Supply Suppression

The Air Force budgeted $62,500,000 for additional supplies. The House funded the full request, while the Senate provided only $33,000,000. The conferees agreed to the funding provided by the Senate.

Fighter/Reconnaissance Crew Ratio Increases

A total of $32,700,000 was budgeted for increases in fighter/reconnaissance crew ratios. The House funded the increase in its entirety, while the Senate deleted this amount. The conferees agreed to provide $16,350,000 for this item.

F-4/F-111 Flying Hour Increases

A total of $8,100,000 budgeted for increases in F-4 and F-111 flying hours was included in the House bill, but was deleted by the Senate. The conferees agreed to provide the full amount requested.

C-5 Crew Ratio Increases

The Senate reduced the C-5 flying hour program by $10,200,000 and disapproved the increase in the C-5 crew ratio. The House had funded the full budget request. The conferees agreed, as discussed earlier, to provide the funds for these flying hours. However, the conferees direct that there be no increase in the active force C-5 crew ratio.

Headquarters computer support

The Air Force budgeted $30,600,000 for support of headquarters computers, and the House bill included the full amount. The Senate made a reduction of $8,800,000 for this support. The conferees agreed to a reduction of $8,800,000, however, to the extent that priority workload requirements cannot be met, the Air Force may proceed with the requested programs using available funds within this appropriation.

Military Man-Year Support

The Senate made a reduction of $2,400,000 to the House bill because of authorization reductions made in military strengths discussed earlier in this report. The conferees agreed to the Senate reduction.

Proficiency Flying

The Senate reduced the request of $13,800,000 for proficiency flying by $6,900,000. The House bill funded the full amount. The conferees agreed with the Senate reduction.

Civilian Personnel

The House funded the full request, while the Senate made a $16,000,000 reduction for compensation of civilian personnel. The conferees agreed to the Senate reduction in order to comply with authorized civilian strength ceilings.

Travel Costs

The Air Force requested $185,700,000 for travel costs in fiscal year 1977. The House funded the full request, while the Senate made a reduction of $6,500,000. The conferees agreed to the Senate reduction.

Low Cost Aircraft Program

The Senate reduced the funds for the low cost aircraft program from the $4,700,000 budgeted and provided in the House bill to $1,800,000. The conferees agreed to provide the full amount requested.

Aerial Ports

The Senate made a reduction of $3,200,000 involving civilian personnel in support of aerial ports. The House bill funded the budget request in this area. The conferees agreed to the Senate reduction, and further direct the Air Force to proceed with the realignment of aerial port responsibilities to the Reserve forces, with such realignment to be completed as soon as possible. Although it may be infeasible to complete this realignment by the end of fiscal year 1977 because sufficient reserve personnel are not available, the conferees direct that the Department take expeditious action to effect this transfer and expect that substantial progress will have been made by the end of fiscal year 1977 toward completion of the directed realignment.

Public Affairs

The Senate made a reduction of $300,000 to the House bill, providing $2,200,000 in support of public affairs activities. The conferees agreed with the Senate reduction.

Postal Services

The Senate increased this request by $300,000 to pay for additional postal services not included in the House bill. The conferees agreed that these services were required, and that the increased funding should be provided.

Airman Education and Commissioning Program

A total of $300,000 was requested in the budget for the Airman Education and Commissioning Program. The House funded the full request, while the Senate made a $100,000 reduction. The conferees agreed to the Senate reduction.

Operation and maintenance, defense agencies

Amendment No. 16: Appropriates $897,130,000 for Secretary of Defense activities instead of $907,930,000 as proposed by the House and $878,330,000 as proposed by the Senate.

Amendment No. 17: Provides $581,830,000 for the CHAMPUS program as proposed by the House instead of $569,030,000 as proposed by the Senate.

Amendment No. 18: Provides $242,800,000 for Overseas Dependents Education instead of $248,000,000 as proposed by the House and $237,600,000 as proposed by the Senate.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to appropriate $13,100,000 for the Organization of the Joint Chiefs of Staff instead of $13,300,000 as proposed by the House and $13,250,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to appropriate $72,500,000 for the Defense Contract Audit Agency instead of $73,100,000 as proposed by the House and $72,550,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to appropriate $28,000,000 for the Defense Investigative Services instead of $28,400,000 as proposed by the House and $28,100,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to appropriate $198,400,000 for the Defense Mapping Agency instead of $200,700,000 as proposed by the House and $198,550,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 23: Appropriates $24,500,000 for the Defense Nuclear Agency as proposed by the Senate instead of $26,900,000 as proposed by the House.

Amendment No. 24: Appropriates $839,800,000 instead of $847,200,000 as proposed by the House and $836,200,000 for the Defense Supply Agency as proposed by the Senate.

Amendment No. 25: Appropriates $622,270,000 for intelligence and communication activities instead of $630,670,000 as proposed by the House and $619,920,000 as proposed by the Senate.

Amendment No. 26: Provides a total of $2,718,900,000 for the Defense Agencies instead of $2,751,400,000 as proposed by the House and $2,694,600,000 as proposed by the Senate.

The above changes in the Operation and Maintenance, Defense Agencies, appropriation accounts resulted from numerous adjustments made to the budget request. The changes are discussed in the following paragraphs.

GSA Standard Level User Charges

The conferees agreed to a reduction of $3,100,000 for standard level user charges as proposed by the House instead of a reduction of $1,600,000 as proposed by the Senate.

Intelligence Activities

The conferees agreed to a reduction of $10,100,000 for intelligence activities, instead of a reduction of $9,600,000 as proposed by the House and $10,800,000 as proposed by the Senate.

Office of the Secretary of Defense

The conferees agreed to provide $1,000,000 for manpower studies, instead of $2,000,000 as proposed by the House and no funds as provided by the Senate. The conferees agreed that no new contract study organization is to be established.

The conferees agreed to the reduction of $200,000 for public affairs activities as proposed by the Senate. The House made no reduction in this area.

The conferees agreed to a $1,000,000 reduction proposed by the Senate for civilian grade creep. The House made no reduction in this area.

The conferees agreed to make a $500,000 reduction in travel costs as proposed by the Senate. The House made no reduction in this area.

The conferees agreed to a reduction of $2,900,000 as proposed by the Senate for logistics studies. No reduction was made in the House bill for these studies.

Organization of the Joint Chiefs of Staff

The conferees agreed to a reduction of $100,000 for civilian grade creep as proposed in the Senate bill. No reduction for this item was made in the House bill.

The conferees agreed to a reduction of $100,000 for travel as proposed by the Senate, instead of no reduction as proposed by the House.

Defense Contract Audit Agency

The conferees agreed to make a reduction of $600,000 as proposed by the Senate for civilian grade creep. No reduction for this item was made in the House bill.

Defense Investigative Service

The conferees agreed to a reduction of $400,000 for supplies, as proposed by the Senate. No reduction was made in the House bill for this item.

Defense Mapping Agency

The conferees agreed to reduction of $1,400,000 for civilian grade creep and $900,000 for savings as a result of potential base closings. No similar reductions were made in the House bill.

The conferees direct that the Department report to the Committees on Appropriations on the results of its study of closing one or more of the topographic field offices. Specifically, the study should address the annual savings, the closure costs and the benefits of consolidation and/or closure. The Committees expect to receive the results of the study prior to the end of October, 1976.

Defense Nuclear Agency

The conferees agreed to a reduction of $2,400,000 as proposed by the Senate. The House bill included the full $2,400,000 requested for a new World-Wide Military Command and Control Systems computer. The conferees agreed that the Department of Defense should reexamine the requirement for this computer and, if it is determined to be needed, the Department may reprogram the necessary funds within the amount provided for the operation of the Defense Nuclear Agency.

Defense Supply Agency

The conferees agreed to the following reductions: $1,500,000 requested for logistics management improvements, $3,000,000 requested for integrated management of subsistence, $1,500,000 requested for the Defense Automated Depot System/Defense Intransit Item Visibility System, and $400,000 requested for travel.

The conferees also agreed to a reduction of $1,000,000 for the Defense Integrated Data System. The Senate proposed a $5,000,000 reduction, while the House made no reduction. The conferees direct that the General Accounting Office (GAO) perform a study of the operating costs, requirements and changes made since the last GAO review of the Defense Integrated Data System.

Defense Intelligence Agency

The conferees agreed to a reduction of $1,800,000 made for civilian personnel as proposed by the Senate. No such reduction was made by the House. Although this civilian personnel reduction was made to the DIA request, the conferees direct the Office of the Secretary of Defense to reallocate this reduction to other Defense agencies as deemed appropriate.

Defense Communications Agency

The conferees agreed to a reduction of $3,400,000 for the Joint Technical Support Agency. This is the same reduction proposed by the Senate. The House funded the budget request in this area.

The conferees agreed to provide $2,100,000 for contracts in support of the World-Wide Military Command and Control Systems (WWMCCS) System Engineer, rather than $4,200,000 as proposed by the House and no funds as proposed by the Senate. The amount provided will enable the WWMCCS System Engineer to begin contractual efforts at a more deliberate pace and will help assure that the Congress will have more time to examine and evaluate some of the very expensive proposals included in the recently completed WWMCCS Architecture study. Implementation of the recommendations in the Architecture study is a matter of congressional interest, and other than the planning and related activities of the WWMCCS System Engineer, shall not begin without prior congressional approval.

National Security Agency

The conferees agreed to a $600,000 reduction in travel proposed by the Senate. No reduction was included in the House bill.

Summary—Defense agencies

The table below shows the individual components and amendments involved in the Operation and Maintenance, Defense Agencies appropriation, and summarizes the House, Senate and Conference agreements on each one.

Amendment No.	Item	House	Senate	Conference
16	Secretary of Defense Activities	$907,930,000	$878,330,000	$897,130,000
17	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)	(581,830,000)	(569,030,000)	(581,830,000)
18	Overseas dependent education	(248,000,000)	(237,600,000)	(242,800,000)
19	Organization of Joint Chiefs of Staff	13,300,000	13,250,000	13,100,000
	Office of Information	17,600,000	17,600,000	17,600,000
20	Defense Contract Audit Agency	$73,100,000	$72,550,000	$72,500,000
21	Defense Investigative Service	28,400,000	28,100,000	28,000,000
22	Defense Mapping Agency	200,700,000	198,550,000	198,400,000
23	Defense Nuclear Agency	26,900,000	24,500,000	24,500,000
	Uniformed Services University of the Health Sciences	5,600,000	5,600,000	5,600,000
24	Defense Supply Agency	847,200,000	836,200,000	839,800,000
25	Intelligence and communications	630,670,000	619,920,000	622,270,000
26	Total Defense agencies	2,751,400,000	2,694,600,000	2,718,900,000

Operation and maintenance, Army Reserve

Amendment No. 27: Appropriates $356,100,000 instead of $374,100,000 as proposed by the House and $351,800,000 as proposed by the Senate.

The conferees agreed to provide a total of $2,300,000 for the stock fund surcharge, instead of $2,000,000 as proposed by the House and $3,000,000 as proposed by the Senate.

The Senate made a reduction of $3,400,000 based on a repricing of certain force structure actions. The House bill included no such reduction. The conferees agreed to the Senate reduction.

The Senate made a reduction of $10,000,000 for base operations costs, while the House funded the budget request of $107,841,000. The conferees agreed to make a reduction of $5,000,000.

The Senate made a reduction of $8,200,000 denying funds requested for additional civilian Army reserve technicians. The House funded these technicians. These reductions were made in order to comply with the civilian personnel ceiling in the authorizing legislation, and the conferees agreed to the Senate reductions.

The Senate made a reduction of $1,600,000 for additional parts and supplies. The House bill did not make a reduction in this area. The conferees agreed to the Senate reduction.

The House bill funded the full request of $17,689,000 for travel, while the Senate made a $100,000 reduction. The conferees agreed to the Senate reduction.

Operation and maintenance, Navy Reserve

Amendment No. 28: Appropriates $288,000,000 as proposed by the House instead of $286,600,000 as proposed by the Senate.

The Senate receded to the amounts recommended in the House bill on all items in conference, including the stock fund surcharge, flying hours, travel and public affairs activities.

Operation and maintenance, Air Force Reserve

Amendment No. 29: Appropriates $350,700,000 as proposed by the Senate instead of $351,100,000 as proposed by the House.

The conferees agreed to provide $8,200,000 for the stock fund surcharge. The House had provided $5,700,000 while the Senate bill included $9,200,000.

The House reduced the budget request for EC-121 deployments by $4,000,000. The Senate bill restored these funds. The conferees agreed to the Senate position. This subject is discussed in an earlier section of this report.

The conferees agreed to a reduction of $4,600,000 in the flying hour program, as proposed by the Senate. The House made no similar reduction.

The Senate made a reduction of $2,200,000 for C-130 rotation to Europe. The House disapproved these flights, but funded the budget request, allowing the funds to be used for other purposes. The conferees agreed to the Senate reduction.

The Senate made a reduction of $100,000 below the House bill for technical representatives, and the House receded.

The House provided the full amount requested for air medical training flights, while the Senate made a $1,000,000 reduction. The conferees agreed to fund these flights at $1,000,000 as requested in the budget.

Operation and maintenance, Army National Guard

Amendment No. 30: Appropriates $706,200,000 as proposed by the Senate instead of $713,200,000 as proposed by the House.

The conferees agreed to provide $8,700,000 for the stock fund surcharge instead of $5,700,000 as proposed by the House and $11,700,000 as proposed by the Senate.

The conferees agreed to a reduction of $10,000,000 made in the Senate bill for the manyear support costs of the Army National Guard. No similar reduction was included in the House bill.

The House bill included the full amount requested, $3,000,000, for chemical warfare clothing and equipment. The Senate denied these funds. The conferees agreed to provide the full amount budgeted.

Operation and maintenance, Air National Guard

Amendment No. 31: Appropriates $774,600,000, as proposed by the House instead of $779,300,000 as proposed by the Senate.

The conferees agreed to provide $25,100,000 for the stock fund surcharge instead of $20,100,000 as proposed by the House and $30,100,000 as proposed by the Senate.

The conferees agreed to make a reduction of $300,000 in travel costs. The House had proposed funding the budget request, while the Senate had made a $600,000 reduction.

The conferees agreed to make a reduction of $1,700,000 for C-130 rotation, as proposed by the Senate. This item was discussed earlier in the report.

The conferees agreed to a reduction of $3,000,000 in the flying hour program as proposed by the Senate.

Army stock fund

Amendment No. 32: Appropriates $100,000,000 as proposed by the House instead of $26,500,000 as proposed by the Senate. With respect to this and all other requests for stock-funded war reserve materiel, the conferees agreed that, to the extent possible and within the amounts in conference, they would provide funding for all requests where the Department provided specific identification of the items to be purchased.

Navy stock fund

Amendment No. 33: Appropriates $32,000,000 as proposed by the House instead of $7,400,000 as proposed by the Senate.

Marine Corps stock fund

Amendment No. 34: Appropriates $6,200,000 instead of $8,600,000 as proposed by the House and no funds as proposed by the Senate.

Air Force stock fund

Amendment No. 35: Appropriates $58,800,000 instead of $76,700,000 as proposed by the House and $19,100,000 as proposed by the Senate.

Defense stock fund

Amendment No. 36: Appropriates $22,800,000 instead of $140,600,000 as proposed by the House and no funds as proposed by the Senate.

National Board for the Promotion of Rifle Practice

Amendment No. 37: Appropriates $291,000 as proposed by the House instead of $261,000 as proposed by the Senate.

Contingencies, Defense

Amendent No. 38: Appropriates $2,500,000 as proposed by the Senate instead of $5,000,000 as proposed by the House. The conferees agreed to provide $2,500,000 for contingencies, the same amount appropriated last year.

Other matters related to title III

Reorganization of Office of Secretary of Defense Headquarters.—The conferees agreed that the functions of Program Analysis and Evaluation should be performed within the Office of the Assistant Secretary of Defense (Comptroller). The conferees further agreed that the Office of the Assistant Secretary of Defense (Health and Environment) should be retained as a separate entity and not be consolidated within any other functions in the Office of the Secretary of Defense.

Budgeting for inflation.—The conferees agreed that the Department is to identify the amounts included in the FY 1978 budget request for inflation as outlined in the Senate report. However, the conferees further agreed that future pay increases should be budgeted in a separate supplemental request as is the present practice.

Stock fund surcharge and industrial fund pricing.—The Department is directed to implement the stock fund surcharge/price stabilization plan for a trial period of one year. The conferees direct that item prices be adjusted so that the funding provided in the bill will be adequate to fully fund the quantities justified in the budget and approved in this bill, except where specific reductions have been made.

Furnishing GAO information on airlift requirements.—The conferees agreed with Senate direction that the Defense Department furnish GAO all basic information that GAO requires in order to complete examination of the justification and requirements for the increased airlift capacity being requested by the Defense Department.

Support of nonappropriated fund activities.—The Senate report contains several directives relating to the nonappropriated fund activities of the Department. The House report contained no similar language. The conferees agreed that the Department should comply with the language in the Senate report.

Justification material.—The Senate directed that various changes be made in the operation and maintenance justification material. The conferees agreed that specific details on requirements are to be furnished by the committee staffs.

Zero base budgeting.—The Senate directed the Navy to submit a special exhibit, in addition to the normal Operation and Maintenance, Navy, justification book, that is prepared using the "zero base" budgeting concept. The conferees agreed to a one-year test submission as outlined in the Senate report.

Bulk milk dispensers.—The Senate directed the Department to continue leasing bulk milk dispensers rather than purchase them as planned by the Defense Department. The House report did not address this item. The conferees agreed that the Department of Defense should use the most economical and appropriate approach to the issue of purchase or lease of bulk milk dispensers.

Air National Guard program adjustments.—The Senate recommended that the Air National Guard be permitted to adjust funding to accommodate program changes not included in their budget submission as long as they were specifically identified on the base for reprograming action. The House did not address this subject. The conferees direct that normal procedures for reprograming are to be followed and the Senate receded.

TITLE IV—PROCUREMENT

Aircraft procurement, Army

Amendment No. 39: Appropriates $541,900,000 instead of $546,900,000 as proposed by the Senate and $538,300,000 as proposed by the House.

The conferees agreed to $20,300,000 for EH-1H helicopter modifications as proposed by the Senate instead of $21,700,000 as proposed by the House. The $1,400,000 reduction is in accordance with the authorizing legislation.

The conferees agreed to a reduction of $8,000,000 for intelligence-related activities, instead of a reduction of $13,000,000 as proposed by the House and a reduction of $3,000,000 as proposed by the Senate.

Missile procurement, Army

Amendment No. 40: Appropriatees $497,400,000 instead of $422,300,000 as proposed by the House and $504,300,000 as proposed by the Senate.

The conferees agreed to delete $48,000,000 to initiate production of the Stinger missile, and to provide $8,849,000 in the Army research and development budget for the fabrication and testing of 125 development missiles deleted from the program by the Army.

The conference agreement included $74,500,000 for the non-nuclear Lance missile as proposed by the Senate, and $37,600,000 for the AN/TSQ-73 air defense command and control system as proposed by the House.

For missile spares and repair parts, the conferees agreed to delete $200,000 for Safeguard spares and to provide $500,000 for Lance spares as proposed by the Senate; and to delete $400,000 for Stinger spares and to provide $4,300,000 for AN/TSQ-73 spares as proposed by the House.

Under Production Base Support, the conferees agreed to $600,000 for the capital investment opportunities program, instead of $300,000 as proposed by the House and $1,000,000 as proposed by the Senate.

The conferees agree that productivity enhancement efforts of the Department of Defense, including the Army's capital investment opportunities program, have merit and some funding should be included to provide impetus to these activities. However, the conferees believe that future requests for funding for such productivity improvement projects must be accompanied by a comprehensive plan that demonstrates that proposed projects have been screened and selected and proposed for funding, and that individual projects are fully identified and justified through the normal budgetary processes. Budget justification materials should also reflect and highlight reductions or cost savings in budget authority or positions associated with productivity improvement projects previously funded or proposed for funding.

Procurement of weapons and tracked combat vehicles, Army

Amendment No. 41: The conferees agreed to provide a bill subtitle "(Including Transfer of Funds)" as proposed by the Senate.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $1,089,800,000 instead of $1,117,300,000 as proposed by the House and $1,090,200,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide $600,000 for the capital investment opportunities program instead of $300,000 as proposed by the House and $1,000,000 as proposed by the Senate.

The conferees also agreed to a general reduction of $27,800,000 based on prior year savings from the M48/M60 tank program, as proposed by the Senate. This reduction conforms to the authorizing legislation.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which includes language in the bill, transferring to fiscal year 1977 a total of $27,800,000 in transition quarter funds which offsets the general reduction described above.

XM-1 tank program

After the House and Senate Appropriations Committees completed their review of the fiscal year 1977 Defense appropriation budget, the Secretary of the Army announced significant changes in the XM-1 tank program. The proposed changes were a major departure from the XM-1 tank program justified to the Congress. The Conferees are in agreement that a new main battle tank should be fielded at the earliest possible date. The XM-1 program thus far has been one of the most successful development programs in progress. It has been on schedule, within cost, and the tank itself incorporates new technology that promises to more than offset projected increases in Soviet anti-armor capabilities. The Conferees are concerned that the proposed changes could unduly delay the U.S. XM-1 program, increase the cost of the tank and degrade its performance.

The Department of Defense and the Army are put on notice that this is an item of special interest to the two appropriations committees. The Conferees agree that initiation of the revised program should be subject to the reprogramming process. Further, if the Army intends to use funds appropriated for the transition quarter for purposes other than those justified originally to the Congress, a prior approval reprogramming action to the appropriate Committees of Congress will be required.

Procurement of ammunition, Army

Amendment No. 44: Appropriates $902,900,000 instead of $901,900,000 as proposed by the House and $904,000,000 as proposed by the Senate.

The conference agreement provides $1,900,000 in production base support for the capital investment opportunities program instead of $900,000 as proposed by the House and $3,000,000 as proposed by the Senate.

Other procurement, Army

Amendment No. 45: Appropriates $1,366,600,000 instead of $1,352,900,000 as proposed by the House and $1,377,300,000 as proposed by the Senate.

The House reduced the Army request of $11,500,000 for modification of the GOER vehicle by $11,200,000. The Senate further reduced the request by $300,000. The conferees agreed with the Senate reduction, thus deleting all funding for GOER modifications.

The House proposed no funding for procurement of long-lead items for the AN/TPQ-36 counter mortar radar. The Senate proposed $6,200,000 for this procurement. The conferees agreed to the House position.

The conferees agreed to provide $3,000,000 for the capital investment opportunities program instead of the $1,500,000 proposed by the House and $5,000,000 proposed by the Senate.

The House reduced the request for procurement of communications equipment by $12,000,000 and the Senate reduced the request by $2,000,000. The conferees agreed with the Senate position and restored $10,000,000.

The conference agreement provides for a reduction of $4,500,000 for intelligence related programs instead of a reduction of $7,000,000 proposed by the House and $2,000,000 proposed by the Senate.

The conferees agree with the House position that the Army expeditiously evaluate and select a commercial substitute for the M151A2 military specification ¼ ton truck ("Jeep"). The conferees believe, however, that attainment of the 20% minimum commercial vehicle portion of the ¼ ton truck fleet need not begin in fiscal year 1977 but rather at such time as it is most economically and logistically practical. This shall not be later than fiscal year 1980.

Aircraft procurement, Navy

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $2,843,500,000 instead of $2,946,600,000 as proposed by the House and $2,957,800,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide $65,800,000 for six A–6E attack aircraft as proposed by the Senate instead of $125,000,000 for 12 such aircraft as proposed by the House. The amount agreed to is at the authorized level.

The conference agreement includes $10,000,000 for three F–5F fighter aircraft, and a reduction of $10,000,000 in the E–2C early warning aircraft program as proposed by the Senate. These amounts conform to the authorizing legislation.

The conferees also agreed to delete $102,800,000 authorized for six US–3A carrier onboard delivery (COD) aircraft, and to include $2,000,000 in the Navy research and development budget for a competitive development of an aircraft that meets all Navy COD requirements.

For aircraft modification, the conferees agreed to a reduction of $9,600,000 for P–3C aircraft Harpoon modifications, a reduction of $11,100,000 for S–3A aircraft Harpoon modifications, and a reduction of $16,000,000 in aircraft modifications generally as proposed by the Senate. These reductions conform to the authorizing legislation.

The conferees also agreed to a reduction of $10,200,000 in A–6E aircraft modifications associated with the Condor missile. This conference action is in consonance with the agreement to terminate the Condor missile program.

For aircraft spares and repair parts, the conferees agreed to delete $1,300,000 in initial spares for the US–3A COD aircraft as proposed by the House.

Also agreed to was $3,000,000 for a UH–1 helicopter flight simulator for the Navy as proposed by the Senate.

Weapons procurement, Navy

Amendment No. 47: Appropriates $2,022,200,000 as proposed by the Senate instead of $2,027,300,000 as proposed by the House.

The conference agreement provides $67,900,000 for the AIM–7E/F Sparrow III missile as proposed by the Senate. The reduction of $4,300,000 in this program conforms to the authorization level. The conferees agreed to a reduction of $800,000 in initial spares for the MK–30 mobile torpedo target as proposed by the Senate.

The conferees agreed that the Condor missile program be terminated as proposed by the House. A necessary portion of the remaining funds appropriated for fiscal year 1976 and the transition quarter are to be used to pay termination costs. The Navy is directed to make an accounting to the appropriate committees of Congress as to the amount of Condor missile funds not required for contract termination.

Shipbuilding and conversion, Navy

Amendment No. 48: Deletes the House bill subtitle "(Including Transfer of Funds)". The deletion was proposed by the Senate.

Amendment No. 49: Deletes $170,000,000 for the CSGN nuclear strike cruiser program and $858,500,000 for the DDG–47 AEGIS destroyer program, as proposed by the Senate. The House had proposed funding these two programs, but they were not authorized.

The conferees agreed to provide $371,000,000 to initiate the modernization and conversion of the nuclear-powered USS *Long Beach* as an AEGIS cruiser.

Amendment No. 50: Appropriates $1,707,700,000 as proposed by the Senate instead of $1,473,500,000 as proposed by the House for service craft, outfitting, post delivery, cost growth, and escalation in prior year programs.

Amendment No. 51: Deletes House bill language transferring $192,800,000 from the fiscal years 1975 and 1976 to fiscal year 1977. The House had proposed that four PHM patrol hydrofoil missile ships funded in fiscal years 1975 and 1976 not be built, and that $192,800,000 appropriated for those ships be transferred to fiscal year 1977 to offset a reduction of $192,800,000 in the bill proposed by the House. The conferees agreed to fully fund the PHM ships, and the House transfer language was deleted from the bill as proposed by the Senate.

Amendment No. 52: Appropriates $6,195,000,000 as proposed by the Senate instead of $6,618,300,000 as proposed by the House for Shipbuilding and Conversion, Navy.

Amendment No. 53: Deletes House bill language transferring a total of $192,800,000 in prior year funds. The deletion was proposed by the Senate.

Other procurement, Navy

Amendment No. 54: Deletes the House bill subtitle "(Including Transfer of Funds)". The deletion was proposed by the Senate.

Amendment No. 55: Appropriates $2,173,400,000 instead of $2,157,400,000 as proposed by the House and $2,176,900,000 as proposed by the Senate.

The conferees agreed to provide $1,800,000 for the AN/SRN–19 Satellite Navigation Receiver as proposed by the Senate.

The conferees agreed to provide $4,000,000 for the AN/ALQ–123 as proposed by the Senate. These funds had been provided in fiscal year 1976 and were not used by the Navy. The House proposed to transfer these funds to "Other Procurement, Navy, 1977".

The conferees agreed to provide $6,700,000 for the productivity enhancement program, instead of $3,000,000 as proposed by the House and $10,200,000 as proposed by the Senate.

The conference agreement restored $6,700,000 deleted by the House for intelligence activities.

Amendment No. 56: The conferees agreed to the Senate deletion of House language transferring $4,000,000 from "Other Procurement, Navy 1976/1978", to the fiscal year 1977 "Other Procurement, Navy" appropriation.

Procurement, Marine Corps

Amendment No. 57: Appropriates $328,400,000 as proposed by the House instead of $331,000,000 as proposed by the Senate.

The conferees agreed to the House reduction of $2,600,000 for the Stinger missile system. The Senate had proposed $2,600,000 for this missile procurement.

Aircraft procurement, Air Force

Amendment No. 58: Provides bill subtitle "(Including Transfer of Funds)" as proposed by the Senate.

Amendment No. 59: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $6,067,700,000 instead of $6,231,300,000 as proposed by the House and $6,076,100,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to a reduction of $30,100,000 in the F/TF–15A fighter aircraft program as proposed by the Senate in order to conform to the authorizing legislation.

The conferees agreed to a reduction of $287,800,000 budgeted for sixteen F–16 lightweight fighter aircraft and to add $151,500,000 to the $23,400,000 budgeted for F–16 advance procurement, as proposed by the Senate. The conference agreement conforms to the authorizing legislation.

It is recognized that the conference agreement on the F–16 aircraft program in providing $151,500,000 worth of advance procurement funding for portions of F–16 aircraft end items seriously violates the full funding principle which has been followed by the Appropriations Committees since 1951. Over the years, the full funding concept has been reviewed by the General Accounting Office and strongly supported by the Department of Defense. The one-time savings in new obligational authority would not compensate for the disadvantages inherent in incremental funding of procurement appropriations. Specific disadvantages include loss of visibility and controls built into present program year full funding; present reprogramming procedures founded on the full funding principle would be invalidated; future congresses would be committed to finance the balance of incremental starts, (or suffer costly termination charges), thereby reducing congressional impact on annual budgets; there would be a greater potential for disruption of scheduled and approved program execution if projected timing of obligations vary because of the unavailability of sufficient funding; would require significant funding of contingent liability termination costs not normally required under a full-funding system; would lose program year integrity which exists under the present full-funding concept; and would result in the same unmanageable situation that existed and was corrected by congressional direction over two and one-half decades ago.

Budgeting and fiscal matters are the prerogative of the Appropriations Committees. In pursuit of their responsibilities, the Appropriations Committees have vigorously attempted to improve visibility and to gain greater control over the appropriation process. In the early 1970's, two large Army and Navy procurement appropriations were realined into seven separate accounts. In addition, the availability of procurement and research and development appropriations were limited to specified periods of time. These steps precluded the accumulation of large appropriations balances and adjusted these accounts to more manageable levels. These actions were consistent with the fiscal control embodied in full funding and with the reprogramming process, and enhanced the ability of Congress to exercise as much control as possible over annual appropriations. The conferees wish to make clear that the agreement on the F–16 program is not intended to be a departure from full funding. It is a one time expediency and should not be construed as setting a contrary precedent.

The conferees agreed to provide $28,800,000 for the advance tanker/cargo aircraft program instead of $11,700,000 as proposed by the House and $37,200,000 as proposed by the Senate.

In agreeing to provide $28,800,000 for the advance tanker/cargo aircraft program, the conferees were mindful of an on-going Strategic Mobility Requirements Study directed by the Secretary of Defense and to be completed by December 1976. This study will involve a thorough review of the full spectrum of DOD reinforcement requirements, and a careful examination of alternative methods of providing the necessary strategic lift, including sealift, airlift and pre-positioning. In addition, the Surveys and Investigations Staff of the House Appropriations Committee has been requested to conduct a similar review of strategic mobility requirements, as well as an examination of various alternatives available to the Air Force to meet requirements for which the ATCA program has been proposed. It is quite possible these studies now underway may suggest alternative proposals or modifications to the ATCA and/or other airlift enhancement programs of the Air Force. For this reason, the conferees agreed to less than the Air Force funding request so that modification or changes in the ATCA program, if necessary in the future, could be implemented with minimal liability and cost to the government.

The conferees also agreed to delete $2,300,000 for a KC-135 simulator and to delete $12,000,000 for a B-52 simulator as proposed by the Senate. The funding reductions were in accordance with the authorizing legislation.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which includes language in the bill transferring to fiscal year 1977 a total of $21,500,000 in prior year funds, of which $8,600,000 is to be derived from fiscal year 1976 aircraft procurement appropriations and $12,900,000 is to be derived from transition quarter aircraft procurement appropriations. This transfer of prior year funds conforms to the authorizing legislation which reduced the fiscal year 1977 authorization for the F-15 fighter program by $21,500,000 based on savings to be realized in fiscal year 1976 and the transition quarter from Foreign Military Sales of the F-15 aircraft to Israel.

Amendment No. 61: The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

Until February 1, 1977, the obligation of funds appropriated in this Act for the procurement of the B-1 bomber shall be limited to a cumulative rate of not to exceed $87,000,000 per month.

Missile Procurement, Air Force

Amendment No. 62: The conferees agreed to provide a bill subtitle "(Including Transfer of Funds)" as proposed by the Senate.

Amendment No. 63: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $1,827,700,000 instead of $1,853,700,000 as proposed by the House and $1,843,200,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide $179,900,000 for the Defense Satellite Communication System II (DSCS II) program, instead of $172,600,000 as proposed by the House and $195,400,000 as proposed by the Senate. Of the $20,200,000 reduction, $15,500,000 is to be derived from the procurement of four rather than the six DSCS II satellites budgeted. Long leadtime funding for four satellites was provided in a previously approved reprogramming action. If improvements can be made in the traveling wave tube and other elements of the DSCS II within the amounts provided, the conferees would have no objection to said improvements and would in fact encourage that they be made.

The conference agreement on the DSCS II program also provides $7,300,000 for procurement of a Titan III-C booster from a cancelled program, a reduction of $4,700,000 below the amount requested. These funds are to be used only for procuring a booster for the DSCS II program and any savings should not be diverted to other programs within the agency which managed the cancelled program.

The conferees agreed to a reduction of $33,300,000 in the Maverick missile program as proposed by the Senate in order to conform with the authorizing legislation.

Amendment No. 64: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment which includes language in the bill transferring to fiscal year 1977 a total $33,300,000 which is to be derived from fiscal year 1976 missile procurement appropriations. This transfer of prior year funds conforms to the authorizing legislation which reduced the fiscal year 1977 authorization for Maverick missiles by $33,300,000 because a like amount appropriated in fiscal year 1976 for advance procurement of optically guided (TV) Maverick missiles is no longer required.

Other procurement, Air Force

Amendment No. 65: Appropriates $2,309,700,000 instead of $2,301,600,000 as proposed by the House and $2,349,700,000 as proposed by the Senate.

The conference agreement does not provide funding for procurement of the Modular Guided Glide Bomb. The Senate had proposed $23,700,000 to procure this weapon and the House had deleted the funds. Additional funds are provided in RDT&E, Air Force to continue necessary research and development on this weapon system.

The conferees provided a total of $6,500,000 for the productivity enhancement program instead of $3,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

The conferees agreed to a reduction of $32,100,000 in intelligence activities, instead of a reduction of $36,700,000 as proposed by the House and a reduction of $19,300,000 as proposed by the Senate.

Procurement, defense agencies

Amendment No. 66: Appropriates $250,100,000 instead of $244,100,000 as provided by the House and $255,200,000 as provided by the Senate.

The conferees agreed to a reduction of $12,000,000 in intelligence activities instead of a reduction of $18,000,000 as proposed by the House and a reduction of $6,900,000 as proposed by the Senate.

Report language

Armor Machine Gun

The conferees agreed to Senate report language indicating that the $15,100,000 provided for the Army's armor machine gun is not contemplated for any particular weapon. This will provide the Army with the flexibility to buy the M60 machine gun in the event the Army is prohibited by the courts from purchasing the MAG-58 machine gun.

Naval Gunfire Support Deficiency

The conferees agreed with Senate report language, which essentially reiterates the direction in the House report last year, with respect to an existing naval gunfire support deficiency. It is agreed that funds budgeted for MK-71 gun mounts and their associated guided projectile ordnance be utilized for no other purpose, that DoD make every effort to introduce commonality into the various guided munitions programs, and that airborne designation systems be actively pursued in order to achieve the full potential of guided ordnance.

Flight Simulator Programs

The conferees agreed to Senate report language urging the Air Force to assign high priority to flight simulator procurement in order to obtain substantial savings resulting from a reduction in the flying hour program, as well as the submission of reports relating to simulator modification and management along with the fiscal year 1978 budget.

Free Assets

The conferees also agreed to House report language directing the Department of Defense to submit free asset projections along with the fiscal year 1978 budget submission and updating these projections by March 15th of each year, including a comparison of the estimates with the actual free assets generated the previous year.

TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, development, test, and evaluation, Army

Amendment No. 67: Appropriates $2,280,816,000 instead of $2,254,951,000 as proposed by the Senate and $2,284,948,000 as proposed by the House.

The conferees agreed to delete all funds for the Aerial Scout Helicopter as proposed by the House instead of $2,000,000 as proposed by the Senate.

The conferees agreed to provide $5,000,000 for the Surface-to-Surface Missile Rocket System as proposed by the Senate instead of $1,000,000 as proposed by the House.

The conferees agreed to provide $3,000,000 for the Terminal Homing Systems program instead of $2,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

The conferees agreed to provide $100,000,000 for the Ballistic Missile Defense Systems Technology program as proposed by the House instead of $75,000,000 as proposed by the Senate. This is the authorized amount.

The conferees agreed to provide $25,349,000 for the STINGER Surface-to-Air Missile program as proposed by the House instead of $16,500,000 as proposed by the Senate. The amount provided includes an additional $8,849,000 to purchase missiles for testing and related research efforts.

The conferees agreed to provide $650,000 for the LANCE (Improvement) program as proposed by the Senate instead of no funds as proposed by the House.

The conferees agreed to provide $2,010,000 for Foreign Weapons Evaluation instead of $1,000,000 as proposed by the House and $3,500,000 as proposed by the Senate.

The conferees agreed to deny all funds requested for a classified program as proposed by the House instead of $544,000 as proposed by the Senate. This action terminates the program.

The conferees agreed to provide $1,000,000 for the Advanced Concepts Laboratory instead of $2,000,000 as proposed by the Senate and no funds as proposed by the House.

The conferees agreed to provide $4,000,000 for the Light Armored Antitank System as proposed by the Senate instead of $3,000,000 as proposed by the House.

The conferees agreed to provide $2,631,000 for the Military Construction and Engineering Technology program instead of $1,831,000 as proposed by the House and $3,061,000 as proposed by the Senate. The Army should delete any pavement research programs that duplicate research efforts of the Federal Highway Administration or the Federal Aviation Administration.

The conferees agreed to provide $9,564,000 for the Food Technology program instead of $9,064,000 as proposed by the House and $10,064,000 as proposed by the Senate.

The conferees agreed to provide $3,955,000 for the Operations Technology for Military Facilities program instead of $3,755,000 as proposed by the House and $4,015,000 as proposed by the Senate.

The conferees agreed to a reduction of $760,000 in medical research programs instead of $1,200,000 as proposed by the House. The Senate made no reduction. The reduction is to be applied as follows:

Rocky Mountain spotted fever	−$300,000
Trypanosomiasis	−90,000
Gonorrhea	−70,000
General immunology and entomology	−300,000
Total	−760,000

The conferees agreed to provide $300,000 for Contemporary Issue Development instead of $500,000 as proposed by the Senate and no funds as proposed by the House.

The conferees agreed to make no general reduction as proposed by the Senate instead of a $40,595,000 reduction as proposed by the House.

The conferees agreed to provide funds at the authorized level for the following programs:

[In thousands of dollars]

Program	House amount	Senate amount	Conference amount
Aircraft survivability	3,620	3,000	3,000
Advanced attack helicopter	134,101	130,801	130,801
Advanced ballistic missile defense	106,851	103,000	103,000
Hi-energy laser components	26,490	21,000	21,000
Army/Navy SAM	4,000	1,500	1,500
Kwajalein Missile Range	86,553	83,000	83,000
Chaparral/Vulcan	10,184	8,000	8,000
Advanced multipurpose missile	3,000	0	0
XM 204 howitzer	2,985	2,900	2,900
Bushmaster	22,512	20,000	20,000
Communications/electronics	5,845	4,000	4,000
Electrical and electronics	13,806	12,000	12,000
Environmental quality technology	13,199	12,000	12,000
Army training technology	4,901	3,800	3,800
RPV/Drones	7,478	5,678	5,678
RPV support technology	2,500	1,500	1,500
ARM countermeasures	4,140	2,500	2,500
Advanced electronic devices	1,500	0	0
Command and control	9,581	5,000	5,000
Testing	35,168	33,000	33,000
Programwide activities	62,831	60,000	60,000
Major R.D.T. & E. facilities	162,504	157,000	157,000
Federal Contract Research Centers		—670	—670
Nonsystem training devices	3,775	2,888	2,888

Research, development, test, and evaluation, Navy

Amendment No. 68: Appropriates $3,722,792,000 instead of $3,765,125,000 as proposed by the House and $3,696,503,000 as proposed by the Senate.

The conferees agreed to provide $7,985,000 for the Center for Naval Analysis (Navy) as proposed by the Senate instead of $7,235,000 as proposed by the House.

The conferees agreed to deny all funds for the All Weather Attack program as proposed by the House instead of $1,000,000 as proposed by the Senate.

The conferees agreed to provide $2,000,000 for the VCX (Carrier-on-Board Delivery) aircraft instead of $982,000 as proposed by the Senate and $40,982,000 as proposed by the House. The funds provided will enable the Navy to initiate a fully competitive development program for a VCX aircraft that can meet all Navy COD requirements.

The conferees agreed to provide $28,000,000 for the Air-to-Air Missile System Engineering program as proposed by the Senate instead of $18,449,000 as proposed by the House.

The conferees agreed to provide $568,551,000 for the TRIDENT Missile program instead of $572,551,000 as proposed by the House and $519,551,000 as proposed by the Senate. The Senate and the authorizing legislation provided $519,551,000 for the TRIDENT Missile in the Navy RDT&E appropriation and an additional $49,000,000 for the same program in the Defense Agencies RDT&E appropriation. The amount agreed to by the conferees is the total of the amounts proposed by the Senate in both the Navy RDT&E and Defense Agencies appropriations.

The conferees agreed to provide $14,800,000 for the SEAFARER program as proposed by the House instead of $27,100,000 as proposed by the Senate. The conference agreement will permit the SEAFARER program to continue at essentially last year's level. The conference agreement specifically excludes any of the $4,700,000 requested for full-scale development. The conferees felt initiation of full-scale development was premature at this time. The conferees also believe the PISCES experiment should be conducted before making a final decision on the SEAFARER program. If the Navy can gain the concurrence of the authorizing committees, the conferees would not object to the Navy using $2,300,000 of the $14,800,000 provided in fiscal year 1977 to conduct the PISCES experiment.

The conferees agreed to deny the funds specially budgeted for the Lightweight ASW torpedo program since the funds were deleted by the authorizing legislation. The conferees share the concern of the Authorizing Committees and agree that funds may be reprogrammed internally to provide for the MK-46 NEARTIP program.

The conferees agreed to provide $5,000,000 for the SPARROW Missile Replacement Development program as proposed by the Senate, however, the funds have been placed in the Air Force RDT&E appropriation.

The conferees agreed to provide $11,000,000 for the U.S.S. *Long Beach* Conversion program as proposed by the Senate instead of no funds as proposed by the House.

The House had language which denied use of funds in the Ship Development (Engineering) program for the PHM Support Ship. The Senate had no similar language. The House conferees receded and funds can be used for the PHM Support Ship.

The conferees agreed to provide $12,300,000 for the Fire Control Systems (Engineering) program as proposed by the Senate instead of $9,300,000 as proposed by the House.

The conferees agreed to provide $18,262,000 for the Tactical Towed Array Sonar instead of $14,262,000 as proposed by the House and $22,262,000 as proposed by the Senate.

The conferees agreed to provide $2,031,000 for the Foreign Weapons Evaluation program as proposed by the House instead of $3,500,000 as proposed by the Senate.

The conferees agreed to provide $2,900,000 for the MK 30 Mobile target instead of $3,000,000 as proposed by the House and no funds as proposed by the Senate.

The conferees agreed upon a general reduction of $160,000 in medical research activities instead of the $760,000 reduction proposed by the House and no reduction as proposed by the Senate.

The conferees agreed to a general reduction of $9,400,000 in Intelligence Activities.

The conferees agreed that no RDT&E, Navy general reduction would be made as proposed by the Senate instead of the $124,079,000 reduction proposed by the House.

The conferees agreed to provide $2,000,000 for the Shipboard Intermediate Range Combat System as proposed by the Senate instead of no funds as proposed by the House.

The conferees agreed to provide the authorized amount for the following programs:

[In thousands of dollars]

Program	House amount	Senate amount	Conference amount
Avionics	7,500	6,500	6,500
V/STOL developments	4,127	3,000	3,000
Aircraft systems (advanced)	2,714	2,500	2,500
Tactical airborne reconnaissance	8,100	6,100	6,100
LAMPS MK III	83,200	73,700	73,700
Aerial target system development	14,477	12,600	12,600
CH–53E	14,043	12,000	12,000
A–6 squadrons	5,630	0	0
Strike warfare weaponry technology	42,400	34,000	34,000
Advance air-launched air-to-air missile	6,652	2,721	2,721
Air and sea launched antiship missile	1,049	0	0
Army-Navy area SAM	2,700	1,000	1,000
Sea launched cruise missile (advanced)	17,551	12,551	12,551
HARM missile	33,495	30,000	30,000
NATO Sea Sparrow	11,502	6,000	6,000
Sea launched cruise missile	144,900	107,250	107,250
Vertical launched standard missile	5,515	4,000	4,000
Ships, submarines and boats technology	28,200	27,200	27,200
Aircraft launching and retrieving	6,476	3,676	3,676
Hi-performance undersea vehicle	3,000	1,500	1,500
Advanced command data systems	9,884	3,858	3,858
Ship development (advanced)	19,297	13,997	13,997
Combat systems integration	3,516	1,437	1,437
Test bed development and demonstration	22,217	20,000	20,000
Ship development (Eng)	21,000	18,902	18,902
CVNX development	11,472	0	0
Advanced Marine Corps weapon systems	8,300	6,200	6,200
Lightweight ASW torpedo	8,438	0	0
Directed energy program	3,736	0	0
Advanced electronic components	973	0	0
Ocean engineering technical development	14,145	13,145	13,145
Integrated information support	7,659	6,659	6,659
Education and training	8,849	8,300	8,300
Tactical electronic support	5,387	4,887	4,887
R.D.T. & E. ship and aircraft support	55,989	53,989	53,989
Federal contract research centers		−1,110	−1,110

Research, development, test, and evaluation, Air Force

Amendment No. 69: Appropriates $3,749,530,000 instead of $3,773,430,000 as proposed by the House and $3,740,530,000 as proposed by the Senate.

The conferees agreed to provide $3,200,000 for the Preliminary Design and Development program instead of $2,700,000 as proposed by the House and $3,700,000 as proposed by the Senate.

The conferees agreed to deny all funds for the Low Cost Aircraft program as proposed by the House instead of $500,000 as proposed by the Senate.

The conferees agreed to provide $500,000 for the Tactical AGM Missile program as proposed by the Senate instead of no funds as proposed by the House.

The conferees agreed to provide $5,000,000 for the SPARROW Replacement Missile. The Senate proposed that this program be funded in the Navy appropriation and the House proposed no funds for this program. The conferees agreed to provide the funds for this program to the Air Force rather than the Navy.

The conference agreement provides $30,600,000 for the Defense Satellite Communications System III (DSCS III) program as proposed by the Senate rather than $10,600,000 as proposed by the House. The approved amount will permit full-scale development of DSCS III satellites which will be suitable for launch both with the Titan III–C booster and with the Space Shuttle. This compatibility with the Space Shuttle is important since the DCSC III will be operational into the 1990's when the Shuttle may be the only available launch vehicle.

The conferees agreed to provide $1,000,000 for the Low Cost Avionics program as proposed by the Senate instead of no funds as proposed by the House.

The conferees agreed to provide $5,200,000 for Base Security as proposed by the Senate instead of $4,000,000 as proposed by the House.

The conferees agreed to provide $6,200,000 for the Integrated Program for Air Base Defense instead of $4,200,000 as proposed by the House and $8,200,000 as proposed by the Senate.

The conferees agreed to provide $69,000,000 for the Advanced Airborne Command Post as proposed by the Senate instead of $65,200,000 as proposed by the House.

The conferees agreed to provide $14,000,000 for the Drone/RPV System Development Program instead of $11,000,000 as proposed by the House and $17,000,000 as proposed by the Senate. The reduction of $3,000,000 is applicable to the COMPASS COPE RPV project.

The conference agreement includes $36,500,000 for Surface Defense Suppression as proposed by the House instead of $22,500,000 as proposed by the Senate. The additional funds are to be used to purchase planar and cruciform GBU-15 Modular Guided Glide Bombs for testing.

The conferees agreed to provide $2,000,000 for the Foreign Weapons Evaluation program instead of $1,000,000 as proposed by the House and $3,500,000 as proposed by the Senate.

The conferees agreed to provide $16,300,000, the authorized amount, for advanced development of the Precision Location Strike System (PLSS) instead of no funds as proposed by the House. The conferees further agreed that NATO should participate in the funding of this program since two or three of the four systems to be procured will be located in Europe. The Department of Defense is directed to initiate negotiations with our NATO allies to determine if they will provide financial assistance and the extent of such participation. The Department of Defense should submit a report to the House and Senate Committees on Appropriations describing in detail the extent of participation, if any, or the reasons for lack of NATO support.

The conferees agreed to provide $8,000,000 for Advanced Systems Engineering and Planning instead of $10,000,000 as proposed by the Senate and no funds as proposed by the House.

The conferees agreed to a general reduction of $500,000 instead of no reduction as proposed by the Senate and a $31,870,000 reduction as proposed by the House.

The conferees agreed to provide the authorized amount for the following programs:

[In thousands of dollars]

Program	House amount	Senate amount	Conference amount
Defense research sciences	86,000	78,000	78,000
Environment	24,000	22,600	22,600
Air-to-Air ARM	3,000	1,000	1,000
Advanced aerial target technology	9,100	7,500	7,500
CONUS air defense	1,000	0	0
F-15 squadrons	51,000	35,000	35,000
Lightweight radar missile prototype	5,000	0	0
Advanced ICBM technology	84,000	69,000	69,000
Advanced SRAAM systems technology	4,300	3,500	3,500
Tactical AIM missile	4,700	1,700	1,700
Tactical drone support	1,500	1,000	1,000
Space surveillance technology	24,500	20,500	20,500
Space communications	29,800	27,800	27,800
Space defense systems	12,800	12,000	12,000
Space boosters	13,900	12,000	12,000
Conventional weapons	19,000	16,200	16,200
Advanced tactical weapons	4,900	0	0
Armament ordnance development	8,900	7,900	7,900
Close air support weapons system	41,000	30,000	30,000
Electronic warfare technology	9,300	7,800	7,800
Electro-optical warfare	8,000	6,500	6,500
Command, control, communications advanced development	6,000	4,500	4,500
TAC information processing	9,500	8,500	8,500
Recon/electronic warfare	14,200	12,700	12,700
Applications for information processing techniques	2,800	1,500	1,500
AWACS	109,600	104,600	104,600
Expendable drones	7,000	2,000	2,000
Long-haul communications	8,300	6,500	6,500
PRAM-PO	10,000	2,500	2,500
Acquisition and command support	202,200	202,700	202,700
Test and evaluation support	306,400	307,900	307,900
Financing adjustment for FMS	—8,000	—13,000	—13,000
Federal contract research centers		—4,270	—4,270

Research, development, test, and evaluation, Defense agencies

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $651,280,000 instead of $652,800,000 as proposed by the House and $700,480,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide $15,100,000 for the Technical Support to OSD/JCS program as proposed by the House instead of $15,300,000 as proposed by the Senate.

The conferees agreed to a general reduction of $5,900,000 in Intelligence Activities as proposed by the Senate instead of a $7,500,000 reduction as proposed by the House.

The conferees agreed to transfer the $49,000,000 in the Emergency Fund to the Navy RDT&E appropriation since both the authorizing legislation and the Senate had provided that these funds be used only for the TRIDENT Missile program.

The conferees agreed to provide the authorized amount for the following program:

[In thousands of dollars]

Program	House amount	Senate amount	Conference amount
DARPA general reduction	−10,000	−10,400	−10,400
DNA general reduction		−1,000	−1,000
Federal contract research center reduction		−1,720	−1,720

TITLE VII—GENERAL PROVISIONS

Amendment No. 71: Section 707—Provides a limitation on the Overseas Dependents Education Program of $248,000,000 as proposed by the House instead of $249,480,000 as proposed by the Senate.

Amendment No. 72: Section 708—Technical amendment made in conjunction with an additional amendment to this section.

Amendment No. 73: Section 708—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in a Senate amendment permitting cryptologic support in foreign countries.

Amendment No. 74: Section 714—The conferees agreed to delete a Senate amendment that would have phased out the appropriation subsidy for commissary operations over a six year period. The House did not include any such phase out.

The conferees agreed that, to the extent that the Department is able to achieve management improvements and economies in commissary operations, as directed in the Conference Report on Defense authorization (Senate Report 94-1004), future commissary appropriated funds subsidies will be reduced accordingly.

Amendment No. 75: Section 714—The conferees agreed to delete a Senate amendment that provided for the payment of transportation costs of commissary goods shipped to and in Alaska.

Amendment No. 76: Section 723—Reported in technical disagreement. The Senate included a section not in the House bill, that requires certain material procured to be grown or produced in the United States or its possessions (the "Buy America" provisions) and provided that the exception permitting the Department to procure specialty metals from foreign sources does not override existing legislation requiring the Department to report agreements on reciprocal weapons purchases. The Senate language also permitted total contractual set-asides to labor surplus areas under certain conditions. The conferees agreed to include the "Buy America" language proposed by the Senate but delete the two provisos discussed above.

The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as discussed above. The amended language agreed to by the conferees follows:

"SEC. 723. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided, further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendments Nos. 77 through 81: Change section numbers because of Senate amendment number 76 which inserted new section 723.

Amendments Nos. 82 and 83: Section 728—The conferees agreed to change the fund restriction from "congressional" liaison activities as proposed by the House to a new broader category of "legislative" liaison activities as proposed by the Senate. This applies the restrictive language to a wider variety of current activities.

The conferees also agreed to a limitation of funds for these activities of $5,000,000 in lieu of $1,500,000 as proposed by the House and $7,900,000 as proposed by the Senate.

Amendments Nos. 84 through 90: Change section numbers.

Amendment No. 91: Section 735—Reported in technical disagreement. The Senate added language that prohibits the transfer of funds between stock and/or industrial funds or the obligation of working capital funds for the purchase of war reserve materials prior to notification to the Appropriations Committees of the House and Senate. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment that requires the notification to be made to the Congress. The amended language agreed to by the conferees follows:

"SEC. 735. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. No obligations may be made against a working capital fund to procure war reserve material inventory unless the Secretary of Defense has notified the Congress prior to any such obligation."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendments Nos. 92 through 99: Change section numbers.

Amendment No. 100: Section 743—Reported in technical disagreement. The House language in this section provided a prohibition on the use of CHAMPUS funds for pastoral, family, child or marital counselors. The Senate added language providing an exception to the prohibition on counselors when a medical doctor refers the patient to the counselor for treatment of a specific problem with a report to the medical doctor required. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

Amendment No. 101: Section 743—The House included a prohibition on the use of CHAMPUS funds for payments for perceptual or visual training. The Senate deleted this prohibition. The conferees agreed with the Senate position.

However, the conferees direct the General Accounting Office (GAO) to make a comprehensive study of the reasons for making such payments under the CHAMPUS program. The GAO should determine if the payments for such services are provided under other federally-sponsored health care or insurance programs. In addition, the GAO should determine the cost effectiveness of this training in comparison to potential medical cost if the training is not provided. A determination should be made of the amount of funds for this type of training provided under other federally-funded programs. The GAO should also determine the cost of this service to the CHAMPUS program.

Amendments Nos. 102 and 103: Change section numbers.

Amendment No. 104: Section 745—The conferees agreed to an amendment to a Senate amendment which established a limitation of 50 percent on the number of ROTC scholarships that are awarded to cadets for the two-year Senior Reserve Officers' Training Corps course.

The House had proposed that the scholarships be awarded without regard to the current limitation in order to expand scholarship selection and permit the military services to make maximum use of the scholarships in terms of increasing commissioned officer production. The conference agreement establishes a 60 percent limitation.

Amendment No. 105: Section 745a—The conferees agreed to restore the matter stricken by the said amendment with an amendment limiting the number of Naval Districts to not more than four.

The Senate bill deleted the House provision which would have disestablished all Naval Districts after June 30, 1977. The conferees' action does not preclude the total disestablishment of the Naval District management structure if the Navy desires to do so.

Amendment No. 106: Section 746—The conferees agreed to the House provision which limits total lump sum terminal leave payments to 60 days over an entire military career. The Senate had added an additional provision which would have limited the amount paid to that authorized for basic pay. Currently, termination-pay for unused leave is provided on the basis of basic pay, quarters allowances and subsistence allowance. Public Law 94-361, the fiscal year 1977 Defense authorization act, limits the payment to basic pay for all leave accumulated after July 14, 1976, but allows payments of all elements of Regular Military Compensation (RMC) for leave accumulated prior to enactment of that Act.

Amendment No. 107: Section 747—Reported in technical disagreement. The Senate added language requiring examination and evaluation by responsible Department of Defense officials and a report to the Armed Services and Appropriations Committees prior to payment of any claim against the United States. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment that requires such a report only in the case of claims in excess of $5,000,000, and further requires the report to be made to the Congress.

The amended language agreed to by the conferees is as follows:

"SEC. 747. None of the funds appropriated in this Act may be used to pay any claim over $5,000,000 against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Congress as to the validity of these claims."

The managers on the part of the Senate will move to concur to the amendment of the House to the amendment of the Senate.

Amendment No. 108: Section 748—The conferees agreed to amend the Senate provision by limiting the number of enlisted aides employed by the Department of Defense to 300.

The Senate bill included language which would have eliminated support for all enlisted aides. Current authorization legislation limits the number of enlisted aides to 396. The conferees believe that the enlisted aides should not be assigned by rank, but according to the representational/social responsibilities of the officers concerned. All personnel serving as enlisted aides are to be volunteers.

The conferees also direct that the Defense Department undertake a study of alternatives to the continuation of employing enlisted aides. This study might incorporate such alternative possibilities as service on an *ad hoc* basis, part-time service, temporary service, occasional service from a manpower pool, or complete elimination of any institutionalized support. This study, including any proposed authorizing legislation, should be completed in time for consideration during deliberations on the FY 1978 Defense budget.

Amendment No. 109: The conferees agreed to delete a provision proposed by the Senate which prohibited the use of appropriated funds for the direct procurement of transportation for the shipment of military exchange goods overseas. The House bill included no similar provision. The conferees agreed to delete the provision. Existing legislation covers this matter.

Amendment No. 110: The Senate bill included a provision that required Social Security Act criteria of reasonable cost or reasonable charge to be applied to CHAMPUS payments. The House bill did not include a similar provision. The conferees agreed to delete the provision and direct the General Accounting Office to perform a study of the feasibility, advisability, and cost savings that would result from inclusion of such a provision in law. The GAO report should provide specific comparisons between CHAMPUS reimbursement methods and those used under the Medicare (Social Security Act) reasonable cost/reasonable charge criteria, along with an explanation of the reasons for the differences.

Amendment No. 111: The conferees agreed to a provision added by the Senate to the House bill that placed a $24,000,000 limitation on public affairs activities of the Department of Defense.

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in a Senate amendment inserting a new section which enables South Vietnamese refugees to be employed by the Government of the United States.

The same provision was included in the Defense Appropriation Act for fiscal year 1976.

TITLE VIII—RELATED AGENCY

Intelligence community oversight

Amendment No. 113: Appropriates $5,600,000 for "Intelligence Community Oversight" as proposed by the House.

The conferees agreed that a separate appropriation for "intelligence Community Oversight" would give increased independence and stature to the activities of the Intelligence Community Staff and to the National Foreign Intelligence Board. This independence will help assure vigorous oversight of the intelligence community.

The conferees also agreed that a public appropriation would do no harm and could do much good as a symbol of the congressional intent that there be strong, central direction of the intelligence community. The conferees agreed, however, that other elements of the intelligence and intelligence-related budgets should not be revealed, since to do so could result in harmful effects to United States security.

The main desire of the conferees is to enable the Intelligence Community Staff and the National Foreign Intelligence Board to achieve policy independence. There is no intent to preclude the provision under the Economy Act and other general authorities of certain administrative services, including but not limited to, security, communications, financial, logistics, and computer services by other elements of the intelligence community (or even the non-intelligence community within the dictates of security). However, any such administrative services must be funded from the "Intelligence Community Oversight" appropriation through transfers or other appropriate devices. There is to be no augmentation of this appropriation, except by supplemental appropriations. There is also to be no carryover of unobligated funds, since this is intended to be an annual appropriation. The normal apportionment procedures of the Office of Management and Budget should apply to this appropriation. Within the above caveats, the conferees agreed that, to the extent it is permissible under existing law, the authorities granted to the Director of Central Intelligence and to the Central Intelligence Agency in regard to such activities as hiring and procurement practices may apply to the activities funded by the "Intelligence Community Oversight" appropriation.

While the conferees have no objection to provision of reimbursed support services from other sources, they feel it would be inappropriate to depend on other sources for policy sensitive services. To do so would be to deny the intent of Congress, which is that the Intelligence Community Staff and the National Foreign Intelligence Board be totally independent.

The Committees will expect that separate budget justifications and congressional testimony shall be presented in defense of the 1978 budget request for "Intelligence Community Oversight". This justification material in addition to the normal information concerning personnel levels and dollars requested, shall include a discussion of the principal achievements of the Intelligence Community Staff, the National Foreign Intelligence Board, and the Committee on Foreign Intelligence, including a summary by program and agency of the amounts requested and the amounts approved for intelligence and intelligence related activities.

Central Intelligence Agency Retirement and Disability Fund

Amendment No. 114: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $28,300,000, the budget request, rather than $52,200,000 as proposed by the Senate and nothing as proposed by the House which did not consider this request due to lack of authorization.

The text of the provision follows:

"CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

"For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $28,300,000, subject to the enactment of legislation authorizing such payment."

The managers on the part of the Senate will move to concur to the amendment of the House to the amendment of the Senate.

Intelligence and Intelligence-Related Programs

For intelligence and intelligence-related programs, which are funded in many appropriations, the conferees have agreed to reductions of $89,700,000, as compared to reductions of $149,700,000 as proposed by the House and reductions of $45,500,000 as proposed by the Senate. These amounts are adjusted to include the $28,300,000 provided in the conference agreement for the Central Intelligence Agency Retirement and Disability Fund.

Consolidated Telecommunications and Command Control Programs

For consolidated Telecommunications and Command Control Programs, which are also funded in many appropriations, the conferees have agreed to reductions of $85,900,000, rather than reductions of $112,000,000 as proposed by the House and reductions of $60,200,000 as proposed by the Senate. These reductions affect the following programs:

[Dollars in millions]

	House	Senate	Conference
WWMCCS ADP (DNA)		−$2.4	−$2.4
WWMCCS system engineer		−4.2	−2.1
Joint technical support		−3.4	−3.4
Pentagon communications center consolidation	−$10.0		
DSCS II:			
Titan III-C	−12.0	−4.7	5−4.
Satellites	−15.5		−15.
DSCS III	−20.0		7
Space communications		−2.0	−2.0
SEAFARER	−15.0	−2.7	[1]15.0
Airborne command post	−13.8	−10.0	−10.0
C^3 advanced development		−1.5	−1.5
Army communications electronics R. & D	−.5	−2.3	−2.3
DCS long haul communications		−1.8	−1.8
Items not in conference	−25.2	−25.2	−25.2
Total reductions	−112.0	−60.2	−85.9

[1] Includes report language permitting conduct of PISCES experiment, if approved by authorizing committees.

Other Matters Addressed by Only One Committee

The reports of both the Senate and House Committees contain numerous requests for additional studies and data including requests to cooperate and support investigations and reviews by special committee staffs and the General Accounting Office. These requests do not involve substantive changes in terms of resource allocation or operating procedures. The conferees direct the Department of Defense to treat these requests as being approved by the Committee of Conference, unless this report clearly states that the Committee of Conference has not adopted a request of this nature.

Conference total—With comparisons

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference with comparisons to the fiscal year 1976 amount, the 1977 budget estimates, and the House and Senate bills for 1977 follow:

New budget (obligational) authority fiscal year 1976	$92,399,538,000
Transfer from other accounts, fiscal year 1976	99,300,000
Total funding available, 1976	92,498,838,000
Budget estimates of new (obligational) authority (as amended), fiscal year 1977	107,964,472,000
House bill, new (obligational) authority, fiscal year 1977	105,397,343,000
Transfer from other accounts	196,800,000
Total funding available, 1977	105,594,143,000
Senate bill new (obligational) authority, fiscal year 1977	104,014,226,000
Transfer from other accounts	82,600,000
Total funding available, 1977	104,096,826,000
Conference agreement, new (obligational) authority, fiscal year 1977	104,343,835,000
Transfer from other accounts	82,600,000
Total funding available, 1977	104,426,435,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1976	+11,944,297,000
Transfer from other accounts	−16,700,000
Total funding available, 1976	+11,927,597,000
Budget estimates of new (obligational) authority (as amended) fiscal year 1977	−3,620,637,000
Transfer from other accounts	+82,600,000
Total funding available, 1977	−3,538,037,000
House bill, new (obligational) authority, fiscal year 1977	−1,053,508,000
Transfer from other accounts	−114,200,000
Total funding available, 1977	−1,167,708,000
Senate bill, new (obligational) authority, fiscal year 1977	+329,609,000
Transfer from other accounts	
Total funding available, 1977	+329,609,000

George Mahon,
Robert L. F. Sikes,
Daniel J. Flood,
Joseph P. Addabbo,
John J. McFall,
John J. Flynt, Jr.,
Robert N. Giaimo,
Bill Chappell,
Bill D. Burlison,
Jack Edwards,
J. K. Robinson,
Jack Kemp,
E. A. Cederberg,
Managers on the Part of the House.

John L. McClellan,
John C. Stennis,
John O. Pastore,
Warren G. Magnuson,
Gale W. McGee,
William Proxmire,
Joseph M. Montoya,
Daniel K. Inouye,
Lawton Chiles,
Stuart Symington,
Henry M. Jackson,
Milton R. Young,
Roman L. Hruska,
Clifford P. Case,
Hiram L. Fong,
Ted Stevens,
Richard S. Schweiker,
Strom Thurmond,
Managers on the Part of the Senate.

EXTENSIONS OF REMARKS

THE TEACHING OF AMERICAN HISTORY NEEDS EMPHASIS IN OUR SCHOOLS—STUDENTS LACK KNOWLEDGE—NEW YORK TIMES TEST PROVES STUDIES ARE INADEQUATE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, September 7, 1976

Mr. RANDOLPH. Mr. President, during the past 8 months, Americans have been treated to a sweeping review of our Nation's history. The spectacular public events and historical displays have, through the media, reached almost every citizen during this Bicentennial Year. Our reverence for the past instills in our hearts enthusiasm and pride for the world-shaking events of 200 years ago. The Bicentennial teaches us that America has known many periods of doubt and despair. We have experienced wars, depressions, upsurges in crime and violence, plagues and poverty. And America has survived.

It is these lessons of the past which must serve as an inspiration and guiding force for the future. There exists in America today too little true understanding of our creation of freedom and individual liberty. We should be aware that the Declaration of Independence was not so much a rebellion against foreign tyranny but rather a revolution for freedom.

From several educational sources, we learn that today's high school students have insufficient knowledge of our American history. In junior high, our youth should be given stimulating courses or classes in our national history.

If the past is prolog, there are indications that there may be serious implications for our Nation's future in the educational system today. The New York Times reported earlier this year that a nationwide test of first-year college students shows that they generally know the high points of American history, but that their knowledge of the details and the context of these epochal events does not run deep. Reporters Edward B. Fiske and Jonathan Friendly, in an excellent three-part series, concluded that the more students know about American history, the more likely they are to think of the past in positive terms. And the less they know, the more likely they are to cite negative characteristics about our Nation's past.

Analyzing results — Dr. Benjamin Quarles of Morgan State College—one of a group of historians who assisted in preparing the test, commented:

> If this is the state of knowledge of American history, what can one anticipate about knowledge of the history of the rest of the world.

As a student of American history, I confess to personal bias. As a former college teacher, I know that today's student has much to absorb in the assimilation of new knowledge. But I share the concern of many educators that schools are not doing the job they used to do or that they are paid to do. Parents are asking if it is true that the schools are not teaching children to spell correctly, to write grammatically correct sentences, to divide accurately, or remember important events of history. In the area of "social studies," there is a tendency to excise what is considered relevant and discard the rest. Facts give way to concepts, and history is revised to fit the popular objectives of the moment.

Last year, in doing research on the approaching Bicentennial, I was astonished to learn that there was not a single course being taught throughout this country about the 56 signers of the Declaration of Independence. This is no longer the case. At Davis and Elkins College, in my hometown of Elkins, W. Va., a special course: "The Signers of the Declaration of Independence" has been conducted for two terms by Dr. Thomas R. Ross, chairman of the department of history. I was privileged to assist in initiating this unique study, which Dr. Ross describes as giving "special emphasis to a study of the careers of the members of the committee who wrote the document * * *."

This is a step toward the general public understanding of the miracle of America, and a continuing awareness of its strengths and weaknesses. An immediate knowledge of the weakness of teaching in American history in our Nation's schools is contained in the results of the New York Times' test. I ask unanimous consent that the series, together with analyses of particularly distressing results, be printed in the Extensions of Remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TIMES TEST OF COLLEGE FRESHMEN SHOWS KNOWLEDGE OF AMERICAN HISTORY LIMITED

(By Edward B. Fiske)

A nationwide test of college freshmen conducted by The New York Times shows that they generally know the high points of American history but that their knowledge of the details and the context of these epochal events does not run deep.

The survey contradicts the widely held view of young Americans as profoundly ignorant of their country's past, but it discloses that they lack the kind of detailed information that historians say they must have to understand either the past or the present.

Overall, the 1,856 freshmen tested earlier this year at 194 campuses correctly answered an average of 21 of the 42 questions on the New York Times American History Knowledge and Attitude Survey.

At the high end, 138 students correctly answered 30 questions or more; at the low end, 215 freshmen did not get even 15 questions right. The highest score was 41, achieved by only one student.

The type of high points they knew is indicated by the fact that a large majority knew the content of the Bill of Rights and recognized the Louisiana Purchase. Two out of three, however, had a fundamental misconception about the origins of religious toleration and the nature of Reconstruction.

KNOWLEDGE OF RIGHTS

Bernard Bailyn of Harvard, one of four prominent historians who assisted in preparing the test, said of this pattern that the students "respond to the Bill of Rights in terms of general notions, cliches and so forth, but they don't know specific documentary information that would give them a right answer on the Constitution."

His views were echoed in the comments of the other historians—C. Vann Woodward of Yale, William E. Leuchtenburg of Columbia and Benjamin A. Quarles of Morgan State College. And Dr. Woodward added: "Students expect to do well and are shocked that they don't. And they think that they've done well in whatever course they had. But these questions would seem to show us that they haven't."

BICENTENNIAL MEASURE

The survey was administered earlier this year by Educational Testing Service, the Princeton, N.J., organization that develops the College Boards and other major academic tests. The goal of The Times was to measure in this Bicentennial year the level of historical knowledge of an important segment of the population: the college freshman who may be the future national leaders.

Among the other major findings derived from the test and from interviews with students, educators and historians are the following:

Freshmen do not know as much about American history as they or their high school teachers think they should. And they do substantially worse than a group of well-known Americans who took part of the test.

Students' knowledge is on a par with that of freshmen in 1943 who took a Times history test that demanded much more detailed factual knowledge than the new test. The newspaper reported then that its test showed students had a "striking ignorance" of American history, a conclusion that led to heated debate among educators and politicians and to an increase in requirements that high schools teach the subject.

There has been decreasing emphasis on American history as a distinct discipline and a drift in the way it is being taught—from emphasis on factual detail toward a more thematic and in some cases analytic approach. The new approach appeals to some kinds of students and seems to be related to how well they do on the test. But the "conceptual" method does not work for all students, nor is it used in all schools.

Male students do better than female students and whites do better than blacks, performance differences that show up in other national history tests. The black performance tends to relate strongly to socio-ecnomic factors and type of high school instructions measured by The Times test, but the women's Times test, but one likely factor in women's lower scores was their generally lower interest in the subject.

The survey was divided into three parts; a first section of 24 basic questions, a second group of 18 that required more detailed knowledge and a final section that dealt with student attitudes toward history and how it was taught to them.

Students achieved an average score of 13.5, or 56 percent, on the basic questions, but their performance dropped to only 7.5, or 42 percent on the more detailed group.

The highest score—92 percent—came on a question in which students were asked to identify Henry Ford as the business leader who pioneered the mass-production assembly line. The lowest—16 percent—came on the most recent topic when students were asked about parallels between the Korean and Vietnamese Wars.

Standards obviously differ on what constitutes a good score. In analyzing the results, the panel of historians who served as advisers on the test tended to feel that students had done well on any question that 55 to 60 percent answered correctly. However, they set a higher standard for some of the easier questions.

OTHERS INVOLVED

The Times also asked the social science coordinators or history chairman in 18 high schools in and around six American cities—New York; Los Angeles; Miami; Austin, Tex.; Portland, Me.; and Des Moines, Iowa—to evaluate the test.

They said that a typical college-bound graduate of their school ought to get at least 30 questions, or a score of about 70 percent. In fact, less than one student in 12 did.

Apart from the overall scores on the Times survey, a number of patterns emerged in the type of knowledge students have. For one thing, they achieved relatively good scores on high points of American history like famous documents and epochal events.

Nearly three-quarters, for instance, knew whether the Bill of Rights provided for "freedom of enterprise," and 84 percent were familiar with the Louisiana Purchase and other territories acquired in this way.

More than three-quarters know how English colonization differed from that of the French and the Spanish, and 68 percent identified the background of the 1954 Supreme Court decision on desegregation.

There were also, however, some startling gaps in their knowledge. Thirty-six percent, for instance, thought that the Puritans guaranteed religious freedom in Massachusetts, and they outnumbered the 34 percent who correctly replied that religious toleration in the British colonies grew out of the common interest of numerous sects in preventing any one of them from becoming dominant.

Dr. Bailyn called this response "absolutely shocking" and declared, "I don't know how to explain it."

Dr. Quarles suggested that perhaps "the Puritan has temporarily a better image than he would have in a non-Bicentennial year."

A third of the high school history educators said, however, that they would not expect a graduate to get this question nor a subsequent one on Reconstruction. This suggests that the topic is not deeply explored at the secondary-school level.

Another area of widespread ignorance was the Constitution. Only slightly more than a quarter knew which of four specific powers it gives to Congress. Nearly a half (46 percent) were under the misapprehension that it gives courts the power to declare acts of Congress unconstitutional.

There were also some striking contrasts in the level of knowledge on related subjects. Whereas a majority of 58 percent correctly identified the issue of slavery in the territories as the major political issue of the decade before the Civil War, only 37 percent knew the attitude of Jacksonian Democrats toward slavery 30 years before and only 29 percent understood the nature of Reconstruction.

A substantial majority of 61 percent knew the nature of the essential changes brought about by the New Deal, but only 31 percent were able to point out on a later question that collective bargaining became widespread during this period.

"They respond to the Bill of Rights in terms of general notions, cliches and so forth," said Dr. Bailyn. "But they don't know specific documentary information that would give you a right answer on the Constitution. The cliche of the Declaration of Independence they know. But they don't know what the provisions of the Federal Constitution are."

On the other hand, Dr. Quarles saw a positive aspect to the latter point. "It seems to me that their knowledge of the Bill of Rights and the Declaration indicates that they're aware of the rights of the individual to a far greater extent than they are aware of the rights of the Federal Government—or the limitations of the Federal Government. I think that's a hopeful sign. They know the rights of the individual."

The results produced conflicting data about students' sense of chronology. On the one hand, they did fairly well in describing the waves of immigration. On the other hand, only 19 percent were able to put the Federal policy of "assimilating" Indians into white society in its proper time period, less than half were able to pick out monopolies as a major concern of progressives during the first two decades of the 20th century.

"LACKS CONTINUITY"

Dr. Quarles said that the lack of depth of students' knowledge combined with their mixed performance on questions involving chronology suggested that what the history students were being taught "lacks continuity."

"It's centered around a few major issues, and they use history to illustrate that issue," he said. "They will get a big Supreme Court decision like Dred Scott or Brown v. the Board of Education, but they will not know the real setting of that at all."

"They could tell you the decision. They could relate it to black rights or lack of black rights, but they really couldn't place the judges in their social setting. They couldn't place the nature of the decision. They might tell you, for example, that the Dred Scott decision happened in 1834 or 1835 without seeing that it must have happened in 1957 on the eve of the war. They do not have the sense of development, of continuity, of one thing leading to another and unfolding."

Dr. Leuchtenburg was even more critical. "The main conclusion one must draw is unmistakable: that this group of students knows remarkably little American history," he said.

"Their knowledge of the Colonial period is primitive. Two-thirds do not have the foggiest notion of Jacksonian Democracy. Less than half even know that Woodrow Wilson was President during World War I.

"If this is the state of knowledge of American history, what can one anticipate about knowledge of the history of the rest of the world?"

HIGH SCHOOLS CUT PRIORITY FOR TEACHING U.S. HISTORY

(By Edward B. Fiske)

American high schools are giving decreasing priority to the teaching of American history, and in what they do teach there has been a gradual shift away from traditional factual content toward the teaching of basic "concepts."

These changes have also been coupled with a proliferation of films, minicourses, simulation games, fashion shows and do-it-yourself history projects that are also helping to push aside the old-style chronological textbook.

The effects of the new teaching style, however, are uncertain and have become a matter of considerable debate in educational circles.

Some educators say that the changes as a whole—and the "concepts" approach in particular—have had the effect of fostering historical illiteracy among American young people. Others, however, argue that the innovations are positive and that, if historical knowledge is not on the rise, it is largely because of the cultural climate beyond the classroom.

The New York Times American History Knowledge and Attitude Survey, which was administered in February to 1,856 college freshmen on 194 campuses across the country, provides evidence to bolster the argument of both sides.

The data supported critics in that they showed that while students were generally familiar with "peak" events such as the signing of the Declaration of Independence, they had relatively little working knowledge of the context—the historical "substances"—in which these events occurred.

One-third of the test respondents, for example, thought that the chief aim of Colonial resistance on the eve of the Revolution was representation in Parliament rather than self-taxation. Two-thirds were unfamiliar with why the Articles of Confederation were criticized in the 1780's.

Other data, on the other hand, supported proponents of the new "concepts" approach. Students who said that they had been exposed often to "concepts" teaching had an average score of 23 questions right in comparison to the overall average of 21, a difference that analysts at Educational Testing Service in Princeton, N.J., regard as statistically significant.

Not surprisingly, however, the very top scores were not necessarily those who had the most contact with concepts, but rather history "buffs" who reported exposure to all kinds of approaches, from traditional facts to "methods of historical inquiry."

Some educators raised the question of whether—for all the rhetoric—very many teachers were in fact teaching "concepts." Donald Bragaw, chief of the bureau of social studies education for the New York State Education Department, suggested that many who say they are doing so are simply replacing "facts" with "terms."

Others, going further, say that some of the recent changes have been misguided.

A SPRINKLING OF FACTS

"Maybe it's time to come back to the center and try to make history more interesting but still throw in just a few facts from time to time to corrupt the beauty of empty generalizations," said Elspeth D. Rostow, a dean at the University of Texas.

This interdisciplinary trend is evident at the Harry S. Truman High School in Co-op City in the Bronx. In line with New York State requirements, students must take one year of "American studies." In doing this they have a choice of taking a year-long chronological history course or putting together a package of four nine-week courses such as government, social pluralism, foreign policy and "American values and culture."

Daniel Roselle, an editor at the National Council for the Social Studies, agreed that one result of the lack of focus on history per se had been a "lessening of the substance" that students receive about American history. "They won't know who Grover Cleveland is," he declared.

A growing number of social science educators, however, believe that what has traditionally passed for "substance"—especially such things as names and dates—is in reality superficial. The result has been a major change in the objectives of teaching American history.

"In the 1960's people realized that it was impossible for students to remember all those facts and that a lot of students were bored," said Mr. Roselle. "So they said; 'Let's help them to inquire and think!" They will be doing this the rest of their lives. It will also help them with values and current problems."

This shift is also reflected in the difference between a 1943 test administered by The Times—largely oriented toward names and dates—and the new survey. But analysis showed that student performances had not changed substantially.

Many teachers now say that their goal is to teach "concepts." By this they mean ideas and broad themes that characterize the American experience—such as revolution, assimilation of immigrants and free enterprise—rather than traditional factual material.

This movement from facts to concepts is apparent in the number of teachers in all parts of the country who are organizing courses around "themes." At Capital High School in Matross, Mont., for instance, the basic history course is organized around six themes, including one entitled "America and Economics" in which students learn about "big business" and "big labor."

The New York State Education Department suggests that schools base their American studies program around five themes: the American people, the economic system, the political system, cultural institutions and foreign policy.

In the late 1960's the trend toward concepts and themes was reinforced by pressure from students and others to relate teaching content more directly to the social issues of the day. This led to a proliferation of "minicourses" on subjects thought to be of particular interest to students.

The result is that many high school course listings look like college catalogues. At Hillcrest High School in Queens, for instance, students can choose from 23 history electives ranging from classical topics such as "The Civil War" to new ones like "Women in American History."

Many of these minicourses focused on black, Jewish and other kinds of ethnic history, a trend that has been picked up by virtually every important textbook publisher.

The most highly developed form of the shift away from the teaching of chronological fact has been the so-called "inquiry" approach that developed out of the educational theories of Jerome Bruner and others. Working primarily in the natural sciences and later in anthropology and related social sciences, they asserted that every discipline had an underlying "structure" and that the goal of teaching is to help students "discover" this structure.

These ideas were applied to history by Edwin Fenton of Carnegie-Mellon University, who said that students should be thought of as embryonic historians working with original sources, collecting evidence and drawing their own conclusions about people and events. In addition to basic knowledge, he said that the teacher should teach "inquiry skills" as well.

At the Paul D. Schreiber High School in Port Washington, L.I., for instance, Jonathan Harris deals with the dropping of the atomic bomb on Japan by putting his students through a mock trial of President Truman.

"They do research, role play and learn to apply what they learn," he said. "They learn more from spending two weeks on this one subject than they ever did with the old method of cramming them with facts."

DISCOVERING METHODS

The last four questions on the Times survey were directly aimed at measuring students' familiarity with the discovery methods of teaching history, and the students averaged about two correct.

Given census information on a "small town in Ohio in the early 19th century," for instance, only one in three was able to place it correctly on a chronological spectrum of industrial growth. On the last question only 31 percent were able to identify the "best evidence of social mobility" from a list of four criteria.

Relatively few students, of course, have had very much exposure to "methods" teaching, but even those who said that they had did not do significantly better than the average on these questions.

While the objectives of teaching American history were changing, so were the techniques used to carry them out. For one thing, the days of the single chronological textbook with questions at the end of the chapter seem numbered.

At Westhill, for example, Carl Marino gives one class a traditional "narrative" text in tandem with an "interpretative" text that deals with a number of specific issues, such as Puritanism. Both are then supplemented freely with paperbacks.

Nonliterary materials are also invading the history classroom. At Santa Monica High School in California, Kenneth Keasley uses everything from lectures and records to videotapes and simulation games.

"In my course on the world wars," he reported, "I use a fictitious map and countries and let students figure out various solutions to the underlying problems of the period."

Some say that the passion for "relevance" has reached absurd proportions. Michelle Stevents, a student at Grace King High School in Metairie, La., for instance, noted that her class had put on a fashion show in the course of studying the modern era. "Now is that history?" she asked.

Several teachers reported that, with declining social ferment, schools are pulling back from heavy reliance on mini-courses. In many cases, they are maintained for less able students, but those in the college-bound tracks are directed to more traditional survey courses with considerable factual content.

"You have to tie your approach to what the student can handle," said Jeff Atwood, a teacher at Westhill. "The better students can handle dates. They need them more so that they can have a more complete understanding of history and society."

There seems to be little retreating, however, from the "thematic" approach, and some educators regard this as unfortunate on the ground that it tends to leave students with little sense of chronology.

"It's almost comical," said Jerry West, a professor of American Thought and Language at Michigan State, "Who knows where they'd place Theodore Roosevelt in time. Maybe somewhere near Grant. The way they're being taught now is too general, too simple and too easy. It's a good idea, a coming idea. But the execution is poor."

Others, however, say that the new goals promote a sense of chronology because each time students go through a particular theme they encounter the same basic "periods" of American history.

ISOLATING ASPECTS

Closely related is the charge that the "new social studies" fragments the subject.

"Thematic studies are useful," said Paul Varge of Michigan State. "But the moment you take them, you're taking only one small aspect of history and are isolating that aspect from the rest of society. The students get little sense of the interaction and conflicts that took place throughout history."

Some teachers complain that some students may not be capable of handling "concepts." Philip J. Gibbons, head of the social studies department at Jamaica Plains High School in Boston, explained that he tried to do this in his course on World War II through a combination of lectures, filmstrips, and independent research projects.

"Then I give them an exam and ask about the causes of the war, and I get single-word answers like 'militarism, armaments race and problems of have and have-not nations,' " he said. "They put down a concept, but they don't understand it. It's disappointing."

Bernard Bailyn, a professor of history at Harvard who served as a consultant on the Times survey suggested that, for all the talk about "concepts," teaching has not changed all that much.

While teachers may be dealing with ideas instead of facts, he suggested, they are still teaching by "enumeration."

"The kids have dealt with the enumeration the same way they deal with the facts," he said. "They put it in their books, and they memorize it."

STUDENTS' VIEW OF HISTORY EMPHASIZES THE POSITIVES

(By Edward B. Fiske)

A New York Times survey of 1,856 college freshmen found that students had a generally positive view of their national heritage.

While they find negative as well as positive attributes in American history, they generally think of qualities like "opportunity" and "democracy" as more characteristic of this history than negative ones like "repression" or "immorality." They cite events such as the Emancipation Proclamation as more in keeping with the national character than assassinations and scandals.

By far the most commonly selected quality was "materialism." Ninety-two percent thought that this was either "very" or "somewhat" characteristic of the country, with two-thirds of them putting it in the "very" category. Analysis of how students answered other questions suggested that materialism was not thought of as a "negative" quality.

Not surprisingly, liberals are more critical of the country than conversatives and middle-of-the-roaders, and black students are less enthusiastic about the country than are many whites. However, the racial differences showed up more in the reluctance of blacks to cite positive qualities than in their greater willingness to list negative ones.

The Times Survey of Historical Knowledge and Attitudes was developed in collaboration with Educational Testing Service and given to a carefully chosen cross section of students on 194 campuses last February. Their answers to 42 questions showed that their knowledge of the past was generally limited to "peak" events like the Declaration of Independence.

Statistical analysis showed many differences between students who scored well or poorly on the test. In general, men did better than women and whites better than blacks. Students educated in the south—both blacks and whites—did somewhat less well than those from other regions. In general, students tended to do better on specific questions relating to their own section of the country.

On one question in the attitude survey, students were given a list of 10 traits and asked how characteristic they thought each one was of the span of American history.

The trait of "materialism" transcended most differences of sex, political persuasion, or region. And even though black students did not select it quite as often as white students, they chose it above any of the other nine characteristics.

"IMMORALITY" LOWEST

The quality selected least often was "immorality." Only 11 percent thought of this as "very characteristic" of American history. The next lowest was "repression," which a slight majority, 52 percent, thought of as "somewhat characteristic," but only 12 percent put in the "very" category.

The other national traits—those in the middle after materialism, opportunity and democracy, were in order of preference: violence, justice, religiousness, generosity and inequality.

As a group, whites were more likely than blacks to give weight to the "positive" qualities. More than half the whites, for instance, said that "opportunity" was very characteristic of the American past, while only 29 percent of blacks thought so. The only "positive" trait that blacks thought of as more characteristic was religiousness.

However, the fact that blacks were less likely to pick positive traits did not mean that they were more likely to pick negative ones. They were only slightly more willing than whites to cite repression, violence, inequality and immorality as characteristic of American history.

There were some rather sharp differences politically. Those who identified themselves as liberal were more likely to choose violence and inequality and less likely to select justice and democracy than those in the middle and on the right. Those on the right were more likely than the two other groups to cite generosity and opportunity.

The same general patterns appeared in responses to a question asking students to indicate which of 24 historical events they would include in a brief history as "particularly revealing" or "the character of that history."

Not surprisingly, the most commonly selected were the signing of the Declaration of Independence and the drafting of the Constitution, both of which were included by four-fifths of the students.

Others cited by at least half were in order: the Emancipation Proclamation, entry into the Korean war, the assassination of President John F. Kennedy, the founding of the American Federation of Labor and President Woodrow Wilson's proclamation of neutrality in 1914.

The item checked least was suppression of the Filipino revolt led by Emilio Aguinaldo from 1899 to 1902, which drew only 10 percent of the students. Others cited by less than a quarter were enactment of the Tonkin Gulf Resolution, Shay's Rebellion (the 1786 protest by debt-ridden Massachusetts farmers), and the Credit Mobilier financial scandal of 1872 involving the Union Pacific Railway and top officials in the Grant Administration.

White students were considerably more likely than blacks to pick out major "textbook" events such as the Declaration of Independence and the Constitution, while blacks were more likely to select items relating to their own history. Sixty percent of blacks chose Nat Turner's Rebellion, for instance, in contrast to 25 percent of whites. Blacks also picked the assassination of President Kennedy more by a margin of 77 to 72 percent.

Analysts from Education Testing Service found a number of patterns relating to performance on the section of the survey dealing with historical knowledge.

MEN VERSUS WOMEN

Men, for instance, did consistently better than women. They had an overall mean score of 22, or 52 percent, of the 42 items correct, while women had a mean of 20.2 and a percentage score of 48.

Men did especially well on questions relating to diplomacy, economic matters and military history and, to a lesser extent, politics. The differences were marked, for example, on the questions regarding the Monroe Doctrine, Britain's defeat in the Revolution, the atomic bomb, and the Cold War. Men also outperformed women by 71 to 62 on the question about the feminist movement.

The only question on which women did clearly better than men was a "methods" question asking them to identify the movement of people from blue-collar to white-collar jobs as the best measure of social mobility in the early 20th century.

Whites did consistently better than blacks by an overall average of more than four questions. The white mean score was 21.6, or 51 percent, as opposed to 17.0, or 40 percent, for blacks.

Whites did somewhat better than blacks on the questions dealing with slavery and school desegregation, and on one "black history" question—dealing with black leaders—their margin of superiority was even higher than that for the test as a whole. The one question on which blacks performance was slightly better than whites dealt with parallels between the Korean and Vietnamese wars.

In interpreting these findings regarding sex and race, project personnel at Educational Testing Service noted that males and whites reported a number of background characteristics that, as a general rule, were associated with high scores. For instance, whites reported more exposure to "concepts" in their high-school course as well as a higher level of parental education. Fifty-nine percent of the white students' fathers had post-secondary education, compared with 30 percent for black students.

Nineteen percent of the black students were from vocational high-school programs compared with 10 percent of white students, and the black students tended to be older (30 percent over 20 years, against 15 percent for whites).

A high percentage of blacks—41 percent—were in the South, where scores as a whole were somewhat lower—for whites as well as blacks—than those of the rest of the country. The mean score among Southerners was 20.4, or 49 percent, while those elsewhere ranged from 21.3 to 21.5.

The differences between blacks and whites in socioeconomic factors may explain their difference in test scores, but they do not account for the test differences between men and women. The only background characteristics that seemed related to the lower performance of women students were that they were less likely than men to be history majors, to be taking a college-level history course, or to have liked their high-school history course. Curiously, they reported having higher history grades in high school than men.

Students tended to do especially well on issues related in some way to their own section of the country. Middle Westerners, for instance, achieved relatively high success on the questions involving German and Irish immigration, territories acquired by resolution of boundary disputes, and Henry Ford.

Likewise, Westerners did especially well on Mexican immigration. They also did substantially better than others on several events with no obvious relationship to their region—school desegregation, the Bill of Rights and Populism—while doing worse on religious toleration and the origin of trusts.

Easterners seemed to do best on matters of government and economic policy. They had relatively high success, for example, on progressivism, the New Deal, the Treaty of Versailles and collective bargaining.

Southerners did not do appreciably better on any questions, and they did relatively poorly on several—most notably the one on Reconstruction. Other questions on which Southerners were weak included those on collective bargaining, Italian and Russian immigration, and the New Deal.

HISTORY MAJORS HIGHEST

Scores were also analyzed in relation to the academic field that students said they were planning to enter. Not surprisingly, those intending to be history majors achieved the highest overall score—a mean of 24.3, or 58 percent.

The next-best performers were those majoring in mathematics or science and social science majors, which groups had mean scores of 22.3, or 53 percent. Three quarters of math and the natural science students were men, who achieved high scores generally.

Education majors—many of whom will presumably be teaching the next generation its history—scored near the bottom, with a mean score of 19.7, or 46 percent. Nearly three quarters of education majors were women, compared with only 32 percent of the history majors.

There was no notable difference in the overall performance of students from private schools (including parochial ones) as opposed to public schools. Freshmen who identified themselves as being on the left or right politically had an average combined score of 21.6, or one full point higher than those in the political middle.

Analysts also noted that the more the student knew about American history—as measured by the Times test—the more likely he or she was to think of the past in positive terms. And the less the student knew, the more likely he or she was to cite negative characteristics about the nation's past.

SCORES FOLLOWED NORMAL CURVE

(By Jonathan Friendly)

The scores students received on The New York Times American History Test clustered neatly under what statisticians call a normal, bell-shape curve—some very good students and some very bad students at the extremes and the rest in between.

For example, 101 of the 1,856 freshmen who took the test correctly answered 31 or more questions, while 93 of the students got 12 or fewer right answers. Two-thirds of the students fell in the range of 15 to 27 correct answers, a concentration that test analysts said strongly suggested that there was a normal distribution of good, medium and poor students and of easy, medium and hard questions.

By coincidence, half of the students got at least half of the questions (21 of 42) right, and half got at least half wrong.

In scoring the test, statisticians at Educational Testing Service followed their preferred practice and gave students a credit of one-quarter question correct for each one they omitted. The credit is based on the assumption that, had they guessed at an answer, they had a one in four chance of being right since there were four options in the multiple-choice format. In fact, very few students skipped a large number of questions.

NO CONSENSUS ON "GOOD"

As in many tests, there is no consensus on what constitutes a "good" score. The panel of four historians who were advisers to The Times and Educational Testing Service looked at the results in terms of each individual question. They felt the students had generally done well if 55 percent to 60 percent were correct on an item, but they were not satisfied with that percentage on basic questions about the best-known events.

A panel of 20 prominent Americans got an average of just over 19 correct answers on the first 24 questions, or about 50 percent better than the college freshmen's average of 13.5 on that section.

The chairmen of history departments or coordinators of social science of 18 high schools in and around six major cities said, on the average, that college-bound seniors should get at least 30 questions correct, a level actually achieved by only 138 of the 1,856 freshmen.

The students at the University of Texas in Arlington made the best group showing of any of the 194 colleges whose results were scored. The 11 Texas students got an average of 28.5 correct, with one student as high as 38 and one as low as 17.

TEST HELPS DRIVE HOME STUDENTS' SHORTCOMINGS

(By Jonathan Friendly)

Many of the students who took the New York Times American History Knowledge and Attitude Survey test reported, often with a mixture of shame or bitterness, that it had shown them how much history they did not know.

"After taking this," wrote one student at Belmont College in Nashville, "I think I need to go over my American history. There were several questions I was unsure of but feel I should know because they were simply evident facts."

The students, who were asked to write their comments in the test booklet after they had finished the questions, explained their test performance in a number of ways.

"I place much of the blame for my ignorance on the New York City public school system," wrote a student at Antioch College in Yellow Springs, Ohio. "To look at my grades I'm a success; to examine my actual knowledge, I'm a failure."

Many said that they had learned to memorize facts so that they could pass tests in high school, but that they had found that they had not retained the information. Because of this, a student at St. Cloud State University in St. Cloud, Minn., said, she felt deprived.

"I should have known the answers to all these questions," she said. "I could take part of the blame myself, but I refuse to. The teachers that taught me in high school cheated me out of a good American history education."

Others, however, like a student at Central College in McPherson, Kan., said the subject was irrelevant; "Who cares what went on back then. We have enough to worry about in the future."

One common criticism was that the test slighted the history of minorities—blacks, Indians and women, in particular.

"I know that these groups have not played a large part in the history-making process of the United States of America," said a student at Central Piedmont Community College in Charlotte, N. C., "but I personally would find history more interesting if it portrayed a more truthful picture of the heterogeneousness of American life."

NO "HAPPY TIMES"

"Women's rights were not covered very well, but they aren't covered well in American history classes," commented a freshman at the University of Texas in Austin. And, he added, "the survey generally covered disputes and conflict instead of the happy times that should be remembered in a Bicentennial survey."

The student's concern with minority history translated into a mixed pattern of achievement on the test questions about such topics. About two-thirds of the students knew when women gained the right to vote, and the same number knew the context of the 1954 school descegregation decision.

But, while 47 percent correctly identified the principal opponents in the early 20th century debate over civil rights and the education of blacks, fewer than one student in five knew the aim of Federal policies toward Indians in the late 19th century.

An undergraduate at Georgia Military College in Milledgeville said there should have been more emphasis on the armed forces of the nation, while from the University of Virginia in Charlottesville came the suggestion that there should have been more about westward expansion.

"This movement westward was, and is, the epitome of the American idea of opportunity and abundance that has served as a basis for our thinking up to the present time," the student said.

The students frequently said that more questions should have been asked about events since World War II—the assassination of President John F. Kennedy, Vietnam, space exploration, former President Richard M. Nixon and Watergate were most often mentioned.

Some students were very detailed in their criticism.

An Amherst College freshman said it was "hard to do more than scratch the surface, but included should have been Marshall (important in a conceptual sense, i.e., his court)."

"Bryan and the silver issue should have been more specifically dealt with," he continued, "along with the agrarian revolt and, in a contemporary sense, the implications of alienation in our technocratic society."

At Ferrum College in Ferrum, Va., a freshman came to one conclusion: "Let's face it—DeTocqueville was right. We are mediocre, as doubtless this survey will indicate."

THE STUDENTS IN 1943 VERSUS THE STUDENTS NOW

(By Jonathan Friendly)

College freshmen know as much American history overall as did their counterparts 33 years ago, although the content of what they know has shifted somewhat.

An analysis suggests that if the students who took a New York Times American history test in 1943 had taken the 1976 test instead, they would have performed no better than the current freshmen did.

The results of the two tests cannot be compared directly, because much of the data from the first is no longer available, and it is impossible to say how that sample of students at 36 campuses compared to all freshmen then. The nature of student bodies has changed in the last three decades, first under pressure from returning World War II veterans, later with the proliferation of community colleges and such practices as open admissions.

The new test, however, repeated three items from the 1943 test. The students were asked to write down the names of the Presidents during five wars and to arrange two sets of four events in chronological order.

The ability to identify Lincoln as the Civil War President has increased, with 82 percent of the current freshmen correct on the item, compared with 75 percent in 1943. On the other hand, 70 percent of students in 1943 knew Wilson was President during World War I, compared with 49 percent now.

Both groups had almost identical scores on the three other war Presidents—13 percent for James Madison in the War of 1812 and for James K. Polk in the Mexican War; 16 percent for William McKinley in the Spanish-American war.

On one chronology item, the earlier students outscored the current ones, with 10 percent of the former placing in order the passage of the Homestead Act (1862), Civil Service reform (1883), the War with Spain (1898) and the inauguration of Theodore Roosevelt (1901). Only 3.5 percent of the present students got all four in order.

But today's students outscored their predcessors, 7.3 percent to 6 percent, on the other chronology item, which involved the Nullification Act (1832), the Mexican War (1846), the Compromise of 1850 (dealing with slavery), and the Dred Scott decision (1857).

Some of the new questions touched on themes from the earlier examination, but strict comparisons are risky because the new test required students to rcognize answers in multiple-choice format, while the earlier test required students to recall answers to fill in the blanks.

Forty-four percent of the students in 1943 were able to name two of the powers the Constitution specifically grants to Congress; 26 percent of today's freshmen recognized the regulation of interstate commerce as being one of those powers.

And, on a topic that illustrated a basic difference in the kind of knowledge the two tests tried to measure, 35 percent of the current students correctly identified the aim of the Open Door policy; in 1943, just 15 percent of the students knew that the title of the policy was Open Door.

VOTER POST CARD REGISTRATION

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, September 7, 1976

Mr. HARRY F. BYRD, JR. Mr. President, in a recent editorial, the Richmond Times-Dispatch reviewed the recently passed post card voter registration bill and concluded:

> The post card registration bill is another example of unnecessary Federal intervention into what is basically a State prerogative.

The Times-Dispatch further viewed with both humor and alarm the obvious potential for fraud and abuse which is inherent in this ill-considered proposal. The editor of the editorial page of the Richmond Times-Dispatch is Edward Grimsley. The publisher is David Tennant Bryan.

The editorial quotes Congressman DAWSON MATHIS, who said during the House debates that the Administrator of the proposed Voter Registration Administration should place unlimited quantities of voter registration forms "at the entrances and exits of cemeteries, graveyards, and other final resting places in this country," in order to facilitate what has been a widely used practice in the past; namely, the registration of dead persons.

Mr. President, enactment of this legislation will be bad for election ethics, but it could be a boon to employment. Thousands of unemployed persons could be gainfully, if illegally, employed registering the departed by a massive survey of the cemeteries of this country.

It should be called the tombstone voter registration bill. If it becomes law, and I hope that it will not, it will become known by that unfortunate, but descriptive title.

I ask unanimous consent that the editorial of the Richmond Times-Dispatch, "Postcard Registration," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

POSTCARD REGISTRATION

There was both good and bad in the House of Representatives' recent action on the postcard voter registration bill.

The bad was that the bill was passed.

The good was that the House did amend the measure to eliminate the requirement that the Postal Service mail voter registration postcard forms to every household in the United States at least once every two years. The estimated cost of the program as originally conceived: as much as $500 million every two years.

Democratic presidential candidate Jimmy Carter (who allegedly wants to hold down government expenditures) visited Capitol Hill just prior to House action on the bill not only to lobby for the measure but also to urge that it be passed quickly so that the plan could be put into effect in time for the November 2 election.

But the House handed Mr. Carter his first legislative defeat by dropping the key provision for Postal Service mailing of the cards. Instead, under the amendment adopted, the cards would be made available at post offices and other public buildings, as well as being given out in bulk to groups which request them.

While the amendment improves the bill, the measure is still a totally unjustified one that would add to federal bureaucracy by creating a new Voter Registration Administration. The postcards would permit registration only for federal elections, but the enormous burden placed on local registrars in maintaining separate federal and state lists would virtually force adoption of the system for state elections, too.

Noting that postcard registration could open the door to widespread fraud, Rep. Dawson Mathis, a Democrat from Jimmy Carter's home state of Georgia, offered an amendment to read:

"The administrator is authorized to place or cause to be placed, unlimited quantities of voter registration forms at the entrances and exits of all cemeteries, graveyards and other final resting places."

The amendment was defeated, despite Mr. Mathis' eloquent plea in its behalf. (See the adjoining box.)

The postcard registration proposal is another example of unnecessary federal intervention into what is basically a state prerogative. It is unsound in principle to take the view that it is asking too much of a citizen to go to the trouble of visiting a local registrar in exercising one of the fundamental rights of free people.

Postcard registration could not become law unless the Senate also passed the bill. We hope it doesn't get through that body. If it does, and if President Ford is in office at the time, it almost certainly will be vetoed.

HOUSE OF REPRESENTATIVES—*Wednesday, September 8, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

My soul waits upon God; from Him comes my salvation.—Psalms 62: 1.

God of grace and God of glory, in whose love we find the help we need and by whose wisdom we see the way we ought to take, give to these leaders of our Nation clear vision, clean hands, constructive minds, and creative hearts as they face the grave task and great responsibilities which confront them. Guide their spirits to give the best that they can give and steady their hearts to stand for what is right and good and against all that is wrong and bad.

By Thy grace may they live through this day in glad service, with inner peace and a loving heart.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 3, 1976:

H.R. 3052. An act to amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities;

H.R. 3650. An act to clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes; and

H.R. 13679. An act to provide assistance to the Government of Guam, to guarantee certain obligations of the Guam Power Authority, and for other purposes.

On September 4, 1976:

H.R. 10370. An act to amend the act of January 3, 1975, establishing the Canaveral National Seashore; and

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia.

On September 7, 1976:

H.R. 12261. An act to extend the period during which the Council of the District of Columbia is prohibited from revising the criminal laws of the District; and

H.R. 12455. An act to amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services, to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma; and

H.R. 15371. An act to provide for protection of the spouses of major Presidential and Vice Presidential nominees.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 217) entitled "An act to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1821. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis unit of the Pick-Sloan Missouri Basin program, Kansas, and for other purposes.

S. 2194. An act to authorize the Secretary of the Interior to construct, operate, and maintain the McGee Creek project, Oklahoma, and for other purposes;

S. 3081. An act to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 percent the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes; and

S. 3554. An act to establish a National Commission on Neighborhoods.

ANTI-ISRAEL BUSINESS PRACTICES MUST STOP

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, the lead article in today's Los Angeles Times said that the Oversight and Investigations Subcommittee of the Committee on Interstate and Foreign Commerce has uncovered a shocking sale of $4.4 billion worth of goods to Arab nations covered by the Arab economic boycott of Israel.

The distinguished chairman of the subcommittee, and a colleague, the gentleman from California (Mr. Moss), was quoted as saying "that inadequate steps by executive agencies in dealing with the boycott had compromised American principles of free trade and freedom from religious discrimination."

I agree, and also believe that strict legislation to combat the boycott is needed. In fact, I am a cosponsor of a bill introduced by the gentleman from New York (Mr. KOCH), and a member of the subcommittee, the gentleman from New York (Mr. SCHEUER). This bill would "bar the participation by any American firm in the Arab boycott, by strengthening the Export Administration Act, which was specifically criticized by the subcommittee for being too lax "in requiring companies to file reports on boycott demands."

The Senate has already approved a similar bill—it is time the House do likewise.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation may be permitted to sit today and for the balance of the week during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FTC COMMISSIONER DOLE SHOULD RESIGN

(Mr. EVINS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVINS of Tennessee. Mr. Speaker, the Federal Trade Commission is an arm of the Congress. The Commission was created by an act of Congress with power delegated to carry out the mandate of Congress. It is a judicial and quasi-judicial regulatory agency.

In this connection, I was disturbed to read news reports that Mrs. Elizabeth H. Dole, a member of the Federal Trade Commission, indicated that she had sought from the White House, and presumably the President, a "leave of absence" from her judicial duties to campaign as a Republican for her husband, a candidate for Vice President.

Over the weekend, further news reports indicated that Mrs. Dole has announced that she would take such a "leave of absence" from this important regulatory agency to actively campaign as a Republican in the forthcoming election. Mrs. Dole is reported in the press to have said that her action would set a precedent. It is certainly a bad one—and contrary to longstanding tradition in the Commission that members of the Commission shall not engage in partisan political activities.

Indeed, there is no authorization in law for the President to grant a leave of absence to a Commissioner of a regulatory agency to engage in political activity.

In earlier years, there was an incident at the Federal Trade Commission in which a President indicated to a member of the Commission that he was designating the member as Chairman. The member properly informed the President:

> **Mr. President, there is no authorization in law for you to designate me as Chairman, as the law provides that the Chairman shall be elected by members of the Commission.**

Later, the law was changed by Congress to give the President the limited power to designate a member as Chairman.

In another earlier instance, a President sought to fire and remove a member of the Federal Trade Commission and the Supreme Court ruled that the President had no such power to dismiss a member of the Commission.

Neither is there any authority for the President or anyone to give Mrs. Dole or any member of the Federal Trade Commission a "leave of absence."

As Commissioner, Mrs. Dole was confirmed by the Senate for a specific term of service. In the event she wishes to engage in politics and campaign for her husband, she should resign from the Commission.

In seeking a "leave of absence" from the Commission, Mrs. Dole is acting without legal authority.

In campaigning and taking part in partisan political activity, Mrs. Dole is acting contrary to custom and tradition at the Commission. And, more importantly, the Commissioner, in campaigning, places herself in a position of conflict of interest. This is wrong and contrary to the public interest.

A Commissioner of a regulatory agency should not be appealing for votes from business and industry regulated by the Commission on which a Commissioner serves.

I am sympathetic with Mrs. Dole with respect to the situation confronting her—loyalty to her husband or loyalty to the Commission. However, if this talented Commissioner aspires to be the Second Lady of the land, she should resign from the Commission.

ILYA GLEZER AND HELSINKI

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of families which remain separated because of Soviet emigration policies.

A case history of these families entitled, "Orphans of the Exodus," dramatically details this tragic problem.

At this time, I would like to bring to Members' attention the plight of the Glezer family.

Dr. Ilya Glezer is an eminent biological research scientist with a speciality in neuropathology and research in schizophrenia. Known primarily for his research on the human brain, Dr. Glezer is recognized throughout the world as a brilliant biologist. He was one of the first scientists in the world to employ mathematical methods for research on the human brain and organized the first department of electronic microscope research in the Soviet Union. In addition, he served as lecturer on two faculties of the University of Moscow for 9 years.

Dr. Glezer was arrested in February, 1972, 1 month after he asked permission to emigrate to Israel to join his mother, Mrs. Rebecca Boriskina. He was charged with spreading anti-Soviet propaganda, tried in a closed court, found guilty and sentenced to 3 years of hard labor in prison and 3 years of exile following his release from prison. He was released from prison in February 1975, and is currently serving out his exile in Bogutchany, a small village in remote Siberia.

Dr. Glezer is gravely ill. He suffers from severe liver disease and is going blind. Because of inadequate health care and poor diet, there is great concern over his continued survival in a Siberian climate.

Mr. Speaker, if the Helsinki agreement has any meaning at all to the Soviet authorities, Dr. Glezer and people like him should be free today.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Reserving the right to object, I do not object, Mr. Speaker, except to permission to file the strip mining bill report. I do object to that.

Mr. PEPPER. Mr. Speaker, there are three bills that the committee is considering today: H.R. 13350, to include H.R. 13676 in the conference on H.R. 13350, the ERDA authorization; a rule on H.R 12112, loan guarantees for demonstration of new energy technologies, and the rule on H.R. 13950, surface mining control and reclamation.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, if the gentleman would withdraw his request as to the strip mining bill, I would not object to the others. I do object to that one.

Mr. PEPPER. The gentleman from Maryland does object to the strip mining bill?

Mr. BAUMAN. Yes, sir.

Mr. PEPPER. If the gentleman will yield further, Mr. Speaker, I ask unanimous consent to amend my request to include the other bills but not include the strip mining bill.

Mr. BAUMAN. Mr. Speaker I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

RELEASE OF NAMES OF 12 AMERICAN FLYERS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MONTGOMERY. Mr. Speaker, Over the Labor Day weekend the North Vietnamese presented to our American Embassy in Paris a list of 12 American flyers who lost their lives in the war.

This is a sad report to the families of these Americans and to all Americans.

I would hope that the North Vietnamese will continue to give our Nation information on the other 1,700 Americans we have either missing or bodies not recovered in Southeast Asia.

Our House Select Committee on Missing Persons in Southeast Asia has encouraged talks to begin between the United States and Vietnam pertaining to the Americans missing and also other matters affecting our two countries. Since this announcement was given to the American Embassy in Paris, I would hope that serious talks could be started in Paris between our countries on the MIA issue.

We are entitled to information on these Americans.

PERMISSION TO CONSIDER CONFERENCE REPORT ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATION BILL, ON TOMORROW OR ANY DAY THEREAFTER

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order in the House on tomorrow or any day thereafter to consider the conference report on H.R. 14262, making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Texas tell us why this is necessary?

Mr. MAHON. If the gentleman will yield, the request is made because we are uncertain about a Friday session and we want to clear this conference report this week. The conference report was filed Friday.

Mr. ROUSSELOT. Further reserving the right to object, there is a possibility then that we will not meet on Friday?

Mr. MAHON. I do not know about that but we want to make sure we can consider the conference report this week.

Mr. ROUSSELOT. I thank the chairman. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT DURING 5-MINUTE RULE TODAY

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may be permitted to sit today during the 5-minute rule.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us why this is necessary?

Mr. McFALL. If the gentleman will yield, these are the hearings on the Daniel Schorr question.

Mr. ROUSSELOT. Nothing else?

Mr. McFALL. The information I have from the committee is that it is for that purpose.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of rejection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 15193, DISTRICT OF COLUMBIA APPROPRIATION BILL, 1977

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. Natcher, Giaimo, Stokes, McKay, Burlison of Missouri, Alexander, Mrs. Burke of California, and Messrs. Charles Wilson of Texas, Mahon, Young of Florida, Kemp, Burgener, and Cederberg.

CHAIRMAN OF COMMITTEE ON HOUSE ADMINISTRATION COMPLIMENTED ON FAIRNESS AND EFFECTIVENESS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, since the distinguished gentleman from New Jersey (Mr. Thompson) was elected chairman of the Committee on House Administration, the committee has processed and passed several pieces of legislation marked by unusually vigorous partisan confrontations. I, myself, have stood in forceful opposition to two proposals managed by him.

Those strenuous, partisan debates stemmed only from the nature of the adversary process which is the heart of our political and legislative system. Actually, Mr. Speaker, although I have not agreed with the gentleman from New Jersey very often lately in this Chamber, I take this time to compliment him on the fair and effective way he has chaired the committee since he was elected.

For the first time since I have been on the committee, there is excellent communication and cooperation between majority and minority staff and minority members are occasionally consulted by the chairman. In general, the gentleman from New Jersey is treating all members and all staff with respect, and is managing the committee and its business with fairness and courtesy.

Because the committee has had a recent history of controversy, and acrimony, and because the committee's bills and resolutions have often left something to be desired from the standpoint of careful workmanship, I do want the House to know that I believe those days are over.

I congratulate the distinguished chairman, Mr. Thompson, for his excellent work in rebuliding a spirit of cooperation and effectiveness on this important committee. I assure him that I will continue to attack propositions I believe to be wrong, but I also assure him that he has my admiration, respect, and affection for the splendid job he has done so far.

APPOINTMENT AS MEMBERS OF TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

The SPEAKER. Pursuant to the provisions of section 1(b)(2) Public Law 94-399, the Chair appoints as members of the Temporary Commission on Financial Oversight of the District of Columbia the following Members on the part of the House: Mr. Diggs of Michigan; Mr. Natcher of Kentucky; and Mr. McKinney of Connecticut.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
September 7, 1976.

Hon. Carl Albert,
The Speaker,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:10 p.m. on Tuesday, September 7, 1976, and said to contain a message from the President wherein he transmits the 20th Special Message on Budget Rescissions and Deferrals for FY76.

With kind regards, I am,

Sincerely,

Edmund L. Henshaw, Jr.,
Clerk, U.S. House of Representatives.

20TH SPECIAL MESSAGE ON BUDGET RESCISSIONS AND DEFERRALS FOR FISCAL YEAR 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-601)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $126,750,000 in budget authority available in the transition quarter for the Foreign military credit sales program. Approval of this rescission proposal would reduce Federal spending by $83 million through 1979.

Unusual circumstances not provided for by the Impoundment Control Act of 1974 have brought about the transmission of this special message at a time that will not allow for a 45-day period of continuous session of the Congress prior to the end of the transition period when the affected funds lapse. These circumstances result from the coincidence of (1) the late approval of the Foreign Assistance Appropriations Act, 1976, on June 30, 1976, the eve of the transition quarter, (2) the short duration of the unique transition quarter itself, and (3) the schedule of congressional recesses of more than three days during this period. In view of this unusual situation, I ask the Congress to give prompt consideration to the proposed rescission.

The details of the proposed rescission are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *September 7, 1976.*

SEVENTH QUARTERLY REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Currency and Housing:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the seventh quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the second quarter of 1976 in monitoring both prices and wages and the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses in some detail the Council's study of collective bargaining negotiations for 1976, health costs, steel products, and chemicals as well as its filings before various Federal regulatory agencies.

During the remainder of 1976, the Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

GERALD R. FORD.

THE WHITE HOUSE, *September 8, 1976.*

CONGRESSMAN EVINS OF TENNESSEE ATTACKS SENATOR'S WIFE

(Mr. **DEVINE** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **DEVINE**. Mr. Speaker, I listened with interest when our colleague, the gentleman from Tennessee (Mr. EVINS) made reference to the request for a leave of absence by Mrs. Dole from the Federal Trade Commission.

Mr. Speaker, I doubt whether there were any political implications in the gentleman's remarks, but I was wondering if the gentleman realizes the risk involved. The way the media treats Members of this body, the gentleman is liable to be subjected to a headline in the news media that says "Retiring Congressman Attacks Senator's Wife."

CALL OF THE HOUSE

Mr. **ROUSSELOT**. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

Mr. **O'NEILL**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 694]

Abzug
Addabbo
Alexander
Ambro
Andrews, N.C.
Ashbrook
Badillo
Beard, Tenn.
Boland
Brodhead
Brown, Mich.
Burke, Fla.
Byron
Chappell
Chisholm
Clancy
Clausen,
  Don H.
Conlan
Conyers
Corman
Cotter
Diggs
Dodd
Eckhardt
Eilberg
English
Esch
Eshleman
Evans, Ind.
Fish
Ford, Tenn.
Fuqua
Goldwater
Gonzalez
Green
Hall, Tex.
Hansen
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holtzman
Howe
Hughes
Hungate
Hyde
Jarman
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Lehman
Lujan
Lundine
McCloskey
McCollister
McEwen
McKinney
Matsunaga
Melcher
Milford
Mink
Murphy, Ill.
Murphy, N.Y.
O'Hara
Passman
Paul
Peyser
Rees
Richmond
Riegle
Rodino
Rosenthal
Runnels
Ruppe
Russo
Ryan
St Germain
Scheuer
Sebelius
Shuster
Sisk
Solarz
Spellman
Stanton,
  James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Udall
Ullman
Vander Veen
Walsh
Weaver
Wiggins
Wilson, Bob
Young, Alaska
Zeferetti

The **SPEAKER**. On this rollcall 328 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TODAY

Mr. **O'NEILL**. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with today.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

Mr. **BAUMAN**. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the gentleman from Massachusetts (Mr. O'NEILL) whether he is now able to give us some information as to when the Federal estate tax bill might be brought before the House.

As the gentleman knows, a rule was passed several days ago, the filing deadline for amendments has passed as of last week, and this legislation is a matter of vital concern to small businessmen and farmers all across this Nation, as it is to me and the people I represent.

Mr. **O'NEILL**. Mr. Speaker, anticipating the gentleman's reaction this morning, I have talked to the gentleman from Oregon (Mr. ULLMAN), who is at the present time in conference on the tax bill.

I am sure the gentleman from Maryland (Mr. BAUMAN) is aware that the estate tax bill is in the Senate version of the tax reform bill.

The gentleman from Oregon (Mr. ULLMAN) has told me that as a conferee on the part of the House, he is standing fast against including it in the conference report. He has been unable to review the numerous amendments that would be offered to the bill if it were brought to the floor separately, but he assures me that the estate tax measure will be brought to the floor; and it will include provisions for the farmers and small businessmen, the amendment that was offered by Mr. BURLESON of Texas.

In other words, in accordance with the will of the House, as displayed last week, he will bring it up as quickly as he possibly can.

Mr. **BAUMAN**. Therefore, we do have the assurances of the majority leader that the estate tax bill will be acted upon before the House adjourns in roughly 3 weeks; is that correct?

Mr. **O'NEILL**. Very definitely.

Mr. **BAUMAN**. Mr. Speaker, could the gentleman give us any idea of what the other body will do if we pass it here? I assume that there were some assurances that the other body would also act favorably; is that correct?

Mr. **O'NEILL**. I have not talked with the leadership on the other side, but I do not think that this Congress is going to adjourn without legislation of that type.

Mr. **BAUMAN**. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1977

Mr. **ADAMS**. Mr. Speaker, pursuant to section 305(a), title III, of public law 93-344, the Congressional Budget Act of 1974, and the order of the House of August 26, 1976, I move that the House resolve itself into the committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 728) revising the congressional budget for the U.S. Government for the fiscal year 1977.

GENERAL LEAVE

Mr. Speaker, pending that motion, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of House Concurrent Resolution 728.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 728) revising the congressional budget for the U.S. Government for the fiscal year 1977, with Mr. BOLLING in the chair.

The Clerk read the title of the concurrent resolution.

By unanimous consent, the first reading of the concurrent resolution was dispensed with.

The CHAIRMAN. Pursuant to section 305(a), title 3, Public Law 93-344, of The Congressional Budget Act of 1974, the gentleman from Washington (Mr. ADAMS) will be recognized for 5 hours; and the gentleman from Ohio (Mr. LATTA) will be recognized for 5 hours.

The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of House Concurrent Resolution 728, the second concurrent budget resolution for fiscal year 1977. This resolution revises the first budget resolution, providing the following amounts for the budget aggregates and functional categories in fiscal 1977:

Budget aggregates

[In millions of dollars]

(1) Revenues	$362, 500
(2) Budget authority	452, 583
(3) Outlays	413, 240
(4) Deficit	50, 740
(5) Public debt	700, 000

Functional allocations

[In millions of dollars]

	Function	Budget authority	Outlays
050	National defense	$112, 086	$100, 606
150	International affairs	8, 770	6, 763
250	General science, space, and technology	4, 595	4, 505
300	Natural resources, environment and energy	17, 923	16, 227
350	Agriculture	2, 317	2, 239
400	Commerce and transportation	17, 699	16, 984
450	Community and regional development	9, 584	9, 078
500	Education, training, employment, and social services	23, 884	22, 187
550	Health	40, 527	38, 960
600	Income security	155, 872	137, 000
700	Veterans benefits and services	20, 323	19, 539
750	Law enforcement and justice	3, 490	3, 571
800	General government	3, 556	3, 534
850	Revenue sharing and general purpose fiscal assistance	7, 617	7, 657
900	Interest	40, 400	40, 400
	Allowances	860	910
950	Undistributed offsetting receipts	−16, 920	−16, 920
	Total	452, 583	413, 240

Unlike the first budget resolution, which established nonbinding targets to guide Congress in spending revenue, and debt actions, this resolution establishes a floor on revenues and a ceiling on spending for all subsequent spending and revenue legislation affecting fiscal 1977. After adoption of this resolution it will not be in order to consider any measure which would have the effect of raising total budget authority or total budget outlays above the spending ceilings or pushing total revenues below the revenue floor.

The amounts specified for the various functional categories are not binding for point of order purposes. Rather, they serve as targets which indicate the assumptions underlying the budget aggregates. However, it should be noted that if any of the functional category targets is exceeded, spending in some other category will have to be reduced in order to avoid breaching the overall spending ceilings. The Budget Committee will continue to advise the Members as to the impact of spending and revenue measures on the amounts remaining in the budget resolution.

These limitations and targets are designed to enable Congress to enforce the priority decisions it made in the first and second budget resolutions. Establishing effective congressional control over the expenditures of the Federal Government is a major objective of the Congressional Budget Act.

And in this first year of full implementation of the budget process, we have made substantial progress toward that goal. The success of the process is due, in large part, to the conscientiousness of the committees and Members of this House in adhering to the budget targets and complying with the deadlines and other procedural requirements of the Budget Act.

Our commitment to a vital budget process is clear. In the spring, every committee presented its views and estimates of fiscal 1977 needs by the March 15 deadline. This provided an invaluable baseline for the Budget Committee in marking up the first budget resolution. Throughout the year the legislative committees have worked with the Budget Committee to insure that all bills comply fully with the requirements of the Budget Act, including the new limitations on various forms of back-door spending. And we ended fiscal 1976 with a deficit around $10 billion less than we had anticipated in the second budget resolution for that year.

Although all have contributed to the success of the budget, the Appropriations Committee has worked especially hard to see that all regular appropriations bills are enacted prior to consideration of this resolution. As things stand now, it looks as if for the first time in almost 30 years the fiscal year will begin with all appropriations bills in place.

This accomplishment alone contributes immeasurably to the sound management of our Nation's fiscal affairs.

Despite the responsible performance of Congress in speeding up action on fiscal 1977 spending measures, $14.7 billion out of the $413.2 billion in outlays recommended in this resolution remains to be enacted. For the most part, this sum represents funding for mandatory programs which are generally enacted in the spring supplemental and appropriations for programs not yet authorized.

The amounts provided in this resolution differ only slightly from the amounts targeted in the first budget resolution in the spring. The following chart compares the outlay levels in the first and second resolutions:

COMPARISON OF BUDGET PRIORITIES BY OUTLAYS

[Percentages of total budget]

	Function	President's Jan. 21, 1976 submission	First budget resolution	Second budget resolution recommendation
050	National defense	25.7	24.4	24.3
150	International affairs	1.7	1.6	1.9
250	General science, space, and technology	1.1	1.1	1.1
300	Natural resources, environment, and energy	3.5	3.8	3.9
350	Agriculture	.4	.5	.5
400	Commerce and transportation	4.2	4.3	4.1
450	Community and regional development	1.4	[1] 2.0	2.2
500	Education, training, employment, and social services	4.2	5.5	5.4
550	Health	8.7	9.2	9.4
600	Income security	34.8	33.7	33.2
700	Veterans' benefits and services	4.4	4.7	4.7
750	Law enforcement and justice	.9	.8	.9
800	General government	.9	.8	.9
850	Revenue sharing and general purpose fiscal assistance	1.9	1.8	1.9
900	Interest	10.5	9.8	9.8
	Allowances	.6	[1] .2	.2
950	Undistributed offsetting receipts	−4.8	−4.2	−4.1
	Total	100.0	100.0	100.0

[1] The first budget resolution is adjusted to show the shift of the funds for jobs programs from the allowances to the community and regional development function.

Note: Totals may not add due to rounding.

The $452.6 billion aggregate budget authority ceiling in the second resolution represents a slight reduction from the $454.2 billion budget authority target in the first resolution. The recommended outlay figure is substantially the same as in the first resolution. Revised estimates, changes in House spending actions, and altered assumptions for items yet to be considered have resulted in some changes, but there have been no major shifts in the priorities we adopted last spring.

This resolution proposes a budget deficit for fiscal year 1977 of $50.7 billion, a reduction of $15 billion from the estimated deficit in fiscal 1976 and meets the general guidelines I suggested February 18 ,1976. More importantly, this substantial reduction in the deficit has not come at the expense of vital national needs.

The committee continues to assume that savings will result from program reform in the following areas: the sale of strategic materials, AFDC program reform, and elimination of the 1-percent kicker. If we are serious about establishing controls over Government spending, and if we are to have room in the budget for important new programs, substantial program reforms must become a reality. Congress and its committees must continue to evaluate all existing programs to insure that the people's money is being spent wisely and well.

The resolution sets a floor on fiscal 1977 revenues of $362.5 billion, the same amount as was assumed in the first budget resolution. This recommendation is based on certain assumptions on the economy—set out in detail in the Budget Committee's report accompanying House Concurrent Resolution 728. Additionally, the committee's revenue figures assume the following actions by Congress:

First. An extension through the end of fiscal 1977 of the 1975 individual and corporate tax cuts;

Second. Rejection of the President's proposal to reduce taxes by $11.5 billion while increasing social security taxes by $3.3 billion.

Third. An increase in the unemployment insurance tax rate from 0.5 percent to 0.7 percent, effective January 1, 1977; and

Fourth. Elimination of reduction of existing tax expenditures to realize a $1.6 billion increase in revenues in fiscal year 1977. This amount is equivalent to the level of reductions in tax expenditures which would result from adoption of the tax reform bill (H.R. 10612) as it passed the House.

Of course, realization of these revenue assumptions will depend on congressional action on the pending tax reform bill. While the House-passed version of the bill would realize $1.6 billion in tax expenditure reductions in fiscal 1977 and almost $10 billion over a 5-year period, the Senate version of the bill would have lost huge amounts of revenues.

The bill is now in conference. Fortunately there is every indication the House and Senate conferees will agree on a tax reform bill that will generate a substantial amount of new revenues through the elimination of tax expenditures. With tax expenditures currently totaling over $100 billion per year, the modest reforms provided in the House-passed bill are realistic. We continue to assume that savings realized from reductions in tax expenditures will reach the level provided in the House-passed bill, but if we begin fiscal year 1977 with less than the $1.6 billion we anticipated for reductions in tax expenditures, then we will have to account for the difference in the deficit or by reducing programs.

Finally, this resolution presents the outlines of a sound fiscal policy, designed to sustain the economic recovery without spurring high rates of inflation. The economic goals assumed in the resolution are almost identical to those of the first concurrent budget resolution.

Enactment of the measures anticipated in the resolution is designed to reduce unemployment to approximately 7 percent by the end of 1977, while maintaining a rate of inflation averaging no more than 6 percent in 1976 and 5.5 percent in 1977.

The Budget Committee feels that these goals are realistic in light of the current economic realities. The economy continues to expand moderately, despite a slowdown in the second quarter of 1976. Higher rates of unemployment in June, July, and August and somewhat disappointing growth rates were counterbalanced by strong capital investments, sound inventory to sales ratios, stable rates of inflation, and continuing consumer confidence.

Unacceptably high rates of unemployment remain the Nation's most severe economic problem. Despite the economic growth over the past year, unemployment has been reduced only moderately—from 8.9 percent in April 1975 to 7.9 percent in August 1976. During the same period, total employment increased from 84.3 million to 87.9 million, an indication that the labor force has been growing more rapidly than the jobs market.

This resolution, like the first concurrent budget resolution, focuses a two-pronged attack on unemployment—to sustain and spur the recovery, the committee recommends:

First. Extension of the 1975 tax reductions through fiscal year 1977 in order to maintain strong consumer demand and business activity; and

Second. Adoption of carefully targeted economic stimulus measures which will produce 1 million jobs over the number that would have been created by the President's budget.

Although parts of the economic stimulus package have yet to be considered and funded, the committee believes that enactment of the complete program is essential if we are to make any progress in putting the country back to work. The economic stimulus program provided in this resolution is a sound investment. Your committee wants to take the working men and women of America off the unemployment rolls and put them on the job rolls. This task will not be easy, and it will take time as well as money. But this budget resolution provides a sound and responsible plan to achieve the goals we all agree are necessary.

Mr. Chairman, I urge adoption of the resolution.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, would the gentleman elaborate for the Members a bit on the relationship as the gentleman and the committee see it between the rate of unemployment and the deficit?

Mr. ADAMS. Mr. Chairman, the deficit figure is definitely related to the unemployment rate. As unemployment goes up, the outlays for food stamps, AFDC, and unemployment compensation will rise. We have been able in this budget to reduce unemployment and achieve some savings in those areas. But if the unemployment rate goes up, expenditures for these programs will increase, tax revenues will fall and the deficit figure will rise. That is why we have placed economic stimulus and public service jobs programs in this resolution. The Budget Committee supported the public works jobs bill which aims to provide jobs for people, particularly those who were structurally unemployed.

We have placed in the back of the committee report a chart which shows the correlation between various unemployment, deficit, and gross national product rates.

Mr. MOFFETT. Mr. Chairman, if the gentleman will yield further, if I might add, not on this subject, but of the subject of the general matter before us, this Member has disagreed rather vehemently with some of the targets and a number of other Members have; but given the low public rating this institution has, something like 9 to 10 percent, as that rate goes up, and I think it will, it has no place to go but up, if it does go up, I think it will be in large measure due to the work of the gentleman from Washington (Mr. ADAMS). I know many of the Members feel this way, too.

Mr. Chairman, I would like to thank the gentleman from Washington for the gentleman's work in the last 2 years.

Mr. ADAMS. Mr. Chairman, I thank the gentleman from Connecticut for his support.

Mr. WHALEN. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. WHALEN. Mr. Chairman, I wonder if we could look at the other side of the coin? What is the gentleman's estimate with respect to the contribution of this deficit to the rate of inflation for the coming fiscal year?

Mr. ADAMS. Mr. Chairman, the amount of this deficit, in my opinion, will not affect the inflation rate in the coming year, because of the slack we presently have in the economy. If we were in a situation where we had the economy operating anywhere near full capacity, additional Federal spending in the Federal deficit would tend to be inflationary. The reason the inflation rate dropped so dramatically this last year, as we predicted it would, even though we were carrying the large Federal deficit, was that the Federal Government was trying to substitute for the lack of activity in the private sector.

We are all trying to get the private sector to turn over at a faster and better rate. As that happens, the Federal Government will begin to withdraw back out of the deficit spending stream. However, our projections on the impact of the deficit, and all of the econometric models we have run, show it does not affect the rate of inflation by as much as 0.1 of 1 percent.

Mr. WHALEN. Has the committee analyzed the present 6-percent annual rate of inflation?

Mr. ADAMS. Yes, we have. First, our analysis shows that we are still absorbing the increases caused by the dramatic increases in fuel prices. These are being passed on, for example, in the utility area and many others, to the consumers, and are pushing up prices in this area.

Secondly, food prices have remained high, so that we have not had the traditionally lower rate of increase in that area. We also have felt the effects of the anticipation, or expectation, of people that there would be inflation.

The final factor contributing to inflation is that certain parts of the total economy are geared to percentage increases for inflation, which continues to hold the rate up. All of these factors are causing inflation to continue to be a problem, but we are seeing the rate go down and want to see it go down further.

In answer to the gentleman's question's again, we are not experiencing the traditional inflation of too many dollars chasing too few goods. We have productive capacity in this country that is not being utilized at all and which could easily provide additional goods if there were a demand. Demand is still not that strong.

Mr. WHALEN. If the proposed deficit were reduced by $10 billion, say to approximately $40 billion, what would be the effect on inflation?

Mr. ADAMS. Not measurable.

Mr. WHALEN. What the gentleman is suggesting is that whether we have a deficit of $50 billion or a deficit of $40 billion, the rate of inflation for the ensuing fiscal year would be about the same?

Mr. ADAMS. About the same.

Mr. WHALEN. Has the committee analyzed at all what the effect of a $10 billion cut in the deficit might be with respect to unemployment?

Mr. ADAMS. Yes, and our estimate is that if we were to do that, we would get an increase in unemployment of between one-tenth and two-tenths of 1 percent, depending on how we spend the money. If $10 billion of Federal spending goes into purchases, for example, and to direct job stimulus programs, we will get an increase in the GNP of about $23 billion. If, on the other hand, we give a $10 billion tax cut to businesses, and a good portion of that is either used to pay off existing debts or to set into a more liquid position, then the growth of the GNP could be as small as $3.5 billion.

Mr. WHALEN. Do I understand the gentleman, then, to say that if the deficit is cut by $10 billion to approximately $40 billion, the effect on inflation would be minimal, but it would bring about an increase in unemployment throughout the country?

Mr. ADAMS. That is correct.

Mr. WHALEN. If the gentleman will yield for one additional question, I know that the committee makes budgetary projections for several years in the future to which, of course, the Congress is not committed. What are the projections in terms of deficits and/or surpluses for the next several years?

Mr. ADAMS. On pages 84 and 85 of the report we have gone into that in detail. I refer the gentleman to those pages because we must discuss several variables. If the economy continues to have the kind of growth it has had during the last year, between 5 and 6 percent, then we project that if we adjust all outlays for inflation, we would have a balanced budget in the calendar year 1979–80.

If we use the same projections and we only increase for inflation those programs that are mandatorily increased for inflation in the present Federal budget, such as social security, for example, then we balance the budget in fiscal year 1979.

I point out—and the gentleman was very correct in his question—that this is not any economic 5-year plan. It merely takes the budget as it is and it projects it out over 5 years to show us what would happen if the programs that are presently in existence continue.

Mr. WHALEN. I thank the gentleman for responding to my questions.

May I also take this opportunity to congratulate the gentleman on the fine job he did this morning on the Today Show.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Iowa (Mr. Smith).

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I thought this might be a good place to put to rest this old bugaboo that inflation goes up and down automatically and in concert with the deficit.

A year ago, when the deficit went up by something like $33 billion, the inflation rate was cut by 40 percent. And so they do not go up and down in parallel. Many other factors, which the gentleman mentioned, are more important, than the deficit rate.

Mr. ADAMS. Mr. Chairman, this is really one of the important things in the budget process. I think in the coming years, as this body studies the matter, more and more time will be spent on the in-depth consideration of inflation and unemployment and the kind of mixed economy that we live in. As the gentleman from Iowa so aptly stated, when we ran a study of the inflation rates and the deficit rates for the last 10 years, we did not find a strong correlation between the deficit and the inflation rates. We know, of course, that a continuing deficit will tend to build up an inflation problem, but it is not the sole cause of the problem, by any stretch of the imagination. Placed in that context, the real causes of inflation in the kind of economy that we have now are very complex. They involve every facet of economic life, from administered prices to automatic increases in programs, to the devaluation of the dollar.

Mr. Chairman, it is too soon, I think, for the Congress to handle this problem in this resolution. But I am certainly hopeful that next year, building on the base that we have had, debate will continue on these matters and we will look at the causes of inflation as well as the structure of unemployment.

By the way, the gentleman from Maryland (Mr. Mitchell) has an excellent study that I commend to all of the Members, which examines unemployment and shows that the unemployment rate alone does not necessarily reflect all that is happening in the jobs market. In dealing with unemployment, the Government must be certain that the remedy fits the need.

We have to tailor our programs to meet the demands of both unemployment and inflation. I hope this is what the Congress will aim for over the next few years. In the last few years we have begun to exercise control over our economic destiny. We know what we can do. Now we can start deciding how we want to achieve it.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I agree with the gentleman from Iowa (Mr. Smith) in a limited sense, and I appreciate the reply of the distinguished gentleman from Washington (Mr. Adams).

But there are factors in this inflation phenomena other than deficit spending, and would the gentleman not agree that when we have huge deficit spending in every year except one for the last 16 years, that such spending had definitely had an effect upon inflation?

Mr. ADAMS. It has an effect upon inflation, but I think the Members should be prepared for the fact that if deficit spending ceases, inflation will not automatically go away.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

There is something that puzzles me, and I am sure the gentleman has the answer. Some economists have told us that the best cure for the problem of unemployment of the recession type is a tax cut, and that this can be proved over and over again in our history.

Will the gentleman discourse on that point?

Mr. ADAMS. Mr. Chairman, a tax cut basically can have a one-time jolting effect on the economy.

We are now looking into the effect of business tax cuts and the whole area of tax expenditures. As the Members will notice, in the report at the end of each category there is a little table that shows how much tax money we are, in effect, spending in that area for benefits to particular groups.

We had some question as to how fast

the benefits show up and how effective a tax cut given to business is. Every businessman knows that a tax cut is not helpful to him if he does not have a market. He is looking at the market out there. If the market is good, an automobile company is going to produce automobiles. But to give an automobile company a tax cut when it does not see a market is not going to cause them to produce any more automobiles.

Mrs. FENWICK. Mr. Chairman, I understand what the gentleman is saying, but I was referring to a tax cut for individuals.

Mr. ADAMS. A tax cut to individuals can be helpful, but it attenuates in time, once it is in place, and does not keep turning over and helping the economy. So we must be very careful how we use that device. That is why we did not recommend another one at this point.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I wish to express my general approval of the work of the Committee on the Budget. This was one of my first interests when I came to the Congress of the United States almost 14 years ago. I want to commend the committee generally on its work.

It always has seemed to me that the committee would have the opportunity to discipline spending with this authority to set the top limit on spending. The question I have is with respect to the so-called 1-percent kicker to which the gentleman made reference.

I am just wondering if it would not be possible for this committee in the budget resolution, which we have before us now, to mandate the House with respect to a top limit which would require or encourage or at least influence the elimination of the 1-percent kicker which seems to be so inequitable and which seems to have resulted in unintended results that now seem to be important to correct through stricter budgetary control.

Would the gentleman give me some information on that point?

Mr. ADAMS. Yes. Mr. Chairman, as the gentleman well knows, I favor the elimination of the 1-percent kicker. The reason we did not put in a reconcilation motion on the House side is that every committee of the House has performed its duty as far as this matter is concerned.

The Committee on Post Office and Civil Service brought out the measure. They were prepared to go ahead but were informed that the Senate was not going to move it out.

The Committee on Armed Services has acted. The Committee on International Relations has acted. Therefore, it was rather difficult for us to go to the House committees and say, "We are going to discipline you because the other side will not send back the 1-percent kicker."

However, if I may explain this to the gentleman, with the adoption of this resolution the ceiling on aggregate spending will be in place. We have assumed in this resolution the elimination of the 1-percent kicker. If it is not eliminated in January, the lost savings are going to come out of somebody else's program. I think the Members should understand that.

I have been informed informally by Members of the other body that they intend to pass a 1-percent kicker bill out. The reason they have not passed it out at present is because they feel that there should be some equitable changes in the various Government pay levels. They wanted to spend some more time on it.

Mr. McCLORY. If the gentleman will yield further, the gentleman does recognize, therefore, that the authority exists in the Committee on the Budget to compel or mandate this kind of change by the establishment of a ceiling of this type; is that correct?

Mr. ADAMS. Absolutely. When the spring supplemental comes in this next year, if that 1 percent kicker is not gone, somebody else's program will be affected because it will undoubtedly run up against the spending ceiling. I think that ceiling, incidentally, will hold because it held this year. In fact, we were substantially below it.

Mr. McCLORY. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I have a question on the same basic point. In other words, if the House and Senate do not take the appropriate legislative steps to eliminate this 1 percent kicker, then the discipline of the budget machinery will force an unrelated project to suffer cuts in order to stay under the ceiling; is that correct?

Mr. ADAMS. That is correct.

Mr. DERWINSKI. Therefore, it would be far more logical for the other body to join us in the amendment that we have developed so that we can concentrate on the direct issue at hand and not find an unrelated program subject to an arbitrary cut because of our failure to act at this point on the 1 percent kicker; is that correct?

Mr. ADAMS. That is correct. That is all set forth on page 9 of the committee report, showing what programs are involved.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman for his clarification

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. FINDLEY. On this 1-percent kicker, there will undoubtedly be heavy pressures when the time comes and the budget ceiling which is now in place, which is intended to eliminate the 1-percent kicker, will take effect; there will be pressure to counteract the effect of that ceiling, I assume.

Could the gentleman inform us as to what steps will probably be attempted in order to avoid the impairment that will occur in these other programs because of the 1-percent kicker budget ceiling?

Mr. ADAMS. There are only two alternatives because a point of order would lie if the ceiling is breached. As I have said, one would be to trade off one program against another. The other alternative would be to try to raise the ceiling by having another budget resolution. However, another budget resolution has to come to the floor. It has to be passed by the House and by the Senate. In my opinion, the mood of this House would not support such an undertaking.

Mr. FINDLEY. If the gentleman will yield further, at what time will the crisis come on this?

Mr. ADAMS. When the spring supplemental comes in; in other words, the bill that appropriates the moneys that are remaining outstanding and that have not been appropriated so far.

Mr. FINDLEY. And that must be matched against the budget resolution?

Mr. ADAMS. That must be matched against the budget resolution.

Mr. FINDLEY. If the authority is not there, then a point of order can be made; is that correct?

Mr. ADAMS. Right. In other words, a bill would be subject to a point of order if it caused the overall spending ceilings to be breached.

Mr. FINDLEY. Mr. Chairman, I want to congratulate the gentleman from Washington (Mr. ADAMS) for the leadership he has shown as chairman of the Committee on the Budget.

I look forward to this test period, which may well be the most crucial test of the budget process.

I say this because, as the gentleman knows, there are some pretty powerful currents at work against the elimination of the 1-percent kicker and I hope the budget process sustains the position taken by the Committee on the Budget.

Mr. ADAMS. It will take more than the Committee on the Budget, I think the gentleman is right.

Mr. LATTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I would like to commend the chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS), the staff, and the other members of that committee for their diligence and the many hours of work they have put into this particular resolution.

I would like to say further that I agree with the statement just made by the chairman concerning the discipline this House and the Senate will have to invoke when this resolution goes into place, especially on the 1-percent kicker issue. I just wish we had many other areas in this resolution where we would be disciplining the House and the Senate in its future spending.

I might say, and I have said this before, that when I accepted an assignment on this committee, I viewed my assignment with some thought that perhaps we would be applying more spending restraints on the Congress and that we would be reducing the President's budget rather than increasing it. In this second resolution we are increasing the President's budget by almost the same amount as we did in the first resolution.

I would have preferred to have seen that budget cut.

Mr. Chairman, might I point out the difference between this resolution and the first resolution in outlays is only $60 million, the same amount on the deficit side, a minus $60 million. And I am glad to say, however, that the public debt estimate will be reduced from $713,100,000,000 to roughly $700 billion, but through no efforts by the committee. For the most part, there are very small, minute changes between the first resolution and the second resolution. I find that the people I represent are disturbed by the total amount of Federal spending in this country.

They would like to see it reduced. But in this resolution, the majority has agreed to outlays of $413,240 million for fiscal year 1977. People are also disturbed about the deficit, yet, the majority has programed a deficit for fiscal year 1977 of $50,740 million. I have already alluded to the amount of the Federal deficit programed to be $700 billion, and along with it goes the interest on that debt which in this budget resolution is $40.4 billion. Everyone realizes we are paying for a dead horse when we pay this interest, and that is the third highest item in our budget. It just seems to me that the majority should be joining me in doing more about deficit spending and higher interest payments rather than just talking about it. But before I get into my general remarks on this resolution, I would like to say that I subscribe wholeheartedly to the new budget process. I realize if we did not have this budget process, no one could even guess as to the amount this Congress would be spending in fiscal year 1977. So it has its good points and this is certainly one of the good points, as I see it.

I might say that this particular resolution is $21.17 billion over the President's requested budget authority and $13.27 billion over the President's recommended outlays for 1977. I think the Budget Committee should have devoted most of its time in trying to reduce it. This it did not do.

Mr. Chairman, only a few words are needed to sum up what is wrong with House Concurrent Resolution 728 which is before the House today. It is bad legislation because it puts a stamp of approval on excessive Federal spending and efforts to promote still bigger Government. For such reasons I cannot support this resolution.

The role of the second budget resolution for each fiscal year is to confirm or modify the spending and revenue levels contained in the first, target-setting resolution for such year. This resolution proposes few changes to the first budget resolution for fiscal year 1977. The revenue figure remains the same, budget authority would go down $1.6 billion and outlays and the deficit would continue substantially at their unacceptable high levels. Those who were not in agreement with the first budget resolution for fiscal year 1977 that was approved back in May undoubtedly will not approve of this one either.

The excessive levels to which Government spending could rise under this resolution and the kind of expansion of the Federal Government it contemplates run contrary to the basic concepts of our free enterprise system which has meant so much to achieving real progress and freedom in our Nation. The resolution condones spending policies that could stifle the economic recovery that is underway.

The recession that occurred in 1973 and 1974 was brought on in large part because of a decade and a half of deficit spending. The pressures on the supply and demand situation caused by such overspending, sparked by such added factors as the increases in energy and food prices, finally erupted into inflation. Inflation in turn produced unemployment and the recession was upon us.

Let's not blunder into making the same kind of mistakes all over again. Under the leadership provided by the administration we are experiencing a healthy recovery from the recession. Economic expansion now underway is well into its second year. The rate of inflation has been cut in half to the 5-percent range from 11 percent in 1974. Total employment across the Nation has risen almost 4 million from the low point in March 1975 and stands at a record high today in the total number of persons employed. Personal incomes and consumer purchasing power are up, major indicators of business capital spending are pointing upward, mortgage credit is in good supply, and conditions in the financial market are conducive to continuance of economic expansion.

The lessening of inflationary fears, based on administration leadership which is totally committed to bringing spiraling Federal spending under control, is the undergirding strength for these improvements. I hope we will have the good sense to continue such policies and not succumb to political expediencies and pipe dreams. Although inflation has been cut, it could quickly rise again if we are not careful. Creating massive new Federal Government programs is not the way to insure our future well-being. The economy does not need a "quick fix." We should be moving in exactly the opposite direction. It is the private sector that we must look to for the permanent jobs, for the stability, for the progress and prosperity to which our Nation is entitled.

In rubber-stamping the first budget resolution for fiscal year 1977, this resolution condones a sharply expanding role for the Federal Government. For example, the resolution contains start-up funds for socialistic-type legislation, the Humphrey-Hawkins bill, under which the Government would provide jobs as a matter of right to all adults. Such a program would be very expensive, possibly $30 billion a year or more. The money would be unproductively spent and it would bring with it a terrible maze of Federal regulations and controls. The resolution is loaded with spending stimulus to create public service and public works type jobs, even though spending such as this has in the past proven inferior to allowing the private sector to expand to create jobs. The resolution also encourages the notion of national health insurance which could cost well over $100 billion annually.

In effect the resolution shrugs off the sincere efforts that have been made to cut costs and improve the quality of many Federal programs in several areas, where we have much overlapping and duplication of effort. The President has proposed to consolidate a jumble of nearly 60 programs in the fields of health, education, child nutrition and social services into four bloc grant programs which would increase efficiency and reduce costs. The recommendations have been simply turned aside.

The budget totals in the legislation are based on a rejection of the administration's proposal to cut taxes and let people spend the money themselves as they see fit rather than have the Federal Government do that for them. The President has proposed such steps as raising the personal tax exemption from $750 to $1,000, raising the standard deduction, reducing the tax rate, and making the 10-percent investment tax cut permanent as a means of promoting job creation.

The budget resolution before you today contains little restraint. Instead it accommodates the decade and a half old trend of steep annual increases in Federal spending for new and expanded programs. This occurs despite the damaging spending pattern that has emerged under which there has been nearly a sevenfold growth in Federal income transfer programs since fiscal year 1961. Over the last decade Federal income transfer program costs have risen from about 27 to 50 percent of the total Federal budget.

Inflation still constitutes a serious threat to our economy. Elimination of the disease of inflation must therefore remain a major objective of our economic policy. It is of the utmost importance that Congress cooperate with the administration to maintain a tight control over Federal expenditures. At this stage in the recovery it is important that the Federal deficit be cut substantially so that savings may become sufficiently available for much-needed private investment and so that renewed inflationary pressures may be avoided.

I am in firm support of the new congressional budget process and believe it is essential as a means of gaining improved control of the Federal budget. I believe that the budget process has in fact had a moderating influence on some spending policies contained in the variety of bills that have come before Congress. Much more needs to be accomplished however.

This resolution accommodates the spending patterns that have been all too prevalent over recent years and accommodates also proposed spending programs that are based on questionable notions of social need or on the mistaken view that we can hasten the recovery without reigniting inflation. We should reject such efforts, and bring this legislation into line with sound fiscal policies.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield so as to permit me to return to the question of the 1-percent kicker?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. FINDLEY. Could the gentleman tell me if the Treasury Department is presently authorized to make 1 percent kicker payments to Federal retirees notwithstanding the position that has been taken by the Congress in connection with the budget resolution?

Mr. LATTA. We are dealing with the 1977 budget.

Mr. FINDLEY. This deals only with fiscal 1977, which ends on October 1, 1977?

Mr. LATTA. Yes.

Mr. FINDLEY. So that discipline on the 1-percent kicker will not take effect until fiscal 1977 as a result of the budget process; is that correct?

Mr. LATTA. That is correct.

Mr. McCLORY. Mr. Chairman, will the gentleman yield for a question along that same general line?

Mr. LATTA. Certainly, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the gentleman from Ohio indicated that he wished that the committee had invoked discipline with respect to other areas in addition to the 1-percent kicker. The question I have is this: Is it not true that the Committees on the Budget of the House and of the Senate, through the operation of the congressional budget authority, have the right to establish top limits on spending with regard to the authorizations and appropriations passed by the House and the Senate with respect to all functions of the Government?

Mr. LATTA. It is within our jurisdiction to do that.

Mr. McCLORY. And if the gentleman from Ohio will yield further, it is the gentleman's statement that except with respect to the 1-percent kicker and maybe some other categories that the gentleman will refer to, that the committee has failed to exercise this kind of disciplinary authority that it possesses?

Mr. LATTA. That is correct.

Mr. McCLORY. I thank the gentleman.

Mr. ADAMS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I rise in strong support of House Concurrent Resolution 728, the second budget resolution for fiscal year 1977. Building upon the work of the Congress to date, I believe we have constructed a congressional budget that is both responsive to the needs of the economy and responsible in terms of moving toward a balanced budget.

As a member of the Budget Committee, I know how much effort the members of our committee and our able chairman, BROCK ADAMS, have devoted to assuring the success of the Congress first year of full implementation of the Budget Act. Great credit must go as well to the House committees, all of which have labored long and hard to meet the tight schedules the Budget Act imposes. Special commendation is also due the Appropriations Committee: Under the leadership of Chairman MAHON, there is a reasonable likelihood that all regular appropriations bills will be enacted by the start of the new fiscal year, the first time this will have happened since 1948.

It is, of course, tempting to assert that the congressional budget process is now out of the woods, that balanced budgets—indeed, even surpluses—soon will abound, and that ample funds will be available for new initiatives such as improved health care. Perhaps so. But I want to stress most strongly that these outcomes are not inevitable unless we and successive Congresses make them happen. While we quite properly congratulate ourselves today on our collective achievements with respect to the new budget process, we should also recognize that in certain areas, we have taken only first steps.

These areas involve major reforms in our spending programs and tax structure. The first resolution assumed savings through legislative action of approximately $3 billion in fiscal year 1977. These savings would have amounted to nearly $26 billion over the 5-year period of fiscal years 1977 to 1981. Unfortunately, we have had to reassess the likelihood of achieving these savings, and have reluctantly concluded that we would be able this year to save only half of the targeted amount—$1.4 billion.

There are many reasons why these savings were not achieved. Most committees tried hard to report and pass such legislation. Yet some committees were, in my judgment, less than wholehearted in their efforts.

The fact is that automatic growth of the so-called uncontrollable entitlement programs erodes both our control and our capacity to make decisions about new or expanded programs. Everyone is for reform in general; few want to actually reduce benefits, pay, or services. But that, on a sound and selective basis, is what must be done.

Perhaps the savings assumptions in the first resolution were not the best ones in terms of feasibility or the preferences of the committees of jurisdiction. If so, I would hope that in their recommendations to the Budget Committee next March 15, our House committees will include more of their own ideas as to where savings might reasonably be achieved. And then let us work together to achieve them.

The same is true in the revenue area. With commendable zeal, the Ways and Means Committee produced a tax bill that would raise, over a 5-year period, nearly $10 billion through the reform of tax loopholes. The Senate bill, on the other hand, would increase the revenue losses through the tax structure by nearly $10 billion. Of course, this difference will be narrowed by the conferees on the tax bill.

Mr. LATTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, as a member of the Budget Committee, I fully realize the difficulty in bringing out a budget resolution which is realistic and, at the same time, is fiscally responsible. In bringing out this resolution calling for deficit spending in the amount of $50.7 billion for fiscal 1977 and a total Federal debt of $700 billion, the committee may well be realistic, but it has not acted responsibly. Accordingly, I shall vote against the resolution.

This resolution is very similar to the first resolution for fiscal 1977, which I also opposed. As noted in the committee report, the recommended spending priorities are little changed. Approximately one-fourth of the budget would be spent for national defense, while nearly 53 percent would be for human resources programs.

The majority of the committee has again opted for economic stimulus provided mainly by the Federal Government through continued high taxation and spending, rather than letting the American people make their own spending decisions. And that, in a nutshell, is the difference between the majority and those of us who signed the minority report.

I reject the majority's assumption, which is evident throughout the majority report, that the Federal Government can and should lead the way back to economic health. To accept that would be to agree that the cause of the recent economic slump can also be the cure.

After the many hours of hearings and meetings I have attended as a member of this committee and the Appropriations Committee, I am convinced that the major reason for the recession was consumer and investor caution because of inflation. And inflation was a direct result of continued deficit spending by the Federal Government.

I believe that President Ford has been proven correct over the last 2 years in his attempts, through vetoes and other actions, to maintain a lower Federal Government profile in our economy so that investors and consumers alike could have confidence that high rates of inflation were not a permanent feature of American life. Any real improvement in productivity and employment over the long run is dependent on this renewed confidence. Artificial measures, such as the continued high levels of deficit spending called for in this resolution, will not only delay that improvement, but may well endanger it altogether.

The majority of this committee, assisted by a large staff, is taking the wrong road to economic health. They are applying a "band-aid" of Federal spending, rather than trying to cure the disease and prevent further infection. Instead of lowering the Federal profile in our economy, they have included start-up funds in this resolution for the Humphrey-Hawkins program of a Government-directed economy. Instead of addressing the serious problems in existing Federal health insurance programs, such as medicaid, they have included start-up funds for a vastly larger and more expensive program of compulsory national health insurance.

This resolution, in conclusion, ignores what the American people are telling us. They are saying: "Leave us alone. Let us spend our own money the way we want. Cut our taxes, and cut Federal spending." I urge you to defeat this resolution so that the committee can then better respond to these demands.

Mr. ADAMS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, the second budget resolution, setting expenditure ceilings and a revenue floor for fiscal year 1977, places all of us who are a part of this new process in a difficult and paradoxical position. I support the resolution because it ushers in a new era of realism, of knowing the facts about the roots of our economic problems. My enthusiasm, however, is tempered by our inability—or perhaps failure—to act decisively and boldly enough on the question of unemployment and on the question with regard to balancing the budget.

The unemployment problem, I believe, merits our special attention and analysis. At the proper time I am going to ask permission to insert four tables into the RECORD.

The first table I shall include reveals that the unemployment in the country is again rising to what it was in the first quarter of 1975; to wit, 7.9 percent; or 8 million-plus unemployed in the country. Table 2 reveals the situation in California, in my congressional district, where it is in excess of 10 percent unemployed. My situation is very much like the situation which presents itself in many parts of the country. We have got other tables which describe unemployment in certain special categories or minorities such as teenagers, which were 37 percent for 1976. In many areas of the country, it is 50 to 70 percent, and in those areas I think we can say simply that capitalism and democracy are not working, and we have got to do something about it.

Specifically, a national unemployment rate of 7.5 percent exceeds the ideal rate of 4 or 4.5 percent by some 3 percent, and if we recognize that we lose income at the rate of approximately $14 billion for every 1 percent of unemployment, and if we have a basket effect of food stamps and unemployment insurance and welfare of $2 to $5 billion for every 1 percent of unemployment, it is readily apparent that we would have on the order of a $50 to $60 billion difference in our overall deficit were we to have a level of unemployment approaching 4 percent, which many of us consider to be tolerable and reasonable.

Stated another way, had we in the Congress been able to solve the unemployment problem and reduce it to 4 percent, then we would have a budget surplus at the present time. This is the answer to those who claim that deficit spending is inflationary and who wish to reduce what, unquestionably, has become an unreasonable tax burden.

It has been pointed out by several of my colleagues on the committee that we have been playing the wrong kind of economic game; that reducing the current unemployment levels poses no threat of rekindling inflation until we get below 5 percent, and we are nowhere near that point yet.

Congress, however, has made the principal effort to put people back to work. The figures do not lie. Last year, for example, we targeted funds for 1.6 million jobs. Did we get it? The answer is negative. During the period of high unemployment, the President vetoed the Emergency Employment Appropriations Act. Basically, the President said that we cannot afford to put people back to work because the deficit is simply too high. This makes no economic sense to us on the majority side.

By the time of last year's second resolution, we provided funds for 940,000 jobs above the President's request, but the President had vetoed the Labor-HEW bill for 1976, and although we did override the veto, the delay was costly in job creation.

Even with the vetoes and the threat of vetoes during the first session of the 94th Congress, we added to the President's budget $6.5 million in budget authority and $2.4 million in outlays that created over 550,000 jobs in this country which the President did not ask for, but which everybody is trying to claim credit for.

Of this total, 295,000 jobs were in public service, 7,500 in summer youth employment, and 7,500 were in EPA; 240,000 jobs were created as a result of a more liberal policy with respect to housing, but the construction industry still suffers from unemployment of 17 to 20 percent unemployment rate. And in my State, I assure the Members that it is higher than that.

Congress in this year targeted 1.1 million jobs above the President's request. In table 3, which I will incorporate, I will itemize exactly what we requested. Again, we were confronted with vetoes and threats of vetoes. The Public Works Employment Act of 1975 was vetoed. That bill would have created 600,000 to 800,000 jobs. Unfortunately, we did not get the 600,000 to 800,000 jobs. The President then vetoed a compromise measure, the Public Works Employment Act of 1976, which we were able to override. Because of the compromise, the veto and the subsequent delay, the best we can hope for is 160,000 jobs. Table 3 also specifies the congressionally added economic stimulus for fiscal year 1977 in this resolution.

Despite the efforts of the Congress, the record is indeed sorry and sad. The Nixon-Ford administrations have shown an appalling unconcern for the economic well-being of the people of this country. I cannot keep from saying to my colleagues that our time has run out.

I realize fully that the solutions are not easy and no one approach will solve all of our problems.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, we face a tremendous difficulty in what is termed structural unemployment, and by that I mean the particular difficulties encountered by the young people, minorities, women, and older people. I will place at the end of my statement a table that will indicate the high rate of unemployment in specific categories. Therefore, we need programs specifically designated and targeted for these groups.

Another dimension of the unemployment problem relates to the large number of discouraged people who are totally outside the labor force, and they are the 2 million to 3 million people that George Meany and many other people keep talking about that we do not even include in the unemployment statistics today. I am convinced that these people have skills that could be utilized to increase productivity as well as to enrich individual and family lives. It is a shame that these people are virtually without representation when it comes to job creation programs.

Still another problem associated with unemployment is what is called disemployment. Forcing people on welfare because of lack of jobs has created economic disincentives. Welfare recipients often feel they cannot afford to go on the payroll because the economy will not allow them to hold their jobs long enough to make it worthwhile. I believe now as I always have that the overwhelming majority of our people have a work ethic, that they would rather be employed than unemployed; that they would rather receive a paycheck and buy their own food than cash in food stamps.

Our committee has endorsed the Humphrey-Hawkins concept of full employment. This is one effort.

Can we sit around and say that this country needs no planning whatsoever when we have 7.9 percent unemployed? Can we say, "Well, the private sector is going to take care of this in a year or 2 years or 3 years"? People are not standing still. This Congress might be standing still, but people are claiming welfare and they are claiming their rights, and they are committing crimes because they have to eat. We have to do something about this.

I say this: If a bipartisan program cannot work to give us direction, then we will have to abort the current procedure and set up a program that will not be quite so nice but at least we will set up some targets that we on the majority side think are realistic and will work and will give some hope to the new working people who are coming into our social system today. We have a program that does not work. I think we have to address ourselves very seriously to the problem.

The Budget Committee has, as stated above, provided for numerous job creating programs which we ask you to endorse today for fiscal year 1977. I must say, however, that I agree wholeheartedly with Chairman ADAMS that we cannot substitute well-meaning rhetoric for direct action. If unemployment does not begin to come down and to come down soon, then a third budget resolution may be necessary to provide the fiscal flexibility for Congress to act boldly and decisively.

With these caveats in mind, I urge my colleagues in the House of Representatives to vote for this resolution.

The tables I have referred to are as follows:

TABLE I.—*National unemployment rate, Yearly average—Percent unemployment, all civilian workers*

1974	5.6
1975	8.5
1976 (as of August 1976)	7.6

(Current unemployment—7.9.)

TABLE II.—*Unemployment rate for California and the City of Sacramento—Yearly average*

[Percent unemployment]

	California	Sacramento
1974	7.6	7.6
1975	9.0	9.0
1976 (as of August 1976)	9.9	9.9

TABLE III

Function and item	1st resolution conference: Budget authority	1st resolution conference: Outlays	1st resolution conference: Jobs (thousands)	2d resolution report: Budget authority	2d resolution report: Outlays	2d resolution report: Jobs (thousands)
Direct jobs:						
450 Antirecession assistance				$938	$1,250	120
500 Public service jobs [1]						
Summer youth						
Older Americans employment	$4,826	$3,571	471	4,392	3,060	408
Comprehensive employment and training jobs (CETA I)						
Job opportunities program						
450 and allowances: Job stimulus	3,050	1,950	195			
Indirect jobs:						
300 Increase for EPA construction grants	[2] 1,500	100	8	200	24	2
Increase for water resources public works program	400	300	23	315	282	21
400 Acceleration of highway program above administration proposal	(3)	85	28	(4)	170	46
Extension of Emergency Housing Act	[5] 3,000		400	[5] 3,000		400
450 Accelerated public works				2,000	600	40
Total	12,776	6,006	1,125	10,845	5,386	1,037

[1] Includes administration fiscal year supplemental 1977 request made subsequent to 1st budget resolution.

[2] Estimated obligations in fiscal year 1977 from newly provided EPA budget authority.

[3] $500,000,000 of prior year budget authority in addition to President's budget.

[4] $1,000,000,000 of prior year budget authority in addition to President's budget.

[5] Assumes the utilization of the $2,000,000,000 in GNMA funds now available.

TABLE IV.—SELECTED UNEMPLOYMENT STATISTICS, NATIONAL AVERAGES

	Unemployment rate, annual percent: 1974	1975	1976
Females	6.7	9.3	8.6
Females, nonwhite (aged 20 yr and over)	8.4	11.5	11.2
Males	4.9	7.9	6.9
Males, nonwhite (aged 20 yr and over)	6.9	11.7	10.4
Nonwhite races	9.9	13.9	13.1
Nonwhite races (aged 16 through 19 yrs)	32.8	36.9	37.3
Household heads	3.3	5.8	5.0
Wage and salary workers (construction)	10.8	18.4	16.0

Mr. ADAMS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Chairman, I rise in support of the second concurrent resolution presented by the Committee on the Budget which establishes expenditure ceilings and a revenue floor for fiscal year 1977.

In my opinion, the new budget process has, on balance, been a very good thing.

Mr. Chairman, it has helped Members understand our economy. By translating mere rhetoric into specific guidelines contained in these resolutions, we can see more clearly how our specific program decisions affect our overall budgetary situation. Every Member and every committee has been more conscious of both the short-term and long-term implications of their decisions as a result of this new process.

I applaud the efforts of the Budget Committee to set for the Congress consideration a set of national priorities of its own making. We can see in this resolution the more positive efforts of the Congress in uplifting a sagging economy by providing approximately a million jobs over and above the President's request. The Budget Committee, in this resolution, demonstrates that Congress is capable of self-discipline by holding to the targets it set for itself 4 months ago.

I must admit that I have had serious reservations about the efficacy of the new budget process. I have, however, tried to keep an open mind, offering criticism when I felt it was deserved and praise for its accomplishments. I think there are still some shortcomings. The balance between the legitimate prerogatives of the standing committees and the responsibilities of the new Budget Committee is very delicate. This balance will require our constant attention. I commend the work of Chairman ADAMS and the members of his committee in implementing this very difficult and sensitive set of new procedures. I shall support this resolution.

However, Mr. Chairman, having said this, I wish to say that I have some reservations about the activities of the Congressional Budget Office. These reservations come principally from rumors but I would like to ask the gentleman from Washington (Mr. ADAMS), the chairman of the committee, three or four questions about the activities of the CBO in an effort to determine if the rumors which have come to my attention or the stories which I have heard have any foundation.

First, before I ask this question, I will ask the chairman of the committee if he can tell me this: Does his committee have jurisdiction over the CBO to any extent so that he can determine what its activities are?

Mr. ADAMS. Mr. Chairman, if the gentleman will yield, we have jurisdiction to conduct oversight hearings, and we have conducted oversight hearings twice this year, in addition to the hearings that are held by the Subcommittee on Legislative Matters of the Committee on Appropriations.

The CBO is, however, an independent agency in the sense that the Director, once appointed by the Speaker and by the President of the Senate, is an independent person and serves for a 4-year term and thereafter hires people, and neither the House nor the Senate committees have the right to say whether they can be hired or not hired. By appropriations, however, the total number of employees can be controlled.

Mr. CHARLES H. WILSON of California. Mr. Chairman, is the gentleman aware as to whether or not the new Budget Office is providing a training and educational program for its employees at congressional expense? When I say, "training and educational," I am talking about actual tuition charges at universities for staff members of the CBO to obtain higher degrees.

Mr. ADAMS. No, we are not aware of that. If the gentleman is aware of that, I would appreciate his directing that information to me by letter, and I will make direct inquiry. We have no knowledge of that, and it was not revealed in our oversight hearings.

Mr. CHARLES H. WILSON of California. I will attempt to get the information specifically and direct it to the gentleman.

Mr. Chairman, does the gentleman have any knowledge as to whether or not the Congressional Budget Office spends considerable staff time and money on projects unrelated to its basic function of tracking congressional expenditures? I am talking about so-called policy studies.

Mr. ADAMS. They do not. We have been very careful to keep a list of all policy studies they have been making. However, the requirement of the Budget Act is that the Congressional Budget Office upon request of the appropriate committees of the House or the Senate respond with a policy study. By that I mean they are required to respond to what the committees have asked them to do.

Therefore, when the gentleman says he has seen reports of policy studies made by the CBO, I am sure he will find these have not been self-generating. The arrangement between the House and the Senate Budget Committees as to the CBO has been that they do not do so-called independent studies. They prepare their economic report, which they are required to do each year, their analysis on current services budgeting, an analysis prior to the second budget resolution on aspects of the economy, and they reply to specific requests of committee chairmen or of members of the Committee on the Budget and the Budget Committee task force chairmen.

Mr. CHARLES H. WILSON of California. Is it necessary, in the gentleman's opinion, to have this office conduct press conferences, or is it the gentleman's opinion that any press conference on the congressional budget should be conducted by the committee itself?

Mr. ADAMS. These press conferences basically have occurred because the press has been interested in the Congressional Budget Office as an independent agency. The Director has, on occasion, found it was easier to have a press conference than to go to the point of responding to each individual request that comes in with regard to a particular item.

We have discussed this, and have discouraged the holding of press conferences, simply because it creates a certain amount of confusion. When we have a House Committee on the Budget and a Senate Committee on the Budget, the public becomes confused as to actually what the Congressional Budget Office is. They often think it is part of the House or Senate Committee on the Budget, which it is not.

Mr. CHARLES H. WILSON of California. As my last question, it has come to my attention that some of the higher-paid employees—and I have one in particular in mind, who makes approximately $30,000 a year—are assigned tasks such as running the Xerox machine. He devotes the principal part of his time in doing Xerox work for other staff members.

Is the gentleman aware of any practices such as this one?

Mr. ADAMS. I am not. If the gentleman would submit to me the specific information, we would certainly make it part of our oversight responsibility.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I thank the gentleman from Washington (Mr. Adams).

I think the conduct of the CBO could hurt the process that he has worked so hard to build.

Mr. Chairman, I appreciate the responses of the gentleman from Washington to these inquiries.

I am concerned about the activities of the CBO, and I hope it will not do anything to hurt the process that has been going along so well now, in my opinion.

Mr. Chairman, again I want to state that I will support the resolution, and I thank the gentleman for yielding.

Mr. ADAMS. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. Giaimo).

Mr. GIAIMO. Mr. Chairman, the second budget resolution, which establishes expenditure ceilings and a revenue floor for fiscal year 1977, marks the end of the first year of full implementation of the congressional budget process. To my mind, no reform or change in the congressional procedure can compare with the profound impact on the public of the Congress setting its own budget priorities and tracking to the dollar its own expenditure ceilings. It signifies to me, and I hope it does to all Members, that at long last Congress has gained an effective mechanism to control the budget and to formulate policy in response to current economic conditions.

The task of establishing this new process has been the responsibility of all of us in the House of Representatives. Standing committees of the House of Representatives and the other body have had to meet, and have indeed met, deadlines on reporting legislation that the critics said heretofore they could not do. As the formulation of macroeconomic policies became clear to the relevant congressional committees, and by this I mean setting the targets for total Federal expenditures and budget authority, they responded by keeping programs in their jurisdiction within the boundaries of the committee's budget allocations.

True, we have not balanced the budget, but we have learned that high unemployment will make a balanced budget virtually impossible. True, we have not controlled all expenditures, but we know which ones present the greatest problem, and we are beginning to learn what to do about it. True, we have not solved all the problems necessary to make programs effective and efficient, but we now have a basis for knowing which ones need immediate attention.

Much has been done to make this process work. The chairman of our committee (Mr. Adams) has devoted his attention to this task. Many Members have set aside their own priorities in order to support the budgetary process because they believed, as I do, that this was the only way the Congress could have a voice, a meaningful voice, in the formation of public policy.

I cannot say that we have done this without criticism or ruffled feelings. The role of the Committee on the Budget is a highly sensitive one. It is a new dimension superimposed on the existing organizational structure of the Congress, with all that that can connote. The Committee on the Budget of the House of Representatives is dependent almost entirely upon the cooperation and support of all of the other committees of the Congress. This support has been forthcoming, due, in large measure, to the effective work and the ability and integrity of our chairman, the gentleman from Washington (Mr. Adams).

I repeat, I hope it continues in the future.

Despite all that has been done, the budget process is still very new and very delicate. Careful attention must always be given to the delicacy of the process.

I cannot stress that enough.

By this I mean that we must always endeavor to focus in the budget resolution on the broad macroeconomic policies and conditions and avoid, insofar as possible, any erosion of the responsibilities of the appropriate units of Congress to deal directly with individual program decisions. The figures contained in this resolution, which are amazingly close to the targets we set for ourselves 4 months ago, indicate that we are capable of self-discipline at controlling expenditures while, at the same time, making reasonable efforts to direct funds where they are most needed.

I urge all Members to support this resolution.

Mr. ADAMS. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. Mitchell).

Mr. MITCHELL of Maryland. Mr. Chairman, I would commend to the Members of the House a reading of the supplemental views in the budget report, the views submitted by the gentleman from Ohio (Mr. Stokes) and myself because those views, it seems to me, will add on to and be supportive of the comments made by some of my colleagues who serve on the Committee on the Budget. I refer to those comments dealing with the necessity for us to address the problem of chronic, endemic unemployment in this country.

I am going to support the budget resolution, perhaps not with as much enthusiasm as my chairman, the gentleman from Washington (Mr. Adams), would like me to show, but the gentleman understands what my problems are. I do think the budget process is working. I think the gentleman from Washington and all members of the committee have performed a magnificent service for this body. I would caution, however, that no one should begin to look at the House Committee on the Budget as any miracle-working process. It is ridiculous to start selling the idea that we are going to achieve a balanced budget next year or the following year. It is ridiculous to mislead the American public into assuming that, somehow or other, we are going to take 10, 12, or 20 years of program development in a given area and suddenly abolish that program. If we did that, we would reduce the country to a shambles. What I am trying to suggest is that the economies hopefully to be effected by the Committee on the Budget will come through a long and slow process. That is the way it has to be.

I for one am delighted over the fact that the House Committee on the Budget is beginning to look at the efficacy of a zero-based budget approach. Even there, however, we are not going into this wholesale and across-the-board, zero-based budgetary does represent, at least in my opinion, the first approach to the overall objective of the House Committee on the Budget and that is to reduce Government spending and at the same time provide services to people who need those services. Considering the very unique situation that the Committee on the Budget confronted during the last 2 years, inflation and unemployment resulting from a depression-recession, I think the committee had no choice save to address itself to the problem of unemployment associated with the depression-recession that hopefully we are coming out of now.

However, I would hope that in this coming next session of work for the Budget Committee we get serious about the task of ending structural unemployment in this country. Structural unemployment has nothing at all to do with the unemployment associated with the depression-recession. That is the unemployment that has been here since 1932. That is the group of unemployed in this country, the numbers of which have been growing constantly. We have to deal with those persons who have never had a meaningful work experience in their lives.

It borders on insanity for the Members of this body to talk about cutting food stamps, cutting welfare, cutting housing programs, and at the same time not addressing the problem of chronic, endemic unemployment. I would respectfully urge that that be our highest priority next year. This country will never enjoy the kind of economic growth that it is capable of; this Congress will never be able to deal with a budget as effectively as it has the capability of doing, until and unless such time arrives when we address the problem of structural, functional, chronic unemployment.

The Members know and have seen evidence of it as well as I have. They know what we pay for it. Many times I have taken to this well to lay out some of the costs. What is the cost of crime per year in America? How much of that crime is associated with unemployment? What is the cost of LEAA, designed to reduce crime?

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. ADAMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman.

Just in that one category we heard on the floor the other day, during the LEAA debate, that generally it is an ineffective program. We are spending money on that; we are spending money on prisons; we are spending money on parole and probation officers. If we add up the total, it is an astronomical sum. It costs a great deal more to treat the symptoms ineffectively, as we have been doing, than it would to provide the jobs.

Many, many times the Members have heard me take to this well to spell out the psychological damage done to a country by perpetuating structural, functional unemployment. When I talk about the psychological damage, I am talking about what unemployment does to the work ethic of people who have never had a job and have no prospects of getting jobs. When I talk about the psychological damage done to a country, I am talking about what does it mean always to be the recipient of something rather than being a giver to a system. Forgive me if I raise my voice a bit on this, but I have been in this Congress 6 years, and in the time that I have been here, no one program, no one committee, no one agency of Government, not the Congress, not the White House, no one in Government has really addressed this problem that is eating at the vitals of America—structural, functional unemployment. Until we do, we are going to be paying a price. I will support the budget resolution with the hope that the area I have just spoken about will be the highest priority for consideration next year.

Mr. Chairman, I yield back the remainder of my time.

Mr. ADAMS. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Chairman, I rise in support of the second budget resolution, and I ask the Members to support it. I ask the Members to support it as an affirmative measure and as an affirmative part of the 94th Congress. I know my colleague, the gentleman from Connecticut (Mr. MOFFETT), mentioned that the credibility and the rating of Congress was somewhat low these days. I suggest to the Members that it might not be quite as low if we would carry back the message of the budget process to the people of this country and the part that this Congress at large has had in making this budget process work.

When the 94th Congress began, there was double-digit inflation. There was over 9-percent unemployment. The inflation is down to the 5-percent to 6-percent range today. Unemployment is not as low as I would like it and is not as low as most of us would like it. I do not mean to stand here and give all of the credit for that to the Congress nor to the Budget Committee, but I think that this is an example of an enlightened Congress, an enlightened Federal Government working hand in hand with the private sector, a strong and viable private sector, to bring us out of what has been the greatest economic catastrophe that we have suffered in this century.

For the first time in the history of this Congress—and there have been many attempts made to do so—for 2 years we now have a floor on revenues and we have a ceiling on expenditures and we have a set of priorities and a vehicle by which we can exercise in the Congress our influence and judgment in setting these priorities and bringing them to a satisfactory conclusion.

For the first time the Congress is participating in long-term budgetary planning, and that means different things to different people. To some of us it means that maybe one of these days we will have a budget that will have expenditures and receipts somewhat in line. But I suggest to the Members that it is going to be through this budget process that we will be able to do this.

I appreciate the remarks of the gentleman from Maryland (Mr. MITCHELL) on unemployment and crime, certainly two of the greatest problems facing this country today, but it is the budget process, the mechanics of it, that will allow us to know where to expend this money in the years to come to hopefully alleviate throughout this country our unemployment and our intolerable crime situation.

I commend the Congress for living within the budget that we set some 4 months ago. I ask the Members to take this budget resolution, to support it, and to go home with a positive attitude that this is something the American people should know as a positive accomplishment of the 94th Congress.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

I agree with the gentleman's point that each of us individually should take advantage of the fact that we now do have a regular budget process built on the base of a solid law. As the gentleman says, the law requires the House to set priorities and establish ceilings on various expenditures and a floor for revenues. This very budget process should in fact make it more clear to our constituents that the restraining procedure is beginning to work as far as Congress now having to come to grips more carefully than it has in the past with the whole process of expenditures and revenues.

I would like to ask my colleague, who I know has been an active member of this Budget Committee, when he projects or estimates that we and the American people, the working people who pay for this Government through their taxes, might expect a balanced budget. In the judgment of my colleague from the State of South Carolina, when does he think we might achieve that important goal?

Mr. DERRICK. Let me say this, that in our projections over a 5-year period we predict possibly a surplus within the next 3 years, but let me tell the gentleman this. I cannot stand here and tell the gentleman we will have a balanced budget next year or the next year or the next year.

Mr. ROUSSELOT. I understand it is only an estimate.

Mr. DERRICK. But the important thing to the gentleman, as I perceive it, and to the American people is not whether we balance the budget within 2 or 3 years but the important thing to the American people should be that for the first time in the history of this body there is a group of men and women who are concerned with this long-term planning and are focusing their attentions in that direction.

Mr. ROUSSELOT. Does the gentleman feel that if the revenues for the Federal Government continue to expand the way they did in this past year, that conceivably we might achieve a balanced budget say in 2 years?

Mr. DERRICK. It would certainly be my hope we would do so. Of course in this year our deficit is running about $10 billion less than we originally foresaw and I certainly hope that will continue this year, and instead of $50 billion deficit we will end up with $30 billion or even less.

Of course, this is because of an improving economy that brings in more revenues for more people employed. I do not give all that credit to the Budget Committee.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I realize that the revenues have been far better than was originally anticipated. By the Budget Committee or as predicted by the sources used by the Budget Committee.

The CHAIRMAN pro tempore (Mr. Evans of Colorado). The time of the gentleman from South Carolina has expired.

Mr. ADAMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from South Carolina (Mr. Derrick).

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. DERRICK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, as stated by the gentleman we are then actually closer to closing that gap between expenditures and revenues. I know the gentleman from South Carolina has been one of those who has interested himself in trying to achieve that goal of a balanced budget.

Mr. DERRICK. Mr. Chairman, I thank the gentleman from California very much. I think that this is just exercising good business policies in the Budget Committee and getting an over-all handle, hopefully, on Federal spending.

Mr. Chairman, as much as I would wish it and the gentleman from California would wish it, I wish it were something we could accomplish in some absolute manner in a 1-year or a 2-year period; but the Federal Government is so giant and so involved in its activities over many years that it takes some time; but the important thing is that we are headed in the right direction.

Mr. ADAMS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Chairman, it has long since become a commonplace of political observation that we are in for dangerous days if we do not work for the common well-being. This new budget process, now at the end of the first year of full implementation, is a significant effort toward that common well-being. For a great and insidious danger to good government has always been the making of decisions on the basis of incomplete or inaccurate information.

Today, as we prepare to vote on this second budget resolution, establishing an expenditure ceiling and a revenue floor for fiscal year 1977, complaints are everywhere heard of the incapacity of Government to act reasonably and responsibly. The budget process, largely due to the work of its distinguished chairman, Brock Adams, and the members of his committee, is a bright light at the end of the tunnel. Knowing how the macroeconomic conditions relate to our specific program allocations gives us the basis to direct funds where they will do the most good and to identify the areas where reforms and efficiencies are required to bring about greater service at less cost. The public expects this of us and we should do it.

As a longtime advocate of budgetary reform, I have felt that too many issues in the past were decided not on the basis of the public good but by the force of special interests. The new budget process, if we continue to exercise self-discipline, is a first line of defense against that danger. We have moved into an era of honest realism in budgeting, without abandoning the wisdom and experience the past has had to offer. Four months ago we set our targets; today, we can say we have met them. In no small measure, this process will earn the veneration time bestows on all worthwhile experiments. I shall support this resolution.

Mr. ADAMS. Mr. Chairman, I have no further requests for time.

Mr. LATTA. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Chairman, if the chairman of this committee might tell me, is it still the chairman's objective, to come to this Congress with a balanced budget resolution within the next 2 or 3 years? You have suggested such an objective in the past.

Mr. ADAMS. Yes. That has been our intention as shown on pages 84 through 87 of the committee report.

Mr. ROUSSELOT. Mr. Chairman, I notice on page 85 of the committee report to which the gentleman refers that table 4, estimated receipts compared to outlays, outlays increased only for mandatory changes under existing law. Mr. Chairman, I will review that chart for my colleagues:

TABLE 4.—ESTIMATED RECEIPTS COMPARED TO OUTLAYS[1] (OUTLAYS INCREASED ONLY FOR MANDATORY CHANGES UNDER EXISTING LAW)

[In billions of dollars]

	1977	1978	1979	1980	1981
Receipts	363	408	457	506	554
Less: Outlay commitments, narrowly defined	413	436	458	479	503
Surplus (+) or deficit (−)	−51	−28	−1	+27	+51

[1] Includes effects of proposed legislation assumed in this resolution.

In this budget committee chart, it shows that there would be a proposed deficit in fiscal year 1979 of roughly $1 billion. So that as far as the chairman is concerned, that would really be an appropriate time for the House to be within striking distance of achieving a balanced budget.

Mr. ADAMS. That is correct.

Mr. ROUSSELOT. I notice that the projection of receipts for that year, 1979, are roughly $457 billion. Can the gentleman tell us how he projected the receipts? I realize it is not an exact science.

Mr. ADAMS. The manner in which it is done is to take the gross national product figures that we have for this year, and have had for the past several years, place them in the econometric computer system, and project the number of people that are coming into the market. We have used what we hope is a realistic growth rate of about 5 percent.

Mr. ROUSSELOT. Five percent for each of the years?

Mr. ADAMS. That is average annual real growth over those years. The projections assume the same demographic patterns in terms of the taxation system and the same system of taxation that we presently have. These revenue projections, which are done the same way the Treasury Department and OMB have done them for many years, have proven to be quite accurate. We might miss a percentage or two, but they are formed on the traditional basis of creating revenue estimates.

Mr. ROUSSELOT. Could the gentleman tell us what the anticipated unemployment figure is for that year of 1979?

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ADAMS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for his courtesy.

Mr. ADAMS. The average rate for that year is at 5.9 percent.

Mr. ROUSSELOT. That is an unemployment figure of 5.9 percent?

Mr. ADAMS. Yes. That is calendar year 1979.

Mr. ROUSSELOT. I understand.

Mr. ADAMS. At the end of that year it would be at about a 5.5-percent rate. We would start the year a little higher.

Mr. ROUSSELOT. So what the gentleman is saying is that, when unemployment, in both the public and private sectors, gets to around 5.5 percent or 5.9 percent, the necessity for deficit spending along with other factors is substantially diminished?

Mr. ADAMS. No. What we are looking at then is using our fiscal dividend, which will rise in fiscal year 1980 to $27 billion and in fiscal year 1981 to $51 billion to bring that unemployment rate down. What this Congress must debate is, what should our rate of unemployment be? In the past, we referred to transitional unemployment; people looking for one job, having left a job and moving to another.

Mr. ROUSSELOT. Or college students, or the second or third wage earner in a family?

Mr. ADAMS. Right; people who are going in and out of the labor market as opposed to people who may be, as the gentleman from Maryland so eloquently expressed it, structurally unemployed, who have not held jobs.

We are pointing out that Congress must exercise great caution with regard to presently existing programs. We cannot buy everything every year. We hope that there will be some savings in some of these existing programs; that some can be phased out, and that as a result of these savings some new money can be made available. That is when we will have our balanced budget.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. LATTA. Mr. Chairman, I yield

2 additional minutes to the gentleman from California.

Mr. ROUSSELOT. Now, could the gentleman tell me what his projections are for unemployment for the fiscal year 1977, where he has a $51 billion projected deficit?

What are the projections?

Mr. ADAMS. I want to be very careful with this because our projections on this year were made from the testimony and the reports that we had in July; and since then the unemployment figures have been going up and we are, therefore, concerned that the unemployment rate may be higher than we projected.

But on page 5 of the committee report the economic objectives and assumptions are presented. The gentleman will notice that the unemployment rate for the calendar year average is at 7.4 percent. At the end of the year, it is at 7.1 percent. In the original budget resolution we had hoped to be below 7 percent.

Mr. ROUSSELOT. That is for 1976? I ask that the committee chart to which the gentleman refers on page 84 of the committee report be briefly reviewed at this time:

Mr. ADAMS. Right.

TABLE 1.—ECONOMIC ASSUMPTIONS

[Calendar years]

Selected economic indicators	Actual 1975	1976	1977	1978	1979	1980	1981	Percent increase 1977–81
Current dollar GNP (in billions)	1,516	1,685	1,885	2,050	2,260	2,490	2,746	46
Real GNP (1972 dollars in billions)	1,192	1,262	1,338	1,386	1,455	1,528	1,604	20
Unemployment rate (percent)	8.5	7.4	6.4	6.3	5.9	5.5	5.0	----------
Consumer price index (percent change)	9.2	6.0	5.5	5.0	5.0	5.0	5.0	22

Mr. ROUSSELOT. And the figure for 1977 which the gentleman projects is 6.4 percent?

Mr. ADAMS. We go to a 6.4 percent average for the calendar year. That is starting the year at 7.1 percent and working down to 6 percent.

Mr. ROUSSELOT. Can the gentleman tell me his projection for unemployment for 1978, where the gentleman shows a proposed deficit of $28 billion?

Mr. ADAMS. That appears on page 84. For 1978, it shows an average for that calendar year of 6.3 percent.

The problem that the gentleman may have is that unemployment rates are carried on a calendar year basis.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ADAMS. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's answer to the question.

Does the gentleman and this committee still feel that the necessity for this rather substantial deficit in this coming fiscal year of $50 billion primarily is directed at the problem of solving unemployment?

Mr. ADAMS. Yes. We think that the recession that we are just coming out of is the basic reason for the deficit. We want to be sure that the recovery continues.

There is a second reason, which I think in all candor I should state to the gentleman to initiate reforms in existing mandatory programs in this Congress means moving legislation out of legislative committees and having it enacted into law. That is very difficult. I think that program reform is the only place where we are going to make substantial savings that will help reduce the deficit. Accomplishing this task will be the difficult charge of this committee and this House.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. LATTA. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. So the gentleman is still convinced, that the prime reason for this very, substantial add-on deficit in this budget resolution is to reduce unemployment? As the gentleman knows, I would prefer that the House live within our means now.

Mr. ADAMS. Yes. If we were at 4 percent unemployment, we would have a surplus this year.

Mr. ROUSSELOT. When we get to a balanced budget, the gentleman projects 5 percent.

Mr. ADAMS. That is exactly right.

Mr. ROUSSELOT. And a 5.9 percent unemployment figure with a $1 billion deficit.

Mr. ADAMS. I am not trying to mislead the Members at all with regard to that.

What I started to say to the gentleman was that if we were at 4 percent unemployment this year—and I am not saying that this is the figure that the economy will arrive at—we would have a surplus of $14 billion under this budget resolution. If we were to have 5 percent unemployment, we would have this budget almost in balance.

We are trying to point out to the House—and I think now that everybody is beginning to get into this—the difficulty of making this mixed economy in the United States work.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. ADAMS. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Tomorrow, when I bring up my substitute resolution which will provide, for a balanced budget, I will try to discuss with the gentleman, on the basis of the committee report and other documents which the staff has very willingly made available, why I am not sure that this add-on deficit really does that much to reduce the unemployment figure that we all want to reduce.

Perhaps by not having so much of an add-on deficit we would in fact do far more to stimulate jobs in the private sector, where the overwhelming majority of jobs are produced, than we would by forcing the Treasury to go in the market to borrow so much money for these bloated deficit purposes.

Mr. Chairman, I appreciate the gentleman's comments and the full discussion of the issue.

Mr. ADAMS. Mr. Chairman, I have no further requests for time.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding me this time.

If I might have the attention of the chairman of the committee, the gentleman from Washington (Mr. Adams), I have heard the gentleman speak about the tables appearing on page 85 of the report. The gentleman has several times stated his view about receipts and outlays and what is proposed for the future.

I notice in table 4 that we say we will have a balanced budget by about 1979. Table 3 states that in 1979 we will have a $10 billion interest payment above what we now have. Projecting this out to 1981, it also states that we will have a $52 billion interest payment.

Now, backing up to table 4, it states that through the 2 years of 1980 and 1981 we will have two surpluses in our budget; we will have two surpluses that will amount to $78 billion.

My question is this: If we will have a surplus to pay on the national debt, why would our interest continue to increase?

Mr. ADAMS. Mr. Chairman, if the gentleman will yield, the debt will go up regardless of a balanced budget so long as we have trust funds. The trust funds by law must be invested in Government securities and the Government must pay interest on them. If we change that law, then we would not see that figure go up.

Mr. MILLER of Ohio. Then the debt would go up as long as we have trust funds?

Mr. ADAMS. The gentleman is correct. As long as we have trust funds that are required to be invested in Government securities the Government must pay interest on those to the trust fund. By law that is within the Govenment spending.

Mr. MILLER of Ohio. Mr. Chairman, I am aware of that, but there are ways to pay off part of the debt. Many of our citizens have purchased Savings Bonds so that the United States could cover its debt, we could pay them off as they come due.

We could pay back to West Germany the $20 billion that we borrowed from them in order to cover our debt, or we could pay those people from whom we borrowed the money. We could pay back to Japan what we owe them on our debt, independent of the trust funds.

If we are going to have a surplus, my question is, Why can we not lower the interest rate?

Mr. ADAMS. Mr. Chairman, if the Congress decides in those years that it wants to take that money and use it to lower the debt, it can, and then the interest charge would drop.

Mr. MILLER of Ohio. Then it is not necessarily the trust funds that would require us to continue to have to pay a higher interest rate?

Mr. ADAMS. Well, we would have to offset the amount we are providing as an increase in trust fund interest against what we would pay off on other debts.

Mr. MILLER of Ohio. I understand what the gentleman is saying about the trust funds, but, when we have other people, that is, the public, in our own Nation owning part of the debt and we have foreign nations owning part of the debt, then it appears that, if we have a surplus, we could pay back and save some of the interest payments. These interest payments amount today, by the budget that the committee has proposed, $40 billion in interest, and that amounts to about $111 million a day in interest that we are paying on the national debt.

I do not believe that our average citizen is aware of the enormous debt we are acquiring at the Federal level. The gentleman does feel that Congress would have to take some action in order to pay off a part of that national debt; am I correct on that?

Mr. ADAMS. That is correct. If Congress decides to pay off part of the national debt, we can do so.

Mr. MILLER of Ohio. It could be paid, though, through the surplus that the gentleman projects for the years 1980 and 1981; is that correct?

Mr. ADAMS. That is correct.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman.

Mr. ADAMS. Mr. Chairman, I have no further requests for time.

Mr. LATTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, the Congressional Budget and Impoundment Control Act of 1974 was supposed to provide for orderly and deliberate consideration of Federal spending. The intent of the law was good. However, the resolution before us today indicates that the process is not functioning properly in this the first year that it will be fully implemented. Witness the projected deficit for the upcoming fiscal year of over $50 billion. The national debt will soar to $700 billion according to the committee report.

When the first concurrent budget resolution was considered by the House of Representatives this spring I voted against it. I oppose this second concurrent budget resolution for the very same reasons. Some Members of Congress may make partisan remarks during the debate on this legislation and, perhaps, there is justification for this approach.

My concern with this resolution is that it perpetuates an already intolerably high level of Federal spending. This will fan the fires of inflation to the detriment of all citizens, especially those who must live on a fixed income. House Concurrent Resolution 728 states that the budget authority for fiscal year 1977 will be $452.6 billion and outlays are set at $413.3 billion. By way of contrast, Federal revenues are projected to be $362.5 billion which leaves the Federal Government, and ultimately the taxpayers of our Nation, with a deficit in excess of $50 billion.

The answer to this imbalance clearly does not lie in increased taxation of our citizens. The middle class, who are the backbone of our Nation, are already being taxed out of existence. They are an endangered species. Rather, we should work toward a reduction in Federal spending. We must eliminate wasteful Federal programs and do away with agencies, or bureaucracies if you will, which serve no useful purpose.

The philosophy embodied in this budget resolution is that the Federal Government knows what is best for our citizens. It ratifies a paternalistic "the people cannot run their own lives and Washington has all of the answers" view of American life. This is repugnant to me and the people of the Third Congressional District of Iowa. We would rather solve the problems we face by ourselves, or, if governmental assistance is required, by appropriate action at the local, county, or State level.

These are some of the reasons I oppose House Concurrent Resolution 728 and my vote will reflect my view. I would respectfully urge my colleagues to also vote "nay."

Mr. LATTA. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. If I may address a question to the gentleman from Washington (Mr. ADAMS), I notice that on page 84 of the committee report the projected unemployment figures go from 8.5 percent in 1975 to 5 percent in 1981. At no place do I see a target figure of 3 percent.

Does that mean that the Democrat leadership has abandoned the Humphrey-Hawkins goal of a 3-percent unemployment target?

Mr. ADAMS. Mr. Chairman, if the gentleman will yield, I will say "No." These are just arbitrary assumptions of what happens if we do not change what we are doing now.

Mr. ROUSSELOT. Therefore, there will be no attempt, then, to establish that goal of a 3-percent unemployment target; is that correct?

Mr. ADAMS. This is not a policy projection. It shows just what will happen if we continue doing what we are doing.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, it is no fun to "play defense" in the House. Nobody wants the job of always saying "No." The role of nay-sayer is especially tough for politicians, because everybody knows that politicians love to be loved.

But, unfortunately for the taxpayers, the time is long past when we should have stopped trying to appropriate ourselves into the hearts of our countrymen. Continuous deficits may have made us individually popular with the interest groups who are the beneficiaries of our largesse, but those deficits, which we have somehow managed to laugh off, have made the Congress a collective object of scorn and distrust.

In short, the people are tired of being bought with their own money.

The budget resolution before us, House Concurrent Resolution 728, will continue this mindless tradition. It will buy us a little more individual affection from the interest group beneficiaries and a little less confidence from the public at large. Although it is the product of long hours and earnest efforts, it falls far short of reasonable cost-saving goals. Like its predecessor—and it is frighteningly similar to its predecessor—it is more an amalgamation of the "want lists" of subcommittee chairmen than it is a serious attempt to bring our celebrated, and wanton, spending processes under control.

It calls for a deficit—and probably an unattainable one at that—of $51 billion. Repeated deficits have already built our national debt to an approved level on September 30 of $636 billion. This resolution will pump that debt up to $700 billion by the end of the fiscal year, or more than $3,300 for every man, woman, and child in the country.

The resolution calls for spending of $413 billion. That is an increase of more than 13 percent over last year's excessive spending figure of $365 billion, which, in turn, was about the same percentage increase over fiscal year 1974's excessive spending level of $324 billion.

It is quite obvious, despite the good intentions and hard work of the committee, that the new budget process is coming nowhere near its desired goal of controlling spending. Instead, we seem to be institutionalizing uncontrolled spending through this process.

As the final budget resolution of the first effective year under the Budget Procedures Act, House Concurrent Resolution 728 has been hailed as a trailblazer. It may, indeed, set important precedents under the Budget Act, but the trail it is blazing takes us down the same old calf path to overspending, deficits, and inflation.

Unless we break out of these old ruts, we will find the Budget Act has given us nothing but 300 new staff personnel, a stack of new excuses for our own lack of self-control, and a record $1 trillion debt before we are 10 years into our third century.

It is probably very old-fashioned even to refer to the President's budget. But, he at least had the courage to point out where cuts could be made. His recommended spending was $15 billion less, his tax cuts for individuals were more, and his deficit was $5 billion less.

All of the spending in this resolution is not absolutely necessary. Even those who do not fully accept the President's recommendations have their own ideas for reductions. But the point is that we really did not try very hard to cut back. In giving nearly every subcommittee about what it wanted, we managed to spend more than most of us agree is proper.

Interest is the price we pay for lack of self-control in spending. In the coming fiscal year, our bill for programs we could not wait for in the past will be about $44 billion in interest. That is a pretty sad reflection on this Congress and its work.

Despite my negative vote, this resolution will pass by a large majority. I can only hope, because I am an incurable optimist, that the experience learned in this year's budget process will improve our performance next year. The Budget Act has given us a system by which we can impose self-discipline—but only if we want to do so. We did not choose to impose much discipline this year, but perhaps in making that decision, we learned how to be a little stronger in the future. I think so. I hope so.

Mr. DERWINSKI. Mr. Chairman, I had hoped that long before we plunged into debate on the second budget resolution we would have built up our immunity to the contagion of Presidential politics. The American public is becoming increasingly aware of the multipositional stance of one of the candidates on any given issue. Unfortunately, we seem to be practicing the same legislative sleight of hand. In our sometimes cavalier treatment of the taxpayer, it appears we are following the dictum of the Madison Avenue commercial which says: "Promise her anything, but give her Arpege."

There may be some temporary advantage to scenting the air with flowery promises, but if the sweet smell of success is to be meaningful, it must contain some wind-resistant ingredients. Similarly, if we are going to boast about new budgetary procedures, we should be prepared to operate within our own prescribed guidelines.

In its report on the second concurrent budget resolution for the current fiscal year, our Budget Committee had this to say in the section on Federal employment on page 48:

> Outlays are reduced by $133 million due to a reestimate and the assumed elimination of the one percent kicker with a reduction in the interval between cost of living adjustments.

The language clearly implies support for the approach taken in the Henderson amendment to repeal the 1-percent add-on and to shorten the waiting period for future adjustments. Consistent with that clear assumption, the House voted to eliminate the 1-percent add-on for military and foreign service annuities, provided there was a similar provision for civil service retirees.

It prompts the question: Why has the majority leadership scuttled for this session the legislative attempt to eliminate the 1-percent add-on? This body already has gone on record, in rather convincing fashion, that it favors repeal of the 1-percent kicker. On August 2, this body voted 238 to 143 on a motion to suspend the rules and pass a judges' annuity bill which included the 1-percent repealer. Because the necessary two-thirds vote was lacking the motion failed. When an effort was made to bring the legislation to the floor under a procedure which would have required a simple majority vote, the leadership decided to pull the legislation off the calendar.

The Congressional Budget Office has estimated elimination of the 1-percent add-on would save the civil service retirement fund and the military retirement system $81 million in the current fiscal year. Five-year savings were estimated at $2.9 billion.

In failing to give Members an opportunity to vote on the 1-percent repealer, we are repudiating our own budgetary targets. Based on the rash of editorials and public awareness of what is involved here, the 1-percent repealer does not lend itself to a multipositional stance.

There still is time to repair the damage, which, if left unrepaired, will have immediate and long-range consequences. The Members of this body should be given an opportunity to work their will on legislation to repeal the 1-percent "kicker."

Mr. OTTINGER. Mr. Chairman, I want to again bring to my colleagues' attention a serious imperfection in the Budget and Impoundment Control Act which essentially permits the process of Presidential impoundments to continue unabated.

The most recent example of this defect in the act occurred on July 28, 1976, when the President submitted a message to Congress proposing rescissions of approximately $126 million for education and child nutrition programs, including $90 million for handicapped education.

I became aware of these rescissions several days prior to the President's message when I learned that the funds for the programs in question had, in fact, been withheld since July 1, some 4 weeks before the President formally notified Congress of the rescission request.

Upon learning of the rescission messages—R76-46, R76-47, R76-48, and R76-49—I immediately wrote the Comptroller General asking him to investigate whether or not the rescissions actually began on July 1. The text of that letter follows:

House of Representatives,
Washington, D.C., July 28, 1976.

Mr. Elmer Staats,
Comptroller General, General Accounting Office, Washington, D.C.

Dear Mr. Staats: I am writing to request your immediate investigation of Rescissions 76-46-49 proposed by the President on July 28 and including $126.35 million in appropriated funds as follows: $24 million for impact aid, $90 million for handicapped education, $3 million for state equalization plans, $2.35 million for state administrative expenses, and $7 million for the school lunch program.

Despite the fact that this rescission was proposed July 28, it is my understanding that the funds in question have in fact been withheld since the beginning of the Transition Quarter, July 1.

If the starting date of the rescission is assumed to be July 28, however, the 45 days Congress has to approve the rescission may lapse after the Transition Quarter has expired, making it impossible for Congress to insure that the funds are spent as intended.

This deliberate effort to thwart Congressional intent illustrates clearly one of the major flaws in the Budget and Impoundment Control Act—the lack of a mechanism by which Congress can indicate its disapproval of a rescission without waiting 45 days. Present law permits Congress to disapprove a rescission only by not acting in the 45-day period. The Administration position that funds proposed for rescission not be expended until the 45-day opportunity for Congressional action has elapsed seriously impedes the effectivenss of the appropriations process.

Under these circumstances and pursuant to section 1015(a)(2) of the Budget and Impoundment Control Act it is vital that GAO investigate Rescissions 76-46-49 and establish the date it actually began.

Sincerely,

Richard L. Ottinger,
Member of Congress.

On August 12 the General Accounting Office responded to my letter by confirming that the rescissions had begun on July 1 and that, therefore, the President had violated the spirit of the Budget Act. The text of that letter follows:

Comptroller General of the
United States,
Washington, D.C., August 12, 1976.

Hon. Richard L. Ottinger,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Ottinger: This is in response to your letter of July 28, 1976, requesting an investigation of proposed rescissions R76-46, R76-47, R76-48, and R76-49 submitted by the President to the Congress on July 28, 1976, pursuant to the provisions of the Impoundment Control Act of 1974. The message proposed the rescission of $24 million for impact aid, $90 million for handicapped education, $3 million for state equalization plans, and $9.35 million for child nutrition programs.

The budget authority proposed for rescission in these programs was appropriated in the Second Supplemental Appropriations Act, 1976 (Pub. L. 94-303, June 1, 1976). Our review of the messages indicates that the funds for the second and third of the four programs described above, if unobligated, will lapse on September 30, 1976. Funds for the first and last programs described remain available until expended.

Subsection 665(d)(1) of title 31 of the U.S. Code provides that appropriations shall be apportioned not more than 30 days after the approval of the Act in which the appropriation is made available. Thus, the latest date to apportion the subject budget authority was July 1, 1976. We have confirmed that reserves were established and the budget authority that is the subject of these messages has been withheld since July 1, 1976.

Based on the present congressional schedule, the 45-day period during which the funds may be withheld while the rescission proposals are pending will expire on September 28, 1976. In this connection, you believe the President's failure to submit a special message with respect to the withholding until July 28 thwarts the intent of the Impoundment Control Act of 1974.

The Act provides that the President shall submit a special message to the Congress whenever budget authority is proposed to be withheld from obligation. Accordingly, the President should have submitted a special message on these withholdings on July 1, 1976—the date on which the impoundments began. The failure to do so until July 28 is not consistent with the

> spirit of the Act. Moreover, the delay may operate to deny to the Congress the expected consequence of its rejecting the proposed rescissions—the full and prudent use of those funds. This situation exists because only two days will remain between the expiration of the 45-day period and the date on which the unobligated funds will lapse (September 29 and 30, 1976).
>
> We share your concern that the Congress be able to indicate its disapproval of a rescission without waiting 45 days of continuing session. We addressed this matter in our letter of March 5, 1976, to Senator Hollings (copy enclosed). In that letter we stated that the Act does not authorize the President to withhold funds where the Congress has completed action on a bill to rescind only part of the budget authority proposed for rescission. In the letter of March 5, we concluded that the better view of section 1012(b) is that when the Congress has completed action on a bill that rescinds only part of the budget authority proposed by the President to be rescinded, the part not rescinded should be released immediately, notwithstanding the fact that the 45-day period may not have ended. The letter also indicated that an even stronger basis for immediate release would exist if the Congress incorporated language in a rescission bill to the effect that all rescission requests not specifically approved are denied.
>
> In addition, because we recognize that the existence of a mechanism by which the 45-day period can be accelerated may be subject to disagreement, we suggested in our letter of November 20, 1975, to the Chairman of the House Committee on the Budget (copy enclosed), that the Act be amended to provide that a rescission request may be denied by a rescission resolution passed by either House of Congress at any time prior to the expiration of the 45-day period. Such an amendment would not be subject to differing constructions on the operation of the Act.
>
> We are presently preparing our report to the Congress on the subject rescissions and would be pleased to provide you with a copy of the report when it is completed.
>
> Sincerely yours,
>
> ELMER B. STAATS,
> *Comptroller General*
> *of the United States.*

Subsequently, in its report to the Congress on the rescissions, GAO affirmed my position:

> We believe the President should have reported these withholdings of budget authority promptly, and his failure to do so did not comply with the requirements of the Impoundment Control Act that impoundments be brought to the attention of the Congress whenever the President determines to withhold such authority.

The situation is all the more serious in this case, of course, because the President's late report means that the 45-day period in which Congress is permitted to approve the rescission will not expire until September 29, 1 day before the expiration of the transition quarter, after which some of the funds will not be available for obligation anyway. This means that the President's late report may effectively prevent these funds from being spent at all, thanks to the administration's determination to withhold funds proposed for rescission until Congress either acts to approve the requests or the 45 days expire.

Given the fact that under the Budget Act as it is presently constituted, there seems to be nothing we can do about this situation, on August 30 I wrote the President, urging him to release the funds if Congress had not approved the rescissions by September 17—the 45th day under the act after July 1, when the rescissions actually began. My letter pointed out that if he did not release the funds at that time, we would have no alternative but to conclude that his late report of the rescissions was a deliberate attempt to violate the Budget Act and frustrate the will of Congress. The text of that letter follows:

> HOUSE OF REPRESENTATIVES,
> *Washington, D.C., August 30, 1976.*
>
> THE PRESIDENT OF THE UNITED STATES,
> *The White House,*
> *Washington, D.C.*
>
> DEAR MR. PRESIDENT: I am enclosing for your information a copy of an August 12 letter from the Comptroller General regarding proposed rescissions R76–46, R76–47, R76–48 and R76–49. That letter points out clearly that your failure to report the rescissions until July 28, despite the fact that they began on July 1, is inconsistent with the spirit of the Budget and Impoundment Control Act.
>
> Additionally, the letter makes clear that your delay, "may operate to deny to the Congress the expected consequences of its rejecting the proposed rescissions. . . ." This will surely be the case because, under the current Congressional recess schedule, the 45-day period will expire after the date on which the unobligated funds will lapse, the end of the transition quarter.
>
> The Office of Management and Budget has assured my staff verbally that the delay in reporting the rescission was an unintended oversight. Assuming that was the case, and knowing that you do not wish to violate the spirit of the Budget Act, I request that you make clear to the Congress your intention of obligating the funds upon the expiration of the 45th day after July 1, the date on which the impoundments actually began. That date, calculated according to the system prescribed in the Budget Act, would be September 17.
>
> Unquestionably under the law Congress would have until September 29 to act on the rescissions, but compliance with the intent and spirit of the Act demands your adherence to an earlier date for obligating the funds. In the absence of such an action on your part, I can only conclude that the delay in reporting the rescissions was a deliberate effort on your part to subvert the Budget Act and frustrate the will of Congress.
>
> Sincerely,
>
> RICHARD L. OTTINGER,
> *Member of Congress.*

Thus far I have received no response from the President.

Aside from illustrating the President's lack of cooperation with the Congress, this incident shows clearly a deficiency in the Budget Act—the ability of the President to withhold funds proposed for rescission during the 45 days Congress has to act on the proposal. In the case at hand the 45 days threatens to run beyond the period during which the funds could normally be obligated. In other cases, congressional recesses have stretched the 45 days into a far longer period. A study done by Congressional Quarterly reported that in two cases, both beginning in July 1975, funds were withheld for 104 and 146 days, and "In every case the interval has been substantially longer than 45 days."

Thus far in the 94th Congress at least three major bills have been introduced—by Representatives DRINAN, BAUCUS, and OTTINGER—with some 90 cosponsors in an attempt to deal with this problem. These bills are pending in the Rules Committee, which has taken no action. On May 24, 1976, 46 of the cosponsors wrote both committee Chairman MADDEN and Speaker ALBERT urging hearings on the various bills, but no progress has been made yet.

My own bill, H.R. 13155—CONGRESSIONAL RECORD, April 27, 1976, page 11429—deals with the 45-day problem by establishing a procedure whereby Congress can indicate its disapproval of a rescission in less than 45 days and thus force the money to be spent.

It also contains solutions to a number of additional problems that we uncovered with respect to the act, such as "chain" deferrals or rescissions.

Although it is rapidly becoming too late in this Congress for meaningful reform on the Budget Act, I hope that this most recent episode with the administration will convince the House that exactly this kind of reform is badly needed, and that it will have top priority on the agenda for next year.

Mr. MURTHA. Mr. Chairman, I rise in support of the second budget resolution. With passage of this resolution, we are making one of the most important congressional statements of this session. The new budget committee and budget formula work.

With this procedure we have brought the most significant reform to the Government's budget process in 50 years. Congress has been able to bring together the Government's most correct and comprehensive picture of economic trends and budget decisionmaking in the desolution.

Along with that, the decisions we have made within this resolution are also important. Those include—

Support for tax reform legislation that will make our tax laws fairer and raise $1.6 billion in new revenue;

Reduction of the budget deficit by nearly $15 billion, with hope for moving much more swiftly to a balanced budget;

Stimulating the jobs picture through legislation that will help put Americans back to work;

Battling inflation by using government spending as a tool to help bring inflation for this year down to 6 to 7 percent with further reductions likely next year, while still seeing overall GNP growth; and

Maintaining a strong, essential level of defense spending.

Mr. Chairman, I believe this is one of the most important legislative items we will pass this year. I congratulate Chairman ADAMS and the committee members for their hard work, and I urge passage of this legislation.

Mr. LATTA. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

(2) the appropriate level of total new budget authority is $452,583,000,000;

(3) the appropriate level of total budget outlays is $413,240,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $50,740,000,000; and

(5) the appropriate level of the public debt is $700,000,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $112,086,000,000.

(B) Outlays, $100,606,000,000.

(2) International Affairs (150):

(A) New budget authority, $8,770,000,000.

(B) Outlays, $6,763,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $4,595,000,000.

(B) Outlays, $4,505,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $17,923,000,000.

(B) Outlays, $16,227,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,317,000,000.

(B) Outlays, $2,239,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $17,699,000,000.

(B) Outlays, $16,984,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,584,000,000.

(B) Outlays, $9,078,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $23,884,000,000.

(B) Outlays, $22,187,000,000.

(9) Health (550):

(A) New budget authority, $40,527,000,000.

(B) Outlays, $38,960,000,000.

(10) Income Security (600):

(A) New budget authority, $155,872,000,000.

(B) Outlays, $137,000,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,323,000,000.

(B) Outlays, $19,539,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,490,000,000.

(B) Outlays, $3,571,000,000.

(13) General Government (800):

(A) New budget authority, $3,556,000,000.

(B) Outlays, $3,534,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):

(A) New budget authority, $7,617,000,000.

(B) Outlays, $7,657,000,000.

(15) Interest (900):

(A) New budget authority, $40,400,000,000.

(B) Outlays, $40,400,000,000.

(16) Allowances:

(A) New budget authority, $860,000,000.

(B) Outlays, $910,000,000.

(17) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$16,920,000,000.

(B) Outlays, —$16,920,000,000.

Mr. ADAMS (during the reading). Mr. Chairman, I ask unanimous consent that the concurrent resolution be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. ADAMS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 728) revising the congressional budget for the U.S. Government for the fiscal year 1977, had come to no resolution thereon.

CALL OF THE HOUSE

Mr. BROYHILL Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOLLING. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 695]

Abzug
Addabbo
Alexander
Andrews, N.C.
Armstrong
Ashbrook
Badillo
Brodhead
Brown, Mich.
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Cederberg
Chisholm
Clancy
Clausen, Don H.
Conlan
Conyers
Corman
Diggs
Downing, Va.
Duncan, Oreg.
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Ford, Tenn.
Fraser
Goldwater
Green
Hall, Tex.
Hansen
Harsha
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holland
Howe
Hyde
Jarman
Karth
Landrum
Lent
Levitas
Lujan
Lundine
McCollister
McHugh
Mathis
Matsunaga
Melcher
Mezvinsky
Milford
Miller, Calif.
Mink
Mitchell, Md.
Mosher
Murphy, Ill.
Nichols
O'Hara
Passman
Patterson, Calif.
Peyser
Riegle
Rosenthal
Runnels
Ryan
St Germain
Santini
Scheuer
Schneebeli
Sebelius
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Ullman
Van Deerlin
Vander Veen
Vigorito
Walsh
Weaver
Wiggins
Wilson, Bob
Wilson, C. H.
Yates
Young, Alaska
Zeferetti

The SPEAKER. On this rollcall, 335 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 10612

Mr. BURLESON of Texas. Mr. Speaker, on behalf of the chairman of the committee, the gentleman from Oregon (Mr. Ullman), I ask unanimous consent that the managers may have until midnight tonight, September 8, 1976, to file the conference report on H.R. 10612, the Tax Reform Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORTS

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file reports on the following bills: H.R. 2977, H.R. 300, H.R. 10613, S. 1174, and S. 2220.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE A REPORT ON H.R. 14319

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight, September 8, 1976, to file the committee report on H.R. 14319, the Clinical Laboratory Improvement Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. Rogers).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10498, with Mr. Roush in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 2, 1976, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read by titles the substitute committee amendment recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill, for the purpose of amendment.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. BROYHILL. Mr. Chairman, it was my understanding of the parliamentary situation that section 1 and section 2 would be read prior to the reading of title I.

The CHAIRMAN. The gentleman is correct. The Clerk will read section 1.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Clean Air Act Amendments of 1976".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Authorizations.

TITLE I—AMENDMENTS RELATING PRIMARILY TO STATIONARY SOURCES

Sec. 101. Unregulated pollutants.
Sec. 102. Basis of administrative standards.
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Sec. 104. Assessment of civil penalties.
Sec. 105. Excess emission fee.
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Sec. 107. Stratosphere and ozone protection.
Sec. 108. Prevention of significant deterioration.
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Sec. 111. New source standards of performance.
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TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

Sec. 201. Limitation on indirect source review authority.
Sec. 202. Extension of transportation control compliance dates.
Sec. 203. Light-duty motor vehicle emissions.
Sec. 204. Emission standards for heavy duty vehicles or engines and certain other vehicles or engines.
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Sec. 206. Assurance of protection of public health and safety.
Sec. 207. Test procedures for measuring evaporative emissions.
Sec. 208. Railroad locomotive emission standards.
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Sec. 210. Vehicle inspection and maintenance.
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Sec. 212. Testing by small manufacturers.
Sec. 213. California waiver.
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TITLE III—MISCELLANEOUS AMENDMENTS

Sec. 301. Redesignation of air quality control regions.
Sec. 302. Consultation.
Sec. 303. Delegation to local government under Federal plan.
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Sec. 305. Administrative procedures and judicial review.
Sec. 306. Employee protection.
Sec. 307. Notice to State in case of certain inspections, etc.
Sec. 308. Emergency powers.
Sec. 309. Interstate pollution abatement.
Sec. 310. Interagency cooperation on prevention of environmental cancer heart and lung disease.
Sec. 311. Civil litigation.
Sec. 312. Fine particulate study.
Sec. 313. Air quality monitoring by Environmental Protection Agency.
Sec. 314. Certain minor and technical and conforming amendments.
Sec. 315. Research not authorized.
Sec. 316. Study and report concerning economic approaches to controlling air pollution.
Sec. 317. Loss of pay prohibited in certain cases.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 1 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there amendments to section 1? If not, the Clerk will read section 2.

The Clerk read as follows:

AUTHORIZATIONS

SEC. 2. (a) Section 316 of the Clean Air Act (42 U.S.C. 18571) is amended by striking out "and $300,000,000" and inserting in lieu thereof "$300,000,000" and by striking out the period at the end thereof and substituting the following: ", $175,000,000 for the fiscal year 1976, $50,000,000 for the period commencing July 1, 1976, and ending September 30, 1976, $200,000,000 for the fiscal year 1977, $200,000,000 for the fiscal year 1978 and $200,000,000 for the fiscal year 1979.".

(b) Section 212(i) of such Act (42 U.S.C. 1857f–6e(i)) is amended to read as follows:

"(i) There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, such sums as may be necessary.".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. SATTERFIELD

Mr. SATTERFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SATTERFIELD: Page 154, beginning in line 3, strike out "such sums as may be necessary" and insert in lieu threof "$25,000,000 for each of the fiscal years 1977, 1978, and 1979".

Mr. SATTERFIELD. Mr. Chairman, this is a simple amendment. On page 154, line 3, there is a provision for the funding of section 212 of the bill, it being one of the portions that is not funded under authority of section 2(a). In previous years, we have always placed a cap on this authorization. The bill as drafted leaves open ended the authorization for the purpose of developing low emission vehicles. I feel that we should at least conform to the practice of the past.

My amendment would do precisely that by placing a cap of $25 million upon authorization for this program for 1977, 1978, and 1979.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I certainly have no objection to that. The authorization was open ended. I think it is a good idea to put a limit on it, and I think $25 million is a reasonable sum.

Mr. SATTERFIELD. I thank the gentleman.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, as far as I know, certainly this side has no objection to the gentleman's amendment. We will accept it.

Mr. SATTERFIELD. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SATTERFIELD).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BROWN of California: Page 153, strike out line 3 and all that follows down through line 10 and insert in lieu thereof the following: U.S.C. 1857(1) is amended to read as follows:

"APPROPRIATIONS

"SEC. 316. (a) There are authorized to be appropriated to carry out this Act, other than section 212 and authorities providing for research, development, and demonstration under this Act, $200,000,000 for the fiscal year 1977, $200,000,000 for the fiscal year 1978, and $200,000,000 for the fiscal year 1979.

"(b) There are authorized to be appropriated for fiscal year 1977, $129,223,500 for carrying out authorities providing for research, development, and demonstration under this Act."

And redesignate paragraph (b) on line 11 as paragraph (c)

Page 338, strike out line 14 and all that follows down through line 16 and insert in lieu thereof the following:

SEC. 315. (a) No appropriation may be made to the Environmental Protection Agency for environmental research, development, or demonstration, for any period beginning after September 30, 1977, unless previously authorized by legislation hereafter enacted by the Congress.

(b) The Administrator of the Environmental Protection Agency shall transmit to the Congress a comprehensive five-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress each year no later than two weeks after the President submits his annual budget to the Congress in such year.

(c) The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of the Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I think I can explain quite simply what this amendment does. Earlier in the year I brought to the floor, as a result of the change in jurisdiction of the House committees, a bill containing the funds for research and development for the Environmental Protection Agency, which included the research and development funds for the air pollution program. Unfortunately, our colleagues in the other body were not very happy with our jurisdictional arrangements with regard to research and development on environmental matters in this body, and I am not too happy with them either, to be honest about it.

They took the bill passed by the House and referred it to four separate committees. That portion which contained the research and development funds for the air program was referred to the Public Works Committee, and in that committee the three separate programs which that committee has jurisdiction over, which includes water pollution and the Clean Waters Act, were divided into three separate bills. These bills, which contain the dollar figures which the Senate thought appropriate, were passed and sent back over to this House.

There is no way, as far as I have been able to determine, that we can come to a resolution of this problem with the Senate. In order to make sure that the air pollution program continues to have the funds authorized for research and development which this House approved, I have brought this amendment to the floor. The amendment would insert in this bill the exact dollar amount which this House previously passed in May for air pollution research and development.

The figure is $129,223,500.

I might add that the figure which the Senate passed and sent back over to this House is about $20 million higher than this figure.

What my amendment seeks to do, in order to continue all portions of the air pollution program, including the research and development program already approved by this House, is to insert a paragraph (b) on page 153, after the authorization of $200 million for regulatory programs on each of the next 3 years, the sum of $129 million already approved by this House for research and development. And then on page 338, where it says, "No funds authorized for research in this bill," I have stricken out that paragraph and have inserted three minor paragraphs taken verbatim from the bill passed earlier this year by this House.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, the committee on our side has looked this over. We see no problem with it. It is a matter entirely within the jurisdiction of the gentleman's committee. As the gentleman has said, this has been approved, and it is simply a matter of getting this before the body. I have no objection to the amendment on this side.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield to me for some questions?

Mr. BROWN of California. I yield to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding.

Is it my understanding that the authorizations that the gentleman includes in his amendment are taken from the bill that came from the gentleman's committee which passed this body a few months ago?

Mr. BROWN of California. It passed this House on May 4, by a vote of 381 to 16.

Mr. BROYHILL. And that these are authorizations for research and development programs in the area of research on clean air, those areas under the jurisdiction of the Clean Air Act that are, from a legislative standpoint, under the gentleman's committee?

Mr. BROWN of California. That is precisely the situation.

Mr. BROYHILL. The gentleman is asking that we proceed this way because of some parliamentary roadblocks that have arisen with the other body?

Mr. BROWN of California. That is correct. In order that there be a continuity in the authorizations of this important part of the program.

Mr. BROYHILL. Mr. Chairman, with that understanding, the minority side will recommend that the amendment be adopted.

Mr. BROWN of California. I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 154, between lines 4 and 5, insert the following new subsection:

"(c) The Clean Air Act (42 U.S.C. 1857, et seq.) is amended by adding a new section to read as follows:

"SUNSHINE IN GOVERNMENT

"SEC. 325. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest (A) in any person subject to such Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

"shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of the Clean Air Act Amendments of 1976—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, I have a sunshine in Government amendment to section 2 of H.R. 10498, as reported, at the desk. The amendment is printed in the July 30, 1976, RECORD at page 24817.

Mr. Chairman, the purpose of this amendment is to bring more sunshine into Government. It is cosponsored by my colleague, Representative GARY A. MYERS.

It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94–163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. Earlier this year, the House added it to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program, and to H.R. 9560 for EPA employees administering the water pollution program. Last week the House added it to H.R. 13777, the public lands bill, for employees of Interior, and to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees. It was also added to H.R. 8401, the nuclear assistance bill, for ERDA employees. Last week the House added it to H.R. 14032, the toxic substances bill for EPA employees.

Our amendment requires officers and employees of the agencies who perform any function under the Clean Air Act to file annually statements of any known financial interest in the persons subject to this bill or who receive financial assistance uner the bill. Such statements would be available to the public and would have to be reviewed by EPA. Positions within EPA that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the Administrator.

The amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, EPA and other Federal agencies require their employees who are at the GS–13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of problems associated with the statements. In a March 3, 1975 report, the GAO said:

> Many USGS employees have financial interests which appears to conflict with their Government duties. Many of these holding violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.
>
> To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior—
>
> Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.
>
> Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.
>
> Require the Bureau Counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.
>
> Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.
>
> Insure that officials responsibile for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.
>
> Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.
>
> Require the USGS Counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.
>
> Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau Counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,100 were below the GS–13 level.

The GAO made similar findings in eight other studies since late 1974.

Our amendment makes it clear that the Administrator of EPA must look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for the Administrator to define what a "known financial interest" is. Indeed, an example of such a definition Interior published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94–163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

I urge adoption of our amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, the committee has consulted with the gentleman from West Virginia (Mr. HECHLER) and understands his concern about this amendment. I certainly have no objection, and I do not believe any Member in the House would have any objection.

The amendment simply provides, as the gentleman says, sunshine in Government and requires certain employees of EPA simply to file a statement stating that they have no conflicts of interest. I believe this is a sound requirement, so I would have no objection to the gentleman's amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank my friend, the gentleman from Florida.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia, I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, we on this side have no objection. We accept the gentleman's amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank my good friend, the gentleman from Kentucky.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

If not, the Clerk will read title I.

The Clerk read as follows:

TITLE I—AMENDMENTS RELATING PRIMARILY TO STATIONARY SOURCES

UNREGULATED POLLUTANTS

SEC. 101. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) is amended by adding at the end thereof the following new section:

"LISTING OF CERTAIN UNREGULATED POLLUTANTS

"SEC. 120. (a) In the case of vinyl chloride, cadmium, arsenic, and polycyclic organic matter, unless the Administrator finds, after notice and opportunity for public hearing, that the substance will not cause or contribute to air pollution which may reasonably be anticipated to endanger public health, he shall (not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976) include such substance in the list published under section 108(a)(1) or 112(b)(1)(A) (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions.

"(b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)).".

(b) Section 109 of such Act (42 U.S.C. 1857c–4) is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall, not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976, promulgate a national primary ambient air quality standard for NO_2 concentrations over a period of not more than one hour unless, based on the criteria issued under section 108(c), he finds that there is no significant evidence that such a standard for such a period is requisite to protect public health.".

(c) Section 108(c) of such Act (42 U.S.C. 1857c–3(c)) is amended by adding the following at the end thereof: "Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1976, the Administrator shall revise and reissue criteria relating to concentrations of NO_2 over a period of not more than one hour. Such criteria shall include a discussion of nitric and nitrous acid, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.".

(d) The Administrator shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, vinyl chloride, cadmium, arsenic, and polycyclic organic matter which, are present or may occur in the ambient air. Such study shall include a through investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, vinyl chloride, cadmium, arsenic, and polycyclic organic matter.

BASIS OF ADMINISTRATIVE STANDARDS

SEC. 102. (a)(1) Section 108(a)(1)(A) of the Clean Air Act (42 U.S.C. 1857c-3(a)(1)(A)) is amended to read as follows:

"(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;".

(2) Section 108(a)(1) of such Act is amended by adding the following at the end thereof: "Such list shall also include air pollutants required to be listed as provided in section 120.".

(b) The second sentence of section 111(b)(1)(A) of such Act (42 U.S.C. 1857c-6(b)(1)(A)) is amended to read as follows: "He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare or if it is required to be listed as provided in section 120.".

(c) Paragraph (1) of section 112(a) of such Act (42 U.S.C. 1857c-7(a)(1)) is amended to read as follows:

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.".

(d)(1) Section 202(a)(1) of such Act (42 U.S.C. 1857f-1(a)(1)) is amended by striking out "which in his judgment causes or contributes to, or is likely to cause or contribute to, air pollution which endangers the public health or welfare" and inserting in lieu thereof "which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.".

(2) Section 202(e) of such Act is amended by striking out "which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers" and substituting "which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger".

(e) Section 211(c)(1)(A) of such Act (42 U.S.C. 1857f-6c(c)(1)(A)) is amended to read as follows: "(A) if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare, or".

(f) Section 231(a)(2) of such Act (42 U.S.C. 1857f-9(a)(2)) is amended to read as follows:

"(2) The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.".

COMPLIANCE DATE EXTENSIONS UNDER STATE PLAN

SEC. 103. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 101 of this Act, is further amended by adding the following new section at the end thereof:

"COMPLIANCE DATE EXTENSIONS UNDER STATE PLAN

"SEC. 121. (a) For purposes of this section, the term—

"(1) 'compliance date extension' means an order issued by the State or by the Administrator to a stationary source postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan;

"(2) 'means of emission limitation' means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics); and

"(3) 'major stationary source' means a source listed as provided in section 111 (relating to new source performance standards) or section 12 (relating to hazardous pollutants) or a source which is a major stationary source within the meaning of section 160 (relating to prevention of significant deterioration of air quality).

"(b) Upon application by the owner or operator of a stationary source, and after notice and public hearing on the record, a compliance date extension may be issued to the source under subsection (c)—

"(1) by the Administrator with the written consent of the Governor of the State in which such source is located, or

"(2) by the State in which such source is located, but—

"(A) in the case of any major stationary source, no such extension shall take effect until the Administrator determines that such extension has been issued in accordance with the requirements of this section, and

"(B) in the case of any source other than a major stationary source, such extension shall cease to apply upon a determination by the Administrator that it was not issued in accordance with the requirements of this section.

Before any hearing conducted under this section, the applicant shall furnish the Administrator or the State (as the case may be) with a statement of the grounds on which such application is based (including all supporting documents and information). Such statement (including such documents and information) shall be made available to the public for a thirty-day period before such hearing and shall be considered as part of the record of such hearing. No such extension may be granted unless the applicant establishes that he meets the conditions required for the issuance of such extension. Any decision with respect to the issuance of such an extension shall be accompanied by a concise statement of the findings based on the hearing conducted under this section. Not later than ninety days after submission by any State to the Administrator of notice of its determination to issue a compliance date extension under this section to a major stationary source within such State, the Administrator shall determine whether or not such extension has been issued by the State in accordance with the requirements of this section.

"(c)(1) A compliance date extension with respect to any requirement of an applicable implementation plan may be issued to a stationary source under this paragraph if—

"(A) no means of emission limitation applicable to such class of sources and necessary for compliance by such source with such requirement has been adequately demonstrated (as determined by the Administrator taking into account the cost of compliance, non-air quality health and environmental impact, and energy considerations),

"(B) there is a shortage of the means of emission limitation necessary for compliance with such requirement and such means is unavailable to such source,

"(C) the necessary means of emission limitation is unavailable to such source by reason of an embargo, strike, or other event primarily beyond the control of the owner or operator of the source,

"(D) operation of the source is necessary in order to continue production which was scheduled to be transferred to a new source, the construction or operation of which is delayed for reasons primarily beyond the control of the owner or operator of the source applying for such extension, or

"(E) it is impossible for the owner or operator of the source to obtain financing from its own resources or from outside sources for procurement and use of the necessary means of emission limitation due to temporary conditions in capital markets making necessary capital unavailable to such owner or operator.

No extension may be issued under subparagraph (E) of this paragraph if capital is available to the owner or operator of the source for the purpose of improvement or expansion of productive capacity. No extension may be issued under any provision of this paragraph unless taking into account the aggregate effect on air quality of such extension together with all extensions, variances, exemptions, and compliance orders, previously issued under this Act, the extension will not permit continued emissions of any air pollutant from such source which may cause, or materially contribute to, a significant risk to public health after the primary standard attainment date for such pollutant or unless the continued operation of the source is essential to public health, welfare, or public well-being.

"(2) A compliance date extension with respect to any requirement of an applicable implementation plan may be issued to a stationary source under this paragraph if—

"(A) the source will expeditiously use new means of emission limitation determined by the Administration to be adequately demonstrated (within the meaning of subsection (c)(1)(A)),

"(B) such new means of emission limitation is not likely to be used by such source unless an extension is granted under this section.

"(C) such new means of emission limitation is determined by the Administrator to have a substantial likelihood of—

"(i) achieving greater continuous emission reduction than the means of emission limitation which, but for such extension, would be required; or

"(ii) achieving an equivalent continuous reduction at lower cost in terms of energy, economic, or non-air quality environmental impact; and

"(D) compliance by the source with the requirement for which the extension is sought would be impracticable prior to, or during, the installation of such new means because—

"(i) it would require excessive capital expenditures,

"(ii) operating costs would be excessive, or

"(iii) scarce energy resources would be unnecessarily wasted.

No extension may be issued under this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions, variances, exemptions, and compliance orders previously issued under this Act, the extension will not permit continued emissions of any air pollutant from such source which may cause, or materially contribute to, exceeding the national primary ambient air quality standards for such pollutant after the primary standard attainment date or unless the continued operation of the source is essential to public health, welfare, or public well-being. If the new means of emission limitation is determined by the Administrator to possess substantial potential for achieving significantly greater continuous emission reduction and significantly less energy consumption than the use of the means of emission limitation which, but for such extension, would be required, the Administrator or the State (as the case may be) may issue an extension only if such extension will not permit continued emissions of any air pollutant from such course which may cause, or materially contribute to, a significant risk to public health, taking into account the aggregate effect on air quality of such extension together with all extensions, variances, exemption, and compliance orders previously issued under this Act.

"(3)(A) Not in excess of two compliance date extensions for not more than five years each may be issued with respect to any requirement of an applicable implementation plan to any primary nonferrous smelter in existence on the date of enactment of this section if the owner or operator of the smelter applying for such extension demonstrates that it is necessary to use other measures to attain and maintain any national ambient air quality standard to which the requirement relates because no means of emission limitation applicable to such smelter and necessary for compliance by such smelter with such requirement has been adequately demonstrated to be reasonably available (as determined by the Administrator, taking into account the cost of compliance, nonair quality health and environmental impact, and energy considerations). No extension may be issued under this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions previously issued under this section, the extension will not permit continued emissions of any air pollutant from such smelter which may cause, or materially contribute to, exceeding the national primary or secondary ambient air quality standard for the pollutant to which the requirement relates after the attainment date for such standard.

"(B) The Administrator may authorize a smelter to which a compliance date extension is issued under this paragraph to use such other measures as may be necessary to meet the requirements of the last sentence of subparagraph (A) of this paragraph if the owner or operator of the smelter agrees—

"(i) to comply with such conditions as the Administrator determines are necessary to maximize the reliability and enforceability of such a system, as applied to the smelter, in attaining and maintaining the national ambient air quality standards to which the compliance date extension relates, and

"(ii) that any violation of any national ambient air quality standard to which the compilance date extension relates occurring within a liability area designated by the Administrator or of any condition under clause (i), shall be treated as a violation of a requirement of the applicable implementation plan by the owner or operator of the smelter. In issuing a compliance date extension to which this paragraph applies, the Administrator shall designate as the smelter's liability area, for the purpose of clause (ii), that area within which emissions from the smelter may be anticipated to cause, or materially contribute to, violations of any national ambient air quality standard to which the compliance date extension relates.

"(d) A compliance date extension issued to a source under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. Where the Administrator has determined under subsection (c)(1)(A) that no means of emission limitation has been adequately demonstrated for a class of sources (or in the case of primary nonferrous smelters under subsection (c)(3), for a particular source), the increments of progress shall be limited to requiring compliance with subsection (e) and to procuring, installing and operating the necessary means of emission limitation as expeditiously as practicable after the Administrator determines such means have been adequately demonstrated. Except with respect to compliance date extensions issued under subsection (c)(3) (relating to primary nonferrous smelters), the aggregate of all such extensions issued to a source under this section shall not result in the postponement of such requirement beyond the date five years from the date on which, but for this section and but for any order issued under section 113 before enactment of this section, compliance would have been required.

"(e)(1) A source to which a compliance date extension is issued under this section shall use the best practicable system or systems of emission reduction (as determined by the Administrator taking into account the requirement with which the source must ultimately comply) for the period during which such extension is in effect. In the case of an extension issued under subsection (c)(3) (relating to primary nonferrous smelters), the best practicable system or systems of emission reduction shall be determined on a source-by-source basis.

"(2) A major source to which a compliance date extension is issued under subparagraph (A) of subsection (c)(1) (relating to no means of emission limitation adequately demonstrated) or under subsection (c)(3) shall commit such resource as the Administrator determines to be reasonable for the owner or operator of that source to undertake, or assist in the conduct of, research on, and development of, the necessary means of emission limitation unless the Administrator determines that such commitment will not expedite or improve such research and development.

"(3) A major source to which a compliance date extension is issued under subsection (c)(1)(B) (relating to shortages), shall make such advance financial commitments as the Administrator determines to be reasonable for the owner or operator of that source to assure timely availability of the necessary means of emission limitation.

"(4) A source to which a compliance date extension is issued under subsection (c)(1)(C) (relating to strikes, embargoes, etc.) shall comply with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to,

"(A) a requirement that the persons receiving the extension comply with such reporting requirements as the Administrator determines may be necessary,

"(B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and

"(C) requirements that the extension shall be inapplicable during any period during which the necessary means of emission limitation are in fact reasonably available (as determined by the Administrator) to such source.

"(5) A source to which a compliance date extension is issued under subsection (c)(2) (relating to new means of emission limitation) shall comply with the requirement of subparagraph (A) of such subsection (c)(2) (relating to the expeditious use of new means of emission limitation).

"(6) Any extension under subsection (c)(1) or (c)(3) shall be terminated if the Administrator determines on the record, after notice and hearing, that the conditions upon which the extension was based no longer exist. If the owner or operator of the source to which the extension is issued demonstrates that prompt termination of such extension would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under the last sentence of subsection (d).

"(f) If the Administrator determines that a source to which a compliance date extension is issued under this section is in violation of any requirement of subsection (c)(3)(B), (d), or (e) he shall either—

"(1) enforce such requirement under section 113, or

"(2) (after notice and opportunity for public hearing) revoke such extension and enforce compliance with the requirement with respect to which such extension was granted.

"(g) Except for a compliance date extension issued under this section or under section 119 (relating to energy-related authority), a variance or waiver under section 111(f) (relating to variances for technology innovation), or an exemption under section 118 (relating to Federal facilities), or a plan revision under section 110(a)(3), no extension, plan revision, or other action changing a requirement of an application implementation plan may be taken with respect to any stationary source by the State or by the Administrator."

(b) Section 113(b)(4) of such Act (42 U.S.C. 1857c–8(b)(4)) is amended by inserting ", 121(c)(3)(B), (d), or (e)," after "114".

(c)(1) Section 110(a) of such Act (42 U.S.C. 1857c–5(a)) is amended by adding the following new paragraph at the end thereof:

"(5) Neither the State, in the case of a plan approved under subsection (a), nor the Administrator, in the case of a plan promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more variances, exemptions, or compliance date extensions have been granted under section 111(f) (relating to technology innovation), 118 (relating to Federal facilities), 119 (relating to energy-related authority), 121 (relating to extensions under State plan), 123 (extension of transportation control compliance dates), or 124 (respecting variances for indirect sources), if such plan would have met the requirements of section 110 if no such variances, exemptions, or extensions had been granted.".

(2) Section 110(a)(2)(H)(ii) of such Act is amended by inserting "except as provided in paragraph (5)," before "whenever".

(3) Section 110(d) of such Act is amended by striking out "implements" and all that follows down through the period at the end thereof and inserting in lieu thereof "implements the requirements of this section.".

(4) Section 110(c)(1)(A) of such Act is amended to read as follows:

"(A) the State fails to submit an implementation plan which meets the requirements of this section,".

(d) Section 110(f) of such Act (42 U.S.C. 1857c–5(f)) is hereby repealed.

(e) Section 307(a)(1) of such Act (42 U.S.C. 1857h–5(a)(1)) is amended by striking out "110(f)" and inserting in lieu thereof "121".

(f) Section 119(b) of such Act (42 U.S.C. 1857c–10(b)) is hereby repealed.

(g)(1)(A) Section 113(a)(3) of such Act (42 U.S.C. 1857c–8(a)(3)) is amended by adding the following at the end thereof: "No order issued under this subsection shall have the effect of permitting any delay or violation of any requirement of this Act (including any requirement of an applicable implementation plan).".

(B) The third sentence of section 113(a)(4) of such Act (42 U.S.C. 1857c–8(a)(4)) is amended by striking out the first comma and all that follows down to the period at the end thereof.

(2) The amendments made by paragraph (1) shall take effect on the date of enactment of this Act with respect to orders issued on or after such date of enactment.

(h) Section 302 of such Act (42 U.S.C. 1857h), as amended by sections 106(f) and 201(e) of this Act, is further amended by inserting the following new subsection at the end thereof:

"(l) 'Primary standard attainment date' means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

ASSESSMENT OF CIVIL PENALTIES

SEC. 104. (a) So much of section 113(b) of the Clean Air Act (42 U.S.C. 1857c-8) as precedes paragraph (1) thereof is amended to read as follows:

"(b) The Administrator may commence a civil action for a permanent or temporary injunction, to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever any person—".

(b) Section 113(b) of such Act is amended by striking out the penultimate sentence thereof and substituting: "Any action under this subsection may be brought in the district court of the United States for the district in which the violation occurred or in which the defendant has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty and to collect any excess emission fee (and nonpayment penalty) owed under section 122. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into consideration (in addition to other factors) the size of the business, the economic impact of the penalty on the business, and the seriousness of the violation.".

EXCESS EMISSION FEE

SEC. 105. (a) Title I of the Clean Air Act, as amended by sections 101 and 103 of this Act, is further amended by adding at the end thereof the following new section:

"EXCESS EMISSION FEE

"SEC. 122. (a)(1) At the time a compliance date extension is granted or approved under section 121(c)(1) to any major stationary source, the Administrator shall determine (on the record of the hearing required to be conducted under section 121) whether or not the circumstances which made such source eligible for such extension were primarily beyond the control of the owner or operator of such source. The Administrator shall promptly notify such owner or operator if the Administrator determines that such circumstances were not primarily beyond the control of the owner or operator. Under regulations promulgated by the Administrator after notice and opportunity for public hearing, a major stationary source granted a compliance date extension under section 121(c)(1) shall pay a fee based on the amount of any air pollutant emitted by such source in excess of the requirement with respect to which such extension is granted if the circumstances which made such source eligible for such extension were not primarily beyond the control of the owner or operator of such source. Regulations under this section shall be promulgated no later than nine months after the date of enactment of this section. The fee imposed under such regulations shall apply only to emissions of an air pollutant which occur after the date one year after such date of enactment.

"(2) The Administrator shall promulgate such regulations as are appropriate to assure the reasonably expeditious conduct of any hearing with respect to a compliance date extension under section 121(c)(1) and the imposition of a fee under this section.

"(3) No compliance date extension under section 121(c)(1) for a major source shall take effect before the date on which the Administrator makes the determination required under paragraph (1) of this subsection.

"(b)(1) The regulations promulgated under subsection (a) shall provide for the imposition of such fee on an annual basis according to a schedule of rates prescribed by the Administrator in such regulations taking into account—

"(A) the objective of preventing any such extension from creating a competitive advantage for sources issued an extension, and

"(B) the objective of encouraging compliance as expeditiously as practicable with the requirement extended.

Such rates may vary with respect to each pollutant and each category of sources. The aggregate amount of any fee imposed under this section with respect to any source shall not exceed an amount equal to $5,000 for each day during which such fee is imposed.

"(2) The amount of the fee imposed with respect to a compliance date extension granted to any source shall be based on the schedule of rates prescribed under this subsection the basis of the record at which the extension was granted or after compliance with the procedures of section 307(d). Any such reduction shall take into account—

"(A) the degree to which the owner or operator of the source was at fault in failing to meet the requirement extended, and

"(B) such other factors as the Administrator deems equitable.

"(c)(1) The regulations promulgated under subsection (a) shall—

"(A) provide for the times and manner of payment of such fee by the owner or operator of the source within a reasonable time following any annual period during which such fee applied to such source, and

"(B) require computation of such fee on (i) the basis of continuous monitoring and reporting of emissions by such owner or operator or (ii) such other basis as may be required by the Administrator in any case to which paragraph (2)(B) applies.

Reports required under subparagraph (B) of this paragraph shall specify the amount of the fee for which such owner or operator calculates he is liable with respect to each source for which he is so liable.

"(2)(A) Regulations promulgated under subsection (a) shall specify the types and methods of monitoring to be used for purposes of paragraph (1)(B), but shall permit the use of types and methods of monitoring which the Administrator determines are equivalent to those so specified.

"(B) No such monitoring shall be required if the Administrator determines it to be economically or technologically infeasible.

"(3) Upon petition of the owner or operator of a source subject to a fee under regulations promulgated under subsection (a), or on his own motion, the Administrator shall provide notice and hearing on the record and may adjust the amount of such fee in any case in which he determines that the amount of such fee is computed improperly or on the basis of incorrect monitoring data.

"(d) Any owner or operator of a stationary source who fails or refuses to pay the amount of any fee imposed under the authority of this section shall, under regulations promulgated under subsection (a), in addition to liability for such fee, pay a nonpayment penalty of 20 percent of the amount of the unpaid balance of the fee owed.

"(e) As used in this section, the term 'major stationary source' has the same meaning as provided by section 121(a)(3).".

(b) Section 113(b) of such Act (42 U.S.C. 1857c-8(b)) is amended by inserting the following after the first sentence thereof: "The Administrator may commence a civil action to recover any excess emission fee, to recover any nonpayment penalty for which any person is liable under section 122, or both. The amount of such fee (and penalty) collected shall be deposited in the general fund of the Treasury.".

(c) Section 113 of such Act (42 U.S.C. 1857c-8) is amended by adding the following new subsection at the end thereof:

"(d)(1) Whenever notice is required to be provided prior to the bringing of a civil or criminal action under this section, the amount of the civil or criminal penalty imposed shall be computed beginning on the day which such notice is provided.".

COMPLIANCE DATE EXTENSIONS FOR COAL CONVERSION

SEC. 106. (a)(1) Section 119(c)(1) of the Clean Air Act (42 U.S.C. 1857c-10(c)(1)) is amended by striking out "1979" and inserting in lieu thereof "1980".

(2) The second sentence of section 119(c)(2)(C) of such Act is amended by striking out "1978" and inserting in lieu thereof "1979" and by striking out "1979" and inserting in lieu thereof "1980".

(b) The first sentence of section 119(c)(2)(C) of such Act is amended to read as follows: "Regulations under subparagraph (B) shall require that the source achieve the degree of emission reduction required under the applicable implementation plan for the date on which the compliance date extension expires.".

(c)(1) Section 119(c)(1) of such Act is amended by inserting after such first sentence thereof the following: "Except as provided in paragraph (2) of this subsection, the Administrator shall also issue a compliance date extension to any coal-burning stationary source which is prohibited from using petroleum products or natural gas, or both by reason of an order which is in effect under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 and with respect to which a variance or compliance schedule had been obtained under the applicable implementation plan prior to issuance of such order in order to permit compliance with the applicable implementation plan by means of conversion to the use of petroleum products or natural gas as its primary energy source. Notwithstanding the preceding provisions of this subsection, the Administrator may refuse to grant a compliance date extension under this subsection in any case in which he finds that such extension may result in a significant endangerment to the public welfare. In making a finding under the preceding sentence the Administrator shall specify the basis of such finding.".

(2) Subparagraph (A) of such section 119(c)(1) is amended by striking out "or natural gas" and inserting in lieu thereof ", natural gas, or both".

(3) Section 119(c)(2)(B) of such Act is amended by adding the following at the end thereof: "Regulations under this subparagraph shall be amended not later than ninety days after the date of enactment of the Clean Air Act Amendments of 1976 to take into account such Amendments and may be amended or revised from time to time thereafter.".

(d) Section 119(c)(2)(D) of such Act is amended to read as follows:

"(D) No compliance date extension issued to a source under this subsection with respect to an air pollutant shall be effective if the national primary ambient air quality standard with respect to such pollutant is being exceeded at any time in the air quality control region in which such source is located. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and public hearing)—

"(i) that emissions of such air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

"(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) with reasonable statistical assurance that emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant.".

(e) Section 119(c)(3) is amended to read as follows:

"(3) A source to which this subsection applies may, upon the expiration of a compliance date extension under this section, receive compliance date extensions under the conditions, and in the manner, provided in section 121.".

(f) Section 302 of such Act (42 U.S.C. 1857h) is amended by adding the following new subsection at the end thereof:

"(1)(1) The terms 'emission limitation' and 'emission standard', and 'standard of performance' mean a requirement of continuous emission reduction.

"(2)(A) The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under title I shall not be affected in any manner by (i) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator) or (ii) any other dispersion technique. The preceding sentence shall not apply with respect to stack heights in existence before the date of enactment of the Clean Air Amendments of 1970 or dispersion techniques implemented before such date.

"(B) For the purpose of this paragraph, the term 'dispersion technique' includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

"(C) Not later than six months after the date of enactment of this subsection, the Administrator shall, after notice and opportunity for public hearing, promulgate regulations to carry out this paragraph. For purposes of this paragraph, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this paragraph, such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source."

(g) Section 119(c)(2)(A) of such Act is amended by striking out "and" at the end of clause (ii), striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding the following new clause at the end thereof:

"(iv) the Governor of the State in which is located the source to which the proposed compliance date extension is to be issued gives his prior written concurrence.".

STRATOSPHERE AND OZONE PROTECTION

SEC. 107. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) is amended by adding at the end thereof the following new subtitle:

"Subtitle B—Stratosphere and Ozone Protection

"PURPOSES

"SEC. 150. The purposes of this subtitle are (1) to provide for a better understanding of the effects of human actions on the stratosphere, especially the ozone in the stratosphere, and (2) to provide for a better understanding of the effects of changes in the stratosphere, especially the ozone in the stratosphere, on the public health and welfare.

"DEFINITIONS

"SEC. 151. For the purposes of this subtitle—

"(1) The term 'halocarbon' means the chemical compounds $CFCl_3$ and CF_2Cl_2 and such other halogenated compounds as the Administrator determines by rule may reasonably be anticipated to contribute to reductions in the concentration of ozone in the stratosphere;

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause.

"STUDIES AND RESEARCH BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY

"SEC. 152. (a) The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere. The study shall include an analysis of the independent effects on the stratosphere especially such ozone in the stratosphere of—

"(1) the release into the ambient air of halocarbons,

"(2) the release into the ambient air of other sources of chlorine,

"(3) the uses of bromine compounds, and

"(4) emissions of aircraft and aircraft propulsion systems employed by operational and experimental aircraft.

The study shall also include such physical, chemical, atmospheric, biomedical, or other research and monitoring as may be necessary to ascertain (A) any direct or indirect effects upon the public health and welfare of changes in the stratosphere, especially ozone in the stratosphere, and (B) the probable causes of changes in the stratosphere, especially the ozone in the stratosphere.

"(b) The Administrator shall undertake research on—

"(1) methods to recover and recycle substances which directly or indirectly affect the stratosphere, especially ozone in the stratosphere,

"(2) methods of preventing the escape of such substances,

"(3) safe substitutes for such substances, and

"(4) other methods to regulate substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere.

"(c)(1) The studies and research conducted under this section may be undertaken with such cooperation and assistance from universities and private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized and encouraged to provide assistance to the Administrator in carrying out the requirements of this section, including (notwithstanding any other provision of law) any services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

"(2) The Administrator shall encourage the cooperation and assistance of other nations in carrying out the studies and research under this section. The Administrator is authorized to cooperate with and support similar research efforts of other nations.

"(d)(1) The Administrator shall undertake to contract with the National Academy of Sciences to study the state of knowledge and the adequacy of research efforts to understand (A) the effects of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere; (B) the health and welfare effects of modification of the stratosphere, especially ozone in the stratosphere; and (C) methods of control of such substances, practices, processes, and activities including alternatives, costs, feasibility, and timing. The Academy shall make an interim report of findings one year after the date of the enactment of this subtitle and a final report thirty days after the submission of the final report of the Administrator called for in subsection (f)(1) of this section.

"(2) The Administrator shall make available to the Academy such information in his possession as is needed for the purposes of the study provided for in this subsection.

"(e)(1) The Administrator shall establish and act as Chairman of a Coordinating Committee for the purpose of insuring coordination of the efforts of other Federal agencies carrying out research and studies related to or supportive of the research provided for in subsections (a) and (b) of this section.

"(2) Members of the Coordinating Committee shall include the appropriate official responsible for the relevant research efforts of each of the following agencies:

"(A) the National Oceanic and Atmospheric Administration,

"(B) the National Aeronautics and Space Administration,

"(C) the Federal Aviation Administration,

"(D) the Department of Agriculture,

"(E) the National Cancer Institute, and

"(F) the National Institute of Environmental Health Sciences,

and the appropriate officials responsible for the relevant research efforts of such other agencies carrying out related efforts as the Chairman shall designate. A representative of the Department of State shall sit on the Coordinating Committee to encourage and facilitate international coordination.

"(3) The Coordinating Committee shall review and comment on plans for, and the execution and results of, pertinent research and studies. For this purpose, the agencies named in or designated under paragraph (2) of this subsection shall make appropriate and timely reports to the Coordinating Committee on plans for and the execution and results of such research and studies.

"(4) The Chairman may request a report from any Federal agency for the purpose of determining if that agency should sit on the Coordinating Committee.

"(5) Upon submission of the final report called for in subsection (f)(1) of this section, the Chairmanship of the Coordinating Committee shall be assumed by the Administrator of the National Oceanic and Atmospheric Administration; and the Environmental Protection Agency shall nominate an appropriate official to serve as a member. The purpose of the Coordinating Committee shall thenceforth be to ensure the coordination of research and study efforts related to the program of research provided for in section 102 of this Act. The responsibilities and duties of the Chairman and the Coordinating Committee shall otherwise be as provided in the preceding paragraphs of this subsection.

"(f)(1) Not later than two years after the date of the enactment of this subtitle, the Administrator shall report to the Interstate and Foreign Commerce Committee and the Science and Technology Committee of the House of Representatives and to the appropriate committees of the Senate, the results of the studies and research conducted under this section and the results of related research and studies conducted by other Federal agencies. The Administrator shall include in the report his recommendations for control of substances, practices, processes, and activities which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, which effect may reasonably be anticipated to endanger public health or welfare. In devising these recommendations the Administrator shall take into account the feasibility and costs of achieving such control.

"(2) Prior to the submission of such final report, the Administrator shall submit quarterly interim reports to the Congress describing the progress of the research and studies and, insofar as possible, indicating anticipated results and conclusions. The first such report, due ninety days after the date of the enactment of this subtitle, shall include the plan and schedule for the research and study to be carried out. Subsequent interim reports shall update this plan and schedule and shall describe and explain revisions to and deviations from the plan.

"(3) If at any time prior to the submission of such final report, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, he shall promptly promulgate and submit regulations to the Congress respecting the control of any such substance, practice, process, or activity. Such regulations shall take effect as provided in section 155.

"(4) Any reports and recommendations required to be submitted under this subsection which are first submitted to the President, the Office of Management and Budget, or any other department or agency of the United States in proposed form shall be submitted to the Congress in such proposed form as well as in final form.

"RESEARCH AND MONITORING BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"SEC. 153. (a) The Administrator of the National Oceanic and Atmospheric Administration is directed to establish a continuing program of research and monitoring of the stratosphere for the purpose of early detection of potentially harmful changes in the stratosphere. He shall report to the Congress annually on the findings of such research and monitoring, with the first such report being due two years after the date of the enactment of this subtitle and containing plans for the research and monitoring to be carried out. Each report shall contain recommendations for actions (especially regulatory actions) by the Congress and by other Federal agencies.

"(b) In carrying out the program provided for in subsection (a) of this section the Administrator of the National Oceanic and Atmospheric Administration (1) shall enlist and encourage cooperation and assistance from other Federal agencies, universities, and private industry, and (2) shall solicit the views of the Administrator with regard to plans for the research involved so that any such research will, if regulatory action by the Administrator is indicated, provide the preliminary information base for such action.

"REGULATIONS

"SEC. 154. Upon submission of the report required under section 152(f)(1), and after consideration of the research and study under section 152 and, consultation with appropriate Federal agencies and scientific entities, the Administrator shall propose regulations for the control of any substance, practice, process, or activity (or any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the feasibility and the costs of achieving such control. Not later than three months after proposal of such regulations the Administrator shall promulgate such regulations in final form. From time to time, and under the same procedures, the Administrator may revise any of the regulations submitted under this subsection.

"DISAPPROVAL BY CONGRESS

"SEC. 155. (a) Regulations promulgated under section 154 and any amendment or revision thereof shall be transmitted to the Congress. A regulation (or amendment or revision) transmitted under this subsection and any regulation submitted under section 152(f)(3) shall take effect at the end of the first period of sixty legislative days of continuous session of Congress after the date on which the regulation (or amendment or revision) is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that that House does not favor such regulation (or amendment or revision).

"(b) For the purpose of subsection (a) of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

"(c) Under provisions contains in a regulation (or amendment or revision) if the Administrator determines that no endangerment of the public health or welfare may reasonably be anticipated to result, a provision of the regulation (or amendment or revision) may be effective at a time later than the date on which the regulation (or amendment or revision) would be effective under subsection (a).

"(d) This section (other than subsection (a)) is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e), and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(e) For the purpose of this section, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the   does not favor the regulations numbered   transmitted to Congress by the Administrator of the Environmental Protection Agency on   , 19   ,', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

"(f) A resolution with respect to a regulation (or amendment or revisions) shall be referred to a committee (and all resolutions with respect to the same regulation (or amendment or revision) shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(g)(1) If the committee to which a resolution with respect to a regulation has been referred has not reported it at the end of ten calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the regulation which has been referred to the committee.

"(2) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same regulation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same regulation.

"(4) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(5) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6) Motions to postpone, made with respect to the discharge from committee of, or the consideration of, a resolution with respect to a regulation, and motions to proceed to the consideration of other business, shall be decided without debate.

"(7) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a regulation shall be decided without debate.

"OTHER PROVISIONS UNAFFECTED

"SEC. 156. Nothing in this subtitle shall be construed to alter or affect the authority of the Administrator under section 303 (relating to emergency powers), under section 231 (relating to aircraft emission standards), or under any other provision of this Act.

"STATE AUTHORITY

"SEC. 157. (a) Nothing in this subtitle shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere unless a regulation of such substance, practice, process, or activity is in effect under this subtitle.

"(b) If a regulation of any substance, practice, process, or activity is in effect under this subtitle in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of any such substance, practice, process, or activity to prevent or abate such risk, unless the requirement of the State or political subdivision is identical to the requirement of such regulation. The preceding sentence shall not apply with respect to any law or regulation of any State or political subdivision controlling the use of halocarbons as propellants in aerosol spray containers.".

(b) Title I of such Act is amended by inserting immediately before section 101 the following:

"Subtitle A—Air Quality and Emission Limitation".

(c)(1) Section 113(b)(3) of such Act (42 U.S.C. 1857c–8(b)(3)) is amended by striking out "or 119(g)" and inserting in lieu thereof "119(g), or any regulation effective under section 155".

(2) Section 113(c)(1)(C) of such Act is amended by striking out "or section 119(g)" and inserting in lieu thereof "section 119(g), or any regulation effective under section 155".

PREVENTION OF SIGNIFICANT DETERIORATION

SEC. 108. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 107 of this Act, is further amended by adding at the end thereof the following new subtitle:

"Subtitle C—Prevention of Significant Deterioration

"PREVENTION OF SIGNIFICANT DETERIORATION

"SEC. 160. (a) The purposes of this subtitle are as follows:

"(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipated to occur from air pollution (or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air), notwithstanding attainment and maintenance of all national ambient air quality standards;

"(2) to preserve, protect, and enhance the air quality in national parks, national monuments, national seashores, national recreation areas, and other areas of special national or regional natural, recreational, scenic, or historic value;

"(3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources;

"(4) to protect any State, region, or area of the country from the loss of jobs or tax revenues to other States, regions, or areas which, but for this subtitle, would permit significant deterioration of air quality;

"(5) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and

"(6) to assure that any decision to permit increased air pollution in any area where the national primary and secondary ambient air quality standards for any pollutant are not being exceeded is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

"(b) In accordance with the policy of section 101(b)(1), each applicable implementation plan shall contain such measures as may be necessary, as determined under regulations promulgated under subsection (c), to prevent significant deterioration of air quality.

"(c)(1) Except as may otherwise be permitted under subsection (d) in the case of air pollutants other than sulfur oxides and particulates, each applicable implementation plan shall contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, any air pollutant for which a national ambient air quality standard is established. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutant are not being exceeded. Such classification plan shall provide for designation of all such areas as either class I, class II, or class III as to each such pollutant. Until such designation is effective, all such areas shall be considered class II, except those areas required to be class I under paragraph (3)(B).

"(2)(A) For any class I area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed 2 percent (10 percent in the case of particulates) of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard whichever is lower.

"(B) For any class II area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed one-fourth of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard, whichever is lower.

"(C) For each class III area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed one-half of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard whichever is lower.

"(D) The maximum allowable concentration of any air pollutant for which an increase is permitted under subparagraph (A), (B), or (C) above shall not exceed a concentration for such pollutant for each period of exposure equal to—

"(i) the concentration permitted under the national secondary ambient air quality standard, or

"(ii) 90 percent of the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lowest for such pollutant for such period of exposure.

"(E) For the purposes of this section, the term 'baseline concentration' means, with respect to a pollutant, the level of concentration of such pollutant determined by adding—

"(i) the level of concentration determined for each period of exposure on the basis of plant capacity in existence on the date on which regulations respecting classification systems for prevention of significant deterioration of air quality initially became effective January 1, 1975,

"(ii) the concentrations for each such period of exposure attributable to new sources which (before the date of enactment of this section) received permits under provisions of applicable implementation plans adopted pursuant to sections 170(a)(2)(D) and 110(a)(4),

"(iii) in the discretion of the Governor of the State, the concentrations for each such period of exposure attributable to any new or modified source which had filed, on or before January 1, 1975, a completed application (as determined in accordance with regulations of the Administrator) for such a permit (but only if such permit is subsequently granted), and

"(iv) in the discretion of the Governor of the State, the concentrations for each such period of exposure attributable to other new sources which are not subject to permit requirements under such provisions but which have reached a stage, on or before the date of enactment of this section, comparable to the stage at which permits are normally required under such provisions in the case of sources subject to such permit requirements.

"(3)(A)(i) Prior to designation or redesignation of the classification of any area, notice shall be afforded and public hearings shall be conducted in areas proposed to be designated or redesignated and in areas which may be affected by the proposed designation or redesignation. Prior to any such public hearing, a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed designation or redesignation shall be prepared and made available for public inspection and prior to any such designation or redesignation the description and analysis of such effects shall be reviewed and examined by the designating authorities.

"(ii) Prior to the hearing conducted under clause (i) respecting the designation or redesignation of any area under this subsection, if such area includes any Federal lands, the designating authorities shall afford the appropriate Federal agency (or agencies) having authority over such lands adequate opportunity to submit an analysis of the proposed designation or redesignation and its recommendations with respect to such designation or redesignation.

"(iii) The Administrator shall promulgate regulations not later than six months after date of enactment of this subtitle to assure, insofar as practicable, that prior to any public hearing on designation or redesignation of any area, there shall be available for public inspection any specific plans for any new or modified major stationary source or development which may be permitted to be constructed and operated only if the area in question is designated or redesignated as class III.

"(B) In designating or redesignating areas under this subsection, the State (or the Administrator in the case of a failure of the State to submit a plan which meets the requirements of this section) shall make specific findings as to the desirability of designating or redesignating as class I each area of special environmental concern such as national recreation areas, wild and scenic rivers, national lakeshores and seashores, national forests, or other areas of specific national or regional natural, recreational, scenic or historic value, but in no event shall any unit of the national wilderness preservation system or national park be designated or redesignated other than class I, if such unit or park is in existence on the date of enactment of this section and, as of such date, exceeds twenty-five thousand acres in size. Any—

"(i) unit of the national wilderness preservation system or national park, other than a unit or park referred to in the previous sentence but which exceeds one thousand acres,

"(ii) international park (in excess of one thousand acres),

"(iii) national preserves, national monument, national recreation area, or national primitive area, which preserve, monument, or area exceeds ten thousand acres,

shall initially be designated as class I, and may be redesignated if such redesignation meets the conditions specified in clauses (i) through (ii) of paragraph (3)(C) only as class II. In no event shall any wild and scenic river, national lakeshore or seashore national wildlife refuge, or national forest, be designated or redesignated other than class I or class II, if such river, lakeshore, seashore, refuge, or forest exceeds ten thousand acres in size.

"(C) An area may be designated or redesignated by the State (or the Administrator, in the case of a failure of the State to submit a plan which meets the requirements of this section as class II if—

"(i) such designation or redesignation has been specifically approved by State law and if general purpose units of local government representing a majority of the residents of the area so designated or redesignated enact legislation (including for such units of local government resolutions where appropriate) concurring in the State's (or the Administrator's) designation or redesignation;

"(ii) such designation or redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase level or maximum allowable concentration permitted under the classification of any other area; and "(iii) such designation or redesignation is otherwise consistent with the requirements of this section.

The requirements of clauses (i) through (iii) of this subparagraph shall also apply as provided in subparagraph (B).

"(D) The Administrator may disapprove the designation or redesignation of any area only if he finds, after notice and opportunity for public hearing, that such designation or redesignation does not meet the requirements of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the designation or redesignation which was disapproved.

"(4)(A) Each applicable implementation plan shall require each new or modified major stationary source to obtain a permit to construct prior to commencement of construction and shall contain provisions for review prior to granting such a permit for any major stationary source in order to determine the effect that emissions from such source will have on air quality concentrations in any area which may be affected by emissions from such source. This paragraph shall not apply in the case of new sources described in paragraphs (2)(E)(ii), (iii), and (iv).

"(B) The review provided for in subparagraph (A) shall be preceded by an analysis, which may be conducted by the State (or any general purpose unit of local government) or by the major stationary source applying for such permit, of the ambient air quality at the proposed site and in areas which may be affected by emissions from such source for each pollutant subject to regulation under this section which will be emitted from such source. Such analysis shall be performed in accordance with regulations of the Administrator. Effective one year after date of enactment of this section, the analysis required by this subparagraph shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such source will exceed the maximum allowable increases or the maximum allowable concentration permitted under paragraph (2). Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under subparagraph (A), unless the Administrator determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis, in terms established by regulations of the Administrator, shall be included in any application for such permit. In promulgating regulations respecting the analysis under this paragraph, the Administrator shall not require the use of any automatic or uniform buffer zone or zones. Such regulations shall authorize such analysis to take into account the terrain and meteorology of the areas affected, the size and nature of the proposed source, the degree of continuous emission reduction which could be achieved by such source, and such other factors as may be relevant in determining the effect of emissions from a proposed source on any classified area.

"(C) A permit under this paragraph may be issued to any major stationary source—

"(i) if any proposed permit has been subject to a public hearing with opportunity for interested persons to appear and submit written or oral presentations on the air quality impact of such source and other appropriate considerations;

"(ii) if emissions from such source will not cause, or contribute to, air pollution in excess of any maximum allowable increase or maximum allowable concentration for any pollutant in any area; and

"(iii) if the requirements of this section applicable to such source have otherwise been met.

Each applicable implementation plan shall require any completed permit application (as determined in accordance with regulations of the Administrator) under this paragraph, or under section 110(a)(2)(D), to be granted or denied not later than 180 days after the date of filing of such completed application.

"(D) Each applicable implementation plan shall contain provisions requiring any person who owns or operates, or proposes to own or operate, a major stationary source for which a permit is required under this paragraph to conduct such monitoring as may be necessary to determine the effect which emissions from any such source may have, or is having, on air quality in any area which may be affected by emissions from such source.

"(E) For the purpose of this title, the term 'major stationary source' means any stationary source of air pollutants which directly emits, or has the design capacity to emit, one hundred tons per year or more of any air pollutant for which a national ambient air quality standard is promulgated under this Act.

"(F) For the purpose of this section, the term 'commencement of construction' means that the owner or operator, or prospective owner or operator, of a stationary source has undertaken a continuous program of construction or modification of such source.

"(5) Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976, the Administrator shall promulgate regulations under this section specifying with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this section.

"(d) With respect to any air pollutant for which a national ambient air quality standard is established other than sulfur oxides or particulates, an area classification plan such as that referred to in subsection (c) shall not be required under this section if the implementation plan adopted by the State and submitted for the Administrator's approval or promulgated by the Administrator under subsection (e)(2) of this section contains other provisions which the Administrator finds will carry out the purposes in subsection (a) at least as effectively as such a classification plan.

"(e)(1) Each State shall adopt and submit to the Administrator, after notice and public hearing, a plan or revision of a plan containing measures meeting the requirements of this section. With respect to sulfur oxides and particulates, such plan or revision shall be submitted no later than one year after the date of enactment of this section With respect to any other pollutant for which a national ambient air quality standard has been promulgated prior to enactment of this section, such plan or revision shall be submitted no later than two years after the date of enactment of this section. With respect to any air pollutant for which a national ambient air quality standard is promulgated or revised after date of enactment of this section, such plan or revision of such plan shall be submitted not later than eighteen months after the date of promulgation or revising of such standard.

"(2) The Administrator shall, within four months after the date required for submission of a plan under this subsection, approve such plan, or any portion thereof, if he determines that such plan was adopted in accordance with, and meets the requirements of, this section. If a State fails to submit such a plan or if any plan, or portion thereof, is disapproved, the Administrator shall, within four months after the date required for submission of such a plan or after such disapproval, prepare and propose such regulations for such State as are necessary to meet the requirements of this section. After notice and opportunity for public hearing, but not later than ninety days after proposal, the Administrator shall promulgate such regulations with such modifications as he deems appropriate.

"(3) Notwithstanding the maximum allowable concentrations permitted under subsection (c)(2)(D), in the case of any area where such concentrations are exceeded on the basis of plant capacity in existence on the date of the enactment of this section, no plan shall be required, as a condition for approval by the Administrator under this section, to reduce pollution concentrations in such area to such maximum allowable concentrations.

"(f)(1) In the case of any State which has a plan approved by the Administrator under subsection (e)(2), the Governor of such State may, after notice and opportunity for public hearing, issue orders or promulgate rules providing that for purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account—

"(A) concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such order.

"(B) the concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from using natural gas by reason of a natural gas curtailment pursuant to a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan.

"(C) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities,

"(D) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration determined under subsection (c)(2)(E), and

"(E) concentrations of naturally occurring particulate matter.

"(2) No action taken with respect to a source under paragraph (1)(A) or (1)(B) shall apply more than five years after the effective date of the order referred to in paragraph (1)(A) or the plan referred to in paragraph (1)(B), whichever is applicable. If both such order and plan are applicable, no such action shall apply more than five years after the later of such effective dates.

"(3) No action under this subsection shall take effect unless the Governor submits the order or rule providing for such exclusion to the Administrator and the Administrator determines that such order or rule is in compliance with the provisions of this subsection.

"(g) The Administrator shall provide such technical assistance to States and localities as may be necessary to assist in carrying out this section.

"(h)(1) Until such time as an applicable implementation plan is in effect for any area which plan meets the requirements of this section to prevent significant deterioration of air quality with respect to any air pollutant, applicable regulations under the Clean Air Act prior to enactment of this section shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant, except as otherwise provided in paragraph (2) of this subsection.

"(2) If any regulation in effect prior to enactment of this section to prevent significant deterioration of air quality would be inconsistent with the requirements of subsections (c)(2) and (c)(3)(B), then such regulations shall be deemed amended so as to conform with such requirements.".

(b) Section 110(a)(2) of such Act (42 U.S.C. 1857c-5(a)(2)), as amended by section 201(c) of this Act, is further amended by inserting the following new subparagraph at the end thereof:

"(J) it complies with the requirements of subtitle C of title I (relating to prevention of significant deterioration of air quality).".

(c) Title III of such Act, as amended by sections 306, 201, 304, 211(a), 312, and 313, of this Act is further amended by adding the following new section at the end thereof:

"STANDARDIZED AIR QUALITY MODELING

"SEC. 323. (a) Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1976, and at least every three years thereafter, the Administrator shall conduct a conference on air quality modeling. In conducting such conference, special attention shall be given to appropriate modeling necessary for carrying out subtitle C of title I (relating to prevention of significant deterioration of air quality).

"(b) The conference conducted under this section shall provide for participation by the National Academy of Sciences representatives of State and local air pollution control agencies, and appropriate Federal agencies, including the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Bureau of Standards.

"(c) Interested persons shall be permitted to submit written comments and a verbatim transcript of the conference proceedings shall be maintained.

"(d) The comments submitted and the transcript maintained pursuant to subsection (c) shall be included in the docket required to be established for purposes of promulgating or revising any regulation relating to air quality modeling under subtitle C of title I."

(d) Not later than one year after the date of enactment of this Act, the Administrator shall publish a guidance document to assist the States in carrying out their functions under subtitle C of title I of the Clean Air Act (relating to prevention of significant deterioration of air quality) with respect to pollutants, other than sulphur oxides and particulates, for which national ambient air quality standards are promulgated. Such guidance document shall include recommended strategies for controlling photochemical oxidants on a regional or multi-State basis for the purpose of implementing section 160 and section 110 of such Act.

(e) Not later than two years after the date of enactment of this Act, the Administrator shall complete a study and report to the Congress on the progress made in carrying out subtitle C of title I of the Clean Air Act (relating to significant deterioration of air quality) and the problems associated with carrying out such section, including recommendations for legislative changes necessary to implement strategies for controlling photochemical oxidants on a regional or multi-State basis.

TRAINING

SEC. 109. Section 103(b) of the Clean Air Act (42 U.S.C. 1857b(b)) is amended by striking out paragraph (5), redesignating the following paragraphs accordingly, and adding the following at the end thereof: "In carrying out the provisions of subsection (a), the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications. Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge.".

REVIEW OF STANDARDS

SEC. 110. Section 109 of the Clean Air Act (42 U.S.C. 1857c-4), as amended by section 101(b) of this Act, is further amended by adding the following new subsection at the end thereof:

"(d)(1) Not later than eighteen months after the date of the enactment of this subsection, and at two-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards promulgated under this section and shall promulgate such new standards and make such revisions in existing standards as may be appropriate under subsection (b).

"(2)(A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

"(B) Not later than one year after the date of enactment of this subsection, and at two-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 108 and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing standards as may be appropriate under subsection (b).

"(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.".

NEW SOURCE STANDARDS OF PERFORMANCE

SEC. 111. (a)(1)(A) Section 111(a)(1) of the Clean Air Act (42 U.S.C. 1857c-6(a)(1)), defining standard of performance, is amended to read as follows:

"(1) The term 'standard of performance' means—

"(A) with respect to any air pollutant emitted from a particular category of sources to which subsection (b) applies, the standard which reflects the degree of emission reduction achievable through the application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated; and

"(B) with respect to any air pollutant emitted from a particular source to which subsection (d) applies, a standard which the State (or the Administrator under the conditions specified in subsection (d)(2)) determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.".

(B) Section 111(a) of such Act is further amended by adding the following new paragraph at the end thereof:

"(7) The term 'technological system of continuous emission reduction' means—

"(A) a technological process for production or operation by any source which is inherently low-polluting or nonpolluting, or

"(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air.".

(2) Section 111 of such Act as amended by section 112(a) of this Act, is further amended by inserting after subsection (f) the following new subsection:

"(g) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative technological system of continuous emission reduction will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the technological system applicable to a source under subsection (a)(1), the Administrator shall permit the use of such alternative technological system by the source for purposes of compliance with such subsection (a)(1) with respect to such pollutant.

"(h)(1) Not later than nine months after the date of enactment of this subsection, the Administrator shall promulgate regulations specifying the categories of major stationary sources which are not included on the list required under subsection (b)(1)(A). Not later than one year after such date of enactment, and at annual intervals thereafter for three additional years, the Administator shall include 25 percent of such specified categories of sources in such list under subsection (b)(1)(A).

"(2) In determining priorities for listing of unlisted categories of major stationary sources for the purpose of paragraph (1), the Adminisrator shall consider—

"(A) the quantity of air pollutant emissions which each such category will emit, or will be designed to emit;

"(B) the extent to which each such pollutant may reasonably be anticipated to endanger public health or welfare; and

"(C) the mobility and competitive nature of each such category of sources and the consequent need for nationally applicable new source standards of performance.

"(3) Before promulgating any regulations under this subsection or listing any category of major stationary sources as required under this subsection, the Administrator shall consult with appropriate representatives of the Governors and of State air pollution control agencies.

"(4) For the purpose of this subsection, the term 'major stationary source' means any stationary source of air pollutants which directly emits, or has the design capacity to emit, one hundred tons per year or more of any air pollutant for which a national ambient air quality standard is promulgated under this Act.

"(i)(1) Upon application by the Governor of a State showing that the Administrator has failed to specify in regulations under subsection (h)(1) any category of major stationary sources required to be specified under such regulations, the Administrator shall revise such regulations to specify any such category.

"(2) Upon application of the Governor of a State, showing that any category of stationary sources which is not included in the list under subsection (b)(1)(A) contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (notwithstanding that such category is not a category of major stationary sources), the Administrator shall revise such regulations to specify such category of stationary sources.

"(3) Upon application of the Governor of a State showing that the Administrator has failed to apply properly the criteria required to be considered under subsection (h)(2). The Administrator shall revise the list under subsection (b)(1)(A) to apply properly such criteria.

"(4) Upon application of the Governor of a State showing that—

"(A) a new, innovative, or improved technology or process which achieves greater continuous emission reduction has been adequately demonstrated for any category of stationary sources, and

"(B) as a result of such technology or process, the new source standard of performance in effect under subsection (b) for such category no longer reflects the greatest degree of emission limitation achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non air quality health and environmental impact and energy requirements) has been adequately demonstrated,

the Administrator shall revise such standard of performance for such category accordingly.

"(5) Upon application by the Governor of a State showing that the Administrator has failed to list any air pollutant which causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in morality or an increase in serious irreversible, or incapacitating reversible, illness as a hazardous air pollutant under section 112, the Administrator shall revise the list of hazardous air pollutants under such section to include such pollutant.

"(6) Upon application by the Governor of a State showing that any category of stationary sources of a hazardous air pollutant listed under section 112 is not subject to emission standards under such section, the Administrator shall propose and promulgate such emission standards applicable to such category of sources.

"(7) Unless later deadlines for action of the Administrator are otherwise prescribed under this section or section 112, the Administrator shall, not later than three months following the date of receipt of any application by a Governor of a State, either—

"(A) find that such application does not contain the requisite showing and deny such application, or

"(B) grant such application and take the action required under this subsection.

"(8) Before taking any action required by subsection (h) or by this subsection, the Administrator shall provide notice and opportunity for public hearing.

"(j) as a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is to be used at such source will enable it to comply with the standards of performance which are to apply to such source.".

(b)(1) Section 111(d)(1) of such Act is amended by striking out "emissions standards" in each place it appears and inserting in lieu thereof "standards of performance" and by adding at the end thereof the following new sentence: "Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.".

(2) Section 111(d)(2) of such Act is amended by adding at the end thereof the following new sentence: "In promulgating a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among other factors, remaining useful lives of the sources in the category of sources to which such standard applies.".

VARIANCES FOR TECHNOLOGY INNOVATIONS

SEC. 112. (a) Section 111 of the Clean Air Act (42 U.S.C. 1857c-6), as amended by section 111 of this Act, is further amended by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Any person proposing to own or operate a new source may request the Administrator for a variance from the requirements of this section with respect to any air pollutant to encourage the use of an innovative technological system or systems of continuous emission reduction which have not been determined by the Administrator to be adequately demonstrated. The Administrator may, with the consent of the Governor of the State in which the source is to be located, grant a variance under this paragraph, if the Administrator determines after notice and opportunity for public hearing, that—

"(i) there is a substantial likelihood that the proposed system will achieve greater continuous emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at lower cost in terms of energy, economic, or non-air quality environmental impact, and

"(ii) the owner or operator of the proposed source has demonstrated to the satisfaction of the Administrator that the proposed system will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

In determining whether an unreasonable risk exists under clause (ii), the Administrator shall consider, among other factors, whether and to what extent the use of the proposed technological system will cause, increase, reduce, or eliminate emissions of any unregulated pollutants; available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such system; and the availability of other technological systems which may be used to conform to standards under subsection (b) of this section without causing or contributing to such unreasonable risk. The Administrator may conduct such tests and may require the owner or operator of the proposed source to conduct such tests and provide such information as is necessary to carry out clause (ii) of this subparagraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system if such pollutant was not emitted, or was emitted in significantly lesser amounts without use of such system.

"(B) A variance under this paragraph shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

"(i) emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

"(ii) proper functioning of the technological system or systems authorized.

Any such term or condition shall be treated as a standard of performance for the purposes of subsection (e) of this section and section 113.

"(C) The number of variances granted under this paragraph with respect to a proposed technological system of continuous emission reduction shall not exceed such number as the Administrator finds necessary to ascertain whether or not such system will achieve the objectives specified in clauses (i) and (ii) of subparagraph (A).

"(D) A variance under this paragraph shall extend to the sooner of—

(i) a date (not more than ten years after the date on which the variance is granted) determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration the design, installation, and capital cost of the technological system or systems being used, or

"(ii) the date on which the Administrator determines that such system has failed to—

"(I) achieve at least an equivalent continuous emission reduction to that required to be achieved under the standards of performance which would otherwise apply, or

"(II) comply with the condition specified in paragraph (1)(A)(ii),

and that such failure cannot be corrected.

"(2)(A) If a variance under paragraph (1) is terminated under clause (ii) of paragraph (1)(D), the Administrator shall grant a waiver from the requirements of this section for such period as may be necessary for procurement, installation, and test operation of a technological system or systems such as will comply with standards of performance under subsection (b) of this section. Such period shall not extend beyond the date two years from the time such waiver is granted.

"(B) A waiver granted under this paragraph shall set forth a compliance schedule containing increments of progress which require compliance with the applicable standards of performance as expeditiously as practicable and include such measures as are necessary and practicable in the interim to minimize emission. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this section 113.".

CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SEC. 113. (a) Section 118 of the Clean Air Act (42 U.S.C. 1857f), relating to control of pollution from Federal facilities, is amended by striking out "comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements" and by inserting in lieu thereof "be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, respecting control and abatement of air pollution in the same manner, and to the same extent, as any nongovernmental entity. Neither the United States nor any officer, agent or employee thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such requirement.".

(b) Section 113(d) of such Act (42 U.S.C. 1857c-8), as added by section 105(c) of this Act, is amended by adding the following new paragraph at the end thereof:

"(2) For purposes of this section, the term 'person' includes any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.".

(c) Section 118 of the Clean Air Act (42 U.S.C. 1857f) is amended by inserting the following immediately before the last sentence thereof: "In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.".

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT

Sec. 114. Section 105(b) of the Clean Air Act (42 U.S.C. 1857c(b)) is amended by inserting at the end thereof the following: "The Administrator, after notice and opportunity for a public hearing and upon making a general finding of good cause and appropriate specific findings, may waive the prohibition of the third sentence of this subsection. For the purpose of this subsection, the term 'finding of good cause' may include a finding that—

"(1) denial of the grant would result in extreme hardship;

"(2) the general purpose unit of government, or higher applicable unit of government, of which such agency is a part has declared the existence of a financial emergency and is thus unable to meet the requirements of this subsection; or

"(3) the circumstances which made such agency unable to meet the requirements of this section were beyond its control.".

EXPANSION OR NEW CONSTRUCTION IN AIR QUALITY CONTROL REGIONS EXCEEDING NATIONAL AMBIENT AIR QUALITY STANDARD

Sec. 115. (a) Title I of the Clean Air Act, as amended by sections 101, 103, 105, 201, 202, 302, and 309 of this Act is further amended by inserting at the end thereof the following:

"EXPANSION OR NEW CONSTRUCTION IN AIR QUALITY CONTROL REGIONS EXCEEDING NATIONAL AMBIENT AIR QUALITY STANDARD

"Sec. 127. (a) Nothing in section 110(a) shall be construed to provide that an applicable implementation plan must prohibit the construction or modification (within the meaning of section 111(a)(4)) of any new major stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant if a variance is issued under subsection (b).

"(b)(1) A variance from the requirements of subsection 110(a) prohibiting construction or modification of a major stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant may be granted under the conditions specified in paragraph(2).

"(2) A variance for purposes of subsection (a) may be granted under this subsection for a proposed new major stationary source or for a proposed modification of a major stationary source by the State, if the Administrator finds that the requirements of this subsection are met (or by the Administrator with the consent of the Governor of the State in which such source is to be located) if, after notice and opportunity for public hearing—

"(A) the owner or operator of the proposed new or modified major stationary source demonstrates that—

"(i) all existing major stationary sources owned or operated by the person proposing such construction or modification are—

"(I) in compliance with all requirements under this Act, including provisions of applicable implementation plans; or

"(II) in compliance with approved schedules and timetables for compliance under applicable implementation plans, under compliance orders issued under section 113 before enactment of this section, or under compliance data extensions issued under this Act; and

"(ii) the proposed new or modified major stationary source will comply with emission limitations requiring use of the best available control technology, as defined by the State in which the proposed source is to be located, which emission limitations shall be at least as stringent as the new source standards of performance which would be applicable to such category of sources under section 111 of this Act; and

"(B) the State (or the Administrator as the case may be) determines, after such notice and such opportunity for public hearing, that—

"(i) the applicable implementation plan for such air quality control region includes (or has been revised to include) emission limitations for any such air pollutant for all existing major stationary sources owned or operated by such person in such region;

"(ii) the applicable implementation plan takes into account (or has been revised to take into account) emissions of any such pollutant from such proposed new source or modification and provides that the cumulative total of actual emissions of such pollutant from all existing major stationary sources owned or operated by such person in such region (when considered together with the emissions from such proposed new source or modification) will not at any time exceed—

"(I) 115 percent, or

"(II) in the case of a variance in effect after January 1, 1980, 100 percent,

of the total cumulative emissions allowable from such existing sources (not including such proposed new source or modification) at such time under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to date of enactment of this section and by any compliance date extension under this Act); and

"(iii) in no event will the granting of any such variance cause or contribute to delaying the attainment of, or to preventing the maintenance of, any national ambient air quality standard for such pollutant beyond the date such attainment would have occurred under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to date of enactment of this section and by any compliance date extension variance or exemption under this Act).

"(c)(1) Not later than one year after date of receipt of a complete application (as determined in accordance with regulations of the Administrator) for a variance under subsection (b), the Administrator (or the State, as the case may be) shall act to grant or deny any such application.

"(2) After January 1, 1980, subsection (b)(2)(A)(i)(II) shall not apply, and a variance may be issued under subsection (b) only if the owner or operator of the proposed new source or modification demonstrates that all existing major stationary sources owned or operated by such person are in compliance with all requirements under this Act, including provisions of applicable implementation plans.

"(3) For the purpose of this section, the term 'major stationary source' has the same meaning as provided by section 121(a)(3)."

(b) Section 113(b)(4), as amended by section 103, is further amended by inserting "or 127(b)(2)(A)(ii)" before the period at the end thereof.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. SATTERFIELD

Mr. SATTERFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Satterfield: Page 154, strike out line 12 and all that follows through line 3 on page 155, and insert in lieu thereof the following:

"Sec. 120. (a) In the case of vinyl chloride, cadmium, arsenic, and polycyclic organic matter, the Administrator shall, not later than one year after the date of enactment of this section and after notice and opportunity for public hearing, determine whether the substance shall be included in the list published under section 108(a)(1) or 112(b)(1)(A), or whether each category of stationary sources emitting such substance in significant amounts shall be included in the list published under section 111(b)(1)(A), or take any combination of such actions."

Mr. SATTERFIELD. Mr. Chairman, section 101(a) would require the Administrator of EPA to list, and thus promulgate regulations to control several currently unregulated substances—vinyl chloride, cadmium, arsenic and polycyclic organic matter—on lists of controlled pollutants under section 108 dealing with primary and secondary standards, section 111 dealing with stationary sources or section 112 dealing with hazardous sources unless he finds that they will not cause or contribute to air pollution which may reasonably be anticipated to endanger public health, or in the case of section 112 which may reasonably be anticipated to increase mortality or increase serious irreversible or incapacitating reversible illness.

I would have no objection to requiring the Administrator to determine within a time certain whether any of these substances should be included in one or more of these three lists, considering their possible effect I think we should insist upon his giving the matter special attention. I do find objectionable the standards of proof imposed by this section as requisite for administrative action.

It would constitute a reversal in the basic thrust of the Clean Air Act which is predicated upon investigating and identifying harmful pollutants and then regulating them on the basis of their levels in ambient air which are found to be harmful.

This language will require listing, not upon finding a substance harmful, but upon failure to find it safe, which for all intent and purpose is an impossible finding. This questionable negative standard is compounded by the fact that under the act, and the bill before us does not change this, in each case after the Administrator lists a substance he must publish within a fixed period of time a regulation fixing and controlling the acceptable level of emission for that substance.

For example, criteria and proposed primary and secondary ambient air quality standards must be published within 12 months after listing; within 120 days with respect to stationary sources and within 180 days when listed as a hazardous pollutant.

With this requirement, we would be saying to the Administrator—you list these substances even though you cannot or have not determined that they are harmful and then you publish standards even though you cannot or have not determined the level at which they are harmful, or for that matter, that they are harmful at all. This circumstance will require administrative action based only upon subjective or theoretical propositions without substantiating scientific data. This procedure is rendered less exact not only because the Administrator's decision rests upon his personal judgment, instead of fact but because it would be based further upon what he might reasonably anticipate. In other words, the Administrator must act upon supposition and conjecture without there being any requirement for connection between cause and result sought.

Lastly, it would render any decision of the Administrator virtually beyond challenge.

There was ample evidence during public hearings and, I might add, since those hearings that there are serious questions about the potential dangers of sulfur oxides. It is essential therefore that EPA be directed to expedite its investigation of this pollutant and act, if necessary, as expeditiously as possible.

However, that investigation will not be assisted by the negative findings required by this section. Indeed the value of this study would lie in the need to make affirmative findings. In any event, it would seem to me that rather than mandate standards on such "will o' the wisp" reasoning we should refrain from change, at least until the results of the Administrator's investigation are forwarded to Congress within a reasonable period of time.

My amendment would strike this provision and substitute the requirement that the Administrator make a definitive determination with regard to each of these substances within 1 year, employing existing requirements as a basis for his findings.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not belabor the point because the subcommittee and the full committee considered this amendment, and both rejected it, rightfully.

Mr. Chairman, what the committee does in this bill is to simply say that these four pollutants, which we know are harmful, ought not to remain uncontrolled. Therefore, we say in the provision that the EPA shall study these four pollutants. Unless EPA finds that all of these studies showing these four pollutants are dangerous to man and animal have no validity, then they ought to initiate controls on these pollutants under either section 108, 109, 111, or 112 of the act. That is all we say, Mr. Chairman.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, by way of a question, it is my recollection that in the committee and in the subcommittee there was presentation of evidence of the fact that there already is a substantial body of medical and scientific proof showing that these particular pollutants are dangerous, so that we are not starting, from a neutral position, to impose a burden upon EPA to prove that they are unsafe. Rather, EPA must disprove that evidence or regulate. There is a substantial body of evidence that these are not safe.

Therefore, what we are saying, in fact, is that we are not going to let these substances go unregulated, unless there is an affirmative showing that this body of evidence is incorrect.

Mr. ROGERS. The gentleman is entirely correct. I am sure he is knowledgeable of the fact that we have studies from the National Academy of Science; we have studies from the Department of Health, Education and Welfare that have been published; and we have studies from the National Cancer Institute.

We have them all listed here, and I will ask that this matter be put in the RECORD to substantiate these statements.

Mr. FLORIO. Mr. Chairman, I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I would like to underscore the arguments made by the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS). We heard arguments on this very amendment and it was rejected in both the subcommittee and in the full committee.

We have substantial evidence to indicate that these four pollutants are dangerous to public health in a very frightening way. For example, vinyl chloride causes a rare form of liver cancer. Arsenic is a poison resulting in high levels of lung cancer. Cadmium particles can cause death at high concentrations. And polycyclic organic matters according to the 1972 National Academy of Sciences report, are known to cause lung and skin cancer in man and animals.

When this proposal was debated in the committee and subcommittee, we learned that there is sufficient evidence to urge the EPA to do more than they are already doing with respect to these four pollutants and to shift the burden to industry to show that these pollutants are safe.

I want to join the members of the subcommittee and the full committee in urging that we reject this amendment and not allow the existing law to continue in effect which allows these pollutants to go unregulated.

Mr. MAGUIRE. Mr. Chairman, would the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I think it is very important to reinforce the point made by the chairman, the gentleman from Florida (Mr. ROGERS) and other members of the committee with respect to vinyl chloride, which has been shown to cause cancer. It has been confirmed that vinyl chloride concentrations are found in drinking water supplies in several major cities. The Ohio Department of Health has also linked vinyl chloride to high birth defect rates.

With respect to cadmium, which has been linked to liver and kidney poisoning and to cancer, it is interesting to note that EPA has promulgated restrictions on cadmium in drinking water yet it has not acted with respect to air emissions.

The National Academy of Science, the National Cancer Institute, and a variety of outside studies clearly indicate the urgent necessity to act on all four of these pollutants, and do it immediately.

I urge a no vote on the amendment.

Mr. ROGERS. Mr. Chairman, I might remind the Members that the concerns and intent of section 101 are set forth in the committee report, which shows the dangers of these pollutants. Therefore I would strongly urge the defeat of this amendment.

Mr. Chairman, the material I referred to earlier is as follows:

SEC. 101. UNREGULATED POLLUTANTS.

I. SUMMARY OF THE SECTION

This section requires the Administrator to promulgate regulations to control several currently unregulated air pollutants, unless the Administrator finds within one year that these pollutants are not hazardous to public health. The pollutants in question are vinyl chloride, cadmium, arsenic, and polycyclic organic matter (POM's).

This section also requires the Administrator to promulgate a one-hour national primary ambient air quality standard for NO2, unless the Administrator finds that the present annual average standards for NO2 is adequate to protect public health.

The section also requires the Administrator to study these unregulated pollutants and includes sulfates within the scope of the study.

II. BASIS FOR THE SECTION

Each of the pollutants referred to have been found to present potentially serious health hazards. In fact, each has been found to be a cancer-causing or likely cancer-causing agent.

A. Vinyl Chloride.

(i) Vinyl chloride in the air has been proven to cause a rare form of liver cancer in animals and in man (studies by NIOSH, European studies, NCI).

(ii) This form of liver cancer has shown up in the neighborhoods near vinyl chloride plants as well as among workers (studies by Dr. Selikoff, N.Y.U. Medical School).

(iii) Vinyl chloride is also showing up in municipal drinking water supplies, maybe the result of rainout of air emissions.

(iv) An Ohio Health Department Study has linked vinyl chloride emissions with unusually high birth defects statistics in the Painesville area.

(v) Steps to limit emission of vinyl chloride have been taken by FDA under the Food, Drug, & Cosmetic Act; by the Labor Department under OSHA; by the Consumer Product Safety Commission; and by EPA under the Pesticides Act.

B. Arsenic.

(i) Arsenic poisoning and high lung cancer incidences have been discovered by Dr. Selikoff in the vicinity of major arsenic pollution sources (Archives of Environmental Health, 1972).

(ii) A 1975 study by the National Cancer Institute indicates that epidemiological evidence links arsenic to higher cancer levels, not only in smelters, but also in nearby communities (Lancet, 7/26/75, pp. 142–145).

(iii) Two 1974 studies, one by Dow Chemical and one by Allied Chemical, reported high levels of lung and lymphatic cancer among workers exposed to inorganic arsenic (Library of Congress memo, 7/21/75, p. 8).

(iv) Control of arsenic to the maximum extent practicable has been recommended by the National Air Quality Advisory Committee (1975 Hearings, pp. 290–291). The State of

Washington has asked EPA to designate arsenic as a hazardous air pollutant. (Library of Congress memo, 7/26/73, p. 2).

C. Cadmium.

(i) Cadmium particles can cause death at high concentrations. Other adverse health effects are emphysema, acute pulmonary edema, cadmium poisoning of the kidney or liver. Animal studies also show excessive cadmium can cause cancer, anemia and hypertension and birth defects. (Library of Congress Memo, 7/21/75, pp. 3–5).

(ii) The National Air Quality Advisory Committee has recommended that cadmium emissions be controlled to the maximum extent practicable (1975 Hearings, pp. 283–284, 290–291).

(iii) Cadmium air emissions are mostly in the breatheable range. They also contribute to cadmium in foods and water. Atmospheric concentrations approaching a "critical exposure" level have been found to occur in the vicinity of large point sources of emissions (U.S.E.P.A., Scientific and Technical Report on Cadimum, (March 1975)).

D. Polycyclic Organic Matter (POM's).

(i) According to the 1972 National Academy of Sciences' report, many POM's are known to cause lung and skin cancer in man and animals. One example of a known carcinogen within the class of POM's is BaP (benzo-a-pyrene). The NAS report also cites evidence that POM's cause bronchitis and emphysema.

(ii) NAS concludes that POM's are one important factor contributing to "urban cancers'. (NAS Report, p. 236).

A 1975 EPA study shows that POM's cause cancers in animals and concludes that there is reason to be concerned about POM's as an important factor in the "urban cancer" effect.

(iii) The National Air Quality Advisory Committee has recommended maximum practicable control of POM's (1975 Hearings, pp. 284, 297).

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have listened to the debate and I would like to point out that it is not the intention of those who support the amendment offered by the gentleman from Virginia (Mr. SATTERFIELD) that the several listed pollutants be unregulated. What the gentleman from Virginia (Mr. SATTERFIELD) is pointing out, if I understood his argument, is that for the first time we are changing the standard of proof that must be made for a particular pollutant, if it is to be regulated, from a positive finding to that of the basis of a negative finding that it will not do some harm.

The other argument that the gentleman from Virginia is making I think is persuasive also, and that is that the Administrator under the present information that he has available does not have the technical ability or the data available to make a determination within the specified time as laid down in this amendment, to say what levels of these particular pollutants would be admitted into the air and at what levels they would be dangerous.

I would yield to the gentleman from Virginia to clarify that point. It would seem to me that his amendment would result in the regulation of these various pollutants provided that the Administrator can come up with the available data to indicate what levels would be harmful to health and environment and what would be an appropriate regulatory approach to take on these particular pollutants.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. I thank the gentleman for yielding.

I appreciate the gentleman's question and statement. I would like to say most emphatically, that is precisely what my amendment is intended to do. I listened with interest today, as I did in committee, to the arguments that there is a body of evidence that these substances already are harmful, or that there is substantial evidence that they are harmful. I would submit that if this exists, my amendment will not prevent the Administrator from regulating them. As a matter of fact, I think he should.

Mr. BROYHILL. The gentleman will agree with me that he already has the authority to do this?

Mr. SATTERFIELD. Absolutely. But, if the gentleman will yield further, the point I am making is that by the standard we are imposing in this section we would be requiring the Administrator to establish a standard to protect public health, even though he has not made any positive finding at all that one of these substances is dangerous to health or, if it is, at what level it becomes dangerous. I do not see how the Administrator can be expected to promulgate an effective air quality standard unless he has first made an affirmative, positive finding determining at what level the content of these substances in our ambient air becomes dangerous to health and is hazardous to health.

Mr. BROYHILL. I believe that is the heart of the issue right there.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is generally recognize that vinyl chloride is a deadly poison. In my own State of Kentucky it has caused several deaths from angiosarcoma. There is no question of the deleterious effect of cadmium or arsenic or the other pollutants which are named or listed here, in my opinion.

Just today I researched the literature on these different substances, and I find that they are toxic. However, the distinguished gentleman from Virginia does have a point in that in this case there is an attempt to require proof of a negative.

Mr. Chairman, I yield back the remainder of my time.

Mr. PREYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the main reason the committee was interested in this section of the bill was to give some impetus to EPA to do something about these obviously very dangerous pollutants like vinyl chloride and cadmium. To adopt this amendment would do nothing by way of giving impetus to EPA, because this would be to give EPA exactly what it has right now, only it has not acted under it. So I think we need to give them a signal. We need to say, "Do something about this."

Second, I can understand how it appears unusual not to require positive findings of actual harm in a situation like this, but I think we have to bear in mind that this is a regulatory action of a precautionary nature. We do not want to wait until the harm is done; we want to prevent its being done. Therefore, with pollutants on which there is so much evidence of danger, such as vinyl chloride, arsenic, POM's, and cadmium, I think it would be dangerous to leave these uncontrolled until there was some positive finding of harm. Rather, they should be controlled, as in the committee bill, unless they are shown to be safe.

This seems to me to make sense under the circumstances. I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SATTERFIELD).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. SATTERFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE——

The CHAIRMAN. Is this an amendment to the committee amendment in the nature of a substitute?

Mr. MAGUIRE. Yes; this is the amendment to section 108.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: In the last sentence of section 160(c)(1) of the text inserted by the Rogers amendment, . . .

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and I will explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, we do not have the amendment. If we have copies of the amendment I will not object; otherwise I will object.

Mr. MAGUIRE. Copies are at the desk and they should have been distributed.

Mr. BROYHILL. Mr. Chairman, I object until we get the copies.

The CHAIRMAN. Before the Clerk reads further, the Chair would like to advise the gentleman from New Jersey that the amendment is not properly drafted as an amendment to the committee bill, but has been drafted as an amendment to an amendment which has not been offered.

Mr. MAGUIRE. Mr. Chairman, I ask unanimous consent to withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 158, after line 17, insert:

ECONOMIC IMPACT STATEMENT

SEC. 102A. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"ECONOMIC IMPACT STATEMENT

"SEC. 325. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standard of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation establishing a schedule of rates of excess emission fees under section 122(b),

"(4) any regulation under subtitle B of title I (relating to stratosphere protection),

"(5) any regulation under subtitle C of title I (relating to prevention of significant deterioration of air quality),

"(6) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section,

"(7) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(8) any aircraft emission standard under section 231, and

"(9) any railroad emission standard under section 235.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (9) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date 90 days after the date of enactment of this section. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

"(b) Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact statement respecting such standard or regulation. Such statement shall be included in the docket required under section 307(d)(2) and shall be available to the public as provided in section 307(d)(4). Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact statement in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a). Each such explanation shall be part of the statements of basic and purpose required under sections 307(d)(3) and 307(d)(6).

"(c) Subject to subsection (d), the statement required under this section with respect to any standard or regulation shall contain an analysis of:

"(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the availability of capital to procure the necessary means of compliance with the standard or regulation;

"(4) the direct and indirect effects on employment of the standard or regulation;

"(5) the effects on competition of the standard or regulation, particularly the effects on small business;

"(6) the effects of the standard or regulation on consumer costs, including costs especially affecting economically vulnerable segments of the population;

"(7) the effects of the standard or regulation on energy use or availability;

"(8) the impact of the standard or regulation on the potential for long-term economic growth;

"(9) the impact of the standard or regulation on productivity;

"(10) the impact of the standard or regulation on the Nation's balance of payments;

"(11) the economic impact of postponing the standard or regulation or of not promulgating such standard or regulation;

"(12) alternative methods to such standard or regulation for achieving equal or greater degree of emission reduction (or health or environmental protection) at lesser economic costs;

"(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection); and

"(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

"(d) The statement required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

"(e) Nothing in this section shall be construed:

"(1) to alter the basis on which a standard or regulation is promulgated under this Act; or

"(2) to preclude the Administrator from carrying out his responsibility under this Act to protect public health and the environment.

A standard or regulation subject to this section shall be invalid on the basis of a failure to comply with this section only if the Administrator acted arbitrarily and capriciously—

"(A) in failing to prepare and publish an adequate economic impact statement as required by this section, or

"(B) in failing to comply with the procedural requirements of subsection (b)."

Mr. FINDLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Chairman, the amendment I offer requires the Administrator of EPA to prepare and publish an economic impact statement whenever he proposes nonhealth related regulations under this act. It is my understanding that it is acceptable to Chairman ROGERS.

Consideration of the economic impact of environmental decisions is an idea whose time has come. The committee recognized this in drafting certain sections of the bill before us. New source standards, for example, must be set only after considering costs. Several other sections also require that economic issues be considered before environmental decisions are made.

However, this bill does not require EPA to consider the economic impact in all of its nonhealth related decisions. That is one important change my amendment will make.

Second, my amendment requires EPA to publish its analysis of economic impact and subject it to the public comment process provided for by this bill.

Third, my amendment spells out in some detail precisely what should be considered in evaluating economic impact. Fourteen separate criteria are established. The economic impact statement would be required to contain EPA's assessment of the effects of proposed regulations on inflation, employment, consumer costs, energy availability, and the balance of payments. In addition, the economic impact of alternative regulations would have to be considered.

Mr. Chairman, these are good sound principles which commonsense tells us should be a normal part of EPA's decisionmaking process. While economics should never be controlling, it should be considered.

The Council on Environmental Quality, which has charge of assuring the adequacy of environmental impact statements filed by all Federal agencies, acknowledges the importance of economic considerations. Yet, Chairman Russell Peterson has written me that—

> Economic analyses can be and are included in an environmental impact statement if an agency so desires.

Thus, he says, while some Federal agencies—

> Do prepare such economic analyses and include them or make references to them in their impact statements, other agencies generally do not make such analyses.

Mr. Peterson concluded:

> The Department of the Interior and the Environmental Protection Agency, generally do not prepare such analyses, or, if on occasion they do, do not include them in their impact statements.

We should now strive toward uniformity and balance in the Federal approach to environmental decisions. Both the economic and environmental impact should be considered when decisions affecting all of us are made. This amendment to the Clean Air Act is only the first step—but it is in the right direction. I urge your support.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have gone over this amendment carefully. It is acceptable. On this side of the aisle we would urge approval of the amendment.

Mr. FINDLEY. I thank the gentleman from Florida.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, as I read the amendment, the gentleman's amendment would not prevent the Administrator from promulgating a particular regulation. All the amendment would say is that if a regulation is promulgated, the EPA must prepare the economic impact statement as to the impact it will have on the jobs, energy, inflation, and so forth.

Mr. FINDLEY. That is exactly correct.

Mr. BROYHILL. I think it is a good amendment. I hope the committee will adopt it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 236, after line 12, insert the following new section:

TEMPORARY EMERGENCY REVISIONS

SEC. 116. Section 110 of the Clean Air Act (42 U.S.C. 1857c-5), as amended by section 103 of this Act, is amended by adding at the end thereof the following new subsection:

"(f) (1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and public hearing on the record, an emergency revision of an implementation plan with respect to such source may be made by the Governor of the State in which such source is located and may take effect immediately pending approval or disapproval by the Administrator.

"(2) An emergency revision under this subsection shall be made only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source an economic emergency involving actual or threatened high levels of unemployment;

"(B) such unemployment can be totally or partially alleviated by such emergency revision; and

"(C) such emergency revision, together with all other revisions effective under this subsection, will not result in emissions from such source of any air pollutant which may cause, or materially contribute to any delay in the attainment of, or preventing the maintenance of, any national ambient air quality standard for such pollutant.

"(3) A temporary emergency revision made by a Governor under this subsection shall remain in effect for a maximum of four months. The Administrator shall, within such four month period, approve such revision if he determines that it meets the requirements of paragraph (2) of subsection (a) of this section.

"(4) This subsection shall not apply in the case of a plan promulgated by the Administrator under subsection (c) of this section.

"(5) No emergency revision may be effective pursuant to this subsection if such revision contains any plan provision which has been disapproved by the Administrator (or any plan provision which would have the effect of a provision which has been disapproved by the Administrator) at any time during the 18 months preceding the date of application for such revision."

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, the amendment I have offered would permit the Governor of a State to revise the State's implementation plan on a temporary, emergency basis, pending approval by the EPA, when the Governor finds that it is absolutely essential to avoid an economic emergency which could lead to a serious loss of jobs.

I want to emphasize that the authority granted to a Governor under my amendment could only be exercised if it would not materially affect the applicable air quality standard.

My amendment is designed to deal with the type of situation which we recently experienced in New Jersey—and which may exist in other States—when a revision was urgently needed to avoid large layoffs or a plant closing, and there was no room for delay.

Under existing law, despite the urgency of the situation, a revision cannot take effect until after the EPA has completed its process of review and approval, which can often be quite lengthy. In some cases, where there is no great sense of urgency, this is acceptable.

But in other cases, involving an economic emergency and an immediate threat of higher unemployment, the delay brought about by the review process could be critical.

It is that delay, accompanied by a serious economic emergency, which my amendment seeks to eliminate.

It simply says that, after notice and public hearing, when a Governor finds that an economic emergency exists, he may revise the State's implementation plan, effective immediately, for a period of not more than 4 months.

During that time, the revision would be reviewed by the EPA, and either be approved or disapproved. If it was approved, the revision would become part of the State's implementation plan. If disapproved, the revision would cease to have any effect.

Mr. Chairman, this amendment would not result in any delay, or prevent the attainment of any national ambient air quality standard. It simply seeks to protect jobs when an emergency situation exists that requires prompt action.

It is a carefully and narrowly drawn amendment, and I urge my colleagues to support it.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, it is my understanding that this would not prevent the maintenance of national ambient air quality standards for such pollutions.

Mr. HUGHES. No, it would not.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield further, we have looked at the amendment. With the understanding that this amendment will not prevent attainment or maintenance of the national ambient air quality standards. I have no objection to this amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr Chairman, under an imminent danger or hazard proposal that comes from this stationary source, does the gentleman mean this would permit a Governor to continue for 4 months before the EPA, the Environmental Protection Administrator, would come in?

Mr ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, as I understand, the national ambient air standards could not be exceeded at all.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, in many cases ambient air standards have not been developed for many of these hazardous substances, as the gentleman well knows.

Mr. HUGHES. Mr. Chairman, I assure my colleague that it is not the intent to prevent the enforcement of national ambient air quality standards. We had a situation just recently where the Governor went through a revision process which took several months. The State of New Jersey found that the State's implementation plan could be revised without any danger whatsoever to public health on the desired attainment of air quality standards; but that it would protect an area against economic ruin.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, certainly I understand the gentleman's problem, but I do not feel that the laws in the State of New Jersey, or at least the Federal laws, are any stricter in New Jersey than in any other State. If the gentleman's legislation would not exceed the primary standards which affect human health or the secondary standards which will affect the environment, then I would not object, but I would want that assurance.

Mr. HUGHES. Well, the gentleman has that assurance. I can assure the gentleman that is the case. In the particular situation to which I made reference, the EPA finally approved the State modification.

Unfortunately, there was an additional delay of several months in the review process by EPA. I can assure the gentleman that there is no danger that this amendment will detract from your efforts to attain national ambient air quality standards.

Mr. CARTER. With the understanding I have of the gentleman's assurances, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

Mr. BURLISON of Missouri. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: Page 216, after line 23, insert:

(f) The Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"NATIONAL COMMISSION ON AIR QUALITY

"SEC. 325. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the effects of the implementation of requirements on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

"(2) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population, and to achieve the other purposes of the Act;

"(4) the technological capability of achieving and the economic, energy, and environmental and health effects of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(5) air pollution not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(7) the ability of (including financial resources, manpower, and statutory authority) Federal, State and local institutions to implement the purposes of the Act.

The Commission's study and report under paragraph (4) shall include analysis of the health effects of pollutants which are derivates of oxides of nitrogen.

"(b) Studies and investigations conducted pursuant to paragraphs (1) and (2) of subsection (a) shall include—

"(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects;

"(2) the effects of limiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

"(c) The Commission shall, as a part of any study conducted under subsection (a) (1) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

"(d) Such Commission shall be composed of eleven members, including the chairman and the ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce (or delegates of such chairmen or member appointed by them from among representatives of such committees) and seven members of the public appointed by the President, by and with the advice and consent of the Senate. The chairman of the Commission shall be elected from among the members thereof.

"(e) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning subsection (a) (4) of this section no later than March 1, 1978, and the results of the investigation and study concerning subsection (a)(1) of this section no later than two years after the date of enactment of the Clean Air Act Amendments of 1976. The administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the same matters required to be studied by the Commission under subsection (a)(1) and to submit such study to the Congress at the same time as required for the report of the Commission concerning such subsection. Funds shall have the same authorities and duties respecting such study, as provided in the case of the study authorized pursuant to section 202(c).

"(g) A report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section. Upon submission of such report or upon expiration of such three-year period, whichever is sooner, the Commission shall cease to exist.

"(h) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(i) There are authorized to be appropriated, for use in carrying out this section not to exceed $17,000,000.

"(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, this amendment simply provides for a study by setting up a National Commission on Air Quality of 11 members, 7 of whom would be appointed by the President and confirmed by the Senate; there would also be 4 representatives of the Congress from the committees involved, making up the 11 members.

We simply are asking for this ongoing study on the implementation of this 1976 act so that we can have information and guidance as we go along. As new technology develops, and as new information and ideas come to the fore, this Commission will be able to report to the Congress.

As a matter of fact, Mr. Chairman, I think this is similar to a provision in the Chappell amendment which will be offered and I think we would have no objection to a study being made of the implementation of section 108.

I might say, Mr. Chairman, that this is similar to a provision which is also in the bill from the other body.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of asking the gentleman from Florida (Mr. ROGERS) some questions about his amendment.

Is it my understanding that the gentleman from Florida is offering an amendment that would provide for a study of the question of whether we would require a policy of nondegradation and that this would be mandated by law, or what does the study do?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, what this amendment does really is simply to say that we will be getting guidance on the implementation of this policy, not in establishing the policy. It is simply an ongoing study.

Mr. BROYHILL. The question that I am asking is what is the purpose of a study if in the bill itself we are mandating that this policy be adopted and carried out from now on?

Mr. ROGERS. If the gentleman will yield further, as this provision is implemented, some people may have some concern they want to present to the Commission, the Commission could bring it to the attention of the Congress in the report. It is very similar to the Chappell amendment.

Mr. BROYHILL. If I might say to the chairman of the subcommittee, the amendment that the gentleman has offered is asking for information about the economic, technological, and environmental consequences of adopting a policy of this kind. So I really think we are putting the cart before the horse that we should provide for a study before implementing a policy of this kind which has such far-reaching effect in the future and can have such economic, technological, and environmental consequences that the gentleman from Florida is now saying that we need to study.

Mr. ROGERS. All I am saying is, we already know what we want to do. The

Commission would evaluate issues like unregulated pollutants and other problems that might come up in the future. If the gentleman will notice, we are talking about things to be covered by the study that would be of aid to the Congress in evaluating how the 1976 act is being implemented, and in determining what we may want to do in the future.

Mr. BROYHILL. If the gentleman from Florida already has the answers to these questions, and he must have them or he would not be advocating that the House adopt a policy such as found in section 108, so if he already has those answers, then what is the purpose of the study?

Mr. ROGERS. I am trying to make the distinction for the gentleman. One is a policy decision that we have made. We know what we are doing on the policy of significant deterioration in section 108 of this bill. We are trying to say that we want the Commission to follow along and monitor any problems in implementing this policy.

Mr. BROYHILL. The point is that the information that is developed as a result of the study proposed by the gentleman from Florida is going to come too late.

Mr. ROGERS. No; not at all.

Mr. BROYHILL. If we follow the recommendations of the gentleman from Florida, by that time we would have already have made those policy decisions and we will be locked into a course of action which it is going to be very difficult to change at that time because the Environmental Protection Agency, under the terms of section 108, as advocated by the chairman of the subcommittee, is going to have very little leeway in administering that particular policy of nondegradation.

My feeling is that the best course of action that this House should follow is to adopt the amendment that is being proposed by our colleague, the gentleman from Florida (Mr. CHAPPELL).

Mr. ROGERS. I do not think the gentleman has yet proposed it.

Mr. BROYHILL. And that is to get the information on the economic, technological, and environmental consequences of adopting this policy and then the Congress can act, if necessary, or the Congress can choose to leave it up to the EPA, if that is what their judgment would be.

Mr. ROGERS. If the gentleman would yield further, what we are saying, we have made the policy decision in this bill. The study pertains to the implementation of that policy.

The CHAIRMAN. The time of the gentleman has expired.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. ROGERS

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. ROGERS: In the last sentence of section 160(c)(1) of the text inserted by the Rogers amendment, strike out ", class II, or class III" and substitute "or class II".

In section 160(c)(2) of such text, strike out subparagraph (C), redesignate subparagraphs (D) and (E) and (C) and (D), respectively, and in such redesignated subparagraph (C) strike out "(B) or (C)" and substitute "or (B)".

In subparagraph (B) of section 160(c)(3) of such text after clause (iii), strike out "only" and all that follows down through the end of such subparagraph and substitute "as class II".

In section 160(f)(1)(D) of such text, strike out "E" and substitute "D".

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. CARTER. Reserving the right to object, Mr. Chairman, I would like to ask how long this amendment is. The other amendment was three or four pages long. I did not think the explanation was full enough for that amendment. If this amendment is three or four pages long, then I want it read completely.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

This amendment is one-half page long.

Mr. CARTER. In that case, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, I am introducing an amendment to the portion of the Clean Air Act amendments dealing with significant deterioration of the air in areas of our country which still have to some degree clean air. I am proposing that we eliminate the class III category from the bill. If we do that, we will be composing our bill essentially with the bill approved earlier by the Senate by a vote of 63 to 31.

As many of the Members know, I originally proposed an amendment to this section which included other changes to the committee bill in addition to this, but I am offering here simply the elimination class III.

There is a very simple reason for getting rid of the class III designation. Class III virtually entirely subverts the intention of this section of the bill. Supposedly we are trying to prevent significant deterioration of our air. We are trying to prevent it from being unnecessarily degraded. But what does class III do? It allows an increase of 50 percent of the lowest national air quality standard for each pollutant in any clean air area designated as class III. This means, for examples, that most areas of the country which limited pollution by sulfur oxides would be permitted to deteriorate to the levels of concentration in cities such as Los Angeles and Detroit—which hardly seems to fit with our objective of retaining our clean air.

Some people seem to be under the impression that if we eliminate class III, it will stop industrial growth. That is not true. The fact is that under class II, we will still be permitting major increases in the levels of pollution—25 percent of the national standard for each pollutant. This would allow levels of SO_2 pollution comparable to those in cities such as Milwaukee or Cincinnati.

Virtually all of the powerplants that have been planned in this country, according to EPA and FPA studies, will fit into the class II designation without difficulty. Other industries where the pollution problem is minimal compared with utilities would have obviously even less difficulty.

It is important to remember that this section of the bill deals only with areas of the country which still have relatively clean air. Any area with concentrations of a particular pollutant already within 25 percent of the maximum permitted under the present air quality standards would be unaffected, for that pollutant, by this amendment. Either class II or class III allows an increase, under that condition, to the maximum level permitted under present law, except that it may not exceed 90 percent of the primary standard.

Why should we eliminate class III?

Because the levels of pollution it would allow are clearly harmful to health.

And because the massive additional increments in pollution it would encourage clearly involve major economic costs to our society.

We now understand more clearly than we did a few years ago the health hazards associated with polluted air. The effects of high concentrations of pollutants such as sulfur oxides or nitrogen oxides are not merely short-term, and do not only affect the very old or the very young. It is becoming clear that, in addition to respiratory diseases, air pollution may contribute significantly to increased incidence of cancer and other serious ailments. And the idea that there is a "safe" threshold below which these pollutants have no impact on human health has been largely discounted. It appears now that the most critical impact of pollutants may well be long-term and cumulative. Each increment in the level of a pollution in the air we breathe adversely affects the health of each one of us.

We do not need to stop at the social value of preventing illness. All sickness, including that caused by air pollution, costs money. We have to pay for the direct costs of treating the disease. We have to pay the indirect, but very real, costs of increased absenteeism from productive jobs. And we have to pay the indirect costs of increased inefficiency on the job. A recent study by two economists of the direct and indirect health costs specifically attributable to air pollution estimated that these costs amount to about $14 billion annually. And another study has estimated that the health costs from sulfur oxide pollution alone may amount to over $3.2 billion per year.

Of course these figures deal with all pollution—including that in urban areas which will be unaffected by the prevention of significant deterioration. But the estimates on the health effects of sulfur oxides indicated that about $1.4 billion annually of the damage was due to pollution in areas with pollution levels under those of the National Primary Air Quality Standards.

Health costs are not the only economic costs due to pollution. A second major problem area is agriculture. Approximately $500 million damage to crops annually is caused by air pollution, according to EPA estimates. And these estimates are conservative. They are based on a series of single-crop studies more than on any focused effort to understand all the agricultural ramifications of air pollution. We do know, however, that acid rains—due to increasing levels of sulfur oxides in the atmosphere—high concentrations of ozone, and short-term dousings of crops with extremely high levels of pollutants from a single source are among the major causes of crop losses.

Finally, estimates of damages to construction materials range from $600 million to over $2 billion each year.

The costs of eliminating class III are minimal next to these pollution-related costs. It is generally agreed that what financial burden there is would fall on the utilities industry. Less than 4 percent of the anticipated increased capital costs for the utilities for meeting the new clean air standards required by this bill would be due to the elimination of class III. And this amounts only to two-tenths of 1 percent—about $27 million—of the anticipated annual capital expenditures of the utility industry over the next 15 years. And the operating and maintenance costs which will be incurred to meet all the standards in this bill—of which elimination of class III would only be a small fraction—amount to less than 15 percent of the economic losses due to health problems alone.

The somewhat higher cost estimates by industry analysts are due almost entirely to their assumption that use of low-sulfur coal would be required to meet the standards in the bill. In fact, this runs entirely contrary to the intent of the bill. The bill now calls for the use of the best technology on all new industrial emission sources. Since available scrubbers would eliminate 90 percent of sulfur oxides from stack emissions, there will be an incentive to use whatever coal is most readily available—as is intended by the bill.

In addition, low-sulfur coal puts off higher levels of particulates than high-sulfur coal, and it would appear that the costs of controlling high particulate emissions from low-sulfur coal and the sulfur emissions from high-sulfur coal will just about balance out. So even from the point of view of economic incentives to the industry, there is no rationale for handling low-sulfur coal long distances to utilities in the East or Midwest.

What about industrial development? There will be no limitations on economic development in the foreseeable future. Remember that under class II, levels of pollution for each pollutant may be increased by 25 percent of the national standard. And, in addition, all existing facilities, or facilities licensed or under construction, are grandfathered in under the bill. The levels of pollution which they create will be part of the baseline from which the level of increase is measured.

Under class II, well-sited coal-fired plants capable of generating anywhere from 1,700 to 8,100 megawatts could be built. The low figure of 1,700 MW takes into account that utilities in the Central States would use the high-sulfur coal locally available.

Let us put these generating capacities into perspective. The highest peak demand ever registered for the entire Washington metropolitan area—from all generating sources—was 3,623 MW, while the average demand is only about 2,500 MW. With a range of 1,700 to 8,100 MW from individual plants, there is clearly no reason to fear restrictions on the future growth of the utility industry. In fact, by avoiding costly retrofitting later, long-term capital costs for utilities would be reduced.

The last point it is important to make is that there is no conflict between keeping our air clean and achieving energy independence. Since the thrust of the present bill is to encourage the use of coal rather than oil for utilities, and since our country has abundant supplies of coal, it should in fact be possible to gradually decrease our dependence on oil for industrial purposes.

Elimination of class III is vital to the health of the people in this Nation.

Elimination of class III will greatly reduce increased economic costs due to air pollution.

Elimination of class III will provide a net economic benefit to our Nation.

Elimination of class III will not prevent us from continuing economic development or pursuing energy independence.

All we are trying to achieve through this amendment is some decrease in future levels of increased pollution.

I hope you will support me in voting for the elimination of class III.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. BROYHILL. Mr. Chairman, my parliamentary inquiry is: How does the amendment that has been offered by the gentleman from New Jersey amend the amendment offered by the gentleman from Florida?

The CHAIRMAN. The amendment was offered as an amendment to the amendment and the Chair cannot make an interpretation of the effect of the amendment.

Mr. BROYHILL. My parliamentary inquiry further would be is it the intention to strike out the language offered by the gentleman from Florida and insert this language in lieu of that language? We are unclear on this side and would like to have a clarification from the Chair or from someone.

The CHAIRMAN. The Chair will state to the gentleman from North Carolina that this is not really a proper parliamentary inquiry. The Chair cannot comment further on the offering of the amendment to the amendment, since a point of order was not raised at the appropriate time.

Mr. MAGUIRE. Mr. Chairman, if the gentleman will yield to me I will be glad to comment.

Mr. BROYHILL. Mr. Chairman, a further parliamentary inquiry. If the Maguire amendment to the amendment were adopted, would the Committee then be voting on the language that is in the amendment offered by the gentleman from Florida (Mr. ROGERS) and the amendment that has been offered by the gentleman from New Jersey (Mr. MAGUIRE)? Would we then be acting on the language offered by both the gentlemen or just one?

The CHAIRMAN. The Chair would first put the question on the amendment offered by the gentleman from New Jersey to the amendment offered by the gentleman from Florida. If that amendment should prevail the question would then be propounded on the amendment offered by the gentleman from Florida as amended.

Mr. BROYHILL. Mr. Chairman, I am not taking this time needlessly. I would like to ask would the amendment be the language offered by both gentlemen or just the language offered by the gentleman from New Jersey?

Mr. MAGUIRE. Would the gentleman yield to me? I think I could clarify the matter.

Mr. BROYHILL. I am asking the Chair.

The CHAIRMAN. The amendment offered by the gentleman from New Jersey is before the Committee, and if the amendment offered by the gentleman from New Jersey is adopted, then it would be engrafted as an amendment to the amendment offered by the gentleman from Florida, and then the question before the Committee would be on the Rogers amendment as so amended.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not clear yet as to what would be the result here.

Mr. MAGUIRE. Mr. Chairman, would the gentleman yield to me?

Mr. BROYHILL. Mr. Chairman, one interpretation I have had is that the language offered by the gentleman from New Jersey would actually strike the language offered by the gentleman from Florida. I am really not clear whether that is his intent or not?

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. Yes, I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the amendment does not strike the language of the amendment offered by the gentleman from Florida. It adds to that language.

Mr. BROYHILL. Mr. Chairman, that may be the gentleman's intent but I am not sure the amendment has been offered that way.

Mr. MAGUIRE. That is the way the amendment read.

Mr. BROYHILL. But that was the answer I was trying to get from the Chair, but it was not clear. What the gentleman is doing is striking out by the language in his amendment language that does not exist in the Rogers amendment.

Mr. MAGUIRE. The difficulty may be resolved, if the gentleman will yield to me. I had two versions of my amendment drafted. One was as an amendment to the bill and the other was as an amendment to the Rogers amendment. It was the latter which was the original typed amendment which I have in fact offered at this point and that is the way it was read.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would like to ask the distinguished gentleman from New Jersey if he does not have an amendment to the amendment and also an amendment to the original bill. Is that correct?

The CHAIRMAN. Is the gentleman from North Carolina seeking the attention of the gentleman from New Jersey?

Mr. BROYHILL. Well, it is too late now.

Mr. CARTER. Mr. Chairman, I reserve a point of order against the amendment.

Mr. BROYHILL. Mr. Chairman, I think this amendment should be defeated for more reasons than because I have doubt as to how it has been offered here. I am also concerned about the effect this amendment is going to have on the potential growth of our country in the next few years.

Mr. Chairman, I have before me a letter that has been written by the Administrator, or has been written for the Administrator of the EPA to the chairman of the committee in the other body. In that letter he points out very well that class III increments are going to be necessary in order to have some potential room for growth in the post-1980 period. Otherwise, he points out there could be the possibility of significant restrictions or significant altered development patterns occurring if we do not have this room for growth.

Mr. Chairman, I would point out that even with class III in section 108 we are going to have this problem of restricting growth. If we strike out class III, it is going to cause severe problems.

Mr. Chairman, for that reason, I ask that the Committee reject the amendment of the gentleman from New Jersey.

AMENDMENT OFFERED BY MR. CHAPPELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ROGERS

Mr. CHAPPELL. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Florida (Mr. Rogers).

The Clerk read as follows:

Amendment offered by Mr. Chappell as a substitute for the amendment offered by Mr. Rogers: Page 198, line 5, after section 108, strike out everything following Sec. 108 and insert the following:

Sec. 108. The Clean Air Act is amended by inserting a new section 315 and renumbering succeeding sections accordingly:

"NATIONAL COMMISSION ON AIR QUALITY

"Sec. 315(a) There is established a National Commission on Air Quality which shall study and report to the Congress on:

"(1) the effects of any existing or proposed policy or prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including state and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense and its other social and environmental effects;

"(2) any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources which may result from a policy of nondeterioration;

"(3) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including state and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects.

"(b) Such Commission shall be appointed within 60 days of enactment of the Clean Air Act Amendments of 1976 and shall be composed of fifteen members, including the Chairman and the ranking minority Members of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and eleven members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

"(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(d) A report together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study as conducted under this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976.

"(e) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73 b-2) for persons in the Government service employed intermittently.

"(f) There is authorized to be appropriated, for use in carrying out this section, not to exceed $5,000,000.

"(g) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation."

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I reserve a point of order against the amendment offered as a substitute for my amendment.

The CHAIRMAN. Does the gentleman from Florida (Mr. Rogers) wish to be heard on the point of order?

Mr. ROGERS. Mr. Chairman, I would insist that at this time, not that I would object to the unanimous-consent request, but probably we should vote on my amendment and the amendment of the gentleman from New Jersey first and then allow the gentleman from Florida to offer his amendment as a substitute for the section.

May I say the reason why this is not simply an amendment to the Rogers amendment, or a substitute for it; rather, it goes far beyond striking the Rogers amendment. It strikes the whole section of the bill and simply adds the same amendment, so I would think it is not germane at this time.

The CHAIRMAN. Does the gentleman from Florida (Mr. Chappell) wish to be heard on the point of order?

Mr. CHAPPELL. Mr. Chairman, as I see the situation, the Rogers amendment seeks to add a provision to section 108.

Mr. Chairman, as I see my amendment, it is in substitute to that and seeks to strike the wording of section 108 which it is attempting to amend, so I think it is clearly a proper substitute amendment.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. CARTER. I do, Mr. Chairman.

Mr. Chairman, I agree with the distinguished gentleman from Florida (Mr. Rogers). My good friend, the chairman of the subcommittee, stated that the amendment was to his amendment. His amendment has not been accepted, and of course the Chappell amendment does not amend it. It is an original amendment, Mr. Chairman, of a substitute to section 108 of the bill. Therefore, I should think it would be in order.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Florida (Mr. Rogers) correctly stated the situation. His amendment calls for a study and inserts a new subsection in section 108. The Chappell amendment is much broader, and does deal with the standards which are set out in this particular section of the bill, while the Rogers amendment merely adds the study.

The Chair would, in support of the ruling the Chair is about to make, refer to Cannon's Precedents of the House of Representatives, page 457, section 2880, wherein it is stated:

> An amendment striking out language other than in the pending amendment is not in order as a substitute for an amendment inserting language.

The Chair would further point to a ruling set out on page 456 of the same volume, in section 2879, entitled, "A decision as to what constitutes a substitute";

> To qualify as substitute an amendment must treat in the same manner the same subject matter carried by the text for which proposed.

The Chair therefore sustains the point of order, and would advise the gentleman from Florida (Mr. Chappell) that his amendment might be in order after the Rogers amendment and the amendment thereto have been disposed of.

Mr. CHAPPELL. I thank the Chair.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to section 108 offered by the gentleman from New Jersey (Mr. MAGUIRE).

During the course of discussion on preventing significant deterioration of presently clean air, some have worried that if areas were not allowed to deteriorate beyond the class II levels, growth in energy production would be prevented. This is simply not true. In fact, 93 percent of all the planned coal-fired powerplants could be built without exceeding the class II increment, or 25 percent of the lowest national standard. The fact is that nearly two plants the size of the massive Kaiparowits power project—the largest coal-fired powerplant ever planned—could be accommodated in a class II area. When the Kaiparowits was first proposed, its environmental impact statement showed that a powerplant with the capacity of 5,000 to 6,000 megawatts could be constructed in a class II area. I might add that this study did not assume the use of best available control technology, which means an even greater capacity could be realized in a class II area. It seems clear to me that our vital energy needs will not be threatened by a class II designation.

Second, we are all concerned, and rightly so, about the cost of such a proposal—most importantly, the cost to consumers. EPA has projected that between 1975 and 1990, preventing significant deterioration will cost the average American household approximately 25 cents per month—less than the cost of one can of soda. I think you will agree with me that 25 cents a month far outweighs the $20 billion in damages that air pollution inflicts on health, property, materials, and vegetation every year.

What about the cost to the utility industry which, incidentally is the industry most affected by section 108. According to EPA, between 1975 and 1990, elimination of class III will increase capital expenditures by only two-tenths of 1 percent over the committee bill.

Finally, and I believe most importantly, the health of all Americans is at stake. During the first 7 months of 1975, Americans died of cancer at a higher rate than at any time since this Government began keeping mortality records 42 years ago. Since 1933, there has been an increase in the cancer death rate of approximately 1 percent per year. Last year alone, the increase was at a rate of 2.3 percent. Respiratory cancers are increasing at an alarming 4.5 percent annual rate. These figures are especially disquieting in light of the facts that cancer treatment has been steadily improving over the last decade and the National Cancer Institute estimates that 75 to 80 percent of all cancer is environmentally caused.

Since 1971, when the national ambient air quality standards were set, new and disturbing information has come to light showing that the public's health is being harmed to some extent, perhaps seriously, even at levels below these national standards. I do expect that within the next several years, our air quality standards will be tightened considerably. It seems to me that it would be economically, environmentally, and medically unsound to allow massive degradation of air with the possibility of even stricter air quality standards lurking in the not-too-distant future. Furthermore, retrofitting is far more expensive than building plants correctly the first time. Since a class II designation would allow almost any conceivable planned industrial expansion, it seems to me that a class III category is needless and would promote rather than prevent significant deterioration in many unpolluted areas of this Nation and I urge my colleagues to adopt this amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding, and I rise in support of the amendment.

Mr. Chairman, I would like to quote from the committee report a section referring to the necessity for medical purposes of using certain propellants in certain cases:

> While the committee intends to confer adequate authority to deal with any substance, practice, process or activity which may reasonably be of concern, this authority should be exercised with the primary purpose of health protection in mind. Thus, the committee does not intend to authorize or require the administrator to prevent the use of propellants or drugs necessary for medical purposes and for which no adequate substitute exists.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I find myself in a difficult position, in that I support the concept of the Maguire amendment, but I do not support the Rogers amendment to which it is appended.

After we legislate on significant deterioration, then we are going to have a study on it.

It seems to me that when we can do nothing else, then we study it and study it to death. Actually, I think we have seen today a rather cute parliamentary coup in an amendment attached to a study which negated the amendment of the distinguished gentleman from Florida (Mr. CHAPPELL).

It seems to me if we are going to study, we should study before we do these things and not wait until after this is a matter of law.

I want to tell the Members that there are RECC's throughout the country, and the Members' constituents tell me that they are paying too much already for their electric bills, I am informed. This legislation and this section in particular greatly increases the costs of electricity.

I am informed by TVA that this legislation will cost in the first year $300 million and $200 million for every year thereafter.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to my distinguished friend, the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Chairman, I thank my friend, the gentleman from Kentucky for yielding, and I would like to say that I concur in his remarks and in his views.

Mr. Chairman, the ambient air data base available in the United States for use in decisionmaking concerning present and future air pollution control strategies is inadequate. Almost all studies relating to ambient air quality and air quality impacts on public health and welfare carry the caveat "the data from which to draw conclusions is inadequate but." The Congress evidently recognized this inadequacy during the discussion of the 1970 Clean Air Act and determined that arbitrary technology-based standards applied to new sources would be more easily enforceable than nationwide air quality strategies based on air quality needs.

The Congress took the shortcut of requiring new source performance standards for all new or significantly modified facilities. However, they did not take the next step which would have been to require that the enforcement agency establish adequate ambient air monitoring networks and collect air quality data that could be used for future mid-course corrections if deemed necessary.

If viewed in the short term this is an expensive and somewhat frustrating exercise which has been avoided by the Congress, the Federal EPA and most State agencies. However, when considered in a broader view, a good environmental data base is well worth the effort.

In rare instances, there are adequate ambient air monitoring devices which show that the impacts of various plant, area, or regional sources can be determined and in most cases these impacts are less than anticipated. Overcontrol can be avoided. However, in the vast majority of cases, sweeping assumptions and subjective decisions must be made when questions concerning the potential impact of a new facility are asked.

A recent example of this occurred in a large industrial State. A company petitioned to construct a small source which would emit only a few pounds an hour of a fluoride-based pollutant to operate within a major facility emitting more than 150 pounds per hour of the same pollutant. The company had monitored upwind and downwind levels of the fluoride-based pollutant for more than 15 years, reporting these data to the State agency, without ever seeing a violation of ambient air standards.

The agency conducted a dispersion modeling program and determined that under present ambient conditions, the model predicted ground level concentrations more than 25 times higher than the standard would allow.

In spite of discussions centered around the fact that no ambient air data ever obtained around the facility approached one-thirtieth of the predicted level, the agency feels that the permit for the new source cannot be given. They argue that since enough ambient air data is not available for the State to adequately measure downwind ambient air impacts, they must rely upon the standard dispersion model. Since the facility modeled contains more than 200 point and complex line point sources, the modeling program is not routine. However, a standard, unvalidated model is all that has been available for use giving the high results. Even with the obvious variation in modeling output and the conflicting ambient data, the agency feels that it has no alternative but to use the computerized modeling predictions for decisionmaking.

Similar situations exist throughout the United States where decisions must be made in an overly restrictive fashion because of the lack of ambient air quality data. The goal of the Clean Air Act is to provide for and maintain ambient air of an acceptable quality. However, because the data base does not exist for making these decisions, restrictive and often highly costly judgments have to be made when questions arise or options exist. It appears that there will be no major change in this situation during the next 5 years. Neither Congress, the EPA or the State agencies feel the need for extensive, reliable, and informative ambient air quality monitoring. Rather, these agencies evidently feel that decisions should continue to be made "in the dark," in a fashion that will insure enforceability rather than ambient air quality maintenance.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Not at this time.

Mr. Chairman, let me just say that I do concur with the gentleman from New Jersey (Mr. MAGUIRE) on class III. I would like to say to the distinguished gentleman from New Jersey that I agree with the content of his amendment but not with the content of the amendment it seeks to amend.

Mr. MAGUIRE. In that event, may I ask the gentleman a question?

Mr. CARTER. Mr. Chairman, I will yield in just a moment.

Mr. Chairman, I do not like the parliamentary coup the distinguished gentleman from Florida (Mr. ROGERS) used in getting the amendment before the floor of this House. I do support the content of this amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, if the gentleman will yield, would the gentleman then vote for my amendment on the first vote even if he does not on the second?

Mr. CARTER. Yes, I will.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman.

Mr. CARTER. Mr. Chairman, I say I will because I favor that, but certainly I will not support the amendment offered by the distinguished gentleman from Florida (Mr. ROGERS). I do not believe that it is right to study something after it has already been done. First we should know what we are doing, and then we should go ahead.

Therefore, Mr. Chairman, I oppose the Rogers amendment.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Maguire amendment and of the Rogers amendment to which it is attached. I think it makes a great deal of sense to go ahead with the nondegradation provisions of this bill and to have the study go on concurrently to monitor the effects closely. I do not think those positions are contradictory, as indicated by my good friend, the gentleman from Kentucky (Mr. CARTER). I think that makes a lot of good sense.

I also favor the dropping of class III, and I agree with both the gentleman from New Jersey (Mr. MAGUIRE) and the gentleman from Kentucky (Mr. CARTER) that we ought to drop class III.

The latest scientific evidence indicates that the current national ambient air quality standards often protect only the healthiest people from the more acute effects.

The old, the young, the pregnant, and the ill are often unprotected from acute effects, while no one seems adequately protected from cancer, genetic, and birth defects or from long-term or chronic effects. The present standards do not adequately protect crops, forests, tourist areas, and sensitive and vital economic pursuits in clean air regions from the effects of polluted air either.

Since national standards will probably have to be tightened in the future, it is economically, medically, and environmentally unsound to permit massive degradation of the clean air quality. Class II, which permits 25-percent degradation, would allow almost any conceivable planned industrial expansion, even assuming no improvement in pollution control technology.

Mr. CARTER. Mr. Chairman, will my distinguished friend, the gentleman from New York, yield?

Mr. OTTINGER. I am pleased to yield to my friend, the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, would my good friend not say actually that when we are appending a study to all that we have done, we are actually locking the door after the horse has been stolen?

I want to say that I am familiar with the terrible conditions in the gentleman's area, and in fact I know it is called "Cancer Alley." I would like to help the gentleman with that.

However, I feel that this amendment is appended in the wrong place.

Mr. Chairman, I thank my good friend for yielding.

Mr. OTTINGER. Mr. Chairman, I will say that I do not think we can lock the door after the horse has been stolen here because it is our horse. I think we must favor this nondegradation provision and the provision to make a study to try to find out as quickly as possible what the effects are. I think this is a very sound provision, one that we can proceed on, and I think that we should definitely not go ahead with the class III because class II already could accommodate substan- the size of the massive Kaiparowits power project, the largest coal-fired powerplant tial additional pollution, even two plants ever planned. Class II would accommodate all the anticipated industrial growth, and it is the minimum that is required to protect the national health.

So, Mr. Chairman, I hope the committee will support the gentleman from Florida (Mr. ROGERS) and will support the gentleman from New Jersey (Mr. MAGUIRE) and, in turn, support the basic nondegradation provision in the bill.

Mr. GUDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from New Jersey (Mr. MAGUIRE).

Section 108 has two fundamental flaws: it fails to protect adequately public health and it fails to provide for maximum long-term economic growth. Without effective air quality planning, uncontrolled or poorly controlled industrial development quickly would increase pollution to maximum permissible levels. Further industrial growth would be impossible without leading to serious health hazards. This would force the bleak choice of choosing between human health and national economic health.

Latest scientific evidence indicates that current national ambient air quality standards often protect only the healthiest people from the more acute effects. The old, the young, the pregnant, and the ill are often unprotected from cancer, genetic and birth defects, or from long-term or chronic effects. Present standards do not adequately protect crops, forests, tourist areas, and other sensitive and vital economic pursuits in clean air regions from the effects of pollution.

Since national standards will probably have to be tightened in the future, it is economically, medically, and environmentally unsound to permit massive degradation of the clean air quality. Class II, 25-percent degradation, permitted under the amendment would allow almost any conceivable planned construction—even assuming no improvement in pollution control technology. Furthermore, retrofitting is far more expensive than building plants correctly the first time. For instance, class II areas could accommodate nearly two plants the size of the massive Kaiparowits power project—the largest coal-fired powerplant ever planned. This amendment would only increase the utility bill of the average household by less than 25 cents per month by 1990.

I do not believe that what is allowed under class II can conceivably cause the injury to industry which some people have alleged, and so if we really tally this to the bottom line and we look at the massive cost to this country in terms of respiratory diseases, allergies, and in particular, cancers, as the gentleman from Illinois so eloquently spoke about, I think there is no doubt that we must adopt the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wondered whether the gentleman from New Jersey (Mr. MAGUIRE) would respond to a question.

As I view the two amendments before us, I am tremendously confused because the Rogers amendment adds wording to

the end of section 108. The amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) seeks to strike out classification III, apparently, in the Rogers amendment.

Mr. Chairman, there is no reference in the Rogers amendment to any classification. The amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) goes further and amends something entirely outside of that amendment. It goes to section 160(c)(2) of the text of the bill.

Mr. Chairman, my statement to the gentleman from New Jersey (Mr. MAGUIRE), in essence, is that he will do nothing with this amendment, if I understand the parliamentary procedure at the moment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, if the gentleman from Florida (Mr. CHAPPELL) has any objections, I really think it is too late. We have passed that stage, and I think the Chair has already ruled.

Mr. CHAPPELL. I recognize that. I am not raising a point of order.

I am simply asking what the effect of it would be because my construction of it is that it would have no effect at all.

Mr. ROGERS. If the gentleman will yield further, I think what the gentleman's amendment would do is simply add on his provision to my amendment, and his provision would strike from the bill the provision which allows redesignation to class III. That is what the Maguire amendment does.

My amendment simply adds a study to what the committee bill is.

Mr. CHAPPELL. I understand that, but the point I make is that I cannot see how it is going to have any effect if classification III is stricken out of the Rogers amendment when it is not in there in the first place.

Mr. ROGERS. His amendment would strike that from the committee bill.

Mr. CHAPPELL. Then he attempts to go into a section which the gentleman from Florida (Mr. ROGERS) is not amending at all. In other words, we would have a nullity insofar as his amendment is concerned.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I say to my good friend, the distinguished gentleman from Florida, that it seems to me that this amendment might not have any effect. The amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) might not have any effect at all since it is to the amendment offered by the gentleman from Florida (Mr. ROGERS). I believe that it will not be of any effect, according to the way it is written.

Mr. CHAPPELL. That was my thought. I just wanted to call that to the attention of the House.

Mr. PREYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to object strongly to both the Maguire amendment and the Chappell amendment which will be offered shortly.

This has been a very carefully worked out bill. It is a carefully balanced bill. It is not a compromise bill in the sense of splitting the difference, but I think it is a compromise in the best sense of the word in balancing the different factors involved—the three e's, environment, energy, and the economy.

Mr. Chairman, if we adopt the Chappell approach and just have another study, that is really a way of gutting the whole bill.

There has to be a judgmental element involved in any situation in which we are predicting future health consequences, where the scientific facts are as uncertain and where cause and effect are as uncertain as they are in this particular area. However, we are not going to learn any more by more studies. We have studied this to death. We know the state of knowledge right now. We can only learn more at this time by doing.

Certainly we ought to act on the conservative side where health is involved, and study while we regulate.

Mr. CARTER. Mr. Chairman, would my good friend, the gentleman from North Carolina (Mr. PREYER) yield?

Mr. PREYER. I would be glad to yield to the gentleman from Kentucky.

Mr. CARTER. I would gather that the gentleman is particularly in favor of the amendment which provides for this study after all of this action, am I correct in that?

Mr. PREYER. I have no objection to a study to monitor what we are doing. What I am interested in is making sure the policy of no significance is put into effect.

Mr. CARTER. An ongoing study?

Mr. PREYER. Watching it and monitoring it.

Mr. CARTER. I thank my good friend, the gentleman from North Carolina for yielding.

Mr. PREYER. Mr. Chairman, on the Maguire amendment, I believe the statement was made that class II would allow almost any foreseeable increase in industrial development.

I am from a State that is a relatively clean air State and many areas of that State have almost no industrial development. If we only have class II and they are only allowed 25 percent of the national standard as an increase, it will seriously restrict development in many areas. Let me give the Members an example. If we take the national standard to be 100, and supposing there is an area that is underdeveloped, and has a pollution level of 10 right now, that area could only be increased up to the level of 35 and would be frozen that far below 100. That is not an awful lot of new industry for a totally undeveloped area.

So I think we do need the class III in there for that situation.

The important thing about this no significant deterioration provision, and why I am so against the Chappell amendment, is that what it really does is say to the States, "Before you go ahead blindly letting growth beget growth and polluting your area, stop and think. It will be your decision whether you want to make it class II or class III, but think about it, at least. Why put in a big polluting industry at this time when you may find in 1985 that you will need a big powerplant, at a time when you find you have reached the national standard and cannot do it."

It is simply asking the States to do some rational planning and thinking, and then whatever they decide it is their local decision and not EPA's.

It seems to me that is the best and the fairest way to go about this. I hope we will leave this carefully crafted and balanced section the way it is. I urge the defeat of the Maguire amendment and also the Chappell amendment when we reach it.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the committee approach. I reluctantly have to oppose the provisions in the Maguire amendment which would strike the category III in the committee's well-worked-out bill. The committee bill establishes category I, category II, and category III. This approach gives substantial discretion to the States, so long as the procedural requirements are met. The committee bill enables the States to plan and make provisions for keeping the air clean and allowing economic growth, as the State deems best.

So, Mr. Chairman, I would urge the committee to default the Maguire amendment.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I would like to point out to the chairman, the gentleman from Florida (Mr. ROGERS) and to the committee, that we have strong bipartisan support for my amendment, including the Republican side in the other body. Senators BUCKLEY, BAKER, MCCLURE, DOMENICI, and STAFFORD support it. I wanted that to be understood.

Mr. CARTER. Mr. Chairman, would the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I understand that the gentleman from Florida opposes the Maguire amendment?

Mr. ROGERS. Yes, I oppose the Maguire amendment.

Mr. CARTER. What are the gentleman's reasons, if I might ask?

Mr. ROGERS. I have tried to point out that in the committee bill we have made provision for three categories, category I, category II, and category III in the significant deterioration section. If the States want more increase in pollution than is allowed in category II, that is a decision that we allow the States to make, not the EPA or the Federal land manager. Proper procedures must be followed, of course, before a reclassification to class III will be allowed.

So in the committee bill we are trying to build up State responsibility and authority rather than allowing all of the decisions to be made here in Washington.

For that reason I do think they need that additional category which the States then would have the right to utilize after following procedures set forth in the bill.

Mr. CARTER. If the Chairman, the gentleman from Florida, would yield further, if we had a group of rather weak Governors on the east coast, they could very well, according to the gentleman's statement, allow the pollution levels to remain high; is that not true?

Mr. ROGERS. This provision basically applies to new sources coming in. The significant deterioration provision does not require additional control from old sources, as I am sure the gentleman knows.

Mr. CARTER. But even with every new source that comes in, no matter how many scrubbers it goes through, it adds that much more pollution to an already polluted area; does it not?

Mr. ROGERS. There may be no pollution added by some new plants.

Mr. CARTER. I thank the gentleman, but I know of none of those.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I think the exchange between the gentleman from Florida and the gentleman from Kentucky left me in a somewhat confused state of mind. The gentleman spoke of class I, class II, and class III areas. Is it not true that all areas initially will be either class I or class II under the bill and under the gentleman's amendment, and perhaps reclassified into a class III area

Mr. ROGERS. That is true. Mandatory class I areas—which start as class I and may not be redesignated—are limited to national parks and wilderness areas over 25,000 acres. Other than those, the State may make the judgment of whether it will be class I, class II, or class III within those borders. But most areas would initially be class II areas.

Mr. ICHORD. If the gentleman will yield further, 99 percent would probably start at class II.

Mr. ROGERS. But the State makes the judgment as to whether they want to reclassify all non-Federal lands and most Federal lands.

Mr. Chairman, I ask for a vote on the amendment.

Mr. WAXMAN. Mr. Chairman, the amendment I have cosponsored with Mr. MAGUIRE is one which would truly insure that section 108 of this bill, regarding the prevention of significant deterioration, would fulfill the purposes of section 110(b) of the Clean Air Act: "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

There can be no doubt as to the meaning of these words. The law clearly requires that air which is currently cleaner than provided by the standards is to be protected from further degradation, and made even cleaner if possible. The courts have affirmed this policy time and again, first by requiring EPA to issue rules to prevent the significant deterioration of air quality, and just recently by stating that those regulations are within the ambit of the law.

The committee bill, however, which seeks to improve on EPA's program, has greatly jeopardized, by including a class III designation, any efforts to "protect and enhance" our air resources. Once despoiled, it is difficult if not impossible to reclaim them. And the cost of trying to do so greatly outruns the cost of preventing such degradation in the first place.

The class III designation, by allowing pollution levels to increase to up to 50 percent of the current ambient air quality standards, would permit air that is relatively clean to approach pollution levels of some of our larger—and dirtiest—cities.

This is hardly a policy of preventing the significant deterioration of air quality at all.

One can appreciate the leniency of class III by understanding what would be permitted under the more stringent class II—in a word, massive development:

Under class II, new, well-sited powerplants of up to 8100 megawatts could be constructed. By contrast, the Kaiparowits project in Utah—the largest coal-fired powerplant ever planned—had a generating capacity of 3000 mw.

Under class II, EPA has concluded that all of the 19 major source categories covered by EPA's current regulations could be constructed.

Under class II, new growth equivalent to New Orleans and Topeka could occur without exceeding the allowable increments for sulfur dioxide. For other pollutants, class II would allow air quality to deteriorate to the levels experienced in Toledo, Rochester, and Houston.

If class II would permit the construction of a powerplant twice the size of the largest ever conceived—with room to spare—the construction of all the kinds of heavy industry currently regulated by EPA, and pollution levels equal to New Orleans and Houston, it seems senseless to me to turn over the clean air areas of the country to the even greater pollution increases permitted under class III.

Let there be no misunderstanding as to why the committee has recommended that air quality be protected against further degradation:

First. Epidemiological data suggests in the strongest possible terms that the ambient air quality standards provide an insufficient margin of safety to protect public health—and that many serious adverse health effects occur at levels significantly below the ambient standards.

Second. There is an increasing amount of evidence which has linked air pollution to cancer.

Third. The air quality standards are designed to cope only with acute health effects, and do not afford protection from long-term chronic exposure to pollutants at lower levels.

Fourth. The standards do not protect against health hazards which result from the cumulative effects of the interaction of all the pollutants in the air.

Indeed, a careful reading of the committee's report makes the strongest possible case for the adoption of our amendment.

Some have argued, in response, that what should be undertaken instead is not a strengthening of this provision but a tightening of our air quality standards to meet these health concerns. Nothing could be more economically disruptive. Many regions of the country are today in violation of the standards. Making them more stringent would only preclude further economic growth in these areas. This is surely the no-growth formula opponents of our amendment decry.

Others have argued that the standards are adequate to protect the public health, and that if this is the case, there is no reason why all the air in the country should be kept cleaner than the standards require. But this approach would surely lead to the "graying" of America—the uniform dirtying of our air from New York to Los Angeles. This is clearly an unacceptable prospect.

The fact remains that class II permits moderate, orderly, and sustained growth, for all sectors of the economy, and in a manner that is utterly compatible with the protection of the environment.

I therefore urge my colleagues to adopt the Maguire-Waxman significant deterioration amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by the gentleman from Florida (Mr. ROGERS).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. MAGUIRE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 107, noes 247, answered "present" 2, not voting 74, as follows:

[Roll No. 696]

AYES—107

Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Biaggi
Biester
Bingham
Blanchard
Bolling
Brademas
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carter
Clay
Cleveland
Conte
Conyers
Cotter
Coughlin
D'Amours
Daniels, N.J.
Delaney
Dellums
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Fenwick
Fish
Fisher
Fraser
Giaimo
Gibbons
Gilman
Gonzalez
Gude
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Henderson
Holtzman
Kastenmeier
Keys
Koch
Krebs
Lehman
Lloyd, Calif.
McCloskey
Madden
Maguire
Metcalfe
Meyner
Mikva
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mosher
Moss
Mottl
Myers, Pa.
Nolan
Obey
O'Neill
Ottinger
Passman
Patterson, Calif.
Pattison, N.Y.
Pepper
Rangel
Rees
Richmond
Riegle
Rodino
Roush
Russo
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Stark
Stokes
Studds
Thompson
Tsongas
Udall
Van Deerlin
Vanik
Waxman
Whalen
Wilson, C. H.
Wirth
Wolff
Wydler

NOES—247

Abdnor
Adams
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
AuCoin
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Blouin
Boggs
Boland
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Cederberg
Chappell
Clawson, Del
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Cornell
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Fithian
Flood
Florio
Flowers
Flynt
Ford, Mich.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Ginn
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harsha
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mills
Mineta
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
O'Brien
O'Hara
Patten, N.J.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Ruppe
Santini
Satterfield
Schneebeli
Schulze
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stratton
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Ullman
Vander Jagt
Vigorito
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Tex.
Winn
Wright
Yatron
Young, Fla.
Young, Tex.
Zablocki

ANSWERED "PRESENT"—2

Bafalis
Haley

NOT VOTING—74

Abzug
Addabbo
Alexander
Ashbrook
Aspin
Badillo
Brodhead
Brown, Mich,
Brown, Ohio
Burke, Fla.
Chisholm
Clancy
Clausen, Don H.
Conlan
Corman
Diggs
du Pont
Edwards, Calif.
Eilberg
Esch
Eshleman
Foley
Ford, Tenn.
Gaydos
Goldwater
Green
Hall, Tex.
Hansen
Harrington
Hébert
Heinz
Helstoski
Hinshaw
Horton
Howard
Howe
Hyde
Karth
Lujan
Lundine
McCollister
Matsunaga
Melcher
Milford
Mink
Murphy, Ill.
Peyser
Rosenthal
Roybal
Runnels
Ryan
St Germain
Sebelius
Sisk
Solarz
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Teague
Vander Veen
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Yates
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Howard for, with Mr. Hébert against.

Mr. Zeferetti for, with Mr. Murphy of Illinois against.

Ms. Abzug for, with Mr. Stephens against.

Mr. Badillo for, with Mr. Stuckey against.

Mr. Corman for, with Mr. Teague against.

Mr. Addabbo for, with Mr. Runnels against.

Mrs. Chisholm for, with Mr. Lujan against.

Mr. Rosenthal for, with Mr. Ashbrook against.

Mr. Edwards of California for, with Mr. Goldwater against.

Mr. Diggs for, with Mr. Hansen against.

Mr. Roybal for, with Mr. Symms against.

Mr. Harrington for, with Mr. Hyde against.

Mr. Helstoski for, with Mr. Wylie against.

Mr. Howe for, with Mr. Young of Alaska against.

Mr. Matsunaga for, with Mr. Walsh against.

Mrs. Mink for, with Mr. Wiggins against.

Mr. Ryan for, with Mr. Steelman against.

Mr. Sisk for, with Mr. Sebelius against.

Mr. Solarz for, with Mr. Brown of Ohio against.

Mrs. Spellman for, with Mr. Bob Wilson against.

Messrs. PIKE and DENT changed their vote from "aye" to "no."

Messrs. O'NEILL and MINISH changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS).

The question was taken.

RECORDED VOTE

Mr. ROGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 301, noes 57, answered "present" 1, not voting 71, as follows:

[Roll No. 697]

AYES—301

Abdnor
Adams
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Gude
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Holland
Holtzman
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Roybal
Ruppe
Russo
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waxman
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki

NOES—57

Anderson, Ill.
Archer
Armstrong
Bauman
Beard, Tenn.
Broyhill
Butler
Carter
Cederberg
Clawson, Del
Collins, Tex.
Conable
Coughlin
Crane
Daniel Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Duncan, Tenn.
Flynt
Goodling
Grassley
Guyer
Hagedorn
Hammerschmidt
Harsha
Holt
Hutchinson
Johnson Colo.
Jones, Tenn.
Kelly
Ketchum
Kindness
Lloyd, Tenn.
McDonald
McEwen
Michel
Montgomery
Myers, Pa.
Paul
Quillen
Robinson
Rousselot
Satterfield
Schneebeli
Schulze
Shuster
Sikes
Skubitz
Taylor, Mo.
Treen
Waggonner
Wampler
Whitehurst
Wydler
Young, Fla.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—71

Abzug
Addabbo
Alexander
Ashbrook
Aspin
Badillo
Bevill
Brodhead
Brown, Mich.
Brown, Ohio
Burke, Fla.
Chisholm
Clancy
Clausen, Don H.
Conlan
Corman
Diggs

du Pont
Esch
Eshleman
Ford, Tenn.
Goldwater
Green
Hall, Tex.
Hansen
Hébert
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Horton
Howard
Howe
Hyde
Karth
Landrum
Lujan
Lundine
McCollister
Martin
Matsunaga
Melcher
Mink
Murphy, Ill.
Passman
Peyser
Riegle
Rosenthal
Runnels
Ryan
St Germain
Sebelius
Sisk
Stanton,
James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Teague
Vander Veen
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Ga.
Zeferetti

Mrs. SMITH of Nebraska changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yeld to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I have an amendment that I would like to offer at this point.

The CHAIRMAN. The Chair will advise the gentleman from Georgia that the gentleman will have to seek recognition on his own time and in due order.

Mr. LEVITAS. I thank the Chairman.

Mr. ROGERS. I yield back the balance of my time.

AMENDMENT OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPPELL: Page 198, line 5, after SEC. 108, strike out everything following SEC. 108 and insert the following:

SEC. 108. The Clean Air Act is amended by inserting a new section 315 and renumbering succeeding sections accordingly:

"NATIONAL COMMISSION ON AIR QUALITY

"SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on:

"(1) the effects of any existing or proposed policy of prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense and its other social and environmental effects;

"(2) any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources which may result from a policy of nondeterioration;

"(3) the effects of existing or proposed national ambient air quality standards on employment, energy and the economy (including state and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects.

"(b) Such Commission shall be appointed within 60 days of enactment of the Clean Air Act Amendments of 1976 and shall be composed of fifteen members, including the Chairman and the ranking minority Members of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and eleven members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

"(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal government shall cooperate with the Commission in carrying out the requirements of this section and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(d) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study as conducted under this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976.

"(e) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(f) There is authorized to be appropriated, for use in carrying out this section, not to exceed $5,000,000.

"(g) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation."

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CHAPPELL. Mr. Chairman, let me see if I can clarify the situation at this moment. We have agreed by the Rogers amendment that a study should be made. The amendment which I offer suggests that a study be made. We have agreed on that point. The question now before the House at this moment is whether or not we should have that study made by a commission before we write these very restrictive standards into law, write them concretely into the law, or whether we write them in after we have the benefit of the study.

The bill as amended by the Rogers amendment now has all of the very stringent requirements and standards written into the law. That would be the law if this bill passes and the Study Commission is set up.

The point I want to make is that right now we have the policy of nondeterioration in the law, and my amendment does not change that. We have those standards. It will be at the direction and at the discretion of the Administrator of EPA. We are not knocking out any of the rules and regulations or any of those powers. We are simply saying with this not change that. We have those standards in, which are far more stringent than the law now is, in the discretion of the Administrator of EPA, that we have established a qualified Commission to make the studies and report back to the Congress within 1 year.

Mr. Chairman, the members of the Interstate and Foreign Commerce Committee and its Subcommittee on Health and the Environment are to be commended for their hard work and diligence in preparing these amendments to the Clean Air Act. H.R. 10498 is the product of a year of oversight hearings and markup. During this period, both committee and subcommittee members have demonstrated a spirit of compromise and a willingness to consider alternatives.

What was originally conceived as a "midcourse correction" to the Clean Air Act of 1970 has evolved into one of the most important pieces of legislation which will be considered during this session. It contains a number of provisions which greatly expand the scope of the original Clean Air Act.

Today I would like to address one of those provisions in particular—section 108, prevention of significant deterioration. Nondeterioration—preserving air quality that is better than that required by the national standards—is perhaps, the most controversial and far-reaching provision in H.R. 10498. It is an issue of deepest concern to me and to many of my colleagues in the House.

After a careful study of section 108 and its explanation in the committee report, it is apparent to me that the subject of nondeterioration requires a more detailed, scientific, and comprehensive examination than it has thus far received before becoming Federal law. Despite my wishes to the contrary, I find that I cannot, in good faith, support the committee's recommendations embodied in section 108.

AMENDMENT TO STUDY NONDETERIORATION

The amendment which I offer here I sincerely believe is the only rational, commonsense response to the provisions of section 108. My amendment has already been the subject of debate and misinformation, and I would like to take this opportunity to explain exactly what it would and would not do.

WHAT AMENDMENT WOULD DO

My amendment would: First, delete section 108 of the bill; second, replace it with a section calling for the establishment of a National Commission of Air Quality; third, direct that Commission to make a thorough, scientific study of the entire nondeterioration issue; and fourth, require that study to be completed within 1 year.

Additionally, this amendment would leave EPA's existing nondeterioration regulations in force. Our Nation's clean air areas, therefore, would continue to be protected by those regulations.

WHAT AMENDMENT WOULD NOT DO

My amendment would not: First, as I just mentioned, prevent or hinder implementation of EPA's current nondeterioration regulations, which were recently upheld by the U.S. Court of Appeals for the District of Columbia; second, it would not lend congressional approval to those EPA regulations; and third, it would not permit our clean air resources to become hopelessly polluted as some people claim.

REASONS FOR AMENDMENT

You will hear many others speak today on this extremely important subject. I would like to spend a few moments to elaborate some of the reasons why I feel this issue is ripe for study.

NUMEROUS UNKNOWNS

First, I would ask my colleagues to examine with me the scope of what we do not know about section 108. Most obviously, how would section 108 affect your district? Is the air quality in any part of your district better than that required by the national standards? If so, how much development would be permitted there? To what extent would the stringent increments specified in section 108 be available?

Does your district contain valuable energy or mineral resources? If so, which of those resources could be developed under section 108? On what basis would you decide among several industries wishing to locate in your district—the one that creates the most jobs, the one that might contribute to a reduction in U.S. import dependency, or the one that pollutes the least? Would the location of one desirable industry leave an insufficient increment for any further development? Would there be class I areas in your district where development is virtually prohibited?

If so, what other areas would have to be closed off to development in order to protect those class I areas?

What would be the impact on various industries? Would an adverse impact on one industry have a "ripple effect" on others? How many jobs will not be created if an industry cannot grow? Will the people in your district be willing to forego jobs in order to preserve air quality at levels over and above those necessary for a healthy environment?

CONFLICTING STUDIES

Second, we must clear away the confusion that has resulted from the questionable and conflicting studies that have been made of section 108. Every study agrees that this policy will indeed have an impact, but there is virtually no agreement on the nature of that impact.

Some studies claim that substantial growth will be permitted, while others claim that growth will be severely restricted. Some argue that only a few, small buffer zones will be necessary to protect class I areas; others conclude that very large buffer zones will be required. Many major industries have not been studied at all. One study examined a specific industry and then merely generalized its results to a half dozen other industries.

Is this any way to establish Federal policy? Can you honestly argue that any one study is definitive? Unbiased? Comprehensive? Clearly, Congress has a duty to insure that such a study is conducted.

LACK OF EXPERIENCE WITH EPA REGULATIONS

Third, although EPA's nondeterioration regulations are just being put into operation, but we are already considering a major overhaul of those regulations. Frankly, the rush to pass an entirely new nondeterioration policy based on scanty information puzzles me.

I have heard arguments that Congress must act to end the uncertainties brought about by litigation involving EPA's regulations, that this subject should not be left to the courts. However, a careful reading of section 108 leads me to believe that it is nothing short of a lawyer's dream—a certain recipe for endless litigation.

Other arguments have been advanced that section 108 is necessary to give States more flexibility in implementing this policy. The truth is that section 108 merely allows States a first crack at enforcing a stringent, uncompromising Federal program in which significant deterioration of air quality is arbitrarily defined by Washington bureaucrats. In fact, EPA's current regulations provide more real flexibility and authority to the States. There are simply no valid arguments for rushing headlong into a Federal program of unknown and unstudied consequences.

DIFFICULTY OF AMENDING CONGRESSIONAL MANDATE

Fourth, it is important to bear in mind that congressional action now could be very difficult to amend. EPA's regulations, whatever their shortcomings, can be amended without an act of Congress should further study and practical experience warrant any changes. They could be amended either by EPA on its own initiative or upon petition by a State.

INAPPROPRIATE TIME TO ENACT SECTION 108

For all these reasons—numerous unknowns, conflicting studies, lack of experience with EPA regulations and difficulty of amending a congressional mandate—I firmly believe that we must not allow section 108 to become a law.

Our Nation is gradually recovering from a severe recession. We are in a bitter struggle against inflation and increased unemployment. Surely, it would be an inappropriate response for Congress to enact legislation, which could have a profound effect on our economy, severely limit potential jobs, create incentives for our basic industries to locate abroad and further retard our efforts toward energy self-sufficiency.

FIRST STEP TOWARD SOLUTION OF PROBLEM

I am confident that the study called for in my amendment would move us much closer to ultimate resolution of this difficult problem. Congress would at long last have a comprehensive, scientific study on which to formulate legislation establishing a Federal nondeterioration policy.

FULL PUBLIC PARTICIPATION

My amendment would insure that the National Commission on Air Quality would involve the public fully in the determination of this issue. I also strongly hope that after the study Congress would hold public hearings on specific legislative proposals based on the Commission's recommendations. We can only expect to gain public acceptance and support for a nondeterioration policy if we permit full public participation in the formation of that policy.

CLOSING REMARKS

Support for my amendment will not be a vote for dirty air and uncontrolled development. Those who make such emotional and unfounded claims do so only because their arguments against my amendment lack substance.

This issue deserves more than an emotional response by Congress, and I strongly urge that you support the amendment I have offered here in an effort to insure that our Nation gets what it deserves—rational, balanced environmental legislation that will stand the test of time.

Mr. Chairman, we ought to leave in place the EPA regulations, the EPA powers we have, and have a study on this basis before we lock them into law. We have plenty of time to do that, so I urge a vote for this amendment, and that is an opportunity to legislate from knowledge, rather than from guesswork.

I urge the adoption of the amendment.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, is the gentleman aware that in the committee report that the committee summarizes the situation with respect to significant deterioration by saying that this is one of the most completely studied issues to come before Congress in many years?

Mr. CHAPPELL. I am aware of that, and also I am aware of the fact that there is no real agreement in effect for that total policy and we need to know what it is.

Mr. KETCHUM. Mr. Chairman, I rise in support of the Chappel amendment. in support of the Chappell amendment.

Mr. Chairman, there are several provisions in H.R. 10498, the Clean Air Act Amendments of 1976, which have caused a great deal of controversy. Section 108, the nondeterioration provision is without a doubt one of the more controversial issues in the bill. It is feared by many diverse groups—industry, several Federal agencies, many Members of Congress, States' Governors, and other American citizens—that this nondeterioration policy could have a very adverse impact on industrial expansion and therefore on the economy of the United States.

There are those, however, who believe that the impact of this nondeterioration policy will be only minimal. They often use as one reason for supporting section 108, the argument that H.R. 10498 gives greater flexibility to the States by allowing each State government the right to designate or redesignate areas into class II where moderate degradation is permitted or class III, areas where air quality may be degraded up to the secondary national ambient air quality standards. The States have no discretion in determining class I areas. The process by which this designation or redesignation of class II or class III must be made is terribly complicated and time consuming. I will outline the process in order to show just how complicated it is.

First notice must be given regarding the proposed changes. Second, a satisfactory description and analysis of the health, environmental, social, economic, and energy effects of the proposal must be prepared and made available for public inspection. This analysis must also be reviewed and examined by the designating authorities.

In the event that the area includes any Federal lands, the designating authorities must also give the appropriate Federal agency—agencies—the opportunity to submit an analysis of the proposal and its recommendations regarding the proposed changes.

The Administrator of EPA has the responsibiilty, as far as practicable, to make available for public inspection any specific plans for any new or modified stationary sources or development which may be allowed to be constructed and operated in that area. This is only necessary if the area in question is designated or redesignated as class III.

After this long and laborious process is completed, public hearings must then be held. These hearings must be held in the area where the change would take place and also in areas which could be affected by the proposed designation or redesignation.

It is easy to see that designation and even more so, redesignation of areas as class II or class III is not a simple or quick process. Each step is time consuming, and due to this fact, industrial expansion will be greatly delayed until the final decision is reached.

The phase of the designation or redesignation process which will most likely take the most time is the satisfactory description of all possible effects which must be made before public hearings can be held. This will require a great deal of study of the health, environmental, social, economic, and energy implications of the proposal. Studies such as these can not be done quickly and if they are done too fast, it is dubious as to what their true value is.

Congressman CHAPPELL has offered an amendment to section 108 which would require a 1-year study of all the effects—economical, environmental, health, social, and energy—which the provisions of section 108 might cause. This is a far more rational approach. In the nondeterioration provision as it is now written, Congress would be legislating regulations and then their effects would be studied through the process of designating or redesignating areas.

Congressman CHAPPELL's amendment, however, allows for a study of all these impacts and then, based on the findings of the study, regulations could be legislated. The provisions of section 108 would in effect place the cart before the horse and it is difficult to make very much progress that way. Congressman CHAPPELL's amendment, however, properly places the horse before the cart. With a study of these impacts, it will be much easier for Congress to pass legislation which will be in the best interest of the United States. This is one reason, in my opinion, why Congressman CHAPPELL's amendment is the more sensible approach and I urge support of this amendment.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment. I think there are a few things that ought to be said about section 108 as presently drafted. I invite the attention of Members first to page 199 of the bill where some clue as to the purpose of this amendment might be found. On that page, one of the purposes for this section stated in the bill is to neutralize the advantage that an area having relatively clean air may have over another area with relatively dirty air. It specifically states that the purpose is to protect the latter area against the loss of jobs and tax revenues that might occur if a business presently located in that area moved to a cleaner area.

Now, that is what this provision is all about. I would point out that the substantive provisions of this section carry out that intent completely. If we analyze the provisions of section 108, the conclusion is inescapable that we are establishing a policy of locking industry into those areas where there is the greatest amount of pollution and the least room for growth and locking them out of those areas that are relatively clean where there is the greatest room to grow. That, very simply, is a policy of limited growth which must ultimately lead in time to a situation of no growth whatsoever.

Mr. Chairman, I need only point, if I may, to what has been said time and again about the need for growth in our economy and our production, if we are to survive. This will go right to the heart against what we need.

I think the gentleman from Florida (Mr. CHAPPELL) adequately addressed the question about energy. I would point out, however, that the areas which this provision would leave with the least tolerance are the very same areas to which we must look for, exploration, discovery, development, and production of energy and energy resources. We would be saying that we are going to put more reliance on foreign nations for this Nation's life blood, oil, at the very time when I say we should be moving heaven and earth to avoid that.

I would like to point out another aspect of this section. This provision defines a major source, and that is important in other provisions of this act. Without any testimony, without any evidence whatsoever, this subcommittee and the committee has approved the definition of a major source as any source with a design capacity of producing 100 tons of a pollutant in a year. That is too small, but it becomes important if we recognize that this definition goes to other provisions of this bill.

We should realize also the effects of this provision upon a new source which wishes to locate in one of the classified areas. First, it would be required to obtain an additional permit and before it can get that permit, it must conduct an analysis of the air in the area in which it is to be located. By what method this is to be done during the first 12 months following the effective date of this bill is not really clear. After this bill has been in effect for 12 months, however, that analysis must be on a continuing monitored basis for a period of at least 1 year. Then after the application is perfected and filed, there must be time for public hearings, with a provision that the Administrator must grant or deny it within 180 days.

Simply put, this means that any new source whatsoever which wishes to locate in one of these classified areas is going to suffer a delay of a minimum of a year and a half, and I submit that it will be closed to 2 years. But, the effect of this requirement is even more important. There is another provision in this bill, section 309, dealing with interstate abatement, which will permit one State to stop such a new source from locating in a classified area if it can be shown that it would adversely affect the quality of the air in some other State.

The problem is that under section 108 any new industry, even if it gets a permit, is going to be required to continue to monitor the air and to make periodic reports even after it goes into operation. I submit that if these sections are read together, the conclusion is inescapable that a new source which builds and operates in these areas would have no assurance whatsoever that it can continue operating. As a matter of fact, the first time it has an adverse monitoring report, some other State may commence proceedings that could close it down. That is what is going to happen under these sections and I submit that under those circumstances, private capital will not be available to such a prospective source for construction or operation.

Mr. ROGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment, and in strong opposition, I might add. We have just heard a discussion by the distinguished gentleman from Virginia, who has explained exactly what is going on now under current law. In other words, it is being done by EPA regulations—significant deterioration. They have significant deterioration rules and regulations now in effect.

Industry came to us, governmental bodies, the Administration came to us and said, "Won't the Congress please set out some guidelines and let us know what we can do under significant deterioration rather than having continuing uncertainty every time a plant wants to enter into an area. We should not wait for a lawsuit that has to go up and be appealed to the court of appeals and perhaps to the Supreme Court, and have the courts and the regulatory agencies write the law on the significant deterioration?"

So, the committee addressed itself to that problem. Let me tell the Members what we have done, which I think they will approve of. First of all, I might mention that this amendment was offered on the other side of the Capitol and was defeated by a vote of over two to one. Even such Senators as Senator BUCKLEY of New York, Senator BAKER, Senator DOMENICI, Senator STAFFORD, and Senator MCCLURE were against the Moss amendment which is comparable to the Chappell amendment and would be against this amendment.

Now, even Mr. Train of EPA wrote that he was against such an amendment because he thinks the Congress should act and should give some guidelines.

Now, the great advantage of what we are doing here is taking the decision away from EPA of everything that is going to be done in a State. The committee bill shifts this substantive decision down to the State, contrary to present law, the way it is being carried out by EPA. So, we are setting congressional guidelines and within that framework we are giving the decision to the States to decide within their borders what kind of growth they are going to have. How are they going to keep the air clean? The significant deterioration section simply says this: "From a base line in those areas which are cleaner than the national ambient air quality standards, category one has very little pollution allowance—2 percent for most pollutants, 10 percent particulates."

Now, the only mandatory areas in the bill that must be category one are our national parks and wilderness areas of 25,000 acres or more. Everybody would want that. For most areas the State can decide if it wants to move a category two area to category three. On category two, they can go up 25 percent of the lowest national standard over the base line. In category three, they can go up 50 percent.

Let me tell the Members who supports the Committee bill and asks for the Congress to act.

The National Governors Conference, the Governors of our States; the National Council of State Legislatures; the National Association of Counties. The counties want it. The National League of Cities. They are against the Chappell amendment, too. State and Territorial Air Pollution Program Administrators. The U.S. Conference of Mayors. Workers, the mine workers, the steel workers, the auto workers, the AFL-CIO; the bridge and tunnel workers; oil, chemical and atomic workers. From the business sector, all of our stores. The American Retail Association, with 12 million employees; the National Association of Home Builders; the National Association of Realtors. They have to get out and sell homes that are built. They want the committee bill. The National Association of Industrial Parks; the National Parking Association; the National Retail Merchants Association; the retired people, Retired Teachers Association; and the Association of Retired Persons.

Those are some of the people who have endorsed what the committee has done.

All we are asking here is that we give more discretion of the States and not allow EPA to second guess every State judgment as to what is going to happen. We should not write into law everything the EPA is doing, which the Chappell amendment would do.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 3 additional minutes.)

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to my distinguished colleague, the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I want to emphasize the point the gentleman has made and point out that this whole problem originally evolves from a Federal court interpretation of the original language in the Clean Air Act, which effectively said the language is sufficiently ambiguous so as to allow any deterioration from standards.

EPA put out regulations to implement that court decision, and it is the EPA which now has the right to determine what should and should not be done with regard to growth patterns.

The effect of the amendment we are now considering is to lock in that determination.

The effect of the committee decision is to say that those decisions should be made at the local level, with the local officials. Obviously, that is the reason why we have the support of the various elected officials organizations.

Mr. Chairman, I would say that I concur in the committee's position and urge the committee's position to defeat the amendment being considered.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for explaining this matter. I think there has been a great deal of confusion about this bill. As the gentleman has pointed out, the bill moves far toward State and local control of their planning with respect to air pollution.

I know there was some confusion in my county commissioners court when they passed a resolution on this matter. I went before them and told them how this bill extends local authority and does not restrict it. They told me, "Bob, you go up and vote the way you think you ought to in order to carry out our general intent of protecting local control."

It seems to me that there has been much confusion about this, but the bottom line of it is that this bill gives more local and State authority than existed before.

Mr. ROGERS. That is correct. I thank the gentleman for his comments.

The Chappell amendment should be defeated because it simply puts into concrete form the way the law is now being administered. Let us give the States some authority to make these decisions within the guidelines set in the bill. I have confidence in them. I think we are retaining our basic commitment to protecting the public health.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I think there is a misconception in the minds of many. We have a choice between something dealing with significant deterioration and nothing dealing with that subject matter. The choice is between two different versions of the law dealing with significant deterioration. One choice is the one that is coming out of the committee, backed by an impressive list of sponsors, including some conservative Senators.

The CHAIRMAN. The time of the gentleman from Florida (Mr. ROGERS) has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I think that list of conservative Senators and moderate supporters of this amendment shows that it is a moderate proposal, and that is one of the reasons I voted to strengthen it with the Maguire amendment. I think we ought to do more than simply provide for nondegradation.

There is a slogan I have heard that this is a "nongrowth proposal." This amendment seeks to maximize long-term growth plans and practices that lead to unnecessary pollution, and we should act before it is too late and too expensive to reverse.

Let us not just give away the clean air in those areas where we have cleaner air standards. Let us not give it away to whoever comes in first. Let us plan and figure out how to maximize the saving of that natural resource. It is something that we need to preserve.

Mr. Chairman, I support the chairman of the subcommittee and all those moderate people throughout the country who support the committee's recommendation, and I join with Senator BUCKLEY and others on the Senate side in urging the Members to vote against the Chappell amendment.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Florida (Mr. CHAPPELL).

The CHAIRMAN. The Chair will recognize the gentleman from North Carolina (Mr. BROYHILL), but before the Chair does recognize the gentleman from North Carolina, the Chair would like to remind the Committee that reference to action in the other body and reference to Members of the other body are forbidden by the rules of the House. The Chair has shown restraint and would beg the indulgence of the Members of the House to avoid violating the rules of the House.

The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, the argument is made here that the States are given a great deal of latitude to determine what their policies will be in their States with respect to air quality. I ask the question: More latitude as compared to what?

Mr. ROGERS. Mr. Chairman, will the gentleman yield? I will answer his question.

Mr. BROYHILL. No. Mr. Chairman, I did not bother the gentleman from Florida (Mr. ROGERS) when he was speaking, and I ask the same courtesy from him.

Mr. ROGERS. I thought the gentleman was asking for an answer to his question.

Mr. BROYHILL. Mr. Chairman, I repeat: As compared to what?

The States certainly are not granted more latitude than they would be if they were allowed to exercise their traditional and unrestricted right to determine what use is going to be made of lands within the boundaries of those States as they have in the past. Certainly this policy that we are writing in the law and that we are setting into cement here is going to place some serious restrictions on the rights of States in regard to their land use.

I would also point this out, Mr. Chairman: the argument is being made here that we are going to have latitude to change certain air quality classifications around. I wonder if the Members have read the provisions in the bill which must be complied with in changing classification No. 2 to classification No. 3.

First, there would have to be specific findings made as to the desirability of redesignating these class I areas. A health environmental, economic, social, and energy impact statement would have to be made on the area that would be proposed to be redesignated. They would have to make these impact statements available to the public for a reasonable period of time prior to hearings on the matter, then they would have to conduct public hearings, and they would have to specifically redesignate these areas by State law. In addition, we would have to have these redesignated areas approved by legislation enacted by general purpose units of local government representing a majority of the residents of the area so redesignated.

This is a most cumbersome procedure, one that could take 2, 3, or 4 years, depending on when legislatures meet and depending on whether or not local areas could be motivated to meet to approve these redesignations.

Mr. Chairman, this bill is going to establish a nightmare of complicated zoning provisions that few can really comprehend.

I would like to ask a question or two.

I wonder whether Members here know how their district will be treated under the terms of this bill. How much development would be permitted in a particular Member's district if this bill were to become law? What if the Member's district contained certain valuable energy or mineral resources, for example? If so, which of these resources could be developed under section 108, or on what basis would one decide among several industries that perhaps would like to locate in a Member's district?

Which are the ones that would be permitted to locate there, the ones that create the most jobs or the ones that might contribute to a reduction of U.S. import dependency, or the ones that pollute the least?

What would be the impact on various industries? Would there be an adverse impact on one industry, and would that then have a ripple effect on other industries? How many jobs would not be created as a result of the policy that is established under this section 108?

If an industry cannot grow, how are they going to be able to hire the high school graduating classes of next year or the year after?

Are the people of a Member's district going to be willing to forego jobs because of the policy that is adopted in section 108?

Mr. Chairman, the statement has been made that the issue has been studied. In the committee report we have a statement by the Department of Labor, the Department of Commerce, and by FEA expressing concern over the adequacy of these studies.

CONFLICTING STUDIES

We must clear away the confusion that has resulted from the questionable and conflicting studies that have been made of section 108. Every study agrees that this policy will, indeed, have an impact. But there is virtually no agreement on the nature of that impact.

Some studies claim that substantial growth will be permitted, while others claim that growth will be severely restricted. Some argue that only a few, small buffer zones will be necessary to protect class I areas; others conclude that very large buffer zones will be required. Many major industries have not been studied at all. One study examined a specific industry and then merely generalized its results to a half dozen other industries.

Is this any way to establish Federal policy? Can you honestly argue that any one study is definitive? Unbiased? Comprehensive? Clearly, Congress has a duty to insure that such a study is conducted.

LACK OF EXPERIENCE WITH EPA REGULATIONS

Although EPA's nondeterioration regulations are just being put into operation, we are already considering a major overhaul of those regulations. Frankly, the rush to pass an entirely new nondeterioration policy based on scanty information puzzles me.

I have heard arguments that Congress must act to end the uncertainties brought about by litigation involving EPA's regulations, that this subject should not be left to the courts. However, a careful reading of section 108 leads me to believe that it is nothing short of a lawyer's dream—a certain recipe for endless litigation.

Other arguments have been advanced that section 108 is necessary to give States more flexibility in implementing this policy. The truth is that section 108 merely allows States a first crack at enforcing a stringent, uncompromising Federal program in which significant deterioration of air quality is arbitrarily defined by Washington bureaucrats. In fact, EPA's current regulations provide more real flexibility and authority to the States. There are simply no valid arguments for rushing headlong into a Federal program of unknown and unstudied consequences.

DIFFICULTY OF AMENDING CONGRESSIONAL MANDATE

It is important to bear in mind that congressional action now could be very difficult to amend. EPA's regulations, whatever their shortcomings, can be amended without an act of Congress should further study and practical experience warrant any changes. They could be amended either by EPA on its own initiative or upon petition by a State.

INAPPROPRIATE TIME TO ENACT SECTION 108

For all these reasons—numerous unknowns, conflicting studies, lack of experience with EPA regulations and difficulty of amending a congressional mandate—I firmly believe that we must not allow section 108 to become a law.

Our Nation is gradually recovering from a severe recession. We are in a bitter struggle against inflation and increased unemployment. Surely, it would be an inappropriate response for Congress to enact legislation, which could have a profound effect on our economy, severely limit potential jobs, create incentives for our basic industries to locate abroad and further retard our efforts toward energy self-sufficiency.

FIRST STEP TOWARD SOLUTION OF PROBLEM

I am confident that the study called for in the Chappell amendment would move us much closer to ultimate resolution of this difficult problem. Congress would at long last have a comprehensive, scientific study on which to formulate legislation establishing a Federal nondeterioration policy.

FULL PUBLIC PARTICIPATION

The Chappell amendment would insure that the National Commission on Air Quality would involve the public fully in the determination of this issue. I also strongly hope that after the study Congress would hold public hearings on specific legislative proposals based on the Commission's recommendations. We can only expect to gain public acceptance and support for a nondeterioration policy if we permit full public participation in the formation of that policy.

CLOSING REMARKS

Support for this amendment will not be a vote for dirty air and uncontrolled development. Those who make such emotional and unfounded claims do so only because their arguments against my amendment lack substance.

This issue deserves more than an emotional response by Congress, and I strongly urge that your support in an effort to insure that our Nation gets what it deserves—rational, balanced environmental legislation that will stand the test of time.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if I might have the attention of the gentleman from North Carolina (Mr. BROYHILL).

For the second time this afternoon, we have been treated to a series of rhetorical questions as to what would this do to jobs, what would this do to industries, how would we make these choices in our district, and so on.

Mr. Chairman, I wondered whether the gentleman was going to provide answers to those questions or whether he was going to allege some answers, or whether he was simply going to give us the questions.

Mr. Chairman, there are answers to them. EPA and FEA have rebutted with their own studies the kinds of impacts that some feared might arise. Some of the industry-sponsored studies and some of the earlier FEA and EPA studies suggested some difficulty, but the latest studies show that there is little difficulty with the actual provisions of this bill. Class II language allows everything up to and beyond a 3,000-megawatt plant, the largest plant ever planned. See other industrial uses are less polluting. Therefore, there really is not a problem with class II.

In addition, we now have class III which this body has agreed to this afternoon.

The answers to the gentleman's rhetorical questions are that there is plenty of flexibility here to include just about everything that anybody would ever want.

What we are asking, Mr. Chairman, is simply that people use available technology for preventing unnecessary pollution of the air, whether it is in an already polluted area or, in this case, in an area with cleaner air.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, the question of what the Chappell amendment is all about is to provide the needed information to determine what the economic impact of this policy is going to have, not only on different areas of the country, but on different industries as well.

Mr. MAGUIRE. However, as the gentleman knows, EPA and FEA spent $2 million in assessing all of these facts in the last year to 18 months. It has been argued back and forth, ad infinitum, so that we now have a very clear idea of the magnitude of development that would be permitted.

Mr. Chairman, there is nothing really convincing that has been shown which would indicate that there would be negative answers to any of the gentleman's questions, and I would urge that we adopt the proposal.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I am very interested in the line of questions which the gentleman from North Carolina (Mr. BROYHILL) raised.

I have an answer that I would like to give to him about who will be making the decisions dealing with significant determinations as it would affect my district. First of all, my district would not come under significant deterioration.

In fact, we have got a long way to go to meet the primary standard itself. But in those places where you do have an area that is cleaner than the standards, the decision about who decides will be made at the local level and not by the EPA.

There are several differences between the House proposal and the Chappell amendment.

The House bill contains no EPA authority over State decisions, so I know that the decision will be made in my home State.

The House bill contains no Federal land manager veto over decisions by the State.

The House bill permits increased pollution from existing sources due to coal conversions and natural gas curtailments not to count as using up any of the available increment. Our districts are going to decide these cases and that is where the decisions should be made. The States ought to be able to do this and we should not have the EPA regulations saying that whatever is decided back home can be eventually overruled by EPA in Washington.

Mr. ICHORD. Mr. Chairman, would the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would like the gentleman to explain to me, in view of the statement just made by the gentleman from California (Mr. WAXMAN) is it not true that the class 3 incremental changes that are allowed under the bill are 50 percent less liberal than are now being allowed under the EPA regulations.

Mr. WAXMAN. We ought to protect any area that is clean now. But who is going to make the decision, Washington or back in the home district? Under the committee proposal that decision will be made back in our home district, and not here in Washington by EPA.

Mr. MAGUIRE. Mr. Chairman, I would point out that the bill provides up to 90 percent of current air quality standards, not 50 percent.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the distinguished gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I thank the gentleman from Kentucky for yielding to me.

Mr. Chairman, a few minutes ago we heard the argument that we have heard time and time again, and I do not think we should let the moment pass without commenting on it. That argument is that we really have this because the EPA is regulating in this area, so we now should affirm something akin to what the EPA is doing to avoid confusion and to clarify the issue.

I think that this is passing strange that we have to clarify something that the Congress did not do.

We ought to look at the background surrounding the whole concept of significant deterioration and how it got where it is today. This all came about through the case of the Sierra Club against Ruckelshaus. This was a very curious case. The final decision was rendered only 6 days after the action was brought. But it was even more curious because the District Court for the District of Columbia based its holding that significant deterioration was really a part of the Clean Air Act upon a portion of the purpose section in the 1970 act. That provision reads that one of the purposes of the act was:

> . . . to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. . . .

But the Court, in analyzing those words, which really are not substantive language, based their decision on those three words, "protect and enhance," and ignored not only the expressed reason for such protection and endorsement, but also the substantive provisions in the act that we had passed, by arbitrarily deciding that Congress intended a policy of prevention of significant deterioration.

Unfortunately, when this case got to the Supreme Court only 8 Justices rendered the decision and it was a decision that was allowed to stand on a 4-to-4 vote. That means that the highest Court in the land has not spoken on this subject, for such a vote is not construed as a precedent.

I think it is strange that today we are confronted with the argument and the suggestion that we have no alternative now but to confirm that which the district court for the District of Columbia did.

I think we ought to realize that we are the legislative body in the Federal Government and not the Federal judiciary. The best way we can clear up the confusion that exists is to make it abundantly clear to everybody, including the district court of the District of Columbia, that it was not our intent to create a policy of prevention of significant deterioration. I think if we pass the Chappell amendment that tells the EPA Administrator that he has got to conduct this study, that will effectively stop the further promulgation and enforcement of these regulations until that study is completed and until Congress has had the chance to positively and affirmatively address the question. Also, in the upcoming October term I am confident that the Supreme Court would now strike down the policy of significant deterioration because of the language in some recent landmark cases involving the Clean Air Act.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. If the distinguished gentleman from Virginia is through, I will be happy to yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I might just say that EPA has already written us to say that, and I quote from a letter of July 20, 1976:

> We have concluded that enactment of the Chappell Amendment would constitute affirmative congressional ratification of EPA's regulations.

So that is what it is going to mean, if we vote for that, that we like what they are doing, and we do not.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. I thank the gentleman for yielding.

I would like to respond to that statement and say that is an instance of the tail wagging the dog, if I ever heard of it. Are we going to sit here and decide what we are going to do on the floor of the House because somebody down at EPA tells us in advance how we should interpret the act that we passed?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. That is exactly what we are doing in the committee bill. We are writing the guidelines. The gentleman from Virginia ought to support the committee work.

Mr. SATTERFIELD. If the gentleman from Kentucky would yield further, that is precisely what we ought not to do—what we are doing in this committee bill. That is why the Chappell amendment should be adopted.

Mr. CARTER. Mr. Chairman, I remember quite well when this decision came to pass and it was discussed in our committee that at that time I asked my distinguished and friendly chairman, the gentleman from Florida, what really was the purpose of the legislation which he and I and the members of the subcommittee had legislated, and the answer was silence.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ICHORD. Mr. Chairman, I move to strike the last word.

I have, Mr. Chairman, the greatest respect for my good friend and colleague, the distinguished gentleman from Florida (Mr. ROGERS). I might state that if I had not read section 108, I would be very much moved by the argument that he made on the floor of this House, because I am one Member of Congress who greatly deplores the trend, which still continues despite the concern in the minds of so many millions of Americans, toward the further centralization of power. I am talking about the trend of the Federal Government either through its legislature or through its courts or through its executive or its agencies, by promulgation of regulation, to move in and solve every problem of the individual or of the community or of the area.

I beg to dispute the gentleman from Florida. I do not question his sincerity, but I think if he will closely read the bill, this measure will have a serious impact upon the authority of the individual States.

A close reading of section 108, Mr. Chairman, shows that the claims of the proponents of this measure lack merit. In fact, the existing EPA regulation which the amendment offered by the gentleman from Florida (Mr. CHAPPELL) would leave untouched gives more real authority to the States than would the provisions of section 108.

I would like to mention several of the important ways in which the nondegradation provisions of H.R. 10498 would seriously erode the authority of the States.

First and foremost, the class III incremental changes—and I do not think the gentleman from Florida will dispute this—allowed under the bill are 50 percent less liberal than the class III incremental changes allowed under the EPA regulations. Basically, the bill would not allow the States to permit changes in air quality up to the levels which still protect human health and welfare. Under the current EPA regulations the States can allow such changes in the interest of economic development and job creation.

Second, Mr. Chairman, under the bill H.R. 10498—and I want to direct the attention of the gentleman from Florida to this particular point—it would be difficult and time consuming for the States to reclassify any areas as class III. All areas under this bill, as I understand it, Mr. Chairman, and I was told this by the gentleman from Florida, would first be class I or class II, and then to reclassify any of them to class III both the State legislature and the local government would have to pass bills.

If we are going to give authority back to the States, why require them to proceed in a certain manner? Why do we have to have a bill passed by both the local unit of government and the State legislature?

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, is it then also true that even after the State legislature acts, that the local unit of government can still be required to act? And is it not then also true that after the local unit of government approves, that always the Administrator of EPA has the final authority to say whether that action carries out the intent and purpose of the act?

Mr. ICHORD. The gentleman from Florida is eminently correct, and I ask: Why not allow the States to determine the procedures by which an area can be redesignated as a class III area?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I want to correct something, that EPA under present regulations has the right to approve or that the courts can change the regulations.

Third, Mr. Chairman, section 108 of the bill requires the mandatory designation of certain Federal lands as class I and certain others could only be class II. Under the EPA regulations all areas would begin as class II and there are no mandatory designations.

Defenders of H.R. 10498 argue that what little authority the bill would give the States under section 108 cannot be overridden by Federal land managers. They note that under the EPA regulations a Federal land manager can elect to keep Federal lands more pristine than a State designates. This claim, however, has little substance because the EPA regulations require a Federal land manager to go through a hearing process before placing the Federal lands in a more pristine category and because the EPA regulations do not have mandatory classifications.

While on the subject of claims for H.R. 10498, some of those urging its passage seem to be under the impression that the way baseline concentrations and incremental changes would be calculated would somehow give the States more authority. Time does not permit me, Mr. Chairman, to go into details on this subject. I simply will say that the bill's provisions and the committee report are confusing on this point and the net result could be to take additional authority from the States.

In summary, Mr. Chairman, section 108 would severely limit the power of the States to promote economic development and to create new jobs, and it would unnecessarily intrude upon the procedures by which a State could redesignate nondegradation areas.

There is one last point, Mr. Chairman, once the detailed provisions of section 108—on which there is so much uncertainty—are enacted, the only way they can be changed is by another act of Congress. That could take years.

The EPA regulations, if found to be unworkable, can be changed at any time by EPA itself or upon a petition from a State. I hope my colleagues will keep that in mind when voting on Congressman CHAPPELL's amendment.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. ROGERS. Mr. Chairman, I wonder if we could come to a decision. I was hoping the Committee could rise at 6:30, having voted, and we do not want to preclude anybody speaking, but if we could agree to stop debate at 6:30 and have a vote on this one amendment it would be helpful.

Mr. BROYHILL. Mr. Chairman, I would reserve the right to object.

The CHAIRMAN. The gentleman from Florida has not yet made a request.

Mr. ROGERS. Mr. Chairman, I would ask unanimous consent that all debate on this amendment cease and we take a vote at 6:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, some Members are standing, many Members who are not members of the committee and who have not had the opportunity to speak on this issue. I think they should have that right and for that reason I object.

The CHAIRMAN. Objection is heard.

Mr. DUNCAN of Tennessee. Mr. Chairman, I rise in support of the amendment and I move to strike the requisite number of words.

Mr. Chairman, the ambient air data base available in the United States for use in decisionmaking concerning present and future air pollution control strategies is inadequate. Almost all studies relating to ambient air quality and air quality impacts on public health and welfare carry the caveat "The data from which to draw conclusions is inadequate but * * *" The Congress evidently recognized this inadequacy during the discussion of the 1970 Clean Air Act and determined that arbitrary technology-based standards applied to new sources would be more easily enforceable than nationwide air quality strategies based on air quality needs.

The Congress took the shortcut of requiring new source performance standards for all new or significantly modified facilities. However, they did not take the next step which would have been to require that the enforcement agency establish adequate ambient air monitoring networks and collect air quality data that could be used for future midcourse corrections if deemed necessary.

If viewed in the short term this is an expensive and somewhat frustrating exercise which has been avoided by the Congress, the Federal EPA, and most State agencies. However, when considered in a broader view, a good environmental data base is well worth the effort.

In rare instances, there are adequate ambient air monitoring devices which show that the impacts of various plant, area, or regional sources can be determined and in most cases these impacts are less than anticipated. Over control can be avoided. However, in the vast majority of cases, sweeping assumptions and subjective decisions must be made when questions concerning the potential impact of a new facility are asked.

A recent example of this occurred in a large industrial State. A company petitioned to construct a small source which would emit only a few pounds an hour of a fluoride-based pollutant to operate within a major facility emitting more than 150 pounds per hour of the same pollutant. The company had monitored upwind and downwind levels of the fluoride-based pollutant for more than 15 years, reporting these data to the State agency, without ever seeing a violation of ambient air standards.

The Agency conducted a dispersion modeling program and determined that under present ambient conditions, the model predicted ground level concentrations more than 25 times higher than the standard would allow.

In spite of discussions centered around the fact that no ambient air data ever obtain around the facility approached one-thirtieth of the predicted level, the Agency feels that the permit for the new source cannot be given. They argue that since enough ambient air data is not available for the State to adequately measure downwind ambient air impacts, they must rely upon the standard dispersion model. Since the facility modeled contains more than 200 point and complex line point sources, the modeling program is not routine. However, a standard, unvalidated model is all that has been available for use giving the high results. Even with the obvious variation in modeling output and the conflicting ambient data, the Agency feels that it has no alternative but to use the computerized modeling predictions for decisionmaking.

Similar situations exist throughout the United States where decisions must be made in an overly restrictive fashion because of the lack of ambient air quality data. The goal of the Clean Air Act is to provide for and maintain ambient air of an acceptable quality. However, because the data base does not exist for making these decisions, restrictive and often highly costly judgments have to be made when questions arise or options exist. It appears that there will be no major change in this situation during the next 5 years. Neither Congress, the EPA or the State agencies feel the need for extensive, reliable, and informative ambient air quality monitoring. Rather, these agencies evidently feel that decisions should continue to be made "in the dark," in a fashion that will insure enforceability rather than ambient air quality maintenance.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Chairman, as of last month, the unemployment rate in the construction industry was over 17½ percent. This figure is more than double the national average, and represents approximately 790,000 workers involved in the contract construction industry. The significance of these figures cannot be overemphasized, for construction is our Nation's largest industry. Seven hundred ninety thousand construction workers are out of jobs, as of July, supposedly the height of the construction season. What can be expected this winter?

There are many reasons for this gloomy picture in the construction industry. Certainly you can think of many of them, for the construction industry, because of its size, reflects the general economic condition of our country. Our recovery from the recession of 2 years ago has been slow. The most important thing to remember, however, is that without a healthy construction industry, our national economy and the Nation can never be expected to be well.

Giving due consideration to the fiscal and monetary reasons for the lethargic pace of construction recovery, we must look to other causes which have impeded return to normal conditions. Without question one of the roadblocks has been the proliferation and implementation of Federal environmental legislation and controls. It goes without saying that the quality of our total environment must be considered when planning for future growth and development. But total environment should mean consideration of our Nation's economy, especially employment.

It is well known that environmental considerations based on many or a single criteria, have stopped or delayed the construction of hundreds of construction projects across the country. For every dam that is not built, every road that is "deferred" for further consideration, every factory that is denied the right to be built or expanded, hundreds of construction workers are denied jobs. The secondary unemployment effect raises this total to thousands.

One cannot deny that some projects are improperly planned, and because of their detrimental environmental effects, should not be permitted to begin. But the facts speak for themselves. One Federal law gives rise to many regulations, and each of these regulations opens the door to interpretation and misinterpretation by environmental extremists. As a result, construction is being halted all over the country by injunctions and other court actions which are often based on a single environmental criteria.

The Clean Air Act amendments now being considered by the House, H.R. 10498, contains no relief for the unemployed of the construction industry. Unfortunately it will have just the opposite effect. The nondegradation provisions of section 108, by prohibiting and limiting growth and development over vast areas of this country, will forestall any hope of a full economic recovery for the construction industry. Not only is development prohibited in some areas, but in the areas where restricted growth will be allowed to occur, it is only a matter of time before their permissible pollution increments are used up, and they too are closed to development.

Using the sole criteria of clean air, section 108 would act as a vehicle to control the present and future economic growth of our Nation. Where there can be no development and growth there can be no construction. It should be apparent from our past experience with the implementation of Federal environmental legislation that Congress must act cautiously—taking into consideration the needed balance between environmental and social needs. It should be obvious that the construction industry is already suffering from the unemployment caused by the misinterpretation and application of environmental requirements. It should be clear that closing down development through the nondegradation provision of section 108, is a dangerous move. If this provision is enacted, Congress will be jeopardizing the present and future employment of hundreds of thousands of workers, the welfare of our largest industry, and the economy of our country.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there have been a lot of fragmented studies of the effects of nondeterioration on some industries with as many conclusions as there are interest groups performing the studies. And yet, no one has asked the basic question—is there a workable procedure to prevent actual significant deterioration of air quality values that will not unfairly tie up time and resources as the plan is put into practice by the States and EPA?

I have seen some descriptions of the many steps required to get a construction permit—many filled with such uncertainty that responsible planning by the industries and business that provide the real jobs in this country seems almost impossible. Except for small plants or in very flat terrain, an applicant could easily spend millions of dollars on designing, ambient data gathering and computer modeling—only to have his application turned down by a State regulatory agency because they didn't want to allow use of the total available increment for that industry, an increment value occurring only a few days a year and no threat to health or welfare.

The complicated permit process is also a fine place for extremist groups who simply want to stop or delay a project to throw all sorts of procedural roadblocks in the path of even the most well meaning and environmentally conscious applicant.

Unemployment and poverty are this country's biggest, real, dangerous problems; yet we legislate more difficulties for the basic source of new jobs—business. With EPA permits, State permits, local permits, environmental permits, and who knows how many other permits, business must plan several years to get all the permits required before construction can begin. If we expect the private sector to produce the millions of jobs needed, we must not place unnecessary unwarranted obstacles in their path.

Looking at the procedures required to get a permit to construct, I realize there seem to be many areas for controversy to arise—What ambient air monitoring procedures, equipment, number of sample locations will be required before a permit application can be made? What mathematical models for predicting expected changes in ambient air quality will be used? What happens if an environmental group challenges the State or applicant's choice of models as being too lenient? How does a State decide what is the best available control technology? How does a State decide whether to give away 100, 50, or 10 percent of the available increment? How long does this whole process take? Will the plant design be obsolete before a permit to construct can be granted?

EPA has had regulations in effect for some time; they have recently been upheld in the face of both environmental and industry challenges. The sane course of action to me is to leave the EPA regulations in place and let experience in their implementation be a useful, real life experiment to form part of the study to be performed by the National Commission on Air Quality.

In other words, pass the Chappel amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am against the amendment but I also want to point out that the gentleman from Florida (Mr. CHAPPELL) has drafted his amendment in a very peculiar way. The amendment says that on page 198, line 5, after section 108, we should strike everything following section 108 and insert the following.

Now, literally, that would strike from line 5 on page 198 all the way through the bill, right to the end of page 341.

I would just like to ask the gentleman whether that is what he really intends to do?

Is this intended to be strictly applied to this portion of the bill?

Mr. CHAPPELL. Mr. Chairman, if the gentleman will yield, of course not. It pertains only to section 108. It was not intended otherwise.

The Rogers amendment was adopted and no one was able to say where that was and everyone understood that the intent and purpose was to strike section 108 and insert in lieu thereof the wording of this amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman ask unanimous consent to offer his amendment and so state?

Mr. CHAPPELL. Mr. Chairman, I am delighted to do so.

Mr. Chairman, I ask unanimous consent that the Record show that the amendment be amended, or the title of the amendment be amended to relate to striking only section 108.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also wish to support the amendment on nondegradation offered by Mr. CHAPPELL. I share many of the concerns voiced by Congressman CHAPPELL and other speakers on this subject and, in particular, I am concerned about the adverse impact which section 108 could have on the production of important nonferrous metals—copper, lead, and zinc.

Last May the Department of Commerce issued an important study on this subject. The Department's study assumed that new copper, lead, and zinc smelters would be located in areas similar to those where present smelters are located; that new smelters would use the best available pollution control technology; and that the total incremental changes allowed under the House and Senate bills would be available to new smelters. In other words, Commerce assumed that there would be no other major industrial installations in the vicinity of new smelters.

Mr. Chairman, I now would like to summarize the conclusions of this important study, and I will turn first to copper. On the basis of the assumptions I have already outlined, Commerce found that 77 percent of existing copper smelters could not be built in the class II areas provided for in this bill, and 69 percent could not be built in class III areas. Put another way, using assumptions favorable to the proponents of the House nondegradation proposals, the U.S. Department of Commerce found that between 2 out of 3, and 3 out of 4, existing copper smelters could not have been built under section 108.

The percentages for lead smelters are similar: 78 percent of existing lead smelters could not be built in class II areas and 62 percent in class III areas.

The figures for zinc smelters are less dramatic but still troublesome: 30 percent of existing smelters could not be built in either class II or class III areas.

Incidentally, no new copper, lead, or zinc smelters could be built in class I areas. Commerce did find, however, that EPA class III increments would have virtually no impact on the construction of new copper, lead, or zinc smelters, again making the same favorable assumptions.

The Commerce study is a technical document and it contains no recommendations, but it has a clear message: If Congress adopts section 108, most of the new copper and lead smelters that an expanding American economy will need will not be built, and a substantial fraction of the zinc smelters needed also will be halted.

What does all of this mean? First, of course, it means that new jobs, frequently in rural areas, will not be created.

What else does it mean? Mr. Chairman, it means growing American dependence on imports for vital industrial materials and an adverse impact on our trade balance.

Let me be somewhat more specific. It has been estimated that between now and 1985 U.S. copper production should be expanded by about 60 percent or around 1 million tons. If that does not happen, copper imports, which now account for 10 to 15 percent of consumption, will rise sharply to about 40 percent.

In the case of lead metal, imports again have been running at 10 to 15 percent of consumption, not counting scrap. If new smelters could be built, the United States, principally because it has some large, good quality ore reserves in Missouri, might stop its import dependency and become a modest exporter of lead metal. These deposits are in my district, and that of Mr. ICHORD.

As I have already noted, the Commerce study shows a less serious impact on new zinc smelters, but the situation in our zinc industry is far more critical than in copper and lead. In the past 6 years this country has lost half of its zinc smelting capacity and this country is about 50 percent dependent on foreign suppliers for this fourth ranking metal.

I would like to add, Mr. Chairman, that any adverse impact on new smelters does not stop there. If new smelters are not built then fewer copper ore bodies will be developed in the West, fewer zinc mines will be brought into production in zinc-rich Tennessee, and a lot of Missouri lead may stay in the ground.

Mr. Chairman, I hope our memories are not too short. When it is time to vote on Mr. CHAPPELL's amendment, I hope that my colleagues will remember the shortages of industrial materials which we experienced just a few years ago, the soaring prices and the fact that supplies of vital raw materials can be used for political purposes. I hope they will remember that crisis and vote for the Chappell amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from Florida.

Mr. ROGERS. I am sure the gentleman may not be aware of the fact that the study he refers to is not a study of the committee bill. It is a study of the Senate bill, and does not include class 3 category of the House.

Mr. BURLISON of Missouri. It is a study of the proposals here in comparison with the Senate and the EPA regulations.

Mr. PREYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take just a few minutes to talk about the background of the doctrine of significant deterioration. This idea did not just suddenly arise at this session of the Congress from the fevered brow of an environmentalist. It is not some sort of exotic plant. It was not solely called up by the arbitrary action of the District Court in its ruling in the Sierra Club case. Actually, this policy is a decade-old policy, and was backed by this administration and by the previous administration.

In 1970, Under Secretary John Veneman testified on behalf of Secretary Robert Finch, and reemphasized the Nixon administration's support of significant deterioration. This is what Secretary Finch's statement said:

> One of the express purposes of the Clean Air Act is "to protect and enhance the quality of the Nation's air resources." Accordingly it has been and will continue to be our view that implementation plans that would permit significant deterioration of air quality in any area would be in conflict with this provision of the Act. We shall continue to expect States to maintain air of good quality where it now exists.

It was in mid-1971 that the administration suddenly changed course and changed its philosophy on that, and that was when they were brought into court. So, this idea is not some strange thing totally out of the blue. It does have a respectable pedigree.

Let me briefly comment generally on the subject of clean air. We have heard a lot of comment that this is a "no growth" provision. Well, I am very much against the no growth approach as the way to handle pollution.

No growth denies social justice in this country. It is impracticable. But beyond that, a no-growth society does not mean that we will not eventually pollute ourselves to death. We will just do it more slowly. If we all take up making candles in the woods, we will eventually pollute ourselves to death. The answer to pollution is not no-growth, but technological capability. That is the only way we are going to solve our problems, in the long run. What the no significant deterioration provision does is help seal off the escape hatch by discouraging industries from moving to areas of clean air where they do not have to employ new technology. So it helps to encourage, to give impetus to technological development, and that is going to be the long-run answer.

The more we learn about air pollution, the worse the news gets. We cannot quantify it in exact detail. We cannot prove exact cause and effect. But we know that the more we learn, the worse it looks.

We need the national ambient air standards as an administrative technique. But the more we know, the less we can feel safe that there is any safe threshold below which it is safe to pollute. So in the future, industries are going to have to meet stricter and stricter standards. They are going to have to employ more and more technology. It is cheaper for them to do it right away, now, for new plants to put on the best available technology, rather than retrofit them at much greater expense. It is wiser for our States to plan now in a way that balances industrial development and the environment, rather than have much stricter provisions forced on them in the future because of some pollution disaster.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I thank the gentleman for yielding.

Mr. Chairman, I share the gentleman's concern about the deterioration of the air in many sections of our great Nation. The gentleman from Florida mentioned all of these nice people who are against the Chappell amendment, but the gentleman did not mention the gentleman from Missouri, myself, or the gentleman from Missouri (Mr. BURLISON), and several others.

What I am concerned about is that no one can tell us what is going to be the effect upon growth, economic development. I do not want to kill the goose that laid the golden egg, and I think we may be doing it by trying to write into statute criteria when we do not know what is going to be the effect.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, it is very clear what will happen, because we have set forth exactly what will happen. We can have growth. We know exactly what we can do. Under the present situation, we do not, because every time a source wants to build or expand it may have to go to court. So the gentleman should vigorously support the committee bill if he wants certainty and if he wants healthy air.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.
v'Juu.) uql ffere

Mr. Chairman, I rise in support of the Chappell amendment, which would delete section 108 and provide for a year's study of this entire nondegradation question.

Those who urge the passage of this bill in its present form frequently argue, and we have heard it here today, that numerous studies have been made, that we know what the economic costs will be, and the costs will be modest.

The advocates of section 108 overlook the fact that many studies are contradictory and that EPA itself has basic questions about the economic impact of the measures we are now debating.

In support of what I have just said, I would like to call to the attention of this body an EPA letter of July 28, of this year, inviting proposals for a study on the impact of the Clean Air Act on industrial expansion.

Many of the subjects covered in the EPA work statement are matters which would be covered, I am sure, by the study for which the amendment offered by the gentleman from Florida (Mr. CHAPPELL) calls. The first part of the proposed EPA study calls for a tabulation of production levels and expansion plans for key industries, the tabulations to be broken down by various types of air quality control regions, including those where nondegradation provisions would apply.

The second part calls for a study for determining the effects of various policy alternatives on the planned expansions of those key industries. The policy alternatives concern areas where the air quality does not meet the primary standards as well as nondegradation areas.

The third part calls for a study for the development of criteria to identify problem industries and the impact on those industries.

Mr. Chairman, why is EPA called for this study? The answer is obvious. EPA realizes that information analyses are lacking on crucial matters, including nondegradation. That is why I support the Chappell amendment.

Mr. Chairman, let me say this, if time permits: Many of the Members present were on the floor of this House just a few days ago when I spoke about an environmental disaster that had befallen my district. Financially, it has now cost the taxpayers of this country over $7 million.

Let me tell the Members what the real origin of that ecological disaster was. As we know, a barge struck a shoal in the St. Lawrence River and discharged a quantity of No. 6 oil, a tar like substance, into that beautiful, flowing stream.

Many of my neighbors, Mr. Chairman, have speculated on the cause of this disaster. They asked, "Was it the fog, was it the fault of the captain or were the aids to navigation improper?"

One of my neighbors hit it right on the head. He said, "The real reason is that we cleaned up the air."

Before that we had a generating plant that burned coal. It burned coal that was mined in American mines by American labor and that moved on railroad cars and moved on a self-unloader on the Great Lakes, and we never had a disaster then.

But, no, that was not good enough. We had to change to oil. We know now that for economic, and other reasons, we are reconverting many of those plants back to coal again.

The point is that we paid an environmental price for acting and over-acting from an environmental concern. The result is that we polluted one of the great rivers of America, and we do not know yet what the permanent effects of that are going to be. Maybe we should have left the coal-burning plant in place and put up with a little coal dust, and then maybe we would not have dumped over

300,000 gallons of No. 6 oil into one of the most beautiful rivers of the world.

So I submit, Mr. Chairman, that we should find out what this section does mean. We have had all these conflicting statements and studies. Let us do as the gentleman from Florida (Mr. CHAPPELL) suggests. Let us put this over for a study and then vote on the basis of the facts that are available.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I would like the gentleman to know that the committee has published a 500-page report, that we have worked on this for 1 year. The report contains a complete statement, in great detail, on what this legislation does.

We know what it does. It is giving more judgment to the States. It is saying to EPA, "We are not allowing you to make all the decisions. We are letting the States have some judgment in categories 1, 2, and 3, and we are still trying to clean up the air."

Mr. McEWEN. Mr. Chairman, all I can say is that EPA certainly does not share the gentleman's certainty or it would not be calling for these proposals relative to what they say is the impact of the Clean Air Act or industrial expansion. They must have questions in their minds or they would not be calling for these proposals.

Mr. ROGERS. Mr. Chairman, I think if the gentleman will look at the testimony, he will find the answers to that, and he will understand the wide, public support of our position against the Chappell amendment. The Governors, the mayors, the counties, and all the local people want to have a congressional decision and want to have a voice in pollution control decisions, and they are entitled to that.

The CHAIRMAN. The time of the gentleman from New York (Mr. McEWEN) has expired.

(On request of Mr. CHAPPELL, and by unanimous consent, Mr. MCEWEN was allowed to proceed for 2 additional minutes.)

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, would the gentleman agree that if we simply said to all the local officials, including the Governors, "You are going to have more control," they would be prone to go along with this matter?

Mr. McEWEN. I am sure that would be correct.

Mr. CHAPPELL. But when it comes to the judgment and on balance, is it not true that EPA under this bill has the ultimate and the final say, regardless of what happens, and that the procedure for making any change in classifications is so difficult as to render it almost impossible for the local communities to make any change?

Mr. McEWEN. Mr. Chairman, I would agree with the gentleman.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, that simply is not a correct statement. This substantially reduces the authority of the EPA and gives the judgment to State and local people. EPA cannot veto or overrule a judgment made by a State. The only thing EPA can do is to say whether the procedural requirements and the State plans were carried out. They cannot go into the judgment made by the States or the local areas. That is expressly prohibited in the bill.

Mr. CHAPPELL. Mr. Chairman, if the gentleman will yield further, is it not true that what the bill says is that the Administrator, only after hearing, can veto the plan? It does not say anything about what is done procedurally, but after hearing, if he is satisfied the purpose and the intent of the bill have not been met, he has the authority to veto it; is that correct?

Mr. McEWEN. Mr. Chairman, I will say to the gentleman that is how I read the provision.

The CHAIRMAN. The time of the gentleman from New York (Mr. McEWEN) has expired.

Mr. ROGERS. Mr. Chairman, I believe we are now at a stage where we should limit debate. We only have about three or four Members, I believe, who wish to speak. I wonder if we can agree on a time limitation.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease at 6:45 p.m., and that a vote occur thereafter.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for 1 minute and 10 seconds each.

The Chair recognizes the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman and Members of the House, in 1 minute and 10 seconds, obviously, one cannot take up anything of substance.

However, there is a bug in this bill. It is a serious defect brought on by the way atmospheric modeling is done. I will explain in detail in a statement that I shall include for the RECORD.

I strongly urge Members to read this statement. The defect will have a direct effect on every rule that is made and a very serious one. Since I do not have sufficient time in which to discuss it, I plead with each of you to read it in the RECORD.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. MILFORD. I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Chairman, we had monitors up in New Jersey, and the men operating them said that they are not developed enough to do what they are supposed to do. That was in the last month. The equipment is not developed enough to measure what they are supposed to do.

Mr. MILFORD. The gentleman is correct.

Mr. PATTEN. On what basis is the modeling?

Mr. MILFORD. The particular modeling technique itself is very primitive and cannot be supported on a scientific basis.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MILFORD. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I just wanted to point out that the gentleman is a meteorologist, and I am sure does know the subject about which he speaks.

Mr. MILFORD. I am a professional meteorologist. I would plead with you to read the following explanation of the problem about which I speak.

Mr. Chairman, I rise in support of the Chappell amendment.

As the only weatherman in the House, I feel compelled to speak out. Weather will play a large part in the matter before us.

My support for my distinguished colleague's proposal stems from 19 years practice as a professional meteorologist, and accredited member of the American Meteorological Society.

I can assure you that weather conditions are ever changing and extremely variable.

It is the variable aspect of weather that unpredictably sends the pollution of Dallas to its unsuspecting rural neighbors, and oftentimes sends the haze over Baltimore to compound Washington's own problems.

It is the variable and unpredictable aspect of weather that has not been sufficiently taken into consideration in this legislation.

Weather problems arise because of the inadequacies of modeling techniques called for in this bill.

Implementation of the policy of nondeterioration will depend entirely on the still rather primitive science of diffusion modeling. Modeling, in turn, depends on a variety of physical parameters and natural phenomena, details of which seldom are available in sufficient degree for accurate determination of the effect of a given source's emissions on ambient air quality. This is particularly true as regards the small allowable increments specified in H.R. 10498.

A wide variety of diffusion modeling methodology is available, each with its supporters and its detractors. Assumptions and judgment necessarily enter into the process. Not surprisingly, calculated results can—and do—vary widely and controversies usually develop. It is virtually impossible to resolve such controversies in a rational and scientific manner, because nobody can prove before operation of a source which is the right answer. The whole process is quite inexact, and even the staunchest supporters of modeling will admit that their best estimates may be in error by a factor of 2 to 3. Therefore, if the basic measuring method is defective then any rules passed as a result of the measurements would also be defective.

Accuracy of modeling, such as it is, decreases as distance from the source increases, and models have been verified only for 10 miles or so. Yet, in enforcing nondeterioration requirements, modeling has been, and will be, used to calculate downwind concentrations at several times that distance.

EPA has said:

> Even in the best case, the possible errors in the modeling process . . . may overwhelm the air quality increment under consideration.

In other words, the nondeterioration proposal rests fundamentally on mathematical procedures that require data and scientific knowledge which we do not have.

Nonetheless, under the nondeterioration scheme, profound decisions would be based on complex, controversial, uncertain, and inexact mathematical modeling. Such decisions will involve billions of dollars of capital, will greatly influence consumer prices for goods and services, will determine in large part whether or not there will be economic and social development, whether our vast natural resources can be put to use, and whether jobs will be created. This would appear to be reason enough in itself, to support the Chappell amendment, which calls for comprehensive study and evaluation of the entire nondeterioration issue before passing stringent laws.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, let me say that the amendment offered by the gentleman from Florida (Mr. CHAPPELL) is in the interest of States' rights and in the interest of returning more authority to State and local governments. We should adopt the Chappell amendment and thereby turn around the intent of section 108 on our own initiative.

Mr. Chairman, I want to share with the Members a letter from the Governor of North Carolina, Governor Holshouser. He said:

> North Carolina has had and continues to have one of the most effective air pollution control programs in the Nation. We have already achieved compliance with the national ambient air quality standards for sulfur dioxide and suspended particulate matter. This fact makes all of North Carolina subject to the land classification system contained in the "no significant deterioration" section of the bill which is to be considered by the House.

That means, Mr. Chairman, that the entire State would be under category II of this section 108. He said further:

> Our State has worked hard to upgrade the per capita income of all our people. A basic part of our strategy for quality life is to upgrade income by bringing jobs into rural areas rather than forcing people to move to the cities in order to earn a living.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, after due consideration, I think that we should not adopt the Chappell amendment.

I say that for three reasons: First of all, if we adopt the Chappell amendment, we will leave in place a significant deterioration law adopted by EPA and not by the Congress.

Secondly, we will deprive the States and local governments from making these decisions and will have turned this decisionmaking process over to an agency here in Washington. I think it is important that we let the State and local officials make these decisions.

Finally, Mr. Chairman, by putting off this decisionmaking process, we will create more uncertainty. Business, which needs to have certainty in order to make investments, will be precluded from making the investments necessary to build the electric-generating plants and to go forward with plant expansion, and to do the mining operations required.

Mr. Chairman, we need to decide this question. That is why the National Governors Conference and many business organizations are supporting this, because they know that local governments can make the best decisions.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. MATHIS).

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to end my comments by saying that there are some changes that are needed in section 108. It seems to me these changes have to be made or else section 108 in its present form will not be workable. But as I say there are amendments that are necessary and that will be offered that will perfect section 108 and make it more flexible and that will give more control to the State and local officials so that they can make these decisions.

I would suggest to the Members that failure to correct section 108 and to leave it as it is at the present time is to turn over the entire policymaking and growth to not the State and local officials, but to the bureaucrats in EPA.

I think that that would be putting the cart before the horse.

Mr. Chairman, for these reasons I suggest it would be prudent for us to reject the amendment offered by the gentleman from Florida (Mr. CHAPPELL). I know that the amendment is well motivated, but there will be opportunity to perfect section 108 with meaningful amendments, amendments that will give it the flexibility that is needed.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I rise in support of the Chappell amendment to the significant deterioration section of this bill.

This amendment would strike section 108 on significant deterioration and replace it with a 1-year scientific study of nondeterioration to be conducted by a National Commission on Air Quality.

I want to thank my distinguished colleague from Florida (Mr. CHAPPELL) for providing us with a solution to problems contained in the language of section 108. This amendment strikes a balance between those who favor this section and those who believe that the Federal Government must tread very cautiously in setting policies to preserve areas which presently have clean air. I commend Mr. CHAPPELL for introducing this amendment and I wholeheartedly support its adoption.

My district in northern Michigan enjoys some of the purest and cleanest air on the face of this Earth. The beauty of northern Michigan is shown by the fact it contains three national forests, a national park, a national lakeshore, and a Federal wildlife refuge. It is virtually surrounded by three of the Great Lakes. My district also contains some of this Nation's largest deposits of copper and iron ore. Mining provides more jobs in my district than any other industry. Preservation of northern Michigan's unique environment and development of its mineral resources have gone hand in hand for over a century.

The "no significant deterioration" language of section 108 threatens to destroy this delicate balance of man working in his environment. My district has had a history of high unemployment. Section 108 would dramatically increase the numbers of unemployed in northern Michigan. The "no significant deterioration" section makes no provision for the fact that minerals must be extracted from the Earth where they are found. We cannot legislate where our minerals are deposited. Yet this proposed legislation would deprive our Nation of further development of northern Michigan's copper and iron reserves and would prevent the creation of new jobs for those whose best hope of a good job rests with the extraction of minerals from the ground.

The Cleveland-Cliffs Iron Co., the largest employer in my district, recently announced a three-fourths billion dollar expansion of its iron ore mining operations in northern Michigan. This project will provide thousands of jobs and millions of dollars for the local economy. Yet, in my opinion, all could come to naught if these Clean Air Act amendments are not significantly altered.

The sweeping definition of what constitutes "a major source of pollution" and the impact of classifying national parks, wilderness areas, and primitive areas as class I areas could well prohibit projects such as the Cleveland-Cliffs expansion from ever becoming reality.

Simply stated, section 108 would prohibit development in areas where the air is very clean even though the degradation caused by development would be relatively insignificant. It is my fear that section 108 would preclude further development in virtually all of northern Michigan. I seriously question whether the Congress would want to establish such a sweeping "no-growth" policy for this Nation without first studying the specific impacts on each and every region of the country.

Such a study is precisely what the Chappell amendment calls for, and I urge its adoption.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I have listened carefully to the arguments with regard to this issue, which is one of the most important issues in this bill. I have hesitated to speak because I have certain prejudices in this area based upon the fact that I live in one of the most polluted districts in the United States.

It would have made a tremendous difference to my district if the inhabitants there, including the industries, had started to plan within the framework of the language that is included in the present bill, a generation ago. We could have avoided many of the problems we have today. We did not do so and we are now suffering the consequences.

I must argue most strongly that we adopt the language of section 108 in the bill and reject the Chappell amendment so that we can move forward and allow the responsible State and local officials to do the job of planning for the protection of their own air resources that are so vitally necessary to this country.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, if we are interested in prohibiting land use planning by the Federal Government we will vote for the Chappell amendment.

If we believe we ought to legislate from knowledge, from facts, then we will vote for the Chappell amendment.

If we believe that we can do a better job after we know what the effect of nondeterioration is as a national policy, then we must vote for this amendment.

This amendment does not take away any of the powers to carry out the policy of nondeterioration but it simply gives us an opportunity to learn and to know about what the effect would be on our economy and on our environment in this country. It seems to me we will be doing good for ourselves if we will make the study so we can legislate on facts not guesses.

I urge the adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS) to close the debate.

Mr. ROGERS. Mr. Chairman, at this time I will yield to the gentleman from West Virginia (Mr. STAGGERS), the chairman of the full committee.

Mr. STAGGERS. Mr. Chairman, I would like to state to the Members of the House that there were some 63 days of markup in the subcommittee and 22 days in the full committee. I know of no other bill before our committee that has been given so much consideration and study and debate. I believe the bill should be left the way it is, and I oppose the Chappell amendment and hope that the committee's Section 108 is retained.

Mr. ROGERS. I thank the chairman. May I say now in conclusion that the committee recommends against the Chappell amendment; the Governors of the States recommend against it; the county governments, the city governments, all business community organizations, such as the National Retail Federation, home builders, realtors who want growth, and also working people, our mine workers and steelworkers—their jobs will depend on this—are all against the Chappell amendment. They want something definite, and they want control given to the State and local governments. If we want State and local control over growth and clean air, vote against the Chappell amendment and support the committee bill.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. CHAPPELL).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. CHAPPELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 199, answered "present" 1, not voting 74, as follows:

[Roll No. 698]

AYES—156

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Baldus
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clawson, Del
Clay
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Evans, Ind.
Evins, Tenn.
Findley
Flowers
Flynt
Foley
Fountain
Frenzel
Frey
Ginn
Gonzalez
Goodling
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Harsha
Hefner
Hicks
Hightower
Holland
Holt
Hubbard
Hungate
Hutchinson
Ichord
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Landrum
Latta
Lloyd, Tenn.
Long, La.
Lott
McClory
McCormack
McDonald
McEwen
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Paul
Pickle
Poage
Quillen
Railsback
Randall
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Ruppe
Santini
Satterfield
Schneebeli
Schulze
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stokes
Stratton
Taylor, Mo.
Taylor, N.C.
Thornton
Treen
Ullman
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Tex.
Winn
Wright
Young, Fla.
Young, Tex.

NOES—199

Adams
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
AuCoin
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Cleveland
Cohen
Collins, Ill.
Conte
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Ford, Mich.
Forsythe
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gradison
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Holtzman
Hughes
Jacobs
Jeffords
Johnson, Calif.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, Md.
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Mottl
Murtha
Myers, Pa.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Quie
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Roybal
Russo
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stark
Studds
Symington
Talcott
Thompson
Thone
Traxler
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waxman
Whalen
Wilson, C. H.
Wirth
Wolff
Wydler
Yates
Yatron
Zablocki

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—74

Abzug
Addabbo
Alexander
Ashbrook
Aspin
Badillo
Brodhead
Brown, Mich.
Brown, Ohio
Burke, Fla.
Chisholm
Clancy
Clausen, Don H.
Conlan
Conyers
Corman
du Pont
Esch
Eshleman
Ford, Tenn.
Goldwater
Green
Haley
Hansen
Harrington
Hébert
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Horton
Howard
Howe
Hyde
Karth
Lujan
Lundine
McCollister
Matsunaga
Melcher
Mills
Mink
Moss
Murphy, Ill.
Murphy, N.Y.
Passman
Peyser
Rangel
Rees
Riegle
Rosenthal
Runnels
Ryan
St Germain
Sebelius
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Teague
Vander Veen
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Addabbo against.

Mr. Teague for, with Mr. Howard against.

Mr. Stuckey for, with Mr. Zeferetti against.

Mr. Stephens for, with Mr. Rangel against.

Mr. Ford of Tennessee for, with Mr. Murphy of Illinois against.

Mr. Haley for, with Mr. Corman against.

Mr. Passman for, with Mr. Murphy of New York against.

Mr. Mills for, with Ms. Abzug against.

Mr. Ashbrook for, with Mr. du Pont against.

Mr. Symms for, with Mr. Horton against.

Mr. Hyde for, with Mr. Walsh against.

Mr. Brown of Ohio for, with Mr. Heinz against.

Mr. Clancy for, with Mr. Steelman against.

Mr. Burke of Florida for, with Mr. Peyser against.

Mr. Hansen for, with Mr. Lujan against.

Mr. Steiger of Arizona for, with Mrs. Chisholm against.

Mr. Sebelius for, with Mr. Badillo against.

Mr. Conlan for, with Mr. Rosenthal against.

Mr. Henderson for, with Mr. St Germain against.

Mrs. SPELLMAN changed her vote from "aye" to "no."

Messrs. PICKLE, GONZALEZ, and NEAL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HAGEDORN. Mr. Chairman, I wish to speak in behalf of the Chappell amendment to the Clean Air Act amendments which would strike section 108. This section would restrict the deterioration of air quality in those areas of the country already having air quality in excess of national ambient standards. This section rubberstamps a Federal court decision purporting to interpret the 1970 act by imposing an affirmative obligation upon even clean areas to limit industrial growth.

The Clean Air Act was not intended to impose Federal land use planning upon the entire Nation any more than the Federal Water Pollution Control Act was intended to regulate the use of farm feedlots. Nondeterioration was not even considered by the Congress when the act was originally passed, nor has it been contemplated when the act has been amended. At a time when so much of the public is so weary of an omnipotent Federal Government, it is amazing that serious consideration could be given to a bill of this sort.

It is interesting that so much of the current debate focuses on what exactly will be the impact of the nondeterioration provisions rather than on whether or not the impact will be desirable. There is no agreement on which sections of the country will be affected, to what extent, and what will be the nature of the "buffer zones" to be established. Before checkerboarding our country with class I, class II, and class III zones, and discretionary zones of varying sorts, it would seem desirable for this and the other of the Nation's great deliberative bodies to study these questions in detail. This bill could effectively dictate the extent of future economic growth in the United States, and no one is certain as to what it all means.

No-growth policies are fine for those persons and those communities already endowed with ample supplies of resources. They are not so fine for those people and those areas of the country not so amply endowed. No one questions the need to give proper consideration to the environmental implications of our economic decisions, but the reverse must also hold true. To relegate a substantial portion of this country to economic stagnation is to guarantee that these areas will be plagued by unemployment and a lower standing of living.

The Clean Air Act was not meant to place in EPA responsibility for industrial site selection, or for dictating patterns of industrial development to States and localities. It was meant simply to clean up the dirtiest areas of our Nation by setting maximum pollution limits, beyond which the health of residents would be threatened. Clean and pure air is an important long-term national goal; once again, though, in their zeal to achieve this goal, advocates of nondeterioration have forgotten that there are other goals equally important to the long-term health of the country. I look at the environments of those nations untouched by industrial development, especially their urban areas, and see societies where few Americans would want to live. These societies may have clean air, but they are neither pristine nor esthetic. In one fell swoop, Congress now has the singular opportunity to neutralize any positive gestures that it may have earlier undertaken in the areas of energy and unemployment. In addition, it will have removed from State and local governments just that much more authority to manage their own affairs.

Mr. COLLINS of Texas. Mr. Chairman, members and staff of the Commerce Committee are fond of spreading the illusion that their bill eliminates "buffer zones" from nondeterioration requirements. Nothing could be further from the truth. Buffer zones have not, and probably cannot, be eliminated—even though the committee may choose to downplay the impact that buffer zones will have and, to promote their bill, to ignore the fact that buffer zones are inevitable.

H.R. 10498 merely says that EPA's regulations "shall not require the use of any automatic or uniform buffer zone or zones." This is quite different from saying that buffer zones have been eliminated or will not be necessary.

EPA's present regulations do not require, or even mention, buffer zones. Nor has the Agency—or anyone else, to my knowledge—ever suggested that buffer zones must be "uniform." It was only for simplified preliminary and general assessment of the pending legislation that industrial interests—and EPA—assumed uniform buffer zones around class I areas. Everyone, including EPA, however, recognizes that buffer zones, even though they need not be "uniform," are essential—"automatic," if you will—to assure that the miniscule allowable class I increments will not be exceeded by sources located in adjacent class II or class III areas.

The distinguished gentleman from Virginia (Mr. Satterfield), a member of the Subcommittee on Health and the Environment, correctly pointed out the deceptive illusion conveyed by the bill's language on buffer zones. In his separate views on the bill, he wrote:

> It is inconceivable where two differently classified areas abut one another that there will not be at least a de facto buffer zone . . . Thus, even though buffer zones may not be required as pre-designated subareas in implementation plans, they will become established, nevertheless, on a case-by-case, source-by-source basis.

If you prefer to hear it from the fount of knowledge on all things environmental, consider these quotations from EPA reports:

> . . . (N) ew coal-fired power plants must be located at a sufficient distance from the class I area in order to prevent the plant's emissions from violating the Class I increment.
>
> Class I areas have a significance beyond their geographic limits because the air quality increments that must be met within such areas can be violated, under certain circumstances, by large coal-fired power plants located some distance from a Class I area. The distance may range from less than 10 miles or up to 100 miles . . . Therefore, the actual impact of Class I area designations on the siting and size of new power plants would affect an area much larger than the designated Class I area itself.
>
> The reason why the designation of Class I areas is so important relates to the sizable buffer zones that are necessary in order to insure that pollutants generated by plants in the vicinity of a Class I area do not violate the Class I air quality increments.

So, let us not be deceived: Buffer zones have not been eliminated in the House bill. They will be as necessary under this bill as they are in EPA's present regulations or under any other scheme that can be dreamed up—regardless of the language in the bill or in the committee report.

Buffer zones are inevitable. New facilities in zones adjacent to a class I area—no matter how economically or socially desirable they may be considered by State and local officials and citizens—will be severely restricted or unnecessarily rendered more expensive to construct and operate because of this bill. And do not be deceived by statements that mandatory class I designations will encompass only 1, 2, or 5 percent of the Nation's land. Buffer zone requirements will greatly increase the impact of any class I designations—and that impact will be felt, and paid for, by your constituents and mine.

Mr. BROOMFIELD. Mr. Chairman, there are none among us who would argue against the goals of the Clean Air Act amendments which are now under consideration. We all realize the importance of clean air to our health. We all realize its effect on plant and animal life, and we all want to give future generations air that is fresh, clean, and healthy.

While striving for this goal, however, we must remember that this bill will affect more than the quality of our environment. It will have an impact on our unemployment rate, consumer costs, efforts to achieve energy independence, and the health of the economy.

Because of its wide-ranging impact, we must remove any "environmental blinders" from our deliberations and consider this bill in its total context.

In our deliberations, we will be asked to consider several different auto emissions standards.

The most realistic of these has become known as the Dingell-Broyhill emissions standards which have the support of Russell Train, Administrator of the Environmental Protection Agency.

These are more energy efficient, more consumer oriented, and more protective of jobs than any of the other proposals. Beyond these benefits, the Dingell-Broyhill amendment provides about the same improvement in air quality as any of the other proposals.

The recent Environmental Protection Agency-Department of Transportation-Federal Energy Administration interagency study clearly indicates the benefits of the Dingell-Broyhill standards.

With the Dingell-Broyhill standards as compared to the committee proposals, the study clearly shows a 2.46 billion gallons savings in fuel consumption for the life of the 1980 model year cars, and a $1.47 billion savings in purchase and operating costs of cars in the 1980 model year. The year 1980 is significant because this is the year that the Dingell-Broyhill standards deviate from the committee proposals.

The Dingell-Broyhill standards will also protect workers by phasing in the standards gradually. It will help keep the cost of buying and operating cars down and therefore not discourage the purchase of new cars. In speaking about employment, we are discussing not only auto assembly lines but one of every six jobs in this country which are in auto-related industries.

The interagency study shows that the effect on air quality in the next decade will be about the same no matter which standard is accepted. Exactly 31 air quality control regions are expected to exceed ambient air quality standards in 1990 under all three proposals.

The evidence is clear that the Dingell-Broyhill standards serve our Nation best in striking a balance among all the pertinent factors. In terms of modern management, it is cost-beneficial as opposed to the other proposed standards.

Mr. Chairman, it has taken a long time for this bill to come before the House for consideration—too long in fact. This delay has already been costly to the auto industry and to consumers.

The auto industry is waiting to find out what the emissions standards will be. They have been holding up production plans, testing, and supply orders waiting for Congress to make up its mind but this bill still has a long way to go. With the recess coming up, it may take longer than any of us care to think.

Under normal circumstances the auto industry would already be sending engineering data to EPA for its 1978 model cars and planning for 1979. This long lead time is necessary because it normally takes up to 10 months to complete the necessary tests for EPA.

When Congress finally makes up its mind, the auto companies will be able to act. But the time will be very short and the work will have to be rushed. The work will be done, no doubt, but it will cost money and that money will come from the consumer.

Mr. Chairman, the Congress, by its long delay, has interrupted the hum of the manufacturing process and is forcing the consumer to pay for it. If we now act and pass this bill without the Dingell-Broyhill emissions standards, we will be punishing the auto-buyer even more. For this to be done in the name of promoting "the general welfare" would be an unconscionable act.

Mr. ASHLEY. Mr. Chairman, I rise to recommend the adoption of the Dingell-Broyhill amendment. This amendment has a primary important advantage over the standards now proposed in the Clean Air Act in that it provides a more reasonable time schedule for improving the automobile emissions situation without incurring substantial unnecessary wastage of valuable petroleum.

The energy situation is not a consideration of an idle, irresponsible, affluent society, but it is the consideration of a most valuable resource upon which our national economy depends, upon which our own lifestyle depends, and indeed upon which our efficient food production system depends. Wasting valuable petroleum is certain to be harmful to the Nation. Therefore, we must balance our energy needs with our environmental needs. Now that we have recognized this problem, we have, in the last several years, on the part of Government and industry—especially industry—launched extensive R. & D. programs to provide for improved pollution control and reduced fuel consumption on the part of the automobile. But we are not there yet as the proven test data on automobiles clearly shows. We need time to complete R. & D. efforts which will show us how to achieve tighter emissions standards without excessive fuel losses. I urge you not to tighten up the standards until the ongoing R. & D. has had a proper chance to complete its task. The Dingell-Broyhill amendment gives us a better chance to do this than the standards in the Clean Air Act. Further, the Dingell-Broyhill amendment leaves it up to the experts in the Environmental Protection Agency as to the standards on nitrogen oxide emissions which could be applied below a level of 2.0 grams/mile. This is the most intelligent approach because it provides for an evaluation of progress as we go along and the introduction then of tighter regulations when they are appropriate as against someone's guess now as to what the losses and gains might be.

Mr. KEMP. Mr. Chairman, I rise in support of continuing the stability of this country's economic recovery. It is for that overriding reason that I support the Chappell amendment. Without its adoption and enactment, economic growth may be severely restrained.

I am a strong supporter of legislation and programs to restore and preserve the environment of this country—water, air, and solid waste. But I do not think it is in the interest of this country or its 215 million people to carry out programs which undermine what the people want and need most—full economic recovery as soon as possible.

The "nonattainment" provision of existing law has already begun to hamstring our economic recovery. The "nondegradation" provision of the bill now before us—the Clean Air Act Amendments of 1976—would further tie down that recovery. It would undercut the long term economic growth essential to raising the living standard of all Americans.

Let me discuss these two provisions and their foreseeable consequences in more detail.

The nondegradation provision of the current legislation would establish a complex regulatory procedure of Federal land use control to insure that the "clean air" areas of the country remain clean. The nonattainment requirements in the existing law are already causing serious problems and has the potential for virtually stopping industrial growth in already developed areas, especially in the Northeastern and Midwestern States. The nonattainment provision is already restricting growth in some industries basic to our national needs by forcing the Environmental Protection Agency—EPA—to refuse construction permits in large areas of the country. Of the entire United States, an EPA map I have in front of me shows the only areas now in compliance are eastern Montana, and parts of Wisconsin, Minnesota, Kansas, Oklahoma, Illinois, Kentucky, and Maryland.

It is impossible to understand what we are being asked to do today in considering the Chappell amendment without first understanding some of the details of the present law.

The Clean Air Act of 1970 requires the establishment of two types of national air pollution control standards: Primary standards to protect public health and secondary standards to protect public welfare. These ambient air quality goals are to be achieved by setting emission standards to control air pollution from stationary sources, such as industrial plants, and mobile sources, such as autos and trucks. These standards were to be set at a level which provided an "adequate margin of safety" and were to be achieved by either mid-1975 or mid-1977. Six pollutants were included under the standards: dust particulates, sulfur dioxide, carbon monoxide, hydrocarbons, oxides of nitrogen, and photochemical oxidants—commonly called smog.

To monitor air pollution, EPA uses air quality control regions around the country. Any region which violates any one—a single one—of the national ambient standards twice—just twice—in 1 year at any—just one—monitoring station in the region must be identified by the State and local air pollution control boards as a nonattainment area.

Once an area has been so identified, no new sources emitting the particular pollutant in violation, or modifications to existing sources for the pollutant, are allowed. Somehow, neither the law nor the regulations took into consideration the reality that reasons associated with physical science—atmospheric conditions of temperature and humidity, wind direction and velocity, topography and hydrology—are often the culprit when a geographic area does not meet one or more of the standards.

EPA did not begin enforcing the nonattainment aspect of the 1970 law until last year, having completed their preconstruction review regulations. As a result, most people—from the work force to businessmen to community officials—are not aware of this problem, unless they have tried to build a new facility or modernize an existing one since mid-1975.

There is little doubt but that the impact of the strict enforcement of this policy is as serious, if not more so, than those with nondegradation, because this problem is here today. Projects are being stopped now, with the accompanying loss of new employment opportunities.

I do not think any of us should underestimate the impact of these provisions on the economy. Just look at the impact on jobs when one plant is not built or expanded because of these provisions.

First, the jobs associated with the preconstruction stages don't come into being. Architects, mechanical draftsmen, attorneys, financial agents, and the clerical staffs associated with their activities don't get the work.

Second, the multitude of jobs associated with construction are not created. Those who would clear the land, excavate the soil, lay the concrete, fabricate the superstructure, do the plumbing and electrical work, et cetera, are not offered jobs. It also means that the support staffs for the contractors and subcontractors—accountants, secretaries, clerks, et cetera—do not get the work.

It means that jobs are not brought into being among suppliers also. Pipe makers, wiring manufacturers, fabricators of exterior and interior materials, et cetera, do not have an increase in demand. Thus, new jobs are not created there either.

It means that those who would have found jobs in whatever it is the plant does—steel, chemicals, automobiles, electrical equipment—would not be offered jobs.

You add all of that up, and it means millions of jobs across this country which would not be brought into being.

There is another way to look at it too. If the nonattainment and nondegradation provisions become wholly operational, it could cause the loss of existing jobs. It is not unreasonable to see whole segments of the economy—especially the construction industry—grind to a virtual halt.

When these realizations started coming to members of the committees having jurisdiction over the Clean Air Act, changes in both the nonattainment and nondegradation provisions were proposed. They are not adequate, however, and the response of the Senate Committee on Public Works is indicative of this.

The committee added provisions to the Senate version of this legislation to allow expansion of existing facilities in nonattainment areas if—but only if—first, new construction uses the "best available control technology"—regardless of cost-benefit considerations; second, an existing facility either meets the current emission standards or is on an EPA-approved compliance schedule; and third, allowed emissions from the plant after the expansion are less than before the expansion. This attempt and that of the House committee do not go far enough.

Charges are needed which will permit some new plants to be located in nonattainment areas and will establish a variance procedure. For example, while the Senate changes allow for some degree of expansion of existing facilities in these areas, what if a company wants to locate in an area for the first time, like a company now located in Ohio or Tennessee which might want to open a plant in the Buffalo area? To do so, a company would need to "buy into" the area by purchasing an existing facility. This presents a number of problems.

First, if the company is simply taking over an operation which already exists, it might just mean a change in ownership, with very little creation of new jobs. Something new has to come to an area to have a dramatic increase on total area employment.

Second, if an existing facility does not exist in the area, then there is no facility to buy. Thus, the ability of an area to diversify its economic base by bringing in new types of operations is extremely limited.

Third, even if a similar facility exists in an area, it may not be economically attractive to purchase it, whether due to the age of the facility or whatever. And in the case of some smaller companies, the purchase of an existing facility may not be economically feasible.

Fourth, what if all the facilities in the area are already "cleaned up" to the maximum extent.

There is severe unemployment in western New York. That unemployment has been aggravated by the recession we are now coming out of, but it has worsened over many years as industry found the incentives of other States and areas to be better or the tax and other burdens of New York State to be too oppressive to the business and its employees. Our unemployment rate for the Buffalo area is running about 13 percent, with unemployment in the construction field to be running better than 30 percent.

We simply must have new jobs in our area. Changing ownership through an existing plant being sold to a new owner is not what we need, for even if there are expansion possibilities, it will take an inordinate period of time under the Clean Air Act provisions to win their approval, if at all. What we need are new jobs—jobs which are being created for the first time in our area and jobs which existed somewhere else and are being brought to our area.

Yet I look at this map—the one to which I have already referred—and I see that the Buffalo area is not in compliance. Unless we change these, the requirements of these provisions through adopting and enacting the Chappell amendment, we simply are not going to get these new jobs into our area.

There is no doubt but that these two provisions must be addressed foursquarely by the Congress, and the Chappell amendment is the means of doing that. I support it, and I urge its adoption and enactment.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 10498, the Clean Air Act.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

H.R. 8532. An act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

THE NEED FOR FURTHER PARDONS

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, today is the anniversary of the pardon of former President Nixon and I have thought about two groups that deserve greater consideration than the President has given them. One of these groups would be those who are now in jail or who have prison records for the personal use or possession of marihuana. We know that President Ford's son has used marihuana and we know the three sons of Governor Carter used marihuana. They are the lucky ones. They were not sent to jail and they do not have prison records. I would hope the President will extend clemency to those who have criminal records for the personal use and possession of marihuana.

While most marihuana offenders are under State jurisdiction, a Presidential pardon would set the tone for a change in the Nation's marihuana laws. I am asking for this pardon because efforts to change the Federal laws on marihuana are stalled. I am hopeful that we may achieve success in the next session of Congress: Gov. Jimmy Carter has endorsed the concept of a civil penalty for possession of small amounts of marihuana, which is the Javits-Koch bill, H.R. 6108. Frankly, I have been disappointed that despite a wide popular appeal for discussion of this issue at the Federal level, no congressional hearings have yet been held on the subject of marihuana decriminalization. Meanwhile, persons are arrested, imprisoned, and labeled criminals for simple possession of marihuana. That is why a pardon is needed now.

The second group deserving a pardon would be those who engaged in dissent against the war in Vietnam and refused to serve or deserted and I urge the President to pardon those individuals as well.

I am appending my letter to President Ford on the subject of marihuana and the need for pardons. I have already with many others urged, to no avail his pardoning the Vietnam war resisters.

House of Representatives,
Washington, D.C., September 8, 1976.

Hon. Gerald Ford,
President, The White House,
Washington, D.C.

Dear Mr. President: Arrests for marijuana-related offenses have risen at an alarming rate in recent years, from 19,000 in 1965 to over 440,000 in 1975. The overwhelming majority of these arrests involved young and otherwise law-abiding young people, but each of these citizens is now faced with a lifelong criminal arrest record, and possible jail sentence. As you know, your own son, Jack, and the sons of your opponent, Chip, Jeff, and Jack, have all admitted that they have used marijuana. Should they go free while the sons of the less powerful go to jail for the same offense?

Aside from the great human tragedy involved, an enormous and unnecessary financial burden is placed on the American taxpayer. Millions are spent annually in arresting, prosecuting and imprisoning marijuana users. Furthermore, a tremendous amount of police and court time is wasted and could instead be used in combatting real crime.

Mr. President, I urge you to pardon those unfortunate Americans who are now serving time in federal prisons for simple possession of marijuana, and to take the lead in enacting federal statutes that would expunge the records of those marijuana users who have had their lives irreparably damaged because of a criminal record.

Sincerely,

Edward I. Koch.

BEWARE OF THE MEANINGLESS MYTHS

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Ohio (Mr. Whalen) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, in his memorable Yale University Commencement Address President John F. Kennedy warned that in searching for sophisticated solutions to complex issues we must move "from the reassuring repetitions of stale phrases to a new, difficult, but essential confrontation with reality."

"For the great enemy of truth," observed President Kennedy, "is very often not the lie—deliberate, contrived, and dishonest—but the myth— persistent, persuasive, and unrealistic. Too often," noted the President, "we hold fast to the cliches of our forbears. We subject all facts to a prefabricated set of interpretations. We enjoy the comfort of opinion without the discomfort of thought."

Despite President Kennedy's remonstrances, myths continue to dominate the public decisionmaking process. For instance, many still cling to the view that a Federal budget deficit, per se, is inflationary. Two years ago still another cliche was advanced by certain Government officials. At a time of low utilization of productive resources they frightened the business community by warning that commercial borrowers would be "crowded out" of the money market if a deficit occurred that year. Finally, a major legislative thrust in the 92d Congress was predicated upon the notion that American jobs are "exported" as a result of imports and investment abroad. Totally ignored was the fact that, in order to purchase American exports, foreigners must possess U.S. dollars.

Recently the noted financial analyst, Sylvia Porter, renewed the attack upon economic mythology begun by President Kennedy in June 1962. In a perceptive column appearing in the August 20 edition of the Dayton Journal Herald, she distinguishes between current myth and fact. A copy of Ms. Porter's article is inserted at this point in the Record for my colleagues' consideration.

Beware of the Meaningless Myths

(By Sylvia Porter)

The steady economic expansion in 1976 has helped to pulverize several economic myths being advanced by the Ford administration and spread at least to some extent by Democratic economists:

Myth 1: An economic expansion as strong and broad as the current one must re-ignite inflation and threaten us with a repetition of the nightmare of double-digit inflation. Thus, we cannot afford any speed-up in our economic recovery, despite the suffering this implies for millions of jobless workers.

Fact: This has indeed been a strong, balanced rebound since the severe slump bottomed out in the spring of 1975. It has contained remarkably few excesses. But instead of an acceleration in the pace of inflation, the pace has decelerated. Over the long term, the current annual rate of rise in the 6 to 7 percent is far too high for a healthy economy, but this does represent substantial progress from the 1973–74 rates of 11 to 12 percent.

There is plenty of slack in our economy. There are no major bottlenecks. And in general, there is an excess, not a shortage, of workers. Most of the giant forces contributing to the unprecedented inflation of a few years ago are not threats now.

The myth harms us because it makes us afraid to take appropriate steps to assist private enterprise in creating more jobs for our labor force and, thus, more taxes for the U.S. Treasury.

Myth 2: Interest rates must rise as the economy regains its power. Demands for credit from businesses and individuals put upward pressure on interest rates. Therefore, much tighter credit policies are needed by the Federal Reserve System to keep the expansion under control.

Fact: This theory hasn't held water so far. Credit demands have remained modest as corporate profits have soared. This has diminished the need for businesses to go outside for financing The Fed's tightening of its credit policy to date has been minor.

To judge the future of interest rates by the abnormalities of the past couple of years is ridiculous.

Myth 3: Federal budget deficits of the magnitude of recent years must crowd out private borrowers from the money market. The U.S. Treasury is the prime borrower of the nation and its demands must be met first. This will kill our expansion. Government spending must be slashed.

Fact: The Treasury's financing needs have been absorbed in the marketplace with astonishing ease. This theory—promoted by U.S. Treasury Secretary William Simon with the commendable goal of impressing Congress with the need to curb spending—has been pulverized along with the theory on interest rates.

The demand for fixed-income securities at today's interest rates is huge (witness the overwhelming bidding for the Treasury's issue of 10-year 8 percent notes a fortnight ago). A continued strong expansion will generate the revenues to narrow the budget deficit and to leave more room for private borrowers.

Myth 4: Congress is incapable of keeping spending under control. The White House is the only source to rely on.

Fact: Congress has shown itself to be impressively responsible in this sphere.

Myth 5: There can be no healthy economic comeback without the housing industry in the lead and without business spending on plants and equipment increasing sharply.

Fact: While housing has typically led past recoveries, it has yet to take off in this one. As for businessmen, they too have displayed restraint in 1976 and probably will not be contributing to the expansion until next year, when their spending will be needed. In 1976's rebound, though, neither has been a significant factor.

THE SPLIT CREDIT AMENDMENT TO THE ESTATE AND GIFT TAX REFORM ACT OF 1976, H.R. 14844

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Schneebeli) is recognized for 10 minutes.

Mr. SCHNEEBELI. Mr. Speaker, I am hopeful that the House will be considering the Estate and Gift Tax Reform Act of 1976 in the near future and in that connection I would like to place in the Record for the benefit of my colleagues a letter which I have received from the Department of the Treasury regarding the proposed split credit amendment. The Department of the Treasury is opposed to the amendment and the Department's reasoning is quite sound.

The letter follows:

Department of the Treasury,
Washington, D.C., August 30, 1976.

Hon. Herman T. Schneebeli,
House of Representatives,
Washington, D.C.

Dear Mr. Schneebeli: You have asked for information concerning the impact of the split-credit amendment which will be considered by the House in connection with its deliberations on H.R. 14844. This amendment would delete the unified credit of $40,000 for all estates and substitute instead a basic credit of $29,800 for all estates, plus a closely held business credit of $25,000. In effect, all estates would receive an exemption of $120,000, in lieu of the exemption of $153,750 under the bill as reported out by the House Ways and Means Committee. The split-credit amendment would raise the exemption to $200,000 only for individuals with estates consisting substantally of a farm or other closely held business interest.

It is estimated that there will be approximately 160,000 taxable estate tax returns filed during 1977, assuming no change in current law. With a basic credit of $29,800, however, we estimate that there will be 60,000 taxable returns filed for 1977. Of these 60,000 returns, we estimate that between 3,000 and 5,000 returns will benefit from the additional credit of $25,000 for farm and closely held business estates.

The revenue estimates prepared by the Joint Committee on Internal Revenue Taxation in connection with substantially the same split-credit provisions under the original Ullman Bill confirm that only a relatively few taxpayers would benefit from the additional closely held business credit. As of June 2, 1976, the Joint Committee projected a revenue loss at the estimated Fiscal Year 1978 level of $560 million for the basic credit and only $58 million for the additional credit. The comparable revenue loss for a single credit of $40,000 is estimated to be approximately $1.17 billion.

It is difficult, however, to project the precise revenue loss from the additional credit, in part because the additional credit provisions are necessarily complex. For example, the $25,000 credit would be available only where the value of the farm or other closely held business interest included in a decedent's estate equalled or exceeded 65 percent of the value of the adjusted gross estate. Also, the property would have to pass to a qualified heir and the tax benefits would be subject to recapture in the event of a nonqualified disposition within 15 years of decedent's death. These limitations, designed to limit the additional credit to individuals whose heirs continue to operate their farm or other closely held business after death, could reduce those returns which will benefit from the additional credit below the projected range.

On the other hand, however, if the split-credit approach is adopted, it is probable that there will be pressure from others who are disadvantaged by the provision to achieve equal treatment—i.e., a single credit of $54,800. The ultimate revenue loss could, therefore, be substantially greater than that resulting from a single estate tax credit of $40,000 for all taxpayers. This $40,000 credit, now in H.R. 14844, is substantially equivalent to the estate tax exemption of $150,000 proposed by the Administration earlier this year, and provides equitable treatment for all estates.

Sincerely yours,

CHARLES M. WALKER,
Assistant Secretary.

Mr. Speaker, I completely agree with Treasury's position. I suggest that all Members may want to carefully contemplate the clear implications of the amendment. Only a small number of estates would benefit from the additional credit—between 3,000 to 5,000 estates.

Last May I had the honor of introducing President Ford's estate and gift tax reform proposals as H.R. 13840. The President's proposal would have increased the estate tax exemption from $60,000 to $150,000 over a 5-year phase-in. This would have been somewhat more liberal than the Ways and Means bill which would provide a unified credit equivalent to an exemption of $153,750 against both the $60,000 estate tax exemption and the $30,000 gift tax exemption.

I intend to offer a floor amendment relative to the credit which would phase in a unified tax credit equivalent to an exemption of $200,000. As you know, the present $60,000 and $30,000 tax exemptions were established in 1942. Inflation since 1942 until today has been 249 percent and if for no other reason a larger credit than that afforded by the bill is in order.

I hope that this information will be of interest to my colleagues and of help during our consideration of the estate and gift tax bill, particularly when we consider the split credit amendment.

GENERAL REVENUE SHARING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, since its creation in 1972, general revenue sharing has enjoyed the overwhelming support of State and local governments as well as the support of the general American public. Few other legislative initiatives have sparked such enthusiasm and interest.

Revenue sharing has helped to relieve the fiscal problems of hard-pressed local governments. Revenue sharing dollars have been utilized to improve police and fire protection, construct new sewage facilities, fund senior citizen programs, upgrade road and highways, construct essential community buildings and expand health care opportunities.

I think it would be fair representation to credit revenue sharing with providing means by which local governments survived the recent recession without decimating their principal base of support—the homeowner—through crippling property tax increases.

An abrupt removal of this funding could severely undercut plans already launched by many municipalities, based on expectations of a certain level of revenue sharing funds.

In returning control and administration of the money to State and local governments, revenue sharing is also a welcome departure from the all too common consolidation of everything in Washington that we have seen in recent years. The revenue sharing concept is a proper move in the right direction that recognizes the role of each level of government as a responsible partner in our Federal system. It has done much to return the decisionmaking for dealing with local problems to local elected officials where it should be.

Mr. Speaker, the purpose of revenue sharing is to serve people, and as we review what has been done with these funds, it is difficult to see how many of our local governments could continue to operate and give the services needed by the people. It is my feeling that revenue sharing is a lifesaving source of revenue to local governments and I strongly urge the Senate to act expeditiously and approve the continuation of revenue sharing.

CONGRESSMAN FRANK ANNUNZIO ANNOUNCES RESULTS OF 1976 LEGISLATIVE QUESTIONNAIRE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I submit by unanimous consent as official business the results of a poll which I conducted recently to obtain the opinions of citizens residing in the 11th Congressional District of Illinois, which I am privileged to represent.

More than 14,000 questionnaires were completed and returned, and I would like to express my sincere appreciation to all those who responded. I am pleased by both the size of the response I received as well as by the extensive comments sent in separately by so many of my constituents.

This questionnaire, therefore, has provided the means for an exchange of views—between citizen and legislator—which is so valuable to me and is so vital to the fabric of our democracy. Seventeen broad questions were asked relating to both domestic and foreign policy issues, and the responses on the questionnaires were tabulated entirely by computer. Before listing a numerical summary of the tabulation, I want to point out some significant reactions to several important issues.

On one issue relating to energy and the environment, 11th District residents were evenly divided—45 percent were in favor of a tax on automobiles according to their rate of fuel consumption and pollution capabilities, while 45 percent were opposed to such a tax, and 10 percent were undecided.

The strongest response was on the criminal sentencing issue, with 91 percent in favor of mandatory sentences, with no parole, for all crimes committed with firearms, while only 5 percent were opposed, and 4 percent were undecided. I strongly believe that tougher penalties can serve as a forceful deterrent to serious crimes, and therefore, I have sponsored legislation severely increasing prison terms and making these prison terms mandatory, with absolutely no probation or parole, for those who commit felonies with a firearm or other deadly weapon.

I shall continue to work for passage of this legislation as well as continue my support for a mandatory death penalty for severe crimes, especially in view of the fact that 85 percent of my constituents indicated they favored capital punishment, with only 10 percent opposed and 5 percent undecided.

A total of 87 percent of those who responded were opposed to the forced busing of schoolchildren, while 11 percent favored busing, and 2 percent were undecided. My own position during past Congresses, as well as during the present Bicentennial Congress, has been against forced busing. My position has been reinforced by the responses I have received, and therefore, I shall continue to oppose forced busing of schoolchildren to achieve racial balance, as I have consistently done in the past.

On the consumer protection issue, 86 percent of my constituents favored the Federal Trade Commission's new ruling to provide greater protection for consumers who finance purchases such as automobiles, while 8 percent were opposed and 6 percent were undecided. Under the FTC ruling which makes third-party creditors responsible for all claims made on products at the point of sale, consumers now have the redress they need when a product they are buying on the installment plan fails to live up to the seller's claim. I testified in support of this ruling a few weeks ago at hearings held by the Consumer Protection and Finance Subcommittee of the House Interstate and Foreign Commerce Committee. At that time, I urged the Congress not to take any action against the

FTC ruling until it has had a chance to prove itself.

A total of 84 percent of 11th District residents indicated that they favored a basic $5,000 exemption from income tax for amounts received as annuities or other retirement benefits, while 8 percent were opposed and 8 percent were undecided. I am pleased to report that the tax revision bill, which has now passed both the House and Senate, contains a tax deduction for retirees based on my "$5,000 tax exemption on pension income" proposal. Differences between the House and Senate tax revision bills are now being resolved by a conference committee made up of Members of both the House and Senate.

On the national defense issue, 83 percent of those who responded indicated that they were in support of a strong defense system for America, while 9 percent were opposed and 8 percent were undecided. I shall certainly continue to keep this in mind when I attend future meetings of the North Atlantic Treaty Organization, where I have served for several years as a U.S. Delegate on the Economic Committee. I shall also continue to vote to keep America first in military preparedness, for I firmly believe that if we as a nation hope to deter war, we must have the tools to discourage any adversary from launching an attack against us.

Finally, Mr. Speaker, 83 percent of the citizens who responded felt that we would encourage mandatory building construction standards to increase energy conservation, while 9 percent were opposed and 8 percent were undecided. The Banking, Currency and Housing Committee, on which I serve, drafted the Energy Conservation in Buildings Act. I was pleased to support this legislation which was signed into public law a few weeks ago as part of the Federal Energy Administration Extension Act.

It is also of interest to note that of those who returned the questionnaire, the largest number—45 percent—were in the 45–64 age category, while the smallest number—12 percent—were in the 15–29 age category.

Mr. Speaker, the following is the completed questionnaire tabulation according to percentages:

1976 Legislative Questionnaire

[In percent]

1. Neighborhood Schools: Should we prohibit forced busing of schoolchildren out of their neighborhoods as a means of achieving racial balance? Yes, 87; no, 11; undecided, 2.

2. Retirement Benefits: Should Congress provide a basic $5,000 exemption from income tax for amounts received as annuities, or other retirement benefits? Yes, 84; no, 8; undecided 8.

3. Postal Service: Has been independent of Congressional control since 1972. Do you favor returning control of the Post Office and postal rate structure to Congress in an effort to improve service? Yes, 71; no, 17; undecided, 12.

4. United Nations: Do you believe the United Nations is an effective tool in maintaining world peace? Yes, 32; no, 52; undecided, 16.

5. Death Penalty: The Supreme Court recently ruled that execution is a Constitutional punishment for murder. Do you agree with this decision? Yes, 85; no, 10; undecided 5.

6. Trade: Limit foreign imports to protect American businesses and the jobs of American workers? Yes, 68; no, 23; undecided, 9.

7. Health Insurance: Establish a comprehensive system of national health insurance that would provide coverage for all health care? Yes, 65; no, 25; undecided, 10.

8. Energy-Environment: To reduce our growing dependence on foreign oil sources, should we:

a. relax air pollution standards to allow increased use of coal? Yes, 42; No, 47; Undecided, 11.

b. Push for the construction of a trans-Canada pipeline to transport natural gas from Alaska to Chicago and the Midwest? Yes, 79; No, 11; Undecided, 10.

c. impose taxes on automobiles according to their rate of fuel consumption and pollution control capabilities? Yes, 45; No, 45; Undecided, 10.

d. encourage mandatory building construction standards to increase energy conservation? Yes, 83; No, 9; Undecided 8.

e. compel the major oil companies to separate their exploration and production operations from their refining and marketing operations? Yes, 57; No, 23; Undecided, 20.

9. National Defense: Should the United States maintain a position of military superiority in the world? Yes, 83; No. 9; Undecided, 8.

10. Panama Canal: Should the United States relinquish its treaty rights of jurisdiction and control over the Panama Canal Zone? Yes, 14; No, 74; Undecided, 12.

11. Abortion: Should we amend the Constitution to prohibit it? Yes, 33; No, 56; Undecided, 11.

12. Firearms:

a. Should we require mandatory sentences and deny parole for all crimes committed with a gun? Yes, 91; No, 5; Undecided, 4.

b. Should we require registration and licensing of all firearms in this country? Yes, 78; No, 18; Undecided 4.

c. Should we outlaw the sale, manufacture, and importation of handguns? Yes, 65; No, 28; Undecided, 7.

13. Credit Cards: Because there are more than five hundred million credit cards in circulation, do you favor a complete investigation of the credit card industry to make certain that consumers are being treated fairly by companies issuing credit cards? Yes, 72; No, 18; Undecided, 10.

14. Consumer Protection: The Federal Trade Commission has issued regulations to provide greater protection for consumers who finance purchases such as automobiles, TVs, washers, etc., through dealers. Business groups have attacked these regulations. Do you favor such strong consumer protection measures? Yes, 86; No, 8; Undecided, 6.

15. Auto Repairs: One of the most common consumer complaints deals with shoddy automobile repairs. Do you favor some type of government regulation to police the automobile repair industry? Yes, 80; No, 14; Undecided, 6.

16. Congressional Travel: Because the United States is so heavily involved in the world community, do you think that Senators and Congressmen should travel abroad on only official government business, including conferences with leaders of other countries, and attending NATO and other similar meetings? Yes, 71; No, 18; Undecided, 11.

17. Social Security:

a. Should the social security program be partly supported by general taxes? Yes, 48; No, 37; Undecided, 15.

b. Should the $2,760 yearly earnings limitation be eliminated? Yes, 66; No, 25; Undecided, 9.

c. Should Medicare, which is financed under the social security system, be expanded to include such items as medicine, eyeglasses, and hearing aids? Yes, 71; No, 22; Undecided, 7.

P.S. Age: To help me analyze results of this poll, please indicate: (circle the appropriate answer) (optional) a. 15–29, 12; b. 30–44, 20; c. 45–64, 45; d. 65-and-over, 23.

FINANCIAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Cotter) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I am inserting into the Congressional Record today a copy of the first page of my 1975 personal income tax return.

In normal times, I believe that Members of Congress would have the same right to personal privacy enjoyed by any citizen. In fact, I have fought during my three terms as a Congressman for strong laws to protect the privacy of Federal income tax returns from government encroachment.

However, these are not normal times. Abuses of power in all branches of government have created an unprecedented mood of suspicion and hostility against the Nation's institutions.

If the people's trust is to be restored, perhaps those of us involved in government have the responsibility to go further than would normally be required by law, perhaps even at the expense of our personal privacy.

In this spirit, I am making public my 1975 Federal income tax return.

1975 U.S. Individual Income Tax Return

William R. Cotter.

Social security number [redacted].

Present home address, 247 Fairfield Avenue, Hartford, Conn. 06114.

Occupation: Congressman.

A in what city, town, village, etc, do you live? Hartford.

County, Hartford, Conn.

Township, Hartford.

Filing Status, Single.

Exemptions, Regular No. 1.

8. Presidential Election Campaign Fund: Do you wish to designate $1 of your taxes for this fund? Yes.

INCOME

9. Wages, salaries, tips, and other employee compensation—See statement 1: $42,850.

10a Dividends $704, 10b Less exclusion $100; Balance: $604.

11 Interest income: $4,354.

12 Income other than wages, dividends, and interest (from line 36): $10,474.

13 Total (add lines 9, 10c, 11 and 12): $58,282.

14 Adjustments to income (such as "sick pay," moving expenses, etc. from line 42): $120.

15 Subtract line 14 from line 13 (Adjusted Gross Income), $58,162.

TAX, PAYMENTS AND CREDITS

16a Tax, check if from Tax Rate Schedule X, Y, or Z: $16,842.

b Credit for personal exemption (multiply line 6d by $30): $30.

c Balance (subtract line 16b from line 16a): $16,812.

18 Balance (subtract line 17 from line 16c): $16,812.

20 Total (add lines 18 and 19): $16,812.

21a Total Federal income tax withheld: 21a $18,491.

$22. Total: $18,491.

BALANCE DUE OR REFUND

24 If line 22 is larger than line 20, enter amount Overpaid: $1,679.

25 Amount of line 24 to be Refunded to you: $1,679.

Preparer's signature (other than taxpayer): Siskin Shapiro & Co. CPA's, 33 Lewis St., Hartford, Connecticut.

GOVERNOR CARTER'S REMARKS AT WARM SPRINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on Labor Day, September 6, 1976, the Democratic nominee for President of the United States, Gov. Jimmy Carter, opened his campaign for the Presidency at Warm Springs, Ga.

I include at this point in the RECORD the text of Governor Carter's remarks at Warm Springs:

REMARKS BY JIMMY CARTER—WARM SPRINGS, GA., SEPTEMBER 6, 1976

Warm Springs is a place of history, of healing and of leadership. With me today are many friends like David Webb, Eunice Fiorito and Jim Gashel who are physically handicapped but who have still been able to forge enjoyable and full lives of public service. Other patients here are now preparing themselves for similar courageous achievements.

Today I would like for us to remember the most famous of all patients who came here looking for a new life.

Fifty years ago, in 1926, Franklin Roosevelt purchased Warm Springs, including the historic ground on which we stand. He lived here, worked here, and here he spent his final days. Roosevelt first came to Warm Springs because he was physically handicapped, and the warm waters gave him strength and hope, just as later he gave strength and hope to an afflicted nation when he was president.

Although born into a family of wealth and prominence, Franklin Roosevelt yet understood and served well those millions of American families who were left jobless, hungry and filled with hopelessness and despair by the Great Depression.

His opponent in 1932 was an incumbent president, a decent and well-intentioned man who sincerely believed that there was nothing our government could or should do to attack the terrible economic and social ills of our nation; he was leading a Republican party which lacked the strength and vision to bring us out of those dark days.

But Roosevelt knew our country could be better, and with bold and forceful action he restored confidence in our economic system, he put our nation back to work, and he unified our people.

On Labor Day it is also important to remember that this strong leader in the White House restored the quiet dignity and self-respect of the working men and women of America. With such programs as rural electrification, minimum wage laws, Social Security and the Civilian Conservation Corps our wounded national spirit was healed.

In 1960 another Democratic leader came to Warm Springs. As a candidate, John Kennedy was considered an outsider because of his youth and relative inexperience and because of his religious beliefs. No Catholic had ever been elected president. But Kennedy came here to ask us Georgians for support, and we gave him more than 62% of our vote, an even greater victory than he received in his home state of Massachusetts.

This year, as in 1932, our country is divided, our people are out of work, and our national leaders do not lead. This year, as in 1960, our nation is drifting, without inspiration and purpose.

As in those critical years, it is time to restore the faith of American people in our own government, and to get our country moving again! This is a year for new ideas, and a new generation of leadership.

How can we restore confidence in our government?

We must carefully decide what government can and cannot do.

People should control government, and not the other way around.

We need a minimum of government secrecy and a maximum of personal privacy.

We should decentralize power, eliminate the trappings of authority, and remember that public officials are not bosses, but the servants of those who put them in office.

When there is a choice between government and private responsibility, the private role should have priority.

When there is a choice, among governments, the responsibility should be assigned as near as possible to the individual citizen.

When there is a choice between welfare and work, let's go to work!

We must always be careful not to overpromise, but we also should never underestimate our potential in our nation to correct our mistakes, to root out hatred and discrimination, to enhance equality of opportunity, to insure personal freedom and to carve out for ourselves and our children a better life.

We can and must provide a nationwide comprehensive system of health care, a completely reformed welfare system and educational opportunities for our people. The weak, the elderly and the disabled must have special care.

Families and neighborhoods must be strengthened and protected.

But all of this requires strong leadership. Political leaders must be willing to tackle economic problems head on, without timidity or fear. We must not lower our standards to accept high inflation, high unemployment, and huge deficits as a normal circumstance.

Under Johnson and Kennedy, the inflation rate was 2%—and when Truman went out of office the inflation rate was only 1%. Unfortunately, under this Republican administration the inflation rate has averaged more than 6%.

When President Johnson went out of office unemployment was less than 4%, and at the end of Truman's term less than 3% of our people were out of work. But the unemployment rate today is 7.9%. Under this Republican administration the unemployment rate has been the highest since the Hoover depression.

Under this Republican administration annual deficits have averaged more than $24 billion, 600% more than under Kennedy and Johnson. The present White House incumbent has recommended annual budget deficits averaging more than $50 billion. Under Harry Truman, by the way, there was not a deficit but an average surplus of more than $2 billion a year!

It is obvious that good leadership makes a difference and it is also obvious that if our government is concerned about all our people instead of selfish special interests, then the whole nation prospers. The Democratic party has traditionally given that kind of leadership.

Harry Truman summed up the difference between our two political parties with these words:

"The Republicans believe that the power of government should be used, first of all, to help the rich and privileged people in this country. With them, property comes first.

"The Democrats believe that the powers of government should be used to give the common man more protection and a chance to make a decent living. With us, people come first."

Mr. Truman's words are still true today.

We must also eliminate waste in government. Scandals and mismanagement have hit us like hammer blows. The latest one is in the Medicaid program. Designed to give our people better health care, 25% to 50% of the billions of hard earned tax dollars are being stolen or wasted. Who is responsible? No one knows!

When Harry Truman was in the White House a sign on his desk said, "The buck stops here." There was never any doubt about who was captain of the ship.

Now no one seems to be in charge, No one is responsible.

Every time another ship runs aground—CIA, FBI, Panama, unemployment, deficits, welfare, inflation, Medicaid—the captain hides in his stateroom while the crew argues about who is to blame.

We must have an effective and efficient government—with tough management and careful planning leading to a balanced budget. Each year the confusion has been getting worse.

We must have fair taxes for a change, and shift the excessive burdens off the shoulders of our working families. Each year the tax system has been getting worse.

Crime must be controlled. Three is a constant threat to our property and our lives. Each year the crime rate has been getting worse.

We are a powerful nation, but we can be more powerful. We must have a strong defense—tough, muscular, simple, well-organized, supported and appreciated by all Americans—with waste and confusion eliminated, and with a sharply focused purpose—the ability to fight. With this ability will come the best guarantee of peace.

We have learned some hard lessons in international affairs because of mistakes made by powerful officials acting in secret.

We have learned that our people and the Congress should be involved in shaping and carrying out our country's foreign policy.

We have also learned: that we must coordinate domestic and foreign policy; that we cannot control the internal affairs of a foreign nation; that we cannot buy the good will of other countries; and that quiet strength is the best avenue to lasting peace.

We must face the Soviet Union with the hope and expectation of a struggle without the use of arms—of continuing peaceful competition. The best way to meet this inevitable competition is to make our system work at home.

We need not be afraid. Our economic strength, our system of government, and the freedom and character of our people are all tremendous resources waiting to be tapped.

But now our country is stagnant, divided, and drifting.

It is time for a change. It is time for leadership. We must be united and strong, and we must get our nation moving again.

I will try to be a good candidate and if elected a worthy leader of our great country. During my lifetime, from farm boy to nominee for president, I have always been close to the working families of this nation.

As a political candidate, I owe special interests nothing. I owe the people everything.

We are beginning our campaign here not many miles from my own home. My family and friends and I have already covered much of the nation during the spring primary elections. We listened and we learned. Our political success has come directly from the voters. We have not depended on powerful intermediaries for victory.

To whatever degree I can stay close to you, and learn from you, and derive my opinions, advice and criticism from you and millions of other Americans like you—to that degree my campaign for president of the United States will be successful.

We have come a long way and we have a long way to go. I thank you for your past support. I will need your continued help and advice and tough criticism throughout the campaign and, if I am successful, as president, I will always try to be worthy of you.

As in 1932 and 1960, the choice before our people is clear. Are we Americans satisfied with a divided nation—one of timidity, confusion and mediocrity?

Most of us believe we can do better.

We will be proud to work hard—together—and to sacrifice if necessary—to achieve once again a united nation—a nation of faith and vision, of courage and greatness.

Thank you.

PROPOSED LEGISLATION TO REMOVE PROFESSIONAL BASEBALL'S ANTITRUST EXEMPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 15 minutes.

Mr. LONG of Louisiana. Mr. Speaker, at an August 10 meeting of the Select Committee on Professional Sports, of which I am a member, I proposed legislation to remove professional baseball's unique exemption from our Nation's antitrust laws. I would like to take this opportunity to explain the reasons why such legislation deserves serious study and may be necessary.

Baseball's current legal position is virtually unique in the business community. In the words of the Supreme Court, baseball's antitrust exemption is "an aberration that has been with us for half a century." No other professional sport, as I stated, enjoys such an exemption. Few industries have been granted such a privilege; these few exceptions have been granted only after due deliberation by Congress.

Baseball was removed from the coverage of the antitrust laws due to a 1922 Supreme Court decision based on a very narrow constitutional view of the scope of interstate commerce. Although that view toward most American business enterprises was discarded almost 40 years ago, the Court has felt compelled by its doctrine of stare decisis to reaffirm its ruling twice since then, most recently in 1972. In both those decisions the Court stressed that it was the responsibility of Congress, not the judiciary, to change this longstanding anomaly. I believe the time for review of baseball's special status is long overdue.

Baseball stands virtually alone in support of its antitrust exemption. Members of Congress, legal and economic commentators, and even the Justice Department have called for its removal. Indeed, recent testimony before the select committee underscored the point that other professional sports operate quite well under standard antitrust regulation. Thus, when asked whether his sport required an antitrust exemption, Commissioner of Basketball Larry O'Brien said:

> The case has been pretty well established that we in basketball are able to resolve our problems at the bargaining table. So, I . . . see no need or requirement for the NBA to have such a function in order to move forward progressively in the sport.

Clarence Campbell, president of the National Hockey League, while supporting a specific, one-shot exemption for a pooled sale to pay cable for subscription television, said he did not believe professional sports should have an antitrust immunity in their other business aspects.

Even Commissioner of Baseball Bowie Kuhn conceded that club owners and officials alike acknowledged that some modification in that most sacred of cows, the reserve system, was inevitable—and even necessary—to accommodate the legitimate needs of the players. He did not argue that this breach in baseball's hitherto inviolable business structure foreshadowed economic ruin.

On what basis, then, do the professional baseball powers defend their privileged status? Essentially, it would appear, on the ground that this is the way they have run their business for almost 100 years and to change that method of operation now would be economically disastrous.

Let us examine that argument. It must be conceded, by everyone concerned, that baseball is simply one aspect of the entertainment industry, a multi-million-dollar aspect. Although there may be one or two beneficent sportsmen connected with it, most team owners are in the business to make money. But only this segment of the entertainment industry is free from antitrust control. All others have survived the rigors of free enterprise competition.

There are those who have claimed that baseball must have special antitrust status because it is forced to bear the costs of a large minor league system. It is my understanding that minor league teams are ill-supported these days. It is reasonable to expect that colleges and universities would upgrade their programs to fill the gap left in the absence of minor league baseball. Indeed, it was Commissioner Kuhn who told the select committee that in the past 7 years the number of baseball programs at 2- and 4-year colleges and universities has risen from 900 to 1,400. The number of years a young person can be involved in baseball—thanks to our Little League, Pony League, Babe Ruth League, American Legion baseball, and the high school and college programs—far surpasses the amount of time a young person can be involved in either football or basketball. We should be able to produce high-quality baseball players with such an extensive support program at all stages of development.

What hard evidence is there that equal legal treatment with other sports enterprises will result in economic ruin? During, the select committee's recent hearings, testimony was offered by both management and player representatives from other professional sports that not only was the unavailability of the exemption no hindrance to the operation of their sports, it was an aid to successful labor relations. The committee has been unable to find information to refute these claims. I have even reviewed the testimony and evidence presented in the *Flood* v. *Kuhn* case, 407 U.S. 258 (1972), where baseball took its best shot at defending itself. I was left unconvinced that continuing the exemption would result in economic disaster.

It should be emphasized at this point that removal of baseball's antitrust immunity will affect more than the player reserve system of baseball. There are other issues of equal importance that presently cannot be questioned due to that immunity. One is the unilateral movement of teams from city to city without regard to the interests of the fans, businesses, or government of the city from which a team is transferred. A second is the refusal of the baseball commissioner and the team owners to allow certain qualified cities to participate in or join their leagues.

The spectres of doom that baseball might attempt to raise regarding economic ruin must be tempered by a recognition of Congress' benign attitude toward the welfare of sports. In the past, Congress has not been reluctant to aid professional sports where it has been shown that the public interest would be served by a narrowly drawn exemption from antitrust laws. For example, special legislation permitted the merger of the National and American Football Leagues and authorized pooling agreements between professional sports leagues and broadcasters which, of course, resulted in a financial boon to sports enterprises.

Let me make my position crystal clear. I do not advocate an ill-conceived, punitive removal of baseball's exemption. But if baseball's exemption from the Nation's antitrust laws is to be continued, I believe the commissioner's office, the leagues, and the owners have the obligation to explain fully their justification for its continuance. The special treatment baseball has enjoyed under the law imposes special responsibilities upon it. Those groups seeking preferred positions under the law must fulfill their public responsibilities. Evidence received by the select committee this far has cast some doubt on whether baseball is, in fact, meeting its tremendous obligations to the Nation's sports fans and the public at large.

The burden of proof is clearly on the club owners and league officials to demonstrate that it is in the public interest to maintain the exemption.

Baseball will have this opportunity this month when the Select Committee on Professional Sports resumes its hearings. But I must emphasize that baseball must be forthcoming with hard evidence, economic or otherwise, to support continuance of its privileged status.

I enter this examination of baseball with an open mind and an eye toward accommodating the legitimate needs of the sport. The onus is on baseball, however, and I must note that it will be a heavy one to bear.

STATEMENT IN SUPPORT OF RESOLUTIONS OF DISAPPROVAL ON ARMS SALES TO SAUDI ARABIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 30 minutes.

Ms. ABZUG. Mr. Speaker, the United States is fueling a massive and uncontrolled arms race in the Arabian Gulf region which could have dangerous consequences for prospects for peace in the Middle East, increase the military threat to Israel and entangle the United States in unwise and open-ended commitments to Saudi Arabia, Iran, and other States in the region.

On September 1, the State Department informed Congress of plans to sell over $5 billion worth of military weapons to Saudi Arabia and Iran. Under the terms of the International Security Assistance and Arms Export Control Act, Congress has the right to veto by October 1 any significant weapons transfer of $7 million or more.

I am asking Congress to use its power to end the buying spree in sophisticated weaponry fostered by the Ford administration in the Persian Arabian Gulf states. With other Members of Congress, I am sponsoring today the introduction in the House of Representatives of three resolutions of disapproval to prevent the sale of Maverick missiles, Sidewinder missiles, and TOW antitank weapons to Saudi Arabia.

American policy should not permit Saudi Arabia to become an arms warehouse for the Arab states. Saudi Arabia has provided financial and military support against Israel. The missiles sought by Saudi Arabia and approved by the Ford administration could well end up being aimed and fired against Israel. The Maverick missile, for example, is a television-guided "smart" missile which clearly is an offensive weapon. We should not take the chance that the images on the TV screens of Saudi technicians will be of Israeli cities or facilities.

It is time to end the policy of supplying arms to all sides in the Middle East.

Saudi Arabia has already purchased $6 billion in military equipment from the United States while Iran has squandered $10 billion in purchases. On top of these huge sums, the new requests are unsupportable steps by the Ford administration in its mistaken attempt to purchase influence in the Gulf area and to secure oil through arms sales. These countries cannot absorb the vast quantities of sophisticated weapons—nor can they afford to postpone social and economic investment in favor of massive arms purchasing.

Under the Nixon and Ford administrations, we have become the leading arms merchant in the world. In fiscal year 1975, American foreign military sales of $10 billion represented fully one-half of all arms sold in the world that year, with the Soviet Union selling almost a third.

While some of these facts have been pointed out by critics of the arms sales, the main point thus far overlooked is that these massive sales are the logical consequence of the Nixon doctrine, which supports authoritarian regimes in the hope that they would defend Western interests.

The result has been a phenomenal increase in arms sales abroad which was by no means accidental. Total American foreign military sales in fiscal year 1967 were $1 billion. But by fiscal year 1975, the sales total had skyrocketed to $10 billion.

Much of this increase went to build up states in the Arabian or Persian Gulf region. Between 1972 and 1975, U.S. sales to Iran, Saudi Arabia, Kuwait, and Oman increased by 686 percent—from less than $1 billion to almost $6 billion. In fiscal year 1976, the current year, Iran and Saudi Arabia are the two biggest customers in the world for American arms.

I believe that a contribution of the Nixon doctrine arms sales policy in the gulf region will lead to seriously adverse consequences for the United States. I intend to develop these reasons more fully in testimony which I will present on the resolutions of disapproval in Congress, but let me describe them here briefly:

First, implementation of the Nixon doctrine depends upon large numbers of American technicians to work in the Gulf States to build the infrastructure, maintain the weapons, and train the technicians needed for the arms program. A recent Senate report predicted that 60,000 Americans would be working in Iran by 1980, many of them servicing the American-sponsored creation of an Iranian military. Since sophisticated weaponry, such as Maverick and Sidewinder missiles and the jets which launch them, could not be operated for many years without direct American support. I am concerned that we would inevitably be drawn into local conflicts and that our commitment would be extended beyond our control.

Second, the Nixon doctrine increases the likelihood of violent conflicts in the area by putting weapons into the hands of monarchies and repressive regimes which have been feuding for decades over ethnics, religious, social, border, and economic issues. Selling arms does nothing to promote a peaceful resolution of conflicts, but leads instead to military competition among the local powers.

Third, the Nixon doctrine links the United States too closely to the authoritarian elites and monarchies which are and will be undergoing domestic political tensions. The need for social change accelerate. Political liberties in Saudi Arabia and Iran are notoriously restricted. In addition, the local populations will inevitably grow resentful of foreigners—Americans—running things. Our overwhelming presence is bound to be opposed by moderate nationalists as well as by radicals. The recent assasination of three American technicians in Iran is a tragic indication of the dangerous "secondary effects" of the arms program.

Finally, the serious moral shortcomings of the Nixon doctrine should not be overstated. We should not forget that President Nixon once described his policy in Cambodia as "the Nixon doctrine in its purest form." These massive arms sales are the expression of an equally cynical and shortsighted policy. The influence to be gained from selling weapons is shortlived and illusory. In the end, these deals will figuratively and, perhaps, literally blow up in our faces.

I agree with Senator MONDALE that there should be a presumption against arms sales which should be overcome only if the sale advances American security, foreign policy, or world peace. We must have a new foreign policy which places "food and peaceful goods, not guns, at the heart of U.S. policy."

NATIONAL NEIGHBORHOOD POLICY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCOIN) is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, our cities and towns are currently faced with problems that seem on the verge of overwhelming them. The rate and degree of decline have led to predictions of the demise of some of our greatest metropolises.

Belatedly, Congress has become aware of the impact of these problems not just on individual cities but on our entire society as well. It is beginning to move to reverse this trend.

In my judgment, many of the problems confronting our cities have taken root as a result of the breakdown of our neighborhoods—the basic building blocks of urban society. Who among us cannot recall the neighborhoods in which we grew up? We did not grow up in Los Angeles, or in St. Louis, or in Boston. We grew up in one of the many neighborhoods that make up these towns and hundreds just like them across our country. Perhaps these neighborhoods consisted of no more than a few square blocks, but the impact they had on our lives cannot be measured. They provided the environment in which our characters were developed, in which our dreams and ambitions were nurtured, and in which lasting friendships were made. This, not the city, was our "home."

In recent years, however, we have seen many neighborhoods lose the sense of identity that distinguished and sustained them. We have seen neighborhoods in which only fear was nurtured and in which people are suspicious of their neighbors. We have witnessed an exodus from our cities to the suburbs nearly as great as the migration from rural areas to the cities of a few generations ago. The resulting social and economic impacts are only too apparent.

The Federal Government has a responsibility to join with State and local governments to reverse the decline of our cities. Indeed, many of its policies and programs may have unwittingly contributed to their decline.

In response to this, I am introducing legislation calling for the establishment of a National Commission on Neighborhoods to investigate the factors contributing to their decline and to make recommendations for reversing this trend. This legislation differs from similar bills in two important respects: First, the life of the Commission is set at 16 months rather than 2 years and, second, the Commission's work is to be divided between a preliminary 8-month study of factors contributing to the decline of our neighborhoods and a concluding 8-month period of analysis of the results of this study leading to concrete, substantive recommendations to Congress.

I believe these changes are important

for two reasons. First, there is already a considerable amount of material available from various, responsible sources conerning the problems of our communities. I believe the Commission should utilize this existing work to the greatest extent possible in order to avoid duplication. The 2-year study envisioned in related bills precludes the use of the commission's work during the 95th Congress, when important decisions will be made concerning the future of programs begun under the Housing and Community Development Act of 1974. To proceed with congressional action in these areas without the benefits of the Commission's work not only robs us of valuable input, it may even contradict their findings.

Second, to present Congress with just another study containing standard recommendations is simply not enough. For Congress to act wisely it needs facts on a variety of options. My bill will provide us with those facts.

It is my hope that Congress will act upon this legislation before adjournment. The Senate Banking and Urban Affairs Committee has already reported out a version of this bill, and the Housing and Community Development Subcommittee of the House Banking, Currency and Housing Committee has scheduled hearings on this subject. I am extremely pleased by the growing support for this legislation and I look forward to quick passage.

FOREIGN PAYMENTS DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, today I am introducing a bill dealing with the problem of bribery of foreign officials by U.S.-based corporations operating abroad.

During the past year, largely through congressional hearings and information obtained by the Securities and Exchange Commission, we have become acutely aware of the dimensions of the foreign bribery problem and its deleterious effects on U.S. foreign policy, on the business climate abroad for U.S. corporations, and on our own moral expectations.

In the Lockheed scandal the SEC charged that since 1970, at least $25 million in payments not reflected on the company's books and records were made to assist the company in obtaining and retaining contracts with foreign governments. The foreign policy implications for the United States are staggering and, in some cases, perhaps irreversible. Payments by Lockheed, alone, may well have advanced the Communist cause in Italy. In Japan, a mainstay of our foreign policy in the Far East, the Government is reeling as a consequence of such payments. And most recently, the monarchy in the Netherlands has been rocked by the Lockheed scandal. The revelations concerning Lockheed have been the most conspicuous, but as more and more corporations come forward, we recognize that such foreign payments are not isolated transactions.

All of this lends substantial credence to the suspicions by extreme Nationalists and Marxists that U.S. businesses operating in their country have a corrupting influence on their political systems.

Contrary to what some of the opponents of any remedial legislation would have us believe, bribery is not just a way of doing business abroad. No country in the world publicly supports bribery of public officials, and under the laws of most countries such payments are illegal. Many U.S. corporations have never engaged in such practices, and most welcome such legislation as I am proposing today, because it would make it easier to resist pressures from foreign officials. Finally, most foreign bribes revealed thus far have involved American companies competing with American companies for the same business. This is certainly true in the aerospace and defense industries, where many of the bribes occurred.

I would emphasize that this bill is not concerned with so-called "grease payments," such as may be necessary to some petty clerk to speed documents through a bureaucracy.

The bill is divided into three sections, which are summarized as follows:

Section 1 requires reporting companies to create and to maintain accurate books and records. Secondly, it requires internal accounting controls sufficient to assure that transactions will be executed in accordance with management's instructions, that transactions will be accurately recorded, that access to corporate assets is carefully controlled, and that the representations on company books will be compared at reasonable intervals with actual assets, and any discrepancies resolved. This section also makes it a crime for a reporting company to falsify books, records, accounts, or documents, or to deceive an accountant in connection with an examination or audit.

Section 2 applies to corporations subject to the jurisdiction of the SEC by virtue of the reporting requirements of the Securities Exchange Act of 1934. It applies the existing criminal penalties of the securities laws (up to two years imprisonment and a fine of up to $10,000) for payments, promises of payment, or authorization of payment of anything of value to any foreign official, political party, candidate for office, or intermediary, where there is a corrupt purpose. The corrupt purpose must be to induce the recipient to use his influence to direct business to any person, to influence legislation or regulations, or to fail to perform an official function in order to influence business decisions, legislation, or regulations, of a government.

Section 3 applies the identical prohibitions and penalties provided by Section 2 to any domestic business concern other than one subject to the jurisdiction of the SEC pursuant to Section 2. Violations of the criminal prohibition under Section 3 by persons not subject to SEC jurisdiction would be investigated and prosecuted by the Justice Department. Violations under Section 2 would normally be investigated initially by the SEC, but referred for criminal prosecution to the Justice Department.

Mr. Speaker, I include the entire text of the legislation at this point in the RECORD.

H.R. 15481

A bill to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13(b) of the Securities Exchange Act (15 U.S.C. 78m(b)), is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

"(A) make and keep books, records, and accounts, which accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

"(B) devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that—

"(i) transactions are executed in accordance with management's general or specific authorization;

"(ii) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (2) to maintain accountability for assets;

"(iii) access to assets is permitted only in accordance with management's authorization; and

"(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"(3) It shall be unlawful for any person, directly or indirectly, to falsify, or cause to be falsified, any book, record, account, or document, made or required to be made for any accounting purpose, of any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title.

"(4) It shall be unlawful for any person, directly or indirectly—

"(A) to make, or cause to be made, a materially false or misleading statement, or

"(B) to omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading to an accountant in connection with any examination or audit of an issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title, or in connection with any examination or audit of an issuer with respect to an offering registered or to be registered under the Securities Act of 1933.".

SEC. 2. The Securities Exchange Act of 1934 is amended by inserting after section 30 the following new section:

"PAYMENTS TO OFFICIALS

"SEC. 30A. It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give, or authorize the giving of, anything of value to—

"(1) any person who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

"(A) to use his influence with a foreign government or instrumentality, or

"(B) to fail to perform his official functions, to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality;

"(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

"(A) to use its or his influence with a

foreign government or instrumentality thereof, or

"(B) to fail to perform its or his official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

"(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official, or party—

"(A) to use his or its influence with a foreign government or instrumentality, or

"(B) to fail to perform his or its official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.".

PAYMENTS TO OFFICIALS

SEC. 3. (a) It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give or authorize the giving of, anything of value to—

(1) any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

(A) to use his influence with a foreign government or instrumentality, or

(B) to fail to perform his official functions, to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality,

(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

(A) to use its or his influence with a foreign government or instrumentality thereof, or

(B) to fail to perform its or his official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

(3) any individual, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official or party—

(A) to use his or its influence with a foreign government or instrumentality, or

(B) to fail to perform his or its official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.

(b) Any person who willfully violates this section shall upon conviction be fined not more than $10,000, or imprisoned not more than two years, or both.

(c) As used in this section—

(1) the term "domestic concern" means an individual who is a citizen or national of the United States, or any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States, which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States; and

(2) the term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof, and such term includes the intrastate use of a telephone or other interstate means of communication or any other interstate instrumentality.

THE CATHOLIC CHARITIES OF THE ARCHDIOCESE OF NEW YORK IS RIGHT: HOUSE-PASSED REVENUE SHARING BILL IS FLAWED AND MUST BE CORRECTED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, tomorrow the Senate will take up for consideration the Fiscal Assistance Amendments of 1976. The House passed that bill, H.R. 13367, on June 10. In early June I was alerted to a problem in the bill by the Catholic Charities of the Archdiocese of New York. It was their concern that the result of the religion provision of the Jordan antidiscrimination amendment to the bill, reported out of committee and included in the legislation on the House floor, would cut church-related schools, homes for the aging, and child-care institutions from revenue sharing funds or any other public support presently available. BARBARA JORDAN and I had a colloquy on the floor in which I raised this issue. I am including that colloquy at the end of my statement.

At that time I believed that Congresswoman JORDAN's explanation disposed of the conflict. However, the Catholic Charities insisted that the House religious discrimination provision would go further than existing civil rights law by prohibiting activities of religious organizations which are currently permissible. I believed at the time that the concern of the religious charities was unfounded. However, I did decide to investigate the matter further. The Congressional Research Service provided me with a memorandum which they prepared while the Senate Finance Committee was considering the legislation. In that memorandum, it was stated that the Jordan amendment was, in fact, ambiguous on the issue and could be interpreted to have the effect the various religious organizations thought it might. I then contacted the Department of Justice raising the problem and received a letter from J. Stanley Pottinger, a copy of which I am enclosing, which supports the memorandum of the Congressional Research Service in its statement that the Jordan amendment is, indeed, ambiguous, and "could be read as prohibiting discrimination in services by religious organizations which provide services such as running day care centers and providing school lunches, even though such discrimination in services is not prohibited by title VI of the Civil Rights Act of 1964."

It now seems clear that the Jordan amendment is ambiguous and that the Catholic Charities representatives were correct in their belief that the provision could be much more broadly construed than Representative JORDAN intended. The Catholic Charities representatives were correct and fortunately they persisted and I am pleased that I pursued the matter further.

In order to deal with the problem, I have prepared an amendment which I believe will remove the ambiguity so as to permit those activities heretofore conducted by religious organizations to continue unimpeded.

The Senate Finance Committee attempted to clarify the ambiguity by removing the word "religion" from the prohibition. In my judgment, simply removing the word "religion" is not the best approach, since it would permit cities, towns, and States to provide funds to nonsectarian organizations which discriminate on religious grounds. This is not what we were seeking to do on the House side.

My proposed amendment to the Fiscal Assistance Amendments of 1976 would read as follows:

Insert, after the first full sentence of Section 122(a) (1) the following sentence:

The prohibitions against discrimination on the basis of religion contained in the Civil Rights Act of 1964 and in Title VIII of the Civil Rights Act of 1968, shall be applicable to any program or activity subject to the provisions of this paragraph.

The purpose of this amendment is to incorporate in the Revenue Sharing Act the prohibitions against discrimination on the grounds of religion contained in the Civil Rights Act of 1964, and the Civil Rights Act of 1968.

The Revenue Sharing Act as passed by the House contained a prohibition against religious discrimination. That prohibition was attacked on the grounds that it prohibited discrimination in the services in day care centers, hospitals, and other charitable organizations financed or operated by religious groups for their members. Since title VI of the Civil Rights Act of 1964 does not contain a prohibition against religious discrimination in services in federally assisted programs the House-passed bill was read by some persons as imposing new kinds of prohibitions against religious discrimination.

The kinds of religious discrimination in employment, education, and housing which are prohibited by the Civil Rights Act of 1964 and 1968 should, in my view, also be prohibited in programs or activities receiving Federal assistance under the Revenue Sharing Act. The purpose of my amendment is to make such discrimination unlawful under the Revenue Sharing Act.

The amendment is careful to avoid any inference that we seek to prohibit the kinds of activities which are permitted by existing civil rights legislation.

In my judgment, therefore, the purpose of this provision is in accordance with the other civil rights provisions of this bill—that is to secure broader coverage and more effective enforcement of existiing rights, rather than to bring about substantive changes in the kinds of rights protected by Federal civil rights law.

I have passed along a copy of my amendment and all the accompanying materials to several Senators who have shown an interest in this issue with the hope that they will sponsor and support my amendment. Certainly, either my amendment or the Senate language, which deleted the word "religion" altogether, must be adopted. The ambiguous language of the House-passed version could tie the provision up in the courts for years and perhaps deny general revenue sharing funds to the most worthwhile of religious organizations. That is not the outcome the House intended as legislative history will show, but it may nonetheless be the effect of what was done. I certainly hope that the other body and the conference on the revenue sharing bill will rectify the situation. A copy of my initial colloquy with the gentlewoman from Texas, Congresswoman JORDAN, along with my correspondence with Assistant Attorney General Pottinger follow:

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to my colleague, the gentleman from New York.

Mr. KOCH. Mr. Chairman, I received, as I think a number of Members did, a letter from the Rev. Msgr. James J. Murray, executive director of the Catholic Charities of the Archdiocese of New York in which he raises a question with respect to a provision in the bill and how it would affect church-related schools. That question arises from language that the gentlewoman from Texas (Ms. JORDAN) placed in the bill. I have talked with the gentlewoman from Texas about it.

I would like to have the gentlewoman's comments now, so as to reassure those who have raised the question, as the gentlewoman has reassured me, that their rights are not in any way impaired.

The letter I received raising the issue is as follows:

CATHOLIC CHARITIES
OF THE ARCHDIOCESE OF NEW YORK,
New York, N.Y., June 4, 1976.

Re Anti-discriminaiton Provisions in Revenue Sharing—H.R. 13367

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: The House Committee on Government Operations has reported H.R. 13367 to continue the Federal Revenue Sharing Program in 1977. The bill as reported includes a new non-discrimination provision (Sec. 122) which, among other changes, adds the word "religion". This word presently is not contained in either Title VI of the Civil Rights Act of 1964 or the present non-discrimination section of the Revenue Sharing Act.

The effect of these provisions would be substantial in New York. Many church related schools, homes for the aged and child care institutions in New York participate in federal, state and local health, education and welfare programs. Title VI discrimination prohibitions on racial and national origin have been applied to all church-related institutions participating in health, education and welfare programs. Title VI of the Civil Rights Act, however, permits these church-related schools and institutions to grant preference on the basis of religion. This would be prohibited under H.R. 13367 as reported.

I support application of the existing provisions of Federal non-discrimination laws to state or local government programs and activities, whether or not financed by Revenue Sharing funds. However, I oppose adding a new non-discrimination requirement on the ground of "religion" to existing non-discrimination laws regarding federally assisted program and activities.

I urge your strong support for a technical amendment during floor consideration of H.R. 13367 to make clear its intent and to limit the non-discrimination restrictions on state and local programs and activities to the same non-discrimination restrictions as now apply to Federal programs and activities under Title VI of the Civil Rights Act.

Sincerely yours,
Rev. Msgr. JAMES J. MURRAY,
Executive Director.

Would the gentlewoman please respond.

Mr. ROSENTHAL. I yield to the gentlewoman from Texas.

Ms. JORDAN. I thank the gentleman for yielding.

Let it be well understood that the addition of the category "religion" in the antidiscrimination bill under the general revenue-sharing law were not intended are not intended, should not be interpreted as an amendment to title 6 of the 1964 Civil Rights Act. The phrase "religion in terms of an area where discrimination is prohibited" is used in only three civil rights statutes. Title 6 is not one of those three.

When this bill, general revenue sharing, says that the term "religion" is to be interpreted in accordance with already existing civil rights laws, that means, ipso facto, those civil rights laws in which the term "religion" is already used. So, since the word "religion" is not in title 6, we cannot inferentially amend a major title of a civil rights law by simply writing antidiscrimination in an act called general revenue sharing.

Mr. KOCH. I thank the gentlewoman.

DEPARTMENT OF JUSTICE,
Washington, September 7, 1976.

Hon. EDWARD KOCH,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: Please refer to your letter of August 25, 1976 concerning the effect of the addition of the word "religion" to the anti-discrimination provisions of the general Revenue Sharing Act, as passed by the House of Representatives [H.R. 13367].

As passed by the House the anti-discrimination provisions of the Act (§ 122(a)) prohibit any kind of discrimination on the grounds of religion in any program or activity of a state or unit of local government funded directly or indirectly by the Act. The second sentence of that paragraph states, however, that the anti-discrimination provisions should be interpreted in accordance with the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 with respect to discrimination on the basis of race, color, religion, sex and national origin.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, generally prohibits discrimination on the grounds of race, color or national origin in any federally funded program or activity. Title VI does not however prohibit discrimination in religion in federally funded programs or activities. Other provisions of those civil rights acts prohibit discrimination on grounds of religion with respect to employment, housing and public education. As presently written, therefore, H.R. 13367 could be construed as prohibiting only those kinds of discrimination prohibited in the Civil Rights Act of 1964. On the other hand, because of the broad provisions of the first sentence of Section 122(a), the Act could be read as prohibiting discrimination in services by religious organizations which provide services such as running day care centers and providing school lunches, even though such discrimination in services is not prohibited by Title VI of the Civil Rights Act of 1964.

While legislative history on the floor of the House of Representatives might be referred to by the Courts to resolve the ambiguity, it would in our view be preferable to have the ambiguity resolved in the statute itself, rather than awaiting the results of what may be years of litigation. We would therefore, hope that the ambiguity could be resolved during the remainder of the legislative process.

Sincerely,
J. STANLEY POTTINGER,
Assistant Attorney General,
Civil Rights Division.

AUGUST 25, 1976.

Hon. J. STANLEY POTTINGER,
Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C.

DEAR MR. POTTINGER: I have received a number of inquiries concerning the effect of the addition of the word "religion" to the anti-discrimination provisions of the Revenue Sharing Act. I understand that your office has been asked by other members of Congress to appraise the effect of this new provision. I would like to bring to your attention a memorandum prepared by David M. Ackerman, a legislative attorney at the American Law Division of the Library of Congress on this subject. Mr. Ackerman concludes that there is indeed a substantial problem contained in this provision for those church-affiliated organizations which receive some public funds to perform functions such as running day care centers or providing school lunches.

I hope this memorandum will be of interest to you and your staff. And I wonder if you agree with it. I would very much appreciate your opinion on the effects of this provision as soon as the analysis is completed.

All the best.
Sincerely,
EDWARD I. KOCH.

ANTI-SEMITISM IS RAMPANT IN ARGENTINA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am deeply concerned about recent developments in Argentina. I have been pressing the administration to allow Chilean and Uruguayan refugees who are endangered in Argentina to come to the United States under a parole visa program. It is outrageous, furthermore, that the United States is furnishing $49 million in military assistance to a government whose military is killing political refugees, arresting and killing Catholic priests, and which has surrendered itself to right-wing thugs.

Today, however, I wish to speak about the haunting specter of a Nazi resurgence in Argentina. For the past several months Nazi publications have been flourishing. Editorial Milicia, a right-wing publishing house, has been distributing reprints of Hitler's speeches, characterizing him as the "Savior of the West," and has widely distributed the fraudulent anti-Semitic tract, "Protocols of the Elders of Zion." The Argentine Government has not responded to calls for a ban on this virulent literature, which have been made by both DAIA, the central representative agency of Argentine Jewry, and the Catholic Church. This anti-Semitic hate literature has even been distributed in the schools. The Argentine Government piously says that it is not condoning this practice, but all of this is happening at a time when all democratically oriented literature—always denounced as leftist—has been banned. There is no freedom of expression in Argentina, and therefore, by its silence in the face of Nazi propaganda, the Government of Argentina is tacitly approving the mushrooming of facism.

But the situation has gone beyond proliferation of hate literature. Last week, a new group calling itself the Argentine National Socialist Front emerged to proclaim an all out war against "a Jewish-Bolshevik plutocracy." This group, the FNSA, is seeking to blame Argentina's 500,000-member Jewish community for the country's growing economic problems and has taken credit for the bombing of two synagogues and a drug store in Buenos Aires August 27. In a letter from the FNSA publicly circulated after the bombings, the neo-Nazi group said that the bombings marked the opening of a campaign of "diverse punitive operations against important elements of international Judaism."

A liberal Buenos Aires newspaper, La Opinion, which published the FNSA letter, was also the target of an attempted bombing last week, according to its Jewish publisher, Jacobo Timmerman. He said in an article in La Opinion that his life had now been threatened by both the extreme right and left.

Yesterday, I received a letter from an Argentine Jew. Although I will delete the name of the person who wrote this letter, I wish to share the letter with my colleagues because I feel it portrays the desperate nature of the situation. This person is pleading for the United States to intercede on behalf of all those in Argentina who are being persecuted—be they Chilean or Uruguayan refugees in Argentina, Jews, dissenters, or any other group that has been targeted by extremists.

The United States needs to take some bold steps to impress the Argentine Government that its grace period is over. If the Argentine Government does not protect its Jewish citizens and other persecuted groups from attacks by elements of its own military, we should immediately withdraw our military mission in Argentina and suspend military assistance to Argentina. The moral force of the United States is needed now. The memory of Nazi barbarity should compel us to action now.

The plea of one Argentine Jew follows:

BUENOS AIRES,
August 29, 1976.

HON. EDWARD KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: A leading Argentine news paper reports on your declarations of last Thursday concerning the wave of violence which is affecting my country.

Unfortunately, I must agree with you; the city guerrilla is bombing and killing in an apparently haphazard way, attacking groceries, the residences of various executives, stores of all kinds and particularly Jewish schools and synagogues.

I am an Argentine citizen and a Jew (in that order), and my people is being attacked by those who believe that we are Jews and Argentine citizens (in that order). This is not new, except for the viciousness of these attacks which has reached peaks unknown of in past years.

The reason of this letter is to congratulate you on your project for the American Government to help Latin American refugees now in Argentina to come to the States. I wish that project could be extended to include those of us who seem to be condemned to the hate and attacks of a small but extremely dangerous sector of our countrymen.

Last December I had the pleasure of visiting New York, and to this end I had to get, of course, the American visa. What I saw in the American Embassy in Buenos Aires was, no doubt a sorry spectacle: Hundreds of people trying to get "tourist" visas and a handful of harassed employees who had to decide whom to accept as bona fide visitors and whom to reject as potential illegal immigrants.

During my visit in New York I could persuade myself that my kind of specialization would find a place there (I am a reinsurance technician), but I don't dare to ask for an immigrant or resident's visa in view of the difficulties which no doubt lay in store for myself and my family.

I can only wish that this trend of death and destruction will end soon enough or, if it does not, that the U.S. Government will find a way through enlightened legislators like yourself to open its doors to those who really want and need to cross your borders.

Yours sincerely,

——— ———.

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks at this point in the RECORD.)

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD at this point a statement regarding a recorded vote I missed on August 25, 1976, and an indication of how I would have voted had I been present.

The rollcall was No. 660, a vote on House Resolution 1489, providing for the consideration of H.R. 14578, Federal reclamation projects. The resolution was agreed to by a vote of 346 ayes. I was paired for this resolution and had I been present would have voted in favor of it.

"JUSTICE IN AMERICA," A BICENTENNIAL ADDRESS BY THE REVEREND THEODORE M. HESBURGH

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, few voices are more eloquent in our country than that of the Reverend Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame, and I believe that all Members of the House of Representatives and Senate will find both instructive and inspiring an address delivered by Father Hesburgh on the Fourth of July, 1976, at the National Citizens' Assembly on Improving Courts and Justice.

The text of Father Hesburgh's address, "Justice in America: The Dream and the Reality," follows:

JUSTICE IN AMERICA: THE DREAM AND THE REALITY

(By Father Hesburgh)

(NOTE.—Address given by the Rev. Theodore M. Hesburgh, C.S.C., President of the University of Notre Dame, at the National Citizens' Assembly on Improving Courts and Justice, Philadelphia, Pennsylvania, July 4, 1976)

FOURTH OF JULY SPEECH OF FREDERICK DOUGLASS

What message does one bring to America on our 200th birthday? Much of what will be said around the country today will be self-congratulatory, as befits birthdays. However, Fourth of July oratory has, over all the years of our history, become a special kind of rhetoric, easily produced and as quickly forgotten.

The one exception is the Fourth of July speech of an escaped slave, Frederick Douglass, in Rochester, New York, in 1852. He began, "What to the American slave is your Fourth of July? I answer, a day that reveals to him more than all other days of the year, the gross injustice and cruelty to which he is a constant victim." I spare you the rest of the speech, but it does set the stage for what I have to say today, because much has happened in America during the past 124 years since the Douglass speech.

OPTIMISM WITHOUT UNDUE PRIDE; PESSIMISM WITHOUT DESPAIR

Today is a very special occasion and we should not indulge in empty rhetoric. As one who has participated in a good many Bicentennial celebrations this year, mainly in university and religious settings, I have been impressed by the conflicting reactions to our 200th anniversary. There has been a curious mix of optimism and pessimism, both somewhat overdone, I believe. I would prefer to spend these few moments speaking quietly and honestly with you about what I believe to be the central and continuing message of America, to itself and to the world. The message will involve, I trust, optimism without undue pride, and pessimism without despair or utter frustration. Both too much optimism and too much pessimism paralyze us as a nation and impede all future progress.

Rather, I want to give you an honest appraisal of how far we have come and how far we have yet to go. But I say it with the firm hope that if we are true to our original dream, God will give us the grace to go farther than any nation ever has along the high road of freedom and justice under the law. That is the direction in which we were pointed at our beginning. Lincoln put our national destiny so well in his second inaugural: "With malice towards none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in."

LOVE YOUR NEIGHBOR AS YOURSELF

The primal law that gave us birth in the Declaration of Independence was an ideal expression that spoke to the heart of justice and human rights as never before in the history of man, if one excludes the transcendental law of the Gospel, "Love your neighbor as yourself." I must insist here that the Declaration of 1776 spoke; it did not effect the ideal that it proclaimed. What it proclaimed, though, really addressed humanity's deepest hopes and aspirations: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights that among these are life, liberty, and the pursuit of happiness."

THE PURSUIT OF HAPPINESS

It was an additional stroke of genius that instead of saying "property" after life and liberty in the fashion of the earlier Colonial statements, Jefferson changed "property" to "the pursuit of happiness." By this one new addition, the vision of justice in America was broadened immeasurably. What a magnificent dream that all Americans should not only have the just right to life and liberty under law, but also to the pursuit of happiness, not happiness as the super-sensate hedonism of our day, but a right to all those basic human and spiritual endeavors by which we can seek to be happy in a very unhappy and unsettled world: the right to hope and to pray, to grow more each day as human persons, to have our inherent human dignity respected by others, to have equal opportunity to be educated, to earn a living, to provide for one's family, to acquire property, to have a decent home, to partake in the political process by voting and standing for election to public office, and, finally, to have the law and the courts protect these rights, even to enlarge them.

I have said that all this was proclaimed in that pregnant phrase of the Declaration, "the pursuit of happiness," but it immediately added "that to secure these rights, governments are instituted among men," not to give these rights, but to secure them, for they are inherent (Jefferson's original wording) and unalienable.

It is difficult to recapture, 200 years later, the human situation that existed at the time that these words first electrified the world. Suffice it to say that Jefferson and the signers of the Declaration laid out an almost impossible task for America in all the years ahead, if America was to be ever more true to this original promise in all of its full meaning. I would submit to you today that the most central and exciting reality of America's history during the 200 years that followed was the ever-fuller realization of this enlarged view of human justice, dignity, and rights under an ever-widening circle of laws and governmental action, inside and outside the courts, always aimed at greater justice. The path was always uphill, sometimes we slipped backwards, but in the long run we always moved forward to enlarge the law of justice for all.

The fundamental law, of course, was the Constitution which was written to establish the new government to secure these rights. It took more than a dozen years after the Declaration to get the Constitution written and approved by two-thirds of the thirteen original States. One of the several reasons given for the Constitution in its Preamble, the most important in my view, was "to establish justice."

As you may know, Jefferson was not present at the Constitutional Convention, since he was Minister to France at that time. Jefferson was mainly pleased when he saw the new Constitution with its unique system of the balance of the three powers of government: executive, a President to lead the country; legislative, a Congress to balance the President and to enact the laws; and, finally, judicial, a Supreme Court to watch both the President and the Congress, and to measure the validity of their actions against the Constitution.

THE BILL OF RIGHTS

Jefferson acknowledged the imaginative genius of this new instrument to create a new nation in unity and diversity. However, Jefferson said that the Constitution was not enough because it failed to specify those human rights for which all of them had pledged their lives, fortunes, and sacred honor in signing the Declaration. Unless there were an additional provision for a Bill of Rights, Jefferson said he would oppose the Constitution. So great was Jefferson's prestige that the first Ten Amendments were soon passed to include the rights he proposed, and ingeniously allowing for future Amendments to enlarge the rights then provided.

I am not sure that our Constitution or our nation would have perdured without this provision of the Bill of Rights and future Amendments, despite a Constitution that even Gladstone, the dean of British Prime Ministers, called: "the most wonderful work ever struck off at a given time by the brain and purpose of man."

Let me give you the reason why I say that the Amendments were so important. Despite the great universal ideal expressed in the Declaration, "all men are created equal," the fact is that this just equality applied in reality at that time only to propertied and free white Anglo-Saxon males. Women and young adults couldn't even vote. We had to correct this by two new Amendments enacted this century, one only a few years ago. But more importantly the new nation was afflicted by a near-fatal flaw—slavery.

SLAVERY—A NEAR-FATAL FLAW

It is difficult to imagine that slaves were listed in Colonial law not as persons, but as real estate. By the same law, no slave could leave his owner's plantation without a pass. No slave could carry a club, staff, or other weapon. No slave could own a horse, hog, or cow. No slave was to run away. No slave was to resist his owner when he administered correction. No slave was to lift his or her hand in opposition to a Christian, except if that Christian were a negro, mulatto, or Indian. No slave was to prepare or administer medicine (fear of poisoning). No slave was to meet with four or more other slaves. No slave was even to attend a religious service, except with his or her white owners.

There were also provisions for punishing violations of this legal code, ranging from whipping to castration and to death. These statutes were those of Jefferson's Virginia where half of the more than 600,000 slaves dwelt.

The legislature provided that these statutes be read at the door of each parish church twice a year, so that no slave, even though newly arrived and not understanding English, could plead ignorance of the law. As chattel property, slaves had no rights since they were not even classified in the law as human persons.

It was proposed, in vain, that slavery be abolished, both in the Declaration and in the Constitution. Northern slave traders and Southern slave owners opposed the provisions. Even after England had abolished slavery, Jefferson, in rewriting Virginia's Statutes, still declared that no one was a slave unless born a slave, which said in legal jargon that no black was born free in America unless his parents were freed, which few were.

By a kind of ironic retribution for this near-fatal flaw which even Jefferson did not dare to change, despite the brave words of the Declaration and the Constitution, his best friend and law professor, George Wythe, Chancellor of the Commonwealth, signer of the Declaration, Speaker of the Revolutionary Assembly, was later murdered by his favorite grandnephew and namesake who sought to quicken his inheritance thereby. The murderer went scot-free because the only witness, a black slave woman, was forbidden by Virginia law, largely fashioned by Wythe and Jefferson, to testify against a white man.

Ladies and gentlemen, that is how far back we began in the establishment of justice in America. It was actually further back than I have indicated because, unlike the modern soap operas, I have left out all of the more sordid details, such as Jefferson's wife's half-sister being a slave in his house and legally liable to be sold at auction at his death—no provision otherwise being made in Jefferson's will. Jefferson, it should be said, knew that all of this was wrong. But he also said that the people wouldn't tolerate a change. Anyway, that's where we began—good reason for pessimism—and a long way to go for freedom and justice.

Almost a century passed before a bloody, fratricidal Civil War addressed this near-fatal flaw in our national quest for justice. Even the great Lincoln was ambiguous about slavery, although one gets a glimpse of his vision of America when the campaign oratory was ended and he declared America's purpose in his first inaugural, "to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life."

THE MORAL ISSUE OF JUSTICE

Personally, I think the moral issue of justice finally confronted Lincoln at the lowest ebb of the Civil War when he had to declare himself decisively. He wrote the Emanicipation Proclamation, presented it to his Cabinet, all of whom voted nay. He then voted aye and declared, "The ayes have it." We had three more Amendments, the 13th, 14th, and 15th, following the war, to buttress the Proclamation, but, even then, victory for justice was not to be. President Rutherford B. Hayes won, with fewer popular votes, a contested Presidency against Samuel J. Tilden by selling out the blacks to win the electoral votes of the South. The Reconstruction ended ignominiously, shortly after it began. Shamefully, the Supreme Court assured the nation of another half-century of apartheid by declaring as constitutional, "separate but equal," a phony legal fiction, in *Plessy-Ferguson.* It was a sad day for the uphill struggle for equal justice in America. The great English historian, Arnold Toynbee, said in his *Study of History,* that he could not understand why the blacks in America did not really become bitter, revolutionary, Communist. Instead, their spirituals always spoke of hope. They were better Christians than we were.

Now I can speak of the days many of us have lived through and seen. During the war, Franklin Roosevelt and Winston Churchill spoke of the Four Freedoms that victory would provide. Blacks still fought that war in a segregated Armed Forces.

CURING THE NEAR-FATAL FLAW OF SLAVERY

To Truman's eternal credit, this lowly Missourian Army Captain became President, removed that hypocrisy by desegregating the Armed Forces after World War II. Now the drama of America finally achieving its ideal and curing once and for all the near-fatal flaw, began in earnest, with all the branches of government, executive, legislative, and judicial, making crucial contributions at critical moments. We must first credit the Supreme Court, under Chief Justice Earl Warren, for the undoing of the Court's previous baneful error in *Plessy-Ferguson.* In 1954, Warren wrote the landmark decision in *Brown* vs. *the Board of Education of Topeka,* declaring once and for all, at long last, that separate and equal was substantially separate and unequal, ordering the desegregation of schools, then legally segregated, with all deliberate speed.

The speed was certainly deliberate because in the next decade only three percent of the *de jure* segregated school systems in the South were desegregated. Then the executive and legislative branches of government moved in to supplement the judiciary. Following the assassination of President Kennedy, President Johnson, a Southerner, addressed a joint session of Congress on the need for strong civil rights legislation and concluded his appeal with the famous words of the hymn of the Freedom Riders, "We shall overcome." Such an act of courageous leadership, doing in the 1960's what Jefferson felt he could not do in the 1780's, gave us the great civil rights laws of 1964, 1965, and 1968.

Before the 1964 act, blacks in many parts of America faced every day the indignity of not being welcome at hotels, restaurants, water fountains, rest rooms, snack bars, beaches, churches, even, God save us, cemeteries. In one day, thanks to the 1964 omnibus civil rights act, all of this was changed, and the mores of centuries, dating back to the first days of slavery, were abandoned overnight. It was done by federal law and almost everyone accepted the change as right and just and long overdue.

I would like to pause here for a moment to underline what this meant for America. We have a national motto, in Latin, *e pluribus unum*, on our coins and currency, which says that we are one nation made up of many different people. Have you ever thought what this really means? We have more black Americans than there are Canadians in Canada, more Spanish-speaking Americans than all the Australians in Australia. Twice as many Jews as Israel. More Indians than when Columbus discovered America. A quarter of the Irish nation came here after the Potato Famine. More Italians by far than the combined populations of Rome, Florence, and Milan, with Naples thrown in as well. I could say equal things of Germans, Russians, Poles, French, Austrians, Belgians, Greeks, Mexicans, Koreans, Japanese, Chinese, and, most recently, Vietnamese. During the first two decades of this century, 14 million people from almost every nation on earth came to our shores, following the invitation on our Statue of Liberty, "Send me your tired, your poor, your huddled masses yearning to be free." They arrived mostly with bundles and the $25 required, illiterate, not knowing English, poor, beaten, but full of hope for a better life in this blessed America. Their hopes were mainly realized, even though with great difficulty. They were our grandparents and great grandparents. They found freedom and justice here. We are now being asked to grant equal justice to all yet denied it. That will happen because whatever our faults, Americans are preeminently fair.

COLOR—A GREATER SOURCE OF PREJUDICE THAN RACE

I have tarried, overly you might think, on the black experience, because I believe that it is here that America really will make the worldwide breakthrough for justice and freedom. While most races and nationalities have faced prejudice in coming to our originally Anglo-Saxon America, especially Jews and Irish and Italians and Slavs and Orientals and, today, Mexican-Americans, I believe that beginning poor is nothing compared to beginning as slaves with no human rights whatever. Color is also, I believe, all across the world, a greater source of prejudice than race.

I have heard all of the responses, particularly, "We worked hard to achieve what we have." Of course you have. Everyone in America has had to work hard for justice, but I say to all of you that justice has come harder for our black citizens because whatever the disadvantage of our immigrant forebears, black Americans started further back and have faced more persistent problems as freedom and justice were expanded for almost everyone during the past 200 years.

Having said some nasty things about the South, may I say that they are now out-performing the North in achieving the ideal of *e pluribus unum*. I would here like to pay tribute to courageous Southern judges, school boards, mayors, police chiefs, and governors who have declared that times have changed and that, at long last, equality of opportunity is the order of the day, whatever the sad heritage of slavery.

AMERICA HAS COME A LONG WAY

What I really want to say to America today is that we have truly come a long way since Jefferson, that the moral imperative of human dignity and human rights has finally come of age in America, the microcosm of all the world, with a population that truly represents every nationality, religion, color, and culture on earth. If we can achieve freedom and justice for all here, then maybe there is hope for the rest of the world. This is our greatest Bicentennial message to mankind everywhere.

Earlier, I said that after having come all this distance, many today, even on our 200th birthday, seem filled with pessimism about America's future. There seem to be two simple reasons for this pessimism: Vietnam and Watergate. Again, I would submit that what America did to achieve liberty and justice for all in the 1960's far outweighs the sad reality of Vietnam and Watergate. After all, it was a small group of people who took the decisions to involve America in Vietnam, while it was millions of Americans, especially young Americans, the hope of the future, who demanded an end to Vietnam. Even fewer Americans, several dozens, were involved in Watergate and, again, we ourselves, our media, our Congress, and our courts, exposed the cancer of that unconstitutional action and corrected it through the proper Constitutional processes.

On the other hand, in the 1960's, every American was involved, over 200 million of them, in accepting an end to a segregated society in schools, jobs, neighborhoods, in all places of public accommodations, and, especially, in voting and holding political office. There are still and will be in America sad pockets of prejudice and violence and un-American denials of freedom and justice. But today we are arguing mainly about the means of attaining equality of opportunity for all. Few would admit that they oppose the goal for which America has striven so long and so hard, with so many martyrs and so much heartache. Peaks and valleys there have been, but the historical move was always upward toward greater justice.

I believe that whatever the persistent conflicts among our citizens, whether about busing, or abortion, or neighborhoods, or drugs, or crime, any nation that could put several of its citizens on the moon and bring them back safely should be able to find imaginative and creative solutions to all our current problems. They are really small when compared to what America faced at its beginning: thirteen small, poor, weak colonies, badly divided, up against the strongest of opponents, yet boldly declaring freedom and justice for all, for all the world to hear; boldly devising a new form of government and making it work for 200 years. America took the poorest and most oppressed and gave them the chance to be free and prosperous. America granted freedom of religion to all and has been tolerant of all, whatever the religious differences among us. America took the most illiterate and made them the most educated. In a world where billions of people live on $100 to $500 a year, our poverty level is $5,000. Even so, we rightly declare that in the most affluent nation on earth there should be no unemployment for those seeking work and no poverty for those who really want to better themselves and their families.

We have indeed been blessed by God with abundance of good land and good people. Our greatest problem today is to re-examine our values. One of the wisest observers of America was the Frenchman, Alexis de Tocqueville; who wrote after his American tour in 1831, 145 years ago:

"I sought for the greatness and genius of America in fertile fields and boundless forests; it was not there

"I sought for it in her free schools and her institutions of learning; it was not there

"I sought for it in her matchless constitution and democratic congress; it was not there

"Not until I went to the churches and temples of America and found them aflame with righteousness did I understand the greatness and genius of America

"America is great because America is good.

"When America ceases to be good, America will cease to be great."

Not many people realize that 1976 is also the 1500th anniversary of the fall of the Roman Empire in 476, an empire which fell mainly because it lost the virtues and values that once made it great. We Americans must ponder this event in our own perspective. Becoming rich in body, we have in many areas of our national and personal lives become poor in spirit, lax in integrity, forgetful of the central fact that freedom and justice must be regained, re-established, and rewon each day. We have often been unmindful of the fact that when one American suffers injustice, each of us and our great nation are diminished and wasted, yes, even threatened The one lesson we should learn today is that freedom and justice are not dead ashes to be revered, but a living flame to be fed by our continual dedication and effort. Each day, each one of us is present at the creation of America, because America, our America, is being created anew by each one of us, each day.

WHAT OUR STANCE SHOULD BE

What then should be our stance today as we face the next century and celebrate the two centuries just passed. First, gratitude to God for the free blessings of great land, great leaders, great people, great visions, and the will to expand yet more the freedom and justice that launched the American experience. Puny dreams, low aspirations, half-hearted efforts are unworthy of us, both as a people and as a nation. We have come too far to falter now, or to lose heart. We are a people who have already done what was never done before: to declare equality of opportunity and to make it work for everyone.

Second, let us accept ourselves as we are. Nations, like people, are an amalgam of good and evil, but they grow or decline as they strive or relax in their efforts to be better and to eliminate all that is unworthy and dishonest in their personal and national lives. May we ask God today to forgive the injustices that still exist among us as we try to balance the scales of justice better in the days ahead.

Thirdly, just as an infant America thrilled the tired world of the Eighteenth Century with a Declaration of Independence, of freedom and justice for all, should not a mature America in today's interdependent world say again to all the world that we will work for justice on behalf of all suffering injustice anywhere, for greater prosperity for those around the world who are so miserably poor that their inherent human dignity becomes a travesty, a bad dream, a nightmare. We can help them help themselves, and we should.

Lincoln once said that we Americans were an "almost chosen people." We still are. Manifest or not, we do have a very special destiny. Governor John Winthrop of the Massachusetts Bay Colony said that his little group of colonists should be a city shining on a hill for all to see. A nation can be overly Messianic if it does so selfishly and imperialistically. But America should ask for nothing else in the world of the Twenty-first Century than to do better what it has already done, sometimes haltingly, sometimes brilliantly, for its own people and now, hopefully, for the people of all the world: to serve justice and to enlarge freedom for all.

May God bless America this day, and in all the days to come, in the fulfillment of this exaulted mission. Happy Birthday, America.

A PROPOSAL TO AUTHORIZE BETTER UTILIZATION OF DREDGED MATERIALS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, today I appeared before the Water Resources Subcommittee of the House Committee on Public Works and Transportation, chaired by the distinguished gentleman from Texas. The Honorable Ray Roberts, one of the ablest and most highly respected Members of the House. I testified for H.R. 14730 and H.R. 11633. These bills have sufficient merit to call them to the attention of the House. H.R. 14730 will provide new authority for more effective utilization of dredged material, particularly in areas where beaches are important. It would authorize the Secretary of the Army to place beach quality sand dredged as part of a navigation project placed on the adjacent beaches. H.R. 11633 would authorize a project for beach erosion control and hurricane protection in Bay County, Fla. The need for this legislation became very evident after the hurricane generated wave destruction by Hurricane Eloise last September.

Earlier this year, the Governor and cabinet of the State of Florida, which includes the Florida Department of Natural Resources, adopted a resolution asking the Florida congressional delegation to seek enactment of Federal legislation for this purpose. I was accompanied in my appearance before the committee by the Honorable Harmon W. Shields, the distinguished and able director of the Department of Natural Resources, who testified in more detail on the proposed legislation.

I am very pleased that the committee has agreed to include this proposal in the omnibus public works bill and I seek the earliest possible congressional action to amend appropriate Federal laws to include authorization for the Secretary of the Army to expend funds provided for operation and maintenance of navigational channels for placement of dredged material on adjacent beaches when such action is in the public interest. This is in lieu of transporting dredged material to offshore areas and often will prove more economical than present policies. It will preclude the necessity and expense of pumping or otherwise moving sand back to the beaches when it is needed. This legislation is desirable from many standpoints. It will benefit all States having an interest in the preservation and maintenance of beach areas. It will enable the Corps of Engineers to place valuable sand on seriously eroded beaches. This will be the most economical use of this material because, in the future, we will not be required, at added expense for other Federal projects, to retrieve the same sand from offshore disposal areas for beach restoration purposes.

Now let me discuss H.R. 11633. Historically, in many areas, the receding of the beaches has gradually reduced the beach area and exposed the developments there to potential erosion damage and hurricane-generated wave destruction. In the area of the Panama City beaches, this has been in process for a number of years and has created considerable concern, because of damage already done. Through the assistance of the Corps of Engineers and with the sanction of Congress, a study to determine sound and economic procedures for erosion control is in progress. A new factor has now appeared due to the occurrence of Hurricane Eloise in September 1975. This highly destructive hurricane, the first in many years to adversely affect the northwest Florida area, has greatly reduced the remaining natural beach and dune elements and inflicted considerable damage on waterfront developments in a widespread area of the northwest Florida gulf coast, particularly in Bay County.

Restoration of the beach areas is essential for the viability of the recreationally oriented industry, and measures for hurricane and erosion protection are needed to avoid the potential for further costly destruction to the currently exposed structures. The beach resources essential to the tourist industry, continued growth of the dependent local economy, and prevention of further ravagement of the exposed beachfront developments can only be assured by the expedient implementation of beach nourishment and hurricane protection measures.

The plan recommended by the Corps of Engineers, which is encompassed in my bill, H.R. 11633, is considered the most desirable of the alternatives for beach protection which are in use in various areas of the United States. It would provide an added beach area by pumping offshore sands to provide an insulating beach sufficiently high to counter future storms and foreseeable erosion. This plan is considered the optimum available in terms of economic efficiency, preservation, and restoration of the natural resources, aesthetic qualities, and local desirability. The cost is high; however, the area to be enriched comprises 18½ miles of the most heavily developed portion of the 150-mile strip of northwest Florida gulf coast beaches.

There remains a need for completion of studies for beach erosion and hurricane protection for Okaloosa and Walton Counties as well as all other areas along the northwest Florida gulf coast. I am assured by the engineers that, upon completion of data collection, alternative plans will be formulated and cost and benefit analyses prepared for these additional areas where protective measures are indicated to be feasible. Apparently they can be expected to be similar to those which have been investigated in the Panama City beaches areas and comparable in unit cost. I shall, as soon as this additional information is made available by the Corps of Engineers, request congressional action for similar protection for other areas in northwest Florida.

OPPORTUNITY FOR MEMBERS TO VOTE FOR A BALANCED BUDGET CONCEPT

(Mr. ROUSSELOT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, tomorrow the House will take up the final version of the second concurrent resolution on the budget for fiscal year 1977 (H. Con. Res. 728).

Once again I will provide an opportunity for Members to vote a balanced budget concept. It will be possible for Members to go on record for putting a stop to add-on deficit financing, and show their constituents that the House should not let the Federal Government go the way of New York City.

Mr. Speaker, let me now present the House with my substitute resolution:

H. Con. Res. 741

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

(2) the appropriate level of total new budget authority is $394,200,000,000;

(3) the appropriate level of total budget outlays is $362,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $0;

(5) the appropriate level of the public debt is $649,260,000,000, and the amount by which the statutory limit on such debt should accordingly be decreased is $50,740,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National defense (050):

(A) New budget authority, $112,000,000,000.

(B) Outlays, $100,600,000,000.

(2) International Affairs (150):

(A) New budget authority, $3,400,000,000.

(B) Outlays, $3,000,000,000.

(3) General science, space, and technology (250):

(A) New budget authority, $4,400,000,000.

(B) Outlays, $4,300,000,000.

(4) Natural resources, environment, and energy (300):

(A) New budget authority, $19,200,000,000.

(B) Outlays, $11,800,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,300,000,000.

(B) Outlays, $2,000,000,000.

(6) Commerce and transportation (400):

(A) New budget authority, $17,700,000,000.

(B) Outlays, $16,200,000,000.

(7) Community and regional development (450):

(A) New budget authority, $5,200,000,000.

(B) Outlays, $5,200,000,000.

(8) Education, training, employment, and social services (500):

(A) New budget authority, $15,900,000,000.

(B) Outlays, $17,600,000,000.

(9) Health (550):

(A) New budget authority, $32,300,000,000.

(B) Outlays, $32,100,000,000.

(10) Income Security (600):

(A) New budget authority, $130,000,000,000.

(B) Outlays, $120,000,000,000.

(11) Veterans benefits and services (700):

(A) New budget authority, $20,300,000,000.

(B) Outlays, $19,500,000,000.

(12) Law enforcement and justice (750):
(A) New budget authority, $3,300,000,000.
(B) Outlays, $3,400,000,000.
(13) General government (800):
(A) New budget authority, $3,500,000,000.
(B) Outlays, $3,400,000,000.
(14) Revenue sharing and general purpose fiscal assistance (850):
(A) New budget authority, $5,000,000,000.
(B) Outlays, $5,000,000,000.
(15) Interest (900):
(A) New budget authority, $34,500,000,000.
(B) Outlays, $34,500,000,000.
(16) Allowances:
(A) New budget authority, $800,000,000.
(B) Outlays, $800,000,000.
(17) Undistributed offsetting receipts (950):
(A) New budget authority, —$16,900,000,000.
(B) Outlays, —$16,900,000,000.

It is my hope that my colleagues will support this substitute resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADDABBO (at the request of Mr. O'NEILL), for today, on account of official business.

Mrs. CHISHOLM (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. CORMAN (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. HALL of Texas (at the request of Mr. O'NEILL), for today until 5:30 p.m., on account of a necessary absence.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for September 8 and 9, on account of official business.

Mr. HORTON (at the request of Mr. RHODES), after 5 p.m., today, on account of official business.

Mr. MATSUNAGA (at the request of Mr. O'NEILL), for September 8, 9, and 10, on account of official business.

Mr. MURPHY of Illinois (at the request of Mr. O'NEILL), for September 8, 9, and 10, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.
Mr. SCHNEEBELI, for 10 minutes, today.
Mr. DERWINSKI, for 5 minutes, today.

(The following Members (at the request of Mr. NOWAK), to revise and extend their remarks, and to include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. COTTER, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. LONG of Louisiana, for 15 minutes, today.
Ms. ABZUG, for 30 minutes, today.
Mr. AUCOIN, for 5 minutes, today.
Mr. MURPHY of New York, for 5 minutes, today.
Mr. MEZVINSKY, for 30 minutes, on September 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WAXMAN, to revise and extend during the debate on the Maguire amendment in the Committee of the Whole today.

(The following Members (at the request of Mr. MOORE) and to include extraneous matter:)

Mr. FREY in two instances.
Mr. HEINZ.
Mr. MCCLORY.
Mr. CARTER.
Mr. BELL.
Mr. WIGGINS.
Mr. DU PONT.
Mr. KELLY.
Mr. TALCOTT in two instances.
Mr. ARMSTRONG.
Mr. BROWN of Ohio.
Mr. COUGHLIN.

(The following Members (at the request of Mr. NOWAK) and to include extraneous matter:)

Mr. BROWN of California in 10 instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. ANNUNZIO in six instances.
Mr. JOHN L. BURTON.
Mr. HANNAFORD.
Mr. MCDONALD in five instances.
Mr. EDGAR in two instances.
Mr. WAXMAN in two instances.
Mr. REUSS.
Mr. FARY.
Mr. MINETA.
Mr. ZABLOCKI in three instances.
Mr. CARNEY.
Mr. DENT in two instances.
Mrs. COLLINS of Illinois.
Mr. RYAN.
Mr. OTTINGER in two instances.
Mr. CHARLES H. WILSON of California in two instances.
Mr. THOMPSON.
Mrs. KEYS.
Mr. WOLFF.
Mr. MIKVA.
Mr. RANGEL.
Mr. AMBRO.
Mr. WIRTH in two instances.
Mr. ROE in two instances.
Mr. D'AMOURS.
Mr. MANN in 10 instances.
Mr. JONES of Tennessee.
Mr. MOORHEAD of Pennsylvania.
Mr. STOKES in five instances.
Mr. DINGELL in three instances.
Mr. MAZZOLI.
Mr. BRECKINRIDGE.
Mr. MURPHY of New York.
Mr. STARK.
Mr. SANTINI.
Mr. BRINKLEY.
Mr. ROSENTHAL.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3081. An act to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 per centum the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes; to the Committee on Agriculture.

S. 3554. An act to establish a National Commission on Neighborhoods; to the Committee on Banking, Currency and Housing.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma; and

H.R. 15371. An act to provide for protection of the spouses of a major Presidential and Vice Presidential nominees.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 217. An act to repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico.

ADJOURNMENT

Mr. NOWAK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Thursday, September 9, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3958. A letter from the President of the United States, transmitting a proposed supplemental appropriation for the transition quarter for the Department of Transportation (H. Doc. No. 94–602); to the Committee on Appropriations and ordered to be printed.

3959. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1977 to pay claims and judgments against the United States (H. Doc. No. 94–603); to the Committee on Appropriations and ordered to be printed.

3960. A letter from the President of the United States, transmitting a request for transfer authority for fiscal year 1977 for the Department of Justice (H. Doc. No. 94–604); to the Committee on Appropriations and ordered to be printed.

3961. A letter from the Acting Secretary of Housing and Urban Development, transmitting the Department's comments on the report of the General Accounting Office on the status of proposed rescission No. R76–26 relating to the HUD State housing finance and development agencies program (Sec.

3962. A letter from the Administrator of 802); to the Committee on Appropriations. General Services, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(1)(2) of the revised statutes; to the Committee on Appropriations.

3963. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4349(a) of title 10, United States Code, to provide that the companies of the Corps of Cadets at the U.S. Military Academy may be commanded by commissioned officers of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

3964. A letter from the Acting Assistant Secretary of the Army (Research and Development), transmitting a report covering the 6 months ended June 30, 1976, on Army experimental, developmental and research contracts of $50,000 and over, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

3965. A letter from the Commander, Naval Facilities Engineering Command, Department of the Navy, transmitting a report for fiscal year 1976 on Navy military construction contracts awarded on other than a competitive basis to the lowest responsible bidder, and the top 10 architect-engineering firms during the year, pursuant to section 604 of Public Law 94–107; to the Committee on Armed Services.

3966. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3967. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3968. A letter from the Acting Commissioner of Education, Department of Health, Education, and Welfare, transmitting the Commissioner's annual report for fiscal year 1975, pursuant to section 422(b) of the General Education Provisions Act (GEPA), together with his annual report on advisory committees and councils, pursuant to section 448 of the act, a summary report on the administration of Public Laws 81–815 and 81–874, pursuant to sections 12 and 301 of the respective acts, and the reports of the advisory councils and committees required by section 443(a) of GEPA; to the Committee on Education and Labor.

3969. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken on recommendations contained in the third interim report of the National Advisory Council on Equality of Educational Opportunity, dated June 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

3970. A letter from the Executive Secretary, Harry S. Truman Scholarship Foundation, transmitting notice of systems of records maintained by the Foundation, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3971. A letter from the Acting Secretary of the Interior, transmitting the 1975 annual report of the Governor of Guam, pursuant to section 6 of the Organic Act of Guam [48 U.S.C. 1421]; to the Committee on Interior and Insular Affairs.

3972. A letter from the Acting Secretary of the Interior, transmitting notice of proposed refunds and credits for excess rental payments on 11 offshore leases in the Santa Barbara Channel, Calif., to Gulf Oil Corp., Mobil Oil Corp., Texaco, Inc., and Union Oil Co. of California, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3973. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on excess defense articles delivered to foreign governments in the fourth quarter of fiscal year 1976, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended; to the Committee on International Relations.

3974. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Walter J. Stoessel, Jr., and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3975. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

3976. A letter from the Secretary of Commerce, transmitting the 20th program report of the U.S. Travel Service, pursuant to section 5 of the International Travel Act of 1961, as amended; to the Committee on Interstate and Foreign Commerce.

3977. A letter from the Secretary of Transportation, transmitting a revised report on the advisability of regulating electric vehicles for energy conservation, pursuant to section 512(b) of the Motor Vehicle Information and Cost Savings Act, as amended; to the Committee on Interstate and Foreign Commerce.

3978. A letter from the Acting Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report of the National Advisory Committee on the Handicapped on delays in implementing a closed captioning television service for hearing-impaired persons; to the Committee on Interstate and Foreign Commerce.

3979. A letter from the Administrator, Federal Energy Administration, transmitting a report on changes in market shares of retail gasoline marketers during April and May 1976, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3980. A letter from the Commissioner, Immigration and Naturalization Service Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third- and sixth-preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

3981. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(28)(I)(ii)(b)]; to the Committee on the Judiciary.

3982. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act [8 U.S.C. 1182(d)(6)]; to the Committee on the Judiciary.

3983. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13 (b) of the Act of September 11, 1957, pursuant to section 13(c) of the act [8 U.S.C. 1255b(c)]; to the Committee on the Judiciary.

3984. A letter from the Acting Executive Director, Blinded Veterans Association, transmitting a report on the financial statements of the association for the year ended June 30, 1976, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

3985. A letter from the Adjutant General, Military Order of the Purple Heart, transmitting the audit report of the organization for the year ended June 30, 1976, pursuant to section 14 of Public Law 85–761; to the Committee on the Judiciary.

3986. A letter from the Administrator of General Services, transmitting a report of a building project survey of the Federal space requirements in Waynesboro, Ga., pursuant to a resolution adopted by the Committee on Public Works and Transportation; to the Committee on Public Works and Transportation.

3987. A letter from the Administrator of General Services, transmitting a report of a building project survey of the Federal space requirements in Jefferson City, Mo., pursuant to a resolution adopted by the Committee on Public Works and Transportation; to the Committee on Public Works and Transportation.

3988. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report on the need for, and feasibility of, establishing a security agency within the Office of Nuclear Material Safety and Safeguards, pursuant to section 204 of the Energy Reorganization Act of 1974; to the Joint Committee on Atomic Energy.

3989. A letter from the Secretary of Agriculture and the Secretary of Housing and Urban Development, transmitting the annual report on financial and technical assistance provided by their Departments in fiscal year 1976 for nonmetropolitan planning districts, pursuant to section 901(c) of Public Law 91–524; jointly, to the Committees on Agriculture, and Banking, Currency and Housing.

RECEIVED FROM THE COMPTROLLER GENERAL

3990. A letter from the Acting Comptroller General of the United States, transmitting his review of the revised deferrals of budget authority contained in the message from the President dated August 24, 1976 (H. Doc. No. 94–589), pursuant to section 1014(c) of Public Law 93–344 (H. Doc. No. 94–605); to the Committee on Appropriations and ordered to be printed.

3991. A letter from the Acting Comptroller General of the United States, transmitting a report on the examination of financial statements of the Government Printing Office for fiscal year 1975, pursuant to the act of October 22, 1968 [44 U.S.C. 309(c)]; to the Committee on Government Operations.

3992. A letter from the Acting Comptroller General of the United States, transmitting a report on progress and problems in giving rural areas first priority when locating Federal facilities; jointly, to the Committees on Government Operations, and Agriculture.

3993. A letter from the Acting Comptroller General of the United States, transmitting a report on the implementation by the Department of Health, Education, and Welfare of the Health Maintenance Organization Act of 1973; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

3994. A letter from the Acting Comptroller General of the United States, transmitting a report on Federal agencies' recruitment and retention of physicians and dentists; jointly, to the Committees on Government Operations, Veterans' Affairs, Armed Services, Interstate and Foreign Commerce, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 1, 1976, the following report was filed on September 3, 1976*]

Mr. MAHON: Committee of conference. Conference report on H.R. 14262 (Rept. No. 94-1475). Ordered to be printed.

[*Pursuant to the order of the House on September 2, 1976, the following report was filed on September 3, 1976*]

Mr. KASTENMEIER: Committee on the Judiciary. S. 22. An act for the general revision of the copyright law, title 17 of the United States Code, and for other purposes; with an amendment (Rept. No. 94-1476). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on September 2, 1976, the following report was filed on September 7, 1976*]

Mr. FLYNT: Committee on Standards of Official Conduct. H. Res. 1392. Resolution to expel Andrew J. Hinshaw from the House of Representatives; reported adversely (Rept. No. 94-1477). Referred to the House Calendar.

[*Submitted September 8, 1976*]

Mr. HALEY: Committee on Interior and Insular Affairs. S. 1174. An act to reduce the hazards of earthquakes, and for other purposes; with amendments (Rept. No. 94-1440, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14932. A bill to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act; with amendments (Rept. No. 94-1479). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs, H.R. 300. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida (Rept. No. 94-1480). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2977. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; with amendments (Rept. No. 94-1481). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10613. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; with an amendment (Rept. No. 94-1482). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 2220. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302 (Rept. No. 94-1483). Referred to the Committee of the Whole House.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14319. A bill to amend the Public Health Service Act and the Social Security Act to revise and improve the authorities under those acts for the regulation of clinical laboratories; with an amendment (Rept. No. 94-1484). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 15069. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes; with an amendment; referred to Committee on Interior and Insular Affairs for consideration of matters within its jurisdiction under Rule X, clause 1(j), for a period ending not later than 7 p.m., September 9, 1976, and ordered to be printed. (Rept. No. 94-1478, pt. I).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCoin:

H.R. 15454. A bill to establish a commission to investigate the factors contributing to the decline of urban neighborhoods and the factors necessary to neighborhood survival and revitalization, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. BLOUIN:

H.R. 15455. A bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry; to the Committee on the Judiciary.

By Mr. BROYHILL:

H.R. 15456. A bill to establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, to establish a national community and education committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes; jointly to the Committees on the Judiciary, and Education and Labor.

By Ms. BURKE of California (for herself, Ms. Abzug, Mr. Conyers, Mr. de Lugo, Mr. Udall, Mr. Hawkins, Mr. Flood, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Edwards of California, and Mr. Richmond):

H.R. 15457. A bill to establish a national commission on neighborhoods; to the Committee on Banking, Currency and Housing.

By Mr. COLLINS of Texas:

H.R. 15458. A bill to establish a national commission on regulatory reform; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT (for himself, Mr. Flood, Mr. Goodling, Mr. McDade, Mr. Rose, Mr. Richmond, and Mr. Vigorito):

H.R. 15459. A bill to impose quantitative limitations on the importation of mushrooms into the United States; to the Committee on Ways and Means.

By Mr. DRINAN (for himself, Mr. Kastenmeier, Mr. Danielson, Mr. Badillo, Mr. Pattison of New York, Mr. Railsback, and Mr. Wiggins):

H.R. 15460. A bill to allow the awarding of attorney's fees in certain civil rights cases; to the Committee on the Judiciary.

By Mr. EVINS of Tennessee:

H.R. 15461. A bill to authorize the acquisition of a minimum of 50 additional acres at the Stones River National Battlefield in Murfreesboro, Tenn.; to the Committee on Interior and Insular Affairs.

By Mr. FLORIO (for himself, and Mrs. Meyner):

H.R. 15462. A bill to amend the Horse Protection Act; jointly to the Committees on Interstate and Foreign Commerce and International Relations.

By Mr. GILMAN (for himself, Mr. Breckinridge, Mr. Burgener, Mr. Conte, Mr. Dominick V. Daniels, Mr. Edgar, Mr. Gradison, Mr. Grassley, Mr. Guyer, Mr. Hughes, Mr. Kemp, Mr. McClory, Mr. Mazzoli, Mr. Mitchell of New York, Mr. Montgomery, Mr. Peyser, Mr. Russo, Mr. Sarasin, Mr. Scheuer, Mr. Simon, Mr. Treen, Mr. Walsh, Mr. Whitehurst, and Mr. Charles Wilson of Texas):

H.R. 15463. A bill to provide mandatory minimum prison sentences for persons illegally manufacturing, distributing, or dispensing certain narcotic drugs, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. HOWARD:

H.R. 15464. A bill to amend section 7(b)(2) of the Small Business Act to authorize the Small Business Administration to make loans with respect to disasters resulting from oil spills, fish kills, and certain sewage or sludge deposits; to the Committee on Small Business.

By Mr. HOWARD (for himself and Mr. Nowak):

H.R. 15465. A bill to terminate the authorization for the Tocks Island Reservoir project as part of the Delaware River Basin project and for other purposes; jointly, to the Committees on Public Works and Transportation, and Interior and Insular Affairs.

By Mr. HUGHES:

H.R. 15466. A bill to amend title 5 United States Code, to provide that certain air traffic specialists be considered as air traffic controllers for retirement and certain other purposes; to the Committee on Post Office and Civil Service.

By Mr. JACOBS (for himself, Mr. Hechler of West Virginia, Mr. Fountain, Mr. Downey of New York, Mr. Van Deerlin, Mr. Ichord, Mr. Eilberg, Mr. Bolling, Mr. Anderson of California, Mr. Charles Wilson of Texas, Mr. Miller of California, Mr. Simon, Mr. Ottinger, Mr. Lundine, Mr. Jones of North Carolina, Mr. Edgar, Mr. Ketchum, Mr. Roe, Mr. Bingham, Mr. Baucus, Mrs. Spellman, Mr. Sarasin, Mr. Walsh, Mr. Lagomarsino, and Mr. Edwards of California):

H.R. 15467. A bill to establish the Federal right of every unemancipated child to be supported by such child's parent or parents and, therefore, to confer upon certain local courts of the District of Columbia and every State and territory of the United States jurisdiction to enforce such right regardless of such child's residence; to the Committee on the Judiciary.

By Mr. LaFALCE (for himself, Mr. Gradison, Mr. Biaggi, Mr. Gilman, Mr. Koch, Mr. Rangel, Mr. Solarz, and Mr. Stratton):

H.R. 15468. A bill to permit federally chartered savings and loan associations located in New York to offer checking accounts to the extent that similar State chartered institutions in New York are permitted to do so; to the Committee on Banking, Currency and Housing.

By Mr. LEGGETT:

H.R. 15469. A bill to authorize funds for the acquisition, improvement, rehabilitation, and maintenance of the national wildlife refuge system areas, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MOLLOHAN (for himself and Mr. Holland):

H.R. 15470. A bill to amend the Solid Waste Disposal Act to prohibit the promulgation of certain regulations respecting beverage containers sold, offered for sale, or distributed at Federal facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Ms. Abzug, and Mr. Waxman):

H.R. 15471. A bill to amend the Older Americans Act of 1965 to require the Commissioner on Aging to establish a special supplemental food program and medical examination and referral program for older Americans, and for other purposes; to the Committee on Education and Labor.

By Mr. WAXMAN:

H.R. 15472. A bill to amend the Public Health Service Act to establish a commission to undertake certain studies on the various implications of advances in biomedical research and medical technology, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BLANCHARD (for himself and Mr. Mineta):

H.R. 15473. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years and for other purposes; to the Committee on Rules.

By Mr. CLAY:

H.R. 15474. A bill to amend the Internal Revenue Code of 1954 to provide for payment by the Government of all reasonable litigation expenses to prevailing taxpayers in legal actions; to the Committee on Ways and Means.

By Mr. CONTE (for himself, Mr. Preyer, Mr. Weaver, Mr. Florio, and Mr. Rhodes):

H.R. 15475. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. ENGLISH:

H.R. 15476. A bill to grant a Federal charter to the U.S. Athletic Hall of Fame, Inc.; to the Committee on the Judiciary.

By Mr. HAGEDORN:

H.R. 15477. A bill to limit the extent of Federal regulation of wharves, piers, and other structures in waters of the United States; to the Committee on Public Works and Transportation.

By Mr. LENT:

H.R. 15478. A bill to amend the Federal Water Pollution Control Act relating to progress payments for construction costs; to the Committee on Public Works and Transportation.

By Mr. MILLER of Ohio (for himself, Mr. Brooks, and Mr. Sarasin):

H.R. 15479. A bill to amend section 901(a) (relating to prohibition of sex discrimination) of the Education Amendments of 1972 to exempt from the prohibition of such section musical programs or activities, and social programs or activities designed for parents and students; to the Committee on Education and Labor.

By Mr. MOORHEAD of Pennsylvania:

H.R. 15480. A bill to require that the processes of legislating and rulemaking be accompanied by as assessment of regional economic impact, and for other purposes; jointly, to the Committees on Rules and the Judiciary.

By Mr. MURPHY of New York:

H.R. 15481. A bill to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 15482. A bill to amend the Internal Revenue Code of 1954 to provide an additional itemized deduction in the case of an individual who rents his principal residence (or who rents a site for a mobile home used as his principal residence); to the Committee on Ways and Means.

By Mrs. SMITH of Nebraska (for herself, Mr. Hechler of West Virginia, Mr. Yatron, Mr. Rodino, Mr. Sebelius, Mr. Poage, Mr. Armstrong, Mr. Skubitz, Mr. Shriver, Mr. Johnson of Pennsylvania, Mr. Fithian, Mr. Bevill, Mr. Flood, Mr. Dent, Mr. Simon, Mr. Green, Mrs. Keys, and Mr. Abdnor):

H.R. 15483. A bill to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KEMP (for himself, Mr. Andrews of North Dakota, Mr. Beard of Rhode Island, Mr. Cleveland, Mr. Ichord, Mr. Rousselot, and Mr. Sebelius):

H.J. Res. 1085. A resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. LAGOMARSINO (for himself and Mrs. Holt):

H.J. Res. 1086. A resolution proposing an amendment to the Constitution of the United States to provide for a single 6-year term for the President; to the Committee on the Judiciary.

By Mr. LAGOMARSINO (for himself, Mr. Grassley, Mr. Miller of California, Mr. Nolan, Mr. Pritchard, and Mr. Traxler):

H.J. Res. 1087. A resolution proposing an amendment to the Constitution of the United States to limit the number of consecutive Congresses in which Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. LAGOMARSINO (for himself, Mr. Burgener, Mr. Fraser, Mrs. Keys, Mr. Lujan, and Mr. Walsh):

H.J. Res. 1088. A resolution proposing an amendment to the Constitution of the United States to provide for a single 6-year term for the President, and to limit the number of consecutive Congresses in which Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. CONABLE:

H. Con. Res. 736. A resolution expressing the request of the U.S. Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University; to the Committee on International Relations.

By Mr. DIGGS (for himself, Mr. Zablocki, Mr. Fraser, Mr. Findley, and Mr. Gilman):

H. Con. Res. 737. A resolution expressing the sense of the Congress that every person throughout the world has a right to a nutritionally adequate diet and that the United States should increase substantially its assistance for self-help development among the world's poorest people; jointly, to the Committees on Agriculture and International Relations.

By Mr. ROSENTHAL (for himself, Mr. Fascell, Mr. Bingham, Mr. Solarz, Mr. Drinan, Mr. Waxman, Mr. Harrington, Ms. Abzug, Mr. John L. Burton, Mr. Moffett, Mr. Stark, Mr. Wolff, Mr. Burke of Florida, Mr. Gilman, and Mr. Riegle):

H. Con. Res. 738. A resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–15); to the Committee on International Relations.

By Mr. ROSENTHAL (for himself, Mr. Fascell, Mr. Bingham, Mr. Solarz, Mr. Drinan, Mr. Waxman, Mr. Harrington, Ms. Abzug, Mr. John L. Burton, Mr. Moffett, Mr. Stark, Mr. Wolff, Mr. Burke of Florida, Mr. Gilman, and Mr. Riegle):

H. Con. Res. 739. A resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–21); to the Committee on International Relations.

H. Con. Res. 740. A resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–39); to the Committee on International Relations.

By Mr. ROUSSELOT:

H. Con. Res. 741. A resolution revising the congressional budget for the U.S. Government for the fiscal year 1977; to the Committee on the Budget.

By Mr. ANDERSON of Illinois (for himself, Mr. John L. Burton, Mr. Drinan, and Mr. Patterson of California):

H. Res. 1523. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; to the Committee on Rules.

By Mr. CARR (for himself, Mr. Moffett, Mr. Miller of California, Mr. Tsongas, Mr. Blanchard, Mr. Runnels, Mr. Dellums, Mr. Jacobs, Mr. Stark, Mr. Krebs, Mr. Nowak, Mr. Jenrette, Mr. Hannaford, Mr. Levitas, Mr. Richmond, Mr. Ambro, Mr. Vander Veen, Mr. Mezvinsky, and Mr. Cornell):

H. Res. 1524. A resolution to amend the Rules of the House of Representatives to require committee approval of certain travel proposals, and for other purposes; to the Committee on Rules.

By Mr. KEMP:

H. Res. 1525. A resolution expressing the sense of the House of Representatives that the President should instruct the U.S. Ambassador to the United Nations to veto any application by Vietnam for membership in the United Nations; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

450. By the SPEAKER: A memorial of the Legislature of the State of California, relative to packers and stockyards; to the Committee on Agriculture.

451. Also, a memorial of the Legislature of the State of California, relative to public utilities; to the Committee on Interstate and Foreign Commerce.

452. Also, a memorial of the Legislature of the State of California, relative to Federal employee pensions; to the Committee on Post Office and Civil Service.

453. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to unemployment relief; to the Committee on Public Works and Transportation.

454. Also, a memorial of the Legislature of the State of California, relative to use of forest lands; jointly, to the Committee on Agriculture, and Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. EDWARDS of Alabama introduced a bill (H.R. 15484) for the relief of Camilla A. Hester, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

574. The SPEAKER presented a petition of the Board of Commissioners, Sumter County, Fla., relative to changes in operations by the Seaboard Coastline Railroad; which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. FINDLEY:

Page 158, after line 17, insert:

ECONOMIC IMPACT STATEMENT

SEC. 102A. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"ECONOMIC IMPACT STATEMENT

"SEC. 325. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standard of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation establishing a schedule of rates of excess emission fees under section 122(b),

"(4) any regulation under subtitle B of title I (relating to stratosphere protections),

"(5) any regulation under subtitle C of title I (relating to prevention of significant deterioration of air quality),

"(6) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section,

"(7) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(8) any aircraft emission standard under section 231, and

"(9) any railroad emission standard under section 235.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (9) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date 90 days after the date of enactment of this section. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

"(b) Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact statement respecting such standard or regulation. Such statement shall be included in the docket required under section 307(d)(2) and shall be available to the public as provided in section 307(d)(4). Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact statement in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a). Each such explanation shall be part of the statements of basis and purpose required under sections 307(d)(3) and 307(d)(6).

"(c) Subject to subsection (d), the statement required under this section with respect to any standard or regulation shall contain an analysis of:

"(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the availability of capital to procure the necessary means of compliance with the standard or regulation;

"(4) the direct and indirect effects on employment of the standard or regulation;

"(5) the effects on competition of the standard or regulation, particularly the effects or small business;

"(6) the effects of the standard or regulation on consumer costs, including costs especially affecting economically vulnerable segments of the population;

"(7) the effects of the standard or regulation on energy use or availability;

"(8) the impact of the standard or regulation on the potential for long-term economic growth;

"(9) the impact of the standard or regulation on productivity;

"(10) the impact of the standard or regulation on the Nation's balance of payments;

"(11) the economic impact of postponing the standard or regulation or of not promulgating such standard or regulation;

"(12) alternative methods to such standard or regulation for achieving equal or greater degree of emission reduction (or health or environmental protection) at lesser economic costs;

"(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection); and

"(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

"(d) The statement required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

"(e) Nothing in this section shall be construed:

"(1) to alter the basis on which a standard or regulation is promulgated under this Act; or

"(2) to preclude the Administrator from carrying out his responsibility under this Act to protect public health and the environment.

A standard or regulation subject to this section shall be invalid on the basis of a failure to comply with this section only if the Administrator acted arbitrarily and capriciously—

"(A) in failing to prepare and publish an adequate economic impact statement as required by this section, or

"(B) in failing to comply with the procedural requirements of subsection (b)."

H. CON. RES. 728

By Mr. ROUSSELOT:

Amendment in the nature of a substitute to House Concurrent Resolution 728. Strike all after the resolving clause and insert:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

(2) the appropriate level of total new budget authority is $394,200,000,000;

(3) the appropriate level of total budget outlays is $362,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $0;

(5) the appropriate level of the public debt is $649,260,000,000, and the amount by which the statutory limit on such debt should accordingly be decreased is $50,740,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National defense (050):
(A) New budget authority, $112,000,000,000.
(B) Outlays, $100,600,000,000.
(2) International Affairs (150):
(A) New budget authority, $3,400,000,000.
(B) Outlays, $3,000,000,000.
(3) General science, space, and technology (250):
(A) New budget authority, $4,400,000,000.
(B) Outlays, $4,300,000,000.
(4) Natural resources, environment, and energy (300):
(A) New budget authority, $19,200,000,000.
(B) Outlays, $11,800,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,300,000,000.
(B) Outlays, $2,000,000,000.
(6) Commerce and transportation (400):
(A) New budget authority, $17,700,000,000.
(B) Outlays, $16,200,000,000.
(7) Community and regional development (450):
(A) New budget authority, $5,200,000,000.
(B) Outlays, $5,200,000,000.
(8) Education, training, employment, and social services (500):
(A) New budget authority, $15,900,000,000.
(B) Outlays, $17,600,000,000.
(9) Health (550):
(A) New budget authority, $32,300,000,000.
(B) Outlays, $32,100,000,000.
(10) Income Security (600):
(A) New budget authority, $130,000,000,000.
(B) Outlays, $120,000,000,000.
(11) Veterans benefits and services (700):
(A) New budget authority, $20,300,000,000.
(B) Outlays, $19,500,000,000.
(12) Law enforcement and justice (750):
(A) New budget authority, $3,300,000,000.
(B) Outlays, $3,400,000,000.
(13) General government (800):
(A) New budget authority, $3,500,000,000.
(B) Outlays, $3,400,000,000.
(14) Revenue sharing and general purpose fiscal assistance (850):
(A) New budget authority, $5,000,000,000.
(B) Outlays, $5,000,000,000.
(15) Interest (900):
(A) New budget authority, $34,500,000,000.
(B) Outlays, $34,500,000,000.
(16) Allowances:
(A) New budget authority, $800,000,000.
(B) Outlays, $800,000,000.
(17) Undistributed offsetting receipts (950):
(A) New budget authority, −$16,900,000,000.
(B) Outlays, −$16,900,000,000.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 2, 1976, page 29025.

H.R. 15020. August 3, 1976. Government Operations; Post Office and Civil Service. Grants certain employment preference within a Federal agency to agency employees who have been affected by a closing, relocation, or reduction in services.

Directs the Chairman of the Civil Service Commission to assist specified employees affected by such an agency reorganization in finding substantially equivalent employment.

Subjects certain agency closings, relocations, and reductions in services to the same Congressional oversight as a reorganization plan submitted by the President.

H.R. 15021. August 3, 1976. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to authorize Federal agencies which collect revenues under the Act to recognize recreational and other beneficial public uses consistent with the promotion of navigation, flood control, and the generation of electric energy.

H.R. 15022. August 3, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce.

Reaffirms the authority of the State to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15023. August 3, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to develop a plan for shoreline protection and beach erosion control along Lake Ontario.

Directs the President to request an International Joint Commission study of further measures necessary to reduce the water level of Lake Ontario.

H.R. 15024. August 3, 1976. Ways and Means. Authorizes every individual whose income tax liability, under the Internal Revenue Code, is $1 or more to designate $1 of that liability to provide financial assistance to the United States Olympic Committee.

H.R. 15025. August 3, 1976. Public Works and Transportation. Authorizes construction of bank stabilization works on the Missouri River between Fort Randall Dam and Sioux City, Iowa, subject to the concurrence of the Governors of Nebraska and South Dakota.

H.R. 15026. August 3, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to allow air carriers to offer reduced-rate transportation on a space-available basis to persons who are 65 years of age or older or 21 years of age or younger, to handicapped persons, and to an attendant of such a handicapped person.

H.R. 15027. August 3, 1976. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make its provisions, formerly applicable to persons between 40 and 60 years of age, applicable to anyone 40 years of age or older.

H.R. 1502. August 3, 1976. Agriculture. Amends the Agricultural Adjustment Act of 1938 to permit the Secretary of Agriculture to allow owners or operators of farms within Colleton County, South Carolina, who have suffered a loss of ten percent or more of their tobacco acreage due to a natural disaster, to lease all or part of their tobacco allotment or quota to other operators or owners in the same or nearby counties within the State.

H.R. 15029. August 3, 1976. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to provide for the award of grants to port authorities in the United States to enable such authorities to protect public ports and land areas adjacent to such ports from fires and other accidents or casualties occurring in such ports.

H.R. 15030. August 3, 1976. Agriculture. Amends the Agriculture Adjustment Act of 1938 to permit the Secretary of Agriculture to allow owners or operators of farms within Clarendon, Darlington, Horry, Williamsburg, Florence, and Marion Counties, South Carolina, who have suffered a loss of ten percent or more of their tobacco acreage due to a natural disaster, to lease all or part of their tobacco allotment or quota to other operators or owners in the same or other counties within the State.

H.R. 15301. August 3, 1976. Ways and Means. Amends the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to include Mississippi among the States which may provide coverage for policemen and firemen under agreements entered into pursuant to such title.

H.R. 15302. August 3, 1976. Interior and Insular Affairs. Prohibits mining or related operations from discharging amphibole asbestos fibers except on land and in accordance with regulations promulgated by the Secretary of the Interior.

H.R. 15033. August 3, 1976. Interior and Insular Affairs. Stipulates that mining companies or related operations which have discharged amphibode asbestos fibers into Lake Superior shall be required to pay for the cost of removing such fibers from water used for human consumption, under regulations promulgated by the Secretary of the Interior.

H.R. 15034. August 3, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to establish a catastrophic health insurance program.

Delimits the eligibility criteria and the scope of benefits of such program.

States that such benefits shall include hospital, post-hospital, and home health services, and medical benefits.

Creates a Federal Catastrophic Health Insurance Trust Fund in the United States Treasury to provide a reserve for payment of benefits.

H.R. 15035. August 3, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 by extending the maximum term of license and license renewal for the operation of broadcasting stations from three to four years for television and to five years for radio or any other class of station. Revises the condition for approval of applications for licensing or license renewal.

SENATE—*Wednesday, September 8, 1976*

The Senate met at 10 a.m., and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, eternal and invisible, beyond us yet ever near us, we pause in the midst of heavy duties and pressing issues to commune with Thee, the unseen source of goodness, beauty, and truth. May we so yield ourselves to Thee that our public service may arise out of pure hearts and from clean hands. May the light which is the Light of the World illuminate our thoughts and our actions. We intercede not for ourselves alone but for the President, the whole Congress and all who influence its policies. We pray for the whole body of the people, that in the days in which we live we may come to know Thy will and to do it.

"Thy love divine has led us in the past;
In this free land by Thee our lot is cast;
Be Thou our Ruler, Guardian, Guide, and Stay;
Thy Word our law, Thy paths our chosen way."—DANIEL C. ROBERTS.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 8, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 7, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDERS FOR FRIDAY, SEPTEMBER 10, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Friday, September 10, 1976, after the joint leaders have been recognized the Senator from Iowa (Mr. CLARK) and the Senator from Colorado (Mr. GARY HART) be recognized for not to exceed 15 minutes each, and the Senator from Wisconsin (Mr. NELSON) and the Senator from Iowa (Mr. CULVER) be recognized for not to exceed 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Senator from Michigan, the assistant minority leader, desire recognition?

Mr. GRIFFIN. I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order the distinguished Senator from North Carolina (Mr. HELMS) is recognized for not to exceed 15 minutes.

Mr. HELMS. Mr. President, I thank the Chair.

HOSTILITY TOWARD SOLZHENITSYN

Mr. HELMS. Mr. President, the Evans and Novak column of September 2, published the day after the Senate recessed, bears witness to the continuing hostility toward Alexandr Solzhenitsyn which still exists in the State Department. These distinguished columnists, Mr. Evans and Mr. Novak, report that Mr. Winston Lord, the State Department policy planning director, referred to Mr. Solzhenitsyn as a "Fascist" or almost so. More important, however, Mr. Lord went on to repeat the old State Department line that Mr. Solzhenitsyn and his views were a threat to peace.

Mr. President, yesterday afternoon I talked with Bob Novak, who is, as I say, a distinguished journalist and a man in whom I have complete confidence. I have observed his and Mr. Evans' work over a period of many years. I asked Mr. Novak if he were certain beyond any peradventure that his report as to Mr. Lord's comments about Solzhenitsyn was accurate. He assured me that it was absolutely accurate and that any attempt to deny it or to temper it would be a contradiction of the truth.

In any case, Mr. President, this episode, which took place August 19, is simply a repetition of the disastrous advice which Secretary of State Kissinger gave to President Ford last year in advising the President not to receive Mr. Solzhenitsyn at the White House. Moreover, it occurred only 2 days after the Republican Party, gathered in Kansas City, hailed Mr. Solzhenitsyn as a—and I quote from the Republican platform—

> Great beacon of human courage and morality.

And the Republican platform went on to say in regards to Mr. Solzhenitsyn—

> His compelling message that we must face the world with no illusions about the nature of tyranny.

Furthermore, the Republican Party, as a whole, pledged that "ours will be a foreign policy that keeps this ever in mind."

Yet, Mr. President, only 2 days later the administration's foreign policy planning director, Mr. Winston Lord, is not even keeping it in mind; he is quoted as repecting Solzhenitsyn's visit as a basis for foreign policy.

Now this is not just a question of rhetoric. It is clear that the Secretary of State and his Department are completely out of touch with the mood of America. The Secretary and his Department regard Solzhenitsyn as a threat to peace at a time when the Republican Party regards Solzhenitsyn as a bulwark of peace.

Let me quote once again from the Republican Party platform:

> The goal on Republican foreign policy is the achievement of liberty under law and a just and lasting peace in the world. The principles by which we act to achieve peace and to protect the interests of the United States must merit the restored confidence of our people.

Mr. President, I ask, how are we going to restore the confidence of the people if the Secretary of State and his Department do not abandon the policies which have caused the people to lose confidence in the first place? Our goal in foreign policy is based upon a philosophy of liberation, not a philosophy of concession. We do not want peace at any price; we want a just peace. We want a peace which restores basic human freedoms and rights.

This is the message which Solzhenitsyn has been bringing us. Solzhenitsyn has been saying that the oppression and tyranny which characterize Communist countries are not the result of history or temporary necessity; Solzhenitsyn is saying that communism is such a perversion of human nature that it necessarily results in tyranny.

In other words, there is no hope of a just peace, as long as communism rules. But if that is a somber message, there is also a message of hope. Solzhenitsyn also shows that communism is corrupt within, and that the internal resistance is growing. That is why he continues to plead with the leaders of the United States not to strengthen the Communist ruling minority in the Soviet Union with technological and diplomatic assistance.

Solzhenitsyn does not ask us to attack the Soviet Union, or to engage in military operations. He asks only that we withhold our support of tyranny, so that the internal strains and struggles within the Communist empire can emerge and liberate the Soviet peoples.

This is why we must have, as the Republican party platform urges, a philosophy of liberation. We must uphold the right and duty of those oppressed by communism to free themselves. We must never take away their hope that someday the evil will be thrown off, and all the traditional rights of man—the rights of family, private property, and free expression both in economics and speech—may be restored.

That is also why the Republican party platform proclaims the following:

> Agreements that are negotiated, such as the one signed in Helsinki, must not take from those who do not have freedom the hope of one day gaining it.

Everybody knows what the Helsinki agreement has done. The President received bad advice from Secretary Kissinger when he signed this agreement. I know that the President signed it in good faith, based on advice from Dr. Kissinger. But the fact remains that we must now take steps to see that the agreement is interpreted in the most hopeful way possible, so as to restore confidence both to our own people and to those who are caught behind the door slammed shut at Helsinki.

It is time now to find our whether Secretary of State Kissinger and his subordinates such as Mr. Lord, accept the Republican party platform or not. It is time for them to put up or shut up. The Secretary has been quoted as saying that he felt it did not apply to any of the policies which he has pursued in the past; but it appears now that nothing has really changed at the State Department.

The Secretary must repudiate any statement originating in his department which suggests that Alexandr Solzhenitsyn and Alexandr Solzhenitsyn's views are a threat to peace, because it simply is not so. On Wednesday of last week, President Ford telephoned me and told me that he wholeheartedly accepts the platform and the principles written therein. I submit that Secretary Kissinger can do no less. If the Secretary of State does not embrace the platform, as it stands, especially the sections dealing with foreign policy, then this Senator from North Carolina feels that Secretary of State Kissinger should resign, because the people of America expect us to stand on principle. The party cannot stand divided in this election, and the principles that were enunciated in the Republican Party platform are vital to the credibility of the political process and, more important, to the security of this Nation. Secretary of State Kissinger has no choice, if the administration is to win the confidence of the American people. He must embrace the platform or he should resign.

Mr. President, I ask unanimous consent that the Evans and Novak column of September 2, as published in the Washington Post, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE HOSTILITY TOWARD SOLZHENITSYN

(By Rowland Evans and Robert Novak)

Two days after the Republican national platform extolled Alexander Solzhenitsyn as a "great beacon of human courage and morality," one of Henry Kissinger's top aides used the word "Fascist" in describing the anti-Communist Russian novelist.

The comments were made Aug. 19 by the highly respected Winston Lord, State Department policy planning director, in an off-the-record session with the department's student interns. Some of the interns present quote Lord as saying Solzhenitsyn "is just about a Fascist." Lord says he did not call the writer a Fascist but does not deny using the word.

Behind this unfortunate hyperbole is an undeniable truth: Hostility toward Solzhenitsyn within the policymaking machinery headed by Secretary of State Kissinger has not subsided since June 1975, when it convinced President Ford he should snub the Nobel laureate. At the State Department, Solzhenitsyn is still viewed as a threat to world peace rather than a symbol of freedom.

Judging from his reluctance to accept the Solzhenitsyn plank at Kansas City, Mr. Ford shares this view as he does Dr. Kissinger's other positions. Nor is he likely to be challenged on this point by Jimmy Carter, whose foreign policy advisers agree with Foggy Bottom in branding Solzhenitsyn as a slightly balmy 19th century Russian mystic.

Thus, the bipartisan foreign policy establishment has been successful in downgrading Solzhenitsyn since his triumphant arrival here a year ago. He has been a key target of the detentists, both in the Kremlin and on the State Department's seventh floor.

The view from the seventh floor was revealed in Lord's Aug. 19 session with the student interns when he was asked about Solzhenitsyn. He replied that it had been a mistake not to invite the Russian expatriate to the White House—an admission that is now State Department doctrine.

Lord went on to praise Solzhenitsyn's brilliance and courage but added that his views, if carried out, could threaten world peace. Then, as reported immediately thereafter by one intern and later confirmed by others, Lord said in matter-of-fact tones: "Let face it, he's just about a Fascist." He concluded by saying Solzhenitsyn fulfilled a desire by many Westerners to feel moral.

When asked to confirm or deny this, Lord told us: "I did not call him a Fascist. He's not a Fascist." As to whether he used the word "Fascist," Lord said he would have to consult the transcript. However, no transcript was kept.

The spirit of what Lord said was faithful to private views held inside the Ford administration. That explains the fierce opposition to any mention of Solzhenitsyn in the Republican platform. When Mr. Ford backed down rather than risk a disastrous floor fight with the Reagan forces, Kissinger was furious. He even threatened to resign the next day if the amendment were accepted (prompting an admonition from one sharp-tongued Ford operative that he ought to quit

> today, not tomorrow, to generate more delegates for the President).
>
> The Ford-Kissinger attitude is duplicated on the Democratic side. A pro-Solzhenitsyn plank was quietly rejected by the Democratic platform-drafting group and never reappeared in open sessions. Key advisers, contending that Solzhenitsyn has taken on a right-Republican coloration, advise Carter not to raise the matter in speeches or in forthcoming debates with the President.
>
> Since Solzhenitsyn is neither a right-wing Republican nor a Fascist and might be considered rather moderate considering his life's experience, the real objection is not to his ideology but to the threat he poses to detente. That threat was expressed bluntly in the State Department's memorandum to the White House on June 26, 1975:
>
> "The Soviets would probably take White House participation in the affair (a banquet honoring Solzhenitsyn) as either a deliberate negative signal or a sign of administration weakness in the face of domestic anti-Soviet pressures. . . . Not only would a meeting with the President offend the Soviets but it would raise some controversy about Solzhenitsyn's views of the United States and its allies. . . . We recommend that the President not receive Solzhenitsyn."
>
> While that recommendation is now conceded to be a political error, the philosophy behind the memorandum flourishes in the Ford administration. When Winston Lord told student interns that the Russian expatriate's political views threaten world peace, he was unveiling the hard consensus of the U.S. foreign policy establishment, which now seems the conventional wisdom in Washington.

ORDER OF BUSINESS

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Oklahoma (Mr. BARTLETT) for not to exceed 15 minutes.

JAPAN'S SECURITY ROLE IN THE WESTERN PACIFIC

Mr. BARTLETT. Mr. President, 2 days ago, a Soviet Mig-25, Foxbat, the most advanced Soviet jet fighter, penetrated without challenge or interference the air defenses of Japan and made what could be very mildly described as a surprise landing at a commercial airport in Hakodate, Japan. The following is an account of the incident as reported by the Washington Post yesterday, September 7:

> The plane approached from the north—supposedly the strongest sector in Japan's 28 station radar net—and slipped through at a low altitude. It was first identified 200 miles northwest of Hakodate at 1:11 p.m.
>
> Japanese-manned Phantoms were scrambled nine minutes later "to warn the enemy fighter not to enter Japanese territory," according to a Defense Agency spokesman. The Mig eluded them, ignored warnings broadcast in English and Russian, and dived off defense radar screens for 30 minutes. It reappeared over Hakodate Airport, and landed minutes after a domestic airline took off for Tokyo.
>
> Soviet air and naval reconnaissance missions close to Japan's shores have spurred public feeling for a strengthening of defense forces. The major emphasis in Japan today has not been the pilot's defection but the ease with which he arrived.

Mr. President, it is still unclear whether this was in fact a deliberate defection by the pilot of the Mig-25, or whether the pilot might have been forced to make an emergency landing while on a reconnaissance mission against Japan, or whether some other explanation may be found for this bizarre incident. However, there is no doubt that this military embarrassment clearly demonstrates the existence of glaring deficiencies in Japan's self-defense capabilities.

This particular matter is both topical and urgent; however, it represents only a small part of a much greater problem, one which goes far beyond the question of the adequacy of Japan's radar system. To place the Mig-25 incident in perspective, we must examine in detail the larger question of Japan's security role in the western Pacific.

For too long a period, both in Japan and the United States, the security role of Japan has been treated from a narrow perspective and overladen with an emotionalism that is long outdated. On the one hand, Japan's achievements in the security field are greater than most people realize; on the other hand, its economic capacity and political wherewithal to contribute further has been eschewed. However, Japan can do more and must do much more both for the preservation of peace and the vitality of the United States-Japanese alliance.

Japan's contributions to security have not been adequately recognized, because too frequently security is considered exclusively in terms of military considerations. Actually, security has several aspects in addition to its military dimension: Economic development, political stability, and regional cohesion. In this broader context, Japan has contributed greatly to security both at home and abroad. Economically, Japan has helped propel the growth of other East Asian states whose exports to Japan have been a crucial stimulus in their economic development. Nothing highlighted this factor more than the recent energy crisis when the temporary depression in Japan adversely affected regional prosperity.

Japan invests considerable sums in the region, through official aid as well as in the private sector. Japan now provides more foreign aid as a percentage of GNP than the United States. Its continued aid programs help the recipient states directly and tend to reduce the influence of the major Communist powers. All states in the area have repeatedly sought a continued Japanese economic presence for these very reasons.

Finally, Japan has done much to strengthen regional organizations, especially the Asian Development Bank to which it is a major contributor.

However, there are weaknesses in Japan's approach—trade imbalances favoring Tokyo, allegations of exploitative investments, and general antagonism to its overwhelming economic superiority. But Japan is sensitive to these complaints and is trying to adjust accordingly.

Significantly, in the political realm, Japan has begun to edge away from its cautious or "low posture" approach. It has worked with the Southeast Asian states to address the 1970 Cambodian crisis. More recently, it has cooperated vigorously with other regional states to develop a coordinated position at the U.N. on difficult issues like Korean representation. Japan should be encouraged in its current quest for a permanent seat on the Security Council.

Most important of all, Japan's great success in achieving a viable economy and a stable domestic order has contributed enormously to the overall stability in world affairs. Japan conclusively demonstrates that outstanding economic progress does not require a totalitarian communist regime. Japan remains an effective democracy at a time when authoritarian regimes are on the rise elsewhere in Asia.

Japan's defense effort has been considerably limited in comparison to other industrialized democracies. Nonetheless, we should not overlook its contribution to the military stability and security of the Pacific. Most important, under the Mutual Security Treaty of 1960, Japan provides the United States major air and naval facilities in return for strategic and conventional military protection. These rent-free installations comprise a significant financial contribution for this land-poor country. Moreover, the United States may use these facilities under certain conditions, with permission from the Japanese, for the security of the Far East, and not simply of Japan. The high quality of Japanese labor and technology at these installations adds immeasurably to their value as the foundation of the U.S. strategic position in the western Pacific. In turn, American nuclear and conventional protection reinforces the global balance, enhances deterrence, and keeps Japan from becoming a tension point in world politics.

Japan's self-defense effort is quite limited but sustained. For 20 years it has steadily upgraded its forces and is now preparing a fifth defense buildup plan. However, inflation is a real problem. These forces are modest in size, but well-trained and possess high-quality but limited conventional equipment. Japanese defense authorities are realistic about the weaknesses of the Self-Defense Forces—SDF—and have outlined a sensible program for improvement to handle existing operational responsibilities and limited-threat contingencies. The recent Defense White Paper of June 1976, though woefully inadequate, shortsighted, idealistic, and optimistic, calls for concentration on improving air and sea surveillance and other intelligence activities. Japan also recognizes the need to make bases less vulnerable and to upgrade logistical support-and-supply systems.

The Government has worked to improve public debate on defense issues, to give public respectability to security concerns, and to improve the image of the self-defense forces. Public debate in the United States is equally important to Japan's achieving a credible, yet significant security role in the Far East.

The Japanese have also sought closer relations with the United States in dealing with defense problems. The white paper recognizes the need for smooth coordination of operations with U.S. forces. It accepts the need for an effective United States-Japan security system, in part resting on a sensible Japanese effort to upgrade forces, tasks, and equipment. Closer cooperation, therefore, has not led Japan to slough off its responsibilities or to propose, as it formerly did, reduced U.S. involvement in the western Pacific. Instead, Japan seeks greater cooperation in preparing for contingencies such as threats to maritime lines of communication. The newly created United States-Japan Committee for Defense Cooperation is a useful step forward, enabling the two states to maintain, at the civilian policy level, control of coordinated military planning, including the exploration of contingencies.

While the way for a more vigorous defense role for Japan has much improved, we should not overlook the complexities of Japanese security politics and the emotionalism that still besets her defense policy.

First, there is the "no-war" constitutional restriction under article 9, interpreted to permit arming for self-defense but not for offensive activities. This view of the Defense Establishment has been challenged but upheld in the courts, and at least some political elements have advocated abolition of the self-defense force. A great political division might split the country should a sustained attempt be made to amend the constitution. But that is neither necessary nor desirable.

We all know of the "nuclear allergy" and the historical reasons underlying Japan's refusal to develop an atomic arsenal, and its recent concerns demonstrates the degree of its commitment to this course. And, it should be noted, the United States has long advocated Japanese ratification of the Nuclear Nonproliferation Treaty.

Powerful restrictions are even more apparent when we consider a role for Japan in defense matters beyond its national frontiers. There is a deep aversion in Japan to any projection of military power abroad, including regional defense obligations. Although World War II and fear of Japanese militarism are rapidly fading away in Southeast Asia, no doubt many Asians still remain concerned about a Japanese military revival, because, combined with Japan's great economic power, it rekindles fear of imperial domination from Tokyo.

The policy of limited defense also rests on a specious official Japanese view of a stable international environment that assures continued security with a minimal effort. This overly optimistic position assumes a continuation of: The U.S.-U.S.S.R. nuclear balance and efforts to sustain détente, U.S. conventional military support, the absorption of expanding Soviet power in Europe, continued Sino-Soviet confrontation even if relations partly improve, favorable developments in United States-Chinese relations, and the status quo in Korea without escalation of minor incidents. These premises underlie the myopic plans for Japan's defense beyond 1976.

But still Japan must do more, much more, in the security field—and it has the capacity for doing so. If it adopts the proper policies, its government can cultivate adequate political support at home and abroad for these efforts to succeed.

The need to do more stems from a candid, objective observation of the dangerous and increasingly uncertain international situation. Clearly Japan must take off its blinders, it must face up to reality.

Because change is occurring gradually, there is sufficient time to act. But the absence of a decisively negative turn of events should not lull anyone into believing that inaction will allow Japan to avoid the most harmful consequences.

Major challenges already exist and will proliferate in the near future. These include:

The continuing growth of Soviet naval power worldwide and in the western Pacific and Indian oceans. Long concerned with this trend, the Japanese chart Soviet force increases with meticulous precision, and have placed a growing dependence on the U.S. naval presence for their security.

North Korea refuses to accept a stabilizing settlement that recognizes two Koreas. In this it is supported, diplomatically and undoubtedly militarily, by its major Communist allies. The peninsula remains a powder keg that could ignite war throughout the region.

The dangers of insurgency are real in Southeast Asia, particularly Malaysia, Indonesia, and Thailand. Given a sharply reduced U.S. involvement and likely rise in guerrilla activity, Japan must reconsider its current low posture in its region. It must determine the extent of its interest in regional stability, and the value derived from rendering assistance to these states.

The vulnerability besetting its vital lines of energy and food communications to the Persian Gulf, Indonesia, and North America is an Achilles heel. Japan should, on a crash basis, implement the obviously expensive but urgently needed plans to protect and guarantee its energy and food requirements.

Because of Japan's dependence on foreign energy and food resources and the vulnerability of these resources to interdiction along the long supply routes through the Indian and Pacific Oceans, Japan should increase its navy to help escort its commercial shipping in times of crises. Japan currently imports 90 percent of its domestic energy requirements, with 74.3 percent of its petroleum needs coming from the Middle East alone during calendar year 1975. Likewise, Japan is highly reliant on other nations for food. While Japan was 72 percent self-sufficient in terms of the value of food consumed in 1972, it was only 50 percent self-sufficient in terms of caloric intake. By contrast, in 1960 Japan was 90 percent self-sufficient in the value of food consumed. The trend is obvious. Japan can literally be strangled or blackmailed by unfriendly countries if its supply routes are cut off.

Future Chinese policy is uncertain because of the unpredictability of its domestic politics. Conceivable turmoil in Peking could induce an opportunistic Soviet venture leading to conflict, or a Sino-Soviet war could occur in any event. At the other extreme, some form of reconciliation could measurably improve Sino-Soviet relations.

A war between the two could threaten Japan in its spillover effects. A reconciliation would undermine a major Japanese premise that regional power balances assure the country's security and make a greater defense effort unnecessary.

Rumblings from China indicate Peking's insistence that after the American elections, the United States must end official recognition of Taiwan. The final resolution of this relationship, which affects the United States, mainland China, and Taiwan, could change the regional balance of military power.

Any significant buildup in military defense forces has a long leadtime, particularly in a democracy which requires public support, but even more so in Japan, whose military dependence on the United States has stimulated its complacence.

Recurring concern in the United States about Japan's security effort cannot and should not be ignored. The U.S. alliance remains intact, but, as Japan continues to prosper and as defense issues in the Pacific become more difficult and affect Japan more directly, American resentment is bound to grow over Japan's failure to expand its defense efforts. Doubts could rise in both lands about the viability of the security relationship, just when it should become more cohesive.

For these reasons, the time has come for Japan to free itself from outmoded fears, to consider openly the threats, and to consider seriously new initiatives. Because the problems are formidable, I propose steps that are modest and limited, measured by any objective standards. Before addressing these specifics, let me make one additional comment on a sensitive matter. There persists a continuing fear in the United States, in east Asia, and even in Japan that increases in Japanese conventional military defense capabilities will lead to massive—even nuclear—rearmament, and to a revival of the militarism of the 1930's. In fact, the United States is guilty of calling on Japan to do more while at the same time expressing such fears.

Some of the fear is generated by the term "rearm" which seemingly connotes expanding offensive military might. The question, "Should Japan rearm?" is similar to "When are you going to stop beating your wife?"

It should be recognized how unrealistic such concerns are in the totally different circumstances of the 1970's. Japan today has an effective and vital democracy, with firm civilian control over the military. The international security scene is completely transformed with two superpowers and a nuclear-armed China clearly superior to Japan in military might. The smaller states of the region recognize the value of Japan in helping balance the Soviet Union and

China as the American role diminishes. Finally, two major considerations negate the whole argument of unbridled offensive militarism: We are talking about modest improvements to cope with specific, real defense problems, and the Japanese are operating within the U.S. alliance framework, which will be strengthened, not weakened, as Japan takes a more active role in its own defense. The fictional demon of revived Japanese militarism must finally be exorcised.

To begin, Japan should increase significantly its defense expenditures. At less than 1 percent—0.82 percent—of GNP, Japan is in the lowest category of defense spending in the entire world. This compares to corresponding ratios of 16 percent for the U.S.S.R., 6 percent for the United States, and 4 percent for the Federal Republic of Germany. Moreover, inflation has eroded the recent nominal increases so that additional sums planned for 1976 over 1972 hardly materialized, and most of these took the form of greater expenditures for personnel. Capital spending for weapon procurement has declined as a share of the total, until today it comprises little more than 20 percent of defense outlays. Because personnel and other ordinary expenses are bound to rise under inflationary pressures, the defense share of GNP will have to reach 1.15 percent or higher over the next 5 years if capital expenses are to maintain their already reduced share of the total. In fact, Japan will have to increase its defense share of GNP to the 1.25- to 1.50-percent range if it is to maintain even the modest conventional defense force currently projected.

This brings me to the matter of existing forces and their responsibilities. As the recent white paper acknowledges, the present 5-year buildup program ends this year "with a substantial portion of the planned acquisition of major equipment left unaccomplished, mainly due to high procurement cost." Furthermore, the training of the Self-Defense Force remains inadequate because of insufficient space. Because of logistical shortages, Japanese forces could not fight for even a month to protect the country against a serious conventional attack. It may even lack the ability to carry out efficiently its lesser assignments to prevent minor aggressions and limited probes. Its reserve supply and transport systems remain woefully weak. Only vigorous efforts will bring actual capabilities up to the levels required to handle existing missions. Clearly, the additional sums required may not come easily in an era of likely reduced economic growth rates. But, given Japan's extraordinarily low levels of defense expenditures, a greater effort is both necessary and politically feasible.

While operating within the current defense framework, Japan should conduct its air and naval activities—particularly in patrols and intelligence—with more efficiency and assertiveness. It should discourage Soviet penetrations and harassment of its waters and air space. Japan should be able to deny to hostile naval forces access to the three straits near the home islands. In particular, it needs a more effective antisubmarine capability in an area encompassing several hundred miles around the home islands.

Japan should therefore strengthen the Maritime Self-Defense Forces in future buildup plans. Without developing a true "blue-water" navy, it must effectively protect sea lanes to Okinawa and provide for that island's defense. Going a big step further, Japan must protect its vital energy sea lanes from Japan through the Indian ocean to the Mideast, the source of 75 percent of its energy requirements and its food sea lanes.

Even a modest effort will contribute to maintaining the naval balance in the Pacific, as the number of Soviet vessels rises, especially in the category of small but efficient combat ships related to submarine, minelaying, and escort activity. Other States, including China, are not likely to oppose such a measurable contribution to keep Soviet power in check.

A less desirable alternative might be for Tokyo to assume some of the U.S. military costs in Japan. This type of burden sharing, by reducing pressure against the inequalities of the relationship with the United States, might work for the long term in Japan, but risking American lives to obtain Japanese dollars will not sell in the United States.

United States-Japanese cooperation in defense planning and operations can and must be broadened considerably. The creation of formal bodies to explore contingencies is a most important first step. This should lead the United States to work more closely with Japan on existing defense plans and in developing future ones. Japan, in turn, should assume more operational burdens, not only in southern waters, but also in similar activities in the more sensitive Soviet-patrolled area to the north. Close allied air and naval cooperation in extended surveillance, routine operations, and joint exercises would inject greater realism into Japanese strategic planning and force development.

Such efforts should receive adequate publicity and not be kept hidden from Japanese public view for fear of adverse political reaction. Intense criticism by the opposition will occur, but it is important to face the issue squarely so as to generate general acceptance of active allied defense cooperation. This whole matter should be treated as a routine and constructive response to a real threat instead of as an immoral act, a political liability, and a danger to the security of Japan.

With regard to Southeast Asia, Japan can play a more direct role in defense-related matters. The U.S. role in the area, including the provision of military assistance, has declined. If some ASEAN members desire military assistance, particularly noncombatant equipment, I believe it would be very nearsighted for the United States to object or for Japan to reject such requests. Such aid would not fuel a destablizing arms race; rather it would contribute to stabilizing the regional balance. If it were feasible to channel such assistance through ASEAN itself, such help could strengthen that organization and reduce further any fears by the recipients of Japan gaining excessive leverage over them. And it might lead to more productive Japanese-ASEAN discussions regarding mutual understanding in trade and investment.

Finally, I should like to say a few words about Japanese-Korean relations. Conventional wisdom argues that Japan cannot help South Korea's defense, because the Koreans themselves oppose such a connection and because the Japanese reject all foreign entanglements, even in a land acknowledged as vital to their security. It is also undoubtedly true that Moscow and Peking would react negatively to such an initiative. Yet what will happen if the present situation runs its course? Will Japan's security be enhanced if the United States eventually reduces its Korea-based forces? Will the situation improve if South Korea develops an autonomous capability? If Seoul obtains nuclear weapons, could Japan still adhere to the Nonproliferation Treaty? Is there any real indication that Kim Il-sung would refrain from trying to unify Korea under communism? Will China back off from its recognition of North Korea as the sole legitimate government on the peninsula so long as present conditions prevail?

I believe that a Japanese decision, in conjunction with the United States, to help underwrite the security of South Korea in the present circumstances can have only beneficial effects. This step could be contingent upon some U.S. forces remaining in Korea. The Japanese undertaking could begin with a diplomatic commitment, the development of trilateral air defense contingencies and intelligence endeavors, and some military assistance credits. This in turn could keep the South Korean rearmament efforts within acceptable limits. Seoul would benefit from a strengthened American tie, now placed in a multilateral context, and a diminished threat from the North. Chinese, and Soviet objections could be met by pointing to the stabilizing consequences of Japan's action, combined with the suggestion that this could evolve into a four-power guarantee of the status quo along the German model, if Pyongyang were induced to agree. I realize the problems inherent in such a proposal but I think that, at a minimum, the Japanese must begin to openly discuss the Korean issue.

In summary, Japan is a major force for peace and stability in Asia, but has received little recognition for its considerable achievements. It has great capacities, still untapped. In the current Asian situation, its low posture of the past is woefully inadequate. By timely, though limited actions, it can enhance the security of the region while pursuing its own vital interests at a reasonable cost. Failure to act will raise the costs dramatically in the future without avoiding dangerous crises or assuring favorable outcomes to such situations. Japan is a moderate, democratic state whose initiatives in regional affairs are sorely needed, in order to help establish both a regional and worldwide balance of power. It is my belief that proper defense measures, undertaken in a timely manner, will strengthen our alliance, enhance the security of all states in the region, and enable Japan to play a role more compatible with its true capabilities and responsibilities. Both the leaders in the United States and Japan must discard the outmoded rhetoric of past days and seriously deal with the problem of Asian security.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, according to the previous order, there will be a period of not to exceed 15 minutes for the transaction of routine morning business with speeches by Senators limited to 5 minutes each.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection, it is so ordered.

RESOLUTION PROVIDING FOR EQUAL EMPLOYMENT OPPORTUNITIES IN THE SENATE

Mr. MANSFIELD. Mr. President, on behalf of the minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT), Mr. ALLEN of Alabama, Mr. TUNNEY of California, Mr. BAYH of Indiana, and myself, I send to the desk Senate Resolution 534 and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 534

Whereas the Senate supports the principle that each individual is entitled to the equal protection of the laws guaranteed by the Fourteenth Article of Amendment to the Constitution of the United States; and

Whereas the Senate as an employer is not compelled by law to provide to its employees the protections against discrimination established in the Equal Pay Act of 1963 or title VII of the Civil Rights Act of 1964: Now, therefore, be it

Resolved, That (a) no Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

(1) fail or refuse to hire an individual,

(2) discharge an individual, or

(3) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, or state of handicap

(b) Each Member, officer, and employee of the Senate shall encourage the hiring of women and members of minority groups at all levels of employment on the staffs of Members, officers, and committees of the Senate.

Mr. MANSFIELD. Mr. President, this resolution provides for equal employment opportunity in the Senate. It states simply that the Senate will not discriminate in the employment of individuals because of their race, color, religion, sex, or national origin.

As you know, the employees of the United States Senate are not covered by the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1964.

These laws which Congress passed to protect workers all over the country do not apply to our own staff members.

It would seem logical—not to mention equitable—for the Senate to guarantee equal protection to its own employees and I believe this resolution is a firm step in that direction.

I am pleased that Senators HUGH SCOTT, ALLEN, TUNNEY, and BAYH, join me in sponsoring this resolution. I hope it will form the basis for affirmative action by Members of the Senate.

Mr. MANSFIELD subsequently said: Mr. President, joining Senators HUGH SCOTT, ALLEN, TUNNEY, and BAYH, in the sponsorship of this resolution are Senators ABOUREZK, BROOKE, CLARK, JAVITS, MCGOVERN, PERCY, RIBICOFF, and STEVENSON.

Mr. ALLEN. Mr. President, is the resolution submitted for immediate consideration?

The PRESIDING OFFICER. Is there objection to its immediate consideration?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. Mr. President, I ask for recognition under the morning business.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I appreciate the distinguished majority leader and the distinguished Republican leader allowing me to be one of the cosponsors of this resolution, because I believe the Members of the House and Senate—and, of course, particularly the Members of the Senate, because that is what the resolution has reference to—should follow the same rules that are required of the public generally.

I do not believe there should be an exacting standard for the public and a less exacting standard for the Members of the Senate. In fact, I think that Members of the Senate and Members of Congress should hew to more exacting lines of conduct and more exacting levels of high morality in the performance of their duties.

I might say I agree with Grover Cleveland who said that a public office was a public trust. I will go one step farther and say that the office of U.S. Senator belongs to the people; it does not belong to the person who happens to occupy that position at a particular time.

Too, his staff positions do not belong to him. They also belong to the people and if the public, the people generally, employers generally throughout the country, are required to adhere to a certain standard, I think it is improper for the Senate and for the House to exempt themselves from that particular standard.

If we have a law of general application throughout the country, and we have an exemption for Members of the House and Senate, I believe that is improper.

I do not believe in the concept of congressional immunity. I believe that Members of Congress should adhere to the same laws, the same rules, the same obligations that are required of citizens generally.

I am particularly interested in this resolution because when the EEOC bill was up here in the Senate some years ago I opposed the change in the concept in this Equal Economic Opportunity Commission from being an advisory body without enforcement powers, changing that concept over to that of an enforcement commission. I objected to the fact that this Commission was judge, prosecutor, and jury all rolled into one.

The distinguished Senator from North Carolina (Mr. Ervin) and I offered an amendment here on the Senate floor providing that the Members of the Congress and particularly the Members of the Senate would also be covered by this law. That amendment was defeated here in the Senate.

But I believe whether this law be good or bad, it is the law of the land. I do not believe that Members of the Senate should seek to exempt themselves from that law. We should comply with all the laws that are required of the public. We should be governed by the same rules that govern the public generally.

As I read this resolution, there are no enforcement powers under the resolution. In effect, is is a sense of the Senate resolution.

But I favor this on the concept that we should not set the Senate up as a special class of citizens, not subject to all laws that apply to citizens generally.

I believe that this is a fine statement of our obligation. I am sure that Senators have already been practicing this very same policy. I think it is well that this be put on the RECORD because we read in the printed media from time to time that Congress saw fit to exempt itself from this particular requirement.

So I think it is well that this has been stated as the policy of the Senate.

I commend the distinguished majority leader and the distinguished Republican leader for drafting this resolution. I feel that this is good public policy on the part of the Senate to state in a resolution that the Senate shall be governed by this same rule that is required of employers throughout the country—no less and no more, but the same rule.

This is certainly, in effect, equality under the law.

I commend the distinguished majority leader and the distinguished Republican leader.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 534) was agreed to.

The preamble was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the resolution lay at the desk for the rest of the day in case other Senators wish to cosponsor it.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF S. 1821

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1821, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis unit of the Pick-Sloan Missouri Basin program, Kansas, and for other purposes, which was passed on yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the seventh quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the second quarter of 1976 in monitoring both prices and wages and the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses in some detail the Council's study of collective bargaining negotiations for 1976, health costs, steel products, and chemicals as well as its filings before various Federal regulatory agencies.

During the remainder of 1976, the Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

GERALD R. FORD.

THE WHITE HOUSE, *September 8, 1976.*

APPROVAL OF A BILL

A message from the President of the United States announced that on September 7, 1976, he approved and signed the bill (S. 3542) to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam, a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the enrolled bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico.

The enrolled bill was subsequently signed by the President pro tempore.

At 2:10 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NATCHER, Mr. GIAIMO, Mr. STOKES, Mr. MCKAY, Mr. BURLISON of Missouri, Mr. ALEXANDER, Mrs. BURKE of California, Mr. CHARLES WILSON of Texas, Mr. MAHON, Mr. YOUNG of Florida, Mr. KEMP, Mr. BURGENER, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message further announced that the Speaker has appointed Mr. DIGGS, Mr. NATCHER, and Mr. MCKINNEY as members on the part of the House of the Temporary Commission on Financial Oversight of the District of Columbia.

ENROLLED BILLS SIGNED

At 3:50 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma.

H.R. 15371. An act to provide for protection of the spouses of major Presidential and Vice Presidential nominees.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Prohibition of Employment of Aliens in Competitive Federal Service

A communication from the President of the United States transmitting a copy of an executive order generally prohibiting the employment of aliens in the competitive service; to the Committee on Post Office and Civil Service.

Reports of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, reports covering the period August 16 through 31, 1976, concerning visa petitions approved by the Service (with accompanying reports); to the Committee on the Judiciary.

Report of the Secretary of Commerce

A letter from the Secretary of Commerce transmitting, pursuant to law, a report on the activities of the U.S. Travel Service for the calendar year 1975 (with an accompanying report); to the Committee on Commerce.

Report of the Department of State

A letter from the Assistant Secretary of State transmitting, pursuant to law, a report on excess defense articles delivered to foreign governments in the fourth quarter of fiscal year 1976 (with an accompanying report); to the Committee on Foreign Relations.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Progress and Problems in Giving Rural Areas First Priority When Locating Federal Facilities" (with an accompanying report); to the Committee on Government Operations.

Report of the Secretary of Agriculture and the Secretary of Housing and Urban Development

A letter from the Secretary of Agriculture and the Secretary of Housing and Urban Development transmitting, pursuant to law, a report on financial and technical assistance provided by the two Departments for nonmetropolitan planning districts in fiscal year 1976 (with an accompanying report); to the Committee on Agriculture and Forestry.

Summary Regarding Children With Learning Difficulties

A letter from the Secretary of Health, Education, and Welfare transmitting a summary of activities within the Department concerning the handicapped population in general and the area of Children with Learning Disabilities specifically (with accompanying papers); to the Committee on Labor and Public Welfare.

Report of the Office of Management and Budget

A letter from the Deputy Director of the Office of Management and Budget transmitting, pursuant to law, a follow-up report concerning recommendations contained in the Third Interim Report by the National Advisory Council on Equality of Educational Opportunity (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the General Services Administration

A letter from the Administrator of General Services transmitting a report on a violation of section 3679 of the Revised Statutes, as amended (with accompanying papers); to the Committee on Appropriations.

Report of the Comptroller General

A letter from the Acting Comptroller General transmitting a report entitled "Examination of Financial Statements Government Printing Office Fiscal Year 1975" (with an accompanying report); to the Committee on Appropriations.

Budget Request of the Consumer Product Safety Commission

A letter from the Chairman of the Consumer Product Safety Commission transmitting, pursuant to law, the 1978 budget request of the Commission (with accompanying papers); to the Committee on Commerce.

Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Advisability of Regulating Electric Vehicles for Energy Conservation" (with an accompanying report); to the Committee on Commerce.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

Senate Joint Resolution 49 and Assembly Joint Resolution No. 51, adopted by the Legislature of the State of California; to the Committee on Agriculture and Forestry:

"SENATE JOINT RESOLUTION NO. 49

"Senate Joint Resolution No. 49—Relative to use of forest lands

"Whereas, There is no clear, modern statement of policy for forestry on federal lands in the United States; and

"Whereas, There is no comprehensive body of principles to guide the commitment and development of our federally owned forest resources; and, as a consequence, land classification decisions are being made without adequate policy direction; and

"Whereas, There is both a great need and an exceptional opportunity for congressional leadership to be exercised in the development of a policy for national forests and for federal-state cooperative programs for forest resource management that will meet long-term needs for all forest products and will protect the soil and other productive elements of the forest resource base; now, therefore, be it

"*Resolved* by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to undertake all acts necessary to develop a national policy for the management of federally owned forests and related forest resources; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"ASSEMBLY JOINT RESOLUTION NO. 51

"Assembly Joint Resolution No. 51—Relative to packers and stockyards

"Whereas, The Packers and Stockyards Act of 1921 (7 M.S.C.A., Secs. 201 et seq.) was enacted to insure that the stockyards owners who own or operate livestock scales would be responsible for the accurate weighing of livestock; and

"Whereas, In general, the act provides for the suspension of stockyard operations for violating some provisions of the act and for either suspension of stockyard operations or a fine for violating other provisions of the act; and

"Whereas, Such lack of uniformity in available sanctions may result in the unequal treatment of persons who come under the provisions of such act; and

"Whereas, This lack of uniformity in the law prevents the United States Department of Agriculture from exercising any discretion when a violation of the act comes under the provision of law which only provides for suspension of operations; and

"Whereas, Such lack of flexibility often causes a great deal of economic hardship on the community where stockyard operations have been suspended for violation of the Packers and Stockyards Act of 1921; now, therefore, be it

"*Resolved* by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take all the necessary actions to modify the Packers and Stockyards Act of 1921 to provide for the imposition of fines as an alternative sanction to suspension of any operation for violating any provision of the act; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Government Operations:

"THE COMMONWEALTH OF MASSACHUSETTS RESOLUTION

"Resolutions on the unemployment crisis in the Commonwealth

"Whereas, there is an unemployment crisis in this Commonwealth; and

"Whereas, there is grave danger of the consequences that might follow if work is not provided; and

"Whereas, there is presently over 150,000 people unemployed in these stricken areas; and

"Whereas, the Congress of the United States must provide Federal aid to help those caught in these stricken, depressed areas; now, therefore, be it

"*Resolved*, That the President of the United States prepare a special message to the United States Congress to enact such legislation for a period sufficient to enable the Federal Government to develop effective alternative methods of aiding the stricken, depressed areas which would stimulate business and the economy by providing Government work; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, to the Secretary of Commerce, to the presiding officers of each branch of the Congress, and to the members thereof from the Commonwealth of Massachusetts."

Assembly Joint Resolution No. 76 adopted by the Legislature of the State of California; to the Committee on Post Office and Civil Service:

"ASSEMBLY JOINT RESOLUTION NO. 76

"Assembly Joint Resolution No. 76—Relative to federal employee pensions

"Whereas, While California law severely limits annual cost-of-living adjustments of the pensions of retired public employees, the pensions of retired federal employees are adjusted by the full cost of living plus an additional 1 percent; and

"Whereas, It has been estimated that the federal adjustments will cost 400 billion dollars over the retirement life of current and retired federal employees; now, therefore, be it

"*Resolved* by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to repeal the provisions of federal law which provide for retired federal employees to have their pensions annually adjusted by an additional 1 percent above the increase in cost of living and to rebate the savings to the states as a special revenue-sharing program for state and local public employee retirement cost-of-living adjustments; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States"

A resolution adopted by the Korean-American Community in Southern California relating to recent events in the demilitarized zone between North and South Korea; to the Committee on Foreign Relations.

A resolution adopted by the Board of County Commissioners of Sumter County, Fla., relating to relocation plans of the Seaboard Coastline Railroad; to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce: With an amendment:

S. 910. A bill to amend the Federal Aviation Act of 1958 to permit the temporary operation of certain aircraft without emergency locator transmitters (title amendment) (Rept. No. 94–1209).

By Mr. RANDOLPH, from the Committee on Public Works:

S. Res. 537. An original resolution authorizing increased allotment for consultants for the Committee on Public Works. Referred to the Committee on Rules and Administration.

By Mr. INOUYE, from the Select Committee on Intelligence:

S. Res. 538. An original resolution authorizing supplemental expenditures by the Select Committee on Intelligence. Referred to the Committee on Rules and Administration.

By Mr. CANNON, from the Committee on Rules and Administration:

With an amendment:

S. 2135. A bill to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, D.C., in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II (Rept. No. 94–1210).

S. 2946. A bill to amend the act of July 2, 1940, as amended, to remove the limit on appropriations (Rept. No. 94–1211).

Without amendment:

S. Res. 531. A resolution authorizing the printing of additional copies of the committee print entitled "Farm and Food Policy—1977" (Rept. No. 94–1212).

H. Con. Res. 513. A concurrent resolution providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas (Rept. No. 94–1213).

H. Con. Res. 592. A concurrent resolution authorizing the printing of 2,000 copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program" (Rept. No. 94–1214).

H. Con. Res. 629. A concurrent resolution providing for the printing of a document entitled "The Working Congress" (Rept. No. 94–1215).

H. Con. Res. 641. A concurrent resolution to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives (Rept. No. 94–1216).

H. Con. Res. 655. A concurrent resolution providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, 94th Congress" (Rept. No. 94–1217).

H. Con. Res. 682. A concurrent resolution to authorize the printing of a booklet entitled "Black Americans in Congress" (Rept. No. 94–1218).

H. Con. Res. 688. A concurrent resolution authorizing the printing of the folder "The United States Capitol" as a House document (Rept. No. 94–1219).

S. Con. Res. 201. An original concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 94th Congress as a Senate document (Rept. 94–1220).

S. Res. 539. An original resolution to pay a gratuity to Madeline H. O'Brien.

S. Res. 540. An original resolution to pay a gratuity to Elizabeth W. Young.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Margareta E. White, of Virginia, and Joseph R. Fogarty, of Rhode Island, to be members of the Federal Communications Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations, without reservation:

Exec. J, 94th Congress, second session. Fifth International Tin Agreement, formulated by a conference of governments which met in Geneva, Switzerland, on June 21, 1975, and open for signature at the United Nations Headquarters from July 1, 1975, through April 30, 1976 (Exec. Rept. No. 94-37).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 8, 1976, he presented to the President of the United States the enrolled bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. FONG:

S. 3794. A bill to authorize a study of Hilo Bay, Hawaii; and

S. 3795. A bill to authorize a study of Kailua-Kona, Hawaii. Referred to the Committee on Public Works.

By Mr. MATHIAS:

S. 3796. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the U.S. Park Police force. Referred to the Committee on the District of Columbia.

By Mr. KENNEDY (for himself and Mr. STEVENS):

S. 3797. A bill to establish a program to revitalize the U.S. commercial fishing industry. Referred to the Committee on Commerce.

By Mr. MATHIAS:

S. 3798. A bill to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 3796. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the U.S. Park Police force. Referred to the Committee on the District of Columbia.

Mr. MATHIAS. Mr. President, prior to 1974 Congress adopted salary increases for the Metropolitan Police Department in the District of Columbia and these increases were extended to the U.S. Park Police. When we adopted the District of Columbia Home Rule Act (P.L. 93-198), a procedure was established for negotiation of pay increases for the metropolitan police by the mayor, subject to final action by the District of Columbia City Council. No specific action was taken to separate the pay scales of the U.S. Park Police from those of the metropolitan police. As a result, pay rates for Federal employees under the jurisdiction of the Department of Interior are now effectively established by the locally elected officials in the District of Columbia.

Under the procedures established by the Home Rule Act, the unions representing the metropolitan police and District of Columbia firefighters engage in negotiations with the city for salary increases. The U.S. Park Police are, however, not represented in these negotiations. Therefore, we now have a situation where Federal employees not only have their salaries determined by local municipal officials, but without representation for those Federal employees in the negotiation process.

The responsibilities of the U.S. Park Police are primarily to protect the visitors who come from all across the Nation to visit our national monuments. While most of the U.S. Park Police serve in the National Capital area, they are also assigned to protect certain Federal properties in seven other States including New York, New Jersey, California, Utah, Texas, Iowa, and Massachusetts. Of the 461 sworn officers in the U.S. Park Police, 104 are assigned to locations entirely outside of the National Capital region. It is simply an anomaly that the salary levels for these men and women who serve Federal Government are tied to local budgetary decisions in the District of Columbia.

The legislation I am introducing today is a companion bill to H.R. 15276 that is pending in the House. This bill would put the officers of the U.S. Park Police force under the Federal pay comparability system and direct the Secretary of Interior to submit a report within 1 year on the feasibility of codifying provisions relating to the Park Police in the United States Code.

Since 1791, the Park Police have been on duty in the Federal parks establishing an outstanding record of service to the entire Nation. I am hopeful that this bill can receive favorable consideration prior to the end of this session, and I urge our colleagues to give attention to the needs of the U.S. Park Police.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE

SECTION 1. The purpose of this Act is to insure that officers and members of the United States Park Police force are entitled to adjustments in basic compensation in the same overall percentage as are other Federal employees within the General Schedule under the Federal pay comparability system.

ADJUSTMENTS IN BASIC COMPENSATION OF OFFICERS AND MEMBERS OF THE PARK POLICE FORCE

SEC. 2. Section 501 of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4-833) is amended—

(1) by striking out "The rates" and inserting in lieu thereof "(a) Except as provided in subsections (b) and (c), the rates", and

(2) by adding at the end thereof the following new subsections:

"(b)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, the annual rate of basic compensation of officers and members of the United States Park Police force shall be adjusted by the Secretary of the Interior by an amount (rounded to the next highest multiple of $5) equal to the percentage of such annual rate of pay which corresponds to the overall percentage (as set forth in the applicable report transmitted to the Congress under such section 5305) of the adjustment made in the rates of pay under the General Schedule.

"(2) No adjustment in the annual rate of basic compensation of such officers and members may be made except in accordance with paragraph (1).

"(c) Any reference in any law to the salary schedule in section 101 of this Act with respect to officers and members of the United States Park Police force shall be considered to be a reference to such schedule as adjusted in accordance with subsection (b).".

REPORT ON THE FEASIBILITY OF CODIFYING LAWS RELATING TO THE PARK POLICE

SEC. 3. The Secretary of the Interior shall submit to Congress not later than one year after the date of enactment of this Act a report on the feasibility and desirability of enacting as a part of the United States Code those provisions concerning the powers, duties, functions, salaries, and benefits of officers and members of the United States Park Police force which presently are contained in several statutes and are compiled in the District of Columbia Code.

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall take effect on October 1, 1976.

By Mr. KENNEDY (for himself and Mr. STEVENS):

S. 3797. A bill to establish a program to revitalize the U.S. commercial fishing industry. Referred to the Committee on Commerce.

Mr. KENNEDY. Mr. President, this Congress made a significant commitment to the revitalization of the American fishing industry when it overwhelmingly passed legislation establishing an interim 200-mile fishing zone for the United States. That law has two principal aims: First, to protect the fish stocks jeopardized by the overfishing practices of foreign nations, and second, to insure for our domestic fishermen an opportunity to rebuild their own industry. The bill that I introduce today for myself and Senator STEVENS is the second step that Congress must take, using existing funds and an existing framework to assure the revitalization of the American fishing industry.

The bill which we introduce today provides that 100 percent of tariffs on imported fish products and fines collected under the Fishing Conservation and Management Act of 1976 will be utilized by the regional councils set up to implement the 200-mile limit for grants, loans, and loan guarantees for fishermen in their region. At the present level of imports, this could mean over $3 million annually would be available to the New England Council for assistance to the fishing industry, in addition to a share of the fines resulting from violations of the 200-mile limit.

At the present time, 30 percent of tariffs collected on fish products imported into the United States are transferred into the Saltonstall-Kennedy fund which was intended by the Congress under the leadership of Senators Leverett Saltonstall and John F. Kennedy to be used primarily for increased marketing opportunities for American fish producers. Over the years, the original intent of the Congress has been ignored as these additional funds were used to replace the operating budget of the National Marine Fisheries Service. We fully intend to pursue full funding for the excellent programs administered by NMFS while we insure that the tariffs funds are used as originally intended to provide additional assistance to the fishing industry in the United States which has been devastated by the overfishing practices of foreign fishing nations.

The legislation we have drafted will assure that these funds collected on imported fish will go directly to the regional councils for those programs which have the highest priority for the renewal of the fishing industry in that area of the country. In New England, the replacing of old and inefficient vessels and equipment and the industry's ability to deal with spiraling insurance rates will undoubtedly be major concerns over the next several years as the industry begins to grow. The New England Regional Fisheries Management Council could determine to spend all of its resources available under this act to meet these problems.

Senator Stevens and I are introducing this legislation during this session of Congress in order to give the fishermen all across this country an opportunity to review and comment on the bill and offer their suggestions for refining the legislation prior to its reintroduction in the next Congress. We will request public hearings on the bill early in the next Congress and hopefully the Senate will have an opportunity to act on the legislation by next spring.

Mr. President, I would like to say a few words about Senator Stevens of Alaska, who cosponsors this legislation with me today. There is no greater champion of the American fisherman than Ted Stevens who spent a great deal of his time and energy over the last 3 years in securing congressional and White House approval of the interim 200-mile fishing limit. He has worked tirelessly for his Alaskan fishermen and fishermen in New England and all coastal regions of the United States. His assistant, Steve Perles, has worked with my staff for months in drafting and redrafting the bill we cosponsor today, and I am most grateful for his assistance.

Senator Stevens and I recognize that the implementation of the 200-mile-limit fishing zone will not solve all the problems of the fishing industry. The legislation we cosponsor is the logical second step in the process of revitalizing America's oldest industry. We look forward to hearing from all our fishermen who helped us so much in perfecting the 200-mile-limit bill for their suggestions on this bill. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Kennedy-Stevens Commercial Fishing Industry Revitalization Act of 1976".

Sec. 2. Findings

(a) The Congress finds and declares the following:

(1) The commercial fishing industry constitutes a major source of employment and contributes significantly to the welfare of the Nation, including that of the many coastal areas whose economies are highly dependent upon fishing.

(2) Competition from uncontrolled foreign overfishing off the coasts of the United States has severely retarded the growth of the United States fishing industry, by depleting the stocks of fish and creating an unfavorable investment climate. As a result of such fishing activity, the United States is not capable of efficiently harvesting many fisheries off the Nation's coasts.

(3) The Fishery Conservation and Management Act of 1976 provides for conservation and management of the fisheries, and proper supervision of foreign fishing activities, but direct Federal financial assistance is needed to modernize and improve the United States fishing fleet sufficiently to enable it to compete successfully with foreign fishing fleets and meet American requirements to displace foreign fleets from the fishery resources of the United States.

(b) It is therefore the purpose of the Congress in this Act to dedicate certain revenues to the revitalization of the United States fishing industry, so that United States fishermen can fully utilize all of the fishery resources of the nation.

Sec. 3. Definitions

As used in this Act:

(1) The term "aquaculture and hatchery facilities" means any facility used, or capable of being used, for—

(A) the culture or hubsandry of aquatic animals or plants by private industry for commercial purposes, or by public agencies, State, or local governments for scientific purposes; or

(B) the culture and growing of fish by private industry, public agencies, or a State or local government, for the purpose of creating or augmenting publicly owned and regulated stocks of fish in streams or rivers.

(2) The terms "Council" and "Regional Fishery Management Council" mean any of the Regional Fishery Management Councils established pursuant to section 302 of the Fishery Conservation and Management Act of 1976. The term "Councils" means all of the Regional Fishery Management Councils so established, considered collectively.

(3) The term "fully utilized", with respect to a fishery, means that the amount of fish harvested by United States fishermen is equal to the optimum yield of such fishery.

(4) The term "Fund" means the Fishing Industry Revitalization Fund established pursuant to section 2 of the Saltonstall-Kennedy Act, as amended (15 U.S.C. 713c-3).

(5) The term "optimum yield" has the meaning prescribed for such term in section 2 of the Fishery Conservation and Management Act of 1976.

(6) The term "Secretary" means the Secretary of Commerce.

(7) The term "unutilized", with respect to a fishery, means that United States fishermen do not harvest any of the stocks within such fishery.

(8) The term "underutilized", with respect to a fishery, means that United States fishermen harvest some, but less than the optimum yield of, the stocks within such fishery.

Sec. 4. Amendment of the Saltonstall-Kennedy Act and Related Legislation

(a)(1) The Saltonstall-Kennedy Act (15 U.S.C. 713c-3) is amended to read as follows:

"Sec. 2. (a) There is appropriated for each fiscal year, beginning with the fiscal year commencing October 1, 1976, an amount equal to 100 percent of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals and any products thereof, including processed and manufactured products) during the calendar year which includes the first day of the fiscal year involved. Such amounts shall be maintained in a separate fund in the Treasury of the United States to be known as the 'Fishing Industry Revitalization Fund' ". All funds in the Fishing Industry Revitalization Fund shall be made available by the Secretary of Commerce to the Regional Fishery Management Councils established pursuant to title III of the Fishery Conservation and Management Act of 1976. Such Councils shall use such sums to carry out the Kennedy-Stevens Commercial Fishing Industry Revitalization Act of 1976 and for no other purpose.".

(b) There is further appropriated for each fiscal year, beginning with the fiscal year commencing October 1, 1976, an amount equal to the penalties, fines, and forfeitures assessed pursuant to section 308, 309, and 310 of the Fishery Conservation and Management Act of 1976 collected during the calendar year which includes the first day of the fiscal year involved. Such amounts shall be deposited and maintained in the Fishing Industry Revitalization Fund.

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1976.

(b) Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; except that, beginning with the fiscal year commencing October 1, 1976, the provisions of this section shall not apply to duties collected under such laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals and any products thereof, including processed and manufactured products).".

(c) The amendments made by this section shall not be construed to indicate any intent on the part of the Congress to reduce the amounts of funds appropriated annually for the use of the National Marine Fisheries Service.

Sec. 5. Allotment of Funds for Commercial Fishing Industry Revitalization

The Secretary shall, for each fiscal year commencing on or after October 1, 1976, allot to each Council a proportion of the amount appropriated for such fiscal year pursuant to the Saltonstall-Kennedy Act (15 U.S.C. 713c-3). Each such allotment shall be determined in accordance with rules which the Secretary shall promulgate (and may thereafter revise) within 120 days after the date of enactment of this Act. Such rules shall provide that the amount of each Council's allotment under this section shall be based upon the Secretary's determination as to—

(1) the potential value of the fish which could be harvested by United States fishermen in any unutilized and underutilized fishery within the geographical area of authority of such Council; and

(2) the potential reduction in the per unit cost to United States fishermen of harvesting fish in any fully utilized fishery within the geographical area of authority of such Council.

Funds allotted to a Council under this section shall be used by such Council solely for purposes authorized by this Act, and no such funds may be used to pay any administrative expenses of such Council or of the Secretary except administrative expenses incurred directly in administering the provisions of this Act. Any unutilized portion of any such allotment shall remain available without fiscal year limitation. The allotments to the Councils under this section shall be in addition to and not in substitution for any other appropriations authorized for activities of the Councils, the National Oceanic and Atmospheric Administration, or any unit of such Administration.

SEC. 6. AUTHORITY OF THE REGIONAL FISHERY MANAGEMENT COUNCILS

(a) Each Council may provide financial assistance in the form of grants and loans, from funds allotted to it under section 5, such financial assistance shall be provided in accordance with this title for the sole purpose of carrying out approved programs or projects which are likely to increase the efficiency or otherwise improve the capability of United States commercial fishermen and of the United States commercial fishing industry to harvest, process, and market fish and fish products.

(b) The Secretary shall, subject to the provisions of subsection (c) and rules and regulations, guarantee, or enter into commitments to guarantee, the payment of interest on, and the principal amount of, any loan or other evidence of indebtedness the proceeds of which are used to carry out any program or project approved under subsection (a). In developing rules and regulations under this subsection, the Secretary shall, to the extent practicable, request the views of, or consult with the councils and appropriate persons knowledgeable or interested in the fishing industry including the Councils.

(c) (1) Loans or other evidences of indebtedness guaranteed under subsection (b) shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

(A) no guarante shall be made unless the indebtedness involved will be completely amortized within a reasonable period, not to exceed 30 years;

(B) no guarantee shall be made unless the Secretary determines that such loan or other evidences of indebtedness will—

(i) be issued only to investors who meet the requirements prescribed by the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(ii) bear interest at a rate found not to be excessive by the Secretary; and

(iii) contain, or be subject to, repayment, maturity, and other provisions which are satisfactory to the Secretary;

(C) the approval of the Secretary of the Treasury shall be required with respect to any such guarantee, unless the Secretary of the Treasury waives such approval; and

(2) The full faith and credit of the United States is pledged to the payment, under paragraph (5), of any default on any indebtedness guaranteed under subsection (b). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation, except for fraud or material misrepresentation on the part of the holder, or known to the holder at the time acquired.

(3) The Secretary shall prescribe and collect fees in connection with guarantees made under subsection (b). These fees may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs pertaining to such guarantees.

(4) The interest paid on any obligation which is guaranteed under this section and which is received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(5) (A) Payments required to be made as a result of any guarantee made under subsection (b) shall be made by the Secretary from sums appropriated to the Fund or from moneys obtained from the Secretary of the Treasury pursuant to paragraph (6).

(B) If there is a default by any person receiving financial assistance in any payment of principal or interest due under a loan or other evidence of indebtedness guaranteed by the Secretary under subsection (b), any holder of such loan or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due such holder, unless the Secretary finds that there was no default by such person or that such default has been remedied.

(C) If the Secretary makes a payment to a holder under subparagraph (B), the Secretary shall—

(i) have all of the rights granted to the Secretary or the United States by law or by agreement with the obligor; and

(ii) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

The Secretary may accept, in complete or partial satisfaction of any such rights, a conveyance of property or interests therein. Any property so obtained by the Secretary may be completed, maintained, operated, held, rented, sold, or otherwise dealt with or disposed of on such terms or conditions as the Secretary prescribes or approves. If, in any case, the sum received through the sale of such property is greater than the amount paid to the holder under subparagraph (B) plus costs, the Secretary shall pay any such excess to the obligor.

(D) The Attorney General shall, upon the request of the Secretary, take such action as may be appropriate to enforce any right accruing to the Secretary or the United States as a result of the making of any guarantee under subsection (d)(2). Any sums received through any sale under subparagraph (C) or recovered pursuant to this subparagraph shall be paid into the fund.

(6) If the moneys available to the Secretary are not sufficient to pay any amount which the Secretary is obligated to pay under paragraph (5), the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amount as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be deposited in the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

SEC. 7. ADJUSTMENT ASSISTANCE

If the Secretary, upon petition and after an investigation, finds that any person receiving financial assistance under section 6 is unable to meet such person's obligations pursuant to a loan or guarantee made under such section, the Secretary may take any of the following actions:

(A) Modify appropriately the terms and conditions of such loan or guarantee.

(B) Refinance such loan.

(C) Make a supplemental loan to such person the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

(D) Make a grant to such person the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

SEC. 8. APPROVAL OF ASSISTANCE FOR PROGRAMS AND PROJECTS

Any person (including a governmental entity) may apply for financial assistance under section 6 for any program or project which is likely to increase the efficiency or otherwise improve the capability of United States commercial fishermen, including the harvesting, processing, or marketing capability of the United States commercial fishing industry. Each application for such assistance shall be prepared in such form and shall include such content as the Secretary prescribes by regulation. Each such application shall be submitted and acted upon pursuant to the following provisions:

(1) The application shall be submitted to the appropriate Council.

(2) The Council involved shall refer the application to the appropriate committee or panel of such Council (established pursuant to section 302 of the Fishery Conservation and Management Act of 1976) for study, evaluation, and a recommendation as to whether the program or project described in such application should be approved, disapproved, or approved with specified modifications. Such committee or panel shall report thereon to such Council as soon as practicable after such referral.

(3) Upon receipt of a report prepared under paragraph (2), the Council involved shall consider such report and any other information and shall determine whether to approve the application involved, in whole or part. Each application so approved shall be submitted to the Secretary, with a recommendation that the Secretary approve the program or project therein described as approved by such Council.

(4) If the Secretary disapproves any proposed project or program submitted under paragraph (3) by a Council, the Secretary shall return the application involved to such Council together with the reasons for such disapproval.

(5) Upon receipt of any returned application under paragraph (4), the Council involved may—

(A) prepare a new program or project description correcting the deficiencies delineated by the Secretary and may resubmit such application as so redrafted to the Secretary with a recommendation that it be approved by the Secretary; or

(B) request that the Secretary schedule a hearing, in accordance with section 553 of title 5, United States Code, following which the Secretary shall determine the validity of the program or project described in such application.

(6) The review of the Secretary under paragraph (4) or (5) shall be limited to determining whether or not the program or project involved is consistent with the purpose of this Act and not duplicative of any existing program or project.

SEC. 9. REGULATIONS GOVERNING PROGRAMS AND PROJECTS

The Secretary shall promulgate such regulations governing programs and projects carried out pursuant to this Act as the Secretary determines necessary to carry out the purpose of this Act and to project the financial interests of the United States. Such regulations shall include provisions for—

(1) such fiscal control and fund accounting procedures (by each Council and each recipient of assistance under sections 6 and 7) as may be necessary to assure proper disbursement of, and accounting for, such funds;

(2) such reports from each Council and recipient of assistance under sections 6 and 7, in such form and containing such information as the Secretary may reasonably require to determine the extent to which funds allotted and provided under this Act have been effective in carrying out the purpose of this Act; and

(3) such additional staff as the Councils need to carry out the purpose of this Act.

SEC. 10. STAFF AND ADMINISTRATION

Except as otherwise provided, the provisions of section 302(f) of the Fishery Conservation and Management Act of 1976 (relating to staff of, and administrative services for, the Councils in carrying out their functions under such Act) shall also apply to the functions of the Councils under this Act. The Secretary shall, by rule in accordance with section 553 of title 5, United States Code, authorize the Councils to employ, and shall compensate, such additional personnel thereof as are necessary and appropriate to carry out the functions of the Councils under this Act.

Mr. STEVENS. Mr. President, I thank my colleague Mr. KENNEDY for his kind words. He and I are today introducing a bill which I believe will be a landmark in the history of American commercial fishing. The proposed Kennedy-Stevens Act is a legislative proposal to revitalize the floundering American commercial fishing industry through the use of regionally controlled financial assistance funded from the import duties on fisheries products.

Over the last 20 years the increase in foreign fishing activity off the coast of the United States has decimated our stocks of commercial fish. Some 14 species are listed as depleted and a host of others are fully utilized by foreign fishermen. Destruction of the stocks off the U.S. coast naturally enough has lead to a decline in the investment climate for commercial fishing operations. In many parts of the country, such as my home State Alaska, foreign capital has been used to fill the void created by lack of investment from American sources. It is our hope that this legislation will act in part as an investment incentive for major sources of private sector American capital.

The efficiency of foreign fishing fleets is overwhelming—200- and 300-foot highly mechanized trawlers scour the ocean bottom for fish. These trawlers off-load their catch onto huge mother ships the size of oceanliners which process and freeze its produce. The nets of ocean-going foreign commercial fishing vessels often extend 10 miles in length. The technology employed by such vessels is highly sophisticated and the amount of investment capital required to reach such a state of the art is enormous.

In order for American fishermen to become competitive with foreign fishermen, they must learn to fish more efficiently. They must learn to employ new fishing techniques and must develop new types of fishing equipment and mechanized processing plants. At the present time, almost all of the private sector is unwilling to make the necessary investments in research and development and capital construction costs to meet this objective.

I believe that fishing, like so many other ocean industries, holds tremendous potential for the future. Last year, from the waters off my home State the Japanese, Soviets, and Koreans accumulatively harvested almost 3 billion pounds of pollock, a species of fish not harvested by Americans. The harvest of pollock could be a $100 million a year fishing industry. One of the primary purposes of this legislation is to enable American fishermen to develop the capacity to harvest, process, and market species such as pollock.

I wish to point out that this is not an industry subsidy bill. This legislation creates a fund, administered by the Secretary of Commerce, which the regional councils, created under the Fishery Conservation and Management Act of 1976, can draw upon for use in industry enhancement projects. These projects must improve either the capability of the United States to harvest, process, and market underutilized species, or increase U.S. efficiency in harvesting, processing, or marketing fully utilized species. Increasing the capacity of American fishermen to use the resources off the coast of the United States is the primary objective of this legislation. I am sure that the taxpayers will be happy to know that no general revenue funds will be used by this proposal. The fund created under this bill will be financed through the use of import taxes already levied on fisheries products and the fines and penalties levied against foreign fishermen violating fishery management regulations established under the Fishery Conservation and Management Act of 1976. Incidentally, last year the U.S. trade deficit in fisheries products was $1.5 billion.

The programs funded under this proposal would be in addition to and not in lieu of the excellent work currently conducted by the National Marine Fisheries Service. This legislative proposal would in no way diminish the need for broad national programs such as those carried out by the Fisheries Service and I intend to urge that programs carried out by that agency continue to be fully funded.

Mr. President, this legislation reflects the high quality of work which can result when Members from both sides of the aisle sit down in full cooperation with one another to work out legislative proposals on a bipartisan effort. It has been a pleasure for me and my staff to work with Senator KENNEDY and his people in the construction of this legislative proposal. I particularly would like to thank Mary Murtagh of Senator KENNEDY's staff for her tremendous assistance in the preparation of this bill.

Mr. President, I would urge each of my colleagues here in the Senate to support this legislation.

By Mr. MATHIAS:

S. 3798. A bill to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians. Referred to the Committee on Post Office and Civil Service.

Mr. MATHIAS. Mr. President, attracting and retaining the best quality physicians in the U.S. civil service system is becoming increasingly difficult because physicians' salaries in the private sector are more lucrative than in the civil service. The executive pay scale limit has placed an arbitrarily low ceiling on salaries for doctors and dentists.

To remedy this situation, a variable incentive pay system was authorized by the Congress which provides bonus pay for most of the 39,400 physicians and dentists in the Federal Government. However, approximately 900 physicians and dentists—3 percent were not covered by the variable incentive pay system—VIP. My bill is addressed to this group and simply provides for the variable incentive pay so that they will be compensated at the same level as other physicians in the Federal service.

At present, as my colleagues know, the top salary of any general schedule civil servant can receive is $37,800. Without the ceiling, the GS pay schedule calls for rates up to $48,654 per year. When the variable incentive pay is added, the top salary can reach $51,726 for federally employed physicians.

Thus, for this small group of doctors and dentists outside the VIP, there is a difference in their salary of up to $13,926 compared with their federally employed counterparts.

These approximately 900 physicians who do not receive incentive pay are employed by the following agencies:

Foreign Service.
Federal Aviation Administration.
National Aeronautics and Space Administration.
U.S. Postal Service.
Commerce Department.
Interior Department.
Central Intelligence Agency.
Department of Defense.
Food and Drug Administration.
St. Elizabeths Hospital.
Library of Congress.
D.C. Health Services.
Public Health Service.
Labor Department.
National Security Agency.
Social Security Administration.
National Science Foundation.
National Institutes of Health.
National Institute of Occupational Safety and Health.
Drug Enforcement Administration.
Bureau of Engraving and Printing.
National Bureau of Standards.
Energy Research and Development Administration.
Tennessee Valley Administration.
Canal Zone.

The physicians employed are in positions ranging from staff physician to medical director and their tenure ranges from newly employed to 20 years of service.

Without the variable incentive pay system, the agencies I have mentioned will continue to have difficulty retaining, and particularly, attracting qualified medical personnel.

The obvious inequity of this situation was pointed up in an August 31, 1976, GAO report, which I quote:

> We found cases where differences between systems caused some employees to transfer between systems in an agency. In one PHS installation we visited, seven GS physicians transferred to the commissioned corps during fiscal year 1975 in order to receive VIP. Other GS physicians, who reportedly would have switched, had previously switched from the commissioned corps to the GS prior to the implementation of VIP because the benefits of the GS system were better at that time.
>
> We found numerous instances where physicians who were receiving VIP worked with physicians not receiving VIP because of ineligibility. This has caused bitterness among physicians and resulted in lawsuits being filed against the Federal government by those physicians not receive VIP.

The longer term findings and recommendations of the GAO report point out the need for one rather than three pay systems for federally employed physicians. It is my understanding that the Office of Management and Budget has agreed to submit such a comprehensive pay and benefits plan to the Congress in January of 1977. Until then, however, 3 percent of federally employed physicians continue to be treated unequally with regard to pay.

I ask for speedy consideration of this bill.

ADDITIONAL COSPONSORS

S. 3644

At the request of Mr. PEARSON, the Senator from Tennessee (Mr. BROCK) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 3644, to amend title XVIII of the Social Security Act.

S. 3782

At the request of Mr. LEAHY, the Senator from Vermont (Mr. STAFFORD) and the Senator from Maine (Mr. HATHAWAY) were added as cosponsors of S. 3782, a bill relating to fuel and energy needs of rural residents.

SENATE JOINT RESOLUTION 209

At the request of Mr. BENTSEN, the Senator from New Hampshire (Mr. McINTYRE), the Senator from Utah (Mr. GARN), and the Senator from New York (Mr. BUCKLEY) were added as cosponsors of Senate Joint Resolution 209, to designate Native American Awareness Week.

SENATE CONCURRENT RESOLUTION 201—ORIGINAL CONCURRENT RESOLUTION REPORTED AUTHORIZING PRINTING OF CHAPLAIN'S PRAYERS

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following concurrent resolution:

S. CON. RES. 201

Resolved by the Senate (the House of Representatives concurring), That there be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-fourth Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed and bound two thousand additional copies of such document, of which one thousand and thirty shall be for the use of the Senate and nine hundred and seventy shall be for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

SENATE RESOLUTION 535—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF S. 3441

(Referred to the Committee on the Budget.)

Mr. JOHNSTON submitted the following resolution:

S. RES. 535

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 3441. Such waiver is necessary because the Congressional Cemetery has had considerable and continuing deterioration which this bill hopes to halt by providing maintenance funds for two years (fiscal year 1977 and fiscal year 1978) at the end of which a National Park Service study, as required by this bill, will determine which Federal agency should be responsible for future operation and maintenance of the cemetery.

Mr. JOHNSTON. Mr. President, I submit a resolution pursuant to section 402(c) of the Congressional Budget Act of 1974 to waive the provisions of section 402(a) of that act with respect to S. 3441, legislation providing for a study by the National Park Service regarding future maintenance responsibility of the Congressional Cemetery, with an interim 2-year authorization for maintenance work to be performed by the Architect of the Capitol. The 2-year authorization will go a long way in halting further deterioration of the cemetery.

I ask unanimous consent that the resolution be referred directly to the Budget Committee without the necessity of being reported from the Interior Committee. The Committee on Interior and Insular Affairs, in considering S. 3441, recognized that further delays in initiating repairs will only be more costly and has, without dissent, recommended that this legislation be enacted.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE RESOLUTION 536—SUBMISSION OF A RESOLUTION AUTHORIZING INTERVENTION BY THE SENATE IN THE CASE OF CLARK AGAINST VALEO

(Referred to the Committee on Rules and Administration.)

Mr. LONG (for himself, Mr. TALMADGE, Mr. RIBICOFF, and Mr. SPARKMAN) submitted the following resolution:

S. RES. 536

Whereas a civil action has been filed in the United States District Court for the District of Columbia challenging the constitutionality of provisions of the Federal Election Campaign Act of 1971;

Whereas the Department of Justice has been granted permission to intervene on behalf of the United States supporting the position that such provisions are unconstitutional;

Whereas Clark v. Valeo raises fundamenare unconstitutional could call into question the constitutionality of similar congressional review provisions in numerous other statutes;

Whereas a decision that such provisions are unconstitutional could impair the legislative powers under the Constitution of each Senator, of each Committee of the Senate, and of the United States Senate as a whole;

Whereas Clark v. Valeo raises fundamental issues concerning the separation of powers between the legislative and executive branches of government and the scope of Congressional power to enact legislation; and

Whereas the United States Senate has a duty and a responsibility to insure that its interests are fully represented before the Courts of the United States in Clark v. Valeo; Now, therefore, be it

Resolved that (a) the President pro tempore of the Senate is authorized to appoint a bipartisan committee of Senators to take the necessary steps to participate as an amicus curiae or to intervene as a party in Clark v. Valeo and to appear in the Courts of the United States on behalf of such intervening party. The bipartisan committee shall act on behalf of the Senate in conjunction with any committees of the Senate or Senators who may wish to participate in the litigation.

(b) The members of the bipartisan committee appointed under the first subsection shall be responsible for retaining counsel and for reviewing all charges for services rendered by outside counsel to the committee which may be paid by the Senate pursuant to this resolution.

(c) Any expenses incurred by the bipartisan committee pursuant to this resolution, including the expenses incurred by the Senate, Senate committees, or Senators as an amicus curiae or a party in the above mentioned litigation in printing records, briefs, and other necessary documents for the Courts of the United States, shall, be paid from the contingent fund of the Senate upon approval by the bipartisan committee on vouchers authorized and signed by the President pro tempore of the Senate.

(d) The Secretary of the Senate is directed to transmit a copy of this resolution to the United States District Court for the District of Columbia.

SENATE RESOLUTION 537—ORIGINAL RESOLUTION REPORTED AUTHORIZING INCREASED ALLOTMENT FOR THE COMMITTEE ON PUBLIC WORKS

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH, from the Committee on Public Works, reported the following resolution:

S. RES. 537

Resolved, That section 2 of S. Res. 354, 2d session, 94th Congress, agreed to March 1st, 1976, is amended by striking "$5,000" **and** inserting in lieu thereof "$8,000".

SENATE RESOLUTION 538—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

(Referred to the Committee on Rules and Administration.)

Mr. INOUYE, from the Select Committee on Intelligence, reported the following original resolution:

S. Res. 538

Resolved, That Section 15 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking out "$275,000" and inserting in lieu thereof "$1,175,000".

SENATE RESOLUTION 539 AND SENATE RESOLUTION 540—ORIGINAL RESOLUTIONS REPORTED TO PAY GRATUITIES

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolutions:

S. Res. 539

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Madeline H. O'Brien, mother of Gail H. Perry, an employee of the Senate at the time of her death, a sum equal to five months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. Res. 540

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Elizabeth W. Young, widow of Robert B. Young, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

EXCLUSIVE TERRITORIAL ARRANGEMENTS—S. 3421

AMENDMENTS NOS. 2278 AND 2279

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill (S. 3421) to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful.

NOTICE OF HEARING

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, September 17, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Glen M. Williams, of Virginia, to be U.S. district judge for the western district of Virginia, vice Ted Dalton, retiring.

Any persons desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND) chairman; the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

FINAL SELECT COMMITTEE HEARINGS ON COMMITTEE REFORM

Mr. MANSFIELD. Mr. President, I direct the attention of Senators to the hearings scheduled for September 14 and 15 next Tuesday and Wednesday. These are the final hearings of the Select Committee to Study the Senate Committee System before it gives its report and recommendations on the structural organization of the committee system.

The subject of these hearings, and the report to be made by October 2, is the jurisdictions of committees, their numbers and sizes, and limitations on Senators' service on committees, along with closely related questions of bill referral procedures, scheduling, and leadership responsibilities.

Senator STEVENSON and Senator BROCK, the chairman and cochairman of the select committee, have sent to each Senator a detailed description of three models or starting points for organizing the committee system.

While the select committee has taken no votes as yet, Senators should be aware the record it has compiled thus far is overwhelmingly in support of major reform of the system. Therefore, it is likely the select committee will recommend such actions as:

Consolidating the Committees on Foreign Relations and Armed Services into a single Committee on National Security.

Consolidating jurisdictions to create a Committee on Energy.

Consolidate jurisdictions to create Committees on the Environment and on Transportation.

Eliminate select, special, and joint committees by consolidating their activities in standing committees.

Reduce the number of committees even further by consolidating the jurisdictions and activities of the present 31 committees into only 12 standing committees.

Establish severe restrictions on the number of subcommittees permitted, eliminating at least one-third of the present subcommittees.

Require all chairmen to give up their chairmanships after 4 or 6 years and rotate to another assignment.

Require all Senators to rotate in their committee assignments.

Limit each Senator to no more than two chairmanships—committee and subcommittee—at any time.

One might say, Mr. President, the select committee is required to conduct a zero-base review of each committee and of the committee system, in order to reduce fragmentation in policy development and wasteful duplication in committee and subcommittee activities.

Senators also should be aware of the procedure which may be followed for consideration of committee reforms such as those I have named as examples of matters under consideration. Senator STEVENSON informs me the select committee hopes to issue its recommendations on structural matters by October 2, urge the Committee on Rules and Administration to take any action it deems necessary by early January 1977, and ask the Senate to make committee reform the first order of business in January, before the Senate is permanently organized.

The Senate may not grant the procedural request nor agree with the select committee's recommendations.

Nevertheless, Senators have the right under the rules to move the consideration of committee reform and there may be substantial public support for substantial reforms of the sort I have cited as examples of recommendations now before the select committee.

I would hope Senators affected by these reorganization proposals will make their views known to the select committee in its hearings next week.

ADDITIONAL STATEMENTS

A PHILANTHROPIST'S CREED

Mr. JAVITS. Mr. President, I bring to your attention the remarks of one of my constituents, Mr. Charles Silver, who was honored on May 10, 1976, at the National Conference of Christians and Jews. He is the president of the Beth Israel Hospital Center in New York City and leads in many other philanthropies.

Mr. Silver has been identified with civic and philanthropic activities in New New York City for more than a quarter of a century and it is because of this that I share with my colleague some of his thoughts.

Mr. Silver remarked that the major civic responsibility for all of us is not just coping with each emergency but to plan for and to dream of the practical and the feasible schemes in which we can all live by in our society. He states:

> We are not the first or the last to be faced with such a necessity of proceeding on two planes of action—reality and reform for today, vision and revision for tomorrow. . . .

Mr. Silver also eloquently pledged his desire to take actions in order to fulfill some of these dreams and he urges others to do the same. Let me quote:

> To those who may feel that the times are too hard to endure and the problems too serious to overcome, I must stress that I for one cannot and will not accept an abdication of responsibility—not my own and not that of anyone in this room. Individually and collectively, we are among those responsible for what happens to New York and for the chain reaction that could follow—and we cannot escape that responsibility. During these trying and difficult times, you and I—or someone has to come up with a more creative performance. A demonstration of the magic of faith—or of inter-faith, a redoubling of efforts in order to assure that our obligations to the children, the old, the ill and the poor are fully met. . . . As we survey the moral and political background of our failing communities, there is a great deal to disturb us—a relentless onslaught against tradition, justice and decency. We need men and women of wisdom and judgement who realize that we have reached a moment in the destiny of cities when the clock of history will run out. The time is now—and we must learn the

truth—all the truth—and act upon it. . . . We must change the whole picture around. We must free our cities of bribery and self-interest. We must concern ourselves not merely with producing better products, better homes, and schools and hospitals—but, in every sense with providing a better life for every citizen. We can learn from the defects of all our yesterdays and the disappointments of today. We can build a better tomorrow—a richer more glorious tomorrow—the birth of a better world for all mankind."

TRIBUTE TO ROY WILKINS

Mr. INOUYE. Mr. President, because the distinguished Senator from California (Mr. TUNNEY) is necessarily absent from the Senate today, at his request, I ask unanimous consent that a statement by him in tribute to Roy Wilkins be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TRIBUTE TO ROY WILKINS

STATEMENT OF SENATOR TUNNEY

On the occasion of the 75th birthday of Roy Wilkins, Executive Director of the National Association for the Advancement of Colored People, I would like to express my sense of unbounded admiration for a life devoted to the interests of Civil Rights and Equal Opportunity for all.

Over a period of 45 years—a full two-thirds of the total life-span of the NAACP—Roy Wilkins has served in the capacity of Chief Idea Man and guiding spirit for the goals and ideals of the Civil Rights movement in the United States.

Inaugurated in 1910, in the wake of the worst race riots and lynching sprees in our National history, the NAACP operated for many years under the combined White and Black leadership of Oswald Garrison Villard and W. E. B. DuBois.

From its inception, the NAACP has been an interracial body designed to champion full economic, civil and legal rights for Black Americans. From its inception it has investigated lynchings and violations of Civil Rights, encouraged Black Americans to exercise their political power, maintained a speakers' bureau, and assembled information on Black participation in, and benefits from, public tax money.

As its work became better organized, the NAACP was extended by the establishment of many local branches and Dr. DuBois was sent abroad to combat the conservative arguments of Booker T. Washington, the leading Black opponent of Civil Rights reform. In its earliest endeavors, the NAACP won court victories in 1915 and 1917 against laws and practices aimed against the voting rights and social rights of Black Americans.

When an NAACP branch was organized in St. Paul, Minnesota, it found a willing worker in Roy Wilkins, a young newspaperman and a graduate of the State University. Upon moving from Minnesota to Missouri in 1923, to take a position as managing editor of the Kansas City *Call*, Wilkins maintained his NAACP membership, becoming secretary of the Kansas City Branch. In 1931 he left the *Call* to serve as Assistant Secretary of the NAACP, under the tutelage of the longtime Executive Secretary, Walter White.

Nor was there anything soft or safe about this high-sounding appointment. In his first assignment as Assistant Secretary, Roy Wilkins was dispatched on a field trip with another NAACP official to investigate charges of unjust and discriminating treatment of Black workers on a flood control project in Mississippi. Working as day laborers, at all times in danger of discovery and assault by State authorities, they discovered that Blacks on the project were grossly underpaid and overworked. On the basis of their report the NAACP was able to bring Congressional action to improve the situation, obtaining a substantial increase in the wages of the Black workers involved.

In 1934 Roy Wilkins succeeded W. E. B. Dubois as editor of the NAACP newspaper, *The Crisis*. He continued to serve as Assistant Secretary of the Association and to travel on its behalf, speaking before clubs, forums, college groups, associations, and conventions on various aspects of race relations. His writings appeared in pamphlet form as well as in *The Crisis*. In 1943 he was sent by the NAACP to Philadelphia to represent the interests of Black transit workers whose promotions to the position of motormen had prompted a strike by White motormen. After six days the strike ended, with the White workers returning to work and the Black workers keeping their jobs. In the light of more recent developments in the field of American race relations, this particular battle and its result may seem of slight overall consequence. At the time, however, it was regarded as of burning significance to the future of Black employment rights, and the part played by Roy Wilkins was generally acknowledged to be considerable.

With the gradual growth of Civil Rights support among the influential politicians of the land, the NAACP was accorded respectful recognition by the Roosevelt administration, which called upon Roy Wilkins, Walter White, and W. E. B. Dubois to serve as consultants to the American delegation involved in the initial actions of the United Nations, in 1945.

With the close of World War II, Wilkins launched a furious personal campaign, as editor of *The Crisis* and as a pamphleteer, to call to the National attention the absurdity of denouncing the Axis powers for their promotion of racial bigotry abroad, while at the same time permitting such bigotry to prevail in the United States under the full protection of the law. For so doing, Wilkins was of course denounced by some Conservatives as a menace to the National stability.

In June 1949, when Walter White was granted a year's leave of absence from his duties as NAACP Executive Secretary, Roy Wilkins was named his replacement, in an acting capacity. When Walter White returned, in 1950, Roy Wilkins assumed the office of Administrator. When Walter White passed on, in 1955, Roy Wilkins replaced him as Executive Secretary.

In the years of Roy Wilkins' leadership, the NAACP has experienced unprecedented success and unprecedented criticism. Having hammered at the doors of Justice for almost half a century, the NAACP lawyers were finally successful with the coming of the Warren Court and belated National recognition of the rightness of their cause. The stunning 1954 Supreme Court decision in the case of *Brown* v. *Board of Education* was a product of the NAACP campaign, as were so many subsequent Court decisions, sweeping aside the outrage of compulsory racial segregation.

In the wake of these decisions came many benefits—economic and social—to many Black Americans, but not to all; and to those who failed to benefit from the Supreme Court's revolutionary actions, the Civil Rights crusade began to take on the appearance of a false prophesy. The Black Power movement, suggesting violence and frequently employing it, now joined the Conservatives in denouncing Roy Wilkins and the NAACP. For all he had done, for all he had accomplished for the Black Americans, he found himself, at one point, assailed right and left as an "Uncle Tom" for refusing, in the manner of the Black Power spokesman, to curse the white race in and of itself, and to urge his people on to violence.

Roy Wilkins, who never quailed before the threats of the Ku Klux Klan or the intimidation tactics of Southern State officials, has proven equally fearless of the Black Power crusade. Never ceasing his demands for continued extension of Black employment opportunity—and warning the Country of the dangers inherent in the failure to heed all such demands—he has nonetheless rejected, with scornful language, the racist arguments of the Black Power faction, describing it as nothing better than "reverse Mississippi, a reverse Hitler, a reverse Ku Klux Klan."

Under Roy Wilkins' authority, the NAACP membership has risen from 240,000 to 440,000. As of today, the organization is represented in every center of the Black American population. Its instruments are still the law, the courts, lobbying techniques, propaganda, the protest meeting, and the picket line, all of which are universally recognized as bona-fide tools of democratic persuasion. No other Civil Rights organization comes near the NAACP in strength or influence and its growth and success are in large part directly traceable to the work of the remarkable Roy Wilkins, whom I proudly salute on this occasion.

NUCLEAR PROLIFERATION—TIME TO ACT

Mr. PERCY. Mr. President, the world has recently become aware of reports that Taiwan is secretly reprocessing spent nuclear reactor fuel into weapons-usable plutonium. If this is indeed the case—and we do not have definite confirmation—it represents one of the most significant turning points in the history of international nonproliferation efforts. Quite simply, such reprocessing would represent the first known violation of the Nuclear Non-Proliferation Treaty, NPT, and a circumvention of International Atomic Energy Agency safeguards. Although it is generally recognized that the NPT and current IAEA safeguards are not a lasting solution to the proliferation problem, they are the mainstays of the existing international structure to insure that peaceful nuclear power is not misused to build atomic arsenals.

In the past, the United States has been reluctant to take decisive action on proliferation. We did not react strongly to the 1974 Indian explosion, and managed to overlook the fact that U.S. heavy water was in all probability used for that device. Similarly, we did not talk seriously with West Germany and France prior to their sales of reprocessing and enrichment technology to Brazil and Pakistan. If we are indecisive once again with regard to the alleged Taiwan violation the message will be quite clear—the United States is not deeply concerned about proliferation, and nonweapons states can proceed to make bombs with impunity.

Press reports on this disturbing Taiwan report have been placed in the RECORD by several of my colleagues. I ask unanimous consent that this chronicle be supplemented with an editorial entitled "Taiwan's A-bomb," which appeared in yesterday's New York Times.

As I have noted above, the Taiwan issue is an important test of international resolve to halt proliferation. However, much more needs to be done to place truly effective controls on sensitive nuclear technology, and the United States can play a crucial leadership role in this effort. The administration will soon release the results of a major review of U.S. nonproliferation policies, and I look forward to studying that document. However, Congress can and must express its own will on this vital aspect of U.S. foreign policy. Legislation (S. 1439) is scheduled for Senate action on September 16 which would provide a vehicle for prompt consideration of this issue.

Of particular interest is a substitute amendment embodying the text of S. 3770—a major nonproliferation proposal introduced by Senators PASTORE, RIBICOFF, SYMINGTON, GLENN, JAVITS, BAKER, and myself which has received the overwhelming support of the Senate Foreign Relations Committee. The best procedure would be for the Joint Committee on Atomic Energy to take immediate action on this legislation, making its recommendations available for Senate consideration and reporting a bill to the House prior to the House Rules Committee deadline of September 10. In the absence of this, the Senate should at least act immediately on the aforementioned Pastore substitute.

Mr. President, I ask unanimous consent that the editorial from yesterday's New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TAIWAN'S A-BOMB

The American intelligence report that Taiwan clandestinely has built a reprocessing facility that is extracting weapons-grade plutonium explosive from spent nuclear reactor fuel rods demands immediate investigation by the appropriate Congressional committees. Taiwan's denials have not impressed Washington insiders.

If the Chinese Nationalists have set out to make atomic bombs in the first known violation of the Nuclear Nonproliferation Treaty (NPT)—and have succeeded in deceiving the inspection system of the International Atomic Energy Agency—a profound reappraisal will be needed for Washington's China policy, its nonproliferation strategy and its nuclear export controls.

Under the 100-nation NPT, Taiwan and other nonnuclear weapons states renounced atomic explosives and committed themselves to place all their nuclear facilities and materials under I.A.E.A. "safeguards"—a system of international inspection. The main supplier countries, in addition, later agreed that the export of fissionable materials or key nuclear facility components would be indicated to the I.A.E.A. to trigger safeguards.

If this system has been circumvented by Taiwan or ignored by some supplier countries, may not other NPT parties be evading controls as well? Speedy action to beef up and improve I.A.E.A. inspection and supplier controls clearly is vital.

The effort to avoid nuclear spread has focused recently on tightened up export controls by the main supplier countries, but the United States has failed in the most important task: to obtain the agreement of West Germany and France to an embargo on export of reprocessing plants in the wake of their sales of such plants to Brazil and Pakistan last year, claiming that I.A.E.A. safeguards make such sales "safe."

The Taiwan fiasco blows up that French-German thesis. It reinforces Congressional arguments for legislation that would call on the President to deny American nuclear materials ultimately to supplier as well as recipient nations that could not be prevailed upon to cooperate in halting the spread of plutonium reprocessing.

That vital legislation is currently bogged down in the Joint Atomic Energy Committee. A belated White House study of the problem, due for release this week, will be an exercise in futility unless it helps break this log-jam.

Meanwhile, the Congress ought to find out why the Administration, after refusing since 1969 to sell Taiwan a reprocessing plant, did not react more vigorously against Taiwan's open importation and assembly of the components for a "hot cell" for small-scale plutonium reprocessing. That so-called "laboratory project," which Taipei put under I.A.E.A. inspection, may simply have been a cover for the assembly of a clandestine facility.

SPECIAL PROBLEMS OF ELDERLY WOMEN IN RURAL AMERICA

Mr. CLARK. Mr. President, the Senate Special Committee on Aging conducted 3 days of hearings last month in Iowa, Nebraska, and South Dakota on the problems of the rural elderly.

During the hearings, which I chaired, we heard testimony from a number of residents of the area, and this information will be helpful to the committee in its work to improve the lives of the millions of elderly persons living in small towns and on farms.

Rural health problems are even more acute for elderly women, who outnumber men among the Nation's older residents. One of the persons who prepared testimony for the Aging Committee hearings was Donna Davis, of the Hawkeye Valley Area Agency on Aging in Waterloo, who cooperated with Peg Anderson, president of the Iowa Women's Political Caucus, in writing an informative paper outlining the special problems of rural women.

I ask unanimous consent that the testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

[Testimony prepared by Donna Davis, Hawkeye Valley Area Agency on Aging in cooperation with Peg Anderson, Chair, Iowa Women's Political Caucus]

PROBLEMS OF OLDER WOMEN IN RURAL AREAS

INCOME

First, the rural or small town older woman's problems start with the fact that she is female and therefore likely to be one of those who are or become the poorest of the old, themselves poor in much higher numbers than their proportion of the population. It's double jeopardy being old and female.

For example: using 1970 census data from selected counties in Northeast Iowa, we find that even in one of the richest rural counties, 20.2% of the older population was below the poverty level. When we look at the age distribution of that "rich" county's poor, we find that more than a third (34%) are 65 or older.

We know that most of these are women, because: (1) women are a higher percentage of the senior population in general; (2) the rate at which females outnumber males increases as they go toward later old age; (3) because poverty intrudes on those who live long (medical costs, etc.); (4) the poorer aged are often those who live alone and women are 65% or more of that group; and (5) because cultural and economic factors all her life have made the woman's earning (and access to a good Social Security pension) considerably lower than a man's.

These women and others now 65 and older have generally been brought up to a higher dollar income, thanks to S.S.I. (Supplemental Security Income). But before we reassure ourselves with that and turn away, let's see what that new income level is: Under July 1, 1976 rules for S.S.I., the maximum a person can have as income is $2,144 per year, plus Medicaid and Food Stamps. That still doesn't put them above the "poverty line" in 1976.

This brings us to some recommendations we'd like to make today, regarding Federal programs designed to help low income older persons. Many of these are available to you, Senators, and to the public in an outstanding report by the Federal Council on the Aging, called "The Interrelationships of Benefit Programs for the Elderly," published in December of 1975.

Participation of older rural females in "means-test" Federal programs is not as good as it could be. Although we do not yet have actual hard figures on this, the experience of the staff and volunteers of the Hawkeye Valley Agency on Aging shows that many older rural persons who are probably eligible for Federal benefit programs requiring a means test do not participate. To prevent this in the future, the attitudes, culture and education levels of older rural and small town people should be considered in the development, improvement, and administration of benefit programs. Do not make it demeaning, threatening or complicated to apply for and get deserved benefits.

(1) We recommend more uniformity in eligibility policies and application procedures, realism in benefits and in assets exclusion (adjust both to the cost of living; currently, S.S.I. benefits are up, but with property reevaluations up and asset limits the same as when the program started, some people could be disqualified without any real income gains to justify it).

(2) We recommend that programs should not penalize people for trying to be more independent and supplement their Social Security incomes with earnings; such a system hurts most the rural poorer person who doesn't have an "excluded" additional pension (frequently, the rural older woman).

(3) In consideration of the physical and psychological accessibility of various application centers for the several Federal benefit programs, we recommend the serious consideration of single-point application centers for all programs, located in each county.

(4) Recognizing the culture of small town life, we urge that publicly identifiable stigmas be removed from Federal benefit programs designed for low-income persons. (We hear reports every week of older women who, despite their need and full information about the program, will not take Food Stamps, because "everyone in town will know" that they are poor.)

(5) Even more effort should be made by administrators of benefit programs to simplify and clarify information on programs. Specifically, this means: write brochures, speeches, correspondence in plain, easy English. Print information and application materials in large print, not only because of eyesight problems of some older people but also because research has shown that easy-to-see information is more likely to be read by anyone. (Has anyone here ever had trouble reading and understanding a Social Security letter or pamphlet?)

(6) Eliminate policies of benefit reduction rates (such as those for Veterans and Dependents benefits) that actually reduce benefits more than 100% of the value of the increased monies (whether that money comes from working or from another Federal program, such as increases in Social Security payments).

(7) Correct the discrimination against aged widows whose husbands' birthdates were before 1912.

Finally, we recommend amending the Employee Retirement Security Act (1974) which still allows a worker to "opt out" of automatic survivor benefits for a spouse, without the consent or knowledge of the spouse (read: "wife"). And study the actual economic and social effects of discouraging survivor benefits for the usually longer-lived female.

HEALTH

Older rural people as a group have poorer health care than older urban people, probably for two reasons: First, less access to health care in the immediate area made lifelong preventive health care difficult and impractical. Second, the already high cost of medical care (out-of-pocket expenses for health care are higher now than before Medicare) is compounded by the cost, not only of getting to the city or big town but also by the proliferation of specialized health care practitioners needed to treat the "whole person".

Medical and health care costs are high for all older people (but proportionally higher for the poorer older woman who outlives a meager or even an adequate income). Medicare doesn't cover the costs of long-term, chronic conditions; it is these that often deplete even the moderately healthy retirement income.

What is needed for the rural and small town older person (who, you understand, is usually a female) is access to low cost health care of a preventive type (such as health screenings) or for care of chronic health problems. That health care screening should include tests that meet important health care needs of older women: nutritional histories and analyses and Pap smears, as well as the usual blood, urine, and other screening tests provided in such clinics.

We know that the need for, and participation in, health screening or well-elderly clinics would be great in rural counties, based on reports of pilot project programs being run in Iowa right now; but they need to be more widespread. The recent opening of a donation-only community clinic, composed of volunteer physicians and nurses, in Waterloo brought calls and inquiries from many in small towns and rural areas in the surrounding counties; county Councils on Aging are talking about the need in their own counties. The known need is acute; the hidden need is no doubt much greater.

TRANSPORTATION

Like income, transportation affects almost everything else of significance in the lives of older rural and small town women, and here especially the fact of being female has had a profound effect.

In the generation which is now the 65-and-older age group in Iowa, there are a great many women who don't drive, not because of lack of money, but because of a sex-bias in their generation that discouraged either their learning to do so or their continuing the practice once it was learned. These moderate-income older women then join the substantial number of less well off (or physically unable) older women and men who need and use transportation services for the elderly in their counties.

The issue of how to provide transportation services to older people in rural areas has been much debated in Iowa. Mass transit approaches waste resources, due to excessive "dead head" or "down time" of large vehicles going empty over long country routes, and high operating, maintenance and depreciation costs. The recommendation we would make, then, is that the Federal and State governments should provide more funds to aging programs to continue and expand urgently needed rural transportation for older persons and should focus on the use and development of networks of locally-based volunteer drivers who are reimbursed for mileage and maintenance. This system is best equipped to provide door-to-door, on-demand escort and transportation services needed by older and often infirm users of the service.

HOUSING

In 1975, across America, housing costs equalled 35% of an older person's income on the average. At the same time, people under 65 spent only 23% of their incomes on housing.

Home ownership is the main asset of rural older persons, outside of their Social Security pensions. And yet, in 1973, 60% of all substandard housing was located in rural areas; older people occupied one-fourth of these, a proportion far higher than their portion of the population.

So the question arises: Should we try to maintain and/or bring up to standard the housing of older women in rural and small town areas? Or should more moderate and low-rent housing for older people be sought for these counties?

It is important to recognize the expense and difficulty of selling a large (or small) older home in a low-density population area where the economy is not booming and no "market" for housing exists. Solutions in these cases might include alternatives which do not require selling the home. These include funding handyperson services to assist in the maintenance of the home of an older person or in the adaptation of that home to physical disabilities of the resident. Title III Older Americans Act funds have made this kind of program available to more and more rural older women. Major repair and winterizing efforts, administered by the Community Service Administration programs (formerly, Community Action Programs), in rural counties, have helped a portion of the lowest-income older population. It should be noted here that Farmers Home Administration low-interest loan programs to upgrade sub-standard rural and small town homes of elderly have not been widely utilized by eligible persons. One reason for this is the fear of incurring any debt in the face of low fixed or declining resources.

Moderate income housing through Farmers Home Administration loans to community sponsors have been popular in Iowa. However, increasingly we hear older women saying that the rents on these are too high for many of them. Rent subsidized housing for older people would better meet the need. Requirements that at least 50 units of housing be built at a time has discouraged the establishing of these H.U.D. 202, Section 8 housing projects in rural areas. But, a solution is available. Rural counties can join together to set up a regional housing authority, as has already been done in southwest Iowa, to sponsor new-construction rent-subsidized housing.

A final comment on housing: new projects designed for the benefit of older persons should be located as much as possible in a location that mixes the older residents with neighbors of other ages. Too often Area Agency on Aging staff hear the comment, "I live here among only the old, the sick and the dying. It makes me feel bad." The health consequences of this self-image can be powerful and negative.

SENIOR CENTERS

Income loss affects not only access to necessities but also the amount of social involvement and interaction a person can engage in. Friendships, one of the best things in life, may be free in and of themselves, but the activities which friends share often cost some money.

There is an appetite for social life in the small towns and rural areas that generates a better turn-out to social events than in the big cities. Senior citizens gatherings in small communities in Iowa—a monthly potluck or dinner, or a daily Title VII Nutrition Site meal—draw good crowds. We are not sure what the real reasons are but certainly the evidence is clear that such events and places, offering as they do the companionship, group involvement, and an opportunity for volunteer work and cooperation, are much valued. Rural areas seem to show a great obvious need for senior centers and a high probable use of such facilities. Indeed, where already developed, they provide the ideal place for a single-point information and service center that has so long been missing from the rural resident's life.

STRICT SAFEGUARDS NEEDED IF CONGRESS IS TO APPROVE SALE OF SIDEWINDER MISSILES AND MAVERICK BOMBS TO SAUDI ARABIA

Mr. CASE. Mr. President, the proposed sale of Sidewinder air-to-air missiles and Maverick TV-guided bombs to Saudi Arabia is deeply disturbing, not only because of the numbers but also because of the lack of proper procedures and safeguards.

The numbers add to the danger that Saudi Arabia is stockpiling weapons excessive to its actual defense needs. Saudi Arabia, of course, is entitled to seek the weapons needed to her legitimate self-defense requirements.

But the latest proposals—without strict safeguards—can make it only more difficult for Saudi Arabia to resist pressures to let the missiles and smart bombs be used for offensive purposes, either by her own armed forces or by her allies.

Congress should not approve the proposed sale of hundreds of Sidewinder missiles, Maverick bombs, and TOW antitank missiles unless firm steps are taken to insure that the weapons will not be improperly used.

The executive branch must provide assurances as follows:

First. Training on these weapons must be limited to Saudi Arabian military personnel. Other foreign nations must not be trained on any of these U.S. made weapons, whether by U.S. military or contractor personnel or by Saudi Arabian and other instructors. Such training is illegal under the Foreign Military Sales Act. The law must be strictly adhered to. There have been reliable reports that Egyptian pilots have trained on Saudi Arabian F–5 aircraft, which carry the Sidewinders and Mavericks. Before gaining congressional approval of additional arms sales, administration officials must agree to make it clear to Saudi Arabia and our own nationals stationed there that this is illegal and violations will be cause to cut off arms shipments.

Second. Saudi Arabia must not use U.S. equipment and arms for military exercises with other Arab countries that are unrelated to legitimate Saudi Arabian defensive requirements. For example, Saudi Arabia last year took part in joint military exercises with Syria and Jordan involving coordinated military operations using Saudi Arabia's American-built F–5 aircraft. These exercises provided training for Saudi Air Force operations from foreign bases useful for possible action against Israel. American military and civilian contractor personnel assisted this exercise. Congress needs assurances that U.S. equipment will not be used again in such exercises and that U.S. personnel will not assist them.

Third. There must be no transfer to other nations of the weapons sold to Saudi Arabia. If the present proposed sales are to be approved, the administration must inform the Saudis in advance that it will not allow transfers to other countries without prior congressional approval as well as the currently required Presidential approval. We also need an agreement on how the equipment will be stored.

Fourth. An agreement that the proceeds from foreign arms sales must not be used as a means of financing new procurement of even more advanced weapons by the U.S. Armed Forces. Such practices, now prevalent, give our Department of Defense and our individual military services a vested interest in selling off old military stocks to get newer items for themselves. This practice undermines efforts to control the arms race. Proceeds made on foreign military sales ought to go back to the Treasury. Congress, through the normal procedures, should approve all weapons procurement programs directly.

These concerns and the problems which arose in the shaping of the arms sales package to Saudi Arabia show the need for changes in the procedures used in selling arms on such a massive scale to developing nations.

There must be a more thorough preliminary review of such proposed arms sales by the White House, the State Department, the Arms Control and Disarmament Agency, and Congress before potential buyers are led to believe they have a commitment.

In particular, no foreign government should be allowed to feel it has a commitment on specific weapons or numbers before there have been full consultations with Congress. We must end the cycle of disputes stemming from a fixation with figures. We cannot allow a repetition of situations in which it is claimed that the dignity of the potential purchasing country or the honor of the United States is at stake if the sale of a particular number or type of weapon is questioned or even rejected by Congress.

I ask unanimous consent to have printed in the Record an editorial from the Washington Post of September 7, which points out some of the realities of the American political system which foreign arms purchasers should understand.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Congressional Test on Arms Sales

Rising apprehension over the sale of American arms abroad lends special significance to the hearing that a Senate subcommittee has scheduled on the proposed $3.8 billion sale of sophisticated F–16 jet fighters to Iran. For Iran two years ago got from the oil-price increases revenues finally commensurate with its military ambitions. It has since been buying arms with a kind of drunken fervor.

The admnistration has been coasting on the premise that Iran's good will in oil, diplomacy and strategy—not to speak of the billions in proceeds from the sales—is sufficient cause to continue this extraordinary supply relationship. If officials have pondered what Iran's larger purposes might be, or what risks the United States might be taking by sponsoring Iran's arsenal and providing the thousands of technicians to make it work, they have kept their puzzlement to themselves. There are reports that in addition to some $10 billion worth of military hardware and services already sold, Secretary of State Kissinger discussed another whopping package on his recent trip to Teheran. The new F–16 item is apparently a part of it.

Just this year, in belated response to just such apparent arms orgies, Congress enacted legislation giving itself new powers, to review executive-sponsored commercial arms sales. This is the category in which the huge deals with Iran, and the Arabs, are made. Previously, legislators had tended to limit their concern to the now relatively smaller category of deals in which the U.S. government plays a financial part. It is under the new legislation, which gives Congress 30 days in which to disapprove a sale, that the Senate foreign relations aid subcommittee is preparing a hearing on the F–16s.

The time is relatively short in which the Congress can draft an intelligent questionnaire. Any useful inquiry, for instance, must go beyond hand-wringing into exploration of the whole broad range of policies, commitments and interests of which this projected sale is but one part. It is rather like trying to shoe a running horse. Yet the beast must be slowed and the effort made, if the Congress is to exercise in practice the powers and responsibilities it is so eager to claim in theory. This is an important test.

Characteristically, the administration, having removed the restraints from its arms sales to the oil-happy states in greater or lesser degree, is muttering in dark dismay now that the Congress is finally trying to catch up. Rather than concede earlier fault, the administration complains that the Congress is rudely butting in. It's true. But there's no choice. In a runaway situation, restoring policy to the kind of reasonable standard which will command an informed Washington-wide consensus is tough going. It not only requires a blending of complex policy factors. It also forces a confrontation of institutions, as the one attempts to share power in an area which the other is accustomed to regarding as its private preserve. That is why the F–16 hearing, which touches just one arms deal among many that the administration has in train, cannot be the end of the road.

Like other foreign governments, Iran is troubled to find that it must deal increasingly with several often competing sources of power in Washington. It feels it entered in good faith into a relationship with the appropriate American authority, and it is tempted to question the motives as well as the judgment of the party now trying to get into the act. One almost begins to pity poor Iran, and poor Saudi Arabia, which is in the Sidewinder missile market, or would like to be, in a big way—and poor Who's Next. But there is a larger moral to all this. The executive must be readier to share its power with Congress. The Congress, in turn, must accept the broader "executive" context in which decisions on particular arms deals must be made. And even the foreign buyers accustomed to working within the frame of a rigidly authoritarian government (as most of our arms buyers tend to be) will have to take into account the fact that when they are doing business with the United States, they are dealing with a free-wheeling political system that cannot always guarantee a final, authoritative, and irreversible answer.

WELFARE REFORM

Mr. RIBICOFF. Mr. President, yesterday the transcript of a roundtable discussion concerning welfare reform was printed in the Congressional Record. I believe that discussion was interesting for the varied views of the welfare reform problem which it offered.

After that roundtable discussion, an audience of those active in, interested in, or expert in various aspects of the welfare reform issue addressed questions to those of us on the panel. These questions were further indicative of the range of views on the topic. I believe that the questions and the discussion they stimulated are useful in considering a coherent approach to this problem.

I ask unanimous consent that the transcript of the second half of the welfare roundtable be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Transcript

Mr. Bork. Thank you very much. We have concluded the first part of our program, and the panel is now open to questions from members of the press and the audience.

James Miller, assistant director of the Council on Wage and Price Stability. As I recollect, the New Jersey experiment was planned to be a decisive test of the feasibility and desirability of the negative income tax. Yet, I gather from the discussion tonight that the results of this test, and those in Denver and Seattle, have been inconclusive. Would the panelists give their views on the reasons why the experiments failed to give reliable answers and on the degree to which they showed that a negative income tax does not reach its objectives?

Dean Cohen. My own view is that the various experiments were useful in indicating some of the problems that are involved. However, until we have experiments that cover large numbers of people under realistic conditions—where they will lose their welfare check, knowing that they will go off, or go on, in terms of a real situation—we will not be able to deduce the impact on working incentives and on entry and withdrawal of secondary workers in the labor market.

Second, I believe that we need to experiment with different kinds of income disregards. The one in the present law is $30 a month plus one-third of earned income. Well, I think we ought to experiment with $40 and 40 percent, and $50 and 50 percent, and other variations to see what impact they have on different levels of assistance. That has not really been done under the existing experiments.

Mr. Bork. Dean Cohen, maybe you ought to explain what an "income disregard" is.

Dean Cohen. Well, an income disregard, or a work incentive, refers to the amount of the work income of a welfare recipient that is subtracted from his or her welfare check. Under the present situation, two-thirds of earnings is subtracted; and people think that that practice, to some extent, acts as a disincentive to continue to work. Most of the negative income tax plans have proposed a work incentive, or income disregard, of 50 percent. Well, first, that immediately makes it more costly for people to go out to work. In my opinion, the pilot programs have not ascertained whether 40 percent or 50 percent or 60 percent is the right figure in relation to different levels of income.

So I wholeheartedly support the senator's proposal for realistic experiments involving people on welfare to determine who will go out to work under various levels of payment and various work incentives. We could then use the results to write general legislation.

I might add that I also favor experimenting with different incentives in different states. I would amend the present law, which provides for one work incentive for all fifty states, to allow different states to experiment with different levels. We might learn something from that.

Mr. Bork. I gather that Dr. MacAvoy believes that we know more about the negative income tax than Dean Cohen thinks.

Dr. MacAvoy. Dean Cohen's criticisms of these sample experiments would hold, I believe, for almost every sample survey that we make—of consumer expenditures, investment in plant and equipment, future outlays—

Mr. BORK. Well, does that mean that they are all equally invalid?

Dr. MACAVOY. No. It means that they're all equally valid. We're continually faced with a trade-off of larger expenditures in order to obtain larger samples against the careful design of a small-scale experiment that keeps costs down while still yielding valid results. The smaller the sample, the more likely it is that the results will be subject to error.

Mr. BORK. Can you give us any idea of the magnitude of the disincentive to work in these negative income tax programs?

Dr. MACAVOY. In the experiments done so far, criticisms like Dean Cohen's have been made of the sample size. I do not believe that a statistician would take those criticisms seriously. Of course, obtaining a valid inference from any one of these short-term experiments is hazardous, in terms of knowing what a specific individual would do if he received a payment on a negative income tax scheme versus payments from various welfare programs. However, we now have several experiments and can make inferences about how groups will behave.

Mr. BORK. But I take it that you believe that these experiments have taught us something. Could you give any idea what they show about the likely loss to the labor force if we were to adopt a negative income tax scheme nationally?

Dr. MACAVOY. You would not see the loss to the labor force in a sudden change in the labor force statistics. The effects of shifting to a negative income tax scheme would be seen in the outlays needed to cover hundreds of thousands more people than are currently assisted, who would receive an annual income of, say, $4,000 or $5,000, so that billions of dollars of additional outlay could go to those who otherwise would have worked more hours or weeks during the year. We're talking about transferring, through a government expenditure scheme, perhaps Mr. Cohen's $15 billion, perhaps $20 billion, and perhaps more.

Mr. BORK. It's a cost problem, and not a loss of national efficiency.

Dr. MACAVOY. I believe that it's fair to say that what comes out of these experiments is both that costs would rise and that work effort would fall. My point is that the change would be gradual as people learn about the new programs and adjust to the new incentives. The experiments put the burden of proof on those who suggest that a great deal more information will flow from large-scale, statewide experiments requiring much greater outlays.

STEPHEN TONSOR, University of Michigan. Senator Ribicoff and Dean Cohen, you have spoken eloquently as advocates of the poor, if albeit professionally, and I think the focus of the meeting this evening has been on the poor. What in your opinion is the impact of these programs on the policy as a whole? Do you see any evidence that they have contributed to the demoralization of political life in the United States, that many people in the United States view these programs with hostility and perceive them as political failures?

Senator RIBICOFF. You come from the state of Michigan, where the unemployment rate is over 12 percent. How are people who don't have skills, or ability, or education going to get a job when people who have the skills and competence can't get a job? I think this is a compassionate country. If a person is disabled, if a person is incompetent, if a person must have someone to take care of him, do you throw him into Lake Michigan and forget he exists? What are you going to do with the poor person in Detroit who can't get a job?

Professor TONSOR. Well, Senator Ribicoff, I would remind you of the massive alienation of the public from politicians who have managed to use welfare as a ploy for political advancement.

Senator RIBICOFF. Professor, I think you know very little about politics, and I'll tell you why. Every politician knows that the people who don't vote are the poor and the black. They are not registered; they drift. They don't vote because they don't care. The people who vote in large numbers are the middle class. And that is why politicians play up to people like you as against the poor and black who don't vote.

Congressman CONABLE. We've been talking about incentives here. In this country, the top 80 percent of our economic spectrum is on an incentive system, and the bottom 20 percent is on a disincentive system to some degree. It's interesting that the kinds of figures that have been bandied about up here imply a welfare plan that might increase the incentives for the bottom 20 percent, but would reduce them for the top 80 percent because of the increased taxes that would be needed to pay for it. Somehow, we must keep the program under enough control so that the average American will find it economically feasible for him to support it.

LESLIE LENKOWSKI, Smith Richardson Foundation. In his response to the previous question, Senator Ribicoff touched upon what I think is the main issue of welfare reform.

Prior to 1964, as the employment rolls went up, the welfare rolls always went down. After 1964, the employment rolls went up, but the welfare rolls also went up, very steeply, reaching about 3 million families about 1971 or 1972. As employment worsened after that, the welfare rolls stayed pretty much the same. In other words, it seems that the recent history of AFDC suggests that changes in national employment make very little difference to welfare enrollment. The question is, have we got a culture of dependency that may, indeed, be due to the AFDC program, and is your faith that better employment would reduce the rolls valid in view of history?

Senator RIBICOFF. I would say, sir, it's a combination. First, as Wilbur pointed out, when you're talking about AFDC, you are basically talking about women with children. If women are going to work, there must be some place to put those children. If a mother has a child of three or four and has to take care of it, obviously she can't work.

Perhaps what is needed is more family-planning programs so that women like that will have fewer illegitimate children. It's a factor of social deterioration. Our society does have flaws, and this is one of them. Again, you have the question: What does society do with a mother who is eighteen or nineteen years of age and has two or three illegitimate children? This is a great dilemma for a civilized society based upon the Judeo-Christian concept; and it is a dilemma that we are unwilling to face. It's easy to talk about welfare bums, but what would you do with that individual mother, and that individual innocent child who didn't ask to be brought into the world? Are you going to let him starve? Are you going to throw him into the gutter or trash heap?

BARRY CHISWICK, staff, Council of Economic Advisers. One of the issues that's raised is cashing out the in-kind programs—for example, converting the food stamp program into dollars, eliminating housing subsidies and giving the money in dollars rather than through housing vouchers. You have talked about combining these programs into a cash negative income tax, and the discussion of this scheme generally hinges around one program, one structure of benefits. The objections to this are twofold: one is the very large cost involved in covering all families under one structure, and the other is the problem of incentive effects. My question is: Since there are different demographic groups—the aged, AFDC-type families, intact families—who would respond differently to work incentives, would the panelists consider a negative income tax in which the structure of benefits was tailored to such demographic differences?

DEAN COHEN. That's exactly why I'd like to see some experiments that perhaps varied the work incentive in relation to different demographic and social conditions.

We talk very glibly about work incentives, but we know very little about them. Thousands of people on welfare have worked even when their welfare payments were reduced one dollar for each dollar of earnings. Economically, it didn't make sense; yet they went to work anyway. Why? I think it was because there are other work incentives beyond strictly economic ones. There is pride in working, for one thing. We don't know what a given work incentive, or one of different magnitudes, would do under different kinds of economic conditions. You have made a good suggestion. I think the senator and I would like to see how it worked out, in actual practice, in various regions, and in urban and rural areas of the country.

Senator RIBICOFF. That's a good commonsense approach you have, sir.

Dr. MACAVOY. Let me add that Mr. Chiswick's question is brilliant, and just what one would expect from a senior staff member on the Council of Economic Advisers. [Laughter.]

Senator RIBICOFF. Why doesn't an idea like yours ever percolate through your bosses up to the President? [Laughter.]

Dr. MACAVOY. It just percolated, but I am picturing an IRS form that requires a woman to check off a certain box depending on her demographic category, marital status, whether her husband is at home, or lives down the street, or hasn't been seen for years—a whole set of boxes of that nature. That would be a complication worth having in the IRS form: your tax schedule would depend on the box checked.

But then what is the IRS man going to do? Is he going to find out, in any definitive way, whether she checked the right box or just the box with the lowest tax schedule or the highest negative tax schedule?

Mr. BORK. You'd have to have an audit system with high penalties.

Dr. MACAVOY. High penalties would mean that you'd have an audit system with extremely high administrative costs. Mr. Chiswick, you answer this question: How would you do it? [Laughter.]

DEAN COHEN. I can tell you how. The IRS would employ social workers.

RITA RICARDO CAMPBELL, Hoover Institution, Stanford, California. I've enjoyed listening to the five gentlemen on the platform and Barry Chiswick in the audience discussing the important problems of demography and taxation, because two-thirds of the long-run actuarial imbalance of the social security system stems from the demographic changes. Barry really asked my question, but the answers he received, I believe, are inadequate. They do not discuss the major issues. Women engage in household activities for which they are not paid—that is, day care of children within the home, cooking, cleaning—and the value of these services is *not* in the gross national product. But when these services are performed by others than the homemaker and mother, they are paid for and are in the gross national product. Women's labor supply is, therefore, far more sensitive to their rate of anticipated earnings than men's labor supply. Women move in and out of the labor force more readily than men. If you are going to devise different systems for men and women and if then you are also going to have different categories for women—depending on whether the husband is there in the home (at least on the day when the welfare worker comes), whether the woman is a single head of household but happens to have two children, whom she wishes to take care of herself or prefers to work and use a day care center—you will be weaving a very tangled web and still not solve the problem of the woman, a single parent, who has children to support and no other adult in her home, as might have been true in the past, to take care of her children. I'd like to hear you elaborate on these lines.

Mr. Bork. I think Congressman Conable has a point that is raised by both of these last two questions.

Congressman Conable. The only point I want to make is that somebody in Congress would raise the issue of privacy at some point. We are tugged in so many directions in this complicated society that it's fairly certain the sensitivities of the average American would be outraged by any poking and prying of this sort. That would likely become almost the dominant issue in any effort to reconstitute a system along such rational lines based on full information.

Robert Weintraub, staff, House Banking and Currency Committee. All of you seem to agree that the present system involves a large bureaucracy. It excludes some deserving people, and it includes people with lots of assets and others who may be undeserving.

Let's suppose that we simply extended the present tax system to include a negative income tax, in the Friedman manner. Do you believe this would (a) involve a smaller or larger bureaucracy, (b) exclude more or fewer deserving people, (c) include more or fewer undeserving people? And if your answers are, "Smaller, fewer, and fewer," or two of those three, why don't you go for a negative income tax system? [Laughter.]

Senator Ribicoff. Frankly, I don't know. That's why I would like to pilot that out. I would not, ever, vote for a negative income tax for the entire country as a substitute for the present welfare system. But I would like to see it tried in a couple of states.

Dr. MacAvoy. I would respond, "None of the above, the same, and more for the following reasons which will take me ten minutes to enumerate." [Laughter.]

Mr. Bork. On television, this program is going to be as comprehensible as an income tax form. [Laughter.]

Dr. MacAvoy. If we were to use Dr. Weintraub's technique, we would be replacing the HEW division that deals with specific programs with an enlarged Internal Revenue Service, whereby checks would be sent to those who had such low levels of income that, under the tax code, they would get payments rather than pay taxes. This negative income tax scheme would require a larger bureaucracy and a more complex surveillance system to try to find those who have no income than we have with an IRS that seeks out those who have large incomes and are not paying taxes. Perhaps this is what Senator Ribicoff was saying—that it's very difficult to envision the construction of that new bureaucracy in IRS. But I believe there would be one, and it would raise the problem that Representative Conable has raised about privacy.

Second, we have the matter of whether a negative income tax would cover more deserving people. I believe AFDC and other programs—Medicaid, food stamps, and so on—are doing a good job in reaching deserving people. They are also reaching substantial parts of the population that might not be covered if the justification for these programs were strictly applied. Ten percent of those who receive food stamps have incomes roughly of $10,000 a year or more. That seems to me to be a little high. [Laughter.]

Third, given the general scope of an IRS form and the inability to differentiate well in a national negative income tax scheme, I believe more of the undeserving would receive the negative income tax than now receive welfare. So that's why I gave those three answers at the original point in this long answer.

Paul Feldman, Public Research Institute. You gentlemen have been carrying on as if all we needed to do is discover a better welfare system, and then we'd immediately adopt it. But it's been a very long time since we've seen any government programs dispensed with. Professor MacAvoy has had some experience trying to do away with the Civil Aeronautics Board and several other regulatory agencies, and he hasn't yet managed it. Do you really believe that it would be possible to do away with many of these programs that you've been talking about if the cost was a reduction in benefits to some recipients and in jobs to some welfare workers?

Mr. Bork. I think that question is tailored for you, congressman.

Congressman Conable. I wish to note that one of the Senate's leading liberals has demonstrated tonight that he is quite conservative about change. And I think that makes an important point: government is a terribly conservative institution, and change comes with great difficulty.

Change with respect to a part of the government program as sensitive as welfare would obviously entail a great many labor pains, because of the sensitivities involved, because of the high visibility of the welfare system generally, and because of all the backlash that would come from the many people who would think the work ethic was being tampered with. There's no question that the political difficulties would be very great. Substantial change is not going to come about until we get a Congress and a President working in concert, until there is a sufficient mandate from the public to get us over the threshold of conservatism that affects such institutions. It's not going to come about until there are many programs of the sort we are having tonight that sensitize people to the difficulties involved in those changes—the complexity of the current system, the conceptual errors in it, and the problems of expense and philosophy that must be grappled with.

So I think your question is entirely appropriate. Welfare reform is going to take time, it's going to take effort, and it's going to come only with a major national effort. We aren't going to be able to do it piecemeal, either, in any significant way.

Howard Tuckman, Department of Economics, Florida State University. In listening to the conversation tonight, I am reminded of the passages in Pat Moynihan's book about the difficulty of explaining the formula of the negative income tax, both to the Congress and to the public.[1] Now, we know that, come January, there will be a new administration. And there's a reasonable probability that somewhere in that new administration a negative income tax will be proposed. If the public is not educated on this matter, what is your guess about what would happen to a proposal for negative income tax?

Senator Ribicoff. It would never pass.

Congressman Conable. We're quite capable of rejecting things quickly. [Laughter.]

Seriously, it's going to take a lot of groundwork, a lot of education, and a broad-based public perception of the need for change.

Dr. MacAvoy. Are you capable of taking up things before adequate preparation has taken place?

Senator Ribicoff. We often do, but that isn't right.

Congressman Conable. Sometimes we're quite capable of not taking them up even after adequate preparation. [Laughter.]

Senator Ribicoff. In answer to some of the questions this gentleman raises, this week the Committee on Government Operations, by a vote of seven to nothing, passed Senator Muskie's Zero Budgeting Act, which he called a "Sunset Bill." The bill provides that every program of the government must be reauthorized every five years. I expect to bring the bill out of committee this summer.

This proposal, if passed, would give us an opportunity to find out which programs work and which don't. The only way we could do that would be to have a real program evaluation—which is not done now, either in the executive branch or in Congress. Congress would then have to balance out what the situation would be with and without the program. Then it would have to accept the program, reject it, or come up with a substitute.

I think this is probably, prospectively, the greatest congressional reform since the Congressional Budget Act. I am confident that the Senate will pass it, but I don't know about the House. I would guess it will come out of the Government Operations Committee unanimously.

Gerry Brannon, Georgetown University. I would like to ask Wilbur Cohen if he would comment on the fact that at present the food stamp plan seems to be structurally very good. It has a low marginal tax rate, it applies to the working poor, and so forth. One would almost think that the way to get to welfare reform would be gradually to increase the number of food stamps, then gradually make them bigger and greener, and finally put George Washington's picture on them. Then we could repeal the other programs.

Dean Cohen. I do think the food stamp plan, and its extensive operation, has changed the entire nature of the welfare reform problem from what it was at the time of the family assistance proposal. It is much more difficult today than it was in 1970 and 1971 to talk about supplanting all the other programs with a negative income tax because the food stamp plan is now so extensive.

I don't believe, under present circumstances, that it is economically or politically acceptable to cash out the food stamp plan into any negative income tax that I know of. And that's very different from the situation in the early 1970s when the House and the Senate considered the family assistance plan. I think the food stamp plan represents an important development. I would only hope that, if we can get back to a period of full employment and if the food stamp plan could be narrowed down, it might be possible then to cash it out. But I must say, I am now very pessimistic about that. The food stamp plan is here, and it represents a very significant part of the total welfare picture. That makes cashing it out into a negative income tax much more difficult today than it would have been five years ago.

Congressman Conable. It's interesting, in the light of Wilbur's remarks, to consider that the food stamp program is the one part of the welfare system that is likely to be reformed in the near future. There is a great deal of public discontent with it. One of the reasons is that virtually 40 million people are now eligible for food stamps, and the average American thinks that any welfare program for which so many people are eligible must have something conceptually wrong with it and must be potentially so expensive that the country can't carry it. So regardless of whether you think it's a good plan conceptually, it's under a great deal of political pressure now. Most people accept that it is going to be reformed in some way.

Phil Lyons, staff, House Budget Committee. My question is, what provision do you think should be made in welfare reform for the individual's desire to work? In other words, what consideration, if any, should be given to qualifying the person for receipt of a benefit depending on whether he made an honest-to-goodness effort to work?

Dean Cohen. That gets back to the problem I posed of how to deal with women who are heads of families. The question you ask is really based upon the expectation that the male head of family is the primary worker, an expectation that makes the question easy to handle. But what work are you going to offer at what wages to a woman who has three children, when the decision of whether she should stay home with her children or go to work is one which ultimately, in our society, she and not a government agency must make?

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[1] Editor's note: Daniel Patrick Moynihan, Politics of a Guaranteed Income: The Nixon Administration and the Family Assistance Plan (New York: Random House, 1973).

Mr. Bork. In these programs, do we have any instances in which even the male head of the family is subjected to a test such as is proposed?

Dean Cohen. In general, under our present program, the male member of the family is subjected to a work test. But as Senator Ribicoff said earlier, when there are no real jobs available in an area, that work test is very unreal. So I think that you'd have to pose that question for a full-employment economy. And it might well be answered in much the same way as we do in connection with unemployment insurance in terms of what is "suitable work."

Now, my answer to your basic question involves another proposal that we haven't discussed here and that I think has some merit. We could break this problem into two parts. First, there are the employable people, to whom we could apply the kind of work test and concepts that exist in unemployment insurance; these are mainly males, but also women who have no children under the age of six, or eight, or whatever age you want to set. Second, we would use the existing welfare program for the rest, and let them make their own choices about working or not. That would be one of the things that I would test out in selected states. I think there's a lot of merit to it, but I don't know whether it would work or not.

Dr. MacAvoy. There's an additional element that Mr. Cohen has discussed before: once the opportunity for work is there, in a well-constructed program, how much of the additional income from work are you going to take away by reducing welfare payments? Now, I believe we all desire to provide not only the opportunity, but also the incentive to work for those who are capable. That means we must take away very little of the income they would earn. On the other hand, if we do, the total amount of income received from welfare and work could be very substantial. I don't see how that trade-off can be made.

Mr. Bork. We're going to have trouble with it, I think. But we have already discussed that.

John Todd, Department of Health, Education, and Welfare. I work in the office that oversees the income maintenance experiments—which *do* have variable guarantees and tax rates. And, incidentally, we don't have final results from Seattle and Denver yet.

But my question concerns another matter. Everyone, with the possible exception of Dr. MacAvoy, seems to agree that the present distribution of benefits is inequitable—that the moneys that are currently flowing, at least from the federal Treasury and perhaps from state and local governments, are not distributed in the best way. Yet, there also seems to be wide agreement that a negative income tax would have a large price tag; very large numbers—$15 billion to $30 billion—have been mentioned. What would be your reaction to a more modestly priced negative income tax that, through the elimination of several in-kind programs and the utilization of longer accounting periods and asset periods, could in effect reshuffle much of the present money in a manner that would be, by your lights, more equitable?

Dean Cohen. Let me make two comments on that, because I think a lot of people, even if they have different views, will agree with me on this point. I don't think that we can solve that problem until Medicaid no longer has to deal with the issue of eligibility. In other words, you've got to solve the so-called notch problem—

Mr. Bork. Not all of us understand the notch problem.

Dean Cohen. Let me put it very simply: it is the difficult problem of a person's becoming *eligible* under the negative income tax program, but becoming ineligible under the Medicaid program and thus losing more valuable medical benefits when he becomes eligible for relatively smaller income benefits.

Let me answer Mr. Todd's question this way: I don't think that his suggestion of a more modest negative income tax is realistically feasible under the present circumstance, because the lower we make the payments, the more we would have to have supplementation, either mandatory or voluntary, in California, Michigan, and New York; and we'd still confront the same problem of disparities.

Senator Ribicoff. I'd like to ask Mr. Todd the same question I asked of Mr. Chiswick. When you have an idea like this, how do you get it up to the secretary of HEW? Does anybody listen to you? Whether the idea is good or not, I'm just curious about how, in the bureaucracy of the government, do young men like you bring your good ideas to the surface.

Dean Cohen. Abe, when we were there, we used to have an open-door policy. They used to come to see us with their ideas.

Mr. Todd. Well, I can speak, for example, of Secretary Weinberger, with whose management I have had more experience, and who, I think it's commonly known, supported the type of program I'm suggesting. I don't pretend that he did it solely on the basis of my urging. The program received mixed reviews, and the political climate existing at the time, plus budgetary considerations, led to an official postponement of the consideration of that idea. But I don't believe it's fair to say that it did not receive a hearing; nor do I think it's fair to say that the idea did not receive a testing out by people in IRS and others looking at its administrative feasibility.

George Merrill, staff, Senate Budget Committee. You've all been talking about the little welfare programs, such as AFDC and food stamps, but no one has mentioned the biggest program of all—the social security program, which accounts for 20 percent of the federal budget now. Do you think that social security should be examined in this overall context of welfare reform?

Dean Cohen. My answer is no. That's not what we're talking about in welfare reform. The social security program needs to be reexamined and changed fundamentally, but it has basically nothing to do with the welfare reform question that we're discussing today.

Senator Ribicoff. You pose a basic problem, and I give you a political answer. To try to change the social security program will lead to revolution.

Mr. Bork. In other words, Senator Ribicoff is not going to lose in New Hampshire in the next primary.

Dr. MacAvoy, Won't the Sunset Law terminate the social security program?

Senator Ribicoff. No. The Sunset Law does not apply to trust funds, pensions, social security—to programs in which there is a long-term investment and benefits.

Dr. MacAvoy. You mean, there are already escape clauses.

Senator Ribicoff. Well, it's altogether different. How are you going to terminate a retirement program that people have been paying into for decades with the expectation of receiving money back?

Mr. Bork. This concludes our Round Table discussion, presented by the American Enterprise Institute and the Hoover Institution. I want to thank our distinguished panelists for a lively discussion—Dr. MacAvoy, Representative Conable, Senator Ribicoff, and Dean Cohen—and also the experts, members of the press, and guests who were kind enough to participate. Thank you. [Applause.]

FEDERAL CROP INSURANCE ANNOUNCEMENT VIEWED WITH ALARM BY FARMERS

Mr. McGOVERN. Mr. President, in a letter to Congressmen and Senators dated August 31, the manager of the Federal Crop Insurance Corporation advised the South Dakota delegation that the "proper administration of the Federal crop insurance program requires that we cease accepting applications, as of this date, in the State of South Dakota." The effect of the announcement would allow only 1976 policyholders to be eligible for 1977 policies.

This announcement touches off the old line at the USDA about the right hand not knowing about the left hand. The Secretary himself, only a short time ago, recommended to the chairman of the Senate Agriculture Committee that the 1977 farm bill eliminate all disaster programs and replace them with expanded Federal crop insurance for major production commodities. Within a period of only several weeks, the very same agency the Secretary charged to expand its coverage has substantially retreated from the responsibilities the Secretary indicated he would seek to impose.

This creates an absolutely untenable situation in the farming community. I have just returned from a visit to the South Dakota State Fair in Huron, S. Dak. I can say that the Department of Agriculture has farmers so confused on regulations and programs that seem to change almost from day to day that they have no idea as to where they stand.

Our largest newspaper, the Sioux Falls Argus-Leader, chose to editorialize on the incongruous situation with respect to the Federal crop insurance announcement. I ask unanimous consent that the editorial contained in the newspaper's September 6, 1976, issue be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Sioux Falls (S. Dak.) Argus-Leader, Sept. 6, 1976]

Government Expertise and the Drought

The decision of the Federal Crop Insurance Corporation to discontinue sales of policies to new customers in the drought-stricken portions of the Midwest is an incredibly stupid one.

The Associated Press, in carrying the story on its wires last week, said that the sales ban was made effective in Minnesota and the Dakotas with no public announcement. No wonder. What Department of Agriculture official would want to trumpet such a decision?

According to The Associated Press, crop insurance officials said they ordered the sales cutoff to protect current policy holders against the risk of a large premium increase. Officials indicated they anticipate another possible drought next year and, as a result, potentially large claims—especially if the number of policy holders should increase.

Farmers who have the insurance now will be able to continue it. But farmers who need some help apparently won't find it forthcoming from the Department of Agriculture's bureaucracy.

Ben Radcliffe, president of the South Dakota Farmers Union, calls the decision "outrageous," which is also a pertinent comment. Radcliffe had some unkind words for the Ford Administration and Secretary of Agriculture Earl Butz, for which it's hard to blame Radcliffe. He said that South Dakota farmers "are fighting for their economic survival. They should be able to expect every possible assistance from the federal government. Instead, administration officials have displayed a callous disregard to what happens to farmers."

Our own assessment of Butz' over-all performance is different from Radcliffe's. Butz has fostered a direction in agriculture that seeks uncontrolled production and greater markets for American farmers. Compared to 10 years ago, American agriculture is better off than it was under the concept of idle acres and surpluses that couldn't be sold. Today's livestock prices, however, are nothing to cheer about. But there's something drastically wrong in the government setup as it applies to mitigating the effects of this year's drought on those affected by the disaster.

It occurs to us that the Department of Agriculture could cope with the situation of the localized drought in the eastern Dakotas and Minnesota when most of the nation's agriculture is headed for a prosperous year. Such a contingency could be met, we are certain, by distributing the crop insurance risk nationwide instead of locally, if that is the problem. A better way should be within the expertise of the Department of Agriculture.

It is hard to believe that President Gerald Ford or his running mate, U.S. Sen. Robert Dole of Kansas could let such an important matter as crop insurance for area farmers be handled so poorly by the Department of Agriculture. Dole's service on the Agriculture & Forestry Committee of the Senate suggests that he would have a better solution. Certainly, Jimmy Carter and his nominee for vice president, U.S. Sen. Walter Mondale, will attempt to counter with their proposal for the problem.

Meantime, Radcliffe's parting comment should light a fire under somebody: "If this is an example of the kind of help farmers can expect from their 'friends' at the Federal Crop Insurance Corporation, who needs enemies?"

FOREWORD TO NEW EDITION OF JANE'S FIGHTING SHIPS

Mr. TAFT. Mr. President, the 1976–77 edition of Jane's Fighting Ships, the world's most authoritative naval annual, has just been published. I believe that the foreword to the new edition should be of interest to my colleagues, as it is an important piece of analysis of the worldwide naval situation.

There are several observations in the foreword to Jane's which are particularly pertinent to the considerations of the Senate. In reference to the Soviet Navy, Jane's notes that—

> When in the past a country with few overseas financial or colonial interests has embarked on the building of a considerable fleet, the true aims of the ships concerned have proved to be not only protection of the homeland and the sea lines of communications which run to it but also aggressive activities designed to support national policy.

Since the Soviet Union clearly lacks significant natural overseas interests, the implication that the Soviet Navy is being built for aggression is obvious.

The foreword to Jane's also makes several useful observations regarding the U.S. Navy. In relation to one of the most fundamental points in the current U.S. naval debate, the question of whether we need small numbers of expensive, nuclear-powered ships or large numbers of less expensive naval platforms, Jane's states:

> Allied with the generalities of the situation are the continued efforts of the "nuclear propulsion" faction whose proposed policies would result in the investment of great sums of money in a comparatively few nuclear-fueled ships, while others seek to provide greater numbers for more extensive surveillance and protection of the areas of greatest concern to the U.S.A. "Deterrence" is frequently a matter of presence and since presence requires sufficient numbers of ships this requirement means a very carefully computed balance between cost and efficiency. No matter how potent a ship is, it can never be in more than one geographical position at one time. It is at this point, however, that the situation is complicated by congressional legislation dictating the use of nuclear propulsion for all new major combatants designed for strike forces.

As my colleagues will remember, the Senate voted this year to strike title VIII, the section of the law requiring nuclear propulsion. While we lost this year in conference, I hope we will continue to work to eliminate this counter-productive legal requirement.

Jane's also comments on a Navy program, the CSGN or strike cruiser, which I have strongly opposed and which the Senate also opposed to date. Jane's states of the strike cruisers,

> Of some 17,000 tons, equipped with the AEGIS system and both surface-to-air and surface-to-surface missiles, carrying at least two and possibly six aircraft (helicopters, or perhaps VTOL) and with a speed of 28–30 knots, the official estimate of their cost reaches as high as $1.6 billion. These must be the most expensive screening ships ever envisaged and, if the cost increases in the same proportion as has that of the Virginia class of nuclear-powered cruisers, could be priced out of the programme. This cancellation would also seem to be encouraged by the development of anti-ship weapons in other navies and the USN's need to provide more numerous classes of ships for the manifold duties short of general war which are inherent in a fleet with world-wide responsibilities.

Mr. President, I believe that the entirety of the foreword from the 1976–77 edition of Jane's Fighting Ships should be of interest and of use to the Senate, and accordingly I request unanimous consent that it be printed in the RECORD.

There being no objection, the foreword was ordered to be printed in the RECORD, as follows:

THE FOREWORD TO JANE'S

The 12 months since the publication of the last edition of Jane's Fighting Ships have been notable for a number of items of interest and importance both in the international scene and the more narrow subjects covered by this book.

INTERNATIONAL RELATIONS

From the international point of view the Conference on Security and Cooperation in Europe which concluded at Helsinki on 1 August 1975 could have been the starting point of a great improvement in international relations. Amidst the customary high-sounding expressions of principle and intent were those which spoke of the participating states refraining from the threat or use of force, acknowledged the need to respect the equal rights of peoples and their right to self determination, the fact that it was in the interest of all the signatories to aim at a lessening of military confrontation and the promotion of disarmament, as well as the early publication of national budgets. Although many have waited with dwindling hope for some evidence of moves which might suggest that these principles were honestly and sincerely held, little has been seen to give encouragement. The new methods of Soviet involvement in Angola, which is admittedly outside the boundaries of the participating states, and the announcement by the late Marshal Grechko in January of the necessity for the increase of Soviet armed forces are only two of the pointers to the future. We shall examine later the effects of current planning on Soviet naval force levels at a time when the situation of NATO is an unhappy one. While the naval forces of Britain and Iceland have been in confrontation over a fishery dispute and the future political alignment of Italy is in doubt, while Greece has withdrawn from the military alliance and with the problems arising between Turkey and the USA, not to mention the confusion that has existed for some time in Portugal, it is clear that this grouping of democratic states lacks the cohesion and the willpower of those of the Warsaw Pact. All these facts are indications of future trends. For the present the continuing terrorism, frequently nurtured from without, which threatens so many countries makes us very conscious that the words of Winston Churchill in the period of the Nazi tyranny are equally applicable to our own situation—"We are sunk in a barbarism that is all the deeper because it is tolerated by moral lethargy and covered with a veneer of scientific convenience."

NAVAL AFFAIRS

From the more parochial aspect of naval affairs there are continuing indications of a steady increase not only in the size of forces throughout the world but also in their capability. Amongst the larger navies the building programmes continue to advance although overall numbers are being reduced in certain categories as large batches of ships become over age. However, the improvement in missile capability now gives a single ship a capacity for destruction only equalled in the past by great fleets and squadrons of aircraft. The Western navies have been replacing a number of their ships by newer vessels which in all cases far outweigh the cost of their predecessors. In the USA certain ships now under construction are costing as much as a whole squadron of earlier classes. The Soviet naval building programme continues at a steady rate although there is little sign as yet of any important change in design pattern from that reported last year. However, amongst the smaller navies there has been considerable reinforcement and the proliferation of the comparatively small fast attack craft armed with missiles must inevitably change the balance of power in many important areas. The Chinese Navy continues to increase in numbers and remains primarily oriented towards defense of the long coastline of the People's Republic.

INCREASE IN MERCHANT FLEETS

One other point which comes clearly from the figures published in this book is the steady increase in numbers in the world's mercantile fleets in which the most numerous are those of Japan (9,932) and the USSR (7,652). The overall increase throughout the world is almost 10 percent over last year's figure and double that of 10 years ago. Of the 30 largest fleets today only two have shown a slight reduction in the last year and one of these is a flag of convenience. The doubling of the size of the world's fleets is in many cases reflected in the export/import trade of the nations concerned. For instance, that of the USA has very nearly doubled itself in the last 10 years and in monetary terms is little short of treble the 1965 figures. These facts demonstrate a reliance on sea communications which notably increases the vulnerability of the trading countries.

The dependence of the USA on sea-borne trade is typical of the state of most of the major powers. The People's Republic of China now has trading links with 122 countries, Japan relies almost entirely on imports for her raw materials, while the condition of the European members of NATO, as well as of the non-aligned states of Europe, would deteriorate rapidly were their sea-lanes cut. The USSR, on the other hand, is not reliant on the import of foreign raw materials but depends in a large measure and in a very competitive field on cut-price freight for the support of her national hard currency balance. In addition she is dependent on the Western nations and other countries of the non-Communist area for a great deal of her heavy machinery and technical imports and also, as we have seen during the last two disastrous harvests, for a considerable quantity of her food. This is also true of the Soviet fishing fleet which provides vast amounts of protein food and fishmeal for agriculture.

SAFETY OF SEA ROUTES

It is therefore hardly surprising that the sea routes of the world are becoming more and more congested. There are some who are only too prepared to accept the situation and reject the argument of vulnerability. It is here that the age-old lessons of seapower must once again be put forward. Those who have the capacity to use those sea routes in safety will survive. Those who have the capacity to interrupt this international intercourse will remain, as always in the past, in a position to achieve their ends. The argument that war is unthinkable in this nuclear age applies less to the sea than to any other area. It must be remembered that the high seas are neutral ground, and that without any overt conflict, without the firing of any guns or missiles or torpedoes, great areas of the oceans can be declared dangerous: harassment may occur, mined areas declared, or exercises conducted which can adversely affect the flow of shipping. Delays will result in increased prices; interference in increased insurance premiums. With 98 percent of the bulk of the world's trade being carried in ships it needs little emphasis to show the disastrous effects of any or all of these acts, none of which reaches the definition of war. To conduct trade with security a country needs the manifest capability to defend its own, whether that be shipping lanes, fishing areas, its oil rigs, or the coastal traffic upon which so much depends in so many areas.

AREAS OF INFLUENCE

The world has temporarily resolved itself into certain areas of influence: the NATO area, the Soviet-dominated Communist bloc, China, Japan, and the various geographical areas such as South East Asia, the Persian Gulf, Australasia, the Indian Ocean, and both coasts of South America. In reviewing the state of the world's fighting ships today it is convenient to consider these and their problems.

NATO'S DEPENDENCE ON THE SEA

As has already been said NATO is in an unhappy state. This is no place to consider the political problems which confront the leaders of the various nations comprising the alliance. Today their reliance on ocean trade is evidenced by the fact that in the North Atlantic and Mediterranean areas at any one time there are just over 4,000 merchant ships at sea plying between their ports, in addition to some 3,000 within those ports. Oil comes to these nations in NATO tankers of which 200 are daily at sea in the Indian Ocean. Of the British Merchant Navy over a quarter of its ships is east of the Suez at any one time. It is therefore totally illogical to apply geographical boundaries to the naval areas of concern to this alliance. That the southern boundary should be set at the Tropic of Cancer in the North Atlantic makes no sense when the above facts are considered.

STANDARDISATION

It is now 27 years since the Treaty inaugurating the North Atlantic Treaty Organisation came into force. In that time many committees have considered the problems of standardisation within the forces of NATO and yet today we see little advance in this respect. Particularly at a time when economic problems have caused the limitation of defense budgets the prevailing lack of standardisation is resulting in continued and gross waste. Several different designs of ship destined for the same purpose, a plentitude of various radars, missiles of many designs, the requirement for different types of fuel and spares, the need for some 30 different types of ammunition, and a regrettable lack of uniformity in doctrine and frequencies has resulted in an increasingly difficult task for the staffs required to plan coordinated operations and for those who provide the support for the fleets.

However, this situation is not surprising when one reflects on the national differences of opinion over the requirement for seapower and, when this is agreed, the methods by which it should be provided. During the last year there have been endless and vitriolic debates in the USA over what is required in her navy today. At a time when many politicians choose to view detente as a new method of achieving world peace instead of the prolongation of Khruschev's policy of peaceful co-existence leading to eventual Communist overlordship, this energetic debate causes little surprise. Allied with the generalities of the situation are the continued efforts of the "nuclear propulsion" fashion whose proposed policies would result in the investment of great sums of money in a comparatively few nuclear-fueled ships, while others seek to provide greater numbers for more extensive surveillance and protection of the areas of greatest concern to the USA. "Deterrence" is frequently a matter of presence and since presence requires sufficient numbers of ships this requirement means a very carefully computed balance between cost and efficiency. No matter how potent a ship is, it can never be in more than one geographical position at one time. It is at this point, however, that the situation is complicated by Congressional legislation dictating the use of nuclear propulsion for all new major combatants designed for strike force.

U.S. NAVY

The current operational strength of the U.S. Navy includes 13 aircraft carriers of which two are nuclear propelled and three of World War II design. The 14th carrier is used for training. Two more nuclear propelled carriers will come into active service over the next five years. In the wake of the debate which has been under way for so long alternative plans have been drawn up for smaller ships which could operate high performance aircraft as well as being nuclear powered. None of these can be considered particularly small, ranging from 65,000 tons full load to 85,000 tons and costing an estimated 1979 price between $2.1 billion and $2.25 billion. There is also a plan to supplement these very expensive ships with what are called VSTOL support ships (VSS) which would operate fixed-wing VTOL aircraft and helicopters. The need for this re-design has come as a result of the Congress turning down the Navy's plan for the sea control ship of 14,000 tons. The new design, which it is not planned to fund for another four years, varies between ships of 22,000 tons and 33,000 tons. In these cases their propulsion would be either by gas turbines or steam turbines.

In other categories of surface ships the urge to "go big" appears again. Enough has already been said and written about the SPRUANCE class—this year details of the proposed eight nuclear-powered strike cruisers are available, ships whose primary duty would be the protection of nuclear aircraft carriers. Of some 17,000 tons, equipped with the AEGIS system and both surface-to-air and surface-to-surface missiles, carrying at least two and possibly six aircraft (helicopters, or perhaps VTOL) and with a speed of 28–30 knots, the official estimate of their cost reaches as high as $1.6 billion. These must be the most expensive screening ships ever envisaged and, if the cost increases in the same proportion as has that of the VIRGINIA class of nuclear-powered cruisers, look set to be priced out of the programme. This cancellation would also seem to be encouraged by the development of anti-ship weapons in other navies and the USN's need to provide more numerous classes of ships for the manifold duties short of general war which are inherent in a fleet with world-wide responsibilities.

At the same time the DDG47 class is proposed for the 1977 programme, the aim being to support the strike cruisers in "the protection of high value forces (including carriers)" as the Secretary of Defense described it. These 9,000-ton ships would carry the same AEGIS system as the cruisers, linked to Standard surface-to-air launchers, surface-to-surface missiles, two helicopters and would be propelled by gas turbines. The lead ship cost requested is $858,500,000—although this could be less in later ships it is still much more than the $125,000,000 (1973 values) for the originally planned missile-armed variant of the SPRUANCE class.

Size and cost increases apply also to the submarine fleet. The TRIDENT class of ballistic-missile submarines, of which 10 are currently planned, is designed for a dived displacement of 18,700 tons. This vast size is dictated by the requirement to fit 24 missile tubes for the eventual 6,000-mile TRIDENT SLBMs. This large hull has brought a need for greater power, a large reactor to provide it and, finally, an even bigger hull to take the reactor. Nevertheless the $791,500,000 request for the fifth in the class is still less than the first DDG47 class estimate, whilst the estimated cost for the three submarines of the LOS ANGELES class of nuclear attack boats which are proposed for the 1977 programme is $320,000,000 per hull. These are 6,900 tons dived with, it is believed, a modified surface-ship reactor—perhaps indicating an omission in the design process and also, possibly, explaining the fact that the first of the class is two years behind schedule.

Having emphasised the cost of these increasingly large ships and submarines it is perhaps comforting to end this very brief review of the USN with two most important developments—the frigates of the OLIVER HAZARD PERRY class and the trials of the new cruise missile. The first of these carries both surface-to-air and surface-to-surface missiles, two helicopters, and a gun armament on a 3,600-ton hull propelled by gas turbines. Although costs have risen steeply to $143 million for the 1977 programme it will be possible to provide a considerable number of these ships for the multiplicity of tasks such as surveillance, escort and patrol which make up such a large proportion of any navy's tasks.

Whilst discussions on SALT II creep on their interminable way the fact that a U.S. cruise missile with long range and a low altitude capability has now been given initial tests is of the greatest importance. This could be done of the most significant additions to the U.S. naval arsenal and a powerful deterrent in future years. How this and all other programmes is handled rests in the political balance and in the long run with the people of the USA. How far the reputed remark of Admiral Yamamoto at the time of Pearl Harbor—"I fear we have awakened a sleeping giant and filled him with a terrible resolve"—would be applicable today is a matter of the greatest importance to the rest of the world.

SOVIET NAVY

A reasonably correct and objective analysis of the Soviet Navy today is very hard to achieve when criticism from that quarter heavily outweighs the facts given to support it. Such an analysis depends on three major factors—the current building programme, the training of those that man the ships, and the deployment of the ships themselves. Admittedly there have been a wealth of statements by senior Soviet officers on their views of the proper operations for this fleet but these must be considered in the context of what has in fact happened. Admiral Gorshkov has made it quite clear that he considers the fleet which he commands as an essential element of the political advance of his country. At the same time he recognizes that to carry out this duty the fleet must be capable of any form of naval operation and action which may come its way. It has become almost a tradition amongst some people to consider the Soviet Navy as a defensive force for the protection of Mother Russia. However, the armament of the new ships and the introduction of carrier-borne aircraft has suggested an extended outlook beyond that of pure defence. When in the past a country with few overseas financial or colonial interests has embarked on the building of a considerable fleet, the true aims of the ships concerned have proved to be not only protection of the homeland and the sea lines of communications which run to it but also aggressive activities designed to support national policy. In the last 20 years the question of defence has also included the neutralisation of forces armed with strategic nuclear-headed weapons. It is therefore of value to consider the building programme of the Soviet Navy in the light of protection against these weapons, protection of its own coastlines, and overseas aggrandisement.

During the last year it has become clear that both observers and politicians remain rooted to the argument of pure numbers. As a result, many false conclusions have been drawn and, in this respect, data can be twisted to meet a multitude of requirements. So far as strength of the fleet is concerned it has become apparent that the Soviet Navy has reached a plateau of numbers. What is changing is the capabilities of the ships and submarines involved and, as a result, the operations which they are capable of undertaking. This plateau of numbers is governed by the active production lines in the Soviet shipyards, by the money which is available for shipbuilding, and by the number of men who are available to man the fleet. Admittedly in a major crisis the building rates could be accelerated but it would appear that the provision of additional trained manpower is unlikely.

The young sailors who man the Soviet ships enter the navy in two groups of 50,000 to 60,000 each year. After six-months training they may expect to spend the rest of their three years of conscript service in the same ship. At the end of this time they either return to their homes or, in a minority of cases, sign on for further service. In this case they become senior ratings of Petty Officer and Chief Petty Officer status at the age of 21—very much earlier than their opposite numbers in the Western navies could expect. As a result a considerable strain must be placed upon the junior officers who receive a five-year training, primarily in technical matters. It is probably this concentration on technology which has resulted in the situation which Admiral Gorshkov criticised very strongly in his recent article in Red Fleet. In this he complained primarily of the narrow approach of too many officers in his fleet and also criticised the methods of selection for command. Where there is weakness amongst the officers the rest of the navy must suffer in proportion.

While the consideration of numbers is, as always, a dangerous exercise for the uninformed, the composition of the Soviet fleet is of considerable interest and gives certain clues to its future planned employment. Several classes of surface ships have already reached the end of their theoretical 20-year hull life although, in a fashion well known in the Soviet Navy, many have been remodelled or reconstructed. These elderly ships include the SVERDLOV, KILDIN, KOTLIN, SKORY, RIGA, KOLA, SOI and KRONSTADT classes as well as a number of the light forces. Many of these have already been paid off and the main interest here centres on their future replacements. The KARA and KRESTA II cruisers, the KRIVAK destroyers, and the GRISHA and NANUCHKA corvettes all appear to have provided satisfaction and their construction is continuing. Added to the KIEV-class aircraft carriers, of which a third and possibly a fourth are now under construction, these will probably provide the main surface force of the Soviet Navy in the immediate future. However, with the proven ability of Soviet ship designers to produce new and fascinating concepts it is possible that other variants may be seen within the next few years.

From the submarine point of view there have been certain changes in the production of enlarged types of the VICTOR and CHARLIE classes while the DELTA and DELTA II have replaced the YANKEEs as the main ballistic missile carriers. Continuation of a diesel-driven programme with the TANGOs suggests that the Soviets appreciate the need for such boats which can operate in shallower waters where the larger fleet submarines are inhibited in their use of speed, and which can also provide training facilities.

The continuation of building programmes of support and service forces shows a determination to continue the operations of the fleets away from home bases and this has clearly been reflected in the out-of-area deployments over the last 12 months.

The armament available to these ships and submarines is also a pointer to their employment. When the KIEV class will be equipped with VTOL aircraft is still uncertain but with a mixed complement of VTOL and helicopters these ships will provide a central point for independent squadrons. In the event of major hostilities it is possible that the main task of the KIEVs would be that given in their Russian type name—antisubmarine cruiser. The label "anti-submarine" appears in the majority of modern Soviet ships of both cruiser and destroyer varieties. This may appear somewhat surprising since the main anti-submarine armament appears to be either comparatively short range rocket launchers (MBUs), even shorter range depth-charge throwers, A/S torpedoes, or helicopters. However, the forward launcher (SUWN–1) in the MOSKVAs is apparently intended for long range A/S weapons and suggests an appreciation of the need for such missiles. The existence of the FRAS 1 launched from the SUWN–1 and SSN–14 weapons provides a means for engaging submarines out to a range of 15 to 20 miles. In this event it would seem logical that the other larger surface ships would be provided with alternative weapons in what are normally considered as surface-to-surface launchers.

While the submarine remains one of the best detection platforms against other submarines we must look for a means of completing the weapons system with an adequate long range missile. This, it is believed, is now available in the 25-mile SSN–15, similar in many respects to the U.S. Navy's Subroc. Although further details of this missile are not available it would appear to be a logical advance to be used in the cruise missile and attack submarines. Further conjecture has been advanced that the SSN–13, a ballistic missile with a range of some 350 miles, could be used from the missile tubes of the YANKEE-class submarines in an A/S role. While it is undoubtedly true that Soviet satellite reconnaissance by conventional and other means is most efficient and the command and control system exercised by Moscow extremely effective, there is insufficient evidence that this missile could be used against any target other than a force of surface ships. In fact even on this aspect the evidence is inconclusive, although the vast sums spent by the USSR on research and development must result in a cautious approach by any country not allied with the Soviet ideology.

With bases or friendly havens in such places as Cuba, North Africa, Guinea, Somalia, and Aden as well as anchorages in many places around the world the overseas deployment of the Soviet Navy has continued over the last year. Backed by the activities of their Research and Survey fleet which comprises a very high proportion of the total of such ships in the world and by a meteorological forecasting service of huge proportions, experience of overseas operations is clearly building up at a great rate. That such areas are not basically part of the defence of the Soviet Union suggests, taking into account the unusual operations in Exercise Okean II in 1975, that this deployment is capable of use for other purposes. With the flexibility provided by afloat support and remembering the basic principles of seapower, such deployments could well affect the maintenance of Western sea lines of communications if not by active hostilities then by the sheer presence of the ships and the introduction of such problems as oceanic danger areas. If the operations and intentions of this great fleet are to be understood by Western operators and politicians, ships and aircraft need to be deployed to observe their activities.

WESTERN NAVIES—GREAT BRITAIN

The question of numbers raises again the problem stated above—that of simple sums, the cost of ships and their deployment. It is in this regard that the composition of Western navies needs close inspection. The U.S. Navy, as we have seen in the past, has already halved the total strength of its fleet by the elimination of out-of-date ships but is building new destroyers and frigates which will go some way to redress this cut. Great Britain's policy has been stated clearly in both the last Defence Review and in the more recent White Paper on Defence: an intention to withdraw the ships of the Royal Navy to an inner area, the Eastern Atlantic. As a result the Ministry of Defence will no longer be able to receive direct information on any activities further afield. The ships themselves are now reaching a standard of cost which prevents a country in difficult financial straits from building sufficient to provide for surveillance, normal operations and exercises and, at the same time, taking account of the unexpected and the unforeseen. Here again the character of future employment must be considered and, as the pattern of new construction is dictated primarily by the amount of money allocated rather than by the needs of the country's defence, this consideration is vital. While any ship built for the Royal Navy must be fully capable of operations in any foreseen conflict, there is, at the same time, a need to consider the construction of less expensive ships for the more mundane operations which occupy so much of a navy's attention in what is predominantly a peacetime setting.

The outbreak of a major war appears to be something which both the Soviet Communists and Western countries wish to avoid—the alternative of harassment and actions short of war requires a widespread presence which can be achieved only by the use of imaginative concepts which will, in the long run, provide more ships for the same budget. An instance of this is the problem raised by the need to protect not only oil-rigs but also the 200-mile Exclusive Economic Zone and the expanded fishery limits which, despite the failure so far to reach agreement at the Law of the Sea Conference, are being adopted with increasing rapidity throughout the world. This need has brought the realisation that the Royal Navy is inadequately equipped for such a task—the Type 14 frigates and considerable numbers of coastal minesweepers being paid off with nothing to replace them. The surface-ship building programme, with one or two minor and unsatisfactory exceptions, is devoted to large, complex, and expensive destroyers and frigates. Very little money has been made available to provide the ships needed to protect one of Great Britain's most valuable assets against terrorism, damage, or destruction. The result has been the ISLAND-class offshore patrol vessel of a trawler design, presumably to save drawing-office effort, which has a speed inadequate to cope with a high proportion of foreign trawlers, is denied the helicopter needed for swift reaction, and costs more than a fully-equipped freezer trawler. The five ships of this class, backed in inshore waters by the BIRD class of large patrol craft which has been years in production at a cost which is apparently too horrific to be revealed, will be all that bear the brunt of such operations. Admittedly, the main force of surface ships will be available as support in much the same way as has recently been seen off Iceland when some 15 of NATO's category "A" ships were damaged, some seriously, at a cost which must eventually reach over the million pound mark. To have to send in the "heavy mob" when acceptance of at least one of the highly efficient commercial designs would have provided the force needed is surely an indication of inadequate provision.

At a time when the need for an abundance of helicopters is realised as clearly in the Royal Navy as elsewhere, and now that the British Government has tardily accepted the need for the Harrier VTOL aircraft at sea, the cost of achieving this end has doubled. Whereas £60 million was mentioned as the original estimate for the first "through-deck cruiser" the order for the second of the INVINCIBLE class has been quoted as £120 million. With delays resulting from variations in design as well as from labour and subcontracting problems this figure may turn out to be a minimum first estimate. If the third ship is eventually ordered it will be interesting to compare unit cost against such ingenious alternatives as the Vosper Thornycroft "Harrier-carrier" and the conversion of mercantile designs for similar purposes.

SCANDINAVIA AND WEST GERMANY

Financial stringencies have affected nearly all the Western states. Norway, although possessing one of the world's largest merchant fleets, provides only a local defence force consisting of submarines, fast attack craft, and mine warfare forces. Denmark possesses a considerable merchant navy and, although her parliament has called a halt to party bickering on defence matters, naval plans are still restrained by the budget. The fleet is similarly constituted to that of Norway and is capable of operations only within her coastal waters.

West Germany, with a healthier economy than many countries, is still concentrating on the defence of the Baltic and the North Sea. She is carrying out a replacement and modernisation programme which is aimed at the further improvement of quality without reduction in overall numbers. Eighteen new Type 206 submarines have brought this force to a total of 24. Thirty fast attack craft (missile) will have entered service by the end of 1976, with 10 missile hydrofoils apparently still planned for commissioning by the end of 1980.

The HAMBURG-class destroyers will have completed their modernization with new missiles, sonar, and radar by the end of 1976 and the new type 122 frigates are planned to replace the KOLN class. Modernisation is also taking place in the mine warfare forces where 12 minehunter conversions are planned to operate the French PAP system.

The Fleet Air Arm has a new stand-off night attack capability with Komoran missiles and will so arm the 100 MRCAs which are planned to replace their F104Gs. Further replacement envisaged are those of the Breguet Atlantics by S3A Vikings.

All in all this seems a well-balanced navy with its fleet designed to fulfill the policies of its Government. There is little fat but much sinew.

NETHERLANDS AND STANDARDIZATION

Cuts in defence expenditure have been proposed in the Netherlands but the overall programme will still provide the main bulk of the programme in which the TROMP-class destroyers and the KORTENAER-class frigates figure. With a sideways look to Belgium's programme of E71 frigates, the LUPOs in Italy, and the BERK class in Turkey, one cannot help feeling that this is a major sphere of design where NATO has once again failed to achieve any form of standardisation. In the last few years the countries of the Alliance have produced or are planning to produce four classes of destroyers and 11 classes of frigates. In contrast to this uncoordinated proliferation the discovery that Belgium, France, and the Netherlands have set up a combined planning centre in Paris to provide for the replacement programme of minehunters needed in all three countries comes as something of a surprise.

FRANCE

France has recently been subjected to a series of political tirades over the form her defence strategy is to take but this not unusual situation has made no impact on a naval building programme which has been affected more by financial problems than by fundamental changes in thought. With DE GRASSE and the three GEORGES-LEYGUES class as the main bulk of the larger surface ships programme, the 14 A69 avisos are unlikely to be joined by the A70 class for some time. The submarine programme of three new ballistic-missile boats and four AGOSTA class will soon be strengthened by the first nuclear attack submarine (SNA) on the stocks. With this plan unchanged, the number of fast attack craft appears to have been reduced. The major material weakness of the French Navy, afloat support, is however being steadily rectified. With the solution of that problem and provided the difficulties over manpower are satisfactorily resolved there is every chance of this becoming the main fleet of Western Europe.

THE MEDITERRANEAN

In an Italy beset by financial and political problems a positive step towards stabilisation of the naval programme was taken in 1975 with the passing of the *Legge Navale*. This law, whose implementation presumably depends on future political alignments, allows for a considerable building programme (listed in the summary following) which is well balanced except for the inclusion of only one replenishment tanker. With a number of bases along the Italian coastline it must be assumed that this fleet, the product of excellent and imaginative designers, will be primarily homebased, relying on external support if NATO deployments require any lengthy absence.

The same restriction on long-range movement is also true of the Royal Spanish Navy which has been forced by financial considerations to limit its new construction programme. The continued build-up of the Naval Air Arm with Harriers and extra helicopters, allied with the advanced years of DEDALO suggest that the previous plans for a new helicopter/VTOL carrier will be revived as soon as money allows and a design is available. The modernisation of this fleet must be acknowledged—the arming of new frigates and large patrol craft with surface-to-surface missiles, as well as the increase in new submarines will put Spain in a commanding position at the entrance to the Mediterranean.

At the eastern end of that sea the Hellenic Navy has made a significant increase in its light forces with a further four missile craft completing, as well as the acquisition of West German JAGUAR class and other smaller types. To the four Type 209 submarines are to be added three, or possibly four more, while a start has been made on Greek-built vessels of the coastal patrol and auxiliary categories. Across the Aegean another significant advance has been started as the Turkish Navy continues its programme of home building by the decision to build submarines at Golcuk after the successful completion of the BERK-class frigates.

From the southern Turkish border to the Straits of Gibraltar, the Levantine and North Africa coasts are closely associated with the activities of the Soviet Union. Syrian OSA-class missile-boats and the strong force of similar craft held by Egypt have brought the expected reaction from Israel of an expanding programme of SAAR IV missile craft and DABUR patrol craft. Egypt has also built missile craft in her home yards—excellent facsimiles of Soviet KOMARs. What the future holds for the maintenance of all the vessels originating in the USSR now that the break between that country and Egypt appears complete is hard to estimate, but must depend to a very large extent on the ability and ingenuity of local engineers. The Soviets, never renowned for their liberality in providing spare parts, have presumably left little behind.

Libya, however, has forecast a bonanza period with the Soviets: both FOXTROT-class submarines and OSAs appear to be on the list of planned acquisitions. At the same time missile corvettes from Italy and missile craft from France will combine with these ships to make the Libyan navy a powerful force in the area abutting the Sicilian Narrows. Whether base facilities will be granted to Russians; whether Mr. Mintoff will retain power in Malta and continue his flirtation with the Libyans; whether the unpredictable Colonel Qadaffi will use his new found sea-power for other than defence of his own coast-line; these are questions that only the future can answer.

The Tunisian Navy, with its increasing force of French-built ships, will be sandwiched between the Soviet-provided forces of Libya and Algeria. The latter, with no augmentation of its force of OSA, KOMAR, and P6 classes, has apparently no intention of providing facilities for the USSR in the magnificent base at Mers-el Kebir.

From Morocco down the western side of Africa there is a continual alteration of the sources of the various small navies' ships. Morocco, Mauritania, Senegal, Ivory Coast, and Cameroon are primarily provided with French craft with some leavening of British. The latter have provided the main strength for Ghana and Nigeria whilst China is well represented in Sierra Leone and the Republic of Congo. With Guinea Bissau fully provided by the USSR, Guinea has shared her requirements between China and the USSR, Liberia is stocked from the USA, and Zaire has impartially received deliveries from France, the USA, and North Korea.

INDIAN OCEAN AND PERSIAN GULF

At the southern tip of Africa and in the most strategically important point in this area south of the Equator the Republic of South Africa reacted to the increasing threats from without by increasing her 1976 defence budget by 40 percent over the previous year's total. Included in this are allocations for six new frigates to be built in Durban, two new submarines and six Israeli fast attack cruise (missile) similar to the SAAR IVs. How far this will go towards the protection of her more than 2,000 miles of coastline and the vital trade between the ports upon it is debatable but it shows a determination to guard her own which is lacking in a number of the critics of her system.

There is at present no information on what sea forces are to be provided to Mozambique or Angola but north of the Mozambique Channel Tanzania is primarily provided by China. Her neighbour, Kenya, has met her needs with British construction and further to the north, Somalia, with a major Soviet base at Berbera, is not surprisingly equipped entirely with Soviet craft. The addition of OSA missile craft to her force must post a problem off the Straits of Bab el Mandeb should there be a conflict of views in this area. With Soviet light forces provided to Yemen countries and ports available to Soviet forces at Hodeido and Aden, access to the Red Sea and Suez Canal could easily be sealed off should policy so dictate. Within the Red Sea this could present a major problem to the Sudanese who, having had their original naval force provided by Yugoslavia, are now receiving ships from Iran. If this is an indication of alliance the western ally could very easily be marooned in a hostile sea.

Sudan's probable supporter, Iran, has led the great naval build-up in the Persian Gulf which suggests a resolve by the rulers of the Gulf states to ensure free passage in their own enclosed and congested waters. Saudi Arabia, faced with protection problems in both the Red Sea and the Gulf and with the same threat of a throttle being placed on Bab el Mandeb, has embarked on a major naval expansion with the assistance of the USA. Within the Gulf her neighbours Oman, Sharjah, Ras Al Khaima, Dubai, Abu Dhabi, Qatar Bahrain, and Kuwait are all aware of possible threats to their coastlines and to their increasing tanker tonnage. Expanding light forces mark this awareness while Iraq, slung between the Gulf State coastlines and Iran, still relies on a mixture of antique British craft and the products of the USSR, including six OSAs. The latter could have a major impact on Gulf trading but Iran with a programme including U.S. SPRUANCE-class destroyers, submarines, French missile craft, and U.S. maritime patrol aircraft is clearly determined to carry out the Shah's intentions of taking care of Iranian waters, both within the Gulf and in the Arabian Sea beyond the Straits of Hormuz.

Within an area flanked by the Arabian peninsula, Pakistan, and India and with the southern boundary a line drawn westward from Sri Lanka the bulk of the Soviet squadron is normally deployed. On average this comprises a cruiser, a destroyer, two frigates, two to four ocean minesweepers, a submarine (nuclear or diesel-propelled), and a support group of some half-dozen ships such as an intelligence collector, a depot-ship, a tanker, a space-event ship, and two harbour-based vessels (a barrack ship and a floating workshop). This support group shows an intention to remain in the area, although, unless reinforced, this is a squadron which must be constrained in its operations by numbers and by insufficiency of service forces. With the reopening of the Suez Canal, although the attitude of Egypt must remain in question, such reinforcements from the Black Sea would have to steam only 2,400 miles to reach Aden rather than 11,000 miles around South Africa. Within the normal operating area of this squadron little welcome can be expected in Pakistan where, with a mixed force of British, French and Chinese ships, there appears to be more inclination towards support from the United Kingdom despite the problems which have arisen over the two WHITBY-class frigates. The static size of the Pakistani fleet and the lack of any notable reinforcement over the last two to three years does little to support Indian charges of a "growing aggressive force."

India, however, at a time of both financial and political problems, is continuing to add to her fleet. Experiments with SSN–Z in TALWAR, extra PATYAs and POLNOCNY's the continued building of LEANDER-class frigates, the promise of home-built submarines, and the acquisition of NANUCHKA-class missile corvettes from the USSR will provide her with a navy which will be of overmastering size and the only one, except RAN, with an organic Fleet Air Arm in the Indian Ocean.

Despite this orientation towards Soviet-provided ships there is, as yet, no indication of Russian forces being allowed havens in Indian ports other than reports of a Soviet command centre at Vizagapatnam, which may be a hang-over from the Bangladesh clearance operations.

The latter country has shown no pro-Soviet bias in the choice of ships for its growing navy, having chosen both Yugoslavian and home-built vessels. Even the arrival in Sri Lanka of the variously labelled STENKA/modifier GSA-class has not been followed by the frequently forecast Soviet arrival in Trincomalee.

SOUTHEAST ASIA AND THE ANTIPODES

Not only is the garnering of bases in the Indian Ocean a difficult matter for the Soviet fleet—there could be problems not only with reinforcement through the Suez Canal but also via the Straits of Malacca, the shortest possible route from Vladivostok. Here both Malaysia and Singapore are building up effective forces of missile craft whilst Indonesia to the south and west is replacing her out-dated Soviet ships by more efficient Western vessels. Although at the moment a combination of these three navies could close the Malacca Straits, the advance of the Soviet-armed guerrillas into Northern Malaysia might in the future nullify this advantage. Shore action and politics must never be forgotten in considering the basic principles of seapower—geographical advantage can be swiftly whittled away from within.

The coasts about the South China Sea are areas from which information is meagre—the state of the Khmer and Vietnamese navies is still obscure, Thailand has ordered new missile craft while the Philippines has considerably reinforced its forces in the wake of the Communist take-overs. But well to the south, in more temperate waters, a fresh attitude is to be seen. The Prime Ministers of the new governments in Australia and New Zealand are clearly aware that an ability to defend oneself is a necessary pre-requisite to the gathering of treaty partners. Both have spoken in recent months of maritime dangers in their quarter, although it is still far too early to record the steps likely to be taken to protect the sea lanes on which both countries are totally dependent.

THE PACIFIC

A force which is occupying considerable attention in Australasia is the Soviet Pacific Fleet as well as the Indian Ocean squadron which receives certain of its reinforcements from Vladivostok. It is this very considerable group that the Chinese Navy looks on as its most likely threat, a fact underlined by the larger size of the North Sea Fleet, based at Tsingtao and Lu Shun, compared with the East and South Sea Fleets. Construction is still concentrated mainly on the defensive capability of submarines and light forces with some six diesel boats and 20 missile craft completed each year. This programme has given the Chinese the largest force of fast attack craft in the world and the third largest submarine branch. Beyond the confines of home waters the rapidly growing foreign trade of China has already been mentioned and this includes an increasing quantity of oil exports. With what appear to be vast reserves of oil both onshore and offshore their future as an exporting country depends on their continued adherence to Mao Tse-tung's policy of "self-reliance," the ability to tap their gigantic offshore reserves, and the provision of the necessary ships and berthing facilities to handle the trade. From a point where oil production has risen by over 600 percent in the last 10 years and can now provide for all domestic needs, matters could advance to make China one of the world's great exporters with the implied question of whether her navy will expand to guard the movement of a commodity which could, as Chou En-lai promised, put China's economy into the "world's front rank."

Oil is also of major importance in all Japanese calculations. Offshore exploration may ease the burden of the 98-percent imports which, when OPEC prices were greatly increased, caused such an unwelcome shock to the Japanese economy. An increasing dependence on Chinese oil could also reduce the risks of interference with long range sea-borne trade. The recent Japanese White Paper on Defense, the first since 1970, skates delicately around a number of patches of thin ice, leaving the impression that the defense of such routes will be achieved by dependence on American nuclear capability as part of the overall deterrent to aggression. With a defense budget less than half that of Great Britain and about 5 percent of that of the USA it is hard to see how much else can be achieved. The planned naval building programmes have been reduced and, although the provision of more missiles and helicopters at sea shows an appreciation of modern problems, the lack of adequate afloat support must limit any operations to home waters unless the USN is prepared to sustain them.

One point made in this White Paper is clearly stated—the instability inherent in the North-West Pacific where the interests of the USSR, USA, and China converge and where North and South Korea stand ready for engagement. The former continues to build up her navy with new submarines, frigates, and fast attack craft while the latter's considerable fleet of ex-U.S. ships ranges from destroyers downwards and includes a considerable amphibious force. In many respects similar but with larger forces, including submarines, is the navy of Taiwan, the centre of another possible danger area.

Far removed are the navies of the western seaboard of the Americas. A proportion of the naval and coast-guard forces of Canada are deployed on this coast but there has been little change here since last year. Plans for a modern force of maritime patrol aircraft are hung up on the spikes of finance which decisions are still awaited on what type of ships are required to replace some fifteen aging frigates.

SOUTH AMERICA

The southern neighbour of the USA, Mexico, has continued her programme of coastal protection with orders for 10 more of the highly successful AZTECA class. New orders have come, too, from Venezuela for six of the Italian designed LUPO-class missile frigates, an addition which will make her the most powerful local naval power in the vicinity of Panama Canal. Peru has also turned to LUPOs for her replacement programme while new submarines figure not only in her navy but also in those of Colombia, Chile, Argentina, Brazil, and Venezuela, with Uruguay reported as showing a similar interest. New destroyers, frigates, and missile craft now serve around the whole of South America but, in a continent of such vast distances, their numbers are comparatively small. Concentration in focal areas or at a point of anticipated action would be vital if these navies were to make a major impact on affairs.

THE FUTURE

From the foregoing it is very apparent that many people and governments have widely differing views on the necessity and employment of navies and their contribution to the overall equation of seapower. The urge to build big, complex, and therefore, very expensive ships sometimes ignores the tasks which those ships are likely to be given in the 20-or-so years of their life—the result, very often, of a failure to consider the political background which is an essential feature of any study of seapower. In a world where instability and uncertainty are two of the major factors affecting such a consideration and where the present horrifying concentration of nuclear and thermonuclear weapons suggests that only an act of insanity or gross mismanagement could prompt a major nuclear exchange, the operations of navies and their deployment deserve more attention than they receive. A logical appreciation of such matters allied with the fundamental need for reassigning to the human intellect the position it is rapidly losing to technology and the computer could well produce equal, if not greater, results at less cost than at present. What is to be done? Can it best be done by a ship, a fixed-wing aircraft, or a helicopter? Are "full naval standards" essential for all tasks? Can more thoughtful use of sensors, or even silence, achieve the desired end with greater efficiency? Can the resources of allies be better deployed to save expense? These and a multitude of other questions come to mind as one turns the pages of this book. Human ingenuity knows few barriers and upon it the navies of the world must rely. The seas upon which they move are the lifelines of our existence.—JOHN E. MOORE.

TREATMENT OF TAX EXPENDITURES IN THE SECOND CONCURRENT BUDGET RESOLUTION

Mr. KENNEDY. Mr. President, I support the second concurrent budget resolution and I commend the Budget Committee and its chairman and the members for their skillful development and implementation of the new budget reform procedures, which are at last bringing the massive Federal budget under responsible congressional control.

It is no secret that some of the most difficult issues remaining to be ironed out in the budget procedures are the methods for dealing with tax expenditures. In this connection, I am pleased to note two important areas in the committee report in which the committee pledges further study in the coming months, with a goal of more fully integrating tax expenditures into the budget process:

First, the committee plans to deal with the so-called wedge issue, under which new tax expenditures are sometimes enacted with delayed effective dates, thereby avoiding revenue losses in the current fiscal year but presenting possibly massive drains on revenues in later years.

Second, the committee plans to deal with perhaps the most obvious disparity between direct expenditures and tax expenditures, under which tax expenditures are not yet subject to the separate functional spending ceilings applicable to direct expenditures.

In fiscal 1977, the Federal Government will be spending $413 billion through direct expenditures and another $106 billion through tax expenditures, distributed among the 17 functional categories of the budget as follows:

Expenditures in billions of dollars

	Direct	*tax* [1]
National defense	100.7	0.7
International affairs	6.9	2.0
General science, space and technology	4.5	-----
Natural resources, environment and energy	16.0	3.2
Agriculture	2.0	1.5
Commerce and transportation	17.4	47.8
Community and regional development	9.0	0.1
Education, training, employment and social services	22.3	5.6
Health	38.8	7.3
Income security	137.3	24.4
Veterans benefits and services	19.5	0.9
Law enforcement and justice	3.6	-----
General government	3.5	0.1
Revenue sharing and general purpose fiscal assistance	7.7	11.5
Interest	39.6	0.7
Allowances	0.8	-----
Undistributed offsetting receipts	16.8	-----
Total	412.8	106.0

[1] Estimates do not include results of omnibus tax reform bill now in conference between the House and Senate.

Obviously, in most if not all of these categories, the tax expenditures overlap with direct expenditures. In health, for example, the Federal Government is running a national health insurance program for the elderly through direct expenditures for medicare, and it is also running a national health insurance program for everyone else—or at least for those who itemize their deductions—through the Internal Revenue Code, by means of the tax deduction for health expenses. Similarly, in revenue sharing, the Federal Government is providing direct grants to States and cities, as well as indirect grants through the tax exemption for interest on municipal bonds and the deduction for certain State and local taxes.

Yet there has been virtually no analysis of the overlap between these two clearly related aspects of the Federal budget. The recent Senate debate on the omnibus tax bill has sharpened our awareness of this overlap and the need for greater control over tax expenditures if the budget process is to be effective.

It makes no sense for Congress to define clear budget priorities and set strict limits on the categories of direct expenditures, but then fail to do the same for tax expenditures. We should be applying the same strict tests and standards to both categories of spending programs—is a Federal subsidy justified at all? If so, should it be a direct subsidy or a tax subsidy? And, whichever form of subsidy is chosen, is it designed in a way that distributes the benefits fairly and reaches its goal effectively?

These are simple tests to state, but they are difficult to apply. Nevertheless, we have been applying them with increasing effectiveness to direct expenditures under the microscope of the Budget Reform Act. It is time we began to put tax expenditures under the same microscope.

It would be a tragedy for fiscal responsibility in Congress if we were to continue to ignore the problem after its serious implications have been so clearly demonstrated to all of us. The success or failure of the budget process is at stake, and I am pleased that the Budget Committee has so clearly indicated its intention to deal with this difficult area.

Mr. President, I ask unanimous consent that a table listing the revenue effects of 83 tax expenditures, published by the Congressional Budget Office last March, may be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FROM BUDGET OPTIONS FOR FISCAL YEAR 1977, CONGRESSIONAL BUDGET OFFICE, MAR. 15, 1976

TAX EXPENDITURE ESTIMATES, BY FUNCTION [1]

[Millions of dollars, fiscal years]

Function	Corporations					Individuals				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
National defense (050):										
Exclusion of benefits and allowances to armed forces personnel						650	650	650	650	650
Exclusion of military disability pensions						90	100	110	120	130
International affairs (150):										
Exclusion of income earned abroad by U.S. citizens						160	175	195	205	220
Exclusion of gross-up on dividends of LDC corporations	55	55	55	55	55					
Deferral of income of domestic international sales corporations (DISC)	1,420	1,460	1,495	1,580	1,735					
Deferral of income of controlled foreign corporations	365	365	365	365	365					
Special rate for Western Hemisphere trade corporations	50	50	50	50	50					

Footnote at end of tables

FROM BUDGET OPTIONS FOR FISCAL YEAR 1977, CONGRESSIONAL BUDGET OFFICE, MAR. 15, 1976—Continued

TAX EXPENDITURE ESTIMATES, BY FUNCTION [1]—Continued

[Millions of dollars, fiscal years]

Function	Corporations					Individuals				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
Natural resources, environment and energy (300):										
Exclusion of interest on State and local government pollution control bonds	170	220	265	300	330	75	100	125	145	160
Expensing of exploration and development costs	840	1,045	1,285	1,540	1,850	195	245	305	365	435
Excess of percentage over cost depletion	1,020	1,015	1,110	1,215	1,325	575	625	640	670	695
Pollution control: 5-year amortization	15	5								
Capital gains treatment of royalties on coal and iron ore	20	20	25	25	30	50	60	65	75	85
Capital gains treatment of certain timber income	165	175	190	200	215	65	70	75	80	85
Agriculture (350):										
Expensing of certain capital outlays	115	120	130	135	150	360	370	380	390	400
Capital gains treatment of certain income	40	40	45	50	50	565	655	705	760	820
Cooperatives: deductibility of noncash patronage dividends and certain other items	455	485	520	555	595					
Commerce and transportation (400):										
Exemption of credit unions	135	145	155	165	175					
Corporate surtax exemption	6,185	6,745	7,300	7,865	8,455					
Deferral of tax on shipping companies	130	155	180	205	230					
Railroad rolling stock: 5-year amortization	10	5								
Financial institutions: excess bad debt reserves	570	635	730	900	1,060					
Deductibility of nonbusiness state gasoline taxes						600	665	735	815	910
Depreciation on rental housing in excess of straight line	125	135	145	155	170	455	480	510	545	580
Depreciation on buildings (other than rental housing) in excess of straight line	280	300	325	350	375	215	235	250	275	300
Expensing of research and development expenditures	695	725	755	785	815					
Capital gains: Corporate (other than farming and timber)	900	1,015	1,090	1,170	1,260					
Investment credit	7,585	8,045	8,480	8,890	9,310	1,530	1,635	1,750	1,870	1,995
Asset depreciation range	1,630	1,825	2,000	2,095	2,135	175	195	220	230	235
Dividend exclusion						350	370	385	405	425
Capital gains: Individual (other than farming or timber)						6,225	7,360	7,905	8,490	9,145
Capital gains at death						7,280	8,120	9,015	10,005	11,105
Deferral of capital gains on home sales						890	935	980	1,030	1,080
Deductibility of mortgage interest on owner-occupied homes						4,710	5,225	5,800	6,440	7,150
Deductibility of property tax on owner-occupied homes						3,825	4,245	4,710	5,230	5,805
Deductibility of interest on consumer credit						1,075	1,195	1,325	1,475	1,635
Exclusion of interest on state and local industrial development bonds	195	235	270	315	355	90	110	130	150	170
Excess 1st year depreciation	165	180	200	220	240	85	95	105	115	130
Expensing of construction period interest and taxes	1,065	1,110	1,150	1,190	1,230	570	595	620	645	670
Credit for purchase of new home						100				
Community and regional development (450):										
Housing rehabilitation: 5-year amortization	25	20	15	10	10	40	25	15	15	15
Education, training, employment, and social services (500):										
Exclusion of scholarships and fellowships						220	235	245	255	270
Parental personal exemption for student age 19 and over						715	735	760	780	805
Deductibility of charitable contributions (education)	280	325	355	390	430	500	555	610	670	735
Deductibility of child and dependent care expenses						420	460	510	560	615
Child care for facilities: 5-year amortization	5	5								
Credit for employing AFDC recipients and public assistance recipients under work incentive program	10	10	10	10	10					
Deductibility of charitable contributions (social services)	352	402	446	489	536	3,124	3,468	3,847	4,274	4,740
Health (550):										
Exclusion of employer contributions to medical insurance premiums and medical care						4,225	4,730	5,300	5,935	6,650
Deductibility of medical expenses						2,095	2,325	2,580	2,865	3,175
Deductibility of charitable contributions (health)	173	198	219	241	264	831	922	1,023	1,136	1,260
Income security (600):										
Exclusion of social security benefits:										
Disability insurance benefits						370	415	470	525	595
OASI benefits for aged						3,552	3,965	4,460	5,020	5,645
Benefits for dependents and survivors						565	635	715	805	905
Exclusion of railroad retirement system benefits						200	215	230	245	260
Exclusion of unemployment insurance benefits						2,855	2,655	2,470	2,295	2,135
Exclusion of workmen's compensation benefits						640	705	775	855	940
Exclusion of public assistance benefits						130	145	165	185	210
Exclusion of special benefits for disabled coal miners						50	50	50	50	50
Exclusion of sick pay						350	370	385	405	425
Net exclusion of pension contributions and earnings:										
Employer plans						6,475	7,120	7,835	8,620	9,480
Plans for self-employed and others						965	1,065	1,180	1,300	1,440
Exclusion of other employee benefits:										
Premiums on group term life insurance						895	965	1,050	1,135	1,230
Premiums on accident and accidental death insurance						60	65	70	80	85
Income of trusts to finance supplementary unemployment benefits						5	5	5	5	5
Meals and lodging						305	320	335	350	365
Exclusion of capital gains on home sales if over 65						50	55	60	65	70
Excess of percentage standard deduction over minimum standard deduction						1,560	1,635	1,720	1,805	1,895
Additional exemption for the blind						25	25	25	25	25
Additional exemption for over 65						1,220	1,280	1,340	1,410	1,480
Retirement income credit						110	100	90	80	75
Earned income credit: nonrefundable portion						280	270	255	245	235
Earned income credit: refundable portion						1,110	1,065	1,025	985	945
Exclusion of interest on life insurance savings						1,855	2,025	2,210	2,410	2,625
Deductibility of casualty losses						330	355	380	505	430
Maximum tax on earned income						505	580	670	770	885
Veterans' benefits and services (700):										
Exclusion of veterans' disability compensation						595	595	595	595	595
Exclusion of veterans' pensions						30	30	30	30	30
Exclusion of GI bill benefits						280	265	255	248	230

Footnote at end of table

Function	Corporations 1977	Corporations 1978	Corporations 1979	Corporations 1980	Corporations 1981	Individuals 1977	Individuals 1978	Individuals 1979	Individuals 1980	Individuals 1981
General government (800):										
Credits and deductions for political contributions						65	40	50	50	85
Revenue sharing and general purpose fiscal assistance (850):										
Exclusion of interest on general purpose state and local debt	3, 150	3, 375	3, 630	3, 925	4, 300	1, 390	1, 490	1, 605	1, 735	1, 880
Exclusion of income earned in U.S. possessions	285	305	325	350	375					
Deductibility of nonbusiness state and local taxes (other than on owner-occupied homes and gasoline)						6, 680	7, 415	8, 230	9, 140	10, 140
Interest (900):										
Deferral of interest on savings bonds						685	765	845	925	1, 005

[1] Sum of the Tax Expenditure Items by Type of Taxpayer and Fiscal Year: [a]

[In millions of dollars]

	Corporations and individuals	Corporations	Individuals
Fiscal year:			
1977	105, 970	28, 680	77, 290
1978	115, 600	30, 950	84, 650
1979	125, 475	33, 315	92, 160
1980	136, 250	35, 790	100, 460
1981	148, 160	38, 485	109, 675

[a] These totals represent the mathematical sum of the estimated fiscal year effect of each of the 82 tax expenditure items included in this table.

Source: Staffs of the Treasury Department and the Joint Committee on Internal Revenue Taxation.

POSITION ON VOTES FOR AUGUST 31–SEPTEMBER 1, 1976

Mr. DOLE. Mr. President, the Senator from Kansas wishes to indicate his position on votes that he was unable to vote on last week. This will allow all interested parties to know where I stand on these issues. I ask unanimous consent that a table indicating votes by rollcall number with my position indicated be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ROLLCALL NUMBER, ISSUE, AND VOTE POSITION

554—Division 6 of Allen amendment No. 411 to make H.R. 8532 effective no sooner than January 1, 1977; 61 yeas to 23 nays, tabled—nay.

555—Thurmond amendment No. 2255 to place compensation on plaintiffs attorney's fees on same basis as that paid by State to private counsel retained; 55 yeas to 23 nays, tabled—yea.

556—Tower amendment No. 412 to strike provision which provides for court costs and attorney's fees in actions for injunctive relief against threatened loss or damage by a violation of the antitrust laws; 58 yeas to 24 nays, tabled—nay.

557—Hruska amendment No. 2253 to provide that if a State fails to establish that the defendant acted in willful violation of the antitrust laws, the mandatory relief shall be reduced from treble to single damages; 57 yeas to 25 nays, tabled—nay.

558—Belmon motion No. 3 calling for Senate to agree to the House amendment to the Senate amendment with an amendment to provide that no portion of any monetary relief shall be paid to any private counsel employed by the State, or any person other than the natural persons residing in such State in whose behalf such action was brought; 52 yeas to 26 nays, tabled—nay.

559—Allen amendment No. 2239 to provide that no person may participate in bringing an action under Title III while seeking the nomination for election to any State or Federal public office; 43 yeas to 21 nays, tabled—yea.

561—Motion to table the motion to reconsider Tower amendment No. 416; 34 yeas to 35 nays—yea.

563—Tower amendment No. 416 vesting in Corps of Army Engineers primary responsibility to issue permits for dredge or fill material in areas adjacent to navigable waters; 39 yeas to 40 nays—yea.

ONE MAN'S LETTER THAT DID SOME GOOD

Mr. WILLIAMS. Mr. President, on August 24, I introduced a bill to ban the export of horses by sea for slaughter. Several of my constituents had written to me about the deplorable conditions aboard ships used to carry American horses to European slaughterhouses. I was particularly touched by the efforts of Mr. Sidney Trenchard of Westmont, N.J., who mounted a personal crusade against this inhumane trade.

Now Mr. Trenchard is in the hospital recovering from a heart attack. But his efforts on behalf of horses have begun to produce results in Congress. The Senate passed the ban on overseas exports of horses intended for slaughter 3 days after I introduced it. The prohibition was passed as an amendment to the Export Administration Act, which is now before the House.

Recent articles in the Courier-Post and the Philadelphia Inquirer describe Mr. Trenchard's crusade. Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Courier-Post, Aug. 26, 1976]

ONE MAN'S LETTER THAT DID SOME GOOD

(By Tony Muldoon)

Sid Trenchard is a guy with a bad heart from Westmont who is so upset about what happens to horses when they're put on a ship for France that he wrote a letter to his Congressman.

Everybody tells you to write a letter to your Congressman. Usually it translates into "all right, already, so stop complaining."

You can't fight City Hall and all that, so writing your Congressman is supposed to be like writing a letter to a department store complaint department.

Sid Trenchard got that advice from a guy he took to lunch at the Cherry Hill Inn so he could make him look at a picture of a horse whose rear legs had been chopped off. The picture illustrated a story about a horse that arrived in France with a broken back and was loaded onto a truck with a fork lift.

It was a terrible thing said Sid and what should he do about it?

"Write a letter to your Congressman," his lunch partner said—mostly because he couldn't think of anything else to say.

Who is going to listen to a little guy from Westmont, who flunked out as a race horse trainer because he didn't like some of the things he'd have to do to horses to make winners out of them?

Trying to get the government to respond to what people want is supposed to be a sick joke. People tried to tell the government it was involved in a lousy war, and what they got was armies of spooks and gumshoes lurking in the bushes. They complained that people were starving to death in the cities, and what they got was a lot of wardheelers lining their pockets with anti-poverty funds.

Nobody was going to tap Sid Trenchard's telephone over horses, of course, but his somewhat cynical lunch partner had no reason to expect anything more than a polite bureaucratic reply signifying nothing.

Only this time it didn't work out that way. Jim Florio, who represents Camden and Gloucester counties in the U.S. House of Representatives, and Sen. Harrison Williams not only wrote back to Sid but they actually started doing something about the way the horses are treated.

Sid wants the United States to follow Canada's lead. Canada simply banned the export of horses by ship until the Governor General—the Queen's representative and chief executive officer—could formulate some regulations for the humane treatment of horses that nobody wants any longer.

Florio wants to do the same thing in the United States and said he will send a bill winding its way through the House International Relations Committee that would ban sea shipment of horses until the U.S. Department of Agriculture sets up some guidelines.

On Monday, Harrison Williams announced that he is introducing the same kind of legislation in the Senate.

"Many persons experienced in the handling and transport of horses contend that there simply is no way to ship large consignments of horses by sea over long distance," Williams said.

There will be a lot of dancing around with the bill in the Senate and the House, and the big-bucks horse shippers are certain to produce an elaborate study that says sea air is good for horses.

The bills might even get shot down. If so, Frenchmen will continue to be able to stand on their beaches and watch dead horses drift ashore after the ships arrive.

Just because they sit in the seats of the mighty doesn't mean that Jim Florio and Pete Williams can't be touched, and just because Sid Trenchard's cause is just doesn't mean he'll win for the horses that he cares about.

But at least Sid's got some people moving around, and conventional wisdom says a little guy isn't supposed to be able to do that any more.

[From the Philadelphia Inquirer, Aug 29, 1976]

CASTOFF HORSES—A STUDY IN CRUELTY

(By Jack Engelhard)

Thousands of American horses are shipped to Europe each year. Some are used for riding, many are used for food.

The horses used for food are sent over in ships, with sometimes as many as 1,000 crowded into the hold of a ship. Usually there are no means provided to protect them from one another and from protruding objects.

Some arrive at destinations in France or Italy broken and weary. For some the journey is so exhausting that, as soon as they walk off the ship, they lay down and die.

Sidney Trenchard of Westmont, N.J., a former jockey and trainer, had become a crusader for these American horses. He has already distributed petitions at retail stores to get the signatures of those who care. These signatures will be sent to Rep. James Florio, who has introduced legislation in the House for strict, humane guidelines for the shipment of these animals, some of whom were once pets.

In every store where Trenchard has placed a petition, he has included a photo. This shows a horse, suffering from a spinal injury, being unloaded in France. Other horses arrive with their eyes missing.

Trenchard's wife Peg says, "There's no telling what suffering goes on in those ships. It's about a 17-day journey and I question whether the horses even get food and water. They arrive battered and weary and just can't wait to die. They are just so exhausted. Pregnant horses are shipped. Old horses are shipped. Sick horses are shipped. Lame horses are shipped.

"They just don't survive the journey. One shipment was supposed to be 800 horses, 200 died.

"You can imagine what goes on before they die."

Trenchard himself is not available for comment because he is in the hospital. He has had heart trouble for some time, but he had been doing well until the frenzied pace of distributing the petitions set him back again.

The fact that American horses will continue to be sent overseas for slaughter is taken for granted. Nothing, it seems, can be done to stop that practice.

American shippers send horses to Europe live to avoid payment of a tariff on meat.

"It's bad enough that they're killed for the meat," says Mrs. Trenchard. "But the big battle is to eliminate the suffering."

One of the major collection points for American horses destined to be slaughtered in Europe is Richmond, Va. Horses are brought there from all over the United States, many of them purchased at auctions.

In some cases, individuals sell pet and pleasure horses for slaughter. Some do this unknowingly. Others know exactly what they are doing, but need the money.

The International Society for the Protection of Animals, of Boston, says that so far this year no American horses have been sent to Europe for slaughter.

This is so, according to one official, because of the "poor economic picture at the present time."

Persons who wish to halt the suffering of horses are urged to write to Thomas E. Morgan, chairman of International Relations, House of Representatives, Washington, D.C., 20515 in support of H.R. 15114.

Also, letters of support can be sent directly to Florio and Sen. Harrison Williams, both of whom are working on humane legislation.

THE NATIONAL NEIGHBORHOOD POLICY ACT—S. 3554

Mr. GARN. Mr. President, I wish to commend my colleagues for their action approving the National Commission on Neighborhoods to look at the role Government policy plays in neighborhood decline. I was very pleased to join with the distinguished Senator from Wisconsin, WILLIAM PROXMIRE, chairman of the Banking, Housing and Urban Affairs Committee, in sponsoring the National Neighborhood Policy Act.

Problems of our cities, whether they be large or small, are pretty much the same. For example, all urban areas are faced with the dilemma of how to deal with pollution—choosing between convenience and low cost on the one hand and a higher standard in the environment on the other.

There is practically no city in the country that does not have to cope with serious juvenile crime.

Most of our cities are confronted with growing poverty and welfare rolls while there is an erosion of the tax base.

Our cities are burdened with increasing deficits from urban transportation systems.

No city escapes the problems of municipal finance and most urbanites are resisting the ever-increasing local tax burden, particularly on real estate.

Although the ever-mounting economic and social difficulties of the big cities continually make the news, the small towns share these problems. The over 20 million citizens living in cities and towns whose populations range from 25,000 to 200,000 too often see the local economies contracting because of the general decline in agricultural employment, or the loss of such industries as coal mining, railroads, and textiles. Their plight should not be ignored by the Commission.

Let us look for a moment at some of the major problems created for our cities by government policy.

INFLATION

A major source of the present financial and fiscal problems which afflict elements of the State and local government sector is inflation. Under Secretary of the Treasury Edwin H. Yeo told Congress that inflation raises demand for an increase in services supplied by Government. It increases the State and local government employees' demands for higher wages and fringe benefits. While demands and costs are rising, inflation tends to reduce the real revenues of State and local governments that are generated with given tax rates. At the same time it increases taxpayers' resistance to higher State and local levies. One of the most important steps the Federal Government can take to aid the cities is to adopt monetary and fiscal policy to hold down the rate of inflation.

BUREAUCRATIC MEDDLING

If not the greatest spoiler of cities, certainly the greatest irritant to Governors and mayors has been the narrow categorical grant-in-aid programs. It is estimated that 80 percent of Washington's huge payments to State and local governments—approximately $55 billion—still come through the 1,100 narrowly defined specific Federal aid programs. These categories require extreme care with auditors, paper shufflers, and bureaucrats to make sure that the programs are within the narrow bounds of the particular category. The categories are so rigid that there is usually a great mismatch between each locality's actual needs and the Federal grant dollars available. We found ourselves, as local officials, being visited by the Federal bureaucrats with their "bag of solutions" and it became our challenge to find problems to match their solutions. This is clearly not the most effective way to utilize this Nation's resources. We must permit cities to make their own analyses and set their own goals and spend the money to accomplish them. Furthermore, many of these do-good programs dreamed up by the social engineers are counterproductive, leading to a deterioration rather than a strengthening of the quality of city life.

Much of the really serious mismanagement at the State and local level can be attributed to the programs dreamed up by the Great Society elitists. The problem lies with the social engineers who see as their primary mission the taking of tax money from the "haves" and bestowing it on some grateful constituency such as public employees. As public sector jobs have increased, private sector jobs have diminished. This has led to one of the most serious oversights of these programs—a need in the inner city for the creation of an environment attractive to business and private sector jobs.

We must more rapidly eliminate these categorical grant-in-aid programs and channel Federal resources back to the local communities through no-strings-attached revenue sharing programs. Local authorities and citizens must be restored the right to make the decisions which affect local affairs.

MISGUIDED HOUSING PROGRAMS

Misconceived Government policy in the housing area has been one of the big contributors to the decline of older neighborhoods. The early piecemeal urban renewal efforts wasted millions of dollars of capital improvements while the burden of high and rising taxation encouraged business to move away from the inner city areas and the landlords to let their buildings rot.

Federal money has largely been spent

on programs in inner cities that encourage expensive new housing rather than on the rehabilitation and repair of older dwellings. This has condemned much of the older housing in the inner city to certain death. Other programs further facilitate the flight of the middle income citizens to suburbia.

The social programs tacked on to the FHA by the National Housing Act of 1968 were a total disaster. Although their objective of providing hundreds of thousands of homes at low cost and easy terms for low and moderate income families was laudable, the program for 100 percent insurance without risk led real estate operations to put poor risks into homes and profit on a high default rate.

Federal regulations such as the Truth in Lending Act, RESPA, and more recently the Federal Trade Commission's holder-in-due-course rule, have placed an intolerable paperwork burden on lenders, particularly in the home improvement area. Unless these problems are straightened out at an early date we may see a further shrinking of availability of private credit for the rehabilitation of older houses.

This Commission has a special responsibility to determine the effect these laws have had on the decline of older neighborhoods.

CRIME AND EDUCATION

Crime and the deterioration of education have been symptomatic of neighborhood decline.

The law enforcement system has become a turnstile where punishment is the exception rather than the rule. Much of this is due to the meddling of the Federal courts in State criminal procedure. Federal policy must be changed to return to the local criminal justice system the power to act swiftly and fairly if domestic tranquility is to be restored in the urban areas.

Similarly, Federal intervention in education may be a contributing factor to decline in the quality of education in the inner city. Elementary and secondary schools in many urban areas are virtual blackboard jungles turning out illiterates. School systems are required to spend massive sums on busing, thus wasting scarce resources. College athletic programs are on the verge of disintegration due to ill-conceived affirmative action programs emanating from the bureaucracies in Washington.

Although it may not be within the jurisdiction of this Commission, the problem needs further study.

A NEEDED POSITIVE APPROACH

Having looked at some of the negative aspects of Government policy, I would like to turn to areas where I feel the Federal Government can be a positive force in the revitalization of our cities. One example is a program involving a minimum of Federal intervention outlined earlier to the Banking, Housing and Urban Affairs Committee by Garth Marston of the Federal Home Loan Bank Board.

The neighborhood housing service program, jointly sponsored by the U.S. Department of Housing and Urban Affairs, Federal Home Loan Bank Board, Federal Home Loan Bank System, Federal Reserve System, Federal Deposit Insurance Corporation, and Comptroller of the Currency, involves a three-pronged cooperative attack on neighborhood decline. It requires a commitment from local government to provide required services such as code enforcement, transportation, education, health and recreation facilities, police and fire protection, street repair, and trash collection.

Next and most important is that the neighborhood residents be involved. They must take a leadership position and be willing to commit their own time, effort and money to upgrading and preserving their neighborhood.

Finally, the lenders must reaffirm their interest in mature neighborhoods and commit themselves to time and effort to make economic loans in these areas. The Federal Government's role is a limited one of providing some seed money and some guidance. The worst thing that could happen to this program would be for the Federal Government to step in and take it over.

Another step Government can take would be to adopt a policy to make it profitable for lenders to invest in the inner city. We have seen a dramatic withdrawal of lenders from the housing area. Life insurance companies have almost totally withdrawn. Pension funds have never been involved in housing lending. The FHA, VA, FNMA, FHLMC do not lend in the center cities.

Some of the steps that might be taken would be to encourage secondary market investments through mortgage backed securities. It has also been suggested that Government participate on a limited basis in a coinsurance program. More thought should be given to the use of flexible mortgage instruments which are adaptable to today's inflationary expectations.

Finally, there is a need for a review of the property tax structure. In neighborhood improvement we run into a vicious cycle. People are encouraged to improve their property in their neighborhoods and values go up. Then they are taxed more heavily and some are unable to afford to live in the improved property.

We, as a Nation, are learning that not only do we have finite financial resources, but our land resources and material resources are also becoming more limited. The older neighborhoods are beset by a long list of ills such as redlining, block busting, speculation, and physical deterioration, but they are only symptoms of a far more complex problem. There are no simple solutions, but the Commission will serve to focus our concern and resources. We must reconsider and hopefully redirect our Nation's attitude and policy toward existing city neighborhoods, and this Commission will provide a complete analysis and list of recommendations for action by the Federal Government—but more importantly, by the localities.

In sum, Mr. President, this is a complex, many-faceted problem. Although it is easy to identify causes, it is not as simple to discover acceptable solutions. The National Commission on Neighborhoods will hopefully develop some, and thus help to redirect our Nation's attitude and policies towards revitalizing city neighborhoods.

CYPRUS TRAGEDY CONTINUES

Mr. KENNEDY. Mr. President, the crisis on Cyprus has now entered its third year, and the passage of time has only deepened the tragedy confronting the Cypriot people. Since Turkey's invasion of the island in 1974, little has changed; the refugees remain homeless; the island remains divided; and Turkish troops have entrenched their occupation of northern Cyprus.

Two years of Turkish intransigence has not only prolonged the tragedy on Cyprus, but it has also undermined all efforts to achieve a negotiated settlement.

Indeed, commitments and obligations assumed by the Turkish authorities, as a result of intercommunal agreements or understandings, have been broken at will. Nothing illustrates this more perhaps than the flagrant and continuing violations by Turkish authorities of the intercommunal agreements concluded in Vienna a year ago.

The agreements were in part a quid pro quo: the Cypriot-Turks living in government-controlled areas in the South would be allowed to go to the occupied areas under United Nations auspices if the Cypriot-Greeks living in the occupied North were allowed to remain and live normal lives under U.N. protection. The record shows that the Government of Cyprus expeditiously and humanely carried out its obligations under the Vienna agreements and permitted the free departure to the North of all Cypriot-Turks who wished to leave.

But Turkish authorities have broken every principle of human decency by harassing, mistreating, and expelling Cypriot-Greeks living in the occupied areas. Out of some 11,000 to 12,000 Cypriot-Greeks who were living in the North at the time of the invasion, little more than 5,000 still remain. And those that do continue to be harassed.

Recent reports from the field confirm this. A most graphic account, for example, is reported in this week's issue of the Economist of London, which I would like to share with the Senate. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the account was ordered to be printed in the RECORD, as follows:

[Excerpts from the (London) Economist, Sept. 4, 1976.]

CYPRUS—A BITTER LEMON SQUEEZED DRY

Bellapais, the Greek Cypriot village made famous by Lawrence Durrell's "Bitter Lemons", is no longer Greek: two weeks ago its last seven Greek inhabitants gave up the struggle against the Turkish squeeze. With their departure the number of Greek Cypriots in the entire Kyrenia district of northern Cyprus is now fewer than 30. Because of this, the Turkish authorities say that the United Nations force in Cyprus no longer needs a post in that area.

This demand is the latest move in an eight-month tussle which arises from the need to draw up a new agreement governing the status of Unficyp—the United Nations Force in Cyprus—in the Turkish-occupied north of the island. It has been the consistent policy of the Turkish authorities, ever since the 1974 invasion, to limit or eliminate the 1974 invasion, to limit or eliminate the UN presence. After months of bargaining, the Turkish and UN positions are far apart on a dozen issues, even though the UN has conceded certain points—for instance, Unficyp is prepared to reduce the number of its posts in the north in return for a written promise that the Turks, contrary to present practice, would allow UN patrols to move freely and to contact the steadily dwindling number of Greek Cypriots without Turkish supervision. The bargaining has now reached a decisive stage because the Turks want the UN to call the Turkish Cypriot leader, Rauf Denktash, by his self-assumed title of "President of the Turkish Cypriot' Federated State".

This the UN flatly refuses to do, which is hardly surprising since every decree issued by Mr. Denktash has to be countersigned by a Turkish officer of the lowly rank of major. If no agreement is reached because of this sticking point, the UN force could conceivably have to pull out completely from the occupied area and leave the remaining Greek Cypriots without protection. And that, in turn, will make it easier for Mr. Denktash to implement his repeated threat of declaring an independent state of Turkish Cyprus. The only thing really stopping him is Turkey's obvious intention to convert northern Cyprus into a province of Turkey; the administrative absorption of the area into Turkey is going on apace. An independent state would block this process.

Whatever the outcome, the demographic Turkification of the north will soon be complete. Towns and villages such as Kyrenia and Lapithos which stood empty and ghostly until April are now filled with settlers, some Turkish-Cypriot, some mainland Turks. The return of the original inhabitants is ruled out, and the Turkish authorities now say quite openly that the remaining 5,800 Greek Cypriots in the north (of a total of 14,500 two years ago) will be reduced by half by Christmas.

Mr. KENNEDY. Mr. President, the developments on Cyprus described in this article—and there are many—not only call into question the good faith of the Cypriot-Turkish leadership in negotiating agreements, but also raises troubling questions over Ankara's intent on Cyprus. The obstructionist attitudes and actions displayed by Turkish authorities toward the intercommunal agreements, and toward the resumption of meaningful negotiations, not only prolongs the Cyprus tragedy but further aggravates America's and other nations' interests and relations in the eastern Mediterranean.

As I noted in a statement to the Senate on July 23—the second anniversary of the Turkish invasion of Cyprus—these developments on Cyprus raise questions over the failure of our diplomacy with Turkey in resolving the Cyprus problem. The administration's hopeful rhetoric over the future of Cyprus negotiations—most recently seen in the President's August 6 report to Congress on Cyprus negotiations—is fast reaching a point of no return.

The time is long past due for the President and members of his administration to speak out on Cyprus and to clarify once and for all our policy toward this tragically divided island and toward our related interests and relations in eastern Mediterranean.

Rather than sending to Congress requests for millions of dollars in new military aid to Turkey I would hope the President would send the answers to the questions I posed in my statement last July:

Questions

What is the Administration doing to move Turkey and the Cypriot-Turkish Administration, the stronger parties to the dispute, toward conciliation and settlement?

What is the Administration doing to support the continuing and generous efforts of United Nations Secretary General Waldheim to bringing about some real progress in resolving the territorial and constitutional problems of Cyprus, and the many humanitarian issues of immediate concern to the parties directly involved?

What is the Administration doing to support the free movement of UNFICYP units in the occupied areas of northern Cyprus?

What is the Administration doing about the flagrant violations of intercommunal agreements by the Turkish occupation authorities and the Cypriot-Turkish Administration?

What is the Administration doing about apparent "colonization" of occupied Cyprus by Turkish Nationals?

What is the Administration doing in support of congressional initiatives to continue meaningful U.S. humanitarian assistance for the refugees and other war victims on Cyprus?

What is the Administration doing about the continued presence of some 30,000 Turkish troops on Cyprus, who are heavily armed with American supplied weapons?

And what is the Administration doing about the apparent ceasefire violations of these Turkish troops on Cyprus?

Mr. President, given the hardening impasse in resolving the Cyprus problem and the deteriorating situation on the island, these questions and more must be concretely answered by the administration before Congress and the American people will be convinced that our national leadership is doing everything it can for the people of Cyprus and the good future of their country—much less for our national interests in the eastern Mediterranean.

An certainly I, for one, must have these answers before considering the President's new requests for military aid to Turkey. We cannot pretend that the Cyprus tragedy has no relation to our bilateral relations with Turkey, nor that our traditionally good relations can be restored without some real progress in resolving the Cyprus problem.

Mr. President, I would like to share once again with my colleagues the recommendations I have offered regarding Cyprus and which I hope will contribute to our country's effort to bring peace and relief to the people of Cyprus. I ask unanimous consent that these recommendations be printed at this point in the Record.

There being no objection, the recommendations were ordered to be printed in the Record, as follows:

Crisis on Cyprus—1976: Crucial Year for Peace

(A staff report prepared for the use of the Subcommittee to Investigate Problems Connected wtih Refugees and Escapees of the Committee on the Judiciary, U.S. Senate, 94th Congress, 2d Session, January 19, 1976)

RECOMMENDATIONS

The Cyprus problem, and American policy toward this troubling issue, has reached a crucial phase. And for the purposes of this report, the Subcommittee Chairman makes the following recommendations relating to the human and political tragedy of Cyprus.

1. The Cyprus priority in repairing U.S. relations with Greece and Turkey

Whether American diplomats like it or not, real progress toward an honorable and just resolution of the Cyprus problem is crucial in repairing our traditionally good relations with the people and governments of both Greece and Turkey, and in stabilizing our security interests in the Eastern Mediterranean. It is illusory to assume that these relations can be fully repaired and our interests fully stabilized without real progress on Cyprus.

Moreover, the routine promises of progress in the past have brought little comfort to the refugees and distressed people on Cyprus. Their plight remains unchanged.

1976 must finally bring a new priority to the Cyprus problem in American diplomacy and a new determination by our Government to facilitate real progress in normalizing the lives of the Cypriot people. As the President reported to Congress on December 8, 1974: any further delay "in resuming the intercommunal talks will harden attitudes and make future progress more difficult."

The imperative for American diplomacy has really been more clear, and, if we fail to act, so too are the dangers of new conflict on Cyprus and the threat of further erosions in our relations and interests in the Eastern Mediterranean.

2. Restoration of the full independence, sovereignty and territorial integrity of Cyprus

Despite the stubborn occupation of Northern Cyprus by Turkish forces, the *de facto* partition of the island, and the pronounced drift toward the creation of a quasi-state in the occupied areas, the restoration of the full independence, sovereignty, and territorial integrity of Cyprus must be a fundamental objective of American policy and diplomacy.

No other goal better satisfies justice or the bringing of peace and relief to the unhappy peoples of Cyprus—both Cypriot-Greeks and Cypriot-Turks.

As noted in this report, there have been recent reaffirmations of this cardinal point by President Ford and Secretary of State Kissinger. This is an encouraging development, and fully reflects numerous United Nations resolutions since 1974, including the General Assembly resolution of November 20, 1975.

3. Opposition to a unilateral declaration of independence by the Cypriot-Turkish administration

The Cypriot-Turkish leadership threatens to declare the Turkish-occupied area of Cyprus as an independent, sovereign state.

Given its record of fulfilling other threats over the past eighteen months—including the creation of the *Turkish Federated State of Cyprus* in February 1975—the reckless threat of a Unilateral Declaration of Independence must be taken with some degree of seriousness.

A Unilateral Declaration of Independence would clearly violate the publicly stated policy of Ankara and would not be in the best interests of the Cypriot people. It would also threaten needless violence and conflict, and would enormously complicate any subsequent efforts to reunify the island.

The United States should make clear, now that it will not recognize a Unilateral Declaration of Independence by the Cypriot-Turkish leadership, and will actively oppose its recognition by other nations. Diplomatic efforts must be made to dissuade the Cypriot-Turkish leadership from pursuing such a policy and Ankara from encouraging or condoning it.

4. Support for implementing niter-communal agreements and the resumption of inter-communal talks

The United States, in concert with others, must use its influence and good offices with Turkey to persuade Ankara to give its full and active support to the implementing of intercommunal agreements and the resumption of inter-communal talks under U.N. auspices.

In good faith the Cypriot-Greek leadership, the Government of Cyprus, has negotiated with the Cypriot-Turkish leadership over the resolution of inter-communal problems and the future of Cyprus, and the Government of Cyprus is prepared for an early resumption of these negotiations under U.N. auspices.

The same cannot be said, however, for the Cypriot-Turkish leadership and the Government in Ankara. For one thing, the Cypriot-Turkish leadership has flagrantly violated last August's inter-communal agreement on the treatment, protection, movement and normalizing of life among both Cypriot-Greeks and Cypriot-Turks.

The agreement, concluded in Vienna under U.N. auspices, in part provided for the free movement to the occupied areas of Cypriot-Turks residing in Government controlled areas, and for the protecting and normalizing of life among Cypriot-Greeks remaining in the occupied areas.

The Government of Cyprus scrupulously carried out its part of the agreement, and today all but a handful of Cypriot-Turks live in the occupied areas. But the conditions of Cypriot-Greeks remaining in the occupied areas has steadily deteriorated, and the Cypriot-Turkish leadership has declared the agreement null and void.

The situation not only calls into question the good faith of the Cypriot-Turkish leadership in negotiating the agreement, but also raises troubling questions over Ankara's intent on Cyprus.

The obstructionist attitudes and actions displayed by the Cypriot-Turkish leadership toward the implementation of some past agreements, and understandings with the Cyprus Government—and toward the early resumption of intercommunal talks—must not be permitted to prolong the Cyprus problem and further aggravate America's and other nations' interests and relations in the Eastern Mediterranean.

Turkey, as the occupying power in northern Cyprus, clearly has some influence over the attitudes and actions of the Cypriot-Turkish leadership. Ankara should move firmly and expeditiously to promote the Cypriot-Turkish leadership's implementation of solemn agreements with the Government of Cyprus concerning Cypriot-Greeks in the occupied areas, and to promote as well the very early resumption of inter-communal talks under U.N. auspices and meaningful progress toward a just and honorable resolution of the Cyprus problem.

The United States Government will hopefully give some better evidence that it is seriously working to accomplish these ends.

5. Immediate withdrawal of Turkish forces

The heavy presence of Turkish forces on Cyprus, and other factors associated with Turkey's consolidation of its position in the occupied areas of the island, is impeding meaningful inter-communal negotiations and a resolution of the Cyprus problem.

In the spirit of the Geneva Declaration of July 30, 1974—agreed to by Greece and Turkey—and the numerous United Nations resolutions on Cyprus, Turkey should immediately begin the withdrawal of substantial number of its occupation forces on the island.

No viable solution to the Cyprus problem or lasting peace is possible without the timely and phased withdrawal of Turkish occupation forces and armaments. Especially now, at this crucial juncture of the Cyprus problem, Ankara should begin this withdrawal process—as a *gesture of goodwill* to the people of Cyprus and as a *sign of good faith* in meaningful progress at a new round of inter-communal talks under U.N. auspices.

6. A basic principle: The return of refugees to their homes

The plight and fate of the Cypriot-Greek refugees—who were driven from their homes and deprived of their livelihoods during the Turkish invasion of 1974—remains central to the resolution of the Cyprus issue. A viable and just solution to the Cyprus problem will not be found unless and until the basic principle of the right of refugees to return to their lands and homes, or to be fully compensated for their losses, is recognized by all parties concerned.

During the past year and a half, the issue of Cypriot-Greek refugees returning to their homes has been increasingly complicated by events on the island, such as the mass movement of virtually all Cypriot-Turks, who resided in Government-controlled territory, to the occupied areas in the northern part of the island. Most of these Cypriot-Turks have moved into houses belonging to Cypriot-Greek families who are now refugees in the south.

The return of refugees to their homes is further complicated by the "colonization" of the occupied areas by mainland Turks, transported from Turkey, or by third country nationals, such as Pakistani laborers. This continuing population movement from mainland Turkey threatens to alter dramatically the demographic patterns of Cyprus. Regrettably, the United States and others have been remiss in failing to speak out strongly against this apparent "colonization" policy of the Turkish Government in Ankara.

However, despite such developments, the principle of the right of the return of Cypriot-Greek refugees to their homes must be reaffirmed, as well as the corollary principle of full and generous compensation for those who do not return home. These principles are central to any meaningful negotiations of the Cyprus question, and the United States must give them full support.

THE GENOCIDE CONVENTION AND FREEDOM OF SPEECH

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have often expressed concern over the meaning of the phrase "direct and public incitement to commit genocide," especially as it relates to the first amendment's freedom of speech guarantees.

However, actions constituting direct and public incitement to commit genocide cannot be construed as an exercise of free speech. Rather, there is a clear line between protected speech and the prohibition of the convention against direct and public incitement. The Supreme Court reaffirmed this distinction in the 1969 case of Brandenburg against Ohio:

> The constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action. (395 U.S. 444.)

This decision refutes those critics who insist that direct and public incitement to commit lawless actions is protected by the Constitution.

The act of genocide is a most tragic and final end to the exercise of free speech. Certainly the Jews in Nazi Germany did not have the opportunity to exercise freedom of speech. Furthermore, genocide violates not only an individual's rights but the rights of an entire group.

The Genocide Convention does not seek in any way to inhibit or prevent freedom of speech. It does attempt to inhibit and prevent the tragic act of genocide. In doing this it is necessary to include "direct and public incitement to commit genocide" as a punishable act, an act which in no way can be construed as a protected exercise of free speech. As a small step forward in protecting the free speech of all peoples, we must ratify the Genocide Convention.

SUGAR

Mr. INOUYE. Mr. President, on August 19 I wrote to the President to express my concern over this administration's apparent indifference to the serious threat to domestic sugar producers caused by the rapidly declining price of sugar which has now reached a level below the cost of production. In response I received a letter from L. William Seidman, Assistant to the President for Economic Affairs, dated August 31. I ask that my letter and Mr. Seidman's reply be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., August 31, 1976.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: The President has asked me to thank you for your thoughtful letter of August 19 concerning the current sugar situation.

As you know, it is this Administration's policy to shift agricultural policy, including sugar policy, toward a market orientation. By increasing our reliance on market prices and returning decision-making to those individuals best qualified to make the decisions—U.S. growers and producers of agricultural commodities—we will make the best use of our resources.

During recent months we have been monitoring closely developments in the sugar market. In light of the recent decline in sugar prices, an interagency task force was established to review the sugar situation and outlook and to assess the policy implications of that outlook.

We appreciate having the benefit of your views which I am sending to the task force reviewing the situation where I am sure they will be carefully considered.

Sincerely,

L. WILLIAM SEIDMAN,
Assistant to the President for Economic Affairs.

U.S. SENATE,
Washington, D.C., August 19, 1976.

Hon. GERALD R. FORD,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: On March 11th of this year, I joined with Senators Long, Curtis, and Dole in expressing concern over the threat posed by your Administration's sugar policy for our domestic producers. We specifically emphasized the need for improved communications with the participants in your Administration's Sugar Policy Study.

A response promising such improved communications was received. On June 17th, Chairman Long of the Finance Committee again wrote to you on this important matter and shared with me the response to that communication from Bill Seidman.

In Mr. Seidman's letter of July 7th the argument is strongly made that your Administration is committed to a free and open market in sugar. The expiration of the Sugar Act on December 31, 1974, and your administrative actions with respect to quotas and tariffs of November 18, 1974, confirm that commitment as does the lack of any governmental action since that date.

Mr. Seidman noted in his letter that while some price fluctuations can be expected, "Evidence available at this time, however, does not suggest that these price fluctuations will be extreme during the remainder of this year. The close supply-demand balance of the 1975–76 crop year of 81.3 million metric tons and 80.8 million metric tons, respectively, resulted in only a slight increase in stocks to a level of 15.3 million metric tons. Thus the stock-consumption ratio remains at a relatively low level as we enter the 1976–77 crop year. While production is projected to increase in the 1976–77 crop year, a major portion of that increase was expected from Western Europe. It now seems likely, however, that drought conditions will reduce the West European crop significantly. U.S. beet plantings declined by 3 percent this year. In addition, consumption is expected to increase this year as the world's economies recover from the recent recession. The production forecasts are tenuous at this point since the beet crops in the Northern Hemisphere countries depend heavily on weather between now and harvest time.

In short, we see no reason to be alarmed at price prospects for the remainder of this year given the current outlook, but we will continue to watch the situation closely.

In a period of high prices such as those experienced in the last six months of 1974 and in 1975 few voices were raised in protest. I did warn as early as July, 1974 of the threat to the domestic producers because of the workings of the international sugar market in remarks on the Senate floor. My warnings have continued in December, 1974, in February, May and July of 1975 and again in February and March of this year.

Recent sharp declines in the price of raw sugar to under 12 cents per pound cause me to again raise this issue with you. That current price is under the cost of production for most cane producers in my State. Sugar cane is our number one agricultural industry and the number three source of income to the people of my State, after tourism and Federal government expenditures.

In the past few years, the State of Hawaii and Hawaii County has appropriated and allocated some $4.6 million in efforts to find alternative economic uses and employment opportunities for the manpower and resources employed in just one sugar plantation at Kohala which closed down due to economic conditions in 1975. Frankly, this effort has achieved very limited success for there is no substitute which can come close to providing the income and employment which sugar has historically provided for the people of my State.

A healthy sugar industry is absolutely vital to our welfare and it is my belief that an active sugar policy which protects the American producer from the sharp swings in the price of sugar in the international sugar market is in the best interests not only of the American producer but also of the American consumer.

I, therefore, urge reconsideration of your present policy and early action to shore up the fast falling sugar prices.

Aloha,

DANIEL K. INOUYE,
U.S. Senator.

Mr. INOUYE. Mr. President, Mr. Seidman reiterates the standard administration tribute to the concept of a free market for agricultural commodities, including sugar, thereby disclosing that he is either ignorant of the facts or willing to ignore them when it comes to the situation in my State.

In Hawaii there is no alternative crop which can be raised instead of sugarcane. Diversification of agriculture has been an elusive goal which has been attempted for decades, without success. The suggestion made by Mr. Seidman that market oriented agricultural policy returns decisionmaking to "individuals best qualified to make the decisions—U.S. growers" is an empty gesture to the sugarcane growers in my State.

It appears absurd to argue as the administration does, that the individual grower or producer can best make rational decisions on sugar production from the operations of a "free market" when the best brains in the administration have demonstrated such inability to forecast with any degree of accuracy what sugar prices will be. As I noted in my letter to the President, as late as July 7, Mr. Seidman wrote to Senator LONG—

> We see no reason to be alarmed at price prospects for the remainder of this year given the current outlook . . .

Further, if decisionmaking, in Mr. Seidman's view, means making a choice of what crop to raise, it is a luxury which the growers in Hawaii do not enjoy. Even if there were feasible alternative crops for the 225,000 acres of fields now growing sugarcane, and so far we have not discovered any, the particular circumstances in Hawaii preclude a switch in response to market conditions except over a very long term. Our sugarcane grows, on the average, 2 years before the first harvest.

After the initial harvest, the root structure of the cane plant is left in the ground and successive crops are taken at approximately 2 year intervals. We expect at least three crops from one planting so the crop cycle from beginning to end is approximately 6 years. Obviously, the Hawaiian sugar industry is not an in and out proposition as is the case with many other agricultural commodities which are planted and harvested in less than 1 year.

Instead of taking the regulatory steps available under existing statutory authority, this administration chooses only to monitor developments in the sugar market and has formed an interagency task force for that purpose. Such a group has been in existence since early in the year and issued a report dated March 1976. The average domestic price for raw sugar during that month was 16.27 cents per pound. In April it was 15.58 cents per pound, in May 15.97, June 14.40, July 14.59, August 11.32. On September 7 it has declined still further to 9.35 cents. Domestic producers cannot remain in business at that price level.

The sugar industry is vital to the economy of the entire State of Hawaii. Sugar producers employ approximately 9,000 full-time workers who work throughout the year with a payroll of approximately $110 million. Sugar is the third largest source of income to the State, contributing about $368 million to the economy in 1975. It is our largest export.

To sit idly by, as this administration is doing, witnessing the further decline of this industry so essential to the fragile economy of Hawaii is inexcusable. Administration action under existing quota and tariff-setting authority is not a substitute for a long-range program devised by the Congress. It is badly needed, however, until a comprehensive sugar program can be enacted.

IMPROVING LEGAL REPRESENTATION FOR OLDER AMERICANS

Mr. KENNEDY. Mr. President, the 1975 Older Americans Amendments included several important provisions to strengthen legal representation for the elderly. Hearings conducted by the Senate Committee on Aging provided a solid foundation for the enactment of these measures.

Legal counseling is now, for example, a priority service for funding under the title III, State and community programs on aging. In addition, title IV specifically authorizes the training of lawyers and paraprofessionals to provide legal counseling for the elderly and to monitor the administration of programs for older Americans.

As a sponsor of these provisions, I am concerned that they are effectively implemented by the Administration on Aging.

Quite clearly, legal problems continue to be a major concern of the elderly. This point was made very compellingly during a recent hearing I conducted on behalf of the Committee on Aging in Boston.

Witnesses—including elderly clients, legal services attorneys, senior citizen leaders, a member of the Massachusetts Bar Association, and persons in the audience—emphasized that many older Americans now find themselves in an impossible situation when a legal problem arises. Too many of the poor elderly continue to be outside the reach of legal services.

Moderate-income persons also face serious problems. Typically they have too much income to qualify for legal services, but not enough to pay an attorney $40 to $100 an hour, or whatever the going rate is.

The net impact is: large numbers needlessly accept deprivation because they cannot obtain competent representation at a price within their reach.

In addition, the hearing provided clear and convincing evidence that older Americans are underrepresented in the legal services program. A recent study by the Legal Services Corporation revealed that persons 65 or older account for about 7 percent of legal services clients. Yet, the elderly constitute 24 percent of the adult poverty population.

Many elderly persons simply are unaware of the existence of legal services. Others experience difficulty in reaching a legal services office, particularly the infirm or those with mobility restrictions.

Witnesses also discussed in very moving terms the problems they encounter in dealing with Federal benefit programs and Government agencies.

One elderly woman in a public housing project paid $16 for an electric heater because her apartment was too cold in the winter. And when the temperature became unbearable, she moved in temporarily with a relative.

Senior citizen leaders, as well as attorneys, emphasized the important role of paralegals in counseling older Americans on numerous issues. They also stressed that an elderly paralegal may be more effective in assisting an aged client under certain circumstances than a private attorney.

All in all, the hearing provided fresh new perspectives on legal problems of direct concern to older Americans, including housing, the offset in Federal benefit programs when social security benefits are increased, and utility shutoffs.

Mr. Wendell Coltin, of the Boston Herald American, has written an excellent account describing the major issues raised at the hearing.

Mr. President, I commend this account to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the account was ordered to be printed in the RECORD, as follows:

[From the Boston Herald American, Aug. 31, 1976]

FREQUENT ABUSES REPORTED: ELDERLY'S LEGAL RIGHTS TOLD

(By Wendell Coltin)

A state department of Elder Affairs' ombudsman told Senator Kennedy yesterday that some nursing homes refuse to keep longtime private patients after their savings shrink to the level at which they become eligible for public assistance (Medicaid).

"This is discriminatory," lawyer John J. Donovan of Milton, the ombudsman, charged. "It creates two classes of citizens: those who can stay in the home and those who are turned out."

The patients are transferred out of the homes, Donovan said, under an agreement stipulated in contracts they are asked to sign upon entering the homes and after they have spent, in some instances, $12,000 to $15,000.

Donovan was among several witnesses who testified at a hearing in Gardner Auditorium chaired by Kennedy for the U.S. Senate Committee on Aging. The topic of the hearing was "Improving Legal Representation for Older Americans."

After describing what she called "ridiculous conditions" at the Franklin Field Housing Project, where she is a tenant, Mrs. Cecelia Fennessey, 70, was asked by Kennedy, "Were you able to get legal counsel?"

"Yes, she answered. "I went to an undertaker to make plans for my burial. I paid a $200 deposit toward a $1750 bill that I was told could go more. I was asked later, 'Did I know the place was being closed and was not in business anymore?' I went to the legal service. They are helping me to get my deposit back."

Kennedy, prior to testimony, told the elderly and their advocates—more than 200 persons—his committee has held several hearings in Missouri, California and Washington, which have re-emphasized the fact that the elderly are not receiving adequate legal services. He announced Massachusetts will soon receive funding from the Administration on Aging for a special legal services' advisor to work in the office of the secretary of elder affairs. He said more than $1 million is being allotted nationwide to provide a legal services' attorney in each state office.

Yesterday's witnesses told Kennedy many elderly persons who could use legal assistance do not seek it because they either feel they cannot afford it or don't know where to go for it.

The work of elderly paralegals in the Council of Elders was explained by Richard McCusker, a paralegal who told of the opportunity for lawyers to provide public service to the elderly.

It was after Donovan testified that Kennedy asked, "What about the transfer business?"

Donovan explained, "We have found elderly people are admitted to some nursing homes, where they have $12,000 to $15,000 in personal funds—more than the maximum allowed for public assistance.

"They sign a contract stating that they will not be kept as public assistance cases. They pay $1000 a month or more, and along about the end of the tenth month, when their funds have shrunk and they have $2000 and are in need of public assistance, they are told the home can't keep them and they must be transferred. This is discriminatory! They are turned out when they become eligible for public assistance. I think such contracts should be eliminated."

McCusker said he and other paralegals "try to assist the elderly with Social Security, SSI, housing and tenant-landlord problems. We try to reach the elderly by outreach. Each case is reviewed by an attorney. Many cases can be brought to a conclusion by the paralegals. We are looking for additional funding."

He told of paralegals being able to get a 62-year-old woman who was living with her son reinstated for SSI benefits that had been taken away from her.

Mrs. Melnea Cass of Roxbury, president of the Council of Elders, said, "Many persons grow older without knowing the advantages of having a lawyer . . . Many don't make a will. They don't want their family to know what they have for money. They die. Money is found under mattresses and rugs when they die. They are suspicious of young lawyers and fear them."

Dr. James S. Peace, state director of the National Retired Teachers' Ass'n, said, "The elderly experience legal problems that are unique to them. For example: age discrimination in employment; protection with respect to nursing care and involuntary commitment; enforcement of pension rights; and eligibility for special tax relief programs. They represent 17 percent of those eligible for free legal services, but only 6 percent are actually served, a study showed."

THE NATIONAL NEIGHBORHOOD POLICY ACT—S. 3554

Mr. PROXMIRE. Mr. President, I am delighted that the Senate has passed S. 3554, the National Neighborhood Policy Act.

Mr. President, at long last, we are beginning to understand that neighborhoods are the key to cities. Healthy urban neighborhoods, even though they may be located within a huge metropolis, have all the virtues of community that are lost when cities become alienating, impersonal places. If neighborhoods die, cities will not be worth having.

In our series of hearings, the Banking Committee found an enormous reservoir of faith in the old city neighborhoods on the part of the people who live there. We found that even if some bureaucrats and some bankers and some planners may believe that neighborhoods inevitably "decline", the people who are attached to their communities can prove otherwise. As an article in the Washington Post commented recently, this has been the year of the rediscovery of neighborhoods.

Unfortunately, Federal urban policies and programs have all too often slighted neighborhoods. The assumption has been that somehow it is possible to revive cities without building on the existing neighborhoods. But the truth is that only by reviving neighborhoods can we restore cities to their greatness.

The National Neighborhood Policy Act will make that recognition a matter of national policy. It will establish a Presidential commission with a life of 2 years, and a mandate to investigate the various ways that Federal, State, and local policies and programs affect neighborhoods. Where do they help and where do they hurt? The bill speaks not just of housing programs in the narrow sense, but of other ways in which public policy influences the ability of neighborhoods to survive; for example, Federal, State, and local tax preferences, bank regulation, zoning, and so forth. Do these policies create incentives for the private sector to preserve, or to demolish? Do they promote conservation, or abandonment?

Second, the Commission will make recommendations for policy changes to make public policies, laws and programs more conducive to the goal of neighborhood preservation. Among other duties, the Commission will recommend new policies to promote reinvestment in existing neighborhoods, community participation in local governance, policies to permit diverse neighborhoods to survive and to discourage blockbusting, red-lining, destructive speculation, and to promote urban homeownership also, policies to promote better maintenance of existing rental housing, and to make maintenance and restoration at least as attractive from a tax viewpoint as demolition and development of new structures.

The Commission will include 16 broadly representative public members, a majority of whom shall be local public officials and representatives of neighborhood organizations, plus two Members of the House and two from the Senate, with the Chairman and Executive Director subject to Senate confirmation.

S. 3554 was first cosponsored by Senator GARN and myself. It was reported by the Banking Committee, without dissent. The bill was broad, bipartisan cosponsorship, including the support of the administration. The cosponsors include Senators: GARN, DOMENICI, HUMPHREY, MORGAN, PELL, HUGH SCOTT, TOWER, PERCY, STEVENSON, and MATHIAS. The House Banking Committee plans to expedite action on a companion measure.

Instead of being an interesting, but incidental aspect of housing policy, preservation of existing housing and established neighborhoods must become its main objective.

Mr. President, if this country ever could afford to abandon viable homes only to duplicate them on somebody's cornfield at great cost, we can no longer afford that kind of waste.

S. 3554 will provide recognition that we as a society have outgrown the mentality that says use up neighborhoods and throw them away, and it will recommend some remedies to promote reinvestment in our city neighborhoods.

DR. WILLIAM LUCAS, MSFC DIRECTOR, ADDRESSES "BENEFITS FROM THE SPACE PROGRAM"

Mr. ALLEN. Mr. President, on August 19 I had the distinct pleasure of attending the annual meeting of the Alabama Space Science Exhibit Commission, of which I am a charter member and the first chairman. The commission has oversight responsibilities for operation of the Alabama Space and Rocket Center, built by the State of Alabama in Huntsville, Ala., with funds from a bond issue approved by the people of our State. The center houses one of the finest collections of space and military rocketry memorabilia and exhibits to be found anywhere in the world, and it attracts some 100,000 visitors a year.

During this meeting, it was my honor to introduce Dr. William R. Lucas, director of the Marshall Space Flight Center, one of the pioneers of our Nation's military and civilian space program. He has the distinction of being the only director of a National Aeronautics and Space Administration center to have risen through the ranks. Starting his career as a beginning scientist when the Army began its rocket and missile research and development work at Redstone Arsenal, Ala., he transferred to NASA when the Marshall Space Flight Center was created under Dr. Wernher von Braun.

Dr. Lucas rose from the journeyman level to center director on the basis of his outstanding contributions to NASA. He is credited with developing the ablative technique for space vehicles that prevents them from overheating. Although this technique was developed for use on the Army's Jupiter Missile, it has been used in all U.S. manned space flights as well as on military missile nosecones.

Mr. President, in his talk to the Alabama Space Science Exhibit Commission, Dr. Lucas developed the thesis that the challenge of space exploration has had a deeper impact on the course of civilization than any other peaceful activity in history and that it has enriched our daily lives in countless ways. I believe that his remarks should be "must" reading and I ask unanimous consent that Dr. Lucas' talk, entitled "Benefits From the Space Program," be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

BENEFITS FROM THE SPACE PROGRAM

(Remarks By Dr. William R. Lucas, Director, NASA Marshall Space Flight Center)

Thank you, Senator Allen. I am highly honored to be on this program today and doubly so to be introduced by the distinguished Senator from Alabama. To the people of Alabama, Senator Jim Allen is a strong voice in the highest legislative body in the nation, a staunch defender of the right, and he has demonstrated himself to be a man who will not compromise his principles. Importantly for us, he is a warm friend of the space program. I want you to know, sir, that the people of North Alabama are proud of what you are doing for our country and our state. We are delighted that you could find time from the many demands of your office to be here today.

In the beginning, I must say also that I appreciate the work the Alabama Space Science Exhibit Commission is doing in operating the Alabama Space and Rocket Center—a true showplace which is a tribute to the State of Alabama, to this Commission and to its chief employee, the energetic, innovative and farsighted Ed Buckbee. This exhibit is important to the Marshall Space Flight Center and the National Aeronautics and Space Administration, and Ed Buckbee is always most helpful. The Commission is exceedingly fortunate to have a man of Ed Buckbee's caliber to manage this institution.

I welcome the opportunity this morning to discuss briefly the application of technology derived from the space program. The subject of space benefits was brought up by Sen. Jack Giles when he and other members of the Executive Committee visited me recently at the Marshall Center. Jack said that he had found that many people are just not aware of the far-reaching effects which the space program has on our lives, our thoughts, and even our international relations. In response to his request, I said that I would be glad to discuss some of these benefits with any audience he recommended.

My thesis, then, is that the challenge of space exploration has had a deeper impact on the course of civilization than any other peaceful activity in history and that it has enriched our daily lives in countless ways. The space program has revived our pioneering instinct; it has expanded our intellectual development; it has increased our storehouse of knowledge; it has advanced our technology; it has strengthened our self-confidence and raised our prestige in the eyes of the world; and it has broadened our perspective and heightened our appreciation for the good planet Earth on which we live. But at the same time it has taught us that our resources are expendable and must be guarded carefully.

America's efforts in space exploration have been crowned with success after success—from Explorer I, our first small unmanned Earth satellite, to manned flights in Projects Mercury and Gemini, manned exploration of the Moon in Project Apollo, research and experimentation in Skylab, probes to the planets, and the exciting landing of the Viking on Mars. Every one of these programs had a price tag, and the tab was picked up by the American taxpayer. My argument holds that these programs were an investment—an investment which has already paid and continues to pay remarkable dividends.

Some of these benefits, of course, are intangible. For instance, one of the great lessons learned from Project Apollo is that we as a country *can* solve the very serious problems which face the nation today—problems such as the growing shortages of energy, dwindling natural resources, polluted environment, and overpopulation. Apollo showed us that we, the American people, led by a dedicated team from government, industry and the academic community, can accept a challenge and overcome seemingly insurmountable obstacles to reach an objective.

When President John F. Kennedy established a manned lunar landing as a national goal in 1961, he foresaw clearly that such an objective would do more than take us to the Moon and safely back to Earth. It would, he said, allow our nation to "take a clearly leading role in space achievement, which in many ways may hold the key to our future on Earth."

The lunar landing was to be a focal point for our efforts. It was a catalyst which spurred advances in virtually every scientific discipline and every field of technology to meet the critical demands of space flight. The space program became the cutting edge of technology, spawning advances more rapidly than any prior influence—save that of waging warfare.

Consistent with the intent of the 1958 Space Act that gave rise to the National Aeronautics and Space Administration, the technological advances were quickly fed into industry. The results were new and improved products, more jobs and an improved economy.

Let's take a quick look at some of the more tangible benefits from space exploration—some things which we may accept matter of factly, without second thought, but things which we have because we did accept the challenge of space exploration.

The first widespread use of space came through Earth-orbiting communications satellites. Beginning by bouncing signals off the Echo I balloon satellite in 1960, NASA pioneered a series of active research satellites. Now commercial satellite communications systems are in daily use, with the cost of launchings borne commercially, and not by NASA. Comstar-D2, a new type domestic communications satellite, was launched by NASA last month for the ComSat General Corporation. It was just another in a series of such launchings, and the event was so routine that I daresay that it went unnoticed by most of us.

Communication satellites have revolutionized communications in a very short time and have substantially reduced the cost of worldwide communications. They have more than repaid the cost of their development and launching. For example, a decade ago, using trans-Atlantic cables, the cost of a three-minute daytime telephone call from New York to London was $12.50. Today the cost is only $5.50 in today's currency—and that's ignoring the impact of inflation in recent years. The cost of world-wide television transmission is being reduced, having been lowered 80% from the early satellite broadcasts to the present. Before satellites, a West Coast to Japan cable circuit cost $15,000 a month; today a communication satellite makes the same service available for $4,000 per month.

Satellites that directly broadcast television to community receivers are demonstrating their potential for delivering educational, medical and other services to remote and hitherto unreachable populations.

On July 8 of this year a communications satellite called Palapa was launched from the Kennedy Space Center for the island nation of Indonesia.

Palapa fulfills a 600-year-old dream for Indonesia. The name for the satellite comes from a 14th century prime minister's vow not to eat the then popular delicacy, palapa, until the whole of Indonesia was unified.

The satellite will tie together that nation, made up of 3,000 inhabited islands, with instantaneous telephone, radio, television and telex and data communications.

For most of the 600 years it hasn't been possible to so unite the country; in recent years it hasn't been economically feasible to install wires or microwave towers over thousands of miles of oceans, islands, unmapped hills and forests.

The space program allowed Indonesia to make a quantum jump in communications overnight from the 14th almost to the 21st century.

The Palapa satellite began operation this past Tuesday, the 31st anniversary of Indonesian independence.

A dramatic example of the need for such communications occurred recently when a severe earthquake hit a remote area of the scattered island nation, killing perhaps as many as a thousand people—and it was two or three weeks before word of the extent of the tragedy even reached the Indonesian capital. If the Palapa satellite had been in operation just a few weeks ago, it could have been of great value to the government in its relief efforts.

Communications satellites, themselves a product of the space program, are used as tools for demonstrating how space and advanced technologies can benefit the people of developing countries.

NASA's most advanced communications satellite—ATS 6—illustrates this point. ATS–6 was launched May 30, 1974. It was first used by NASA, then loaned to the Government of India for one year, which ended July 31. In India it became known as "Teacher in the Sky" as it transmitted information into 5,000 remote villages and more populous areas on family planning, farming, nutrition and health measures. The Indians were most reluctant to see their "Teacher" go.

By the way, in the initial phase of its operation, a receiving station for the ATS–6 satellite was located in Madison County at Chase. Classroom instruction in Madison and Marshall counties which had been filmed earlier was transmitted by the ATS–6 satellite as part of an experimental educational program for remote regions.

ATS–6 was moved to the Western hemisphere in another undertaking to help some of the world's poorest people in Asia, Africa and Latin America. NASA is working with the Agency for International Development (AID) in the project, and as many as 30 developing countries are participating. Space communications will be teamed with remote sensing from the Landsat Earth resources satellites and high-resolution aerial photography in a three-month demonstration to help these peoples boost food production, improve their health and nutrition, expand family planning and raise income levels.

The weather and climate program was one of the earliest users of space technology. Most of us now take for granted the satellite cloud photographs on daily television programs without consciously associating them with the space program. And the launching of weather satellites has become so routine that they cause barely a ripple in the news.

For example, I doubt that many noted the launch on July 29 of an improved TIROS Operational Satellite into a polar orbit from our California launch site. It will be used by the National Weather Service to provide cloud cover pictures in order to improve the accuracy of both short and long-term weather forecasting. Weather satellites are just another tool which help the Weather Service to improve forecasting. As a measure of their contribution, the 36-hour predictions of today are as accurate as the 12-hour forecasts issued 10 years ago—correct approximately 80 per cent of the time.

Accurate five-day forecasts may be possible as satellite and other technology advances are made. It has been estimated that five-day forecasts would save up to $5.5 billion dollars annually in the United States—in agriculture, construction, transportation, recreation, and other industries affected by the weather.

As a long range possibility, I believe that as we gain a better understanding of the dynamic processes that control the weather—the interaction between land masses, the great bodies of water and the air above us—we will be able to modify weather patterns on a large-scale basis.

Of course, I do not refer to the local situation where I believe the great problem would be to get neighbors to agree on a day for rain. I'm talking about the great deserts of the world, which with adequate moisture could produce food. Four years ago, South Dakota became the first state to establish a program to increase rainfall and suppress hail. Last summer, 45 of South Dakota's 67 counties took part in the weather modification program which covered an area of 29 million acres. Backers of the program foresee the potential for adding up to $80-$100 million in gross income for the state through increased rainfall alone for the greater production of grains and grasses.

If we are to feed the world, the way the population is growing (expected to double in the next 35 years), we will be forced to use some areas that are not being used for food production. Even if we never come to climate control, being able to predict long range adverse climate trends will enable us limit their effects through agricultural planning.

Another widespread use of satellites is in the area of the observation of Earth's resources. The Earth Resources Survey Program involves the application of space remote sensing systems to the measuring and monitoring of parameters on earth.

The Landsats and companion spacecraft called Seasats are satellites equipped with a variety of sensors and scanning devices which acquire data in the visible, infrared and microwave portions of the electromagnetic spectrum. Using advanced computer techniques, the data collected can be made to yield a wealth of information about the Earth.

The multi-spectral imagery taken by Landsat is being used for such wide-ranging practical purposes as: locating air and water pollution, locating geologic formations that may indicate the presence of petroleum and other minerals, studying flood hazards and managing our water resources, monitoring urban development and planning future land use, helping to locate underground water supplies, predicting water coming from snow melt, spotting the movement of crop diseases, and estimating crop yield.

Hydrologists analyzing Landsat data have found that fresh water is currently being extracted from only about one hundredth of one per cent of the total global supply. And crop identification is now performed routinely by satellites and the information is used to make much more accurate forecasts of harvests. These estimates become more and more vital as the demand for food rises around the world.

Photographs from Landsat were used as legal evidence to help settle a dispute between the states of New York and Vermont. The pictures clearly showed pollution from a New York paper mill dispersing across Lake Champlain toward the Vermont shore.

Recently, the State of Maryland has utilized the Landsat satellite to monitor its coal strip mining activities. The imagery obtained from Landsat revealed that 25–30 per cent more acreage was affected by the mines than anyone had realized. Consequently, the state has modified its mine inventorying procedures to include the additional acreage involved.

Several months ago, here at the Marshall Center we used a NASA plane from the Lewis Research Center, equipped with infrared thermal scanning equipment, to locate areas of high heat loss throughout the Center as a part of our efforts to reduce energy consumption. From the infrared scans, we produced maps of the entire Center and studied these to locate leaking underground steam lines, and to pinpoint heat loss from inadequate and deteriorated roof insulation. The repair of these hidden leaks has already enabled us to conserve energy and to save several thousands of dollars.

A satellite designed, developed and produced by the Marshall Space Flight Center and launched in May of this year may help us to forecast another phenomena of nature. This satellite, called LAGEOS, will allow very accurate determination of the movement of the Earth's crust—and one important benefit from the information to be acquired could be the development of techniques for predicting earthquakes.

One of the more promising uses of space as a work site is in the area of processing of materials. Perhaps no technology is more important to the well-being of our society than that involving materials. It is generally known among materials engineers that the failure to achieve or even approach the theoretical properties of materials is often due to the limiting aspects of the environments in which they are processed. The introduction several years ago of vacuum melting of metals removed the contaminating influence of atmospheric gases and provided the possibility for new alloys and alloys of increased purity and, consequently, greatly enhanced properties. Today, the space environment offers to materials processors the freedom from the influence of gravity, a freedom that has not been achieved on Earth for more than a few seconds. This becomes especially important when the separation of phases or constituents of a melt or a mixture is undesirable or when the stirring caused by gravity-induced convection currents would interfere with crystal formation. The most interesting results to date have been obtained from the growth of superior single crystals in the zero-gravity environment.

Single crystals of semiconductors, so important to today's solid state electronics industry, have been the subjects of intense study already.

The separation of the constituents of biological substances, such as human blood cells and kidney cells, by a technique called electrophoresis shows promise of being substantially enhanced in the space environment as compared to making the same separation in the Earth environment. The separation of living cells is extremely difficult on Earth.

The most exciting biological experiment so far was one done on the Apollo-Soyuz mission for Abbott Laboratories of Chicago. Using the electrophoresis technique, certain urokinase-producing kidney cells were separated from non-producing cells. Urokinase, an enzyme not available commercially in this country, is valuable as an anti-coagulant for blood. Apparently only about 5% of the kidney cells produce urokinase, and it has not been possible to separate these on Earth. The space-purified fraction yields substantially more urokinase than when inhibited by the non-producing cells.

Although we are only at the beginning of our understanding of the utilization of the weightlessness of space in the processing of materials, I predict that, with the introduction of the Space Shuttle this field will develop rapidly and that materials processing in space will ultimately rank along with meteorology and communication as a highly visible beneficiary of space activity.

In another area of great national interest currently, the space program has the potential for making a contribution in the production of energy on which our society is so dependent. We are meeting our energy requirements today only with great difficulty, and our needs will probably double by the year 2000. Certain technology from NASA programs is already being made available to the Energy Research and Development Administration (ERDA), and we are studying the possibility of collecting solar energy in space and transmitting that to ground. This would be a natural follow-on of space activities. For years we have been developing and using solar cells to provide onboard power for our spacecraft.

A permanent space construction base would require large amounts of power for its operation. To provide the power we need to do our job in space, we are studying the development of large space-based solar power collectors. We would convert the solar energy collected into microwaves for transmission through space to the space base. If we can thus meet our needs for power in space with solar energy, it would be a logical extension of that technology to transmit solar energy to Earth to help supply growing needs here.

Our first efforts to assist the newly created Energy Research and Development Administration came in the area of using solar energy for heating and cooling residences and commercial buildings. In this effort we are applying some of the technology developed in the Skylab Program—and much of the management expertise developed over the years in the space program.

Placing trailers together to resemble a three-bedroom house, we at Marshall mounted solar energy collectors on the roof, using a highly absorptive coating developed with technology gained from Skylab. For about two years we have conducted an engineering demonstration of heating and cooling a residence by solar energy. And we are highly pleased with the results. The first year the Sun supplied almost 100 per cent of the energy needed for heating our building, and about 50 per cent of the energy needed for air conditioning.

Our solar house experiment led to our participation in the national ERDA program to demonstrate the feasibility of using the Sun's energy for heating and cooling. This has become a major activity involving dozens of experimental operations through the country; we have more than 100 employees dedicated to running this multi-million dollar program for ERDA.

Thus far I have discussed certain areas in which space technology is making—or has vast potential for making—significant contributions for advancement: communications, weather, the observation of Earth's resources, space processing or space industrialization, and energy. All of you are familiar, I'm sure, with NASA's Technology Utilization Program. Here NASA is making a determined effort to make the advances in technology resulting from research in the space program available to the private sector. A listing of the transfers of technology could go on for quite some time. Health services have been great beneficiaries of space technology with advances in pacemakers, biomedical electrodes, cancer detection, and many others. If you are interested in this subject, I refer you to the recent book entitled "Spinoff 1976: A Bicentennial Report." It tells the spinoff portion of the NASA story much more completely than we have time for here today. I have copies of the book for you, should you be interested.

Last year economists at Mathematica, Inc., in Princeton, N.J., isolated four mature examples of spinoffs which they called actual thriving industries spun off from the space program.

The first, integrated circuits developed for the space program, are now used in television sets, automobiles and hundreds of other industrial and household products.

The second, gas turbines, initially developed for jet-engine aircraft, are used in electric power generation plants.

The third, a structural-analysis computer program, developed by NASA, is used to design railroad tracks and cars, automobiles, bridges, skyscrapers and many other structures.

The fourth, insulation for cryogenic uses, developed through our dependence on liquid gases needed for rocket propulsion, has resulted in the routine use of liquid oxygen, nitrogen, helium and other frozen gases by hospitals and industry.

The four examples above, according to Mathematica, have been projected to add up to seven billion dollars to the economy by the early 1980's.

Let me just mention briefly two of a great many applications of technology stemming from Marshall Center programs:

Polyurethane foam insulation systems, developed in the space program to insulate the liquid hydrogen tanks of the Saturn V launch vehicle, are currently being used in the shipping industry for liquefied gas containment and to replace the conventional cork and fiberglass insulation for cold storage fish compartments. The insulation technology was developed by private industry under contract to the Marshall Center.

The Marshall Center is working with the Coast Guard in the development and test of a portable, self-contained fire-fighting module. The unit is designed to be used in fighting shipboard and dock fires. Complete with pump, hose and suit, the portable unit can be transported by helicopter and placed on the deck of any medium-sized ship in the area of a fire. The unit is based on high-pressure turbine pumps developed for injecting propellants into a rocket's engines.

Jim Schefter, a noted science writer, has made the following statement on space benefits in the May, 1976, issue of "Popular Science:"

"There are too many applications of space technology—'benefits,' for want of a better word—for any of us to understand.

"Only the barest tip of the iceberg is visible. The electronic watches, hand-held computers, freeze-dried food, live television from Europe, satellite weather maps, and liquid-crystal gadgets are the tiniest fraction of the benefits around us.

"Such benefits are adding billions of dollars to the American economy, providing jobs, saving lives, and making things nicer for all of us. Most of the benefits aren't exciting. They're just there." End of quote.

That is a good summary of what I have tried to emphasize about "Benefits from the Space Program." We at the Marshall Center are proud to have had a part in advancing technology, and participating in the space programs which made the advances possible.

Before I close, let me tell you briefly what we are doing at the Marshall Center today. About sixty per cent of our effort is devoted to development of the Space Shuttle, which is largely reusable and will form the nucleus of NASA's Space Transportation System for the 1980's, making space more accessible and much less costly. The Marshall Center is providing the Shuttle's Main Engines, the External Tank for carrying propellants, and the Solid Rocket Boosters.

The Marshall Center is NASA's liaison with the European countries which are developing Spacelab. This laboratory, which will be carried into Earth orbit in the cargo bay of the Shuttle, will provide scientists who are not trained as space pilots the opportunity to accompany their experiments into space.

We are studying a number of upper stage type vehicles for the Shuttle which will be necessary for carrying payloads into higher orbits or on lunar or planetary missions.

In addition, we are developing High Energy Astronomy Observatories for studying distant mysteries of the universe—such as pulsars and neutron stars. And we are studying a multi-purpose optical telescope which would enable scientists to gaze deep into space—seven times farther than has now been done, possibly to the outer edges of the Universe.

On the back burner we have studies for a space-based solar power system on space stations, and heavy lift launch vehicles to place them into space. And we have a number of smaller activities underway. As you can see, the Marshall Center has a variety of missions, quite unlike the decade of the Sixties, when Saturn was its major mission.

The projects—along with others which will come into being from the fertile imagination of men and women in the space program—will carry us into the decade of the 1980's—and beyond. These projects will continue to stimulate new technology which I believe to be so important to the advancement of our society. Economists tell me that the only way our economy can grow in the long run, with unemployment reduced and inflation held in check, is by increasing productivity. Increases in productivity depend on the development and application of advanced technology.

For the more immediate future, we must continue to use our space capabilities, and add to them, not only for the benefit of this generation, but for the benefit of future generations. We must pursue vigorously the understanding of our Earth and our universe. Just as we have reviewed with pride this Bicentennial Year the achievements of the pioneers of the United States in overcoming great difficulties to found this nation, so must we view with determination and confidence our own capacity to solve the problems of today and tomorrow. I firmly believe that the space program will continue to have an important role in the life of this nation as it moves into the Tricentennial years, and that its benefits will increase immeasurably.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

LEGISLATIVE APPROPRIATIONS, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 14238, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

AMENDMENT NO. 2277

Mr. MANSFIELD. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The pending question is the amendment by the distinguished Senator from Oklahoma (Mr. BARTLETT) on which there is to be 1 hour divided equally, divided and controlled by the distinguished Senator from Oklahoma (Mr. BARTLETT) and the distinguished Senator from South Carolina (Mr. HOLLINGS).

Who yields time?

Mr. BARTLETT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. BARTLETT. On my time.

The ACTING PRESIDENT pro tempore. Equally divided?

Mr. BARTLETT. Equally divided or my time, either one—equally divided.

The ACTING PRESIDENT pro tempore. Without objection, the time will be equally divided and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I yield myself such time as I require.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the distinguished Senator from Illinois (Mr. PERCY) be added as a cosponsor to this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, the amendment which I am proposing again places the U.S. Senate on record in favor of economy and efficiency in our own backyard. This amendment is nothing new; it strikes no new ground; it merely reaffirms a commitment that we as a body made last summer in adopting my first amendment to the legislative appropriations bill last year.

Mr. President, as we know, when the Legislative Appropriations Act of 1976 was signed into law on July 25, 1975, it contained a provision as follows:

> The Architect of the Capitol shall study and submit his recommendations to the Congress within three months, a plan to reduce by at least 50 percent the number of persons operating automatic elevators within the Capitol complex.

The Architect of the Capitol fulfilled his responsibilities, and issued such a report dated November 3, 1975. I read the report, and I want to congratulate the Architect of the Capitol for doing a tremendous job in assessing the situation in such a short period of time. Not only did the report follow the spirit of my amendment, but it also provided some very helpful suggestions as to where cuts in elevator service could be made.

The Architect's report is reasonable, and yet its recommendations were not accepted by the Legislative Appropriations Subcommittee. My amendment proposes that the U.S. Senate go on record to accept the recommendations of the Architect of the Capitol, acting upon the mandate in the Legislative Branch Appropriations Act of 1976. My colleagues should notice that the Architect's report proposes a pattern for reducing the number of elevator operators by 34 positions. In fact, we are talking about one-half of those elevator operators assigned to operating automatic elevators.

At the time of the Architect's report, there were 83 automatic elevators and 35 manual elevators in the Capitol complex. There was a staff of 68 operators provided and assigned to a specific duy on the automatic elevators. Therefore, the reduction of 34 positions is exactly half of the number of original operators. The only modification which is now necessary and is adjusted for in my amendment, is the fact that since the original report, a number of additional elevators have been converted from manual to automatic operation.

Based on the recent changes, the Architect has prepared a new report which has been submitted to me with a copy to Senator HOLLINGS. This report was prepared in cooperation with the speaker of the House's office and the Sergeant at Arms of the Senate. It provides for reductions for the additional automatic elevators and adjusts for the necessary operators where experience has proved their need.

We will note that the total number of automatic elevator operators has increased to 125 because of the changes in status of certain elevators, but the Architect's new evaluation shows that 62 of these can be eliminated without conflicting with operations of the Capitol complex. This is still approximately one-half of the total operators. The total cost saving to the taxpayers is $502,262 or $8,101 per position per year.

Specifically, my amendment provides for not more than 46 elevator operator positions in the Capitol buildings; 16 elevator operator positions in the Senate Office Buildings; and 28 elevator operator positions in the House Office Buildings. The amendment also provides that the provision will not be applicable to present incumbents, thereby allowing the phasein through attrition.

I again reiterate that this matter has been under review by the Architect and the various committees and persons involved, and the recommendation to reduce the total number by 62 operators has been approved as reasonable and workable by the Speaker's office and the Senate Sergeant of Arms.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a memo from the Architect of the Capitol, George M. White, dated September 3, and the attachments thereto including a plan for reducing the number of operators on automatic elevators, and a chart indicating the total number of elevators, and elevator operators in the Capitol complex.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., September 3, 1976.

Memorandum to: Mr. Ed King, Legislative Assistant to Senator DEWEY F. BARTLETT, United States Senate.

In response to your request of this date, I am enclosing a plan for reducing the number of elevator operators assigned to automatic elevators, if the Congress should direct such a reduction. This plan is an up-dating of my report of November 3, 1975, and reflects the changes in number of operators assigned to automatic elevators as a result of the elevator renovations that have occurred since the report was originally submitted.

I am also enclosing a revised summary of the number of elevators, and the number of operators assigned to automatic and manual elevators.

I shall, of course, be pleased to discuss this matter with you, and present additional information if you deem that desirable.

GEORGE M. WHITE, FAIA,
Architect of the Capitol.

PLAN FOR REDUCING NUMBER OF OPERATORS ON AUTOMATIC ELEVATORS

CAPITOL BUILDING

House side: No reduction.

Senate side: Reduce by six the number of authorized positions. This reduction could occur as a result of not staffing one of the three elevators recently modernized, and by reducing the number of shifts from 3 to 2 on those elevators located at the entrances to the Senate Wing.

SENATE OFFICE BUILDINGS

Dirksen Building: Reduce by 16 the number of authorized positions, including 13 positions funded for passenger elevators, and 3 positions funded for freight-passenger service.

Russell Building: Reduce by 16 the number of authorized positions funded for passenger and freight elevators.

HOUSE OFFICE BUILDINGS

Cannon Building: Reduce by 14 the number of authorized positions funded for passenger and freight elevators.

Longworth Building: Reduce by 10 the number of authorized positions for passenger and freight elevators.

This plan provides for a total reduction of 62 elevator operators assigned to automatic elevators.

NUMBER OF ELEVATORS AND ELEVATOR OPERATORS UNDER THE ARCHITECT OF THE CAPITOL

Location	Number of elevators		Number of operators authorized	Number of operators on automatic elevators	Number of operators on manual elevators
	Automatic	Manual			
Capitol building:					
House side	8	3	22	11	11
Senate side	11	0	30	30	0
Subtotal	19	3	52	41	11
Senate office buildings:					
Russell Building	10	4	32	[1] 2	16
Dirksen Building	12	0	16	[1] 30	0
Carroll Arms Hotel	3	0	0	0	0
Immigration Building	2	0	0	0	0
Plaza Hotel Building	1	0	0	0	0
Senate Courts Building	1	0	0	0	0
Hill Apartment Building	1	0	0	0	0
Subtotal	30	4	48	32	16
House office buildings:					
Cannon Building	13	0	31	28	0
Longworth Building	8	0	17	20	0
Rayburn Building	28	0	4	4	0
HOB Annex No. 1	3	0	0	0	0
HOB Annex No. 2	4	4	0	0	0
Underground garages	2	0	0	0	0
Subtotal	58	4	52	52	0
Total	107	11	152	125	27

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[1] Russell Building operators normally assigned to elevators currently being renovated are now assigned to the Dirksen Building as relief operators and starters.

Mr. BARTLETT. Mr. President, I note in the footnotes of the Architect's report, that in recent years $3,110,000 has already been appropriated or has been requested in order to modernize Capitol complex operators and convert them from manual to automatic. If we have absolutely no intention of cutting back on the staffing of these elevators, I see absolutely no reason to spend $3,110,000 to convert them. If we are going to have these elevators manned, you might as well keep the elevators with manual controls. At least then, you will have some sense of nostalgia to present to the tourists who come through these buildings.

Mr. President, in the very expensive reworking of the elevators there is also a considerable amount of inconvenience. I find that it takes from 12 to 16 months to convert an elevator from manual to automatic operation. Besides the expense, we are paying for this changeover with inconvenience. It certainly does not look at all good for the Members of Congress to pay some $3 million for a changeover to automatic elevators and then not to fully utilize the automatic operations when they can be utilized.

I would also like to bring to the attention of the distinguished Senator from South Carolina that as far as the number of operators in the Capitol itself, in the Senate area, according to the report by the Architect, there was a recommendation for an increase in the number of operators of automatic elevators because of the large amount of traffic on the first and second floors, so that the tourists which the Capitol experiences from time to time in great numbers can be properly handled in an efficient way.

This effort has been taken in a very systematic and deliberate fashion to bring forth a plan that would sensibly reduce the number. I personally feel that it could be reduced far greater than cutting the number of automatic elevator operators in half and still provide adequate service for everyone who uses the Capitol buildings.

Mr. President, again the U.S. Senate has gone on record asking for this recommendation by the Architect of the Capitol. I believe we will make a mockery out of our desire to hold the line on wasteful Government spending, as well as the concept of asking for expert studies on problems, if we fail to adopt the recommendations of the Architect of the Capitol.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, first as to the recommendations of the Architect of the Capitol, the Architect, I say to the distinguished Senator from Oklahoma, did not recommend a reduction in elevator operators. The Architect of the Capitol simply responded to the request. We discussed it with him, and he had no position on it. It was a request made as a result of the amendment of the Senator from Oklahoma last year; and the request for further information.

In response to that request, he pointed out how it could be done. I do not think we ought to add the dignity, prestige, or persuasion of the Architect of the Capitol that this is an architecturally sound approach to anything.

Mr. BARTLETT. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. BARTLETT. I will report to the distinguished Senator that I discussed this matter with him personally. My staff has been in constant contact with him over a period of several months. He supports these recommendations as being sound, realistic, and viable. I would not want to put words in his mouth in any way, but he feels that this is a sensible way to proceed.

I would guess that he would probably believe that the cuts could be made even more stringent. In answer to my questions, he certainly convinced me very specifically that he favors this report.

Mr. HOLLINGS. We asked him about that. That is why we had the hearings. We discussed this in the subcommittee. We only had the recommendation from the Architect. He only said, "I am responding to the request."

Second, it goes into the House appropriations, the House accounts, and the House administration of their own affairs. We almost have an unwritten rule, a principle, a cardinal rule, that we never interfere with their appropriations and they do not interfere on our side. We did not want to legislate the number of elevator operators to be reduced. Of the 62, 38 would be reduced on the Senate side and 24 on the House side. We just do not recommend what they do over there with respect to their elevator operators or any of the other House administration business. I think that has proven wise because we were not held responsible for anything they are now discussing over there.

Mr. BARTLETT. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. BARTLETT. Will the Senator accept that portion of the amendment which applies to the Senate side?

Mr. HOLLINGS. No. I think the distinguished Senator from Pennsylvania might want to accept that. The reason I do not accept it is because I do not believe it is efficient. I know it looks good. That is typical of an architect trying to study and saying, "You have so many self-operating elevators. Self-operating means without an operator. Ipso facto, we will do away with the operator." Is that really efficient?

The experience my constituents have had, and I have had the experience myself, is the sterility of these buildings. I felt good when I arrived in Moscow because I had been in the Senate Office Building for a good while. There is just nothing in the hallways. There are no signs about anything. You get to a corner and it says, and this is the actual experience, "Room 242 to 257," in the next corridor "Room 258 to 275," and the next corridor something else. You start walking down and it says A; and then B; and then A again. No wonder our poor constituents become lost.

If there is one thing that elevator operators have done it is to provide humanity to the Senate Office Buildings in telling people where, how, when, and what have you. Our constituents are ordinarily lost. In fact, the actual naming of these buildings loses them. They stand outside and it says Russell Building. I knew Senator Russell. I knew him intimately. They do not know who Senator Russell was. They are looking for the Senate Office Building and they are standing by it.

We started at the beginning not designating the buildings. Once visitors are in the building if they cannot find an elevator operator or a policeman, they are lost. In the name of economy and as a matter of efficiency, frankly, elevator operators are helping the visitors to the Senate.

The Senator from Oklahoma admits that here they are coming in on the ground floor where there is also a policeman, but there is no difference between the ground floor and the fourth floor. Visitors are lost on the fourth floor more than they are on the ground floor. We did not think with the experience that we have had we could do away with the operators.

We could do away with a lot of pages. We could run our own errands. We could cut in half the lights up here and do a lot of other things in talking about efficiency and economy. But when it comes right down to it, the elevator operators have done a salutary job. They have earned their way. They have gotten through colleges.

It is one of the best programs that I know of that we have sponsored around here, and the committee thought that way about it.

I am frustrated with the self-operating elevators. All you have to do is go, again, over to the Senate office buildings and press the buzzer and get on, and you think you are going somewhere, but someone else has pressed a button, and you go back down another place, and the poor crowd is standing outside, where it says "Senators Only" and they do not know whether they can get on or get off of it, or what to do.

I opposed the self-operating nature of the elevators from the very beginning, and I continue to oppose the reduction in the number of operators, because I think they have proved themselves and are very much needed in the Senate complex we have over here. And not only the subcommittee, but the full committee went along with that view.

Mr. President, I reserve the remainder of my time. I would yield to the Senator from Pennsylvania, but he may have a different view.

Mr. SCHWEIKER. Mr. President, we do have a different view; therefore, I will take 5 minutes out of Senator BARTLETT's time.

Mr. BARTLETT. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I do not often differ with my chairman. On 98 percent of the matters coming out of the committee we agree. However, we do have a little difference of position here.

The chairman of the committee has been most helpful in trying to straighten out some of the managerial problems I have been interested in. I know that in the matter of salaries for mail carriers he has been very helpful, and I think he has done very useful service in these business management areas.

But as I say, I do differ with him in this respect, and I support the amendment of the Senator from Oklahoma, because I think we have to manage our own house. I do not think, after investing $100,000 of public funds to make an elevator automatic, we should keep the elevator operator. During the big fight we had last year about giving the younger Members of the Senate the staffers they needed, I voted to support the younger Members; but I think if we are willing to do that, we also ought to be willing to take out some jobs that are not needed and be willing to keep balancing the pluses and minuses so we can clean up our own shop.

Last night, for example, as I was going out of the Russell Office Building, I pressed the button for the elevator. When the elevator arrived it was empty. I pushed the button to get to the basement, and when the door opened, there was the operator, in a chair, reading a book.

It seems to me we ought not to pay people to read books outside elevators, if they are not operating the elevators. I say furthermore that is not the exception, it is the rule, and it makes no sense to me to be paying people to read books who are supposedly there helping us operate elevators.

I do not think the Senator's amendment is cutting anything essential, because we are still leaving some 90 operators to act as guides in assisting tourists when necessary. I do agree with the chairman of the committee that I think there are a few locations in the Capitol where the elevator operator does act as a guide and information provider, and I think particularly in the Capitol that does make sense. I agree with the chairman's position that in some spots they are more than an elevator operator, so I am glad to see that Senator BARTLETT, in his amendment, actually provides for retaining the bulk of the operators in the Capitol.

On the other hand, I do not think it makes sense to pay people to sit in chairs and read books. I think it makes a bad impression on people visiting the Capitol. And also it does not make sense to put them on night shifts. If we wanted to cut down on the cost of elevator operators, we could very well eliminate the night shifts. It is probably bad enough that they hurt their eyes reading books at night.

I think this is an area where we can clean up. I do not think this amendment goes too far, because we still leave some 90 positions here, especially in the Capitol, so that they can provide information. During the day shifts I would agree with the chairman that they have a useful guide service to perform, particularly when the tourist season is in full swing, in the Capitol; but I do not think that is true in the House and Senate office buildings, and particularly not at night. I think it creates a bad impression for visitors to come in and see an operator sitting in a chair in the basement, reading a book. In fact, I understand some of them point to the elevator they are supposed to go in; I do not know what kind of service that is we are providing.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. SCHWEIKER. Yes.

Mr. RANDOLPH. In the office buildings, the elevators for Senators only are clearly marked, and yet when we come from the floors above to the basement level, there is someone there or around that area. Why is it necessary that a Senator have someone to press the button saying he is coming over on a car? Why cannot the Senators step out of the elevators—there is a button there, and the Senator presses the button three times, saying that he, the Senator in question, is coming over to the Capitol? I think those jobs are unnecessary, because no one there is asking for guidance. There is a sign that the elevator is for Senators only. It is back from the flow of traffic in and out of the cafeteria, and I think it is an unnecessary place for people to sit there, even perhaps to give service, because the service is unnecessary to be given.

The ACTING PRESIDENT pro tempore. The 5 minutes of the Senator from Pennsylvania has expired.

Mr. BARTLETT. I yield the Senator an additional 5 minutes.

Mr. SCHWEIKER. I thank the distinguished Senator from Oklahoma. The Senator from West Virginia supports the case I am trying to make, that whatever argument can be made for elevator operators can be made particularly in the Capitol area, where the bulk of the tourists are. The bulk of the service Senator BARTLETT's amendment provides is here in the Capitol area, and I support that, because I do not think they are really necessary in the other buildings.

This amendment saves some half a million dollars a year. When we see excess waste and see people reading books instead of operating elevators, and sitting in front of the elevator instead of in the elevator, we ought to have the courage to clean the situation up ourselves.

I think this is a reasonable amendment, because we still end up with some 90 operators; we are saving some 62 positions. My guess is, if anything, that is still a little fat, but I think it is a good start and a fair proposal.

I think we must look at ourselves. I think when we have a $100,000 investment per elevator we ought to be able to show the taxpayers that they are getting some savings in return for that hundred thousand dollars. It seems to me this is a good place to do it.

So I do not normally differ with my chairman. I respect his leadership and judgment, and in 98 percent of the cases we do agree. He has been in the forefront of trying to clean up some of these situations in the Capitol and in the office buildings, and I continue to support him for that.

Mr. RANDOLPH. Mr. President, will the Senator yield further?

Mr. SCHWEIKER. Yes.

Mr. RANDOLPH. I wish to add to what I earlier said that I cannot imagine that Senators really want a person at the area which I have indicated. There is no need for that person. Certainly, a Senator stepping out of that elevator for Senators only, with a button there, ought to be a little upset that someone has to push the button for him. He is not incapacitated. He can go to that button; it is directly in front of him. I think that there needs to be a selectivity of where there is a need for elevator service of one type or the other. Certainly in the Dirksen Senate Office Building there is absolutely no reason for a person or persons to be at the basement level, pushing a button for Senators when they step from the elevator.

I offer this further suggestion: We may not realize it, but I think many of our constituents who come to Washington, D.C., would like very much not to see a regimentation of elevator operators or other employees of the Capitol and the Senate office buildings, but they would like to see jackets worn by those persons operating the elevators, say a blue or a red jacket. Our persons who are giving the guided tours here have distinctive jackets that they wear. I am not now for dressing up someone just for dressing up that person. But I think it would help. It would identify. I think it would have frankly a better decor, which leads to a better rapport between the people working on the Hill in these important positions with the public who come here in thousands and thousands of numbers every week.

Mr. SCHWEIKER. I thank the distinguished Senator from West Virginia, and I think the points he made were well taken.

I shall repeat that even in the Bartlett amendment we still have some 90 positions which will be available in located key positions so they can perform a guide service and help the tourist service, and the weighting is very heavily in the Capitol area where they are needed.

I agree with the Senator from West Virginia. We certainly do not need elevator operators to push buttons for us, or point the way, or tell us which of three elevators to take. We ought to be able to do that ourselves. If we can make decisions, with 6, 8, or 10 votes a day, we certainly ought to be able to decide which elevators to enter as we walk into the Senate office buildings.

I commend the Senator from Oklahoma for his leadership in the area. I think this is a fair and reasonable proposal.

I say in passing that I had one of these positions myself, so I am not one of the havenots who is saying that we do not have patronage around here. I had an elevator operator's position myself so I know what it is to have these patronage slots.

I am not convinced we gain by having that kind of patronage. I, in particular, do not think we gain if we see someone reading a book and sitting in a chair in front of an elevator, with Capitol visitors coming in and saying, "That is the way the money is wasted." I think it is a prima facie case of misuse of taxpayers' funds, and that is why I commend the distinguished Senator from Oklahoma for his leadership in this area.

Mr. BARTLETT. I thank very much the distinguished Senator from Pennsylvania. I think his remarks are cogent and to the point. I know that he has fought for improvements in this area and continues to so do. I am hopeful that today we will be successful.

I also acknowledge the fine statement from the distinguished Senator and good friend from West Virginia. I know exactly the elevators to which he refers, and I certainly agree with him.

I point out what the distinguished Senator from Pennsylvania said, and it reminded me Monday when I came down on Labor Day to my office for just a minute. I went through the entrance to the old building and came by a police guard, and then I walked right to the steps and up the steps. It was about 5 or 5:30 on Monday afternoon with virtually no activity in the building, but here was an elevator operator sitting there reading exactly as the Senator said.

What we are talking about is a sensible approach to this. We are not talking about doing away with every single automatic elevator operator. I recognize that in certain congested areas it is very important to have them. I do not really feel this goes far enough. I would like to take it further and make the reduction more than just one-half.

But I point out to my good friend from South Carolina that, when he talks about the importance of these elevator operators serving as guides for people, in virtually every area where an elevator is located there are also located one or more police guards, and they certainly are available and do function as sources of information.

Second, the distinguished Senator from South Carolina stressed the confusion of the signs, and I agree with that. But I think that this also is a responsibility of the Architect of the Capitol and I presume of this committee that is handling this bill; therefore, I think this would be an area that could be delved into, but certainly we do not want to go to that luxury and expense of recognizing confusion in signs and remedying that by such large investments as we are involved with here, some $.5 million in savings by reducing the number in half.

I also point out to the distinguished Senator from South Carolina that the areas in the large office buildings and large hotels where people enter into the elevators are often congested and there is some confusion there. But virtually all of these elevators operate without even a starter and operate automatically, as do most new elevators today.

So I think we look pretty stupid if we on the one hand support $3 million for renovation of our elevators, making them automatic, and then on the other hand man these automatic elevators with elevator operators.

Mr. SCHWEIKER. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I certainly yield to the distinguished Senator.

Mr. SCHWEIKER. Is it not true that under the Senator's proposal he is leaving some 90 operators for only 11 manual elevators throughout the whole system? Is that not correct?

Mr. BARTLETT. That is correct.

Mr. SCHWEIKER. So 90 operators ought to be able to handle that even if there were two shifts on a manual elevator, which would take the 11 positions to 22, and we can debate whether there ought to be two shifts on the manual elevators.

Mr. BARTLETT. All right.

Mr. SCHWEIKER. But with 22, we still have some 70 elevator operators to provide guide service or be located at key spots, wherever the Architect would decide they are valuable. Is that not true?

Mr. BARTLETT. The distinguished Senator is absolutely correct, and I add to that that the positioning of these elevator operators as planned in the Architect's report is to provide information and guidance to visitors in the Capitol area. They are placed in strategic positions where there is the most traffic and where there is the most confusion, and they are placed at all entrances to the various buildings so that someone coming in can have the opportunity for seeking advice if he finds that he needs it.

But I think we must look at this problem of what is fair and just for the conduct of business in the Capitol complex, the accommodation of the guests and constituents that we all have throughout the country, and ourselves.

And I think we can see very easily that if we continue having so many elevator operators for automatic elevators, this is not filling a need but is wasteful and extravagant, and we should set an example in this country. As I said, I think we should go much further than I am proposing, but I am proposing a step, and it is cutting just in half the automatic elevator operators, leaving an adequate number to more than fulfill the needs that will still exist. If we are successful in this, I would wish to take a further look at it in the future to see what other trimming can be done, because I do think that the Senate should set an example to the rest of the country.

But I also point out, as far as including the House of Representatives in this is concerned, that the Speaker's office did work on this with our office and the Architect of the Capitol, trying to create an overall program that made sense. Of course, if the Members of the other body do not concur in this, they certainly can turn it down or turn that portion of it down. So I feel that it is an overall step that provides good economy and a good example for the rest of the country.

Mr. SCHWEIKER. Will the Senator yield?

Mr. BARTLETT. I yield.

Mr. SCHWEIKER. This item is a joint item. He is quite right. We can take it to conference on that particular point.

Mr. BARTLETT. Yes.

Mr. SCHWEIKER. I point out that on the matter of manual elevators, there are 11 manual elevators for which they now have 27 operators which the Senator's amendment does not touch. So all his amendment does do is take 125 automatic elevator operators and cut that in half, reduce it by 62. So we still, even with the Senator's amendment, are untouching the 27 manual elevator operators that now run 11 elevators and are only reducing by 50 percent the automatic elevator operators. We are subtracting 62, leaving 63. So we still, even with the Senator's amendment, have 63 automatic elevator operators to run automatic elevators to be located where the Capitol Architect provides whatever guide, information, or public assistance service that would be needed. So it is only a 50-percent cut in automatic elevator operators.

Mr. BARTLETT. The Senator is exactly right. I have explained this amendment to some constituents who feel we have not gone far enough.

I feel that the distinguished Senator from Pennsylvania is making that kind of point here, that there would be an adequate or overadequate number of people.

However, I point out to the distinguished Senator from South Carolina that the Architect of the Capitol did suggest, for the Capitol itself, an increase in the number of elevator operators. So this approach was not done just with a sharp knife and a blindfold, but it was done after an analysis of what the needs are.

I feel that this is the way we should approach this problem, and I hope the distinguished Senator from South Carolina will decide to accept this amendment, and I would be very pleased if he would do so.

Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HOLLINGS. Mr. President, I have to say a word about uniforms and the fellow reading the book and all those other things.

What the Senator from West Virginia was objecting to was having anybody at that bank of elevators designated "Senators only." Why did he get up out of the chair to press the button? He got up out of the chair to press the button to prove that he was not reading a book, which is what the objection is of the Senator from Pennsylvania. He said he did not like them sitting there on a chair, reading a book. Why do we have them there?

Everybody knows that this new generation has very little respect and regard for almost anything. While it reads "Senators only," that is the last thing they are going to look at, any they will all end up on the elevator. That is the way we experience it. Even though we put them around a corner, in an obscure fashion, unless you have somebody there watching, they walk on the elevator, and you cannot blame the people. They see other people walking in and going up elevators, so they walk in and go up elevators, too, irrespective of the sign.There is nothing wrong with that. It is a human proposition. So it has been proved, in our experience, that the elevator operators are needed.

The only reason we backed into the corner with respect to the self-operating elevator is that the machinery was getting old, and someone came up with the bright idea—some mathematician—that it was an arithmetic problem. He said that if we make them self-operating, we can save x number of dollars over y number of years, and look at the economy in government. They do not say anything about an increase such as the 1-percent kicker. I think I will put that repeal on here—at least make an attempt to do it—which would really save $3.8 billion in the next 5 years. You cannot even get that proposal up on the floor of the Senate.

They pick, pick, pick on these little things and talk economy. It dismays me to hear that a colleague is back home explaining to his constituents about self-operating elevators and how we are saving money. We have to do something more than that to go home and tell the folks about in Oklahoma than about self-operating elevators. The truth is that if you take problems like that, they just do not respond.

It is the same with welfare reform. The bright whiz kids, consultants—and I could name the names—say, "Let's spit out the checks, like social security." Give every welfare recipient x number of dollars, $1,000 a year, whatever it is, and let us have no investigations, no guidance, no education, no counseling, no health care, or anything like that, so that the poor, the hungry, the ignorant, the illiterate, the homeless can do it all for themselves. All they need is money.

So they are given the check, and we know that they end up in the finance shop, the liquor shop, the automobile place, or the TV place, with things they do not need, and they will still be hungry. The children never get fed. That is what is really wrong. They have to do this and treat it as a human problem.

Back to the elevator operators: There is another premise. They say, "You are moving in the right direction."

It reminds me of the fellow who was painting a sign, up on a ladder, which read "Fresh Fish For Sale." Another fellow said, "Wait a minute. You certainly would not sell rotten fish or stale fish or anything like that, so there is no use to put the word 'Fresh' up there."

So he took out the word "Fresh." That is the first economy move.

Then the fellow said, "You don't need 'for sale.' You're not going to give it away." Everybody knows that you do not need the "for sale" part of the sign, so you do away with that part of the sign, too.

Then the fellow says, "Incidentally, you can smell it a block away, and they will know it's fish. So you don't need the word 'fish' there." So there is no need for the sign at all.

That is the way they are going to do away with the elevator operators.

We all know from experience that there would be utter chaos if there were no elevator operators outside the door. That door is no different from the corner of C Street and Constitution Avenue.

I can speak from experience with respect to a rollcall vote. I am in Suite 437 of the Russell Building. They have closed down two elevators, and they have a self-operating elevator that you cannot take your chances on.

It is like Russian roulette now. So you go to the other corner and ring all the buzzers and they go up and down, and there is nothing but chaos. You are pushing to get to the vote, and you are trying to be polite and courteous at the same time.

I think we have wasted too much time already. If the Senator wants to vote, that is fine. It is like the situation yesterday. I am not the mother superior, with respect to the way Senators vote.

We can give the elevator operators an Okie uniform, a little red and white uniform, as the Senator from Pennsylvania would like. I do not know whether the Senator from Oklahoma wants the uniforms or does not want them.

Mr. BARTLETT. I would like very much for each elevator operator to have an Okie pin, which would stand for Oklahoma for increased efficiency.

It seems to me that what the Senator is suggesting is that the signs are inadequate; but rather than change the signs or remove them, he wants to have talking and walking signboards so they can tell people where to go, rather than just to have it plainly there in front of them.

Mr. HOLLINGS. That is right. Is not plainly in front of them. They just cannot find the offices. The operators are constantly being asked questions, and they are delighted to answer.

Mr. BARTLETT. Is the Senator saying that the committee cannot solve the problem of the signs so that they can communicate adequately and clearly to the public?

Mr. HOLLINGS. The Senator does not find any real problem, other than the bleakness and sterility and the lack of direction. I can do it, but the seniority system and the leadership system mandate otherwise, and they like it as it is. From time to time, we have suggested different signs that would guide folks around. If this were a private enterprise, nobody could find an office that way.

The walking and talking signs the Senator refers to have been very good.

We do not want to save billions. We just want to pick up these little things and call it economy and make it very strange to anybody who comes to Washington. They cannot park their cars when they get here, and it is all in the name of efficiency. So be it.

If the Senator is ready to yield back the remainder of his time, I will yield back mine.

Mr. BARTLETT. I say to the distinguished Senator that I would be glad to show him my record, which does involve a saving of billions of dollars by votes I have cast, motions I have made and efforts for which I have worked.

I know, and I am not the only Senator who has worked in that direction. But I do think that in an area which is certainly the responsibility of the Members of the Senate for their own convenience, we should, perhaps, look a little more acutely at extravagance and waste. Therefore, I think it is important to look at what is needed here. I think the Senator from South Carolina and I would recognize and expect that if we went into a big office building or a big hotel, or to visit somebody in a company, we would find automatic elevators, and we would find our way to the hotel room or to the meeting room, or whatever it is. We would find that the signs might not be adequate, either. But in due time, we would do it. The point is, I think we can erect the signs in a much more efficient and cheaper way than having this kind of extra expense.

I also point out that this does not eliminate all of the extra operators of automatic elevators. This just cuts them in half. There would still be an adequate number of the walking, talking signboards that the Senator is talking about, placed very carefully at the entrances to the buildings where most of the people come so that there would be, still, that kind of service. Then I hope that, next year, we can take another look at where further efficiencies can be made to pare this down further.

Mr. HOLLINGS. Mr. President, I would not discredit—on the contrary, I would credit—the distinguished Senator from Oklahoma as being economy minded. I am sure he understands I have not discredited that motive on his part.

He talks about the convenience of Senators. It is not the convenience of Senators, it is the convenience of constituents and people generally. That is where the elevator operators have been so helpful. In every instance around, as proven and as his own amendment admits to, in different other places here, they can be used and should be used. We think that it has worked extremely well. I have watched the change, as I say.

We have an unusual situation. This is not any business. It is not a first come, first served situation. It is the proposition of having a limited time, with all kinds of time demands upon the Senators to get to that floor and get to the rollcall and move fast. It worked well in the past, because the operators knew that they could say, "Excuse me, just a minute, I have to get the Senator to the floor." It worked and everybody got here.

Now, in the interest of economy and the interest of efficiency, it is one big brawl. We ought to take candid cameras and stick them around there and make a good set of programs and sell them and use the money to put operators back on the elevators.

The PRESIDING OFFICER (Mr. LEAHY). Is all the time yielded back?

Mr. BARTLETT. I yield back my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from

Utah (Mr. Moss), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), and the Senator from Kansas (Mr. Dole) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Brock) would vote "yea."

The result was announced—yeas 51, nays 30, as follows:

[Rollcall Vote No. 566 Leg.]

YEAS—51

Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Culver
Curtis
Domenici
Fannin
Fong
Ford
Garn
Glenn
Griffin
Hansen
Haskell
Hatfield
Helms
Hruska
Jackson
Laxalt
Leahy
Long
McClure
McIntyre
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stone
Taft
Talmadge
Thurmond
Weicker

NAYS—30

Abourezk
Brooke
Cannon
Clark
Durkin
Eastland
Gravel
Hart, Gary
Hathaway
Hollings
Huddleston
Inouye
Javits
Johnston
Magnuson
Mansfield
Mathias
McClellan
McGovern
Morgan
Muskie
Pastore
Pell
Sparkman
Stennis
Stevens
Stevenson
Tower
Williams
Young

NOT VOTING—19

Bayh
Beall
Brock
Buckley
Cranston
Dole
Eagleton
Goldwater
Hart, Philip A.
Hartke
Humphrey
Kennedy
McGee
Metcalf
Mondale
Montoya
Moss
Symington
Tunney

So Mr. Bartlett's amendment was agreed to.

Mr. BARTLETT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I wish to engage in a colloquy with our distinguished colleague from Ohio (Mr. Glenn).

The PRESIDING OFFICER. May we have order. If we could have order in the Chamber the colloquy could begin. I ask Senators and staff members who have conversations if they would have the courtesy to carry them on elsewhere. The Chair would like to hear the colloquy.

Mr. GLENN. Mr. President, beginning with the provisions in the second supplemental appropriations bill of 1975, Senators are allowed to use a portion of their home State office rental allowance for the rental of mobile offices. This need has been particularly evident in States where communities are small and far apart; too far apart to be served by traditional fixed offices. I understand that Senators who have been using mobile offices have found them to be quite successful in serving many smaller communities. These offices have increased the ability to communicate with their constituents. Is that also the understanding of the Senator from South Carolina?

Mr. HOLLINGS. Yes, these mobile offices have apparently been very effective in increasing the ability of Senators to effectively represent their constituents and to contact them in more remote and far apart cities or towns.

Mr. GLENN. In the report accompanying the Second Supplemental Appropriation Act for fiscal year 1975, the committee very properly expressed concern about such mobile units being used for purposes other than official business. I certainly agree that every effort should be made to insure that the vehicle be used for official business only and support any efforts to insure this. For instance, the vehicles are now required to have lettering on them noting that they are a mobile U.S. Senate office and for official use only. Also, in the report, the committee stated that it "envisions a vehicle such as various models of self-propelled recreational vehicles but without water facilities, stove, and other amenities usually provided recreational purposes."

In discussing this matter with other Senators who utilize mobile offices, it appears, however, that such facilities can be very helpful in increasing the usefulness of the vehicle for official, rather than recreational, purposes. Is it the understanding of the Senator from South Carolina that the language of the committee report is intended to prevent a use of such facilities in conjunction with or associated with official business?

Mr. HOLLINGS. No, it was not the intent of the committee to absolutely preclude Senators from leasing mobile offices that contain sleeping and eating facilities. Rather, the committee was very concerned with how the offices were to be used, and the committee wanted to make clear the vehicle not be used for recreational purposes.

Mr. GLENN. I thank the Senator from South Carolina. I concur with the Senator's statement. For example, I refer to instances in which it might be useful for staff members to be able to remain overnight in the vehicle in the areas where accommodations are not readily available. This could provide savings to the Government, as well as being cheaper for the employee to use the vehicle rather than to draw the Government per diem allowance of $35 per day for sleeping and eating out. The staff member could also use the office more often, and for longer hours. If the staff member stays with the vehicle it could also provide some measure of security for the vehicle in remote areas, and the vehicle would not be left unattended at night. I think the flexibility provided by basic facilities making the office habitable for short periods is necessary to increase the utility of the office.

The vehicle is readily identified as a mobile office with the Senator's name, and the staff members certainly would be cautioned that any impropriety in the use of the vehicle for nonofficial purposes would certainly reflect on the individual Senator.

Mr. HOLLINGS. I agree that there are situations in which facilities in the office would increase the effectiveness of use of the mobile office, and can understand how a Senator might want to provide flexibility in use of the office in remote areas by allowing sleeping and water facilities in the vehicles. And although I wish to reiterate the committee's concern for the manner in which these vehicles are used, I believe it helpful to make clear that it was not the committee's purpose to prohibit such facilities when used properly.

Mr. GLENN. I thank the Senator. I think this clarifies the committee's intent with respect to the use of these vehicles. We do not want to be required to go to a lot of expense by taking all of this equipment out of the vehicles. By having facilities of this type in the vehicles, we can also reduce per diem expense, and provide flexibility and security where the vehicles are now being used in a proper manner.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 521.

The PRESIDING OFFICER (Mr. Leahy) laid before the Senate the amendments of the House of Representatives to the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

(The amendment of the House is printed in the Record of July 30, 1976, beginning at page 24734.)

Mr. JACKSON. Mr. President, I move that the Senate disagree with the House amendments to S. 521, and ask for a conference, and that the conferees be appointed.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I renew my motion and I request the appointment of the conferees on S. 521, which is pending. It has been cleared with the minority side.

Mr. GRIFFIN. I confirm that, Mr. President.

The PRESIDING OFFICER. Is some time yielded?

Mr. HOLLINGS. I yield.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to and the Chair appointed Mr. Jackson, Mr. Church, Mr. Metcalf, Mr. Johnston, Mr. Abourezk, Mr. Haskell, Mr. Glenn, Mr.

STONE, Mr. BUMPERS, Mr. FANNIN, Mr. HANSEN, Mr. HATFIELD, Mr. MCCLURE, and Mr. BARTLETT conferees on the part of the Senate.

LEGISLATIVE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the remaining committee amendment on which there is a time limitation of 3½ hours to be equally divided and controlled.

Mr. FORD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. FORD. I ask unanimous consent that James Fleming of my staff be granted the privilege of the floor during the consideration and votes on the pending legislation.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that Michael Naylon and Richard Oshlo of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

Beginning on page 36, line 20, down to line 25 on page 38 insert new language.

The amendment is as follows:

On page 36, beginning with line 20, insert:

ACQUISITION OF PROPERTY IN SQUARE 630 IN THE DISTRICT OF COLUMBIA

To authorize and enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire on behalf of the United States, as an addition to the United States Senate Office Buildings Complex and United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned real property contained in Lot 71 in Square 630 in the District of Columbia, as such Square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That upon acquisition of any real property under this paragraph, the jurisdiction of the Capitol Police shall extend over such property, including the improvements thereon: *Provided further*, That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That, notwithstanding any other provision of law, any parts of streets contained within the curblines abutting such Lot shall, upon request of the Architect of the Capitol, with the approval of the Senate Office Building Commission, be closed and vacated by the Mayor of the District of Columbia: *Provided further*, That, upon acquisition of any real property pursuant to this paragraph, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to lease any part of such property not required for immediate occupancy by the United States Senate for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses required for occupancy of the building contained on such Lot, whether occupied by the United States Senate in whole or part, or by others through lease agreemment: *Provided further*, That, notwithstanding any other provision of law, any sums received from such lease agreements shall be credited as an addition to appropriations for the "Senate Office Buildings": *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, and, if required, any expenditures authorized by Public Law 91–646, approved January 2, 1971 (84 Stat. 1894–1907) applicable to the Architect of the Capitol, as may be necessary to carry out the provisions of this paragraph; $35,500,000, to remain available until expended: *Provided further*, That, upon occupancy by the United States Senate of the property, herein authorized to be acquired, the building contained on the aforesaid Lot 71 shall be deemed to be a part of the "Senate Office Buildings" and the grounds comprising such Lot (together with any areas contained within the curblines abutting such Lot closed and vacated pursuant to this paragraph) shall be deemed to be a part of the "United States Capitol Grounds" and, as such, shall be subject to the laws, rules, and regulations applicable to those buildings and the United States Capitol Grounds.

Mr. HOLLINGS. Mr. President, in reporting out the Legislative Branch Appropriations Act, 1977, H.R. 14238, the Committee on Appropriations recommended language and appropriations totaling $39 million to enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire, maintain and make certain alterations of the property contained in lot 71 in square 630 in the District of Columbia—the 400 North Capitol Street building—for Senate office building purposes. This building containing approximately 500,000 square feet of usable office space is immediately adjacent to the Capitol grounds and the committee believes that it is the best solution to the Senate's critical office space and parking requirements.

As Senators will recall the supplemental appropriation bill, 1976, authorized the Sergeant at Arms and Doorkeeper to negotiate a lease for Senate use of this building. Negotiations with the advice and assistance of the Architect of the Capitol, General Accounting Office, and General Services Administration were conducted earlier this year but it was not possible to come to an acceptable lease agreement. In fact, over the minimum 8-year period the Senate requires this additional space, the lowest level of rent negotiated with the owners, plus the taxes the Senate would have to pay, would amount to 95 percent of the $31,500,000 fair market value established by a GSA preliminary appraisal of the building with the tenant improvements included in the offer to sell the property to the Senate.

I reported these developments to the Committee on Public Works on March 18, 1976, a report that our ranking minority member, Senator SCHWEIKER, fully supports. The result was a request to the Commission on the Operation of the Senate for a study of the Senate's space needs. The Commission has indicated it would be difficult to accomplish this additional task in view of their already established plans to finish their work by the end of the year. No one knows better than this subcommittee of the need for planning on Capitol Hill since in 1973, and again in 1974, the Senate approved my recommendation for funds for a master plan. Each time the House turned us down, but finally last year we obtained an appropriation for a master plan. However, a contract was not entered into until April 19, 1976, and it will be next October before we see the plan.

Some 160,000 square feet of additional office space has been acquired since 1970 in square 724 immediately north of the Dirksen building, but the Senate has experienced a 75 percent increase in employees over the same period so that these additional facilities are virtually all committed. This expansion has included the addition of two new committees—Budget and Intelligence—the additional personnel authorized for Senators (S. Res. 60) that in part, has required the assignment of 136 additional rooms above the prescribed allocation to 60 Senators; and the establishment of the Commission on the Operation of the Senate and the Committee on Committees; as well as major investigations of Watergate and intelligence activities. This expansion is not over as the Committee on Rules and Administration is now considering the "Sunset Bill" (S. 2925), that undoubtedly will require a major increase in staff to review the Federal programs as prescribed within that bill.

Even if we do not buy the building, the Sergeant at Arms requires 38,000 square feet in additional space to house the expanded computer center, including the second computer to be delivered early next year to provide the long-awaited Senate comprehensive legislative information system. The Office of Technology Assessment, which is currently crammed into six different locations on Capitol Hill and must constantly rent expensive space in nearby hotels for meetings of their assessment panels, requires approximately 60,000 square feet. The most likely place to locate these two activities is in the 400 North Capitol Street building at an annual rental cost exceeding $800,000 a year.

The Architect of the Capitol has testified that $8 million in inflation costs could be saved if the Senate staff now housed in the square 724 buildings could be transferred to the 400 North Capitol Street building, so construction of the long-needed underground garage for the Senate could be initiated some 3 to 4 years earlier than previously planned. The Senate moved into these inefficient and almost unsafe buildings, because there was nothing else available at the time, but now we have what may well prove our only and last opportunity to house our employees in close proximity in proper and suitable space.

The 400 North Capitol Street building would carry a bonus of 948 additional parking spaces which would help terminate the silly situation we now have of 2,758 permits issued for the 595 unreserved spaces in the general parking lot with the result that the surrounding neighborhood is inundated with the cars of Senate staff. This situation will be further aggravated by the District of Columbia Government plan to restrict curb parking on Capitol Hill to 2 hours during the day. In 1972 when the Committee on Appropriations approved the construction of the Dirksen extension, we deferred on the underground garage, because of the 4,000 parking spaces planned for the Visitors Center. Last week the Interior Department announced that they were "buttoning up" that project without providing any additional parking facilities for tourists and visitors to Capitol Hill. This reinforces my conviction that we need to move promptly on the garage so that the visitors to our offices can eventually have some place to park their cars.

The completion of the Dirksen extension will not obviate the need for acquiring the 400 North Capitol Street building. As I have detailed above there is a demonstrated need for over half of that building right now, whatever portion the Senate does not need could always be used to satisfy the space needs of other Federal activities. The Architect of the Capitol has also indicated that after the extension is completed, no earlier than mid-1979 at best, there will be a continuing requirement for a reservoir of 150,000 square feet to allow the alterations contemplated for the Russell Office Building. So that in sum, there is a justifiable Senate requirement for this building for at least 8 years. As I have indicated it would be approximately the same cost to purchase as it would be to lease the building for that period of time; the purchase would be at a price that, in the opinion of the Architect, is far less than it would cost to build such a structure today, and the Senate, instead of some outside landlord would be in the control of the building.

In noting the dear colleague letter of our distinguished colleague from Iowa with regard to the purchase, I find his objections to be twofold: One, we in the Senate are not deliberate, we are sort of haphazard, we are not comprehensive, and it is a sort of willy-nilly, come what may, and however it happens decision in order to get additional space on the one hand, and what we should really be doing is to have a proper, comprehensive, expert kind of study, a commission recommendation type approach to a decision for additional space for the Senate needs.

On the other hand, I guess it is uneconomical, or when they say it is a third of a mile from First and C Streets, that everything is short term and we will just have space coming out of our ears, it is just not needed.

I guess those are the two objections. Concerning the desire that there be a systematic procedure for assessing the Senate's future space, we are about as systematic as any Senator would be in running for the office which he now holds. I would imagine, Mr. President, if you called in some management consultants and said, "I want to run for the U.S. Senate" and wait for that crowd to decide the electorate and potential issues and everything else of that kind, where you should start and what have you, you would still be studying and the other fellow would be elected.

You start out that way and it sounds good. Everybody tries to get polls taken to find out what his recognition is with the voters, what the issues may be, and everything else like that, but before long you get caught up and you end up physically trying to cover the important parts and sections in a campaign as well as the issues.

I guess that is the way it has developed in the U.S. Senate and particularly here on Capitol Hill. For instance, the legislative subcommittee and this particular Senator in a brief period of time of 5 years, and theretofore as a Senator for 5 additional years, have been engaged in a series of hearings relative to the development of Capitol Hill. We have been about as systematic as we possibly could be.

We have had demands and we have answered those demands, not only for the FBI building but for the annexes, for the increased size of the Capitol Building, its restoration. We even have studies and diagrams, architectural drawings, for underground office space in either wing; a proposal for garage space for the east front underground, going to the old railroad tracks between the Supreme Court and the Capitol Building. We, of course, have put in an extension, the Madison Memorial Library, to the Library of Congress, which we had to prevent the House from taking over because they were so crammed for additional space.

We have had hearings on the extension to the Dirksen Senate Office Building, hearings with respect to the proposed parking garage, which has been approved by the Senate once, and what we might characterize as the Carroll Arms block just behind us.

We have had hearings with respect to all the different needs. As we have tried our best, we have come up with the same idea, on which I joined with the Senator from Iowa, of let us try to be as deliberate and systematic as we possibly can be. In doing that, we have commissioned the Architect of the Capitol to a comprehensive master plan of Capitol Hill, the House side, the Senate side, and all the buildings and everything else.

There are a lot of things to be concerned with, not just the space but the esthetic nature, the appearance of the buildings, so it will not look like the Kremlin, a bunch of boxy office buildings, taking away from the beauty of Washington.

We had all kinds of studies. We commissioned studies several years ago. Finally, in April, he did get a Philadelphia expert firm. We have had many expert studies.

In the meantime, we have to respond because life in the Congress is just not that deliberate. We have to act and move as a result of the necessities. The necessities would mandate now, if we had a systematic way, that we all go off to jail with the OSHA inspector. He would come in and he would find that we have half of the per square footage necessary for safe, healthful, operable office staffs that would be found in what everybody loves today in this election year, that which is known as private, free enterprise. Private, free enterprise had a decision to make.

We called up OSHA, whom we expected to bring everybody up on safety and health standards. All the Senators would go to the District jail because we are all in violation. This is not looking futuristically, or what we might need, but we are finding out that the only way to handle the business, as the Senator from South Carolina and the Senator from Florida and other States have found, is to send all the caseworkers home and try to get the Senators to try to handle it.

Incidentally, I find it perhaps even more economical and responding well, but we have had to do that out of the force of necessity, and we still cannot now, with Senate Resolution 60 that was passed last year, take care of the needed space. I am sure the distinguished Senator from Iowa understands this, because he has been asking, like other Senators, for extra space in order to do his work.

We have attempted, and I tried my best, to give everyone a general breakdown of the immediate needs of the Senate, and where we have them.

Immediately we need, for the computer center, 30,000 square feet, and for OTA 60,000 square feet.

We need to accelerate the underground garage in square 724. That is a square footage area of some 178,000 square feet. This, incidentally, started last year. It is no last minute proposition of trying to sneak by the purchase of a building. The truth of the matter is—the distinguished Senator from Idaho (Mr. McClure) raised the point last year, and we tried to show we wanted everyone possible to be brought in on the action. Some mentioned that a distinguished former colleague, Senator Smathers, was representing the owners of the building, and, since we have government in the sunshine, we wanted to find out, in leasing the space, that we were getting the best possible deal for the Government, so we wanted it looked at by the GAO, the GSA, the Capitol Architect, the Public Works Committee, the Sergeant-at-Arms, and the Appropriations Subcommittee and the full Appropriations Committee.

So we advertised to all the world, over a year ago, that we were looking at this building to try to lease this needed space. Incidentally, when I look at that space and the difference, about a third of a mile, I think of the FBI annex that the House is having to use now, and they are spilling over into it right now, and that is why they are moving the OTA out and forcing us to try to lease that space.

When the Architect, the Sergeant at Arms, and the GSA in particular—they were our witnesses—started analyzing this particular lease, and finding out the cost per square foot, and what it would be projected over the needs of the Senate over another 8-year period, we found out we were paying, in lease money, what we could actually buy the building for and get it right now, and have it all ready at the end of this year. To put it bluntly, I wanted to make sure we did not put the money down a rat hole just to help the owners pay off the mortgage payments, and then, at the end of 2 or 3, 4 or 5 years, be paying an increased lease, or more moneys, or an increased price for the building itself. I just thought it was poor business judgment, and I felt so strongly about it that I brought the matter before the subcommittee, after considering all the offices involved, and I asked not only the subcommittee but the full committee to look at it in detail and approve a negotiated purchase by our own Senate Office Building Commission, headed up by the distinguished Senator from Alabama (Mr. SPARKMAN) and the Architect.

The Architect, after careful study—the very same man who has been making more master plans and studies and everything else of that kind than anyone else; we ask people to look into things when I daresay the Architect of the Capitol has looked in more than any other single individual over a period of years, and more than any commission. We could bring in a commission now, and get the Senator from Maryland and the Senator from South Carolina, and appoint us a commission, and we would have a difficult time coming up with the comprehensiveness of vision and understanding of office space needs that the Architect himself would have had from his own experience.

Based on that particular experience, he recommends very, very strongly that we move forward and try to see, at this time, if we can purchase the building.

Over the last 5 years, the payroll of the Senate has grown from 4,900 to 6,600 employees. That is an average increase of 340 per year. I notice everyone is trying to go out of business around here, but every time they try to go out of business, they appoint another commission. You know, that is the old political axiom: When in doubt do nothing, and stay in doubt all the time. Diego Garcia: Let us wait until next year. The B-1 bomber: Wait until next year. Postal improvement: Wait for the next President, and see what Jimmy Carter wants to do. Every time we look around, we have another sunshine commission, a budget commission, a Culver commission—they are coming out our ears, to the total of 340 people per year. We have added these new committees and everything else to command the space. If we were a little less systematic, maybe we would not need any room at all. Perhaps that is one way to put it.

But the long-range needs of the Senate mandate not only taking up this jam that we have at the present time, but the refurbishing of the Russell Office Building after we get through with the Dirksen extension. If we could move forward a little bit ahead of inflation in this architecturally vicious laissez faire, building construction-wise city—Washington, D.C., is the worst I have ever seen; I would really hate to have to build a home here. I found that out with the FBI Building; every time we would go ahead and have a hearing, they would say, "It is going up at the cost of a million dollars a month," and it ran over 18 or 19 months more, so it cost us $19 million or $20 million more, double the cost we had originally projected. That is true of every building. Going down here to the tourist center, we were going to have that ready by July 4, 1976. They are removing all the parking areas and facilities and everything else, and they are not through with it yet.

The same old problem every time: If we could go ahead with the parking garage on square 724, we could eliminate the sham that we have, for example, with respect to elevator operators. They have down there somewhere in the neighborhood of 595 parking spaces, but they issue 2,758 permits, and they spill over onto the sidewalks, and your sister comes to Washington and drives around 3 hours, and when she finally gets to the office she is in a temper, and she is angry because she has not been able to park, driving and driving trying to find a place. What we have done is preempt all the constituents with our own needs, staff and witnesses and everything else, early every morning.

It has gotten to a critical point. We are not picking up 4,000 spaces, as they said, down at the tourist center; we will be lucky to end up with 1,000 of those, if and when that comes about.

This building at 400 North Capitol would immediately give us access to 948 parking spaces, attendant-wise, or some 800 unattended, in that particular building, that are needed right now.

We look at the regular lease, and that gets us, too, because we find with the operation of the computer, which operates on a double shift, when we look at that lease we find we are going into overtime on each day, plus 10 hours on Saturday and 10 hours on Sunday, at $35 an hour, and we find out immediately that it costs, on that kind of leasing arrangement, for the, again, peculiar needs of the National Congress, we would be paying $81,900 a year extra just there. It would cost us some $3 million to readjust it into Senate office space.

I could go down the list of these details that I put before our colleagues generally in support of this particular measure, but I want to try to retain some of my time and answer any questions that Senators may have, or perhaps some of the arguments of the opposition.

In a capsule, we have been as deliberate as a body could possibly be. This is not only simply a nice thing. It is a very nice thing. If we do not have this space now, I do not know where they are going to put the computer, I do not know where they are going to put these other offices. Some of the others are moving out.

I will get to the point of the Governors' conference, and many of the others, who were negotiating for leases, who would like to use the extra space we would not need now.

We brought this out in the GAO report with respect to postal facilities in the United States, that when we build here, we do not build only for this year's needs, we build for a 10-year projection. The Post Office Department was criticized by GAO for not leasing out available space and all the extra room that they had in construction over the country. There is no reason why we cannot become the landlord here because we will have a break. There is no doubt about the real estate market being depressed. There is no doubt about the Securities and Exchange Commission having been switched off. They were looked upon as the prospective tenant. There is no doubt in my mind now that come the first of the year, regardless of who is President, we are going to bounce back economically, and people are going to start moving back up into this area. It is going to become even more critical than ever before.

I think if we can negotiate now the particular purchase of that building, as recommended by the Architect, we should. We could not reconstruct it right now, if we had to, for less than $8 million more. We could save another $8 million by jumping, getting ahead of inflation, and going ahead with the construction of the parking garage.

Mr. President, we get into the issue of the unsafe nature of some of the buildings right now that have personnel and machinery from the Senate in them. That is so right across in building 724. Informally I hear now OSHA has not approved that for occupancy. If we can get out of this makeshift operation that we have there on that particular square, we can take care of our current needs and we can take care of the projected needs. We can handle the shift in a very good way, I think, from the Dirksen extension to the renovation of Russell, and I can tell Senators here now that when they allocate office space around to Senators—that is the way it is being built—each Senator is going to get a basic floor space plan. There will be extra space, obviously, for the Senator from Pennsylvania because he has a much larger State in population to serve than the Senator from South Carolina.

But with that basic approach being used right now, as mandated by the Senate, all space is going to be taken up by these new commissions, study groups, staff groups, budget work, CBO, OTA, and everything else. We are running out of space unless we are going to try to clear off some more blocks and build some more buildings. I think this is convenient enough if we please, in which to be located some of the allied services and commissions that do Senate work.

I thank my distinguished colleague from Pennsylvania who, as I stated at the very beginning of the consideration of this bill, has been watching, and he has been prevailing. He has prevailed with respect to pay and with respect to self-operating elevators. And one can see that he looks at every nickel and is looking at every dime. He has looked at this with the same judicious economic business or horse sense as to purchase in contrast to the present lease arrangement which, in my judgment, would just take the pressure off the present owners of the building by paying off that mortgage, and then we would end up trying to get in more space or even a more expensive purchase than ever before in the years to come.

Mr. SCHWEIKER. Mr. President, I rise to support the committee's position on the acquisition of 400 North Capitol. I believe this is a very essential part of a long-range plan for badly needed space in the Capitol Hill area.

I think we have a unique opportunity to get this space at a very reasonable cost and also to get it while prices are at a much lower level than at some future time for a building of this type.

I made an analysis of what this costs in terms of private investment versus Government spending. Everyone knows when the Government builds a building costs escalate in terms of cost overruns. Unfortunately, we are seeing some of that in the extension of the Dirksen Building right now, and I am afraid we have not seen the end of it. We are hoping that it is going to be $85 million to build that extension to the Dirksen Building, but I would not count on it. I would not bet on it. In fact, I would bet on just the opposite.

So the unique situation here is we have a known fixed real estate cost and price for office space. It is not something for which we have to contract out and then see add-on and add-on and overrun and overrun. We know exactly the package we are buying. We know what it will cost, and we are taking it from the private sector so we are getting a better price break on it than if we built it ourselves.

For example, 400 North Capitol costs $35.5 million to buy under the proposal before us. It has about 500,000 square feet of usable office space. This comes down to about $71 per square foot for this building. And that is usable office space. That does not count ancillary space, such as corridors, stairwells, et cetera, which will make the figure low. It does not count 950 parking spaces. So, in addition to the $71 square foot of usable office space, we are also getting 950 parking spaces which is a bonus over and above that cost.

Now look at what the extension to the Dirksen Building is costing us. The latest estimate now is $85 million. I frankly will be surprised if we do not hit $100 million, but let us assume the conservative estimate of $85 million.

According to the Architect, we are getting 758,000 square feet of usable space, and I might say I am being liberal on that because I see in the letter that our fine colleague sent out they actually used a lesser figure. Their figure in usable space was something like 670,000 square feet. That is from my three distinguished colleagues. So I am giving the benefit of the doubt and I am taking the Architect's higher figure of 758,000 square feet that we will get out of the new Dirksen extension. That is $112 per square foot that Dirksen is costing us for usable office space.

So very simply what I am saying here is that we are building Dirksen at $112 a square foot, and we have an opportunity to buy another building presently constructed at $71 a square foot. So we are getting one-third off what it costs to build a Government building. No, we are not getting a monumental building; no, it does not have marble over it; and no, it does not have some of the edifices that we like to put into a monumental building around the Capitol. But the point is it is workable and usable office space.

So by buying this building we are getting a third off of what it would cost if we started today to build a building. This is a price based on construction of *x* years ago when this building was built, and we would have to pay the inflated price of building and construction from now into the future. So the comparison is far more favorable than the one I am making of $112 per square foot for the Dirksen extension space versus $71 per square foot for the North Capitol space. It is actually a bigger gap than that because we would have to build for future growth somewhere in the Capitol area after the Dirksen extension is completed. It would have to be built at maybe a 20 or 30 percent inflated rate per construction cost. So the big advantage here is we know the costs, the costs are controlled, definable, specific, and they will not escalate. And that is a very significant matter.

We can look over at the Rayburn Building and see the horrendous escalation and overruns there. Just about every building we have built in the Capitol area has had this affliction of cost overrun disease. And we know that we get a pig in the poke whenever we build one of these monstrosities, and it is not necessary. We do need to invest in space, but here is a way to do it better and to do it in a way that is going to save us money in the long run.

We are also going to save money because unless we buy this building we will have to go out and rent certain space. The chairman of our committee, in his statement, will outline the very expensive space needs that we will need temporarily. First, we will need it before the Dirksen Building is built, and we need it badly now, and his statement covers that.

Also, after the Dirksen extension is built, we will need some additional space. By his figures, we, in essence, will pay for this building, just by the rental of it, in 8 years. So if we go the other route and just rent space, we are kidding ourselves because we are going to need additional space sooner or later. Every aspect of history, every fact, every indication here is that we will need space in this area. We are going to need it in the foreseeable future; we need some now.

There are some buildings behind the Dirksen Building which are occupied on a temporary basis, and we need to clean them out so that we can go ahead with construction. We could save money immediately by going ahead with constructions costs now if we have other space to go into, as opposed to waiting 2, 3, or 4 more years and having to pay higher construction costs for clearing up the area covered by the Monocle, the Carroll Arms, and the other auxiliary office buildings.

So there are about three ways we are going to save money if we take the long-range view instead of the short-range view.

First, we are getting a building at one-third less than what it costs to build a Federal project—$112 a square foot versus $71 a square foot. And that is now, as opposed to what it would be 5 years from now, if we decide then to build such a building, which is about when the Dirksen Building will have been completed and everybody will be screaming for more space. We would have to add here the cost of more construction escalation. So the $71 per square foot versus $112 per square foot is only part of the setting.

There is another saving coming up, because we can go ahead in the renovation and change in the area around the Carroll Arms, because instead of delaying that project while building costs escalate, we can do it now.

Third, we will have a saving simply because we are going to have to rent this space, anyway. So, is it not far better to put it in the context of a long-term buy rather than pay rent for it, which will be down the drain and will not be recovered?

The history of office space in this area, on the House side and the Senate side, shows that we are going to need more space. We need some now, and we will need more later. It makes more sense to own a building than to pay rent; because, as the chairman has pointed out, we will pay for the building after 8 years of rental. So why not look ahead? Do not be penny-wise and pound-foolish. Bite the bullet now, because in the long run, it will save money for the Capitol Hill area.

Also, one other facet of this is that it does tie into a general need of the area. It is located physically within the area between here and Union Station, which will be the Visitors' Center. It is located where a building normally would be located in this area. You would not want to put a building right up against the Capitol, anyway, because of the grounds and parks. So it does not destroy the environment or impact on parking space, because it has its own parking spaces—950 of them. It solves a problem we have immediately, and it does not dump a lot of cars on the street, such as the three permits for every parking space which we now issue. It fits the long-range Capitol plan because it is near enough to be convenient, but it does not scar the Capitol area and does not put black macadam parking lots all over the place, which we have had to do so that our staffs have a place to park.

In a nutshell, I think it is a good investment. True, it will cost more money now; but when we figure that we will get our money back in 8 years and that every 8 years it will pay for itself, it is a pretty good investment.

If we construct a building 5 or 8 years from now, we can figure that $112 a square foot—which is the price tag on the Dirksen Building—would be obsolete. So we would be getting this building at one-third off the price of the Dirksen Building or probably half the price of constructing the next office building.

Also, we do not need monumental buildings. There is a plain need for office space. They do not all have to look alike, a Senator's office or a Capitol office. They do not have to fit a grand scheme with slabs of marble and esoteric architecture, which runs up costs. We need plain office space. This building is ideal, because it was designed for commercial office space.

We can move in and out with temporary and permanent assignments without disrupting the exterior part of the building or the interior, because it was designed for mobility in office space. It is an investment that will pay dividends three or four times over in the next decade or two; because, as surely as rain is going to fall in the Capital within the next month or two, we are going to need more office space. We have the need now and will have the need when the Dirksen Building is completed.

I support the chairman in this committee recommendation, because in the long run we are going to save money for the taxpayers by paying for the construction now and by not kidding ourselves that we can get it cheaper by rental.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that John Brooks, a member of the staff of the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that I be afforded an opportunity to place in the RECORD a prepared statement and accompanying documents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT

We are not dealing here with a crisis situation. The only Senate function which is in clear need of immediate space is the computer operation whose requirements are relatively modest and which could be met in a variety of ways. We are being asked to make a wasteful and imprudent commitment on the basis of an action taken counter to the recommendation of the duly constituted authorizing committee. To purchase a privately financed speculative venture at 400 North Capitol Street comes dangerously close to bailing out a building spurned by private occupants over a long stretch of time and deemed inappropriate for the space needs of the executive branch. We have not been told how so large a building will be filled nor by what guidelines. Indeed the provision of so much excess space is in itself an open invitation for Parkinson's law to take command. For we all know that such a vacuum becomes a ripe reason for personnel expansions. By every rational standard this is a time for restraint—especially since we have set in motion both the Hart Building (Dirksen extension) and the kind of rigorous studies of better utilization of space which will better enable us to take advantage of the space we already possess.

On May 20, 1976, after full hearings on on this matter, the Senate Public Works Committee thoroughly discussed the purchase of this building by the Senate for $31.5 million. The committee decided that acquiring this building was an unwise and wasteful course of action at this time, and the members voted to refer it to the temporary commission on the operation of the Senate in conjunction with that group's study of the Senate's office facilities. Among the reasons for rejecting the purchase was that the committee felt there was insufficient information about the Senate's long-term space needs to justify this commitment at this time.

Since that time, there has been an exchange of letters between the commission and members of the Public Works Committee regarding this building. Though the owners had already withdrawn their offer to sell it to the Senate because the price of $31.5 million was not considered adequate, the distinguished chairman of the Public Works Committee Mr. Randolph communicated the committee's decision in a letter to the chairman of the commission by stating that "an analysis of the justification and feasibility of purchasing this building should be obtained from the temporary commission on the operation of the Senate in conjunction with its ongoing examination of the Senate's office accommodations . . ." The chairman of the commission responded by saying that "the Senate does not have a systematic procedure for assessing its future space needs or allocating the available space among the numerous activities on the basis of objective criteria." He concluded that it was not surprising that the Committee on Public Works had found it difficult to make a rational judgment on this matter without having examined various considerations regarding space utilization and requirements. Mr. President, I would like to ask unanimous consent to have these letters, and the list of considerations from the temporary commission inserted in the record.

Subsequently the distinguished chairman of the Subcommittee on Buildings and Grounds (Mr. Morgan) and the Senator from Iowa (Mr. Culver) asked that the commission devote greater attention to developing better procedures for assessing space needs and fully utilizing available space and to provide the subcommittee with its findings. As indicated in a September 7, 1976 letter, the members of the temporary commission had discussed the need to address these spatial considerations at their full meeting August 25, 1976, and they have assigned a staff member to look at ways of improving the Senate's decisionmaking process regarding space utilization and requirements. Various studies have been conducted by consultants for the commission, including one whose factual findings demonstrate the folly of this acquisition. It is expected that the commission's final report to the Senate early next year will include recommendations improving on the fragmented system of space use and administration in the Senate. I ask unanimous consent that this correspondence be included in the record.

Mr. President, let's take a close look at what is going on at this time regarding the long-term space requirements of the Senate. First, the Senate is in the midst of constructing a massive extension to the Dirksen Senate Office Building. This extension, which is scheduled for completion in 1979 will include 2½ times as much usable office space as the Dirksen Building. It is expected to handle the Senate's needs beyond the year 2000. The architect of the Capitol earlier this year began formulating a master plan for the Capitol grounds. This important planning study, to be completed in 1977, will assess the physical growth of the Capitol complex. This is the kind of information needed to make a long-term, rational decision regarding space planning and needs, and it will add to the recommendations of the temporary commission concerning the Senate's administration of space.

Frankly, Mr. President, there is no long-term space demand to justify purchasing and occupying this massive building for $39 million. This building, with approximately 552,000 square feet of usable office space is so large that it could accommodate all existing Senators' suites and committee space—except hearing rooms—with 100,000 square feet remaining. Preliminary studies of the temporary commission on the operation of the Senate have indicated that the Dirksen extension will easily meet our space requirements for the rest of this century. The figures are shocking. For instance, the Dirksen extension will increase the square feet of office space available for each employee from the present 65 square feet to 150 square feet per individual, and the General Services Administration considers 100 square feet per person to be optimal for grades 12 and 13. Present plans call for 50 Senators' suites of 5300 feet each in the extension; the average size now is 2100 feet.

I agree that the Senate has experienced rather wrenching growth over the last few years, and I know we often work under intolerable space conditions. We have attempted to alleviate these demands by acquiring 178,000 square feet of space in the so-called Monocle block. Of course, these are not the most spacious or luxurious quarters, but they are temporary and for the short-term only and will not be needed after the Dirksen extension opens in 1979. Our recent expansion in staff resulted primarily from various unique institutional changes. For example, we developed the Office of Technology Assignment, the Congressional Budget Office, Senate Resolution 60, and the Senate Budget Committee, all of which automatically increased the demand for space for these additional staff, but it is highly unlikely that such major changes in our structure leading to greater staff growth will occur again for several years. In fact, it is conceivable that institutional changes resulting in a reversal of staff expansion might occur. We have the Select Committee on Committees for instance, looking into the distribution of committee jurisdiction, and I am hopeful that its recommendations will urge a consolidation of our committee jurisdiction.

The main justification for acquiring this building—as presented by the distinguished Senator from South Carolina—is that we will be able to transfer the 178,000 square feet of office space in the temporary buildings in the Monocle block to the new building at 400 North Capitol Street. We would then be able, so goes the argument, to move ahead on the construction of a $30 million parking garage on that site. This line of reasoning overlooks one important fact: that parking garage has never been authorized by the Senate. As a matter of fact, the only thing that has been done is the authorization in 1972 for preliminary architectural design, and the $50,000 appropriated for that purpose has never been expended. I think we must fully realize that a principal justification for this purchase proposal is the construction of a garage which has never been authorized. Is the Senate willing to authorize a parking garage costing at least $30 million now or in the near future? I don't think so. As a matter of fact, there is a catch 22 to this matter. The purchase of 400 North Capitol Street, is justified partially by a project—the parking garage which will add 1450 parking spaces and estimated to cost $20,000 per space—that cannot itself be justified once the 400 North Capitol Street building, with nearly 948 parking spaces, is bought.

The insufficiency of space, the inefficient use of space, and the inadequacy of facility planning are major problems for the Senate. We do not have a systematic and rational administration of space use or a comprehensive determination of our needs. Frankly, the Senate—and the House—are very inefficient and wasteful in this regard. A current, detailed, room-by-room inventory of Senate space based on existing activities and user population does not exist. We do not even know what functions occupy space in some areas of the Senate office facilities and there are certain activities and functions being performed on Capitol Hill for the Senate which could just as easily be performed somewhere else. Does the folding room operation, for instance, have to be done in the Capitol or one of the Senate office facilities? How much storage space in the Capitol could be more efficiently and better utilized as office space? The important issue in this debate is the irrational and haphazard method by when the Senate uses and acquires space. Our present method is inefficient and costly, and before we make another move I think we should wait until we definitely know we need additional space and until we have a chance to look at the various studies being conducted on our space needs and utilization and what options exist for orderly physical growth on Capitol Hill.

MAY 21, 1976.

Re 400 North Capitol Plaza.
Hon. JENNINGS RANDOLPH,
Chairman, Committee on public Works, U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: We understand that by a vote of 7–6, the Committee on Public Works has referred the question of acquiring our Building to the Committee on Operations of the Senate for study by said Committee.

It is obvious that all this will entail a considerable delay in time with continued uncertainty as to the ultimate decision.

We feel that we have been most cooperative in waiting on the Senate as we have since July 29, 1975 (the date of our original offer to lease) especially as in so doing, it has been most costly to us in actual out-of-pocket carrying costs. Also, in the past two months, we have lost two very substantial tenant prospects who would have given us an excellent start towards filling up the entire Building.

In our original offer of March 17, 1976, we pointed out that time was fast becoming of the essence as far as we were concerned. The recent dramatic change in the office rental market in the District has made this even more vital.

In view of the latest turn in events, *i.e.*, the referral of this matter to another Committee, we regret that we cannot afford further delay. As a matter of fact, we think it only fair to add that even if Senator Morgan's motion had been passed, we would not have been amenable thereto, differing as it did so very substantially from our March 17, 1976, offer which we have always considered eminently fair.

Accordingly, we are compelled to herewith withdraw our offer of March 17, 1976, to sell our Building to the United States Senate.

We do want you to know how very much we appreciate the efforts that you, Senator Morgan, George White and Frank N. Hoffman expended to try to bring this matter to a conclusion.

Respectfully,
GLEN H. BALLOWE.

JUNE 2, 1976.

Hon. HAROLD E. HUGHES,
Chairman, Commission on the Operation of the Senate, Washington, D.C.

DEAR HAROLD: On May 20, the Committee on Public Works met to consider a proposal to purchase a new privately constructed office building located at 400 North Capitol Street, Washington, D.C.

As you may know, the Legislative Appropriations Act of 1975 authorized the Sergeant at Arms of the Senate to enter into negotiations with the owners of this building with the objective of leasing the facility for five years. These negotiations were suspended in March 1976, and the owners offered to sell the building to the Senate for a price between $31.5 million and $35.5 million. The Committee concluded that an analysis of the justification and feasibility of purchasing this building should be obtained from the Temporary Commission on the Operation of the Senate in conjunction with its ongoing examination of the Senate's office accommodations pursuant to Senate Resolution 227.

Accordingly, the Committee voted to refer this matter to the Commission for its evaluation. A letter was subsequently received from the building's owners withdrawing their offer to sell the structure. The Committee believes, however, that various residual questions about the long-term space needs of the Senate remain unanswered and may be reopened in this instance. These questions included the identification of future space needs, the proper parameters of expansion by the Senate, and whether or not the purchase of a privately financed building is advantageous and economical. As a result of the motion by the Committee, we hope the Commission will be able to include an analysis of these matters in its ongoing study and in its replies to the Committee.

A hearing on the proposed purchase was conducted by the Subcommittee on Buildings and Grounds on April 9. Printed copies of the hearing proceedings are expected to be available within a few days. The transcript of the Committee's May 20 meeting is available for examination in the Committee office. Housing for Senate activities is related to its overall functions and I will look forward to reading the Commission's findings and recommendations in this regard.

With best personal regards, I am,

Truly,
JENNINGS RANDOLPH,
Chairman.

JUNE 16, 1976.

The HONORABLE JENNINGS RANDOLPH,
Chairman, Committee on Public Works, United States Senate, Washington, D.C.

DEAR JENNINGS: Your letter of June 2, 1976 referring the proposed purchase of the office building at 400 North Capitol Street to the Commission on the Operation of the Senate for analysis has been received. Copies of your letter will be sent to the members of the Commission and it will be placed on the agenda for discussion at the next meeting which is expected to be in August.

My own view is that the resolution establishing the Commission neither intended nor authorized it to participate in such day to day decisions of the Senate as the acquisition of an office building. Rather the task of the Commission is to undertake "a comprehensive study of the organization and operation of the Senate" with a view to suggesting methods of modernization and improvement.

So far as the Commission has been able to determine the Senate does not have a systematic procedure for assessing its future space needs or allocating the available space among the numerous activities on the basis of objective criteria. The last survey of space utilization of which we are aware was conducted in 1973. Reliable projections that relate numbers of personnel and activities of the Senate to requirements for office space and facilities do not exist so far as we have been able to learn. Thus it is not surprising that the Committee on Public Works has found it difficult to make a judgment on the matter of the proposed purchase of an office building.

The present situation results, in part, from the scattered responsibilities for Senate Administration, to which we drew attention in our interim report. For example, the Rules Committee and the Appropriations Committee both play a significant role in creating demands for office space by approving funds for staff. Both the Architect of the Capitol and the Sergeant at Arms have responsibility for developing plans to meet the resulting space needs. The Public Works and Appropriations Committees share responsibility for approving and funding the construction or acquisition of additional office space. Finally, the Rules Committee assigns office space. We hope that our interim observations with respect to the need for greater integration in the provision of administrative services to the Senate will result in actions to improve this situation.

There have, of course, been a variety of studies and discussions of some various aspects of the Senate's space problem. Your letter refers to action by the Appropriations Committee, a hearing by the Subcommittee on Buildings and Grounds, and consideration by the Public Works Committee on May 20th. There have also been on-going efforts of the Architect of the Capitol and the Sergeant at Arms with respect to these matters.

It seems unlikely, in my view, that the chronic space problem of the Senate will be resolved until sufficient authority and responsibility is given to a Senate official to permit him to act effectively and impartially to meet the needs of the Senate in this area. This official should be held accountable for (1) developing and publishing objective criteria for the allocation of existing space; (2) allocating space on an equitable and rational basis; (3) planning in detail for the future space needs of Senate activities (including the acquisition of additional space); and (4) taking such actions as may be required to meet the expected demand.

The considerations that it would be necessary to address to determine the space requirements and allocations of the Senate are listed in Attachment A. An effort to provide answers to the questions listed, and probably others, would appear to be necessary as the basis for reaching a judgment as to the "justification and feasibility" of purchasing the office building at 400 North Capitol. A full study of these matters would, no doubt, require the time of a number of people and consume a number of months, a task the tight schedule of the Commission does not permit it to undertake.

With best wishes,

Sincerely,
HAROLD E. HUGHES,
Chairman.

ATTACHMENT A

Considerations that should be addressed in a study to determine space requirements and allocations for the Senate:

A. Current Space Utilization

- —How much space is available to the officers, Members, and staff of the Senate at present?
- —What is the average square footage per person in each of the foregoing classes?
- —How does the space per Senate occupant, on the average, compare with space available to Executive agencies perform-

ing similar types of work, such as the White House, Office of Management and Budget, and other units in the Executive Office of the President?

—How much Senate space is now being utilized in buildings occupying the block north of the Dirksen Building?

B. Presently Expected Increase in Available Space

—How much space will be provided in the Dirksen Building extension and when will it be available?

—What plans have been made for destruction in the office buildings in the block north of the Dirksen Building and where would the staff now housed there be relocated?

C. Criteria for the Allocation of Space to Enhance Effectiveness of Senate Operations

—How is that space allocated among the various Members, committees, and offices?

—What functions now located in the Capitol could be relocated to the office buildings or to more remote locations?

—Are there functions now being performed in the office buildings which could be re-located to more remote locations or which could more effectively be performed in the Senate wing of the Capitol?

—What plans have been made for utilizing the space to be provided in the new Dirksen extension?

D. Projections of Senate Personnel and Activities Space Requirement

—What estimates have been made regarding the possible growth in Senate employment during the period ending with the expected completion of the Dirksen Office Building?

—What estimates of employment growth over the ensuing five- and ten-year periods have been made?

—What estimates have been made of the trend toward movement of Senate personnel from Washington to the states?

E. Comparative Costs of Alternatives for Providing for Space Requirements of the Senate

—Allowing for the extra costs of special facilities which may be included in the Dirksen Building extension, what are the average costs per square foot of general office space expected to be provided in that building?

—How does the estimated purchase cost of 400 North Capitol Street compare, per square foot, with comparable space in the Dirksen Building extension or with other more remote locations?

—Allowing for the cost to the Treasury (including the cost of borrowing) of purchasing the building outright, how does purchase compare with rental rates over a ten, fifteen, twenty, or twenty-five year period?

—What is the possible or probable resale value of 400 North Capitol Street at the time when completion and occupancy of the Dirksen extension is anticipated?

JULY 29, 1976.

The HONORABLE HAROLD E. HUGHES,
Chairman, Temporary Commission on the Operation of the Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your June 16 letter of response to Senator Randolph regarding the proposed acquisition by the Senate of 400 North Capitol was helpful in setting forth some of the broader considerations which need to be taken into account when such a specific purchase is pending. We can appreciate the constraints of time and personnel which make difficult a close study by the Culver Commission of the building at 400 North Capitol. Moreover, by the time the Public Works Committee request came to you, the sale offer had been withdrawn.

Those of us who serve on the Subcommittee on Buildings and Grounds—regardless of what position each of us took individually on the 400 North Capitol proposal—have a particular concern that better procedures and guidelines be developed for assessing and making recommendations on the acquisition or lease of space and properties. It seems to us that this is an area in which the Commission on the Operation of the Senate can make a most valuable and enduring contribution. This includes, as your letter suggests, the optimal use of existing space and the most rational possible siting of the various activities of the Senate.

We would hope, therefore, that the Commission might give this aspect of its charter the greatest possible stress, since there are looming on the horizon a number of decisions the Senate will have to make on space utilization and possible expansion. It is not our wish to prescribe the work plan of the Commission or to distort your several lines of inquiry into one channel. But we do feel that you and your colleagues are in a position to offer a candid analysis which can contribute importantly to the quality and substance of decisions on space. Perhaps you could enlist the assistance of two or three persons from GAO who could explore comparative costs of various space options and provide us with better tools for judging propositions such as 400 North Capitol and other possible construction and acquisitions. This would not place the Commission in the role of being the judge of specific proposals or of diluting its energies in the other assignments it has.

We would suggest that you designate the appropriate person on your staff to discuss this further with members of our Committee staff so that any agreed recommendation can be brought before the Culver Commission at its August meeting.

With all best wishes,
Sincerely,

JOHN C. CULVER.
ROBERT MORGAN.

SEPTEMBER 7, 1976.

The HONORABLE JOHN C. CULVER,
2327 Dirksen Office Building,
Washington, D.C.

DEAR SENATOR CULVER: Thank you for your inquiry concerning the status of the Commission's work on space acquisition, development, allocation and utilization.

At the Commission's meeting on August 25, the subject of space was discussed at length, and a working group was formed to pursue the matter because of the many considerations involved. In addition, a member of the Commission staff is working on various aspects of the issue.

As you know, the Commission's final report is due December 31, 1976. Space will undoubtedly be one of the important issues treated therein.

I hope this information is helpful to you.
Sincerely,

VINCENT P. ROCK,
Staff Director.

Mr. CULVER. Mr. President, I respect the leadership and the efforts that have been exhibited by the distinguished Senator from South Carolina in the exercise of his responsibilities as chairman of the Legislative Appropriations Subcommittee in connection with an extremely difficult subject matter and jurisdiction affecting the very life of this institution. I have reviewed that record, and there is much of it for which I have unabashed admiration. He was a leader in stopping the extension of the West Front, an action in which I was in total agreement. He also was a leader in stopping the House of Representatives from taking as a fourth office building the Madison Building for the Library of Congress, and for that I also applaud him.

The distinguished Senator from Pennsylvania has said that, as we address this issue, we should not be penny wise nor pound foolish. I submit that the really important consideration in this instance is not to act in haste and repent at leisure.

Mr. President, what we are talking about is an extremely important decision. It is important in its cost implications in terms of the future needs of this institution and the entire Capitol complex.

Mr. President, by chance, I picked up today a little booklet entitled "In the Shadow of the Dome." It is a booklet for tourists about our Nation's Capitol. The first paragraph reads:

> High on a hill overlooking the Potomac River sits the United States Capitol, majestically dominating its surroundings. Its grandeur acquired slowly and painstakingly, the Capitol, and indeed Washington itself, reflects the careful, considered planning of the Nation's founders.

Mr. President, all I can say is, thank God for the Nation's founders who did some planning, because we are certainly lacking in that regard now.

We are all painfully aware of the inefficiency and conflicting jurisdiction which characterize far too much of the administration of the affairs of the Congress of the United States.

There is hardly a more classic or better illustration of this chaos and confusion than in the area of space—space: how much we need, what we do with it, how efficiently it is used, how economically it is obtained and maintained.

Today, we have the Architect of the Capitol, the Subcommittee on Legislative Appropriations, the Senate Committee on Public Works, the Committee on Rules, the Sergeant at Arms, and the Secretary of the Senate involved in the administration and acquisition of space for the Senate. And, Mr. President, nothing is more important than that we obtain some rational, responsible, and accountable procedure for the administration of space use and the assessment of space requirements.

Mr. President, this is one of the responsibilities——

Mr. MATHIAS. Will the Senator yield?

Mr. CULVER. Not at this point, if I may.

This is one of the responsibilities that was given to the Temporary Commission on the Operation of the Senate when it was established last year, and it is to report to the Senate this December its recommendations for a more centralized administrative authority regarding questions of space. As a Member of the other body, Mr. President, I served on a committee called the Bolling Commission. We esablished a Commission on Information and Facilities in the House of Representatives. One of the things that Commission has already determined is the current inefficiency in matching space with function and personnel activity with proximity, on any rational basis whatsoever.

For example, in the House side of the Capitol, there are an estimated 100,000 net square feet of usable space. Most of that space is currently being utilized by activities and operations of Congress which do not need to be located that close to the floor of the House of Representatives itself and in fact are nonlegislative functions. They have already estimated that a careful review of the current allocation of that 100,000 square feet of space could make available some 26,000 additional square feet of usable space for the Members of the House of Representatives themselves in the Capitol in close proximity to the floor. They have rooms over there now that are used to house documents from as far back as 1916—just dead storage space. We have, throughout all the buildings on Capitol Hill, a similar irrational mish-mash of space and function.

What is the folding room doing taking up precious space, when it could be located far from the physical presence of the Nation's Capitol? It is taking space away from what would otherwise be more appropriate and rational activities in terms of the need for proximity to Congress.

Now we have started to do a few things right. We have set up these commissions to study these facilities and to review the allocation of space. That brings us to the problem that we have before the Senate today.

We have, coming on line, not only the report of the Temporary Commission—incidentally, I say to the distinguished Senator from South Carolina that I have received correspondence from Commission recently on what they are doing in this regard generally. But we also have, in addition, a master plan that has been commissioned to make the most comprehensive study by a very distinguished private planning firm of the future development of Capitol Hill—questions of transportation, questions of environment impact, questions of circulation flow, the efficient and economical accumulation of additional space if needed, and where, and the relationship of that space to the District of Columbia itself. This is the kind of comprehensive, rational approach that is, in fact, consistent with the legacy of our Founding Fathers as to the future shape and direction of this place.

It is true, Mr. President, that we have some short-term space problems. Make no mistake about that: we have some short-term space problems. Most of these problems, I submit, are attributable to the irresponsible mismanagement of the utliization of existing space. We do not even have a room-by-room inventory of space available in the U.S. Senate. The last study of space that was done in the Senate was 1973. But do you know what that study did? It simply told us how much square feet we have here. Nobody has knocked on a single door to find out what is going on behind those doors and by whom and for what purpose.

We do not know what goes on in these inner sanctums. We do not know how these rooms are assigned, we do not know what people do in them. The first thing we have to do is find out what we have and what is the use of that space. And if we do that, I submit, Mr. President, we might find that we have plenty of space to do the right things. Mr. President, this is what we should be directing the Sergeant at Arms and the Architect of the Capitol to do.

I have been here 12 years. We have secretaries working in intolerable conditions. But I want to tell you, they would have plenty of room if people did the appropriate studies and allocated that space efficiently and rationally.

Our failure to do that means what? It means we are in a crunch. Now, the question is, What do we do about it?

All right, Mr. President, we have done a few things. We have authorized the extension of the Dirksen Building. The Dirksen Building extension is now under construction and is supposed to be completed in 1979. It has 670,000 net square feet of office space. To give some idea of how much space that is, Mr. President, that will give every Senator and his staff and committee 2½ times more space than they have now. Two and a half times. And it has been officially stated that the extension will take care of the space needs of the Senate through the year 2000.

Now, we have also bought at the cost of $4.5 million, with another $700,000 in renovation, several buildings on Block 724, the so-called Monocle block, as an interim solution to take care of the overcrowding while we are building the extension to the Dirksen.

Now, what has happened? Well, we have two identifiable requests for additional space. We need space for a second computer, and for additional staff of OTA.

This last weekend I was down in the ex-FBI building known as House Annex 2. I have visited those buildings on the Monocle block, and I have taken a tour of 400 North Capitol. I have also looked at the current activity of the House computer center.

Suffice it to say that I am convinced that a rational internal solution to the space demands of that second computer is to put the Senate computer operation with the House computer operation in that ex-FBI building. I have measured it and I know there is adequate space.

When you build a computer center you have to put in special air-conditioning, you have to have climate control, and it is a very expensive proposition. We have designed facilities in the Dirksen Extension tailored for these needs, and we would now duplicate these facilities again.

Second, we have OTA people who were offered the old FBI building, and they said, "No."

We are spending $9 a square foot to put some of them in the Hyatt Regency Hotel right now; we are spending $9 a square foot to put some of them in the Quality Inn Motel right now. GSA says that if you pay more than $7.27 a square foot in that part of Washington you are getting robbed.

Now, we have two requests for additional space. What is the proposed solution. The proposed solution is to buy a new building, and if you are going to buy a building, buy a great big one.

Let us look at this building we are going to buy. Make no mistake about it, it should be named the fourth Senate office building because Russell has about 314,000 square feet. Dirksen has 418,000. The proposed Dirksen extension has 670,000. And we are going over here now and looking at another building, even though the Dirksen extension is coming on line in 1979, with 550,000 square feet. Think of it. It is twice as big as the Russell Building, twice as big, and if we buy that, I will predict we are going to make the Rayburn Building look like a monument to responsible space management and planning by the U.S. Congress.

Let us look at that building. If we put every single Senator and his staff in 400 North Capitol, you would still have 100,000 square feet left over. Mr. President, that is a lot of space. That is not just a little old office building, that thing is massive. Admittedly, it is a haunted house right now, since it is empty, and admittedly it ought to be on a fire sale. We will get to that.

Let us talk about that building. That building was the brainstorm of some highly skilled and clever developers back around 1970. They got together and they said, "Hey, you know where there is a hot market for building office space? Washington. We have connections down there. We know the town, and we think if we can build a building we can make a buck."

There is nothing wrong with that, it happens every day. It makes the country go round. But these people are highly professional at building speculative office buildings. They do it every day for a living, and they have made a good living at it.

What do you do when you build a speculative office building? Well, you get an architect who will design a building to specifications that maximize selling it, minimize your construction costs, and minimize your taxes. That is what you do. You get your tax takeoffs and maximize your profit and move it.

All right. They started building in 1972. They bid for the contracts. In 1973 something came along called the energy crisis. Energy crisis, remember that word "energy" because it figures prominently in this issue. In 1973 they started building.

Before they built, they said, "We speculators are too smart to put our own money up. We go to the bank."

So they went to the American Security Bank & Trust, and they borrowed $26.5 million. They have testified that their carrying costs are over 10 percent, over 10 percent on $26.5 million, not to mention their own money they invested.

"Let us build a building that is cheap to build but profitable to rent. We will build a building for those specifications. It is a boilerplate speculative building. In doing that we are going to put in a form of heating called electrical heating."

Now, electrical heating is cheap to put in but it will bankrupt the operator, on operating costs at 550,000 square feet of usable space.

"But we won't care about that because we will pass those costs on to whoever rents it. We won't be paying those annual bills." Incidentally, it is not the heat loss in the winter that kills you, it is the air-conditioning in the summertime.

"The other thing we will do, we will put a surface skin all over this building of glass," one-quarter inch glass, which is about $5 a square foot as opposed to $15 a square foot for hard surface material.

So what we have over there is a greenhouse—it is a big greenhouse. Interestingly enough, we in the Congress said, "You know, when this energy crisis comes along we have to start conserving energy." So what did we do? Well, we drew up some regulations for energy conservation for buildings that we go into. It is going to be a law that in these Federal buildings you can only have 35 percent of the exterior skin of the building as a glass surface."

Four hundred North Capitol. Fifty-two percent glass surface. Not only glass surface, we also provided that this glass had to be thermal pane. Thermal pane is two pieces of glass with air in between. And we said it had to be double glazed, treated, and its combined thickness would be about an inch thick.

We look in vain in 400 North Capitol for anything that suggests they heard about that law that this Congress passed.

What did they do? They built the building. They built the building and it took a few years. They finished it in 1975.

In 1975, they said, "We have got to get ourselves some clients. We are carrying an awful load every month, with guys coming in saying, 'Where is 10 percent on $30 million?' "

That is a lot of money—$300,000 a month when we figure the lawyers, accountants, security, management.

They look around for some clients and who do they go to? They go to the Government. They knew some people in Government. And they went to the GSA and said, "We hear SEC is looking for space, we have got a little project you might want to look at for space."

GSA said, "OK, we will look at anything, and we will look at it with the idea of SEC renting some of that."

When you are a highly speculative builder, you have to get a golden egg for a client that you can build around, otherwise it takes years to fill those things. You can really get a lemon on your hands if you do not fill it. You can take a bath. You can take a bath if you do not fill it. You can take a bath if you only partially fill it.

So they got rather desperate. These builders start talking to GSA about it.

The final offer to GSA by the owners of 400 North Capitol exceeded the GSA prospectus limitations approved by Congress on October 10, 1974.

Think of that. The final offer by the owners to GSA exceeded the written prospectus this Congress passed as a law limiting how much GSA could pay for rent and space.

The cost limitations were $2.8 million a year that we imposed on GSA for a 5-year lease for 380,000 square feet of usable office space, and 80,000 square feet for parking.

The interesting thing was the comparison of rental costs for space. The final offer by the owners of 400 North Capitol, not including utilities, was $7.48. Estimated cost for utilities, at GSA costs was $1.07. Total cost per square foot, was then $8.55. The total cost allowable to GSA including utilities, was $7.37.

This resulted in a difference of $1.18 per square foot, for a total difference of $448,000; this was the cost differential between them. GSA said, "This won't wash, we can't make a deal with you, it costs too much, it exceeds what Congress said we could even spend, so we can't get into this. Besides, the market for space has gone steadily downhill and we have decided this market is overbuilt for rental space, and anybody in the Government that pays more than $7.27 through 1976 is making a bad mistake."

So GSA finally agreed to rent space for a cost of $5.49 a square foot in a building located around T Street and Half, at a cost saving of approximately $274,000 below the prospectus limitations imposed on them by Congress.

So here we had our poor builders. These poor builders. They were with this building on their hands and they had lost their potential clients, their tenant—the SEC.

They were getting desperate. They had to pay these monthly bills, and they went looking around for another tenant, reasoning that if we cannot talk one of these executive branch agencies into it—because we have these guys with fine pencils down there who know something about real estate—maybe we can unload this turkey on Congress because they are busy, they are spread thin and there are a million places to get at them. We know a few people who will grease a few skids and we will run this baby by them.

So they came up and approached Congress and said, "We've got a building. Maybe you want to rent it or maybe you want to buy it."

We always have space problems, as I mentioned, and there is good reason for it. We are disorganized.

So they come up and say, "We've got a building, let's talk." And they moved around a little bit.

A year ago in December 1975, on this floor, after some debate, the Senate approved the Sergeant at Arms entering into lease negotiations up to 5 years for part or all of that building for some Senate space.

The Sergeant at Arms went down with the Architect of the Capitol and they started talking to these building speculators.

They talked a while, but they found out that these negotiations were not going to wash because the difference between what the owners now wanted to hold up the Senate for and what the Senate felt was at all reasonable, or GSA felt was reasonable, was a million more a year in rent. They had offered it to the GSA for a million dollars less a year.

After they looked at those numbers, our people came back and said, "No, we can't afford that. Even the U.S. Senate can't afford that. That would be over $9 a square foot" based upon just the maintenance and operating costs on a net foot basis.

And there was a lot of hangup over the issue of who pays the electricity bill. There is the sleeper. Who pays the electricity bill?

One of the interesting things those builders knew, they did not want to pay that utility bill.

Of course, there is the issue that if we have the Senate in 400 North Capitol they are in there virtually 24 hours a day. We have a whopper of a utility bill. We are not in there 9 to 5. We just heard how these computers have to get in there with all their spooky stuff, for 24 hours a day. The computers need at most 38,000 square feet.

That is like Howard Hughes buying a hotel so he can be on the top floor. We are going to put that computer over there in a mausoleum.

So they came back and said, "We don't have a deal, we can't rent it; can't rent it, no deal." So they all go back to the drawing boards.

A little while later, there is another knock on somebody's door in the Congress. We open the door and they say, "Hey, we couldn't rent it, we put this turkey back on the open market, we've advertised it in the Washington Post and the phone ain't ringing. We put a sign up, office space for lease. It's still up there, right in front, nobody is coming to rent it, they aren't beating down the glass doors. So let's talk then about selling this thing to the fellows up there in the Senate who don't have enough space. One of our guys has even been up there and says it was crowded. Let's sell this to you and we'll give you a good deal. You know the builders, sales speculators, are going to give the Senate a real good deal.

So they come in and they say, "Let us talk about a purchase price."

Well, in the course of these rental negotiations when we had GSA in to help us decide whether we were getting robbed on the rental rates, the GSA did an appraisal of the building. GSA said:

> It is interesting and important to note when we speak of an appraisal of that building we are talking about an appraisal which is an estimate of the highest present value of the property based upon rules of thumb for office space. It is not an accurate analysis of the architectural, structural or heating, ventilating and air conditioning constraints of the building or actual construction cost. GSA did an appraisal, not a construction cost analysis. Disclosure of actual construction costs were not discussed with GSA for purposes of appraisal. An independent analysis of the architectural constraints of the building as regards its life cycle cost, estimates of energy consumption by the electrical, heating and air conditioning system and the like, would be a critically valuable tool for making this decision.

So said GSA in our discussions with them.

Nevertheless, putting all that aside, GSA did an appraisal with all those limitations and concluded, "That building is worth $28.5 million." That is the GSA appraisal.

Here is the hooker: When you appraise a building which is not yet fully completed, what is included in that actual value? For example, in that building today there are no finished ceilings. There is no finished flooring, tiled or carpeted. If you put carpet into a 550,000-square-foot building, it will cost $1 million.

Normally, when we talk about a basic building, we are referring to a building which includes a completed floor, ceiling, and lights. When you put $28.5 million on that building, you better figure out who is going to pay for a floor, ceiling, and lights. GSA assumes that $28.5 million includes those three major cost items.

In addition, GSA said, "What about tenant improvements?" That is another term of art. Tenant improvements means when these highly speculative builders build an office building, they build it in such a way that when they do get a tenant, they can say, "Here it is, clean as a whistle, basic things in place. Now we will talk about what tenant improvements you specifically want in order to put this building into exactly the kind of shape you need to do whatever it is you do, partitions, walls, outlets, so on and so on."

GSA looked at tenant improvements for the purposes of the possible occupancy by the U.S. Senate.

Having said that basic building is worth $28.5 million, GSA said this list of barebones standard level tenant improvements would cost not more than $3 million.

We have not yet decided who will pay for the tenant improvements. Normally, they are the burden of the owner who wants to rent the building. He pays those costs. In this deal, we have not determined that yet.

I went through that building yesterday with construction engineers and architects. We went through it in order to see how much it cost to build, and they determined it is only 70 percent completed. They put a price tag of $10 million on the minimal improvements yet to be built.

Let me mention a few things we found when we walked around. The Appropriations Committee claims the computer needs 38,000 square feet for two computers and support personnel. I do not understand that figure. The House computer system, which has two such computers in place right now, does not need that much space. The House also has 225 people authorized for the computer section, and we have 100 less in the Senate. The Senate computer operation heard there was a building open and decided 38,000 feet is what we need. "Build another empire."

I visited the basement, where they would put the computer. We would have to put in all of this special work—this air-conditioning and climate control—to accommodate the computer. It takes a minimum of 18 inches, but you also may need 12 inches on the floor to build a sufficient platform to put all the mechanical systems underneath to service the computer.

This would give you a ceiling height of only 7 feet 6 inches. I would hate to be the hunchback who would have to work there. That is what it would look like. No one has gone there and measured that. No one has decided what tenant improvements we would need. Nobody has estimated those costs.

Let me make another point: this building has big columns on each floor. Those columns, interestingly enough, are only 23 inches square. Under the District of Columbia Building Code, if they are under 24 inches square they can be considered usable office space.

In addition, the owners built the building in such a way that, in terms of tenant improvements, there are places where the building module that you have to design functions to fit this kind of space.

The owners gave the Senate a purchase offer. The offer was: Buy this building for $31.5 million to $35 million. We will have three independent appraisers—we will pick one, you pick one, and those two will pick another one—and we will then sell you that building. But if the appraisers say it is not worth $31.5 million—and again there is no agreement on who pays to finish it, we are still stuck with who pays for the tenant improvements, which is what will kill you—if they come in and say it is worth less than $31.5 million we will not sell it to you.

And then—it has to be the gratuity of all time—they say, "If it is more than $35.5 million, we will honor our high figure of $35.5 million."

You bet they would honor it. They would probably try to sell us the next 10 office buildings they build.

How do they arrive at that figure? Someone takes the GSA appraisal of $28.5 million, they add some $3 million for improvements, and they say $31.5 million.

But in this bill we say, not $28.5 with any understanding of who is going to finish it and at what cost; we do not know that. We have had no independent construction review and analysis of this building.

We list $35.5 in this bill. We say, "We will give you a blank check for $35.5, and you go out and buy the building."

You and I know that the high number is what those builders will get, just as it stands. No questions about that. We will be buying at $35.5 million.

What is the other important number here? The other important number in this bill is $3.5 million—for what? Operation and maintenance. Operation and maintenance in the first year alone for that building will be $3.5 million.

So we are going to give the builders a check for $35.5, and we are going to hit the taxpayer for $3,500,000 in O. & M. costs, including $500,000 for the power account, so we can start paying for electricity, just for 1 year; $3.5 million a year. If you take that $3.5 million in addition to the cost and put it into the available square footage, you would get about $9 a square foot, which is more than we refused to rent it for, and we would end up with the turkey and the overhead to boot.

Talk about being cheaper. I was amused, absolutely amused when the Senator from Pennsylvania said, "We know precisely what this costs. We know definitely, no problem of cost overruns."

Mr. President, this thing is going to be the definition of cost overrun before we get done. It is a haunted house; it is going to be a white elephant.

We hear talk here about the cost per square foot. I am interested in the cost per square foot. The cost per square foot depends on what you are buying. If you want to sell a speculative office building, the name of the game is to build it as cheap as possible per square foot. If you want to construct a building under AIA classification and standards that constitutes a genuine monumental construction that will last 100 years, of course, it costs more. The key thing is, What are you building?

I can build you a building for 2 cents a square foot. Are you going to buy it because it is cheaper? That card house will fall down.

A highly speculative office building is built for a 20- to 30-year life, and then it is supposed to be obsolete and be rebulit. The Dirksen Building is built for a 100-year life. We can still use it 100 years from now.

The Appropriations Committee states there will be four window washers over there. They better have 4,000 window washers because all that building is is windows. And we are going to have permanent scaffolding hanging on that building 24 hours a day, because they put in the kind of cheap windows that do not have any swivels that let you wash them from the inside. You have to hang out there like monkeys to clean every one of those windows.

We are going to buy this building for $35.5 million and have nothing but headaches from it, just to accommodate that second computer and a few people from OTA who do not want to be working in the old FBI building. I say someone ought to be representing the interests of the public here.

The Senator from South Carolina talks about parking space. One reason put forth for buying the building is that we can move forward on the underground parking garage in the Monocle block. So, after having bought those temporary buildings and renovated them until the Dirksen extension is completed, we will tear them down, move all those bodies—Who wants to go over there? It is a 10-minute walk. You are going to have to put in shuttle service to get people to work over there—and then start building this garage.

Now, there is one interesting thing about this parking garage we have overlooked. The U.S. Senate has never authorized an underground parking garage in the Monocle block—block 724. The Senate has never authorized it.

We have approved $50,000 for preliminary architectural designs on a possible parking facility on block 724. That is all we have done. And guess what: Since 1972, not a penny of that $50,000 has even been spent on design. We do not even have an architectural design, much less an authorization for a parking garage. What we do have is the word of the Architect of the Capitol, and some rough sketches. He said that he had some rough sketches that cost out to about $30 million for the building.

So if we are going to bite that bullet today, we ought to be talking about an appropriation request, not for $40 million, but for $70 million, because we are going to build a parking garage that has not yet been authorized.

Let us look at the Catch-22 situation. There are 948 parking spaces at 400 North Capitol. The ratio of parking on Capitol Hill now, among Senate employees, is 2.5 to 1. In the executive branch it is 6 to 1, so it could be worse. We are building a $5 billion Metro system that lets out nearby; $5 billion, and we are talking about more parking spaces to drive to the Hill.

The Catch-22 is—and it is very ironic—the only reason we are going to buy 400 North Capitol is that it will give us more office space while we build a parking garage. The parking garage is only supposed to add 1,450 spaces. If we pick up 948 at 400 North Capitol we do not need the underground parking garage. That is your Catch-22. That is the irony of this thing.

We had a Buildings and Grounds Subcommittee hearing on this subject, and on May 20, on my motion, the committee referred the proposal to buy this building to the Temporary Commission on the Operation of the Senate. The very next day the builders withdrew the offer to sell. We were going to have that temporary commission look at the whole issue of space, and try to get a more rational justification for what we were doing.

They responded after the sale offer was withdrawn and said that:

> We can understand why you could not make an intelligent decision on this because the whole question of space is so chaotic in the Senate. That is one of the things we are going to be working on. We do not think we have the staff to attack this particular case, but we are certainly looking at these other concerns.

Well, we thought the issue was dead. The Committee on Public Works considered and rejected this proposal. Now in a highly irregular way we suddenly see this turkey appear reincarnated in the form of the legislative appropriation bill.

What do these authorizing committees exist for? What do they exist for? Why did Public Works Committee carefully study and give its judgment that this thing is not worth doing when you can turn around and run it by in the Appropriations Committee?

Now, Mr. President, if there has not been any clear justification of careful requirements for this space. The Capitol Architect says he does not have a plan for a parking underground garage, and, incidentally, that he does not have a plan after the Dirksen Extension opens in 1979 to even renovate the Russell Building—he says we are just thinking about that right now. That is a problem around here. We do not have any plans. We do not know what we are going to do. It might be nice to have this musical chair over here in the form of a 550,000-square-foot building, $40 million worth in order to push the people out of there because he does not have any plans, house them over there at unknown costs. An architect would prefer to vacate the city of Washington. I would not blame him. I would prefer this, too, if I were an architect: "Get them all out of here while I work."

But prudent construction management techniques that would save the taxpayers' money and permit orderly working around here requires a new architect. This country cannot afford that kind of architectural misjudgment and lack of planning. It is inexcusable.

Now he even says in his letters that he could use it as a space reservoir, a space pool. Some pool. There is no bottom. There is no bottom to that pool. We are not talking about benchwarming space. We are talking about a new stadium.

So. Mr. President, how can anyone come up here and say that it is prudent to buy this building with the kind of problems that I have mentioned? How anyone can say it is in the interest of this country and consistent with the proper orderly development of Capitol Hill defies the capacity of this Member to express or accept.

I withhold the remainder of my time.

Mr. HOLLINGS. Mr. President, right quickly, I did go to La Scala on last night, and I thought it was pretty good entertainment until I heard my colleague from Iowa.

There is very, very little relation to the fact. He has really got his mind afoot. I just do not know how other than to call it entertainment when you look at the way he has approached this particular problem because as I go through my notes I find myself wanting to answer this and honor that. He has:

> Highly skilled and clever developers, highly professional in the business, making an easy thing, cheap to build, but easy to rent, the Catch-22, unload this turkey, grease a few skids, run it by them, owners want to hold up the Senate, knock on some other door. Psst, psst, psst, put this turkey on someone else.

Mr. CULVER. I could not have said it better myself.

Mr. HOLLINGS. He said:

> And robbed on the rental rates. I walked through, I walked through, I walked through. Just for openers, just for openers. Someone has to look out for the public.

He has a great glamorous bunch of malarkey if I ever heard it in my life. You could go step by step, with the gentleman who tries, and is very clever to give credibility, because he walked through the building. Now all of a sudden he is going to be an expert. He could have walked through with his colleagues. You know the ad in the yellow pages, walk with your fingers in the yellow pages of the telephone book. Well, he could have walked through if he had attended the Committee on Public Works hearings of which he is a member of the subcommittee on buildings and grounds.

I could go back. This is the December hearings last year. He said:

> Somebody is going to sneak this thing through, and how do we get this turkey up again, and everything else.

Look what all he finds when he walks through. If he had walked through back during the time of this particular hearing in March 1976, and he was not there, see what he could have discovered then. This is September and here are all of these things that he discovered over the weekend, Labor Day. He is going to have his big day by walking through the building.

Well, everything he said about no survey or no nothing is just absolutely and totally false. This is at page 37 of the hearings by the Senator's committee. It is GSA's estimated cost. This is back in April. He waited until September to walk through on his Labor Day weekend and start running through the building, "And I walked through it." Well here it is listed in here. Partitioning 1 to 10 feet times 47,000 times 950 is $466,500. He could have found it if he had been there in April. Doors 1 to 20 feet partitioning, 2,350 by 150, $362,500. Electric and telephone, $183,000. Exit lights—he forgot that. That is the little hooker.

> Watch it; no exit lights. Nobody will know how to get out of the building. How are you going to get out of the building on this turkey. No exit lights. I walked through the building.

Mr. CULVER. Excuse me. Will the Senator yield?

Mr. HOLLINGS. "And I found they needed exit lights."

Mr. CULVER. I just want to make a correction. Not exit lights. It is energy conservation.

Mr. HOLLINGS. Yes. I am going to get to that. The Senator made his argument. I am going to put on my show, too.

Mr. CULVER. That is a sleeper.

Mr. HOLLINGS. We both have a good show here. Exit lights. This is the sleeper. We have not mentioned this one yet. He mentioned energy. I will get back to energy. They did not obey the law. What did they do? They put glass in 52 percent of the building that was glass where Congress found by law there will only be 38 percent. The Congress in their great wisdom on how to build a building. Do not ever get Congress to build a building.

But when did they do it? Congress found that when they finally got the President to sign it on December 20, the Christmas signature, and this building had not been touched since June of last year. That is when they completed it, in June of 1975. I will save these other things I am going to list here for him. But he has them disobeying the law of December 1975 when they had this thing up in June 1975.

He has them as law violators, speculative and everything else, because they did not go along. All of America has been glass. That happened to be my amendment. If you want to know the real cost of the light bill for the Senate office buildings it is $633,000. We have not been economizing around here, ourselves. That is what we are paying for the light bill now. So we know something about paying light bills.

Two-thirds of the two World Trade Towers in New York City, which is operated by private, free enterprise, is wasted, and they consume as much electricity as the city of Syracuse, N.Y.

I can cite the energy talk, if the Senator wishes, because it was my conservation measure. But he found the Catch-22—get rid of this turkey.

How could they obey the law in June of 1975 because the President did not sign it until December? The way the Senator paints that picture—just as loose as could be.

He said, "Nordy, get a computer." Then there was the question of where to put it. When Nordy Hoffman, the Sergeant at Arms, started to try to find a place to put the computer, the Senator says that OTA said, "If there is space available, we need some." Totally false.

Long before Mr. Hoffman became the Sergeant at Arms, and before I heard of the need for computer space or anything else, the Office of Technology Assessment, in order to find room, went there last June, not 1976—over a year ago, 14 months ago—and was negotiating at that time for a lease. We put it in when the bill was on the floor, but the House would not go along. The House leadership would not accept it. They said, "Come down to the old FBI building." Now they are trying to work out a way to stay at the FBI, and the House Office Building Commission said, "Get out of here. We don't want any of these joint committees. We're going to need it totally for House use." They certainly are not going to let any Senate computer go in there.

What gets me is the approach of this thing, because we have all these things, and we will have to list them: supervision, 4 months at $2,500 a month, $10,000; exhaust and ventilation for conference rooms, eight rooms at $2,000, $16,000; heating, ventilation and air conditioning—this is last spring—$712,500.

Light fixtures—he found they needed light fixtures and that it was a claptrap building—falling down—and did not have light fixtures. They never represented that they had light fixtures. He could have walked through with the Public Works Committee and found all that. He could have found the job overhead, the total cost to the Government, the standard level, and everything else of that kind, without walking through like he is finding or developing a Catch-22 and unloading a turkey and saying, "Whoops, what's in these walls?"

I do not know how he knows what is going on behind the doors, as he says. Sure, there is wasted space. Can you put the OTA or a Senate office in the Capitol Building? What is behind the doors? We never have knocked on the doors and asked what is going on behind them. It is pure nonsense.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I want to get through with this.

They do not know what is going on behind the door, but he seems to know what is going on behind the door, as though something illicit or some conspiracy is there.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. HOLLINGS. No.

How are we going to get the conspiracy? We are going to break this thing. How could anybody bring it up here? I will state how. The way they bring up the Dirksen Building. We take care of it in Appropriations, at the request of the chairman of the Committee on Public Works. It may be a Rube Goldberg arrangement, but that is the way they go, because they would not have any money if they waited for the authorization. Nobody has put any point or rule there. It is $85 million for the Dirksen extension, named and otherwise. It is standard operating procedure.

It is the same situation for the Capitol powerplant, another $12 million in this bill, without the authorization. It is as though there is some kind of unusual way. You find out what we do after you deal in these things and work with the Public Works Committee and with all the other things.

We are not saying, "Bam, bam, this is the cost of the building." We are authorizing the Architect and the Senate Building Commission, headed by the Senator from Alabama (Mr. SPARKMAN), to negotiate with all this information at hand.

It reminds me of Plato's famous couplet:

> The politician makes his own little laws
> And sits attentive to his own applause.

He has manufactured all these secrets about something behind the doors, "Slip it by," "Grease the skids," and everything else like that.

Mr. President, the report is here. They have had the full details of everything with respect to the rugs. Wait a minute. Excuse me. We can keep on reading. This is back in April. He did not have to spend Labor Day finding there was not a rug on the floor over there.

Installation of soil resistant nylon carpeting, 28-ounce weight per square yard, estimated to cost between $8.25 and $9 per square yard. This, too, is not included in the estimate.

So the Committee on Public Works, in its own hearing—I did not refer just to my hearing. We have had two hearings on this.

The Senator is trying to find another scandal in the Senate, in the Catch-22, in the greasing of the palms, in slipping it by, in the unusual—an extraordinary way to bring it up. It will not wash. It is not true.

We have been deliberate and objective, and we still are. We have not bought any building.

We can go over the arithmetic with respect to the parking spaces. There are 595 unreserved spaces on the general lot. We have a necessity for and have issued permits for 2,758. If we get the 1,400 in the next 3 to 4 years, with a parking garage, we will still need 1,400 plus 948 that we had on the building at 400 North Capitol. It adds up to 2,143, with a 200 difference in parking spaces, and this is 4 to 5 years ahead of time, on projected needs.

Catch-22? We worked out the shuttle at RFK Stadium, to use the parking lot for the Library of Congress. If you work at the Library of Congress, you go to RFK and park at the parking lot at the stadium and catch the shuttle to the Library of Congress.

We have had a critical need for parking. But the Senator finally finds Catch-22, that we are full of space, that we all have overestimated everything, that we have not looked at the garage, that we have not done any of these things. All these were in the report.

With respect to the point of it being a good building, I do not really know why they changed. The best information we could obtain in these hearings was that it was a better than average prospective development building. Let us see how Dr. White characterized it in his testimony. This is what he said, and this is back in December of last year:

> As to the physical building itself, we had our people inspect the building. We find that it is a better than average speculative type office building. That is to say, it is built of reasonably high quality but not the finest that you would expect in a corporate headquarters building. It is a building built for rent to the general public. It is, however, a better than average building in that regard.

The building was not rejected by GSA on account of the quality of the building; not at all. On the contrary, we were told that there are some developers—we are talking about Catch-22's and sharp speculative builders who want to develop Buzzard's Point. So when the SEC was about to move in this particular area, the Buzzard's Point developers prevailed, and they canceled out any further negotiations with the owners here.

Now the SEC has brought pressure on OMB and it is in limbo. They have not made any move and they are still saying that this particular building is an excellent building, well adaptable to use for the Senate's needs.

"I touched the glass. It was hot." I hope it was hot there on Labor Day, a closed-up building, construction architects and everything else like that.

"We are going to sell you this building because we believe in good government." Ah, the gentleman, 1 minute, said, "Why don't we be more rational? Why don't we be," in words used time and again, "more appropriate, more rational, the more intense, more crucial needs, rationally handled, get out of this chaotic mess."

Well, he wrote what was really, I think, his original intent, to get the Culver Commission to take it over. He has not let up on the Culver Commission, former Senator Hughes. Here is what he wrote. I shall put the entire letter in the RECORD, but let me read what the gentlemen said.

He said this at that particular time, writing back on June 16, 1976. I ask unanimous consent that the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMISSION ON THE OPERATION
OF THE SENATE,
Washington, D.C., June 16, 1976.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR JENNINGS: Your letter of June 2, 1976 referring the proposed purchase of the office building at 400 North Capitol Street to the Commission on the Operation of the Senate for analysis has been received. Copies of your letter will be sent to the members of the Commission and it will be placed on the agenda for discussion at the next meeting which is expected to be in August.

My own view is that the resolution establishing the Commission neither intended nor authorized it to participate in such

> day to day decisions of the Senate as the acquisition of an office building. Rather the task of the Commission is to undertake "a comprehensive study of the organization and operation of the Senate" with a view to suggesting methods of modernization and improvement.
>
> So far as the Commission has been able to determine the Senate does not have a systematic procedure for assessing its future space needs or allocating the available space among the numerous activities on the basis of objective criteria. The last survey of space utilization of which we are aware was conducted in 1973. Reliable projections that relate numbers of personnel and activities of the Senate to requirements for office space and facilities do not exist so far as we have been able to learn. Thus it is not surprising that the Committee on Public Works has found it difficult to make a judgment on the matter of the proposed purchase of an office building.
>
> The present situation results, in part, from the scattered responsibilities for Senate Administration, to which we drew attention in our interim report. For example, the Rules Committee and the Appropriations Committee both play a significant role in creating demands for office space by approving funds for staff. Both the Architect of the Capitol and the Sergeant at Arms have responsibility for developing plans to meet the resulting space needs. The Public Works and Appropriations Committees share responsibility for approving and funding the construction or acquisition of additional office space. Finally, the Rules Committee assigns office space. We hope that our interim observations with respect to the need for greater integration in the provision of administrative services to the Senate will result in actions to improve this situation.
>
> There have, of course, been a variety of studies and discussions of some various aspects of the Senate's space problem. Your letter refers to action by the Appropriations Committee, a hearing by the Subcommittee on Buildings and Grounds, and consideration by the Public Works Committee on May 20. There have also been on-going efforts of the Architect of the Capitol and the Sergeant at Arms with respect to these matters.
>
> It seems unlikely, in my view, that the chronic space problem of the Senate will be resolved until sufficient authority and responsibility is given to a Senate official to permit him to act effectively and impartially to meet the needs of the Senate in this area. This official should be held accountable for (1) developing and publishing objective criteria for the allocation of existing space; (2) allocating space on an equitable and rational basis; (3) planning in detail for the future space needs of Senate activities (including the acquisition of additional space); and (4) taking such actions as may be required to meet the expected demand.
>
> The considerations that it would be necessary to address to determine the space requirements and allocations of the Senate are listed in Attachment A. An effort to provide answers to the questions listed, and probably others, would appear to be necessary as the basis for reaching a judgment as to the "justification and feasibility" of purchasing the office building at 400 North Capitol. A full study of these matters would, no doubt, require the time of a number of people and consume a number of months, a task the tight schedule of the Commission does not permit it to undertake.
>
> With best wishes,
>
> Sincerely,
>
> HAROLD E. HUGHES,
> *Chairman.*

Mr. HOLLINGS. I am quoting the final paragraph:

> A full study of these matters would, no doubt, require the time of a number of people and consume a number of months, a task the tight schedule of the commission does not permit it to undertake.

Mr. CULVER. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. CULVER. Will the Senator be kind enough to read on?

Mr. HOLLINGS. That is the last line.

Mr. CULVER. I mean read the correspondence, if the Senator would. I also am going to put that letter in the RECORD but I think we want to reflect the situation accurately.

The owner withdrew the offer to sell the day after the Senate Committee on Public Works voted to refer it to the Commission. The issue was moot at that time, so far as the need for the so-called Culver Commission even to review the issue.

Second, the letter goes on to say, after including a series of questions and issues, that they could easily understand why the Senate Committee on Public Works felt incapable of making an informed judgment on the question of this purchase.

I have a letter dated September 7, 1976, from the staff director of the Commission, saying:

> Thank you for your inquiry concerning the status of the Commission's work on space acquisition, development, allocation and utilization.
>
> At the Commission's meeting on August 25, the subject of space was discussed at length, and a working group was formed to pursue the matter because of the many considerations involved. In addition, a member of the Commission staff is working on various aspects of the issue.
>
> As you know, the Commission's final report is due December 31, 1976. Space will undoubtedly be one of the important issues treated therein.

Mr. HOLLINGS. Now, Mr. President, if I may have the floor back again, I am going to read that letter and see wherein it refers to the cancellation——

Mr. CULVER. It does not refer to the cancellation.

Mr. HOLLINGS. If I may complete my statement—wherein it refers to the cancellation by the owners putting it up for sale the day after it was referred to the Commission. "Inference," "Catch-22." "What is going on behind the doors?" "Let us grease the palms," and all these other expressions.

Again, another inference, that once it was referred by Public Works to the Culver Commission, then they took it off the market.

That is what the gentleman just said. He said, "Read the letter. Read the letter."

Here is a "DEAR JENNINGS" letter by Harold E. Hughes, Chairman:

> Your letter of June 2, 1976 referring the proposed purchase of the office building at 400 North Capitol Street to the Commission on the Operation of the Senate for analysis has been received. Copies of your letter will be sent to the members of the Commission and it will be placed on the agenda for discussion at the next meeting which is expected to be in August.
>
> My own view is that the resolution establishing the Commission neither intended nor authorized it to participate in such day to day decisions of the Senate as the acquisition of an office building.

I repeat: Here is what the chairman of the Culver Commission is saying to you:

> Rather the task of the Commission is to undertake "a comprehensive study of the organization and operation of the Senate" with a view to suggesting methods of modernization and improvement.
>
> So far as the Commission has been able to determine the Senate does not have a systematic procedure for assessing its future space needs or allocating the available space among the numerous activities on the basis of objective criteria. The last survey of space utilization of which we are aware was conducted in 1973. Reliable projections that relate numbers of personnel and activities of the Senate to requirements for office space and facilities do not exist so far as we have been able to learn. Thus it is not surprising that the Committee on Public Works has found it difficult to make a judgment on the matter of the proposed purchase of an office building.

Incidentally, that is how they found it was difficult for the Committee on Public Works to make that judgment.

> The present situation results, in part, from the scattered responsibilities for Senate Administration, to which we drew attention in our interim report. For example, the Rules Committee and the Appropriations Committee both play a significant role in creating demands for office space by approving funds for staff. Both the Architect of the Capitol and the Sergeant at Arms have responsibility for developing plans to meet the resulting space needs. The Public Works and Appropriations Committees share responsibility for approving and funding the construction or acquisition of additional office space. Finally, the Rules Committee assigns office space. We hope that our interim observations with respect to the need for greater integration in the provision of administrative services to the Senate will result in actions to improve this situation.

Mr. President, I shall skip the next two paragraphs, just because it is 3 minutes to 2, and we want to cover a couple of things before 2 o'clock, when we have to go off the debate. I am reading the last paragraph:

> The considerations that it would be necessary to address to determine the space requirements and allocations of the Senate are listed in Attachment A. An effort to provide answers to the questions listed, and probably others, would appear to be necessary as the basis for reaching a judgment as to the "justification and feasibility" of purchasing the office building at 400 North Capitol. A full study of these matters would, no doubt, require the time of a number of people and consume a number of months, a task that tight schedule of the Commission does not permit it to undertake.
>
> With best wishes,
>
> Sincerely,
>
> HAROLD E. HUGHES,
> *Chairman.*

Mr. President, the distinguished Senator from Iowa and the distinguished chairman of the subcommittee, the Senator from North Carolina (Mr. MORGAN) could have gone over to see that building any time. The Senator from Iowa made a scattered report and we can get into that particular report. He says as to that report, which is highly important in the fact that he says it was not on account of the quality of the building—there is no reason to come now, because we spent Labor Day walking through a building, to act like the Senate had not considered these things: office space, parking space, the need, the economy, and everything else. Anybody connected with it who attended the hearings and listened to the debate and, over the years, watched these things develop—yes, what the Senator from Pennsylvania says is highly important. We get so deliberate, we get so consultive, we get so expert and we keep studying things so, that they cost more and more and more. This is the first time, Mr. President, that we have had a building that we could see—not project and then have hearing after hearing after hearing for cost overruns. There is no Catch-22. There are none of these other things, with respect to the phraseology of the Senator from Iowa, about saying on the one hand that we ought to have experts and then, when he starts talking of experts, namely, those in the business, those that he says are highly skilled, those that he says are highly professional in the business and make a good living—they ended up, first, he says, with a haunted house, then he said with a greenhouse. Then he called it some other kind of house at the very end—well, he characterizes it generally as a turkey.

He says, "Get experts, get people in the trade, get people in the business, people we know will make it."

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The PRESIDING OFFICER (Mr. GLENN). The hour of 2 o'clock having arrived, under the previous order, the Senate will now resume consideration of H.R. 8532, which the clerk will state.

The legislative clerk read as follows:

> Message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. The time for debate shall be limited to 1 hour to be equally divided and controlled by the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Nebraska (Mr. HRUSKA).

Who yields time?

Mr. ABOUREZK. Mr. President, I yield 10 minutes to the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the time for final Senate action on the Hart-Scott antitrust bill has come at last. Perhaps only the tax reform bill has been the subject of such extensive committee and floor consideration as this legislation. The Hart-Scott bill is important. It holds immense implications for the small businesses and consumers of our country, and for our national economy in general.

We have no general governmental controls over prices, and in most fields outside the regulated industries the marketplace alone must be the regulator. But for the marketplace to give us the best products for the lowest prices, it must be free from artificial, illegal restraints. That requires strong, vigilant antitrust enforcement. It also requires involvement by not only the Federal Government, but by State governments and private parties. The Hart-Scott bill would help significantly at each level.

I believe that the compromise version of H.R. 8532, reflected in the motion offered by Senator ROBERT C. BYRD on which we will soon vote, is a good first step in the right direction. The Antitrust Division needs the added information it will learn from its expanded authority to issue CID's under title I, and the notice of a larger merger before it is consummated which title II requires will help. Most importantly, State attorneys general should have the authority provided by title III to protect the citizens of their respective States from illegal price-fixing. This bill will make possible a more vigorous and effective enforcement of the antitrust laws and, thus, the reduction of anticompetitive practices in the economy, which can significantly contribute to the reduction of prices, unemployment, and inflation.

I must note, however, my deep regret that the sponsors of this measure have had to eliminate or rewrite so many of the provisions passed by the Senate this June. Compromise was required because of the impossibility of our going to conference in an expeditious and orderly manner.

In June we were subjected to extensive debate on this bill, and in order to end the apparent impasse—an impasse which followed invocation of cloture, I should add—a number of major compromises were made in the Senate version. Then, just 2 weeks ago, it appeared that the supporters of the bill, the over 60 Senators who voted for it again and again, would have to start all over just to have our conferees appointed.

We are further assured that even after that the conference report would be the subject of lengthy debate without time limitation.

With a second favorable cloture vote last week, the Senate was still faced with some 113 amendments and motions introduced by a handful of opponents of the bill. I was glad to see that the spirit of cooperation was not totally and completely dead in this body and that a time certain was finally set for a vote on the pending motion.

Some Members of the House have indicated they are dissatisfied with the proposed compromise, Mr. President. So am I.

I believe that it is unconscionable for us to tell the people of America that the kind of patent fraud which cost them hundreds of millions of dollars in recent years at the hands of a few drug companies cannot be redressed by parens patriae actions. But that is what this measure, as it now stands, tells them.

I believe that the Justice Department should be able, through rulemaking, to require advance notice of acquisitions in selected concentrated industries or by chronic antitrust violators even where smaller firms are involved. But it cannot do so under the present bill.

It seems to me wholly unreasonable to use the Federal Rules of Civil Procedure standard for quashing subpenas. But that is precisely what the present bill before us would use. And I am strongly opposed to a blanket exception from the Freedom of Information Act for information filed under the premerger process. Yet the bill provides for that, too.

I also think that the Senate's miscellaneous title contained important and badly needed provisions. The House conferees involved in informal discussions on this bill would have none of the substantive ones, however.

So I join my colleagues in the House who think that there are parts of this bill which could be different and which should be different. And I hope we can meet across a conference table in the next Congress to discuss even stronger antitrust laws, and tighter amendments to the one we will vote on today.

But I have been through six or eight committee sessions on this bill. I have been on the floor for a dozen days in May and June, and again at the end of August and the start of this month. I have been through innumerable meetings in the leader's office, in the minority leader's office, in Senator PHILIP A. HART's office, in the cloakroom, with Chairman RODINO, and elsewhere on this bill. And I say let us stop. Let us stop looking out for the interests of violators of the antitrust laws and let us stop playing fast and loose with the most precious principle of our American economic system—competitive free enterprise. Let us stop the procedural tangles. Let us stop the political posturing. Let us get on with the people's business and pass this bill.

On earlier occasions I have criticized the President for waffling on this legislation. But I think the administration wants this bill enacted, too. President Ford has written that his administration "has supported effective, vigorous, and responsible antitrust enforcement." He publicly supports title I. His administration—through the Justice and Treasury Departments—is on record supporting title II. And they have not been silent on title III either.

Before the House in March 1974, Assistant Attorney General Kauper testified: "We support the basic concept" of a parens patriae action. In May 1975, he testified here that "we support the basic concept embodied in the parens patriae provisions" of the bill. In September 1975, Mr. Kauper wrote us that the "administration has taken a position in support of the basic concept of permitting a State to sue on behalf of its citizens for damages sustained because of violations of the Sherman Act." In February 1976, Deputy Attorney General Tyler wrote us that the "administration adheres to its previously expressed position" on these provisions of the Senate bill.

All these positions were cleared by the responsible officials at the Department of Justice through the responsible officials in the White House. The administration, as it speaks through its executive departments on other legislation, took an official position—in this case, one of support.

But then there was a brief turnaround. It was attributed in some press accounts to big business lobbying of the President himself. But finally the President went on record in a letter to the House minority leader proposing four changes to the parens patriae legislation. To my view, each of these changes watered down the legislation and made it less effective. But my view did not prevail. In the version we are voting on today, the President will be getting two of his four points: The bill will be limited to price-fixing violations; aggregation of damages will be restricted to parens patriae actions. On the third and fourth point—relating to awarding of attorney's fees and discretionary trebling of damages—the bill sticks with 86 years of antitrust precedent and leaves recovery in parens patriae actions on a par with recovery in all other comparable private antitrust actions—hardly a radical or irresponsible step. So we have already gone one-half of the way for the President on this last title.

Even now, Mr. President, I hear rumblings in the back of the Chamber about Presidential disapproval, about veto threats, about House rejection. Well, the President has gotten two titles he fully supports and one title he objects to only one-half of the way. The House has gotten its way on some 26 of the 41 points in disagreement between the two bodies; the Senate position prevailed on 10; 5 others have been compromised. That is 2½ to 1 on that scorecard, hardly a disappointing showing from our friends in the other body.

Enough is enough, we have compromised the bill down and down, severely narrowing or even eliminating substantial portions of the original S. 1284. What remains may not be the best possible bill, but it is a good one. It will help bring better enforcement of the antitrust laws. It will be a solid step in the right direction.

It should be evident by this time, Mr. President, that although much of the Senate debate has been taken up with discussion of Latin phrases like "parens patriae" and references to technical tools of the antitrust trade like "civil investigative demands," what we are really talking about are hundreds of millions of dollars of illegally gotten gains accruing to antitrust violators from the pocketbooks of American citizens. The objective of the Hart-Scott bill is to attack this problem on three fronts by strengthening the ability of the Department of Justice, of State attorneys general, and of the public and small businesses to enforce the Federal antitrust laws.

The stakes are unquestionably high, they are high for the businessman quoted in Business Week last year as saying that price fixing goes on "in every business * * * there's an unwritten law that you do not compete." They are high for the corporate executive quoted in Newsweek to the effect that businesses go ahead with violating the antitrust laws since the odds against getting caught are in your favor.

They are also high for the small business and the innovative and efficient larger firm that wants to win the consumer dollar by giving the public a better product at a lower price, but whose potential profits get sapped off by monopolistic behavior of less scrupulous competitors.

And the stakes are high too, for the American public who pay more for less when the antitrust laws go unenforced.

These honest businessmen and hard-working consumers are the real beneficiaries of this bill. That is why I so strongly support the Robert C. Byrd motion and urge my colleagues to join in passing it today.

The PRESIDING OFFICER (Mr. Tower). Who yields time?

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Who yields time?

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum with the time to be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I yield 10 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Nebraska for yielding to me.

Mr. President, the first vote will come at 3 o'clock. It is on the substitute which I have offered to the Byrd motion. If my substitute fails to carry, then there would be a vote on the Byrd motion.

My substitute provides the very same provisions that constituted the Senate action on July 10.

The distinguished Senator from Massachusetts (Mr. Kennedy) says that he regrets that we cannot retain the provisions of the Senate bill.

We can retain the provisions of the Senate bill if he and others associated with him in this legislation would vote for my amendment because it does embody the exact provisions of the Senate position on June 10.

A whole lot has been said about a compromise with respect to that Senate bill. If there was a compromise, why do not those who support the enactment of this bill back the compromise, if one existed, which was in the enactment of the Senate bill.

That is the only possible compromise there could have been because that was the Senate action.

Senator Hruska and I support standing by the Senate provisions, the bill we passed here on June 10, that they say was the result of a compromise.

Speaking of compromise, it seems that the proponents of the legislation are quick to say there is a compromise. The distinguished Senator from Massachusetts spoke of this Byrd motion as being a compromise. A compromise as between whom, Mr. President?

The Members from the Senate that are said to have talked with some House Members, names not given, I believe, were the distinguished Senator from Massachusetts (Mr. Kennedy), Mr. Abourezk, and Mr. Hugh Scott, all ardent supporters of this legislation.

To have a compromise, we have to have an agreement as between opposite or opposing views. So we do not have any element of compromise as regards the Senate position because all of these were in favor of having the most severe bill possible.

Now, was there a compromise with the House?

By the way, the House conferees are named here as shown on page 28 of the calendar, but Mr. Railsback of the House said there was never any meeting. What he said was that the Senate presented its position. The House made a counteroffer, and the members of the rump conference, Mr. Kennedy, Mr. Abourezk, and Mr. Hugh Scott, submitted in answer to the House position another proposal which the House Members did not agree to.

Mr. Railsback and Mr. McClory both say that the so-called compromise, the rump conference compromise which was offered by Mr. Byrd, is deficient in three particulars. It varies from the House proposal in three particulars. So that there is no compromise. And what Mr. Abourezk and Mr. Kennedy would have us do—and I see that Mr. Scott is not in the Chamber, I am assuming he does not attach too much importance to this effort—is to take the fruits of this self-appointed group of three, who had no authority to reach a compromise on behalf of the Senate. True, it was a rump conference committee, they never had any meetings, apparently, with the House Members, and certainly not with the conferees.

Members of the conference committee say on the floor of the House that there was no compromise. Yet this instrument was paraded in here, put into the legislative mill without any explanation whatsoever about it, and it is going to be rammed down the throats of the Senate after a vote on my amendment. Then it is going back over to the House and say to the House Members, with a gun at the head of the House Members, "Take this or leave it."

The House Members do not want it. As Mr. Railsback said, the efforts of the sponsors of this legislation are putting this legislation in grave jeopardy because the House has said that they want no part of contingency fees, that they do not want treble damages in parens patriae cases by the State attorneys general where there is a good faith violation.

On the matter of retroactivity, far different from what Mr. Hart of Michigan said, that the Senate retroactivity provision was retained, it was not retained because it was changed in a very material nature in that under the Senate provision there could be no suit for actions that took place prior to the enactment of this legislation.

The Byrd motion now provides that there can be retroactive suits for actions that took place before the passage of the bill, provided the damages occur after the enactment of the legislation.

So there are three main points where the fruits of the conference vary from the House position. I have a copy of the House proposal. This is said to be a compromise, but the House Members say there was no compromise.

So this is being rammed down the throats of the Senate by Mr. ABOUREZK and those associated with him. We are going to tell the House to take it or leave it. In doing this, we are departing from the Senate position as expressed on June 10.

I hope the Senate will stand by its position of June 10, and that it will adopt the pending amendment on which there will be a vote at 3 p.m.

Mr. SPARKMAN. Will my colleague yield?

Mr. ALLEN. I yield.

VISIT TO THE SENATE BY MEMBERS OF THE SENATE OF FRANCE

Mr. SPARKMAN. Mr. President, we are honored today by the visit of a rather large group of distinguished Members of the French Senate, the Vice President of the French Senate, the chairman of the group, and the Ambassador representing the French Republic in this country. They are standing in the back of the Chamber.

I shall ask unanimous consent that we have a 5-minute recess, giving the Members of the Senate an opportunity to speak to them and, at the same time, I ask unanimous consent that a list of the visiting Senators be printed at this point in the RECORD.

There being no objection, the list of visitors was ordered to be printed in the RECORD, as follows:

The Honorable Etienne Dailly (Radical Party, Seine-et-Marne) Vice President, Senate of France, President, U.S.-French Friendship Group of the French Senate.

The Honorable Ladislas Du Luart (Independent Republican, Sarthe).

The Honorable Francis Palmero (Center for Democratic Progress, Menton).

The Honorable Jean Peridier (Socialist, Hérault) Vice President, U.S.-French Friendship Group of the French Senate.

The Honorable Auguste Billiemaz (Democratic Left, Ain).

The Honorable Jacques Bordeneuve (Democratic Left, Lot-et-Garonne).

The Honorable Jean Fleury (Union of Democratics for the Republic, Hauts-de-Seine).

The Honorable Jacques Habert (Senator for the French people living outside France; not affiliated with a political group).

The Honorable Catherine Lagatu (Communist, Paris).

The Honorable Auguste Pinton (Democratic Left, Rhône).

The Honorable Michel Yver (Independent Republican, Haute-Loire).

The Honorable Andre Rabineau (Centrist Union of Democrats for Progress, Allier).

The Honorable Robert Schmitt (Union of Democrats for the Republic, Moselle).

The Honorable Maurice Verillon (Socialist, Drôme).

The Honorable Michel Yver (Independent Republican, Manche).

Mr. M. Touchard, Administrateur of the Senate.

Accompanied by:

His Excellency Jacques Kosciusko-Morizet Ambassador of France.

Mr. Gabriel de Bellescize, Counselor of the Embassy of France.

Mr. Bernard Gotlieb, Second Secretary of the Embassy of France.

Mlle. Marie de Villardi de Montlaur, Attache of the Embassy of France.

Mr. HUGH SCOTT. Will the Senator yield?

Mr. SPARKMAN. Yes.

Mr. HUGH SCOTT. Mr. President, I join in the request for the recess so that we may greet the Vice President of the Senate of France and the other Senators who have appeared here for the purpose of making important presentations to the U.S. Senate of one of the two or three known copies of an engraving of Washington's Farewell Address and a letter to George Washington from the Marquis de Lafayette of a personal and friendly nature. These items will be valued parts of the Senate's momentos of our Bicentennial Celebration. I propose that we show our appreciation to our French colleagues by our applause at this time as the recess takes place.

Mr. SPARKMAN. If the Senator will withhold that for a moment, Mr. President, I should like to call attention to the fact that there are 16 Senators visiting in the United States for our Bicentennial from September 6 through September 13. They have visited, or will visit during their stay, Yorktown, Williamsburg, Monticello, and New York City, as well as Washington. It is a great occasion for us for them to come and help celebrate our Bicentennial. I ask unanimous consent now that we stand in recess for 5 minutes.

[Standing applause.]

RECESS

There being no objection, the Senate, at 2:24 p.m., recessed until 2:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. TOWER).

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, without the time being taken out of either side, and I ask unanimous consent for an additional 5 minutes to each side because of the recess.

Mr. ABOUREZK. Will the Senator withhold that for a moment?

Mr. MANSFIELD. Yes.

Mr. ABOUREZK. Does the Chair want to rule on the majority leader's request to add 5 minutes?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ABOUREZK. Mr. President, if I may have the attention of the Senator from Nebraska, I am going to propound a unanimous-consent request: following the vote on the Allen amendment, provided the Allen amendment is not accepted by the Senate, I ask unanimous consent that there be a period of 4 minutes between the vote on the Allen amendment and the vote on the Byrd motion for the purposes of offering a series of technical and clarifying amendments which have been agreed to by Senator HRUSKA and myself.

Mr. HRUSKA. Will the Senator yield?

Mr. ABOUREZK. Yes.

Mr. HRUSKA. I join in that request, Mr. President. I would like to say that these amendments are those which were agreed upon by the Senator from South Dakota and myself pursuant to the unanimous-consent agreement under which we are now proceeding with reference to this matter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I yield myself such time as I may consume.

I notice that there is a sort of "dear colleague" letter laid upon every Senator's desk from Senator ROMAN HRUSKA, dated September 8, which discusses the position of the opposition to the antitrust bill. I think some of the elements of this "dear colleague" letter deserve comment.

The first point that is made in the letter is the point about attorneys' fees. Throughout the debate on this matter, there has been effort after effort made to try to give the impression that the availability of percentage contingency fees will be a wide-open license for private attorneys to start suits for the purposes of blackmailing corporations into settling, and thereby enriching the private attorneys who bring the suits.

I have pointed out each time this has been brought up that this bill bars all percentage contingency fees. On page 35 of the Byrd motion, about halfway down the page—and I would like to read it to the Senate—the bill prohibits—

> A contingency fee based on a percentage of the monetary relief awarded under this section.

Back on page 33, there is a section that says:

> The amount of the plaintiffs' attorney's fee, if any, shall be determined by the court.

I do not know how much more clear we could make it. Percentage contingency fees are flatly prohibited by the express language of the bill. A judge cannot award a percentage contingency fee to a private attorney.

What a judge could do under this law is award a contingency fee on an hourly basis, based on the amount of time actually spent by the attorney.

It has been very disturbing to me to see the consistent reference, both in speeches and in letters such as this dear colleague letter, that this bill will allow astronomical percentage contingency fees.

The second point that is made by the opponents to the antitrust bill is that the Byrd motion prevents treble to single damage reduction if "good faith" is shown. The Business Round Table has urged that the bill allow a reduction in the amount of damages from treble damages down to single damages if it can be shown that a business or corporation convicted of having fixed prices acted in "good faith" when they fixed them. I ask you, how can you fix prices in good faith? I do not know of a way that it can be done, unless the Business Round Table or its members have figured out a way they can do it. Perhaps they have found a way. But I would suspect, Mr. President, that the inclusion of a "good faith" provision, is intended by its advocates to confuse the courts and to increase litigation in efforts to try to interpret that section. Where the bill is clear now, they want to confuse it and make it vague. I think that the proposal is invalid on its face.

So far as the retroactive effect of this legislation is concerned, this letter denounces the provisions in the Byrd motion. Let me clarify this point.

The effective date (section 304) in the Byrd motion is the same in all essentials as the Senate-passed bill. If a price-fixing conspiracy terminated prior to the date of enactment, no parens patriae action may be filed under section 4C. If a price-fixing conspiracy continued after the date of enactment, a parens patriae action under section 4C would lie with respect to injury sustained subsequent—but not prior—to the date of enactment. In such case, evidence of the price-fixing conspiracy that occurred prior to the date of enactment would be admissible to establish liability for the injury sustained through continuation of the conspiracy subsequent to the date of enactment.

Mr. President, I hope that we have laid these arguments to rest once and for all. It is frivolous on the part of the opposition to continue to bring them up when, for example, in plain language in the legislation itself bans percentage contingency fees.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

Mr. President, the issue of contingency fees is a very simple one. The House of Representatives, the other body, adopted a provision which amounts to an absolute ban against any kind of contingency contract or basis. That was modified in this body by the amendment which stated that there would be no contingency fee basis on a percentage, but it left open the possibility and the likelihood of a contingency fee contract on a basis other than percentage.

The amendment that was adopted here and which is proposed in the Byrd-moved substitute is that a State attorney general means the definition stated in section (1) of 4G—

> Except that such term does not include any person employed or retained on—

And subsection (B) says retained on—

> any other contingency fee basis, unless the amount of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the court under section 4C(d)(1).

Mr. President, to paraphrase that, it simply means that any contingency fee basis if approved by the court is permitted. The meaning is clear. I do not care to belabor the point because each one is going to read that and decide what it does mean.

Mr. President, I refer to the remarks by Representative RAILSBACK who deals with this in his remarks on the floor of the other body on September 2, and I read now from his statement:

> First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

That spells it out pretty well. I quoted from the RECORD because there is not any question but what contingency fees, if they are on a basis other than percentage, are allowed in this bill conditioned only upon approval by the court. And the court has to approve the fees in any event. So that issue ought to be clear.

As to the point of retroactivity, there is a difference, Mr. President, in the language in the Allen amendment and in the Byrd-moved substitute. In the Allen amendment the language is that the authorized parens patriae actions are authorized only for a cause of action accruing subsequent to enactment. That is not the language in the Byrd-moved substitute. That language is to be found as follows:

The compromise, the Byrd-moved substitute, permits suit for injury sustained after enactment. Substituting "injury sustained" for "cause of action" totally reverses and changes the nature of the eligibility and the applicability of this bill as between those causes which accrued prior to enactment and those which accrued afterwards. Under the bill as in the Byrd-moved substitute, if a cause of action arises before enactment but injury is not sustained until after the enactment, there is an applicability of this bill to such a situation.

It is not so available under the Allen amendment, and therein lies the difference. What the court will have to decide in each of these cases is as to the chronology of those two events, the accruing of a cause of action and the accruing of the injury sustained. It would not be fair to expose business to an assurance that a cause of action does not exist before the enactment and then have the act applied to that regardless.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question on attorney's fees?

Mr. HRUSKA. Yes, for a brief question.

Mr. ABOUREZK. I assume that, since the Senator's concern is about this legislation benefiting private attorneys rather than the public, would the Senator from Nebraska support legislation which bans all contingency fees for personal injury cases and malpractice cases?

Mr. HRUSKA. I did not get the question.

Mr. ABOUREZK. The question is, would the Senator support legislation that would outlaw all contingency fees for personal injury and malpractice cases?

Mr. HRUSKA. The Senator well knows that we are not in a point in the consideration of this bill where amendments can be entertained, so I think the question is idle. I think it is moot.

Mr. ABOUREZK. But does the Senator support the principle of banning all contingency fees, I repeat, all contingency fees, not just in this bill itself, but all?

Mr. HRUSKA. I do not know that we are conducting a seminar here on the law of contingency fees or barratry or anything of that kind. The subject has no relevance to the discussion before us, so I think it would not be profitable to pursue it.

The Allen amendment is the bill approved by the Senate on June 10. The Byrd-moved substitute is a so-called compromise with the House, which was not approved or agreed to by the House conferees, and may well be rejected by the House and disapproved by the President.

Senator BYRD's so-called compromise departs from the June 10 Senate-approved bill, among other ways, as follows:

First. Broadens private lawyer fee opportunities—new section 4G(1)(B) would permit any contingency fee award, other than a "percentage" fee, subject only to court approval. This new provision not only goes beyond the June 10 Senate bill, but destroys the absolute ban on contingency fees voted by the House.

Second. Prevents treble to single damage reduction if "good faith" is shown—To protect against heavy sanctions for inadvertent offenses, the House provided for discretionary single damages. This safeguard against ruinous liabilities is omitted. It was not included in the Senate bill or in the Byrd-moved substitute.

Three. Dilutes protection against retroactive liabilities—The June 10 Senate bill authorized parens patriae actions only for a "cause of action accruing subsequent" to enactment. The "compromise" permits suits for "injury sustained" after enactment, based on prior conduct even if it predates enactment.

The above changes were not accepted by House conferees. No conference occurred. House conferees McClory and Railsback protest this "misunderstanding" by Senators, and warn that the Senate proponents' actions "will place the life of the antitrust bill in jeopardy."

A vote for the Allen amendment, which is the Senate bill approved June 10, insures the remaining differences between Senate and House can be resolved promptly.

A vote for the Byrd-moved "compromise," which is no compromise with the House, will "place the life of the antitrust bill in jeopardy" in the House.

Ironically, key remaining differences do not relate to titles I and II, providing for stronger antitrust enforcement. They concern mainly limitations on unjust enrichment by private lawyers in parens patriae suits.

By a vote of 217 to 167, the House has disapproved efforts to water down its absolute ban on contingency fee arrangements. The House compels private lawyer compensation to be on a noncontingent hourly fee or dollar basis, not out of judgments or settlement awards.

The Byrd-moved substitute would permit nonpercentage contingency and other open-ended fee arrangements, subject only to routine court approval—thus facilitating unjust enrichment by private lawyers on the fee basis disapproved by the House.

Titles I and II are now broadly acceptable to both Houses and to the President.

The fate of the entire legislation now hangs heavily on absolute or watered-down safeguards against unjust private lawyers' compensation.

The reprints of remarks of Representatives Railsback and McClory—both House conferees—are revealing.

Reference is made by Representative Railsback to the entire bill is in serious trouble if the Senate continues on its present course. Upon inquiry as to nature of serious trouble, this Senator's attention was called to the vote in the other body on the absolute ban of contingency fee basis; 217 favored the amendment, 167 opposed it.

I ask unanimous consent that the September 2 remarks in the Record by Representatives Railsback and McClory be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT OF MR. RAILSBACK ON THE OMNIBUS ANTITRUST BILL

Mr. Railsback. Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the Congressional Record, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. This is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one judges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body, and were generally recognized as such. The Senate versions, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

OMNIBUS ANTITRUST BILL

(Mr. McClory asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McClory. Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill. H.R. 8532. The Senate has voted cloture and has agreed to an up-or-down vote on its amendment next Wednesday afternoon.

Now, it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House conferees rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith" and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the conference committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

Mr. HRUSKA. I reserve the remainder of my time and yield the floor.

Mr. ABOUREZK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Dakota has 7 minutes remaining.

Mr. ABOUREZK. I yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have some trouble in following the logic of the position which has been expressed here in the Chamber by the Senator from Nebraska and the Senator from Alabama. First of all, they go and spend hours and days in opposing the legislation, which eventually passed the Senate in June of this year, virtually opposing about every different provision in there.

Now they say that they want that legislation to be acted on favorably this afternoon, because they differ with the various provisions of it. I ask, how can we possibly follow that Alice in Wonderland rationale? They want us to support it, because they differ with it. They voted against it, but they say it is imperative that we act on it favorably this afternoon.

It is quite clear, Mr. President, that this is a technique and a device, once again, to sidetrack the essential thrust of this piece of legislation to try to protect the American consumer and the American businessman or woman who is trying to comply with a free and open economy and not be submerged by anticompetitive actions.

I think the Senator from Michigan (Mr. PHILIP A. HART) has spelled out precisely and exactly what everyone who sponsored this legislation believes to be the case in terms of the contingency fees. The Senator from South Dakota has done likewise.

It seems to me, Mr. President, that we should recognize the very fair and absolute truth that if we are effectively going to accept the position of the Senator from Nebraska and the Senator from Alabama with regard to this provision involving contingency fees, we will eliminate what I consider to be the most essential aspect of the entire legislation, which is title III. That is what we are talking about in terms of this legislation.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. ABOUREZK. Mr. President, I yield 2 minutes of my time to the Senator from Georgia (Mr. NUNN), and Senator HRUSKA wants to yield 2 minutes of his time to Senator NUNN.

Mr. HRUSKA. I will be happy to yield all 4 minutes. That arrangement is satisfactory to me.

Mr. ABOUREZK. I reserve 3 minutes for a summary of our position.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 4 minutes, the time to be equally charged to both sides.

(The proceedings which occurred at this point in connection with S. 2587, a bill to authorize the establishment of the Chattahoochie River Urban Recreation Area in the State of Georgia, are printed later in today's record of Senate proceedings.)

Mr. ALLEN. Mr. President, how much time remains to the distinguished Senator from Nebraska?

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes.

Mr. HRUSKA. I yield myself 1 minute, after which I will yield to the Senator from Alabama.

Mr. President, the distinguished Senator from Massachusetts confesses to some bafflement, because of the logic of the Senator from Nebraska and the Senator from Alabama, in that at one time we were opposed to the bill that was passed on June 10 and we are now in favor of it. I have one short comment on that situation.

The degree of my bafflement at the logic of the Senator from Massachusetts and the Senator from South Dakota is equally strong, because there was a time when they favored the June 10 legislation, they voted for it, and now they want to abandon and reject it. So on that score, I am sure that we are on an even basis of equally being baffled.

I yield the remainder of my time to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Nebraska.

I, too, fail to understand the logic of the distinguished Senator from Massachusetts (Mr. KENNEDY), because he has been speaking here against the substitute which is the Senate position as of June 10. So why should he oppose that and reach out and get a so-called compromise? He claims it is a compromise. Yet, the House Members say it is not a compromise and have so stated on the floor. They point out the important differences between the House position and this so-called compromise. There has been no compromise with the House. We have the word of the House Members for that, spoken on the floor of the House.

Why the proponents of this legislation would abandon the Senate position of June 10, a position for which they struggled for days, and then take some unknown position that is at great variance with the House position, and then say to the House, "You must accept this or we will have no bill; don't send it back to us in conference; take it or leave it," I do not know.

They put the laboring oar on the House and leave it up to them and seek to ram down the throats of the House a measure that has not been cleared with anybody over there, and they have not had any meeting.

What kind of conference would it be, to take three leading advocates of the bill from the Senate to constitute themselves a rump conference, to negotiate with certain House Members, names unknown, and we never have been told who they were, and then to say that we have a compromise? There is no compromise, as shown by the House position.

We do have an opportunity, on the vote that starts at 3 o'clock, to vote for the Senate position of June 10. That is the position that was contended for; it is the position that the Senate agreed upon. I would not be for that on final passage, but I do favor that over some unknown position that in all likelihood will not be accepted by the House and will put us in the same position again.

I hope that the Senate position of June 10 will be reasserted by agreeing to the pending amendment.

Mr. ABOUREZK. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from South Dakota has 3 minutes.

Mr. ABOUREZK. Very briefly, the Senator from Alabama and the Senator from Nebraska know exactly why we have offered this compromise. The reason is that, by virtue of their threat of delaying tactics, we were unable, we were prevented from going to conference to try to negotiate with the House and from using the leverage and bargaining power of the Senate in a conference committee to obtain a stronger version of this bill. We would have preferred the Senate version, which is now the Allen amendment, far more than we prefer the bill that we are dealing with now in the Byrd motion.

However, one thing the Allen amendment will do, if it passes, it will kill antitrust legislation for the balance of this session of Congress. There is no way that the House is going to accept the Allen amendment, no way whatsoever, because it contains a stronger bill. There is an indication that the chances are excellent that the House will accept what is now known as the Byrd motion.

As we have stated, time and again, in the RECORD and on the floor, the Byrd motion consists of approximately the position that the House conferees agreed upon in a day-long meeting that they held on the House side after we advised them of our predicament in trying to shut off another filibuster here in the Senate.

So, to wrap it up, Mr. President, a vote for the Allen amendment is a vote to kill antitrust legislation for this session. A vote for the Byrd motion is a vote to accommodate the Members of this body, some 60-plus Senators, who want an antitrust bill for this year. I urge defeat of the Allen amendment and I urge the passage of the Byrd motion.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. ABOUREZK. I reserve the remainder of my time, Mr. President.

Mr. McCLELLAN. Mr. President, as the ranking majority member of the Subcommittee on Antitrust and Monopoly I had hoped that it would be possible for me to vote for constructive antitrust enforcement legislation. While there are sections of this legislation that are desirable, I am voting against the motion to adopt the substitute amendment, because of my strong objection to the parens patriae title.

I have no serious objections to the titles of the substitute which amend the Antitrust Civil Process Act, and which provide for premerger notification. I would vote for these titles in separate legislation.

The parens patriae title is quite another matter. The lengthy examination of this title, in my judgment, has only raised additional questions concerning its basic premise and constitutionality. The proponents have failed to demonstrate that it will confer a significant benefit on anyone other than the antitrust bar. To describe this title as "consumer legislation" serves only to indicate the need for a "Truth in Legislative Labeling Act."

As the chairman of the Patents Subcommittee, I wish to review the legislative history concerning the application of the parens patriae title to various patent activities. No special reference to patents was contained in S. 1284 as reported by the Committee on the Judiciary. By the adoption of two separate amendments on the floor, patent language was added to the parens patriae sections on authorization to sue and aggregation of damages. These amendments were aimed at patent fraud. Contrary to the representations made by the advocates of these amendments, the law governing patent fraud is at the present time in an extremely uncertain state, in contrast to per se offenses, which are regarded as the most clearly defined of antitrust violations.

Both of the patent references have

been omitted in the substitute amendment. It has been understood that this was done, because of opposition in the other body to the patent provisions. In elucidating the scope of the authority to sue under section 301, the language must be read in light of the legislative intent in deleting both patent references of the Senate bill. While the authorization to sue under the substitute is now expressed in more general language than in the bill passed by the Senate, that language with respect to patent matters must be understood as more restrictive than in the Senate bill. It would appear that the legislative intent is to generally reserve for future consideration the development of any new remedies for patent fraud.

The proponents of this legislation have been highly selective in their crusade against anticompetitive practices. They do not confront the tremendous economic and political power of organized labor. The Senator from Texas (Mr. TOWER) last week quite correctly analyzed why the Senate is not dealing with labor unions in this legislation. Shortly before the Senator's remarks, I presided at the hearing on the nomination of Donald Baker, to be Assistant Attorney General, Antitrust. I asked Mr. Baker:

> Do you believe that the Federal statute exempting certain activities of labor unions from the antitrust laws should be re-examined in view of the current economic power of labor unions?

Mr. Baker responded in part:

> So, the answer to your question, should Congress study it, yes, I think it is a highly desirable thing to study.

I then asked:

> Are you saying that present laws are not satisfactory?

Mr. Baker responded:

> I think present law needs to be re-examined.

While I welcome Mr. Baker's statements, I have been informed that of the large professional staff of the Antitrust Division of the Department of Justice, personnel have not been permanently assigned to the study of the economic power of labor unions. It may be well for the division to consider establishing a special section in this area.

Mr. President, the ultimate fate of this legislation remains to be determined. Whatever its final disposition, there will still be an urgent need for the 95th Congress to consider substantive antitrust reform in such areas as the monopolistic power of labor unions.

Mr. HRUSKA. Mr. President, I am prepared to yield back the remainder of my time if the Senator from South Dakota is.

Mr. ABOUREZK. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alabama, No. 2232. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), and the Senator from New York (Mr. BUCKLEY), are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The result was announced—yeas 22, nays 66, as follows:

[Rollcall Vote No. 567 Leg.]

YEAS—22

Allen
Bartlett
Bellmon
Brock
Curtis
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
Long
McClellan
McClure
Scott, William L.
Sparkman
Stennis
Talmadge
Tower
Young

NAYS—66

Abourezk
Baker
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Durkin
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Weicker
Williams

NOT VOTING—12

Bayh
Beall
Buckley
Cranston
Eagleton
Goldwater
Hartke
McGee
Mondale
Montoya
Moss
Tunney

So Mr. ALLEN's amendment was rejected.

The PRESIDING OFFICER (Mr. HATFIELD). Under the previous order, there will be 4 minutes of debate. The Senate will then proceed to vote, without intervening motion or amendment, on the motion by the Senator from West Virginia (Mr. ROBERT C. BYRD) to concur in the House amendment with an amendment.

UP AMENDMENT NO. 427

Mr. ABOUREZK. Mr. President, if I may have the attention of the Senate. By agreement with the Senator from Nebraska, we have submitted a list of clarifying and technical amendments that have been agreed to by both sides. These are amendments to the Byrd motion.

It has been checked by Senator HRUSKA and myself and the staff and we have a unanimous-consent agreement to call them up at this time.

I ask that the clerk state the amendments.

The PRESIDING OFFICER. The amendments will be stated.

The second assistant legislative clerk read as follows:

> The Senator from South Dakota (Mr. ABOUREZK), for himself and Mr. HRUSKA, proposes unprinted amendment No. 427.

Mr. ABOUREZK. Mr. President, I ask that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

> The Table of Contents is amended in the reference to section 301 therein by striking out "on" and inserting in lieu thereof "by".
>
> On page 3, section 102 is amended by striking out "such" and inserting "the Antitrust Civil Process".
>
> On page 6, line 6, strike out "issues" and insert in lieu thereof "issued".
>
> On page 10, lines 14 and 15, strike out "in the presence of the officer or antitrust investigator".
>
> On page 27, line 8, strike out "certification" and insert in lieu thereof "statement".
>
> On page 23, line 1, strike out "presently" and insert in lieu thereof "which at present"; and strike out "entitling" and insert in lieu thereof "entitle".
>
> On page 26, line 12, strike out "cash tenders offers" and insert in lieu thereof "a cash tender offer".
>
> On page 26, lines 21 and 24, insert "a" before "cash" and strike the letter "s" from the word "offers".
>
> On page 27, line 15, insert a comma after "Commission".
>
> On page 29, line 14, strike out "substantially comply" and insert in lieu thereof "comply substantially".
>
> On page 32, line 12, strike out "only" and insert in lieu thereof "given solely".
>
> On page 28, line 25, strike out "to"; and after "substantially" insert "to".
>
> On page 34, line 10, after "secure" insert "his".
>
> On page 38, line 11, strike out "73 and 74" and insert in lieu thereof "73, 74, 75, 76 and 77".
>
> On page 21, line 22, strike out "(1)" after "(d)".
>
> On page 22, line 16, after "(e)" insert "(2)".
>
> On page 29, lines 5 and 10, after "(e)" insert "(2)".
>
> On page 30, line 1, strike out "required in" and insert in lieu thereof "relevant to".
>
> On page 26, strike out lines 15 and 16, and insert in lieu thereof the following: "tion or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under subsection (a) of this section prior to the expiration of the waiting period specified in subsection (b)(1) of this section, or from".

Mr. ABOUREZK. Mr. President, these are technical and clarifying amendments, as I said, agreed to by both sides.

I ask for a voice vote on these amendments.

Mr. HRUSKA. Mr. President, I concur in the request, the proposal stated by the Senator from South Dakota. He and I have collaborated on this list of amendments.

Pursuant to the terms of the unanimous-consent agreement reached last Wednesday, the amendments, which were technical in nature and which were clarifying in nature, and clearly so, were included in this list. Those that were not of substance were not included, in reaching the decision that we did, in conferences had with other interested members.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. ABOUREZK. I yield back the remainder of my time.

ADDITIONAL STATEMENTS

Mr. PHILIP A. HART. Mr. President, several of my colleagues have asked about the intention and effect of certain differences between H.R. 8532 as originally passed by the Senate and the provisions of the Byrd motion. With respect to those titles retained by the Byrd motion, the intention and effect is the same as set forth in the Senate report accompanying the bill (S. Rep. No. 94–803). The intention and effect of the differences are as follows:

TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

1. STANDARD FOR QUASHING CID

The Antitrust Civil Process Act of 1962 provides that no civil investigative demand shall contain any requirement which would be held to be unreasonable if contained in a grand jury subpena or require the production of any material that would be privileged from disclosure if demanded by a grand jury subpena.

The Senate bill essentially carried forward this grand jury standard, and made it applicable to interrogatories and oral testimony, as well as to documentary material. The application of the grand jury standard has been regarded since 1962 as appropriate in the CID context because of the investigative character of the Department's pre-complaint inquiry. Consequently, although the language referring to the grand jury standard is slightly different from that of the 1962 Act, the meaning of that standard is not in any way intended to be changed.

The House bill also carried forward the grand jury subpena standards. However, the House bill also provides that no CID may require the disclosure of any information if such information would be protected from disclosure under the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent such standards are appropriate and consistent with the provisions and purposes of the Antitrust Civil Process Act.

The purpose of including the House provision is to make available to CID recipients the appropriate substantive standards limiting discovery under the Federal Rules of Civil Procedure. Those standards, which may be found in Rule 26(c), authorize a court to protect a person from oppression or undue burden. Certainly a standard prohibiting CIDs that unduly burden or oppress a recipient is a proper limitation on the Department's authority; indeed, such a limitation is already embodied in the grand jury standard. There are, however, considerable differences between post-complaint discovery and desirable investigative standards. For example, other standards in Rule 26(c) such as annoyance and embarrassment, which are appropriate concerns in the discovery context where information may readily become public, are not valid concerns under the CID statute because of the express exemption of such material from the Freedom of Information Act.

We included the House language in the Byrd motion because the qualification in that language limited the application of discovery standards in the FRCP to those that are appropriate and consistent with the purposes of the Act. This important qualification provides assurances that unreasonable constraints will not be applied to the Department's investigations. See H. Rep. 94–1343, at 9–13. We view the FRCP standard as essentially incorporating the "oppressive" and "burdensome" standards of Rule 26(c). So limited, this standard is consistent with the purposes underlying the Act and would not breed unnecessary litigation by persons seeking to thwart civil antitrust investigations.

More specifically, in deciding which grounds are in fact "appropriate and consistent" for application to CIDs, the following factors are important and should be taken into account:

(1) Investigations—unlike pre-trial discovery and litigation—are not adversary or adjudicatory;

(2) Pre-trial discovery and litigation have different purposes, a narrower scope, and more clearly-defined issues than investigations have;

(3) Parties to pre-trial discovery and litigation are clearly identified, while there are no parties in investigations—possible antitrust wrongdoers are seldom firmly identified until way late in the investigation;

(4) Parties in pre-trial discovery and litigation have certain rights with respect to notification, participation, intervention, confrontation, and cross-examination, whereas there are no such rights (even for targets) in investigations;

(5) Narrow, technical, or merely procedural objections which frustrate expeditious civil antitrust investigations are normally not "appropriate and consistent";

(6) Relevance in an investigation may be different from relevance in pre-trial discovery of litigation—once litigation is begun, the interests and scope of the matter tend to be much more specific and refined than in investigations; and

(7) Civil antitrust investigations are nonetheless investigations, and they are in most respects close to grand jury investigations than they are to pre-trial discovery or litigation.

2. ORAL TESTIMONY PROCEDURE

Several technical changes are included in proposed section 3(i) to the Antitrust Civil Process Act. The purpose of these changes is to facilitate the taking of oral testimony, while protecting the rights of the witness and ensuring expeditious development and delivery of the transcript to the antitrust investigator.

The oral examination is to be conducted by the antitrust investigator (accompanied by any assistants he may need). The witness may be accompanied, represented, and advised by his personally authorized counsel. To protect the rights of the witness, his counsel may advise him in confidence, with respect to any question asked. Such counsel may raise any proper objection, and the witness may refuse to answer any questions on the grounds of any constitutional or other legal right or privilege.

After the transcript is prepared, the witness is to be afforded a reasonable opportunity to examine a copy of the transcript of his testimony. Any changes in form or substance that the witness desires to make may be entered on the copy.

Although the antitrust investigator will already have received a copy of this transcript, the original will only become the official transcript after the witness has had the opportunity to make changes on the copy and such changes, if any, are incorporated in the original, official transcript, together with the reasons for the changes.

3. UTILIZATION OF CID DOCUMENTS AND INFORMATION

One clarifying change deals with the preamble of the language in proposed section 4(c)(3) of the Antitrust Civil Process Act. It states that except as otherwise provided in the ACPA, no material or information produced pursuant to a CID shall be available for examination. It is intended that assurance of privacy will encourage recipients of CIDs to cooperate voluntarily, by not fearing needless disclosure of confidential trade secrets or legal business practices or relationships.

The exceptions provided in the Act are those necessary to ensure effective law enforcement. The material and information so produced may be fully used by authorized officials or employees of the Department of Justice, in conducting the investigation; in obtaining from witnesses in oral testimony clarification or interpretation of documents; in introducing such material or information in any court, grand jury, or Federal administrative or regulatory agency case or proceeding; in cooperating with the Federal Trade Commission; in participating in any proceeding arising under section 5 of the ACPA; or in otherwise assuring effective law enforcement.

TITLE II—PRE-MERGER NOTIFICATION AMENDMENTS

1. NOTIFICATION PROCEDURE

Under Title II, persons subject to the pre-merger notification and waiting period must file with the Department of Justice and the Federal Trade Commission documentary material and information required by rules promulgated under subsection (d), unless the transaction is exempt from the requirements of Title II under subsection (c).

Except in the case of tender offers, for which somewhat different procedures are mandated, no person subject to the provisions of Title II may consummate an acquisition of voting securities or assets until the expiration of the waiting period established by subsection (b).

Subsection (b) provides that the waiting period commences when both persons involved in the acquisition provide the Department and the FTC with the completed notification or, if such notification is not completed, an explanation of the reasons for noncompliance.

Unless otherwise extended, the waiting period will end thirty days later. If either agency believes that it needs additional information, it may make a request at any time within the thirty-day period. The Department or the FTC may extend the waiting period for an additional twenty days, which will run from the date upon which the person supplies the information requested or an explanation of the reasons for noncompliance.

The waiting period may not be further extended except by court order pursuant to subsection (g). If the Department or the FTC believes that the information submitted pursuant to either subsection (d) or a supplemental request under subsection (e) does not substantially comply with the obligations imposed by Section 7A and the rules promulgated thereunder, it may apply for an extension of the waiting period in United States District Court. The court must extend the waiting period until there has been substantial compliance, and may order compliance or grant other appropriate equitable relief. What constitutes "substantial compliance" is to be determined by the court, and is to be measured in both qualitative and quantitative terms as well as whether the court finds that the compliance effort was reasonable and appropriate under the prevailing circumstances.

The nature of much economic and business information is such that disagreements may arise over whether there has been absolute and complete compliance with the notification requirements established under subsection (d) or with a request for additional information under subsection (e). If, for whatever reason, a person does not comply fully with either requirement, the statute requires that he submit an explanation for this noncompliance in order to trigger the running of the time periods.

The submission of this explanation is clearly not a substitute for compliance with the notification obligation. The explanation will, however, serve two salutary purposes. First, it will tend to reduce the disagreement between the agencies and the persons subject to the Act since the antitrust authorities will be informed of the reasons underlying noncompliance. Second, the explanation will be useful in any civil penalty proceeding that may be brought under subsection (g)(1).

The standard under which a request for an extension of the period under subsection (g)(2) will be measured, however, is substantial compliance. The whole purpose of Title II is to provide antitrust authorities with a meaningful opportunity to study the potential antitrust consequences of significant mergers and acquisitions prior to consummation. A person may supply documentary material and information that are quantitatively significant without substantially complying with the requirements of the Act. It is important that the Department and the FTC get the particular materials and information necessary to make the informed decision contemplated by this legislation.

Tender offers are treated somewhat differently in Title II than other forms of acquisitions. These differences were thought necessary to take account of two potential problems.

First, time is frequently of the essence in cash tender offers, and they are regulated by the Williams Act. In order to avoid any conflict with the Williams Act or to unduly alter existing practice, the waiting period for cash tender offers is fifteen days (rather than thirty) and the extension period is ten days (rather than fifteen).

Second, there was a concern that target companies in hostile tender offers might intentionally refuse to comply with the notification requirement if they thought that by doing so they could thwart the tender offer by forcing the Department and FTC to seek extension of the waiting period or compelling the acquiring person to choose between abandoning the offer or merging in contravention of subsection (a). At the same time, it was believed that target companies should be subject to the notice requirements since information only they can provide may be quite important to an assessment of the competitive consequences of the merger.

To accommodate both objectives, subsection (a) does not make consummation of an acquisition conditioned upon the filing of notice by the target company; it does, however, separately require that the target company provide notice. The initial and extension periods commence upon the submission of information by the acquiring person, and they may not be extended by a court under subsection (g)(2)(B) solely on the basis of a failure of the target company to substantially comply with the notification requirement.

At the same time, the civil penalty provisions of subsection (g)(1) are applicable to the target company, and it is intended that the target company be subject to sanctions if it fails to comply with its obligations under Title II.

2. TRANSACTIONS BETWEEN PERSONS NOT MEETING THE MINIMUM SIZE CRITERIA

The Senate bill authorized the Department of Justice and the Federal Trade Commission to require pre-merger notification from particular companies or industries or from any class or category of persons. This provision was intended to permit these agencies to learn in advance of acquisitions that had a significant economic effect because of the constant ongoing changes in our economy—arising from increasing concentration, significant special technological advances, or new or different methods of business organization and interrelation.

Deletion of this provision is not intended to affect the authority of the Federal Trade Commission to require such notification under existing provisions of the Federal Trade Commission Act either as presently required by the FTC or as may be modified to parallel the procedures of Title II of this Act.

3. AGGREGATION OF VOTING SECURITIES AND ASSETS HELD OR ACQUIRED BY AFFILIATES

Subsection (b)(3)(B) provides for the aggregation of voting securities and assets held or acquired by affiliates. The term "affiliate" is to be defined pursuant to subsection (d) by the Federal Trade Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division. If a person or persons acquire or hold voting securities solely for the purpose of investment and not for the purpose of exercising or obtaining control of the issuer of such securities, it is not the intention of the managers that such person or persons be deemed an affiliate of another person or persons who also hold or acquire voting securities solely for the purpose of investment, only by reason of such persons receiving investment management services or advice from the same or affiliated investment advisers or managers. Aggregation should be required for voting securities held or acquired by a person who invests for the purpose of obtaining or exercising control or of assisting others who invest for the purpose of exercising or obtaining control.

4. EXEMPT TRANSACTIONS

Section 7A(c)(2) exempts acquisitions of bonds, mortgages, deeds of trusts, or other obligations which are not voting securities and section 7A(c)(1) exempts acquisitions of goods or realty transferred in the ordinary course of business. It is the intention of the managers that these provisions exempt consumer receivables and loans or other obligations, which are not voting securities, which are traditional financing arrangements and which normally are sold to banks or other financing agencies and acquired in the normal course of business.

TITLE III—PARENS PATRIAE AMENDMENTS

1. SEPARATE CAUSE OF ACTION

The original House-passed bill purported to be entirely procedural in nature. Except for authorizing the State attorney general to sue for damages on behalf of consumers and aggregation of damages, the House bill was interpreted by some as adopting all the case law underlying section 4 of the Clayton Act.

The original Senate-passed bill created a separate cause of action in the State. In this regard, the bill was more than merely procedural because it deliberately by-passed some of the language of section 4 which some courts have interpreted so as to limit or deny consumers a meaningful right of recovery.

The Byrd motion adopts the basic Senate approach, but contains some changes in the language in order to satisfy some of the concerns of the House sponsors. The effect and intention of this provision is the same as contained in S. Rep. No. 94-803. State attorneys general are authorized to bring suits for violations of the Sherman Act, in the name of the State as parens patriae, in effect as trustees for the residents of the State. A direct cause of action is granted the States to avoid the inequities and inconsistencies of restrictive judicial interpretations of the notice and manageability provisions of Rule 23 of the FRCP, and the rights of consumers to recover damages under section 4 of the Clayton Act. The State still must prove, however, that defendants violated the antitrust laws, that consumers were injured because of such violation, and the approximate amount of the total consumer damage. The Byrd motion, just as the original Senate bill, rejects the use of such labels as "standing", "manageability", "privity", "target area", or "remoteness" by the courts to frustrate the intent of the legislation. Under the substitute bill, consumers injured in their property—i.e., such consumers who paid too much, were denied an economic opportunity, were subject to an illegal restraint that is in or affects commerce, or otherwise were denied the benefits of a free and open market—are intended to be able to recover damages through the distribution procedures resulting from the State attorneys general cause of action in the name of the State.

2. AGGREGATION OF DAMAGES

The original Senate-passed bill specifically authorized aggregation of damages in cases of price-fixing and patent fraud, while the original House-passed bill specifically authorized aggregation in cases of price-fixing agreements in willful violation of the antitrust laws. The substitute bill reflects a compromise under which aggregation is expressly authorized for cases of price-fixing. This compromise represents a narrowing of the Senate's provisions, and a slight broadening of the House's provisions.

It is the purpose of this provision to assure that potential violators be deterred from fixing prices as that practice has been determined by the courts under existing case law. See *United States* v. *Socony-Vacuum Oil Co.*, 310 U.S. 150 (1940); *United States* v. *Container Corp of America*, 393 U.S. 355 (1969). As was pointed out in the Senate Report 94–803, the use of aggregate damages is critical to protection of the public welfare, because of the impracticability and impossibility of bringing before a court a great number of consumers to prove, individually and separately, the fact of his or her injury and the amount of his or her damage.

At the present time there is a division of opinion as to whether the courts have the inherent power to use aggregation as a technique for measuring damages in other types of cases. The substitute bill does not address or resolve that issue, which is one for the courts themselves to decide. If, in the future, the courts conclude that they have the inherent power to use the aggregation technique, then that technique would of course also be available for all parens patriae damage suits. In this regard, proposed section 4D should be read as an authorization, not as a limitation.

3. NOTICE

Section 4C(b)(1)'s notice provisions are essentially the same as the original Senate provision, and it is to be interpreted as set forth in the Senate report. The reference to the phrase "due process of law" is of a clarifying nature to make clear that that provision is not intended as a directive to the judicial branch to direct a notice that would violate due process of law.

4. EQUITABLE RELIEF

The original Senate-passed bill provided that a State attorney general could obtain monetary and other relief to remedy any damage to natural persons by reason of a per se violation of the antitrust laws or patent fraud.

The original House-passed bill provided for only damages, i.e., monetary relief. The House supported the concept of State attorneys general being able to get injunctions to halt antitrust violations which were injuring their consumers, but the House felt that the Supreme Court's decision in *Georgia* v. *Pennsylvania R.R.*, 324 U.S. 439 (1945) clearly authorized parens patriae suits for injunctive relief under section 16 of the Clayton Act.

The Byrd motion drops any mention of relief other than monetary relief because of the Senate concurrence with the House with respect to the right of the States to obtain appropriate relief under section 16 pursuant to the *Georgia* decision. It is intended that the States be able to continue using section

16 to obtain appropriate injunctive relief. Nothing in the Byrd motion is intended to deny the States the right to seek and obtain such relief.

5. CONTINGENCY FEES

Section 4G(1)(A) prohibits the use of percentage contingency fees in parens patriae cases filed under Section 4C. This prohibition is to be imposed by the court in awarding attorney's fees under subsection 4C(d)(1) and in approving dismissals and compromises under subsection 4C(c).

Section 4G(1)(B) makes explicit the prohibition of other contingency fees unless such fees are determined by the court after a litigated judgment under subsection 4C(d)(1) or, if a case is settled, by the court under subsection 4C(d)(1) and 4C(c).

The standards to be used by the court in determining a reasonable attorney's fee are as set forth in the Senate Report No. 94–803. These provisions are included to assure both the reasonableness of the fees and that the bulk of the State recovery would be distributed to consumers—not lawyers.

6. PROPERLY ALLOCABLE

Section 4C(a)(1) provides, in its last sentence, that a court should exclude from the amount of monetary relief awarded, any amount (A) which has already been awarded for the same injury, or (B) which is properly allocable, as of the time the court is to make its determination of the case filed under section 4C, to natural persons who have excluded their claims pursuant to section 4C(b)(2), and to any business entity. The plaintiff will have to establish the amount of damage properly allocable to consumers. Depending on the nature of the business, and the economic activities involved, however, the burden of going forward may shift back and forth depending on who most readily, and with the best reliability, can establish the competing claims within a chain of distribution. The Senate intention with respect to burden of proof, as set forth in report no. 94–803, is carried forward in this provision.

7. EFFECTIVE DATE

The effective date (section 304) in the Byrd motion is the same in all essentials as the Senate passed bill. If a price fixing conspiracy terminated prior to the date of enactment, no parens patriae action may be filed under section 4C. If a price fixing conspiracy continued after the date of enactment, a parens patriae action under Section 4C would lie with respect to injury sustained subsequent—but not prior—to the date of enactment. In such case, evidence of the price fixing conspiracy that occurred prior to the date of enactment would be admissible to establish liability for the injury sustained through continuation of the conspiracy subsequent to the date of enactment.

Mr. President, I have received questions as to what effect the parens patriae provisions of this legislation might have on labor's antitrust exemption and labor relations in general.

The questioners point out that Congress—through the National Labor Relations Act, as amended by the Taft-Hartley and Landrum-Griffin Acts—has regulated the heart of labor-management relations: organizing, collective bargaining, and the use of economic weapons, Congress has provided that the National Relations Board—NLRB—shall have exclusive primary jurisdiction over cases arising under the National Labor Relations Act—NLRA. Normally, State attorneys general are empowered to involve themselves in labor disputes through section 14(b), which explicitly permits the States to enforce their so-called "right-to-work" laws, and through the implicit exception to Congress' broad preemption policy recognized in *San Diego Unions* v. *Garmon*, 359 U.S. 236, 247, which permits State action against violent conduct and imminent threats to public order. Indeed, the Supreme Court just last year held the Federal labor law preempts State antitrust laws. *Connell Co.* v. *Plumbers & Steamfitters*, 421 U.S. 616, 635–637.

In my judgment, we have been right to centralize enforcement of the national labor policy in Federal officials. This bill—H.R. 8532—is not intended to change that. It is intended to provide a meaningful remedy to consumers, who have been injured by antitrust violations, especially price fixing and whose claims are so small and widespread that an individual suit is for all practical purposes impossible.

The parens patriae amendments of this bill will not substantively affect labor's traditional antitrust exemption. The bill empowers a State attorney general to bring an antitrust action for damages to consumers caused by a Sherman Act violation. In no way does it enlarge the State attorney general's right to sue for injunctive relief for an antitrust violation.

So labor's antitrust exemption will stay unchanged.

Since the passage of the Sherman Act prohibiting contracts, combinations, or conspiracies in "restraint of trade," the Supreme Court has sought to accommodate the policies of Congress in the area of labor and antitrust when they occasionally conflict. Those policies are: Preserving a competitive free enterprise market system and fostering labor's right to gain better wages, hours, and working conditions. The result is that, generally speaking, the activities of a labor union are exempt if they are intimately related to improving wages, hours or working conditions. For a more precise definition, three statutes—the Sherman Act, Clayton Act, and Norris-LaGuardia Act—and the leading Supreme Court cases must be examined. The resulting law is complex. A review of that law and of the intent of the present legislation is, therefore, needed to assure that the parens patriae amendment is properly applied in this sensitive area.

Three Supreme Court decisions offer guidelines on the outer boundaries of the labor exemption to the antitrust laws.

First, in *Allen Bradley Co.* v. *Union*, 325 U.S. 797, 808, 809, the Court held that "union participation with a combination of businessmen" in order to "aid the nonlabor groups to create business monopolies and to control the marketing of goods and services" was subject to an antitrust suit for damages. Thus, in the Allen Bradley case the Court held that a damage suit would be permitted against a union that joins an anticompetitive employer combination or conspiracy.

Second, in *Mine Workers* v. *Pennington*, 381 U.S. 657, 666, the Court held that "a union forfeits its exemption from the antitrust laws when it is clearly shown that it has agreed with one set of employers to impose a certain wage scale on other bargaining units." While some lawyers question certain features of the Pennington analysis, it appears sound as a corollary to the Allen Bradley rule.

Under both rules, it has been argued that there is a possibility that a case might be brought on the theory that a union has done nothing more than engage in collective bargaining with a group of employers, or with a number of separate employers one after the other, reach a collective agreement embodying certain terms and conditions of employment, and then sought to impose those terms and conditions—or deviated from those terms and conditions—with the result that certain of the employers with whom it dealt realized a competitive advantage. That theory could, of course, destroy the right of employees in a particular industry, or labor market, to join together in a single union or to engage in multiemployer bargaining, both of which are specifically sanctioned. However, to avoid that interpretation the Pennington Court required a "clear show[ing] of an anticompetitive agreement," and emphasized "that a union may make wage scales with a multiemployer bargaining unit and may in pursuance of its own union interests seek to obtain the same terms for other employers"—381 U.S. at 665. Thus, the Court has said it must be proven that an agreement was reached for the specific purpose of imposing a competitive disadvantage on another group of employers. A showing of the fact of collective bargaining, of a collective agreement proper in itself, and of either a uniform or nonuniform policy in dealing with other employers is, therefore, no evidence at all of such a combination. So long as this is understood, Allen Bradley and Pennington represent an acceptable compromise between the competing antitrust and labor law policies.

In a third decision, *Connell Co.* v. *Plumbers & Steamfitters*, 421 U.S. 616, the Supreme Court held that a union-employer agreement "which is outside the context of a collective bargaining relationship and not restricted to a particular job site, but which nonetheless obligates—a company in the construction industry—to subcontract work only to firms that have a contract with—a union—may be the basis of a Federal antitrust suit * * *" (421 U.S. at 635). This holding in specific terms applies only to a narrow atypical situation described in the Court decision.

The generalized commands of the antitrust laws should not be utilized in my view to declare unlawful provisions in collective agreements, which the Congress, in the course of amending the NLRA so as to reach the proper balance between the economic weapons available to management and labor, has specifically determined should be lawful. See *Suburban Tile Center* v. *Rockford Building Trades Council*, 354 F. 2d 1, 3 (C.A. 7) cert. denied, 384 U.S. 960 and the Connell opinion does not purport to create such an anomaly.

Similarly, the proper deference to which the Federal labor law is entitled, should not permit, in my opinion, the antitrust laws to be employed as an alternative means for pressing unfair labor practice complaints. The labor laws are not simply a series of discrete substantive provisions. They form an "integral scheme of regulation" one "ingredient of" which is a carefully delineated scheme of procedures and remedies. See *San Diego Unions* v. *Garmon*, supra, 359 U.S. at 247, and id. at 242–243.

Clearly, the balance between the antitrust laws and the Federal labor laws is a delicate one and one that is likely to be subject to future decisions and interpretations. To that point, the antitrust amendments now before the Senate are based on the specific understanding that antitrust suits are subject to the following rule: When an agreement reached in a collective bargaining context contains a term whose legality is governed by a provision of the NLRA, as amended, the procedures and remedies stated in that act are exclusive. And, certainly it is not our intent to add confusion to the Connell holding or any other Court decision.

Just as there are basic sources for determining when the labor exemption has been lost, there are three major Supreme Court decisions stating when that exemption is retained.

One of these, *United States* v. *Hutcheson*, 312 U.S. 219, can be dealt with in summary terms. For, the basic rule of that case—"so long as a union acts in its self-interest and does not combine with non-labor groups, the licit and the illicit under section 20 are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means" (312 U.S. at 232)—has never been questioned. Indeed, the Connell opinion states that Hutcheson "exempts specific union activities, including secondary picketing and boycotts, from the operation of the antitrust laws" (421 U.S. at 622).

Thus, it is necessary only to note that in Allen Bradley the Court properly settled the point that this exemption is not lost where an employer acquiesces in the union's demand. Such a "victory of the union in its disputes . . . is the natural consequence of labor union activities exempted by the Clayton Act from the coverage of the Sherman Act" (325 U.S. at 809).

When, for example, an employer, in response to a consumer boycott, states that he will not sell the struck goods so long as the union does not picket (cf. *Labor Board* v. *Servette*, 377 U.S. 46; *Labor Board* v. *Fruit Packers*, 377 U.S. 58), that does not constitute the formation of a combination or conspiracy between a labor and nonlabor group, or the making of an agreement between such groups. The employer's action in that situation is nothing more than a permissible response to the lawful union conduct, rather than an employer-initiated anticompetitive action against another company.

It is plain also that there is no union-nonlabor group "agreement," for the purchaser retains his option to buy the boycotted product in the future, subject of course to the union's right to exercise against him any economic pressure not forbidden by the labor laws. As a matter of labor law, it is lawful for the purchaser to take into account the union's request not to buy and the union's economic weapons, actually used or potential, in making his business judgments. And, it is the labor laws, not the antitrust laws, which regulate the permissible range of union pressure. But for this rule the labor exemption for unions "acting alone" would be so narrow as to be illusory, and the economic weapons permitted unions in the intricate compromse established in the provisions limiting strikes and picketing contained in sections 8(b)(4) and 8(e) of the NLRA, and which the Court has spelled out in such decisions as Servette and Fruit Packers, would be taken back by the antitrust laws.

If the product market and the labor market were clearly divisible watertight compartments, it would be far simpler to reach a straightforward accommodation of the antitrust laws and the Federal labor laws. But, as illustrated by the facts in *Meat Cutters* v. *Jewel Tea*, 381 U.S. 676, there is no such neat division. It is inevitable that union activities, in general and union collective agreements, in particular, will have an effect on commercial competition. In Jewel Tea, for example, the union's desire to meet two demands of its members—that they perform all butchers' work and they not be required to work at night—could only be achieved through a limitation in the employers' marketing hours. The proper approach to the resolution of the status of collective agreements that deal directly with labor market problems in a manner that has also an impact on the product market was stated by Chief Justice Stone in *Apex Hosiery Co.* v. *Leader*, 310 U.S. 469, and followed in Mr. Justice White's opinion in Jewel Tea.

In the Apex Hosiery case, Chief Justice Stone stated the central principle for harmonizing the two disparate regulatory systems Congress has established:

> [S]uccessful union activity, as for example consummation of a wage agreement with employers, may have some influence on price competition by eliminating that part of such competition which is based on differences in labor standards. Since, in order to render a labor combination effective it must eliminate the competition from non-union made goods, see American Steel Foundries v. Tri-City Central Trades Council, 257 U.S. 184, 209, an elimination of price competition based on differences in labor standards is the objective of any national labor organization. But this effect on competition has not been considered to be the kind of curtailment of price competition prohibited by the Sherman Act. See Levering & G. Co. v. Morrin (289 U.S. 103), supra; cf. American Steel Foundries Case, supra, 247 U.S. 209; National Ass'n of Window Glass Manufacturers v. United States, 263 U.S. 403.

And while the Supreme Court was sharply split on other issues in the Pennington and Jewel Tea cases, the binding force of Apex Hosiery was explicitly reaffirmed without dissent. (See 381 U.S. at 663–664 (Opinion of the Court in Pennington); id. at 710–711 (Separate Opinion of Mr. Justice Goldberg in Pennington and Jewel Tea).) In his Jewel Tea opinion, Mr. Justice White went to the central lesson of Apex Hosiery in answering the question affirmatively:

> [W]hether the marketing-hours restriction [at issue there] like wages, and unlike prices, is so intimately related to wages, hours and working conditions that the union's successful attempt to obtain that provision through bona fide, arm's length bargaining in pursuit of their own labor union policies, and not at the behest of or in combination with nonlabor groups, falls within the protection of the national labor policy and is therefore exempt from the Sherman Act. (381 U.S. at 689–690; Footnote omitted.)

As Justice White explained:

> [A]lthough the effect on competition is apparent and real, perhaps more so than in the case of the wage agreement, the concern of union members is immediate and direct. Weighing the respective interests involved, we think that national labor policy expressed in the National Labor Relations Act places beyond the reach of the Sherman Act union-employer agreements on when, as well as how long, employees must work. (Id. at 691.)

In other words, so long as the union, as a matter of its own policy, seeks and secures a collective bargaining agreement that provides "immediate and direct" labor benefits, the labor exemption to the antitrust laws applies, even though the consequential "effect on commercial competition is apparent and real."

Where the agreement constitutes a "direct frontal attack" (*Teamsters Union* v. *Oliver*, 358 U.S. 283, 294) on the "elimination of differences in labor standards" (*Apex Hosiery* v. *Leader*, supra, 310 U.S. at 503–504), whose effect on commercial competition is solely the consequence of eliminating those differences, the agreement is within the labor exemption to the antitrust laws. Thus, for example, the Court held in *Musicians Federation* v. *Carroll*, 391 U.S. 99, 106, that a union-imposed scale of prices—the "price list requirement"—is "brought within the labor exemption under a finding that the requirement is necessary to assure that scale wages will be paid to employee musicians." (391 U.S. at 112.) Therefore, it must be determined whether a particular agreement deals directly with labor market problems and thus falls within the exemption. The exemption, however, does not apply when the agreement is focused on the "product market" and where the only union benefit is the "hope for better wages to come" as a consequence of the employers' monopoly profits.

Mr. PERCY. Mr. President, the Senate is today once again considering H.R. 8532, the Antitrust Improvements Act of 1976, and amendments to this bill. Specifically, the Senate will vote on a compromise substitute amendment introduced by the distinguished assistant majority leader which has been approved by Chairman PETER RODINO of the House Judiciary Committee as well as a number of the House conferees. It is my understanding that this substitute amendment should receive the approval of an overwhelming majority of the House.

The legislation to be considered by the Senate today contains three titles, all of which, as presently drafted, should contribute to more vigorous and effective enforcement of the Federal antitrust laws. I have supported the amendments to the Antitrust Civil Process Act, which were originally requested by the Ford administration, now that they have been amended in the Senate bill and further altered by the House of Representatives. The House bill contained certain procedural safeguards not found in the Senate bill for those made subject to civil investigative demands or required to answer questions on oral examinations. The Byrd substitute amendment contains the House-passed provisions on these points and I am convinced that they improved the legislation by ensuring greater procedural fairness to those businesses covered by this title of the bill.

On the question of premerger notification, I have always strongly opposed legislation which would require businesses to report to the Government their plans for mergers or other types of reorganizations simply because these companies were above a certain size. If this requirement were coupled with empowering the Department of Justice to automatically enjoin all mergers above a certain size, then a number of mergers and other types of business reorganizations, which are clearly in the public interest, would be prevented or discouraged. In some cases years of hard work in planning a merger will have been for naught. Ineffectual or incompetent management of some companies may be kept in power at the expense of public shareholders, consumers and the Government. And to compensate for these likely effects of such a law, no clear public benefit would be forthcoming. I have, therefore, supported many of the amendments designed to alter the premerger notification title of this antitrust bill and am pleased that the automatic stay provision has been eliminated.

The Byrd substitute amendment contains a compromise between the House- and Senate-passed bills on the issue of the parens patriae antitrust authority. The scope of the parens patriae authority has been somewhat enlarged from the Senate version of per se violations and fraud on the U.S. Patent Office to the House version, which covers the entire Sherman Antitrust Act. However, the provisions permitting aggregation of damages have been narrowed somewhat so that under the Byrd amendment a State attorney general would be allowed to utilize the aggregation of damages method of computing damages for price-fixing only.

As I have stated before during the debate on the parens patriae title, I consider willful price fixing to be the most serious of all antitrust offenses. In fact it is subversive of the very free enterprise system we all want to protect. It is my understanding that the administration has indicated a willingness to support the parens patriae antitrust authority so long as it applies only to a narrow range of antitrust offenses. In my view the compromise amendment now before us does exactly that. It has received support in the business community from those recognizing the need for some changes in the antitrust laws to help eliminate artificial market restraints. It has also been vigorously endorsed by the Department of Justice over the past 2 years.

A final point which has caused a considerable amount of controversy during the antitrust legislation debate has been the treatment of the payment of percentage contingency fees by State attorneys general to outside counsel handling specific antitrust litigation. The House legislation prohibits all contingency fee arrangements, no matter what their form. The Senate-adopted legislation, as well as the Byrd substitute amendment, forbids all percentage contingency fee arrangements but permits fee schedules for outside attorneys to be based on the quality of the work done and the relative success of the outside attorneys in the litigation. In all cases, the court would retain supervision over the fee ultimately granted.

I fully recognize the danger of lawyers hired by State attorneys general, on a contingency fee basis, attempting to bring spurious lawsuits simply to win settlements for the State and large fees for themselves. By permitting State attorneys general to bring parens patriae antitrust suits subject to the restrictions imposed by the Senate-passed contingency fee provision, it seems to me that the Senate legislation has struck the proper balance between encouraging State officials to enforce the Federal antitrust statutes and at the same time discouraging suits from being brought mainly for the lawyers' fees they may generate.

Mr. President, I am not entirely satisfied with all of the provisions of the substitute amendment we are to vote on today. But I do feel that given the stresses and strains of the legislative process this compromise amendment represents a reasonable solution to the legislative dilemma we have faced over the past few months. Undoubtedly, there are those who will be disappointed by the Byrd substitute amendment as being either antibusiness or not sufficiently vigorous in attacking alleged antitrust abuses. I am convinced, however, that this legislation, as presently drafted, is responsible, will be carried by the Senate by an overwhelming margin, that it is in the long-term interest of the business community and the American people, and that President Ford, in recognizing these facts, will sign it into law.

Mr. PASTORE. Vote.

The PRESIDING OFFICER. Is all time yielded back? Do Senators yield back their time?

Mr. HRUSKA. I yield back the remainder of my time.

Mr. ABOUREZK. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion of the Senator from West Virginia (Mr. Robert C. Byrd). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Indiana (Mr. Hartke), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall) and the Senator from New York (Mr. Buckley) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

The result was announced—yeas 69, nays 18, as follows:

[Rollcall Vote No. 568 Leg.]

YEAS—69

Abourezk
Baker
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams
Young

NAYS—18

Allen
Bartlett
Bellmon
Brock
Curtis
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Scott,
  William L.
Stennis
Thurmond
Tower

NOT VOTING—13

Bayh
Beall
Buckley
Cranston
Eagleton
Goldwater
Hartke
McGee
McIntyre
Mondale
Montoya
Moss
Tunney

So the motion was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUGH SCOTT. Mr. President, I observed several months ago when we passed the Senate version of the Hart-Scott Antitrust Improvements Act of 1976 that we had, mercifully, reached our journey's end. That observation proved premature. We had many miles to go before we slept.

I believe that I can now conclude that we have finally and in fact reached our journey's end. The extended debate has underscored the importance of antitrust reform. If the free market economy, which has served us so well, is to prosper, and if the energy and creativity of that marketplace are to operate free of stultifying regulation, then we must improve competition. Our bill will do just that. By enhancing the likelihood of detection, we will discourage illegal anticompetitive behavior.

The bill we passed today is surely the product of compromise. It is a bill that I believe President Ford can sign. We have moderated some of the bill's provisions, while preserving the innovative heart of the bill. It will stand as a living and fitting monument to the wisdom, foresight and legislative skill of my beloved colleague and cosponsor, the distinguished Senator from Michigan (Mr. Philip A. Hart). We have fought many battles over the years, particularly in the civil rights arena, and all have been marked by the loftiness of vision and spirit that are so characteristic of this fine gentleman. I think it fitting that his legislative career be capped by this legislative milestone. It has been my distinct pleasure to have contributed to the success of this last legislative crusade.

(The following occurred during the foregoing proceedings and are printed at this point in the Record by unanimous consent.)

CHATTAHOOCHEE RIVER URBAN RECREATION AREA

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2587.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2587) to authorize the establishment of the Chattahoochee River Urban Recreation Area in the State of Georgia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That the Congress finds that (a) there are natural, scenic, recreational, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek, (b) there is a special national interest in protecting these values from developments and uses which would substantially impair or destroy these values for residents and visitors to the area, (c) the primary responsibility for the provision of recreational opportunities, and the preservation of scenic, natural, and historic areas, rests with the State of Georgia and the various local units of government having jurisdiction over the area, (d) in recognition of the multi-State and national significance of some of the recreational values, the Federal Government has an interest in the management and preservation of the resources and should assist the State of Georgia and its local units of government in fulfilling their responsibilities, (e) the State of Georgia or its local units of government have authority to prevent or minimize adverse use of the Chattahoochee River and adjoining lands and can protect this area by the use of its authorities.

Sec. 2. The purposes of this Act are (a) to provide for the preservation of the Chattahoochee River in its natural state and to protect the quality of its water and the view from the river to the adjoining banks and adjacent property; (b) to provide for the preservation of and public access to the river, its scenic corridors, and existing roads leading thereto; (c) to provide for the preservation of the outstanding natural, historic, and ecologic features of the Chattahoochee River; and (d) to provide outdoor recreation area and facilities for the people of the Atlanta metropolitan area and the Nation.

Sec. 3. There is hereby established the Chattahoochee River National Urban Park and Recreation Area (hereinafter referred to as the "urban park").

Sec. 4. The Governor of the State of Georgia (hereinafter referred to as the "Governor") shall, in consultation with the Atlanta Regional Commission and the Atlanta Regional Commission's Advisory Council on Regional Development Planning, develop a plan for the urban park.

Sec. 5. The plan shall include, but need not be limited to—

(a) a description of the boundaries of the urban park together with a map or other description of the areas within the boundaries which are to be acquired and developed or preserved to achieve the purposes described in section 2 of this Act;

(b) a description of such other areas which the State proposes to incorporate within the urban park in the future together with the purpose for which such areas are to be incorporated;

(c) a specific program to be implemented including, but not limited to, a schedule of acquisition and development which will achieve the purposes of section 2 and which may include the use of the constitutional authority of the State to regulate the use of land and water; other noncompensatory regulations which may be appropriate; compensatory regulations; tax incentives; acquisition of fee or less than fee interests in land and/or water; or any combination of methods which will best accomplish the purpose of this Act: Provided, That the program may not propose an expenditure of Federal funds in excess of $7,000,000 exclusive of funds available under other Federal programs including, but not limited to, the Land and Water Conservation Fund Act and the Historic Preservation Act of 1966: And provided further, That the program shall indicate the total anticipated costs of implementation of the plan and the expected sources of funds to meet those costs; and

(d) the identification of the units of State and local government which will be responsible for implementing the program and the designation of the specific State or local entity which will be responsible for the operation and maintenance of the urban park together with the necessary enabling authorization for such entity to perform the appropriate operations and maintenance.

Sec. 6.(a) The Secretary of the Interior (hereinafter referred to as the "Secretary") and the heads of other Federal agencies shall cooperate with the Governor in the formulation of the plan upon request of the Governor and to the extent of available funds.

(b) Financial and administrative services for planning and evaluation (including those relating to payment of budgeting, accounting, financial reporting, personnel, and procurement) shall be provided by the Department of the Interior from the funds appropriated to carry out the provisions of this Act.

Sec. 7. (a) The Governor shall submit the plan to the Secretary who shall, within ninety days of the day it is submitted to him, either approve or disapprove the plan after consulting with the Atlanta Regional Commission and the Atlanta Regional Commissions Advisory Council on Regional Development Planning.

(b) The Secretary shall approve the plan if he finds that (1) the State has afforded adequate opportunity in the Atlanta metropolitan area for public comment on the plan, and such comment was received and considered in the plan or revision as presented to him; (2) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary legislative authority to carry it out, and the chief executive officers of the State and local units of government have indicated their intention to utilize such authority in the implementation of the plan in accordance with the program established by the State; (3) the entity identified as responsible for operations and maintenance at the urban park has the necessary authorization; (4) the plan, if implemented, will achieve the purposes detailed in section 2; (5) there is a reasonable expectation that funds will be acquired or be available to implement the plan and that the estimated costs of implementation of the plan are accurate; and (6) the plan will, in fact, be implemented.

(c) If the Secretary disapproves the plan or revision, he shall advise the Governor of the reasons therefor, together with his recommendations for revision. The plan, following its disapproval, may be resubmitted to the Secretary for his approval in the discretion of the Governor.

(d) Upon approval of the plan, the Secretary shall publish a notice thereof in the Federal Register, and shall transmit copies of the plan, together with his comments to the President of the Senate and the Speaker of the House of Representatives.

(e) No revision of an approved plan may be made without the approval of the Secretary. The Secretary shall approve or disapprove a proposed revision within ninety days from the date it is submitted to him. Whenever the Secretary approves a revision, he shall publish notice thereof in the Federal Register.

Sec. 8. Upon approval of the plan, the Secretary shall make grants for its implementation in the total amount of $7,000,000 to the State of Georgia for implementation of the plan. The State may transfer any or all of such grants to local units of government identified as having responsibility for implementing its provisions. Such grants shall be made upon application of the State, shall be supplemental to any other Federal financial assistance for any purpose, and shall be subject to such reasonable terms and conditions as the Secretary deems necessary to effectuate the purposes of this Act.

Sec. 9. There is hereby established a special account in the Treasury of the United States for the purpose of holding moneys to be used for grants, pursuant to section 8 of this Act, to the State of Georgia. There shall be covered into such special account the sum of $7,000,000 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462) as amended and/or under the Act of June 4, 1920 (41 Stat. 813), as amended, which would be otherwise credited to miscellaneous receipts of the Treasury.

Sec. 10. Appropriations.—There are authorized to be appropriated to defray the expenses incident to the preparation or revision of a plan for the acquisition, development, and use of the urban park such sums annually as may be necessary, and for grants to the State to implement a plan approved pursunat to section 7 of this Act, a total of $7,000,000 from the special account created in section 9 of this Act.

Mr. NUNN. I yield to the Senator from Lousiana, who is the manager of this bill.

Mr. JOHNSTON. Mr. President, this bill provides with respect to the Chattahoochee the formula—what we call the Santa Monica formula—whereby we give some $7 million to a commission to come up with a plan for the Chattahoochee, which is a 48-mile stretch of beautiful river flowing eventually through downtown Atlanta.

With this $7 million, the Planning Commission is to come up with a plan—including the use of State funds and, if appropriate, local funds—to preserve not only the qualities of the river itself—

the pure water, the view along the river—making it available for floating and that sort of thing, but also to acquire recreation areas along the banks of the river.

It will be a mutual endeavor on behalf of the State, the localities, and the Federal Government, for which the bill provides some $7 million. It is the same formula that has been used in Santa Monica, Calif., outside of Los Angeles, and in Nantucket. We hope to use this formula on a number of other parks in the country.

Mr. NUNN. Mr. President, I am extremely pleased that the Senate is about to enact legislation which will assist in preserving a unique natural resource, the Chattahoochee River, in its natural state. While I do not feel that the authorization level of S. 2587 is sufficient to completely accomplish the necessary preservation, I am convinced that we must act now in order to insure that the natural, historic, and recreational attributes of the stretch of river from Buford Dam to Peachtree Creek are not permitted to erode any further.

S. 2587 is not the perfect approach to prevent the deterioration of the Chattahoochee and its environs; however, I am convinced that it is the best possible approach that can receive the approval of the Senate at this time. I am hopeful that passage of this bill will encourage expeditious action on a companion measure in the House and that the resultant conference committee will produce a package that will enable the State of Georgia to proceed with meaningful preservation of one of the few major rivers that flow through a large metropolitan area.

Mr. President, permit me to provide the Senate with some background on the Chattahoochee River and the efforts to preserve it.

The Chattahoochee begins as a small mountain stream in northeast Georgia, flowing southwesterly across the State where it enters Lake Lanier and is impounded by Buford Dam. The river then continues southerly, passing by the northwest boundary of metropolitan Atlanta and forms the boundary for the States of Alabama and Georgia, eventually flowing into the Apalachicola River in Florida and emptying into the Gulf of Mexico. Much of the lower portion of the river has been dammed to form a succession of reservoirs.

The proposed national urban park and recreation area extends for 48 miles from Buford Dam to Peachtree Creek, near the center of Atlanta. On September 14, 1970, the Secretary of the Interior selected this area, along with 13 other major areas, as having recreation potential in a metropolitan location. The Bureau of Outdoor Recreation—BOR—cooperating with other Federal, State, and local agencies, completed a study of this section of the river. The "Chattahoochee Recreation Area Study" was subsequently published containing findings and recommendations by the BOR.

Beginning in the late 1960's and reaching a peak in 1971 when the Georgia General Assembly proposed a bill to place the river under protection of a State agency, there has been considerable State, local government, and private citizen interest in planned recreational use and preservation of the Chattahoochee. In July of 1972, the Atlanta Regional Commission, a State planning agency, in cooperation with the North Georgia Mountains Authority and aided by a grant from the Department of Housing and Urban Development, published the "Chattahoochee Corridor Study" proposing controlled development along the river. The ARC plan called for areas of private and public land ownership, and recommended public acquisition of 6,000 acres along with planned unit developments of privately owned lands. Subsequently, then Georgia Governor, Jimmy Carter, worked with the ARC and local citizens groups to draft legislation which would implement this concept.

In September of 1972, approval of a $1.89 million land and water conservation fund grant helped establish a 377 acre Chattahoochee Palisades State Park. To date, over 700 acres of land bordering the river are publicly owned.

The 1973 session of the Georgia General Assembly passed the Metropolitan River Protection Act to regulate development within 2,000 feet of the river. This act now requires review by local governments and the ARC of any proposed changes in land or water use within the corridor.

Congressman Andrew Young, of Atlanta, with the support of the Georgia delegation, has introduced H.R. 3078 in the House as a companion measure to the efforts in the Senate. Senator Talmadge and I introduced S. 661, an identical bill, in the Senate, which, along with S. 2587, was the subject of hearings in October of 1975.

In September of 1975, representatives of the National Park Service's Advisory Board on National Parks, Historic Sites, Buildings and Monuments visited the proposed recreation area examining various sites along the river's banks, floating a 2-mile stretch of river, and overflying the entire area from Standing Peach Tree to Lake Sidney Lanier. As a result of this visit, the Advisory Board submitted a report to the Secretary of the Interior in which they made the following statement:

> The subcommittee was extremely impressed with the natural beauty of the area, particularly since much of the most attractive portions of the river are within the city limits of Atlanta. The Chattahoochee is a unique resource; it obviously must be protected from the multitude of possible immediate encroachments, and it offers an extraordinary possibility to serve the recreation needs of the area. Presently with no management at all, and often requiring citizens to violate private property, the river is extensively used. Atlanta public transportation and the interstate highway system provide easy access to the river for people in a five-state area. Twenty percent of present usage is from outside the Atlanta area, and half of that from outside the State of Georgia.
>
> The subcommittee was in agreement that the Chattahoochee corridor more than met the established criteria for national recreation areas, and that private and State facilities for development have been exhausted. The Board thus recommends that the National Park Service proceed with the necessary preliminary study, building on the work of the Bureau of Outdoor Recreation, the Georgia Department of Natural Resources, and Friends of the River, with the intent of adding to the System the Chattahoochee River National Recreation Area.

Mr. President, this is a synopsis of the events which have taken place to date concerning the effort to preserve a 48-mile stretch of the Chattahoochee River. I want to mention a few of the reasons which cause me to believe that we should proceed with the formal steps necessary to preserve this area.

This 48-mile stretch of the river should be preserved and protected due to its natural, scenic, historic, educational, and recreational values. It is important, not only to the State of Georgia, but also to the entire Nation. While this is to some extent a subjective evaluation, there are several facts which support such a conclusion.

According to the 1972 Census of Transportation published by the Commerce Department, half of all trips taken by Americans have a metropolitan area as their destination. This fact is of particular significance to our discussion today because of the fact that Atlanta is the hub of the South. Due to the intersection of I–75 and I–85 in metropolitan Atlanta, virtually all north and south vacation traffic passes within view of the Chattahoochee. In a 1972 Travel Research Study on Georgia Highways and Vacation/Recreation Travel, the University of Georgia Division of Research estimated that the average vacation/recreation traffic volume on I–75 from Tennessee to Atlanta in 1970 was 4,000 cars per day. On I–85 from South Carolina to Atlanta the average was 3,100 cars. More important, however, is the estimation that within 25 years the traffic on the I–75 corridor will reach 9,400 cars per day while I–85 will produce traffic in the range of 6,200 cars per day. It is important to recognize that these figures represent only vacation/recreation related traffic.

Lake Lanier, which marks the beginning point of the proposed recreation area, has the largest visitation of any Army Corps of Engineers project anywhere in the United States. The 13.8 million individuals who visited the lake last year also represented a larger visitation than at any single unit in the national parks system.

The 7-county area which would be touched by the proposed recreation area currently has a population of approximately 1.6 million persons. The Georgia Office of Planning and Budget estimates that within 25 years the population will easily exceed 2 million and represent approximately 35 percent of the State's population.

During the summer as many as 10,000 people have been surveyed to be using the Chattahoochee for recreation on each weekend day. At least 20 percent of these users originate from areas outside of metropolitan Atlanta and half of these people are from out of State. This volume will certainly increase in the future as Americans continue to seek out natural areas for recreation. It is also important to recognize that this volume of individuals generally must obtain access to the river through privately owned property.

While some portions of the corridor have already been acquired through such means as Federal land and water conservation grants, donation, and State funds, this form of "holding action" cannot be expected to prevent deterioration of this resource much longer. We must proceed with an organized preservation effort pursuant to the Atlanta Regional Commission study and a recently completed concept plan developed by the Georgia Department of Natural Resources in cooperation with the Atlanta Regional Commission and local citizens groups.

I believe that it is essential that we act expeditiously in order to insure that this rare resource is appropriately preserved for the benefit of Georgians and all Americans. At a time when open space continues to disappear under concrete blankets and high rise complexes the preservation of an area of natural beauty, such as the Chattahoochee, for the future enjoyment of generations of Americans should be a top priority. Few, if any, metropolitan centers have such a major natural resource that can still be preserved.

Mr. President, I hope that my colleagues will support enactment of S. 2587, as amended.

The PRESIDING OFFICER. All time has expired.

Mr. NUNN. Mr. President, I have an amendment to the bill, so I will have to ask for additional time, or we will have to have this matter over.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, will the Senator yield 1 additional minute?

Mr. HRUSKA. I yield 2 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from Louisiana knows that I preferred a high authorization level. I have discussed this with him. We need more money than the Senator from Louisiana feels the country can afford on this project at this time.

UP AMENDMENT NO. 426

Mr. President, I send to the desk an amendment which I have discussed with the Senator from Louisiana, and I have discussed it with the Senator from Wyoming (Mr. HANSEN). This amendment would add $5 million. The present level authorization is $7 million. This would add $5 million, to make it $12 million.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 426.

The amendment is as follows:

In section 5, delete "$7,000,000" and insert in lieu thereof "$12,000,000".

In section 8, delete "$7,000,000" and insert in lieu thereof "$12,000,000".

In section 9, delete "$7,000,000" and insert in lieu thereof "$12,000,000".

In section 10, delete "$7,000,000" and insert in lieu thereof "$12,000,000".

In section 10, delete the period "." at the end thereof and insert in lieu thereof ", except that no part of such sum may be appropriated for any fiscal year prior to the Fiscal Year ending September 30, 1978.

Mr. NUNN. Mr. President, as I mentioned in my statement, I honestly believe that the authorization level in this legislation is inadequate to accomplish the necessary preservation. The amendment which I have sent to the desk would increase the authorization by $5 million. While I do not feel that $12 million is adequate, it is more adequate than $7 million.

The amendment would also delay this authorization until fiscal 1978, so as to conform with the Budget Act.

Mr. President, I have discussed this amendment with Senator JOHNSTON and Senator HANSEN, the ranking minority member, and it is my understanding that they will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER. There is no time.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ALLEN. There is not sufficient time for a quorum call, Mr. President.

The PRESIDING OFFICER. There is not sufficient time for a quorum call.

Mr. STEVENS. Mr. President, this bill has not been cleared with the minority, and I object to its passage until it is.

Mr. NUNN. The bill has been cleared with the minority.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I thank the Senator from Georgia for his patience and I withdraw the objection I previously entered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 2587) was passed, as follows:

S. 2587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that (a) there are natural, scenic, recreational, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek, (b) there is a special national interest in protecting these values from developments and uses which would substantially impair or destroy these values for residents and visitors to the area, (c) the primary responsibility for the provision of recreational opportunities, and the preservation of scenic, natural, and historic areas, rests with the State of Georgia and the various local units of government having jurisdiction over the area, (d) in recognition of the multi-State and national significance of some of the recreational values, the Federal Government has an interest in the management and preservation of the resources and should assist the State of Georgia and its local units of government in fulfilling their responsibilities, (e) the State of Georgia or its local units of government have authority to prevent or minimize adverse uses of the Chattahoochee River and adjoining lands and can protect this area by the use of its authorities.

SEC. 2. The purposes of this Act are (a) to provide for the preservation of the Chattahoochee River in its natural state and to protect the quality of its water and the view from the river to the adjoining banks and adjacent property; (b) to provide for the preservation of and public access to the river, its scenic corridors, and existing roads leading thereto; (c) to provide for the preservation of the outstanding natural, historic, and ecologic features of the Chattahoochee River; and (d) to provide outdoor recreation area and facilities for the people of the Atlanta metropolitan area and the Nation.

SEC. 3. There is hereby established the Chattahoochee River National Urban Park and Recreation Area (hereinafter referred to as the "urban park").

SEC. 4. The Governor of the State of Georgia (hereinafter referred to as the "Governor") shall, in consultation with the Atlanta Regional Commission and the Atlanta Regional Commission's Advisory Council on Regional Development Planning, develop a plan for the urban park.

SEC. 5. The plan shall include, but need not be limited to—

(a) a description of the boundaries of the urban park together with a map or other description of the areas within the boundaries which are to be acquired and developed or preserved to achieve the purposes described in section 2 of this Act;

(b) a description of such other areas which the State proposes to incorporate within the urban park in the future together with the purpose for which such areas are to be incorporated;

(c) a specific program to be implemented including, but not limited to, a schedule of acquisition and development which will achieve the purposes of section 2 and which may include the use of the constitutional authority of the State to regulate the use of land and water; other noncompensatory regulations which may be appropriate; compensatory regulations; tax incentives; acquisition of fee or less than fee interests in land and/or water; or any combination of methods which will best accomplish the purpose of this Act: *Provided,* That the program may not propose an expenditure of Federal funds in excess of $12,000,000 exclusive of funds available under other Federal programs including, but not limited to, the Land and Water Conservation Fund Act and the Historic Preservation Act of 1966: *And provided further*, That the program shall indicate the total anticipated costs of implementation of the plan and the expected sources of funds to meet those costs; and

(d) the identification of the units of State and local government which will be responsible for implementing the program and the designation of the specific State or local entity which will be responsible for the operation and maintenance of the urban park together with the necessary enabling authorization for such entity to perform the appropriate operations and maintenance.

SEC. 6. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") and the heads of other Federal agencies shall cooperate with the Governor in the formulation of the plan upon request of the Governor and to the extent of available funds.

(b) Financial and administrative services for planning and evaluation (including those relating to payment of budgeting, accounting, financial, reporting, personnel, and procurement) shall be provided by the Department of the Interior from the funds appropriated to carry out the provisions of this Act.

SEC. 7. (a) The Governor shall submit the plan to the Secretary who shall, within ninety days of the day it is submitted to him, either approve or disapprove the plan after consulting with the Atlanta Regional Commission and the Atlanta Regional Commissions Advisory Council on Regional Development Planning.

(b) The Secretary shall approve the plan if he finds that (1) the State has afforded adequate opportunity in the Atlanta metropolitan area for public comment on the plan, and such comment was received and considered in the plan or revision as presented to him; (2) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary legislative authority to carry it out, and the chief executive officer of the State and local units of government have indicated their intention to utilize such authority in the implementation of the plan in accordance with the program established by the State; (3) the entity identified as responsible for operations and maintenance at the urban park has the necessary authorization; (4) the plan, if implemented, will achieve the purposes detailed in section 2; (5) there is a reasonable exception that funds will be acquired or be available to implement the plan and that the estimated costs of implementation of the plan are accurate; and (6) the plan will, in fact, be implemented.

(c) If the Secretary disapproves the plan or revision, he shall advise the Governor of the reasons therefor, together with his recommendations for revision. The plan, following its disapproval, may be resubmitted to the Secretary for his approval in the discretion of the Governor.

(d) Upon approval of the plan, the Secretary shall publish a notice thereof in the Federal Register, and shall transmit copies of the plan, together with his comments to the President of the Senate and the Speaker of the House of Representatives.

(e) No revision of an approved plan may be made without the approval of the Secretary. The Secretary shall approve or disapprove a proposed revision within ninety days from the date it is submitted to him. Whenever the Secretary approves a revision, he shall publish notice thereof in the Federal Register.

SEC. 8. Upon approval of the plan, the Secretary shall make grants for its implementation in the total amount of $12,000,000 to the State of Georgia for implementation of the plan. The State may transfer any or all of such grants to local units of government identified as having responsibility for implementing its provisions. Such grants shall be made upon application of the State, shall be supplemental to any other Federal financial assistance for any purpose, and shall be subject to such reasonable terms and conditions as the Secretary deems necessary to effectuate the purposes of this Act.

SEC. 9. There is hereby established a special account in the Treasury of the United States for the purpose of holding moneys to be used for grants, pursuant to section 8 of this Act, to the State of Georgia. There shall be covered into such special account the sum of $12,000,000 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462) as amended and/or under the Act of June 4, 1920 (41 Stat. 813), as amended, which would be otherwise credited to miscellaneous receipts of the Treasury.

SEC. 10. APPROPRIATIONS.—There are authorized to be appropriated to defray the expenses incident to the preparation or revision of a plan for the acquisition, development, and use of the urban park such sums annually as may be necessary, and for grants to the State to implement a plan approved pursuant to section 7 of this Act, a total of $12,000,000 from the special account created in section 9 of this Act, except that no part of such sum may be appropriated for any fiscal year prior to the fiscal year ending September 30, 1978.

The title was amended so as to read: "A bill to authorize the establishment of the Chattahoochee River National Urban Park and Recreation Area in the State of Georgia, and for other purposes."

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute to consider two nominations reported unanimously by the Committee on Commerce earlier today. I make this request at the behest of Mr. PASTORE and Mr. MAGNUSON.

There being no objection, the Senate proceeded to the consideration of executive business.

FEDERAL COMMUNICATIONS COMMISSION

The assistant legislative clerk read the nominations of Margareta E. White, of Virginia, and Joseph R. Fogarty, of Rhode Island, to be members of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. PASTORE. Mr. President, I move that the President be notified.

The PRESIDING OFFICER. Let there be order in the Senate.

Without objection, the President will be notified.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will return to legislative session.

LEGISLATIVE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of H.R. 14238. The pending question is on agreeing to the last committee amendment, on which there is 1½ hours remaining.

Who yields time?

Mr. CULVER. Mr. President, I ask unanimous consent that there be a quorum call, without the time being taken from either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senator will suspend until order is restored. Senators will please cease conversation.

The Senator may proceed.

Mr. HOLLINGS. Mr. President, we have now returned to the subject of the turkey that is going to be unloaded on the Senate. If you remember, just before lunch, we were knocking on doors, trying to find out what was going on, and no one knew what was going on, except that they were trying to unload it, that they greased a few skids, and were going to run it by the Senate, and that they were going to let us buy the building because they believed in good government.

The distinguished Senator from Iowa had painted a very fascinating picture about a bunch of nitwit Senators who were just zooming around trying to buy a building, for some place to spend money.

I responded by pointing to the extensive hearings, including the hearings of last December 1975, and other hearings of the Senator's own subcommittee in March of this year; but besides the hearings on everything he has alluded to, I would like at this point to refer to a letter of the National Governors' Conference, signed by Cecil D. Andrus, the Governor of Idaho, who writes, on September 3:

> DEAR SENATOR HOLLINGS: The National Governors' Conference has devoted considerable effort during the past year to finding a central office facility in which our own offices and those of other state associations and individual States could be located. The purpose of this facility is to strengthen the individual and collective state presence in Washington, D.C. and to provide improved central services to state offices at a reduced cost.
>
> After an extensive search by the NGC Building Committee chaired by Governor Daniel J. Evans, the Executive Committee approved the new building at 400–444 North Capitol Street as an appropriate site.

So now they have a turkey that is going to be unloaded on Governor Evans.

Mr. President, I ask unanimous consent that the letter in its entirety be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' CONFERENCE,
September 3, 1976.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Legislative, Senate Committee on Appropriations, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR HOLLINGS: The National Governors' Conference has devoted considerable effort during the past year to finding a central office facility in which our own offices and those of other state associations and individual States could be located. The purpose of this facility is to strengthen the individual and collective state presence in Washington, D.C. and to provide improved central services to state offices at a reduced cost.

After an extensive search by the NGC Building Committee chaired by Governor Daniel J. Evans, the Executive Committee approved the new building at 400–444 North Capitol Street as an appropriate site.

The lease which we have negotiated calls for our occupying floors two and three of the northern section of the building with options for modest future expansion. Our lease fur-

> ther calls for occupancy next month. To prepare for occupancy we have spent substantial time and resources and have given up our present space. We expect construction of our new space at 444 North Capitol to begin immediately.
>
> My understanding is that the Senate, which has previously considered the purchase of the building, will take up this question at noon on Tuesday, September 7, in connection with the Joint Legislative Appropriations bill. We have received numerous indications during the past several months that if the Senate were in fact to purchase the building, which as you know is quite large, all outstanding leases would be honored, and that the States in particular would be most welcome tenants. We for our part would be pleased to remain in the building under our lease if the Senate should in fact purchase the building.
>
> My understanding is that the Senate bill to be considered on Tuesday makes specific provision for the leasing of space not immediately required by the Senate. In view of this provision, which is consistent with the discussions indicated above, we plan to complete promptly the long and difficult process of moving into the new building. Should the Senate acquire the building we look forward to working with its designated agents for our mutual productive use of the premises.
>
> I greatly appreciate your cooperation on this important matter.
>
> Sincerely,
>
> CECIL D. ANDRUS.

Mr. HOLLINGS. Referring to the last paragraph, Mr. President, Governor Andrus states:

> My understanding is that the Senate bill to be considered on Tuesday makes specific provision for the leasing of space not immediately required by the Senate. In view of this provision, which is consistent with the discussions indicated above, we plan to complete promptly the long and difficult process of moving into the new building. Should the Senate acquire the building we look forward to working with its designated agents for our mutual productive use of the premises.

Now, in addition to the GSA finding, in addition to the finding by the Architect, in addition to the finding by the subcommittee, which has had numerous hearings, in addition to the findings by the chairman of the subcommittee, and in addition to the finding by the chairman of the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH), we now have a National Governors' Conference Building Committee coming in and looking at the building, and finding it, not a turkey, but something they would want to make sure they could find space in. That is the group that met in Williamsburg over Labor Day, incidentally, and asked for a balanced budget. They are very much interested in sound business judgment, staying in business, and balancing budgets. That is the same group that is interested in this building.

To reiterate once again, our committee only provides the authority for the Senator from Alabama (Mr. SPARKMAN), and the Senate Office Building Commission, and the Architect of the Capitol to enter into negotiations to see if we could make an appropriate arrangement that would be economical, that would be in the best interests of the Senate, and that would answer the tremendous pressure of space needs and parking needs, rather than what the Senator from Iowa said was an exorbitant expense; namely, the rentals. The subcommittee found the rentals were exorbitant, and on that basis, that it was in the interests of the Senate not to help the owners pay off the mortgage and then, in 5 or 6 years, when we desperately need it, have them up the price because that is the only space around this Capitol Hill complex. Rather than help them pay off that mortgage, we were recommending an economically sound and prudent action.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield for a question.

Mr. McCLURE. There is a bit of confusion in the Chamber, and perhaps I missed something in the reading of the letter from the National Governors' Conference. Was the National Governors' Conference seeking to persuade Congress to buy the building, so that they might be able to rent space from Congress?

Mr. HOLLINGS. No; they were seeking to rent the space irrespective of the action taken by the Senate. The Senator evidently did not hear the debate we had prior to lunchtime. When the building was spoken of as a greenhouse, a ghost house, a haunted house—it was all falling apart, and no one with any good sense would want it. It was finally, in cumulation, called a turkey. I was addressing the fact that, on the contrary, we had had hearings, and in the Public Works hearings themselves, in March, all these estimated costs for tenant improvements, for lights, for rugs, were before the Public Works Committee.

Mr. McCLURE. My question was, I do not understand what it was the National Governors' Conference was seeking to accomplish in writing the letter.

Mr. HOLLINGS. That if we became the owners, they would like to lease from us.

Mr. McCLURE. Well, were they in that letter, in effect, urging us to buy it so they could rent space?

Mr. HOLLINGS. The Senator keeps asking what he understands the answer to be. That letter is not urging us to buy or not to buy. The letter just states exactly what it says:

> After an extensive search by the National Governors' Conference Building Committee chaired by Governor Daniel J. Evans, the Executive Committee approved the new building.

If the Senator had heard that debate before lunch, he would not have thought anyone in his right mind would approve anything about this building. That is what I am citing this letter for.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield the floor.

Mr. CULVER. On that particular letter I think all Senators——

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. It is on my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. With regard to that particular letter, I think it is important to clarify it. I think many Senators have received copies of it today. Independently of that communication I have had telephone conversations with representatives of the Governors' conference. What they say in the letter is:

> We have been negotiating for some additional space in the Nation's Capital suitable for our activities in the Governors' Conference. We have determined that this site may be suitable and we may wish to rent some space in that building. We want to just advise you that, if the Senate buys it or if the Senate does not buy it, we would be interested in negotiation for such limited space consistent with our needs and precisely defined requirements.

They are not talking about leasing the entire building. On the contrary, we are talking about a building of 550,000 square feet, essentially 70,000 square feet on every floor, and they are talking about some portion of one floor or possibly two floors.

Second, I had a communication this morning independently from a Governor who is very prominent and active in the Governors' Conference. It was a telephone conversation, and he advised me:

> I think you are right on the issue. You are dead right on the issue. But if the Senate goes ahead and buys it, I just wanted to let you know we may be interested for a bit of it.

I think it is very important to note, Mr. President, that in December 1975, when this was being considered in terms of a possible lease arrangement, and the Senator from Idaho contributed I think so expertly in an attempt to elicit the relevant information with regard to that particular contemplated negotiation, at that time the distinguished Senator from South Carolina said:

> I don't think we should be in the management business.

He said:

> I don't want to be in the management business.

I think the important thing to keep in mind is that we either have a precisely determined exact requirement for space for specified purposes or we do not have. If we have such a plan and such a requirement carefully defined, we ought to make an informed and careful judgment as to how to best satisfy that need in the short term and the long term. That is why we talked about lease.

Right now we are talking about space for a second computer. At the outside they are talking about 38,000 square feet to accommodate the total computer unit, and OTA is coming in with a request, because they have been told there may be some space over in this wondrous building, with an inflated request for 60,000 square feet.

Take the worse case. There has been a purported demonstration of need, taking the outside parameters, on the outside of 100,000 square feet.

It seems to me at a time when GSA says, "You're out of your head to rent space down there for more than $7.72 a square foot because it is overbuilt in that market," for us to take on the long-term costs and the immediate costs of purchase, that are represented in this building and which we are prepared to go into in great detail, which is totally unsuitable for our needs, is the height of irresponsibility.

The Governors' Conference only said

that they are looking for some rental space. They are not interested in buying this.

Mr. HOLLINGS. Mr. President, will the Senator yield at that point?

Mr. CULVER. I am glad to yield. On whose time?

Mr. HOLLINGS. On my time. I want to read this paragraph because there is not any "may" in this or "they may do it."

> The lease which we have negotiated calls for our occupying floors two and three of the northern section of the building with options for modest future expansion. Our lease further calls for occupancy next month.

They are not talking about "may" or "sort of" or "like" to sort of talk to you about it.

> To prepare for occupancy we have spent substantial time and resources and have given up our present space. We expect construction of our new space at 444 North Capitol to begin immediately.

That is why the Governor and head of the Governors' Conference called me all the way in Charleston, S.C., on Labor Day. So I had no "may," "might like," and everything else like that. It is positive.

I know the Senator talked to his Governor and he said,

> "You're quite right on the issue."

If I called my Governor he would tell me I was quite right on the issue.

Mr. CULVER. If the Senator will yield, is it relevant to the National Governors' Conference at all in their letter as to who owns the building?

Mr. HOLLINGS. I think they want it. I think they think it is a good building.

Mr. CULVER. They do not care who owns the building, right?

Mr. HOLLINGS. I think they would perhaps.

Mr. CULVER. They do not say that in the letter.

Mr. HOLLINGS. They found the present owners as a competent team to deal with. The Senator had them sneaking around and unloading turkeys.

Mr. CULVER. There is a difference to have a landlord lessor-lessee arrangement and buying something.

Mr. HOLLINGS. That is right.

Mr. CULVER. What are we really talking about here? I was interested in whether now the distinguished Senator from South Carolina has made a determination that the Senate ought to get in the business of property management. We are going to take it on ourselves, when this private developer cannot find tenants to fill up a building of 550,000 square feet, that managerial responsibility that we properly, in my judgment, repudiated in the Chamber in December 1975.

Finally, we know that the history, Mr. President, of the U.S. Government as a landlord has to be one of the most deplorable chapters in American history. Right now there is Federal space being rented in the Visitors Center, and by the way if we go ahead with this it is going to make the Visitors Center look like a good deal, at 50 cents a square foot per year. The lease for the U.S. post office down there is like $150 to $200 total a year for their substation. In the meanwhile the Federal Government will be carrying the operation and maintenance costs, which in this bill alone in the first year are $3.5 million. There will also be the electricity bills. Additionally, it does not meet GSA standards in energy. If that is what we are debating here, we ought to know that.

The National Governors' Conference indicates that they need some space and, whether or not the Senate buys the building, they just want to notify us that they have this pending interest in leasing. I have no objections to negotiating the lease. I supported efforts to negotiate a lease for carefully defined space up to 5 years during this interim period. But that is an entirely different issue.

Mr. HOLLINGS. On whose time is this?

Mr. CULVER. My time.

It is an entirely different issue. Whether or not we are going to buy or whether or not we are going to buy and be a landlord in terms of the responsibility for administration of this space are entirely different issues.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. CULVER. I yield.

Mr. McCLURE. If I understand, also, the letter from the Governors Conference does not identify the terms and conditions of the lease or the value that is put upon it. Certainly that is absolutely essential to any evaluation of either the suitability or desirability of the lease. There is a great deal of difference, as the Senator from New Mexico mentioned to me a moment ago, between renting a turkey and buying one. Whether this is a turkey or not will depend upon the conditions and terms of the lease as well as conditions and terms of the sale.

The Committee on Public Works did decide that the building was overpriced as did the GSA on the prior lease arrangement. In spite of the fact that we decided it was overpriced, now we find this legislation appropriating enough money to pay even more than we had determined was excessive on the market.

Mr. CULVER. If the Senator will yield at this point, it is interesting to note that the negotiations were originally between GSA and the builders. They were $448,000 apart on what GSA said was an acceptable rental based on the prospectus that this Congress established on October 10, 1974. GSA walked away and rented suitable space for $5.49 per square foot. They saved money for the U.S. taxpayers, even under the amount authorized by the congressional prospectus.

Interestingly enough, the next step was when the builders entered into negotiations with the U.S. Senate to rent it. The interesting thing here is that the differential became greater. While the builders were in effect $448,000 apart with GSA, they proposed a deal which was a million dollars apart from what the Senate negotiators and the builders felt was a tolerable level of rent. Those negotiations failed.

We are appropriating automatically 35.5, and where we got that figure, I do not know. That is just out of thin air, literally out of thin air—35.5. Nowhere in any of these documents does that even appear.

If we look at that figure of $35.5 million, they have $3.5 million for operation and maintenance in the first year. That is the one to watch, $3.5 million for operation and maintenance.

Mr. McCLURE. Will the Senator not agree that that is above the 35.5?

Mr. CULVER. The Senator is absolutely right.

So when you add 35.5 and 3.5, you are up to $39 million for openers, with no firm understanding whatsoever as to what constitutes that basic building: What constitutes a carefully and mutually defined and acceptable shopping list of tenant improvements.

Look at the O. & M. That $3.5 million, if you apply it to the net square footage we are talking about, it comes out to about $9 per square foot. That is just O. & M. costs. And we are talking about what a great saving this thing is.

What a wonderful saving. You could rent all the space you need, and have the National Governors' Conference as a fellow tenant. Fine. But it is a major difference whether you are talking about an interim accommodation for a second computer with a precise, defined requirement, and for the OTA, or taking on the ownership obligations of a structure which is twice as big as the Russell Building.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. CULVER. I do not yield at this point.

The important thing here is, what are the terms of that deal between the National Governors' Conference and the owner? They say that they are giving serious consideration to signing this thing in October.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. CULVER. Not at this point.

Mr. SCHWEIKER. I hope we get the record straight on some misinformation the Senator is giving the Senate.

Mr. CULVER. The Senator will have plenty of opportunity to do that.

On this point, the interesting thing is that negotiations had fallen through on renting it to either the GSA or the U.S. Senate and the deal fell through on buying it. We have had all these hearings, and it was the considered judgment of the Committee on Public Works, the authorizing committee, not to touch it. That was the result of those hearings. That the standing committee of legislative jurisdiction rejected it.

Mr. DOMENICI. Mr. President, will the Senator yield on that point?

Mr. CULVER. I should like to finish this point.

We have this situation here: What are the terms of that agreement for two floors with the National Governors' Conference? I bet it is in the $7 range, sight unseen. I do not think the National Governors' Conference is going to get stuck.

It would be interesting to know, under the terms of that lease, who is paying the utility bill. When you have a structure that has a 52-percent glass skin and you have to keep it air-conditioned, it would be interesting to see, under the terms of that lease, whether the owners have agreed to pay for those utilities.

The reason why I think that price has

come down is that, on May 20, we rejected the sale. On May 21, the owners withdrew their sale offer, put up the signs, sent out the ads. Panic. They are trying to get it filled.

Do Senators know how long it takes normally to fill a building of 550,000 net square feet if it cannot be sold to one person? It takes most of these builders 2 or 3 years to fill it. These builders are stuck with a building that was completed in 1975, and they do not have one tenant in it. They are paying carrying charges every month that have to be in the $250,000 to $300,000 range, since they borrowed $26.5 million to construct this building.

This is the most ludicrous aspect of the whole thing. GSA did an appraisal and determined that the costs exceeded the prospectus set by the Congress for SEC.

Moreover, GSA indicated that this whole market in that area is overbuilt. It is a buyer's market. It is not a seller's market. They cited places where you can rent space at $7.27 a square foot and said that anybody who pays more down there is crazy.

Now we come along, walking in, fat, dumb, and happy, and say, "Hi." We are the buyer let them set the price. Think of it. They are saddled with this thing that is costing them a fortune every month, and we are going down there, hat in hand, and we say, "Let us give you a check. We have $39 million, and we will come back later and talk about exactly what is to be included in that check." I believe they will be nice fellows and will let us do it.

These men are professionals. It is their business. We have all the evidence in the world here on the merits of that building and the lack of demonstrated space requirements.

I noted here that the GSA also says that under the law they cannot authorize any Government presence in a building that has more than 35 percent glass skin, which is what I think the Senator said this morning. This building has a 52 percent glass skin.

The reason is the energy loss. Do Senators know what the air-conditioning bill is going to be on that place? When we did not have the energy crisis, the initial cost of electricity was cheap. It is the cheapest thing in the world, and you do not worry about who pays the electricity bill, because you are going to rent it out, and that is where they got caught.

Now, the incredible irony here is that rather than go down there and renegotiate a lease—after all, after you have been paying those kinds of carrying charges for a year, you know, your old headset may change a little. You may be looking at tenants to just cut your losses—we go walking around as if we are getting a big deal, taking this—yes—turkey off their hands.

Mr. DOMENICI. Will the Senator yield to me 10 minutes on his time?

Mr. CULVER. I am glad to yield.

Mr. DOMENICI. Mr. President, I join the Senator from Iowa in opposing the pending amendment. The provision would authorize and appropriate $35.5 million to purchase a building at 400 North Capitol Street. An additional $3.5 million would be appropriated for operation and maintenance during 1977.

The new building would provide enough space to accommodate 4,000 people, using GSA's figures for recommended space per employee. No one in the Senate would disagree that current space is inadequate. Such a vast expansion as that proposed in this bill should not, however, be undertaken without review and planning.

We have already underway the Philip A. Hart Senate Office Building. When all building and renovations are completed, space for Senator's suites will be increased 2½ times and committee space will almost double.

Approval of the Hart Building was not hastily arrived at. The Senate Office Building Commission, the Senate Public Works Committee, the Appropriations Committee and the Rules Committee all reviewed space needs, design and cost of the building.

The new building will provide an increase of 70 percent in overall Senate office space. This increase was supposed to serve the Senate through the end of this century. Now we are being asked to approve in an appropriations bill purchase of a building with almost as much space as the Hart Building.

Last May, the Committee on Public Works considered purchase of the property at 400 North Capitol Street. By a narrow margin the committee voted against purchase and asked the Commission on the Operation of the Senate to look into the merits of acquiring the building.

Mr. President, we have set up this Commission to study Senate operations and future needs. We expect a report from them within 6 months. The Architect of the Capitol is also engaged in devising a master plan for the Capitol area as a whole. Information from this assessment should begin to come out soon.

In the face of an acknowledged need to plan more carefully, we are being asked in this bill to purchase 552,000 square feet for an interim period. We do not know that the space will be needed after 1979. We do not know how we might dispose of the property if it is not needed.

We are told that the space at 400 North Capitol will allow us to demolish office space across from the Dirksen Building in order to construct an underground parking garage. Current estimates of the cost of such a garage is $30 million. I am sure we could all agree that final costs would be even higher.

Mr. President, the garage has not been authorized. There are those of us who will want to study very carefully the need for such a facility, given the impending completion of Metro and the need to encourage greater use of mass transit. To base the need for 400 North Capitol on the construction of a garage which may itself be unwise is, in my opinion, ill-advised. This is one more instance of the need for comprehensive, long-range planning for Senate expansion.

I also point out that 400 North Capitol is in a somewhat inconvenient location for Senate staff working on legislation. It is an 8-minute walk to the nearest entrance of the Dirksen Building and further to the Senate floor. Senate expansion is toward the east—further still—with construction of the Hart Building. While certain operations might well make use of the space without the need to shuttle back and forth, it is difficult to conceive of filling the entire building with employees so remotely connected to daily Senate operations.

Mr. President, purchase of the vast new facility at 400 North Capitol at this time is ill-conceived. It contemplates spending $35.5 million to acquire the property, $3.5 million in operating costs, and predisposes the Senate to approve a minimum of $30 million for a new parking garage.

These actions should not be taken without proper long-range planning and review which are currently underway. I urge my colleagues' support for the amendment to strike these appropriations.

I commend the distinguished Senator from Iowa for his opposition to the purchase of the building and I want to spend a few minutes reviewing my involvement and what I think today about this.

First of all, I think we should make it very clear on the record that not only did the Senate Committee on Public Works recommend that we not purchase this building——

Mr. SCHWEIKER. Will the Senator yield to say how much the vote was on that?

Mr. DOMENICI. I am delighted to state that.

Mr. SCHWEIKER. I hope somebody will put it in the RECORD.

Mr. DOMENICI. The vote recommending that we not purchase it was 7 to 6. It was a one-vote margin. But let me state for the record what the proposal before us was.

Today, we are being asked to buy this building for $35.5 million. I say to my colleagues that the Senate Committee on Public Works recommended against buying it for $31.5 million—a $4 million difference at the outset. Under the proposal submitted to the Committee on Public Works, the owners were to spend $3 million improving that building for our occupancy or, at our option, we were to buy it for $28.5 million and pay for improvements after purchase. That is, in a very few months, we are adding $4 million to the price of a building which is not increasing in value and, unless the current owners spend $3 million in tenant improvements the increase could amount to $7 million more than we considered just 2 or 3 months ago. That is almost a 25-percent increase.

I do not think this is a good proposition for the U.S. Senate as an institution. I have a genuine concern for this institution after 3½ years here. Some people may think Senators should be committed only to their States. I frequently say at least part of my efforts ought to be committed to making this institution work. So every now and then, I ask, what should I be doing as a Senator to make this body work better for our people?

I honestly believe that with reference to managing our space, the U.S. Senate has for years had no system of setting priorities or determining needs. A multiplicity of committees have jurisdiction over these determinations. We are confronted today, as an institution, with a need. I say it is more than a need; it is two needs. One need is, perhaps, over the long run, for substantially more space. But the other need is to manage our own affairs better, including the utilization of space—how much we need and who ought to occupy it.

I submit to my colleagues that if we respond emotionally to an acknowledged need by going down the street and buying a vacant building of 552,000 square feet, what we have done is deny this institution an opportunity in the immediate future to do a better job of fixing up and managing what we have.

What we have done is say that for another 10 years we have taken care of everything by spending $35 million. We will leave it to 20-year-from-now Senators to worry about filling or disposing of the building and will have given absolutely no consideration to how we ought to manage existing buildings.

Mr. CULVER. Will the Senator yield on that point?

Mr. DOMENICI. I am glad to yield.

Mr. CULVER. Mr. President, I think the Senator has put his finger right on it. You know, it is an actual, tragic fact, but true, that today, in the U.S. Senate, we do not have a space inventory at all. The Architect of the Capitol does not know what space we have and what function and activity is going on in that space. We do not know that.

Unless and until we know that, the Senator from New Mexico is absolutely correct that what we are saying to the U.S. taxpayer is, "Continue to subsidize our irrational sprawl, because we are not competent in a minimal way to get our house in order." It has been topsy-turvy growth.

One interesting illustration: The House of Representatives, in the Commission on Facilities that has been established and working this past year, has been going around and making such an inventory on the House of Representatives side of the Capitol. Do you know what they found? They have maps over there of the House of Representatives, on the Capitol side. They have a total of 100,000 net square feet over there. They have determined that if they cleared out of there all the nonlegislative activities that are not justifiable in terms of the need for close proximity to the Chamber, they would free up, overnight, 26,000 square feet of clean, new space for Members' use.

It is true, we have this short-term crunch. But we also have the Monocle block and we have the Dirksen extension coming on line in 1979, and hopefully, this temporary Commission on the Senate will make relevant recommendations. The master plan has got to do these simple, minimal things in terms of space and function and relationship to the real activities of this body.

I thank the Senator for yielding.

Mr. DOMENICI. Let me continue and say that we are evaluating all kinds of Federal programs for others and saying, "They are too fat, they have not been very effective, now is the time to cut back, to take a look at them." We are telling our American people that we have to go through a period of hard times for better times.

Yet we are here today considering spending $39 million, knowing full well that, right down the line, in about 2½ years, we are going to have a brandnew building, which we planned for in some detail and which will add about two and half times the committee and Senate space to what we have now. We ought to be planning for its occupancy. We ought to be planning for an interim type of renovation of our present space, planning for us to occupy that new one in an orderly manner. There is no one around this institution who is not willing to sacrifice with regard to the difficult space problem we have, if he just knows that we are going to solve the problem eventually.

We are not prima donnas. We do not need three new buildings. We are glad to get a brandnew Hart Building that is going to give us tremendous flexibility. Our planning in the interim should not involve buying a $35 million building with 552,000 square feet; a building that is five or six blocks from here; one which will eventually be usable only for staff that is not needed on a day-to-day basis by the Senate, because, certainly, when the Hart Building is finished, all of those staff members will be in the Russell, Dirksen, or Hart Buildings.

It just does not seem to me that we are approaching the present demand needs in a logical manner when we go out and propose to buy this kind of building, when with less than the operating and maintenance that is required for it we could lease enough space for the 5 or 6 years that we need to move into the Hart Building.

Mr. CULVER. Mr. President, will the Senator yield on my time?

Mr. DOMENICI. I yield.

Mr. CULVER. I think he has touched on another point. We hear a lot of talk about the way the explosion of the Senate staff grows, and it is certainly true we have seen an enormous increase in the number——

The PRESIDING OFFICER (Mr. BROCK). The 10 minutes of the Senator from New Mexico have expired.

Mr. CULVER. I yield myself whatever time I might require.

We have seen an enormous explosive increase in the staff in the Government; we have seen it in Congress, and I think it is important to look more carefully at these numbers.

In the Senate right now the total payroll is a little over 6,000 employees. We have had a dramatic increase in the last year or so of 600 employees. We have gone over the 6,000 mark.

Now, everybody is saying that all we do when we even speculate about our future space requirements is to just make a naked linear extrapolation, geometrically extended, and concluded that we are going to need all this additional space to house this additional growth. It would be like cancer cells, nothing organic about it.

It is important to look at the 6,000 figure. I submit it is wrong to think simplistically in terms of this kind of linear extrapolation for the future. Why? We have had, it is true, some institutional changes of a relatively short-term duration. We have recently created the Office of Technology Assessment; we have recently created the Congressional Budget Office; we have recently created the temporary Commission—temporary Commission—on the Operation of the Senate that goes out of business January 1; and we had Senate Resolution 60 that gave everybody another staff assistant for their committee staffs.

I submit that that is rather a short-term, concentrated situation.

We have also commissioned the Stevenson Committee on Committees to examine whether or not the mindless proliferation of committees and subcommittees makes any sense for the future.

One of the options now pending before that committee is to take a meat ax and get this thing down to size so you have got a jurisdictional scale and perspective that, at the same time, is comprehensive and not redundant, and minimize the overlap and inefficiency of the innumerable committees we have.

So this thing is not static, it is dynamic. You cannot just automatically extrapolate from the recent history of the last 12 months what those future plans are going to be. What we desperately need in this place is someone with a little more sophisticated approach to space, function, personnel, activities, and so on. That is one of the reasons we have a Capitol master plan; it is one of the reasons that I think the Temporary Commission on the Operation of the Senate is coming forward with some guidelines for us on the kind of studies we do need to achieve this.

There is a lot of magic attributed to this ratio of 100 square feet per body and we are down, it is true, to 65 square feet in some of our Senate offices.

When we get Dirksen built, it is going to mean a change in each Senator's suite size from 2,100 square feet right now to 5,200 square feet—2½ times as much space.

One of our big problems today is that we are sitting here with this proposal. We have an Architect of the Capitol who has commissioned one of the most prestigious firms in the country to do this comprehensive study for a Capitol master plan, and while awaiting the results of that, we are talking about buying a building that is twice as big as the Russell Building. That is just absolutely mind-boggling. Why bother to plan? You are buying something in one shot that is going to put all your plans into a cocked hat anyway.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. CULVER. Not yet. When I finish this one point.

That is what this Temporary Commission is going to do.

Right now that is our problem. We have an Architect of the Capitol sitting over there responding to these pressures and requests for space.

We have a Rules Committee with a piece of the action; we have an Appropriations Committee with a piece of the action; we have a legislative subcommittee of that committee; we have the Senate Committee on Public Works; we have a thing called the Senate Building Commission. I do not say it disrespectfully, but that is just another actor in that incredible parade of players.

Now, it is no wonder when you go and try to make rational decisions about what space we need and what we should buy it for, we do not have the professional expertise and judgment on exactly what we need and why we need it. And unless and until we get that thing cleaned up, we are going to face, as we are facing here, this kind of incredible situation where we are committing ourselves to a fourth Senate office building. Make no mistake about it. I do not think the average Senator is aware of what we are doing. Somebody comes up to the average Senator and says, "You know, don't you, of the need for space?" "Yes." "How about buying a building? There will be all kinds of space." "OK, sure, we are crowded."

I do not blame them. Of course, they are crowded, but if we cleaned out some of the dry rot around here in some of these buildings, and put people in those places in activities and functions that made some semblance of rational sense, we would have room for our secretaries. It is our fault. It is our fault that we have had this cancerous growth. It is nobody's fault but our own that we have tolerated this kind of administrative mishmash and overlap and conflicting jurisdiction and authorities.

But what happens? Typically everybody gets a piece of the action, and it ends up in a mess on the floor, and we go out to the poor American taxpayer and say, "How about coughing up another $40 million because we can get a space inventory around here," which we could do with a couple of summer interns, properly supervised. So we just cannot get our house in order enough to do it. So we say, "Let us keep subsidizing this irrational sprawl, cater to our own incompetence." That is what it means. Seriously, I do not mean that as a reflection on the distinguished Senator from South Carolina or his subcommittee, but the simple fact remains—and he makes reference to these hearings—that at not one of these hearings have we had any outside expertise. We have not had Cabot, Cabot and Forbes or some other professionals come down here, and pay them a few hundred dollars for 2 days to go through that building, and ask, "Does that make sense?" At least, they will ask us, "What do we want it for?" at least they will raise the right questions.

This hearing record is replete with "We do not have a plan for that."

Let us be honest about it then, throw in the parking garage, have a $70 million pig-in-a-poke pending, and we will vote that up or down. We have not even decided on a parking garage. All we have are vague suggestions such as, "We may build a parking garage some day, so let us buy the lot," or "we need a space reservoir, a pool."

I can see where it is convenient for an architect as a constructional matter to just vacate the Capitol while they hang pictures, but that does not have to be the case.

There are not even any plans for modifying the Russell Building.

But there is no demonstrated need. The only identifiable need for space, in spite of this mess we are in, is that we have a few people from OTA that need a spot to rest until mid-1979. And we have to put a second computer in. Figures for computer space needs are 38,000 square feet. Fine. The expense of building a fancy computer center in the Dirksen extension is a big one. And over here we have the equivalent of Howard Hughes buying a whole hotel so he can stay in the penthouse alone.

The computer will be put in a mausoleum.

Two years later, after we have paid all that cost for putting in all the special air conditioning, they will come back and say, "We've got to be back in the Dirksen extension, we'll move it all back, forget the cost."

If somebody really looked at that, they ought to move that computer out of town. What do we need it here for, anyway?

That is the kind of judgment decision on space allocation we should be making. What do we need the folding room for? Put it where it belongs, truck that stuff, make some sense, and we would have space to perform needed operations, and far more efficiency.

I reserve the remainder of my time.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding.

Mr. CULVER. Before the Senator proceeds, will the Chair be kind enough to tell me how much time I have remaining?

The PRESIDING OFFICER (Mr. BROCK). The Senator has 7 minutes remaining.

Mr. CULVER. I yield the Senator 2 minutes.

Mr. WILLIAM L. SCOTT. I appreciate the Senator yielding and will not even take the 2 minutes.

I have listened to the discussion here and, in general, I am sympathetic with the various statements that have been made by the distinguished Senator.

I just wonder if consideration has been given as to the question of price of acquiring this property, if it is needed, in fee through eminent domain, rather than to pay the price that the Senator from New Mexico indicated was grossly excessive.

I heard him speak of $28 million and $31 million and $35 million.

But that is the purpose of having eminent domain proceedings and title can be acquired immediately through the declaration of taking act.

It is something that perhaps should be considered.

Then I heard the doubt expressed that perhaps we only needed it temporarily. I know oftentimes we speak of needing things temporarily, and temporarily means perpetually.

But we could, if we wanted to acquire the right to use and occupy this property for a term of years, with the right to renew it for such period of time as we might want to renew it. I wonder, in the statement that the floor leader will undoubtedly make before this matter is concluded, if he might indicate what consideration has been taken to have the compensation, the fair market value, determined by a court proceeding, and whether consideration has been given to taking the property for a term of years with the right to renew for such time as may be necessary.

It seemed to me that might be a prudent approach in view of the controversy that is quite evident by the discussion here on the floor.

Mr. President, I yield back whatever time I have remaining of the 2 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, how much time do both sides have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 33 minutes. The Senator from Iowa has 5 minutes.

Mr. HOLLINGS. Mr. President, if we could have more questions like the distinguished Senator from Virginia just propounded, maybe we would get to some good common sense, rather than histrionics.

I have heard all of this malarky about Howard Hughes staying in the penthouse with a pet computer, about fat, dumb, and happy Members giving out a check for $39 million.

I never heard such nonsense. All we have to do is look, Mr. President, at that page 35.

These hit-and-run drivers, if they would only stay on the floor and listen to the facts and read the report, they would find out immediately exactly what the Senator is asking for on page 35. It is discussed at length.

But let us look at the bill. It does not say, "Fat, dumb, and happy, run down and give away money."

It says, "to authorize and enable."

We did not put in there "direct." We just said "enable the Architect of the Capitol under the direction of the Senate Office Building Commission to acquire on behalf of the United States "this particular building" by purchase, condemnation, transfer or otherwise."

Then further down, "Provided further that any proceeding in condemnation brought under this paragraph shall be conducted in accordance with the act of December 23, 1963."

So, yes, the answer is fair market value. Nobody is trying to give this money away, nor is there any kind of deal with a pet computer, sitting in a penthouse with a glass wall around it and a high electric bill, and all that wonderful, descriptive malarky that my distinguished colleague puts out here.

The way that the Architect proceeds is under Federal law, the Uniform Relocation and Land Acquisition Policies Act of 1970. He will have one or more disinterested third parties appraise the property and determine a fair market value. If the owners and the Congress do not agree, they can go to court if they want to.

But that is the exact procedure.

Now, the procedure he just wraps up quickly because he is a fast-moving target. We have to grab him quickly, but he has, "you get one, I get one." That is it, we agree, and we will be fat, dumb, and happy, he says.

Well, let us give a check for $39 million.

The truth is, under the testimony of his own subcommittee—not Cabot, Cabot, and Rabbit, Rabbit, and the other kind of people he found over Labor Day—we have been studying it. He should have brought it before the committee if he was concerned about it. It was a matter of hearing since April. We had it last December, we had it in June 1975, outside appraisals, the GSA appraisal.

It is signed right here. We do not need Cabot, Cabot, and Rabbit, Rabbits.

Richard E. Kane, the staff appraiser; Michael Natchuras, realty appraiser, PBS. That sounds good to me.

They have been looking over the building. But I can say right now, the breakdown under the testimony was the market value of the building, as is, at $28.5 million.

If the Senator from Virginia wants to add it up—and some Senators on that side have now talked and left—if they want to find out the next $3 million increment, it is on page 37, in the Public Works hearing billed 400 North Capitol Street, it says. On that page is GSA's estimated cost of tenant improvements.

He went over on Labor Day, did not find a rug on the floor, but found a glass on the wall, touched it, and you know what? On Labor Day, he said, it was hot.

Is that not remarkable? An empty building on Labor Day with the sun on the glass.

Mr. CULVER. Will the Senator yield?

Mr. HOLLINGS. I will not yield.

Mr. CULVER. Just on my time?

Mr. HOLLINGS. No, it is on my time. I am not yielding. I want to get through this thought.

We are going down the exact course, rather than giving $39 million, fat, dumb, and happy. The Senator from Iowa is saying, "Please let us give you a check for $39 million and we will talk about the terms later."

That would be stupidity. Everyone knows that.

So the $3 million added to the $28.5 million is $31.5 million. That is what we use right now as a fair market value.

Now, with the additional alterations, in order to put that building in shape with the smaller rooms used for Senate offices and the like, it would cost $3.5 million. That is where they got the $31.5 and the $3.5, and that is where they got the $35 million.

They say we picked it out of clean air. "Where did they get the $35 million? We do not know where they got it. We do not know." We are just trying to give them a little old figure.

We added the $500,000. I do not care what is finally decided on this. There is definitely a need for space for the computer, and the special alterations will cost that much. This includes beefed up electrical air-conditioning and the special raised floors to put the conduits underneath. We studied all of those things.

Do they want to know how the building grows, Mr. President, this cancerous growth, not rational growth, this mindless proliferation? I will tell exactly how it grows, if they will call me fat, dumb, and happy.

Here is a letter to the Senator from Iowa signed by Senator HOWARD CANNON, as chairman of the Committee on Rules and Administration, dated August 26, 1976:

> DEAR JOHN: This will acknowledge your letter of August 16 requesting additional office space for your personal secretarial use. I appreciate the need of all Senators for additional space, and, as space becomes available, we try to meet those needs.
>
> Pursuant to the authority delegated to me as the chairman of the Committee on Rules and Administration, effective immediately you are hereby assigned Rooms 500–A, 500–B, and 500–C in the Senate Courts, 100 C Street, N.E.

So the Senator is going into the fourth Senate Office Building. The Senator got it in a letter just 2 weeks ago.

Mr. CULVER. Will the Senator yield?

Mr. HOLLINGS. No.

I will give it plain. I come from a State of a similar size as the Senator from Iowa. Every Senator knows if I ask for extra space, as the State of Iowa has asked, and everyone else does we have 300 new rooms, that might be cancerous proliferation, cancerous growth, mindless proliferation, and all the rest. But that is not what happens.

If we had all the planning agencies in the world, they would never have said, "You will have a Watergate committee to house in the future."

If there had been a planner, Cabot, Cabot, Rabbit & Rabbit, and if they had said "We will look futuristically to the needs of the U.S. Senate and what you will need will be a Watergate committee to clean up the executive department," we would have run them out of town. If they had come with Cabot, Cabot, Rabbit & Rabbit, and said, "Now we have looked and you will need an intelligence committee because they are breaking into everybody's home in America," Senators would have said to get rid of the planners, that they were crazy.

No one could have foreseen the Church Intelligence Committee.

We can go right down the list. It is the nature of the beast. We in the Senate work on these things. We have hearings. We discuss these matters. We measure them up. We try to answer up to the needs of particular colleagues and particular events. Then they say that we just come around fat, dumb, and happy, that nobody plans. They all think Government started because they have gotten elected. Government started long before my election and their election, both. And we are walking around like we are getting a big deal?

Mr. CULVER. The Senator has been here exactly the same length of time as I, about 12 years each.

Mr. HOLLINGS. And the Senator says, "We are walking around like we are getting a big deal taking this turkey off their hands."

Mr. President, we know how it goes and the testimony is different than what the Senator has given. What did the Architect say? What did the testimony show in the public hearings before the Public Works Committee? I refer to the hearings again rather than to say, "They have all of that space," as I know it is in my hearings several times.

I refer to page 22. Dr. White, the Architect, said, "If the Dirksen extension were to be available tomorrow by virtue of some miracle—the new extension would be full as of the time of its completion tomorrow."

That is starting point No. 1. If we had the Hart Annex built, the solid testimony is that we could fill that up immediately. Well, it will be mid-1979 before we get it at the earliest. That will be another 3 years and perhaps a little more, because the Architect has indicated that is an optimistic schedule.

Then the testimony is, and there are plans, and there has been testimony, to upgrade the Russell Building. Everybody will have one singular joined office in the sense that there will not be a big hall with everybody running down one way. If we tried to give a Senator in the Russell Building the same space as in the Hart annex, we would have to run them all the way around the hall. The Senator would be in one room and he would have to track his way around.

We have had hearings and that has to be redesigned to give them complementary type office space, all Senators, as Senator MANSFIELD said, being equal. That will take another 3 to 4 years. So while that is being done, the Senators so dislocated must have space elsewhere.

We know about trying to move everybody out. If we moved them out of the garage on block 724 at 400 North Capitol immediately we could use 400 North Capitol. By the rent we would have to pay for the computer and all the other offices, in trying to move this along on the one hand, we would be paying 98 percent of the cost, and on the other hand, if we could move up that garage we would save another $8 million on the inflation. That is the testimony on the hearing record.

We have a hearing record and work and then are called fat, dumb, and happy, that we just thought up something, come around and worked a slick deal to buy a turkey from a sharp group of businessmen. Why?

The distinguished Senator does not trust the Governors' Conference; he does not trust his subcommittee, his full committee; he does not trust the Architect; he does not trust the GSA.

Then we bring out a letter to show that the Governors' Conference is ready to go in immediately. That is what the letter says. It does not say "may" or anything like that. They are ready. They say they have made the decision and that they expect "construction of our new space at 444 North Capitol to begin immediately." It is not what the Governor said on the telephone, but the chairman of the National Conference from the State of Idaho who said that they are ready to move in. They would just like to do business with us or whoever is the landlord.

Speaking of being the landlord, that is right, I do not like it. I think we ought to try to resist it. But as between the balancing of equities, evils, needs, and priorities, we look around and we find right now under that block 724 what are we? A landlord. We rent a restaurant. If you want to go to a restaurant where we are the landlord, go to the Monocle and get euphoric over there and enjoy yourself, after you get your kicks here in the Senate Chamber. We are the landlord there.

We just had a colloquy here a couple of hours ago with the distinguished Senator from Ohio about sleeping in trailers. Several of the Senators found in covering their States that they could use a trailer to go around and do the job better and be in direct contact. We did not want them as recreational vehicles ending up on Coney Island or Hilton Head with all the kids in the family, and someone ending up saying, "You have another scandal."

A Senator is supposed to have an office.

The Senator from Ohio is conscientious. He is a mature man with mature judgment.

I have bought and sold a hundred buildings in my day, either as Governor of South Carolina or in other positions I have held. We are making good judgment decisions to authorize, and not fat, dumb, and happy.

Yes, we can condemn it, that is the answer to the question of the Senator from Virginia, if we want to do that. We are not going to be held up.

Every factor that has been brought out by the Senator from Iowa about the cost, about the electricity, the glass building, and everything else like that, like what is behind those doors, now listen, there is the kicker, here is the thing, look at the bottom line, look at the small print—the whole atmosphere created by the distinguished Senator is one of suspicion, that we are wheeling and dealing trying to get rid of a building and no one is looking out for the public, as he says. I do not know how it gets in here.

That is exactly, Mr. President, why we present the amendment, to look out for the public. We do not think it is smart business sense to take the owners of that building out of their dilemma, and they are in one, and pay off their mortgage payments with high rentals, which we do not like. We rejected that high rental. That is why we moved to acquisition.

The average has been 310 employees a year. That is like trying to keep down the GAO. If GAO had been given the particular officers and investigators that this Senator has been hearing about, they would have about 10,000 people. We have right now about 5,200. It is hard to hold them down. We had the FPA; that was a little office of price control. That is 2,600 separate monsters, right there.

Yes, we take exception when the Senator comes in and implies that we are fat, dumb, and happy, "Please let us give you a check for $39,000,000," and so on, when that is not in the bill.

The committee amendment would permit them to negotiate and, if you please, condemn, or what you like. The figures were not just taken out of the air to have a little kicker here or a little kicker there.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. HOLLINGS. I yield some time now to my distinguished colleague from Pennsylvania.

Mr. SCHWEIKER. I thank the distinguished Senator, and I would like to take the opportunity to answer now some questions that were raised in the preceding debate, that we were not given opportunity to answer, because the record ought to be made straight.

First of all, this was a 6-to-7 decision in the Public Works Committee, and for it to be presented to this body as an open and shut case is not a fair representation. Their own committee was divided 6 to 7; so this idea that we have a completely unassailable position, and there is no give or take, or no way to see it in any other light, does not even jibe with the judgment of their own committee, taken by a 6-to-7 vote.

So I think we ought to clear the record, and show that their committee was nearly split right down the middle on whether or not this was a good thing to do. This idea that anyone in his right mind would not think twice about buying this turkey, or whatever, was completely erroneous, because they could not even convince six members of their own committee.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I will treat the Senator the same way he treated me, which is no.

Mr. McCLURE. I did not treat the Senator that way. I did not have time to yield.

Mr. SCHWEIKER. Very well; I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator. I was one of those who voted on the losing side in the subcommittee. I was one of the six. I was convinced that the lease we were considering was wrong, because it was for more than had been rejected by GSA. Then they came back with the original offer, and eventually got down to a $28.5 million price.

At that point I was persuaded, somewhat reluctantly persuaded, to vote in favor of it. Now we are asked to vote for something that is 25 percent more. That is more than I can swallow, so at this figure the vote would not have been 7 to 6, I will say to the Senator from Pennsylvania.

Mr. SCHWEIKER. Well, to come back to the truth of the situation, they were one vote apart; and no matter how the Senator would vote in retrospect or prospect before or after, the difference is one vote.

The distinguished Senator from Iowa has kept asking, "Where is the space request for this area?"

I think my good chairman did not happen to be aware where some of the space requests are, since he cited the Senator from Iowa's personal space requests. I am not critical of that; I think he made a legitimate request for that space, but so have 90-some other Senators, and that is why we are in this space bind, because Senators like the Senator from Iowa have made requests for more space.

So to say there is no need for space, or no space problem or no space shortage, is completely to bury our heads in the sand. I would like at this point to cite some figures.

The average Senate employee has 60 to 65 square feet of space, on the average, in which he has to live. That is a standard that we do not accept anywhere else in Government. The GSA has set up a standard of about 100 square feet per person, and I understand that business and private enterprise averages about 120 square feet per person.

So here we are, with 65 square feet per person for our own employees. We push them and shove them and squeeze them, and now here we are saying we have no space problem and no space shortage. The facts tell otherwise: 65 square feet for our own employees, while GSA, for all other branches of Government, uses a standard of 100 square feet per person, and business and the private sector talk about 120 square feet. So to say there is no space problem on the Hill is to deny the facts of life for the last 4 or 5 or 10 years.

One other fact about growth over the last 3 years: The June 30 payroll of the Senate has grown from 4,900 to 6,600 employees, an average increase of 340 per year. That is the history of what we have done in recent years.

These gentlemen have not shown us where this history is going to be changed. Are they going to reverse the tide by reversing the flow? Are we going to banish people from the Hill? Are we going to excommunicate them? What are we going to do with the flood of people who keep coming to Capitol Hill so the Senate can do its business?

The fact is that we are going to increase. We have coming before the Senate a sunset bill. I happen to be for the sunset bill; it is what we have long needed here to oversee the vast increases in the executive branch of the Government. Oversight is our responsibility. But we are deceiving ourselves if we think we can do it without people. It is going to take some people to accomplish this oversight responsibility.

The sunset bill says that all Federal programs automatically terminate in 5 years. I support that concept. But to think we can do it with no people is, again, to bury our heads in the sand, and to pretend that we do not really have only 65 square feet per person, but that we have 160 square feet per person.

The significance that would have for the growth of the Senate and the growth of the House are facts of life, and nothing the Senators have said, in good faith, shows it is going to be reversed, changed, or diminished in any way.

Next, the point has been made that we really do not have the requests for this building coming up. Aside from individual requests of Senators—and I might say the Senator from Iowa has done better than I, because I made a request for space and did not even receive an answer. So he is better off than I have been, because my request is still outstanding. I commend him for his exercise of something in getting the space, because I still do not have the space I requested.

But aside from Senators who have requests pending, the computer center, we know, needs 38,000 square feet. The Office of Technological Assessment needs 68,000 square feet. If we take the space from square 724, right next door to the Dirksen Office Building, which includes the block where the Carroll Arms Hotel is, if we move that out early, we have 160,000 square feet of the space we need.

Why move it out early? To save money. The Architect of the Capitol says we can save $8 million or $10 million if we proceed at once.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. SCHWEIKER. No, I will do what the Senator did to me; I will try to keep the record on my side only, and not on his side, because he is unwilling to yield to me.

I want to say that the underground garage there, we can save $8 million or $10 million if we build it now, so there is a darn good reason for putting 160,000 square feet of space in that building, because we can save $8 or $10 million over there in square 724.

In addition, we have the Congressional Budget Office. It is interesting to see what has happened to the Congressional Budget Office. The only place we could find originally was over in the old FBI building, over on the House side. But what has happened now? The House has decided it wants the space, and they are kicking us out. That is the fact of life around here: growth, growth, growth. We are being kicked out of the House side because they want the old FBI building for themselves, so there is another 340,000 square feet. So that totals about 75 percent of the building to be occupied right now, without even making a survey of the Senators who have been denied space.

So, basically, I think these are things as to which we have to face up. To say there is no space problem, the Dirksen extension is going to solve it, we do not look ahead, and we should not in our right mind consider this I think is to deny the facts of life.

I shall simply summarize the advantage of this property as follows: No. 1, we have a known quantity in terms of a building without cost overruns; No. 2, we are not impinging on the environment of Capitol Hill and we are not ruining the parks, grass, or anything else; No. 3, we are not bringing in an asphalt parking lot, because it has its own parking space; No. 4, we are building 4 or 5 years ahead of time so our savings are 30 to 40 percent in construction cost; No. 5, we are paying for the building in 8 years by rental alone, so once we get through the 8-year cycle it is paid for and we will be saving money every 8 years. So there are all kinds of reasons why we ought to buy that building. And No. 6, the building is less in square footage cost than is the Dirksen Office Building. The private sector built it cheaper than the Federal Government did and that is another reason to buy the building.

Mr. President, I thank the Senator for yielding me time.

Mr. HOLLINGS. I thank the distinguished Senator.

How many minutes do I have remaining?

The PRESIDING OFFICER (Mr. RANDOLPH). The Senator has 4 minutes remaining.

Mr. HOLLINGS. I yield 2 minutes to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, I do not know how much I can say in 2 minutes except I do urge my colleagues to vote for this amendment or vote for the committee position to buy the building.

I was chairman of the Subcommittee on Buildings and Grounds and we built this record. I think in a way that supports our actions.

Mr. CULVER. Mr. President, will the Senator yield on my time?

Mr. MORGAN. I will not yield on my time. I will yield on the Senator's time, yes.

Mr. CULVER. I wonder which committee position he is urging the Senate to support: the position of the Committee on Public Works, which is the legislative committee of authorization, that rejected this proposal, or the position of the Committee on Appropriations now in a highly irregular way that is before us, with the same thing once having the authorization committee consider it and reject it. Which committee position, the Committee on Public Works or the Committee on Appropriations?

Mr. MORGAN. Answering on his time, Mr. President, I do not accept his premise, first of all, that this is a highly irregular manner in which to handle it. I supported the purchase of this building in the Committee on Public Works, and I support it now. I support it because I believe——

Mr. CULVER. Mr. President, I do not yield any more on my time.

Mr. MORGAN. All right.

Mr. CULVER. I asked questions on my time.

Mr. MORGAN. Mr. President, I urge the support of the purchase of this building. There are hundreds of staff personnel in the Senate making $35,000 or $39,000 a year, working in a combination of spaces in which people simply cannot work on complex problems. We say the Government has grown. Of course it has grown. When I was born, there were only 123 million people in this country. Today there are 205 million. This country is basically run by the legislative staffs of the Members of the Senate and the Members of the House of Representatives. We ought to have the best staffs available that we can find anywhere because they are the ones who give us advice as to how to vote and then we vote based upon their recommendations.

They cannot work in these cramped quarters, and I simply do not believe that the people of this country would begrudge us the purchase of this building.

Mr. President, I say here and now, as chairman of the Subcommittee on Buildings and Grounds, that this building was constructed by the private sector of the economy at about half the cost per square foot for which GSA builds them. I do not have the exact figures, but it is in that neighborhood. I think it is something that the Senate ought to do.

I thank the Chair.

Mr. CULVER. Mr. President, how much time does the Senator from Iowa have remaining?

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. CULVER. Before I begin on my time, a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CULVER. How much time remains on the other side?

The PRESIDING OFFICER. Three minutes are remaining to the manager of the bill, Senator HOLLINGS.

Mr. CULVER. I yield myself 1 minute.

Mr. President, the important point I think we ought to lay to rest is that the private sector built this building for one-half the cost the public sector builds it. I can build a building for one-half a cent a square foot or I can build a building for $50 a square foot. What is the point? The point is what are the exact specifications for which we are building? If we are building for a 20- to 30-year life a highly speculative commercial building, where the builder builds it cheap, take his writeoff and dumps it, his cost per square foot better be down there. This is a commercial building, a highly speculative building. GSA so named it. But if we are building a monument, building by AIA classification and we are talking about a 100-year life, we cannot do it for 31 bucks a square foot unless we are putting in papier-mache.

That is just nonsense. All this glorification of the private sector is ridiculous. Tell them they have to build a 100-year life building to these specs, and it is going to cost them through the nose because they cannot build it cheaply. But if we are building a building to peddle, a builder better be cheap going in if he is going to make a profit coming out. And that is the difference in price.

I reserve the remainder of my time and will be glad to yield to the distinguished Senator from Idaho.

Mr. McCLURE. No, not at the time.

Mr. CULVER. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. MORGAN). Who yields time?

Mr. HOLLINGS. Mr. President, do I have 3 minutes remaining?

The PRESIDING OFFICER. Yes.

Mr. HOLLINGS. Mr. President, I ask

for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, we have been on this particular subject now for a year-and-a-half. The committee beginning in June 1975 started looking at the space available at the request for the Office of Technology Assessment and other offices. It has been looked over by two other hearings—one by the Public Works Committee and another by the Appropriations Subcommittee on the Legislative Branch Affairs. Those hearings have been held in conjunction with I guess two dozen other hearings with respect to the Capitol Building, the Dirksen extension, or now the Hart Annex, the Visitors Center, and all the other buildings and space needs we have had.

We have been told that it has been found as a sound investment by GSA. It has been recommended by Dr. White, the Architect, who is in charge of the master plan for the Capitol. And who says we would have to spend at least half again the amount of money in order to reconstruct it.

Then to come up now and talk about being fat, dumb, happy, we do not know where we got the figures, we just want to throw a figure together, and everything else, is purely nonsense.

What we are trying to do is give the authority under the budget, and this was discussed in the Budget Committee, too, and approved by the Senate in the first concurrent resolution. We put this amount in to give the authority to the chairman of the Senate Building Commission together with the Architect to negotiate and thereafter condemn if they please or not. We did not direct them to make it mandatory because we want them to get a good deal for the Senate.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator from Iowa yield 1 minute?

Mr. CULVER. I am happy to yield to the Senator from Idaho 1 minute.

Mr. McCLURE. I thank the Senator for yielding this time.

I listened to the debate with a great deal of interest. I have not been in and out, as the Senator has indicated. I am interested in the space needs for the Senate, and I recognize that we will have some expanding space needs as we have now.

But the question that I have relates to the planning for that need and meeting the plan and not just simply buying some available space because we think we might need it. But more importantly than that, there is a price attached to this need. The most recent action by the appropriate authorizing committee was the one which looked at all the prior testimony, all the prior hearings, and after looking at that turned down by a very close vote, as the Senator from Pennsylvania pointed out, but nevertheless turned down the proposition of buying this at $28.5 million.

The Senator from South Carolina made some reference to tentative improvements. I will refer him to the committee report, page 37, of that committee report in which that $3 million of tentative improvements did not include floor coverings. That would be above that. It did not include it. So I think that in spite of the fact that there is need, and I think we ought to meet it, there is a temporary crunch between now and the time the Dirksen extension is completed and the time that the Russell Building is renovated. That will run some 3 to 6 years, I suspect. That period of time needs to be covered. But it does not need to be covered by an exorbitant expense, which I believe this is. Sure, this is a ceiling. It is an authorization. But the history of the negotiations tells me that at every stage that the previous offer has been turned down, the price has gone up.

I suggest that if we pass this measure at this time, we will not see a price negotiated lower than the ceiling set in this appropriations measure. I suspect that if anybody really wants to dig into what really went on and why, when this is all done, there will be a great many red faces in the Senate of the United States concerning the action that might be taken here today.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, I suggest that absence of a quorum.

Mr. HOLLINGS. Mr. President, I should like to answer the last comment, and I will be ready to vote. Do I have a minute and a half?

The PRESIDING OFFICER. The Senator has a minute. The Senator from Iowa has 2 minutes.

Mr. HOLLINGS. Mr. President, with respect to red faces and "slipping around," and, as the Senator from Iowa says, "greasing a few skids," "running it by them," "unload this turkey," "fat, dumb and happy," "running with $39 million," we started last year on this floor, with the Senator from Idaho. I said that I want everything above board with the GAO and GSA, with his subcommittee, with the Committee on Public Works, the Architect of the Capitol, the Appropriations Committee, and the Rules Committee. We were looking at this thing, and everything has been open and above board.

The PRESIDING OFFICER. All the time of the Senator has expired.

The Senator from Iowa has 2 minutes.

Mr. CULVER. Mr. President, I should like to use my remaining time to make a prediction, and that prediction is simply this: "If this afternoon the U.S. Senate approves the appropriation of $39 million for this purpose, included in this appropriations bill, it will soon—not long, soon, like immediate—prove to be one of the greatest follies in the history of this Congress. We are going to have a white elephant over there, enormous cost overruns. It is going to be the C–5A of congressional facilities. It is going to be a monument to incompetence. It is going to make the congressional consideration of the Rayburn Building look like an extremely well designed, carefully conceived and executed decision.

Mr. DOMENICI. Mr. President, at the request of the Senator from New York (Mr. BUCKLEY), I ask unanimous consent that a statement by him on the pending amendment be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BUCKLEY

I support strongly Senators Culver and Domenici in opposing the authorization of funding for acquisition of yet another Senate office building.

The Senators from Iowa and New Mexico have stated clearly the reasons against this acquisition: The fact that the space is not needed now and certainly will not be needed once the Hart Senate Office Building is opened; the fact that this bill provides about $10 million more than the General Services Administration's appraised value of the building, and the fact that we are going ahead with this acquisition at a time when the Senate is carefully evaluating its future needs for staffing and the shape of the Committee system.

To spend this money now on this building I believe is wasteful and against the public interest. I strongly oppose the acquisition of the property at 400 North Capitol Street, and I strongly support the Culver-Domenici motion.

Mr. STAFFORD. Mr. President, I join my colleagues from Iowa and New Mexico in opposing acquisition of 400 North Capitol Street.

The Public Works Committee considered and rejected a proposal to authorize the purchase of the building for $31.5 million, GSA's estimate of its value.

The Appropriations Committee measure would authorize and appropriate up to $35.5 million for acquisition of the building and an additional $3.5 million for operation and maintenance. In my opinion this is a great deal to spend for the 3- to 5-year period before the Philip A. Hart Building is completed.

I agree with opponents of the measure that long-term need for the property at 400 North Capitol Street has not been demonstrated, that the time is particularly inappropriate for such a purchase, and that alternatives for short-term needs are available. I will, therefore, vote against the amendment proposed by the distinguished floor manager of the bill.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ALLEN. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. I raise the point of order that the committee amendment is out of order as being legislation on an appropriations bill.

Mr. HOLLINGS. Mr. President, I raise the point of germaneness.

The PRESIDING OFFICER. Under rule XVI, the Chair submits to the Senate the question of germaneness.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment germane? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The result was announced—yeas 28, nays 53, as follows:

[Rollcall Vote No. 569 Leg.]

YEAS—28

Bellmon
Bentsen
Biden
Brooke
Cannon
Eastland
Ford
Hatfield
Hollings
Hruska
Huddleston
Inouye
Johnston
Laxalt
Long
Magnuson
Mathias
McClellan
Morgan
Pearson
Pell
Randolph
Schweiker
Stennis
Stevens
Symington
Williams
Young

NAYS—53

Abourezk
Allen
Baker
Bartlett
Brock
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Humphrey
Jackson
Javits
Kennedy
Leahy
Mansfield
McClure
McGovern
Muskie
Nelson
Nunn
Packwood
Proxmire
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—19

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Eagleton
Glenn
Goldwater
Hart, Philip A.
Hartke
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Percy
Tunney

So the amendment was held not germane.

The PRESIDING OFFICER (Mr. MORGAN). The Chair is now prepared to rule on the point of order: that this amendment is legislation on an appropriation bill. The Chair holds that the point of order is well-taken.

UP AMENDMENT NO. 428

Mr. HOLLINGS. Mr. President, I call up an amendment at the desk relative to the 1 percent pay kicker and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. BELLMON, and Mr. BIDEN, proposes unprinted amendment No. 428:
>
> On page 55, after line 20 insert the following:
>
> Cost of Living Adjustments
>
> (a) Section 8340(b) of Title 5, United States Code, is amended by striking out "1 percent plus".
>
> (b) The amendment made by subparagraph (a) above shall apply to any increase in annuities after the date of enactment of this Act.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I am constrained to raise a point of order against the amendment as legislation in an appropriations bill.

We have agreed to hold hearings on this matter next year. It has been discussed with the Chairman of the House Civil Service Committee. I do not believe it is proper at this point to legislative in a general fashion on a matter such as this that has been on the books for some time. It is certainly not, in my opinion, a proper place to put this amendment, with due respect to my good friend from South Carolina. I would say it is legislation on an appropriations bill. It is permanent legislation, repealing permanent legislation, and it should not be here.

Mr. HOLLINGS. Mr. President, prior to the ruling can the Senator raise that point or can I be heard?

The PRESIDING OFFICER. Does the Senator raise a point of order?

Mr. STEVENS. I do.

Mr. HOLLINGS. Mr. President, I then raise the question of germaneness. It is really a limitation, and I would refer to page 127. But since the Senator is constrained to raise a point of order, this is something that has been in the budget, we have already acted on it on the military pay, and it refers to the civilian pay. I checked it out, and I checked with the leadership, and we put it in. So I would again raise a point of germaneness.

The PRESIDING OFFICER. The question of relevancy having been made, it is not debatable. Under the rules the Chair submits the question to the Senate: Is the amendment relevant ?

Mr. HOLLINGS. Germane. I raise a question of germaneness.

The PRESIDING OFFICER. The rule uses the word "relevant." The question is, Is the amendment germane?

Mr. HOLLINGS. I want the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The yeas and nays resulted—yeas 60, nays 20, as follows:

[Rollcall Vote No. 570 Leg.]

YEAS—60

Abourezk
Allen
Bartlett
Bellmon
Bentsen
Biden
Bumpers
Cannon
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Fannin
Ford
Garn
Gravel
Griffin
Hansen
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGovern
Morgan
Muskie
Nelson
Nunn
Packwood
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, William L.
Sparkman
Stennis
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Young

NAYS—20

Baker
Brock
Brooke
Burdick
Byrd, Robert C.
Durkin
Eastland
Fong
Hart, Gary
Hatfield
Jackson
Mathias
Pearson
Roth
Scott, Hugh
Stafford
Stevens
Talmadge
Weicker
Williams

NOT VOTING—20

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Eagleton
Glenn
Goldwater
Hart, Philip A.
Hartke
Kennedy
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Percy
Tunney

The PRESIDING OFFICER. The amendment is held germane and the point of order is not well taken.

The question is on agreeing to the amendment of the Senator from South Carolina.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

UP AMENDMENT NO. 429

Mr. CHILES. Mr. President, I call up a perfecting amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) for himself, Mr. DOMENICI and MR. STONE, proposes an unprinted amendment No. 429.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(c)(1) Section 8340(b) of title 5, United States Code, as amended by subparagraph (a) above, is amended to read as follows:

"(b)(1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1) (A) or (1) (B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective October 1 of such year, in the case of an increase under paragraph (1) (B), each annuity payable from the Fund having a commencing date not later than such October 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d)(1) Section 1401a(b) of title 10, United States Code, as amended by section 2 of this Act, is amended to read as follows:

"(b)(1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"(B) effective October 1 of such year, in the case of an increase under paragraph (1) (B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such October 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401 a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S. 1121(b)), as amended by section 3 of this Act, is amended to read as follows:

"(b)(1) The Secretary shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then

"(A) effective March 1 of such year, in the case of an increase under paragraph (1) (A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest one-tenth of 1 percent, or

"(B) effective October 1 of such year, in the case of an increase under paragraph (1) (B) each annuity payable from the Fund having a commencing date not later than such October 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest one-tenth of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882 (b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of the enactment of this Act.

Mr. CHILES. Mr. President, this would perfect the Hollings amendment and provide for a way in which we would recompute the cost-of-living raise. If we will think back to the history, the purpose for putting in the 1-percent kicker back in 1969 when it was done was because there would be a timelag in computing a cost-of-living increase. We required that the Consumer Price Index had to go up by more than three points and it would have to stay up for more than 3 months before it would trigger an increase.

If we do away with the kicker, and I think we should—that is the proposal of the Hollings amendment, to do away with it—then we ought to look back at the reason that we put the kicker in to start with.

My amendment would provide that we would not have to wait to have a 3-percent increase. I remember at that time inflation was something we did not know was going to be a fact and a way of life, that it was going to be continuing. Because there might be a timelag, we put this into the legislation. The first adjustment took about 25 months.

Just to perfect the Hollings amendment, what we would do now is to look at the cost of living automatically every 6 months. If it has gone up, we would go ahead and compute that on a 6-month basis rather than require that it had to go up by three points and had to stay up for 3 months. Whatever the price increase was, that is how much it would go up.

This, I think, does two things: One, it gets to the big money that the kicker is now costing us because the kicker is an extra 1-percent add-on every year and it accumulates. That is why by the year 2000 it will cost us $6 billion a year.

My amendment would get to that in the same way, but it would allow a fair method for computing the cost of living. I really think this is the best kind of answer that we can give to the retired people, whether they be civil service, the military or foreign service, to say, "We had to get rid of the kicker because of the long-term cost and the fact that it was not fair because it was 1 percent every year. But recognizing that the purpose for which we put it in there was because we were afraid of the timelag, we have now taken care of that timelag. We are providing for a semi-annual adjustment. Every April and every October you will get a cost-of-living increase of exactly the change in prices.

So I think it is fair to the retirees and at the same time helps us to get rid of the expensive feature of the kicker.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Earl Armbrust, of the CBO, be granted the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, to bring this back into perspective, what we intended and still intend, Senator BELLMON and myself, is to keep faith under the budget process with the general representation made by the Senate when we adopted the first concurrent resolution. We said among the economies, and we got on our good friend from Louisiana about tax reform, here is another item that we ought to get on ourselves about. That is, in computing and balancing, in figuring revenues and expenditures, we would have the repeal of the 1-percent kicker across the board.

The Armed Services have kept faith and they have provided under their bill the repeal of the 1-percent kicker, conditioned on the repeal of the 1-percent kicker as it applies to the Federal civil employees as well.

This amendment tells us where we are going to save $0.2 billion, or $200 million, this year and by the year 1980 it will be some $3.8 billion.

The amelioration of it and the adjustment made by the Senator from Florida frankly I do not personally object to. I would be prepared, as one of the authors of the amendment, to accept it. I think perhaps Senator BELLMON would be. But if it would cause a great bit of confusion, I will say what it would cost in dollars and cents. Rather than $3.8 billion by 1980, I think it is $3 billion.

Mr. CHILES. It would cost a little money in the short run. Over the long run, we make up the big loss because we are getting rid of the cumulative 1 percent added each year.

Mr. HOLLINGS. I would like to yield to the Senator from Oklahoma, a cosponsor.

Mr. BELLMON. Mr. President, I am in agreement with the Senator in taking the Chiles perfecting amendment.

Mr. HOLLINGS. Would the Senator from Alaska agree that we can accept this amendment and then we will hear his debate?

Mr. STEVENS. I would like to talk a little bit about it.

Mr. HOLLINGS. I think this has been fairly well debated. I yield to the Senator from Alaska.

Mr. STEVENS. You have not heard the debate yet, I say to my friend, because it has not been debated. The chairman of the Post Office and Civil Service Committee is not here. He has his own problems this year, as about 33 of us do.

We talked about this matter, and agreed we would hold hearings at the beginning of next year. We closed our hearings this year, but agreed we would take it up next year. The fiscal year does not start until October; we can take this up before we are well into the fiscal year.

The question is the equities to the people involved. We have not held hearings on this matter. I cannot tell you the cost of the amendment of the Senator from Florida, and I do not know that the Senator from South Carolina or the Senator from Oklahoma can, either. We do not know what the equities are for the people involved.

This is legislation on an appropriation bill. I know the Senate has just voted that it is relevant, but notwithstanding that, it should go to the Post Office and Civil Service Committee. We have legislation before us; we are working on the matter, we have jurisdiction over it, and we have people downtown trying to figure out what is equitable to those people who have already elected to retire on the basis of the existing law with the 1-percent kicker.

You are going to repeal it altogether, or go into an entirely new system. With due deference to my friend from Florida, we have not looked at that system. I would be willing to bet the Civil Service Commission has not looked at the Senator from Florida's amendment, and I would be willing to bet that the people who work with the actuarial aspect of the system have not looked at it.

I do not think we ought to legislate here on the Senate floor dealing with something as serious as the retirement benefits for the rest of their lives, of people who spent their working lives serving the Federal Government.

I have just tried to contact the Post Office and Civil Service Committee staff to get the point of view of the committee involved in this. They have gone. This is not their bill on the floor. We cannot get anyone, to get the books out of the blasted committee, to find out the impact of this.

We are assigned to these committees. My friend is on the Post Office and Civil Service Committee. The reason this is here on the Senate floor is that there are 2 or 3 Members who are disturbed that we would not agree to hold hearings in the last 2 or 3 weeks of the session, when we were working on other matters. I have been running back and forth all day, like the rest of you have, to conference committees, here and on the House side, and there just is no time to hold a hearing on something this serious right now.

We have made a commitment that we will hold hearings at the beginning of next year. But there are equities of the people involved in the system right now that should be protected, and I object violently to the concept that when we have worked out an agreement, we have agreed with the House that there would be a compromise on it, that here, out of the clear blue sky, comes an amendment like this. I recognize the budget process and the Budget Committee did figure this in, but I thought we still had legislative committees. I thought we still had jurisdiction. Those of use who have worked on it in committee have staff working on it, who went home not thinking they would have a bill on the floor tonight. We have a right, I would think, to have some consultation on permanent legislation going into an appropriation bill.

I cannot object strongly enough to this kind of procedure. I think this is one reason why Government employees do not have any confidence in what goes on in Congress, because we willy-nilly get into things like this without thinking about it.

Mr. President, I am obviously exercised. I think we all ought to be exercised when something like this happens. I think if the chairman of the Post Office and Civil Service were here, he would be exercised also.

Mr. HOLLINGS. Mr. President, in all fairness, speaking of the right to be exercised, I do serve on the committee with the Senator from Alaska, and I happen to have a very exalted title on the committee: chairman of the Postal Operations Subcommittee. But we have been unable to get a hearing on this particular measure. Nevertheless, we believe in our legislative committees. We believe in our chairmen, and we believe in equity of procedures, and that is why we have to take this procedure.

We did it for the military. We did it for General Service employees. The President of the United States sent it up here in January.

You do not have to be here long to see the results of inflation. Over the period of time the kicker has been in effect, Federal annuities have increased 72 percent, while the cost of living, since 1969, has increased only 56 percent.

So they have gained exactly—you can have your little hearing right here—$1.6 billion more than the social security recipient, the food stamp recipient, or anyone else around here as a recipient.

They are all feeling this inflationary cost-of-living CPI, but when it comes to this little sweetheart deal, I found out, working on the Appropriations Committee with the distinguished Senator, that our former staff director said, "I can make more money quitting with this little 1 percent kicker than what you pay me on the Appropriations Committee." You have heard this, and I have heard it. I know; I can see you smile.

This issue was not supposed to come up. It is an election year issue. The President proposed the issue, and we debated it as to the military. We debated it with the first concurrent resolution. We have got government in the sunshine. There is Vice President DOLE coming in. He is on the Budget Committee.

Mr. STEVENS. I cannot keep track of my good friends.

Mr. CHILES. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. Yes.

Mr. CHILES. I just wanted to know if the Senator from South Carolina is a little bit confused, like the Senator from Florida. I am whipped, on the one hand, by the President, who says we have to repeal the kicker, and by the chairman of the committee on the Republican side, who is telling me we should not repeal the kicker. I feel like I am getting seesawed about this matter, and I am just a poor candidate running for reelection.

Mr. STEVENS. I am just pointing out that the Senator is not the only candidate for reelection. The Senator from Wyoming is a candidate, and he is not here. He would be speaking if he were here, and I am really speaking for him.

My friend tells me this is in the budget, and that is true. But I am sure my friend will agree with what I have said: We had a discussion on this just this past week, and we have made a commitment to have a hearing on this subject at the beginning of the next session.

Those on the legislative committees should take heed: What you need to do is be gone, if you are chairman, or the people who sit down and work out agreements on things like this, be gone, and along comes an amendment like this without notice and it will go through without a hearing and without any record.

I yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator. I shall just take a moment.

I feel compelled to say just a word here and I shall not be long. This matter was raised by the President of the United States in the budget, and was approved, in effect, by our Budget Committee, and on the military side of the ledger this matter went through our authorization committee and we adopted it. We adopted it as to the 1 percent kicker and it came on the floor here and was not challenged in any way, and went to conference with the House, and came back. The conference report had it in it, and it was not challenged in any way.

So we have gone all the way through this, all the way on the military side. Now, in there was a provision that it would be effective only if the same medicine was distributed around to all. So I think this puts it up to us.

Ordinarily I stick with the legislative committees, and stick to their jurisdiction. This situation is a little peculiar, but it is the only way to get at it.

And with deference, it seems to me meritorious, although it is not something one would like to vote for. But we are down to the last roll, and we ought to meet this and vote for the amendment, as I see it.

I thank the Senator.

Mr. STEVENS. Mr. President, I understand what the Senator said, and I served on that subcommittee, too, in terms of the appropriations process and know what we have done in conference. But again I say there are differences here with regard to its effect on the civil service system. I think we are entitled to go ahead with the agreement we made, have the hearing next year, consider this matter, and make the adjustment.

I am sure my friend from South Carolina knows that the bill pending in the House of Representatives is not the bill that is pending before the Senate right now. That we called the "softening" bill, the bill to soften the 1 percent and to spread it out so that we would finally eliminate it. Remember, Congress put in effect the 1 percent. This is something that has been in the law and it has been used. Now we have the feeling that because of the budget process, and other things, it ought to be done away with.

But people who have elected to retire based on the fact that it is coming are now going to be committed to retire without it coming. I am sure that my friend understands that. I think that is unfair. I think we ought to provide for a staging out, a softening of this incentive, this cost-of-living adjustment so that there is no effect, really, on the rate of retirements in the Federal Government.

As far as I am concerned, it is one of the incentives that brings about a retirement now by some of the people who might wait 2 or 3 years to retire, and that, to me, is a good thing because people who elect to retire early get paid less and when they get this "kicker" there are other people who move in behind them in the system and we provide additional employment without, in fact, increasing the total amount of Federal employment. That aspect of this has not been examined yet. But again, I do not disagree that the 1-percent kicker is going to go in the civil service system. It is going to be eliminated. The question is how and over what period of time. And with due respect to the Senator, I believe that our committee ought to have the chance to look into that and make that recommendation to the Senate.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. BELLMON. I am also a member of the Committee on Post Office and Civil Service as is the Senator from South Carolina and the Senator from Alaska. We had a year to work on this thing, and the committee has shown no inclination to do so. We know from what the Senator from Mississippi has just said what happened on the military side. If we do not act now, we are going to have to go back and do the whole job over again which may not be possible. I feel strongly that we ought to act and act now while we have the matter before us, a matter well understood, and hearings will serve no good purpose. I am not aware of any agreement to hold hearings.

Mr. STEVENS. We made an agreement, and I am sure the Senator from——

Mr. HOLLINGS. No. I wish to be fair to my friend from Alaska. The truth of it is everything was over there. I do not wish to pass the buck. I had no reason to attend because nothing was going to happen. Every time something was suggested they would say, "Wait until next year and we will have a hearing on it."

The Senator from New York (Mr. BUCKLEY) in March put this in. We could not even get a hearing. We had on the Committee on Post Office and Civil Service an opportunity to work on this particular measure. We come here in September, and everyone knows what the issue is and everything, to say what we ought to do is subject it to hearings.

Mr. President, what would be more equitable, if we really feel that way, is immediately let us give the 1-percent kicker to the social security recipient rather than semiannually, review the food stamps, and give a 1-percent kicker on the food stamps.

I hate to look at the Senator from North Carolina when I say that. He would about run me out of the Chamber if we had to increase the food stamps around here. But that is exactly what it means.

We are not being unfair. We are treating these particular retirees the same as Congress has already treated the Foreign Service personnel, all conditioned on how we are going to act here.

Mr. STEVENS. That is right. This is to make sure everyone understands.

Mr. HOLLINGS. That is right.

Mr. STEVENS. The military 1-percent kicker does not go out until this happens.

Mr. HOLLINGS. That is right.

Mr. STEVENS. The reason is does not go out is we agreed that the Committee on Civil Service and Post Office ought to determine the manner in which it goes out, and the Senator knows that the way we do it the Committee on Post Office and Civil Service is going to be the way it applies throughout the military system and anyone eligible for the 1 percent. They did not have jurisdiction over that. They just said, "Do it the way the Committee on Post Office and Civil Service does it for the classified service."

My friend here from Hawaii is the ranking member on the Committee on Post Office and Civil Service. I have not been involved in all these negotiations, but I do think I have been to all the meetings of the Committee on Post Office and Civil Service, and I do not recall anyone's ever raising a question at our executive sessions, or otherwise, demanding a hearing on this bill.

All I can tell the Senator is the first time it was raised I was with the Senator from Wyoming, and we did agree at that time that there would be hearings next year.

But again what we are doing now is going to determine the percentage of what happens on the military bill, and the Committee on Armed Services and the Committee on Appropriations deferred to us in terms of how this was going to be eliminated. They agreed it was going to be eliminated but how it is going to be eliminated is determined by the bill coming out of the Committee on Post Office and Civil Service.

Mr. HOLLINGS. Mr. President, if the Senator will yield, he was referring to the Committee on Post Office and Civil Service. They were trying, as the Senator uses the words "equitable" and "equity," to be fair across the board.

Mr. STEVENS. I accept that.

Mr. STENNIS. It was the same medicine.

Mr. HOLLINGS. That is, as the distinguished Senator from Mississippi said, the same medicine. We do not like to take away benefits and what have you. But what is sauce for the goose is sauce for the gander. That is the whole point.

The Committee on Armed Services was not at a loss by procedures and how it was going to be applied. They already decided that. "If you are going to make it effective to us in the Pentagon and the military, how about yourself" is what they were saying.

Mr. President, can we move the adoption of the amendment of the Senator from Florida? I think we can get a voice vote on that. Will the Senator not agree with that?

Mr. STEVENS. As the Senator knows, if the Senator wants to do that I suggest that he take a look at it. I just tried to read the amendment as we were talking here. It is five pages long. If the Senator can understand it and what it means to the retirement system, be my guest.

I can only say that as far as I am concerned this is a very poor way to deal with something as serious as the retirement system that applies to the civilians and the military people of this country. We should not do it.

Mr. President, just to eliminate the matter, and I have said my last, I am going to move to table both amendments and urge that these amendments be tabled and not considered now.

The chairman will be back next week. If the Senator feels this exercised about it, let us take it up now.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator hold that momentarily?

Mr. STEVENS. Yes.

Mr. WILLIAM L. SCOTT. Mr. President, we are going to have a vote on this matter soon.

I recall the reason for the 1-percent kicker being adopted. It was because there was a lag between the time of the cost of living going up and the time that the Federal employee retiree received a cost-of-living increase.

I do not understand just what the amendment does. I believe we need to have some sort of a compromise to get rid of the kicker but at the same time be fair to the Federal employee. I wonder if we could not just take a minute and let the distinguished Senator from Florida tell us what is in his amendment.

The Senator from Alaska says it is a lengthy amendment. Will the Senator from Florida explain it?

Mr. CHILES. The purpose of the amendment of the Senator from Florida and the Senator from New Mexico is to do exactly what the Senator from Virginia is mentioning. It is to really get at the purpose of why we put the kicker in to start with. For the kicker to take effect or for the present cost of living adjustment to take effect under the present law we have to have a 3-percent increase and it has to continue for at least 3 months. Because of this feature they decided to put in the 1-percent add-on to take care of the long delays that could occur.

If we are getting rid of the 1 percent, and I think we should, then I think we have to have a fairer method. So what my amendment would say would be to replace that 3 percent for 3 months with just saying that every 6 months we will automatically figure the cost of living, and if it has increased, then we will make provision for that as we do in the social security system and as we do in some of these other programs.

Mr. WILLIAM L. SCOTT. If the Senator will yield, when would the cost-of-living increase be effective? Would it be effective immediately or would there be another lag in the time it would become effective?

Mr. CHILES. There is always a lag for the calculation of it. But as soon as we are able to calculate it, program the computers to compute individual benefits, and mail the checks, it would automatically be done. So once we got through the first adjustment period, there would be a regular increase every 6 months, every April and October.

Mr. WILLIAM L. SCOTT. Would it be retroactive in time?

Mr. CHILES. Yes, it would cover the full 6 months since the last change was calculated.

Mr. WILLIAM L. SCOTT. The Department of Labor will decide there had been an increase?

Mr. CHILES. That is correct.

Mr. WILLIAM L. SCOTT. I will support the Senator's amendment.

Mr. CHILES. I yield.

Mr. FONG. Mr. President, under the present law, there must be an increase of 3 percent, and that 3 percent must be sustained for 3 months before there is an increase.

Mr. CHILES. That is right.

Mr. FONG. What does the Senator's amendment do? Does his amendment give them an increase every time there is a cost-of-living increase of 1 percent or one-half percent, or what does it do?

Mr. CHILES. Every 6 months you would automatically figure the cost-of-living index. If it has gone up, you give them an increase at that time, the same way we do in social security.

Mr. FONG. Then, the Senator is not actually following what the distinguished manager of the bill is doing.

Mr. CHILES. Yes, we are.

Mr. FONG. Under the present system, the retiree must wait 3 months after the cost of living has increased by 3 percent. If it only increases by 2 percent, he does not get any increase at all, even though it stays there for a year or 2 years. It must be a 3-percent increase, and has to be sustained for 3 months. What the Senator is doing in this amendment, as I understand it, is that as long as there is an increase every 6 months he is going to give it to them.

Mr. CHILES. That is correct, but there is no kicker.

Mr. FONG. It may be more costly than at present.

Mr. CHILES. No.

Mr. FONG. Because at present, they have to wait 3 months after the cost of living has increased by 3 percent.

Mr. CHILES. It has not proved to be that way, and that is the calculation of our Congressional Budget Office. The Congressional Budget Office has shown that if you go to the year 2000, you get a $6 billion impact a year on either one, the removal of the Hollings kicker or the removal of the Chiles perfecting amendment, because it is a cumulative feature that adds up.

Mr. FONG. I am not talking about the 1-percent kicker. I am talking about the 3 percent.

Mr. CHILES. I am talking about the perfecting amendment.

Mr. FONG. Under the present law, it has to increase by 3 percent. If it increases by 1 percent and remains for 3 months, there is no increase. If it increases by 2 percent, there is no increase. It has to increase by 3 percent, and then that 3 percent has to be sustained for 3 months, and then you will have an increase.

Under present law, social security recipients also come under this kicker. Does this amendment apply to social security recipients?

Mr. CHILES. Social security recipients do not have the kicker.

Mr. FONG. They do have a kicker.

Mr. STEVENS. Not this one.

Mr. FONG. They do have a kicker.

Mr. MUSKIE. If the Senator will yield, social security recipients do not get the 1-percent kicker. Neither does SSR or the food stamp program, for example. This is only the Federal retirement system.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. THURMOND. Mr. President, I am not opposing this amendment; I do not think it is necessary. But if it should be adopted, I want to know whether the military is going to be on the same basis.

Mr. CHILES. Exactly the same.

Mr. THURMOND. I think it should be the same. If it is going to apply in 6 months, it should apply to the military in the same way.

Mr. CHILES. They are all to be treated the same way.

Mr. THURMOND. And the Senator's amendment provides that?

Mr. CHILES. Yes.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. STEVENS. I do not think that is true. The Senator is dealing with more than a kicker in his amendment, now that I have read it.

The Senator is dealing with how the cost-of-living increases are computed. We started with an amendment to eliminate the kicker, and now he is going to reform the whole retirement system, so far as cost-of-living increases are concerned, with a perfecting amendment. With due respect, I do not think it automatically goes to the military system.

I am constrained to say, here we go again. We have the Budget Committee writing legislation for the Committee on Post Office and Civil Service.

Mr. MUSKIE. Mr. President, will the Senator yield on that point?

Mr. STEVENS. Yes, I am happy to yield.

Mr. MUSKIE. I have not had a word to say in this.

Mr. STEVENS. I hope the Senator will. I hope the Senator will denounce this.

Mr. MUSKIE. I do not denounce it.

Mr. STEVENS. I do not think the Senator's committee should be writing legislation.

Mr. MUSKIE. If the Senator will lower his voice, I will be glad to describe the Budget Committee's connection with this legislation.

Mr. STEVENS. It is not my voice. I do not need this microphone.

Mr. MUSKIE. I know the Senator does not.

This amendment is not a Budget Committee initiative.

Mr. STEVENS. The Senator from Florida just said it was.

Mr. MUSKIE. What the Budget Committee has done has been amply explained on the floor. What the Budget Committee has done is within its prerogative.

In the first concurrent budget resolution—and this decision was concurrent with the second concurrent budget resolution, which will be before the Senate tomorrow—we adopted the objective of eliminating the 1-percent kicker. This is the first time I have heard anybody on the Senator's committee object to that action by the Budget Committee. Indeed, a few moments ago the Senator from Alaska accepted that, and now he challenges us. The Senator should choose.

Mr. STEVENS. This is not dealing with just a kicker.

Mr. MUSKIE. All we have done is contained in the first concurrent resolution. That was confirmed by both Houses of Congress. Because it is there, there are Members of Congress in both Houses who are very restive because the appropriate committees have implemented it for the military but nothing has been done about it for the civilian personnel of the Government. So the members of the committee who worked to implement the military side of it are saying to me and to others, "Look, we stuck our necks out to implement the first concurrent resolution. When are we going to get the other half of it done?"

It is because of that frustration, not because of any attempt by the Budget Committee to legislate, that this amendment appears on the floor of the Senate today.

Mr. STEVENS. What is this I have in my hand?

Mr. MUSKIE. I do not know. I cannot see that far.

Mr. STEVENS. It is the perfecting amendment. I will apologize if I am wrong, but I understood the Senator from Florida to say that this was prepared by the Budget Committee.

Mr. CHILES. No. I think the Senator did misunderstand. The Senator said that nobody computed any figures on this, and I said that the Congressional Budget Office had computed figures.

Mr. STEVENS. Where did it come from? That is the question.

This is not the kicker. This refers to the total cost-of-living portion of the retirement system of the Civil Service.

What the Committee on Armed Services did was to eliminate the kicker, depending upon our determining how it should be eliminated. Now we are going to go into the total computation of the cost-of-living increase due to people on retirement, if I understand this correctly. I have only read it once. It is a very complicated subject.

Mr. NUNN. This is compatible with what the Committee on Armed Services did with the military. It was left open, so that whatever was done with the civil service with respect to the repeal of the 1-percent kicker would apply to the military. This makes specific reference to the Secretary of Defense and what he will do. Whether one is for the Chiles amendment or the Buckley amendment, as I understand it, the civil service and the military will be treated alike.

The Senator from Maine is eminently correct in the fact that the Committee on Armed Services, under the budget resolution, felt some responsibility and some mandate to address this issue. We did have hearings. We addressed the issue. The full Senate voted on it. It went to conference. The House agreed to it in conference. It already has been accomplished as to the military, contingent upon what this body does with respect to civil service.

I do not know where the Civil Service Committee was all the time this was going on. That is something I do not understand. Nevertheless, there was due notice given to the Committee on Post Office and Civil Service by the first concurrent budget resolution, by the action of the full Senate on the Armed Services Committee bill, by the action of the conference committee on the bill, by the President's budget message, by Secretary of Defense Rumsfeld's speeches, and by other things. I do not know where the Committee on Post Office and Civil Service has been this year while all this was going on, but it seems to me that at least this committee had a duty to have hearings before 1 year expired.

Mr. STEVENS. Mr. President, I can understand the situation, but I do not understand why we cannot have the normal procedure apply to this. We have just heard that the committee did take it up. I have been to those meetings, and I have never heard anyone demand a hearing. No one has written to me, to my knowledge, and said, "We would like to have a hearing on the bill introduced by Senator BUCKLEY."

The Senator from Florida points out that I have a little extracurricular activity for the people on this side of the aisle. If he had asked me for a hearing on it, I would have gone to the chairman and said, "Can't we have a hearing on it?"

The point was made that the Armed Services Committee held their hearings and determined how to handle it.

Correct me if I am wrong: It is still based on how we deal with the civilian side. Is that right?

Mr. NUNN. The Senator is correct on that point.

Mr. STEVENS. Then, why cannot we have hearings?

Mr. NUNN. That is a very good question. That is the essential question of the hour. Why cannot the Committee on Post Office and Civil Service have hearings when a matter has been discussed as widely as this one for almost a year?

Mr. STEVENS. When the Senator from Wyoming discussed it with me, he mentioned the problem of trying to hold hearings now, the question of being in session and having hearings in this last part of this year and said, "Would you agree?" I will have, next year, the same role that the Senator from Hawaii has with regard to the committee. I said, "Yes, let us hold them the first of the year."

I do not see any problem with that. What is the problem with waiting, will anybody tell me? What is the great problem with waiting until the proper procedure is followed with regard to this bill?

Mr. BELLMON. Will the Senator yield?

Mr. STEVENS. Yes, I yield.

Mr. BELLMON. I will tell what the problem is with waiting. The Committee on Armed Services has already acted. If the Committee on Post Office and Civil Service does not follow, it is going to be very difficult to get them to go through this again. This is not a very pleasant activity for any of us to undertake. Once the Committee on Armed Services has bitten the bullet, so to speak, it is up to the Committee on Post Office and Civil Service to take the next action. If they refuse to act, the Senate has to act to assure the repeal of the kicker.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President, I rise in support of the amendment offered by the distinguished chairman of the Legislative Appropriations Subcommittee to H.R. 14238, the Legislative Appropriations bill. This amendment would repeal the so-called 1-percent kicker as it applies to cost-of-living increases in civil service retirement annuities. Let me point out that the question addressed by this amendment is not whether Federal annuitants should receive cost-of-living increases to keep up with inflation; rather, the question is whether Federal annuities should rise faster than inflation.

Since 1969, when the 1-percent kicker was added to the cost-of-living adjustment mechanisms, Federal annuities have increased by 72 percent, while the cost of living has risen over the same period by only 56 percent. As a result, Federal annuitants received $1.6 billion more by the end of fiscal 1975 than they would have, had their benefits merely kept even with inflation. Moreover, outlays for annuities over the next 5 years will be $3.8 billion higher than they would be if annuities rose at the same rate as inflation. All of these excessive increases in Federal annuities are not financed by employee contributions, but are ultimately a burden on the general taxpayer.

Mr. President, these inflated annuity increases are clearly unjustified. Even without the 1-percent kicker, the cost-of-living adjustment mechanism in the Federal retirement system is more liberal than that in almost any other pension system in the private or public sector. Moreover, no other Government program indexed to keep pace with inflation, such as social security, SSI, food stamps, or Federal pay, is adjusted as liberally as Federal retirement annuities. Social security, SSI, and Federal pay are adjusted annually; the food stamps bonus value is adjusted semiannually. If the 1-percent kicker is justified, with regard to Federal employees' retirement benefits, the argument could be made that it should be extended to these other Federal programs. The cost of such an extension clearly would be prohibitive.

This year, Mr. President, the Congress has acted definitively on three occasions in favor of repealing the 1-percent kicker. In adopting the first budget resolution, the Congress approved the policy of such a repeal. In enacting the military procurement and State Department authorization bills, the Congress approved the repeal of the kicker for the military and Foreign Service retirement programs, respectively, but only if a similar repeal is adopted with regard to the civil service retirement system. Thus, the amendment before us is the last piece needed to complete the policy for which Congress has clearly voiced approval three times. It is time for us to show the taxpayers that we meant it when we took these prior actions, and it is time to show that the Congress can act responsibly to eliminate unjustified spending of Federal tax dollars.

With repeal of the kicker, I think it is appropriate that we have removed the conditions that made enactment of this compensatory provision necessary in the first place. This amendment as perfected insures that civil service retirees experience no unwarranted delay in having cost-of-living increases appear in their annuity checks. This represents fairness for the annuitant and responsible fulfillment of the congressional obligation to former Federal workers.

Mr. BELLMON. Mr. President, I am very pleased to join the distinguished Senator from South Carolina, Senator Hollings, in cosponsoring this amendment to repeal the so-called 1-percent kicker. I do not believe it is necessary to elaborate at length on this issue because the issue itself is not very complex. The unfairness of this provision in the law has long been recognized. The facts are that Congress made a mistake in 1969 when the 1-percent kicker was added to the cost-of-living increase formula for the retirement programs. Because of the compounding effect, this mistake has caused Federal annuitants to receive increases totaling 71 percent over the last 7 years, while the Consumer Price Index during that same period only increased 56 percent. This overpayment of 15 percentage points cost $800 million and will get larger and larger if we procrastinate on this issue.

Congress has in effect expressed its desire on this issue on several occasions. First, the savings from repeal of this kicker is assumed in the fiscal year 1977 budget which Congress passed by 62 to 22 in the first concurrent resolution. The anticipated fiscal year 1977 savings is $200 million. Second, the Armed Services Committee has faced up to this issue and has recommended repeal of the 1-percent kicker in the military retirement program as part of the military procurement bill, assuming similar action is taken with regard to the civil service retirement system. Finally, Congress this year also eliminated the kicker in the Foreign Service retirement system. There is no excuse for a double standard in Federal retirement systems. We made a mistake in 1969.

While we may have originally intended for Federal retirees to keep up with inflation, it was never our intent to have these retirees have a windfall benefit by out-stripping inflation. As Senator Hollings has clearly shown, the Federal retirement system has many benefits in excess of social security retirement. With this amendment we merely seek to correct one major discrepancy. If we fail to act we will find more and more of our budget outside of our grasp—because it will be forced to fund this inequitable program. It is situations like this that make budget balancing so difficult. I trust the Senate will repeal this kicker today in the name of fiscal responsibility.

Mr. President, there is a growing public outcry concerning abuses in the Federal retirement system. A recent article by former Congressman Hastings Keith in the Reader's Digest of September 1976, sets out these abuses with great clarity. Among the Congressman's recommendations is the abolishment of the 1-percent kicker.

The Federal retirement system is an essential element of Government service. The availability of a reasonable retirement after a career of Government service has been a major inducement to qualified candidates for public service. I believe the system needs to be preserved but I also feel that its preservation depends on the elimination of the flagrant abuses which currently exist. I strongly urge the leadership of both the House and the Senate to adjust the legislative program so that the vote on the elimination of the 1-percent kicker can be held before adjournment.

I ask unanimous consent that the Reader's Digest article be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

LET'S THROTTLE BACK THE FEDERAL-PENSION GRAVY TRAIN

(By Hastings Keith)

In 1973, after serving 14 years in Congress and 6 in the military, I retired and began collecting pension checks of $1560 per month. Today, just three years later, those checks have increased to $2206 per month. If you assume a realistic annual U.S. inflation rate of six percent—it's now between five and seven percent—I'll receive $5000 a month by 1990, the end of my life expectancy. If, however, inflation resumes at the double-digit rate of 1974, by 1990 I could be collecting as much as $17,000 a month.

To the millions of retired Americans who have to subsist on fixed incomes and who see their purchasing power shrinking every day, such largess to 2.7 million retired civil-service and military employes must seem irresponsible—even scandalous. In a 1972 survey of 1800 major U.S. companies, it was found that only four percent of the pension plans studied provided for pensions to vary with an increase in cost-of-living prices. And none of those companies provided benefits to exceed the living-cost hikes. Yet that's precisely what Congress does for retired federal-government workers.

One result of this staggering Congressional practice is that taxpayers will have had to cough up an extra $300 billion by 1990—assuming a six percent annual inflation rate—just to cover unanticipated retirement costs of federal workers. Because these employees can earn almost as much and, in some cases, more money in retirement than when they were working full-time, they will continue to retire at an early age. (Many then land jobs in private industry, and collect a salary along with their pension.) And private-sector employees will have to spend more years on the job to support with their tax dollars the longer retirement periods of public pensioners.

Annual pension costs have soared from $3.8 billion in 1967 to a projected $18.9 billion in 1977. That's a jump of 397 percent in a decade. But worse is still to come. Over the next 25 years, the known costs of federal retirement plans, not counting any further inflation, will quadruple to more than $73 billion a year.

How did federal pension programs get so horrendously out of hand? Compared with private plans, they have been especially generous—the original idea being that the government needed to offer higher benefits to attract career employees. At the beginning, military retirees were not eligible for Social Security. In 1956, however, Congress took them into the fold. In 1962, Congress decided to sweeten the pot again. The first major addition was a cost-of-living escalator clause, which tied pensions to hikes in the Consumer Price Index. Pay raises followed that. (In 1960, the average salary of a white-collar government employee was $4,940. In March 1976, it was $15,336.)

Finally, a civil-service pension used to be based on the average salary that a federal worker earned during his final five years of service. By shortening that period to three years, Congress increased the amount that each pensioner could expect. Since people who legislate benefits are seldom the ones who have to pay for them, Congress—willing to let future generations do the worrying—simply appropriated enough money to pay each year's bill.

By 1969, the civil-service retirement program's unfunded liability—meaning benefits which had already been promised to federal workers, but for which no money had been set aside—was a frightening $56 billion and climbing rapidly. To stabilize the program, my colleagues and I voted to increase the amount that federal employes had to kick in to their pension plan from 6½ percent of salary to 7 percent. We required matching contributions from federal agencies. We also began setting aside funds to cover future obligations. Then, almost as an afterthought, we adopted an amendment which, in effect, undermined all these reforms.

Because there had been a substantial lag between upsurges in the costs of living and the time that those increases were reflected in pensioners' checks, we decided to give federal retirees a one-percent "kicker" to compensate. So, in 1969, we decreed that every time the cost of living shot up three percent over the previous month's index, and remained at that higher level for three consecutive months, pension checks would be increased by the amount of the increase in the Consumer Price Index plus an additional one percent. Since the annual inflation rate in 1969 was a meager three percent, the additional one percent didn't seem to pose a significant threat.

Then double-digit inflation set in. Since the beginning of fiscal 1974, there have been six cost-of-living adjustments, and the kicker—which was intended only to help retirees stay even—has actually given them $1.6 billion more than they needed to catch up. Whereas the cost of living over the past six years has risen 56 percent, federal pensions have been increased by 72 percent. Congress simply failed to realize that each one-percent add-on would be compounded and would thus become part of the base for succeeding computations.

Consider the following examples of what the increases can come to. A State Department secretary retired in July 1972 after 42 years' service. Her average salary for her final three years was $15,000, and her annuity at the time of retirement was $12,000.* Today, because of adjustments and add-ons, she collects an annual pension of $17,785. Or take the Commerce Department executive with a 44-year record, whose last three years' salary averaged $36,000. When he retired in 1972, he began receiving an annuity of $28,000. Today he receives $42,687 a year—or nearly $6700 more than he did when he was working. As recently as 1971, the average enlisted man who retired at age 41 at a pay-scale of $12,000 per year could expect a pension check of $350 per month. Currently, he collects about $500 per month.

A friend of mine in Maine, a former government employe, has seen his pension checks jump from $1900 to $2700 per month since his retirement several years ago. "I feel guilty," he says. In my own case, I served on active duty in the Army and then remained in the Army reserve. Last November, when I retired from the military, I began to collect $551 per month beyond my Congressional pension. In March of this year, that increased to $581. In 1978, when I'm 62 and eligible for Social Security, my bank balance will swell again.

Clearly, this upward spiral must stop. Fortunately, I'm not the only one who is spreading the alarm. Rep. Brock Adams (D., Wash.), chairman of the House Budget Committee, and Rep. Paul Findley (R., Ill.) have expressed their concern. Also, on two occasions recently, President Ford has asked Congress to repeal the one-percent kicker and bring federal pensions into line with those in the private sector. Unfortunately, perhaps because at least 38 members of Congress are themselves current recipients of federal pension-program adjustments and add-ons, little has been done.

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*Federal employees with 30 years of service receive, on retirement, 56 percent of their last three years' average salary. Longer service can raise the rate as high as 80 percent.

Yet the country can't afford to wait much longer. Agreement on a new budget must be reached before October 1. Here's what Congress must do:

Abolish that one-percent kicker. This step alone would save at least $1.5 billion per year by 1981. Already, the kicker has cost taxpayers $11.2 billion. If it's left unchecked, its total cost could eventually exceed $150 billion.

Declare a moratorium on further automatic cost-of-living adjustments until future increases in the costs of living fully offset expenditures required by the kicker in the past. Under such a stipulation, federal retirees would not be eligible for another pension increase until the Consumer Price Index moves up another 16 percentage points and equals the 72-percent increase in pension payments since 1969.

Amend the pension law to require current funding of all cost-of-living adjustments. (Unfunded liabilities today total $100 billion for the civil-service retirement program, nearly $200 billion for the military.)

Eliminate the provision in the pension law which allows military service to be counted toward both civil-service and military retirement payments until the age of 62. The present statute allowing duplication of benefits is fiscally inexcusable. Similarly, Congress should recognize the role that Social Security plays and the duplication of benefits it provides millions of retired federal employes.

I don't blame federal workers and pensioners for taking advantage of present retirement plans. But the purpose of those programs was to provide retirees with an adequate income. It was not to give them preferred status, make them rich, or induce them to leave federal service early.

In this election year, federal pension reform should be a major campaign issue. Thinking voters will take pains to determine where candidates stand.

Mr. STEVENS. Mr. President, I move to lay the Hollings amendment on the table, with the hope that the Senate will let the Committee on Post Office and Civil Service get to this matter in the proper procedure. I move to lay the Hollings amendment on the table. I understand it will take with it the Chiles amendment.

The PRESIDING OFFICER (Mr. Leahy). Will the Senator advise the Chair: Have the yeas and nays been requested?

Mr. STEVENS. Yes, I requested the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from South Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Ohio (Mr. Glenn), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from Minnesota (Mr. Humphrey), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from Minnesota (Mr. Humphrey) would each vote "nay".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

The result was announced—yeas 11, nays 68, as follows:

[Rollcall Vote No. 571 Leg.]

YEAS—11

Baker
Brooke
Durkin
Gravel
Hatfield
Mathias
Packwood
Pearson
Scott, Hugh
Stevens
Weicker

NAYS—68

Abourezk
Allen
Bartlett
Bellmon
Bentsen
Biden
Brock
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGovern
Morgan
Muskie
Nelson
Nunn
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—21

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Eagleton
Glenn
Goldwater
Hart, Philip A.
Hartke
Humphrey
Kennedy
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Percy
Tunney

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs, on agreeing to the amendment of the Senator from Florida (Mr. Chiles).

Mr. CHILES. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move the adoption of our amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina (Mr. Hollings), as amended.

Mr. HOLLINGS. Mr. President, I ask unanimous consent, inasmuch as we had a vote of 68 to 11, unless someone wants to have a rollcall vote, to vacate the order for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from South Carolina, as amended.

The amendment, as amended, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Now, Mr. President, for the information of my colleagues, we are trying to move forward. I know of only two amendments that may be proposed, and one is that of the Senator from Alaska (Mr. Gravel). Does the Senator want to propose his amendment now? The other is by the Senator from Virginia (Mr. William L. Scott) who has an amendment. I think we might be able to accept the amendment of the Senator from Virginia unless there is some opposition, but the Senator from Alaska's amendment goes back to the pay thing, and I think we ought to listen to him.

TIME-LIMITATION AGREEMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the amendment of the Senator from Alaska (Mr. Gravel) is offered, that there be a time limitation of 20 minutes, equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that from now on—if I can have the attention of my Republican colleagues—the votes be of 10-minute duration.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, and I shall not object, if the distinguished majority leader wanted to put a time limitation on my amendment, too, I would be glad to agree to it. Twenty minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes on the amendment to be offered by the distinguished Senator from Virginia (Mr. William L. Scott) to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that all votes from now on be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, if the distinguished majority leader would also make the request to the amendment of the Senator from Kentucky (Mr. Ford) with respect to the annuitants, the same time limit, 20 minutes, not to exceed 20 minutes—I so make the unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Ten minutes to a side.

The PRESIDING OFFICER. Ten minutes to a side.

UP AMENDMENT NO. 430

Mr. GRAVEL. Mr. President, I call up my amendment.

The PRESIDING OFFICER (Mr. Leahy). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Gravel), for himself and Mr. Stevens, proposes an unprinted amendment numbered 430.

Mr. GRAVEL. Mr. President, I ask further consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 6, before the period, insert a colon and the following: "*Provided*, That the foregoing limitations on the use of funds shall not take effect until the Congress (1) has had the opportunity to consider the report and recommendations of the Commission on Executive, Legislative, and Judicial Salaries made under section 225(g) of the Federal Salary Act of 1967, as amended, with respect to the salaries of individuals in positions or offices referred to in section 225(f) (A) of such Act, and to consider the recommendations of the President made under section 225(h) of such Act with respect to the salaries of individuals in such positions or offices, and (2) has disapproved, under section 225(i)(1)(B) of such Act, those recommendations of the President".

Mr. GRAVEL. Mr. President, if I may have the attention of Senators.

The PRESIDING OFFICER. May we have order in the Chamber so that the Senator from Alaska can be heard? As to those Members of the Senate and staff having conversations, the Chair realizes how important they are, but the Chair requests they be held somewhere else.

The Senator from Alaska may continue.

Mr. GRAVEL. Mr. President, this is not a very complicated situation, but there is great precedent for it.

I think if the body would come to understand the import of this particular amendment, it would solve a lot of problems with respect to the pay situation.

I do not think I have to go into great lengths to indicate to the body how we are the last people who are able to raise our salaries.

We have placed ourselves in a situation where we are going to raise salaries of the judges and members of the executive branch. In fact, I understand we will have 14 members, staff members at the White House, not secretaries, but 14 members making more money than Members of Congress.

This is really the beginning of the end for us because if we cannot face up to this problem now, we will never face up to it.

I am not asking the body to vote on the pay raise at this point in time. What I am asking the body is to sit back and think of what we did some time back when we established a commission so we would have some comparability to what is going on in the private sector, so we could take umbrage with that comparability so as to make a decision and take this decision to our electorate.

That is the difficulty we have, to take a decision we make involving ourselves to the charge that we are self-serving.

The only way we can overcome that charge is by having some degree of comparability to what is happening in the private sector.

All this amendment does is say that notwithstanding what we have done already on this bill, we will withhold any action until next year when the President comes forward with his recommendations to the Congress based upon what the commission has reported to him, and then at that point in time, if we do not act then and if we choose to act then, the provisions we voted upon yesterday would come into being.

So we would not be recanting on what we have done yesterday. What we have done is done. We cannot change that. Obviously, the vote is not there to do it. But I would hope the votes are here to recognize we have, after much legislative deliberation, adopted a process to handle the subject.

All I am begging is that the body look at the wisdom of deferring to that process at that point in time, next year, when we have that report and the President's recommendations. If we want to reconfirm what we decided yesterday, we can so do it and nothing will have been lost, nothing will have been impaired.

In my mind, this is a very moderate proposal. I think it is the least we can do trying to rectify a serious situation because the inability to pay ourselves a proper wage is a serious situation. It leads to the worst type of difficulties that can occur in a democracy. I have some very strong views about the pay.

A person in one part of the country, let us say Alabama, the pay may be too high with respect to his constituency, but with respect to my constituency, let me say that any teamster who works a full year on the Alaska pipeline makes 30 percent more than I do as base pay, and 100 employees of State and municipal government in the State of Alaska make more money than I make.

When I travel to Alaska, and when my colleague travels to Alaska, we do not have the cost of living in Alabama or Mississippi. We have the cost of living in Alaska. We have to adhere to it.

When we have homes in Alaska, we have to maintain them at the cost in Alaska.

So if there are people here who feel there is a great injustice in having a proper pay comparable to the civilian sector, let him hold that feeling. They have a simple way to exercise their judgment by not taking the pay.

I would be willing to support an amendment that said that anybody voting against the pay raise would not collect the pay.

To use a colloquialism, that sure would correct a lot of people from sucking eggs.

But that is not what I am suggesting. I am suggesting something of great moderation. That would be that we would take this very moderate step and defer the thing until next year.

I would be happy to yield any of my time to anybody who wishes to speak.

Mr. HOLLINGS. Mr. President, as manager of the bill, I think that a Senator opposing this should report the position in opposition, because what he does, while he undoes, in a sense, what we did yesterday, he does what I wanted to do yesterday, and that is, feed everybody out of the same spoon.

I thought we had worked that out; once we adopted the amendment with respect to the judicial and executive.

So if someone else opposes that, he should control the time, because I personally, not as manager of the bill, would vote for the amendment.

Several Senators. Vote! Vote!

Mr. TAFT. Do I understand if this amendment were passed, the pay raise for the Senators and the Congress would go into effect October 1?

Mr. GRAVEL. That would happen, since this does not address itself to the incremental increase. It addresses itself to a pay increase, and if next year we chose to act, then that incremental——

Mr. TAFT. It would have gone into effect, not the pay raise October 1?

Mr. GRAVEL. It does not speak to that at all.

Mr. TAFT. What would happen on October 1 if this passed?

Mr. GRAVEL. That would get a pay raise, but——

Mr. TAFT. The bill today does not say that. The bill, as amended yesterday, does not say that.

Mr. GRAVEL. I do not speak to that at all.

Mr. TAFT. Well, the Senator must be speaking to it if one way it is and the other it is not. This is what changes it.

Mr. GRAVEL. I think the Senator can read the English language as well as I can. My amendment does not speak to that. It just defers the whole issue until next year when the commission comes forward.

If my colleague can read something else into my amendment, I would appreciate hearing it. I do not want to mislead anybody.

Mr. TAFT. Mr. President, I do not know if I yet have an answer.

Mr. GRAVEL. Would the Senator——

Mr. TAFT. I have the amendment here. I want to know what the Senator is saying it means.

If the amendment is passed, what would the rate of pay of a Senator be on October 1 or November 1? Would it be higher than it is now, or the same as it is now?

That is a very simple question.

Mr. GRAVEL. Yes. The simple answer is it would probably go up.

Mr. TAFT. Mr. President, I move to lay the amendment on the table.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Morgan). The yeas and nays are not in order.

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is not in order until all time has been used or yielded back.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. TAFT. I have the time and I yield it back.

Mr. HOLLINGS. All time is yielded back.

The PRESIDING OFFICER. All time having been yielded back, the motion is in order.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. TUNNEY), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The result was announced—yeas 65, nays 13, as follows:

[Rollcall Vote No. 572 Leg.]

YEAS—65

Abourezk
Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Brock
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Curtis
Dole
Domenici
Durkin
Eastland
Fannin
Fong
Ford
Garn
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Helms
Hruska
Huddleston
Inouye
Jackson
Johnston
Laxalt
Leahy
Magnuson
Mansfield
McClellan
McClure
McGovern
Morgan
Muskie
Nelson
Nunn
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—13

Brooke
Case
Culver
Gravel
Hathaway
Hollings
Javits
Mathias
Packwood
Schweiker
Scott, Hugh
Scott, William L.
Stevens

NOT VOTING—22

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Eagleton
Glenn
Goldwater
Hart, Philip A.
Hartke
Humphrey
Kennedy
Long
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Percy
Tunney

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 431

Mr. WILLIAM L. SCOTT. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WILLIAM L. SCOTT) proposes an unprinted amendment numbered 431.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will suspend momentarily until order is restored. The Senate will be in order.

The Senator may proceed.

Mr. WILLIAM L. SCOTT. Mr. President, I have talked with the distinguished floor leader, and I believe he is prepared to accept my amendment. If so, of course, I will forego any remarks.

Mr. HOLLINGS. Good. Mr. President, the Senator has explained the amendment. It says that if you do not want the raise, just say you do not want it and you do not have to take it. I do not think it is necessary, but the Senator wanted it spelled out, so under the circumstances I have talked with Senator SCHWEIKER, my Republican counterpart, and we have agreed to take it to conference.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. WILLIAM L. SCOTT. Yes.

Mr. CURTIS. Does this put the raise back in the bill?

Mr. WILLIAM L. SCOTT. No, it does not.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. TAFT. Do I correctly understand, then, that this would not apply to Senators or Representatives, just to members of the executive branch or the judiciary?

Mr. WILLIAM L. SCOTT. No, it would apply to Members of Congress.

Mr. President, I asked a moment ago that the reading of the amendment be dispensed with. Perhaps the clerk should read it, so that Senators will know what it provides, and then I will be glad to answer any questions. I was just trying to save time, since the floor leader had agreed to accept it. I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 18, line 6, after the period insert the following: "Notwithstanding the preceding provisions of this paragraph, funds appropriated by this Act or any other Act to pay the salaries of individuals in a position or offices referred to in section 225(f) (A) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356(A)), shall be available to pay the salaries of such individuals at the rates provided by or pursuant to law, except that such funds shall not be available to pay salary to any such individual at a rate which exceeds the rate in effect on September 30, 1976—

(1) in the case of the Vice President, the President pro tempore of the Senate, the Majority and Minority Leader of the Senate, or a Senator, if such individual notifies the Secretary or the Senate in writing that he does not wish to receive the entire salary to which he is entitled and specifies the rate of salary which he wishes to receive; and

(2) in the case of the Speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives, a Member of (or Delegate to) the House of Representatives, or the Resident Commissioner from Puerto Rico, if such individual notifies the Clerk of the House of Representatives in writing that he does not wish to receive the entire salary to which he is entitled and specifies the rate of salary which he wishes to receive.

Any notice given under this section by an individual may be rescinded, or the amount specified therein may be changed, by further notice in writing to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be. Any such notice shall be effective during the period beginning on the date on which it is given and ending on the date on which it is rescinded or changed. For purposes of all laws of the United States (other than this paragraph), the rate of salary of an individual who gives a notice under this paragraph shall, during the period such notice is in effect, be the amount specified in such notice.".

Mr. THURMOND. Mr. President, will the Senator from Virginia yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that John DePere of the staff of the Committee on the Judiciary be accorded the privilege of the floor today and tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I think I understand now, after hearing the reading of the amendment. The Senator is saying the provision would apply to any Senator or Representative who wanted to turn back any portion of the salary he already receives. It does not apply to any increase.

Mr. WILLIAM L. SCOTT. Any increase over the present salary, he could notify the Secretary of the Senate he did not wish to receive it.

Mr. TAFT. But there is no increase provided in the bill. Does it apply to the present salary, without the increase? As I understand the amendment, it would so apply.

Mr. WILLIAM L. SCOTT. It was an amendment prepared by the legislative counsel. I did not prepare it personally, but a reading of it would indicate that he could return any portion of his salary he did not want to receive.

Mr. TAFT. I think the Senator is correct, and I do not think it changes the impact.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. CULVER. If what the Senator is really attempting to do is afford an opportunity for each and every individual Member of Congress, all 535, to really step up to the pay window and tell the person there what they really think they are worth on an individual basis to the U.S. taxpayers and their constituents, if the Senator is affording them that opportunity, if they really do not feel they are not worth, dollar for dollar, the $42,500, or the $40,000, or the $43,000, or that they are millionaires and do not need it, then I want to commend him for a really useful and thoughtful vehicle, because it really would make it easier not to go through all this semiannual, annual, or monthly nonsense about pay raises.

Mr. WILLIAM L. SCOTT. Of course, it would not permit a Senator to increase his own salary.

Mr. CULVER. No, but if he blushingly wishes to admit, "I am really not worth what I am paid, and I really only want to draw from Uncle Sam commensurate value for what I am worth to the people I represent," I really want to commend the Senator, because I think that would save some money in some cases. But I think that Senator's constituency ought to be put on notice that they are not getting their money's worth out of the person who represents them, and that they ought to take steps to change that representation at the next election.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's comments, and I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, at this late hour it is somewhat difficult to understand the purport of amendments being offered for our consideration. I am not critical of my colleague from Virginia (Mr. William L. Scott) because I know that he as well as other Senators now in the Chamber, are trying to clarify Federal salary schedules as well as the compensation paid to Members of the Congress.

No special virtue is attached to the position taken by the Senator from West Virginia. Last year I voted for the 5-percent pay increases. At that time I specifically stated that at the end of each month I would return to the Federal Treasury the amount of the pay increase. This I have done.

The prudent Senator from Alabama (Mr. Allen) will recall our colloquy at that time.

I say to my jovial colleague from Iowa (Mr. Culver) that the worth of an individual Senator is perhaps best judged by the confidence his constituency has in his service. It was on my motion in the Post Office and Civil Service Committee that the 8-percent salary increase was reported for floor action. Later the amount was lowered to the 5 percent now in effect.

I reiterate the essence of my remarks last year when I said I was not critical of any Senator for his opinions and convictions, or for the aye and nay votes he cast. I strongly suggest however, that legislators should determine by direct up and down votes the issue of salary adjustments, we should not be covered as are appointive and civil service personnel.

The President, or a commission, or comparability, or cost of living are properly the basis of Federal workers, other than the elected Members of the Congress.

We should vote directly on whether to lower our salaries, which I did as a Member of the House of Representatives in 1933, or to raise our salaries.

I believe that the pay of U.S. Senators could in truth and fact be raised reasonably at this time. If provided the opportunity I would vote for such a proposal, provided we were recorded on a yea and nay rollcall.

Mr. WILLIAM L. SCOTT. Mr. President, I am glad to yield back the remainder of my time.

Mr. CULVER. If the Senator will point out the queue to me where I can indicate that in a straightforward way, any more straightforwardly, than I have seen in the last 12 years I have been in Congress, I will get in that queue. I am not trying to suggest that we have any subterfuge about that. The plainer the better.

Mr. WILLIAM L. SCOTT. I am glad to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I will yield back my time. Let us vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HOLLINGS. Right.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

Mr. ALLEN. Just a minute. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ALLEN. Let us have a rollcall vote.

Mr. ROBERT C. BYRD. Let us have a voice vote.

Mr. HANSEN. I call for the yeas and nays.

Mr. CULVER. I think this is terribly important. The matter is a terribly important matter. I think this is simply institutional precedent versus basic principle. I hope we will have a yea and nay vote on it.

Mr. ROBERT C. BYRD. Mr. President, it is late. Let us have a voice vote on the amendment. It can be voted up or down on a voice vote.

The PRESIDING OFFICER. The Chair has concluded the yeas and nays have not been called for.

The question is on agreeing to the amendment of the Senator from Virginia.

Mr. CULVER. I call for the yeas and nays, Mr. President.

Mr. ALLEN. I shall call for the yeas and nays if it seems the amendment is passed, I so state to the Chair.

Mr. ROBERT C. BYRD. Let us vote.

Mr. RANDOLPH. Let us vote.

Mr. HOLLINGS. Let us vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia by voice vote (putting the question).

The "noes" seem to have it.

Several Senators addressed the Chair.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Ohio (Mr. Glenn), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire, (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from California (Mr. Tunney), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from Wisconsin (Mr. Nelson), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Michigan (Mr. Griffin), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

The result was announced—yeas 26, nays 49, as follows:

[Rollcall Vote No. 573 Leg.]

YEAS—26

Abourezk
Bentsen
Brooke
Clark
Culver
Dole
Durkin
Garn
Gravel
Hart, Gary
Haskell
Hathaway
Helms
Inouye
Jackson
Laxalt
Magnuson
Morgan
Pearson
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stevens
Stone
Taft

NAYS—49

Allen
Baker
Bartlett
Bellmon
Biden
Brock
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Curtis
Domenici
Eastland
Fannin
Fong
Ford
Hansen
Hatfield
Hollings
Hruska
Huddleston
Javits
Johnston
Leahy
Mansfield
Mathias
McClellan
McClure
Muskie
Nunn
Packwood
Pell
Proxmire

Randolph
Ribicoff
Sparkman
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—25

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Eagleton
Glenn
Goldwater
Griffin
Hart, Philip A.
Hartke
Humphrey
Kennedy
Long
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Percy
Tunney

So the amendment was rejected.

UP AMENDMENT NO. 432

Mr. FORD. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 432:

On page 17, after line 3, insert the following new section:

"SEC. 111. Amounts required to be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8344 of title 5, United States Code, with respect to any officer or employee of the Senate, including an employee in the office of a Senator, shall be paid from the contingent fund of the Senate during the current fiscal year."

Mr. FORD. Mr. President, I have discussed this amendment with the floor manager of the bill. I believe I am speaking for 18 Senators and 9 committees in the Senate. Our funds for the office have not been increased, and we have been in the position of employing at a reduced salary those who have retired. This means that additional funds would be taken from our office accounts, and that would reduce our ability to employ those in our offices and sometimes on the basis of field offices.

This amendment just gives us 1 year to look at it, to be sure that we can rearrange the employment in our offices, rearrange our ability to employ these people.

I hope the amendment can be accepted just for the coming fiscal year, and at the end of that time we can look at it again.

Mr. HOLLINGS. Mr. President, I have discussed this matter at length. It has become a leadership decision and a policy committee decision.

The Senator from Kentucky raised this question at the time the Post Office and Civil Service bill (H.R. 3650) was being considered. I know he was glad to believe that it would be taken care of. I have talked to the majority leader, and I think we are in a position now to accept the amendment on the basis of seeing how it works this year. That is why we put in the proviso pertaining to the current fiscal year. On that basis, I move the adoption of the amendment.

Mr. ALLEN. Will the Senator yield once more?

Mr. HOLLINGS. Yes.

Mr. ALLEN. As to the amendment of the distinguished Senator from Kentucky (Mr. FORD), I notice the Senator from South Carolina added "during the current fiscal year." That could mean between now and October 1, I assume.

Mr. HOLLINGS. The current year for the appropriation bill.

Mr. ALLEN. The current fiscal year——

Mr. HOLLINGS. We will amend it to put in "during the fiscal year ending September 30, 1977."

That is a good suggestion by the Senator from Alabama.

Mr. FORD. I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

UP AMENDMENT NO. 433

Mr. HOLLINGS. Mr. President, I have some housekeeping amendments, and I ask the attention of the Senator from Iowa.

We killed the proposal for the building at 400 North Capitol Street and we had some maintenance and operating money which already has been adopted by unanimous consent. We want to reduce that inasmuch as the Senate has decided not to purchase 400 North Capitol Street, there is an additional $3.5 million in the bill that should be deleted. On the other hand, to take care of the Ford amendment and the leasing of some space for the computer, to get it out of the street we need to insert $1,291,000.

Accordingly, I move that the amount of $13.408 million for Senate Office Buildings, on line 14, page 36, be reduced to $10.408 million; that the amount $11.672 million for Capitol Power Plant, on line 2, page 40, be reduced to $11.172 million.

The PRESIDING OFFICER. Will the Senator send his motion up?

Mr. HOLLINGS. I move that.

Mr. FORD. Will the Senator from South Carolina yield for a question?

Mr. HOLLINGS. Yes.

Mr. FORD. If the building at 400 North Capitol Street had been purchased, we were up to within $150,000 of the total for this bill under the budget resolution. This does not in any way alleviate the amendment that I placed on the bill?

Mr. HOLLINGS. That is right.

Mr. FORD. It does not bother that at all?

Mr. HOLLINGS. It does not bother that at all.

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from South Carolina.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes a technical amendment unprinted No. 433: That the amount of $13,408,000 for Senate Office Buildings on line 14 of page 36 be reduced to $10,408,000; and that the amount $11,672,000 for Capitol Power Plant on line 2 of page 40 be reduced to $11,172,000.

Mr. HOLLINGS. I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 434

Mr. HOLLINGS. Mr. President, I offer the following amendment: On page 10, line 6, delete $17,807,000 and insert $19,098,000: *Provided*, That not to exceed $736,000 shall be available for the lease and alteration of space for the Senate Computer Center if the Committee on Rules and Administration determines that such facility cannot be located in existing space available to the Senate or the House of Representatives.

The PRESIDING OFFICER. The Chair inquires of the Senator, is this offered in the nature of an amendment?

Mr. HOLLINGS. That is right.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 10, line 6 delete $17,807,000 and insert $19,098,000: *Provided*, That not to exceed $736,000 shall be available for the lease and alteration of space for the Senate Computer Center if the Committee on Rules and Administration determines that such facility cannot be located in existing space available to the Senate or the House of Representatives.

Mr. ALLEN. Will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. ALLEN. As I understand the Senator, this is some sort of computer center——

Mr. HOLLINGS. That is right. The second computer for the Senate comes in at the end of the year and we have no place for it.

Mr. ALLEN. This is location?

Mr. HOLLINGS. That is right.

Mr. ALLEN. It would not be located at 400 North Capitol, would it?

Mr. HOLLINGS. It could be. What we have put in there is language to make it explicit, frankly, under the suggestion of the Senator from Iowa. He had been over to see the FBI annex. That is why we said in the amendment as it reads, "Senate or House of Representatives." We shall attempt to get space over there in the FBI annex. We shall try to get it in any other existing facility. If we cannot get it in any other existing facility, the Sergeant at Arms has the authority to lease space there.

Mr. ALLEN. I think the Senate has pretty well spoken on that issue. If we are going to have a $17 million rental situation here, I think it is something we want to give more consideration to.

Mr. HOLLINGS. It is not a $17 million rental.

Mr. ALLEN. I understand the figure to be that.

Mr. HOLLINGS. That was the final figure for all the amounts, of which the original amount of $17,807,000 was for the usual miscellaneous items of the Senate. It was only $736,000. There is an actual breakdown that I had here, which is if we add the leased space, we have to have additional air-conditioning for the computer—the beefed up electrical power supplies really are the major cost—and to raise the floor, if we use that space. But the admonition in this amendment, and we make it in the RECORD right now, is to try to use the existing facilities—this is for the Committee on Rules—in the Senate or House of Representatives.

Mr. CULVER. If the Senator will yield for a point of clarification for the Senator from Alabama, the $17 million figure the Senator from Alabama has reference to is for the entire category.

Mr. HOLLINGS. The entire category.

Mr. CULVER. We are talking, in this particular instance, for the possible rental of computer space, of $700,000.

Mr. HOLLINGS. That is right.

Mr. CULVER. It expressly provides, as well, it is my understanding, that the terms of such lease rental should be in the $7-per-square-foot range.

Mr. HOLLINGS. Right.

Mr. CULVER. Third, it also expressly provides that before any lease obligation is undertaken, every effort should be made to obtain space free to the taxpayer in terms of in the House of Representatives such as the ex-FBI building, where the House computer system is for an interim period until the Dirksen extension is completed in mid-1979, where an elaborate, completed computer center is already planned. Is that correct?

Mr. HOLLINGS. That is correct.

Mr. ALLEN. What limitation is placed on the length of any such lease under the terms of the amendment?

Mr. CULVER. I think it is up to 5 years.

Mr. HOLLINGS. Yes, and in last year's supplemental bill, the Sergeant at Arms is authorized to lease for 5 years.

Mr. CULVER. Instead of $17 million, we are talking about the possible expenditure of $700,000 only if space is not currently available within existing facilities; and second, if it is obtained on the outside, it will be done at a highly competitive rate of $7 plus per square foot. And the Committee on Rules has to approve any such lease arrangement before it is completed.

Mr. HOLLINGS. That is right. Any kind of lease will have to be approved by the committee as well as the Senate, as we provided last year.

Mr. CULVER. I do not believe even the second computer 350 will be here until next year and there is space in the ex-FBI Building that could be provided where the House computers are, at least until we get this extension completed.

Mr. MATHIAS. Will the Senator from South Carolina yield for a question?

Mr. HOLLINGS. Yes.

Mr. MATHIAS. Do we want to dispose of this amendment first?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I want to ask the Senator from South Carolina, so we are perfectly sure what we are doing here, in this legislation, we have waived the annual cost-of-living increase for Members of Congress; is that correct?

Mr. HOLLINGS. That is correct.

Mr. MATHIAS. Have we also affected, in any way, the provisions of section 225 of the Federal Salary Act, which provides for a quadrennial comparability review, and has that been stricken from the statute by the action on this amendment?

Mr. HOLLINGS. This is the present status, and we are ready to vote passage unless there are further amendments. What we have done is this: We still have the Commission, we have the organism. They will make a recommendation, but if they recommended that $5 more be paid, under this Appropriations Act, none of that money could be expended from it for Members of Congress.

Mr. MATHIAS. But the recommendation will still come forward?

Mr. HOLLINGS. That is right, it will still come forward and it will come forward under executive pay and judicial pay and legislative pay. But as concerns congressional legislative pay, it will not apply, because we cannot use any of the money.

Mr. STEVENS. May I enter just one question? Was it the intent of those who offered the amendment, I might ask, to touch only the cost-of-living increase and the payment of that, or was it the intent to anticipate the quadrennial review for comparability and prevent any consideration of those also? I think the Senator from Maryland has raised a very interesting point. Some people may not know that one is a cost-of-living annual adjustment; the other is a quadrennial report of the Commission based upon comparability throughout the economy. For one, I do not see any reason why we should prejudge what that might be. That might actually be——

Mr. HOLLINGS. Well, we have prejudged it, because the language was clear. I have the section 225(f)(A). That refers to Senators, Members of the House of Representatives, and, if anyone is interested, the Resident Commissioner from Puerto Rico. That is the only gentleman I have not heard from.

I am ready for the vote on passage.

Mr. STEVENS. Mr. President, if the committee will accept it, I am prepared to offer an amendment which says, "except increases submitted by the President pursuant to section 225 of the Federal Salary Act of 1967." Those recommendations have to be approved next year if such recommendations are made. I think we should not prejudge that comparability. I understand we have judged the cost-of-living increase.

Mr. TAFT. Mr. President, I should hate to adopt that amendment, because it is directly contrary to what I think the expressed will of the Senate was. I tried to make the point all through yesterday that the point of an amendment was really to urge the Senate to abandon the Commission and recommendation system as far as the Senate and House of Representatives are concerned. It is the same as the Senator from Virginia mentioned tonight. We ought to take early legislative action to uncouple the legislative branch from the other factors in this bill. To take the action the Senator from Alaska is recommending could go directly contrary to what I think was the direction the Senate indicated it wanted to go in, and that is to set us aside, handle it separately and differently from the other entities. I shall be constrained to oppose the amendment.

Mr. WILLIAM L. SCOTT. Mr. President, I would hope that the distinguished Senator from Alaska would offer his amendment, because I believe that the sense of the Senate has been, and the constituents have been, concerned about our not voting to set our pay and, as I understand it, there would be a Commission recommendation. It is a quadrennial Commission which meets every 4 years, and we would have to act upon that, and we would have to vote "yea" or "nay."

I think sometimes we lose sight of the fact that there are only 535 Members of Congress. One out of every 10,000 Federal employees is a Member of either the House or the Senate, one out of 10,000. So it just seems to me we are degrading the Senate by saying that members of the executive branch can make more money than we can make and that members of the judiciary can make more than we can make.

If there is any such thing as three coordinate, coequal branches of the Government, we should not degrade ourselves. I would hope the Senator would offer his amendment.

Mr. HOLLINGS. Does the Senator offer his amendment?

UP AMENDMENT NO. 435

Mr. STEVENS. Yes, I will offer the amendment. I hope we will voice-vote it.

Mr. TAFT. Mr. President, I am going to ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment offered by the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 435:

On page 18, line 6, strike the period and add the following:

"Except increases submitted by the President pursuant to section 225 of the Federal Salary Act of 1967."

Mr. STEVENS. I yield back my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. FORD. How many Members have to indicate they want a vote to be secured?

The PRESIDING OFFICER. Fifteen.

Mr. FORD. Fifteen Members.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays?

SEVERAL SENATORS. Voice vote.

Mr. HOLLINGS. The hour is late.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS). The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.) the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), the Senator from Colorado (Mr. GARY HART), the Senator from Illinois (Mr. STEVENSON), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The result was announced—yeas 41, nays 28, as follows:

[Rollcall Vote No. 574 Leg.]

YEAS—41

Abourezk
Baker
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Dole
Eastland
Fong
Ford
Gravel
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
Mathias
McClellan
Muskie
Packwood
Pearson
Pell
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Stevens
Tower
Williams

NAYS—28

Allen
Bartlett
Bellmon
Bentsen
Brock
Chiles
Domenici
Durkin
Fannin
Garn
Hansen
Helms
Hruska
Leahy
McClure
Morgan
Nunn
Proxmire
Randolph
Roth
Sparkman
Stafford
Stennis
Stone
Taft
Talmadge
Thurmond
Young

NOT VOTING—31

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Curtis
Eagleton
Glenn
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Humphrey
Kennedy
Laxalt
Long
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Percy
Stevenson
Symington
Tunney
Weicker

So the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS

Mr. PERCY. Mr. President, throughout my tenure in the Senate, I have found that a significant portion of wasteful Government spending is attributable to occasions where relatively small amounts of money, considered too paltry to fuss over in overall budget terms, are thoughtlessly frittered away through inefficiency, lack of initiative and foresight, or just plain habit. To paraphrase my distinguished, late colleague from Illinois, Everett Dirksen, I would point out that if you spend a million here and a million there, pretty soon it all adds up to real money; and real money whose expenditure accomplishes nothing.

Seeking out these individual instances and eliminating the wasteful spending is, surprisingly, often more difficult to accomplish than getting up on the Senate floor and proposing a 10-percent across-the-board cut for the budget of one agency or another. It is much easier to make the grand gesture of sweeping budget cuts, leaving the agencies to figure out where they should be applied, than to research, investigate, and eliminate less visible spending and programs with entrenched constituencies.

Today the Senate has taken the opportunity to set an example for the rest of the Government by "cleaning up its own house" as it acted on the legislative appropriations bill. I was pleased to be a cosponsor of the amendment by the Senator from Oklahoma (Mr. BARTLETT) that would approximately halve the number of elevator operators working on the automatic elevators in the Capitol complex. This amendment was drafted pursuant to the recommendations of the Architect of the Capitol and is long overdue. There is no reason I can think of to require the services of a paid employee on an automatic elevator, particularly in light of recent expenditures to convert these cars from manual to automatic. We can all push our own buttons, Mr. President. This is no burden. The Bartlett amendment still allows the retention of half the present force so that some personnel can be assigned to areas in the Capitol complex where there is heavy tourist traffic and where human assistance might be required for giving directions and other information.

Mr. President, this was a simple amendment. We are eliminating extraneous personnel, we are going to save about one-half million dollars a year. I voted for it and hope it will be accepted in conference by the other body.

Later today, we considered an amendment to authorize Senate purchase of property at 400 North Capitol Street, for office space. I oppose this amendment. I do not deny that we need space now and, as time goes by, we will need more. These space requirements, however, are the prime reasons we decided to build the Hart extension to the Dirksen Building. What we need now is temporary space to tide us over until the extension is completed—not a $32 million real estate investment. In addition, I understand provision has been made for this temporary space.

As the Senator from Iowa (Mr. CULVER) and the Senator from New Mexico (Mr. DOMENICI) pointed out in their recent letter to all Senators, there is presently no systematic procedure for assessing the Senate's future space requirements and allocating available space equitably and efficiently among numerous activities. The Temporary Commission on the Operation of the Senate is currently looking into this and it is only commonsense to await the Commission's recommendations before acquiring any more permanent property. Second, purchase of this property was rejected by the Public Works Committee and was not formally considered by the Rules Committee. Rejection of this purchase today would save the taxpayers in excess of $35 million and puts the Senate on sound footing in the management of its own affairs.

Mr. GARY HART. Mr. President, the Senate conducted a series of votes yesterday on the subject of automatic cost-of-living salary raises.

I do not favor allowing automatic raises for Members of Congress, and my voting record on this issue has consistently reflected this position.

However, I do not believe that Federal judges and other Federal employees should have their financial well-being involved in deliberations over congressional salaries, nor should they be financially penalized for their decision to work in Government service.

According to the description of the floor manager yesterday, the Appropriations Committee amendment striking a portion of title II of H.R. 14238 would have removed this penalty against Federal employees, and I voted for the amendment for this reason.

It was not, however, my intention in casting this vote to allow automatic cost-of-living raises for Members of Congress, nor was it my understanding that the amendment would have that effect.

Mr. BARTLETT. Mr. President, during the proceedings late yesterday on H.R. 14238 a rather indefinitive vote was taken concerning the Taft amendment. As this bill was reported from the House, automatic pay raises for Members of Congress, Federal judges, and high-level employees of the executive branch were eliminated. The Taft amendment restored the automatic pay increase for Federal judges and Federal executives.

I opposed the Taft amendment because I cannot support automatic salary increases for high-level Federal employees whether they be Members of Congress, Federal judges, or employees of the executive branch.

After the passage of the Taft amendment by voice vote, a motion was made to reconsider that vote, and then a motion was offered to table the motion to reconsider. I voted against tabling the motion to reconsider in the hope that the Taft amendment might in fact be reconsidered and defeated, thus denying automatic pay raises for Federal judges and high level executive branch employees as well as Members of Congress.

The motion to table was passed, thereby allowing the Taft amendment to stand. The second vote was on the Finance Committee amendment to entirely remove the language prohibiting pay raises. I voted "no" on this amendment and it was defeated.

Because of the keen public interest in this particular section of the legislative appropriations bill, I consider it important to fully explain the Senate proceedings on the Taft amendment and my position on the amendment and subsequent motions.

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 14238, the legislative branch appropriation bill for fiscal 1977 which provides funds for the Congress, the Library of Congress, the General Accounting Office, the Government Printing Office, and other agencies. I take this opportunity to comment on the relationship between this bill and the targets set out in the first concurrent resolution on the budget for fiscal year 1977.

This bill provides $1,009 million in budget authority and $1,014 million in outlays for fiscal year 1977. Outlays arising from prior year appropriations amounting to $96 million are included in the totals.

The funds provided in this appropriation are virtually the same as the $1 billion in budget authority and outlays allocated by the Senate Appropriations Committee to the Subcommittee on the Legislative branch pursuant to section 302(B) of the Congressional Budget Act. They are also consistent with the Budget Committee's assumptions in the second budget resolution, which will be reported later this week.

This bill provides new budget authority and outlays in three functions of the budget, and is consistent with the assumptions made in the first and second budget resolution with respect to each of these functions. I ask unanimous consent to insert in the RECORD a table showing the distribution of budget authority and outlays in this bill by function.

I wish to commend the distinguished chairman of the Subcommittee on the Legislative Branch of the Appropriations Committee, Senator HOLLINGS, who is also a member of the Budget Committee, and the distinguished chairman of the Appropriations Committee, Senator McCLELLAN, for their dedicated efforts which resulted in bringing in a bill which is within the guidelines of the budget resolutions.

H.R. 14238, the legislative branch appropriation bill 1977

($ millions)

	Senate Reported Bill	
Function	Budget Authority	Outlays
400—Commerce and Transportation	10	10
500—Education, Training, Employment and Social Services	109	107
800—General Government	889	897
Total	1,009	1,014*

* Includes $96 million in prior year outlays.

Source: Congressional Budget Office.

Mr. MATHIAS. Mr. President, the issue of equitable pay, a comprehensive benefits package, and proper job classification for Federal civil servants has been the subject of study by the Rockefeller Commission on Federal Compensation, the General Accounting Office, the Civil Service Commission, and the Office of Management and Budget.

A comprehensive review of the present civil service compensation system was made by the Rockefeller Commission, which issued its report to the President in December of 1975.

That report suggests a procedure through which the President's pay agents could have recommended cost-of-living pay increases for Federal civil servants if all of its points had been weighed carefully.

The unfortunate thing about the pay raise actually recommended was that it proposes the smallest increases for those at the bottom of the General Schedule scale and the largest increases for those at the top.

The President's pay agents, who are the OMB Director and the Civil Service Commission Chairman, apparently revised their formula for determining "comparability" with the private sector based on a new statistical "curve" which has not been agreed to by the Federal Employees Pay Council.

Let me review for my colleagues some of the recommendations made by the Rockefeller Commission on Federal Compensation, all of which deserve careful attention in any comprehensive process.

First. The proliferation of pay schedules should be reviewed for potential consolidation into a uniform schedule so that all Federal civil servants are paid equally for equal work.

Second. Comparability in salaries with the private sector is reaffirmed as the cornerstone of the system.

Third. A uniform benefits package should be available for all Federal employees.

Fourth. Two new categories of employees were suggested: a clerical/technical service—covering approximately 600,000 employees and the Professional/Administrative / Managerial / Executive Service—covering approximately 800,000 employees.

Fifth. The Clerical/Technical Service would be paid at a level comparable to the prevailing private sector rates by local job market.

Sixth. The Professional/Administration Managerial/Executive Service would base pay increases on merit, not longevity.

Seventh. The salary level for the Executive Level Service should be increased substantially to relieve the "compression" on the ceilings in supergrade salaries. In addition, the pay link between the executive and congressional salaries should be separated.

Eighth. A review should be conducted in the area of premium pay—overtime, holiday pay, et cetera.

Ninth. The panel made no recommendations concerning postal employees pay since they are currently subject to collective bargaining for rates with USPS.

As my colleagues can readily see, the principal area where progress has been made on these recommendations is item No. 7. The vote yesterday in this body to permit an increase in executive level salaries while retaining a freeze on congressional salaries is a step toward arriving at a just and fair compensation system for our dedicated civil service work force.

The action yesterday will affect approximately 9,000 Federal employees at the top level of the scale or about 0.3 percent of the total Federal work force.

What we must concern ourselves with now is the President's proposed pay increases for the other 2,922,000 Federal civil servants. If the President adopts the suggestion of his pay agents, those at the lower GS 1–6 levels will receive a 4 percent increase. This is the clerical service part of the general schedule as well as other technical positions. It comprises about 421,000 civil servants and is overly represented by women and minorities—83.6 percent.

Mr. President, I ask unanimous consent that table D–7 of the Pay Agents' Report showing number and percent of full-time GS employees by grade and sex be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE D–7.—NUMBER AND PERCENT[1] OF FULL-TIME GENERAL SCHEDULE EMPLOYEES BY GRADE AND SEX, DECEMBER 1973

	Employment				
	Number			Percent	
Grade	Total	Male	Female	Male	Female
Total GS 1–15	1,291,057	758,578	531,002	58.8	41.1
GS–1	3,487	974	2,497	27.9	71.6
GS–2	34,486	7,089	27,150	20.6	78.7
GS–3	103,798	21,875	81,563	21.1	78.6
GS–4	161,672	39,246	122,202	24.3	75.6
GS–5	171,494	58,387	112,933	34.0	65.9
GS–6	79,461	26,038	53,394	32.8	67.2
GS–7	117,898	68,279	49,499	57.9	42.0
GS–8	25,864	14,776	11,081	57.1	42.8
GS–9	129,979	99,937	29,950	76.9	23.0
GS–10	22,376	17,120	5,252	76.5	23.5
GS–11	141,722	123,307	18,340	87.0	12.9
GS–12	128,276	118,425	9,787	92.3	7.6
GS–13	100,674	95,722	4,920	95.1	4.9
GS–14	46,404	44,617	1,761	96.1	3.8
GS–15	23,466	22,786	673	97.1	2.9

[1] Due to a small amount of unspecified data, total employments will be slightly greater than the sums of the male and female employments, and percents may not total 100 percent.

Mr. MATHIAS. As the GS level goes higher, the President's pay agents recommend higher and higher percentages for cost-of-living increases reaching a top of 11.82 percent for GS–18.

Such a wide range in proposed pay increases leaves me baffled as to what equity there is in such a system and the extent to which the pay agents' own dictum of "equal pay for equal work" is being followed.

The pay agents' report to the President was dated August 25, 1976, just 6 days before the statutory deadline for the President to decide on a cost-of-living adjustment for Federal workers. September 1 passed, and the Congress did not hear from the President recommending an alternative pay increase schedule than that presented to him by the pay agents. This raises the possibility that the President may go along with this proposed graduated pay increase scale for civil servants.

The net effect of such increases, to my mind, is that those at the bottom of the GS scale—those lowest paid and heavily represented by minorities and women—will be short changed in the process. Do we really want to see this happen? I, for one, think not.

I have written to the President pointing out this inequity in proposed pay increases and suggesting that he should reconsider his position.

The Rockefeller report recommended sweeping changes in the way our Federal compensation system is designed. However, when only one of those recommendations has been acted on—and acted on in the Senate—it is hardly fair to begin a sweeping change in cost-of-living adjustments for Federal workers which can only come about as a result of those other Rockefeller recommendations being looked at in depth and acted upon.

Yesterday's debate on freezing executive level salaries included a discussion of the problem of attracting and retaining highly motivated highly qualified employees to the civil service. Yet that problem is not confined to the upper echelons of Government.

A proposed 4 percent increase for civil servants in grades 1–6 while others are to receive increases ranging from 5 to 11.82 percent will only exacerbate the turnover of dedicated, competent clerical and technical workers. It will reduce working morale among lower grade Federal employees and cause them to seek employment out of Government.

These are just the people we must be trying to retain for they are the backbone of our civil service. They are the file-clerks; the typists; the delivery and shipping clerks; the keypunch operators; the messengers; the draftsmen; the stenographers; accounting clerks; accountants; and engineers. We cannot afford to lose such good people.

As a result of the pay agents' recommendations, three of the five members of the Federal Employees Pay Council resigned from the council. I ask unanimous consent that their letters of resignation appear in the RECORD at the conclusion of my remarks, as well as the council's comments on the pay agents' proposal.

Mr. President, I only wish to quote from one paragraph of one of those resignation letters to graphically portray the situation in which lower GS level civil servants find themselves.

In commenting on the lopsided salary increases recommended, one of the public employee representatives pointed out:

> The result of this imbalanced and inequitable system has caused federal workers to suffer enormous losses in their buying power and in their standard of living. A GS–5, Step 4 worker's buying power in 1967 constant dollars was $6,886 four years ago in October, 1972. By June, 1976, the constant dollar earnings of this employee had dropped by over a thousand dollars to a level of only $5,772. Further, a GS–1, Step 1 worker in 1972, for example, earned $7,694. This was $308 more than the lower level budget of an urban family of four as then determined by BLS. But if the Pay Agent's recommendations are accepted, we estimate that same worker will be $729 below the lower level budget by October, 1976. There is a terrible injustice here which must be rectified.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL EMPLOYEES PAY COUNCIL,
Washington, D.C. June 9, 1976.

The Federal Employees Pay Council cannot accept the Agent's staff's proposal as the appropriate estimated October 1, 1976 comparability pay line for Federal white collar employees and military uniformed personnel.

With regard to this proposal, the Federal Employees Pay Council rejects the global increase, the distribution among grades and the specific new methodologies used to derive the pay line.

The Federal Employees Pay Council notes that, based on an estimated PATC increase (March 1975–March 1976) of 6.6%, the Agent's staff's proposal produces a Federal global increase of only 5.0541%, distributed variously in a novel pattern among grades. This 5.0541% includes the 3.66% loss imposed on Federal employees by the President's alternative plan for fiscal year 1976, reducing the indicated Federal pay increase from 8.66% to 5.0%.

Significantly, this Agent's staff's proposal is really only one of five alternative proposals developed by the "staff of the Civil Service Commission", all producing global increases in the vicinity of 5.0%.

The Federal Employees Pay Council notes that these global 5% results coincide neatly with the President's budget message submitted to Congress in January 1976. The Federal Employees Pay Council believes that the President's Agent should expect the 1.5 million Federal employees and 2.5 million military uniformed personnel to marvel greatly at this extraordinary coincidence between a President's desired 5% and a staff's adroitness to provide the same 5.0% result by a new methodology devised this year.

For its part, the Federal Employees Pay Council cannot, in good conscience, be a party in such a posture.

The Federal Employees Pay Council reiterates its long-standing position, enunciated and reiterated throughout this year. It asks at the minimal for no further departure this year from the methodology imposed upon it and Federal personnel through the Dual Pay Line.

This Dual Pay Line methodology shows an estimated pay increase on October 1, 1976 of 8.2%. That 8.2% is computed on the basis of definitions of Secretary and Computer Operator to which the Council strongly objects. Thus, in accepting the 8.2% as a minimum, the Federal Employees Pay Council is granting, for the time being, a computation which the Federal courts may reverse.

The global 8.2% minimum can be derived also from the alternative formula suggested in 1974 by the Advisory Committee on Federal Pay—a system of indexation.

Assuming the same March 1975 to March 1976 Hourly Earnings Index increase which the Agent used, the proper indexation should be to the 1975 base rate prior to the recommended 8.6% increase due in October 1975. Of this, 3.6% was lost through the 5.0% cap. Thus the proper current index rate would be 6.6% plus the lost 3.6%, which give 10.2%. Conceding the same 2.0% decrease from the exclusion of the disputed Secretary and Computer Operator definitions in the BLS survey for 1975, the adjusted result would be 8.2%.

Some persons might argue that the indexation procedure, itself being a new methodology, should relate only to the actual rates now paid the Federal employees, based on the 5.0% cap imposed by the President's alternative plan. Even on this computation, the pay increase should be identical with the HEI movement from March 1975 to March 1976, now estimated at 6.6% in terms of its PATC equivalent.

It is an interesting circumstance that 6.6% falls mid-way between 8.2% and 5.0%, being 1.6% above the latter and 1.6% below the former.

PREFATORY REMARKS

AUGUST 18, 1976.

The President of the National Treasury Employees Union, Mr. Vincent Connery, has declined to participate in the preparation of this Report or to sign any document submitted by the three majority members of the Federal Employees Pay Council on Council letterhead. He construes that the three majority members are not entitled to submit a Council Report because of their letters of resignation dated August 11, 1976. The majority members dispute this construction and contend that their obligations under the Federal Pay Comparability Act of 1970 require them to submit this Report. They point out that their resignation followed delivery of the draft of the Agent's Report for their comment and, in their view, this Report therefore is an integral part of, and completes, their resignation action as Council members. The majority members do not consider that they have the authority to exclude any Council member from the right to review, sign, or dissent from the majority view, or take such other action as he may wish. For this reason, the majority have listed all five members on the letterhead, as heretofore, and have provided a place for signature by each of the Council members.

REPORT

During the last year, the Federal Employees Pay Council extended to the President's Pay Agent the utmost cooperation in seeking to develop within the criteria of the Pay Comparability Act, a new system of setting Federal pay on the basis of comparability. This spirit of cooperation emanated from initiatives which the Council itself had undertaken three years earlier to introduce a proper system of weighting to replace the biased system which the Pay Agent has been using—for example, granting more than fifty times the weight to the Federal population at GS–1 than to the Federal population at GS–5. This latter system did not, in our judgment, comply with the intent of the Pay Comparability Act.

In the process, the most critical issue which needed to be resolved was a clear understanding by all parties of the weight which the Pay Agent was prepared to give to the role of the Council and whether such weight would be as great as that intended by the Act. The Council repeatedly requested the Agent to designate clearly those matters which the Pay Agent itself considered to be "policy" matters and those which it regarded as "technical". To this end, the Council on November 19, 1975, submitted a written statement of its own principles and requested a written response from the Pay Agent. The Agent has yet to reply.

Despite repeated rebuffs, the Council persevered in a policy of cooperation and conciliation because of its desire to preserve the mechanism established by the Pay Comparability Act for setting the pay of Federal white-collar and military uniformed personnel.

It was therefore greatly encouraged when the Advisory Committee on Federal Pay undertook to mediate between the Agent and the Council to assure that a proper forum of constructive discourse was created. This was the kind of role which the Pay Comparability Act intended for the Advisory Committee.

The decision of the Advisory Committee on Federal Pay was taken at a critical juncture when the Council members were deliberating whether anything could be salvaged from the looming wreckage of the present system because of the adamant and unilateral stand taken by the Agent on the crucial issue of the definitions given to the Bureau of Labor Statistics regarding Secretaries and Computer Operators. The Council favored the inclusion of these two occupations in the BLS survey; however, it considered the specific language of the Agent's definitions to have the ulterior purpose of depressing the Federal payline rather than of better achieving the comparability objective of the Act.

The Agent's insistence on introducing the disputed definitions, without any modification whatsoever, was the first major indication to the Council of the determination of the Agent to impose the so-called "PATCO" weighting system at all costs, despite the fact that it was incomplete in structure and premature. This made a mockery of the careful planning by the Congress of the roles of the Agent, Council, and Advisory Committee when it set up the present system. We regard this action to be arbitrary and in violation of the purposes of the Act.

The second indication of the absolute determination of the Agent to impose its quasi-weighting system, regardless of the intent of the Congress, appeared in the President's budget message. President Ford, for the public record, stated that "it is anticipated that these changes in the survey will reduce the average comparability increase in October 1976 from the earlier estimate of 11.5%, although the exact amount cannot as yet be determined. . . . The budget assumes that October 1976 pay increases for white-collar employees will be limited to 5%. . . . The estimated average increase is 4.7%. A full return to comparability is assumed for 1978." This pre-judgment by the President and the Agent was arbitrary and capricious and not in accord with the purposes of the Act.

Almost simultaneously with the President's statement that the "exact amount cannot as yet be determined," the Assistant Director for Budget Review of the Office of Management and Budget, Mr. Dale R. McOmber, was transmitting, on January 26, 1976, to Congressional Committees data showing that the proposed "administrative changes" would, in fact, reduce the "comparability figure" by 5.5%. Neither of the above documents were discussed by the Agent with the Council.

As the Report of the Agent for 1976 shows, this is precisely the reduction which eventuated. Instead of a 10.3% increase, predicated on the existing PATC formula, the President's Agent has derived a pay increase of 4.8%—as anticipated by Mr. McOmber, precisely 5.5% lower than that indicated by the previous methodology.

The evidence thus indicates that the Agent knew exactly the impact of the PATCO system as far back as mid-January 1976.

The President's budget message obviously was completed in late 1975. The decision of the Agent to introduce the disputed Secretary/Computer Operator definitions into the 1976 BLS survey was communicated by the Agent to the Bureau of Labor Statistics on December 11, 1975. It is evident that this most important policy decision had been taken in late 1975, although the Agent continued throughout 1976 to give lip service to the statutory requirement that it would give serious consideration to the views of the Pay Council. This action, also, was inconsistent with the intent of the Pay Comparability Act.

DESPERATION AND DECEIT BY THE PAY AGENT

These decisions, made by the White House in conjunction with the Office of Management and Budget, but without consultation with the Advisory Committee or the Council, reveal the lengths to which the Agent was prepared to go to deceive the Council and the Advisory Committee on Federal Pay. While claiming to be interested in structural reform, the evidence shows that the Agent's principal concern was to accommodate the President's budgetary program and to avoid the need to submit an Alternate Plan to Congress in an election year, rather than to carry out the purposes and intent of the Act and to recognize the roles that the Congress intended for the Council and the Advisory Committee.

THE PHONY "PATCO" VIOLATES THE STAFF'S OWN RECOMMENDATIONS

A major problem confronting the Agent was a total ignoring of those portions of the technical "Staff Report" which clearly presented the preconditions which had to be created before one could install the so-called PATCO system. The most crucial of these was the introduction of new definitions and new occupations into the survey of the Bureau of Labor Statistics.

The "Staff" conclusion thus was identical with the one reached independently by the Council.

The Staff study on necessary structural reforms, entitled "The Staff Technical Paper", was available to the Agent in March 1975.

Extracts, in the form of photocopies of relevant pages are attached to this statement of the Council with the request they be included in the Agent's Report to the President.

On pages 8–10 of the "Staff Technical Paper", there appears a report of the "Model PATC Survey Job List" essential to the Agent's PATCO system. The following quotation is sufficient to show the judgment of the "Staff" as to the major revisions necessary in the BLS survey to accomplish the PATCO methodology:

"The application of the job selection criteria expands the current job list from 19 occupations and 80 work levels, to a recommended maximum list of 28 occupations and 135 work levels. The new list does not include five currently surveyed jobs—accounting clerks, keypunch operators, keypunch supervisors, drafter, and job analysts—because they do not meet the numerical significance tests. These five jobs comprise 15 work levels. The recommended job list is a significant improvement over current job selection in terms of representation of the Federal workforce. The present list 'represents' about 25% of G.S. employees. Full implementation of the new job list would result in about 45% coverage, an increase of about 80%."

Stated succinctly, five of the 19 present occupations, with 15 work levels are to be dropped, resulting in a balance of 14 present occupations with 65 levels of work. To these are to be added 14 new occupations with 70 work levels.

In short, the BLS survey has to be radically restructured to achieve the goals of PATCO.

The Council's position is identical with that of the Agent's "Staff" as to the necessity for the prior restructuring of the BLS survey before the introduction of the PATCO weighting technique. This is the only way to comply with the intent and purposes of the Pay Comparability Act under the proposed PATCO methodology.

THE AGENT AND THE PRESIDENT

Such a restructuring needs time, of course. And the problem confronting the Agent and its policy staff, as distinguished from its technical staff, was the lack of time. Regardless of the violence done to the intent of the Pay Comparability Act by such arbitrary actions, they had to achieve a result this year, reducing the payline by supposedly "technical" and "objective" means to eliminate the need for an embarrassing and controversial Alternate Plan in an election year.

The Council was fully aware of the intense pressures under which the Agent and its policy staff were operating. It realized that the President had given the Agent its "marching orders" and, as has so often happened in recent administrations, the President's desires and political needs were given priority by his appointees over the clear intent of the law.

The Council also realized that, unless some other realistic measures were taken, the Agent would become increasingly rigid, inflexible and deceptive and put off announcing its pay line until the very last moment.

One such realistic measure appeared in the role provided by the Advisory Committee on Federal Pay by appointing a mediator to deal with the impending crisis.

A second element was a proposal of indexation for this year, giving the Agent the necessary time to implement the "Staff" recommendations regarding the essential changes in the BLS survey during calendar year 1977.

The Council readily cooperated with both these opportunities in order to make it possible for the Agent to arrive at an honorable alternative, consistent with the recommendations of the "Staff" technical paper and also consistent with the purposes of the statute.

The principal goal of the Council was to concede every material point to the Agent so long as it did not involve the integrity or legality of the statutory pay setting process. Consequently, despite the fact that the Council continued to object, and still objects, to the definitions of Secretary and Computer Operator, it was prepared not to invoke this disagreement in its discussions on the proper payline. Instead, the Council heeded the advice of the Advisory Committee regarding the possibility of the use of indexation. It paid equal attention to the BLS report that the average wage increase for private white-collar pay at the clerical level was 7.3% and at the professional level was 6.7%.

The Council insisted that the proper pay measure this year should be 8.2%. Some of its members did recognize that 6.7% lay precisely midway between the results produced by the PATCO/SGH payline (5.1%) and the Agent's earlier Dual payline (8.2%, including the data on the disputed Secretary/Computer Operator definitions).

On the basis of report of the BLS that the PATC increase was 6.7% for private enterprise professional employees, four of the Council members felt that they would reluctantly accept this 6.7% across the board, Provided the Agent agreed to a two-year interval to study and introduce a proper permanent system of fairly setting Federal pay.

The National Treasury Employees Union member did not agree to any system of weighing and insisted on an 8.2% increase this year. Despite every accommodation by the Council, the evidence indicates that the Agent was simply overwhelmed by its desperate need to serve the convenience of the President in an election year. Consequently, it installed the PATCO/SGH line intact as developed by its policy staff. Furthermore, this policy staff ruled out of order every argument by the Council demonstrating that in fact the present PATCO/SGH formula violates the explicit findings of the Agent's technical staff, as incorporated in its lengthy study of the need to revise fundamentally the BLS survey by new definitions and new occupations, as well as the intent of the statute.

The purposes of the Council all this year were to preserve the good name and reputation of the Agent and of its policy staff and to follow the intent and purpose of the statute. For this reason, the Council went to great lengths to concede every point where the basic integrity and legality of the statutory system was not involved. The Council has an equal duty to preserve its own reputation and self respect as well. Consequently, in light of the arbitrary, unilateral action of the Agent in installing the PATCO/SGH payline, without any modification, reservation, or phasing, and without regard to the intent of the Act and the statutory responsibilities of the Council, three members of the Council felt they had no choice but to resign. The Council notes that the remaining two members are submitting their joint views in another report.

Sincerely,

VINCENT CONNERY,
RICHARD GALLEHER,
DENNIS GARRISON,
THOMAS E. SWAIN,
NATHAN T. WOLKOMIR.

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
Washington, D.C., August 11, 1976.

ROBERT E. HAMPTON,
Chairman, U.S. Civil Service Commission, Washington, D.C.
JAMES T. LYNN,
Director, Office of Management and Budget, Washington, D.C.

DEAR SIRS: I am submitting herewith my resignation from the Federal Employees Pay Council, effective today.

The Federal Pay Comparability Act of 1970 was enacted by Congress and signed by the President to assure that the pay of 1.5 million Federal white collar employees and 2.5 million military personnel is comparable to private enterprise pay at the same levels of difficulty of work.

The Federal Employees Pay Council has responsibilities to the President, to the Congress, to the principle of government by law, and to the Constitution of the United States to uphold all the provisions of the statute which established the Federal Employees Pay Council.

The unilateral and arbitrary decision of the President's Pay Agent to install in this election year both the so-called "PATCO" system and the so-called "SGH" payline, *without any modification, reservation or phasing,* violates the most fundamental principles of that statute.

Instead of comparability based on objective data, established techniques, and the spirit of the law, the Agent has manipulated the pay setting process to attain a 4.83% pay increase which coincides amazingly with the President's budget estimate of a 5.0% pay increase, submitted to Congress seven months ago in January 1976.

Through this device, the Agent has obviously served the convenience of the President during an election year. The result is that the Agent's proposal now eliminates the need to submit a controversial Alternative Presidential Plan to Congress by September 1976.

During the six years of implementation of the Federal Pay Comparability Act under Presidents Nixon and Ford, Federal pay rates have been manipulated in one fashion or another every year. This has resulted in a cumulative loss to date of almost 2.8 billion dollars in pay to Federal workers.

Last year alone, Federal employees and military personnel lost 1.522 billion dollars as a result of the President's alternate pay plan, depriving them of 3.66% of the pay increase they were due under comparability. The proposed 4.83% pay increase for fiscal year 1977, therefore, *really amounts only to 1.17%,* since it includes the "catchup" of the previously lost 3.66%. Moreover, the present proposal will deprive Federal employees and military personnel of a further 1.33 billion dollars in Federal pay this year. The cumulative grand total loss will exceed 4.0 billion dollars.

This massive discrimination is intolerable. Even more intolerable is the fact that the proposed "SGH" line provides GS-5 employees with only a 4.24% increase, or 0.58% over the 3.66% catchup. On the other hand, GS-15 employees will be receiving a 7.92% increase, or a 4.26% increase over the catchup; and GS-18 employees an 11.83% increase, or 8.17% more than the catchup.

The Agent seeks to justify this manipulation by its new methodology despite the fact that the Bureau of Labor Statistics clearly stated that private enterprise clerical pay rates increased 7.3% while the private professional pay increment was only 6.7%.

The Agent's action is even more unacceptable because of the mutual tripartite understanding (Pay Agent-Pay Council-Advisory Committee) that the Agent this year would accept advice also from the Advisory Committee on Federal Pay, and from its specially designated mediator, in connection with the matters of the so-called "PATCO" system and the so-called "SGH" payline.

It is now clearly evident that the advice of the Advisory Committee, of its special mediator, and of the Council collectively have had no influence at all with the Agent.

Under these circumstances, I cannot any longer continue as a member of the Federal Employees Pay Council. I therefore request that a copy of this letter be incorporated in the Agent's Report to the President for this year, together with such supplemental further comments which I shall be transmitting separately to you.

I am sending a copy of this letter also to other members of the Pay Council, to the Advisory Committee on Federal Pay, and to the Chairman and ranking minority members of the House and Senate Post Office and Civil Service Committees respectively.

Sincerely,

DENNIS GARRISON,
National President.

I concur fully with the views expressed by AFGE National President, Dennis Garrison, and submit herewith my own resignation from the Federal Employees Pay Council effectively concurrently with Mr. Garrison's resignation.

THOMAS E. SWAIN,
Executive Vice President.

PUBLIC EMPLOYEE DEPARTMENT,
AFL–CIO,
Washington, D.C., August 11, 1976.

ROBERT E. HAMPTON,
Chairman, U.S. Civil Service Commission, Washington, D.C.
JAMES T. LYNN,
Director, Office of Management and Budget, Washington, D.C.

DEAR SIRS: It is with reluctance that the AFL–CIO Public Employee Department must submit its resignation from the Federal Employees Pay Council, effective today.

The Public Employee Department, AFL–CIO, and the American Federation of Government Employees, AFL–CIO, have worked thousands of hours to try to make the process of setting white-collar federal pay work. For the past three years, we have watched all our efforts on behalf of federal workers bring no results whatsoever. On the contrary, we have seen the introduction unilaterally by the Pay Agent of a series of different statistical techniques employed as gimmicks to erode the pay comparability adjustments due federal white-collar workers.

In October, 1976, the pay comparability increase would be almost 12% if the same method of setting pay, without any statistical gimmicks, was used today as was used from 1969 through 1972. Indeed, even if the Dual Payline system, imposed by management over the strong objections of the Council and used during the years 1973 through 1975, were employed this year, the pay increase due federal workers would be 10.3%.

Despite the Public Employee Department's best efforts to see that some measure of fairness and justice was present in the federal pay setting process, this has not been realized. On the contrary, three separate statistical gimmicks have been unilaterally imposed upon federal workers by the Pay Agent. These "statistical techniques" have allowed the Pay Agent to reduce the proper comparability pay increase to the 5% predetermined budgetary target of President Ford. This political distortion of the Pay Comparability Act's intention has made a sham out of the entire pay setting mechanism.

In addition, the Pay Agent proposes giving the smallest adjustments to the lower grades, while allocating the largest increases to the highest levels. A GS-1 worker, for example, will receive an increase of only $250 while a GS-15 worker will receive an increase of $2,473.

The result of this imbalanced and inequitable system has caused federal workers to suffer enormous losses in their buying power and in their standard of living. A GS-5, Step-4 worker's buying power in 1967 constant dollars was $6,886 four years ago in October, 1972. By June, 1976, the constant dollar earnings of this employee had dropped by over a thousand dollars to a level of only $5,772. Further, a GS-1, Step-1 worker in 1972, for example, earned $7,694. This was $308 more than the lower level budget of an urban family of four as then determined by the BLS. But if the Pay Agent's recommendations are accepted, we estimate that same worker will be $729 below the lower level budget by October, 1976. There is a terrible injustice here which must be rectified.

The Public Employee Department, AFL–CIO, and the American Federation of Government Employees, AFL–CIO, have labored under the system through three years of predetermined Presidential budgetary actions being carried out through statistical gimmicks by the Pay Agent. During 1973 through 1975, federal white-collar workers lost over 4% of pay increases due to the dual payline statistical gimmick. In addition, they lost an additional 3.66% of income through the use of an alternate payline in 1975. Most importantly, needed reform of the pay setting process which would increase the pay adjustments going to federal workers have been totally disregarded by the Pay Agent, notwithstanding the merits and need for their implementation, which has been documented by the Federal Employees Pay Council.

The Congressional Budget Office in a study entitled "Federal Pay: Its Budgetary Implications," reviewed the discussions between the Pay Agent and the Pay Council. CBO estimated the approximate pay increases or decreases that would evolve from each of the issues being discussed. Five issues "on the table" many for three or four years, were identified by the CBO as having the potential effect of increasing federal pay comparability by a total of almost 18%. This is in addition to the 7% increase shown in the 1976 Bureau of Labor Statistics PATC Survey. The CBO noted that management proposals "on the table" results in a 5.5% decrease in federal pay. The proposal to decrease pay has been implemented by the Pay Agent. Once again, the union proposals have been left on the shelf.

The three unilateral actions taken by the Pay Agent this year were: 1. Insertion of two new invalid definitions into the Pay Comparability Survey; 2. Imposition of an improper method of weighting the BLS PATC data; and 3. Inversion of the Pay Distribution through a new pay setting curve called the SGH line.

The Pay Council was fully cognizant of the fact that the definitions for computer operators and secretaries were faulty and would produce inequitably low data in the pay survey. We challenged the validity of these definitions and requested that a third party decide their propriety. Though the Pay Council labored heavily and invested hundreds of staff hours in this one issue, the results were predetermined. Not one comma, not one semicolon, not one word was changed in either of the definitions. A third party binding arbitration agreement to decide the merit of definitions was abandoned by the Pay Agent. The pay increase due federal workers in 1976 after the introduction of these two new definitions was reduced to 8.2% from 10.3%. The Pay Agent took two additional actions to further cut federal pay to achieve the budgetary directives of President Ford. These actions to lower federal pay totally ignore fairness, and equity for federal workers. The Pay Agent's decisions to selectively introduce and implement the new statistical gimmicks of PATCO weighting and SGH payline curve reduced federal workers pay by 5.5% down to only 4.83%.

The Public Employee Department can no longer participate in such an unfair, inequitable and unjust process that results in federal pay cuts in the name of statistical gimmicks rather than in adherence to the legal and moral principles encompassed in the Pay Comparability Act of 1970.

Sincerely,

Rick M. Galleher.

Mr. MANSFIELD. Third reading, Mr. President.

Mr. HOLLINGS. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Ohio (Mr. Glenn), the Senator from Colorado (Mr. Gary Hart), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Wisconsin (Mr. Nelson), the Senator from Rhode Island (Mr. Pastore), the Senator from Illinois (Mr. Stevenson), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Illinois (Mr. Percy), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater), is absent on official business.

The result was announced—yeas 63, nays 5, as follows:

[Rollcall Vote No. 575 Leg.]

YEAS—63

Abourezk
Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Fannin
Fong
Ford
Gravel
Hansen
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Magnuson
Mansfield
Mathias
McClellan
McClure
Morgan
Muskie
Nunn
Packwood
Pearson
Pell
Randolph
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—5

Garn
Helms
Proxmire
Ribicoff
Roth

NOT VOTING—32

Bayh
Beall
Buckley
Byrd, Harry F., Jr.
Cranston
Curtis
Eagleton
Eastland
Glenn
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Humphrey
Kennedy
Laxalt
Long
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Percy
Stevenson
Symington
Tunney
Weicker

The bill (H.R. 14238), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BELLMON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate in the engrossment of the Senate amendments of H.R. 14238 be authorized to make any technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I move, Mr. President, that the Senate insist on its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. Morgan) appointed Mr. Hollings, Mr. McClellan, Mr. Huddleston, Mr. Pastore, Mr. Schweiker, Mr. Mathias, Mr. Young and Mr. Stevens conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Carolina for doing a very fine job in connection with an extremely arduous task, as disagreeable as it was.

Has the Chair laid before the Senate the next matter?

SECOND CONCURRENT RESOLUTION ON THE BUDGET, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Concurrent Resolution 139, which will be stated.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 139) revising the congressional budget for the United States Government for the fiscal year 1977.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

ADDITIONAL STATEMENTS

Mr. McCLURE. Mr. President, at the time the Senate considered the first concurrent resolution on the budget I indicated that the budget was deficient in several respects. I said that revenues had been overstated and outlays understated. In addition I warned the Senate that certain budgetary questions remained unanswered. An examination of the second concurrent resolution reveals that my initial impressions were correct.

REVENUES

The committee suggests a revenue figure of $362 billion. This figure is only $500 million less than that recommended in the first concurrent resolution. However, that misestimate is in fact closer to $1 billion. You will recall that the committee assumed $2 billion in tax reform and rejected any revenue increase resulting from higher payroll taxes. As it became obvious that tax reform would fail to yield the required $2 billion, the committee accepted a $400 million windfall by endorsing an unemployment tax increase which will further burden the private sector and raise the cost of labor, thus aggravating the current level of joblessness.

OUTLAYS

The second budget resolution for fiscal year 1977 recommends an outlay figure of $500 million less than that contemplated in the first resolution. I would like to be able to report that this reduced level of outlays reflects congressional restraint. Unfortunately it is a tribute to good fortune and a fair amount of budget gimmickry. A few examples should serve to bring this point home.

I am sure that you recall our recent vote which increased the subsidy for the Postal Service by $1 billion. If you were to attempt to find that sum in the budget you would search in vain since $500 million has been placed in the transition quarter rather than in fiscal year 1977 where it in fact belongs. So much for the much applauded reduction in outlays. The outlay figures have been further helped by assumptions related to stockpile sales and the elimination of the 1-percent kicker. In combination these two items reduce defense outlays by $600 million. In the likely event that these savings are not realized, outlays have been underestimated.

In other instances, better than expected economic performance has reduced anticipated outlays. Interest on the debt has declined by $800 million since anticipation about the level of interest rates has been revised downward. This revision too may represent wishful thinking as the fiscal year proceeds.

In function 600, income security, program reestimates and improved economic performance reduced anticipated outlays by $2.6 billion. Again these savings are unrelated to any spending restraint shown by the Congress.

Some of you may wonder where these savings have gone since outlays remain virtually unchanged. In some cases these savings have been used up due to our inability to realize assumed levels of savings in other areas. For example, the first resolution assumed savings of $200 million in food stamps. No such savings have been realized. Medicare and medicaid, savings of $600 million have not been achieved. In fact, the outlay level in health has risen almost $2 billion over that assumed in the first budget resolution. With respect to savings it appears to be a case of "easy come, easy go."

This resolution repeats the error of overestimating OCS receipts. During consideration of the first budget resolution I indicated that the estimate of OCS receipts was high and suggested that the estimate was motivated by an attempt to keep outlay levels artificially low. It should come as no surprise that this figure has now been reestimated and reduced by $800 million.

BUDGETARY QUESTIONS

In a number of instances the committee was forced to deal with a number of significant budgetary questions of a technical nature. The manner in which these questions were resolved may soon result in a situation where what is "off budget" has more significance than what is "on budget." One or two illustrations should prove instructive.

Function 300, natural resources, environment, and energy is significant in as much as it has been the focus of recent legislative initiative. In each major area the cost consequences of these initiatives have been either understated or eliminated from the budget. Synthetic fuels production and development costs have been understated while uranium enrichment cost potential has been entirely ignored.

The budget includes $500 million in budget authority to provide for a $4 billion program of synthetic fuel development and production. This amount may well be appropriate to cover potential liabilities for construction. However, it fails to recognize the potential budgetary costs associated with an inevitable long term program of price supports. There is little argument that the technologically successful production of synthetic fuels will produce oil and gas energy at noncompetitive price levels.

Therefore, if one fails to assume the budgetary consequences of future price supports, one must further assume that the plants which are constructed will simply demonstrate their feasibility and then be shut down. This will most certainly not be the case. Production will occur and subsidies will be paid. The resolution fails to address this issue.

In the area of uranium enrichment, the resolution takes the position that loan guarantees in the amount of $8 billion and the contingent liabilities associated with such guarantees do not require inclusion in the budget. The facts however, indicate that, in the most favorable situation, at least $1.4 billion in budget authority should be included in this year's totals. The inclusion of this amount would reflect the potential liability inherent in the proposed uranium enrichment program.

INITIAL SUMMARY

The revenue, outlay, and deficit figures contained in the second budget resolution are close to those recommended in the first resolution. However, I submit that this similarity is only a surface one sustained by a combination of good luck and creative budgetary technique. The numerical similarity between the two resolutions also masks the fact that in almost every case the Congress has failed to achieve the program economies for which it took responsibility in the first concurrent resolution.

THE ECONOMICS OF THE RESOLUTION

I feel compelled to extend my remarks in order to deal with the economic framework of the budget resolution.

THE BUDGET AS AN AGENT OF RECESSION

The Federal budget is not the victim of economic cycles, rather it is, in large measure, the cause of these same fluctuations. In order to put this statement in perspective, some analysis of the economic assumptions of the budget resolution is in order. The economic framework within which this budget has been cast holds out the tantalizing hope of a balanced budget for fiscal year 1980. Unfortunately, the path which must be negotiated to achieve this goal can only be traversed after a number of heroic assumptions are made and unrealistic targets achieved.

If revenues and outlays are to be brought into balance, a fiscal dividend created, and if the Federal sector is to be confined to 20 percent of total GNP by 1980, the majority is required to assume:

First. A moratorium on new permanent Federal programs and a restriction on the rate of growth of current programs to a nominal 7 percent per year. Given forecasted inflation rates, real program growth would have to be close to zero.

Second. Productivity growth rates would have to be reestablished at a high level of 2.5 to 3 percent per year.

Third. Real economic growth would have to achieve steady annual rates of 5.5 to 6 percent for the next 3 years.

Fourth. Inflation rates would have to continue to edge downward over the next 3 years.

Fifth. A redefinition of full employment would have to be made at a 5.5-percent unemployment rate.

At best, any statement which assumes budgetary balance by 1980 and includes explicitly or implicitly the above-stated assumptions is a cruel hoax unless a majority of the Congress is prepared to qualify for the next edition of "Profiles in Courage." Let us consider each of these prerequisite assumptions in turn.

The Congress has never demonstrated, for long periods of time, an ability to deny itself the pleasure of legislative initiative. Nor has the Congress demonstrated the capacity to undertake such initiatives in conjunction with the elimination of ineffective programs which are currently being funded. In point of fact, new programs have been added to older ones and spending has spiraled so that the Federal share of total spending has increased as the Government has grown at a faster rate than the private sector. This on-budget growth has been complemented by significant off-budget growth as legislators have come to understand that one way to balance a budget is to move expenditures off-budget. These loan and credit guarantees and off-budget agencies have grown to a level of $174 billion and now provide a popular budgetary cop out. Despite this and other forms of backdoor spending, the actual visible budget continues to grow. Any assumption such as that made in the majority report that precludes continued growth requires explicit justification. The budget document expresses hope but provides no basis for that hope.

The second explicit assumption made by the resolution is that historically high rates of labor productivity will be reestablished. Given present trends in investment expenditures, the long-term rate of growth in productivity for the United States will probably not exceed 1¼ percent for the next several years. During the period 1960–73, the United States invested, in new plant and equipment, a lower percentage of its GNP than did most other industrialized nations.

In percentage terms, Japan invested some 30 percent of its GNP in new plant and equipment while we committed only 12 to 13 percent of our GNP to such investment. In consequence, the rate of growth in productivity was lower during that period in the United States than in other industrialized countries. The impact of this long period of minimal investment will reduce our ability to compete effectively in international markets.

It should also be recalled that much of this nominal investment was made for environmental controls and therefore will have little direct impact on measured productivity.

In addition, future investment per job may well decline given the large number of new entrants to the labor force and the scarce number of investment dollars available to the private sector.

The third assumption which must be made by the majority relates to real GNP growth over the next 3 years. The resolution is consistent with a balanced budget by 1980 only if real annual GNP growth of 5.5 to 6 percent is realized. Should the economy fail to achieve such growth, revenues will lag and the deficit will rise. Is it likely that these growth rates can be achieved? Such an extended period of rapid growth has no historical precedent.

In fact, the period which provides a somewhat subdued parallel, 1964–69, achieved an average growth rate of 4.4 percent in real GNP. It should also be noted that this inflationary period included massive tax cuts, the Vietnam war, and a monetary policy which, in part, sowed the seeds of our last recession.

The fourth assumption which is consistent with the economic game plan of the resolution demands the adoption of a rather sanguine view of the future course of the rate of inflation. That rate is projected to decline for the next 3 years despite shortages and bottlenecks as the economy expands at a rapid rate and credit markets are pushed to their limits. This apparent paradox presents no problems for the majority who assume that a stubborn rate of inflation will yield to Federal policies of regulatory reform, stockpiling of strategic materials, and food reserves, targeted investment aids to eliminate production bottlenecks, and finally wage and price controls. This latter device is euphemistically referred to in budget proposals here and elsewhere as an incomes policy.

The final assumption which they must make in order to be consistent with the economic framework of the resolution demands that full employment be redefined in terms of an unemployment rate of 5 to 5.5 percent of the civilian labor force. To the extent that redefinition failed to take place, then the difference between the noninflationary unemployment rate and the rate mandated or assumed by the Congress would be achieved in fact through increased public employment programs.

A BALANCED BUDGET, AN ALTERNATIVE APPROACH

A year ago I indicated that the correct policy response to the challenge of noninflationary economic growth could be found in a budget which encouraged capital formation and reduced the costs of new investment in plant and equipment. I said that monetary and fiscal policy must focus on investment rather than consumption. I warned that if this were not the case, the budget would produce an increase in aggregate demand without a comparable increase in aggregate supply thus occasioning shortages and price increases which were incompatible with a sustainable economic recovery.

Since that time I have pursued the challenging task of constructing a scenario which produces both a balanced budget and a sustainable rate of noninflationary economic growth. In this undertaking I have attempted to generate a series of fiscal year budgets which are both politically feasible and economically sound.

These alternative budgets assume no absolute reductions in expenditures but do involve some reductions in the historic rates of growth in outlays. They imply a fiscal and monetary policy which is consistent with high levels of investment and job creation in the private sector.

Specifically, Federal budgets which are consistent with these macroeconomic simulations, reduce the deficit to zero by 1980. The implementation of these budgets reduces unemployment from its current level of 7.8 percent to a nearly full employment level by the fourth quarter of calendar 1976. Full employment in this context is defined to be the sum total of frictional and structural unemployment. Such budgets reduce the rate of inflation from its projected level of 6 to 7 percent, to a more tolerable level by the fourth quarter of calendar year 1979.

In addition, this alternative budget treatment permits and, in fact requires, a substantial tax cut in 1978 in addition to the extension of current tax reductions. Finally, my projected figures provide for a reduction in Federal spending from its current 21.9 percent to 20 percent of GNP by calendar year 1980. A complete review of the simulations and a discussion of the Data Resources, Inc., model which has produced the results noted above is not possible here.

It appears to me that the approach utilized by the committee majority can be likened to the homeowner who, finding himself unable to fit his new car in the garage, concludes that he must build a larger garage. The majority has constructed a budget and projected others which fail to fit within the economy. They, like the homeowner, have concluded that the economy must be larger rather than the budget smaller.

Thus, they have been forced to project an unrealistic and improbably high rate of economic growth in order to create the illusion that balanced budgets and fiscal dividends will be forthcoming if today's and tomorrow's budgets are larger and more stimulative. If such illusions persist, we will find ourselves 3 years from now struggling to meet unrealistic targets and creating a continuing deficit, a larger budget, and reduced level of real economic growth.

In lieu of that approach, I offer an alternative which is consistent with a more realistic projection of economic performance. This alternative demands budgetary restraint but not retrenchment. It further provides an opportunity to return resources to the private sector and to the individual citizen, permitting those who produce our national wealth to determine its ultimate disposition.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has any special order been entered thus far for the recognition of any Senator on tomorrow?

The PRESIDING OFFICER. There has been no special order.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer.

TIME LIMITATION AGREEMENT—SENATE CONCURRENT RESOLUTION 139

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of the recognition of the two leaders under the standing order tomorrow, the Senate resume consideration of the pending matter, and that there be a time limit on the resolution of not to exceed 3½ hours, with a time limit on any amendment of 1 hour, a time limit on any amendment to an amendment, debatable motion or appeal of one-half hour.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and I hope not to have to object, it was my understanding that there was going to be an effort to get a vote by a given hour. I see the deputy majority leader has not made that request and I am grateful for it. But I would like to ask Senator BELLMON on my side whether I can have a half hour out of the time on the bill, if that would not inconvenience them, or I will propose an amendment, if necessary, to discuss the unemployment compensation situation. Whether or not I would move to amend, I do not know as yet, but I would like to have that.

Mr. BELLMON. Mr. President, I would be happy to enter into an agreement whereby the distinguished Senator would have a half-hour allotted to him.

Mr. JAVITS. Second, if I should determine to make an amendment to the budget resolution respecting unemployment compensation, that it shall be deemed in order. I do not know what the details of the resolution are, and I do not want to get trapped on germaneness.

Mr. ALLEN. Mr. President, I object to the time limit on the resolution.

Mr. ROBERT C. BYRD. Mr. President, under the law, if there is an objection, a motion can be made and the motion is not debatable. I hope the Senator will not object, because it will then be the intention of the leadership to make such a motion tomorrow.

Mr. ALLEN. On nongermane amendments, I do not know where we would go.

Mr. JAVITS. In the first place, it would be confined only to an amendment relating to unemployment compensation. I believe it is germane, but I am not positive. I have not checked the resolution.

I would ask as a parliamentary inquiry whether the Chair would be in a position to rule that an amendment to the budget resolution relating to unemployment compensation, I believe that is item 600, would be in order.

The PRESIDING OFFICER. The Chair would have to study the amendment before it could respond.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. JAVITS. I withhold that.

Mr. ROBERT C. BYRD. Under the law, no amendment that is not germane to the provisions of such concurrent resolution shall be received.

Mr. JAVITS. That would answer it.

The PRESIDING OFFICER. The question is on the request of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Limiting time.

The PRESIDING OFFICER. The Chair will advise the Senator from New York that if he offers an amendment that will increase the figure the amount under 600, it would be in order.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. On the unanimous-consent request of the Senator from West Virginia, is there objection? Hearing none, it is so ordered.

ORDER TO PRINT H.R. 8532

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Antitrust Act (H.R. 8532) be printed as amended by the action of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BARTLETT ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, after the orders for recognition for Senators that may have been previously entered have been consummated, the Senator from Oklahoma (Mr. BARTLETT) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

SUBCOMMITTEE ON INTERNAL SECURITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Internal Security of the Committee on the Judiciary be authorized to meet on September 9, 16, 22, and 30 to consider intelligence gathering activities (S. 3517) and control of explosives.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

Mr. ROBERT C. BYRD. I ask unanimous consent that the Subcommittee on Constitutional Rights of the Committee on the Judiciary be authorized to meet during the week of September 27 concerning the operation of the grand jury system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Armed Services be authorized to meet on September 9 to consider nominations and certain legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT OPERATIONS

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Government Operations be authorized to meet on September 13 concerning the Federal donable surplus property program and authorization for Presidential transitions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Commerce be authorized to meet on September 9 to report out legislation dealing with aviation regulation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume the consideration of the now pending congressional budget resolution, under a time limitation of not to exceed 3½ hours, with a time limit on any amendment thereto of 1 hour, and a time limit on any amendment to an amendment, debatable motion, or appeal, of one-half hour.

There will be a rollcall vote on the adoption of the resolution, undoubtedly, and there is expected to be at least one amendment offered, and probably more, on which rollcall votes would be anticipated.

Following the disposition of the resolution, the leadership would expect to call up a message from the House of Representatives on Indian education, on which there is a time limitation. Rollcall votes will probably occur on that measure, and upon the disposition of that measure it is anticipated that a motion will be made to proceed to the consideration of the foreign aid appropriation bill.

ADJOURNMENT UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 8:24 p.m. the Senate adjourned until tomorrow, Thursday, September 9, 1976, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 8, 1976:

DEPARTMENT OF STATE

Ronald D. Palmer, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

IN THE JUDICIARY

Glen M. Williams, of Virginia, to be U.S. district judge for the western district of Virginia, vice Ted Dalton, retiring.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 8, 1976:

FEDERAL COMMUNICATIONS COMMISSION

The following-named persons to the positions indicated:

Margareta E. White, of Virginia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1971.

Joseph R. Fogarty, of Rhode Island, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1976.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

THE HONORARY MAYOR OF SEVENTH STREET: EDDIE THOMAS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ANDERSON of California. Mr. Speaker, for the past 35 years, the community of San Pedro has been brightened by a remarkable independent businessman whose cheerful personality and friendliness have made him a landmark in the community. On September 23, a grateful community will gather together to honor this man, who has been named "Honorary Mayor of Seventh Street" by the merchants in his area.

He is Eddie Thomas, an 81-year-old veteran of World War I, who operates a shoeshine stand and parking lot in the heart of San Pedro's business district near the corner of Seventh Street and Pacific Avenue. Almost everyone in town either knows Eddie Thomas, or knows who he is.

Eddie was born on July 30, 1895, in St. Louis, Mo. He was raised by his grandparents, and as a black American grew up at a time when segregation was a way of life. An active, intelligent individual, he remembers those days well, although he bears no bitterness in his heart and is aware of the progress that has been made toward making "equality for all men" a reality.

During World War I, Eddie Thomas was a member of the infantry. He was honorably discharged from the service as a private after the war, and is a member of the Veterans of World War I, Barracks 431, of San Pedro.

After the war, Mr. Thomas worked as a cook and dining room waiter for the Illinois Central Railroad, and still possesses a letter of high recommendation from the company for his outstanding work record. In 1939, he opened his first shoeshine stand in San Pedro, located on old Beacon Street. At first, he commuted every day from Los Angeles, but he is now a San Pedro resident.

After approximately 20 years on Beacon Street, Eddie Thomas moved his operation to Seventh Street, where he has been for the past 15 years. For almost 16 years, he was accompanied by Buddie, a companionable cocker spaniel that has been dead for years, but is well remembered by Eddie's regular customers and friends.

When Eddie Thomas receives the many awards on the night of the banquet in his honor, they will represent the gratitude that the people of San Pedro have toward him. The "Honorary Mayor of Seventh Street" may sell shoeshines and parking spots, but his true contributions to the community go much deeper than that.

Through his vivacious personality, unquestioned integrity, and genuine love for his fellow man, Eddie Thomas has made San Pedro a better place to live. He truly cares about people; and in this modern age, that is a rare and valuable commodity. As an example, Mr. Thomas often sells tickets to help raise funds for local charities and causes. He never charges for his services, and his honesty has never been questioned.

Mr. Speaker, Eddie Thomas is a unique individual, the kind of man that brings happiness and good cheer to everyone he meets. On September 23, when the San Pedro community gathers to honor him, it will be a reflection of the feelings that have existed toward Eddie Thomas for over 35 years—feelings he has generated by just being himself.

DIAMOND JUBILEE OF THE BASILICA OF ST. JOSAPHAT IN MILWAUKEE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ZABLOCKI. Mr. Speaker, throughout the 200 years of our Nation's independence, and especially now in the Bicentennial Year, the American people have looked with pride and admiration upon the many landmarks and monuments which testified to the unique spirit and values of our society. One such enduring characterization of our American life is St. Josaphat's Basilica, located in my congressional district on the South Side of Milwaukee, Wis. The edifice was constructed at the turn of the century, and this year St. Josaphat's congregation is celebrating its diamond jubilee. The richly ornamental neorenaissance Roman Catholic church has fascinated architects, clergymen, journalists, and tourists for the past 75 years of its remarkable history.

In the late 19th century, America saw the influx of a large number of Poles who established numerous viable communities throughout the eastern half of the country. Eventually, these Polish-American communities, called the "Polonias," came to be distinguished by their social institutions—churches and schools, as well as social and sports clubs. The parish of St. Josaphat was therefore established in 1888 to serve as the central link in the lives of the many Polish immigrants who settled on Milwaukee's South Side.

With a membership of over 1,300 families, it soon became necessary for the Archdiocese of Milwaukee to approve the construction of a much larger church. Due to the ingenuity and talents of Father William J. Grutza, the stones of the razed Chicago Federal Building were purchased for $20,000, transported to Milwaukee in 500 freight cars, and transformed into an imposing structure valued in excess of $1 million. When construction started in the summer of 1896, Father Grutza led his parishioners to dig the church's excavation with picks and shovels. The earth was carted away in wooden wagons drawn by horses, and concrete was mixed by hand and hauled in wheelbarrows to be poured in the trenches.

The exterior of the Basilica is in the renaissance style, molded with great care from the stones which once served as a governmental structure, and the interior is in the Italian Renaissance style with a touch of Romanesque. The copper-plated dome, which has turned green over the years and is visible for miles, was at the time of completion the fifth largest in the world.

A major crisis was averted in 1910 when the Franciscan order took over the administration of the church as the parish faced bankruptcy. Faced with creditors' demands, which included one proposal to remake the church into a theatre, the Franciscans worked with other dedicated parishioners to wipe out the debt. Their provision of a $200,000 mortgage loan saved many poor workingmen who had invested money in the church and feared they would lose it.

In 1929, the procurator general of the Franciscan Order petitioned the Pope to declare the church a basilica, citing as grounds for such a decision the need to reward the many dedicated people who had given so much to build this church, and the architectural style of the building itself, which resembles St. Peter's Basilica in Rome, as well as the many works of art which had been purchased and donated to the parish. The granting of this title of basilica indicated the widespread recognition that St. Josaphat's parish had earned as a place of historical significance in its diocese.

Mr. Speaker, I would like to join with the parishioners of St. Josaphat's Basilica, and with its pastor, Father Anselm Romb, in commemorating the 75th anniversary of this remarkable edifice. Its ageless beauty serves today to remind us all of the dedication and perseverance which have gone into the making of our American communities. The efforts of those who have made this basilica possible will remain as a constant inspiration for present and future generations to rededicate all efforts to preserve the heritage that it exemplifies.

MOUNTAIN PINE BEETLES

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. WIRTH. Mr. Speaker, I would like to bring to the attention of the Congress a problem that is of great concern to those of us from Colorado.

The mountain pine beetle is a parasite that normally occurs in moderate numbers in the foothills of Colorado's Front Range. In the past few years, however, the beetle population has grown to an epidemic level. I have toured the infested areas in my district, and have seen hillsides where most of the trees have been killed by beetles. The destruction caused by this epidemic threatens the values that make the foothills of the Rockies a unique residenital and recreational area.

Since the infested area is one of intermingled Federal, State, and private ownership, efforts by just one group of landowners cannot control the spread of the insects. For the past 3 years, a limited but effective suppression program has been undertaken by the U.S. Forest Service, the Colorado State Forester, and private landowners. Operating under the authority of a 1947 law that was passed because of the type of problems caused by the mountain pine beetle, the Forest Service has contributed about $230,000 a year to the cooperative program.

Earlier this year, the Forest Service expressed grave doubts about whether it will continue even this modest assistance in fiscal year 1977. Since a high percentage of the infested area is national forest land, withdrawal by the Forest Service would end any hopes of the suppression effort being successful. Because of the grave consequences should the Federal Government not contribute to the control effort, I have been in close contact with the Forest Service about the guidelines that it is using to decide whether to participate in the coming year. I am pleased to report that the chances appear far better than they did just a short time ago that the Colorado program will include continued Forest Service participation. The ultimate decision, strangely enough, is up to the Office of Management and Budget. The Chief of the Forest Service, however, has indicated that he will support the Colorado proposal when it is reviewed by OMB.

For the information of my colleagues, I am printing in the CONGRESSIONAL RECORD some of the correspondence between the Forest Service and myself. Although these letters do not reflect the telephone conversations and meetings that we have had, they provide a good summary of the issues that are involved:

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE,
Washington, D.C., July 9, 1976.

Hon. TIMOTHY E. WIRTH,
House of Representatives.

DEAR MR. WIRTH: This is to confirm telephone conversations between the U.S. Forest Service and your staff in which we were requested to notify you upon approval of transition quarter Federal financing for the "Colorado Front Range" mountain pine beetle suppression projects, and provide more information on our selection criteria for suppression projects.

The USDA-Forest Service has allocated $105,000 for mountain pine beetle suppression in Colorado during the transition quarter (July 1-September 30, 1976). Of this amount, $50,000 will be available to the Roosevelt National Forest and $55,000 will be made available to the Colorado Cooperative Project.

Beginning with FY 1977, the Forest Insect and Disease Management Program and Project Selection Criteria (copy enclosed) will be used to evaluate forest insect and disease suppression proposals. These criteria include evaluation of the Federal role, biological effectiveness, environmental acceptability, and economic efficiency. The purpose is to provide equitable and defendable criteria for approving or rejecting suppression proposals.

Under these guidelines, the "Colorado Front Range" cooperative mountain pine beetle suppression projects need to be strengthened to qualify for Federal cost-sharing. The principal weaknesses include definition of the Federal role and the benefit-cost analysis. In addition, there is a need to demonstrate the biological effectiveness of the treatment through a post-suppression evaluation.

To satisfy the Federal role criterion, one or more of the following conditions must apply: (1) International consequences threatened, (2) national and regional economic impacts expected, (3) Federal coordination required, (4) Federal resources threatened, (5) unique resources threatened, (6) expected benefits widely distributed beyond project boundaries, and (7) other possible circumstances not described above.

It is difficult for the "Colorado Front Range" projects to qualify under the first six conditions. At issue is the question of Federal participation where pest-related disruptions and inconveniences are local in impact and where project benefits accrue specifically to individual landowners in terms of real estate value and esthetics. We are confident that the Colorado State Forester's office, with our Regional Office in Denver, will thoroughly analyze the objectives of the project and the benefits obtained from treatment versus the adverse impacts which would result from no treatment, and determine if there is a justifiable Federal role.

The need for strengthening the economic efficiency of the "Colorado Front Range" project relates to the fact that the forest resources being protected are generally qualitative in nature and extremely difficult to value. Conversely, weak or non-existent marketing and utilization opportunities minimize the influence that timber values have on project calculations either as volume salvaged or volume protected. Fire hazard reduction and land value protection, however, are now being examined more thoroughly as a potential project benefit.

To address the economic requirements, a joint State-Federal task force recently developed a benefit-cost analysis proposal intended to provide methodology for calculating the economic efficiency of mountain pine beetle suppression projects. This analysis procedure, which will be available by mid-August, will enable us to do a much more complete job in determining economic efficiency.

The main weakness regarding biological effectiveness is the lack of a post-suppression evaluation comparing treated and similar untreated areas to determine treatment effects. The need for post-suppression evaluations is fully recognized and we are confident that plans for satisfying this need will be forthcoming.

Your interest in this matter is greatly appreciated. We assure you that the Forest Service will assist the State in every way it can in dealing with this very difficult mountain pine beetle problem in the Front Range.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Enclosure.

JULY 26, 1976.

Chief JOHN MCGUIRE,
U.S. Forest Service,
U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. MCGUIRE: Thank you for your letter of July 9 regarding the Colorado Front Range mountain pine beetle suppression projects. I am pleased to learn that transition quarter funds for the Colorado cooperative project and the Roosevelt National Forest treatment program have been allocated and approved.

However, after examining the proposed Forest Insect and Disease Management Program and Project Selection Criteria, July 1976, I am very concerned. By failing to take into account the problems unique to mountain residential areas such as Colorado's Northern Front Range and parts of Southern California, the U.S. Forest Service may be adopting very shortsighted criteria. I strongly urge that you give increased consideration to such public values as fire prevention, flood control, recreational and aesthetic value, and property value maintenance.

Both Jefferson and Boulder Counties include a large percentage of higher elevation foothill areas where private residential land is interspersed with Federal and state lands. A particular attraction in these residential areas is the large stands of ponderosa pine which are currently infested to the epidemic level by the mountain pine bark beetle. On a recent tour, I inspected some of the areas destroyed by the current epidemic and talked with many residents who are working with the control projects to minimize the effects of beetle kill to their lands and nearby Roosevelt Forest Service lands. Their concern, which I also share, is that if the funding ceases due to altered priorities, the entire Front Range is in danger of being ravaged and recent work and money spent would have been wasted. I would hope that you will carefully reconsider the proposed Project Selection Criteria so that the value of these past efforts will not be lost.

If I can be of any assistance, please do not hesitate to contact me.

I look forward to your early response.

Sincerely yours,

TIMOTHY E. WIRTH.

U.S. DEPARTMENT OF AGRICULTURE
AND FOREST SERVICE,
Washington, D.C., August 6, 1976.

Hon. TIMOTHY E. WIRTH,
House of Representatives.

DEAR MR. WIRTH: Thank you for your letter of July 26. We appreciate your comments concerning mountain pine beetle suppression projects.

We are continuing efforts to clarify and strengthen our Forest Insect and Disease Management Program and Project Selection Criteria. Please be assured that we do not intend to ignore non-timber values or wildfire hazards in evaluating the merit of project proposals, although more work is needed before we can adequately quantify them. We are concerned about the biological effectiveness, the economic efficiency, and the Federal role in ongoing mountain pine beetle projects. As we look ahead to FY 1977 activities, we are continuing discussions with our field people and our cooperators to be sure that all of their concerns are fully considered. In fact, our Staff Director of Forest Insect and Disease Management plans to spend next week in Colorado for that purpose.

You inquired about the possible use of Emergency Finance Assistance funds (Title X) to provide relief to landowners in the Front Range. Such funds are being used very effectively to combat insect and disease problems in other regions of the United States, for example, dwarf mistletoe suppression in Oregon and Washington and southern pine beetle suppression in Georgia, Tennessee, and Virginia.

However, we have not been able to use Emergency Financial Assistance funds to provide assistance in the Front Range because that region of the State does not suffer from unusually high levels of unemployment and therefore does not qualify for Title X funds. As you know the legislation authorizing the Emergency Financial Assistance program has now run out, although a bill is pending that could make such assistance permanent. We will continue to be alert to any such opportunities in the future to provide assistance to landowners within the areas of mountain pine beetle infestations.

The enclosed "fact sheet" should be useful in placing the Forest Service record of involvement in perspective. We share your concerns and the concerns of the State forestry officials and private landowners. However, we also have a responsibility to make sure that the expenditure of Federal funds for forest insect disease management activities is clearly justified, whether on Federal forest lands or on non-Federal forested areas where we cooperate with the State Foresters and private landowners.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Enclosure.

FACTSHEET ON COOPERATIVE MOUNTAIN PINE BEETLE CONTROL PROJECTS IN THE FRONT RANGE OF COLORADO

The mountain pine beetle continues to cause high mortality in ponderosa pine stands along the Front Range area of Colorado. Much of the damage is occurring in forested residential communities and mountain home areas.

The current outbreak of mountain pine beetle is not unique. The problem has been chronic over many years; the primary factor being that the trees are of low vigor due to crowding, overmaturity, and diseases such as dwarf mistletoe.

The long-range solution to this problem is to manage the trees in a way to improve and maintain vigor. Until this is done trees will continue to be attacked and killed and periodic epidemics will continue to occur.

Over the past several years the Forest Service and the State of Colorado have cooperated in a direct control effort which includes harvest removal of infested trees or felling the infested trees and burning or chemically treating them. Over the past 3 fiscal years the total cost of this project has been approximately $1,618,000 with the Federal share being approximately $699,500 or an average of 35 percent. These costs do not reflect the efforts donated by concerned private landowners who destroy infested trees on their property and do not charge the State.

The primary benefits of suppressing the beetle in this area are maintenance of private property values, prevention of increased fire hazard, and general esthetics. Due to the relatively low productivity potential of the site and the high recreational and private homeowner use the timber values are limited.

In response to inquiries by Congress and the Office of Management and Budget and the sharply rising nationwide demand for Forest Insect and Disease Management dollars over the past few years, the Forest Service is initiating the use of selection criteria for justifying Federal funds in all insect and disease management projects. These criteria will be tried and used as a guide in FY 1977 to determine where improvements need to be made. They currently include (1) definition of the Federal role—do the benefits resulting from a project apply sufficiently to the public at large to warrant the use of Federal funds, (2) is the project biologically sound—will it achieve the objectives, (3) is the project environmentally acceptable, and (4) is the project economically efficient—weighing the project costs against the benefits. In applying this latter criterion, all benefits must be considered including non-timber values such as esthetics, recreation, and fire prevention.

Based on these criteria, the Forest Service has the following concerns about the Colorado Front Range beetle project. What is the

Federal role on the private land? The benefits of suppressing the beetle on these lands accrue predominantly to the private landowner. There is some question whether Federal cost-sharing funds are warranted in this situation.

To date there has been some question concerning some of the benefits that are said to accrue as a result of the suppression projects. Past experience in working with OMB and the Department indicates that only direct or primary benefits should be claimed as part of a suppression project. Also, there have been problems associated with the particular techniques used in analyzing the economic efficiency. For example, future benefits have been claimed, yet they have not been appropriately discounted to reflect these values in present affairs.

The Forest Service has been working closely with our cooperators in an effort to develop better analytical tools for capturing all of the benefits, timber and non-timber related, that result from mountain pine beetle suppression. On June 2–3 a meeting was held in Cheyenne, Wyoming, to discuss procedures by which project benefits could be quantified. As a result of that meeting, a Forest Service-State task force has been formed to develop specific benefit-cost analysis guidelines. Hopefully these efforts will resolve many of the Forest Service's concerns regarding the economics of proposal projects.

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE,
Washington, D.C.

Hon. TIMOTHY E. WIRTH,
House of Representatives.

DEAR MR. WIRTH: This is in response to your telephone conversation on August 20 with members of my staff regarding the Colorado mountain pine beetle infestation.

The mountain pine beetle outbreak is symptomatic of a forest crisis. The bark beetles are attracted to trees weakened by overcrowding and various land use changes. Removal of surplus trees which now strain the carrying capacity of the land provides the only reasonable solution to the beetle problem. The U.S. Forest Service during the past 3 years has provided approximately $699,500 in Federal funds for direct bark beetle control on private lands in the Front Range. Direct control is a short-term, stop-gap action, however, and will not provide the people of Colorado with the lasting relief they and we desire.

Federal cost-share funds are available for direct control when Federal role, biological effectiveness, environmental acceptability, and economic efficiency criteria required by the Office of Management and Budget are satisfied. In the past projects on the Front Range have been defended on the basis of timber values protected. Since timber is not necessarily the most important resource in the Front Range area of Colorado, these projects have become increasingly more difficult to justify. Recently, representatives from the Colorado Forest Service and the U.S. Forest Service met to explore ways of incorporating non-timber values in the FY 1977 benefit-cost analysis for the Front Range project. A system was developed which considers fire prevention and real estate, recreation, esthetics, wildlife, and water values protected or preserved. Since the interrelation between the bark beetle and many of these non-timber resources is still imperfectly understood, it is extremely difficult to assign a dollar value to anticipated project benefits. Please be assured, however, that in our review and analysis of Colorado's FY 1977 project we will give full consideration to non-timber resources.

We are optimistic that the Colorado mountain pine beetle suppression project proposal will provide good and sufficient documentation of the Federal role, biological, environmental, and economic criteria required to obtain Federal funds from the OMB contingency reserve. We will make every effort consistent with the funds available and the guidelines governing our participation to support the Colorado project when it is submitted.

Sincerely,
JOHN R. MCGUIRE,
Chief.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 8, 1976.

Mr. JOHN R. MCGUIRE,
Chief, U.S. Forest Service, Department of Agriculture, Washington, D.C.

DEAR MR. MCGUIRE: Since I last wrote to you about the criteria used to judge proposals for Insect and Disease Management money, we have spoken on the telephone; I have received two letters from you; and our staffs have been in regular contact. I thank you for your continuing attention to and interest in this pressing problem.

I was extremely pleased to read the statements in your last letter that you plan to support Colorado's request for continued funding of the mountain pine beetle suppression effort, and that you are now confident that OMB will approve that request. Continuation of the good work that has been done over the last three years is essential to save our mountain forests from great damage.

I was also pleased to learn that the Forest Service is now working with the Colorado State Forester to develop guidelines to ensure that all relevant values—not just commercial timber values—are considered when OMB decides whether to fund the Colorado project for the coming year. As you are well aware, the potential for commercial timbering along the Front Range is limited. However, there are other, equally important considerations: aesthetics, recreation, wildlife, flood control, water quality, and private property values, along with the associated tax base. Continuation of the beetle control project is necessary to protect all of these values. Most important is the need to consider the great fire danger that would be posed if the beetle epidemic were to continue unchecked. As this summer's Comforter Mountain fire in Boulder Canyon demonstrated, the high combustibility of trees killed by beetles can turn what would otherwise be a comparatively minor fire into a major threat to lives and property. We were fortunate that this fire was controlled before lives were lost and property was damaged; there is no assurance that we will be so lucky in the future.

I am glad that you no longer doubt that the Colorado project is an appropriate one for federal involvement. As you said before, the beetle epidemic is not limited by property boundaries. The infested area is a crazy-quilt of intermingled federal, state, and private ownership. Since the Forest Service controls much timbered land within the epidemic area, it must be a full partner if the program is to work. This is exactly the type of situation that prompted the Congress, in 1947, to direct the Forest Service: To prevent, retard, control, suppress, or eradicate incipient, potential, or emergency outbreaks of destructive insects and diseases on, or threatening, all forest lands *irrespective of ownership.* 16 U.S.C. § 594–1 (1970) (emphasis added).

Your new assessment that the Colorado suppression project is biologically effective is also encouraging. I have personally toured control areas along the Front Range, and am impressed with the success of the efforts to limit the epidemic in those most important areas. Everyone recognizes that the current suppression effort can, at best, do no more than buy time until intensified timber management addresses the underlying problem of too many weakened trees. Until these steps are taken, however, the current program must be continued.

Thank you for considering the use of Emergency Financial Assistance money, as I suggested during a telephone conversation with you. Although these funds are not available for the beetle control effort, I am still interested in the possibility that the suppression project could be coupled with a federal jobs program. I would be interested in learning of any suggestions you may have on this point.

I am very glad that you are now convinced that the Colorado project deserves federal support. If there is anything further that I can do, please let me know.

With best wishes,
Sincerely yours,
TIMOTHY E. WIRTH.

PRESIDENT JUDGE DAVID H. WEISS—HUMANITARIAN

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. DENT. Mr. Speaker, today I rise to pay a tribute to a great American, and an outstanding jurist, the Honorable President Judge David H. Weiss of the Westmoreland County, Pa., Common Pleas Court.

On September 11, 1976, the Westmoreland County Conference of Economic Opportunity is presenting Judge Weiss with its 4th Annual Humanitarian Award. This award has become a most prestigious honor given to those who have distinguished themselves in service to their fellowmen.

Judge Weiss has indeed had a long and illustrious career in service to his fellowman and is the embodiment of the humanitarian award principles.

Following a brilliant academic career at the Monessen, Pennsylvania High School, the University of Michigan and the University of Pittsburgh, young David Weiss, the lawyer, began a life devoted to public service. He served on the Monessen School Board, in the Pennsylvania Legislature, and as an assistant district attorney. In 1958, he was elected to the common pleas bench. He has served 18 years on the bench, the last 9 as president judge. Judge Weiss has gone before the people in 22 separate elections and has received their approval each and every time.

In addition to his elevation to justice and the law, Judge Weiss has been very active in many civic and franternal organizations. He originated the Adam Eidemiller Awards program, and the Judge David H. Weiss Athlete-Scholar Award, both of which honor outstanding high school youths of Westmoreland County.

Mr. Speaker, David Weiss, the lawyer; David Weiss, the State legislator; David Weiss, the civic activist; and David Weiss, the brilliant judge, has been in service to his fellowman for over 40 years. He has consistently and repeatedly placed unselfish devotion to duty over personal considerations and has always been true to his personal motto, "he serves God best who serves his fellowman". Mr. Speaker, it is very appropriate that this outstanding American, Judge David H. Weiss, be honored with such a prestigious award for he truly is a great humanitarian.

MORE ON RESISTANCE TO COMMUNISM IN SOUTHEAST ASIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. McDONALD. Mr. Speaker, on May 20, 1976, on page 14973 of the CONGRESSIONAL RECORD, I discussed the subject of the continuing resistance to communism in Southeast Asia. Again, the London Daily Telegraph, in an article appearing in its August 28 issue, reports on continuing resistance in Laos. Particularly significant is the news that Gen. Vang Pao's army is still resisting, as is the news that Cuban mercenaries are apparently now part of the scene. One wonders how many thousands of Communist troops it will take to subdue this small nation? I commend this article to the attention of my colleagues:

SMUGGLERS DEFY PATHET LAO GUNS

(By Denis Warner, at Khung Chiam, Ubon Province, North-East Thailand)

A magnificent banyan tree shades a village lookout platform above the rising waters of the Mekong and the last stretches of the river that Thailand jointly claims with Laos.

The platform provides an uninterrupted view of the river to the North and to the South to where the Mekong swings east, deep into Laotian territory.

A year ago the river here was still a lively place. It had always been more of a bridge than a barrier and the long, slender pirogues sped across it in scores.

Families on both sides intermarried and the ties established paid no heed to national boundaries. Today the pirogues at Khong Chiam huddle close to the shore and the fishermen cast their nets only at the mouth of the Mun, which joins the Mekong.

RUN GAUNTLET

Only at night do the boats slip across the river along almost the whole length of the Thai-Lao border. For a fee of 1,000 baht or $50, (£27) they run the gauntlet of the Communist Pathet Lao guns to smuggle out the never-ending flow of refugees.

Officially, fewer than 100,000 refugees have entered Thailand from Laos, yet officials along the River Provinces say the true total is two to three times as high. Tens of thousands from Laos have found refuge with Thai relatives.

Thai officials do their best to persuade the Laotians to return home. The Laotians are not interested, although some have gone back—to fight the Pathet Lao.

In one province I met a young Laotian who had entered Thailand the previous day after nearly a year with a guerrilla band of 350.

HEAVY ACTIONS

Thai officials tend to dismiss the fighting in southern Laos as sporadic and guerrilla in character compared with the heavy actions that have been going on for months north of Vientiane, the capital.

There, the remains of Gen. Vang Pao's Meo army of tribesmen appear to be heavily equipped and have engaged the Pathet Lao forces in major actions.

But the battles fought by the southern guerrillas are far from small-scale. "We put 200 men into an action early this week," the young guerrilla said. "The Pathet Lao were moving arms and ammunition at Songkhon, east of the Mekong, and about 30 miles from Pakse. We killed 13 of the Pathet Lao and burnt three of the trucks. The rest escaped and ran back to Pakse."

In another recent action the same group of guerrillas lost 15 killed and 30 wounded and claimed to have killed 56 Pathet Lao.

He claimed that Vietnamese forces were in the southern Laotian towns in considerable numbers. Russian technicians and Cuban guards to look after them have also appeared in the Mekong river towns. A Thai official said: "I think the Russians don't feel safe. That's why they've brought the Cubans in."

KILLED OLD PEOPLE

It is difficult to nail down the sort of cruelty by the Pathet Lao that is so commonplace in the talk of all the refugees. One young man, who ran his own English school in Savannakhet, said the Pathet Lao had killed even old people and babies. But he had not himself seen these killings.

An attractive 20-year-old girl named Vanida, who acted as interpreter, reached Thailand after telling her parents she could stand life under the Pathet Lao no longer. She said they had taken people's belongings, even their chickens, and were sending all the young people to the countryside to work.

The Thais, officially, know nothing. They desperately want to establish some sort of *modus vivendi* with their communist neighbours in the three Indo-China states. With Cambodia they have succeeded. With Laos and Vietnam they may never be successful, since both are helping the Thai insurgents in the north and north-east.

LABOR DAY

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. FARY. Mr. Speaker, no date on the American calendar is so definite a turning point as Labor Day. It is more than the end of summer and its pleasures—it is everybody's private New Year—the signal for real life to begin again.

Labor Day is the turning point of getting down to business regarding work, political, or otherwise, and also begins the all-out open campaign of the exciting and great drama of a Presidential election.

My colleagues, I would like to take this moment to hail the occasion of Labor Day honoring the tremendous contributions of the American working man to the cause of the Republic.

From American shops, factories, mills, mines, and farms, have flowed the greatest abundance of all time, and American workers have produced it all. But that is not the sole accomplishment of labor. Social and economic justice is as much a goal of the average working man as food on the table. In times of stress as well as times of prosperity, the free trade unions of America are devoted to the interests of the disadvantaged few who, alone among our millions, have yet to experience prosperity. Every segment of the American community must help in this endeavor, in which the labor movement has played so prominent a role.

By vigorous employment of our vast national wealth, energy, and intelligence, we will reshape American society in such manner that, eventually if not tomorrow, a useful and productive life shall be the birthright of every American citizen.

That is the promise of the American labor movement, and one requiring the respect of everyone. In many ways, the social and economic gains of all America are part and parcel of the grand advances by labor in the current century. Economic gains, old-age pensions, industrial safety laws, and the social security system—all were supplied largely in answer to labor's demands. And who is to deny that social gains—such as extended franchise rights and civil rights—and educational gains—such as modern public school systems—are not a blessing to the land. These, too, were supplied, in large part, in answer to the protests of labor against educational and political inequality, at the expense of working men and their families.

In honor of the workers themselves, and their organizational activities, I join with millions of others in hailing their performance, as a symbol of America in action and the glory of their cause.

ON BOARD THE U.S.S. "MOINESTER"

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. RYAN. Mr. Speaker, the last decade has witnessed a growing dissatisfaction with the Federal Government and its insensitivity to the problems and needs of the individual. Frequently, the armed services has been the object of this general discontent. As a result, I find it reassuring to receive a letter from one of my constituents, the vice mayor of South San Francisco, which indicates his very positive experience on board the Navy frigate U.S.S. *Moinester*, while in Italy. It is especially important that the American people become aware of the many valuable contributions which are made by our armed services throughout the world. Therefore, I would like to bring to the attention of my colleagues the very thoughtful letter received from Vice Mayor Emanuele N. Damonte after his recent visit with American servicemen abroad:

DEAR CONGRESSMAN RYAN: On July 4th, we, two Councilmen and the Mayor of South San Francisco, were on vacation in Italy. At that particular time, we were in Taormina, Sicily, and were feeling a little low in that it was our Country's 200th birthday and we were so far away.

Fortunately, in the bay were two United States Navy Frigates. We were able to make contact with some officers of one of the ships, the U.S.S. *Moinester* (DE 1097), who invited us to board the ship for a tour. The reception we received from the ship's Officer, LCDR Ollie Lajoie, was great. Mr. LaJoie was the Officer in charge while the

Commanding Officer, Lieutenant Commander Alemian, was not on board.

Would it be possible for you to inform LCDR Ollie LaJoie's superior officer of the courtesies extended to us by LCDR LaJoie and the men of the U.S.S. *Moinester*. There were fourteen of your constituents in our party who were quite impressed with the polite, well-informed, well-disciplined men of the U.S. *Moinester* and appreciated the fine treatment we received.

I must say, it was a great feeling to be on United States territory seven thousand miles from home on the 200th anniversary of our country's birthday.

Sincerely yours,

EMANUELE N. DAMONTE,
Vice Mayor.

GIVEAWAY TO BREWERIES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. DRINAN. Mr. Speaker, on August 2, the House wisely rejected H.R. 3065, a bill providing tax subsidies to a majority of the Nation's breweries, when it was brought up under suspension of the rules. This legislation, opposed by both the Treasury Department and the Tax Reform Research Group, would set a dangerous precedent of misusing the tax code to alter competitive conditions within industries. H.R. 3065 would provide a tax rebate of up to $120,000 each year to approximately 40 brewers. Many of these companies are thriving without this unique tax subsidy; others are owned by huge conglomerates which would ultimately benefit at the taxpayers' expense.

The Ways and Means Committee devoted only a few minutes to this precedent-setting bill, hearing only from the bill's sponsors and the lobbyist for the brewers, who properly referred to H.R. 3065 as our bill. It is unfortunate that the valuable time of the House may be wasted on reconsidering this unwarranted special interest legislation when so many vital measures are competing for consideration on the floor.

I am confident that the House will resist the pressures from the breweries and their lobbyists and defeat H.R. 3065 should it come to the floor again for action. I have attached, for the information of my colleagues, a copy of the testimony on this matter which I delivered before the Committee on Rules on August 31:

STATEMENT OF CONGRESSMAN ROBERT F. DRINAN BEFORE THE HOUSE COMMITTEE ON RULES CONCERNING THE PROPOSED RULE ON H.R. 3605

Mr. Chairman, I appreciate the opportunity to appear before your committee in opposition to the closed rule on H.R. 3605 requested by the Committee on Ways and Means. Frankly, I am disappointed in that Committee for requesting a rule on H.R. 3605, rejected by the House on August 2nd, when so many vital measures are competing to be considered on the Floor.

The proposed bill would provide subsidies of up to $120,000 per year to a majority of the nation's brewers through a reduction of their federal excise tax liability. According to the report of the Committee on Ways and Means, the legislation is designed to enable small brewers to compete more effectively with larger companies. Closer examination, however, reveals that the bill will provide an undeserved windfall to a number of thriving companies at taxpayer expense without altering the competitive structure of the beer industry in any way.

The Pearl Brewing Company of Texas would be one of the beneficiaries of this tax subsidy should H.R. 3605 become law. Yet Pearl is far from a small, struggling business; it is a wholly-owned subsidy of Southdown, Inc., a Louisiana conglomerate with revenues exceeding $300 million and profits of more than $36 million in 1974.

Another potential beneficiary, Champale, Inc., is owned by a Delaware conglomerate, Iroquois Brands Limited, which owns six other companies as well. Iroquois made $3.65 million in 1974 without special tax subsidies. The Lone Star Brewing Company of Texas, which earned $3.66 million in 1974 on sales of $42 million, is another thriving firm which would receive more then $100,000 annually from the Federal Treasury should this bill become law.

Mr. Chairman, I can see no justification for giving these and other brewers a unique tax subsidy on the pretext of making them more competitive. Even if all of the potential beneficiaries of this special interest bill were in financial trouble, this bill would not enable them to compete more effectively with the giants of the industry. As the Brewers Association of America, the lobbying organ of these brewers, testified before the Ways and Means Committee, "the small brewers have been unable to build the modern, efficient plants due to lack of financing and as a result they cannot produce malt beverages as cheaply as their larger competitors." This proposed annual giveaway of $120,000 will not enable small brewers to build these huge modern plants. It therefore cannot succeed in fulfilling its avowed purpose.

Mr. Chairman, the enactment of H.R. 3605 would set a dangerous precedent of misusing the tax system to alter competitive conditions within industries. If we can do this for brewers, why not for wineries, candymakers, and other companies throughout the economy? As the Treasury Department observed in its adverse report on the bill, "The trend in the beer industry is no different from that of most other consumers goods. . . . If this principle were once incorporated into the excise system, it could become the basis for tax measures which would interfere with the efficient distribution of resources and the development of new techniques or systems." Yet the Ways and Means Committee spent only a few minutes hearing testimony on this critical proposal. I believe far more careful consideration is necessary before we set this significant precedent.

Finally, Mr. Chairman, if this bill is to be brought back to the House Floor for a second chance, it should be subject to amendment to remedy some of the defects I have outlined above. Certainly, large corporate conglomerates which own small breweries as subsidiaries should not be permitted to qualify as beneficiaries of this legislation. Neither should those companies which earn millions of dollars in profits annually without this proposed bonanza. Yet, if this bill reaches the Floor on a closed rule, Members will be precluded from offering any amendments to the bill. They will be faced with the choice of giving $120,000 to Southdown, Inc., or denying subsidies to all.

If competition has been unfairly stifled in the beer industry, there are anti-trust laws on the books which should be rigorously applied. Subsidized loans are, of course, available to breweries and all other small businesses in genuine need of assistance. H.R. 3605 constitutes nothing but an outright gift of $5 million of the taxpayers' money to firms in a chosen industry. It is poor legislation which has already had its "day in court" and lost. I urge this Committee to reject the proposed rule and focus its energies on bringing before the House those key bills which we must pass before the 94th Congress adjourns.

Mr. Chairman, although he could not be here personally, our colleague, John Moss of California, requested that I inform the Committee that he concurs in the testimony I delivered this morning.

TRIBUTE TO THE U.S. LITTLE LEAGUE CHAMPIONS—CAMPBELL, CALIF.

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. MINETA. Mr. Speaker, it gives me great pleasure to pay tribute today to the 1976 Campbell, Calif., Little League All-Star team which earned the title of U.S. Little League Champions on August 28 in Williamsport, Pa. These outstanding young men, whom I have the honor of representing in Congress, defeated teams from across the Nation in establishing themselves as the best Little League team in America.

Theirs is an inspiring story of determination, dedication, and desire; of molding their God-given individual talents into a united and forceful team spirit; of striving to be the very best team in all the land; and of succeeding in realizing their goal. Theirs is a story of making new friends, seeing new places, and learning what it takes to reach a level of excellence which is reserved for a privileged few.

All of America can be proud of these young men; and the residents of Campbell can be especially proud of the way the team represented their city, the State of California, and the United States at the Little League World Series. It is the second time the city of Campbell has sent a team to the finals, but it is the first time they have welcomed their team back home as U.S. champions.

This is an honor which these young men will never forget, and I join the citizens of Campbell in extending my congratulations to the team manager, Jack Zogg; the coaches, John Emery and Bob Holman; to the parents, whom I am sure made many sacrifices and offered continual support to their sons; and, last but not least, to the following members of this championship team: John Aimonetti, Rich Alvarez, Dominic Costantino, Scott Freear, Curt Hollars, Brian Hughes, John Lawson, John Murphy, Rich Okamoto, Ed Rodriguez, Paul Sargis, Bob Straight, Al Vanegas, and Mike Walsh.

I hereby respectfully request that all Members of Congress join me in extending these congratulations and offering this well-deserved tribute.

KOREA'S MISGUIDED CRITICS

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, today I would like to place in the RECORD an excellent column written by Mr. Rowland Evans and Mr. Robert Novak, which appeared in the Washington Post of Wednesday, September 8, 1976.

In my opinion, this article very lucidly explains the machinations behind the recent barbarous events in the Korean DMZ, when two American officers were so brutally murdered while going about the peaceful pursuit of trimming a tree that was interfering with the visibility of both sides.

Since this event, there have been veiled suggestions in the press and in this Chamber that perhaps the only way to avoid further hostilities of this sort is to pull all of our troops out of South Korea, thus abandoning the ROK to the same and inevitable fate that so recently has befallen other Asian nations, such as Cambodia and South Vietnam.

It is quite true that we might prevent further shedding of American blood in Korea by copping out on our obligations there, but in the light of what would be certain to happen, have we really become so irresponsible? I am not one who says that we should defend democracy everywhere in the world, at whatever cost.

But have we reached in this great land the white-bellied point that we expect democracy to survive at no cost at all?

That not only would be totally unrealistic, it would be a shameful position for America, still the leader of the free world, to take.

I have also observed that some critics of our Korean policy are trying to advance the idea that South Korea deserves whatever happens to her because its government, in the face of a hostile, dedicated enemy only 24 miles away, allows slightly fewer freedoms than those enjoyed by safe and comparatively carefree citizens of the United States.

I cannot believe that even the least intelligent of these critics actually expects anyone to believe that the citizens of South Korea would enjoy more freedoms under a government run by North Korea's rabid dictator, Kim Il Sung, the same man who treacherously sent soldiers out to kill and wound our men with axes.

What inspires these critics of South Korea I really hesitate to say. The obvious conclusion as to why they might want South Korea weakened and abandoned to a forlorn destiny is too uncomplimentary to them to utter at this time. However, if there is any other conclusion to be drawn, or any other motive behind talk of South Korean abandonment, I have yet to perceive it.

Along with the Evans and Novak column, I would also like to place in the RECORD an editorial from the Washington Star of September 5, 1976, and I would also, at this time, like to quote an excerpt from that article.

It is headlined, "How Free Would America Be If the Enemy Were Right at Your Door?"

In part, the article says:

> When the United States was at war, it saw fit to limit travel, job changing, it rationed gasoline and other necessary commodities. In some circumstances constitutional liberties such as habeas corpus were suspended, in others whole ethnic populations were incarcerated. And this took place in a country which counts its democratic experience in centuries rather than decades; this took place in a land where the enemy was 6,000 miles away rather than poised two dozen miles from the nation's capital.
>
> The reality of the Korean situation just does not submit to Utopian yardsticks.

I echo that. Yet many critics of South Korea keep wanting to apply this utopian yardstick to South Korea, for reasons of their own, reasons which, as I have said, I am almost fearful to deeply contemplate.

I introduce both of these articles now in the continuing hope that with enough exposure of the truth, and with a constant stating of the obvious, perhaps the misguided critics of South Korea will eventually come to their senses. As the old hymn puts it, if we put a light in the window, it may help the wayward sinner to find his way home.

The articles follow:

[From the Washington Post, Sept. 8, 1976]

THE KOREAN INCIDENT: AN ORCHESTRATED PLOY?

(By Rowland Evans and Robert Novak)

Contrary to hints from the State Department that Moscow and Peking secretly helped avert a new Korean war, non-political government experts believe the recent crisis was a ploy orchestrated by North Korea with limited political goals in mind.

There is no hard intelligence of any intervention by either the Soviet Union or Communist China that prompted the North Korean expressions of regrets for the murder of two U.S. army officers. Rather, there is a strong feeling among Pyongyang-watchers here that North Korea dictator Kim Il Sung never wanted the provocation of Aug. 18 to escalate into warfare but intended it for political effects, both in Korea and the U.S.

Thus, instead of triumphantly demonstrating the value of detente, the events in Korea were part of continued Communist pressure on one of the world's most dangerous flashpoints. The reaction on Capitol Hill, combined with the overall political climate here, should encourage North Korea to keep up that pressure.

The most obvious goal of the Aug. 18 incident was to draw attention to Korea at the recently completed non-aligned nations conference in Colombo, Sri Lanka, and the forthcoming United Nations General Assembly session. For the longer range, however, Kim's targets were political opinion, at home and among his enemies.

Troubled by grave economic problems in North Korea, Kim is believed by experts to have fomented a crisis to firm up national morale.

At age 64, the Korean despot is in questionable health, troubled by a visible growth on his neck which is getting alarmingly large. The designation of his eldest son, 36-year-old Chong Il Sung, as heir apparent has not proved popular with the party apparatus; the succession is now in doubt. Accordingly, the time-tested device for diverting attention from domestic discord is to generate a unifying foreign threat.

In the hermit state of North Korea, there is no quick way to determine whether Kim's bloody ploy fulfilled its domestic goals. It is clear, however, that it largely achieved its foreign purpose: to raise new doubts among Americans about their seemingly endless Korean commitment.

Beneath public expressions of outrage over Pyongyang's largest atrocity were private complaints on Capitol Hill that American blood was too precious to spill for Park Chung Hee's authoritarian South Korean regime. Indeed, events following the Aug. 18 incident indicate development of an anti-South Korea congressional bloc on the model of the old anti-South Vietnam bloc.

Just as the House international affairs committee was about to adopt a resolution condemning North Korean actions, Rep. Don Fraser of Minnesota proposed an additional paragraph condemning South Korea's sentencing of political prisoners. Amazingly, the committee adopted it. Fraser, who has become the scourge of Seoul, on Sept. 1 won committee approval to subpoena South Korean diplomats and their documents.

That same day this question was raised by Rep. Robert Drinan of Massachusetts in a House floor statement attacking the sentencing: "Should the United States that gives massive economic and military assistance to South Korea confess that it has no sanction for this type of indefensible conduct?" While the Frasers and Drinans propose ending all aid as a sanction, Jimmy Carter talks of a staged withdrawal of all U.S. ground forces from Korea (though lately he has promised to first consult Japan).

Enjoying this favorable political climate, Pyongyang-watchers believe Kim never had any intention of escalating the murder of the Americans into a war for the entire peninsula. Besides, his notions of attempting a lightning seizure of Seoul last year following the fall of Saigon were vetoed by both Communist superpowers.

Nevertheless, some close students of the Korean scene deduce that Kim, author of so much bloody mischief in East Asia for a generation, would never issue his first apology for anything without pressure from the Russians or Chinese. That deduction, however, is not backed up by facts. Officials at the highest level say there is simply no intelligence of any such intervention.

In his declining years, Kim Il Sung may have moved from sheer brute force to a mixture of brute force and political maneuver. Experts here believe his immediate goals will be to encourage sentiment inside the U.S. advocating a Korean pullout while seeking bilateral U.S.-North Korean negotiations, leaving out the South Koreans. That may prove more difficult for U.S. politicians to resist than a naked military threat.

[From the Washington Star, Sept. 5, 1976]

HOW FREE WOULD AMERICA BE IF THE ENEMY WERE RIGHT AT YOUR DOOR?

(By Hancho C. Kim)

The outrage which followed the slaying of two unarmed U.S. Army officers in Korea's demilitarized zone last month is both an appropriate and justified response to an act of barbarity.

The incident serves to illustrate the complexity of Korean reality today. The ax murders do not stand alone, but rather are part of a long chain of sabotage and subversion which serves to unsettle any easy hopes for textbook political development on that long-troubled peninsula.

To understand the hostility present in Korea, one does not have to think all the way back to the 1950 invasion and war there. In the past few years, for example, the world has seen the tunneling under the DMZ from the north, the murder of President Park Chung Hee's wife in an assassination attempt on Park himself, the beating of an American soldier at Panmunjom, and the thwarted commando raid on Park's presidential residence.

Simply put, the people of Korea are seeking to better their lot in circumstances of tension, apprehension and bloodshed. Nonetheless it stands as a tribute to those involved that South Korea has a burgeoning economy, shows a dramatic increase in per capita income, and in turning one of the more barren areas of Asia into one of high promise.

The suspension of certain civil rights and the imprisonment of a number of dissenters by the Park regime has inspired a measure of criticism in this country.

Some Americans express concern that the United States associates itself as a nation with a less-than-perfect democracy. These Americans fear a loss of reputation worldwide as a result of this association. This argument is unrealistic and selectively applied. The harsh reality of the North cannot be ignored. Furthermore, one must remember that the role of the United States would be a lonely one if it were limited to councils of those nations living up to this standard of impeccable democracy—possibly England, Canada, Switzerland and the San Marinese.

America's rapprochement with Communist China is widely counted as a major diplomatic triumph of our times. But the Chinese path to development continues to be at a staggering price in lives, freedoms and living styles. The response to dissent there hardly compares favorably to the ideal behavior Americans seem to demand of South Korea. The yardstick seems unfortunately flexible.

The comparison between the Koreans is even more striking. Presumably even the most intense critics of Park's discipline of the press, students and certain clergy would not wish the North Korean version to become the rule on the whole peninsula. The public executions, the horror stories brought out by the Pueblo crew are evidence enough of the enlightenment of the regime in the North.

Talk comes easy when one is not obliged to carry the burden of it. President Park, for his part, is ready to carry the responsibility for his actions in seeking to hold his country free and together in circumstances which can only be seen as a state of war preparedness.

When the United States was at war, it saw fit to limit travel, job changing, it rationed gasoline and other necessary commodities. In some circumstances constitutional liberties such as habeus corpus were suspended, in others whole ethnic population groups were incarcerated. And this took place in a country which counts its democratic experience in centuries rather than decades; this took place in a land where the enemy was 6,000 miles away rather than poised two dozen miles from the nation's capital.

The reality of the Korean situation just does not submit to Utopian yardsticks. Although not happy with the circumstances, nonetheless Park Chung Hee and his government live in the real world and the president has managed to keep his nation together while at the same time overseeing its rapid economic development.

Park is, in a Korean sense, a Lincoln-like phenomenon—a man dedicated to his nation, a man singularly free of pretensions and of unchallenged personal honesty. Park is far more aware of the awesome responsibilities destiny has laden on his shoulders than of any of the privileges of rank it has accorded him.

He commands the loyalty, and even the love, of the overwhelming majority of the Korean people. Three-quarters of the eligible voters endorsed him in the referendum of February 1975.

The strength and character of the Park regime stand between the glowing Korean economy and a precipitous flight of American aid, a renewal of military action by North Korea in the field and consequent panic realignment of Asian nations with what they then would regard as more reliable allies.

Idealists and theorists will see the necessity of living in a real world in regard to Korea. We must settle for the level of democracy the Koreans can provide. If we insist upon more, we may crash down the democracy they have laboriously built up—and we may easily kill their taste for democracy altogether.

CLEVELAND DENTIST DIES; GAVE 51 YEARS OF SERVICE TO COMMUNITY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. STOKES. Mr. Speaker, it is with sorrow and deep regret that I come before you today to announce the death of an outstanding citizen of Cleveland, Ohio, and a close friend and associate. Dr. Henry W. Hunter, a respected dentist and community activist, died yesterday at Metropolitan General Hospital in Cleveland. I had great admiration for Dr. Hunter. His unselfish devotion to his profession and to his community won him the respect of citizens from all walks of life.

Mr. Speaker, Dr. Hunter was on the dental staff of St. Vincent's Charity Hospital for more than 25 years. During that period, he volunteered his services to that hospital's dental clinic so that low-income families could benefit from the best possible dental care.

Aside from the practice of dentistry, Dr. Hunter became involved in civic pursuits. In 1967, he served as foreman of the Cuyahoga County grand jury. He was also nominated by the present mayor of Cleveland to a seat on the old Cleveland Transit Board in May of 1975.

Mr. Speaker, last year, Dr. Hunter was named one of the area's top five senior citizens by the Cuyahoga Senior Citizens Council.

In addition, Dr. Hunter served as president of the Improved Benevolent Protective Order of the Elks of the World. His work with the Phyllis Wheatley Association and National Foundation, the Jane Hunter Committee, and Tau Boule Sigma Phi Fraternity kept him constantly on the go.

Mr. Speaker, at this time I would like to call upon my colleagues in the U.S. House of Representatives to join with me in extending our condolences to the Hunter family. Let us also acknowledge Dr. Hunter's long record of excellence in the practice of dentistry. His contributions to the people of Cleveland and the black community will be remembered for years to come.

ISRAELI RESCUE MISSION AT ENTEBBE AIRPORT

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. AMBRO. Mr. Speaker, several weeks ago I cosponsored House Concurrent Resolution 680, a resolution commending "the courage, skill, and execution" of the Israeli rescue mission at Entebbe Airport. With this one valiant act, the tiny nation of Israel has become a world leader in the battle against international terrorism. As Israeli Defense Minister Shimon Peres stated:

> The mission in Uganda . . . strengthened the backbone of the Jewish people and of the whole free world.

For the past few years, the world has been cowed and shocked by a new breed of international criminal; the terrorist. These people have displayed the most wanton disregard for human life. They boast of a record that includes the cold-blooded murder of Israeli schoolchildren and athletes, the mailing of letter bombs, and countless cases of kidnaping of innocent civilians whose lives are to be bargained for the freedom of the perpetrators of other heinous crimes of terror. Since 1968, over 800 persons have been killed and some 1,700 injured in such terrorist incidents, yet the forces of international law—and even the so-called superpowers—have been impotent to bring these murderers to justice.

On July 4, 1976, however, a mission of terror failed. On that day, Israel took its place in the forefront of the forces of freedom and legality. Displaying inspiring elan and vitality, its people demonstrated to the world exactly how international criminality should be treated—with forthright courage. Now it is up to the United States to follow the Israeli example. Just as our forefathers defeated the Barbary pirates, we must increase our efforts toward the defeat of the Palestinian pirates.

How is this to be done? One part of the worldwide battle against terror has been convincingly displayed by the Israeli commandos at Entebbe. By setting the precedent of meeting blackmail with decisive action rather than meek compliance, and by establishing the principle that no asylum can be viewed as safe for international criminals, the Israeli raid represents a strong deterrent against future terrorism.

We must, however, do more. Even while we praise the Entebbe raid, we must strive to eliminate the necessity for future rescue raids. This resolution requests that the President initiate negotiations with other nations "to help prevent acts of terrorism by, among other means, denying assistance or asylum to persons who perpetrate acts of terrorism, and by invoking sanctions against any nation which gives assistance or grants asylum to such persons." Such negotiations, if successful, could deal a death blow to terrorism. The reason is simple: without assistance from established governments, in the form of refueling hijacked planes, granting asylum to terrorists, or helping terrorists guard hostages, terrorism would be nearly impossible.

The collusion between the Palestinians and Idi Amin during the most recent incident is indicative of the high degree of cooperation from established regimes that is required for terrorism to succeed. According to all reliable reports, Uganda supplied additional weapons to the hijackers, Ugandan soldiers intermittently relieved the terrorists of their guard duties, Idi Amin embraced the leader of the hijackers upon arriving on the scene, and Uganda allowed additional terrorists to join the original hijackers at Entebbe. If most of the world were now applying economic sanctions to Uganda, perhaps others would be dissuaded from following a similar path in the future.

Mr. Speaker, the Entebbe raid was an inspiring blow for legality and international order. Though some nations, predicating their foreign policy on their desire for oil or oil revenues, have tried to twist the meaning of the incident, we in the United States understand fully what the Israeli action signifies. It represents a great victory over the forces of criminality, and for that we heartily applaud the Israeli people. In addition, it demonstrates once again my contention that only a strong, confident Israel can work for a peaceful solution to the Middle East conflict.

I join with most of the free nations of the world in applauding the Israeli action, and with Israel's Government and citizens in mourning those who gave their lives in pursuit of freedom.

STATEMENT ON U.S. INVOLVEMENT IN IRAN

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Ms. COLLINS of Illinois. Mr. Speaker, the tragic deaths of American civilians working in Iran raises in bold form serious questions about America's very large involvement in Iranian matters. These American civilian technicians, numbering in the thousands, are in Iran because the U.S. Government has undertaken, in a secret agreement that did not receive executive branch review, to supply Iran with the best and most sophisticated armaments that we possess for our own defense.

The civilian technicians are in Iran, much as military personnel, to assist the Iranians with integrating this equipment into their armed forces. Of course, recent congressional studies indicate that this is only the beginning of a sizable American presence in that Middle East nation.

Saddened as all of us are at the violence that took the lives of these Americans, we must, I believe, look at this incident as proof positive that our very significant commitment to Iran has very real byproducts and that as such both the Executive and the Congress are obligated to review this involvement before we find ourselves hostage to circumstances we did not fully anticipate. It seems, in sum, that substantial commitments that result in tacit approval of large numbers of American citizens being present in foreign locations obligates us in the Congress to look rather carefully at what this all means. Failing to do that, I fear we fail in our obligations.

With these very serious matters in mind and the tragic deaths of American citizens at hand, I offer for my colleagues' consideration a report of the events of the recent past:

THREE U.S. MEN MURDERED IN TEHRAN

(By William Branigin)

TEHRAN, August 28.—An Iranian guerrilla squad today ambushed and killed three American civilians who had been working in Iran under a contract with the Iranian air force.

American sources said the three, employed by U.S. defense contractor Rockwell International, and been involved in a sensitive missile project.

They were assassinated at about 7 a.m. as they were being driven to work at an Iranian air force installation in a crowded industrial and residential district of southeastern Tehran.

Iranian authorities blamed the murders on the Islamic-Marxist guerrillas, a group that they said is financed by Libya and trained by the radical Popular Front for the Liberation of Palestine.

The ambush was a carbon-copy of one in May 1975, in which two U.S. Air Force colonels, Paul Shaffer and Jack Turner, were executed by the same group.

The attack marked the first time that American civilians have been targets for guerrillas opposed to the one-man rule of Shah Mohammed Reza Pahlavi, American sources said.

It also comes at a time of new congressional scrutiny at increased U.S. business involvement with the Iranian armed forces. There are currently 24,000 Americans, including dependents, in Iran, many of them employed by more than 40 U.S. firms with Iranian military contracts.

In today's attack the gunmen, said to number four or five and driving a Volkswagen, cut in front of the Americans' chauffeur-driven car and ordered the driver to get out. They sprayed the car with automatic weapons fire, killing William C. Cottrell, 43, Robert R. Krongrad, 44, and Dohald G. Smith, 43, all of California. The attackers then fled.

An Iranian government spokesman said witnesses had recognized the gunmen and he vowed, "the police will find them."

The American embassy said the Iranian government had assured it "that every effort will be made to bring the terrorists responsible to justice."

U.S. Ambassador Richard Helms, a former CIA director, said in a statement, "This brutal and mindless crime serves no cause and demonstrates the heartless cruelty of the perpetrators."

[A White House spokesman in Vail, Colo., where President Ford is vacationing, said "The President is deeply saddened by the senseless murder of three Americans in Tehran. The brutal attack against innocent civilian Americans is tragic evidence of the need for renewed efforts to cope with senseless acts of violence. It is the President's hope that the murderers will be apprehended and brought to justice."]

The shah expressed his "sincere regrets" and sent envoys to the homes in Tehran of the men's families.

The U.S. defense community in Iran, which includes more than 4,000 military personnel and dependents plus thousands more civilians working under Iranian military contracts, put its members on alert and advised them to alter their routes to work and avoid conspicuous social gatherings.

U.S. sources said the men had been experts on aircraft missiles for Rockwell, which owns the Northrop Aircraft Corp. The American embassy said they had been working on "a research project."

[The National Broadcasting Company reported that the three Americans were installing a secret electronic intelligence-gathering system code named "Project IBEX," estimated to cost up to $500 million. It said Cottrell had joined Rockwell last year to be overseas manager for the project and that another of the victims, it did not identify which, was engineering manager.]

Besides the two U.S. colonels killed in the same fashion last year, guerrillas gunned down Air Force Lt. Col. Lewis Hawkins in 1973 as he was walking on a sidewalk in downtown Tehran.

With the help of the CIA and U.S. military intelligence agents, American sources said, the Iranian secret police, SAVAK, captured 11 members of the Islamic-Marxist Guerrillas and charged them with all three murders. Nine of the guerrillas, including a woman, were executed by firing squad last January after military trials. Iranian authorities said all had confessed to the crimes.

The authorities have also blamed the Islamic-Marxists for killing at least 30 other persons, including an Iranian general, and wounding scores more.

So far this year at least 76 alleged terrorists have either been executed or killed in bloody, to-the-death shootouts with police.

After the latest of these battles this spring, the Iranian government announced that it had destroyed the guerrillas' main secret headquarters in Iran and crushed their organization.

But U.S. intelligence sources expressed skepticism since more guerrillas than had been killed or captured were understood to have been trained in Libya and dispatched to Iran via circuitous routes through Western Europe.

The latest killings come as a shock to the American community here, estimated by the U.S. embassy to be about 24,000 and growing fast.

It was the first time in more than a year that guerrillas in Iran had gone on the offensive, and again the targets were Americans. A Senate Foreign Relations Committee report released earlier this month said the number of Americans in Iran "could easily reach 50,000–60,000 or higher by 1980."

Friends of the murdered men said they had been easy targets because they never varied their route to work, as American authorities advise U.S. personnel, especially those in defense-related jobs, to do.

An employee of Bell Helicopter International, which trains Iranian servicemen under a huge sales and support services contract with the War Ministry, said the firm had ordered company buses to vary their routes to work but that most Americans do not take the precaution because it is too much trouble.

The bodies of Cottrell, Krongard and Smith will be returned to the United States after a few days, American pastor Robert Pryor said.

Cottrell is survived by a wife and two teenaged children. Krongard leaves a wife and three children and Smith is survived by his wife.

THREE AMBUSH VICTIMS AMONG 24,000 AMERICANS IN IRAN

Rockwell International, three of whose employees were machinegunned to death in Tehran yesterday, is one of more than 40 U.S.

companies working on military contracts in Iran.

The U.S. embassy in Tehran estimates that 24,000 Americans are currently in Iran, about two-thirds of them in Tehran.

But a Senate report published last month said the embassy's estimates appeared to be conservative, and predicted that 11,000 Americans would be working on military projects alone in Iran by 1980, with 50,000 to 60,000 Americans, including dependents in the country.

The Senate report said Iran had bought $10.4 billion in U.S. military goods and services since 1972, and Secretary of State Henry A. Kissinger told a news conference in Tehran earlier this month that rate would continue through 1980.

The two largest U.S. military-contract operations over the next several years will be Bell Helicopter International and the Grumman Aircraft Corp., the report predicted.

Each company is expected to have more than 2,000 American employees and dependents in Iran.

Bell is training pilots and mechanics for the Iranian army, which is engaged in a $4 billion program to modernize and expand its helicopter fleet from 400 to 800 aircraft.

Grumman's presence centers on Iran's purchase of 80 F-14 jet fighters, at a cost of $2.33 billion, including Phoenix missiles.

In addition to the private contractors, many of whose employees are retired military men, there are currently more than 4,000 Defense Department military and civilian employees, including dependents, in Iran, the largest U.S. military-aid mission anywhere.

COMPULSORY STERILIZATION IN INDIA: INEVITABLE FAILURE OF A SHORTCUT POLICY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ZABLOCKI. Mr. Speaker, for more than a year reports have come from India about plans for legislating compulsory sterilization in several of its most populated states.

Now comes news that the state of Bombay has adopted, with the apparent approval of the central government, new laws which will permit authorities to forcibly sterilize men and women within 180 days of the birth of their third child. The law will go into effect when it has been given final approval by Prime Minister Indira Gandhi and her government.

On August 25, our colleague from New York, the Honorable EDWARD I. KOCH, took the floor of the House to condemn this action as inhumane and reminiscent of certain practices of Nazi Germany. I commend him for a very thoughtful statement on the issue and join him in recommending that the United States consider cutting off all assistance to India should compulsory sterilization become a reality there.

Beyond the moral aspects of the practice are the practical consequences, which are not likely to be within the expectations of those Indians who advocate compulsory sterilization. A recent article which appeared in the June 1976 issue of the Hastings Center Report points out the problems which such a policy is likely to encounter.

The author is Dr. Michael Henry, associate for education at the Hastings Institute of Society, Ethics, and the Life Sciences in New York and codirector of its Population Research Group.

In his article, Dr. Henry makes a strong case for the inevitable failure of a shortcut policy such as compulsory sterilization as a solution for India's pressing population problems. Because of the pertinence of his argument, I am placing it in the RECORD at this point and urge my colleagues' attention to it:

COMPULSORY STERILIZATION IN INDIA: IS COERCION THE ONLY ALTERNATIVE TO CHAOS?

(By Michael Henry)

Inevitably compulsory sterilization will be introduced in India in an attempt to reduce significantly the rate of population growth. But just as inevitably, the program will fail.

Although New Delhi and the state governments have so far stopped short of outright coercion, legislation is pending in Maharashtra and Punjab, with federal approval, which would impose jail sentences on couples if both partners remain unsterilized after the birth of their third child. Since the Gandhi government is now almost a dictatorship, such legislation could be passed easily. Public figures who might have protested loudly are either in jail or effectively silenced; and army and village leaders seem to support the government, enhancing the chances of enforcement.

Indian officials justify compulsory sterilization on the grounds that the very survival of the country is at stake. They argue that continued unchecked population growth (over 30,000 births daily) will lead to mass starvation, rampant disease, social breakdown, and chaos. In extreme times, their argument goes, extreme measures are necessary. Freedom and individual rights must be traded off for survival.

This argument, however, that coercion must be employed to assure survival, is not self-evident. It requires justification on ethical grounds. Besides considering the nature and extent of the particular coercion, one would also have to take up the difficult task of comparing the supposed welfare of future generations with the certainty of definitive coercive measures against those presently living. Our actions clearly have enormous impact on future generations, but how far does our moral obligation in this matter extend? We at least should not pass on a world worse off than the one we inherited, a world slipping backwards toward catastrophe. But that does not resolve the issue in India; the Indian peasant is, if anything, slightly better off today compared with his father—even after twenty years of high population growth. If chaos is imminent, there should be more obvious signs.

Impending catastrophe is not the only grounds on which coercion may be justified, of course. To move 80 percent of India's population from an extremely dismal living state to a very dismal living state over twenty years is no great achievement. To enable marked improvements in the life of Indian peasants to occur over twenty years instead of a hundred may be justification in itself.

However, coercion also entails potential moral and political consequences. Compulsory sterilization, even if only partially enforced, will force some people into conforming while others, living in fear of the government, might turn to bribery and other evasions in order to avoid compliance. In turn, a dictatorial government could use the law selectively to punish dissidents and political opponents. Ultimately the increase in corruption and cynicism invites further disloyalty to the government. The poorest and most powerless would be most affected, since they are least likely to be able to buy out of or otherwise evade the government "nets." The program could also further undermine whatever respect exists for the practice of family planning itself, and weaken whatever cohesive forces and values presently hold the society together. On the international level, the introduction of coercion will weaken recent documents signed by India, such as the UN Declaration of Human Rights and the World Population Plan of Action, as well as damage the relatively recent global movement toward voluntary adoption of family planning.

Furthermore, ethical positions should be at least partly dependent on available factual information, and we are now beginning to gather information on measures that might reduce population growth rates. The recent experiences of South Korea, Taiwan, and West Malaysia suggest that for many poor countries a number of concurrent reforms are necessary. Income redistribution, lowered infant mortality, improved literacy, and readily available family planning services and information may be insufficient in themselves, but together they constitute a "package" which significantly improves the lot of the poorest so that smaller families become a more attractive alternative.

In the face of this admittedly preliminary evidence, coercion is certainly not the only route away from chaos. But the "package" alternative is expensive and gradual, and provides few short-term indications of improvement. The natural tendency is to look for a shortcut. When a number of governments rushed to introduce or endorse national family planning programs in the mid- and late-60s, the major rationale was that these programs were a shortcut to socioeconomic development. Population growth (of say 3 percent) was seen to sap economic growth (of say 5 percent) so much that economic improvements had little impact. Provision of family planning services was seen as a means to remove this obstacle to development. The disappointing response to these family planning programs led to the introduction of positive and negative incentive schemes to increase motivation for adopting contraception—payments for "motivators" and "acceptors" and taxes on the N + 1 child, for example. The impact of incentives on birth rates has been equally disappointing. When leaders think only in terms of shortcuts, coercion seems a natural next step.

Ironically, it is precisely because reproductive coercion is a shortcut that it will not succeed. India, like other poor countries, has a long history of nationally-planned development programs which have failed in implementation. Confusing and sometimes contradictory policies and programs have resulted from the polyglot of very different states and castes. Corruption saps effectiveness. And, as the national Minister for Health and Family Planning admits, the lack of an adequate "administrative and medical infrastructure" makes policy implementation difficult.

To implement successfully an effective compulsory sterilization program will require complicated record keeping, readily available health facilities, and a highly committed police force or army. India has over one million people in its armed forces, so one of these requirements may be met. However, even regular bureaucratic recordkeeping is unpredictable at best, and the lack of an adequate health infrastructure (one doctor for over 4,000 people, one hospital bed for 1,500 people) is one of the causes of the failure of the family planning program itself.

If India were ready for the successful introduction of compulsory sterilization, it would also be ready for development, since much the same infrastructure is required. Socioeconomic reforms need to accompany a family planning program so that individuals will be motivated to use the program. Such reforms are more long-term and costly, but to bypass them with compulsory sterilization simply delays them and makes them even more expensive.

The Gandhi government has embarked on a course of action which can only lead to the introduction of compulsory sterilization. Yet the very problems which constitute the rationale for that action will prevent compulsory sterilization from affecting the birth rate markedly. What then will the government do when even its strongest population policies fail?

THE "ATLANTA DECLARATION" AND SCHOLARLY EXCHANGES WITH THE SOVIET UNION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. McDONALD. Mr. Speaker, on June 14, 1976, I placed in the CONGRESSIONAL RECORD an item dealing with the unfairness of our so-called scholarly exchanges with the Soviet Union. This item appeared on page 18123. The concern over these cultural exchanges was first expressed in the so-called Atlanta Declaration issued on May 27, 1976, in Atlanta during the annual meeting of the American Association for the Advancement of Slavic Studies, by certain persons expressing a common dissatisfaction over the inequality of the exchanges. The declaration, presented in the form of a petition to the International Research and Exchange Board—IREX—which handles these matters, has received a rather chilly reception, but the points it makes are still valid in my view. The text of the declaration follows for the edification of my colleagues:

ATLANTA DECLARATION

To: Congress, American Council of Learned Societies, Ford Foundation, International Research and Exchange Board (IREX).

From: Scholars Concerned about Cultural Exchanges.

We the undersigned, specialists in Russian and Soviet culture, respectfully solicit your assistance in urging Congress to implement the following:

(1) Publication of the criteria used by the International Research and Exchange Board (IREX), funded by the State Department, Ford Foundation and the American Council of Learned Societies, to determine the allocation of exchange facilities to recognized academic disciplines. (How many historians? How many physicists?)

(2) Publication of an independent audit conducted by the General Accounting Office (GAO) or similar appropriate body of the quantity of man-months spent in unimpeded research calculated by disciplines at appropriate facilities by Soviet exchange scholars in the United States and American exchange scholars in the USSR since 1959.

(3) Implementation by the International Research and Exchange Board (IREX of the principle that the US–USSR Cultural Exchange is to operate on the basis of equal labor time (e.g., man-months) expended in appropriate research facilities, access to which is guaranteed by the host country.

(4) Establishment of an insurance program to compensate scholars for lost labor time if access to appropriate facilities guaranteed by treaty is unreasonably delayed (e.g., more than 30 days after arrival in the host country).

(5) Establishment of a monitoring service, independent of IREX and the State Department, to invigilate implementation of cultural exchange agreements between the US and countries of different social systems, such monitor to have and enjoy diplomatic status in counterpart countries while present in the performance of his duties, and to report directly to the Congress on an annual basis.

(6) Negotiations of multiple entry visas for scholars exchanged under provisions of existing cultural exchange agreements.

TRIBUTE TO RUTH KIRZON GROUP FOR HANDICAPPED CHILDREN, INC., 30 YEARS OF OUTSTANDING HUMANITARIAN SERVICE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, Septembe- 8, 1976

Mr. BIAGGI. Mr. Speaker, it is my distinct privilege and pleasure to pay tribute to the Ruth Kirzon Group for Handicapped Children, Inc., located in the Bronx, N.Y., which will be celebrating their 30th anniversary on October 30.

For three decades the dedicated volunteers who work for the Ruth Kirzon Group have provided a wide range of important services for handicapped children in the Bronx. Included among their services is their annual scholarship awards for outstanding handicapped high school graduates. This year 10 scholarships were awarded. The scholarship committee is headed by Jean Wachpress and Ruth Gladstone.

Remarkably, the Ruth Kirzon Group has existed and succeeded for the past 30 years without the benefit of Federal, State, or local assistance. They utilize the services of hundreds of volunteer personnel who are all united in their concern and compassion for handicapped children.

Organizations such as the Ruth Kirzon Group are really what America is all about; namely, people working with and for other people. The Ruth Kirzon Group has provided opportunities for handicapped children to live a productive life. Their employees seek no monetary reward, their reward comes in the form of the satisfaction which they get helping those less fortunate than themselves.

I wish to both commend and congratulate the fine human beings who make up the Ruth Kirzon Group for Handicapped Children, Inc. I especially wish to pay tribute to the officers of the group—President Sylvia Caston, First Vice President Sonya Cantor, Second Vice President Mollie Katz, Third Vice President Frances Rosenbaum, Treasurer Florence Vogel, Recording Secretary Nancy Bentley, Corresponding Secretary Blanche C. Riflin, and Financial Secretary Hannah Deutsch. All of these women deserve special praise for the leadership they provide.

I extend my best wishes to the Ruth Kirzon Group on this important event in their history and wish them continued success in the future. Allow me to quote one of their mottoes which will help my colleagues to understand the Ruth Kirzon Group as it is:

> It is the firm and unshakable belief of the more than 300 dedicated volunteers of the Ruth Kirzon Group that charitable assistance, properly given to a handicapped young person, assures the development of an adult who is independent and self-sufficient.

THE MYTH OF THE CRUISE MISSILE EXPOSED

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, it seems now that the debate over the B–1 bomber will proceed interminably. The arguments have become tedious as harmful misrepresentations by those who waffle on our Nation's security are made again and again.

One such fallacy is that the B–1 would cost $92 billion. In reality, 244 of these strategic bombers will cost about $30 billion, or 1 percent of the defense budget during its expected 30-year lifetime.

Another widely publicized deception is that the cruise missile would be the perfect alternative to the concept of a manned bomber. Careful study of the situation proves otherwise.

Opponents of the B–1 suggest that 50 of these small missiles launched from a wide-bodied aircraft like the Boeing 747 would be more cost-effective. The truth is that, for the aircraft component alone, $60 million per plane would be required to make the necessary modifications and improvements.

Furthermore, a cruise missile defense would not be ready until the late 1980's at best. This delay would assure Russian superiority during that decade.

The story also begins to crumble when cruise missiles are examined for survivability. For an excellent discussion of their inability to defeat enemy targets, I am submitting for the RECORD an article by William C. Moore which appeared in the September 3 Los Angeles Times. "Cruise Missile Misfires as a Substitute for B–1" presents a voice of reason and factuality rarely heard in this emotional debate. It makes clear that our forces must include the B–1 if we are to be assured strategic parity, and ultimately the opportunity for survival:

CRUISE MISSILE MISFIRES AS SUBSTITUTE FOR B–1

(By William C. Moore)

The B–1 bomber is now in a holding pattern. It was put there this week when a House-Senate conference committee agreed to fund the controversial supersonic aircraft at a minimal level until the next President can decide whether to switch on the afterburner and really get the plane moving.

Meanwhile, as debate over the project intensifies, the thrust of the opposition argument will still go something like this: The B–1 is simply unnecessary, for the so-called cruise missile will assure our defensive posture well into the 1990s, obviating all the expense and bother of developing a new generation of supersonic bomber.

Cruise missiles certainly have their potential but some of the claims made for them give pause. Are they really as good as all that?

According to their most ardent supporters, these weapons—which are, essentially, small winged aircraft carried, in folded form, by larger planes—have the potential to revolutionize modern warfare by reversing U.S. dependence on nuclear capability.

The reason is that these highly accurate yet inexpensive missiles would enable the United States to respond to a Soviet attack without using nuclear weapons. If it is true, moreover, that cruise missiles can be effectively carried and fired by B-52s—or even 747 jumbo jets—then that eliminates any essential role for the B-1 bomber, as some media commentators and even some military strategists are maintaining.

But high hopes for the cruise missile raise two vexing questions.

One requires response by those aforementioned "experts" of the press, the other by professional military men who will have to prove in combat whether such optimism is justified.

The first question: *Do official reports of the Department of Defense reflect the optimism widely voiced in the popular press?*

The answer is no. Secretary of Defense Donald Rumsfeld agrees with his predecessor, James Schlesinger, that the cruise missile still needs proof of concept. Both have suggested, however, that the missile has promise if used in a supplementary role to increase the future utility of B-52s attacking lightly, as opposed to heavily, defended targets.

According to both Rumsfeld and Schlesinger, a research and development program for the missiles should be continued because they involve promising new technologies in engine design, fuel use and navigational accuracy while flying at extremely low altitudes—technologies that could well be useful in developing future, better weapons.

The second question: *How effective will the cruise missile be in combat?*

To military commanders, the answer is fundamental. It matters not whether the cost is high or low. Hitting the target is what counts.

The concept of cruise missiles is not new: The German "buzz bomb," or V-1, which struck targets in England during the latter phases of World War II, was an early version of the cruise missile. During the 1950s the United States itself deployed several cruise-type missiles—the Matador (later redesignated the Mace), the submarine-borne Regulus, and the intercontinental SNARK. Ultimately these systems were phased out in favor of more modern weapons.

But technological advances in the past few years have made the new crop of cruise missiles more reliable than those of the past. Comparatively small and able to fly at very low altitudes, they are hard for the enemy to detect. An improved navigation system, moreover, provides greater accuracy.

These are desirable attributes. But the fundamental requirement of a weapon is that it be able to evade enemy defenses, reach its destination, and then destroy its target. The cruise missile can meet these requirements only against lightly defended areas. Thus, as Secretary of the Air Force Thomas C. Reed has said, cruise missiles cannot fulfill a retaliatory role if the need should arise in the 1980s. That is because all targets of any significance in the Soviet Union, then as now, will be highly defended.

A cruise missile would be unsuccessful in attacking such a target for two main reasons:

—Its speed is comparatively low—less than that of current first-line fighter aircraft, and much less than of prototypes of the B-1.

—It lacks any electronic countermeasure capability. A cruise missile does not "know," for example, when enemy radar is tracking it, or when an enemy missile has been fired at it, and so it cannot "know" when or how to take evasive action.

Lessons learned in the Yom Kippur and Vietnam wars prove conclusively that highly defended targets can be attacked successfully only by manned aircraft with speeds nearly 50% greater than those now possible for the cruise. In addition, the aircraft must be able to jam enemy radar and must be equipped with "black boxes" that tell pilots when to take evasive action if a missile is fired at them.

Even with such capabilities, Israel suffered significant aircraft losses during the Yom Kippur war. Yet Egyptian defenses were neither as dense nor as sophisticated as those operative in the Soviet Union, and by the 1980s—the earliest that the cruise missile could be deployed—Soviet defenses are sure to be even more formidable.

To overcome expected Soviet advances, the Defense Department has already initiated research and development on an advanced strategic air-launched missile (ASALM), which combines the features of cruise missiles and rockets. Carried by aircraft like the supersonic B-1 bomber, the ASALM would have a prospective speed six to eight times as great as the cruise missile's. Armed with this high-speed projectile, bombers would be able to fight their way into the Soviet Union and effectively attack highly defended targets.

This is not to say that cruise missiles would never serve a military need. Armed with them, bomber pilots could fly into highly defended areas and launch cruise missiles against lightly defended targets on either side of its flight path.

So the cruise missile does have a potential function, but it is not—and cannot be for a long time to come—the superweapon its supporters claim it to be. It is certainly no substitute for the B-1 bomber.

BILL HUNGATE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. CARTER. Mr. Speaker, it has been my pleasure to serve with BILL HUNGATE for 12 years. I have known him as a man of honor, of intelligence and of wit. In fact, he is a congenial gentleman. BILL is talented, he composes, sings, and plays the piano with an effect very pleasing to the ear. It is with extreme regret that I see a man of so many talents retire from the House.

Sometimes only we, as his colleagues, have the opportunity to appreciate fully BILL's wit and wisdom. The following letter is an example of the "in-house" humor with which BILL has blessed us in his years here, and I enclose for the RECORD its text for the enjoyment of all:

WASHINGTON, D.C.,
September 7, 1976.

DEAR DOC: As my term nears its end—and the days grow short as you reach November—I want to thank all of you, my colleagues, for your courtesy, kindness and most of all, for your understanding.

The House is a fine school. In it we sometimes learn the most from those with whom we disagree.

Let me ask one last favor. Please think of me whenever:

i. A constituent at a statewide rally leans into your face and bets "You don't know my name, do you?" And, you don't!

ii. A colleague speaks one way and votes the other (you might say "the S.O.B. Hungated").

iii. You write a personal letter frankly expressing your views on some delicate issues such as gun control, abortion, busing and marijuana and you find it has been published in the paper.

iv. The *Democratic** Leadership (*may it be ever thus) has told you that upon completion of a non-controversial bill you may expect to adjourn by 4:00 p.m. Thursday and it's 7:00 p.m. Friday and 15 amendments are at the desk.

v. The news media does a story on your campaign financing and gets all the facts right,—you should live so long!

May the future bring all the best for you, your family and friends. And may your mother never find out where you work. As for me, I must now play my piano in another house.

With affectionate regards, I remain,
Sincerely yours,
WILLIAM L. HUNGATE.

LONG BEACH AREA ATHLETES PARTICIPATE IN OLYMPICS

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. HANNAFORD. Mr. Speaker, I take this opportunity to laud the accomplishments of 30 young men and women from the Long Beach area in southern California who will be honored by the Long Beach Century Club on September 14, 1976. Deborah A. Ayars; Jack Babashoff; Les Berman, coach; Sherry L. Calvert; Gene Davis; Pat Donnelly; Rayfield Dupree; Lelei A. Fonoimoana; Bruce M. Furniss; Steve C. Furniss; Lisa C. Hansen; Lawrence T. Hart; Annette L. Hilliard; Joni Huntley; Francie Larrieu; Joan L. Lind; Mark E. Lutz; Karen McCloskey; Thomas McKibbon; Anthony J. Montrella, coach; Irene Moreno; Joan K. Schmidt; Claudia Schneider; Albert Schoenfield, assistant manager; Tim A. Shaw; Dwight E. Stones; Rodney Strachan; John Van Blom; Martha Watson; and Leslie Wolfsberger were members of the 1976 U.S. Olympic team which recently finished competition in Montreal, Canada.

I am sure that all of us in the Congress feel a deep pride in the achievements of the Olympic team at Montreal. But few of us can understand the sacrifice these athletes have made and the painfully hard work they have invested in reaching the Olympics. The Olympic athlete and coach are the personifications of self-discipline, commitment, and competitive excellence, and each of these individuals represents the finest of these ideals.

It is the obligation of the Congress not only to assess the liabilities of our country but to call attention to its assets. Men and women such as these clearly fall into the latter category. It is my privilege, therefore, to enter the names of these individuals into the RECORD of the Congress of the United States and to commend them for their outstanding achievement.

FIREARM VIOLENCE

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. D'AMOURS. Mr. Speaker, I would like to insert into the RECORD an edited article entitled "Handguns, Gun Control Laws and Firearm Violence," published in Social Problems.

The article, written by Prof. Douglas R. Murray of the University of Wisconsin, examines the relationship between gun control laws, access to handguns, and the incidence of violence associated with firearms.

The study is notable for its comprehensiveness. It incorporates laws and statistics from all 50 States. It also takes into account sociological factors relating to crime; that is, poverty, race, and education, as well as population and occupational status.

The article is also significant because it focuses on small handguns which, because of their low price and small size, are readily available and easily concealed. These so-called Saturday night specials are also the primary concern of law enforcement groups and the Congress in regards to possible control measures.

Based on the strong statistical evidence in his study, Mr. Murray is led to the ultimate conclusion that—

> Gun control laws have no individual or collective effect in reducing the rate of violent crime.

Professor Murray further indicates that possession of a firearm is principally a result of basic social conditions. The high rate of violent crime appears traceable to a much deeper source than the mere availability of weapons. Gun control laws, by inference then, treat only the symptoms of the problem—not the actual causes.

My goal in introducing Mr. Murray's work is to bring the information it contains to the attention of my colleagues and the general public. The Congress has been, and will be, asked for legislation relating to gun control. I feel the topic is of sufficient importance and complexity to warrant the dissemination of as much relevant information as possible. I firmly believe this article is an important addition to the list of materials on gun control that have already been inserted into the CONGRESSIONAL RECORD.

I urge my colleagues to read the article and give it careful consideration.

[Reprinted from Social Problems. Vol. 23, No. 1, October 1975]

HANDGUNS, GUN CONTROL LAWS AND FIREARM VIOLENCE*

(By Douglas R. Murray, University of Wisconsin)

HISTORY AND LITERATURE OF GUN CONTROL LEGISLATION

The main focus of this paper is upon handguns which, because of their low price and small size, are the weapon of choice for most criminals. It is not surprising that the great bulk of (proposed) legislation concerning firearms centers on pistols of various kinds, particularly the "Saturday night special." Today every state in the country has legislation pertaining to the purchase and possession of such firearms.

But there is little empirical research in this field. Most of the writings are attempts to justify political prejudices whether for or against restrictive handgun legislation. Even the President's Commission on Law Enforcement and Administration of Justice makes such statements as the following: "Federal Bureau of Investigation statistics demonstrate that a higher proportion of homicides are committed with firearms in those areas where firearms regulations are lax, than in those areas where there are more stringent controls" (1967:241). The statement is followed by a comparison of Dallas and Phoenix, representing low restriction cities, to Chicago and New York as high restriction cities. This sample of four cities is the only proof provided for the above contention.

Only slightly better is an article by John M. Snyder (1969:55), an editor of the American Rifleman, the official publication of the National Rifle Association. He stratified the fifty states into three samples according to the severity of their gun laws and compared the crime rates of the three groups of states. He found that those states with lower rates of gun control had lower rates of homicide in general.

One unpublished study (Newton and Zimring, 1970:182) by the Olin Mathieson Co. concluded from a multiple regression analysis that those states with gun licensing laws do not have significantly lower rates of homicide than those which do. While this research has many limitations, both in scope and methodology, it is better than most. Nevertheless, many people might question any study published by the firearms industry.

Methodologically speaking, the most sophisticated study is that of Geisel, Roll and Wettick (1969). Selecting a sample of the fifty states and all cities over 100,000 population, they constructed an index of major gun laws all combined together and weighted to maximize the variance explained in certain crimes. Using multiple regression, they also included the social factors which are so important. They reported regression coefficients, 95% confidence intervals, probabilities of sign error, and corrected coefficients of determination. Since they concluded that gun control laws do have significant effects, they also provided estimates of how many lives would be saved if the laws were brought up to certain levels of strictness.

The use of this weighting scheme[1] has several disadvantages. One is that it condenses gun control laws into only one variable, limiting the opportunity to explore individual effects by given laws. Another problem is that the weighting is evidently done at the same time as the social variables, possibly diminishing the effect of those social factors which almost certainly play a greater, prior, causal role than do the laws. Thus we are given the entire equation and cannot see the effect of adding the law variables to ascertain whether they actually explain additional variance. To derive the weights, Geisel et al. tried thirty different combinations. It seems quite likely that such random testing could produce weights that are the result of chance correlation with the dependent variables and consequently are probably useful for only this one data set, severely limiting the generalizability of their conclusions. Moreover, the random weighting may pick up variance explained by other social factors not included in the equation.

Other problems of interpretation also arise. The use of unstandardized regression coefficients may be useful for translating to "real world" effects, but for the purposes of comparing the relative importance of variables, they are woefully inadequate. The use of the probability of sign error only tells what the chances are of the sign being in a given direction. Even then, only four out of fifteen of the equations produce law variables which are significant at the .05 level. In general, this study seems to have many major shortcomings. For research to be of any real value to the interested observer, it must avoid the more blatant errors which have thus far characterized empirical analysis in this field.

A very recent article by Zimring (1975) attempted to assess the impact of the Gun Control Act of 1968 on rates of handgun homicide and assault. He also explored the efforts of a few cities to limit these crimes through their special programs to control the interstate flow of handguns. In general, Zimring concludes that these laws have had marginal or nonexistent results because gun related crime and handgun ownership have both increased at a very rapid pace, having now become "at least a subcultural institution in the big cities" (1975:195). Given the limitations of the available data, he spends the bulk of the article discussing the problems associated with past and current gun control legislation and its implementation.

Studies conducted by Wolfgang (1958) and by Bensing and Schroeder (1960) have suggested that a large number of variables are related to high levels of crime, including poverty, lack of education, low occupational status, high density and overcrowding, substandard rental housing, large numbers of migrants, a high proportion Negro, need for various forms of public assistance, high urbanization and population. While the authors do not substantiate the causal linkages between these social conditions and crime, and it is not the intention of this study to do so here, it is nevertheless widely recognized that there is a strong association.

THE DATA

To begin the empirical analysis, measures of many of the above variables were gathered for the fifty states in 1970 from census and other federal sources and entered into a stepwise multiple regression routine, using a backward, .05 significance level, in-out selection procedure in an attempt to find those social factors which seem to explain the most variance in the rates of reported violence associated with firearms.[2] The results are most satisfactory in that these variables are able to explain between 66% and 81% of the variance as being associated with primary social conditions.

Since the basic concern is a test of the general hypothesis that the higher the restrictiveness of gun control legislation, the lower the rates of violence, this analysis continues by once again referring to Bakal. He summarized the major laws of all the states concerning handguns (1966:346–352). His method was to ask a series of questions and then provide a short answer.[3]

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* The writer wishes to express his thanks to Howard Erlanger and William Bielby for their useful comments and criticisms on earlier drafts of this paper. This research was supported in part by NCHS Grant TO1HS0091.

[1] On weighting schemes for composite variables, see Hauser (1972).

[2] Robbery, aggravated assault, death from accidents caused by firearm missile, suicide by firearm or explosives, and homicide by firearm or explosive. The crimes listed here are those in which firearms are frequently involved. The cause of death data are taken from the vital statistics and consequently, the homicide measure is "cleaner" than the F.B.I. material relating to the same subject.

[3] A very similar listing may be found in Newton and Zimring (1970: Appendix G). While the tabulation of such data is necessarily fraught with difficulties, Bakal provides the information in a format that is most amenable to coding into machine readable form.

(1) Is a license or permit required to purchase a handgun?

(2) Is a waiting period required between purchase and delivery of handgun?

(3) Are handgun sales reported to the police?

(4) Is a license required to sell handguns at retail?

(5) Is there a minimum age requirement to buy or receive a handgun?

(6) Is a permit or license required to carry a handgun openly on the person?

(7) Is a permit or license required to carry a handgun concealed on the person?

GUN CONTROL LEGISLATION AND VIOLENCE

At this point, a clearer specification of the hypothesis is in order. If the primary causes of crime and accidents lie in the harsh social conditions in which people live, what additional effect on the incidence of firearm associated violence is there that may be attributed to the severity of restrictions imposed by differential state legislation on the purchase and possession of handguns?

It is implicit in the arguments of the proponents of such legislation that such laws should play a significant part in lessening crime. To this end, addition of these law variables, separately and collectively, to the social, "causal" model which has already been established should result in a significant (one-tail test at the .05 level of significance) increase in the amount of variance explained and at least one significant standardized regression coefficient.

The results of this regression analysis indicate that, in general, the severity of handgun control laws has no significant effect on the violent crime rates of the fifty states.

To reach this finding, four violent acts[4] were "predicted" from measures of social conditions contained in the 1970 census. Then, each of the seven gun control laws was added to each of the four "predictor" models to see if they had a significant impact. Out of the resulting twenty-eight equations, not one law had a significant effect on a single measure of violence.

When the seven laws were simultaneously added to the models to test for their collective effect, the total variance explained did not increase significantly. Only in the case of aggravated assault did any of the individual laws within the group prove to be statistically significant. However, this probably is a chance occurrence because while one of the laws (minimum age requirement) was significant, all of the other six law variables in the equation were not able to achieve the specified significance level of $P = .05$ in a one-tailed test. Moreover, even though attempts were made to obtain the best measures possible, the aggravated assault rate is probably the least useful of the five acts of violence associated with firearms because, as the data in Newton and Zimring (1970:39 and 49) indicate, handguns are used in only 18 percent of all aggravated assaults. On the basis of these data, the conclusion is, inevitably, that gun control laws have no individual or collective effect in reducing the rates of violent crime.

At this point, a number of criticisms might be raised which could partially account for the strength and direction of these findings. For example, enforcement of these laws is erratic at best, and the various states have different penalties for violations. There is no way of controlling for such a factor as this which has such complex behavioral, as well as judicial, components.

Another problem is that of interstate traffic. As the President's Commission stated, "Strict controls by one State or city are nullified when a potential criminal can secure a firearm merely by going into a neighborhood jurisdiction with lax controls, or none at all (1967:240)." To the extent that there is a high degree of premeditation involved in the planning of these four violent crimes, this may be a valid criticism.

GUN CONTROL LEGISLATION AND ACCESS TO HANDGUNS

The criticisms raised can be subsumed under the general category of differential access to firearms. The failure of gun laws to control the use of firearms in the commission of violent crimes may be a consequence of the fact that these laws do not effectively limit access. This is an empirical question. What are the social factors related to the possession of handguns and do gun control laws have any significant impact on this phenomenon?

To answer this question, data concerning possession and ownership were gathered from two sources. In October of 1968, Louis Harris and Associates (Erskine, 1972:457) posed the following question to a national, randomly selected sample: "Do you happen to have in your home any guns or revolvers? If yes: Is it a pistol, shotgun or rifle?" The answers were categorized in terms of the percentage of households in the four geographic regions of the country who admitted having one or more shotguns, rifles, pistols, or any guns at all. In May, 1972, a very similar study was conducted by the Gallup Poll (Erskine, 1972: 157). They asked "Do you own a firearm? If yes: How many pistols, rifles, shotguns, muzzleloaders, or other firearms do you own?" The answers were classified in the same manner as the Harris study.

These data, concerning handguns as dependent variables, were entered into a stepwise regression analysis using the same census measures as independent variables as was done to predict rates of violent acts associated with firearms. Generally speaking, the data present no clear picture of the determinants of possession and ownership.

To these basic causal models predicting ownership were added the gun control law variables to see if they had any significant impact on the possession of handguns beyond the associated primary social conditions outlined in the two regression equations. Of the fourteen resulting equations testing the effect of each of the seven laws on handgun possession, two of the laws proved to have a significant impact on accounting for the differential distribution of guns. The two laws, concerning minimum age requirements and a need to obtain a permit to carry the gun openly, each passed the significance test at .043. However, the value of these two equations is open to serious question for a number of reasons. First, the effect is found only on the Harris measure of possession of pistols and not on the Gallup Poll[5] indicator of possession. Second, the impact disappears when all seven laws are added into the model simultaneously, an important consideration when one remembers that all of these laws are in existence together and are presumably exercising their effect concurrently with one another. A third point is the likelihood, given the large number of equations that have been tested, that there may be some "significant" findings that occur strictly by chance. With the .05 level of significance, this would result in approximately five Type II errors in every one hundred tests (given statistical independence).

The conclusion is clear. Gun control laws do not have any apparent effect on a large enough proportion of the population or on those critical elements of the population who are associated with violent acts to effectively limit access to handguns by those who want them. Instead, admitted possession is probably a result of more basic social conditions related to a specific functional need or personal hobby.

ACCESS TO HANDGUNS AND VIOLENCE

At this stage of the analysis, the data have indicated that gun laws have no effect on either handgun ownership or on crime rates, suggesting that this type of legislation is totally irrelevant to its stated purpose. Therefore, a return to the basic theory of firearms control legislation seems in order. As stated, the primary reason for the existence of these laws is to control access to guns so that guns are less likely to be used in acts of violence. Thus far, the relationship between gun laws and crime rates is nonexistent. The next and most obvious question now concerns the relationship between access to handguns and acts of violence involving handguns.

On the basis of rather limited studies, Newton and Zimring (1970:78) conclude that this linkage is quite real. They state, "Data from three sources document that the proportion of gun use in violence rises and falls with gun ownership. Statistics from Detroit show that the percentage of gun use in violent attacks parallels rates of gun ownership. A study of guns used in homicides, robberies and assaults in eight major cities shows that cities with a higher proportion of gun use in one crime tend to have a higher proportion of gun use in other crimes." Though using three different data sources, the methodology of these studies is pretty much the same. All tell us there is a very simple zero order correlation between firearm ownership and crime rates. If nothing else, this comparison ignores the importance of fundamental social factors which are the primary basis of human behavior. The question remains, then, whether this relationship continues to exist when we control for these social considerations.

The data from the first two sets of hypotheses were used to establish causal models of violent acts. The two categories of handgun ownership from both surveys were each added to the social predictor variables for each of the five acts for a total of ten models. If differential possession of handguns has any significant effect on the crime rate, then it should appear.

The results are, once again, quite limited. Adding the two measures of handgun ownership obtained from the Harris and Gallup surveys to the social predictor models of violent acts associated with firearms provided a total of ten tests of the effect of differential access to firearms. Out of these, only one, the Gallup indicator of pistol ownership, seemed to have a significant impact on raising the rates of robbery. However, notes of caution must again be sounded.

By using regional data concerning ownership of handguns and applying them to state measures of crime, this has the effect of inflating the size of the standardized regression coefficients and their significance levels beyond what might otherwise be obtained. Moreover, caveats concerning the fact that the same effect was not found for the Harris measure of pistol possession and the additional chance of Type II errors must be kept in mind.

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[4] For suicide and homicide, the latest available Vital Statistics material is for 1969; in the interests of comparability, the 1969 data for robbery and assault were also used although the Census material is for 1970. Accidental firearms deaths (1969) were not included in this specific analysis because it was felt that these gun control laws could not logically be expected to have an impact on random, non-criminal occurrences such as accidents.

[5] It may also be that the Gun Control Act of 1968 (signed October 22) may have been effective enough in prohibiting purchase of handguns by those under age 18 over enough cohorts so as to make the state minimum age laws superfluous by 1972.

On the basis of these data,[6] it seems quite unlikely that the relative availability[7] of handguns plays a significant part in explaining why some states have higher rates of acts of violence associated with firearms than others.

CONCLUSION

This study has examined three major sets of hypotheses derived from the literature concerning the relationship between handguns, gun control legislation and rates of violence. The study examined data from all fifty states within the very commonly used framework of multiple regression.

In the first set of hypotheses, it was suggested that the various types and severity of gun control laws should have a significant effect on lowering rates of violence associated with firearms. This relationship was not found. The second set of hypotheses concerned the relationship between gun laws and differential rates of possession of handguns throughout the country. Once again, controlling for basic social factors effectively demonstrates the spuriousness of this correlation and the data show that gun laws have no significant effect on access to firearms.

With the third set of hypotheses, the purpose was to determine whether the basic proposition upon which gun laws are based is valid; that is, whether differing rates of access to handguns have any significant effect on violent acts. These hypotheses were also rejected for the same reasons as the foregoing.

This research used nationally collected data readily available and ordinary multiple regression techniques of statistical analysis. Considering the importance placed by many observers on gun control legislation, it is all that much more interesting that all of the equations did not result in more significant effects attributable to the critical variables. These findings are a direct contradiction of the widely-held opinion concerning the relationship of firearms, gun control laws, and crime rates; although, of course, more research is needed in this area.

Former Attorney General Ramsey Clark (1970:101) has cited estimates that there may be as many as 200 million guns among the civilian population of this country. Any attempt to exercise any form of control over them would be an extremely difficult undertaking. Even relatively low level legislation, as registration, would cost several hundred million dollars, at a minimum. Confiscation and purchase, at an average of $50 each, for example, would mean an investment of possibly $10 billion! Any such legislation would be seriously resisted by both criminal elements and those with strong moral objections to the laws. Even a one percent noncooperation rate, low as that is, would still mean 2,000,000 guns (especially pistols) unregistered and hundreds of thousands of normally law-abiding individuals suddenly labelled as criminals. If the law cannot control such highly visible criminal activities as drug trafficking, gambling, and prostitution, with their continuing sales of commodities and services to the general public, then it seems unlikely that it could control the one-time sale of an item that can last for generations. The basic question is, then, are we willing to make sociological and economic investments of such a tremendous nature in a social experiment for which there is no empirical support?

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[6] While one may rightfully criticize the accuracy of the information derived from either of the two surveys concerning ownership and possession of firearms, these two independent bodies of data do substantiate each other as regards the general conclusions of this paper. This occurs in spite of the fact that the statistical properties of regional measures applied to state data would tend to act against the findings that were actually obtained.

[7] This conclusion is supported by Wolfgang (1958:81–82) who stated, "Several students of homicide have tried to show that the high number of, or easy access to, firearms in this country is causally related to our relatively high homicide rate. Such a conclusion cannot be drawn from the Philadelphia data. . . . [I]t does not necessarily follow that the relatively high homicide rate in this country is merely due to greater accessibility of such weapons." Nevertheless, Wolfgang remains a very strong proponent of the strictest of gun legislation, writing in a letter to Time magazine (July 5, 1968:6), "I have consistently favored the most restrictive legislation the Government can obtain from Congress." He suggested that the government confiscate virtually all firearms in this country with compensation at current market value.

CAPTAIN OF POLICE ALBIN HEGGE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ANDERSON of California. Mr. Speaker, when a policeman reaches his time for retirement, it is always a special occasion. It means that a person who has devoted his life toward serving and protecting society can now relax and enjoy life—and, at the same time there is a note of sadness, as there is whenever men and women who have worked together must bid farewell to one of their own.

Thus, it was on June 25 of this year, when Capt. Albin Hegge of the Los Angeles Police Department retired after more than 29 years of duty. Captain Hegge was commanding officer of the Harbor Area Support Division at the time he stepped down, and the men and women he worked with, along with a grateful community, will miss him greatly.

Born on October 30, 1922, in Sherman, S. Dak., Albin Hegge served in the U.S. Air Force during World War II as a first lieutenant. After coming to the Los Angeles area, he entered the Los Angeles Police Department on March 16, 1947.

On January 9, 1957, when he was appointed sergeant of police, Albin Hegge began his rise through the ranks. He became a lieutenant on the force on May 1, 1965, and was appointed captain of police on January 6, 1974.

In his long and successful career with the department, Captain Hegge—or Al, as he was known to his many friends—served in many areas of Los Angeles before coming to our own Harbor Area. He also held several commands, including the Venice Detective Division, Central Support Division, and the Harbor Support Division.

Captain Hegge holds a bachelor of science degree in police science from the California State University at Los Angeles, and a master of science degree in public administration from the University of Southern California. With his lovely wife, Bonnie, he has been a resident of Lomita for the past 20 years.

The Los Angeles Police Department is known as one of the best—if not the best—police departments in the Nation. The reputation of the members of the Los Angeles Police Department for honesty, efficiency, and good community relations has been well earned. Capt. Albin Hegge, throughout his many years with the department, has been the epitome of this spirit, bringing with his outstanding qualifications, a true understanding for his job.

My wife, Lee, joins me in congratulating Albin Hegge on his retirement after an outstanding career of service to the people of our community. I understand that Captain Hegge and his wife are taking an extended Bicentennial tour of the United States, and we hope his vacation will be a safe and enjoyable one. We know that his wife and their two children, Barbara and Ronald, must all be understandably proud of Albin Hegge's outstanding career and many contributions to the Los Angeles area.

WHEELCHAIR OLYMPICS—OCTOBER 2, 1976

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. OTTINGER. Mr. Speaker, on October 2, 1976, more than 125 disabled athletes from Northeastern and Mid-Atlantic States will participate in the Second Annual Invitational Wheelchair Athletic Meet at the Burke Rehabilitation Center in White Plains, N.Y. This event is sponsored by the center in conjunction with the Tri-State Wheelchair Athletic Association and the Westchester County Office for the Handicapped.

The forthcoming competition should prove to be exciting for men and women of all ages who will compete in such events as the dash, relay, and slalom racing; javelin, discus, shotput, archery, table tenns, and weight lifting.

Burke Foundation, a longtime leader in innovative ways to aid the handicapped and physically disabled in all facets of their rehabilitative needs, is a 150-bed facility which has provided excellent services to the Westchester County population for a number of years. Within the past few years, a Day Hospital was begun under a grant from the Federal Government. This program helps a number of people on an outpatient basis receive the therapy they would otherwise not be able to get at home and provides a good opportunity to socialize with others who face the same obstacles. The response to this program was so great that the Day Hospital has now been incorporated into the center's annual budgetary needs as a permanent part of the center's activities.

I am privileged to be a guest at the meet and would like to take this opportunity to congratulate the participants as well as the Burke staff members who have given so much of their time to make this event possible.

HEALTH CARE

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. WIRTH. Mr. Speaker, "cost" is a discouraging word in the health care field and in the debate over national health insurance. As I have pointed out before, until we address this issue, substantial progress toward the goal of quality health care at a price that people can afford is unlikely.

Senator EDWARD KENNEDY, in an article published in the September issue of Human Behavior, explores yet another facet of the health care cost problem—the drain on the Federal budget caused by tax expenditures granted to a select portion of the population to cover their health care expenses. As Mr. KENNEDY points out, this money does not go toward the population hardest hit by the health care cost rise—the poor and the elderly living on fixed incomes.

I commend the article to my colleagues and trust that they, too, will take a closer look at the real health care costs, and the disposition of our limited economic resources in this area:

THE IRS HEALTH INSURANCE PROGRAM, REVIEWED BY SENATOR EDWARD M. KENNEDY

We already have a National Health Insurance Program and it's being run by the Internal Revenue Service.

One of the most cockeyed aspects of the current debate over national health insurance is the fact that the United States already has an NHI program. It's a $6 billion program now, and the cost will reach $10 billion five years down the road. This multimillion dollar program provides federal financial assistance for private health bills. It's not run by HEW, which carries out most federal health programs. It's not run by the Social Security Administration, which carries out Medicare. It's run by the Internal Revenue Service.

Yes, the IRS is running a national health insurance program in the United States, and it has been doing so for many years. The program is well-known to many taxpayers, because it is carried out through the tax laws. It consists of the deductions allowed for health insurance premiums and medical expenses.

So far, so good. But the actual effect of the program doesn't bear analysis. The IRS is running the kind of program that only the Mad Hatter and March Hare would understand. Four key aspects tell the story:

To qualify for the IRS program at all, you must owe some federal income tax. Otherwise, your health deduction can't be used. So, most low-income families and the working poor get no benefit at all from the IRS health insurance program, because they pay little or no taxes.

Even among persons who pay taxes, the only ones who can take advantage of the IRS health insurance program are those who itemize deductions. If you take the so-called standard deduction, you're out of luck. In 1974, only 36 percent of the taxpayers itemized their return; 64 percent took the standard deduction. In general, persons who itemize are usually those who are making mortgage interest payments, since the interest on the mortgage is large enough to make it advantageous for the taxpayer to forgo the standard deduction and itemize his or her deductions. So, the tax code has a national health insurance program, but it's mainly for homeowners, not renters.

Next, the IRS, like many private health insurance policies, has a "deductible" in its insurance program. Health expenses may be deducted only to the extent they exceed 3 percent of income. That eliminates most taxpayers, even if they are homeowners.

Worst of all, the IRS program also has a "coinsurance" feature. Again, many private policies do the same. Only this coinsurance is upside-down: the richer you are, the larger the share of your health bill the government agrees to pay. For those in the lowest tax bracket, after the three percent deduction is met, the government pays only 14 percent of the eligible health bill, and the taxpayer pays the other 86 percent. But for the wealthiest taxpayers in the highest bracket, the government pays 70 percent of the bill, and the patient pays only 30 percent.

The net result is an IRS health insurance program skewed in favor of wealthy homeowners, with everyone else left out or shortchanged. Such "red-haired, one-eyed man-with-a-limp" requirements permeate the tax laws, but they are especially offensive in a field like health, which ought to be a basic right for every citizen, not just an expensive privilege for the few.

The health deduction is one of over 80 federal subsidies called "tax expenditures," in recognition of the fact that the government spends money through foregone taxes as well as through the regular appropriations process. Other well-known tax expenditures include accelerated depreciation, the favorable low tax rates on capital gains, the tax exemption allowed for interest on municipal bonds and the investment credit for equipment and machinery. The most notorious tax expenditure was probably the 27.5 percent depletion allowance for oil, which gave away billions of dollars a year in lower taxes to the nation's largest oil companies, until it was finally repealed by Congress in 1975.

The amount of revenues lost because of such tax subsidies is large. Next year, it is estimated that tax expenditures will cost the Treasury over $105 billion, or more than the entire federal budget for defense. In fact, tax expenditures have been climbing even more rapidly than other federal expenditures, rising by 105 percent since 1971, compared with a rise of 96 percent in the traditional federal budget. Curiously, those who object the loudest to other federal spending rarely make a peep when tax spending is the issue.

To some extent, of course, no one is really at fault for the present system. The tax laws have grown like Topsy, without nearly enough analysis of the economic and social consequences.

Not all tax expenditures are bad. Some are efficient incentives for capital investment and for important social goals. But others are simply windfalls for the wealthy, wasting vast amounts of scarce federal dollars. The job of tax reform is to weed out this waste. At a time when Congress and the administration are putting basic federal spending programs under the microscope in such areas as jobs, housing, education and national defense, they can hardly do less for the massive spending that takes place through the tax laws.

Starting from scratch, no one would create a national health insurance program with such absurdities as the health deduction. Yet that is the form of national health insurance the Internal Revenue Service is carrying out.

The tax reform program I have been urging in Congress, however, does not touch the health deduction. That reform will have to wait until a genuine national health insurance program is set in place, with a more rational way of helping taxpayers pay their hospital and doctor bills and health insurance premiums. Until then the deduction will in all likelihood sit there unchanged in the Internal Revenue Code, a silent symbol of the foolish way we use our tax laws to pay for health.

DISTRICT OF COLUMBIA GUN CONTROL

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. DENT. Mr. Speaker, there appeared in the Washington Post on Thursday morning, September 2, a story regarding the effect of legislation which Congress passed last week to block the District of Columbia City Council's new gun control regulations. The story relates that the Congressional Research Service of the Library of Congress has prepared a legal opinion to the effect that the new regulations "should be considered valid" despite the passage of H.R. 12261 with an amendment which I sponsored.

The Post's story completely misinterprets the Library of Congress opinion, and I would like to take this opportunity to describe for my colleagues what that opinion really says.

In addition, since there seems to be some question about how the amendment which I offered to H.R. 12261 should be understood, I would like to comment on that as well.

First, the CRS opinion clearly states that the District of Columbia City Council had no authority to enact its new gun control regulations in the first place.

My distinguished colleague from Michigan (Mr. DINGELL) inserted into the RECORD of August 26 the text of the CRS opinion dated August 8, 1976 on this very point. It says:

> The conclusion of this report is that the (District of Columbia Firearms Control Regulations) Act is not valid.

A subsequent opinion prepared by the CRS, dated August 31, goes on to examine the effect of H.R. 12261, with an important qualification which the Post ignored. Namely, it is based on an assumption that the Council's action was within its legislative authority—a purely hypothetical assumption which CRS already had rejected, but posed for the sake of argument.

The Post does a disservice to the public when it fails to report that the regulation would be invalid even without passage of H.R. 12261, as the opinion plainly points out.

The purpose of my amendment incorporating into the Home Rule Act language specifically addressing firearms laws was intended to clarify and reaffirm, not add to, the prohibition on City Council legislation on this subject. That was necessary because the Council was attempting to circumvent this restriction through a flimsy assertion that it was not enacting laws, just "changing regulations." H.R. 12261 is intended to nip this foolishness in the bud without having to go to court just to keep the Council from abusing its authority.

With respect to whether my amendment to H.R. 12261, the pending D.C. gun regulations, I am quite surprised that the CRS study of the floor debate on Monday, August 23, misses completely the basic thrust of my statement, which was highly critical of the pending regulations. It also misconstrues several comments which I made in the course of answering questions.

At no time did I say that my amendment would not affect the pending gun regulations. Indeed, that was the entire point of my amendment. What I did say was that my amendment would not affect the gun control regulations which already are in effect in the District of Columbia.

These regulations have been in effect for the last 8 years, and are not the same ones pending in the Congress.

The CRS thinks my response to the question from the gentleman from Texas (Mr. PAUL) suggests otherwise. What I said was:

> I would answer by saying that the proposal of the gentleman from Michigan, the chairman of the committee, does not in any way take away the right of the Council, except upon the passage of this act, to amend the criminal code, so that anything previous to the amendment to the act today would be in effect, if they put it in effect.

That simply meant that H.R. 12261, which was introduced by my colleague from Michigan (Mr. DIGGS) whose bill I was supporting, would not detract from the Council's authority to amend the criminal code after the period reserved exclusively to Congress expired in January 1979, and that any regulations which the Council, acting properly within its authority, had previously put into effect, would remain in effect.

My statement referred to the present regulations passed in 1968, and could not have referred to the ones now pending, since these have not yet been put in effect.

I am puzzled how the CRS or anyone else could think I was suggesting that the Council could amend the criminal code prior to passage of H.R. 12261. If there is anything on which everyone—on both sides of this issue—agrees, it is that the Council has been forbidden to amend the criminal code since January 2, 1975.

I elaborated further on this point in response to a question from my colleague from Illinois (Mr. MCCLORY). The Library of Congress paper seems to have ignored that statement entirely.

I said:

> At no time did I limit or make a direct statement that would lead any Member to believe my amendment to the Diggs amendment would change any part of the criminal code that was on the books prior to the passage of the original legislation by Congress which is being amended today.

The only statement made anywhere in the debate that the bill would not block the new pending regulations was made by Mr. DIGGS, in opposition to my amendment. With all due respect to my distinguished colleague, it hardly seems appropriate to interpret the intent of my amendment according to how it is described by one speaking against it.

I also take exception to another seemingly artificial qualification in the CRS legal opinion, which says that H.R. 12261, when "read alone * * * contains no language justifying application of its provisions to legislation such as the Firearms Act which was enacted prior to its passage."

It would be a strange rule of statutory construction indeed that required an amendment to be "read alone" to interpret its meaning. All of the language of H.R. 12261 consists of amendments to section 602(a)(9) of the D.C. Home Rule Act, and none of added words are even complete sentences.

The only sensible way to interpret H.R. 12261 is to read it together with the provision of law it amends. When read in this context, it obviously was not necessary for H.R. 12261 to contain any specific provision for retroactive coverage. Such an effect is already "built in."

Existing law forbids the Council from amending the code for 24 months beginning on January 2, 1975. Unless that starting date were also amended—and it was not—any clarification or modification of that section likewise relates to the 24 months following January 2, 1975.

I hope that my colleagues will take the time to review this matter and satisfy themselves that the action taken August 23 accomplishes what I intended.

MANNED BALLOONS FOR AIR QUALITY MONITORING

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BELL. Mr. Speaker, I would like to call to the attention of my colleagues in the Congress a most interesting and innovative project currently being conducted by the Aerospace Corp. in my congressional district.

The program, known as the ATMOSAT project, involves the use of manned, superpressure balloons for scientific air-quality monitoring.

The project has already conducted three manned flights of almost 100 hours total duration in the balloon ATMOSAT America. The first flight was launched on February 18, 1976, from Rancho Palos Verdes, a suburb of Los Angeles, and after a flight slightly in excess of 30-hours duration, landed at Lukeville, Ariz.

The second flight was launched from San Angelo, Tex., on April 18, 1976, and landed near Goodland, Kan., and the third flight on July 2, 1976, flew from Rancho Palos Verdes in California to Death Valley.

Thomas F. Heinsheimer, director of the ATMOSAT project, has asked me to indicate the project's readiness to assist local, State, and Federal air pollution control programs through use of this new and important monitoring platform.

I also wish to insert in the RECORD at this point a brief description of the ATMOSAT program which was provided by the Aerospace Corp.:

THE SCIENTIFIC MISSION OF "AMERICA"

The ATMOSAT "America" follows in the nearly 200-year tradition of scientific application of manned balloons. The flights of such manned balloons provide a unique opportunity to precisely measure the composition and motion of the atmosphere around them. "America" will carry special instruments to perform these measurements.

As a "traveling weather tower," "America" will concentrate on pollution and meteorological studies. Instruments will be mounted at various levels along the "tower" to measure air temperature and turbulence. This will permit analyzing the fine structure of a layer of the atmosphere, which can be measured only by a vehicle moving freely in that layer of air.

"America's" helium gas temperature will be monitored to detect changes in heat radiation—infrared rays streaming upward from the earth. As it flies over cities, deserts, forests, lakes, and mountains, at altitudes ranging from 1,000 to 14,000 feet, this radiation will vary—and its effects will be recorded on board.

The experiment is the forerunner of an ambitious infrared radiation monitoring experiment planned for later in the decade. That experiment would use larger 30-meter unmanned ATMOSATs flying in the stratosphere (60,000-feet altitude) to analyze the heat balance between the Earth, lower atmosphere, and stratosphere itself.

TEST PROGRAM

Before the production of these larger ATMOSATs, carrying one-ton payloads into the stratosphere, a test program using less ambitious 10-meter (33 feet) models is being undertaken. In the past, a new balloon design was qualified by flying some 10 to 20 prototypes at the mission altitude, and each was equipped with a simple high frequency telemetry transmitter sending data back to ground stations. These balloons fly until they lose life and then fall into the sea; no recovery is attempted. Over the past 10 years considerable experience has been gained on the in-flight testing of Mylar superpressure balloons, and this experience forms the basis of the current ATMOSAT test.

"America," the first production 10-meter ATMOSAT balloon, however, will be used for extensive ground and low altitude testing before it is committed to a non-recoverable test flight. The most important aspect of this test is to thoroughly understand the thermodynamics of the balloon in all possible flight situations. This will assure that ATMOSAT never falls due to highly negative supertemperature of the helium, and that the scientific payload weight is not reduced because the balloon design is heavier than it should be.

"America" is constructed with a new high-strength material (Kevlar) which has made the design of heavy payload long-lived balloons a realistic goal. The possibility of supporting a one-ton payload at 60,000 feet is well within the strength limitations of a balloon having this material as its primary structural element. It is this potential that gave rise to the ATMOSAT program.

The balloon is made of a "sandwich" of materials:

An inner layer of Kevlar cloth to sustain the pressure loads.

A layer of bilaminated Mylar to contain the helium.

An outer sheet of aluminized Mylar to limit variations of helium temperature, and to protect the inner Kevlar layer from ultraviolet radiation.

MEASUREMENTS

During the three low level flights over various terrain, careful track was made of cloud cover above and below, solar elevation in daytime, air temperature, velocity of the balloon with respect to the air, etc. The thermal response of the balloon to its environment was noted by measuring helium gas temperature and ten skin temperatures of the balloon at regular intervals during the flight.

A typical set of measurements, to be repeated each 30 minutes, include:

Balloon location

Balloon altitude (and rate of climb, if any)

Balloon superpressure

Ambient temperature

Each skin and gas temperature sensor

Photos of surrounding clouds and ground

Comments of observer.

This data is subsequently analyzed, and the result will be an accurate prediction of the thermal situation to be faced by an operational ATMOSAT in the stratosphere, as well as a prediction of the load carrying capacity, altitude range, and lifetime of the subsequent stratopheric flights.

LATER FLIGHTS

In later manned flights of "America," pollution-monitoring will be stressed. A recent breakthrough in the technology of ozone detectors has produced an ozone sensor ideal for flight aboard a manned balloon. This device, an ultraviolet photometer, will permit the precise measurement of ozone concentration some two-three times per minute during the flight. This data, combined with "America's" position and altitude profile, will allow mapping of ozone along the flight path. As ozone is a particularly important pollutant, this data will be of special interest.

Work is also under way to provide instruments for the on-board measurement of oxides of carbon, nitrogen (the famous NOx), and sulphur. "Particulate traps"—small flasks containing special filters—also will be carried. At intervals during the flight, each flask will be unsealed and ambient air will be drawn through the filter, which will capture the microscopic contaminants. The exact location and altitude of the balloon will be noted in each case. The flasks and all other data will then be returned to the laboratories of The Aerospace Corporation and the Southern California Air Pollution Control District (APCD) for analysis. This will allow comparison of pollutants measured at altitude with those recorded at the same time by APCD instruments on the ground.

GONDOLA EQUIPMENT

To perform the low altitude flights, the gondola is equipped with a number of flight systems:

1) Flight Control System

a) Aircraft 720 channel communications transceiver

b) OMNI position receiver

c) Aircraft radar transponder

d) Pressure altimeter and rate-of-climb indicator

2) Balloon Technology System

a) Balloon superpressure gauge and audible pressure alarms.

b) Helium valve control unit

c) Thermistor array and readout monitor

d) Cameras, log books, data sheets and procedures

3) Power System—Four independent sources of 14-volt and 28-volt power to energize all systems using high capacity lithium batteries.

GOALS

In summary, the low altitude flights of the 10-meter ATMOSAT will then have these goals:

1) Collection of the necessary thermal data for design of the 30-meter stratospheric ATMOSAT

2) Accumulation of technical data on launch, flight, and recovery techniques of the new type of vehicle.

3) Scientific observations of the environment using instruments provided by interested laboratories or agencies.

PRESIDENTIAL CANDIDATES CANNOT IGNORE THE NORTHERN IRELAND CRISIS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BIAGGI. Mr. Speaker, as the Presidential campaign intensifies, the American voters will have a better opportunity to learn the respective candidates' views on important issues. Certainly in the area of foreign affairs a very vital issue is the future of Northern Ireland. For years, myself and other Members of Congress have sought to make this Nation take a more affirmative role in the struggle for peace and justice in Ireland. Our involvement to this point has been more negative than positive, and consequently, there is no peace today in Ireland.

Dr. Fred Burns O'Brien, Information Director for the Irish National Caucus, a leading Irish-American organization has prepared a position paper on Ireland. One of its main themes I vigorously support, namely allowing the right of self-determination to be given to the people of Ireland. This is a cause which should be championed by both candidates for President and the next Congress should also make as one of its early priorities, full hearings into the Irish question. I offer Dr. O'Brien's statement for the consideration of my colleagues:

[Prepared for the Honorable Jimmy Carter]

STATEMENT ON IRELAND

The foreign policy of the United States has in recent history been unresponsive to nations and peoples seeking national self-determination in identical perspective to that which the U.S. itself took by force of arms two-hundred years ago. You, Governor Carter, have stated you wish to return U.S. Foreign Policy to that status of respect in the world community, that America the leader of the free world, should be accorded. We in the Irish National Caucus agree with your assessment that foreign policy should not be the domain of one man, but responsive to, and with input from, the American people.

In our Bicentennial year, freedom, self-determination and national sovereignty are by-words of particular significance to Americans, and we would wish for their ideals to be accepted by other nations and would hope that those still harboring colonial states would concede to withdrawing in good faith from overseeing sovereign peoples as a humanitarian gesture.

In particular, recognizing the role of Irish-Americans in the American Revolution and throughout our history, we in America would wish for freedom and democracy for the Irish homeland now involved in a struggle for national self-determination. We would desire for our ally, Britain, to recognize the need for an orderly phased withdrawal from Ireland. This is of deep concern to the United States, because any war, revolution or insurrection engaged in by a NATO power directly affects the defense posture of Western Europe and the U.S., and in fact weakens that defense effort. We have witnessed turmoil in Cyprus as well as Ireland.

NATO cannot afford to be weak, but the conflict in Northern Ireland the past six years has weakened the organization. We encourage the British Government to declare its intention to withdraw from Northern Ireland so they and the Irish can work to be constructive neighbors, enabling the two islands to complement one anothers growth creating economic stabilization for both peoples.

The reknown British historian, A.J.P. Taylor, in an interview over Irish radio has called for such a withdrawal as the road to a cessation of longrange violence. Mr. Taylor's credentials, to observe and evaluate history, are impeccable and his reasoning to that effect should be heeded by the British. Britain's efforts in Northern Ireland are inconsistent with its role as a democracy. The stature of British democracy and its international reputation can only be enhanced by a humanitarian withdrawal from Ireland, and by providing economic assistance to an Ireland determined by the entire population of the island.

In this view, the United States would consider quite favorably offering economic aid to a peaceful Ireland ruled by the Irish people, an Ireland which would cherish culture, tradition, and heritage of all it's peoples regardless of religion.

We encourage Britain to help both Ireland and Britain by departing Ireland as it has done in other colonized areas. The greatness of Britain can be shown by assisting the Irish people not by maintaining jurisdiction over them. Britain has tried many solutions, perhaps with the best of good intentions, but their failure can be overcome by permitting an Irish solution with no British veto. A new Irish nation constructed by the Irish people as a neutral or NATO ally, is to the benefit of both Britain and the United States.

U.S. PEACE ROLE

The query: Should the United States become involved in Northern Ireland, is inoperative. There has been both direct and indirect aid, and a combination of both to Britain. British troops have been trained, weapons of varying degrees supplied, American replacements for NATO troops dispatched to free British soldiers for duty in Ireland. British agents allowed to investigate Irish-American activity, F.B.I. harrassment of Irish-Americans, revocation of the visas of the Republican Movement, and a chilling effect on legal political activities by illegal activities of U.S. law enforcement agencies. And now direct assistance to British authorities by sending U.S. agents to the North to help the British (a belligerent) to the detriment of Irish-Americans. It has gone too far.

The U.S. approach has been a severe blow to the credibility of American predominance as a free democracy, since policy has been to sustain the incursion of an aggressor nation. The Irish-American community would toil to terminate this innate proliferation of disaster, and re-establish the American conscience for the underdog, the oppressed, and those in rightful rebellion. We seek, therefore, to influence foreign policy to a sensible, rational, and truly neutral approach.

The Irish National Caucus enmeshed itself in Presidential politics in the key primary states of Massachusetts, New York and others. At the time of the first two primaries above, Senator Henry Jackson had given the strongest support to the Irish voters. The Senator condemned the treatment accorded the remains of martyr Frank Stagg and above all called for a declaration of intent for the British to withdraw from Ireland.

It is the policy of the Irish National Caucus to present statements and position papers to the endorsing organization, (i.e. the

Ancient Order of Hibernians), of the Irish community and allow their evaluation. The voter will judge on the basis of the strength of the candidate's statement.

The Caucus will maneuver after the National Conventions to seek position papers from Congressional and Senatorial candidates seeking response to interrogatories of Irish constituents. The Irish vote in 1976 will not be taken for granted by any candidate with no exceptions.

The United States government cannot afford to ignore the effects of the Irish American community acting on behalf of the Irish nation and the Irish people. The good offices of the United States must be placed in availability to the Irish people for a role in mediation of the Anglo-Irish dispute. The United States is quite suited for a role as mediator. The U.S. has a special relationship with Britain, Ireland and the Republican Movement. The latter element has modeled its efforts for self-determination after that of the United States and it holds the sympathy in varying degrees from the majority of the millions of Irish Americans.

We request that your Administration:

(1) Support a declaration of intent by the British to withdraw from Ireland.

(2) Recognize the right of self-determination of all the Irish people.

(3) Termination of F.B.I. harassment of Irish Ameriacns.

(4) Support for Full Congressional Hearings on Ireland.

(5) Restoration of visas to Irish Citizens of all political persuasions.

PATRIOTS' DREAMS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. EDGAR. Mr. Speaker, an inspiring sermon was delivered on July 4, 1976, by a resident of my congressional district, Rev. Donald C. Landis. The sermon, preached at the First Presbyterian Church of Glenolden, impressed a visiting government official, who suggested that I share it with our colleagues.

The sermon eloquently reviews some of the basic principals upon which our government has been founded. I agree that it merits the attention of all Members of Congress in this Bicentennial Year:

PATRIOTS' DREAM

(Sermon delivered by Rev. Donald C. Landis, First Presbyterian Church of Glenolden, Glenolden, Pa.)

America, the melting pot of nations, has from the beginning welcomed foreigners to its shores. America, the beautiful, as sung the glory of amber waves of grain and purple mountain majesties. America, the land of the free and the home of the brave, has led the world of the 20th century in science and technology. Writers, politicians, and philosophers have wrestled with the question of what holds this restless, striving, diverse population together in one nation. America is more than the sum total of various ethnic groups. America is more than resplendent geography. America is more than technology and productivity. Over two hundred years ago thirteen colonies gave birth to a new idea that was stated in the Declaration of Independence. That idea was the flintstone of democracy setting ablaze the torch of liberty. That idea, that commitment has kept this nation together through financial crises, civil war, and militaristic attack.

Governments, so states the Declaration, derive their "just powers from the consent of the governed." Now you might easily miss that phrase by a quick reading of the Declaration. But it's there, and it is equal to only one other thought in the Declaration—namely, that governments are instituted to secure the inalienable rights given all men by virtue of creation, which are life, liberty, and the pursuit of happiness.

The reason this idea was of such revolutionary importance was that it was totally new. Formerly, kings and monarchs had governed by the theory of the Divine Right of Kings. The Divine Right of Kings as it was called in the golden days of monarchy was simply that kings and monarchs ruled by virtue of the providence and will of God, and therefore, to oppose the king was to oppose God. Obviously, with politics and religion so joined it was impossible to criticize the government without at the same time judging God, which was an intolerable thought. For the first time in human history, the Declaration gave a new rationale to human government; the just powers of government derive their legitimation, not from God, but from the just consent of the governed.

Now, it was not that the drafters of the Declaration were specifically anticlerical, anti-God, or anti-church. They were simply faced with the dilemma of correcting the abuses of monarchy and of tyranny that had taken place under the system of government called "the Divine Right of Kings." Thus, governments were responsible, not to God, but under the reasoning of the Declaration, to the populace whose rights they secured.

On this two hundredth anniversary of our nation's birth, let us examine once again the *Patriots' Dreams*.

A. The patriots who founded this nation dreamed of a rule of law in contrast to the capricious rule of man, so well illustrated in the temperamental regulations of a King George III. The abuses of power that are always present under a system where there is a rule of man were still fresh in the minds of our colonialists forefathers. Even when avowed Christians possessed and exercised the right of high office, Christian principles became sub-ordinated to the lust for power and greed. "Christian monarchs" such as Philip II of Spain, Mary of England, Gustavus Adolphus of Sweden, William the Silent of the Netherlands, and Oliver Crowwell of England exemplified the pagan prince more than the emissary of Christ. Fresh in the minds of our forefathers were the devastations of the Thirty Years War (1618–1648) in which Protestants and Roman Catholics tried to annihilate each other.

Noteworthy in this era are the efforts of King Louis XIV of France who sought to suppress the protestant minority called Hugenots. The struggle to live peaceably under a monarch who was at the same time Chief Magistrate and Defender of the Faith had failed to protect the rights and privileges, civil and religious, that Protestants in the Colonies had come to demand as a God-given right.

Therefore, our Colonial forefathers wrote into the Declaration a kernel of truth that was a new rationale for government, not based upon Divine Right of Monarchs, but based upon the idea that government derives its just powers from the consent of the governed. That ovum of truth gave birth to the Democratic Experiment expressed so well by a later advocate as "Government of the people, by the people, for the people."

Statesman Adlai Stevenson once said:

"When an American says he loves his country, he means not only that he loves the New England hills, the prairies glistening in the sun, or the wide rising plains, the mountains, and the seas. He means that he loves an inner air, an inner light in which freedom lives and in which a man can draw the breath of self-respect."

B. Secondly, Patriots dreamed of a nation in which criticism was not equal to treason. It was the prophetic office in the Old Testament that offered both counsel and criticism many times to a stubborn and willful king. No one else in all Israel would have dared to accuse King David of his sin with Bathsheba and expect to live but the Lord's prophet, Nathan. For David refused to raise his hand against the Lord's anointed servant and repented of his sin (Psalm 51). Yet, other prophets did not fare so well when they criticized the King. Remember the sufferings of the prophet Jeremiah for having spoken God's word to the king. He was accused of treason, and treated as a traitor to Isreal.

The patriots who dreamed of this nation thought of a land where even the lowliest subject could disagree with or even criticize the highest office without fear of retaliation or recrimination. The black spot of Watergate upon the political history of this nation has at least proved that the highest office in the nation can be held responsible to the people. The one principle that underlines democracy and makes it a viable system of government is the freedom to speak out on any issue, to address one's fellow citizens on any matter that one deems important. Such a system provides for correction when power is abused, provides redress of grievances for its citizens, provides a platform where ideas can be weighed in the balance of public opinion.

If it ever becomes a crime in this nation to speak publicly on the issue of the day; if one must fear to use his own telephone because of the possibility that it is being tapped; if anyone is silenced in this nation by fear of threat or retaliation—then Patriots' Dreams will be only forgotten memories.

C. Finally, those early Patriots dreamed of a nation where men would honor their heroes and their traditions by a responsible use of power and freedom. Lincoln said in his Gettysburg Address at the dedication of the National Cemetery at Gettysburg, Penna. in 1863 ". . . In a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground." He went on to conclude that, "It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us. . ."

The noblest honor and the highest tribute that we can pay to those honored patriots who have gone before us is to use responsibly and well the freedom and power that they and Divine providence has placed in our hands. Flags, flowers, and trumpets are poor substitutes for consecrated devotion to the nation's ideals.

We can bring to realization the dreams of patriots by a faithful stewardship of the nation's most valuable possession—not the gold of Fort Knox, not the technology so evident in the night of our arms, not the power of mass production—but the faith, the trust, the vision of its people.

If we weaken that faith, diminish that trust, blur that vision by the misuse of power or of freedom we will have poorly served the cause for which so many patriots have died. Let this Bicentennial Celebration be more than the biggest bash ever thrown. If we are untrue to the dreams of Colonial Patriots, it will not matter how many covered wagons circle around at Valley Forge, it will not matter how big and breath-taking our fireworks, or how many masted ships catch the wind on the Hudson River. When the party is over—what will become of the dreams, the visions Patriots held long ago for this "new order of the ages."

That is the question we must ask ourselves this morning! Will the rule of law prevail over the rule of man? Will public criticism ever become treasonous in the land of the free and the home of the brave? Will we, the heirs of freedom, be able to pass on the torch of liberty to the next generation undimmed by personal abuse? Will we keep faith with Patriots' Dreams "so that government of the people, by the people, for the people, shall not perish from the earth?"

The signers of the Declaration placed their reliance upon the protection of Divine Providence, and pledged to each other their lives, their fortunes, and their sacred honor in the cause of freedom. Dare we, the living, do less?

VOLUNTARY SCHOOL INTEGRATION PLAN WORKING IN MILWAUKEE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ZABLOCKI. Mr. Speaker, recently the city of Milwaukee developed a desegregation plan which is, in my opinion, of far-reaching and vital significance to cities across our country. As one of the recent major cities involved in school segregation, the citizens of Milwaukee, business and civic interests, parents and the entire community, have effectively cooperated in planning, developing and implementing a peaceful and voluntary integration plan.

Mr. Speaker, in January the Federal Court stipulated that one-third or 53 of the public schools in Milwaukee had to be integrated. That figure has just been met, and even exceeded, with 58 voluntarily integrated schools starting this fall.

The problem of school segregation is not unique to the city of Milwaukee. Many cities across the country have been ordered to desegregate their schools. What is unique is that Milwaukee's approach was to develop a viable plan using voluntary incentives and no forced busing. And that plan is working.

Under the fine leadership of its superintendent, Dr. Lee R. McMurrin, the Milwaukee School Board developed a responsible plan which fulfills the objectives of offering an equal educational opportunity to all students while demonstrating sincere and careful planning, community-wide input, and a sensitivity to the uniqueness of the Milwaukee community.

The Milwaukee plan is characterized by several important features: first of all, it is voluntary—it does not resort to forced busing; second, it is viable—it complies with the Federal court order to eliminate de jure segregation; third, it has strong support from the Milwaukee school officials, public representatives, civic and business leaders, labor leaders, parents and teachers, who all have a sincere desire and a genuine willingness to make this plan work.

Mr. Speaker, the plan developed by the Milwaukee School Board restores my confidence in the desire and willingness of our citizens to rectify a serious problem in a most responsible and cooperative way.

We have all witnessed the violence and polarization created in some other cities as a result of court-ordered forced busing. We have all seen social disharmony and human suffering created when emotions take precedence.

Yesterday, September 7, Milwaukee's voluntary plan quietly went into effect. I am gratified to see that in Milwaukee, civic leaders have acted compassionately, intelligently and responsibly and have avoided the imposition of quick-fix solutions such as forced busing which could have well led to racial disharmony and discord within the Milwaukee community.

It is also gratifying to know that positive alternatives to forced busing were the basis of Milwaukee's school desegregation plan. The community of Milwaukee has demonstrated its desire to offer each and every student in Milwaukee the right to an equal opportunity to quality education.

Even more reassuring is the demonstrated willingness on the part of the community to make this plan, which was unanimously supported by the school board, work—resulting in an improved educational system for all our children.

Mr. Speaker, because Milwaukee's desegregation plan may prove adaptable and beneficial to other cities and communities trying to desegregate their public school systems, I would like to briefly summarize the development of the plan.

On January 19, 1976, the Federal Court ruled that the Milwaukee Public Schools were unlawfully segregated. The court found that school authorities had between 1950 and 1974 engaged in various practices with the apparent purpose, and having the effect, of creating a segregated school system.

The court further ruled that the task of devising an appropriate remedy to desegregate the schools of Milwaukee—the 15th largest school system in the country—should be formulated by a Special Master. The court did not spell out any specific guidelines or otherwise direct the Special Master, Dr. John Gronouski, as to the ultimate form that the remedial plan was to take but simply required the adoption of an approach consistent with the Constitution.

Work began immediately in the formulation of a plan to implement the peaceful integration of the schools. In an effort to be helpful, the many situations in many cities across the country were carefully studied resulting with 10 alternatives to forced busing to achieve racial balance. These alternatives with a detailed statement were submitted to the Special Master for his consideration.

On February 9, the Milwaukee Teachers Education Association formally requested to officially participate in the desegregation planning. Less than a month later, the School Board approved the formation of the Committee of 100, an organization of parents, students, and teachers to participate in the planning for the voluntary desegregation plans proposed by the School Administration.

During the following months, formal public hearings were held, many channels of community input were utilized, statements were submitted, and studies on financial resources conducted.

Less than 6 months later, a voluntary integration plan was unanimously approved by the Milwaukee School Board members. The Special Master, leaders of the civic, business, labor communities and many parents expressed strong support for the integration plan which was based on voluntary and educational incentives.

On July 7, the Federal Judge accepted the voluntary integration plan in its entirety.

Mr. Speaker, here is an example of a peaceful and effective solution to the complex problems of segregation developed by the people and accomplished in a responsible and positive manner. This plan is not based on forced busing. It does not breed violence or hate. It is not disruptive to children, parents or to the community. It is intended to result in an improved educational system for all the students of Milwaukee.

It is voluntary and addresses the heart of the problem: equal opportunity and quality education. Citizens, administrators, and community leaders have pledged to make it work. And most importantly: it is working.

Specifically, the Milwaukee integration plan proposes that the first year 1976–77 will offer the voluntary transfer of students. The second and third years are extensions of the first-year plan. At the end of 3 years, each school in the system will have between 25 percent to 45 percent minority students.

Voluntary transfer of students will be accomplished through the installation of "speciality courses" at certain senior high schools. Specialities in the areas of computers, medicine, broadcast communications, economy, government, and law will be offered. Certain schools will merge grades at the junior high school level to readjust racial imbalance. At the elementary level, five schools will reopen as city-wide speciality schools involved in such areas as Montessori, open education and fundamental education. In addition, open and new voluntary transfers will be allowed when they contribute to racial balance.

Mr. Speaker, I again want to underscore my gratification over the development of this plan and its final approval by the Federal court. Surely all our cities interested in assuring that their children are guaranteed the right to equal opportunity and quality education can learn from the example set by the citizens of Milwaukee.

The Milwaukee experience has shown us that a willingness of the people at the local level to implement a voluntary integration plan that affords all children the guaranteed access to quality education based on communitywide input and support can become a reality.

Along these lines, I would like to share with my colleagues two statements which demonstrate the willingness and support of both the labor and business community in Milwaukee to implement a feasible voluntary program of integration. One is a statement by Mr. Werner J. Schaefer, president of the Milwaukee County Labor Council, AFL–CIO; the other, a statement by Mr. Edward Watson, chairman of the Milwaukee Association of Commerce. From these statements one can readily see the commitment made by labor and business leaders to implementing a voluntary and effective integration plan in Milwaukee's public school system;

WHY MILWAUKEE LABOR SUPPORTS INTEGRATION

(Statement by Werner J. Schaefer)

Some representatives of the media and certain others in our community have been pressing for a statement relating to the position of the Milwaukee County Labor Council AFL–CIO on the Milwaukee School Board plan developed by Supt. Lee R. McMurrin to begin desegregating the Milwaukee School System in response to the Federal Court order issued by Judge John W. Reynolds.

It hardly seems necessary to address the philosophical question of whether we favor the proposition of free public quality education being available equally to all in our country and our community regardless of sex, color, race and religious beliefs on one hand, and whether, on the other hand, we should comply with court decisions on the subject which has been unanimous since 1954.

On the question of free public education, the organized labor movement in our country has been the dominant force from its very beginning pushing for the opportunity for every one to obtain a free and equal education regardless of financial status or racial background. The organized labor movement also has been dedicated to compliance with law even though in some instances a particular law may be unpopular or distasteful to some of us individually.

The National AFL–CIO by whom the Milwaukee County Labor Council is chartered and of which we are a part, has repeatedly and consistently through action of its conventions, its executive councils and its leadership reiterated its support of any measures which are required to achieve both free quality education for all and compliance with law.

The Milwaukee County Labor Council, as an arm of the National AFL–CIO, is bound to observe and support its policies and positions. Even without this requirement and necessity, however, the Milwaukee County Labor Council, by its very nature of being itself an integrated institution, dedicated to the principle of securing equal opportunity for all, would be expected to support efforts to desegregate our educational system, voluntary or court mandated.

Milwaukee has a unique opportunity to integrate its public schools under a voluntary plan prepared by its school administration, approved unanimously by its school board, the court appointed Special Master, John Gronouski, and Federal Judge John Reynolds. This opportunity places upon our community a great responsibility to support the plan and to work for its successful implementation.

As president of the Milwaukee County Labor Council, knowing the traditional position of the National AFL–CIO on this specific question and the position of the Milwaukee County Labor Council on open housing and similar equal opportunity legislation, I have no hesitancy in pledging the support of the Milwaukee County Labor Council for the plan and I join with the many other religious, civic and community organizations and their leaders in urging all residents of the Milwaukee metropolitan area to support this effort and for those who are eligible to cooperate voluntarily.

It may be the only opportunity Milwaukee will have to desegregate its school system with a plan drawn locally by educators on the basis of improving the system for all.

SCHOOL DESEGREGATION POLICY STATEMENT

Following Federal Judge John Reynolds' order encompassing the plan to desegregate Milwaukee schools, Association of Commerce Chairman Edward Watson issued the following statement on behalf of the Association:

"The Metropolitan Milwaukee Association of Commerce urges full cooperation of all segments of the community in the implementation of the approved plan for integration of the city's public schools.

"It is hoped that the community will apply itself diligently and enthusiastically to making the voluntary plan work, so that it can be carried out promptly, smoothly and systematically.

"The plan, developed by Milwaukee School Supt. Lee R. McMurrin, has been approved unanimously by the School Board, has received the recommendation of Special Master John Gronouski and has been ordered by Federal Judge John W. Reynolds. All deserve commendation for achieving agreement on the proposal which was worked out after many weeks of study, hearings, debate and consultation involving individuals representing diverse backgrounds and viewpoints.

"Basically, the approved proposal would integrate 66 schools, largely on a voluntary basis, although it contains mandatory backup provisions if voluntary response fails to meet goals. Under the plan, five high schools and 15 elementary schools would be designated as specialty schools which would serve as "magnets" to attract voluntary transfers. The plan also establishes school zones and leagues within those zones.

"An intelligent and reasonable effort on the part of all can bring about successful integration of the schools and make a substantial contribution to creating the type of atmosphere conductive to making available quality education.

"The Association again urges concerned parties in the suburbs—school administrators, public officials, parents, civic and business leaders, parent-teacher associations—also to join in a voluntary integration effort under provisions of the new state law offering incentives in that direction. Failure to take the initiative is certain to provoke ultimate mandatory integration orders which would eliminate voluntary options now available.

"The Association appeals to the entire community for total commitment to implementation of the approved integration plan, to place our schools in full compliance with the law of the land."

SEND FOR HAYM SALOMON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. WAXMAN. Mr. Speaker, it is a special pleasure to bring to the attention of the Members of this body a fascinating and exceptionally well-written volume entitled "Send for Haym Salomon," by Vick Knight, Jr. The book is enhanced by the many drawings and paintings by Joseph M. Henniger, which contribute another dimension to the spirit and feeling of this story about one of our Nation's great patriots.

We are obligated to Mr. Knight for reminding us of the debt our country owes—both in terms of patriotism and money given and raised for the Continental Army by Salomon—and not fully acknowledged by succeeding generations. I hope this valuable book will come into the hands of all, young and old, who do not fully know this inspirational story.

WILLIS REED HONORED FOR 20 YEARS AS PASTOR AT ELGIN'S FIRST BAPTIST CHURCH

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. McCLORY. Mr. Speaker, our Nation's Bicentennial has provided the occasion to commemorate many historic events. In this year in my 13th Illinois Congressional District the members of the First Baptist Church of Elgin are commemorating Dr. Willis A. Reed's 20th anniversary of service as their pastor. Dr. Reed was called to the First Baptist Church of Elgin in September 1956 after almost 15 years of prior service as pastor of the First Baptist Church of East Moline, Ill. and of the First Baptist Church of Canton, Ill., in addition to lengthy and exemplary service as chaplain of the U.S. Army.

Willis Reed's Christian services as an Army chaplain and as a Baptist pastor have influenced and blessed the lives of all with whom he has come in contact. During more than 3 years of service in the U.S. Army in the Pacific area during World War II, Willis Reed supplied the religious and spiritual needs for the men and women of the Army in combat areas. He was with the 7th Infantry Division in the Philippines and in Okinawa. Later, he was present in Seoul, Korea in connection with the surrender of the Manchurian-Japanese Army in 1945 and did occupation duty for a year following that event.

In addition to his pastorate at the First Baptist Church in Elgin, Willis Reed has served on the Green Lake Laboratory School staff of the American Baptist Assembly and has also served in many youth camps for the Baptist State Convention and the Chicago Baptist Association.

Willis Reed's contributions have also included many civic and community projects, including such important posts as chairman of the Elgin Chapter of the American Red Cross, chairman of the Elgin United Community Fund, secretary of the Judson College board of trustees, chaplain of the Illinois Police Association and the National Police Association. He is a past president of the Canton, Ill. Rotary Club and has a record of 27 years of perfect attendance as a Rotarian. He is a member of the American Legion, the Veterans of Foreign Wars, and other military organizations.

Dr. Reed is a colonel in the Ready Reserve Chaplains Corps of the U.S. Army assigned to the 86th U.S. Army Command. He is a life member of the Military Chaplains Association of the Armed Forces and the Reserve Officers Association of the United States. He was awarded the U.S. Army Commendation Medal in September 1965 and served as chairman of the National Military Chaplains Convention of the Armed Forces in Chicago, Ill., in 1970.

Willis Reed received the Golden Eagle Award from Judson College in recognition of outstanding service in 1972 and was made a life member of the American Legion in 1974. He received an honor citation from the Daily Courier-News in Elgin in 1974 and in 1975 was saluted by the Elgin Township Republican organization as the man of the year for his outstanding community service. During this Bicentennial Year he served as the grand marshal of Elgin's Bicentennial parade.

Mr. Speaker, Dr. Willis Reed is much more than the recipient of high honors for his exemplary civic, community, and military service. He is a friend to many thousands throughout the Elgin area, including many who are unaffiliated with the Baptist Church and who are not members of his congregation. I am privileged to know Willis Reed as a friend during the recent years of my service in this House during which time Elgin and most of Kane County have formed an important part of the 13th Illinois Congressional District.

Mr. Speaker, many of Willis Reed's accomplishments have found his wife Sarah at his side. While he celebrates his 20th year as pastor of the Elgin Baptist Church, Dr. and Mrs. Reed are this year celebrating their 34th wedding anniversary. Their three sons and one daughter complete this Christian family which is representative of the very finest in American life today.

Mr. Speaker, I hope to be in attendance at the ceremonies honoring Dr. Willis Reed on Sunday, September 19. In any event, I am proud to call to your attention and to the attention of my colleagues in this House this record of human and humanitarian service contributed by a true man of God and of the people, Dr. Willis A. Reed.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on September 5, 1776, after several days of intense controversy, the Continental Congress decided to send a committee to meet with Lord Howe in order to determine how much authority he had to conduct peace negotiations. In a letter to a fellow delegate from New Hampshire, Josiah Bartlett discussed the dilemma Congress had faced during the debate over Lord Howe's request for a meeting:

> If the Congress should accept of the proposed conference only a verbal message, when at the same time Lord Howe declares he can consider them only as private gentlemen, especially when we are certain he can have no power to grant any terms we can possibly accept, this I fear will lessen the Congress in the eye of the public and perhaps at this time intimidate people when they see us catching hold of so slender a thread to bring about a settlement. On the other hand, if we should refuse the conference, I fear the Tories and moderate men so called will try to represent the Congress as obstinate and so desirous of war and bloodshed that we would not so much as hear the proposals Lord Howe had to make, which they will represent (as they already do) to be highly advantageous for America—even that he would consent that we should be independent provided we would grant some advantages as to trade. Such an idea, spread among the people, especially the soldiers, at this time, might be of the most fatal consequence. . .

BIOMEDICAL RESEARCH AND MEDICAL TECHNOLOGY PROTECTION ACT OF 1976

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. WAXMAN. Mr. Speaker, today, I am introducing legislation establishing a National Commission on the Implications of Biomedical Research and Medical Technology.

On August 24, 1976, the Office of Technology Assessment issued its study, "Development of Medical Technology: Opportunities for Assessment." The OTA report addresses the need for assessing the potential social and policy impacts of medical technologies while such technologies are in the developmental stages. Specifically, the OTA study formulates an initial set of questions that might be used to generate information about the effects and policy implications of such new medical technologies.

Advances in medical technology have transformed medical practice in the 20th century. Each of us individually and society as a whole has benefited greatly from advances in biomedical research. We can see this most clearly when we consider a wide variety of innovative, life-saving medical technologies which have been developed in recent years. Some diseases can be effectively prevented. Others are treatable upon early detection. Diagnostic procedures and screening techniques have been greatly improved. Medical innovations such as antibiotics have provided effective therapies for a number of heretofore "killer" diseases. Significant advances in the practice of medicine enable us to live longer, more productive lives.

Nevertheless, the quality of medical care cannot be measured exclusively by the quantity of available medical services or the availability of costly, sophisticated medical technologies. Recently, health professionals, policymakers, and the public have become increasingly aware of the limitations of certain "advanced" medical technology and treatment procedures. Medical experts have begun to question the conventional wisdom of heretofore accepted procedures—from the annual comprehensive physical examination to the advisability of tonsillectomies and hysterectomies.

The "technological imperative" can and must be harnessed to serve the public health interest. Fulfillment of our quest—quality medical care—requires an assessment of the benefits and risks associated with recent advances on medical technology. Quality assurance, fiscal responsibility, cost-effective and rational allocation of medical care dollars are predicated upon obtaining such knowledge.

This legislation which I am introducing establishes a National Commission to review and evaluate the state of the arts in medical technology. The Commission mandate is to undertake continuing and periodic studies to analyze and evaluate the medical, social, economic, ethical, and legal implications, for individuals and society, of advances in biomedical research and medical technology and of the adoption of such advances in medical practice.

Specifically, this legislation requires that Commission studies include review and evaluations of: First, the existing laws governing and ethical principles relating to; second, the relative risks and benefits associated with; third, the impact on the overall cost of health care services of; and fourth, the public's attitudes toward and understanding of the use in medical practice, and pattern of the use of such advances.

Medical technology is defined as the set of techniques, drugs, equipment, and procedures used by health care professionals in delivering medical care to individuals and the systems within which such care is delivered.

Commission membership shall include individuals who are or have been engaged in the advancement of biomedical research and medical technologies and individuals who represent the different sectors of society affected by advances in biomedical research and medical technology. Membership on the Commission shall, also, reflect expertise in the fields of medicine, science, law, ethics, theology, social science, public affairs, and health administration, planning and advocacy.

A complementary aspect of quality assurance in medical care is the protection of patient rights and the rights of individuals involved in biomedical research. This legislation, also, requires that the Commission undertake a number of special studies which address issues related to the rights of subjects for human research and patients undergoing medical treatment. Specifically, the Commission's mandate includes the following special studies:

First. An evaluation of the appropriateness of applying the principles and guidelines, identified and developed by the Commission for the Protection of Human Subjects of Biomedical Research, to the delivery of health services to patients under programs conducted or supported by any Federal agency.

Second. The development of a model research subjects' bill of rights, with recommendations concerning the appropriate mechanisms to implement such a bill of rights in biomedical and behavioral research projects conducted or supported by any Federal agency.

Third. A review and evaluation of current laws and practices affecting the rights of patients of hospitals, nursing homes, and other health care institutions, development of model medical patients' bill of rights, with recommendations for implementation of such a bill of rights with respect to individuals receiving health services from or supported by any Federal agency.

Additional provisions in the legislation provide for studies relating to:

First, the need for establishing uniform medical records systems for use in the delivery of health services to patients under programs conducted or supported by any Federal agency; second, the appropriateness of establishing a uniform records system on subjects of biomedical and behavioral research for the purpose of facilitating appropriate followup medical care.

Our tragic experience with the use of EDS illustrates the need to develop a capability for tracking patients receiving certain types of therapy—especially where appropriate followup medical care may be required.

Clearly, such a medical records system must insure that privacy rights are protected, and that access to such records is limited to persons who have a bonafide medical reason for seeking information.

The miracles of modern medicine are a testament to man's creative and intellectual potential. The positive values of medical technology are indisputable.

Nonetheless, it is incumbent upon the Federal Government to take the lead in providing support for and focus to the assessment of medical technology by those who develop such technologies and those who are affected by advances in medical technology. The public's access to quality care demands such an investment.

NATIONAL YOUTH VOLUNTEER MONTH

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. WOLFF. Mr. Speaker, I would like to take this opportunity to call attention to a large group of unselfish, dedicated citizens who are rarely, if ever, applauded for their many services to the American public. I feel that it is only appropriate, while we salute our great Nation in this year of the Bicentennial, that we also give special recognition to the widespread services of the youth volunteer groups across the country.

These young people perform a wide variety of duties in many of our public and private service facilities, ranging from candy striping in our hospitals, assisting in our nursing homes and daycare centers to aiding the needy and underprivileged. Many of us who are aware of their indispensable services are also aware of the fact that they are rarely acknowledged for them.

As a cosponsor of legislation to designate October as National Youth Volunteer Month, I believe that it is time for us to give an official thanks to this significant portion of our population. These young citizens represent the leaders of tomorrow and they deserve this long overdue gesture of gratitude.

USE OF ILLICIT DRUGS

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. HEFNER. Mr. Speaker, one of the most serious problems facing our country and our schools is the increasing use of illicit drugs by our young people. In some schools the problem is reaching critical proportions.

The very worst habit anybody can ever acquire is the use of drugs as a means of escaping from reality. Drugs all too often doom the lives of those young people who use them and rob the families of the drug users of their happiness and, in a large measure, of their hopes and dreams for their children.

Drug use which was once confined to the "street culture" has already become a feature of college life in our country and is increasing in our high schools. Now, even our elementary schools are being invaded by illicit drugs. Few schools are immune to the problem.

A part of this problem, and ample evidence exists to show it, is that many drugs are sold by nonstudents or other individuals who come onto school grounds or hang around school neighborhoods to supply their student customers. This is a cause of concern among law enforcement officers, school administrators, teachers, and parents. I share their concern.

I think we have to come to the realization that people who sell drugs to our young people are criminals and should be treated accordingly. I personally believe that the selfish individuals who traffic in drugs should be given the harshest punishment the law knows.

Our main legal tool against the drug problem, the Controlled Substances Act of 1970, already provides penalties for persons who illegally distribute or dispense controlled substances. Furthermore, the act goes on to double these penalties for individuals selling drugs to persons under 21 years of age. This, of course, begins to deal with the problem of drugs in our schools.

I am introducing legislation today which will carry this effort further. This bill would supplement the provisions of the Controlled Substances Act to identify specifically the problem of drugs being sold on or adjacent to school property and provide mandatory sentences for individuals convicted of this offense. I hope this will be a strong tool which will go directly to the problem of drug pushers in our schools.

More specifically, this bill says that a person, 18 years of age or older, who violates the Controlled Substances Act by manufacturing, distributing, or dispensing a controlled substance on or within 100 feet of the grounds of a public or private elementary or secondary school will receive certain additional penalties. Differing from the Controlled Substances Act, this bill prescribes a minimum as well as a maximum sentence. Further additional penalties are prescribed for second or subsequent convictions of the same offense. The bill also provides that these sentences may not be suspended and that probation may not be granted. Persons sentenced under this proposed law would not be eligible for parole until serving at least the minimum sentence prescribed by the bill.

The purpose of this bill is to deal with those persons who have no business in or around our schools except to sell drugs to students. I realize that the bill does not extend to the problem of drug traffic among the students themselves. And I understand that this too is a real and serious problem, but these matters are generally handled by school officials in cooperation with local law enforcement agencies. In addition, a harsh attitude toward outside drug pushers would not only be a warning to the student pusher, it would also go a long way toward drying up these students' sources of illicit drugs.

I feel that an important part of this bill is that provision for mandatory sentences for violators. This harsh step is necessary because all too often the courts have failed to provide the necessary sentences for drug pushers. A questionnaire I recently distributed to my constituents showed that 53 percent of the respondents feel lenient courts are the principal cause of rising crime. And 96 percent of them feel that mandatory sentences for serious crimes, including drug violations, are a necessary step to deal with the crime problem. I believe the citizens of this country are calling for action.

I have consulted with law enforcement officers, educators, and parents in my district and State about the drug problem and possible solutions. I believe these concerned and involved people are in support of the bill I am introducing today. In fact, the attorney general of North Carolina has informed me that he would welcome such legislation as an aid to local and State efforts to deal with the problem of drugs in our schools.

I am certainly not interested in involving the Federal Government any more than it already is in the affairs of our schools, nor do I want to interfere with the work of our State and local law enforcement bodies, which, after all, are the frontline in the war on crime of all sorts. This bill is not an intrusion into our schools or local law enforcement, but it is another tool, to be used where appropriate, to assist with the problem of drugs.

The text of the bill follows:

H.R. —

A bill to amend the Controlled Substances Act to provide increased penalties for illegal distributions of controlled substances in or adjacent to elementary and secondary schools.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part D of the Controlled Substances Act is amended by adding after section 405 the following new section:

"DISTRIBUTIONS IN OR NEAR SCHOOLS

"SEC. 405A. (a) Any person at least eighteen years of age who violates section 401 (a)(1) by distributing a controlled substance in or on, or within 100 feet of, the real property comprising a public or private elementary or secondary school is (except as provided in subsection (b)) punishable (1) by a term of imprisonment of not less than 3 years and not more than 10 years, and (2) at least twice any special parole term authorized by section 401(b) for a first offense involving the same controlled substance and schedule.

"(b) Any person at least eighteen years of age who violates section 401(a)(1) by distributing a controlled substance in or on, or within 100 feet of, the real property comprising a public or private elementary or secondary school after a prior conviction or convictions under subsection (a) have become final is punishable (1) by a term of imprisonment of not less than 8 years and not more than 20 years, and (2) at least three times any special parole term authorized by section 401(b) for a second or subsequent offense involving the same controlled substance and schedule.

"(c) In the case of any sentence imposed under subsection (a) or (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (a) or (b) shall not be eligible for parole under section 4202 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection."

SEC. 2. (a) Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "or 405A" after "405".

(b) Section 401(c) of such Act is amended by inserting "405A" after "405" each place it occurs.

(c) Section 405 of such Act (21 U.S.C. 845) is amended by striking out "Any" in subsections (a) and (b) and inserting in lieu thereof "Except as provided in section 405A, and".

MRS. AUGUSTA MAIN CELEBRATES 100TH BIRTHDAY

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. JOHN L. BURTON. Mr. Speaker, it is with a great deal of pride that I announce to the House of Representatives the 100th birthday of one of my constituents, Mrs. Augusta Main of San Francisco.

On September 9, 1976, Mrs. Main will be joined by her family, friends, and neighbors at a birthday celebrating this landmark achievement.

She has lived a full and interesting life, and has seen an incredible range of historical, scientific, and social changes in the world since her birth in 1876.

Mrs. Main was born in Ostru, Furtan, Sweden, and emigrated to the United States when she was 17 years old. After living in Sacramento, Calif., she moved to Mexico where she stayed for 13 years, then moved to Arizona where she lived from 1916 to 1918. In 1918 she returned to California where she has resided ever since.

Whenever someone reaches their centennial observance, they are often asked what their "secret" is for their longevity. Whatever Mrs. Main's formula, it has worked exceedingly well, and I am quite proud that I can count her as being one of my constitutents.

Mr. Speaker, I know that all Members of Congress join with me in extending best wishes to Mrs. Augusta Main for a very happy 100th birthday, and hope that the years ahead will continue to be happy, healthy, and fruitful ones for her.

A TRIBUTE TO DR. G. HAMILTON MOWBRAY

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BYRON. Mr. Speaker, once again one of Maryland's most distinguished citizens has been honored for his efforts to establish a quality wine industry in that State. Dr. G. Hamilton Mowbray of Silver Run in Carroll County, Md., was honored at the residence of the French Ambassador, M. Jacques Kosciusko-Morizet. Dr. Mowbray was presented the award of Croix de Chevalier de Merite Agricole by the Ambassador. Dr. Mowbray was the second American to be so honored.

Dr. Mowbray established the first successful commercial planting in Maryland of the famed white Burgundy grape, the Chardonnay, and has marketed the wine from it locally for the past several years. He is also credited with producing the first table wine in the United States entirely from a French-developed grape known as the Seyval Blanc. A former member of the Principal Professional Staff of the Johns Hopkins University Applied Physics Laboratory and a founding member of the American Wine Society, Dr. Mowbray devotes his time to his winery and his extensive vineyards in Carroll County. He also lectures on wine at the University of Maryland.

Mowbray developed a love for European wines while getting a doctorate in experimental psychology in England. He and his wife could not find the wines they wanted at an affordable price when they returned to America so he began his own winery as a backyard hobby. This hobby later developed into a full-time business.

I would like to congratulate Dr. Mowbray on his achievement and his efforts to develop the wine industry in this area. The French award is well deserved.

CONSUMER COOPERATIVE BANK

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. EDGAR. Mr. Speaker, H.R. 14829, the national consumer cooperative bank bill, has recently been reported by the House Committee on Banking, Currency and Housing. This bill would establish a bank for the purpose of lending money to consumer cooperatives, which are currently discriminated against by commercial lenders.

Without adding to an overgrown bureaucracy, and without handouts or giveaways, this bank proposal holds great promise for the revitalization of degenerating rural and innercity communities. Furthermore, cooperatives are self-help organizations, enabling consumers to protect their interests in the marketplace—thus helping to reduce their dependence on government watchdog agencies.

Soon the bill will be considered by the entire House. In the hearings held by the Banking Committee, Mr. Ralph Nader offered provocative evidence and arguments in support of the bill. So that all Members of this body may have the benefit of his views on the National Consumer Cooperative Bank, I include Mr. Nader's statement in the RECORD:

STATEMENT OF RALPH NADER, JUNE 29, 1976

Mr. Chairman, Secretary of Treasury William Simon often decries what he calls the "economic illiteracy" of the American people, but his opposition to fostering the economic independence of consumers through the self-help mechanism provided in the Consumer Cooperative Bank Bill, H.R. 14512, actually reflects the corporate power that has kept consumers from becoming an organized economic force in the economy. Classical economic theory originally argued that the marketplace had one goal—the satisfaction of consumer desires. But today college economics courses ignore the concept of consumer sovereignty. Most courses deal only with the production part of the economy, even though teaching economics without focusing on the consumer is like teaching democracy without emphasizing the voter.

When he premised his economic theory upon the presence of consumer bargaining power, Adam Smith did not discuss the consumer cooperative, but through the organization which a cooperative structure provides, real consumer bargaining power is assured. Consumer cooperatives are based upon the principles of open membership, operating at cost, and democratic control (one person, one vote). The owners of the shares of the firm are the consumers of its goods and/or services. Their reward for ownership and participation is higher quality of goods and services at the lowest cost possible. The operating incentives for a cooperative are just the reverse of an investor-owned profit-making firm. Since few markets are characterized by perfect competition, an ordinary business has every incentive to maximize profit by encouraging unnecessary purchases, withholding (or distorting) essential information, using cheap materials, and charging high prices. Only to the extent that consumers have dependable information and alternatives, will the ability of producers to exploit consumers in this fashion be limited.

Where the marketplace has failed to discipline producers, the consumer movement has sought to eliminate these unfair business practices through regulatory legislation. But, even when legislative battles are won, lax enforcement of the law, the absence of adequate penalties for anti-consumer behavior, or the difficulty of overseeing millions of business transactions involving people determined to engage in such fraudulent activity, undermine the modest reforms which may actually have been achieved. This should not be surprising. Consumers are recognizing that they must organize economically, as well as be active as citizens, because only through reliance on both the market and the government, each compensating for the flaws in the other, will the rights and desires of consumers be recognized and protected.

Over the years, the government has decided to distribute financial aid to solve this country's economic problems almost entirely in one way: by the care and feeding of the producer side of the economy. The consumer side has been virtually ignored:

Federal subsidies go to the producer side.

Loan guarantees go to the producer side.

Tax preferences go largely to the producer side.

Research and development funds go to the producer side.

In contrast, HR 14512 gives consumers a fraction of the support, and then only until the cooperatives assume ownership of the proposed Bank, routinely provided for producers by the Federal government.

The Ford Administration has expressed its opposition to this proposal. It has had to do ideological somersaults to do so, given its huge financial support of numerous special pleaders. The Lockheed loan guarantee (and its other government subsidies) which had the avid support of then Congressman Gerald Ford, is the most infamous example, but hardly the largest one. President Ford has approved loan programs or outright subsidies for small businesses, shipbuilders, landlords, banks, farmers, oil companies, coal companies, and exporters, among others, and this list does not even include the huge expenditures by various federal agencies which foster and promote business interests. Meanwhile, consumers wishing to borrow money to form a cooperative enterprise are not even accorded the blessing of Administration silence, much less its support.

The Bank for Consumer Cooperatives has been carefully structured to protect the private sector. While the bank is initially loaned money by the Treasury to begin its operations, it must go to the private capital markets for the bulk of its future funds, where it will compete with other capital needs. The government's involvement is needed to open the capital markets to cooperatives which have been locked out by the bias of banks against them regardless of size. The governments role in this program merely enables cooperatives to compete in the capital markets themselves. It does not transfer capital from the private sector. Consumer cooperatives would not be dipping into the bottomless well of government support that sustains various producer groups.

Ironically, Secretary Simon, the reputed voice of private enterprise, has advocated placing cooperatives on the government bankroll indefinitely, by putting this lending facility within the Small Business Administration. His confusion of private enterprise with investor owned corporate enterprise is not unusual in government these days. A few months ago the Department of Commerce gave about a quarter million dollars to the advertising industry to start a public relations campaign boosting what it called the "free enterprise system," where it really meant investor-owned corporate enterprise and not alternative free-enterprise consumer-owned businesses. This use of taxpayer's funds to promote one segment of an economy's participants is obviously preferential treatment and need to be scrutinized. It is a typical reflection of the Department of Commerce's interest in investor-owned corporations and disinterest in helping consumer owned industry and commerce. Not only are large concentrated economic forces in the private sector arrayed against consumer ownership, but government policies supporting these concentrated producers are arrayed against them as well.

A further irony in the Administration's position is that many of these corporate institutions have abandoned markets serving critical consumer needs throughout the country. This is a trend recognized by the Banking Committee. The familiar phrase "redlining" essentially refers to abandonment of markets in major areas of cities by insurance companies and banks and, of course, that in turn leads to further economic deterioration of these areas where people live and spend their money. A study conducted by Dr. Donald Marion, associate professor of food marketing at the University of Massachusetts, found that inner-city stores were being abandoned at a rapid, and increasing, rate throughout the country. In terms of food store selling space per person, Newark, New Jersey, has only .4 square feet in poverty areas compared to 2.1 square feet elsewhere in the city. In Washington, D.C., says the March 1975 report "Exodus of Food Chain Stores," prepared by the City's Municipal Planning office, the years between 1968 and 1974 saw a 33% reduction in the number of city supermarkets. One impact of the food shortage resulting when supermarkets leave is the increased dependence upon the remaining stores and their inflated prices, or fast food restaurants. Meanwhile, empty buildings and reduced employment in these areas are both breeding grounds for crime.

Already producers have offered their solutions to public officials on both the federal and local level to the problem of abandonment of the inner-city market: subsidies for chain stores and agribusiness in the form of free land, rent subsidies, and tax reduction to encourage them to sell cheap food in the inner-city. If the federal government follows its traditional policies of producer-oriented financial support, years from now the problem will remain with us, but Congress will be unwilling to eliminate these programs, even though no one can prove they work, because a producer constituency will have developed which is dependent upon them.

The legislation to create a Bank for Consumer Cooperatives is a novel approach because it aids consumers directly, avoiding the faults of the producer-oriented remedies while assuring the one requirement which most food operations, especially those in the inner-city, have found to be essential for success: community support. While investor-owned firms have written off the inner-city situation as a failure on their books and their taxes, cooperatives see it as a very important opportunity. Cooperatives can assist areas of cities which have been economically devastated or abandoned but which still possess a consumer cash flow that can be part of a consumer cooperative subeconomy, recycling the consumer dollar several times through consumer cooperative food stores, cooperative health clinics, and many other consumer cooperatives mutually supporting themselves. But time is of the essence. A & P in the last two years abandoned about 1,000 inner-city stores, leaving residents without ready access to alternatives and leaving that purchasing power and real estate available to form the foundation for an expanded consumer cooperative development. As long as the consumer cash flow remains, a cooperative can succeed.

Cooperatives will aid community development in ways a national chain store cannot, even when the chain store prospers. A chain store sends a portion of its profit back to the corporation headquarters, which is usually located in a national money center, where it is put in a major bank like the Chase Manhattan or Bank of America. Needless to say, no inner-city community will see that money again. But a cooperative will return what a chain store would consider to be profit back to the consumer in the form of a rebate. This money is then spent in other community enterprises, or placed in community banks.

This bill must be considered one of the three most important consumer bills in the past generation. It deals with economic and civic reconstruction and expansion on a self-help basis through an alternative economic organization that is rooted in the community and the neighborhood. It increases consumer bargaining power, and develops the necessary political power which economic institutions everywhere inevitably use to influence all levels of government. This is important to emphasize because so much of the maldistribution of political power is a result of the maldistribution of economic power.

This proposal helps to accomplish such progress by seeing to it that there is an adequate source of credit for consumer cooperatives. Consumer cooperatives have been the object of avoidance by banks. This is recognized even by opponents of consumer cooperatives and this legislation. Yet, despite the difficulty of obtaining financial assistance, public interest in consumer cooperatives is rising. The Cooperative League of the United States received two thousand requests for information on consumer cooperatives, twice those of the previous year. In the past two years an auto repair cooperative in Michigan has received 100 requests for information on that type of cooperative alone. Yet the manager of the cooperative testified before the Senate that the odds were one hundred to one against any one of them getting started due to the difficulty of obtaining credit and technical assistance. More and more books are published each year on cooperatives, everything from histories to "how-to" books. The idea has inspired numerous newspaper articles, some of which I would like to introduce into the record.

Some public officials are finally promoting the cooperatives as a form of economic organization that deserves government support. A few examples: Governor Michael Dukakis indicated recently in a letter to the Washington Post that the promotion of food cooperatives is a vital part of his food program in Massachusetts, and a food cooperative there received some small financial assistance from the state. State Assemblyman Andrew Stein of New York has proposed the formation of health cooperatives for medicaid patients as a way of saving the state $700 million fraud, overcharges, and unnecessary surgery.

The cooperative form of organization can provide savings across the spectrum of government subsidy programs. The costs of this proposal, quite apart from the fact that the bank will eventually be out of the Government's hands (and pocketbook) and will ultimately be owned by the consumer cooperatives themselves, should be compared to all of the other assistance to city rehabilitation, which has cost billions of dollars and has very often failed, in order to determine how this self-help proposal can replace more and more of these federal dollars. The attractiveness of this proposal is that it requires a community level of interest and organization as a precondition to its extension of credit, unlike other federal programs which come roaring in, gushing money at various developers, builders, and banks, and which have no guarantee that the goals are going to be accomplished because there's a large gap between the subsidized business interests and the people that live in the community who are supposed to be helped.

The resurgence of interest in the development of cooperatives also is indicated by the number of new cooperatives started each year, and by the formation of new associations and federations of cooperatives, such as the North American Student Cooperative Association, organized in 1968 by representatives of a number of American and Canadian student cooperatives. In fact, the past ten years have witnessed a growth of new cooperatives which rivals the last period of rapid cooperative organization: the thirties. But the self-interested refusal by banks to give cooperatives the tools they need to sustain themselves threatens to suppress this groundswell of interest before cooperatives have the opportunity to prove their value and before they can become a recognized requirement for a healthy economy as they are in Europe.

One food co-op in Switzerland, the Migros cooperative, accounts for 25% of the retail food sales in Switzerland and 10% of all retail sales, making it the largest economic enterprise in the country. The Migros cooperative has been a leader in product innovation. It was the first to distribute low-lead gasoline in Europe. It has testing laboratories for quality control of the products purchased for their members. These testing procedures uncover fraud, filth, lack of nutrition, pesticides, and lately, harmful ecological effects. The Migros organization even holds extensive adult education classes, and has a bureau of prevention of bureaucratic abuses that handles citizens' complaints such as social security.

Fortunately, there are examples of cooperatives in the United States fulfilling the hope that beleaguered consumers have for them:

Congressional hearings have documented gross overcharging, price-fixing, and fraud in the auto repair business. But one need not look to legislative reforms to end this behavior. Co-op Auto of Ann Arbor, Michigan is one of the most successful of the auto repair co-ops, grossing about $40,000 a month while emphasizing preventive maintenance and self-help as they are not stressed in the ordinary repair shop. Despite their difficulty in obtaining credit, this co-op, and other auto repair co-ops, are growing. Auto repair co-ops can now be found in Berkeley and Palo Alto, California; Madison, Wisconsin; Austin, Texas, and East Lansing, Michigan.

Co-op Optical Services in Detroit is a model of the progressive business which finds its self-interest is on the side of the consumer. This co-op battles legislation creating monopolistic market entry barriers, provides information to Congress on marketing of inferior quality lenses and frames all over the country, and has established its own optical aid fund for the poor. Because employees are salaried, they are not tempted to boost commissions by selling customers unnecessarily expensive lenses and frames or to cut costs through the use of inferior materials. A refraction examination by an optometrist costs $9, compared to $15 for examinations offered by a mass volume competitor. Similar economies prevail for eyeglasses.

The sporadic development of the optical cooperative concept indicates the importance of establishing a technical assistance capability for cooperatives. Already, optical co-ops have sprung up in Grand Rapids, Jackson, Lansing and Muskegon, Michigan, close to Co-op Optical Services in Detroit. In other areas the optical co-op is operated in conjunction with health co-ops, as in Seattle and in Washington, DC, or with supermarket co-ops as in New York. Clearly, the growth of the cooperative movement is obstructed by the absence of an agency which could give fledgling cooperatives the aid and encouragement they presently receive only from other cooperatives which barely have sufficient resource of their own.

This is the potential, but each day the need for financing and assistance is displayed anew:

In Pittsburgh, Pa. 140 families purchased their housing development on a cooperative basis to avert a foreclosure by HUD. They are in urgent need of a maintenance facility to house grounds equipment, tools and supplies, and to meet basic OSHA health and sanitation requirements for their workers.

The Ann Arbor, Michigan, student housing and food cooperative, a model of stability and achievement since the thirties, was denied credit because it is a non-profit organization.

In Denver, Colorado, a small co-op grocery stretched its financing almost to the breaking point as it tried ot replace a large supermarket chain which abandoned its inner-city store. Without adequate financing, it may fail to meet its members' needs.

A Navajo nation food and handicraft cooperative was refused a bank loan because of its limited capitalization.

An Austin, Texas, student cooperative was refused a bank loan for needed student housing because the bank was concerned about the student turnover in its membership.

In St. Paul, Minnesota, a married student housing cooperative with 400 apartments had a waiting list of 500 and no community facility for vital services such as daycare, baby clinics and children's play areas, despite having more than 1,000 children in residence. This cooperative remains unable to obtain financing for needed additional services such as a bookstore, grocery and pharmaceutical supplies, transportation, or auto repair. There are similar developments across the country, notably in Michigan, Massachusetts, California, Texas, and Oregon with unfilled needs and nowhere to go, according to Paul Merrill, a member of the board of the National Association of Housing Cooperatives.

Of course, the financial problems of new and emerging cooperatives are even worse. Buying clubs in New England, which want to obtain a warehouse, independent fishermen in South Carolina who could buy equipment cooperatively, or inner-city tenants in Kansas City who are fed up with the unresponsiveness endemic to the absentee landlord system are searching for financing for cooperatives. But none of these cooperatives has the government fostering its interests, as so many producers do, so they must wait until their own members can provide the capital. Given the expense of large capital outlays, that day may never come.

Experience demonstrates that the expansion of cooperatives benefits even those who do not choose to join them. Everyone benefits when an organization enters the marketplace that doesn't have the same interests as all the other firms in the industry. The cooperative is such an institution thereby providing yardstick competition. Everyone benefits when this competition yields lower prices, higher quality goods, and reliable information. And everyone benefits when cooperatives supply a structure to foster inner-city markets, inspiring the reconstruction of the impoverished areas of these cities.

The Consumer Cooperative Bank Bill says, in a very modest way, that there is not just one form of private economic organization in the United States, namely the investor-owned corporation (dominated by a few giant corporations), that can receive the recognition and support of public policy. There are other forms more efficient and equitable to the ultimate consumer—the consumer cooperatively-owned enterprises.

Thank you.

ACLU DISCUSSES FUNDAMENTAL DEFECTS IN FOREIGN INTELLIGENCE ACT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. DRINAN. Mr. Speaker, the Foreign Intelligence Surveillance Act of 1976, H.R. 12750 and S. 3197, has been the subject of much critical comment since its introduction last March. Committees of both Houses have conducted hearings on the bill. The Senate Judiciary Committee and the Senate Select Committee on Intelligence Activities have reported the bill with amendments, to the full Senate.

In spite of the changes made by the Senate committees, the bill continues to generate strong opposition. On August 26, 1976, the American Civil Liberties Union forwarded a cogent memorandum to each Member of the Senate setting forth the fundamental defects in the Foreign Intelligence Surveillance Act. It observed that the proposal "implicitly recognizes the possibility of the Executive's power to ignore the law in the name of national security—a doctrine that should be resoundingly denounced rather than accepted through a stance of passive neutrality."

Because this bill may be the topic of further hearings and debate in the House, I am having the ACLU memo reprinted here:

Most people would probably be surprised to learn that until 1968 there was no federal statute authorizing the use of electronic surveillance for law enforcement purposes. In fact, from 1934 until that time, federal law flatly prohibited electronic interception of communications and no wiretap evidence was admissible in court. 47 U.S.C. § 605. Perhaps more revealing of how much has changed is a quote from J. Edgar Hoover and Attorney General Robert Jackson in 1940: "Wiretapping will not be tolerated. . . . The discredit and suspicion which arises from the occasional use of wiretapping more than offsets the good."

When President Johnson acquiesced in signing the 1968 bill because of other provisions in that omnibus legislation of which he approved, he pledged not to use the new wiretap authority, urged its immediate repeal, and kept his promise and authorized no electronic surveillance for criminal investigations for his remaining months in office. It was Attorney General John Mitchell, fulfilling the campaign promise of "law and order", who signed the first application for a court-approved wiretap.

During the period prior to 1968, national security wiretapping remained in the shadows—without affirmative congressional authorization and in apparent violation of the letter of the 1934 law. Successive administrations continued the practice in varying degrees, keeping the full extent of national security wiretapping from the Congress and the people. Congress, in the 1968 wiretap law, refused to authorize electronic surveillance for national security purposes, though it was also unwilling to flatly prohibit the practice. The 1968 legislation only authorized wiretaps for criminal investigations, and then only for a limited group of specified offenses.*

Now Congress is being asked to take the next step—to authorize electrónic surveillance in the name of "national security" even when no criminal offense is the subject of the investigation. Now that we have become accustomed to some wiretapping, the inevitable occurs; we are asked for more. We are reminded again how easily we accept gradual losses of our privacy, and the liberty it protects.

The bill is S. 3197, the Foreign Intelligence Surveillance Act. It has been heralded by its sponsors as an important step forward in controlling national security wiretapping because it requires, in most cases, that a judicial warrant be obtained prior to initiating electronic surveillance. But S. 3197 prohibits the court from forcing the government agent to demonstrate that the target is truly a threat to national security and that the wiretap will in fact produce evidence of the target's clandestine activities. This leaves the bill as little more than a sham, giving only the appearance of meaningful safeguards against unwarranted invasions of privacy.

Under this bill the court must issue a wiretap warrant if it finds probable cause (a relatively low standard of proof) that the target is an "agent of a foreign power". This includes all non-Americans who are officers or employees of a foreign power, meaning ambassadors from foreign countries and their entire staffs, as well as employees of corporations like British Airways which is government controlled. In effect, the bill declares open season on foreign citizens. They need not be engaged in any clandestine activities. They are subject to wiretap at any time simply because of their status.

The bill also includes Americans among those who qualify as agents of a foreign power. Americans who, at the direction of a foreign power, engage in sabotage, terrorist or clandestine activities in violation of the criminal law are subject to electronic surveillance. Which provisions of the criminal code are to be considered under the broadly-defined terms "terrorist" and "clandestine" activities is unclear, but the effect is not. The effect will be to expand the list of crimes subject to wiretap investigation and, given the lesser showing required under this bill as compared to present law, to make it far easier to obtain a warrant for these offenses.

Also included is an American who, at the direction of a foreign power, covertly transfers information which a reasonable person would believe might harm the security of the United States. These latter activities need not involve a violation of the criminal law. The amount to a new, all-inclusive and overbroad definition of espionage with the result that the President retains authority to wiretap Americans who pose not enough of a threat to national security for their conduct to have been made criminal by Congress.

This ignores the fundamental and most important recommendation of the Church Committee—no citizen of the United States should be subject to any surveillance or investigation without a threshold showing of the probability of past, present or imminent future conduct in violation of the criminal law. Intelligence Activities and the Rights of Americans, Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Book II, U.S. Senate, 94th Cong., 2d Sess., pp 320–23 (1976). The Church Committee backed this recommendation with the experience gained from a year-long investigation into intelligence activities, with unparalleled access to the files of so-called "national security" investigations. It should not be ignored.

Attorney General Levi argues that the current espionage statutes are inadequate and that spying activities are carried on which are not presently in violation of the law. The answer to that, however, is that if he can make a case that the current laws are too narrow, then Congress should draft—with great care—a new espionage statute. Instead, the Attorney General is seeking to authorize wiretapping for conduct he could not persuade the Congress, in the battle over S. 1, should be made criminal.

Under the Constitution, a wiretap is a "search" governed by the requirements and limitations imposed by the Fourth Amendment. *Berger v. New York*, 388 U.S. 41 (1967). There are sound reasons why the Fourth Amendment has been held to require probable cause to believe that a crime has been committed before a search will be authorized. The Fourth Amendment stands as the fundamental constitutional protection of the right of privacy—the right to be left alone in the absence of a compelling societal interest mandating the intrusion. *Katz v. United States*, 389 U.S. 347 (1967). It says, in effect, that the government is not authorized by the people to invade their privacy without a sound basis for believing that a crime has occurred and that evidence of this crime will be obtained in the search.

The Fourth Amendment provides that "no Warrants shall issue, but upon probable cause . . ." In the debate over S. 3197, the question has become "probable cause" to believe what? That a crime has been committed? Or, can a search fulfill the probable cause requirement in the absence of a connection to criminal activity?

This is not a question which would have occurred to the Framers of the Fourth Amendment. In accord with English common law, *Entick v. Carrington*, 19 How. St. Tr. 1029 (1765), they believed that a warrant could issue only for contraband, fruits or instrumentalities of a crime. "Mere evidence", such as private papers of an individual, could not be seized with a warrant under any circumstances. *Gouled v. United States*, 255 U.S. 298 (1920). Warrants were entangled with concepts from the law of property. The government could only seize those items that the possessor could not lawfully possess.

But those items subject to seizure—contraband, fruits and instrumentalities—all presuppose that a crime has been committed. It is criminal to possess those items declared to be contraband, such as narcotics. Fruits of crime, such as stolen goods, also presume the existence of a crime. And it was, and is, a crime in itself to possess certain instrumentalities, such as burglar's tools. Thus, the Framers could not even have conceived of a search not related to criminal activity. Although they did not talk in terms of probable cause that a crime has been committed, a search was permissible only if there was probable cause to believe that certain items, intimately associated with crime, could be found at the place to be searched.

In 1967, the Supreme Court abandoned the prohibition against the search for and seizure of "mere evidence". *Warden* v. *Hayden*, 387 U.S. 294 (1967). The permissible objects of a search were no longer limited to contraband, fruits and instrumentalities. However, the Court did not intend—nor would the history of the Fourth Amendment support—abandonment of the criminal standard:

"There must of course be a nexus—automatically provided in the case of fruits, instrumentalities or contraband—between the item to be seized and criminal behavior. Thus, in the case of 'mere evidence', probable cause must be examined in terms of cause to believe that the evidence sought will aid in a particular apprehension or conviction." Id, at 307.

Thus, even while abandoning the mere evidence rule, the Court explicitly retained the requirement that a relationship be demonstrated between the object to be seized and activity in violation of the criminal laws. Neither an historical analysis of the growth of Fourth Amendment doctrine, nor an analysis of the principal case relaxing the limitations on items subject to seizure, supports the argument that a search can be conducted under the Fourth Amendment for items not associated with criminal activity.

Those who would justify this departure from the criminal standard quote the following passage from the *Keith* case, *United States* v. *United States District Court for the Eastern District of Michigan*, 407 U.S. 297, 322–323 (1972):

"Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of Government for intelligence information and the protected rights of our citizens. For the warrant application may vary according to the governmental interest to be enforced and the nature of citizen rights deserving protection."

Justice Powell's dicta is based on the administrative search cases. In these cases, see e.g. *Camara* v. *Municipal Court*, 387 U.S. 523 (1967), *See* v. *Seattle*, 387 U.S. 541 (1967), the Court sanctioned the use of area warrants whereby municipal authorities might inspect a business or a dwelling for housing code violations, not upon probable cause that the dwelling was in violation of a particular housing code provision but upon general experience that dwellings in a particular area are likely to be in violation of the code.

The administrative search cases are a weak reed upon which to rest such a dangerous relaxation of Fourth Amendment standards. None of these cases in fact represents a deliberate search for information unrelated to criminal activity, as does S. 3197. The searches were to enforce and find criminal violations of the housing code. Second, none of these cases deal with potentially sensitive political activities. The Court has recognized the convergence of the Fourth and First Amendments: "Historically the struggle for freedom of speech and press in England was bound up with the issue of the scope of the search and seizure power." *Marcus* v. *Search Warrant*, 367 U.S. 717, 724 (1961). In Keith itself, the Court emphasized this relationship. *U.S. v. U.S. District Court*, supra at 313. Third, the administrative search cases deal a much less intrusive invasion of privacy. A walk-through of a dwelling seeking compliance with a housing code is hardly comparable to 90 days of electronic surveillance gathering every communication—whether or not relevant—made from a particular facility. The degree of intrusiveness is an important factor in determining the quality and degree of justification that must be provided for a search. See *Terry v. Ohio*, 392 U.S. 1 (1968) holding that "reasonable suspicion" justifies only a limited frisk for weapons to protect the safety of the officer.

The bill is fatally deficient under the Constitution in a second, equally fundamental way. The Fourth Amendment has two parts: first it requires a warrant based upon probable cause, but second it also requires that the warrant "particularly" described the place to be searched, and the person or things to be seized. It was the use of so-called "general warrants" in connection with seditious libel prosecutions in England and the similar "Writs of Assistance" directed against rebellious Americans to enforce the Crown's tax laws in Colonial America which prompted the Fourth Amendment.

The ACLU believes that all wiretapping

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* This short review of the history of wiretapping is based on an article appearing in Congressional Quarterly, Vol. XXXI No. 34, pp. 2321–24 (8/25/73).

violates the Fourth Amendment's particularity requirement. However, even if you look only at the degree of particularity of this bill, it is far and away less particular than even the existing federal criminal wiretap statute which we opposed for the same reason.

For a criminal tap, the court must find probable cause to believe:

(1) that a crime has been, is being or is about to be committed by the target of the tap;

(2) that the facilities to be tapped belong to or are likely to be used by the target;

(3) *that the conversations to be intercepted will pertain to the alleged offense;* and

(4) that other less intrusive investigative techniques have been tried and failed.

Under S. 3197 the court must only satisfy itself that the target of the surveillance is an agent of a foreign power and that the facilities tapped will likely be used by such person. The court is without authority to question the government's assertion that information pertaining to foreign intelligence will be obtained.

Under S. 3197 the Attorney General merely certifies that his purpose is to obtain foreign intelligence information; the court is without authority to inquire what basis, if any, there is for this certification. The court is equally without authority to enforce the requirement that other investigative techniques have proven unsuccessful.

There is a third reason why the ACLU has opposed this legislation. Even with the limited restrictions that this bill places on the executive's ability to wiretap, the Department of Justice has insisted nevertheless that there be a section of the bill leaving room for an executive claim of "inherent constitutional authority" to disregard the bill's limitations if a sufficiently serious situation should ever arise. This "inherent authority" provision also leaves unregulated the practices of the National Security Agency—the supersecret agency that regularly intercepts overseas telephone calls and which in its other activities may pose the most serious threat to civil liberties. Therefore NSA's so-called Shamrock program, involving the theft of millions of international telegrams, and the watch list program would not be restricted by the bill.

The Church Committee was unequivocal in its treatment of claims of inherent executive authority. In its first two recommendations—those it felt of primary importance—it flatly denied the existence of any such power and condemned the pernicious effect, governmental lawlessness, that such a doctrine embraced. Yet, S. 3197 implicitly recognizes the possibility of the executive's power to ignore the law in the name of national security—a doctrine that should be resoundingly denounced rather than accepted through a stance of passive neutrality. There can be little doubt that this supposedly neutral provision will show up in Justice Department briefs as further evidence of the existence of presidential power to go beyond the law.

The struggle that S. 3197 represents between the need to adequately protect national security yet protect as well the liberty that this nation represents is hardly novel. In May of 1798, less than a decade after the adoption of the Constitution, two of the founding fathers exchanged views on this problem that would challenge the government they had created for the next two centuries. James Madison wrote to Thomas Jefferson:

"Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger real or pretended from abroad."

One month after that letter was written, Congress enacted the infamous Alien and Sedition Acts, to protect infant America from European subversion.

The Alien and Sedition Acts were not reenacted and passed into history within a short time after their passage, but they set a dangerous precedent for political repression in the name of national security. That precedent was repeated during the Civil War when Lincoln suspended the Writ of Habeas Corpus; during Word War I and later in the Red Scare of the 1920's when "radicals" were persecuted by the federal government; and during World War II when the federal government incarcerated 120,000 Japanese-Americans in detention camps. Perhaps the most dangerous and threatening descendant of the Alien and Sedition Acts is the 40 year domestic intelligence program of the FBI that was so carefully documented by the Church Committee in their final report.

In every one of these cases, Congresses, Presidents and the American People were seduced by the argument that subversion of our Bill of Rights was essential to protect the government from foreign subversion. This bill perpetuates two basic elements of that argument. 1) that limiting investigations to criminal activity is unworkable and 2) that it is necessary for the executive branch, through inherent authority to act above the law.

Our founding fathers were familiar with those arguments; they knew the answer. They would answer with William Pitt, the famous English statesman of their age, who resisted similar arguments by the Crown on the floor of parliament:

"Necessity is the plea for every infringement of human liberty. It is the argument of tyrants; it is the creed of slaves."

ECONOMIC FICTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. RANGEL. Mr. Speaker, the unemployment rate in this Nation continues its upward climb. It has reached the 7.9 percent level with rates two and three times that among minorities and youths, and we are told by the administration that the previous predictions of a reduction in unemployment to 7 percent by the end of the year are now no longer applicable. In the meantime, behind the statistics remains the misery and loss of dignity which accompany the tragedy of unemployment.

It is particularly sad, as the following editorial points out, that the arguments so readily utilized by the Republicans to defend their policies have now been disavowed by administration sources themselves. Since 1969, when the Republicans came to power, unemployment has risen from 3.5 percent of the work force, up to 8.9 percent, and now "down" to 7.9 percent. The rationale for causing so much suffering has been that reduction of the unemployment rate inevitably produces inflation.

It is this piece of supposedly irrefutable logic that Mr. Gus Tyler, a noted political analyst addresses in the following article. As one of the Nation's foremost experts in the field of politics and the organized labor movement, Mr. Tyler is in a unique position to offer his comments on this issue.

I insert his editorial for my colleagues, attention below:

[From the AFL-CIO News, Aug. 21, 1976]

FORD'S OWN WORDS CONFOUND HIS "ANTI-INFLATION" RATIONALE

(By Gus Tyler)

The justification for seven years of needless suffering in our country has just been declared "inoperative" by a casual sentence in a dull government report—some dozen words that have gone unnoted and unnoticed. Yet by this simple statement, the whole rationale for pushing America into an economic ditch has been officially declared to be nonsense.

The document is—of all things—the Economic Report for 1976 authored by none other than the President. On page four is the simple declaration that "inflation and unemployment are not opposites but related symptoms of an unhealthy economy."

Repeat: "Inflation and unemployment are not opposites."

But for seven years, Nixon and Ford told us that they were opposites and, therefore, the antidote for inflation was unemployment. This cruel credo was given theologic probity by reference to the Phillips Curve theory.

By this theory, unemployment and inflation were at opposite ends of a see-saw. When unemployment was down, inflation was up; when unemployment was up, inflation was down. By this logic, Nixon encouraged unemployment (send it up) to fight inflation (bring it down). The euphemism for this massacre on people was "cooling the economy."

Sacrificed on the altar of the Phillips myth were millions of families as men and women lost jobs, home, health, and self-respect. Sacrificed were the near-poor who were now tossed into the pit of official poverty—forced to live on a handout. Sacrificed were folk in counties, cities, and towns that were reduced to humiliating and inadequate beggary. Sacrificed were tens of thousands of small businesses that collapsed with the weakening economy.

Some of us were outraged at this inhuman sacrifice of humans in the name of an economic fiction that had no basis in fact, no logic in theory. We protested against this senseless worship at the altar of a fake god.

But to the defense of this deceitful deity came the high priests of "academic economica." They referred to the seminal study of Phillips, overwhelming readers with "op. cits.," "idems," "ibids," and arcane abracadabra—without ever having read Phillips, who never said that unemployment and inflation were opposites. (All he did say was that in times of high employment, wages—not necessarily prices—tend to rise.)

Had these yea-sayers of one another consulted the facts they would have noted that in the years from 1947 to 1953 unemployment went down steadily, so that in the last year of that period the jobless count was under 3 percent while "inflation" was under 1 percent.

On the contrary, in the Eisenhower years after 1953, the jobless rate rose from under 3 percent in 1953 to 6.7 percent in 1960, while prices, for the same period, multiplied two and a half times over.

In my recent book—"Scarcity: A Critique of the American Economy"—I said that our recession is not the cure for but the cause of our inflation. The certified savants listened and smiled that supercilious scorn they reserve for the uncertified illiterates.

Now what will they do in the face of the President's pronouncement that they have been wrong all the time? My guess is that they will not review their error nor revise their texts. They will proceed with their vested preachments to gather more human sacrifices for an insatiable barbaric god.

Such is the primitive ritual among some of our most learned in these civilized times.

POLICY QUESTIONS REGARDING TELECOMMUNICATION SYSTEM

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. FREY. Mr. Speaker, this Nation faces some basic public policy questions regarding our telecommunications policy which only the Congress can answer. More than a quarter of my colleagues have expressed concern over this issue by sponsoring the Consumer Communications Reform Act of 1976. I am not a sponsor of this legislation. However, I am concerned that our Nation's telecommunications industry may be moving in a direction that ultimately might run counter to the public interest, and I feel Congress must examine this proposed legislation and the arguments of its opponents in order to determine what policy is in the public interest.

We have in this country an unparalleled communications system. It operates efficiently and plays an essential part in the daily social, economic, political, and educational life of our country. In the sort of information-based society in which we live, a rapid, economical, efficient communications system is essential. I know that I need not point out the critical role of communications in military, civic, or natural disasters.

The telephone industry, operating as a monopoly regulated by State and Federal authorities, has turned in a good performance for this Nation. It has broadly extended its service so that today 97 percent of our households have telephone service, and this service has remained relatively economical despite inflation.

On the other hand, we know the benefits that competition confers in most areas of the economy. We know that it generally brings more choices to consumers; it can also mean lower prices and in most instances increased productivity and innovation. We also know that technology in the communications field will be growing at a geometric rate in the near future, so much so that a sole supplier of telecommunications may not be in the public interest.

Competition many years ago was unworkable for the telecommunications industry for a variety of reasons. Local communities were ill-served by several telephone companies operating in the same geographic areas; costs were high; duplication of poles and lines was evidently wasteful; service was spotty. At the same time, there was a lack of cooperation by all concerned to connect with independent companies.

As a result, at both the State and Federal level, the telephone industry came to be regarded as one where the consumer benefited more from a single supplier than from any competing suppliers. Rightly or wrongly, the curb of regulation was imposed to substitute for the spur of competition—to regulate profits and prices and to assure that service needs were met.

This opinion on the benefits of a regulated monopoly for the telecommunications industry held sway, for all intents and purposes, until the latter part of the 1960's. At that time, there was a growing question in the minds of some regulators, particularly among Federal regulators, as to whether or not the telephone company's monopoly was, in fact, too inclusive and too broad—particularly in light of changing times and changing technology.

The impetus for increased interest in the role of competition in telecommunications came from the FCC decision in the now famous Carterfone 1968 case which permitted, with restrictions, the connection of privately owned equipment to the telephone network. Its decision was based on the philosophy that the consumer could use the telephone network in a manner that was "privately beneficial but not publicly detrimental."

In the ensuing years, the FCC began new applications of this doctrine. It has since opened up to other carriers various types of so-called specialized markets such as private line microwave services for business and domestic satellite services.

The justification for these decisions is the Commission's belief that, in certain parts of the telecommunications market, competition will yield its usual benefits without disturbing the known benefits that the country has enjoyed from regulated monopoly.

The telephone industry has continually raised alarms about the course the Commission has been pursuing. While the views of the Federal Communications Commission cannot be dismissed lightly, neither, it seems to me, can the position of the members of the telephone industry. They, after all, have been the ones most directly responsible for the quality of service we do enjoy in this country.

Their position is that the regulatory policies of the FCC, while appearing to be confined to discreet parts of the market will, in fact, create a rippling effect throughout their service—disturbing both its quality and its price.

The telephone industry claims that injections of competitive offerings will require the telephone companies to abandon the pricing principles that they contend have enabled them to keep the price of telephone service for the home user low. The principle that the telephone industry contends it has followed thus far, at the direction of Federal and State regulators, has been to subsidize residential telephone service through profits from other telecommunications services. This, they argue, has brought about the best telephone service in the world at a reasonable cost. Under the present policies of the FCC, they see themselves compelled to price many of their services closer to costs in order to compete. This, they say, will transfer many of the common costs of their operation from business users to the shoulders of the home ratepayer. In addition, they warn that operating something as complex as the nationwide switched network connecting some 148 million telephones is best done by telephone companies working in concert, rather than by multiple suppliers with competing interests.

They also contend that duplication of facilities will prove wasteful and will tend to disperse the volumes of traffic they need to justify the introduction of great cost-saving technology.

Industry opponents of the Consumer Communications Reform Act of 1976 argue that a variety of new communications services have been introduced that may not have been introduced by A.T. & T. without competition in the telephone industry. They further assert that the telephone industry argument of sharply increasing residential rates is an extreme example that assumes a total loss of A.T. & T. interstate service and terminal equipment revenue without any reduction in costs. The Ad Hoc Committee for Competitive Telecommunications asserts that only 3 percent of A.T. & T.'s market is subject to direct competition.

In hearing the views of the FCC on the one hand indicating that their policies will prove beneficial, and on the other hand, listening to the members of the telephone industry sounding warning alarms, I can only conclude that this important issue must be clarified and decided.

Clearly, no one in this Congress wants to see actions by the Federal Communications Commission result in a less innovative telecommunications system.

Nor are many of us inclined to favor an exception to our competitive free enterprise system unless there is overwhelming evidence that such an exception is justified.

Rather than cast this issue in academic economic schools of thought—monopoly versus competition—I believe that we have to drive it down to the basic issue. That is, what course of action is in the best interest of the public.

Certainly, it is not the job or the responsibility of Congress to tinker with the detailed rates of the telephone industry. However, the broad impact of telephone rates is more than an industry question. It concerns the affordability of a basic service to all the people. It concerns the broad social question of who should bear the cost of a nationwide telecommunications policy, and whose interests should be protected. It also concerns whether the telephone industry should be responsible for a subsidization of local service or whether such an activity could be more effectively administered by a Government agency.

So, while I have not sponsored the Consumer Communications Reform Act of 1976, I add my support to the idea that here is a multiplicity of questions that deserve thorough airing before the Congress.

I commend Chairman VAN DEERLIN of the House Interstate and Foreign Commerce Subcommittee on Communications for having indicated that he will hold exploratory hearings to clarify the issues. Chairman VAN DEERLIN has perceived very clearly the inherent dangers in continuing the present competitive policies in the telecommunications field without first determining whether or not in fact this policy is in the best interest of the public. Frankly, I do not know the answer. I am hopeful that my colleagues will closely follow this issue.

I heartily agree with Chairman VAN DEERLIN that these exploratory hearings should be held, and I hope that they will pave the way for full hearings on the issues in which all arguments can be examined, data sifted, and the public interest discerned.

I wish to emphasize that the broad question of public policy must be answered in a reasonable period of time by the Congress. This is one hot potato we should not and cannot pass on to the FCC or anybody else.

FARMING CHANGES WOULD ASTOUND FOREFATHERS

HON. ED JONES

OF TENNESSEE

IN THE HOUES OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. JONES of Tennessee. Mr. Speaker, just recently, I had the opportunity to read an interesting article in the Delta Farm Press which pointed out some of the changes that have taken place in agriculture during this great Nation's 200 years of existence.

This type of article is certainly appropriate during this year of our Bicentennial especially when one considers that we began as a predominantly rural nation where about 75 percent of the population was either directly or indirectly associated with agricultural pursuits. That is an astounding ratio of the early American population when we consider that only 5 percent of our people today produce all of the food fiber needed in this country and still have enough surplus to supply a great many foreign governments with their needs.

I want to take this opportunity to share this article with my colleagues in the House by inserting it into the CONGRESSIONAL RECORD.

FARMING CHANGES WOULD ASTOUND FOREFATHERS

(By Cecil Williams, Jr.)

WEST MEMPHIS, ARK.—If jolly old Ben Franklin were looking in on America during this Bicentennial Year, he might be surprised enough to lose his bifocals (a Franklin invention).

Because Franklin was so interested in farming, he and some of the other founding fathers would be likely to observe that agriculture has changed as much as any other element of American life.

Even with his brilliant mind, Franklin could never have guessed what farming would be like in 1976. In his day, for example, the colonists fed and cared for a rooster for six months to grow it to eating size. Now, Arkansas broiler producers grow a four-pound chicken in about nine weeks.

NUMEROUS CHANGES

Mechanization, modern chemical use, much larger farms, and new crops are a few other examples of changes that might hit Franklin harder than the lightning that trickled down his kite string.

The early farmers never heard of soybeans, for instance, and now they're one of the biggest crops in the United States.

In Arkansas, soybeans are the number one cash crop—yet, the most expert of America's early farm leaders might not be able to identify them in the field today.

Those early farmers did know about cotton, but not on the scale found in the U.S. in the 20th Century.

If Ben Franklin and Thomas Jefferson could see cotton today in Arkansas, even in a poor crop year, they'd probably find it hard to believe. In their time, small plots produced a few bundles of raw fiber for yarn and fabric, but it took the whole family to remove the seeds, spin the yarn, and slowly weave the cotton.

FINISHED PRODUCTS

In a good year, a typical Arkansas acre of cotton will grow about a bale, or 480 pounds, and from that acre may be produced 540 men's shirts, 610 women's dresses, or 1,100 bath towels.

That same acre can be stretched into more garments by shifting the cotton into bikinis; it would produce 2,640 of the skimpy swimsuits.

But not all of our founding fathers would be happy with today's farming industries, perhaps, because some of their favorite methods are rapidly fading away.

Thomas Jefferson, for example, invented a plow that was later named for him. But the plow may soon be going the way of the old gray mare, according to the Soil Conservation Service.

A recent SCS report said the time-honored plow may be a museum piece in a few years, because many farmers now are adopting minimum tillage practices.

ENERGY CONSERVATION

Minimum tillage methods leave crop residues on the land just beneath the soil surface to hold soil in place and conserve moisture. Less energy is needed under the system, too, and tillage costs are reduced.

Although not all land is suited to that method, SCS says there are now 36 million U.S. acres farmed without the traditional moldboard plow that turns soil upside down as land preparation begins in the spring.

Probably the biggest change in farming has been the substitution of machines for manpower, and the greatly increased efficiency they allow.

In Ben Franklin's time, about three-fourths of our population were needed just to produce enough food and fiber for the struggling new nation. Today, about five percent of our people can produce all the food and fiber needed at home and still have enough left over to supply hundreds of foreign countries.

BEST FARM PRODUCTS

Under the American system—and we can credit Franklin and Jefferson with great wisdom and foresight here—our people have the best and least expensive farm products anywhere in the world.

Other countries are still in the 1700's as far as their farming industries are concerned.

In Russia, for example, it still takes half the population to grow enough food and fiber, and they're still doing it the hard way.

Maybe old Ben wouldn't be so surprised at the farming changes after all—he always said freedom would change the world.

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because I was absent from the Chamber, I missed some rollcall votes on August 10.

Had I been present and voting, I would have voted in the following manner.

"Yea" on rollcall No. 630.
"Yea" on rollcall No. 631.
"Yea" on rollcall No. 632.
"Yea" on rollcall No. 633.
"Yea" on rollcall No. 634.
"Yea" on rollcall No. 635.
"Yea" on rollcall No. 637.

TROTSKYISM AND TERRORISM: PART VIII—TERRORIST ACTIVITIES IN THE MIDDLE EAST

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. McDONALD. Mr. Speaker, the Fourth International supports terrorism in the Middle East as a weapon for the eventual creation of an Arab Communist state stretching from North Africa to Pakistan. As an initial step toward that goal, the Fourth International supports Palestinian terrorists and the destruction of the State of Israel.

This policy was described in an article signed by "Jaber," a member of the International Executive Committee from Lebanon; "Sami," of Iraq; and Gerard Vergeat, an alternate member of the IEC who is assigned to work for the Fourth International Bureau, the apparatus for day-to-day operations.[1]

The article revealed the Fourth International position in support of the "complete and unconditional right of the Palestinian Arab people to self-determination; that is, their right to reclaim all the territory from which they have been expelled.

The article states:

> The exercise of this right presupposes the destruction of the Zionist state * * *. * * * this solution cannot be envisaged outside the context of a revolutionary overturn in the entire Near East, which alone can provide the forces necessary to liberate Palestine from the Zionist and imperialist grip. That is, the destruction of the Israeli state goes hand in hand with the abolition of the other Arab states, on the road to creating a united Arab state.[2]

The Israeli section of the Fourth International is called the Revolutionary Communist League, also known as Matzpen-Marxist. Its leader is Michel Warshawsky who serves on the International Executive Committee of the Fourth International under the alias "Mikado."[3]

In an article in the official Fourth International magazine, Inprecor, Warshawsky boasted of the role of his organization during recent rioting by Arab students in the Israeli-occupied West Bank area. We wrote:

> The response to the RCL's activity, amplified by a press campaign after the arrest of some of its militants, has strongly increased the esteem for and audience of the revolutionary Marxists among the Palestinian population. For the first time, the RCL appeared not as an organization of anti-

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Footnotes at end of article.

> Zionist Jews in solidarity with the struggle of the Palestinians, but as an organization that is an integral part of the struggle of this Palestinian population and is implanted among it.[4]

The Revolutionary Communist Group, led by S. Jaber, operates as the Lebanese section of the Fourth International. They actively participated in the 1975-1976 civil war in support of the Palestinian-Lebanese Left coalition. Jaber wrote in "Inprecor": "Militarily, the RCG participated in the fighting in the anti-reactionary camp." He went on to say "the RCG chose to participate essentially in the task of defending the popular neighborhoods. It took charge of some of the advanced defense posts." [5]

Both the Israeli and Lebanese sections of the Fourth International pretend that they are only sympathizers, rather than members of the Fourth International. In a letter signed "Mikado" and "Jaber" addressed to the 10th World Congress of the Fourth International held in Sweden in February 1974, they asked that their groups be recognized as sections of the International. However, they asked that "for political as well as security problems, we are asking to be identified only as symphatizing groups in the organs of sections and groups of the International." [6]

On August 3, 1975, the Cairo newspaper Al-Akhbar, reported that the Egyptian Government had arrested several revolutionaries. The report stated:

> The State Security Investigation Department has arrested members of a communist organization which has links with communist organizations in Lebanon and France. Some 20 members of the organization, including five women, have been detained. The communist organization called itself the "International Communist League," whose objective is to overthrow the political economic systems in the country and to impose the extremist communist "Trotskyite" system.
>
> The security authorities have been following the organization's activity since August 1974 and its members were arrested last July. The communist organization has links with the revolutionary communist amalgamation in Lebanon and the Fourth International, which is an extremist communist group in France.

According to Intercontinental Press, a total of 20 Trotskyites had been arrested on July 3, 1975. The Egyptian Government had accused them of connections with the Fourth International section in Lebanon from which they had received funds and literature.[7] Intercontinental Press reported on July 19, 1976, that the remaining five Trotskyists had been released from prison in Egypt.

The Socialist Workers Party, U.S.A. has been active in support of Middle East terrorist movements. SWP National Committee member Tony Thomas has explained the use of anti-Zionism as a cover for the Trotskyite desire to overthrow all of the existing Middle East governments. He wrote:

> It must be remembered the limitations of organizing rights in all of the Arab countries. In fact until the early spring or late winter of this year Palestinians had more organizing rights and less danger of total victimization than radicals in Egypt or Syria. By centering on the demands against Israeli-occupation of Palestine and against imperialist domination, revolutionists can make it more difficult for repression to strike them, or when it strikes make it less advantageous for the Arab capitalists and their imperialist backers.
>
> This type of strategy, in summary, will make it more possible to add to the already massive nationalist consciousness of the Palestinian and Arab peoples the most important type of class consciousness—consciousness of the fact that the ruling capitalists cannot grant the major demands they raise. This will be the basis of a mass movement of the Arab revolution and a mass revolutionary party.[8]

The SWP even opposed American arms shipments to the Arab states claiming that such aid really benefits Israel. He wrote:

> As we know, a third corollary of the theory of permanent revolution is that socialism cannot be completed in one country and that the dictatorship of the proletariat cannot be assured of safety from imperialist intervention or bureaucratic degeneration, until revolutions are successful in the capitalist countries. This is again another reason why the main axis of the Palestinian and Arab revolutions must be centered on struggle against imperialism and Zionism. This is why our central task must be mobilizing and educating the people of the U.S. and other advanced capitalist countries to support the Arab revolution and to oppose U.S. support to Israel, including in the form of aid to Arab states.[9]

The use of anti-Zionism as a cover for the real Trotskyite goal was also explained by Denis Hoppe of the East Lansing, Mich. local of the Young Socialist Alliance, the SWP youth group. Hoppe was describing relationships between YSA and the Organization of Arab Students. Some of the Arab students were Stalinist-oriented—that is, pro-Russian or pro-Red Chinese—others supported their own governments. Hoppe wrote:

> The YSA must be careful in dealing with these organizations to make it clear that we do not want them to be restrictive. They are most effective and active when they do not limit political discussion to only one point of view. That is why we must reserve our specific revolutionary analysis of the Middle East to our internal relations with OAS. At public forums with OAS, we should limit our comments to the defense of the Arab revolution against Zionism and imperialism. The OAS is critical of the YSA for speaking about the evils of Stalinism at public forums on the Middle East. Furthermore, since many members of the OAS are outright supporters of the countries and regimes who sent them to this country on scholarship (Iraq, Libya, etc.) we must be careful to avoid alienating them by excessive criticism of the Arab regimes at events cosponsored with OAS. As I mentioned earlier, the OAS's effectivness is largely due to the fact that large numbers of Arabs of differing political views can unite around the task to be done in the U.S.: defense of the Palestinian and Arab revolution. Since the YSA agrees with this, we unite with them on that issue. The specific expression of Trotskyist ideas must be reserved to informal discussions. Actually, since the Arab students have seen that the YSA and SWP are the best defenders of the fight against Israel in the U.S., it is they who will come and ask us about our politics to find how we reached our position of the Middle East.[10]

AFRICA

The Fourth International has little real influence in Africa, although they do support Marxist-Leninist terrorist groups trained and armed by the Soviet-bloc operating in Rhodesia, South Africa, and Southwest Africa. The British section of the Fourth International, the International Marxist Group, publishes a magazine called Africa in Struggle to express this support.

I. B. Tabata serves as a "consultant" member of the International Executive Committee using the alias "Tom." Tabata, born in South Africa and long resident in Europe, is the only African member of the IEC.[11]

FOOTNOTES

[1] International Internal Discussion Bulletin, Vol. XII, No. 1, January 1975, p. 4; Minutes of the November 23-24, 1975, meeting of the United Secretariat, Appendix II, Memorandum to members of the Leninist-Trotskyist Faction Steering Committee from Mary-Alice Waters, December 19, 1975.

[2] International Internal Discussion Bulletin, Vol. X, No. 21, November 1973, p. 22.

[3] International Internal Discussion Bulletin, Vol. XII, No. 1, January 1975, p. 4.

[4] Inprecor, April 29, 1976, p. 27.

[5] Inprecor, April 1, 1976, p. 20.

[6] International Internal Discussion Bulletin, Vol. XI, No. 5. April 1974, p. 22.

[7] Intercontinental Press, September 8, 1975, p. 1163.

[8] SWP Discussion Bulletin, Vol. 29, No. 6, August 1971, p. 20.

[9] *Ibid.*

[10] Young Socialist Discussion Bulletin, Vol. XVII, No. 6, December 1974, p. 27.

[11] International Internal Discussion Bulletin, Vol. XII, No. 1, January 1975, p. 4.

REPRESENTATIVE NEAL ADDRESSES WISCONSIN BANKERS ON DOMESTIC MONETARY POLICY

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. REUSS. Mr. Speaker, the gentleman from North Carolina (Mr. NEAL) is doing a particularly responsible and energetic job as chairman of the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Currency and Housing. Because his remarks before the Graduate School of Banking, University of Wisconsin, Madison, Wis., sponsored by the Central States Conference of Bankers Associations in August 25, 1976, go to the heart of monetary policy, I commend them to Members:

RECENT U.S. MONETARY POLICY

(An Address by the Honorable STEPHEN L. NEAL, Chairman, Subcommittee on Domestic Monetary Policy)

Last week you heard a panel of four Federal Reserve bank presidents discuss monetary policy. Now you are going to hear one Congressman's view on the same subjects.

One Congressman can't speak with four voices. And, if he could, he couldn't do justice to the several views on monetary policy currently ensconced, if not enshrined, in Congressional thinking. But though I can't possibly cover the full range of views, I'm going to try to present those that make the most sense.

CONGRESSIONAL OVERSIGHT

Congress doesn't make monetary policy. Monetary policy in the United States is made and executed by the Federal Reserve System's Board of Governors and Reserve bank presidents. It has been that way since 1914, and it is likely to stay that way for a long time to come. Though there are strongly held views in the Congress on monetary policy, there is little sentiment for politicizing it, even among the Fed's most vociferous critics. On the other hand, there now is widesperad bi-partisan support for Congress to routinely oversee what the Fed is doing, and to bring its plans and actions out into the sunshine. This sentiment emerged with passage of House Concurrent Resolution 133 a year ago last March, and it has grown stronger ever since.

Under the Resolution, the Fed updates and discloses its money growth targets for the coming 12 months four times a year. There have been two important benefits from this procedure:

One is that it compelled the Fed to think a year ahead four times a year. Given the Fed's traditional preoccupation with the next few weeks, this was no mean achievement. Second, there is a special benefit from disclosure per se. It has acted as a discipline, preventing prolongation of both excessively rapid and excessively slow money growth. But, make no mistake, close and continuing Congressional vigilance is required to make certain that these benefits continue to accrue.

As Chairman of the House Subcommittee on Domestic Monetary Policy, I share responsibility for overseeing what the Fed is doing with my distinguished colleague and friend from Milwaukee, Congressman Henry Reuss, and Wisconsin's equally distinguished senior Senator, Bill Proxmire. To better carry out the oversight responsibility, when I became Chairman of the Subcommittee on Domestic Monetary Policy last spring, I asked the staff to assemble the data on the historical relationships between monetary policy and economic performance. Since then, my staff has quantified some extremely interesting relationships and identified costly past mistakes. In pursuing this research, our purpose was to learn, not to condemn. We can achieve a stable and growing economy only if we study and learn from the past. Staff research is an essential tool in performing the monetary policy oversight function. With the results of our research in hand, current policy can be discussed objectively and effectively.

SOME BASIC RESEARCH DECISIONS

We chose money supply growth rather than interest rate changes to measure the thrust of monetary policy. As compared to interest rate changes, money supply growth is a most reliable thermometer. Consider what happens in booms. As the economy expands and inflation heats up, interest rates will tend to rise whether the Fed acts to tighten credit or not. Interest rate increases thus are not a reliable indicator of a tighter Federal Reserve policy. Slower money growth is. It is because money growth slows in booms only if the Fed acts to slow it.

Among the alternative money supply measures, we chose M–1, which is the conventional definition and consists of publicly held coin, currency and checking deposits. We use M–1 to indicate the thrust of the Fed's money policy because, since 1960, its GNP velocity or turnover has fluctuated less around its trend than the velocities of M–2 and other money supply measures have fluctuated around their trends.

Now as Al Smith said, "Let's look at the record."

THE MONEY SUPPLY ROLLER COASTER

Throughout the post World War II period, money supply has moved up and down like a roller coaster. Exhibit 1 shows the pattern since the Korean War. It graphs the yearly percentage growth in M–1 from 1953 to the present. Each point gives the percentage change in M–1 between the same months from one year to the next. The first point on the left gives the percentage growth between January 1953 and January 1954; the second point between February 1953 and February 1954; and so forth. The exhibit clearly shows that the growth of our M–1 money supply from 1953 to 1976 has followed a roller-coaster pattern. Furthermore, since 1965 the money supply roller coaster has been tilted sharply upward.

Some would argue that money supply rolled with the economy. Up *because* the economy moved up, down because the economy dipped. Our economy's cycles, this argument goes, caused the money supply cycles. The argument contains a grain of truth. This is because in past years, the Fed has accommodated money growth to the economy's growth. As Ohio State Professor William Dewald has said, "Monetary growth rates have been above average during booms and below average after booms peak out and recessions develop, just the opposite of what common sense would suggest." But, there is no excuse for this behavior.

The point is that ours is a managed money supply. In managed money supply systems, there can be no chain of causation that runs from the economy to money growth unless the managers want one. The Federal Reserve has ample powers to control money growth. To accelerate money growth, the Fed can increase its open market purchases of Treasury securities, reduce discount rates and lower reserve requirement ratios. If one degree of policy change doesn't work, the Fed need only try harder. Some degree of open market purchases and (or) reductions in discount rates and reserve requirements will do the trick. Vice versa, some degree of open market sales and (or) increases in discount rates and reserve requirements would slow money growth if desired.

At hearings of my Subcommittee this past June, (pointing to the exhibit of the money supply roller coaster) I asked Federal Reserve Board Governor Charles Partee, "could the Fed have kept the growth of money supply on a more even keel if it so desired?"

Governor Partee answered, "Yes. It could have been done; that is, in abstraction."

In summary, the Federal Reserve, not the economy, controls the pattern of money growth. The Fed may choose to accommodate and reinforce an economic trend. But it doesn't have to do so. The roller-coaster pattern of money supply growth shown in Exhibit 1 need not have occurred. Whether it helped or hurt our economy is a separate question to which I now turn.

IMPACT OF THE MONEY SUPPLY ROLLER COASTER

The fundamental tenets of monetary economics are: (1) prolonged, excessively rapid growth of money supply generates (or accommodates) inflation; and (2) sharp prolonged deceleration in money growth produces and exacerbates recession tendencies. If shown Exhibit 1, a Rip Van Winkle monetary economist, who went to sleep in 1953 and awakened only today, would make two bets. First, he would bet that we suffered recessions in the months surrounding the bottoming of money growth in 1954, 1957, 1960, 1967, 1970, and 1975; and second, he would bet that inflation occurred in two waves after 1964.

History demonstrates that if there were any takers, he would win his bets. The tenets of monetary economics are not just esoteric academic theories. They have been operational throughout the post-1953 period. As Dr. Jerry L. Jordan, of the Pittsburgh National Bank, remarked in testimony before my Subcommittee:

"The basic relationships are that the fluctuations in the growth of money supply are related to fluctuations in unemployment, and the trend growth in money supply determines the trend in prices or inflation.

". . . If you maintain high growth in money, . . . you will raise the trend of inflation."

RECESSIONS

Let me go over this ground briefly. Exhibit 2 marks off the post-1954 recessions. From 1953 to 1965 we experienced recessions in 1953–1954 (not marked off), 1957–1958, and 1960–1961. Each episode followed a sharp prolonged slowdown in money growth. But because the trend in money growth stayed close to the economy's long-term 3–4 percent output growth potential, we experienced little inflation from 1953 to 1965.

In the period since 1965, we experienced recessions in 1969–1970 and 1973–1975, and a mini-recession in 1966–1967. As our exhibits show, each of these later episodes also followed a sharp prolonged drop in money growth. But, in this period, because the trend of money growth was tilted upward, and was substantially greater than our 3–4 percent output potential, the recessions were imposed on waves of inflation.

INFLATION

Now let's look at the relationship of inflation to money supply. Exhibit 3 overlays yearly percentage changes in the consumer price index (delayed 23 months) on the other exhibits. The reason for the delay in mapping inflation is that in the period since the Korean War, the immediate or concurrent relationship between inflation and money supply growth has been insignificant. Since World War II, the growth and lengthening of contractual wage and price relationships and the increased costs of posting price changes, have lengthened the time it takes for money supply changes to affect prices. Additionally, because of our commitments to maximum employment under the 1946 Employment Act, sellers now seldom change pricing policies when sales fall, as they know they can expect prompt, vigorous anti-recession Government actions.

We found that a 23-month lag reflects better than any other single lag (2 months, 12 months, 22 months, 24 months, etc.) the average effects of increased or decreased money supply on inflation. This does not mean that the effects on inflation occur suddenly, in lock-step, 23 months after money growth is changed. It means only that the effects of money growth on inflation are best displayed if inflation is mapped 23 months after money growth. Stated otherwise, if you want to see the effects of money supply changes on inflation, you get a pretty good indication by looking at what happens to inflation 23 months after money supply changes.

Looking at the overlay of inflation on money growth, you can see the inflation rate is tracked pretty well by money growth occurring 23 months earlier. On average, 60 percent of year to year inflation is explained by money growth 23 months ago.

More complicated computer analyses were used to check the money supply—inflation relationship. Quarterly data gave the same result as the monthly data displayed in the exhibits. The same result also was obtained when we used only one observation for each year. This latter experiment showed, moreover, that the close mapping of inflation on earlier money growth displayed in our exhibits is no mere reflection of common trend.

To check further, we used more complicated lag structures. For example, we related the inflation rate in the latest year to money growth that year, and simultaneously, one, two and three years earlier. Peak power occurred at 2 years and the fit of inflation to money growth increased to 78 percent. Other tests revealed no difference in money's power to affect inflation whether distribtued 1 and 2 years ago, 18 months and 2½ years ago, or 2 and 3 years ago. In summary, these and other tests indicate that, allowing for the absorption of a part of money growth in increased production, changes in U.S. money growth generate proportional changes in our inflation rate about 2 years later.

MONEY AND INFLATION IN ENGLAND

Recent English experience is remarkably like ours. This is revealed in an article in the July 13 *London Times* by Mr. William Rees-Mogg. Using a different methodology, he found that excess M-3 money supply accounts for all of England's inflation since 1967. He concluded:

"Excess money supply is like water flowing from a tap attached to a hosepipe which is about two years in length. Once you have turned the tap on nothing will stop the water coming out at the other end of the hosepipe in the form of price increases. Therefore the essential matter is to see that the tap is not turned on."

Do not be a doubting Thomas because Rees-Mogg uses M-3 and we use M-1. In the United States, at least, all M's are very close traveling companions, their growth rates rising and falling very much together. In terms of M-1, in the United States, money must grow about 3 percent per year to absorb production increases. Excess growth brings inflation. It's as simple as that.

The relationship has wide historical application. Inflation always followed in the wake of new discoveries of gold when gold was used as money. It tapered off and recessions occurred when gold became scarce. Experience has not been different under paper money, except that since World War II, for reasons I indicated earlier, the lag from excess money growth to increased inflation appears to have lengthened by 1 to 2 years.

OTHER FACTORS

Let me inject a caveat at this point. Our work does not indicate that U.S. inflation, year to year, is solely and completely a money supply phenomenon. Our research demands that we conclude that increases and decreases in money growth cause increases and decreases in the rate of inflation about two years later; it does not follow that prices cannot rise as a result of other factors.

My Subcommittee staff looked into the parts played in our post-1953 inflation experience by economywide production changes, the overall unemployment rate, government deficits and import prices. Here are the major results.

1. Production increases absorb part of money growth and restrain its inflation impact.

2. The magnitude of current inflation is not related, at least in any simple way, to the unemployment rate.

3. The deficit is not nearly as significant an inflationary force as money growth. Estimated by itself, it is. But when the inflationary impact of deficits is estimated together with that of money growth and production, it is relatively weak. For the record, following suggestions made by staff of the Federal Reserve Board, we tested for the effects of the deficit using the so-called "high employment" deficit scaled by potential GNP. It just didn't work very well. But let me stress that our failure to find that the deficit is a significant inflationary factor in no way argues for increased government spending. Government spending, in the abstract, is without merit. Only particular programs can possibly merit support, and each should be examined on its own with an open but critical mind. On the other hand, we could be less fearful of decreasing taxes.

In regard to the impact of import prices on inflation, our research confirms what I am sure is common knowledge. Increases in import prices added significantly to rising consumer prices from late 1973 to early 1975. Import prices began to rise sharply after the second devaluation of the dollar in February 1973. By the third quarter of 1973, rising import prices were adding slightly more than 2 percent to the annual rate of rise in U.S. consumer prices. OPEC's thunderbolt propelled the effect above 3 percent in the fourth quarter of 1973, and to more than 5 percent in the second and third quarters of 1974. The effect dropped under 5 percent by the end of 1974, and then fell rapidly back to zero by the end of 1975. In summary, when our cost of living soared by 12 percent in 1974, 4 to 5 percent was due to rising import prices. The bulk of the remaining 7 to 8 percent was rooted in domestic money growth.

WHY THINGS CAN GO BADLY

Why has the Federal Reserve allowed money supply growth to rise and fall like a roller coaster? The answer is, I believe, intellectual myopia. Like its intellectual parent, the Bank of England, the Federal Reserve traditionally has subordinated money supply growth to interest rate targets. Interest rates are easy to track and monitor hour to hour. And because the Federal Reserve has enough "clout" to dominate the money market at any point in time, it is easy for its officers to flatter themselves into believing that they can control interest rate movements. But when they try, they allow money supply to gyrate more than history shows is prudent. Ironically, moreover, the gyrations in money supply that result from resisting short-run fluctuations in interest rates lead to still wider interest rate swings in the long run.

In inflation, credit demand booms and interest rates rise. Attempts to keep interest rates from rising cause money growth to shoot up rapidly. In turn, the run-up in money growth generates more inflation and still higher interest rates. In recessions, credit demand is slack and interest rates fall. By trying to slow or limit the fall, the Fed undershoots in regard to money supply which aggravates the recession and thereby causes a still greater decline in interest rates. The lesson is clear. Interest rate targets must be subordinated to money supply targets. Not the other way around.

CURRENT POLICY

When I came to the Congress in January 1975, monetary policy was being debated as hotly as in the days of Andrew Jackson or in the period after the Civil War when populism was in full bloom. By allowing money growth to fall from more than 9 percent the year ending January 1973 to less than 2 percent per year after August 1974, the Federal Reserve had committed a major policy blunder. The economy was in a tailspin, and there were no signs that the Fed would reverse course. Chairman Burns was, in fact, telling us that the economy was "awash with liquidity." There was nothing he or his colleagues could do. Nonetheless, we acted.

We passed House Concurrent Resolution 133 expressing the sense of Congress that the Fed promptly reverse course and through the first half of 1975 expand money supply appropriate to facilitating recovery. Looking back, it is pleasing that the Federal Reserve did what the resolution asked, and gratifying that our prescription for recovery appears to have helped.

Beginning in the second half of 1975, the resolution called for money supply to be expanded "commensurate with our economy's long-term potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates." In this regard, the Congress rejected the defeatist theory that we can reduce unemployment only by accelerating inflation. In some short-run sense, perhaps a year or two, higher inflation does reduce unemployment. The reason for this is simply that wages and interest rates do not rise as fast as prices in the early stages of inflation, making it a bargain for business to borrow, invest and hire additional workers. But as time passes, wages and interest rates catch up. When that happens, unemployment rises. Moreover, the more rapid inflation is, the greater the danger that the rise in wages and interest rates will overshoot the rise in prices. If that happens, unemployment will rise above its initial level.

In House Concurrent Resolution 133, Congress recognized that lasting decreases in unemployment could not be achieved by pursuing an inflationary monetary policy. Rather, we registered our sense that we do not have to choose between stable prices and full employment. As a long-run matter, the two are compatible goals which can be promoted by keeping money growth commensurate with our economy's real growth potential. Further, moderate long-term interest rates are a corollary of stable prices. If there were no inflation, interest rates would include no inflationary premiums or add-ons.

So far, the Federal Reserve has followed the resolution's long-run policy prescription, and so far it seems to be working—inflation has tapered off from year ago rates and unemployment also is down. But, in monetary policy matters, as elsewhere, Congress cannot act as if those to whom it has delegated power will always use it responsibly and well.

As Chairman of the House Domestic Monetary Policy Subcommittee, I intend, therefore, to keep a constant watch on what the Fed is doing, and to call Chairman Burns and other Fed officials in to explain in their incipiency any deviations above or below the range of money growth which is commensurate with our economy's long-term growth potential. Now, 4½–7 percent annual growth for M-1 appears right. In time, as unemployment falls, the range will have to be lowered.

For sixty-two years, we have allowed men appointed to the Federal Reserve's officialdom to formulate and implement monetary policy without constraints or meaningful guidance, or even fear of being penalized when wrong. The arguments for maintaining this extraordinary degree of independence for persons making public policy to do what they want when they want, are, in the final analysis, mere assertions that in some mysterious way, persons removed from ordinary political processes can be trusted to do the right thing. This view might have a modicum of validity if monetary economics were an exact science and Federal Reserve officials the best practitioners in the country. But these premises are patently false. Monetary policy is no different from defense, foreign, fiscal, health, or any other public policy. It should be subject to the same degree of accountability. I intend to use the Congressional hearings process to make sure that it is.

BUDGET

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. FISHER. Mr. Speaker, because I think the 1977 budget outlays as recommended by the Budget Committee in its second budget resolution are somewhat too high in light of improving economic trends, I have asked the committee staff to prepare estimates for the several budget categories of a 2-percent reduction in all nonentitlement programs. The estimates are as follows:

[In millions of dollars]

Function	House reported (H. Con. Res. 728)		Estimated reductions (2 percent of nonentitlement appropriations)		Revised totals	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
050 National defense	112, 086	100, 606	−2, 300	−2, 000	109, 786	98, 606
150 International affairs	8, 770	6, 763	−200	−200	8, 570	6, 563
250 General science, space, and technology	4, 595	4, 505			4, 595	4, 505
300 Natural resources, environment, and energy	17, 923	16, 227	−400	−300	17, 523	15, 927
350 Agriculture	2, 317	2, 239			2, 317	2, 239
400 Commerce and transportation	17, 699	16, 984	−400	−300	17, 299	16, 684
450 Community and regional development	9, 584	9, 078	−200	−200	9, 384	8, 878
500 Education, training, employment, and social services	23, 884	22, 187	−500	−400	23, 384	21, 787
550 Health	40, 527	38, 960	−500	−500	40, 027	38, 460
600 Income security	155, 872	137, 000	−500	−500	155, 372	136, 500
700 Veterans benefits and services	20, 323	19, 539	−400	−400	19, 923	19, 139
750 Law enforcement and justice	3, 490	3, 571	−100	−100	3, 390	3, 471
800 General government	3, 556	3, 534	−100	−100	3, 456	3, 434
850 Revenue sharing and general purpose fiscal assistance	7, 617	7, 657			7, 617	7, 657
900 Interest	40, 400	40, 400			40, 400	40, 400
Allowances	860	910			860	910
950 Undistributed offsetting receipts	−16, 920	−16, 920			−16, 920	−16, 920
Total	452, 583	413, 240	−5, 600	−5, 000	446, 983	408, 240

The total reduction adds up to $5 billion in outlays and $5.6 billion in budget authorizations. This would mean a reduction in the estimated deficit for 1977 of $5 billion from $50.7 billion to $45.7, some $1.8 billion less than the most recent revision of the President's budget.

SURVEY SHOWS WORLD WAR I VETS FEEL THEIR REWARD SMALL

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. KELLY. Mr. Speaker, one of my most avid concerns as a Member of Congress has been to see to it that our World War I veterans be duly compensated for their service to the national defense. This particular group of veterans deserves far better treatment than it is currently receiving, and I was encouraged by action taken by the House on June 21 to increase by 25 percent the regular pension rates for veterans aged 80 and over and for their widows. Similarly, the Senate passed legislation on August 4 to grant the 25 percent increase to all World War I veterans and their widows.

I urge the House and Senate conferees on this pension reform legislation to settle their differences as quickly as possible so that our veterans can receive their deserved cost-of-living pension increases by January 1 of next year.

At this time, I insert a poignant article on the World War I veteran that was sent to me by one of my constituents, Herbert Kenyon, of Holiday, Fla. This article deserves the sympathetic attention of all Americans and emphasizes the need for prompt action by both the Congress and the President to insure a better quality of life for our World War I veterans:

[From the St. Petersburg Times, Aug. 2, 1976]

SURVEY SHOWS VETS OF GREAT WAR FEEL THEIR REWARD IS SMALL

(By Frank De Loache)

American-born Noel Wisdom was 17, patriotic and living in England in 1914 when World War I began. He enlisted in the British Infantry and in May 1915 was buried with his sergeant in a trench by a shell exploding at the battle of Fromelles.

But he got out of the trench and lived through 46 months of attacks, counterattacks, influenza epidemics, and antipersonnel gas.

For that, he was paid 25 cents a day.

Today Noel Wisdom and a dwindling number of the veterans of the first world war are getting older and find themselves dependent on Social Security Medicare and, if they're lucky, a military pension.

Since the veterans of World War II soon will be applying for their pensions, the Veterans Administration (VA) decided to see what kind of a job it did for the WWI veterans.

Overwhelmingly, the old vets have expressed their dismay with the way their pensions fluctuate and with the increasing costs of medical care. A survey of veterans in Pinellas County in late 1975 and early 1976 showed that 75 per cent are dissatisfied with VA services, and Norma Winston, an instructor at Eckerd College and project supervisor for the survey.

Pinellas County was chosen as the site of the survey because it has one of the largest concentrations of WWI veterans in the country, Ms. Winston said. The survey also provided federal administrators their first look at how most veterans live and how they relate to themselves and others, Ms. Wonston said.

The study says that the average veteran is 80, lives with his wife in his own home and visits his adult children regularly. Most of the vets came to Florida within the last 30 years (only 6 per cent have lived in Florida all their lives) and still own and drive a car.

"It was really impressive," Ms. Winston said. "Time and time again the interviewers expressed to me how many of the veterans were 'with it' and had hobbies."

Although many veterans admitted to symptoms of poor health, Ms. Winston said, "They obviously don't think they are sick enough. It's probably a stubborness. They don't want to be bothered with doctors and tests and pills."

The veterans' independence is reinforced by a strong sense of camaraderie," she added. "They fought for their country and they are proud of it. They provide a tremendous amount of support for each other."

One of the smaller groups of World War I veterans is the 34-member Barracks 3272 at Silver Lake Mobile Resort on 24th Street N. Barracks members Robert Waterbury, 81, Merritt Brown, 79, C. L. Dawson, 78, and Peter Afeld, 84, are all married and have between them nine children, 26 grandchildren and 17 great-grandchildren.

All the men volunteered for the fighting in Europe when America entered the war in 1917, and all agree that veterans have been forgotten since 1920.

Only Afeld is receiving a VA pension, but all agreed that veterans should be granted a set pension as opposed to the present system of subtracting from their pension every time Social Security benefits or any type of private pension is increased.

(Pensions for veterans are based on the amount of support an individual receives from other sources. As an individual's other sources of income increase, the VA pension is decreased.)

Winston's survey showed only 23 per cent of the veterans are using retirement benefits, and only .1 per cent use education benefits.

The survey also showed that 9.1 per cent of the veterans had monthly incomes of less than $299, 39 per cent had from $300 to $599, 28.6 per cent claimed $600 or more and 23.3 per cent could not ascertain their monthly income.

Although Eckerd College's report showed many veterans unsatisfied with health care provided at the local VA hospital and clinics, Brown, who has had an operation there said, "There's no better medical service than what you'll get at Bay Pines."

Barracks 3272 members sponsor bingo games for the patients at Bay Pines, while the barracks women's auxiliary often takes cookies and other refreshments to the hospital.

"We don't have a big barracks, but we do a lot more than many of the others," Dawson, the current commander, said. "Of all the World War I veterans I know of, I find that ones who have a definite interest in doing things feel better and live longer.

"There are not too many of us any more. And we are getting on the best we can."

Wisdom, who lives in a small mobile home on 40th Avenue, isn't quite as lucky as the members of Barracks 3272. He fought with the British, although he is an American, and the VA will not give him any financial or medical assistance.

"I get by on Social Security," he said.

The 79-year-old veteran keeps busy reading current books on World War I. He still rides his bike on Sunday ("It's too dangerous any other time"), and likes to watch the Tampa Bay Rowdies and several of the morning game shows on television.

The members of Barracks 3272 and Wisdom are typical of most veterans in the county, Ms. Winston said. They see many of their comrades dying, feel shunned by the government and the public but are determined to cling to their independence and to each other.

And they resent the inducements given volunteers in today's armed forces—high pay, educational benefits and pension plans.

Consequently, the Eckerd College survey recommended that the VA stabilize pensions for the older veterans and improve communications.

"Nothing distresses me more," said Ms. Winston, (than) to see old people who served this country well left out in the cold."

REMARKS BY JIMMY CARTER TO THE AFL-CIO GENERAL BOARD MEETING, AUGUST 31, 1976, WASHINGTON, D.C.

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. THOMPSON. Mr. Speaker, I am pleased to insert in the RECORD the text of a challenging speech delivered by Gov. Jimmy Carter at the AFL-CIO general board meeting held last week in Washington, D.C.

The text of the address follows:

REMARKS BY JIMMY CARTER TO THE AFL-CIO GENERAL BOARD MEETING—AUGUST 31, 1976

As I come to discuss with you the economic life of our nation, I remember the great contribution of Nat Goldfinger. His public statements and written analyses meant a lot to all of us in public life. He had a wonderful ability to express complicated economic facts and theories in a human and understandable way. He was a tough fighter for working families, and he had common sense. As Lane Kirkland said, Nat Goldfinger was the chief economist of the people.

I am proud to meet here with President George Meany and the other great leaders of the labor movement who have fought so many years for a decent life for working Americans and for a government which is fair and sensitive to the legitimate needs of our people. You were always in the forefront in battles for minimum wage, health care, social security, public education, fairer tax laws, strong national defense, job opportunities, housing and the quiet dignity of free human beings.

Ours is a vision of an America which is strong, united and confident, but this vision has been dimmed in recent years.

REPUBLICAN ECONOMIC RECORD

Our factories have been idle, our workers unemployed.

We have a government limited in ability, timid in leadership, afraid of the future.

We have an administration which uses the evil of unemployment to fight the evil of inflation—and succeeds only in having the highest combination of unemployment, and inflation, in the 20th century.

We have an administration which talks about fiscal responsibility—and succeeds only in having the slowest economic growth in 30 years, and the most unbalanced budgets in our 200 year history.

In Kansas City we heard that the Republicans are proud of their economic record.

I have to agree that they have set some records that will live in our economic history books.

The unemployment rate today at 7.8% is higher than any time between the Great Depression and the inauguration of Gerald Ford. Neither Presidents Truman, Eisenhower, Kennedy, Johnson or even Nixon ever gave us a 7.8% unemployment rate. That's a record.

And unemployment has not been going down in the past few months, it's been going up. There are over half a million more workers unemployed today than there were two months ago.

Our 6% inflation rate today is higher than any rate under Eisenhower, Kennedy or Johnson. So the last two presidents can share this entry in the record book.

The economy is producing $150 billion less than in normal prosperity. That loss of production and income amounts to $2,500 a year for every American family. That's another record.

Under Mr. Ford's budget, the public debt will rise $210 billion. That exceeds the increases under his five predecessors and amounts to more than ⅓ of the public debt amassed during the entire history of our country. That's also a record.

Starting with a 5.5% rate of unemployment in August 1974, the unemployment rate jumped up to 8.9% in just nine months. That's a record.

In the last eight years, our rate of economic growth has been half as high as our historical average.

Economic stagnation has brought layoffs affecting ⅓ of the families in our country.

It has brought a tripling in the rate of inflation for food, housing and fuel.

It has thrown the federal budget out of balance because stagnation is expensive. For each one percent rise in the unemployment rate, the government loses $14 billion in taxes that would otherwise have been collected, and at least $2 billion in unemployment and welfare checks to support the unemployed.

Economic stagnation has made the average paycheck worth less today than in 1968.

This administration has indeed set many devastating new economic records.

But it has done something even worse. Our eight years of economic stagnation have changed the spirit and direction of America.

TIME FOR A CHANGE

For eight years, this administration has told us what we cannot do. It is time for our leaders to affirm what we, as a united nation, can and must do.

I believe we can grow and prosper again as a country. I believe it is time for national unity, rather than national division. I believe the President and Congress can work together, for a change. Different regions of the country can work together, for a change. Business and labor can work together, for a change.

We reject the Republican dogma that events are entirely beyond our control, that the government can play no creative role, and the best policy is to do nothing. We also reject the dogma that the federal government can solve all of our problems, or that the government always knows best.

We will look toward a philosophy that guides us toward new ideas—and to govern not by confusion and crisis, but with imagination and common sense, for a change.

We will replace stagnation with steady progress.

There are four ingredients necessary for a decent healthy economy. They are balanced, sustainable growth, full employment, stable prices, and a competent federal government working toward a balanced budget.

STEADY GROWTH

Ours is a troubled land today because the economic stagnation of the last eight years has diminished economic opportunities and reduced the American workers standard of living.

We cannot bring health to our economy and society until we move from stagnation to growth and productivity. To achieve this goal will require the forceful leadership of a President and a Congress, working together, who share the belief that stagnation and high unemployment will never cure inflation.

The President should have the authority to appoint the chairman of the Federal Reserve Board, the chairman's term to run for the same four years as the President's. While maintaining the Board's independence, the chairman would consult more closely with the President, other executive leaders, and the members of Congress in developing a consistent economic policy.

It is essential that we have fully coordinated credit and budget policy, prudent and wary of inflation, but firmly directed toward restoring job opportunities, a fair tax system, and steady economic growth.

Today, the economic policies of the federal government are too often without purpose, coordination and efficiency. Carefully coordinated and sensible budget and credit policies, that will permit lower interest rates, will enable us to build the homes, schools, and plant that are part of a good life that we seek.

Our economic policies will also be more consistent and purposeful if we begin to look and plan ahead, instead of staggering from crisis to crisis. A more coherent set of long-term economic goals can help us eliminate the wild roller-coaster dips of the last eight years.

Our goals of balanced growth and full employment cannot be separated.

FULL EMPLOYMENT

Our people are our most precious asset. We cannot afford to waste the talents and abilities of any person. We cannot afford the waste, especially, of our women and young people, and minority group members, who have been made to feel unwelcome in this stagnant economy. Half of the people who are now unemployed are less than 25 years old. The unemployment rate among teenagers is 18 percent. Among some minority groups, it is 34 percent.

We have seen the demoralizing impact on a family whose breadwinner cannot find a job. We understand the frustration of young people whose first encounter with the economic system consists of closed doors and dead ends. We are aware of the special impact on minority families who find that although the law is on their side, the economy is not.

It comes down to this: Will we as a nation force one group of our people to pay the price for the incompetence of their leaders? The Republicans say yes. I say no. I say that any economic philosophy which relies on keeping people out of work is morally, economically, and politically bankrupt.

To end this waste, we must rededicate ourselves to providing jobs at decent wages for all those who are able to work. My commitment during the next administration, and I know you share it, is to concentrate on putting our people back to work.

To do this, I will propose a comprehensive set of policies carefully targeted to meet this broad national need, and also carefully targeted to reduce unemployment among those groups and in those geographical areas where it is highest. By targeting our efforts to pockets of high unemployment, we will be able to reduce unemployment much lower without accelerating inflation.

I believe in the work ethic. This administration once talked about the work ethic instead of welfare. The work ethic is very simple. It means people at their jobs. In its economic mismanagement, this administration has done more harm to the work ethic than any other in the last 40 years.

If I am elected, I intend to run an efficient government, and efficiency requires investment as well as savings. When the Republicans say that it costs too much to put people back to work. I say it costs too much not to. This year, the government is paying $17 billion in additional welfare payments and unemployment benefits because of the recession. I believe we can make a better investment.

It is wiser to invest in our youth than to let them run aimlessly over the streets of every community in this nation.

It is wiser to invest most of our new incentives to encourage the private sector to hire the unemployed. Private enterprise is the major supplier of jobs and skills in our economy, and we will need the full participation of American business management if we are to achieve full employment.

It is also wise to provide productive public jobs for those who are unable to find work in the private sector.

Our people want work, not welfare.

STABLE PRICES

For eight years, the Republicans have given us the worst economic mismanagement since the days of Herbert Hoover.

We've heard a lot of tough talk from the administration on inflation, and we're going to hear a lot more during the campaign. But tough talk cannot cover up their disastrous record. Campaign talk cannot cover up the 70 percent jump since 1968 in every family's food bill.

Campaign talk cannot disguise the 60 percent jump in health costs.

Tough campaign talk cannot disguise the 70 percent rise in the cost of owning a home, or the 30 percent increase in mortgage interest rates. High inflation and high interest rates have put the housing industry, which provides the jobs and the housing we need, into a depression. The unemployment rate among construction workers is now 17%.

Since 1968, when Nixon was elected, the average cost of the same new house has leaped by $16,000, which puts the dream of a new home out of the reach of many American families. This helps to explain the recent 9% drop in new housing starts last month.

Campaign talk cannot hide the fact that prices rose three times as fast during the past eight years as they did under Presidents Kennedy and Johnson.

That's what all this tough talk about inflation really comes down to—the worst inflation in over a century. And a 1968 dollar that's worth about 60 cents. No wonder the Treasury now issues $2 bills and no wonder the public doesn't seem to like them.

I pledge to you and to the American people that, if I am elected, we will never use unemployment and recession as a tool to fight inflation. We will never sacrifice someone's job, his livelihood for the sake of an ill-advised economic game plan.

After the record of the past eight years, we almost forget that inflation is not inevitable and we don't have to sit back and give up on it. We should remember that from 1961 through 1968 in a period of rising prosperity, inflation averaged about 2%. It was not a coincidence that those were the eight years out of the last 24 when Democratic presidents were in the White House.

If I am elected, we will establish a comprehensive program to fight the many causes of inflation. Our goal is to reduce inflation to 4% or less within four years. I will make sure that every person who serves in our administration will join with Congress and other leaders to reduce the impact of debilitating inflation.

We will fight inflation through increased productivity which will result from our policy of strong steady growth, at least twice the 7% rate maintained under this administration.

We will fight inflation by anticipating bottlenecks and capacity shortages and moving in advance to prevent them.

Whenever inflation reflects an imbalance between supply and demand, we will choose a strategy that first expands supply rather than restricting demand.

We will fight inflation by creating agricultural production policies which will both maintain the income of our farmers and ensure stable food prices for our consumers.

We will fight inflation through a vigorous antitrust policy which will help push efficiency up and non-competitive prices down.

We will fight inflation by eliminating governmental regulations which drive up prices and serve to protect only the industry being regulated. It takes more than talk and study in this area—it takes presidential leadership and a partnership between a president and a Congress that trust each other and can work together.

But above all, we will fight inflation by putting our people back to work.

Nowhere is unity and cooperation more important than in this fight against inflation. During the recent crisis years American labor has shown remarkable moderation in the face of inflationary pressures which were not of your making. I will not ask labor to do anything that would jeopardize the purchasing power of the average worker. But I will honestly ask you and business to cooperate with me, in a voluntary effort to get our people back to work, and inflation under control.

For my part, I will do everything I can to give the American people the kind of well managed, efficient, cost-conscious government they want and deserve.

Every year the average American taxpayer works at least three months for the government, but each year many rich Americans don't pay any taxes at all. Comprehensive tax reform is a necessity; and if I'm elected, we'll have it!

Steady growth, full employment, and stable prices will enable us to achieve our fourth goal—competent government with a balanced federal budget by 1980.

BALANCED BUDGET

The Republicans are always calling themselves the party of fiscal responsibility. But we have to look at what they do, not what they say.

The deficit for the year just ended was $65 billion. That is the largest deficit in our entire history.

In fact, during the last eight years, this administration has piled up a total deficit and national debt—on which we all pay interest—almost as great as the total for all other administrations, in war as well as peace, in our 200 year history.

The interest charges alone on the $270 billion public debt created in the last eight years will amount to $19 billion per year. That is a perpetual charge of $350 a year, every year, for every family in the country.

The Republicans have never realized that the government cannot balance its budget by unbalancing the budgets of American families. A family out of work cannot pay taxes. A family out of work requires public support.

The American people know that there is a better answer. We know that in a well-managed and steadily growing economy we can create jobs, maintain stable prices, meet our people's needs, and achieve a balanced budget. And we can accomplish these goals while restricting the government to the same share of our national output that it now has.

Living within our means will require discipline and efficiency. Working people follow those guidelines within their own budgets. Through a continuous, zero-based budgeting review of our expenditures, we can make the Federal government follow those guidelines, too. New services will be phased in gradually and prudently and predictably, as we can afford them.

Unlike this administration, we see no conflict between a government which is responsive and compassionate and one which is efficient and careful in its use of the people's money.

Today, I have outlined some of the things we can do to end economic stagnation and meet our national economic problems. There is a lot more we can do, too.

A NEW SENSE OF PURPOSE

But first we need a president to pull us together and give us a new sense of purpose. A sense of purpose that rests on the belief that, if we work hard together, with some imagination and common sense, we can do a better job. That is the promise of America—to grow, and improve, and to do better than what we have done in the past.

There is no greater obstacle to improving our economic performance than the thinking of this Republican administration that things can't change, that we can't solve our problems, and that we can't do better.

That's wrong. That's a denial of the promise on which this nation was founded.

It is a denial of our capacity—our spirit—to evolve and to grow, to develop new solutions to old problems.

And it is a denial of the spirit which flourished in another Republican administration—112 years ago.

"The dogmas of the quiet past," said President Lincoln, "are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our cause is new, so we must think anew and act anew."

Act anew.

Act anew we must to solve the problems of inflation and unemployment, too. To restore economic prosperity that is justly shared among all of our people.

And solve these problems we will, with your guidance, your support, your spirit, and your faith.

CONGRESSIONAL BICENTENNIAL SALUTE TO REV. FINBARR M. CORR, DIRECTOR, FAMILY LIFE BUREAU, PATERSON, N.J., COMMEMORATING SEPTEMBER 19, 1976, AS "NATIONAL FAMILY DAY" DEDICATED TO ALL OF THE FAMILIES OF AMERICA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ROE. Mr. Speaker, I rise in support of the Family Life Movement which seeks to provide a forum for the sharing of the unique gifts of family tradition among our people during the celebration of our Nation's Bicentennial Year and ask that you and our colleagues here in the Congress join with me in supporting the following resolution which I have introduced in the House:

H.J. RES. 1075

Joint resolution designating September 19 as "National Family Day" during the celebration of our Nation's Bicentennial year.

Whereas the celebration of the two hundredth anniversary of the birth of our Nation is a time to reflect on the history of our great country and the good deeds of our people which have placed our representative democracy second to none among all nations throughout the world; and

Whereas America has gained its strength and fiber through the tradition of a strong family life which has truly enriched the educational, cultural, social, and economic wellbeing of our communities, States, and Nation; and

Whereas the very basic foundation of our society in preserving our human values, nurturing our children, developing respect and understanding for others, caring for our elderly and perpetuating our cultural and spiritual heritage stems from family life;

Whereas our United States of America is comprised of family groups from all over the world, bringing varied expressions of familial solidarity which have been adopted by our people, adding to the quality of our American way of life; and

Whereas the family life movement in many areas throughout our Nation is celebrating September 19, 1976, as "Family Day" to celebrate and honor the family, which has contributed in large measure to America's evolution as a two-hundred-year-old nation that has achieved global preeminence as a shining example of a united and compassionate family which continues to extend a helping hand to families in need throughout the world; and

Whereas it is indeed appropriate to honor the contributions and special place in America of families and those who labor to create the wealth and destiny of our country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 19 of our Nation's Bicentennial year be designated as "National Family Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day to reflect upon and reaffirm our belief in family life, demonstrate our support for the concepts of family life, and provide a forum for the sharing of the cherished values of our heritage and the unique gifts of family tradition amongst all of our people.

Mr. Speaker, may I particularly commend to you and our colleagues the outstanding work being carried on in my congressional district in the Family Life Movement by the Reverend Finbarr M. Corr, Ed.D., director of the diocese of Paterson, Family Life Bureau, Paterson, N.J., and by the Board of Governors of the Family Life Bureau, as follows:

BOARD OF GOVERNORS

The Honorable:

Edward E. Aboyoun, Frank Alberta, Jesse J. Barton, John Basalyga, William V. Burke, Rev. Clement Cardillo, Thomas Chidiac, N. Francis Cimmino, Nicholas F. Cimmino, Esq.

Michael Cipoletti, Jack Connell, Reverend Finbarr M. Corr, Dr. Claude Coutinho, Vincent C. Duffy, Esq.

Martha Fuerst, Marjorie Furrey, Louis P. Gantner, John F. Geaney, Jr., Esq., Charles N. Ged, George J. Ged, Dr. Joseph Grecco.

Agnes Guard, Edward B. Haines, Michael Halleran, Paul Hennessey, Eugene Hilker, Charles Kessler, Rev. Robert Kirchgessner.

Vincent Kramer, Raymond Luchko, Mary Manocchio, Sylvia Mancin, Joseph J. Menegus, Ray Misajet, Peg Cleary (Murray).

Ed Najjar, Frank Olandisi, Vincent S. Parrillo, Dr. Roland C. Pasquariello, Alba Paterson, Vincent A. Pernetti, Esq.

Ernest W. Potter, Jr., Jeremiah Quinlan, William F. Rabbatt, Esq., John J. Reid, Donold Runz.

Al Scala, William Sellinger, Esq., John J. Sinsimer, Gerard Thomas, John Turi, Donald J. Vasta, John C. Wegner, Robert G. Weiss, Esq.

Father Corr and his program committee under the cochairmanship of Peg Murray and Ray Luchko have been busily preparing for the celebration of "Family Day" at the Clifton Stadium in my congressional district on September 19. Special plaudits are also extended to the program committee whose membership is comprised of leading citizens of our community, as follows:

FAMILY DAY COMMITTEE

Chairmanship: Robert L. Marcolus, Honorary Chairman, Reverend Finbarr M. Corr, Ray Luchko, Peg Murray.

Advertising and Public Relations: Anthony Morello, Jr., Patty Scanapieco.

Announcer Committee: Joe Chidiac.

Church Support Committee: John Reid.

Ecumenical Service Committee: Rev. Richard Rento.

Exhibit Committee: Donald J. Vasta—industry, Mary Ellen Karl—agencies.

Flag Committee: J. Robert Tracey—Morris County.

Flyers and Promotions Committee: Mae Svec.

Fund Raising Committee: John Basalyga, Charles Kessler.

Gift Committee: Robert Kurdock.

Invited Guests Committee: Mrs. John Reid.

Keynote Speaker Committee: Rev. Finbarr M. Corr.

Music Committee: Michael Cipoletti.

Parade Committee: William Walters.

Parade Participants Committee: Ray Luchko.

Refreshment Committee: Gerald Thomas.

Speakers Bureau Committee: Stephanie Zonenberg.

Stadium Committee: John Rutledge.

Transportation Committee: Rev. Frank Ferraioli.

Welcoming Address Speaker Committee: Rev. C. Manning.

Advisory: Rabbi Eugene Markowitz, Assemblyman William Bate, Sister Grace Engels, Sister Mary Louise, William Burke, Theodore Kyles, Reinhold Kissner, Rev. Charles Manning, Mr. and Mrs. Robert Smith, Earl Modean, Mary Hinkle.

The program is, as follows:

What: A Celebration and reaffirmation of the concept of family—cultural, environmental, spiritual and social.

Why: To help stem the tide of negative attitudes towards the family unit by gathering in unity and purpose, to stand up and be counted as supporters of family life.

Who: The mothers, fathers and children of New Jersey as well as the extended family—business leaders, community and government leaders, ethnic and fraternal groups and their families. ***And special guest, Mr. Pat Boone.

When: September 19, 1976 from 12 noon to 4:30 p.m.

Where: Clifton Stadium, Clifton, New Jersey.

Sponsor: The Family Life Board of Governors and local industrialists who support the family unit as the basic foundation of our society.

EVENTS

Exhibits and displays by local industries.

Announcer, George Meade, WOR Radio.

Parade of family life supporters into Clifton Stadium.

Welcoming address by Rev. Charles Gallagher.

Entertainment by the West Point Glee Club.

Keynote address and musical celebration by Pat Boone, entertainer and family man.

Ecumenical service.

Join in with Mr. Boon and all the Family Day participants in a round of songs.

Mr. Speaker. I am pleased to have the opportunity to submit this resolution to designate September 19 of our Bicentennial Year as "National Family Day." Thank you.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mrs. KEYS. Mr. Speaker, on Thursday, September 2, 1976, I was unavoidably absent for rollcall No. 693, on final passage of H.R. 13636, extension of the Law Enforcement Assistance Administration. Had I been present, I would have voted "yea."

THE BALANCE(S) OF POWER—IV: STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BRECKINRIDGE. Mr. Speaker, to continue my discussion of the strategic defensive balance in my series on the "Balance(s) of Power," I wish to expand the section dealing with the debate on U.S. civil defense which has again surfaced as a topic of controversy.*

I wish to insert a letter written by Ruby Thurmer in support of an article by Arthur A. Broyles and Eugene Wigner, "Civil Defense in Limited War—A Debate: Have Recent Developments in Strategic Weapons Given Us Reason to Look at Civil Defense in a New Context?" that appeared in the August 31, 1976, issue of the CONGRESSIONAL RECORD as a part of my series on the "Balance(s) of Power."

In her letter, Ruby Thurmer sharpens the focus of the debate by arguing that civil defense preparedness has been tested and proven effective in both the Soviet Union and the People's Republic of China, and by noting that it is unthinkable that anyone could actually believe that the people of the United States should be left completely unprotected against nuclear weapons effects, simply because it—and the implementation of a reasonable civil defense program for the United States—"might upset someone." Should the present lack of preparation continue and should a real crisis develop, the majority of the American people are going to be pretty unhappy to learn that "somebody in Washington" has not taken care of the matter.

The views expressed in the letter that follows summarize the essence of the official position taken by the Emergency Technology Section, Health Physics Division of the Oak Ridge National Laboratory.

Ruby Thurmer is involved in an intensive research effort regarding civil defense preparations of foreign countries, and is associated with the Emergency Technology Section, Health Physics Division of the Oak Ridge National Laboratory, Oak Ridge, Tenn., which is operated by the Union Carbide Corp. under contract with the U.S. Energy Research and Development Administration.

The letter follows:

I am not an expert on military strategy; however, I am involved in an intensive research effort regarding civil defense preparations by other countries of the world. Therefore, it was most disturbing to find statements such as "Furthermore, the development and rehearsal of civil defense plans ... could be viewed with alarm by an opponent." and "Implementation of an extensive civil defense system ... would counter the progress that has been made toward reduced international tensions." being used as arguments against implementation of a reasonable civil defense program for the United States. This reasoning must be a great source of amusement for the Russian and Chinese leaders. Both of these nations put a great deal of their defense efforts into civil defense.

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* See Part IV (iii), August 24, 1976, pp. E4258 *Congressional Record;* Part IV (iv), August 31, 1976, pp. E4785 *Congressional Record.*

The Chinese tunnels under their cities are equipped with radioactive-dust filters, medical centers, stores, restaurants, rest and recreation areas, and water is supplied to them by natural wells. The entire population of Peking reportedly can be sheltered within five minutes. This is fact, not fiction.

The Nixons spent 45 minutes touring a section of these shelters under the Ta Cha La District of southern Peking during their recent visit to China. In his banquet toast, Mr. Nixon stated

"... and then when we saw the air raid shelters that had been built by the people themselves in the very blocks in which they live, we were reminded of the threat and the danger to the promise of China's future and the future of all people in the world in the event that war would come."[1]

Mr. Drell implies that the Soviet civil defense efforts are merely propaganda and not really effective means of protecting the population. Below are excerpts from an article by the Secretary General of the Austrian Civil Defense Union.[2]

THE SOVIET CIVIL DEFENSE

Even though surreptitious attempts have been repeatedly made from the East ... to install a counter-propaganda aiming at undermining civil defense's setting up and development on the Western side of the Iron Curtain, the USSR and its allies however attach great importance to Civil Defense. Thus in that part of the world, Civil Defense is on an equal footing with other measures within the programme of total defense.

The Soviet Civil Defense essentially consists of two main bodies: the Anti-Air Defense (MPWO) and the paramilitary organisation DOSAAF. Their closely-knitted network covers the whole territory of the Soviet Union ... and as Civil Defense also comes within the field of activity of the Warsaw Pact States' Unified High-Command, the network also spreads to the Baltic Sea, the Elbe, the Bavarian-Czech frontier; and besides, USSR's Eastern allies have their own national Civil Defense organisations.

... Thus supported by the system, Eastern Civil Defense has no problems of personnel or material. Every citizen has the duty to serve in Civil Defense; the educational level is good and there is no lack of equipment.

Here greater attention is given to the building of shelters because it is agreed that Civil Defense credibility is linked to the achievement of the shelter construction programme. Under Malenkov already, undergrounds in Moscow and elsewhere had been converted into shelters.

In an article by Peter Laurie,[3] the fact that Great Britain (like the U.S.) lacks adequate civil defense capabilities was pointed out quite dramatically. The author had visited Switzerland and observed their CD preparations. He states:

"Briefly, the Swiss think that war in Europe—and that means a very nasty nuclear war—is a sporting chance any time from 1980 on. Already they have dug most of a second, underground Switzerland. Every home is obliged to build, stock, and maintain a shelter where it can lurk for two months. Each community has a communal shelter, equipment store, and command bunker which will resist three atmospheres' overpressure (1 megaton at 1 mile). There are a vast number of underground hospitals. The Army has burrowed itself into the Alps, and is reputed to have stores there for three years, where it can menace the flank of any invader of the homeland.

"Sweden is much the same, with an elaborate programme of shelter building, putting power stations and factories underground, surrealist opening cliffs for warships. It seem likely that after the holocaust Europe will be run by Swedes and Swiss, trundling around in immaculate ABC suits, wearing that pained, 'I told you so' expression on their faces. A most unpleasant prospect.

" . . . Come the '80's, a few holes in the ground might be judicious. Switzerland spends 0.4 percent of GNP on civil defense. For that modest amount, in 15 years, they have assured themselves almost complete protection for people and important resources. Is £5 a head a year too much to spend on preserving the British way of life?"

These quotations are just a small sample of the published "propaganda" regarding the activities of other countries in preparing to protect their most valuable resource—their people. There is no indication that any of them accept the "doomsday" philosophy. In fact, the only doom promised is for those who refuse to follow instructions.

I would refer the reader to a publication in 1961[4] which attempted, even 15 years ago, to squelch such outrageous thinking. At that time there were two trends (they may sound familiar): (1) that there is no room for hope and (2) that to proclaim the truth is to spread panic. In order to refute these arguments, it was pointed out by the then CD Administrator of the Philippines, Ing. A. G. Eugenio, that:

1. Ten years after the Hiroshima bombing a. the population swelled from the original 270,000 to 400,000, b. Its agriculture became better, and c. Its species more beautiful.

2. Although there is no civil defense for people within the circle of destruction directly under a nuclear weapon detonation, people outside this area, can survive if inside a shelter with 2 ft of concrete or 3 ft of earth cover. Hiroshima and Nagasaki inhabitants who were in dug-outs, tunnels, or caves escaped totally unscathed.

3. The danger of an atomic war should not breed unreasoned or paralyzing fear, but on the contrary should contribute to speeding up protective measures.

It seems almost unthinkable that anyone could actually believe that the people of the United States should be left completely unprotected against nuclear weapons effects, simply because it might upset someone. Why do our possible opponents' civil defense activities not upset us? They certainly make no secret of them. And if, as Mr. Drell implies, the Soviets have not done everything that they claim to have done, they are still far ahead of us, which (by reverse reasoning) should cause us "alarm that they are preparing for executing a first attack" and "counter the progress being made toward reduced international tensions." There have been many civil defense exercises in the Soviet Union. In fact, the entire fishing village of Sevastopol had an evacuation exercise in 1971[5] and the director of this particular project had had previous experience, indicating other similar large-scale experiments.

Civil defense is taught in the schools in the Soviet Union, beginning in the second grade and continuing through post-graduate schools. A professor at a Russian university related an amusing aspect concerning the abbreviation for civil defense on the course lists at his school. Grazhdanskaya Oborona (Civil Defense) is shortened to GROB, which is, itself, a word meaning coffin. This causes a certain amount of embarrassment to the instructors. The young people who are moving into the Soviet work force are thoroughly familiar with the means and methods of protection from "weapons of mass destruction."

This education process works nicely with the Soviet 1976 training-year plans to center the civil defense exercises around the enterprises. The announcement of the new program by USSR Civil Defense Chief, A. Altunin states that every factory, collective farm, educational institution, etc. shall be responsible for holding "comprehensive site exercises" which are to include workers, workers' families, and the non-workers living near the enterprise. These are to be held under extremely realistic conditions, simulating as nearly as possible actual crisis situations. To be included in the tasks assigned are the performance of rescue and restoration work, shelter building, shelter occupancy, dispersal and evacuation, firefighting, reconnaissance, and decontamination, as required by the individual site.

Perhaps, if the people here in the United States were kept informed as to what other countries are doing to afford their populations the opportunity to survive a nuclear war, then attitudes might change drastically. One thing is certain. Should the present lack of preparation continue and should a real crisis develop, the majority of the American people are going to be pretty unhappy to learn that "somebody in Washington" has not taken care of the matter.

MURPHY'S LAW

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. MURPHY of New York. Mr. Speaker, I am sure that the Members of Congress who are at least somewhat familiar with the issues associated with S. 521, a bill to update the Outer Continental Shelf Lands Act of 1953—particularly those in the overwhelming majority of the House and Senate who voted for the legislation, are aware of the travesty perpetuated by the Wall Street Journal in its editorial of August 31, 1976.

While I had assumed that reasonable persons would have ignored the editorial, it has been inserted in the Record, by a Member of the other body. Therefore, I feel compelled, out of loyalty to the vast majority in both Houses who voted for the bill, to rebut the editorial where it is factually wrong, to correct the editorial where inaccurate, and to set the record straight where it is purposefully, and intentionally, and with malice aforethought, misleading.

Consequently, for those Members not familiar with the OCS legislation, I am inserting the editorial and my entire response to the Journal which contains ample proof that the newspaper did a disservice to the American people and to the Nation. Although an edited version of my letter was printed in today's issue of the Wall Street Journal I feel obliged to make the entire document available to readers of the Record.

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[1] Peking, February 25, 1976 (HSINHUA), as reported in *Daily Report, People's Republic of China*, FBIS-CHI-76-49, 26 February 1976, Vol. I, No. 39, pp. A3–4.

[2] Josef Hans, "An European Point of View of Civil Defense," *International Civil Defense Bulletin*, No. 231, Geneva, Sept. 1974, pp. 2–3.

[3] Peter Laurie, "About the Continuing Possibility of Megadeath," *New Scientist*, 29 January 1976, p. 247.

[4] "Is Protection Possible Against the Atom Bomb?" *International Civil Defense Bulletin*, No. 77, Geneva, November 1961, p. 1–2.

[5] Joanne S. Gailer, "Soviet Civil Defense," *Survive*, Vol. 6, No. 3, May–June 1973, pp. 9–11.

[From the Wall Street Journal, Aug. 31, 1976]

MURPHY'S LAW

There are several laws attributed to Murphy, the most notable being "Anything that can go wrong, will." We've never been able to find out who this Murphy is, but if H.R. 6218 is typical of the legislation drafted by Rep. John Murphy, the Long Island Democrat, we may have found our man.

Mr. Murphy's bill, an amendment to the Outer Continental Shelf Lands Act, has absolutely nothing in it that would make things better. And what there is in the bill that can go wrong probably will. It was thus made to order for this particular Congress, and easily passed the House in late July and is now being fitted to a companion bill written by Senator Jackson, which drew only 19 negative votes in the Senate. President Ford will have another veto opportunity in a few weeks.

There aren't many laws on the books that could not stand refining and improvement, but the existing OCS law has so clearly served the public interest that there is no percentage in opening it up for repairs of a major nature.

Both environmentally and financially, the legislation's record in the Gulf of Mexico is superb. In more than 20 years, 19,000 wells have been drilled with only one spill, and there was no permanent ecological damage from that. The oil industry has grossed $23 billion in oil and gas sales. Government has received $19.9 billion of that amount. The industry, which so far has spent $34 billion on development of the Gulf OCS, may eventually get a return on investment of no more than 7%. If there is anything here for U.S. taxpayers, and consumers to complain about, it isn't evident.

Murphy's Law, though, is the equivalent of sending your Rolls-Royce down to Sammy's Garage for a ring and valve job at 20,000 miles, whether it needs it or not.

The least of its mischief is that it adds a few dozen more screening procedures on top of the more than 100 checkpoints an oil company now faces before it can start drilling. Taxpayers and consumers, of course, pay all the bills for ecological returns that are beyond the vanishing point. It is money thrown away to purchase delay.

Worse, though, are the innovative financial provisions that purport to maximize revenues from leasing and production, but which can logically only inhibit production and revenues.

Before offering a tract for lease, the Interior Department would be required to contract an exploration on behalf of the taxpayer. The idea is that the government will be able to get more in bonuses and royalties if it knows first hand if there's a jackpot under the OCS tract. In effect, the taxpayer is giving Interior Department bureaucrats a pile of money to gamble with, and if the bureaucrats lose, so what? It's not their money. Senator Jackson's version would actually set up a federal corporation with $500 million to play with.

The other innovation that can only go wrong is the requirement that the Interior Secretary let out so many tracts on royalty bidding instead of bonus bidding. The idea is to give Mom & Pop Oil Explorers a chance at the big time. Bonus bidding, now standard, requires up-front money by the explorer, which means he has a serious incentive to explore. Mom & Pop can compete on royalty bidding because there's no up-front money. They can promise to give the government 80% of production, win the tract, dig one well hoping for a North Slope, and abandon the tract if it's dry.

What's wrong with the current system? When the nine square miles of Baltimore Canyon tracts were put up to bid a few weeks ago, there were 410 bids on 101 out of the 154 tracts. The government rejected 8 of the bids as too low, and collected $1,127 billion in bonuses. It will be five years before the first drop of oil is produced. The reason Mom & Pop Explorers don't belong in this kind of game is exactly the same reason why they should steer clear of the baccarat tables in Las Vegas. The same goes for the desk jockeys at Interior.

Unless Representative Murphy has some secret maps detailing OCS oil fields, which he will turn over to the federal explorers he is asking the taxpayers to finance, there's nothing in his law worth saving. When it hits President Ford's desk it should be vetoed, quietly, mercifully, and we will promise to forget about it if Mr. Murphy will.

WASHINGTON, D.C., *September 2, 1976.*

THE EDITOR,
Wall Street Journal,
Washington, D.C.

DEAR SIR: Your editorial, "Murphy's Law" (August 31, 1976), is, at best, inaccurate, and in fact, intentionally misleading and deceptive.

Both the Senate and the House have passed amendments to the Outer Continental Shelf Lands Act. H.R. 6218, now called S. 521, is the product of nine sets of public hearings in 14 different coastal cities by the OCS Committee. We heard testimony from more than 300 witnesses throughout the country, and held 12 days of mark-up sessions, during which we considered almost 200 amendments. This was followed by four days of floor debate by the House, considering 80 more amendments. The bill was not, as you claim, "drafted" by me. It was prepared by all the Members of the Committee, and by many other Members of the full House.

Your editorial makes it appear that this bill has no support. Not only is it supported by almost all coastal states and environmental groups, it is supported by the AFL-CIO, smaller oil companies, and the gas distributors throughout the country. In fact, the opposition to the bill comes from the larger oil companies, the seven "sob" sisters, and not from the general energy industry. It should be remembered that these large companies are the same ones that capitulated and are capitulating to the Arabs.

You ask "What's wrong with the current system?" It is anticompetitive, potentially unsafe, irrational and antiquated. Present OCS leasing policies do not consider the requests for national protection of the environment, for consideration of the legitimate interests of coastal communities, for balancing short-term against long-term needs, and for improving the safety conditions for workers.

The OCS bill is recognized by most as a moderate attempt to update an outmoded 1953 law, which, despite your unsupported statements to the contrary, has not worked well.

In specific response to your misstatements, the record of offshore drilling is not superb. By discussing only the Gulf of Mexico, you failed to recognize the enormous damage resulting from the 1969 Santa Barbara oil spill. In addition, you did not mention the serious, and often fatal, accidents to divers and other workers on offshore facilities.

You do not mention that the Administration has reversed the policy of gradual development it undertook in the Gulf, and has now decided to accelerate lease sales in all previously undeveloped areas. You completely ignore the enormous impact that such "accelerated leasing" has on previously untouched coastal communities and the need to supply information to and obtain input from such coastal areas.

You stress that OCS administration is "financially sound". Your paper has continually stressed the need to promote "free enterprise competition"; yet you support continuing the present anti-competitive offshore leasing system. In the Baltimore Canyon lease sale, Exxon—the largest oil company—was able to secure one-third of the leases offered; the top seven oil companies, either alone or as the lead party, obtained 75 to 80 percent of the leases. This is not competition—it is oligopoly.

Requiring use of new bidding systems will bring in other companies. Your use of the term "Mom and Pop" explorers is an insult to many multi-million dollar energy companies, including gas distributors. Smaller companies have been drilling most of the wells onshore and now seek an equal opportunity offshore. Gas distributors have been supplying natural gas to its customers for years, and now seek an opportunity to eliminate the middleman and produce their own gas. These alternate systems are not untested; they are used successfully by many foreign countries and by states now leasing or licensing their lands.

You indicate that none but the seven sisters will efficiently exploit resources. Present Interior Department regulations, which would be substantially improved by the new OCS bill, provide for strict diligence requirements and penalties for premature abandonment are more likely to occur when development is by the larger oil companies rather than by the smaller ones.

It is unfortunate that you state that the industry "may" only get a seven percent return on its investment on OCS leases. By that logic, the industry "may" also get a return of three-to-five times that amount. Calculation of bonus costs and exploration costs which have so far indicated a small return to producers does not take into account the fact that the fields already leased will continue to produce oil and gas for some time with a return to the government of only 16⅔ percent per barrel. At our hearings, representatives of the oil industry indicated that they eventually expect to make a return far in excess of the seven percent you suggest (Standard Oil of California and Shell indicated an eventual net income of of 25 to 30 percent), especially in light of continually increasing prices for oil and natural gas. Moreover, because of technical provisions in tax statutes, the net return is substantially less than the real return. To paraphrase the statement of one witness from a large oil company, if they didn't believe that they would get an adequate return, they wouldn't be seeking to obtain the leases.

You indicate that the bill requires the Interior Department to contract for exploration. There is simply no such provisions in the bill. The industry and the Interior Department both agree that the 1953 OCS Act allows exploration prior to a lease sale, and in fact, such geological exploration has been conducted pre-lease since 1953. The proposed House bill does not in any way mandate government exploration, by contract or any other way.

Finally, it must be recognized that the Outer Continental Shelf is federal land—not private domain. A lease grants the right to explore, develop and produce—it does not grant the right to despoil. It is not only the desire, but the duty, of Congress to set policy, guidelines and standards for government property. It is not in the public interest to allow exploitation of public resources to be determined by a few uncontrolled companies.

Unlike the unsupported statements in your editorial, these facts can be documented by our hearings and record. I am therefore attaching a full set of our hearings and the Committee report for your review.

Sincerely,

JOHN M. MURPHY,
Representing Staten Island and
Manhattan, not Long Island.

DISTRICT OF COLUMBIA CRIME DOWN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. MAZZOLI. Mr. Speaker, several weeks ago, officials of the District Government began a career criminals program. As the following article states, the program may be responsible for a reduced crime rate in the District.

It is too early to draw conclusions from these results, but the results are encouraging. Also, cities such as New Orleans and my home of Louisville have experienced similar reductions in crime from career criminal programs.

Under these programs, special prosecutorial and police personnel are assigned to the cases of repeat offenders and judges are urged to detain these individuals until trial. As a complement to this effort the District Committee reported, and the House passed a bill to reform the D.C. bail laws and to expand judges' authority to detain repeat offenders. I hope that the Senate will act quickly on this bill to further the task of cleaning up crime in the District.

Chief Judge Greene, Police Chief Cullinane, and the prosecutor Mr. Silbert are to be commended for their efforts and initiative in this area. I hope that Congress can back them up with legislation to reform the D.C. bail laws.

I insert the following article:

[From the Washington Post, Sept. 2, 1976]

MURDERS HERE HIT NEW LULL

(By Paul W. Valentine and Joe Ritchie)

D.C. police yesterday reported only nine murders in the city during August—the lowest monthly total since September, 1968, except for November, 1975, when a low of eight was reported.

While the police department had no official explanation, some homicide detectives say they think last month's low figure is not entirely a fluke.

They note there have been fewer narcotics- and robbery-related murders in recent months, apparently because of a crackdown by city judges who are revoking parole and imposing high financial bail more frequently on full-time criminals and recidivists.

Police last month attributed a comparable reduction in reported robberies to the same phenomenon—the removal of a relatively small handful of hard-core criminal repeaters from the streets by court action.

The city typically has 20 to 25 homicides a month, though the figure fluctuates unevenly, and police statisticians warn the numbers are so small that it is risky to say there are trends over a short time.

Asked to explain August's low figure of nine murders, Capt. Joseph O'Brien, commander of the homicide branch, said: "Crime in general is down. What can you say? We like what we're seeing and just hope it stays that way."

Another veteran homicide detective said that while homicides resulting from domestic and neighborhood quarrels—the so-called "crimes of passion"—have held steady during recent months, murders by professional criminals involved in narcotics or other illicit activity have declined.

"The judges are locking more people up," he said.

The only month in which fewer than nine homicides have been recorded in the last eight years was November, 1975, when eight murders occurred, according to police statistics. Police officials said the figure is an inexplicable fluke, noting that more than 20 homicides were reported in the months immediately preceding and following November, 1975.

The monthly totals for homicides this summer, by contrast, have been gradually declining. There were 22 in May, 18 in June, 13 in July and 9 in August, according to police figures.

The record high monthly total for homicides is 33 in October, 1974.

A low of nine homicides was last reported in September, 1968, and again in April, 1967. Eight were reported in December, 1966.

Police statisticians noted that multiple or "mass" murders can throw monthly statistics off balance. They cited the Hanafi Muslim sect murders in January, 1973, when seven persons were killed in a single incident. A total of 31 homicides were reported in that month.

The figure of nine homicides for August is a preliminary total given by the homicide branch of the police department. It is subject to change if some of the deaths ultimately are ruled suicidal or accidental or if other homicides that occurred in August are brought to police attention.

A total of 138 homicides have been reported so far this year, compared with 166 for the same period last year.

MAJ. GEN. FRANK ROUSE

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. GONZALEZ. Mr. Speaker, Frank Rouse did not live an exceptionally long life, but it was extraordinary in its fullness. Of his 65 years, he served 35 in the Air Force, in posts from Europe to the Far East, in jobs from pilot to comman of one of the world's greatest logistics centers.

General Rouse learned to fly in San Antonio, in 1934. In his service lifetime he worked with airplanes as flimsy as cloth and wood, and as powerful as any ever built. There is no explaining how different a wooden propeller is from a jet engine, nor how much more complex the world itself became during the lifetime of General Rouse. He worked with it all, and worked well.

His last assignment was commander of the San Antonio Air Material Area, a not very glamorous name for a post that is housed at Kelly Air Force Base, one of the very oldest, most honored, most fondly remembered spots in the U.S. Air Force. At the time he became commander, Kelly was struggling to meet the demands of a war thousands of miles away. General Rouse had not only to contend with that enormously difficult problem, but to meet and overcome an accumulation of problems that had been gathering for 30 years. He had to create an effective program for equal employment opportunity, and he did. He had to overcome tensions, grievances, and all the problems that gathered in the late sixties, and he did. He inherited a physical plant that was too old to accommodate its tasks, insufficient for the times, inadequate to work in. He laid the groundwork for an enormous rebuilding program at Kelly that is going forward even today. His successors found a command that was much improved, a command that today still benefits from the strengths of his leadership.

General Rouse was a fighter pilot by trade, and had 150 combat hours during World War II. Yet he had the wit and tenacity to work successfully in any number of other posts, including the command of Kelly Air Force Base when it had better than 33,000 employees.

It cannot be said that General Rouse ever became famous; he was never in a position that brought fame. But he was beyond any doubt a solid citizen, a good airman, an outstanding leader, a success in jobs where anything less than a superior performance would have been a failure. He mastered every challenge with skill, courage, patience, and grace. There were not many like him, and he will be missed.

Frank Rouse died in San Antonio on September 3. He was president of a bank at the time of his death; he retired from military service in 1969. After services in San Antonio, his remains were returned to Yakima, Wash., for burial.

Those who knew and worked with Frank Rouse admired him. I have seen many military commanders, all able people. Few of them measured up to the standard of General Rouse. He was a man of rare talent, mature thought, deep insight, great skill; and he was a man of strength and integrity. He was a true gift to the people of this country, and I grieve his passing.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BROWN of Ohio. Mr. Speaker, in a continuing attempt to provide my voting record for the 1st session of the 94th Congress for the benefit of anyone who would like to examine that record, I would like to have printed here my votes on matters ranging from housing appropriations to authorization of a National Women's Conference. The material follows:

VOTING RECORD

H.R. 8070 HOUSING, SPACE, VETERANS APPROPRIATIONS

Amendment to delete all funding for a new rental subsidy program (Section 8) created by the '74 omnibus housing act (PL 93-383) rejected, 4-326, No; Amendment to reduce fair market rents—used to determine the amount of a subsidy—under the Section 8 rental subsidy program to 75% of those established by the Department of Housing and Urban Development in April '75, rejected 137-277, Aye.

Final passage of the bill to appropriate $51,429,024,000 in FY '76 for the Department of Housing and Urban Development, National Aeronautics and Space Administration and several other independent agencies and to appropriate $5,434,617,000 for the three-month transition period between FY '76 and FY '77, passed 321–25, Yea; 6–24–75.

Conference report on the bill to appropriate $49,344,914,000 in FY '76 for the Department of Housing and Urban Development, NASA, the Veterans Administration and several other independent agencies and to appropriate $5,648,675,000 for the three month transition period between FY '76 and FY '77, adopted 334–41, Not Voting; motion that the House recede from its disagreement with a Senate-passed amendment that would have earmarked 75% of FY '76 contract authority for a rental subsidy program (Section 8) for new construction assistance and that the House concur in an amendment to a conference report to earmark 50% of Section 8 contract authority for new construction, agreed to 202–174, Nay; 10–3–75.

H.R. 6755 VIETNAM REFUGEE ASSISTANCE

Amendment to require President to report on refugee program every 30 days to the House Judiciary and the Senate Foreign Relations Committees, rejected 158–261, No; Amendment to bar use of funds authorized by bill to assist refugees unless similar assistance was available to Americans facing the same personal economic hardship, rejected 71–346, No; Amendment to authorize funds beyond 9–30–77, exclusively for education, rejected 80–327, No; Amendment to substitute $507-million authorization for open-ended authorization, adopted 353–54, Aye.

Final passage of Vietnam Refugee Assistance Act authorization of $507-million, passed 281–31, Yea; 5–14–75.

H.R. 8841 FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Adoption of the Rule (H. Res. 734) providing for Floor consideration of the bill to authorize $47.9-million for the EPA pesticide control program through September 30, 1976, adopted 369–0, Yea; Motion that the House resolve itself into the Committee of the Whole to consider the bill, adopted 325–2, Yea; Motion that the Committee of the Whole rise, agreed to 239–66, No; Amendment to the substitute amendment to give the Agriculture Department the authority to block EPA decisions to ban or restrict the use of pesticides, rejected 167–175, Aye; Substitute amendment to extend the authorization for the act for one year through September 30, 1976, rejected 66–272, No; Amendment to require Agriculture Department approval for major EPA regulations and actions relating to pesticide control, rejected 164–233, Aye; Amendment to authorize EPA to approve state certification plans that require farmers to complete training programs before being certified to use restricted pesticides, as long as examinations were not required, adopted 250–155, Nay.

Final passage of the bill to authorize $47.9-million for the act through September 30, 1976, passed 329–80, Nay; 10–9–75.

Conference report on the bill authorizing $77.5-million to implement the act through March 31, 1977, agreed to 334–76, Nay; 11–18–75.

H.R. 5357 TOURIST TRAVEL APPROPRIATIONS

Final passage, a bill appropriating $98.1 million through fiscal year '79 to Commerce Secretary for tourist promotion, passed 287–132, Yea; 5–13–75.

H.R. 8365 TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS

Amendment to prohibit the use of any appropriated funds for traffic control operations for supersonic transport planes landing or taking off at U.S. airports, rejected 196–214, No.

Final passage, a bill to provide fiscal ‘76 appropriations $3,654,354,775 and advance fiscal ‘77 appropriations of $90,059,000 for transportation programs operated by the Department of Transportation and related agencies, passed 392–13, Aye; 7–10–75.

Motion to recommit to conference the conference report with specific instructions to insist that no funds be appropriated for certain railroad terminals, rejected 158–231, Nay; Motion to recede from its disagreement and concur in a Senate amendment to limit obligations for certain highway construction programs to $9 billion for fiscal 1976 and the transition period, agreed to 297–95, Yea; 11–11–75.

H.R. 8597 TREASURY DEPARTMENT APPROPRIATIONS

Amendment to delete language prohibiting the Internal Revenue Service from denying tax-exempt status or the deductibility of charitable contributions to organizations, including private schools, that had failed to prove their policies were non-discriminatory, adopted 284–122, Aye; Amendment to reduce fiscal '76 funds for the Council on Wage and Price Stability from $1.5 million to $500,000, rejected 167–243, Aye; Amendment to prohibit the use of White House Office funds to pay employees detailed from any other government agencies for full-time service at the White House, rejected 141–274, No.

Final passage, a bill to provide fiscal '76 appropriations of $6,265,532,152 for Treasury Postal Service and general government operations, passed 393–18, Yea; 7–17–75.

Conference report, provided for $6,314,070,000 for fiscal '76, adopted 337–79, Yea; 7–30–75.

Motion that the House accept an amendment to appropriate $5 million to the revolving fund for advance payments to the U.N. international air carriers instead of $7 million as passed by the Senate, agreed to 217–199, Nay; 7–30–75.

H.R. 8835 TRUTH IN LENDING ACT

Final passage, a bill to require companies leasing consumer goods to disclose fully the terms and costs of the lease, passed 339–41, Not Voting: 10–28–75.

S. 846 EMBARGO ON ARMS TO TURKEY

Final passage, a bill to permit a partial resumption of shipments of U.S. arms to Turkey, rejected 206–223, Yea; 7–24–75.

S. 2230 ARMS EMBARGO AGAINST TURKEY

Amendment to permit delivery of arms contracted for by Turkey before Feb. 5, 1975, provided the President certified significant progress had been made on the refugee problem on Cyprus, rejected 187–229, Not Voting; Amendment to give Congress 60 days after the President reported to Congress on the Cyprus situation, as required by the bill, to stop, by concurrent resolution, the arms deliveries and sales authorized by the bill, rejected 190–223, Not Voting.

Final passage, a bill to authorize fiscal 1976 funds for the Board for International Broadcasting, including Radio Free Europe and Radio Liberty, and to provide a partial lifting of the embargo on U.S. arms shipments to Turkey, passed 237–176, Not Voting; 10–2–75.

H.R. 6900 UNEMPLOYMENT ASSISTANCE EXTENSION ACT

Final passage, a bill to continue into 1976 emergency measures providing federally financed aid to workers who were ineligible for regular programs or who had used up a full year's benefits, passed 381–8; Yea; 5–21–75.

H. RES. 855 U.N. VOTE ON ZIONISM

Adoption of the resolution to condemn the United Nations' approval of a resolution classifying Zionism as a form of racism, adopted 384–0, Yea, 11–11–75.

S. 818 UN PEACEKEEPING FORCES

Final passage, a bill to authorize funds as necessary for the U.S. share of expenses of U.N. peacekeeping forces in the Middle East, passed 350–21, Not Voting; 6–9–75.

H.J. RES. 375 SUPPLEMENTAL VETERANS APPROPRIATIONS

Adoption of a joint resolution to appropriate $638 million in additional funds for Veterans Administration programs, adopted 386–0, Yea; 4–15–75.

H.R. 10355 VETERANS AND SURVIVORS PENSION ADJUSTMENTS

Final passage, motion to suspend the rules and pass the bill to provide an eight per cent increase in veterans' and survivors' pension rates, agreed to 400–0, Yea; 11–4–75.

S. 331 VETERANS DAY

Final passage, motion to suspend the rules and pass the bill to designate commemoration of Veterans Day on Nov. 11, effective in 1978, instead of the current designation of the fourth Monday in October, agreed to 410–6, Yea; 9–9–75.

H.R. 7767 VETERANS DISABILITY

Final passage, a bill to provide increases in disability compensation rates for veterans of from six to ten percent and to provide increases in the rates of dependency and indemnity compensation of from 9.4 to 11.3 percent, agreed to 389–0, Yea; 6–16–75.

H.R. 8240 VETERANS, PHYSICIANS AND DENTIST COMPARABILITY PAY ACT

Final passage, a bill to allow the Veterans Administration to pay its doctors $13,500 and dentists $6,750 above the $36,000 salary ceiling for other federal employees, agreed to under suspension 382–3, Yea; 7–21–75.

H.R. 9576 VETERANS READJUSTMENT ASSISTANCE AMENDMENTS

Final passage, a bill to terminate veterans' education benefits for persons entering the military after Dec. 31, 1975, agreed to 298–106, Yea; 10–6–75.

H.R. 5675 VIETNAM AND CAMBODIA REFUGEE ASSISTANCE

Amendment to require President to report on refugee program every 30 days to House Judiciary and Senate Foreign Relations Committee rejected 158–261. No; Amendment to bar use of funds authorized by bill to assist refugees unless similar assistance was available to Americans facing same personal economic hardship, rejected 71–346, No; Amendment to authorize funds beyond 9–30–77, exclusively for education, rejected 80–237; Amendment to substitute $507 million authorization for open-ended authorization, adopted 353–54, Aye.

Final passage, a bill authorizing $507 million, passed 281–31, Yea; 5–14–75.

H.R. 6096 VIETNAM HUMANITARIAN ASSISTANCE AND EVACUATION PLAN

Amendment in form of substitute bill, to prohibit funds from being used by Democratic Republic of Vietnam or Viet Cong and to delete language providing funds in bill be distributed through international agencies, adopted 340–70, Aye; Amendment to add $150 million for military assistance to South Vietnam, rejected 22–394, No; Amendment to add provision pointing out violations of Paris Peace Agreements by North Vietnamese and Viet Cong military forces, adopted 354–68, Aye; Amendment to clarify Congress' war powers and intent of bill, adopted 272–146, Aye; Amendment to restrict to 30 days after enactment of bill the period during which funds authorized could be used for U.S. armed forces participation in any evacuation of U.S. and foreign personnel from South Vietnam, rejected 196–208, No; Amendment to channel funds authorized for humanitarian assistance in S. Vietnam through U.N., rejected 200–200, No; Amendment to delete provision in bill waiving prohibitions in 5 public laws against use of funds for reintroduction of U.S. Armed Forces activities in Indochina, rejected 151–262, No; Amendment to establish a 10 day time limit to accomplish evacuation, rejected 97–311, No; Amendment to note the violations of

Paris Peace Agreement by North Vietnamese and Viet Cong, adopted 329–72. Aye; Amendment to prohibit use of funds for aid to North Vietnam or Provisional Revolutionary Government, adopted 343–71, Aye; Amendment to limit assistance to areas of South Vietnam not controlled by Communists, rejected 125–290, No.

Final passage, a bill authorizing $507 million for humanitarian assistance and evacuation programs and to clarify restrictions for use of U.S. Armed Forces in evacuation, passed 230–187, Aye; 4–24–75.

Conference report, to authorize $327 million in fiscal '75 funds to humanitarian and evacuation programs in South Vietnam and to authorize President to use U.S. troops in an evacuation of U.S. citizens and Vietnamese, rejected 162–246, Yea; 5–1–75.

H.R. 6219 VOTING RIGHTS ACT

Amendment to apply coverage of Voting Rights Act of '65 to jurisdictions where minority groups comprised more than five per cent of population and where less than 50% of minority voters cast ballots in the previous general elections to strengthen Justice Department authority to approve states' election laws and to extend those protections through '78, rejected 134–296, No; Amendment to exempt states and political subdivisions from provisions of the act provided (1) 60% of eligible voters and minority voters voted in the previous election, (2) the states took affirmative action to encourage participation of minority voters and (3) there were no violations of the Voting Rights Act for the previous five consecutive years, rejected 134–279, No; Amendment to replace a provision in the bill establishing a permanent ban on literacy tests with a provision adding a 10 year ban, rejected 89–318, Aye; Amendment to repeal provisions of the Voting Rights Act requiring states subject to the act to obtain prior approval of election law changes form the Justice Department, rejected 105–300, Aye; Amendment to delete Title II of the bill that would expand protections of the Voting Rights Act to Spanish-speaking Americans and other language minorities, rejected 104–264, Aye; Amendment to delete Alaskan natives from provisions requiring multilingual election materials for non-English speaking voters, rejected 145–264; Aye; Amendment to delete from the bill's definition of a language minority group those persons of ethnic origin whose dominant language was English, rejected 122–292, Aye; Amendment to insert "citizen" instead of "person" in language relating to conditions that prompted coverage under the Voting Rights Act, adopted 311–103, Aye; Amendment to expand the definition of the bill's language minority group to include all persons whose principal language was one other than English, rejected 156–253, No.

Final passage, a bill to extend the Voting Rights Act of 1965 through Aug. '85 and to expand the voting protections of the act to citizens of language minority groups, including citizens of Spanish heritage, Alaskan natives, Asian-Americans and American Indians, passed 341–70, Aye; 6–4–75.

H.R. 8731 WAGE AND PRICE STABILITY ACT

Amendment to strike provisions from the bill to give the Council on Wage and Price Stability power to require reports and subpoena business records on wages, costs and other information for all products sold, rejected 185–237, Aye.

Final passage, a bill to extend the Council on Wage and Price Stability through Sept. 30, 1977 and to give the Council power to require reports and subpoena business records on wages, costs, and other information for each product line, passed 235–188, Nay; 7–31–75.

H.R. 5608 WETLANDS LOAN ACT

Motion to suspend the rules and pass the bill to extend the Wetlands Loan Act of 1961 for seven years, and increase the total amount of authorized loans to $200 million from $105 million, agreed to under suspension, 400–0, Yea; 7–8–75.

H.R. 6706 WHITE HOUSE EMPLOYMENT AUTHORIZATION

Amendment to freeze the number of high-level White House staff jobs at the current level of 54 instead of increasing the authorization to 95 as provided by the bill, rejected 57–234, No; Amendment in the nature of a substitute bill, to provide control over the size of the White House staff through the congressional appropriations process instead of imposing statutory limits, rejected 146–242, Aye.

H.R. 5512 WILDLIFE REFUGE SYSTEM

Final passage of the bill to require that all parts of the National Wildlife Refuge System be administered through the U.S. Fish and Wildlife Service, passed 341–10, Yea, 11–14–75.

H.R. 9924 NATIONAL WOMEN'S CONFERENCE

Motion to suspend the rules and pass the bill to authorize $10 million for the organization and convening of a national women's conference in 1976, rejected 233–157, Nay, 10–20–75.

Final passage of the bill to authorize $10 million for the organization and convening of a national women's conference in 1976, passed 252–162, Nay, 12–10–75.

AMERICA THE CYNICAL?

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. SANTINI. Mr. Speaker, in this an election year, it is most disheartening to note that the public is growing more and more cynical toward their Government and their elected Representatives.

Watergate, the recent sex scandals, covert misuse of public funds, corruption, secrecy in Government, and heavy-handed Federal regulation have all combined to make the average citizen hypercritical, untrusting, and in many cases, reactionary toward politicians and government in general.

Honesty and high ethical standards seem to be the curing elixirs for this deadly deterioration in public opinion, and they are the recurring themes of nearly every national campaign today. Yet, the negative trend seems to be continuing, and we, as public officials, are suffering the inevitable consequences.

We in the legislative process are not alone in the general public's low esteem. A broad cross-section of America's professions and trades are generally indicted in recent public opinion polls. Is there a solution to this American malaise? The problem and a positive approach to reconcile our general climate of negativism has been appropriately offered by the Ely Daily Times editor, Mr. Rich Parker.

The message is well taken and I want to share these observations with all of my colleagues:

FAITH NEEDED

America is becoming a nation of cynics.

A recent Gallup Poll indicates people have little belief in the "honesty" and "ethical standards" of those engaged in a variety of professions, including their representatives in Congress.

The respondents were asked to rate these two characteristics on a scale from very high to very low. Eleven professions were included.

The responses, which were limited to the percentage giving "very high" and "high" ratings, were revealing.

Medical doctors were the only group receiving these favorable ratings from a majority. Fifty-six per cent felt their standards were very high and high.

At the other end of the list, only 11 per cent had the same opinion of advertising executives.

Only 19 per cent of the respondents gave senators very high or high marks. Their colleagues in the House generated 14 per cent.

Other percentages included: Engineers, 48; colleage teachers, 44; journalists, 33; lawyers, 25; building contractors, 22; business executives, 19; and labor union leaders, 13.

The results should be disturbing to those in the professions surveyed and also anyone else in the hundreds of other professions and trades who deal with the public.

It is obvious Americans do not have much esteem in those they deal with. Put in layman's language, they often feel they're getting ripped off.

This feeling does little to promote goodwill, or inspire faith. Qualities which are integral necessities of our free enterprise system.

As a newspaper, we are dismayed to see only a third of the survey feel journalists are honest and possess very high or high ethical standards.

The media is a vital part of this nation's balance. It's the press who keeps a watchdog eye on government and brings to light both the good and the bad.

But its effectiveness is severely curtailed if the public has little belief in the honesty and ethics of those who gather and write the news. Readers will carry these views over into what they read and judge them accordingly.

It is not surprising the members of Congress were rated near the bottom. Faith in government is dangerously low and many who have been elected to responsible positions have failed to live up to the ideals of the office.

No sooner did Watergate fade into the background than the sex scandals made the headlines.

Faith is an important aspect of the human relationship.

For our society to function anywhere near optimum requires a strong bond of belief and faith among the stratum of the population.

It is imperative Americans work as individuals and as members of their professions and trades to restore the public's faith in their honesty and ethical standards.

Americans cannot build a strong future on cynicism.

PERSONAL EXPLANATION BY REPRESENTATIVE PIERRE S. DU PONT OF DELAWARE—MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. DU PONT. Mr. Speaker, on August 30, 31, and September 2, I had to return to Delaware on business and missed several recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 671, "aye."

Rollcall No. 674, "no."
Rollcall No. 675, "aye."
Rollcall No. 676, "aye."
Rollcall No. 682, "no."
Rollcall No. 683, "aye."
Rollcall No. 684, "aye."
Rollcall No. 691, "aye."
Rollcall No. 692, "no."

LINE 21: THE DEAF'S CHANCE TO "HEAR"

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. STARK. Mr. Speaker, yesterday a column appeared in the Washington Post which I would like to share with my colleagues. The article was the combined work of Senators PATRICK LEAHY and CHARLES PERCY. Mr. LEAHY, a Democrat, and Mr. PERCY, a Republican, have joined forces to support the use of "Line 21"—the first nonvisual line above a TV picture—to send captions which allow those with hearing impairments to more fully enjoy television without affecting the sets of those of us fortunate enough to have good hearing.

As their column explains, the FCC is about to rule on the availability of Line 21 for "captioning." Making the line accessible for this use would help the 13.4 million Americans who have a serious hearing loss at a very reasonable cost to both the television industry and the consumer alike.

This is, indeed, a nonpartisan issue and one which I hope many of my colleagues in this Chamber will support. I want to thank the Senator from Vermont and the Senator from Illinois for taking the lead on this issue and bringing it to our attention:

THE FATE OF LINE 21: WILL THE DEAF "HEAR" TV?

(By Patrick J. Leahy and Charles H. Percy)

Some time this fall, the Federal Communications Commission (FCC) will make a decision that will be of great importance to the 13.4 million Americans who are deaf or whose hearing is seriously impaired.

The issue concerns the seemingly arcane question of the allocation of Line 21 on the television screen—the first non-visual line above your TV picture. But what the question really involves is whether we are willing to use available technology to maximize the enjoyment of television by the hearing impaired.

The Public Broadcasting Service (PBS) has been transmitting on Line 21 as part of a continuing series of experiments with "closed" captioning since 1972. "Closed" captioning refers to the process by which subtitles for television shows can be broadcast so that they are only visible on sets which have a special decoding device. Widespread use of such captioning would enable those with hearing problems tc "hear" as well as see what is happening on their television screens.

The results of four years of experimentation with closed captioning have been an unqualified success. Aided by two grants from HEW, the Public Broadcasting Service installed decoding equipment at 12 test sites throughout the country. PBS broadcast a number of its most popular prime-time shows (most notably "Upstairs, Downstairs" and "The Adams Chronicles") with "closed" captions. A nationwide survey of 1,400 viewers conducted by Gallaudet College here in Washington found that 94 per cent would purchase a home decoder if it were available.

The costs of closed captioning are relatively modest, particularly when compared with most expenses associated with television broadcasting. A network spends an average of $270,000 to produce an hour of prime-time television programming and a broadcast quality video tape machine can run as much as $140,000.

In contrast, PBS estimates that with the aid of a computer, it costs them less than $1,000 to provide a complete set of captions for a 60-minute program. The only major expense is the captioning equipment itself which runs between $25,000 and $50,000—but this is a one-time cost. After interviewing several manufacturers, PBS estimates that home decoders could be marketed within a year at a cost of less than $125. This means that most Americans with hearing problems could have access to captioning without undue financial hardship or government subsidy.

The FCC is determining the future of Line 21—and by implication "closed" captioning—because the Public Broadcasting Service petitioned the Commission last fall that Line 21 be available for captioning on a permanent, rather than experimental, basis. PBS argued that four years of experimentation had proven successful and that the commercial developers of decoders need some assurances that closed captioning has the full support of the FCC.

Given the history of closed captioning and its support by PBS and such groups as the National Association of the Deaf, one would assume that there would be little difficulty in securing FCC approval for the petition. But the PBS request became the center of controversy when the petition drew the opposition of all three commercial television networks.

The reasons for network opposition to allocating Line 21 for "closed" captioning are curious, since nothing in the petition would require them to provide "closed" captioning. It would merely make Line 21 available for transmitting captions by any network or station which chose to provide the service.

The networks offered a grab-bag of explanations for their objection to the permanent assignment of Line 21 to "closed" captioning. Some of the network arguments are simple to dismiss. For example, they contend that Line 21 should remain open for some unspecified future need. Since "closed" captioning would bring tangible benefits to more than 13 million Americans, it is difficult to imagine a more pressing future need, particularly since it is possible that Line 21 could be utilized in more than one way.

The networks also argue that successful captioning of many types of programming is not technologically possible. This is disputed by the record of the PBS experiments. They found that for many dramatic programs, such as "Upstairs, Downstairs," it is possible to project captions at a rate fast enough to reproduce virtually all the dialogue. For other types of programming, captioning can still convey the gist of what is happening without significant loss of content.

Because of this solid phalanx of opposition from the commercial networks, the future of "closed" captioning is very much in doubt. If the permanent allocation of Line 21 for "closed" captioning is granted by the FCC, it is likely that within two years 13 million Americans will be able to fully enjoy the television programming that so many of us have come to take for granted. However, if the FCC accedes to the network's wishes and postpones permanent assignment of Line 21, then a great opportunity to enhance the lives of those with hearing problems will be lost.

The FCC closed official comments on the PBS petition in May. But they have made clear that they are still willing to take cognizance of comments by individuals received after that date. While the FCC, like all regulatory agencies, does not base its decisions solely on the letters it receives, they do play an important role in alerting the commission to the feelings of the general public and particularly the feelings of those who will suffer from a missed opportunity if the petition is denied.

One of the most encouraging developments in recent years has been the government's growing sensitivity to the problems of the handicapped. It would therefore be both ironic and rather cruel if the FCC did not take positive steps to encourage the development of a system which promises to allow the hearing impaired to fully enjoy television.

THE ARAB BOYCOTT AND AMERICAN BUSINESS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. OTTINGER. Mr. Speaker, yesterday, the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee formally released its report, "The Arab Boycott and American Business." Our report culminates nearly 1½ years of investigations to determine if existing laws suitably prevent American businesses from participation in restrictive trade practices, and to recommend changes in the laws where needed.

The investigation was considered at the request of Members of Congress who believed the Department of Commerce, under the authority granted to it in the Export Administration Act, was not satisfactorily enforcing the antiboycott provisions of the act. At the time we decided to initiate the investigation, reports revealed a tenfold increase in the number of firms added to the Arab League's "blacklist."

Our task was difficult, and became exacerbated by Secretary Morton's 4-month refusal to furnish copies of "boycott reports" filed with the Department of Commerce over the past 5 years. After much deliberation, the subcommittee cited the Secretary for contempt of Congress, and finally, one day before the matter was to be raised before the full committee, the Secretary released the documents.

The staff and members of the subcommittee examined over 30,000 reports, questioned the Secretary, and concluded that—

> Through a variety of practices, the Commerce Department actually served to encourage boycott practices, implicitly by condoning activity declared against national policy or simply by looking the other way while these practices grew.

By the time Congress started to reexamine U.S. participation in the Arab boycott—more than 10 years after it initially condemned the boycott—billions of dollars in U.S. sales were affected by restrictive trade practices. The report points out that the Department took responsibility for promulgating vague and ambiguous reporting requirements; for distributing trade notices which contained boycott demands to American businesses; and for including language on their reporting forms which specifically stated that U.S. exporters are "not legally prohibited from taking any action" in support of the Arab boycott.

In light of these revelations, the subcommittee adopted recommendations to change the law so that there would be no question about congressional disapproval of the boycott, the United States response to it, and in particular making illegal participation by any U.S. national or company.

I lend my full support to the report, and to legislation to carry out its recommendations. I signed the 1965 report to extend the Export Control Act, and remain firmly committed to outlawing any U.S. participation in or collaboration with the boycott.

We are a government of ideals—ideals which include free trade, freedom of association, and freedom of religion.

Collaboration with the Arab boycott by the U.S. Government and toleration of citizen participation in it are repugnant to these ideals, and cannot be tolerated by a free society.

EUROPE'S NUCLEAR TURN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BINGHAM. Mr. Speaker, during the recent House debate over the Nuclear Fuel Assurance Act, H.R. 8401, great concern was expressed by several Members that the U.S. nuclear program is in serious danger of lagging behind that of our European competitors. Especially prominent in this argument was the supposed need, which several members of the Joint Committee on Atomic Energy cited, for ever-increasing supplies of nuclear fuel for those European nations which are expanding their nuclear power generating capabilities.

Yet, as an excellent editorial in the August 26 New York Times notes:

> The Paris-based Organization for Economic Cooperation and Development has revised downward by about 20 percent its estimates for 1985 nuclear energy output in its 23 member nations, a level lower than predicted before the oil embargo.

I commend to my colleagues' attention the thoughtful Times' piece which follows:

EUROPE'S NUCLEAR TURN

West Europe's lack of fossil fuel sources and its heavy dependence on Mideast oil led most countries there to step up plans for nuclear energy expansion even more than the United States in the wake of the 1973–74 embargo and five-fold oil price increase. But economic factors and public concern over safety, the environment, and weapons proliferation now have led to a slowdown similar to that in the United States.

The Paris-based Organization for Economic Cooperation and Development has revised downward by about 20 percent its estimates for 1985 nuclear energy output in its 23 member nations, a level lower than that predicted before the oil embargo.

Mass demonstrations, scientific debate, reduced energy demand, lack of capital and difficulty in securing sites are even bringing a re-evaluation of the much-touted French lead in fast-breeder technology, the plutonium-fueled reactor once seen as Europe's chosen instrument to capture American-dominated export markets, starting in the 1990's. A new French-West German joint development pact for the plutonium breeder with an eye on third-country markets is being described by some Common Market experts as "another Concorde"—the British-French supersonic passenger plane that, after vast subsidies and delays, still faces a highly uncertain commercial future.

MASSIVE PROTESTS

Thousands of demonstrators from France and neighboring countries clashed with police near Lyons last month while protesting the construction site chosen for France's Super-Phoenix, planned as the world's first large commercial fast breeder. Britain has ordered a five-month restudy of its breeder plans and the staggering problems that would be posed by the worldwide spread of plutonium, one of the most poisonous—and explosive—substances known to man.

What concerns scientists and other nuclear experts most is the double nature of plutonium, a nuclear reactor waste that does not exist in nature. It can be re-used not only as a civilian reactor fuel, but as little as 10 to 20 lbs. can be made relatively easily into a Hiroshima-sized atom bomb. In contrast, the 2 to 4 percent enriched uranium used in the American-designed light water reactor cannot be exploded.

UNACCEPTABLE RISK

Sir Brian Flowers, chairman of Britain's Royal Commission on Environmental Pollution and one of Europe's leading scientists, recently warned his countrymen that the farst breeder was "a billion-pound step down a technological path which may later prove unacceptable or even catastrophic."

The West German and French governments are still officially committed to the plutonium route. But, during the past year, their approval of sales to Brazil and Pakistan of reprocessing plants that separate plutonium explosive from spent reactor fuel rods has aroused growing concern about nuclear proliferation in the United States Congress and, belatedly, in the Ford Administration.

With public concern now growing in West Europe, chances are improved for American efforts to win supplier agreement on embargo of plutonium reprocessing plants. That would help pin down the agreement of third world countries, such as Iran and Pakistan, to ship their spent fuel rods back to supplier countries in exchange for safe uranium fuel, rather than to engage in dangerous plutonium extraction at home.

TRANSPORTATION ASSOCIATION OF AMERICA SUPPORTS DINGELL-BROYHILL (TRAIN) AUTO EMISSION AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. DINGELL. Mr. Speaker, I insert in the RECORD the letter of support I have received from Mr. Paul J. Tierney, president, Transportation Association of America, and its board of directors, for the Dingell-Broyhill (Train) auto emission control amendment to be offered to the pending Clean Air Act amendments, H.R. 10498.

Enclosed with the letter is the listing of the representatives of numerous nationwide companies and organizations who make up the TAA's board of directors. I urge the attention of my colleagues to this message and support for the amendment:

TRANSPORTATION ASSOCIATION
OF AMERICA,
Washington, D.C., August 27, 1976.

Hon. JOHN D. DINGELL,
House Office Building,
Washington, D.C.

DEAR MR. DINGELL: Just recently the Board of Directors of the Transportation Association of America (see current roster attached) adopted the following policy, which we believe is applicable to the current consideration of H.R. 10498, the Clean Air Act Amendments of 1976:

"TAA supports the concept that a positive benefit/economic cost analysis should be determined by legislative bodies and regulatory agencies prior to the enactment of laws or the promulgation of regulations pertaining but not limited to the movement of persons or things."

TAA is an organization of transportation interests of all types who work together to develop national policy positions that are aimed at establishing and maintaining the strongest possible U.S. transportation system under private-enterprise principles. Its members—like its 115-member Board—consist of transport users, suppliers, investors, and carriers of all modes whose interests encompass all forms of freight and passenger transport.

While we have been very selective in urging application of the above broad policy position, we consider it particularly relevant to those portions of H.R. 10498 that propose new auto emission standards. In our judgment, the public benefits that will result from imposition of these standards will be far exceeded by the costs. We also understand that the modified standards proposed by Representatives Dingell and Broyhill will yield air quality benefits essentially comparable to those expected from the standards contained in H.R. 10498.

In brief, our reasons for supporting the Dingell-Broyhill amendment are as follows:

Several independent and impartial studies by recognized authorities have concluded that auto emission standards have reached the point where further tightening will create costs far in excess of benefits.

A joint EPA-FEA-DOT analysis of H.R. 10498 concludes it would result in a waste of energy, would provide negligible air quality benefits, increase consumer costs, and discourage technological innovation.

Current standards, according to a minority report of members of the House Interstate and Foreign Commerce Committee, have already reduced hydrocarbon and carbon monoxide emissions by 83 percent, and nitrous oxides by 40 percent, when compared to pre-1968 uncontrolled levels.

The more stringent auto emission standards are made, costs will escalate rapidly; i.e., the EPA-FEA-DOT analysis concludes that adoption of H.R. 10498 standards, as compared to the Dingell/Broyhill standards, will cost consumers billions of dollars and billions of gallons of fuel.

The imposition of unduly strict auto emission standards is inconsistent with the objectives sought by the Congress in encouraging conservation of petroleum, because fuel inefficiency increases as standards stiffen.

The tightening of auto emission standards, as proposed in H.R. 10498, is in conflict with existing auto-fuel-efficiency standards now set by law, and compliance with both, according to auto builders, is an impossibility.

Continuously changing auto pollution standards, according to the American Automobile Association and the EPA have made it extremely difficult for auto mechanics to maintain vehicles and to learn required new techniques.

The adoption of H.R. 10498 standards will result in higher purchase and maintenance costs of new automobiles, which will encourage the retention by consumers of older, high-polluting autos that should be scrapped.

Because of the major impact of the auto industry on the nation's economy, (auto and related expenses represent nearly 10% of the GNP), care should be exercised before imposing changes that can cause very serious disruptions.

TAA believes, as stated by the President, that the Dingell/Broyhill amendment "best balances the critical considerations of energy, economics and environment." We urge that you take the practical and constructive approach to this legislation by favoring this amendment.

Sincerely,

PAUL J. TIERNEY.

Attachment.

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REDUCING GOVERNMENT SPENDING RATED TOP PRIORITY IN POLL OF COUGHLIN CONSTITUENTS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. COUGHLIN. Mr. Speaker, in accordance with my yearly practice, I am presenting to my colleagues the results of my mail questionnaire poll to constituents of Pennsylvania's 13th Congressional District.

The annual poll has provided another forum in which citizens can express their views on issues national and international. The format permits a diversity of answers through ranking questions, opinion queries and "yes-no" responses.

In the important economy field, constituents rated reducing Government spending as the top priority from among a choice of five alternatives. Ranked last was creating Government jobs.

While reducing Government spending was rated as the first priority, respondents were less willing to "bite the bullet" as to where spending should be slashed. A majority said the same amount or more money should be spent in such areas as defense, education, aid to the elderly, public transportation, environmental protection and health care.

Again, foreign aid was singled out by most for cuts.

In a broad-ranging question on our accomplishments as a nation in its first 200 years, my constituents most frequently cited our tradition of freedom and the maintenance of our form of government.

Following the pattern of the past 2 years, inflation was listed as the most important domestic issue confronting us. Communism and Soviet expansionism rated as the most important international issue.

A plurality of constituents felt that Government regulations to benefit the consumer, the worker, and the environment substantially affected the price of goods.

Almost three-quarters of those responding back the FBI and CIA despite revelations of past abuses.

In answering "yes-no" questions, my constituents indicated support for continuing the policy of détente, and limiting distribution of food stamps to families earning below the current national poverty level for a family of four.

Those answering were split over the issue of deregulating wellhead prices for oil and gas with 46 percent favoring that approach.

Clear-cut opposition was registered against reversing the 1972 Supreme Court decision by passing a constitutional amendment that would prohibit all abortions, against the Humphrey-Hawkins proposal to make the Federal Government the employer of last resort to guarantee jobs, against the Federal Government becoming involved in financing New York City or any local government which cannot meet its financial obligations, and against enacting legislation to permit citizens to register to vote simply by mailing a postcard.

A total of 10,790 individual responses met the July 31, 1976, deadline. Many others were received after that date, but could not be included in the tabulation.

My staff weighted the responses by ZIP code to insure the accuracy of the answers. This procedure—used in compiling previous results—showed again that there was virtually no difference in sentiment from both the Montgomery County and Philadelphia areas of my congressional district.

The questionnaires were mailed to all households, apartments, and boxholders in the district to give as many individuals as possible the opportunity to participate in the poll. In following my customary practice, I will be mailing results to them on the same basis.

I also will be submitting the results to the President and his staff.

QUESTIONNAIRE RESULTS

1. As the United States celebrates its Bicentennial, Americans contemplate our strengths and weaknesses in a rapidly-changing world.

A. What do you consider to be our Nation's greatest achievement in its first 200 years?

[*In percent*]

Freedom, liberty	18
Maintenance of Constitution, form of government	15
Technological achievements	13
Standard of living	7
Others, education, world role, generosity, etc.	47

B. Specify briefly the most important domestic issue confronting us.

[*In percent*]

Inflation	30
Unemployment	11
Government corruption	7
Crime	6
Union power, busing, taxes, etc	46

C. Specify briefly the most important international issue confronting us.

[*In percent*]

Communism or Soviet expansionism	21
Mid-East situation	17
Foreign entanglements	9
Arms race, nuclear proliferation	5
Third World, Africa, Panama Canal	48

2. In dealing with the economy, please rank in order of priority, 1, 2, 3, 4 and 5, any actions which you think we should be taking.

[*In order of priority*]

Reducing government spending	1
Cutting individual tax rates	2
Providing private sector incentives	3
Building public works projects	4
Creating government jobs programs	5

3. Should we spend more, less or the same amount of your Federal tax dollars as presently on the following:

[*In percent*]

	More	Same	Less
Education	36	42	22
Aid to elderly	51	41	8
Environmental protection	38	39	23
Foreign aid	2	19	79
Defense	26	39	35
Public transportation	56	28	16
Aid to the poor	19	47	34
Health care	43	39	18

4. Which of the following has had the most adverse effect on the country. Please rank 1, 2 and 3.

[*In order of adverse effect*]

Big Labor	1
Big Government	2
Big Corporations	3

5. Do you feel that government regulations to benefit the consumer, the worker and the environment affect the prices of goods? (one only)

[*In percent*]

Substantially	45
Moderately	37
Slightly	18

6. Which best expresses your feelings about the FBI and CIA? (one only)

[*In percent*]

They have grossly exceeded their jurisdictions and should be completely overhauled	24
There have been abuses which should be rectified, but the majority of their activities are necessary adn desirable	53
With minor exceptions, they have been doing what they should	21
Other (specify)	2

7. On balance, do you believe that the policy of détente should be pursued

[*In percent*]

Yes	54
No	28
Undecided	18

8. Despite possible price increases, do you feel that deregulation of oil and gas wellhead prices is necessary to stimulate domestic production and reduce dependence on imported fuels?

[*In percent*]

Yes	46
No	35
Undecided	19

9. Should food stamps be issued only to families earning below the current national poverty level of $5,000 for a family of four?

[*In percent*]

Yes	71
No	21
Undecided	8

10. Regardless of cost, should the Federal Government guarantee jobs as the employer of last resort to maintain unemployment of less than three percent?

[*In percent*]

Yes	19
No	74
Undecided	7

11. Would you favor reversing the 1972 Supreme Court decision by passing a Constitutional Amendment that would prohibit all abortions?

[*In percent*]

Yes	18
No	76
Undecided	6

12. Should the Federal Government become involved in financing New York City or any local government which cannot meet its financial obligations?

[*In percent*]

Yes	20
No	67
Undecided	13

13. Would you approve of a new law to permit citizens to register to vote simply by mailing a postcard?

[*In percent*]

Yes	26
No	69
Undecided	5

Party preference of those responding.

[*In percent*]

Republican	58
Democrat	23
Non-partisan	16
Other	3

Ages of those responding.

[*In percent*]

18 to 21	2
21 to 35	23
35 to 50	26
50 to 65	31
65 and over	18

THE RIGHT TO BEAR ARMS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. HEINZ. Mr. Speaker, as a Member of Congress who has sworn to support and defend our Constitution, I have an enduring commitment to protect the rights and civil liberties that the Founding Fathers claimed for every American. Today, as much as any time in our Nation's history, we must recognize the genius of a constitutional system that guarantees each individual freedom from the tyrannies of government.

The Bill of Rights remains the single most forceful statement of human liberty that the world has ever known. Through the first 10 amendments to the Constitution, Americans are secure in their right to free expression and their right to due process under law. It is the obligation of every citizen to vigilantly guard against any infringement of those rights.

In recent years, the constitutional protection of the right to bear arms has come under question and attack. Those who favor the enactment of Federal gun controls have sought to dismiss the provisions of the second amendment by suggesting that the Founding Fathers did not intend to give each law-abiding citizen "the right to keep and bear arms." I do not personally agree with this interpretation of the second amendment. In this case—like any other involving the Bill of Rights—I side with Justice Black in his statement that:

> The unqualified prohibitions laid down by the framers were intended to give liberty . . . the broadest scope that could be countenanced by an orderly society.

In an article examining the meaning of the second amendment, Jonathan A. Weiss makes a cogent argument that the framers of our Constitution meant exactly what they said when they provided for the right to bear arms. I share Mr. Weiss' concern about those who would degrade the Bill of Rights by reading its provisions in "bits and pieces" for short-term political ends. I hope my colleagues on both sides of the gun control issue will read Mr. Weiss' thoughtful presentation, and for that reason I include it in the RECORD:

A REPLY TO ADVOCATES OF GUN-CONTROL LAW*

I. INTRODUCTION

The great stumbling block for those who want to lead us on a path toward governmental prohibition of gun ownership—prohibition that excepts a special government-approved few, for not many suggest that all guns everywhere be banned—is the Constitution. The second amendment emphatically proclaims that the government may not inhibit the citizens' right to bear arms: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." This is one of the few references to a "right" in the first eight amendments of the Bill of Rights, *e.g.*, the first amendment prohibits certain congressional action and grants a right only for assembly.

Many try to use the first part of the second amendment to dismiss the amendment as a whole. Four arguments are commonly made: (1) that individuals bearing arms are not militia and, therefore, are not included; (2) that any militia that might be said to exist among the people is not "well regulated" and therefore, only government-supervised persons, like police, National Guard and other branches of the armed forces, qualify as "the people" to whom the amendment applies; (3) that political differences between two centuries ago and now render the second amendment obsolete, because we are no longer faced with a standing army of British troops on American soil; and (4) technological differences between then and now destroy the amendment's meaning, since one handgun or thousands of handguns—or knives, or rifles, or bazookas—would not stop a Russian ICBM.

These arguments all begin from an unexamined premise: that the Constitution and its Bill of Rights can be read in bits and pieces so that each provision becomes a discrete passage. Such a reading of the first amendment would have legislators proclaiming that individual states can pass laws abridging freedom of speech, since the amendment ties its prohibitions of government action to Congress. Such a reading would also require a finding that there is no constitutional requirement to allow bail, since the eighth amendment is connected only with "excessive bail."

This "interpretation," regarding each provision separately and as a simple sum of words and qualifiers, rises from a disregard of the Constitution as the founding document of America's system of government. The tendency to regard the Constitution as a collection of unrelated edicts often exists in tandem with another narrow view. This latter view regards the Constitution as, in general, an expedient document in its time without the broad principles that define a concept of relationships among men.

Justice Black, in *Bridges* v. *California*, states that amendments are to be read in the broadest possible scope:

"[T]he only conclusion supported by history is that the unqualified prohibitions laid down by the framers were intended to give liberty . . . the broadest scope that could be countenanced by an orderly society."

Using this statement as a hypothesis, we may work toward another, more reasonable, method of constitutional interpretation.

The amendments refer to and have changed the whole of the Constitution. The amendments supersede anything in the main document that they contradict and, of course, they override common law antecedents, just as the Constitution's main body does. As additions, the amendments become integral parts of the entire document and interrelate with other amendments and provisions so as to produce a total and a unified effect. The amendments were not intended as separate and distinct entities, but rather to be taken in their entirety to achieve an integrated purpose. Considering this, it is possible to develop a more reasonable method of constitutional interpretation than was applied in "Shooting to Kill the Handgun: Time to Martyr Another American 'Hero.' "

The amendments in the Bill of Rights define limits on the government's power to sanction or regulate the affairs of citizens. Further, they reflect a concept of natural rights, such as is stated in our first fundamental document, the Declaration of Independence. The amendments are meant to be read together and many contain implicit references to other amendments. They collectively determine the limits within which government power to sanction or regulate the affairs of citizens must operate.

It appears logical that the amendments had an essential purpose to convey more meaning and spirit than a narrow, or "statutory," interpretation would reveal. Under a model of this nature, the intended meaning of the amendments could be extended beyond the verbal realm to include movies and symbolic expression, while the army could represent any branch of the armed forces. this approach is perfectly legitimate since, realistically, the Constitution sets up broad categories which can tolerate changes in application. Justice Black noted:

"[I]t is true that [the amendments] were designed to meet ancient evils. But they are the same kind of human evils that have emerged from century to century wherever excessive power is sought by a few at the expense of the many.

* * * [T]he people of no nation can lose their liberty so long as a Bill of Rights like ours survives and its basic purposes are conscientiously interpreted, enforced and respected so as to afford continuous protection against old, as well as new, devices and practices which might thwart these purposes."

In short, an interpretation such as the one in *"Shooting to Kill"* is inappropriate, because the particular applications which the Founders had in mind are subordinate, if not irrelevant, and should yield to the principles and the spirit involved.

It is not hard to conclude that the language of the second amendment means what it says, changing only with respect to its particular application. For this reason, it is clear that gun-control advocates attempting to reinterpret the second amendment into a noneffective status are essentially attempting to defeat the meaning and purpose of the amendment. Gun-control advocates who argue that they can determine which provision of the Constitution will or will not be enforced, essentially frustrate "the great design of a written Constitution."

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*Jonathan A. Weiss in Journal of Urban Law, v. 52, Winter 1974:577–589. Reprinted by permission of the Journal of urban law, University of Detroit, Detroit, Michigan. Mr. Weiss is Director, Legal Services for the Elderly Poor, New York, N.Y.; B.A. 1960, Yale University; LL.B., 1963 Yale University.

II. THE SECOND AMENDMENT IN CONTEXT

If the first ten amendments do, indeed, represent a doctrine of natural law or a protection of fundamental rights, it would seem logical that each amendment should recognize, implicitly or explicitly, some inviolable right in addition to stating some specific prohibitions against government infringement on that right. The second amendment demonstrates this proposition. It grants the individual right to bear arms and restricts government infringement on that right.

The main body of the Constitution grants to Congress the power to organize, arm and discipline militia. This creates rights for government. The second amendment secures individual liberty and gives another dimension to war power. Perhaps anticipating the argument that armies would make individual means of self-protection useless and/or dangerous, the Framers amended that grant of power to make explicit that the Constitution was not intended to infringe on "the right of the people to keep and bear Arms * * *."; rather, this right would help secure such a militia. This stands to reason, since it had been chiefly the gun-bearing individual who assisted in the fight for independence, was responsible for its success and, hence, made possible the Constitution.

It remains to be proven that such a rationale of individual protection against state militia is not even more valid today than when the Bill of Rights was written. Also, it may help to secure a militia.

What the psychological, military and societal effects are on a citizenry bearing arms is certainly a factual and policy issue, on both a society-building level and in present appraisal. We cannot say as pure fact that providing people freedoms to keep and bear arms does not help build an army when needed. Among the elements to be considered in this respect is that there is no clear and convincing proof that the right to bear arms does not act as a deterrent to either domestic or foreign aggression. Therefore, since the amendment provides this freedom and there is no clear and convincing evidence of its need for repeal, it should not be interpreted into nonexistence.

Considering the amendments as commands and absolutes further reinforces this viewpoint of the second amendment. A command's focus is on its effects of sanctifying and protecting, not upon the reasons for its consequent protections. Commands are absolutes. They are not reducible to their justifications. If the amendment in question is one of the Bills of Rights, it must be read as commanding certain societal absolutes and preventing the state from intruding on the enjoyment of those absolute rights. As Congress may not quell printing presses or deny juries, it may not deny guns if the language in one amendment is as commanding as the other. To accept the amendments in that fundamental document as societal bases and a fundamental and constitutionally protected right.

III. STATE POWER

The safeguards and assumptions expressed in the Constitution establish a doctrine of criminal low. Through government, this doctrine is employed to sanction, restrain and occasionally, attempt to rehabilitate those who, if we did not, would act in ways that would tangibly affect the freedom of others. We immobilize a man who steals a car so the car owner may be mobile, but we leave alone a child who upsets another by not saluting a flag. We look to inhibit those who commit inhibiting acts on another's freedom.

To guard against the potential abuses of this criminal law doctrine, the Constitution also created a presumption of the innocence of the individual. This presumption stems philosophically from the concent of free will. It appears to flow logically, then, that we punish only for acts, not for ideas, things or acts that create tendencies to act. Here the connection among amendments is even more clear. Ideas can incite as well as excite. Men loose on bail may be more dangerous than those caged on suspicion. Yet, because of the constitutional protections, factors associated with prohibited acts, even casually associated, cannot be prohibited.

Guns in fact elude the classification of precursors more so than most other examples. That is, a person must be legally intoxicated before he can be convicted of drunken driving and a person must be elected to office before he can be impeached. However, guns are only one means employed in crimes and most of the crimes committed through the use of guns could be committed with some other weapon. Yet despite the obvious fact that guns are not absolute precursors, they seem, more frequently than other factors associated with crime, to be the target of reformers.

Gun-control advocates often argue that guns are the link between the psychological tendency and the actual criminal conduct. However, they fail to realize or address themselves to the fact that the mere possession of guns does not affect the user's free will or his decisionmaking process, as alcohol, heroin or even free speech may. They do not detract from the exercise of mind protected by the first amendment, nor do they interfere with the model of man posited by this analysis. Rather, the choice to possess guns simply makes it possible to choose to use guns in a legal or an illegal context—or not to use them at all.

Seen in this perspective, the second amendment can either manifest or lend assistance to an exercise of the first amendment rights. The possession of arms manifests a choice or a freedom of life style which is consistent with the democratic philosophy. The possession of arms may allow a person, who is otherwise intimidated into submission, alternative choices with respect to where he may go or what he may say. For instance, those who worked on voter registration in the South almost uniformly report that the possession of guns by Southern blacks gave them the necessary confidence to overcome the threats, harassment, burning crosses and sniper shots to which they were frequently subjected. In order to survive and to realize a measurable degree of personal dignity the Southern blacks needed the guns. As a protection, it made it easier to organize and to insist on the exercise of their constitutional rights to vote and speak. Perhaps this was only made possible because the Constitution guaranteed the right to keep and bear arms.

IV. THE INSTITUTION OF CONTROL

The author of "Shooting to Kill" offers many extralegal arguments against citizens' keeping and bearing arms, specifically against the ownership of handguns. These are really irrelevant to the constitutional argument and the associated rationale. Perhaps we should stop there, but other considerations arise. Controls mean regulation. They also mean people to regulate. The police are often proposed for that function. If we return to our Southern example, it is clear that "rednecks" would get guns from sheriffs while black leaders would not. The police have awesome power and discretion in our society and often it is exercised in a way which oppresses the poor and disadvantaged. We live in a society with, perhaps, too many controls and sanctions. In the North, especially in the troubled urban centers, do we need more controls—particularly by the police? To whom would the power to decide who packs a pistol go? Is it not naive to assume that regulation would mean that guns would go to the trustworthy and refusals to the dangerous? When liberals on a campus want licenses for guns to protect themselves against attacks by thugs, it is the liberals who will be refused as "commies" and perhaps frightened into a silence which their first amendment protection does not prevent. An appeal to the Supreme Court to find that such gun refusal penalizes their political beliefs may be cold comfort too late.

Controls on alcohol, drugs, sex and now guns are very often desired as a method for eliminating a critical social problem (generally a manifestation of more basic problems). But instituting controls now seems to be a futile repetition of a thoroughly disproved assumption, an insistence on naiveté and blindness in the light of experience. The institution of control is attractive because it seems to be such a simple solution, but realistically it is a solution that fails to solve. Freud knew that prohibition would end when it started and even William F. Buckley now worries about whether it makes sense to proscribe pot. If we have trouble preventing poaching, can we not see the infinite difficulty of outlawing pistols? The drug prohibition and control law has only raised the price and the medical risk. The gambling prohibition and control law has sustained organized crime. Similarly, the prohibitions on adults' consensual sexual acts have not prevented them, but perverted society. Considering the fact that guns are easy to manufacture and, thus, would be even more difficult to control, it seems reasonable to conclude that this would be one more item in this list of failures. It would create disasters where we now have only critical problems. Moreover, so many guns are now in circulation it would take eons for them to disappear in significant numbers.

Many other policy arguments about the wisdom of gun controls can be made. Among them is the idea that focusing on guns instead of political and social conditions represents the classic failure of vision. It penalizes items associated with bad results instead of seeking underlying solutions to radical problems. If there is a new propensity to violence, we are cheated out of the energy we need to cure its roots if we concentrate on regulating the items merely associated with that violence. The remarkable fact about riots is that they have included little sniping by citizens and much property destruction.

Lee Harvey Oswald could have found a gun, no matter what the laws. Sirhan Sirhan could have wrapped-up Robert Kennedy's campaign with a homemade zip-gun. Madmen throw acid and bombs as well as spray with bullets. Murderers, in other words, can find many tools. We would do better to turn to the slums and their great hostility, to the causes of mad bombers and assassins, in order to find a means for detecting and curing these ills within constitutional procedures and to find an answer to the ultimate metaphysical question of the eternal destruction in the hearts and souls of men.

In promoting his campaign of gun control, the author of "Shooting to Kill" fails to consider the potential gun control has to destroy other constitutionally protected rights. Gun control laws, like drug control laws, would likely be designed in such a way that they serve both as an excuse to infringe on constitutional guarantees of freedom and to further the power of those who would ignore these freedoms and oppress minority interests. For instance, recent inroads into search and seizure law have been "justified" on the basis of drug detection, for example, when the quantity is easily disposable. In practice, police often break and enter or stop and frisk without notice if their purpose is drug confiscation. Similar incidents are easy to imagine under the proposed gun control legislation. The glorification of police misconduct in movies like "The French Connection," speaks for itself. The ineffectiveness of the results, if, indeed, the targets are drug abuse and crimes against persons and property, is an argument against the mistake of abandoning the Constitution for these claims of terror concerning social phenomenon.

Gun-control possesses two alternatives: we either ban guns from all citizens or from some. The National Rifle Association claims only .0035 of the guns in the United States are used in crimes. If guns were banned for all, the power of the police and, perhaps, in some parts of the country, the fear of animals might commence to become alarming. Some "radicals" maintain that we can no longer ignore the possibility that the military could be mobilized to suppress liberties with little effective resistance. If guns were banned for some, the danger, known so well to the poor, will be upon us. The professor who speaks for a liberal cause in a reactionary city will see the others armed and outraged. The slum dweller, preyed upon by crime, police, landlord, welfare department and a host of others, will have only his fear to arm him. Gun control laws, like drug laws, would likely be designed in such a way that they serve to further the power of those who oppress the poor and weak—another excuse to take away further constitutional freedoms.

It has been suggested that guns occasionally facilitate crimes. It is in this context that "Shooting to Kill" is so completely misleading. The Constitution is based on considerations and spelled-out in clauses, whereas "Shooting to Kill" is based on statistics and quotes.

Realizing the difficulty of locating the exact problem together with the complexities involved and the subsequent chance for miscalculated legislation it is no wonder, as the author of "Shooting to Kill" notes, that "20,000 gun regulations have been abysmal failures." In answering the question which follows, "why should one assume that any more would help?," the most sensible response is that one should not.

At least a part of the failure is that the Constitution is based on reasoned principles whereas gun control laws are based on statistical measurement. The inconsistency lies in using an inflexible indicator to gauge the fluctuating variables involved in the "complex ecology of crime." Under these conditions, the reliability of statistics must certainly be suspect. The author of "Shooting to Kill" acknowledges this when he quotes Senator McClure: "Whoever said that statistics can be used to prove anything, understood the real world." Statistics are finite devices used in order to break down complex problems into easily identifiable parts. Reality, however, has no such limits or definitions that are susceptible, with any reliability, to this analysis.

In addition, statistics can easily be abused or distorted to fit the user's purpose. "Shooting to Kill" makes frequent use of statistics from the Federal Bureau of Investigation (FBI), while ignoring the simple possibility that they may not be reliable.

For example . . . Albert Biderman, a key commission consultant on statistics, attacked the FBI reports for fostering a false image of rapidly increasing lawlessness and for grossly distorting both the rate and distribution of crime. And another commission consultant, Professor Marvin Wolfgang, detailed in an article the many elements in the FBI reports of "error, omission, inconsistency, contradiction, deficiency, and bias."

An explanation for the fact that statistics are not always reliable is that the FBI, like other sources, has a "vested interest in maintaining the crime wave, not only to get ever-increasing appropriations but also to sustain a constant state of emergency in which they can serve as national savior."

Certainly, in the area of police statistics, there is no question of their great manipulation. In an area like gun possession, the reliability of statistics must certainly be suspect. "Shooting to Kill" acknowledges this fact by noting that discovering how many guns there are in the United States is an impossible task.

Furthermore, to combine statistics is to multiply errors times errors. An attempt to rescue this mathematical mumbo-jumbo by reference to the necessity to include the "influence on crime of factors such as population density, geography, race, per capita income, and education," lets the tiger out of the bag. Police statistics show that the most likely to commit violent crimes and use guns are the slum-crowded, the black, the poor, and people with little education.

A critical question to address is whether gun control laws actually prevent the criminal use of guns. In this respect, the author of "Shooting to Kill" discusses the New York Sullivan Law in contrast to the Texas law. Houston has led the country in homicides, but is that the result of handgun availability or the Texas temperament? In the East, specifically New York City, with the Sullivan Law, the figures on homicide and violence are not much better. If we were to accept the statistics, and say a little better is at least desirable, we would still be left with no reason to believe that the Sullivan Law, instead of the somewhat more bearable life that the poor and the black are allowed in New York City, than in Houston, is the cause of this better effect.

Trying to discern the rationale behind banning only handguns raises further questions. People with some money might buy shotguns if handguns were banned and, in fact, the author of "Shooting to Kill" invites them to do so. Shotguns can be modified or sawed-off. But even unmodified, full-length shotguns could be used to commit murder. The use of the familiar statistic showing murder victims as the relatives or friends of their murderers is impossible to comprehend as an argument for outlawing handguns—no matter how the argument is twisted and mauled.

Handguns are, we are told, "relatively difficult to shoot accurately." Are we sure that we want a country armed with shotguns instead of the less accurate handgun? Do we want the more accurate weapon allowed to people selected by those in various realms of power? Nowhere is there any "textual" support for distinguishing between handguns and rifles in the Constitution.

A hodgepodge of statistics and quotes does not a constitutional argument make. The second amendment speaks clearly. It speaks as other amendments do and it speaks with them. Within its safety, a militia, as well as other good causes, may be served. Let us not chip at the constitutional absolutes in hysteria over dramatic tragedies. Now is the time to keep constitutional commands clear. It is also the time to move in the world of politics in order to provide fruitful outlets for the driving energy of mankind and to remove the frustrations that have chained us to insanity and destruction.

ALEXANDER H. UHL

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. SCHEUER. Mr. Speaker, an outstanding reporter and editor associated with the labor press for many years died recently in Madrid, Spain.

Alexander H. Uhl, whose wife, Gladys, is a longtime dear friend, spent a selfless career in journalism—beginning in 1923 with the Associated Press, later joining PM and then Public Affairs Institute—dedicated to the best traditions of free peoples everywhere.

At a memorial service in Washington, D.C., on August 30, RICHARD BOLLING delivered the eulogy for Alex Uhl which I wish at this time to share with our colleagues in the House of Representatives:

EULOGY FOR ALEXANDER H. UHL

(By Representative RICHARD BOLLING)

My wife and I have been friends of Alex and Gladys Uhl for a very long time. I first met Alex in the late forties, I can't remember when . . . 1947 or 1948 . . . and I'm really honored to have this privilege.

Alex was an extraordinary man. He was born in New York in 1899. His family was not rich. He had a fine education. I don't know the story before he went to high school but he went to one of those remarkable public high schools that used to exist in cities like New York and Boston. They were for exceptionally gifted students so that the story begins with a gifted student. It's name was Townsend Harris. And he obviously did well. He went on to the City College of New York which was one of the fine colleges in the United States and the Columbia School of Journalism. I think it's significant that through all those college years he worked his way by working in the New York Public Library.

His first job in the newspaper business was with the Newark Star Eagle and he joined the Associated Press in 1923. He was their man in Spain during 1935 and 1938 covering that brutal Spanish civil war.

There's a quote that I want to set right. I'm sure it's well intentioned, but I also know it's untrue. I know it from Alex and I know it from my own knowledge of Alex. The quote says that "It was in Spain that I first developed a social conscience." That's simply not so. I know from knowing him and from talking to him that he'd gone to Spain with a well-developed social conscience. That wasn't what he learned from Spain.

From 1940 to 1948 he was foreign editor and war correspondent in the European Theater for that great experiment in Journalism PM. After PM failed he came to Washington as a writer for the Public Affairs Institute. And in 1954 with Harry Conn founded Press Associates.

He was a great labor reporter and editor.

In 1975 he retired and returned to Spain to fulfill a long ambition and work on a book on the Spanish Civil War which he covered for AP. He had a happy year in Spain . . . he was doing what he wanted to do.

Now that tells us a little of what Alex did but it tells us very little about what he was.

He was one of the most extraordinary men I've ever known because he combined an infinite capacity of relating to individuals with a strength of character and of mind that was rare. He was a very gentle gentleman . . . he was a courtly gentleman. He was kind. He was kind to the young. I could tell you of experiences of his kindness to our children. I've heard of experiences that others had with him when he was kind to them as they were learning their trade or their profession. He always had time to be helpful. He was even on occasion sentimental. He was a loving man.

A city person—a New Yorker, the epitome of a city person—through and through he loved the farm and the cows in Poolesville. He had a wonderful time out there and he didn't seem out of place. I used to watch him with real pleasure (I'm afraid of cows; Alex never was) . . . I used to watch him with real pleasure enjoying himself and then returning to the house to talk about things that were important.

It was really the hardness in Alex that I admired the most. But it was only a hardness of mind.

Much more than all those wonderful human personal qualities that he had, I admired the fact that he was a thorough workman and a careful thinker. He was terribly demanding, particularly of himself. He was a superb reporter, a helpful teacher, and a very very useful advisor to me and I'm sure many others.

Most important of all he was a tough realist. His loving nature, his kindness, even his sentimentality never caused him to lose sight of the realities. From Spain I suspect he sharpened his hatred of totalitarianism and its stupid brutality and wasteful cruelty. In Europe he reinforced his commitment to the worth of freedom and free institutions. From his experience in the fifties and the sixties he saw again as he had in Spain and in Europe and in the depression in the United States the fragility of freedom, the fragility of the institutions which preserve it. His toughness of mind enabled him to see more clearly than most the alternative shapes of the future of the world and free peoples. He knew freedom could be worth war and the preservation of freedom worth death. He was truly that rarity—a wise man with a sense of history whose freshness of mind and ability to look ahead were complemented not limited by his vast experience. We will all miss him and so will the cause of free peoples. To the family and especially to his and our beloved Gladys, our deepest sympathy.

SAUDI MISSILE SALES EXCESSIVE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ROSENTHAL. Mr. Speaker, 14 of our colleagues today have joined me in introducing resolutions of disapproval to block the sale of three sophisticated missile systems to Saudi Arabia.

Although the formal notifications to the International Relations Committee have been classified by the administration, recent media reports quote administration sources as saying the Saudis are purchasing 850 Sidewinder air-to-air missiles, 650 Maverick TV-guided air-to-surface missiles, and 1,000 TOW antitank missiles.

The Saudis do not need this quantity of high-technology weapons. They already have hundreds of Sidewinders, Mavericks, and TOW's—much more than they will ever need against Iraq and South Yemen, their most likely foes according to the Pentagon. These countries are so much weaker than Saudi Arabia that its current resources are more than adequate for defense.

These missiles are part of a $700 million military sales package for Saudi Arabia sent to the Congress on September 1. They bring the total U.S. military sales to that country for this year to over $7.5 billion, which is more than half-again as much as the Saudis purchased throughout the entire preceeding 25 years.

These latest arms sales further accelerate Saudi Arabia's emergence as the arsenal of the Arab world and are another step toward making it a confrontation state with Israel. Transfer of the arms to other Arab States is highly likely if another Middle East war erupts. Saudi leaders have made clear their commitment to the Arab cause.

Moreover, the sale will inevitably further fuel the Persian Gulf arms race, which is already out of control. The presence of so much lethal weaponry encourages its use.

It appears that the U.S. arms sale "policy" toward Saudi Arabia is similar to our Iran "policy"—sell them anything they want.

Saudi Arabia, of course, is the United States chief source of oil—more than 1 million barrels a day. The price of that oil, as everyone knows, has multiplied several times since the 1973 Arab oil embargo when our purchases from Saudi Arabia were about one-fourth the present level.

The following is a list of U.S. military sales to Saudi Arabia for this year, including the current transitional quarter. These figures are conservative because the administration was not required to report to the Congress government-to-government military sales smaller than $25 million prior to June 30, 1976, and smaller than $7 million following that date. In addition, there was no requirement for reporting commercial arms sales to the Congress prior to June 30, and there is now a $25 million floor on reporting such transactions. As a result, this list is probably several hundred million dollars below the actual figures. These items—except for the Hawk missiles—represent formal notifications sent to the Congress by the administration of intention to issue a letter of offer to Saudi Arabia. Section 36(b) of the International Security Assistance and Arms Export Control Act of 1976 requires the Congress be formally notified 30 days before issuance of a letter of offer. The following is a list of fiscal year 1976 and 76–T notifications:

MILITARY SALES TO SAUDI ARABIA—1976

(a) (Prior to September 1):	*Millions*
150 M60 tanks	$118.0
1,000+ armored personnel carriers	124.0
Vulcan antiaircraft cannon	41.0
1,000 Maverick missiles	47.0
4,000 Dragon antitank missiles	26.0
Al Batain cantonement	1,450.0
F–5 program expansion	1,500.0
Naval facilities	594.0
Ports	300.0
National Guard Headquarters	158.0
RSAF uniform	52.6
Ammunition	26.5
Pilot training	26.0
Ships—design	185.6
Trucks	25.3
Patrol gunboats—design	276.2
SA Army ordnance management assistance	223.3
Cement plant	235.0
Hardware	869.6
Construction, training	4,538.9
Total	5,408,500,000
(b) Notifications dated September 1):	
Missiles	25.0
Naval training center equipment	130.0
Missiles	30.0
RSAF headquarters construction	160.0
Family housing construction at air base	88.0
Armored personnel carriers	10.0
Aircraft	23.3
Guns	12.4
Missiles/launcher	7.9
National Guard modernization, training	215.0
Hardware	238.6
Construction, training	463.0
Total	701,600,000
1976 total to date, government to government	6,110,100,000
1976 commercial sale of Hawk missiles	1,400,000,000
Total	7,510,100,000
1950-76 total	4,612,000,000
1950–76 total	12,122,100,000

Sponsors of the resolutions of disapproval are:

Hon. Bella Abzug (D-N.Y.).
Hon. Jonathan Bingham (D-N.Y.).
Hon. J. Herbert Burke (R-Fla.).
Hon. John Burton (D-Calif.).
Hon. Robert Drinan (D-Mass.).
Hon. Dante Fascell (D-Fla.).
Hon. Benjamin Gilman (R-N.Y.).
Hon. Michael Harrington (D-Mass.).
Hon. Toby Moffett (D-Conn.).
Hon. Donald Riegle (D-Mich.).
Hon. Benjamin Rosenthal (D-L, N.Y.).
Hon. Stephen Solarz (D-N.Y.).
Hon. Fortney Stark (D-Calif.).
Hon. Henry Waxman (D-Calif.).
Hon. Lester Wolff (D-N.Y.).

GIRLS SOFTBALL—THIRD BEST TEAM IN WORLD

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. BRINKLEY. Mr. Speaker, on August 31 this year, the Council of Columbus, Ga., my hometown, adopted a resolution singing the praises of the 1976 Pioneer Little League Softball All-Stars for this team's outstanding performance, which took it all the way to Portland, Oreg., for the 1976 Softball World Series.

The Pioneer All-Stars thus became the first team from Georgia ever to make it all the way to the World Series playoffs, and we are all justifiably proud of them. They represented us not only as a superb example of expert teamwork, but as a demonstration of ability, sportsmanship and character.

It was my honor to be at the Columbus Metropolitan Airport when the Pioneers returned from Portland. Parents and supporters were on hand, as were television cameras and sportswriters. When the team arrived home, there was an outpouring of joy, of sentiment, something that seemed really special. The atmosphere was charged.

And I cannot let the opportunity pass to tell a little story on the Pioneer League, which I think demonstrates the justifiable, but humble pride of this group of young people. It seems that during our local playoffs, the leagues were trying to outdo each other with their claims to athletic excellence, and banners being waved in the stands was evidence of this.

One league's banner read, "We're the finest ball club in Columbus." Another's said, "We're the finest ball club in Georgia." A third proclaimed, "We're the finest ball club in the United States." But the Pioneer League limited itself to the modest, although prophetic claim, "We're the best ball club on this field."

So they were, and we are proud of them. On October 6, I will be presenting the members of the team Youth Advisory Council certificates at a banquet being held in their honor. Mr. Speaker, I place in the RECORD a copy of the Columbus Council resolution honoring the Pioneer Little Leaguers.

COLUMBUS COUNCIL RESOLUTION

A resolution expressing appreciation of the Council for meritorious service rendered Columbus by the 1976 Pioneer Little League Softball All-Stars.

Whereas, the 1976 Pioneer Little League Softball All-Stars, have won the District Eight, Georgia, State, Southern Divisional, and Southeastern Regional Tournaments; and,

Whereas, this team of Pioneer Softball All-Stars participated in the 1976 Softball World Series in Portland, Oregon, the very first team from Columbus or from the State of Georgia ever to make it all the way to World Series competition level; and,

Whereas, this team of All-Stars won more tournament games than any other team ever from Columbus in any of its youth programs, and,

Whereas, the members of this team and the Pioneer League have acted as ambassadors of good will for the City of Columbus in their very able demonstration of good athletic ability, good character, fair play and sportsmanship.

Now, therefore, the Council of Columbus, Georgia hereby resolves:

That this Council hereby expresses its appreciation for the great achievements of this team of All-Stars and for the good will and understanding created for this city by their many sacrifices and accomplishments.

Let a copy of this Resolution be furnished to each of the team members, manager, coach, League president, and the Honorable Jack Brinkley, Congressman of the Third Congressional District of Georgia, as set forth below as an expression of the appreciation of the citizens of Columbus, Georgia for this service:

Players. Charlene Bowers, Kim Collins, Lee Cruse, Stephanie Davis, Dana Griggs, Jean Hatcher, Debra Holy, Ginny Lee, Debbie McCoy, Dianna McIntosh, Leslie Morrow, Kerri Ray, Beth Tanner, and Vicky Thomas.

Manager, Joy Brooks.

Coach, Rodney Brooks.

League President, Ray Pawelski.

CONGRESSIONAL SALARIES, BENEFITS, ALLOWANCES, EXPENSES

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. ARMSTRONG. Mr. Speaker, although Members of Congress should not be preoccupied with administrative considerations—certainly it would be false economy to pinch pennies at the expense of properly serving our constituents—I believe each of us has a duty to operate our offices efficiently and frugally. For this reason, I have prepared the following information and commentary about congressional salaries, benefits, and allowances generally and some specific details on the operation of my own office during 1975. I plan to make this report available to residents of the Fifth Congressional District who express an interest.

SALARIES AND BENEFITS

Members of Congress are paid an annual salary of $44,700, an increase from the $42,500 level which prevailed at the time of the last election. As one who disapproved the increase, for reasons I have previously discussed at length, it seemed inappropriate for me to personally benefit from a salary increase to which I objected as a matter of principle. I therefore intended to forego the raise for the balance of this term.

However, I was advised there is no legal basis for the Sergeant at Arms to reduce the amount of a Member's salary. It was suggested, in lieu of this procedure, that I could merely return the difference as a contribution to the Government—in other words, as a gift. After reflecting, however, upon the waste and extravagance of the Federal Government, this did not seem a particularly attractive idea. Instead I have made a contribution in an amount equivalent to the salary increase, from the date of increase to the end of my term, to certain private charitable causes which seem particularly worthwhile and deserving.

Group life insurance coverage is automatically provided—monthly payroll deduction of $38.76—unless declined. Members are eligible to participate in the civil service retirement system—payroll deduction of 8 percent. Limited medical services are provided without cost in the Capitol while health insurance coverage is available on a voluntary basis. I participate in group life and retirement coverage, decline health insurance.

FACILITIES

Each Member is furnished space—usually three rooms—in one of the House office buildings in Washington and is entitled to one or more offices in his home district. I maintain two such offices: one in Aurora, the other in Colorado Springs. Office furnishings, decorations, plants, and various services—research, maintenance, folding, radio-television, and so forth—are also provided. Parking facilities are furnished to each Member and some staff.

In Washington, each office is permitted to have no more than $5,500—depreciated value—of electrical and mechanical equipment such as typewriters, dictating equipment, et cetera. Members are also authorized to use leased equipment up to $650 per month; provided, however, that up to $250 of clerk hire staff funds may also be used for lease equipment. Each district office is entitled to lesser amounts of equipment.

STAFF ALLOWANCE

Each Member of Congress is allowed up to $220,686—until October 1, 1975, then it was increased to $238,584—per year to employ staff. During 1975 staff in my offices was paid $175,994.53.

MAILING

Members of Congress are permitted to mail under frank—that is, under their own signature—and, in addition, are supplied some regular postage stamps. During 1975 my office did not receive any such postage.

TELEPHONE

Each office is permitted to use up to 125,000 units of long distance telephone service—each minute of long distance service equals 4 units—per Congress. During 1975, my office used 68,747 units. Each office is also given access to a Federal Tele-Communications System line, without charge against the unit allowance, for long distance telephoning before 9 a.m. and after 5 p.m. on weekdays and Government holidays. District office telephone service consists of full-time FTS service and commercial telephone.

TRAVEL

Members of Congress receive reimbursement for one round trip between the Member's home district and Washington at the beginning of each session. During each Congress, Members are permitted reimbursement for up to 26 additional round trips. Each office is also allowed a maximum of 6 round trips for staff travel.

During 1975, I was reimbursed for 22 round trips—$6,030.91—and members of my staff were reimbursed for a total of three such trips—$773.56.

OTHER ALLOWANCES

Each Member is given $6,500 per regular session to cover the cost of stationery and office supplies and $500 per quarter for district office expenses. These allowances are taxable income but Members are permitted to deduct the actual cost of expenses incurred whether more or less than the allowances. The following is a summary of allowances and expenses in my office during 1975:

Allowances:	
Travel	$6,804.47
Stationery	6,500.00
District office	2,000.00
Telephone	1,331.77
Miscellaneous	2,267.68
Total	18,903.92
Expenses:	
Travel	5,563.34
Office supplies	7,978.66
Dues, subscriptions	1,437.73
District office	1,569.57
Telephone	1,402.69
Entertainment	820.72
Miscellaneous	1,880.64
Total	20,653.35
Total	(1,749.43)

CONCLUSIONS

All in all, the taxpayers are providing generous salary, benefits, facilities, and allowances to Members of Congress. Whether each of us is giving our district a commensurate degree of service is up to voters in our districts to decide.

However, at least one aspect of congressional costs poses a national policy issue—the way these salaries and benefits are established and raised by backdoor methods. I strongly disapprove of this technique; and therefore, I am pleased by recent House action to preclude spending any of the funds in the legislative appropriation bill to pay the cost of salary increases granted in this manner. However, despite the amendment to the legislative bill, the basic system under which salaries are adjusted remains unchanged, a shortcoming that should be corrected soon.

TROTSKYISM AND TERRORISM: PART VII—TERRORIST ACTIVITIES IN EUROPE—CONTINUED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1976

Mr. McDONALD. Mr. Speaker, the Trotskyite Communist Fourth International is actively supporting terrorism and organizing proterrorist parties in other European countries.

SPAIN

There are two Fourth International sections in Spain. One, the Liga Communista—Communist League—supports the Socialist Workers Party, U.S.A. and its Leninist-Trotskyist faction. The other, Liga Communista Revolucionaria—Euzkadi ta Azkatasuna (VI) (LCR–ETA (VI)) translated Revolutionary Communist League—Land and Freedom VI—supports the "terrorism now" International Majority Tendency. The latter was formed by a merger of the Trotskyite LCR with the Basque terrorist ETA (VI) early in 1974.[1]

When a rival ETA faction, ETA (V), assassinated the Spanish Prime Minister, Luis Carrero Blanco, in December 1973, LCR–ETA (VI) expressed public support for the grotesque murder. The official newspaper of the British Fourth International section, Red Weekly, headlined their January 11, 1974, issue "Spanish Trotskyists Give Total Support to Carrero Blanco's Assassination."

PORTUGAL

The official Fourth International section in Portugal is called the Liga Comunista Internacionalista (LCI) (International Communist League). Another group has recently surfaced called Partido Revolucionario dos Trabalhadores (Revolutionary Workers Party) which is mainly based among militant high school students.[2] Attempts are being made to merge the two groups.

On October 31, 1975, the Central Committee of the LCI complained to the leadership of the Fourth International that the two representatives of the United Secretariat operating in Portugal, Comrades Aubin and Duret, had been organizing a faction within LCI.[3] "Comrade Duret" has been identified as A. Udry, a member of the Fourth International Executive Committee from Switzerland. "Aubin" is Charles Michaloux, one of the most active proponents of international terrorism now in the French Fourth International section.

GREECE

The International Communist Party is the Greek section of the Fourth International. One of its active members, Theologos Psaradelles, was prosecuted for breaking into a military depot and stealing explosives. He was arrested in 1969, tried in 1970 and sentenced to a 12-year term.

He told the court:

> I am a worker and a member of the Fourth International. This precise class and political position has led me onto the road of struggle against oppression and into attempting to give a correct orientation to the Greek and world workers.
>
> * * * * *
>
> I am accused of attempting to overthrow the state by force and violence. I do not deny it. ***
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> * * * * *
>
> These are my aims and they are the aims of the Fourth Communist International to which I belong.

Psardelles concluded:

> In the end, the working class and the oppressed masses will destroy the barbaric capitalistic system, which brings only misfortunes, hunger, and wars. On the ruins of capitalism they will build the United Socialist Republics of the World.
>
> Try us, but wait. A fire is consuming everything. It is burning under your feet, above you, around you. You and your masters will not escape it.
>
> Long live the world working class!
>
> Long live the Fourth International!
>
> Long live the World Socialist Revolution![4]

FOOTNOTES

[1] Report by Mary-Alice Waters to the SWP National Committee, June 23, 1974, *Internal Information Bulletin,* #8 in 1974, August 1974.

[2] *International Internal Discussion Bulletin,* Vol. XII, #6, October 1975, p. 11.

[3] Memorandum to Leninist-Trotskyist Faction Steering Committee from Mary-Alice Waters, November 1, 1975; Appendix contains text of letter.

[4] *Intercontinental Press,* Vol. 8, #36, November 2, 1970, p. 935.

SENATE—*Thursday, September 9, 1976*

The Senate met at 9:30 a.m. and was called to order by Hon. JESSE HELMS, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our Father, our need leads us to Thee. Thou art perfect and we are imperfect, holy and we are unholy, strong and we are weak. We need Thee every hour, most gracious Lord. Remove from us whatever barrier keeps us from knowing Thee, loving Thee, and serving Thee.

If we have been evil in thought, careless in speech, rude in attitude, God of all mercy forgive us. Find us where we are in our wanderings, lead us to where fountains of living waters flow, shepherd us to the green pastures, and nourish us with the truth of Thy Word.

Be unto us as the new day, fresh as the air at dawn, bright as the sun at midday. Hold us for in Thee we live and move and have our being. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., September 9, 1976.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. JESSE HELMS, a Senator from the State of North Carolina, to perform the duties of the Chair during my absence.
>
> JAMES O. EASTLAND,
> *President pro tempore.*

Mr. HELMS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 8, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of items on the calendar beginning with Calendar No. 1145 and ending with Calendar No. 1155.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FARM AND FOOD POLICY

The resolution (S. Res. 531) authorizing the printing of additional copies of the committee print entitled "Farm and Food Policy," was considered and agreed to, as follows:

> *Resolved,* That there be printed for the use of the Committee on Agriculture and Forestry one thousand four hundred additional copies of its committee print of the current session entitled "Farm and Food Policy—1977".

SERVICE OF WILLIAM O. DOUGLAS

The concurrent resolution (H. Con. Res. 513) providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas, was considered and agreed to.

REVIEW OF NATIONAL BREEDER REACTOR PROGRAM

The concurrent resolution (H. Con. Res. 592) authorizing the printing of two thousand copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program," was considered and agreed to.

THE WORKING CONGRESS

The concurrent resolution (H. Con. Res. 629) providing for the printing of a document entitled "The Working Congress," was considered and agreed to.

REPORT OF THE SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE OF THE SELECT COMMITTEE ON AGING

The concurrent resolution (H. Con. Res. 641) to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives, was agreed to.

SUMMARY OF VETERANS' LEGISLATION REPORTED, 94TH CONGRESS

The concurrent resolution (H. Con. Res. 655) providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, Ninety-fourth Congress," was considered and agreed to.

BLACK AMERICANS IN CONGRESS

The concurrent resolution (H. Con. Res. 682) to authorize the printing of a booklet entitled "Black Americans in Congress," was considered and agreed to.

CONCURRENT RESOLUTION PASSED OVER

The concurrent resolution (H. Con. Res. 688) authorizing the printing of the folder "The United States Capitol" as a House document was announced as next in order.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that that go over.

Mr. MANSFIELD. Which one is that?

Mr. GRIFFIN. Calendar Order No. 1152.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be passed over.

PRAYERS OF THE CHAPLAIN OF THE SENATE DURING THE 94TH CONGRESS

The concurrent resolution (S. Con. Res. 201) authorizing the printing of the prayers of the Chaplain of the Senate during the Ninety-fourth Congress as a Senate document, was considered and agreed to, as follow:

Resolved by the Senate (the House of Representatives concurring), That there be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-fourth Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed and bound two thousand additional copies of such document, of which one thousand and thirty shall be for the use of the Senate and nine hundred and seventy shall be for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

MADELINE H. O'BRIEN

The resolution (S. Res. 539) to pay a gratuity to Madeline H. O'Brien was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Madeline H. O'Brien, mother of Gail H. Perry, an employee of the Senate at the time of her death, a sum equal to five months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

ELIZABETH W. YOUNG

The resolution (S. Res. 540) to pay a gratuity to Elizabeth W. Young was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Elizabeth W. Young, widow of Robert B. Young, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

THE PASSING OF MAO TSE-TUNG

Mr. MANSFIELD. Mr. President, last night, the founder of the People's Republic of China, Mao Tse-tung, passed away. He followed in the footsteps of the late Premier of China, Chou En-lai, and the late commander of the armed forces on the Long March, Chu Teh. The last major figure of the World War II era has departed this Earth as all men must when their time has come.

As one who first knew China in 1921 and 1922 as a private first class in the Marine Corps, who taught Far Eastern history at the University of Montana before coming to Congress, who went to west China on a special mission for Franklin D. Roosevelt in 1944, who visited postwar China in 1946, and as one who since the opening of the door to China in 1972 by former President Nixon, visited that country twice, I feel I am in a position to know what China was before the revolution, and to a lesser extent, what China has become since 1949. It is a country in which I have had a deep and personal interest for over half a century.

Who was Mao Tse-tung? He was the man who led the Long March which started with 110,000 men and ended in Yenan a year later numbering a total of 7,000 men. On that base, he was the man who led his party in creating the present People's Republic of China with its 850 million people, who unified its people into a nation for the first time in centuries, who exterminated war lordism, drug addiction, begging and prostitution, and who achieved widespread reform and reconstruction for his country. He was a man who pointed the way to a vast increase in agricultural production and to the development of heavy and light industry. His leadership did much to keep the Chinese economy on a sound footing, and to extend health care to the people. He urged the doctrine of self-reliance with an effectiveness which was so aptly demonstrated during the recent great earthquakes in northeast and west China. He was the man whom the late Premier Chou En-lai said to me in December of 1974 when my wife and I were probably the last Americans to see him alive, that it was Chairman Mao who was responsible for the opening of relationships between the United States and the People's Republic of China. He stated at that time that Chairman Mao had read an article by President Nixon in an American foreign affairs magazine which indicated a friendliness toward his country and impressed him so much that he began the movement toward a better relationship between our two countries.

What of China's future relationship with the U.S.S.R. and the United States? With the Soviet Union—mainly ideological and territorial differences—will continue, in my opinion, on the present basis. With the United States those relationships will continue at the present pace and, hopefully, in the not-too-distant future will grow stronger, more understanding, and more normal.

Who will be the new leader or who will comprise the joint leadership to replace Chairman Mao? No one knows nor can anyone predict. Only time and circumstances will decide.

The death of Chairman Mao will be felt deeply by his people and for those who wish for the People's Republic of China a future based on peace, stability, and progress. I join with President Ford in expressing my condolences to Chairman Mao's family and to the Chinese people and add the hope that the door between our two countries will—in the words of the late Premier Chou En-lai—"remain open."

Mr. President, I have just received from Ambassador Huang Chen of the Liaison Office of the People's Republic of China in the United States the official announcement of the death of Chairman Mao. I ask unanimous consent that this statement be printed at this point in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

The Liaison Office of the People's Republic of China in the United States of America wishes to inform with deepest grief that Comrade Mao Tse-tung, the esteemed and beloved Great Leader of our Party, our Army and the people of all the nationalities of our country, the Great Teacher of the international proletariat and the oppressed nations and oppressed people, Chairman of the Central Committee of the Communist Party of China, Chairman of the Military Commission of the Central Committee of the Communist Party of China, and Honorary Chairman of the National Committee of the Chinese People's Political Consultative Conference, passed away at 00:10 hours, September 9, 1976 in Peking because of the worsening of his illness and despite all treatment, although meticulous medical care was given him in every way after he fell ill.

A book of condolences will be opened for signature at the Liaison Office of the People's Republic of China, 2300 Connecticut Avenue, N.W. Washington, D.C. from today till September 18, 1976 from 10:00 a.m. to 5:00 p.m.

Washington, D.C. September 9, 1976.

DEATH OF MAO

Mr. ROBERT C. BYRD. Mr. President, the death of Mao Tse-tung will usher in a new chapter in the convoluted tripolar relationship between the United States, China, and the Soviet Union. Mao has been the central figure in China since the end of World War II, and until his death he was the preeminent political figure in Asia since the 1950's.

During his lifetime, Mao was instrumental in leading China from periods of open warfare and internal rebellion to more recent times of relative stability. During the 1950's, Mao sought a close alliance with the Soviet Union and hoped to modernize China's weak industrial base with Soviet technology. This alliance between the two Communist nations began to break up early in the 1960's and China began to turn inward, isolating itself from other nations during the cultural revolution. But in the 1970's, under Mao's leadership China began to improve relations with many nations, including the United States. The visit of the U.S. President to China in 1972 served as the dramatic highpoint in this reversal of Chinese foreign policy toward non-Communist nations. As if to reinforce this diplomatic reversal, China also sought increased trade with the major industrialized nations, and specifically with the United States, Japan, and Western Germany.

But with Mao no longer leading China, it may be months and possibly years before a new and readily identifiable political leadership emerges. As with any totalitarian system of government, a long period of turmoil and factional feuding will occur, and the succession period will no doubt be hidden from foreign eyes. China has been torn by regional and political struggles for years, and these struggles will certainly intensify in the coming months and years. Western observation of these struggles will be fragmentary and inconclusive and we may never know how the transfer of power took place.

The struggles that will go on within China will pit diverse interests against each other and there will be internal struggles within each subgroup. The regional interests will compete for prominence and urban and rural forces will be at odds. The civilian and military bureaucracies will seek control and the "radical" and "moderate" elements in the Chinese Communist Party will continue their intense ideological struggle. And with the upper hierarchy of the Communist Party made up of many of Mao's old comrades and long-time followers, there may be a conflict between the generations as younger, more ambitious party members attempt to wrest as much control as possible.

With these multitudinous clashing forces, the succession period in China does not look to be short lived or readily resolved. It may be years before a "China policy" can be determined with any degree of cautious accuracy or reliability. What the effect this tumultuous succession period may have on the domestic and foreign policies of China cannot be foretold, but it would be hoped that no dramatic reversals would jeopardize peace in Asia.

The Soviet Union will be watching future events in China with a careful eye. The Russians have long looked with anxiety and suspicion toward their southeastern neighbor and have massed thousands of troops on the long common border they share with the Chinese. With this feeling of uneasiness, the Soviet leadership will be alert for any observed changes in Chinese behavior.

Having predicted that China would break up into regional feifdoms amidst widespread violence after the death of Mao, the Soviets are greatly concerned as to the direction the post-Mao Chinese leadership will take in the international Communist movement. In the coming months, the Soviets will be paying keen attention to any shifts in Chinese foreign policy toward Third World nations and will be sensitive to the changes in Sino-Soviet relations.

But even with what Moscow sees as important ideological matters, it is hoped that the Kremlin would refrain from any actions which could be interpreted as interference in Chinese internal political affairs. The Soviets should exhibit maximum restraint toward the Chinese as any attempt to interfere during the succession period could have serious repercussions.

The future of post-Mao Chinese relations with the United States will be studied in both capitals in the next few days. The American policy should be to keep all channels of communication open and be receptive to continued exchanges between American and Chinese officials and groups. It is in the best interests of both nations that relations between us not lapse into periods of open hostility and neglect as they have in the past. Opportunities must be available at all times for political leaders to exchange views and opinions which will further the cause of world peace.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of Senate Concurrent Resolution 139, which will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977.

The ACTING PRESIDENT pro tempore. The time for debate on this resolution is limited to 3½ hours, with 1 hour on any amendment in the first degree and with one-half hour on any amendment in the second degree, debatable motion, or appeal.

Who yields time?

Mr. MUSKIE. I yield myself 10 minutes, to begin.

Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget have the privilege of the floor during the consideration of and votes on Senate Concurrent Resolution 139: Douglas Bennet, John McEvoy, Sid Brown, Arnold Packer, Jim Storey, Dan Twomey, Tom Dine, Nancy Haslinger, Bob Sneed, Charles Flickner, Terry Finn, John Giles, Rodger Schlickeisen, Tony Carnevale, Karen Schubeck, Becky Beauregard, Mike West, Ira Tannenbaum, Chris Matthews, Don Campbell, Marc Lackritz, Faye Hewlett, Mike Joy, on behalf of Senator HOLLINGS, Hal Gross, on behalf of Senator CRANSTON, Rick Brandon, on behalf of Senator CHILES, George Rucker, on behalf of Senator ABOUREZK, Dick Andrews, on behalf of Senator BIDEN, and Bill King, on behalf of Senator NUNN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget have the privilege of the floor during the consideration of and votes on this measure: Robert S. Boyd, Hayden Bryan, Letitia Chambers, Edmond Q. "Ted" Haggart, Franklin Jones, Gary Kuzina, Charles McQuillin, Reid Nagle, David Shilling, Frank G. Steindl, William L. Stringer, and John Walker.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Franklin Jones, of my staff, have the privilege of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I also ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate during the consideration of this matter.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. I do not have enough fingers to deal with these numbers.

Mr. President, this year's second budget resolution is almost identical to the first. Congress made a budget plan in May. We have stuck to it. We have done just about what we set out to do, and even cut spending a little more than we expected.

Our spending bills have been not only on target, but on time. For the first time in a quarter century, it is likely that every regular appropriation bill will have been passed before the fiscal year begins. This means not only that our own procedures are becoming more orderly and disciplined, but that every agency and State and local government can operate more efficiently. I want to express my deep appreciation particularly to Chairman MCCLELLAN of the Senate Appropriations Committee and to all its members for helping Congress achieve this success.

I also express my appreciation to the distinguished ranking Republican member of the Budget Committee and all his colleagues on his side of the aisle for their cooperation in making this success possible.

In 1950, Congress undertook a budget reform similar to this one. By 1951, it was dead. The budget reform of 1974 is now exactly 2 years old and thriving.

Mr. President, I ask unanimous consent that a table summarizing the congressional budget for fiscal 1977 be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—FISCAL YEAR 1977 BUDGET SUMMARY

[In billions of dollars]

		1st budget resolution target		2d budget resolution recommended ceiling	
		Budget authority	Outlays	Budget authority	Outlays
050	National defense	112.5	100.8	112.1	100.7
150	International affairs	9.1	6.6	9.1	6.9
250	General science, space and technology	4.6	4.5	4.6	4.5
300	Natural resources, environment and energy	17.0	15.7	18.2	16.0
350	Agriculture	2.3	2.0	1.6	2.0
400	Commerce and transportation	18.2	17.7	15.2	17.4
450	Community and regional development	7.4	7.8	7.5	9.0
500	Education, training, employment and social services	24.6	23.0	24.0	22.3
550	Health	39.3	37.9	40.5	38.8
600	Income security	158.9	139.3	156.2	137.3
700	Veterans benefits and services	20.1	19.5	20.3	19.5
750	Law enforcement and justice	3.4	3.5	3.5	3.6
800	General government	3.6	3.5	3.6	3.5
850	Revenue sharing and general purpose fiscal assistance	7.35	7.35	7.6	7.7
900	Interest	40.4	40.4	39.6	39.6
	Allowances	2.85	1.15	.7	.8
950	Undistributed offsetting receipts	−17.4	−17.4	−16.8	−16.8
	Total	454.2	413.3	447.5	412.8
	Revenues		362.5		362.0
	Deficit		50.8		50.8

Mr. MUSKIE. Mr. President, my colleagues will note that we have pared a half-billion dollars net from the first budget resolution outlay target. This saving results from a combination of increases and decreases throughout the various budget functions.

At the same time, we are projecting revenues at $362 billion—half a billion dollars less than the first budget resolution target. While the projection of revenues which would be collected under current law has not changed since the first budget resolution, Congress has not succeeded in raising the targeting $2 billion in net revenue increases through tax reform. The resolution before you anticipates that the revenue conference now under way will raise at least $1.1 billion in revenues through loophole closing and that another $400 million will be realized through a pending increase in the unemployment compensation tax or additional tax expenditure savings.

The net result of a $0.5 billion spending reduction and a $0.5 billion revenue reduction is that the deficit projection is unchanged—$50.8 billion. This is almost 25 percent less than the fiscal 1976 deficit—evidence both of spending restraint and of the fact that the costs of unemployment are less as the economy begins to recover. Now that the administration has corrected some of the unrealistic estimates in the President's original budget proposal, the difference between his deficit and the one which will result from this second resolution is $3.3 billion—an amount attributable to our recommendations for public works and public employment outlays designed to combat joblessness.

JOBS AND THE ECONOMY

Putting people back to work remains the central priority in the fiscal 1977 budget.

When the budget process started 2 years ago, the challenge was to reverse the downward spiral of recession. We succeeded. The congressional budget for fiscal 1976 brought unemployment down from 8.7 percent in the second quarter of 1975 to 7.4 percent a year later, while employment increased by 2.4 million.

The budget resolution we are recommending is designed to provide jobs in both the private and public sectors. During the last fiscal year, 74 percent of this increase in employment took place in the private sector. But private nonfarm payrolls are still smaller than before the recession. Moreover, unemployment has increased in the last 3 months and now stands at an unconscionable 7.9 percent of the work force or 7.5 million people.

We expect unemployment to decline substantially in coming months if the jobs provided for in this budget are funded and filled on schedule. These job programs include the Public Works Employment Act and the extension and expansion of the Comprehensive Employment and Training Act—CETA.

The Public Works Employment Act, which also includes countercyclical revenues for hard-hit State and local governments, is designed to create 300,000 jobs in the public and private sectors together. The proposed CETA bill will fund 500,000 positions, with most of the new jobs reserved for the heads of needy households who have been unemployed for an extended period. These bills, along with the stimulus to the private sector provided by the overall fiscal policy of the second budget resolution, should put 1.5 million Americans back to work in fiscal 1977.

The fiscal 1977 jobs program is designed as a second step on the road to full employment by 1980. The step will not be taken unless the Public Works Employment Act and the CETA bill are funded and implemented. The job-creating programs contained in the 1976 budget were reduced and delayed when vetoes were sustained. Those vetoes are part of the reason for the 640,000 person increase in unemployment that has been recorded in the last 3 months. I urge my colleagues to prevent a second unnecessary detour on the road to full employment during fiscal 1977.

Let us remember that joblessness not only hurts families and wastes resources. It also costs budget dollars. Each 1-percent increase in the unemployment rate will cost the Federal Treasury $19.5 billion in fiscal 1977—$15 billion due to lost revenues because people who are not working do not pay taxes, and $4.5 billion in increased costs for unemployment compensation and other benefits.

The current increase in the unemployment rate is part of a general "lull" in the recovery. Just how serious this "lull" may turn out to be is open to question. What is clear, however, is that we will require extraordinarily successful economic management if we are to avoid having this recovery peter out.

There have been six prior periods of rapid growth since World War II. In three of those periods, the rapid growth ended after four quarters. In two others, rapid growth was maintained for more than four quarters, because of wartime spending. The remaining period of rapid growth—from the third quarter of 1971 to the first quarter of 1973—followed the extraordinary policy moves of August 1971, when devaluation, price controls, and the investment tax credit were imposed simultaneously.

Each of these periods of falling unemployment rates was followed by a period of slower growth in which the unemployment rate stayed relatively constant. Each of these six slowdowns, with one exception, was in turn followed by a recession. The single exception was in 1964, when a large tax cut—about 1.5 percent of GNP—and rapid monetary growth initiated another period of rapid economic growth, which was extended further by spending on the Vietnam war.

The present recovery has thus far confromed quite closely to the pattern of previous recoveries. It has already proceeded for four quarters, which is the typical length when the economy is not aided by extraordinary fiscal measures such as wartime spending, tax cuts or other expansionary policies. The second and, it now appears, the third quarter of this year conform to the pause periods of the earlier economic cycles. Industrial production, business fixed investment, and private employment have not yet reached their prior peaks. Unemployment still exceeds the worst level reached in previous recessions.

INFLATION

This budget, like last year's, is designed to keep inflation under control. Inflation fell from a 12-percent annual rate at the end of 1974 to less than 5 percent in July of this year. The committee believes that Congress fiscal 1977 budget will reduce inflationary expectations and avoid any pressure on prices due to excess demand. The American economy continues to operate far below its potential capacity; therefore, there should be little, if any, demand-related inflation. The projected deficit for fiscal 1977 is itself the direct result of the revenue losses and unemployment costs of an economy operating well below its full potential. Our goal is steadily to squeeze the effects of the 1974 inflation out of the American economy.

So this is an economic recovery budget. It is designed to produce jobs. It is designed to restrain inflation. Your committee believes it is consistent with a steady economic recovery. That recovery, however, is clouded with uncertainty today. It is not at all clear that private demand will be strong enough to maintain the 5.5- to 6-percent rate of economic growth which a steady return to full employment demands. It is particularly critical that private investment demand grow rapidly.

If it appears over the next few months that Congress' target of bringing the present 7.9-percent unemployment rate to 6 percent by the end of 1977 is in jeopardy, the Budget Committee is prepared to consider another concurrent resolution to alter recovery policy while fiscal 1977 is in progress.

The observation made by the committee in the first budget resolution report last spring applies to both the immediate future and the next several years:

> . . . the most tragic mistake the Nation could make at this point would be to repeat old errors of fiscal and monetary judgment that would choke off the hard won recovery we are now experiencing.

Mr. President, let me now run through some of the major priority decisions—other than job creation—reflected in the functional totals recommended for fiscal year 1977.

In "Function 050: National Defense," the first budget resolution totals were virtually the same as the President's budget request and allowed an increase of more than 10 percent over levels for fiscal 1976. Congressional reductions in the Department of Defense authorization and appropriation request permit these targets to be reduced by $400 million in budget authority and $100 million in outlays. The second budget resolution totals do not, however, allow room for the President's recent additional supplemental request for weapons systems which have not been authorized by the Congress.

The defense ceiling assumes a minimum of $550 million in sales of materials from the strategic stockpile, a 15-percent absorption by the Defense Department of all pay raises included in any pay supplemental, and elimination of the 1-percent kicker for military retirees. Stockpile sales and eliminating the 1-percent kicker were part of the saving of $5.4 billion in budget authority and $4.5 billion in outlays due to administrative and legislative economies which we contemplated at the time the first budget resolution was adopted. I am happy to say that all but approximately $800 million of these savings have either been achieved or seem likely enough to be assumed in the second budget resolution. The Armed Services Committee has acted vigorously and courageously on those savings within its jurisdiction. One of them, the 1-percent kicker, will not be realized, however, unless comparable treatment is provided on the civilian side of the budget. The second budget resolution assumes such action.

In "Function 300: Natural Resources, Environment & Energy," an increase of $1.2 billion in budget authority since the first budget resolution is due largely to an allowance for a default reserve for a synthetic fuels program and to allow for full funding of title III of the Public Works Employment Act.

The Senate, just last week, considered the important issue of continued funding for EPA water pollution construction grants, which fall into Function 300. There was support for the commitment in fiscal year 1977 of an additional $5 billion in budget authority. This funding has been assumed by the Budget Committee in the second budget resolution. While the outlays from this program are less than $100 million in the first year, the additional budget authority will prevent many States from exhausting their current share of construction funds and permits continuation of the national effort to provide clean water while the Congress comprehensively reviews the Water Pollution Control Act next year.

Virtually all funding for Federal energy programs—$5.5 billion in budget authority and $4.4 billion in outlays—is included in Function 300. No budget authority has been assumed for one major program, the Nuclear Fuel Assurance Act, because the committee, without deciding on the merits of the specific legislation, accepted the OMB and GAO opinion that no budget authority would be required if the Nuclear Fuel Assurance Act were passed and implemented. Based upon the information currently available—and I note that the Senate has not yet begun its consideration of this bill—the $8 billion in project guarantees to build uranium enrichment plants is strictly a contingent liability and therefore does not require budget authority.

In "Function 550: Health," my colleagues will note substantial upward reestimates for Medicare and medicaid. Pressure on this function is increased because savings of $0.3 billion in budget authority and $0.6 billion in outlays in medicare and medicaid which were assumed in the first budget resolution have not been realized. The committee is disappointed that legislation to achieve these savings has not yet been reported. The second budget resolution does, however, assume savings of $0.2 billion in medicaid which, we hope, will result from initiatives to control fraud and abuse.

Similarly, in "Function 600: Income Security," the first budget resolution assumed legislative savings in such programs as food stamps, AFDC, and social security which now do not appear achievable. While the function is under target due to substantial program reestimates, I know I speak for the Budget Committee when I say that we are very anxious to see these and other savings achieved as soon as possible.

For "Function 700: Veterans Benefits and Services," the committee recommends an increase of $200 million in budget authority and the same level of outlays compared to the first budget resolution. The budget authority ceiling is $2.4 billion more than the President's budget request.

Mr. President, the most important part of the Budget Committee's report is about 1980.

It will be 1980—a full Presidential term from now—three elections from now—only slightly less than half a decade from now—before America can once again have full employment.

It will be 1980 at best before economic recovery will be sufficient to give us a balanced budget.

And, at best, those twin goals of full employment and a balanced budget by 1980 will be very, very hard to reach.

We can not allow economic recovery to falter between now and then, although historically it nearly always has.

Except for recovery-related expenditures, we can afford new permanent Federal programs only if we can find money for them through savings in other areas.

We must undertake structural changes in our economy which will enable us to escape renewed inflation once unemployment reaches the 5- to 5.5-percent range, which is simply not full employment.

I ask unanimous consent that the portion of the Budget Committee's report—pages 15 through 23—dealing with the 1980 outlook be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, the budget we put before you today for fiscal year 1977 is consistent with achieving full employment and a balanced budget by 1980. I wish we could do better. Because the recession was so deep, we cannot. And even these not-too-distant goals will be beyond reach unless we have more than our normal share of wisdom and good luck.

But this resolution represents a clear commitment to recovery. It represents determined fiscal discipline. I urge my colleagues to support it.

EXHIBIT 1

THE LONG-RANGE

Despite the recovery of the last 15 months, the condition of the U.S. economy is far from satisfactory. Unemployment and inflation must be reduced further and the deficit—although it results from the depressed state of the economy—should be eliminated. While economists differ over which goals can be achieved and how soon, there is general agreement that a full recovery will take several years. Because each year's budget decisions affect the speed and success of the recovery, the Committee believes that it is necessary that Congress make these annual decisions in the context of long-range recovery targets.

What are reasonable long-range targets?

UNEMPLOYMENT TARGET

There is widespread agreement that relatively full employment should be achieved by about 1980. No one, however, wishes to overheat the economy to the point of accelerating wage-price increases. A view among many economists is that 5.0 to 5.5 percent for unemployment is the inflationary danger zone given our present economic structure.[1]

Full employment has traditionally been defined as 4 percent unemployment, and economists felt that this could be reached without generating inflation. In the 1960's this rate seemed to provide enough slack to accommodate the inevitable frictional unemployment without causing accelerating inflation. During 1973, however, inflation jumped to 8.8 percent even though unemployment averaged 4.9 percent. Although currency devaluations, a simultaneous world-wide economic boom, a 20-percent increase in food prices, capacity bottlenecks in key industries, and the oil price increase in the last quarter cloud the issue, the 1973 experience made economists reevaluate the inflationary danger zone for unemployment.

There are several reasons why the rate of unemployment at which inflation accelerates is higher than it used to be. First, teenagers and females have sought work in increasing numbers and now form a larger proportion of the total labor force. Members of these groups traditionally have higher unemployment rates than adult males; they have higher turnover rates and more frequently are new entrants or reentrants to the labor force who search more often for new jobs. Second, changes in unemployment compensation and welfare regulations may have caused some people to register as being unemployed when in the past they would not have been included in the labor force. The Senate has recently passed a bill that would establish a National Commission on Employment and Unemployment Statistics to consider these problems. This Commission should provide a better understanding of the implications of the changing composition of the labor force.

The Committee believes that a return to a 4-percent level of full employment by 1980 may be possible. But successful structural policies, both in product and labor markets will have to be designed if Congress wishes to reduce unemployment below 5.0 to 5.5 percent without accelerating inflation. As Federal Reserve Chairman Arthur Burns, in his testimony to this Committee, states, "Our Nation would benefit, however, if the traditional tools of economic management were supplemented by structural policies designed to enhance the prospects for returning to full employment without releasing a new wave of inflation."

INFLATION TARGET

Inflation in the 4 to 6 percent range seems inevitable in the next few years if the economic recovery continues. Multi-year labor contracts with cost-of-living escalators promise continued wage increases, and energy costs will assuredly rise. Good luck on these factors and on food prices will be needed to stay near the bottom end of the 4 to 6 percent range. Structural policies, including regulatory reforms and workable incomes policies, may be needed if inflation is to be brought below 4 percent by 1980.

PRODUCTIVITY TARGET

Productivity increases cushion the effect of wage increases on prices and provide the high real wages and profits accompanying economic growth. Productivity growth of 2.5 to 3.0 percent in the private sector is an important requirement if a balanced budget and an acceptable rate of inflation are to be reached by 1980. These rates are consistent with historical experience, but may not be achievable in the future.

BALANCED BUDGET TARGET

Recent experience has clearly shown that economic conditions have at least as much influence on the deficit as do Congressional decisions on spending or taxes. *Both budget discipline and high employment are needed to balance the budget.*

TABLE 5.—FISCAL MARGIN

[In billions of dollars]

	Fiscal year—	
	1980	1981
CBO [1]	30	50
OMB [2]	22	30

[1] Unpublished CBO projections based on the First Budget Resolution.

[2] OMB "Midsession Review of the 1977 Budget" based on Administration tax and spending policy proposals.

The current services projections of OMB indicate that current legislation does not foreclose a balanced budget in 1980 or 1981.

The fiscal margin indicated above measures what the surplus would be if economic growth brought unemployment to 4.8 percent—5 percent for all practical purposes—by 1980 without any further fiscal stimulus. The revenues and unemployment compensation estimates, for example, are based on the assumption that unemployment will be 4.8 percent by 1980. These estimates of the fiscal margin, which are produced by projecting outlays and revenues on a current services basis, are not forecasts of actual surpluses. The actual budgetary position in 1980 will depend upon the amount of additional fiscal stimulus (if any) required actually to produce unemployment below 5 percent at that time. The fiscal margin calculation does, however, provide a measure of the amount of permanent fiscal stimulus which can be used in the interim without causing the budget to go into deficit when the 5 percent unemployment rate is attained.

THE SIZE OF GOVERNMENT

Revenues in fiscal 1977 are estimated to be 19.6 percent of GNP. Because the progress we income tax raises the tax share as incomes grow, this share would increase each year unless tax rates were reduced. By 1980 the revenues would be 21 percent of GNP, assuming that the current tax reduction became permanent and that no other tax changes were made.

Historically, the Federal Government has spent about 20 percent of GNP when measured on a full employment basis. If this share is taken as a target, the fiscal margin indicated in table 5 can be divided between revenues and outlays. This division, based on projections consistent with the First Budget Resolution, is shown below in table 6. Like the other goals this can serve as a rough guide to current and future action. It indicates that fiscal stimulus, if and when needed, must be generally limited either to tax reductions or to spending measures that are temporary rather than permanent. Otherwise, either the goal of balancing the budget or the goal of limiting the Federal Government to one-fifth of GNP will have to be sacrificed.

The five targets described above are all related. A failure to achieve any one will mean that some of the others will also have to be sacrificed. The following section describes the nature of the policies that may be required if these goals are to be attained.

TABLE 6.—PROJECTED CURRENT POLICY OUTLAYS AND REVENUES IN RELATION TO GNP[1]

[Billions of dollars]

	Fiscal years		
	1977	1980	1981
Fiscal margin (from table 5)		30	50
GNP	1,835	2,525	2,725
20 percent of GNP	367	505	545
Current policy outlays	415	500	525
Percent GNP	22.6	19.8	19.3
Outlay margin		+5	+20
Current policy revenues	360	530	575
Percent GNP	19.6	21.0	21.1
Revenue margin		+25	+30

[1] Unpublished CBO projections and SBC staff estimates.

POLICIES TO ACHIEVE THE LONG-RANGE RECOVERY TARGETS

The targets outlined above will be difficult to achieve. Achieving the unemployment goal will require an average GNP growth of 5.5 to 6 percent over the next 3 years. The country has never sustained above-trend growth for that many years. It is not inevitable that history be repeated. But the long-run objectives can be attained only if the following conditions are met.

MAINTAINING ABOVE-TREND GROWTH

A recession, or even a sustained slowdown in which output growth falls well below 4 percent for a year or more, would put the achivement of even a 5-percent unemployment goal beyond 1980. If we experience several quarters of stagnation, the amount of stimulus needed to get the average growth rate back on track coupled with the loss of revenues, might bring about increasing, rather than decreasing, budget deficits. It would also increase the cost of lost output in an underemployed economy. This cost is running at about $125 billion per year.

As shown in chart 1, there have been six periods of rapid growth since World War II before the present recovery. In three of those periods, the rapid growth ended after four quarters. In two of the other priods, rapid growth was maintained for more than four quarters because of wartime spending. The remaining period of rapid growth from the third quarter of 1971 to the first quarter of 1973 followed the extraordinary policy moves of August, 1971, when devaluation, price controls, and the investment tax credit were imposed simultaneously. Rapid growth continued for six quarters, aided by the addition of $18.5 billion of Federal expenditures between the second and fourth quarters of 1972.

Each of these periods of falling unemployment rates was followed by a period of slower growth in which the unemployment rate stayed relatively constant. Note that 3.5 to 4 percent real growth results in a stable unemployment rate. Therefore, the difference between, say, 5.75 and 4.75 percent real growth in 1977 is not as small as it might appear. The 1 percent reduction in the growth rate would halve the improvement in the unemployment rate from 0.8 to 0.4 percentage points annually.

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[1] The staff polled a number of eminent economists for their views of the "appropriate" unemployment target for 1980. Although two called for a 3.0-percent target, the others who responded to the question mentioned either 4.5 or 5.0 percent. This response is consistent with the view that the current danger level is 5.0 to 5.5 percent but that structural policies may lower this level by 1980. The respondents are listed as follows:

Barbara R. Bergmann, University of Maryland.

Robert S. Browne, The Black Economic Research Center.

J. Dewey Daane, Vanderbilt University.

Robert J. Eggert, Eggert Economic Enterprises, Inc.

William J. Fellner, Yale University.

Nathaniel Goldfinger (deceased), AFL–CIO.

Douglas Greenwald, McGraw-Hill Publications.

Walter E. Hoadley, Bank of America.

F. Thomas Juster, University of Michigan.

Carl H. Madden, U.S. Chamber of Commerce.

Arthur M. Okun, The Brookings Institution.

Albert R. Rees, Princeton University.

Robert M. Solow, Mass. Institute of Technology (MIT).

Herbert Stein, University of Virginia.

James Tobin, Yale University.

Each of these six slowdowns, with one exception, was in turn followed by a recession. The single exception was in 1964, when a large tax cut (about 1.5 percent of GNP) and rapid monetary growth initiated another period of rapid economic growth, which was extended further by spending on the Vietnam War.

The present recovery has thus far conformed quite closely to this pattern. It has already proceeded for four quarters, which is the typical life of cycles that are unaided by extraordinary fiscal measures such as wartime spending, tax cuts or other expansionary policies. The second and, it now appears, the third quarter of this year conform to the pause periods of earlier economic cycles. As table 7 shows, industrial production, business fixed investment, and private employment have not yet reached their prior peaks. Unemployment still exceeds the worst level reached in previous recessions.

TABLE 7.—INDUSTRIAL PRODUCTION, PRIVATE EMPLOYMENT, AND REAL BUSINESS FIXED INVESTMENT: JULY 1976 IN RELATION TO PREVIOUS PEAKS

Indicator	Peak		July 1976	Relation ts previouo peaks (percent difference)
Industrial production (1967=100)	June 1974	131.9	130.4	−1.1
Employment (millions of persons):				
Private economy	September 1974	64.531	63.974	−.9
Goods-producing	December 1973	25.115	23.081	−8.1
Manufacturing	December 1973	20.367	18.931	−7.1
Real business fixed investment (billions of 1972 dollars)	1974:1	133.5	[1] 114.9	−13.9

[1] 1976: 1.

The observation made by the Committee in the First Budget Resolution Report applies to both the immediate future and the next several years: ". . . the most tragic mistake the Nation could make at this point would be to repeat old errors of fiscal and monetary judgment that would choke off the hard won recovery we are now experiencing."

The 1975 tax cut (about 1 percent of GNP) may extend the recovery for several quarters, but the fiscal stimulus provided by that tax cut will have been largely eroded by the extra tax revenues created by growth in money incomes by the end of 1977. For this reason, more stimulus than that contained in a continued current services budget may eventually be required if even modest growth and employment targets for 1980 are to be met.

It is impossible to know now whether the rest of the economy will be strong enough in 1980 to create full employment without a deficit in the Federal budget. Some economists, foreseeing unusually large investment demands, think a budget balance or surplus is possible if monetary policy is accommodative. This was the general opinion of the economists polled by the Committee staff (see footnote 1). Those who rely upon computerized econometric models think the economy will be weaker and expect a growth recession before then. (This forecast is due, in some models, to a forecast of tight money, and not to a forecast of inherent weakness in the private economy.) Although the evidence is mixed, a balanced budget at relatively full employment is generally thought to be a reasonable goal to guide current budget decisions. This goal is conservative and provides discipline for current budget decisions. A lack of discipline will assuredly make a balanced budget impossible to attain.

AVOIDING AN INFLATIONARY SURGE

Inflation is a lingering disease because each year's price change is incorporated into next year's wage and price behavior. The moderate 5.5 to 6 percent growth path projected here is consistent with a gradual reduction in the wage-price spiral. But this steady growth can be achieved only if we maintain fiscal and monetary policies which avoid inflationary surges in private or public expenditure, which have sometimes occurred in the past.

External shocks of embargoes, cartel agreements, or crop failures that substantially increase oil, raw material, or food prices could put the inflation target out of reach. Congress may have to consider stockpile programs to prevent shortages in particular commodities from being transformed into general inflation.

MAINTAINING INVESTMENT AND PRODUCTIVITY GROWTH

Adequate productivity growth requires a trained labor force working with technologically efficient plant and equipment and with efficient work rules. If investment is inadequate, bottlenecks will develop, growth will slow, and the resulting unemployment may force an increase in less productive public employment jobs.

Achieving the 1980 goals requires that fiscal and monetary policies produce enough demand and low enough interest rates to generate the required capital formation. It is possible, however, that macroeconomic policies alone will not produce enough investment, or enough investment in the right sectors, to avoid inflationary bottlenecks. In this case targeted incentives may be required to direct investment into bottleneck industries.

STRUCTURAL POLICIES

Structural policies—provided they are made to work—make more ambitious goals attainable and modest goals more secure. Targeted investment incentives are one type of structural policy. As noted previously, the Federal Reserve Board's Chairman called the Committee's attention to the benefits of supplementing the traditional tools of economic management with structural policies which improve the trade-off between unemployment and inflation. Structural policies can be directed at the improvement of the labor market. Examples are youth training and job placement programs, targeted public employment, more effective job banks, improvements in the unemployment insurance system, easing restrictions on entry into jobs and professions, and generaly removing impediments to the operation of free markets.

Other structural policies could improve the way in which product markets function. Regulatory reform, vigorous antitrust enforcement, and the creation of strategic materials and food reserves could help in the pursuit of several of our goals. Reforming the regulations which now force some trucks to return empty from their destinations will clearly reduce inflation and improve productivity simultaneously. Still other structural policies can be used to reduce inflation directly by keeping down costs and prices. Unnecessary payroll tax increases, excessively rapid deregulation of energy prices, and additional sales and excise taxation should be avoided. Policies to control costs and restrain inflation in the health sector can be pursued. And eventually it may be necessary to consider some form of incomes policy to reconcile price and wage changes with long-run productivity growth.

Disagreement is, of course, inevitable on precisely which, if any, policies would be effective. Careful study will be necessary, since experience with many of them is limited and too little is known of their effects. But, if coherent structural policies are to exist by 1980, efforts to design them must begin now. As Chairman Burns has written to the Committee: "Progress in this field is . . . a matter of urgency. Our nation has tolerated high rates of unemployment and of inflation much too long."

MAINTAINING SPENDING DISCIPLINE

Excessive Federal spending will produce an historically oversized share of the Federal Government in the economy and either a heavier tax burden or more inflation, accompanied by the "crowding out" of needed private investment. Therefore, the Congress must discipline expenditure growth.

If the Committee and the Congress had satisfied the requests of all the authorizing committees last April, these limits would have been breached. Current policy expenditures are now within $5 billion of the 20 percent limit for fiscal 1980 and $20 billion for fiscal 1981. (These current policy outlays and revenue projections were shown in table 6.)

Achieving the long-term targets presents a severe challenge for fiscal and budgetary policy. The challenge is to maintain a fiscal stimulus which will hold the economy in a moderate, steady, and prolonged recovery to 1980. This will require both patience and flexibility because the stimulus will have to be adjusted if the private economy proves to be exceptionally weak or exceptionally strong. Success will require both budgetary discipline for permanent programs and budgetary imagination, as was shown in 1975, using temporary fiscal measures to complement private sector demand. Finally, successful implementation of imaginative structural policies will be required if the economy is to return to what used to be thought of as full employment and a low rate of inflation.

Mr. MUSKIE. I am happy to yield to my distinguished friend from Oklahoma, who has been such a strong partner in this effort to impose the budget discipline upon Congress, such time as he may wish to take.

Mr. BELLMON. Mr. President, I thank my distinguished chairman for his comments and also for the very fine explanation he has just made to the Senate of the substance of the budget resolution now before us.

Mr. President, before presenting my brief remarks, I would like to acknowledge that the distinguished Senator from Maryland (Mr. BEALL) who is a most valued member of the Committee on the Budget, has asked that I indicate that, if he were here, he would speak out and vote in favor of the budget resolution now before us. Senator BEALL's support has been invaluable throughout the budget process. His understanding of the functions of government and his support for a responsible fiscal policy have been essential to the success of the budget process. I want to take note of that in his absence.

Mr. President, today the Senate considers the second concurrent resolution on the budget for fiscal year 1977. The budget process is now in its second year, and as Members know, the resolution on which we hopefully will soon agree contains binding spending ceilings and a revenue floor. The decisions we make in considering this resolution are, therefore, of immense importance.

The budget process, both last year in its infancy and this year through the first concurrent resolution for fiscal year 1977, can be judged alive and well. Because of the general support of Senators the process is now working successfully.

A major reason for the success of the process is the dedication and hard work of the chairman of the Senate Budget Committee, the distinguished senior Senator from Maine. The remarkable program of the budget process which is vital to the economic health of our Nation is due in large part to the leadership and guidance of Senator MUSKIE. It has been a pleasure and an honor to be associated with him in this task.

Much can also be said for the conscientious, professional, dedicated manner in which other committee members and staff have met their individual responsibilities. Much hard work and many difficult choices lie behind the resolution and the committee report now before the Senate.

Last spring, the first budget resolution set targets for the guidance of the Senate and the Congress. These have been reviewed in light of congressional actions and economic developments since the adoption of the first concurrent resolution. The committee's recommendations for the second concurrent resolution ceiling are:

BUDGET AGGREGATES

[In billions of dollars]

	1st concurrent resolution target	Recommended 2d resolution ceiling
Budget authority	$454.2	$447.5
Outlays	413.3	412.8
Revenues	362.5	362.0
Deficit	50.8	50.8

Budget authority is $6.7 billion less than in the first concurrent resolution. Both outlays and revenues are $0.5 billion less and, consequently, the deficit is the same as in the first concurrent resolution.

With three exceptions, the outlay figures for the 17 individual functional categories are right at or near their levels in the first concurrent resolution. The three areas of substantial change are function 450—community and regional development; function 550—health, and function 600—income security.

Community and regional development outlays increased $1.2 billion. The major reasons for the increased spending are program reestimates—by the Congressional Budget Office—of community development block grants and spending delays from fiscal year 1976 and the transitional quarter to fiscal year 1977.

Outlays for health are up by $0.9 billion, due principally to the failure to realize savings in the medicare and medicaid programs.

In the area of income security, outlays are down by $2 billion. The two main reasons for the decline are improved economic conditions and changing program trends.

In the Budget Act, the Budget Committee was charged with recommending budget priorities and fiscal policy. The first concurrent resolution singled out four areas of pressing national importance, these were: National defense; jobs; energy research, conservation and development; and social security. These areas of importance are affirmed in the committee's recommendations for the second concurrent budget resolution.

In the important area of national defense, this resolution provides an increase of almost 13 percent over the functional total in fiscal year 1976 and allows for at least 8.7 percent real growth in Defense Department programs. It meets the country's need for a strong national defense. The ceilings in the second concurrent resolution are below the targets set in May for the national defense function by $0.4 billion in BA and $0.1 billion in outlays. Mr. President, these reductions reflect congressional action taken under the guidance of the Armed Services and Appropriations Committees.

This year, the administration's defense budget request included a number of economies, some of which could be achieved at Presidential initiative and others which required legislative action. Most of these savings have been, or are well on their way to being achieved. A few have been rejected by the Congress. Two key economies, however, remain to be confirmed: The Senate has voted elimination of the 1-percent kicker for retired pay increases but the House has not acted. Action is pending on the requested stockpile sales. I feel duty bound, Mr. President, to remind my colleagues that the national defense function ceiling contained in this resolution asumes the 1-percent kicker is eliminated and that most of the stockpile sales are authorized for fiscal year 1977. I urge Senators to support the expected bill authorizing these sales. We need to confirm both of these remaining economies before our October 2 adjournment.

In the area of jobs, the Public Works Employment Act, which includes countercyclical revenue sharing, EPA construction grants and accelerated public works is included. So also is the CETA title VI public service employment program.

The legislation reauthorizing CETA title VI passed the Senate less than a month ago, and the bill has not yet come out of conference. The current level of jobs has been funded through the first of next year and it appears unlikely that a supplemental appropriation for the additional jobs will be made this late in the session. Assuming full funding of the program for only part of the fiscal year allows reduction of the function 500 target without changing the basic policy toward public service jobs. This recommended reduction does not change the Senate's employment policy. It simply recognizes the reality that because of the late authorization, a lesser amount of money will be needed in fiscal 1977.

Energy research, conservation, and development is another priority clearly singled out. The importance of energy and the environment is reflected by the recommendation that such outlays be 37 percent greater than in fiscal year 1976.

Finally, there is the issue of social security. The budget resolution report does not include an increase in the social security tax. It also continues to recommend that "decoupling" legislation be enacted. The longer such legislation is delayed, the greater the cost of the program in both current and future years.

In terms of fiscal policy, the economy is moving along a healthy path of rising total employment and declining inflation. The fiscal recommendations of the budget resolution should carry us further along that path.

The reduction in the deficit from $65.6 billion to the still high level of $50.8 billion between fiscal year 1976 and fiscal year 1977 is most welcome. We must continue moving in the direction of balancing expenses with income. With continued economic advances, and continued expenditure restraints, we hope to have a balanced budget by fiscal year 1980. Although many would wish to have the budget balance earlier, it seems not to be judicious to raise expectations for such early budget balance. If, in fact, the budget comes to be balanced by fiscal year 1979, so much the better. But, we must avoid sharp shifts in fiscal, as well as monetary policy if we wish to have a continued balanced recovery and sustained economic growth.

On the whole, the new congressional budget process is working. This augurs well for the future. But to have the process working well does not imply that it could not be improved.

Two of the main areas in which the budget process needs further involvement and consideration are, first, in tax expenditures and, second, in establishing spending levels for off-budget agencies. The recent tax reform act debate stands as eloquent testimony to the need for serious attention to the impact, desirability, equity, and revenue effects of tax expenditures.

Off-budget agencies similarly require serious study. Administrative or "budget" convenience is certainly not a satisfactory reason for moving agencies off-budget. The resolution now before the Senate, by explicitly acknowledging the

Postal Service subsidy goes part way toward facing the problem of off-budget agency spending.

Mr. President, the budget resolution now before the Senate is one which is substantially the same as the first concurrent resolution. It reflects the priorities and fiscal policy then deemed necessary. Little has happened since then to indicate the need for dramatic changes.

Mr. President, again I compliment and commend our chairman, Senator Muskie, for the firm, fair, strong leadership he has provided. He has toiled tirelessly and worked patiently with committee members and staff to bring together divergent views. His leadership has made possible the assimilation of the enormous quantity of information that serves as a basis for the budget resolution now before the Senate.

I urge approval of the second concurrent resolution on the budget for fiscal year 1977.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. I am most appreciative of those kind remarks by my good friend from Oklahoma.

I cannot stress strongly enough the importance of the contribution he has made in the success of this process.

There is, I suppose, a temptation if one is in the minority to simply stand firm against initiatives taken by the majority.

That has not been the inclination of the Senator from Oklahoma. His inclination has been to make a positive, creative contribution to the success of this project. I am not sure I could have done it as well if our roles had been reversed and he had been the chairman and I had been the ranking member.

In any case, I will be forever grateful and will always remember his role in this whole process this year.

I say that not in the sense of the customary way in which Senators gild each other's lilies on the floor of the Senate; I say it man to man and I mean it.

At this point I ask unanimous consent to include in the Record a statement by the youngest member of the Budget Comtee, Senator Biden of Delaware. Senator Biden has been a very important member of the committee. He has done his homework, has taken initiatives, been creative and positive, and I am delighted to ask unanimous consent that his statement be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Biden

I rise today to urge the adoption of the Second Concurrent Resolution on the Budget. This resolution sets forth Congressional budget policy for the 1977 Fiscal Year. All Senators can be pleased with the results this year of our second effort to fashion a Congressional budget. I believe the Congress has done well, considering the odds we faced.

Last year, our so-called "dry-run" for the new process started off amid double-digit inflation and the worst recession since the 1930's. However, we fashioned a budget and lived well within it. The bad economic times inevitably meant a deficit—revenues were down and recession-related expenditures were up. However, there were no new massive spending programs to make the recession-caused deficit even worse.

As a result, this year we find the deficit decreasing by about 25 percent. That is, of course, still higher than any of us would like. But we are still in difficult economic times which influence both our revenues and our spending. However, again this year, we have successfully avoided enacting new major spending programs that would build in a deficit for years to come.

In fact, many already see a time on the horizon when the budget can be back in balance. The time is somewhere around 1980 or 1981. That is a long time away—and it is dangerous to predict anything so far in advance. Obviously a reversal in our economic recovery could severely damage our chances of balancing the budget. So, as the Committee's report says, we must monitor the economy carefully. We must be sure that the recession is receding and that unemployment goes down, reversing the recent three-month upward trend. We must also watch the fragile ceiling on inflation because we cannot allow that to get out of control again.

If we wish to see a balanced budget, we must not allow our success with the new Congressional budget policy to go to our heads. During the past two years, we have been successful in avoiding big new spending programs. Perhaps that was made a little easier by the already massive recession-caused deficits which certainly no one wanted to increase. I am afraid that, as our deficit grows smaller, our self-restraint on new spending may grow weaker. One of the prime concerns of the Budget Committee must be to work with all the other Committees of the Senate to control any new spending surge that may occur. We should also cooperate with those other Committees—which have primary responsibility—in looking for places to save money in existing programs.

It is good to be able to say that we come to this time of the year—when we set the final Congressional budget—and find the deficit no greater than the targets we set in May. In fact, our estimates of spending are down slightly. I am pleased, as we all can be, at the achievements of the new Congressional budget process. We should use this occasion to rededicate ourselves to keeping a firm grip on Congressional spending.

Mr. MUSKIE. I ask unanimous consent, Mr. President, to insert in the Record a statement by Senator Moss, a member of the Budget Committee. Senator Moss would have preferred to have presented this statement today himself in support of the Second Concurrent Budget Resolution. However, he is necessarily absent in Utah and, therefore, requested his statement be made a part of the Record.

I am pleased to honor his request. And I want to take this opportunity to express my appreciation to Senator Moss for his significant contribution to the Budget Committee and the budget process. Apart from supporting the legislation which culminated in the Budget Reform Act in 1974, Senator Moss has worked assiduously to make the new congressional budget process function effectively. His efforts exemplify the kind of activities that have made possible the success of the congressional budget process to date.

Besides his participation in the full committee activities, Senator Moss served as chairman of the committee's energy task force. Last summer the task force made recommendations on oil and gas pricing that helped lead to the compromise energy legislation enacted last December and to the pending natural gas bill. The task force recommended measures that would balance economic and energy needs and help us move toward both goals without offsetting the gains made in economic recovery. This summer the task force has explored a different kind of energy legislation—bills designed to assist in financing energy production and developing new energy technologies. The task force has examined the use, financial and budgetary implications of the various energy related Government guarantees, contributed importantly to the committee's better understanding of such incentives, and provided options as a basis for the committee's actions in developing the second resolution. The results will also be of assistance to the entire Congress in reaching a decision on the pending major energy legislation.

Stepped in without notice and in my absence chaired the Senate conferees in the budget conference with the House on the first budget resolution last spring. As my colleagues know, that conference involved many tough issues and substantive differences between the House and the Senate. Under Senator Moss' leadership those issues were handled with dispatch and effectiveness and as a result the conference report which emerged was much closer to the Senate position than the House.

Acted to improve budget control and fiscal responsibility in an impressive way. For example: the outstanding work that he has done in the aging committee in shedding light on the abuse and fraud and highlighting the bureaucratic indifference in the medicaid program. The resolution before us reflects a savings of $200 million in the medicaid program for fiscal 1977 largely as a result of his efforts; and as a cosponsor of S. 2925, the Government Economy and Spending Reform Act he has offered some amendments which have strengthened the bill and will reinforce a major aim of the bill—to eliminate unnecessary Government programs and improve the management of those which remain.

A long list of Senator Moss' related accomplishments could be cited but that was not my purpose. However, I did not want to let pass this opportunity to express appreciation for his dedicated service and contribution to the Budget Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Moss

I support the Second Concurrent Budget Resolution. However, before speaking to that I want to add my word of commendation to the distinguished Chairman, Senator Muskie from Maine and to the ranking Republican member, Senator Bellmon from Oklahoma for the skillful leadership and direction which they have given the Budget Committee. Both deserve the gratitude of the Senate for their tireless efforts. I would also like to express appreciation to the members of the Committee whose dedication and sincere efforts, under the leadership of the Chairman and the ranking minority member have contributed immeasurably to the success of the new budget process.

In May, Congress approved overall targets on outlays, budget authority, revenues and the deficit by enacting the First Concurrent Resolution for fiscal 1977 to guide legislative action on the various spending and revenue measures affecting that period. The Second Resolution before us today, revises and reaffirms those earlier totals and will establish them as binding ceilings which become applicable to all subsequent legislation affecting fiscal 1977. This budget results from extensive hearings, studies and consideration of views from people of disciplines and persuasions across the spectrum.

The primary goal of this budget is to maintain the economic recovery, at reduced rates of inflation, that began in the spring of 1975. To do this this resolution recommends the Senate reaffirm the budget and fiscal policies it established as targets when Congress adopted the First Resolution in May, because the economy has generally followed the path projected in the spring and because the Congress has been able generally to meet its own targets.

The Resolution proposes no significant shift in budgetary priorities from that which Congress approved in May, but reduces the totals for both outlays and budget authority from those of the earlier resolution.

This year, for the first time, Congress will vote not only on the overall budget but on figures for each budget function. These functional totals are generally intended to represent broad priorities and not to imply judgments as to the exact mix of programs which are left to the authorizing and Appropriations Committees.

In developing this Resolution the Budget Committee again adopted priorities which differ from those of the Administration although the pattern of spending does not differ substantially in defense. Support is provided for high priority programs in employment, defense, energy, education, health and other areas of need while restraining the overall growth of the Federal government's share of the economy. The Committee felt that the interests of the people of the U.S. would best be served in fiscal 1977 by a budget which continues the economic recovery and avoids actions that will increase the rate of inflation. The most important of the broad priority judgments recommended are summarized as follows:

"Substantial growth in Federal spending for national defense to assure the resources necessary for . . . fulfillment of U.S. commitments."

"A major attack on unemployment by public service jobs—an increase in funds for State and local public works projects which are ready to go and anti-recession assistance to State and local governments."

"Selected increases in funds for energy, recognizing that greater efforts in the areas of energy conservation, supply, and research are essential to our nation's progress and well-being."

"Continuation and expansion of Federal efforts in the areas of education and health."

"Continued strong support for programs—such as unemployment compensation, food stamps, veterans benefits and social security—to assist those hardest hit by the recent recession and protect those on fixed incomes."

"Continued strong support of efforts to improve the environment consistent with economic recovery."

How the Resolution proposes to do this can best be indicated by listing in more detail some of the key features of the Resolution which:

Provides a budget designed to bring unemployment down close to 6% by the end of 1977. Achievement of this objective will add 1.5 million jobs to the U.S. economy in fiscal 1977, 700,000 of which are expcted to be in the private sector.

Rejects any increase in social security taxes not already mandated by existing law. The tax increase proposed by the Administration would lead to an increase in prices and bring additional and unnecessary inflation in 1977 thus posing new problems to an economy which is not fully recovered.

Accords energy a high priority. The Committee reaffirms its belief that energy conservation and supply efforts are important. The amounts assumed for energy include funds for major Congressional initiatives in solar energy research, fossil fuel development, synthetic fuels, energy conservation and energy research related to automobiles. This means we can accelerate research on new sources of energy, and promote development of domestic energy resources such as synthetic fuels and nuclear power.

Recommends extension of the 1975 tax reduction. This is designed to offset the loss of consumer purchasing power and assist the recovery.

Assumes enactment of tax reform legislation which would result in a net increase of $1.1 billion in fiscal year 1977 revenues.

Rejects the President's proposal for phasing out public service jobs in 1977 while unemployment is still expected to be high by historic standards.

Provides cost-of-living increases in veterans benefits and rejects the President's recommendations for cut-backs in veterans programs.

Provides fiscal recommendations consistent with a real economic growth rate of 6% which would assure continued reduction in the unemployment rate without aggravating inflationary pressures.

Assumes budget savings in a number of functional areas; e.g., administrative and legislative economies in national defense, sales of materials from the strategic stockpiles and savings in Medicaid of $200 million in fiscal 1977 through anticipated initiatives to control fraud and abuse. I believe we should crack down hard on fraud and abuse and work as a matter of priority to improve the management of the program. Apparently HEW Secretary Mathews agrees. He was quoted in a news item the last weekend as indicating that officials are going to have to go beyond looking at fraud and abuse and are "going to have to deal with the question of the management of the system". I think savings greater than $200 million in this program are eventually possible. However, short run savings are more limited. We need to make a start on getting this program under effective control. But we should strive to do it in a way that does not make the cure worse than the ailment. I do not want to deny sick and needy persons medical care. But I am concerned about bureaucratic indifference in the administration of Medicaid. And I want to stop the hemorrhage of government funds and resources so that we can provide better care with less of the nation's budget resources which are also sorely required in many other activities. We should not project "paper" savings. Rather we should set an initial target as to what we can realistically expect to achieve without denying eligible persons needed medical care and that is what the Committee has done in setting this $200 million figure for next year. It represents what I believe can be realistically saved in the short run. After all the fiscal year is less than a month away.

Assumes increased support for State and local governments through revenue sharing and grants at a higher level in budget authority over the previous fiscal year to prevent a reduction in funding that would have resulted under the President's proposal. The recommended total also assumes increases in payments to States and local governments derived from mineral and timbering receipts.

Avoids actions that would unnecessarily increase inflation. This Resolution continues the two track strategy which the Congress adopted in the spring of 1975. Permanent Federal programs are held down to levels consistent with current needs, Congress has largely deferred implementing major new spending programs and has instead relied on temporary anti-recession programs to aid the automatic stabilizers and provide fiscal stimulus without overheating the economy.

To obtain these goals, the Committee recommends a spending ceiling of $412.8 billion which is a half billion below the First Budget Resolution target. This figure:

Is over $9 billion below the level estimated in April as necessary to continue Congress' fiscal 1976 budget programs for another year; and

Is nearly $27 billion lower than the spending proposals for fiscal 1977 submitted by the various Senate authorizing Committees in connection with the First Resolution. In short, the Budget recommended in this resolution shows a marked degree of spending restraint.

The estimated deficit for fiscal 1977 is nearly $51 billion. That is awfully high. However, it is about one-fourth less than fiscal 1976 and it is clear the deficit would have been much larger but for the new budget process. The deficit is the direct result of revenue losses and unemployment costs of an economy operating far below its potential. After all each one percent increase in the unemployment rate will cost the Federal Treasury $19.5 billion in fiscal 1977. If the unemployment rate averaged 4% we would have a budget surplus in 1977 rather than a deficit. And, using comparable assumptions and forecasts the deficit resulting from this spending ceiling does not differ substantially from that projected by the President.

Overall the budget process over these last two years must be judged to be greatly successful. After all it was through the budget process that Congress acted to turn the nation's economy around last year and move it toward recovery. It was through the Congressional Budget process last year which Congress expanded the President's proposed tax reduction, which altered priorities and channeled additional funds into anti-recession programs and deferred new long-range programs in order to stimulate employment and ease the burden of recession on those most affected by it and to reduce unemployment at a faster pace without rekindling double digit inflation. It was the Congressional Budget process which for the first time in history Congress not only set a spending ceiling but remained well within it.

While the economy has been turned around, the nation's jobless rate has fallen from 8.9% in May 1975 to 7.9% last month. There has been an increase in employment over the same period. However, there are still too many people out of work and unemployment remains a national problem. Unemployment not only entails great human costs but it also means increased budget costs. Inflation has improved. Inflation fell from an annual rate of over 12% at the end of 1974 to less than 5% in July of this year. But it continues to be a matter of concern and we have not regained economic prosperity. Thus we must continue to focus our efforts on these important areas and toward full recovery of the economy.

The activities of the Congress this year show continued progress and solid gains on many fronts. However, as my colleagues know the First Budget Resolution recommended a $2 billion tax reform in existing tax expenditure provisions. The tax bill which was debated on this floor is currently in conference with the House but we have not yet achieved the full $2 billion additional revenue which the First Resolution called for. I would like to have seen enactment of the full $2 billion tax reform and I voted for many amendments toward that end during consideration of the tax bill. We should continue to work toward achieving the full measure. It is clear that we must do better in handling revenues and tax expenditures. Such items should be subject to the same standards of review as direct spending programs if we are to reap the full benefits from the new budget process in controlling the Federal budget.

While progress to date has been encouraging we must continue to work to do better. I support this Resolution not because I necessarily agree with every figure or with each of the proposals. It does not precisely square with my own views in every detail but I support it because I believe that it does represent a reasonable, responsible strategy for meeting the nation's needs as they are foreseen at this time. It represents another important milestone on the road to bringing the nation's budget under control and in better management of the nation's fiscal affairs. The new Budget process is one of the most significant positive steps the Congress has taken in decades. And I intend to continue to do what I can to support the process and even improve it in the days ahead. For example, I have joined Chairman Muskie in cosponsoring S. 2925, The Government Economy and Spending Reform Act which will help eliminate unnecessary government programs and improve the management of those which remain.

In closing, I urge support of this Resolution by my colleagues. I also want to again commend the efforts of Senator Muskie, and Senator Bellmon—whose strong leadership has been an inspiration to us all—and to express my personal appreciation to the outstanding Committee staff who has performed with unusual competence and dedication.

Mr. ALLEN. Will the Senator yield?

Mr. MUSKIE. I am happy to yield. How much time would the Senator like?

Mr. ALLEN. I would just like to engage in a colloquy with the Senator.

Mr. MUSKIE. I yield 5 minutes for that purpose.

Mr. ALLEN. I thank the distinguished Senator.

The Senator knows that I have been a strong supporter of the Congressional Budget Committee and its work. I have commended the distinguished chairman (Mr. MUSKIE) and the distinguished ranking Republican member (Mr. BELLMON) for the fine efforts of the committee in the area of congressional budgeting.

I feel that they have been a great force for fiscal responsibility. I have seen time and again here on the floor where the distinguished chairman (Mr. MUSKIE) and the ranking Republican member (Mr. BELLMON) have taken the floor to ward off, and to call to the Senate's attention, the fiscal irresponsibility of measures here on the floor.

The efforts of the Budget Committee have been very constructive, indeed.

I am interested in the projection that is being made that by fiscal year 1980 they will be able to come up with a balanced budget.

That is correct, is it not?

Mr. MUSKIE. Yes. May I add that any such projections are tentative, at best.

Mr. ALLEN. I understand.

Mr. MUSKIE. They are used simply for illustrative purposes; they provide no guarantee. The projections are our best guess at this time.

Mr. ALLEN. Yes.

I happen to disagree with this projection because, frankly, I feel that there is not a single Member of the Senate, including the youngest Member, the Senator from Delaware (Mr. BIDEN), who will see a balanced Federal budget again.

I do not believe that we are going to be able to move from a deficit of $50 billion to a balanced budget, a realistically balanced budget, not only in 4 years, but in four decades. That is my personal belief in this matter.

But I would like to inquire as to whether this projection, which is susceptible of error, of course, is based on the prospect of more revenue, or less expenditures, or a combination?

Mr. MUSKIE. It is based, first of all, upon a projection of continued steady recovery to full employment. That is essential because the deficit at the present time is principally, if not totally, the product of the fact that 7½ million Americans are not working and not paying taxes, and the costs of unemployment.

So full employment would eliminate those two impacts upon the budget.

If we can sustain the present recovery, then at least those two factors which contribute to an unbalanced budget can be brought under control.

If our economic and budget projections—shown on page 19 of our report—are correct, and the budget is balanced at 20 percent of GNP in fiscal 1980, then revenues will have grown by $143 billion and expenditures by $92 billion during the next 3 fiscal years.

I say to my friend from Alabama, I express my appreciation for his very overt and supportive backing in the course of trying to institute this budget process. I say that we must accompany that by an ever-increasing demonstration of our capacity to impose fiscal discipline upon our own actions. We cannot let expenditures grow as rapidly as revenues if we are to balance the budget; in fact, we can only spend about $2 of every $3 in revenue that we realize from economic growth. Moreover, if we continue all of existing programs at current service levels, all but $5 billion of the $92 billion in allowable expenditure growth will be absorbed by increases in social security, defense, and other programs now on the books.

I say to the Senator, although the Senator from Oklahoma and I appreciate the Senator's praise, and I think I speak for Mr. BELLMON in this instance, that this process could not have worked, it will not continue to work, unless each and every Member of the Senate makes his own contribution to the discipline. Because, if all this process is reduced to constant nagging by two Senators, one from each side of the aisle, then it is not going to work.

The Senate in due course will reject us, like a body rejecting a transplant, if that were all there was to it.

But I have found encouraging examples in the course of the last year and a half in willingness of Senators, even those who may have a reputation for free spending, to cut back upon their own pet projects, their own pet programs, their own pet spending, in order to conform to this discipline.

I commend to the Senator's attention another legislative initiative with which I am associated, that is the so-called sunset legislation.

The Senator is a member of the Rules Committee. I testified yesterday before the Rules Committee on behalf of sunset legislation. I think that if we can refine that to a point where the Congress will enact it into law then we can build real fiscal discipline as a companion piece to economic recovery. If we can do that, then I hope that the years will demonstrate that the Senator's pessimism, which may be justified by past developments, will not be justified by future developments. That is my hope.

Mr. ALLEN. I thank the distinguished Senator, and I commend him for his sunset legislation. He was kind enough to allow me to be one of the cosponsors of this legislation. Certainly, I support it in the Rules Committee and will support it here on the floor.

But I see no indication, though, that even the constructive effect of the sunset legislation would cause this graph, which shows a continuing increase in expenditures, to ever start down.

So it is going to require, it would seem to me, more revenue to narrow the gap between expenditures and receipts.

I am just wondering whether there is enough play there, if we are able to catch up the slack and have full recovery, ever to close this gap, and I am fearful it cannot.

Mr. MUSKIE. I believe there is for two reasons. I make the point first that between fiscal year 1976, which was the first trial run of the budget process, and fiscal 1977, there is a revenue increase of $62 billion on an annual basis notwithstanding the continued recession. This is not as much of an increase as there would have been if we had eliminated unemployment, or reached full employment. The past year proves that economic progress improves, not only the private sector, but Government revenues as well.

Second, because of the nature of the progressive Federal income tax, inflation, even the moderate kind of inflation that we would like to achieve, produces more Federal revenues.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I yield another 5 minutes.

For example, I think the ideal, stated on a pretty widespread basis, is that——

Federal revenues should not exceed 20 percent of gross national product.

If we maintain that proportion, the economy still could produce higher revenues without increasing the burden on the average taxpayer. For example, since I first came to the Senate, I think there have been three major tax cuts. Notwithstanding those cuts, Federal revenues in periods of full employment have been adequate to match Federal expenditures and will continue to be. That is in the nature of the strength of our private enterprise economy. I do not think we will need to increase Federal tax rates in order to produce more revenue.

I would be happy to supply staff studies which indicate this aspect of the Federal revenue system, and which I found very encouraging as I became more familiar with it. I think the Senator might find it to be encouraging.

Mr. ALLEN. I do not quite follow the Senator when he says that the Federal Government receipts have matched expenditures. How could that be when we are projecting a deficit of $50 billion for the next fiscal year?

Mr. MUSKIE. Of course, the Vietnam war and the subsequent recessions destroyed much of the picture over the past 10 years so one cannot see what the normal situation would have been. If it had not been for the extraordinary war expenditures for that period, we would have seen balanced budgets in the mid-sixties because of this basic characteristic of the Federal revenue system and the strength of the private economy. I think we can provide that kind of analysis, which is hypothetical in the sense that there is no way of rewriting those years, but which, nevertheless, I believe is reassuring.

I say that not for the purpose of encouraging the idea that revenues will automatically cover Federal expenditures no matter where they go—I do not say that at all—but want simply to put both Federal spending and Federal revenues in perspective as we see them in the future.

Mr. ALLEN. What I fear is if $1 is brought in, the Congress will spend at least $1.10 and possibly $1.25, and we will not have any true gain from an increase in Federal tax receipts.

Mr. MUSKIE. Let me put it this way for the Senator, if I may: If the economy recovers, as we hope it does, to the level of full employment, then there will be a margin of extra revenue over expenditures for current programs. That margin is available for just three purposes: to relieve the tax burden on taxpayers, or to cover additional spending, or to reduce the debt.

The congressional budget process, if it continues to work, will make those options clear to the electorate as well as to the Congress. It is for the political process to decide which of those courses will be followed. The Senator and I cannot mandate that decision in advance. But, by insuring that the budget process is a healthy one, we can make sure that the political process, which involves the people as well as the Congress, will dictate the choice that is made when that happy day arrives.

Mr. ALLEN. Is this projected balanced budget in fiscal 1980 a cherished desire or is that based on studies and reasonable anticipation of disbursements and receipts?

Mr. MUSKIE. That is based upon studies. The results are shown on pages 15 to 23 of our report. The study assumes a continuation of the present economic recovery at about the present rate, which is 5.5 to 6 percent per year. Of course, whether or not that is achieved depends not only upon the budget, but upon Federal Reserve Board policies and actions in the private sector. If economic growth is different from the assumption, then the budget projection changes.

I believe that growth rate has been a modest goal. It has not been excessive. It has not triggered another round of inflation. It is a "doable" kind of a thing if all of the factors which influence the economy come into play in the right way.

The budget process in the last year and a half has indicated that it is an influence in the direction of coordinating all of these various inputs into the economy. I think it is encouraging to the business sector. I believe it gives the Federal Reserve Board more confidence that it can work with congressional policy rather than having to fight it. I think we have a feeling of confidence that this new discipline is working.

I believe if these three things—fiscal policy, monetary policy and the private sector—move together we can sustain that kind of a recovery. If we do, we can look forward to full employment and a balanced budget not later than 1980.

Mr. ALLEN. I thank the distinguished Senator. My belief that we are not going to see a balanced budget by that time or during our lifetime, for that matter, is not based on any lack of confidence in the Budget Committee. I know it is going to make a projection and try to hold things in line. But it is based upon the experience in the past of the spending proclivities of Congress. I would say that neither the Senator nor I will ever see a balanced Federal budget.

Mr. MUSKIE. May I say I understand the Senator's pessimism. May I also say that I hope we can eliminate the basis for it.

Mr. ALLEN. I would hope to see it by 1980, the Lord willing and both of us being here.

Mr. BELLMON. Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. I would say to the distinguished Senator from Alabama that I think anyone who has seen the budget process work to this point would have exactly the questions which the Senator had to put to our chairman. The discussion which has been had was extremely relevant.

I would say in a general way to my friend from Alabama that what we have tried to do is to state in this report the factors that we now know are under our control. We have estimated those which will be under our control. As we move down the road, we will have some very distinct options which are going to either move in the direction of that balanced budget in 1980 or we will be able to know, the Senator, myself, and others, in the areas where we have control, where we are moving off.

We have pretty good indicators of what will happen in that budget in 1980, and we have it in one place, related to the functions of Government as they are related to the targets which have been set out.

Obviously, we have to make some estimates. We have to estimate what will be the rate of growth of our gross national product. We have to make some estimates on what we are doing in the unemployment field. We have to make some estimates of the rate of taxation we are going to have.

When one looks at those in light of the process, the predictions, and the goals, I think it is safe to say that at least we will be able to know when we are moving off that line toward a balanced budget. I believe we will know whether it is our fault specifically in terms of what we have done to get off, or we will know what has happened out in the economy. There may be diverse views as to who caused that.

I do believe there are a couple of areas that are dangerous. They are the very outyear expenditures that are already in the law, the so-called entitlements, pensions, those kinds of things. We do set those out in our process as being the areas of grave concern at which we have to look in our predictors of the future.

Mr. President, I, too, commend the chairman of the committee.

Mr. ALLEN. Will the Senator yield?

Mr. DOMENICI. I would be delighted to yield.

Mr. ALLEN. The Senator will understand, of course, that my attitude is one of commendation for the work of the Budget Committee. I approve very strongly of the work the committee is doing.

I am talking about the pressures on the Congress and the spending proclivities of the Congress, with the unwillingness of Congress to levy a tax bill, to enact a tax bill, that will bring in sufficient revenue to come anywhere near matching our expenditures.

The committee will function and will do a good job in trying to hold expenditures in check and indicating the necessary revenue.

But what I am fearing is that Congress, based on its past record, is not going to be willing to close this gap, because as new revenue comes in it is going to provide for expenditures to more than offset the additional revenues. That is what I fear and what I base my premise on.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. BELLMON. I would like to call the attention of the Senator from Alabama to some of the recent battles fought on this floor over spending issues.

The Senator will recall the battle over child nutrition, which is about as emotional an issue as you can have—the welfare of children measured against dollars—but yet the Senate voted against increases in child nutrition programs.

Mr. ALLEN. Yes. I managed that bill, and after the Senator from Oklahoma and the Senator from Maine gave their estimation, we succeeded in defeating this amendment and for the first time, I believe, in history, the Senate did turn down a proposal for added expenditures in the area of nutrition.

I said at that time that the Senate Budget Committee had earned its keep right there.

Mr. BELLMON. The Senator will recall the same things happened on a defense appropriation matter and on a dairy price support bill. These are all things that, in the past, have gone through without any real effort.

I think the Senator will agree that there seems now to be more debate on these issues.

Mr. ALLEN. Yes, I think those matters would have taken a whole lot of work to straighten out if there had not been a budget committee.

Mr. DOMENICI. Mr. President, how much time do I have remaining of the time yielded to me?

The PRESIDING OFFICER. The Senator's time has just expired.

Mr. BELLMON. I yield the Senator an additional 5 minutes.

Mr. DOMENICI. I thank the Senator from Oklahoma. I, too, wish to thank the Senator from Maine and the Senator from Oklahoma, our ranking Republican Member, for a good job in bringing the budget process to where it is today.

Mr. President, the prophecies of its detractors notwithstanding, Congress has demonstrated its ability to carefully develop consensus about change needed in the way it does business, to translate that consensus into the remarkable legislation that is the Budget Act, and to accommodate the radical acceleration of usual work schedules and the troublesome procedural alterations mandated by the act. The process has not been, and will never be, without difficulty, but it has contribued to measurable results. For the first time in a generation, authorizations and appropriations show promise of being completed before the start of the fiscal year to which they apply. Hard priority choices have been made and translated into targets and the targets have, with limited exceptions, been observed. The credit is due the Members in both bodies who have put aside selfish interests to make the congressional budget process a vital contribution to the welfare of the people of this great country.

Recent economic events, in combination with earlier legislative decisions, have pushed the share of gross national product devoted to the Federal Government well above the customary 20 percent. Continued fiscal restraint will be necessary to restore to the people direct control over more of their own resources. We have tested the outer limits in substituting governmental for private decisions. Freedom from unnecessary interference with private lives through poorly designed and artlessly implemented regulatory and spending programs is a result the people have a right to expect.

The people also have a right to expect that their politicians will avoid the creation of unrealistic expectations. I believe that the budget process can make a substantial contribution to the achievement of those results.

Restraint has characterized the recent fiscal and monetary policies of the Federal Government. We have, I hope, learned that sudden and massive changes in fiscal and monetary policies destabilize the base on which our economic lives are built. Our recent fiscal policy has minimized the addition to permanent programs and has used triggering mechanisms to reduce the spending on temporary countercyclical programs as conditions improve. While I do disagree with some features of the recently adopted programs and feel that better and more sensitive triggering mechanisms are needed, I am encouraged by the successful efforts to prevent substantial expansion of those programs which permanently increase the Federal "bite" out of the GNP pie.

I find it also encouraging to note that some of those who were urging upon the Federal Reserve Board simplistic targets and courses of action are now acknowledging that the complexities of the interactions between monetary factors and the rest of the economic system require more sophisticated policies. While the course of relationships between our central bank and the Congress has seldom been smooth in our history, it may be that a period of relative calm can be anticipated.

I share the concern of many of my colleagues on the Budget Committee that some of the substantive law changes believed by us to be necessary on budget grounds have not yet been achieved. It is only through two-way cooperation between the Budget Committee and other committees that coordination of fiscal policy and program goals can be achieved. No committee, including ours, has a monopoly on any aspect of the complicated Federal legislative task. We must all work together to make our views understood, to listen to the views of others, and to proceed with legislative action when we are convinced that substantial consensus exists in the country as well as within the Federal Government. Neither stubborn resistance nor precipitous acquiescence to change will serve the country's interests. Improvement in the performance of that portion of the Federal Government which can be effectively influenced by congressional action requires that the careful processes which resulted in the enactment of the budget act be applied to other problems.

I can add nothing of substance to what has been said about the particulars of the second concurrent resolution on the budget for the fiscal year 1977. As always, I would prefer that some features of the resolution be different, but I do support the resolution in its present form since I believe it is the best result obtainable under all the circumstances, and I urge that it be supported.

I might say in closing, Mr. President, that I do believe the budget process is well on the way to setting some rather startling goals for this country as far as the Federal Government's fiscal policies are concerned. For instance, I do not think we are far from setting a goal that we will, in good time, not exceed taking 20 percent of the gross national product pie for the Federal Government, and that is a rather startling goal. That, in and of itself, with a counterpart taxation policy, might very well answer Senator ALLEN's question.

But if that is the case, and we know what the GNP growth is, then obviously it would be rather easy to predict where we would be 2, 3, or 4 years from now, and the proclivity of Congress, as Senator ALLEN says, to spend more than it takes in will have a rather remarkable target to measure its proclivity against on a regular and specific basis.

These are the kinds of things that I hope will occur. This will add stability, continuity, and reliability, as I see it, to America's private sector, and to the attitude of American consumers, and I think in the long run that kind of thing is what is needed more than anything else to get us out of the recession and to maintain a stable and vital American economy.

Mr. President, I thank the chairman and the ranking Republican member for their efforts and for yielding me time here this morning.

Mr. MUSKIE. Mr. President, I have a couple of unanimous-consent requests.

COMMITTEE MEETINGS

Mr. MUSKIE. Mr. President, I have a unanimous consent that the Committee on Rules and Administration be authorized to meet today to finish the consideration of the sunset bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. MUSKIE. Mr. President, I ask unanimous consent that George Merrill of the Budget Committee staff be allowed to remain on the floor during the consideration of and votes on Senate Concurrent Resolution 139.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in the interregnum, I ask unanimous consent that the pending business be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed, without amendment, the bill (S. 3669) to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 14298) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

At 4:41 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has agreed to the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977, with an amendment in the nature of a substitute; that the House insists upon its amendment; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Adams, Mr. O'Neill, Mr. Ashley, Mr. Mitchell of Maryland, Mr. O'Hara, Mr. Burleson of Texas, Mr. Giaimo, Mr. Smith of Iowa, Mr. Leggett, Mr. Latta, Mr. Broyhill, Mr. Shriver, and Mrs. Holt were appointed managers of the conference on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report of the Office of Education

A letter from the Acting Commissioner of Education transmitting, pursuant to law, the annual report of the Commissioner for fiscal year 1975 (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the Comptroller General

A letter from the Comptroller General reporting, pursuant to law, on the special message of the President of August 24, 1976, relating to certain deferrals; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Finance, and Commerce, and ordered to be printed.

Proposed Legislation by the Department of the Air Force

A letter from the Assistant Secretary of the Air Force transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 (with accompanying papers); to the Committee on Finance.

Report of the Department of the Interior

A letter from the Acting Secretary of the Interior reporting, pursuant to law, on applications for repayment of annual rentals on 11 offshore leases; to the Committee on Interior and Insular Affairs.

Report of the Military Order of the Purple Heart

A letter from the Adjutant General of the Military Order of the Purple Heart transmitting, pursuant to law, the financial audit of the Order for fiscal year 1976 (with an accompanying report); to the Committee on the Judiciary.

Report of the National Advisory Committee on the Handicapped

A letter from the Acting Commissioner of Education transmitting, pursuant to law, a special report of the National Advisory Committee on the Handicapped (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the Governor of Guam

A letter from the Acting Secretary of the Interior transmitting, pursuant to law, the 1975 annual report from the Governor of Guam (with an accompany report); to the Committee on Interior and Insular Affairs.

Views of the Consumer Product Safety Commission on S. 5

A letter from the Chairman of the Consumer Product Safety Commission transmitting a copy of a letter to the Office of Management and Budget commenting on S. 5, an enrolled bill (with accompanying papers); to the Committee on Government Operations.

Proposed Legislation on Statewide Health Coordinating Councils

A communication from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to improve coordination between governing bodies for health planning and their public regional planning bodies or units of general local government, and to permit each State's Governor to appoint the chairperson of the Statewide Health Coordinating Council, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Education Professions Development

A communication from the Chairman of the National Advisory Council on Education Professions Development, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the Advisory Council on Women's Educational Programs

A communication from the Chairperson of the Advisory Council on Women's Educational Programs, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the Advisory Council on Environmental Education

A communication from the Program Delegate of the Department of Health, Education, and Welfare to the Advisory Council on Environmental Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council for Career Education

A communication from the Delegate of the Department of Health, Education, and Welfare to the National Advisory Council on Career Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975.

Annual Report of the Advisory Committee on Accreditation and Institutional Eligibility

A communication from the Chairperson of the Advisory Committee on Accreditation and Institutional Eligibility, transmitting, pursuant to law, the annual report of the Committee for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Adult Education

A communication from the Chairman of the National Advisory Council on Adult Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Equality of Educational Opportunity

A communication from the Acting Chairman of the National Advisory Council on Equality of Educational Opportunity, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Supplementary Centers and Services

A communication from the Chairman of the National Advisory Council on Supplementary Centers and Services, transmitting pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the Advisory Council on Financial Aid to Students

A communication from the Chairman of the Advisory Council on Financial Aid to Students, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the Community Education Advisory Council

A communication from the Delegate of the Department of Health, Education, and Welfare to the Community Education Advisory Council, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Ethnic Heritage Studies

A communication from the Vice Chairman of the National Advisory Council on Ethnic Heritage Studies, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Developing Institutions

A communication from the Chairman of the National Advisory Council on Developing Institutions, transmitting, pursuant to law, the annual report of the Council for calendar year 1975; to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Extension and Continuing Education

A communication from the Chairman of the National Advisory Council on Extension and Continuing Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on the Education of Disadvantaged Children

A communication from the Chairman of the National Advisory Council on the Education of Disadvantaged Children, transmitting, pursuant to law, the annual report of the Council, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Bilingual Education

A communication from the Chairperson of the National Advisory Council on Bilingual Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Indian Education

A communication from the Chairman of the National Advisory Council on Indian Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

Annual Report of the National Advisory Council on Vocational Education

A communication from the Executive Director of the National Advisory Council on Vocational Education, transmitting, pursuant to law, the annual report of the Council for calendar year 1975, to the Committee on Labor and Public Welfare.

ANNUAL REPORT OF THE NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

A communication from the Chairperson of the National Advisory Committee on the Handicapped, transmitting, pursuant to law, the annual report of the Committee for calendar year 1975, to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 532. A resolution authorizing printing for the use of the Senate Committee on Foreign Relations two thousand additional copies of a committee print of the Ninety-fourth Congress entitled "U.S. Military Sales to Iran" (Rept. No. 94–1221).

S. Res. 537. A resolution authorizing increased allotment for consultants for the Committee on Public Works (Rept. No. 94–1222).

S. Res. 538. A resolution authorizing supplemental expenditures by the Select Committee on Intelligence (Rept. No. 94–1223).

S. Res. 497. A resolution authorizing supplemental expenditures for the Committee on the Judiciary for inquiry and investigation relating to internal security (Rept. No. 94–1224).

S. Res. 541. An original resolution authorizing additional expenditures by the Committee on Rules and Administration for routing purposes (Rept. No. 94–1225).

By Mr. HARTKE, from the Committee on Veterans' Affairs:

With an amendment:

H.R. 14299. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes (Rept. No. 94–1226).

By Mr. BURDICK, from the Committee on the Judiciary:

With an amendment:

S. 729. A bill to improve judicial machinery by reorganizing the fifth and ninth judicial circuits, by creating additional judgeships in those circuits, and for other purposes (title amendment) (together with additional views) (Rept. No. 94–1227).

VETERANS' OMNIBUS HEALTH CARE ACT OF 1976—SUPPLEMENTAL REPORT (REPT. NO. 94–1206, PART II)

Mr. CRANSTON (for Mr. HARTKE), from the Committee on Veterans' Affairs, submitted a supplemental report on the bill (S. 2908) to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs of certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

John J. Bennett, of Virginia, to be an Assistant Secretary of the Navy.

Everett T. Keech, of the District of Columbia, to be an Assistant Secretary of the Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Lt. Gen. Glenn D. Walker—U.S. Army retired—to be appointed to the grade of major general in the Army National Guard; and Col. Charles M. Kiefner and Col. Francis L. Winner, U.S. Army National Guard, to be appointed to the grade of brigadier general; and Gen. Richard Giles Stilwell, U.S. Army, to be placed on the retired list in the grade of general. I ask that these nominations be placed on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. In addition, Mr. President, there are 3,919 in the Naval Reserve for permanent promotion to the grade of captain—list beginning with Robert W. Abel; and 893 in the Air Force for promotion to lieutenant colonel—list beginning with James G. Abbee; and 274 in the Reserve of the Army for promotion to the grade of colonel and below—list beginning with Edmund A. Anderson, Jr. Also, there are 149 in the Navy for permanent and temporary appointment to the grade of commander and below—list beginning with John R. Bolton; and Donald W. Andrews, U.S. Marine Corps, for reappointment to the grade of major. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 12, 1976, at the end of the Senate proceedings.)

ADDITIONAL COSPONSORS JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself, Mr. HRUSKA, Mr. ABOUREZK, Mr. DOLE, Mr. DOMENICI, and Mr. MATHIAS):

S. 3799. A bill to establish the Antitrust Review and Revision Commission. Placed on the Calendar.

Mr. JAVITS. Mr. President, I introduce a bill to establish a Commission to review the antitrust laws, and I ask unanimous consent that the bill be placed on the calendar. This request has been cleared on both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 522

INTRODUCTION OF BILLS AND

At the request of Mr. JACKSON, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 522, the Indian Health Care Improvement Act.

S. 3704

At the request of Mr. HUGH SCOTT, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 3704, a bill to impose quantitative limitations on the importation of mushrooms into the United States.

SENATE RESOLUTION 541—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 541

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-fourth Congress, $10,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 153, Ninety-fourth Congress, agreed to May 14, 1975, and Senate Resolution 246, Ninety-fourth Congress, agreed to September 18, 1975.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, September 16, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

W. Eugene Davis, of Louisiana, to be U.S. district judge for the western district of Louisiana, vice Richard J. Putnam, retired.

Donald E. Walter, of Louisiana, to be U.S. district judge for the western district of Louisiana, vice Edwin F. Hunter, Jr., retired.

Any persons desiring to offer testimony in regard to these nominations, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA); and myself as chairman.

ANNOUNCEMENT OF REVISED HEARINGS AND MARKUP SCHEDULE ON COMMITTEE SYSTEM STRUCTURAL REFORM

Mr. BROCK. Mr. President, on behalf of the Senator from Illinois (Mr. STEVENSON) and pursuant to our committee rules, I announce the revised schedule for the previously announced hearings and markup sessions of the Select Committee To Study the Senate Committee System. Senators have been informed by direct memorandum and numerous statements in the RECORD and elsewhere that the select committee is about to conclude its deliberations on questions of structural organization of the committee system—jurisdictions of committees, their numbers and sizes, and limitations on memberships and chairmanships—as well as of collateral proposals for rotation of chairmanships and memberships, better scheduling of committee business, joint referral of bills by motion and increased responsibilities for the leadership.

The select committee's hearings will focus on specific proposals as described in its staff report issued on August 27. Senators are urged to place their views before the select committee so members may consider them before agreeing to our report, to be issued before October 2 so that this matter may be the first order of business in January.

The revised schedule is:

Tuesday, Sept. 14, 10 a.m.—Hearings; Senators and others

Wednesday, Sept. 15, 9 a.m.—Hearings continue

Wednesday, Sept. 15, 10 a.m.—Markup on Committee report

Thursday, Sept. 16, 10 a.m.—Markup continues

Wednesday, Sept. 22, 10 a.m.—Markup resumes

Thursday, Sept. 23, 10 a.m.—Markup concludes if possible

Meetings of September 14, 15, and 16 are scheduled in room 235, RSOB; those of September 22 and 23 are scheduled in room 126 of the Capitol.

ADDITIONAL STATEMENTS

DIVESTITURE IS NOT THE ANSWER

Mr. BURDICK. Mr. President, S. 2387, commonly called the vertical divestiture bill, has been reported out of the Judiciary Committee by a vote of 8 to 7, and rests upon the Senate Calendar. Although the bill is not currently scheduled for floor action, the possibility remains that debate may occur before this session of Congress is scheduled to adjourn on October 2, 1976. In light of that possibility, I am taking this opportunity to set forth my views on what the bill does and does not do regarding our Nation's energy problems.

The bill provides, in essence, that vertical integration of a petroleum company is not in the public interest, and that the functions of any such company should be legally separated. It would require companies above a certain size to elect one of the four sectors in which to continue operations: Production, transportation, refining, or marketing. Activities in the other three sectors would have to be abandoned. According to the bill's proponents, 18 companies would be dismembered—but others place the total much higher.

Were S. 2387 to be enacted it would bring about major changes affecting not just the petroleum industry, but all Americans. Soon the United States will be importing 50 percent of all its petroleum needs. Because of this dependence, mistakes in this critical area could be incredibly costly—so we must look at the issue factually and objectively, free from slogans and emotion.

In that vein, it is important to note that this legislation is not based upon anticomptitive conduct by the oil companies. The bill's proponents make no contention that there have been antitrust violations by the companies. On the contrary, they admit that economic indicators commonly used to measure competitiveness show the oil industry to be less concentrated than most. Studies such as those by George Washington University's energy policy research project have concluded that vertical integration is one reason why the various segments of the industry are relatively unconcentrated.

Economists have argued persuasively that joint ventures between competing companies serve an important role in spreading risks and do not indicate anticompetitive behavior; and that there is little evidence that major oil company ownership of pipelines promotes anticompetitive abuses. Researchers have demonstrated that where entry barriers exist in the industry they have been the result of Government policies rather than industry behavior. In the marketing sector, it is the independent marketers, and not the major companies, whose market share has increased. And another target of anti-industry attacks, the oil companies' rate of return, has seldom been as high as the average for all U.S. industry. All these factors indicate that the petroleum industry is quite competitive. Thus, proponents of divestiture have turned to other arguments to support their legislation.

What we have before us then, is simply a policy question: Will divestiture of the larger oil companies be in the best interests of the Nation? More specifically will it bring about greater supplies of oil at lower prices?

It is my conclusion that disintegrating the companies would be bad public policy.

Let me turn to the claims that have been made by proponents of this legislation and the problems divestiture would create. Careful analysis indicates that this bill would have deleterious effects on prices, capital structure, creditor relationships, production efforts, and foreign operations.

It is contended that breaking up the companies will result in lower prices to the consumer. If the evidence adduced in the Judiciary Committee's investigation supported that contention, I would not have opposed the bill in the committee, nor would I oppose it today. But there is only conjecture that divestiture would save consumer dollars. In fact, I submit that solid testimony runs to the contrary, and that prices would be higher rather than lower.

The sponsors of S. 2387 would have us believe vertical integration is inherently bad. But some form of integration is used in practically every business endeavor because it enables businesses to achieve efficiencies and lower costs. In many cases, businesses could not be run profitably if they were structurally restricted in the manner now suggested for the oil companies. For example, if a farmer engaged in the production of grain were prohibited from transporting his product to market by the use of his trucks, would such a divestiture result in lower bread prices? I think not. If a steel company were prohibited from having an interest in mining ore, or from owning boats to insure supplies of raw materials, would such a divestiture result in lower priced automobiles? I think not. If the forest products companies were prohibited from retailing lumber would housing be lower? I think not.

But this is precisely what the proponents recommend for the oil industry. A production company could not transport, refine, and market its product. Instead of one company with one management, there would be three or four companies, and three or four managements, with overlapping functions and duplicating facilities. The efficiencies realized by combining four functions in one operation would be lost. This could only mean higher costs to consumers.

Another allegation made by proponents of oil company divestiture is that enactment of S. 2387 will undermine the power of the OPEC cartel. However, they have yet to explain satisfactorily how the smaller, weaker companies created by divestiture would be more successful in dealing with the Arab oil producers than are the large corporations we have today. To my mind this bill would multiply our vulnerability to OPEC pressure. The 1973 oil embargo should have taught us that this is a weakness we cannot afford.

Higher prices and vulnerability to OPEC demands are not the only effects we have to fear from the proposed divestiture. Should the legislation before the Senate become law, the costs to the Federal Government would be enormous and the constitutional and legal problems attending the divestiture stagger the imagination. For instance, should this dismemberment be ordered by Congress, what would happen to the rights of stockholders, creditors, mortgagees, and other lien holders? The stockholder purchased stock in one company. The creditor dealt with one company. The lender loaned money to one company. Under divestiture, the shareholder's stock would be diluted and diffused among three or four companies. Would creditors and lenders have to look to four companies or to some new and not necessarily stable company for the repayment of the obligations? Those who favor divestiture have failed to provide satisfactory answers to these questions.

We must take into consideration as well the liability the Federal Government would incur should the interests of those parties be impaired. No one knows what the loss to a stockholder might be if his original company were fractionated. No one knows to what extent the security of the lender might be reduced under such divestiture. It is established that no man's property may be taken from him without payment of just compensation, and damages from such divestiture could run into billions of dollars. Litigation on these issues would clog the courts for years to come.

And while these legal battles are being fought, what will happen to the production of oil and gas? With imports rising and domestic production declining, this country desperately needs new energy discoveries. Few companies will risk committing their resources to endeavors they soon might be forced to surrender to someone else. Past cases where courts have ordered divestment of corporate assets far less complex than those envisioned by S. 2387 have taken decades to complete. It is reasonable to expect that the legal turmoil over divestiture and the loss of exploration and production opportunities would be perilously lengthy. I do not believe this is the time to break up an industry when the results are shrouded in doubt and uncertainty.

Should divestiture be legislated, there is another problem which we must seriously consider: The creation of an entirely new capital structure to take over the operations of each divested company. Let us take as an example the Alaska pipeline presently under construction by a consortium of major producing companies. This line was financed by lending institutions to the tune of $8 billion, after, and only after, the producing oil companies had guaranteed repayment. Under this bill, the producing companies would be barred from having any interest in the pipeline since they could not conduct both production and transportation operations. Who then would assume the $8 billion of obligations owed by the participating oil companies? I have had no satisfactory answer from the proponents of this legislation.

The testimony of Chairman Hills of the Securities and Exchange Commission came as near as anyone's to answering my question. In his testimony before the Judiciary Committee on June 3, 1976, Chairman Hills stated:

> [S. 2387 would] encourage an even greater federal intrusion into our economy in the form of federal financial assistance to energy companies. Federal assistance inevitably leads to federal involvement in management. I suggest that the emergence of federally controlled firms could be the inescapable result of S. 2387 . . . I suggest that the real issue here is whether we are willing to accept the risk that the oil industry may eventually be nationalized.

Such risks are far too serious to be taken casually. Until a substantial need for divestiture is demonstrated—and no such showing has been made—legislative tinkering with the structure of a major industry is a risk we cannot afford.

Of course, as in all industries, there is a danger of monopolistic practices developing in the petroleum industry. I firmly believe that the Justice Department should be ready to take action against any anticompetitive practices. But as I have stated, no issue of monopoly or restraint of trade exists. No illegal action is being charged. It has been and continues to be my position that our antitrust laws should be enforced by those charged with administering them. If those laws are inadequate they should be strengthened. But attempting to legislate an arbitrary divestiture remedy for an unproven wrong is not an effective solution.

The roster of groups opposing vertical divestiture is impressive. Both Democratic and Republican conventions recently refused to support the concept. Even the smaller oil companies which would not be affected by divestiture—such as Agway—Texas City Refining, Farmland Industries, the National Cooperative Refining Association, and Farmers Union Central Exchange CENEX, oppose the bill. Farmer organizations have taken a stance against it as well. Among those in agreement with my position are the National Grange, the American Farm Bureau Federation, the National Council of Farmer Cooperatives, Farmland Industries, and Farmers Union Central Exchange.

Most of the expert witnesses who testified before the Judiciary Committee concurred with the views of Assistant Attorney General Thomas Kauper, in charge of the Antitrust Division, who noted that "The factual basis for legislation to categorically prohibit vertical integration in the petroleum industry has yet to be demonstrated." I strongly agree.

Mr. President, divestiture legislation is both hazardous and unnecessary, and for the reasons noted above, I oppose S. 2387.

DEATH OF CHAIRMAN MAO TSE-TUNG OF PEOPLE'S REPUBLIC OF CHINA

Mr. FONG. Mr. President, 2 years ago, when I visited the People's Republic of China, I found that wherever I went the people regarded Chairman Mao Tse-tung openly and reverently as their great leader and inspiration.

Although our congressional delegation did not have an opportunity to meet with Chairman Mao, certainly it is clear that, during the past quarter of a century, he made a profound imprint on world history by his leadership of his people, to whom he constantly stressed self-reliance, sacrifice, and industrialization. He strengthened his nation's economy, providing his people the basic necessities of life—food, shelter, clothing, health care, and burial—and he continued China's tradition of resisting foreign domination.

I extend sincere sympathy to his family and to the people of the People's Republic of China in their bereavement.

CONGRESSMAN SEIBERLING REFUTES B-1 EMPLOYMENT ARGUMENT

Mr. PROXMIRE. Mr. President, although the B-1 bomber issue has been decided for this year, it is instructive to reflect back on the use and misuse of statistical arguments during the debate. In particular, it was interesting to note that the prime contractors attempted to influence Members of Congress by publishing employment and economic gain statistics in selected congressional districts.

One such example was brought to light in an editorial of the Akron Beacon Journal. According to this editorial, Rockwell International had stated that the B-1 program would bring $70.5 million in business to the Akron area.

Ordinarily, Mr. President, these arguments carry great weight. Unemployment and business slowdown are concerns throughout the country. In this particular case, however, Rockwell apparently did not realize that its facts would be challenged.

Representative JOHN F. SEIBERLING of Akron knows the B-1 bomber program as well as any Member of Congress. He has been one of the leaders in the field. He has authored extensive research papers on the B-1 and is thoroughly familiar with the complex defense issues that surround that subject. Therefore, when the Rockwell economic statistics surfaced in Akron, JOHN SEIBERLING went to work to check them out.

What he found was quite remarkable. Even with a district that was receiving B-1 contract support, he calculated that the residents there would end up paying $13.5 million more in net tax loss for the B-1 program than would be received for B-1 employment and economic benefits. The Akron Beacon Journal appropriately highlighted these figures in a recent editorial.

Mr. President, I ask unanimous consent that the Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Akron Beacon Journal, Aug. 11, 1976]

DO WE REALLY KNOW ENOUGH ABOUT B-1?

It is obvious that Congress and the American public still do not have enough facts about the controversial B1 bomber.

Rep. John F. Seiberling (D-Akron) deserves credit for driving home that point with his own questions about Rockwell International's jobs-and-cost figures on B1 production.

Rockwell, which hopes to build 244 B1s at a cost of $22 billion, said production could bring $70.5 million more in business just to the 14th District.

But Seiberling's staff did its own analysis and figured that district taxpayers would have to pay out $84 million as their share of buying the B1 fleet—or $13.5 million more than Rockwell is promising in increased business.

While the issue he raises is an economic one, and Seiberling admittedly opposes the B1, it brings into sharper focus the broader difficulty of getting accurate and complete information that Congress needs for decisions on Pentagon proposals for complicated and costly weaponry and national defense.

The need for such information is good reason to support the Senate version of two B1 bills passed by Congress. The Senate version would delay production until next February, while the House version has no delay provision. The February delay would allow the next administration which will be held accountable for the project no matter if the President is Gerald Ford or someone else, to influence the final decision on B1 production. It would also provide time to get more answers.

American defense goes far beyond an economic question, of course. But when cost factors are as fuzzy as Seiberling has shown them to be, the answers being given to other facets of the B1 program also become suspect.

It still is not clear what the B1's advantages may be over the aging B52, the intercontinental bomber it is designed to replace, and whether other alternatives, such as speedier sea and land-based missiles, have been adequately considered. There are questions about the refueling range of the B1, its takeoff capability and, most important, its usefulness in a war with Russia in the next decade.

Obviously, the most complete and accurate information on defense technology should be expected from military experts. But just as obviously, the Pentagon is going to defend its own proposals, as Air Force chief of staff Gen. David C. Jones has done with the B1. He says jobs were never used as a justification for it, that the bomber is vital to the national defense.

There have been impressive arguments, including a study by the prestigious Brookings Institution, that the B1 offers "no significant military advantage" over the B52, and the B52 can be modified to meet defense needs.

Whom to believe? That is the agony of those who must commit huge outlays of public money for defense systems.

If, as Seiberling points out, the public and the Congress have been misled on the economics of the B1 project, they should take additional time before plunging into a $22 billion production program. It is not unreasonable for Congress to wait a few months. Maybe we can get some needed answers by then.

NATHAN HALE ELEMENTARY SCHOOL

Mr. PERCY. Mr. President, it seems fitting in this 200th year of our Nation's existence that we put aside a time to recognize those gallant colonists who lost their lives in the struggle for independence.

One such patriot is Nathan Hale, who, dying at the hands of the British in 1776, uttered his heroic death words that are forever engraved upon mankind's history. Hale regretted that he had but one life to give for his country, but succeeding generations in this country have immortalized his words and deeds. The 21-year-old schoolmaster who was hanged as a spy while attempting to flee the British forces in New York serves as a fine example for Americans of all ages of that courage and determination which exemplified the fight for freedom.

On September 22, the citizens of Schaumberg, Ill., and neighboring communities will hold a celebration at the Nathan Hale Elementary School marking the 200th anniversary of his valorous and untimely death. Students will present plays depicting Hale's life and other commemorative programs will highlight the day-long affair.

As this past summer's Bicentennial fervor subsides, it is reassuring to note that in some communities the spirit of our independence celebration endures.

MR. I. W. ABEL: A RECORD OF EXTRAORDINARY PUBLIC SERVICE

Mr. HUMPHREY. Mr. President, on August 30 one of America's greatest labor leaders and one of my most cherished friends, Mr. I. W. Abel, made his final keynote address to the 18th Constitutional Convention of the United Steelworkers of America.

At this time I want to publicly express my gratitude and that of many Americans, for the tireless, wise, and courageous leadership within the American labor movement provided by Mr. Abel for the past 25 years. As secretary-treasurer of the steelworkers since 1952, and president of this great union since 1965, I. W. Abel has performed consistently in the best interest of the workers who he represents. Moreover, he has projected American labor into the forefront of all the major efforts to promote social justice and economic progress for all our citizens.

Mr. President, one of the great pleasures of my political life has been the opportunity to work with and gain the friendship of this giant of progressive labor unionism. We will miss his strong, sensible, and compassionate direction of the United Steelworkers Union now that he is retiring. But, we all look forward to continuing to receive his wise counsel and to enjoy his warm friendship for many years to come.

I am also confident that the outstanding organization which he has produced for our Nation's steelworkers will continue to serve all Americans in the great tradition of I. W. Abel and his legendary predecessor, Phillip Murray.

Mr. President, I. W. Abel's address to the 18th Constitutional Convention of the United Steelworkers of America charts a wise course of action for this union and the Nation. It is an agenda for America that should be studied by every Member of the Senate. Therefore, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

KEYNOTE ADDRESS BY PRESIDENT I. W. ABEL

Reverend Clergy, my fellow Officers, members of the International Executive Board, sister and brother delegates, distinguished guests, ladies and gentlemen: Welcome to this 18th Constitutional Convention of the United Steelworkers of America.

We are gathered in a year or anniversaries. It is the 200th Anniversary of the United States of America, the 100th Anniversary of the Amalgamated Association of Iron, Steel and Tin Workers, and it is the 40th Anniversary of the United Steelworkers of America.

Unifying these anniversaries is the institution of collective bargaining, older than our two nations, and the basic fabric of the trade union movements of our two great democracies.

In my opinion, and I am sure in your opinion, both the United States and the United Steelworkers have done very well. The history of both America and our Union have been marked by the greatest of successes; both have endured the severest of tests. Both have had moments of greatness; both have had moments of despair. And yes, both have seen bloodshed and the loss of lives.

But in this year of 1976, the United States and the United Steelworkers stand as tributes to the persistence of men and women who believed. Both are living testimonials to the goodness of people. In observing their Bicentennial, Americans can be and are rightfully proud of America and what it stands for and what it has accomplished. And we Steelworkers can be rightfully proud of what the United Steelworkers of America stands for and what we have accomplished!

If there are any who question our right to feel proud this year, as Americans and as Steelworkers, they have only to look at the record. As Steelworkers, we gather here today as free men and free women in a free society. As Steelworkers, we enjoy the highest standard of living in the world. Our freedoms are the envy of the oppressed. Our economy is the marvel of the world. In just 200 years—a tick of the clock compared to the history of most other countries—we have grown from a frontier civilization to the world's most powerful and economically blessed Nation on earth. We have done it under a governmental system of democracy and an economic system of free enterprise and free collective bargaining. We put our faith in the freedom of the individual and it paid off. And this applies not only to the United States, but to Canada as well.

And you know, these things didn't just happen. It took hard work by people who wanted to work, who practiced the work ethic. The early settlers of our two nations regarded work an act of spiritual duty . . . of survival. Work with adequate reward is what made our democracies great. And that's what we want today—work! Our heritage is work, not charity; we need jobs, not unemployment compensation; we want jobs, not trade adjustment assistance.

It took hard work to make us the largest union in the AFL-CIO, to make us the largest union in the Canadian Labour Congress. In just 40 years—the briefest of time—we have gone from relatively small bands of pioneers to the strongest of trade unions. In 1936, the Steel Workers Organizing Committee had 125,000 members in 154 lodges. Today we have 1.4 million members in more than 5,500 local unions. When the first Canadian Policy Conference was held in 1947, our Union membership in Canada totalled 38,000. Our strength in Canada by March of this year has grown to more than 194,000 members.

In just 40 years we have gone from the worst of working conditions to the unprecedented conditions of our latest contracts. Phil Murray spoke of carpets on the floor, music in the home and pictures on the wall. Today, there is not only a picture on the wall but one on a TV screen accompanied by sound from other continents or from a distant part of the universe . . . from the moon or the planet Mars. We have gone from 12-hour days, seven-day weeks, no vacations, no pensions, no insurance, no nothing, to the highest wages in all industry, to 13-week vacations, medical and health programs, dental care programs, regular vacations and vacation bonuses, regular pensions, pensions after 30 years regardless of age, pensions for spouses, cost-of-living clauses.

These are solid achievements . . . achievements that stretch right across various industries and throughout our two nations . . . achievements that are the envy of others. It is our record and we have every right to be proud of it. And we must not tolerate a distortion of that great record. No politically motivated, cheap shot sniping can diminish this splendid record.

While we point with pride to our accomplishments, we must continue to look ahead to the future. I am pleased to report that we face the future in the best condition in our Union's history—financially and numerically. And this is good because we haven't solved all our problems. We still have some unfinished business.

Listen to these words that Phil Murray spoke to the delegates at our First Constitutional Convention in 1942:

"You are *not* going to develop a Utopia here on earth, even if you and I should live for a thousand years, but you *are* going to make more progress than you have ever made before; you *are* going to improve your conditions as you go down the road."

Phil Murray was right. We have not developed a Utopia here on earth and the odds are still against it. But we have made more progress than we ever dreamed we could, and we will continue to make even more progress.

On the agenda of unfinished business, our immediate concern is full employment. As you know, we have been calling for a national program of jobs for all ever since the Full Employment Act of 1946 was passed. We finally hope to get there with legislation like the Humphrey-Hawkins bill. But we can also do something about full employment at the bargaining table.

I say to this Convention and through this Convention to our employers, the time has come to give our members steady work and wages every week and every year! Not just steady work and wages when the order books are full. Not just steady work and wages 30 weeks or 35 weeks a year. But steady work and wages 52 weeks a year!

Unemployment compensation now helps the wage-earner and his family get by during a layoff. Supplemental Unemployment Benefits now provide the worker and his family with additional financial help when he's jobless. But unemployment compensation is not the answer to unemployment. SUB is not the answer to unemployment. Nor is trade adjustment allowance the answer to jobs lost to imports. The only effective and meaningful answer to unemployment is a job with a steady income. That's when everyone benefits; the worker, the family, the economy, the businessman. And I say that industry has a responsibility equal to that of labor to help achieve an economy with full employment.

Time and again our Union has demonstrated a willingness to work openly and energetically on issues of mutual labor-management concern. We did it when the import threat mounted. We did it when steel stockpiling undermined jobs and stability and on other occasions.

I say to you this morning that we have reached a stage in our relationship with Basic Steel where I think management should be able to take another big cooperative step. I refer to the need of granting their workers uninterrupted, steady work and steady, uninterrupted wages.

I would like to think that management is finally accepting the fact that job security is now a proper corporate responsibility.

You know, our founding Convention in 1942 expressed the hope that some day we would have guaranteed work. Before that, on December 14, 1937, when SWOC held its First Convention in the City of Pittsburgh, (and I was there) we in fact passed the first resolution calling for the Guaranteed Annual Wage in Steel. The time has come for us to realize finally what we have sought from the beginning. As Phil Murray told us in Convention in 1946 . . . "every man, woman and child in this country has to live, eat, drink, sleep, be sheltered, have clothing and medicine, education and other facilities 365 days of the year. Hence, the need for a type of security being instituted in American industry to provide that minimum degree of security to the families of men employed in the Steel Industry and other industries throughout the United States and Canada."

In addition to demanding full work and income security, we can create more new jobs and provide more leisure time, by reducing the hours of work! Just as there is nothing new in labor's quest for full job and wage security, there is nothing new in labor's goal for cutting down the hours of work to provide more leisure time.

Yes, our over-all collective bargaining policy will be fashioned within the framework that we have utilized in the past, by our International Wage Policy Committee and by the various policy-making industry conferences in Basic Steel, Containers, Aluminum and Nonferrous. However, I think we can safely predict now that more emphasis than ever will be placed next year on the need for employment and wage security and the reduction of hours worked without loss of pay to provide more leisure and more jobs.

We must also make a more vigorous and sustained effort to extend all major contract gains. We need to remind ourselves that many of our members do not yet enjoy such important benefits as cost-of-living clauses or extended vacations or even a decent pension program. The pattern for negotiating these fundamental benefits is there. Having won them in our basic settlements, we must go after them in the other industries. We will be talking more about this serious matter in the days ahead. And I want our directors and staff members to take note.

Now, I would like to spend a few minutes talking on a matter of grave concern to me that should also be of grave concern to each and every delegate here today and to each and every member of our Union. I refer to the fact that a number of people not connected with your Union are trying to undermine the United Steelworkers of America. They insist on belittling your progress and distorting your record. This attack on our Union is unmatched in its harshness and intensity. It is based on charges so absurd as to defy rational comment.

But you know even though their attacks upon us belittle our achievements, there are some things that these detractors do like about your Union. I'll tell you what they like. They like your healthy treasury. They like the influence and prestige this Union built with 40 years of struggle and hard work. Some of them would like to become your advisors, consultants or even kingmakers. Others would like to parade behind our reputation as a sound, effective union and bend our Union to their narrow, selfish purposes. Some like your political power and would love to use it to pursue their own little adventures. In short, they want to take over.

Believe me, you give them a couple of years in control of this Union and what we have built would be in shambles. Just take a look at what they've done to other unions. They have purposely been telling lies—yes outright lies . . . Hitler-type lies—to suit their devious purposes. You know, one can overlook some things that are said by people who are fools and don't know any better. But you can't overlook the things that are said by people who know the truth yet deliberately lie. Well, I say to them: We don't want you! We can't afford you! And we are not about to surrender this Union to you!

Now, if you haven't noticed it, I want to report to this Convention that the most vicious distortions and assaults hurled by these outsiders are aimed at your President. Oh, Secretary-Treasurer Burke gets a few of their digs, too, but not as many as your President does. But you know and I know—in fact the whole country knows—that neither I nor Secretary-Treasurer Burke are candidates for re-election. We will both soon be gone from the leadership of this Union. So, why do they hurl a drum-fire of false accusations and insults at your President? The answer is very simple, they are trying to discredit your Officers because they desperately want to shake your confidence in the internal democracy of this Union. By smearing your leadership, they think they can open some doors for their errand boys in your next election. But ask yourself: Have any of these outsiders helped you organize? Have they negotiated contracts or settled your grievances? Have they endured the grime and sweat of hard labor? The answer is no! These are shifty busybodies who do not have your best interests in mind.

Of course, we do not say this Union is perfect and without its share of problems. We're a human institution and plagued with all the human frailities.

But there isn't a single thing wrong with our Union that cannot be corrected by the members themselves through the ample democratic procedures available for this purpose. Our Constitution is as democratic as you'll find. Complaining is one thing. It is an expected, natural thing. But thoughtless and untrue condemnation hurts your Union's influence, its status and effectiveness. It gives the companies we negotiate with the false impression that we are disorganized, afflicted with internal dissension, totally snarled in family squabbles and incapable of effective, united action. This can really hurt when we go to the bargaining table, or when we try to organize the unorganized competition or when we fight for good laws.

What really hurts the forward momentum of your Union is the unrelenting carping by small groups of dissidents who seize a bit of false information and eagerly run to the public media with it. The media, of course, couldn't care less if these accusations are based on false information. They love to see us fight. They'll even hold our coats!

I say to you there's no need to dirty the Union's name in the public prints. And no individual that does can call himself a trade unionist.

There have been and will be differences of opinion within our Union. If we don't like the views or attitudes of some, we have a right and duty to speak out . . . and the Union protects this right. Differences in this Union are resolved peacefully with the truth and through the votes of the membership. Our members are sharp enough to recognize the differences between truth and lies, between genuine issues and pure demagoguery.

And I am sure that no one will disagree when I say there is no place for violence in this Union. Violence is the weapon of the corporate goons who tried to smash our Union and break up our strikes. Violence is the weapon the Fascists and Communists use in other parts of the world to destroy free unions and to undermine democracy. Violence is a gift to the enemies of the labor movement . . . a gift to those who are eager to tarnish our cause. We will not allow violence to take root in the Steelworkers Union. The answer to provocation is not violence but self-discipline and cool heads. The proper response to attempted disruption is strict adherence to our cherished and successful internal democracy. The simplest and best way to frustrate the extremists is to expose their irresponsible ideas to close scrutiny and to let them be judged in the light of logic and common sense.

Let's strive for change, if change is required. But let's do it in a way that will not cripple this Union's ability to function . . . let's do it in a way that will keep us united and marching together toward the many unfulfilled goals still ahead of us.

Let me cite a few examples of the kind of provocations about our Union now making the rounds. Let me mention, in particular, one that touches me personally. They are saying that I. W. Abel your International President, is going soft on strikes; that I will permit management to saddle us with any sort of cheap contract before allowing our members to go on strike. You've heard it. Well, even on the face of it, this is a silly charge. Obviously, this is a lie spread by those who don't know what the hell is going on.

Your President has been involved in picket line struggles and bitter strikes all his life. He's been mixed up in some of the most brutal attacks fomented by management that this Union has ever experienced. And that happens to be a fact. For forty years, in and out of the mills, I have dedicated myself to defending the rights and advancing the interests of our members. The determination to uplift and improve the harsh, tough lives of Steelworkers and their families has never left my blood or slowed my desire to wage a good fight. And I want to serve notice here this morning: Anyone who tries to tear down what it has taken many of us a lifetime to build will have to contend with I. W. Abel. And let me tell you, that with your help there's still enough fight left in your President to stop them in their tracks!

Now let me give you the facts about strikes. As you know, the Constitution of this Union says that only the International President has the authority to authorize a strike of our members. In just the last two years, since our 1974 Convention, I have personally authorized members of this Union to engage in 688 separate strikes! And, as a result, in this period, more than $27,400,000 in dues money has been paid out in strike benefits! Does that sound like I. W. Abel is going soft on strikes?

Yes, our Union does its share of striking when it is necessary . . . when there is no other way to win our just demands in collective bargaining. But we don't engage in strikes for the sake of striking! That's nonsense! Bargaining is serious business. We don't needlessly shut off the earnings and lifeblood of our members when we can get good contracts through hard bargaining.

Those who want bigger and longer strikes without justification are out of their minds. I say to you that anyone who is that strike happy is totally irresponsible. They evidently know nothing of this Union's militancy or its unmatched record of steady, unrelenting progress in bargainnig. Either that, or he is trying to manufacture a false issue to satisfy selfish political ambition.

Another misconception fathered by dissidents concerns our union dues. They say union dues have made our Union too wealthy. Or that we have too big a strike and defense fund. Anyone who irresponsibly attacks union dues is toying with the very guts of your Union. He's playing with your Union's ability to function effectively on your behalf and on behalf of those you are privileged to represent. If you expect to continue to make economic and social progress, don't short-change your Union!

This Union has been first in benefits and wages. Our members expect to work under first-class contracts. We can get good contracts if we have a first-class union. And let's not forget that every nickel of dues money must be and is completely accounted for. You know where the money comes from and where it goes! I wonder if the same can be said about the lavish campaign funds some of the dissidents are building with the help of outsiders.

The delegates to this Convention have the right to fix union dues. You have the power and authority to suspend all membership dues payments, as suggested by some of our local unions, and no one would have to pay one red cent in dues. You know, or you should know, the big steel companies once offered us a two-bit union—the ERP. We can go back to the ERP days by simply disabling our Union's financial capability. But let's not forget the heavy consequences. How will the Union function? Who's going to serve the members? Who's going to negotiate and administer contracts that are becoming more and more complex? Who's going to handle grievances and arbitration cases? Who's going to pay strike benefits? Who's going to block competition for your jobs by non-union workers? Who's going to organize the unorganized? Who will represent you in Congress and in the state legislatures when laws affecting your working conditions and living standards are under consideration? Who's going to battle the imports made by cheap labor in foreign countries that threaten your jobs? Fellow Delegates, let's not overlook the old truism: "You buy cheap, you get cheap". When the fight is made for more money or broader contract benefits, our members want the best representation available—not the cut-rate, bargain-basement kind.

We have a good Union. It is a social compact forged by workers once overburdened with intimidation, with starvation wages, with miserable exploitation at the workplace. Our Union was born out of necessity. We have built for each other a powerful, independent force for good to work on our common problems. We have achieved results that are the envy of other workers, not only on our continent but throughout the world. We have blazed new frontiers in wages and benefits that have yet to be equalled in other industries. While others try to catch up with us, we set more bargaining precedents and win new rounds of wages and benefits for our members. This takes money, you know. Our dues-paying members earn good pay and enjoy decent conditions only because they have a union strong enough to get it from tight-fisted employers.

Let me remind you of a little bit of history. In 1956, as your Secretary-Treasurer, I begged delegates at a Convention to raise dues. I warned our delegates that we could not expect to protect ourselves against Big Steel in a do-or-die battle unless we had union reserves totalling at least $50 million. Well, long before we reached that $50 million financial reservoir, we were forced in 1959 to undergo the longest and bitterest strike in the history of our Union. Our members walked the picket lines at the Basic Steel plants for 116 days, with no strike benefits. We finally settled that bitter strike—but not before this Union depleted its treasury, sold its property in Washington, lost its cost-of-living contract provisions and surrendered some other hard-won gains. It wasn't until we built our financial reserves and made this Union fiscally strong 11 years later, that we were able to win back our COLA in 1971. So you see, the financial condition of your Union can make a real difference. We simply cannot afford the luxury of crippling this Union. Penny-pinch on dues and you jeopardize the Union's ability to serve its members properly. That's economic nonsense. That's suicide.

The dissidents also make a lot of noise about the ENA. Some of them even charge that the ENA is a complete sell-out. Now I meet and talk to hundreds of our members every month. Let me assure you that the attacks on the ENA come not from those who gained by it, but from those who are not even covered or affected by it. The consensus among our Basic Steel members on ENA is that it has worked wonders in solving the only problem it was intended to solve—the disastrous "boom-bust" cycle in employment and earnings that regularly almost bankrupted them and robbed them of an opportunity to work under the fine wages and conditions achieved in our contracts. Yet, in its first test, the ENA worked and worked well.

Our Union has a good record in coming to grips with the problems of our members and initiating innovative techniques and approaches to solve them. Along with the ENA, we have successfully achieved at the bargaining table many advanced job security provisions designed to keep our people steadily at work. These job security programs include SUB, severance pay, early pensions, bigger regular pensions to encourage retirement, job transfer opportunities, Earnings Protection Plan, extended paid vacations and many others. These benefits help make steel jobs recession-resistant, but unhappily, they have not made such jobs entirely recession-proof. When the economy plunges to near depression levels, nothing is sacred—not even good labor contracts.

Which brings me to my next point. This is a national election year. We in America will soon choose a President, a Vice President, a new House of Representatives and 33 Senators.

I don't have to tell you that we need a new occupant in the White House. We've had enough of the do-nothing economic policies and government by veto of the Ford Administration. This November 2 we will have a clear-cut choice between competing economic philosophies. On the one hand is the classic "trickle-down" theory, represented by the economic policies of the Nixon-Ford Administrations. On the other hand there is the philosophy that underlies full employment. It is one of general prosperity, full production, a balanced economy and a government with a social conscience.

We've had nearly eight years of the trickle-down philosophy and what has it given us? It has given us back-to-back recessions, the highest deficits in peacetime, the highest unemployment since the Depression, the highest interest rates since the Civil War and it has given us raging inflation.

We of the Steelworkers and the AFL–CIO say that full employment—a job opportunity at a decent wage for each person able and seeking work—is an economic necessity, in both the States and in Canada. Workers in both countries have been facing the worst economic situation since the Depression of the thirties.

From jobs come the wages that generate mass purchasing power. The Humphrey-Hawkins bill now before Congress will put America back to work. Supported fully by the AFL–CIO, this bill proclaims "the right of all adult Americans able, willing and seeking work to opportunities for useful paid employment at fair rates of compensation." Its goal is an adult unemployment rate of three per cent or less within four years.

This November 2 we have also got to put an end to government by veto. So far, Gerald Ford has vetoed more than 50 bills. He has vetoed a public employment bill, a public works bill, and a housing assistance bill—all designed to create jobs. He has vetoed among others a school lunch bill, a veterans benefits bill, an air pollution control bill and other good, sound legislation.

Fortunately, this election year we have the opportunity to elect two outstanding Americans to give this Nation, fresh, vigorous, efficient and compassionate leadership. I refer of course to Governor Jimmy Carter of Georgia and Senator Walter F. Mondale of Minnesota. In his acceptance speech at the Democratic National Convention, Carter spoke about simple justice, efficiency, honesty. He talked about an America on the move again, an America that lives up to the majesty of our Constitution and the simple decency of our people. We share his hopes and thoughts and if we have anything to do about it, he will have the opportunity to put them into practice. Senator Mondale is an excellent choice as Governor Carter's running mate. The Senator and our Union have enjoyed a close relationship for a number of years, and the Senator has an outstanding voting record on issues of concern to workers and people in general.

Our Canadian brothers and sisters have also been having their problems with a government program of wage controls which has seriously disrupted the free collective bargaining process for all Canadian trade unionists.

We know all about controls from our experiences here in the United States. We know that they don't work. Under controls working people's wages are frozen while companies are able to exploit the regulations and continue their profit-taking at the expense of the ordinary citizen.

Our Union has a proud tradition of long-standing—that our Canadian members tackle their own problems in their own way. I know that our Canadian Directors are providing wise leadership in the fight against the controls. I am confident that they will succeed in their efforts to preserve free collective bargaining.

However, this Union has another great tradition and that is solidarity. I am sure that I speak for the entire membership of our international union when I say to our Canadian brothers and sisters that we support them in their fight for social and economic justice. I can also say, as I have in the past, that the entire resources and strength of this organization are behind our Canadian membership and will be for as long as it takes them to win the battle.

In a few moments, when we begin the business of this Convention, let's all respect the opinions of others and their right to express them. Let each have his or her say. Let the Convention work its will. This is your Convention. And, insofar as we are concerned, there will be only one Steelworkers Convention here in Las Vegas this week. That Convention will be held right here in this hall. This is where all the Union decisions will be made and nowhere else.

No dissident groups are going to shape the policies of this Union. No news media representatives will have a vote here. No amount of outside coaching or meddling is going to capture this Convention. You have my word for it. And that goes for RAFT, SURF, the National Conference of Steelworkers, the Steelworkers Fight Back Committee, the so-called U.S. Labor Party, the Socialist Labor Party, the so-called Progressives, the Communist Party, the Fascist Party, the Nazis, the Trotskyites, Maoists, Republicans, Socialists, Democrats, Conservatives, American Firsters and whatever.

Only you, the officially elected delegates will speak and make decisions for our membership back home. Only you will formulate the policies that will guide the destinies of this great Union for the next two years. Your help and cooperation is requested to keep this Convention a real Steelworkers Convention free of external interference. I ask you to help your chairman keep it orderly, productive and representative of our membership.

And now, in closing, I would like to exercise a prerogative of the chair to make some personal comment. This is the last Convention that I will have the privilege of making the keynote address as your International President. This is my last Convention as an active member of the United Steelworkers of America. I have been an eyewitness to the history of our Union for 40 years. I was privileged to be a delegate to our first convention in the City of Pittsburgh in 1937 and I have been a delegate to each and every Convention we have had. I have had a front seat as an observer and participant, in the founding and development of this beloved Union during its first, crucial 40 years. A man cannot put that much time and effort into an organization and retire without some strong emotions. But there comes a time when one must lay down the tools. I will depart with some sadness and some anticipation but above all the personal satisfaction that I have done my best to serve this Union. The record is there for all to see. I am proud of it. I hope you are. I have no particular legacy to leave with you. The one enunciated by Phil Murray at our founding Convention in 1942 is still good enough for me. Murray said he wanted our Union built upon the basis of love for the Union rather than for the man. If you do this, Murray told us, our Union will endure. Men will come and go, he said, but the Union will live forever. This is the legacy that I would leave you.

I am not going to worry about you or our Union. I know Steelworkers. I know what you are made of. I know you are decent people who love your Union and your countries. I know you will always do what is right for our Union. So, in this last keynote address, I want to wish you well. Keep the faith with the principles that have stood us in good stead all these years.

Don't ever forget that our Union is the most dramatic example of industrial democracy in the history of labor. To have had a hand in it, even a small voice, is a privilege and an honor I shall always treasure.

SENATOR MATHIAS ADDRESSES THE UTAH BAR ASSOCIATION

Mr. GARN. Mr. President, on July 17, 1976, our colleague, CHARLES McC. MATHIAS, of Maryland, delivered the keynote address at the semiannual meeting of the Utah State Bar.

Senator MATHIAS took as his theme the statement of Thomas Jefferson, that ". . . In questions of power let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution." From that premise, Senator MATHIAS traces a history of some of the abuses of power that have taken place during this Nation's 200 years. He concludes that the Constitution remains strong and that recent excesses have been "checked," but reminds us that constant vigil is necessary to defend constitutional rights.

Mr. President, I ask unanimous consent to have printed in the RECORD Senator MATHIAS' speech on our great and inspired—and still strong—Constitution.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR CHARLES McC. MATHIAS, JR.

"If men were angels," wrote Madison in the Federalist Papers, "no government would be necessary."

In the Kentucky Resolutions of 1798, Jefferson echoed this unsentimental view of mankind. "It would be a dangerous delusion," he wrote, "were a confidence in the men of our choice to silence our fears for the safety of our rights . . . in questions of power then let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution."

The Founding Fathers were skeptical of human nature. They were inspired by the humanists, but they were never beguiled by illusions of a benign, ever reliable inner man. They knew that when the first bloom of the revolution wore off, men in power would have to be restrained. It was their premise that where power exists, sooner or later it will be used.

Our 200-year history has confirmed the skepticism, and the wisdom, of the Founding Fathers. The chains of the constitution have been constantly tested, as men and governments have stretched, and at times assaulted, the limits set upon them. So far, our system has endured the stress and collision. No other government in the world has survived in its original form as long as ours.

But this is not an invitation to complacency. We can be grateful, in this bicentennial year, that the Founding Fathers provided so well for us, but it would be foolish to relax completely. The tension of men and governments goes on, as Madison and his colleagues foresaw, in a constant process of ebb and flow.

This past year I served on the Senate Select Committee on Intelligence, and in that capacity got a vivid glimpse of man's propensity to use power as it accrues to him.

The intelligence fraternity has used power in a mind-boggling variety of ways, to almost any purpose imaginable, from the routine collection of information to cloak-and-dagger antics reminiscent of a grade-B spy movie. Power has been used for good reason, and it has been used for no logical reason at all, as though simply because it was there. Millions of dollars and hundreds of hours were lavished on projects of the most bizarre and aimless nature. In some cases, not even the perpetrators themselves could say what they hoped to accomplish.

For 25 years, the NAACP was investigated by the FBI to determine whether that organization "had connections" with the Communist Party. After the first year, an FBI report conceded that the NAACP had no association whatsoever with Communism, but the investigation went on anyway.

For more than 30 years, the FBI investigated the Socialist Workers Party, harassing its members and breaking into their offices in the nighttime, acknowledging all the while that the Socialist Workers Party had never broken any law and had never incited anyone to break the law.

One of the most dismal and misguided of the enterprises we investigated was the prolonged assault on the rights and privacy of the late Dr. Martin Luther King, Jr. In 1968, FBI headquarters notified its agents in the field that Dr. King must be destroyed, because he might "abandon his supposed obedience to white liberal doctrines (nonviolence)." The order reads like a passage from *Catch-22*. By the perverse logic of the FBI high command, Dr. King was a prime suspect to foment violence, no matter how long and how earnestly he preached and practiced the opposite.

Once a project was entered into, it often grew naturally, feeding not on exigencies but upon itself. "The risk," said one witness, "was . . . to move from the kid with the bomb to the kid with a picket sign, and from the kid with the picket sign to the kid with the bumper sticker of the opposing candidate. And you just keep going down the line."

The process is in a familiar pattern. Power, granted freely, without stipulation, rushes to opportunity like air into a vacuum.

Thomas Jefferson was in Paris as Minister to France during the Constitutional Convention in 1789. When he received the news that George Mason of Virginia had failed to persuade the delegates to adopt a Bill of Rights, he fired off a volley of letters to the founders of the New Republic. Civil liberties, he insisted, must be enumerated, leaving no doubt as to where the power of government ended, and where the rights of the people could not be infringed. Civil liberties could not be left to the goodness of men in power. Within four years, thanks to Mason, Luther Martin of Maryland, and above all to the entreaties of Jefferson, the first ten amendments had been written.

Encroachments on the Bill of Rights began almost before the ink was dry.

In 1798, the Alien and Sedition Acts were passed, in circumstances that have a familiar resonance. The Nation feared war with France. There were considerable numbers of Frenchmen in the country. The several alien acts authorized deportation of aliens and imprisonment of persons whose motherland was at war with America. The Sedition Act made it a high misdemeanor "unlawfully to combine and conspire" to oppose legal measures of the Government, and to engage or abet "insurrection, riot, or unlawful assembly or combination." Ten persons, all Republicans, were fined and imprisoned under the act by the Federalist administration of John Adams. Republican editors who criticized President Adams were liberally prosecuted, while Federalists who denounced Vice-President Jefferson were left alone.

Jefferson and Madison responded passionately in the Kentucky and Virginia resolutions. If the acts should stand, Jefferson warned, "these conclusions would flow from them: that the general Government may place any act they think proper on the list of crimes and punish it themselves, whether enumerated or not enumerated by the Constitution."

There is simplicity in this; and clarity. The Government may not condemn, harass, punish or confine, except where the law and the Bill of Rights allow. The Constitution was not written to be ignored, according to whim or convenience. It was not written to be suspended in hard times or crises. It is the law, and final.

Even Lincoln was spurred to abridge one of the bedrock principles of the Bill of Rights. When the Civil War broke out, Lincoln suspended the writ of habeas corpus. On suspicion of disloyalty or agitation, thousands of citizens were imprisoned without trial. Congress ratified the order after the fact, and in 1863 a compliant Supreme Court sustained it.

American civil liberties have always been battered in wartime.

In 1918, Congress enacted the Sedition Act, a blunt-edged weapon against dissent. The act authorized severe punishment for anyone during wartime who should "utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language" about the flag, the Armed Forces or their uniforms, the Constitution, or the form of the Government of the United States. If the Congress has ever struck more fiercely at the First Amendment, I should like to know when.

During World War II, this country fell into one of the most painful and disgraceful of our lapses, the internment of Japanese-Americans. The lieutenant general in charge of west coast operations gave this quaint explanation of the policy he recommended so devotedly: "The fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken." On this frail and witless supposition, 112,000 Japanese-Americans lost every shred of protection under the law. President Roosevelt succumbed to the paranoia. Every Japanese-American on the west coast was herded into centers in the western deserts and the swamplands of Arkansas.

When wartime conditions do not exist, the Government is often tempted to invent them.

In 1919, Attorney General A. Mitchell Palmer bequeathed his name to history as director of the Palmer raids, wherein thousands of political dissenters and anarchists were arrested summarily. Aliens were deported. On January 2, 1919, Government agents swooped into 33 cities and arrested 2,700 persons.

Nearly all of the sad and comic antics of Watergate were ascribed to national security. The men around the President seem to have believed that they were committing small sins to prevent greater ones.

The same delusion has flourished in the intelligence community. As Government agents, prodded by their superiors and encouraged by every administration from Roosevelt to Nixon, proceeded to the most aberrational violations of the bill of rights, they carried the heartfelt conviction that they were promoting the greater safety of this Nation. "It was my assumption," one witness told us, "that what we were doing was justified by what we had to do . . . the greater good, the national security."

The rationale is old, and it comes easy. Consider how many tyrannies have been erected, and how many liberties snuffed out, in the name of that nebulous and changeable aim, "the greater good."

The founding fathers knew better than to take the risk. They believed that power grows to the extent it is permitted, and they constructed the constitution around this assumption. Its verity has been borne out again and again, most recently by the zealous excesses of the intelligence community. These excesses were covert, hidden even from their victims. They were almost never discovered, and therefore seldom challenged, unchallenged, they grew and grew and grew.

I believe we have checked them. Our rescue has come in a resounding invocation of the doctrines of Madison and Jefferson. Those doctrines remain our greatest surety against the ill-will or carelessness of men in power, and the misconduct of their subordinates. As we celebrate our 200th birthday, we ought to remind ourselves of this, and resolve, as Jefferson advised, to "let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

EIGHTY-SIXTH BIRTHDAY OF COLONEL SANDERS

Mr. HUDDLESTON. Mr. President, during the 184 years since Kentucky became a State in 1792, many persons from the Bluegrass have left their marks on the pages of history. Kentucky was the birthplace of both Abraham Lincoln and Jefferson Davis, leaders of opposite sides in the Civil War. One of the great orators and statesmen our Nation has produced, Henry Clay, for many years represented Kentucky in this body. The list of native Kentuckians who have distinguished themselves is long and those of us from Kentucky can be proud of the legacy these men and women have left for us.

The person I wish to honor today has perhaps spread the name of Kentucky farther and wider than any of these other distinguished persons. He has made the name, Kentucky, familiar from Toledo to Taipei. He has done it with an ingenious flair for promotion and 13 mysterious herbs and spices which combined with chicken make it finger-lickin' good. He is, of course, Col. Harland Sanders, the white-clad and goateed gentleman who has made Kentucky Fried Chicken famous.

Colonel Sanders, who lives not far from my home in Kentucky, is 86 years old today. His life began 10 years before the 20th century and he has witnessed changes in this world which no one could have ever forecast. Yet he goes on today as energetic, as optimistic and as exuberant as ever.

Colonel Sanders' success and renown did not come quickly nor easily. He was well past the age when many men seek more tranquil and less demanding pursuits when he achieved nationwide recognition and a considerable measure of financial reward. His fame has since spread throughout the world. But Harland Sanders did not forget his humble beginnings. His contributions to many worthy charities are legendary.

I hope my fellow Members of the Senate will join me in wishing Colonel Sanders a happy 86th birthday.

FULL EMPLOYMENT: THE NEXT VITAL STEP

Mr. HUMPHREY. Mr. President, the Full Employment and Balanced Growth Act of 1976 represents a comprehensive solution to the boom and bust economic problems that have victimized millions of American workers and their families since the Depression years of the 1930's.

In effect, the bill, S. 50 and H.R. 50, which I have introduced in the Senate and Representative AUGUSTUS HAWKINS has introduced in the House, is the product of the hard and bitter lessons taught by periodic economic mismanagement during the Republican administrations of the 1950's and 1970's. It is a legislative statement that says the tragedy spawned by recurring recessions can and must be ended and it presents the procedures and framework to do so.

This is the historic perspective in which the legislation should be viewed. It is not a proposal designed only to answer the present recession—the worst since World War II—from which we are slowly and inadequately recovering. Rather, it is a measure presented to end the pattern of recessions that have needlessly lamed our economy and have caused the loss of hundreds of billions of dollars in the production of goods and services and millions of employment opportunities.

Mr. President, an article in the August issue of the AFL–CIO Federationist, views the Full Employment and Balanced Growth Act in the perspective of our economic performance in the last 35 years. Written by Markley Roberts, an AFL–CIO economist, the article expresses organized labor's solid support for the measure and explains how the provisions of the bill can enable the Nation to achieve and sustain maximum employment. I ask unanimous consent that this article, "Full Employment: The Next Vital Step," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FULL EMPLOYMENT: THE NEXT VITAL STEP

(By Markley Roberts)

Full employment planning is America's logical next step in applying the lessons from recent economic disasters which have thrown millions of American workers out of their jobs.

The basic idea behind such planning—as developed in the Humphrey-Hawkins full employment bill—is that all Americans are entitled to the freedom, dignity and security that comes from having a job.

Unfortunately, the human tragedy and social waste from the recessions of 1969–70 and 1973–75 and from the faltering and inadequate recovery periods in 1971–73 and 1976 emphasize the need to strengthen the nation's structure of economic security.

In the Great Depression of the 1930s, one of every four workers was out of a job. In response to the urgent problems of unemployment and poverty, Franklin D. Roosevelt and a concerned Congress put into effect a variety of programs:

The Civilian Conservation Corps, the first federal work and work-training program, put young men 18–25 years of age to work on conservation projects. The successful CCC program continued from 1933 to 1942.

Federal Emergency Relief Administration began channeling federal financial aid in 1933 to hard-pressed state and local governments to support public welfare and unemployment relief.

Work Progress Administration—later Work Projects Administration (WPA)—from 1935 to 1942 enrolled able-bodied unemployed workers in public service jobs. Their achievements are national assets, including public parks, schools, literature and art.

Unemployment insurance became the first line of defense against unemployment with benefits first paid in 1938. The federal-state system was adopted by Congress in 1935.

After World War II, widespread fears of massive unemployment impelled Congress to pass the Employment Act of 1946. It gave U.S. government the responsibility "to create conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing and seeking to work, and to promote maximum employment, production and purchasing power."

The Employment Act of 1946 was a statement of good intentions—but it lacked the structure and the tools to turn the promise of "maximum employment" into a full employment reality.

In the 1960s, various programs were aimed at preparing workers for jobs and creating jobs for unemployed workers.

The Area Redevelopment Act of 1961 was designed to develop jobs and stimulate economic growth in areas of high unemployment. So was the Public Works Acceleration Act of 1962.

The Manpower Development and Training Act of 1962 was aimed at retraining skilled workers and giving education and training to unskilled, unemployed workers to prepare them for private industry jobs.

The Neighborhood Youth Corps, a work-training program for youths aged 16–21 years, was aimed at cutting school dropout rates and giving youths paid work experience. The Job Corps took disadvantaged youths into residential centers for basic education, vocational training and work experience.

One major fiscal policy achievement of the 1960s was the 1964 tax cut, a big stimulus to private business job creation.

And monetary policies of the Federal Reserve kept interest rates low in the 1960s, thus stimulating job creating housing construction, small business investment and public investment by state and local governments.

In 1966 the Automation Commission—the National Commission on Technology, Automation, and Economic Progress—called for a massive public service jobs program. "With the best of fiscal and monetary policies," the Automation Commission declared, "there will always be those handicapped in the competition for jobs by lack of education, skill or experience, or by discrimination. The needs of our society provide ample opportunities to fulfill the promise of the Employment Act of 1946: 'a job for all those able, willing and seeking to work.'

"We recommend a program of public service employment, providing, in effect, that the government be an employer of last resort, providing work for the 'hard-core unemployed' in useful community enterprises."

In response to the 1969–70 recession, Congress passed the Emergency Employment Act of 1971 to set up the first important public jobs program sponsored by the federal government since the 1930s. This public employment program (PEP) opened up a limited number of public service jobs in state and local governments.

In 1973 Congress passed the Comprehensive Employment and Training Act (CETA) to combine existing manpower training and public service jobs programs and also to create more jobs in areas with unemployment over 6.5 percent. As the recession got worse in 1974, with 6 million workers jobless and a national unemployment rate of 6.5 percent, Congress provided 300,000 jobs by adding an emergency public service employment program to CETA.

In 1975 the official jobless total rose to more than 8 million workers. By the more realistic calculation of the AFL–CIO—which accounts for the discouraged worker no longer listed on the unemployed rolls and half those forced to work part-time—unemployment in 1975 averaged 10.8 million people. That's 11.5 percent, or one of every nine workers without a job.

In mid-1976 the Ford Administration projected continuing high unemployment through 1980. Current and continued high unemployment threatens to tear apart the fabric of America's economic and social life. Without jobs, many millions of American workers and their families will suffer still more hardship and personal tragedy.

Against this backdrop of the human damage from unemployment, organized labor and its progressive allies strongly support the Humphrey-Hawkins full employment bill, now pending in both the House and Senate. It carries bill No. 50 in both the Senate and House.

The legislation was introduced in the Senate by Sen. Hubert H. Humphrey (D-Minn.) with seven cosponsors, and in the House by Rep. Augustus F. Hawkins (D-Calif.) with more than 100 cosponsors.

In addition to the AFL–CIO, Humphrey-Hawkins is supported by a broad coalition of labor, business, farm, civil rights, religious and community groups, as well as mayors and governors and other elected officials.

The proposed "Full Employment and Balanced Growth Act of 1976" amends the Employment Act of 1946 with a policy statement that all adult Americans able, willing and seeking work have a right to useful paid employment at fair rates of compensation. It is the first fully coordinated attempt to bring together all that was learned from the various federal programs from the 1930s through the 1960s.

To support this right, the bill commits the federal government to reforms in managing the economy, including a planning process—to achieve full employment and balanced growth—in which the President, Congress and the Federal Reserve Board participate.

The major goal of the planning process is to get unemployment down within four years and then keep it down below 3 percent.

To the extent that jobs are not available in the private sector, job opportunities will be available in federally operated public job projects, in private nonprofit job projects, and in a youth jobs program.

In effect, the bill says to the President: "You must give to Congress in your annual report a specific full employment plan with specific targets, policies and programs."

To Congress, it says: "You must review and act on the President's full employment proposals."

And to the Federal Reserve System, the bill says: "You must give to the President and to Congress a statement of your intentions for the coming year on money supply and interest rates. You must show how these monetary policies will help bring about full employment—or explain why your policies deviate from the full employment goal."

Each year the President's Council of Economic Advisers must prepare a Full Employment and Balanced Economic Growth Plan. This plan is the basis for the President's proposals to Congress.

The plan must outline federal policies on taxes, spending and employment.

The primary aim of Humphrey-Hawkins is private sector job creation through coordinated fiscal, monetary and employment policies which promote healthy economic growth.

Supplementary policies to achieve full employment in both private and public sectors of the economy are aimed at reducing cyclical, structural, regional and youth unemployment and unemployment due to discrimination.

For those who cannot find jobs in the private sector, the President and the Secretary of Labor must develop "reservoirs of federally operated public employment and private nonprofit employment projects."

The program includes anti-recession grants for state and local governments, standby public works, skill training in the private and public sectors, public service employment, and transitional aid to workers returning to regular employment during a recovery.

The bill requires that the President set up programs to deal with regional and structural unemployment, including encouragement for private sector production and employment to locate in depressed regions, inner cities and rural areas with high unemployment.

Youth employment policies require action in four areas: to develop a better transition from school to work; prepare disadvantaged youths for jobs; develop more combined work-training for youths; and provide jobs for youths in conservation, public service and inner-city clean up.

A new Full Employment Office in the U.S. Labor Department is proposed to offer counseling, training and referral to private sector jobs and to other job opportunities available under the Humphrey-Hawkins bill—in public works, public service, anti-recession, countercyclical, and youth employment programs.

The President must give Congress recommendations on integration of income maintenance programs (like unemployment compensation and welfare) and employment policies to make sure that jobs are substituted for income maintenance as much as possible.

It is up to appropriate committees of Congress to review the President's proposals and make recommendations for revision or legislation as needed to achieve full employment.

The Joint Economic Committee must make specific recommendations to Congress on numerical goals for employment, production, and purchasing power—and must give to the Budget Committees its recommendations on appropriate fiscal and monetary policies.

Within 60 days after Congress sets forth this plan, each standing committee of Congress must give to the Joint Economic Committee a report with recommendations on those aspects of the plan which fall in the jurisdiction of that committee.

State and local government officials, public witnesses, members of Congress and federal officials will have an opportunity to testify on the plan in hearings held by the Joint Economic Committee.

Within 105 days after the President submits his plan, the Joint Economic Committee must send the Senate and House a concurrent resolution approving or disapproving, in whole or in part, the President's plan. This resolution, on which debate is limited in both the Senate and House, is required to "serve as a long-term guide to the Congress with respect to legislation relevant to the goals, priorities, policies, and programs recommended in the proposed plan, as modified by the concurrent resolution."

Equal employment opportunity and nondiscrimination in employment are required by the bill, which also includes labor standards protection like equal pay for equal work and minimum and prevailing wages. Specific provisions in Humphrey-Hawkins limit access to the "last resort" jobs, answering the fear that workers might leave less desirable private sector jobs for the public jobs.

The Secretary of Labor has the power under the bill to take further steps to make the "last resort" jobs program work well—including setting priorities to make sure that "persons who most need employment are given first consideration;" applying eligibility criteria to limit access to the program; and disqualifying people who refuse to accept or hold a job which pays minimum wages or prevailing wage rates as well as those who quit a private sector job to get on the "last resort" jobs program.

Equal pay for equal work requirements and requirements for payment of prevailing wages or federal, state, or local minimum wages, whichever are highest, are necessary to prevent the "last resort" jobs program from perpetuating poverty through substandard wage rates.

The wage standards of Humphrey-Hawkins are "neutral" between the private and public sectors because they simply re-affirm existing fair wage standards.

The actual net cost of the Humphrey-Hawkins bill will of course depend on the mix of programs to achieve full employment.

The Congressional Budget Office estimates that a 2 million "last resort" job program would cost from $16 billion to $27 billion—only 4 to 7 percent of fiscal 1976 federal spending.

But with more people working, earning income and spending money, the economy will operate at higher levels. There is a "multiplier" effect. Bigger business profits and higher personal income result in more tax revenues.

The Congressional Budget Office declared that "after 24 months of operation, net budget costs amount to about a third of program outlays."

The estimate of between $16 billion to $27 billion, therefore, would be reduced by two-thirds. But even these estimates are high, because good planning and well coordinated fiscal and monetary policies will stimulate the private economy and private-sector job-creation, thus reducing the need for "last resort" jobs.

Backers of the bill have fought against muddying it up with anti-inflation and price stability amendments. Current rhetoric and the policies of the Ford Administration emphasize the so-called "inflationary potential" of job creation programs.

But this same so-called "inflationary potential" of effective job creating programs is the argument used to justify job destroying, tight-money, high-interest rate policies of the Federal Reserve Board and to justify the President in veto after veto of job creating programs approved by Congress. Thus to attach "anti-inflation" efforts to the bill would be to accept the economic conditions of the 1975–76 recession and undercut the major thrust of Humphrey-Hawkins as full employment legislation.

To preach inflation is also to ignore the economic lessons of recent years—the facts which made the legislation necessary.

Lesson No. 1 of that era is that there is no longer, if there ever was, a "trade-off" between unemployment and inflation.

Every time the U.S. economy has approached full employment in the past 25 years, inflation has been far lower than it is today. And in recent years, unemployment and inflation fly high together—instead of sitting at opposite ends of the see-saw, as the trade-off theory suggests.

Most economists—and even such conservatives as Alan Greenspan, chairman of the Council of Economic Advisers, and Arthur F. Burns, chairman of the Federal Reserve Board—recognize that the trade-off theory has broken down.

Also, the tremendous underutilized potential—nearly 30 percent of industrial capacity—in the U.S. economy is driving up unit costs that would be reduced with full employment production. Lower unit costs result from higher production and higher productivity—the full employment economy on which the Humphrey-Hawkins legislation is premised.

Such a full employment economy recognizes that work is the basic source of income in our society and a job is a key measure of a person's place in society. Unfortunately, the American economy too often and too long falls far short of full employment. High, persistent joblessness condemns millions of Americans to the economic scrap heap.

Every 1 percent of our unemployment rate represents almost 1 million people. To these people, unemployment is a personal tragedy and a family tragedy.

In 1975, the nation's average monthly unemployment was 10.8 million people—11.5 percent or 1 of every 8 workers without a job in 1975.

Official reports put unemployment at an average of 7.8 million a month in 1975. In addition, there were more than 1 million discouraged workers a month who had given up looking for non-existent jobs and almost 2 million part-time workers a month who wanted full-time jobs.

Even these big numbers understate the wide impact of unemployment because 20 million workers experienced joblessness at some time during the year 1975.

Unfortunately, the situation is not improving very rapidly. The Ford Administration predicts 6 to 8 million workers a year will be officially jobless through 1979. And the Ford Administration does not expect the unemployment rate to fall below 5 percent until 1981.

This means human hardship and suffering for millions of American families. The fact that loss of jobs and steady income is temporarily alleviated by unemployment compensation, public assistance and food stamps is no consolation to those who want steady work.

Most workers are in debt for their homes, cars, refrigerators, television sets and other appliances, so the fear of harassment, guilt for unpaid bills and shame of possible bankruptcy haunt the unemployed.

Long involuntary unemployment also bring loss of the habit of working, and loss of self-esteem, often accompanied by stresses and strains in personal relationship. The tragedy of unemployment is the waste of productive human resources, a loss that can never be recaptured.

In 1975, the gap between America's potential full employment output and actual output of goods and services (as conservatively estimated by the U.S. Commerce Department) was more than $225 billion.

This staggering loss of output was more than $1,000 per man, woman and child in the United States.

Federal budget deficits in recent years are due in large part to high unemployment. Each percentage point of unemployment costs the federal treasury $16 billion—$14 billion in lost tax revenues and $2 billion in added social costs.

Full employment, therefore, is the only rational way to balance the budget. In fact, President Ford's 1975 budget message candidly noted that if unemployment in 1975 and 1976 were at 1974 levels, there would be no deficit. The President stated that "lower tax receipts and payments to the unemployed alone more than account for the deficits expected in both 1975 and 1976."

Despite this admission, a Ford Administration veto in 1976 sought to cut off a major initiative in job creation. But Congress overrode Ford's veto of accelerated public works legislation. Other job creating measures are needed in housing construction, energy, recreation, pollution control, health, education and welfare. In addition to federal fiscal action aimed at job creation through taxing and spending, there is an urgent need for Federal Reserve money supply and interest rate policies aimed at full employment.

The planning structure and the job creation programs of the Humphrey-Hawkins legislation offer a reasonable, practical, workable system for coordinating action to stimulate the American economy so that public and private sector jobs will be available for all Americans who want to work.

GENOCIDE

Mr. PROXMIRE. Mr. President, I spoke last week of provisions in the Genocide Convention which would force governments to assume responsibility for genocidal acts, be they instigated by the state or not. But this treaty extends criminal liability to include private individuals as well.

This feature is particularly important when certain aspects of World War II are recalled. For instance, many members of the Japanese Imperial Army behaved in a barbaric manner during the campaign for the Philippines; yet they later claimed that they were only acting under orders given by their superiors. Similarly, many German civilians tolerated and staffed concentration camps that were functioning short distances away. These people also claimed afterward that they committed these barbarian acts because they were obligated to follow orders. This defense was accepted by the courts in many instances, and consequently, there were persons who should have been punished but were not.

Article IV of the convention states that—

> Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

This means that no one could use the "only following orders" excuse in order to escape responsibility for his actions. Anyone who is an accomplice to an act of genocide must personally bear responsibility for it and take the consequences.

Thus, the Genocide Convention guarantees that all those who play a role in genocidal acts will be punished. Officials cannot blame the state, governments cannot blame individuals, and conversely, individuals cannot escape blame by accusing their superiors. The Senate has stalled long enough—the time has come for ratification of the Genocide Convention.

LAW OF THE SEA CONFERENCE

Mr. MAGNUSON. Mr. President, the United Nations Law of the Sea Conference still continues its snail-like pace toward development of a comprehensive treaty covering use of ocean space and ocean resources.

There has been great fanfare at this fourth 8-week session, but precious little progress. Secretary of State Henry Kissinger recently made yet another attempt to break the deadlock over deep ocean mining between developed and developing countries. That attempt appears headed for failure. The new U.S. suggestions are not considered likely to move the conference toward settlement this session. Discussion of another session during 1977 has already begun. The current New York session will end on September 17.

The Senate has already acted decisively with regard to one major issue under debate in New York—the extension of exclusive coastal return fishery management jurisdiction out to 200 nautical miles. The Fishery Conservation and Management Act, which accomplished this, was signed into law by President Ford on April 13, 1976 (Public Law 94–265). This Nation simply could not wait for the conference to quit fighting over manganese nodules while our fisheries were being depleted, And our action has had no serious adverse effect on the conference. In fact our new fisheries legislation closely resembles the draft treaty text on fisheries jurisdiction, which has changed little through the last revision. But it did serve notice that the United States means to protect its interests in the ocean.

But there are other more disturbing developments in the area of ocean scientific research which cause me great concern. In the past, the prevailing concept of "freedom of the seas" has enabled our major research institutions to follow their inquiries to almost every ocean area on the globe. Much of this research has led to greater understanding of the Earth's characteristics as well as of the oceans themselves.

Now the so-called Third World countries are insisting on marine science treaty provisions which, according to our scientists, will severely circumscribe their worldwide marine scientific research activities. For some time now, the prospect of maintaining a high degree of research freedom on the seas in the Law of the Sea Conference has been gloomy. Ideological position-taking, mistrust of the ultimate use of scientific findings, and the view that science is political power have combined to prevent any compromise by the Third World on their demand for nearly complete control of science in their 200-mile economic zones.

These nations desire absolute consent over scientific research off their shores. A large share of ocean science work occurs within 200 miles of foreign shores. If coastal nations are not obligated to allow basic scientific research, our scientists rightly fear arbitrary restriction of their efforts. As a result, valid scientific inquiry will be hindered, lessening mankind's knowledge of the important coastal margins of the world. Permission to conduct research would become politicized and offered to a nation on the basis of its political system, or its favors, or worse. Such a scheme of things is extremely disturbing.

The law of the sea negotiations are at a critical juncture. Soon a third draft single negotiating text will be prepared. If this draft does not contain evidence of compromise on the "hard line" consent position of the Third World countries, our scientists feel their cause will be lost. Distinguished marine scientists from the University of Washington in Seattle have written me about these concerns. I ask unanimous consent that their telegram be printed at this point in the RECORD.

There being no objection, the mailgram was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF WASHINGTON,
August 31, 1976.

Senator WARREN MAGNUSON,
Senate Office Building,
Washington, D.C.:

Marine scientific research seriously threatened by developments Law of Sea Conference New York. Likely that conference will put forward text providing full coastal state control over research in 200 mile zone. This will make future conduct of research difficult if not impossible in zone where most resources exploitable and effect of man's activities most evident. U.S. delegation under heavy pressure from within and from other delegations to accept. Considering your strong support marine science urge you to make immediate public statement making clear to U.S. and other delegations convention that does not protect U.S. scientific interests will face ratification difficulties in Senate. In this connection important also stress need for comprehensive law of sea agreement covering all issues including seabed rather than separate conventions on different issues. Similar telegrams being sent to Senators Case, Humphrey, Javits, Kennedy.

DONALD L. MCKERNAN.
EDWARD WENK.
WILLIAM T. BURKE.
WARREN S. WOOSTER.

Mr. MAGNUSON. Mr. President, I am deeply disturbed not only by the slow pace of the law of the sea negotiations, but by the unwillingness of other countries to recognize and accommodate reasonable U.S. interests. The scientific research issue may represent what the United Nations majority has in mind for this country—the restriction of our legitimate use of the sea for their ideological gain. If science is not in the mutual benefit of mankind, what is?

I could not, in good conscience, give my support to a treaty which opens the door to arbitrary control over scientific research in the sea. Unbridled discretion to accept or reject a scientific expedition does not belong in a sound law of the sea treaty.

I ask unanimous consent that an article from the New York Times on this issue be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OCEAN RESEARCHERS SEE A THREAT IN LAW OF THE SEA CONFERENCE

(By Walter Sullivan)

In 1779, Benjamin Franklin, convinced that the study of the seas transcends national considerations, wrote a pass for an English explorer's ship instructing captains of American naval vessels not "to consider her an enemy."

Instead, the American diplomat said, the explorer, James Cook, and his men should be treated "as common friends of mankind" in view of their efforts to increase the knowledge of the world oceans.

This helped establish a tradition that achieved international status in 1853 in an agreement for the pooling of oceanographic and meteorological information collected by naval vessels of the United States and nine European powers, including Russia.

U.N. TALKS DEADLOCKED

Today, however, in the view of many oceanographers, efforts that could jeopardize this tradition are being made at the current United Nations Conference on the Law of the Sea. The current session, which began Aug. 2 at the United Nations headquarters in New York and is scheduled to end Sept. 17, is in deadlock, but the treaty the delegates of 154 countries are working on includes, tentatively at least, proposed constraints applicable to 35 percent of the world oceans.

The proposed pact would establish national control over research in those waters, including virtually all of the Mediterranean, all of the Caribbean and most of the Southwest Pacific. It would also provide for limited censorship over publication of scientific findings.

The current session is the fifth since the talks began in 1973, and widespread pessimism was expressed last week by American and other negotiators that it would be possible to reach the avowed goal of making sufficient progress so that final agreement on a treaty could be reached in a session to be held next year. In any case, American representatives at the talks have voiced the hope that some of the research constraints tentatively included could be softened.

At the root of the constraints problem lies the concern of coastal countries, particularly among developing nations, that outsiders will deprive them of offshore resources and scientific data bearing on such resources obtained within the 200-mile limit of the proposed "exclusive economic zone." Added to that, in some cases, is a fear that research ships may actually be gathering intelligence.

At issue, as well, is the disposition of the resources that lie beyond such zones—particularly the metal-rich nodules that carpet much of the deep sea floor. Several consortiums of American and foreign companies are poised to begin fitting out large-scale mining vessels to exploit those resources.

RICH AREA DISCOVERED

One, Deepsea Ventures, of which United States Steel, a Belgium concern and Tenneco Corporation are the chief owners has announced discovery of a rich area of manganese nodules in the eastern Pacific and laid claim to it. In 16 cruises it has dredged up 164 tons of nodules. With a full-scale mining ship, the company says, it could bring up 1.35 million wet metric tons of nodules a year.

This would yield annually 11,300 tons of nickel—economically the most attractive product—plus 9,150 tons of copper, 2,150 tons of cobalt and 253,000 tons of manganese.

The company statement, a "claim of exclusive mining rights and request for diplomatic protection and protection of investment," has been submitted to a long distribution list as well as a dozen embassies, including those of Britain and the Soviet Union. According to diplomatic sources, the British rejected it outright.

The State Department replied that in its view, until the outcome of the Law of the Sea Conference deep ocean mining beyond the limits of national jurisdiction "may proceed as a freedom of the high seas." It said, however, that the department does not grant or recognize claims beyond national jurisdiction.

Furthermore, it added, the "appropriate means" for settling such questions is the United Nations conference "and not unilateral claims."

The treaty draft before the current meeting provides that "the consent of the coastal state shall be obtained in respect of any research concerning the exclusive economic zone"—that is, the 200-mile zone.

Although the purpose is to prevent outsiders from conducting research that infringes on economic rights, a number of oceangraphers question the validity of this concern.

Dr. John A. Knauss, dean of the school of oceanography at the University of Rhode Island, has pointed out that the research vessel Atlantis II of the Woods Hole Oceanographic Institution, probing the sea floor off Angola in 1972, discovered a series of buried structures resembling the salt domes associated with oil.

It is difficult to see, he commented later, how this could do any economic harm to Angola. "To the contrary," he said, "it may encourage oil companies to negotiate exploration rights earlier than might otherwise have happened."

In the last few years oceanographers have had a taste of how the exercise of sovereignty 200 miles out to sea can handicap their operations. Several countries in Africa and South America have claimed such jurisdiction with regard to fisheries and other activities, including, research.

The United States proclaimed its jurisdiction over the seabed up to a depth of 200 meters under President Harry S. Truman. And Congress passed an act this year, later signed by President Ford, that established an exclusive 200-mile fishing zone. The curbs on Japanese, Soviet and other foreign trawlers within 200 miles from the United States shoreline will go into effect next March.

Brazil requires application for a research permit six months in advance. Some governments, under internal public pressure, have held off issuing permits until prolonged delay has led to abandonment of the project.

POSSIBLE SOURCE OF OIL

Close to half of oceanographic research is done within 200 miles of land. That zone is where most marine life exists and the sea floor begins its transition from an oceanic to a continental structure.

In this transition zone are accumulations of sediment many miles deep that may contain some of the world's richest oil reservoirs. The water is so deep that ordinary drilling ships could not sink a well there with the casing and blowout preventers needed to avoid catastrophic pollution.

In the treaty negotiations, which remain fluid, it is proposed that private enterprises exploiting the seabed beyond the 200-mile zone or continental shelf must obtain a license—presumably for a substantial fee. It would be issued by the operational arm, or Enterprise, of the projected International Seabed Authority.

The Enterprise would reserve for its own exploitation half of the areas being mined and would contract with private companies to do the extraction. The profits of the Enterprise would be distributed, the developing nations hope, in a manner favoring them on the ground that the industrial nations have already taken more than their share of raw materials.

Landlocked countries would also share in the profits according to the principle, stated in a treaty, that seafloor resources are "the common heritage of mankind."

The chief current interest of those developing a sea floor mining technology is in nickel because at present the United States imports more than 70 per cent of its requirements of that metal. Sea floor nodules contain many metals in trace amounts but substantial portions of nickel, cobalt, copper and manganese.

BIG SAVING FOR UNITED STATES

It has been estimated that derivation of those four metals from the sea floor, rather than from other countries, could in the next 24 years save the United States $40 billion in its balance of payments.

The origin of seafloor nodules is still a subject of controversy. It was originally suspected that they were formed by bacterial activity that extracted metallic material from seawater, particularly that material erupted by volcanic activity along midocean ridges. This is now questioned, however.

In May Conrad G. Welling of Lockheed said at a Senate hearing that over the last 12 years the Ocean Systems division within the Lockheed Missiles and Space Company had been developing an ocean mining capability under his management. However, this project and those of rival groups are marking time before making the heavy investments needed to achieve full-scale mining.

The cost, including an onshore processing plant, would be $300 million to $600 million, Mr. Welling said. This, he added is "very attractive," when compared with costs of opening new mines on land and requires less energy.

Investors, he said, are holding back because of the "high probability" that a new international authority will "take control of the seabed resource, imposing currently undefined rules concerning production, price and royalties." That could destroy the economic viability of such a venture.

MINING METHODS TRIED

Three mining methods have been under development. One, essentially a vacuum cleaner, uses air to suck up the nodules. It is reportedly complex and rejects the larger nodules.

An alternate hydrolift system relies on upward water flow to carry the material to the surface. The third method involves a continuous line of buckets that are dragged along the bottom and brought to the mining ship.

The proposed seabed treaty emphasizes that any such enterprise must not damage the oceanic environment. It is feared that sediment brought to the surface and dumped would take many years to settle again, cutting off light from oceanic fauna and flora. Faster settling sediment could bury and kill bottom-living organisms.

If the nodules are processed at sea, toxic residues could be dumped overboard. It is believed, however, that at least initially processing on shore will be cheaper.

The treaty would probably have a profound effect on world fisheries, for each nation is expected to gain control over fishing rights out to 200 miles. This could eliminate foreign fishing off New England, if the United States so decided.

It could also, however, be used to ban American craft from the rich fishing grounds off Peru and Ecuador, the shrimp fisheries off Mexico, Venezuela and Brazil, and the rich tuna area in the Gulf of Guinea off West Africa.

SENATOR KENNEDY ADDRESSES THE GROWING PROBLEM OF CRIME

Mr. HUMPHREY. Mr. President, the subject of crime remains a chief topic of concern in America today. Our Nation's soaring crime rate, and the inability of our criminal justice system to dispense swift and sure justice to the guilty and innocent alike, has resulted in the absence of a credible deterrent to crime. It is a sad but true commentary today that crime too often pays.

Mr. President, no Member of the Senate has been more concerned with the menace of crime than the senior Senator from Massachusetts. During the past year alone he has authored three major pieces of legislation designed to deal with the problem of crime, has been in the vanguard of efforts to reform the Federal Criminal Code and has frequently and candidly spoken out on the need to attack the problem of crime through new initiatives and planning.

On September 2, Senator Kennedy addressed the annual meeting of the American Society for Industrial Security in Boston. His comments concerning the soaring growth of both street and white collar crime, and the steps that must be taken now to combat such crime, were articulate and enlightening.

Mr. President, I ask unanimous consent that the text of Senator Kennedy's speech be printed in the Record.

There being no objection, the text was ordered to be printed in the Record, as follows:

Address of Senator Edward M. Kennedy to the 22d Annual National Seminar of the American Society for Industrial Security, Boston, Mass.

Thank you very much Mr. Moran: I am pleased to be here today to join with the American Society for Industrial Security in celebrating its twenty-second Annual National Seminar. We here in Boston and throughout the Commonwealth are especially honored that this Society—which has done so much nationwide to develop sound crime fighting techniques—should choose Boston for the site of your annual meeting.

As I travel around the state I find that the problem of crime ranks right up along side unemployment, inflation and the high cost of energy as the chief concerns of the citizens of Massachusetts. Whether I'm visiting the city dweller in Dorchester or the farmer out in Great Barrington the subject of crime always surfaces. And although the Congress of the United States has committee after committee dealing with the issues of the economy and energy, you don't find too many committees dealing with the problem of crime. There are plenty of hearings held on what to do about inflation, but when it comes to crime, the input, the initiative, the debate just isn't there.

Mention crime in the Congress and everyone's against it. Ask what should be done to reduce it—silence.

Fortunately, this society, and the few others like it, has spent the better part of twenty-five years meeting the problem of crime head on. You provide, by your dedication and commitment, an example for all to emulate.

It is, therefore, a special pleasure for me to spend some time addressing crime-fighting professionals about this growing problem which is fast becoming the exclusive vocation of the professional—crime in America.

The grim statistics are there to examine—during a recent three year period, sixty-five percent of the offenders arrested in our country had previously been arrested two or more times; a full one-third of the prisoners sent to federal institutions have been previously committed three or more times!

This is law without order; crime without punishment.

But I don't have to tell you that there is a crime problem in America. You confront it everyday in countless forms and disguises. You've undoubtedly heard all of the theories about what causes it, the reasons for its growth and all of the proposals for simple solutions. You've listened to the political promises, the slogans like "law and order" and "domestic tranquility", and the announcements of a "secret plan" to eliminate crime. And you know better than anyone that there are no secret plans, no magic formulas for reducing crime; that tough talk about "law and order" is just that—political talk that does nothing to bring the soaring crime rate down.

But you don't need a sermon on any of these subjects. You wouldn't be here if you did.

If the nation's criminal justice system is to be effective in reducing crime in this country it must continue to receive help from you, the private sector. It is not enough for us—either as organizations or individuals—to hand off the crime problem to law enforcement officials and then forget about it or expect it to go away. The easy way out won't work when it comes to crime. A total community effort is needed.

And this is where your role comes into play. Government looks to you to initiate security measures which will both reduce the opportunity to commit crime and aid in the apprehension of the offender.

We speak generally about the growth of "crime" in America but crime and the professional criminal wear different cloaks and fit different labels. "Street" crime, white collar crime, organized crime, public corruption—all continue to soar despite the best efforts of our law enforcement agencies.

No doubt the crime which causes the most concern to Americans is violent street crime and with good reason. Violent crime has jumped 126 percent since 1968! A larceny or theft occurs every five seconds; a burglary every ten seconds, a rape every five minutes.

And these are only reported crimes. It is estimated that almost two-thirds of the violent crimes are never even reported to the police!

Nor is violent crime a phenomonen of our inner cities. The suburban homeowner and rural farmer can no longer take comfort in the thought that such crime only happpens somewhere else. Recent FBI statistics confirm that such crime is increasing at a faster rate in rural and suburban America than in our larger cities.

Even when we are not personally touched by violent crime, we find ourselves altering habits and lifestyles just to avoid the threat and danger of becoming another victim. Studies show that nearly half our citizens are afraid to walk in their own neighborhoods at night for fear of being mugged or robbed. Our elderly citizens have become virtual prisoners in their own homes, afraid to venture out even to visit the grocery store or their own doctor.

The sad and tragic fact is that today in America it is the law abiding citizen that finds himself confined in his own makeshift jail. It is not an ordinary jail. There are no bars or patrolling prison guards; no ten foot walls prevent escape; the pleasures of television, radio and the telephone are readily available. But it is a jail nonetheless, a jail in which fear of being mugged or robbed becomes a substitute for prison bars, and locked doors prevent unlawful entry not escape. The great majority of peaceful citizens in our nation are trapped in their own homes, afraid to venture out, while the violent criminal—the mugger, the robber, the burglar, roams free.

The time has come to deal forcefully and directly with those who would deny to others the constitutional guarantees of life, liberty and the pursuit of happiness.

The time has come to provide freedom to all the citizens of our nation—freedom from fear.

Year after year the Congress appropriates billions of dollars to protect the United States against foreign threats. A week doesn't go by without some new plea by the Defense Department for more financial aid—the B 1 bomber, the Minuteman missile, just ask for it and Congress is ready to put its hand in the taxpayers' pockets one more time.

Why should it be any different when the threat to America comes not from abroad but from within? Why shouldn't government—all levels of government—be willing to act forcefully and dramatically to deal, not with a potential crisis but a very real crisis which confronts us now. Society need not stand by helplessly while the criminal offender rules the streets.

And who are most often the victims of crime—the very same people who get the short end of the stick on health care, education, housing and jobs—the poor, the elderly and the minorities of our inner cities. Seventy-nine percent of the nation's blacks see crime as their number one concern. To be secure about one's own safety, to be free to walk city streets, is as basic a civil right as there is. Along with the civil right to vote, go to school and have a job, is the right not to be mugged, robbed or assaulted. The poor, the black and the elderly in particular have lost this civil right in the last eight years.

We all pay a high social cost by failing to fight violent crime effectively—costs measured not only in terms of fear, but also in terms of heartbreak, barricaded homes and the destruction of our quality of life.

To those who say that crime can be controlled by demolishing city slums, ending poverty and discrimination and providing decent health care and education for all our citizens, I say that I will continue to pursue these important goals, pursue them vigorously because they are just and right. My record on such issues is clear and undeniable. We cannot ignore social goals and meet the obligations of our history. They must be constantly pursued by men and women of conscience in public and private life.

But let us not confuse social progress and progress in the war on crime. A fair and workable system of law enforcement is a goal we must strive for in and of itself. We delude ourselves if we say, "no crime reform until society is reformed." In every society there will always be those who, whether motivated by greed or anger, perversity or frustration, poverty or intolerance, illness or ignorance, refuse to live in peace with their fellow citizens. We must act now free of the passions of past debate, to remove this threat from our streets.

How? By assuring swift and certain punishment of the criminal offender. In 1960, if you committed a crime; you stood one chance in about thirty-five of winding up in jail. Today, your chances of being jailed are down to one in one hundred! Think of it. Anyone who commits a crime today has a ninety-nine percent chance of success in avoiding punishment!

This must change. The vast majority of criminals are rational. They play the odds. Effective deterrence requires that the odds of apprehension, conviction and confinement be reduced. A prospective criminal must believe that if he is caught, the chances are high that he will be swiftly tried and, if convicted, punished.

To help make credible deterrence a reality, I have sponsored legislation providing federal aid to localities plagued with court congestion. This legislation follows months of Senate hearings which I held, examining the problems of court delay and its effect on the administration of criminal justice.

In addition, I have introduced legislation calling for the imposition of mandatory minimum sentences without parole in cases of violent street crime. The law should be clear and unequivocal on the need for imprisonment of the violent offender. Imposing such a sentence is not grounded in any theory of vindictive punishment. Rather, it arises from the need for certainty of punishment as the most effective way to deter potential offenders from their criminal conduct. Mandatory sentencing also serves the vital purpose of locking up the violent offender and keeping him off the street.

But crime does not end on the local street corner. Hardly a day goes by without some new disclosure of consumer fraud, government corruption and tax cheating. White collar crime, organized crime and political corruption, although often invisible, constitute big business.

These "businesses" aren't listed on the "Big Board". They don't need or want an advertising budget; no formal balance sheets or profit and loss statements are kept. But they are most assuredly criminal conglomerates, interested solely in profits and operating on a twenty-four hour a day, three hundred and sixty-five days-a-year schedule.

And business is just great! White collar frauds and embezzlements have increased over three hundred percent since 1969. And they carry an enormous price tag. The white collar criminal runs up an estimated bill of over forty billion dollars a year! Forty billion dollars—more than ten percent of the entire federal budget!

And this is only the short-term, direct cost of such crime; it does not include the potential long term consequences to the public of corporate health and safety crimes.

And who pays the bulk of this bill? The consumer and working man, the victims of consumer frauds, illegal price fixing and other anticompetitive practices.

Meanwhile, crimes against legitimate businesses total almost twenty-four billion dollars, about fifteen percent of all corporate profits! During 1975, banks lost nearly five times as much from white-collar crimes as from armed robbery; one ripoff artist used three hundred identities to accumulate one thousand credit cards and six hundred and sixty thousand in cash!

These offenses do not often involve acts of violence. No smoking gun, no bloodstained knife, no wails of police sirens are usually associated with their commission. But the effect of such crime is the same—to leave the victim emotionally broken, economically harmed, and, most importantly, skeptical of the effectiveness of our criminal justice system. The failure to investigate, prosecute and punish the white collar offender, the organized crime racketeer, and the corrupt government official leads to a loss of public confidence in the integrity of our political, economic and governmental institutions.

The heart of the problem in combating such crime is a lack of will, a lack of responsible leadership in high places and at every level of government. Over the past decade alone we have witnesses four outstanding studies of crime by Presidential Commissions. These studies could show us the path to take if we only had the sense to pay attention.

But the tragic fact is that these reports have not received the attention they deserve. Why? The absence of responsive public leadership pursuing vigorous programs leading to the conviction and jailing of white collar crime would be far less serious today, the rate of such crime far lower, if the studies and recommendations of the past had been translated into effective public policy by those in a position of leadership.

We must urge judges to become "collar blind" as well as "color blind" in sentencing the convicted offender. Too many people in this country believe that the stigma of a criminal conviction is sufficient punishment for the white collar criminal. But lenient sentences of probation accompanied by small fines are often looked upon by the white collar criminal as simply a "cost of doing business." At the same time the street offender, unable to afford expensive counsel, serves a long term of imprisonment.

It is difficult to justify imprisoning a ghetto youth for theft of an automobile while at the same time placing on probation the corrupt government official or crooked businessman who loots the public treasury of millions of dollars!

I have introduced legislation which would eliminate arbitrary sentencing practices by requiring the courts to sentence all convicted offenders within prescribed guidelines. It would end the differential treatment and sentencing disparity which threaten to undermine the very fabric of our criminal justice system.

I have also co-authored "the Watergate Reform Bill" which, for the first time, addresses the serious problem of the federal government investigating and prosecuting criminal wrongdoing by the government's highest officials. A statutory procedure to deal effectively with future Watergates is absolutely essential.

Ladies and gentlemen, it is time that judges authorize the same stiff sentences for the businessman or corrupt official who uses a pen instead of a gun to rob the public!

If prison deters anyone, it is the white collar criminal who sits in an office and coldly balances the risks of his criminal scheme against the potential payoffs.

My suggestions today are not offered as some magic cure for the complex and elusive problem of crime. There is no simple answer. But strong, positive steps must be taken now to begin to reduce the rate of crime. Failure to act now cannot help but nurture an already growing public cynicism about our own institutions.

The homeowner who reads about a recent flood of burglaries and robberies in the neighborhood; the taxpayer who listens to the news about bill gouging in medicaid; the manufacturer left with an unexplained inventory shortage; the merchant stuck with a drawer full of worthless checks; the juvenile who witnesses the corrupt activities of public officials—all this leads to a brooding cynicism which not only inhibits corrective action but also stimulates others to cut corners.

Bribery, kickbacks, under-the-table campaign contributions and other serious charges have been leveled against more than eighty-five major American companies in the last few years. For some businessmen—by no means a majority—the old axiom of caveat emptor has been replaced by a new slogan—"In business, anything goes."

A moral indifference has set in because the government itself seems to lack both integrity and an ability to protect the governed.

All this must change. The time for talk and empty rhetoric is long past. We must begin to take the practical steps necessary to deal with the soaring increase in crime. Our agenda is a large one. The enormous challenge of crime confronts us and answers will not wait. The passions are high but the stakes are even higher. Your support—as professionals involved in the war on crime—and the support of all our citizens is needed in this effort. Together we can take those responsible steps that have a reasonable chance of bringing progress in the difficult but still winnable war on crime.

REMARKS OF SENATOR PACKWOOD AT SENATE PRAYER BREAKFAST

Mr. BAKER. Mr. President, from time to time, not as often as I would wish, it is my privilege to attend the Senate Prayer Breakfast, a Wednesday morning tradition, universally respected. Great men and women have delivered messages of great inspiration on many occasions to that distinguished group, but I believe I have never heard one more meaningful and significant than that delivered by our colleague, Senator PACKWOOD, on August 4. It is my pleasure to offer the text of those remarks to my colleagues, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

HUME, HEGEL, AND TOYNBEE

This is a particularly auspicious morning for me because I'm going to use as part of my text George Sabine's "History of Political Theory." I see Mark at the end of the table, and for two years when I was a political science student of his, I had to listen to him lecture to me and today he has to listen to me lecture to him.

I'm going to take three philosophers and tie some of their philosophies together. Then I'll try to translate what their philosophies are into problems that we face today.

The three are David Hume, who was a conservative English philosopher of the 1730's and '40's; Frederick Hegel, a German philosopher of a later period; and then Arnold Toynbee, a contemporary historian and philosopher.

I'll start with Hume because he is the most significant to English political philosophy and to ours because of what we took from England in so many ways. Hume in 1740 wrote a book called the "Treatise of Human Nature." It had such a stunning impact on philosophy that even Immanuel Kant, the great German philosopher, said that he awoke from thirty years of intellectual slumber when he read Hume's "Treatise of Human Nature." Professor Sabine described it as follows, "This work occupies a critical position in the history of modern philosophy and its importance is not even mainly in the field of political philosophy. At the same time the general philosophical position that Hume developed had a profound bearing upon all branches of social theory. What Hume supplied was a penetrating logical analysis which, if accepted, destroyed all of the pretentions of natural law to scientific validity. In addition, he extended this critical result to specific applications of natural law in religion, ethics and politics . . . Hume undertook to analyze the concept of reason as this term was customarily used in the system of natural law to show that under this term there had been uncritically combined and confused three factors or processes which are quite different in their meaning. The effect of this confusion was to describe as necessary truths or unchallengeable laws of nature and morality propositions which can make no claim to such absolute certainty."

The theology and philosophy of natural law was very paramount at that time. The natural law theory said that there were certain immutable laws in science and among men and that somehow you could divine them directly from God. This was a more prevalent philosophy in continental Europe than it was in England. But even England to some degree shared it. Certainly the theory of the divine right of Kings was one branch of that concept that somehow God had endowed certain kinds of government with divinity and they were not to be changed.

Hume looked at the theory of natural law. He divided reason, as the term was then used, into three categories. He said first, you've got the kind of reason where you reason from a permise to a conclusion. It's a mathematical kind of reasoning. He said it is pure reason but it doesn't prove the truth of anything. All you have is a premise and reasoning from the premise you can come to a conclusion. It doesn't prove the conclusion is true because you don't know if the premise is true. But it is a method of reasoning.

Second, he took what he called cause and effect reasoning. He would use the example of Newton's apple—you hold the apple, let it loose, and it falls. It's a cause and effect. There's no necessary morality to that cause and effect; there's no necessary truth to it and as a matter of fact, two centuries later we find that in space the apple doesn't fall. It's simply weightless. It stays in the same position. So there was no necessary truth to many of the causes and effects which in 1740 were regarded as having divine verity.

Third, Hume examined what he called the codes of human conduct. This is what we're most inclined to ascribe natural law to: that there are certain immutable things, eternal truths, that govern mankind. Hume said that those were really conventions of convenience. As such, they were not to be demeaned. They are very important; they give government stability. But, we use them and we keep them not because they were divinely inspired, but because over years or centuries of experience, we have found that they produce a better result than other forms of experience that we may have tried at one time or another and found wanting. Again, Hume says there's no necessary morality to these "conventions"; no necessary "truth"; no necessary "rightness"; but our experience teaches us it's a better way to proceed than other ways.

English history is really full of that kind of philosophy. Most of the traditional English civil liberties, which generally are all of the acts of Parliament guaranteeing civil liberties from roughly Magna Carta in 1215 to the English Bill of Rights in 1688, were based on experience—not divinity. In most cases the preservation of English civil liberties was nothing more than individual acts of Parliament, passed after years of experience. Englishmen collectively decided it was necessary to limit the power of government and especially to limit government's power over Englishmen's civil liberties. It was necessary to pass certain laws to restrain majorities, to restrain kings, to restrain Parliaments. But England wisely never ascribed to those Acts any kind of divine quality.

The common law, the English Judicial System, is a perfect example of what Hume was talking about. There was never, in all of the Court cases in England, never any indication that somehow God had divined certain results. Of course, the common law changed. Every fifty years or so, as the Courts would see new circumstances, they would change their decisions.

By and large the United States followed the English rather than the continental European philosophy. We were never a strong, natural law country. Our Declaration of Independence was phrased in terms of natural law. That is understandable, however. At that time, we weren't taking much from English law. In the Declaration of Independence we say, "We hold these truths to be self-evident, that mankind is endowed by his creator with certain inalienable rights." That is very much natural law language. By the time we came to writing our Constitution, however, it was much more English. Our Bill of Rights was copied from England. Additionally we added to it freedom of the press and freedom of religion which England did not protect. Those were innovations of this country rather than England. The whole Constitution doesn't really speak of being from God, or of being divine. It was the history of experience and what do we need to do to limit government; what do we need to do to protect mankind. We drew very heavily on our English background.

Now that's Hume. There is no natural law, no natural morality but certainly strong conventions and codes of conduct which we find to be necessary in order to have stability.

Move now to Frederick Hegel, a German philosopher, much maligned because of later deviations from his philosophy that he would not have stood still for. Hegel came up with a theory of studying history called the "Dialectic." He thought by applying the dialectic you could look at history and be able to reveal what the future would hold. He thought you had a continual outpouring of ideas, new ideas tumbling over old ideas, and that they would finally culminate in the Nation State. He regarded this as the highest form of government and that these ideas would be continually outpouring and revealing themselves almost for eternity until you finally had a perfect Nation State.

Hegel used three terms—thesis, anti-thesis, and synthesis. His concept of the "thesis" was that there would be an idea. This idea was ongoing, but eventually, at some stage, the idea, not being irrevocably right, was met with a counter idea, the "anti-thesis." As these two clash together, out of it comes a "synthesis" which is in essence a new idea (that is, a new "thesis"). This new "thesis" goes on and meets another "anti-thesis" producing a new "synthesis" which in turn becomes the new "thesis" and so on continually. Hegal analogized this process to waves at the ocean coming in and breaking (the thesis), then falling back and hitting the next wave coming on (the anti-thesis), forming a new wave (the synthesis), and so on.

Marx distorted Hegel. Marx said that mankind isn't interested in ideas, they're interested in goods, materialism. And he applied the dialectic and called it "dialectical materialism." He said the inevitable result of his study of history, using the dialectic, is the inevitable coming of communism and materialism. That would stand Hegel on his head. I don't think he ever would have conceived of that but it didn't do much for Hegel's reputation to have Marx grab the dialectic and attach materialism to it instead of ideas. The dialectic was even further demeaned during Hitler and the Third Reich because they seized upon the idea of Hegel's evolutionary national state and said that Hegel was sort of a patron saint of the Third Reich. I don't think Hegel would ever have tolerated most of the things the Third Reich stood for. But between Marx and Hitler, Hegel was put into a good deal of disrepute for a long period of time.

Now take Hume's concept—that there's no natural law; take Hegel's concept of the thesis, the anit-thesis, and the synthesis, and view them in light of Toynbee and his Study of History. Toynbee really did not study democratic civilizations. They hadn't existed long enough. We have not had what he would have called a civilization of democracies that was born, fluorished and died. So all of his studies of civilization were in essence dictatorships and monarchies, call them what you want. Toynbee concludes in his Study of History that all civilizations fall because they cannot change. They become too rigid. At the very height of their power and glory, they have within them the seeds of their own destruction. He even uses in his Study of History the concept of the thesis, the anti-thesis, and the synthesis. The thesis is the civilization at its absolute glory but within it or without it, is an anti-thesis trying to chip away at it trying to get it to change, trying to come forth with a new synthesis. The problem Toynbee says is that all of these dictatorships or monarchies in the past fell because they could not change. They could not adapt. They had too much natural law in their philosophy, too much rigidity in their thinking, too many absolute verities that they knew were true and therefore, if they were true and God had inspired them, they should not be changed. They were not true and they could not stay true and those civilizations could not stand against this continual pushing at it of new ideas.

I don't know if Toynbee would come to this conclusion or not. The conclusion I come to is this: Democracies, more than any other form of government, have at least the chance of continuing their civilization because by the very nature of democracy—by the very nature of what we try to build into it in terms of diversity—diversity of religion, diversity of political views—makes us more receptive to being able to change. It makes us more receptive to being able to adapt to the anti-thesis coming back to us than if we were a rigid dictatorship that was eternally convinced we were right.

Everyone of us has an individual conscience and every one of us must live by it. There's probably no better advice than that in Hamlet given by Polonius to Laertes when he said, "To thine own self be true and as sure as the night must follow the day thou can be false to no man." We get ourselves into a bind, however, if we ascribe to the actions of our government or anything we may vote upon some kind of natural divinity.

Take capital punishment. Mark and I can remember within the last 15 years in our state when it was voted out—I think over 2 to 1. Any kind of poll today would indicate it would be voted back in Oregon by about the same margin. I'm not saying that capital punishment is right or wrong. I personally happen to favor it. But it's awfully hard to ascribe an eternal verity to it if fifteen years ago we thought it was terrible and now we think it's good. It isn't a question that it was good and it's become bad. We should never say that it's eternally right or wrong.

We should be prepared to change as it is necessary to change. If we don't change, if we try to ascribe to ourselves certain vertities, certain absolute divinities, and say those are right, God has spoken to us, then I think what we're asking for it that we can become rigid because of our own thinking. We can get ourselves into a box by ascribing to God things that should not necesarily be ascribed to him. And then we are essence asking, or at least sowing the seed, for the destruction of our own civilization, because we would become so rigid in our thinking, so unreceptive to change, so convinced that God has spoken to us collectively as a Nation, that we won't be able to see the new synthesis coming on and it will wash over us and possibly destroy us.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, 1977

The Senate continued with the consideration of the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Senate Concurrent Resolution 139.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, there is doubt on the part of the managers of the bill whether or not there will be any amendments offered, but if there is one, it will be offered by the Senator from New York (Mr. JAVITS). He has been allocated one-half hour under the consent agreement. Therefore, Mr. President, I ask unanimous consent that the vote on passage of the pending legislation occur at the hour of 12:30, but if the Senator from New York (Mr. JAVITS) offers an amendment and wants a rollcall vote, that the vote on the amendment occur prior to the vote on passage and that the vote on passage then begin at the hour of 12:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, how much time does the Senator from Massachusetts wish?

Mr. BROOKE. Fifteen minutes.

Mr. BELLMON. I yield 15 minutes to the Senator from Massachusetts.

Mr. BROOKE. I thank my colleague.

Mr. President, I wish to draw the Senate's attention to a small but important function in this resolution, which is likely to be the subject of controversy between this body and the House. The recommended budget ceiling for health includes $7.4 billion for those programs we term "controllable" health programs, that is, those which are not entitlement programs like medicare and medicaid. These other health programs include vital Federal initiatives in training, family treatment, and the improvement of health care facilities.

It is important to many of us on the authorizing and appropriating subcommittees, which have long dealt with these medical programs, that the Senators who will be sitting in the House-Senate conference on the budget resolution realize the importance we attach to the $7.4 billion ceiling figure. In fact, my colleagues and I of the Senate Committee on Appropriations Subcommittee on Labor-HEW had hoped that the ceiling could be set at $7.5 billion, but we realize the tremendous constraints under which the Budget Committee has been working. The $7.4 billion figure would allow for $800 million in supplemental appropriations in this field, and we need every dollar of that amount. The House budget resolution would cut the potential supplemental appropriations back to $600 million. This figure really would wipe out essential services and facilities.

I know the distinguished chairman of the Senate Committee on the Budget and the distinguished ranking minority member are aware that significant appropriations have been left till the supplemental appropriation because there have been delays in authorizing important health care initiatives.

For example, the new Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976 was worked on by the Congress for over a year and is at last ready to be implemented. This law provides for grants to comprehensive alcoholism treatment projects and for block grants to States to deal with this dread disease. Since 46 States have now enacted laws which require law enforcement agencies to provide treatment for those alcoholics who, in the old days, would have been uselessly jailed, they are in dire need of the resources to get alcoholism treatment programs underway.

The Health Manpower Act, which has been being readied for 2 years, will be reported from House-Senate conference next week. This measure will expand health care services in rural areas and the inner cities by providing physicians, dentists, and family care specialists. It will also swell the ranks of primary care health personnel to meet the shameful shortages of such specialists which our Nation currently faces.

Other health programs whose funding depends on the supplemental appropriations bill include the eight U.S. Public Health Service hospitals, as well as St. Elizabeth's Hospital in the District of Columbia. Most are now operating in facilities which are not only antiquated, but which are so unsafe that they threaten the patients' lives in the event of emergency. This year's supplemental appropriation will be used to bring these buildings up to the Federal "life safety standards code," the fire code which every other hospital has to meet, but of which these Federal facilities are in violation.

Mr. President, if we get only the $7.2 billion allowed for these other health programs and the House resolution there will be no rehabilitation of the Public Health Service hospitals at all. The new health manpower act will be underfunded and its implementation senselessly delayed. If we were to reprogram from other categories to try to avoid these cutbacks, we would be leaving the emergency services which have just been tested and proved their worth, and the new alcoholism programs for which the States are so eager, too underfunded to be effective at all.

Mr. President, I realize that it may seem like a fine point to argue for a figure as small as $0.2 billion. I point this out to the distinguished chairman and the ranking minority member, that that is a small amount in this resolution. But I want to impress upon them that $200 million provides a great deal of care for a great number of people. It makes thousands of hospital rooms safe for their occupants. It trains hundreds of doctors, dentists, and nurses. And I hope that the members of the Committee on the Budget will do everything in their power to persuade the Members of the House that the $7.4 billion figure the Senate has wisely included is a bare minimum level of support for these tools to protect the health of the American people.

My colleague, the distinguished senior Senator from Massachusetts, who is the chairman of the Senate Health Subcommittee, I believe, has sent a letter to the distinguished chairman of the Committee on the Budget and the ranking minority member. I ask unanimous consent that that letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate Committee on
Labor and Public Welfare,
Washington, D.C., September 8, 1976.

Hon. Edmund S. Muskie,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

Dear Ed: I just wanted to drop you a note to express my appreciation for the Committee's action in increasing the ceiling for controllable health funds from $7.2 billion to $7.4 billion.

As you know, these additional funds will be used principally to support programs included in the new health manpower legislation. After two years' work, a good manpower bill has been agreed upon. A conference report is now being prepared and should be filed next week. This bill provides for a major expansion of the National Health Service Corps to provide physicians and dentists for rural and inner-city areas. It also includes a provision to ensure that 50 percent of new physicians enter the primary care specialties.

The increase in the budget ceiling is necessary so that the manpower programs may be funded at a level based on the FY '75 appropriation level and not drastically reduced as proposed by the President in his FY '77 budget. Unless this new ceiling is adopted, much of the work of the Health Subcommittee over the last two years will be vitiated.

Again, I appreciate this increase. I hope you will be able to retain the Senate level in conference with the House. This level is crucial to the efforts to get more physicians and dentists into shortage areas and to the training of more primary care physicians.

Sincerely,

Edward M. Kennedy,
Chairman,
Senate Health Subcommittee.

Mr. BROOKE. Mr. President, I repeat to my chairman and distinguished ranking minority member, that I hope our conferees hold firm on the $7.4 billion figure. First I want to commend them on arriving at this figure. Of course we wanted $7.5, but their figure is realistic. It is one with which we can work and at the same time, it recognizes the constraints. I hope that they will not go to the conference with the House with the $7.2 billion because that figure, as I have said, is of such grave importance and I urge this upon the distinguished chairman.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

I appreciate the Senator's statement and his support. We really relied heavily upon the advice of Senator Magnuson, who has a longstanding interest in this field, and were inclined to support his $7.5 billion figure for budget authority, as well as $7 billion for outlays. As the Senator knows, what we do in functions is set the overall ceiling. The overall ceiling includes uncontrollables like medicare and medicaid. What we were trying to do is exert pressure to achieve some savings in the medicaid program in the light of the recent disclosures by the Moss subcommittee and others of waste and abuse in that program. So when we set a lower overall ceiling, what we are trying to do is exert pressure, not on the controllable health programs, but on the uncontrollable medicaid program. I wish to make that clear.

We are hoping that we can sustain the figure in conference. We think it is a reasonable figure, as does the Senator. I appreciate the support of the Senator and our distinguished colleague (Mr. Kennedy). I am grateful that the Senator put his letter in the Record.

We shall do our best.

Mr. BROOKE. I thank the Senator.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes remaining.

Mr. BROOKE. Mr. President, there is no question that our test flight of the new congressional budget process shows it can fly. We clearly have a viable system for establishing policy goals and controlling spending by the Congress.

We have established a realistic spending ceiling of $412 billion and a deficit large enough to provide a continuing stimulus for the rapidly recovering economy. And, although the rhetoric of this politcial season may obscure the reality, our overall totals for spending, debt and deficit are not that different from those of the administration. The larger deficit on which the Congress has settled is larger because we have established programs to meet our Nation's No. 1 need: new jobs.

I am deeply disappointed about the failure of the Congress to enact meaningful tax reform and to tighten up procedures in medicare and medicaid programs. And those failures are starkly evident in the reduced revenues on which we will be acting today. The inability of the majority of this great body to mobolize behind a fair and effective tax system will be a blot on the history of the 94th Congress, and this resolution contains the sad, official acknowledgment of that failure.

I do have at least one grave reservation about this budget resolution above and beyond the concerns regarding health program funding, which I have already discussed. I mentioned this very briefly to the chairman, and think, the ranking minority member. The ceilings simply do not allow us the flexibility we need to manage even our modest efforts in the production and management of subsidized housing. As I understand it, these totals will not allow us to make any supplemental appropriations at all. A major concern of mine is that we may not have enough money for operating subsidies for public housing and that there may be a desperate need for supplemental appropriations. In addition, the section 8 housing subsidy program is just beginning to show positive results across the Nation, and if these successes continue, it may also need expansion in the fall.

Furthermore, I have been working all year to get expanded support for such important housing assistance programs as new construction of public housing, public housing modernization and rehabilitation loan programs. I do continue to believe that, with the tough congressional oversight of the Federal housing effort provided by the Senate Banking Committee we can provide some effective housing assistance to low- and moderate-income families within these severe fiscal constraints. But the Congress must recognize that this level of program simply cannot meet the Nation's real and pressing housing needs.

When I first came to the Senate, the distinguished chairman of the Budget Committee was on the Banking, Housing and Urban Affairs Committee, which was then the Banking and Currency Committee, so he is personally well aware of the problems this country faces in dealing with the housing crisis that we have today.

I realize that my concern is simply one illustration of the basic problem of negotiating among competing priorities. And I do believe that, overall, this budget resolution indicates movement in appropriate directions. For instance, the first resolution provided for only a little more than 300,000 public service jobs. And my attempt last spring to increase significantly the totals for this vital purpose did not gain sufficient support to pass. So I am especially pleased that we will vote today to support at least 500,000 public service jobs in fiscal year 1977. Also, I think it appropriate that the priorities have been shifted to allow for more rapid development of alternative energy sources.

But the report of the Budget Committee establishes that there is no question that our fiscal future is going to be one of sharp competition for public resources which will not expand greatly. The Congressional Budget Act clearly gives us a rational framework within which to resolve our predictable differences. I hope we will be able to perfect the process; for example, I would like to see greater coordination between the standing committees which are expert on matters of legislative substance and the Budget Committee.

And I hope we can provide more time for Members to study the budget resolution and supporting documentation after each resolution is filed. But there is no question that the Budget Committee, under the skillful leadership of the distinguished Senator from Maine and the distinguished Senator from Oklahoma, has produced a monumental achievement beyond anything we could have hoped or expected 2 years ago. We have a way to balance congressional priorities, to order our choices about what is important, and to guide the growth of our Federal budgets. The legislative branch can now exercise its constitutional responsibilities with full information about the meaning and impact of its choices. I join my colleagues in congratulating the committee on its accomplishments, and I look forward with great relish to the cooperative, creative efforts and even to the inevitable battles that we can expect as a part of this new process.

Mr. MUSKIE. Mr. President, may I compliment the distinguished Senator from Massachusetts for his excellent statement. It reflects his always constructive approach to issues, including those on which we might disagree.

But I would like to underline his concern about our failure to provide—and by "our" I am not referring to the Budget Committee in its action on this particular resolution but I am speaking about the Government of the United States—a solution to the housing crisis which confronts this country.

I am terribly concerned about the inability of new families and disadvantaged families to find homes within their reach. It is a widespread problem in my own State. It is throughout the country.

The shortcomings of this resolution in this respect are not a reflection of the lack of concern on the part of members of the Budget Committee but they reflect the absence of a program capable of achieving the goals we accept as we work on this second concurrent resolution.

As the Senator knows, we assumed $3.6 billion more budget authority for housing subsidy programs in the first concurrent resolution than is provided in this one. This one reflects the action taken by the Appropriations Committee, and I suspect there is frustration in that committee also.

So I would hope that with the election behind us, whatever the result of that election, we can move more positively and more effectively in the area of housing. The Senator will find my sympathy with him and my support with him in meeting that very pressing national need.

Mr. BROOKE. I thank the Senator.

Mr. JAVITS addressed the Chair.

Mr. BELLMON. Mr. President, how much time does the Senator wish?

Mr. JAVITS. Mr. President, if the Senator will yield me 15 minutes to start with——

Mr. BELLMON. I yield 15 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for a period of 15 minutes.

Mr. JAVITS. Mr. President, I wish to call the Senate's attention to a situation relating to unemployment which is of great importance in connection with the consideration of this budget resolution.

The fact is, Mr. President, that in the first concurrent budget resolution, budget authority and outlays were predicated on an extension of the Federal supplemental unemployment benefits program, the pricetage of which on the present formula is in the area of $500 million. This resolution before us would not provide for an extension of that program which is now to expire on March 31, 1977. The question is, if it is continued or if it needs to be continued, will there be budget authority available for the purpose?

Now, in the first concurrent budget resolution that budget authority was provided for. In this resolution it is not provided for. That is the issue. In other words, shall we accept this budget resolution notwithstanding that it does not provide for the contingency that we may wish to continue legislatively the Federal supplemental unemployment benefits program.

Now, let us understand what is involved here. The FSB program is an additional unemployment compensation program providing a maximum 26 weeks of compensation for employees who have exhausted 39 weeks of unemployment compensation, the 39 weeks being accounted for by 26 weeks under the regular Federal-State VI program and 13 weeks under the Federal-State extended benefits program which, however, relies upon the unemployment trust fund account of the States and the Federal Government, so that it is paid for either out of unemployment insurance reserves or Federal borrowing.

But the additional 26 weeks of FSB is financed strictly from Federal appropriations.

There is an added program which fits in on the chart on the side. That is the program for those who are not covered under the applicable unemployment insurance program.

Those are largely Government workers at the State and local levels of Government. This program, the special unemployment assistance program expires on December 31, but the budget resolution does contemplate the continuance of that program.

So that what we are discussing now is solely the Federal supplemental benefits program, so-called FSB, and what to do with it in terms of budget provision beyond its expiration date of March 31, 1977. That is the narrow issue and that amounts to $500 million.

I find it very hard to understand how that reduction could have been made in view of our present situation. I am not going to speculate as to why it was made. I am drawing no invidious implications whatever. But I do think, whatever explanation my colleagues, the chairman and ranking member of the Budget Committee, make, the Senate should know why they felt we should not include that half-billion dollars now.

The reasons for extension of this program are obvious and I will not belabor them.

The fact is that the unemployment picture has improved slightly. The total unemployment rate had gone down to 7.3 percent, but suddenly we find it climbed back to 7.9 percent unemployment, with 7.5 million American workers unemployed. If I had been on the Budget Committee I would want a very good reason why not to include a provision to allow the Federal supplemental benefits program to be continued.

It seems to me the unemployment level is now about as high as it was at the depths of this very serious recession.

Especially is that true when we remember that the depths of the recession only gave us a little over 8 percent unemployment. Here we are with very little material improvement at 7.9 percent unemployment, and the curve again rising.

Mr. President, I do not welcome that any more than Senator Muskie or Senator Bellmon. We will do our utmost—and I have the temerity to speak for them—to bring that rate down again in other measures we adopt. But our job in achitecting budget resolutions is to look forward to dangerous contingencies which impend.

I have very seriously considered whether to offer an amendment today to this budget resolution to add the amount of money necessary for extension of the FSB program. The debate here regarding where we stand, and how the chairman and ranking members feel about it, is largely going to determine what, after all, we should do. Hence, my desire to state the case regarding this program and then to hear from my colleagues.

As to numbers, let us remember first that the figure of unemployed, roughly 7.5 million, does not include somewhere around 900,000 men and women who have become so discouraged that they have given up the search for work. Nor does it accurately reflect the situation in metropolitan areas around the country. I have at least two such in my own State, and others have the same, which continue to suffer double-digit unemployment: in New York City, and in the Buffalo area of New York, two very large centers, unemployment continues to exceed 10 percent. Others, I am sure, have the same experience.

In addition, the very serious unemployment for blacks and for other minorities which, generally speaking, run about double the average national unemployment rate. Intolerable levels of unemployment also exist among young workers, with black teenagers running somewhere between 40 and 50 percent unemployment.

So the economy is by no means out of the woods. That is why this situation troubles me so deeply.

By way of a figure for the Senate to consider with regard to the FSB program, the best figure we can get is that there are 659,500 long-term unemployed workers currently participating in the particular program which is under discussion. That number has been dropping slightly over the last few months because a number of States have been triggered off the program because their internal situation has improved. But it has not been dropping appreciably. The Department of Labor estimates that between 1.1 and 1.7 million additional unemployed workers would be eligible to participate in the FSB program if it were extended for an additional year.

As a matter of fact, the total unemployment curve, as I said a minute ago, has gone up, rather than down.

The current authorization under this program expires as of March 31, 1977. However, unemployed workers who file initial claims for this type benefit by March 31, 1977, are entitled to continue to draw benefits for up to an additional 26 weeks.

So the first question I hope my colleagues have answered to themselves and will answer to the Senate regards budget authority to look after those claims, to wit, claims paid until March 31, and claims which, according to best anticipation, will be filed by that date, which will be entitled to up to 26 weeks of benefits under the program.

I hope that we are confined to the narrower question of what do we do after March 31, 1977 about new claims under this program.

If that is the case, Mr. President, as I say, I would like to know, because that I think is a critical factor, why my colleagues felt we should take this money out of the budget, having had it in once before.

By the way, I will say to Senator MUSKIE that, affirmatively and positively, myself, I am sure that these two Senators are as sensitive and sympathetic to what I am talking about as I am. I have no doubt whatever. This is no hardheartedness about not spending the money for the unemployed. I wish to make that very clear.

What we are dealing with is a very pragmatic problem which I am sure all three of us recognize to be pertinent and critical.

I hope, Mr. President, that today some assurance can be given to the Senate that if substantive legislation to extend this particular program is determined upon before it expires March 31, 1977, that we will not be hung up on such an extension by the fact that it is not included in this budget resolution.

Mr. President, I am well aware of the criticisms of the unemployment compensation program generally.

I am well aware of the nature of the criticism of the FSB program. Some feel that all Federal expenditures related to combating the employment effects of this recession shoud be devoted entirely to job creation programs. Others believe that long-term unemployment compensation benefits go mostly to job shirkers and those looking for a handout. While it is of course true that in this program, as in all programs designed to assist those suffering economic misfortune, some abuses do occur, the fact is that the unemployment insurance system, as it has for over 40 years, provides minimal income security for those American workers who have lost their jobs through no fault of their own.

Mr. President, it has been one of the great achievements of this recession, that the President and the Congress have determined together that they will not allow—where, because of a general economic situation, an undue amount of workers are unemployed—that situation to deteriorate into a welfare situation, with all of the inequities and the harm to the morale of the individual which that involves.

We spend the money anyhow. We pay 50 percent of the welfare costs. It may cost a little more this way, but it seems to me the President had decided with the Congress that we will not go the welfare route so long as this recession persists.

I say that, Mr. President, because I believe that we are together on the issue of policy. What we need to get together on is how is the most effective way to deal with the situation.

Mr. President, I believe we may, if we do consider the extension of this particular program, consider a new trigger for this particular program. The FSB program is currently triggered on and off solely on the basis of the statewide level of insured unemployment. In order for unemployed workers in a State to be eligible to receive maximum entitlement under the FSB program of up to 26 weeks of additional benefits, the insured unemployment rate in the unemployed worker's State must equal or exceed 6 percent. The FSB trigger requirements were enacted in June, 1975, with an effective date of January, 1976. When these trigger provisions were adopted by the Congress, I expressed my reservations about their potentially harsh and inequitable impact. At that time I said:

> I am wary of the potential impact of the trigger requirements for the FSB program adopted by the Finance Committee and approved by the Senate and the conferees. There is, in my judgment, danger that certain states which have relatively low statewide unemployment, as compared to the rest of the nation, will trigger out some or all of the FSB program next January (1976). Some of those states may well contain large metropolitan areas suffering significant unemployment, and central city areas where unemployment overall may continue to run as high as 10 to 15 percent, even though unemployment in the State as a whole is much lower. To deprive unemployed workers in those areas of the benefits provided by this Act at a time when they may well be experiencing as much difficulty obtaining employment as similarly situated workers in states with higher overall unemployment concerns me deeply.

Now that the triggers adopted last year have been in place for 8 months, I am sorry to report that the fears I expressed then have come to fruition. No workers in the following 29 States and the District of Columbia are eligible to file new claims under the FSB program at all:

Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, and Nebraska.

New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming.

In the following five States, workers are entitled to receive only one-half of their full entitlement to FSB benefits because those States have statewide insured unemployment rates of between 5 and 6 percent:

Alabama, Arkansas, Arizona, Montana, and Oregon.

Many of these States may well contain metropolitan areas with very high unemployment rates.

Indeed, that is the fact, some rates are as high as 10 percent and up to 15 percent in local areas, even though unemployment in the whole State may be lower and, therefore, that State would be triggered out. That is exactly what has happened.

I believe the inequity of this particular type of triggering becomes important.

I would note, that a 6-percent insured unemployment rate means about an 8-percent total unemployment rate, because the insured unemployment rate lags behind the actual unemployment because it takes account only of those workers covered by the regular unemployment compensation system.

As I have described, about 12 million of the American work force of roughly 89 million are not covered at all, and others may not be covered for other specialized reasons.

I advance the point, Mr. President, that we may have to substantively amend this program when we deal with it legislatively. We may decide that 26 weeks is too long under present conditions. We may decide to cut it to 13. All of this will have an effect upon the amount of money which is required, which may or may not be included in this budget resolution. I advance that again to the managers of this bill so they may phrase their answer to my question. If we need to extend the program, will we or will we not have the budget authority?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Two additional minutes please.

Mr. BELLMON. I yield 2 additional minutes, Mr. President.

Mr. JAVITS. In sum, Mr. President, I am deeply concerned that the action of the Budget Committee, in reducing the amount allocated to income security in this resolution, may preclude the Congress from acting to extend the FSB program so as to continue to provide income maintenance assistance for the long-term unemployed. We cannot permit our hopes for economic recovery to blind us to the harsh reality that millions of American working men and women continue to suffer the ravages of long-term unemployment. We have accepted the responsibility for providing adequate unemployment compensation protection for such workers, and it is my fervent hope that we will be prepared to act quickly again.

Mr. President, I hope very much we may have the answer to the two questions: One, why did we leave the money out of this resolution, having included it in the former one? Second, if we should decide to extend this program, will we be able to do it or will we have precluded ourselves from such an extension by an improvident omission in this particular resolution?

I thank my colleague for yielding.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

First of all, may I express my appreciation to the distinguished Senator from New York for raising this subject, which enables us to establish a legislative record which will be helpful to his objective as well as explaining the commit-

tee position, which I do not think is inconsistent with his position.

I think I might begin my response by saying definitely that claims filed before March 31, 1977, are assumed in this resolution. The one issue that remains is the one that the Senator identified, and that is the question of extending the program beyond March 31.

With respect to that, the committee report says this, and I believe this is the first point to be made:

> The Committee does not assume extension of the emergency unemployment Federal supplemental benefits (FSB) program beyond its March 1977 expiration date. The Committee believes that the continued improvement in the economy, enhanced by the funding of approximately 500,000 jobs through the CETA program, may sufficiently relieve the problem of extended unemployment and render the extension of this emergency program unnecessary. However, the Committee recognizes that an extension of this program may be necessary should the economic outlook worsen significantly, or should the CETA appropriations be too low to provide for the creation of the full 500,000 jobs. Under such circumstances, allowance for such an extension could be accommodated through a third budget resolution.

May I add to that my emphasis in my presentation earlier this morning of the uncertainty of the present economic outlook. There is no certainty of improvement. There is risk of deterioration that we hope will not take place. But the budget process should be flexible enough, and in our judgment is flexible enough, to respond to a deterioration which suggests action in this connection as well as in other connections.

The second point I would make, Mr. President, is that we received a letter from the chairman of the Finance Committee, which has jurisdiction over this program, dated August 30, 1976.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FINANCE,
Washington, D.C., August 30, 1976.
Hon. EDMUND S. MUSKIE,
Chairman, Budget Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In view of the impending consideration of the Second Concurrent Resolution on the Budget for fiscal year 1977, the Committee on Finance has reviewed the probable legislative activity within its jurisdiction affecting the 1977 budget. The Committee has directed that I send you this letter so that the Committee on the Budget may have the benefit of our views and estimates.

Three bills with major revenue impact in fiscal year 1977 are expected to be enacted this session:

1. The Tax Reform Act, now in conference, which extends tax cuts of $17.3 billion and loses an additional $0.3 billion in the Senate version or gains $1.6 billion in the House version;

2. The energy tax bill reported last Friday which has no net revenue impact in fiscal year 1977 because its gains (from a ½¢ per gallon gasoline tax) match its losses; and

3. The unemployment compensation bill pending in Committee which would raise unemployment taxes $0.4 billion in fiscal year 1977.

Based on the status of the conference deliberations up to the present, the Finance Committee believes it would be reasonable to estimate that the net combined effect of all of these bills for fiscal year 1977 will be a revenue reduction of $16.0 billion as compared with present law.

In the case of legislation affecting Federal spending, the Committee expects to deal with revenue sharing legislation and legislation affecting the program of aid to families with dependent children in a manner consistent with the report submitted by the Committee on June 15, 1976 (Senate Report 94-949). This report indicated our intention of reporting legislation extending the general revenue sharing program with total budget authority and outlay levels of $6.9 billion for fiscal year 1977. Similarly, the Finance Committee indicated an expectation of reporting legislation reducing expenditures under the aid to families with dependent children program by $0.2 billion in fiscal year 1977 and increasing expenditures under the social services program by a like amount. The social services legislation has already been enacted by Congress and is awaiting Presidential approval. That bill (H.R. 12455) contains the estimated $0.2 billion increase in funding for social services and provides a portion (approximately $33 million) of the anticipated AFDC savings.

Thus, the Committee intends to report legislation extending the general revenue sharing program at a $6.9 billion level for fiscal 1977 and providing the additional estimated AFDC savings. As stated in our June 16 report, if the Committee should report any legislation providing for fiscal 1977 expenditures in addition to those described above, it will undertake to recommend at the same time offsetting reductions in the same or other programs under its jurisdiction.

With every good wish, I am
Sincerely,
RUSSELL B. LONG,
Chairman.

Mr. MUSKIE. That letter does not contemplate enactment of legislation extending this program beyond next March 31. It is not negative on the point. It simply does not address itself to the point. Given that attitude on the part of the authorizing committee, the Budget Committee was inclined to take the position which it did.

Finally, may I say, Mr. President, that what we set are overall totals for these functions, including income security, which is function 600. If we provide budget authority for a particular purpose which is not used for that purpose, it then becomes available for other purposes which we may not have anticipated.

One way that we try as a committee to exert pressure upon tendencies to expand spending is to hold those total numbers down to what we reasonably believe is going to happen. If we provided $500 million additional budget authority in this function, which is not taken up by legislation extending FSB, then there is a temptation on the part of committees to use it up for other purposes. We like to discourage that.

To sum up, what we have tried to do is leave the issue open and not close it. I think our action in the first concurrent resolution indicates our underlying intentions or goals with respect to this program. We will take a look at the economy as it develops in the next few months. We will take a look at the actions taken by other committees. We will check once again with other committees in the course of the next few months. If a third concurrent resolution is necessary for this purpose, the committee is prepared to take that action.

I would like to ask my distinguished colleague from Oklahoma to add whatever comments he might like to add.

Mr. BELLMON. I thank the chairman. Mr. President, I yield myself 2 minutes.

Mr. President, I thank the Senator from New York for calling this matter to our attention. I would like to call his attention to pages 5, 15, and 43 of the committee report. The Senator from Maine, the chairman of the Budget Committee, just read from page 43, but there is a similar statement on page 5, and again one on page 15, to the effect that the Budget Committee is prepared to consider a subsequent concurrent resolution early next year if the economic data received by then do not indicate that the recovery is proceeding satisfactorily.

The Budget Committee is well aware of the concerns the Senator from New York has so eloquently expressed. However, during the markup deliberations on the Second Concurrent Resolution, we felt we had no choice but to assume, for the purposes of compiling function 600—income security, that the FSB program would not be extended beyond the March 31, 1977 expiration date.

Our decision was based on the anticipation that the funds would not be needed, given the analysis of continued economic recovery and given the anticipated funding levels of other unemployment benefit programs, including accelerated public works, countercyclical revenue sharing, supplemental revenue sharing assistance, and CETA.

Our report indicates, as I have said, that if these analyses prove to be erroneous, or should an extended slump materialize, then the committee is ready to re-evaluate our budget authority and outlay totals, and consider a subsequent concurrent resolution to make sure that economic recovery does continue.

Mr. President, the Senator from New York has done us a service in bringing this matter to our attention, but I would like to assure him that we share his concern, and the Budget Committee does not intend to stand idly by and make unemployed Americans suffer because of the termination of programs that may still be needed.

Mr. JAVITS. I thank the Senator. Mr. President, I would like to ask both Senators some questions.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield the Senator from New York 5 minutes.

Mr. JAVITS. Mr. President, I appreciate what the Senator has said, that if we add $500 million, the members are more than ready to spend it for something else; but is it not also true that this particular thing may be crowded out if we do not provide for it, because you are providing lots of other things within your budget ceiling, in order to maintain a deficit of $550 million?

In other words, is there not a danger in misleading Congress that it is not going to have to spend money which it may eventually find it is going to have to spend? Is that not dangerous? And why pick out this item?

Mr. MUSKIE. Mr. President, I do not think we necessarily picked this one out. It is an overall function total, which we do not mandate nor control. The priority for spending is claimed by spending programs. It is conceivable that in a given function, low priority programs may be funded first, and crowd out a high priority program. I do not know of any way to protect against it.

What we try to do in our committee reports, as a beginning, is try to identify the high priority programs which were assumed. We hope that is some protection. Second, as legislation comes to the floor, we try to flag items of low priority and those of higher priority, so Senators can make their choices. Third, if we find that any high priority program has been crowded out, Congress, of course, has the option at that point to approve another concurrent resolution. That is one of the tools available to us. We have not had to do that thus far. May I point out to the Senator that in the income security function, we were able to reduce the overall totals this year because the spending totals for entitlement programs have fallen below what was projected in the spring, and that may continue to happen, thus relieving some of the pressure on this function.

So all of these variants we try to project as precisely as we can, and we do not like to tighten it too much, but we like to rely somewhat on the flexibility built into the process in order to keep spending totals down as low as we can.

Mr. JAVITS. I point out to the Senator that this $500 million, interestingly enough, fits exactly the reduction in revenue estimates made by the Budget Committee, the revenue estimate on the first resolution having been $362.5 billion and the revenue estimate on this resolution having been $362 billion.

May I ask the Senator, suppose that I would submit an amendment costing $500 million to extend the program—and I will explain why it may be necessary—what would be the attitude of the manager? Here is the reason: There is a bill pending for permanent reform of the unemployment compensation system. That bill will come out of the Committee on Finance in about a week. The number is H.R. 10210. There are not too many vehicles upon which this matter can be dealt with, and I may choose to seek action to extend these benefits on that particular bill.

Now, there are two questions there. First, I realize that the committee has a letter from the chairman of the Finance Committee, but the chairman of the Finance Committee has not traditionally initiated these unemployment compensation provisions; I have. And so I must say that the committee is by no means the exclusive source, and the Senate has gone along with those provisions by a very large majority before, and we have pressed them through conference.

So I cannot simply say that because the chairman advised the Budget Committee he would not need the money, and that that is the end of the matter, because this particular chairman has not carried that ball before. I have, and I am frankly very much concerned about this omission, because it makes any amendment which may come between now and the end of this Congress subject to a point of order. If I am wrong about that, I hope I will be corrected by the manager of the bill, because win, lose, or draw, it seems to me essential that this matter be dealt with affirmatively now, if I am going to be faced with that kind of a situation.

Mr. MUSKIE. May I say, first of all, that this matter was rather thoroughly discussed in committee, and the resolution before the Senate represents the committee position, and so it is my responsibility to defend it.

I happen to believe that we have ample opportunity between now and next March 31 to review the decision. Second, in income security we did allow for three pending unemployment bills, two of which are under the Finance Committee. These two bills add $440 million in budget authority and $600 million in outlays. The third bill, to extend special unemployment assistance, or SUA benefits, adds $450 billion in budget authority and outlays.

That is what the function assumes. The Senator raises a question about our relying upon the letter of the chairman of the Senate Finance Committee. Well, we are being constantly criticized on this floor for appearing to tell legislative committees what to do. Now I gather the criticism is that we are doing what an authorizing committee recommends. It is not possible to win that ball game, and we try to strike a reasonable balance. I think we have in this case.

The letter from Senator Long, let me make clear, simply does not touch this problem. Whether he is negative or positive on it I do not know, and I would not not want to try to push him to a decision at this point; I would rather leave it open.

Second, I think the Budget Committee in its first concurrent resolution indicated its awareness of the importance of an extended unemployment benefits program.

So I think the Senator could be assured that we will watch developments with a very sensitive eye and, of course, we will have the Senator prod us if we do not, and I do not object to that. But our function as a Budget Committee is to try to reflect a consensus of the Senate on issues insofar as evidence of a consensus is available to us. We do have some responsibility, also, to exercise a positive influence on economic policy, and we try. We think we have struck a reasonable balance on this, that it is not negative on the extension, and that it is simply open-minded on the extension awaiting further developments.

Mr. JAVITS. Could I have this assurance? I shall not offer the amendment. I do not wish to cross my friends and put them in any position where they are opposing something which they really do not oppose, and that is what I would be doing. I am fully cognizant of that. But I shall ask both Senators the following: Will their disposition—and I know they cannot control their committee either—be to deal seasonably with this problem? The crack I am concerned about being caught in is the budget resolution will, of course, not cover this situation, and the opportunity to deal with it, if the situation dictates that it should be dealt with, may very well not come until there is a squeeze in terms of the available vehicle in a legislative bill coming out of the Ways and Means Committee of the House of Representatives in order to add an amendment to extend the FSB program.

We may be caught in that situation. If I pass up this opportunity to propose an amendment on the bill to reform the permanent unemployment compensation system, there may not be another chance until February or March, if any, seasonably before this particular program runs out.

So my questions would be this: One, is the 600 category broad enough now so that if in the next few weeks it is decided that we should seek an extension on the reform of the unemployment compensation system it would not at this time be subject to a point of order? Is there plenty of money in 600 though it may not necessarily be allocated for this particular purpose?

Mr. MUSKIE. May I say, first of all, that the point of order does not lie to functional ceilings. It lies with the overall spending ceiling and we are not likely to be bumping up against that between now and October 1. We would, as a committee, resist a breaching of functional ceilings, because if we do not exercise that discipline we lose all fiscal discipline.

Mr. JAVITS. That is right.

Mr. MUSKIE. But I assure the Senator that we will watch it with a sensitive eye. May I say, in addition, we welcome the Senator's assistance and the assistance of the Committee on Labor and Public Welfare in getting us data on the makeup of the 7.5 million unemployed which would be very useful in this respect. We are interested in following what happens to long-term unemployment as against short-term unemployment.

The extended program, of course, is important for the long-term unemployed and if that is changing, if those numbers are declining and unemployment increasingly is made up of people who are unemployed for shorter terms, we wish to know that.

Mr. JAVITS. That is exactly what I am getting to. If I may ask both Senators, would they act promptly, say, in January, even though it is a new Congress and committees will just be organized, upon this matter if the data is available? And we will see that it is available.

Mr. MUSKIE. We would welcome this, and we would certainly respond as quickly as we can.

Mr. JAVITS. All right. In other words, will the Senator act seasonably before March 31, at least on the budget side?

Mr. MUSKIE. If the data supports action, we would do our best on that.

Mr. JAVITS. Do I have the same assurance from Senator BELLMON?

Mr. BELLMON. Mr. President, I join the distinguished chairman of the Budget Committee in that position.

Mr. JAVITS. I thank my colleagues very much and on that basis I will not offer the amendment.

Mr. MUSKIE. I thank the Senator from New York again for raising the issue because I think the RECORD ought to be clear, and it ought to be made today, because we will be recessing or adjourning within another month, and we ought to lay the basis for that future action which we may need to take.

Mr. JAVITS. I thank my colleague.

Mr. TAFT. Mr. President, will the distinguished chairman yield me a couple minutes?

Mr. MUSKIE. Yes, I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. TAFT. I thank the chairman for yielding, and I simply raise a question with the committee relating to the energy field and specifically to uranium enrichment.

In the committee report on the second concurrent resolution it states that no funds are provided for the Nuclear Fuel Assurance Act. I am not so much concerned about the loan guarantee section as I am about the authorization for the construction of the uranium enrichment plant in Portsmouth, Ohio. The ERDA authorization for fiscal year 1977, which is still in conference, contains an authorization for continued research and development and procurement of long leadtime items for the addon plant. There is also an item in the public works appropriation bill that contains appropriation of $178 million for this purpose.

I wish the assurances of the chairman of the committee that the congressional budget would mean that a point of order cannot be raised against the ERDA appropriations because of funds being made available for the Portsmouth addon plant.

I also wish to inquire as to how much of the ERDA bill is allowed in the committee estimate for the function 300—natural resources environment and energy?

Mr. MUSKIE. The Public Works/Energy Research appropriation bill, may I say, has been enacted. The full amount provided in this appropriation bill, $178 million in budget authority, has been assumed in the second concurrent resolution for the add-on Federal enrichment facility.

Mr. TAFT. So the answer is that there would be no point of order that would lie against this appropriation.

Mr. MUSKIE. Exactly.

Mr. TAFT. I appreciate the chairman's response.

Mr. MUSKIE. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield on another question?

Mr. MUSKIE. I yield.

Mr. JAVITS. My staff points out to me that the provision respecting Ginnie Mae at page 35 again is based upon an assumption that the administration is not going to release some $2 billion or any part of it relating to the Ginnie Mae operation.

Now housing is, as the Senator I am sure knows, one of our hardest hit propositions. Many of us are piling in on the administration, as it were, to release some of that money. The House of Representatives does have a provision in its budget resolution different from that of the Senate, assuming this bill passes as it is. I only hope that the Senator, Senator BELLMON, and their conferee colleagues, will look at this thing also from the point of view of the developing economic situation and will not be, as it were, finally concluded on it because it is still going to be a few weeks before it is finally decided, and the housing situation could remain very sticky and the administration could have a different view upon any release. I simply lay that on the table for the very same reason I did with the unemployment situation so that the Senate and my colleagues may be informed on that situation.

Mr. MUSKIE. May I say to the Senator that when we considered this in committee we believed that release of the $2 billion would be a valuable step in helping the housing industry. We understood, however, that the administration was not planning to release these funds. We checked it out, and we were assured that the President had no intention of releasing those funds, and so we did not include them. If we had gotten a different reading of the President's intentions, I think the committee would have included room for these funds. As the Senator knows that money does not become budget authority until the President releases the funds.

Mr. JAVITS. That is right.

Mr. MUSKIE. So I think the Senator would find the committee flexible. If the administration has a change of position on this, I am sure the committee will respond.

Mr. JAVITS. I thank my colleague.

Mr. BELLMON. May I add that if the administration does release the funds it is possible they may be released before the end of the transition quarter which would not affect this second concurrent resolution. If they in fact released the funds, indicated, or gave a signal they are going to release the funds after the end of the transition quarter, we could take the matter up in conference with the House of Representatives. It is not our intention to foreclose any availability of money for housing but rather to try to keep the resolution in step with the intentions of the administration.

Mr. JAVITS. I thank my colleagues very much.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by a valued member of the Budget Committee, the senior Senator from Florida (Mr. CHILES). He has made solid contributions to the work of the committee. He is a conscientious, hard-working, and effective member, and I am delighted to have this opportunity to put his statement in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY MR. CHILES

It is clear that a central issue for the American people is fiscal responsibility and control over Government spending. The binding budget resolution which the Senate is passing today does not fully achieve the goals of a balanced budget and complete fiscal restraint that we would all like to see. But without the new congressional budget process we would be even farther from these goals. I personally would like to see us with lower levels of federal spending and a lower deficit. While we are still a long way from eliminating deficit spending, we are at last moving on the path toward a balanced budget. I think the weight of people's demand for fiscal responsibility in government can be seen in this resolution.

I was active in creating the new budget process and have been an active member of the Budget Committee because I think we need a mechanism to set a firm ceiling on total expenditures and to look at all our spending proposals at the same time. This lets the public know exactly what we propose to spend and for what purposes. This new method allows the public to give us direction with its opinions. It seems clear to me that the weight of this opinion has been felt in Congress and is evidenced by the new mood of fiscal responsibility. We have looked at the total level of spending and kept the public sector from growing at the expense of private enterprise.

It is necessary to have this discipline to offset the appeal of many individual spending proposals. We all feel the attraction to help deal with one or another problem by spending a little more money or cutting back on taxes. But when you put all those proposals together, they add up to big deficit spending.

I believe we are finally learning to pick and choose, to set priorities, and to stop our spending on old programs before we start new ones. Congress is at last beginning to say, as private citizens must say, "That would be nice, but we can't afford it right now."

We can be proud that we have used this new discipline in a balanced fashion. No group or program has been picked out as a scapegoat. No group has been given all the benefits or asked to bear all the burdens of recessions and inflation. We have provided tax cuts for individuals and corporations to offset the losses of recession. We have provided cost-of-living adjustments for veterans and the elderly living on fixed incomes to offset the effects of inflation. We have provided new military spending to maintain a strong defense and paid for cost increases in health and education programs. At the same time, we have said for each area of the budget, "This is the limit. You must choose what is most important and live within the ceilings."

The biggest success of the process can be seen in the new mood of Congress. Spending proposals no longer go through unquestioned. You hear it continually in other committees. Senators ask, "Does this bill fit within the budget ceilings?" We find that through the year Congress has held down its spending to fit the targets we set last spring. Budget Committee members have taken to the floor on many occasions to oppose measures that would increase the deficit. While we have not been successful in all cases, we have been successful in total.

The binding Second Concurrent Resolution, which the Senate is considering today, contains no change in the level of deficit spending which the Congress set last Spring. We were able to reduce outlays by $500 million. We were able to reduce Budget Authority—which affects the level of spending several years down the road—by $7.3 billion. The deficit is still too high, but it is $15 billion less than last year. By holding down the authority for future spending, we are ensuring that the deficit will continue to decline year by year.

The budgetary restraint reflected in this resolution does not just reflect the failure to undertake $27 billion of new spending programs which were proposed by various committees last spring. It reflects a reduction of about $9 billion from "current policy levels"—the amount of spending which would have occurred if Congress had not changed existing programs. I personally proposed over $10 billion of such restraints for a variety of programs, most of which were accepted by the Budget Committee. Not all of these savings have been achieved, but real progress has been made. The effect of these restraints is best seen by looking at their future impact. Government programs tend to start small, then grow large. The $9 billion of reductions we made for 1977 will reduce spending by $20 billion in 1980. This adds up to a cumulative savings of over $50 billion for the next four years, which means $50 billion less national debt.

At various points in its report on this Resolution, the Budget Committee reaffirms its commitment to hold down waste in government programs. Every day we learn about waste and mismanagement in a wide variety of programs. I have personally led investigations uncovering abuses in such areas as supply of meat to the military, home health care programs paid for by Medicare and administration of the Food Stamp program. Poor administration hurts the intended beneficiaries of the program at the same time it drives up costs and hurts the taxpayer. I have offered corrective legislation in each of these areas and it is anticipated that the resulting savings will be reflected in future budgets. Again, while we still have a long way to go, I am optimistic because Congress is beginning to pay attention and adopt legislation to cut paperwork, simplify procedures, rationalize grant and contract administration and tighten up on quality control.

The Budget Committee has played the lead role in relating federal spending to a responsible economic policy. We have tried to set a course of moderation that will stimulate recovery from recession without setting off a new round of inflation. By and large we have achieved these goals, though problems remain. Too many people are still unemployed, business investment is still too low and inflation remains a threat.

Government policy can avoid some dangers but it cannot solve all the problems. A central feature of our economic policy has been to channel recovery efforts through the private sector by cutting taxes. We have not allowed recession to be an excuse for new permanent spending programs. We have encouraged temporary tax cuts, but opposed permanent new tax breaks which would cause major revenue losses in the future and threaten our goal of a balanced budget by 1980 or 1981. I have worked for a monetary policy that would keep interest rates low enough to allow the housing industry and private capital investment to recover and grow.

We have learned that all these aspects of economic policy must work together. If the deficit gets too large, the Federal Reserve Board will feel it must tighten up on money supply to hold down inflation. The result would be higher interest rates and less economic growth than the deficit was expected to stimulate. Over the last year I have met several times with Chairman Burns, and I have urged my colleagues on the Budget Committee to seek a cooperative policy with the President and the Federal Reserve to better coordinate economic policy. I believe that we are seeing the results of this coordination right now. Congress has moderated its demands for deficit spending, money supply has been allowed to grow at an accomodative rate and both interest rates and inflation have been held down. As recovery proceeds and private industry begins to compete with government borrowing in the credit markets, the task is going to be even more difficult. I am optimistic that we can meet the challenge if we hold to our course of steadily reducing deficit spending and keeping the new budget process on line toward a balanced budget in the near future.

ADDITIONAL STATEMENTS

Mr. TAFT. Mr. President, when the first concurrent resolution on the budget was adopted in March of this year, the country had completed a quarter of declining unemployment, low inflation, and solid economic growth. Since then, we have seen the economy enter a pause in the rate of recovery from the previous recession. Unemployment has risen, the real growth rate has leveled off, and inflation is picking up slightly.

Because of these changing economic conditions, I can no longer support a budget resolution which is as expensive and as dependent on public sector expansion as was the first resolution.

Moreover, the Tax Reform Act of 1976, assuming one ever gets passed, contains within it a hidden $5 billion a year tax increase, in real terms, over and above any increase in revenues which might be due to a genuine economic revival. I believe that recent events have clearly demonstrated that the economy is not in condition to pay such a hefty tax increase. This resolution, and its projections for the future, rely on these hidden tax increases, which are generated by the effects of inflation on our income tax structure, to produce the rosy picture of an improving Federal budget, and a declining deficit. In my opinion, these hopes are completely unfounded.

As we continue to sit back and reap the reward that inflation brings to the Federal Government, tax rates are going to rise all across the country. The increased tax rates will act as taxes always to—they will discourage output. Taxing output reduces output. Lowering taxes on output would increase output. This most elementary of economic principles seems to have escaped the attention of the Congress. Nonetheless, even in Washington, the real world will eventually make itself known.

It is my belief that Government taxation at these levels will retard, if not destroy, our economic recovery. During the debate on the tax bill, I suggested that the Senate vote to correct the personal exemption, the standard deduction, and each income tax bracket, for the effects of inflation, which is currently driving people into higher and higher tax brackets at the rate of $5 billion a year, even when there has been no increase in real income. The Senate declined, preferring to gather more and more of the Nation's income into its hands for disposition as the Senate sees fit. This practice is strangling the private sector under heavy tax burdens, and in a mass of redtape.

Every time those of us who believe in fiscal responsibility attempt to raise taxes to narrow the deficit, the Congress takes the added money and finds a way to spend it, leaving us with a deficit just as large as before the tax increase.

I have sadly come to the conclusion that the only way to stop this insane growth of taxes and spending is to call for tax cuts, and to vote against any budget resolution which does not provide them.

When we cut taxes, we both stimulate the economy and fight inflation. The added demand generated by the tax cuts improves the market for products of all types. In addition, the lower tax rates permit our citizens to retain more of their earnings after taxes, thereby increasing the reward to labor and investment. This in turn will increase the supply of goods and services, helping it to meet the additional demand. With both the demand for, and the supply of goods and services on the upswing, we can have a genuine economic expansion with little danger of rekindling inflation. With an increase in taxing and spending, such as is provided for in this resolution, we shall get an increase in demand, and a reduction in supply as tax rates discourage effort, and reward leisure. This can only worsen inflation, and jeopardize the recovery.

It has become apparent over the last few years that the old economic theories underlying the tax, tax, spend, spend, philosophy of economic recovery are dangerously inaccurate, and completely discredited by actual events. The minority views of Senators BUCKLEY and McCLURE, and a Wall Street Journal article by Prof. Arthur Laffer, which I shall ask to have printed in the RECORD at the conclusion of my remarks, illustrate more modern economic thinking with regard to the only proper way to reduce our unemployment quickly, and in a permanent fashion, while simultaneously keeping prices in line. It is high time that the Senate took a fresh look at the theories of economics under which it operates, and for it to attempt to do a decent job on both the unemployment and inflation fronts simultaneously. It is not impossible. It simply requires that we be more honest and open concerning our taxing policies, and that we cease to draw the Nation's income further and further under our control. We can increase output without renewing inflation if we simply reward production and labor through lower tax rates, and defer expansion of our pet programs here in Washington until the economy is in shape. Premature budget and tax increases will simply retard the growth of real goods and services, and reduce Government revenues and our ability to provide the very services we are trying to increase.

I ask unanimous consent that the article from the Wall Street Journal, written by Arthur B. Laffer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INIQUITOUS "WEDGE"

(By Arthur B. Laffer)

There is no economic issue more important than relieving unemployment. Unemployment and all the attendant side effects that word connotes have been millstones around the neck of our country. Unemployment, misemployment, underemployment and withdrawals from the labor force are all different facets of the common problem.

On strictly humanitarian grounds, the plight rendered by unemployment is abominable to the wage earner and his family. The market failure to make use of a perishable natural resource makes all of us poorer. The lost value to the United States far exceeds any strict dollar measure. Part of our role as world leader is predicated upon our economic prowess. Our capacity to deter potential belligerents not only rests on our defense capabilities narrowly defined, but is further enhanced by our production base.

Perhaps no proposition is more obvious in economics than the proposition that if taxes on a product are raised there will be less of that product. Likewise, if subsidies for a product are increased, in general, there will be more of the now subsidized product.

In the United States today we tax employment through a multitude of taxes such as the personal and corporate income taxes. We also subsidize inefficiencies, nonwork, and the absence of production through a wide range of governmental programs.

It is no wonder that the United States today has fallen so short of its employment and output potentials and has so many inefficiencies and so much unemployment.

The Full Employment and Balanced Growth Act of 1976 would add to our economic and employment problems. The revenue for its expenditures can only come from current producers and employment. This act would add to the already onerous tax on employment and output. The expenditures themselves will be used to pay wages above what could be earned elsewhere. The value of the product the government extracts will also be of questionable marketability. It is inconceivable that such a program will do anything other than hurt workers, consumers, and the truly needy who rely on other government programs.

THE NUTS AND BOLTS OF HIRING

A firm's decision to hire is based, in part, upon the total cost to the firm of the employe's services. For most firms, the more it costs them to hire workers the fewer workers they will hire. Likewise, the less it costs firms to hire workers, the more they will hire.

Employes' decisions to work are also, in part, based upon the amount of earnings the employe himself gets. The more the employe gets, the more willing he is to work, and vice versa. Employes are not concerned with the total costs to the firm. All employees care about is how much they get net.

In sum, firms worry about the total wages they have to pay, while employes are concerned with the wages they receive. The difference between the wages firms pay and the wages employes receive is called the "wedge." This "wedge" consists of all taxes as well as such things as the market value of the accountants and lawyers firms hire in order to maintain compliance with government regulations.

If the "wedge" is increased, wages paid by firms must rise. Firms will hire fewer workers. Wages received by employes will fall. Empoyes will be less willing to work. Both the firm's desire to hire workers and the workers' willingness to work will be reduced as the "wedge" increases. Output unambiguously falls and the level of total employment falls as the "wedge" increases.

In the United States, the wedge can be represented by either total government spending or by the total of transfer payments. Basically, transfer payments are real resource transfers from producers and workers to people based upon some characteristic other than work or production. As such, transfer payments reduce the amount of goods and services available to the people who produced them. Transfer payments are simultaneously a tax on production and a payment based upon a charactertisic other than work. Transfers are often a payment explicitly for nonwork. Examples of this are agricultural subsidies, food stamps (income requirement), Social Security payments (retirement test), housing subsidies 235–236 (means test) and, obviously, unemployment compensation itself.

The Full Employment and Balanced Growth Act of 1976 will increase the "wedge." In virtually every aspect, this act places additional burdens on producers and workers and simultaneously gives little in the way of final output in return. As such, this act would increase unemployment and reduce total employment.

Viewing the cyclical nature of the economy from this vantage point also gives us a slightly different perspective.

Let us imagine an economy that produces 1,000 real units of output and has government spending of 500 real units. The producers and workers who produce the 1,000 real units of output are allowed to keep 500 of those units. While these producers and workers are paid 1,000 units, they receive only 500 units and therefore have a "wedge" of 50%. For every two units someone produces, he gets to keep only one. Fifty percent is taxed away and given to someone else.

Viewing the current U.S. economy in this manner, let us see what happens if, for whatever reason, there is a shortfall of income or output down from the 1,000 level to say, 900 real units. In our economy, as output and employment fall, government spending rises, here almost entirely as a result of increased transfer payments. Increases occur across a whole range of categories. Let's imagine government spending rises by 40 real units.

Therefore, while output falls from 1,000 to 900, government spending rises from 500 to 540. The "wedge" in the economy rises from 50% to 60%. Now producers and workers receive only ⅘ of one one unit for every two they produce, as opposed to receiving the one unit for every two produced previously.

By increasing spending during a recession, the government reduces the incentives to produce and work. Far from stabilizing the economy, such counter-cyclical spending, will, in fact, accentuate the cyclical aspects of the economy. The greater government spending is, and the more closely tied to the level of unemployment it is, the more cyclical will be the economy.

Several features of the Full Employment and Balanced Growth Act of 1976 impact directly on the cyclicality of the economy. By having a permanent counter-cyclical grant program to state and local governments, this act would increase the severity of recessions and heighten excessively expansionary booms. The employment program will do the same. This program raises the tax "wedge" during recessions and lowers the tax "wedge" during booms. As a consequence, the economy would become more unstable.

To achieve more employment and greater output we should make employment more profitable and make it more profitable to employ. An economy does not reduce unemployment and increase output by taxing work and employment. To see this clearly one need only imagine how much would be produced if all output were taxed away from those who produced it. Production would cease.

TAX REDUCTIONS NEEDED

If we are ever to achieve a sustainable high level of output, the tax "wedge" on producers and workers must be reduced. It is especially important for the reductions to be on marginal rate of taxation. In addition to reducing tax rates on production and work, inequitable and distortive spending must also be restrained.

At present, corporate-held capital is taxed at exceptionally high rates on the margin. Workers work better with capital. To induce people to save in order to provide the capital to employ workers, there must be higher after tax "wedge" yield. Reducing tax rates, especially the high marginal tax rates on capital, will reduce unemployment, increase employment, and attract potential workers back into the labor force.

Another tax drastically in need of reduction is the personal income tax. Here again the "wedge" is apparent. By cutting personal income tax rates, employees' after-tax wages rise while the pre-tax cost to employers falls. More people will be hired.

Cutting personal income taxes is especially appropriate seeing that a substantial portion of the current rise in tax rates results from the effects of inflation on progressive tax schedules. Perhaps the best measure would be to index the personal income tax.

The taxes on the less educated and more disadvantaged potential employes and workers are unbelievably high. If a minority youth in a poor neighborhood would like to work for $1.50 an hour and a small minority-run business would like to hire him at that wage rate, he still can't legally work because of the minimum wage law. After being unemployed for several years, the person becomes close to, if not literally, unemployable.

While complicated tax schedules and arcane building codes, along with other modern bureaucratic developments, can be coped with by college graduate entrepreneurs, they present a serious impediment to the economic development of the poor and less educated neighborhoods. As if there already weren't enough difficulties inherent in starting a successful business in poor neighborhoods, the government-imposed tax "wedge" is probably at its highest there. It is precisely in these neighborhoods where the Full Employment and Balanced Growth Act of 1976 will be used the most. It is rather ironic that one massive government program is proposed to undo the damaging effects of others. It is tragic that this new program would result in further deteriorations in areas already heavily deteriorated.

I doubt very much whether the United States can maintain peace time full employment without a substantial reduction in the level of government spending as a share of GNP. At the very least, this spending must be redirected in such a way as to reduce the direct incentives for non-production and non-employment.

Mr. PELL. Will the Senator yield for a question?

Mr. MUSKIE. I yield to the Senator from Rhode Island.

Mr. PELL. The budget resolution is premised on an assumption, in function 500 that the participation rate in the BEOG's program would be 74 percent; is that not correct?

Mr. MUSKIE. That is correct.

Mr. PELL. We are now given to understand that the participation rate under that program may well be 83 percent. Would that not require an increase in the functional totals for function 500?

Mr. MUSKIE. As of now, the 74 percent assumption is official, and we have no other information. In the event that OMB should advise us that the participation rate is greater. then we will have to take that into account as we would any other reestimate. If there is no additional room at that time within the budget, then rising the functional totals to accommodate the reestimate becomes a compelling alternative, and we would have to consider it if a third budget resolution were considered next year.

Mr. PELL. I thank the Senator.

Mr. GLENN. Mr. President, I would like to determine if the distinguished Senator from Maine can assure me that under a reasonable set of circumstances full funding of the energy conservation and utilities programs contained in the recently enacted FEA extension legislation would be consistent with the second concurrent resolution on the budget.

Mr. MUSKIE. Mr. President, let me say first that I share the Senator's concern for funding energy conservation programs.

In constructing the function 300 ceilings, in which these programs are classified, the Budget Committee anticipated that funds would be appropriated in fiscal year 1977 for the new energy conservation programs authorized in the FEA extension bill. We estimated that $150 million in budget authority with resulting outlays of $50 million would be provided. This is an estimate, of course. It was too early to obtain a precise number from FEA or the Appropriations Committee. We asked FEA and the committee to provide us with a number but they were understandly reluctant to do so. So we estimated as best we could.

Additional funds could be assumed for these new energy conservation programs, if other programs for which the Budget Committee assumed funds in the resolution are not passed or are not appropriated at levels we anticipated.

But I do want to emphasize that we did assume some funding in the resolution for these new programs.

BIG BUDGETS, BIG DEFICITS, AND BIG GOVERNMENT

Mr. CURTIS. Mr. President, on March 16 of this year I documented for the Senate persuasive evidence that the American people are clamoring for the Federal Government to balance its budget. This is clear from the testimony presented at the Senate hearings last fall on a resolution before the Senate, Senate Joint Resolution 180, to require balanced Federal budgets.

One incontrovertible fact dominated the hearings. One overwhelming concern permeated the testimony. That fact, that concern, is that American Government is big and steadily getting bigger. And the one dominant factor that has made this phenomenal growth possible is the readiness of Congress to spend vast sums of money that we do not have.

Let us look at what is happening at the national level. Federal Government expenditures rose from $71 billion in 1952 to nearly $245 billion in 1972, an increase of 244 percent. Only 3 years later, in 1975, expenditures had increased by nearly another one-third, to $325 billion. The congressional target for Federal expenditures for 1976 was $367 billion. President Ford, in his budget message to Congress in January of this year proposed expenditures of nearly $395 billion for fiscal year 1977. Congress more likely will want to spend over $400 billion. These are real increases relative to private production. One of the economists testifying before the subcommittee warned that since 1965 Federal spending has increased at a substantially faster rate than the increase in national output.

Many statistics were aired at the hearings. All inevitably pointed to the same conclusion: Government is big and getting bigger. Congressman JACK KEMP of New York put it this way:

> It took this country 185 years to get to an annual spending level of $100 billion, but it took only 9 more to double that to the $200 billion level, and then only 4 more years to reach the $300 billion annual level.

Furthermore, Federal grant-in-aid programs during this period provided the Federal Government with leverage in State and local government which is tantamount to an extension of the Federal Government itself.

While large deficits made this expansion possible, disproportionate increases were made for domestic programs. Budget analysis reveals that in real terms we are spending less and less for defense and phenomenally more and more for domestic programs, particularly for welfare-type programs. Economist Roger A. Freeman of the Hoover Institution at Stanford University stated in his testimony that during those two decades:

> Outlays for National Defense dropped from 13.5% of GNP to 6.8%—or about half their former size. They may be estimated below 6% of GNP in the current fiscal year. Spending for domestic purposes simultaneously jumped from $12.3 billion to $130.9 billion; as a percentage of GNP they went from 3.6% to 11.3 percent. They may be estimated at 14 percent in FY 1976.

To put this in clear perspective: It took 163 years, from 1789 to 1952, for Federal expenditures for domestic purposes to reach a level of $12 billion. In the succeeding 20 years, they multiplied more than tenfold, from $12 billion to $131 billion.

When Federal, State, and local expenditures are combined, spending by all governments for health, education, and welfare were shown to have increased by 833 percent between 1952 and 1972, while the total of all other public expenditures increased by only 164 percent. These figures indicate that the Federal Government has, in fact, accomplished a massive reordering of priorities over the last two decades. The Federal Government not only pursued policies resulting in bigger government, Federal, State, and local, but in the last two decades these policies spawned a government which can only be described as bearing all the trappings of a welfare state.

Former Secretary of Health, Education and Welfare, Caspar W. Weinberger, in his valedictory before retiring from Federal service in July 1975 warned us in concrete terms of the direction in which we are headed:

> My single overriding observation after these years in Washington is of the growing danger of an all-pervasive Federal Government. Unless checked, that growth may take from us our most precious personal freedoms. It also threatens to shatter the foundations of our economic system. When I came to Washington in 1970, the Federal budget outlay stood at $196.6 billion. It is now $358.9 billion, an increase of 83%. Apart from its sheer magnitude the most noteworthy thing about this trend is that Federal spending has shifted away from traditional Federal functions such as defense and toward programs that reduce the remaining freedom of individuals and lessen the power of other levels of government. . . . There is an overriding danger inherent in the growth of an American welfare state. The danger simply is that we may undermine our whole economy. If social programs continue growing for the next two decades at the same pace they have in the last two, we will spend more than half of our whole Gross National Product for domestic social programs alone by the year 2000.

Such expansion of welfare state expenditures has only occurred because of massive doses of public debt expenditures. From 1961 to 1976 there were 15 years of deficits, which, including projections for 1975 and 1976, resulted in a cumulative deficit for those years of $213.9 billion. Moreover, the deficits are growing in magnitude. For the 8-year period, 1961 to 1968, the cumulative deficit was $60 billion. During the 5-year period 1970 to 1974, by contrast, the cumulative deficit was $67 billion. And the cumulative deficit for the 2 years, 1975 and 1976, was estimated at the hearings as more than $86 billion. These estimates have proved too low.

My observations are not intended as a polemic aimed at big government, or even at welfare states. I find it perfectly proper for a legitimate debate to lead to the responsible development of whatever public policy may appear to be in the interests of the American people.

However, the reordering of priorities has not been a responsible endeavor. The high costs of welfare programs have not been tied to the taxes which would reflect the true private costs to the citizens. Rather they have been facilitated, particularly in the last decade, by paring down the defense budget and by going deeper into debt—in fact, the scale of these new domestic programs would not have resulted without deficit finance on a scale hitherto unknown outside of war years. This is flagrantly dishonest, for the public eventually has to pay for these programs through the hidden tax of inflation.

Mr. HRUSKA. Mr. President, the second concurrent budget resolution recommended to the Senate by the Budget Committee in Senate Concurrent Resolution 139 does not differ in any substantial way from the first budget resolution approved by the Senate last May. My vote was cast in opposition to the first budget resolution because it was based on the erroneous notion that more Government spending can cure our economy's problems of inflation and unemployment. Senate Concurrent Resolution 139 is predicated on this very same fallacy. I must, therefore, vote against it.

Mr. President, our present problems with inflation and unemployment are caused by excess Government spending, not cured by it. The Senate leadership asks us to approve of budget goals that aim at a deficit of $50.8 billion, of a spending level of $412.8 billion or about $14 billion more than recommended by President Ford, of $362 billion in tax revenues or about $10.5 billion more than recommended by President Ford.

In short, Senate Concurrent Resolution 139 asks us to endorse a bigger Federal Government involvement in our economy. Mr. President, it is the vast expansion in Federal spending that has got us into our present fix. A policy of more of the same is going to get us deeper into trouble.

In truth the second concurrent budget resolution is a cruel hoax. It is based on assumptions that the Democratic majority knows it has no intentions of meeting. Indeed, the Democratic candidate for the Presidency is now running on a platform which promises to wreck the foundations on which this budget resolution is predicated.

In order for revenues and outlays to be brought into balance, a fiscal dividend created, and if the Federal sector is to be confined to 20 percent of the total GNP by 1980 as the majority report on Senate Concurrent Resolution 139 projects, the majority on the Budget Committee is forced to assume that no new Federal programs will be enacted and that the growth rate of current programs will be 7 percent measured in money terms. Given the rates of inflation expected by the majority, this means that the majority is anticipating no growth in Federal social programs when measured in real terms. Mr. President, even a casual inspection of the platform adopted by the Democratic National Convention in New York City shows that the Democratic leadership is committed to expanding Federal spending and by a large amount. Passing a budget resolution on the assumption that there will be no growth, apart from inflation, in Federal spending is therefore transparent nonsense.

When we face the fact that this budget resolution approves of a spending level that will set the stage for a continued policy of fiscal stimulation, we can readily see the consequences. The monetary authorities will be placed under extreme pressure to be accommodative and to increase the money supply in order to prevent short term interest rates from rising. This, of course, means a rapid increase in the supply of money which will translate directly into an increase in the rate of inflation. An increase in the rate of inflation will in turn lead to political pressures for a reimposition of wage and price controls, something which the majority is fond of calling an "incomes policy." Wage and price controls will not only decrease personal freedom to a great extent, they will also not work. Such controls only treat the symptoms and not the cause. The Government will, sooner or later, be forced to cut back on the true cause of inflation: too much Government spending. When that inevitable step is taken unemployment will rapidly increase to levels far beyond anything we see today.

Mr. President, I must vote in opposition to a resolution that both commits us to continuing the faulty policies of the past and which is based on assumptions that the Democratic majority has pledged in its party platform not to keep.

Mr. DOLE. Mr. President, the Senator from Kansas will vote against the second budget resolution as reported by the Budget Committee. While I continue to favor and to support the congressional budget process, I disagree with the economic policy contained within this budget resolution.

The Senator from Kansas voted against the conference report on the first budget resolution earlier this year. At a time of strong economic recovery, that budget resolution significantly increased Federal spending for public works and public service employment. These allowances in the budget resolution add significantly to the Federal deficit. I repeat my strong objection to this approach to economic policy. It is my judgment that these additions to Government spending and to Federal deficits can only serve to undermine confidence in the private sector of the economy and spending by consumers and businessmen.

As early as last October, President Ford offered Congress a viable strategy for economic recovery. His economic policies included significant restraints on Government spending matched by reductions in personal and business taxes. By failing to respond to the President's initiatives for reduced Government spending, by failing to afford the American people the full measure of tax reduction proposed by the President, and by adopting expanded public employment initiatives, Congress has adopted an economic policy which contains a serious threat to continued and strong economic recovery in the private sector of the economy. This Nation needs continued increases in private productive employment, not Government manufactured jobs. Unwise and unnecessary Government spending and Government deficits carry the risk of renewed inflation which will undermine private spending, production and employment.

The Senator from Kansas is proud to join in the minority views expressed in the report accompanying the budget resolution. These views express the responsible and long range perspective on Federal spending and Federal deficits that is essential if this economy is to regain price stability and maximum employment.

I would like to commend the chairman and distinguished ranking minority member of the Budget Committee on their dedicated efforts in the budget process and on the budget resolution this year. However, I respectfully disagree with the decisions of Congress as represented in this budget resolution.

Mr. MAGNUSON. Mr. President, the Committee on the Budget has reported its second concurrent resolution on the budget, and I believe it is deserving of the Senate's support.

The spending and revenue levels included in the second resolution are very responsible. They provide for a fiscal policy that assures the country will escape from the so-called growth recession that currently hinders us from experiencing full economic recovery. Because economic conditions have not changed significantly since passage of the first resolution, the general approach of the second resolution is wisely designed to reconfirm congressional support for the countercyclical fiscal policy and programs assumed in the first budget resolution.

Since passage of the first budget resolution the Congress has demonstrated clearly its ability to exercise budget discipline. The level of total spending established by the second resolution ceiling is very close to the first resolution target. Whereas the first resolution recommended total spending of $413.3 billion, the second resolution sets the ceiling at $412.8 billion. This $0.5 billion reduction in spending is offset by a similar reduction in expected revenues, so that the budget deficit contained in the second resolution is at exactly the same $50.8 billion level targeted in the earlier resolution.

The second budget resolution also reflects the informed judgment of the appropriations process. The first resolution contained targets that served as recommendations to the Senate as it considered fiscal year 1977 spending legislation. The Appropriations Committee took those recommendations seriously during its deliberations, and although the appropriations bills were not 100 percent consistent with the first resolution targets, they were generally quite close. Also, the initial targets were supposed to serve as recommendations, not directives. The appropriations bills that ultimately emerged reflected those recommendations in major part. To the extent that they did not, they served as recommendations back to the Budget Committee to alter the budget resolution; and the second resolution now before us does accommodate the appropriations bills approved by the Senate. There may be some small remaining uncertainty over their adequacy for expected supplemental appropriations, such as for some still unauthorized health programs, but this is a reflection primarily of uncertainty regarding the will of the Congress in areas where it is yet to be expressed. Further, I am certain the Appropriations Committee will do its best to assure that the total spending ceiling is not breached.

Taken as a whole, the major thrust of the second resolution is a reaffirmation of our basic first budget resolution judgments on an appropriate fiscal policy to deal with a depressed economy. The behavior of the economy over the summer months has demonstrated that judgment was correct, and the Senate therefore should approve the second resolution with assurance it is doing the right thing.

RESPONSIBLE BUDGET RESTRAINT

Mr. CRANSTON. Mr. President, a little over 2 years ago, Congress enacted a law establishing a process which has been called "a noble experiment in congressional budget discipline."

As the second annual cycle—and first complete one—of the congressional budget process nears its end, I believe we can say that, so far, this experiment has indeed proved successful.

For Congress has accepted budget discipline:

The second concurrent budget resolution for fiscal year 1977, as reported by the Budget Committee, stands $9.3 billion below the estimated 1977 cost of maintaining fiscal year 1976 programs.

It is $26.9 billion lower than the estimated total of funds needed for fiscal year 1977 submitted to the Budget Committee by the various authorizing committees last spring.

It is $6.7 billion in budget authority and $500 million in outlays below even the restrained targets adopted by Congress in its first concurrent budget resolution.

Now that the fiscal year 1977 targets are about to become enforceable ceilings, they will be harder to break. But, even without this enforcement mechanism, congressional action thus far has kept spending below the targets. That is proof that congressional budget discipline can and does work.

That is a tribute to congressional responsibility. But, even more, it is a tribute to the great leadership and hard work of the Senator from Maine (Mr. MUSKIE) and the Senator from Oklahoma (Mr. BELLMON).

I rise in support of this budget resolution and the report which the Budget Committee has produced.

Together, they maintain the financing for 500,000 public service jobs, with targeting on heads of needy households who have been unemployed for extended periods of time.

They allocate $200 million more than the first budget resolution in necessary budget authority for construction of needed VA health care.

They whittle $400 million in unnecessary budget authority and $100 million in unspent outlays from the huge first budget resolution allocations for national defense.

And the report insures that adequate funding for the earthquake research and development program, recently approved by the Senate and so vital to my State, is accounted for by the amount in the resolution, and will not disappear in the rounding process, as score is kept on the much larger total amounts provided for science, space, and technology and for natural resources, environment, and energy.

These judgments, and others which the committee has made, strengthened the budget resolution approved by the Congress last spring.

The second concurrent budget resolution reaffirms the basic economic goals of that first resolution:

An unemployment rate of 6 percent at the end of calendar year 1977.

An inflation rate of 5.5 percent at the same time.

An economic growth rate of 6 percent during 1977, which is the key to reduced unemployment.

Current economic projections for 1977 are close to the targets established in March. We may achieve our targets. They remain reasonable goals.

But there are grounds for concern:

The recovery has slowed down.

We have had rising unemployment for 3 consecutive months.

To its credit, the Budget Committee has recognized that its economic projections may prove overly optimistic—requiring stronger Federal action to alleviate the problems of extended unemployment. Extension of the emergency unemployment Federal supplemental benefits program, not provided for in this budget resolution, may then become necessary—a possibility the committee specifically recognizes in its report.

The resolution before the Senate embraces an economic policy which seeks to balance the Federal budget by 1980, with a fully employed economy achieved by the end of that year. To achieve these goals without rekindling inflation will require new vigorous leadership, continued restraint on spending and to the best of our ability, careful adherence to wise economic policies. In addition, as the committee report suggests, it may require structural changes in the way we do things—to "make more ambitious goals attainable and modest goals more secure."

One such structural change is the targeting of public service jobs on long-term unemployed heads of needy households. Along with Senators KENNEDY, JAVITS, WILLIAMS, and MONDALE, I have worked hard to make this policy part of the CETA title VI public service employment program, and the conference on this legislation has just substantially adopted this new approach.

In enacting its alternative budget, Congress has ignored much bad advice. So far, we have avoided the predicted, "credit crunch," avoided soaring interest rates, avoided renewed "double-digit inflation," all of which were forecast by prophets of doom if we pursued the policies the congressional budget first endorsed for fiscal year 1976, and which this budget resolution continues.

With the adoption of the targeting approach to public service jobs, and other structural policy changes which the Congress is now considering, we need not be satisfied as some propose with 5 percent of the work force unemployed, least we reaggravate high inflation. I believe these policy changes will diminish the risk. I see no reason why we should abandon the traditional measure of "full employment"—meaning 4 percent unemployment or less—as our goal, and I believe we can achieve "full employment," so defined, without renewing high inflation.

In sum, I believe affirmative policies are needed to remedy the suffering of the unemployed, and to keep us moving out of the economic difficulties from which recovery has only started. We cannot ignore these problems in hopes they will disappear or veto the recession out of existence.

Mr. President, the budget process has given Congress the opportunity to consider and reject the bad economic advice reflected in a distorted Presidential budget, to exercise fiscal restraint and discipline, and to develop in this budget resolution and the accompanying report a sound and coordinated congressional economic program, as an alternative to administration budgets which promise totally unacceptable levels of unemployment. The Budget Committee's recommended policies and priorities while not perfect, are balanced and sensible. I urge adoption of the budget resolution.

CONSEQUENCES OF THE DEFICIT

Mr. MORGAN. Mr. President, I am certainly to be counted among the supporters of the congressional budget process. It is no less than our best hope for a means to live up to our responsibility to the people—the responsibility to spend their precious tax resources most wisely, and in full knowledge of what our priorities are.

The watchfulness of the Budget Committee has several times warned us that an impending action would make the Federal budget deficit worse. I have myself finally voted against well-intentioned legislation, because the process of amendment had made the bill unsound from the point of view of sticking to our budget goals. We have been able to make wise short-term decisions.

But the budget process also makes it impossible to ignore our long-term mistakes as well. We are forced to look at the Federal budget overall. And because of this, we have to face our shortcoming as trustees of the public's hard-earned tax dollars. We have done too little, Mr. President, to move toward a balanced budget. We have been doing very little more than holding the line, continuing to tolerate a bad situation.

The second budget resolution we are considering today still tolerates deficit financing to the tune of about $50 billion. A balanced budget for this country is supposedly out of the question until 1981. I am not convinced of that. I know we cannot have a balanced budget immediately. To do that would kick the prop of Federal spending out from under the economy too fast—a recession could very well result before the benefits of decreased taxation could be felt. We are forced, for better or worse to move gradually toward fiscal responsibility.

But I want to go on record today as urging my colleagues here in the Senate to do everything we can to get our budget balanced far sooner than we now plan. The reasons for this are not matters of abstract argument among economists. They are as real as the family budgets of the people who sent us here to serve them.

When the Federal Government spends more than it takes in, there are direct, destructive effects on the economic well-being of the average person. We saw one of those effects recently.

A few weeks ago, the Treasury recently issued bonds—over $7.5 billion worth—to cover a part of the present Federal deficit. The Government was borrowing money—at 8 percent. That is higher than the best rate you can get at a savings and loan. And for that reason, there is bound to be less money for home mortgages, and even higher interest rates than we have now.

There is nothing abstract or theoretical about this. There is nothing the Government can do to make these cause-and-effect relationships go away. When Government borrows money, the load on the taxpayer doubles. He pays once for the services of Government, and he pays again for the interest on the loan—in this case, 8 percent for 10 years, which will come close to doubling the cost.

And there is nothing abstract or theoretical about other economic effects. The Washington Star reported that people buying these 8 percent Treasury notes were cashing in matured savings and loan certificates to do so. And many buyers said they were taking their investment money straight to the U.S. Treasury in the first place, rather than to the savings and loan. The Treasury notes were sold in thousand-dollar denominations, so they were in direct competition with the S. & L.'s for the funds of the small investor.

What has this got to do with the average person? A lot. It has to do with his ability to buy a home. If the Federal Government borrows at 8 percent, it absorbs the funds ordinarily going into household mortgages through the savings and loans. When it borrows billions of dollars every quarter, there are going to be billions of dollars less available for home mortgages.

What is the next step in this cause-and-effect relationship? The next step comes when a man and his wife down in my State of North Carolina go to the savings and loan to get the money to buy a house. Because of the Government's borrowing, they are more likely to find they cannot get a loan at any price, or—if there is any money available—the interest rates are too high. It is a sad thing to see a young couple, even with both of them working, unable to buy a house because interest rates make the monthly payment so high they cannot qualify for a loan.

Such cases are not isolated. According to a real estate professor in Washington, 70 percent of the people are now shut out of the market for homes. Not all of that can be blamed on the Government—but there is no doubt the Government is going to make things worse in the coming months. This chain of events began over a year ago, when Congress voted to cut taxes without cutting spending. I voted against that $22 billion tax cut, and against the bill that went with it—raising the national debt—not by $22 billion, but by $46 billion.

For the average taxpayer, the rebate was about $180. That money is now long gone. The effect it had in stimulating the economy is debatable.

But what is not debatable is that we were not doing anything but writing ourselves a loan with that so-called tax cut. We have spent that $180. Now we must begin paying it back with interest. And in the process we will make things worse for the construction workers out of a job, and for the young couple out of a home, for the furniture and textile workers in my home State, who work in industries directly affected by the health of the housing market.

It is important to realize the impact of a depressed housing market on the grassroots economy of the United States. For many people, a house is more than a home. It is also an investment. A home has been the way the greatest number of people participate in the economy—it is their savings account and their hedge against inflation.

When the Government borrows to finance a deficit, it literally causes the average person to lose in housing costs more than what he has gained with any tax cut. Not only is that false economy—it plays false with the personal economy of everyone.

Mr. President, I know there are those who see nothing wrong with endless borrowing to finance a Federal deficit, and who claim that such policies keep the fire going under the economy. But those policies also cause inflation, and I am afraid those who favor spending would have us make a job for the young person by making worthless the pensions and savings of that young person's grandparents, to whom inflation is the cruelest of terrors. That is no way to stimulate the economy.

Therefore, even as I affirm the congressional budget as a step in the right direction, I must oppose the deficit the second budget resolution allows. We must realize we have made a first step toward responsibility. But we are still far from the end of the journey.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage of the concurrent resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. The vote will occur at 12:30 p.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

RECESS UNTIL 12:25 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:25 p.m., and that at that time another quorum call be instituted, that quorum call to end at 12:30 p.m.

There being no objection, the Senate, at 12:04 p.m., recessed until 12:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MORGAN).

QUORUM CALL

The PRESIDING OFFICER. Pursuant to the previous order, the clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—SENATE CONCURRENT RESOLUTION 139 AND INDIAN HEALTH BILL

Mr. JACKSON. Mr. President, I ask unanimous consent that Mr. Forrest Gerard, Mr. Dan Dreyfus, and Mr. William VanNess of the Interior Committee staff be granted the privileges of the floor in connection with the pending matter and the Indian health bill which will come up immediately after this vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, 1977

The Senate continued with the consideration of the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977.

The PRESIDING OFFICER. The hour of 12:30 having arrived, the Senate will now proceed to vote on Senate Concurrent Resolution 139. The question is on agreeing to the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I suggest the absent of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll again on agreeing to Senate Concurrent Resolution 139. The yeas and nays have been ordered.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. GARY HART), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Georgia (Mr. TALMADGE), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the

Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Delaware (Mr. ROTH), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

On this vote, the Senator from New Jersey (Mr. CASE) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 55, nays 23, as follows:

[Rollcall Vote No. 576 Leg.]

YEAS—55

Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Gravel
Griffin
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
Mathias
McClellan
McGovern
Metcalf
Morgan
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stone
Symington
Weicker
Young

NAYS—23

Abourezk
Allen
Baker
Bartlett
Brock
Byrd, Harry F., Jr.
Curtis
Dole
Fannin
Garn
Hansen
Hatfield
Helms
Hruska
Laxalt
Leahy
McClure
Packwood
Proxmire
Scott, William L.
Taft
Thurmond
Tower

NOT VOTING—22

Bayh
Beall
Buckley
Case
Glenn
Goldwater
Hart, Gary
Hart, Philip A.
Hartke
Kennedy
Long
McGee
McIntyre
Mondale
Montoya
Moss
Roth
Stafford
Stevenson
Talmadge
Tunney
Williams

So the resolution (S. Con. Res. 139) was passed, as follows:

S. CON. RES. 139

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15.800,000,000,

(2) the appropriate level of total new budget authority is $447,500,000,000;

(3) the appropriate level of total budget outlays is $412,800,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $50,800,000,000; and

(5) the appropriate level of the public debt is $701,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $112,100,000,000.
(B) Outlays, $100,700,000,000.

(2) International Affairs (150):
(A) New budget authority $9,100,000,000.
(B) Outlays, $6,900,000,000.

(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,600,000,000.
(B) Outlays, $4,500,000,000.

(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $18,200,000,000.
(B) Outlays, $16,000,000,000.

(5) Agriculture (350):
(A) New budget authority, $1,600,000,000.
(B) Outlays, $2,000,000,000.

(6) Commerce and Transportation (400):
(A) New budget authority, $15,200,000,000.
(B) Outlays, $17,400,000,000.

(7) Community and Regional Development (450):
(A) New budget authority, $7,500,000,000.
(B) Outlays, $9,000,000,000.

(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $24,000,000,000.
(B) Outlays, $22,300,000,000.

(9) Health (550):
(A) New budget authority, $40,500,000,000.
(B) Outlays, $38,800,000,000.

(10) Income Security (600):
(A) New budget authority, $156,200,000,000.
(B) Outlays, $137,300,000,000.

(11) Veterans Benefits and Services (700):
(A) New budget authority, $20,300,000,000.
(B) Outlays, $19,500,000,000.

(12) Law Enforcement and Justice (750):
(A) New budget authority, $3,500,000,000.
(B) Outlays, $3,600,000,000.

(13) General Government (800):
(A) New budget authority, $3,600,000,000.
(B) Outlays, $3,500,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $7,600,000,000.
(B) Outlays, $7,700,000,000.

(15) Interest (900):
(A) New budget authority, $39,600,000,000.
(B) Outlays, $39,600,000,000.

(16) Allowances:
(A) New budget authority, $700,000,000.
(B) Outlays, $800,000,000.

(17) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$16,800,000,000.
(B) Outlays, —$16,800,000,000.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 522.

The PRESIDING OFFICER (Mr. MORGAN) laid before the Senate the amendment of the House of Representatives to the bill (S. 522) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

(The amendment of the House is printed in the RECORD of July 30, 1976, beginning at page 24801.)

Mr. JACKSON. Mr. President, I shall at the proper time be making a motion to concur in the House amendment with a printed amendment (No. 2233) in the nature of a substitute, which is at the desk. I now ask for the yeas and nays on that motion.

The PRESIDING OFFICER. The yeas and nays are not in order until the motion is before the Senate.

Mr. JACKSON. I ask unanimous consent that it now be in order to order the yeas and nays on that motion.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Is there a sufficient second to the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair advises that there is a time limitation on this matter of 30 minutes, with 15 minutes to be under the control of the Senator from Washington and 15 minutes to be under the control of the Senator from Arizona.

Mr. JACKSON. Mr. President, the overwhelming House vote of 310 to 9 on July 30, 1976, favoring passage of the Indian Health Care Improvement Act moved this vital measure one step closer to reality for the Indian community. While the Senate may claim credit for initiating this important measure, first as S. 2938 in the 93d Congress, and now as S. 522 in the 94th Congress, I want to commend the House Members for maintaining the same spirit of bipartisanship that has been the driving force behind the legislation from its very inception.

The deplorable state of Indian health is a matter of record. No recitation of cold statistics can adequately portray the human misery and suffering experienced by the majority of Indian and Alaska Native peoples on reservations and in numerous villages in Alaska. However, when the impact of these statistics is measured against the unfulfilled hopes and aspirations of scores of Indians which have been cut short by unnecessary illnesses and deaths, and against the alarmingly high number of Indian families which have been devastated by social disintegration caused by mental illness and alcoholism, then such conditions become real and meaningful. Our national conscience demands that this deplorable health picture be corrected.

The Indian Health Care Improvement Act can meet this demand and improve the prospects for Indians and Alaska Natives to lead healthier and more productive lives. This far-reaching act was tailored as a measured response to the demonstrated health needs of these deserving Americans.

As approved by the Senate, S. 522 provided for a 7-year program and an authorization for appropriations of $1.6 billion. The proposed appropriations were intended to supplement rather than supplant regular fiscal year appropriations for the Federal Indian health care delivery system.

Through its various provisions, S. 522 holds the promise of opening professional health ranks to Indians for service in their own communities; to expand existing curative and preventive health programs; to establish community mental health and alcoholism programs; to construct modern and safe hospitals, health centers and clinics; to improve the environmental climate of the Indian community; to open national health resources to Indians; and to establish health programs addressed to urban Indian health needs.

I and the cosponsors of S. 522 have moved this measure forward with the firm conviction that the 7-year program and proposed level of funding would enable the Nation to wage an all-out assault against the debilitating illnesses and conditions that combine to reflect the tragic picture of Indian health today.

Because of overlapping jurisdictions, the bill was ultimately referred to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means in the House of Representatives. As a result of the careful and extensive deliberations of those three committees, the House shaped a version of the Indian Health Care Improvement Act that substantially modifies the Senate-passed bill, but maintains its original intent and integrity.

Among the major amendments to S. 522 approved by the House are the following:

First. Changes the implementation date from fiscal year 1977 to 1978;

Second. Reduces the 7-year, $1.6 billion authorization of the Senate bill to a 3-year, $475 million authorization, with specifications that authorization levels for the remaining fiscal years, 1981–84, will be the amounts authorized by subsequent acts;

Third. Strengthens provisions relating to Indian health scholarships designed to open the entire range of health professions to Indian people;

Fourth. Provides for redistribution of the authorization of funds designated for hospital construction to permit a more realistic implementation of that activity;

Fifth. Provides a separate authority to insure the construction of water and sanitation facilities for new Indian housing.

Sixth. Clarifies conditions for payment of medicaid and medicare funds to Indian Health Service facilities;

Seventh. Authorizes a feasibility study for an American Indian School of Medicine; and

Eighth. Mandates the Secretary of Health, Education, and Welfare to submit a plan to Congress detailing the manner in which he proposes to implement the various provisions of the act.

Mr. President, the most significant House amendment to S. 522 is that which reduces the 7-year, $1.6 billion authorization to a 3-year, $475 million authorization. While that amendment reduces both the level of funding and the term of the authorization, I am satisfied that the language in both the act and in the committee report validate the 7-year program concept. I agree further with the House point of view that through the authorization process for the remaining 4 fiscal years of the 7-year program, Congress can better evaluate and assess the administration's performance in improving the health status of Indian people. Through such a process it will be possible to redirect priorities and levels of funding to accommodate changing demands and needs during the balance of the 7-year program.

The Indian Health Care Improvement Act enjoys universal support in the Indian community. Moreover, it has been endorsed by virtually every major national health organization in the Nation. Within the ranks of such organizations are highly qualified professionals in the fields of curative and preventive health who view the act as a realistic approach to overcome one of the most serious unresolved health problems in the Nation today. The only negative voice of opposition to this measure emanates from the Department of Health, Education, and Welfare. They have echoed their same time-worn arguments that the bill is too costly, that it duplicates existing program efforts and that the Department is already making remarkable strides in alleviating Indian health problems and conditions. I deeply regret that throughout the 2½-year period that Congress has endeavored to move this important measure forward to enactment, the administration has failed to indicate any willingness whatsoever to join with committee members and staff to work out a mutually acceptable measure.

I am hopeful that HEW officials will take careful note of the fact that the Indian Health Care Improvement Act was passed unanimously by the Senate on two separate occasions and by a most convincing vote in the House of Representatives on July 30, 1976. Clearly, Congress has sent the administration a message signifying its determination to enact this measure into law.

Mr. President, I have discussed the House amendments to S. 522 with the distinguished ranking minority member of the Committee on Interior and Insular Affairs, the Senator from Arizona (Mr. FANNIN), who is the prime cosponsor of the measure, and we concur in the substance of those amendments. The Senator from Arizona, both as the ranking minority member and through his personal interest in the Indian people, has provided leadership throughout the long consideration of this measure.

We do suggest, however, that the bill should be sent back to the House with an amendment (No. 2233) to the amended House version of S. 522. All but two parts of the amendment consist of clarifying or technical changes. The House-passed bill includes the work of three House committees, and reflects the inevitable problems which result from an effort to wed in one product on the floor of the House of Congress the efforts of more than one committee. We understand that the House of Representatives will not object to our several clarifying and two substantive changes.

Because of the routine nature of the majority of the proposed changes, I shall confine my comments to the two substantive matters. The first substantive change would alter the definition of "Indian tribe" in section 4(d) to include not just Alaska Native villages and groups but also regional and village corporations. This would bring this definition in conformity with the definition of Indian tribe in the Indian Self-Determination and Education Assistance Act (88 Stat. 2203). Most of the programs in S. 522 in which Indian tribes would participate would require activities which would be difficult for the usually small native villages and groups to perform. In most cases, the regional corporations with their wider jurisdiction and more skilled manpower, would be the entities most capable of participating effectively in S. 522's programs.

The second substantive amendment in section 201(e) would make both a significant clarifying change and a critically important substantive change. Section 201(e) limits the total funding authorized for health services in fiscal year 1978 to $5 million. The health service authorizations for nine services contain no dollar figures; instead each authorization states "sums as provided in subsection (e)". However, one health service authorization—treatment and control of alcoholism—does not refer to subsection (e) and has a specific dollar figure: $4,000,000. If the $4,000,000 alcoholism authorization is included in the limitation then the total funds available to the other nine services under the $5,000,000 ceiling would be $1,000,000. We assume that the purpose of subsection (e) was to limit the total appropriations for the other nine services to $5 million and not $1 million.

The proposed change would, we believe, clarify the intent of subsection (e)—by removing the alcoholism program from its purview—and eliminate an otherwise debilitating restriction on some of the bill's most important programs.

The substantive change would be to raise the total authorization limitation on those nine health service programs from $5,000,000 to $10,025,000 and provide for a ceiling on positions of 425. The Senate bill specifically apportioned a total of $12,775,000 and 455 positions among the nine health services and the bill reported by the House Indian Affairs Subcommittee specifically apportioned $10,025,000 and 425 positions. We understand that the principal reason for the dramatic reduction in authorizations for the first year—by 61 percent from the Senate bill and by 50 percent from the House Indian Affairs Subcommittee-reported bill—was to diminish the bill's budgetary impact in fiscal year 1977. However, later amendments moved the initial authorizations back to fiscal year 1978. We, therefore, believe that the principal constraint on the first year authorizations for these critically needed services has been removed. Although, we would prefer the full totals of $12,775,000 and 455 positions found in the Senate bill, to enhance these amendments' acceptability to the House of Representatives we suggest restoring the lower authorizations approved by the House Indian Affairs Subcommittee.

Mr. President, I wholeheartedly support the proposed amendment No. 2233 to the House-passed version of S. 522, the Indian Health Care Improvement Act. These further changes to the act will enhance our Government's ability to meet its solemn moral and legal commitments to the Indian people. I, therefore, urge adoption of the amendment.

Mr. President, on behalf of the members of the Senate Interior Committee and on behalf of the Nation's Indian people, I want to pay special tribute to Mr. Forrest Gerard, Ms. Ella Mae Horse, and Steven Quarles of the committee's professional staff, and Mr. Rick Lavis of Senator FANNIN's personal staff, for their selfless and dedicated work on this measure.

Their compassion and their sensitivity to the tragic and often silent suffering of American Indian people brought about by inadequate health care and services led to the initial drafting and introduction of legislation on this subject. The patience of these four individuals and their tireless efforts to bring this issue to national attention and to formulate realistic medical and training programs to correct this injustice is in the best tradition of dedicated, nonpartisan, professional staff service to the Senate, to the Congress and to the Nation.

Mr. President, Mr. Gerard recently received the National Congress of American Indians 1976 Congressional Award for his outstanding work on legislation affecting Indian people. This tribute is shared in a very real sense by Ms. Horse, Mr. Gerard's associate on the professional staff. Mr. President, I ask unanimous consent that a resolution of commendation by the Committee on Interior and Insular Affairs and a letter of June 22, 1976, to the President of the National Congress of American Indians be printed at this point in the RECORD.

There being no objection, the resolution and the letter were ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Mr. Forrest Gerard has since 1971 served as a diligent and able professional staff member of the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs; and

Whereas, the Executive Committee of the National Congress of American Indians recently selected Mr. Forrest Gerard to receive the 1976 NCIA Congressional Award in grateful recognition of his outstanding work in legislation for Indian people: Now, therefore, be it

Resolved, by the Members of the Committee on Interior and Insular Affairs that the Committee extends its deep appreciation to Mr. Forrest Gerard for his dedication and services while a member of the professional staff of the Committee on Interior and Insular Affairs: And be it further

Resolved, That the Committee on behalf of the staff and the Senate extends its congratulations to Mr. Forrest Gerard for his selection by the National Congress of American Indians as recipient of the 1976 NCIA Congressional Award.

HENRY M. JACKSON,
Chairman.
PAUL J. FANNIN,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
Washington, D.C., June 22, 1976.

Mr. MEL TONASKET,
President, National Congress of American Indians, Washington, D.C.

DEAR MR. TONASKET: I was delighted to learn that Forrest Gerard has been selected to receive the 1976 NCAI Congressional Award for his outstanding work on legislation affecting Indian people. This honor is richly deserved.

As you well know, Forrest has played a major role in the development and enactment of landmark legislation advancing the interests of Indian people. His contributon is reflected in such measures as the Indian Financing Act, the Self-Determination Act and the Submarginal Lands Transfer Act, which are now law, and the Indian Health Care Improvement Act, which we hope becomes law in the next few months.

Members of the Committee have come to rely on Forrest's deep knowledge of Indian affairs and his practical approach to resolving Indian problems. We value his advice and counsel highly.

The National Congress of American Indians has wisely recognized Forrest Gerard's exceptional performance as the professional staff member of the Indian Affairs Subcommittee. I wanted you to know that I and the other members of the Committee also appreciate his outtanding work and the important contributions he has made over the past six years.

Sincerely,

HENRY M. JACKSON,
Chairman.

Mr. JACKSON. Mr. President, I reserve the remainder of my time.

Mr. FANNIN. Mr. President, I concur with the distinguished chairman of the committee.

For nearly 2½ years, the Congress has been considering legislation to strengthen the quality of Indian health care services. Beginning with hearings in 1973 on the shortages in Indian health manpower, the Congress has, through hearings, investigations, and GAO studies, confronted Indian health care deficiencies and needs. It would serve no useful purpose to remind the Senate once again of these problems, except to say that these problems remain unresolved, awaiting resolution.

In response, the Senate Interior Committee developed the Indian Health Care Improvement Act which the Senate on two occasions approved unanimously. This legislation was designed to expand, under a carefully developed plan, the level of health care services provided to Indian people. In addition, the bill addressed the crisis in manpower facing the IHS and the inadequate and unsafe facilities which the IHS must utilize in treating Indian citizens. The Senate in approving this legislation was confident that its approach, which was comprehensive in scope, addressed in a reasonable way the neglect which limited resources had fostered within the Indian Health Service. In doing so, the Senate committed itself to establishing better health care for Indian citizens as a priority concern of the Federal Government.

In the House, three major authorizing Committees, Interior and Insular Affairs, Interstate and Foreign Commerce and Ways and Means examined this issue in depth and recommended approval of the Senate-passed bill, S. 522, as amended. The House concurred by a vote of 310 to 9. By this vote, the House committed itself to strengthening our Indian health care program and joined with the Senate in making Indian health care a matter of highest importance.

As amended by the House, S. 522 was modified only to the extent of its commitment. As passed by the Senate, S. 522 had authorized the expenditure of $1.6 billion over 7 years. This approach was neither arbitrary, unreasonable or excessive as it had been our policy to limit the impact of these much needed expenditures while assuring a strong commitment to eliminating the deficiencies in manpower, patient care services and facilities. In approving this 7-year program, the Senate had sought to avoid those problems that might occur with a short-term crisis program.

The House, after careful deliberation, determined that it would be unwise to make such a long-term commitment. It amended S. 522 by authorizing the expenditure of approximately $500 million over a 3-year period. It did, however, commit itself to reviewing the balance of the 7-year plan following the initial 3-year authorization period. Nevertheless, the bill, as amended, remains virtually intact in terms of its basic structure. The Senate had designed a bill which contained a series of programs which were interrelated and complementary. This approach, to which the House agreed, is fundamental to successfully overcoming the overall problems in the Indian health care delivery system. Therefore, because the House retained the basic structure developed by the Senate and is committed to reviewing the balance of the 7-year plan following the 3-year authorization period, I can accept S. 522 as amended and urge my Senate colleagues, without reservation, to approve this much needed legislation.

There is one issue, however, in the bill which needs to be discussed so that the record is quite clear as to congressional intent. During its consideration of title I, dealing with manpower, the House Interstate and Foreign Commerce Committee approved an amendment to establish the section 104, health scholarship program within the National Health Service Corps program. This amendment was unacceptable initially to the Senate because it created a situation in which the Indian Health Service would be unable to control the program. It was definitely the intent of the Senate to provide the Indian Health Service with sufficient authority to manage its own manpower programs as developed within title I, so that it would not have to rely on other existing programs which have proven unable to meet IHS needs. The amendment by the House appeared to have weakened that approach causing us great concern. In response, the House agreed to a further amendment which would insure that the Indian Health Service could write the prescription for its manpower needs while allowing the National Health Service Corps to administer the details of the scholarship application and funding process. In view of this clarification, I have no further objection to the House amendment with the understanding that the Indian Health Service will have the authority to determine scholarship recipients and the distribution of scholarships among those health care professions that are either in demand or expected to be in demand within the Indian Health Service.

Mr. President, as we move to conclude the final action on the Indian Health Care Improvement Act, there hangs over this much needed legislation the threat of a veto. This threat deeply concerns me; but let me be very clear that I do not intend to stand idly by in the event of a veto.

This threat has existed since Congress began its consideration of the Indian Health Care Improvement Act. The position of the Department of Health, Education, and Welfare has always been negative. In letter after letter, in statement after statement, the Department has never changed its mind that this legislation was unnecessary, too expensive, excessive in scope, and inconsistent with the objectives of the administration.

The Department has failed to even practice the art of compromise, conciliation, and cooperation in the development of this bill. On two occasions in this and the last Congress, my staff met with departmental officials to discuss agreement on this bill. Their attitude was clearly negative and exhibited an unwillingness to work out an acceptable compromise. Senator BARTLETT and I even met with Secretary Mathews to encourage support and to possibly open communications on resolving the Department's posture of opposition. It was my impression following this meeting that the Department was interested in the problems of the Indian Health Service and in discussing possible approaches to their solution both within and without the context of the Indian Health Care Improvement Act. Yet, progress toward agreement was conspicuous by its absence. The Department made no effort whatsoever to produce any alternatives and, in fact, I never heard from Secretary Mathews on the subject again. In view of the unbending opposition by the Department, the Congress had no choice but to proceed as best it could in developing legislation that would address the very critical health care problems faced by Indian citizens.

Time and again the Department indicated that this legislation would create undue expectations among the Indian people. Yet, what expectations does the Department provide to Indian people themselves when their own budget requests for IHS contains funds which are inadequate to effectively address patient care needs and the obvious need for better facilities. For example, since fiscal year 1969, through fiscal year 1977, the Department has on its own requested only enough funds to construct two replacement hospitals. Yet, as the Congress knows, the needs of the HS facilities far exceed the level of that support.

In summary, the Department's position on this legislation is without merit and this troubles me. Despite the Department's opposition to S. 52, its own statements reflect the concern that the quality of care that IHS is able to provide is inadequate. In a recent letter, for example, to Congressman RHODES, the House minority leader, the Undersecretary of HEW, Marjorie Lynch, acknowledges that fact by stating that the Department, and I quote, "is working toward raising the health status of Indians to at least a level equal to that of the non-Indian population." This admission by the Department itself that Indian health care is inadequate makes their opposition to this legislation somewhat mystifying.

In my opinion, the Department and Congress agree that Indian health care services are inadequate. Where we disagree is the speed with which we should address the problem. Congress is in a mood, however, to move ahead more rapidly than the Department. In view of the needs which have been so completely documented both within Congress and in the Department itself, we are at a loss to understand why the Department feels so compelled to drag its feet in addressing this problem.

Mr. President, this legislation has enjoyed broad bipartisan support within the Congress as well as among virtually every important national health organization. But more importantly, it is supported wholeheartedly by the Indian people themselves as better health is their number one priority. Only the Department stands in lone opposition to this much needed legislation.

Mr. President, it is my hope that President Ford will recognize the importance of this legislation. The Congress has produced a reasonable piece of legislation which will assure a better health care delivery system for our Indian people. In that spirit, I hope the President will approve the Indian Health Care Improvement Act as a positive commitment toward securing a better life for our Indian citizens.

Mr. President, I feel very keenly about this legislation. It is legislation that will be of great value to our Indian people. I do not consider there is anything more important to our Indian people than their health care.

Mr. President, I want to commend the outstanding leadership of my chairman, Senator JACKSON, in assisting in the development of this legislation. His leadership and concern for resolving the problems of Indian health care programs will long be remembered.

Mr. President, I urge adoption of the Senate amendment and approval of S. 522 as amended.

I yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, it is with great pleasure that I rise today in support of S. 522, the Indian Health Care Improvement Act, as passed by the House with the clarifying and substantive changes offered in the Fannin/Jackson amendment. I sincerely hope the Senate will, as it has done twice before, act favorably and expeditiously on this measure. I can see no need to debate the issues involved in this bill to any degree here today because they have been thoroughly discussed by the Senate twice before in the Interior Committee, and the same conclusion was reached in both instances—that there clearly exists a very great need for a comprehensive health care plan to meet the unmet health care needs of the Indian people of this country.

The staffs of both Houses of this Congress have worked long and diligently to devise such a plan, and in my opinion have come up with an excellent one. This plan, S. 522, addresses the long-standing and often neglected responsibility of the Federal Government, that is, the responsibility to provide health care services to native Americans in this country. The health care needs of this segment of the population have heretofore been given piecemeal attention, an approach which I feel has contributed considerably to their present day health status. Although the Indian Health Service has in recent years made significant advances in its efforts to provide quality health care to the Indian people, the unmet health needs are still alarmingly high. Their health needs far exceed that of the general population.

Even though the Department of Health, Education, and Welfare is just as much aware of this fact as I, it opposes enactment of this much needed legislation. It would not be difficult for me to understand HEW's position on this bill if the health care status of Indian people were on a par with that of the general population, but recognizing the great unmet need that clearly exists in the quality of health care services delivered to Indian people and recognizing that the responsibility for correcting this grave situation is clearly that of the Federal Government, I find the position of HEW on this bill to be unconscionable.

Both Senator FANNIN and I have met with Secretary Mathews and others in the Department of HEW to point out to them the merits of this bill, but our efforts were to no avail. HEW has still not seen the need to support this legislation and, in fact, has indicated that it will recommend a veto if the bill is presented to the President for approval.

Mr. President, I have been a strong supporter of this bill from its inception, and I will continue to lend my support to it until it is signed into law by the President of the United States. I feel strongly that the Federal Government has failed to provide an adequate Indian health bill. Enactment of S. 522 eliminates many of the existing deficiencies in Indian health care services.

I thank the Senator from Arizona for yielding.

Mr. STEVENS. Mr. President, will the Senator yield about 5 minutes to me? I do not think I will use that much time.

Mr. FANNIN. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I wish to send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. To what does the Senator offer his amendment?

Mr. STEVENS. It is an amendment to the committee substitute, and I ask unanimous consent that it be in order. I am going to withdraw the amendment. I simply wish to make sure we have a record here.

The PRESIDING OFFICER. The Chair advises that the amendment cannot be offered until the motion to concur with the House amendment is made.

Mr. STEVENS. I ask unanimous consent that it be in order to have the amendment before us and have a dialog with the Senator from Washington at this time, and I will offer it at a later date.

AMENDMENT NO. 2233

Mr. JACKSON. Mr. President, I move at this time to concur in the House amendments with amendment No. 2233, which is at the desk. It is in the nature of a substitute as printed.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) for himself and Mr. FANNIN proposes amendment in the nature of a substitute No. 2233.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment insert:

That this Act may be cited as the "Indian Health Care Improvement Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States. For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate approximately 20 per centum greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty-four of fifty-one Indian Health Service hospitals are accredited by the Joint Commission on Accreditation of Hospitals; only thirty-one meet national fire and safety codes; and fifty-two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about one-half of the Service hospitals, four-fifths of the Service hospital outpatient clinics, and one-half of the Service health clinics meet only 80 per centum of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 57 per centum of required dental service remains to be provided, and about 98 per centum of hearing aid requirements are unmet;

(4) related support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities;

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over thirty-seven thousand four hundred existing and forty-eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of sections 102, 103, and 201(c)(5), such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual, who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more of the four criteria in subsection (c) (1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, composed of urban Indians, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

TITLE I—INDIAN HEALTH MANPOWER

PURPOSE

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 102. (a) The Secretary, acting through the Service, shall make grants to public or nonprofit health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any school referred to in clause (1)(A) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection.

(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe: *Provided,* That the Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(c) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $900,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,800,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to sucessfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.

(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of any grantee.

(c) Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses.

(d) There are authorized to be appropriated for the purpose of this section: $800,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,300,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 104. Section 225(1) of the Public Health Service Act (42 U.S.C. 234(1)) is amended (1) by inserting "(1)" after "(1)", and (2) by adding at the end the following:

"(2) (A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year ending September 30, 1978, $5,450,000; for the fiscal year ending September 30, 1979, $6,300,000; for the fiscal year ending September 30, 1980, $7,200,000; and for fiscal years 1981, 1982, 1983, and 1984 such sums as may be specifically authorized by an Act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Programs to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).

"(B) (i) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions.

"(ii) The active duty service obligation prescribed by subsection (e) shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(C) For purposes of this paragraph, the term 'Indians' has the same meaning given that term by subsection (c) of section 4 of the Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Any individual enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated for the purpose of this section: $600,000 for fiscal year 1978, $800,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

CONTINUING EDUCATION ALLOWANCES

SEC. 106. (a) In order to encourage physicians, dentists, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

(b) There are authorized to be appropriated for the purpose of this section: $100,000 for fiscal year 1978, $200,000 for fiscal year 1979, and $250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

TITLE II—HEALTH SERVICES

HEALTH SERVICES

SEC. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical, dental, optometrical, and other Indian health needs, the Secretary is authorized to expend, through the Service, over the seven-fiscal-year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service under other Federal laws to continue to serve the health needs of Indians during and subsequent to such seven-fiscal-year period, but shall be in addition to the level of appropriations provided to the Service under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation.

(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven-fiscal-year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven-fiscal-year period but shall be in addition to the positions authorized in the previous fiscal year.

(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for the specific purposes noted:

(1) Patient care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $8,500,000 and two hundred and twenty-five positions for fiscal year 1979, and $16,200,000 and three hundred positions for fiscal year 1980.

(2) Field health, excluding dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $3,350,000 and eighty-five positions for fiscal year 1979, and $5,550,000 and one hundred and thirteen positions for fiscal year 1980.

(3) Dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $1,500,000 and eighty positions for fiscal year 1979, and $1,500,000 and fifty positions for fiscal year 1980.

(4) Mental health: (A) Community mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, $1,300,000 and thirty positions for fiscal year 1979, and $2,000,000 and thirty positions for fiscal year 1980.

(B) Inpatient mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, $400,000 and fifteen positions for fiscal year 1979, and $600,000 and fifteen positions for fiscal year 1980.

(C) Model dormitory mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, $1,250,000 and fifty positions for fiscal year 1979, and $1,875,000 and fifty positions for fiscal year 1980.

(D) Therapeutic and residential treatment centers: sums and positions as provided in subsection (e) for fiscal year 1978, $300,000 and ten positions for fiscal year 1979, and $400,000 and five positions for fiscal year 1980.

(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (e) for fiscal year 1978, $150,000 for fiscal year 1979, and $200,000 for fiscal year 1980.

(5) Treatment and control of alcoholism among Indians: $4,000,000 for fiscal year 1978, $9,000,000 for fiscal year 1979, and $9,200,000 for fiscal year 1980.

(6) Maintenance and repair (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, $3,000,000 and twenty positions for fiscal year 1979, and $4,000,000 and thirty positions for fiscal year 1960.

(7) For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the items referred to in the preceding paragraphs such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the items referred to in paragraphs (4) (E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act.

(d) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.

(e) For fiscal year 1978, the Secretary is authorized to apportion not to exceed a total of $10,025,000 and 425 positions for the programs enumerated in clauses (c)(1) through (4) and (c)(6) of this section.

TITLE III—HEALTH FACILITIES

CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

SEC. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven-fiscal-year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.

(b) The following amount are authorized to be appropriated for purposes of subsection (a):

(1) Hospitals: $67,180,000 for fiscal year 1978, $73,256,000 for fiscal year 1979, and $49,742,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act.

(2) Health centers and health stations: $6,960,000 for fiscal year 1978, $6,226,000 for fiscal year 1979, and $3,720,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act.

(3) Staff housing: $1,242,000 for fiscal year 1978, $21,725,000 for fiscal year 1979, and $4,116,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act.

(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds authorized in subsection (a), the Secretary, acting through the Service, shall—

(1) consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

(2) be assured that, wherever practicable, such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.

CONSTRUCTION OF SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 302. (a) During the seven-fiscal-year period beginning after the date of the enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums authorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

(b) For expenditures of the Secretary authorized by subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated $43,000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, and $30,000,000 for fiscal year 1980. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1978, 1979, and 1980. For fiscal years 1981, 1982, 1983, and 1984 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act.

(c) Former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.

PREFERENCE TO INDIANS AND INDIAIN FIRMS

SEC. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

(b) For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

SOBOBA SANITATION FACILITIES

SEC. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:

"SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).".

TITLE IV—ACCESS TO HEALTH SRVICES

ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE PROGRAM

SEC. 401. (a) Sections 1914(c) and 1935(d) of the Social Security Act are each amended by striking out "No payment" and inserting in lieu thereof "Subject to section 1880, no payment".

(b) Part C of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"SEC. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.

"(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.

"(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

"(d) The annual report of the Secretary which is required by section 701 of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.".

(c) Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

SERVICES PROVIDED TO MEDICAID ELIGIBLE INDIANS

SEC. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"SEC. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

"(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.".

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended.

(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.

(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians.

(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).".

REPORT

Sec. 403. The Secretary shall include in his annual report required by section 701 an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through title XVIII and XIX of the Social Security Act, as amended.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

PURPOSE

Sec. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian population.

CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

Sec. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.

CONTRACT ELIGIBILITY

Sec. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities:

(1) determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) assist such resources in providing service to such urban Indians;

(4) assist such urban Indians in becoming familiar with and utilizing such resources;

(5) provide basic health education to such urban Indians;

(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) where necessary, provide or contract for health care services to urban Indians.

(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration:

(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other resource agencies.

OTHER CONTRACT REQUIREMENTS

Sec. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 793), as amended.

(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however,* That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

REPORTS AND RECORDS

Sec. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

AUTHORIZATIONS

Sec. 506. There are authorized to be appropriated for the purpose of this title: $5,000,000 for fiscal year 1978, $10,000,000 for fiscal year 1979; and $15,000,000 for fiscal year 1980.

REVIEW OF PROGRAM

Sec. 507. Within six months after the end of fiscal year 1979, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his assessment thereof and recommendations for any further legislative efforts he deems necessary to meet the purpose of this title.

RURAL HEALTH PROJECTS

Sec. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.

TITLE VI—AMERICAN INDIAN SCHOOL OF MEDICINE; FEASIBILITY STUDY

FEASIBILITY STUDY

Sec. 601. The Secretary, in consultation with Indian tribes and appropriate Indian organizations, shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

TITLE VII—MISCELLANEOUS

REPORTS

Sec. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this Act and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this Act for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance neccessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status of, the general population.

REGULATIONS

SEC. 702. (a)(1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules of receiving comments from interested parties.

(3) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this Act: *Provided*, That, prior to any revision of or amendment to such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

PLAN OF IMPLEMENTATION

SEC. 703. Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress. The plan will explain the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

LEASES WITH INDIAN TRIBES

SEC. 704. Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years.

AVAILABILITY OF FUNDS

SEC. 705. The funds appropriated pursuant to this Act shall remain available until expended.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

UP AMENDMENT NO. 436

Mr. STEVENS. Mr. President, I ask that unprinted amendment No. 436 be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 436.

The amendment is as follows:

On page 6, line 1, After the word "community" insert the words "and in the case of Alaska such entity or entities designated by each region defined by" and strike the word "including".

On page 6, line 2, strike "any Alaska Native village or group or regional or village cor-"

On page 6, line 3, strike "poration as defined in or established pursuant to"

Mr. STEVENS. Mr. President, I apologize to the Chair. I thought that had already been done before I came in.

Mr. President, the amendment I am submitting today comes as a result of hearings held last week in Alaska. For 3 days last week I traveled to Juneau, Anchorage, Bethel, and Fairbanks with my colleague from South Dakota, Mr. ABOUREZK, the chairman of the Senate Indian Affairs Subcommittee and my colleague from Alaska, Mr. GRAVEL. Along with Mr. John Borbridge, the Chairman of the American Indian Policy Review Commission, we received testimony from Native organizations, leaders, and individuals that justify the need for a technical clarification with regard to the definition of "Indian tribe."

With regard to previously passed legislation on Native matters my colleagues and I found the same questions asked over and over. What organizations are considered tribes, tribal governing bodies, or tribal organizations? The need to clarify these technical problems is most important because, as the definition stands now in the Self-Determination Act and in S. 522, those entities identified as tribes and governing tribal bodies are granted more authority by the act.

Throughout Alaska it was brought to our attention that based on the present definition, Alaska has at least 462 tribal entities: 12 regional profitmaking corporations; 225 village corporations, less NANA; 225 villages, IRA governed, traditional council governed, or 2d class cities.

In addition, other entities have either claimed or requested tribal status:

First. Several nonprofit regional Native associations.

Second. Alaska Native Brotherhood.

Third. Some of the four named cities in the Alaska Native Claims Settlement Act.

Fourth. Association of Interior Eskimos.

Fifth. Fairbanks Native Association.

Quite often Alaska Natives are members of more than one tribe. In other words, for any given village, more than one village organization could claim to speak for the village. Further questions result. Which of these entities are the governing body? Furthermore which of these entity or entities does each region want to represent them?

Mr. President, the amendment I am submitting today will serve to allow Alaska Natives to better assume the planning and administration of programs in the Indian Health Care Improvement Act. The testimony we received last week informed us that the current definition in Public Law 93–638 and the definition used in S. 522 is unclear as to what is the proper vehicle for contracting in Alaska.

This amendment will allow each region, for the purposes of S. 522, to be able to determine the primary entity or entities qualified to apply for and receive funds under the act's grant program and for other purposes. This amendment will allow each region in Alaska to identify and determine its own membership with that governing body.

That is what we found during the course of our hearings in Alaska and that is the purpose of this amendment.

Mr. President, let me summarize.

I wish to discuss the amendment with my good friend and neighbor from Washington and the Senator from Arizona.

Senator ABOUREZK of South Dakota and our two Alaskan Senators, my colleague and I, have just returned from hearings in Alaska concerning the problem of the definition of "Indian tribe" in existing Federal legislation.

It is a very difficult problem in our State because we have not had recognition of tribes as it has been done in the traditional sense in the South 48.

What this amendment that I propose would do would be to permit each region, as created by the Alaskan Native Land Claims Settlement Act, to designate which entity or entities in that region are recognized tribes. It would be a measure of self-determination in letting the people of each area of our State determine which entity is in fact the legal governing body of a tribe and should be the designated entity to participate in the administration of an act such as this pursuant to the Indian Self-Determination Act.

I understand the situation. I have discussed it with the Senator from Washington, and my staff has discussed it, and we have discussed it with the Senator from Arizona and with the Members on the House side.

In connection with this bill, and I understand the urgency and what the two distinguished leaders on the Committee on Interior and Insular Affairs have worked out with regard to this amendment that is before the Senate now. We must, though, I think, respond to the testimony that we received. I wish to inquire of my good friend whether he could agree that in the next session of Congress we will look at the whole problem of the definition of Indian tribes in Alaska and make certain that the tribe that is recognized by the Federal Government to deal with the problems of a particular area in Alaska is in fact the tribe that is recognized by the people of the area and the legal governing body is in fact the one that they have selected and not one that we designate from Congress or is designated from the executive branch of the Federal Government.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from Alaska for raising this question. I think the Senator put his finger on it when he said, "This problem is complicated."

We really do not know at this time which entity is the proper one. For example, it is my recollection that a lot of the Indian villages are set up under the Wheeler-Howard Act, an act passed in 1934. I believe I am correct in that regard.

Mr. STEVENS. Several of them are. They are IRA designations.

Mr. JACKSON. That is right, and then we had subsequent acts, including the legislation adopted in connection with the settlement of the Native claims. What we need to do is to find out what the best answer is. I do not have an immediate answer. But I say to the Senator, and it should be a part of the legislative history of this bill, that I will assure him that in the next Congress we will endeavor to clarify the situation, either through the process of hearings or through whatever legislation may be needed.

Mr. STEVENS. I am grateful to the Senator from Washington and to my colleague from Arizona. The provision of this bill will include "any Native Village or group or regional or Village corporation" defined pursuant to the act and Native Land Claims Settlement Act.

That means a Native or Indian person in Alaska could well be a member of four different entities that would represent the same tribal organization, and what we are creating is the potential—it is not there yet—for conflict between separate hierarchies in organizations to try to compete for Federal funds. We do not want that, and I am sure the Senator does not want that.

Mr. JACKSON. May I finish on one point, and then I shall yield my time to the Senator from Arizona.

Just to follow up on my earlier comments, the bill before us will not become operative until fiscal year 1978. That is a year away. So we will have the legislative time to make whatever adjustments necessary to meet the points raised so ably here by the Senator from Alaska.

Mr. FANNIN. Mr. President, I commend the distinguished Senator from Alaska for his dedication to his people. Certainly he has been foremost in his expressions of concern. The Senator from Arizona understands the complexity of the situation and, as the Senator realizes, the Senator from Arizona cannot speak as far as next year is concerned but feels very confident the members of the minority on the Committee on Interior and Insular Affairs will give the same consideration as the Senator from Arizona would give, and this will be an item of serious consideration and full cooperation, I am sure, will be forthcoming.

Mr. STEVENS. Mr. President, I thank Senators for their comments.

Mr. President, the problem really is one of self-determination, and I know, in particular reference to what the Senator from Arizona just said, that the Alaskan Native people are greatly in his debt and will miss his service on this committee. We have had the firm support of the Senator from Arizona and the Senator from Washington, and I am grateful.

In view of the fact that the bill will not become operative unti 1978 and we will have an opportunity to clarify the matter before it becomes operative, Mr. President, I ask to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JACKSON. Mr. President, I thank the Senator from Alaska. The junior Senator from Alaska (Mr. GRAVEL) and Senator ABOUREZK also have spoken to me about this.

Mr. STEVENS. They cosponsored this amendment.

Mr. JACKSON. That is correct, and they are all in accord with the understanding that we have had here today.

I only mention that because they are not in the Chamber.

Mr. President, I ask unanimous consent that the name of the junior Senator from Oregon (Mr. PACKWOOD) be added as a cosponsor at the next printing of S. 522, the Indian Health Care Improvement Act, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I want to enthusiastically endorse the amendments to the Indian Health Care Improvement Act before us today, and urge the immediate signing of this landmark legislation into law. The Senate Interior Committee can well be proud of its dogged determination in writing responsible, yet comprehensive legislation, which meets Native American health problems head on.

In the area of Indian Health Service facilities the committee has outlined a shocking situation. In Alaska, many of the IHS hospitals and service units were originally tuberculosis hospitals. Each year sections of these facilities are renovated with IHS funds to make them compatible with minimum hospital requirements and safe and effective health care. With the limited IHS budget this piecemeal construction and renovation process is painfully slow and often unsafe.

In many instances the IHS staff housing is more archaic than the hospitals. For example, in Bethel, many of the IHS staff are housed in the remnants of temporary trailers installed 20 years ago. These primitive conditions will continue unless additional authorizations are provided to augment the inadequate IHS construction budget.

As a byproduct this situation has frustrated the implementation of the Indian Self-Determination Act. Few Native Americans or Alaskan Natives will be anxious to assume responsibility for outdated, unsafe facilities.

Title III of the Indian Health Care Improvement Act begins to seriously address these problems by authorizing funds intended to attack the immediate need for renovation and construction. It further provides that Native American participation in the planning and construction process includes contracting with Native American firms whenever possible. These provisions demonstrate congressional willingness to spend dollars to assure safe and adequate health care facilities for our first citizens.

Title III also addresses the problems of safe water supply and waste disposal facilities in Native American communities. Much has been done by the Indian Health Service in cooperation with Native Americans to correct the lack of adequate facilities. But we must move faster. Today the substantial incidence of preventable diseases in the Native environment can be directly related to the lack of water and sanitary facilities.

It is conceivable in our Bicentennial Year, that thousands of our citizens are living under the most basic substandard conditions, in some cases more severe than our Founding Fathers experienced. With our advanced American technology we have not provided the basic needs of clean drinking water and effective human and solid waste disposal.

This situation was seriously considered by the Senate Interior Committee. Sections 302 and 303 of title III state that the unmet need of safe water and waste disposal in Native homes and communities will be satisfied. Again, in compliance with the Indian Self-Determination Act, which stresses economic development, Native Americans are to participate fully in the process of determining the environmental need and constructing the necessary facilities.

Mr. President, the Indian Health Service budget has a history of being stretched until it snaps. One strain on the budget is the cost of service to Indians who are eligible for medicare or medicaid coverage. The inaccessibility of health services supported by either medicare or medicaid has resulted in the use of IHS facilities, which are located near the Indian villages or reservations. Since IHS is a Federal entity it is not eligible to receive third party reimbursement, nor are its patients covered by medicare or medicaid when they are serviced in IHS facilities.

The Indian Health Care Improvement Act will correct this inequity by qualifying the Indian Health Service to render services to medicare and medicaid patients. This will relieve some of the financial burden absorbed by IHS.

The Interior Committee has wisely advised that future IHS appropriations are not in any way to reflect medicare or medicaid payments and reimbursements. The additional funds paid to IHS facilities for medicare and medicaid services are intended solely to improve and expand services, and not to offset the IHS budget. To do otherwise would seriously jeopardize the stability of IHS.

In recognition of the unexpected additional State medicaid costs the above provision would impose, this legislation provides for 100 percent Federal medicaid matching funds. States will not be required to pay additional medicaid funds for the services to Native Americans, who have enjoyed federally subsidized health care.

The renovation of IHS facilities, the construction of water and sanitary facilities, and the expansion of the medicare and medicaid programs are of particular importance to Alaska. However, there are many areas covered in the Indian Health Care Improvement Act which will greatly improve the status of Native Americans. I believe the Congress can be proud of this landmark health legislation, and I highly commend those who have dedicated themselves to its passage.

I particularly want to mention the work of Senators FANNIN and JACKSON and the Senate Interior Committee. Congressman LLOYD MEEDS, chairman of the House of Representatives Indian Affairs Subcommittee should also be recognized for his efforts in the passage of this legislation.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendment of the House to S. 522 with an amendment in the nature of a substitute. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce

that the Senator from Indiana (Mr. Bayh), the Senator from Ohio (Mr. Glenn), the Senator from Colorado (Mr. Gary Hart), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. Stevenson), the Senator from Georgia (Mr. Talmadge), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from New Jersey (Mr. Case), the Senator from Michigan (Mr. Griffin), the Senator from Delaware (Mr. Roth), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Case) would vote "yea."

The result was announced—yeas 78, nays 0, as follows:

[Rollcall Vote No. 577 Leg.]

YEAS—78

Abourezk
Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Thurmond
Tower
Young

NAYS—0

NOT VOTING—22

Bayh
Beall
Buckley
Case
Glenn
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Kennedy
McGee
McIntyre
Mondale
Montoya
Moss
Roth
Stevenson
Talmadge
Tunney
Weicker
Williams

So the motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION AUTHORIZING INTERVENTION BY THE SENATE IN THE CASE OF CLARK AGAINST VALEO

Mr. LONG. Mr. President, yesterday afternoon, I submitted a resolution (S. Res. 536) to authorize the Senate to intervene in a lawsuit which has important implications for the future relationship of the Executive and the Congress under the Constitution.

I was joined in sponsoring this resolution by Senators Sparkman, Talmadge, and Ribicoff.

The case is Clark against Valeo (Civil Action No. 76-1227, July 1, 1976), and it is pending in the U.S. District Court for the District of Columbia—Judge Charles R. Richey. We are bringing this matter to the attention of the Senate and urging that the Senate intervene in the case to insure that fundamental constitutional issues are thoroughly considered before important precedents are set.

In Clark against Valeo, former Attorney General Ramsey Clark is challenging the constitutionality of the "one-House veto" contained in the Federal Elections Campaign Act (2 U.S.C. 431. et seq.). As you are probably aware, this provision permits either the Senate or the House of Representatives to disapprove regulations promulgated by the Federal Elections Commission.

The plaintiff, Mr. Clark, is contending that such a procedure, among other things, violates the constitutional doctrine of separation of powers. The Secretary of the Senate is not being sued as the representative of the Senate, but in his personal capacity under the campaign law. The Clerk of the House of Representatives and the Federal Election Commission are also defendants in the case.

Recently, the Department of Justice intervened in the case as a plaintiff to challenge the constitutionality of the statute.

Clark against Valeo has important implications for the future administration of the election laws. It is our view, however, that the case has implications which could profoundly affect the authority of the Congress to enact laws and to oversee their administration. A recent study by the Library of Congress cataloged almost 200 statutes with congressional review mechanisms in one form or another. Of these, 53 entail a procedure similar to the one contained in the Federal Elections Campaign Act. These statutes treat a broad range of subject matter, from defense to foreign policy, from public works to education, and fall within the jurisdiction of virtually every committee of the Congress.

The Trade Act of 1974 (Public Law 93-618), for example, contains several provisions which enable the Congress to review the administration of international trade laws and "to regulate commerce with foreign nations" as article I, section 8 of the Constitution provides.

Recently, however, a Presidential determination required by the Trade Act was published in the Federal Register containing the following paragraph:

> In taking action which differs from the action recommended by the Commission, I am required by Sec. 203(b) of the Trade Act of 1974 to report to Congress on the reasons underlying this action. This reportorial requirement is by itself of course appropriate. However, by Sec. 203(c) of the Trade Act, Congress has also attempted to empower itself with the authority to disapprove of such Presidential action by force of a *concurrent resolution*. Such legislative 'vetoes' are considered by the Executive to be violative of fundamental constitutional precepts and thus without effect. The question is currently at issue in litigation which is being actively pursued by the Department of Justice.

The issues raised by Clark against Valeo fall in uncharted constitutional territory. Although the case is being argued on narrow issues relating to the Federal Elections Campaign Act, it is our concern that the case will set important precedents, regardless of the way it is decided, which could seriously affect other statutes. Because a request has been made to impanel a special three-judge court to consider the case and to permit an early review by the Supreme Court, the need for Senate action before adjournment sine die is therefore urgent.

For these reasons, I urge that this resolution be given expeditious consideration by my colleagues.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 14260.

The PRESIDING OFFICER. Is there objection

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

MEDICAL CARE FOR CERTAIN MEMBERS OF ALLIED WARTIME FORCES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume consideration of Calendar No. 662, H.R. 71.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, what is this bill?

Mr. MANSFIELD. This is a bill to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. There being no objection heard——

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator allow the clerk to report the bill?

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Has the bill been reported?

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II, reported with an amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Time is under control. On whose time?

Mr. MANSFIELD. With the time charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:30 p.m. today.

There being no objection, the Senate, at 2:01 p.m., recessed until 2:30 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOMENICI).

The PRESIDING OFFICER. The Chair, in his capacity as Senator from New Mexico, suggests the absence of a quorum.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

RECESS UNTIL 3 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3 o'clock.

There being no objection, the Senate, at 2:32 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MANSFIELD).

MEDICAL CARE FOR CERTAIN MEMBERS OF ALLIED WARTIME FORCES

The Senate continued with the consideration of the bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

Mr. HARTKE. Mr. President, is the pending business H.R. 71?

The PRESIDING OFFICER. It is.

Mr. HARTKE. Mr. President, I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was rejected.

Mr. HARTKE. Mr. President, we are back to the House-passed bill.

Mr. President, I rise in support of H.R. 71, as reported, which would provide, subject to certain conditions, that U.S. citizens who are veterans who served honorably during either World War I or World War II as a member of the armed forces of Poland, Czechoslovakia, or any other government allied or associated with the United States during either World War I or World War II would be eligible for Veterans' Administration hospital and domiciliary care and medical services on the same basis as any eligible veteran of the U.S. Armed Forces with a nonservice-connected disability. This bill provides that the allied veteran must have been a citizen of the United States for a period of at least 10 years. In addition, the allied veteran must have served under the command of the armed forces of France or Great Britain during World War I or World War II and must not be entitled to services under current provisions of section 109 of title 38, United States Code.

Following receipt of the official views of the Veterans' Administration, the full Senate committee met in open executive session on March 10, 1976, to consider H.R. 71. After adopting an amendment in the nature of a substitute, which is identical to S. 2316 which I introduced on September 10, 1975, H.R. 71 was ordered reported favorably to the full Senate for its consideration.

Mr. President, although the cost of this legislation is negligible it means a great deal to those American citizens who have courageously fought bravely against tyranny as members of allied forces.

Mr. President, I ask unanimous consent that excerpts from the committee report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND AND DISCUSSION

CURRENT STATUTORY AUTHORITY

Section 109 of title 38, United States Code, currently authorizes the Veterans' Administration to provide medical care to veterans of nations allied with the United States in World War I (excluding, however, any nation which was an enemy of the United States during World War II) or World War II while the veterans are in the United States. Services are rendered to eligible allied veterans in the same manner as medical care is rendered to VA beneficiaries. The medical care is provided subject to reimbursement of expenses from the allied government concerned.

The original legislation which provided reciprocal medical care for veterans who served in the allied forces was Public Law 68-242, the World War Veterans Act (1924). This act provided that the Veterans Bureau (predecessor of the Veterans' Administration) was authorized to furnish—

Transportation, also the medical, surgical, and hospital services and the supplies and appliances provided by subdivision (6) hereof, to discharged members of the military or naval forces of those governments which have been associated in war with the United States since April 6, 1917.

The act specified that such benefits could only be granted if the allied veteran's government had agreed to reciprocate and provide care for American veterans in their country. This statute remained unchanged for over 20 years.

With the outbreak of World War II, this provision was amended by Public Law 79-499 to include the veterans of those governments allied with the United States subsequent to December 7, 1941, and prior to the termination of the war. However, before the Veterans' Administration could supply services, it was necessary: First, that a law of the requesting government authorize the type of benefits requested for its own veterans; second, that a request that the United States provide such treatment be made by the proper officials of the allied government; third, that the allied government reimburse the Veterans' Administration for the cost of services rendered; and fourth, that no benefits would be furnished to allied veterans unless the allied governments reciprocated by furnishing benefits to veterans of the United States residing within their boundaries.

These benefits were authorized for those veterans from countries who were allied in either World War I or World War II. Benefits were not authorized for veterans whose government was an ally in World War I but an enemy in World War II. The law also provides that hospitalization in a VA hospital may not be extended to allied beneficiaries, except in an emergency unless there are beds available—currently, surplus to the needs of veterans who served in the Armed Forces of the United States.

The operative provisions of law are found in section 109 of title 38, United States Code, which is as follows:

SECTION 109—BENEFITS FOR DISCHARGED MEMBERS OF ALLIED FORCES

(a) (1) In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans' Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Has the bill been reported?

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II, reported with an amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Time is under control. On whose time?

Mr. MANSFIELD. With the time charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:30 p.m. today.

There being no objection, the Senate, at 2:01 p.m., recessed until 2:30 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOMENICI).

The PRESIDING OFFICER. The Chair, in his capacity as Senator from New Mexico, suggests the absence of a quorum.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

RECESS UNTIL 3 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3 o'clock.

There being no objection, the Senate, at 2:32 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MANSFIELD).

MEDICAL CARE FOR CERTAIN MEMBERS OF ALLIED WARTIME FORCES

The Senate continued with the consideration of the bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

Mr. HARTKE. Mr. President, is the pending business H.R. 71?

The PRESIDING OFFICER. It is.

Mr. HARTKE. Mr. President, I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was rejected.

Mr. HARTKE. Mr. President, we are back to the House-passed bill.

Mr. President, I rise in support of H.R. 71, as reported, which would provide, subject to certain conditions, that U.S. citizens who are veterans who served honorably during either World War I or World War II as a member of the armed forces of Poland, Czechoslovakia, or any other government allied or associated with the United States during either World War I or World War II would be eligible for Veterans' Administration hospital and domiciliary care and medical services on the same basis as any eligible veteran of the U.S. Armed Forces with a nonservice-connected disability. This bill provides that the allied veteran must have been a citizen of the United States for a period of at least 10 years. In addition, the allied veteran must have served under the command of the armed forces of France or Great Britain during World War I or World War II and must not be entitled to services under current provisions of section 109 of title 38, United States Code.

Following receipt of the official views of the Veterans' Administration, the full Senate committee met in open executive session on March 10, 1976, to consider H.R. 71. After adopting an amendment in the nature of a substitute, which is identical to S. 2316 which I introduced on September 10, 1975, H.R. 71 was ordered reported favorably to the full Senate for its consideration.

Mr. President, although the cost of this legislation is negligible it means a great deal to those American citizens who have courageously fought bravely against tyranny as members of allied forces.

Mr. President, I ask unanimous consent that excerpts from the committee report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND AND DISCUSSION

CURRENT STATUTORY AUTHORITY

Section 109 of title 38, United States Code, currently authorizes the Veterans' Administration to provide medical care to veterans of nations allied with the United States in World War I (excluding, however, any nation which was an enemy of the United States during World War II) or World War II while the veterans are in the United States. Services are rendered to eligible allied veterans in the same manner as medical care is rendered to VA beneficiaries. The medical care is provided subject to reimbursement of expenses from the allied government concerned.

The original legislation which provided reciprocal medical care for veterans who served in the allied forces was Public Law 68–242, the World War Veterans Act (1924). This act provided that the Veterans Bureau (predecessor of the Veterans' Administration) was authorized to furnish—

Transportation, also the medical, surgical, and hospital services and the supplies and appliances provided by subdivision (6) hereof, to discharged members of the military or naval forces of those governments which have been associated in war with the United States since April 6, 1917.

The act specified that such benefits could only be granted if the allied veteran's government had agreed to reciprocate and provide care for American veterans in their country. This statute remained unchanged for over 20 years.

With the outbreak of World War II, this provision was amended by Public Law 79–499 to include the veterans of those governments allied with the United States subsequent to December 7, 1941, and prior to the termination of the war. However, before the Veterans' Administration could supply services, it was necessary: First, that a law of the requesting government authorize the type of benefits requested for its own veterans; second, that a request that the United States provide such treatment be made by the proper officials of the allied government; third, that the allied government reimburse the Veterans' Administration for the cost of services rendered; and fourth, that no benefits would be furnished to allied veterans unless the allied governments reciprocated by furnishing benefits to veterans of the United States residing within their boundaries.

These benefits were authorized for those veterans from countries who were allied in either World War I or World War II. Benefits were not authorized for veterans whose government was an ally in World War I but an enemy in World War II. The law also provides that hospitalization in a VA hospital may not be extended to allied beneficiaries, except in an emergency unless there are beds available—currently, surplus to the needs of veterans who served in the Armed Forces of the United States.

The operative provisions of law are found in section 109 of title 38, United States Code, which is as follows:

SECTION 109—BENEFITS FOR DISCHARGED MEMBERS OF ALLIED FORCES

(a) (1) In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans' Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Veterans' Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans' Administration from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces he served.

Following World War II, a total of 47 countries were considered to be allied with the United States for the purpose of reimbursable benefits. These countries are as follows:

Albania, Argentina, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Saudi Arabia, Syria, Turkey, USSR, Union of South Africa, United Kingdom, Uruguay, Venezuela, Yugoslavia.

Currently reciprocal service agreements are in force with the United Kingdom and Canadian Governments covering veterans of the armed forces of Great Britain, Northern Ireland, Canada, Australia, New Zealand, and South Africa.

The following table shows the type of care provided to veterans of allied forces under existing agreements during fiscal year 1974 and the number of allied veterans who received the care:

Type of care	British	Canadian	Total
Outpatient visits (staff and fee)	1,245	2,744	3,989
Prescriptions filled	404	1,353	1,757
Transportation services	164	607	771
Prosthetic services	370	309	679
Laboratory services (contract)	70	220	290
Sickroom supplies and equipment	31	113	143
Dental services (outpatient)	5	23	28
Total days hospital care provide	1,924	2,223	4,147
Total cost	$214,419.70	$223,926.34	$438,346.04

The Veterans' Administration has informed the Committee that a review of the Veterans Benefits Office records where requests for care to be provided to allied beneficiaries are kept (other than British and Canadian), disclosed no requests for care have been made in the last 5 years.

NEED FOR LEGISLATION

In World War I and World War II, citizens of many countries fought valiantly in alliance with the United States and our allies.

During World War I, refugees and emigrants formed an army in France under the direction of Gen. Joseph Haller, General Haller's army fought valiantly alongside American forces. There can be no doubt that the efforts of allied forces contributed significantly to the termination of World War I.

World War II resulted in thousands from Poland, Czechoslovakia, Latvia, and other countries fighting in exile. The Polish army represented the Allies' third largest fighting force, after the United States and Great Britain. Polish forces fought gallantly both in Europe and in Africa. The Czechoslovakian fighter wing within the Royal Air Force provided fighter escort to squadrons of the United States 8th Air Force Bomber Command during missions over Germany and air support to allied and American ground forces across Europe.

The British general, Lucian K. Truscott, said of the Polish army-in-exile of their part in the battle for Monte Cassino:

> The men of Poland were in the vanguard of the battle fighting with the same tenacious purpose that had ever made the name of Poland a byword among liberty-loving people.

These fighters in exile were cited by the British Admiralty for "undiminished gallantry and determination to fight on for victory in the common cause in spite of all adversities."

Upon the cessation of World War II, many veterans from Poland and other allied countries refused to return to their Communist-controlled countries. Instead many emigrated to the United States where they have been active and productive citizens. However, these allied veterans have never been eligible for those veterans benefits given to American veterans. Neither have these allied veterans been eligible for medical care because their former countries have not entered into reciprocal agreements with the United States.

The Committee notes that H.R. 71 has engendered considerable interest and correspondence from a number of organizations including the Polish American Congress, the Polish Legion of American Veterans, the Polish Army Veterans Association, District 31 of the United Steelworkers of America, and many elected officials of the Senate, House of Representatives, and State and local governments.

The Veterans' Administration however, has continued to oppose this legislation for a number of reasons. The Committee amendment in the nature of a substitute to H.R. 71 is intended to meet those objections.

First, the Veterans' Administration noted that there is "some confusion between the eligibility provision of proposed paragraph 1 and paragraph 2," and recommended that if this legislation be given further consideration, the "provision should be clarified." The Veterans' Administration's suggestion has been followed and the eligibility provisions in paragraph 1 have been clarified to avoid any possible confusion with paragraph 2.

Second, the Veterans' Administration argued that the bill as passed by the House of Representatives discriminates among our allied veterans by singling out the veterans of two particular nations and excluding others.

H.R. 71, as amended, would eliminate that objection by providing that the veteran of any nation allied with the United States in World War I or World War II, who meets the conditions of this bill may qualify for hospital care benefits. Although the number of these eligible veterans is relatively small and will not significantly add to the original minimal cost of the bill, their inclusion does eliminate the objection voiced by the Veterans' Administration that the measure is discriminatory on its face.

Third, in order to qualify for such benefits each veteran must provide satisfactory evidence of his service in the armed forces of his native country and of his participation in an armed conflict against an enemy of the United States. The bill specifically provides that in order to assist the Administrator in making a determination of proper service eligibility that "each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such office which clearly indicate military service of the applicant in the armed forces of one of the foreign governments referred to in paragraph (1) of this subsection, and subsequent honorable service in or with the armed forces of France or Great Britain during the period of World War I or World War II."

Finally, H.R. 71, as amended, acknowledges that the need for this measure is in large part generated by the failure, to date, of the countries concerned to enter into reciprocal arrangements with the United States as authorized under section 109 of title 38. While the previous absence of such agreements might be readily understood in terms of international tensions and antagonisms, a new examination is required in light of an expressed policy of détente and the recent travel by the President to Poland and other countries. Accordingly, the Administrator of the Veterans' Administration in consultation with the Secretary of State is directed, to the maximum extent practicable, to encourage any government having a significant number of former members of its armed forces residing in the United States to enter into a reciprocal agreement with the United States.

COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Veterans' Administration has informed the Committee that it is unable to estimate the cost of H.R. 71. The House of Representatives has estimated that this measure will not have a significant cost impact upon the VA hospital care system nor would it have any appreciable impact on the demand for services rendered by VA hospitals. It is estimated, for example, that no more than 40,000 allied veterans would be affected. Given current hospital utilization rate of 10 percent by eligible veterans, this should mean that no more than 4,000 allied veterans would avail themselves of medical care. Thus, the Committee believes the cost will be negligible.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report H.R. 71, with an amendment in the nature of a substitute, favorably to the Senate. Adopted: 7 yeas; 1 nay.

Yeas—7.

Vance Hartke, Herman E. Talmadge, Jennings Randolph, Richard (Dick) Stone, John A. Durkin, Strom Thurmond, Robert T. Stafford.

Nay—1.

Clifford P. Hansen.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF H.R. 71, AS REPORTED

Section 1

Section 1 amends section 109 of title 38, United States Code by adding a new subsection (c). Paragraph 1 of new subsection (c) would extend eligibility for hospital and domiciliary care and medical services within the United States under chapter 17 to veterans of other governments allied or associated with the United States under the following conditions:

(a) that the veteran served during World War I or World War II as a member of any government allied or associated with the United States;

(b) that the veteran subsequently honorably served in or with the armed forces of France or Great Britain;

(c) that the veteran participated while so serving in or with the armed forces of France or Great Britain in armed conflict with an enemy of the United States;

(d) that the veteran has been a citizen of the United States for at least ten years;

(e) that the veteran submits satisfactory evidence of the above conditions; and

(f) that the veteran is not entitled to payment for equivalent care and services under a program established by the government concerned for such veteran who served in its armed forces in World War I or World War II. Such entitlement shall be on the same basis as an eligible veteran of the U.S. Armed Forces suffering from a non-service-connected disability.

Paragraph 2 of new subsection (c) provides that in assisting the Administrator to determine eligibility under this subsection each applicant under this program shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either Office which clearly indicate military service of the veteran in the armed forces of one of the foreign governments allied or associated with the United States and who subsequently honorably served in or with the armed forces of either France or Great Britain during World War I or World War II.

Section 2

This section provides that the Administrator of the Veterans' Administration in consultation with the Secretary of State shall encourage the government of any nation allied or associated with the United States in World War I or World War II having a significant number of former members of the armed forces of such government residing in the United States to enter into a reciprocal agreement with our government to furnish services to discharged members of the armed forces of such government as currently provided for in section 109 of title 38, United States Code.

Mr. HARTKE. Mr. President, there have been some questions concerning the cost of this measure which have confused some of my colleagues and have occasioned delay in the Senate's consideration of H.R. 71. To clarify the matter the following information may be of value. The Veterans' Administration has reported on several occasions that it was unable to estimate the cost of this measure because it did not have precise information as to how many individuals might quality for benefits. I might note, parenthetically, that this lack of precise information has not bothered the Veterans' Administration in the past with respect to other bills. In any event, maximum possible costs, however, can be determined with some accuracy because the number of these veterans who fought under British or French command is a finite number for which records exist—and indeed must exist in order for any claimant to qualify for benefits. During initial consideration of this measure by the House of Representatives in 1974, it was estimated, during debate on the floor, there were no more than 35,000 allied veterans who might qualify for benefits under this bill. Subsequently, in Senate hearings on September 26, 1974, representatives of the Veterans' Administration were questioned whether this maximum figure was correct or if the Veterans' Administration disputed those figures. In response the Veterans' Administration generally acknowledged the correctness of the figures saying "that is generally the information we have".

This year, in connection with the committee's consideration of H.R. 71, the Congressional Budget Office officially estimates that the cost of this bill before you today would not exceed $5.6 million for fiscal year 1977 or for each of the next 4 years. The Congressional Budget Office further noted that these figures represent the upper limits of outlays and that the actual cost could very well be lower. In particular, CBO's report to H.R. 71 states:

> These assumptions should yield an upper bound to outlays resulting from the bill. Several factors could reduce costs well below these levels. The required certification for eligibility by the French Ministry of Defense for the British War Office may delay or block eligibility for some veterans to the extent that excess capacity for VA hospital facilities exists, increased outlays for inpatient treatment may fall below the average cost per patient used in the cost estimate.

Notwithstanding the foregoing, there have been some suggestions that the cost might be as high as $399 million a year. This cost estimate was apparently the result of "an informal task force" of six VA employees whose misfortune it was to have been instructed one day by their superiors to prepare in 24 hours a cost estimate to H.R. 71. The best that can be said of this whole affair is that they did complete the cost estimate within a day's time. The assumptions used in making the estimate, however, border on hilarious and it is to the informal task force's credit that it recommend, and the administration agreed, that "no formal cost estimate be supplied." Utilizing wild assumptions that bear no relation to reality, this task force assumed that here are over 750,000 Polish and Czechoslovakian veterans who fought under British or French command who later emigrated to the United States, were citizens for 10 years or more and who are still alive. No doubt that this will come as quite a surprise to former British and French commanders as well as the British and French War Office. That the Veterans' Administration officials might have made inquiries in the past 2 years of the British or French War Offices apparently has never occurred to them. In point of fact, thoughtful historians, who recently have been in contact with my esteemed colleagues on the House side, Representatives FRANK ANNUNZIO and EDWARD J. DERWINSKI, now estimate that the number of veterans that would be covered by the bill is actually less than 15,000 rather than the 40,000 figure utilized by Congress. In any event, I would like to reassure my colleagues that we believe that our estimates, the estimates by the House and that of the Congressional Budget Office more accurately reflect what the true outlays occasioned by this measure will be.

Mr. President, H.R. 71 is a measure which, I believe, is justified; it is a measure which we can afford and I urge my colleagues to approve it.

Mr. President, although in my mind H.R. 71, as reported meets the objection originally voiced by the Administration, I have been informed, through Senator HANSEN, that the Administration, at his time, would not oppose the House passed measure.

I continue to believe that the bill reported by the Senate committee to be superior. However, to expedite passage I am prepared to accept the House passed version.

Mr. STEVENSON. Mr. President, I wish to commend Senator HARTKE and the membership of the Veterans' Affairs Committee for having brought H.R. 71 to the Senate floor. Its passage will redress an inequitable situation which has existed for some time.

During the 93d Congress, Representative ANNUNZIO, Senator HARTKE, and I introduced legislation providing Veterans' Administration medical benefits to members of Eastern European countries' armed forces who fought on the allied side during World Wars I and II and who have subsequently become American citizens. The House has twice passed such legislation, most recently earlier this summer. I hope and trust that the Senate will follow suit in passing this fair and equitable bill affording American citizens with the health care benefits which they deserve.

Mr. President, during World War II, the armed forces of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and Yugoslavia fought valiantly on the allied side. After the war, there was a change of government in each of those countries, a change which deprived the Eastern European people of the freedom for which they had fought. Consequently Eastern Europeans, by the hundreds of thousands, emigrated to the United States in search of a life they could no longer lead in their own countries.

A great many of them are now American citizens who have enriched our Nation through hard work. The bill which Senator HARTKE has today brought to the floor recognizes the important contribution these brave Americans made to the allied war effort by providing that they will be eligible for Veterans' Administration medical and hospital benefits on the same basis as war veterans of the U.S. Armed Forces.

Under existing law, the U.S. Government pays for medical and hospital benefits given to persons who served in the Armed Forces of the Philippines during World War II, even if such persons are not American citizens We can do no less for Eastern European veterans who are American citizens. There is no reason to treat these first-class Americans as second-class citizens. At a modest cost we can do justice to these veterans by providing them with the VA medical and hospital benefits they have earned.

Once again, I wish to commend Senator HARTKE and Congressman ANNUNZIO for the dedication which they have shown in seeking passage of this important legislation.

The PRESIDING OFFICER (Mr. PERCY). Who yields time?

Mr. GRIFFIN. Will the Senator yield?

Mr. HARTKE. I am glad to yield.

Mr. GRIFFIN. It is my understanding that the bill now before the Senate is the House-passed version; is that correct?

Mr. HARTKE. The bill before the Senate is identical in language to the House-passed version which, incidentally, has been cleared with the ranking minority member, Mr. HANSEN. It is my understanding that a letter has been received by the ranking minority member, Mr. HANSEN, indicating that the President would not accept the Senate-passed version but was willing to sign the House-passed version of this bill.

Mr. GRIFFIN. I think the ranking member is coming over and will be here in a few moments. While we are waiting, it is my understanding that Senator GOLDWATER may have an amendment to this bill.

Mr. HARTKE. Senator GOLDWATER'S amendment does not address the substance of H.R. 71.

Mr. GRIFFIN. The point of my inquiry is this: Are we going to give him an opportunity to offer an amendment?

Mr. MANSFIELD. Will the Senator yield?

Mr. HARTKE. Yes.

TIME-LIMITATION AGREEMENT—H.R. 71

Mr. MANSFIELD. Mr. President, I wish to inform the Senate that we will not complete this bill today. We will go as far as we can. I ask unanimous consent that tomorrow when the bill is brought up again, the distinguished Senator from Arizona be recognized for not to exceed 30 minutes, the time to be equally divided; that following the vote on the Goldwater amendment the Senate immediately move to final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. I know of no other amendment so I guess that will be satisfactory.

Mr. MANSFIELD. Has the Chair ruled?

The PRESIDING OFFICER. Yes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HARTKE. I yield to the majority leader.

Mr. MANSFIELD. Mr. President, just to make sure that what I had in mind is, in fact, what the Journal will show, I ask unanimous consent that after the Goldwater amendment is voted on tomorrow, without any intervening motions, the Senate then move to final passage of H.R. 71, or amendment, without any intervening motions or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, the Senator from Wyoming (Mr. HANSEN) is engaged in a conference in the Committee on Finance. Senator STAFFORD is here and is authorized to speak on behalf of the minority.

Mr. STAFFORD. Mr. President, that is true. I am on the committee with Senator HANSEN and Senator THURMOND, and I am authorized to act for the minority side of the committee, as I understand it.

Mr. HARTKE. And the understanding is that the committee has agreed that the House-passed version of the bill, which is acceptable for signature by the President and now before the Senate, is a version which is to be adopted by the Senate.

Mr. STAFFORD. That is the understanding of the Senator from Vermont as well.

Mr. HARTKE. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR WEICKER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the other special orders, the Senator from Connecticut (Mr. WEICKER) be recognized for not to exceed 15 minutes on tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 14260, Calendar No. 953, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. The clerk will report.

Mr. ALLEN. I object.

Mr. MANSFIELD. Mr. President, I move that the Senate turn to the consideration of H.R. 14260, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 14260) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to proceed.

Mr. ALLEN. Mr. President, I desire to discuss it, but in deference to the distinguished majority leader, I shall not enter upon my remarks at this time inasmuch as he has other matters to bring up.

I hope the Chair will not put the question, because I wish to be heard.

Mr. MANSFIELD. Mr. President, will the Senator from Alabama give the Senator from Montana some indication as to how long he wishes to be heard? The reason I raise the question is that it would be my intention to ask unanimous consent to recess until 4 p.m.

Mr. ALLEN. I understood that. If it is necessary that I speak, I shall speak at length. I am hoping that it will not become necessary, but I understood the distinguished majority leader was going to ask unanimous consent for a recess, and I have no objection to that. I simply did not want the Chair to put the question without giving me an opportunity to be heard.

RECESS UNTIL 4 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4 p.m. today.

There being no objection, the Senate, at 3:30 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. HELMS).

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the Senator from Iowa (Mr. CULVER) is recognized tomorrow that the Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 10 minutes following.

'The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services be granted authority until midnight tonight to file a report on H.R. 14846, the Military Construction Authorization Act of 1977.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournmnet until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977

Mr. INOUYE. Mr. President, I move that the Senate resume the consideration of H.R. 14260.

Mr. ALLEN. Mr. President, there is a pending motion that we proceed to the consideration of the foreign assistance bill, and I believe it would be well to have the colloquy on that motion, rather than actually to proceed to the consideration of the bill, if that is satisfactory with the distinguished manager of the bill, the Senator from Hawaii (Mr. INOUYE).

I wish the distinguished Senator would tell what he has in mind with respect to an offer, to see if we are in agreement as to what amendment will be proposed.

Mr. INOUYE. Mr. President, for the past several weeks, several Members of the Senate have been in constant communication attempting to reach consensus on the foreign aid bill. I am pleased to advise the Senate that this afternoon the parties have reached this consensus, which I will present to the Senate.

First, I shall be requesting that the committee amendments, heretofore not considered, be considered en bloc, and that they be regarded for purposes of amendment as original text.

At that point, Mr. President, I shall be submitting an amendment. It will be an amendment with several parts.

First, it will strike out a total of $3.5 million which had been set aside for Mozambique.

Second, it will earmark $20 million for Zambia and $20 million for Zaire.

Third, it will approve an allocation of $10 million to Botswana and $4 million for use in the region for agricultural, technical, and educational training for development.

Those are the essential provisions of the amendment I will offer.

Mr. ALLEN. Mr. President, will the distinguished Senator yield?

Mr. INOUYE. I am very happy to yield at this point.

Mr. ALLEN. As I understand the proposal of the administration, $30 million was to be given to Zaire, $30 million to Zambia, and an additional $25 million to be appropriated, $12.5 million of which was to go to Mozambique and the other $12.5 million to be distributed as the Secretary might deem wise. Is that correct?

Mr. INOUYE. The request submitted by the administration called for $30 million for Zaire and $30 million for Zambia, as indicated by the distinguished Senator; for Botswana, $20,250,000; and $4,750,000 for regional training programs.

Mr. ALLEN. I understood that half of the $25 million was to go to Mozambique. Is that not correct?

Mr. INOUYE. It was not so presented, but one can assume that that could have been achieved.

Mr. ALLEN. Yes. Secretary Kissinger did promise $12.5 million to Mozambique in his Lusaka speech, did he not, announcing his new African policy?

Mr. INOUYE. That is my understanding.

Mr. ALLEN. Yes. Now, the Senator from Alabama all along has been insisting that the bill contain no appropriations for Mozambique. As I understand the bill in its present condition, there is a $3.5 million appropriation for Mozambique. Under the Senator's proposed amendment, that $3.5 million for Mozambique would be stricken; is that correct?

Mr. INOUYE. The Senator is correct. The bill as it stands has two items, one for $1.5 million, the other for $2 million, destined for use in Mozambique.

Mr. ALLEN. Yes.

Mr. INOUYE. The amendment that the Senator from Hawaii will offer will delete those two items, and I can further assure the Senator from Alabama that with that amendment, this bill will not have any bilateral funds whatsoever that can be used, directly or indirectly, in any shape or form, in Angola or Mozambique.

Mr. ALLEN. I thank the distinguished chairman of the subcommittee and floor manager of the bill.

The committee did not approve and the bill does not contain the additional $25 million requested for Mozambique and other South African nations; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. And it is the Senator's understanding that with the acceptance of his amendment, we will be stating $20 million for Zaire, which is $10 million less than the administration request, $20 million for Zambia, which is $10 million less than the administration request, and the $14 million for Botswana, but the amendment calling for the $25 million that might have been used in Mozambique is not to be offered on the Senate floor; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. As far as any funds going to Mozambique as requested by the administration, the bill, following the Senator's amendment, would contain absolutely no funds that could be used for Mozambique.

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. As to the Botswana appropriation, that appropriation is not to be used directly or indirectly for the purpose of allowing Botswana to close down the railroad from Botswana into Rhodesia; is it?

Mr. INOUYE. The Senator is correct. If I may add at that point, Botswana is a landlocked country in Africa. It is one of the poorest countries in Africa. The land is not fertile. This is one of the few black countries in Africa which has not sent guerrillas into Rhodesia. In fact, Rhodesia's chief land transport outlet goes through Botswana, and assurances have been received from Botswana that this railroad will be kept open because the economy of Botswana depends upon the railroad being open. At the same time, without this railroad the economy of Rhodesia would be in dire straits.

Mr. ALLEN. In other words, the $14 million going to Botswana would not be used to make up the economic loss that would be occasioned by closing down the railroad; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. That is, because, in fact, the railroad is not to be closed down.

Mr. INOUYE. No.

Mr. BROOKE Mr President, will the Senator yield?

Mr ALLEN. I yield.

Mr. BROOKE. I think it should be pointed out to the Senator that the amendment that is being offered includes $10 million for Botswana and $4 million for regional, agricultural, and development funds.

Mr. ALLEN. Yes, making a total of $14 million which I included.

Mr. BROOKE. Making a total of $14 million, but none of this money would be used to close down the railroad.

Mr. ALLEN. Yes. And none of the money would be used for Mozambique; is that correct?

Mr. BROOKE. None of the money would be used for Mozambique; that is correct.

Mr. ALLEN. The concern of the Senator from Alabama all along has been that no funds be provided in the bill for Mozamibque and, as I understand it, the distinguished Senator from Massachusetts will confirm this, I am sure, because the distinguished manager of the bill had, the bill contains no moneys for Mozambique directly or indirectly.

Mr. BROOKE. That is correct.

Mr. ALLEN. And there is no hidden source of funds in the bill that might be drawn on for Mozambique's use in any fashion; is that not correct?

Mr. BROOKE. That is also correct.

Mr. ALLEN. I thank the distinguished Senators.

I believe that covers the misgivings that I had about this phase of the appropriation.

Recapitulating, the amendment does strike from the bill the $3.5 million that the bill presently provides for Mozambique. That is correct, is it not?

Mr. INOUYE. Yes.

Mr. ALLEN. And assurances are given that an amendment will not be offered on the floor to provide $25 million as requested by the administration that might be used in whole or in part for Mozambique. Is that correct?

Mr. INOUYE. If an amendment is presented I will oppose it and I will join the Senator from Alabama to carry on a lengthy educational discussion.

Mr. ALLEN. I thank the Senator. And he would also join the Senator from Alabama in resisting any efforts at invoking cloture; would he not?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. I am sure I have the same assurances from the distinguished Senator from Massachusetts; do I not?

Mr. BROOKE. The Senator has that assurance.

I wish to point out to the Senator as to this $10 million, because we had this discussion earlier this afternoon, that we agreed upon for Botswana, I would not have proposed that amendment until I was assured of the projects, and one of the projects would be to enhance the railroad capability that the Senator from Alabama is so interested in; $3.8 million of that amount would be used for that purpose.

Mr. ALLEN. I appreciate that information, because I do feel that this money should not be used to close down the railroad but to rehabilitate the railroad to help the economy of Botswana.

Mr. BROOKE. I gave the Senator assurance earlier today. I wanted to know specifically that the money would be used to enhance the railroad.

Mr. ALLEN. I might state to both Senators that, while I do not plan to vote for this amendment, I shall not seek to carry on a lengthy discussion in opposition to the amendment. But I feel as those of us who feel that money should not be made available to Mozambique to aid it in carrying on or sponsoring guerrilla activities against the stable government of Rhodesia, and those of us who have fought that concept, those of us who have felt that that is not the way toward peace in this area, will feel reassured that the bill does not contain any funds whatsoever that would go to this Nation.

With that understanding, I am ready to proceed to the consideration of the bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana to proceed to the consideration of the bill.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. INOUYE. Mr. President, at long last, the Senate returns to consideration of H.R. 14260, the foreign assistance and related programs appropriations bill for fiscal year 1977.

It has now been more than 2 months since the Appropriations Committee reported this bill to the Senate. In the intervening time all have had an opportunity to study the bill. I hope, therefore, that we can have responsible action on this bill and move quickly to insure that it will be enacted before the start of the fiscal year.

If the congressionally inspired budgetary process is to work, this body must focus its energies on the timely enactment of appropriations bills. The legislative calendar is crowded and the time we have is short. Nonetheless, for the first time in more than 2 years, we now have the opportunity to enact a timely foreign assistance appropriations bill. I hope we will not allow this opportunity to slip away.

Mr. President, on June 30, when I reported H.R. 14260 to the Senate, I offered an extensive commentary on the recommendations of the Appropriations Committee. I will not repeat those remarks at this time. However, for the convenience of those who may be interested, the remarks may be found in the CONGRESSIONAL RECORD of June 30, 1976, on pages 21473 and 21474.

The bill recommended by the committee for fiscal year 1977 totals $5,353,265,000. This amount is $67,088,909 less than the fiscal year 1976 appropriation and is $464,505,000 below the President's fiscal year 1977 budget request. It is, however, $519,767,000 more than the amount in the bill which passed the House. This last comparison may be somewhat misleading in that the Senate considered some $320 million in Presidential budget amendments which were not considered by the House.

The report which accompanies this bill, Report No. 94-1009, provides a framework of understanding for the recommendation of the committee as well as summary and detailed information on the programs funded through this appropriation. I commend the report to my colleagues. It is, I think, a valuable aid to understanding the workings of foreign assistance.

Mr. President, I believe that the bill brought forward by the committee achieves a just proportion between humanitarian concern and prudent economic management. It is a balanced bill, a good bill, and one which we can ask the American taxpayer to support.

I hope that the Senate will pass this bill by a large margin, and enable the Senate conferees to take a strong bill into conference with the House.

Mr. BROOKE. Mr. President, this amendment provides an additional $14 million for assistance to Botswana and for regional training. The major portion of the amount—$10 million—will be for development projects in Botswana. The other $4 million will be used to provide technical training for African nationals from various countries. None of these funds will be utilized to provide assistance to Mozambique or Angola.

During committee consideration of the bill, it was the feeling of the chairman of the Foreign Operations Subcommittee and myself that we should not recommend appropriation of these funds until we had received specific project proposals. This requirement has now been fulfilled, and I have had the chance to review the general outlines of the activities to be funded by the $20 million. I am satisfied that the money can and will be spent in a manner consistent with our foreign assistance goals and national objectives regarding southern Africa.

Although a fundamental prerequisite for appropriating these funds must be the assurance that they will be used effectively to promote development, there is, perhaps, an even more important dimension to this initiative. The United States is undertaking a new policy initiative in southern Africa designed to head off a conflagration. In doing so, the objective is to support peaceful accommodations and human dignity for all the people in the region. We must hope and pray that we are successful in convincing the African peoples that we fully support these just aspirations. It is in our national interest to do so. Our national ideals demand that we do so.

Should we be unsuccessful in convincing them that our rhetoric will be backed up by substantive action, I despair over the prospective fate of both blacks and whites in southern Africa. Time is running out for the compromises that can avoid a disaster of unimaginable proportions. I pray to God that such is not the case. Now is the time to seize the initiative. Now is the time to do what we can to help bring to an end the dominance of racial animosity and the violence that flows therefrom. We can have a significant impact on the situation. Although we still are a society with many racial problems, we are the most dynamic society in seeking to resolve them. We know how hard the struggle is to do so, but we also know that it can be done. That is why we can make a unique contribution to the resolution of the crisis in southern Africa if we are only wise enough to do so.

I do not claim that this amendment alone will bring about a resolution of the crisis in that part of the world. No individual initiative can do so. But I do know that it is a step in the right direction. It should be taken now. I fervently hope that the vast majority of the Senate agrees.

I ask unanimous consent to have printed in the RECORD a summary of development priorities, constraints, and prospects of Botswana.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BOTSWANA: A SUMMARY OF DEVELOPMENT PRIORITIES, CONSTRAINTS, AND PROSPECTS

SETTING

Botswana is a small, underdeveloped country situated in the center of southern Africa. The United Nations lists Botswana as one of the world's 28 least-developed countries. An estimated 80% of its population lives in rural areas and 90% of the labor force is employed in agriculture—largely subsistence cropping and cattle. Expansion in both livestock and crops has brought production on existing farms close to the limits of the land's carrying capacity under traditional practices.

Intensive prospecting over the past decade has shown Botswana to be well-endowed with mineral resources (diamonds, copper, nickel, coal), and the most important single development since independence in 1966 has been the beginning of mineral exploitation on a large scale. A large diamond mine began production in 1972, and a larger copper-nickel mining complex opened in late 1973.

Livestock and minerals are major foreign exchange earners.

Botswana is surrounded by Rhodesia, South and South West Africa, and this landlocked position makes Botswana totally dependent on its neighbors for access to external markets. Rhodesia owns and operates the railroad on which Botswana exports and imports (and on which most of its domestic goods and passengers are carried); South Africa is the major transit point for Botswana exports and imports beyond Africa.

Economically, Botswana is closely linked to South Africa in several other important respects. The Southern African Customs Union is probably the most important economic link between them. Originated in 1910, it includes Swaziland and Lesotho as well as Botswana and South Africa. Each member receives a portion of the total customs, excise, and sales tax pool of the whole area, the amount being determined on the basis of actual imports and excisable local production. The Government of Botswana derives over 40% of its income from Customs Union revenues. While this percentage varies considerably from year to year it is likely to remain Botswana's single largest source of revenue for some time.

Botswana, as part of the South African rand monetary area, uses the rand as its currency. This denies Botswana control over monetary policies affecting the country and gives it no financial benefit from currency issue. The government recently announced, however, that it intends to establish a central bank and intends to introduce its own currency in August, 1976.

Finally, the Botswana labor market is linked with South Africa. Approximately 50,000 Botswana citizens find employment in South Africa—primarily in the mines. For all its obvious social disadvantages this forms a convenient safety valve against the pressures of unemployment. Any significant reduction in employment opportunities in South Africa the next few years could create a serious unemployment problem in Botswana.

CURRENT DEVELOPMENT PRIORITIES

The Government of Botswana accords highest priority in its current National Development Plan (1973–1978) to expanding job opportunities, expanding agricultural production on a sustained basis, and improving living conditions in the rural areas. The government's general strategy for supporting these priorities is to maximize the benefits accruing to the economy from the mining and other capital intensive industries, and to re-invest most of the resulting revenues in rural development. Education, manpower development, manufacturing and health are also to receive attention.

The Plan's employment target is an increase of domestic paid employment from 50,000 to 80,000, which would absorb about half the increase in the labor force during the Plan period. The rural development program is intended to reduce income disparities between urban and rural areas. The main elements of the program include development of crop and livestock production on a sustained basis, improved marketing and credit facilities for rural areas, expansion of rural industries, and improvement of access to water.

PRINCIPAL CONSTRAINTS TO DEVELOPMENT

The principal constraints to Botswana's development at this stage are the acute shortage of suitably trained and experienced local manpower; the absence of effective networks for meeting marketing, transport, technical and credit needs of the typical rural agriculturalist; and the country's fragile physical resource base for agriculture, which despite new revenues from mineral exploitation remains the largest source of national livelihood.

Every endeavor in Botswana is plagued by the severe manpower squeeze. Suitable local personnel are in short supply or in many fields simply do not exist. The output of Botswana's educational institutions is still too small to overcome the extreme shortage of trained manpower. Both government and the private sector must rely heavily upon expatriates or do without needed skills. In many instances, expatriates are used extensively but there still is an insufficient number of suitably qualified people. Frequently, organizations enjoy capable leadership—local or expatriate—but have serious difficulties with implementation because they lack the necessary middle level, technical and supporting staff. This problem will loom heavily in any development activity for the foreseeable future; even with training efforts now underway and planned, the current Plan does not project self-sufficiency in trained manpower until about 1990.

At the moment, little in the way of assistance is reaching the typical rural subsistence farmer. Without knowledge of better techniques and access to the credit necessary for improving his cultivation or livestock management, the ordinary farmer has little way of increasing his productivity. Lacking an effective marketing and transport system directed to his needs and within his means, he has no motivation for stepping up production in any case. How to make an effective attack on these rural development problems, especially given the manpower shortages already described, is a priority question for Botswana today.

The country's fragile physical resource base for agriculture—basically its land and water, or lack of water—is another constraint. Botswana's agriculture depends heavily on scanty rainfall, and several bad years in a row could lead to famine or near famine. Moreover, parts of the arable land are already approaching the limits of their carrying capacity for livestock and crops, given traditional methods. With continued growth of human and livestock populations, the pressure on available physical resources will increase. The most immediate need is for grazing control, better range management techniques and better use of water. With care, Botswana's land and water resources can become much more productive than they are now. But failure to adopt suitable production and conservation measures before a crisis is reached could leave the way open for disaster in the future.

Two other significant problems should be mentioned, though they may not yet rank as full-fledged constraints. First, Botswana's economy is clearly vulnerable to prices determined externally. World commodity prices (for minerals and beef) are the major factor affecting revenues from exports. In addition, however, the broad influence of southern African and world inflation is becoming more important as mineral and infrastructure investment increases. The amount of money required for investment purposes is growing by leaps and bounds.

Second, the domineering presence of South Africa's powerful and relatively efficient economy is a fact with mixed consequences. Now it is probably a net benefit, providing as it does considerable wage employment for Botswana who might otherwise lack jobs. But in the long run, Botswana could find that South African wages lure away labor needed at home. Certainly South Africa has an inhibiting effect on local production in Botswana. Decreasing the country's economic dependence on South Africa is a difficult business, and it may become more so, not less, as Botswana takes the first steps toward manufacturing and industrialization.

DEVELOPMENT PROSPECTS

Botswana's development prospects are excellent, particularly in comparison with most other African countries. The nation is well endowed with mineral resources, has dedicated and pragmatic leadership, and has a good reputation for efficient use of resources. It appears doubtful, however, that the target growth rate of 14 percent per annum will be achieved, and it is perhaps even more doubtful whether objectives of equity and economic independence can be achieved to the extent desired.

The most immediate problem facing Botswana is a substantial decline in the growth rate of exports and revenues due to production difficulties at the copper-nickel mine. Although the mine was to have come into full production in 1974, it now appears that this will be delayed until well into 1976 or even later; currently production is running one-sixth to one-third of projected levels. Although the implications have not been fully worked out by the government, this shortfall will obviously affect the GNP growth rate, exports and domestic revenues. The impact on domestic revenues may have far-reaching consequences for the pace of further infrastructure development, the rate of implementation of the rural development program and employment.

A related problem is the vulnerability of the economy to external factors. Normal fluctuations of commodity prices, not to mention a serious downturn in the world economy, could affect earnings drastically. Private investment is sensitive to similar forces and could decline sharply.

Botswana can offset the effects of the external resource constraint by increased borrowing from commercial sources or aid donors, and this should not create any undue debt servicing problems in the near future. Previous projections showed external debt increasing to $120 million by the end of the Plan period, with debt servicing equivalent to only 6 percent of domestic revenues and less than 3 percent of export earnings. Thus Botswana appears to have considerable additional debt service capacity, particularly in view of the good growth prospects once copper-nickel production difficulties are overcome.

The general prospects for progress toward Botswana's "social justice" objectives are difficult to judge. Access to government services such as health and potable water should improve sharply during the Plan period, even if the rate of implementation is below that currently planned. Access to education may not improve, since primary school places are projected to expand only rapidly enough to maintain enrollments at about 50–55 percent of those eligible. The equity impact of agricultural production programs could be favorable or unfavorable, depending on their nature. The existing patterns of livestock ownership and range use have a tendency to favor the large holder at the expense of the small herder. Programs aimed at reversing this tendency will require a good deal of research and pilot testing before they can have significant impact and may have to overcome resistance on the part of traditional authorities. Programs to increase crop production will have to take similar factors into account, since there has been a tendency in Botswana as elsewhere for larger and more progressive farmers to benefit most from available agricultural services and innovations.

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending amendment of the Senator from Alabama (Mr. ALLEN) be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. I have no objection. That is part of the understanding.

The ACTING PRESIDENT pro tempore. It is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments not heretofore considered, that is, the amendments appearing on page 3, lines 10 to 18; page 3, line 21; page 12, lines 11 to 13; page 12, line 23 and continuing to page 13, line 2; page 16, line 14; page 16, lines 19 to 23; and page 17, line 8, now be considered and agreed to en bloc and that the bill, as thus amended, be regarded, for purposes of amendment, as an original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 3, at the end of line 9, insert a colon and the following:

Provided, That of the amount made available for loans, not to exceed $210,000,000 of such amount shall be available for loans repayable within forty years following the date on which the funds were initially made available under the loan: *Provided further*, That not to exceed $60,000,000 of such amount shall be available for loans repayable within thirty years following such date: *Provided further*, That not to exceed $30,000,000 of such amount shall be available for loans repayable within twenty years following such date.

On page 3, in line 21, strike out "$170,000,000" and insert "$197,000,000".

On page 12, beginning with line 11, strike out:

Sec. 109. None of the funds appropriated or made available pursuant to this Act shall be used to provide assistance to Angola or Mozambique.

and insert:

Sec. 109. None of the funds appropriated or made available pursuant to this Act shall be used to pay compensation to an individual who is employed as an expert or consultant under section 626(a) of the Foreign Assistance Act of 1961, and who is receiving an annuity or retired pay from the United States, in an amount in excess of the rate of compensation authorized for such individual under such section reduced by the amount of annuity or retired pay (computed at a daily rate) received by such individual.

On page 12, beginning with line 23, insert:

Sec. 110. Of the funds appropriated or made available pursuant to this Act, not to exceed $108,000 shall be for official residence expenses of the Agency for International Development during the fiscal year ending September 30, 1977.

On page 16, in line 14, strike out "$60,318,000" and insert "$120,635,000".

On page 16, in line 19, strike out "to (1) paid in capital stock, (2) callable capital stock, and (3) the United States share of the increase in the resources of the Fund for Special Operations" and insert "only to paid-in capital stock and callable capital stock".

On page 17, in line 8, strike out "$320,000.000" and insert "$375,000,000".

AMENDMENT NO. 437

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. Inouye), for himself and Mr. Brooke, proposes unprinted amendment numbered 437.

On page 2, line 7, strike out "$536,500,000" and insert in lieu thereof "$535,000,000".

On page 3, line 3, strike out "$66,000,000" and insert in lieu thereof "$64,000,000".

On page 8, line 5, strike out "$1,736,500,000" and insert in lieu thereof "$1,745,500,000".

On page 8, line 10, strike out "and", and restore the comma, and insert immediately thereafter the following: "$14,000,000 shall be allocated for Botswana and for regional training programs, not to exceed $20,000,000 shall be allocated to Zaire, and not to exceed $20,000,000 shall be allocated to Zambia".

Mr. INOUYE. Mr. President, this amendment has been discussed in colloquy between the Senator from Alabama and the Senators from Massachusetts and Hawaii. I believe enough has been said, unless the Senator from Alabama has anything to add.

Mr. ALLEN. May we have a further definition of where, in addition to the $10 million going directly to Botswana, the $4 million could be expended, in what areas? I am not talking about items.

Mr. INOUYE. This is in Southern Africa and it will be used for educational, agricultural, technological, and development training. No funds are proposed for military training, or for the purchase of weapons or the purchase of any commodity which can be used in guerrilla warfare.

Mr. BROOKE. None of the money for paramilitary, or none of this money for Mozambique.

Mr. ALLEN. It would not contemplate that it would be used in Mozambique?

Mr. BROOKE. No.

Mr. ALLEN. And it would not be used in Mozambique?

Mr. BROOKE. That is correct.

Mr. ALLEN. I feel that we have covered the agreement, and I am ready to proceed with the bill.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I am going to call for the yeas and nays on the amendment. Even though I have agreed to withdraw opposition to the amendment, I want to be recorded as voting against it. I think there is a disposition to carry the vote on this amendment over until tomorrow. I believe that is correct. I request the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that this vote be taken tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I reserve the right to object.

Mr. INOUYE. In addition, Mr. President, I ask unanimous consent that between the vote on this amendment, and the vote on final passage, there shall be no intervening amendments or motions or appeals.

Mr. BROOKE. Mr. President, reserving the right to object, can we have a definite time?

The PRESIDING OFFICER. The Senators will have to use their microphones.

Mr. BROOKE. Reserving the right to object, and I shall not object, I was asking the majority leader whether we could have a special time.

Mr. INOUYE. Eleven o'clock tomorrow morning.

Mr. BROOKE. And this would be back to back?

Mr. INOUYE. Back to back.

Mr. BROOKE. Without any intervening motions or votes.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that rule XII be waived?

Mr. INOUYE. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, that does not preclude amendments tonight?

The PRESIDING OFFICER. That is correct.

Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. The Senator anticipated me, because I understand that he has an amendment which would be in order at this time and could be voted on.

UP AMENDMENT NO. 438

Mr. ABOUREZK. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. Abourezk), for himself and Mr. Kennedy, proposes an amendment numbered 438.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 14, strike "$7,300,000." and insert in lieu thereof "$17,300,000, $10,000,000 of which is to remain available until expended.".

On page 5, between lines 16 and 17, insert the following new paragraph: "Lebanon Relief and Rehabilitation assistance: For necessary expenses to carry out the provisions of section 495C, $20,000,000."

On page 15, line 13, strike out "$10,000,000" and insert in lieu thereof "$15,000.000".

Mr. ABOUREZK. Mr. President, I am offering an amendment of three parts to this bill which would provide much-needed and long-overdue assistance to Lebanon. This package of amendments consists of three principal elements.

First, $10 million is asked to be appropriated to the State Department, specifically to reimburse the Department of Defense to activate and provide for the maintenance, operation, and refitting of the hospital ship U.S.S. *Sanctuary*.

As my colleagues are well aware, I offered a similar amendment to the defense appropriations bill during its consideration in August. The distinguished chairman of the Defense Appropriations Subcommittee, Mr. McClellan, indicated that the funds should not come out of the Department of Defense but, rather, out of this particular appropriations account. The next day, I introduced separate legislation which would provide the necessary funds from the State Department appropriations bill, from the transition quarter.

There are doctors who are willing to go out and round up a voluntary medical staff for the ship. I have been in touch with several organizations which have experience and the qualified staff to assist in operating and maintaining the vessel—all with voluntary help, I emphasize. What we need now is congressional approval to fund the ship and get it in operation.

I point out that the State Department and the National Security Council have felt for a long time the need and the desire to have a hospital ship, such as the U.S.S. *Sanctuary*, available for use around the world as a symbol of the greatest traditions of the United States in providing humanitarian assistance whenever and wherever it might be needed.

I completely agree with this concept and cannot think of a better place for the United States to begin demonstrating that tradition than during the tragedy in Lebanon.

The second part of the amendment would fund the $20 million Lebanon relief and rehabilitation program, which has already been authorized by Congress in Public Law 94–329, the International Security Assistance and Arms Export Control Act of 1976. This will go to the United Nations contribution that has been asked for by the U.N. for a great many nations to assist in their efforts in Lebanon.

There has been some concern that there is no appropriate place to spend the money in Lebanon. Those who are familiar with the situation know the fallacy of that argument. The American University Hospital in Beirut, for example, has been doing outstanding work in caring for the victims of the conflict in Lebanon. They, like several other hospitals in the area, are out of supplies and out of funds. This appropriation will provide the needed assistance.

The third part of the amendment is to specifically provide a $5 million appropriation for emergency relief funds for the International Committee of the Red Cross, to support their efforts in Lebanon. Unfortunately, the ICRS is the only outside organization that is capable of providing the assistance necessary. It has issued recently several appeals for funds to permit it to continue serving in Lebanon, and I am convinced that its needs must be met.

I urge my colleagues to support this request for American humanitarian assistance for Lebanon. It does not replace the need for that country to reach its own political solution, but I do not believe that that fact should hinder the U.S. efforts.

Mr. President, I have discussed this matter with the distinguished chairman of the subcommittee, and he has indicated his agreement and willingness to accept it.

At this time, I should like to modify the amendment. Where it says "on page 4, line 14, strike '$7,300,000;' And insert in lieu thereof '$17,300,000,' " I should like to strike the remainder of that sentence, which reads: "$10,000,000 of which is to remain available until expended."

The PRESIDING OFFICER. The amendment will be so modified.

The modified amendment is as follows:

On page 4, line 14, strike "$7,300,000." and insert in lieu therof "$17,300,000."

On page 5, between lines 16 and 17, insert the following new paragraph: "Lebanon Relief and Rehabilitation assistance: For necessary expenses to carry out the provisions of section 495C, $20,000,000."

On page 15, line 13, strike out "$10,000,000" and insert in lieu thereof "$15,000,000".

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I have discussed this matter with the distinguished Senator. I am in full sympathy with the plight of the people of Lebanon, and I am ready to accept the amendment and take it to conference.

My only question at this time is this: Who will be utilizing these funds?

Mr. ABOUREZK. First of all, there would be a transfer of funds from the State Department, of $10 million, to the Defense Department for the operation of the hospital ship U.S.S. *Sanctuary*. Five million dollars would go to the International Red Cross, and $20 million as the U.S. contribution to the United Nations, based on the appeal they made for contributions from all nations for Lebanon.

Mr. INOUYE. None of the funds would be going to either the Falangists or the PLO or the Syrian troops or the Lebanese Government?

Mr. ABOUREZK. That is true. It is purely humanitarian relief.

Mr. INOUYE. It would go to third party organizations—the Red Cross and the United Nations?

Mr. ABOUREZK. That is correct.

Mr. President, this amendment is cosponsored by Senator Kennedy, and I ask unanimous consent to have printed in the Record a statement he has submitted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Kennedy

I am hopeful the Senate will act favorably on the amendment I have introduced with Senator Abourezk to provide $20 million in emergency humanitarian assistance for the people of Lebanon.

Many weeks ago, Congress authorized this amount, but since then we have seen some of the most vicious and destructive violence of the civil war, and relief and rehabilitation needs have never been greater. Yet, no funds have been appropriated to date.

As Chairman of the Subcommittee on Refugees, I have conducted two extensive hearings into the humanitarian problems of Lebanon. The personal anguish and human misery caused by the civil war almost defies description and belief. With the front lines everywhere, no one has been safe from the sniper's bullet or the wanton artillery shell. Some estimates suggest that some 35,000 to 40,000 Lebanese have lost their lives. Thousands more have been injured or maimed. Many people are missing and families are torn apart.

Homes are destroyed, and central Beirut resembles the worst pictures from World War II. Villages and neighborhoods are beseiged and refugees number in the hundreds of thousands. And the need for emergency relief—for food and medicine and blankets and shelter—has never been greater than it is today.

And even as the hearings before the Refugee Subcommittee have clearly established the need for U.S. humanitarian assistance, they also established that mechanisms and channels exist to provide this assistance to the people in need. Besides the urgent medical needs of several hospitals, particularly the American University of Beirut's hospital, there are also a number of voluntary agencies active in the field, and the presence of the U.N. High Commissioner for Refugees. In addition, an extremely important channel is the International Committee of the Red Cross, whose monthly relief requirements run over $2.5 million.

The time is past due that the United States contributes its fair share to these ongoing international relief programs in Lebanon. For countless thousands of beleaguered Lebanese, many with relatives in the United States, the International Red Cross, among others, is the only link to life and to food and relief. If ever there was a humanitarian effort, deserving of American support, it is the Red Cross program in Lebanon.

The humanitarian needs of Lebanon are self-evident, and programs to meet these needs are now underway. The only element missing is an American contribution in support of these urgent programs.

We cannot, must not, fail to act today to provide these funds, since the pending bill will be the only opportunity to fund the $20 million authorized for Lebanon. Once before the Senate went on record in recognition of the emergency needs of Lebanon, and voted wisely to provide $20 million in the second supplemental. Regrettably, this was dropped in conference over the mistaken notion that no channel existed to utilize these funds.

The record is now clear, as I mentioned earlier, that this is not the case—then or now. As testimony before the Refugee Subcommittee has confirmed, several international humanitarian agencies are actively at work in the field, providing relief and rehabilitation assistance to all Lebanese in need, on all sides.

The United States cannot fail to support these efforts and remain true to its long tradition of humanitarian concern for people in need. And nowhere is human need greater today than in Lebanon.

I urge the adoption of this amendment.

Mr. MANSFIELD. Mr. President, will the Senator add my name as a cosponsor?

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the name of the Senator from Montana (Mr. Mansfield) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I yield.

Mr. BROOKE. The Senator earlier submitted an amendment for a ship which would take care of the suffering of those people who were injured in Lebanon. Would this take care of the same group that the Senator was interested in servicing at that time?

Mr. ABOUREZK. There is no specific group, I advise the Senator. What this money will do is to put the ship in operation, take it out of its semimothball status, put it in operation for 1 year, and there would be a voluntary group of doctors. It is not any organization that is in existence now. In fact, I have been in touch with several doctors who are willing to go around the country and raise the necessary voluntary staff for this purpose. We have already asked them to proceed, in anticipation of Congress doing something along this line. I think they are getting quite a staff of voluntary people put together now. I think the Senator is thinking about—I cannot think of the name of that group that tried this last year—Project Life.

Mr. BROOKE. That is correct.

Mr. ABOUREZK. No, this has no connection with them. We may draw upon some of their doctors, but we are not going to use that project itself.

Mr. BROOKE. This has the same purpose as the Senator's previous amendment?

Mr. ABOUREZK. Exactly, that is correct.

Mr. BROOKE. Mr. President, I think this is very noble cause. I think it is one the United States should be engaged in. As I said to the Senator when he introduced it in the first instance, I would vote with it on that occasion. I certainly would be pleased to join with my chairman in accepting it. I wish to be added as a cosponsor.

Mr. ABOUREZK. I ask unanimous consent that that be done.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is all time yielded back?

Mr. INOUYE. I yield back my time, Mr. President.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment as modified.

The amendment was agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 439

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROOKE. I ask unanimous consent that reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 10, insert after "Provided:" strike everything through line 11 and insert the following:

"That the amount of $50,063,000 shall be available for the direct support of volunteers: Provided further, that no less than $4,100,000 of this amount shall be available, for the overseas technical support of volunteers."

Mr. BROOKE. Mr. President, this is a simple amendment I have discussed with the chairman of the committee. This amendment will further refine the action taken by the committee in providing an additional $10 million for the Peace Corps over the House level. In doing so we wished to make sure that the additional $10 million would be spent in the field rather than in Washington. Therefore, we earmarked $52,123,000 for direct support of volunteers rather than the $42,123,000 requested by the President for that purpose.

After the full committee marked up the bill, it was called to my attention that the manner of the committee earmarking would preclude additional attention being given to overseas technical support for the volunteers. Such support includes funding for program managers, training officers, technical advisers, and medical staff. It specifically excludes funding for country directors, administrative officers, and all clerical, financial, and operational staff members of the Peace Corps who may be located overseas.

Staff members of the Senate Committee on Appropriations undertook field inspections of Peace Corps activities during the past 6 months. In those inspections they found several instances of inadequate technical support for our Peace Corps volunteers. Such inadequacies included insufficient medical care, lack of ongoing effective training programs, weak program supervision at times, and insufficient numbers of technical advisers for volunteers. While some of these problems may have resulted from weaknesses in the running of the Peace Corps program, the main cause has likely been inadequate resources to allow improved overseas technical support for the volunteers. One of the purposes of Senator HATFIELD and myself in advocating the additional $10 million for the Peace Corps was to allow the Corps to give greater attention to the technical support area than would have been the case under the program proposed by the administration. To accomplish this purpose, it is necessary to amend the original earmarking by the committee to allow $2,060,000 of the additional $10 million to be allocated to overseas technical support for volunteers.

I have discussed this matter with the floor manager of the bill and he is agreeable to the amendment.

Mr. INOUYE. Mr. President, I have discussed this matter with the distinguished Senator from Massachusetts. I am very happy to accept the amendment and to take it to conference.

Mr. BROOKE. I yield back the remainder of my time.

Mr. INOUYE. I yield back my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open for further amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, will the Chair state the agreement with reference to the bill?

The ACTING PRESIDENT pro tempore. Let the Chair consult with the Parliamentarian. We have a special order.

The Chair will restate what the Parliamentarian told him. The bill remains open to further amendment. At 11 o'clock tomorrow morning, by a previous order, there will be a vote on the amendment of the distinguished Senator from Hawaii.

Mr. INOUYE. A rollcall vote?

The ACTING PRESIDENT pro tempore. That is correct. That will be followed by a vote, as the Senator stipulated earlier, on passage, without any intervening amendments, motions, or appeals.

Mr. INOUYE. And that will be a rollcall vote?

The ACTING PRESIDENT pro tempore. The yeas and nays have been obtained on the Senator's amendment, but the Chair does not recall that the yeas and nays have been called for on passage.

Mr. INOUYE. I ask for the yeas and nays on passage.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. INOUYE. Is my understanding correct that at 11 a.m. tomorrow, the Senate will vote on the amendment——

The ACTING PRESIDENT pro tempore. Of the Senator from Hawaii.

Mr. INOUYE. Immediately after that, without any intervening debate, motion, appeal, or amendments, passage will be taken up?

The ACTING PRESIDENT pro tempore. That is correct, with the yeas and nays having been ordered on both.

Mr. INOUYE. I thank the Chair.

REVISED CONGRESSIONAL BUDGET, 1977

Mr. MUSKIE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 139.

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House of Representatives insisting upon its amendment in the nature of a substitute to Senate Concurrent Resolution 139, revising the congressional budget for the U.S. Government for the fiscal year 1977, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MUSKIE. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore (Mr. HELMS) appointed Mr. MUSKIE, Mr. MAGNUSON, Mr. MOSS, Mr. HOLLINGS, Mr. CRANSTON, Mr. BELLMON, Mr. BEALL, and Mr. DOMENICI conferees on the part of the Senate.

ORDER FOR CONCLUSION OF MORNING BUSINESS TOMORROW AT 11 A.M. AND RESUMPTION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be concluded at 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate immediately proceed, without any intervening amendment, debate, or motion, to the resumption of the foreign assistance appropriation bill.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

ORDER FOR VOTES—H.R. 14260

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately upon the disposition of the vote on the amendment which is scheduled for 11 o'clock tomorrow, without any intervening debate, motion, or amendment, the bill be advanced to third reading and that, without any intervening debate or motion, the Senate proceed to vote on passage.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The yeas and nays have already been ordered.

ORDER FOR VOTES—H.R. 71

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately upon the disposition of the vote on the foreign assistance appropriation bill, the Senate resume consideration of H.R. 71, and that there be 30 minutes for debate on the amendment by Mr. GOLDWATER; that upon the disposition of that amendment, without any intervening motion, debate, or amendment, the bill be immediately advanced to third reading; and without any intervening motion or debate, there be a vote on passage of the bill with paragraph 3 of rule XII being waived.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Reserving the right to object, and I shall not object, I just want to indicate I do not think there will be any necessity for this, but it is the understanding of the majority leader that Senators of whom we are not aware, if they have amendments to the bill, the Senate will vote on them, and we will try to accommodate them. Frankly, I know of no amendments.

Mr. ROBERT C. BYRD. With that understanding.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the length of time that will be consumed by the orders previously entered for the recognition of Senators?

The ACTING PRESIDENT pro tempore. The Chair is advised 90 minutes.

Mr. ROBERT C. BYRD. 90 minutes.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow there be a period for the transaction of routine morning business with statements limited therein to 5 minutes each, and that such period end precisely at the hour of 11 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. TALMADGE be recognized for 15 minutes on tomorrow immediately preceding the orders that have already been entered for the recognition of Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. ABOUREZK be recognized for not to exceed 5 minutes tomorrow at the conclusion of the other orders for the recognition of Senators that have been previously entered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF H.R. 14846 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of H.R. 71 tomorrow the Senate proceed to the consideration of H.R. 14846, the military construction authorization bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TOMORROW UNTIL 10 A.M. MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent at this time that when the Senate completes its business tomorrow it stand in adjournment until the hour of 10 o'clock on Monday morning, which hour may be revised on tomorrow.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. JAVITS TOMORROW—H.R. 14260

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business tomorrow be concluded at the hour of 10:50 a.m., and immediately upon resumption of consideration of the foreign aid appropriations bill, Mr. JAVITS be recognized for not to exceed 10 minutes for the purpose only of speaking, and that upon the conclusion of Mr. JAVITS' remarks, or to wit, at 11 a.m. the vote then proceed to occur on the amendment as heretofore ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 8:30 tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for the time stated and in the order stated, unless Senators want to change their positions in the order of their appearance tomorrow: Mr. TALMADGE for 15 minutes, Mr. CLARK for 15 minutes, Mr. GARY HART for 15 minutes, Mr. NELSON for 10 minutes, Mr. CULVER for 10 minutes, Mr. PROXMIRE for 10 minutes, Mr. BARTLETT for 15 minutes, Mr. WEICKER for 15 minutes, and Mr. ABOUREZK for 5 minutes; after which there will be a period for the transaction of routine morning business not to extend beyond the hour of 10:50 a.m., at which time the Senate will resume consideration of the foreign assistance appropriations bill, and at which time the pending question will be on the adoption of the amendment by Mr. INOUYE.

At that time, Mr. JAVITS will be recognized for 10 minutes for the purpose only of making a statement.

At the hour of 11 a.m., without any further intervening debate or any intervening motion or amendment, the Senate will proceed to vote by rollcall, the yeas and nays having already been ordered, on the amendment by Mr. INOUYE.

On the disposition of that amendment and without further intervening motion or debate or amendment, the Senate will proceed to advance the bill to third reading; whereupon, without any intervening motion or debate, the Senate will proceed to vote by rollcall on final passage of the foreign aid appropriations bill.

On the disposition of that bill, the Senate will resume consideration of H.R. 71 and there will be a 30-minute time limitation on an amendment by Mr. GOLDWATER.

Upon disposition of that amendment, the bill will be advanced to third reading and immediate passage.

On the disposition of the bill (H.R. 71) the Senate will proceed to the consideration of the military construction bill.

Upon the disposition of that bill, it is anticipated that the public works employment appropriations bill will be taken up.

Rollcall votes will occur throughout the day. Other conference reports may be called up. Other measures cleared for action may be called up.

LEGISLATIVE PROGRAM FOR MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, on Monday it is anticipated that the revenue-sharing measure will be taken up. Rollcall votes may occur thereon. It had earlier been intended to schedule five treaty votes on Monday with one rollcall vote to count for five. But in view of the fact that there are several primaries which will occur on Tuesday, those five treaty votes will be scheduled for Wednesday so that no Senator will be inconvenienced by virtue of those primaries and thus caused to miss five treaty votes which otherwise might have occurred on Monday. But there will be rollcall votes, I shoud think, on Monday on the revenue-sharing extension.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 8:30 a.m. tomorrow.

The motion was agreed to; and at 5:19 p.m., the Senate adjourned until tomorrow, Friday, September 10, 1976, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 9, 1976:

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Frederick James Kroesen, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. David Ewing Ott, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Herron Nichols Maples, [redacted] Army of the United States (major general, U.S. Army).

DEPARTMENT OF STATE

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

The following-named person for appointment in the Foreign Service as a Foreign Service Information Officer of class 3, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Stephen F. Dachi, of Maryland.

For reappointment in the Foreign Service as a Foreign Service officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Walter Clair Lenahan, of Washington.

For appointment in the Foreign Service as a Foreign Service information officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Jeffrey Robert Biggs, of the District of Columbia.

For promotion from a Foreign Service officer of class 6 to class 5:

Kaarn Jayne Weaver, of Ohio.

For appointment in the Foreign Service as a Foreign Service officer of class 5, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Wyatt B. Johnson, of New Jersey.

For promotion from Foreign Service officers of class 7 to class 6:

Donald S. Hays, of Virginia.
David L. Lyon, of Maryland.
Simeon L. Moats, of Pennsylvania.
Paul H. Tyson, of New Jersey.

For reappointment in the Foreign Service as a Foreign Service officer of class 6, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Alan Whittier Barr, of California.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Julian Leotis Bartley, of New York.
Sallybeth Maria Bumbrey, of Texas.
Alphonso George Marquis, of New York.
Clyde G. Nora, of New Jersey.
James Patrick Walsh, of the District of Columbia.

For appointment as a Foreign Service information officer of class 6, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Diana Moxhay, of New York.

For appointment as Foreign Service officers of class 7, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Robert K. Boggs, Jr., of California.
Andrea Morel Farsakh, of Maryland.
John P. Felt, of Virginia.
John Alexander Hamilton, of the District of Columbia.
Larry Dean Huffman, of California.
Daniel Ray Lang, of Texas.
Nancy Faye Lees, of Texas.
James Robert Libera, of Connecticut.
Stuart Richard Lynn, of Virginia.
John Alexander Ritchie, of Wisconsin.
John Russell Trowbridge, of California.
Donald Eugene Wells, of Illinois.
Mark Leon Wiznitzer, of Florida.

For appointment as Foreign Service information officers of class 7, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Michael Allen Betcher, of Ohio.
Louis P. Falino, Jr., of Pennsylvania.
Robert S. Lapiner, of California.
Theresa L. Rusch, of Wisconsin.
William J. Shine, of Massachusetts.
Catherine M. Smith, of Connecticut.

For appointment as Foreign Service officers of class 8, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Betsy Lynn Anderson, of Virginia.
Douglas Bayard Leonnig, of Idaho.
Thomas S. Neilson, of Pennsylvania.
Eugene D. Price, Jr., of Ohio.
Eugene Meilan Salorio, of California.
Roger Everett Sawyer, of Indiana.
James Marlin Wilson, of Pennsylvania.

For appointment as Foreign Service information officers of class 8, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Domenick DiPasquale, of New York.
Gary B. MacDonald, of Washington.
Mary Jane McKinven, of Illinois.
Charles David Noziglia, of Virginia.

Foreign Service reserve officers to be Consular Officers of the United States of America:

William M. Archuleta, of Missouri.
Marlene D. McKinley, of Pennsylvania.
Rodney P. Rydlun, of Maryland.

Foreign Service reserve officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

James L. Adkins, of West Virginia.
Robert J. Austin, of Virginia.
Roger S. Blattberg, of Virginia.
Janet G. Buechel, of Washington.
Peter B. Burke, of Virginia.
Walter N. Davenport, Jr., of the District of Columbia.
Robert J. Dragone, of Virginia.
Bertram F. Dunn, of West Virginia.
William C. Frietze, of New Mexico.
Nyoka White Hahn, of the District of Columbia.
Joseph W. Hartmann, of Wisconsin.
Kenneth R. Johnson, of Virginia.
Myron M. Kline, of Virginia.
Allen Sung Hu Kong, of Nevada.
Richard B. Leach, of Virginia.
James A. Livingston, of Maryland.
Wayne K. Logsdon, of Kentucky.
Arnold C. Long, of Virignia.
Frederick B. Lundahl, of Virginia.
Robert H. Lupton, of Massachusetts.
Robert C. Malsz, of Virginia.
Robert C. Mooney, of Virginia.
John J. Murphy, Jr., of Virginia.
Thomas Francis Murphy, of Maryland.
James A. Natsios, of Georgia.
William P. Norville, of Virginia.
Dennis H. Obermayer, of Virginia.
Jerard M. Paden, of Maryland.
Martha D. Peterson, of Virginia.
Paul R. Petty, of Virginia.
Martin N. Poulin, of Virginia.
William J. Randolph, of Maryland.
Troy F. Ray, of Virginia.
Tom Roudebush, of Florida.
Barry G. Royden, of Virginia.
Nestor D. Sanchez, of New Mexico.
Robert R. Simmons, of Vermont.
Robert L. Skidmore, of Virginia.
Allen D. Smith, of Virginia.
Charles W. Steen, of Virginia.
Paul L. Thibault, of Maryland.
Thomas A. Twetten, of Maryland.
Daniel W. Wagner, of Virginia.
Theresa P. Womack, of Maryland.
Chris R. Zeitner, of Virginia.

For Service reserve officers to be Secretaries in the Diplomatic Service of the United States of America:

Irvin Delano Coker, of Maryland.
Leo S. Packer, of the District of Columbia.
Howard C. Thomas, Jr., of Massachusetts.

Foreign Service staff officers to be Consular Officers of the United States of America:

Garrett C. Burke, of Washington.
John F. Cavallaro, of New York.
Richard A Johnson, of Washington.
Lawrence B. Larkin, of Maryland.
Bernard R. Long, of Tennessee.
Mary Bland Marshall, of Virginia.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. John William Vessey, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

HOUSE OF REPRESENTATIVES—*Thursday, September 9, 1976*

The House met at 12 o'clock noon.

Rev. Henry B. Luffberry, pastor, St. Paul's Lutheran Church, Washington, D.C., offered the following prayer:

Father, let Thy Holy Spirit rest on those who have been singularly called to write the history of our time. Imbue them with wisdom to understand the past, clarity to comprehend the present, and hope to light the future. May their judgment be rooted in reverence and their counsel enriched by faith. Reinforce their earnest commitment to public service with the humbling awareness that our responsibility is not alone to be leaders of men, but to be followers of God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 521) entitled "An act to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Jackson, Mr. Church, Mr. Metcalf, Mr. Johnston, Mr. Abourezk, Mr. Haskell, Mr. Glenn, Mr. Stone, Mr. Bumpers, Mr. Fannin, Mr. Hansen, Mr. Hatfield, Mr. McClure, and Mr. Bartlett to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2587. An act to authorize the establishment of the Chattahoochee River National Urban Park and Recreation Area in the State of Georgia, and for other purposes.

PERMISSION TO HAVE UNTIL MIDNIGHT, SEPTEMBER 10, 1976, TO FILE CONFERENCE REPORT ON H.R. 15193, DISTRICT OF COLUMBIA APPROPRIATIONS, 1977

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, September 10, 1976, to file a conference report on the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

TODAY'S RULES COMMITTEE MEETING ADJOURNED FOR LACK OF A QUORUM

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, today the Rules Committee adjourned for lack of a quorum, after trying for 25 minutes to establish a quorum. When the roll was called, Members Bolling, Long, Anderson of Illinois, and Madden were present. Members Delaney, Sisk, Young of Texas, Pepper, Matsunaga, Murphy, Moakley, Young of Georgia, Quillen, Latta, Del Clawson, and Lott were absent.

Three of the four bills that were scheduled for today will be considered next Thursday, September 16. These are H.R. 9067—Wildlife Restoration Project and Programs, S. 22—Revision of the Copyright Laws, and H.R. 15377—Export Administration Act Amendments.

The habeas corpus rules bill, H.R. 15319, will be considered along with four other bills scheduled for Friday, September 10.

Because of elections in New York and Massachusetts, there will be no Rules Committee meeting Tuesday, September 14. However, the committee will meet on Wednesday, September 15.

DISAPPROVING CERTAIN REGULATIONS PROPOSED BY ADMINISTRATOR OF GENERAL SERVICES

Mr. BRADEMAS, from the Committee on House Administration, filed a privileged report (Rept. No. 94–1485) on the privileged resolution (H. Res. 1505) disapproving certain regulations proposed by the Administrator of General Services on April 13, 1976, under section 104 of the Presidential Recordings and Materials Preservation Act, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING PRINTING AS A SENATE DOCUMENT OF A REPORT ON SOME ADMINISTRATIVE PROCEDURES OF THE INTERNAL REVENUE SERVICE

Mr. BRADEMAS, from the Committee on House Administration, filed a privileged report (Rept. No. 94–1486) on the Senate privileged concurrent resolution (S. Con. Res. 85) authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service, which was referred to the House Calendar and ordered to be printed.

VETERANS' AND SURVIVORS' PENSION REFORM ACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14298), to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Veterans and Survivors Pension Adjustment Act of 1976".

TITLE I—EXTENSION OF CERTAIN INTERIM ADJUSTMENTS OF PENSION AND OF DEPENDENCY AND INDEMNITY COMPENSATION RATES UNTIL JANUARY 1, 1977

Sec. 101. Sections 102, 103, 104, 105, 107, 201, and 202 of Public Law 94–169 (89 Stat. 1014) are each amended by striking out "for the period beginning January 1, 1976, and ending September 30, 1976" and inserting in lieu thereof "January 1, 1976".

TITLE II—VETERANS' AND SURVIVORS' PENSIONS

Sec. 201. Section 502(a) of title 38, United States Code, is amended by inserting immediately after "or older" the following: "or became unemployable after age 65,".

Sec. 202. Section 521 of title 38, United States Code, is amended—

(1) by amending the table in section (b) (1) to read as follows:

"The monthly rate of pension shall be $185 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,500
.07	1,500	1,800
.08	1,800	3,540";

(2) by striking out "$3,300" in subsection (b) (3) and inserting in lieu thereof "$3,540".

(3) by amending the table in subsection (c) (1) to read as follows:

"The monthly rate of pension for a veteran shall be— $199 if he or she has one dependent; $204 if he or she has two dependents; and $209 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,100
.04	1,100	2,400
.05	2,400	3,100
.06	3,100	3,500
.07	3,500	3,700
.08	3,700	4,760";

(4) by striking out "$4,500" in subsection (c) (3) and inserting in lieu thereof "$4,760";

(5) by amending subsection (d) to read as follows:

"(d) (1) If the veteran is in need of regular aid and attendance, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $155.

"(2) In any case in which—

"(A) any veteran is denied pension under subsection (b) or (c) of this section solely for the reason that his annual income exceeds the maximum income limitation set forth in such subsection, or

"(B) payment of pension to any veteran under such subsection (b) or (c) is discontinued for such reason,

and such veteran is in need of aid and attendance, such veteran shall be entitled to a monthly rate of $155 reduced by 16.6 per centum for each $100, or portion thereof, by which the veteran's annual income exceeds the applicable maximum annual income limitation; but no monthly rate shall be payable under this paragraph if the veteran's annual income exceeds such limitation by more than $500.".

(6) by striking out "$53" in subsection (e) and inserting in lieu thereof "$57"; and

(7) by adding at the end thereof the following new paragraph:

"(h) The rate of pension payable to any veteran receiving benefits under subsections (b), (c), (d), and (e) of this section shall be increased by 25 per centum beginning on the first day of the month during which the veteran attains age 78.".

Sec. 203. Section 541 of title 38, United States Code, is amended—

(1) by amending the table in subsection (b)(1) to read as follows:

"The monthly rate of pension shall be $125 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,200
.05	1,200	2,300
.06	2,300	3,540";

(2) by striking out "$3,300" in subsection (b)(3) and inserting in lieu thereof "$3,540";

(3) by amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension shall be $149 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,700
.03	1,700	2,500
.04	2,500	3,300
.05	3,300	4,760";

(4) by striking out "$4,500" in subsection (c)(2) and inserting in lieu thereof "$4,760"; and

(5) by striking out "$22" in subsection (d) and inserting in lieu thereof "$24".

Sec. 204. Section 542 of title 38, United States Code, is amended—

(1) by striking out "$53" and "$22" in subsection (a) and inserting in lieu thereof "$57" and "$24", respectively; and

(2) by striking out "$2,700" in subsection (c) and inserting in lieu thereof "$2,890".

Sec. 205. Section 544 of title 38, United States Code, is amended by striking out "$69" and inserting in lieu thereof "$74".

Sec. 206. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"Sec. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,100 and $4,460 instead of $2,900 and $4,200, respectively.".

TITLE III—DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

Sec. 301. Section 415 of title 38, United States Code, is amended—

(1) by amending the table in subsection (b)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $142 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,400
.06	1,400	1,600
.08	1,600	3,540";

(2) by striking out "$3,300" in subsection (b)(3) and inserting in lieu thereof "$3,540";

(3) by amending the table in subsection (c)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $100 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,300
.05	1,300	2,300
.06	2,300	3,540";

(4) by striking out "$3,300" in subsection (c)(3) and inserting in lieu thereof "$3,540";

(5) by amending the table in subsection (d)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall by $96 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,100
.03	2,100	3,100
.04	3,100	3,800
.05	3,800	4,760";

(6) by striking out "$4,500" in subsection (d)(3) and inserting in lieu thereof "$4,760"; and

(7) by striking out "$69" in subsection (h) and inserting in lieu thereof "$74".

TITLE IV—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

Sec. 401. Section 322(b) of title 38, United States Code, is amended by striking out "$69" and inserting in lieu thereof "$74".

Sec. 402. Subsection 102(a)(2) of title 38, United States Code, is amended to read as follows:

"(2) Dependency of a parent shall not be denied (A) solely because of remarriage, or (B) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.".

Sec. 403. Chapter 51 of title 38, United States Code, is amended as follows:

(1) the analysis of subchapter I is amended by adding at the end the following:

"3006. Furnishing of information by other agencies.";

and

(2) subchapter I is amended by adding at the end thereof the following new section:

"§ 3006. Furnishing of information by other agencies

"The head of any Federal department or agency shall provide such information to the Administrator as he may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.".

Sec. 404. (a) The Congress finds and declares that the pension program for non-service-connected disability or death, authorized in chapter 15 of title 38, United States Code, and administered by the Veterans' Administration—

(1) does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

(2) has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

(3) subjects many pensioners annually to reductions in their pensions.

The Congress further finds and declares that it lacks sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners (and their families) upon which to estimate costs of existing or alternative pension programs.

(b) No later than October 1, 1977, the Administrator of Veterans' Affairs shall submit a report to Congress and the President. The report shall contain the findings and recommendations of a comprehensive investigation, analysis, and evaluation of existing and alternative non-service-connected pension programs, and shall include, but not be limited to, the following:

(1) Income characteristics of veterans and survivors currently in receipt of non-service connected pension.

(2) Actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors (and their families) who may be potentially eligible for benefits under the non-service-connected pension program during the next 25 years.

(3) Identification and analysis of existing inequities, anomalies, and inconsistencies contained in the current non-service-connected pension program.

(4) Current and proposed income exclusions.

(5) Particular problems and needs of catastrophically disabled non-service-connected pensioners.

(6) Alternative proposals which—

(A) assure a level of income for eligible veterans at or above the national minimum standard of need;

(B) treat similarly circumstanced pensioners alike; and

(C) provide the greatest amount of assistance to those with the greatest amount of need.

(c) On the basis of the investigation, analysis, and evaluation required to be made in subsection (b), the report shall identify alternative courses of legislative or administrative action (including proposed legislation) and long-range cost estimates therefor which, in the judgment of the Administrator, would result in a more equitable non-service-connected pension program.

Sec. 405. (a) The provisions of this Act, other than titles II and III and section 401, shall take effect on the date of the enactment of this Act.

(b) Titles II and III and section 401 of this Act shall take effect January 1, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I shall not object, I take this time to ask the distinguished gentleman from Texas (Mr. Roberts), the chairman of the Committee on Veterans' Affairs, for an explanation.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, on June 21, 1976, the House, by a vote of 354 to 0, passed and sent to the Senate H.R. 14298, the Veterans and Survivors Pension Adjustment Act of 1976. Among other things, the bill made permanent the 8-percent rate increase for those drawing pension benefits under the non-service-connected pension program provided by Public Law 94–169, and provided for a further cost-of-living increase of 7 percent, with appropriate increases in annual income limitations, effective January 1, 1977. It also provided that upon reaching 80 years of age an eligible veteran would be entitled to a 25-percent increase in his pension rates. This provision is designed to provide additional relief for our elderly disabled World War I veterans, whose average age is now about 81 years.

The 1977 fiscal year cost of the House-passed bill would be about $414 million.

On August 2, the Senate passed a substitute amendment and returned the measure to the House. The Senate amendment included the provisions of S. 2635, which passed the Senate last year. The measure would radically change the current pension program and, according to the Congressional Budget Office, would have a cost of $955 million in fiscal year 1977, which would exceed our subcommittee allocation by several hundred million dollars. Also, based on present information and data we have been able to obtain, I do not feel there has been established justification for several changes proposed by the other body. Although there are some inequities in the current program, I feel many more would be created should the Senate proposal be adopted.

Recognizing the need to reach some agreement before September 30, when many pensioners are scheduled to receive reductions in their pension checks, or be terminated from the rolls, unless a bill is passed, the proposed House amendment is a compromise that I think will be adopted by the other body. We have had informal discussions with the Senate and although its Members feel S. 2635 is the better bill, they are determined, as are Members of the House, to get a bill passed and on to the President in order to avoid the adverse impact that will occur October 1 unless we act quickly.

The proposed House amendment is identical to the original House-passed bill with two exceptions.

First. The amendment would provide a 25-percent added differential for all pension rates for eligible veterans 78 years of age or older. Lowering the eligible age limit to 78 years will mean an additional cost of $17.9 million in fiscal year 1977; however, this additional cost will not exceed our subcommittee allocation pursuant to section 302(b) of the Budget Act. Lowering the age another 2 years will provide additional benefits for practically all World War I veterans now on the pension rolls.

Second. The amendment would also provide that a study be conducted in fiscal year 1977 in order to obtain data necessary to determine the adequacy of the present pension program and whether reform of the current program is necessary and feasible. Among other things, the study shall include the following:

First. Income characteristics of veterans and survivors currently in receipt of non-service-connected pension.

Second. Actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors—and their families—who may be potentially eligible for benefits under the non-service-connected pension program during the next 25 years.

Third. Identification and analysis of existing inequities, anomalies, and inconsistencies contained in the current non-service-connected pension program.

Fourth. Current and proposed income exclusions.

Fifth. Particular problems and needs of catastrophically disabled non-service connected pensioners.

The Administrator's findings and recommendations would be included in a report to the Congress no later than October 1, 1977.

Mr. Speaker, I want to say for the record, so that there can be no misunderstanding by the other body, that the House Committee in agreeing to the study makes no commitment that we will proceed with any major reform of the current pension program. We will, however, be interested in the findings of the Administrator and, based on those findings, be prepared to review the provisions of the current program. We think the current program is a good one, is providing the benefits to those who are most in need, and with the changes proposed in the bill before us, will go far in eliminating the inequities that now exist in the present program.

As I have indicated, based on informal discussions with the other body, I think the proposed House amendment is acceptable and I urge that the amendment be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman from Texas (Mr. Roberts) for his explanation.

Mr. MONTGOMERY. Mr. Speaker, I want first to thank our distinguished chairman for yielding to me and for the leadership and cooperation that has made it possible for us to bring this bill to the floor.

Mr. Speaker, you will recall that the House last year passed a pension measure which would have provided a permanent increase in pension rates of 8 percent and an increase of $300 in the income limitations governing payment of pension. The other body, however, insisted upon an amendment to that bill that required those increases be of an interim nature and effective only for the 9-month period, January 1, 1976 through September 30, 1976.

This action has compounded the problem your committee has faced. Those needed increases must not only be made continuing increases, but we now are forced to assure that the continued march of inflation does not further reduce the living standards of our veterans and their survivors.

To that end we now bring this bill before you. It would make permanent the January 1, 1976 increases and prevent some 55,800 veterans and survivors from losing their pensions on October 1 and would prevent the remaining pensioners, numbering about 2,270,000, from receiving reduced pension checks now scheduled to begin October 1.

Mr. Speaker, H.R. 14298, as amended, will also make more generous pension payments available from January 1 to eligible veterans and to their widows and children.

These rate increases are approximately 7 percent and the income limitations have also been adjusted to assure that no pensioner will have his pension terminated solely because of his 6.4 percent increase of social security payments made this year.

Mr. Speaker, I would like briefly to refresh the memories of the Members about the bill we passed on June 21. The bill provided the following, in addition to making permanent the 8-percent increase of Public Law 94–169:

First. A 7-percent increase in basic pension and DIC rates effective January 1, 1977, to compensate for the increase in the cost of living during calendar year 1976. The Committee on the Budget has advised that based on its economic projections the cost of living in calendar year 1976 will be about 5.7 percent more than in 1975. Social security payments are being increased by 6.4 percent effective with July checks. Since the proposed increases in the reported bill would become effective January 1, 1977, the 7-percent rate increase would serve to offset expected increases in the Consumer Price Index for all of calendar year 1976 and would be responsive to the real increases in income of pensioners from other Federal income maintenance programs which are indexed by law.

Second. The bill would increase the annual income limitations for eligible veterans, widows, children, and dependent parents to prevent termination of pension and DIC benefits when the veteran's income is increased solely as a result of his social security increase to become effective July 1, 1976.

Third. It would increase the disability pension housebound rate for veterans from $53 to $57 per month.

Fourth. Increase the aid and attendance allowance for widows and dependent parents from $69 to $74.

Fifth. Increase the aid and attendance allowance for veterans from $133 to $155.

Sixth. Provide a 25-percent added differential for all pension rates for eligible veterans who are 80 years of age or older.

The proposed amendment we are now considering is identical to the bill as it originally passed the House with the following two changes which I am persuaded will make agreement with the other body possible in time to prevent reduction or termination of payments to all pensioners and parents now receiving these benefits.

The changes are:

No. 1, a lowering of the age at which the added 25-percent differential would be provided from 80 to 78 years or older. This amendment, I am assured, will make these increased pension payments more adequately meet the needs of those we were originally seeking to help. This provision recognized the added needs and expenses of the older veteran and would be of particular benefit to the World War I aged and disabled veterans. This change would assure the increased benefits to practically all in this group.

No. 2, the bill is amended to require the Administrator of Veterans' Affairs to conduct a study in fiscal year 1977 into the current pension program and to recommend such changes and reform as his findings dictate.

We in the committee are always interested in improving benefits for veterans and will be most interested in the study results. We do not, on the other hand, concede that findings will support the reform proposals we have thus far seen. Any new pension program that would require protection for three-fourths of those now on the rolls is suspect. And the most recent Senate version would produce some results we cannot accept.

For example, the Veterans' Administration tells me that the following is a comparison of who would benefit under H.R. 14298 and under the Senate Reform proposal:

H.R. 14298	
Veterans:	
Single	241,900
With dependent	460,000
Total	701,900
Widows:	
Alone	328,600
With child	112,500
Total	441,100
Senate proposal	
Veterans:	
Single	100,100
With dependent	104,100
Total	204,200
Widows:	
Alone	403,900
With child	29,200
Total	433,100

The amendment to the bill affecting our older veterans would result in an added cost over the original House-passed version of $17.9 million in fiscal year 1977. This additional cost does not exceed the subcommittee allocation under section 302(b) of the Budget Act.

I urge this amendment be adopted. I consider this a good bill and I am particularly gratified at the generous and needed help it would provide the veterans of World War I. I hope you will give it your unanimous support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the gentleman's unanimous consent request. On June 21 the House passed this measure which basically authorized a 7-percent increase in the monthly rates of pension for non-service connected disability. There were additional liberalizations of the pension program contained in the legislation. The most significant, however, for this discussion was a provision that authorized an additional pension payment of 25 percent of the basic pension for those veterans who had reached the age of 80 years.

On August 4, the Senate approved this measure in a drastically altered form.

The gentleman's unanimous consent request to concur in the Senate amendment with an amendment will have the effect of restoring the substance of the House-passed measure with two changes. The first change would lower the 80-year age limit for entitlement to the 25-percent pension supplement to age 78, thus insuring that the vast majority of World War I veterans will be eligible.

The second change in the original House passed bill would authorize a study and report to the Congress by the Administrator of Veterans' Affairs prior to October 1, 1977. The study and report will contain the findings and recommendations of a comprehensive investigation, analysis and evaluation of existing and alternative pension programs so that the Congress can determine whether or not the existing pension program is in need of revision.

These changes will improve the original House passed bill and it is my understanding that they will be agreeable to the other body. I urge that the gentleman's request be agreed to.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. ROBERTS)?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT TODAY DURING 5-MINUTE RULE

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us what the purpose of the committee meeting is?

Mr. FLYNT. Mr. Speaker, if the gentleman will yield, we are marking up H.R. 15.

Mr. ROUSSELOT. Whatever that is.

Mr. FLYNT. It is the Lobbying Disclosure Act of 1976.

Mr. ROUSSELOT. Mr. Speaker, I am constrained to object because we have important business before us today, including the budget resolution and the Clean Air Act.

Therefore, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PRIVILEGES OF THE HOUSE

Mr. ANDERSON of Illinois. Mr. Speaker, I offer a privileged resolution involving a question of privileges of the House (H. Res. 1526) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1526

Whereas it is asserted in the public press that rule XXXII, regulating admission to the floor of the House, is being violated: Therefore, be it

Resolved, That the Committee on Rules be instructed to inquire into the facts and report as to the truth or falsity of the said charges and what remedy, if any, is necessary to secure a strict enforcement of the rule.

The SPEAKER. The gentleman from Illinois (Mr. ANDERSON) is recognized for 1 hour.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a resolution at the desk involving a question of privilege of the House and ask for its immediate consideration.

Mr. Speaker, the question of privilege which I have raised relates to an allegation in the public press that House rule XXXII which governs admission to this Chamber and adjoining rooms, has been violated. Section 920 of the House Rules and Manual of this 94th Congress states that "an alleged violation of the rule relating to admission to the floor presents a question of privilege." One of the precedents cited in that footnote is volume III, section 2624 of "Hinds' Precedents" involving a nearly-identical situation in which a press report alleged that a former Member had been lobbying on the House floor in violation of the House rule governing floor privileges.

Mr. Speaker, I send to the desk as exhibit A the press report on which my question of privilege is based, an article entitled "Old Congressmen Never Die—They Just Become Lobbyists," by Jack Anderson from the Parade magazine of the Washington Post of March 21, 1976. The incident alluded to in the article which clearly does allege a violation of the House rule relating to floor privileges, reads as follows, and I quote:

> Former House Interior Chairman Wayne Aspinall (D., Colo.), whose antipathy to environmental legislation cost him his House seat in 1972, returned afterward for the strip-mining debate. He appeared in the reduced status of a representative for AMAX, Inc., a large mining firm, but he had not lost his imperious manner. With extraordinary gall, he summoned a page to deliver a message to Speaker Carl Albert.
>
> It was against even the relaxed rules for Aspinall, as a mining representative, to hobnob on the House floor during the stripmining debate. He assured my associate Jack Cloherty that he was not lobbying, merely paying a friendly visit.
>
> He dispatched the page to explain this to the Speaker, said Aspinall. But other Congressmen on the floor had the impression that Aspinall was quietly pushing AMAX's views on stripmining.

Mr. Speaker, it is not for us here today to decide whether the allegation contained in that article accurately represents the factual situation as it existed or whether the rule was or was not properly enforced at the time the matter was called to the attention of the Speaker. The resolution I have offered, like the one cited in our "Precedents" from March 1, 1886, simply instructs the Committee on Rules to inquire into the facts and report as to the truth or falsity of the said charges and what remedy, if any, is necessary to secure a strict enforcement of the rule.

Mr. Speaker, House Rule XXXII grants floor privileges to certain individuals, including former Members, "who are not interested in any claim or directly in any bill pending before Congress." In 1945 Speaker Rayburn ruled, and I quote:

> That not even an ex-Member of Congress when he has a bill he is personally interested in that is coming up for consideration in the House nor any other ex-Member of the House who is in the employ of an organization that has legislation before the Congress should be allowed the privelege of the House or the rooms that the Chair has just said constitute a part of the House of Representatives.

Mr. Speaker, the Rayburn rule on floor privileges, read literally, would seem to bar former Members from the floor when legislation in which they have a personal interest is coming up for consideration, and those having a professional interest in legislation at all times, since a distinction is made between matters "coming up for consideration in the House" in the former instance, and those "before the Congress" in the latter instance.

Nevertheless, the interpretation and practice of Speakers in recent times has been to only bar former Members from floor access when a measure in which they have either a personal or professional interest is actually under consideration in the House. It should be noted, though, that even under this more lenient interpretation, ex-Member Aspinall had no right to be on the floor during consideration of the strip-mining bill, regardless of his reasons for being there. Rule XXXII does not state that former Members have complete access to the floor at all times so long as they don't lobby when a bill in which they have an interest is under consideration. It says they may not be granted admission to the floor or adjoining rooms when a bill in which they have a direct interest is pending before the Congress.

Mr. Speaker, it is my hope that this question of privilege and the resolution I have offered will focus the attention of the Rules Committee not only on the one incident on which this is based, but moreover, on the correct interpretation of rule XXXII and what steps, if any, are needed, to secure its strict enforcement.

The gentleman from California (Mr. JOHN L. BURTON) and I have been joined by over 100 Members of this body in offering an amendment to rule XXXII to further clarify it and bring it into line with a strict interpretation of the Rayburn ruling of 1945. Our floor privilege reform rule would bar former Members from the floor at all times if they are employed by or represent parties "for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative measure before the House or any of its committees." Under this proposed rule revision, former Members would be required to register in order to have access to the floor and rooms leading thereto, and make a declaration on honor that they were not engaged in any way in influencing legislation. Former Members not engaged as lobbyists, but who have a personal interest in certain legislation, would only be denied floor access when that legislation was actually coming up for consideration.

Mr. Speaker, I would hope that the Rules Committee, whatever its finding with respect to the incident cited in the Anderson article, would report back to the House a recommendation for such a revision in rule XXXII. Such a modification would clear up much of the confusion which now exists, make things easier for the Doorkeeper and his employees to enforce, and, most importantly, assure the public that this special privilege of floor access was not being exploited for lobbying purposes at any time. Whether or not it actually is being abused for that purpose is perhaps not as important as the appearance now given that it can be under the present lenient interpretation of the rule.

I urge adoption of my resolution to refer this matter to the Rules Committee with instructions to inquire into the alleged violation of rule XXXII and report back its findings and recommendations.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman from California (Mr. CHARLES WILSON).

Mr. CHARLES H. WILSON of California. I appreciate the gentleman's yielding.

For 30 years or more we have had a rule similar to this in the California State Legislature. There is nothing improper about it; there is nothing wrong with it. I think it is commendable. I am happy to be one of the coauthors.

I want to commend the gentleman from Illinois for the action he has taken. I think those Members who are directly involved in legislation who come on the floor show an arrogance and stupidity that I think is uncalled for in this body. I hope that the Committee on Rules will bring the resolution out as a result of the action that was taken today.

Mr. ANDERSON of Illinois. I thank the gentleman for his contribution.

Mr. JOHN L. BURTON. Mr. Speaker, I strongly support the privileged resolution of our colleague, the distinguished gentleman from Illinois (Mr. ANDERSON). As cosponsor of the Anderson-Burton resolution to clarify House rule XXXII that has been cosponsored by more than 100 House Members, I feel it is vitally important to floor privileges for lobbyists who are former Members of Congress.

In my judgment, the "Rayburn Ruling" does not limit the exclusion of lobbyists from the floor of the House only during the time that a specific piece of legislation is being discussed. The ruling of former Speaker Rayburn merely addresses itself to that one issue and does not in any way state that former Members who are lobbyists can be on the floor lobbying legislation that is not yet before the House or is being considered by one of the House committees. I have been informed by a senior member of the Rules Committee that under the current circumstances a Member merely has to call to the attention of the Speaker the fact that a former Member is on the floor lobbying.

I resent being put into the position of "tattling to the teacher" if I feel rule XXXII is being abused. I would, and I am sure the majority of the Members would agree, prefer to see the prohibition strictly delineated in the Rules of the House. This would be sound public policy in addition to the fact that it would remove the burden from individual Members of "telling an individual he or she had better leave or I will run and tell the Speaker."

I would hope that the adoption of the Anderson resolution would prompt the House to deal straightforwardly with this issue by clarifying rule XXXII.

There are several ex-Members of the House who are lobbyists for a variety of groups, but only a handful of these abuse the privilege of the floor. To have lobbyists working the floor of the House is demeaning to the legislative process and to the dignity of Congress. It also provides an unfair advantage over the representatives of various groups who are denied such floor access.

Mr. MYERS of Pennsylvania. Mr. Speaker, I rise in support of Congressman ANDERSON's resolution to direct the Rules Committee to investigate the alleged violation of the House floor privilege contained in House rule 32. This is a serious accusation and should be investigated fully and thoroughly.

I also hope that Rules Committee action will go beyond this one isolated violation. We must not kid ourselves into believing that this has not happened other times in this Congress and that lobbying on the floor will continue to happen until a strong disincentive is enacted into law.

On June 3, I wrote our colleague Congressman FLOWERS from Alabama suggesting amendments to the Public Disclosure of Lobbying Act of 1976. I asked Congressman FLOWERS to consider denying floor privileges during the conduct of official business to all former Members of Congress who are registered lobbyists. I further suggested that we treat a breach of this proposal as subject to the civil and criminal sanctions proposed in that bill.

We must recognize that these individuals have changed professions. They are now working to influence Congress rather than participating in the decisionmaking process of Congress as an elected representative. All former Members of course should be welcome at ceremonial events on the floor of the House.

Currently, House rules deny floor privileges to former Members who have financial interests in legislation being considered. This is good in principle, but impossible to enforce. We cannot expect either the doorkeepers or the presiding officers to determine instantly whether or not a former Member's visit is legitimate. Furthermore, the current rule imposes no sanctions. We need a clearcut rule, with the force of law behind it, to keep all lobbyists off the floor of the House.

Passage of the resolution is an essential first step in ending improper floor lobbying, but Congress must go further by strengthening rule 32 and by enacting into law civil and criminal sanctions for former Members who choose to abuse the floor privilege.

Mr. ANDERSON of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 1, not voting 58, as follows:

[Roll No. 699]

YEAS—371

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Russo
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Waxman
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki

NAYS—1

Hébert

NOT VOTING—58

Abzug
Addabbo
Aspin
AuCoin
Badillo
Brodhead
Chisholm
Clausen, Don H.
Clawson, Del
Conlan
Corman
Diggs
Dingell
Esch
Ford, Tenn.
Goldwater
Green
Hall, Tex.
Hansen
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Horton
Howard
Karth
Lujan
McCollister
Matsunaga
Melcher
Mink
Murphy, Ill.
Nolan
Peyser
Rees
Riegle
Runnels
Ryan
St Germain
Sebelius
Sisk
Skubitz
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symms
Teague
Vander Veen
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Tex.
Zeferetti

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the Record on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR ADJUSTING AMOUNT OF INTEREST PAID ON FUNDS DEPOSITED WITH TREASURY BY BOARD OF TRUSTEES OF NATIONAL GALLERY OF ART

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 3669) to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain the bill?

Mr. NEDZI. If the gentleman will yield, I shall be happy to explain.

Mr. ROUSSELOT. I will be glad to yield.

Mr. NEDZI. Mr. Speaker, S. 3669 is an identical bill to H.R. 8627, which was passed by the House on February 2, 1976. This measure, S. 3669, pertains to the trust funds of the National Gallery of Art, which are held by the Treasury Department. This bill authorizes the Secretary of the Treasury to adjust the rate of interest which is paid on these trust funds. The House version of this legislation, H.R. 14803, passed the Committee on House Administration, unanimously, on August 9, 1976 and is currently pending on the consent calendar. Because of the press of legislative business at the close of the 94th Congress, we are requesting the consideration of the identical Senate bill, S. 3669, at this time.

Mr. ROUSSELOT. Right now?

Mr. NEDZI. Right now.

Mr. ROUSSELOT. Further reserving the right to object, are there any differences at all between the two bills which we should be aware of?

Mr. NEDZI. They are identical bills.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the acceptance of a permanent loan to the United States by the Board of Trustees of the National Gallery of Art, and for other purposes", approved April 10, 1943 (20 U.S.C. 74a), is amended by striking out "the rate of 4 per centum per annum," and inserting in lieu thereof "a rate which is the higher of the rate of 4 per centum per annum or a rate which is .25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum,".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 14803) was laid on the table.

GENERAL LEAVE

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the second concurrent resolution on the budget for fiscal year 1977.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1977

Mr. ADAMS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the House concurrent resolution, House Concurrent Resolution 728, revising the congressional budget for the U.S. Government for the fiscal year 1977.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. ADAMS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution, House Concurrent Resolution 728, with Mr. BOLLING in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 8, 1976, the concurrent resolution had been considered as having been read and open for amendment at any point.

Are there any amendments to the concurrent resolution?

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in considering the second concurrent resolution on the fiscal year 1977 budget, House Concurrent Resolution 728, we are taking the final step in the first year of full implementation of the new budgetary process. The limits established by this budget resolution are not only in accord with the targets established in the first budget resolution, but actually represent a reduction in the amounts projected in that resolution. Budget outlays are lowered by approximately $100 million in this resolution and, accordingly, the deficit has been lowered. I suppose that is almost unprecedented progress.

The second budget resolution is proof that the new budget process is working and deserves our support. The first budget resolution projected a deficit for fiscal year 1977 which would be one-third less than the deficit for fiscal year 1976. This resolution reduces the deficit even further—by almost $100 million.

This is evidence that Congress is finally coming to its senses and beginning to exercise some fiscal restraint. As I have stated before in this Chamber, Congress must realize that it cannot spend, spend, spend, and then tax, tax, tax, or borrow, borrow, borrow. I am hopeful that in enacting this budget resolution we will stick to our guns and abide by the ceilings established.

The figures set in this budget resolution are encouraging in that they may indicate a trend in the right direction—downward rather than upward. However, much more needs to be done if we are to attain a balanced budget and begin to reduce the enormous national debt that has accumulated over the years through deficit spending. In their report the Budget Committee makes a 5-year projection on implications of this budget resolution. This makes clear that while progress is being made, more aggressive action must be taken. Even if no new spending programs are initiated during the next four fiscal years, it is projected that expenditures will nevertheless increase by approximately $136 billion, and thereby absorb any growth in revenues that result as the economy recovers from the recession. These implications are frightening. Clearly, Congress must not only set ceilings on expenditures, but must actively reform programs and do away with those that have outlived their usefulness.

The new budget process is one accounting mechanism which is useful in getting a handle on overall federal expenditures. In fact, this is the first time since 1948 that all regular appropriation bills will be enacted prior to the start of the fiscal year. This year, we will know where we stand. However, the new budget process does not look at spending programs where the $136 billion increase over the next 5 fiscal years implied by this resolution will be realized. Zero-based Federal budgeting is another important accounting mechanism which needs to be implemented. This would require us to review and evaluate all federal spending programs and to justify each penny of appropriation they would receive.

While assertions of a free-spending Congress may not be entirely unjustified, it must be noted that the Appropriations Committee has never reported bills appropriating as much money as the administration has requested in the last 10 years. This budget resolution is significant inasmuch as it establishes Congress budget priorities. Through this resolution Congress is beginning to regain control of the purse strings and through exercising fiscal discipline will move the Government toward a balanced budget. This must be done.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ROUSSELOT: Strike out all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares, pursuant to section 310 (a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

(2) the appropriate level of total new budget authority is $394,200,000,000;

(3) the appropriate level of total budget outlays is $362,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $0;

(5) the appropriate level of the public debt is $649,260,000,000, and the amount by which the statutory limit on such debt should accordingly be decreased is $50,740,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National defense (050):
(A) New budget authority, $112,000,000,000.
(B) Outlays, $100,600,000,000.
(2) International Affairs (150):
(A) New budget authority, $3,400,000,000.
(B) Outlays, $3,000,000,000.
(3) General science, space, and technology (250):
(A) New budget authority, $4,400,000,000.
(B) Outlays, $4,300,000,000.
(4) Natural resources, environment, and energy (300):
(A) New budget authority, $19,200,000,000.
(B) Outlays, $11,800,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,300,000,000.
(B) Outlays, $2,000,000,000.
(6) Commerce and transportation (400):
(A) New budget authority, $17,700,000,000.
(B) Outlays, $16,200,000,000.
(7) Community and regional development (450):
(A) New budget authority, $5,200,000,000.
(B) Outlays, $5,200,000,000.
(8) Education, training, employment, and social services (500):

(A) New budget authority, $15,900,000,000.
(B) Outlays, $17,600,000,000.
(9) Health (550):
(A) New budget authority, $32,300,000,000.
(B) Outlays, $32,100,000,000.
(10 Income Security (600):
(A) New budget authority, $130,000,000,000.
(B) Outlays, $120,000,000,000.
(11) Veterans benefits and services (700):
(A) New budget authority, $20,300,000,000.
(B) Outlays, $19,500,000,000.
(12) Law enforcement and justice (750):
(A) New budget authority, $3,300,000,000.
(B) Outlays, $3,400,000,000.
(13) General government (800):
(A) New budget authority, $3,500,000,000.
(B) Outlays, $3,400,000,000.
(14) Revenue sharing and general purpose fiscal assistance (850):
(A) New budget authority, $5,000,000,000.
(B) Outlays, $5,000,000,000.
(15) Interest (900):
(R) New budget authority, $34,500,000,000.
(B) Outlays, $34,500,000,000.
(16) Allowances:
(A) New budget authority, $800,000,000.
(B) Outlays, $800,000,000.
(17) Undistributed offsetting receipts (950):
(A) New budget authority, −$16,900,000,000.
(B) Outlays, −$16,900,000,000.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from California (Mr. ROUSSELOT) is recognized for 10 minutes in support of his amendment in the nature of a substitute.

Mr. ROUSSELOT. Mr. Chairman, this substitute resolution is different from the committee resolution on the basis that it would call for a balanced budget for the fiscal year 1977. This resolution that I have presented as a substitute is different from the one I presented in April of this year in that we now have complete expenditure level figures for fiscal year 1976, which are lower than earlier anticipated. As a result I have been able to revise my resolution and come within $3 billion of 1976 outlay levels. By simply "holding the line," then, and living substantially within the same cash flow of 1976, we can eliminate the add-on deficit for the coming year and balance the budget.

I have tried again to put restraints on the various areas of increase, so that the argument that my amendment will mean drastic, meat ax cuts is not true. We have recently completed our appropriation process for 1976, and in most cases the functional appropriation levels called for in this resolution are almost identical to the ones that corresponded with our actual expenditures in 1976, which has ended, of course, just last June.

Mr. Chairman, I would like to review with the Members, if I may, a few of the areas in my proposal where the proposed expenditure levels are in my view substantially more restrained and appropriate than those of the committee resolution.

First of all, in the area of national defense, I have accepted the basic proposal of the Committee on the Budget of $100.6 billion because I believe that we have had more than adequate debate on most of the issues relating to national defense. The House has spoken, and the Committee on the Budget has probably spent a great portion of their time on this issue.

With respect to the category of international affairs, the 1976 level of expenditure was $4.5 billion and the committee recommendation was $6.7 billion. I have suggested a cut in this functional category of the bill. The reason I selected this area is that not only in my own district, where 90 percent of my constituents have said over and over again, "Cut foreign aid entirely," but people in other districts have said that, too. I know that it is unrealistic. There can be little doubt, however, that expenditures for international affairs can be significantly reduced. The polls across this country show that the American people cannot understand why we have not done a better job of paring down the money that we are spending in foreign affairs. Clearly, then, this is an area in which we can greatly economize—both in relation to the Budget Committee recommendations and in relation to fiscal year 1976 expenditure levels.

Mr. Chairman, I have basically left science, space, and technology the same. They are slightly higher than they were in 1976, but slightly lower than the committee levels.

I sent to each Member of the House a chart which compares the expenditure levels of fiscal year 1976, the committee proposal, the administration proposal, my substitute resolution. Therefore, I will not take the time to go through every one of them. However, let me explain one functional category about which I am sure there will be some complaint or misunderstanding.

In 1976 in the category or the function of income security, we spent $126 billion. I suggest in my resolution a figure of $120 billion. On what did I base that reduction?

The U.S. Senate has completed extensive hearings on what they call the fraud and the ripoff now going on in medicaid. That is presently running at a level of some place between $12 billion and $15 billion. It is hard to get the full figures because of the substantial amount of obvious misuse of funds that is going on in that field. Therefore, my belief is that our committees will want to take a hard look at medicaid anyway, and the Senate will do the same.

Therefore, Mr. Chairman, one area where we could make a cut in the income security area is clearly medicaid, especially to eliminate fraud.

The other area in income security, in my judgment, would be in the field of food stamps. We had a relatively close vote on that issue when the appropriation bill was here before us, at which time we made an attempt to cut food stamp availability for anybody earning more than $6,000 a year, which is approximately the poverty level, of income in the United States.

Mr. Chairman, I still believe that our committee could identify many areas where much fraud and misappropriation occur with food stamps. That is, again, a category under income security.

Additionally, Mr. Chairman, I believe that we clearly could cut some of the general welfare funds in income security. Polls show time and time again that the American people cannot understand why we have not done a better job of paring down in the field of welfare payments. The program known as Aid to Families with Dependent Children is particularly known for fraud and misallocation of funds and substantial savings could occur through its reform. I am not talking about cutting any social security payment or any of the other funds relating to social security. Through simply "cleaning house," then, in many of our income security programs, specifically medicaid, food stamps, and AFDC—many of which are already undergoing investigation—we can achieve a $120 billion expenditure level in this function.

Another major area in which we would be able to save if my resolution were to be successful is that we obviously would have a major cut in interest charges. Because when we eliminate the necessity for the Treasury to go borrowing and add on to the debt of $50 billion, we reduce a substantial amount in the form of interest charges that would have to be paid out of the Treasury.

So, Mr. Chairman, that is another area of savings for those Members who have been following the functional chart that I have presented.

Mr. Chairman, the major area of disagreement between the chairman and other members of the committee who wish to continue this very substantial amount of deficit financing and myself is over the contention that deficits are needed to reduce the unemployment figures.

I do not believe that the $70 billion worth of deficit that we have added on to the debt this year has reduced the unemployment figures much. As a matter of fact, the committee members admit that the relation of Federal expenditure in many of these fields, with the possible exception of defense, where its "macro-effect" on the economy has been demonstrated, has no real bearing to the amount of deficit financing which is approved either by Congress or by the Executive in an effort to reduce unemployment.

As a matter of fact, Mr. Chairman, we have learned by what has occurred in New York City that exactly the opposite happens. One of the reasons that I believe it is absolutely essential that we face up to this balanced budget resolution now is so that we do not carry this country down the same path.

In an article which recently appeared in the Wall Street Journal, Arthur B. Laffer, professor of economics at the University of Southern California, made the following observation:

> By increasing spending during a recession, the government reduces the incentive to produce and work. Far from stabilizing the economy, such counter-cyclical spending, will, in fact, accentuate the cyclical aspects of the economy. The greater government

spending is, and the more closely tied to the level of unemployment it is, the more cyclical will be the economy . . . I doubt very much whether the United States can maintain peacetime full employment without a substantial reduction in the level of government spending as a share of GNP.

It is clear then, that rather than boosting Federal spending to reduce unemployment, which is one of the rationales which the committee uses to justify a $50 billion deficit, Federal spending should in fact be reduced, in order to provide to the private sector the capital resources it needs to expand and create jobs.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for 4 additional minutes.)

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be happy to yield to the gentleman from Texas in a moment after I complete my statement.

Mr. Chairman, I repeat, I want to be sure that this Congress does not carry the country down the same road and make the same mistakes that New York City has made in many of its programs to try to solve the problems of unemployment. With its huge deficit financing New York City did not solve its problem. I think we should learn from that lesson.

As a matter of fact, there are many instances in history where reduced expenditures and reduced taxes have caused employment to go up.

As the following chart shows, between 1945 and 1948, during the Truman administration and while we had a Republican Congress, Federal spending dropped over $60 billion—the current equivalent of $250 billion—yet national income charged ahead:

FEDERAL RECEIPTS AND OUTLAYS FROM 1945–48

[In billions]

Year	Receipts	Outlays	Surplus or deficit
1945	45.2	92.7	−47.8
1946	39.3	55.2	−15.8
1947	38.4	34.5	+3.9
1948	41.8	29.8	+12.0

The private sector smoothly converted from a wartime to a peacetime economy, provided jobs for millions of veterans, while defying the warnings and doomsday predictions of the Keynesians who said the unemployment would hit the 10 million mark unless public jobs programs were increased. The amazing transition took place because the Federal Government did not preempt the needs of the private sector, and the free market system was left to operate without massive Government interference. Adequate money was available in the capital markets to supply the expansion needs of private industry because the Treasury was not crowding out the private sector and confiscating the lifeblood of free enterprise.

BUDGET COMPARISONS

[For fiscal year 1977]

	Function	Budget	Ford administration budget, July 16, 1977	Rousselot balanced budget proposal	Fiscal year 1976 expenditure levels
050	National defense	100.606	101.6	100.6	90.2
150	International affairs	6.763	7.1	3.0	4.5
250	General sciences, space, and technology	4,505	4.5	4.3	4.2
300	Natural resources, environment, and energy	16,227	15.1	11.8	11.7
350	Agriculture	2,239	1.8	2.0	2.0
400	Commerce and transportation	16,984	16.4	16.2	17.2
450	Community and regional development	9.078	6.0	5.2	5.0
500	Education, training, employment, and social services	22.187	18.4	17.6	17.7
550	Health	38.960	36.5	32.1	33.6
600	Income security	137.000	136.2	120.0	126.9
700	Veterans benefits and services	19,539	17.8	19.5	18.4
750	Law enforcement and justice	3.571	3.4	3.4	3.3
800	General government	3.534	3.5	3.4	3.0
850	Revenue sharing and general purpose fiscal assistance	7.657	7.4	5.0	7.1
900	Interest	40.400	40.2	34.5	35.5
	Allowances	.910	.8	.8	-----------
950	Undistributed offsetting receipts	−16.920	−16.8	−16.9	−14.7
	Total	413.240	400.0	362.500	365.610

Mr. KEMP. Mr. Chairman, would the gentleman yield at that point?

Mr. ROUSSELOT. Mr. Chairman, I will first yield to the gentleman from New York (Mr. Kemp) and then I will yield to the gentleman from Texas (Mr. Wright).

Mr. KEMP. Mr. Chairman, I thank my friend for yielding and I want to underscore the point he makes about the tragedy of New York City. Another good example is what reckless government spending leads to in Great Britain. The deficit last year in Great Britain as a percentage of their national income, if translated as a percentage into our budget, their deficit, as a percentage of their economy would be the equivalent of a deficit in our economy of $128 billion a year.

The point is, Mr. Chairman, that this type of deficit has not led to prosperity in Great Britain. Quite the contrary, it has been totally counterproductive. The U.K. has rising unemployment and an inflation problem of horrendous proportions that was running a year and a half ago something like 25 percent.

I believe the point the gentleman from California (Mr. Rousselot) is trying to make so eloquently before this Chamber is that deficits must be financed. They must be financed with higher taxes, and I am sure there is no one in this room who wants to raise taxes.

Mr. ROUSSELOT. Certainly not this year.

Mr. KEMP. So, ergo, one must finance the deficit with either borrowed money or inflated money. I think we ought to face up to the fact that it is deficit financing that is destroying our economy, leading to central economic planning, and ultimately it will lead to the type of expansion of government that none of us, I think, in this Chamber really want to see, and certainly the American people do not.

I thank the gentleman for yielding.

Mr. ROUSSELOT. I appreciate the gentleman's comment. I know that the gentleman and many other Members of the House who are supporters of his bill for job creation have looked into the topic thoroughly and have come to the conclusion that it would be a great boon to the private sector's ability to hire the unemployed if the Federal Treasury were not out borrowing so much, and the reason it borrows so much is we, the Congress, mandate it through all of this deficit financing, which dries up the ability of the private sector to provide new plants and equipment—the kinds of things that are needed to provide new jobs. So I thank my colleague, the gentleman from New York.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

The gentleman seems to me to have the cart a little bit before the horse.

Mr. ROUSSELOT. I do not think so.

Mr. WRIGHT. The gentleman makes the statement that deficit spending of last year has not substantially reduced unemployment. We could quarrel about that, but I do not think that is a point to quarrel about. Unemployment a year ago was at 8.3; today it is at 7.9, a little less. The deficit is less.

Mr. ROUSSELOT. But, if I may interject here, we were told by this committee that every bit of this extra spending which created all of this deficit financing would reduce unemployment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for 4 additional minutes.)

Mr. ROUSSELOT. I will finish my point and then I will be glad to have the gentleman respond. We were told that all of this $70 billion in last year's budget deficit financing would help reduce unemployment by a full percentage point. That did not happen.

Mr. WRIGHT. Would the gentleman yield further?

Mr. ROUSSELOT. I will be glad to.

Mr. WRIGHT. I thank the gentleman for yielding.

I am sure the gentleman is not attempting to deny that the principal cause of the deficit is the high level of unemployment. The gentleman would not disagree, would he, with the fact that when people are out of work, they are not paying taxes and the Federal Government is not receiving the revenue it otherwise would receive.

Mr. ROUSSELOT. Nobody has ever denied that statement.

Mr. WRIGHT. Is the gentleman quite aware, then, also that the higher the level of unemployment, the greater the responsibility on the Government to pay unemployment compensation? I cannot understand how the gentleman would expect the President of the United States to fulfill the obligatory responsibilities which Congress has placed upon him in law and still cut $50 billion. The President does not even think he can do that. I think the most horrified person in the Nation, if the gentleman's amendment were to prevail, would be Gerald R. Ford.

Mr. ROUSSELOT. If my amendment prevails, my thesis is, on the basis of the past experience of this country, that employment would go up substantially in the private sector where the overwhelming proportion of jobs are created, because the Government would not dominate the money market as it did last year because of the $70 billion deficit we forced on that market—a deficit which soaked up 72 percent of the security market money that normally would go to the private sector. If the gentleman would read in this week's U.S. News & World Report a poll of over 5,000 people in the country, he would see the biggest cause of inflation, 65 percent said, is government—they are referring to this Congress. They know. We are not fooling them all with this boondoggle deficit financing as they were fooled in New York City.

I know the gentleman from Texas does not want to go the way of New York City. What did their big deficits do for stopping unemployment? Very little.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding. I was fascinated by the colloquy between the gentleman in the well and our friend, the gentleman from Texas. The only point I would like to make to both is that a reduction of $50 billion does not mean that that $50 billion is going to disappear; it just means that $50 billion more would be left in the private sector for consumers, for borrowers, for investors, for savers, for producers. The expansion of the production base of our country will lead to a growth of revenues for government at all levels.

If we could reduce the Federal share of the total resources of the Nation by $50 billion, that would leave more money in the hands of the investors and producers and savers and consumers to help expand the tax base of this country, giving State and local government a better share of the tax base, and would allow us to reduce taxes and reduce this tremendous confiscatory burden on the backs of the American people. We would see a real expansion rather than an artificial expansion of the economy that would come over a short period of time from the type of fiscal stimulus we have given the economy, but it is an addition and it must be dealt with, and I will deal in a few minutes a little more closely with what has happened in Britain, because that is a case in point of what may happen in America if we do not get our fiscal house in order.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for 4 additional minutes.)

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Chairman, the gentleman from California has done his home work and has prepared well for this battle and the gentleman from Illinois enthusiastically supports his amendment. I think to be pragmatic the gentleman will realize that we will not prevail this afternoon. But I have noticed with each vote, as he has offered this amendment, the gentleman has drawn increased support from the membership of the House.

I commend the gentleman for starting out and fighting what began as a very lonely and difficult battle, but by fighting the battle the gentleman has now gained some converts and I hope we will see the day when an amendment of this kind will receive a majority vote in the House of Representatives.

Mr. ROUSSELOT. I thank my friend, the gentleman from Illinois (Mr. Derwinski).

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Chairman, is the gentleman in favor of revenue sharing?

Mr. ROUSSELOT. As the gentleman is well aware, on the two occasions it has been before the House I have not supported it, but it is in here because I felt realistically many cities have counted on it. As the gentleman knows I have suggested a $5 billion level of expenditure because realistically that is what the authorization visualizes.

Mr. JACOBS. But people have counted on other things also.

Mr. ROUSSELOT. I do not think they have counted on as much as this committee offers, on $7.6 billion. As a matter of fact, I think that amount is unusually high and unnecessary.

Many more cities are realizing that even though we have granted to them revenue sharing funds, they pay a high price in the strings which are many times attached to the Federal money. The cities are learning that this is not really the best way to go from the standpoint of maintaining long-range control of their own machinery either at the State or municipal government level.

I know my colleague, the gentleman from Texas, Dr. Paul, plans to comment on this issue later on in the debate, but I will say to the gentleman quite honestly I took an averaged figure that had been spent in the field for the last several years, which was approximately $5 billion.

Mr. JACOBS. Will the gentleman yield further?

Mr. ROUSSELOT. I yield to the gentleman from Indiana.

Mr. JACOBS. That is my problem. I happen not to support the revenue sharing program, but logically it seems to me we could make the same argument on some of the other programs that the gentleman has cut drastically, and we could argue that certain families had counted on the expansion or continuation of certain of those programs.

Mr. ROUSSELOT. Mr. Chairman, I have made every attempt in my suggestions as to the functional category expenditure levels in my resolution to arrive at figures based on the votes of the House in the areas we have generally supported. I also considered the employment, or "Macro" effect, of the reduction or increase of Federal funds in each of these functions. We do know that the defense appropriations produce far more jobs than most other items in the budget.

Mr. JACOBS. Say, as income security. I did not know the gentleman knew that.

Mr. ROUSSELOT. Consequently I have tried to be conscious of that in my allocation here. By the way, each committee would have to assume its responsibility in handling these ceilings that are established. Again these are target ceilings.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. Jacobs, and by unanimous consent, Mr. Rousselot was allowed to proceed for 2 additional minutes.)

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I yield to my colleague, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I just wanted to ask the gentleman from California this question. Has the gentleman in his budget suggested any diminution in the Defense Department budget?

Mr. ROUSSELOT. I have accepted, as I stated earlier, the Budget Committee's dollar amount of $100.6 billion, because I felt that they had thoroughly been through the track.

Again, I also felt that that area produces substantial employment across the country and since my chairman, the gentleman from Washington (Mr. Adams) has suggested several times that one of the major goals of this budget resolution was to create jobs, I maintained the budget committee-recommended expenditure levels of the area which tends to create the most employment—the defense function.

Mr. JACOBS. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman that I would like to support his amendment.

Mr. ROUSSELOT. I hope the gentleman from Indiana will.

Mr. JACOBS. Mr. Chairman, if I may be permitted to finish, but because of the revenue sharing item in it and because the gentleman with his perceptiveness has not found one nickel of waste in the Defense budget, I as a person find a lot of waste in the domestic and the Defense budget, I just cannot support it.

Mr. ROUSSELOT. Mr. Chairman, as the gentleman knows, the administration sugested $100-odd billion, but the Budget Committee pared that down more. I trust them and I felt they had done a good job.

Mr. JACOBS. Mr. Chairman, if the gentleman will yield further, I trust the committee in some things, but not in others.

Mr. ROUSSELOT. Mr. Chairman, I want to conclude by saying that I believe that this resolution that I am offering as a substitute is job-producing in many respects, primarily because it takes the Treasury out of the money market to the degree that we have had them dominating the capital markets in the last several years.

The $50 billion add-on deficit budget proposal will not only exact high costs from and be generally harmful to the economy but will also be extremely costly to the average taxpayer in the United States. When we break down the costs of both the Budget Committee and the Rousselot budget proposals on per household basis we find the following:

Budget Committee Proposal	*Rousselot Balanced Budget Proposal*
Total Outlay: $413 billion	Total Outlay: $362.5 billion
Deficit: $50.74 Billion	Deficit: $0
Cost per household: $5,550	Cost per household: $4,883

The cost of the Budget Committee proposal is more than I believe the American working people would want this Congress to impose on them if they were here to voice their opinion on this issue.

Mr. Speaker, I urge my colleagues to not wait for the disastrous problems of New York City and Great Britain to consume our Federal Government. Let us take positive action now to put our fiscal house in order and show the American taxpayers—our constituents—that the U.S. Congress is willing to live by the same economic facts of life as the rest of society by living within its means.

The CHAIRMAN. The time of the gentleman from California (Mr. Rousselot) has again expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for an additional 2 minutes.)

Mr. ROUSSELOT. Mr. Chairman, we have seen in our past history many times when this Congress has stopped deficit financing—say in the Truman administration, as I mentioned earlier, after World War II—when we took that action the marketplace responded and produced a substantial amount of new jobs and a significantly increased investment in plant and equipment. The cities themselves began to feel all across the country that they were not so preempted by the Federal Government; they could move ahead on programs and find ways to finance them themselves because the Treasury was not completely dominating the money market.

So I hope that my colleagues will feel inclined to support what I consider to be a responsible resolution.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to my distinguished colleague, the gentleman from the State of Massachusetts.

Mr. TSONGAS. Mr. Chairman, the gentleman from New York (Mr. Kemp) earlier in referring to Great Britain used the criteria of the deficit as a percentage of GNP. Does the gentleman have an estimate of the percentage of GNP to the debt?

Mr. ROUSSELOT. Does the gentleman mean the total debt or just the add-on debt in the committee resolution?

Mr. TSONGAS. The total debt.

Mr. ROUSSELOT. The reason I ask that question, is that, as the gentleman knows, this resolution will not only require the Treasury to finance a new $50 billion of add-on debt, but also to continue the roll-over of the present debt. I cannot give the gentleman the present percentage of the GNP to the debt.

Obviously, though, under my resolution, it would be lower than it is now.

The CHAIRMAN. The time of the gentleman from California (Mr. Rousselot) has again expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, the impact that the add-on debt has for the marketplace, as the gentleman knows, to finance $650 billion roughly at the present time is a heavy burden in and of itself. More important than the percentage of the GNP, in my judgment, is the percentage of capital in the marketplace that the new add-on deficit would consume.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. KEMP. To clarify the question the gentleman raised, I used specifically the deficit in Great Britain as an example of how much it would be if it were translated into the American budget process. It would be a fantastic deficit, and I am suggesting that it did not lead to prosperity, but that it was most counterproductive.

Second, the percentage in the gross national product is only important insofar as the Government share of the gross national product being consumed by the public sector.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. KEMP. Mr. Chairman, I ask unanimous consent that the gentleman be granted 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ADAMS. Mr. Chairman, reserving the right to object—and I shall not object—we have gone on for a considerable period of time with the gentleman from California. I will not object at this time.

Mr. ROUSSELOT. I appreciate the point of view of the gentleman, but I have only asked for extensions in order to reply to my colleagues.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KEMP. I will just conclude by saying that the Federal Government share of the gross national product, according to my understanding, is somewhere around 23 percent or 23 percent plus. But, if we combine Federal taxes with State and local taxes, we are up around one-third of the total gross national product which is now going to the public sector. Then, we add on the tremendous off-borrowing requirements in financing the deficit, inflation, and we get into much more serious consequences. We are trying to say that somewhere down the road it is going to lead to the type of chaos experienced in Great Britain.

Mr. ROUSSELOT. I thank the gentleman.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. REGULA. In the gentleman's opinion, would the adoption of this resolution in all likelihood increase the difficulty of getting to a zero based budget?

Mr. ROUSSELOT. It certainly would, and we have discussed that a little bit earlier. The gentleman is absolutely correct. He is a member of the Appropriations Committee, and has to appropriate those dollars for the huge deficit we have.

There would be an additional impact, bringing total interest well above $40 billion, if we pass the resolution in the form it is now and do not support my substitute.

Mr. REGULA. In the gentleman's judgment, if one supports the zero based budgeting process, then one would support this substitute resolution?

Mr. ROUSSELOT. No doubt about it. I think we have had a great deal of discussion about zero based budgeting, and this is a first step.

Mr. REGULA. I thank the gentleman.

Mr. DERRICK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I agree with many of the objectives of the gentleman from California in that we must bring Federal spending into line with receipts. However, I would suggest to the gentleman from California and the Members of the House that we already have a balanced budget bill. That is the Budget Act itself, passed by the 93d Congress, and in the implementation of it by the 94th Congress.

As desirable as it may sound that we should have a balanced budget today, as

I think the gentleman from California might candidly admit, it would be impossible to do so. The problem with the balanced budget is not going to be settled today. What is going to balance the budget is getting the economy balanced, getting the unemployment figure down to a reasonable level, while at the same time the Congress itself exercises monetary and fiscal discipline. That is how we are going to arrive at a balanced budget in a reasonable time with receipts and expenditures balancing out.

For instance—and I have these figures here before me—we ran into the question in the Budget Committee last year of what would have happened to the fiscal year 1976 budget had we taken the $75 billion deficit and just taken $75 billion out of the budget.

It would have amounted to a 12- to 14-percent unemployment rate throughout the country, and it would have probably meant in my own district back in South Carolina that a substantial number of industries would have closed down, and would no longer be employing workers, and the Gross National Product would have dropped.

So the problem is that we need to balance the economy and at the same time—the Congress needs to exercise some reasonable discipline in its expenditures.

I commend the Congress at large for the discipline that it has shown and the foresight in making this budget process work. I suggest to the Members that this is the only way that we are going to bring Federal spending, receipts and expenditures into line.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Massachusetts (Mr. Tsongas).

Mr. TSONGAS. I thank the gentleman for yielding.

Certainly one of the acknowledged fiscal conservatives in this country is Arthur Burns, Chairman of the Federal Reserve Board.

Mr. DERRICK. I would say he would be number one.

Mr. TSONGAS. And if I can be with Mr. Burns, then I will be. Mr. Burns appeared before the Committee on Banking, Currency and Housing, and I would like to insert in the Record the following exchange:

> Mr. Tsongas. Let me postulate a circumstance, and that is that you would be a member of Congress which I find as difficult to imagine as you do, I'm sure.
>
> Dr. Burns. Why not? Why do you find that so difficult?
>
> Mr. Tsongas. I've been trying to envision you in a VFW hall and it doesn't fit somehow. But given that postulate in the Rousselot amendment to balance the budget which we voted on last year and this year, to take the projected federal deficit and subtract that amount from the federal budget and ideally end up with a balanced budget, which of course has not happened, $70 billion in fiscal '76, and I believe it was $50 billion in fiscal '77. How would you have voted on that amendment?
>
> Dr. Burns. I would have voted against it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield at that point?

Mr. DERRICK. I yield to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Since that time I have written him a letter and asked him for additional information; and he now feels we are much closer right now, today to making the budget process work. In the gentleman's colloquy with Dr. Burns, he was referring to a previous balanced budget resolution. There is a much more realistic possibility of a balanced budget today under the present resolution than there was when I offered the resolution last year.

So that the gentleman's comment does not go unanswered, I would point out that although Chairman Burns suggested that the goal of a balanced budget should be achieved over a period of about 2 years rather than overnight, he did express his "hope that the new congressional budget process will help break the habit of running governmental finance on a deficit basis." The full text of the response by Dr. Burns to my questions appears on pages 32 to 33 of the hearings entitled, "Federal Reserve Consultations on the Conduct of Monetary Policy," July 27 and 28, 1976.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. Derrick) has expired.

(By unanimous consent, Mr. Derrick was allowed to proceed for 3 additional minutes.)

Mr. DERRICK. Mr. Chairman, let me say to the gentleman from California that I appreciate what he is trying to do, and I think it serves a very useful purpose in bringing the attention to what we would all wish for this country. We find our difference in the matter of timing. I feel that the only way, as a practical matter, we are going to accomplish this is through the budget process.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New York (Mr. Kemp).

Mr. KEMP. I thank the gentleman for yielding.

Is it the gentleman's thesis that reduced expenditures of $50 billion will lead to 12 percent unemployment in the gentleman's district?

Mr. DERRICK. No, no. This is throughout the Nation. It would probably be higher in certain districts—it would vary.

Mr. KEMP. It is already that in my district. But I want to assure the gentleman that the reason for this tragically high unemployment in my particular area is because of the Federal Government's taxing of the people's resources coupled with the high tax rates, as well as of the State of New York. New York has one of the highest per capita income taxes, the highest corporate income tax, the highest tax burden on people and business of any State in the Union. We are suffering under the burden of unemployment.

I am suggesting that we would expand production, and increase the tax base, raising more tax revenues, if we reduce this tremendous deficit which consumes the people's income. This is an honest, sincere attempt to leave $50 billion more in the hands of the American consumer and the American businesses with which to spend, save, and invest.

Mr. DERRICK. Let me say to the gentleman from New York (Mr. Kemp) that I agree with the gentleman's long-term objective.

However, where we disagree is that I think the budget process is the only way and the only vehicle that is available to the Congress at this time to accomplish our long-term objectives.

Mr. KEMP. Mr. Chairman, will the gentleman yield further?

Mr. DERRICK. I yield to the gentleman from New York.

Mr. KEMP. But, what the gentleman from California is attempting to do is to use the budget process to reduce the Government's share of the people's earned income and which takes away their incentive to produce their ability to work.

Mr. DERRICK. What we have to do is just have faith in the future of the country and in the budget process, and we should not desecrate it on this day.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, in furtherance of the colloquy I had with the gentleman from California (Mr. Rousselot), the Federal debt as a percentage of GNP in 1976 was 38.3 percent, in 1961 it was 57.8 percent, and if I recall, although I do not have the exact figure, in post-World War II or during the years 1944 and 1945, it has been as high as 120 percent.

So the percentage of the Federal debt as compared to GNP has declined dramatically over these years, and I think the gentleman from South Carolina is correct, that if we continue with this process outlined in the budget resolution, it will decline even further.

Mr. DERRICK. Mr. Chairman, I will say to the gentleman from Massachusetts (Mr. Tsongas) that I am sure he knows they spent an awful lot of money before we came here. That is part of the problem we have now.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. Derrick) has expired.

(On request of Mr. Kemp and by unanimous consent, Mr. Derrick was allowed to proceed for 1 additional minute.)

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate my friend's yielding to me.

I just want to point out that when the gentleman from Massachusetts (Mr. Tsongas) uses the figures showing the deficit as a percentage of GNP, it seems to me we should recall that in 1944 we were in World War II and there were 12 million or 13 million citizens who were still in uniform.

I do not think there is any Member in this Chamber who wants to achieve full employment such as that achieved during World War II. So I submit that it is a meaningless statistic in this context.

Mr. TSONGAS. Mr. Chairman, that is exactly the point.

Mr. DERRICK. Mr. Chairman, I will say to the gentleman that it is probably not just because of the deficit that we sometimes find ourselves in the poor financial shape we have been in during the last 2 years. But there have been other years when the economy was running at full blast, and that was before the gentleman from Massachusetts (Mr. Tsongas) and I arrived here. In those years we still had a deficit, and the gentleman from New York (Mr. Kemp) was here then.

Mr. KEMP. But we on this side have been voting for balanced budgets.

Mr. TSONGAS. Mr. Chairman, if the gentleman will yield further, World War II is a good example. During that time the Federal Government decided the national objective was to win the war and to spend money in that direction. If somebody during World War II had said that we should not spend money for planes and ships because we want to balance the budget, that would have been considered ridiculous. But we now have other national objectives, such as full employment and national health care.

Mr. BURGENER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment in the nature of a substitute.

Mr. Chairman, the last time my distinguished colleague, the gentleman from California (Mr. Rousselot), proposed this amendment, I voted reluctantly against it. Our good colleague, the gentleman from Illinois (Mr. Derwinski) suggested that each time this lonely vigil is maintained and more time has passed, more converts are achieved.

I think that is important, and I want to announce that I am a convert. I am switching my vote, and this time I shall support it with full enthusiasm because I think the public wants this budget balanced now.

Both Presidential candidates have announced their support for a balanced budget, but they do not have a vote on this floor on this budget. We do. One of the Presidential candidates has a veto, and the other one has an opinion. We have a vote.

My priorities would differ, I am sure, from those of the gentleman from California (Mr. Rousselot), and so indeed would the priorities of every Member on this floor. I am under no illusion as to what would happen should this amendment prevail. We would have one of the most exciting conferences in the history of the Congress, and I am sure that the level of spending suggested by the gentleman from California (Mr. Rousselot) would be changed and in conference they would come out with a different figure, but it would be lower than the committee bill and higher than the Rousselot amendment. It seems to me that what the public wants is less Federal spending.

Here we have a very dramatic and a very positive time to try to achieve that objective. It can happen. I thought once that it would perhaps be more pragmatic and more realistic to do it 3 years from now.

However, I am of the opinion that that 3 years will never arrive and that if we do not take a dramatic step and take it now, we will go the way of Great Britain.

Mr. Chairman, I strongly support the gentleman's amendment.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and Members of the Committee, the most recent speaker said that he thought it was easier now to vote for the so-called balanced budget amendment this year.

I can tell the gentleman that the reason that is true is that the budget process is working, and we are moving toward a balanced budget. As my friend, the gentleman from South Carolina, stated, we have now a system whereby the whole House has gathered together and is approaching this goal. Each year, if we make the process work, it will be easier to achieve a balanced budget. However, the difficulty that we have with doing that today is that the House has spoken again and again as to what the priorities should be and what the total amount of deficit should be.

Mr. Chairman, we are here today affirming the positions that the House has already taken. If we were to take the position of the gentleman from California (Mr. Rousselot) and change the total priorities of this House by $50 billion, let me give the Members some idea of what would happen. And let me add that the prospect of such a cut prompts people such as Arthur Burns to oppose it. If this amendment is adopted, probably the most shocked person in the United States would be Gerald Ford.

First, if the amendment is adopted the unemployment rate, we project, would be 11.3 percent.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, when?

Mr. ADAMS. During the course of fiscal year 1977, as an average rate. The rate of growth of the gross national product would decline, with industrial production dropping 2 percent.

State and local purchases, under the amendment, would be dropped by $18 billion. If we go to our mayors and local people and tell them that we are going to take $18 billion out of their budget, a lot of them will go into a state of bankruptcy.

Mr. Chairman, I do not happen to favor revenue sharing, and I do not happen to favor a lot of these State and local grants; but we all voted for them and I was beaten. Therefore, the figure that is in this resolution is the figure the House decided should go into it, and I have accepted it.

With respect to unemployment, the unemployment rate is going up again. The projections as to what would occur if we pull $50 billion out of this economy at this point show that there would be approximately 5.3 million more people unemployed. That is a distinct jolt to our economy.

Mr. Chairman, I think all of the Members have some idea of what would occur. The number of cars that would be produced, simply because the money would not be available in the same amount, would drop from 11 million to 9.2 million.

Mr. Chairman, I want to answer this argument about crowding out, the crowding out specter which asserts that since the Federal Government is going in and borrowing, the private sector would not be able to obtain money. That specter was raised the last time. However, we found out last time that the Federal Government's borrowing did not crowd out private borrowing. In fact, interest rates went down.

What has happened in borrowing during this last year is a projection of what is coming about now. We find that the estimates of the total amount of credit for 1976 have been revised downward by $17 billion, and for calendar year 1977, by $15 billion. Bank loans to corporations, which averaged $33 billion in 1972, 1973, and 1974, dropped to $18 billion in 1975. In 1976, they are expected to rise again, because of the lower interest rates but are only expected to be around $5 billion because their profits are up. They have generated funds internally, and they are using these funds, rather than borrowing in the financial markets.

What has occurred under the budget process is that the House of Representatives and the other body have begun to organize themselves into an orderly system of handling the way we spend our money. It is a hard job.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Adams was allowed to proceed for 3 additional minutes.)

Mr. ADAMS. Mr. Chairman, I repeat that it is a hard job. I have found, and I think all of the Members of the House sitting here today have found it so. Each time a bill comes on the floor and the Committee on the Budget must rise in opposition to it, the members of that committee and the members involved in that area are very unhappy about it. I can understand that because every person in this body has their own set of priorities. That general set of priorities starts usually with the committee on which they serve and where they spend most of their time. Those Members who are on the Committee on Armed Services know that we must spend more for armed services. Those Members who are on the Committee on Education and Labor want to spend more money in that area. Each one wants to do that. What I am saying is that we have organized this system of setting priorities for the first time. So let us not tip it all over by this amendment.

Mr. Chairman, I wish to refer in my closing remarks to two or three items to show the Members why this is such a deadly amendment for the whole fiscal policy of the United States.

First let me say that we have been moving the deficit down and we will continue to move it down. We have moved down from $75 billion last year to around $50 billion this year and it will be $25 billion next year and on down to zero.

So the budget process is working. But, Mr. Chairman, we have to pay interest of more than $34.5 billion. Any member on the Committee on Ways and Means or on the Committee on Banking, Currency and Housing will tell you that that figure just simply is not right. The bankers are going to collect their money. This is a mandatory requirement. We may be too low with our Budget Committee figure at the $40 billion rate, and therefore it is irresponsible to say that we are going to adopt this kind of an amendment with that kind of a figure.

Mr. ROUSSELOT. Which function is the gentleman referring to?

Mr. ADAMS. I am referring to function 900, interest.

Mr. ROUSSELOT. I thank the gentleman.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, that is the point that I want to clarify further. It seems to me that this is perhaps the most unrealistic assumption contained in the proposal of the gentleman from California because what he does does not in any way decrease existing debt. We still must service the debt which exists at this point. I cannot understand—with interest rates the way they are—how we can reduce the total debt service costs to this extent when we must "debt service" the same amount of debt. It seems to me that this would require a lower interest rate and a total refinancing of that debt to even move in the direction the gentleman from California proposes. I further can only believe that if we did not increase the existing debt that the projected cost could not possibly be reduced, I am told, more than $1½ billion.

Mr. ADAMS. I thank the gentleman from Louisiana. The gentleman is absolutely correct.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. Adams was allowed to proceed for 2 additional minutes.)

Mr. ADAMS. Mr. Chairman, as I started to say, the gentleman from Louisiana is absolutely correct. The figures on the amount of debt that must be rolled over this year and the amount of debt that is permanently in place can simply not be funded with the figure in this amendment, so the proposal is unrealistic.

Let me turn to the second item, one which again I know the gentleman from California (Mr. Rousselot) is familiar with, which is income security. We do want reforms in income security, and that is presently being worked on by the Committee on Ways and Means. These did not pass out, these are permanently in place, items such as social security and other entitlement programs. And until the House of Representatives and the Senate changes them, the President of the United States and the executive departments have to pay out the money that is allocated. We simply cannot remove it and say that it is not going to be paid, that the President is going to violate the law.

The same thing occurs in the veterans area. In the veterans area we are having a struggle. I notice the gentleman is covering that area completely. I am just saying if we are going to do that with veterans, we are going to have to do that with social security people and people in the income security area where the law provides for mandatory spending.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. ROUSSELOT. I would like to respond to my colleague, the gentleman from Louisiana. As the gentleman can see in the chart that I sent with the dear colleague letter, the interest charge for last year on the debt was $35.5 billion. The reason that it will not be necessary to increase interest charges is because as the Treasury is presently rolling over the debt, they are taking a higher-priced debt and reducing the amount of interest charges. This estimate—it was an estimate, but all of this is an estimate—came from the Department of the Treasury on the basis that if they had no add-on of a $50 billion deficit, as they roll over the old debt they would be able to reduce interest charges, so the $34.5 billion figure for fiscal year 1977 is a realistic figure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEMP. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Rousselot amendment.

Mr. Chairman, this is a fascinating and constructive debate, and I want to say to my friend, the gentleman from Washington, who I think has done a very admirable job heading up our Committee on the Budget, that I appreciate the remarks that he has made here on the floor with respect to assuring us that he shares our goal of reaching a balanced budget. He wants it in the near future and we want it now. We want it in the name of cutting taxes and creating jobs through an expanded base of production.

As was mentioned by my friend, the gentleman from California (Mr. Burgener) the President wants to balance the budget, the Presidential contender, Mr. Carter, wants a balanced budget by 1979. So there seems to be no dispute as to the concept of a balanced budget. The question is whether or not we can reach it now or in the future.

The gentleman from California (Mr. Rousselot) is performing a very valuable service to this body by bringing to its attention what he considers to be the prime issue facing the country, and that is the drag on our economy of excessive Government deficits and taxes. I happen to strongly agree with the gentleman. I should have preferred that we just cut the tax rates across the board on personal incomes and business incomes by the same amount, $50 billion. It seems to me that would promote a tremendous expansion of the private sector of our economy, leading to more jobs and thereby leading to more tax revenues to government.

In the 1920's Secretary of the Treasury Mellon helped reduce the tax rates on business and personal income that had been used to finance World War I, the results were an increase in prosperity, an increase in production, an increase in jobs, and a resultant increase in tax revenues. For 4 straight years from 1921 to 1924 taxes were cut every single year, and it led to a reduction in the Consumer Price Index and one-third of the national debt was paid off, we had both rising employment opportunities, as well as an increase in the supply of goods and services which is really what the fight against inflation is all about.

Therefore, what the gentleman from California I think conceptually is attempting to do is wage war against both inflation and recession by allowing the private sector of our economy to grow, by leaving consumers and producers $50 billion to invest and save themselves. If we do not have enough capital to finance the growth of the private sector of the economy, all of the deficits, all of the increase in the money supply, all of the Government spending is counterproductive. Indeed, it leads to shrinking tax revenues and, as has been pointed out by previous speakers, causes situations like New York City and New York State, as well as that of Great Britain.

The major point that critics of the Great Britain economy make is that the Government's share of the people's income is so vast it is approaching 60 percent of their national economy and is strangling the investment capital and profits that are necessary to finance new jobs and increased production of the supply of goods and services. The results are rising unemployment and runaway inflation.

A strong case can be made for saying that the United Kingdom's appalling economic condition is due to a lack of growth in the private industry sector.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. Kemp was allowed to proceed for 2 additional minutes.)

Mr. KEMP. Mr. Chairman, the major point that must be made is that the appalling lack of growth of the British economy is due to reckless growth of the public sector of the economy. What most people today in Britain recognize is that there has been a counterproductivity to the idea of "Government spending as the road to prosperity." As the growth of Government has taken place the private economy has concomitantly shrunk leading to more Government and less freedom.

What the gentleman from California and those of us who support his amendment are trying to do is simply to reduce the Government's share of the resources of the productive sector of our economy, and that is private enterprise.

If we can get Government to stop confiscating so much of the people's earnings and leave them more money to spend, save, and invest in the private sector and would lead to more production, more real growth and more opportunity for all those Americans who want to work and support themselves and their families.

I want to mention further what one outstanding young black businessman has said. He said in recent testimony—

> It is no mere coincidence that the dramatic growth and prosperity of the mid-1960's followed closely behind the sharp cuts in the corporate and personal income-tax rates initiated during the Kennedy Administration. Since then, Black Americans have expended tremendous amounts of energy and blood fighting the tax of discrimination in order to achieve full participation in that prosperity. We do not wish to see the value of our victories diminished by having the tax of discrimination replaced by the increasing burden of other forms of taxation. We saw the train moving and fought for the right to buy a ticket. Now, as we come aboard, we want to see the train moving again.

I agree, Mr. Chairman, it is time to get the train moving and the way to do it is as Wendall Gunn says, cut taxes.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. KEMP was allowed to proceed for 1 additional minute.)

Mr. KEMP. Mr. Chairman, the only way to bring more prosperity and more jobs to Americans is to reduce this tremendous burden of Government spending upon the backs of the American people and American business.

I support the amendment offered by the gentleman from California as symbolic of our effort to restore sound economics and I heartily appreciate his leadership in this area.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I support the gentleman's amendment to require a balanced budget for the 1977 fiscal year, and every Member of this body also ought to support it.

The last time this Nation had a balanced budget was almost a decade ago—and this was almost another decade after the last previously balanced budget.

The people of my congressional district—and I believe the rest of the Nation—do not want to wait every 10 years or so—for the Congress to balance the Federal budget. They want the budget balanced now, and the gentleman's amendment would do just that.

I do not agree with all the priorities and the dollar allowances in many instances. But the important part is that we first agree that spending be kept within the revenues collected, and that is what my colleague seeks to achieve.

Two years ago the large majority of Members of this body had as a part of their campaign platforms a slogan which went something like this: "This Nation ought to have a balanced budget, and if elected, I will work for a balanced budget."

If any Member wants to live up to that promise, here is the opportunity. Simply vote for the Rousselot amendment. The economic stability of the United States will be better off, and you will have lived up to your word.

I often wonder how long it will be before the Congress realizes that the Federal Government, like people, must live within its means.

It has been demonstrated time and time again that to do otherwise only results in a hardship being placed on the American people in the form of inflation.

Inflation shows no preference. It affects everyone—our giant corporations, small companies, and to a greater degree, the aged, the disabled veterans, and all other people who live on fixed incomes and pensions.

The problem with the $50.74 billion deficit spending contained in this resolution is a simple one. I want to illustrate just how simple it is: On page 4 of the Budget Committee's report on this resolution it says:

> While the deficit is being reduced, the Congress is making progress in providing the fiscal stimulus needed to sustain the economy and move toward full employment.

An elderly couple barely making ends meet will find little comfort in these words. Their problem is immediate. A $50 billion deficit only compounds this problem. So it only adds to the cost of a loaf of bread.

A loaf of bread—that is really how simple the problem is. To millions of our country's people inflation taking its toll in the price of bread. That is why the gentleman's amendment deserves your support.

I will not put any "good housekeeping seal of approval" on deficit spending. Does any Member seriously believe that the majority will stand by its $50.74 billion figure?

The committee, in its report, has already hinted that the totals may have to be revised. I do not think there is any question but that the majority will want to increase the deficit by next spring.

Contained in this resolution of the Budget Committee are these words:

> The amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $50,740,000,000.

Now, that is hogwash.

We are going to have to turn the spending practices of the Congress around if we are going to realize any economic recovery that will be lasting. And the only key way to do that is to have a balanced budget.

For the welfare of all our people and the Nation, I urge you to support the gentleman's amendment.

Mr. REGULA. Mr. Chairman, I rise in support of the substitute resolution and I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman from Washington, the chairman of the committee, for working hard in a responsible way on this resolution. I recognize and applaud the fact that his efforts have been directed toward a balanced budget.

Mr. Chairman, there is one dimension to this process that I have not heard mentioned too much in the debate today; however, it was alluded to by the chairman of the committee. That is an attempt to make programs more cost effective; to bring better management to these programs. The importance of this is perhaps highlighted by a recent hearing before the Interior Subcommittee on Appropriations. Recently, when we held a hearing to determine what happened to the Visitor's Center, costwise, where the project was estimated to cost perhaps $16 million is now estimated to cost in the neighborhood of $40 million to $50 million and it is not yet completed, it was quite apparent that one of the causes of this was mismanagement and the lack of cost-effective planning.

Mr. Chairman, it seems to me that the adoption of this type of resolution would force us to take a better look at how cost-effective programs are. We need a better way to manage programs, to achieve the delivery of services to the people of this Nation and to reduce the overhead in this delivery system. After all, we in the Congress are legislating a delivery service. We appropriate tax money from the people and, in turn, deliver all types of services that they in our judgment need.

Adoption of this type of resolution as a substitute would effectively discipline us in the sense that we would have to look to a better management program.

Therefore, I support the concept of the substitute resolution.

Mr. Chairman, I wonder if the chairman of the Budget Committee, the gentleman from Washington, would yield to a question.

In the gentleman's earlier remarks, the gentleman from Washington mentioned that the Budget Committee is looking to more effective ways of delivering services, perhaps in not those precise words; but my question would be, what is being done to analyze the budget to insure that it is cost effective in terms of delivering the objectives of our programs in Government?

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, the Budget Committee's function is to allocate amounts of money to a particular functional area which is covered by a committee having jurisdiction, such as the Appropriations or authorizing committee. These allocations may take into consideration a certain amount of reform money. That committee then has the responsibility of moving forward with the reform. The Budget Committee does not have jurisdiction on the actual line item. The individual committees retain that jurisdiction.

Mr. REGULA. Does the gentleman think that in establishing priorities, which we in effect do by the budget process, that we can leave solely to the authorizing and appropriating committees the responsibility for determining cost effectiveness of programs?

Mr. ADAMS. We make both studies and comments on particular programs as to whether or not they are cost effective. We have already held hearings as will the committee having jurisdiction, which is the Committee on Rules, on the prospects of both zero-based budgeting and sunset legislation.

Mr. REGULA. Mr. Chairman, does the gentleman think it goes beyond just the zero-base concept into trying to find ways of providing more effective delivery of the services that the Congress has mandated for many sectors of Government responsibility?

Mr. ADAMS. Mr. Chairman, if the gentleman will yield further, a zero-base budget is a word used to cover many types of budget techniques; but all techniques attempt to provide a tool to evaluate programs and come up with a decisionmaking package at the basic level.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I noticed that in the press today that Governor Carter has announced his support of sunset legislation, which causes all Federal agencies and programs to expire periodically. As we all know, he has been a strong advocate of a zero-base budget and has said that a balanced budget is one of his highest priorities were he elected President. Indeed, he has said a balanced budget should precede consideration of new programs.

Mr. Chairman, prior to voting on the Rousselot amendment, I wonder if I could get the attention of the gentleman from California and ask if the gentleman could advise the Members of the Committee whether President Ford, this administration, favors and supports the gentleman's balanced budget substitute, or whether the President opposes and does not favor the gentleman's substitute?

Mr. ROUSSELOT. I am sure this will come as a surprise to the gentleman from Georgia, but when I offer amendments or substitute resolutions on the floor, I do not "clear them with the White House." I feel that we are capable of drafting legislation ourselves. I do know that I have talked to the President several times, and he feels that we can achieve a balanced budget much quicker than the former Governor of Georgia, and he feels that if he had a more cooperative Congress as it relates to restraining expenditures, we could clearly achieve it within a year or two.

But, to answer the gentleman's question. I did not "submit" this resolution to the White House for approval. I feel that I am a Member of this body and that I have a right to offer it without necessarily "checking with the White House." I did consult with a substantial number of my colleagues in the House who favor the concept, and have done so in the past. So, the answer to the question is, I do not have a specific "stamp of approval" of the President on this balanced budget resolution, but the President does favor a balanced budget. Additionally, the Budget Control Act process is entirely a congressional legislative responsibility.

Mr. LEVITAS. As the gentleman from California knows, I strongly favor and support a balanced budget.

Mr. ROUSSELOT. I know the gentleman does, and we all appreciate his support of this legislation.

Mr. LEVITAS. I am simply trying to determine, not whether the gentleman from California submitted this to the President for his approval, but whether the gentleman could inform the House as to whether the President approves or disapproves of the balanced budget substitute.

Mr. ROUSSELOT. My belief is that if my resolution as a substitute passed, the House conferees, when they go to conference with the Senate—as we do on everything else—would probably find the aggregate figures going up. That is why through the years we've called the Senate the upper body because they up everything we do. I would have no fear that the final version of this budget resolution would not remain exactly as it is perceived in my substitute resolution. As the gentleman knows, we have to compromise sometimes in conference. It would be my hope that the Senate would roll over and accept my resolution, but I think that is highly unlikely.

Mr. LEVITAS. I take it, then, that the gentleman from California cannot advise the House that the President does in fact support his balanced budget substitute, and he is uninformed as to whether the President will support it.

Mr. ROUSSELOT. No more than I am sure that the gentleman has checked with the former Governor of Georgia to see if he approves of this resolution.

Mr. LEVITAS. Not recently.

Mr. ROUSSELOT. Has the gentleman checked?

Mr. LEVITAS. I have not. I have not checked with the former Governor of Georgia on this point, but then he is not as yet President of the United States.

Mr. ADAMS. Mr. Chairman, I wonder if we could get some kind of agreement as to time. I do not want to cut the gentleman off, but I would like to get some sort of idea on limitation of time. We have been at this now for some time, and I think that the advocates have had ample opportunity to speak. I wonder if we could have all debate closed on this amendment in 10 minutes?

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. PAUL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ADAMS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. PAUL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ADAMS. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for something less than 2 minutes each.

The Chair recognizes the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I rise in support of the Rousselot amendment. I am particularly interested in the portion of that amendment pertaining to agriculture. Prior to discussing that portion, I want to thank the gentleman from New York (Mr. KEMP) for bringing up the subject of what is happening in England. I hope that all of the Members here realize that Prime Minister Harold Wilson devoted his last year in office to encouraging investment in the private sector in that country and disciplining public expenditures to a point where they would have less of a devastating impact on the economy.

I think that if the Socialists in England can wake up to what has caused economic chaos in that country, liberals in this country might soon realize that their policies could lead in the same direction. Harold Wilson has recognized that too much deficit spending on too many government programs has gravely weakened the British economy. Can not our own liberals read the cards?

To those who swallow hook, line, and sinker the Keynesian economic model, I suggest that what you are advocating is living high on the hog today and sticking future generations with the bill.

It is immoral for us as elected Representatives of the people to go home and say, "Look at what we did for you today," without our also saying "Look at what it will cost you tomorrow."

This is why we must adopt the Rousselot amendment; moral decency and ethical decency demand it. It is nothing more than a prescription for good government.

Now, with respect to agriculture, the House Budget Committee, in its second budget resolution, recommended outlays of $2.239 billion. Mr. ROUSSELOT suggests that $2 billion ought to be enough to run agriculturally oriented programs, and considering that the President has recommended a spending ceiling of $1.8 billion for fiscal year 1977, getting down to $2 billion should not be too difficult.

One must keep in mind that, should the House adopt the Rousselot resolution, it would be up to the agriculture experts to determine precisely where recommendations of the Budget Committee are too high. But a number of areas stand out where questions can legitimately be raised about the level of expenditure.

First and foremost is the peanut price support program.

Legislation is already pending in the Rules Committee to cut this program, which is costing Americans millions in the form of subsidies for the overproduction of nuts. The peanut bill now in the Rules Committee could save $85 million, and I believe taxpayers are tired of sending their tax dollars to Washington for the support of nuts.

In addition, some cuts in the marketing quotas, and price support loans for tobacco might be in order. Again, Americans should not be responsible for funding an oversupply. Natural market forces rather than Government supports are the best means to determine what the supply of a particular product should be.

Even with cuts in these programs, Mr.

ROUSSELOT feels that some additional funds can be spent on the Nation's agricultural research programs. The House earlier this year gave its wholehearted endorsement to a bill to restructure the Nation's agricultural research efforts. The wide margin by which this measure passed suggests that both rural and urban representatives recognize the importance of such research to the production of plentiful and wholesome food supplies.

In conclusion, I would urge each and every Member to cast a vote in favor of sound fiscal policy, a policy which can be put into practice only through the adoption of the Rousselot resolution.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I would like to speak in support of this amendment. I would like to first address myself to the concept of gross national product. Everybody refers to it, but I would like to challenge the Members to rethink this concept.

Gross national product means nothing. Gross national product goes up when we create a war. War does not raise our standard of living.

If we have a hurricane and we rebuild a coastal town, the gross national product goes up and we end up back even, where we started off. If we have a flu epidemic and the cost of medical care goes up, this is worked into the gross national product and it has nothing to do with the health of this Nation's economy nor the problem of unemployment.

I would like the Members to rethink their ideas on the concept of gross national product because it frequently leads to erroneous economic thinking.

We talked about New York State and about unemployment.

In Texas, we are obligated to a balanced budget. We do not have corporate taxes, we do not have an income tax. We have a limitation on welfare spending, and we have a right-to-work law. We do not compel our legislators to meet every year, which is an asset. We absorb thousands of people from the State of New York because we do not have all of the conditions which created unemployment in the Northeast.

The deficits are important, but it is not the whole issue. The issue is inflation. Deficits cause inflation, and it is the monetizing of the debt which is the real problem. When we create money to pay a debt, this becomes more money ninefold over. This is the real problem. When we create this extra money and we go into the public sector, what we do is create nonproductive jobs in the public sector, which do not raise the standard of living. Other than that, when the increase of money supply gets into circulation, we create jobs which are ill-conceived and malinvestments occur. Then Government sees that the prices are going up, so they cut back on the money supply and create, the unemployment.

The Government in manipulating the money supply creates all of our problems; that is, the recessions, the high cost of living, and unemployment.

The basic fact that has to be stressed here is that there is no such thing as revenue sharing, not when the expected Federal deficit is estimated at $50 billion. Under these circumstances, there can only be deficit sharing. We are serving as middlemen for the State and local governments, since they cannot tap the private credit markets and the printing presses of the Federal Reserve System that are open to us in Washington.

It is better to share a $5 billion deficit than a $7.3 billion deficit, which is why I am proposing the $2.3 billion cut. It would be best, of course, to eliminate all deficit sharing, but I suppose that would be a utopian dream this year.

The Federal deficit sharing program enables local and State officials to increase Government expenditures without having to face the constraints of credit worthiness, public displeasure for direct tax increases, and interest rates. This tends to reduce local control over local affairs, since a whole new set of constraints are imposed: Federal paperwork, bureaucratic meddling from Washington, and social programs that are rammed down local throats by Federal planners. This is all done in the name of rationalizing financial control of Federal expenditures.

The so-called revenue-sharing program is a guaranteed means of short-circuiting the system of federalism that was supposed to serve as a check on the concentration of Federal power. Instead of honoring the checks and balances of the Constitution, we wind up writing checks and unbalancing the budget. The best way to reverse the centralization of political power in America is to reduce Federal spending.

Revenue sharing is deficit sharing. It is inflationary, for it rests ultimately on the ability of the Federal Reserve System to create new money. Let us cut this program out of the budget, beginning this year by cutting $2.3 billion.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, the gentleman from California (Mr. ROUSSELOT) has loosed a dangerous notion in this Chamber by proposing his amendment today, an idea that is going to revolutionize this country because it challenges a half century of liberal economic thinking.

His radical and attractive proposition is that the American people should have a much larger measure of freedom in the way in which they spend their own money. He correctly suggests that we change the onerous tax and spend system which now requires that most Americans must work from January 1 until about May 1 for government, to pay their taxes to State, Federal, and local government agencies. What a radical idea. That we balance the budget, reduce taxes and live within our means as a nation. If his amendment passes he would allow the people to retain their own funds and permit corporations to expand their operations and create new jobs, reduce unemployment and perhaps even pay some installments on the national debt.

This is a very dangerous notion, because it would require that some of the Government employees would be cut back, and it would probably mean that Members of Congress and Government agencies would have to surrender their fiefdoms as programs were dismantled. Freedom could become a national pasttime rather than something that is celebrated only on Bicentennial occasions. So it is a very radical notion that has been introduced here today.

The gentleman from California has also during our deliberations called into question the entire congressional budget process. That is good. The gentleman from Washington (Mr. ADAMS) has done an admirable job in presiding over the institutionalization of deficit spending in this Congress. A system that was to provide checks and balances on spending is glorified as a justification for deficits and debt.

Now you are able to take pride in your work and pin a medal on yourselves because you only came up with a $50 billion deficit this year. How great you are that you are able to rob the people of their wealth and spend it on Federal programs to control their lives and take away their freedoms. You tell them how to live, and then you say what a great job you are doing promoting their best interests.

History flies in the face of the mistaken liberal economics embodied in the pending resolution. History supports the wise and prudent approach embodied in the Rousselot amendment. I commend the gentleman for offering it. I hope the amendment is agreed to.

The CHAIRMAN pro tempore (Mr. MCFALL). The Chair recognizes the gentleman from Ohio (Mr. CLANCY).

Mr. CLANCY. Mr. Chairman, I rise in support of the amendment in the nature of a substitute offered by my friend, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CLANCY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding.

I want to respond briefly to the remarks of my colleague, the gentleman from Washington (Mr. ADAMS), who suggested a moment ago that the committee structure is the one that partially mandates the budget and what it must accomplish.

As the gentleman knows, in many of these categories the investigating and oversight committees daily find things that are wrong and that need to be changed and reduced. In one area of health, the Senate has held extensive hearings on Medicaid and found things that were wrong and fraudulent. I would now like to read from the statement on Medicaid by one of the investigators in the Senate.

It says that they found "rampant fraud and abuse existent among practitioners participating in the Medicaid program, matched by an equivalent degree of error and maladministration by Government agencies."

Let me review items from an article in a September 13th issue of U.S. News and World Report:

Congress Catches Up With Medicaid Ripoff

In a revealing look into the ills of medicaid, the American public got a glimpse of fraud running to billions of dollars and poor medical care for millions of the nation's citizens.

At hearings on August 30–31 before the Senate Subcommittee on Long-Term Care came this statement from the panel's investigators:

"Rampant fraud and abuse exist among practitioners participating in the medicaid program, matched by an equivalent degree of error and maladministration by Government agencies."

The medicaid progam, a decade old, is aimed at providing health care to an estimated 20 million poor persons. This year, its cost—to federal, State and local governments—will run to more than 15 billion dollars.

According to the Senate investigators, as much as one fourth to one half of that sum is being drained off by fraud or by poor or unnecessary medical services.

The Department of Health, Education and Welfare, which administers the federal part of the program, disagrees with many of the panel's findings. According to HEW Secretary David Mathews: The Senate investigation was "grandstanding."

Other HEW officials noted that a central office of investigations, with a staff of 74, was organized within HEW earlier this year. In addition, a full-fledged medicaid fraud-and-abuse investigations unit, with 180 staffers, has been created within HEW.

TALE OF EIGHT CITIES

The Senate investigators presented results of a four-month study of medicaid programs in eight U.S. cities.

In their 287-page report, they charged that medicaid money is being lost to "medicaid mills," small health clinics located primarily in low-income neighborhoods in big cities—many of them rundown store fronts—specializing in medicaid cases.

These clinics have proliferated as some businessmen and health professionals—including doctors, dentists, optometrists and chiropractors—found that they could make large sums of money by taking advantage of the program.

According to the report, such clinics are taking in more than 2.2 billion dollars a year, and 70 per cent of that amount is going to businessmen who, for the most part, own the clinics.

All too often, Senate investigators charged, medical services in these "mills" were substandard and unnecessary and the facilities ill-equipped, unlicensed and unregulated.

The panel's report stated:

"The trick is to see as many patients as possible. Visits must be brief. Accordingly, it is uneconomical to give good care. It takes too much time.

"A doctor interested in making money will spend less and less time with patients. As we learned, some doctors, in fact, see no patients at all.

"One physician arrived at his Brooklyn clinic each morning, got some coffee and retired to his office for the day. He saw no patients, merely reading the paper and writing invoices from patients' file folders."

Scores of practitioners were found to be drawing annual medicaid payments of more than $100,000.

The Senate investigation found that those associated with medicaid "mills" have developed a new vocabulary to describe ways to take advantage of programs. For example—

"Ping Ponging" means referring patients from one doctor to another throughout a clinic, often regardless of need. A patient who complained of a simple stomach-ache might see an internist, a dentist, a podiatrist, a chiropractor and even a psychiatrist during a single visit.

"Ganging" is the practice of requiring all members of a patient's family to be examined by doctors in the clinic, even though they do not have a medical complaint.

"Upgrading" involves billing for a more expensive service than is actually provided. A physician may treat a suspected cold and bill for treating acute bronchitis.

"Steering" is the directing of a patient to a particular pharmacy by a physician or other practitioner. This often involves kickbacks. It is a violation of the patient's freedom of choice as well as medicaid regulations.

"Billing for services not rendered" consists of adding services not performed to legitimate bills or turning in totally fraudulent bills for a patient the doctor has never seen or an ailment he has not treated.

Most of these "mills," the Senate report said, are usually staffed by young medical professionals. Many are foreigners who may be confused by the U.S. health-care system.

LONG-TERM EFFECT

The Senate hearings were a culmination of an investigation into a situation that has surfaced on numerous occasions, particularly in the poor sections of large cities. *U.S. News & World Report*, in its March 22, 1976, issue, pinpointed in a special report the "bill padding, kickbacks, unnecessary treatment" that have been endemic in the medicaid program.

What worries some health authorities now is not so much the billions of dollars of fraud involved, but the possibility of a further breakdown in health care for the nation's poor.

What is the point? The Congress constantly has to review our authorizing committee actions. We do it in the Committee on Banking, Currency, and Housing. I am sorry that we have not given a lower level of expenditures from the Committee on Banking, Currency and Housing. The Congress should constantly be subject to review.

Medicaid is one example where, according to the Senate, there is anywhere from 25 to 40 percent fraud going on in the medicaid program right now. That costs this country $14 billion a year. That is one clear area for change, and that is one reason why I reduced the functional category in both health and health care maintenance.

Mrs. LLOYD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. CLANCY. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Chairman, will the gentleman tell us how much of a cut in foreign aid is contained in this substitute?

Mr. ROUSSELOT. There is a $3 billion reduction. I have suggested a $3 billion target expenditure lever in the functional category. There is a reduction from the committee; the committee suggested $6.7 billion expenditure level and lion target expenditure level in the functional ceiling not a mandate to spend. Of course, like the gentlewoman from Tennessee I have never voted for foreign aid.

Mrs. LLOYD of Tennessee. What does the gentleman suggest as a further reduction in this area?

Mr. ROUSSELOT. Well, I have lots of suggestions, but I am not sure they would be accepted by the International Relations Committee or the State Department.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Chairman, I am pleased to rise in support of the resolution introduced by my good friend and colleague from California (Mr. ROUSSELOT). His efforts to obtain a commitment by this Congress to the concept of a balanced budget are not only timely but deserving of our support.

While some may take satisfaction from the Budget Committee's recommendation that outlays for fiscal year 1977 be set at $100 million less than the figure agreed to in the first budget resolution, the fact remains that there is little meaningful difference between $50.8 billion deficit and a $50.7 billion deficit. Either is inflationary and both have the effect of denying business and industry the investment capital needed to promote productivity and employment.

If any further evidence were needed to substantiate the adverse effects of deficit spending on employment, the latest unemployment figures are enlightening. Contrary to the expectations contained in the Budget Committee report, which has predicted that enactment of this resolution would mean a decline in the unemployment rate to approximately 7 percent, the latest unemployment figures show a rise in unemployment to 7.9 percent. More deficit spending obviously is not the cure; we have been doing that for the past 5 years and unemployment, except for a brief period last year, has steadily increased. What we have not tried, as a cure for either unemployment or inflation, is a balanced budget and I think it is high time we give that approach a thorough test.

Contrary also to what many people would like us to believe, a balanced budget is not only desirable but realistic and the proposal before us would serve admirably as a vehicle for its implementation. Knowing that other Members are going to focus on other areas, let me point out the type of cuts that could be made in function 550, better known as Health.

The second budget resolution we are considering here today calls for budget outlays in fiscal year 1977 of $38.9 billion, up from $33.6 billion in actual expenditures for fiscal 1976. Instead of approving this resolution, substituting substantially the same figures as the President proposed back last January—$34.4 billion—would not only save $4.5 billion right at the outset but would spare us the folly of wasting $50 million in start-up funds for a national health insurance program that should never be adopted due to its cost and its proven unworkability in other nations. Then, by enacting the National Welfare Reform Act, which has been cosponsored by approximately 80 Members of Congress, another billion dollars or so could be subtracted from medicaid expenditures without hurting the truly needy.

Beyond that, the elimination of costly and counterproductive professional standards review organizations—PSRO's—would not only improve the quality of medicaid care but would save at least $52 million and probably $200 million—by doing away with the need for doctors to practice defensive medicine when operating under the guidelines set down by the PSRO's. Moreover, activities such as those carried on by OSHA and the Consumer Product Safety Commission are not only counterproductive but are often duplicative of efforts at the State level, and should be left to the States to handle at their discretion, resulting in a savings of another $300 million. In addition, by reducing the disproportionately high per capita health assistance to American Indians and Alaska Natives to the same level everyone else receives, we could save yet another $350 million or so. And, by doing away with the National Health Service Corps, on the grounds that the free market takes care of alleged health manpower shortages better than any Government agency, still another $17 million could be saved. Add it all up, and these cuts alone would reduce health expenditures to fiscal 1976 levels.

However, as you may recollect, we had a deficit of $75 billion, including off-budget items, in fiscal 1976 so there is obviously a need to cut deeper still. In view of the just released Carnegie Report, indicating a doctor surplus rather than a doctor shortage, and Library of Congress estimates that, as of last January, there were 60,000 to 70,000 excess hospital beds in this country, two logical areas for additional cuts are health education and health construction. Ending Federal support for the former would save almost $600 million in fiscal year 1977 and putting a moratorium on the latter, until our fiscal affairs are in better shape, would save another $360 million. Finally, in view of the above and in light of considerable evidence that Federal support of health research hinders rather than helps—polio vaccine being an excellent example—the prospect of major medical breakthroughs, a sizable cutback—on the order of 50 percent—should be made in the Federal commitment to health research. This would mean a savings of yet another $1.1 billion in fiscal 1977 to say nothing of the fact we would not be stretching the general welfare clause of the Constitution quite so far.

Thus, with little additional difficulty, we could safely slice still another $2 billion from the health budget for fiscal 1977, bringing expenditures well within the $32.1 billion level Mr. ROUSSELOT has proposed. In fact, if medicare and medicaid, due to the fact they are entitlement programs, cost us $500 more than I, or others, have estimated we could still live within his $32.1 billion ceiling. Such a cushion makes the Rousselot amendment all the more plausible as far as the health function is concerned and, from all I have seen, the same holds true in the other functional areas as well.

Mr. Chairman, we are presently in the midst of the calm before the storm. If this deficit spending we are engaging in is not soon curbed, it is inevitable that the American people will be subjected to another inflationary spiral before too much longer. The laws of economics clearly indicate that so long as more money—made available by deficit spending—chases relatively fewer goods—the product of a productivity rate lower than the rate of expansion of the money supply—higher prices inevitably result. The only question will be, unless we begin balancing the budget and putting our fiscal house in order, how high will the inflation rate go? For my part, I would rather not find out and I suspect the vast majority of the American people share that feeling.

As an alternative, I urge the adoption of the Rousselot amendment.

(By unanimous consent, Messrs. MITCHELL of Maryland and WRIGHT yielded their time to Mr. ADAMS.)

The CHAIRMAN pro tempore. The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I realize that the fate of this amendment is inevitable, but I shall support the amendment because I believe in the concept of a balanced budget.

I believe it is cruel and almost inhuman for us to be living on the credit card of our children and our children's children, and then go back home and face them and say, "Look what we have done for you."

Mr. Chairman, I do not happen to be one of those individuals who promise anything in campaigning. When I go out campaigning and talking to my people, I have not ever, and I shall not in the future, made promises I would not keep. I think it is wrong for a politician to go out at campaign time and say, "I am going to do this, this, and this for you."

Certainly, Mr. Chairman, when we have an amendment like this maybe each year we may pick up some support. We had it last year—perhaps there will be a time when we will be able to get across to this Congress and to the American people that there are sufficient Members in this body who believe that we should not be living today on the wages and the earnings of our children and our children's children in the future and make them pay for the high living that we have today.

Mr. Chairman, what a horrendous burden there is in this resolution, $700 billion of debt to be passed on, something that we had expended. I think that is cruel.

On that basis alone, Mr. Chairman, I shall support the amendment, even though I know that it is going to fail.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MCFALL).

Mr. MCFALL. Mr. Chairman, I rise in strong opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS) for 6 minutes to close debate.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Texas, the chairman of the Committee on Appropriations.

(Mr. MAHON asked and was given is limited for further debate and this issue has been thoroughly discussed this week and on many previous occasions.

I wish to reassert my total and complete dedication to a balanced budget. And I believe there is general agreement that few Members of Congress have worked for this goal more than has GEORGE MAHON.

But this amendment before us now which would require an immediately balanced budget for the fiscal year which begins October 1 is not reasonable or realistic. The budget deficit can, must, and will be reduced in the coming year, and I shall continue to work for a balanced budget in the forthcoming 2-year period. This would be an attainable goal, but such is impossible for the immediate coming fiscal year.

The budget deficit is the result of an accumulation of decisions over a number of years, under Republican and Democratic administrators alike—many decisions in which I have not concurred—and it is going to take more than 1 year to achieve a balance.

I realize that people who have not had an opportunity to study the situation could conclude that a balanced budget could easily be achieved overnight. Some will misunderstand the vote today which will without doubt reject the pending unrealistic amendment.

But I am convinced that a complete understanding of the situation will cause thoughtful Americans to realize the impossibility of immediately balancing the Federal budget but we must not relax our efforts in that direction.

Mr. Chairman, I might say in regard to the budget resolution itself and the question of whether it should be adopted, that the new budget process offers the Congress a vehicle by which it can achieve greater fiscal discipline. It is not a perfect process and I personally believe we must practice much greater fiscal restraint. But it is the best vehicle that presently exists to achieve greater economy in government.

If the budget resolution were defeated, then no budget ceilings at all would be in effect. And it is my opinion that some sort of ceiling, as the budget resolution proposes, is necessary if we are ever to achieve a balanced budget. I, of course, would have preferred a lower spending ceiling and such a lower ceiling would have been possible if a majority of the House had concurred in my votes on spending bills that have already been considered this year.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I thank the gentleman for yielding.

I commend him for a tremendous performance of a difficult job.

I do feel that the gentleman from Cal-

ifornia (Mr. ROUSSELOT) is sort of like a tug, shepherding a vessel away from a shoal and out toward open water, in trying desperately to push the Congress to a sensible and safe fiscal position.

Mr. Chairman, I have heard so many comments to the effect that "Mr. ROUSSELOT has a good idea, however;" or "ROUSSELOT makes good sense, nevertheless," it kind of reminds me of the old Broadway tune, "Your lips tell me 'No, no,' but there's 'Yes, yes' in your eyes."

Mr. ADAMS. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from California (Mr. ROUSSELOT).

Mr. Chairman, in order to close debate I would like to point out that, for example, there was a comment made about the health costs that are included within the budget figures that we have used. The committee report, on page 44, shows where savings can occur. The committees that have jurisdiction over health programs in both the House and the Senate are trying to work out the reforms that would take place.

This budget process is working. I think the Members should understand how foolish we would look after having started the process moving to now have to redo the total budget. And, incidentally, Mr. Chairman, the administration does not support this amendment in the nature of a substitute.

If this amendment were to be adopted, the administration would be in the position of being simply unable to pay its debts. This body would look foolish to the American people in trying to cover such things as the mandatory costs of interest, the mandatory costs of income security programs, and so forth. The energy program that has been set up would be cut drastically under its ceiling. The Eximbank and foreign aid programs would be just nonexistent under this proposal.

Mr. Chairman, we have carefully gone through the process of trying to establish priorities in Congress so as to return to the Congress the responsibility for spending.

Mr. Chairman, I have been in this body for 12 years and have listened to people come in and say, "Well, we must have a ceiling and draw lines." And never before now have we been successful in bringing together the whole body of the Congress to adopt a spending ceiling and a floor under revenues.

Mr. Chairman, we were able to do that last year. We met our targets both in revenues and in spending. We are going to do it again this next year. We have finally gotten the whole thing together.

So, Mr. Chairman, I am asking the Members to reject this amendment which would simply tear apart the whole process that we have worked on during the entire year. It is not realistic.

Then, Mr. Chairman, having voted down this amendment in the nature of a substitute, then we can proceed. As I understand it, the gentleman from Ohio has an amendment to offer and we will vote on that. Then we will vote on the resolution.

I might indicate that the timetable for the committee is to finish the resolution this afternoon, go to conference and then to proceed, as I understand, with the vote on the conference next week.

Mr. Chairman, again I ask that this amendment in the nature of a substitute be defeated.

I ask for a vote on it at this point.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. ROUSSELOT).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 31, noes 40.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 264, not voting 55, as follows:

[Roll No. 700]

AYES—111

Alexander
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Chappell
Clancy
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
English
Eshleman
Evans, Ind.
Findley
Flynt
Frey
Ginn
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harsha
Henderson
Holland
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Levitas
Lloyd, Tenn.
Lott
McClory
McDonald
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Passman
Paul
Quillen
Regula
Risenhoover
Roberts
Robinson
Rousselot
Satterfield
Schneebeli
Schroeder
Schulze
Skubitz
Smith, Nebr.
Snyder
Spence
Stuckey
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Wampler
Whitehurst
Winn
Young, Fla.

NOES—264

Abdnor
Adams
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Gradison
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holtzman
Horton
Howe
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Santini
Sarasin
Sarbanes
Scheuer
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Zablocki

NOT VOTING—55

Abzug
Addabbo
Aspin
AuCoin
Badillo
Breaux
Brodhead
Chisholm
Clausen, Don H.
Clawson, Del
Conlan
Corman
de la Garza
Esch
Evins, Tenn.
Ford, Tenn.
Goldwater
Green
Hansen
Hébert
Heinz
Helstoski
Hinshaw
Howard
Karth
Lehman
Lujan
McCollister
Matsunaga
Melcher
Mink
Murphy, Ill.
Nolan
Peyser
Riegle
Runnels
Russo
Ryan
St Germain
Sebelius
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Symms
Ullman
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Addabbo against.

Mr. Del Clawson for, with Mr. Corman against.

Mr. Conlan for, with Mr. Howard against.

Mr. Hansen for, with Ms. Abzug against.

Mr. Lujan for, with Mr. Murphy of Illinois against.

Mr. Symms for, with Mrs. Chisholm against.

Mr. Wylie for, with Mr. Russo against.

Mr. Young of Alaska for, with Mr. Zeferetti against.

Mr. FISH changed his vote from "aye" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LATTA

Mr. LATTA. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LATTA: Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $354,900,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $22,900,000,000;

(2) the appropriate level of total new budget authority is $437,119,000,000;

(3) the appropriate level of total budget outlays is $399,171,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $44,271,000,000; and

(5) the appropriate level of the public debt is $685,931,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $112,086,000,000.

(B) Outlays, $100,606,000,000.

(2) International Affairs (150):

(A) New budget authority, $7,316,000,000.

(B) Outlays, $5,449,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $4,366,000,000.

(B) Outlays, $4,280,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $17,027,000,000.

(B) Outlays, $15,416,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,202,000,000.

(B) Outlays, $2,128,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $16,815,000,000.

(B) Outlays, $16,135,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,105,000,000.

(B) Outlays, $8,625,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $22,690,000,000.

(B) Outlays, $21,078,000,000.

(9) Health (550):

(A) New budget authority, $38,501,000,000.

(B) Outlays, $37,012,000,000.

(10) Income Security (600):

(A) New budget authority, $148,079,000,000.

(B) Outlays, $130,150,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,323,000,000.

(B) Outlays, $19,539,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,316,000,000.

(B) Outlays, $3,393,000,000.

(13) General Government (800):

(A) New budget authority, $3,379,000,000.

(B) Outlays, $3,358,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):

(A) New budget authority, $7,617,000,000.

(B) Outlays, $7,657,000,000.

(15) Interest (900):

(A) New budget authority, $40,400,000,000.

(B) Outlays, $40,400,000,000.

(16) Allowances:

(A) New budget authority, $817,000,000.

(B) Outlays, $865,000,000.

(17) Undistributed Offsetting Receipts (950):

(A) New budget authority, -$16,920,000,000.

(B) Outlays, -$16,920,000,000.

Mr. LATTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATTA. Mr. Chairman, my amendment is quite simple. It is very easily understood. It is a 5-percent cut across the board, with several exceptions, and I shall explain these exceptions in a moment. But I am not going to go into great detail on these amendments, because I think the vote we just had indicates the will of the majority. There are many people who believe, as I do, that we should do more in the Budget Committee than just add up the figures given to us by the committees of Congress and those sent by the administration. I think we have a greater responsibility than that. If that is all we are going to do, we might as well dissolve the committee and save the taxpayers some money. I think we should come forth with some leadership in this area.

As I indicated yesterday, when I accepted an assignment on this committee, I thought my prime purpose was to find ways to cut the budget sent down from the administration, not to increase that budget. I think this is our primary purpose.

I have seen many budgets come down to this Congress from five Presidents, and most of them had some fat in them, I might say, regardless of whether it was a Democrat or Republican in the White House. I do not think there has been a budget prepared which cannot be reduced by 5 percent. There is fat in this budget. It is our job to find it.

Oh, yes, we praise this particular pet project and that pet project and say that we cannot cut it, but we must forget our pets and cut the budget. There are ways and means of doing the job. I think, so far as the Budget Committee is concerned, we should take the bull by the horns and do what has to be done to reduce the expenditures of this Government.

My amendment would not only provide for a reduction, it would provide a double-barreled stimulus, in that it would permit a $7.6 billion individual income tax cut and an across-the-board, 5-percent reduction in budget authority and outlays in 11 of the functional categories and approximately a 10-percent cut in the international affairs category.

The combined $7.6 billion additional reduction in individual income taxes, plus reductions in budget authority of $15.6 billion and in outlays of $14.1 billion, leaves more of the people's money to be spent by those who earn it rather than being spent for them by the Federal bureaucrats.

The reductions in budget authority and outlays moderate the rate of growth of the Federal Government by decisively resisting the political tendency to do all things for all people with their tax dollars. Also, lowering the deficit to $44.3 billion, which is $6.5 billion below the budget resolution, leaves an additional $6.5 billion in the pockets of the people who earned the money in the first place.

On the individual income tax cut side, my amendment would provide:

First. For raising the personal exemption of the taxpayers from $750 to $1,000, as a substitute for the tax credit per exemption and the optional taxable income credit, thereby achieving an additional tax reduction of $1 billion;

Second. For reducing individual income tax rates, for an additional $7 billion reduction;

Third. For increasing the standard reduction, for an increased reduction of $0.3 billion; and

Fourth. For eliminating the earned income credit, for a tax increase of $0.7 billion.

The total income tax reduction would, therefore, be $7.6 billion.

On the expenditure side my amendment calls for across-the-board cuts of 5 percent in 11 of the functional categories. It would leave defense, veterans benefits, revenue sharing, interest, and undistributed offsetting receipts at the same figure provided for in the resolution. These exceptions are made because they are in accord with the principle—and I believe it is sound—that the Federal Government should undertake to spend primarily for those responsibilities which other levels of government or the private sphere cannot handle for themselves, for example, national defense.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. LATTA) has expired.

(By unanimous consent, Mr. LATTA was allowed to proceed for 2 additional minutes.)

Mr. LATTA. Mr. Chairman, I would reduce the international affairs section or category by approximately 10 percent. It seems to me if we are searching for ways and means to reduce governmental expenditures, we can look to this international affairs category as a lucrative area. In this budget resolution we have new budget authority of $8,770,000,000, and outlays for fiscal year 1977 of $6,763,000,000 in this category.

We must agree that these amounts can be cut after we have given billions and billions and billions of dollars around the world year after year after year. We must conclude that it is time to reduce these giveaways. Certainly, to program this sum of money for more giveaways when we are faced with budgetary problems at home cannot be justified. So rather than taking anything out of the veterans' affairs category, I would take an additional 5 percent out of the international affairs category.

Mr. Chairman, I believe that this amendment is worthy of the consideration of this House and I hope that it will be approved.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. LATTA) has expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. LATTA was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield for one or two questions?

Mr. LATTA. Yes; I will be happy to yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I am curious about the legislative implications of the Bow-Latta amendment.

Mr. LATTA. Let me say that this is not the Bow amendment.

Mr. MITCHELL of Maryland. All right, just the Latta amendment.

Mr. LATTA. The Bow amendment called for a 5 percent reduction across the board. Let us not confuse the issue.

Mr. MITCHELL of Maryland. I am terribly sorry. I certainly would not want to do that.

Mr. LATTA. I know the gentleman would not.

Mr. MITCHELL of Maryland. Mr. Chairman, I am curious about the legislative implications of this amendment. Suppose the amendment is agreed to; would that mean each authorizing committee would then have to come up with a new authorization reflecting the reductions that the gentleman proposes?

Mr. LATTA. The gentleman is correct.

Mr. MITCHELL of Maryland. Then if the amendment is agreed to, and the new authorizations would come up, each one of those new authorizations would have to go to the Committee on Appropriations to be acted on; is that correct?

Mr. LATTA. The only areas where we would be making some changes would be in those categories I have indicated. Some authorizing legislation may be necessary but since we could make these changes later, I see no difficulty in this area.

Mr. MITCHELL of Maryland. But it would require additional consideration by the Committee on Appropriations; is that correct?

Mr. LATTA. That is right. What I am trying to do is to show them the way and giving them some light.

Mr. MITCHELL of Maryland. I want the gentleman to show me the light through this legislative process.

We would go back to our authorizing committees and we would go back to our Committee on Appropriations, and then, whatever the other body has already done, there would necessarily have to be a conference between the House and Senate again on the changes, assuming the authorizations and appropriations were changed; is that not correct?

Mr. LATTA. Mr. Chairman, the gentleman is overlooking the fact that we are talking about fiscal year 1977. We are talking about something in the future. This is for 1977.

Mr. MITCHELL of Maryland. I am talking about operating under the time constraints as established by law for the Committee on the Budget.

Mr. LATTA. I understand.

Mr. MITCHELL of Maryland. Am I right in assuming it would require some kind of conference between the House and Senate?

Mr. LATTA. There is no doubt about that.

Mr. MITCHELL of Maryland. All right.

Mr. LATTA. As a matter of fact, we are going to be appointing conferees today. We are going to name conferees on this bill in a few minutes.

Mr. MITCHELL of Maryland. However, the gentleman from Ohio should not offer his amendment because this body would have to go all the way back to the authorizing committees for a change.

Mr. LATTA. No. That is not correct because we have in this resolution, as the gentleman knows, an assumption that we will eventually knock out the 1-percent kicker, for example; and something must be done legislatively to do that. Therefore, if we can do it in this instance, we can do it in the instances to which I have referred.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. LATTA) has expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. LATTA was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I have just one last comment.

As I understand it, if the amendment should pass, we shall go from authorizations to appropriations to conference with the other body, then back to this body for a final vote. That means that we would be somewhere beyond the target date for the adjournment sine die of this body.

Mr. Chairman, I have no further questions of the gentleman.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I think everybody sympathizes with the aims and desires of the gentleman from Ohio (Mr. LATTA), but we are just up against a situation here in the 24th or 25th hour when we are being asked to make a decision on matters on which we do not have details enough to know whether or not we would be hurt or not hurt.

Mr. Chairman, one question comes to my mind. The gentleman said that it is a 5-percent cut across the board. Does that mean that all civil employees would receive a 5-percent cut?

Mr. LATTA. No. I said 5 percent across the board in 11 categories. In four categories we would not change the resolution, and in the other category we would take approximately a 10-percent reduction. We would not be taking the 5-percent cut out of veterans' benefits. This amount would be taken out of the International Affairs funds.

Mr. DENT. If the gentleman will yield further, does it not seem strange to go to the people and say, "We are going to make a 5-percent cut in categories of Federal spending, but at the same time we are going to give you a 5-percent increase or somewhere in that neighborhood, meaning to public employees"? Then there is the increase based on some fictitious kind of cost-of-living index figured on a breadbasket or marketbasket price of 29 items of food, and we are going to give a 5 percent clear, across-the-board increase to public employees earning $47,000, $50,000, or $65,000 a year. Yet we are talking about cutting 5 percent across the board.

Why should we leave this figure alone? This Congress, by a large vote, said that there ought to be a saving across the board.

Why did not the gentleman include that increase in his amendment?

Mr. LATTA. Mr. Chairman, I appreciate the gentleman's comments.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have not had a long time to analyze the amendment of my good friend, the gentleman from Ohio (Mr. LATTA); but in the few minutes that I have had I have identified four and probably five reasons, any one of which would be reason enough to defeat the amendment.

In the first place, the 5-percent across-the-board cut proposed by the gentleman's amendment clearly is an abdication of our priority-setting responsibility.

Mr. Chairman, we do not further a budget process by saying, "We have set priorities to the extent that we have, but that was not enough to satisfy me." That, Mr. Chairman, is what the gentleman from Ohio (Mr. LATTA) says.

In effect he says that now, since we do not have an opportunity to do this in a more sophisticated way at this juncture, we will just cut 5 percent across the board.

Clearly, Mr. Chairman, that is an abdication of any kind of reasonable and responsible decisionmaking with respect to the establishment of priorities.

Second, the Latta amendment—and let us understand this—would wipe out job stimulus that the resolution before us contains, amounting to more than a half million jobs in the next fiscal year.

I say that because what the gentleman from Ohio (Mr. LATTA), my colleague, suggests is that we do away with public service jobs numbering over 400,000 for next year.

I would also say that under the Latta amendment there would not be the money available for housing contained in the resolution, and clearly housing is one of the most severely distressed and depressed sectors of our economy. So I say this amendment would impact further the job-producing stimulus programs approved by your Committee on the Budget, approved initially, and now we hope permanently, by this body, stimulus in public service jobs—some 400,000 jobs—and the housing sector of more than 100,000 jobs in fiscal year 1977.

Mr. LATTA. Mr. Chairman, would my friend the gentleman from Ohio yield for a question in clarification?

Mr. ASHLEY. When I finish my statement I will be happy to yield to the gentleman from Ohio.

Thirdly, Mr. Chairman, if we look at the impact of the amendment on income security we find this amounts to $6.8 billion. When we add the $1.9 billion that the gentleman would slash from health, we find that his amendment would cut spending in these areas by nearly $9 billion.

There is no way, I repeat, there is no way to save $9 billion in these categories through efficiencies. What would have to be done, and the gentleman from Ohio must know this, is that there would have to be a lowering in the existing benefit levels in social security, unemployment compensation, food stamps, AFDC, medicaid and retirement benefits in some combination. There would be an extraction of $9 billion from these categories.

Fourth, the gentleman from Ohio would propose providing additional tax cuts of $7.6 billion, presumably along the lines advocated by the President late last year.

Can we remember the impact and the ramifications of the President's proposal with respect to these tax cuts? Who would get the benefit of these tax cuts? The gentleman from Ohio knows full well that 60 percent would go to corporations, to the business sector of our enterprise system.

This might be excusable if the economy would be stimulated by virtue of these tax cuts but that would not be the consequence. When we take a look at the $14 billion that the amendment would "save," and then offset it by the $7.6 billion in tax cuts, most of which would go to corporations, what we find is that the economy would suffer a loss in gross national product of some $30 billion.

Mr. Chairman, this is an amendment which, in my view, is not reasonable or responsible. It is not responsible because at this time we are experiencing a leveling off in the economy; unemployment is higher today than 4 months ago, and the rate of growth has declined sharply from the 9.4 percent in the first quarter. Clearly this is not the time to depress our national economy.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 1 additional minute.)

For these reasons, Mr. Chairman, I urge that the amendment be resoundingly defeated. Yes, we all want to save. We all want to get closer to a balanced budget, but hardly through these means, hardly at this risk. Not when the result will be to take away needed jobs and when it is going to cause a lowering in benefit levels to social security recipients and others.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. LATTA, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I thank the gentleman for yielding because the gentleman's remarks need some clarification. As the gentleman indicated at the outset of his remarks, he had not read the amendment too closely and the remarks he has just made indicate that he has not read it.

As a matter of fact, there is nothing in my proposal to reduce taxes on corporations but, lo and behold, he says 60 percent of the proposed tax cut would go to corporations.

Mr. ASHLEY. Since I am yielding to the gentleman, I think I will answer that at this juncture and say to the gentleman that my remark was if that $7.6 billion in further tax cuts reflected the President's proposals of a year ago, then this would be the result.

Mr. LATTA. I might say they do not. I am glad the gentleman said "if."

Mr. ASHLEY. Indeed, I did.

Mr. LATTA. They do not, so that strikes down that part of his argument.

Let me say further to the gentleman that he indicated my amendment would knock out all of the public service jobs in the bill. That is not correct either.

Mr. ASHLEY. I did not say that.

Mr. LATTA. As the gentleman knows, all we do is to specify certain dollar amounts in these categories, and those dollars can be spent any way authorized by law, so if they want to take out all the unneeded public service jobs money and use it some other place, that is up to them. All we are doing is setting the dollar figures.

I might also say when he speaks of a $9 billion reduction in one category, he must remember that the Department of HEW, the Department of Labor, the Civil Service Commission, the Department of Agriculture, and the Department of HUD are all included in this category. If the gentleman cannot reduce the spending of these five Departments by $9 billion without the heavens falling, I am not standing on this floor today.

Mr. ASHLEY. Mr. Chairman, let me simply conclude by saying that the gentleman only fortifies what I said at the outset, that this meat ax approach is a bad way to do the business of this country.

I would urge, Mr. Chairman, that this amendment be defeated.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. TRAXLER, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

I am sympathetic toward the goals of the amendment. I, too, favor a balanced budget and an end to deficit spending. However, would the gentleman say that this amendment indicates a decided lack of faith in the ability of the President and the administration to properly administer the budget? Does not the President have, under existing law, the right to enter a rescission and deferral when and if he believes that the money is excessive or cannot be properly spent, or that the taxpayer will benefit from a reduced expenditure? Is that not the function of the Executive of this Nation?

Mr. ASHLEY. Of course. The gentleman is right. The process is spelled out in the 1974 legislation and is, indeed, provided for. There is the opportunity for the administration to do exactly as the gentleman states.

Mr. TRAXLER. If the gentleman will yield further, I know that the President has had some rescissions and some deferrals. I am confident, in view of the way he has developed the course of his political campaign that he would be willing to do so again if he believed, as the Chief Administrator or Executive of this Nation, that the Congress had appropriated too much funds. I have confidence in this President that he would do that. I think the battle-ax approach we see taking place here would do a disservice to taxpayers, the Congress, and to the administration and to the recipients of these programs. I think we have a responsibility to act in a fashion that is consistent with the Budget Control and Impoundment Act and appropriation procedures.

Mr. ASHLEY. I think the gentleman is entirely right, but I would say, going beyond that, we all have a further responsibility to try to shape our national economy through the budget process so that economy can perform in an effective way that will continue recovery from the deepest recession we have had since the depression days.

This amendment, let me say, would put that objective very much in jeopardy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio.

Mr. LATTA. I think the gentleman for yielding.

It is very interesting to listen to all of these misdirected charges and especially when they say that the President is responsible for all of this spending. That does not ring quite true because in this budget resolution the Democrat majority is upping what the President wanted by $13.2 billion. They are not reducing it. So let us not pass the buck. The buck is here. You go back home and tell the people that you did not vote for a resolution allowing their personal income exemptions to rise from $750 to $1,000 and see if they approve at a time when they are asking for tax relief from this Congress. If the Democrat majority does not wish to cut spending and give some tax relief to the hard-pressed taxpayers, I guess they will have to answer for it—not me. I think my amendment is a way we can reduce this resolution in a very forthright and helpful way.

I am not spelling out in all of these various categories how these departments should make reductions. It is incumbent upon the agencies and departments to make them within the confines of my proposed budget restrictions.

To say we are going to vote against x number of jobs and wipe out all these public service jobs is ridiculous, because we are not directing the cuts to be made in any particular area within the department. We are pointing our fingers at dollars in this resolution and not particular programs.

I say this is a responsible amendment if we are for reducing this resolution. If we are not, if we want to go back home and say: "Look what I have done with your money and with your children's money and with your grandchildren's money," then vote against my amendment. But if you want to go home and say: "I am not for a tax reduction and I am for a cutback in Government spending," you should vote for my amendment.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, addressing myself to what the gentleman from Ohio has said, I am pleased he made the point that I was trying to establish, which is that the departments and agencies are responsible for the across-the-board cuts proposed by his amendment. He said the agencies will make these reductions. Agriculture and social security would be severely cut back by this amendment. What I said was the President would as the Chief Executive Officer of our country, and he can enter rescissions and deferrals where he believes there is excessive funding. The President has a role in this area, granted, and given to him by the Congress, in the law, some would argue that is inherently constitutionally available to the President as the Chief Executive Officer of the Nation and that he is responsible for how our money is spent. As I said before, I hope the President will enter rescissions and deferrals in those selected areas where there are opportunities to save taxpayer moneys. I am for fiscal integrity.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, we are dealing with the fiscal 1977 budget in this resolution. The President has not sent up his budget for 1978. We will be attempting to show him the way in this budget resolution.

Mr. GIBBONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, some of the things that the gentleman from Ohio (Mr. LATTA) is trying to do I have applauded and he knows he and I have voted together from time to time on the Budget Committee and we have effected some cuts in the spending.

But if we want to save money and we want to cut taxes, then increasing the personal exemption is not the correct way to do it. The cost in fiscal 1977 would be $7.6 billion and on an annual tax basis it would cost between $10 and $12 billion a year.

If we want to pass on that much tax saving to individual taxpayers, there are much better ways of doing it. We could grant a credit instead of increasing the personal exemption. The increase of the personal exemption would work most favorably for those who have very high incomes now and not for those who need the greatest tax relief, the middle-income taxpayer and some of those in the lower-income brackets who really pay, when we consider social security along with the income tax, a very high Federal tax.

If for no other reason than that I would urge a vote against the Latta amendment. It sounds attractive, I know, but frankly it would be a very poor way of cutting on an annual basis $10 to $12 billion worth of taxes.

The Ways and Means Committee is studying right at this moment some of the inequities between the married and unmarried folk, and to straighten out that it will cost plenty of money. I think we can better devote our attention to that kind of tax relief rather than passing on the great portion of this tax cut to people who are relatively well off.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I just wonder if I might ask the gentleman from Florida (Mr. GIBBONS) if the gentleman was not the author of section 6 in the inheritance tax bill?

Mr. GIBBONS. Yes, sir; that is correct.

Mr. LATTA. Mr. Chairman, if the gentleman will yield further, the House has not agreed with him on that tax question. I doubt either the House or the Senate, is going to agree with his reasoning on that matter.

Mr. GIBBONS. That does not mean it is not correct, I will say to the gentleman from Ohio (Mr. LATTA). That amendment was a good amendment and I am ready to defend it.

Mr. LATTA. Mr. Chairman, if the gentleman will yield further, we disagree on the advisability of section 6 and its capital gains tax on inherited property.

Mr. GIBBONS. It is the only thing in the whole bill that raises any money from people well able to pay it.

Mr. LATTA. Mr. Chairman, if the gentleman will yield further, I disagree with the gentleman's position on that and I could not disagree more with the gentleman's position on my tax proposal. Every individual can figure his savings on my proposal to increase exemptions from $750 to $1,000. It seems strange for the gentleman to come along with his objection every time this proposal comes before the House.

Mr. GIBBONS. The Committee on Ways and Means is now reducing personal income tax above $15 million and if the Committee on Ways and Means had another $10 million or $12 billion we could figure out a better and more correct way to reduce personal income tax.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for a number of years now I have had the unique opportunity to serve with the gentleman from Ohio (Mr. LATTA) on the Budget Committee. During that time I have been very impressed by the gentleman's skill, cleverness, and sincerity in his work on the Budget Committee. It has been a very unique experience for me. That is why I am a little chagrined and astonished that the gentleman, who has demonstrated those particular kind of skills on the Budget Committee, would offer an amendment which has all kinds of dreadful implications, legislatively and administratively.

Mr. Chairman, there are a couple points we ought to examine here. I believe my colleague, the gentleman from Ohio (Mr. ASHLEY) alluded to one of them. First of all, we are dealing with mandatory programs in this 5-percent cut, the "variable" 5-percent cut. That simply means we would have to come back and rewrite basic law governing those mandatory programs. It cannot be done in time.

Secondly, having said that, having served with the gentleman from Ohio (Mr. LATTA) and recognizing the gentleman's capability, and acknowledging my respect for the gentleman, I certainly cannot conceive of the gentleman as being more omniscient than all the chairmen of all committees who went through the budget process. These chairmen got a figure to us to work with. I cannot conceive of the gentleman from Ohio as being more omniscient than all the members of the Budget Committee who went through this long and arduous process of arriving at a target that was mutually agreed upon.

For the life of me, I cannot understand the merit of proposing a program which essentially calls for the rewriting of the basic laws which cover some of the mandatory programs that the gentleman suggests we cut. If we were foolish enough to really give serious consideration to this amendment, then I think we would create a kind of gigantic legislative problem for this House to wrestle with. I do not think that we have the time to do it.

Mr. Chairman, with all due respect to my omniscient colleague, the gentleman from Ohio, my omniscient friend on the House Budget Committee, I would urge the speedy, swift, rapid rejection of the amendment which is clearly out of place.

Mr. DAN DANIEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Members of the House know, I have maintained a continuing interest in the experiment the Congress directed 3 years ago—the creation of an all-volunteer military. I have periodically provided the House with statistical information on the progress of the all-volunteer force, and, in general, the all-volunteer force has been reasonably successful.

I think it is appropriate today to apprise the House that a real problem appears to be developing in the Volunteer Army. The most recent recruiting results have not been encouraging. In the fiscal year just completed, only 58 percent of the nonprior-service enlistees were high school graduates as against a goal of 65 percent. In the current 3-month transitional quarter, the Army projects it will be short of its goal for high school graduates by nearly 8,000. The Members should keep in mind that the 3 summer months encompassed in the transition quarter are traditionally the best recruiting period of the year, and that not only will the quality be deficient in substantial numbers but also the required numbers of enlistees even at this lower quality level may well be deficient.

The reasons for these difficulties cannot be completely attributed to any single factor. One primary factor, though, which deserves emphasis at this time is the Congress role in the problem. Last year, and again this year, the funds requested for recruiting by the services have been reduced. The recent appropriation conference report severely restrict the possibility of relief through the reprograming process. This action does not seem reasonable in light of these clearly emerging problems in recruiting and manpower quality. I have been advised that the Army considers it urgent to submit such a reprograming request and will do so in the near future.

Mr. Chairman, the country through the Congress has authorized an unprecedented experiment in the maintenance of a large standing Military Establishment on an all-volunteer basis. If the Congress denies the military services adequate resources to recruit personnel, we will foredoom the success of the all-volunteer force. I personally have always had my doubts about the fundamental concept of an all-volunteer military, but I do believe that we must give this experiment a reasonable chance of success by providing these resources when it is now clearly apparent they are necessary.

Mr. ADAMS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just rise in opposition to the amendment in the nature of a substitute. I hope it will be defeated. I do not think it can possibly be carried out in the time period that is left this year, and I urge the Members to defeat the Latta substitute amendment.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. LATTA).

The amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 4, after line 22, insert the following new section:

SEC. 3. Notwithstanding any other provision of this resolution, each of the figures specified for new budget authority in section 2 which includes any amount or amounts for payments or expenditures not specifically required by law is hereby reduced by a sum equal to 5 per centum of such amount or amounts; and the dollar figure set forth in paragraph (2) of the first section of this resolution is hereby decreased by an amount equal to the aggregate of such reductions.

Mr. MILLER of Ohio. Mr. Chairman and members of the committee, we have an amendment before us now to reduce by 5 percent the amount of the nonmandatory provisions in this budget resolution, but it is not a meat-ax reduction. This amendment would reduce all of the nonmandatory spending, and about 29 percent of the spending in the resolution is nonmandatory.

The Members will see on page 79 of the report a list of the mandatory and nonmandatory spending.

This amendment would do away with some of the arguments that we heard earlier concerning the fact that it would require new authorization. This would not require rewriting basic law, because we would be reducing only those items that are not mandatory. Pensions would not be reduced. Military pay and social security would not be reduced.

This is the type of amendment that I believe we could live with. As a matter of fact, the Members heard the volume of dollars that the Latta amendment would reduce the total resolution. This amendment would reduce about $6.5 billion in expenditures—about $6.5 billion—and, believe me, with the waste that we have in our appropriation bills today, we can reduce 5 percent of the nonmandatory spending.

Let me give the Members an example. Many of the Members, I am sure, were on the floor when I had offered the 5-percent reduction on our appropriation bills, and we had this offered 13 times, as I recall. One of them was the housing and urban development bill. It was revealed at that time that we are paying rent subsidies to one family for 1 month to the tune of $873 per month. That is what we are charging our taxpayers back in our districts so that others can have a rent subsidy of $873 for 1 month. This is the information that was furnished to me by the Department of Housing and Urban Development.

Do you Members think we cannot reduce 5 percent?

Yes, there are many, many places where we can reduce 5 percent. We now have a deficit, in the amount of about $700 billion. According to this budget resolution requiring $40 billion in interest payments, we are going to pay $111 million a day interest on that national debt.

I think it is time for us to take a fresh look and see where we are and in what direction we are going. We have resolved many of the problems that I heard about in the Latta amendment by offering the amendment that we have before us now.

Mr. Chairman, I ask the Members to support the amendment so that we can reduce the budget figure by approximately $6½ billion.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, did the gentleman say that was a rent subsidy of $843 per month?

Mr. MILLER of Ohio. The figure is $873.

Mr. CARTER. That would amount to more than $10,000 per year. In fact, it would be over $10,000 per year for that house.

What would be the value of the house that HUD would be providing for those people, does the gentleman have any idea?

Mr. MILLER of Ohio. I do not have the value of the house, but I understand it is elevator-equipped, high-rise apartments.

Mr. CARTER. Mr. Chairman, I want to thank my distinguished friend, and certainly I support him in his position. This is much, too much of a subsidy—$873 is more than 98 percent of our people pay for a house or a high rise.

Mr. ADAMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am not going to take 5 minutes in opposition to this amendment. I am opposed to it. The House has shown its opposition to this amendment 13 times and has defeated it.

So, Mr. Chairman, I call for its defeat at this time. I think we are ready for a vote. I call for a vote and the defeat of the Miller amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and on a division (demanded by Mr. MILLER of Ohio) there were—ayes 20, noes 39.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. FISHER. Mr. Chairman, I want to express strong support for our new budget process and to commend the Budget Committee and its chairman for the conscientious work they have done. The establishment of authorization and outlay ceilings along with a revenue floor in an orderly and comprehensive way is the most significant step forward in budget planning and management during the more than 50 years since the predecessor of the Office of Management and Budget was set up in the executive branch. This House can be proud of the way it is proceeding to translate the new process into action.

At the same time, Mr. Chairman, I must express disappointment in the numbers that have come out of the budget process and are now being recommended to us for approval. In my view the outlays ceiling recommended, $413.2 billion, is too high; the revenues figure, $362.5 billion, is too low; and the resulting deficit, $50.7 billion, is too high. A year ago the deficit unavoidably was higher still because the economy was deep in a recession, tax collections were down and expenditures to combat unemployment and depressed business had to be up. Now, however, the economy is in better shape, despite problems and uncertainties, and the outlook is generally more favorable. This, of course, is a matter of judgment; it reflects my reading of recent economic trends and the prospects ahead.

The critical question is: Will a somewhat lower level of outlays and a smaller deficit in any way be a drag on continued economic recovery or will it be taken as a signal that the Government is even more strongly determined to get its own budget under better control and thereby stimulate the private sector to expand and create more jobs? I believe the second outcome is more likely to ensue, provided the expenditure reductions and revenue increases are realistic and achievable. I believe both business and consumers, not to mention taxpayers, would react favorably to this course of action in terms of greater spending on both investment and consumption.

What expenditures should be reduced? During the debates and actions of the past 2 months on appropriations bills I have sought ways of giving expression to my views in votes on numerous cost-cutting amendments. This was in line with my negative vote last May on the first budget resolution in which guidelines for outlays, revenues, deficit, and so forth, were set. But despite efforts to whittle back expenditures for many of the 17 budget categories, these items plus the so-called entitlement programs added up to about the same total, $413.2 billion, as the first budget resolution, $413.3 billion. This is not good enough; some other way must be found to bring the outlays figure down.

Rather than picking out a number of particular items to cut—each person wanting some reduction would have his own choice of items—I think the best way to achieve the cut would be to specify a small percentage reduction across the board for all outlays other than those set by statutory entitlement such as social security and unemployment benefit payments. I propose a modest 2-percent reduction applied against some $250 billion in nonentitlement outlays. The resulting reduction would come to approximately $5 billion for fiscal year 1977. Two percent, I feel sure, is not unreasonable and can be absorbed by the several departments and agencies without sacrificing any essential program. File clerks, for example, could be asked to file 2 percent faster; or they and other employees could be asked to shave about 9½ minutes per day from their lunch or coffee break time. That is all it would take. I cannot believe this 2-percent incentive-for-efficiency cut would be disruptive or hard to achieve.

The following table, prepared at my request by the House Budget Committee staff, shows how the 2-percent reduction would apply to the nonentitlement programs in the various functional categories. The last two columns indicate a total reduction in budget of $5.6 billion and in budget outlays of $5 billion. The resulting $5 billion cut in the Federal deficit from $50.7 billion to $45.7 billion would yield a deficit some $1.8 billion less than the most recent revision of the administration's budget.

The table follows:

[In millions of dollars]

Function	House reported (H. Con. Res. 728)		Estimated reductions (2 percent of nonentitlement appropriations)		Revised totals	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
050 National defense	112,086	100,606	−2,300	−2,000	109,786	98,606
150 International affairs	8,770	6,763	−200	−200	8,570	6,563
250 General science, space, and technology	4,595	4,505			4,595	4,505
300 Natural resources, environment, and energy	17,923	16,227	−400	−300	17,523	15,927
350 Agriculture	2,317	2,239			2,317	2,239
400 Commerce and transportation	17,699	16,984	−400	−300	17,299	16,684
450 Community and regional development	9,584	9,078	−200	−200	9,384	8,878
500 Education, training, employment, and social services	23,884	22,187	−500	−400	23,384	21,787
550 Health	40,527	38,960	−500	−500	40,027	38,460
600 Income security	155,872	137,000	−500	−500	155,372	136,500
700 Veterans benefits and services	20,323	19,539	−400	−400	19,923	19,139
750 Law enforcement and justice	3,490	3,571	−100	−100	3,390	3,471
800 General government	3,556	3,534	−100	−100	3,456	3,434
850 Revenue sharing and general purpose fiscal assistance	7,617	7,657			7,617	7,657
900 Interest	40,400	40,400			40,400	40,400
Allowances	860	910			860	910
950 Undistributed offsetting receipts	−16,920	−16,920			−16,920	−16,920
Total	452,583	413,240	−5,600	−5,000	446,983	408,240

I realize this proposal, if approved, would require the reconciliation process to be put in operation. This means another round of work for a number of the Appropriation Subcommittees and the Budget Committee. The Congressional Budget Act of 1974 contemplated this possibility and made provision for it. If this means the Members might have to give up a couple of days of election campaigning in early October, then I think the American taxpayers will understand it is done for the purpose of saving them money.

A further reason for wanting this modest reduction in outlays and authorizations is my belief, amounting to a conviction in view of the indicated results of the work of the Senate-House conference committee on the tax reform measure, that the actual 1977 revenues will fall short of the $362.5 billion anticipated in the budget resolution. The elimination of tax loopholes and other reforms that were passed by the House apparently is being eroded bit by bit, leaving a smaller revenue pickup or even a loss, than has been estimated in the budget resolution.

Because my reading of the mood of the House leads me to conclude an amendment to the second concurrent resolution on the budget for fiscal year 1977 such as I have in mind would not pass, I shall refrain from offering such an amendment. I expect to vote against other amendments likely to be offered because according to my information these will contain reductions that are totally unrealistic—one would cut outlays by some $50 billion; another by 5 percent, more than twice what I consider realistic—and would risk pitching the economy back again into severe recession. But I am going to vote against the main resolution, as I did last May on the first budget resolution, for the reasons presented in this statement. I hope that, somehow or other, my recommendations will prevail in the final outcome although I recognize the House will probably vote otherwise.

Mr. KEMP. Mr. Chairman, Congress ought to do everything possible to facilitate creation of more jobs in the private sector of the economy and to end inflation's toll upon both the economy and wage earners of the country. The only way to do that is to reduce deficit financing. And the only way to do that is to vote down this resolution.

The resolution before us sets ceilings of $452.6 billion for total budget authority and $413.2 billion for outlays, while establishing a revenue floor of $362.5 billion. The difference between spending and revenue will cause a deficit of $50.7 billion, bringing the national debt up to $700 billion.

When Congress passed the Congressional Budget Act in 1974—the law under which we consider this resolution today—it was with widespread hope that its return to the Congress of a more substantial role in the formulation of the budget would mean more effective control over expenditures. When measured against this standard, which was almost universally accepted when the law was passed, the resolution before us fails the test.

The resolution before us reinforces excessive Government spending. Instead of reducing the level of spending and deficits, it gives a blank check to the majority in Congress to spend over $50 billion more than the Treasury will take in.

This spending will have exactly the opposite effects on the economy from what its proponents intend. It will slow, rather than accelerate, our economic recovery. It will, indeed, be counterproductive, draining the funds needed to create jobs and stimulate production out of the private sector and into Government coffers. Capital will be diverted away from home, commercial, and industrial construction. It will be diverted away from building new plants and facilities and expanding existing ones. It will be diverted away from procurement of major equipment.

This diversion of capital will mean a failure to reduce unemployment to the level where it would be had that capital not been diverted. In fiscal year 1976 alone, Government drained over 80 percent of available investment capital in this country into its own debt financing.

Capital diversions of this magnitude not only mean slowing construction and expansion and deferring major purchases—as I have indicated—but also higher rates of interest, payment of which are costs of doing business passed on to consumers, therefore resulting in higher prices.

Why?

When less than 20 percent of the available capital in the country is available to industry and individuals, the competition for those dollars is intense. That drives up interest rates. Individuals and businesses have to pay a higher rate of interest on loans they secure. The Government even pays a higher rate of interest on the bonds it issues which has the further effect of increasing Government spending even more, since that interest must be paid from subsequent tax receipts or additional funds borrowed.

We know what has happened to our economy in recent years: The double-digit inflation which almost caused double-digit unemployment, as well as severe shortages and wage and price controls.

The resolution before us promises more of the same—all on a mistaken premise that Government deficits—Government spending more than it takes in—will create and sustain jobs.

Only one question has to be addressed to that premise: If more Government spending creates jobs, then would not the 100-percent increase in Federal spending in the past 6 years have resulted in a 100-percent increase in employment? The fact is that it was accompanied by a 100-percent increase in unemployment.

Senator WILLIAM PROXMIRE of Wisconsin, the chairman of the Senate Committee on Banking, Housing and Urban Affairs and the former chairman of the Joint Economic Committee, has pointed out quite clearly the effect of this crowding out of capital. The Senator says that for every $10 billion taken in Federal borrowing, approximately 500,000 new housing starts cannot begin for lack of mortgage money. That results in the direct loss of over 1 million jobs and the indirect loss of over 2 million.

By comparing these figures to the deficit proposed in the resolution before us, we can see how much that $50.7 billion deficit is going to hurt employment. It will threaten up to 5 million direct jobs in the private sector, rendering the measures foreseen by this resolution's proponents for fighting unemployment as hardly an offset against the additional unemployment the resolution would create. The resolution, according to the committee report accompanying it, foresees the creation of 1.149 million jobs as a product of its level of spending. Yet that would offset only a little over 20 percent of the unemployment which the bill would create.

The reality which emerges from this debate is that there is no such thing as real jobs creation through government programs. There is simply job transfer from the private to the public sectors with a substantial loss to the Treasury and to our economic growth.

This deficit spending may set off another surge toward double-digit inflation. In light of the fact that we have been able to bring the rate of inflation down to about 6 percent, as a result of actions taken within the executive branch and not as a result of actions taken by the majority within Congress, this would be most regrettable. I do not think there is much doubt that the recession out of which we are now working ourselves was caused by the double-digit inflation and the mandatory wage and price controls, which created severe shortages, put in place to try to arrest that inflation.

Inflation and the crowding out of capital—both of which are counterproductive to the announced purposes of the committee resolution and both of which threaten jobs—will thus be the inevitable consequences of the resolution's enactment.

What Congress ought to be doing is fostering the creation of jobs through the private sector. Such an undertaking would generate more total revenue through increased business activity, without raising tax rates, and would reduce expenditures because of a reduced need for unemployment and related benefits.

Since jobs creation is a direct product of capital formation, and since capital cannot form and accumulate adequately, unless the burden of taxes is reduced in relation to aggregate national income, we can see why reducing dependence on deficit financing and reducing taxes on production mean more jobs. This is what a balanced budget is all about, and it is what the Jobs Creation Act which I, the gentleman from California and author of the substitute offered here (Mr. ROUSSELOT), and 130 others have sponsored, is all about too. Both will assure more jobs and more stable economic growth.

The Rousselot substitute would have allowed the tens of billions in what would otherwise be Government deficit to remain available for the private sector and for jobs creation and improved production in that sector. It would give us now the full employment which others do not seek until 1981, and nothing could restore the spirit of the American people more than gainful full employment. It would be a boon to the economy in many ways—improved production, better balance of payments, increased real wages, and reduced inflation.

I urge a no vote.

Mr. MIKVA. Mr. Chairman, the second concurrent resolution on the fiscal year 1977 budget marks the completion of the first full year of congressional action under the Budget and Impoundment Control Act. The resolution is a testament to the ability of Congress to assume an active and responsible role in establishing budgetary priorities, and it stands as a tribute to the outstanding leadership on fiscal matters provided by Chairman BROCK ADAMS and the House Budget Committee.

The budget reform process, of which the second concurrent resolution is a key part, is not an economic panacea. It does not automatically signal an end to budget deficits, nor does it magically solve the disagreements about national priorities. The questions of where and how to spend—whether for defense, or education, or highways, or mass transit, or energy development, or health—have not been resolved to everyone's satisfaction. Establishing priorities with limited resources remains an extremely difficult task. All people, both within Congress and among the public, hold strong beliefs in the value of certain programs and the wastefulness of others. Many will continue to believe that the wrong programs have been emphasized.

However, the process of budget reform has been a success. Legitimate disagreements about priorities cannot diminish the vastly increased degree of congressional accountability on the Federal budget. This is a major improvement over the former practice of haphazard, piecemeal consideration of Federal program budgets. Moreover, the budget reform process has signaled a basic institutional change in the relationship between the executive and legislative branches. The second resolution on the fiscal year 1977 budget marks the end of passive congressional reaction to Presidentially established priorities. And, it marks the beginning of a thoughtful, comprehensive annual analysis of the Federal budget as a whole and not merely as the sum of many parts.

Finally, the provisions of the Budget and Impoundment Control Act provide Congress with an opportunity to demonstrate to the American people that its constitutional power over the purse is not merely an empty phrase. Passage of the second budget resolution will reinvigorate that phrase with renewed substance. I urge my colleagues to vote to assert the Congress authority over the budget, and to make the budget reform process an ongoing part of the legislative calendar.

Mr. KASTENMEIER. Mr. Chairman, it is with considerable regret that I am forced to vote against this budget resolution. Like others, I commend the work of the gentleman from Washington (Mr. ADAMS). I applaud the Congress for adhering to the schedule established by the Congressional Budget Act and achieving a discipline and control with regard to the budget which we badly needed. Nevertheless, I still am unable to accept the priorities contained in this budget resolution.

I am greatly disturbed, as I was with the first budget resolution, with the size of the defense budget. This resolution reflects a 14-percent real growth in the defense budget, but a zero real growth in manpower training and education. Mr. Speaker, I simply cannot understand why, at a time when the President and the Congress are heralding the fact that we are at peace everywhere in the world, why at a time when we have eased tensions with both China and the Soviet Union, why at a time when we have chosen to stay out of trouble spots in Africa, Latin America and South America, we still budget for a national defense posture that reflects the Cold War politics of the 1950's.

At the same time, although I realize the barriers created by the Presidential veto, the resolution falls short of a commitment to a concerted attack on an unemployment rate that finds more than seven million Americans without jobs. Granted, the resolution does provide for spending to create some one million jobs through direct employment and support activities. Granted, the job creating programs adopted by this Congress have been adopted despite the callous and consistent opposition to such programs by the administration. However, as a result of the failure of the Congress to completely overcome the opposition of the White House to job-creating programs, we find this budget resolution setting spending levels for income security programs that represent more than one-third of the total budget. The costs of the food stamp program, the public assistance programs, and other income supplement efforts reflect the price we pay for unemployment. That price, and the lost revenues from unemployment, is also reflected in the deficit.

Mr. Chairman, I am hopeful that the next Congress will address as our highest priority the problem of chronic unemployment. I am also hopeful that we will finally take a close and long look at the defense budget and start to rechannel some of the moneys currently spent for bombs and bullets into the health, education, manpower, and welfare needs of our own citizens.

Mr. STOKES. Mr. Chairman, I rise in support of House Concurrent Resolution 728, the second concurrent resolution in the budget for fiscal year 1977. The budget authority and outlay ceilings of $452.6 billion and $413.2 billion respectively represent the outcome of many hearings, briefings and committee meetings. As chairman of the task force on community resources and general government of the Budget Committee, I assisted our most capable chairman in deriving these statutory limits. I commend the chairman for his diligence and intellectual ability in bringing to the floor of the House a budget resolution that makes provisions for the much needed fiscal stimulus needed to curtail the rising unemployment problem.

In the functional categories within my jurisdiction the task force has attempted to rectify the unemployment problems that have caused a slow down in the growth potential and productivity in the aggregate economy. Hardest hit by the current recession is the construction industry. This sector of our economy currently are the victims of a 17.1 percent unemployment rate. My task force recommendation, in an attempt to rectify the problem, made provisions in the budget ceiling for mortgage commitments which will create approximately 112,000 additional jobs. The construction stimulus provided in the resolution is an example of the utilization of sound economic fiscal policy that has rendered the Budget Committee and budget process a successful operation.

While the resolution does not focus on the structural problems that dictate a 40.2-percent teenage unemployment rate in the black communities of America, it does attempt to address the problems that are relegated to cyclical variation in the economy.

I hope that my colleagues will support this resolution as adopted by the Budget Committee and introduced by our distinguished chairman, Mr. ADAMS

Mr. O'NEILL. Mr. Chairman, I rise in strong support of this second budget resolution for fiscal year 1977. Its adoption will prove, once again, that our new budget process is working, despite the irresponsible charges of the President and the OMB Director, Jim Lynn.

Last year, in our first effort attempt to regain control of the budget, the President and Mr. Lynn charged that we would have a $100 billion deficit, rekindle double-digit inflation, and stop the economic recovery. Of course, none of those things happened.

In fact, instead of the $74 billion deficit we anticipated, even Mr. Lynn now agrees that the deficit for fiscal year 1976 will be only $65 billion. Furthermore, the economic recovery continues, and inflation is at its lowest level in 2 years.

This year, our first budget resolution called for a much more stimulative budget than the President, yet at about the same level of deficit—$50.8 billion. This resolution not only meets that target but reduces spending and the deficit by about $100 million.

Again, the President's warnings about an irresponsible Congress are shown to be what they really were all along—completely politically inspired. And, the minority's efforts in the Budget Committee bear this out. They made no effort whatsoever to reduce spending in the markup of the resolution 2 weeks ago.

The performance of BROCK ADAMS, the Budget Committee chairman, and all of the members of the committee should be highly commended. They have brought credit to themselves and the House as an institution.

I urge all Members to support this resolution.

Mr. McFALL. Mr. Chairman, I rise in strong support of this second budget resolution for fiscal year 1977. With its adoption, the Congress will complete successfully the first year of full implementation of the new congressional budget process.

As the distinguished chairman of the Budget Committee has stated, this resolution demonstrates that Congress can live within its budget targets. Revenues are identical to the amount proposed in the first resolution. Outlays are $100 million below. And, consequently, the deficit is reduced by $100 million.

What is even more remarkable, however, is how closely the Congress has adhered to the functional category spending targets established by the first budget resolution. Members should direct their attention to page 17 of the committee report, which contains a table comparing the percentages of total outlays by functional category.

In only four functional categories does the second resolution differ from the first by more than one-tenth of 1 percent and in no case is there a difference of more than one-half of 1 percent. Furthermore, these changes result more from spending reestimates than from congressional actions.

In other words, the Congress spending priorities as expressed in the first budget resolution did, in fact, guide Congress detailed spending decisions as contemplated by the Budget Act. Furthermore, these can truly be said to be Congress spending priorities, and not merely tinkering with the President's budget.

This resolution provides States and localities with nearly $11 billion more in grant funds than the President's budget. It provides more funds for education, health, manpower, and housing than the President's budget. It provides for approximately 1 million new jobs over the number that would be created by the President's budget and economic proposals. And, it does so with a likely deficit of approximately the same amount as contemplated by the President's budget—$50.7 billion.

I, too, wish to commend the distinguished chairman of the Budget Committee, who has worked so long and hard to make this new process work. His efforts are widely appreciated in the House.

I urge all Members to support the resolution.

Mr. FRENZEL. Mr. Chairman, per my previous statements on this matter, I believe that this budget resolution is irresponsible and inflationary. It calls for a level of spending which is too high, and the resulting deficit is also too high.

I yield to few Members in my desire to reduce spending so our budget may be brought into balance as soon as possible. Nevertheless, I do not believe that we should slash our anticipated expenses by $50 billion to balance our budget in this fiscal year. That would be too great, and too sudden a reduction which would terminate necessary services, and cause an unnecessary, high risk to our economy. Therefore, I voted against the Rousselot amendment.

However, we will never get to a balanced budget at any time unless we begin to cut back spending now. Therefore, I strongly support the amendment of the gentleman from Ohio (Mr. LATTA), the ranking minority member of the Budget Committee.

The Latta amendment would provide about a $15 billion cut and an additional tax refund as well. It is a responsible cutback which our improving economy can tolerate. The amendment comes close to the President's budget proposal which contemplates a balanced budget in 3 years. I believe the Latta amendment is a responsible proposal which will keep us on the safe middle ground between the inflationary committee bill and the risky Rousselot amendment. It will lead us on a safe course to the balanced budget by fiscal year 1979.

Mr. MICHEL. Mr. Chairman, sometimes it must appear to the taxpayers of this country that the Congress, when it comes to budget limitations, is engaged in that old pastime known as the shell game. The shells are there, in the first and second concurrent budget resolutions; the pea is there, in the hoped-for limits on spending—but suddenly, when the shells are rearranged, the pea has disappeared.

That is exactly, it seems to me, what has happened on the food stamp item in the resolution which is curently before us. At the time I introduced the first National Food Stamp Reform Act over a year ago, we found that we could save $2 billion in this swollen program and still increase coupon allotments by 29 percent. At that time, there was substantial agreement on all sides that this program must be brought under control. And by control, we meant substantial and significant savings, so that the taxpayers of this Nation would be given specific and concrete proof that the Congress of the United States is responsive to their strongly communicated desires.

But what happened? After months of debate, the cost savings were watered down to $1 billion then to several hundred million then to $200 million in the first budget resolution, and finally, according to this second budget resolution, to zero.

The $200 million cut has vanished. To be sure, the current services estimate has come down, from $6.1 billion to $5.5 billion—largely, I might add, because of the success of this administration's policies in dealing with the recession and effecting a significant and prompt recovery. But what has happened to the intent to reform the food stamp program, to close the loopholes, to curb abuses, to do more than simply continue on our present spending course? What has happened to the $200 million savings that the House and the Senate promised the taxpayers in the spring?

I will tell you what happened, Mr. Chairman—in the rearrangement of the shells, that $200 million has disappeared. We now are in the position of saying to the working men and women of America that in food stamps, as in so many other runaway social welfare programs, we do not care enough to effect real reform. We do not care enough to insist upon any savings in this program which so many of us know is chock full of areas where legitimate savings can be achieved. The net result is that, in effect, the budget for food stamps has been increased by $200 million over the first concurrent budget resolution.

And like the barker at the country fair, we apparently hope that come November, no one is going to notice that the pea, the $200 million savings, has disappeared.

I for one think the taxpayers of America are smarter than that, and we should not conclude the deliberations of this Congress without effecting real reform and meaningful savings in the food stamp program. I would hope the majority party would join us in this effort rather than thwart our efforts as has been the case.

Mr. SIMON. Mr. Chairman, I know of no change in congressional procedure that has had the potential for new direction in public policy as has congressional budgetary control. I have been privileged during these first 2 years in the House of Representatives to be part of this new procedure. I believe the House Budget Committee in particular has made a significant contribution.

The Budget Committee has attempted for the first time, in the form of specific resolution, to relate broad economic conditions to our specific program decisions. It has been able, I think, to make Members aware that they cannot have balanced budgets as long as high unemployment persists. I note that this resolution contains the necessary funds for over 1,000,000 jobs above the President's request. The committee has begun to make Members aware that many programs which are vital to the well-being of our people cannot continue unless we have a healthy economy. We as Members are perhaps more aware that the money spent on education has long-term benefits that will insure people jobs and a productive role in our economy.

The Budget Committee has taken the initial steps toward setting national priorities to develop our human resources. In fact, it is in the area of human resources that our greatest potential lies. Sensible setting of national priorities would bring about full utilization of our human capacity and would remove the basic obstacles to budgetary imbalance.

In essence, a major contribution of the budget process has been educational. Members of Congress and the public at large are more fully conscious of the efforts of the Congress to overcome negativism in the areas of health, education, and job opportunities.

I support this new budget process generally, and this second resolution specifically, both because of what it does and its potential. I am especially supportive of the revenue floor figure because it encompasses the provisions of tax reform, which is badly needed. By endorsing the money saved by the House-passed tax reform bill, the figure, I believe, is $1.7 billion, the budget process is on record in favoring the elimination of special tax favors and privileges. We have inherent in this process an opportunity to set national priorities that will in turn produce a viable economy and result in fiscal responsibility. It will take courage and foresightedness to do this. I have every confidence that this potential may someday be fully realized.

Mr. ADAMS. Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House, with the recommendation that the concurrent resolution be agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 728) revising the congressional budget for the U.S. Government for the fiscal year 1977, had directed him to report the concurrent resolution back to the House with the recommendation that the concurrent resolution be agreed to.

The SPEAKER. Pursuant to the statute, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 151, not voting 52, as follows:

[Roll No. 701]

YEAS—227

Adams
Alexander
Ambro
Anderson, Calif.
Annunzio
Ashley
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Clay
Cohen
Collins, Ill.
Conte
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Gude
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Holland
Holtzman
Horton
Howe
Hungate
Jarman
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Hara
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Poage
Preyer
Price
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Santini
Sarbanes
Scheuer
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Zablocki

NAYS—151

Abdnor
Allen
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Biester
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Cleveland
Cochran
Collins, Tex.

Conable
Conyers
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Dellums
Derwinski
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flynt
Forsythe
Fountain
Frenzel
Frey
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Harrington
Harsha
Hillis
Holt
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Lott
Lundine
McClory
McCloskey
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
O'Brien
Ottinger
Paul
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Robinson
Rousselot
Ruppe
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Stuckey
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Winn
Wydler
Young, Fla.

NOT VOTING—52

Abzug
Addabbo
Aspin
AuCoin
Badillo
Bell
Brodhead
Chisholm
Clausen, Don H.
Clawson, Del
Conlan
Corman
Ford, Tenn.
Green
Hansen
Hébert
Heinz
Helstoski
Hinshaw
Howard
Karth
Lehman
Lujan
McCollister
Matsunaga
Melcher
Mink
Mitchell, N.Y.
Mollohan
Murphy, Ill.
Nolan
Passman
Peyser
Runnels
Russo
Ryan
St Germain
Sebelius
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Symms
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Corman with Mr. Melcher.
Mr. Addabbo with Mr. Ford of Tennessee.
Mr. Matsunaga with Mr. Hébert.
Mr. Zeferetti with Mr. Passman.
Mr. Weaver with Mr. Runnels.
Mr. St Germain with Mr. Bell.
Ms. Abzug with Mr. Del Clawson.
Mr. Murphy of Illinois with Mr. Hansen.
Mr. Russo with Mr. Young of Alaska.
Mrs. Chisholm with Mr. Lujan.
Mr. Sisk with Mr. Don H. Clausen.
Mr. Nolan with Mr. Mitchell of New York.
Mr. Mollohan with Mr. McCollister.
Mr. Badillo with Mr. Karth.
Mr. AuCoin with Mr. Peyser.
Mr. Helstoski with Mr. Conlan.
Mr. Howard with Mr. Wylie.
Mrs. Mink with Mr. Heinz.
Mr. Green with Mr. Bob Wilson.
Mr. Brodhead with Mr. Symms.
Mr. Lehman with Mr. James V. Stanton.
Mr. Ryan with Mr. Wiggins.
Mr. Aspin with Mr. Steelman.
Mr. Stephens with Mr. Walsh.
Mr. Sebelius with Mr. Steiger of Arizona.

Mr. SEIBERLING changed his vote from "nay" to "yea."

Messrs. **DELLUMS** and **BREAUX** changed their votes from "yea" to "nay."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a concurrent resolution of the Senate of the following title in which concurrence of the House is requested:

S. Con. Res. 139. Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1977.

CONCURRENT BUDGET RESOLUTION

Mr. ADAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate Concurrent Resolution 139, revising the congressional budget for the U.S. Goverment for the fiscal year 1977, and I ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 139

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,800,000,000;

(2) the appropriate level of total new budget authority is $447,500,000,000;

(3) the appropriate level of total budget outlays is $412,800,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $50,800,000,000; and

(5) the appropriate level of the public debt is $701,000,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $112,100,000,000.
(B) Outlays, $100,700,000,000.
(2) International Affairs (150):
(A) New budget authority, $9,100,000,000.
(B) Outlays, $6,900,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,600,000,000.
(B) Outlays, $4,500,000,000.
(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $18,200,000,000.
(B) Outlays, $16,000,000,000.
(5) Agriculture (350):
(A) New budget authority, $1,600,000,000.
(B) Outlays, $2,000,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $15,200,000,000.
(B) Outlays, $17,400,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $7,500,000,000.
(B) Outlays, $9,000,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $24,000,000,000.
(B) Outlays, $22,300,000,000.
(9) Health (550):
(A) New budget authority, $40,500,000,000.
(B) Outlays, $38,800,000,000.
(10) Income Security (600):
(A) New budget authority, $156,200,000,000.
(B) Outlays, $137,300,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $20,300,000,000.
(B) Outlays, $19,500,000,000.
(12) Law Enforcement and Justice (750):
(A) New budget authority, $3,500,000,000.
(B) Outlays, $3,600,000,000.
(A) New budget authority, $3,600,000,000.
(13) General Government (800):
(B) Outlays, $3,500,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $7,600,000,000.
(B) Outlays, $7,700,000,000.

MOTION OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Adams moves to strike out all after the resolving clause of Senate Concurrent Resolution 139 and insert in lieu thereof the provisions of House Concurrent Resolution 728 as passed by the House, as follows:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000:

(2) the appropriate level of total new budget authority is $452,583,000,000;

(3) the appropriate level of total budget outlays is $413,240,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $50,740,000,000; and

(5) the appropriate level of the public debt is $700,000,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $112,086,000,000.

(B) Outlays, $100,606,000,000.

(2) International Affairs (150):

(A) New budget authority, $8,770,000,000.

(B) Outlays, $6,763,000,000.

(3) General Science, Space, and Technology 250):

(A) New budget authority, $4,595,000,000.

(B) Outlays, $4,505,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $17,923,000,000.

(B) Outlays, $16,227,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,317,000,000.

(B) Outlays, $2,239,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $17,699,000,000.

(B) Outlays, $16,984,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,584,000,000.

(B) Outlays, $9,078,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $23,884,000,000.

(B) Outlays, $22,187,000,000.

(9) Health (550):

(A) New budget authority, $40,527,000,000.

(B) Outlays, $38,960,000,000.

(10) Income Security (600):

(A) New budget authority, $155,872,000,000.

(B) Outlays, $137,000,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,323,000,000.

(B) Outlays, $19,539,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,490,000,000.

(B) Outlays, $3,571,000,000.

(13) General Government (800):

(A) New budget authority, $3,556,000,000.

(B) Outlays, $3,534,000,000.

(14) Revenue Sharing and General Purpose Fiscal Assistance (850):

(A) New budget authority, $7,617,000,000.

(B) Outlays, $7,657,000,000.

(15) Interest (900):

(A) New budget authority, $40,400,000,000.

(B) Outlays, $40,400,000,000.

(16) Allowances:

(A) New budget authority, $860,000,000.

(B) Outlays, $910,000,000.

(17) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$16,920,000,000.

(B) Outlays, —$16,920,000,000.

The motion was agreed to.

The Senate concurrent resolution was concurred in.

A similar House concurrent resolution (H. Con. Res. 728) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate Concurrent Resolution 139, revising the congressional budget for the U.S. Government for the fiscal year 1977, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. ADAMS, O'NEILL, ASHLEY, MITCHELL of Maryland, O'HARA, BURLESON of Texas, GIAIMO, SMITH of Iowa, LEGGETT, LATTA, BROYHILL, SHRIVER, and Mrs. HOLT.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT SATURDAY, SEPTEMBER 11 TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 139, BUDGET RESOLUTION

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Saturday, September 11, to file a conference report on Senate Concurrent Resolution 139, revising the congressional budget for the U.S. Government for the fiscal year 1977.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 139, BUDGET RESOLUTION, ON WEDNESDAY, SEPTEMBER 15

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that it be in order on Wednesday, September 15, to consider the conference report on Senate Concurrent Resolution 139, revising the congressional budget for the U.S. Government for the fiscal year 1977.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT FRIDAY, SEPTEMBER 10 TO FILE CONFERENCE REPORT ON H.R. 10612, TAX REFORM ACT OF 1976

Mr. BURLESON of Texas. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight, Friday, September 10, 1976, to file a conference report on the bill H.R. 10612, the Tax Reform Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. JOHNSON of Colorado. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

Mr. MAHON. Mr. Speaker, pursuant to the unanimous consent request granted yesterday, I call up the conference report on the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 7, 1976.)

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes.

Mr. MAHON. Mr. Speaker, the conferees on the Defense appropriation bill for fiscal year 1977 have reached agreement on the appropriation of $104,343,835,000 for the Defense Department for fiscal year 1977. In addition, funds will be transferred from prior year accounts in amounts totaling $82,600,000. This makes a grand total available to the Department of Defense in new budget authority for fiscal year 1977 of $104,426,435,000.

This is by far the largest single appropriation bill ever to come before the House and I am sure it is the largest ever to be considered by any legislative body in history.

COMPARISON WITH PREVIOUS FISCAL YEAR

The bill is roughly $14 billion more than the Defense appropriation bill enacted by Congress last year. The total funding available for fiscal year 1976, including supplemental amounts, was $92.4 billion, but of that amount, approximately $2 billion was provided in the form of supplemental appropriations after the enactment of the regular annual Defense appropriation bill. It is anticipated that supplementals will be enacted in the next session for fiscal year 1977, primarily for pay raise costs, of approximately $2 billion. So the funds provided to the Defense Department for this year are approximately $14 billion more than the funds provided for the previous year on a comparable basis.

NEED FOR ADEQUATE MILITARY STRENGTH

Funding of this magnitude is needed for defense for two reasons. The first reason is that economic inflation which has raised the price of goods and services generally has impacted heavily on the Department of Defense and more funds are required this year than last in order to support the same level of military forces. The second reason is that the military activity of the Soviet Union has increased in many areas, in both tactical and strategic forces. It is felt that if the United States does not step up its own military preparedness we could in time become inferior militarily to the Soviet Union and that could endanger our national security. I cannot accept a position of military inferiority for the United States and I do not believe many Members of the House, if any, could.

REDUCTIONS MADE

The conference report provides for approximately $1 billion less than was provided in the bill as passed by the House and provides $329 million more than was provided by the Senate. You will recall that the bill reported to the House by the Committee on Appropriations provided for $105.9 billion and recommended cuts totaling just over $800 million. When the bill was considered on the House floor, additional reductions totaling approximately $550 million were made because of authorization problems. The Senate made further reductions of approximately $1.4 billion reducing the appropriations provided to $104 billion. In large part, the Senate reductions were made because of reductions enacted in authorizing legislation. In order to comply with the dates set forth in the Budget Control Act, the House had acted on the bill prior to enactment of authorizing legislation. The Senate acted after the authorizing legislation had been enacted and made those changes required by the authorization.

We estimate that approximately $1.8 billion of the total reduction of $3.6 billion was mandated by reductions made in the authorizing legislation.

ANSWER TO SOVIET MILITARY BUILDUP

Mr. Speaker, there is no doubt in my mind but if the executive branch wisely manages the $104.3 billion made available that the funds provided are sufficient to prevent an erosion of our military position vis-a-vis that of the Soviet Union.

I would hope that the enactment of this tremendous amount of money for the Department of Defense would tell the Soviet Union that although we do not desire an arms race that we are determined to pay whatever price we must to maintain that level of military effort required for our national security.

I think the conference agreement will be generally acceptable to Members of the House and Senate. I know of no controversial matters which were not settled in a way reasonably acceptable to both sides.

B–1 STRATEGIC BOMBER

One of the more controversial programs considered in the conference was the production of B–1 strategic bombers. While both the House and the Senate had provided the funds for production of the first three B–1 bombers, the Senate had included a provision which would have prohibited the use of any production funds until February 1, 1977. This amendment was explained in the Senate as permitting a new President, if a new President should be elected, the opportunity of reviewing the B–1 bomber program before committing the funds.

The House had included no limitation on the use of funds for procurement of B–1 production aircraft. In the conference it was decided to permit the B–1 program to continue but to limit the amount of obligations prior to February 1, 1977, to a cumulative rate of $87 million per month. While this would permit the program to continue at an orderly rate, it would not obligate the total sum of $948 million appropriated for the first three B–1 aircraft until that date. The estimated cost of production of B–1 bombers ranges upward from about $84,000,000 per aircraft. The cost of the first three aircraft appears to be larger because tooling costs and learning costs are included in the first year's funding. If the Senate provision had been maintained it would have caused a gap in the program and would have required the discharge of personnel associated with the program with a resultant additional cost if a positive decision was made on February 1 and the program continued.

It would appear that the compromise reached would be satisfactory to both sides and that the program could continue although not all funds provided could be obligated prior to February 1. Personally, I would have preferred to have no limitation on funds for the production of the B–1 bomber. I believe that whoever is President next year, the decision will be made to continue the production of the B–1. Further, I believe that the Congress has a constitutional obligation to speak out on defense matters and that continuation of the B–1 is desired by a majority of the Members of Congress. However, legislation requires compromise and I think we have reached a compromise which is reasonably acceptable.

COMMISSARIES

A matter of great concern to many Members of the House was the provision of the Senate which would have phased out the subsidies to the military commissaries over a 6-year period. This amendment had been vigorously opposed by those who use the military commissaries. The House conferees were successful in the conference in persuading the Senate to delete that provision.

Another Senate provision which was deleted would have required post exchanges to absorb the cost of transportation of merchandise. Since this matter is covered by existing substantive law, the provision in the appropriation bill was deleted.

UNBUDGETED PROGRAMS ADDED

While the appropriation bill provides most of the funds requested by the President for the Department of Defense, the bill is not just a rubber stamping of the Executive request. Some programs requested by the Executive were deleted and other programs not requested by the Executive but considered to be important by the Congress were included. For example, the bill includes funds for the overhaul of the nuclear cruiser *Long Beach* and the fitting of the *Long Beach* with the Aegis surface-to-air weapon system. This was done in order to place the Aegis system in the fleet at the earliest possible date. The *Long Beach* conversion was not requested in the budget. The bill also provides for continuation of production of A–6 all weather attack aircraft for the Navy. The administration had recommended the termination of this program at the end of the fiscal year 1976.

ARMY'S XM–1 TANK PROGRAM

The conference report contains language with regard to the XM–1 tank program of the Army. A number of members of the Armed Services Committee and Members otherwise have expressed concern with the developments in this program. Shortly before a contract award was to be made for the production of the XM–1 tank the contract award was postponed and the Army was directed to seek to obtain some standardization with the Federal Republic of Germany on the new Main Battle Tank. While the conferees did not take a position either for or against standardization, they did say that if the Army seeks to spend funds on a tank other than the XM–1 tank program justified to the Congress that this is a matter of special interest and prior approval must be obtained.

I think that this will help to preserve congressional prerogatives and will prevent a hasty and not well thought out decision on the tank program.

SUMMARY

There are a great number of other programs covered in the conference report which has been in print and available to Members since last Tuesday. There were 114 Senate amendments and many of the individual amendments included differences on 20 or 30 individual programs. The conference report sets forth these differences and their resolution.

I think the bill reflected in the conference report is a good one and that all Members can afford to support it. We all regret that we are required to spend such large sums for national defense but the consequences of unilateral disarmament are far worse. The American people want to maintain their way of life and in order to do so we must have an adequate military strength. This bill provides for adequate military strength.

Under leave granted, I insert in the RECORD at this point a summary tabulation on action taken on the bill:

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1976	Estimates, fiscal year 1977	House, fiscal year 1977	Senate, fiscal year 1977	Conference, fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
RECAPITULATION									
Title I—Military personnel	25, 441, 059, 000	25, 497, 907, 000	25, 439, 599, 000	25, 435, 283, 000	25, 418, 408, 000	−22, 651, 000	−79, 499, 000	−21, 191, 000	−16, 875, 000
Title II—Retired military personnel	7, 325, 600, 000	8, 493, 400, 000	8, 381, 700, 000	8, 035, 500, 000	8, 381, 700, 000	1, 056, 100, 000	−111, 700, 000		346, 200, 000
Title III—Operation and maintenance	28, 979, 602, 000	32, 285, 400, 000	32, 019, 076, 000	31, 435, 314, 000	31, 655 444, 000	2, 675, 842, 000	−629, 956, 000	−363, 632, 000	220, 130, 000
Title IV—Procurement	21, 205, 700, 000	30, 601, 400, 000	29, 041, 400, 000	28, 629, 800, 000	28, 416, 300, 000	7, 210, 600, 000	−2, 185, 100, 000	−625, 100, 000	−213, 500, 000
Transfer from other accounts	(99, 300, 000)		(196, 800, 000)	(82, 600, 000)	(82, 600, 000)	(−16, 700, 000)	(82, 600, 000)	(−114, 200, 000)	
Title V—Research, development, test and evaluation	9, 443, 609, 000	11, 054, 400, 000	10, 506, 303, 000	10, 422, 464, 000	10, 434, 418, 000	990, 809, 000	−619, 982, 000	−71, 885, 000	11, 954, 000
Title VI—Special foreign currency program	2, 668, 000	3, 665, 000	3, 665, 000	3, 665, 000	3, 665, 000	997, 000			

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1976	Estimates, fiscal year 1977	House, fiscal year 1977	Senate, fiscal year 1977	Conference, fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
Title VII—Geneiral provisions (additiona transfer authority, sec. 733)	750,000,000	750,000,000	750,000,000	750,000,000	750,000,000				
Title VIII—Related agencies	1,300,000	28,300,000	5,600,000	52,200,000	33,900,000	32,600,000	5,600,000	28,300,000	−18,300,000
Total, Department of Defense NOA	92,399,538,000	107,964,472,000	105,397,343,000	104,014,226,000	104,343,835,000	11,944,297,000	−3,620,637,000	−1,053,508,000	329,609,000
Transfer from other accounts	(99,300,000)		(196,800,000)	(82,600,000)	(82,600,000)	(−16,700,000)	(82,600,000)	(−114,200,000)	
Total funding available	92,498,838,000	107,964,472,000	105,594,143,000	104,096,826,000	104,426,435,000	11,927,597,000	−3,538,037,000	−1,167,708,000	329,609,000
Transfer authority	(750,000,000)	(750,000,000)	(750;000,000)	(750,000,000)	(750,000,000)				
Distribution by organizational component:									
Army	23,043,122,000	26,005,882,000	25,571,829,000	25,378,692,000	25,488,887,000	2,445,765,000	−516,995,000	−82,942,000	110,195,000
Transfer from other accounts				(27,800,000)	(27,800,000)	(27,800,000)	(27,800,000)	(27,800,000)	
Navy	30,654,110,000	37,882,712,000	36,503,885,000	36,000,630,000	35,910,529,000	5,256,419,000	−1,972,183,000	−593,356,000	−90,101,000
Transfer from other accounts	(75,000,000)		(196,800,000)			(−75,000,000)		(−196,800,000)	
Air Force	27,823,540,000	31,584,974,000	31,023,025,000	30,777,020,000	30,765,835,000	2,942,295,000	−819,139,000	−257,190,000	−11,185,000
Transfer from other accounts	(24,300,000)			(54,800,000)	(54,800,000)	(30,500,000)	(54,800,000)	(54,800,000)	
Defense agencies/OSD	3,551,866,000	3,969,204,000	3,911,304,000	3,770,184,000	3,762,984,000	211,118,000	−206,220,000	−148,320,000	−7,200,000
Retired military personnel	7,325,600,000	8,493,400,000	8,381,700,000	8,035,500,000	8,381,700,000	1,056,100,000	−111,700,000		346,200,000
Related agencies	1,300,000	28,300,000	5,600,000	52,200,000	33,900,000	32,600,000	5,600,000	28,300,000	−18,300,000
Total, Department of Defense (NOA)	92,399,538,000	107,964,472,000	105,397,343,000	104,014,226,000	104,343,835,000	11,944,297,000	−3,620,637,000	−1,053,508,000	329,609,000
Transfer from other accounts	(99,300,000)		(196,800,000)	(82,600,000)	(82,600,000)	(−16,700,000)	(82,600,000)	(−114,200,000)	
Total funding available	92,498,838,000	107,964,472,000	105,594,143,000	104,096,826,000	104,426,435,000	11,927,597,000	−3,538,037,000	−1,167,708,000	329,609,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the very distinguished chairman of the Defense Subcommittee and of the full Committee on Appropriations, the gentleman from Texas, has made an excellent summation of the conference agreement on the fiscal year 1977 Defense appropriations bill. I shall not duplicate his remarks. But I am particularly pleased to support this bill this year, because I am convinced that the $104.4 billion it provides will help prevent an erosion of our defense posture vis-a-vis the Soviet Union.

You will recall that last December 12 when I addressed this body in connection with the conference agreement on the fiscal year 1976 Defense appropriations bill, I expressed my concern over certain reductions agreed to in providing $90.5 billion for the Department of Defense last year. I said at that time that in my opinion we had in several instances cut too deeply into the Defense budget.

Today, I am happy to report that I believe this bill represents a turning point—a reversal of the trend in recent years in making large cuts in Defense. While I do not believe that past reductions have seriously affected essential military operations and programs, they did represent taking a risk that fortunately we have been able to accept. But I am uneasy in taking risks with national defense at a time when the Soviet Union has continued to increase its military posture worldwide. I feel more confident in recommending to you a fiscal year 1977 Defense appropriations bill that provides about $14 billion above the level we recommended to the House last December for fiscal year 1976. At the same time, I am not overconfident because inflation will erode about one-half of that $14 billion increase.

As the threat to our Nation continues, we must aggressively move forward with the modernization of our military forces in order to keep pace with that threat. This means we must modernize our aging strategic bomber force with the B-1. Our main battle tanks, based on technology of the 1950's, must be replaced with the modern XM-1 tank. We need to upgrade our ballistic missile submarine force with the new Trident missile and submarine. Our Minuteman intercontinental ballistic missile force must be enhanced with the larger and more accurate MK-12A reentry vehicle. We must replace the hundreds of Navy warships that have been retired with new, modern ships. We not only need to increase the firepower of our land, sea and air forces, as well as providing additional training, but we must reduce the cost of their support in order to get "more bang for the buck." We begin to turn the corner in providing for these essential requirements with this bill. It will not only take large sums of money to accomplish this essential modernization of our forces, but it will take time. And it must be done.

Mr. Speaker, some confusion has arisen regarding the statement covering title VIII of the Defense appropriations bill as reported by the conference committee. Page 50 of the report states that—

> The main desire of the conferees is to enable the Intelligence Community Staff and the National Foreign Intelligence Board to achieve "policy independence."

It goes on to say there is no intent to preclude provision under the Economy Act and other general authorities of certain administrative services, provided they are funded from the intelligence community oversight appropriation through transfer or other appropriate devices. The report goes on to state that—

> While the conferees have no objection to provision of reimbursed support services from other sources, they feel it would be inappropriate to depend on other sources for policy sensitive services.

The words "policy independence" and "policy sensitive services" are subject to different meanings to different people. The House committee and the conferees support the concept of an independent intelligence community staff but the words I have highlighted here were not intended to apply in my opinion to persons in positions which support the Director of Central Intelligence both in his capacity as the administrative head of the Central Intelligence Agency and as the head of the intelligence community. For instance, persons who occupy the positions of general counsel and legislative counsel serve the Director and his office in the totality of his functions and their services are not limited to either his Agency or intelligence community roles. I am sure there are other people occupying positions in his immediate office, such as executive assistants and other staff personnel, who serve the Director in similar capacities.

I wanted to clarify this aspect of the report from my own personal standpoint.

Mr. Speaker, I would also like to discuss recruiting briefly, and I would like to have the attention of the chairman of the committee, if I may.

Mr. Chairman, on page 8 of the conference report, under the heading of "Enlistment Bonuses," there is a statement made that the conferees have reviewed the budget proposal of $39,300,000 which was submitted by the President on July 28, 1976, for enlistment bonuses. We did not have any hearings in the House on that, but the Senate put the money in there and we agreed to $18,268,000.

The conference report goes on to say that—

> The conferees agreed that neither Committee contemplates further action on all pending requests related to recruiting.

I must confess I did not see that statement until today, and that disturbs me somewhat because I do not recall that in the conference we took any action saying we would not give further consideration to the request for recruiting that the Army has had before us for some time or that we necessarily finally determined what we were going to do ultimately on the budget amendment.

Mr. Speaker, I wonder if the chairman of the committee might respond to that.

Mr. MAHON. Mr. Speaker, if my friend, the gentleman from Alabama, will yield, with respect to Army recruiting, the conferees agreed to add $18,300,000 for enlisted bonuses more than the House provided and the President requested in his original budget submission. We also agreed to add $1,600,000 more for Army recruit advertising than the Senate had recommended. This means that the bill contains $33 million for Army recruit advertising alone, which is not an insignificant figure. This is just $4.4 million less than the budget request.

The conferees agreed that we should take no further action on pending recruiting requests and on reprogramings and budget amendments at this time. The Senate Committee has denied the reprogramings.

The Army is meeting its quantity requirements, and while its quality requirements in terms of high school graduates has slipped a few percentage points since last year, the quality remains much greater than it was in 1974 when the All Volunteer Force was declared by the Army to be a resounding success.

Mr. Speaker, I think the record should be made clear on this point, and I appreciate the references the gentleman from Alabama has made in this regard.

Mr. EDWARDS of Alabama. Mr. Speaker, I must say to the chairman of the committee that while my memory is faulty on many occasions, I just do not recall that the conferees agreed that we would not entertain any further requests regarding recruiting.

I suggest to the chairman that the Secretary of the Army has been trying for months to get the subcommittee to hold reprograming hearings on the 1976 and 197T budget figures, some $12.7 million, which we have not done.

I would ask the chairman if it is his interpretation of this language that these reprograming requests are also foreclosed by this language.

Mr. MAHON. If the gentleman will yield further, I will say to my friend, the gentleman from Alabama (Mr. EDWARDS), that we could change our minds and reverse our position. I would not recommend it at this time, but would certainly keep an open mind on the situation and give appropriate consideration to the request from the Secretary of the Army.

Mr. EDWARDS of Alabama. Mr. Speaker, in closing I feel compelled to sound one note of concern about the conference.

When the bill was before the House there was considerable debate on the subject of the consolidation of basic helicopter pilot training. We argued that some $37 million could be saved each year by providing this basic training at one facility. While the Defense Subcommittee had voted, over my strong objection, to block the consolidation, the House, nevertheless, reversed the decision of the subcommittee and overwhelmingly voted by a margin of 288 to 110 to approve the consolidation of basic helicopter training and thus bring about this tremendous savings in military expenditures.

I was extremely disappointed, therefore, that the House conferees made no real effort to defend the House position on this vital issue.

Consequently, the conference report disallows the consolidation, and it was obvious from the first day of the conference that it would not be otherwise.

I did manage to have language included in the conference report which calls for a further study of the proposal by the Department of Defense, the study to be completed and a report made to the Congress by April 15, 1977. That will give the committee ample time to hold further hearings on this issue and to fully review the new study and act on it in the next appropriation bill.

We must encourage cost savings wherever possible and I am sorry to report that the conferees did not follow the direction of the House.

Mr. Speaker, while I am not totally happy with some aspects of the bill, I do believe that on balance we have brought you a good conference agreement and I strongly urge adoption of the conference report.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I note that the conferees have amended the provision on the B-1 bomber and have provided for a cumulative expenditure of not to exceed $87 million a month until February 1, 1977.

What happens on or before February 1, 1977? I assume that is an amendment of the Senate position, which had halted the program to February 1 in order to permit the new President to make up his mind as to what he proposes to do about the B-1 bomber; is that correct? How is the Presidential position to be manifested?

Mr. EDWARDS of Alabama. Mr. Speaker, if I may respond to the gentleman, first, he is correct. It was a compromise between the House position of going forward with the procurement of the B-1 and the Senate position, which was to delay anything until after February 1, 1977.

The effect of the language of the conference report is to provide a maximum of $87 million per month in obligational authority each month until February 1, 1977.

On February 1, 1977, the balance of the total amount of some $900 million in obligational authority would be available for expenditure, assuming that nothing intervened in the meantime; that is, that no force such as Congress or the President or whatever might have the effect of reversing that decision.

Mr. YATES. Can the President stop production of the B-1 on or before February 1, 1977, by a Presidential Executive order or by a written decision of his or by some kind of decision of his?

Mr. EDWARDS of Alabama. As I understand the terms of the Budget Act, the President, should he desire to halt it, would have to send a rescission bill to the Congress.

Mr. YATES. So that it is not only the President's decision, it is the decision of the Congress that would be required?

Mr. EDWARDS of Alabama. That is the way I understand the Budget Act.

Mr. YATES. Is that the intention of the conferees, as well?

Mr. EDWARDS of Alabama. That is the intention of the conferees.

Mr. YATES. I thank the gentleman.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, the approved advertising for the Army, as reflected in the conference report is down $3½ million. It seems to me, Mr. Speaker, to be pennywise and pound foolish to do this, and I ask the gentleman in the well is it not important, and does not the conference committee know, that the effort of the Army is not only to provide quality but skill-match as well and, therefore, sometimes the quantitative input is just simply not enough?

Mr. EDWARDS of Alabama. Mr. Speaker, if I may respond to the gentleman from Georgia, we have provided what I believe to be sufficient money for recruiting. But if the gentleman heard my colloquy with the chairman of the committee a moment ago, it was to the effect that the Secretary of the Army still feels very strongly that we have not provided enough and he has been asking for reprograming hearings to try to show the need for some $12.7 million in fiscal 1977 and 7T to supplement what he has for this year. I think the conferees feel that by and large we have given the Army sufficient recruiting money, but we have not held the hearings to hear the position of the Secretary.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman from Alabama for his response. I know how the gentleman feels about this. I would merely point to the statistics which do show a disproportionate input into the Navy and Air Force as compared with the Army which "enjoys" the disadvantage of having an image as a ground or weapons soldier. So it is a sensitive area. And we all know advertising pays. Certainly for a volunteer Army it does.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I thank the gentleman for yielding.

Some reference was made by the gentleman from Alabama to the intelligence community staff. I must say that I cannot concur in all the remarks made by my friend the gentleman from Alabama (Mr. EDWARDS), with regard to the intelligence community staff. We want the intelligence community staff to be independent. I do not think we can agree with the gentleman's comments about the CIA's general counsel and legislative liaison personnel. It seems to me we in the Congress want the intelligence community staff to do their work more independently than otherwise might be possible. I just wanted to say that for the purpose of the record, not to participate in an extended colloquy with my friend, the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, I thank the gentleman for his comments. My comments in that regard were certainly my own and I was not purporting to speak for the conferees.

I do have a concern, I might say to the gentleman from Texas that where you have the Director of the Central Intelligence Agency and the director of the intelligence community as one and the same, it is often difficult to separate out those who are in the immediate family and very close to the operation of the Central Intelligence Agency and the other groups. This is a concern of my own that I think is going to have to be resolved, if it has not been resolved.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, I support the conference report. I feel that it represents a step forward in providing for a more adequate defense for America.

The bill did not fare as well in the Senate as in the House. There were additional cuts, some of which were necessitated by a lack of authorization for items that were included in the House bill. This I consider unfortunate, for more realistic defense funding is becoming a matter of increasing concern if our Nation is to have assured military security. The conferees were able to bring about some increases where cuts had been made, but I feel that funding still is lower than sound.

It is increasingly important that we retain a strong and effective research and development program. We find ourselves confronted with new and more powerful weapons almost daily. The Russians are pursuing their developmental techniques and they are vying for first place in technological advances. Add to this the increasingly large number of modern weapons which are seen in their inventories—weapons in all categories from submarines to tanks to aircraft to chemical warfare and it is obvious that we must work zealously to achieve the best and that we must fund in a realistic way to provide more adequate numbers of modern weapons. For that reason talks of further cuts in the budget now and for the next fiscal year cannot be considered as being in the best interest of the United States.

A word or two about the Reserve components assuredly is in order. Year after year we receive assurances of support of the Reserve components from the dealers in the Pentagon who appear before the Appropriations Committee. They assure us that they recognize the essentiality of strong Reserve components, particularly when the Regular establishment has steadily been cut since the end of our involvement in Southeast Asia. Yet, despite these assurances of support for the Reserve components, the budget for the Reserves is cut year after year. Realistic training would not have been possible under the program submitted this year. The Reserves would have been largely decimated. Congress has corrected this.

It is to the credit of the Regular establishment that equipment and weapons which are scheduled for the Reserves now for the most part are being delivered. For years this was not true, as weapons and equipment earmarked for the Reserves and funded by Congress for the Reserves were transferred instead to provide funds for Vietnam or for Israel or other friendly forces. Consequently, the Reserves had to train with obsolescent equipment. Now the Reserves are slowly being furnished much-needed modern weapons and equipment. There remains a pressing need for modern communications equipment for the Reserves. In many cases Reserve units are unable to communicate with Regular units during field training. A war would add immeasurably to the problem which is caused by this deficiency.

I am pleased that the Navy helicopter pilot training program is to continue to be operated by the Navy. The information on which a decision was made by the Department of Defense to consolidate this training with Army helicopter training simply was not based on adequate factual information. It could have resulted in serious deficiencies in training for the Navy pilots and even in deaths of personnel and loss of aircraft. Congress will now have an opportunity for hearings which will bring out facts which must be disclosed and considered before further consideration is given to a consolidation of helicopter pilot training. The Navy's helicopter pilot training is well planned, fully coordinated, and it is questionable that any significant savings are possible when the cost is added for the additional training required for overwater exercises and for landing on ships.

Mr. BRINKLEY. Mr. Speaker, in 1968, we Americans were called upon to "look to our conscience" on the matter of eliminating compulsory military service. We did this and soon thereafter, the Congress and the Nation made the commitment to build, maintain and sustain a Volunteer Army. In the years after the last soldier was drafted, we built a Volunteer Army, over the dire predictions of those who believed that only conscription would insure quality soldiers. Building today's Army has not been easy. Challenges have been many, but it is now a viable, confident and combat ready force of which the Nation can be justly proud.

The volunteer concept is a challenging one. For example, only about 1 in every 7 of America's young men is physically and mentally qualified for enlistment in the armed services. The Army must sign up nearly 1 in every 8 of these qualified availables if it is to meet its numerical requirements—which are roughly equal those of the other three services combined. This challenge is further compounded by an image which is created by the Army's ground combat role and limited transferability of skills to civilian life. This is reflected in the preference of young men for the Navy and Air Force by a 2-to-1 margin. Under these considerations, proving the volunteer concept has been a major accomplishment.

Recruiting numbers alone, however, is not sufficient. There must be quality and skill match. Today's complex and economy conscious Army demands more capable soldiers with the motivation, discipline and intelligence to become skilled soldiers who will perform their military jobs effectively for the full term of their enlistments. Soldiers without these personal qualities fall out along the way, wasting the taxpayers' money and valuable assets spent recruiting, training, and separating them. Thus, high quality and maximum return from personal costs are closely linked.

Recruiting numbers, quality and skills is, therefore, a top priority program in the Army, one which has achieved considerable success and in which the Army has confidence on continued success—provided it receives adequate support from the Congress and Nation which it serves. Such congressional support was forthcoming in the early years of building as evidenced by adequate budgets for advertising, enlistment bonuses and the recruiting force. That support permitted great improvements in the quality of accessions to where dividends are just now being realized in fewer disciplinary problems less personnel turbulence and increased unit readiness.

Our commitment to eliminating the draft and to building a Volunteer Army has been largely fulfilled. The time has come, however, for us to again "look to our conscience" as regards our commitment to build on, if not just maintain, the achievements which have been so hard won.

Less than a year ago, the Army was fast approaching, and could have attained during the year past, an initial threshold at which enlistments of sufficient high quality recruits would permit savings of amounts far greater than the additional costs of recruiting them. Had that goal been reached, personnel costs over the next 3 years could have been decreased by nearly $71 million and personnel turbulence at the troop level decreased.

But, recruiting is highly resource sensitive and successes, inadequately supported, are fragile—unable to withstand adverse impacts on the delicate recruiting environment. Such an impact was the 11 percent or $36 million reduction in the fiscal year 1976 recruiting budget, which is largely responsible for the Army's inability to cross the major threshold of cost-effective recruitment of quality soldiers. The upward quality trend has stopped. Worse, it has turned downward while all the Army's attempts to prevent or forestall this eventuality have fallen on deaf ears.

Recently, those charged with budgetary support of the Volunteer Army have disregarded urgent requests for hearings on reprograming of fiscal year 1976 resources which were essential if the serious consequences of the present quality crisis are to be averted. This permits unopposed downward quality trend which will require more fiscal year 1977 accessions who will be of lower quality. Unless corrective actions are taken immediately to prevent this, losses over the next 3 years will increase by some 16,000 and associated costs will be greater by some $106 million.

In addition, recruiting budgets in the coming years will be substantially greater, reflecting the higher cost of reversing the downward trend and recovering what has been lost. These kinds of expenditures for personnel who do not make good soldiers and for rebuying lost ground are incompatible with today's economy conscious Nation.

The Army is preparing a fiscal year 1977 reprograming request for a balanced package of resources to stop the downward trend and make the maximum possible recovery in fiscal year 1977. Congress should approve this request before the October adjournment. Ultimate success of the Volunteer Army depends on congressional support vastly greater than that demonstrated recently.

These actions will demonstrate that congressional support is as firm now as it was when it resolved that a major portion of this Nation's defense would be entrusted to an Army of quality volunteers.

Mr. KOCH. Mr. Speaker, I am one who believes in a strong national defense. I am someone who believes that we have a responsibility to provide for our own defense and also that we must be in a position to assist the democratic countries of the world with arms which will permit them to repulse aggression against them. I am distressed that the Soviet Union appears to be increasing its military position vis-a-vis ours and I have voted and will continue to vote for arms and the budgets to purchase them to make us militarily secure.

Having said that let me state why I will vote "no" on the conference report to the Department of Defense appropriations bill for fiscal year 1977. There are three basic reasons.

I do not believe that the conference report figure represents enough of a cut in the "fat" of the Defense Department budget. Even the more moderate Members of my own party, our Presidential candidate Jimmy Carter, and House Budget Committee Chairman BROCK ADAMS have advocated a $5 to $7 billion reduction in the Defense Department appropriation figure. This appropriation bill falls short of that mark.

Second, I do not support the so-called B-1 compromise. This bill appropriates $87 million a month until February 1977 for the B-1. Most people realize that an initial expenditure of close to $350 million is no compromise at all, because the project will have placed its proverbial foot in the door and we will not from past experience cut the program once such a large initial expenditure has been made. We should learn from the lessons of our Budget Committees that it is exceedingly difficult to bring Government programs under control once spending has begun. These programs have a momentum of their own and the Congress should not give them the initial shove unless we are sure the program is a good one.

Finally I do not support the $350 million appropriation for the nuclear aircraft carriers. Initially the carriers had been rejected by the Secretary of Defense. It was only after the President became concerned about the outcome of the Texas primary that the budget request for funds for the nuclear carriers was made. While the President may have to cater to the most hawkish elements in his own party—I do not have to.

Mr. BINGHAM. Mr. Speaker, on August 31, the Senate-House conferees on the Defense appropriations bill agreed to postpone a full scale production go ahead on the B-1 bomber until February 1, 1977. Some production work will be allowed to go ahead from the beginning of October, but the amount allocated cannot exceed $86 million a month.

Mr. Speaker, I can only hail this wise decision of the conferees. As you know, I cosponsored, with Congressman ADDABBO, an amendment to the Defense appropriations bill which would have postponed any allocation of funds for B-1 production until February, when the next President could make a cool and responsible decision, free from election year pressures, and with much needed additional data in hand on the bomber's full flight testing capability.

Although we were defeated by a few votes in the House, the Senate agreed to a similar amendment, and the conferees, though agreeing to some expenditure of funds to keep the program in existence, have seen fit to allow the next President to make the final decision. Otherwise almost $1 billion would have been allocated, and the program would have been very difficult to stop, even if the fact so dictated.

Up to now, nothing has come about to change my opinion that the B-1 is a strategically unnecessary weapons system whose inflated costs will not only take away from necessary expenditure in the public sector but which will serve to downgrade sounder and cheaper defense systems. I hope that the new President will agree with this conclusion.

Although the decision on the B-1 represents an improvement over the House bill, the total package still includes a great deal of wasteful and unnecessary expenditures, and I shall therefore vote against the conference report.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken and the Speaker announced that the ayes appear to have it.

Mr. KASTENMEIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 45, not voting 62, as follows:

[Roll No. 702]

YEAS—323

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Baucus
Bauman
Beard, Tenn.
Bennett
Bevill
Biaggi
Biester
Blanchard
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harris
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mills
Mineta
Minish
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Ruppe
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze

Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton,
J. William
Steed
Steiger, Wis.
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Wampler
Waxman
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Zablocki

NAYS—45

Baldus
Bedell
Bingham
Blouin
Brown, Calif.
Burke, Calif.
Burton, John
Clay
Conyers
Cornell
Dellums
Dickinson
Drinan
Early
Edwards, Calif.
Forsythe
Harkin
Harrington
Hawkins
Hechler, W. Va.
Holtzman
Kastenmeier
Koch
Maguire
Metcalfe
Mezvinsky
Miller, Calif.
Mitchell, Md.
Moffett
Mosher
Oberstar
Obey
Ottinger
Rees
Reuss
Richmond
Rosenthal
Roybal
Seiberling
Solarz
Stark
Stokes
Studds
Tsongas
Vanik

NOT VOTING—62

Abzug
Addabbo
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Bowen
Brodhead
Burgener
Burton, Phillip
Chisholm
Clausen,
Don H.
Clawson, Del
Collins, Ill.
Conlan
Corman
Ford, Tenn.
Green
Hansen
Heinz
Helstoski
Hinshaw
Howard
Howe
Jones, Ala.
Karth
Lehman
Lujan
McCollister
Matsunaga
Melcher
Mink
Mitchell, N.Y.
Mollohan
Murphy, Ill.
Nolan
Peyser
Rangel
Runnels
Russo
Ryan
St Germain
Sebelius
Sisk
Stanton,
James V.
Steelman
Steiger, Ariz.
Stephens
Symms
Thompson
Traxler
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Corman for, with Mr. Thompson against.

Until further notice:

Mr. Murphy of Illinois with Mr. Runnels.
Mr. Addabbo with Mr. Aspin.
Mr. Weaver with Mr. Hansen.
Mr. Zeferetti with Mr. Young of Alaska.
Mr. Rangel with Mr. Sebelius.
Mr. Russo with Mr. Badillo.
Mr. Phillip Burton with Mr. Heinz.
Mr. Bowen with Mr. Conlan.
Mr. AuCoin with Mr. Lujan.
Mr. Howard with Mr. Karth.
Mr. Sisk with Mr. Melcher.
Mr. Beard of Rhode Island with Mr. Bell.
Mr. Ford of Tennessee with Mr. Peyser.
Mr. Nolan with Mr. Steelman.
Mr. Matsunaga with Mr. Burgener.
Mr. Traxler with Mr. McCollister.
Mr. Young of Georgia with Mr. Wiggins.
Mr. Mollohan with Mr. Don H. Clausen.
Mrs. Mink with Mr. Mitchell of New York.
Ms. Abzug with Mr. Wylie.
Mrs. Chisholm with Mr. James V. Stanton.
Mr. Lehman with Mr. Stephens.
Mr. St Germain with Mr. Del Clawson.
Mr. Ryan with Mr. Steiger of Arizona.
Mr. Jones of Alabama with Mr. Symms.
Mrs. Collins of Illinois with Mr. Walsh.
Mr. Bergland with Bob Wilson.
Mr. Green with Mr. Howe.
Mr. Brodhead with Mr. Helstoski.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 8, line 6, strike out "$13,300,000" and insert "$13,250,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$13,100,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 8, line 9, strike out "$73,100,000" and insert $72,550,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$72,500,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 8, line 10, strike out "$28,500,000" and insert "$28,100,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$28,000,000".

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I appreciate the distinguished chairman yielding to me.

Mr. Speaker and Mr. Chairman, there is clearly a trend in the Congress toward openness. We passed legislation of that type this year in many instances, and conference committees have been opened up.

I would ask the distinguished chairman, for whom I have the greatest respect, why this particular conference committee was not held in the open.

Mr. MAHON. If the gentleman from Connecticut would permit me, the hearings on the Defense appropriation bill are generally held in open session. The conference with the other body was closed. They were held in executive session. The first day of conference was closed as a result of action by the other body making a motion, and our agreeing, that the session would be closed. On the succeeding days of the conference, the conference was closed and placed in executive session as a result of House action.

There is a lot of money in this bill, as the gentleman knows, for the Central Intelligence Agency and various other programs of a secret nature. We also discuss military weapons, their capabilities, and deficiencies, as well as inventory objectives of a classified nature. We never know when those issues will crop up into the discussion.

There is in the bill this year for the first time a separate appropriation of $5,600,000 for "Intelligence Community Oversight." This oversight staff will observe the operations of CIA and other intelligence programs.

So it was for all of these reasons that the conference was closed.

Mr. MOFFETT. If the chairman will indulge me one moment longer, I understand what the chairman has said. I am not arguing with keeping national secrets, and so forth. I think that is important. But we also know that from the beginning of time in this body, in considering defense bills—while I feel the chairman is most responsible—the fact of the matter has been that when we close a meeting, it then lends itself all the more to, let us say, a Senator coming in and saying that he is interested in this project or that, and another Senator will say that he is interested in this project. I think that ought to go on in the open. I think many other Members feel that way also. We do not want to jeopardize the defense of this Nation. But we do in fact debate this bill in the open on the floor right here, and it seems to me that we ought to open it up. With all due respect to the chairman, I do not see why we cannot move in that direction in regard to the defense appropriation conference.

Mr. MAHON. We have made very definite moves to more open hearings and open conferences, and I think it is all to the good. I do not believe that there should be any coverup for political purposes, or otherwise, in conference. But there are other factors that must be considered. I am perfectly aware that there is room for improvement in this area, and I am pleased to have the views of the gentleman from Connecticut with respect to the matter.

Mr. MOFFETT. One more brief question. There were intelligence matters discussed in the conference, the chairman said?

Mr. MAHON. Yes.

Mr. MOFFETT. Were all members of the conference committee at all times aware that those meetings were going on, and were they invited to take part in those meetings?

Mr. MAHON. All of the Members of the House Defense Subcommittee are privy to all of the information that is available to this subcommittee.

Mr. MOFFETT. Were they aware of every meeting that took place with regard to the CIA funds, for example?

Mr. MAHON. I assume so. The House Members were. I cannot speak for the other body.

Mr. MOFFETT. But the chairman is certain that those Members were informed of every meeting that took place with regard to CIA funds?

Mr. MAHON. So far as I know, the answer would be yes. I know of no exception.

Mr. MOFFETT. In other words, there were no meetings held from which some of the conferees were excluded, with regard to the CIA funds?

Mr. MAHON. I believe not.

Mr. MOFFETT. I thank the chairman.

Mr. BEDELL. Mr. Speaker, will the gentleman yield to me for a moment?

Mr. MAHON. I yield to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. I thank the gentleman for yielding.

Will the chairman be receptive in the future to leaving the conference committee meetings open and only closing those committee meetings at such times as matters come up that should be considered in secret?

Mr. MAHON. We can give that matter consideration, but to say that it will be open for an hour, or 30 minutes, would be a very awkward kind of situation.

Mr. BEDELL. So the answer is, no, the gentleman feels that would not be very practical?

Mr. MAHON. It would not be very practical, in my judgment.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

To follow up on the question of the gentleman from Iowa (Mr. BEDELL), I was wondering why, if we are able to debate this bill on the floor, and if the Senate presumably has opened debate on the floor, the conferees cannot meet in the open? Why is it that when the Senate and the House get together, other than on the items that are clearly of a national security nature, a full conference cannot be held in the open, not just segments of it, but the whole conference held in the open?

Mr. MAHON. Mr. Speaker, there are many matters that are discussed in the hearings and also in the conference that are never discussed on the floor. That is the way it works in respect to matters of a national security nature.

Mr. WIRTH. I understand that, and I think that was the thrust of the question asked by the gentleman from Iowa (Mr. BEDELL). Laying aside those matters which are clearly of a national security nature, I would hope that we can be sure all the other matters would be discussed in the open.

Mr. MAHON. Mr. Speaker, I would have no objection whatever to that.

Mr. WIRTH. The gentleman would not object to that?

Mr. MAHON. If we could work out a convenient way to accomplish that, I would have no objection to that kind of a discussion.

Mr. WIRTH. Mr. Speaker, I thank the committee chairman.

Mr. MAHON. Mr. Speaker, I have no further desire to discuss the matter.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 8, line 11, strike out "$200,700,000" and insert "$198,550,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$198,400,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 16, line 12, strike out "$1,117,300,000" and insert $1,090,200,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$1,089,800,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 43: Page 16, line 13, after "$1,117,300,000" insert ", and in addition $27,800,000 which shall be derived by transfer from 'Procurement of Weapons and Tracked Combat Vehicles, Army, July 1, 1976/1978' ".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in the disagreement.

The Clerk read as follows:

Senate amendment No. 46: page 18, line 15, strike out "$2,946,600,000" and insert "$2,957,800,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$2,843,500,000".

Mr. MAHON. Mr. Speaker, I ask for recognition on this motion.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized.

Mr. MAHON. Mr. Speaker, I believe the gentleman from Ohio has a question he wishes to ask.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I notice that the Senate conferees receded from their position and accepted the House position on termination of the Condor missile. I am, of course, interested in this program. It is obviously going out, and I do not intend to make a lot of fuss at this juncture because it is much too late. Is the gentleman in a position to advise me what is replacing the Condor missile and what was the thinking of the House when the termination of this particular program was recommended?

Mr. MAHON. Mr. Speaker, the Navy's Harpoon missile is considered to be of a greater value and utility, and there are other weapons that could fulfill the mission that was planned for Condor. For example, the Navy has extended range Walleye weapons. The Air Force has Maverick missiles and modular-guided glide bombs.

The Condor missile has been in development for over 10 years. It has been plagued with development problems and cost increases since about 1969. The award of a pilot production contract was delayed almost 5 years. We have spent about $200 million in developing the Condor missile. Almost $400 million would be required to deploy the Condor missile in the quantities currently programed. It is a very expensive missile with a procurement unit cost of $430,000 and a program unit cost of $600,000. The Navy has testified it would like to have more than the number programed but cannot afford to buy more than that. The House recommended termination of the Condor missile in fiscal years 1970 and 1975, but the other body did not agree to its termination until this year.

Mr. DEVINE. I thank the gentleman for his explanation, although I find it most difficult to justify as my many contacts in the Defense Department as well as in the Navy assured me the Condor program was really more than satisfactory in its performance. I regret staff input persuaded Members of this and the other body to accede to pressures favoring a competitive missile program that, in my opinion, is considerably inferior.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 703]

Abdnor
Abzug
Adams
Addabbo
Annunzio
Ashley
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Brademas
Brodhead
Burgener
Burton, John
Burton, Phillip
Butler
Carney
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Collins, Ill.
Conlan
Conyers
Corman
Crane
Diggs
Drinan
Eckhardt
Emery
Eshleman
Evins, Tenn.
Fary
Ford, Tenn.
Fraser
Green
Hansen
Harsha
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holland
Horton
Howard
Howe
Hungate
Jacobs
Jarman
Karth
Kemp
Ketchum
Landrum
Leggett
Lehman
Lujan
McCollister
McKinney
Madigan
Mathis
Matsunaga
Meeds

Melcher
Metcalfe
Mikva
Milford
Mink
Mitchell, N.Y.
Mollohan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nolan
O'Hara
O'Neill
Patterson, Calif.
Peyser
Pike
Pressler
Randall
Rangel
Rees
Riegle
Rogers
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Santini
Scheuer
Schneebeli
Sebelius
Shuster
Sisk
Skubitz
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Teague
Thompson
Udall
Ullman
Walsh
Wampler
Weaver
Wiggins
Wilson, Bob
Wolff
Wright
Wylie
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

The SPEAKER. On this rollcall 305 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 22, line 24, strike out: "$6,231,300,000" and insert "$6,076,100,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$6,067,700,000".

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 192, noes 32.

So the motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 22, line 24, after "$6,231,300,000" insert ", and in addition, $21,500,000, of which $8,600,000 shall be derived by transfer from 'Aircraft Procurement, Air Force, 1976/1978', and $12,900,000 which shall be derived by transfer from 'Aircraft Procurement, Air Force, July 1, 1976/1978' ".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 63: Page 23, line 23, strike out "$1,853,700,000" and insert "$1,843,200,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that tht House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$1,827,700,000".

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 197, noes 14.

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 64: Page 23, line 24, after "$1,853,700,000" insert ", and in addition, $33,300,000, which shall be derived by transfer from 'Missile Procurement, Air Force, 1976/1978' ".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 70: Page 27, line 1, strike out "$652,800,000" and insert "$700,480,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$651,280,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 73: Page 33, line 13, after "case" insert: "; and (k) expenses of arrangements with foreign countries for cryptologic support".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 41, after line 16, insert:

"SEC. 723. Except for small purchases in amounts not exceeding $10,000, no part of any appropriation contained in this Act shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purpose of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, except that nothing herein shall be construed to preclude total labor surplus area set-asides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) if the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following:

"SEC. 723. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, resued, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder."

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the motion.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 91: Page 48, line 13, after "Budget" insert ", except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified Appropriations Committees of the Senate and House of Representatives of the proposed transfer. No obligations may be made against a working capital fund to procure war reserve material inventory unless the Secretary of Defense has notified the Appropriations Committees of the Senate and the House of Representatives prior to any such obligation".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following: ", except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. No obligations may be made against a working capital fund to procure war reserve material inventory unless the Secretary of Defense has notified the Congress prior to any such obligation."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 100: Page 51, line 3, after "counselors" insert "unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein.

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the motion offered by the gentleman from Texas (Mr. Mahon).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 4, answered "present" 1, not voting 83, as follows:

[Roll No. 704]

YEAS—342

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Conyers
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Mazzoli
Meeds
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Santini
Sarasin
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Fla.
Zablocki

NAYS—4

Bedell
Cornell
Sullivan
Yates

ANSWERED "PRESENT"—1

Harrington

NOT VOTING—83

Abzug
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Brademas
Brodhead
Burgener
Burton, Phillip
Butler
Chisholm
Clausen, Don H.
Clawson, Del
Collins, Ill.
Conlan
Corman
Crane
Diggs
Esch
Evins, Tenn.
Fary
Ford, Tenn.
Green
Gude
Hall, Ill.
Hansen
Heinz
Helstoski
Hinshaw
Holland
Howard
Karth
Ketchum
Lujan
McCollister
Mann
Matsunaga
Melcher
Metcalfe
Mikva
Mink
Mitchell, N.Y.
Mollohan

Morgan
Murphy, Ill.
Nolan
O'Neill
Paul
Peyser
Randall
Rangel
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Sarbanes
Sebelius
Sisk
Stanton,
James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Symms
Thompson
Walsh
Weaver
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

Mr. YATES changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 107: Page 52, line 22, insert:

"SEC. 747. None of the funds appropriated in this Act may be used to pay any claim against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Armed Services Committees and Appropriations Committees as to the validity of these claims."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following:

"SEC. 747. None of the funds appropriated in this Act may be used to pay any claim over $5,000,000 against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Congress as to the validity of these claims."

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the motion offered by the gentleman from Texas, Mr. MAHON.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. Two hundred and fifty-one Members are present, a quorum.

So the motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 112: Page 54, line 13, insert:

SEC. 752. Unless otherwise specified and during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following:

"SEC. 750. Unless otherwise specified and during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 114: Page 56, after line 5, insert:

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $52,200,000, subject to the enactment of legislation authorizing such payment.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following:

"CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

"For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $28,300,000, subject to the enactment of legislation authorizing such payment."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks, and include extraneous matter and tabulations, on the conference report on H.R. 14262, making appropriations for the Department of Defense, fiscal year 1977.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CARE AND TREATMENT OF VETERANS IN STATE VETERANS' HOME

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10394) to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That (a) section 641 of title 38, United States Code, is amended to read as follows:

"§ 641. Criteria for payment

"(a) The Administrator shall pay each State at the per diem rate of—

"(1) $5.50 for domiciliary care,

"(2) $10.50 for nursing home care, and

"(3) $11.50 for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

"(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veteran's care in such State home.".

(b) Paragraph (19) of section 101 of title 38, United States Code, is amended by striking out "of any war (including the Indian Wars)" in the first sentence and "of any war" in the second sentence.

(c)(1) The amendments made by subsection (a) of this section shall be effective on October 1, 1976.

(2) At the time of the first payment to a State under section 641 of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976.

Mr. SATTERFIELD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk concluded the reading of the Senate amendment.

Mr. SATTERFIELD. Mr. Speaker, the basic purpose of H.R. 10394 is to raise the rates at which the Veterans' Administration reimburses State veterans homes for care provided to eligible veterans in State veterans home facilities.

On December 15, 1975, the House passed H.R. 10394, which raised the rates as follows:

First. For domiciliary care the rate was raised from $4.50 to $6.50 per day;

Second. For nursing home care from $6 to $10.50; and

Third. For hospital care from $10 to $13.50 per day.

In addition, the House-passed bill eliminated the requirement that States be reimbursed only for veterans who served in the Armed Forces during wartime or after January 31, 1955, and permit reimbursement for all otherwise eligible veterans regardless of period of service.

The proposed Senate amendment would raise the daily rate for domiciliary care from $4.50 to $5.50, $1 less than the House-passed bill; it would raise the rate for nursing home care from $6 to $10.50, the same as the House-passed bill; and would raise the rate for hospital care from $10 to $11.50, $2 less than that provided in the House-passed bill.

In addition, the Senate amendment would provide a lump-sum payment to State homes equal to the difference between the amount of reimbursement they have actually received from the Federal Government since January 1, 1976, and the amount they would have received had the new, higher rates of reimbursement been in effect for payments made after that date. The lump-sum payment would be added to the first payment in the new fiscal year.

I might add that the cost of the proposed Senate amendment in fiscal year 1977 is estimated by the Congressional Budget Office to be $18.7 million. The amount does not exceed the allocation of our Subcommittee on Hospitals, and is well within the target established by the first concurrent resolution.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the gentleman's motion to concur in the Senate amendment to H.R. 10394.

This measure, which passed the House of Representatives on December 15, 1975, authorizes an increased per diem payment to State veterans home on behalf of veterans who are domiciled, hospitalized, or in receipt of nursing care therein. The amendment of the other body, while accomplishing the same purpose, took a slightly different approach. Specifically, the increased per diem for domiciliary care and for hospital care is less generous in the Senate version than in the House version, while the per diem allowance for nursing care is identical in both versions. The other body, however, has authorized, in addition, a lump sum payment to state veterans homes payable on October 1, 1976, that is equivalent to the increased per diem that would otherwise be payable over a full one-year period.

Although the first year cost of the Senate version exceeds that of the House version, the annual cost thereafter, of the Senate version is slightly less.

Mr. Speaker, the Federal Government cannot provide, nor can it purchase, quality care for the Nation's sick and needy veterans anywhere in this country as economically as it is provided in State veterans homes. The Federal expenditure in this area is money well spent.

I shall support the gentleman's motion.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished acting majority leader if he has some good news or bad news for the Members.

Mr. McFALL. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I yield to the acting majority leader.

Mr. McFALL. I thank the gentleman for yielding.

It is the intention to go into the Committee of the Whole for the further consideration of the Clean Air Act Amendments of 1976, H.R. 10498, and try to finish title I, if we can, this evening.

Tomorrow we would hope to come in at 10 o'clock and do H.R. 8603, the Postal Reorganization Act amendments conference report, and then return to the Clean Air Act amendments and go for a reasonable time, hopefully to finish the bill on tomorrow.

HOUR OF MEETING TOMORROW

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I move that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair is certain that a quorum is present.

The Chair will count.

Two hundred sixty-two Members are present, a quorum.

So the motion was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

Mr. RHODES. Mr. Speaker, if I may have 1 additional minute, I ask the distinguished acting majority leader if he can give the House any idea as to how late we might meet tonight?

Mr. McFALL. Mr. Speaker, if the gentleman will yield, as I understand it from the gentleman from Florida (Mr. ROGERS), the committee will try to finish title I. We have the cooperation of the members of the committee to try to limit time. There is no intent to try to delay this matter, but there are amendments to be offered. And the Members who are offering them want a reasonable time to discuss them. There will be no attempt to cut off anybody, but if we get everyone's cooperation we would hope to finish title I tonight.

Mr. RHODES. At any particular time?

Mr. McFALL. I would not want to

guess on that, if the gentleman will allow me to be honest.

Mr. RHODES. I will.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 14496, RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on the bill H.R. 14496, the Resource Conservation and Recovery Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, September 8, 1976, title I had been considered as having been read and open to amendment at any point.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Chairman, I offer a motion.

The Clerk read as follows:

Amendment offered by Mr. McKAY:

Page 209, after line 21, insert the following:

"(5) (A) In the case of a proposed construction or modification of any source the emissions from which may affect any area required to be designated as class I which may not be redesignated as class II or III under this section, before the issuance of the permit required under paragraph (4), such source may apply for a variance from such emission limitations as may be imposed for purposes of compliance with the maximum increases of SO_2 allowable under paragraph (2) for such area. Nothing in this paragraph shall authorize the granting of a variance from any new source standard of performance.

"(B) A variance may be granted by the Governor under this paragraph if the Governor, after notice and opportunity for public hearing (which may be conducted in conjunction with the permit hearing under paragraph (4) (C) (i)), determines that—

"(i) the source has demonstrated that—

"(I) compliance by the source with such emission limitations is not feasible by the date the source is to commence operation,

"(II) alternative locations of the source which would not necessitate a variance under this section are not reasonably available (taking costs and other appropriate factors into account), and

"(III) the values (including, where appropriate, visibility and other esthetic values) for which the area affected was established as a protected category of Federal land will not be adversely affected by such variance,

"(ii) the source agrees to comply with the emission limitations under clause (iii) with respect to which the variance is granted as expeditiously as practicable, and

"(iii) the source agrees to comply with such interim emission limitations as may be necessary to assure that—

"(I) emissions of SO_2 from such source, together with emissions of such pollutant from all other sources will not cause or contribute during more than 3 percent of the days of the year, to levels which exceed the concentrations permitted for the applicable period under paragraph (2), and

"(II) during any such time when such concentrations are exceeded, emissions from all such sources will not cause or contribute to levels which exceed the concentrations permitted for such period for a class II area.

Upon making the determinations required under this subparagraph, the Governor shall notify the Administrator and the appropriate Federal land manager. Not later than 180 days following the date of such notice, such land manager shall concur or refuse to concur with the Governor's finding under clause (i) (III) and the Administrator shall determine whether or not the other requirements of this paragraph have been met. No permit may be issued under paragraph (4) on the basis of a variance under this paragraph before the date on which such Federal land manager has issued notice of such concurrence and the Administrator has determined that such other requirements have been met.

Page 209, line 22, strike out "5" and substitute "6".

Mr. McKAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I was informed of the gentleman's amendment earlier today. I understand what the gentleman hopes to accomplish by the amendment.

I have asked the legislative counsel for the committee to prepare for me a perfecting amendment to the gentleman's amendment; however, it is not yet available for me to offer in submission; in addition to the fact that I have not yet had an opportunity to discuss it with the gentleman to see if the gentleman would agree to it.

I wonder if the gentleman would postpone discussion of the amendment for a short period of time before we adopt it and perhaps we can streamline this before taking time on the floor.

Mr. McKAY. Mr. Chairman, if the gentleman from California and I can get together, I am willing to make that slight concession of a few minutes; that is, I will hold off and withdraw the amendment momentarily to give the gentleman from California that opportunity.

Mr. Chairman, I ask unanimous consent to withdraw my amendment momentarily.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: Page 208, line 8, after the period, insert:

"Any model or models designated under such regulations shall be adjusted, upon a determination by the Administrator that such an adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from a source applying for a permit required under this paragraph."

Mr. BROYHILL. Mr. Chairman, the successful administration particularly of section 108, the nondegradation section is dependent upon the effective use of modeling techniques, that is, use of the facts and figures, running them through computers and, of course, all familiar with this situation know that the figures will come out differently, depending upon the terrain or depending upon the meteorological characteristics of an area.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have looked at the amendment and on this side we have no objection, if the gentleman would agree to a unanimous consent request to add after the word "determination" "after notice and opportunity for public hearing."

Mr. BROYHILL. Mr. Chairman, I have no objection to that.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent to modify the amendment as just stated.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. BROYHILL. Mr. Chairman, we have no objection to the modification of the amendment.

The CHAIRMAN. Would the gentleman from Florida (Mr. ROGERS) repeat the request?

Mr. ROGERS. Mr. Chairman, I had asked unanimous consent that the gentleman's amendment be modified by adding the words "after notice and opportunity for public hearing" be inserted after the word "determination" in the second line.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BROYHILL. Could I have the gentleman's attention in order to clarify the intent? The intent of this amendment is that any modeling regulation which is promulgated by the administrator will be promulgated under the procedures as outlined in section 305 of this act. Is that correct?

Mr. ROGERS. Yes, that would be correct.

Mr. BROYHILL. I thank the gentleman.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from North Carolina (Mr. BROYHILL), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 199, strike out line 3 and all that follows down through line 6 and redesignate the following paragraphs accordingly.

Page 203, line 18, strike out "designating authorities" and insert in lieu thereof "State".

Page 204, line 9, insert "who may make an initial designation" after "Administrator".

Page 205, line 15, insert "who may make an initial designation" after "Administrator".

Page 205, line 19, strike out "State law" and insert in lieu thereof "the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such designation or redesignation must be specifically approved by State legislation)".

Page 207, line 20, insert "or the State (in accordance with the regulations of the Administrator)" after "Administrator".

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. FLORIO. Mr. Chairman, I would ask that there be a division of the question and a separate vote be conducted on the first paragraph of the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The CHAIRMAN. The Chair will advise the gentleman that the question will be divided when the Chair puts the question.

Mr. ASHBROOK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-three Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, since the Clean Air Act of 1970 was enacted, implementation of the policy of prevention of significant deterioration has led to legal controversy and confusion. And the States will encounter further problems, the courts will have to rule on more cases, if we do not clarify the policy adequately in H.R. 10498. The National Governors Conference has affirmed that the States—and in turn developers and industry—need a resolution of the issue. That issue is the balance between environmental needs, economic growth, consumer cost, public health and free enterprise. EPA's regulations now in effect do not strike that balance. They are confusing, overly strict and inflexible and attempt to run from Washington matters that are properly of State and local concern.

The States and local governments closest to the people should be responsible for carrying out section 108's provisions and should be allowed to do so with the least Federal interference.

With this in mind, I have an amendment which I think will improve a few points in the section as reported.

My amendment will give the Governor of a State the authority to approve designation or redesignation of an area after consultation with the appropriate elements of the State legislature: the appropriate committees, if the legislature is in session, or the leadership of the legislature, if it is not in session. The amendment retains the rest of subparagraph (i) with regard to participation by local governments. The purpose of this section of the amendment is to simplify and give great flexibility to the procedure by which the State carries out its responsibility for designation and redesignation. Since most State legislatures are in session for only a small fraction of the year, and some meet even less frequently than once a year, unnecessary delays could well result from the provision now in the bill, requiring specific State legislation to approve a designation or redesignation. This flexibility will enable economic development to occur and our energy needs to be met without undue restrictions or cost to the consumer.

My amendment not only insures that State legislatures will be consulted; it also makes clear that, where a State law provides for designation or redesignation to be approved by State legislation, that State law will take precedence over the procedure I propose. In this way, the States are given more flexibility, and the process simplified, while the legislatures are still included in the process.

My amendment will preserve the State's authority over redesignation of areas in the event that the State fails to submit a plan which meets the requirements of section 108. As the bill is now written, if the State fails to submit a proper plan, the Administrator may designate or redesignate areas. I believe that in such a case, the Administrator should be able to make an initial designation within a State for purposes of implementing and enforcing the section. But I do not believe that it is appropriate to allow the Administrator also to approve redesignation in such a case. The provision now in the bill is not consistent with the character of section 108 with regard to State authority.

The language of my amendment specifically provides that the Administrator may make an initial designation. Beyond that, however, the responsibility and authority resides with the States, with regard to whether or not, or how, to redesignate any specific area. In connection with this clarification of the State's authority, my amendment will also make another minor change: substituting "State" for "designating authorities" in subsection (ii) on page 203—so that there may be no confusion on this point.

I am interested in permitting the States a measure of flexibility within which they may responsibly and adequately consider the decisions they will make on nondegradation. I do not think that State officials are less concerned about the State than Federal officials. I personally believe they are usually better informed and more concerned. My amendment would permit the State to determine—as the Administrator is permitted to determine, under the reported bill—whether it is necessary to monitor for a full year, as required in the bill, in the case of new or modified major sources, before a construction permit may be obtained. The bill now requires that air quality monitoring data be gathered over 1 calendar year unless the Administrator determines that a complete and adequate analysis may be accomplished in a shorter time. My amendment will allow the State to make that same determination. The State must make this determination in accordance with the Administrator's regulations; this is not intended to undercut the basic monitoring provision. Like the Administrator, the State would be authorized to relax the full 1-year requirement only if it could determine that adequate data could be developed in less than a year of continuous air quality monitoring. But I believe that allowing the State this authority under these circumstances will give the States the flexibility to avoid costly monitoring where it is clearly redundant and may result in unnecessary delays.

My amendment will also strike from the bill the fourth enumerated purpose of section 108. This states that the purpose of the section is, among other things, "to protect any State, region, or area of the country from the loss of jobs or tax revenues to other States, regions, or areas which, but for this subtitle, would permit significant deterioration of air quality."

I do not consider that a legitimate purpose of the Clean Air Act. This bill should be considered on its merits as an environmental and health concern—not as legislation which favors one area of the country over another.

Mr. Chairman, I understand that the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS), has some questions on that particular aspect.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Florida.

Mr. ROGERS. It is my understanding that your amendment would permit the States to relax monitoring requirements under the Significant Deterioration section. Does this mean that the States would have unlimited discretion to eliminate prior monitoring requirements?

Mr. LEVITAS. No. This is not the intent of the amendment. What is intended is to give the States the necessary flexibility to avoid unnecessary, redundant monitoring which is costly and may result in undue delays. Thus, if complete and adequate monitoring data would be available in that location in less than a year, the State would have the authority to relax the full one-year requirement.

Mr. ROGERS. But would the State's ruling be subject to review of the Administrator?

Mr. LEVITAS. Yes. The State could not relax the 1-year requirement arbitrarily or capriciously. If the fully adequate data were not going to be available in less than a year, then the relaxation could not stand. As the amendment indicates, the State's action would have to be in accordance with the Administrator's regulations.

Mr. ROGERS. Are there any other grounds which would justify a relaxation?

Mr. LEVITAS. I think the States should be authorized to relax monitoring requirements for the smaller "major sources," that is those emitting less than 250 tons of pollutant a year, if the source can show economic hardship would result from application of the full year monitoring requirement. I do not intend the amendment, however, to undermine the basic monitoring provision. Only if it were determined that adequate information could be developed in less than a year, or if new sources smaller than 250 tons per year were involved, would the State be authorized to relax the full 1-year requirement.

Mr. ROGERS. The gentleman's answers are good ones. They show me that the amendment is carefully constructed and is not intended as a loophole in the basic monitoring requirement. On this basis, I welcome and support the gentleman's amendment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, perhaps I do not have a copy of the gentleman's amendment. I thought this was the amendment which he was offering that would change the authority by State law so as to designate the area that could be redesignated.

Mr. LEVITAS. That is correct. That is in the amendment. That is the point that I first brought up.

Mr. BROYHILL. Where is the amendment that would change the monitoring requirements?

Mr. LEVITAS. It is at page 207, line 20.

Mr. BROYHILL. What does it say?

Mr. LEVITAS. It is to insert the words: "* * * or the State (in accordance with the regulations of the Administrator)" * * * after "Administrator".

Mr. BROYHILL. Would the gentleman from Georgia continue to yield?

Mr. LEVITAS. I yield further to the gentleman from North Carolina.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. BROYHILL. Will the gentleman yield further to respond to a question?

Mr. LEVITAS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, as I understand what the gentleman is doing, it is striking the provision that would require that the redesignation plan or the area be approved by the State legislature, by State law?

Mr. LEVITAS. That is correct. That is the purpose.

Mr. BROYHILL. I am concerned about that.

In the State of North Carolina the general assembly meets every 2 years and it could be that a considerable period of time, perhaps as much as 3 years, could elapse before the redesignation plan could take effect. It is my understanding that the redesignation would have to be approved by the Governor after consultation with certain legislative leaders. Is that correct?

Mr. LEVITAS. That is correct.

Mr. BROYHILL. And there is a requirement that a redesignation continue to be approved by the local governments that are in that area, is that correct?

Mr. LEVITAS. That is the way the bill presently is written and the amendment makes no change in that.

Mr. BROYHILL. How does the gentleman define the term "general purpose units of local government"?

Mr. LEVITAS. The amendment I offer does not touch that provision of the bill, and I do not offer an amendment to define those general purposes units of local government, but perhaps it would be useful to have clarification.

Mr. BROYHILL. So the gentleman's amendment does not define that part of the bill, that is the definition of general purpose units of local government.

Mr. LEVITAS. That is correct.

Mr. BROYHILL. Will the gentleman yield further?

Mr. LEVITAS. I yield further to the gentleman from North Carolina.

Mr. BROYHILL. Would the gentleman from Georgia feel that an amendment to clarify that term and to make it clear as to what that term means would be acceptable?

Mr. ROGERS. Mr. Chairman, would the gentleman yield?

Mr. LEVITAS. I would be happy to yield to the gentleman from Florida.

Mr. ROGERS. I would think that it is clear enough in the bill, they are the next unit under the State; so I do not think a definition would be appropriate further.

Mr. BROYHILL. I am thinking about the gentleman's own district where he has several municipalities and a county involved, as to how one would determine which units of government have been designated or have voted in favor or voted against a redesignation plan.

Mr. LEVITAS. I understand the concern of the gentleman from North Carolina. I have purposely left my amendment open, keeping my amendment away from that, as to the local units of government, I have left the bill, as far as I am concerned, as it is presently.

I have no personal opinion in that regard except to say I think it would be useful to the extent we can clarify it by colloquy.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would ask the gentleman from Georgia does the gentleman think it is wise for the local governments to have an input in this matter?

Mr. LEVITAS. The amendment that I have proposed continues to leave in the involvement of the units of local government the way the bill is presently written.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. It does not take away the authority from the cities and counties as is presently written in the bill. It simply says that a State law is not required when the State redesignates, but rather it provides flexibility by letting the Governor make that designation.

Mr. CARTER. I thank the gentleman.

Mr. LEVITAS. Mr. Chairman, I would like to conclude by addressing the point the gentleman from New Jersey (Mr. FLORIO) has brought up, and I think it is vital, because one part of my amendment would strike one of the statements of purpose in this section 108 which says one of the purposes of this bill is to protect any State, region, or area from the loss of jobs or tax revenues, to other States, regions, or areas.

I think this is a most inappropriate provision to be in a clean air act. That statement of purpose is blatant economic, sectional legislation. It has nothing to do with the cleanliness of the air or health. I think anyone who votes for keeping that provision is doing a disservice to the environmental concerns of this legislation. This is not economic protection legislation. You are being asked to vote to keep jobs away from a community if we leave this language in.

The purpose of the Clean Air Act, it seems to me, is to provide a clean environment, to avoid air pollution, to protect health and not to provide protection economically to one section of the country over another. If we do not take this provision out, I, for one, would have to vote against this bill.

The whole concept of significant deterioration came about through the construction or legal interpretation of a purpose clause in the original law. Therefore, removing this purpose clause is far more than cosmetic. I think that if we do not remove this provision, it will create great mischief in discrimination in a great many areas of the country, not because of the air and the environment but because of this provision in the law, which is a blatant discrimination economically against one section of the country over another. By striking this provision we will be directing the Administrator and the courts that in construing this bill the matter of economic protection of one section of the country as compared to others shall not be taken into account.

Mr. Chairman, I urge adoption of the amendment.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS .I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I wonder if the gentleman would be willing to consider separating for the purposes of a vote the portion of his amendment pertaining to page 203 of the bill which is a further discrete and separable part of his amendment in that it pertains to Federal lands and is distinct, therefore, from the matter pertaining to page 199 as well as the matter pertaining to pages 204 and following. I would like to request that the gentleman consider whether he would permit a separate vote on that.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MAGUIRE, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. I believe the gentleman would have the right to call for a division of any part of this amendment for a separate vote. I personally would like to see the entire amendment accepted as it is now written. I think they are all intended to give more flexibility to the States, and for that reason I would like to see the entire amendment considered as one.

PARLIAMENTARY INQUIRY

Mr. MAGUIRE. Mr. Chairman, would the gentleman yield for a parliamentary inquiry?

Mr. LEVITAS. I yield to the gentleman.

Mr. MAGUIRE. I thank the gentleman for yielding.

Mr. Chairman, I would like to pursue the matter of requesting a division of the amendment. I would like to ask when would be the appropriate time for me to do that, because this does relate to Federal lands, and the remainder of the land is not.

The CHAIRMAN (Mr. ROUSH). The gentleman is in a position right now to demand a division of the question.

Mr. MAGUIRE. I so request.

The CHAIRMAN. The gentleman requests a division, and that portion of the amendment will be divided for a separate vote.

Mr. MAGUIRE. I have a further parliamentary inquiry, Mr. Chairman, if the gentleman would yield to me further.

Mr. LEVITAS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

Mr. Chairman, in the event that I would have a substitute for that portion alone, at what point would I offer that? Would I offer that right now or after we have voted on Part I?

The CHAIRMAN. Once the Chair puts the question on the first portion of the amendment, then the amendment is no longer amendable.

Mr. MAGUIRE. I have a further parliamentary inquiry. Would I then have the right to offer a substitute for this section which is divided? I seek recognition for the purpose of offering a substitute and ask that that matter be divided, Mr. Chairman.

The CHAIRMAN. The gentleman in the well still has the time.

Mr. LEVITAS. Mr. Chairman, I yield back the remainder of my time.

Mr. FLORIO. Mr. Chairman, I rise reluctantly to speak against the amendment.

Mr. Chairman, as was pointed out by the sponsor of the amendment, this is in fact a series of amendments. I have no difficulty with all of the amendments as part of this amendment except for the first one, as he has pointed out. The first provision in the amendment strikes from the statement of purpose all references to the economic ramifications of this particular section. While I agree with the sponsor of the amendment that the Clean Air Act is primarily a health issue, it would be naive not to reach the conclusion that many of the health decisions which are being made with regard to the Clean Air Act are Clean Air Act decisions being made with an eye toward the economic impact of those decisions.

The phenomenon of the one-way shot now has an environmental twist to it. Areas that have done a good job in cleaning up the air are paying the economic price when employers can move to areas that have not done a good job in cleaning up the air.

The national standards involved in this subsection will remove the economic disincentive to protect health by cleaning up our air. It is clearly and should be a purpose of this subsection that the American people should not be required to make a choice between clean air and jobs, and it is for that reason that I will move to strike this provision from the amendment.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I move to strike the last word for the purpose of making a parliamentary inquiry.

It is my understanding that the amendment offered by the gentleman from Georgia (Mr. LEVITAS) will be divided into three parts. Is that correct?

The CHAIRMAN. The gentleman is correct. A division of the question has been demanded.

Mr. BROYHILL. I thank the chairman.

The CHAIRMAN. Without objection, the Clerk will report that portion of the amendment on which a division of the question was demanded by the gentleman from New Jersey (Mr. FLORIO).

PARLIAMENTARY INQUIRY

Mr. FLORIO. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FLORIO. Mr. Chairman, just to have it abundantly clear, if one was to sustain my position, the understanding would be a "no" vote would sustain my position, and this section should be included in the bill rather than deleted from the bill pursuant to the intent of the gentleman from Georgia.

The CHAIRMAN. That is correct.

Mr. FLORIO. My vote would be a "no" vote.

The CHAIRMAN. The Clerk will report the portion of the amendment on which a division of the question was demanded by the gentleman from New Jersey (Mr. FLORIO).

The Clerk read as follows:

Page 199, strike out line 3 and all that follows down through line 6 and redesignate the following paragraphs accordingly.

The CHAIRMAN. The question is on that portion of the amendment offered by the gentleman from Georgia (Mr. LEVITAS) on which a division of the question has been demanded by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—ayes 12, noes 7.

So that portion of the amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. MAGUIRE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MAGUIRE. Mr. Chairman, if I am not precluded from offering my proposed amendment to page 203, I will be happy to withdraw my request for a division on that section of the amendment, if it is possible to do so.

Mr. Chairman, I ask unanimous consent to withdraw my request.

The CHAIRMAN. Since the Chair has put the question, unanimous consent is necessary. Is there objection to the request of the gentleman from New Jersey (Mr. MAGUIRE)?

There was no objection.

The CHAIRMAN. The question now is on the remaining amendments offered by the gentleman from Georgia (Mr. LEVITAS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: Page 203, strike out line 15 and all that follows down through line 22 and substitute:

"(ii) No Federal lands required to be initially designated as class I (but which may be redesignated as class II) may be redesignated unless the Federal land manager having authority over such lands concurs in such redesignation, and no Federal lands required to be initially designated as class I or II (but which may be redesignated as class III) may be redesignated as class III without such concurrence.

Mr. MAGUIRE. Mr. Chairman, I think this is a most important amendment. It has not received as wide discussion as some other amendments that have been offered and will be offered to this bill, but my feeling is that we should at this point pay very close attention to the fact that we are dealing here with Federal lands.

The argument behind this amendment is very simple. The argument is that the Federal Government has over a period of years set aside certain lands of special value to the Nation, so that they would be protected and preserved for the enjoyment of future generations of Americans. The Federal Government and all the people of this country, therefore, have a very special and continuing interest in the protection of these lands, and by protection we do not mean just the land itself, but also the air over the land.

Now, under the committee proposal national parks and wilderness areas between 1,000 and 25,000 acres, as well as national monuments, preserves, recreation areas, primitive areas and international parks larger than 25,000 acres may be redesignated by a State as class II.

Class I denotes an area which requires the most pure air and the most careful continuing scrutiny of any threat to those air resources; but a State may reclassify a class I area to class II. I would remind my colleagues that class II allows powerplants and other manufacturing processes to be developed up to and including the levels of pollution that we find in some of our major cities, such as Topeka and New Orleans, with respect to sulfur oxides.

Now, while we agree that the States should be granted maximum discretion in designating lands within their borders, does it not make sense that federally designated lands should be provided some Federal protection? National monuments like Death Valley, Calif., or the Bad Lands of South Dakota, could be reassigned by the States to class II under the committee bill. In order to protect lands such as these that are initially placed in class I, but may be placed in class II by the States, I believe it is only prudent that the Federal land manager of any such area be provided with the authority to disapprove such reclassifications which would make such areas vulnerable to much dirtier air.

Remember that this amendment applies only with respect to Federal lands. I think it is a sensible and modest proposal. I would urge the support of my colleagues for this amendment.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would point out that this amendment, as I read it, would give the Federal land manager the power to stop any redesignation of lands to class 2 if the local people feel that is in their best interests. There are, of course, many different land ownership patterns around the country; but in many States the local people own lands adjacent to Federal lands and the decision by a nonelected official, a Federal land manager, would effectively block any decision by either State or local people to redesignate or to classify that region, thus taking away from the local people and the State officials who have been elected the right to make the determination of how they are going to use their own land.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. What does the gentleman mean by own lands? We are talking about Federal lands here.

Mr. BROYHILL. The reason I say that is because in many areas the Federal lands may constitute a majority of the land, but the local people want to have some redesignation of classification in that region, and because of the action of the Federal land manager it effectively blocks them from redesignating that area as another class.

Mr. MAGUIRE. If the gentleman will yield further, is the gentleman comfortable with the situation which the present language would provide, which would be, roughly speaking, that the Federal interest in air over these Federal lands would no longer have any means of being asserted?

Mr. BROYHILL. I would point out that this class I is only a 2-percent increment which, according to the people that I have talked to, is hardly measurable, if at all. Class II, of course, is only a 25-percent increment, and allows only a relatively small amount of increase in pollution.

What I am saying is that the action of a nonelected official such as a Federal land manager could have the effect of preventing the local landowners who own land within and around the Federal lands from making their own decisions as to what they are going to do with their land. That is my interpretation of the amendment.

Mr. MAGUIRE. I thank the gentleman. He has not explained to my satisfaction how the Federal interest and the interest of all the people of the country is going to be protected in these areas, but I leave him to make his own judgment on that.

Mr. BROYHILL. The increments themselves in the section are designed to do that. I do not think the gentleman has the intention of saying that some Federal official who nobody has ever heard of would have the power to block or to stop redesignation or reclassification of an area.

Mr. MAGUIRE. If the gentleman will yield further, as the gentleman well knows, my view of class II increment is somewhat different than his. I am not sure he really wants me to get started on how class II allows pollution up to virtually any likely level of development, including nearly all powerplants presently proposed for this country, or any of the other manufacturing uses that we might want to have. I am simply saying that this may not be a proper designation under many circumstances for a Federal land area and that the Federal interest should be protected. The Federal land manager is responsible to elected Federal officials. We have got to preserve that Federal interest in these Federal lands.

Mr. BROYHILL. I do not know where the gentleman is getting his information. In the committee report, there is adequate information which shows that even class III classification area would substantially limit growth in this country after 1980.

Mr. MAGUIRE. On that the gentleman and I disagree, as he well knows.

Mr. ASHBROOK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 705]

Abzug
Addabbo
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Bonker
Brademas
Brodhead
Broomfield
Brown, Mich.
Burgener
Burton, Phillip
Butler
Carney
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Corman
Coughlin
Crane
Davis
Diggs
Dingell
Drinan
English
Esch
Eshleman
Evans, Colo.
Fary
Fish
Ford, Tenn.
Green
Hall, Ill.
Hannaford
Hansen
Harrington
Harsha
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holland
Horton
Howard
Jarman
Johnson, Colo.
Jones, N.C.
Karth
Kelly
Kemp
Ketchum
Landrum
Lehman
Lujan
McCloskey
McCollister
McKinney
Madden
Mann
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Mills
Mink
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nolan
O'Brien
O'Hara
O'Neill
Passman
Paul
Pepper
Peyser
Pike
Pressler
Quie
Randall
Rangel
Rees
Riegle
Risenhoover
Rodino
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Santini
Schneebeli
Sebelius
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Teague
Thompson
Udall
Ullman
Walsh
Weaver
Wiggins
Wilson, Bob
Wilson, C. H.
Wolff
Wright
Wylie
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 10498, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 284 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. At the time the point of order of no quorum was made, the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) was pending.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes. I would hope that Members would realize that we do have to finish title I tonight and if we go through the process of calling quorum calls it will not help the situation. It only will delay us. So it would be helpful if as many Members as possible would help us by staying on the floor and we can try to finish this quickly.

Mr. Chairman, I would hope that this amendment would be defeated because it, in effect, does the opposite of what the committee has tried to do in giving the States more discretion in their areas. Therefore I would urge that the amendment be defeated.

Mr. MAGUIRE. Mr. Chairman, would the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I would like to just state to those Members who are now here that I did not call for the quorum but since many Members are now here, I think it would be good to restate what the amendment does.

The committee bill provides that States may redesignate air quality regions. In most cases that makes a lot of sense, and the House has established that. However, Federal areas are areas that we should preserve for the future. All our people are concerned with the preservation and care of these Federal areas, and it is important to all citizens that the air over those lands be preserved just as is the land itself. Therefore, while deferring to the States on all else, we should preserve a Federal sign-off with respect to redesignations of Federal lands. That is what this amendment does, and it is consistent with current EPA regulations.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from New Jersey for that explanation.

I might say that the category 1 designation is mandatory and may not be revised for large national parks and wilderness areas. We give the States more discretion in other areas.

I would urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

The question was taken; and on a division (demanded by Mr. MAGUIRE) there were—ayes 17, noes 74.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROONEY: Page 232, strike out line 11 and all that follows down through line 9 on page 236 and insert in lieu thereof the following:

"SEC. 127. (a) Nothing in section 110(a) shall be construed to provide that an applicable implementation plan must prohibit the construction or modification (within the meaning of section 111(a)(4)) of any new major stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant if a waiver of such prohibition is granted under subsection (b) or a variance from such prohibition is issued under subsection (c). Nothing in this section shall be construed to require nonmajor sources to obtain a waiver or variance under this section and nothing in this section shall be construed to authorize any waiver of or variance from, any new source standard of performance or emission limitation under an applicable implementation plan.

"(b)(1) A waiver for purposes of subsection (a) may be granted under this subsection for the construction of a new major stationary source of particulate matter, sulfur dioxide, or carbon monoxide or for a modification of a major stationary source of any such pollutant, under the terms and conditions provided in paragraph (2).

"(2) A waiver under this subsection may be granted by the State in which such source is located or by the Administrator (with the consent of the Governor of such State) if, after notice and public hearing, the owner or operator of the proposed new or modified major stationary source—

"(A) demonstrates that all existing stationary sources owned or operated by him are—

"(i) in compliance with all provisions of applicable implementation plans under this Act; or

"(ii) in compliance with (I) approved schedules and timetables for compliance under applicable implementation plans, (II) compliance orders issued under section 113 before enactment of this section, or (III) compliance date extensions issued under this Act; and

"(iii) in compliance with all other requirements under this Act; and

"(B) presents such air quality modeling data and such other information as is necessary (in accordance with regulations of the Administrator) to demonstrate—

"(i) that emissions of particulate matter, sulfur dioxide, or carbon monoxide air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

"(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) the issuance of the waiver will not, by itself or in combination with other waivers or variances under this section, cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant; and

"(C) demonstrates that—

"(i) the issuance of such waiver will not result in an increase in emissions of any air pollutant for which national ambient air quality standards have not been promulgated (or an air pollutant which is transformed in the atmosphere into an air pollutant for which such a standard has not been promulgated), or

"(ii) any such increase will not cause (or materially contribute to) a significant risk to public health.

In any case in which a waiver under this subsection is granted by the State, such waiver shall take effect upon a determination by the Administrator that the requirements of this subsection have been met.

"(c)(1) A variance for purposes of subsection (a) may be issued for the construction of a new major stationary source of any pollutant or for the modification of a major stationary source of any pollutant under the terms and conditions provided in paragraph (2).

"(2) A variance for purposes of subsection (a) may be issued under this subsection for construction of a new major stationary source or for modification of major stationary source by the State in which such source is located or by the Administrator (with the consent of the Governor of such State) if, after notice and public hearing—

"(A) the owner or operator of the proposed new or modified major stationary source demonstrates—

"(i) compliance with the requirements of subsection (b)(2)(A) and (C);

"(ii) that the proposed new or modified major stationary source will comply with emission limitations requiring use of the best available control technology for that source (as defined by the State in which the proposed new source is to be located) which limitations shall be at least as stringent as the new source standards of performance applicable to such category of sources under 111; and

"(iii) that in the case of construction of a new source, alternative locations which would not necessitate a variance under this subsection are not available to that source (taking costs and other appropriate factors into account); and

"(B) the State (or the Administrator, as the case may be) demonstrates that—

"(i) the State is implementing each requirement of the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to the date of enactment of this section and by any compliance date extension, variance, or exemption under any other section of this Act);

"(ii) it is not feasible to revise the applicable implementation plan so as to permit such construction or modification without delaying the attainment of any primary national ambient air quality standard beyond the primary standard attainment date or interfering with the maintenance of any national ambient air quality standard;

"(iii) the State has, to the maximum extent feasible, utilized the provisions of section 126 to abate interstate pollution which affects air quality in such air quality control region;

"(iv) the applicable implementation plan for such air quality control region includes (or a revision has been submitted to include) emission limitations for the air pollutant with respect to which the national standard is being exceeded, which limitations require maximum feasible emission reduction from all major existing stationary sources of such pollutant in such air quality control region, and compliance schedules (including increments of progress) which require compliance with such limitations as expeditiously as practicable and which are adequate for the purposes of carrying out the requirements of this clause and clauses (v) and (vi) of this subparagraph;

"(v) the issuance of the variance will not, by itself or in combination with other waivers or variances under this section, cause or contribute to any significant increase in the frequency, duration, or intensity of air pollution levels in excess of any national ambient air quality standard or otherwise significantly exacerbate any such excess levels; and

"(vi) the granting of any such variance will not cause or contribute to delaying the attainment of, or to preventing the maintenance of, any national ambient air quality standard for such pollutant beyond the date such attainment would have occurred under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to date of enactment of this section and by any compliance date extension, or exemption under any other section of this Act), or beyond January 1, 1982, whichever date occurs earlier; provided that this clause (vi) shall not be construed to prohibit the issuance of a variance in a region where it cannot be demonstrated that the applicable implementation plan is adequate to attain and maintain each national ambient air quality standard by January 1, 1982 if it is demonstrated that such plan would have been adequate within the meaning of the previous phrase but for the issuance of one or more compliance date extensions under section 121 of this Act.

In any case in which a variance under this subsection is issued by the state, such variance shall take effect upon a determination by the Administrator that the requirements of this subsection have been met.

"(d) In the case of an application for a variance under subsection (c) submitted to the Administrator, not later than 180 days after date of receipt of the complete application (as determined in accordance with regulations of the Administrator), the Administrator shall act to grant or deny any such application.

"(e)(1) For the purpose of this section, the term 'major stationary source' has the same meaning as provided by section 121 (a)(3).

"(2) For the purposes of this section, the term 'maximum feasible emission reduction' means with respect to any air pollutant emitted from a particular existing source, a standard which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any non-air quality health and environmental impact and energy requirements, and the remaining useful life of that category or sources) the Administrator determines has been adequately demonstrated for that category of sources. A State may, in determining the date by which a particular source must comply with such a standard, take into account the source's remaining useful life and the remaining useful life of any emission control equipment timely installed and operated by such source pursuant to any other requirement of this Act.

"(3) For the purpose of this section, the term 'significantly exacerbate' includes, but is not limited to, cumulative total actual emissions from all existing stationary sources owned or operated in a region in which a variance is sought by the person applying for such variance, which total emissions (when considered together with the emissions from any proposed new sources or modifications for which variances are sought) are at any time in excess of 115 percent, or after January 1, 1982, 100 percent of the total cumulative emissions allowable from such existing sources (not including such proposed new sources or modifications) at such time under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to that date of enactment of this section and by any compliance date extension, or exemption under any other section of this Act).

"(4)(A) A variance under subsection (c) may only be issued with respect to a proposed new source or modification located in an air quality control region in which the national ambient air quality standard for the air pollutant for which the variance is sought is being exceeded as of the date of enactment of this section.

"(B) Notwithstanding subparagraph (A), a variance under subsection (c) may be issued with respect to any air quality control region—

"(i) for which there is insufficient data available as of the date of enactment to determine whether any national ambient air quality standard is being exceeded in that region; and

"(ii) for which the Administrator subsequently determines any such standard is being exceeded as of the date of enactment when sufficient data first becomes available for such a determination.

"(f)(1) For the purpose of carrying out the study described in paragraph (2), there is hereby established a joint Federal-State Committee on Sources, Fate, and Control of Atmospheric Pollutants which shall comprise—

"(A) the Chairman of the Council on Environmental Quality, who shall serve as Chairman of the Committee;

"(B) the Administrator of the National Oceanic and Atmospheric Administration;

"(C) the Administrator of the Environmental Protection Agency; and

"(D) ten Governors or their designees, each from a State within one of the ten Environmental Protection Agency Regions, which State contains one or more air quality control regions in which a national ambient air quality standard for photochemical smog or for total suspended particulates is being exceeded at the time of enactment of this subsection.

"(2) The Committee shall conduct a study of the sources, both man-made and natural, of all pollutants regulated under this Act, including precursors of photochemical oxidants, and within two years after enactment of this section shall report to Congress on matters including, but not limited to—

"(A) the extent to which measurements of ozone are an appropriate index to photochemical oxidant concentrations, especially concentrations of those oxidants associated with adverse health effects;

"(B) the relative extent to which oxides of nitrogen, hydrocarbons, and other pollutants contribute to the formation of photochemical oxidants and to measured levels of photochemical oxidants;

"(C) the extent to which reductions in man-made emissions of hydrocarbons is an appropriate means of achieving the national primary ambient air quality standard for photochemical oxidants;

"(D) the availability of field techniques for measurement of photochemical oxidants and their precursors and the reliability and precision of such techniques;

"(E) the extent to which man-made and natural emissions of particulate matter contribute to concentrations exceeding national ambient air quality standards for total suspended particulates;

"(F) the availability of field techniques for distinguishing between man-made and natural particulates in the ambient air;

"(G) the extent to which failure to attain the national ambient air quality standards for photochemical oxidants and total suspended particulates can be attributed to natural pollutants; and

"(H) such other matters related to the long-range transport of man-made pollutants or to natural background pollution as the Committee may deem appropriate."

Page 236, line 11, strike out "127(b)" and insert in lieu thereof "127(c)".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CARTER. Mr. Chairman, this amendment is 18 pages long. I hardly see how any man can explain it in detail in 5 minutes, and, therefore, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

Mr. CARTER. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. ROONEY) renew his request that the amendment be considered as read and printed in the RECORD?

Mr. ROONEY. I do.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. Mr. Chairman, I rise to offer an amendment to section 115 of the Clean Air Act Amendments of 1976. I offer this amendment in lieu of an earlier amendment to section 115 that I submitted last Friday, because I feel it strikes a more effective balance between the attainment of a sound environment and the perpetration of economic growth.

Permit me to explain briefly the amendment. It places the primary responsibility on the State for granting a variance for expansion or new construction in an area where the national ambient air quality standard is being exceeded. In granting a variance the State must determine that—

All existing major stationary sources owned by the proposed new or modified source are in compliance with the applicable implementation plan or schedules or timetable of compliance.

Best available control technology will be employed by the new or expanding source to achieve emission limitations which must be at least as stringent as new source standards of performance for this category of sources.

If a new source is to be built, there must be a showing that alternative locations which do not require a variance are not reasonably available to that source.

The State implementation plan cannot be revised to allow the new construction or expansion and still achieve and maintain the national air quality standards on a timely basis.

The State, to the maximum extent feasible, has utilized the provisions of section 126 to abate interstate pollution.

Maximum feasible emission reduction is required from all major existing stationary sources in an area where emissions limitations are being exceeded.

The variance by itself, or in combination with other variances will not cause or materially contribute to any significant increase in air pollution levels during the period of the variance.

In no event will a variance permit the delay in the attainment of, or prevent the maintenance of, any national ambient air quality standard beyond January 1, 1982.

Additionally, the amendment contains a waiver provision which provides that if air quality is exceeded in only a small portion of an air quality control region, a source can relocate in another area of that region provided that emissions will have an infrequent and insignificant impact on the area where the ambient air standard is being exceeded and provided the owner of the source is in compliance with all provisions of the act.

The amendment also establishes a Joint Federal-State Committee on Atmospheric Pollutants designed to study the sources and interrelation of man-made and natural pollutants and their effect on national ambient air quality standards.

The purpose of my amendment is simple: To effect a reasonable balance between economic growth and environmental protection. The implementation of an unduly burdensome provision which would stymie industrial expansion would most probably work to the detriment of this Nation's fragile economy. At this juncture we need an infusion of money and new jobs to bolster an ever so slightly improved economy. I am an advocate of balanced growth and environmental protection. My amendment offers us the opportunity for growth and sound environment, but it does not retreat from the basic commitment to attaining and maintaining healthy air quality.

I include the following:

NON-ATTAINMENT AMENDMENT: HIGHLIGHT OF MAJOR POINTS

The amendment which I am offering to section 115 of the bill is intended to have two main purposes: (1) to continue progress toward attaining and maintaining national ambient air quality standards while retaining the primary commitment to protection of the public's health; and (2) to permit

States to allow continued economic growth in dirty air areas under conditions which will be compatible with the first purpose. In addition, the amendment contains certain provisions which need to be highlighted.

1. The amendment contains a strong incentive to bring non-complying sources into compliance.

In order to be eligible for a waiver under subsection (b) or for a variance under subsection (c), the applicant must have all of its existing major stationary sources and facilities in compliance with applicable Federal, State, and local emission limits or in compliance with a compliance schedule to meet such limits. This condition of eligibility applies to all major stationary sources and facilities (i.e. with design capacity to emit 100 tons of pollution per year) controlled by, under the control of, or otherwise affiliated with the person seeking the waiver or variance. This condition of eligibility is not limited to major stationary sources and facilities owned or operated by the applicant which are in the same air quality control region or State as the new construction or modification for which the variance or waiver is sought; the condition applies to all of the applicant's major stationary sources and facilities, anywhere in the United States. In order to be eligible for a waiver or a variance, the applicant must make this showing by listing all major stationary sources and facilities owned, operated or controlled by him and by presenting State certifications of compliance or other equally persuasive proof of compliance for each such source and facility. The rationale behind this condition of eligibility is that no person should be eligible for the waiver or variance which would permit increased emissions in presently polluted areas, unless that person is presently proceeding on schedule to meet existing requirements in his existing major sources and facilities.

2. The amendment protects States rights and leaves intact the non-preemption policy of section 116 of the Act.

The waiver and variance provisions contained in my amendment grant authority to the States and to the Administrator. They are discretionary, not mandatory. They establish conditions of eligibility, not of entitlement. Thus, the amendment protects States rights in several ways. First, because the amendment is discretionary (like other compliance date extension, waiver and variance procedures established in the bill), no State would be required to grant a waiver or variance if it did not want to do so. If a State wants to curtail economic growth in order to attain the health or welfare standards, it may deny the waiver or variance even if the applicant meets all the conditions of eligibility. Second, although the amendment authorizes the Administrator to grant a waiver or variance, the Administrator's action may not become effective until and unless the Governor of the State in which the new construction or modification is to occur must concur. To underscore my intention not to preempt the States. I have deliberately left section 116 of the existing Act intact.

3. The amendment does not abandon the requirement that the national ambient air quality standards be attained and maintained throughout the country. Nor does it permit the indefinite postponement of that requirement.

To the contrary, the amendment retains the existing Clean Air Act's commitment to attainment of the national standards by a fixed date and maintenance of the standards thereafter. Under the amendment, the waiver under subsection (b) may only be granted (in situations like that in the coal conversion provision of the bill where the regional limitation presumption is rebutted) upon a showing, *inter alia,* that the increase in emissions of any localized air pollutant will not cause or contribute to air pollution levels exceeding national standards. The variance under subsection (c) may only be granted upon a showing, *inter alia,* that notwithstanding the new construction or modification, there will be no delay in the date attainment would have occurred. In no event may a variance be granted if it would cause or contribute to levels exceeding any national ambient standard after January 1, 1982. This is not only a finding which must be made at the time the variance is granted. In order to assure timely attainment of all national standards, the applicable implementation plan must contain, or be revised to include, enforceable emission limitations and compliance schedules which will be adequate to provide such assurance.

4. The amendment authorizes variance and waivers on a pollutant-by-pollutant basis. Thus, a waiver or variance for one pollutant will not relieve any new or modified source from the duty to comply with all applicable requirements for other pollutants.

This point is evident from the langauge of the amendment itself. If a new source would emit both sulfur oxides and particulates and it plans to locate in a region in which both sulfur oxide and particulate standards are being exceeded, then the owner of the proposed new source would have to show that the conditions of section 115 of the bill as amended by my amendment are met for each of the pollutants. If the same source plans to locate in a region in which sulfur oxide standards are being exceeded but the particulate standards are being attained, then the owner of the proposed new source would have to obtain a variance with respect to sulfur oxides, but would still have to meet all plan requirements for particulates.

5. The amendment would provide primary authority to the States but with adequate back-up authority in the Administrator to assure that the Federal requirements under the amendment are met.

Under my amendment, the States would primarily be responsible for deciding whether or not to grant a waiver or variance. But the amendment also provides that the Administrator may refuse to approve a State-granted waiver or variance. This Federal back-up authority is not intended as a *carte blanche* grant of authority to the Administrator to overturn the State's exercise of discretion. Thus, the Administrator may not withhold approval of a State waiver or variance under this section, unless he finds that the congressionally-mandated procedures and substantive requirements specified in this section have not been complied with. A similar State-Federal system is established for the purpose of the requirement that the applicable implementation include, or be revised to include, "maximum feasible emission reduction" requirements for other major stationary sources in the region. Under my amendment, the Administrator may establish "maximum feasible emission reduction" requirements for categories of sources generally. But it is the State which is to determine the time when it will be feasible for individual sources within that State to comply. Furthermore, while the Administrator must permit States to consider the remaining useful life of a source for this purpose, States would not be precluded from adopting and enforcing more stringent requirements if they choose to do so.

6. The amendment assures that the variance approach will only be used when it is not feasible to revise the plan to permit the new or modified source to be built without any change in the time of attainment of the national air quality standards. It thus ratifies EPA's present trade-off policy when it is feasible to do so, but provides additional flexibility when it is not feasible to do so.

Under my amendment, before a variance could be granted, there would have to be a showing by the State that a plan revision providing for further or earlier emission reductions by other existing sources and approvable under section 110(a)(3) is infeasible to deal with the proposed new construction or modification. This requirement is intended to ratify EPA's current trade-off policy, i.e. requiring existing sources to ratchet down on allowable emissions insofar as technologically feasible in order to permit the new construction or modification without any change in the time of attainment of the national air quality standards. Only when the plan revision trade-off approach is not technologically feasible would a variance be authorized. On the other hand. the EPA trade-off policy may not be adequate when it is not technologically feasible to obtain the necessary degree of continuous emission reduction from existing sources to permit the new source to be constructed. My amendment meets this problem by authorizing a variance to be granted in such a situation.

Mr. Chairman, I will be happy to answer any questions the member may have.

Mr. MILLER of California, Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania. I think the amendment offers that compromise many of us have been looking for so we can have increased expansion of new and clean facilities and are willing to put out the money to obtain the state of the art necessary to have clean air while at the same time forcing the older facilities to undergo a revamping of inadequate controls.

This amendment would allow economic growth to continue in a reasonable fashion and to provide necessary jobs during this time of high unemployment. Without this amendment the construction of new industries will be impossible because of past neglect. As a result, the developers of new facilities who are prepared to comply with new tough laws will be denied a chance to locate in these areas.

In many instances the cost will not only be jobs but also increased energy cost and waste and much higher prices to consumers as a result.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. ROONEY. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I ask my good friend, the gentleman from Pennsylvania, if this amendment does not apply to areas which already exceed the primary and secondary ambient air standards and would permit those areas to continue to exceed those standards until 1982?

Mr. ROONEY. That is correct.

Mr. CARTER. I wonder, I ask my good friend, why it is that he would have some areas that will continue to be allowed and be permitted to be polluting the air, thereby polluting even more, while other areas the gentleman would want to have this legislation permit little or no growth.

Mr. Chairman, it is difficult for me to understand.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I wonder if the gentleman would permit me to say what the bill does?

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ROONEY) has expired.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have looked over the amendment and we think it is acceptable.

Now, may I reply to the question of the gentleman from Kentucky? I know of the concern of my good friend and distinguished colleague on the subcommittee. What the bill did, and the committee decided to do, was to say that there are areas where they have reached the limit of the ambient air standards, or exceed them even. In those areas, the bill provides authority to permit expansion of existing plants under limited circumstances. For instance, a plant may want to modernize and start changing from one operation to another. In order not to prevent growth in these areas altogether, the bill provided for flexibility to permit expansions but required the area to reach the clean air standards by 1980. This amendment extends the deadline to 1982. The amendment does not just apply to modernizing or expanding present equipment, but would authorize new plants to come in as well under limited circumstances. That is basically all it is doing.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I am delighted to yield.

Mr. CARTER. Mr. Chairman, in reading the report, carefully written and signed, by the gentleman from Florida (Mr. ROGERS), I find that the gentleman states that the primary and secondary standards which are proposed in this legislation actually may not be helpful and the gentleman wants to strengthen them.

Mr. ROGERS. They may well need to be strengthened.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, in clean air areas the gentleman wants to bring them down to 90 percent, make them 10 percent more stringent; but in areas such as this and in steel mills, and this is a steel amendment, by the way.

Mr. ROGERS. It can apply to other sources than steel.

Mr. CARTER. It will continue to apply until 1982.

Mr. ROGERS. Mr. Chairman, if the gentleman will permit me to respond, not only does this amendment pertain to dirty regions where the standards are exceeded throughout the region; it also applies to those regions where it may be exceeded in only one area, but not throughout. Under the waiver authorized by this amendment a plant could come into that area and say, "Well, really, we are not contributing to the area where the standards are exceeded." In such a case that plant could be built in this region. Otherwise, it would be barred.

We think that is a reasonable approach.

Many would say that we are not going to let any growth occur, but we are trying to have a reasonable approach. Some might even propose that they let automobiles continue to pollute beyond what they should and the committee is going to try to clean new cars up; but we are trying to take a reasonable position. We think this is reasonable.

Mr. Chairman, I would urge adoption of the amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS. Certainly, I yield.

Mr. CARTER. Mr. Chairman, of course I realize there are many noxious substances emitted by automobiles, no question about it, and by humans since the Earth began. I regret that very much, but this very amendment would permit the continuance of the hazards which have gone with the steel mills over the years. This is one of the areas in which we are unbalanced. We are not following the primary and secondary standards which I have advocated from the word go.

Mr. ROGERS. Mr. Chairman, if I may be permitted to respond, this amendment only applies to regions where the standards are already exceeded. Attainment would still be required not later than 1982.

Some would not even have the cars clean up the noxious substances by 1985, so this is saying by 1982 they have to clean up, even before they clean up the cars.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, I believe the present law requires that these areas be cleaned up without this amendment. This is one that permits more pollution.

Mr. ROGERS. Until 1982. By that date, it says they have to clean up; so I think the amendment should be adopted.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is one of the things that I have observed about this legislation, that it has not been fair and square across the board. In some areas, we are following primary and secondary standards. Primary standards are set up to protect the public health; secondary standards to protect the environment.

In this case, in order to get support for this legislation, we have made a sweetheart amendment with the steel industry to let them continue to pollute for 7 more years. I believe that this amendment should be defeated. Either they should clean up or shut down, and I oppose this amendment.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address two questions to the chairman of the subcommittee.

I have two questions regarding this amendment which I would like resolved. First, is the administrator or the State required to grant a permit to a facility that meets the criteria set forth in this amendment? Second, I am concerned about the effect this amendment would have on pollutants for which no ambient air quality standards have been set. I am concerned, for example, that a new stationary source might exacerbate a serious air pollution problem involving a pollutant for which no national ambient air quality standard has yet been set. Southern California, for example, suffers from extremely high levels of sulfate air pollution, but we have been told we will not have a national ambient air quality standard for sulfates before 1981 at the earliest. How does this amendment address this situation?

Mr. ROGERS. Will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Florida.

Mr. ROGERS. With regards to your first question, this amendment does not require the State or the Administrator to grant a permit for a new stationary source that can make the appropriate showings. It merley makes clear that he is not required to deny a permit to such a source merely because the source is located in a region, some part of which is not in compliance with the national ambient air quality standards. With regards to your second question, under the amendment, one of the required showings for a variance or waiver is that the variance or waiver will not result in a significant risk to health from any unregulated pollutant such as sulfates.

Mr. WAXMAN. I thank the gentleman for his clarification of these points.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The question was taken.

RECORDED VOTE

Mr. CARTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 198, answered "present" 1, not voting 128, as follows:

[Roll No. 706]

AYES—103

Alexander
Bevill
Boland
Breaux
Breckinridge
Brinkley
Buchanan
Byron
Coughlin
Daniels, N.J.
Davis
de la Garza
Dent
Devine
Dickinson
Dingell
Edwards, Ala.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Gaydos
Giaimo
Gonzalez
Goodling
Hanley
Hannaford
Harsha
Hightower
Holt
Howe
Hughes
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jordan
Kastenmeier
Kazen
Kemp
Kindness
Krebs
LaFalce
Latta
Leggett
Lloyd, Calif.
McCormack
McDade
McEwen
McFall
McKay
Mahon
Michel
Miller, Calif.
Miller, Ohio
Mineta
Moore
Moorhead, Pa.
Murtha
Myers, Pa.
Nedzi
Nichols
Nix
Nowak
Oberstar
Patten, N.J.
Perkins
Poage
Regula
Roberts
Rogers
Roncalio
Rooney
Ruppe
Santini
Scheuer
Schneebeli
Schulze
Shipley
Shuster
Skubitz
Slack
Stanton, J. William
Stratton
Sullivan
Symington
Teague
Thornton
Traxler
Treen
Vander Jagt
Waggonner
White
Wilson, Tex.
Zablocki

NOES—198

Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Ashley
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Biester
Bingham
Blanchard
Blouin
Boggs
Bowen
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Carr
Carter
Cederberg
Chappell
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Delaney
Dellums
Derwinski
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Calif.
Emery
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Fisher
Flynt
Ford, Mich.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gibbons
Gilman
Ginn
Goldwater
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hillis
Holtzman
Hubbard
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jones, Okla.
Jones, Tenn.
Kasten
Keys
Koch
Krueger
Lagomarsino
Landrum
Lehman
Lent
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McDonald
McKinney
Madigan
Maguire
Martin
Mathis
Meeds
Meyner
Minish
Moakley
Moffett
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Neal
Obey
O'Brien
Ottinger
Patterson, Calif.
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rose
Roush
Roybal
Sarasin
Sarbanes
Satterfield
Schroeder
Seiberling
Sharp
Shriver
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steiger, Wis.
Stokes
Studds
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Wampler
Waxman
Whalen
Whitehurst
Whitten
Wilson, C. H.
Winn
Wirth
Wydler
Yates
Young, Fla.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—128

Abdnor
Abzug
Adams
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Beard, R.I.
Bell
Bergland
Biaggi
Bolling
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Burgener
Burton, Phillip
Butler
Carney
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Corman
Crane
Danielson
Derrick
Duncan, Oreg.
Eckhardt
English
Eshleman
Fary
Ford, Tenn.
Green
Hall, Ill.
Hall, Tex.
Hansen
Harrington
Hawkins
Hébert
Heinz
Helstoski
Hinshaw
Holland
Horton
Howard
Jenrette
Jones, N.C.
Karth
Kelly
Ketchum
Lujan
McCloskey
McCollister
McHugh
Madden
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Mills
Mink
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nolan
O'Hara
O'Neill
Passman
Pattison, N.Y.
Paul
Pepper
Peyser
Quie
Randall
Rangel
Rees
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Sebelius
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symms
Thompson
Ullman
Vigorito
Walsh
Weaver
Wiggins
Wilson, Bob
Wolff
Wright
Wylie
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

Messrs. WAGGONNER, SKUBITZ, MICHEL, and RUPPE and Mrs. SULLIVAN changed their vote from "no" to "aye."

Messrs. LEHMAN, WIRTH, and LOTT changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SATTERFIELD

Mr. SATTERFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SATTERFIELD: Page 205, line 19, place a semicolon after "law" and delete all thereafter through and including line 25.

Mr. SATTERFIELD. Mr. Chairman, this amendment is to section 108 and specifically to the provision which provides for the designation and redesignation of areas of significant deterioration protection. Under this provision the administrator may approve the designation or redesignation if it conforms with stated requirements and, under an amendment to this bill, if the Governor of the State, after consultation with the appropriate legislative committee if the State legislature is in session or the State legislative leadership if it is not, provided the State law does not require the State legislature to act, and by general purpose units of local government.

This would permit the general purpose unit of local governnment to veto an action taken by the State, of which it is a creature, from which it derives its authority and its power and even its existence.

Mr. Chairman, the relationship between State and local governments is not the constitutional business of the Federal Government and yet by this provision we would be inserting the Federal Government into that relationship.

This provision, in my view, is unreasonable, unnecessary and an unwarranted incursion by the Federal Government into that protected relationship and thus violates basic principles of our Federal system which recognizes the separation between the Federal and the State governments as essential to it.

My amendment is quite simple. It does not alter any of the basic requirements of this provision. It does not alter the thrust of this provision. But it would provide that the Governor only, according to the amendment we have adopted. and not general purpose units of local government, shall have the power to designate or redesignate at that level. All it does is to remove language providing that general purpose units of local government will have the power to designate notwithstanding action to the contrary by their State.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PREYER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this would strike the local government involvement in the process of cleaning up our air. It would exclude local government in favor of the States. After all, the local government is the government closest to the people, and it is one which is going to be very involved in changes in the air quality. Great changes can be made in the air quality of an area which affect the residents of that area. An area can go from a clean area to a dirty area and still be within the limits of the National Ambient Air Quality Standards and within the requirements of this bill, and this could be done without the local people having any say in it if we pass this amendment.

I would point out that the bill as it is now written—this provision in the bill—is supported by the League of Cities, by the National Association of Counties, by the Conference of Mayors, by the Governors Council, and I think with that sort of support we should reject the amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the arguments have been well stated. Certainly we ought to keep in the local governments. That is why we are trying to make a change in the current EPA regulations which wrongfully ignore local governments. I would urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SATTERFIELD).

The question was taken; and on a division (demanded by Mr. SATTERFIELD) there were—ayes 20, noes 31.

RECORDED VOTE

Mr. SATTERFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 32, noes 263, answered "present" 1, not voting 134, as follows:

[Roll No. 707]

AYES—32

Armstrong
Ashbrook
Brinkley
Burleson, Tex.
Carter
Chappell
Collins, Tex.
Daniel, Dan
Daniel, R. W.
Davis
Dickinson
Dingell
Downing, Va.
Evins, Tenn.
Hammerschmidt
Henderson
Jarman
Jenrette
Johnson, Pa.
Jones, Okla.
Krueger
McDonald
Quillen
Risenhoover
Roberts
Robinson
Satterfield
Schneebeli
Treen
Waggonner
Wampler
Whitehurst

NOES—263

Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bowen
Breaux
Breckinridge
Brown, Mich.
Brown, Ohio

Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carr
Cederberg
Cleveland
Cochran
Cohen
Conable
Conte
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
de la Garza
Delaney
Dellums
Dent
Derwinski
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holt
Holtzman
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Martin
Mathis
Meeds
Meyner
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Railsback
Regula
Reuss
Rhodes
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Roush
Roybal
Ruppe
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waxman
Whalen
White
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Yates
Young, Fla.
Zablocki

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—134

Abdnor
Abzug
Adams
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Bolling
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Burgener
Burton, Phillip
Butler
Carney
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Corman
Crane
Danielson
Derrick
Devine
Diggs
English
Eshleman
Evans, Colo.
Fary
Flynt
Ford, Tenn.
Green
Haley
Hall, Ill.
Hall, Tex.
Hansen
Harrington
Hawkins
Hébert
Heinz
Helstoski
Hinshaw
Holland
Horton
Howard
Johnson, Colo.
Jones, N.C.
Karth
Kelly
Ketchum
Landrum
Lujan
McCloskey
McCollister
Madden
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Mills
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nolan
O'Hara
O'Neill
Passman
Paul
Pepper
Peyser
Quie
Randall
Rangel
Rees
Richmond
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Sebelius
Sikes
Sisk
Snyder
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symms
Thompson
Udall
Ullman
Vanik
Walsh
Weaver
Wiggins
Wilson, Bob
Wilson, C. H.
Wright
Wylie
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

Mr. PATTEN and Mrs. BURKE of California changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. LEVITAS. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, among the amendments that I propose to offer to this bill is one dealing with sulfur dioxide. I have an amendment here that I had planned to offer, concerning the class II 3-hour increment for sulfur dioxide. This amendment would raise that increment by 40 percent under certain circumstances, by Governor's regulation, for a specific source. I have decided not to offer this amendment, but I would like to discuss the reasons why I have considered this issue important enough to think about an amendment. I am concerned about flexibility with regard to new energy and economic development—this is my overall concern.

First of all, I am bothered by the inconsistency between the EPA's regulation figures for the sulfur dioxide 3-hour class II level and the provision in the bill. Could the gentleman from Florida expain: Why the large difference between EPA's 3-hour sulfur dioxide increment and the committee's increment?

Mr. ROGERS. I will be pleased to answer the gentleman if he will yield to me.

Mr. LEVITAS. I will be happy to yield to the gentleman.

Mr. ROGERS. Mr. Chairman, the EPA and the committee's class I and class II increments are roughly similar. Actually the committee's increments are generally slightly less restrictive than EPA's, with the exception of the 3 hour, sulfur dioxide increment for class II. EPA has set this one increment more than twice as high as the committee bill.

The committee calculated its increments as a proportion of the existing national ambient air quality standards. Class I increments were set at 2 percent of the lowest national standard—10 percent for particulates. Class II increments were set at 25 percent of the standards, and class III increments at 50 percent of the standards. So, the committee's increments are each exactly proportional to the national standards.

EPA did not set its increments proportionally to protect a certain quality of air. Rather they were set so as to allow a large, relatively uncontrolled coal-fired powerplant to locate under class II without exceeding the increments. That explains why the EPA 3-hour increment is so out of line with its other increments, and with the committee's.

The committee has great difficulty understanding this approach to protection of air quality. EPA's current regulations for new sources of pollution do not accurately reflect actual achievable pollution reduction. In fact, EPA is currently reviewing its new source standards of performance because of congressional and public criticism of them as unrealistic.

That is why this bill requires EPA to revise those new source regulations to more accurately reflect the levels of pollution reduction that are achievable, taking into account costs, energy impacts and other nonhealth environmental impacts.

So the committee increments are structured to reflect the bill's requirement for more realistic control of new powerplants and other facilities.

Mr. LEVITAS. I thank the gentleman. I am particularly pleased to hear that costs and energy requirements must be considered. Such considerations are critically important and in the past often have been overlooked. Can the gentleman give me some idea of the impact of these requirements on new energy development, particularly new coal-fired powerplants? Particularly with regard to the 3 hour SO_2 increment?

Mr. ROGERS. Of course, EPA and FEA have analyzed the committee bill, and specifically have examined the proposed class II increment referred to by the gentleman.

Those studies show that new plants up to 6,500 to 8,000 megawatts could be built without exceeding class II increments. Of course, if a State redesignates to class III, plants up to twice that size could be built. But the class II increments themselves will allow, according to EPA and FEA, powerplants up to 2½ times larger than the largest in the United States today.

In fact, EPA has reported that with revised new source standards, more and larger new industry can be built under the committee's class II increments than under current EPA regulations.

So the committee believes, as EPA and FEA studies have shown, that the increments are reasonable and balanced.

Mr. LEVITAS. I have heard statements that the committee bill may discriminate against rural, clean air areas by preventing increases in pollution and, therefore, ruling out further industrial development in those areas. Naturally, such statements concern me because, if they are true, areas such as mine would suffer economic stagnation.

Mr. ROGERS. I can completely understand the gentleman's concern. If this were the case I also would be concerned for my district would suffer too.

Of course, it is not true. Let me explain. The House bill actually allows large increases in pollution in rural and all other presently clean air areas. Decisions on economic growth and future pollution levels will remain with the State and local governments. All non-Federal lands which are cleaner than the ambient air quality standards and 95 percent of all Federal land, would start as class II. Class II designation allows sizable increases in pollution over existing levels in every part of a classified area. As I said earlier, EPA studies have shown that a new plant up to 2½ times larger than the largest coal-fired electric powerplant now in existence could locate in a class II area. Another powerplant or other large industry could locate as close as 1 mile away.

If a State chooses, it may—without EPA approval—redesignate an area as class III. In this case, that area could have pollution increases twice as large as a class II area, allowing regionwide development of heavy industry.

Actually, already developed areas with higher levels of air pollution will still have less room for new industry than cleaner, rural areas.

So you can see that the bill does not discriminate against rural and other presently clean air areas. Their future growth and the determination of how air resources of an area will be used will rest with the State and local governments.

Mr. LEVITAS. The gentleman has answered my questions and I appreciate that. I trust that if I or my constituents have any further questions, that we can continue to discuss them openly and frankly with the gentleman and the committee.

Mr. ROGERS. The gentleman's questions are important ones and his fine efforts are deeply appreciated. I can assure him that as we move forward on this bill—into conference—the committee will remain open to consultation on this and any concerns he may have.

Mr. O'BRIEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, while we are all familiar with the wide variety of aerosol products which utilize a halocarbon propellant—and therefore would fall within the purview of section 107 of H.R. 10498—there are a number of products using such a propellant with which we may be less familiar, but which play an essential role in the daily lives of millions of Americans. Those products to which I refer are the aerosols used by people for medical purposes, such as metered dose asthmatic inhalators, dermatological preparations, and products to render emergency treatment for burns, to mention but a few. Is the committee aware of these specialized products and, if so, what treatment did the committee intend to accord them under the terms of this section of the bill?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I will be glad to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I will be glad to answer. I know that the gentlewoman from New Jersey (Mrs. FENWICK) is also interested in this matter. I appreciate the distinguished gentleman's focusing attention here today on this class of products. The committee is cognizant of the importance of these medical-use products. I have been in contact with several allergy specialists who are constituents of mine as well as with certain industry representatives, and we have discussed this matter in some detail. I have a letter from State and Federal associates which describes in detail the types of products involved, their medical uses, and the limited extent of their potential impact on the environment.

Mr. Chairman, the letter to which I have just referred is as follows:

STATE AND FEDERAL ASSOCIATES, INC.,
Washington, D.C., June 7, 1976.

Re H.R. 10498—Clean Air Act Amendments of 1976.

Hon. PAUL ROGERS,
Chairman, Health and Environment Subcommittee, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. ROGERS: On behalf of myself and our client, Schering-Plough Corporation, I want to express our appreciation for the assistance you have provided thus far in clarifying the Committee's intent relative to medical-use aerosols. Your leadership on this issue is manifested in the Committee Report specifying that the authority granted to the Administrator of EPA by Section 107—Stratosphere and Ozone Protection—of H.R. 10498 does not extend to banning propellants or drugs necessary for medical purposes for which no adequate substitute delivery system exists. This clarification, to the extent that it is reinforced at the appropriate procedural times, is significant to the millions of persons to whom such products play an essential—if not life-saving—daily role.

As you know, a number of pharmaceutical products come in an aerosolized form which utilizes, by necessity, a halocarbon propellant. Although small numerically when contrasted with the total number of pharmaceutical products, many of the medical-use aerosol products containing halocarbon are essential to the public health. These are not products which have been so packaged as to make them merely convenient to use, but in most cases are products which have been designed in the research laboratories, formulated by the research scientists and packaged so as to make them more effective for the purposes intended. Included among such products are:

Virtually all of the asthma/emphysema metered dose inhalator products;

Certain burn treatment products;

A number of prescription dermatological products;

Specialized products for the treatment of migraine headaches; and

Products which are carried by those to whom a bee sting can be fatal.

While these products obviously fill an essential medical need, interestingly their usage of halocarbons is minuscule. It has been estimated that these medical-use products account for less than 1% of the total usage of halocarbons, with the usage for individual categories of products being correspondingly small. For example, the metered dose asthmatic inhalator products account for only 0.03 of 1% of the usage of halocarbons—a trifling amount when contrasted to the importance of these products in the lives of millions of asthmatics.

Obviously the need for Section 107 of the Clean Air Act is predicated on the hypothesis that halocarbons destroy the ozone—a hypothesis which more recent scientific evidence tends to limit, if not refute—however, we recognize the need for Congress to act now so that appropriate studies can be undertaken and a regulatory framework developed which can be implemented if these studies demonstrate such a need. Our primary concern has been that H.R. 10498 does not sufficiently specify the treatment to be accorded medical-use products by the Administrator.

While it is our belief that such a Congressional directive could best be conveyed by means of an amendment to H.R. 10498, the language appearing in the second paragraph on page 82 of House Report 94–1175 helps make clear that the Committee "does not intend to authorize or require the Administrator to prevent the use" of such products.

Your continuing concern with the health care implications of legislation coming before the Congress is well-recognized; and your assistance in clarifying the Ozone Protection portion of the Clean Air Act will help insure the continued availability of those medical-use products which are important in the daily lives of many Americans.

Sincerely,

MARTIN MILLER,
President.

Mr. Chairman, to more fully answer the gentleman's question, the committee is of the opinion that the current wording of section 154 of the stratosphere and ozone protection portion of H.R. 10498 is sufficient to authorize the Administrator of EPA to exempt such products or classes of products as the gentleman has mentioned. To further buttress that view, the committee included specific reference to our intent as it relates to such medical-use products on page 82 of the committee report.

Mr. O'BRIEN. To pursue this point a bit further, is it then the view and intent of the committee that if the studies demonstrate that halocarbons are affecting the ozone and the Administrator finds it necessary, among other things, to control—or perhaps ban—the use of halocarbon-containing aerosol products, that the current wording of H.R. 10498 authorizes him to allow the continued sale and use of medical-use aerosols?

Mr. ROGERS. The gentleman is correct. The committee is of the opinion that the language of section 154—authorizing the Administrator to regulate "any substance, practice, process, or activity" affecting the ozone—gives him the authority to ban some halocarbon-containing aerosols while exempting from such ban products, or classes of products, with a medical use.

Mr. O'BRIEN. The distinguished gentleman from Florida is most kind to explain the intent of the committee, perhaps he would indulge me one further question. You have made it quite clear that the committee intends to cloak the Administrator with sufficient power to exempt medical-use aerosols; if the studies we are authorizing demonstrate that halocarbons are affecting the ozone, the Administrator may be reluctant to assume the political risks attendant with making any exemptions. Does the committee intend to authorize the Administrator in that situation to in fact ban medical-use products?

Mr. ROGERS. The gentleman from Illinois has asked a very good question which gets to the crux of the matter. As we pointed out in the report, the committee intends these sections of the bill dealing with the stratosphere and ozone protection to be used to advance—not reduce—the protection of the public health. For example, in the case of metered dose asthma inhalators, such products offer relief to millions of Americans while accounting for less than three one-hundredths of 1 percent of the usage of halocarbons. Obviously, any possible danger to the atmosphere from these products is trifling compared to the health benefits they confer. This is an example of the type of product which we envisaged when the committee stated in the report that it did not intend to authorize the Administrator to prevent the use of products necessary for medical purposes for which no adequae substitute propellants exist. We intend—and expect—the Administrator to exempt from any general ban such medical-use products for which no adequate substitute propellants exist.

Mr. O'BRIEN. I thank the gentleman from Florida for this explanation of the intent of this section of the legislation as it relates to these important medical-use products.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inquire of the chairman of the subcommittee about the provisions of the bill that relate to the iron ore mining industry in my district in northeastern Minnesota which supplies 90 percent of the domestic iron ore and taconite required by the Nation's steel industry.

I have supplied the subcommittee chairman with a map of the area and in writing have delineated some of the problems, the principal issue being that the taconite plants which now use natural gas to pelletize the ore will be required to convert to coal over a period of time, and during this period of conversion they will have some problems.

Assuming that we enact this legislation, when would the taconite plants be required to comply?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, of course, the effective date of this bill upon enactment.

Mr. OBERSTAR. Then given the timetables, which I have provided the chairman of the subcommittee, for delivery of coal conversion equipment and emission control systems, would the companies be eligible for extension of time, and how many years?

Mr. ROGERS. Yes. Mr. Chairman, if the gentleman will yield further, they would be subject to receive up to a 5-year extension, and it would be 10 years if the FEA actually ordered the change.

Mr. OBERSTAR. If they are ordered by the FEA to comply?

Mr. ROGERS. Yes, that is correct.

Mr. OBERSTAR. What further puzzles me is that there is another provision in section 108 authorizing a variance. I do not quite understand how that variance applies to this situation, or who may grant it.

Mr. ROGERS. Mr. Chairman, section 108 states that for these pollutants the variance would be up to 5 years for significant deterioration purposes.

Mr. OBERSTAR. Mr. Chairman, if the gentleman will refer to the map I have given him, there is a distance of some 31 miles between the iron ore mining country and a class I mandatory area, the Boundary Waters Canoe Area, a unit of the national wilderness system. Is that a mixing zone in which more regulations would apply?

Mr. ROGERS. No. The bill actually prohibits arbitrary or uniform buffer zones.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman. He has explained something that is very important to the iron ore mining industry and to the economy and environment of northeastern Minnesota.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: Page 206, line 14, insert the following before the period: "or that the State has arbitrarily and capriciously disregarded relevant environmental, social, or economic considerations in making such designation or redesignation."

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, I will not object if the gentleman can identify this amendment for me.

Mr. MAGUIRE. Mr. Chairman, if the gentleman will yield, this is relating to page 206, line 14.

Mr. BROYHILL. Does that appear in the RECORD?

Mr. MAGUIRE. Yes.

Mr. BROYHILL. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, this amendment, which was the subject of a "Dear Colleague" letter to all Members signed by an equal number of Democrats and Republicans, is designed to retain the review power which EPA presently has over redesignation of land areas in cases where EPA finds that the plans submitted by a State arbitrarily and capriciously ignore relevant social, economic, and environmental interests.

This is important because without this provision States will be in competition with each other in order to attract industries for economic development and for more jobs.

The only way to prevent loosening of air standards from becoming one of the pawns in this continuing battle is to provide an additional check against arbitrary and capricious redesignation beyond what is provided presently in the bill, which is no check at all.

We do not expect that this authority will be used very often. It will be rarely used, but its very existence will discourage irresponsible reclassifications.

Mr. Chairman, a consistent national policy requires this safeguard if we are to protect the States from uneven industrial growth caused by widely varying pollution standards. This authority will also provide an appeal mechanism other than the Federal courts.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I would like to commend the gentleman from New Jersey (Mr. MAGUIRE) on this amendment as well as for his leadership in offering very constructive amendments to this legislation.

Let us face it: the States really are in competition with each other in order to attract industries for more economic development and more jobs; and the only way to prevent the loosening of air standards from becoming, as the gentleman says, the pawns in the kind of battle that is going to be waged over industry is to give the administrator power.

Mr. Chairman, I think the definition that the gentleman has drawn in this amendment of arbitrary and capricious is clear; it is succinct; and I think it should be given to the administrator.

I commend the gentleman on his amendment and certainly hope that the House will adopt it.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman from Maryland (Mr. GUDE) for his comments.

I would add, as he has implied, that the arbitrary and capricious test is a very difficult one. It cannot be used with ease, and therefore simply provides an incentive for plans to be properly drawn in the first place. In a case where there are extreme violations of the relevant factors that all would agree should be considered, then only in that particular instance would the EPA act.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I thank the gentleman for yielding.

I also wish to commend the gentleman from New Jersey (Mr. MAGUIRE) for the work he has done, particularly with respect to this amendment.

I think it is reasonable, and as the gentleman from Maryland (Mr. GUDE) pointed out, it would be naive for us to think that this is not one of those instances in which States compete with each other when they try to attract industry.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for his comments.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe the Members should be reminded of the procedural requirements for redesignating an area from one class to another.

As I pointed out before in other debate on section 108, and this amendment does go to that section of the bill, which is entitled, "Prevention of Significant Deterioration," under the procedures that are presently in the bill a redesignation plan has to be proposed. The designation of the new area has to be approved, as a result of an amendment offered by the gentleman from Georgia (Mr. Levitas), by the Governor, in consultation with leaders of the State legislature. Hearings must be held in the area affected; and in addition, units of local government representing a majority of the residents of the region to be reclassified have to be consulted.

In addition, there is provision in the bill, on page 206, stating that the administrator may disapprove the redesignation of any area, if he finds, after a hearing, that the designation or redesignation does not meet the requirements of this section.

Mr. Chairman, what the amendment, as offered by the gentleman from New Jersey (Mr. Maguire), would do would be to throw an entirely different standard—and I am not sure really what it means when it says that "it is found that the State is arbitrarily and capriciously disregarding relevant environmental, social, or economic considerations in making such designation or redesignation."

Mr. Chairman, it seems to me that the gentleman is opening up this whole procedure and process to endless delay.

For example, let us assume that the local people have decided that they want to redesignate an area, and the administrator has not disapproved the redesignation. The gentleman has language in this amendment to open it up, through that decision, to endless suits in the courts.

So, Mr. Chairman, because I feel that this is going to delay decisionmaking at the local level, I believe that the amendment should be defeated.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I must say I do agree with the gentleman from North Carolina. I think the amendment should be defeated. We have already voted three times on this principle. By defeating the last amendment the House clearly stated that we want local decisions and not have it here at the Federal level. This amendment reestablishes Federal controls. As I say, we have voted about three times on this principle.

So, Mr. Chairman, I would urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Maguire).

The question was taken; and on a division (demanded by Mr. Maguire) there were—ayes 17, noes 40.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Broyhill: Page 199, beginning on line 23 delete "except as may otherwise be permitted under subsection (d)".

Page 199, line 24, delete "air pollutants other than".

Page 200, beginning after the comma on line 3 delete the rest of the sentence and insert in lieu thereof "sulfur oxides and particulates."

Page 210, delete lines 4 through 13.

Page 210, line 14 redesignated "e" as "d".

Page 210, beginning on line 17 delete "with respect to sulfur oxides and particulates".

Page 210, line 18 capitalize "such".

Page 210, delete the sentence beginning on line 20 and all thereafter through line 5 on page 211.

Page 200, line 7, after "any" insert "such".

Page 200, beginning in line 14, strike out "any pollutant subject to a national ambient air quality standard" and insert in lieu thereof "sulfur oxides and particulates".

Page 200, beginning in line 22, strike out "any pollutant subject to a national ambient air quality standard" and insert in lieu thereof "sulfur oxides and particulates".

Page 201, beginning in line 4, strike out "any pollutant subject to a national ambient air quality standard" and insert in lieu thereof "sulfur oxides and particulates".

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL. Mr. Chairman, the purpose of this amendment is to exclude from the application of the significant deterioration provision pollutants other than particulates and sulfur dioxide. It should be noted that EPA, in its regulations regarding significant deterioration, has limited its application to these two pollutants. EPA has refused to include the other four pollutants in any significant deterioration regulations because they assert that it is impossible, because of inadequate technology and modeling techniques, to rationally regulate their emissions on a case-by-case basis.

Three of these pollutants, hydrocarbons, oxides of nitrogen, and carbon monoxide, are known as "reactive" pollutants because under the influence of sunlight, they enter into a complex chemical reaction in the atmosphere. The rate at which the reaction occurs depends upon a number of variables including temperature, humidity, solar intensity, and the concentration of the input pollutants. Very little is understood about this complex chemical reaction and an analysis of their incremental impact is not possible at this time. EPA's view in regard to this matter was challenged in a recent court of appeals case in which the court found that EPA had correctly excluded these pollutants from their significant deterioration regulations. The court found that EPA was correct in its analysis of the situation and stated that the interrelationships among those four pollutants, and the relationship between incremental increases in those pollutants and deterioration of air quality, are poorly understood and cannot be determined with any reasonable degree of accuracy.

On this very point, we have the expert agency saying that these four pollutants cannot be included in any significant deterioration provision so as to make it meaningful and workable, and we further have a court which has reviewed EPA's analysis of this situation and after such review, has agreed with EPA that these pollutants cannot be included in any significant deterioration provision because of our lack of understanding of such pollutants. The situation in regard to these pollutants is very simple. Our knowledge and technology have not advanced to a point where we can meaningfully analyze and determine the incremental impact of these pollutants. An inclusion of these pollutants in this provision will result in nothing but extreme confusion and a great number of lawsuits. The agency in the Federal Government with the greatest knowledge and technical expertise in regard to this matter advised us that it cannot be done. The House would do well to take the advice of experts in this field and not create the confusion and uncertainty which the experts have assured us will result from the inclusion of such pollutants.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. ROGERS. Mr. Chairman, if this amendment were to be adopted, its proponents would have us protect against significant deterioration from particulates and sulfur dioxides, but not from dangerous pollutants like HC, CO, NO$_2$, and oxidants.

The National Academy of Science has already stated that there is no safe level for CO. There is no safe level. So certainly that ought to be considered if we are going to protect the health of the American people. The AMA, in its letter which I sent to each Member, said they were concerned specifically about these other pollutants because from NO$_x$ comes nitrosamines which are perhaps the most deadly cancer-causing chemicals. HC helps form oxidants.

To ignore these pollutants would be absurd.

Furthermore, we provide for a States right provision in this section by saying the States have 2 years to help develop plans for these other four pollutants.

Again I would refer the Members to the AMA letter saying they think that "these foregoing control measures are reasonable and practical to reduce and otherwise contain the levels of pollutants that may have potentially low level, long-term, adverse health effects."

So the doctors tell us that. The scientists tell us that. We ought to control these pollutants under section 108 and that is what the committee bill requires.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield for a question or a clarification?

Mr. ROGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I am not advocating that we do away with the national ambient air quality standards for including these four. What I am saying is that EPA has said and the court has affirmed that there is great difficulty in measuring the small increments that will be permitted under section 108. That is all we are saying. We are not saying we will do away with these.

Mr. ROGERS. The gentleman says we should not consider these pollutants, but I say we must take these pollutants into consideration if we consider the health of the American people.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. What I understand this amendment would do would be to take away these four pollutants for which we have a health standard which EPA has set and say that when we talk about those areas which have cleaner air than the health standards we will allow those areas to go up to the health standards for these four pollutants. But we do not know that there is safety in that standard. The whole idea of this legislation is to provide a standard which will protect the public health. We are gambling with the health of the American people if we allow these pollutants to be excluded.

I support the chairman in opposing this amendment.

Mr. ROGERS. The gentleman from California is entirely correct.

Mr. BROYHILL. Mr. Chairman, if the gentleman will yield further, this amendment does not do anything to the EPA authority or to the State authority to control emissions at the source, which they are presently doing, and they can control the pollutants at the source.

Mr. ROGERS. But the gentleman's amendment would eliminate these four pollutants from section 108, which the committee thought essential and the AMA thought essential and the National Academy of Science thought essential. To adopt this amendment would be disastrous to the health of the American people.

I urge defeat of the amendment.

Mr. BROYHILL. If the gentleman will yield further, they have great difficulty in measuring these pollutants and the court has upheld that.

Mr. ROGERS. But what the gentleman is saying is that it is merely inconvenient to do it now, so the gentleman would allow them to continue.

I would urge defeat of the amendment.

Mr. SATTERFIELD. Mr. Chairman, I rise in support of the amendment.

I think the important thing we should realize with respect to this provision is that it directs the States to revise their implementation plans within 2 years after the effective date of this bill, if passed, and to incorporate in those plans controls over the four unregulated pollutants, we have heard about, which are at least as effective as that which is provided in the bill for sulfur oxides and particulates.

We heard a great deal yesterday about how the deterioration question originated. I attempted to point out that it was absolutely the creature of the District Court of the District of Columbia and I explained how that court stretched the point in arriving at its decision. But we also heard that the chief reason we have this provision in this bill is because of a clamor for us to clarify the situation that exists today; that EPA has requested us to give them guidelines to clarify the situation.

I find it passing strange under such circumstance that we would now mandate that States must do things which the EPA itself under mandate of the court has found that it cannot make these determinations with any reasonable degree of certainty, that it cannot establish such regulations. This appellate court, which approved the original case of Sierra Club against Ruckelshaus which established the principle of significant deterioration, agreed with that contention of EPA and held it was not violating the court order in not regulating the other four pollutants.

This is a circumstance of trying to require that a certain thing be done at a certain time, not knowing now whether the scientific facts and data upon which that action is based or that the technology to accomplish it will exist at the time we say it must be done.

We have a provision in this legislation we added yesterday to provide for a study by EPA. It seems to me the very least Congress can do is to await the results of that study and then, based upon the facts developed by that study, if we feel action is indicated, that something should be done that is not being done, then we will have the right and the opportunity to act.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I would be glad to yield.

Mr. SEIBERLING. Mr. Chairman, as I understand this amendment, what the gentleman is saying is that since we do not have the technology at the present time to detect and determine the amounts of these pollutants at any particular point in time or place that, therefore, we should strike them from the statute, with the result we probably will not develop the technology.

In other words, it is kind of a bootstrap philosophy in reverse, letting us down by our own boot straps instead of drawing ourselves up. Am I right about that?

Mr. SATTERFIELD. We are not saying that to the EPA nor are we directing its attention to this or requiring it to do something about it. We would be mandating that the States do which the EPA with all its expertise cannot do it.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, how will they ever do it unless they have a requirement that something be done?

Mr. SATTERFIELD. I think there ought to be a requirement that something be done but done on an affirmative and practical basis.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, how will they develop the technology if there is no compulsion to do so?

Mr. SATTERFIELD. There are a lot of ways to produce compulsion. I would rather have it through encouragement; but just by saying something must be done will not manufacture the information to get it done.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I am glad to yield.

Mr. MAGUIRE. Mr. Chairman, I cannot help but recall one of the comments made in the earlier stages of this debate by the gentleman from North Carolina (Mr. PREYER), to the effect that Dr. Samuel Johnson was once quoted as having said, "If you are going to be hung in a fortnight, it has a marvelous capacity to concentrate your mind." This reinforces the point just made by the gentleman from Ohio (Mr. SEIBERLING), that some boundaries with respect to all these pollutants must be established so that we will develop further, more sophisticated, technological answers.

Mr. SATTERFIELD. Mr. Chairman, I will agree fully with that statement as far as Mr. Johnson is concerned, but I would point out that he was not a scientist trying to achieve scientific goals.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The question was taken; and on a division (demanded by Mr. BROYHILL) there were—ayes 23, noes 53.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKAY: Page 209, after line 21, insert the following:

"(5)(A) In the case of a proposed construction or modification of any source the emissions from which may affect any area required to be designated as class I which may not be redesignated as class II or III under this section, before the issuance of the permit required under paragraph (4), such source may apply for a variance from such emission limitations as may be imposed for purposes of compliance with the maximum increases of SO_2 allowable under paragraph (2) for such area. Nothing in this paragraph shall authorize the granting of a variance from any new source standard of performance.

"(B) A variance may be granted by the Governor under this paragraph if the Governor, after notice and opportunity for public hearing (which may be conducted in conjunction with the permit hearing under paragraph (4)(C)(i)), determines that—

"(i) the source has demonstrated that—

"(I) compliance by the source with such emission limitations is not feasible by the date the source is to commence operation,

"(II) alternative locations of the source which would not necessitate a variance under this section are not reasonably available (taking costs and other appropriate factors into account), and

"(III) the values (including visibility and other esthetic values) for which the area affected was established as a protected category of Federal land will not be adversely affected by such variance,

"(ii) the source agrees to comply with the emission limitations under clause (iii) with respect to which the variance is granted as expeditiously as practicable (but not later than 5 years after the date on which the variance is granted),

"(iii) the source agrees to comply with such interim emission limitations as may be necessary to assure that

"(I) emissions of SO_2 from such source, together with emissions of such pollutant from all other sources will not cause or contribute during more than 3 percent of the days of the year, to levels which exceed the concentrations permitted for the applicable period under paragraph (2).

"(II) during any such time when such concentrations are exceeded, emissions from all such sources will not cause or contribute to levels which exceed the concentrations permitted for such period for a class II area, and

"(III) during any year that the variance is in effect the median concentrations of SO_2 for each period of exposure (other than an annual period) (not taking into account such times when such concentrations are exceeded) shall not exceed the median concentrations for such period of exposure which would have occurred during such year if no such variance had been granted, and

"(iv) the source agrees to make adequate commitments to such research and development as may be necessary to insure compliance with the emission limitations with respect to which such variance is granted following the expiration of such variance. Upon making the determinations required under this subparagraph the Governor shall notify the Administrator and the appropriate Federal land manager. Not later than 90 days following the date of such notice, such Federal land manager shall concur or refuse to concur with the Governor's finding under clause (i)(III) and the Administrator shall determine whether or not the requirements of this paragraph have been met. Such concurrence or refusal to concur by such Federal land manager and such determination by the Administrator shall be published together with a detailed explanation of such action, and such action shall be subject to the provisions of section 307(d) (including the provisions respecting judicial review under paragraph (8) thereof). No permit may be issued under paragraph (4) on the basis of a variance under this paragraph before the date on which such Federal land manager has issued notice of such concurrence and the Administrator has published his determination that such requirements have been met.

"(C) A variance granted under this paragraph may be extended for one or more additional 5 year periods if the requirements of this paragraph (other than subparagraph (B)(i)(II)) are met in the same manner as required for the issuance of the original variance and if the Governor determines that the agreement under clause (iv) has been complied with by the source during the preceding 5 year period.

Page 209, line 22, strike out "5" and substitute "6".

Mr. McKAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. McKAY. Mr. Chairman, after some intense and cooperative effort, the gentleman from California (Mr. WAXMAN and I have gotten together and come to some conclusions which are agreeable at this point.

This amendment provides for a process by which number I standards may have a variance of up to 3 percent. This is particularly necessary in the western part of the country, in my State particularly, because we do have some areas that we want to keep clean; some parks and wildernesses, but we also have vast amounts of coal, low sulphur coal. In this amendment we provide for the following: That there shall be this variance under State guidelines. It provides for a mechanism of public hearings. It establishes guidelines which must be followed in granting the variance. The Governor is involved in this, in the State. It pertains only to sulphur dioxide and pertains only to class I.

Mr. Chairman, I wish to point out that the amendment which I am proposing is entirely consistent with the objectives set out in section 108 of the Clean Air Amendments of 1976. That section, as you know, deals with prevention of significant deterioration of our air resources. My amendment relates only to those areas designated under the bill as nondiscretionary class I areas. Such class I areas are restricted to national parks and wilderness areas in excess of 25,000 acres. Without question, these pristine areas of the country are deserving of special protection. It is difficult to conceive of anyone who has visited and enjoyed any of our national parks and wilderness areas who could advocate any policy which would threaten the air quality and environmental integrity of those beautiful areas.

The amendment which I propose today in no way threatens the air quality of nondiscretionary class I areas. Rather, it provides a real-world solution to a situation which arises in relatively few areas of the country where the topography of the State is marked by high terrain. As presently written, the rigidity of the nondiscretionary class I areas under section 108 poses serious compliance problems in various regions of the country, especially Utah. This problem results from the high and rugged terrain characteristic of these regions.

Such topographical characteristics make siting of powerplants extremely difficult. Paradoxically, by not allowing a limited variance procedure with regard to nondiscretionary class I areas, certain powerplants would be forced to select sites which are less environmentally desirable. Without the flexibility allowed under my amendment, powerplants may be forced to locate in areas which do not minimize the visual impact from highways, recreational areas, and other vistas. Such is the problem we face in Utah where large low sulfur coal deposits, which are vitally important to this Nation's energy independence, are located in the close proximity to national parks. The present provisions in section 108 pose a serious, and I believe unintended, hardship on both my State and the Nation.

The amendment which I am submitting overcomes this hardship by providing the means whereby a Governor of a State can grant a limited variance to nondiscretionary class I areas. The variance mechanism provided in this amendment is limited in its scope and does not jeopardize the air-quality objectives of section 108. Under the amendment, the Governor may grant a variance for SO_2 emissions for no more than 3 percent of the days of the year—10.95 days. Under no condition could the emission levels exceed 25 percent of baseline; or in other words, it could never exceed the class II level. Further, the amendment requires the Governor to give notice and provide a hearing as provided under paragraph (4)(C)(i) of the act.

The amendment spells out criteria which the Governor must take into account in making his determination. Upon making a determination that a variance should be granted, the Governor is required to submit such determination to the appropriate Federal Land Manager and Administrator who will review the Governor's determination to insure that all procedural requirements have been met. I wish to make it very clear, however, that this review by the Federal Land Manager and Administrator is procedural and not substantive.

I believe that it is unwise to spell out a policy in absolutes. Instead, reasonable flexibility should be provided which protects against unreasonable hardships without weakening policy objectives. The proposed amendment allows for this kind of flexibility by providing a practical solution to real-world problems without diminishing the priority which must be attached to the maintenance of clean air in national parks and wilderness areas.

Sufficient guidelines have been set out in the amendment to safeguard against arbitrary and capricious actions by a Governor. Any argument which would suggest that this amendment opens the door to such action, simply ignores the procedural safeguards written into the amendment. Those safeguards are reasonable and insure against abuse.

Let me reiterate that the amendment applies only to SO_2 emissions. The variance may not exceed class II levels. Duration of the variance is limited to 3 percent of the days of the year, which amounts to only 11 days. Before any variance can be granted by the Governor, the source must show, first, that compliance by the source of such emissions limitations is not feasible by the date the sources commence operation; second, alternative locations of the source which would not necessitate a variance in another section are not reasonably available—taking costs and other appropriate factors into account; and third, the values—including, where appropriate, visibility and other esthetic values—for which the area affected was established as a protected category of Federal land, will not be adversely affected by such variance. Additionally, the source must agree to comply with emission limitations of nondiscretionary class I areas with respect to which the variance is granted as expeditiously as practical.

Upon determination by the Governor that a variance should be granted, the Governor's findings are subject to procedural review by the appropriate Federal Land Manager and the Administrator. This procedural review will insure that all procedural requirements have been met and is not a substantive review of the Governor's decision.

The variance procedure I am proposing is both reasonable and necessary. Without it, areas in this country characteristic of high and rugged terrain with valuable resources located near national parks and wilderness areas will be unreasonably restricted in the development of those resources. Critical resources would be unreasonably locked up in perpetuity despite the fact that their development would not significantly deteriorate the air quality of any pristine area. Such a policy would be inconsistent with the effort of this Nation to achieve energy independence. The limited flexibility provided in my amendment will avoid this undesirable effect.

I am grateful for the support of the chairman of the Subcommittee on Health and Environment, Mr. ROGERS, and urge the House to pass this important amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to thank the gentleman for withholding offering his amendment earlier in order to have a discussion with me to see if we could work the matter out. We have worked the language out in a way that will satisfy what the gentleman is trying to do, and also not open the door beyond that in a way that would be environmentally dangerous.

I think it is a good amendment and accepts the proposition that both of us would like to see accepted. I urge my colleagues to accept the amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I also want to state that I have looked at the amendment, and urge acceptance of the amendment.

Mr. McKAY. I thank the gentleman.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I should like to ask if this permits a source to exceed the primary and secondary standards.

Mr. McKAY. It allows a 3 percent variance. Presently, the number I classification allows no variance.

Mr. ROGERS. If the gentleman will yield, I understand that the amendment does not allow exceeding of the primary standards. It simply allows a variance from the class I increments under certain specified conditions.

Mr. CARTER. If it does not exceed primary and secondary standards, standards which would endanger public health and public welfare or the environment, does not damage either of these, if it exceeds neither standard, then I will accept it.

Mr. McKAY. It does not. It does allow a variance because the terrain out there, for example, over a wilderness or over the Arches National Monument, for example, the normal flow where a plant is sited, we would never have any variance in those standards. However, it allows for 3 percent. That is a maximum of 10 days per year in which a plume may be seen over the park area, but other than that there is no variance.

Mr. CARTER. The gentleman is not exceeding the primary and secondary standards?

Mr. McKAY. No.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Do I understand correctly that the variance will allow a 3 percent rise over the primary and secondary standards?

Mr. McKAY. Only the number I classification. It allows a 3 percent variance, which amounts to a maximum of 10 days per year that we could have a variance.

Mrs. FENWICK. But that would be above the primary standard?

Mr. McKAY. I think the gentlewoman is correct, yes, on that given day; on SO_2 only.

Mr. ROGERS. If the gentleman will yield further, actually it is my understanding that it would not allow the exceeding of the primary standard. It simply provides a variance from class I increments up to the class II increments.

Mr. McKAY. I accept the gentleman's correction it does not allow the exceeding of the primary standard.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Does this have an effect on the Kaiparowitz Plateau project?

Mr. McKAY. No, the Kaiparowitz Plateau would have to conform the same as any other powerplant, and this would not open the door to go any further than at present.

Mr. SEIBERLING. I thank the gentleman.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

I would like the attention of the gentleman from Florida, because I understood that the gentleman from Florida said that this amendment applies also to class II areas. Is that correct?

Mr. ROGERS. Only class I. Up to class II increments on 3 percent of the days of the year.

Mr. BROYHILL. This then only applies to those class I areas.

And I would remind the Members in the class I areas that under the terms of the bill they are allowed only 2 percent increase in the national air quality standard of SO_2 which the gentleman is attempting to change here. That is only one-fiftieth of the change that can be permitted in a class I area. What is being asked is that on 3 percent of the days of the year that they can exceed that 2-percent limit. Is that what the gentleman is saying?

Mr. McKAY. Yes. It is a maximum.

Mr. BROYHILL. What I am asking is why the gentleman did not draw the amendment to apply to other areas other than this. It would seem this would be a reasonable amount. Ten or eleven days is not an unreasonable number.

Mr. McKAY. The gentleman is suggesting we should have done it on class II and class III; is that what the gentleman is suggesting?

Mr. BROYHILL. No, not on class III, but at least on class II.

Mr. ROGERS. I thank the gentleman for yielding.

I am sure the gentleman knows that this is not necessary, because the State has the right to move from class II to class III, under the requirements of the section. They can move to category III. So the gentleman's amendment only treats class I increments. It grants some discretion in this area only.

I would urge the adoption of the amendment.

Mr. McKAY. As slight as it is, given the set of circumstances we presently have, I am grateful for this.

Mr. BROYHILL. I understand the problems the gentleman has in his particular State, where he has a large class I area and there is a need for some relief there. But there are a number of other areas of the country which are going to be classified as class II, and they are going to have a considerable problem. I would like to see this same principle adopted for those class II areas, as well. But I take it that the gentleman from Florida would not accept an amendment like that.

Mr. McKAY. He and perhaps some others.

Mr. HOWE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have been a student of the Clean Air Act amendments for some time and I have had the opportunity to meet with Mr. ROGERS on several occasions to discuss the effect of this legislation on the State of Utah. I would like to compliment Mr. ROGERS and the subcommittee on their tireless effort to seek a balanced bill and for taking the time to meet with Members, like myself, who feel that some problems may exist under the present language.

As my colleague from the State of Utah, Mr. McKAY, has indicated the combination of geography and the Federal ownership of land in Utah poses a serious concern to our State. Fortunately, Utah has tremendous scenic resources that are comparable with any other area of the United States. We have five national parks in which the scenic grandeur can only be fully appreciated by those who have visited these areas. Utahans enjoy a special partnership with our national parks and other scenic and recreational assets and as a State we would not like to see this relationship jeopardized.

In addition, the State of Utah has been blessed with significant reserves of coal and other fossil fuels. Our coal and oil shale reserves are sufficient to provide this Nation with its total energy requirements for several decades. As those of us who have struggled with the energy questions of this Congress know, we need these resources, not only as a matter of choice but as a matter of necessity.

The State of Utah is prepared to develop these resources—steadily, cautiously, and soundly. We are prepared to develop them in the spirit of the NEPA Act with every consideration for environmental protection—the use of best available pollution control technology, careful plant siting to minimize visual intrusion, the use of our high-quality, low-sulfur coal, and the other precautions that are both required and expected under environmental laws.

Moreover, we want our development to be balanced. We want to avoid mistakes evident in other sections of the country. We want to protect the appreciation Utahans and Americans have for our natural resources. However, this can only be accomplished with careful planning and the exercise of sound judgment within a framework involving Federal, State, and local officials, business leaders, and the citizens whom development would directly impact. It is with this understanding in mind that I have reviewed the legislation now under consideration. It has been my concern that the flexibility needed to exercise sound judgment not be precluded by any legislation.

To this end I asked my constituents in a series of hearings conducted in my district their views on the bill. This was a constructive effort, not only for myself, but also for dealing with some of the many questions that have risen over this legislation. During the hearings we focused on the potential conflict over the development of our energy and mineral resources in areas adjacent to the national parks. If I could draw two conclusions from these hearings, they would be these: First, no one in Utah wants to see the quality of our parks deteriorate, and second, Utah is prepared, on a State level, to make air and land use decisions in the spirit of NEPA and other environmental legislation. I am convinced that the State of Utah is prepared to comply with the intent of the legislation now before us and it is to this end that I rise in support of the McKay amendment.

In real terms, the McKay amendment would in no way jeopardize the value of a class I designation for national parks and wilderness areas—it only insures that reason and flexibility to achieve all the purposes of NEPA are built into the consideration of plant siting.

In Utah our rugged terrain exaggerates the problem of air quality protection because of the elevation difference between a plant located on a valley floor and the impact point on a neighboring towering mountain range. This problem is further amplified by the close proximity of our energy reserves to our national parks. Even when a proposed plant site is located well away from the park, under these conditions, it is very possible during some days of the year for a minute violation of a class I standard to occur.

For example, accepted EPA air quality modeling techniques indicate that a proposed 3,000 megawatt plant planned for a remote and desolate area in southern Utah, which would use the best available pollution control technology—90 percent scrubbing, 1 percent sulfur coal, be sited behind mountains to minimize visual intrusion and located 12 miles from the nearest national park, would violate a class I standard only 4 days of the year. This violation is in the winter months when normal meteorological conditions are reversed. Yet under the class I standards now in the bill, this plant, sited with environmental principles in mind, could not be built. In fact, the violation is so minute that it is not measurable by existing technology. The violation can only be projected by computer modeling.

The amendment proposed provides only a 3-percent variance from class I increments, not to exceed class II, and allows a variation for only 11 days of the year. The amendment is needed to provide the flexibility needed for the consideration of extreme conditions and where the sponsors of industrial projects have obviously made the requisite provisions for pollution control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. McKAY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CARTER

Mr. CARTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARTER: Page 201, line 17, strike out "90 percent of".

Mr. CARTER. Mr. Chairman, I want it known that I have always supported national primary and secondary ambient air quality standards. As you know, primary standards protect the public health with an adequate margin of safety and secondary standards protect public welfare from any known or anticipated adverse effects.

This bill, in section 108, would have the effect of reducing by 10 percent primary standards in those areas of the country subject to the significant deterioration requirements. This is so because with respect to sulphur dioxide and particulates in no event could air quality in class I, class II, or class III areas be allowed to exceed the national secondary ambient air quality standard, or 90 percent of the national primary ambient air quality standard, whichever is more stringent. Hence, the annual and 24-hour sulphur dioxide standard, as well as the annual particulate standard, would, for all classes, have a pollution ceiling of 90 percent of the national primary standard, since the primary standard is the more stringent one for those periods of exposure. Therefore, even though such areas would not technically be in violation of national ambient air quality standards, they would not be permitted to have any new major growth.

This result is absolutely arbitrary in that it puts those areas which are between 90 and 100 percent of the primary standard in an untenable position. This result is especially unfair in view of the fact special provision is made in section 115 of the bill to permit expansion of existing facilities in those areas which are not attaining national standards.

However, some argue that national standards are not set at the proper level. If that be so, then section 110 of the bill would encourage periodic revision of the standards, if needed. EPA has the technical expertise to do so based upon the latest scientific data, but we should not slash the standards ourselves in an arbitrary fashion.

Mr. Chairman, my amendment would eliminate the deleterious effects which would flow from the unscientific 90-percent ceiling.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, would the gentleman not agree with me that we have other social goals in this country over and above the goal of cleaning up the environment, and that there are others, including that one which I know the gentleman is much in favor of, and that is the goal of creating a viable economy so that we can employ as many persons as possible.

Mr. CARTER. Mr. Chairman, I certainly agree with the gentleman, and I want more employment in our area and more industry there.

Mr. BROYHILL. Mr. Chairman, can the gentleman tell me where this 90-percent figure came from, the figure that is in the bill? Is that by any technical studies, or is there any explanation as to why this was put in the bill? Does the gentleman know that?

Mr. CARTER. Mr. Chairman, the best way I can describe it is that it was just pulled out of the air. At first it was 75 percent, but that would have limited us too much, and the subcommittee chairman in this case was gracious enough to bring it up to 90 percent of the present standards.

Mr. BROYHILL. Mr. Chairman, would the gentleman agree with me that it is strange that we would have had an amendment a few minutes ago to permit certain areas to go far above the national standards for a period of 6 years, but yet in the bill they are going to hold down other areas to a point way below 100 percent?

Mr. CARTER. Yes, I must agree that this legislation is so tailored as to favor certain industries and certain areas of our country.

Mr. Chairman, I urge the aproval of this amendment. I do it humbly. I feel that it is needed.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

I regret that I have to do this, because I hold my colleague, the gentleman from Kentucky (Mr. CARTER), in such high esteem. But may I say that the committee has made the judgment to do this in the significant deterioration section. We allow them to go up to 100 percent of the secondary standards. That is 100 percent, and that is the problem; that is where it affects crops, but not human health.

Now, we have said that in "significant deterioration," because we have, for instance, at least four of those pollutants that we know may have no safe threshold, including nitrous oxides and the oxidants. We would at least put the 10-percent protective wedge in there on approaching the health standards.

The National Academy of Science has said that there may be no threshold for these pollutants and that it may be dangerous all the way down, perhaps to zero.

We are just saying that they have the right to go up to 90 percent of the health standard. They go up to 100 percent of the secondary standard.

We think this new approach will protect public health and safety.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the gentleman for yielding.

In my area, however, this would make the standards more stringent and yet in the highly polluted areas where we have the nitrosamines that the gentleman is speaking of, we would be permitting them to continue under this present legislation.

The gentleman gives them 15 percent more than the primary and secondary standards, and that is in the legislation today; is that not true?

Mr. ROGERS. No, not in primary and secondary standards. We have primary and secondary standards all over. If the gentleman has a cleaner area, we say, "You can go up to 90 percent of the health or 100 percent of the secondary standard."

It does not affect health. In this new approach we have a 10-percent safety margin.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, he is exceeding the standards and permitting them to go 15 percent above it. There is a 15-percent margin, and the gentleman knows that this bill has that in it. If he will read the legislation, he will find it.

Mr. ROGERS. Mr. Chairman, if the gentleman will permit it is 115 percent of emissions limits not 115 percent of the standards.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I cannot understand the argument being made on the other side of the aisle.

If the gentleman is complaining about some part of the bill where we might exceed primary air standards, then he certainly should not be for something that is going to have us move away from that standard itself, the primary air standard, which is to protect the public health.

We do not know whether there is any threshold at all under which the public health is protected. A violation of the primary standard is going to put in jeopardy the health of the people in that area, particularly with relation to that pollutant.

There are some pollutants where we do not have a secondary standard at all. So if we eliminate this wedge, this margin of protection of the public health, and if we allow the pollutant to go right up to that health standard, we are taking a risk with the health of the people in that area.

Mr. Chairman, I think we need that 10 percent. I would have been in favor of a 25-percent margin for the protection of health, but certainly that amount of pollution is going to jeopardize the health of the people in the area.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, simply to reinforce the point just made by the gentleman from California (Mr. WAXMAN), most scientific experts are now telling us that the present air quality standards, based as they are on averages, are probably considerably above what we should have with respect to national air quality standards and that in a very short period of time we should probably be reviewing these standards themselves, with a view toward making them more realistic in terms of protecting the public health, particularly of the most vulnerable part of the population.

Therefore, Mr. Chairman, I urge the rejection of the amendment.

Mr. BROYHILL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I point out that presently in section 109 of the Clean Air Act, primary ambient air quality standards are mandated and that they must be promulgated by the Administrator based on criteria that they are a requisite to protect the public health allowing an adequate margin of safety.

Mr. Chairman, I also wish to point out that the Administrator has made a determination that the present ambient air quality standards are not only proper, but have an adequate margin of safety in order to protect public health. They are set on a conservative basis.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank my distinguished colleague, the gentleman from North Carolina (Mr. BROYHILL) for yielding to me. The gentleman is exactly right in that we know that many of these pollutants are dangerous but the EPA Administrator has the right, in fact it is his duty, to set the standards as they should be set. As the distinguished gentleman from North Carolina pointed out and read to the Members, he must set them with a sufficient margin of safety. Now, arbitrarily, for some reason, and I cannot tell why, this load was placed on such areas as I live in and, arbitrarily, the standards were made more stringent by 10 percent. At the same time, as I have pointed out before, in other areas where the primary standards are exceeded, they are permitted to go 15 percent above those levels of pollution.

I am only asking what is fair for a poor area, a tristate area, in which there is very little pollution, and I am asking it for the good of the people. I want to say at the same time I support entirely and completely the authority through this legislation to have the primary standards promulgated by the Administrator of EPA.

Mr. WAXMAN. Mr. Chairman, would the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. WAXMAN. It would seem to me that what the gentleman is saying is that we ought not only adhere to that primary air standard, but we ought to try to accomplish that standard and stand by that standard. I believe that is a dangerous way to look at our goal in clean air. We hope to achieve in those areas that are dirty the ability to clean them up, and at the same time we do not wish to dirty up the clean areas. Those are the goals that we hope to accomplish so that we will protect the health of the public. So we ought not to say that in those areas under those standards that are cleaner that we should change that standard and that we want to dirty them up and thus endanger the health of the public but rather to not endanger the health of the public. We have those goals. We want to clean up the dirty areas and maintain the clean areas. Those are our goals, to protect the public health, because if we do not do this then we are taking a chance with the health of the public.

Mr. BROYHILL. Mr. Chairman, as I have already pointed out, the present standards have been set by EPA that allow an adequate margin of safety. What the committee is doing is putting in this 90 percent. Here again is the Congress setting standards without the technical ability to do so.

Mr. Chairman, I have made a quick calculation here. It would appear to me that the actual SO_2 standard or the 24-hour SO_2 standard would have a ceiling of 90 percent of the primary standard, since the primary standard in that instance is more stringent for those periods. Also it would appear to me that the annual standard for particulates would also have a ceiling of 90 percent since the primary standard is more stringent for those periods of time.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred Members are present, a quorum.

The question is on the amendment offered by the gentleman from Kentucky (Mr. CARTER).

The question was taken; and on a division (demanded by Mr. CARTER) there were—ayes 28, noes 61.

RECORDED VOTE

Mr. CARTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 100, noes 183, answered "present" 1, not voting 146, as follows:

[Roll No. 708]

AYES—100

Allen
Andrews, N.C.
Ashbrook
Bauman
Beard, Tenn.
Bevill
Bowen
Breckinridge
Brown, Ohio
Broyhill
Buchanan
Burleson, Tex.
Burlison, Mo.
Byron
Carter
Cederberg
Chappell
Cochran
Collins, Tex.
Conable
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Devine
Dickinson
Downing, Va.
du Pont
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Evins, Tenn.
Flowers
Forsythe
Fountain
Ginn
Goldwater
Gonzalez
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hefner
Hightower
Hillis
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jenrette
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Kazen
Kindness
Krueger
Landrum
Latta
Levitas
Lloyd, Tenn.
Lott
McDonald
Madigan
Mahon
Martin
Mathis
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Pickle
Poage
Quillen
Rhodes
Roberts
Robinson
Ruppe
Santini
Satterfield
Schulze
Smith, Nebr.
Spence
Taylor, Mo.
Teague
Thornton
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten

NOES—183

Ambro
Anderson, Calif.
Archer
Armstrong
Ashley
Baldus
Baucus
Bedell
Bennett
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Brinkley
Brown, Mich.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Carr
Clay
Cleveland
Cohen
Conte
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Delaney
Dellums
Dent
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Esch
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goodling
Gradison
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Holtzman
Howe
Hughes
Hungate
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jordan
Kasten
Kastenmeier
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lent
Lloyd, Calif.
Long, La.
Long, Md.
McClory
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Meeds
Meyner
Miller, Calif.
Mineta
Minish
Moakley
Moorhead, Pa.
Mottl
Murtha
Myers, Pa.
Nedzi
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Regula
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Roush
Roybal
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Solarz
Staggers
Stanton, J. William
Steiger, Wis.
Stokes
Stratton
Studds
Talcott
Taylor, N.C.
Thone
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vigorito
Waxman
Whalen
White
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Yates
Young, Fla.
Zablocki

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—146

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Bolling
Bonker
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Burgener
Burton, Phillip
Butler
Carney
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Collins, Ill.
Conlan
Conyers
Corman
Crane
Danielson
Derrick
Diggs
Eilberg
English
Eshleman
Evans, Colo.
Fary
Flynt
Ford, Tenn.
Green
Gude
Haley
Hall, Ill.
Hansen
Harrington
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holland
Horton
Howard
Jarman
Johnson, Colo.
Jones, N.C.
Karth
Kelly
Ketchum
Lehman
Lujan
Lundine
McCloskey
McCollister
McEwen
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Mills
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nix
Nolan
O'Hara
O'Neill
Passman
Paul
Pepper
Peyser
Quie
Randall
Rangel
Rees
Richmond
Risenhoover
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Sarbanes
Schneebeli
Sebelius
Sikes
Sisk
Snyder
Spellman
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Symms
Thompson
Ullman
Vanik
Walsh
Weaver
Wiggins
Wilson, Bob
Wilson, C. H.
Wright
Wylie
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

Mr. SHUSTER changed his vote from "aye" to "no."

Messrs. BYRON, JONES of Tennessee, and DUNCAN of Tennessee changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: Page 203, after line 2, insert the following:

"(F) For purposes of determining the maximum allowable increase permitted under subparagraphs (A), (B), and (C), the allowable percentages shall be determined on the basis of national primary or secondary ambient air quality standards as in effect on the date of enactment of this section."

Mr. BROYHILL. Mr. Chairman, I very much regret that we have to stay here to this late hour, but it does show that there are many, many concerns about the provisions of this bill, many uncertainties.

I had hoped we would have been able to work out some agreement on some of the sections of the bill and, hopefully, we will still be able to do so before we finish title 1.

Yesterday in debate on section 108 I was pointing out some of the uncertainties that exist in this bill and the concerns that we have as to how this section will be administered in the future. This is a prime example. Under the terms of section 108, increases in the concentration of certain pollutants will be permitted in various regions as a percentage of the national air quality standards. What happens if EPA suddenly decides that they want to change those standards?

What my amendments would do is to say that for purposes of determining the maximum allowable increases that are permitted under section 108, the significant deterioration section, those percentages would be based on the national primary and secondary standards that are in effect on the date of the enactment of this section, so that we could have then some certainty as to what increases would be permitted.

It could be conceivable that if the standards were changed we would actually be forcing certain areas of the country to actually shut down industry in order to comply with the new standards set under section 108.

So the purpose of my amendment is to make sure that we understand in the future what percentages of increases would be permitted under this section and have some certainty.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ROGERS asked and was given permission to revise and extend his remarks.)

Mr. ROGERS. Mr. Chairman, I would like to ask the gentleman from North Carolina some questions.

Could the gentleman explain to me how those pollutants for which standards may be set after the enactment would be affected by his amendment?

Mr. BROYHILL. If the gentleman will yield, this amendment would not affect any pollutants which would be regulated after the enactment of this act. We are talking about pollutants that are already being regulated by the Administrator.

Mr. ROGERS. Mr. Chairman, we have some concern about the way the amendment is drafted. As I understand it, the gentleman has about four amendments on which, if we can work it out, we would come to some agreement quickly here.

This amendment, we think, would take some change in language, and I would like to send that language over to the gentleman from North Carolina (Mr. BROYHILL), if the House will bear with me for one moment, and let him look at it. I think it would be satisfactory to him, and if it is satisfactory, I would ask that the gentleman ask unanimous consent to add that language to his amendment.

Mr. BROYHILL. Mr. Chairman, if the gentleman will yield, I have no objection to this additional language.

What it says is that in the case of any standard that is promulgated for a new pollutant after the date of enactment, then the significant deterioration section requirements and percentages as specified in section 108 would apply to that new pollutant regulation.

Mr. ROGERS. Or to a new period of exposure.

Mr. BROYHILL. Or to a new period of exposure.

Mr. ROGERS. Mr. Chairman, I would ask unanimous consent that the additional language referred to be added to the gentleman's amendment, since the gentleman has no objection.

The CHAIRMAN. The Chair will ask that the gentleman from Florida (Mr. ROGERS) send the language to the desk.

The Clerk will read the modification as proposed by the gentleman from Florida (Mr. RHODES).

AMENDMENT OFFERED BY MR. ROGERS TO THE AMENDMENT OFFERED BY MR. BROYHILL

The Clerk read as follows:

Amendment offered by Mr. ROGERS to the amendment offered by Mr. BROYHILL: At the end of the Broyhill amendment, add the following:

"(ii) In the case of any standard promulgated on or after such date of enactment for a pollutant, or for a period of exposure, for which no such standard was promulgated before such date, the maximum allowable increases shall be determined on the basis of such standards as first promulgated and not on the basis of any subsequent revision thereof"

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS) to the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, there is no amendment before the House.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) has offered an amendment to the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

Mr. BAUMAN. The gentleman from Maryland was under the impression that the gentleman made a unanimous consent request.

The CHAIRMAN. The language was sent to the desk as an amendment.

Mr. BAUMAN. I appreciate the Chair's clarification, and I thank the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS) to the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: Page 200, line 5, after the period, insert: "In the case of increases based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall permit such limitations to be exceeded during one such period per year."

Mr. BROYHILL. Mr. Chairman, I am glad to report that we are getting down to the consideration of some amendments which can be supported, and I am pleased to see that.

In the case of the national ambient air quality standards, there are more than one. There are not only annual standards, but standards for shorter periods of exposure as well.

The EPA has in its establishment of these standards permitted the worst day of the year to be excluded, but this provision has not been carried through to section 108, which is the significant deterioration section. What my amendment would do is to say that in the case of increases that are based on the concentrations that are permitted under this bill the regulations that are promulgated by EPA would permit that to be exceeded one time per year.

Where this is important is in the modeling that will be done as the State reviews the application of new sources to be built in a particular area.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have looked at the amendment on this side and see no objection to it.

Therefore, I would urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL. Mr. Chairman, is it possible to reserve the right to offer an amendment to title I if we finish reading title I tonight and we are on title II at a later date?

The CHAIRMAN. The Chair would advise the gentleman that this could be done by unanimous consent only.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from North Carolina is recognized for 5 minutes.

Mr. BROYHILL. Mr. Chairman, I am advised by counsel that one of my amendments is not properly worded. That is the reason I wanted to ask unanimous consent to come back to page 209, line 14, for the purpose of striking out the definition of major new source from 100 tons to 200 tons.

Mr. Chairman, I regret this oversight very much. I thought this had been done.

Mr. ROGERS. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman has not made his unanimous-consent request as yet.

Mr. BROYHILL. Mr. Chairman, I ask unanimous consent to return to that portion of the bill for the purpose of submitting an amendment that would have the purpose I outlined.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Chairman, reserving the right to object, it is my understanding that this is what the gentleman wants to do: He will agree that we will close title I tonight, with the exception of two amendments. I would like him to designate what they would do at this time and to designate at what point in the bill that would occur. It would be with that agreement that those amendments could be voted on tomorrow, but otherwise title I would be closed tonight.

Is my understanding of the gentleman's request correct?

Mr. BROYHILL. As far as I am concerned, it would be closed. I do not know about other amendments. I cannot control other amendments.

Mr. ROGERS. I understood there were no other amendments.

Mr. BROYHILL. I can only control what I have.

Mr. ROGERS. Would the gentleman agree, then, that we can at least begin reading title II, although we would take no action on title II, just start at the beginning?

Mr. CARTER. Mr. Chairman, if the gentleman will yield, I object.

Mr. ROGERS. I do not mean to go into title II. What I am saying is so that no one can offer an amendment.

Mr. CARTER. Mr. Chairman, I object to that.

Mr. ROGERS. Then let us take the amendment to title I tonight.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. CARTER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DU PONT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to discuss very brifly with the gentleman from Florida (Mr. ROGERS) a particular matter, if I can get the gentleman's attention.

Mr. Chairman, I address this question to the gentleman from Florida: With the defeat of the Rooney amendment, we seem to have placed ourselves in a position where we are actively discriminating against new industry coming into an area that already is up to quota, so to speak, on its pollutants. That is, if there are industries in an existing area that are putting out pollutants in a quantity that is the limit allowable, those plants are allowed to expand up to 15 percent further, but no new plant is allowed to come into that area. Is that correct?

Mr. ROGERS. If the gentleman will yield, the gentleman is correct. That is the current law now, that one cannot exceed the health standard of the area in which he is located. If the health standards are already exceeded, unless there is some reduction somewhere, you would not be able to bring the industry in.

We had that problem addressed, as the gentleman has stated, in the Rooney amendment; but this House turned it down. The gentleman is correct; the House did not agree to that approach.

Mr. du PONT. All right. My question to the gentleman is, as he points out, that if one is up to the health standard, he may not add any new industry without removing some of the existing pollutants unless he is in an existing industry.

Then you can go 15 percent further. What we have done, we have maintained the status quo, we have said to the existing plants you can go ahead and expand 15 percent more above the health standard but, by gosh, we would not let any new people in.

Mr. ROGERS. It does not say 15 percent above the health standards.

Mr. du PONT. Fifteen percent above their emission limit.

Mr. ROGERS. Yes, and the amendment would have been by 1982.

Mr. du PONT. Mr. Chairman, my final question is this: If this does discriminate against any new industry coming into the area, does the gentleman from Florida have any suggestions as to what to do about that?

Mr. ROGERS. Let me say to the gentleman from Delaware that I supported the amendment but the House turned it down.

Mr. du PONT. So the answer is no, is that correct?

Mr. ROGERS. It was not my amendment, but I was supporting it.

Mr. du PONT. I thank the gentleman.

AMENDMENT OFFERED BY MR. CARTER

Mr. CARTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARTER: On page 232, line 1, strike section 115 in its entirety.

Mr. CARTER. Mr. Chairman, this is the amendment to which the distinguished gentleman from Delaware (Mr. du PONT) was alluding. It would strike the very section which raises the allowable level of pollution by 15 percent above the standards in that area. That is simply what it would do.

I have argued all night that we should stay by our primary and secondary ambient standards but some people who have been in positions of power tonight have catered to special industries, in this case an industry that is known for the way and the manner in which it pollutes the air throughout the East and which causes poor health. This would simply strike that 15 percent and those dirty areas would be required to observe primary and secondary standards. I think that it goes and is consistent with what I have been advocating all along to go with the primary and secondary standards which have a safety margin built with them. The EPA Administrator is required to do this. We ourselves do not have the expertise in this body to do it. Not many of us know what a microgram is, yet we are arbitrarily setting those standards.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, do I understand correctly that what the gentleman's amendment would do would be to eliminate any possibility of exceeding the primary and secondary standards?

Mr. CARTER. That is exactly right. That is the effect of this amendment.

Mr. OTTINGER. If that is the effect of this amendment, I am very much in sympathy with it.

Mr. CARTER. I thank the gentleman.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, I have no objection to this amendment.

Mr. CARTER. I thank my good friend.

Mr. ROGERS. This settles the issue completely.

Mr. du PONT. Mr. Chairman, if the gentleman will yield, before we rush to accept this amendment, which sounds very good on its face, my suspicion is that this would prevent any existing plant from expanding to the 15 percent as the bill is now written.

Mr. CARTER. It would prevent that plant from dirtying our air 15 percent above the primary and secondary standards. That is what this is all about. This is supposed to be a clean air bill and I want to keep it clean in Delaware as well as everywhere else.

Mr. OTTINGER. Mr. Chairman, I rise in support of the gentleman from Kentucky.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my personal opinion is that the House erred in not accepting the Rooney amendment. We do have an impact by this bill on growth of jobs and the preservation of jobs in certain areas of the country. I think the Carter amendment would further exacerbate that problem. I hasten to caution the Members not to make two errors of this nature on this bill. I think the Carter amendment is a terrible amendment in respect to the attempt by industry to continue to provide expansion and growth, and that will seriously affect it. We will essentially block out any further growth whatsoever in the Northeast.

The Rooney amendment was addressed, if the Members had taken the time to read it, to the situation which would have allowed those industries who were trying to do a good job of cleaning up to be able to continue to grow. The situation exists whereby dirty industries who have done nothing to clean up themselves will have a trade off by virtue of the fact that they can trade off and continue to expand. The problem that industries face who have done a good job in the past or who are on a compliance schedule right now is that they are down to the extreme low levels of pollutants and they do not have any further dirty pollution of plants to trade off for expansion, and now they are locked in to essentially a no-growth situation. I think that the House has crippled industries and companies who have in the past shown that they do have good intentions in bringing into compliance their plants. If we adopt the Carter amendment, we further incapacitate those same good industries to provide any future growth in their areas.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I think we are asking every area of the country in their industry to accommodate to maintain the health of their citizenry, and if we ask the people in the pristine areas not to do this, it would be doubly compelling that we ask the people in the industrialized areas that they install whatever devices are required to keep the air clean in the areas that are producing such very high cancer rates.

I think the gentleman from Kentucky is 100 percent right.

Mr. MYERS of Pennsylvania. I thank the gentleman for his comments, but the gentleman represents one of the States that is probably the most seriously affected by this amendment.

Mr. OTTINGER. That is correct.

Mr. MYERS of Pennsylvania. I think perhaps he should look at what he is saying to his constituency about the potential to have good companies continue to grow in that area. If the gentleman wants to preserve the companies who are not trying to do good and penalize those who have been trying to do good, he is on the right track in voting against the Rooney amendment and voting for the Carter amendment.

I think what the gentleman has to look at is there is a no-growth policy in the nondegradation policy. There was testimony on this fact that said essentially the nondegradation part of the bill would not prevent growth in the South in the pristine areas, that it would limit it at some point along the line, but it would not put an immediate stop to growth.

What we are facing in my area of the country if we pass the bill is we will be facing in my State a no-growth policy whereby the pristine areas of nondegradation will be able to continue to grow. I think it does not make good sense for the gentleman who represents New York, which State particularly is facing high unemployment, but I cannot counsel him; I can only advise him.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

I think the gentleman is pointing up the defects in this entire bill. I have heard the comment made that if this bill passes, we are going to hire all of these people being talked about as air inspectors and food stamp dispensers.

Mr. MYERS of Pennsylvania. I thank the gentleman.

I think what he is trying to say is that there was an opportunity to make this bill a much better bill by adopting the Rooney amendment. There is an opportunity to make the bill a much worse bill by adopting the Carter amendment, and I urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. CARTER).

The question was taken; and on a division (demanded by Mr. CARTER) there were—ayes 62, noes 28.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. KINDNESS: Page 173, line 14 after the word "person", add the word "knowingly".

Mr. KINDNESS. Mr. Chairman, this section as it is presently written will subject corporate officers and directors to civil penalties if plants which they own or operate are in violation of the requirements if the officers or directors are aware of the violations or not. These are civil penalties as distinguished from criminal penalties, where it is required that the violation be knowingly perpetrated.

The other body in considering the solid waste legislation decided that such civil penalties although helpful in complying with the statute are meaningless if applied to those unknowingly violating the law. In effect it is simply punitive on corporate officers and stockholders and no lesson is learned if we apply the penalties.

I have no sympathy for those private officials or directors of corporations who knowingly disobey the law but I think we must all have a sense of fair play and reason in these matters and consistency. Such a massive fine as $25,000 per day, which is not necessarily on the basis of a continuing day by day violation as some would have us think, but such a massive fine would be personally levied upon the people involved and it should be very carefully used. To not do so could jeopardize a man's career, reputation, and personal fortune.

Mr. Chairman, for these very practical reasons, I feel that it is only wise that my colleagues should join with me in supporting this very much needed amendment. In so doing, they will insure that innocent officials, unaware of the quirks of fate or the failures or conspiracies of subordinates, will not be unjustly penalized.

I hastily point out to my distinguished colleagues the fact that existing environmental statutes, such as the Federal Water Pollution Control Act and the Solid Waste Disposal Act, the bill that has just been reported out of the committee, have comparable provisions.

I feel it is only a matter of fairness, but let us be aware of what civil penalties are in common usage today. They are a substitute for criminal penalties in those cases where the Government is unable to make a case on the basis of a measure of responsibility that applies in a criminal case. That is, indeed, what a civil penalty is. It is really a criminal penalty in a sense. It is penal in nature and the substitute of the civil remedy, instead of going into a criminal action, is simply a way for the Government to make its case easier. What is happening as a result of all the law this Congress passes that provides for civil penalties, the case backlogs in the courts are building up and building up. Only criminal cases tend to be tried in many of the Federal courts today. As a result, civil cases will set there and pile up.

I suggest we ought to put the word "knowingly" in here. I certainly urge support for this amendment. I think we can improve the bill by it, so that it is sensible, reasonable and consistent with parallel legislation.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment. I will not use all the time.

All I want to say is that this amendment should be voted down. This is a civil penalty, not a criminal penalty. "Knowing" is not a proper requirement of a civil penalty. Even the administration bill does not ask for a "knowing" violation under this section. Where protection of the public health is concerned, any violation of health laws should be held accountable. All this section 104 requires is that if someone goes out and does something, which is contrary to the law or the State plan and, he may not really realize it, he still may be liable for a civil penalty.

Mr. Chairman, this should be voted down. It is not at all appropriate in this area.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I would like to point out that section 104 of the bill authorizes the Federal courts to impose civil fines against violators. This amendment, which was requested by the Administration, would provide the courts with a flexible, effective enforcement tool that will help clean up the environment while minimizing economic side effects. The sanctions now available to the courts under the present law are either unworkable or ineffectual. It is difficult, and seldom appropriate, to proceed criminally and get an injunction against a polluter. This will allow a civil penalty, a civil fine, so that we can have a sanction that will still allow the polluter to go ahead and continue business, but at the same time serving as a sanction against the polluter of the violations required of him by the law.

Mr. Chairman, I think it would be a grave mistake to accept this amendment and to make it impossible to use this sanction by imposing a qualification that it be knowing, which would make it equivalent to a sanction we already have in the law, which would make it a criminal sanction. I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 39, noes 65.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to ask the Chairman of the Committee about a matter that I believe I understand, but I want to be sure that the body of the House understands this also. On page 231, section 114, the bill makes reference to the fact that:

> The Administrator, after notice and opportunity for a public hearing and upon making a general finding of good cause and appropriate specific findings, may waive the prohibition of the third sentence of this subsection.

The third sentence really refers to that section of the original act on page 7, which really talks about grants for certain expenditures of non-Federal funds for other than non-recurrent expenditures for air pollution control.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we do not know where the gentleman is reading. I think it would be helpful if the gentleman would be agreeable to let us go over this with him with the staff, and then we can have a colloquy when we know specifically what he is referring to and save the time of the Committee.

Mr. PICKLE. Let me pose my question to the gentleman and come back later. My question is simply this: I know that in the bill the gentleman does allow for public hearings in connection with the regular administrative procedure and judicial review, and there is listed about 15 instances where these public hearings would be provided.

My question is, I want to be certain, although that is over in title III, that this equally applies to title I so that in case of a utility, there would be the right of public hearings. This is what I want to come to. I will be happy to come back to the gentleman and talk to him about it later.

Mr. ROGERS. Generally, where it specifies that, it is true. But we can develop a colloquy with the gentleman on that.

Mr. PICKLE. I want to be sure in connection with title I that public hearings are always available before these rules are put into effect.

Mr. ROGERS. Yes; I thank the gentleman. We will confer with him.

The CHAIRMAN. Are there further amendments to title I? If not, the clerk will read.

The clerk read as follows:

TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

> **SEC. 201. (a) Title III of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 306 of this Act, is further amended by adding the following new section at the end thereof:**

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued to read.

Mr. SCHEUER. Mr. Chairman, over the last year and a half, my colleagues on the Health and Environment Subcommittee and I have had to make hard and demanding choices between competing values—between the need to protect our environment and the need to achieve energy independence. Neither of these issues can be solved at the expense of the other if we are to continue to enjoy the quality of life we have all come to expect.

Of particular concern is the question of auto emission standards. At first, I was advised by some of the Nation's preeminent automotive engineers that by tightening automotive emission standards too much, too quickly, we would increase automobile energy consumption by at least 10 to 15 percent. I felt that this was too great a fuel penalty to pay at a time when energy independence is so important.

Since that time, however, the California Air Resources Board has produced startling hard evidence concerning an almost pollution free automobile which was developed by Volvo in conjunction with Engelhard Industries.

This four-cylinder car not only meets, but in fact, exceeds the 1977 emission standards set by the Clean Air Act of 1970—and in addition improves gas mileage. Such an impressive technological breakthrough cannot be ignored. I believe strongly that Detroit can—and must—achieve similar results.

In addition to the reduction in emissions and the improvement in fuel economy, there are two other reasons why this breakthrough is so significant:

For the first time industry has produced a catalytic converter capable of meeting the 50,000 mile performance standard set by the Clean Air Act.

The additional cost to the consumer is estimated by the California Air Resources Board to be between $25 and $50. This is hardly too great a "one shot" price to ask the consumer to pay for a cleaner environment with the added kicker of slightly improved fuel economy to boot.

For those of my colleagues who support a further delay in meeting statutory auto emission standards, I ask them to consider these facts. In 1975, according to the President's Counsel on Environmental Quality, some 14 cities exceeded the carbon monoxide ambient air standards an average of 16 percent of the time. This represents a total of 2,000 pollution days a year. These figures range from as few as 5 days a year in Minneapolis to a startling 344 days a year in New York City. Chicago has 170 pollution days; Los Angeles, 143 days; Denver 118 days; Boston, 113 days; and Seattle, 107 days.

Also, 12 cities did not meet or barely met the annual ambient nitrogen oxide—NO_x—standard in 1975. The Counsel on Environmental Quality found that the NO_x standard for 1975 was exceeded by 66 percent in Los Angeles, by 33 percent in Chicago, and by 21 percent in New York City.

According to the Washington Council of Governments, the ambient air quality for photochemical oxidants in the Washington metropolitan area was exceeded on 24 days in 1974, by 60 days in 1975, and by 56 days to date in 1976. The overwhelming amount of pollution in our Nation's Capital comes from automobiles.

Each day that the air quality is unacceptable, people who have lower respiratory diseases such as emphysema, bronchitis, and asthma experience extreme discomfort. Perhaps more importantly the entire population becomes more susceptible to influenza and pneumonia.

In addition, people with heart conditions and hypertension are much more likely to suffer the serious consequences of their conditions.

When section 203 comes up for consideration, Congressmen Henry Waxman and Andy Maguire will be offering an amendment to require Detroit to achieve emission standards by 1978 equivalent to the standards now being enforced for California autos. In 1979 and 1980, cars in the 49 States would be required to meet emission standards which will be in effect in California in 1977. Finally, in 1981, some 4 years later than envisioned by the Clean Air Act Amendments of 1973, the original auto emission goals of the 1970 Clean Air Act would be achieved.

I intend to support the Waxman-Maguire amendment. This time schedule gives Detroit more than ample time to iron out any bugs that may still remain in the Volvo system. I urge you to join me in supporting the Waxman-Maguire amendment so that we can achieve a cleaner environment without even incurring a fuel penalty.

I include the following:

Data on Gas Mileage for Volvos

All cars tested are of the 240 Volvo series, 130 cubic inch engines, 4 cylinders, manual transmission. Figures are given in terms of miles per gallon (m/p/g) during a combined City/Highway cycle of driving. Figures for Volvo mileage were supplied by EPA. The California Air Resources Board supplied mileage for the new three-way catalyst Volvo.

Volvo sold in the 49 States for 1976 with no catalyst: 20 m/p/g.

Volvo sold in Calif. for 1976, two-way catalyst, 21 m/p/g.

Volvo tested by Calif. Air Resources Board, three-way catalyst: 21.6 m/p/g.

It is clear that in the case of Volvo, when proper technology was applied, cleaner emission standards resulted in higher fuel economy.

Mr. GUDE. Mr. Chairman, I oppose the Chappell amendment because it guts one of the most important sections of this act, that allowing the States to protect their citizens' health from mismanaged, unregulated growth. After years of litigation, and years of consideration by Congress, this amendment would require yet another 2 years of study. We would decide not to decide for 2 more years—and let people who were never elected to decide anything do our job for us. Congress would abdicate its power to a National Commission on Air Quality—a real Kangaroo court.

It is purported that this Commission would study the costs of achieving or not achieving various nondegradation plans. It would do so before any attempt is made at implementing them. The committee bill would be one of those studied. The committee version gives the 50 States—Brandeis' "great laboratories"—the power to implement nondegradation plans. Surely each State—with different needs, different people, and different industry—surely each State's experiment will have different results. It is fatuous to believe and assert that the costs of 50 such experiments can be predicted in advance. But we know that these local decisions and their results will be far more acceptable to the people than decisions made by distant bureaucrats or in distant board rooms—or are we afraid of a little self-government?

This amendment is modeled on the National Commission on Water Quality. However, that Commission studied actual regulations, not supposed ones. Furthermore, one of their main recommendations was to give more power to the States. Why do we not profit from studies of other environmental problems and act—instead of wasting $17 million on a kangaroo court. There is no need to finance a contest in hard-headedness and hard-heartedness. There is need to preserve our health and welfare, today. I oppose the Chappell amendment.

Mr. WIRTH. Mr. Chairman, 6 years ago, expressing the determination of the American people, Congress established an unequivocal policy that we will no longer tolerate pollution that befouls our air and endangers our health. The Clean Air Amendments of 1970 directed the Environmental Protection Agency to set national pollution standards at levels necessary to protect people's health. These standards were to be met by the middle of 1975, and further improvements in air quality were to be made as soon as possible. How the standards were to be met and maintained was up to each State, but the 1970 law left no doubt that they were to be reached. If methods were not then available to meet the State requirements, polluters were given until the 1975 deadline to develop the necessary technology. Congress made a similar "technology forcing" decision about automobile pollution, a peculiarly national problem that could not be readily controlled by the different States. Manufacturers were given the same 5-year period to reduce car emissions by 90 percent.

These bold, ambitious goals have not been reached. We are now more than a year past the original deadlines, yet most of the people in the Nation are breathing air that does not meet the health standards. Although significant progress has been made in reducing the levels of some pollutants, over half of the air quality control regions failed to meet the 1975 deadlines.

There are many reasons for the failure to meet the standards. Some polluters have strenuously fought Federal and State efforts to impose controls on them, but it would not be accurate to lay blame for our slow progress only on polluters. Congress and the EPA have already given the automobile manufacturers until 1978 to meet the final standards. Further, it is now apparent that the 1970 law lacks both some necessary strength and some necessary flexibility.

Recognizing the need to change the 1970 law, the Health and the Environment Subcommittee and its parent Committee on Interstate and Foreign Commerce have spent over 100 sessions preparing the bill that is now before the full House. H.R. 10498, the Clean Air Act Amendmenuts of 1976, is an excellent product that reflects the great attention that went into its preparation.

The bill does not abandon the underlying, technology forcing, principle of the existing law. In some situations, where we have found the law to be overly rigid, provisions have been made for a relaxation of standards. For example, section 103 allows postponement, for no more than 5 years, in situations where compliance is impossible for certain reasons. But this section and others that add some flexibility to the law, only postpone the deadline for the development of new technologies.

The two most important—and hence the two most controversial—sections in the bill deal with significant deterioration and automobile emission standards. The significant deterioration section would let each State decide how much further pollution it will allow in areas that are cleaner than the national standards. These clean areas would initially be designated as class II—which would allow a moderate amount of additional pollution—but a State could redesignate them as either class I—which would allow only very little additional pollution—or class III—which would allow a lot. The only limitations on the State's redesignation authority are imposed to protect areas of national significance. For example, large national parks and wilderness areas could only be class I, and national monuments would start out as class I but could be redesignated as class II. This approach is generally an excellent one that will preserve the most beautiful areas of our country. My only concern is that the provision for class III would allow too much additional pollution. I will vote to eliminate class III, and hope that my colleagues will join me.

The automobile emission section would postpone the standards, which are now scheduled to go into effect in model year 1978, until 1980 for carbon monoxide and hydrocarbons, and until 1981 for nitric oxides. This position is a compromise between letting the full standards go into effect as now scheduled, and accepting the 5-year delay that President Ford proposed. Although it is obvious that the House will not let the statutory standards take effect in 1978, I hope that the committee version can be amended to strengthen the interim standards for 1978 and 1979.

Instead of freezing the requirements at the current level, the Nation should adopt the somewhat stricter standards that have been imposed—and met—in California.

Although most attention has been focused on these two sections, H.R. 10498 contains many other provisions of great importance. Section 316 is one that I would like to draw to the attention of my colleagues as having great promise for improving our future efforts to control air pollution. Since a combination of a strong law and a massive bureaucracy has so far led to only marginal improvement in our air quality, we should seriously consider new ways to limit pollution. Section 316, which was added to the committee bill at my suggestion, directs the Council on Environmental Quality to study the effectiveness of using economic incentives to supplement our regulatory approach to pollution control. The evidence that I have examined—both from the academic community and from the pioneering economic approach being used in Connecticut—strongly suggests that the most effective way to reach the goals we have adopted is to charge polluters for the amount of pollution they emit above established standards. While section 105 would authorize excess emission fees, these fees would be used in a very limited fashion. After we look at the effect of these limited fees, and the results of the study mandated in section 316, we should have enough evidence to adopt a comprehensive program of economic controls, a program that imposes less of a burden on industry, that requires less expense to administer, and that is more effective than our current approach.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

PERMISSION TO HAVE UNTIL MIDNIGHT, SEPTEMBER 10, 1976, TO FILE CONFERENCE REPORT ON H.R. 366

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, September 10, 1976, to file a conference report on the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, I take this time to announce a change in the legislative program.

We will start at 10 o'clock tomorrow, as the House voted, with the Clean Air Act which we were working on tonight.

Then we will consider a conference report on the postal reorganization, H.R. 8603, which I announced earlier.

We will then consider the land and water conservation conference report, S. 327, immediately following that.

NEW PANAMA CANAL TREATY REPORT: FALLACIES CLARIFIED AND CONSTRUCTIVE PROGRAM PROPOSED

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD), is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, as one who for many years has studied interoceanic canal history and problems, I long ago became accustomed to surprises. The latest significant one was a February 24, 1976, committee print of a report concerning a recent visit to the Isthmus of Panama by a Special Subcommittee on Investigations, House Committee on International Relations, under the title of "A New Panama Canal Treaty: A Latin American Imperative."

In the foreword to this document, the distinguished chairman of the full committee, the gentleman from Pennsylvania (Mr. MORGAN), correctly commented that the observations and findings in the report are those of the study mission and do not necessarily reflect the views of the membership of the full committee. To this statement, I would make these additional observations: nor do they reflect the views of many well informed Members of the Congress in both the Senate and House, various distinguished historians of the United States, some of our leading military and naval strategists, many experienced officers of the Armed Forces with previous service in the Canal Zone or other areas of the Caribbean, and experienced officials of large shipping interests that use the canal.

In addition, I can mention such national patriotic organizations as the American Legion, the Veterans of Foreign Wars, the Daughters of the American Revolution, the Military Order of the World Wars, the Sons of the American Revolution and the U.S. Industrial Council. All of these and many other groups as well as thousands of individuals from all the States, conscious of the mounting perils in the Gulf-Caribbean danger zone, strenuously oppose any weakening of U.S. sovereign rights, power, and authority over either the Canal Zone or the Panama Canal.

Mr. Speaker, much of what I shall say today, I have been saying for many years. It is aimed at clearing away some of the bewildering confusion that has featured so many recent discussions of the immensely complicated canal question and providing a valid plan of action.

How has the growing opposition to the long planned relinquishment of the Canal Zone been reflected in the Congress? In the Senate, some 39 Members cosponsored Senate Resolution 97 expressing the sense of that body against any surrender at Panama. This number of Senators is more than enough to defeat the projected give-away treaty. (CONGRESSIONAL RECORD, March 4, 1975, pp. 5070–5080.)

In the House, this branch of the Congress, on June 26, 1975, when considering an amendment to the Department of State appropriations bill for fiscal year

1976, introduced by Representative M. GENE SNYDER, voted 246 to 164 to prohibit the use of appropriated funds for negotiating the surrender or relinquishment of any U.S. rights in the Canal Zone. (CONGRESSIONAL RECORD, June 26, 1975, pp. 20945, 20967.)

Again, on June 18, 1976, the House of Representatives, after extensive debate, adopted by a vote of 229 to 130 the following amendment to the State Department Authorization Act, fiscal year 1977:

> SEC. 14. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this Act must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal." (CONGRESSIONAL RECORD, June 18, 1976, p. 19240).

This amendment, though "watered down" from that introduced by Representative SNYDER on this occasion, was not in the form of a "sense of the Congress" resolution as finally adopted in 1975, which was ignored by the State Department, but in the words of its sponsor a "substantive change in the law" (Ibid, p. 19245). Nevertheless, it is still subject to interpretation by the State Department of the term "vital interests," which that agency has equated with surrender of U.S. sovereignty over the Canal Zone. Thus, it is still likely to be ignored and ineffective.

Mr. Speaker, the most significant contribution of the June 18 canal debate was not the action by the House but the perceptive statements by Representatives SNYDER, JOHN M. MURPHY, and others, which are commended for special attention. (CONGRESSIONAL RECORD, June 18, 1976, p. 19234 and p. 19238, respectively.) Regardless of the action taken, it was clear from the speeches during the debate that this body of the Congress is overwhelmingly opposed to giving away the Canal Zone and canal.

As to the feeling among the people of our country at large, on March 15, 1973, following a national TV program on the sovereignty question, of more than 12,000 viewers from all over the Nation who expressed themselves, some 86 percent were opposed to any surrender. On August 23, 1976, of a total of 8,567 communications in the form of letters and petitions that I have received since February 7, 1974, only 16 were unfavorable. This figures out to a ratio of 535 to 1 in support of retention of undiluted U.S. sovereign control over the Canal Zone. Recent polls have confirmed this strong stand by the people of the United States against surrender.

An examination of the special subcommittee's activities during its isthmian visit, November 21–23, 1975, discloses meetings with officials of the U.S. Embassy in Panama and the pro-Red revolutionary government of Panama, conferences with many Panamanians, Canal Zone Government, and U.S. Southern Command officials, North American businessmen in Panama, and the Archbishop of Panama.

In this connection, it should be known that certain U.S. church groups have been misled into supporting the movement for the United States to give up the Canal Zone and that their efforts have included extensive lobbying in the Congress (Miami Herald, Sept. 21, 1975, p. 12F.)

Fortunately, Panama Canal employees, who have been in close touch with the situation, and understand it, have provided Members of the Congress with significant information, which helped to bring about on April 6–8, 1976 some important hearings by the Committee on Merchant Marine and Fisheries. (CONGRESSIONAL RECORD, April 13, 1976, p. 10829). This patriotic service by Panama Canal employees was a contribution of major value and merits the thanks of the Congress. I hope that all Members interested in the canal question will read the relevant parts of the testimony. (CONGRESSIONAL RECORD, April 13, 1976, p. 10829.)

Mr. Speaker, let us examine the six conclusions of the committee print report. Direct quotations of each of them are italicized:

> 1. *If a new treaty is not negotiated, American interests in the Canal will be jeopardized.*

The report goes on to state that if there is no new treaty, the United States will run "grave risks," including damage to the canal or even its closure, and harm to broad American political economic interests.

Mr. Speaker, as to such threats of violence, the canal, like any other major transportation project, has always been vulnerable. It was safely protected during two world wars, the Korean and Vietnam wars, the Cuban missile crisis and the 1964 Red-led attempted Panamanian mob invasion of the Canal Zone. I believe that I reflect the views of well-informed Members of the Congress, as well as many experienced officers of the Armed Forces, when saying that they are not impressed by such attempts at intimidation. Responsible officials of the executive, in the interest of saving lives of both North Americans and Panamanians, should make clear to the de facto revolutionary Panama Government that the United States will meet its treaty obligations for the protection of the Panama Canal and that any attack on either the Canal Zone or canal will be swiftly repelled with whatever force that may be required.

During the 1964 mob assault on the Canal Zone, transit traffic in the canal continued without interruption. That was a glowing tribute to the loyal employees, Panamanian as well as United States, who maintained and operated the canal, also to the Canal Zone Police and Armed Forces that protected it.

To stress the importance of our treaty obligations for protecting the canal against "lawlessness and disorder" as well as foreign aggression, information has been received from isthmian sources that there are nearly 3,000 Cubans in the Republic of Panama camouflaged as civilians and that Soviet-made machine-guns in large trunks have been received on the isthmus. (CONGRESSIONAL RECORD, Mar. 16, 1976, p. 6550.) The chairman of the Committee on Armed Services has advised me that his committee is keeping in touch with the situation.

> 2. *A new treaty is required if the United States is to have good relations with Latin American countries.*

The report then comments that North Americans make a "grave mistake" if they see the canal as only a problem between the United States and Panama.

Mr. Speaker, as to this second conclusion, it should be stressed that over a period of years, the Panama Government, acting closely with Cuba and the U.S.S.R., has been conducting a worldwide campaign of vilification against the United States to support the surrender of the Canal Zone to the Soviet puppet government of Panama. This campaign has included speaking tours by Panamanian agents before opinion-forming groups in the United States that were financed by the Department of State, and organized efforts to win support from various hemispheric countries.

In regard to the attitude of Latin America, other Members of the Congress and I were participants in the Inter-American Conference on Freedom and Security, September 25–28, 1975, Washington, D.C., which was attended by many distinguished representatives from 13 Western Hemispheric nations. The overwhelming views expressed during the sessions of the Conference were in opposition to surrender of the Canal Zone to Panama and a general desire for the United States to continue its undiluted sovereign control (CONGRESSIONAL RECORD, September 29, 1975, pp. 30793–30796.)

The assertion in the committee print that Latin America is "unanimous" in its support of Panamanian demands is not well founded and should not be recognized. (L. Francis Bouchey, "Report of Official Proceedings, Inter-American Conference on Freedom and Security," the Heritage Foundation, 1976.)

> 3. *A new treaty is also required for the continued operation of an open, safe, efficient Canal.*

The committee print report states that if a new treaty is not negotiated, the United States can expect both a deterioration of our relations throughout the hemisphere and "real dangers" to the operation of the canal.

Mr. Speaker, here again the acceptance of such threats as recommended in the report will inevitably cause widespread loss of respect due the United States and invite mob actions that may require far greater use of force in Panama than any previously employed for protecting the canal.

As to the nature of the projected new treaty or treaties, I would invite attention to the three conceptual agreements already published in Panama. How this vital interoceanic link could be efficiently maintained, operated sanitated, and protected under their provisions is beyond my comprehension. (CONGRESSIONAL RECORD, October 6, 1975, pp. 31874–31876.) Since assuming responsibility in the 1955 treaty for sanitation in the terminal cities of Panama and Colon, the Republic of Panama has not been able to collect its own garbage from the streets of those cities.

The expression, "open, safe, efficient canal" in conclusion 3 describes precisely the present situation. This fact invites the questions of why should we negotiate for creating a condition that already exists and how could surrender do other than add confusion, turmoil, uncertainty, and graver danger. Panama, situated on one of the most strategic crossroads of the world, is still the objective of predatory forces and requires the presence of a great power for its continued existence as an independent country and that power is the United States.

In addition, I would invite the attention of the Congress to the fact that the Panama Canal Reorganization Act of 1950 (Public Law 841, 81st Congress) specifically provides that the levy of tolls is subject to the provision of section 1, article III of the 1901 Hay-Pauncefote Treaty with Great Britain. Has the Department of State secured the approval of the British Government on this matter? It has not. In fact, recent inquires made to responsible officials of the State Department revealed that they did not even know about the treaty interests of the British Government in this crucial matter. (CONGRESSIONAL RECORD, June 10, 1976, p. 17398.)

One of the major United States responsibilities under the Hay-Pauncefote Treaty is protection of the canal against "lawlessness and disorder." This is a task that cannot be evaded for Panama is a land of endemic revolution and endless political intrigue. The idea that surrender of U.S. sovereignty over the Canal Zone to Panama will increase the security of the canal is mere wishful thinking that is entirely irrelevant. (CONGRESSIONAL RECORD, June 15, 1976 p. 18446.)

Moreover, as previously indicated, the projected surrender violates the 1901 Hay-Pauncefote Treaty with Great Britain. This commitment by the United States for the operation of an Isthmian Canal under the rules governing the operation of the Suez Canal has been accepted and cannot be disregarded. Likewise, Colombia, the sovereign of the Isthmus prior to November 3, 1903, has important treaty rights in the Panama Canal and Railroad by which the United States is bound and so far as can be ascertained that country has not been consulted.

4. *The timing of the negotiations is very important.*

The report says that while Panama may be willing to wait until after U.S. Presidential elections for a treaty such delay will make the situation "more dangerous" and the issues "more difficult to resolve."

Mr. Speaker, the prevention of informed public discussion of the canal subject in the United States is unfortunate. The surrender of U.S. sovereignty over the zone would place Panama in the position to nationalize the canal for which the zone is the protective strip just as occured in 1956 in Egypt after the withdrawal of British forces from the Suez Canal Zone. The people of the United States do not wish to have a Suez Canal situation at Panama and informed leaders in various parts of the Nation are dedicated to prevent any such development.

5. *A treaty which is mutually beneficial for the United States and for Panama should, among other things, replace the 1903 Treaty, give Panama sovereignty over the Canal Zone, increase its benefits, and provide for joint boards for making improvements and determining tolls.*

Mr. Speaker, are these facts or mere aspirations? Such actions will give away the Canal Zone and, ultimately, the canal itself, as well as burden the United States with grave responsibility without adequate authority—proposals that are a misjudgment of the actual situation. Panama has been, and still is, the greatest single beneficiary of the canal enterprise, with benefits from U.S. Canal Zone sources in 1975 totaling $253,130,000. (*Panama Canal Spillway*, July 16, 1976.) No doubt its benefits will continue to increase in the future as they have in the past.

6. *While the Panama Canal is not as important strategically as it once was, it remains a valuable economic and military asset to the United States.*

Mr. Speaker, this statement illustrates the misuse of the word, "strategic," which simply means advantageously located geographically. With traffic in the canal close to 14,000 transits annually, it is more "strategic" now than ever. The voyages of more vessels are shortened, more world commerce is benefitted, and an important element in U.S. seapower provided. What is needed is its major increase of capacity and operational improvement to meet future needs.

As to the strategic military and naval requirements for the canal, recent U.S. commanders-in-chief, Pacific, have expressed the view that without this interoceanic link, such operations as the Korean and Vietnam wars simply could not have been effectively conducted. Anyone familiar with the history of the Panama Canal prior to and after the attack on Pearl Harbor understands its value to national defense and cannot be confused by clever sophistry or other chicanery.

A second section of the committee print report makes the following recommendations, direct quotations from which are italicized and on each of which I shall make brief comments:

1. *The debate over a new treaty should concentrate on what is at stake for the United States.*

The report asserts that "sovereignty and ownership" are not issues for it erroneously alleges that the United States never had either.

Mr. Speaker, the plain terms of the 1903 treaty grant full sovereign rights, power, and authority over the Canal Zone to the United States in perpetuity, and, most significantly, to the entire exclusion of their exercise by the Republic of Panama. Former President, later chief justice, Taft, in a formal policy statement in Panama City, R.P., on November 16, 1910, while attending a banquet given by the president of Panama, made this positive declaration:

> We are here to construct, maintain, operate, and defend a world canal, which runs through the heart of your country, and you have given us the necessary *sovereignty and jurisdiction*, over the part of your country occupied by that canal to enable us to do this effectively. (Ho. Doc. No. 474, 89th Congress, p. 193) (Emphasis provided).

In addition to sovereignty over the Canal Zone, the United States obtained title to all privately owned land and property in the zone from individual property owners by means of a joint United States-Panamanian claims commission, making the Canal Zone by far our most costly territorial acquisition. (CONGRESSIONAL RECORD, Dec. 9, 1975, p. 39492.)

Thus the study mission's contention that the United States never had either sovereignty or ownership is simply not true. (CONGRESSIONAL RECORD, June 9, 1976, pp. 17151–17153 and June 17, 1976, pp. 18903–18905.)

In this connection, Mr. Speaker, I would invite the attention of the Congress to a comprehensive legal memorandum on the sovereignty question prepared in May 1959 by the office of the Governor of the Canal Zone and quoted by me in an address to this House on June 23, 1959. A major part of the concluding paragraph of the memorandum follows:

> 23. The United States has the exclusive right to the exercise of sovereign rights, power, and authority in the Canal Zone. The Republic of Panama has no right to the exercise of sovereign rights, power, and authority in the Canal Zone, and no right to the perquisites or privileges of a sovereign in the Canal Zone. Any titular sovereignty which the Republic of Panama may possess in the Canal Zone is wholly barren and dormant (reversionary in character) at least so long as the convention of 1903 remains in effect. (CONGRESSIONAL RECORD, June 23, 1959, pp. 11675–78 and Ho. Doc. No. 474, 89th Congress, pp. 127–34.)

As I have stated on many previous occasions in regard to what is at stake for the United States, the question of the canal is not a local problem between the United States and Panama but one of global significance. Its control is the prime objective in the struggle by the U.S.S.R. for conquest of the Gulf-Caribbean area. This fact is becoming increasingly understood and cannot be ignored.

2. *While it may not be possible to reach agreement on all substantive issues in a new treaty, before the 1976 elections, earnest negotiations should continue in an effort to resolve the major outstanding issues and reach an agreement on a draft treaty.*

Mr. Speaker, the answer to such statements as this should be that U.S. sovereignty over the Canal Zone is not negotiable and that any invasion of the Canal Zone will be repelled with appropriate force.

3. *Supporters of a new treaty must work to educate the American people and the Members of Congress about the need for it.*

Mr. Speaker, instead of describing such a program as "education", it should be described as an appeal for the presentation of only one side of a vital issue.

4. *Over the coming months the U.S. military command in the Canal, South Com, should intensify efforts to consolidate and*

streamline operations and facilities in the Canal Zone.

Mr. Speaker, this is part of the demand of Panama for the elimination of U.S. Armed Forces from the Isthmus as was done in 1956 by British Forces stationed in the Suez Canal Zone before nationalization by Egypt of the Suez Canal. The announced Panamanian objective is for the complete removal of the United States from the Isthmus. As to this, I would urge that instead of weakening our forces in the Canal Zone they should be strengthened. A start in this direction would be the reactivation of the U.S. Navy's special service squadron with its home base in the zone. This squadron, operating directly under the direction of the Chief of Naval Operations and not as part of our combat naval forces, served usefully over the many years of its existence before U.S. involvement in World War II in fostering better diplomatic relations with various countries in the Caribbean-Gulf regions and it could do so again as well as being an active symbol of the strength and stability of the United States.

5. *Members of Congress should examine this issue carefully and consider visiting the Republic of Panama and talking with Panamanian officials and Americans working in Panama.*

The report then emphasizes such visits as a way for Members to "educate" themselves. It suggests that they talk with Canal Zone officials, American officials in Panama, American businessmen living in Panama, and Panamanians.

Mr. Speaker, here again I suggest that Members talk with expert Canal Zone employees, who are the ones burdened with continuous responsibility for maintaining, operating, sanitating, and protecting the canal and know whereof they speak. Members seeking authentic information can find it in Washington extensively set forth in the CONGRESSIONAL RECORD and in my volume on "Isthmian Canal Policy Questions" (H. Doc. No. 474, 89th Congress). They do not have to go to Panama for essential facts for there are many well informed and competent experts here, some of them in the Congress.

6. *Members of Congress should be aware that their comments on the canal are closely followed and widely reported in the Panamanian press.*

The report then suggests that Members refrain from making statements during the next several months that might hinder the negotiations and that to prevent a draft treaty from even being submitted to the Congress can only harm our national interests.

Mr. Speaker, in contrast, I would urge all Members of Congress concerned with the security of the United States, after obtaining accurate information, to speak out on the canal issues in forthright and unequivocal terms. As previously stated, such information is extensively available in the CONGRESSIONAL RECORD and elsewhere in Washington.

The appendices of the report include the February 7, 1974, Kissinger-Tack "Statement of Principles," to govern the negotiation of a new canal treaty, a December 2, 1975, address by chief negotiator Ellsworth Bunker, a statement by the administrative board, U.S. Catholic Conference of Bishops of February 24, 1975, a November 12, 1975, press release by the U.S. Chamber of Commerce, and a historical documentary summary provided by the Library of Congress.

Although the historical summary provides many important facts the conclusions of the report do not reflect this.

To offset this defect, I have recommended the prompt issue by the Committee on Merchant Marine and Fisheries of its own committee print with authoritative documents, including some addresses by informed Members of the Congress and papers by recognized experts on the canal question.

Mr. Speaker, I would stress again what has often been stated, that the Congress has not been, and is not now being, fully informed about what is transpiring concerning this great U.S. asset, which is essential for interoceanic commerce, national defense, and hemispheric security.

The gravest vital issue in the Isthmian equation, as I have often stated in addresses in the Congress, is not between the United States and Panama, but between the United States and the Moscow-Havana axis with which the Panamanian dictatorship is closely allied.

Mr. Speaker, the Gulf-Caribbean areas are now well on their way toward becoming Red lakes. Upon the fate of the Canal Zone depends that of the canal. Upon the fate of the canal depends that of the entire Caribbean-Gulf basin and on it depends the survival of the United States as a free and independent nation. Such realities in the global situation cannot be disregarded, but must be faced.

The most crucial question involved is whether the Soviet beachhead in Cuba shall be expanded to include the entire Caribbean-Gulf basins for the encirclement of the United States or should these strategic waters be preserved as peaceful moats for hemispheric security and free navigation for the vessels of all nations. Continued undiluted U.S. sovereign control of the Canal Zone is the key to the right solution.

Mr. Speaker, the United States is a great and powerful nation. It has friends, but also enemies and this requires constant vigil over our ramparts and strategic outposts, among which the Panama Canal is crucial. In viewing the situation we must look to the future and not to the past. The time has come for a constructive, definite, economic and historically based policy derived from experience. The program for implementing such policy is simple:

First. Adoption by the Congress of pending resolutions reaffirming and making definite U.S. policy for the contiued undiluted sovereign control over the Canal Zone and canal (S. Res. 97 and H. Res. 75, 94th Congress);

Second. Termination of the current treaty negotiations;

Third. Enactment of pending measures for the major modernization of the existing treaty provisions (H.R. 15178, 94th Congress);

Fourth. Authorization for the election of a nonvoting delegate in the Congress by U.S. citizens residing in the Canal Zone (CONGRESSIONAL RECORD, June 5, 1975, p. 17249, and October 28, 1975, p. 33910.);

Fifth. Reactivation of the U.S. Navy's special service squadron with home base in the Canal Zone. (CONGRESSIONAL RECORD, May 28, 1976, p. 15891.)

When the immensely complicated canal problem is evaluated from all its more significant angles, this program provides the best solution (CONGRESSIONAL RECORD, December 9, 1975, pp. 39492–39498). Not only that, the current national debate on the canal question is serving as a catalyst for the restoration of the national will of the United States and of its true status as a great power in the struggle for the defense of freedom and civilization.

Because of its pertinence, recent American Legion testimony before the Subcommittee on the Panama Canal, Committee on Merchant Marine and Fisheries, is quoted as part of my remarks and commended for reading by all concerned with the canal problem and security of the United States:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 10, 1976.

DEAR COLLEAGUE: Much is being published in the press of the United States about the Panama Canal but relatively little concerning our vital economic and defense interests in it, especially in regard to the relation of the Isthmian canal to our inland waterways and sea ports.

In a recent statement before the House Committee on Merchant Marine and Fisheries, Captain Frank Manson, Assistant Director, National Security-Foreign Relations Division, of the American Legion, summarizes these interests and quotes the Legion's 1975 Resolution on the Panama Canal and a March 24, 1976, letter by the Legion's National Commander to the President of the United States.

As these documents should be of special interests to all members of the Congress, particularly those from states served by major inland waterways or large seaports, a copy of each is attached.

Sincerely yours,

DANIEL J. FLOOD.

Enclosures (3).

STATEMENT OF FRANK A. MANSON, ASSISTANT DIRECTOR, NATIONAL SECURITY-FOREIGN RELATIONS DIVISION, THE AMERICAN LEGION, BEFORE SUBCOMMITTEE ON THE PANAMA CANAL, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. Chairman and distinguished members of the subcommittee: As recently as March 24, 1976, The American Legion National Commander Harry G. Wiles has written to President Ford expressing his concern over current efforts by certain officials of the Executive Branch to relinquish U.S. sovereignty, ownership, and control of the U.S. Canal Zone.

The issue of sovereignty in 1976 transcends strictly the hemispheric relationships of the past. In this age, the pressures and influences of super-power relationships have become zeroed on this narrow waterway which serves as an open crossroad for U.S. and world-wide shipping.

The Panama Canal must remain open and available in the long term interest of the maritime nations.

The economic future of the United States heartland with its newly built McClelland-Kerr Canal joining the Mississippi to the Oklahoma-Kansas boundary, is increasingly dependent on the free and unrestricted sealanes in the Gulf of Mexico, the Caribbean and the Panama Canal. These sealanes are actually lifelines for survival on an increasingly inter-dependent planet.

The economic security of the United States is inextricably interwoven with its rivers, and seaways opening such vast resource areas as the Ohio Valley, the Tennessee Valley and the newly developing Arkansas Valley to world-wide markets. Seaborne commerce is the competitive answer to international trade. Trade is a deterrent to war, and an incentive for peace.

The advent of containerized shipping utilizing the intermodular mode has opened new and promising vistas of commerce. In fact, it is completely revolutionizing the shipping industry.

Few Americans realize that about 70% of the cargo moving through the Panama Canal either originates within or is destined for U.S. ports, and that U.S. container ships represent some 55% of total canal transits for that type of modern cargo ship.

Contrary to the projections of those who have spent too much effort on past trading patterns, the combination of navigable waterways and containerized shipments point to an increased use of these strategic waterways.

Militarily, these same Caribbean, Gulf and Canal waters give mobility, flexibility, versatility and economy to U.S. forces at a time when U.S. taxpayers are crying out for maximum defense at the minimum cost. The Panama Canal enables the rapid deployment of ships from Atlantic to Pacific and back again. History has repeatedly demonstrated the logic and the urgency of such a deployment capability. Heavy canal usage during the conflicts of World War II, Korea and Vietnam, both by combatants and military related traffic, bear witness to the canal's military value.

Politically, we are witnessing the advent of Marxist leadership in the Panama area. This is an ominous development when considered with the latest threats against Puerto Rico, Guantanamo Bay and the Canal Zone itself. The latest intelligence indicates over 2,000 Cuban "workers" have been sent to Panama to help Gen. Omar Torrijos in his determination to liberate the U.S. Canal Zone. What use is Castro planning for his thousands of Angola veterans? Where this Marxist penetration will end is anyone's guess. But the "workers" are now on location. How does one placate the implacable—satiate the insatiable. Sometimes "no trespassing" signs will suffice.

The U.S. Canal Zone stands as a symbol of U.S. will on our 200th birthday. Panamanian citizens listening to the sounds of nearing drummers, ponder their own destiny. They see thousands of Cubans and arms arriving. Many of the enlightened Panamanians are undoubtedly asking themselves what life is like in East Europe, and in such far away places as Latvia, Lithuania and in nearby Cuba where the people have been liberated by Marxist regimes.

On the matter of sovereignty, Isthmus history has been well documented by the U.S. Congress. Suffice to say, the question of sovereignty of the U.S. Canal Zone was decided by the Hay-Bunau-Varilla Treaty of 1903 which not only gave complete sovereignty in perpetuity so that the United States citizens would be persuaded that it was sound to invest their tax dollars in such a high risk venture which thus far had been marked by the failures of other nations.

In the same Treaty of 1903, the Republic of Panama acknowledged that the grant of sovereignty to the U.S. was to the complete exclusions of the right to exercise any sovereignty by Panama. The language is clear. The central problem is that once sovereignty goes, the risk of precipitous expropriation looms imminent.

What really would prevent an avowed Marxist General Omar Torrijos or one of his successors, from demanding further emendations of the treaty? From demanding a quickening of the pace to full Panamanian control? From ordering U.S. forces out of the ex-U.S. Canal Zone? From closing the canal to transit of our warships, or those of our allies? From raising the tolls drastically. There are the precise demands of a vocal, radical, violent minority in Panama today. They may be the government of tomorrow. These are the questions that trouble the grass roots America and The American Legion.

At a time when sovereign U.S. territory is actually being threatened by the full-load of Marxist tools—political, psychological, military, subversive elements, blackmail and the lot; when the build-up of forces and weapons is actually in progress, the time is surely near when Washington must tell both Moscow and Havana that vital United States interests are involved in the U.S. Canal Zone. Marxist leaders should be strongly encouraged that if they must continue to fish beyond their own realms of sovereignty they do so in less sensitive waters. Secretary Kissinger has said U.S.-Soviet relationships could not take another Angola. Nor could it take one U.S. Canal Zone.

Commander Wiles' letter to President Ford (attached) makes constructive recommendations on actions which would clearly demonstrate U.S. resolve and confidence on this festering issue. Also appended to this statement is The American Legion's mandate (Resolution 173) to retain U.S. sovereignty.

THE AMERICAN LEGION,
Washington, D.C., March 24, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Having just returned from a visit to the Panama Canal Zone, I am deeply concerned about the trend toward a gradual withdrawal of United States responsibility and interest in the Caribbean area, and especially the Canal Zone itself. I am likewise concerned about continuing advocacy by members of the Department of State to relinquish United States sovereignty in the Canal Zone which would symbolize a growing U.S. weakness and lack of national will to protect our vital interests.

I well understand the dilemma in which some of your predecessors and associates have placed the Presidency at this time. However, I see no alternative to facing the proposition that the Canal Zone is part and parcel of U.S. territory and cannot be given away, unless and until the people of the United States, and their representatives in Congress feel it is in their interest to do so. In the final analysis, it is the people who paid for the Canal and who have borne the burden of its construction, maintenance and protection for the past 72 years.

I strongly urge you, Mr. President, to reevaluate the administration's policy on the Panama Canal with a view to finding a viable alternative to present attitudes and trends. One prospect is to resume the immediate major modernization of the Canal which would give employment, improve the earnings and standards of the entire area, and improve relations between Panama and the United States.

As you know, we have already spent more than $170.0 million on such a modernization program. More to the point, resumption of the modernization effort would meet the growing demands of Canal users at a time which the average size of vessels using the Canal is increasing, and this suggestion would square off with Canal pilots who strongly recommend such action. Moreover, such a modernization is authorized under existing treaty provisions and does not require negotiations or treaty changes.

Another suggestion which I believe has merit is the re-establishment of the Navy's Special Service Squadron which was home-based in the Canal Zone for two decades prior to World War II. This token naval force was most effective during those years and now it would symbolize a continuing U.S. interest in the area. Such a small force would not be provocative and yet it would reassure United States citizens living there as well as those within our own boundaries. It would serve as a symbol of stability and strength in many ways.

Mr. President, The American Legion is mandated to retain U.S. sovereignty of the Canal Zone and Canal. It is my judgment that this mandate, representing grass roots sentiment, will not change in the foreseeable future because the sovereignty in the Canal Zone continues in our national interest. This fact is reinforced by the Soviet Union's continued efforts to penetrate the Western Hemisphere and in light of recent Soviet-Cuban collaboration in Africa.

I urge you in behalf of the 2.7 million members of The American Legion to take a firm stand on this smouldering Canal Zone situation. I believe the general public would be inspired by your initiative and give you their support.

Sincerely yours,
HARRY G. WILES,
National Commander.

[FROM THE 57TH NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN MINNEAPOLIS, MINN., AUG. 19, 20, 21, 1975]

RESOLUTION NO. 173—THE PANAMA CANAL

Whereas, Under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power, and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, The United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, The United States Executive Branch is currently engaged in negotiations with the Government of Panama without authorization of the Congress, which would diminish, if not absolutely abrogate, the present United States treaty-based sovereignty and ownership of the Zone; and

Whereas, The American people have consistently opposed further concessions to any Panamanian Government that would further weaken United States control over either the Canal Zone or Canal; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Minneapolis, Minnesota, August 19, 20, 21, 1975 that the United States must be vigilant against all efforts to surrender any of the U.S. sovereignty or jurisdiction in the Panama Canal Zone or over the Panama Canal obtained under the 1903 Treaty with the Republic of Panama, as amended and revised in 1936 and 1955; and be it further

Resolved, that The American Legion reaffirm its opposition to new treaties or executive agreements with Panama that would in any way reduce our indispensable control over the U.S.-owned Canal or Canal Zone; and be it finally

Resolved, that The American Legion urge the immediate resumption of the modernization of the present Panama Canal as provided under the current legislative measures for the Terminal Lake-Third Lock proposal.

Mr. ANDERSON of California. Mr. Speaker, I congratulate the gentleman from Pennsylvania (Mr. FLOOD) for his eloquent and insightful defense of our American interests in the Panama Canal.

I also supported the Snyder amendment to the Department of State appropriations bill for fiscal year 1976. Again, on June 18 of this year I voted against the Buchanan substitute because, and I said these words then—

> Our nation's vital interests have been the center of this entire controversy. I want clear, cogent guidelines, not ambiguous wording. I believe the Department of State interpretation of vital interest is not the majority of the American people's.

Thus, when Mr. FLOOD charges that the State Department equates "vital interests" with surrender of U.S. sovereignty over the Canal Zone, I could not agree more.

Mr. Speaker, recently I received a book entitled "Hands Off the Panama Canal," written by Mr. Isaac Don Levine. In the accompanying "Dear Colleague" letter signed by the distinguished chairman of the Committee on Merchant Marine and Fisheries, Mrs. SULLIVAN, and the ranking minority member of the Subcommittee on Panama Canal, Mr. SNYDER, they say:

> [The] book provides a clear and lucid warning against Communist influence in the Western Hemisphere, particularly in the Caribbean, showing how such influence could be expanded to include the interoceanic waterway so strategically and commercially vital to our nation.

Mr. Speaker, I do not want to be a book salesman here, but I do want to advertise this theme.

This Nation must not underestimate the reports of Soviet influence worldwide. I, for one, cannot understand why the Department of State has recognized the dangerous precedent of Soviet intervention in Angola; has recognized the possibility of Soviet exploitation of the Rhodesian and Namibian racial crises; but the State Department apparently discounts the possibility of Soviet action in the Canal Zone.

Mr. Speaker, the United States of America has often been criticized as an imperialist nation. Many of us in Congress, in turn, are asking the Department of State to heed the possibility of Soviet imperialism if we should surrender U.S. control of the Panama Canal.

This thought should be paramount in the minds of our representatives, as they negotiate the future of this waterway that is so vital to our international trade, commerce, and defense interests as a nation.

Mr. ROUSSELOT. Mr. Speaker, I am pleased to participate in the special order requested by my colleague and good friend, DAN FLOOD, on the subject of the Panama Canal. Mr. FLOOD has relentlessly given to this House, and the Nation, the needed leadership in the continued question of U.S. sovereignty over the Panama Canal and the Canal Zone. I am certainly thankful to him for his tireless efforts.

As I have stated to this body on many previous occasions, the United States must maintain its constitutional rights, responsibilities and duties in the Canal Zone. It is my opinion that the American people have been misled and cajoled into believing that our interests in the Canal Zone have been protected while, in fact, the administration has been lending its approval to State Department initiatives which would surrender the American rights and interests in Panama. Neither the President, his Secretary of State, his Ambassadors nor the U.S. Senate may act singly or in concert to give up U.S. sovereignty in the property of the Panama Canal. This country must stand by the clearcut terms of the 1903 treaty which gave the United States perpetual sovereignty over the Canal Zone as long as we continue to operate, maintain, and protect the Panama Canal.

Again, I would like to thank Mr. FLOOD for his unquestioned leadership in this effort and urge that the Members of this body give full support to his efforts.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HIGHER EDUCATION STRANGLING IN FEDERAL REDTAPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 30 minutes.

Mr. MEZVINSKY. Mr. Speaker, education should be regarded as one of our most valuable national resources. An enlightened citizenry has always been considered the primary safeguard of democracy. It is the task of Government to create an environment in which educational institutions can operate with maximum autonomy and financial security. In turn, colleges and universities provide us with the expertise we need to solve complex national problems, and contribute to a unique partnership through which we utilize each other's resources to achieve our common goals.

Today, this partnership is being threatened by intensifying Federal regulation of these institutions that drains their financial and personal resources and is beginning to mummify them, as one administrator put it, in layer upon layer of protective redtape. The problem can be traced to a lack of effective communication between executive agencies and Federal administrators, and the failure of the Government to anticipate the practical effects of its decisions or to make allowances for the cost of implementing them.

Educational institutions must follow a disproportionate number of regulations by their very nature. First, they are subject to many of the same rules and participate in many of the same programs as business corporations. Second, many students are highly dependent on Government loan programs. Finally, almost every institution receives substantial Federal assistance for research programs that must be carefully monitored. It has been estimated that there are over 400 different laws which affect colleges directly, producing many thousands of separate regulations.

Unfortunately, educational institutions are uniquely vulnerable to the cost of implementing these regulations. Because they employ more people per dollar of income than do most other corporations, the portion of the budget paid out for personnel programs is also larger. Because they require extensive physical facilities, the proportion of income paid for maintenance programs like OSHA is greater as well. The only alternatives are to pass the cost of regulation on to the consumer; that is, raise tuition, or to absorb losses by cutting back on educational programs. There are no other choices.

Recently, a survey was conducted at the University of Iowa to determine the impact of Federal regulations. It was estimated that direct dollar costs alone amount to approximately $6 million annually, which represents 4 percent of the university budget. For all American colleges and universities, this figure has been estimated at nearly $2 billion, which is approximately the amount of all private donations to them.

Even more alarming is the rate at which these costs are growing. According to the American Council on Education, dollar costs to many private institutions have increased up to 20-fold during the last 10 years. In addition to these direct costs, there is the less visible but steadily mounting burden of administrative tasks imposed by the Government. A typical example is the situation of the University of Iowa Personnel Department, which has had to create five new administrative positions since 1970, mostly due to Federal reporting requirements, and now spends $10,000 annually in computer costs to keep pace with federally mandated paperwork.

Despite their costs, the number of Federal regulations continues to mount. One agency, the Office of Education, published 32 relevant documents in the Federal Register in 1972 and expects to publish 270 during 1976. These are typical figures. It is no wonder educational administrators are growing concerned.

A major portion of the costs results from noneducational social programs like social security, workmen's compensation, FICA, and so forth, which affect colleges directly. No one is arguing with the goals of these programs. The problem lies in their implementation, which accounts for between one-eighth and one-fourth of their total cost, and their imposition without direct consultation with college administrators to determine how they can best be integrated into existing programs. Again, it is no wonder that an adversary relationship is developing between educational administrators cut off from the decision-making process and Federal bureaucrats.

The implementation of Federal affirmative action hiring guidelines provides a good example of the types of problems being encountered. The program itself is a good one which promotes equitable and impartial hiring practices. The University of Iowa, however, is also bound by law to follow the State board of regents merit hiring system, which is intended to eliminate discrimination through administration of an impartial written test. The requirements of these two programs are often in conflict; that is, a secretary who might fulfill affirmative action guidelines might not score highly on the board's test.

Similarly, high scorers might not fulfill affirmative action requirements. These conflicts result in frustrating and costly delays in filling staff positions, and could have been avoided if Federal administrators had tried to integrate affirmative action into existing programs instead of simply imposing it on them. Even though every major institution in the country was required to submit an individual plan incorporating Federal guidelines, their needs were for the most part ignored. These plans were lengthy and expensive; its my understanding that at the University of Wisconsin, the report amounted to 5,000 pages in 15 volumes, although it was neither read nor used.

Another affirmative action requirement states that each institution must monitor and report every employee action. The price tag for this service at the Iowa School of Dentistry, which is only 1 of 10 major subdivisions within the University of Iowa, was $8,000 last year. A requirement that all professional positions be advertised in certain publications before they are filled is met at an annual cost of $6 million nationally, although educational administrators contend that placements are rarely made through this type of advertisement, and that the money is being wasted. Ultimately, nearly all of these costs must be borne by the educational institutions themselves, with little or no help from the Federal Government which produces them.

Another major problem is the implementation of the Privacy Act, which protects student and employee records. No one seems to have been told just how the act should be applied, and many students are unaware of its requirements. Consequently, when graduate schools or prospective employers have a legitimate need to examine this information, it often cannot be obtained, resulting in long and costly delays in application procedures.

Recently enacted OSHA regulations provide perhaps the best example of the financial problems being experienced, and the failure of the Government to recognize them. The capital cost of complying with every regulation at the University of Iowa is estimated by University officials at about $25 million, or more than one-seventh of the school's annual budget. For all of our colleges and universities, this figure is set at approximately $3 billion, most of which must be provided out of existing funds. The only possible alternatives are cutting back on educational programs or ignoring some of the regulations. The Federal Government seems to be unaware of the problems it is causing.

Even programs directed primarily at education contain insufficient provision for their administration. Federal loan programs, which provide essential aid for many students, also indirectly increase tuition because no provision is made for the cost of university oversight. The total salaries budget at the University of Iowa Office of Student Financial Aid has increased from $50,000 to $156,000 during the last 10 years, in part due to Federal reporting requirements. VA aid recipients, for example, are closely monitored at an estimated cost to the university of $20 per student per year, only $3 of which is provided by the Government.

Many Federal research grant programs are no more efficiently administered. These grants are now becoming the life-blood of many university departments. Similar grants are often administered by different agencies, however, and reporting requirements are often duplicative, expensive, and worthless. College and university administrators must compile and report huge amounts of data to granting agencies every year. The cheapest way to do this is by computer, but constant and often inconsequential changes in Federal reporting requirements make many computer programs obsolete before they can be used, and much of the work must be done by hand at greatly increased cost.

Dollar costs are not the only costs. Communication between Federal and college administrators is poor, and information received from the Government is often confusing and contradictory; for example, the University of Iowa personnel office has received three different IRS reporting schedules. Many Federal administrators seem far more concerned with implementing the letter of the regulations than attempting to reach the broader goals they are intended to promote. VA aid recipients at Southeastern Community College in Iowa were recently threatened with a total program cutoff not because the school did not meet VA educational quality standards, but because it did not fulfill certain technical accreditation requirements.

Many college administrators are concerned that regulations are slowing the pace of educational innovation and making it impossible for educational instituitons to adapt quickly to changing program needs. Some maintain that project grant funding reflects fluctuating governmental priorities instead of the real needs of the educational community, and does not contribute to well-coordinated research and teaching efforts.

The list of problems is endless. Clearly, colleges cannot be exempted from Federal oversights. The Government can, however, administer its programs in a way that will not choke the institutions they are intended to assist. We must provide room for them to breathe, grow, and determine their own futures. Increased congressional oversight of executive rulings would provide for the consideration of more and varied opinions before decisions are made. The inclusion of more active college administrators on executive policymaking boards would help insure that required inputs are made. A popular proposal is the creation of an "educational impact review board" which would project the effects of pending decisions on educational institutions. Not only would this enable the Government to better anticipate the impact of its decisions, but would probably cause some regulations to be rejected once a cost/benefit analysis was made. Finally, Federal grants and regulatory programs should reflect their actual implemention costs.

The problem cannot be quickly resolved. To maintain our working partnership, we must begin immediately with a careful reassessment of the Government's role in higher education. We must strive to open new and effective lines of communication in an attempt to make our Government more responsive to the needs of those whom we regulate. Educational institutions must be subject to oversight, but they have unique requirements which must be recognized. They are invaluable national resources and, like all resources, must be carefully preserved.

TASK FORCE ON REFORM STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 30 minutes.

Mr. FRENZEL. Mr. Speaker, the House of Representatives has suffered a drastic decline in public approval in the past few years. In its good months, the Congress confidence rating gets as high as 11 percent but then it seems to settle back to its usual 9 percent. This year alone, numerous opportunities for the House to make essential reforms have eluded the House and its inept, or uncaring, leadership. In most of these cases, the House merely did nothing, and allowed an inefficiency or an evil to stand. Occasionally, the House has passed diversionary or cosmetic proposals while real reforms have been ignored.

The House Republican Task Force on Reform has repeatedly invited the Democrat majority to join us in mutual commitment to reform antiquated House rules and procedures. The Democrat caucus and its leadership have consistently ignored those invitations.

Again, today, the task force is presenting the House with an opportunity to take positive action in three important areas: First, to demand publication by the Committee on Standards of Official Conduct of the report on its investigation into violations committed by former Congressman Wayne Hays; second, to provide an orderly procedure for consideration of a resolution of expulsion for Members convicted of a felony; and third, to prohibit ex-Members of Congress from lobbying on the House floor.

We again invite the Democratic majority to join us in the 20th century.

I. REPORT OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The Task Force on Reform recommends that the Standards of Official Conduct Committee reconsider its recent decision not to publish the committee report of its investigations into allegations of misconduct of former Congressman Wayne Hays. We urge that a report be published forthwith.

We do not believe this failure to report is an attempt to cover up alleged misconduct and abuse of power by a Member of the "club," but we are concerned that others may do so. We regret the committee's decisions to abandon its investigation for lack of jurisdiction and recommend that its jurisdiction be expanded and clarified so that a simple resignation cannot close out any investigation. If the report is stifled, the American people will continue to believe the House is incapable, or willing, to purge itself. If the jurisdiction is not broadened, the yawning loophole awaits the next offender.

The task force notes that the Judiciary Committee completed its report on Watergate after the resignation of the President.

If the same standard is not applied here, the editorial descriptions of "coverup" and "stonewalling" will be accurate.

We urge the public and the House be given the full accounting of the findings of the committee and we demand that the House direct the committee to complete and file its report immediately.

II. FELONY CONVICTIONS

The House will soon consider a privileged resolution regarding the expulsion of a Member convicted of a felony. While the task force takes no position on the merits of this resolution, we do make the following procedural recommendations.

The current procedure requires that one Member assume responsibility for proposing a resolution for expulsion. That resolution is then referred to the Committee on Standards of Official Conduct. If the committee choses not to act, the resolution can be called up at a later date as a privileged motion.

The Task Force on Reform believes that the full House has a responsibility to assure that a felony conviction automatically triggers a full House decision.

We recommend a rules changes to provide that, in an instance of a felony conviction, a resolution for expulsion is considered automatically in the full House within 30 legislative days. The case then can be fully discussed during the debate on the resolution. The task force believes that no single Member should have to force the decision on the full House. It is a collective responsibility that belongs to every Member.

III. EX-MEMBER LOBBYING PRIVILEGES

On August 10, the House Republican Task Force on Reform urged support for a rule prohibiting lobbying on the floor of the House by former Members of Congress. Congressman JOHN ANDERSON, with many cosponsors, has introduced a resolution which would prohibit such activities.

Today, the Rules Committee was directed by vote of the House to study the situation and report. The task force believes lobbying on the House floor is contrary to the best interests of the House and degrades the House and all its Members. The task force urges the Rules Committee to report promptly its findings and bring a preventative rule, such as the Anderson resolution to the House.

SOCIETY'S GROWING UNREST AND DISGUST AT GOVERNMENT OVERREGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, there is growing unrest and disgust in our society with the massive expansion of Government. This was brought vividly to my attention recently by a letter from one of my constituents, he noted that during 1975 more than 60,000 pages of regulations, proposed regulations, corrections to regulations, and guidelines were issued.

President Ford has instigated a study of the oppressive regulatory system, and has impressed upon the regulatory agencies the need to participate in a reform program.

Dr. Murray Weidenbaum, director of the Center for the Study of American Business at Washington University, has studied extensively the Federal regulatory system. His evidence eloquently completes the argument posed by my constituent.

Dr. Wiedenbaum focuses not only on the governmental costs but also on the ripple effects which cause skyrocketing costs for consumers and hamstring private business.

In the private sector, Weidenbaum identifies the different costs as: the mammoth paperwork burden on businesses, and the reduced rate of technological innovation and introduction of new products into the American marketplace.

These costs are obviously more difficult to estimate. But thanks to Dr. Weidenbaum some authoritative statistics are available:

> As of June 30, 1974 there were 5,146 different types of approved government forms, excluding tax and banking forms. Individuals and business firms spend over 130 million man-hours a year filling them out.

Big and small alike are harassed by the bureaucrats. A small radio station in New Hampshire reported that it spent over $26 just to mail its license renewal application to the Government.

Standard Oil of Indiana has to file approximately 1,000 reports a year to 35 Federal agencies. In the first half of 1975, 16 new reports were demanded by the Government. All of this requires 636 miles of computer tape, 100 full-time employees, and an annual cost of $3 million.

Even more difficult to authenticate are those costs which cause a loss of time in the introduction of new or the innovation of old products. Such regulations are felt more strongly by smaller firms and thus have an anticompetitive impact.

Often products proven safe and used many years in other countries are not given a license by the United States for bureaucratic reasons.

Two brief case examples might aid in our reflection on this growing problem.

Among the regulations with which hospitals must comply to receive Hill-Burton funds is a clause requiring that trash can liner bags be used for sanitary reasons. However, OSHA does not allow the use of such trash can liner bags.

If, as Lord Acton said, "absolute power corrupts absolutely," let us consider the Consumer Product Safety Commission as exhibited in the following case.

The Food and Drug Administration declared that two products of the Marlin Toy Co. were dangerous. So in keeping with this decision Marlin Toy recalled the products and changed them to comply with the regulations of the Consumer Product Safety Commission which had taken over this responsibility.

However, when the CPSC drafted its new list of banned items, it mistakenly left the Marlin toys on the list. When this was pointed out to the Commission, it agreed that it had made a mistake, but said it would not recall 250,000 lists "just to take one or two toys off."

The result: Marlin Toy Products was forced out of the toy business. The cost: A layoff of 75 percent of its employees.

Such arbitrary and arrogant State power is the reason for the anti-Washington sentiment throughout the Nation. Such actions make us slaves to a Government originally created to be our servant.

As President Ford has emphasized, there is a place and a purpose for Government regulatory agencies. But regulation should be limited to those instances in which the total benefits to society exceed the costs, and they should not be allowed to harass the people.

H.R. 10498 THE CLEAN AIR ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 10 minutes.

Mr. McKINNEY. Mr. Speaker, the 1970 Clean Air Act is an ambitious product of a more energy abundant and economically vibrant period. Within the context of 1976 energy and economic realities, new strategies must be chosen to achieve our Clean Air Act goals. However, I think it is vital that cost/benefit analysis not be permitted to overshadow the basic purpose of the Clean Air Act—the protection of the public health. Both stationary source and automobile emissions reduction goals are established to minimize the demonstrated heatlh risks posed by the presence of certain chemical and particulate pollutants in the air. So, in considering H.R. 10498 the issue is not to avoid or delay cleanup costs, but to allocate those costs necessary to protect the public from the effects of unregulated air pollution—millions of dollars in property damage, respiratory illness and death. I assure you that it was only after hours of study, conferences and briefings that I concluded that the committee-endorsed provisions of the Clean Air Act amendments offer the most reasonable means to maintain and improve air quality while considering the demands of energy conservation and economic recovery.

The aim of this bill is to extend compliance dates to allow for minimal economic disruption or energy waste, and to replace Federal controls with State decisionmaking in many important areas. Sections 103, 106, 112, 115, and 202 give the States the authority to grant compliance extensions for various reasons including conversion from oil to coal as a power source, testing new emission control technology, continuing growth in still dirty areas and infeasibility of transportation control techniques. Further, the bill will strictly limit the availability of the controversial indirect source review authority which some view as part of the EPA "no-growth" policy in limiting shopping center and parking facility construction. Indirect source review is a secondary pollution control technique and the committee bill insures that it remains just that.

In clarifying the court-endorsed policy that the Clean Air Act contain an inherent authority to prevent significant deterioration of already clean air, the committee bill proposes a three-tier system of classification of cleaner than required areas. Only 3 percent of certain Federal wilderness lands would automatically be termed class I with strict limits on development which increases existing pollution levels. All remaining Federal lands and all State areas would then be classified by the States either class II or class III. These categories permit areas to be "dirtied up" by 25 percent and 50 percent, respectively, of the lowest ambient air quality standard for given pollutants. Only the States may establish and alter these classifications.

The advantages of a workable policy to foster the prevention of significant deterioration of air quality are many. First, this section of the bill would replace harsh EPA regulations in this area and permit long range growth planning until the class II and class III increments were used up. In my view, however, the most compelling of these benefits is in reduced risk to the public health. Research since the ambient air quality standards were set has shown that even these levels may be too high to eliminate serious health dangers. The lack of a prevention policy may result in the nationwide attainment of air quality levels from which we may have to retreat still further. With this in mind, I would rather maintain an effort to permit planned growth while protecting the purity of already clean, healthy areas.

As I mentioned previously, I think the Committee on Interstate and Foreign Commerce is to be commended for their approach to this legislation. In the area of auto emission controls, the committee has admittedly taken a middle of the road position. I think this is a responsible approach in that it strikes a workable balance between the legitimate needs of the auto industry for time to develop clean, fuel efficient technology, and the equally compelling need to reduce the concentrated presence of these substances, particularly in our urban areas. Study after study by the National Academy of Sciences as well as research done by the Federal Energy Administration, the Environmental Protection Agency, and the Department of Transportation conclude that fuel savings mandated by the Energy Policy Act can be achieved by means other than elimination of emission controls.

For these reasons, I cannot support the Dingell amendment. Passage of this proposal would mean that once again the auto industry could walk away from Washington satisfied with having won another legislative victory at the expense of the American people. The Dingell proposal would freeze present HC and CO emission controls through 1979 and eliminate the NOx standard altogether—replacing it with administrative guidelines. While promising cheaper, thriftier cars and little overall degradation of ambient air quality, such an amendment would exact costs far beyond those alleged savings. Recent EPA studies show that while many areas may still be able to achieve the Clean Air Act's primary air quality standards in spite of an emissions freeze, there will be 46 percent more occasions when urban air quality in 26 major cities will exceed healthy levels. These more frequent pollution alerts threaten the health and property of millions and need not be tolerated in the name of auto efficiency improvements which I feel could be achieved using present engine technology and emission controls.

Over the years, it has become obvious that clean, healthy air cannot be achieved through the control of individual pollutants, but by reducing the frequency of the many possible chemical combinations and reactions which occur in the atmosphere. In that nitrogen oxides react with various other pollutants to produce smog and a variety of hazardous—even potentially carcinogenic—substances, I do not favor an indefinite suspension of the ambient air quality standards. Through the formulation of implementation plans, the States have counted on the auto emission reduction schedule in choosing various stationary source control techniques. Should we now abandon the NOx standards for cars, many States would have to revise the pollution controls now required for powerplants and major industrial facilities to pick up the slack. Since the auto industry has had since 1970 to develop the technology to control this pollutant and has shown a consistent reluctance to do so, I do not think the Dingell amendment is justified.

On the other hand, there is increasing pressure to support the amendment offered by Mr. WAXMAN and Mr. MAGUIRE to force the auto industry into earlier compliance with stricter auto emission standards. While I will not hesitate to condemn the automakers for failing to act in good faith, I think the point must be made that the committee bill and the Waxman-Maguire amendment share the same final goal. However, the committee is simply more realistic in advocating an extended graduated scale in which to meet these goals. The committee bill firmly clamps down on the open ended "dates certain" which we have all grown familiar with during the past few years.

It makes absolutely no sense to kid ourselves into thinking that the "big three" are going to accelerate development of auto emission controls when we are all too familiar with their past records. Once and for all, we are finally saying, "this is the last time we are going to trust you" in language which the automakers can understand, with provisions which the automakers can cope with, and in standards which the automakers can and must meet if we are ever going to realize our goals of cleaner air. Overall, I am hopeful that during continued discussion of the amendments to the clean air bill, my colleagues will keep in mind the fact that while attractive alternatives might be offered, the committee bill offers the most responsible solutions to the problems we face today.

A STRATEGY FOR PROSPERITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP), is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, Theodore Roosevelt once observed:

> The Declaration of Independence derived its peculiar importance, not on account of what America was, but because of what she was to become. She shared with other nations the present, and she yielded to them the past, but it was felt in return that to her, and to her especially, belonged the future.

America has before it a number of choices concerning that future. And the Congress has before it an opportunity to adopt a set of principles and programs which will meet the needs of the people, capture their imaginations, and restore our national vitality and greatness. We must not miss this opportunity to offer the American people a strategy for freedom and prosperity—a strategy that will touch a responsive chord in the hearts and minds of independent minded men and women of both political parties and of divergent beliefs.

The American people, know what their real needs and interests are. They are mature enough to face facts. They are intelligent enough to distinguish between straightforward government and political gimmickry. It is time to tell the American people the whole truth and to heed their commonsense and their faith in their own abilities.

Today, all levels of government takes over 44 percent of the national income. The way things are going, the government will soon—in just a few years—be taking away from the American people over half of what they produce. Already the high tax rates are cutting seriously into incentives, capital formation, and individual freedom.

Taxes that are excessive are not paid. When persons in high marginal tax brackets spend 2 or 3 months of the year just on vacations, income is not being redistributed; rather, it is not being produced. When people are forced by high tax rates to invest in tax free municipal bonds, the productivity and employment level of the national economy is reduced in order to subsidize and, thereby, encourage increased spending by government. High tax rates do not produce high tax revenues, and they are inconsistent with full employment.

Freedom has never been independent of the person's ability to hold on to the product of his own labor. If a person's income is expropriated—whether legally or illegally—he is not free. During the Middle Ages a serf was a person who owed the government one-third of his labor. The long struggle for freedom that ensued from that time was connected with gaining the right to keep the products of one's own work.

In the past several decades government has again so encroached on the earnings of individuals that today we face the struggle for freedom all over again. That is why the Congress must offer constructive alternatives to bigger and bigger government, more and more inflation and taxes, and, consequently, diminished freedom and prosperity for all.

The greatest property right that the American people have is the ownership of their own labor. When a working person cannot sell his labor—his property—for a fair wage in the market because government taxation of investment capital has destroyed the ability of private enterprise to hire, that worker has been dispossessed of his property by government. The greater the spending programs of government, the greater the dispossession of the worker. This dispossession of the worker of his property is known as unemployment and/or taxation.

In a modern industrial economy tools and equipment, plant and machinery, are necessary to employ labor. People no longer work with their own hands alone. They need capital tools with which to produce. Without it, they cannot produce. And increasingly they are without it because of the negative impact of taxes and inflation on capital formation. Studies of the relationship between capacity utilization rates and unemployment rates show that since 1950 the rate of unemployment consistent with full capacity utilization has increased markedly. During the 1950's an unemployment rate of 4 percent was consistent with full capacity. But in the 1970's the unemployment rate was 5.6 percent even when the economy was at full capacity. Our Nation no longer has the productive capacity sufficient to reduce unemployment below 5 percent.

The rising amount of unemployment that is present even when the economy is utilizing all its productive capacity means that the labor force has been growing faster than the plant and equipment necessary to employ it. The tax bias against saving and investment has interfered with the economy's ability to grow. High tax rates are in the way of economic growth. This is not just an economic issue, it is a moral issue.

Nothing is of greater importance to the future of the country than assuring a durable and stable process of economic growth in order to increase the national product, real wages, employment, and Federal revenues with which to reduce deficits and the public debt. The reason we must assure this growth is only incidentally the credit we may receive in elections. The main reason focuses on the human side of the matter. There is a moral case for growth, an imperative in my opinion. That moral case is the disadvantaged—those who are without jobs or adequate food, clothing, shelter, and medical care. These people want an opportunity to produce and to meet their own needs.

The people are more united in their need and desire for increasing real jobs and real production than in anything else. We now need the political leaders to remove the tax barrier against work and production in order to accomplish full employment without inflation.

We must be candid. Instead of seeing the proverbial writing on the wall, too many in the Congress have instead tended to wall themselves off from political reality by offering no positive program to increase the availability and desirability of production and work. The congressional Democrats have generally been the party of increasing Government spending, and the Republicans have generally been the party of reducing Government spending. And when that spending was not brought down and deficits resulted, Republicans found themselves serving as the tax collector for Democratic spending programs. Neither party has really offered an alternative to larger Government spending programs.

There is no political leadership when there is no political alternative to more Government spending programs. Let one party be the party of big government, and let the other party be the party of private enterprise. Then the people can choose between keeping income that they themselves produced or having it taken from them to be redistributed by and to bureaucrats who did not produce it. Let the people choose between high taxes and inflation on the one hand or lower tax rates and stable currency on the other. Let them choose between income redistribution or economic growth, between keeping more of what they earn or turning more of it over to the Government. Then they will live in a constitutional democracy that offers true choices between major alternatives.

The opponents of bigger government must recast their program from reducing the size of government to increasing the size of the private sector, because the best and surest way to reduce the size of Government is to increase the size of the rest of society in relation to it. And the best and surest way to increase the size of the private sector is to reduce the tax barriers to its growth.

It is time to cut taxes on personal income and businesses—in the name of equity—in the name of full employment—in the name of economic freedom and production.

There is nothing more unsound than to tax work heavily, to tax employment, to tax creative energy, to tax risk-taking. The two most obvious propositions of economic science are that a tax will reduce the amount of whatever is taxed and a subsidy will increase the amount of whatever is subsidized. It is no wonder that the United States has fallen so short of its employment and output potentials and has so many inefficiencies and so much unemployment when it heavily taxes work and subsidizes nonwork.

Taxing investment has the same effect as taxing work. It reduces the number of jobs. Neither people nor nations can get ahead on welfare. The American people are energetic people. They do not want welfare; they want work. They want to get ahead. The Congress must remove the tax bias against employment and let the people advance themselves according to their own priorities, not those of the Federal Government.

For every Government spending program that the advocates of big government offer, the people should have the alternative offer of a tax cut. I believe most of the people would choose to keep more of their own earnings in their own hands rather than choose more Government spending programs. This is the only way to reduce the size of Government. As long as one party says there cannot be a tax cut until there is a spending cut, that party will be the tax collectors for the other party's spending programs. To reduce Government deficits and get a handle on out-of-control Government spending, the emphasis must be on reducing taxes and regulations. Obviously, we must reduce the Government's share of the national income by reducing spending, but as I have pointed out that is only part of the strategy to increase real growth and employment.

Bigger Government can best be fought by lower taxes and more private enterprise jobs.

Unlike spending deficits, most tax cuts take care of themselves, because when taxes are cut, investment and employment increase, the tax base expands and revenue to the Government increases. Lower taxes on a bigger tax base will produce more Government revenues than higher taxes on a smaller tax base.

The New York Times once understood this fact of life. In the 1920's the newspaper editorialized in favor of cutting taxes in order to encourage industry and provide funds for capital investment. The Times said that a tax cut—

> . . . would lighten the demands upon millions of purses hard to fill. It would not only do away with oppressive taxes, it would lower the cost of living. It would release capital for productive industry and enterprise of all kinds. This would result in fuller employment of labor, multiplication of goods in common consumption, and probably bring about a period of great and legitimate expansion of industry and commerce never surpassed in the United States.

The Times was exactly right. Within 4 years of the tax cuts, the enormous expansion of the economy produced enough revenue gains to pay off a third of the national debt.

In the 1960's when Democrats under the banner of John Kennedy adopted the traditional Republican approach and lowered the tax rates, their own Treasury Department predicted that revenue losses of $89 billion would result. Was the Treasury right? No. They were totally wrong. In place of the estimated revenue loss of $89 billion, there was an actual revenue gain of $54 billion.

A tax cut is not only an economic and political imperative. It is also a necessity in the name of fairness and equity. The American people have not only lost purchasing power to inflation and to the recession the inflation caused, but also to the higher tax brackets that they were pushed into by the inflation.

Because of the progressive nature of the income tax, higher money incomes mean higher tax brackets and higher tax rates even though the prices people have to pay may be going up as fast or faster than money income. The way our tax system operates, inflation makes people pay a higher and higher percentage of their earnings in taxes even when the real buying power of their income is constant or even shrinking.

The real economic issue is not deficits alone but also the high rates of taxation which reduce living standards, which hold down productive efforts and the economic growth of our economy, which reduce employment and the incentive to work, which make people dependent on welfare by denying them work.

In recent weeks 68 Senators voted against the amendment offered by Senator ROBERT TAFT, JR., of Ohio, to index the personal income tax. By doing so, they have made it clear that they intend to use inflation to raise the tax rates on the American people. This is the issue that must be taken to the people. They must be offered an alternative which corresponds to their needs—a reduction in tax rates in order to create jobs and fight the high cost of living.

If we abandon our commitment to growth, we dim the poor's hopes for overcoming their plight, for increasing their living standard in real terms. The great public achievements of the past generation have been financed out of expanding wealth—increasing the size of the total economic pie. Without growth, an increased living standard for one group can only be achieved at the expense of another, and the realization of that strains our social fabric. The only way to assure that growth of one group is not at the expense of another is to assure that bigger economic pie from which all can partake. The only real and lasting way to increase the standard of living of the people is to increase the amount of capital invested in relation to population. It is from this premise that our political and economic decisions should be made.

This way of thinking is in marked contrast to what the advocates of big government and their "let government do it philosophy" have offered over recent decades.

The advocates of big government have ridden to political success on a horse called the need for more government spending. More government and huge deficit spending are the ways they have brought the divergent needs of people together to be satisfied under one political umbrella. It has been a successful political formula, one that has captured the Congress all but 4 years and the Presidency three times in the post-World War II era. It may have been good politics, but it was disastrous economics, carrying within itself the seeds of its own demise, for Government deficit spending must be financed, and the financing of its bloated growth has reduced the supply of productive work. In short, the Government's share of the wealth is interfering with the creation and use of wealth.

Why is it that we need a greater percentage of gross national product invested in the private sector? Why is it that we need a faster rate of capital formation? What does it mean, and how does this investment capital relate to jobs and to the living standard?

The rate at which capital is formed and accumulated governs the rate at which we buy and modernize our tools of production, and that rate governs how much or how little our production goes up and our prosperity improves.

At this Bicentennial it is important to look at the difference between 1776 and 1976 in terms of what tools have made possible. Compare the living standard today with then. Men and women were working 12 to 18 hours a day and 6 or more days a week. Child labor was the norm. As a matter of fact, children had to work for families to survive. Horses and oxen were plowing the fields and pulling wagons and carts. Electrical power consisted of Benjamin Franklin pondering over its effects on his kite. The internal combustion engine was a hundred years away from even being invented. Machines were in their infancy. Sail and flowing water were the means of waterborne commerce. No running water was in homes. It was a hard life by today's standards even for the wealthiest and, in fact, had changed little over 2,000 years.

We know what we have today by contrast. Prosperity has reached a level never known in the world's history. Workers' real wages have reached a level unprecedented in any economy. We produce in 1 hour the wheat it took them more then 1 week to produce. We travel in a few hours the distance across America it took them two full seasons to cross. Instead of a campaign to open the Applachians, we have walked on the moon. Of all the figures one can recite, the two most revealing are these: One-half of all the goods produced in the past 10,000 years, have been produced in these United States in the past 200 years, and the technological gulf which separates us today from George Washington is greater than the gulf which separated him and the building of the pyramids.

America has the material resources, our vast quantities of natural resources. We had human resources, the immigrants that came to America because of its vision of freedom and its living standard. And we had sufficient incentives for capital formation, for the investment essential to assure a growth in jobs and productivity. And this is what distinguished us from all the rest—our free enterprise system and its use of capital tools.

All measures which preclude adequate capital formation or even cause capital decumulation are, therefore, anti-social, because they reduce our ability to resolve human problems and fight poverty.

With these thoughts in mind I have been in the forefront of efforts within Congress to remove the existing disincentives in our tax laws to the formation of capital. The Jobs Creation Act, which I first introduced in March of last year, now has 132 cosponsors in the House and Senate. That legislation sets forth 16 means of increasing savings available for investment by removing or offsetting existing tax biases. A major econometric study has shown that the act would so stimulate production that over a 3- to 5-year period, we would have a $600 billion increase in gross national product, a $230 billion increase in capital outlays, and a $45 billion increase in Federal revenues—all above what would otherwise occur. The result of this tremendous stimulation to production is the creation of millions of new jobs, higher real wages, and increased Government revenues.

Given the hardships inflicted by unemployment and inflation, why delay economic progress? Why wait on reducing the tax bias against job-creating capital formation? The best way to fight unemployment and inflation is to increase capital investment, which both employs more workers and produces more goods. Inasmuch as the minimum estimate of the capital shortage over the next 10 years is $575 billion and inasmuch as it now takes about $47,000 in capital to create the average job in industry, we had better be about the task immediately.

In order to get the country, employment, and economic growth on the move upward—rather than Government, taxes and inflation—I believe a minimum program of tax rate reduction consisting of the following three components is required.

Raising the thresholds on the personal income tax by the amount of inflation since January 1, 1973, treating everyone equally and bringing the tax brackets in line with the shrunken purchasing power of everyone's income.

Bringing an end to that double taxation of dividends which taxes the earnings of job-creating investment twice.

Increasing the corporate surtax exemption to $100,000 to help smaller businesses compete more successfully.

Lower tax rates will expand the private sector of our economy and increase employment opportunities. The result will be to reduce the number of people dependent upon Government spending programs and to increase the tax revenues of the Government. Tax cuts eliminate deficits by enlarging the amount of economic activity that is subject to taxation. Lower tax rates mean greater tax revenues.

ACTION NEEDED ON ESTATE TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 5 minutes.

Mr. ASHBROOK. Mr. Speaker, the action of the majority party's leadership in the House of Representatives shows the lack of regard by that leadership for the farmer and the small businessman.

Estate tax reform is long overdue. I have long urged and supported reform in this area. I have introduced legislation which would more than triple the present exemption. Not since 1942 has there been a change in the estate tax exemption. The result has been additional suffering for the families of farmers and small businessmen.

I urge the Speaker of the House to put estate tax reform back on the legislative calendar so that the full House of Representatives can tackle this important issue. Present inaction only shows the callousness of the majority party toward the problems of the small businessman and farmer.

JANE ADDAMS TO BE HONORED IN CHICAGO AT HULL HOUSE FUND RAISER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, Chicago is honored to be the site of the original Hull House and also the city where Jane Addams began her work with the downtrodden in community efforts to help people help themselves. Since 1889, when it was founded, Hull House has meant new hope for the poor. On September 15, in celebration of Miss Addams' birth 116 years ago on September 6, the Hull House Association will hold a fundraising banquet so that the outstanding work begun by Jane Addams can be continued.

Today only a remnant of the original Hull House stands on the University of Illinois' Circle Campus, but six major centers of the Hull House Association, located throughout Chicago, continue the pioneering efforts of Jane Addams in behalf of the solidarity of the human race.

At the Jane Addams birthday banquet, to be held in the grand ballroom of the Conrad Hilton Hotel, Mr. Wally Phillips will receive the Jane Addams Award for his philanthropic work. The master of ceremonies will be Mr. Irv Kupcinet, the dinner chairperson is Mrs. James B. Peterson, and the honorary dinner chairman is Mr. Arthur Rubloff. Benny Goodman and his sextet will provide the entertainment, and it was at the Hull House where he began his clarinet lessons.

Mr. Speaker, as one who had the honor and good fortune of personally knowing Jane Addams, it is a genuine pleasure for me to commend the Hull House Association and its outstanding programs. I also extend my warmest best wishes to the officers and trustees of the Hull House Association for continued success in their community service.

A list of the officers and the members of the Board of Trustees of the association follows as well as an article from the September 6 Chicago Tribune on this subject:

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JANE ADDAMS LEGACY IS CENTER-STAGE ONCE MORE

(By Margaret Carroll)

A magazine editor once said of Jane Addams: "Her name standing alone means more than anything which can be said about her."

Miss Addams' name always has been newsworthy. It is newsworthy even now, 116 years after she was born in Cedarville, Ill., the daughter of a prominent businessman, miller, farmer, politician, and friend of Abraham Lincoln.

It has been 87 years since Miss Addams and her college friend, Ellen Gates Starr, set up the settlement house in the West Side mansion that had once been the home of Chicago realtor Charles J. Hull. And it has been 41 years since she died, after a career that saw her both hailed as a skilled conciliator and condemned as a pacifist traitor.

Today, only a remnant of Hull House stands at Polk and Halsted streets on the University of Illinois' Circle Campus—a monument to Miss Addams' conviction that humanity is the world's most valuable resource. But the pioneering effort of Miss Addams and her colleagues continues in Hull House centers throughout the Chicago area.

And on Sept. 15, Miss Addams' name and principles will be applauded once again at the Hull House Association's $100-a-person fund-raising dinner in the Conrad Hilton Hotel. Hull House alumnus Benny Goodman, who took his first clarinet lessons in the settlement house, will perform with his sextet. Radio personality Wally Phillips will receive the Jane Addams Award for his philanthropic activities.

Perhaps social science has become more scientific and less social since Miss Addams and Hull House residents paid room and board in the settlement and performed their neighborly work, as their leader expressed it, to "relieve, at the same time, the overaccumulation at one end of society and the destitution at the other."

It is difficult now, viewing the rooms in the surviving two of the settlement's 13 buildings, to imagine that in these quaint quarters, residents assessed their neighbors' needs and mapped solutions ranging from arts and language classes to labor-management negotiations and protective legislation.

Two major research projects continue to occupy the interest of the staff of the present-day Jane Addams Hull House museum. One involves the collection of Miss Addams' papers for publication. The other involves collecting visual material on the neighborhood surrounding Hull House in its early days.

Those who would view the legacy of Miss Addams' philosophy can drive in several directions from Hull House and find it fostered in social-service centers trying to serve the needs of their clients.

In the autobiographical "Twenty Years at Hull House," Miss Addams wrote: "The one thing to be dreaded in the settlement is that it (could) lose its flexibility, its power of quick adaptation, its readiness to change its methods as its environment may demand.

"It must be open to conviction and must have a deep and abiding tolerance. It must be hospitable and ready for experiment. It . . . must be grounded in a philosophy whose foundation is on the solidarity of the human race. . . ."

Of the six major centers and several outposts administered by the Hull House Association, only two buildings—the Jane Addams Center, 3212 N. Broadway, and the Uptown Center, 4520 N. Beacon St.—are owned by the organization. The others are leased—making it easier for a center to move as its population moves.

"We try to get close to the people, so they don't have to transfer seven times on public transportation to get counseling or whatever other service they might need," said Robert T. Adams, executive director of the association.

The organization is as diverse as it is flexible. As Miss Addams and her coworkers spent hours securing funds for deserted women, insurance for widows, furniture from the installment store, and providing food and activity for children of working parents, today's Hull House centers attempt to suit individual neighborhood needs.

Day care, Head Start, recreation, and arts programs remain vital elements of several centers. But community organization and job placement in Uptown, English classes for Mexican immigrants and counseling of working class families in the south suburban Des Plaines Valley area, food co-operatives and pantries, legal aid, advice on tenants' rights, cutting redtape between public institutions and disadvantaged citizens, and services to the elderly indicate that the association has adhered to Miss Addams' philosophy.

She advised that "The Settlement . . . constantly acts between the various institutions of the city and the people for whose benefit the institutions were erected. The hospitals, the county agencies, and state asylums are often but vague rumors to the people who need them most."

The centers continue to try to find solutions that will help, Bob Adams says, "to keep people free."

Keeping people free carries a price tag, as it always has. Jane Addams, listed in the Social Register for many years, managed to keep the cash coming in via her contacts with wealthy Chicagoans. Ellen Starr's aunt, artist Eliza Allen Starr, was a member of the influential women's Fortnightly Club, which named Miss Addams an honorary member in 1904.

Among Hull House's most ardent supporters was socialite Louise de Koven Bowen, who donated a building at Hull House and a summer camp in Waukegan, and worked unflinchingly with the settlement toward establishment of the Juvenile Court.

During Miss Addams' controversial advocacy of pacifism during World War I, Mrs. Bowen abandoned her friend, but eventually they declared a personal armistice. When Miss Addams died in 1935, Mrs. Bowen took over the difficult job of president of the Hull-House board of trustees.

While she lived, Miss Addams never involved Hull House in group fund-raising efforts because she said she feared regulation by such a group (one biographer suggests she preferred to control the purse strings herself).

Today, however, the Hull House Association participates in the Community Fund, where it obtains 23 per cent of its annual $3 million budget. More than 60 per cent of the budget comes from government grants. The remainder comes from private sources, raised by the individual centers' boards and the central board of directors.

Robert C. Bates, association president, said federal funds often are restricted to designated uses. The Sept. 15 dinner, an activity of the central board, will generate unrestricted funds to meet changing needs in the areas served, and to provide quick solutions for crises.

Anyone dealing as closely with the public (from bureaucrats to benefactors), as social agencies do, knows that humor often is an necessary as money and programs. This must have been equally true in Hull House's early days. In a letter to her sister in 1890, Ellen Starr explained that Hull House came to be named after Hull's heir donated the house rent-free for four years: "It was growing inconvenient not to have a name, and it is very convenient to have four years' rent."

HOSTAGES IN TURKEY—PART II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, in late July, I spoke out in the House on the problems of our military personnel in Turkey. This was not the first time I had heard about these problems. In January of this year I had contacted President Ford to express to him what I had heard verbally from families of military personnel in Turkey. I pointed out to the President that we should not be in a position where our good faith effort to improve relations with Turkey ends up being a one-sided affair. I felt the least we could expect is decent treatment of Americans in that country.

The reply I received from an assistant to the President essentially said that the situation was improving and that the administration held the welfare of American personnel in Turkey as a primary concern.

Six months later I began receiving letters directly from service personnel in Turkey which prompted me to speak out on this matter. They reported that their luggage and household goods had been held up, their food rationed, mail service limited, and various other forms of harassment.

I then passed along these comments to the Department of Defense and recently received a reply which, similar to the reply from the President in January, said the situation is improving. They assured me that all commissaries in Turkey are in operation and are adequately supplied and medical facilities are available. But there are still problems with customs processing and restrictions on mail.

Just a week after receiving this reply from DOD, I heard from another military family in Turkey. They reported they are purchasing outdated food in the commissary, but are assured by the clinic that it is fit for human consumption. They have not been permitted to receive or send packages, but rumor has it that this will open up for a month over the Christmas holidays.

Any type of rules and regulations they are subject to can be changed at any time. They reported that they are not permitted to bring electric equipment into the country after living in Turkey more than 6 months, but generally can pay a tax/fine of 100 percent of the value of the item and get around this regulation. They stated that car registration is difficult as it takes some time before a car clears customs at the port. Then once a car reaches them, it takes several weeks of waiting to register it locally and then it cannot be driven off the base for 8 to 10 months afterward. This last letter ends with "this could be a lot better assignment with a little help."

Mr. Speaker, I think that most military families are accustomed to hardships and are willing to put up with sudden moves, inadequate facilities, assignments to our out-of-the-way posts and other inconveniences that are a part of the military life. But what seems to be coming through to me in all these letters I receive is that our Government does not care. That we are in our comfortable homes, with our well-stocked supermarkets and department stores, good schools and well-run medical facilities and we are not concerned about these military families.

They are the pawns in this international dispute and are being oppressed and humiliated by the Turkish Government.

Action must be taken soon to free these people from living their hostage-like situation. Conditions of our military personnel in Turkey must be improved and our Government should do everything in its power to see that this is done immediately.

NARCOTICS TRAFFICKERS TAX PROGRAM IN JEOPARDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, I would like to make reference to a further chapter in the ongoing resistance to developing a strong and effective program for catching some of this Nation's most contemptible tax evaders, the high-level drug traffickers.

It has come to my attention that David R. MacDonald, the Assistant Treasury Secretary for Enforcement, has been asked to leave his Treasury duties and to accept transfer to the Department of the Navy. I greet this news with dismay. Mr. MacDonald has consistently supported revitalizing the IRS's now almost defunct narcotics traffickers tax program. I consider such a revitalization essential and I praised Mr. MacDonald's efforts in this direction in my speech to the House on August 10.

President Ford has given lipservice to revitalization of this program, but has never provided the leadership or direction this program needs to overcome bureaucratic opposition to it. The Commissioner of Internal Revenue continues to resist efforts to reinvigorate the narcotics traffickers tax program. The departure of Mr. David MacDonald from the Treasury Department is a further indication that the future of this invaluable program remains in jeopardy. For this reason and also because of Mr. MacDonald's continuous efforts to overcome IRS opposition to fulfilling its obligation to prosecute racketeers, gamblers, and other white-collar criminals, his transfer is an event that I regard as regettable.

THE 1976 ILO MEETING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, for many years I have had the honor to represent this body as an adviser to the U.S. delegation at the annual conference of the International Labor Organization. Last June I enjoyed that privilege again and attended the 61st annual conference in Geneva.

Also attending that conference as a worker-delegate was Lane Kirkland, secretary-treasurer of the AFL–CIO. Mr. Kirkland's report on the 61st conference was printed in the July edition of the Free Trade Union News published by the Department of International Affairs of the AFL–CIO. It should be of interest to all Members of the House of Representatives.

Mr. Kirkland's report is one of measured optimism. He notes a net overall improvement in the operation of the ILO but with important caveats. His report and his expressions of concern about future developments should be very carefully scrutinized by all who are interested in the ILO. Most particularly it should be studied by the Director General, the International Labor Office and the Secretariat.

The report follows:

MIXED RESULTS FROM 1976 ILO MEETINGS

Under normal circumstances, the International Labor Organization's Annual Conference is a complex and frustrating experience. The work of its various technical committees is often finished only in the last frenzied hours of the four-week session. An organization once characterized by a rather clubbish atmosphere with 66 member states in 1955, the ILO has grown to a hydra-headed political monstrosity in 1976, with 132 member states (Angola being the newest entry) displaying the political complexities of the United Nations General Assembly in New York.

This, together with the ILO's tripartite structure, where government, management and labor have separate and almost equal voices (governments have two votes to the single vote of employer and worker representatives on each of the member state delegations), and a constitution which is devoted to technical, not political, ends of lifting the standards and conditions of life and work of the world's working classes, defies the political strictures evident in the other "non-political" members of the UN Family of Organizations and, to a degree, the UN itself.

As if this weren't challenge enough, June 1976 saw two Conferences with very different designs and purposes occur simultaneously in the ILO, each drawing principally from much the same body of delegates. Nevertheless, in both the 61st Annual Conference of the ILO and the World Employment Conference of the ILO, the United States Delegation came away from the experience somewhat heartened by the cohesion evidenced among the genuinely democratic states of Western Europe, as well as by Japan, Australia, New Zealand and several African, Asian and American delegations. The lack of cooperation and coordination among these various delegations through the 1975 ILO Annual Conference in part gave rise in November 1975, to the U.S. Government's letter of intent to withdraw from the International Labor Organization unless changes were noted in four specific areas:

1) an end to the trend of workers' and employers' groups falling under the domination of governments and thus eroding the tripartite concept of the ILO;

2) an end to the increasingly selective concern for human rights, by which application of ILO Conventions and Recommendations was not universal but politically partisan;

3) an end to the violations of due process in the ILO whereby constitutionally established machinery is disregarded for more politically motivated methods;

4) an end to an obvious politicization of the ILO, in which political issues far beyond the constitutional mandate of the Organization were introduced into its work.

Measured improvement was indeed evident in all these respects this year. Owing in large part to the tripartite nature of the ILO, for example, the idea of the monolithic unity of the "77" (Third World nations, deriving their designation from the UN General Assembly, where they act in more or less concerted fashion) proved to be non-existent in the World Employment Conference. An attempt to amend the final working document was made by the Chairman of the World Employment Conference with the assistance of the ILO Director General. The effort was rejected because a majority of Third World countries refused to follow the dictates of certain Third World governments. The amendment would have excluded the Soviet Bloc from any responsibility concerning unemployment and the present world economic recession and would have blamed only the so-called "market economies."

Had this amendment proposed by certain of the uncompromising elements of the Third World been accepted by the majority, the decisions of the Conference would have been tied to a statement in the preamble, emphasizing only the failures of the present world economic structure, thus implying the need for a "new" international economic order. Key to the efforts of Third World governments to whip the unwieldy tripartite delegations into line on this and other questions were the government representatives of Cuba, Algeria, Mexico and Sri Lanka. The cooperative and coordinated efforts of the representatives and affiliates of the International Confederation of Free Trade Unions (ICFTU) contributed significantly to stemming this effort in the WEC and throughout both ILO Conferences, in general.

The World Employment Conference was characterized by tumult. The American delegation was especially critical of the failure of the Chairman of the World Employment Conference to call speakers to order when they violated the rules of the plenary, i.e, to direct any and all remarks to the basic working document of the Conference. Owing to the peculiar nature of this year's sessions—two Conferences were held simultaneously and lack of order was the order of the day—the rules were applied in less than rigorous fashion.

The WEC was born out of a resolution passed three years ago in the Resolutions Committee of the ILO Conference. It passed during the same year that the unfounded resolution condemning Israel for racist persecution of Arab workers in occupied territories, composed without the benefit of investigative machinery of the ILO, disrupted the entire Conference. A major problem resulting from the final working document, which was approved by the plenary of the WEC and will be submitted to the ILO Governing Body, is that it could flood the organization with projects and conferences that have the potential of doubling the work and budget of the already financially beleaguered ILO.

In its preamble, the document of the WEC notes the gravity of the situation regarding unemployment and poverty and calls for a new developmental approach based upon the basic needs and a new international economic order as adopted by the United Nations General Assembly at its Sixth and Seventh Special Sessions. It then sets out a program of action touching five major points:

"1) promotion of employment and satisfaction of basic needs as a priority objective for national policy, including rural development, education and population growth policies, structural changes in world trading and monetary systems, increases in net resource flows, relief of debt burden and increased cooperation among developing countries with different economic and social systems and new directions for the ILO and other international organizations;

"2) measures to avoid the need for migration and to protect migrant workers;

"3) a 'proper balance' between capital intensive and labor intensive schemes, strengthening technological and scientific capabilities of developing countries;

"4) a policy of full employment to be implemented through active manpower programs administered by the ILO."

The fifth agenda item was to have dealt with multinational corporations but no consensus was reached and no action taken on this matter.

These points were laboriously treated by working groups within the World Employment Conference. Midway through their deliberations, one of the principal organizers of the WEC/ILO circulated his own conclusions for the WEC. Needless to say, the participants in the WEC were dismayed and angered at what they considered to be a display of disdain by the secretariat for the WEC conferees. The premature conclusions were not adopted, but the wound festered throughout the conference.

The question remains as to how the ILO can deal with these programs presented to its Governing Body by the WEC. U.S. Worker Delegate Irving Brown, in his speech before the plenary of the WEC, made strong and somewhat more pragmatic suggestions as to how the ILO might deal with the basic causes of unemployment in developing nations.

While the ILO can deal in a limited manner with certain aspects of the conclusions of the WEC, it cannot revamp world economies, nor can it alone, achieve full employment. The grandiose conclusions of the Employment Conference, while reflecting the legitimate concern of many around the world for the myriad problems rising out of unemployment and chronic lack of economic development, leave little room for the ILO to develop effective, workable programs that are within the purview of the Organization.

The issue which caused the AFL–CIO to walk out of last year's ILO Conference, the admission of the PLO as an ILO observer, arose again this year at the World Employment Conference. The Arab groups, relying on the PLO's admission to the ILO General Conference as precedent assumed that the terrorist group would be admitted to the World Employment Conference, as well. But when the ILO's Governing Body, meeting just prior to the ILO Conference this June, considered the PLO's request to attend the WEC as observers, twelve of the fourteen members present voted for a secret ballot on this issue. The result was a note of 24–23 against seating the PLO in the World Employment Conference. For the first time, the PLO was voted down in a representative body of the Family of Nations of the United Nations.

Stunned by this unprecedented event, the Arab groups prevailed upon the Director General of the ILO to help them overturn the decision of the Governing Body. The Secretariat then worked out a formula whereby the standing orders of the Employment Conference could be modified to accept all liberation movements from Africa, not just the PLO. The motion was again submitted to the Governing Body for its decision, even though a decision had already been taken. This time the vote was 31 to 23 in favor of the PLO, the worker group having lost one member who was called home on urgent business. Obviously, attendance was greater for this second vote. But the votes in opposition held firm, which was cause for considerable satisfaction to the AFL–CIO.

The PLO did not make a spectacular entry into the WEC, as they did in the ILO Conference of 1975. They did address the Employment Conference later on in their typically virulent fashion, full of anti-Israeli expletive. The entire U.S. tripartite delegation walked out in protest while the PLO representative spoke.

ANNUAL CONFERENCE

Although the 61st Annual Conference was abbreviated, owing to the World Employment Conference held in its midst, some significant developments resulted.

The 61st Conference was conducted, for the most part, along technical lines. Its several committees functioned efficiently and without rancor. In the Committee on Tripartite Machinery, a far-reaching Convention and Recommendation furthering the tripartite concept was adopted by the Committee and subsequently by the Plenary. Although some of the representatives of Eastern bloc governments tried to amend the language of the instruments to fit their own monolithic structure, the measures passed overwhelmingly. In an amusing show of "independence," some Eastern bloc "worker representatives" and those of the USSR, as well, voted in favor of the instruments, even though their government and "employer" delegates opposed them.

The Committee on Application of Conventions and Recommendations made a largely objective report this year. The Soviet Union was noted in a special paragraph for its violation of the convention prohibiting forced labor. The Czech government would have been the subject of a similar paragraph for nonobservance of the Convention on Freedom of Association, save for the intervention of the Worker Chairman and the secretariat of the Committee itself.

The Worker Chairman led the effort again this year to do away with the special list of non-compliance with ILO Conventions and Recommendations. Again, he failed. But the persistence with which he and his allies pursue this effort, with more than tacit assistance from the secretariat and, this year, from the Chairman of the Committee (Veldkamp Government Delegate, Netherlands) gives rise for concern. This special list of non-compliance with ILO Conventions and Recommendations is the very heart of the Organization's purpose. If no public mention is made of lack of adherence to ratified ILO standards, then there is no point in enacting them in the first place.

The Committee on the Working Environment paved the way for a possible Convention on this important issue at a later Conference. Again, the Conference reacted favorably to the work of this relevant Committee with no hint of politicization.

In spite of the general agreement not to convene a Committee on Resolutions of the ILO during this conference, owing to the World Employment Conference and the resulting heavy work schedule, the USSR, and the World Federation of Trade Unions and various of their allies presented three resolutions mere minutes before the deadline for resolutions in May. The resolutions were handled by a much reduced Committee, since the ICFTU forces and the AFL–CIO boycotted the Committee's sessions. With no quorum, no action was taken on the Communists' resolutions, except that they were referred to the Governing Body, a relatively meaningless gesture. The humiliation of the Communists was clear to all.

One potential trouble spot centered around the Committee on Structure. The thorny question of composition of the Governing Body—i.e. whether to broaden the Council to include more Third World countries—was again debated. There will be a working party in the future to continue discussion of this issue, which is gaining some momentum in the Third World.

A NET IMPROVEMENT OVERALL

Aside from the tumult and disarray of the World Employment Conference, the conduct of the 1976 International Labor Conference was a marked contrast to the events of last year. There is a new spirit and strength among the genuine democracies in the ILO, a greater resolve to stick together and hold the Organization to its constitutionally required endeavors. The weak point continues to be the Secretariat of the ILO, particularly in its seeming inability to hold firm in the face of pressures from various groups bent on achieving openly political ends within the ILO. Then, too, there is adequate cause for concern regarding the Committee on Application of Conventions and Recommendations of the ILO, where again there was a clear case of a weak secretariat yielding to efforts to pull the teeth of this important Committee.

Nonetheless, the future of the ILO appears somewhat more promising after this 61st Conference. The democratic forces have reasserted their strength after a moribund period. Questions remain, however, as to the future: if the resolve of genuinely democratic forces within the International Labor Organization can be sustained and even strengthened in future meetings, there will be reason for encouragement.

AN IMPORTANT CAVEAT

The crisis within the International Labor Organization will continue, nonetheless. The Conference of 1976 was an unusual one, in that the World Employment Conference disrupted the normal functioning of the Annual ILO Conference. There was no Resolutions Committee, at least in functioning form. The Director General did not give his customary report to which, in theory, remarks are directed throughout the conference. It is the response to the Director General's Report which frequently gives rise to the extraneous political issues that have caused so much difficulty in the past. The June 1977 Annual Conference will be a truer and more difficult litmus for indicating improvement in conditions within the Organization.

The ILO Office, however, has demonstrated very clearly in this 61st Annual Conference and throughout the World Employment Conference that its concept of its role diverges from the way others concerned with the organization's well-being view it. From the Director General down, the Office still holds meetings with government groups without informing worker and employer delegations. For that reason, the World Employment Conference was not adjourned on its last day until midway through the early morning hours, working under a clock that was stopped at midnight, while government, worker and employer delegations fought out the issue of the last-minute effort to modify the final working document of the Employment Conference. The ILO office, with all its inherent power under the constitutional procedure of the ILO to influence events positively in all meetings of the Organization, has used that power to the detriment of the best interests of democratic forces in the ILO, and, at times, to that of the Organization. It caves in before political threats: it worked out the formula with Arab groups that assured the admission of the PLO to the World Employment Conference because the Arab groups threatened to boycott the Conference. It guided the President of the World Employment Conference on the manner in which he would, in effect, amend the final document of the WEC to suit certain elements of the "77," an illegal procedure by any measure.

This is not the manner in which the affairs of the ILO should be conducted. Were it not for the weak and sometimes irresponsible postures assumed by various representatives of the highest offices of the ILO, the letter of intent to withdraw from the Organization would in all likelihood never have been written.

The test of the future, then, is not solely whether there can be an effective and lasting alliance of democratic forces within the International Labor Organization. It is also whether the ILO Office will assume a more objective and committed role, dedicated to the essence and the letter of the organization's Constitution.

In addition to this basic point, the AFL–CIO has established a series of future considerations for action in the ILO. They are not listed in order of priorities.

1) The creation of an unofficial working party on industrial committees has been put into motion, its first meeting having been called for June 23, a day after the ILO Conference concluded. It can become a continuing committee to seek a reallocation of resources of the ILO for basic ILO challenges dealing with practical work and dealing with major priorities (such as industrial committees, for example) and thus begin to change the imbalance between the technical committees and the theoretical wing of the ILO. The value of the ILO lies in the work of its technical (industrial) committees and not in academic voyeurism.

2) The October Maritime Conference of the ILO promises to be significant. The question of election of the Chairman of the Maritime Conference is all important. It is our hope that the Chairman will continue the work of the preparatory conference held in November and that he will represent true tripartism, as opposed to the practice in the so-called "Socialist" states.

3) Since the World Employment Conference's mixed bag of conclusions will be dealt with at future meetings of the ILO Governing Body, it is extremely important that whatever can be done regarding the WEC's conclusions be channeled through the normal procedures of the Organization, with specific reference to specific, appropriate industrial committees.

4) The continuing in-depth review of ILO standards must not lead away from the principle of universal application. We must work to do away with the double standard and toward dealing with those countries which have, up to the present, maintained that their own social systems put them in a class removed from the scrutiny of the Committee of Experts and the Committee on the Application of Conventions and Recommendations of the ILO.

5) A decision has been made for the Governing Body to deal with the issue of multinational enterprises, based upon the report of the May 1976 meeting of tripartite experts on multinationals. We consider this to be a positive development and hope that the small progress made to date can serve as a basis on expanding this meaningful work.

6) There is no doubt that a desire to modify the composition of the Governing Body and to effect other changes in the ILO as a whole is strong, particularly among representatives of the Third World. We understand the feelings of those who seek all-out equality in the ILO. At the same time, the realities of the world's complex political and economic community must be kept in sight. Change for the sake of change in the absence of a rational outlook will achieve little of positive value.

7) We intend to continue to seek the cooperation and counsel of our democratic colleagues in the Third World regarding the future work of the ILO. In that light it is most important that our own Government heed the problems and positions of the Third World and cooperate with us on our basic objectives within the International Labor Organization.

RESOLUTION REQUESTING GSA STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. SPELLMAN) is recognized for 5 minutes.

Mrs. SPELLMAN. Mr. Speaker, today the other body is scheduled to consider H.R. 9719, the Federal payment-in-lieu of taxes legislation that is the first step to a comprehensive program to replace lost tax revenues to State and local governments suffering the presence of Federal property. I support the House bill, and have been in support of the entire concept of payment-in-lieu for some time. In fact, I believe that there is great need for even further study into this matter, because so much of the Federal impact is, as yet, unacknowledged by some sort of repayment for lost taxes.

For this reason, Mr. FISHER, Mr. HARRIS, and I are introducing a resolution calling for a study, by the General Services Administration, to assess the impact of the presence of real property owned by the United States on the finances of and services offered by State and local governments.

In Prince Georges County, Md., alone, the assessed valuation of Federal property, including land and buildings, is $398,978,900. This constitutes nearly 10 percent of the property in the county, and the tax loss is staggering. Impact aid, which helps to compensate for the additional strain on school budgets placed by children of Federal employees, is slowly withering away under attacks by the administration. No other program compensates for this Federal presence.

The June 1970 report of the Public Land Law Review Commission, created by Congress in 1964, stated that:

> The United States must make some payments to compensate state and local governments which have burdens imposed on them because of federal ownership of public lands within their borders . . . the Federal Government, as a landowner, must pay its way . . . fairness and equity demand that such payments be made.

H.R. 9719 is the first step toward establishing such a compensation. Unfortunately, it does not include most of the land in the metropolitan Washington area, and in particular, the Federal presence in Prince Georges County. I support expanding that program to include improved lands as well. But rather than rush headlong into a program of this magnitude, it is important that we have the vital statistics on which to base such an expansion. Our resolution provides that base by requesting GSA to conduct a study of the impact of the presence of the Federal Government on all lands, save those already covered by H.R. 9719. Included in this study will be the financial loss as well as the loss on the quantity, cost, quality, and availability of goods and services provided by the units of local government. With the information provided by such a study, the Congress will be equipped to make decisions on any expansion of the payment-in-lieu-of-taxes concept so that the Federal Government, as a landowner, pays its fair share.

I hope that my colleagues will see fit to support this effort by metropolitan Members. Thank you.

H. CON. RES. 744

Resolved by the House of Representatives (the Senate concurring), That (a) the Administrator of General Services is requested by the Congress to conduct a study of the impact that the presence of any real property owned by the United States has on the units of general local government within whose jurisdiction such real property is located, except that such study should not be made with respect to such impact of any real property which is—

(1) within the National Park System, the National Wilderness Preservation System, or the National Forest System,

(2) administered by the Secretary of the Interior through the Bureau of Land Management, or

(3) dedicated to the use of water resource development projects of the United States.

(b) The study described in subsection (a) should include—

(1) a study of any financial loss suffered by such units of general local government as a result of the tax-exempt status of any such real property, and

(2) the effect any such loss has on the goods and services provided by such units of local government, including the effect on the quantity, cost, quality, and availability of such goods and services.

(c) The Administrator of General Services is requested to present to the Congress a preliminary report on such study no later than February 1, 1977, and a final report on such study no later than April 1, 1977.

VEHICLE INSPECTION MAINTENANCE SECTION OF THE CLEAN AIR ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

Mr. SCHEUER. Mr. Speaker, tomorrow section 210, vehicle inspection maintenance—VIM—of the Clean Air Act will be up for consideration. This section is an integral element in our national program to achieve clean breathable air. The VIM program would only cover those 29 transportation control area cities which exceed the primary ambient air standard and therefore sorely need to reduce air pollution.

VIM is a program which makes sense because it simply requires that vehicle owners follow the manufacturers' instructions by regularly changing their oil and annually tuning their cars. Doing this will not only assure that automobile antipollution devices work in the manner they were intended to, but also, cars will achieve somewhat better mileage, to boot. This past May 19, Jack Anderson and Les Whitten in their column discussed the drastic need for the vehicle inspection maintenance program I have sponsored. The text of the column follows:

[From the Washington Post, May 19, 1976]

EPA's UNTUNED MALADY

(By Jack Anderson and Les Whitten)

The Environmental Protection Agency spent an incredible $4.2 million to find out that untuned engines spread more pollution than do engines after they are tuned.

The money was used to test various automobiles to determine whether their exhaust fumes violated clean air standards. We have carefully studied the findings, which have been withheld from the public. They can be boiled down to one basic conclusion: that the worst pollution is spread by cars in "less-than-adequate state of maintenance."

This led the researchers also to conclude, all for the same $4.2 million price, that there is a "need for finding ways of assuring that in-use cars are properly maintained."

The language of the studies is often ponderous, as befits a $4.2 million project. But the conclusion, even after it has been dressed up in scholarly verbiage, was hardly worth $4.2 million. EPA could have obtained the same finding from any competent garage mechanic for, say, $4.20.

The EPA official in charge of car pollution control, Eric O. Stork, cheerfully contends that the $4.2 million data can now be used to convince state and city officials that they should compel owners to keep their cars tuned up.

Thus, EPA would pass the buck to the cities and states, blaming the whole auto pollution problem on poorly tuned engines. But the EPA tests produced evidence that seven engine lines appeared to be violating clean air standards.

If the fumes from these engines were bad enough, EPA was supposed to order the manufacturers to recall all cars powered by the polluting engines. This would have brought in more than 2 million cars for adjustments, a massive expenditure of the automakers.

A confidential report, which was turned up in our investigation, explained what happened. The auto companies were furnished the test results and were permitted to make a case against recall.

"The affected manufacturers requested and received all data related to the testing of their cars and went through these materials in enormous detail," discloses the document. "From that review various questions as to the validity of the data . . . were identified."

Top EPA officials quickly agreed that the test results weren't sufficiently valid to compel the manufacturers to recall their cars. Stork was one who sided with the auto industry. He wrote a memo on the recall problem, stating: "My suggestion is that we write off this effort as a lost cause, and waste no more time on it."

All this leaves of the four-year project, therefore, is the $4.2 million suggestion that auto owners should keep their engines tuned up.

Footnote: A House oversight subcommittee, headed by Rep John Moss (D-Calif.), has started an investigation to determine why the EPA spent so much money for so little results.

Soviet Spies: In secret testimony, the FBI has advised Congress that of the 2,000 Communist diplomats in the United States "40 per cent of them are active Soviet intelligence officers."

These figures on Soviet KGB agents were revealed behind closed doors by James Adams, the top assistant to FBI Director Clarence Kelley. He testified before a House Post Office subcommittee, which released the transcript of the hearing.

But in the interest of the Soviet-American detente, the committee carefully deleted all references to the Soviets. The sanitized transcript reveals only that the 800 spies were "active intelligence officers."

We have had access to the secret testimony, however, before it was censored. The FBI official tersely identified the 800 spies as officers of Soviet intelligence. Our own sources have confirmed that the Soviet agents posed as everything from newsmen to attaches.

ASSAULTS IN WASHINGTON SQUARE PARK RESULT FROM THE ABSENCE OF COPS IN THE PARK

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, last night Washington Square Park in my congressional district and near my home was struck by a rampage of approximately 20 youths. The youths, white, struck indiscriminately at blacks and Puerto Ricans in the park, seriously injuring 11 persons. The gang took its toll and fled before the police arrived.

News of this event has left me with a feeling of anger and frustration. For years I have been trying to get the New York City Police Department, and in particular the sixth precinct, to protect decent citizens from being harassed by panhandlers, drug pushers, gamblers, and others who break the law.

Lying at the base of Fifth Avenue, Washington Square Park used to be one of the city's most enjoyable parks. But, in recent years it has become a haven for vandals, bums, drug pushers, and gamblers. And now, as of last night, it would appear that the park has become an interracial battleground.

While we cannot condone the attack of the youth gangs, one cannot be surprised that the rampage occurred. The conditions of the park has invited foretold violence. Park maintenance and enforcement of the law in the park has been almost nonexistent. The police continually fail to insure protection of the park. Gamblers, drug pushers, and panhandlers are given free reign, and even in those few instances—some 35 last year—when arrests are made, the court treats offenses lightly. And so, while we cannot condone the attack last night, none should be too surprised that it happened. The park has become a lawless, no-man's land—an open invitation for crime and assaults.

Allegedly, last night's incident was triggered by an assault on a white youth the night before by black youths. The police department has yet to arrest assailants involved in either incident and so the final verdict on the cause of this specific incident will have to wait. But, we already know the fundamental cause for the incident: the failure by the city to provide adequate protection for the park.

Over the past 5 years I have been in continual communication with the police department on one problem after another in the park. Many of these problems were ones that I observed myself. For example, on Saturday July 24 at 3 in the afternoon, I observed 25 persons participating in three gambling games. There were no police officers around. Later I was advised by the precinct that two police officers had been assigned to the park area that day but one officer had been called to motor vehicle court and the other was used to take a "defective" police car to the repair shop. The latter assignment in particular suggests the type of priority given to Washington Square Park by the police.

Similarly, on Thanksgiving Day last year I came across 15 men playing dice. Again, no police were around. Just a week before I had written to the precinct captain saying:

> On previous occasions I have complained to the Precinct about gambling in the Park. I am not referring to a couple of idle "crap games" but to what has easily become one of the largest outdoor gambling casinos in New York. This flagrant gambling consisting of dice and shell games, cards and other games of chance, can be regularly observed on Saturday and particularly on Sunday on most of the benches encircling the bowl. The crowds surrounding these games are disheveled, rowdy and threatening looking.

Earlier that year I had been approached by a woman in the park who offered me and others "loose joints and bags"—a euphemism for marihuana and heroin. I called 911—the city's emergency police number—and reported the incident. Keeping the woman under observation, I waited for 20 minutes for the police to arrive. None did.

The litany goes on. It includes other incidents reported by me and constituents—all while the park has gone from bad to worse.

Efforts have been made by the community to improve the area. New York University, for instance, located on the south side of the park, has assisted in cleaning the park of debris. But, there is only so much that responsible citizens and community groups can do if the area is left without law enforcement.

And so today, while I am concerned that those who brutally assaulted individuals last night are apprehended and prosecuted, I also hope that this incident will finally produce the protection needed for the park. What is distressing to me is that the police department was able to find upward to 70 police officers to pour into the area after the assaults. If the department only provided two officers every day around the clock to patrol the park and enforced existing laws which prohibit park drinking and gambling, as well as its use after 1 a.m., we would not be in the situation we are today. When the laws are not enforced by the police, as they have not been here, the lack of enforcement invites the physical assaults witnessed last night.

On Tuesday, I will be meeting with Dr. John Sawhill, president of NYU; Councilwoman Carol Greitzer; Assemblyman William Passannante; Chairwoman of Community Board 2 Diana Halle; and District Leaders John LoCicero and Miriam Bockman to determine what further steps we who represent the community in which Washington Square Park is situated can take.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. LEHMAN (at the request of Mr. O'NEILL), after 1 p.m., today, on account of illness in the family.

Mr. RANDALL, from 4 p.m. Thursday, September 9, and for Friday, September 10, 1976, on account of official business, chairman of Transportation Subcommittee of Government Operations, hearings at Rochester, N.Y., Friday, September 10, on FAA tower.

Mrs. CHISHOLM (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. CORMAN (at the request of Mr. O'NEILL) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TAYLOR of Missouri), to revise and extend their remarks, and to include extraneous matter:)

Mr. COCHRAN, for 1 hour, on September 14.

Mr. FRENZEL, for 30 minutes, today.

Mr. DERWINSKI, for 5 minutes, today.

Mr. MCKINNEY, for 10 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. ASHBROOK, for 5 minutes, today.

(The following Members (at the request of Mr. MINETA) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. THOMPSON, for 5 minutes, today.

Mr. SOLARZ, for 10 minutes, today.

Mrs. SPELLMAN, for 5 minutes, today.

Mr. SCHEUER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMILTON, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,073.

Mr. MONTGOMERY, to revise and extend his remarks following those of the gentleman from Texas (Mr. ROBERTS), chairman of the Committee on Veterans' Affairs, in the House today.

Mr. SKUBITZ to revise and extend his remarks during debate on House Concurrent Resolution 728.

Mr. JOHN L. BURTON, remarks to follow remarks of Mr. ANDERSON of Illinois on House Resolution 1526.

The following Members (at the request of Mr. TAYLOR of Missouri) and to include extraneous material:)

Mr. ESCH in two instances.

Mr. DERWINSKI in two instances.

Mr. WIGGINS.

Mr. CRANE in two instances.

Mr. GILMAN.

Mr. COLLINS of Texas in three instances.

Mr. TALCOTT.

Mr. DU PONT.

Mr. ASHBROOK in three instances.

Mr. FORSYTHE.

Mr. BROWN of Ohio.

Mr. LOTT.

Mr. KEMP.

(The following Members (at the request of Mr. MINETA) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mrs. SPELLMAN in three instances.

Mr. DE LA GARZA in 10 instances.

Mr. ROSENTHAL in two instances.

Mr. GAYDOS in five instances.

Mr. SLACK.

Mr. HARRIS.

Mr. RICHMOND.

Mr. PIKE.

Mr. BERGLAND.

Mr. ALEXANDER in two instances.

Mr. MCDONALD in three instances.

Mr. SOLARZ.

Mr. ROE in two instances.

Ms. ABZUG.

Mr. YOUNG of Georgia.

Mr. ROGERS in five instances.

Mr. LEGGETT.

Mr. MATHIS.

Mr. AMBRO in three instances.

Mr. MOORHEAD of Pennsylvania.

Mr. WIRTH.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma; and

H.R. 15371. An act to provide for protection of the spouses of major Presidential and Vice Presidential nominees.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, September 10, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3995. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting an additional selected acquisition report and the SAR summary tables for the quarter ended June 30, 1976, pursuant to section 811 of Public Law 94-106; to the Committee on Armed Services.

3996. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to improve coordination between governing bodies for health planning and their public regional planning bodies or units of general local government, and to permit each State's Governor to appoint the chairperson of the statewide health coordinating council; to the Committee on Interstate and Foreign Commerce.

3997. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to members of the Armed Forces of the United States and civilian employees who are missing in action or hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict; to the Committee on Ways and Means.

3998. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's fiscal year 1978 budget request, pursuant to section 27(k)(1) of Public Law 92-753; jointly, to the Committees on Interstate and Foreign Commerce, and Appropriations.

3999. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's comments on S. 5, an act to provide that meetings of Government agencies shall be open to the public, and for other purposes, pursuant to section 27(k)(2) of Public Law 92-753; jointly, to the Committees on Government Operations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15069. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes (Rept. No. 94-1478, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRADEMAS: Committee on House Administration. H. Res. 1505. Resolution disapproving certain regulations proposed by the Administrator of General Services on April 13, 1976, under section 104 of the Presidential Recordings and Materials Preservation Act (Rept. No. 94-1485). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. S. Con. Res. 85. Concurrent resolution authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service (Rept. No. 94-1486). Referred to the House Calendar.

Mr. FLOWERS: Committee on the Judiciary. H.R. 11315. A bill to define the jurisdiction of U.S. courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes; with amendments (Rept. No. 94-1487). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. S. 3051. An act to amend the Commodity Exchange Act, and for other purposes; with amendments (Rept. No. 94-1488). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 14862. A bill to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes; with an amendment (Rept. No. 94-1489, pt. I). Ordered to be printed.

Mr. NIX: Committee on International Relations. S. 2839. An act to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment, and for other purposes; with amendments (Rept. No. 94-1490). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14496. A bill to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste; with an amendment (Rept. No. 94-1491). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BERGLAND (for himself, Mr. Leggett, Mr. Traxler, Mr Roncalio, Mr. Sisk, Mr. Cederberg, Mr. Matsunaga, Mr. Andrews of North Dakota, and Mr. McFall):

H.R. 15485. A bill to assure American consumers of a stable and adequate supply of sugar by assuring the continued existence of a viable domestic sugar industry; jointly to the Committees on Agriculture and Ways and Means.

By Mr. FINDLEY (for himself, Mr. Grassley, Mr. Roybal, Mr. Russo, Mr. Sarasin, Mr. Scheuer, Mr. Sebelius, Mr. Steiger of Wisconsin, Mr. Thone, Mr. Yatron, Mr. Whitehurst, and Mr. Winn):

H.R. 15486. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. HANNAFORD:

H.R. 15487. A bill to amend title 38, United States Code, to provide special pay to certain nursing assistants employed at Veterans' Administration hospitals in order to enhance the retention of such assistants; to the Committee on Veterans' Affairs.

By Mr. HEFNER:

H.R. 15488. A bill to amend the Controlled Substances Act to provide increased penalties for illegal distributions of controlled substances in or adjacent to elementary and secondary schools; to the Committee on Interstate and Foreign Commerce.

By Mr. KELLY:

H.R. 15439. A bill to establish the death penalty for the commission of certain Federal offenses, and other purposes; to the Committee on the Judiciary.

By Mr. MOTTL:

H.R. 15490. A bill to amend title II of the Social Security Act to reduce from 5 to 3 months the waiting period for disability insurance benefits, and to amend titles II and XVIII of such act to eliminate the provisions presently requiring that an individual must have been entitled to such benefits for at least 24 consecutive months in order to qualify for medicare benefits (without regard to age) on the basis of disability; to the Committee on Ways and Means.

By Mr. MYERS of Indiana:

H.R. 15491. A bill to provide for annual adjustments in monthly monetary benefits administered by the Veterans' Administration, according to changes in the Consumer Price Index; to the Committee on Veterans' Affairs.

By Mr. OTTINGER (for himself and Mr. Mikva):

H.R. 15492. A bill to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Ford of Michigan, Mr. Kasten, Ms. Keys, Mr. Lujan, Mr. Martin, Mr. Mathis, Mr. Matsunaga, Mr. Murtha, Mr. Nix, Mr. Nolan, Mr. Ottinger, and Ms. Pettis):

H.R. 15493. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. WHITE:

H.R. 15494. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WRIGHT (for himself and Mr. Roberts):

H.R. 15495. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to plan and establish wetland areas in association with water resources development projects; to the Committee on Public Works and Transportation.

By Mr. WYDLER (for himself, Mr. Flood, Mr. Gude, Mr. Jenrette, Mr. Kemp, Mr. Kindness, Mr. Mollohan, Mr. Murphy of New York, Mr. Roe, Mr. Scheuer, and Mr. Symington):

H.R. 15496. A bill to provide for grants and technical assistance for the construction or acquisition by certain State and local authorities of facilities for the use or disposal of sewage sludge; to the Committee on Public Works and Transportation.

By Mr. WYDLER (for himself and Mrs. Spellman):

H.R. 15497. A bill to reduce unemployment by providing that unemployment insurance funds may be used pursuant to State laws establishing programs for payments to employers who hire the unemployed; to the Committee on Ways and Means.

By Mr. ALEXANDER:

H.R. 15498. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. BROOKS (for himself and Mr. Horton):

H.R. 15499. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; to the Committee on Government Operations.

By Mr. CARTER (for himself, Mr. Edgar, Mr. Beard of Rhode Island, Mr. Dominick V. Daniels, Mr. Santini, and Mr. Moffett):

H.R. 15500. A bill to establish the national diabetes advisory board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER (for himself, Mr. FAUNTROY, Mr. GUDE, Mr. HARRIS, and Mrs. SPELLMAN):

H.R. 15501. A bill to amend the act of February 9, 1821, to restate the charter of the George Washington University; to the Committee on the District of Columbia.

By Mr. KEMP:

H.R. 15502. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

By Mrs. SULLIVAN (for herself, Mr. BIAGGI, and Mr. DU PONT):

H.R. 15503. A bill to amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment; to the Committee on Merchant Marine and Fisheries.

By Mr. TEAGUE:

H.R. 15504. A bill to repeal titles XV and XVI of the Public Health Services Act; to the Committee on Interstate and Foreign Commerce.

By Mr. GILMAN:

H.R. 15505. A bill to amend title 39, United States Code, to impose civil penalties against persons who fail to comply with orders of the U.S. Postal Service prohibiting the use of the mails to conduct lotteries or to obtain money or property through false representations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK (for herself and Mr. EDGAR):

H.J. Res. 1089. A resolution authorizing and directing the President to declare Valentyn Moroz an honorary citizen of the United States of America; jointly, to the Committees on the Judiciary and International Relations.

By Mr. WIRTH:

H.J. Res. 1090. A resolution designating the week of September 19 through September 25, 1976, as "National Flower Week"; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS of Illinois:

H. Con. Res. 742. A resolution urging the President to continue with negotiations for an international agreement regulating nuclear exports; to the Committee on International Relations.

By Mr. RANGEL:

H. Con. Res. 743. A resolution expressing the sense of Congress respecting the regulation of Papaver bracteatum L. under the Controlled Substances Act; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN (for herself, Mr. FISHER, and Mr. HARRIS):

H. Con. Res. 744. A resolution to provide for a study of the impact that certain federally owned land has on local government; to the Committee on Government Operations.

By Mr. FORSYTHE:

H. Res. 1527. A resolution to amend the Rules of the House of Representatives to provide that the pledge of allegiance to the flag of the United States shall be rendered at the beginning of each legislative day in the House; to the Committee on Rules.

By Mr. OTTINGER (for himself, Mr. HARKIN, Mrs. SCHROEDER, and Mr. McCLOSKEY):

H. Res. 1528. A resolution expressing the sense of the House to support the admission of Vietnam to the United Nations; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

455. By the SPEAKER: A memorial of the Legislature of the State of California, relative to abandoned airplane wreckage; to the Committee on Public Works and Transportation.

456. Also, a memorial of the Legislature of the territory of the Virgin Islands, relative to the return of gasoline excise taxes to the Virgin Islands; jointly, to the Committees on Interior and Insular Affairs, and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRINKLEY:

H.R. 15506. A bill for the relief of Gregolina Fajardo; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 15507. A bill for the relief of Maria Garcia Buatista Waldren; to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 15508. A bill for the relief of Clara Riccomini; to the Committee on the Judiciary.

H.R. 15509. A bill for the relief of Marinelle Khristy Cruz; to the Committee on the Judiciary.

By Mr. STEIGER of Wisconsin:

H.R. 15510. A bill for the relief of Lester Bruce Friday; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 15511. A bill for the relief of Mr. Saul Romero-Ayala and Mrs. Arcelia Lopez de Romero; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

575. By Mr. LEHMAN: Petition of members of the Tropical Telco Federal Credit Union, Miami, Fla., relative to the proposed Financial Institutions Act of 1975; to the Committee on Banking, Currency and Housing.

576. By the SPEAKER: Petition of John R. Harrell, Louisville, Ill., relative to redress of grievances; to the Committee on the Judiciary.

577. Also, petition of Frank Banta, McLean, Va., relative to redress of grievances; to the Committee on the Judiciary.

578. Also, petition of L. Napoleon Cooper, Washington, D.C., relative to corporate reform; to the Committee on the Judiciary.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 8, 1976, page 29276:

HOUSE BILLS

H.R. 15036. August 3, 1976. Judiciary. Authorizes classification of certain individuals as children for purposes of the Immigration and Nationality Act.

H.R. 15037. August 3, 1976. Judiciary. Specifies the tax treatment of a certain individual under the Internal Revenue Code.

H.R. 15038. August 4, 1976. Veterans' Affairs. Directs the Administration of Veterans' Affairs to initiate and carry out a program for the treatment and rehabilitation of Vietnam era veterans and their dependents who are experiencing psychological problems as the result of the active military service performed by the veteran.

H.R. 15039. August 4, 1976. Ways and Means. Stipulates that payments of tuition, fees, or other training costs to or for a mentally retarded adult individual shall be excluded from the income of such individual in determining eligibility for benefits under the Supplemental Security Income program of the Social Security Act.

H.R. 15040. August 4, 1976. Ways and Means. Directs the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission to investigate complaints alleging employment loss as a result of imposition of Federal environmental or nuclear regulatory standards. Authorizes the Secretary of Labor to provide Federal assistance in the form of unemployment compensation and related benefits to such individuals.

H.R. 15041. August 4, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to revise the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance.

H.R. 15042. August 4, 1976. Ways and Means. Amends the Internal Revenue Code to allow heads of households (currently heads of family) to produce 200 gallons of wine per year for use by the household without payment of the Federal tax.

H.R. 15043. August 4, 1976. Interstate and Foreign Commerce; Ways and Means; Rules. Requires that any Federal officer or agency proposing any health care regulation submit such regulation to each House of Congress together with a report containing a full explanation thereof. Allows either House of Congress to keep the proposed regulation from becoming effective by adopting a resolution disapproving the regulation on specified grounds.

Guarantees the confidentiality of medical records of any patient whose medical or dental care is not paid by the Federal Government, under a Federal program, or by any program receiving Federal financial assistance, unless such patient has authorized such disclosure.

H.R. 15044. August 4, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exhange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15045. August 8, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress that the complete authority to regulate terminal and station equipment used for telephone exchange service shall rest with the States.

H.R. 15046. August 4, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Professional Standards Review program of the Social Security Act to assure the participation by professional registered nurses in the peer review and related activities authorized under such program.

H.R. 15047. August 4, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Professional Standards Review program of the Social Security Act to assure the participation by professional registered nurses in the peer review and related activities authorized under such program.

H.R. 15048. August 4, 1976. Ways and Means. Amends the Internal Revenue Code to allow taxpayers of any age to exclude from gross income gain from the sale or exchange of property if during the eight-year period preceding the sale or exchange, such property has been owned and used as the taxpayer's principal residence for periods aggregating five years or more.

H.R. 15049. August 4, 1976. Interstate and Foreign Commerce. Repeals the National Health Planning and Resources Development Act of 1974.

H.R. 15050. August 4, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish, conduct, and support activities necessary to carry out a national influenza immunization program. Makes the United States liable with respect to claims for personal injury or death resulting from such immunization. Establishes procedures under which all such claims will be asserted directly against the United States and makes such procedures the exclusively legal remedy.

H.R. 15051. August 4, 1976. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to direct the Secretary of the Interior to designate a specified segment of the New River, North Carolina, as a component of the National Wild and Scenic River System upon application of the Governor of North Carolina.

Prohibits the Federal Power Commission from issuing any license for any undertaking which would adversely affect such segment.

H.R. 15052. August 4, 1976. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to direct the Secretary of the Interior to designate a specified segment of the New River, North Carolina, as a component of the National Wild and Scenic River System upon application of the Governor of North Carolina.

Prohibits the Federal Power Commission from issuing any license for any undertaking which would adversely affect such segment.

H.R. 15053. August 4, 1976. Banking, Currency and Housing. Amends the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation.

H.R. 15054. August 4, 1976. Ways and means. Amends the Internal Revenue Code to allow members of volunteer firefighting organizations to deduct the cost of firefighting-related clothing expenses.

H.R. 15055. August 4, 1976. Ways and means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 15056. August 4, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15057. August 4, 1976. Interior and Insular Affairs. Amends the Mineral Lands Leasing Act of 1920 to require inclusion of certain lands to be leased in a comprehensive land use plan. Requires compliance with Federal environmental laws as a condition of each lease.

Authorizes the Secretary of the Interior to conduct a comprehensive exploratory program to determine the extent of available coal resources. Establishes additional requirements for exploratory drilling activities.

Authorizes disposition of royalties to States for additional public purposes.

H.R. 15058. August 4, 1976. Banking, Currency and Housing. Amends the Housing Act of 1937 by granting an exclusion of ten percent of the gross income in computing the rent to be paid by elderly families residing in dwelling units assisted by Federal contributions.

H.R. 15059. August 4, 1976. Agriculture. Amends the Emergency Livestock Credit Act to extend the authority of the Secretary of Agriculture to guarantee loans under such Act until September 30, 1978.

H.R. 15060. August 4, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15061. August 4, 1976. Armed Services. Makes it unlawful for any individual or entity to solicit or enroll any member of the Armed Forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join, any labor organization. Sets forth penalties for violations of this Act.

H.R. 15062. August 4, 1976. Public Works and Transportation. Terminates the authorization for the study of water resources development opportunities in the Beargrass Creek Basin in Kentucky.

H.R. 15063. August 4, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15064. August 5, 1976. Education and Labor. Amends the Wagner-Peyser Act to require the Secretary of Labor to establish a program to encourage the demonstration of alternative job placement services and techniques, to provide structural improvements in the existing public employment service system, and to conduct studies on the merits of implementary an automated national job bank system.

Establishes a national clearinghouse for employment service information within the United States Employment Service.

H.R. 15065. August 5, 1976. Ways and Means. Amends the Internal Revenue Code to allow individuals a tax credit equal to one half the amount paid for health insurance premiums up to a maximum credit of $250.

H.R. 15066. August 5, 1976. Education and Labor. Authorizes the creation of a special Opportunities Industrialization Centers skill training and National Community Based Organizations job creation and employment program in order to provide jobs to unemployed Americans.

Directs the Secretary of Labor to enter into contracts with Opportunities Industrialization Centers to provide comprehensive employment services for unemployed persons in depressed urban and rural areas.

Sets forth conditions governing the provision of Federal financial assistance and authorizes appropriations of sums necessary to fund the program.

H.R. 15067. August 5, 1976. Judiciary; Standards of Official Conduct. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 15068. August 5, 1976. Agriculture. Amends the Agricultural Adjustment Act of 1938 to permit the Secretary of Agriculture to allow owners and operators of farms within Clarendon, Colleton, Darlington, Horry, Williamsburg, Florence, and Marion Counties, South Carolina, and Cook, Berrier, Lanier, and Lowndes Counties, Georgia, who have suffered a loss of ten percent of their tobacco acreage due to a natural disaster, to lease all or part of their tobacco allotment or quota to other operators or owners in the same or other counties within the same State.

H.R. 15069. August 5, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act to direct the Secretary of Agriculture to prepare specified reports and to submit specified budget estimates for the purpose of reducing the backlog of National Forest System lands in need of reforestation or other treatment.

Sets forth guidelines and standards pertaining to the development and revision of land and resource management plans.

Revises provisions relating to sale of forest products found upon national forest lands.

Prohibits the return to the public domain of national forest lands other than by Act of Congress.

Abolishes the National Forest Reservation Commission.

H.R. 15070. August 5, 1976. Veterans' Affairs. Increases the rates payable to eligible veterans for vocational rehabilitation and educational assistance. Extends the period of eligibility for vocational rehabilitation for disabled veterans. Makes specified changes in the administration of educational assistance programs for veterans.

H.R. 15071. August 5, 1976. Interstate and Foreign Commerce. States, under the Federal Trade Commission Act, that if the Federal Trade Commission fails to adopt a rule defining an unfair or deceptive practice when petitioned to do so, any United States district court may require the Commission to adopt such a rule if the court finds that such practice has a substantial adverse effect on a significant number of persons and that such practices are likely to continue unregulated by the Commission without such order.

Imposes a civil penalty upon any person who refuses to provide reports, evidence, or testimony to the Commission when required to do so.

H.R. 15072. August 5, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 15073. August 5, 1976. Post Office and Civil Service. Permits postage-free mailing of correspondence to any Member of Congress by any resident of the United States.

Directs the United States Postal Service to make available at nominal cost at every post office printed and pre-addressed mailing forms for use in corresponding witth Members of Congress.

Directs the Post Office and Civil Service Committees of the House of Representatives and the Senate to submit recommendations relating to expansion of such postage-free mailing to include correspondence to the President, the Vice President, and Federal agencies.

H.R. 15074. August 5, 1976. Interior and Insular Affairs; Agriculture. Authorizes the Secretary of the Interior to purchase certain lands within irrigation districts for resale as family farms. Establishes the Reclamation Excess Purchase and Resale Fund as a source of moneys for such purchases. Directs owners of more than 160 acres of irrigable land who are required to sell their excess lands under specified law to grant priority to prospective purchasers who will operate the land as a family farm. Authorizes loans to be made or insured under the Consolidated Farm and Rural Development Act to assist the individuals in acquiring excess irrigable lands for use as family farms.

H.R. 15075. August 5, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs, in providing therapeutic and rehabilitation activities, to provide for the participation of patients and members in Veterans' Administration health facilities in the assemblage of poppies or other similar projects carried out at such facilities, which are sponsored by a national veterans service organization or its auxiliary.

H.R. 15076. August 5, 1976. Ways and Means. Amends the Internal Revenue Code to increase the deduction allowed for contributions to individual retirement accounts.

Eliminates the present prohibition of such deduction by taxpayers who are participants in other retirement plans.

H.R. 15077. August 5, 1976. House Administration. Amends the Internal Revenue Code to authorize and establish procedures for publicly financing general election campaigns of candidates for election to Congress. Establishes the Congressional General Election Payment Account, out of which qualified candidates shall be paid funds to match the amount such candidate has raised through private contributions.

H.R. 15078. August 5, 1976. Veterans' Affairs. Provides that decisions of the Administrator of Veterans' Affairs on questions of law and fact under any law administered by the Veterans' Administration shall be subject to judicial review.

Repeals the authority of the Administrator to pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 15079. August 5, 1976. Veterans' Affairs. Provides that decisions of the Administrator of Veterans' Affairs on questions of law and fact under any law administered by the Veterans' Administration shall be subject to judicial review.

Repeals the authority of the Administrator to pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 15080. August 5, 1976. Ways and Means. Amends the Supplemental Security Income program of the Social Security Act to provide for the more timely determination of eligibility of individuals for benefits and payment of benefits to eligible individuals, and to assure that such benefits are made available to all individuals who may be eligible for them.

H.R. 15081. August 5, 1976. Armed Services. Authorizes the Administrator of General Services to dispose of specified amounts of antimony, industrial diamonds, silver, and tin now held in the national and supplemental stockpiles.

H.R. 15082. August 5, 1976. Interstate and Foreign Commerce. Suspends the rule of the Federal Trade Commission which removed the holder in due course status of purchasers of consumer notes until the General Accounting Office has studied the effect of such rule on the consumer credit market and the Commission has considered such study in a formal rulemaking proceeding.

H.R. 15083. August 5, 1976. Ways and Means. Denies the benefits of the foreign tax credit, under the Internal Revenue Code, to a taxpayer who is determined by the Secretary of the Treasury to have participated in or cooperated with the boycott of Israel, with respect to income, war profits, or excess profits taxes paid or accrued to any country which requires such cooperation as a condition of doing business with that country. Permits such taxes to be treated as a deduction.

Denies the tax deferral on undistributed income earned in the boycotting country to a shareholder to a controlled foreign corporation or of a Domestic International Sales Corporation which the Secretary has determined to have participated in the boycott of Israel.

H.R. 15084. August 5, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 15085. August 5, 1976. Veterans' Affairs. Amends the Soldiers' and Sailors Civil Relief Act of 1940 to limit the present exemption granted to members of the Armed Forces from the personal property taxes of the jurisdiction in which the member is stationed to those individuals who claim as a residence or domicile a State or political subdivision which imposes a similar tax as the State or political subdivision in which the member is stationed.

H.R. 15086. August 5, 1976. Interstate and Foreign Commerce. Amends the Controlled Substance Act and the Controlled Substances Import and Export Act to establish minimum mandatory sentences for persons convicted of offenses involving narcotic drugs. Details procedures to be used in determining whether to grant pretrial and posttrial release of persons charged with offenses involving certain narcotic drugs.

Makes all money, used or intended for use in illegally manufacturing, distributing, dispensing or acquiring any controlled substances subject to forfeiture to the United States.

H.R. 15087. August 5, 1976. Ways and Means. Amends the Social Security Act as it relates to Aid to Families with Dependent Children by (1) revising eligibility requirements for grants; (2) revising the procedure for adjusting the amount of grants; (3) authorizing Federal financial participation in the investigation and prosecution of fraud conducted by State agencies; (4) requiring States to provide evidentiary hearings; and (5) imposing criminal sanctions for misuse of grants by recipients.

H.R. 15088. August 5, 1976. Banking, Currency and Housing. Amends the Home Owners' Loan Act to permit federally chartered savings and loan associations located in New York to offer checking accounts to the extent that similar State chartered institutions in New York are permitted to do so.

H.R. 15089. August 5, 1976. Banking, Currency and Housing. Establishes a National Commission on Neighborhoods to consist of Congressional and Presidential appointees. States the duties of such Commission, including studying the factors necessary to neighborhood survival and revitalization and making recommendations for modification of existing laws and policies.

H.R. 15090. August 5, 1976. Ways and Means. Amends the program of Grants to State for Social Services of the Social Security Act to authorize the payment of funds to a State with respect to: (1) expenditures for goods or services provided in kind by a private entity; and (2) expenditures from donated private funds with restrictions as to the services with respect to which the funds are to be used.

H.R. 15091. August 5, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize air carriers to offer reduced rates to individuals aged 65 or over on a space-available basis.

H.R. 15092. August 5, 1976. Ways and Means. Amends the Internal Revenue Code to exempt from excise tax buses purchased by tax exempt organizations or by other persons for exclusive use in furnishing transportation for a State or local government or a tax exempt organization (presently, transportation must be limited to students and employees of schools).

H.R. 15093. August 5, 1976. Ways and Means. Amends the Internal Revenue Code to provide that the amount of the charitable deduction allowed for expenses incurred in the operation of a motor vehicle shall include that portion of the costs of operating and maintaining such vehicle (including a reasonable allowance for depreciation) which is allocable to such operation, and shall be determined in the same manner as if such operation were in connection with a trade or business of the taxpayer.

H.R. 15094. August 5, 1976. Post Office and Civil Service. Increases the uniform allowance payable to Federal firefighters.

Authorizes the Civil Service Commission to prescribe regulations for the administration of provisions relating to Federal employee uniform allowances.

H.R. 15095. August 5, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 15096. August 5, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 15097. August 5, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15098. August 9, 1976. Judiciary. Requires that attorneys' fees or costs be awarded to the prevailing party, other than the United States, in any civil action brought by or against the United States.

Requires an award for fees and costs in agency proceedings which affect certain rights of a prevailing party.

Requires compensation for attorneys' fees and costs of a criminal defendant when such defendant pleads and is found not guilty, the charge is dismissed, or a finding of guilty is set aside on appeal.

H.R. 15099. August 9, 1976. International Relations. Directs the Secretary of State not to record the place of birth in the passport of any individual who so requests.

H.R. 15100. August 9, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 15101. August 9, 1976. House Administration. Directs the Public Printer to designate as depository libraries, any library of an accredited law school upon the request of such school.

H.R. 15102. August 9, 1976. Education and Labor. Removes restrictions terminating survivor compensation to a spouse of a Federal employee who died from injuries sustained while in the performance of duties upon such spouse's remarriage.

H.R. 15103. August 9, 1976. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in a State project to repair or replace unsafe bridges. Extends the Highway Trust Fund and the Land and Water Conservation Fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code.

H.R. 15104. August 9, 1976. Education and Labor. Provides, under the Labor Management Relations Act of 1947, that the national emergency procedures thereunder may be applied to strikes or lockouts which will cause losses of agricultural crops.

H.R. 15105. August 9, 1976. Interstate and Foreign Commerce. Amends the Medicaid program of the Social Security Act to prohibit expenditures for abortions except in cases of medical necessity.

H.R. 15106. August 9, 1976. Ways and Means. Amends the Internal Revenue Code to provide that amounts received under certain Federal and State scholarship and loan programs shall be excluded from gross income.

H.R. 15107. August 9, 1976. Banking, Currency and Housing. Requires any person who makes a federally-related mortgage loan to maintain facilities to insure availability of information concerning such mortgage, and to provide adequate notification of foreclosure proceedings. Sets forth procedures which must be followed before the institution of foreclosure proceedings.

H.R. 15108. August 9, 1976. Banking, Currency and Housing. Amends the House Owners' Loan Act of 1933 to exempt qualified mortgage insurers from limitations on the lending powers of Federal savings and loan associations.

H.R. 15109. August 9, 1976. Public Works and Transportation. Modifies the river navigation project for the Yazoo River in Mississippi to require the Secretary of the Army to alter a certain bridge to accommodate the project.

H.R. 15110. August 9, 1976. Ways and Means. Amends the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to provide monthly insurance benefits for dependent relatives of individuals entitled to old-age or disability insurance benefits or of individuals who were fully and currently insured at the time of their death.

Stipulates the payment of dependent's benefits to individuals under age 18 and over age 62 who were receiving at least one-half of their support from the insured individual. Sets forth regulations governing the commencement and cessation of payment and the amount of such benefits.

H.R. 15111. August 9, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to allow air carriers to offer reduced-rate transportation on a space-available basis to persons who are 65 years of age or older or 21 years of age or younger, to handicapped persons, and to attendants of such handicapped persons.

H.R. 15112. August 9, 1976. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 15113. August 9, 1976. Ways and Means. Amends the program of Old Age, Survivors, and Disability Insurance of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under the Medicare program of such Act, in cases where the claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 15114. August 9, 1976. International Relations. Amends the Export Administration Act of 1969 to prohibit exportation of horses intended for slaughter.

H.R. 15115. August 9, 1976. Post Office and Civil Service. Entitles to overtime rates of pay Federal employees performing critical services who are required to remain at work when other agency employees have been dismissed without charge to leave or loss of pay due to emergency or adverse weather conditions.

H.R. 15116. August 9, 1976. Public Works and Transportation. Amends the Federal-Aid Highway Act of 1976 to establish an obligation limitation for Federal-aid highways and highway construction programs for fiscal year 1977.

H.R. 15117. August 9, 1976. Education and Labor; Post Office and Civil Service. Amends the Vocational Rehabilitation Act of 1973 to provide for the convening of Arbitration Panels to resolve complaints that handicapped individuals have been discriminated against in hiring by any Federal agency, Federal contractor, or program receiving Federal financial assistance.

Establishes within the Department of Health, Education, and Welfare an office to assist handicapped individuals in obtaining employment.

H.R. 15118. August 9, 1976. Education and Labor; Post Office and Civil Service. Amends the Vocational Rehabilitation Act of 1973 to provide for the convening of Arbitration Panels to resolve complaints that handicapped individuals have been discriminated against in hiring by any Federal agency Federal contractor, or program receiving Federal financial assistance.

Establishes within the Department of Health, Education, and Welfare an office to assist handicapped individuals in obtaining employment.

H.R. 15119. August 9, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake the advanced engineering and design stage of the channel deepening project at Gulfport Harbor in Mississippi.

H.R. 15120. August 9, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants, contracts, and loan guarantees for the planning, initial development, and initial operations costs for comprehensive medical practices.

Directs that studies be made of health care delivery systems. Authorizes the Secretary to fund training and research projects related to support services, management, and education for comprehensive medical services.

EXTENSIONS OF REMARKS

CONGRESSMAN TEAGUE URGES REPEAL OF THE NATIONAL HEALTH PLANNING AND RESOURCES DEVELOPMENT ACT OF 1974—TITLES XV AND XVI OF THE PUBLIC HEALTH SERVICES ACT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. TEAGUE. Mr. Speaker, the National Health Planning and Resources Development Act of 1974 was enacted for the reason that existing health planning programs have faced major problems over the years resulting from duplication of effort at the State and local levels and because of the inability of existing agencies to enforce planning decisions. There was a general agreement in the Congress that some revision of health planning programs was necessary. This act created a new national network of local planning agencies to prevent unnecessary development of and to establish priorities for the development of health facilities and to oversee the use of Federal health funds in such areas.

I opposed the passage of this legislation as I felt its comprehensive regulatory provisions and Federal requirements would hinder the flexibility of State and local governments as well as impede the freedom of individuals to determine their own health needs and would ultimately lead to a decline in the quality and availability of health care.

Since enactment of Public Law 93-641, I have maintained a close watch and today am introducing a bill to repeal the National Health Planning and Resources Development Act of 1974, titles XV and XVI of the Public Health Services Act.

A great deal of concern has been expressed to me from my people in the field of health care about the adverse effects of this act on the distribution and quality of health care.

I am especially concerned over the impact that this legislation will have on nonmetropolitan communities and the health facilities in those areas. I am concerned that the National Health Planning and Resources Development Act will disrupt the health delivery systems of rural areas. Specifically, title XV, section 1502 charges:

First, the provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas;

Second, the development of multi-institutional systems for coordination or consolidation of institutional health services to include obstetric, pediatric, emergency medical, intensive and coronary care as well as radiation therapy services.

I think the implications of these provisions are apparent. It can only deprive the rural population of good medical care. It would result in smaller, rural hospitals, providing primary care, while specialty care would be available only in metropolitan health care centers. Transfer of seriously ill patients to metropolitan health care centers would drastically reduce the income to rural hospitals and even effect loss of personnel and discontinuance of many services.

Furthermore, good physicians cannot be expected to remain very long in an area where they can participate in only a part of a patient's treatment. We cannot expect young doctors to be attracted to rural practice with such limitations.

The proposed plan cannot achieve its objective of saving money. It is obvious to us all the comparison in costs of medical and hospital services between rural and metropolitan areas. To this, we must now add the added expense of transferring patients to cities—not only will this be an inconvenience to patients and their families, but will result in unnecessary travel and costs upon many families and even could result in loss of income for some of the employed members of families.

In the State of Texas which easily compares to any other State, there is already evidence that many health systems agencies designed to manage the health service areas will be unrepresentative of the community interests which they are supposed to serve.

I am so concerned over this act and cannot help but feel that it is the stepping stone toward implementation of a national health insurance program. By attempting to establish at the Federal, State, regional, and local levels a system through which health planning, regulation, and allocation of resources will be determined, this act truly represents a very real effort in nationalizing our health care system.

Undoubtedly, all health facilities and services would be subject to regulation—not to mention funding—by health systems agencies, subject to HEW guidelines. This, my fellow colleagues, is a frightening proposition and I urge you all to view this measure scrupulously and join with me in seeking its immediate repeal.

JAMES M. ECKER, FRIEND OF THE UNFORTUNATE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. GAYDOS. Mr. Speaker, there are many noble organizations that carry on charitable work for the benefit of the less fortunate citizens of our Nation and these groups invariably are led by men and women of outstanding ability and deep compassion for others.

But, I know of no organization which surpasses the work of the Variety Club of Pittsburgh in its dedication and concern for handicapped children. Nor, do I know of a man who has demonstrated his deep and genuine love for helping others less fortunate more than the individual who led the Variety Club for the past 3 years—Mr. James M. Ecker.

Jim Ecker has been described publicly by his peers as "a man who has offered complete and selfless dedication to services for our community and its citizens." He richly deserves that recognition. Jim was elected chief barker of the Variety Club in 1972, and when he vacated that office 3 years later it marked the first time in the organization's long history that any individual achieved the distinction of charting the club's course for three consecutive terms.

During his tenure in office, the Variety Club raised more than $120,000 to aid needy and handicapped children. Under his leadership, the club supported Camp Variety, a center for handicapped children at St. Francis Hospital, Rosalia Manor, and a new "Security Blanket" program for meeting emergency situations involving children.

An attorney by profession, Jim Ecker never hesitated to put people, particularly the young, above private practice. Variety International recognized him for his rejuvenation of the local chapter in recent years and he was the first recipient of an award initiated to honor those who give of themselves for the benefit of others. The award, appropriately, is named after Mr. Ecker's father, I. Elmer Ecker, a gentleman who devoted more than 25 years of his life to Variety charities and who, 20 years earlier, preceded his son as the organization's leader.

Jim Ecker, in addition to his work with Variety, serves other organizations as well: The Dapper Dan Club of Pittsburgh, the Turtle Creek Chamber of Commerce, county, State, and national bar associations, and the American Academy of Matrimonial Lawyers. A veteran of the Korean conflict, Jim belongs to the American Legion and Veterans of Foreign Wars.

And, although he has relinquished his position as chief barker for Variety, Jim has not severed his work with youngsters who need help. He has agreed to serve as president of Variety's Handicapped Fund in order to continue helping unfortunate children.

Mr. Speaker, certainly James M. Ecker deserves the accolades bestowed upon him and I, on behalf of my colleagues in this Congress of the United States, extend our sincere congratulations to him for what he has achieved and wish him continued success in the future. His community needs men like James M. Ecker. But, more important, the handicapped children of the Nation need him.

IRAN: PSYCHOPOLITICS AND THE ARMS TRADE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. DERWINSKI. Mr. Speaker, a great deal of attention has been given by the committees maintaining jurisdiction to the arms sales agreements with Iran that come under the procedures for Congressional Resolutions of Disapproval. Recognizing the complexities of the countries in and near the Middle East, I direct the attention of the Members to an article which appeared in the Monday, August 23, edition of Defense and Foreign Affairs Daily, noted for its sophisticated analysis of foreign affairs.

[From Defense & Foreign Affairs Daily, Aug. 23, 1976]

IRAN: PSYCHOPOLITICS AND THE ARMS TRADE

(By Gregory Copley)

Iraq has some 1,500 heavy tanks to Iran's 1,200. Iraq has some 20 medium and heavy bombers to Iran's none. Iraq has, for some two years, had the most advanced Soviet fighter aircraft (the Mig 23 and access to the Mig 25 for reconnaissance work, while Iran only in February began to receive the first few aircraft (F-14A *Tomcats*) capable of deterring them.

And yet it is Iran—with a 34-million population compared with Iraq's mere 11-million—which has been constantly accused by the Western (and Eastern) press of undertaking a "massive and aggressive arms buildup" while Iraq has been patently ignored or, if not, then praised for its alleged tentative rapprochements with the West.

The example represents a classic case of response to conditioning; the world's public has been conditioned to regard Iranian arms purchases as dramatic and dangerous, and to ignore the purchases and capabilities of its neighbors. The phenomenom is important, for it has been the publics of the US, the UK and France which have (as has been the case, to a lesser extent, in the FRG) influenced their governments into questioning Iranian intentions.

In the US, a recent staff report to the Subcommittee on Foreign Assistance of the Senate Committee on Foreign Relations was an attempt to fathom the scope of US arms sales to Iran and the questions of impropriety in those sales. "US Military Sales to Iran" was the title of a 59-page report prepared by Robert Mantel, a Staff Associate of the Committee, and Geoffrey Kemp, an Associate Professor of International Politics at the Fletcher School of Law and Diplomacy. The report was a balanced and highly informative document, taking care not to become involved in the emotionalism of other public or semi-public reports on the subject.

Nonetheless, despite the fact that the report agreed with the general thrust of the arms sales program, the US press carried such headlines as "Iran arms aid 'devastating'" (Christian Science Monitor, August 3, 1976); "Senate Study Assails Sale of Arms to Iran" (Baltimore Sun, August 2, 1976), and "Uncontrolled Sales of Arms to Iran Traced to Nixon" (Washington Post, August 2, 1976). The Washington Star was closer to the truth of the report when its headline said: "Massive Arms Sales to Iran Limit Flexibility" (August 2), as was the New York Times report of August 2 which said in its headline: "Study Finds Iran Dependent on US in Using Weapons".

Iranian sources admitted that they were relatively pleased with the report. What shocked them were the subsequent press outbursts which seemed to bear no relationship to the report on which they based their stories. The affair highlighted the degree to which arms sales in certain regions are related directly to psychological warfare and, in particular, propaganda.

It also, perhaps, prompts a more reasoned examination of the arms sales of the US, Britain and other countries (including the USSR) to Iran. The Senate report helps dramatically in that task.

The Senate investigators, who had access to both the documentation and personnel involved in the sales, cited the following major reasons for undertaking the study:

"First, Iran is currently the largest purchaser of US military equipment and services. The value of the US military sales to Iran over the past four years (FY72–FY76) amounts to $10.4-billion. There is every reason to expect requests for further major purchases from the United States over the coming years. (These have, in fact, already begun to occur.—ed)

"Second, because of Iran's relatively underdeveloped infrastructure and paucity of skilled personnel, the United States is assisting the Iranian Government with the implementation of most of the US military programs and many civilian projects which are scheduled to peak over the next five years. Thus, increasing numbers of American personnel and their dependents are going to Iran for periods ranging from a few months to several years. At the beginning of 1976, the estimated numbers were 24,000. Most informed observers believe these numbers will increase to 50,000–60,000 or higher by the end of the decade. Although the presence of large numbers of Americans in Iran should not necessarily be a source of concern, sociopolitical problems have already been encountered and can be anticipated in the future. In extremis, we cannot be insensitive to the fact that a major change in the political climate of US-Iranian relations or increased internal or external conflict within Iran or between Iran and its neighbors might pose security difficulties for the American residents.

"Third, Iran's ability to buy more U.S. arms and to finance the implementation of existing programs is sensitive to oil revenues and the rising price of U.S. defense articles and services. A decline in Iran's oil revenues and contracted price inflation in the costs of U.S. weapons has already led to the deferment of some orders for U.S. weapons and there have been tentative proposals for barter agreements exchanging oil for defense equipment. Thus, there is a direct relationship between Iranian oil revenues and level of arms purchases from the U.S.

"Fourth, the magnitude and nature of the Iranian military buildup has prompted speculation about a Persian Gulf arms race, which, in turn, could increase the prospects for armed conflict among the local states and lead to a possible disruption of oil supplies. For this reason among others, there has been increasing criticism of U.S. arms sales policy, including proposals to embargo U.S. arms sales to the Gulf countries. It is worth examining the credibility of the "arms-race" argument.

"Fifth, there has been growing concern, within the U.S. Executive Branch, especially in the Department of Defense, over the management of U.S. military programs. It was for this reason that Defense Secretary Schlesinger appointed in 1975 a senior civilian Defense Department representative to go to Iran and take charge of all DOD programs; this representative outranks the Chief of ARMISH-MAAG, a two-star general. These serious managerial problems have not been fully appreciated by the U.S. Congress. Since Congress has ultimate authority over U.S. military programs in Iran, it should be fully conversant with the facts and problems of our involvement.

"Sixth, the United States is not the only industrial country selling arms to Iran. Britain and France and to a lesser extent the Soviet Union, Italy and West Germany have sold military items and are capable of and anxious to obtain further orders. Thus we are, to some extent, competing for arms sales and many non-military items Iran wants to buy. This competitive market situation raises questions about worldwide U.S. arms sales policy, especially vis-a-vis the European allies for there may be linkages between Gulf arms sales and the desire for more cooperation with NATO Europe over joint procurement and standardization programs.

"Seventh, irrespective of the benefits and costs of U.S. sales program to Iran, its history provides valuable insights concerning the policy-making processes which determined the nature of our current involvement. By understanding these processes, we can better understand future foreign policy issues that may emerge either in the context of our Persian Gulf policy or in other geographic areas where major U.S. military sales may be contemplated in the future."

The report discusses the problems facing Iranian defense procurement, noting that Iranian problems are at the "back end" of the purchase (ie: after the equipment has been bought) as opposed to the general US/NATO problem of "front end" difficulties (deciding what to buy and at what cost). Consequently, the combined US military mission in Iran, ARMISH-MAAG, and the Technical Assistance Field Teams (TAFT), have been involved with purchase advice, training and bringing to operational standards the equipment which has been sold to the Imperial Iranian forces.

The analysts also presented a credible analysis of the perceived threats to Iran, excerpts from which are as follows:

"Decisions about weapons procurement are closely held, rarely, if ever, subject to open debate, but frequently criticized by some Americans and privately by some Iranians; in contrast, however, there is more openness with regard to threat analysis. One reason for this is because there appears to be a greater consensus in Iran on the threats to Iran's security than on the desirability of buying specific weapons systems such as the F-14 aircraft.

"Iran's geography and oil give it strategic importance.

"During World War II Britain and the Soviet Union invaded and partitioned Iran primarily to secure oil supplies and a logistics route from the Persian Gulf into the Soviet Union.

"The Shah, whose father, Reza Shah, abdicated after the invasion, has not forgotten this experience, which, coupled with the Soviet reluctance to evacuate Azerbaijan after the war, have made him and most Iranians extremely sensitive to the Soviet threat.

"Three factors need to be weighed when analyzing the threats to Iran's security: geography, the military capabilities of adversaries or potential adversaries, and the time frame. In terms of geography it can be argued that Iran faces threats or potential threats from all directions and therefore it requires a 'from all directions' defense policy. However, the military capabilities of Iran's possible adversaries vary, ranging from the 'high intensity' threats posed by the Soviet Union and other well-armed countries to 'low intensity' threats posed by poorly-armed or weak adversaries such as internal terrorists or the insurgents in Oman. If the time factor is taken into account the threat potential of more distant countries, such as India, must be considered.

LET ELDERLY DECIDE FOR THEMSELVES WHEN THEY SHOULD RETIRE

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mrs. KEYS. Mr. Speaker, today I am cosponsoring legislation to outlaw something that should have never been institutionalized in a civilized society in the first place—mandatory retirement.

Mandatory retirement based on age alone is discriminatory against workers, and is contrary to equal employment opportunity. Chronological age alone is a poor indicator of ability to perform a job, because it does not take into consideration actual, differing abilities and capacities. Many workers can continue to work effectively well beyond age 65, and may be better employees than younger workers, because of experience and job commitment.

For too long forced retirement has caused many undue hardships on our Nation's elderly. It often results in the loss of role and income for these individuals, and may very well result in a lower retirement benefit under social security if the last years the employee would have worked would have brought higher earnings than earlier years.

Women are especially discriminated against, because some women do not start work until after their children are grown or after being widowed or divorced. It limits the work life of these women and reduces their ability to build up significant pension benefits.

And if a worker who was forced to retire wishes to be reemployed, he or she will have a harder time finding a new job because of age discrimination.

Mandatory retirement causes an increased expense to Government income maintenance programs such as social security, as well as to social service programs, and causes loss of skills and experience from the work force, resulting in reduced national output.

But most importantly, it impairs the health of many individuals whose job represents a major source of status, creative satisfaction, social relationships, or self-respect. The American Medical Association's Committee on Aging states that—

> Enforced idleness robs those affected of the will to live full, well rounded lives, deprives them of opportunities for compelling physical and mental activity, and encourages atrophy and decay.

To force a person to retire simply because of age is just not humane.

Eighty-six percent of the American people are against it, but nonetheless, it happens, and 4.5 million citizens are forcibly retired each year.

Federal law prohibits discrimination on the basis of age in certain instances, but it does not protect persons over age 65.

The legislation I am cosponsoring would eliminate the upper age limit of 65 in the Age Discrimination in Employment Act of 1967, and thus wipe out mandatory retirement altogether.

It is essential that our priorities reflect upon human needs and concerns, and I strongly believe that the elderly should decide for themselves when they want to retire.

TROTSKYISM AND TERRORISM: PART IX—TERRORIST ACTIVITIES IN NORTH AMERICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. McDONALD. Mr. Speaker, there are two Trotskyite organizations in Canada. One of these, the League for Socialist Action/Ligue Socialiste Ouvriere LSA/LSO, supports the minority Leninist-Trotskyist Faction which believes terrorism may be a useful tactic in the future. The other, the Revolutionary Marxist Group, RMG, which has its principal base among French-speaking Canadians in Quebec, is a staunch supporter of the "terrorism now" International Majority Tendency.

During the 1970 wave of terrorism by the Front de Liberation du Quebec, FLQ, Canadian Trotskyites tried to maintain a low profile. They were embarrassed by the open support of terrorism in Canada by their British comrades in the International Marxist Group, IMG, and its publication, at that time called the Red Mole.

Joseph Hansen of the Socialist Workers Party described the problem of his Canadian comrades:

> While the Canadian Trotskyists were trying to differentiate their own position from the ultraleft one taken by *The Red Mole,* they were confronted by an even worse problem—what to do about the remarks made by Comrade Tariq Ali on a television panel filmed at Oxford by CTV, the national Canadian television network. This program was shown throughout Canada, while our comrades, like the rest of the left, were doing their best to mobilize a massive defense against the repression.
>
> Some very provocative questions were directed at Comrade Ali. In answering, he did not appear to keep well in mind the situation in Canada and the need to help to the best of his ability in mobilizing a broad defense against the repression.
>
> For instance, he was asked: "Do you believe, sir, that society today has reached the point where you see you have to use violence to achieve your ends?"
>
> Comrade Ali replied: "I would say that this is largely a tactical question, depending precisely on the degree of opposition which we encounter in our struggle for socialism. But briefly, the answer is yes. I think that to achieve the ends we believe in to the establishment of a socialist republic, I believe that a certain element of violence is absolutely necessary."
>
> Another provocative question was: "When you were president of the Oxford Debating Union did you not invite Governor Wallace of Alabama to speak at the Oxford Union?"
>
> Comrade Ali answered: "Yes. Do you know why? Because we would have killed him."
>
> That did not come off so well, and Comrade Ali was soon explaining: "Of course, when I say, 'Kill him,' I don't mean it necessarily literally. It's a tactical question. If I believed we could get away with killing him we would. It is a question of if you are organized to do so. I don't think we are. I meant kill him politically. That is what we wanted to do, but that wouldn't have taken place because Wallace wouldn't have got further past Oxford Station."
>
> The setting for broadcasting this TV program, it should be underlined, was Canada in the midst of a great police hunt for urban guerrillas charged with kidnapping and murder. It was shown on the television screens during a repression in which our own headquarters and the homes of many comrades were raided, and two of our leaders were thrown into prison.
>
> Comrade Ali did what he could to turn the provocative questions into a high-level dialogue on the difference between "individual terror" with mass support and "individual terror" without mass support—a distinction a bit too fine, one must suppose, for the Canadian audience to appreciate at the moment. "At times," he said, "I think that individual terror becomes necessary. I don't believe in individual terror as a principle; I am completely opposed to it. I'll give you a concrete instance. I don't believe in solving this particular argument by shooting off a few people, who are making rude noises. Nor do I that individual terror can in itself bring you any nearer to what we believe in. Of course not. I believe that individual terror is justified when you have a mass movement, when you have mass support inside a particular society, then it is justified." [1]

Tariq Ali serves on the Fourth International Executive Committee under the alias "Ghulam." [2] He receives his salary from a U.S. tax-exempt organization, the Transnational Institute, TNI, of the Institute for Policy Studies, IPS, located in Washington, D.C. Ali, a Pakistani, is reportedly "working on a series of essays on Indian nationalism and communism" for the Transnational Institute.[3]

The Institute for Policy Studies is a leftist think-tank which usually takes a pro-Soviet and pro-Cuban stance; and whose staff has included a variety of terrorist supporters and members of terrorist organizations. The Transnational Institute has offices both in Washington, D.C. and in Amsterdam, Holland. The TNI is headed by Eqbal Ahmad and a leading Castroite propagandist, Saul Landau.

On September 9, 1976, Basker Vashee represented the Transnational Institute of IPS at a congressional conference on southern Africa sponsored by the Fund for New Priorities in America. The conference was held in the Russell Senate Office Building. Vashee was identified to the audience by the conference moderator as "a member of the national executive of ZAPU." ZAPU is the Zimbabwe African People's Union, a Soviet-supported terrorist group in Rhodesia headed by Joshua Nkomo.

FOOTNOTES

[1] *International Information Bulletin,* No. 3, April 1971, p. 28.

[2] *International Internal Discussion Bulletin,* Vol. XII, No. 1, January 1975, p. 4.

[3] *Transnational Link,* June 1976, p. 4.

NUCLEAR POWERPLANT CONSTRUCTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention the second installment of a Nuclear Regulatory Commission response to a letter I wrote them on nuclear powerplant construction. This installment has to do with NRC permits and licenses, and with possible plant accidents. The first installment appeared in the RECORD of June 23, 1976, at 20103, and dealt with construction and operating license procedures.

I am very concerned about this issue because of the potential construction of a nuclear plant in my district, and I think the information contained in the NRC responses should be of use to any colleagues of mine who are in a similar situation, as well as to the general public. My insertion of this material into the RECORD does not imply any endorsement of the NRC response, or any other judgment of its contents.

The response follows:

U.S. NUCLEAR REGULATORY COMMSSION,
Washington, D.C., August 5, 1976.
Docket Nos. STN 50–546 and STN 50–547.
Hon. LEE H. HAMILTON,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HAMILTON: On June 11, we submitted the first installment to your letter of May 5, 1976 requesting information about the Marble Hill Nuclear Generating Station, Unit Nos. 1 and 2. We are pleased to submit the second installment which contains responses to the questions from Categories C and D and is provided in the enclosure. The final installment will be issued in a few weeks.

Sincerely,
WILLIAM J. DIRCKS,
Assistant Executive Director for Operations.

Enclosure: Response to categories C and D.

RESPONSES TO CATEGORIES C & D

C. Other questions regarding NRC permits and licensing—

1. Where may citizens who live near Marble Hill obtain information about the project and NRC's activities with regard to it?

The NRC has arranged for a Local Public Document Room to provide information to the public on the Marble Hill application. This information is available for public inspection at the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana 47250, between the hours of 9:00 a.m. to 5:00 p.m. on Saturday.

2. What assistance does NRC offer citizens in understanding the regulatory process and such technical matters as are discussed in the Draft Environmental Statement for Marble Hill?

The NRC typically holds an informal meeting with intervenors, potential intervenors, and other interested citizens in the locality of the proposed site. At this meeting the staff discusses the upcoming safety and environmental reviews, the licensing process, and the proposed review schedule. The meetings also provide persons or groups an opportunity to communicate their concerns so that the staff can consider them in the review process.

On January 29, 1976, following the Marble Hill prehearing conference, the staff held such a meeting in the Madison city council chambers. Notice of this meeting was given by the local news media and it was attended by potential intervenors and other citizens interested in the Marble Hill application. The NRC staff was represented by the Licensing Project Manager, the Environmental Project Manager, and the hearing counsel assigned to this project.

In addition to these meetings with the public, the staff will also answer questions addressed to them by interested persons on both technical and legal procedural matters.

3. Regarding the various evaluations for NRC permits and licenses—

How much information comes initially from PSI?

Initially, all of the information required in an application for a construction permit is submitted by the applicant in accordance with Title 10, Code of Federal Regulations, Parts 50.33, 50.33a, 50.34, and 51.20. This information is then independently evaluated and augmented by the staff in preparing their safety and environmental evaluations.

How many NRC staffers with what backgrounds verify and augment this information?

A typical construction permit review involves approximately 40–45 technical-professional staffers. This estimate does not include supervisory or clerical workers. Attachment 1 provides a breakdown of the staff by occupation and organization. Attachment 2 shows the background of the technical staff involved in a typical construction permit review. And finally, Attachment 3 indicates the educational level of the staff.

What portion of the NRC staff consists of former employees of companies involved in the nuclear industry? What portion of the NRC staff has left NRC to work for such companies?

We estimate that 49 percent of the NRC regulatory program staff consists of former employees of companies involved in the nuclear industry. This estimate is based on a sampling of employees.

Of those employees who resigned between January 20, 1975, and April 30, 1976, only three employees indicated in their resignations that they were leaving NRC to work for companies involved in the nuclear industry. However, employees are not obliged to identify prospective new employers in their resignations, and additional individuals could have accepted private sector nuclear employment without our knowledge.

D. The possibility of accidents—

1. What sorts of accidents may befall a nuclear power generating station?

A detailed, systematic analysis was performed during preparation of the "Reactor Safety Study" (WASH-1400, NUREG-75/014), to identify all possible accident sequences which would lead to public risk. These accident sequences are described in Appendix I to the "Reactor Safety Study" entitled, "Accident Definition and Use of Event Trees." The accident sequences were developed for both pressurized water and boiling water nuclear reactors.

2. Describe a total core melt down. If such an accident occurred at Marble Hill, what size area would be affected and in what ways?

There has never been a total core melt down in the history of commercial operation of nuclear reactors. However, a study was performed at Battelle Columbus Laboratories to describe the course of events that would be expected to occur during various hypothetical reactor core melt accidents. This study is presented as Appendix VIII to the "Reactor Safety Study" entitled "Physical Processes in Reactor Meltdown Accidents."

The "Reactor Safety Study" also describes the type of property damage that might be produced by a core melt accident as follows:

"A nuclear accident would cause no physical damage to property beyond the plant site but may contaminate it with radioactivity. At high levels of contamination, people would have to be relocated from their homes until decontamination procedures permitted their return. At levels lower than this, but involving a larger area, decontamination procedures would also be required, but people would be able to continue to live in the area. The area requiring decontamination would involve a few hundred to a few thousand square miles. The principal concern in this larger area would be to monitor farm produce to keep the amount of radioactivity ingested through the food chain small. Farms in this area would have their produce monitored, and any produce above a safe level could not be used.

"The core melt accident having a likelihood of one in 20,000 per plant per year would most likely result in little or no contamination. The probability of an accident that requires relocation of 20 square miles is one in 100,000 per reactor per year. Eighty per cent of all core melt accidents would be expected to be less severe than this. The largest accident might require relocation for 290 square miles. In an accident such as this, agricultural products, particularly milk, would have to be monitored for a month or two over an area about 50 times larger until the iodine decayed away. After that, the area requiring monitoring would be very much smaller."

3. What safety devices are mandatory to prevent such an accident

The "Reactor Safety Study" has defined two broad types of situations that might potentially lead to a melting of the reactor core: the loss-of-coolant accident and transients. In the event of a potential loss of coolant, the normal cooling water would be lost from the cooling systems and core melting would be prevented by the use of the emergency core cooling system.

The term "transient" refers to any one of a number of conditions which could occur in a plant and would require the reactor to be shut down. Following shutdown, the decay heat removal systems would operate to keep the core from overheating. Certain failures in either the shutdown or the decay heat removal systems also have the potential to cause melting of the core.

Appendix A to 10 CFR Part 50, entitled "General Design Criteria for Nuclear Power Plants," establishes minimum requirements for the principal design criteria for water-cooled nuclear power plants. The following General Design Criteria (GDC) apply to the prevention of a core melt accident:

(1) GDC 20 requires a protection system to shutdown the reactor in the event of a transient,

(2) GDC 34 requires a system to remove residual heat following a reactor shutdown,

(3) GDC 35 requires an emergency core cooling system to transfer heat from the reactor core following a loss-of-coolant accident.

4. What sort of government supervision will there be during the operation of the plant to guard against malfunctions?

Periodic inspections of nuclear power plants are performed, during both construction and operation, by the NRC's Office of Inspection and Enforcement. In addition, the NRC is considering a resident inspection program which is described in a letter to Mr. Ralph Nader and is provided in Attachment 4.

5. Each nuclear plant must have an evacuation plan:

Attachment 5, "Statement on NRC Emergency Planning Requirements," is provided as general background information relative to this question.

Will such a plan be drawn up before Marble Hill is built or operating?

The applicants are required to submit preliminary emergency planning information at the construction permit stage as described in Attachment 5. Finalized plans for coping with emergencies will be submitted by the applicants before Marble Hill is operating. These plans will contain provisions for evacuation of non-essential persons from the site, should that ever be necessary, and will reflect coordination with appropriate State and local agencies for protective measures beyond the site boundary, with emphasis on the (two mile radius) low population zone.

Must it be drawn up before permits are issued?

Finalized or complete plans are not required prior to the issuance of a construction permit.

Who will draw up the plan, and how will the public's views be involved?

The applicants are responsible for demonstrating compliance with the NRC regulations. To this end, they may seek and receive assistance from others and in general, the NRC places no restrictions on this kind of participation. NRC staff experience with emergency planning at other sites has shown that appropriate State and local agencies have generally cooperated and coordinated their emergency planning activities with those of nuclear power plant licensees. Public views may of course be brought directly to the NRC through our public hearing process. In addition, the requirements for preliminary emergency planning at the construction permit stage permits ample time and opportunity for interested and concerned citizens to express their views in this area to otheir local and State officials, as well as to the NRC.

What area will the plan encompass?

The Staff considers that, in addition to the site itself, the area identified as the low population zone in 10 CFR Part 100 is an acceptable and adequate area for emergency plans to encompass.

In the event of a major mishap, who will have legal authority to order evacuation?

In most states this authority can be exercised by the Governor and is frequently delegated to other officials. In many states it can also be exercised by local officials. With respect to Marble Hill, the response to this question will be contained within the context of the agreements to be reached with local and State officials, which are required at the operating license stage by 10 CFR Part 50, Appendix E.

6. Insurance liability:

No not many home, auto, life, and health insurance policies preclude payment for damages resulting from nuclear power plant malfunctions?

Since 1959, the standard fire and property insurance policies have contained an exclusion of damage to the insured's property caused by nuclear reaction, nuclear radiation or radioactive contamination. There is also a similar nuclear exclusion clause in automobile policies, but not to our knowledge in life and health insurance policies. Our understanding of this exclusion is that the insurers consider that property damage caused by, for example, a nuclear reactor incident, would be covered by nuclear liability insurance and that this coverage should be excluded from the conventional homeowner and automobile policy to avoid duplication of insurance for the same property. Thus, if a property owner suffered damage as a result of a nuclear incident, compensation would come through nuclear liability insurance maintained by the reactor operator. Neither the Price-Anderson Act nor any other Federal statute prohibits private insurers from deleting the nuclear exclusion clause from homeowner and automobile policies.

The Price-Anderson Act puts a $560 million limit on the private insurance liability of the nuclear industry in the event of a major accident, yet damage claims could be greater than $560 million.

A discussion of the Price-Anderson Act is provided in Attachment 6.

How will claims exceeding the $560 million level be paid?

One of the many conclusions in the "Reactor Safety Study" published in October 1975 (WASH-1400, NUREG-75/014) is that the probability of a single nuclear incident causing offsite property damage of $650 million is approximately 2 chances in 1,000,000 per reactor year. Despite the extremely low probability of such an occurrence, the Joint Committee on Atomic Energy has, in 1957 when the Price-Anderson Act was originally enacted and in 1965 and 1975 when the Act was extended, always stated in the legislative history that the limitation on liability provides an opportunity for an after-the-fact Congressional reassessment of the situation if an almost inconceivable accident causing damages in excess of $560 million ever occurred. The limitation was never meant to be a bar to further Congressional appropriations. Moreover, P.L. 94-197 provides in subsection 170e:

"That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude."

If nuclear power plants are as safe as the proponents say, why is this private insurance liability limit so important to the nuclear industry?

In December, 1975, during consideration of HR 8631, Congress voted down amendments that would have removed the limitation of liability provisions from the Price-Anderson Act. An extensive discussion of the limitation of liability provision from the standpoint of protection of industry as well as a public protection feature, is provided in the Congressional record. The House considered HR 8631 on December 8, 1975 and the discussion is contained on pages 39054–39088. The Senate considered it on December 16, 1975 and the discussion is documented on pages 40958–41006.

7. What type of fuel is used at Marble Hill? What form does it take? How and from where is it brought? What rules and procedures govern the handling of this fuel?

The fuel for the Marble Hill facility will be uranium. The fuel is in the form of fuel rods. The fuel rods consist of slightly enriched uranium dioxide ceramic cylindrical pellets contained in slightly cold worked Zircaloy-4 tubing which is plugged and seal welded at the ends to encapsulate the fuel. All fuel rods are pressurized with helium during fabrication to reduce stresses and strains to increase fatigue life.

Two hundred and sixty-four fuel rods are mechanically joined in a square array to form a fuel assembly. The fuel rods are supported in intervals along their length by grid assemblies which maintain the lateral spacing between the rods throughout the design life of the assembly.

The reactor core is comprised of 193 fuel assemblies which are identical in mechanical design, but different in fuel enrichment. Three enrichments are employed in a three-region core. The enrichments for Regions 1, 2, and 3 are 2.1, 2.6, and 3.1 percent uranium-235 by weight, respectively.

The fuel will probably be transported by truck or rail from Columbia, South Carolina. The rules and procedures for handling this fuel are described in Attachment 7, "Transportation of Nuclear Fuel and Waste" and Attachment 8 "Spent Fuel Storage."

8. What safeguards currently mandated by law would prevent a terrorist group from sabotaging Marble Hill and either causing or threatening to cause a core melt down or some other mishap?

In accordance with 10 CFR Part 50.34(c), applicants are required to submit a physical security plan. This plan demonstrates how the applicants comply with 10 CFR Part 73 entitled "Physical Protection of Plants and Materials". This part prescribes requirements for physical protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used, for the purpose of protection against acts of industrial sabotage and protection of special nuclear material against theft by establishment and maintenance of a physical protection system of: (1) Protective barriers and intrusion detection devices a fixed sites to provide early detection of an attack, (2) deterrence to attack by means of armed guard and escorts, and (3) liaison and communication with law enforcement authorities capable of rendering assistance to counter such attacks.

Pursuant to 10 CFR Part 50.54(p), the licensee shall make no change which would decrease the effectiveness of a security plan without the prior approval of the Commission.

In addition, specific physical protection requirements for nuclear power plants were published for comment in November, 1974. These proposed regulations (10 CFR Part 73.55) are currently under consideration by the Commission and may be modified before becoming effective.

ATTACHMENT I

THE NRC STAFF BY OCCUPATION AND ORGANIZATION

	Commission and Commission staff offices	Boards and panels	Executive director for operations and staff offices	Program offices	Total
Administrative occupations [1]	64	35	344	228	671
Clerical occupations [2]	44	30	140	224	438
Scientific occupations [3]	13	9	10	259	291
Engineering occupations [4]	4	16	16	764	800
Total	125	90	510	1,475	2,200

[1] Administrative includes employees (generally GS–9 and above) in personnel, administration, legal, security, computer, management analysis, communications, accounting, budgeting, information, library, training, office services, travel and supply management positions.

[2] Clerical includes secretaries, and employees (generally GS–8 and below), in administrative, office services, supply, personnel computer, mail, file, typing, stenographic, telephone, reception, messenger, labor, and warehouse positions.

[3] Scientific includes employees in biological and physical sciences, mathematics, statistics, program management and policy evaluation positions.

[4] Engineering includes employees in all engineering, architecture, and quality assurance positions.

ATTACHMENT 2

NRC RESOURCES—PERSONNEL (TECHNICAL DISCIPLINES)

Biology & Radiobiology.
Chemistry.
Ecology & Radioecology.
Geology.
Hydrology.
Limnology.
Mathematics.
Metallurgy.
Meteorology.
Oceanography.
Physics.
Rad. Health Physics.
Seismology.
Engineering: Chemical, Civil, Electrical, Instrumentation, Mechanical, Nuclear, Systems.

ATTACHMENT 3

NRC-PERSONNEL—(EDUCATION LEVELS—GS–13 AND ABOVE)

Attachment 3 omitted as graph not reproducible.

ATTACHMENT 4

MARCH 6, 1975.

Mr. RALPH NADER,
Washington, D.C.

DEAR MR. NADER: Thank you for your letter to Chairman Anders dated February 13, 1975, in which you recommended a significant expansion of the NRC inspection program through application of the resident inspector concept. As you know, last July the AEC initiated a trial program to facilitate an evaluation of this approach to inspection. The final benefit-cost analysis of the concept is targeted for completion within two years of trial program inception. The NRC has scheduled interim evaluations to permit early assessment and program redefinition should that be indicated. We believe that a precipitous change to a new and untried inspection technique, without full evaluation, could compromise an already effective inspection program and pre-empt other equally attractive alternatives, such as establishing additional regional offices located closer to the facility sites.

Your letter cited several deficiencies which were brought to our attention by other than NRC inspectors, but fails to credit the potential deficiencies noted and thereby rectified through NRC and licensee inspection programs. As related to the concept of resident inspection, we believe that such a program could facilitate our ability to detect deficiencies but as in any overview function, would not eliminate entirely the potential for such deficiencies.

The current NRC inspection program is based on the fundamental premise that the licensee is responsible for the proper construction and safe operation of the licensed facility. Under the resident inspection concept, this fundamental premise would be retained. We do not consider our present inspection program to be a parallel quality assurance effort, nor a substitute for good licensee management. There would be no change in these views under a resident inspection program. The NRC resident inspector would continue to determine through selective sampling of records and observation of activities whether the licensee has conceived and implemented quality assurance and management systems as required by NRC regulations and his license. The increased physical presence of the resident inspector would facilitate the actual observation of licensee activities (including inspection); but duplication of all inspection activities and decision processes of the licensee would not be consistent with our fundamental regulatory premise, nor would it appear to be practical.

The resident inspection program is primarily a method for improving the effectiveness of the existing inspection program methodology. It is not presently anticipated that resident inspectors would be assigned to all facilities, nor has it been envisioned that all inspectors would be utilized as resident inspectors. It is anticipated that resident inspectors would be stationed in locations from which they could inspect several facilities on essentially a daily basis. Only in unusual cases would inspectors to assigned to a single facility or be quartered within the facility being inspected.

During AEC consideration of the resident inspector concept, potential benefits were identified; however, potential disadvantages were also apparent. The most significant is the possible loss of objectivity and independence of the inspector due to constant association with the facility to which he is assigned and its staff. Even though potential benefits, such as increased site inspection time, are significant, it was determined that a trial program should be undertaken to assure that the benefits could be clearly demonstrated to outweigh the disadvantages.

The trial resident inspection program has been in effect for approximately eight months and the initial benefit-cost analysis of this trial program is scheduled for late summer of 1975. Contingent upon the results of this analysis, broader application of the concept of resident inspection or a change in scope of the trial program may be appropriate.

We agree that establishment of a resident inspection program does appear to offer significant advantages; however, our undertaking of the trial program should not be misconstrued as an indication of inadequacy in our current regionally oriented inspection program. We intend to continue to modify our inspection program as improvements are indicated; however, these changes will only be made after assurance that their implementation is in the best interests of the public.

Sincerely,

D. F. KNUTH,
Director, Office of Inspection and Enforcement.

ATTACHMENT 5

STATEMENT ON NRC EMERGENCY PLANNING REQUIREMENTS

The standards and criteria established by the Nuclear Regulatory Commission (NRC) for the evaluation of proposed nuclear power plants include provisions for substantial conservatisms in design and operating safety margins. Through the regulatory process this defense-in-depth policy is implemented in the design, construction, and operation of nuclear power plants such that their operation should pose no undue risk to the public health and safety. It is recognized, however, that no body of knowledge can ever be so complete as to reduce uncertainties and risks to zero.

The NRC has, therefore, adopted a policy of prudence in this regard and taken certain additional steps to establish a reasonable state of preparedness for coping with emergency situations. These steps include emergency planning requirements which must be met and maintained by licensees as set forth at 10 CFR Part 50, Appendix E.

An application for a construction permit is required to contain sufficient information to assure the compatibility of proposed emergency plans with nuclear power plant design features, site layout and site location with respect to such considerations as access routes, surrounding population distributions and land use. At the operating license stage of the safety review, an applicant is required to submit plans for coping with emergencies which include procedures for notifying, and agreements reached with local, State and Federal officials and agencies for the early warning of the public and for public evacuation or other protective measures should such warning, evacuation or other protective measures become necessary or desirable. The scope and content of such required plans is more explicitly set forth in Regulatory Guide 1.101, "Emergency Planning for Nuclear Power Plants."

Following the safety review process, each nuclear plant is inspected by NRC personnel, prior to the issuance of an operating license and periodically thereafter during the lifetime of the plant, for the purpose of assuring compliance with applicable safety and environmental criteria and operating license conditions. Specific NRC inspections are conducted on an annual basis in accordance with detailed criteria to assure the capability of each licensee to implement his emergency plans. (The procedural documents setting forth implementing procedures are made available for inspection at licensee sites but are not typically part of the public record. Reports of such inspections are, however, made part of the public record.)

ATTACHMENT 6

NUCLEAR POWERPLANT INDEMNIFICATION—PRICE-ANDERSON ACT

Under the Price-Anderson Act of 1957, there is a system of private insurance and governmental indemnity totalling $560 million to pay public liability claims for personal injury and property damage resulting from a nuclear accident. Under this law, owners of commercial nuclear power plants having a rated capacity of 100 electrical megawatts or more must provide proof to the NRC that they have private nuclear liability insurance, or another form of financial protection approved by the NRC, in an amount equal to the maximum amount of insurance available from private sources. The maximum amount of private insurance currently available from private nuclear liability insurance pools is $125 million. In addition, a licensee is required to execute an indemnity agreement with the NRC. This indemnity agreement, by law, provides up to but not exceeding $500 million in Government indemnity to satisfy public liability claims in excess of the amount of insurance or other financial protection required of the licensee.

On December 31, 1975, Public Law 94–197 was enacted into law. This legislation, which extends the present Price-Anderson legislation for ten years to August 1, 1987 provides, among other things, for the phasing out of Government indemnity through a mechanism whereby the utility industry would collectively share in the risk of damages from a nuclear incident exceeding the basic amount of private insurance available through the payment of a retrospective premium to the insurance pool. The Commission must establish, before December 31, 1976, a retrospective premium figure of between $2 million and $5 million per reactor.

In the event of a nuclear incident resulting in damages exceeding the amount of the current $125 million primary insurance layer, each licensee would then be called upon to pay a prorated share of the damages in excess of the primary layer amount. P.L. 94–197 also provides that the present $560 million limit on liability for a single nuclear incident be retained until the combined primary and retrospective insurance layers reach the $560 million level. After that point the limit on liability would rise corresponding to increases in the primary and retrospective insurance layers. No ultimate dollar limit on liability is provided.

In the 19 years since the inception of the Price-Anderson program, no claim requiring payment of government funds under a licensee indemnity agreement has ever been received. The only claim paid out under an insurance policy used by licensees to provide the financial protection required by the law involved the shipment of a spent fuel cask. Due to leakage from the cask, it was necessary to decontaminate two trucks used in the movement and a claim of $3,500 was paid by the insurance pools.

ATTACHMENT 7

TRANSPORTATION OF NUCLEAR FUEL AND WASTE

The transportation of nuclear fuel and waste is regulated principally by the Department of Transportation (DOT) and by the Nuclear Regulatory Commision (NRC). The regulations of the NRC are found in Title 10 of the Code of Federal Regulations, primarily in 10 CFR Part 71 "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions". The regulations of the DOT are found in the Code of Federal Regulations: Title 49 (for shippers, and road and rail carriers), Title 46 (for water carriers) and Title 14 (for air carriers). In addition, 49 CFR Parts 170–179 "Transportation", 46 CFR Part 146 "Transportation or Storage of Explosives or Other Dangerous Articles or Substances, and Combustible Liquids on Board Vessels", and in 14 CFR Part 103 "Transportation of Dangerous Articles and Magnetized Materials" are applicable. These regulations are applicable both to persons who ship radioactive materials as they package and offer such materials for transportation, and to carriers of radioactive material as they load and transport such materials in their vehicles. The regulations provide protection to transport workers and the general public from the hazards of radiation, and to undeveloped film from damage .

Primary reliance for safety in transportation of radioactive material is placed on the packaging. The DOT regulations prescribe general standards and requirements for all packages of radioactive material, and for handling and storage of those packages by carriers. For packages which contain no significant fissile radioactive material and only small quantities of other radioactive materials the DOT standards and requirements provide adequate assurance of containment and shielding of the radioactive material. While these small quantity packages, termed Type A packages, may fail in an accident situation, the radiological consequences would be limited because of the limited package contents.

When the radioactive content of a package exceeds the small Type A quantity, it may only be transported in a Type B package, one which will survive transportation accidents. A Type B package must be designed to withstand specified impact, puncture and fire environments which might occur in transportation accidents. A Type B package design must be independently reviewed by the NRC engineering staff to verify the accident resistance of the design, and a certificate must be issued by NRC before a Type B package can be used to transport radioactive material.

The standards which have been established in the regulations of DOT and NRC provide that the packaging shall prevent the loss or dispersion of the radioactive contents, provide adequate shielding and heat dissipation, and prevent nuclear criticality under both normal and accident conditions of transport, including safety factors to account for potential human error. The normal conditions of transport which must be considered are specified in the regulations in terms of hot and cold environments, pressure differential, vibration, water spray, impact, puncture and compression tests. Accident conditions are specified in terms of impact, puncture and fire conditions.

Procedures applicable to the shipment of packages of radioactive material require that the package be labeled with a unique radioactive materials label. In transport, the carrier is required to exercise control over radioactive material packages, including loading and storage in areas separated from persons, and to limit the aggregation of packages to limit the exposure of persons. The procedures the carrier must follow in case of accident include segregation of damaged and leaking packages and the notification of the shipper and the Department of Transportation. Radiological assistance teams are available through an inter-governmental program to provide equipment and trained personnel, if necessary, in such emergencies.

Within the limitations of the regulatory standards, radioactive materials may be safely transported in routine commerce using conventional transportation equipment.[1] No special restrictions on the speed of vehicle, routing, or ambient transport conditions are needed to assure safety. According to the Department of Transportation, the record of safety in the transportation of radioactive materials exceeds that for any other type of hazardous commodity. The Department of Transportation estimates that approximately one million packages of radioactive materials are currently being shipped in the United States each year. To date, there have been no known serious injuries to the public or to transport workers due to radiation from a radioactive material shipment. WASH–1238, titled "Environmental Survey of Transportation of Radioactive Materials To and From Nuclear Power

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[1] Section 201 of the Energy Reorganization Act as amended by Public Law 94–79 imposes special restrictions on the air transport of plutonium.

Plants", provides additional information on this topic.

ATTACHMENT 8

SPENT FUEL STORAGE

Fuel assemblies used to generate heat in the reactor have a finite life and must be replaced periodically due principally to depletion of fissile fuel material and accumulation of fission products. Each year a typical large power reactor will discharge from 25 to 40 tons of spent fuel in 60 to 200 fuel assemblies. These spent fuel assemblies are placed in an onsite spent fuel storage pool for a matter of months before being shipped in heavy shielded casks to a fuel reprocessing facility.

Current practice for sizing the spent fuel storage pool for single unit facilities is generally to include provisions to accommodate the spent fuel assemblies associated with a normal refueling plus additional space to safely store an entire reactor core, for a total spent fuel storage capacity of one and one-third cores. For multi-unit facilities, the increment refueling load for the additional plants is generally added, so that the capacity for storing one full core is retained. This design capacity for the spent fuel storage pool has developed as an industry practice and not as a Regulatory requirement. There is no Regulatory requirement for providing or retaining available storage space in onsite storage pools.

Based on a 1974 Nuclear Regulatory Commission (NRC) survey, storage space in the spent fuel storage pools at all operating facilities was available. At some facilities it was predicted that the presently available storage may be filled within a matter of years unless these licensees arrange to accommodate the situation. This is not contrary to any regulatory requirement. The operating license and technical specifications do not place any requirement on the available space in spent fuel storage pools. As the limited storage capacity provided by the spent fuel storage pools at each reactor site is gradually filled with spent fuel, licensees make arrangements to accommodate the spent fuel that will be discharged from their facilities. One possibility is to arrange for the shipment and offsite storage of spent fuel in storage pools at Nuclear Fuel Services facility in West Valley, New York, and at the General Electric facility near Morris, Illinois, two commercial offsite storage facilities. Additional offsite storage may become available at the Allied General facility at Barnwell, South Carolina.

THE DANGER OF NATIONALIZED MEDICINE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. CRANE. Mr. Speaker, those who advocate nationalized medicine for the United States, a policy called for in the platform of the Democratic Party and in statements on the subject by that party's candidate for President, should carefully review the results of such systems in other countries before taking the United States down this path.

If they did consider the available data from countries such as Great Britain and Sweden they would rapidly discover that nationalized medicine has proven itself to be more, rather than less, expensive. It has, in addition, made medical care more difficult to obtain, not easier.

Discussing the deterioration of British medicine, Anthony Lejeune notes that,

> Ten years ago, it had more doctors than administrators. Now it has thirty per cent more administrators than doctors. . . . Committees proliferate at each level; there are Community Health Councils, Family Practitioner Committees. Local Advisory Committees, Joint Staff Committees . . . Paperwork accumulates like a snowdrift . . . All this nonsense costs money. By way of contrast, many hospitals cannot afford the number of nurses they really need.

On a reecnt trip to England, Anthony Harrigan, executive vice president of the U.S. Industrial Council, discovered that the entire muscular dystrophy research team will move to Johns Hopkins University. He notes that:

> This is indicative of the crisis of confidence affecting Britain's nationalized health service. British doctors simply don't have any faith in the ability of the N.H.S. to provide quality care on a cost-effective basis, or to sponsor necessary medical research.

Mr. Harrigan declares that,

> In view of the deterioration of Britain's socialized health service, it is incredible that anyone in the United States would call for the creation of a similar system. Yet this is what's happening in this presidential election year.

I wish to share with my colleagues the column, "Nationalized Health Services: The Threat to Freedom and Quality Medicine," by Anthony Harrigan, as it appeared in the August 15, 1976, issue of the U.S. Industrial Council Bulletin, and insert in into the RECORD at this time.

NATIONALIZED HEALTH SERVICES: THE THREAT TO FREEDOM AND QUALITY MEDICINE

(By Anthony H. Harrigan)

LONDON, ENGLAND.—Announcement here that an entire muscular dystrophy research team will move to Johns Hopkins University in America is indicative of the crisis of confidence affecting Britain's nationalized health service. British doctors simply don't have any faith in the ability of the National Health Service to provide quality care on a cost-effective basis, or to sponsor necessary medical research.

In view of the deterioration of Britain's socialized health service, it is incredible that anyone in the United States would call for the creation of a similar system. Yet this is what's happening in this presidential election year.

For weeks, British newspapers have been full of reports of slowdowns by hospital personnel. They feel that they are overworked and underpaid by the state. The few areas where private practice is permitted are gradually being eliminated by socialist zealots in the Labor government.

Meanwhile, high-caliber medical school graduates are emigrating to North America and elsewhere. As Anthony Lejeune writes in the current issue of *Private Practice*, "British doctors continue to vote with their feet while the going is good." Their places on hospital staffs are being taken by medical graduates from India and Pakistan. The educational standards of these immigrant physicians is questionable, to say the least.

The late Lord Dawson of Penn forecast the conditions which exist today. He observed with great prescience: "Once you get medicine and its science and art under the control of the Civil Service, good-bye to the best of medicine." Under a nationalized health care system, the medical profession becomes subordinated to politics, and the patient becomes little more than a name on a form.

This is the result of a nationalized medical system in which physicians are at the mercy of the state as a buyer. They are compelled to sell their services to the National Health Service.

Salaries of medical personnel aren't determined by their worth to the community, but by political considerations and the ideological judgments of politicians and social theorists. Both the physician and the patient are denied free choice. They are locked into a state medical system. The family that finds some degree of private medical aid must continue to pay the state for medical services it does not want or deem worthwhile.

Americans, who are being urged to support a "nationwide, comprehensive health program for all our people" should bear in mind that the consumer of nationalized health services would have no control whatsoever over these services. Professional medical judgments would be superseded by bureaucratic decisions. Doctors would be overburdened by patients with trifling ailments, thereby depriving the seriously ill of needed medical resources.

This is the year when special attention should be paid to the British experience with the National Health Service since 1948. Arthur Seldon, writing in Rebirth of Britain, noted that "When the Ministry of Health was asked for the cost of the National Health Service or parts of it for men, women and children per head, it replied that it simply had not worked out the figures." Such is the irresponsibility characteristic of a government-controlled health service.

There's nothing in the record of America's Dept. of Health, Education and Welfare to suggest that it would operate a "comprehensive health program" in a more efficient manner than the British Ministry of Health.

The British experience with a nationalized health service is instructive in other ways. It breeds distrust between physician and patient. It rewards mediocrity and ignores the innovative.

Finally, a nationalized health system is a key element in a command society—a society in which the public's wishes have little weight. The physician becomes an arm of the government, with all that suggests of totalitarian control. In the Soviet Union today, psychiatry is used as an instrument of repression and terror. Mental hospitals serve as prisons for those who dissent from government policies.

The U.S. public should be aware of the dangers of a nationalized health service—dangers that result from lowered quality and dangers that are the result of power-seeking. One important way to preserve a free society is to retain a system of private medical practice in which physicians answer to their peers and their patients, not politicians.

MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. DU PONT. Mr. Speaker, on Wednesday, September 8, I had to return to

Delaware on business and missed several recorded votes in the House. Had I been present, I would have voted "no" on rollcall No. 696 and "aye" on rollcall No. 697.

EVIDENCE MOUNTS OF FEDERAL DISCRIMINATION AGAINST NORTHEAST AND MIDWEST

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ROSENTHAL. Mr. Speaker, Federal tax and spending policies are causing a massive flow of Government moneys from the Northeastern and Midwestern sections of our Nation to the West and South. This is the conclusion of New York's Citibank in a study prepared at my request. Citibank economists confirm the findings of other experts that this inequitable distribution of Federal dollars is having a devastating impact upon the citizens of our older, more industrialized States.

These areas of the country have been hard hit by high unemployment and the exodus of population and industry to other parts of the country. The emigration of taxpaying labor and business has seriously weakened the local tax base, and in turn placed unconscionable tax burdens on those who remain. It has also meant substantial reductions in Government services.

At the same time, the heavy Federal tax burden on the States of the Northeast and Midwest is far out of proportion to the amounts returned from the national treasury. In my own State of New York, for example, only $.89 is returned to the Empire State for each $1 in taxes sent to Washington.

No one is suggesting that Federal policy is solely responsible for the economic ills of the Northeast and the Midwest. But we must recognize the imbalance that exists in the Government's spending of tax dollars as an important factor—and one over which we possess a degree of control—in the continuing pattern of financial decline of a large part of our Nation.

Likewise, we cannot dismiss the imbalance as a regional problem that concerns only those areas in financial straits. A former colleague and now Governor of New York, Hugh L. Carey, has thoughtfully noted, "We can no longer allow economic illness to fester in any section of our Nation, for, as it festers, it shall spread and in time consume every State and locality."

I am pleased to insert in the RECORD a copy of the Citibank study on the "Impact of Federal Expenditures on the Northeast Coast." It offers new and meaningful insights into the grave problems posed by these discriminatory Federal fiscal and spending policies.

The study follows:

THE IMPACT OF FEDERAL EXPENDITURES ON THE NORTHEAST COAST

(By George Roniger, New York Regional Economics Citibank)

The Northeast Coast states,[1] with 26 percent of the U.S. population in 1974, accounted for 32.7 percent of total Federal tax collections in fiscal year 1975 and received 31.4 percent of total Federal outlays (Tables 1-A, col. 1 and 1-B, col. 1). But it needs to be understood that the burden of Federal taxation on the residents of respective states and regions is different than the amount of taxes received from addresses in these areas. Over 36 percent of corporate income taxes were paid from Northeast Coast addresses (Table 1-A, col. 3). Corporate income taxes may be paid from a head office address, yet the real burden of such taxes would fall on the owners, employees and customers of the corporation nationwide, and indeed, worldwide. The Tax Foundation estimated the real "burden" of Federal taxation on the Northeast Coast states to be 29 percent of Federal collections (Table, A-1, col. 4), significantly lower than the proportion of collections.

On the other side of the coin, Federal outlays made out to companies in their respective locations may provide income for ultimate beneficiaries located elsewhere. For example, 49 percent of Federal outlays for interest on its public debt went to New York addresses in 1975, but a significant share was probably collected by organizations whose owners and depositers are residents elsewhere.

In relation to its proportion of national population, the Northeast Coast states bear a high proportion of the Federal tax burden and also receive a high proportion of Federal outlays. The large Federal tax burden carried by residents of the Northeast states is a consequence of ability to pay.

It's 26 percent of the U.S. population receives about 28 percent of U.S. personal income (Table 1-C, col. 2) and its proportion of persons in poverty according to U.S. definitions, is substantially below that of the United States as a whole (Table 1-C, col. 3).

It is useful to keep in mind that Federal expenditures would not be distributed evenly on a per-capita basis or in proportion to tax payments even under the best of circumstances; grants-in-aid and income transfers are meant to be provided according to need, and "need" is likely to be greatest where taxpaying ability is least.

Federal civilian employment in the Northeast region, at 24 percent in 1974, was somewhat below the region's 26 percent proportion of resident population (Tables 1-B, col. 5 and 1-C, col. 1). But the region's receipt of Federal grants (Table 1-B, col. 4) places it substantially higher than its proportion of population.

These grants are heavily geared toward Federal government participation in State and local public programs, especially those for social welfare purposes, and the Northeast states account for a large proportion of such programs.

In contrast to the extent to which Federal outlays are made in these states, there are no estimates of the extent to which the residents of the Northeast Coast states benefit ultimately from Federal outlays. But benefits in these states ultimately are likely to be lower than Federal outlays because payments to firms are concentrated in these states in greater proportion than are the owners and employees of these firms. Thus, the evidence suggests that there is but very little difference between the proportion of the tax burden carried in these states (29.1 percent) and the proportion of benefits from Federal outlays (lower than 31.4 percent).

Total purchasing power is estimated to be little affected in the Northeast Coast states by the net difference of payments to the Federal government and Federal expenditures. However, a relatively large proportion of Federal outlays in the Northeast Coast states is made for social welfare purposes, especially for persons of low incomes and persons not in the labor force. In contrast, a relatively small proportion of the total Federal labor force is located in these states.

If the proportion of Federal civilian employment in these states were equal to the proportion of population, these states would hold about 9 percent more of Federal employees, or an additional 50 thousand Federal employees. If, instead, the proportion of Federal civilian employees were commensurate with the relative tax burden in these states, then more than 20 percent of Federal employment would be added to these states, or about 125 thousand employees. Because these employees would spend a substantial portion of their incomes in the Northeast coast states, further employment would be generated in the private sector. It is not possible to calculate precisely the full measure of additional employment generated in the private and public sector together. But a rough estimate would place increased public and private employment in the area of 100 thousand to 250 thousand under the two cases cited. Total income would rise roughly by $1.5 to $3 billion and population might ultimately be higher by a total of 250 thousand to 600 thousand respectively.

Several caveats are necessary. First, the additional income so generated would be distributed over a larger population and labor force. The rate of unemployment would likely be somewhat lower than otherwise, but by a much smaller proportion than is suggested by the additional employment generated because the labor force would ultimately also be larger. Finally, the gains of the Northeast Coast states would not be a net gain for the nation. Rather, they would come at the expense of the other national regions.

NEW YORK STATE

New York State, with under 9 percent of the U.S. resident population accounts for about 14 percent of Federal tax collections and receives about 11 percent of Federal outlays. However, the tax burden on New York State residents is estimated at about 10 percent of total Federal taxes and benefits received from Federal outlays are below 9 percent after the excessive collection of interest payments in New York is factored out. The high per capita tax burden in New York is due to its high average personal income and low share of low income persons. As in the entire Northeast, Federal outlays in New York are heavily based on grants rather than on Federal employment.

GEORGE RONIGER,
New York Regional Economics,
Citibank.

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[1] Defined as New England and the Mideast states: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, The District of Columbia, New Jersey, New York, and Pennsylvania.

TABLE 1.—PROPORTION OF FEDERAL OUTLAYS, TAXES, POPULATION AND INCOME IN NORTHEAST COAST AND NEW YORK

A. IMPACT OF FEDERAL TAXES

	Collections: Fiscal year 1975			
	Total (col. 1)	Personal income and employment (col. 2)	Corporate income (col. 3)	Tax burden, fiscal year 1975 (col. 4)
Northeast coast	32.7	32.0	36.3	29.1
New York	14.0	12.8	18.4	10.0

B. IMPACT OF FEDERAL OUTLAYS

	Outlays: Fiscal year 1975				
	Total (col. 1)	Department of Defense (col. 2)	Department of Health, Education, and Welfare (col. 3)	Total grants (col. 4)	Federal civilian employment: 1974 (col. 5)
Northeast coast	31.4	24.3	29.8	33.2	23.9
New York	11.4	5.9	10.7	11.8	7.4

C. DEMOGRAPHIC AND ECONOMIC INDICATORS

	Resident population 1974 (col. 1)	Total income 1975 (col. 2)	Low income persons: 1969 (col. 3)
Northeast coast	26.0	26.0	19.9
New York	8.6	9.7	7.3

Source: Outlays—U.S. Department of Commerce, Community Sources Administration, "Federal Outlays in New York," December 1975. Collections—Annual Report of the Secretary of the Treasury, 1975. Grants—Tax Foundation, "Monthly Tax Features", vol. 20, No. 4, May 1970. Federal Civilian Employment—U.S. Department of Commerce, Bureau of the Census. Tax Burden—Estimated by the Tax Foundation, Monthly Tax Features, vol. 20, No. 4, May 1976. Population—U.S. Bureau of the Census, "Current Population Survey." Income—U.S. Department of Commerce, Bureau of Economic Analysis. Low-income Persons—U.S. Bureau of the Census, "Census of Population."

TABLE 2.—FEDERAL OUTLAYS, TAXES AND DEMOGRAPHIC AND ECONOMIC INDICATORS

A. IMPACT OF FEDERAL TAXES

[In billions of dollars]

	Collections: Fiscal year 1975 [1]			
	Total [2] (col. 1)	Personal income [3] and employment (col. 2)	Corporate [3] income (col. 3)	Tax burden, fiscal year 1975 [4] (col. 4)
Northeast coast	82.6	72.0	16.4	72.7
New York	35.2	28.8	8.3	26.9
United States	252.2	224.9	45.2	270.0

B. IMPACT OF FEDERAL OUTLAYS

	Outlays: Fiscal year 1975 (billions of dollars)				
	Total (col. 1)	Department of Defense (col. 2)	Department of Health, Education, and Welfare (col. 3)	Total grants (col. 4)	Federal civilian employment, 1974 (thousands) (col. 5)
Northeast coast	101.2	19.0	33.3	14.5	577
New York	36.9	4.6	12.0	5.7	178
United States	322.6	78.0	111.9	48.2	2,415

C. DEMOGRAPHIC AND ECONOMIC INDIVIDUALS

	Resident population, 1974 (thousands) (col. 1)	Total income: 1975 (billions) (col. 2)	Low income persons, 1969 (thousands) (col. 3)
Northeast coast	54,816	$347	5,389
New York	18,111	120	1,986
United States	211,390	1,243	27,125

[1] Bases of taxes for collections and for estimates of "burden" are not fully consistent.

[2] Net of refunds.

[3] Gross of refunds.

[4] Collections net of international, undistributed, unclassified and clearing account for excise taxes.

HEALTH PLANNING AND POLITICS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. McDONALD. Mr. Speaker, when I introduced H.R. 15049 to repeal the National Health Planning and Resources Development Act on August 4, I pointed out that national health planning must necessarily politicize health care services.

The Medical Society Executive Conference on Health Planning, sponsored by the American Medical Association in Chicago recently, demonstrates just how quickly this is happening.

According to an article in the American Medical News of August 30, 1976, the message of the conference was:

> There's a Health Systems Agency in medicine's future, but nobody knows quite why or when or to what end.
>
> Whatever effect—good or bad—HSAs have on medical practice depends on politics. Physicians had better get involved in the politics of health planning.

Personally I do not believe physicians should be forced to get involved in politics any more than politicians should be required to perform medical operations. But what choice do they have? The Government proposes to plan the future of their profession right down to what treatments they may provide and which of their patients may be admitted to a hospital.

Another theme of the conference was confusion. But this was not limited to medical doctors. Harry Cain, Ph. D., the Federal official in charge of the planning program, commented that Congress has set "a seemingly impossible task."

As for the emphasis on politics, the article notes that:

> For what it's worth, the word "patient" was mentioned about once for every 20 references to "politics" and every 30 to "data". Missing from the discussion, one registrant noted, are "the legislators who gave us this mess."

It is the fact that the patient and his welfare becomes so completely subordinate to politics that leads one to question the claims of health planning advocates that their concern is quality health care. If quality health care and the welfare of the patient is of paramount concern, we can enhance them immeasurably by abolishing Government mandated health planning and allow health care specialists to practice their profession instead of becoming unwilling politicians.

The article follows:

[From the American Medical News, Aug. 30, 1976]

CONFUSION REIGNS AT PLANNING MEETING

There's a Health Systems Agency in medicine's future, but nobody knows quite why or when or to what end.

Whatever effect—good or bad—HSAs have on medical practice depends on politics. Physicians had better get involved in the politics of health planning.

This was the message at the Medical Society Executive Conference on Health Planning last week in Chicago, sponsored by the American Medical Association, in conjunction with the American Assn. of Medical Society Executives.

An overflow registration of 220 medical society executives and physicians gathered at the hastily called meeting to trade ideas with health planners and key HEW officials.

The subject was PL 93–641, the Federal Government's controversial health planning law.

Workshops focused on four key areas in the law: plan development, emerging relationships between HSAs and Professional Standard Review Organizations, certificate-of-need, and "strategies for participation."

Workshops were moderated by medical executives, with registrants questioning panels composed of planners and AMA and HEW staff. Detailed background material—most from HEW—was handed out for each workshop.

Four hours later when the moderators summarized their findings to the full conference, the report was unanimous:

Confusion.

A physician who bolted for a plane after making his remarks, captured the mood of the meeting:

"We all have," he said, "a numbing sensation. We are presented in the planning with a fait accompli. The law has been presented to us today in a benign fashion, with a generous tone, but there are so many inconsistencies that everywhere we turn seems a dead end. It appears that all our questions are being answered in Washington. We're told by government 'maybe, generally, probably.' We're too accepting. We've put our heads on the guillotine."

What needs to be done, interjected Earl Thayer, president of AAMSE and executive secretary of the Wisconsin Medical Society, is "to make our own answers through the political process. The HSAs will be the heart of the planning law and we need to find our answers through local politics. If we don't, God help us."

Thayer continued, "The HSA is a political animal and you need to lobby it just like you do your State legislatures. Medicine needs to be there when HSA board members are nominated, when they're elected, when they debate an issue. Medicine needs strategies and must keep the pressure on HSAs to hold them accountable. Political activity will determine our success. So let's not forget the political fine tuning that needs to be done with the HSAs."

The ambivalence the planning law has forced upon medicine was apparent in the opening remarks of AMA's executive vice president, James H. Sammons, MD.

"This is a terrible law," Dr. Sammons told his fellow medical society executives, "a law concocted through the mental gymnastics of congressmen who apparently had not read what they were voting. What really frightens me is that this law may provide the lever for government to tell us how to practice medicine, as opposed to just telling us where or under what roof."

Referring to the North Carolina lawsuit, in which the AMA is a co-plaintiff challenging the constitutionality of PL 93–641, Dr. Sammons said, "No doubt we will get some judicial relief."

In the meantime, he stressed, "This conference is intended to help you do your job at home, to help you shape whatever actions are taken by planning agencies at the local level."

Noting that this will be difficult because of the small number of physicians on HSA boards, Dr. Sammons said it is imperative that those physicians who are named to HSAs show up and participate.

"The importance of making your voice heard is so great," he said, "that this should be an overriding priority. If it is not, the physician should step down and let a colleague take his place."

Whereas Dr. Sammons makes no bones in calling the planning law a disaster, the federal official in charge of the planning program, Harry Cain, PhD, merely allows that Congress has set "a seemingly impossible task."

Even if there were no opposition to the law, Dr. Cain said, "we in government would have a massive task because the subject is so complex. We in HEW share your concerns. We seek your help."

Dr. Cain said that almost all of the nation's 203 HSA area designations and the state agency designations will be completed by the end of September. Physician representation on the 120 HSAs conditionally designated, he said, is about 12%.

Some concerns about the planning law, discussed at the workshops:

Who will get the upper hand among the competing institutions involved in plan development? The HSA will develop a Health System Plan (HSP) and an Annual Implementation Plan (AIP). In most states, the various HSPs and AIPs developed by local HSAs will be forwarded to the State Health Planning and Development Agency (SHPDA), which will presumably integrate the HSPs into a State Health Plan (SHP) and a State Medical Facilities Plan (SMFP), both to be coordinated through a Statewide Health Coordinating Council (SHCC). All according to HEW guidelines.

Considerable doubt was expressed about the arrangement, with many saying the mix of HEW, HSA, HSP, AIP, SHPDA, SHP, SMFP, and SHCC, might well add up to SNAFU.

For one thing, the nation's governors are worried about the undue influence they feel the advisory SHCCs will have on state plans. The SHCCs will be composed largely of nominees from the HSAs, but the governor will appoint them—and others, up to 40% of the council.

Politics, it appears, will prevail on all levels.

The HSA-PSRO relationships. HEW spokesmen assured the conference that every precaution will be taken to safeguard identifiable patient and physician data collected by PSROs.

Leaks can occur, however. As Don Blair, executive director of the Oklahoma State Medical Assn., observed, "If there's only one hospital in a community or only two practicing physicians, you don't have to be too smart to figure out what the aggregate data refer to."

Some said PSROs will eventually become absorbed by HSAs as a distinct component focusing on professional performance. The answer is far down the road. Bill Hogarty, director of the Puget Sound, Wash., Health Systems Agency said, "So far, all we've done with our local PSRO is exchange phone numbers."

The lack of definition of operative terms in the planning law. AMA attorney John Krichbaum pointed out that Congress, by failing to define the law's key terms, has turned over an unfinished law to Dr. Cain's administrative agencies to complete.

This has meant delays, indecision, and revisions in the regulations implementing the law. And confusion.

The confusion, compounded by the chronic underfunding that has so far characterized the program, makes work a day-to-day adventure for the health planners. It also baffles most medical society leaders and provides a ready market to publishers of newsletters about the whole process.

The planning law's stated intent, in anticipation of national health insurance, is "to assure equal access to quality care at equal cost."

But many, including the AMA, argue that to emphasize one part of the troika of access, quality, and cost is to affect adversely the others.

This equation—if correct—makes the complicated mathematics of piecing together and paying for health planning a dubious process. Many question how much of the annual 25c per capita funding (or $50 million) will ever do the patient any good.

Dr. Cain says he is concerned about the "confusion over what medicine is trying to say to us. This turning on, turning off is not productive. Although Congress and the courts may change the law slightly, HSAs are here to stay. Physicians should throw their hats into the ring and work hard to make this law succeed."

Thayer, who is a member of the Wisconsin SHCC, advocates political activity. He is seconded by Bob Elsner, chairman of the AAMSE Advisory Committee on the Health Planning Law and president of the Northwest Health Systems Agency, Inc., Portland, Ore.

"The AMA can, and has, helped us," Elsner said, "but it can't do it all. We have to get involved on the local level. Remember, politics is a continuing game."

(It's probably only happenstance that at this point Elsner, seated near Dr. Cain, tumbled from the speakers' platform as his chair collapsed.)

For what it's worth, the word "patient" was mentioned about once for every 20 references to "politics" and every 30 to "data." Missing from the discussion, one registrant noted, are "the legislators who gave us this mess."

Elsner, back in his seat, had the answer: "They're busy working on new legislation."

AMERICAN PARTICIPATION IN THE ILO

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. SLACK. Mr. Speaker, as my colleagues will recall, last year during the Geneva Conference of the International Labor Organization—ILO—the American delegation walked out of the conference. Subsequent to the walkout, the United States filed notice of its intent to withdraw from the ILO within 2 years. Under the ILO constitution, submission of a 2-year notice of withdrawal is required of member nations wishing to cease participation in the organization.

The withdrawal notice which was filed by Secretary Kissinger came as a result of the concern on the part of the U.S. delegation that the ILO has in recent years become increasingly politicized with certain member nations attempting to use the forum as a political sounding board. This development is contrary to the basic principles of the ILO and its goal of improving international labor standards.

In the AFL–CIO's July 1976 edition of Free Trade Union News, Mr. Lane Kirkland, Secretary-Treasurer of the AFL–CIO, notes in the November 1975 letter of intent to withdraw, the U.S. specifies areas where change should occur. Such areas include "an end to workers' and employers' groups falling under the domination of governments" and "an end to an obvious politicalization of the ILO in which political issues far beyond the constitutional mandate were introduced into its work."

As chairman of the Appropriations Subcommittee having funding jurisdiction over the U.S. contributions to the ILO, I have followed this issue closely; and I agree with the position taken by our Government and delegation. The use of public funds for U.S. participation in the ILO contemplates recognition and observance of the ILO's constitution and its tripartite structure of government, management, and labor representation. To accept less or condone the use of the ILO forum for political purposes would be in violation of the intent for which this money is appropriated.

With some degree of satisfaction, Mr. Kirkland does note some improvements in the conduct of this year's conference. However, he points out the annual conference for 1977 "will be a truer and more difficult litmus for indicating improvements in conditions within the organization."

I think all Members of the House can agree that member nations of the ILO should strive for a more objective forum which is consistent with the ILO constitution and its purposes. Only in this spirit will the Government, management, and labor representatives of the participating nations maintain their enthusiasm to make the ILO work as it is intended to work.

AUTO EMISSION DILEMMA

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ESCH. Mr. Speaker, the following letter very clearly points out the dilemma that the automotive industry will be in unless the auto emissions section of the Clean Air Act is modified:

GENERAL MOTORS CORP.,
Detroit, Mich., August 26, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
The Capitol, Washington, D.C.

DEAR MR. SPEAKER: In previous correspondence, I have stressed how critically important it is that the 94th Congress act to amend the vehicle emission standards contained in the Clean Air Act.

As I said in a message to each House member on July 26, there is virtually universal agreement that the existing statutory standards for 1978 cannot be met with production automobiles. The House committee concerned has reported and the Senate has passed, bills which would modify those rules by retaining, through 1978, the standards in effect for 1977.

Today, we have two possible alternate approaches as to the standards we will be expected to meet in 1978. In the one case, we have the statutory standards of .41/3.4/0.4—which are not attainable with any technology within the grasp of the industry. In the other, we have the fact that both the House and the Senate bills call for standards the same as those for 1977 models. To illustrate our timing problem, in order to certify our 1977 models which will go on sale shortly, we began work in May of 1975 and the process is still not 100% complete as of this date. With such lead time requirements, we were obliged, as I indicated in my message to you on July 26, to begin our certification process for 1978 models on the assumption that the standards in both the House and Senate bills will be adopted and become law.

While the EPA is now accepting the preliminary certification documentation for these standards, we have been told that this is tentative and, in any event, that no certification at these levels can be given unless Congress adopts these standards. EPA's spokesman notes that we go ahead at our own risk. We have also to consider the risks to employment and the economy that would result if we did not go ahead on this basis.

Obviously, we are most apprehensive about this unfortunate situation. Each day that goes by means we are further locked into production to standards which have not been made law. Any change of these standards even at this point could be exceedingly costly for the ultimate car purchaser and become more so each day, if in fact the changes could be accommodated. Every week that goes by means that it will be less and less possible to make any changes without disrupting production and, therefore, employment. In fact, the economic health of the country could be jeopardized by the uncertainty resulting from the failure of the Congress to come to a decision. The uncertainty about our 1978 models should be ended now.

Beyond that, the Dingell amendment should be adopted so that costly uncertainty for the next several years can be ended. We believe the public interest demands such a resolution of issues by the Congress.

If there is any way our concern for action can be more effectively brought to the attention of the House, I trust you will advise me.

Sincerely,
T. A. MURPHY.

INFLATION, UNEMPLOYMENT, COST OF LIVING GREATEST CONCERN OF THE PEOPLE OF THE EIGHTH CONGRESSIONAL DISTRICT IN THE STATE OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ROE. Mr. Speaker, the desperate state of the economy in our Nation continues to erode the purchasing power of our people, placing increasing economic hardships particularly on our senior citizens and retirees who are on fixed incomes. Our people are looking to Congress for help to curb inflation, reduce unemployment, create more jobs in the private sector, stimulate economic activity, and build up the plus side of the general treasury with revenues going into the dwindling social security trust fund account and the depleted unemployment compensation trust funds throughout our Nation.

The slow uneven rate of recovery from the recent recession has been especially acute in the older cities and urban centers of America. Our people are fed up with high unemployment, rising prices, ever-increasing costs of living and other inflationary pressures. They are disgusted and disenchanted with "Big Brother" government per se, and excessive spending in the public sector as well as false advertising, unfair trade practices and unconscionable profits in the marketplace and private sector of our economy.

Mr. Speaker, as we all know, Americans are highly compassionate people and always want to help their neighbors, but their generosity has been strained to the breaking point. They have turned sour on foreign aid—and with good reason. It is evident that the tremendous added costs that overseas oil supplying countries have foisted on the rest of the nations of the world has struck a devastating blow to the international monetary credits capability. The ramifications of the Russian wheat deal and a host of other international political machinations do not leave our fellow-Americans with a good taste in their mouth as to the plight of our international neighbors.

The time is long overdue for our neighbors to begin to realize that their quarrel with those singular vested interests who have enriched themselves through exploitation does not give license for them to continuously abuse; vent their wrath and denigrate the vast majorities of the people of our country who are paying the bills.

Mr. Speaker, these are some of the telling points that can be evinced from an analysis of the results of my 1976 congressional legislative questionnaire which I am inserting in this report to Congress and to the residents of my Eighth Congressional District, State of New Jersey. In responding to the question of national priorities in order of their importance to the people in my district, they replied, as follows:

LEGISLATIVE QUESTIONNAIRE

What is your order of priorities? Please mark the following numerically (1, 2, 3, etc.) in order of their importance to you.

	Percent
Air, water pollution, environment	10.9
City and suburban mass transportation	3.6
Conquering "killer" diseases	14.1
Education	8.5
Welfare and social services	2.8
Foreign economic aid	.5
Veterans benefits	3.8
Housing and community development	2.4
Hunger and malnutrition	8.9
Economy (inflation, unemployment, cost of living)	42.3
Narcotics traffic addiction	5.8
Plight of cities	3.0
Energy	7.0
Science, space and technology	1.7
Law enforcement and justice	16.0
National defense	15.8

Mr. Speaker, I think it is extremely important to call to the attention of you and our other colleagues here in the House that the first order of priority receiving the highest percentage of the vote in my Congressional Legislative Questionnaire manifested deepest concern for the state of our economy—inflation, unemployment, cost of living.

It is significant to note among the list of questions that the highest percentage of response from my constituent—87 percent—favored actions designed to give greater protection to consumers against threat of false advertising, unfair trade practices, and unconscionable profits. This was followed closely by 83.7 percent who favored increasing assistance to senior citizens and retirees through pertinent social security benefits, medical and nursing home care and special tax considerations.

Mr. Speaker, during our Bicentennial Year it is most evident that all of us have a great responsibility together to direct our energies in correcting the many wrongs that we are faced with and getting on with doing the job that must be done for the common good of the people of our country. There is no question in my mind that we are capable of steering the ship of state through this rough period provided we have the courage and determination to see that fair play, equity and justice is the birthright of all of our citizens and not just the privileges of a chosen few.

The Congressional Legislative Questionnaire is one of the most important vehicles available to Members of Congress to secure a cross-section of views, observations, and opinions of our respective constituencies and the exchange of this data among our colleagues here in the House provides a most valuable guide to the legislative process through the participatory voice of the people in our representative Government. The outstanding cooperation of the residents of my district in taking the time and effort to study, evaluate, and respond to my legislative questionnaire is indeed greatly appreciated and I am proud of their responsiveness, keen insight, and deep concern in contributing their counsel to me on the critical issues that are before us in the Congress. A tabulation, by percentages, of the responses that I received to my 1974 Congressional Legislative Questionnaire is as follows:

1976 LEGISLATIVE QUESTIONNAIRE

TABULATED RESULTS IN PERCENTAGE

1. If your "buying power" has decreased during the last year, which one of the following factors contributed most to this situation?

a. Unemployment	8.2
b. Reduced income	7.3
c. Higher taxes	20.7
d. Rising prices	60.1

2. To counter inflationary pressures (approximately 7% in 1975), would you favor any one of the following actions?

a. Sharply reduced federal spending	47.3
b. Controlling prices, wages, profits, rents, interest rates	29.4
c. Increased taxes on a temporary basis	1.4
d. More vigorous antitrust actions against concentrated, non-competitive business	17.2

3. To alleviate high unemployment (currently over 13% in New Jersey), would you favor any of the following actions?

a. Create additional public service jobs	13.7
b. Put people to work on construction of public works projects	43.9
c. Cut individual and business taxes to spur economy	26.5
d. Extend unemployment compensation benefits	2.7
e. No new federal initiatives	8.5

4. Which features would you support in a National Health Insurance Program?

a. Total federal sponsorship and operation	32.5
b. Catastrophic illness protection	32.5
c. Private insurance company policies with costs shared by employers	15.0
d. None. The present system is adequate	13.3

5. Should the U.S. pursue a policy of detente with:

a. Russia?	32.5
b. China?	18.3
c. Cuba?	3.3

6. Which one of the following statements best describes your view of the Environmental Protection Agency?

a. Not enough in safeguarding the environment	47.2
b. Successful in ensuring a healthy environment	11.2
c. Hampering business and employment with stringent regulations	32.6

7. The Food Stamp Program, which began in 1964, is designed to increase the food purchasing power and enrich the nutrition of low income households. Do you favor any of the following proposals which are presently before the Congress:

a. Reduce the size of the program but increase benefits by 25% to those who qualify by restricting participants to those below the poverty line (now $5,870 for a family of four), allowing no deductions from income and prohibiting food stamps for college students and striking workers.

Yes	49.2
No	14.6

b. Tighten the present allowable income deductions, allow a standard deduction of about $125 (with an additional $25 for elderly households) adjusted regionally for different housing and utility costs and eliminate the present project price system (a household now paying $100 a month for $162 in stamps would instead be given $62 a month worth of stamps).

Yes	29.0
No	18.1

c. The Food Stamp Program should be eliminated.

Yes	28.0
No	32.9

8. Should the Federal Government buy and rebuild railroad beds and tracks in a program similar to the federal interstate highway program?

Yes	53.0
No	36.3

9. Do you favor actions designed to give greater protection to consumers against threat of false advertising, unfair trade practices, unconscionable profits and the like?

Yes	87.0
No	8.0

10. Are you or a member of your family fearful of increasing crime potential in your specific neighborhood?

Yes	63.4
No	31.1

11. Handguns are used in assaults and robberies more often than any other weapon. Should the Federal Government take steps to restrict the sale of handguns and provide tighter control of handguns?

Yes	70.7
No	24.6

12. Do you favor using a portion of our grain supply to ease world hunger even if this means slightly higher food prices in this country?

Yes	44.3
No	48.2

13. Do you favor increasing aid to cities for solution to housing, transportation, sanitation problems and urban blight generally?

Yes	42.6
No	50.1

14. Do you favor increasing assistance to senior citizens and retirees through pertinent social security benefits, medical and nursing home care, special tax considerations, etc.?

Yes	83.7
No	11.8

15. Should the U.S. increase its naval forces in the Mediterranean and Indian Oceans at least to match current Soviet naval buildup in order that we may protect our national interests in the Middle East?

Yes	70.1
No	23.0

16. Some groups in Congress feel that to improve our relationships with South America the United States should give up its sovereignty over the Panama Canal. Should the U.S. give up its sovereignty over the Panama Canal?

Yes	13.6
No	79.1

17. Nuclear power plants have been suggested as one means of reducing high electric utility costs by replacing oil-powered generators with less expensive nuclear-powered generators to obtain electricity. Based on known safety facts, in balancing the need for electricity vs. the need to preserve the environment, would you support the construction and utilization of such nuclear power plants?

Yes	68.0
No	24.1

18. The Administration has proposed raising the price of oil and gas by removing oil and gas controls, saying that this will encourage domestic oil and gas exploration and reduce energy consumption. Others oppose rising oil and gas prices, arguing that still higher prices will not mean significantly higher production, but will cause major increases in the cost of living without reducing fuel consumption. Do you favor taking price controls off oil and gas?

Yes	18.4
No	75.5

BUILT-IN INEQUITIES IN FEDERAL HIGHWAY PROGRAMS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues an editorial column by Leland DuVall of the Arkansas Gazette which underscores a number of the points I made earlier this year with regard to the inequities that we build into our Federal highway programs each year.

In April when the House considered the conference report on the Federal Aid Highway Act of 1975, I expressed my concern over our commitment to the development of transportation systems in the countryside areas. Mr. DuVall has a keen insight to this problem:

HIGHWAY FUNDS RECLASSIFIED

(By Leland DuVall)

Solutions to problems that customarily are supposed to be handled by some facet of government are a little like vacant parking spaces: They have an annoying habit of disappearing just when they seem within reach.

Until recently, Arkansas and other "rural" states had reason to believe they could get increasing government assistance with their road construction and maintenance efforts. Now they are discovering that someone got to the parking space first.

Before July 1, Arkansas had 19,291 miles of roads and streets that were eligible for some form of government assistance. This ranged all the way from the Interstate System (where the federal government picked up 90 percent of the tab for construction and was moving toward contributions for maintenance) down to selected county roads.

Now we have had a "reclassification." Persons who were in the eligible age bracket during the good old days of the military draft may recall something of the meaning of reclassification. Things have not changed much.

The Arkansas road system was "reclassified" as of July 1 and the roads eligible for some form of federal aid were dropped right and left. Instead of the 19,291 miles under the old arrangement, the state now has 12,693 miles of roads and streets on which the federal government will provide some assistance.

Roads and streets are classified administratively, functionally and financially—and, perhaps, in other ways—and federal aid is granted on the basis of the rating. Here is what happened to the roads in the state:

Interstate—The 526 miles of the Interstate System in Arkansas was not changed. These roads are so well defined that there is little reason to alter the designation.

Primary—Before July 1, Arkansas had 3,646 miles of primary federal-state highway, but the new classification increased this to 5,296 miles. (A spokesman for the state Highway Department noted that no additional money was made available immediately for the improvement of these roads, but, at least, they will be eligible for federal-state signs).

Urban highways—These roads were expanded from 602 miles to 864 miles. They include the "highways" that also serve as streets in eligible cities and towns and they qualify for assistance under the appropriate formula.

Secondary highways—Here was the big cut. Before July 1, Arkansas had 15,565 miles of state highways that were eligible for government assistance. This was cut to 3,352 miles in the realignment. This means that 7,213 miles of Arkansas highways that formerly could receive federal aid for certain maintenance and reconstruction now falls to the state, which will have to pick up the whole tab.

County secondary—Under the old alignment, Arkansas could get some federal aid on 3,952 miles of important county roads, but this was trimmed to 2,655 miles.

"GUIDELINES" CHANGE GAME

All the change apparently came about because of something called "guidelines" developed by the Department of Transportation. Those who make policy for DOT apparently decided the factors that would be used in determining which roads would be eligible for government assistance under the different classifications. The state highway departments were required to provide the information on different roads and DOT allowed the computer to decide which classification would apply to a given highway.

Those who have given some thought to the functioning of the bureaucratic mind may detect the beginning of a pattern in the new classification. In time, the federal government may "disown" the rural and secondary roads and allocate all the available money to the Interstate System and to the selected primary roads. Even with a reduced volume of spending for highways, this approach could bring considerable improvements to the major arteries. The Interstate and qualifying primary highways would be second to none, but the feeder roads and capillaries would deteriorate.

The interesting aspect of this projection is that the declining quality of the "less important" rural roads would come just when quite a few people are beginning to realize that the cities are growing to unmanageable size and would like to abandon the metropolitan areas. The farm-to-city migration was a social phenomenon for an extended period, but some of the metropolitan areas no longer are growing and, in fact, some are shrinking.

Many of the major cities also are complaining that their industrial residents are seeking new locations in towns or semi-rural areas. The move tends to erode the tax base in the city just when the municipal government is encountering problems in meeting the bills.

POLITICAL DETERMINATION

Current policy, as indicated by the reclassification, seems to hold that the solution is to spend more of the federal transportation money in the metropolitan centers. If we follow this course, people will find it increasingly difficult to move to the smaller towns and rural areas, even if they would prefer the less crowded environment. The jobs will not be available because corporations traditionally look first at transportation facilities when they consider new locations. The new policy obviously is not designed to improve boondock roads.

Viewed pragmatically—this is about the only way a politician can afford to examine a situation—the new policy seems logical. Only about 5 per cent of the populaton qualify as farmers and the rural residents account for a small percentage of the population. The rule is: "Spend the money where the votes are located."

In simple terms, the idea of spending more money in cities and less in rural areas is simply good politics. In the long run, it may prove to be bad economics and shortsighted management, but it is good politics.

Regardless of how "urbanized" the country is or may become, the food still is produced out on the farms and it must be moved to the cities. At the same time, the feed, fertilizer, and other production items must move to the farms. Increasingly—with the continued abandonment of railroads—the hauling is done in trucks, and this means there is an expanding need for improvements to rural roads.

There was a time, for example, when the "maximum" load of chicken feed was one ton, but those were the days of small flocks. Now the feed trucks haul many tons, where the bridges will support the loads. If the bridge is too weak, the farmer simply cannot grow chickens.

The same rule applies in the row-crop regions where heavy trucks are essential to the movement of crops, fertilizer, and machinery. If the people in cities expect to eat regularly, farmers must continue to grow food in wholesale quantities, and this is possible only if we have an adequate transportation system.

A few more reclassifications could hamper our ability to produce food surpluses for overseas shipment.

SOUND ECONOMIC EDUCATION IS ESSENTIAL WEAPON AGAINST DICTATORSHIP

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. TALCOTT. Mr. Speaker, our free enterprise system is the best economic system ever devised by man—the envy of the people of the free world.

It is the most difficult system to comprehend and to make function. It requires the cooperation and good will of all segments—labor, investor, management, government, and consumer.

Understanding is basic, and must precede any successful achievement.

Unfortunately two generations know very little about our free enterprise system. This deplorable situation is becoming critical to our survival as a free people.

The business community, government officials at all levels, the educators at all levels, and the consumer are at fault for permitting economic illiteracy to accelerate.

I commend Glenn S. Dumke, chancellor, the California State University and College System for an address he made to the prestigious Commonwealth Club of San Francisco on August 6, 1976. We need more persons in all segments of our society thinking, speaking, and caring about economic education in our Nation.

I include his statement in the RECORD at this point:

"ECONOMIC ILLITERACY BREEDS UNTHINKING DESTRUCTION OF OUR BASIC INSTITUTIONS," SAYS CHANCELLOR DUMKE

If a free society is to work, it requires a nation of economically literate citizens. But we have a nation virtually inundated by the murky water of economic illiteracy.

The quality of our economic decisions, from taxing and spending decisions at national and state levels, to zoning and school board decisions at the local levels, depends on the economic literacy of our leadership and our voting citizens. An economically illiterate democracy necessarily means an inadequate quality of economic decision-making.

Right now, many of our nation's institutions and productive activities are under widespread criticism. An uninformed electorate's response in the area of economics may well bring about unthinking destruction of our basic institutions.

Economic illiteracy means our children are not being equipped to think about the hard choices immediately ahead. They need economic education because economics is basically the science of choice-making, choosing, establishing trade-offs and priorities in the face of scarcity. Economics provides a realistic approach to the problems we are facing.

I am forced into the position of believing economic education for your young people may become, in terms of our national survival, almost as necessary as reading, writing, and arithmetic.

Why don't we have an economically literate electorate? What went wrong?

There is an absence of economic education in our schools, our universities, and among the public at large.

COLLEGES' ECONOMIC ILLITERATES

Let's look first at the schools.

1. Economics is simply not included in the curriculum that is actually taught by most teachers.

2. Most teachers have no training, or at least highly inadequate, training in economics.

3. Most textbooks (e.g., social science, history, etc.) that should contain elements of economics contain no economics at all, or highly inadequate economics, or biased economics.

4. The schools have virtually no key resource people to make economic education happen. Here the problem is a resource gap. The key resource people are professional economists specializing in economics education, but they are almost all located in the universities.

What about higher education?

The great bulk of undergraduates take no courses in economics and graduate as economic illiterates, despite the fact that an understanding of economics could benefit most of their majors, whether it be history, English, sociology, environmental science, engineering, pre-law, human services, or criminology, etc., etc.

The worst tragedy in most universities is the failure of economics to be required of students going into teacher training.

Economic education outside the schools for our adult population is equally ignored. What we want for our citizens is economic literacy, so that our electorate can make wise decisions in this area. Simply, it is the ability of our citizens to cope effectively wtih the economic dimensions of public questions, and with the economic dimensions of their daily lives.

FINEST TRADITION OF EDUCATION

How should economic literacy be achieved? Primarily by a strand of economic education running through the school and college experience of this country's citizens, from first grade on up.

This process of economic education is true education, it does not dictate to students what to think, it is non-ideological and nonpartisan. It is in the finest tradition of scholarly objectivity.

At the same time it does provide students with the basic economic knowledge to think effectively for themselves about economic problems, to make wise decisions based upon sound values, and to apply these decisions so that they can function effectively in the economic areas of their society and their own lives.

Economic education is not designed to make technical economists out of students. What it does do is continually to bring in the relevant economic component to all parts of the school curriculum.

RELEVANT ECONOMICS

Even elementary school students can achieve effective understanding at their level of the economic aspects of their experiences and their societies. They can understand in the first grade that their parents may leave the home each day to work because the principle of specialization of production demands this; that schools and other public services are paid for by taxes; that people are required to do useful work to earn income; and so on.

The whole point is that economic literacy achieved through this kind of economic education will enable students to fulfill with responsibility and effectiveness their future roles.

What can we say about the effectiveness of the battle against economic illiteracy? Economic illiteracy still is widespread. It is obvious that national and state efforts haven't been anywhere near enough to solve the problem. An all-out coordinated, comprehensive, fully integrated effort has yet to be achieved.

Specifically, the economic education effort has suffered from three basic difficulties. The first is fragmentation. Economic education has been focused on the schools, while little attention has been paid to the universities and to our adult population.

PILOT PROGRAM SYNDROME

Thus, while there are many excellent materials, many are never put to effective use. What is lacking is a comprehensive, integrated delivery system. The California State University program offers a means of getting materials to the students, to those entering teaching training, and to the public.

The next basic problem in the economic education effort may be called the Pilot Program Syndrome; limited pilot programs are enthusiastically begun but few have been carried forward to attain the comprehensive, statewide scope I envision as necessary.

Most of all, we need a delivery system that will bring existing good materials to students and the public. In each state the best potential for solving the problem of the delivery system has been, and remains, the individual Center for Economic Education on a university campus, with its cadre of specially trained professional economic educators.

This new development did not spring up full-blown last week, or last year. It is an idea we have been carefully nurturing for almost 10 years. Now it is an idea whose time, in my opinion, has come.

Back in 1967, I proposed to the California Legislature that Economic Education Centers be authorized for each of the campuses of The California State University and Colleges.

ECONOMIC EDUCATION CENTERS

In 1967, when first proposed, the idea was that for the first time a major system of higher education could, through a multicampus approach, bring a coordinated program to an entire state. The Legislature, however, authorized only two Centers with no promise of more, and those with minimum manning, one half-time position each, at San Jose State University and California State University, Fullerton. Since 1967 our efforts to gain state-funded Centers on other campuses have been unsuccessful. Still, through the voluntary efforts of individual economists on the campuses, Centers have been established on 12 other campuses, bringing our total to 14, although the additional 12 Centers have even less capability than do the two established at Fullerton and San Jose. Nevertheless, they constitute a nucleus and a framework for the expanded program recommended.

DAVID AND GOLIATH STRUGGLE

Since 1967, this network of undermanned, largely voluntary Centers for Economic Education, with additional support from the community-based, non-partisan California Council for Economic Education and other organizations, has fought in a David and Goliath struggle to solve this problem. And in the process they established faith in their potential, and their know-how to do the job.

In 1975, I convened a special faculty Task Force on Economic Education, charging it with recommending the policies and programs the California State University and Colleges needed to do the job in California. The Task Force has now completed its work.

The report recommends that The California State University and Colleges utilize its total organization and resources—19 campuses, 311,000 students, 16,500 faculty—to develop and improve basic economic knowledge in California, in four areas:

Among our own undergraduates, among future teachers enrolled in its teacher education program; among California Public Schools and Community Colleges (Grades K–14); among adult groups with specialized economic literacy needs.

WHAT DOES A CENTER DO?

The report recommends that the number of Centers for Economic Education on the campuses be increased from 14 to 19—one per campus—and that all Centers be at least minimally manned so that they might function as the basic instrument to implement the total program, with advice and support from community-based groups, especially the California Council for Economic Education and the Industry/Education Council of California.

What does a Center do? It should consist usually of one full-time and one half-time person, with some clerical help. The people involved are professional economists. They spend some of their time working with faculty to persuade them to include economic education in their various disciplines.

ECONOMIC LINK TO EDUCATION

By tying economic education to the student's main interest, it can be taught most effectively. Persuading various subject disciplines to accept economic education as an integral part of major requirements is a large part of the staff's job, and it takes professors to do it.

Other responsibilities of the Center staff involve work with local school districts in grades K–12, work with the State Curriculum Commission in evaluating textbooks (much good has already been done in this area), work with teacher education, both on campus and in in-service training programs, and work with the public at large.

What this Task Force report recommends, therefore, is that California utilize the resources and the potential of this largest system of senior higher education as the prime medium for bringing about a unified and total approach to overcoming this problem within the state. It suggests that for the first time, a State University system can be considered as the 'delivery system' for eventually reaching millions of young and adult citizens of California. What we develop can be utilized in other States throughout the nation.

TASK FORCE REPORT

We are seeking required funding in several ways:

We are developing a proposal for submission to the Legislature asking that funding for the Centers be provided as part of The California State University and Colleges' Operating Budget.

The Task Force Report recognizes that full state funding will take time to achieve, and recommends that interim funding be sought immediately from the private sector. In this regard, we hope that community-based organizations would cooperate with us.

Beyond these steps related directly to funding, I am asking my staff to take immediate steps to formalize our commitment to the concept of economic education within The California State University and Colleges. I am asking that they make economic education within our system a high priority, identifiable 'project,' just as we made the attacks on grade inflation and poor writing skills identifiable projects during the past two years.

If our program succeeds, then we will have made a major step forward toward the solution of the problem of economic illiteracy. And maybe we will have made it in time to prevent the unthinking destruction of an economic system which has provided a better standard of living for more people than any other in history." (DSR)

LET US END MANDATORY RETIREMENT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ROSENTHAL. Mr. Speaker, together with Representatives FINDLEY and HAWKINS, I am today reintroducing legislation to outlaw mandatory retirement.

While Federal law prohibits discrimination on the basis of age in certain instances, it does not protect persons over age 65. This group, however, sorely needs this protection. Each year 4.5 million seniors are forcibly retired.

A recent poll found that 86 percent of the American people oppose mandatory retirement. It impairs most workers' financial security and injures the national economy. Forcing skilled workers to resign reduces the value of our goods and services by as much as $10 billion annually. Perhaps that is one reason why, when Nation's Business magazine polled its readers recently, 4 out of 5 stated that retirement should not be mandatory at a certain age.

While mandatory retirement may be a valuable tool at the bargaining table, our bill would not preclude labor agreements which facilitated or even encouraged early retirement to preserve the jobs of younger workers. It would merely prevent the forceful retiring of those workers who continue to have the capacity to work and choose to do so.

The outlawing of mandatory retirement has been endorsed by the Midwest District Council of the Newspaper Guild of the AFL-CIO, the Philadelphia Lodge of the International Association of Machinists and Aerospace Workers, the National Council on the Aging, the American Association of Retired Persons, the National Retired Teachers Association, the National Council of Senior Citizens, the Administration on Aging, the National Organization for Women and the American Medical Association. This legislation is supported by 90 Members of Congress.

A convincing article on the need for this legislation appeared this past Sunday in the Washington Post. The author, a former education editor of the Saturday Review, concludes that mandatory retirement is "unjust, unnecessary and wasteful of human talent."

His moving and thoughtful commentary follows:

WHY RETIRE AT 65?

(By Paul Woodring)

Each day of the year more than 4,000 Americans reach the age of 65. On that day they are not discernibly older, either physically or mentally, than they were the day before, and most of them still think of themselves as "middle-aged." But in the literature of sociologists they have moved abruptly into a new category—"the aged." Henceforth they will be treated as "old" by both employers and governmental bureaucracies. They have entered into what one writer calls "statutory senility."

Merely by having a birthday they have suddenly lost one of their most important legal protections—the "age discrimination" law, which protects workers between 40 and 65. Because Congress has decided that it is legitimate for employers to discriminate against employees over 65, they can now be discharged without a hearing regardless of their health, vigor, intelligence or alertness. It is not called "firing"—we prefer the euphemism "mandatory retirement"—but the result is the same: denial of the right to continue working at the job one knows best.

And while earlier periods of unemployment were temporary, this one is permanent. The person who reaches the age of 65 in good health suddenly faces perhaps 20 years of unemployment—a period as long as infancy, childhood and adolescence combined.

There are, to be sure, some compensations. Those who will meekly agree not to seek further employment become eligible for Social Security, and some receive other pensions as well. Those over 65 enjoy some minor tax advantages, and a few cities make the patronizing gesture of offering free rides on buses to those who show their Medicare cards. But, for many, these "old-age benefits" are poor recompense for the loss of the right to be useful and productive members of society.

Like most people, I never gave much thought to all this when I was younger. I just assumed that all people over 65 were eager to retire and wanted nothing more than the right to go fishing 365 days a year.

But when I found myself approaching 65—without feeling particularly "aged" and while still enjoying my work—I began wondering who had decided that everyone became "old" at this fixed chronological age. I began asking who had decided that 65 is the proper age for forced retirement. By whose authority was the decision made? Were the people most directly affected consulted? Was the decision based on sound psychological, sociological, biological or medical evidence that people over 65 must be placed in a separate category because they are no longer able to work? Was appropriate attention given to the widespread evidence of individual differences in the rate of aging?

THE OFFHAND DECISION

It was not easy to find the answers, but during two years of investigation I have made some interesting discoveries:

The decision to base retirement on a fixed chronological age, applicable to a wide variety of jobs, both physical and intellectual, is of recent origin, dating back no further than the passage of the Social Security Act of 1935.

The choice of age 65 was made by a small group of youthful New Deal brain trusters who had been assigned the task of drafting a bill.

The decision was made at a time when 25 per cent of the labor force was unemployed and hence it was desirable to remove older workers from competition for jobs.

Those who made the decision gave no attention to the available evidence of differential aging or to the differing requirements of various occupations. Prof. Douglas Brown, now of Princeton, who was one of the group that made the decision, says in retrospect, "I can remember no suggestion of another age."

At the time the age was selected it was assumed that the new pension plan to be called "Social Security" would apply primarily to industrial workers—not to those whose work was mental rather than physical. Teachers, for example, did not become eligible for Social Security until 1950, for other professions it was even later.

The people most immediately affected were not consulted: no effort was made to find out whether people wanted to retire at 65; nor, it appears, were there any congressional hearings at which the choice of age 65 was discussed and debated.

The congressmen and senators who voted for the act were unaware of its social implications.

Whatever the intention of Congress may have been, the Social Security Act had the effect of establishing age 65 in the minds of employers and the general public as the one at which workers ought to retire. And when the program later was extended to cover teachers and other professionals, it gradually came to be a part of the conventional wisdom that they, too, should be forced to retire at 65.

Retirement as we know it is found only in urbanized, industrialized societies that are under bureaucratic control. In earlier times, an aging farmer might do less of the heavy work, but he continued to do his chores and to help with the harvesting while his wife continued to cook and sew, spin and weave. An older carpenter or mason might let his apprentice lift the rafters and carry the bricks, but he continued to supervise and to do the work that required knowledge and experience. Complete withdrawal from the work force was rare.

Industrialization, with its bondage to the clock, made it inconvenient to make the adjustment of hours appropriate for older workers. The assembly line made it difficult to provide work for those whose pace had slowed or who needed rest periods during the day. But prior to the Depression of the 1930s, retirement, even of industrial workers, usually was on the basis of inability to do the job rather than on the basis of age alone.

VARIED CLOCKS

Employers have supported mandatory retirement for reasons of administrative convenience. When age alone is the basis for retirement, it is unnecessary for the employer to judge quality of work, and a uniform retirement age makes it easier for clerks and accountants to compute retirement benefits.

Middle-aged executives, bureaucrats and salaried professionals favor mandatory retirement for reasons related to their own advancement. Young workers—if they think about it at all—favor mandatory retirement at 65 because, when one is young, it is difficult to believe that anyone so old can be competent or would want to work.

The case against mandatory retirement on the basis of age rests upon the facts of differential aging, the differing effects of aging on various vocational skills, the waste of talent when men and women who still can do their work well are forced to disengage from the work they can do best and the issue of human rights.

People do not suddenly become "aged" at 65. They age gradually over a lifetime, some much more rapidly than others. It is a common observation that some individuals are "older," both *physically* and mentally, at 60 than others at 70 or 80. There is also a growing body of evidence that those engaged in intellectual work age less rapidly than those whose activities are less stimulating. Consequently, those who engage in intellectual pursuits are able to carry on their work far beyond the age appropriate for the retirement of those engaged in physical labor.

There is also a growing body of evidence that the assumption that intelligence declines sharply with age is largely false, based on a fallacious comparison of test scores of older people with limited schooling with a younger generation with much more schooling.

WASTING TALENTS

There is also evidence that forced retirement accelerates the aging process. Ample clinical evidence exists, according to the American Medical Association's Committee on Aging, that physical and emotional problems can be brought on or made worse by denial of employment opportunities. It charges that setting a chronological age for retirement inflicts enforced idleness, which it characterizes as a "disease- or disability-producing condition that is no less devastating than cancer, tuberculosis, or heart disease."

Mandatory retirement results in an enormous waste of human talent. A 1974 Harris poll revealed that nearly 40 per cent of the 20 million Americans now retired would prefer to be actively engaged in work that would allow them to contribute to the mainstream of American society. Thus, some 8 million individuals who could continue to be productive members of society are forced by present retirement rules to be nonproductive. As the number of older people grows while the working-age population declines because of the present low birthrate, the demand for increases in Social Security and other pensions will place a heavy burden on younger workers.

Finally, forced retirement, when based on a criterion that ignores the individual's ability to do the required work, is an arbitrary denial of human rights without due process, which appears to be in violation of the equal-protection clause of the 14th Amendment. Local courts in several states have so ruled, and soon the issue will come before the U.S. Supreme Court. If the courts fail to act, the legislative bodies may do so.

Regardless of new laws or court decisions, the best solution would be widespread acceptance of a more flexible policy that would provide for gradual instead of complete and abrupt retirement. Most people over 65, as well as many of 55 or 60, would be happy to accept a reduced income in exchange for shorter hours, a lighter work load and longer vacations—if it could be done without the loss of status and personal identity that results from complete disengagement from the workforce.

Although a policy of phased retirement would cause some initial inconvenience to employers, there is ample precedent for it in other countries where it works well. Such a policy does much to reduce the severity of "retirement shock"—a psychological trauma well known to millions of older men and women even though younger people are unaware of its existence. It would contribute to the physical and mental health of the older generation while making better use of the special talents that come with maturity.

In an affluent society, voluntary retirement, with adequate pensions, is socially desirable and economically feasible. But mandatory retirement, when based on age alone, is unjust, unnecessary and wasteful of human talent. It is a system designed by the young for the convenience of the young and imposed on older people without regard to their rights or their wishes. It will take time for the American people to become aware of this injustice, just as it took time for us to become aware of injustices imposed on women, blacks and other groups. But it seems safe to say that before the end of this century a better-informed electorate will look back on 1976 and wonder how it was ever considered just and fair to discriminate against other workers.

SUGAR SUPPLY ASSURANCE ACT OF 1976

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. BERGLAND. Mr. Speaker, I am introducing today the Sugar Assurance Act of 1976. It is a proposal designed to help make sure American consumers have an adequate supply of sugar available at a reasonable price. Its essential element is to assure the continued existence of a viable sugar industry in this country and thus provide American consumers with a dependable, homegrown source of this basic commodity.

As most of the Members of the House of Representatives are aware, a sugar program is by no means a new or unique involvement of the Government. Indeed, the very first revenue raising effort passed by the Congress under the Constitution—the Tariff Act of July 4, 1789—placed a levy on sugar imports. Almost continually from that time on, there has been a sugar program of one kind or another in this country until the demise of the Sugar Act at the end of 1974.

Virtually every other nation in the world, whether sugar importers or exporters, have government sugar programs and policies that to varying degrees prescribe every aspect of this basic commodity. All of these various programs, overlaid as they are by a series of international sugar agreements, multinational trade pacts and country-to-country accords, prompt many knowledgeable people to agree that it is not a question of whether the United States has a sugar program, but whether that program is one of our own design and choosing or one imposed on this country as a residual of all other sugar programs and policies in existence in the world today.

It is important to keep in mind that current domestic sugar production accounts for only 50 to 60 percent of our annual consumption. We are the world's largest single importer of sugar. There are more than 12,000 farm families who annually plant a part of their land to sugarbeets in this country and about 1,400 sugarcane growers. It is their production that keeps the United States from being totally reliant on foreign supplies of this vital link in our food chain.

For about 40 years—from 1934 until 1974—the Sugar Act sought to assure consumers of adequate supplies of sugar at reasonable prices, to maintain the domestic sugar industry as a matter of national interest, and to promote the export trade of the United States.

To a very remarkable degree, it succeeded. But, it was allowed to expire at the end of 1974.

It was, of course, the Congress which failed to reenact the Sugar Act. But, it should be noted that the administration worked to defeat the program beginning this effort in late 1973.

On June 5, 1974, the day the sugar bill was defeated in this Chamber, the raw spot price for sugar on the New York Coffee and Sugar Exchange was 24.5 cents per pound, more than twice as high as it had been in November 1973 when the administration first let it be known that they were not in favor of continuing the program. By November of 1974, the price was 47.5 cents and the upward peak was reached November 20 when the spot price, raw value for sugar was 64.5 cents per pound.

The decline in sugar prices since that time has been just as precipitous. By March of 1975, it was down to 28.5 cents per pound. For the month of July that year, it averaged 19.89 cents per pound. By June of this year, it was down to 14.40 cents and just last August 31 it was 9.30 cents after having been below 9 cents for the previous week.

Convulsive price gyrations are characteristic of world trade in sugar because it is a very thin market. About three-fourths of the sugar that is produced in the world each year is consumed in the country where it is grown. Of the balance that is available for export, about 20 to 25 percent is covered by preferential trade agreements such as the Cuban-Communist bloc arrangement and the accord between the European Community and certain Atlantic, Caribbean, and Pacific sugar exporting nations.

The United States needs to buy about one-third of what is left to meet 40 to 50 percent of this Nation's sugar demands. Thus, it is this very thin market that the administration likes to call a free market—but, it is not a free market at all. It is a residual market and it has the lowest priority for the world's sugar exporters.

Because it is "thin," the so-called world market reacts sharply to small changes in supply and demand situations. The key point, however, is that American consumers get what is left, and it can be at a very dear price.

Secretary Butz likes to point out that American farmers should be able to respond to market conditions in their cropping practices.

U.S. sugar growers are unable to respond to sudden changes—either up or down—in sugar prices. When a farmer makes his decision to plant sugar beets, it can be up to 18 months before the refined sugar his crop yields reaches the market and the value of his crop is determined. Similarly, sugarcane planters face a 2-year wait for their crop to even mature.

The USDA's Economic Research Service developed some econometric models early this year projecting the impact of various sugar prices on U.S. production. They concluded that a 10 cents raw sugar price, New York basis, would mean a net loss on each acre and/or each ton of production to the growers in all four cane producing States and all but two sugar beet producing regions. In these two exceptions, only minimal returns would accrue.

The study also concluded that 10-cent sugar would cause beet sugar production to decrease from its present 3.8 million ton level to 1.9 million short tons, raw value by 1980. Even at 12 cents, beet sugar production would be off by 22 percent from 1975 levels.

Any such loss in domestic production would have to be replaced by foreign imports and the impact of these purchases on the already thin world market would certainly be reflected again in skyrocketing sugar prices for consumers.

Keep in mind, if you will, the world has consumed more sugar than it has produced in four of the last 6 years and current world stocks are estimated to be less than 90 days' supply.

Clearly, an enlightened U.S. sugar policy that provides price stability for the domestic sugar producer and adequate supplies at a stable price for consumers is sorely needed.

That is precisely what the Sugar Supply Assurance Act of 1976 is designed to achieve.

Before detailing the components of this proposal, let me first cite some of the characteristics it does not contain.

First of all, it does not propose any Government payments to growers or producers. There is no outlay of tax dollars for subsidies, storage or set aside payments.

This proposal does not limit production, it does not propose acreage allotments or impose other restrictive production quotas on domestic producers. Nor, does it impose any other rules or special regulations on sugar producers that are not shared by the general agricultural community in this country.

It proposes no import quotas, neither a world quota nor country by country designations.

Its only cost will be for administrative purposes and it is designed to be simple and inexpensive to administer. As a matter of fact, there may well be times when the Sugar Supply Assurance Act of 1976 will result in funds accruing to the U.S. Treasury.

Simply stated, the **Sugar Supply Assurance Act of 1976 establishes a base domestic price at which raw sugar may be imported into the United States.** The base domestic price, in turn, reflects the average cost of producing beet sugar. The final proviso is that foreign sugar brought here at below the base domestic price—**that is, what it costs U.S. producers to stay in business**—will be subject to a duty of .975 percent of the difference.

The base domestic price is keyed to domestic beet sugar costs for various reasons, **not the least of which is because sugarbeets are the largest single source of domestic supplies.** In addition, the industry is widely dispersed throughout the United States and is not, therefore, dependent on any single geographic location to determine labor, agricultural or other economic factors.

The base domestic price is to be calculated and adjusted so that it maintains a ratio between domestic beet sugar production costs and the average New York spot price for raw sugar in calendar 1976 on the same basis of the ratio existing during crop year 1972.

For example, the New York spot price for raw sugar in calendar 1973 averaged 10.29 cents which, incidentally, was equal to 99.9 percent of the target price established under the Sugar Act formula in effect at that time.

The average cost to produce beet sugar in the United States during crop year 1972 was 13.007 cents per pound. This production cost was determined by a survey conducted by the Department of Agriculture and the 1972 crop year was the last in which such a survey of beet sugar production costs was made.

In order to determine the current cost of producing beet sugar, we have adjusted those 1972 costs by changes in various Government indexes as detailed in section 4(a) of the bill. Primarily, we used the Department of Labor's Wholesale Price Index and the USDA's Parity Index, but we also took into consideration changes in indices that trace the cost of fertilizers, farm chemicals, fuels, and energy that have a particular impact on beet sugar production costs.

The result, according to my calculations, is that it costs 18.715 cents to produce a pound of beet sugar in the United States as of July 1976.

In order to retain the same price to production cost ratio that existed in 1973, the base domestic price for raw sugar in New York today under my proposal would be 14.806 cents per pound.

It is important to note that we are talking about average production costs. Everyone should clearly understand that there is no consideration in this bill for inefficient producers.

Similarly, by setting the duty on imported raw sugar at .975 percent of the difference between the foreign purchase price and the domestic base price, we encourage sugar refiners and importers here to shop around and get the best price possible on sugar they must buy to fill U.S. consumption requirements.

And, of course, when raw sugar on the world market goes above the base domestic price, there is no duty imposed at all.

I recognize that some critics of this proposal may contend that it violates the spirit, if not the letter of the General Agreements on Trade and Tariffs—GATT. My answer is to call your attention to the European Economic Community's plan for wheat and feed grains imports which peg import prices to their own production costs and impose a variable duty on any of these commodities imported from the United States. They adopted their wheat and feed grains program simply because they recognize the importance of retaining their own viable domestic production capability as a bulwark against the dangers of total dependence on foreign suppliers.

That is precisely what the Sugar Supply Assurance Act of 1976 is designed to achieve—as simply and directly as possible.

As I have pointed out, unless we take action, our ability to produce sugar in this country may well be critically impaired or perhaps, destroyed.

Consider both from a sugar consumer and sugar producer's point of view what is happening—and what has happened elsewhere in the world—insofar as sugar is concerned.

The Philippines, which supplied the United States with 1,472,000 tons of sugar in 1974 sold only about one-fourth that much to the United States in 1975 simply because President Marcos—who controls the sugar industry just as surely as he controls the rest of the country—decided they were not getting enough money for their product. He wanted more despite the high prices then existing. He obviously decided the way to get more was to hold Philippine sugar off the market. He lost his gamble, of course, but the main reason he lost was because he could not get enough other exporting countries to go along with him. Next time, he might.

But, in the meantime, this year he is swamping the United States with the accumulated Philippine glut to the detriment of our domestic industry. In a similar vein, there's an organization called the GLAPECES—the group of Latin American and Caribbean sugar exporting countries. Representatives of these countries meet regularly to discuss what they call "marketing practices." Should they decide to withhold sugar from the United States, consumers can suffer over the shortrun. If they decide to swamp the United States with sugar, domestic producers could be driven from the industry and over the long run, consumers would then be totally dependent on the outcome of these marketing practices discussions.

Or, consider the case of India. The USDA's Foreign Agricultural Service estimated in January this year, it costs over 15 cents to produce a pound of raw sugar in India. So far this year, the Indian Government has shipped more than 133,000 tons of sugar that meet polarization standards for refined sugar—99 degree—to this country at an average price of a little over 14 cents per pound. They can do this by simply increasing their own domestic prices for what is consumed at home, thus affording a loss on what they sell here. The reason they do it is because they want to get more American dollars.

These factors, along with the policies and programs of the EEC, the Communist bloc countries and others in sugar producing and consuming world are going to dictate the ability of our own sugar producers to survive and, carried to the ultimate, to dictate the price and availability of sugar to American consumers—unless we adopt a sugar policy of our own that puts our producers and consumers first.

That is precisely what I propose can be accomplished by adopting the Sugar Supply Assurance Act of 1976.

U.N. SECURITY COUNCIL HEARS TURKISH FOREIGN MINISTER ON AEGEAN SEA QUESTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. McDONALD. Mr. Speaker, tension has existed between Turkey and Greece for some time now over the question of exploration rights in the Aegean Sea. With this in mind, one of my colleagues recently inserted in the RECORD the statement by the Greek Foreign Minister to the United Nations Security Council on this issue.

I am not completely familiar with all the points in dispute and take no position on this matter one way or the other, but in the interest of having the arguments for both sides presented I would like to bring to my colleague's attention the statement by Turkish Foreign Minister Ihsan Sabri Caglayangil to the Security Council on the same subject.

The statement follows:

STATEMENT BY TURKISH FOREIGN MINISTER IHSAN SABRI CAGLAYANGIL

Mr. President.

It gives my delegation great pleasure to congratulate you on your assumption of the office of the presidency of the Security Council.

You are assuming your duties as the President of the Security Council at a difficult time and your task will be heavy. We have, however, confidence in your diplomatic abilities and in your rich experience. We are also quite confident of your capacity of conducting this debate towards a conclusion inspired with wisdom and justice.

In addressing our congratulations to you, I would also like to pay tribute to your great country, Japan, with which Turkey has excellent relations, which are further developing every passing day.

Mr. President, the request of the Greek Government for a meeting of the Security Council and its motivation are most astonishing. If there is a tension in the Aegean, if a dangerous situation is created in the area, the reason is simply that Greece, without any legal right, has resorted to military harassment against a Turkish civilian ship carrying out research outside the territorial waters of Greece. The harassment took the forms of flights at very low altitude over the vessel, attempts by Greek warships to intimidate and to hamper its movements. The Greek Government in resorting to intimidation through military means is also putting forward the incredible allegation that Turkey is violating the sovereign rights of Greece on its continental shelf on the Aegean. This allegation rests on the assumption that the whole Aegean continental shelf belongs completely and exclusively to Greece. The crux of the matter is that since both countries have conflicting claims over the Aegean continental shelf, no unilateral assertion by Greece, no military intimidation and no attempt to confuse the world public opinion will confer to her the sovereignty over the areas she claims. Until the continental shelf is delimited, the respective claims of Turkey and Greece are equally valid, and this question can only be resolved through negotiations.

It is on the other hand regrettable that Greece has chosen to request a meeting of the Council at a time when the negotiating process between the two Governments is underway. The pretext that a Turkish ship is carrying out research is a most unconvincing one since Greece took part in these negotiations in full awareness that such a research would be conducted. The real reason for the Greek request of the Council meeting is, therefore, to conduct a propaganda exercise, fanned by the bellicose outcries rising in Athens.

Greece today incredibly asserts that the research activities of the Turkish ship Sismik-I violates its so-called sovereign rights over the continental shelf in the Aegean. But nowhere in the Greek request is it mentioned that a Greek vessel named Nautilus is at this very moment conducting similar activities in a neighboring region. To the Greeks, the activities of Nautilus are irreproachable since they claim the sovereignty over the entire Aegean continental shelf. The Greek approach to the Aegean as a Greek lake has been manifest since 1963, the year when Greece initiated without any prior consultations or negotiations with Turkey, exploration beyond her territorial waters in the Aegean.

But, Mr. President, what Greece considers as her sovereign rights are merely unilateral claims. Those claims, which are not based on international law, cannot obviously be accepted by Turkey, which, as one of the two coastal states of the Aegean Sea has equal rights on the continental shelf of this sea. In the absence of a delimitation conforming to international law, the fact that Greece has started explorations in the Aegean Sea at an earlier date will not bestow upon her sovereign rights over the continental rights over the Aegean continental shelf. For this reason, the declaration of Greece to the effect that her sovereign rights have been violated are contrary to law, to logic and to common sense.

At the present, Greece does not have delimited sovereign rights in the Aegean beyond her territorial waters. It is logically impossible for any party to violate the other's unilateral claims.

The Aegean continental shelf and its delimitation between Turkey and Greece involve much beyond technical and legal problems, and encompasses important political, economic and security questions. Turkey cannot be expected to relinquish any of her vital interests connected with the general equilibrium in the region.

To sustain her case, namely the claim to exclusive sovereignty and monopoly of power in the Aegean Greece invokes the Geneva Convention of 1958. Notwithstanding the fact that Turkey is not a party to this Convention, the Greek interpretation of its stipulations regarding the continental shelf are arbitrary, selective and misleading. As the New York Times in its article on August 6, 1976 stated, "No existing international law or convention provides a complete answer for the issues that divide Turkey and Greece on the Aegean."

On the other hand, the legal concepts in this regard are constantly evolving and the Law of the Sea Conference has not come to definite conclusions. One thing is certain and clear: the continental shelf between two opposite and adjacent countries can only be delimited by mutual consent, taking into account all the relevant factors and the principles of justice and equity. The question of the delimitation of the continental shelf is not restricted to the Turkish-Greek case. It is a process followed by all countries facing similar problems.

The Turkish Government for its part has always been an ardent proponent of bilateral negotiations regarding the Aegean continental shelf. It has taken the initiative in this respect. On the other hand, for a long time, Greece has taken the startling position that there was nothing to negotiate and that the only thing Turkey could do was to accept unilateral Greek allegations as her recognized rights. Nevertheless, she has finally come to understand the vital importance of negotiations and a negotiating process regarding the delimitation of the continental shelf has been initiated.

The mission of Sismik–I should be considered as a part of preparations by the Turkish Government, in order to conduct negotiations with Greece in full possession of all relevant scientific data. Greece having already completed her research, which has enabled her to collect these data, it would be impossible and unjust to require from Turkey to renounce the same activities.

The activities of the Turkish ship Sismik–I cannot be considered as having impaired the negotiating process. Indeed, Greece, six months in advance, was fully aware of the forthcoming activities of Sismik–I. The note of the Greek Government of August 9, 1976, delivered to the Turkish Government, acknowledges that the Turkish authorities made public on March 26, 1976 the planned activities of the Sismik–I in the Aegean. Greece, informed of this fact, nevertheless resumed the bilateral negotiations with Turkey in June, and therefore, accepted that the activities of Sismik–I would not be construed as an obstacle for the negotiating process.

Another Greek allegation is that Turkey has reneged on her previous acceptance of a judicial settlement of the question at the International Court of Justice. This is simply not true. The position of the Turkish Government is clear and consistent and is not ambiguous in any way. Turkey does not exclude, if it proves to be necessary, a recourse to the Court for the relevant aspects of the problem, but maintains that the dispute should be first negotiated between the two countries. The aspects of the problem which cannot be resolved by bona fide and meaningful negotiations can then be referred to the Court or to other judiciary instance. It goes without saying that such an application to the Court could be effected jointly. This point of view of the Turkish Government has been conveyed to the Greek Government repeatedly.

This position of the Turkish Government is in full conformity with international law and the general practice of countries which were confronted with similar issues.

The Court itself in its decision on the North Sea Continental Shelf Case clearly states: "The parties are under an obligation to enter into negotiations with a view to arriving at an agreement, and not merely to go through a formal process of negotiation," and "They are under an obligation so to conduct themselves that the negotiations are meaningful which will not be the case when either of them insists upon its own position without contemplating any modification of its case."

In the same decision, the Court has also indicated that the judicial settlement of international conflicts could not take precedence to direct an amicable settlement of such a dispute between the parties. And this obligation is not only limited to entering into negotiations, but to pursue them as far as possible with a view to arriving at an agreement.

Moreover, conducting negotiations has been the procedure followed by all the countries which have, between themselves, problems of delimitation.

The attitude of the Greek Government throughout the negotiations hitherto conducted has been one of uncompromising negativism. Greece has utterly rejected Turkish proposals ranging from the mere definition of the Aegean Sea to the joint exploitation of the resources of the Aegean. In these negotiations Greece even refused to delineate concretely its claims on the Aegean continental shelf.

The Prime Minister of Greece has qualified the Turkish position as one of being "high-handed." Nothing can be further removed from truth. The desire for negotiations, the desire to settle the dispute amicably, and all the proposals for joint undertakings in the Aegean can hardly be described as manifestations of a policy of high-handedness. Such self-righteous rhetoric would not suffice to blur the reality. The reality is that Greece has so far barred the chances of a peaceful settlement and has embarged upon a dangerous course of action in a frenzy atmosphere of bellicosity. She stakes a claim on the high sea in the Aegean and in addition she would like to pretend to be both the judge and a party to the dispute. It is most unfortunate to see that the self-deluding aspirations of aggrandizement and chauvinism which have brought Greece so many tragedies in the past have been resurrected in a most irresponsible manner.

This attitude of Greece, this ego-centrism and aggressive self-righteousness, is not only reflected in the recent situation. Since 1963, a grave situation has been in existence in the region because Greece has been bent on a dangerous course of action. Simultaneously with an attempt to annex the independent island of Cyprus, the Greeks in utter defiance of international treaties pertaining to the status of Greek islands along the Coast of Turkey, have heavily armed and militarize them; thus creating a serious threat to the security of Turkey. The responsibilty of the present tension in the Aegean, therefore, rests squarely with Greece.

Mr. President, I think all the members of the Council know that the Greek islands facing the Aegean coast of Turkey are separated from the Turkish mainland by a very short distance. Some of them are only a few miles away from the Turkish coast. Some are even closer than a mile. Of course, the northern islands including Lesbos. Chios, Samos and Nikaria were demilitarized under Article 13 of the Treaty signed at Lausanne in 1923. The Treaty of Peace with Italy, signed in Paris in 1947, stipulates that taking into account Turkey's security interests, the islands commonly referred to as the Dodecaneso were turned over to Greece in the condition that they be kept demilitarized.

The islands of Limnos and Samothraco have also demilitarized status under another international legal instrument. These are international commitments solemnly undertaken by Greece. Yet, practically all those islands are heavily militarized. They have been fortified by guns, missiles, tanks, military installations, and tons of thousands of troops. Turkey has, several times since 1964, drawn the attention of the Greek Government to these callous violations and their grim consequences. For a long time, the Greek Government maintainted that Greece did not violate the treaties, and that all the measures taken in the islands were for touristic and economic purposes. It is only very recently that the Greek Prime Minister himself has finally admitted the truth which was the source of Turkish concern. The Turkish Government believes that the unlawful militarization of the islands constitutes a serious threat to peace and security in the region. Therefore, it is incumbent upon this August Body, entrusted with the maintenance of peace and security, to consider stops it might deem appropriate.

The same attitude of Greece, arbitrary, provacative and contrary to both international law and the rules and principles manifests itself with respect to the Aegean air space.

Illegal actions of the Greek Government, in abuse of her technical responsibility entrusted to Greece for the Aegean flight information region, are aimed at transforming the international air space of the Aegean into national Greek air space, and to deprive Turkey and other countries of their inherent and traditionally established rights to use the international air space over the Aegean.

Mr. President, the distinguished Foreign Minister of Greece has stated nothing original and new in his intervention yesterday. But has repeated the unfounded Greek allegations. Such a statement would not have called for an elaborate reply. However, to set the record clear and for the benefit of the members of the Council, I would like to reiterate the views of my Government in connection with some of the specific points raised by the Greek Minister.

Mr. Bitsios in his statement, referred to the quesion of Cyprus, which is not a part of our agenda. Cyprus is already a well-known issue. I am sure that the distinguished members of the Council know only too well who the perpetrators of the Cyprus crisis are. In one word, it is Greece. It was only the Turkish intervention which made it possible to preserve the independence of Cyprus against a thoughtless invasion from Greece.

As to the proposal of Prime Minister Caramanlis regarding a Pact on non-use of force, it will be useful to recall the manner in which this proposal was made. It will be only natural to expect that such a proposal of important political implications be made through diplomatic channels. This was not the case. Prime Minister Caramanlis put forward his proposal in a statement he made during a hosted debate in the Parliament. Such a form of presentation casts serious doubts on the real intentions of Mr. Caramanlis.

Prime Minister Demirel, in his reply to Prime Minister Caramanlis stated that he had hesitations about the idea of concluding a pact on non-use of force between the two countries which are the members of the same alliance and that Turkey was ready to explore the peaceful ways of finding solutions to the questions between the two countries.

Mr. President, Greece has called this meeting of the Council, claiming that peace is threatened in the Eastern Mediterranean; she has unabashedly characterized Turkish policy as a threat to peace. What has supposedly led to the threatening of the peace is merely the research activities of an unarmed civilian vessel outside the Greek territorial waters. Greece has conducted the same research activities in the Aegean for years, and still continues to do so. If the peace is threatened in the region it is a direct consequence of the harassment of an unarmed Turkish vessel by the naval and air forces of Greece. In a region where she has no right of sovereignty whatsoever.

In fact, the contradiction inherent on the Greek position becomes more evident when the Greek letter of 10 August 1976 addressed to the President of the Security Council and the Greeks' application to the International Court of Justice are read together.

In its application to the International Court of Justice, Greece asks the Court to adjudge and declare "what is the course of the boundary (or boundaries) between the portions of the continental shelf appertaining to Greece and Turkey in the Aegean Sea."

Then, in the letter contained in Document S/12167 and addressed to the President of the Security Council, Greece speaks of "violations . . . of the sovereign rights of Greece on its continental shelf in the Aegean."

In other words, Greece, while on the one hand is asking the Court to determine which parts of the continental shelf belong to Greece, on the other hand is accusing Turkey of violating its rights on a continental shelf where it does not know whether it belongs to Greece or not. Furthermore, on this contradictory basis, Greece is requesting a meeting of the Security Council.

Turkey has always been a proponent of bilateral negotiations for settling all her differences with Greece. She has advocated the same recourse in connection with the question of the delimitation of the Aegean continental shelf. Turkey naturally does not expect the settlement of this complex question by the Council. Such an outcome can only accrue from negotiations between the two countries. It is with this conviction that Turkey once again in this Council invites Greece to enter into meaningful negotiations. We sincerely believe that the Council will join in our invitation and call upon the parties to that end. Furthermore, Turkey hopes that the Council will also duly consider the flagrant violations of Greece of her solemn international obligations under the Lausanne Peace Treaty regarding the demilitarization of the Greek islands in the Eastern Aegean, and seek appropriate steps against the serious threat to international peace and security.

Mr. President, the problems between Turkey and Greece are complex and Mr. President, all those problems have been unilaterally created by Greece, who has made a habit of violating deliberately international agreements and, who has attempted for many years to upset the equilibrium established by the Treaty of Lausanne signed in 1923.

In fact, after a tragic war caused by the aggressive and imperialist designs of Greece, the Treaty of Lausanne has established a delicate equilibrium between the two countries. There can be no solution to any Turkish-Greek dispute that would involve the upsetting of the equilibrium. The policies of Greece, namely the attempts to annex Cyprus, to close the international Aegean air space, to monopolize the Aegean continental shelf and to unlawfully militarize the Greek islands in the Aegean are deliberate attempts to alter the equilibrium so laboriously worked out. However, the efforts are doomed to fail. Turkey is not bent on domination of others, but she is also not a nation which would retreat when her vital rights and interests are threatened.

Turkey stands ready, as she has always been to sort out all her outstanding differences with Greece through negotiations and sincerely wishes to restore a mutually beneficial cooperation between the two countries. I hope that in its deliberation, the Council will keep in mind such an imperative and will contribute to the furtherance of this objective.

MAO TSE-TUNG: THE DEATH OF A DESPOT—I

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ASHBROOK. Mr. Speaker, it has been reported that Mao Tse-tung has died. Mao was probably one of the world's most powerful despots. In much of the reporting on Mao's death this seems to have been conveniently forgotten.

We must not forget that Mao was a Communist dictator who allowed no individual or institution to get in his way to total power. Mao Tse-tung is the man of "power comes out of the barrel of a gun" and not a kindly old grandfather type. Mainland China under his rule does not have freedom of press, freedom of worship, freedom of speech, freedom of assembly, freedom of movement, or any of the other basic freedoms we have in our great country.

Communist China under Mao Tse-tung is a totalitarian dictatorship that will do anything it wants to the people under its control. The "Human Cost of Communism in China," a study by a U.S. Senate subcommittee, estimated that the Communists in China have been responsible for the deaths of more than 34 million Chinese and perhaps as many as 63 million. Take a look at those figures again and remember we are talking about the loss of at least 34 million human lives. As that study points out in the following very restrained language:

> In terms of human life and human suffering and in terms of destruction of moral and cultural values this cost cannot be condoned by any rationalization. The high Chinese Communist Party leaders who sit down at convivial banquets with visiting Americans may be guilty of as great crimes against humanity and their own people as were Hitler and Stalin and their followers. In the case of Chou and Mao, their commitment to their Communist faith has been one of more than a half century, and in its name they have not hesitated to commit any act.

At this point I also wish to include two articles from Life magazine of January 19, 1953. One is entitled "Red China Reforms a Two-Third-Acre Landlord." The other is "Ten Acre Condemned and Thousand Get Forfeited Possesions." These two articles bring the story of mainland China to the more personal level. Lest we forget the barbarism that is Communist China, the two articles follow :

Red China Reforms a Two-Thirds Acre Landlord

Down on his knees, shoulders held square by his fetters, Huang Chin-chi bowed before the blank faces of his neighbors and his one-time friends, before his Communist judges and before the likelihood that the punishment for his wrongdoing would be death. His real crime was that he owned two thirds of an acre of land.

Ever since the Reds began their conquest of China, the world has heard much of their ambitious land-reform program which would bring justice to "exploited masses" by breaking up "feudal" holdings and giving the land to those who tilled it. Here, documented by the Reds' own photographer, is the first searching look at "land reform" in action—the disposition of the holdings of Huang and 30 other "despotic landlords." The pictures were taken last July 23 at a trial in the *hsien* (county) of Fukang, province of Kwangtung, but it was not until this month that a defected Communist succeeded in smuggling them into Hong Kong.

The story of land reform in Fukang, checked and found authentic by the U.S. consulate general in Hong Kong, began when a cadre of trained Red snoopers moved in. Working with care the peasants of South China had long resisted land reform and the program was far behind schedule, they at first made themselves helpful to everybody. But, meeting secretly with local "activists," they pried out the secrets of the county. Once they knew who owned what, who was politically "reliable" and who was still covertly against the regime, they dropped the mask of friendliness. Creating a class war where none had existed, they set man against man in "Speak Bitterness" meetings. There people were encouraged to get up, air their grudges and their suspicions. As bait, to stir up accusations, they announced that the possessions of those found guilty would be divided among others in the community.

At last Huang with others, was brought to trial before a "people's tribunal," accused of exploiting peasants by hire, rent and usury. The outcome, after the denunciations of well-coached witnesses, was foreordained. Huang was taken out and shot, the victim of a political trick designed, by seeding distrust and hatred among them, to make the peasants more pliable to Communist masters.

Ten Are Condemned and Thousand Get Forfeited Possessions

Having dealt with Huang, the "tribunal" turned to the other 30 prisoners. None owned more than three acres but, by a classification of landholders devised by China's Red ruler, Mao Tse-tung, 30 years ago, they were "landlords" and arbitrarily guilty of exploiting others.

Bowed before their accusers, they heard these stereotyped denunciations, together with charges of having once been friendly to Chiang Kai-shek and evading taxes (which are higher for peasants under Communism than under the old regime). All were found guilty and their possessions forfeited. Some were found to have been less "stubborn" than others, but 10 were marched to the riverbank and killed.

For their neighbors the rewards of "land reform" proved ridiculous, for when the meager goods of 30 were distributed among a thousand, only the most favored got as much as one sixth of an acre. For the nation it was even sillier. In return for propaganda and political advantage, the Reds had added to deterioration of China's rural economy by further fragmentizing China's land and by taking farms from the efficient and giving them to the inept. Under land reform, Red China's food production has fallen 16% below prewar level.

CAN THE UNITED STATES BLOCK SOVIET BID FOR NUCLEAR SUPREMACY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. SYMMS. Mr. Speaker, in recent months there has been some small awakening in Congress and elsewhere to the fact that the Soviet Union has achieved military superiority over the United States, and that they have initiated a drive to obtain a clear cut nuclear war winning/war fighting capability.

As we all know this Soviet drive for nuclear superiority was greatly assisted by the SALT agreements engineered by Henry Kissinger which essentially guaranteed the Soviet Union the advantages in numbers of ballistic missiles and missile throw-weight. Unfortunately, Dr. Kissinger and others in charge of the SALT negotiations have shown no willingness to address the throw-weight disparity.

I am pleased to find that the Soviet drive for nuclear war winning capability is beginning to receive attention in the popular publications and news media. The September 6, 1976, issue of U.S. News & World Report, contains a very well done article entitled "Can U.S. Block Soviet Bid for Nuclear Supremacy?" I would like to commend the U.S. News article to my colleagues in Congress and ask that they keep in mind that the Soviet's goal is to get into a position to fight a nuclear war and win, if war starts. The United States operates on the theory that nuclear war is unthinkable.

The article reads as follows:

Can U.S. Block Soviet Bid for Nuclear Supremacy?

Neither détente nor arms agreements are blunting Russia's drive to shift the strategic balance against America. Needed, according to the experts: awareness—and a switch in policy to meet Moscow's threat.

Few issues in the presidential campaign will have a more profound aftereffect than the debate over the shifting Soviet-American nuclear balance.

It now is clear that the next Administration, whether headed by Gerald Ford or Jimmy Carter, will be forced into a reassessment of Russia's unparalleled strategic build-up, and the threat that it poses to American security.

Significant changes in U.S. defense planning and foreign policy are foreseen by high-ranking Government experts.

Mounting pressure for a reassessment of the Soviet threat is being generated, not by election rhetoric, but by a series of authoritative studies that have surfaced in the course of the campaign.

The studies point up these conclusions:

The Soviet Union, contrary to past assumptions of key U.S. policy makers, is driving hard for decisive strategic superiority over the U.S. rather than strategic stability between the superpowers. Neither détente nor the Strategic Arms Limitation Talks have slowed that drive.

An unprecedented Soviet deployment of powerful new missiles, now in full swing, is torpedoing Washington's basic objectives in the SALT negotiations. The Russian build-up soon will confront America's Minuteman-missile force with a knockout threat, the very danger that the U.S. has sought to avoid through arms negotiations.

Civil defense, written off in the U.S. in the early '60s as ineffective, is being expanded in the Soviet Union at a cost of more than a billion dollars annually. This program is designed to implement a Russian strategy aimed at fighting, and winning, a nuclear war—not simply deterring it.

The over-all picture that emerges from these studies is deeply troubling to U.S. defense planners. They fear that the strategic balance is shifting in a way that will tend to neutralize American nuclear might and encourage Russia to pursue higher-risk policies in future crises.

BEING DEMOLISHED

The more pessimistic analysts maintain that the Soviet Union already has or soon will achieve strategic nuclear superiority over the United States. Lord Chalfont, a prominent British defense expert and former Minister of State for Disarmament, puts the argument in these words:

"I am deeply sorry if I tread on anyone's dreams, but I feel bound to draw attention to the fact that the nuclear balance, always a fragile and uncertain edifice, is being demolished before our very eyes."

Lord Chalfont explains: "The nuclear balance ceases to exist at the moment when one side believes that it has acquired the capacity to deliver an effective nuclear attack upon the other and survive the ensuing retaliation. My proposition is that the Soviet Union is resolved to acquire that capacity in the very near future."

Why the sudden concern about the effectiveness of America's policy of nuclear deterrence?

A major factor is a new assessment of Russia's civil-defense program and its impact on the strategic nuclear balance. The Central Intelligence Agency has just completed a study which, according to responsible officials, produced these findings. The Soviets have upgraded the importance of their program since the first Strategic Arms Limitation Agreement was signed in 1972. They recently have shifted the emphasis from mass evacuation of cities to the construction of shelters in urban areas to protect key Government and industrial personnel in a nuclear attack. And they are devoting increasing resources to this effort.

Further details are brought to light in a study of what is described as the "Soviet war-survival program" by Leon Gouré, a civil-defense expert at the University of Miami's Center for Advanced International Studies. His conclusions:

The Soviets are spending about 1 billion dollars a year on civil defense and even more on schemes to disperse their industries. Russian strategists calculate that, if their program is effective, casualties in the Soviet Union could be limited to between 7 and 12 million in a nuclear exchange with the U.S. That is far below what American defense planners define as "unacceptable" damage—the level of "assured destruction" that is considered necessary to deter the Soviets from contemplating nuclear war.

Top officials at the Pentagon say that what is really important about the vast and growing civil-defense program is what it reveals about official Soviet thinking concerning nuclear war. In the words of one high-level Defense Department authority:

"We in America believe that nuclear war is unthinkable, that it will mark the end of history. Not so with Soviet leaders. They certainly want to avoid nuclear war. But if it comes, they think in terms of fighting and winning it."

Until quite recently, U.S. defense planners discounted the strategic importance of Russia's civil-defense program. They were confident that America's retaliatory force, in any conceivable circumstances, could inflict "unacceptable" damage on the Soviet Union—estimated by former Defense Secretary Robert McNamara as the killing of 20 to 25 per cent of the urban population and destruction of at least half of the country's industrial capacity. As long as Kremlin leaders faced that level of devastation, it was assumed that they could not possibly contemplate nuclear war.

But the picture has changed dramatically over the past year or so, and in a way that has shattered illusions of many top Washington officials about the results of the Strategic Arms Limitation Talks and about Russia's real objectives.

What has happened is that the Soviet Union has embarked on a massive build-up of powerful new weapons that threatens the survivability of America's retaliatory force.

QUADRUPLED POWER

The magnitude and implications of this build-up are spelled out in a study recently issued by the Congressional Budget Office.

The Russians, according to this study, are deploying four new missiles that are as much as four times more powerful than the launchers that they are replacing and are more accurate. Also, these missiles are armed with MIRV's, multiple independently targeted warheads.

This development, the congressional report indicates, defeats the two primary American objectives in the SALT negotiations. One is to stabilize the superpower startegic-arms competition and curb spending. The other is to prevent the Russians from acquiring the capability to cripple U.S. land-based missiles in a pre-emptive attack.

The congressional study characterizes as "unprecedented" in scope the Soviet build-up since the signing of the SALT I Agreement in May, 1972. And it reveals that the Russians in 1975 spent 100 per cent more than the U.S. for its intercontinental-attack forces.

As for the vulnerability of America's 1,000 Minuteman missiles, the Congressional Budget Office analysis came to this conclusion. "By the end of 1970s, by pessimistic estimates and by the early to mid-1980s, by more optimistic estimates, the Soviets are expected to be able to destroy a high percentage of the Minuteman force."

A second strategic-arms-limitation accord, on any terms that now seem feasible, would in no way diminish the "first strike" threat to these land-based missiles.

It is the combined effect of this threat plus the Soviet civil-defense program that is causing acute concern among Pentagon planners. The danger, as they see it, is not so much that Russia's leaders will rush into a nuclear war against the U.S. in the belief that they can come through with substantially less devastation than America. Rather, it is the likelihood that Kremlin decision makers will pursue higher-risk policies on the assumption that the U.S. will be the first to blink in any future eyeball-to-eyeball confrontation.

A top-level Pentagon specialist sums up the danger in these terms.

"What may be the most important but least discussed consequence of these developments is the impact on leaders, Russian and American. The Russians, with nuclear superiority, could be expected to be bolder, to take somewhat higher risks in a crisis even though basically they have a mentality that is defensive and cautious. At the same time, American leaders might be more timid, shakier, less convincing."

Some officials believe that such a psychologocal shift already is apparent. As evidence, they cite Soviet intervention in the Angolan civil war last year and signs that the Kremlin was ready to send airborne troops into the Mideast in the 1973 war.

The Kremlin's strategy, in the view of American analysts, is to utilize its local military superiority in a future crisis while U.S. strategic nuclear power is paralyzed.

What does all this mean for the winner of the November presidential election? The consensus among experts in the Pentagon, State Department and CIA.

A significant shift is imperative in the policy that the U.S. has pursued toward the Soviet Union over the past five years. Détente of a sort will continue, but no longer as the centerpiece of American foreign policy. A new approach toward SALT negotiations will be required, but with no illusions about Russia's determination to achieve strategic superiority rather than stability.

Strategic experts say that the next Administration will have to consider at least four other major policy moves to counter the Soviet bid for superiority over the U.S.:

1. Minuteman vulnerability. Either some means will have to be developed to protect the present land-based missile force against the threat of a Soviet first strike, or a new, less-vulnerable system will have to be built. One possibility: a force of semimobile missiles that would cost an estimated 30 billion dollars. Another possibility: a switch of more missiles from land to invulnerable submarines at sea.

2. Counterforce threat. A greatly expanded research-and-development program is advocated by some experts to improve the accuracy and explosive power of U.S. missiles. This would include the design of a new weapon known as MaRV, a maneuverable warhead that can be guided directly to its target. The aim: Confront Russians with a threat to their land-based missiles comparable to the threat that they pose to America's ICBM force. Also: More-accurate missiles would be designed to knock out hardened bomb shelters and thus counter the Soviet civil-defense program.

3. Cruise missiles. Defense experts stress the importance of exploiting this revolutionary new weapon, a superbly accurate pilotless aircraft that can be launched from a bomber, surface ship or submarine. The Russians, in the SALT II negotiations, are attempting to frustrate further development of the cruise missile, which some authorities believe would insure future U.S. strategic superiority and might even help offset Soviet conventional military superiority in Europe.

4. China as a "semi-ally." A move toward closer collaboration with Russia's chief enemy, Communist China—even in the military field—is regarded by ranking analysts as another option that the next Administration must weigh. They maintain that a policy aimed at cultivating Peking as a semi-ally would complicate Soviet defense planning and help deter Moscow from risky military adventures.

Whatever course the next Administration adopts to counter Russia's bid for strategic superiority, this is evident to top U.S. military planners: The President—Ford or Carter—can no longer count on SALT negotiations or a policy of détente to prevent the Russians from shifting the nuclear balance in a way that would endanger the security of the U.S.

Arms race: Russia's drive to be No. 1

In 1966:	*U.S.*	*Russia*
Land-based missiles	904	300
Submarine-launched missiles	592	125
Long-range bombers	630	200
Total strategic weapons	2,126	625
Today:	*U.S.*	*Russia*
Land-based missiles	1,054	1,590
Submarine-launched missiles	656	700
Long-range bombers	498	160
Total strategic weapons	2,208	2,450

By another measure: A more accurate comparison of nuclear strength, say some experts, measures throwweight—the number of pounds that missiles and bombers can carry. That yardstick gives Russia an even greater lead—

In 1966, U.S. held an edge of more than 2 to 1 in throwweight.

In 1976, Russia now holds a 2-to-1 advantage over the U.S.

Source: U.S. Department of Defense, International Institute of Strategic Studies.

ATOMIC WAR—THE VIEW FROM THE KREMLIN

MOSCOW.—For the men who rule Russia, nuclear war is not completely unthinkable, just publicly undiscussible.

But Western specialists in Moscow say that this is what the Kremlin is trying to do about the "unthinkable":

Achieve clear nuclear superiority over the U.S. in strategic weapons, and over NATO in tactical nuclear arms in Central Europe.

Maintain a civil-defense system sufficient to survive a sizable U.S. retaliatory strike or the most damaging attack China might be able to launch.

Foster throughout the West an attitude that nuclear war is indeed unthinkable and unacceptable by avidly promoting everything from political détente to "peace" petitions with millions of signatures demanding disarmament.

Few, if any, Soviet military objectives have had higher priority over the past half decade than building up nuclear forces. Even the tightly controlled press has revealed the development of new, more accurate missiles to upgrade a force already more powerful than America's.

Furthermore, civil defense has been given major new emphasis since shortly after the first SALT Treaty was signed in mid-1972. Moscow observers say that simple physical evidence indicates spending is rising significantly. Higher-level officials, with bigger staffs, are involved. Films, posters, booklets and instruction materials are far more common than a few years ago.

Western analysts have pinpointed stockpiles of food, medicine and other supplies under complete control of civil-defense officials.

Lectures on what to do in the event of a nuclear attack are held regularly in schools, factories and clubs. Freshly printed evacuation-procedure notices have been spotted in Soviet factories.

There reportedly are standby plans for evacuating entire cities, but there is no indication this ever has been rehearsed. More likely, say Western observers, key officials and workers in cities such as Moscow would take refuge in deep subway tunnels.

In general, civil defense is considered potentially more effective in Russia than in the U.S. One reason is that the cruder, less complex Soviet economy would be harder to disrupt. Also, the better-disciplined, psychologically passive population, already accustomed to a high degree of collective control, would be easier to evacuate or disperse.

Despite all this, Moscow analysts agree that the present Soviet leaders have absolutely no intention of starting an atomic war, even if they achieve the nuclear superiority they expect and are sacrificing other things for. Though this might tempt them to take some bigger risks in crisis confrontations, their overwhelming first aim is to remove any doubt about their ability to deter the U.S. in any situation.

But if nuclear war comes anyway, they intend to survive and in their terms—"win" it.

I would like to close, Mr. Speaker, by asking that my colleagues pay particularly close attention to the counterforce option as discussed in the article. Several of us have been advocating a counterforce deterrent concept for a long time. In my opinion this is absolutely necessary if we are to deny the Soviets a nuclear war fighting capability. Furthermore, I hope that we will not agree to some proposal at the SALT talks that will eliminate the U.S. advantage in cruise missiles as a supplement to the strategic triad—of ICBM's, SLBM's, and bombers—to do so would be a disaster for the United States in light of the overall strategic picture.

THE DETERIORATING U.S. DEFENSE POSTURE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. CRANE. Mr. Speaker, while the platform of the Democratic Party calls for huge cuts in U.S. defense spending, it is becoming increasingly clear that our country is falling seriously behind its major adversary, the Soviet Union, in military preparedness.

In recent years, defense spending, measured in constant dollars, has been steadily declining. The Soviet Union, on the other hand, today spends more money for weapons and research than any nation in the world, an estimated 50 percent more than the United States In a recent statement, Janes Fighting Ships reported that the Soviet Navy's growth and worldwide deployment appear clearly designed for offensive purposes. Aviation Week and Space Technology reported that the U.S.S.R. is gaining the lead in nuclear ballistic weapons despite treaties to maintain a balance.

Last month, the prestigious London-based International Institute of Strategic Studies published its annual edition of the Military Balance. The Institute finds that the U.S.S.R. is ahead of the United States in at least three key areas: First, numbers of delivery vehicles. Moscow has 2,507 ICBM's, submarine launched ballistic missiles, and long-range bombers, whereas the United States has 2,097. Moscow has a 20 percent edge; second, equivalent megatonnage—EMT—which measures the capability of missile warheads to destroy area targets. The EMT of submarine-based ballistic missiles is roughly equal. But in ICBM's the Soviet Union's EMT is given as 2,950; and third, missile throw-weight. For ICBM's, the Soviet has a throw-weight of 7 million pounds compared to 2.4 million for the United States.

In an important interview with the Readers Digest, Lt. Gen. Daniel O. Graham, recently retired former chief of the Defense Intelligence Agency, declares that, "By most standards of measuring military forces, the Soviets have surpassed or are surpassing us—despite the 'spirit of détente' and the ongoing SALT talks."

In the past decade, General Graham declares, "the Soviets have gone from 224 ICBM's to more than 1,600. In sea-launched ballistic missiles, they have gone from 29 to around 800; in nuclear warheads from 390 to around 3500. America has fallen from being 600 ahead in ICBM's to about 600 behind; from 16 nuclear missile submarines ahead to 13 behind; from 2,300 tactical aircraft ahead to more than 350 behind. The Soviets have more major surface ships than we—and more ominous than the sheer numbers is the single-minded speed with which the buildup occurred."

Thus, although the United States is falling seriously behind, the Presidential candidate of the Democratic Party calls for huge cuts in our defense budget. Such a policy, if implemented, would have serious and highly unfavorable consequences for the future of our country.

I wish to share with my colleagues the interview with Lt. Gen. Daniel O. Graham as it appears in the September 1976 issue of the Reader's Digest and insert it into the RECORD at this time:

U.S.-SOVIET MILITARY BALANCE: WHO'S AHEAD?

(NOTE.—During the past decade, the Soviet Union has engaged in the most awesome military build-up in history, a breathtaking dedication of national resources to a seemingly endless variety of new weaponry. Meticulous monitoring of this great Soviet leap forword—via a global intelligence network which includes the most sophisticated surveillance satellites—has been the constant concern of Lt. Gen. Daniel O. Graham as head of the Defense Intelligence Agency. Here, in a distillation from a lengthy series of interviews, General Graham (recently retired, and now a research professor at the University of Miami's Center for Advanced International Studies) talks about the Kremlin's new military climb and its implications for the United States and the world.)

(An interview with Lt. Gen. Daniel O. Graham, Former chief of the Defense Intelligence Agency by Ralph Kinney Bennett)

Q. As a longtime observer, how would you characterize the balance of military power between the United States and the Soviet Union?

A. By most standards of measuring military forces, the Soviets have surpassed or are surpassing us—despite the "spirit of détente" and the ongoing Strategic Arms Limitation Talks (SALT). In the past decade, the Soviets have gone from 224 intercontinental ballistic missiles to more than 1600. In sea-launched ballistic missiles, they've gone from 29 to around 800; in nuclear warheads, from 390 to around 3500.

America has fallen from being 600 ahead in ICBMs to about 600 behind; from 16 nuclear missile submarines ahead to 13 behind; from 2900 tactical aircraft ahead to more than 350 behind. The Soviets have more major surface ships than we; they have 168 ground divisions compared to our 19; their 34,500 tanks dwarf our 9000. And more ominous than the sheer numbers is the singleminded speed with which the buildup occurred.

Q. But hasn't the United States chosen to spend its defense dollars on higher-quality weapons, while the Russians have gone after quantity?

A. It's clear that the Soviets are striving mightily to achieve both numerical superiority and quality. We thought we were far ahead with MIRV, the multiple-warhead-on-one-missile technology. But since 1972 the U.S.S.R. has tested and deployed four new ICBMs all of considerably heavier payload than ours, three of them with MIRV warheads. One of the new ICBMs—the SS–18—is so big that it could carry 45 MIRV warheads of the size and weight carried on our Poseidon submarine-launched missile.

In addition, the Soviets have begun deploying a new, big-warhead, submarine-launched missile (and new subs to carry it) that can hit any U.S. target from far out at sea and even from the subs' home ports. Their new MIRVed missiles and improved warhead accuracy approach our own technology. Their new ships have the latest in propulsion units and bristle with sophisticated missile systems. Five or six years ago, we in intelligence ruled out the possibility of the Soviets' ever matching us in naval aviation. Now they are building a fleet of aircraft carriers.

Q. Some observers claim that the Soviet economy will collapse under the weight of all this weaponry. Do you agree?

A. The Soviet system is pervasively military. Its economy stays on a virtual war footing even in peacetime, with the military getting first choice of both human talent and material resources. Some 75 percent of total production goes to the building of what Kremlin leaders frankly call the "might" of the nation, with only 25 percent going to the civilian goods and services sector. In the United States, these percentages are almost exactly reversed.

In the past few months, as the result of intensive investigation, we have realized that the Soviets are spending double what we had previously supposed on their military—12 to 15 percent of their gross national product (compared with 5.5 percent for us, and most of ours goes for pay, pensions, etc.).

Q. How is the Soviet Union likely to use this military might in the not-too-distant future?

A. As of today, neither the U.S.S.R. nor the United States could launch a nuclear attack without suffering terrible damage in return. Invasion is out of the question, too. But there are many plausible scenarios in which Russia's burgeoning power would be an awesome factor. These might include a Soviet military move against Yugoslavia in the wake of Tito's demise, the introduction of Soviet troops into the Middle East or the Persian Gulf. I am afraid we may soon find that we would have to back down to powerful Soviet air, land and sea forces in such situations.

Q In the West, it is often said that nuclear war is "unthinkable" because neither side could survive. Do the Soviets have the same perspective on nuclear war?

A. Not at all. One recent declaration of Soviet war doctrine, published in the nation's foremost military journal, restates the standard Kremlin view that war is an instrument of policy and, in fact, extols nuclear weapons as an enhancement of that policy. Nuclear weapons, it says, mean that "immeasurably more effective means of struggle are now at the disposal of state power."

The Soviets have not built up their forces, as we have, purely to deter a nuclear war. They build their forces to fight a nuclear war, and see an enormous persuasive power accruing to a nation which can face the prospect of nuclear war with confidence in its survival.

Perhaps the most worrisome aspect of the Soviets' strategy is their civil-defense program. It is now a high-priority matter, with a budget of more than $1 billion a year. About 20 million young Russians receive civil-defense training every summer as part of annual war games. Sample exercises are: convoy evacuation practice at Leningrad; the adaptation of large refrigerator ships for evacuating the population of Sevastopol; the nationwide organization of ambulance and bus convoys to carry the sick away from major cities. In rural areas, there are readiness tests for those people assigned to receive evacuees from the cities.

The Kremlin firmly believes that it can hold Russian casualties from a nuclear exchange to only ten million. No country of the free world would be able to describe this many deaths as "only." But the Soviets absorbed more than 20 million casualties in World War II. Furthermore, the communists were willing to kill off some six million of their own people just to collectivize agriculture. We should not make the mistake of projecting our rationality onto an adversary who does not share our idea of what risks or costs are acceptable.

Q. Many of the proponents of détente and the SALT agreements maintain that these efforts are the only alternatives to nuclear war. Do you agree?

A. American negotiators often seem overly enamored of "reaching an agreement." That becomes a goal in itself. For the Soviets, a "spirit of détente" is an ephemeral matter, of value largely to inhibit our defense effort. They are looking for agreements that advance their perceived strategic goals.

Verification of treaty compliance is also a serious problem. Any successful SALT agreement obviously requires knowledge of what the other side is doing. Unfortunately, the Soviets consistently attempt to deny us information. They have gone to the trouble of placing acres of naval construction yards under cover, for instance, in order to deny us information on their missile-carrying submarines. They also try to deny us all technical information on their weapons development by working at night when they can escape satellite photography. Stepped-up use of such tactics of deception and counter-action seems hardly in the spirit of détente.

In the pre-détente era, Soviet military adventures such as the Berlin blockade, the grab for South Korea, the aggression against South Vietnam, the attempt to place missiles in Cuba, all failed. During the détente era, we have seen no fewer Communist military adventures—just more successful ones. Consider the conquests of South Vietnam, Cambodia, Laos and Angola; consider the strong positions in Syria, Iraq, India, Somaliland, Mozambique, Guinea.

I am convinced that the détente policies that we have pursued lead *toward* nuclear war, not *away* from it. The Soviets have consistently shown constraint when faced with superior military power; they have shown less constraint as they perceive us allowing them a military advantage.

Q. What aspect of American defense do the Soviets most respect?

A. The Soviets fear our superior military technology. We have more than once overtaken and left them far behind. Their first challenge to our strategic superiority was their long-range missile program. But, within a remarkably short time, U.S. Minuteman ICBMs and Polaris submarines wiped out the early hopes of the Soviets to surpass us. A Soviet head start in the development of an anti-ballistic-missile system was also met with a U.S. response that put them a decade or more behind us in technology.

Q. But some experts believe that we are dealing away our technological edge. Are they right?

A. I am deeply concerned that we have traded away superior technology in the name of "arms control," as in the Anti-Ballistic Treaty of 1972. And, with the government's blessing, we have sold militarily crucial technology to the Soviets. For example, a sale of 164 machines that manufacture tiny ball bearings milled to extreme tolerances made it possible for the Soviets to catch up with us in the critical MIRV area. These tiny bearings reduce the friction of the moving parts in the guidance system of a MIRV warhead, thereby enabling the missile to change direction in flight rapidly, and thus get sharper on-target accuracy.

Our long lead over the Soviets in computers makes many of our weapons systems technically superior. The on-board computer of a U.S. ICBM, for example, may have to make 800,000 mathematical calculations in the first nine minutes of flight. But this sort of advantage, too, has been eroded by short-sighted sales of computer technology to the U.S.S.R.

Q. What should we do to ensure our defense?

A. Replacement of our aging B-52 fleet with the B-1 bomber will help, because it will force the Soviets to keep spending heavily on air defenses. This is one of the reasons the B-1 is the weapon the Soviets have tried hard to eliminate in SALT talks.

More important, we must develop the cruise missile, a system that is expected to be so accurate that it can destroy targets at long distances even without a nuclear warhead. It would penetrate the current Soviet air-defense system, and by modern standards be relatively cheap. (I believe the cruise missile can also perform some of the roles currently destined for the B-1 bomber. If so, we may need fewer B-1s than we think.)

Most important, we must keep our military research and development healthy and productive. The United States stands today as a first-rate power that has, through a combination of wishful thinking and inattention, allowed a second-rate power to surpass it in many aspects of military strength. We must halt this erosion of the military balance.

J. HARRISON AGER RECEIVES BROTHERHOOD AWARD

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mrs. SPELLMAN. Mr. Speaker, the Prince Georges National Conference of Christians and Jews recently selected Mr. J. Harrison Ager of Landover, Md., to receive their "Brotherhood Award" in the field of education. A resident of Prince Georges County for 20 years, the choice of Mr. Ager for this distinguished award is not surprising to the citizens of my district. His contributions to the field of education are legion, including:

Honorary Life Memberships in both the Maryland Congress of Parents and Teachers and the National Congress of Parents and Teachers for outstanding service to children and youth.

Maryland Congress of Parents and Teachers—Vice President for Councils Legislation Committee.

PGC Council of PTA's—Immediate Past President.

Members, Kenmore Elementary PTA, DuVal and Surrattsville Senior High PTSA.

Member, Human Relations Advisory Committee, Maryland State Department of Education.

Member, Comprehensive Health Planning Advisory Council, Prince Georges County.

Prince Georges County Public Schools—Member: Citizens' Advisory Committee for Emergency School Aid Act; Book Review Committee, Secondary Sciences; Citizens' Advisory Council, Central Area.

Former activities include, but are not limited to—

President, PGC Council of PTA's, three terms.

Vice President for Field Services, MCPTA.

Founder and Co-Chairman, PG Coalition for Peaceful School Desegregation.

Coached and assisted in sports, Glenarden-Ardmore Boys and Girls Club.

Member, Joint Board of Science Education, Greater Washington Area.

Member, PGC Science Fair Association, contact member for 2 high schools.

Representative to the Maryland State Department of Education, Division of Library Development Services.

In addition, Mr. Ager has been president of the Ardmore Village Civic Association for 3 years, has received an Award of Merit for outstanding service to the community from the Black Voice, and has received a certificate of appreciation from WMAL Radio 63 in recognition of leadership and outstanding contributions to the Washington community.

Since 1956, Mr. Ager has been employed at the National Institutes of Health as a research scientist and, from 1972, as equal employment opportunity specialist at NIH's National Institute of Arthritis, Metabolic, and Digestive Diseases, where he received his 20-year service award from the Secretary of the Department of Health, Education, and Welfare, as well as an award for developing a more direct synthesis for the potent pain killer NIH 7519—Phenazocine.

From this brief summary it is self-evident that J. Harrison Ager is an individual dedicated to improving the quality of life for all Americans. His wife Verline, his two children, Joe II and Milicent, and this entire Nation are fortunate indeed to have such a person striving to make our world a better place in which to live.

I am sure my colleagues in the Congress will join me in extending to Mr. J. Harrison Ager our deepest appreciation and gratitude.

FINANCIAL SUPPORT FOR OUR OLYMPIC TEAM

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ALEXANDER. Mr. Speaker, I received a letter recently from John R. Bishop of Hardy, Ark., who offers a suggestion for funding for our Olympic teams which I believe is well worth the consideration of the Congress.

Mr. Bishop advocates a $1 check-off for support for our Olympic teams, in nonelection years, on the Federal income tax form.

I commend to my colleagues the text of his suggestion:

> JULY 27, 1976.
>
> Olympics: This seems to be a problem every four years. Could a check-off box for $1.00 to the Olympics be on the federal tax return just as $1.00 to federal campaign fund for distribution to candidates. This would help their fund raising. After the present campaign I'd rather give my dollar to the Olympics anyhow . . .
>
> JOHN R. BISHOP,
> *Hardy, Ark.*

I share Mr. Bishop's concern for this country's support of our Olympic athletes and am hopeful that the 95th Congress will give serious consideration to an ongoing method of Federal support for the Olympic cause.

LEGISLATION PENDING ON WEATHER MODIFICATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. BROWN of California. Mr. Speaker, the Congress has before it several bills which deal directly with the subject of climate research and weather modification activities. The House Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology has held hearings on several bills dealing with each subject, and has decided, largely because of time problems, to report to the full House the Senate-passed bill, S. 3383. This bill, which was primarily authored by Senators Bellmon and Pearson, provided for a comprehensive review of weather modification benefits and effects of weather modification. The amended version reported to the House also adds an extension of the reports on weather modification activities, as provided for in existing law.

My personal preference in this matter was to proceed with a much more comprehensive and global climate research and prediction program. The extensive, and detailed testimony presented to the subcommittee completely supported such a vigorous Federal commitment to a national and international program. And although the administration opposed any new legislation, the main climate bill, H.R. 10013, which was introduced by Congressman Phil Hayes, was largely drawn from a report by the President's own Domestic Council.

Weather modification is actually a subissue under the general topic of climate research. The testimony on this subject was in much less agreement, with some witnesses urging an expanded weather modification program, while other witnesses, including Congressman Frank Evans, who has a bill on this subject, H.R. 10039, urged Federal regulation of weather modification activities. The subcommittee decided to have the subject of weather modification, including regulation, considered by a commission which would be established by S. 3383.

Among the questions I have received since the hearings is one about the intentions of the Subcommittee on Environment and the Atmosphere. I wish to state here that we intend to reopen this entire subject early next session, when we have more time to do this subject justice. In the meantime we do need to gather more information about weather modification before taking any new, dramatic actions. S. 3383 will do this.

I would like to share with my colleagues at this time a recent article on this subject.

[From Change magazine, August 1976]

Will Congress Do Something About the Weather?

(By Judith Randal)

That the Nixon White House should have had a scientific mission and that a Democratic Congress should take it up where that White House left off may seem a strange state of affairs—even more so as the Central Intelligence Agency was involved. But in fact "A Study of Climatological Research As It Pertains to Intelligence Problems"—supplied by the CIA to the President's Domestic Council in August 1974—may turn out to be the impetus needed to launch a major publicly funded research initiative.

The situation two years ago was this. The United Nations World Food Conference was to be held in Rome in November and Secretary of State Henry Kissinger was eager to have the highest reaches of government explore in advance the political as well as the humanitarian ramifications that had caused him to call for the conference the previous fall.

In this context, it had come to the CIA's attention that Reid Bryson and his colleagues at the University of Wisconsin's Institute for Environmental Studies were predicting that anyone who thought agricultural productivity could be maintained—let alone improved the Green Revolution tradition—was, in effect, living in a fool's paradise. The Wisconsin group, along with others, had detected what it perceived as a global climatic shift back toward weather conditions that had prevailed in the words of the CIA report, during "the neo-boreal era of 1600–1850—an era of drought, famine, and political unrest in the western world." The CIA, of course, could not be sure that Bryson, et al., were correct. Nonetheless, it was so sobered by their forecast and by world population projections that it felt safe in concluding that "the politics of food will become the central issue of every government."

Indeed, had the Domestic Council been able to act on the agency's assessment, a National Climatic Research Plan—with inputs from the National Science Foundation, the National Academy of Sciences, and the National Oceanographic and Atmospheric Administration—might already be underway. Because of Watergate, however, the council lost whatever influence it had wielded to the Office of Management and Budget, and at OMB the entire matter fell to the bottom of the priority heap.

There it might still be had not the report become public in May and drawn the notice of Indiana Democrat Philip H. Hayes. Hayes, a member of the House Science and Technology Committee subcommittee, whose particular concern is the environment, had in 1975 introduced a bill (H.R. 10013) calling for the creation of a national climate program that would authorize the expenditure of $156 million over a three-year period for a variety of research objectives directed toward forecasting climatic changes as much as a year ahead. Now, he convinced the measure's cosponsors—the subcommittee's chairman, George Brown of California, and Republican Larry Winn, Jr., of Kansas—was the strategic moment to hold hearings on the proposal and so give it a credible legislative history. The matter could come to a vote as early as the end of this year. More likely, however, definitive action will await 1977 when a new Congress may be in the mood and the position to boldly strike out on its own.

Whatever the legislation that emerges (several congressmen have other bills in the hopper), the hearings made it clear that there are two things scientists want most to see incorporated—besides, of course, adequate funding. One is an emphasis on the upgrading of climate sciences and career development for them, since the number of people in this country with advanced degrees in this field is now extremely small. Presumably this would entail not only the support and development of more university research centers, but also the awarding of postgraduate training grants.

The other is a long-range commitment to the gathering of more information and to its analysis and coordination in and out of government. Witness after witness told the hearings that a crash effort directed toward technological quick fixes would be inappropriate both because the present knowledge base is meager and because what are needed far more than spectacular attainments, like deliberate weather modification, are the means to factor considerations of climate into virtually every aspect of public policy. "Climatic changes can make the difference between the prosperity of a society and its misery and decline," said Charles L. Hosler, Jr., president of the American Meteorological Society and dean of Earth and Mineral Sciences at Pennsylvania State University, whose sentiments were typical of those expressed. "We must build flexibility into our social and economic strategies."

Weather modification technology, for example, carries with it the risk that rainmaking in some areas will create droughts in others, a potential source of international tension if there ever was one. Of equal international significance is the fact that nature seems to have dealt the Soviet Union a highly variable climate that lately has become highly susceptible to drought and a shortened growing season. Most Americans assume that the massive Russian wheat failures of the early and mid-1970s are a passing phase. According to the experts, quite the opposite is true. Russian climatology, they say, is at least as sophisticated as ours and that nation's leaders are well aware that its food supply will probably be indefinitely precarious, undoubtedly a crucial element in their commitment to détente.

In addition, then, to considerations of the world's burgeoning population, the United States may have an ongoing stake in further wheat sales to the Russians if what it wants is stability and peace. It was the consensus of witnesses at the hearings that the U.S. would be well advised to better plan for such contingencies in advance.

The 1972 Russian wheat purchase, for example, meant less grain here at home for livestock feed and so led to an embargo on the export of soybeans, which in turn strained U.S. relations with Japan. And because grain reserves for relief and concessionary sales purposes were at an all-time low, millions in sub-Saharan Africa, Ethiopia, Bangladesh, Pakistan, India, Sri Lanka, and elsewhere either went hungry or died of starvation as a result of widespread crop failures during the 1970s in those countries. Improved climate assessment and prediction, therefore, are essential not only for dealing with emergencies but also for minimizing their domino effects.

The prospect of ever more mouths to feed on distant shores is having its effects at home, too—bringing under cultivation in this country more marginal land, with what precise consequences for the water table, soil erosion, and other variables no one really knows. Two years before his death in 1826, Thomas Jefferson expressed his concern that the conversion of much of his young country from forest to fields might not be entirely advantageous and hoped that studies leading to a theory of climate would be made. Today when the face of the land has changed so much that Jefferson might hardly recognize it—and though we have behind us the object lesson of the 1930s Dust Bowl—there has been surprisingly little progress toward that goal.

Walter Orr Roberts, for example—who upon his recent retirement as director of the National Center for Atmospheric Research in Boulder, Colorado, decided to devote his remaining years to the population-food-climate issue at the Aspen Institute for Humanistic Studies—told the hearings that he believes that a prolonged drought is in the offing for the nation's breadbasket stretching east from the Rocky Mountains. Roberts is among several scientists who share this conviction and who have suggested that sun spot perturbations may be involved. But neither he nor they have any plausible, detailed explanation for the hunch and this is the rule whenever most such predictions are made.

Another controversial theory maintains that the world is undergoing a cooling trend that may presage the onset of a new mini-ice-age like that which decimated Iceland in the nineteenth century. But other scientists believe that what may be in store instead is a warming of the earth that would melt the polar ice caps and cause massive coastal floods in 50 years or so.

Incredible in a world amply supplied with computers to keep track of statistical data, where mathematical simulations and technology are kings? Not really. Such concerns have long had low priority and in many parts of the globe thermometers are so scarce that not even daily temperature readings are routine. Yet without constant and conscientious measurements of small fluctuations, reliable assessment of whatever larger trends are in the making becomes guesswork at best.

Furthermore, the capabilities of technology are uneven and not always as far along as some people may suppose. The lack of tools for the remote sensing of climatic conditions in the oceans is illustrative. Satellite measurements penetrate only a few millimeters below the surface of the water; and while the observations can be made by instruments and men deployed from buoys or oceanographic vessels, this is so costly that it has rarely been attempted on a global scale.

The price of such neglect may already have come high. Apparently temperature and other changes that result from air-sea interactions taking place on the water's surface have an enormous bearing on the abundance of fish and the plankton and other elements of the food chain on which fish and crustacean populations depend. While the 1950s demise of the California sardine and the more recent disappearance of the anchovy off the coast of Peru, for example, have been popularly chalked up to overfishing, many scientists believe that shifting climatic conditions were depleting these species anyway. Had this been reckoned with in advance, it might have been possible to seek out other fishing grounds, to turn to other species, or both. More comprehensive monitoring and analysis of the ocean's temperature patterns and shifting currents are vital for other reasons, too. Submarine warfare, deep-sea mining, and the ocean disposal of atomic and other wastes are some that come immediately to mind.

Scientists, students of climate, and politicians like Hayes also have their antennae tuned to various phenomena that strike or could strike closer to the backyards of everyday citizens, Intensive field studies of the 1,500 square miles east of St. Louis, for example, have revealed that average summer climates bring 80 percent more hail and 50 percent more heavy rainstorms than are visited on surrounding areas, a phenomenon almost certainly related to urbanization since it has been observed near other cities as well. And had L. Frank Baum written the Oz books in the 1970s instead of the 1900s, Dorothy and her dog Toto would probably have started their adventures in Indiana rather than Kansas since that is where most of the nation's tornadoes now occur.

Similarly, although no major American city has experienced a shortage of potable water since New York had to ration it in the 1950s, hydrologists have nightmares about what might happen if a serious drought imposed itself on the heavily populated corridor that has come into being the length of the eastern seaboard from Boston to Washington.

Such eventualities, Pennsylvania State University's Hosler pointed out at the hearings, call for regional storage and transport arrangements made in advance. Yet, to his knowledge, all officials have, if they remember the New York situation at all, treated it as a historical accident unlikely to recur.

Last but hardly least among policy concerns is that the climate issue and the energy issue are inextricably intertwined. Like those aerosol spray cans and the Anglo-French jet Concorde, nitrogenous fertilizers derived from petroleum may be weakening the blanket of ozone (tri-atomic oxygen) that shields the earth against too heavy a bombardment of ultraviolet rays. Far less publicized, however, is another trend whose implications, to hear the witnesses tell it, are fully as grave as the possibility that the destruction of the ozone layer could unleash a worldwide epidemic of skin cancer.

Since the onset of the industrial revolution roughly a century ago, the burning of fossil fuels has increased the amount of carbon dioxide in the air by about 12 percent. Although the levels vary somewhat—they fell, for instance, during the economic slowdown of the depression—there is evidence of a steadily accelerating upward drift. The fear, therefore, is that as the increased energy demands of the near-term future not only step up the use of remaining petroleum reserves but also bring on line coal gasification and oil shale, plant life and the oceans will reach their limits in handling the excess.

Again, climatologists cannot with any precision weigh what the effects would be. But they are reasonably confident that the global distribution of climate patterns could be so drastically altered in relatively short order as to plunge man into an alien world. And what really concerns them is the time scale. According to even conservative estimates, the point of no return might easily be reached early in the twenty-first century, whereas it is thought that at least two decades would have to elapse before any alternative to fossil fuels could be expected to take hold in any major way.

All in all, the old saw seems no longer to apply, if it ever did. Man not only talks about the weather but influences it, whether by slash and burn agriculture in the third world, which sends huge quantities of dust and smoke particles into the atmosphere, or by the industrial combustion of fossil fuels. From the sounds of it, furthermore, to count on technology to come to the rescue at the last minute may be naive in the extreme. Now is the time to begin to resolve the uncertainties. But only further developments will tell us whether these concerns will ultimately strike a sufficiently responsive chord either among the public or in Congress.

PERSONAL EXPLANATION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. BINGHAM. Mr. Speaker, last month I missed, or was not recorded as voting, on one rollcall vote. I wish to record here what my position would have been had I been recorded as voting:

Rollcall No. 660, motion to adopt rule (H. Res. 1489) for H.R. 14578, legislation authorizing various Federal reclamation projects, "yea."

SYNTHETIC FUELS: THE GAO'S "VERY SHORTSIGHTED VIEW"

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. TEAGUE. Mr. Speaker, on August 24 the General Accounting Office released a report on H.R. 12112, entitled "An Evaluation of Proposed Federal Assistance for Commercialization of Emerging Energy Technologies." The report generally was critical of the basic thrust of H.R. 12112, to provide loan guarantees for demonstration of new energy technologies. As a result of my great concern about the substance of the report, as well as the circumstances and timing of its release, the Science and Technology Committee held a hearing on the report on August 30. We heard testimony by GAO and also by the Energy Research and Development Administration—ERDA—representing the administration. My own conclusions on the basis of that testimony and detailed review of the report will be aired on another occasion. I, however, also have closely followed the public reaction to the GAO's report and I want to bring to the attention of the Members of the House some of the comments reported in the press.

Today, I commend to the Members' attention two sets of comments from last week's press. The first comments are contained in an editorial in the Los Angeles Times on August 3. The second are in a letter to the Editor of the New York Times from Prof. Ronald Probstein of MIT. Both the editorial and the letter strongly criticize the very shortsighted view expressed in the GAO report and argue the critical need for this Nation to aggressively pursue the synthetic fuel alternative to continued, longterm dependence on foreign oil and gas. The Los Angeles Times and Professor Probstein have grasped the fundamental issue involved in H.R. 12112—essential action today to develop a long range alternative to imports: yes or no? The comments, which follow, provide a thoughtful discussion of that issue, which GAO unfortunately failed to grasp. I urge each Member to consider them thoroughly in reviewing this legislation.

The articles follow:

[From the New York Times, Sept. 2, 1976]

WRONG ENERGY PATH

To the Editor:

One need not be an apologist for the oil companies, or a partisan Democrat or Republican but only a concerned American to read with incredulity the news report (Aug. 25) that the General Accounting Office, along with many in Congress, favors increasing our imports of fuel from the Arab world, while at the same time is against Federal programs for demonstrating and developing synthetic fuel processes.

It seems impossible that America must allow itself to be backed up against a wall by those whom Russell Baker has termed the "bottom liners," whose only view of the country's future is today's balance sheet. But while such little men cast long shadows over our future, we find ourselves unable to convert the nation's almost two trillion tons of coal, sufficient to supply us with energy for several hundreds of years, while importing in excess of 40 percent of our energy needs and proposing much larger imports in the future.

Energy conservation should and must be practiced, at the same time that all approaches to efficient energy utilization are pushed, including the development of gasification, liquefaction and refined coal processes. These technologies exist and can be carried out in an ecologically sound and environmentally acceptable manner. They need only be improved, demonstrated and commercialized. The gas and oil wells will dry up, and one wonders on whom the blame will fall when the country has to surrender or fight to meet its needs.

Prof. RONALD F. PROBSTEIN,
Mechanical Engineering, M.I.T.

[From the Los Angeles Times, Aug. 31, 1976]

SYNTHETIC FUEL: A SYNTHETIC VIEW

The General Accounting Office is a highly respected agency that, in its role as a fiscal watchdog, has done a lot to advance the cause of more efficiency and less waste in government spending. Unfortunately, the GAO has taken a very shortsighted view in its study of synthetic-fuel development.

In a report released last week, the agency concluded that oil and gas produced synthetically from shale or coal are "not price-competitive" with foreign petroleum, and that the federal government should therefore refrain from subsidizing expensive projects for synthetic-fuel development.

It would be better national policy, the GAO suggested, to emphasize energy-conservation measures and development of solar and geothermal energy—meanwhile depending, to the extent necessary, on rising oil imports.

Oil produced from coal or oil shale could cost as much as $18 a barrel, the report pointed out, compared with the present price of $12 a barrel for imported petroleum. Gas produced from coal would cost roughly twice as much as the ceiling price recently set by the federal power commission for new natural-gas supplies.

There is no question that, partly as a result of environmental considerations, synthetic-fuel technology is still uncertain. Knowledgeable people understand that synthetic fuels are almost sure to cost more than the present price of oil. But it is a long leap from there to the conclusion that growing reliance on imported oil is a sensible alternative.

There is no reason to assume, as the GAO did in making its cost-effectiveness comparisons, that foreign oil will continue to sell for $12 per barrel. The Organization of Petroleum Exporting Countries is widely expected to agree on a new price increase later this year; to the degree that U.S. reliance on the foreign oil producers cartel increases, further price boosts are bound to occur.

U.S. dependence on foreign oil supplies already is far higher than at the time of the Arab oil embargo. And with imports from Canada and Venezuela down sharply, the reliance on Arab oil has doubled in the past year alone.

Even in the absence of another embargo, there can be no guarantee that Saudi Arabia, the chief Arab oil producer, will continually increase its output to satisfy U.S. needs if a policy of holding the oil in the ground might suit its own needs better.

A vigorously pursued energy-conservation program will help; so will oil from Alaska's North Slope and from expanded offshore production. But this country has vast reserves of oil shale and coal that must be exploited as part of a sensible long-range national energy policy.

Very real obstacles exist—economic, technological and environmental. The name of the game, however, must be to recognize these problems and overcome them as soon as possible.

Synthetic-fuel production would be expensive, but excessive reliance on undependable, cartel-controlled foreign oil would be even more expensive.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. BROWN of Ohio. Mr. Speaker, in a continuing attempt to provide my voting record for the 1st session of the 94th Congress for the benefit of anyone who would like to examine that record, I would like to have printed here my votes on matters ranging from youth camp safety to supplemental appropriations for fiscal year 1976. The material follows:

VOTING RECORD

H.R. 46 YOUTH CAMP SAFETY

Amendment in the form of a substitute for the Education and Labor Subcommittee's substitute bill to set up a three year $22.5-million program to states with grants to develop camp safety standards, with no Federal enforcement permitted, and to narrow the definition of youth camps proposed to be regulated, rejected 188–194, Not Voting.

Final passage of the bill to set up a program of Federal assistance to states that developed and enforced Federally approved standards for youth camps, and to provide for Federal inspection and enforcement of minimum Federal standards in states that did not develop their own, passed 197–174, Not Voting, 4–17–75.

H.R. 8603 POSTAL REORGANIZATION ACT

Amendment to require that the U.S. Postal Service go before Congress for its annual authorization and appropriation, and that the revenues be deposited in the general Treasury, adopted 267–123, No; Amendment to delete the previously adopted amendment, and to only require authorization for funds exceeding $920 million authorized under existing law, rejected 196–207, Not Voting; Amendment to repeal the Federal statutes that give the Postal Service a monopoly on first-class mail, and allow private companies to compete, rejected 68–319, Not Voting; Motion to recommit the bill to the House Post Office and Civil Service Committee with instructions that the committee hold additional hearings, rejected 129–250, Not Voting.

Final passage, a bill to require the U.S. Postal Service to go to Congress for its appropriations—and reducing the Postal Service's proposed rate increase to 2 cents raising the postage on a first-class letter to 12 cents instead of 13 cents, passed 267–113, Not Voting; 10–30–75.

H.R. 2559 EXECUTIVE LEVEL PAY RAISES

Motion that the House consider H. Res. 653, to concur with Senate amendments to the bill to authorize a work safety program for postal workers, motion agreed to 302–124, Yea; Adoption of the resolution to provide for agreement to the Senate amendment to the bill to authorize work safety programs for postal workers, adopted 214–213, Nay; 7–30–75.

H.R. 1244 PRESIDENTIAL PROTECTION ASSISTANCE ACT

Motion to suspend rules and pass the bill to tighten Congressional review of and control over spending for Secret Service Protection of President and other Govt. officials covered by law, adopted 352–0, Yea; 5–5–75.

H.R. 4114 NATIONAL HEALTH SERVICE CORPS.

Final passage, to extend and revise National Health Service Corps Program, passed 399–4, Yea; 5–7–75.

H.R. 8122 PUBLIC WORKS, ENERGY RESEARCH APPROPRIATIONS

Amendment to delete $849,115,000 in funds appropriated to the Energy Research and Development Administration for fiscal '76, rejected 93–320, No; Amendment to increase funds for solar energy research by $54.1 million for fiscal '76 and $9.9 million for the transition quarter, rejected 190–219, Aye; Amendment to delete $1.46 million appropriated for work on the Dickey-Lincoln School hydroelectric project in Maine, rejected 162–246, No; Amendment to prohibit use of funds in the bill for any study of navigation alternatives with respect to the Trinity River Project in Texas, rejected 178–228, No.

Final passage, a bill to provide $7.2 billion for public works, water and power development and energy research and development programs in fiscal '76 plus additional funds for the transition quarter, passed 377–28, Aye; 6–24–75.

Conference report, adopted 339–31, Yea; 12–12–75.

H.R. 5247 PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT

Final passage, a bill to authorize $5 billion in Federal grants for local public works projects, passed 312–86, Nay; 5–20–75.

H.R. 10979 RAIL REVITALIZATION AND REGULATORY REFORM ACT

Amendment to delete from the bill provisions creating an Office of Rail Public Counsel in the Interstate Commerce Commission, rejected 187–224, Aye; amendment to delete from the bill provisions allowing freight forwarders to enter into contracts with railroads, adopted 222–196, Aye; Amendment to reduce the level of federal subsidy for commuter rail services to 50% to 75% during a 13 month period from Aug. '76 to Sept. '77, rejected 181–231, Aye.

Final passage, passed the House by a voice vote on 12–17–75. H.R. 10979 laid on table and S. 2718, as amended, passed in lieu on 12–12–75

Conference report, on the bill to authorize $6.5 million to the nation's railroads and to lessen Federal regulation of the railroad industry by the ICC, adopted 205–150, Yea; 12–19–75.

H.R. 8672 RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT ACT

Final passage, a bill to authorize $240 million in Federal grants to provide unemployed railroad workers with jobs rehabilitating the nation's railroads, adopted 261–129, Yea; 10–23–75.

H.R. 5358 RAILROAD SAFETY AND HAZARDOUS MATERIAL TRANSPORTATION ACTS

Final passage, a bill to authorize funds to continue existing Federal railroad safety programs through Sept. 30, 1976, including $35 million for fiscal '76, plus $8.75 million for the three month transition period, passed 387–0, Yea; 6–23–75.

H.R. 8714 RAILROAD UNEMPLOYMENT INSURANCE ACT

Final passage, a bill to increase unemployment benefits to $24 a day retroactive to July 1, 1975, to liberalize eligibility for Unemployment Insurance Act and to prohibit payment of unemployment benefits during the first seven days of a labor strike, passed 420–0, Yea; 7–24–75.

S. 2327 REAL ESTATE SETTLEMENT PROCEDURES ACT

Motion to suspend the rules and pass the bill to modify provisions of a 1974 law (PL 93–533) designed to help customers hold down the settlement charges connected with buying and selling a home, agreed to 379–21, Not Voting, 11–17–75.

H.R. 2051 REGIONAL RAIL REORGANIZATION ACT

Final passage, a bill authorizing additional financial assistance $347 million, in operating grants and Federally guaranteed loans for financially ailing railroads, passed 270–137, Yea; 2–19–75.

H.R. 11016 RENEGOTIATION ACT OF 1951, (EXTENSION)

Motion to suspend the rules and pass, a bill to extend through June 30, 1976, from December 31, 1975, the Federal Renegotiation Board, which was established to review federal defense and space contracts and eliminate excess profits to contractors, agreed to 395–5, Yea; 12–15–76.

H.R. 1287 RHODESIAN CHROME (HALT IMPORTATION OF)

Amendment to include all products containing chromium in any form in a prohibition on importation of any steel mill products containing Rhodesian chrome, rejected 160–237, Not Voting.

Final passage, bill to bring the U.S. into compliance with U.N. sponsored economic boycott of Rhodesia, thus halting the further importation of Rhodesian chrome, rejected 187–209, Not Voting (paired for); 9–25–75.

H.R. 8529 RICE PRODUCTION ACT OF 1975

Amendment to continue marketing quotas and acreage allotments for rice production, to delete the target price concept and to reduce loan levels to 60% of parity, rejected 97–310, aye; Motion to recommit the bill to the Agriculture Committee, and thus, kill it, rejected 102–311, Yea.

Final passage, a joint resolution to provide quarterly adjustment in the support price of milk until March 31, 1978, and increase the support price to a minimum of 85% of parity, passed 307–111, Yea; 12–17–76.

S. CON. RES. 35 ROMANIAN AND U.S. TRADE AGREEMENT

Adoption of the concurrent resolution to express congressional approval of a bilateral commercial agreement between the United States and Romania giving that country most-favored-nation status, adopted 335–41, Yea; 7–28–75.

H.R. 6346 RURAL DEVELOPMENT ACT, TITLE V

Final passage, a bill to extend through fiscal 1977 the authorization for implementation of Title V of the Rural Development Act of 1972—providing rural development, small farm research, extension programs and to authorize sums not to exceed $5 million for the three month transition period and $20 million for fiscal 1977, passed 323–11, not voting: 11–7–75.

S. 1310 NATIONAL SCHOOL LUNCH ACT

Final passage, a bill to extend special summer feeding programs for children through 9–30–75, passed 396–2, not voting; 4–9–75.

H.R. 4222 SCHOOL LUNCH AND CHILD NUTRITION ACT AMENDMENTS

Amendment to delete provision requiring Federal Government to subsidize difference between maximum school lunch price of 35¢ and actual cost of preparing a meal, adopted 269–144, Aye; Motion that committee of whole rise preventing vote on O'Hara amendment until after recess, agreed to 231–179, No; Amendment to provide supplemental Federal payment in fiscal year '76 of 5¢ for each school lunch sold at regular price, adopted, 213–176, No; Amendment to make payments to agencies that States determined were capable of carrying out supplemental feeding programs for pregnant women and their infants, adopted, 238–152, No; Motion to recommit the bill authorizing the 5¢ supplemental payments, rejected, 144–246, Yea.

Final passage, 335–59, Aye; 4–28–75.

Conference report, adopted, 380–7; 9–18–75.

Vote to override Presidential veto on Oct. 3, 1975, succeeded, 397–18, Yea; 10–7–75.

H.R. 10230 SCIENCE AND TECHNOLOGY POLICY AND ORGANIZATION ACT

Final passage, a bill to establish an Office of Science and Technology Policy in the Executive Office of the President to be headed by a director who would serve as the President's personal advisor on Federal science policy, passed, 362–28, Yea; 11–6–75.

H.R. 4111 SECURITIES REFORM ACT

Final passage, a bill to reduce barriers to competition and to enlarge the regulatory powers of the Securities and Exchange Commission, passed, 376–13, Yea; 4–24–75.

H.J. RES. 683 SINAI AGREEMENT

Amendment to limit to two years the President's authority to assign American monitors to the Sinai to back up the Israeli-Egyptian peace accord, rejected, 122–287, Aye.

Final passage, of the joint resolution to implement the U.S. proposal for the early warning system in the Sinai, passed, 341–96, Yea; 10–8–75.

H.R. 5900 SITUS PICKETING—LABOR, BUILDING, AND CONSTRUCTION INDUSTRY

Amendment to require that the issues of the labor dispute at a construction site do not involve employees of an employer who is not engaged primarily in the construction industry, rejected 176–223, Aye; Amendment to prohibit common situs picketing where State laws require direct and separate contracts on State or municipal projects, agreed to 229–175, Aye; Amendment to prohibit common situs picketing on all direct and separate contracts, rejected 176–222, Aye; Amendment to prohibit an extension of product boycotts to an entire construction site, agreed to 204–188, Aye; Amendment to exempt residential structures less than three stories and without an elevator from the provisions of the bill, rejected 200–202, Aye.

Final passage, a bill to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers through the use of secondary boycotts, passed 230–178, Nay; 7–25–75.

Conference report, adopted 229–189, Nay; 12–11–75.

H.R. 5541 SMALL BUSINESS EMERGENCY RELIEF ACT

Final passage, a bill to provide emergency relief to small businessmen through renegotiation or cancellation of fixed-price government contracts in instances where unanticipated price increases had directly affected the cost of performing the contract, passed 402–0, Yea; 4–22–75.

H.R. 8598 SOCIAL SECURITY ACT

Motion to suspend the rules and pass the bill to modify programs for the collection of child support payments from parents who deserted their families, motion agreed to under suspension 357–37, Nay; 7–21–75.

H.R. 10727 SOCIAL SECURITY ACT (HEARINGS)

Motion to suspend the rules and pass the bill to amend the Social Security Act to provide uniform hearings procedures for claims under certain titles, agreed to 370–0, Yea; Motion to suspend the rules and adopt the resolution (H. Res. 944) providing that the House concur, with further amendments, to the Senate amendments to the bill to reduce the backlog of cases appealing the denial of Social Security and other benefits, agreed to 390–0, Yea; 12–19–75.

H.R. 11070 SPORTS BROADCASTING ACT

Motion to suspend the rules and pass the bill to extend permanently the 1973 ban on television blackouts of certain professional sports clubs' games in hometown areas, agreed to 363–40, Yea. 12–15–75.

H.R. 37 STANDARD REFERENCE DATA ACT

Final passage, a bill authorizing $3 million for fiscal year '76 for National Bureau of Standards to administer data system, passed 386–2, Yea; 4–9–75.

H.R. 8121 STATE, JUSTICE, COMMERCE APPROPRIATIONS

Amendment to prohibit the State Department from using funds in the bill for negotiations relinquishing any U.S. right in the Panama Canal Zone, adopted 246–164, Aye; amendment to increase appropriations for the Antitrust Division of the Justice Dept. to $20,661,000 from $18,680,000 for fiscal '76, adopted 230–182, Aye; Amendment to increase appropriations for the Immigration and Naturalization Service to $253 million from $208 million for fiscal '76, rejected 164–242, No.

Final passage, a bill to appropriate $5,987,605,000 for the State, Justice and Commerce Departments, the federal judicicary and related agencies for fiscal '76, passed 395–4, Yea; 6–26–75.

Conference report, a motion to recommit the conference report with instructions that the House conferees insist on House-passed language relating to negotiations on a Panama Canal Treaty, rejected 193–200, Nay; motion that the House recede from its disagreement to a Senate amendment to the bill and agree to a revised amendment recommended by the House-Senate conferees stating that any new Panama Canal Treaty or agreement protect the vital interests of the U.S., rejected 197–203, Yea; motion that the House recede from its disagreement to a Senate amendment, agreed to 212–201, Yea; 10–7–75.

H.R. 7500 STATE DEPARTMENT AUTHORIZATION

Final passage, a bill to authorize $853,415,000 for State Dept. operations and programs for fiscal '76, passed 336–46, Yea; 6–23–75.

Conference report, adopted 358–52, Yea; 11–18–75.

H.J. RES. 210 SUPPLEMENTAL APPROPRIATIONS (FURTHER URGENT)

Amendment to delete $16.9 million for renovating FBI building to be used by House of Representatives, rejected 170–236, Aye.

Final passage, a bill appropriating $125 million for financially ailing railroads and $17.2 million for converting FBI building to House use, passed 273–134, Yea; 2–20–75.

H.R. 5899 SUPPLEMENTAL APPROPRIATIONS

Final passage, Appropriations of $11,397,042,586 for several Federal Departments and agencies, passed 380–14, Yea; 4–15–75.

Conference report, on a bill to make fiscal '75 supplemental appropriations of $15,066,595,998 for several federal departments and agencies (not including $700 million for railroad track repair), adopted 117–34, Yea; 5–22–75.

Motion to accept a Senate amendment with a further amendment reaffirming the consent of Congress to construction of a locks and dam project on the Mississippi River at Alton, Ill., rejected 160–179, Yea; Motion to recede from disagreement and accept an amendment of the Senate to appropriate $700 million for railroad track repair and maintenance, rejected 136–215, Yea; Motion to recede from the House disagreement and accept a Senate amendment with a further amendment to appropriate $5 million for administrative planning of railroad assistance programs, agreed to 228–95, Yea; Motion that the House disagree with the Senate amendment (appropriate $175 million for a rail improvement program), and the House amendment ($5 million for administrative planning), agreed to 273–101, Nay; 6–9–75.

H.J. RES. 492 SUPPLEMENTAL APPROPRIATIONS (SUMMER YOUTHS)

Final passage, a bill to make urgent fiscal '75 supplemental appropriations of $473,350,000 to fund summer youths jobs and recreation programs, passed 408–8, Yea; 6–10–75.

H.R. 10647 SUPPLEMENTAL APPROPRIATIONS

Amendment to restrict eligibility for food stamp funds in the bill to those families whose aggregate household income was within the poverty level as set by OMB, rejected 159–230, Aye.

Final passage, a bill to make fiscal 1976 supplemental appropriations of $7,820,306,201 for several Federal departments and agencies, passed 334–47, Yea; 11–13–75.

Motion to recommit the bill to the conference committee with specific instructions to reduce appropriations for a revolving loan fund to aid New York City to $1.3 billion from $2.3 billion, rejected 187–219, Yea; Adoption of the conference report on the bill to make supplemental appropriations of $10,298,883,117 for fiscal '76, adopted 275–130, Yea; 12–15–75.

MULTINATIONALS AND THE LOSS OF AMERICAN JOBS TO OVERSEAS FIRMS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Ms. ABZUG. Mr. Speaker, I would like to bring to the attention of my colleagues an article that documents the loss of American jobs to the overseas divisions of American multinational corporations. This commentary on a serious problem facing our Nation was first published in the August 1976 edition of the Service Employee, a monthly newspaper of the Service Employees International Union, AFL–CIO.

The statistics cited below reveal the shocking magnitude of multinational flight and its damaging impact on the American worker. I would like to supplement this data with a few figures of my own: Approximately one-third of the American chemical industry's total assets are located abroad; the consumer goods industry has approximately 40 percent of its assets overseas; the electrical industry has sent 75 percent of its assets to foreign nations. By 1973, the seven largest banks in the United States were drawing 40 percent of their total profits from foreign sources. These figures represent a dramatic and steady trend toward expanded foreign investment at the expense of our domestic economy.

The result is that America clearly is losing capital investments totaling billions of dollars a year, which are critical to bolster our economy. Fewer jobs are available, and corporate profits are artificially high. The burden of these losses has fallen squarely on labor and the consumers.

I have consistently spoken out against the devastating results of American capital investments abroad. During my first term in Congress, I sponsored legislation that would have eliminated the tax advantages for multinationals fleeing abroad. I have continually supported measures that reduce the tax incentives for operating or investing overseas. This session I cosponsored H.R. 10245, the Tax Justice Act, a bill that contains provisions which would eliminate many of the special tax privileges now accorded to American corporations with overseas divisions. Correcting our anomalous tax system is a major step toward a full recovery from our still continuing, overdrawn recession.

The article follows:

MULTINATIONALS: A WORLDWIDE BLIGHT

WASHINGTON, D.C.—General Instruments recently cut its New England labor force by 3,000—and increased its force in Taiwan by 5,000.

Kodak's biggest seller, the Instamatic, is built in Germany.

Motorola has moved most of its production to Hong Kong, where a worker earns only $1 a day—and works seven days a week.

Multinationals have tried to combat the charge that they export jobs. A report published by Business International Corporation asserts that the major corporations have increased their American employment for 1969–1973 at a greater rate than the "average U.S. company." However, a closer reading indicates that, in fact, while the 111 multinationals studied increased their American employment by 3.3 percent, they increased their overseas employment by 31.5 percent, creating foreign jobs almost 10 times faster than U.S. jobs.

The AFL–CIO claims a loss of 900,000 jobs between 1966 and 1971, due to the shift of multinationals from domestic to foreign production.

As Henry Ford II has said, "In South Korea, Taiwan and Indonesia, we see promising markets and we see an attractive supply of cheap labor."

Or, as Bulova president Harry B. Henshel says, "We are able to beat the foreign competition because we are the foreign competition."

Being both the domestic and foreign competition pays off, at least for the multinationals. While the working person's wages shrink, the latest reports show whopping profit increases of more than 39 percent for General Electric, 32 percent for Pepsico and 25 percent for IBM.

However, for labor unions, the problem presented by multinationals is one of runaway power as well as the runaway shop. Comparing the annual sales of corporations with the Gross National Products of countries in 1973, General Motors was bigger than Switzerland, Pakistan and South Africa and Goodyear was bigger than Saudi Arabia. With the power inherent in such wealth and size, multinationals are able to manipulate currency flows, mold public preferences, dominate government policies and even overthrow administrations they dislike, as ITT attempted with the Allende government in Chile.

The danger of multinationals extends even beyond wealth and size, to the view that they owe allegiance to no country. As the president of the IBM World Trade Corporation says, "For business purposes, the boundaries that separate one nation from another are no more real than the equator . . . They do not define business requirements or consumer trends.

"Once management understands and accepts this world economy, its view of the marketplace—and its planning—necessarily expand. The world outside the home country is no longer viewed as a series of disconnected customers and prospects for its products, but as an extension of a single market."

The multinationals are using this view to undercut the traditional bargaining power of labor. Their tactic is to neutralize labor's major weapon—the strike—by threatening plant closings. And they have the power to do so, due to the increasing practice of 'multiple sourcing.' By producing the same component at several plants in several countries, the multinationals achieve independence from any one labor source. In addition, the corporations benefit from a sophisticated, computerized system of pooling information.

Corporations can play with the company books to juggle profit-loss statements on an international basis. Hence, while GM may be able to show a loss in a U.S. plant, that plant's books do not show the whole picture of substantial profit on an international scale—and many unions lack the technical and financial resources to combat the incomplete information picture. As a last resort, the corporations can always use international "buck-passing" and shift major responsibility for negotiations to an inaccessible corporate power located elsewhere.

According to Professor Ronald E. Müller, who recently addressed a conference of labor leaders at the AFL–CIO Labor Studies Center, organized labor must struggle harder not to become obsolete.

The idea of international worker solidarity has not been a popular bread and butter issue for many years, yet Müller suggests that it may be a critical one for the years ahead.

All too often, Müller notes, labor is bargaining away its right to strike to prevent companies from moving elsewhere. To save jobs and still maintain strike leverage, unions must work for uniform industrywide contract expiration dates. This requires unions to put increased energy into developing their own global information systems.

Unions have also been trying to combat multinationals through legislation. Recent provisions which would require licenses for the export of technology and capital to insure that such a move was in the interest of the U.S., have been defeated in Congress. Other labor efforts call for ethical treatment of foreign workers, as well as displaced American workers.

PERSONAL EXPLANATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. FORSYTHE. Mr. Speaker, due to personal business, I was not in Washington during the week immediately preceding the Labor Day recess. Since I unfortunately missed legislative votes during that week, I would like to indicate for the benefit of my constituents how I would have voted if I had been present.

H.R. 8911: Supplemental Security Income Amendments. Fraser amendment, rollcall No. 671, yeas, 317; nays, 52. If I had been present I would have voted yea.

H.R. 8911: Supplemental Security Income Amendments. Passage of the bill to revise the Federal Supplemental Security Income welfare program for the aged, etc. Rollcall No. 672, yeas, 374; nays, 3. If I had been present, I would have voted yea.

H.R. 9398: Economic Development Act Authorization. To extend through fiscal year 1979 the Economic Development Act. Rollcall No. 673, yeas, 372; nays, 5. If I had been present, I would have voted yea.

H.R. 14844: Estate and Gift Tax Revision. Pepper motion. Rollcall No. 674, yeas, 162; nays, 212. If I had been present, I would have voted nay.

H.R. 14844: Estate and Gift Tax Revision. Anderson amendment to the rule (H. Res. 1496) to permit floor consideration of any amendments to H.R. 14844. Rollcall No. 675, yeas, 218; nays, 157. If I had been present, I would have voted yea.

H.R. 8410: Packers and Stockyards Act Amendments. Adoption of the conference report on the bill to protect the investment of livestock producers through bonding requirements for meat packers. Rollcall No. 676, yeas, 352; nays, 3. If I had been present, I would have voted yea.

S. 5: Government in the Sunshine. Adoption of the conference report. Rollcall No. 677, nays, 0; yeas, 384. If I had been present, I would have voted yea.

H.R. 13655: Automotive Research and Development. Adoption of the conference report to promote development of cars that use nonpetroleum-based fuels.

H.R. 13655: Automotive Research and Development. Adoption of the conference report to promote development of cars that use nonpetroleum-based fuels. Rollcall No. 678, yeas—344, nays—39. If I had been present, I would have voted yea.

S. 217: Pueblo Indians. Adoption of the conference report on the bill to revise the procedures for the condemnation of certain lands of the Pueblo Indians in New Mexico. Rollcall No. 679, yeas—387, nays—0. If I had been present, I would have voted yea.

H.R. 13636: Law Enforcement Assistance Administration—LEAA—Authorization. Adoption of the rule (H. Res. 1246) providing for House floor consideration of the bill to extend LEAA for 1 year, through fiscal 1977, with an authorization of $895 million. Rollcall No. 680, yeas—388, nays—0. If I had been present, I would have voted yea.

H.R. 13636: Law Enforcement Assistance Administration—LEAA—Authorization. House Judiciary Committee amendment—Rollcall No. 682, yeas—173, nays—214. If I had been present, I would have voted nay.

H.R. 13636: Law Enforcement Assistance Administration Authorization. McClory amendment to extend LEAA for 3 years—Rollcall No. 683, yeas—119, nays—268. If I had been present, I would have voted yea.

H.R. 13636: Law Enforcement Assistance Administration. Hyde amendment—Rollcall No. 684, yeas—253, nays—133. If I had been present, I would have voted yea.

H.R. 14238: Legislative Appropriations, fiscal 1977. Adoption of the rule (H. Res. 1507)—Rollcall No. 686, yeas—208, nays—193. If I had been present, I would have voted nay.

H.R. 14238: Legislative Appropriations, fiscal 1977. Shipley amendment, as modified by the Udall amendment—Rollcall No. 687, yeas—325, nays—75. If I had been present, I would have voted yea.

H.R. 14238: Legislative Appropriations, fiscal 1977. Coughlin motion to recommit the bill to the House Appropriations Committee—Rollcall No. 688, yeas—195, nays—199. If I had been present, I would have voted yea.

H.R. 14886: Presidential Transition Act Amendments. Passage of the bill to increase funds for transition expenses resulting from a change in Presidential administrations. Rollcall No. 689, yeas—325, nays—58. If I had been present, I would have voted yea.

H.R. 13636: Law Enforcement Assistance Administration Authorization. Wiggins amendment—Rollcall No. 691, yeas—211, nays—159. If I had been present, I would have voted yea.

H.R. 13636: Law Enforcement Assistance Administration. Biaggi amendment—Rollcall No. 692, yeas—148, nays—213. If I had been present, I would have voted yea.

H.R. 13636: Law Enforcement Assistance Administration. Passage of the bill to extend LEAA for 1 year through fiscal year 1977, with an authorization level of $895 million. Rollcall No. 693, yeas—324, nays—8. If I had been present, I would have voted yea.

A GREAT TECHNOLOGICAL DEBATE—THE WORLDWIDE INDUSTRIALIZATION OF AGRICULTURE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. BROWN of California. Mr. Speaker, many of us are well aware that one of the great debates in the application of technology is developing in the field of agriculture. The outcome will probably not be as dramatic in the short term as was the post-World War II debate on the application of nuclear technology, but the long-term effects may be comparable. As I see the debate, it is focusing on whether or not worldwide agriculture is to follow a pathway of industrialization of the kind we have seen in this country, a pathway characterized by high capital requirements, and dependence on complex mechanization and chemical technology. It appears that once the agricultural economics of most countries diverge from historical patterns of labor intensive small farms, and begin on the pathway of industrialized agriculture, there is little prospect of turning back.

A recent book which poses some of the questions in this debate in a challenging and provocative form is "Fear in the Countryside: The Control of Agricultural Resources in the Poor Countries by Non-Peasant Elites," written by Dr. Evan Vallianatos, a staff member of the Office of Technology Assessment. I want to commend Dr. Vallianatos for his contribution to thinking in this area, and quote from his concluding chapter which points toward the need for a continuing role for the small farmer of the world, and the very high productivity he can achieve:

> A labor-intensive agricultural economy based on an institutional, technological, and social arrangement favoring the peasant farmer is almost certain to end hunger and famine in many of the poor countries. These impoverished countries consume 181 kilograms per capita per year of all grains. Cereals supply about 52 percent of the calories and nearly half of the total protein of the nutritional needs of the poor. Food legumes add the much-needed amino acids that their cereals diet fails to supply. Starchy foods and ruminants are also of great dietary value to millions of people in low-income lands. To sharply focus on an individual crop in the context of the green revolution development strategy is not necessarily adequate to the needs of this complex food system. In resource-scarcity agriculture it is sound to relate water use and management to the crop mix rather than to the individual crop. Intensifying agriculture and increasing productivity demands better resource utilization. Technologies have to be developed to integrate crops and livestock, to accommodate changes in cropping patterns in irrigated and rainfed land in order to optimize income and employment and to benefit productive systems of individual foodcrops, livestock, and nonfood storage crops. Multiple cropping dominates the agriculture of the tropics where most of the world's poor live. It offers diversity. Both farmers and scientists know that diversity is security against total crop failure.
>
> The green revolution will remain unfinished as long it bypasses the small peasant farmer. The poor peasant of the underdeveloped countries is master of local agricultural technologies that have the wisdom of centuries of evolution and development. The green revolution can once more become green by using the best of Western technology to better and not to replace existing food and agricultural practices and technologies. The earth can feed all of its inhabitants. The fact that there are malnourished or starving people mirrors bad economics, bad distribution of resources, and social injustice. The small farmer produces most of the food in the underdeveloped regions of the world. This is not because he has enough land but because he makes his tiny plot productive. In Colombia, with only one-fourth of the cropland under his plow, the small farmer generates two-thirds of all output in the agricultural sector. And in the northeast region of Brazil the small farmer produces 14 times as much per hectare than the large farmer. Yet the small farmer is outside of the political economies of the underdeveloped countries. He is also beyond the reach of technology transfer and development, with the result that new technologies fail to be tailored to local conditions. Only by redressing this imbalance will the poor countries succeed to feed their rapidly increasing populations.

MEASURES OF LAND AND CAPITAL PRODUCTIVITY BY FARM SIZE IN THE NORTHEAST REGION OF BRAZIL, 1972 (HIGH PRODUCTIVITY OF THE SMALL FARMER)

Property size (hectares)	Properties (number)	Total value of production		Value of production sold	
		Cr$/ha	Percent of property value [a]	Cr$/ha	Percent of property value [a]
Less than 1	12, 228	700	42. 6	325	19. 8
1 to 2	41, 201	465	44. 7	224	21. 5
2 to 5	112, 148	326	44. 8	168	23. 1
5 to 10	108, 456	226	(b)	122	(b)
10 to 25	165, 899	158	41. 0	93	24. 2
25 to 50	113, 541	112	37. 3	69	23. 0
50 to 100	89, 770	92	37. 4	61	24. 8
100 to 200	59, 329	72	32. 6	51	23. 1
200 to 500	39, 356	64	33. 0	46	23. 7
500 to 1,000	12, 187	59	30. 9	45	23. 6
1,000 to 2,000	5, 168	50	27. 7	39	21. 4
2,000 and above	2, 815	48	31. 8	36	23. 8
Total	762, 188	75	34. 9	51	23. 7

Footnotes [a] and [b] omitted.

It is a paradox that hunger is not more widespread than it is. Food production reflects neither food scarcity nor changing needs. Food as a commodity overshadows the importance of food as nutrition. And land is considered more valuable as an investment rather than as productive soil. It is hardly surprising then that science is used to solve problems of political economy and not those of the world food predicament. In the tropics agriculture by necessity still feeds people. It is also in the tropics that a new agricultural science needs to be developed. But unlike the development of the green revolution, the genesis and development of a tropical agricultural scientific revolution must not divorce biology from its social and political context. Only then we can be sure to understand agriculture and transform it in a way that can serve the interest of the small peasant farmer. To maintain agricultural research within the existing social and land tenure structures of the poor countries is to reinforce those prevailing arrangements and limit the imagination and scope of agricultural science and technology to the narrowly practical. It is in this sense that the international agricultural research centers have done a disservice to science and world agriculture. Eager to meet the needs of the underdeveloped countries' elites, they failed to learn more about the complex system of economic reality and ecological necessity. With the rejection of this challenging social and scientific strategy, the agricultural institutes are full of contradictions. They are a community of pragmatism at the expense of theory. Their high-yielding food-crop varieties are a result of a little genetics and much testing and crossing. The very affluence of the centers' technology arsenal makes it hard for the underdeveloped country scientific community to transcend the paradigm of agricultural research once transplanted into the national research system.

The urgency of the world food problem conveniently hides the fact that basic research on tropical agriculture has yet to be done. It did not drain the scientific imagination of the green revolution establishment to develop technologies based on high energy inputs, chemicals, controlled water supplies, and machinery. That, after all, was the course of development of the technologies for commercial farming throughout the Western, temperate world. But such knowledge is expensive to generate. And in the tropics it guarantees the perpetual growth of import dependence on the rich markets for scientific talent and for other less expensive inputs. But, above all, the transfer of commercial farming technologies to the underdeveloped world perpetuates an intellectual colonialism that in the long run is undermining the genesis of new centers of scientific creativity in both the poor and the rich countries. Since the purpose of agriculture must be that of feeding and providing a way of life for the majority of mankind, then its research strategy must stress whole system analysis that crosses disciplines and rejects the dichotomy of fundamental versus applied research. That this is crucial for the poor countries needs no evidence. They have few, badly trained agricultural scientists. No crash program could possibly change the poverty of their agriculture. Instead, what these countries must do is to restructure their research so that they can effectively mobilize their total intellectual resources. They must also end the precarious imbalance between their tiny elites of wealth, income, and power and the great majorities of poverty, impoverishment, and impotence.

OPPOSITION TO CAPITAL PUNISHMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. DRINAN. Mr. Speaker, the Supreme Court recently sustained the constitutionality of the death penalty in Gregg against Georgia. That decision, once again, raises the specter that hundreds of persons now under sentence will in fact be executed. It also raises the fearful prospect of increased use of capital punishment in the future.

Although the Court ruled against the constitutional claims, it left the door open for action by the legislatures of the Nation to abolish the death penalty. As a sponsor of a bill to do that under Federal law, I would hope that the Congress would act to eliminate capital punishment at the earliest possible time.

Rabbi Roland B. Gittelsohn of the Temple Israel in Boston has argued forcefully against the use of the death penalty. Rabbi Gittelsohn, a distinguished public servant and the author of several books, has served—in 1969—as the national president of the Central Conference of American Rabbis. His article on capital punishment, published recently in the Boston Herald American, is reprinted here so that each Member may study Rabbi Gittelsohn's cogent statement:

OPPOSITION TO CAPITAL PUNISHMENT

(By Rabbi Roland B. Gittelsohn)

Nothing more luridly demonstrates the almost psychotic irrationality of collective human behavior than the current rush of our state legislators to reinstate the death penalty. The only possible justification for restoring the practice of capital punishment would be its demonstrated effectiveness in curtailing crime. But the record shows exactly the opposite. Every reliable study—without exception—shows that the death penalty fails to diminish the rate of criminal homicide, the paramount crime it allegedly deters.

A British Royal Commission studied this question exhaustively from 1949 to 1953. After examining all available evidence both in that country and in the United States, the commission concluded, ". . . There is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase of the homicide rate or that its re-introduction has led to a fall."

In 1958 I served on the Massachusetts' Governor's Commission to Study Abolition of the Death Penalty. Our majority report tersely concurred with the British verdict. We said, "Capital punishment is not a better protection against murder than a sentence of life imprisonment." These conclusions are based on mountainous statistical evidence, only the smallest sampling of which can be given in so brief a statement as this.

For example: during 1949 in this country the homicide rate per 100,000 of population in states using capital punishment was 6. In states which had abolished the death penalty the comparable rate was 2.2! Far from decreasing the incidence of murder, for reasons which will be educed shortly, capital punishment seems to increase it.

The most extensive and reliable scientific studies of this relationship were done by Dr. Thorsten Sellin, professor emeritus of sociology at the University of Pennsylvania. In order to eliminate as many extraneous factors as possible, he investigated the problem on four different levels. When he compared adjacent states, their homicide rates were the same and apparently changed under similar circumstances, regardless of whether a given state did or did not impose the death penalty.

When he compared before and after rates of homicide within a single state which had either abolished or restored capital punishment, again, no significant differences were disclosed.

Homicide rates were then studied in cities where executions had occurred and were presumably publicized. If such executions were to have any deterrent effect, surely these would be the locations where it would be most evident. No such effects were noted.

Finally, Dr. Sellin inquired into an issue which is raised frequently by those who support capital punishment. Are law enforcement officers safer in states which have retained the death penalty? Answer,: no. There is no significant difference here either. The impressiveness of Sellin's studies is enhanced by the fact that every other scientific investigation made anywhere in the civilized world arrives at identical conclusions. The burden of proof must rest on those who claim, on the basis of "intuition" or "common sense," that capital punishment has a deterrent effect on crime. Every iota of evidence testifies quote to the contrary.

It would be bad enough if the death penalty simply failed to accomplish its ostensible aim, without doing additional harm. The fact is, however, that in two significant ways it contaminates and corrupts the processes of justice. First, by brutalizing our entire society it may actually increase the incidence of murder. Far from strengthening the sanctity of human life, it has the very opposite effect of cheapening and debasing life. The state and its leaders are supposed to serve as models for the average citizen. When a government proclaims life to be holy while at the same time deliberately destroying life, its deeds speak far louder and more eloquently than its words.

This is more than just speculation or theory. A study Dr. William Graves, formerly physician at San Quentin Prison, shows that the rate of murder escalates during the week of an execution, peaking on the very day a criminal is killed. George Bernard Shaw wrote with rare psychological insight: "It is the deed that preaches, not the name we give it. Murder and capital punishment are not opposites that cancel one another, but similars that breed their kind."

At least this much may be said for the individual murderer: in most instances he kills not out of premeditation but in uncontrollable passion or panic. A government which kills in calm, rational reflection, in defiance of all the evidence showing how ineffective such action really is, such a government is morally even more culpable than its citizens who kill.

The second kind of damage done by capital punishment, over and above its failure to deter crime, is that it fatally reinforces our society's patterns of racial and economic discrimination. It is mostly the poor, the uneducated, the disadvantaged, the black who pay the ultimate penalty. During the years 1930 to 1966, for example, when blacks were 10 percent of our national population, they were 53.5 percent of the prisoners executed in the United States. Only the most irredeemably prejudiced mind could suppose that blacks were in fact this proportion of the nation's murderers. In at least two respects, then, far from helping, the death penalty does irreparable damage to the whole fabric of our society.

If all this is so incontrovertible, why the haste with which not only Massachusetts but so many other states as well are rushing to reimpose the death penalty? The easy answer is that we have been brainwashed by the brute reality of war and the fantasies which flood our television and movie screens into "solving" our problems by violence. More complicated and penetrating, however, is the social setting in which these efforts are being made.

We live in a time of escalating fear mounting at times to panic. Most of us are legitimately afraid of many things—of rapid change, of rising crime rates, of insecurity in our city streets, even our homes, of economic disaster, of corruption in business and government, of nuclear catastrophe. These fears are real. The personal and social ills which cause them are difficult to diagnose, the cures even more complicated to prescribe. It is always tempting, under such circumstances of panic, to scapegoat rather than to analyze, to act on the basis of quick impulse rather than of calm reason. We delude and cheapen ourselves, however, if we think that by doing away with criminals we effectively conquer crime.

Restoring the death penalty may give us the illusion that we are protecting ourselves. In fact, it will do no such thing. It may satisfy our need for apparent action, for vengeful punishment, but it will complicate old problems while creating new ones. What we need is the insight of the ancient rabbis who said: "He who saves a single human life is credited as if he had saved all humanity."

SALUTE TO BETHPAGE MIDGET FOOTBALL

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. AMBRO. Mr. Speaker, on Sunday, September 12, the Bethpage Association of Midget Football will hold its fourth annual "kick off" day parade marking the beginning of another midget football season for the Bethpage Panthers. Midget football, for those of my colleagues who are not familiar with it, is organized along lines similar to little league baseball, in that formal teams of youngsters age 7 to 14 play football against one another in "league competition."

This will be the 11th season of midget football in the community of Bethpage. There will be 125–130 young boys making up a total of 7 teams participating in this activity. Four of these teams—the Cub Squad—will play among themselves and three teams will compete with other teams in Nassau, Suffolk and Queens, Counties under a schedule of 8 to 10 games during the season, which runs from the middle of September until Thanksgiving weekend. In addition, 75 girls participate in the cheerleading activities. While the uniforms for those taking part are paid for by their parents, midget football also depends for its support upon the active ladies auxiliary which takes it upon itself to support a number of fundraising events, and a generous business community whose financial help is invaluable to the continuation of this activity.

Mr. Speaker, every year hundreds of youngsters and their families participate in midget football, not only learning the rudiments of one of the most popular sports in America, but also learning to work and play together in a sportsmanlike fashion. This kind of a program can help shape the values of a youngster through his entire life.

All of those involved in the organization and financial support of the Bethpage Midget Football program are to be highly commended for the fine community service that they are performing and I am honored to have been invited to participate in their fourth annual parade at the start of what I hope will be another successful season of the Bethpage Panthers.

DEATH OF MAO TSE-TUNG

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. LOTT. Mr. Speaker, the death of Mao Tse-tung may provide the answer to many of the questions that have plagued recent U.S. policy toward the People's Republic of China. Most importantly, the debate over who will take command and whether the cult of personality on which the government is based can be transferred to a new leader will now be answered.

The turmoil of the last few months has shown the intensive competition for Mao's favor and the instability of the different political cliques. But this is all we know of the battle for leadership at this stage.

The reason for this eastern inscrutability, at least in this case, is easy to see. Mao and his lieutenants have made a concerted effort to shut off Communist China from the outside world. They have produced the most thoroughly controlled nation that modern history has ever known.

People leave mainland China only by escaping; all news is censored; travel is regulated; jobs are chosen for the people not by them; the raising and schooling of children is fully controlled by the state; these and other measures were implemented by the oppressive leadership in Peking.

For the people this regimentation produced poverty and ended the freedom even to speak. Furthermore, the regime suppressed individuality, and destroyed the family structure and the Confucian values upon which Chinese society has been based.

It was the goal of Mao not to liberate but to rule. His disregard for human life and the totalitarian system he formed clearly shows this.

Chairman Mao must be judged on his performance and there is little in that record to honor. The public purges, assassinations, slave labor, total government control of the people, and arbitrary incarceration are the rule not the exception.

Mao should not be honored but reviled for the human cost of his years of rule.

It is important now for the United States to realize that the turmoil of the last few months is only a prelude to the whirlpool sure to develop among the groups jockeying for position in China.

Our response should be to firmly support our legal commitments to our loyal ally the Republic of China and await the final outcome of events in mainland China.

PITTSBURGH MAYOR TESTIFIES BEFORE JEC ON YOUTH UNEMPLOYMENT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the Joint Economic Committee, of which I am a member, today received excellent testimony on the problems of youth unemployment from the mayor of the great city of Pittsburgh, Pete Flaherty.

The hearing was called to examine causes and effects of high youth unemployment and to consider programs and policies which could be undertaken—in both the public and private sectors—to alleviate the problems.

Mayor Flaherty noted that in the past 40 years the populations of our cities and their values, expectations, and needs have changed.

He then asked the crucial question, "Have our educational institutions, employers, and labor organizations adequately recognized and adjusted to these changes?"

Mayor Flaherty called on the committee to look at how "work can be adapted to the values and aspirations of young people so that we not only educate people for jobs, but restructure jobs to fit people."

I would like to include in the RECORD at this time the mayor's complete testimony and commend him for his very worthy contribution:

STATEMENT OF MAYOR PETE FLAHERTY OF PITTSBURGH, BEFORE THE JOINT ECONOMIC COMMITTEE, SEPTEMBER 9, 1976

Thank you for the opportunity to discuss the youth unemployment situation.

I feel that forums like this are extremely important if we are to gain an appreciation for the complexity of this problem.

Certainly, everyone in this room is well aware of the alarming rates of unemployment for workers under 25 years of age, particularly among those in this age group who are black and living in urban areas.

The magnitude of these figures alone suggests to me that their causes run far deeper than just a shortage of job opportunities for young people.

As Mayor of one of America's greatest cities, I have seen the human dislocation and suffering that a 40% unemployment rate connotes. Because of these experiences, I am concerned that for too long we have only dwelled upon the surface effects of youth unemployment and prescribed costly patent medicines for its cure. I am concerned that for too long we have failed to take a hard look at the facts.

I do not think that we can continue to make the assumption that our basic educational and employment institutions are sound and all that we need are a few extra programs to supplement them. We have pursued this course in the past and have watched supplemental programs become institutionalized into a patchwork of government activities.

I think that times have changed but our institutions have only become bigger. Specialization rather than relevance has unfortunately been their emphasis.

Thirty or forty years ago graduating from school and being able to get a job that would last until retirement was thought to be very desirable—it represented job security. Today, taking a young person out of school and standing them before that same lathe with the realization that this is what their work life will be like for the next twenty-five years is a shattering experience.

Similarly, when I reflect on my experiences in school and then observe those of my children and their friends, I can see enormous shifts in attitudes and aspirations.

The populations of our cities and their values, their expectations and their needs have changed dramatically over the years in both school and the workplace. Have our educational institutions, employers, and labor organizations adeqautely recognized and adjusted to these changes?

I feel we are spending too much time talking about how to better relate schooling to employment without talking enough about relating both school and work to people—young and old.

Certainly, this economy still has far too much slack and the recovery has yet to produce an acceptable reduction in unemployment. But if we are ever to have full employment without inflation, the focus of that search must be in developing higher levels of productivity for people who are unemployed or unemployable today.

Given the nature of their schooling and the traditional types of jobs currently being offered, it is unlikely that many of our unemployed young people can be put to work productively. We then face the prospect of government potentially subsidizing the employment of young people poorly equipped for work, in jobs unsuited to their expectations.

This is why our assumptions of sound education and employment institutions must be re-examined.

We must put our existing resources to better use before creating new programs. We must improve what exists before expanding it. We must be careful that in advocating new programs we don't provide the excuse for allowing poorly functioning structures to escape change.

Public resources are too scarce for such extravagance. At the municipal level we have already witnessed the limits of government. In Pittsburgh, however, you will find evidence of how we dramatically raised the level of municipal services with improvements in productivity. At the same time, a lower level of taxation exists today than when I took office 6½ years ago.

I am convinced that much of the funds needed to get our institutions revitalized are already being poured into redundant and obsolete programs. I am also convinced that the costs of hiring younger workers—in terms of turnover, absenteeism, low productivity, etc.—have already become so great that private employers can easily afford to fund their own efforts to restructure work patterns so that young people can be profitably employed.

I am also convinced that parents can no longer view schools as custodial institutions and leave the education of their children to the "experts". We desperately need to restore the participation and involvement of parents in education. Schools cannot be held responsible for children—strong families and a sense of community must be rediscovered and reintroduced to the educational system.

In formulating recommendations for the Committee, I recognize that it is a great deal harder to talk about how to change institutions than it is to propose bright new programs. In many cases the problems young people face in finding and holding jobs are not far removed from those faced by other workers whose dissatisfaction with work in general is manifested by alcoholism, absenteeism, grievances, and other white and blue collar "blues" syndromes.

I would like to see more discussion of the nature of work and the nature of education—where does one begin and the other end, if at all?

How can work itself be viewed as a long-term educational process, involving both classroom and on-the-job aspects, which will ultimately lead to the attainment of goals jointly established by the employer and the employee?

How can work be adapted to the values and aspirations of young people so that we not only educate people for jobs, but restructure jobs to fit people? How can this be accomplished by private employers so that younger workers can achieve higher productivity levels and be profitably employed without government subsidies?

How can our school systems be better integrated into the fabric of our communities and brought into more direct contact with parents, employers, and labor organizations?

How can the educational process be made more democratic for our young people without completely abandoning control of our schools at the same time? How can we help students develop meaningful goals and give them the tools to design their own long-range programs to meet them?

How can we reintroduce education to the workplace and vice versa so that workers do not feel trapped in their jobs or fail to understand their need for knowledge?

How can our strong labor unions participate in improving both the quality of work and education?

How can we translate the insights we have gained from innovative Job Corps Programs into institutional changes? What have we learned from our experiences under CETA that would be applicable?

I think these are very difficult questions, but in searching for ways to make things better rather than new, we can strike a chord in our society that could inspire people to respond. I feel that students, taxpayers, workers, consumers, and employers—we are all of them and they are all of us—are discouraged with our institutions. Things just don't seem to work and yet they are bigger, more complex, and more costly than ever. Young people have always been the vanguard for change. High youth unemployment rates are a symptom of a larger problem.

We must change and make our systems work. We must not allow young people to opt out of the community and leave the mainstream. We must begin to shift the mainstream itself to encompass them. We can no longer be satisfied to buy peace and more time. We cannot live in two worlds—the old, tired world of platitudes and interest group trade-offs; and the young, dissatisfied, disillusioned world of idleness and destructiveness.

I would suggest the Committee consider:

1) Requirements be built into federal education programs to mandate greater opportunity for parents, employers and labor unions to have a role in the planning and implementation of education programs.

2) Expand efforts to combine work and education through cooperative educational and vocational programs.

3) Develop greater opportunities and incentives for employers to hire and train young workers through on-the-job training, job restructuring, job sharing, and continuing education programs for young workers.

4) Explore the possibility of offering incentives to youth to continue their education. (e.g., G.I. bill).

5) Offer employers and unions the opportunity to develop career planning and development programs for their younger workers and members.

These are but a few suggestions that the Committee may wish to explore in formulating its recommendations.

Action is needed quickly to meet the growing dissatisfaction being caused by high youth unemployment and I look forward to working with you in meeting this important problem.

SALUTE TO FARMINGDALE HAWKS FOOTBALL

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. AMBRO. Mr. Speaker, on Sunday, September 12, the Farmingdale Hawks Midget Football Association will hold its annual opening day ceremonies marking the beginning of another football season for the various Hawks teams. Midget football, for those of my colleagues who are not familiar with it, is organized along lines similar to little league baseball in that formal teams of youngsters ages 7 to 14 play football against one another in "league competition."

This will be the 15th season of midget football in the Farmingdale community. This year there will be about 500 boys and girls organized into five traveling and six home teams and cheerleading squads participating in this program. The teams are grouped by age and ability and the youngsters play an eight-game season beginning in mid-September and ending in early November. The program also features a league competition for cheerleaders and I am proud to say that the Farmingdale Hawks cheerleading squad has been awarded first place several times.

Mr. Speaker, midget football in Farmingdale is truly a family and a community activity. When a youngster joins the Hawks his family generally participates with him. All of the coaches are volunteers who spend three evenings a week plus each weekend working with the teams. Mothers and sisters, who are not cheerleaders, are members of the ladies auxiliary which is one of the main fundraising arms of the program. All of the uniforms and equipment used by the football players and cheerleaders are paid for by their own parents and by the proceeds of community fundraising activities. The Farmingdale business community has always generously supported the Hawks during their season competition. In addition, each game usually attracts in the neighborhood of a thousand community members who come to watch their friends, their relatives, and their neighbors engaged in this football program.

Midget football is an activity which not only teaches its participants the rudiments of one of America's favorite sports, but also inculcates in them a sense of fair play and sportsmanship which has a lasting impact on the values of a youngster throughout his lifetime. At a time when many social forces are attacking the stability of the family institution, midget football serves to strengthen that all important family structure while affording our youngsters a good time at healthy play activity. I have nothing but high praise for the youngsters, the parents, and the community sponsors who have made the Hawks midget football program possible, and I am honored to have been invited to participate in their opening day ceremonies.

PROTECTING THE CONSUMER AGAINST FALSE MAIL-ORDER REPRESENTATIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing legislation imposing civil penalties upon persons who fail to comply with orders of the U.S. Postal Service prohibiting the use of the mails to conduct lotteries or to obtain money or property through false representations.

It is no secret that con artists, chiselers, and unscrupulous promoters are misrepresenting and fraudulently using the mails to rip off millions of dollars from unsuspecting, unknowing consumers.

Under the false representation section of Public Law 91–375 (39 U.S.C. 3005, the Postal Service, upon satisfactory evidence that an individual is engaged in a scheme to obtain money or property through the mail by means of false representations, may issue a mail-stop order directing the postmaster of the promoter's post office to return the mail, appropriately marked as a violation of the statute, to the unsuspecting sender. The returned mail usually contains the sender's remittance. Before a mail-stop order is issued, the promoter is afforded an opportunity to discontinue the advertisements containing the alleged misrepresentations, and if a complaint is issued against the promoter, to appear with an attorney in accordance with the Administrative Procedure Act (5 U.S.C. 551) and the rules governing false representation (39 CFR 952) before an administrative law judge to challenge the complaint. If the mail-stop order is issued, the promoter may seek relief in an appropriate Federal district court.

In an effort to protect the consumer from misrepresentational practices by unscrupulous promoters, my proposal extends section 3005 by providing that if the promoter fails to comply with a Postal Service order and continues to engage in proscribed conduct or fails to maintain certain records, then the violator would be subject to a civil penalty of not more than $10,000 for each violation. In the event the Postal Service determines that its orders are subject to a civil penalty, the Service would be authorized to notify the Attorney General of the United States who would be authorized to bring an action in an appropriate Federal district court for the imposition of a civil penalty. The Service could also order the unscrupulous promoter to: First, provide the victimized consumer with a statement summarizing the findings of fact contained in the postal order and second, offer to return the money or property to the consumer upon written request within 30 days after receipt of the statement.

The promoter could also be ordered to return the money or property to the consumer within 21 days after receipt of a timely request. The violator of this proposal could be directed by the Postal Service to provide the Service with a list of names and addresses of victimized consumers, including those who have requested the return of their money or property and for whom the money or property has been returned.

Mr. Speaker, this measure is not a mail fraud statute with criminal sanctions; that would require proof beyond a reasonable doubt, that the promoter intended to defraud the consumer. Rather, this proposal is a civil statute directed against those who use the mails to obtain money or property through false representations of their goods or services. Proof of scienter or intent to defraud is not a prerequisite to the issuance of a mail-stop order. *Lynch* v. *Blout*, 330 F. Supp. 689 (D.C.N.Y., 1970), affirmed, 404 U.S. 1007 (1972). In order to obtain an administrative determination that false representations in the advertisement exist, the Postal Service must, however, obtain satisfactory evidence to warrant the issuance of the mail-stop order, and that order is subject to a review by the courts. Speaking for a three-judge court in Lynch, Judge Medina stated that the courts will not uphold mail-stop orders "whenever a person has resorted to a little exaggeration or mere puffing. The false statement must be material and it must be substantial to warrant the imposition of this drastic remedy." (330 F. Supp. at 693)

Mr. Speaker, in recent testimony before the Subcommittee on Consumer Protection and Finance on my bill, H.R. 10463, the Consumer Fraud Act, I pointed out that "economic crimes require stiff economic penalties." Similarly, if the consumer is to be protected from unscrupulous con-artists who use the mails to misrepresent their goods and services, then we should provide the Postal Service with the tools to insure that their administrative orders will not be disregarded, and that those who continue to violate the false representations section should be subject to civil penalties.

This measure is intended to arrest the deceptive work-at-home-in-your-spare-time and other get-rich-quick schemes, the false health claims and the weight reduction schemes, the phoney invention evaluators and the chain letter writers. This proposal sharpens the tools for the Postal Service in their war against the unscrupulous promoters who prey on the miseries and fantasies of unsuspecting consumers for whom the doctrine of caveat emptor—let the buyer beware—is an insufficient shield against those who use the mails to misrepresent their advertised goods or services.

Mr. Speaker, in the interest of protecting consumers against false mail order representations, I urge my colleagues to support this legislation.

CHAIRMAN MAO TSE-TUNG

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. MATHIS. Mr. Speaker, the announcement of the death of Chairman Mao Tse-tung will have a profound effect not only on the future course of China but also on world developments.

Mao was one of the earliest founders of the Communist Party in China in the 1920's and, through a series of strategic decisions and ruthless actions, Mao finally gained the top leadership post. He worked to build a strong and powerful movement in China using any means possible with the objective of taking complete control over the country. The Japanese attacked China in 1937. While Mao proclaimed that the Japanese needed to be defeated, he used a show of wartime unity to build his Communist movement and undermine the legitimate government of Chiang Kai-shek. The war with the Japanese ended in 1945 but Mao continued his efforts and won control of China in 1949. The brutal and bitter civil war from the 1920's through 1949 cost the lives of millions of Chinese.

It is of concern to me to read of those who praise Mao and all he did to make China a strong nation. We should not forget that Hitler made Germany strong and Stalin made Russia strong. In all three cases, we should look at the cost—especially the human cost—involved in building a Communist state in China. The price was paid by the lives of millions of Chinese. Mao does rank as a significant figure in history—one of the significant totalitarian dictators of the 20th century.

After Mao assumed power in China, he began a campaign to eliminate all opposition—despite any human cost. Mao's push in the agrarian reform movement between 1949 to 1952 resulted in the brutal execution of several million landlords. Mao acted to gain complete control over the Chinese population.

In the early 1950's, Mao continued a campaign of suppression. His campaign against the opposition, the campaign against the counterrevolutionaries of

1951–52, resulted in the execution of at least 1½ million people. The 1951–53 "3 anti-" and "5 anti-" campaigns brought a wave of executions. The 1955 campaign against "hidden counterrevolutionaries" and the forced collectivization of the peasants during the first 5-year plan—1953–57—brought additional hardships for the Chinese people. The trials, the purges, the mass campaigns, the forced movement of people, the tortures, the forced labor, the executions, and fanatical devotion to the Communist leadership were part of the China heritage as a result of Mao Tse-tung.

After a long and detailed study of the Communist regime, Dr. Richard L. Walker, director of the Institute of International Studies at the University of South Carolina, in his pamphlet "The Human Cost of Communism" estimated that Mao was responsible for the deaths of 50,000,000 Chinese. We should remember this figure is a conservative estimate. Fifty million Chinese lost their lives because they were obstacles to Mao's plans.

The death of Mao is a significant event. However, we should not forget that Mao's reign in China was a story of death and destruction—an incredible burden for the Chinese people to endure.

OPEN ADMISSION TO COLLEGE

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. YOUNG of Georgia. Mr. Speaker, in 1970 the City University of New York established a bold and innovative educational policy by providing tuition-free admission to its vast network of city colleges for all recent graduates of New York City's high schools. In the wake of New York City's recent financial crisis, this policy was abandoned. Sizeable tuitions were instituted, and admission to CUNY's colleges ceased being automatic.

In a recent speech to the Conference of the CUNY Association of Writing Supervisors, Mina P. Shaughnessy, director of CUNY's Instructional Resources Center, discussed the value of and need for open admissions at CUNY. This is an important speech which raises many issues regarding the quality of education in this Nation.

I recommend this speech to my colleagues with hope that it may contribute to further reexamination of and interest in the concept of open admissions to public institutions of higher learning throughout the Nation.

SPEECH BY MIRA P. SHAUGHNESSY

Conferences, I know, are times for saying encouraging things, for sharing successes with one another, and regaining a sense of being engaged with others in important work. But to begin this conference on a note of encouragement seems highly inappropriate today—something like trying to give a pep talk on the Titanic.

These are discouraging times for all of us, most particularly for the teachers who have been working with unprepared students on basic skills. Both students and teachers are already discovering that they are expendable, and the programs they have helped to build over the past five years to remedy the failure of the public schools (and the society of which those schools are an extension) now begin to shake and fracture under the blows of retrenchment.

We experience the crisis most directly on our individual campuses:

Our staffs are shrinking and our class sizes increasing.

Talented young teachers who were ready to concentrate their scholarly energies on the sort of research and teaching we need in basic writing are looking for jobs.

Each day brings not a new decision but rumors of new decisions, placing us in the predicament of those mice in psychological experiments who must keep shifting their expectations until they are too rattled to function.

Our campuses buzz like an Elizabethan court with talk of who is in favor and who is out. And we meet our colleagues from other campuses with relief: "Ah, good, we say (or think to ourselves)—you're still here!"

We struggle each day to extract from the Orwellian language that announces new plans and policies some clear sense of what finally is going to become of the students whom the University in more affluent times committed itself to educate.

If we turn from our individual campuses to the university itself—this vast free city university, the only one of its kind—we see it being pressed to retrench and retrench, treated as if it has been distributing handouts over the past six years rather than entitlements, fragmented now rather than federated as each college struggles for its survival and sees in the demise of sister colleges some advantage for itself.

And underlying all this turmoil we sense a growing national indifference to the goals of open admissions. Ironically, as the national press spreads alarm about the state of literacy in the country, funds (federal, state, and city) for teaching the educationally neglected and betrayed are disappearing. Somewhere, it has been decided that the experiment hasn't worked, that our hopes were overblown, that we are faced, in the words of Time magazine, with "continued failures to improve dramatically the lot of the disadvantaged" through compensatory education.

After no more than one generation of open admissions students has been allowed time to lay claim to a college education, and in the face of their achievements during our first faltering years of Open Admissions, the decision has come out against them. Not, one suspects, because anyone has taken a close look at the experience itself but because the times have shifted and allowed the society to settle back into its comfortable notions about merit, notions which have produced a meritocratic scheme that perpetuates the various brands of race and class prejudice that have pervaded this society since its creation.

Surely there is little in such a scene to generate encouragement. Whenever we look we find reason to feel discouraged, angry, and paralyzed. Open Admissions at CUNY is being trimmed and tracked to death and we cannot begin to count the cost of its collapse. I can think of only one encouraging thought in the midst of this disaster. It is best expressed in an old Jewish saying: The truth never dies; it simply leads a miserable life.

I have said enough, for now, about the misery. But I have not touched upon the truth—the truth, that is, of what we have learned during open admissions about our students, about ourselves as teachers, and about the art and science and craft of writing. Let me mention some of the truths we have uncovered or discovered because they seem to me indestructable, despite retrenchments and shifts in the winds of social doctrine.

First, we have learned—and documented—that it is possible to get a high school diploma in New York City without reaching minimal competence in reading, writing, and arithmetic. Doubtless we suspected this before, but now we know the real taste of that failure. What open admissions writing teacher does not remember the shock of those first student essays, the stunning evidence of failure woven into the very syntax of sentences and the letters of words. For most of us it was a traumatic moment. We asked, What went wrong? What were they doing for twelve years? How can I possibly teach them to write now? Where do I begin? And behind those questions lay the troubling, forbidden thought—perhaps they are ineducable.

For the first time in the history of the city, we created, through open admissions, a massive feedback system which revealed an unconscionable failure to meet the educational needs of the poor and the dark-skinned. To be sure, the roots of that failure are tangled, and now that college teachers have begun to talk with and meet with high school teachers (largely as a result of open admissions) they are more sensitive to the many institutional conditions that have made teaching almost impossible in many of our schools.

But whatever the causes, Open Admissions documented the fact of failure. And until that happened, it was possible for thousands of students to drift quietly into the labor force of the city, taking up the jobs that others rejected, convinced somehow that something in them had caused the failure.

Second, we have learned that late adolescence is a creative and critical juncture in life and that, far from being eleventh-hour learners, our students come to us ready to begin their lives anew. And while the skills and priorities of studenthood are not easily acquired at the age of eighteen or over, students have demonstrated that they can acquire them at that age. In fact, much of the energy they mobilize for the effort seems to come from the opportunity college gives them to redefine themselves as young adults who might accomplish something in the world. To encourage this emerging view they have of themselves while at the same time representing honestly to them the amount of work that lies ahead has proved to be one of the teacher's most delicate and essential tasks.

Neither like children nor the retarded—with whom they have been compared—they are a distinctive group: young adults who are capable because of their maturity of observing the processes they are going through as learners, of taking conceptual short-cuts that are not available to children, of alerting us easily and swiftly to the effects of our instruction, of committing themselves to routine and work and constant, often discouraging evaluation, in order to change the quality of their adult lives.

We have not unfortunately had the time nor expertise to study our students as learners nor to document our sense of them as a unique group, ripe for learning and capable of both steady growth and dramatic leaps into new levels of competence. But we have, in a sense, discovered them.

Third, we learned that we didn't know much about teaching writing when we started out, even though many of us had been teaching the subject before, in traditional ways and with traditional students. There were many reasons for our deficiencies, but one of the chief ones was that most of us had not been formally trained to teach writing—only to read and analyze the outstanding belletristic literature of the centuries. Teaching writing was a kind of fringe penalty for teaching literature, and since students coming into college had generally been prepared for college writing by their schools and by the culture they grew up in, we got by. There was little motivation to give much thought to those features of the skill that now seem so central to our understanding of our task. Let me mention at least a few of those features.

We had not thought much about the writing process itself: how accomplished writers behave when they write; what sorts of stages they go through; what coordinations and perceptions are required of them; and how the behavior of our students as writers differs from that of accomplished writers—are they, for example, in the habit of re-scanning their sentences, can they objectify their own pages, looking at them at one moment for semantic sense and at another for formal correctness."

We had not given much thought to the relationship between oral and written language, a relationship that once seemed so simple (merely a matter of the writer's tending to his colloquialisms) but that suggests increasingly profound differences not simply in the ways we choose words but in the very ways we think under two modes.

Faced as we have been with students who have had very restricted and largely unpleasant encounters with written English, we have had to pay more respect to these differences, to observe them more carefully, for one thing, and to find ways of making the transition from one medium to the other more conscious. We have also had to turn our attention to the academic uses of written language, to that "dialect" of analysis that confronts our students not only with many new words and phrases, but with more heavily qualified sentences than they are used to producing in speech and with unfamiliar strategies for making their points or winning their arguments.

We had not thought much, until Open Admissions, about the fact of linguistic diversity, with which most of us collided from almost our first day of open admissions teaching when we found our classrooms filled with native Americans who had grown up with the sounds and melodies of other languages or dialects in their ears and on their tongues—Cantonese, Afro-American, Spanish, Yiddish, Greek, Polish, diverse language groups who nonetheless shared the experience of having had their language differences ignored or treated as a disadvantage, of having had the fun and pride of language drained out of their school lives.

How we have argued, and puzzled, and struggled over the issue of mother-tongue interference, over whether to change, how to change, when to change those nonstandard features of a student's language that distract the general reader. We have arrived by now, I think, at a rough and pragmatic consensus. But looking back, the important point seems to me that we grappled with both the phenomenon of diversity and the phenomenon of linguistic convention and in doing so developed greater respect for our students' linguistic aptitudes and for the subtle, stubborn, yet mercurial quality of language itself.

Such insights have had, of course, to be incorporated into our teaching. And here we can claim, I think, a major advance. Open Admissions has taught us about learning, that is, about the importance of perceiving where students are in relation to what we want to teach them, about sequential and paced instruction, about being clear and realistic, about going below the surface of our subjects, not in order to become simpler but to become more profound, for it is at the level of principle as well as practice that young adults learn more efficiently.

This was an inevitable consequence of Open Admissions. Traditionally, colleges have been able to guarantee success by selecting their students ahead of time rather than by teaching them after they arrived. Thus it has been argued that in the days when City College screened out all except the most highly prepared graduates from academic high schools in one of the largest cities in the world, the chances of the students' succeeding in college were tremendous, whoever taught them.

If we imagine a continuum of competence, with at one end the exceptionally competent and at the other the barely competent, we could say that colleges have traditionally felt it their responsibility to identify the students at the upper end of this scale and give them four or more years of education. The open admissions college, on the other hand, makes a commitment to involve itself in the education of young men and women all along the continuum on the assumption, first, that people are not consigned to their places on that continuum forever but are capable of remarkable growth and development when given the opportunity; second, that the social benefits of advancing as many as possible along that continuum are inestimable; and third, that this broadening of the base of higher education, if properly planned and supported, can further the education of all students on the continuum.

But the decision to open a college to a more diverse population commits that college to becoming a teaching college, a college where everyone, not just the remedial teachers, accepts the responsibility of teaching rather than merely presenting a subject. Certainly this message about teaching has reached the skills teachers of CUNY. Workng this year in the Instructional Resource Center, I have had a chance to do what few of you have perhaps had the time or occasion to do, that is, to take a close look at the work going on in skills instruction. We are all aware, of course, that many of our colleagues have gained national recognition in our field—have published articles, read papers at conferences, served on various professional organizations, produced textbooks. (It is no accident, I'm sure, that when five major publishers decided over the past year or so to produce new writing handbooks—a major publishing decision—they chose CUNY English teachers to write them.)

What I had not been so aware of, however, was the number of teachers who, without fanfare or remissions and with heavy class loads, have been at work developing imaginative new materials for our students. Probably at no school in the country is there such an accumulation of wisdom and know-how in the field of compensatory education as there is within this university at this moment. I cannot imagine a group of teachers who have ever had more to say to one another. It is a special fraternity joined not only by our common purposes and problems as teachers but by our having come to know, through our students, what it means to be an outsider in academia. Whatever our individual political persuasions, we have been pedagogically radicalized by our experience. We reject in our bones the traditional meritocratic model of a college. We reject it not only on principle; we would simply be bored teaching in such a college.

Such changes, I would say, are indestructible, wherever we go from here. And indestructible too, are the ideas that have awakened our students. It is puzzling how long people can go on—for generations—tolerating the inequalities that restrict and even shorten their lives. But once the possibility of change touches their imaginations, once a right has been extended to them and they have felt its power to open and enrich their lives, they cannot go back. They may have setbacks. But they cannot go back. CUNY extended a right, six years ago, that has been revoked, and we appear to be back where we started in 1970, only much poorer. But no one can revoke what has gone on in us and in our students.

So the lion got out of the cage before the gates were shut. And we had better keep learning how to teach writing because the brothers and sisters and cousins and children of our students will be back. If we can transcend for a moment the personal disappointments and uncertainties that surround us now, we can perhaps agree that that is a fairly strong truth for a miserable time. And it is a truth we helped to make.

THE CLEMENCY PROGRAM: CLEARING THE RECORD

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. ASHBROOK. Mr. Speaker, when it is remembered that over 56,000 Americans lost their lives in Vietnam, it is understandable that the question of amnesty or pardons is a touchy issue with the public. The recent reaction at the American Legion Convention in Seattle is a good case in point.

Because I think this issue is of importance to the American people in view of our tremendous loss of life in Vietnam, I have followed this issue since the initiation of the clemency program in 1974. I inserted in the CONGRESSIONAL RECORD a summary of the Board's minority report in which Marine Gen. Lewis Walt, former Marine commander in Vietnam, and three of his colleagues were highly critical of the pro-amnesty majority of the board and how the majority distorted and attempted to defeat the President's guiding concept. Another RECORD insertion commented on an Associated Press story that charged that deserters were "beating" the clemency program.

Still a third insertion called public attention to the National Coalition for Universal and Unconditional Amnesty—NCUUA—a collection of liberals and leftist organizations who were joining forces to bring unconditional amnesty into the 1976 political campaign and who sought reconstruction aid for Communist Vietnam and diplomatic recognition for the new governments in Indochina.

In addition letters have sought information from OMB, the FBI, and a House subcommittee concerning questionable activities of the Clemency Board.

In today's Washington Post there appeared an excellent rundown on the clemency program by Mr. O. G. Benson, a member of the Selective Service Reserve for over 18 years who assisted in the administration of President Ford's clemency program. His article is very useful in bringing to public attention the procedures and results of the clemency program to date. I insert the Benson article in the RECORD at this point:

[From the Washington Post, Sept. 9, 1976]

THE CLEMENCY PROGRAM: CLEARING THE RECORD

(By O. G. Benson)

The American people have been both misled and misinformed about draft dodgers and military deserters from the Vietnam War era. Pro-amnesty organizations and individuals have led many to believe that tens of thousands of Americans left the U.S. and took refuge in foreign countries to avoid military service during the Vietnam War. This is a distortion of facts and false information and has created mass confusion. As an American who has been closely identified with the events and facts concerning this important issue, I hope this article will set the record straight and set forth the unvarnished facts.

During the Vietnam War, there were approximately 209,000 complaints of violations of the Selective Service Act. Tens of thousands of these were resolved when the individual involved volunteered for induction or enlistment in the Armed Forces. Others were never indicted due to insufficient evidence and others were disposed of through the classification and deferment process of the Selective Service System. The result was that only 25,300 registrants were indicted during the Vietnam era for violation of the Selective Service Act.

On September 16, 1974, President Ford announced a Clemency Program to grant clemency to certain draft evaders and military deserters.

There were two categories of those who had violated the Selective Service Act: (1) Those who were still under indictment and whose cases were pending trial and (2) those who had been convicted.

There were two categories of military cases: (1) Those who were in a deserter status and (2) those who had been discharged from the Armed Services with a less-than-honorable discharge as a result of being either absent or deserting during the Vietnam era.

There were four separate parts to President Ford's Clemency Program, each administered by a different branch of the government.

1. The Department of Justice was given the responsibility to administer the program as it pertained to the violator of the Selective Service Act who was still under indictment. When the President's program was announced there were approximately 10,000 in this category. However, upon instructions from the Attorney General these cases were reviewed by the U.S. Attorneys and charges were dismissed on all those who in their opinion would not result in a conviction when brought to trial. As a result of this review the list was reduced to 4,522 cases. Approximately 700 of these elected to participate in President Ford's program. These participants met with U.S. Attorneys and agreed to perform a specific number of months of alternate service in exchange for having the charges against them dismissed. Since the end of the Clemency Program, the U.S. Attorney Generals office has disposed of approximately 1,300 cases leaving approximately 2,500 still under indictment.

2. The Department of Defense was given the responsibility of processing those individuals who were in a deserter status from the armed services. There were 10,115 in this category when the program was announced. Of these, 5,555 were processed and given an Undesirable Discharge. The individual could have this Undesirable Discharge exchanged for a Clemency Discharge Certificate by completing a period of alternate service. The number of months of alternate service depend on the merits of each case.

3. President Ford established by Executive Order the Presidential Clemency Board which was entrusted with authority to make recommendations to the President concerning applications received from two categories: (1) those individuals who had been convicted of specific violations of the Selective Service Act and (2) those individuals who had received an undesirable or punitive discharge as a consequence of being AWOL or deserting during the Vietnam War. The Board was directed to report its findings and recommendations to the President as to whether executive clemency should be granted or denied in individual cases.

There were 8,700 convicted draft offenders eligible to apply. Of this total, 1,879 applied.

There were 83,135 discharged AWOL or deserter offenders eligible to apply and of this number 13,589 applied.

The Board recommended outright pardon or a pardon conditioned on performance of some alternate service to 13,603.

4. The Director of Selective Service was designated and empowered by President Ford to establish, implement and administer the program of alternate service. He had the responsibility of finding suitable alternate service jobs for those who reported. Upon satisfactory completion of the alternate service, the Director issued a certificate to the individual's former service or, for draft evaders, to the appropriate U.S. Attorney. The military service then issued a special new type of discharge—a clemency discharge—which was then substituted for the previously awarded less-than-honorable discharge.

In all there were approximately 13,100 people given alternate service of which approximately 8,450 enrolled with the Selective Service System. Approximately 5,000 of those enrolled quit before satisfactory completion of their alternate service; 1,300 have completed their alternate service, and 2,175 are currently enrolled.

In summary, there were 106,472 eligible to apply under President Ford's overall Clemency Program and 21,723 or 20% applied. There are less than 10,000 individuals who were convicted and/or indicted for violation of the Selective Service Act who could be eligible for relief under any future clemency program. It is estimated that approximately 2,100 of these are outside the U.S.

The approximately 67,500 who received a less-than-honorable discharge for AWOL or desertion during the Vietnam era who did not participate in President Ford's Clemency Program may make application to their respective service Discharge Review Board or Board for Correction of Military Records to have their military record reviewed and possibly obtain an improvement in their discharge which would entitle them to VA and other benefits.

COL. WULF VILENSKY—LITHUANIAN HERO DENIED EXIT FROM SOVIET UNION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. KEMP. Mr. Speaker, I would like to bring to the attention of my colleagues today the case of Col. Wulf Vilensky, a Soviet Jew who has been repeatedly refused a visa to leave the Soviet Union in blatant violation of the Soviet affirmation of the Helsinki agreement.

Colonel Vilensky, aged 57, was conscripted into the Lithuanian army before World War II. After the annexation of Lithuania by the Soviet Union, he was sent to the military academy at Vilnius and served in the war with the Lithuanian division. He studied at the Frunze Military Academy, the Soviet Union's leading military school, and retired from active service in 1965. He lectured at the V. Kapuskas University in Vilnius until 1972. On his 50th birthday, the Presidium of the Supreme Soviet of the Lithuanian SSR honored him "for many years of work in the military training field, for active participation in public work."

Now, it seems, the Soviet Union is unwilling to let a "Hero of the Soviet Union" leave the country to join his son, daughter and grandchildren in Israel.

Colonel Vilensky's brother and sister have lived in Israel for some time. They were joined by the colonel's son, Arie, and daughter, Sara, in 1974 and 1975. Colonel Vilensky has applied for a visa to join his family, but his request was refused twice, in March and in April of this year. At no time was a reason given for the refusal.

Mr. Speaker, the refusal by the Soviet Government to allow this family to become reunited is a slap in the face of détente and all reassurances from the Kremlin that the Soviet Union would allow free passage of Soviet Jews wishing to emigrate to Israel. I call upon the Soviet Government to reexamine this case, and to allow this Lithuanian hero to join his family in Israel. I ask all to join this vigil as an expression of our solidarity with those Soviet Jews who desire to emigrate and I thank Mr. EILBERG for his concern.

VILLAGE OF LLOYD HARBOR CELEBRATES 50TH ANNIVERSARY

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. AMBRO. Mr. Speaker—

> Deed of Horse or Lloyd Neck from the Indians to Mayo, White Head, and Write, 1654: September 20, 1654 this writing withnesseth that I Ratiocan Sagamore of Cow Harbor have sold unto Samuell Mayo, Daniell Whitehead, and Peter Wright my Neck of Land . . . called by the Indians Caumsit for and in consideration of which Neck of Land, we thee aforesaid Samuell Mayo, Daniell Whitehead, and Peter Wright doe promise to pay the aforesaid Ratiocan Sagamore Three Coates, Three Shurts, Two Cuttels, Three Hatchetts, Three Howes, Two Faddam of Wampum, Six Knives, Two payers of Stockins and Two payers of Shooes.

With these words we have the earliest recorded history of the community of Lloyd Harbor now located within the town of Huntington in Suffolk County, N.Y. An early volume of Long Island history published in 1839 describes a large area in the village known as Lloyds Neck as containing "about 3,000 acres of land projecting into a sound between Cold Spring and Huntington Harbor. The soil is of an excellent quality, one half of which is appropriated to cultivation, and the other to the growing of timber." It was erected into a manor called Queens Village in 1685 during the administration of Governor Dongan:

> The British Troops took possession of it during the Revolution, erected a fort and committed depredations to a great extent . . .

The history of Lloyd Harbor in some ways parallels the history of many of our Long Island communities in that it was established during colonial times as part of the greater New York City area; it remained as part of the Queens section of New York through the 1880's; it was transferred from Oyster Bay in Nassau County to Huntington in Suffolk County in the late 1880's; and then it established an independent identity of its own as one of the towns and villages on Long Island. Fifty years ago, while remaining geographically as a part of the town of Huntington, Lloyd Harbor received a charter and became an incorporated village on its own.

Mr. Speaker, Lloyd Harbor is a community of incredible beauty. It is one of the few as yet unspoiled areas still remaining in the New York metropolitan area. It boasts miles of tree-lined country roads and large estates. It is also an area of beautiful public parks and beaches and a newly acquired center for the teaching and promotion of the arts. It is a community which generously shares its natural and manmade beauty and advantages with its citizens and those of the township in which it is located. It is an entirely residential community whose citizens work hard and take pride in maintaining it in this state.

In this our Bicentennial Year as a nation, the celebration of the incorporation of the lovely village of Lloyd Harbor is entirely appropriate. It is always a pleasure for me to visit Lloyd Harbor and to partake of its traditions and its beauty.

Surely, Ratiocan Sagamore of Cow Harbor started a magnificent chain of events when he sold the Lloyd Neck area for some clothing and trinkets. I know that the coming generations of Lloyd Harbor residents will insure that succeeding anniversaries will be celebrated in a community as beautiful as this. I am grateful that the citizens of Lloyd Harbor asked me to join them in this celebration and I, as their Congressman, hereby pledge to them to work for a continuation of those Federal policies that will contribute to the preservation of communities like Lloyd Harbor, which tend to strengthen rather than destroy our environment.

RUTH HUTCHINS—NORTH HIGHLANDS' ONLY POSTMASTER RETIRES

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. LEGGETT. Mr. Speaker, retirement after many years of devoted service is a common thing in our society. It is highly uncommon, however, to encounter an individual about to retire who is the first and only person to hold the job in which he or she has served. That unusual distinction is due Ruth Hutchins, the only Postmaster in the history of North Highlands, Calif., who announced her retirement last month.

Postmaster Hutchins inaugurated postal service in the new city of North Highlands in July 1951, more than 25 years ago. That first postal operation handled only 45 families, while the current facility serves over 45,000 people and 600 businesses. She has seen the staff of the North Highlands post office grow from the initial two employees to the current total of 49.

Postmaster Hutchins began her 31 years of Federal service at Mather Air Force Base. She joined the postal service in 1947, serving first in Del Paso Heights. She moved from there to Carmichael, and then to the establishment of North Highlands postal facility.

Postmaster Hutchins has been instrumental in the creation and growth of North Highlands and has been cited for her service to the city. She was named North Highlands' outstanding citizen in 1960. The North Highlands Business and Professional Women's Club named her outstanding career woman in 1961. And just this past January, that same organization conferred on her its Woman in History award.

We congratulate Ruth Hutchins on her many years of devoted effort as North Highlands Postmaster, her dedicated service to the city, and the community's recognition of her role in its growth. I hope her retirement years prove to be as beneficial to herself and the community as have her 31 years of Federal service.

TWO-HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on September 6, 1776, the Continental Congress appointed Benjamin Franklin, John Adams, and Edward Rutledge to a committee to meet with Lord Howe and discuss possible peace terms. The committee was instructed to determine, "whether Lord Howe has any authority to treat with persons authorized by Congress for that purpose, in behalf of America, and what that authority is, and to hear such propositions as he shall think fit to make respecting the same * * *." Adams strongly opposed the meeting, believing that—

> The attention of Congress, the army, the states and the people, ought to have been wholly directed to the defense of the country. To have it diverted and relaxed, by such a poor artifice and confused tale, appeared very reprehensible.

SENATE—*Friday, September 10, 1976*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God who has brought us to this new day, accept the dedication of our lives to the values that are unseen and eternal. Give us minds open to the truth of Thy Word and wills ready to obey Thy guidance. Grant us wisdom to separate the true from the false, the important from the unimportant. In this dismaying era with its light and its darkness light up our pathway into the future. Give us a refined sense of national purpose and destiny. Inspire the citizens of this land to make her great in spirit as she is mighty in power. And may goodness and mercy follow us all our days that we may abide with Thee eternally. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 9. 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF H.R. 15194

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, pending the disposal of the foreign aid and veterans hospital bills, the Senate then turn to the consideration of Calendar No. 1118, H.R. 15194, an act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO INDEFINITELY POSTPONE S. 3037

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 827, S. 3037, a bill to extend certain authorizations under the Federal Water Pollution Control Act, as amended, be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken earlier today to indefinitely postpone Calendar No. 827, S. 3037, be vitiated, and that S. 3037 be placed on Subjects on the Table.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

SUBCOMMITTEE ON HEALTH

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Labor and Public Welfare be authorized to meet on September 16, 22, and 23 to hold oversight hearings on childhood immunization programs, implementation of NIGH's recent guidelines governing recombinant DNA research, and problems in NIH and FDA management of cell culture lines critical to the manufacture of one type of polio vaccine.

The ACTING PRESIDENT pro tempore. Without objection, the request is granted.

COMMITTEE ON ARMED SERVICES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services be permitted to meet today to consider the national stockpile, military manpower, military medical malpractice protection, and the Soldier's and Airmen's Home legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia (Mr. Talmadge), is recognized for not to exceed 15 minutes.

MEDICARE AND MEDICAID ANTIFRAUD ACT

Mr. TALMADGE. Mr. President, on behalf of myself and Senators Long, Ribicoff, Dole, Nelson, Gravel, Roth, Moss, Packwood, Hartke, Allen, Beall, Buckley, Domenici, Eastland, Fong, Hollings, Inouye, Javits, Mansfield, Muskie, Nunn, Pell, Percy, Randolph, Hugh Scott, Stone, Thurmond, Tower, Tunney, Fannin, Brock, Bentsen, Harry F. Byrd, Jr., Haskell, Hathaway, Chiles, Church, Williams, and Kennedy, I introduce today amendments to the medicare and medicaid programs intended to put more teeth into Federal and State efforts designed to detect and punish fraud and abuse in the medicare and medicaid programs.

Congressional hearings and investigations during the past several years have revealed widespread and deep-rooted fraud in medicare and medicaid. More recently, the hearings held by Senator Moss and the Special Committee on Aging, as well as 5 days of hearings held by the Subcommittee on Health of the Committee on Finance, underlined again how pervasive and how costly fraud is.

Fraud cheats virtually all of us. It cheats the taxpayers of this Nation who see billions of dollars going down the drain. It cheats the poor and elderly who often receive what can best be characterized as marginal care from the fast buck artists. It cheats our State and local governments, many of which are desperately trying to maintain fiscal stability. And, it cheats the large majority of health care practitioners and institutions who are doing an honest professional job.

While the large majority of doctors, hospitals, and others are honest, it should be noted that those who practice fraud and abuse receive a disproportionate amount of payments.

I believe that what we need in this country is an administrative and reimbursement system—including effective law enforcement—under which the detection and punishment of fraud and abuse becomes probability instead of only a possibility, as is the case today. Following up on this, I introduced, along with 18 other Senators, a bill designed to bring about comprehensive medicare and medicaid reform. That proposal, S. 3205, is designed to do everything we can within the existing medicare and medicaid structure to bring about necessary tightening up. Perhaps S. 3205 does not go as far as we should go. Perhaps, in the final analysis, some kind of federalization of medicaid is what will be required to assure an equitable and satisfactory program of health coverage for our low-income population. But, S. 3205 represents what I, along with others, believe to be as far as we can go at this point in time in terms of political and fiscal acceptability.

As I have noted, Mr. President, truly basic reforms are required in medicaid and medicare. Perhaps 90 percent of our problems with medicaid stem from a generally ineffective administrative structure. In my opinion, effective administration would resolve most of these problems, including fraud and abuse.

Given the short time remaining until adjournment, it is unrealistic to expect that comprehensive action to bring about these necessary basic reforms can be completed. During the adjournment period, I have instructed our committee staff to continue extensive discussions with outside groups and individuals, as well as with all other congressional committees whose activities relate directly or indirectly to the medicare and medicaid programs. My purpose is to develop a basis for reintroducing S. 3205 in improved form early in the next Congress.

It might be reasonable to ask—What can we do now? Well, Mr. President, what we can do is give a clear, loud signal to the thieves and the crooks and the abusers by making a start now—no matter how small a beginning. The medicare and medicaid antifraud amendments I am introducing today make that point.

First, the bill establishes a Central Fraud and Abuse Unit in HEW, to coordinate and direct all medicare and medicaid antifraud activities. Medicare and medicaid efforts to curb fraud and abuse have been hampered up until now by a lack of coordination and concentration. The Comptroller General of the United States has also recommended the establishment of a Central Fraud and Abuse Unit.

Federal and State prosecutors have been hampered by a lack of sufficient personnel qualified and expert in the investigation of alleged fraudulent activities. The Central Fraud and Abuse Unit would be specifically required to provide such investigative support, at Federal expense, at the request of Federal and State prosecutors.

Under present law, penalties for fraudulent acts and false reporting under medicare and medicaid are misdemeanors subject to fines up to $10,000 and not more than 1 year imprisonment. My bill defines these crimes as felonies punishable by up to 5 years imprisonment and $10,000 fines.

For a number of reasons, factoring firms have flourished in a number of large medicaid programs. The effect of permitting such firms to operate in medicare and medicaid has often been direct inflation of costs of doing business for practitioners and providers, as well as potential and alleged abuse in the handling of medicare and medicaid claims. The bill bans the assignment, directly or indirectly, of medicaid claims to factors.

Our bill would also require disclosure by organizations such as the so-called medicaid mills, to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of these facilities and allocation and division of payments. Additionally, the Secretary of HEW and the States would be required to have contractual agreements with independent laboratories, independent pharmacies, and independent durable medical equipment companies who are paid directly with Government funds under which those organizations would agree to provide access to their books and records pertaining to the billing and paying for goods and services. This is designed to get at the problems of overcharging, kickbacks, and rebates.

Finally, the Secretary of HEW is directed to activate the authorization under present law under which PSRO's may review ambulatory care. At present, PSRO's are mandated to review care provided by or in institutions. They may review out-of-institution care at their request and with the approval of the Secretary. Under the bill, where an operating PSRO requests authority to review care and services in or ordered by the so-called medicaid mills, the Secretary is required to give high priority to such requests, particularly in areas where a substantial number of mills operate. Where a PSRO has not yet been established, or is unable to assume such responsibility, we expect all other Federal and State resources otherwise authorized under law to be actively utilized in halting any fraudulent and abusive practices.

I should also point out that one of the areas on which we will work during the adjournment period is consideration of approaches to make necessary care available in areas where fraudulent or abusive practitioners are put out of business.

I want to reiterate that what I have described is by no means to be construed as a be-all, end-all effort. It is only a start—but a very necessary start.

Mr. President, it is my intention to offer these amendments next Tuesday when the Finance Committee considers H.R. 12961, a House-passed bill which makes a minor change in present medicaid law. I am confident that the Finance Committee and the Senate will act promptly on these amendments so as to assure the American people that we mean business. It is my hope that the House of Representatives will also recognize the urgency of demonstrating that fact.

Mr. President, I now introduce the medicare and medicaid antifraud bill and ask unanimous consent that a summary and the text of the bill appear in the Record immediately following these remarks.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred, and, without objection, the bill and summary will be printed in the RECORD in accordance with the Senator's request.

The text of the bill is as follows:

S. 3801

A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicare-Medicaid Anti-Fraud Act".

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OFFICE OF CENTRAL FRAUD AND ABUSE CONTROL

SEC. 2. (a) Section 702 of the Social Security Act is amended—

(1) by inserting "(a)" immediately after "Sec. 702", and

(2) by adding at the end thereof the following new subsection:

"(b) There shall be established, within the Department of Health, Education, and Welfare, an Office of Central Fraud and Abuse Control. Such Office shall have the overall responsibility for (i) directing, coordinating, monitoring, and establishing policies with respect to the undertaking of activities which are designed to deal with fraud and abuse, at all Federal organizational levels of the various programs established by or pursuant to titles V, XVIII, and XIX, and the renal disease program established by section 226, (ii) initiating and conducting investigations with respect to alleged, actual, or potential fraud or abuse in any of such programs, and (iii) assisting State agencies, at their request, in the establishment and operation of State anti-fraud and abuse activities. Such Office shall also provide all appropriate investigative support and assistance (including temporary delegation and assignment of personnel) to United States attorneys and State law enforcement authorities, upon their request, in the development of fraud cases arising out of any of such programs.

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES

SEC. 3. (a) Section 1842 (b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any payment for a service, which under the provisions of the preceding sentence may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude an agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the billings or payments (or the aggregate of similar billings or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(b) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any payment for a service, which under the provisions of this title, may be made directly to a provider of service furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from the provider of service furnishing such service); but nothing in this subsection shall be construed to preclude any agent, of the provider of service furnishing such service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of any such payment is unrelated (directly or indirectly) to the amount of the billing or payment (or the aggregate of similar billings or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(c) section 1902(a)(32) of such Act is amended—

(1) by inserting "(A)" immediately after "provide that",

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively, and

(3) by adding immediately before the semicolon at the end thereof the following: ", and (B) any payment for a service, which may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment to a governmental entity or establishment, or an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude any agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing and/or collection of any such payment is unrelated (directly or indirectly) to the amount of the payment (or the aggregate of similar billings and/or payments) and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(d) The amendments made by subsections (a) and (b) of this section shall take effect on the first day of the first calendar month which begins not less than sixty days after the date of enactment of this Act, and the amendments made by subsection (c) of this section shall take effect on July 1, 1977.

DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

SEC. 4. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

"SEC. 1132. (a)(1) The Secretary shall by regulations (or by contract provision) provide that any entity (other than a public agency) which is—

"(A) a provider or supplier of items or services (including any 'shared health facility', as defined in section 1132, or any practitioner or supplier affiliated with such a facility), which furnishes, or which arranges for the furnishing of, items or services with respect to which payment is claimed under title XVIII, under any program established pursuant to title V, or under a State plan approved under title XIX;

"(B)(i) a party to an agreement with the Secretary entered into pursuant to section 1816 or 1842 (a), or (ii) a party to an agreement, with a State agency administering or supervising the administration of a State plan approved under title XIX, under which such party serves as a fiscal agent for the State in the operation of such plan;

shall promptly comply with any request, made by the Secretary or the Comptroller General of the United States for any or all of the following:

"(C) full and complete information as to the identity (i) of persons having (directly or indirectly) ownership interests in such entity and the nature and extent thereof or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such entity or any of the property or assets thereof, (ii) in case such entity is organized as a corporation, of each officer and director of the corporation, and (iii) in case such entity is organized as a partnership, of each partner;

"(D) full and complete information as to any business dealings between such entity and persons referred to in clause (C), and

"(E) a consolidated certified costs report with respect to its costs and charges, including costs and charges of related organizations (as that term is employed for purposes of title XVIII);

except that, in the administration of this paragraph, no such request shall be made of an entity described in paragraph (A) if such entity does not furnish a significant volume (as defined by regulations of the secretary) of the items or services referred to in such paragraph.

"(2) (A) If at the close of the sixty-day period which begins on the date a request (as described in paragraph (1)) is made of an entity described in paragraph (1) (A), or (B), such request has not been fully complied with, then—

"(i) in case such entity is an entity described in paragraph (1) (A), the Secretary may notify such entity that no payment will be made to such entity under title XVIII, and no Federal funds shall be available with respect to any expenditures made under or pursuant to title V or XIX (or a program or plan approved thereunder), for or on account of any services furnished by such entity on or after the first calendar month which begins not less than thirty days after the date such notice is sent,

"(ii) in case such entity is an entity described in paragraph (1)(B)(i), the Secretary may notify such entity that any agreement between such entity and the Secretary entered into pursuant to section 1816 or section 1842 is terminated effective on the first day of the first calendar month which begins not less than thirty days after the date such notice is sent, and

"(iii) in case such entity is an entity described in paragraph (1)(B)(ii), the Secretary may notify the State having an agreement with such entity that no Federal funds shall be available with respect to any expenses incurred to compensate such entity for or on account of services performed by it pursuant to such agreement (or any similar agreement) on or after the first calendar month which begins not less than thirty days after the date such notice is sent.

In case the Comptroller General makes a request (as described in paragraph (1)) which is not fully complied with prior to the sixty-day period described in the preceding sentence, then he shall, at the earliest practicable date after the close of such period, advise the Secretary of the fact that such request was made by him and was not complied with within such period, so that the Secretary may notify the entity involved as provided in clause (i), (ii), or (iii).

"(B) Notwithstanding any other provision of law—

"(i) payments otherwise authorized to be made under title XVIII, and Federal funds otherwise available with respect to expenditures under or pursuant to title V or XIX (or a program or plan approved thereunder) shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A) (i),

"(ii) agreements referred to in subparagraph (A) (ii) shall be terminated as indicated by the Secretary in a notice sent by him pursuant to subparagraph (A) (ii), and

"(iii) Federal funds otherwise available with respect to expenditures under a State plan approved under title XIX shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A) (iii);

except that the Secretary, for good cause shown, may terminate the application of such limitation.

"(b) Notwithstanding any other provision of law—

"(1) no payment shall be made on the basis of an assignment of benefits under title XVIII, and

"(2) no Federal funds shall be available under title V or XIX with respect to expenditures made under a State program or plan approved thereunder,

for goods and services furnished, on or after the first day of the first calendar month which begins not less than ninety days after the date of enactment of this subsection, to a patient (directly or indirectly) by any entity which is an independent pharmacy, independent laboratory, or an independent supplier of durable medical equipment unless such entity agrees to give the Secretary or in the case of title XIX the State agency under which such entity agrees to provide to the Secretary (or any authorized officer or employee of the Department of Health, Education, and Welfare) and to the Comptroller General reasonable access to the books and records thereof which pertain to the provision of billing and payment for goods and services supplied or rendered by such entity.".

(c) Part A of title XI of such Act is amended by adding after section 1132 thereof (as added by subsection (a) of this section) the following new section:

"SHARED HEALTH FACILITY

"SEC. 1133. For purposes of this Act, the term 'shared health facility' means any arrangement whereby two or more health care practitioners, one or more of whom receives payment on a fee for service basis under titles V, XVIII, and XIX of this Act which are substantial in amount (as determined in accordance with regulations of the Secretary)—

"(1) practice their professions at a common physical location; or where a substantial number of the patients of one or more practitioners are referred to such practitioner(s) by other practitioners or persons at a common physical location;

"(2) share (i) common waiting areas, examining rooms, treatment rooms or other space, (ii) the services of supporting staff, or (iii) equipment, and

"(3) a person other than all of such practitioners is in charge of, controls, manages, or supervises, substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by such practitioners to their patients, or a person makes available to such practitioners the services of supporting staff who are not employees of such practitioners;

except that such term does not include a provider of services (as defined in section 1501(u)) or a health maintenance organization (as defined in section 1876). "or an arrangement under which two or more health care practitioners practice their profession as a partnership, professional service corporation, or other legal entity, if members of the supporting staff are employees of such legal entity and in case there is an office manager, or person with similar title, he is an employee of the legal entity whose compensation is customary and not excessive for such services and there is no person described in clause (3).".

(d) The amendments made by this section shall, except as otherwise specified therein, take effect on January 1, 1977.

PENALTY FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 5. (a) Section 1877 of the Social Security Act is amended—

(1) in subsection (a) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "one year" and inserting in lieu thereof "five years", and

(2) in subsection (b) thereof—

(A) by inserting "or arranges for the furnishing of" immediately after "Whoever furnishes",

(B) by inserting "(in cash or in kind)" immediately after "kickback or bribe",

(C) by inserting "or arrangement for the furnishing" immediately after "in connection with the furnishing",

(D) by striking out "rebate of any fee or charge" and inserting in lieu thereof "rebate of any fee, charge or portion of any payment, in cash or in kind,",

(E) by inserting "or arrangement for the furnishing" immediately after "another person for the furnishing".

(F) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(G) by striking out "one year" and inserting in lieu thereof "five years", and

(3) in subsection (c) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$2,000" and inserting in lieu thereof "$10,000", and

(C) by striking out "6 months" and inserting in lieu thereof "five years".

(b) Section 1909 of such Act is amended—

(1) in subsection (a) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(B) by striking out "one year" and inserting in lieu thereof "five years", and

(2) in subsection (b) thereof—

(A) by inserting "or arranges for the furnishing of" immediately after "Whoever furnishes",

(B) by inserting "in cash or in kind" immediately after "kickback or bribe",

(C) by inserting "or arrangement for the furnishing" immediately after "in connection with the furnishing",

(D) by striking out "rebate of any fee or charge" and inserting in lieu thereof "rebate of any fee, charge, or portion of any payment, in cash or in kind,",

(E) by inserting "or arrangement for the furnishing" immediately after "another person for the furnishing",

(F) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(G) by striking out "one year" and inserting in lieu thereof "five years", and

(3) in subsection (c) thereof—

(A) by striking out "misdemeanor" and inserting in lieu thereof "felony",

(B) by striking out "$2,000" and inserting in lieu thereof "$10,000", and

(C) by striking out "6 months" and inserting in lieu thereof "five years".

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 6. (a)(2) Section 1155(g) of the Social Security Act is imended by adding at the end thereof the following new sentence: "The Secretary, where a Professional Standards Review Organization (whether conditional or otherwise) requests review responsibility with respect to services furnishd in shared health facilities, shall give priority to such request, with the highest priority being assigned to areas with substantial numbers of shared health facilities.".

(b) Section 1861(w)(2) of such Act is amended by inserting "under part B of this title or under" immediately after "entitled to have payment made for such services under".

(c) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether conditionally or unconditionally designated) is found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues for purposes of payment under this Act, and no reviews with respect to such services, providers or practitioners shall be conducted by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or State agencies administering or supervising the administration of State plans approved under title XIX.".

(d) Section 1152 (e) of such Act is amended—

(1) by inserting "(1)" immediately after "(e)", and

(2) by adding at the end thereof the following new paragraph:

"(2) Such a waiver shall not be required where the Secretary finds a Professional Standards Review Organization to be competent to assume review responsibilities with respect to specified providers of health care services. Upon such an assumption of review responsibilities by a Professional Standards Review Organization, the following provisions of this Act (to the extent they involve duplicative review and certification activities) shall (to the extent otherwise applicable) not (except to the extent otherwise specified by the Secretary) be applicable:

"(A) the provisions with respect to physician certifications required under section 1814 (a) (2) through (7), (h), and (i), and section 1835 (a) (2),

"(B) the provisions with respect to utilization review plans required under section 1861 (e) (6) and (j) (8),

"(C) the provisions with respect to medical evaluation and audit procedures required under section 1861(j)(12), and

"(D) the provisions of section 1902(a) (26), (30), (31), and (33), and section 1903 (g) and (i) (4).".

(e) Section 1166 of such Act is amended by redesignating subsection (b) thereof as subsection (c), and by inserting immediately after subsection (a) the following new subsection (b):

"(b) A Professional Standards Review Organization shall: provide data and information to the responsible State and Federal agencies to assist such agencies in identifying or investigating suspected cases or patterns of fraud or abuse.

(f) Section 1155(b)(3) of such Act is amended by inserting "or abstract" after "examine".

(g) Section 1160(b)(1) is amended by striking out "practitioners or providers" wherever it appears and inserting in lieu thereof "health care practitioners or any hospital, or other health care facility, agency or organization".

(h) Section 1168 of such Act is amended by inserting, immediately after the first sentence thereof, the following: "Nothing herein shall be construed to authorize or require any contribution by a State (or any political subdivision thereof) toward, or as a condition of the availability for purposes of the administration of this part, of any of the funds described in clause (c) of the preceding sentence.".

Summary of Proposed Talmadge Medicare and Medicaid Anti-Fraud Amendments

The initial section of the bill establishes within the Department of Health, Education and Welfare an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate and make policy with respect to fraud and abuse monitoring and investigation at all organizational levels in Medicare and Medicaid. Unit personnel could also initiate and conduct investigations of alleged fraud and abuse.

To meet the needs of U.S. Attorneys and State prosecutors, the unit, at the request of prosecutors, would be required to provide all appropriate investigative support and assistance, including temporary assignment of Federal personnel to assist U.S. and State prosecutors in the development of fraud cases arising out of Medicare and Medicaid.

The bill clarifies that the prohibition against assigning Medicare and Medicaid claims to third parties, such as factoring firms, also applies to situations where a hospital or doctor tries to bypass the prohibition by using a power of attorney. This is a problem which has been highlighted in recent hearings with respect to Medicaid mills in New York City, as well as in Medicaid activities in Illinois.

The bill would require disclosure by providers and suppliers of services under Medicare and Medicaid—including so-called Medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities; those sharing in the proceeds or fees; business dealings between the facilities and owners, and certified cost reports.

This section would also require the Secretary and the States to have agreements with independent laboratories, independent pharmacies and independent durable medical equipment suppliers, who are paid directly with Government funds, under which such organizations would agree to provide access to their books and records pertaining to billing and paying for goods and services. This is similar to the type of information which hospitals and nursing homes are now required to provide. Additionally, Federal personnel and the Comptroller General would have direct access to provider records under Medicaid on a basis similar to the access which State Medicaid program people now have.

These provisions will facilitate the identification of exploitive and self-dealing arrangements. It will enable Federal and State investigative personnel and prosecutors to secure under law information indicating the presence or absence of a fraudulent or abusive financial arrangement.

Currently the penalties for fraudulent acts and false reporting under Medicare and Medicaid are defined as misdemeanors subject to fines of up to $10,000 and not more than one year imprisonment. A section of the bill changes these penalties to define such crimes as felonies punishable by up to five years' imprisonment and $10,000 fines.

Professional Standards Review Organizations (PSRO's) are required under present law to review hospital care. However, under law, where a PSRO requests responsibility for review of other types of health services under Medicare or Medicaid, the Secretary of HEW is authorized to delegate that responsibility to the PSRO. To date, because of delays in program funding and implementation, operating PSRO's are almost wholly concentrated in reviewing inpatient hospital care. A section of the bill would require the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities"—the so-called Medicaid mills. The Secretary would give highest priority to requests from PSRO's in areas with substantial concentrations of these "shared health care facilities". The effect of having the PSRO voluntarily assume this responsibility for "shared facility" review might well result in determinations by the physicians of the PSRO that the care or patterns of practice of given practitioners do not meet professional standards or that care and services being provided are not medically necessary. Such findings by the PSRO preclude payment of Federal funds for the care and can also result in PSRO recommendation of suspension of eligibility to participate in Medicare or Medicaid. These latter provisions are sanctions available to the PSRO under present law which would be available in their review of care in "shared health care facilities." The PSRO would also be authorized, in cases where it encounters possible fraud, to refer such cases to appropriate State and Federal law enforcement agencies as well as to the Secretary of HEW.

The provision further clarifies that, where the Secretary has delegated review responsibility to a PSRO, this review is binding for both Medicare and Medicaid; all other duplicative review requirements under other provisions of law terminate; and reiterates the legislative intent that the costs of PSRO operation are to be financed wholly by the Federal Government with respect to Medicare and Medicaid review activities.

Mr. TALMADGE. I also ask unanimous consent that a statement prepared by the Senator from Kansas (Mr. Dole), who is a cosponsor of this measure, be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Senator Dole

As Ranking Minority Member of the Finance Committee's Subcommittee on Health, I am especially pleased to join my good friend and distinguished colleague from Georgia—who chairs that panel—in introducing this legislation today. With all the support it is certain to receive, there is every reason to believe it can be the impetus for eventual elimination of the fraud and abuse which has plagued our Medicare and Medicaid programs—and resulted in the waste of billions of tax dollars.

We have been looking at exactly that problem for more than a year now, and view this measure as just a beginning of the type of reform which may be required to get some degree of control in this area. Since the responsibility for what has taken place over the past ten years must be shared by the Congress, the Executive branch, and the States, it would be both unfair and inaccurate for anyone to suggest that our proposal represents a criticism of any particular level of authority.

In that regard, I should point out that credit is certainly due Senator Talmadge and the leaders of other Congressional Committees for their recent work to expose and deal with the abusers of these programs head-on. Moreover, it is significant and reassuring that some meaningful steps have been taken at the state level to reduce the mismanagement and eliminate the dollar-soaking exploitation of Medicare and Medicaid.

I also want to note that the Department of Health, Education, and Welfare and the Administration has identified the elimination of fraud and abuse as one of their highest priorities. In fact, Secretary Mathews held a news conference on March 26 of this year to outline the efforts he had taken, or planned to take, to address the problem.

The first of these was an October 1974 departmental recommendation for 108 new positions in Medicaid fraud and abuse control. These were formally requested in February 1975 and subsequently granted in January 1976. That same month, additional slots were also approved in the Office of Investigations.

In November 1975, HEW established a new independent Office of Investigations—reporting directly to the Undersecretary—with Medicaid fraud and abuse specifically in mind. A division of fraud and abuse control was established in Medicaid this past March, with 119 staff people assigned to it.

The first review team from that office went to the State of Massachusetts just three months later, and has almost completed its examination there. A second team is now in Ohio, and a third will begin a review this October in Georgia.

It is important to note that all these assistance efforts have been at the invitation of the respective governors involved. Moreover, further reviews are planned in the very difficult states of Pennsylvania, Illinois, and New York, as the new examiners gain experience.

In recent New York investigations, HEW supplied 10–20 manyears of investigative support ot U.S. attorneys. This resulted in the indictments of roughly thirty providers, the majority of whom have pleaded guilty.

To ensure better coordination between Medicare and Medicaid in detecting fraudulent or abusive practices, new regulations have been developed and published. An automated Medicaid management information system—which is critical not only to the detection effort, but also to general management—has been put in place in ten states with 20 more taking steps to follow.

Today's legislation will complement these initiatives and substantially strengthen the Administration's hand in solving the fraud and abuse problem. Without expecting too much in the way of overnight progress, it will also provide new encouragement to the medical societies and their related review organizations who have been frustrated over the inability to effectively deal with those who taint their profession through intentional manipulation of the Medicare and Medicaid programs.

I would caution that this is only the beginning, however, for we must further concern ourselves on a comprehensive basis with all administrative and reimbursement aspects of the federal health spectrum. We must find a reliable means of controlling both the quality and the cost of subsidized health care generally.

Medicare and Medicaid will cost taxpayers more than $38 billion in fiscal year 1977—an increase of $7 billion over fiscal 1976. As Senator Talmadge so appropriately pointed out during our July Finance Committee hearings, the expenditures for these programs are outstripping the rate of rise in federal revenues to the point that we must either make Medicare and Medicaid more efficient, or turn to two other unacceptable alternatives—a reduction in benefits or an increase in taxes.

On February 25, 1976, President Ford submitted to Congress the Financial Assistance for Health Care Act, which could resolve a number of the problems affecting the Medicaid program by more clearly defining administrative responsibilities within it. Under that proposal, the federal government would provide financial assistance to each state under a formula arrangement, related to the number of low income people residing within its boundaries.

At the same time, states would have a clear and unmistakable responsibility and authority for designing, implementing, and auditing their own programs. As we have learned from our recent studies on the matter, it has been the duplicative—and in some states, such as New York, the three-way—management or mismanagement which has invited exploitation and made control next to impossible.

We are including nothing specific in this bill to mandate a stepped-up enforcement effort per se. It would certainly be our hope and expectation, however, that the Justice Department might take some meaningful action on its own to give the problem the attention it deserves.

Presumably, this could be done administratively by creating within its criminal division a prosecutory counterpart to the HEW investigative unit. Initial discussions have already been conducted on this subject, I have been informed, with a view toward developing mutually supportive systems.

Even though being introduced less than a month before we are scheduled to adjourn, I believe this measure has an excellent chance of being enacted. I am going to urge the President to support it, and I have every reason to believe he will view it as a constructive attempt to translate the same concerns he has expressed into a partial solution.

Again, I compliment Senator Talmadge for his devotion to the fraud and abuse problem as well as his close attention to the larger challenge of health care financing. I take pride in the cosponsorship with him of this bill and welcome the opportunity to assist in attaining its final passage during the remaining weeks of the 94th Congress.

Mr. PERCY. Mr. President, as cosponsor of S. 3205, the Medicare and Medicaid Administrative and Reimbursement Reform Act, I would like to commend Senators TALMADGE and DOLE for their introduction of the medicare and medicaid antifraud bill today. The entire Finance Committee deserves full support for its prompt and effective response to the appalling revelations of medicaid fraud, abuse and maladministration that the Subcommittee on Long-Term Care of the Special Committee on Aging unveiled last week. Let the introduction of this bill act as a warning to the unscrupulous that Congress does not intend to allow medicaid fraud and abuse to continue its reprehensible exploitation of the sick and the poor, not to mention the taxpayer who is paying the bill.

For some time I have followed and worked closely with the Finance Committee in its efforts to correct the shortcomings in the medicare and medicaid programs. I am pleased to note that my 1974 request for a Finance Committee investigation of fraud and abuse in the Illinois medicaid program has in part led to this much needed antifraud bill.

As ranking minority member of the Aging Committee's Subcommittee on Long-Term Care, I have been involved in some 30 subcommittee hearings since 1969, as well as numerous investigations on the subject of medicare-medicaid fraud and abuse. The most recent subcommittee hearings have been especially devastating. They have probably stimulated more public interest than any such hearings to date. Senator Moss, chairman of the subcommittee, is to be commended for generating much of this interest by his personal participation in the investigation.

The revelations of the subcommittee hearings on medicaid fraud have shaken public confidence in the medicaid program, the Federal Government and the medical profession. Public confidence, however, may be mended if Congress acts with vigor. Prompt action on the antifraud bill introduced today would go a long way, I think, toward allaying public distrust of the medicaid program and the medical profession. In our actions we must keep in mind that not all medical practitioners nor all health care providers who participate in the medicaid program are "rip-off artists." We should also keep in mind that the medicaid program has in large part provided health care to the poor and indigent who otherwise could not afford any care.

At the recent hearings I stated an emphatic hope that the hearings would act as a catalyst to finally bring about badly needed legislative and administrative reform of the medicaid program so that intended beneficiaries could receive quality health care at a reasonable cost. Furthermore, I pledged to do everything possible to expedite the enactment of the Medicare-Medicaid Administrative and Reimbursement Reform Act so that we could put to rest the need for further hearings on medicaid fraud. Obviously Senators TALMADGE and DOLE responded to my hope with the introduction of the medicaid antifraud bill.

Admittedly, the bill is only the first step toward the elimination of medicare-medicaid fraud, but it provides a foundation upon which subsequent and more comprehensive antifraud legislation can be built. The bill would at least rectify major flaws in the present medicaid law, would close several loopholes that many health care providers have been using to manipulate the medicaid system and, in addition, would make medicaid fraud a felony punishable by up to 5 years' imprisonment and a $10,000 fine.

A legislative solution alone, however, is not enough to eliminate fraud in the medicaid program. In 1972, measures providing criminal penalties for committing fraudulent acts or making false reports under medicare and medicaid were included in the Social Security Act, but only recently has anyone been prosecuted and convicted for defrauding the medicaid program. Prosecution and conviction rates, moreover, have been dismal. Lax enforcement of these laws can no longer be tolerated, particularly in view of the program's escalating costs and increasing fiscal drain on the taxpayer.

The fact that the 10-year medicaid program has seen a tenfold increase, from a $1.5 billion program in fiscal year 1966 to a $15 billion program today, compels immediate action. The time has come for all concerned—Federal and State governments, law enforcement agencies and the medical profession—to coordinate their efforts and work toward implementing an administratively efficient and economically sound medicaid program that can deliver quality health care to its beneficiaries. Only after we have resolved the problems of fraud, abuse and maladministration in the medicaid program can we begin to consider the enactment of much needed national health insurance.

ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous order, the Senator from Wisconsin (Mr. NELSON) is recognized for not to exceed 15 minutes.

ARMS SALES

Mr. NELSON. Mr. President, 3 days ago, I submitted resolutions of objection calling upon Congress to act to examine a disturbing package of 37 separate reports from the administration informing the public that it intends to offer to sell arms to 11 separate states for a total dollar figure of $6.024 billion. These reports were sent to Congress pursuant to the 1974 law which provides for congressional oversight and veto over the sale of U.S. arms overseas.

The administration is attempting to get Congress to approve its latest arms package, on the basis of flimsy justification that is totally inappropriate to the magnitude of the impact these sales would have on U.S. security and peace in the world.

The administration's desire to make these sales will obligate the United States to sell the equivalent of 13.7 percent of all sales made by this country in the past quarter century. What is most troublesome about the administration's plans is that the record of the past several years yields shocking evidence that the conduct of America's arms sales policy is simply in a shambles. For some time now, but during the past 6 years in particular, we have witnessed an exponential growth in the volume of military equipment sold abroad by the United States. In fiscal year 1975, U.S. military sales orders totaled $9.5 billion. If last week's announcement stands unchallenged, the 1976 fiscal year total will reach $14.4 billion. Only 6 years before, in 1970, the foreign military sales program accounted for less than $1 billion worth of equipment. That means we have increased transfers 14 times in 6 years. The United States has firmly established itself as far and away the world's largest arms merchant. According to figures supplied by the Arms Control and Disarmament Agency, from 1965–74, inclusive, the United States delivered $31,563,000,000 in arms transfers around the globe—more than the rest of the world's major suppliers combined.

Paralleling this rapid growth in the sheer volume and cost of arms sales has been a steady tendency for the United States to sell increasingly destructive and sophisticated military equipment. We are selling some of our most advanced weapons, even before our own Armed Forces are fully supplied—as in the case of the sale of 80 F–14's to Iran and now in the sale that the President proposes to make of 160 F–16 aircraft to Iran with a total dollar value of $3.8 billion.

Additionally, the major recipients of U.S. arms have dramatically changed. A program originally designed to assist major NATO allies has become the chief means by which many nations of the so-called Third World acquire weapons. More than half of our foreign military sales in recent years have been made to nations of the newly oil-rich Persian Gulf and Mideast. Such sales have major foreign policy implications, but there is little if any evidence that the administration has given adequate thought to the long-range diplomatic or military consequences of such weapons transfers.

Regrettably, last week's handling of the $6 billion new arms sales announcement only serves to provide further evidence that the administration is too busy making sales to bother about making policy. In the statement I made several days ago, I questioned the executive branch's examination of these plans by pointing out the chaotic manner in which it transmitted its $6 billion arms sales packet to the Committee on Foreign Relations. I referred to a number of sudden, unexplained cost changes and a million dollar clerical error in contracts for Saudi Arabia. Since then, further evidence has come to light.

For example, there was a $400 million discrepancy between the initial and final total values of the 160 F–16 aircraft sale to Iran. In addition, the administration had coordinated its work so poorly that there was a difference of three in the total number of transactions that the State Department said would be sent to the Congress and total number of transactions that the Department of Defense had alerted the committee to expect. The two contradictory messages emanating from the executive branch were conveyed to the committee on the same day.

Mr. President, the executive branch is well supplied with manpower in the arms sales field who are working in various offices, bureaus, and divisions of the different services of the Pentagon and in the State Department, National Security Council, Office of Management and Budget, and Arms Control and Disarmament Agency. However, merely observing the manner in which notice of these proposed sales was transmitted to the Congress causes one to question how well the executive branch has conducted its examination of its arms sales plans.

Discovery of the various errors should lead us to probe further the rationale for these sales. And here too, Mr. President, we will find little comfort. The scores and scores of individuals devoting their full time and energy to the arms sales program have come up with the scantiest of reasons for making these sales which have major diplomatic and security consequences for the United States and the rest of the world. The rationales which the administration has voluntarily provided Congress are merely technical explanations of the military requirements of the recipient nations. Those questions beg other, more significant questions—the implications of the sales for the diplomatic relations between the United States and the buying nations.

The Arms Export Control Act under which Congress is beginning to have an oversight capability in the arms sales program lists 12 important questions which any policymaker should have answered before proposing the sale. Congress is entitled by law to have the administration provide answers. The list reads:

> "(A) a detailed description of the defense articles or services to be offered, including a brief description of the capabilities of any defense article to be offered;
>
> "(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;
>
> "(C) the name of each contractor expected to provide the defense article or defense service proposed to be sold (if known on the date of transmittal of such statement);
>
> "(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;
>
> "(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles or services which are the subject of such sale and a description of how such country or organization intends to use such defense articles or services;
>
> "(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;
>
> "(G) the reasons why the proposed sale is in the national interest of the United States;
>
> "(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;
>
> "(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles or services which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles or services;
>
> "(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles or services proposed to be sold;
>
> "(K) an analysis of the extent to which comparable kinds and amounts of defense articles or services are available from other countries;
>
> "(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles or services which are the subject of such sale would be delivered; and
>
> "(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, services, or equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposad agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement.

Mr. President, I would hope that the Committee on Foreign Relations would require the administration to respond in some depth to the above questions which are part of the statute.

My purpose in proposing the legislation under which these sales are now to be evaluated was to make Congress an active partner in this vital field of foreign policy. There must be open debate and public understanding of the foreign policy impact of these major arms sales. Do these sales serve the best interest of the United States? Do they promote world peace and stability? Is it doubtful that the administration has made any careful studies of the long- or even short-range impact of these sales?

This is the important challenge thrust upon the Foreign Relations Committee, because of its special expertise, and ultimately upon the Congress itself.

Thirty days is much too short a time for consideration of this massive sale to 11 nations. But I am satisfied the committee will do its best within the time constraints of the statute.

Possibly the most important conclusion the committee may reach is that the law should be modified to give Congress more time to evaluate and consider these military sales. It seemed to me when I introduced the legislation that a longer time was required but the Congress thought it was unnecessary to have a longer period for consideration.

Given the administration's tactic of sending a massive $6 billion proposal hours after the Labor Day recess, it is obvious that this issue of time must be reconsidered. None of us, of course, anticipated that the administration would thrust upon us a sales proposal this huge in so short a time. Therefore, I would suggest that Congress give further consideration to the proposal made in the original legislation—that Congress have 30 days in continuous session to consider major sales. But even in light of what the administration has done, it is doubtful that that would be sufficient.

Requiring answers to these questions under the Arms Export Control Act is not a hollow exercise. We have much too much evidence that the administration has failed in the past to evaluate the consequences of its past actions which have set in motion a juggernaut which it calls its "arms sales policy."

On August 2, 1976, the Committee on Foreign Relations filed an excellent report on U.S. military sales to Iran, which is a damning indictment of the sum total of the administration's past few years of ad hoc decisions based on its open-ended commitment to let Iran buy "virtually any conventional weapons it wanted."

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks a summary of that report, entitled "Arms Sales to Iran: An Analysis," which appeared in the August 31, 1976, edition of the Washington Post.

An important aspect of this commitment—President Nixon's decision to let Iran purchase F–14 aircraft—was documented by CBS News on August 27 in a report entitled, "The Selling of the F–14." Mr. President, I also ask unanimous consent to have the transcript of that broadcast printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the administration seems to have more manpower than willpower, particularly if you look at what is happening on the Persian Gulf. Since May of last year, the executive branch has been batting around a NSSM—National Security Staff Memorandum—on arms sales. The study has apparently been abandoned after bogging down in the bureaucratic echelon below the Secretary of State level. It would appear that that will also be the fate of a comprehensive study on the Persian Gulf which has been in the works for months. In any case, the lack of a comprehensive analysis and a lack of coherent planning has not hampered the arms sales momentum which has reached breakneck speed.

The administration was more than willing to stop arms sales to Israel for almost a year during its so-called reassessment last year. However, in marked contrast, the administration has continued feeding the Persian Gulf nation's appetite for arms in spite of the fact that assessments have been in the works over the past year or so. The willy nilly, roller coaster sale of arms throughout the world must be replaced by a cautious controlled and well-coordinated program which has followed an indepth dialog among all branches of the government.

EXHIBITS 1 AND 2

ARMS SALES TO IRAN: AN ANALYSIS

(The Senate Foreign Assistance Subcommittee's staff report on U.S. military sales to Iran appeared on Aug 2, just before Secretary of State Kissinger arrived in Tehran for talks with the Shah. It set off renewed controversy over American arms shipments to the Middle East. These excerpts are taken from the report's findings:)

Iran has purchased large quantities of some of the most sophisticated equipment in the U.S. inventory including the F-14 Tom Cat fighter and the DD993 modified spruance Class destroyer. the F-14 system is so compliated that the United States Navy is having major difficulty keeping it operational; Iran's Spruance Class destroyer will be even more sophisticated than those being procured by the U.S. Navy. Iran is already the dominant military power in the Persian Gulf area. Upon delivery between now and 1981 of equipment ordered to date, Iran, on paper, can be regarded as a regional superpower. Although future purchases of new U.S. equipment and related services are likely to decline in absolute terms from the fiscal year 1974 and 1975 levels, any additional sales will add to an aready sizeable inventory.

Iran is considering the purchase of additional sophisticated equipment such as the F-16 or F-18 and AWACS aircraft;

To pay for new systems and complete its planned purchases of such systems as the Spruance Class destroyer, Iran has proposed barter arrangements (weapons for oil) to compensate for a reduction in normal oil revenues;

The government of Iran is attempting to create an extremely modern military establishment in a country that lacks the technical, educational and industrial base to provide the necessary trained personnel and management capabilities to operate such an establishment effectively. Iran also lacks experience in logistics and support operations and does not have the maintenance capabilities, the infrastructure (port facilities, roads, rail nets, etc.), and the construction capacity to implement its new programs independent of outside support.

Most informed observers feel that Iran will not be able to absorb and operate within the next five to ten years a large proportion of the sophisticated military systems purchased from the U.S. unless increasing numbers of American personnel go to Iran in a support capacity. This support alone may not be sufficient to guarantee success for the Iranian program;

The schedule for virtually every major program except equipment deliveries to the point of entry into Iran has slipped considerably due to the limitations noted above;

In the face of immense obstacles, our investigation indicated that the Iranian armed forces are making a maximum effort to ensure the success of the modernization program; their efforts, however, are hampered because of rapid expansion in the civilian sector as well. The military, for example, has difficulty in matching civilian salary offers to the growing, but still insufficient numbers of trained personnel.

The 1972 decision by President Nixon to sell Iran the F-14 and/or the F-15 aircraft and, in general, to let Iran buy anything it wanted effectively exempted Iran from arms sales review processes in the State and Defense Departments. This lack of policy review on individual sales requests inhibited any inclinations in the embassy, the U.S. military mission in Iran (ARMISH-MAAG), or desk officers in State and DOD to assert control over day-to-day events; it created a bonanza for U.S. weapons manufacturers, the procurement branches of the three U.S. services and the Defense Security Assistance Agency.

Between 1973–75, the activities of U.S. arms salesmen, official and private, were not closely supervised by executive branch officials charged with doing so, or by the Congress;

Each of the U.S. services, particularly the Air Force and Navy, was trying to sell equipment for its own reasons, usually to lower per-unit costs of its own procurements or to recoup part of its prior research and development investment. On occasion, the services fiercely competed with each other for sales to Iran, e.g. the Air Force and Navy to sell the F-15 and F-14 respectively;

The services often did not inform the Iranians of the full extent of the training, logistics, and maintenance implications of the systems they were trying to sell. Thus Iran may have been unaware of the complexities involved in translating its purchases into an effective fighting force. Problems in all of these areas are very serious;

Discussions both in Washington and Iran have confirmed that until recently U.S. appreciation of the management problems of the arms programs in Iran was extremely limited;

Secretary Schlesinger's decision to appoint a senior civilian Defense Representative in Iran in September, 1975, to oversee and coordinate U.S. military programs in Iran is considered by virtually everyone to be a positive and necessary development, given the chaos and problems that had emerged in program management and implementation. Nevertheless, until there is clear policy direction and effective program management in Washington, the problems in the field (Iran) will continue. Deputy Secretary Ellsworth issued a directive in February, 1976, that he hopes will ensure coordination and policy direction within the DOD;

Evidence gathered indicates that the Iranian arms sales program is not yet fully under control. Only with more effective control from Washington and the inherent propensity of civilian contractors and U.S. armed services to sell in an unrestrained manner be curbed.

The presence of large and growing numbers of Americans in Iran has already given rise to socio-economic problems. Although many of these have proven to be manageable, they could become worse should there be a major change in U.S.-Iranian relations.

On the whole, U.S.-Iranian personal relationships are excellent, if somewhat formal;

We were told that some of the early problems were due to the presence of large numbers of young, single American male civilians without adequate recreational outlets. Decisions by some of the private companies to limit the number of unattached male employees have improved social relations, especially in more traditional cities such as Isfahan;

There are many other foreigners in Iran as well as Americans, including British, German, South Korean, French, Filipino, Indian and Pakistani;

Anti-Americanism could become a serious problem in Iran, as it has elsewhere, if there were to be a change in government in Iran. The possibility of a future crisis situation cannot be totally ignored and for this reason contingency plans to deal with such an emergency are necessary.

The U.S. having sold sophisticated arms in large quantities to Iran, has assumed a growing and significant "commitment" in terms of supporting that equipment—an unstated but nevertheless real obligation to train Iranians and to provide logistical support for the lifetime of the equipment. To the extent that the decisions to sell the arms were politically motivated, a failure to provide follow-on support to the satisfaction of Iran would violate the political benefit of having made the sales. The deep involvement of U.S. personnel assisting Iran in program implementation has significant foreign policy implications for the United States in the Persian Gulf.

The U.S. cannot abandon, substantially diminish, or even redirect its arms programs without precipitating a major crisis in U.S.-Iranian relations;

If Iran is not able effectively to use the equipment it has purchased, it may blame the U.S. for the failures;

There is general agreement among U.S. personnel involved with the Iranian programs that it is unlikely that Iran could go to war in the next five to ten years with its current and prospective inventory, i.e. purchases to date of sophisticated weapons (as distinct from some of the less sophisticated ground equipment) without U.S. support on a day-to-day basis.

CBS REPORTS "THE SELLING OF THE F-14" AS BROADCAST OVER THE CBS TELEVISION NETWORK, AUGUST 27, 1976

(With CBS News Producer-Reporter Jay McMullen and Correspondent Bill McLaughlin)

JAY MCMULLEN. This is a report about a controversial two-billion-dollar arms deal, one of the biggest foreign arms sales ever made.

Sold: this war plane and 79 others just like it. It is called the F-14 Tomcat, the world's most sophisticated fighter. In a perfect world it would be totally useless.

In the beginning, the F-14 was produced by the Grumman Corporation for the sole use of the United States Navy. But since additional profits could be made through foreign sales, its capabilities were advertised and promoted abroad.

Narrator in Grumman film: The Grumman F-14, the Navy's new-generation, no-trade-off, no-compromise air superiority fighter. The Tomcat employs both number and variety of weapons, from Phoenix missile to Vulcan cannon; can punch hard at extreme ranges, close in, and anywhere between.

MCMULLEN: As expected, the world's most sophisticated fighter attracted the attention of the military in foreign countries.

(Military commands and martial music.)

MCMULLEN. The buyer in the two-billion-dollar F-14 sale: the Shah of Iran—His Majesty Mohammad Reza Pahlavi—one of the best customers of the international arms market. In February 1976, he inspected the first F-14's delivered to the Iranian Air Force.

In the next hour, we will document our

investigation of the F–14 sale. It began with some routine questions. Why did the United States sell its most sophisticated fighter to the Shah of Iran? Why did he want it? Who did the actual selling—and exactly how was it done? Did this affect the balance of power in the Middle East and the price of oil in the world? And what does this sale reflect of the purposes, methods and ethics of a booming business, in which U.S. sales have increased tenfold in the past six years, the world trade in arms?

Announcer: CBS Reports—"The Selling of the F–14".

(Announcements.)

Announcer: CBS Reports—"The Selling of the F–14" continues, with Producer-Reporter Jay McMullen.

McMullen. Last year an estimated record high of twenty billion dollars worth of conventional weapons were sold in the international arms market—nearly half by the United States. In a world concerned about atomic warfare, ironically no steps have been taken to limit the profusion of conventional weapons—the ones that are doing the killing. That is part of the background for this report on the selling of the F–14.

Teheran, Iran—January 29, 1976. The first F–14 fighters delivered to the Iranian Air Force fly in review for his majesty, the Shah of Iran.

(Sounds of planes.)

His Majesty is a pilot and a connoisseur of war planes. He was pleased, but not surprised, by the performance in the sky above Teheran. He had been sold on the F–14 for a long time.

The story of the sale begins in 1972, about four years before this day. We begin here, at the Grumman Corporation in Bethpage, Long Island, New York. For three years Grumman had been building F–14's for the exclusive use of the U.S. Navy. But by 1972, this big defense contractor was in deep financial trouble.

On each F–14 built they were losing about two million dollars. Inflation had spiraled their costs, but under a long-term contract they couldn't raise their prices. The F–14 was already the world's most expensive fighter. The program unit price: about seventeen million dollars per plane. Congress wouldn't appropriate more money to bail out Grumman, and accused the corporation of bad management and reckless underbidding to get the F–14 contract.

In the words of a Grumman Spokesman: We were at the edge of bankruptcy.

McMullen. If Grumman went bankrupt 23,000 employees would lose their jobs, But in addition, there were national defense implications. By early 1972, the Navy had received only a few of the F–14's it had ordered from Grumman. The then-Chief of Naval Operations, Admiral Elmo Zumwalt, had a problem.

Admiral Zumwalt. The problem was that we desperately needed the aircraft. The F–14 is the world's best fighter aircraft, without a question of a doubt. We had to have it to make up for the rapid reduction in the number of our ships and other kinds of capability. And therefore it was very important to insure that Grumman could survive to build those airplanes.

McMullen. The question was "How could Grumman survive?" L. M. Satterfield, then a Grumman Vice President, knew that a big sale of F–14's in the foreign market would help.

Satterfield. Well, there's always the—the profit you hope to make on any kind of a sale. There also is a significant benefit to the U.S. Government, in that with larger production quantity and production rates, the price of the article decreases. So there's significant savings to the U.S. Government, as well as a profit benefit to the company.

McMullen. The foreign arms market where Grumman hoped to sell F–14's is visible at international trade fairs where vendors display their wares.

(Music of trade fair.)

In this market, salesmen frequently refer to the merchandise as *deterrents*. Each new deterrent usually is more costly and lethal than last year's model—and because there are so many varieties to choose from, competition in the market is keen. The biggest sellers (after the U.S.) are Russia (believed to be overtaking us), France and great Britain. Most of the buyers are representatives of developing countries lacking the capability to create and maintain their own arms industry.

No vendor may sell to a buyer without his government's permission and permission is granted only if the sale is in accordance with government objectives and policy. This was Grumman's problem in early 1972. It didn't have U.S. permission to sell the F–14 in the foreign arms market. Reason?

Satterfield. The main reason was the classification of the airplane, the security classification.

McMullen. It has a security classification because the F–14 with its Phoenix missile is unique. Its radar—operated by a control officer in the plane's back seat—can find and track 24 targets simultaneously. Its Phoenix missiles can hone in on and destroy enemy aircraft or missiles one hundred miles away. No other fighter in the world has this capability. According to Admiral Zumwalt, it had been the Navy's policy, up to this time, not to sell its first line equipment until more advanced models were in the wings. There would be risks in selling the F–14.

Zumwalt. From the standpoint of military considerations alone I would have preferred that the F–14 not go into the hands of any other nation because it is so far superior to the technology of any other nation. And one, I think, has to worry more about the likelihood of that technology falling into enemy hands if it's in the control of a third nation than you do if it's under your own control.

McMullen. But even though a U.S. weapon is restricted from foreign sale, no law prohibits its manufacturer from attracting foreign interest in it. One method is to advertise in trade journals with international circulation. Promotion is permitted—providing no classified information is released. Once a foreign buyer is attracted, pressure may be applied to withdraw U.S. Government sales restrictions.

By 1972, the biggest buyer in the market and the ultimate purchaser of the F–14 was the Persian Gulf country of Iran—a nation of thirty-three million people sharing borders with Turkey, Iraq, the Soviet Union, Afghanistan and Pakistan. Iran is a Moslem country, but its people are Aryan, not Arab. The majority of the people are uneducated and earn less than a thousand dollars a year. Most probably are loyal to their absolute monarch, the Shahanshah. By 1972, their Shah had initiated land reforms, educational programs, and was buidling up the nation's economy with profits resulting from the soaring price of Iranian oil.

With his profits from oil, the Shah also was spending billions of dollars to build up his armed forces. His purchases included: batteries of 175-millimeter guns from the U.S. and 130's from Russia. From Britain, he purchased eight hundred Chieftain tanks—considered the best in the world; also a fleet of Hovercraft and some SAAM Class frigates, equipped with missiles. From the United States, he bought an Air Force. His squadrons included Northrop F–5 fighters and McDonnell Douglas F–4 Phantoms—then the first line fighter of the U.S. Air Force. Also purchased from the U.S. the largest fleet of Helicopter gun ships in the Near East. But for what purpose? According to the Shah, his purpose is to fill a power vacuum created by the withdrawal of British troops from the Near East in 1971.

Shah of Iran. We have no aggressive designs. We are for stability of the region. Our only interest is to see things stable.

(Martial music)

McMullen. Keeping stability means to the Shah keeping the Shah in power, putting down subversive rebellions in the area, protecting Iran's five borders, guarding her oil fields and refineries and preventing any interference with shipments of Iranian oil through the Persian Gulf and beyond to the Indian Ocean, and keeping stability means keeping up the morale of the military through purchases of new weapons.

CBS News Correspondent Bill McLaughlin asked his Majesty—

McLaughlin. To what extent, if any, your Majesty, do you personally make decisions in—involved in arms purchases?

Shah. All of them.

McLaughlin. The final decision is with you?

Shah. I am the real Commander-in-Chief.

McLaughlin. Yes. How aggressively have these arms-producing countries been competing to sell you arms? Have they been tripping over themselves to—to—?

Shah. No. No, I wouldn't say that. I am shopping.

McLaughlin. Oh, I see. You—

Shah. I am doing the shopping.

McLauglin. You're doing the shopping.

McMullen. In the eyes of the Grumman Corporation, the most desired foreign buyer was the Shah of Iran.

Satterfield. A policy of the—of His Majesty, the Shah, says "We only buy the best." So if the Iranians—in their survey of what's available to them to buy—pick an F–14, there's certainly an enhancement of reputation, if you wish, that he, not being constrained by some of the dollar problems that some of the rest of us have, has in fact picked the best aircraft. And that certainly is a plus in the international marketplace.

McMullen. In shopping, the Shah has heard and read a great deal about the capabilities of the F–14. He was interested in it, in part, because he was having problems with Russian spy planes.

McLaughlin. Your Majesty, it's said that in 1972, when you visited Moscow, you complained to Premier Kosygin about overflights over your country, spy flights. And it's said that Premier Kosygin said, "What overflight? Whose overflights?" And you reportedly said, "well, if you don't know whose planes they are, then I'm sure you won't mind if I shoot them down?" Is—Is that a true story?

Shah. I think it's a little romantic—romanticized.

McMullen. But Russian Foxbats had in fact been overflying Iran. The Foxbat—or MIG 25—can operate at 80,000 feet—too high to be hit by any then-operational aircraft, other than the F–14 with its Phoenix missile. Was the Shah primarily interested in the F–14 because of the capabilities of itsPhoenix missile?

Shah. Precisely, yes! Because of its Phoenix missile.

McMullen. Step one in an arms deal: Attract the buyer. Step two: The prospective buyer gets permission to buy from the proper authorities.

In Teheran, on May 30, 1972, the Shah of Iran received a visit from the highest authority in the United States, President Richard Nixon. Before coming here, Mr. Nixon had been in Moscow to sign an atomic weapons limitation treaty with Premier Brezhnev. Now he was asked by the Shah of Iran for permission to buy a weapon that could shoot down Russian spy planes.

Shah. The question was just the principle. Is Iran going to get what she needs? Yes or no?

McLaughlin. And the answer was——?

Shah. Was yes. And why not?

McMullen. The President had the authority to say yes. But why did he agree to sell our newest and most sophisticated fighter to a Near East country? Who had he consulted? Who, if anyone, had advised the President to give the Shah what he wanted?

Announcer. "The Selling of the F-14" will continue.

(Announcements.)

Announcer. "The Selling of the F-14" continues.

McMullen. In approving the sale of the F-14 to Iran, President Nixon was acting at the time within the prerogatives of the Presidency. But before making his decision that would have wide-ranging consequences, who had the President consulted? Not the Congress! Congressional approval of foreign military sales exceeding twenty-five million dollars was not required, as it is today.

Also not consulted: the Joint Chiefs of Staff, including the Chief of Naval Operations, Admiral Elmo Zumwalt.

Zumwalt. My recollection was that this was a kind of spur-of-the-moment commitment that Mr. Nixon had made in response to a question received from the Shah.

McMullen. The then-Director of International Arms Sales for the Pentagon—Leonard Alne. Not consulted.

Leonard Alne. We did in fact learn of the decision *after* the decision was made.

McMullen. The then-Assistant Secretary of Defense for International Security Affairs, G. Warren Nutter. As head of ISA, he was in charge of Pentagon policy concerning foreign arms sales. Not consulted.

G. Warren Nutter. Well, there was a decision memorandum issued—and it was signed by the President—that said this: If the Shah wants this plane—(I don't recall the precise words)—he's to be sold this plane.

McMullen. Was it unusual that the President apparently made a decision to sell that plane without consulting you or your group?

Nutter. It was an unusual procedure. Normally there would have been a study of the question and I—I'm certain in my own mind we did not study the question.

McMullen. They didn't make a formal study of the question because they thought the answer was obvious. According to Nutter, he and Secretary of Defense Melvin Laird had met with the Shah of Iran on several occasions before President Nixon's Teheran decision. This was their response to the Shah's expressed interest in buying F-14's.

Nutter. Our general response was that this was a highly sophisticated aircraft, it was very expensive, and that we felt would be beyond the needs of—of his country and beyond their capability of operating and maintaining properly at this time and that he should think about less sophisticated weapons.

McMullen. So, in a polite way, you were really saying no, weren't you?

Nutter. Well, we—we were not in favor of—of considering the transfer of that aircraft at that time.

McMullen. Their concern, in part, was that the Iranian Air Force was not ready or able to handle the F-14's. Iranians were still learning, from hundreds of U.S. technicians, how to maintain aircraft less complex. Acquiring F-14's would add to the training burden and require the importation of many more Americans. The growing presence in Iran of U.S. military and civilian weapons technicians and their families (about 12,000 of them) was another concern of the Pentagon.

Nutter. We didn't feel that we should create a greater involvement for—for us in that area of the world—with actual physical presence.

McMullen. But their greatest concern, unstated to the Shah, was this.

Nutter. We felt that, by selling something of the order of the F-14 in that area of the world, that we would have escalated the level of sophistication of arms, and perhaps stimulated an arms race, and destabilized the military balance in the area.

(Music.)

McMullen. At a celebration of the 2500-year anniversary of the Persian Empire, the Shah of Iran had proclaimed in 1971 his intention to rebuild Persia to its former glory—and to make Iran one of the most powerful nations in the world. The grand intentions of the Iranians were causing some uneasiness and concern in neighboring countries, fearful that the Shah's legions might someday advance on their territories. An F-14 sale could add to the tensions and induce Arab neighbors to demand F-14's. But the Pentagon had more to worry about than the decision to sell the F-14.

At their Teheran meeting the President also had agreed to sell the Shah another brand new U.S. fighter. This plane (called the F-15) was at the time of the President's decision still being developed by McDonnell Douglas for the U.S. Air Force, which had yet to receive its first delivery. The F-15 can engage Russian Foxbats at high altitudes and shoot them down in dogfights. This plane was to be Grumman's chief competitor in a sales campaign that would ensue. But like Grumman's F-14, the F-15 is a very complex and expensive weapons system. And the decision to sell it also concerned the Pentagon.

Nutter. We were not asked about the F-15 any more than about the F-14. So whatever I've said about the F-14 applies to the F-15 as well.

McMullen. Considering the Pentagon's concerns about selling either plane to Iran, why did the President decide to sell them?

Nutter. As far as we could tell, the decision must have been made on some political or diplomatic grounds that we weren't aware of. We had not supplied any military reason for it.

McMullen. At the State Department, those in charge of arms sales policy at the time told us they too were surprised by the President's decision—and that within the Department there were the same concerns held by the Pentagon. The Department had made no study specifically analyzing the pros and cons of selling Iran either the F-14 or the F-15.

Former President Richard Nixon has not responded to our registered letters and telegrams requesting an explanation of his decision. Secretary of State Henry Kissinger, who was at the time the President's National Security Advisor, told us he was too busy to explain. But more than a dozen other high officials—including some former Nixon Cabinet members did talk to us, some off the record. There was general agreement on two key points.

First, prior to the Teheran decision it was U.S. policy to encourage the Iranian military build-up, with the objective that Iran would fill the power vacuum in the Near East caused by the withdrawal of the British in 1971.

Second, keeping the Shah's friendship was deemed all-important. Better that we sell him some weapons we thought he didn't need and couldn't handle without our help, than offend a friend.

In the words of a former Nixon Cabinet member: "The President didn't want to offend the Shah by refusing to sell him what he wanted. The President just didn't want to say no." And what would have happened if the President *had* said no?

Shah. If the answer was no, I would not have stopped at that. I would have gotten it from somewhere else. Maybe not that good, but something.

Announcer: "The Selling of the F-14" will continue.

(Announcements.)

Announcer: "The Selling of the F-14" continues, with Producer-Reporter Jay McMullen.

McMullen. It was now up to the Shah of Iran to decide whether he would purchase the Grumman F-14 or its rival, the McDonnell-Douglas F-15. A sales campaign dogfight began. It was to be Grumman and the U.S. Navy versus McDonnell Douglas and the U.S. Air Force.

Before presenting some of the highlights of the campaign, you should know about the ground rules. As Director of Pentagon Arms Sales, Leonard Alne was in a sense the referee. He was called into the game because the Shah had decided that, no matter which plane he bought, the sale would be handled (as most of our foreign arms sales are handled) through a government-to-government transaction. Mr. Alne will tell you what that means.

Alne. When the Shah of Iran elects to come in through the government-to-government transaction, all he does is sign a Letter of Offer-and-Acceptance, which is the contract involved. That IOA—so to speak—has a provision on the back that says: "We, the U.S. Government, undertake to buy on your behalf the cited equipment and we will buy this for you with the same care and prudence that we buy for ourselves."

McMullen. In effect, the U.S. Government acted for a two percent service charge as Iran's procurement agent. The Shah was briefed on both planes by the U.S. Navy and Air Force. But the rules of the game permit the vendors to help a customer decide. In fact, their presence is needed. Here is why, in the case of the F-14.

Alne. You cannot imagine people within the Department of Defense, government officials, being totally knowledgeable about how that airplane should be absorbed into Iranian forces. Where should it be deployed? How should you train for it? How should you set up logistic support systems for it? And I'm not saying just the airplane. There are very sophisticated equipments that go with the airplane. So it is unavoidable that, in this case, Grumman have many technicians, if not in the foreground during the decision-making stages, closely associated therewith—in backroom, so to speak—even during policy negotiations.

McMullen. The concern of a defense contractor facing bankruptcy and in desperate need of a foreign sale to survive. How impartial would the U.S. Government be in helping Iran decide which plane to buy?

Grumman feared political favoritism. According to the Corporation, it had been asked to make an illegal corporate contribution to the Nixon campaign—and had refused. It knew that officers of its competitor, McDonnell Douglas, had made personal contributions to the President's campaign. Also the appointment of William Clements as Undersecretary of Defense was a Grumman concern—since Mr. Clements had been one of the principal Nixon fund raisers in Texas.

Another concern was opposition in Congress. Senators Stuart Symington and Thomas Eagleton were suggesting that F-14 production was too expensive and should be terminated. Both Senators represent Missouri—the home state of McDonnell Douglas. In Iran, previously-sold McDonnell Douglas F-4's were already in service. Douglas technicians had good connections with the Iranian Air Force and maintained an office in Teheran. According to Grumman's Satterfield—

Satterfield. They were certainly with a leg up by virtue of having been on the scene for a number of years. In our position we'd never even been to the country and much less have any contact or knowledge of their military requirements and what the needs were. We decided to send some people, of which I was one, along with a Mr. Kane, who was Director of our Marketing, and the two of us made an initial visit to Iran.

McMullen. They came to Iran in September, 1972. They stayed in Teheran, the capital.

(Traffic sounds.)

Teheran is a city of nearly four million people, one million motor vehicles and the world's worst traffic jams.

The Grumman trip to Teheran—in the words of Vice President Satterfield—had this purpose.

Satterfield. Exploratory—to develop acquaintances—to get a personal understanding, personal in the sense of what was needed to be done to market our airplane.

McMullen. At the headquarters of the Iranian Air Force, they visited the offices of the U.S. Military Advisory Group. The U.S. Air Force is the advisor of the Iranian Air Force. There is an American counterpart for each Iranian command branch. How much help and cooperation did the Grumman representatives receive from the U.S. advisors to Iran?

Satterfield. It was somewhat passive, I would say. The U.S. air advisors are, of course, U.S. Air Force—and they were very proud of their F-15 McDonnell airplane. And they would be inclined to want to see the Air Force airplane used by the Iranian Air Force. I think that's natural.

McMullen. Well, did they say that to you?

Satterfield. They intimated it, shall we say.

McMullen. Were they upset at all by your presence over there?

Satterfield. They did not seem to be too enthusiastic.

McMullen. But was the U.S. Air Force actually encouraging Iran to buy the McDonnell Douglas F-15 instead of Grumman's F-14?

Satterfield. I can't say what they were either encouraging or discouraging; I know that they were advising the—(At least, the Iranian officials told us that they were advising) that the F-15 McDonnell Douglas airplane was a very suitable airplane for the Iranian requirements.

McMullen. I see. But they weren't saying that about the F-14 apparently.

Satterfield. I did not encounter that.

McMullen. At the time, Lieutenant-General Howard Fish was Budget Director of the Air Force. He is now a Deputy Assistant Secretary of Defense in charge of foreign arms transfers.

Fish. The U.S. Air Force (and I was a member of the air staff at the time) did not participate in the—in the competition. Our task—the Air Force—was to provide information to the government of Iran on the capabilities of the F-15 and its limitations.

McMullen. Would you have preferred that the Iranian government buy the F-15 rather than the F-14?

Fish. No, I don't think so.

McMullen. Weren't you having a unit cost problem at the time with the F-15?

Fish. Oh, we always—You could say that about every—every piece of equipment that we develop in recent years, because of the inflation. Why of course we did! And every other piece of equipment that you could mention has had unit cost problems during the last four of five years.

McMullen. Weren't you interested, then, in making a foreign sale to help lower that unit cost?

Fish. Absolutely not.

Alne. The U.S. Air Force was not very happy about the sale of the F-14 to Iran. Now, each department perceives that it would be very advantageous, very reinforcing, to have a major ally abroad clearly support an aircraft by virtue of its desire to purchase it and thereby possibly persuade the Congress that indeed this program is as important and as effective and as significant an addition to our forces as we say it is.

McMullen. The U.S. Embassy in Teheran—not the U.S. Air Force—helped Grumman get an appointment with an Iranian Air Force general.

Satterfield. From his comments, we became quite aware that the negative aspects had been—he was much more informed of than he was the positive aspects.

McMullen. Informed by someone?

Satterfield. By someone.

McMullen. You don't know who?

Satterfield. I don't know who.

McMullen. Before leaving Teheran, Satterfield considered the competitive picture and came to a conclusion about the sale of F-14's to Iran.

Satterfield. It was in my opinon very definite that if we did not get some help that we either would not be able to sell or we'd be able to sell only a very small quantity.

McMullen. And you felt if you didn't get some help there, the—the U.S. Government may not—might not be selling your plane, right?

Satterfield. We felt that we had to help ourselves in pushing our product.

McMullen. What Grumman thought it needed to push its product was an Iranian sales agent. Finally selected: Houshang Lavi's Eastern International Company. Previously, Mr. Lavi had represented, he says, more than twenty-five U.S. arms firms, and had succeeded in getting all of them business in Iran.

That's quite a successful record.

Lavi. You could say that.

McMullen. You didn't bomb out on any of those?

Lavi. Uh-uh. Never happen.

McMullen. Well, how do you account for that? Why? Why are you so good at it?

Lavi. Hard work.

McMullen. Is that all it takes to—to make these sales?

Lavi. Hard work and knowing what to do.

McMullen. Is it also having contacts within the Iranian government? Is that how——?

Lavi. I wouldn't say contacts, sir. I would—I would just say knowing them.

McMullen. Knowing them personally?

Lavi. Yes.

McMullen. Being friendly with them or friends of theirs?

Lavi. That's right.

McMullen. Friendship means a fair amount, does it, in the business?

Lavi. It does.

McMullen. Houshang Lavi and his three brothers worked as a team. They all had houses in Long Island, New York, and maintained an office in Teheran. In February 1973, they went to work here from Grumman—and Grumman representatives returned to Teheran. Their headquarters was the Intercontinental Hotel—catering primarily to American businessmen.

(Song excerpt: "I left my heart in San Francisco . . .".)

McMullen. Most of the guests here hope to obtain lucrative contracts from the Iranian government, according to the hotel's assistant manager.

Assistant Manager: Everybody is here to get the money—everybody.

McMullen. And what was to be your commission?

Lavi. If we would have sold eighty F-14's, we—I would have received forty, forty-five million dollars.

McMullen. Forty-five million dollars if you had—could sell eighty F-14's? Well, that's quite a bit of money, isn't it?

Lavi. Sure is!

McMullen. Once he came aboard, then did you find it much easier going in—in Iran? Was it——?

Satterfield. It was certainly much quicker. Because we would say "Who handles requirements?" And he would say, "Well, that would be under General So-and-So and his office is so-and-so and his staff assistant is Colonel Somebody.".

McMullen. But if the Shah makes the final decision on arms purchases, then of what use are an agent's contacts with his generals?

Lavi. He's a very busy person. He goes based on what his generals tell him.

McMullen. According to Houshang Lavi, his principal contact was the Chief of the Iranian Air Force and also the brother-in-law of the Shah—General Mohammad Khatami—now deceased.

You had asked his help in setting up meetings. Correct?

Lavi. Yes. That's true.

McMullen. So you really had the top man on your side, didn't you?

Lavi. If you wish to put it that way, yes, sir.

McMullen. Under the U.S. foreign sales rules, a contractor cannot give a complete briefing of his product unless the customer specifically asks for it. Mr. Lavi says he was influential in getting General Khatami to ask for it. According to L. M. Satterfield, three Iranian generals and about twenty-five colonels attended the Grumman briefing, which featured a movie of the F-14.

Satterfield. We had a movie which recorded some of the test work. And I remember one Iranian general said to me, "Well, why hasn't the U.S. Air Force bought any of these airplanes?" And I think I said, "I suggest you inquire of the U.S. Air Force as to that." [Laughing.] That made me feel pretty good. It indicated to me that we'd been successful in projecting the capabilities of the airplane.

McMullen. But it was at the Paris Air Show in June 1973 that Grumman scored its greatest promotional triumph. It had received permission to display the F-14 here from Undersecretary of Defense William Clements—dispelling Grumman's concern that Clements would be partial to the F-15, still being tested. This was the first public exhibition of the F-14. Iranian observers were among the spectators impressed by a display of the plane's capabilities. The F-14 was hailed as the star of the Paris Air Show. It was flown here by Navy pilots provided at Navy expense. In its eagerness to help Grumman sell the F-14 and avert bankruptcy, the Navy also authorized pilot testimonials to be included in Grumman promotional films.

Cmdr. Tom Cassidy [testimonial in promotional film]: The F-14 can take the fight to the enemy and, as a dogfighter, can outperform any threat airplane flying today or postulated for years to come.

Announcer. "The Selling of the F-14" will continue.

[Announcements.]

Announcer: "The Selling of the F-14" continues.

McMullen. Whether the Shah of Iran would buy F-14's, F-15's or both was unknown until after his visit at the White House in July 1973. After meeting with the President, His Majesty flew to Andrews Air Force Base for an inspection and demonstration of the competing planes. The Shah's ultimate decision, of course, was to purchase only F-14's—eighty of them.

Shah. Both planes were looking absolutely thrilling obviously. But because of the Phoenix missile and the limited number of planes that we could possess and the very long-range capabilities of the F-14, I had to opt for that.

McMullen. Grumman's Satterfield warned the Iranian Air Force that the F-14 might cost more than expected.

Satterfield. I did make a comment that the prices the U.S. Government was paying today, at that time in 1973, that upon delivery of the airplane some three years later, that I could not predict what inflation might do to the prices. One Iranian general with a smile said, "Well, we don't worry about that. If inflation comes, we just raise the price of oil."

McMullen. And they did, right?

Satterfield. And they did, shortly thereafter.

McMullen. At the OPEC meeting late in 1973, the price of oil was doubled at the insistence of the Iranian representative. In part, did Iran insist on a price boost that would have worldwide consequences, in order to pay the huge bills for its arms purchases—including two billion dollars for F-14's?

Shah. No. I have no relations. I don't want to put any relation between these two things.

McMullen. However, recently when his oil profits began to decline, His Majesty announced that he would have to reduce his expenditures for weapons. He told us the soaring cost of weapons is a problem.

Shah. It is a problem because what we used to buy, say, for one dollar two years ago, now we are buying it for three or four dollars.

McMullen. The Shah's most costly purchase, F-14's, went into production for Iran in early 1974—at an increased price—up from about seventeen to twenty million dollars per plane. Increased production for Iran reduced Grumman's costs by eighty-one million dollars. Also a renegotiated contract with the U.S. Navy and a seventy-five-million-dollar loan from Iran helped the corporation survive. Due to renegotiated contracts resulting from a complex set of circumstances, including complaints from the Iranian Government, the Lavi brothers so far have received only about three-and-a-half million of the forty-five million in commissions they originally anticipated. Iran has demanded that it be reimbursed for all money paid agents, saying: "If Grumman can afford to pay millions in agents' fees out of profits, it must be overcharging us." Both Grumman and the Pentagon deny that Iran was overcharged. A Senate Committee says it is going to investigate the mysterious activities of Grumman's agents, including allegations of bribes.

Lavi. We were not going to bribe or pay money to give anything to General—to General Khatami at the time.

McMullen. Did you give anything to him?

Lavi. No, sir.

McMullen. Did you give any money to anyone else in the government?

Lavi. No, sir.

McMullen. Were you asked to?

Lavi. No, sir.

McMullen. Is it commonplace that money is kicked back?

Lavi. It certainly is, sir, but we haven't done it.

(Music.)

McMullen. A ceremony at the Grumman Corporation—January 8, 1976. The purpose: acceptance of the first F-14 fighter built for Iran.

(Music.)

Representing the United States Navy—Admiral John Alvis.

Admiral Alvis. Two years is not very long to build that airplane, but two years later Grumman has done it and I'm delighted to see in the audience here today the people that made it happen. [Applause.]

McMullen. Accepting the plane for Iran, the Iranian Ambassador to the United States, Ardeshir Zahedi.

Zahedi. I have been told that Grumman have more than 2400 different companies which is working for them in order to make this beautiful, wonderful airplane. And I think this is another step of the friendship between the two friendly nations.

Grumman spokesman [in receiving line]: Ambassador, I hope you enjoy that airplane. We think it's great.

Zahedi. Thank you. I'm sure we will.

McMullen. But the plane was only one item in the sale. As usual in the sale of sophisticated U.S. weapons, the customer also requires spare parts and the technical services of military and civilian personnel. They are included in the sales price. Purchasing a new technologically complex fighter is not like buying a car. You just don't drive it out of the salesroom. You have to learn how to operate it and maintain it. More than a year before this delivery day, training in the United States began. Pilot training began at the U.S. Naval Air Station at Miramar, California.

Instructor: We have two back-up systems. We have the back-up flight control module.

McMullen. A small cadre of Iranian pilots and weapons officers, called back-seat men, were sent here to be trained as instructors. Eventually they would be in charge of F-14 pilot training in Iran.

Pilot instructor: Basically, what we'll do is we'll go down about thirteen-fifteen, man up, go ahead, get out to the warm-up area; we'll check in at three-forty-one-point-two.

(Indistinct radio exchange: "Okay, go ahead and call him over the UHF, Rog.")

Iranian pilot: Okay, visual contact is at my northern scape about, oh, three miles.

American pilot: Starboard three-four-zero.

Iranian pilot: Number two is easy to follow.

McMullen. At Grumman Headquarters in Bethpage, Long Island, Iranian technicians—also in training to be instructors—would learn what it takes to maintain and service F-14's.

Instructor: Okay, Abraham, let's go ahead and move the wing sweep.

(Sounds of plane.)

McMullen. What it takes to maintain this complex aircraft is knowledge of nine elecpertise in more than a hundred different skills.

Instructor: You're maintenance people. How would you tell if it's operative or inoperative?

McMullen. They were among two thousand Iranian military personnel being trained in the U.S. Many had attended American colleges. Their technical training eventually would have far-ranging consequences, according to their Shah.

Shah. All these people will enter civilian life and will be a tremendous asset to our industries and to the raising of the I.Q. of our people and the raising of their sophistication.

Missile class instructor: All right, gentlemen, for today's lesson we're going to discuss the loading of a Phoenix missile.

McMullen. But of what use is this to the United States? Deputy Assistant Secretary of Defense, General Howard Fish.

General Fish. The military tends to be an elite in the—in the society. And when we are interchanging with them on a close basis, training them, they go back and we're influencing a very influentital elite in—in these countries that are becoming political leaders and have overtime.

McMullen. Of course, there is always the risk that the friendly countries we train and supply with weapons may not be friendly or controllable in the future. But in the present because they are dependent on us for spare parts and technical assistance, we do have some control over our customers, according to the Pentagon.

Well, do you have control to the extent that you can tell them that if they don't do—don't conform to what you think they ought to do, that perhaps you'd cut off their arms supplies? Is that a leverage?

General Fish. No, I'd say that that—that's like capital punishment, the most drastic remedy.

McMullen. You wouldn't go that far?

General Fish. Well, yes, you would. Just like you know, drastic remedies are sometime required.

McMullen. In the view of the Pentagon, being the arms supplier of two opposing sides gives you double control in keeping them in check. But in case of a short war, don't count on your control.

General Fish. You don't want to overplay the fact of being able to control a situation—for that small short war that can happen and can be very, very devastating. It certainly is true in preventing long, drawn-out wars.

McMullen. In other words, the war could be over in such a short time that you would have no control, in essence.

General Fish. That's right. That's right. That—In other words, the existing stocks and supplies of equipment could be sufficient to be—present the world with a *fait accompli*.

McMullen. Under the F-14 sales contract, every Grumman engineer or technician in this office—and many more—would be required to maintain F-14's and train Iranians in Iran.

Vince Milano [addressing class]: I'd like to first of all welcome all of you to this, our 36th, transcultural session for our people that'll be going to Iran. At the peak of the program, probably sometime around mid- to late 1977, we'll have somewhat over a thousand people—a thousand Grumman people—in country. And this means that we'll have about four thousand individuals, because the average family has come out to be a wife and two children.

McMullen. To these Grumman technicians and their families, the sale of the F-14 would mean an uprooting and a new way of life. Many hours would be spent preparing them for a culture shock.

Orientation film speaker: First of all, my best expression to give to you, as far as getting along in Iran, is cool it. Be independent, have tons of patience, an excellent sense of humor and also do your very, very best to adapt.

Language class teacher: What *jomae* means?

Class response: Friday.

McMullen. The language of Iran is Farsi. They would receive forty hours of language instruction—and get a taste of the local food provided by a Long Island Iranian restaurant.

Restaurant hostess: It's a marinated beef kabob.

Man: Hey, Bruce? Taste it.

Bruce: I did.

Hostess: This is the *doughk*, which is a yogurt, and traditional Iranian drink—a whole new adventure in eating.

Don Spetta. Any questions?

Ed Weston. Yes, sir. How do the Iranians feel about us coming over to their country?

Don Spetta. Initially, while you're still a novelty over there, you'll be copied and looked at as the epitome of the right way to do things.

McMullen. Because of an arms sale, some would find themselves in the cities of Teheran or Shiraz, but most were sent to the central Iranian town of Isfahan—the capital of Iran 300 years ago—a fabled city of turquoise mosques and well-preserved masterpieces of Persian architecture. Because of an arms sale, forty square miles of land outside of Isfahan is being fashioned into a base for F-14's. This base—and another being built in Shiraz—will have the most modern training and operational facilities the U.S. can supply. Outside the base—an army of Iranian laborers is at work—building miles of housing. All of this will be needed to accommodate ten thousand American technicians and their families, including the families of Grumman employees and other U.S. corporations involved in work for the military around Isfahan.

Because of the influx of weapons, there is an increasing need for non-military imports that also favorably affect the U.S. balance of payments. About five billion dollars in non-military services and products were imported from the U.S. last year, including the furniture and household appliances Iran is providing to furnish homes for Americans. But so far, only a few of the houses near Isfahan have been completed. Meantime, hotels are home for most of the Grumman families.

On school days, the Grumman children are bused to schools staffed by Americans. Their education is paid for by Iran. Their classmates are the children of fathers who work for Raytheon Missile, Bell Helicopter, Hughes Aircraft and about twenty-five other corporations involved in the arms industry.

Other buses take Grumman employees to work at the F-14 base. They all signed up for two year hitches in Iran, with options to stay longer if they wished.

Grumman is contracting to train Iranians for five years. But Iranian self-sufficiency in operating F-14's may take much longer—judging by the experience of other U.S. corporations. Bell Helicopter, for example.

Bell Representative: Good morning, genlemen.

McMullen. Bell's four year contract to train at this base, also on the outskirts of Isfahan, is about to be renewed. The problem is the background of the students according to Bell Instructor, Wade Brown.

Wade Brown. These people here, they come from the villages, they come from mud huts, and all of a sudden we throw 'em into something as advanced as this; it's very shocking to 'em, I know. And it's very difficult, especially with the language barrier.

Bell Instructor: Inside here is a defuser whiner. Okay?

Iranian Students: Inside of the turbine? Inside?

Instructor. It's right here. We have centrifugal compressors back here. Back here we have an axio compressor.

Iranian Student. Axio? Centrifugal back in the compressor?

Instructor. No. Axio in the compressor. Centrifugal here. Bob, wait a minute!

McMullen. As their Shah orders more and more sophisticated weapons, the training periods stretch further and further into the future, and the number of American instructors increases. If war should come in the future, they and their families would be vulnerable. American casualties could create strong pressure in the U.S. for retaliation. In any case, under our weapons sales contracts with Iran, could these technicians—on whom Iran is so dependent—leave the country if there was war?

Shah. I think that there is nothing in the contract that will ask them to continue their job if we are in a state of war. On a voluntary basis, I don't know; but nothing has been discussed.

McMullen. According to the Defense Department, our foreign sales agreements provide for the termination of training and supplies of equipment at the sole discretion of the U.S. Government.

General Fish. We have no legal commitment at all.

McMullen. But is there a moral commitment to continue helping a friendly customer involved in a war?

General Fish. You know, you've got to take each case, look at it and see what is in our national interest at that particular moment and how will it work out national interest from that point forward. And these are some difficult choices to be made.

McMullen. Isfahan, Iran—the night of January 23rd, 1976. For Grumman families, whiling away the hours in the lobby of their hotel, it was just another evening of corporate togetherness.

(Family playing cards: "It goes around this way"—"Does it? Okay, okay.")

McMullen. Six thousand miles from here—the same night January 23. At Grumman's Peconic, Long Island airport, some Navy pilots were being briefed by Commander Edward Donnis.

Commander Donnis. We'll be manning up in about an hour and starting engines in about twenty minutes after that.

McMullen. Their mission was to deliver to Iran the first three F-14's ready for export. They would cross the Atlantic and then, after a stop-over in Spain, proceed to Teheran—overflying en route Sicily, Egypt and Saudi Arabia.

Air Traffic Controller. Mitchell five-one, this is Peconic Tower. Current altimeter two-nine, nine-zero. Your wind: zero-eight-zero at five to ten knots. Clear for take-off.

McMullen. Take-off time from Peconic, Long Island—4:00 AM, January 24, 1976.

Time of arrival at Teheran Airport—4:00 PM, January 27th. And so, about three and a half years after a U.S. President said yes, the Shah of Iran got what he wanted.

In review, it would seem that these planes are here not because we perceived a real need for them to be here, but because the United States did not want to offend a friendly country by saying no. And they are here because Grumman, with the help of sales agents, overcame a competitor—and survived to produce them and to profit from the sale of the F-14. Concern that the sale would heighten the arms race in the volatile Middle East appears justified. Iran's neighbors are increasing their purchases of sophisticated weapons—and Saudi Arabia has expressed interest in buying some F-14's. The huge costs of the military build-up in the Near East may be a factor in the devastating rise of the price we pay for oil.

Iranian military: It was a long flight, right?

Commander Donnis. Yes, about eight hours from Spain.

Iranian military: How do you feel now?

Commander Donnis. A little sore.

McMullen. If we don't sell the expensive weapons friendly buyers want, there is always the threat that the Russians or someone else will move in. If the buyers—with their money and purchase options are now in control of the conventional arms market, it would appear that the arms race is out of control.

Finally, through our contractual commitments to buyers, increasing thousands of U.S. technicians are becoming involved in the arms race and exposed to its possible sudden and deadly consequences. The question for all those involved—especially the superpowers—is whether the game is worth the risks. The growing proliferation of increasingly expensive conventional weapons continues.

At the Imperial Palace of his Majesty, the Shah of Iran, CBS News Correspondent Bill McLaughlin asked about the future.

McLaughlin. You've just bought the F-14, hugely expensive, and a whole weapons system and technicians, too, to train your armed forces in using them. But inevitably someone will come along and say, "Ah, well, we've got something much better than the F-14. And if you don't buy it, your neighbors might."

Shah of Iran. Well, our reaction will be the reaction of every other country in the world. If others react to this and try to have better things, we'll have to do the same. That's why I said, until we do have world disarmament, there's no other choice. We are left with no other choice.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. Clark) is recognized for not to exceed 10 minutes.

MERCHANTS OF DEATH—1976 EDITION

Mr. CLARK. Mr. President, in recent weeks we have again seen vivid evidence of the extent to which U.S. arms transfer policies and practices have gotten completely out of hand. Last Wednesday, just as we were going into recess, the President told Congress of plans to sell arms to 11 different countries, for a total of over $6 billion, I repeat, $6 billion. It was a mind-boggling experience paging through the list—from missiles to Korea, to torpedos for Pakistan, to aircraft for Morocco, and helicopters for Israel. And it was distressing that Congress was given such a short time—24 days—in which to consider the proposals.

Even more distressing, in my view, is the extent to which these proposed sales illustrate the total lack of an overall concept, a policy, within which the United States gives or sells billions of dollars worth of arms around the world every year. The action by my esteemed colleague, Senator Nelson, in submitting a resolution of disapproval on all 37 of the offers, emphasizes dramatically, in my view, the conviction in the Congress that it is not only unwise, but potentially dangerous to our Nation, to continue the distribution of weapons—at this high rate—around the world. Such sales stimulate arms races and, I am convinced contribute to the likelihood of the outbreak of wars.

Like some of you, perhaps, my earliest concern for how international arms sales stimulate wars dates to that classic muck-raking report, "The Merchants of Death." I cannot recall all the details of this work, but its two principal ideas remain vivid: First, how greedily private entrepreneurs sold weapons with no thought except to make money, and, second, how mindlessly the nations of the world permitted this to take place.

We now know, of course, that these early "merchants" were mere amateurs compared with what was to come. During the past decade the annual arms traffic has doubled to where it is now estimated that some $20 billion worth of arms were sold or given away worldwide last year.

And, I am afraid we have to concede that the United States led the way. According to a report by the Senate Foreign Relations Committee, in three decades the United States transferred to foreign nations weapons and services totaling some $110 billion, or somewhat over half the world total.

That fact alone makes it difficult to argue that our arms transfers are a response to Soviet sales or grants. Since 1967, our foreign military sales and military assistance grants alone climbed from $1 billion to a 1975 level of over $10 billion, a figure which dropped somewhat in 1976 to about $8.6 billion. Even so, we have increased transfers eight times in 8 years.

At the same time, commercial sales by U.S. companies to foreign governments, which have the same policy ramifications as government-to-government sales, held steady in the $600 million range, although upward tendencies are detectable in recent years.

AID CATEGORIES AND TRENDS

Quite probably all of you are familiar with the various categories of U.S. arms transfers, but just to review let me mention them briefly:

The military assistance program—MAP—the granddaddy of our whole program. This involves the grant—or sometimes loan—to foreign countries of equipment or other services.

The foriegn military sales—FMS—program. Sales by the Defense Department to foreing governments—for cash or credit—with procurements from private industry.

Commercial sales by U.S. firms directly to foreign governments, under license by the Department of State.

Transfer of excess defense articles and ships. Once a major consideration, but no longer very significant.

An understanding of these categories is essential to grasping the trends which are occurring in U.S. arms transfers. There are three readily identifiable trends, each of which has a specific policy impact:

First. The most distinctive trend is the decline of grant aid and the phenomenal increase in military sales. The military assistance program has been reduced from some $5.7 billion in 1952 to a few hundred million dollars in recent years. This year's Security Assistance Act provided for a phaseout of all MAP aid next year, except on a country-by-country basis as specifically authorized by Congress. In practice, MAP aid will probably only be given as a quid pro quo for the use of bases—for example, in Spain. Parallel to the decline of MAP aid, however, U.S. Government arms sales, as we have seen, skyrocketed to a $10 billion level. This year, military sales by our Government and by our commercial firms constitutes 97 percent of our total arms transfers. For purposes of general discussion, our sales program is our method of transfer. It is the hope of Congress that grants will be replaced by credits and ultimately by cash sales.

Second. A second fundamental trend is in the increasing sophistication of the weapons being transferred. For many years we were giving, or selling, relatively conventional equipment, often older models. Now the transfers involve some of the most sophisticated weapons in a modern inventory. Iran is buying F–14 fighters, a plane our own Navy has not yet mastered, and *Spruance*-class destroyers more modern than our own. Recently there was confirmation that the administration proposes selling the so-called "smart" bombs to Saudi Arabia. These are laser-guided bombs which represent quite literally "state of the art." At a recent conference on this subject at the Fletcher School of Law and Diplomacy, the fear was raised that some nations are now acquiring such sophisticated equipment that if used against us they could be a threat to our own military operations.

Third. The final basic trend worth noting is the geographic switch. Until 1973, most of the transfers were to Europe or East Asia, that is, to countries around the periphery of the Soviet Union and China. In recent years, there has been a noteworthy surge in transfers to the Middle East, which—if you include the Persian Gulf—now represents about 80 percent of all our sales. Further shifts may be in the offing, for there appears to be a renewed interest for arms in Africa.

THE PROS AND CONS OF ARMS SALES

The arguments for and against arms transfers are many and varied. But let me run through some of the more prominent claims, with perhaps a shorthand comment or two to focus our discussion:

First. Arms transfers are useful in enabling our allies to contribute to our mutual defense. In the case of our close allies, such as NATO, this makes a lot of sense, and certainly supports efforts at standardization.

Second. The transfers give us influence over the recipient governments. Certainly that is generally true. But no country is apt to be swayed far from its own interests, as we saw in Thailand—a SEATO treaty ally—which has ordered our military forces out after $1.3 billion of military aid. The Russians' experience in Egypt, Indonesia, Ghana, and elsewhere are equally well known.

Third. The transfers are helpful in preserving regional balances of power. That may be so, but it might also be argued that in some cases—for example, the Persian Gulf, where Saudi Arabia struggles to keep up with Iran—our transfers contributed to the disturbance of that balance. If these two countries are in an arms race, we are contributing most heavily to it.

Fourth. The transfers help to maintain internal security. I cannot argue with that. Korea's President Park and President Marcos of the Philippines demonstrate this quite well. Where the maintenance of internal security becomes repression of basic human rights, however, such a justification becomes much more complex. In these cases, an argument can certainly be made that we are supporting not stability but institutionalized violence. At the very least, support for such repressive regimes undermines the credibility of the argument that has been put forward that our major goal in the world is to promote our best traditions and values—those principles spelled out in the Declaration of Independence and the Constitution. Rather, it would seem to me that we have—rightly or wrongly—set ourselves a very different goal; namely, to balance Soviet military power. If that is our higher goal, we should honestly admit that we are prepared to participate in, and promote, great injustices in the name of anticommunism.

Fifth. The transfers reduce research and development costs, increase employment in the United States and help the U.S. balance of payments. On balance, this is probably true. But a congressional study found the savings in research and development are limited to a "few selected weapons systems"—primarily the most sophisticated ones—and another congressional study determined that even with a total ban on FMS by 1981, the unemployment rate would be approximately 0.3 percentage points higher than otherwise projected. Given the policy ramifications and ethical questions raised by arms transfers, the economic argument, it seems to me, is open to serious challenge. It is my belief that the economic argument weighs heaviest with our decisionmakers—particularly with regard to sales in the Middle East—although they would never dare to say so publicly, for that matter, if balance of payments is a problem, something like grain sales may be both more humane and more profitable than selling arms.

Sixth. Perhaps the most vexing argument advanced in support of U.S. arms transfers is the claim that if we do not make the sale, somebody else—either the Soviets or some of our Western weapon producers—will.

In some instances, this must be a consideration. But the fact that other suppliers may make the sales should not by itself be the determining consideration. As George Kennan once remarked, when told that the Soviets would sell in a certain area if we did not, "that's their business." And whether we sell should be our business—our decision based on all the considerations involved.

On the other hand, the negative side of the ledger is as follows:

First. Arms transfers may lead to commitments and involvements not originally intended. This seems to have been true in Vietnam.

Second. The United States, despite end-use restrictions, actually loses effective control over the equipment. It is virtually impossible to keep a country from using what they purchased from us if they think it is vital to their interests. We learned that during the Turkish intervention in Cyprus.

Third. The transfers represent a diversion of much-needed resources which could far better be used for other purposes. This is particularly true if such sales retard economic development, as they almost invariably must.

NEW TRENDS IN U.S. ARMS POLICY

Congress was slow in recognizing the international ramifications of arms transfers. It was not until the mid-1960's that we began to move toward oversight of the grant programs. It was only a couple of years ago that we began to take a close look at Government sales.

In 1974, we passed the Nelson amendment, which requires that Congress be notified of any proposed Government sale over $25 million—this year lowered to $7 million, and then gives Congress 30 days to veto the sale with a concurrent resolution of disapproval. This is a major, if incomplete, step forward. Even 30 calendar days—raised this year from 20—is precious little time for Congress to act. Furthermore, there has not yet been a resolution of disapproval passed by either House—though some sources claim that the threat of such a resolution produced major changes in the Hawk missile proposal for Jordan. Similarly, the administration has now proposed only 850 Sidewinder missiles for Saudi Arabia instead of the 2,000 originally foreseen, because of rumblings of congressional disapproval. In fact, there are some indications that this figure may be reduced even more. In any case, the threat of congressional rejection has become a genuine constraint to unrestrained arms sales.

Congress took another step this year in passage of the Security Assistance and Arms Export Control Act of 1976–77, by separating for the first time the development aid and security assistance into two authorization bills so that each could be considered on its own merits. This makes it much easier to take an independent look at military programs.

THE AFRICA CONTEXT

Examples of the problems we are trying to deal with are many. You have all seen references to the Foreign Relations Committee report—released recently—about how President Nixon in 1972 gave Iran such an open-ended commitment, as the committee report put it, of "virtually any conventional weapons it wanted." That commitment seems to have been reaffirmed by the Secretary of State during his recent visit to Iran. I do not challenge the President's right to make this personal commitment, but I do question the wisdom of such personal, long-term commitments for this and future administrations without these sales being carefully considered by the institutional bureaucratic structure which has been established for such a purpose, and without any consultation with the people's representatives in Congress.

Similarly, in his negotiation of the Middle East crisis, Secretary of State Kissinger has followed much the same pattern in making arms commitments linked in such a fashion to the settlements that it is all but impossible for the Congress to say "No."

I am concerned that we may be slipping into similar new commitments in the continent of Africa, where the administration is proposing the sale of F–5E's to Kenya, as well as $56 million in weapons to Zaire. Ethiopia is also programed to receive $26.6 million in military aid again this year.

One cannot help but wonder if the new African policy announced in Lusaka, Zambia, last April does not include a component of arming anti-Soviet governments in Africa—a continent in which we have shown great restraint on arms sales in the past.

It seems to me we have to better understand the implications of identifying ourselves with the regimes we are supporting in Africa. Several weeks ago, the Assistant Secretary of State for African Affairs, Mr. Schaufele, testified—I believe quite accurately—that the Ethiopian derg is a Marxist, radical socialist, anti-American, and very unstable regime.

It is deeply involved in a civil war with Eritrea and very unpopular with its own people. One cannot help but ask if it is the kind of government we wish to support in our long-term interests. Or, in the case of Zaire, one cannot help but ask if Mobuto is the kind of leader we wish to promote and identify as our closest African friend and adviser. These are the countries to which we now propose to transfer arms.

As someone interested in African economic development, I am also bothered by the extent to which military transfers divert from economic growth in the recipient countries. Zaire has foreign debts totaling $3 billion at present. Debt service alone on this amount is an unmanageable burden for Zaire. Why then is it essential to buy $56 million worth of additional arms on credit? Ethiopia, with what the Department of State describes as a "continuing request" for arms, cannot afford to feed thousands of its own people. Kenya is in particularly difficult economic straits, all three countries will have to pay in human lives and suffering for every dollar paid the United States for these weapons, and they cannot be quickly dismissed by a nation that proclaims the value of human life. And finally, as everyone knows, these three nations also openly violate basic human rights.

At the very least, I urge that before becoming further involved in these deliveries in Africa, the United States should at least go to the Soviets and determine whether they really want to get more deeply involved in an arms race in Africa. Strange as it may sound, administration sources say:

> We've never seriously broached the idea with the Soviets.

It just might be possible to find some common interests particularly in view of a number of past Soviet failures on that continent.

It may also be possible to stimulate renewed efforts by the Organization of African Unity to achieve a regional arms control agreement. We should certainly go on record with our strongest support for such an initiative.

In conclusion, neither I nor anybody else would suggest that there are easy answers to the problem of arms transfers. We would not be gathered here today in this body to discuss this subject if there were. For that matter, I understand that the National Security Council has wrestled with formulating an arms transfer policy since May of last year, and is still unable to present an acceptable paper.

I think first of all, then, that it is essential that we have a policy, which has not been the case and is not the case. Presidents and Secretaries of State and Defense, as well as Government and commercial arms salesmen— assisted by agents and indeed by bribery—have often set the policies by their ad hoc decisions. It is high time we operate on the assumption that arms transfers are a critical feature of our foreign policy and must be treated as such.

Mr. President, recently the distinguished Senator from Minnesota (Mr. MONDALE) the Democratic nominee, of course, for the office of Vice President, addressed himself in considerable detail to the issue of arms control and American security in a speech before the Commonwealth Club of San Francisco. I think it is an excellent analysis and very pertinent to what we are talking about in this colloquy this morning. So I ask unanimous consent that it be printed in the RECORD.

The **PRESIDING OFFICER**. Without objection, it is so ordered. (See exhibit 1.)

EXHIBIT 1

ARMS CONTROL AND AMERICAN SECURITY

(By Senator WALTER F. MONDALE)

It is a pleasure to be in the Bay Area again, and I'm honored to be invited to speak to the Commonwealth Club of San Francisco.

All America takes pride in this city. Much that is best about our country can be seen here—the blending of nationalities, the open-minded positive attitude towards the future, the reaching out to the world through commerce and trade, and the determination to provide excellence in education and in the arts. The Commonwealth Club and its members can take pride in the contribution they have made to the culture and civilization that is San Francisco.

Recently, I've spent a good deal of time in a very nice but different town.

A tiny town of 600 souls in Southern Georgia. Plains has been a good setting for Governor Carter and me to discuss with leading experts some of the most serious issues facing our country.

I'm not sure the experts who traveled 6 hours round-trip on a bus from Atlanta, all found Plains as rewarding as I did. In fact, one of them said his visit to Plains was "an interesting experience but not habit forming."

For me, the most worthwhile aspect was the opportunity, so rare in politics, for Governor Carter and I to spend time talking personally and privately about the issues—about our concerns and our hopes for America's future.

We agreed that both of us should speak out on the important subject of American security, and the role of arms control in preserving and protecting our nation's security.

Governor Carter has done so already. At the United Nations in March he proposed a five year ban on all nuclear testing and a program to curb the spread of nuclear weapons. Last week in Seattle, he outlined in detail how we can achieve a strong, lean and effective defense.

There is legitimate debate over the effectiveness of our current military posture. And there also has been a dangerously over-simplified argument over who is ahead, who is behind, and who is supposedly "winning" the arms race.

We are committed to maintaining the most modern cost-effective forces fully capable of deterring and, if necessary, dealing with the military threats to the security of the United States, its allies, and friends. We will protect our security. That is a given * * *. There should be no doubt about this in the minds of our adversaries or anyone else. We will not permit ourselves to be exposed to danger. We will do whatever is necessary to assure American security and safety.

But today I want to talk about a no less serious concern: the whole world is losing the race to control the instruments of war.

Despite a treaty banning nuclear tests in the atmosphere, a treaty curbing antiballistic missile systems, a five-year agreement on offensive arms, a treaty to prevent the spread of nuclear weapons, and a convention to ban biological weapons, the arms race goes on.

The destructive potential of nuclear forces of the United States and the Soviet Union is climbing beyond comprehension. In 1968, both sides together had about 2,600 nuclear strategic missile warheads. Today, the Soviet Union alone has more than that. And together both nations have about 12,000 plus thousands more of tactical nuclear weapons and bombs on each side.

Almost everywhere, the arsenals of conventional arms are growing at increasing rates. The world trade in arms has soared to $18 billion annually. World military spending is now $300 billion a year, while in a world of disease and suffering, public expenditures on health care are only half that.

There is an alarming danger that the number of nuclear powers will increase to the point that the possibility of nuclear war changes from whether to when.

The unrestrained competition among nations to build more arms, to sell more weapons, to deploy more forces is senseless, wasteful but, above all, dangerous to our security. I would like to briefly outline the efforts that are needed to begin to catch up in the race to control strategic arms, conventional arms sales, and nuclear proliferation.

STRATEGIC ARMS CONTROL

Now that the primary season is over, the Administration reportedly is trying once again to turn the Vladivostok Agreement—in-Principle into a concrete strategic arms treaty. Despite some reservations, I have supported this effort as a first step toward more effective limitations and reductions.

This step is long overdue. So, I wish our negotiators well. Governor Carter has made clear that we do not want the campaign to intrude on the negotiations in any way.

There are two things, however, that trouble me.

First, I am worried that a last minute effort to clinch a deal before the election will not properly protect our security interests. The originial 1972 SALT Agreement on Offensive Arms was negotiated under the intense pressure of Presidential politics. As a result, important ambiguities were written into the agreement at the eleventh hour in Moscow. These have been the source of arguments about Soviet compliance ever since.

I am concerned that this not happen again. When we negotiate with the Soviet Union we must have no illusions. We must be very precise. We must anticipate all the ways they might technically comply yet go forward with programs that vitiate the spirit of agreement.

It is certainly my hope that a good agreement can be reached. We would be the first to welcome it. At the same time, there are apparently some difficult issues to overcome. We obviously must see the specifics of any agreement before making a final judgment.

So, while we all pray for a successful agreement, I hope President Ford would not rush into a hasty agreement.

My second concern is this: while there are real risks in a bad agreement, the irony is that in all probability even a good agreement based on Vladivostok will not put much of a dent in the arms race, because those guidelines are inherently limited. They would leave forces on both sides at an extraordinarily high level; and worse, permit and even encourage continued growth in their destructive power.

Vladivostok would set a ceiling of 2,400 strategic ballistic missiles and heavy bombers and a subceiling of 1,320 strategic ballistic missiles with multiple independent warheads—MIRVs. Now, this overall ceiling is above our level, and the MIRV missile ceiling is above the existing level for both the Soviet Union and the United States.

For the most part, it looks like both sides took their weapons programs, stapled them together and called the result a breakthrough. In fact, when the President came back from Vladivostok, he insisted that America would have an obligation to build up to the Vladivostok ceilings.

Now that is not our idea of arms control.

But what is worse, under any agreement based on Vladivostok, the Soviet Union can continue to deploy its new massive ICBMs. The threat to our fixed Minutemen ICBMs will continue to grow. The Soviets can continue to turn out new, and even more capable strategic ballistic missile submarines. The new agreement is expected to do little or nothing to curb threats against our heavy bombers.

Under such an agreement, half-a-dozen major strategic programs, involving tens-of-billions of dollars can go forward on both sides. Within the Vladivostok limits, both sides can greatly increase its deliverable weapons payload, and soon, each will be able to rain upon the other more than 10,000 nuclear warheads.

If this strategic arms race goes on, anxiety, disappointment, and even anger, will increasingly dominate our relationship with the Soviet Union. In short, our goal of strategic stability will still elude us. Our hope for curbing the competition in new arms will fade. Defense budgets will soar. International tension and risks of nuclear war will dramatically heighten.

That is why Vladivostok, even if it is turned into a Treaty, can only be a first step. The most important strategic problems will remain.

We propose a two-track approach to these problems.

On one track we will press for reductions and controls on new developments and deployments. We believe it is essential to press for mutual agreement to reduce the stockpiles of strategic nuclear arms—in particular, so-called first-strike weapons that undermine deterrence.

Equally important, we will try to gain control over the introduction of new, destabilizing and needless technological developments. We will explore the feasibility of retarding the strategic arms competition through mutual limits on the frequency and kinds of missile flight tests, and on the rate at which new weapons systems can be introduced and old ones improved.

These objectives will not be easy to achieve. The kinds of forces, the geography, the types of technology are very different on each side. Nonetheless, we will make every effort to develop a schedule of reductions and a program of other limits that provides strategic stability and enhances rough equivalence.

To do this, we will put our best scientific brains back to work on the strategic arms control problem. In the Bay area alone, there are a number of distinguished scientists and arms control experts at Stanford, Berkeley, and elsewhere, who used to play a leading role. They must be given a chance to do so again.

The Arms Control and Disarmament Agency was proposed by Hubert Humphrey and established by John Kennedy in order to be the cutting edge of our nuclear arms control efforts. It has been gutted by the Nixon-Ford Administration. It needs a thorough and complete revitalization.

But we can't control strategic arms all by ourselves. The Soviet Union bears a major responsibility, too. They deprive their people with every new missile that is developed and deployed. They would suffer catastrophically, as would we, should the strategic arms race end in war.

While I was in Moscow, a little less than two years ago, I told an audience of Soviet Defense and foreign policy experts that "I must say, frankly, there are aspects of the new Soviet strategic program that are profoundly disturbing. There should be no doubt that if Soviet Strategic deployments threaten to make major parts of our deterrent vulnerable, we will respond."

So, while we seek arms control, we will not permit ourselves to be exposed to danger. We will have a second track to protect our security through our own efforts if we cannot get Soviet Agreement.

Our arms program must be integrated with our arms control programs. The current Administration has been unable to do this. Instead, we get foolish "bargaining chips" like the $6 billion we spent on a useless and now inoperative ABM site in Grand Forks, North Dakota. We cannot have the Secretary of State pushing the Department of Defense to go forward with an arms program one year and then, the next year, criticizing the Pentagon for having done so.

With a truly integrated approach, before we go ahead with a new strategic system, we will ask:

If we acquire this weapon, and our adversaries follow suit, will our security be enhanced or undermined?

If we show restraint, can we expect matching restraint on the other side?

If we acquire this new weapon, is it likely to be countered by our adversary at lower cost? Will we be closing the door to negotiations which might eliminate the need for it?

By the same token, we will carefully measure the worth of any arms control proposals:

Will the measure really contribute to strategic stability?

Will it truly provide rough equivalence, or only its appearance?

Will it be a safe and verifiable agreement? Or will we have to develop and deploy more weapons than if we had no agreement at all?

In brief, will the Agreement provide substantive control of arms, or only atmospherics?

These are the standards that we will use to measure both our arms control efforts and our strategic programs. They will help insure that we protect our security and gain ground in the race to control strategic nuclear arms.

CONVENTIONAL ARMS

The sheer terror engendered by strategic nuclear arms often causes us to neglect the fact that the world is also falling behind in the race to control conventional weapons. Yet, this is a far more intractable and, in a practicable sense, more dangerous problem. Every war in the last 30 years has been fought with conventional weapons. And we know from experience in Europe, in the Middle East, and elsewhere, that confrontation and war involving conventional arms can lead to the brink of nuclear holocaust.

There are a great many aspects to controlling conventional arms that deserve the most serious attention. But today, I want to focus on the increasingly dangerous and urgent problem of the international traffic in conventional arms.

Unfortunately, this problem is a particular responsibility of the United States. Many industrialized countries are in the arms sales business, but in the last eight years we have become the world's largest arms salesman. In 1968, our sales were $1.4 billion. For the last three years, they've been running at about $10 billion.

In recent years, we've made $10 billion worth of military sales to Iran alone. Kissinger and Ford are now asking the Congress to accept a major commitment to sell $5 billion more to the Middle East and Persian Gulf—including over $3 billion more to Iran and a half-a-billion to Saudi Arabia.

But that is not the end of it. Secretary Kissinger has suggested another $10 billion deal may be in the works for Iran. To give you an idea of the total sums involved, they more than equal this year's major weapons procurement budget for all the United States Armed Forces.

Now, I have no quarrel with arms sales as part of our legitimate mutual security programs with allies and friends, such as NATO and Israel. But I'm concerned about the extraordinary trade in arms to the Third World which has been encouraged, yet left largely uncontrolled by the Nixon-Ford Administration.

Richard Nixon gave a blank check to Iran for the purchase of the most sophisticated arms in the U.S. arsenal. Unfortunately, it's a check that President Ford has fully endorsed.

Major new arms sales commitments are being pushed in a last minute effort to saddle America's future with the mistaken arms sales policies of the past. I would seriously question proceeding with these deals without the most searching examination of their consequences. Many of these sales are not aimed at enhancing American security. On the contrary, our overall security is often undermined in several important ways.

First, we are putting ourselves in the position of being drawn into potential local conflicts. We are making major security commitments through the back door.

Only yesterday we were all shocked and saddened by the brutal and senseless murder of three American technical advisors in Iran. When all the current deals with Iran have been consummated, experts in the Congress estimate that there could be in that country up to 60,000 Americans—advisors, technicians, and their families—all hostage to the same unspeakable acts of political savagery. That approximates the number of military personnel we had in Vietnam in mid-1965.

Second, we're aggravating local conflicts. The Administration's desire to pump arms into East Africa is adding to the growing and complex rivalries that involve Kenya, Uganda, the Sudan, Ethiopia, Somalia, Eritrea and the Afars and Issas. Our sales to Persian Gulf nations have gone far beyond offsetting Soviet arms deliveries to Iraq. They are now adding to the tensions in that explosive region.

And it's so self-defeating. These arms sales are supposed to buy us influence and good will. Well, we and the Russians both know how temporary that kind of influence can be. Despite supplying arms to both sides, we could not prevent the Indo-Pakistan War, nor the conflict in Cyprus. And as for good will, we only have to look at the consequences of the bribery and corruption that have too often been the handmaiden of our military sales efforts abroad.

These sales are also supposed to benefit our economy. The fact is that the American taxpayer get stuck with part of the bill. You see, we are committed, and rightly so, to the security of Israel. If we sell a half-million dollars in arms to Saudi Arabia—including 1,000 Sidewinders and over 1,000 of our most sophisticated weapons like the Maverick "smart bomb" plus the precision-guided tow anti-tank weapon—we then will need to give more economic and military aid to Israel to preserve the balance.

And why is it that when the Administration moves to establish a deeper relationship with the poorer nations of the world—most of whom are desperate to improve the lives of their people—they talk first about selling arms. In opening up a new dialogue with the nations of Africa after years of neglect, why is it the Administration seems principally to speak the language of war?

And what of American values? America yearns for a foreign policy that reflects our ideals—freedom, democracy, human development and peace. It is not only what these sales do to other countries; it is what they do to us.

This profligate policy of selling arms to all comers, no matter how repressive or tyrannical the government, has had a terrible impact on our world position and reputation. America was once proud to call itself the arsenal of democracy. But the Nixon and Ford Administrations have tried to turn us into just an arsenal.

I believe their record in pushing arms sales is scandalous. It has been a practical failure and a moral failure. We must and we will make greater efforts to gain control over this process.

Now this does not mean that we underestimate the difficulty and complexity of this problem. Countries want arms. Many need arms. Supplier countries are eager for sales.

Our problems are no excuse for indifference. Nor do they justify a cynical disregard for the fact that the arms we sow abroad today we may harvest in war tomorrow.

The first step must be greater American self-restraint. It is regrettable, but typical, that Gerald Ford vetoed the efforts of the Congress to provide for greater self-control.

Improving our balance of payments is not a reason to sell weapons to another country. I believe there should be a presumption against arms sales which should be overcome only if the sale advances American security, foreign policy or world peace. No country, no matter how rich should be given a blank check to obtain weapons from the United States.

I believe the American people will support such a policy. They know that the arms trade is not the way we want to solve our unemployment and economic problems. There are many other things we can do that will strengthen our own economy and our relations with other nations as well. And I would much prefer to see the face of America reflected in trade policies directed at human development, and to see food and peaceful goods not guns at the heart of U.S. foreign policy.

But self-restraint on our part alone will not be enough. Other supplying countries and the buyer countries must also show restraint.

Thus, the second step must be to place the international control of arms transfers at the front rank of the world's agenda. The issue deserves the same attention as other pressing world needs such as population, food, and the environment. As an initial step, we might convene a special session of the United Nations Disarmament Commission to begin to raise the world's consciousness on the need for international action.

Of course, we all know the shortcomings of the United Nations. So, a third step must be to work directly with the supplier countries, many of whom are our allies, to dampen down the promotion of arms.

I believe our allies will be more ready to help us in this effort as we make progress toward a program of arms standardization in NATO that permits all the major arms-producing countries in the alliance to have a fair share of our common defense market.

We also intend to press the Soviet Union hard to help end this particularly destructive form of East-West competition. As we work toward greater East-West peaceful trade, restraining communist arms sales to the less developed world should be a legitimate subject for negotiation.

Fourth, we would work with regional groups that may wish to show self-restraint in the purchase of arms. For example, several of our Latin American neighbors have sought to establish a restraint agreement among themselves. We should encourage and respect such efforts in Latin America and elsewhere in the world.

We have no illusions as to the difficulty to curbing the transfer of conventional arms. But we are also painfully aware of our own responsibilities. We recognize that controlling conventional arms requires broad and sustained effort. The leadership of the United States is essential. We intend to provide it.

NUCLEAR PROLIFERATION

There is one final point I would like to make. It is a subject Governor Carter has addressed forcefully. And it is one which this Administration has all but ignored.

Our entire effort to control the strategic arms race and to limit the potential for nuclear confrontation growing out of regional conflicts fought with conventional arms, could be completely undercut by the proliferation of nuclear weapons nations.

Yet in the past year we have seen alarming new developments that if unchecked could result in the spread of nuclear weapons capability to dozens of countries that are actively involved in local rivalries, rivalries that have often given way to armed conflict in the past.

That danger stems from the transfers of nuclear enrichment and reprocessing plants to countries like Brazil, Pakistan, Argentina and many others, that have no practical use for such technology other than the option of building nuclear bombs.

To meet this problem Governor Carter and I have both proposed that the United States take the lead in calling upon all nations to adopt a voluntary moratorium on the purchase or sale of enrichment and reprocessing plants. This cannot be done without the active and personal commitment of the President of the United States. In my judgment there is no more urgent or compelling a task than to reinforce the world's steadily weakening grasp upon the spread of nuclear weapons technology.

CONCLUSION

The race to control nuclear and conventional arms must be won. Governor Carter plans to make arms control a major focus of his Administration for two reasons: It makes sense for American security, and for peace in the world.

We believe that arms control programs, in the long run, are just as important to our military security as our weapons programs. Arms control is not a luxury we can afford only after both sides are armed to the teeth. And arms control is not a charade to be exploited for domestic political purposes.

We recognize that many of the problems I have discussed today will take patience and determination. We are realistic. We may not succeed in every area.

But our determination to protect our security through our own arms efforts has not been matched by an equivalent determination in the field of arms control. For example, when we build a tank, like the MBT-70, and it turns out to be a failure, we don't give up on tanks. In the same way, despite the frustrations and disappointments of trying to reach truly effective arms control agreements, we must keep trying.

I don't usually find myself quoting your former Governor, but Ronald Reagan spoke eloquently at the Republican Convention about the risks of war. He suggested that if Americans celebrate the tricentennial it will be because we succeed in controlling the forces of war.

We know that arms control is a serious, tough, long-term business. John Kennedy spoke to this same issue. He said:

> Peace takes more than words. It takes hard work and large-scale efforts. Above all, it takes a government which is organized for the pursuit of peace as well as the possibility of war, a government which has a program for disarmament as well as a program for arms.

This is the kind of government we want to restore for the American people.

Mr. CLARK. Mr. President, lastly, I would like to mention that hearings begin today in the Subcommittee on Multinational Corporations of the Committee on Foreign Relations on Grumman's sales of the F-14's to Iran, and that the hearings are going to be dealing principally with the questions that are being discussed here today.

I ask unanimous consent that a brief summary or synopsis of the purpose of those hearings be printed in the Record.

There being no objection, the synopsis was ordered to be printed in the Record, as follows:

Grumman Hearings—Synopsis

The Grumman hearings dissect the sale of the F-14 to Iran and show (a) the process of U.S. Government oil and arms policy-making, characterized by a series of ad hoc responses instead of a coherent plan; (b) the absence of U.S. Government management control of our arms sales program; (c) the role of the arms company in promoting the sale of weapons (with the aid of our armed services)—and changing the focus from national defense considerations to marketing ones; and (d) the role the agents play in funneling money and information in foreign military sales. An understanding of the F-14 sale should encourage the development of a coherent oil, arms, and development financial policy and avoid similar mistakes with respect to future arms sales, particularly in the Persian Gulf.

MAJOR POINTS

(1) Contrary to the prevailing impression, there were briefing papers on the Shah's re-

quest for the F–14 and F–15 prepared by the Pentagon and the State Department for former President Nixon prior to his May 1972 visit with the Shah.

(2) There were extensive efforts of Grumman to promote the F–14 with both U.S. and Iranian government officials prior to the 1972 Nixon-Shah meeting (and prior to any USG decision to permit the plane to be sold).

(3) 1–4% additional profit generally allowed for extraordinary sales efforts in foreign sales and charged to the purchasing country was specifically not permitted for sales to Iran, through a decision of the Executive Branch.

(4) The Secretary of Defense assumed a low production run of F–14s, thus loading R&D costs on the Shah to partially compensate the dramatic oil price increase of 1973.

(5) There was an absence of any effective U.S. Government monitoring of company sales promotion efforts prior to the decision to permit Iran to purchase the advanced aircraft.

(6) Grumman used agents to ensure direct access to the Shah and high military officers, despite the fact that the Iranians specifically informed Grumman and the Pentagon that there were to be no agents in the deal and this was to be a government to government sale, thus raising an issue as to the effectiveness of Pentagon supervision of company promotion of arms sales.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CULVER) is recognized for not to exceed 15 minutes.

PLAYING POLITICS WITH DEFENSE

Mr. CULVER. Mr. President, before making some comments on this administration's nonpolicy on foreign arms sales, I would like to discuss briefly some recent statements on defense policy by the two Presidential candidates.

Yesterday, President Ford claimed that Governor Carter's proposed improvements in our defense posture would make it "impossible to have a defense adequate to maintain our freedom and the freedom of our friends."

That is simply absurd. Such a remark does an injustice to Governor Carter's carefully considered suggestions and also an injustice to the facts.

We are strong today—second to none in military power. President Ford told us that himself, when he was campaigning against Governor Reagan.

No one wants to weaken America's defenses—not Governor Carter, not the Democratic Party, and not this Senator or any other member of the Senate Armed Services Committee.

The question is, can we stay strong if we continue the waste and mismanagement that now exists in the Pentagon?

Governor Carter favors a defense posture that is "lean and muscular and flexible." President Ford seems to believe that indiscriminate spending can buy us national security, regardless of cost overruns for exotic weapon systems and excessive outlays for surplus personnel who do not add to our combat capability.

Governor Carter wants to reduce our reliance on nuclear weapons in case of conflict. President Ford wants new missiles which are based on the dangerous assumption that so-called limited nuclear war can be tolerable.

It is ironic that President Ford opposes a $5 to $7 billion cut in military spending, for his own budget contained nearly $3 billion added after Secretary Schlesinger was fired, though the President had earlier agreed to cut the money, and $3 billion more in padding which his own Budget Office labeled "cut insurance." That is $6 billion which even he did not consider vital to our national security last November.

This administration has been throwing money at defense problems rather than thinking them through and solving them.

In the past year alone, we have had the Schlesinger addon, the Texas primary supplemental, and then the Kansas City supplemental.

It is hard to escape the conclusion that this administration has been playing politics with defense.

If there is an urgent problem with our forces, it is readiness.

Our troops in Europe are critically short of tanks and other weapons, which this administration has been shipping to foreign nations.

About half of our airplanes are not operationally ready at any given time, but this administration is pushing to build the costly and unnecessary B–1 bomber at $90 million a plane.

Our Navy is the smallest in decades, but the lion's share of our shipbuilding budget is slated to go for a handful of mutibillion dollar supercarriers.

To keep our country strong, we should buy only what we need, and then get what we pay for. That requires careful planning and tough management, rather than blind adherence to the open-end spending of the past.

Mr. President, in order that everyone may read Governor Carter's most comprehensive statement on defense issues, I ask unanimous consent that the text of his American Legion address in Seattle be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY JIMMY CARTER TO THE AMERICAN LEGION, SEATTLE, WASHINGTON—AUGUST 24, 1976

It is a pleasure to appear here today before my fellow Legionnaires and to have this opportunity to discuss matters of common concern to us as veterans and as Americans.

I am, as you know, a member of the Legion Post #2 in Americus, Georgia, as was my father before me.

A tradition of military service runs deep in our family. My first ancestor to live in Georgia, James Carter, fought in the Revolutionary War. Almost a hundred years later, others fought in the War between the States, and my father, Earl Carter, served as a first lieutenant in the Army during the First World War.

Including by time at the U.S. Naval Academy, I spent 11 years in the Navy, most of my sea duty in submarines. I had the good fortune to serve under Admiral Rickover on the development of one of the first atomic submarines, and I have tried to carry over into my business career and my political life the high standards of dedication and competence that I learned from that remarkable military leader.

My son Jack continued our family's tradition in the military, but his service came in an era quite different from my own. Jack left college several years ago and volunteered to serve in Vietnam. He did so because he didn't think it was right for him to escape service simply because he had the money and the educational background to stay in college.

During the Second World War, and even during the Korean War, I always wore my uniform with immense pride, and it was a badge of honor among my civilian friends and neighbors.

That was not the case when Jack came home from Danang in 1969. He and the uniform he wore were all too often greeted with scorn and derision. Many of his friends told him he was a fool to risk his life in a meaningless war that couldn't be won.

Hundreds of thousands of Vietnam veterans were meeting that same bitter reception all over America, and I believe very strongly that those scenes, and the national mood they reflected, amount to nothing less than an American tragedy.

I believe in patriotism. I believe that people should love our country, and be proud of our country, and be willing to fight to defend our country. That is how you and I grew up—never doubting that ours was the greatest nation on earth, and getting, as Senator John Glenn once put it, a warm feeling inside us whenever the American flag passed by.

I know that your patriotism has been demonstrated not only in your military service, but in your work in community and national affairs, such as your outstanding "War on Cancer" fund drive. But we must recognize that for millions of our fellow Americans, patriotism is out of fashion, or is an object of scorn and jokes. That fact is part of the bitter heritage of an unpopular war.

I do not seek a blind or uncritical patriotism. Obviously a government's policies must be deserving of public support. But in recent years, disagreement with our nation's policies too often became rejection of our nation itself. There is a great need for the next President to do everything in his power, by word and deed, to restore national pride and patriotism in our country—and if I am elected, that is what I intend to do.

I also believe in tradition. I was Governor of Georgia when Congress passed the law that changed the observation of Armistice Day away from the traditional date of November 11. I thought that action was unnecessary, insensitive, and offensive, and we kept November 11 as Armistice Day in Georgia.

I did not come here just to get your vote or endorsement, nor just to make a good impression on you. I come here as a nominee for President who has spent full-time the last 20 months learning about this country—what it is and what it ought to be.

I want to talk to you about some tough decisions—as veterans, yes, but also as Americans who are farmers and truckdrivers, doctors and lawyers, fathers and grandfathers, school teachers and civil servants, employed and unemployed, rich and poor.

We must maintain adequate military strength compared to that of our potential adversaries. This relative strength can be assured:

by a commitment to necessary military expenditures;

by elimination of waste, duplication among forces, excessive personnel costs, unnecessary new weapons systems, inefficient contracting procedures;

and by a mutual search for peace so that armament levels can be reduced among nations, because the most important single factor in avoiding nuclear war is the mutual desire for peace among the superpowers.

I would never again see our country become militarily involved in the internal affairs of another country unless our own security was directly threatened. But it is imperative that the world know that we will meet obligations and commitments to our allies and that we will keep our nation strong.

We seek friendship with the unaligned and developing nations of the world. Many of them are weak and vulnerable and they need allies who can contribute to their peace, security and prosperity. Yet we must remember that excessive foreign commitments can overtax our national ability. We must therefore be cautions in making commitments, but firm in honoring them.

I have spoken recently with many experts in national defense matters, and I believe we have, overall, adequate ability to defend ourselves, to meet obligations to our allies, and to carry out a legitimate foreign policy. But we must be constantly vigilant to recognize and correct adverse trends.

Our total American ground combat forces are less than half those of the Soviet Union, and the number of men under arms in that country has increased by a million while ours have decreased by 1½ million since 1968. During the same period the number of U.S. ships has been cut in half. For every tank we have, the Soviets have at least eight. Because of our greatly improved anti-tank weapons, this heavy Soviet investment in tanks may prove to have been an unwise investment.

Of course there are counterbalancing factors of strength such as superior quality of our weapons, the relative security of our own borders, our more ready access to the sea, and the trustworthiness and military capability of our allies.

There is now, in my opinion, an overall rough equivalency in direct military strength. This balance must be maintained.

Yet, as we seek an adequate defense, we must face the fact that the very words "national security" have fallen into disrepute. I want to hear those words spoken with respect once again. Too often, those words are now viewed with scorn, because they have been misused by political leaders to hide a multitude of sins, and because they have been used to justify inefficiency and waste in our defense establishment.

Whatever the price and whatever the pressures, the President must insist on a national defense posture that is lean and muscular and flexible.

It is sometimes said that the threat of war has receded. But in Europe, the Middle East, in northeast Asia, potential for conflict still exists, powerful armed forces are deployed and Americans have recently been brutally killed. To deny that these situations pose a potential danger to peace is to turn away from reality.

Our military power must be continually reviewed. In Europe, NATO must increase its combat readiness and adapt its forces to new military technology, if it is to offset steady improvements in Warsaw Pact forces. In the eastern Mediterranean, strong U.S. naval power must be maintained. We must also assure a close and confident defense relationship with South Korea and Japan.

We must maintain rough equivalency with the Soviet Union in strategic nuclear forces. Equally important, we and our allies must have conventional military capability adequate to reduce dependence on nuclear striking power. In a world where massive mutual devastation is the likely result of any use of nuclear weapons, such strategic forces cannot solely be relied upon to deter a vast range of threats to our interests and the interests of our allies.

We must always recognize that the best way to meet ideological threats around the world is to make our own democratic system work here at home.

The strongest defense grows out of a strong home front—out of patriotism. Our defense must come not only from our fighting forces, but from our people's trust in their leaders, from adequate transportation; energy, agriculture, science, employment, and most of all from the willingness of our people to make personal sacrifices for the sake of our nation. Not until we restore national unity can we have a truly adequate national defense.

Only then can we, in Theodore Roosevelt's phrase, speak softly but carry a big stick.

I recognize, of course, as you do, that it is not enough for the president to talk about patriotism and national security. He must take positive, aggressive action to ensure that our defense establishment is worthy of national respect. That calls for leadership, and it calls for management.

In any given annual budget, now or in the future, there is a limited amount of money available for national defense. When any resources are wasted, our nation's security is weakened. We now have an excessive drain on defense funding from waste and unnecessary expenditures.

We must better coordinate long-range planning and budgeting among departments responsible for military, foreign, fiscal, economic, transportation and social affairs of our government. A spirit of cooperation must be restored.

Foreign aid must be consistent with our national purposes, and designed to strengthen our allies and friends and to fulfill humanitarian purposes. I'm tired of our taxing the poor people in our rich country and sending the money to the rich people in poor countries.

We must frankly and constantly assess the effectiveness of our present voluntary recruitment program. As unemployment drops and civilian jobs become more plentiful, it will be much more difficult to maintain our present military strength.

We must ensure that an oversized support establishment does not prevent us from maintaining needed combat force levels.

We must recognize that our military personnel are transferred too much. At any given moment, about one out of seven of those personnel is in the process of moving, or away from their family on temporary training duty. This year $2.5 billion will go simply to move service personnel, their families, television sets and furniture from one base to another. Such frequent moves not only eat up money, they undermine morale. If we extend the average tour of duty by just two months, we could save $400 million per year.

We need to reexamine our military training programs. Recent congressional hearings, by the way, revealed that we now have an average of one and a half military students for each instructor. By moving to a ratio of only three students to each instructor, we could save an estimated $1 billion per year.

Cost overruns have become chronic. The Pentagon itself estimates that the total current cost of overruns on the 45 weapons systems now in the process of development in the three services—exclusive of inflation—is $10.7 billion. Over the next five years that would approximate the cost of the proposed B-1 bomber program over the same period.

We need sound, tough management of the Pentagon not only to eliminate waste, but to ensure that force structures are correlated with foreign policy objectives. Tough management will mean that overlaps are eliminated between Pentagon programs and similar programs of civilian agencies. It will mean that we cooperate closely with our allies in our mutual defense, that our weapons systems are integrated with each other, technically and strategically, and that we put a stop to the dubious practice of arms giveaway programs for potential adversaries.

Ever since I was Governor of Georgia, when I attended National Guard training sessions every summer, I have been concerned that our reserve forces, both the regular reserve and the National Guard, do not play a strong enough role in our military preparedness. We need to shift toward a highly trained, combat-worthy reserve, well equipped and closely coordinated with regular forces—always capable of playing a crucial role in the nation's defense.

If we can get the flab out of the Pentagon's budget, I believe that the public will evaluate questions about weapons systems and force levels on their merits in a calm and rational manner. Our people will support an adequate defense establishment without complaint, so long as they know that their tax dollars are not being wasted.

The threat to our security comes not only from states that might be hostile. International terrorism knows no boundaries, recognizes no law of warfare, accepts no standards of conduct. It is brutality at its worst, the law of the jungle in its most primitive form.

Recently at Entebbe the Israelis reaffirmed courageously the old principle that every state has the right to defend its citizens against brutal and arbitrary violence—violence that in this case was even based on collusion between the terrorists and a government.

The issue of international terrorism must be a priority item for the entire international community. If I become President, I intend to recommend strong multinational sanctions against guilty nations as a necessary and productive means for crushing this intolerable threat to international law and peace. International terrorism must be stopped once and for all!

In our own country, we must recognize that, in far too many cases, the Vietnam veteran has been a victim of governmental insensitivity and neglect. Large bureaucracies of the federal government have often been incompetent, inefficient, and unresponsive in their fulfillment of responsibilities to veterans. Each month, thousands of veterans are plagued with late delivery of badly needed benefit checks. Hundreds of millions of dollars of benefit payments have been improperly computed. The average VA hospital has only half the doctors and supporting personnel found in the average community hospital.

The poor record of the government bureaucracy has been especially bad in programs intended to help recent veterans to find jobs. In 1973 and 1974 Congress passed legislation requiring special consideration for veterans in public service jobs, in training programs, for jobs with federal contractors, and for jobs in the federal government. None of these requirements has been fully or effectively carried out.

For example, despite the mandates of the law many federal departments and agencies have few disabled veterans or Vietnam veterans serving within them. It took the Labor Department 18 months to establish administrative guidelines to ensure the hiring of veterans. In 1975, 16 federal agencies failed even to submit required plans for hiring disabled veterans until congressional inquiries were begun.

The record of placement in private sector jobs and training has been no better. In 1975 more than two-thirds of the 153,000 job training slots went unfilled, largely due to inadequate administrative procedures.

Yet last month there were still 531,000 Vietnam veterans who had no jobs.

The reason for this dismal record is clear: It is a failure of leadership.

Sympathetic leadership would not submit—as did the present administration—a budget recommending cuts of ten percent or more to veterans' programs and denying full cost of living protection to disabled veterans.

Concerned leadership would not have vetoed a bill ovewhelmingly voted by Congress for higher education allowances, better work-study programs, more educational loans, and employment and training preferences for more than two million veterans.

Only because the Congress overrode this veto do Vietnam veterans enjoy some of the educational benefits they deserve.

I believe we need to address the needs of veterans, especially of Vietnam veterans, with sympathetic and active leadership rather than with vetoes and passive resistance. Men who have endured so much suffering, so bravely, fighting in a far-off land, should not now suffer anew in their own country at the hands of insensitive bureaucrats and indifferent politicians.

If I become President, the American veteran, of all ages, of all wars, is going to have a friend, a comrade and a firm ally in the White House. My administration will act to strengthen the competence, the responsiveness, and the independence of the Veterans' Administration. I will appoint the most capable administrators available and I will insist on fair and sensitive treatment for veterans by every employee of the executive branch of government from top to bottom.

I would like to speak for a moment about the single hardest decision I have had to make during the campaign. That was on the issue of amnesty. Where I come from, most of the men who went off to fight in Vietnam were poor. They didn't know where Canada was, they didn't know where Sweden was, they didn't have the money to hide from the draft in college. Many of them thought it was a bad war, but they went anyway. A lot of them came back with scarred minds or bodies, or with missing limbs. Some didn't come back at all. They suffered under the threat of death, and they still suffer from the indifference of many of their fellow Americans. The Vietnam veterans are our nation's greatest unsung heroes.

I could never equate what they have done with those who left this country to avoid the draft.

But I think it is time for the damage, hatred and divisiveness of the Vietnam war to be over.

I do not favor a blanket amnesty, but for those who violated Selective Service laws, I intend to grant a blanket pardon.

To me, there is a difference. Amnesty means that what you did is right. A pardon means that what you did—right or wrong—is forgiven. So, pardon—yes; amnesty—no.

For deserters, each case should be handled on an individual basis in accordance with our nation's system of military justice.

We may not all be able to agree about what was the right course for the nation to take in 1966. But we can now agree to respect those differences and to forget them. We can come together and seek a rebirth of patriotism in which all our citizens can join.

We must bind up our wounds. We simply cannot afford to let them fester any longer. The world is too dangerous. We cannot remain distracted from what must be our overriding aim. Our attention must turn to rebuilding the military, economic and spiritual foundations of a peaceful world order.

Those who most want peace, and who best understand the need for strength as a prerequisite for peace, are our past and present servicemen and their families. As a former submarine officer, I know that fact from experience.

I can still remember hearing President Truman explain to the world that the atomic bomb had been dropped in Hiroshima. I was at sea in an old battleship in the North Atlantic. None of us had ever heard even a rumor of this quantum leap in destructive power. We had no way of comprehending the meaning of this new weapon which had been dropped on Japan. We were mainly relieved at the prospect that the need for invading Japan might be averted, thus saving what would surely have been the loss of hundreds of thousands of American and Japanese lives.

After we saw the destruction in Japan, for a while we understood the terrible havoc and devastation which would follow any use of nuclear weapons. But now we have a tendency to forget. Even if a strategic nuclear war could remain "limited in nature," it would still involve the death of approximately ten million Americans. A so-called "limited nuclear war" in Europe could produce an even greater number of deaths. In an all-out nuclear war, 200 million Americans could die—virtually the entire population.

Obviously, such a holocaust is beyond our capacity even to imagine. Numbers like 10 million dead or 200 million dead seem unbelievable. But they are true.

The Duke of Wellington said in 1838: "A great country cannot wage a little war." In our time that doctrine has acquired new meaning. In a nuclear world, we cannot rely on little wars to prevent big wars. We must maintain our strength and use it to prevent all wars.

Our people have been shocked and hurt over and over again. Things which we used to take for granted are now subject to widespread doubt. Things like trust in our leaders, confidence in our institutions—even love and respect for the flag and support and appreciation for the men and women who defend the flag. But I believe there is no one in this country—certainly there is no one in this room—who does not want to heal our wounds and restore the precious qualities and the national strengths we seem to have lost.

I hope to play a role in that noble enterprise.

I hope you will help.

Thank you.

CONGRESS AND ARMS SALES

Mr. CULVER. Mr. President, I am pleased to join in this discussion of foreign military sales policy. This is a subject on which the Congress has acted boldly to fill a vacuum in executive branch policymaking.

Until just a few years ago, these weapons sales were low in volume and in visibility. But the Middle East situation after 1973 and the vastly increased revenues of the oil cartel countries created a demand for weapons which the arms merchants are still rushing to fill. For example, the United States sold more weapons to other nations in 1974—valued at $10.8 billion—than in the previous 4 years combined. And for the two subsequent years, annual sales have approached $10 billion.

The executive branch resisted congressional efforts to seize an oversight role on these mushrooming sales.

The executive branch preferred a laissez-faire attitude of selling whatever the market would bear.

Little thought was given to the impact of these sales on regional arms balances, on our foreign policy objectives, or on the readiness and requirements of our own forces. If the check was good, we jumped at the opportunity.

In short, we had a program—sell—without a carefully considered policy.

The Congress has now imposed a set of policy guidelines and has assumed an oversight role. We can be justly proud of our efforts, despite a Presidential veto and the special interest pleadings of arms manufacturers.

Nearly a year ago, more than 100 Members of Congress joined me in signing a letter to the Secretary of State, expressing our concern about "the anarchic and escalating nature of the worldwide rush to acquire new weapons" and urging U.S. efforts "to convene an international conference of major arms-producing nations to seek some rational control and coordination of what now seems to be pathological competition in foreign military sales."

Secretary Kissinger responded on November 28, promising "a full scale review of possible limitations on the traffic in conventional arms."

Mr. President, although I am informed that such a review was undertaken, I have not yet received any further communication regarding this proposal. Nor am I aware of any initiatives by the present administration pursuant to that policy review.

Not content with a letter, the distinguished Senator from Minnesota (Mr. MONDALE) and I introduced legislation calling for an international conference on arms sales, which was incorporated into section 202 of Public Law 94-329. That provision reads as follows:

> It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

Mr. President, Congress has spoken. Where is the executive branch's reply?

We recognize the difficulties of achieving agreements on these matters, but we deplore the inactivity and seeming indifference on this urgent problem.

Few people realize, Mr. President, the consequences for the United States of unchecked arms sales. As a member of the Senate Armed Services Committee, I have been particularly concerned about the impact on our own defense programs and force posture.

Consider the facts.

Over 14,000 man-years of effort, civilian and military, will be devoted next year simply to the administration of foreign military sales. The estimated cost is $237 million. Although these sums are supposed to be reimbursed by recipient nations, the fact remains that nearly a division's worth of people are working on foreign sales rather than contributing directly to our own combat capability.

I might add, Mr. President, that the Armed Services Committee has requested the GAO to review the accounting and reimbursement for these personnel in order to determine what changes might be necessary.

One would hope that these massive sales to supposedly friendly countries would permit some reduction in the requirements for U.S. forces, but the Secretary of Defense has given no examples where that has actually occurred.

Not only do we sell vast quantities of equipment, but often the latest and best equipment, incorporating the advanced technology which until now has enabled our forces to maintain a qualitative superiority despite numerical disparity in some areas. We may relish the defection of a Soviet pilot in a Mig 25, but we cannot prevent the defection of, say, an Iranian pilot with an F-14 and Phoenix missiles.

Transfers of weapons in recent years have depleted our own stockpiles and have mortgaged huge segments of our production lines for many major weapons. It is no secret, for example, that our forces in Europe have suffered serious shortages in many items because of sales and grants of equipment.

The Army claims an overall worldwide shortage of 61 percent in tanks, yet we have shipped over 2,000 tanks abroad in the past 3 years.

The Army says that we have only about half the armored personnel carriers we need, but over 2,500 have been sent abroad in the same period.

And although our own forces are still far from filling their required inventories of Tow antitank missiles, we have sent about 3,000 launchers and over 100,000 missiles to foreign customers.

How can we justify, Mr. President, making our own soldiers wait at the end of the line while the oil potentates go on their spending spree?

Once again, Mr. President, the Congress had to take action. Last year, the Armed Services Committee approved my recommendation for restrictions on foreign sales which reduced our own readiness. And belatedly, the President announced a policy requiring other nations to take their proper place in line. In this instance, I believe that we gave the Pentagon backbone to resist the open-order-blank policy of the State Department and the President.

I am not opposed to all arms sales, but I believe that any sales must be measured against a clear policy yardstick which calibrates our overall national interest, and not simply short-term benefits. We need foresight and calculation if we are to avoid causing more problems than we solve by agreeing to these sales.

Over the long run, the greatest danger is that our own production lines—and those of other nations—may become hostage to a new international military-industrial complex which feeds on national rivalry and then becomes a fortress against global arms control and reduction.

We have recognized this threat to our society, but we have not yet come to grips with the potential power of the worldwide weapons industry. In recent years, about one-third of American defense production has gone to foreign sales. About one-third of the British aerospace industry depends on overseas markets, and six of every seven French tanks, missiles, and Mirage fighters produced in recent years have gone to other nations.

If these trends continue, it will be politically impossible to check this pathological competition in the means of destruction.

It is therefore urgent to act, and act quickly, to harness these forces before they drag us into unwanted and unforeseen conflicts.

Mr. President, our distinguished colleague from Minnesota (Mr. MONDALE) has discussed these issues in a recent address in San Francisco. As a contribution to our national debate on this topic, and as a glimpse at what a coordinated, cooperative policy between the Congress and a new administration might be, I ask unanimous consent that the text of Senator MONDALE's address be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1 on page 29633.)

Mr. CULVER. I also ask unanimous consent that an excellent editorial on this subject from the Des Moines Tribune be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Des Moines Tribune, Sept 3, 1976]

ARMS FOR SALE

"Can we be both the world's leading champion of peace and the world's leading supplier of the weapons of war? We cannot have it both ways,"—Democratic presidential candidate Jimmy Carter in his Foreign Policy Association speech in June.

The facts are grim. The world arms trade has shot up from $300 million in 1952 to $20 billion last year. The U.S. is the biggest arms exporter, doing 45 per cent of the exporting. The Soviet Union did 30 per cent, France and Britain were third and fourth.

In the 1950s and '60s, U.S. arms exports were mostly gifts or near-gifts, so Congress and presidents tended to hold them down. In the 1970s, when 90 per cent of the arms exports are commercial sales, they went up from $1 billion a year to $10 billion. Arab oil money is one reason. We arm Arabs.

All arms sales were under government licensing and many were government-to-government sales, but theoretical controls by Defense Department, State Department and White House were governed by a conviction that more is better. Defense employes became salesmen and pushed arms on foreign governments, in competition with rival salesmen from the Soviet Union, France and others.

The Senate Foreign Relations Committee warned recently that U.S. military sales abroad are "out of control." Congress this year gave itself 30 days to veto arms sales abroad of over $25 million.

But Robert Mantel of the Senate committee staff told Newsweek, "We do not have the time or the staff to set U.S. arms policy. About all we can do is hope to force the administration to face the issues."

The administration continues to believe that massive arms sales are necessary to enable friendly countries to defend themselves, to counter Soviet sales to rival countries, to reduce by mass production the unit cost of arms to the U.S. armed services, and to keep foreign arms suppliers from getting the sales. If the U.S. doesn't sell, someone else will, defenders of the arms policy say.

Some efforts were made by U.S. administrations in the past to get international agreement to limit arms sales to factions in the wars and civil wars in Angola, Vietnam, the Middle East. It would make sense to greatly intensify efforts at arms sales limitation. To keep this effort from being a drive for superpower monopoly, it should be combined with arms limitation talks for superpowers also.

Meanwhile (and that may be a long while), the United States should rethink its own arms export policy. Unilateral reduction to more modest levels would in all probability reduce the danger of war instead of increasing it.

The Pentagon told Newsweek it expected to reduce arms exports over the next few years to around $6.5 billion a year and level off there. Before 1971 the level was $1 billion or $2 billion for years. Why not now?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado (Mr. GARY HART) is recognized for not to exceed 15 minutes.

FOREIGN MILITARY ARMS SALES

Mr. GARY HART. Mr. President, earlier this year the Congress, recognizing the need to exert a measure of restraint over the uncontrolled upward spiral in U.S. weapons sales abroad, enacted the Arms Export Control Act. Congressional concern and action was stimulated by a number of disturbing trends in the burgeoning U.S. trade in conventional weapons. The first problem was simply the massive growth in American arms exports. In 1970 U.S. foreign military sales amounted to only $900 million. By 1975 this total had increased tenfold to $9.5 billion, and the United States now enjoys the dubious distinction of being the largest weapons merchant in the world.

Disturbing as these totals are, concealed within them are two even more significant shifts. The traditional focus of our arms sales has shifted from our NATO allies and Israel to the volatile Persian Gulf, Saudi Arabia and Iran alone account for over one-half of our recent sales. President Ford has said we must continue our commitment to our traditional allies. I ask the President if he considers Saudi Arabia as one of our traditional allies. Moreover, we are no longer selling merely older equipment, but rather the most modern conventional weapons in our arsenal. A list of recent weapons sales contains such sophisticated hardware as F-4E and F-14 fighter aircraft, more modern helicopter gunships than are currently supplied to the U.S. Armed Forces, Phoenix, Hawk, Lance, Tow, Sidewinder, and Harpoon missiles, and the brandnew Spruance class destroyers to Iran.

Testimony on these three trends clearly established the need to inject a measure of government control over the burgeoning U.S. arms trade. The result was the Arms Export Control Act that was passed earlier this year, establishing a measure of congressional review. It was hoped that the bill would provide the administration with an incentive to carefully review its policy, or more correctly its nonpolicy, of encouraging indiscriminate sales, and that this would result in a more careful consideration of the issues involved, and hopefully a reduction in the total volume of our weapons deals abroad. Unfortunately for the American people and the people of the world, this has not happened.

Mr. President, just 9 days ago, on September 1, the Congress received notification from the President of proposed arms sales totaling nearly $6 billion. I repeat that figure—$6 billion. This is a staggering amount. This submission is all the more troubling because of its timing. September 1 was the first day that the administration could submit this notification without adding to the fiscal year 1976 and transition quarter total of $8.9 billion in military transfers. If we ignore the administration's calendar juggling and combine the two figures we arrive at an almost unimaginable total of $14.8 billion in arms sales. This is almost twice our total sales for 1974, over

4 times our sales for 1972 and over 15 times our sales for 1970.

To my colleagues, I say that this is not a reassuring picture of a calm, and limited arms policy. This is a highly unsettling view of an administration and a policy running out of control and still accelerating.

Despite the clear need for an over-all policy review, this administration continues to press for and encourage increasing conventional arms sales, even though the National Security Council has not yet completed its comprehensive study of the question. The prevailing attitude seems to be that if we do not sell these weapons, then others will.

The President has recently said that we cannot allow the Soviet Union to have a monopoly in arms sales. I think a lot of people would ask the question, in those cases where these weapons sales add nothing to our own national security and where they threaten the stability and security of the world, why not?

Moreover this administration has made no serious effort to attempt to negotiate a reduction with the other major arms suppliers, despite repeated congressional urgings.

The record is clear. The Ford administration has consistently advocated almost indiscriminate increases in arms sales with very little consideration of the possible detrimental effects of such a short-sighted policy. While we may not sell military equipment with quite the same eclecticism of George Bernard Shaw's Mr. Undershaft, who would have sold all arms to all men, the administration does seem to feel that we should base the volume and structure of our foreign military sales on little more than the sum total of requests received. Apparently we have been so free with our arms in the past that to refuse a single request now would be seen as a radical departure, and a severe insult to the prospective buyer. Gentlemen, this is not a policy, this is anarchy.

While I deplore our present position as the world's leading arms merchant, I recognize that weapons sales can be a legitimate instrument of our foreign policy. However, as the world's major supplier, we have a responsibility to carefully examine our policies to make sure that they are not destabilizing. Serious questions need to be asked about each prospective weapons transfer:

First. Will the sale promote regional stability, or will it provoke and exacerbate regional arms races?

Second. Will the sale lead to unseen down-the-road commitments to the recipient country? Many of our more sophisticated weapons call for a large American contingent to provide training and logistics support. Could these Americans be held as hostages to guarantee a future commitment?

Third. Can the buyer afford the proposed system, or is he merely succumbing to the fatal attraction of modern technology that sometimes seems to affect even this body?

Fourth. Will these weapons aid totalitarian regimes to further suppress civil liberties, or are they needed as a response to some real external threat?

Fifth. Will the worldwide distribution of modern American weapons increase the risks of spreading knowledge of classified American technology? I think that is a legitimate question to ask. The recent Soviet experience of a pilot defecting to Japan with a Mig-25 should make us stop and think. Although I am certain that no American pilot would defect to the Russians, can we be as certain that we can retain control over our new military technology when we are selling modern weapons on a worldwide basis?

Sixth. What effect will proposed sales have on U.S. reserves and readiness?

Seventh. As the Senator from Iowa has already commented, how stable is the government of the recipient country? Certainly we have no wish to repeat our experience in Vietnam where we provided the North Vietnamese with enough military hardware to make them one of the most powerful nations in Asia.

Eighth. What is the relationship between the price of oil, and the level of military sales in the Persian Gulf? Certainly Iran has been our primary customer, and has also been in the forefront of those OPEC states pushing for higher oil prices. Are we unwittingly fueling pressures for higher oil prices by the large volume of military sales?

All of these and more questions need to be given careful attention. Arms sales cannot be allowed to continue to spiral on the vague assurances that they help the balance of payments, that they further our influence abroad, and that we might as well sell, since if we do not someone else will anyway. Careful consideration needs to be given to the relationship between arms sales, and our short-term and long-term policy objectives. Certainly not all arms sales are bad. Indeed they can be constructive when they are used to support and supply our allies, to increase weapons standardization, or to strengthen independent local powers in order to stabilize areas of the world where a military imbalance, or even a power vacuum becomes a threat to world peace.

The point is that we have a responsibility to carefully analyze our arms sale policy. Since this administration has shown no inclination to undertake this responsibility it is now up to the Congress to exert a measure of control. This issue is simply too important to allow our policy to continue to be dictated by little more than unbridled commercial competition.

Mr. President, I yield back the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 10 minutes.

AMERICA—THE ARSENAL OF THE "FREE" WORLD

Mr. PROXMIRE. Mr. President, at one time the United States was known as the arsenal of the free world. America's industrial power was tested and passed with flying colors. Indeed we were a major supplier of military goods to our allies in World War II. And we carried almost the entire burden of the Korean conflict.

Under the conditions that prevailed then, it was absolutely necessary for the United States to play that role. The cause was just. The cause was publicly accepted. There was little question about the rightness, the necessity of the cause.

How different it is today. We still are the arsenal of the world. But it is no longer the "free" world. Our former allies have vibrant arms industries of their own. It is true that we still support our NATO allies. That is proper.

But a new element has been introduced in the last 5 years under two Republican administrations. We are no longer the arsenal of the free world—we are the world's arsenal. Along the way, we dropped the concept of freedom. The cause is no longer just. It is no longer publicly accepted. It is no longer a question of rightness or necessity. Our assistance no longer goes to democratic countries facing immediate peril.

We have become an unprincipled arms pusher. I say unprincipled because no one can define or justify our current policy of transferring massive amounts of high technology weapons throughout the world. There is not one public statement that fully explains the U.S. policy behind the $5 billion in arms sales to Iran, the $613 million to Saudi Arabia or the $80 million to Pakistan—to mention only those sales pending. Or the explosion in arms sales from $1.4 billion in fiscal year 1970 to $10 billion now. Seven fold in 5 years or the $24 billion in cumulative undelivered sales. Or the $9.1 billion that went to Iran from 1972–75 or the $4.8 billion to Saudi Arabia in the same period.

What spokesman for this administration has stood up and justified the transfer of 21,000 TOW missiles, 1,900 Hawk missiles, 1,388 tanks, 4,700 armored personnel carriers, 61 destroyers, 31 submarines, 248 F–5 aircraft and 193 A–4 aircraft delivered abroad from 1973–75.

Let us face facts. We sell to anyone for any reason at any time. We arm neighbors. We arm enemies. We arm the wealthy, the destitute. We arm the despots, the dictatorships, the military juntas, the aristocracies—we arm them all.

What happened to the principles behind the policy? I will tell you that it does not serve the purposes of this democracy to supply arms that are used for domestic repression as in Chile or Uruguay. It does not serve our purposes to arm parties that then use these weapons against each other as in India and Pakistan on two occasions and in many South American wars. It does not serve our policy of encouraging regional stability and development to push arms acquisitions.

We run the risk of losing our identification as the greatest democracy in the history of the world. How can the peoples of Asia, Africa, or the Middle East look to our Nation for leadership, for moral guidance, for just and reasoned policies if by our own actions we give every appearance of acting the arms pusher? Merchant of death may sound dramatic but it is no exaggeration. It is true. What do the Chilean people think when they see U.S. military equipment roll down the streets? What do the people of Uruguay, previously the oldest democracy in South America, think when the United States props up a military regime with new offers of U.S. military assistance?

Three times in Latin America, U.S. arms have met U.S. arms on local battlefields. What impression does that leave?

And what of the Middle East? The United States is firmly committed to the survival and defense of the State of Israel. We are the Israeli guarantee that no matter how strong her combined neighbors become, the United States will redress the balance.

So what policy does the United States pursue? We deliberately set out to make Iran the major military power in the Middle East. We greatly increase the striking power and reserve capabilities of the Saudi Arabians. We continue to arm Jordan with modern weapons. And we sweeten political negotiations with Egypt and Syria with promises of millions in economic aid. Lest any believe in the pure distinction of military and economic aid, let it be pointed out that with a fixed national budget, these are interchangeable.

So we build up the Arab States who pose a greater threat to Israel. Then we provide more assistance to Israel to redress the balance.

How shortsighted, how oblivious to reality can this policy be? We are the forcing function. There is no security at even higher levels of armaments. There is no peace in an arms spiral. There is no solution in saturation.

If we stand for any principles in the world, we should show them in our policy. Otherwise our words ring hollow and we are measured by what we do rather than what we say.

Mr. President, the warnings of this trend toward unbridled arms races are not new. It was apparent when I chaired hearings before the Joint Economic Committee in the late 1960's. It was even more obvious when as chairman of the Foreign Operations Appropriations Subcommittee we uncovered the true extent of all U.S. foreign military and economic aid.

It is even more true today. Sadly, as the problem grows, the willingness of this administration to take corrective action varies inversely. They do less. They care less.

It is an attitude that could one day lead to a succession of military disasters, of death and destruction without parallel in world history. For conventional arms are but the precursor of nuclear arms.

Finally, Mr. President, I would like to read from a law we passed earlier this year. This is enacted into law. This is what that law of the United States now says:

REDUCTION IN INTERNATIONAL ARMS TRADE

Section 202. Section 1 of the Foreign Military Sales Act is amended by adding at the end thereof the following new paragraphs:

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of arms and munitions to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

The law goes on to state—and I have one more short paragraph—as follows:

It is the sense of the Congress that the President should seek to initiate multilateral discussions among the principal arms suppliers and other countries with respect to the control of the worldwide trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sales and distribution of conventional weapons of death and destruction.

This is the expressed policy of this country that we passed into law this year. What are we doing to implement that? As I have pointed out, we have exploded the sales of arms all over the world. It is an action which seems to me certainly in the clearest way to be a complete reversal of the solemn action of the House and the Senate in passing a law, signed by the President of the United States, to say that we will do precisely the opposite, that we will act to create arms-free zones, act to hold down the arms race throughout the world, and we have failed in doing that.

Mr. President, I reserve the remainder of my time.

Mr. President, I am happy to yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I ask unanimous consent that 10 minutes of the time not used by Senators CLARK, NELSON, and HART be allocated to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED ARMS SALES

Mr. BUMPERS. Mr. President, I share my colleagues' reservations over the administration's proposed arms sales. If we, by our silence, approve this mammoth package totaling over $6 billion to 11 countries, we make a mockery of the rationale behind section 36(b) of the just recently enacted Arms Control Export Act, which I championed and supported. These offers alone would total almost 40 percent of our 1976 arms sales. The sheer volume of these sales is an argument for closer scrutiny by the Congress. It is no secret that these transactions are rife with global implications. As GAO recently concluded, arms sales have become "a useful and highly effective instrument of foreign policy."

For these and other reasons, I join with my colleague (Mr. NELSON) in invoking section 36(b) of the act and calling for hearings before the Foreign Relations Committee to explore every aspect of these sales. Like my colleague, I do not expect or wish to see all the sales stopped. But I cannot passively accept the dispersing of such a heavy dosage of military might without knowing the reasons behind the prescriptions.

Waiting until so late in the legislative session—to deluge the Congress with this gargantuan commitment—tells us one of two things: Either arms sales are indeed out of control as most critics believe, or the administration is utilizing the tactic of swamping the Congress with proposed sales all at one time in hopes that we will find the task of careful examination within the required 30 days impossible.

We have the mechanism for congressional oversight of these transactions, and we ought to avail ourselves of it. Let us inquire as to whether Iran needs 160 F–16's when we ourselves do not yet have that many. Perhaps the less sophisticated F–5 would be more appropriate for Iran's purposes and for our own. Let us ask whether we are jeopardizing our own stock by such large commitments. What demands will this place on our trainers and engineers? Some estimates are that 150,000 Americans will be in Iran by 1980 performing defense-related roles. Are we sacrificing our own training needs and consequently our preparedness by making these sales?

Finally, like King Lear, are we being precipitous in these transactions in a way that may come back to haunt us? How do these sales fit into our foreign policy and our military strategy?

The administration would obviously prefer to hide behind the rationale that arms sales are good business and have a salutary effect on our balance of payments, unemployment rate, and economy in general. To some extent, this is true. But to kid ourselves that these are simply business transactions outside the realm of Congress legitimate foreign policy concerns is the rankest form of cynicism.

In the last decade we learned a painful and bloody lesson—that we can no longer be the policeman for the world. We also learned that we could no longer afford to give away arms to our friends and allies by means of military grants and "forgotten" credits. But the military sale has stepped in to fill the void. Rather than guarantee our direct intervention in case of armed conflict, we determined to do the next best thing. We would sell these countries whatever they needed to arm themselves. There can be little doubt that at least some of these sales are militarily or politically destabilizing.

Newsweek magazine published a disturbing statistic this week: in the last 30 years, there have been 119 armed conflicts involving 69 nations. In light of this depressing record, can we seriously believe that arming our allies, whether in Europe, Africa, or the Persian Gulf, will avert war? If we are the harbingers of peace, as we like to think of ourselves, why are we knee deep in the business of promoting instruments of war? Last year global arms sales totaled $20 billion. We alone accounted for about 50 percent of that total.

Let us not rush pellmell into these sales. Let us put the brakes on these transactions—at least for a brief period of time—so that we, we in Congress, can know what our Government is doing. We must not forget that the formula of arms and military advisers overseas led us down the road to catastrophe all too recently. This would in no wise deprecate some of our friends who propose these purchases; rather it would serve notice on the world that we recognize the inherent dangers of arms proliferation, and have chosen a more judicious course.

Mr. President, I have often maintained that restraint is not incompatible with strength. That true power is not derived from the number of missiles, bombers, or submarines a nation has, but its confidence in itself, its spirit, and high sense of purpose. We are a strong nation. We are big and we are rich. We have been a great nation in the past, but our greatness will not continue unless and until we exercise leadership in controlling the flow of arms. In recent years, this leadership has been lacking. It seems that we have opted for the opposite course and with our arms shipments deliberately decided to fuel the fires of international instability.

Mr. President, I urge restraint and caution in these proposed sales. I urge my colleagues to support Senator NELSON in requiring the administration to justify each and every item in its request.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

PANAMA CANAL NEGOTIATIONS

Mr. BARTLETT. Mr. President, in 1903 the people of the United States accepted one of the great challenges of our history when we entered into an agreement with the Republic of Panama to construct a shipping passageway connecting the Atlantic and the Pacific Oceans. This had been a dream of all people of our hemisphere for decades, and it was to the United States that the world turned for help in realizing this dream.

This construction of the canal would take U.S. Army engineers 10 years to complete, at a cost of 4,000 lives and $310 million. Because of this tremendous cost in terms of human and financial resources, America did not accept this challenge lightly. We committed ourselves to the task not solely as a benefactor to the lesser nations who would share in the rewards of our adventure, but primarily because we knew that such a passageway could be immensely valuable to America's economic and national defense interests.

We also knew that some firm and everlasting assurances would be required to provide for those interests after the completion of the canal. We did not undertake this project with the understanding that we might have access to the canal for a few years or a few decades, subject to the discretion of other nations. America accepted the challenge only under a set of conditions which would guarantee that this unparalleled commitment of our Nation's resources would be for a project that was inalienable and forever worthwhile.

We undertook construction of a canal across the Isthmus of Panama only after these conditions were set forth and agreed upon by the United States and the Republic of Panama in the signing of the Hay-Bunau-Varilla Treaty in December 1903.

This treaty granted to the United States "in perpetuity the use, occupation, and control" of a specified zone of land through Panamanian territory for the construction, operation, and defense of a ship canal; the treaty afforded the United States "all the rights, power, and authority within the zone * * * which the United States would possess and exercise if it were the sovereign of the territory * * * to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority"; provided for payment of U.S. compensation to Panama in the amount of an initial $10 million and an annual annuity of $250,000.

For some time now the Republic of Panama has expressed an interest in renegotiating the Canal Treaty with the United States. Our country has acted in good faith in attempting to comply with the wishes of Panama while still protecting the interests of the United States.

Beginning in 1964, under President Johnson, the attitude of each succeeding administration has been that the United States should negotiate a new treaty with Panama which would abrogate the 1903 treaty. Negotiations continued from 1965 until 1967 at which time it was announced that three draft treaties had been agreed upon by the two countries. However, no action was ever taken on these treaties by either country apparenlty because of premature publication of the terms of the treaties in the press, as well as the fact that both countries were in the midst of major election campaigns at that time. In 1968, Gen. Omar Torrijos took power in Panama through a coup and in 1970 flatly rejected the draft treaties previously agreed to, but did indicate a willingness to pursue further negotiations on the subject.

Talks resumed in 1971 and have continued to the present. Progress in these negotiations has been slow because the principal objections of the Panamanians concern provisions of the treaty which were recognized in 1903 and are still recognized today as being vital to the protection of American economic and strategic interests.

Panama objects to:

First. The fact that the treaty affords the United States rights, control, and governmental jurisdiction over a portion of Panamanian territory for a limitless duration;

Second. The size of the U.S. military presence and U.S. military training facilities located in the Canal Zone;

Third. The amount of the annual annuity paid to Panama and the fact that there is an allegedly inequitable sharing of the economic benefits derived from the canal operations;

Fourth. The size of the Canal Zone itself; that is, the amount of land area within the zone unused by the United States, but not available for Panamanian use.

Mr. President, I do consider it proper to review America's treaties with other nations and, when necessary, modify them in order to bring them up to date with the realities of a changing world.

Perhaps the time has come for changes in our operations of and treaty governing the Panama Canal, and I favor discussions and negotiations of some of the points of Panama's objections, specifically:

First. Panamanian use of some of the Canal Zone;

Second. The hiring of more Panamanians to work on the canal;

Third. The percentage of Panama's profits from canal revenues; and

Fourth. The United States annual annuity to Panama.

However, there are provisions of the treaty which cannot be subject to negotiation, if the U.S. commercial and strategic interests are to be safeguarded. The world has not changed so much as to alter the fundamental principles of the original Panama Canal Treaty, which legally vested sovereignty and control of the canal and Canal Zone in the United States permanently. America has faithfully honored that treaty.

We constructed, maintain, operated, and defended the canal to the benefit of all nations and at a U.S. taxpayer's net investment of almost $6 billion over the past 60 years. The continued efficient U.S. operation of the canal has resulted in major economic benefits for Panama including a major contribution to that country's economy thereby affording it the highest per capita income in Central America.

Furthermore, Panama's history of political instability, her inadequate military defense capability, and lack of technical and managerial skills demonstrate that Panama does not possess the capacity to manage, operate, and defend effectively the canal.

As we continue to discuss and negotiate changes in the operation of the canal with the Republic of Panama, I believe the United States must insist on retaining the provisions in the treaty which guarantee our rights "in perpetuity" rather than agreeing to surrender these rights at a specified date in the future. We must retain our jurisdiction over the Canal Zone in order to provide for the defense of the canal. We must retain the authority to maintain within the Canal Zone the level of military personnel and equipment necessary to defend the canal. As stated more generally in the political platform of the Republican Party, the United States must not surrender any jurisdiction, territory, or property which is necessary for the protection of the United States and the Western Hemisphere.

Mr. President, I do not recognize as a valid reason for negotiating a new Panama Canal Treaty the argument that the 1903 treaty is an anachronism, a vestige of American colonialism, and that it provides a rallying point for Panamanian and other Latin American countries against the United States, or that the treaty provides a visible target for elements hostile to the United States outside the region.

Such an argument smacks of the kind of international blackmail which has become treacherously common in the world today. America will not demand the respect of other nations by yielding to such coercion. Capitulation does not work, it merely whets the insidious appetites of other nations.

Let us continue our negotiation with the Republic of Panama in the spirit with which we have negotiated from the beginning, a spirit of good faith and determination to provide for the best interests of both nations without compromising the vital interests of either nation or the rest of the world.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for not to exceed 15 minutes.

TELEVISED DEBATES

Mr. WEICKER. Mr. President, on September 23, the American people will have the opportunity to see what our system of free elections is supposed to be all about. For the first time in 16 years, major candidates for the Presidency will meet, face to face, in televised debate.

The occasion has been heralded from all corners as a meaningful example of democracy at work—a long-awaited return to openness and candor between candidates for the highest honor Americans can bestow upon one of their own. For the first time in four elections, both the Republican and the Democratic nominees have decided to take the opposition seriously enough to tangle in open debate. The winner, we are told, will surely be the American voter.

Well, Mr. President, I would like to offer an alternate opinion: I think our major political parties are about to put one over on the voters. And the real significance of their act goes far beyond a single election day in November.

True, the up-coming debates may show the differences between President Ford and Jimmy Carter. But what they will also show are the Republican Party and the Democratic Party as the only alternatives for the American electorate. Through the magic of television, these two political organizations though increasingly irrelevant will take another giant step toward locking themselves in as America's only political parties. What neither the Constitution nor any law provides will now de facto be legislated into being by network television and the Democratic and Republican Parties. What makes their action particularly ironic is that it is a minority imposing its will on the majority.

More Americans today identify themselves as independents than as either Democrat or Republican. I find it a sad commentary on the state of our political system that independent candidates for President are not afforded the same opportunity to present their views to the Nation as are President Ford and Mr. Carter. Yes, I know how inconvenient such a theory is. But the Constitution of the United States is not an exercise in convenience, expediency or ease. It is a document meant for individuals, not "them" or "society' or the "greater good." When article 1 states that "Congress shall make no law abridging the freedom of speech," I assume that means what it says both in content and intent. There is no exception made for non-Republicans or Democrats.

Our former colleague, Senator Eugene McCarthy, deserves to be heard, right along with the Republican and Democratic nominees. Actually I believe, though it has no bearing on my argument, that Gene McCarthy is living proof that you do not have to be a party big-wig to have ideas worth listening to. And, yes, for the chance to listen to Gene McCarthy, hearing Lester Maddox is the price we have to pay in a free society.

Mr. President, as party registrations dwindle party labels grow more meaningless and party activity more irrelevant. I find it frightening that our two major parties have stepped up their efforts to legislate themselves into perpetuity. The biggest step was the Federal Elections bill which this Congress passed. Its major feature was to assure the Republican and Democratic parties exclusive jurisdiction in picking the taxpayers' pockets for their campaigns. Independent candidates receive no matching funds to run their races.

Now it is television debates, and a not-so-subtle understanding between the participants, and network television that they will play only if the game is closed to everyone else.

What we have here is a severe case of political insecurity by two aging giants. That does not bother me, but using the Constitution of the United States as a bailing can for their sinking boats surely does.

Despite the television picture we will be offered on September 23, we on both sides of the aisle will do well to remember that our first obligation is to uphold the Constitution not our parties. And nowhere in that document are Democrats or Republicans granted special rights and privileges. In fact, the way both parties continue to feather their own nests while dodging the tough problems that face this country, they will be lucky to be around 8 or 12 years from now—which seems to be the same fate we prescribe for anyone else's nonperformance in our society.

If the two parties continue to be irrelevant, self-serving legislation to cover up that deficiency is the last thing this Nation needs.

As William V. Shannon said Monday in his perceptive New York Times column entitled, "The Third Man":

> It is an unfavorable judgement on our federal and state laws that Eugene McCarthy should have to expend so much effort getting his name on the ballot and trying to get television coverage for his opinions. State electoral laws ought not to be a maze designed to baffle independent candidates. If he is not permitted to participate in the Ford-Carter debates, television ought to afford him adequate time to present his views.
>
> If independent voices and dissenting critics are to be heard in our ever bigger, more bureaucratized society, then these procedural issues of political access have to be resolved in favor of fairness and openness.

Mr. President, the strength of America comes from her many voices. Closing off America's voters to all but two voices and calling it a positive step is gutting the laws and spirits that made us great. If the Republican and Democratic parties want to retire and rest on their laurels, America should not. The future deserves better than the exclusive showing we will see 2 weeks from now.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GARY HART). Under the previous order, the Senator from South Dakota (Mr. ABOUREZK) is recognized for not to exceed 5 minutes.

Mr. PASTORE. Mr. President, inasmuch as the Senator from South Dakota is not here, I ask unanimous consent that the time not used be given to me for a 10-minute statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE PROLIFERATION OF NUCLEAR TECHNOLOGY

Mr. PASTORE. Mr. President, the lead editorial in the September 7, 1976, edition of the New York Times entitled, "Taiwan's A-Bomb * * * American Guarantee," brings into sharp focus the complex issues which face us in attempting to achieve an effective international solution to the problem of nuclear proliferation. The editorial refers to recent intelligence reports which indicate that the Republic of China may have built a reprocessing facility to extract weapons-grade plutonium from spent nuclear fuel rods. The editorial goes on to say that these reports, together with the failure of U.S. diplomatic efforts "to obtain the agreement of West Germany and France to an embargo on the export of reprocessing plants to Brazil and Pakistan last year * * *," reinforce the need for legislation which would "call on the President to deny American nuclear materials ultimately to—nuclear—supplier as well as recipient nations that could not be prevailed upon to cooperate in halting the spread of plutonium reprocessing."

Let me say at the outset that I fully support the objectives of the Times editorial: Strengthening the safeguards system of the International Atomic Energy Agency and instituting more effective international control over the transfer of sensitive nuclear technology, including reprocessing technology, to prevent the proliferation of nuclear explosives. As chairman of the Joint Committee on Atomic Energy, I stand second to no one in my concern for halting the spread of nuclear explosives in the world.

I authorized a Senate resolution in 1966 that called on the President to make "serious and urgent efforts to negotiate international agreements limiting the spread of nuclear weapons." That resolution passed the Senate by a vote of 84 to 0. I worked increasingly to develop the framework for what ultimately became the Treaty on the Non-Proliferation of Nuclear Weapons. Together with my colleague and Vice-Presidential candidate, WALTER MONDALE, I introduced Senate Resolution 221 in July 1975 which called on the President to—

> Seek through consultation with suppliers of nuclear equipment and technology, their restraint in the transfer of nuclear technology and their cooperation in assuring that such equipment and technology only is transferred to other nations under the most rigorous, prudent, and safeguarded conditions designed to assure that the technology itself is not employed for the production of nuclear explosives. . . .

In June of 1975 when West Germany first announced its decision to export a reprocessing facility to Brazil, I took the floor of the Senate and denounced it. I urged the Secretary of State and the President to use and exhaust every available diplomatic avenue to assure that the proposed arrangement—and any similar arrangement which may be proposed by any other nation—be held in abeyance until the principal supplier countries have had a reasonable opportunity to consider and agree on the practical steps which can and must urgently be taken toward a system of effective international safeguards against the proliferation of nuclear explosives.

As for the Taiwan situation, I, of course, was disturbed by these reports and on September 1, I met with the President together with my ranking colleagues on the Joint Committee on Atomic Energy, Vice Chairman Melvin Price, Senator Howard Baker and Congressman John Anderson. We expressed our concerns in a responsible and deliberate way and stressed the implications of any nation becoming the seventh nation to detonate a nuclear explosive device. The President assured us that he was familiar with this matter, that he would take our expressions of concern with utmost seriousness and that he intended to take appropriate action.

The possibility that the Republic of China may be preparing to become a nuclear weapon state is a matter of the gravest international concern which calls for swift and effective action on the part of this Government. If the facts disclose that Taiwan has violated its commitments under either the Non-Proliferation Treaty or its agreement for cooperation with this country, our response must be immediate and unequivocal. We must demonstrate not only to Taiwan but also to our nuclear trading partners and to the world community that the United States will not tolerate such violations and that we will not condone the further proliferation of nuclear explosives regardless of what reasons are offered by the country developing such an explosive for doing so. In that regard, I would note that there is no need for additional legislation to deal effectively with the Taiwan situation.

I want to repeat that, because the Times editorial has a strong implication that it is up to the Congress of the United States ultimately to resolve this problem. We should not be ignoring it, of course, but I repeat again, I would note that there is no need for additional legislation.

The President already possesses broad authority, particularly in his power to control further peaceful nuclear assistance to such a country, to respond to proven violations. Should these reports demonstrate that there have been violations by the Republic of China, I call upon the President to invoke that authority and to take stern measures in order to insure that Taiwan complies with its responsibilities as a party to the treaty and under its agreement with the United States.

But the Times editorial goes far beyond the Taiwan situation. Based upon what it perceives as failures in our diplomatic initiatives, the editorial calls upon Congress to put aside these diplomatic efforts and instead to urge the President to take direct action to coerce both the nuclear supplier and the nuclear importing nations into accepting additional nonproliferation controls on the transfer of reprocessing facilities.

I believe we must be pragmatic in formulating our approach to the long-term solution of the problem of nuclear proliferation. I, for one, have not been entirely satisfied with the progress of our diplomatic efforts. As the President noted in his message of July 29, 1976, transmitting to Congress the Arms Control and Disarmament Agency's 15th Annual Report, a common understanding has been reached with the other nuclear supplier nations on certain principles and standards which would govern all future nuclear exports by those countries. It is also true, however, that certain of these countries—now this is important—most notably France and West Germany, have refused to agree to any absolute prohibition on the transfer of reprocessing facilities. In our direct negotiations, the United States was successful in persuading South Korea not to import a reprocessing facility from France, but similar efforts by the Secretary of State to prevent the exports of reprocessing equipment to Brazil and Pakistan have so far been unsuccessful as far as I can determine. Before discarding these efforts for direct coercion of the other suppliers, however, we must consider the practicalities of the situation. We must determine whether direct coercion will advance or retard the achievement of our objective.

We must realize that the United States no longer has effective control over this technology. As Secretary Kissinger noted in his testimony on the problem of nuclear proliferation on March 9, 1976, the technology for reprocessing nuclear fuel is now commonly known. In fact, no fewer than 16 countries now have or are planning to develop some sort of fuel reprocessing capability.

The fact of the matter is that the kind of coercion advocated in the Times editorial would, in all likelihood, accelerate the spread of this sensitive nuclear equipment. This approach is really no different than that suggested to the Secretary of State during his testimony last March. There it was suggested that the United States work with the Soviet Union—mind you—to cut off all nuclear supplies to France and West Germany in order to coerce those countries into agreeing to an embargo on fuutre transfers of reprocessing equipment.

As Secretary Kissinger noted, such action would encourage other nations, including the nuclear suppliers, to become entirely self-sufficient in the nuclear area, would, in all likelihood, jeopardize the progress which had already been made in achieving cooperation with the other suppliers and could damage our relations with our allies. The suggestion was even made to the Secretary of State that we use our NATO commitments as leverage to obtain concessions from our allies. The answer, of course, is that we must work in cooperation with other nations who have the wherewithal to supply nuclear technology. It is unrealistic to expect that the United States acting on its own can halt the spread of nuclear technology. It would be foolhardy to unilaterally withdraw from exporting nuclear technology under the mistaken impression that we would bring the Russians, the West Germans, and the French along with us because of our sterling example.

We must also recognize, without in any way condoning these as justifications, that there are strong inducements for countries such as the Republic of China to acquire nuclear explosives. As the Times editorial correctly notes, the fear that United States normalization of relations with Communist China may weaken our resolve to guarantee Taiwan's autonomy could well induce Taiwan to attempt to develop a nuclear explosive. Encouraging that country to forego the development of nuclear explosives or the equipment to make an explosive involves sensitive aspects of American foreign policy and international diplomacy.

For nations which are not interested in obtaining a nuclear explosive but which need nuclear power because they do not have the luxury as we have of tremendous coal supplies and other sources of energy, we must ask what incentives those countries now have for foregoing the development of reprocessing facilities. I question whether those countries can look to the United States now as an alternative source of supply for fuel services for their reactors. First, for more than 2 years, the United States has been unable to sign additional contracts for enriching uranium because we do not have enough production capacity. Second, although this country has two reprocessing plants—mind you this, Mr. President—neither of those is presently in operation. In short, any long-term solution to the problem of the proliferation of nuclear explosives must include not only measures to control further transfers of this sensitive equipment but also the commitment by this country and the other supplier nations to provide these essential services.

We now have an opportunity to continue to lead the nations of the world in controlling nuclear power and in preventing the proliferation of nuclear explosives. As chairman of the Joint Committee on Atomic Energy, I have been working diligently to develop workable legislation which would lead to effective international control over nuclear commerce by the nuclear supplier nations and which provide incentives to the nuclear importing nations to forego the development or acquisition of the sensitive nuclear equipment which could lead to further proliferation of nuclear explosives. If we were to go along the lines proposed by some within the administration, we would produce legislation without teeth. If, on the other hand, we impose excessive restrictions and conditions on the nuclear trading activities of the other supplier nations, the consequence could be the opposite of what we all strive for, namely to force nations to create their own full fuel cycles, and the danger of additional nations building nuclear explosives would be greatly increased.

The Joint Committee on Atomic Energy has taken the difficult course and is looking very carefully at legislation to assure that we have a bill that is workable. In that regard, I have reached what I consider an acceptable compromise. Nevertheless, the President has requested that we wait until his experts have had the opportunity to report to him on this matter. I assure the President that I intend to comply with that request, provided that something can be worked out before we adjourn sine die.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times editorial, the resolution Senate Resolution 179, the resolution Senate Resolution 221, and the statement that I made on the floor of the Senate on June 3, 1975, when I learned of the granting of the full fuel cycle to Brazil by the West German Republic.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 7, 1976]

TAIWAN'S A-BOMB—AMERICAN GUARANTEE

The American intelligence report that Taiwan clandestinely has built a reprocessing facility that is extracting weapons-grade plutonium explosive from spent nuclear reactor fuel rods demands immediate investigation by the appropriate Congressional committees. Taiwan's denials have not impressed Washington insiders.

If the Chinese Nationalists have set out to make atomic bombs in the first known violation of the Nuclear Nonproliferation Treaty (NPT)—and have succeeded in deceiving the inspection system of the International Atomic Energy Agency—a profound reappraisal will be needed for Washington's China policy, its nonproliferation strategy and its nuclear export controls.

Under the 100-nation NPT, Taiwan and other non-nuclear weapons states renounced atomic explosives and committed themselves to place all their nuclear facilities and materials under I.A.E.A. "safeguards"—a system of international inspection. The main supplier countries, in addition, later agreed that the export of fissionable materials or key nuclear facility components would be indicated to the I.A.E.A. to trigger safeguards.

If this system has been circumvented by Taiwan or ignored by some supplier countries, may not other NPT parties be evading controls as well? Speedy action to beef up and improve I.A.E.A. inspection and supplier controls clearly is vital.

The effort to avoid nuclear spread has focused recently on tightened up export controls by the main supplier countries, but the United States has failed in the most important task: to obtain the agreement of West Germany and France to an embargo on export of reprocessing plants in the wake of their sales of such plants to Brazil and Pakistan last year, claiming that I.A.E.A. safeguards make such sales "safe."

The Taiwan fiasco blows up that French-German thesis. It reinforces Congressional arguments for legislation that would call on the President to deny American nuclear materials ultimately to supplier as well as recipient nations that could not be prevailed upon to cooperate in halting the spread of plutonium reprocessing.

That vital legislation is currently bogged down in the Joint Atomic Energy Committee. A belated White House study of the problem, due for release this week, will be an exercise in futility unless it helps break this log-jam.

Meanwhile, the Congress ought to find out why the Administration, after refusing since 1969 to sell Taiwan a reprocessing plant, did not react more vigorously against Taiwan's open importation and assembly of the components for a "hot cell" for small-scale plutonium reprocessing. That so-called "laboratory project," which Taipei put under I.A.E.A. inspection, may simply have been a cover for the assembly of a clandestine facility.

Taiwan's presumed nuclear violation brings into question the American security guarantee. That guarantee, as in the case of Japan and South Korea, is designed to provide an American nuclear umbrella in place of national acquisition of atomic weapons.

The United States unfortunately has undermined its security guarantee by talk in Washington and among China experts of "normalization" of relations with Peking—without first solving the problem of the security of Taiwan. Normalization, Peking insists, requires the United States to terminate its security treaty as well as its diplomatic relations with Taiwan.

But normalization of relations with Peking is inconceivable without stabilization of the Taiwan situation by, at least, a replacement of the mutual security treaty with a unilateral American guarantee of Taiwan's autonomy and continued supply of arms for Taiwan's defense forces. Renunciation of nuclear weapons is the irreducible condition for that guarantee.

This Taiwan-American transaction is in Peking's interest. Although Communist China has denounced the Nonproliferation Treaty as an imperialist device, Peking's interest in a nonnuclear Taiwan is great.

Taiwan has continued to remain a legal party to the Nonproliferation Treaty and to accept I.A.E.A. inspection, despite its unfortunate expulsion by third world vendetta from the I.A.E.A. in 1972. That expulsion does not justify Taiwan's clandestine evasion of its commitments—to the I.A.E.A., to the United States and to 98 other NPT countries—to refrain from nuclear explosives. But the partial responsibility of Peking and the third world for the present situation should give Washington some moral leverage in working out a reasonable solution, one that makes the security of an autonomous non-nuclear Taiwan the inescapable condition for normalization of relations with Peking.

[S. Res. 179, 89th Cong., 2d sess.]

RESOLUTION

Whereas the spread of nuclear weapons constitutes a grave threat to the security and peace of all nations; and

Whereas the knowledge and ability to design and manufacture nuclear weapons is becoming more universally known; and

Whereas the danger of nuclear war becomes greater as additional nations achieve independent nuclear weapon capability; and

Whereas it is the policy of the United States, as stated by President Johnson, "to seek agreements that will limit the perilous spread of nuclear weapons, and make it possible for all countries to refrain without fear from entering the nuclear arms race": Therefore be it

Resolved, That the Senate commends the President's serious and urgent efforts to negotiate international agreements limiting the spread of nuclear weapons and supports the principle of additional efforts by the President which are appropriate and necessary in the interest of peace for the solution of nuclear proliferation problems.

S. RES. 221

Urging the President of the United States to take the leadership in seeking international cooperation in strengthening safeguards of nuclear materials.

Whereas the Senate of the United States ratified the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in recognition of the devastation associated with a nuclear war and of the need to make every effort to avert the danger of such a war;

Whereas the parties to the treaty expressed a common belief that the proliferation of nuclear weapons would seriously increase the danger of nuclear war;

Whereas the United States and other parties to the treaty pledged to accept specified safeguards regarding the transfer to non-nuclear-weapon states of special nuclear materials and facilities for the processing, use, or production of such materials:

Whereas recent events, including the explosion of nuclear devices, the development of uranium enrichment facilities, and the proposed transfer of nuclear enrichment and reprocessing facilities to non-nuclear-weapon states, emphasize the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards on peaceful nuclear activities so that there will be no further proliferation of nuclear weapons capability;

Whereas the Senate of the United States is particularly concerned about the consequences of transactions without effective safeguards that could lead to the production of plutonium and other special nuclear materials by non-nuclear-weapon states throughout the world; and

Whereas the Senate is particularly concerned about the proliferation threat posed by the possibility of the development in the near future of a large number of independent national enrichment and reprocessing facilities and therefore believes that the United States should take the lead in securing agreement for the development of regional multinational, rather than national, centers to undertake enrichment and reprocessing activities in order to minimize the spread of technology which could be used to develop nuclear explosives: Now, therefore, be it

Resolved, That the President seek the immediate international consideration of strengthening the effectiveness of the International Atomic Energy Agency's safeguards on peaceful nuclear activities and seek intensified cooperation with other nuclear suppliers to insure that the most stringent safeguard conditions are applied to the transfer of nuclear equipment and technology to prevent the proliferation of nuclear explosive capability; be it further

Resolved, That the Senate of the United States strongly requests and urges the President to seek through the highest level of consultation in the United Nations and with the other leaders of the world community an intensive cooperative international effort to strengthen and improve both the scope, comprehensiveness, and effectiveness of the international safeguards on peaceful nuclear activities so that there will be a substantial and immediate reduction in the risk of diversion or theft of plutonium and other special nuclear materials to military or other uses that would jeopardize world peace and security; be it further

Resolved, That the President seek through consultation with suppliers of nuclear equipment and technology, their restraint in the transfer of nuclear technology and their cooperation in assuring that such equipment and technology only is transferred to other nations under the most rigorous, prudent, and safeguarded conditions designed to assure that the technology itself is not employed for the production of nuclear explosives; and be it further.

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the President of the United States and to the Secretary of State.

THE DANGER OF NUCLEAR PROLIFERATION

Mr. PASTORE. Mr. President, an article entitled "Brazil Nuclear Deal Raises U.S. Concern" written by Lewis H. Diuguid appeared in the June 1, 1975, edition of the Washington Post. I ask unanimous consent that the article be placed in the RECORD in its entirety at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRAZIL NUCLEAR DEAL RAISES U.S. CONCERN

(By Lewis H. Diuguid)

Brazil has arranged to obtain from West Germany the technology that would give it the capability to produce nuclear weapons, and U.S. officials are concerned that the military-dominated government has decided to opt for the bomb.

Brazilian authorities insist, however, that the sole purpose of the contract with the Germans is to generate electricity.

Neighboring Argentina, with a long-standing nuclear research program, is also thought by some high-ranking officials to have decided to attempt nuclear-weapon manufacture.

Neither South American nation signed the 1970 nuclear nonproliferation treaty, and both appear on lists of countries expected soon to be capable of joining the United States, Soviet Union, Britain, France, China and, since last year, India in the nuclear club.

The development lending immediacy to the Brazilian case is an accord now being completed with the STEAG, AG consortium of Essen for provision of several large nuclear reactors, fuel-processing plants and, most important, a uranium-enrichment plant using a unique process.

Robert Gillette of Science magazine, commenting in the current issue, quotes estimates that the secretive contract will run to $8 billion over the next 10 to 15 years.

It is considered possible that Brazil will pay for the technology with the enriched uranium eventually produced. The vast country has deposits of natural uranium and fissionable thorium, plus the hydroelectric power in large quantity needed for the new enrichment process offered by STEAG, AG.

West Germany will need the enriched uranium for its own nuclear generators but it lacks cheap electricity needed for the STEAG, AG production process on which it is banking. The present gaseous diffusion and gas centrifuge processes, developed in this country and Western Europe, require less electricity. All demand huge investments of capital and technology.

A major question is what controls West Germany will require on the technology. As a signer of the nonproliferation treaty, Bonn is under some restraints. But the treaty's restrictions on supplies of enriched uranium need not apply if Brazil produces the weapons-grade fuel itself.

Without naming countries, U.S. Arms Control and Disarmament Director Fred C. Ikle said in April, "Unhappily, short-sighted commercial interests sometimes militate against application of effective controls . . . You would think that all nations willing to export nuclear materials or equipment would be anxious to prevent proliferation.

"Even the largest nations would suffer grievously if nuclear explosives became widely available."

The president of Brazil's nuclear energy commission, Hervasio de Carvalho, told Washington Post special correspondent Bruce Handler that the country must act now to assure supplies for its booming seaboard cities.

Carvalho explained that most of the rivers with undeveloped hydroelectric potential are too far away for cheap transmission to the cities.

Enriched uranium, however, could be produced at jungle generating sites and brought to the eight or so nuclear power plants—with a total capacity of nearly 10 million kilowatt hours—foreseen in the agreement.

Carvalho pointed out that the "basic principles" for bomb-making "are known in practically all countries," but that there are still "technical secrets."

A main U.S. control on those secrets has been refusal to sell the technology for production of enriched uranium.

Secretary of State Henry A. Kissinger offered assurances last week at the International Energy Agency meeting in Paris that the United States would increase supplies of enriched uranium to meet demand in countries agreeing to safeguards against proliferation of arms.

But West Europeans, and now the Brazilians, have been unwilling to rely solely on U.S. sources.

Neither Brazil nor Argentina signed the nonproliferation treaty because, they said, it offered unfair advantages to the nuclear powers. Both are also exempt from the lesser-known 1967 treaty establishing Latin America as a nuclear-free zone.

Argentina has not ratified the treaty and Brazil did so with a waiver requiring all territories within the zone to adhere before it takes effect for Brazil.

A member of Brazil's Chamber of Deputies, Lysaneas Maciel, told the Associated Press Friday in Brasilia that he had been told by an Argentine legislator that the Argentines are able to produce a nuclear explosion.

"That may cause a problem of imbalance in Latin America," said Maciel, who is chairman of the mines and energy committee of the Brazilian lower house.

Brazil, with a population of 100 million but a per capita income under $700, is a traditional competitor of Argentina, where the populattion of 24 million has a per capita income of about $1,000.

Argentina has long invested in nuclear research and has a nuclear power plant functioning, whereas Brazil's first station—provided by Westinghouse with U.S. enriched uranium—is still under construction.

The West German-supplied plant now operating and a second Argentine plant being supplied by Canada both use natural rather than enriched uranium.

As India proved with the use of plutonium in its Canadian-provided plant, nuclear explosions are possible without enriched uranium.

But as U.S. officials see it, the India and now Brazilian cases show that the real proliferation is of technology, not just fuel. Once the national capacity is built up, the national leaders can use it for peaceful explosions or nuclear bombs.

And while such decisions are tightly held, U.S. officials show intense concern that Brazil and Argentina have both decided to produce the bomb.

Mr. PASTORE. I must say at this juncture, parenthetically, that the substance contained in that article is correct.

The article points out that West Germany is about to enter into an agreement with the Brazilian Government to provide several large nuclear reactors, a fuel reprocessing plant, and a uranium enrichment plant. In other words, the arrangement would provide essentially an entire fuel cycle for the Brazilians. This matter disturbs me greatly as it does, I am sure, many of my colleagues and interested citizens. The Brazilian Government has not signed or ratified the Nonproliferation Treaty. In fact, the representatives of the Brazilian Government have made statements which have been carried in the press to the effect that they do not preclude the possibility of developing peaceful nuclear explosions. The scientific director of Brazil's center of physical research is quoted in the New York Times of August 24, 1974, as saying:

"Brazil already has the necessary conditions for building its first atomic bomb."

I ask unanimous consent that the New York Times article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 24, 1974]

BRAZILIAN A-BOMB REPORTED WITHIN COUNTRY'S CAPACITY

RIO DE JANEIRO, Aug. 23.—The scientific director of Brazil's Center of Physical Research, Alfredo Marques, said yesterday that "Brazil already has the necessary conditions for building its first atomic bomb."

But Mr. Marques, speaking at an astronomy seminar, said there were other problems to be solved in making the bomb, because "a project of this nature involves rather ample questions, including the diplomatic field."

Brazil presently depends on the United States for plutonium and enriched uranium. The supplies are covered by an agreement signed with the United States Government two years ago, providing radioactive materials for Brazilian nuclear power plants for 30 years.

Mr. PASTORE. Mr. President, it is my understanding that behind the scenes the U.S. Government has taken steps to try to dissuade the Federal Republic of Germany from undertaking such an arrangement, particularly on providing enrichment and reprocessing capabilities to Brazil. Notwithstanding protestations by U.S. officials, including a meeting last April in Bonn, the arrangement apparently is going to be executed. I have been advised that on April 30 of this year the West German Parliament approved in principle the sale and the related arrangements to provide power reactors, a pilot plant for reprocessing fuel, and an enrichment capability to Brazil.

Now, I understand that the United States has sold Brazil two research reactors and a power reactor. The research reactors began operating in 1958 and 1960, respectively, and they do not have any significant amounts of plutonium connected with them because of their small size and design. The power reactor will not come into operation until 1976. All of these arrangements are governed by an Agreement for Cooperation between the United States and Brazil signed on July 17, 1972—which superseded an agreement signed in 1955—and this agreement runs until the year 2002. All of the facilities that I have mentioned are under International Atomic Energy Agency safeguards.

The proposed sale by West Germany to Brazil adds, however, a completely new dimension to the nonproliferation problem. West German is going to provide essentially a complete fuel cycle which could assist Brazil in making a nuclear bomb, if it so desires. Brazilian officials have been quite frank to indicate that Brazil does not plan to sign the Nonproliferation Treaty.

This, of course, reminds us all too vividly of the situation when India became the sixth nuclear power. The Indians utilized plutonium produced in a reactor not subject to IAEA safeguards and are now constructing a power reactor not under IAEA safeguards utilizing technology and knowhow obtained from a Canadian power reactor. I think this is an extremely important fact because no matter what arrangements are made with the West Germans, even if they were completely effective, there is nothing to preclude the Brazilians from building separate and indigenous reprocessing and enriching facilities simply by copying what the West Germans have given them, and then deciding to build a nuclear explosive device, unless all such reproduced facilities are specifically subject to adequate IAEA safeguards.

Arrangements such as the proposed one between West Germany and Brazil would greatly aggravate the additional measures which must be taken to deal with nonproliferation of nuclear explosive devices. There are those, myself included, who strongly believe that the adequacy of international safeguards must be carefully and promptly reexamined and strengthened, and that this country should provide leadership to that end.

I am informed that the United States has urged its manufacturers of nuclear facilities not to enter into any arrangement such as the one proposed by West Germany, pending further study of the situation, and that the manufacturers have agreed. I applaud this decision because we cannot expect others to show restraint if we do not ourselves exercise restraint. The problem of nuclear explosive device proliferation does not concern any one country of the world or groups of countries—every nation's security and survival is directly involved. Secretary of State Kissinger in an address on September 23, 1974, before the 29th United Nations General Assembly, said that the United States is prepared to join with other countries in the world community to work urgently toward a system of effective international safeguards against the diversion of plutonium to nuclear explosives. The Secretary said, among other things that—

"The United States will shortly offer specific proposals to strengthen safeguards to other principal supplier countries."

I hope that the Secretary is now acting decisively to present specific proposals, at the earliest date, to the principal countries which supply nuclear technology which could lead to the proliferation of nuclear explosive devices.

Despite all of this, and despite the protestations of our State Department, the West Germans have decided to go ahead because they apparently look upon this as "business as usual." Nothing could be further from responsible action, no matter who the supplier might be.

I strongly stress the need and importance for the United States to urge the Federal Republic of Germany not to proceed with the arrangement, until these matters, which are of the gravest international concern, receive the most deliberate and careful consideration at the highest levels of international diplomacy.

West Germany's apparent disregard of the plea of our Government on this important international policy issue is really difficult for me to understand and accept. The United States has gone out of its way to assure our NATO allies, and particularly the West Germans, that we would defend them and has backed up this commitment with positive actions. Yet despite this, and despite the obvious need for reason and sound judgment to prevail, the pleas of our Government have been to no avail.

And what concerns me to no end is the fact that this is a likely peril being instituted by an ally in our own back yard, so to speak, while, at the same time, the U.S. Government is heavily committed in West Germany's backyard to defend them against a likely peril.

I urge the Secretary of State and the President to use and exhaust every available diplomatic avenue to assure that the proposed arrangement—and any similar arrangement which may be proposed by any other nation—be held in abeyance until the principal supplier countries have had a reasonable opportunity to consider and agree on the practical steps which can and must urgently be taken toward a system of effective international safeguards against the proliferation of nuclear explosives.

I would like at this point to have printed in the Record an extract from the foreign reactors list showing the reactors presently in Brazil. I would also like to have printed a copy of the United States-Brazil Agreement for Cooperation and a copy of the text of the Treaty on Nonproliferation of Nuclear Weapons.

There being no objection, the material was ordered to be printed in the Record, as follows:

Foreign Reactor List

Foreign reactors operating, being built, or planned from a listing of foreign reactors which is updated and revised periodically by the Division of International Programs, Energy Research and Development Administration.

Country and designation	Description (type, enrichment, moderator, coolant—when available)	Site	Power	Criticality
Brazil:				
Operating—Research:				
IEA-R1 (U.S. built)	Pool, 20 and 93 percent enriched uranium, H_2O moderated and cooled.	Atomic Energy Institute, University of Sao Paulo	5 MWt	1958
IPR-R1 (U.S. built)	Triga Mark I, 20 percent enriched uranium, H_2O ZrH moderated, H_2O cooled.	Radioactive Research Institute, University of Minas Gerais, Belo Horizonte.	100 KWt	1960
IEN-R1	Argonaut, 20 percent enriched uranium, H_2O and graphite moderated, H_2O cooled.	Nuclear Engineering Institute, Rio de Janeiro	10 KWt	1965
Being built—Power: ANGRA 1	PWR, 2.2-3.6 percent UO_2, H_2O moderated and cooled	Angra-dos Reis, Rio de Janeiro	657 MWe	1976
Proposed—Power: ANGRA 2		Angra dos Reis		

[Atomic Energy Cooperation for Civil Uses]

Agreement Between the United States of America and Brazil

(Signed at Washington July 17, 1972)

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING CIVIL USES OF ATOMIC ENERGY

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil signed an "Agreement for Cooperation Between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" on July 8, 1965,[1] and

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil desire to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy, including the design, construction, and operation of power-producing reactors and research reactors, and the exchange of information relating to the development of other peaceful uses of atomic energy; and

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil are desirous of entering into this Agreement to cooperate with each other to attain the above objectives; and

Whereas the Parties desire this Agreement to supersede the "Agreement for Cooperation Between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" signed on July 8, 1965;

The Parties agree as follows:

Article I

For the purposes of this Agreement:

(1) "Parties" means the Government of the United States of America, including the Commission on behalf of the Government of the United States of America, and the Government of the Federative Republic of Brazil. "Party" means one of the above Parties.

(2) "Commission" means the United States Atomic Energy Commission.

(3) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(4) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(5) "Equipment and devices" and "equipment or devices" means any instrument, apparatus, or facility, and includes any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof.

(6) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency or government corporation but does not include the Parties to this Agreement.

(7) "Reactor" means an apparatus, other than an atomic weapon, in which a self-supporting fission chain reaction is maintained by utilizing uranium, plutonium, or thorium, or any combination of uranium, plutonium, or thorium.

(8) "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons, (2) the production of special nuclear material, or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of Restricted Data by the appropriate authority.

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[1] TIAS 6126; 17 UST 1659.

(9) "Safeguards" means a system of controls designed to assure that any materials, equipment and devices committed to the peaceful uses of atomic energy are not used to further any military purpose.

(10) "Source material" means (1) uranium, thorium, or any other material which is determined by the Commission or the Government of the Federative Republic of Brazil to be source material, or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission or the Government of the Federative Republic of Brazil may determine from time to time.

(11) "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission or the Government of the Federative Republic of Brazil determines to be special nuclear material or (2) any material artificially enriched by any of the foregoing.

(12) "Superseded Agreement" means the "Agreement for Cooperation between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" signed by the Parties on July 8, 1965.

Article II

A. Subject to the provisions of this Agreement, the availability of personnel and material, and the applicable laws, regulations, and license requirements in force in their respective countries, the Parties shall cooperate with each other in the achievement of the uses of atomic energy for peaceful purposes.

B. Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred, and no services shall be furnished, under this Agreement, if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

C. This Agreement shall not require the exchange of any information which the Parties are not permitted to communicate.

Article III

Subject to the provisions of Article II, the Parties may exchange unclassified information with respect to the application of atomic energy to peaceful uses and the considerations of health and safety connected therewith. The exchange of information provided for in this Article will be accomplished through various means, including reports, conferences, and visits to facilities, and may include information in the following fields:

(1) Development, design, construction, operation, and use of research, materials testing, experimental, demonstration power, and power reactors and reactor experiments;

(2) The use of radioactive isotopes and source material, special nuclear material, and byproduct material in physical and biological research, medicine, agriculture, and industry and

(3) Health and safety considerations related to the foregoing.

Article IV

A. Materials of interest in connection with the subjects of agreed exchange of information, as provided in Article III and subject to the provisions of Article II, including source material, heavy water, byproduct material, other radioisotopes, stable isotopes, and special nuclear material for purposes other than fueling reactors and reactor experiments, may be transferred between the Parties for defined applications in such quantities and under such terms and conditions as may be agreed when such materials are not commercially available.

B. Subject to the provisions of Article II and under such terms and conditions as may be agreed, specialized research facilities and reactor materials testing facilities of the Parties may be made available for mutual use consistent with the limits of space, facilities, and personnel conveniently available when such facilities are not commercially available.

C. With respect to the subjects of agreed exchange of information as provided in Article III and subject to the provisions of Article II, equipment and devices may be transferred from one Party to the other under such terms and conditions as may be agreed. It is recognized that such transfers will be subject to limitations which may arise from shortages of supplies or other circumstances existing at the time.

Article V

The application or use of any information (including design drawings and specifications), and any material, equipment and devices, exchanged or transferred between the Parties under this Agreement or the superseded Agreement shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information and does not warrant the suitability of such information, material, equipment and devices for any particular use or application.

Article VI

A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles IV and VII and subject to the relevant provisions of Article VIII and to the provisions of Article IX.

C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article II and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B of this Article.

Article VII

A. During the period of this Agreement, and as set forth below, the Commission will supply to the Government of the Federative Republic of Brazil or, pursuant to Article VI, to authorized persons under its jurisdiction, under such terms and conditions as may be agreed, all of the requirements of the Federative Republic of Brazil for uranium enriched in the isotope U–235 for use as fuel in the power reactor program described in the Appendix to this Agreement, which Appendix, subject to the quantity limitation established in Article IX, may be amended from time to time by mutual consent of the Parties without modification of this Agreement.

(1) The Commission will supply such uranium enriched in the isotope U–235 by providing, to the same extent as for United States licensees, for the production or enrichment, or both, of uranium enriched in the isotope U–235 for the account of the Government of the Federative Republic of Brazil of such authorized persons. (Upon timely advice that any natural uranium required with respect to any particular delivery of enriched uranium under such service arrangements is not reasonably available to the Government of the Federative Republic of Brazil or any such authorized persons, the Commission will be prepared to furnish the required natural uranium on terms and conditions to be agreed.)

(2) Notwithstanding the provisions of paragraph A(1) of this Article, if the Government of the Federative Republic of Brazil or such authorized persons so request, the Commission, at its election, may sell the uranium enriched in the isotope U–235 under such terms and conditions as may be agreed.

B. As may be agreed, the Commission will transfer to the Government of the Federative Republic of Brazil or to authorized persons under its jurisdiction uranium enriched in the isotope U–235 for use as fuel in defined research applications, including research, materials testing, and experimental reactors and reactor experiments. The terms and conditions of each transfer shall be agreed upon in advance, it being understood that, in the event of transfer of title to uranium enriched in the isotope U–235, the Commission shall have the option of limiting the arrangements to undertakings such as those described in paragraph A(1) of this Article.

C. As may be agreed, the Commission will transfer to the Government of the Federative Republic of Brazil, or to authorized persons under the jurisdiction of the Government of the Federative Republic of Brazil, plutonium for use as fuel in reactors and reactor experiments. The terms and conditions of each transfer will be agreed upon in advance.

D. It is understood that the Commission may transfer to a person or persons under the jurisdiction of the Government of the United States of America such of its responsibilities under this Agreement with respect to the supply of special nuclear material, including the provision of enrichment services, as the Commission deems desirable.

Article VIII

A. With respect to transfers by the Commission of uranium enriched in the isotope U–235 provided for in Article VI, paragraph B and Article VII, it is understood that:

(1) Contracts specifying quantities, enrichments, delivery schedules, and other terms and conditions of supply or services will be executed on a timely basis between the Commission and the Government of the Federative Republic of Brazil or persons authorized by it, and

(2) Prices for uranium enriched in the isotope U–235 sold or charges for enrichment services performed will be those in effect for users in the United States of America at the time of delivery. The advance notice required for delivery will be that in effect for users in the United States of America at the time of giving such notice. The Commission may agree to supply uranium enriched in the isotope U–235 or perform enrichment services upon shorter notice, subject to assessment of such surcharge to the usual base price or charge as the Commission may consider reasonable to cover abnormal costs incurred by the Commission by reason of such shorter notice.

B. Should the total quantity of uranium enriched in the isotope U–235 which the Commission has agreed to provide pursuant to this Agreement and other Agreements for Cooperation reach the maximum quantity of uranium enriched in the isotope U–235 which the Commission has available for such purposes, and should contracts covering the adjusted net quality specified in Article IX not have been executed, the Commission may request, upon appropriate notice, that the Government of the Federative Republic of Brazil or persons authorized by it execute contracts for all or any part of such uranium enriched in the isotope U–235 as is not then under contract. It is understood that, should contracts not be executed in accordance with a request by the Commission hereunder the Commission shall be relieved of all obligations with respect to the uranium enriched in the isotope U-235 for which contracts have been so requested.

C. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U-235. A portion of the uranium enriched in the isotope U-235 supplied hereunder may be made available as material containing more than twenty percent (20%) in the isotope U-235 when the Commission finds there is a technical economic justification for such a transfer.

D. It is understood, unless otherwise agreed, that, in order to assure the availability of the entire quantity of uranium enriched in the isotope U-235 allocated hereunder for a particular reactor project described in the Appendix, it will be necessary for the construction of the project to be initiated in accordance with the schedule set forth in the Appendix and for the Government of the Federative Republic of Brazil or persons authorized by it to execute a contract for that quantity in time to allow the Commission to provide the material for the first fuel loading. It is also understood that, if the Government of the Federative Republic of Brazil or persons authorized by it desire to contract for less than the entire quantity of uranium enriched in the isotope U-235 allocated for a particular project or terminate the supply contract after execution, the remaining quantity allocated for that project shall cease to be available and the maximum adjusted net quantity of U-235 provided for in Article IX shall be reduced accordingly, unless otherwise agreed.

E. Within the limitations contained in Article IX, the quantity of uranium enriched in the isotope U-235 transferred under Article VI, paragraph B or Article VII and under the jurisdiction of the Government of the Federative Republic of Brazil for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Parties, is necessary for the efficient and continuous operation of such reactors or reactor experiments.

F. When any special nuclear material received from the United States of America pursuant to this Agreement or the superseded Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this Agreement or the superseded Agreement are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration may be performed in Brazilian facilities upon a joint determination of the Parties that the provisions of Article XI may be effectively applied, or in other facilities as may be mutually agreed.

G. Special nuclear material produced as a result of irradiation processes in any part of the fuel that may be leased by the Commission under this Agreement or the superseded Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph F of this Article, title to such produced material shall be in the lessee unless the Commission and the lessee otherwise agree.

H. No special nuclear material produced through the use of material transferred to the Government of the Federative Republic of Brazil or to authorized persons under its jurisdiction, pursuant to this Agreement or the superseded Agreement, will be transferred to the jurisdiction of any other nation or group of nations, except as the Commission may agree to such a transfer.

I. Some atomic energy materials which may be provided in accordance with this Agreement, or which have been provided to the Government of the Federative Republic of Brazil under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of the Federative Republic of Brazil shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material or fuel elements which the Commission may, pursuant to this Agreement, lease to the Government of the Federative Republic of Brazil or to any authorized person under its jurisdiction, or may have leased pursuant to the superseded Agreement to the Government of the Federative Republic of Brazil, the Government of the Federative Republic of Brazil shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease and the possession and use of such special nuclear material or fuel elements after delivery by the Commission to the Government of the Federative Republic of Brazil or to any such authorized person under its jurisdiction.

Article IX

A. The adjusted net quantity of U-235 in enriched uranium transferred from the United States of America to the Federative Republic of Brazil under Articles IV, VI, and VII during the period of this Agreement for Cooperation, or under the superseded Agreement, shall not exceed in the aggregate 12,300 kilograms. The following method of computation shall be used in calculating transfers, within the ceiling quantity of 12,300 kilograms of U-235, made under the said Articles or the superseded Agreement:

From:

(1) The quantity of U-235 contained in enrichment uranium transferred under the said Articles or the superseded Agreement, minus

(2) The quality of U-235 contained in an equal quantity of uranium of normal isotopic assay,

Subtract:

(3) The aggregate of the quantities of U-235 contained in recoverable uranium of United States origin either returned to the United States of America or transferred to any other nation or group of nations with the approval of the Government of the United States of America pursuant to this Agreement or the superseded Agreement, minus

(4) The quantity of U-235 contained in an equal quantity of uranium of normal isotopic assay.

B. The quantity of plutonium transferred from the United States of America to the Federative Republic of Brazil under Articles IV, VI and VII during the period of this Agreement for Cooperation, or under the superseded Agreement, shall not exceed a net amount of twenty (20) kilograms. The net amount of plutonium shall be the gross quantity transferred to the Government of the Federative Republic of Brazil, or to authorized persons under the jurisdiction of the Government of the Federative Republic of Brazil, less the quantity which has been returned to the United States of America or transferred to any other nation or group of nations with the agreement of the Government of the United States of America pursuant to this Agreement.

Article X

A. The Government of the Federative Republic of Brazil guarantees that:

(1) Safeguards provided in Article XI shall be maintained.

(2) No material, including equipment and devices, transferred to the Government of the Federative Republic of Brazil or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or to the superseded Agreement, and no special nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(3) No material, including equipment and devices, transferred to the Government of the Federative Republic of Brazil or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to authorized persons or beyond the jurisdiction of the Government of the Federative Republic of Brazil except as the Commission may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Commission, the transfer is within the scope of an Agreement for cooperation between the Government of the United States of America and the other nation or group of nations.

B. The Government of the United States of America guarantees that:

(1) No material, including equipment and devices, transferred to the Government of the United States of America or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or the superseded Agreement, and no special nuclear material produced through the use of such material, including equipment or devices, or an equivalent amount of material of the same type as such transferred or produced material substituted therefor, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(2) No material, including equipment and devices, transferred to the Government of the United States of America or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the United States of America except as the Government of the Federative Republic of Brazil may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Government of the Federative Republic of Brazil, the transfer is within the scope of an Agreement for Cooperation between the Government of the Federative Republic of Brazil and the other nation or group of nations.

Article XI

A. The Government of the United States of America and the Government of the Federative Republic of Brazil emphasize their common interest in assuring that any material, equipment or devices made available to the Government of the Federative Republic of Brazil or any authorized person under its jurisdiction pursuant to this Agreement or the superseded Agreement shall be used solely for civil purposes.

B. Except to the extent that the safeguards rights provided for in this Agreement are suspended by virtue of the application of safeguards of the International Atomic Energy Agency, as provided in Article XII, the Government of the United States of America, notwithstanding any other provisions of this Agreement, shall have the following rights:

(1) With the objective of assuring design and operation for civil purposes and permitting effective application of safeguards, to review the design of any

(a) reactor, and

(b) other equipment and devices the design of which the Commission determines to be relevant to the effective application of safeguards,

which are to be made available under this Agreement, or have been made available under the superseded Agreement, to the Government of the Federative Republic of Brazil or to any authorized person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction or which are to use, fabricate, or process any of the following materials so recovered from, or produced as a result of designated by the Commission,

(2) With respect to any source material or special nuclear material made available to the Government of the Federative Republic of Brazil or to any authorized person under its jurisdiction under this Agreement or the superseded Agreement by the Government of the United States of America or any person under its jurisdiction and any source material or special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment or devices so made available:

(a) source material, special nuclear material, moderator material, or other material designated by the Commission,

(b) reactors, and

(c) any other equipment or devices designated by the Commission as an item to be made available on the condition that the provisions of this paragraph B(2) will apply,

(i) to require the maintenance and production of operating records and to request and receive reports for the purpose of assisting in ensuring accountability for such materials, and

(ii) to require that in any such material in the custody of the Government of the Federative Republic of Brazil or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guarantees set forth in Article X;

(3) To approve facilities which are to be used for the storage of any of the special nuclear material referred to in paragraph B(2) of this Article which is not required for atomic energy programs in the Federative Republic of Brazil and which is not transferred beyond the jurisdiction of the Government of the Federative Republic of Brazil or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;

(4) To designate, after consultation with the Government of the Federative Republic of Brazil, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of the Federative Republic of Brazil, shall have access in the Federative Republic of Brazil to all places and data necessary to account for the source material and special nuclear material which are subject to paragraph B(2) of this Article to determine whether there is compliance with this Agreement and to make such independent measurements as may be deemed necessary;

(5) In the event of non-compliance with the provisions of this Article or the guarantees set forth in Article X and the failure of the Government to the Federative Republic of Brazil to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and to require the return of any materials, equipment and devices referred to in paragraph B(2) of this Article;

(6) To consult with the Government of the Federative Republic of Brazil in the matter of health and safety.

C. The Government of the Federative Republic of Brazil undertakes to facilitate the application of safeguards provided for in this Article.

D. The Government of the United States of America shall direct persons designated by it under provisions of paragraph B(4) of this Article not to reveal to persons other than those authorized within the Government of the United States of America to receive such information on grounds of their official obligations in connection with safeguards, any industrial secret or confidential information which comes to their knowledge as a consequence of their official obligations established in the above-mentioned paragraph.

Article XII

A. The Government of the United States of America and the Government of the Federative Republic of Brazil note that, by an agreement signed by them and the International Atomic Energy Agency on March 10, 1967,[2] the Agency has been applying safeguards to materials, equipment and facilities transferred to the jurisdiction of the Government of the Federative Republic of Brazil under the superseded Agreement. The parties, recognizing the desirability of continuing to make use of the facilities and services of the International Atomic Energy Agency, agree that the Agency safeguards shall continue to apply to materials, equipment and facilities transferred under the superseded Agreement or to be transferred under this Agreement.

B. It is contemplated that the continued application of Agency safeguards pursuant to this Article will be accomplished as provided in the above-mentioned trilateral agreement among the Parties and the Agency, as it may be amended from time to time or supplanted by a new trilateral agreement. It is understood that, without modification of this Agreement, the safeguards rights accorded to the Government of the United States of America by Article XI of this Agreement will be suspended during the time and to the extent that the Government of the United States of America agrees that the need to exercise such rights is satisfied by a safeguard agreement as contemplated in this paragraph.

C. In the event the applicable safeguards agreement referred to in paragraph B of this Article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree within three months upon a resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. Before either Party takes steps to terminate this Agreement, the Parties will carefully consider the economic effects of such termination. Neither Party will invoke its termination rights until the other Party has been given sufficient advance notice to permit arrangements by the Government of the Federative Republic of Brazil, if it is the other Party, for an alternative source of power and to permit adjustment by the Government of the United States of America, if it is the other Party, of production schedules. In the event of such termination by either Party, the Government of the Federative Republic of Brazil shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this Agreement or the superseded Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of the Federative Republic of Brazil or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America.

Article XIII

The rights and obligations of the Parties provided for under this Agreement shall extend, to the extent applicable, to cooperative activities initiated under the superseded Agreement, including, but not limited to, information, material, equipment and devices transferred thereunder.

Article XIV

The "Agreement for Cooperation Between the Government of the United States of America and the Government of the United States of Brazil Concerning Civil Uses of Atomic Energy" signed on July 8, 1965, is superseded by this Agreement on the date this Agreement enters into force.

Article XV

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force of such Agreement[3] and shall remain in force for a period of thirty (30) years.

In witness whereof, the undersigned, duly authorized, have signed this Agreement.

Done at Washington, in duplicate in the English and Portuguese languages, both equally authentic, this seventeenth day of July, 1972.

For the Government of the United States of America:

U. ALEXIS JOHNSON,
JAMES R. SCHLESINGER

For the Government of the Federative Republic of Brazil:

JOÃO AUGUSTO DE ARAUJO CASTRO.

APPENDIX

Brazilian enriched uranium power reactor program

Reactor: Angra I, 626 MWe, PWR.
Start of construction: 1972.
Criticality date: 1976.
Total KGS. U–235 required: 11,800.

[Atomic Energy—Application of Safeguards by the IAEA to the United States-Brazil Cooperation Agreement]

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, BRAZIL, AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement signed at Vienna March 10, 1967; Entered into force October 31, 1968.

AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED STATES OF BRAZIL FOR THE APPLICATION OF SAFEGUARDS

Whereas the Government of the United States of America and the Government of the United States of Brazil have been cooperating on the civil uses of atomic energy under their Agreement for Cooperation of 8 July 1965,[1] which requires that equipment, devices and materials made available to Brazil by the United States be used solely for peaceful purposes and establishes a system of safeguards to that end;

Whereas the Agreement for Cooperation reflects the mutual recognition of the two Governments of the desirability of arranging for the Agency to administer safeguards as soon as practicable;

Whereas the Agency is, pursuant to its Statute[2] and the action of its Board of Governors, now in a position to apply safeguards in accordance with the Agency's Safeguards Document and Inspectors Document;

Whereas the two Governments have reaffirmed their desire that equipment, devices and materials supplied by the United States under the Agreement for Cooperation or produced by their use or otherwise subject to safeguards under that Agreement shall not be used for any military purpose and have requested the Agency to apply safeguards to its such materials, equipment and facilities as are covered by this Agreement; and

Whereas the Board of Governors of the Agency approved that request on 22 February 1966;

Now, therefore, the Agency and the two Governments agree as follows:

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[2] TIAS 6583; 19 UST 6322.

[3] Sept. 20, 1972.

[1] TIAS 6126; 17 UST 1659.

[2] TIAS 3873; 8 UST 1093.

PART I

Definitions

Section 1. For the purposes of this Agreement:

(a) "Agency" means the International Atomic Energy Agency.

(b) "Board" means the Board of Governors of the Agency.

(c) "Agreement for Cooperation" means the agreement between Brazil and the United States for co-operation on the civil uses of atomic energy signed on 8 July 1965.

(d) "Inspectors Document" means the Annex to Agency document GC(V)INF/39, which was placed in effect by the Board on 29 June 1961.

(e) "Inventory" means either of the lists of material, equipment and facilities described in Section 10.

(f) "Nuclear material" means any source or special fissionable material as defined in Article XX of the Agency's Statute.

(g) "Safeguards Document" means Agency document INFCIRC/66, which was approved by the Board on 28 September 1965.

(h) "United States" means the Government of the United States of America.

(i) "Brazil" means the Government of the United States of Brazil.

PART II

Undertakings by the Governments and the Agency

Section 2. Brazil undertakes that it will not use in such a way as to further any military purpose any material, equipment or facility while it is listed in the Inventory for Brazil.

Section 3. The United States undertakes that it will not use in such a way as to further any military purpose any special fissionable material, equipment or facility while it is listed in the Inventory for the United States.

Section 4. The Agency undertakes to apply safeguards in accordance with the provisions of this Agreement to materials, equipment and facilities while they are listed in the Inventories to ensure so far as it is able that they will not be used in such a way as to further any military purposes.

Section 5. Brazil and the United States undertake to facilitate the application of safeguards and to co-operate with the Agency and each other to that end.

Section 6. The United States agrees that its rights under Article VI of the Agreement for Cooperation to apply safeguards to equipment, devices and materials subject to that Agreement will be suspended with respect to materials, equipment and facilities while they are listed in the Inventory for Brazil. It is understood that no other rights and obligations of Brazil and the United States between themselves under Article VI and under other provisions of the Agreement for Cooperation, including those arising by reason of paragraph B of Article VII, will be affected by this Agreement.

Section 7. If the Agency is relieved, pursuant to Section 21(a), of its undertaking in Section 4, or if for any other reason the Board determines that the Agency is unable to ensure that any material, equipment or facility listed in an Inventory is not being used for any military purpose, the material, equipment or facility involved shall thereby automatically be removed from such Inventory until the Board determines that the Agency is again able to apply safeguards thereto. When, under this Section, an item is removed from the Inventory for either Government, the Agency may, at the request of the other Government, provide it with information available to the Agency about such material, equipment or facility in order to enable that Government to exercise effectively its rights thereto.

Section 8. Brazil and the United States shall promptly notify the Agency of any amendment to the Agreement for Cooperation and any notice of termination given with respect to that Agreement.

PART III

Inventories and notifications

Section 9.

(a) An initial list of all the materials, equipment and facilities which are within the jurisdiction of Brazil and subject to the Agreement for Cooperation shall be prepared by the two Governments and submitted jointly to the Agency as promptly as feasible after the entry into force of this Agreement. The Agency's acceptance thereof shall establish the Inventory for Brazil and the Agency will thereupon commerce applying safeguards to such materials, equipment and facilities.

(b) Thereafter Brazil and the United States shall jointly notify the Agency of:

(i) Any transfer from the United States to Brazil under this Agreement for Cooperation of materials, equipment or facilities;

(ii) Any transfer from Brazil to the United States of any special fissionable material which has been included in the Inventory for Brazil pursuant to Section 12; and

(iii) Any other materials, equipment and facilities which as a consequence of the transfers referred to in (i) and (ii) above come within the scope of the Category described in Section 10 (b) or (e).

(c) The Agency shall, within 30 days of its receipt of a joint notification, advise both Governments either:

(i) That the items covered by the notification are listed in the appropriate Inventory as of the date of the Agency's advice; or

(ii) That the Agency is unable to apply safeguards to such items, in which case, however, it may indicate at what future time or under what conditions it would be able to apply safeguards thereto if the Governments so desire.

Section 10. The Agency shall establish and maintain the Inventory with respect to each Government which shall be divided into three Categories.

(a) Category I of the Inventory with respect to Brazil shall list:

(i) Equipment and facilities transferred to Brazil;

(ii) Material transferred to Brazil or material substituted therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document;

(iii) Special fissionable materials produced in Brazil, as specified in Section 12, or any material substituted therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document; and

(iv) Nuclear materials, other than those which are listed under (ii) or (iii) above, which are processed or used in any of the materials, equipment or facilities listed under (i), (ii) or (iii) above, or any material substitute therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document.

(b) Category II of the Inventory with respect to Brazil shall list:

(i) Any facility while it incorporates any equipment listed in Category I of the Inventory for Brazil; and

(ii) Any equipment or facility while it is containing, using, fabricating or processing any material listed in Category I of the Inventory for Brazil.

(c) Category III of the Inventory with respect to Brazil shall list any nuclear material which would normally be listed in Category I of the Inventory for Brazil but which is not so listed because:

(i) It is exempt from safeguards in accordance with the provisions of paragraph 21, 22 or 23 of the Safeguards Document; or

(ii) Safeguards thereon are suspended in accordance with the provisions of paragraph 24 or 25 of the Safeguards Document.

(d) Category I of the Inventory with respect to the United States shall list:

(i) Special fissionable material of whose transfer from Brazil the Agency has been notified pursuant to Section 9(b)(ii) or material substituted therefor, in accordance with paragraph 25 or 26(d) of the Safeguards Document; or

(ii) Special fissionable material produced in the United States, as specified in Section 12, or any material substituted therefor in accordance with paragraph 25 or 26(d) of the Safeguards Document.

(e) Category II of the Inventory with respect to the United States shall list any equipment or facility while it is containing, using, fabricating or processing any material listed in Category I of the Inventory for the United States.

(f) Category III of the Inventory with respect to the United States shall list any material which would normally be listed in Category I of the Inventory for the United States but which is not so listed because:

(i) It is exempt from Safeguards in accordance with the provisions of paragraph 21, 22 or 23 of the Safeguards Document; or

(ii) Safeguards thereon are suspended in accordance with the provisions of paragraph 24 or 25 of the Safeguards Document.

The Agency shall send copies of both Inventories to both Governments every twelve months and also at any other times specified by either Government in a request communicated to the Agency at least two weeks in advance.

Section 11. The notification by the two Governments provided for in Section 9(b) (i) shall normally be sent to the Agency not more than two weeks after the material, equipment or facility arrives in Brazil, except that shipments of source material in quantities not exceeding one metric ton shall not be subject to the two-week notification requirement but shall be reported to the Agency at intervals not exceeding three months. All notifications under Section 9 shall include, to the extent relevant, the nuclear and chemical composition, the physical form, and the quantity of the material and/or the type and capacity of the equipment or facility involved, the date of shipment, the date of receipt, the identity of the consignor and consignee, and any other relevant information. The two Governments also undertake to give the Agency as much advance notice as possible of the transfer of large quantities of nuclear materials or major equipment or facilities.

Section 12. Each Government shall notify the Agency, by means of its reports pursuant to the Safeguards Document, of any special fissionable material it has produced, during the period covered by the report, in or by the use of any of the materials, equipment or facilities described in Section 10(a), 10(b) (i) or 10(d). Upon receipt by the Agency of the notification, such produced material shall be listed in Category I of the Inventory, provided that any material so produced shall be deemed to be listed and therefore shall be subject to safeguards by the Agency from the time it is produced. The Agency may verify the calculations of the amounts of such materials; appropriate adjustment in the Inventory shall be made by agreement of the Parties; pending final agreement of the Parties, the Agency's calculations shall govern.

Section 13. The two Governments shall jointly notify the Army of the transfer to the United States of any materials, equipment or facilities listed in the Inventory for Brazil. Upon receipt thereof by the United States:

(a) Materials described in Section 9(b)(ii) shall be transferred from the Inventory for

Brazil to Category I of the Inventory for the United States;

(b) Other materials, and equipment or facilities shall be deleted from the Inventory.

Section 14. The two Governments shall jointly notify the Agency of any transfer of materials, equipment or facilities listed in Category I of the Inventory to a recipient which is not under the jurisdiction of either of the two Governments. Such materials, equipment or facilities may be transferred and shall thereupon be deleted from the Inventory, provided that:

(a) Arrangements have been made by the Agency to safeguard such materials, equipment or facilities; or

(b) The materials, equipment or facilities will be subject to safeguards other than those of the Agency but generally consistent with such safeguards and accepted by the Agency.

Section 15. Whenever either Government intends to transfer material or equipment, listed in Category I of its Inventory, to a facility within its jurisdiction which the Agency has not previously accepted for listing in that Government's Inventory, the Government shall so notify the Agency and may make the transfer to that facility only after the Agency has accepted the facility for listing in that Government's Inventory.

Section 16. The notifications provided for in Section 13, 14 and 15 shall be sent to the Agency at least two weeks before the material, equipment or facility is to be transferred. The contents of these notifications shall conform, as far as appropriate, to the requirements of Section 11.

Section 17. The Agency shall exempt from safeguards nuclear material under the conditions specified in paragraph 21, 22 or 23 of the Safeguards Documents and shall suspend safeguards with respect to nuclear materials under the conditions specified in paragraph 24 or 25 of the Document.

Section 18. The Agency shall terminate safeguards under this Agreement with respect to those items deleted from an Inventory as provided in Section 13(b) and 14 above. Nuclear material other than that covered by the preceding sentence shall be deleted from the Inventory and Agency safeguards thereon shall be terminated as provided in paragraph 26 of the Safeguards Document.

PART IV

Safeguards procedures

Section 19. In applying safeguards, the Agency shall observe the principles set forth in paragraphs 9 through 14 of the Safeguards Document.

Section 20. The safeguards to be applied by the Agency to the items listed in the Inventories are those proceduers specified in Part III of the Safeguards Document. The Agency shall make subsidiary arrangements with each Government concerning the implementation of safeguards procedures. The Agency shall have the right to request the information referred to in paragraph 41 of the Safeguards Document and to make the inspections refered to in paragraphs 51 and 52 of the Safeguards Document.

Section 21. If the Board determines that there has been any noncompliance with this Agreement, the Board shall call upon the Government concerned to remedy such noncompliance forthwith, and shall make such reports as it deems appropriate. If the Government fails to take fully corrective action within a reasonable time:

(a) The Agency shall be relieved of its undertaking to apply safeguards under Section 4 for such time as the Board determines that the Agency cannot effectively apply the safeguards provided for in this Agreement; and

(b) The Baord may take any measures provided for in Article XII.C of the Statute.

The Agency shall promptly notify both Governments in the event of any determination by the Board pusuant to this Section.

PART V

Agency inspectors

Section 22. Agency inspectors performing functions pursuant to this Agreement shall be governed by paragraphs 1 through 7 and 9, 10, 12 and 14 of the Inspectors Document. However, paragraph 4 of the Inspectors Document shall not apply with regard to any facility or to nuclear material to which the Agency has access at all times. The actual procedures to implement paragarph 50 of the Safeguards Document in the United States and in Brazil shall be agreed between the Agency and the Government concerned before the facility or material is listed in the Inventory.

Section 23. Brazil shall apply the relevant provisions of the Agreement on the Privileges and Immunities of the Agency to Agency inspectors performing functions under this Agreement and to any property of the Agency used by them.

Section 24. The provisions of the International Organizations Immunities Act of the United States shall apply to Agency inspectors performing functions in the United States of America under this Agreement and to any property of the Agency used by them.

PART VI

Finance

Section 25. Each Party shall bear any expense incurred in the implementation of its responsibilities under this Agreement. The Agency shall reimburse each Government for any special expenses, including those referred to in paragraph 6 of the Inspectors Document, incurred by the Government or persons under its jurisdiction at the written request of the Agency, if the Government notified the Agency before the expense was incurred that reimbursement would be required. These provisions shall not prejudice the allocation of expenses attributable to a failure by a Party to comply with this Agreement.

Section 26.

(a) Brazil shall ensure that any protection against third-party liability, including any insurance or other financial security in respect of a nuclear incident occurring in a nuclear installation under its jurisdiction shall apply to the Agency and its inspectors when carrying out their functions under this Agreement as that protection applies to nationals of Brazil.

(b) In carrying out its functions under this Agreement within the United States, the Agency and its personnel shall be covered to the same extent as United States nationals by any protection against third-party liability provided under the Price-Anderson Act, including insurance or other indemnity coverage that may be required by the Price-Anderson Act with respect to nuclear incidents within the United States.

Settlement of disputes

Section 27. Any dispute arising out of the interpretation or application of this Agreement which is not settled by negotiation or as may otherwise be agreed by the Parties concerned shall on the request of any Party be submitted to an arbitral tribunal composed as follows:

(a) If the dispute involves only two of the Parties to this Agreement, all three Parties agreeing that the third is not concerned, the two Parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within thirty days of the request for arbitration either Party has not designated an arbitrator, either Party to the dispute may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected; or

(b) If the dispute involves all three Parties to this Agreement, each Party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within thirty days of the request for arbitration any Party has not designated an arbitrator, any Party may request the President of the International Court of Justice to appoint the necessary number of arbitrators. The same procedure shall apply if, within thirty days of the designation or appointment of the third of the first three arbitrators, the Chairman or the fifth arbitrator has not been elected.

A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal, including all rulings concerning its constitution, procedures, jurisdiction and the division of the expense of arbitration between the Parties, shall be binding on all Parties. The remuneration of the arbitrators shall be determined on the same basis as that of ad hoc judges of the International Court of Justice.

Section 28. Decisions of the Board concerning the implementation of this Agreement, except such as relate only to Part VI, shall, if they so provide, be given effect immediately by the Parties, pending the final settlement of any dispute.

PART VIII

Amendment, modifications, entry into force and duration

Section 29. The Parties shall, at the request of any one of them, consult about amending this Agreement. If the Board modifies the Safeguards Document, or the scope of the safeguards system, this Agreement shall be amended at the request of the Governments to take account of any or all such modifications. If the Board modifies the Inspectors Document, this Agreement shall be amended at the request of the Governments to take account of any or all such modifications.

Section 30.

(a) This Agreement shall be signed by the Director General of the Agency or his representative and by the authorized representative of each Government.

(b) This Agreement shall enter into force on the date on which the Agency shall have received from the two Governments written notification that they have complied with all statutory and constitutional requirements for its entry into force.[3]

Section 31. This Agreement shall remain in force during the term of the Agreement for Cooperation, as extended from time to time, unless terminated sooner by any Party upon six months' notice to the other Parties or as may otherwise be agreed. It may be prolonged for further periods as agreed by the Parties and may be terminated sooner by any Party on six months' notice to the other Parties or as may be otherwise agreed. However, this Agreement shall remain in force with regard to any nuclear material referred to in Section 10(a)(iii) or 10(d) until the Agency has notified both Governments that it has terminated safeguards on such material in accordance with Section 18.

DONE in Vienna, this 10th day of March 1967, in triplicate in the English language.

FOR THE INTERNATIONAL ATOMIC ENERGY AGENCY:

SIGVARD EKLUND

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

VERNE B. LEWIS,

FOR THE GOVERNMENT OF THE UNITED STATES OF BRAZIL:

HELIO F. S. BITTENCOURT.

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[3] Oct. 31, 1968.

[Atomic Energy—Application of Safeguards by the IAEA to the United States-Brazil Cooperation Agreement]

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, BRAZIL, AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement amending the agreement of March 10, 1967. Signed at Vienna July 27, 1972; Entered into force September 20, 1972.

AGREEMENT TO AMEND THE AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED STATES OF BRAZIL FOR THE APPLICATION OF SAFEGUARDS

Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil have been cooperating on the civil uses of atomic energy under their Agreement for Co-operation signed on 8 July 1965,[1] which requires that equipment, devices and materials made available to Brazil by the United States be used solely for peaceful purposes;

Whereas the Agreement for Co-operation signed on 8 July 1965 has been superseded by an Agreement for Co-operation signed on 17 July 1972,[2] which requires that equipment, devices and materials made available to Brazil by the United States under either Agreement be used solely for peaceful purposes;

Whereas the International Atomic Energy Agency has been applying safeguards in accordance with the provisions of the Agreement between the International Atomic Energy Agency, the Government of the United States of America and the Government of the United States of Brazil for the Application of Safeguards of 10 March 1967[3] to equipment, materials and facilities required to be safeguarded under the Agreement for Co-operation of 8 July 1965 to ensure so far as it is able that they will not be used in such a way as to further any military purpose;

Whereas the Agency and the two Governments desire to amend the Agreement of 10 March 1967 to apply safeguards to materials, equipment and facilities required to be safeguarded by the Agreement for Co-operation of 17 July 1972;

Now, therefore, the Agency and the two Governments agree as follows:

Section 1. The Agreement for the Application of Safeguards of 10 March 1967 is amended as follows:

A. The first Whereas clause is amended to read as follows:

"Whereas the Government of the United States of America and the Government of the Federative Republic of Brazil have agreed to continue co-operating on the civil uses of atomic energy under their Agreement for Co-operation of 17 July 1972, which requires that equipment, devices and materials made available to Brazil by the United States be used solely for peaceful purposes and establishes a system of safeguards to that end"

B. The fifth Whereas clause is amended to read as follows:

"Whereas the Board of Governors of the Agency approved that request on 29 February 1972"

C. Section 1(c) is amended to read as follows:

"(c) 'Agreement for Co-operation' means the agreement between Brazil and the United States for co-operation on the civil uses of atomic energy signed on 17 July 1972, as it may be amended"

D. Section 1(g) is amended to read as follows:

"(g) 'Safeguards Document' means Agency document INFCIRC/66/Rev. 2, which contains provisions approved by the Board on 28 September 1965, 17 June 1966, and 13 June 1968"

E. Section 1(i) is amended to read as follows:

"(i) 'Brazil' means the Government of the Federative Republic of Brazil"

F. Section 6 is amended by deleting "Article VI of" in the first sentence, and by deleting the second sentence and inserting the following language in lieu thereof:

"It is understood that no other rights and obligations of Brazil and the United States between themselves under the Agreement for Co-operation will be affected by this Agreement"

G. Section 20 is amended by deleting "Part III of" in the first sentence.

Section 2. The present Agreement shall be signed by or for the Director General of the Agency and by the authorized representatives of Brazil and the United States and shall enter into force on the date upon which the Agreement for Co-operation of 17 July 1972 enters into force.[4] The two Governments shall notify the Agency of the date of the entry into force of the Agreement for Co-operation of 17 July 1972 within one week after that date.

Done in Vienna, this twenty-seventh day of July 1972, in triplicate in the English language.

For the International Atomic Energy Agency:

A. FINKELSTEIN.

For the Government of the United States of America:

DWIGHT J. PORTER.

For the Government of the Federative Republic of Brazil:

HELIO F. S. BITTENCOURT.

TREATY OF THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty".

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples.

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war.

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons.

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities.

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards systems, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points.

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States.

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end.

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control.

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources.

Have agreed as follows:

ARTICLE I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

ARTICLE II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive device directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

ARTICLE III

I. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

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[1] TIAS 6126; 17 UST 1969.

[2] TIAS 7439; 23 UST.

[3] TIAS 6583; 19 UST 6322.

[4] Sept. 20, 1972.

2. Each State Party to the Treaty undertakes not to provide: (*a*) source of special fissionable material, or (*b*) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source of special fissionable material shall be subject to the safeguards required by this Article.

3. The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

ARTICLE IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

ARTICLE V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance wtih this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear weapon States. Negotiations on this subject shall commences as soon as possible after the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

ARTICLE VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

ARTICLE VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

ARTICLE VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Government shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratifictaion of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Therefore, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

ARTICLE IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding states of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In witness whereof the undersigned, duly authorized, have signed this Treaty.

Done in triplicate, at the cities of London, Moscow and Washington, the first day of July, one thousand nine hundred and sixty-eight.

Mr. SYMINGTON. Mr. President, will the distinguished Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. SYMINGTON. I would congratulate him on being the one person to consistently bring before Congress and the people the steadily growing danger incident to nuclear proliferation and nuclear weaponry and the dangers connected therewith.

As a member of the Joint Atomic Energy Committee, and with the privilege of serving under him as chairman, I, too, was shocked—that is a fair word—at the arrangements the West Germans have made with Brazil.

Does the Senator know of any arrangement with Brazil which would result in plutonium being shipped back to West Germany?

Mr. PASTORE. No; I do not know about that particular arrangement, but they do not have to ship it back. They are giving them the full cycle. They are giving them reprocessing, the know-how and the technology. Of course, the argument is going to be made by the West German Government that they are going to put thus under the safeguards of the international organization, which may be true. But on the other hand there is nothing that stops Brazil from building their own indigenous plants by using the technology that the West Germans give them. Then they will say, "We do not have to be under safeguards at all."

Here we are, we have nuclear bombs in Latin America. Then the next thing is Argentina, maybe Chile, maybe somebody else. What do we do? We are making an atomic fortress in Latin America, after the American taxpayers have spent billions and billions of dollars in West Germany and in Europe to protect them against a peril, and they are constituting one in our own backyard. Are we going to have Cuba all over again?

Mr. SYMINGTON. I believe it would be possible the Germans might want plutonium. As everyone knows, West Germany is between two great nuclear powers, the Soviet Union and France. The Soviets have signed the nonproliferation treaty. France has not signed or ratified it, but rather has consistently adopted unilateral policies in this nuclear field.

We spent many hours yesterday discussing the number of our military people in Europe, primarily in West Germany. What we are talking about this morning is the development of a situation which could wipe out most of those people with one or two airplanes or one or two missiles.

I again commend the Senator for bringing up this vital subject and would ask this question: Yesterday on the ticker, although a small development, could it not be a camel's nose under the tent when Libya makes arrangements with the Soviet Union to obtain small reactors comparable perhaps to what we gave Brazil to start them off in the art, but which could be increased into a complete nuclear armament cycle as West Germany apparently has now given Brazil?

Mr. PASTORE. Well, of course, everything is possible. From my investigation, I do not think that is very likely to happen for the simple reason that that is a 2 megawatt research reactor with the possibility of being accelerated to 10 megawatts. Beyond that it comes under the safeguards and inspection. There is no technology involved. I mean, there is a distinction in that case. As a matter of fact, the Soviets are doing in Libya what we have already done once in Brazil ourselves. There is a distinction to be made between granting the full cycle and only giving a research reactor which is under international control. First of all, the production of plutonium is very slight. It has to be reprocessed and they do not have the reprocessing facilities in those countries to begin with. It does not mean that they cannot build them, but, after all, when we talk about an undeveloped nation operating under such an arrangement that it is an entirely different thing.

The thing that disturbs me is not only has Brazil not signed the nonproliferation treaty, but the fact still remains that they are boasting of the fact that they have the capability and I understand, the motivation to build an atomic bomb. We cannot stop them if they do that on their own, no more than they can stop us from doing anything we want to do on our own. But here we have an ally, West Germany, where we are so heavily committed.

The Senator from Montana (Mr. MANSFIELD), who has been introducing an amendment year in and year out to withdraw about 50 percent of our troops out of West Germany, and West Germany does not like the idea at all, only yesterday announced that he would not propose the amendment because of the lack of credibility or the likelihood of the lack of credibility among our NATO allies because of the debacle of South Vietnam.

Here we are. We have changed our mind about withdrawing our troops to assist them, to protect them. We are heavily committed there. And what are they doing? They are selling all of this technology to the Brazilian Government. How far is Brazil from Cuba? Is it in Latin America? Is it in the Western Hemisphere? What are we doing?

Mr. SYMINGTON. How far is Brazil from West Germany.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SYMINGTON. Mr. President, I ask unanimous consent to proceed for 5 minutes.

Mr. MANSFIELD. Mr. President, if we could go into morning business now, I wish we could do so and the Senator from Missouri could be recognized.

Mr. SYMINGTON. Mr. President, for many years, the Senator from Rhode Island has been the leader in warning of this great and growing danger realized probably the most important single problem in the world today.

I congratulate the able Chairman of the Joint Atomic Energy Committee for bringing up this latest startling development in the entire nuclear field.

Mr. GLENN. If the Senator will yield, I will stay within my 3-minute limit.

Mr. PASTORE. I yield.

Mr. GLENN. I do want to associate myself with the remarks of both able Senators and particularly congratulate the Senator from Rhode Island on his forthrightness in bringing this forward to the attention of the Senate and the American people. I think we have kept much of our nuclear policy based on an exclusivity basis that no longer exists. I think this is evidence of that.

Scientific information does not remain the property of one nation for very long. I think much of our policy has remained based on that. We are seeing West Germany now contribute to the spread of nuclear know-how and potentially nuclear weapons around the world.

Other nations, whether it be Sweden, France, India, or whatever nation, could contribute to this later on. We all want to seek the benefits that can come to the world from the proper use of nuclear energy. So far, the limitations on that use have only been expressed through the very tentative at best arrangements of the International Atomic Energy Agency, which is the best we have, but which remains on a voluntary basis for cooperation. The nonproliferation treaty, which, as the Senator from Missouri pointed out, France has not even signed or agreed with and yet sends nuclear equipment around the world, is the only other way we have dreamed up so far of trying to somehow control this nuclear spread and keep it under control.

New techniques are becoming available almost daily in this field. I believe it is almost mandatory, as the Senators have pointed out, that we come up with some new way, whether it is a new incentive for people to cooperate, which we have talked about privately in the past in various meetings, or whether it is strengthening the arrangements that we have now.

I think the Senator from Rhode Island has very properly put his finger on what is a tremendously increasing danger around the world that we get in this whole Brazilian thing with West Germany, and our lack of control over it, pointing out the hazards that we face today in this area. I feel this should have the very highest priority of the President and the State Department in trying to work out whatever control methods we can that will not only strengthen the IAEA or the NPT signatory nations, their effect on the other nations of the world, but see if we can come up with new methods of control which would be more meaningful than what we have now.

We no longer have this monopoly of nuclear knowledge. It is spreading through many nations of the world. We have to come up with new techniques to control this or it is out of control. We can figure on every tiny nation in the world having its own atomic weapon in the next 15 or 20 years unless we do something now to control it.

I once again congratulate the Senator from Rhode Island and the Senator from Missouri on the lead they have taken in this area. I hope we can see our executive branch of Government and the State Department taking the lead. Hopefully, we can work with them through the Joint Atomic Energy Committee and the Government Operations Committee, which has oversight over the Nuclear Regulatory Commission, and get some kind of control in this area.

Mr. SYMINGTON. Will the able Senator yield?

Mr. GLENN. Certainly.

Mr. SYMINGTON. I commend him for his position. It is a matter about which he knows a very great deal, based on his past superb experience. I would ask the Senator: If the West Germans, where we already have put tens of billions of dollars in military equipment for their defense and apparently to continue to put billions in ground troops, planes, nuclear weapons, despite requests and advice of this Government, makes a deal of this character with Brazil, what would prevent one of the six members of the nuclear club, three of whom have not signed said treaty, or ratified it—what would prevent France—in return for an amount of oil from some of these Mideast countries, which have become unprecedentedly rich in recent years, the OPEC group, from giving them all the information necessary, if not weapons themselves, in return for oil if their economy was faced with disaster because of the lack of that fuel?

Mr. GLENN. I would think that there would be nothing that would prevent that. I think in fact, just about a year and a half ago we saw a breakdown of international cooperation when the embargo hit in the Mideast that saw various nations scurrying about making their own private arrangements, quite apart from the common good that we all agreed to that everybody was adhering to before. I would think that the danger that the Senator alludes to would be a very real one, particularly with any embargo situation that is invoked in the future. I would think that we would face probably exactly the situation the Senator outlines.

Mr. PASTORE. Mr. President, the point that needs to be made here, and I have tried to emphasize that point, is, naturally, you cannot get a sovereign government to agree to sign any agreement that it does not want to sign. Naturally, of course, this has to be all done by mutual consent. The trouble is sometimes when you get into this area of mutual consent you get into certain compromises which do not lead to the strength that you need to enforce this nonproliferation, as the Senator has already pointed out.

But the serious question that I raised here today is that here we are, and this is being done by West Germany. I am not talking about France. France has not signed the nuclear nonproliferation treaty. We are talking about West Germany, and West Germany, of course, has just given Brazil the full cycle.

The present government in Brazil may be very amenable in their friendship to the United States. I am not questioning that at all. But we are living in a changing world where governments are being toppled over day by day. How do we know that we will not have another Castro in some other country in South America or Latin America?

Once that happens and they have the facilities to make a bomb, then we have something else to worry about.

It would be foolish to argue in the Chamber of the Senate, "Let us cut out the military budget" when we have a brand new peril right under the belly of the United States. That necessarily means that if Latin America goes nuclear, it means that we have to begin to be concerned about that and have to begin to take measures. Then you will be cutting down the military budget. You will be exacerbating that budget. And that is where the peril lies.

I say West Germany should have consulted the United States. After all, we consult them. The majority leader says we will forget the withdrawal of troops this year in order to satisfy them. Now they come along, and they give all the facilities to Brazil, which is not too far away from the United States of America, the capability to make a bomb.

I say of all the countries in the world that should not have done it is West Germany.

Mr. GLENN. If the Senator will yield for one further comment, I believe the significant part of this, as the Senator has pointed out, is that this is one of the first times that the complete cycle has been sold. Before this time, we have had various parts of the cycle, but this is one of the first deals, I believe, where we have seen a complete cycle sold, which includes all the reprocessing, everything that would permit a nation, not only to use this for nuclear energy, for legitimate purposes, but the reprocessing cycle gives them, for the first time, the total capability for plutonium use in the weaponry. Prior to this it has been sort of a reprocessing. It was held off as bait, or it was held off to one side. Nations were not given this very freely, because it did give the capability, then, for atomic weaponry that we do not want to see.

But what we are seeing now is the entry in the world business community of nuclear energy, on the basis just like any other source of energy, but it has the side effect here of once plutonium is available then of having it potentially available for atomic weaponry or a terrorist stealing of atomic weaponry, and so on.

I think we have to encourage the President and the best minds in Congress and the State Department to get going just as fast as possible on trying to get some new type control procedures because the old procedures are obviously not adequate to this new era in which we are entering.

Mr. PASTORE. That is correct.

Mr. GLENN. I thank the Senator very much.

Mr. SYMINGTON. Mr. President, will the Senator yield at that point?

Mr. GLENN. Certainly.

Mr. SYMINGTON. We computerized in the Joint Committee and found arrangements France has made with a country in the Middle East, fortunately, a country truly a friend of ours. As a result, by reprocessing the plutonium from the waste in question, that country could make 200 Hiroshima-type bombs a year. One Hiroshima bomb, as we know from testimony, killed 100,000 people.

So this is a practical matter, one which, unfortunately, when we were discussing forces in Europe, was almost disregarded in the debate, especially from the standpoint of proliferation and the growing sensitivity in West Germany of the fact the two countries located next to it, the Soviet Union and France, have both become major nuclear powers.

It occurs that in their own interest they could be beginning to plan along nuclear lines themselves. The papers say one of the reasons we are given all these NATO reassurances is growing doubt that the real shield over NATO, the nuclear umbrella, is one they believe the American Government might not fulfill in a crunch.

So I think this is a very serious matter. I again commend the Senator from Rhode Island for bringing this up, and also the Senator from Ohio for his remarks, and would hope we would worry less about numbers of divisions and conventional weapons and more about this steady proliferation of nuclear weapon proficiency all over the world.

Mr. PASTORE Mr. President, I might conclude by saying this: If this agreement goes through at this time in this fashion, it will make a mockery out of the Monroe Doctrine.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from South Dakota (Mr. ABOUREZK) is recognized for not to exceed 5 minutes.

PRESIDENT FORD IS MAKING ABORTION A CAMPAIGN ISSUE

Mr. ABOUREZK. Mr. President, President Ford has apparently chosen to use the White House lawn and the White House press corps for his campaign stump speeches. Wednesday, in what the New York Times described as a "carefully planned news conference," and then again this morning in meeting with the Catholic bishops from around the country, Mr. Ford began what apparently will be a major effort to make abortion an issue in the Presidential campaign.

Abortion is a complicated, emotional issue that has deep religious, health, and philosophical ramifications.

There is a deep division in this country on the issue of abortion. Dedicated people on both sides feel very strongly, for sound, legitimate reasons. Those who have strong, personal convictions on this issue deserve respect for their views. They have not received that respect from President Ford. Nor does he deserve theirs, for he has changed his own position in a crass and cynical attempt, not to express a heartfelt conviction, but to scratch for some way to get votes.

In the past, Mr. Ford has said that he personally opposes abortion and was not in favor of a constitutional amendment. He now says he agrees with the Republican platform, which supports enactment of a constitutional "right to life" amendment.

His action is only a replay of the divisive opportunism that Richard Nixon victimized the country with for so many years.

If Mr. Ford had long held the view that a constitutional amendment was desirable for deep, personal or religious reasons, then he would deserve our respect. But he has not. In an act of extreme political opportunism, he is, tragically, adding to the deep divisions in this country over the abortion issue. If President Ford wants to campaign by tending to the business of the country from the White House—if he wants to appear "Presidential," he should seek to unify our Nation, not sow the seeds of emotional division in an attempt to get himself elected.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:50 a.m., with statements therein limited to 5 minutes each.

VETERANS POPPY PROGRAM TO CONTINUE

Mr. GRIFFIN. Mr. President, this morning I am pleased to announce that the familiar veterans memorial poppy program, which has been in existence since World War I and which has raised millions of dollars each year for the aid of disabled veterans and their families, will now be able to continue without being hobbled by the Fair Labor Standards Act.

American veterans will now be able to go on assembling the familiar paper flowers in veterans hospitals across the land; the program will not be terminated, as appeared to be the case only a few weeks ago.

Thanks to the cooperative efforts of several key governmental agencies and some of my Senate colleagues, an administrative solution has been forged to what appeared earlier as almost an impossible situation.

Last spring, spokesmen for the Veterans' Administration, the American Legion, and the Veterans of Foreign Wars approached me and other Members of Congress to register their deep concern. They advised that the Civil Service Commission and the Department of Labor had ruled, or were about to rule, without any change in the law by Congress, that the Fair Labor Standards Act should be applied to patients in veterans hospitals who voluntarily assemble paper poppies as a means of participating in this program. The sponsoring veterans organizations were concerned that if the Department of Labor and the Civil Service Commission followed through and enforced their new interpretation of the law, the traditional and familiar poppy program would have to be terminated. This would have been an unfortunate situation, to say the least.

After consultation with the Veterans' Administration, which theretofore had been unable to persuade the agencies to reconsider their position, I concluded that legislation would be necessary to correct the problem. Accordingly, on July 30, I submitted to the Senate an amendment to H.R. 3348—an amendment cosponsored by 30 other Senators—to change the law and make clear that there is not, and never has been, any intention on the part of Congress to subject the poppy program to the Fair Labor Standards Act requirements.

However, I am glad to announce this morning that enactment of such legislation will not now be necessary. On September 1, representatives of the Department of Labor, the Civil Service Commission, the Veterans Administration, and representatives of the Senate Committees on Labor and Public Welfare and Veterans Affairs met to discuss this situation.

On Tuesday of this week, an agreement in principle was worked out; and yesterday, September 9, that agreement was reduced to writing, in the form of an exchange of letters.

In a letter to the Civil Service Commission, the Veterans Administration has agreed that the poppy program will be conducted under authority of 38 U.S.C. 618. That section allows patients in veterans hospitals to perform services for theraputic and rehabilitative purposes at nominal remuneration. That administrative move apparently enables the Civil Service Commission and the Labor Department to modify their earlier position. In any event, I am pleased that an administrative solution has been worked out.

Mr. President, I ask that several letters—one from the Veterans Administration to the Civil Service Commission, another from the Civil Service Commission to the Veterans Administration, as well as letters from the American Legion and the Veterans of Foreign Wars—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS ADMINISTRATION,
Washington, D.C., September 9, 1976.

MR. CARL F. GOODMAN,
General Counsel,
U.S. Civil Service Commission,
Washington, D.C.

DEAR MR. GOODMAN: As we discussed in our September 1, 1976, meeting, this will formally advise you of our proposed course of action with respect to the operation of the poppy programs within the Veterans Administration.

In earlier submissions and discussions, we have stated our views regarding the application of the Fair Labor Standards Act to the various VA rehabilitation programs which involve the utilization of patient services. We appear to be in agreement that the therapeutic patient activities which are conducted under the authority of 38 U.S.C. 618 are exempt from the Fair Labor Standards Act.

As you know, it has been our conviction that the poppy programs are also exempt from the Fair Labor Standards Act. We understand you may not agree with this position if these programs continue to be structured and conducted under the general aegis of the Compensated Work Therapy program, rather than under the 38 U.S.C. 618 authority. We, therefore, indicated to you that we would restructure the poppy programs so as to remove them from the formal Compensated Work Therapy program.

Since the poppy programs are considered therapeutic and rehabilitation activities by VA medical authorities, we are now taking steps to operate them under our 38 U.S.C. 618 authority. We believe the transfer of the operation of the poppy programs to incentive therapy is appropriate. Unlike compensated work therapy, the poppy programs are philanthropic projects carried on by charitable service organizations solely for the benefit of veterans and their dependents; veterans are the sole source of labor in these programs; the VA incurs no obligation to the sponsoring service organizations; the VA does not compete for these projects or negotiate price; all remuneration for the assembly of poppies goes to patients; and, the proceeds that service organizations derive from the sale of assembled poppies are used to benefit veterans and their families and, broadly speaking, to help accomplish the mission of the Veterans Administration.

Historically, the Veterans Administration and service organizations have worked cooperatively toward the same end—the general welfare of veterans. The contributions of service organizations to all veterans, as well as to veterans in VA facilities, are of such magnitude they cannot be measured. The poppy programs are an invaluable aid to both the VA and service organizations in accomplishing their common mission. For all of these reasons, we believe the poppy programs are uniquely suited to be operated within the ambit of 38 U.S.C. 618. You may be assured, however, that other patient work programs operated by the VA, under arrangements with non-VA organizations, do not, in our opinion, meet the criteria of the 618 authority, and we, therefore, do not propose to take similar action with respect to those programs.

We would appreciate receiving your assurance that this action on our part will remove all doubt as to the application of the Fair Labor Standards Act to the poppy programs.

Sincerely yours,

JOHN J. CORCORAN,
General Counsel.

CIVIL SERVICE COMMISSION,
OFFICE OF THE GENERAL COUNCIL,
Washington, D.C., September 9, 1976.

MR. JOHN J. CORCORAN,
General Counsel,
Veterans Administration,
Washington, D.C.

DEAR MR. CORCORAN: This is in response to your letter of September 9, 1976, concerning the operation of the Poppy Program within the Veterans Administration. On February 24, 1976, we advised you that under various circumstances including advice that the Veterans Administration intends to make changes in connection with the Poppy Program and considering that the Civil Service Commission had not received any complaints of FLSA violation in connection with the Poppy Program, it appeared untimely for us to render an opinion concerning coverage of that program under FLSA. We had, internally, considered the question as to whether the Incentive Therapy Program (ITP) run by the Veterans Administration is subject to the provisions of the FLSA.

As I advised you at our meeting of September 1, 1976, we had come to the conclusion that in light of the specific authority contained in section 618 of title 38, United States Code, the provisions of the FLSA, in our view, have no impact on the ITP or those patients participating in it. Our reasons for this view are set forth below.

You have now advised that the Veterans Administration is taking steps to operate the Poppy Program under the authority contained in 38 United States Code, section 618 and request our assurance that this action on your part "will remove all doubt as to the application of the FLSA to the Poppy Program." Unfortunately, I cannot give you such a blanket assurance since I cannot predict what private parties may do in litigation and what judgments a court might come to. I can, however, advise you that it is my opinion that if the Poppy Program is operated by the Veterans Administration pursuant to and in accordance with the provisions of 38 United States Code, section 618, the FLSA would not be applicable to said programs. The reasoning set forth below concerning the ITP would, of course, be equally applicable to the Poppy Program since they would be part of the Veterans Administration ITP programs.

The Incentive Therapy Program (ITP) is a program in which VA patients work for the agency at the facility at which they receive medical care. The participants are both residents and "outpatients". They receive remuneration for their work at a rate which is based on an individual evaluation of the patient's productivity as compared with that of a non-handicapped employee who performs the same or similar function, the rates ranging from $.05 per hour up to the current minimum wage. The evaluation of productivity is made at the outset and at three-month intervals by a team which includes a therapist and the attending physician. The results of the evaluations may alter the rate of remuneration, and are recorded in the patient's medical record.

There is no question but that the work performed by patients under the ITP is of economic benefit to the VA. The participants perform work as janitors, gardeners, kitchen help, clerks and messengers (and similar work) at the VA facilities where they receive health care. While economic benefit is present, the principal purpose for the program and its goals are oriented toward patient therapy as part of the medical care provided by the VA. However, the U.S. District Court for the District of Columbia, in *Souder* v. *Brennan*, 367 F. Supp. 808 (1973), specifically held that despite a primary purpose of therapy, work done by patients of "consequential economic benefit" to the hospital, is employment under the FLSA.

The *Souder* court summarized the law as follows:

"The terms of the Fair Labor Standards Act have traditionally been broadly construed and the Congress is not only aware of but has approved of such broad construction. *Economic reality is the test of employment and the reality is that many of the patient-workers perform work for which they are in no way handicapped and from which the institution derives full economic benefit. So long as the institution derives any consequential economic benefit the economic reality test would indicate an employment relationship rather than mere therapeutic exercise.* To hold otherwise would be to make therapy the sole justification for thousands of positions as dishwashers, kitchen helpers, messengers and the like.

* * * * *

"Further support of this approach can be found in the fact that the Act contains specific exemption provisions, yet *Congress did not see fit to specifically exclude patient-workers from coverage. The specific exemptions granted are numerous and detailed, indicating clearly that Congress is quite capable of specifically excluding from coverage some of those who might otherwise be covered by the general provisions.* Congress did not exclude patient-workers from coverage and, therefore, the Court cannot do so. (emphasis added) at 813.

While *Souder* v. *Brennan, supra*, concerned mentally ill patients in State hospitals, both the reasoning and language of the Court are compelling with regard to patient-workers generally. Therefore, absent any specific provision of law to the contrary, patient-workers in the ITP of the VA would be employees of the VA and would, therefore, be entitled to the protection of the FLSA.

However, specific contrary statutory authority does exist. It has been represented that the ITP is operated by the VA under the authorization contained in section 618 of title 38, United States Code, which provides as follows:

"The Administrator, upon the recommendation of the Chief Medical Director, *may utilize the services of patients* and members in Veterans Administration hospitals and domiciliaries for therapeutic and rehabilitative purposes, *at nominal remuneration, and such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose.* The Administrator shall prescribe the conditions for utilization of such services." (Emphasis added)

The above provision was enacted on August 6, 1962, as section 2(1) of Public Law 87–574. Therefore, it is of earlier origin than the FLSA Amendments of 1974.

It is a general rule of statutory construction that where two enactments covering coterminous fields of operation are irreconcilably at conflict, by any reasonable interpretation, the prior in time must yield to the extent of the conflict. See IA Sands, *Sutherland's Statutes and Statutory Construction*, § 23.09 at p. 223 (4th Ed. 1973). However, the overriding principle of statutory construction is to give effect to all statutes. As Professor Sands states:

"The bent of the rules of interpretation and construction is to give harmonious operation and effect to all of the acts upon a subject, where such construction is reasonably possible, even to the extent of superimposing a construction of consistency upon the apparent legislative intent to repeal, where two acts can, in fact, stand together and both be given consonant operation. *Supra*, at § 23.10, p. 231."

It appears that both section 618 of title 38, U.S.C., and section 214(c) of title 29, U.S.C., (FLSA), deal with patient-workers. Since the FLSA is of general application, and section 618 of title 38, U.S.C., has limited, special application, it is possible to reconcile the two statutes, each being given a reasonable interpretation. As Professor Sands states, *supra*, Vol. 2A § 51.05:

"General and special acts may be in *pari materia*. If so, they should be construed together. Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible; but if there is any conflict the latter will prevail, regardless of whether it was passed prior to the general statute, unless it appears that the legislature intended to make the general act controlling. In the language of a court: 'It is the general rule that where the general statute standing alone would include the same matter as the special act, and thus conflict with it, the special act will be considered as an exception to the general statute whether it was passed before or after such general enactment. Where the special statute is later it will be regarded as an exception to or qualification of the prior general one; and where the general act is later the special statute will be considered as remaining an exception to its terms unless it is repealed in general words or by necessary implication.'"

In general, the provisions of the FLSA apply to patient-workers. Section 618 of title 38, U.S.C., however, applies specifically to patients of the VA who are utilized as part of their therapy to work for that agency. Thus, section 618, where it applies, is the more specific statute, and therefore, it must be viewed as an exception to the more general FLSA, despite the fact that the former is prior in time of enactment. Thus, the provions of the FLSA have no impact on the ITP or those patients participating in it.

Sincerely yours,

Carl F. Goodman,
General Counsel.

Veterans of Foreign Wars
of the United States,
Washington, D.C., Sept. 10, 1976.

Hon. Robert P. Griffin,
Russell Senate Office Building,
U.S. Senate,
Washington, D.C.

My Dear Senator Griffin: I have been advised, both by telephone and copies of the enclosed correspondence, representatives of the Veterans Administration, the Civil Service Commission, and the Department of Labor have agreed upon an administrative solution to preclude the possible subjection of our V.F.W. Buddy Poppy Program to the Fair Labor Standards Act. Briefly, the agreement stipulates our Buddy Poppy Program will henceforth be administered under authority contained in Section 618 of Title 38, United States Code and, thus, exempted from the Fair Labor Standards Act.

In as much as the foregoing circumvents a potentially most serious problem for our Buddy Poppy Program, perhaps even termination thereof, we fully support this administrative solution.

In conclusion, Senator Griffin, permit me to state unequivocally I am convinced this agreement would not have been possible but for your amendment and tenacity in pursuit thereof. For this we of the Veterans of Foreign Wars of the United States are extremely grateful and we thank you.

With best wishes and kindest personal regards, I am,

Sincerely,

Donald H. Schwab,
Director,
National Legislative Service.

The American Legion,
Washington, D.C., September 10, 1976.

Hon. Robert P. Griffin,
U.S. Senate
Russell Senate Office Building,
Washington, D.C.

Dear Senator Griffin: I am in receipt of correspondence that occurred between Carl F. Goodman, General Counsel, U.S. Civil Service Commission and John J. Cochran, General Counsel, Veterans Administration. This exchange indicates a solution to the poppy problem that is acceptable to the interested parties. This solution is satisfactory to the American Legion and I wanted you to know of our accord.

The further pursuit of legislative relief no longer appears to be necessary. Your amendment, "The Griffin Amendment", which you so diligently advanced and so stubbornly held fast, forced an administrative agreement.

The Legislative Division is most appreciative of your stalwart dedication to seeking a solution to the poppy program dilemma, your action provided the initiative for the ultimate resolve. Thank you for the management that spelled success! Senator Griffin, we are also thankful for all the advice, assistance and patience of Gilbert Clark of your staff.

I have notified our National Commander, William J. Rogers and the President of our Auxiliary, Mrs. Paul Brown of this successful agreement. National Commander Rogers is announcing the good news to the New Jersey State Convention of The American Legion today. I am sure both of the National leaders will contact you in the very near future.

Respectfully,

Mylio S. Kraja,
Director,
National Legislative Commission.

MESSAGES FROM THE HOUSE

At 10:08 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 10394) to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 43, 60, 64, 73, and 100 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 19, 20, 21, 22, 42, 46, 59, 63, 70, 76, 91, 107, 112, and 114 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry: With an amendment:

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia (Rept. No. 94–1228).

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs;

S. 3802. An original bill to extend the moratorium on conversions of savings and loan associations, and for other purposes (Rept. No. 94–1229).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 3712. A bill authorizing the extension of the American Canal at El Paso, Tex., and for other purposes (Rept. No. 94–1230).

S. 3727. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Allen Camp unit, Pit River division, Central Valley project, California, and for other purposes (Rept. No. 94–1231).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations.

Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Nominee: Ralph E. Becker.
Post______Nominated______.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self.
2. Spouse.
3. Children and Spouses: Names.
4. Parents: Names.
5. Grandparents: Names.
6. Brothers and Spouses: Names.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Ralph E. Becker.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

Self

$100, 1972, Percy Campaign Committee.
$100, 1972, D.C. Republican Primary.
$50, 1972, Republican Convention.
$500, 1972, D.C. Committee of Businessmen to Assist Congressional Leaders.
$25, 1972, Citizens for Percy.
$15, 1972, Finance Committee to Re-elect the President.
$25, 1972, Keep Minshall in Congress.
$100, 1973, Inaugural Committee.
$75, 1973, D.C. Republican Committee.
$10, 1973, Young Republicans.
$10, 1974, National Friends of John Brademas.
$25, 1974, Republican National Finance Committee.
$120, 1974, D.C. Republican Committee.
$50, 1974, Republican Congressional Committee.
$25, 1974, Kentuckians for Senator Cook.
$25, 1974, Linda Boggs Campaign Committee.
$25, 1974, Jerry Moore Campaign Committee.
$25, 1974, Goldwater for Senate Committee.
$10, 1974, Committee to Elect Mel Burton.
$20, 1974, Citizens for Rosenfeld.
$25, 1974, Frank Rich Committee.
$30, 1974, Rockwell Foster.
$25, 1974, Dr. Robinson.
$50, 1974, Jerry Moore.
$150, 1974, Committee for Washigton.
$75, 1974, Walter Washington Campaign Committee.
$25, 1974, Walter Washington.
$50, 1974, Sterling Tucker.
$50, 1974 National Republican Senatorial Committee.
$25, 1974, Newton J. Steers, Jr. Maryland Senate Committee.
$50, 1974, Republican National Sustaining Committee.
$25, 1975, Bud Shuster for Congress.
$120, 1975, D.C. Republican Committee.

$100, 1975, Anderson for Congress Finance Committee.

$100, 1975, Re-Elect John Rhodes Committee.

$25, 1975, Friends of Jim Buckley.

$50, 1975, Barry M. Goldwater Scholarship Award.

$15, 1975, Firt A.D. Republican Club.

$125, 1975, President Ford Committee.

$29, 1975, D.C. Republican Committee.

$25, 1975, Republican National Finance Committee.

$60, 1975, Women's National Republican Club.

$25, 1975, Republican National Finance Committee.

$50, 1975, Republican Senate Campaign Fund.

$100, 1975, Roncalio Reception.

$400, 1976, D.C. Republican Dinner Committee.

$50, 1976, Republican National Committee.

$875, 1976, President Ford Committee.

$60, 1976, D.C. Republican Committee.

$50, 1976, Friends of Jim Buckley.

$50, 1976, Shuster for Congress.

Spouse

None in 1972, 1973 or 1974.

$100, 1975, Friends of Robert C. Byrd Committee.

$1000, 1976, President Ford Committee.

Children and spouses

William W. Becker

$25, 1974, Jerry Moore Campaign Committee.

$100, 1974, Committee for Washington.

$250, 1972, D.C. Committee of Businessmen to Assist Congressional Leaders.

$20, 1974, Ripon Society.

$50, 1976, President Ford Committee.

Donald L. Becker

$30, 1972, McGovern for President Committee.

$20, 1976, Udall for President Committee.

No contributions for Mrs. William W. Becker, Pamela Feinstein, or Ralph E. Becker, Jr.

Parents—Not Applicable.

Grandparents—Not Applicable.

Brothers and Spouses—Not Applicable.

Sisters and spouses

Mr. and Mrs. Louis Klein have made no contributions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD:

S. 3800. A bill to provide for the reimbursement for losses sustained by persons injured by certain criminal acts, to make grants to States for the payment of such reimbursement, and for other purposes. Ordered placed on the Calendar.

By Mr. TALMADGE (for himself, Mr. Long, Mr. Ribicoff, Mr. Dole, Mr. Nelson, Mr. Gravel, Mr. Roth, Mr. Moss, Mr. Packwood, Mr. Hartke, Mr. Allen, Mr. Beall, Mr. Buckley, Mr. Domenici, Mr. Eastland, Mr. Fong, Mr. Hollings, Mr. Inouye, Mr. Javits, Mr. Mansfield, Mr. Muskie, Mr. Nunn, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Hugh Scott, Mr. Stone, Mr. Thurmond, Mr. Tower, Mr. Tunney, Mr. Fannin, Mr. Brock, Mr. Bentsen, Mr. Harry F. Byrd, Jr., Mr. Haskell, Mr. Hathaway, Mr. Chiles, Mr. Church, Mr. Williams, and Mr. Kennedy):

S. 3801. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes. Referred to the Committee on Finance.

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs:

S. 3802. A bill to extend the moratorium on conversions of savings and loan associations, and for other purposes. Ordered placed on the Calendar.

By Mr. HRUSKA:

S. 3803. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers and for other purposes. Referred to the Committee on Commerce.

By Mr. FANNIN:

S. 3804. A bill to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona. Referred to the Committee on Agriculture and Forestry.

By Mr. RANDOLPH:

S.J. Res. 211. A joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of May of each year as "National Grandparents' Day". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD:

S. 3800. A bill to provide for the reimbursement for losses sustained by persons injured by certain criminal acts, to make grants to States for the payment of such reimbursement, and for other purposes. Ordered placed on the Calendar.

Mr. MANSFIELD. Mr. President, I introduce a bill entitled "Victims of Crime Act of 1976," and I ask unanimous consent that it be considered as having been read twice, and that it be placed on the Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

By Mr. TALMADGE (for himself, Mr. Long, Mr. Ribicoff, Mr. Dole, Mr. Nelson, Mr. Gravel, Mr. Roth, Mr. Moss, Mr. Packwood, Mr. Hartke, Mr. Allen, Mr. Beall, Mr. Buckley, Mr. Domenici, Mr. Eastland, Mr. Fong, Mr. Hollings, Mr. Inouye, Mr. Javits, Mr. Mansfield, Mr. Muskie, Mr. Nunn, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Hugh Scott, Mr. Stone, Mr. Thurmond, Mr. Tower, Mr. Tunney, Mr. Fannin, Mr. Brock, Mr. Bentsen, Mr. Harry F. Byrd, Jr., Mr. Haskell, Mr. Hathaway, Mr. Chiles, Mr. Church, Mr. Williams, and Mr. Kennedy):

S. 3801. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes. Referred to the Committee on Finance.

(The remarks of Mr. Talmadge and other Senators on the introduction of the above bill are printed earlier in today's Record.)

By Mr. HRUSKA:

S. 3803. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes. Referred to the Committee on Commerce.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Mr. HRUSKA. Mr. President, I am introducing today the Consumer Communications Reform Act of 1976.

Congress has an obligation to maintain a regulatory policy in accordance with the broad public interest standards enacted in the Federal Communications Act of 1934. The purpose of the act is to make available to all the people of the United States, rapid and efficient communications service with adequate facilities at reasonable charges. I am of course particularly concerned with service to rural areas in my State of Nebraska and in other parts of the country where people rely primarily upon phone service to obtain current weather reports, to request help in emergencies or just to make contact with a neighbor.

In order to assure that people in rural areas have access to phone service, the cost has been partially allocated to other types of consumers in an effort to maintain rural service at a reasonable cost. Any changes that would adversely affect this policy would cause great hardship upon those living in rural areas and would be contrary to the purpose behind the 1934 Act.

PROVISIONS OF THE BILL

The bill I am proposing would reinforce the policy behind the 1934 act and would also allow carriers to set competitive rates that cannot be considered as too low so long as they equal or are greater than the incremental costs of providing these services. It would provide standards for the authorization of new specialized carriers to prohibit needless and wasteful duplication of facilities. Finally, the bill reaffirms the States' exclusive jurisdiction over terminal equipment that is used for both intrastate and interstate communications.

OTHER BILLS

Two other versions of this bill have been introduced in the Senate. S. 3192, which has been introduced by the Senator from Indiana (Mr. Hartke) contains all the provisions of this bill except sections 4 and 5 relating to acquisitions by and of specialized common carriers. Presently, the FCC has the authority to approve mergers and acquisitions of telephone and telegraph companies. Such approval exempts the transaction from the terms of other acts of Congress, such as the antitrust laws, under which the acquisitions might be deemed unlawful. Sections 4 and 5 extend this approval authority of the FCC to specialized common carriers.

S. 3403 which has been introduced by the Senator from Louisiana (Mr. JOHNSTON) contains all the provisions of this bill except the acquisition provisions just discussed and sections 6 and 7 which reaffirm State jurisdiction over local terminal and station equipment.

HISTORY OF THE TELECOMMUNICATIONS INDUSTRY

In the early days following the expiration of the Bell patents, rival telephone companies fought with each other for the right to serve the same territories, but the consumer did not always benefit from this competition. For example, in my own State, Omaha and Lincoln each were served by two companies. A consumer had to subscribe to service from both companies in order to talk to all the local users.

By 1934, Congress found that the availability of telephone service was a matter of national concern and enacted the Communications Act of 1934. In that Act, Congress stated that it was the national goal "to make available, so far as possible, to all the people of the United States, rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges."

This notion of access to telecommunications was reaffirmed particularly with respect to rural America when Congress amended the Rural Electrification Act in 1949 stating:

> It is hereby declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas . . . to assure the viability of adequate telephone service to the widest practicable number of rural users of such service.

Through Federal and State government regulation, the industry has developed under the common carrier principle in order to prevent duplicative and wasteful competition. There are now about 1,600 companies providing a highly cooperative, nonduplicating, integrated telephone system in the United States. In Nebraska, 50 telephone companies serve our citizens from the more densely populated centers of Omaha and Lincoln in the East to the sparsely settled sand hills and river valleys to the West.

Widely available service has also been made possible through a rate structure developed by the carriers with the approval of State and Federal regulators, based in part upon rate averaging at the Federal and State levels. By this means, the rate in any given regulatory jurisdiction is the same for a call of equal distance whether it be between two urban centers or two rural communities.

Rates have also been designed so that the cost of the more discretionary services such as WATS, terminal equipment, extensions, premium sets and other equipment makes substantial contributions to the costs and overhead of residential thereby permitting rates for such service to be lower than otherwise would be the case.

Over the years, this system has worked well and enabled the United States to develop the best and least expensive telephone system in the world. A recent study indicates that the average monthly cost in 1975 for residential uses was $9.

FCC DECISIONS

Beginning in 1968, in the name of competition, the Federal Communications Commission began to erode the national telecommunications policy and change the pattern of telecommunications service. Since that time, the FCC has allowed the interconnection of customer provided terminal equipment—the devices at the end of a telephone line which send or receive signals, such as telephones—without any protective connecting devices despite State regulatory ruling to the contrary.

FCC decisions have allowed the entry of specialized common carriers into the marketplace which in almost all cases provide duplicative services of those offered by existing regulated carriers. These entries have been only in the lucrative, high density markets. There have been no attempts by specialized common carriers to offer alternative services to rural or residential users.

Recently, the FCC completed a 4-year review of the technology and economics of the Bell System. It is interesting to note that an FCC judge concluded that the record of that report did not justify restructuring this industry but rather suggested the need for more effective regulation.

ANTITRUST AND MONOPOLY SUBCOMMITTEE HEARINGS

The subjects of this bill are not new to the Congress. In 1974, the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary held 7 days of hearings, during which the problems addressed by the bill were explored in depth.

At this point, I would like to point out some of the pertinent testimony from those hearings.

Edward B. Crosland, senior vice president of A.T. & T., testified at some length on the reasonableness of the telephone costs. During the period 1964–1974, telephone costs increased 18.5 percent while the costs for electricity increased 47.3 percent and the costs for gas increased 40.7 percent. He stated further that if the policy of the FCC decisions on interconnection and specialized common carriers continued, residential costs could climb by as much as 75 percent.

Hugh R. Wilbourn, Jr., first vice president, U.S. Independent Telephone Association, gave similar testimony. He stated that:

> The businesses which buy interconnection equipment and those merchants who sell it to them have no interest in the residential subscriber and no obligation to serve him. The same goes for the specialized common carriers. They do not really care what happens to the residential subscriber's rates. So it's big business that these (the FCC) decisions favor, not the little guy . . ."

Mr. Wilbourn concluded as did Mr. Crosland, that undermining the cohesion of the telecommunications system would result in an inevitable and inexorable increase in residential rates.

Eugene V. Rostow, Sterling professor of law and public affairs at Yale University, testified that the specialized common carriers have not in fact offered new services or tapped new markets as the early FCC decisions had intended. Mr. Rostow stated that:

> Specialized common carriers have simply duplicated the private line services of the telephone companies at lower rates, and only on selected high density routes where there has been a high revenue/cost relationship, and where Bell's rates are vulnerable to competition because of nationwide rate averaging. Inevitably, this process will also result in higher costs for the general body of rate payers.

NEBRASKA STATE POLICY

Mr. President, I would like to turn now to a discussion of Nebraska State policy in this regard.

In 1966 in the case of *Northwestern Bell Telephone Company, Omaha* v. *Consolidated Telephone Company of Dunning*, 142 NW 2d 324, the Nebraska Supreme Court affirmed the general policy of the State public service commission which is to control common carriers—

> To secure adequate sustained service for the public at the *lowest reasonable cost*, and to protect and conserve investments made for that purpose (emphasis added).

A later case explained that for Nebraska "the concept of public utility regulations now is and always has been, one of regulated monopoly." *Radio–Fone, Inc.* v. *A.T.S. Mobile Telephone, Inc.*, 193 NW 2d 442 (1972).

Despite the well-established Nebraska public policy, the Nebraska Supreme Court in *Sherdon* v. *Dann*, 229 NW 2d 531 (1975), overruled actions by the Nebraska Public Service Commission in deference to the recent FCC interconnect decisions. In the case of *In re Telerent Leasing Corp.*, 45 F.C.C. 2d 404 (1974), aff'd, *North Carolina Utilities Comm'n* v. *FCC*, case No. 74–1220 (4th Cir., Apr. 14, 1976), pet. for reh. den., it was determined that Federal regulations shall have priority and primacy over conflicting State regulations on intercommunications. This decision is presently being appealed to the U.S. Supreme Court.

The conflict between the FCC encroachment into areas previously considered to be intrastate in character and the prerogative of the States has been recognized by the Nebraska Legislature, which passed a resolution on April 9, 1976, directing an Interim Telecommunications Committee to investigate the matter and to make a full report to the legislature. I ask unanimous consent to have the resolution printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

OTHER OPINIONS

Mr. HRUSKA. Many groups have expressed support for the principles of the bill I am presenting today. Among these are the National Association of Regulatory Utility Commissioners, the American Farm Bureau Federation, the Telecommunications International Union, the

Communications Workers of America and the Nebraska Public Service Commission. I have already received many letters of support for this type of bill from consumers in Nebraska. I ask unanimous consent to have these resolutions and statements printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

CONCLUSION

Mr. HRUSKA. Mr. President, we hear so much about how new technology is going to bring the age of information to every American doorstep. Let us proceed in accordance with that policy without disrupting a system which has provided telephone service unsurpassed by any other nation. Overturning a structure which has served urban and rural Americans with quality service for comparatively low costs will do irreparable harm. I am particularly concerned with the effect this would have on the people of Nebraska.

This legislation which I propose will reaffirm the national telecommunications policy and insure that all persons will continue to receive the fine low-cost telephone service to which they have become accustomed, and help to assure their participation in the benefits which the age of information promises to urban as well as rural Americans. Congress must act. The bill which I have introduced today completes the trilogy of bills on this subject and the issues are now defined for consideration by the Senate. Prompt committee hearings on the legislation are a necessity if the matter is to be resolved and I urge the support of my colleagues to that end.

Mr. President, it is now late in this the last session of the 94th Congress; however, I believe that the introduction of this bill will at this point in time serve a very good and useful purpose. The bill itself should be reintroduced early in the 95th Congress. In the meanwhile all interested parties, industry and consumers alike, will have been placed on notice that next year this subject will be considered. Thus, during the lull between the old and new Congress, preparation of testimony and other preliminary steps can go forward. It is my hope that action on this measure will begin shortly after the start of the 95th Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3803

A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Consumer Communications Reform Act of 1976."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress finds and declares that—

(a) The revenues from integrated interstate and foreign common carrier telecommunications services, based on charges reflecting both costs and value of service, have contributed toward meeting the costs of facilities used in common for providing such interstate and foreign services and local telephone exchange service throughout the United States, and hereby helped maintain a level of charges for telephone exchange service which is lower than otherwise would be required.

(b) The technical integrity of the nationwide telecommunications system, its coordinated planning, design, installation, improvement, management, operation and maintenance are indispensable elements in the interstate telecommunications network, necessary both to the reasonableness of charges and to the high quality and universality of common carrier telecommunications service, and accordingly Congress hereby reaffirms its policy that the integrated interstate telecommunications network shall be structured so as to assure widely available, high quality telecommunications services to all of the Nation's telecommunications users.

(c) The authorization of lines, facilities, or services of specialized carriers which duplicate the lines, facilities, or services of other telecommunications common carriers—

(1) involves higher charges for users of telephone exchange service by decreasing the interstate revenues that otherwise would be available for contribution to the common costs of providing telephone services throughout the United States;

(2) fosters inefficiencies in the utilization of national telecommunications resources through the creation of unnecessary and wasteful duplication of telecommunications lines and facilities and wasteful use of the radio spectrum;

(3) significantly impairs the technical integrity, the coordinated planning, design, installation, improvement, management, operation and maintenance of the integrated nationwide telecommunications network; and

(4) has an adverse impact on the national objectives of maintaining stability of consumer price levels, conserving national economic resources, improving productivity, and fostering an economy that will maintain adequate sources and reasonable costs of capital;

and is, therefore, contrary to the public interest.

(d) The Congress reaffirms its intent that the complete authority to regulate terminal and station equipment used for telephone exchange service shall rest with the States even though such terminal and station equipment also may be used in connection with interstate services.

(e) The congressional findings and declarations of policy set forth herein are necessary to achieve the purposes of the Communications Act of 1934 as specified in section 1 of that Act; and the Federal Communications Commission shall take no action inconsistent with the findings and declarations in this Act.

CHARGES FOR SERVICE

SEC. 3. Section 201(b) of the Communications Act of 1934, as amended (47 U.S.C. 201) is amended by adding the following at the end of the first sentence: "No compensatory charges for or in connection with such communication service may be found to be unjust or unreasonable on the ground that it is too low. The Commission may not hold the charge of a carrier up to a particular level to protect the traffic or revenues from a communication service offered or provided by another carrier if such charge proposed by the carrier is compensatory. As used in this subsection, a charge is compensatory so long as it equals or exceeds the incremental cost of providing the communications service. Such incremental cost is the additional cost caused by the provision of the service including, where appropriate, the capital costs of whatever additional facilities are required to provide the service.".

ACQUISITIONS BY AND OF CERTAIN COMMON CARRIERS

SEC. 4. The Communications Act of 1934, as amended, is further amended by adding the following new section 224:

"SEC. 224. Upon application of any common carrier or other person involved in the transaction, the Commission shall have jurisdiction (i) to approve the acquisition of control by a domestic common carrier of any other domestic common carrier or the acquisition of the whole or any part of the property of a domestic common carrier by any other domestic common carrier, or (ii) to approve the acquisition by a person which is not a common carrier of control of any domestic common carrier or the acquisition of the whole or any part of the property of a domestic common carrier, whenever the Commission determines, after full opportunity for hearing on an evidentiary record, that such approval is in the public interest. The Commission shall give reasonable notice in writing concerning any such proposed action to the Governor of each of the States in which the physical property affected, or any part thereof, is situated, and to each State commission that may also have jurisdiction over any of the common carriers involved, and to such other persons as it may deem advisable, and shall afford such parties a reasonable opportunity to participate in any hearings related to such action. If the Commission approves the proposed acquisition, it shall certify to that effect; and thereupon any Act or Acts of Congress making the proposed acquisition unlawful shall not apply. As used in this section 224, 'domestic common carrier' shall mean a common carrier, the major portion of whose traffic and revenues is derived from communications services other than foreign communications. This section 224 shall not apply where either section 221(a) or 222 of this Act is applicable or to the acquisition by any person of a telephone common carrier as defined in section 225(a)(1).".

SEC. 5. Section 2(b) of the Communications Act of 1934, as amended (47 U.S.C. 152(b)) is further amended by striking the clause beginning with the words "except that" following the semicolon and inserting the following "except that sections 201 through 205 of this Act, both inclusive, and section 224 of this Act shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4).".

REAFFIRMATION OF STATE JURISDICTION OVER LOCAL TERMINAL AND STATION EQUIPMENT

SEC. 6. Section 2(b) of the Communications Act of 1934, as amended (47 U.S.C. 152(b)) is further amended by striking "or" at the end of the phase following "(1)" and substituting therefor the following: "including but not limited to, the charges, classifications, practices, services, facilities, or regulations for or in connection with the use or connection of any station equipment, terminating facilities, exchange plant, and other like instrumentalities and apparatus used in common for both intrastate communication service and interstate or foreign communication service, whether provided by a common carrier or any other person, or".

SEC. 7. Section 3 of the Communications Act of 1934, as amended (47 U.S.C. 153), is further amended by adding the following new subsection:

"(gg) 'Intrastate communication' means communication or transmission between points in the same State, territory, or possession of the United States, or in the District of Columbia, including among other things, all station equipment, terminating facilities, exchange plant, and other like instrumentalities and apparatus used for or in connection with telephone exchange service or interexchange service, even though such equipment, facilities, plant, instrumentalities or apparatus are or may be used in connection with interstate or foreign communications service. 'Intrastate communication service' means any service which provides intrastate communication.".

FINDINGS TO BE INCLUDED IN COMMISSION AUTHORIZATIONS OF SPECIALIZED CARRIERS

SEC. 8. The following new section is added in title II of the Communications Act of 1934, as amended:

"SEC. 225. (a) As used in this section—

"(1) The term 'telephone common carrier' means any common carrier, the major portion of whose traffic and revenues, in interstate and foreign communication and in intrastate communication, is derived from message telephone services, telephone exchange services, radio-telephone exchange services, or a combination thereof.

"(2) The term 'telegraph common carrier' means any common carrier which provides a public message telegram service in interstate communications.

"(3) The term 'specialized carrier' means any common carrier other than a telephone or telegraph common carrier.

"(4) The term 'message telephone service' means telephone service between stations in different exchange areas on a message-by-message basis, contemplating a separate connection for each occasion of use.

"(5) The term 'public message telegram service' means a substantially nationwide telegraph service for the transmission and reception of record matter where the transmission is not directly controlled by the sender and for which a charge is collected on the basis of number of words transmitted and which is available to the public.

"(b) The Commission shall not grant or authorize any construction permit, station license, or certificate, for the construction, acquisition, or operation of any communication or transmission line or facility, or extension thereof, or any modification or renewal thereof, that otherwise might be granted or authorized pursuant to any provision of this Act, to any specialized carrier that furnishes or proposes to furnish interstate communication service unless the Commission shall find, after full opportunity for evidentiary hearing on the record, that such permit, license, or certificate, will not result in increased charges for telephone exchange service or in wasteful or unnecessary duplication of communication lines, facilities, equipment and instrumentalities of any telephone or telegraph common carrier, and will not significantly impair the technical integrity and capacity for unified and coordinated planning, management, design, and operation of the nationwide telephone network. In finding that such grant or authorization will not result in wasteful or unnecessary duplication, the Commission shall determine, among other things, that the proposed service or services of the specialized carrier, which are the subject of the requested grant or authorization, (i) are not like or similar to any service or services provided by a telephone or telegraph common carrier and (ii) cannot be provided by available communications lines, facilities, equipment, or instrumentalities of a telephone or telegraph common carrier. At any hearing involving a matter under this subsection, the burden of proof to support the requisite findings by the Commission shall be on the applicant for such permit, license, or certificate.".

EXHIBIT 1

NEBRASKA UNICAMERAL LEGISLATURE LEGISLATIVE RESOLUTION 159

Whereas, The Federal Communications Commission in recent actions appears to be extending Federal jurisdiction over additional communication services including certain services which had previously been considered intrastate communication services; and

Whereas, such Federal regulation of communication services may be contrary to the long standing separation of Federal and State regulation over communications services and may adversely affect intrastate communication users in Nebraska; and

Whereas, Federal legislation has been introduced in Congress which would reaffirm the purpose of the Communications Act of 1934.

Now, therefore, be it resolved by the members of the eighty-fourth legislature of Nebraska, second session:

1. That the Nebraska Legislatures Interim Telecommunications Committee is hereby directed to investigate the present and proposed relationship regarding the relative jurisdiction of the State of Nebraska and Federal Communications Commission, as such relates to the charges, services, facilities, and regulation of the provision of Nebraska intrastate communication services.

2. That such committee make a report of its findings, together with its recommendations to the next regular session of the legislature.

EXHIBIT 2

RESOLUTION FOR SUPPORT OF BASIC TELEPHONE SERVICE CONSUMER BENEFIT LEGISLATION

Whereas, Continuation of recent policies of the FCC with respect to the regulation of the provision of local terminal and station equipment constitutes preemption of States' jurisdiction; and

Whereas, Such preemption constrains the States in the execution of the mandate to insure the best interests of the local telephone service consumer; and

Whereas, The proliferation of "specialized common carriers" constitutes wasteful duplication of facilities and wastefully duplicative use of resources; and

Whereas, The operation of "specialized common carriers" and liberalized interconnection serve to divert revenues which would otherwise flow to the benefit of the local basic telephone service consumer; and

Whereas, The results of the aforementioned actions are not in the best interests of local service consumers as confirmed by detailed studies conducted by the NARUC Committee on Communications, the staffs of member commissioners and others; and

Whereas, Continuation of the debate of these and related issues represents an unwarranted expense to the rate paying consumer of telecommunications services; now, therefore, be it

Resolved, That the Executive Committee of the National Association of Regulatory Utility Commissioners, hereby supports such legislation as has been and may be introduced in the Congress of the United States that, in the judgment of the President of this Association and the Committee on Communications, whose membership is nationally diversified, will serve to resolve the matters herein described to the benefit of the general ratepayer and consumer of basic local telephone service and directs the Officers of the Association to seek the enactment of such legislation by the Congress and its approval by the President of the United States.

Sponsored by the Committee on Communications.

TELECOMMUNICATIONS INTERNATIONAL UNION RESOLUTION ON COMPETITION

1. The American Telephone and Telegraph Company, and its subsidiaries, as the prime provider of telephone service in the United States, has constructed and maintained a telephone system unequaled in the world. Members of the Telecommunications International Union have played an integral role in the success of the system through their on-the-job efforts.

2. Under the legislative mandate of the Communications Act of 1934, this system operates as a regulated monopoly, providing the benefits of a universal, low-cost basic residential service through a sound technical network.

3. In recent years, decisions by the Federal Communications Commission have eroded the concept of the regulated monopoly by introducing the element of competition into the industry. Competition was intended to benefit the public interest by the creation or expansion of markets for telecommunications services. FCC and state regulatory agency decisions have not produced these benefits but have threatened the traditional goals for which the telephone industry has operated—high-quality, broad-ranged services at reasonable prices.

4. In view of this continuing threat to the regulated portion of the telephone industry, the Congress of the United States will be asked to reaffirm and reestablish the meaning and intend of the national policy embodied in the Communications Act of 1934, with due consideration for technological change within the industry.

Therefore, be it resolved, by the Telecommunications International Union, meeting in Delegates' Conference, that the T.I.U. play an active and aggressive role in a legislative effort with other segments of the industry—fellow telephone unionists, the A.T.&T. Co., and the independent telephone companies—intended to eliminate the confusion spawned by the actions of the federal and state regulatory agencies, and

Be it further resolved that the Legislative Committee of the T.I.U. be charged with the responsibility for directing a legislative campaign designed to impress upon the Congress the importance of a national communications policy, and

Be it finally resolved that the members of the Telecommunications International Union be encouraged to participate in such a campaign by contacting their Senators and Representatives to urge their support of legislations recommended by the officers of the T.I.U.

CWA EXECUTIVE BOARD TELECOMMUNICATIONS POLICY STATEMENT

In 1921, the Congress adopted legislation to affirm a national policy of fostering a unitary switched telephone network, so that each American with access to a telephone could reach any other residential or business telephone. This concept was incorporated into the Communications Act of 1934, whose statement of national policy was that the regulation provided therein would ". . . make available so far as possible, to all the people of the United States a rapid, efficient, nationwide and worldwide wire and radio communication service with adequate facilities and reasonable charges. . . ,"

The near-universality of telephone service in the United States is shown by the 94% penetration, that is, into 67 million residences achieved by the industry through the employment of mostly private capital. The industry provides more than 140 million telephones, employs more than one million

American men and women, and takes in some $30 billion a year in gross receipts.

The Federal Communications Commission, created by the 1934 Act, has in recent years made several decisions which have pushed its regulatory policy away from the original intent of the national policy. Over the years, telephone companies have developed rate structures which tend to level out the revenue requirements and prices to business and residential customers, allowing the latter group to be kept within reach of the ordinary family budget. State and Federal regulators recognized that business users and other customers in densely populated areas should pay higher rates, in order that the widespread use of the telephone could be continued, for the mutual benefit of business and residential customers.

In the late 1960's, the FCC issued the "carterfone" and "Specialized Common Carrier" decisions, which injected an element of so-called competition into the telephone industry. However, the competition from companies supplying "interconnect" and private line data and voice services has begun to drain off revenues from the telephone companies, which for many years have had the total responsibility for integrated end-to-end service. A significant fall-off in telephone company revenues, which is apparent from business trends, will cause the operating telephone companies to seek new rates, which will be calculated on a smaller revenue base. If business use of "interconnect" and "Specialized Common Carrier" services furnished by other than franchised telephone companies shows a sizeable growth, the residential user of telephone service will be forced to pay considerably higher rates—or to do without telephone service. The "interconnect" and "Specialized Common Carrier" companies, which do not bear the heavy expense of providing integrated end-to-end service, are assisted in "cream-skimming" by the action of the FCC, which in the last decade did not stop to analyze the long-term economic effects of such "competition" in the telephone industry.

Some smaller telephone companies, and even larger ones, have recently begun experiencing revenue fall-offs due in great part to FCC tolerance and permissiveness for a "pick-and-choose" kind of telephone service. Public utilities of all kinds are in a tight financial situation because of inflation, a factor which shows little sign of subsiding in 1976.

Because the FCC only recently undertook what appears destined to be a long-term study of the economic effects of the so-called competition in the telephone industry, at a time when such a study is at least five years overdue, the industry has begun to prepare a drive in Congress for a clear statement of direction to the Commission, to fulfill the policy of the Communications Act of making service avaliable as widely as possible.

After review, we conclude that the Congress should reaffirm its long-standing policy of network unity, with the network providing all needed services within its capabilities. Further, we believe the Commission should only authorize "Specialized Common Carriers" to provide services not readily available through the present telephone network, and under conditions that do not pose economic or technical threats to network viability.

Resolved: That the Executive Board of the Communications Workers of America on behalf of, and in the interest of its Members, does hereby call upon the Congress to clarify and reemphasize the intent of the law so that the viability of the industry will be preserved and strengthened and to specify without any doubt the responsibility of the Commission to ensure that the intent of the law be carried out and thus to ensure further that the State and Federal regulatory agencies, in conjunction with more than 1,700 operating telephone companies, can keep residential rates within reasonable limits, for the benefit of all consumers.

[American Farm Bureau Federation Resolution Of The 57th Annual Meeting, January, 1976]

RURAL ELECTRIFICATION AND TELEPHONES

We support the goal of attaining an efficient interstate telephone system that will provide telephone service to rural consumers at a reasonable cost. We oppose policies which erode those revenues that traditionally have contributed to maintaining service at reasonable rates over the entire telephone network.

We support rural electric and telephone cooperatives organized and operated in accordance with cooperative principles and practices.

Local ownership by well informed members is the best safeguard for true cooperative principles.

We commend the rural electric systems for their efforts in establishing the National Rural Utilities Cooperative Finance Corporation (CFC) to enable electric systems serving rural areas to borrow from nongovernment sources. We encourage Farm Bureau members who are patrons and leaders in electric cooperatives to urge all such cooperatives to participate in and support this effort.

The 1973 amendments to the Rural Electrification Act provide a means of assuring adequate capital from the private money market for rural electric cooperatives through REA insured and guaranteed loans.

We urge the Congress to authorize annual levels for the REA electric loan program which, along with other loan programs will adequately reflect the capital needs of the rural electric systems, thus insuring that the growing power requirements of rural America will be met.

We also support the rural telephone bank system in assuring that rural people have available efficient telephone service.

We believe that consideration should be given to establishing a pool of electrical power to help assure an adequate supply of electricity during periods of localized shortages.

We oppose any effort to convert rural electric cooperatives into a public power system.

RESOLUTION

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Whereas, the Nebraska Public Service Commission is vitally concerned with the quality and cost of telephone service to the general public, and

Whereas, certain Federal Communications Commission decisions have resulted in competition in the communications industry, and

Whereas, such decisions have resulted in conflicts between the several state regulatory agencies and the Federal Communications Commission with respect to jurisdiction over telecommunications common carriers, and

Whereas, such competition will result in higher costs and/or a lower quality of service for the average telephone user, and

Whereas, legislation known as the Consumer Communications Reform Act of 1976 has been introduced in the Congress of the United States which would reaffirm the intent of Congress with respect to the structure of the telephone industry and reaffirm the authority of the states to regulate terminal equipment, now therefore, be it

Resolved, that the Nebraska Public Service Commission urges the Nebraska Congressional Delegation to support the Consumer Communications Reform Act of 1976.

By Mr. RANDOLPH:

Senate Joint Resolution 211. A joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of May of each year as "National Grandparents' Day." Referred to the Committee on the Judiciary.

Mr. RANDOLPH. Mr. President, today I introduce a joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday in May of each year as "Grandparents Day."

I sponsored Senate Joint Resolution 126 in the 93d Congress authorizing the proclamation of "Grandparents' Day" which the Senate passed. The House was unable to pass this measure during that Congress. I realize that a heavy legislative calendar remains in this session. It is our hope that the Congress will act to honor our grandparents in this Bicentennial Year.

Mr. President, a West Virginian, Mrs. Marian McQuade of Oak Hill, has spearheaded this movement for the past 4 years to create the nationwide observance. She has urged the Governors of our 50 States to proclaim such a day. She has received a commitment from President Ford that he will sign the measure. I do hope that we can proclaim such a day. It would be the ideal time of the year to visit our grandparents and those citizens residing in nursing and care homes.

Mr. President, I ask unanimous consent that an article from the August 24, 1976, Charleston Gazette be placed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

GRANDPARENTS' DAY GETS FORD PLEDGE

OAK HILL, W. VA.—A West Virginia woman working for the establishment of a Grandparents Day—similar to the present Mothers and Fathers Day celebrations—says President Ford agrees with her proposal.

Mrs. Marion McQuade of Oak Hill, who has been working on the Grandparents Day idea since 1973, was an alternate delegate to the Republican National Convention in Kansas City last week.

Mrs. McQuade said Monday that during the convention Ford agreed to sign a proclamation setting aside a day in the year to honor the nation's grandparents.

Ford asked her to send him some information about the project before he signs the proclamation naming a specific date, Mrs. McQuade said.

"I got the idea for Grandparents Day in 1973, and I've been writing our congressmen and the President about it ever since," the grandmother of eleven "with three on the way" said.

"I called Gov. Arch Moore about my idea and he went along with it," Mrs. McQuade said. "We had Grandparents Day in West Virginia in 1973 and ever since then I've been trying to get it made into a national holiday."

The 60-year-old grandmother said she got the idea when she started working at a nursing home with the elderly.

"So many of these people are shut up and neglected, even though they have grandchildren living." Mrs. McQuade said, "I thought maybe if we had a Grandparents Day some of these people would get the love and attention they need so badly."

ADDITIONAL COSPONSOR

S. 3782

At the request of Mr. LEAHY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 3782, a bill relating to fuel and energy needs of rural residents.

AMENDMENTS SUBMITTED FOR PRINTING

INVESTMENT ADVISERS ACT—S. 2849

AMENDMENTS NOS. 2281 AND 2282

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted two amendments intended to be proposed by him to the bill (S. 2849) to amend the Investment Advisers Act of 1940 to authorize the Securities and Exchange Commission to prescribe standards of qualification and financial responsibility for investment advisers, and for other purposes.

ADDITIONAL FUNDS FOR WILDLIFE RESTORATION PROGRAMS—S. 1294

AMENDMENT NO. 2283

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. METCALF. Mr. President, the House appears to be moving rapidly toward passing an important bill to provide State wildlife agencies additional funds for their wildlife restoration and hunter education programs. The House bill, H.R. 9067, originally was introduced as a companion measure to S. 1294 which I and several colleagues introduced in the Senate last year. Both measures would levy an 11 percent tax on component parts of handloaded ammunition, the receipts from which would bolster the Federal aid in wildlife restoration program.

The House Committee on Ways and Means and the Committee on Merchant Marine and Fisheries have refined the language of the original bill to include Puerto Rico, American Samoa, Guam, and the Virgin Islands as full beneficiaries of the Federal aid in wildlife restoration program. I heartily agree with that improvement.

Therefore, in order to expedite the passage of this bill by the Senate, I am submitting the House language as an amendment in the form of a substitute to S. 1294.

I urge my colleagues to support this bill. It has the endorsement of the State wildlife agencies, component part manufacturers, sportsman organizations. It is supported by the International Association of Game, Fish and Conservation Commissioners which represents the fish and wildlife agencies in all 50 States. And, it has the backing of conservation groups such as the Wildlife Management Institute and National Wildlife Federation.

The 94th is the third Congress to consider this bill. In both preceding Congresses, time ran out before this measure could be enacted. Let us not let that happen again. Fifty State wildlife agencies, the Nation's wildlife resources, sportsmen, and other wildlife enthusiasts are counting on us this year.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Thomas A. Grace, Jr., of Louisiana, to be U.S. marshal for the middle district of Louisiana (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, September 17, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, September 17, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Vincent L. Broderick, of New York, to be U.S. district judge for the southern district of New York, vice Howard R. Tyler, resigned.

Howard G. Munson, of New York, to be U.S. district judge for the northern district of New York, vice Edmund Port, retired.

Any persons desiring to offer testimony in regard to these nominations, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

ADDITIONAL STATEMENTS

FEDERAL FUNDING FORMULAS SHORTCHANGE ILLINOIS

Mr. PERCY. Mr. President, the Economic Development Administration of the Department of Commerce has recently issued proposed regulations for the allocation of funds under title I of the Public Works Employment Act of 1976. Allocations under these proposed guidelines will once again discriminate against the State of Illinois. During recent years, fairness in Federal funding has been eroded so that now Illinois receives only about 72 cents from each dollar of Federal tax revenue paid in, and this inequity will continue unless we begin to reexamine all the formulas in use for the allocation of Federal funds. We cannot go on subsidizing the so-called sunbelt States by abandoning our older economic areas. This apparent failure of federalism is not unique to Illinois, and I know that many of my colleagues join me in calling for a complete review of Federal funding allocation formulas and in looking forward to the Joint Economic Committee hearings on this issue. Our concern is bipartisan, and shared by my colleague Senator STEVENSON. Gov. Dan Walker discussed the problem in a recent Illinois congressional delegation meeting, and Mayor Richard Daley of Chicago has outlined his objections to the Public Works Employment Act allocation formula in a well-reasoned letter to the Economic Development Administration. I ask unanimous consent that their remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

DEAR MR. EDEN: We are concerned that the legislative intent of Congress be preserved and not be altered by the regulations recently issued by the Department of Commerce, Economic Development Administration, for the implementation of Title I. Local Public Works Capital Development and Investment Program of the Public Works Employment Act of 1976 (PL 94–369). The purpose of Title I is to provide economic stimulus to areas experiencing severe and prolonged unemployment and to the construction industry through the expeditious construction or renovation of useful public facilities. However, the Federal regulations, as they exist now, do not fairly address themselves to this purpose.

The legislation states that areas experiencing unemployment rates higher than the national rate should be entitled to a greater portion of the funds. Thus, Congress has stipulated that 70% of the funds be awarded to qualifying projects from areas having unemployment rates higher than the national rate. The remaining 30% of the monies is available for eligible projects from areas having an unemployment rate below the national rate with priority being given to those areas having a rate between 6.5% and the national average).

While the legislation specifies that 70% of the funds go to projects in high unemployment areas, the Economic Development Administration proposes to allocate funds to States rather than to project areas according to the following regulations:

"Subject to program administrative costs and statutory minimum and maximum amounts allocated to individual States by the legislation, 65 percent of the funds will be set aside as planning ceilings for individual States based on the share of unemployed workers residing in a State of the total national unemployed; 35 percent of the funds will be set aside as planning ceilings for individual States based on the relative severity of unemployment for each State above the national unemployment rate."

The U.S. Employment rate for June was 7.5% while the unemployment rate for the State of Illinois was 7.4%; therefore, as a result of this administrative decision the State of Illinois was not eligible to receive any of the funds set aside for those states above the national average, although the June employment rate for Chicago was 8.2%. The following table highlights the tremendous inequity that is created by utilizing the proposed Economic Development Administration's formula.

PRELIMINARY ALLOCATIONS: MIDWEST REGION

State	Number of unemployed	Unemployment rate (June 1976)	State allocation (millions)	Allocation per unemployed person
Illinois	378,700	7.4	$64.0	$168
Michigan	397,400	10.2	157.0	395
Ohio	344,800	7.2	62.0	180
Indiana	134,300	5.6	24.0	178
Wisconsin	124,800	5.8	22.5	180
Minnesota	100,200	5.3	18.7	187

(The above distribution reflects allocations based upon June, 1976, unemployment statistics. The Economic Development Administration has pointed out that these preliminary allocations are unofficial at this point and that there is a possibility for more recent unemployment statistics. However, even with newer statistics, we strongly object to the State allocation formula presently contemplated.)

As clearly illustrated above, utilizing the present State allocation formula, the unemployed worker in Michigan receives 2½ times the benefits vis-a-vis his unemployed co-worker in Illinois. The numbers speak for themselves. Total unemployment in Michigan was 397,400, while Illinois was at the 378,700 level. Yet, Michigan is proposed to received $157 million while Illinois is only to receive $64 million.

Labor markets, especially construction industry markets, function on a local area basis, not on a statewide basis. A public works project not only provides employment to the construction industry, but also furthers the local public good. Congress rightfully intended the greater benefits to accrue to hard-hit localities by providing that 70% of the funds are to be utilized in such project areas.

However, Congress did not intend that a pure staff decision would result in such an unequal and unwarranted disparity in State allocation levels as evidenced in the tremendous difference between the funds going to Michigan and Illinois. Allocations on a state unemployment rate basis using the present administratively determined 65%/35% formula have no justification in the law. Severity and duration of unemployment should be weighed solely on an individual project area basis, as the legislation clearly intended. The results of the present formula are bizarre, unanticipated and inequitable. Since we recognize the administrative and management usefulness of State allocations, we recommend that the volume of unemployment be the sole criterion for distribution of funds to States. Using this criterion, the National League of Cities/U.S. Conference of Mayors has determined that the States in this region would receive the following allocations:

NATIONAL LEAGUE OF CITIES, RECOMMENDED ALLOCATIONS (AUG. 11, 1976)

State	Number of unemployed	Estimated State allocation	Unemployment rate (May 1976)	Allocation per unemployed person
Illinois	335,200	$93.1	6.7	$277
Indiana	123,400	34.4	5.2	278
Michigan	375,300	104.3	9.7	277
Ohio	324,100	90.2	6.9	278
Wisconsin	113,500	31.5	5.4	277
Minnesota	88,200	24.5	4.8	277

Equity and legislative intent can best be served by allocating funds to States based upon the total number of unemployed residents and by making project awards within each State using the required 70%/30% allocation method based on local unemployment rates and other local factors as specified in the current regulations.

In order to more fully implement the legislative intent of the Public Works Employment Act of 1976, we strongly urge that the tentative regulations be modified to utilize the volume of unemployment as the sole criterion for determining State planning allocations while maintaining the present regulations for project selection within States.

We look forward to participating in this timely and appropriate federal response to local unemployment and community needs.

Sincerely,

RICHARD DALEY,
Mayor.

REMARKS BY GOV. DAN WALKER

INTRODUCTION

In FY 75 Illinois received back in federal expenditures only 72¢ for every dollar of federal tax revenues generated within the State. The upper Midwest states have received only 70¢ back for each dollar contributed, in contrast with $1.17 for the Far West. The upper Midwest states have consistently fared the poorest among the regions in the country in terms of both direct payments to state and local governments and federal domestic outlays, including defense expenditures, salaries and public works.

While some of the disparity in total outlays between Northeastern and Midwestern states and the South and West can be traced to defense expenditures, disparities in formula-driven domestic expenditures are extremely important.

In providing over $50 billion in grant funds to state and local governments, Congress has enacted a variety of formulas which allocate federal funds on the basis of seemingly "rational" factors, such as:

Population;

Per capita income;

Poverty population;

Percent of welfare population; and

Percent of overcrowded housing, and other factors.

Taken together, however, many of the grant-in-aid program formulas have distributed federal dollars in such a way that the Northern industrial states, and Illinois in particular, have been discriminated against. These formulas tend to hurt the very areas of the country that are lagging in population and economic growth.

* * * * *

FORMULA GRANTS: THE NEED FOR EQUITY

The key to the overall imbalance in the flow of grant dollars is the inequity in formulas used to distribute federal funds. These formulas tend to channel expenditures away from our State and region.

Medicaid and AFDC: This formula compares per capita income of states to the national per capita income. States which provide relatively high welfare payments, thus raising their per capita income are limited to the minimum reimbursement 50%.

Reimburses states at varying rates, e.g.:

Arkansas, 65 percent; AFDC, 74.60 percent, medicaid.

Idaho, 64.64 percent; AFDC, 68.18 percent, medicaid.

Missouri, 54.2 percent; AFDC, 59.98 percent, medicaid.

Mississippi, 65.0 percent; AFDC, 78.28 percent, medicaid.

Illinois, 50 percent; AFDC, 50 percent, medicaid, which is the minimum level of federal support. If Illinois had been reimbursed for these programs at the same rate as Mississippi, we would have received an addition $227 million in FY 1976.

Title XX of the Social Security Act distributes over $2.5 billion in funding for social services to low income persons, purely on the basis of population:

As Illinois' population declines relative to the faster-growing Western and Southern states, our ceiling on reimbursement will be reduced from $133.8 million in FY 75 to $128 million in FY 80.

Title I of the Elementary and Secondary Education Act distributes over $1.6 billion to states and local school districts through a formula based on:

Number of children below poverty level,

Two-thirds of the number of children on AFDC, and the

Number of institutionalized neglected, delinquent or foster children supported with public funds.

Since Northern states typically provide higher welfare payments which lift children above poverty level, this formula tends to distribute more funds to Southern states with lower welfare payments.

Community Development block grants distribute over $2.8 billion per year through a complex formula—6 factors plus a "hold-harmless" provision—which, we believe, will distribute funds outside older cities to suburban and rural areas, over time hurting Northern industrial states such as Illinois.

Energy Conservation legislation will distribute at least $25 million in FY 1977 through a formula which weights the following elements:

75% population;

25% divided equally among all states.

As a result, this program will underfund the colder, more industrial states of the North and Midwest, where energy use is high and potential energy savings are greatest.

In addition, *block grants proposed this year* for health, social services, education and nutrition would have placed ceilings on federal expenditures in these areas which would have hurt urbanized states with higher inflation rates, costing Illinois for example over $40 million in health care reimbursements each year after FY 1978.

These are only a few examples. We should work together to scrutinize each and every distributional formula as they come up in Congress and enact new formula elements which will assist our State and region.

FORMULA FACTORS TO BE CONSIDERED FOR IMPROVING EQUITY

Just as formulas which tend to distribute funds away from the Northern industrial states are based on "rational" factors, other formula elements which will help our states should be explored. These include:

Tax effort—by taking into consideration state and local tax effort, this factor would channel funds to jurisdictions in Illinois and other industrial states, where the costs of public services are high.

Regional cost indexing would take into account cost of living in different regions. For example, by adding this factor to the Revenue Sharing Formula Illinois would be one of 15 states whose General Revenue Sharing entitlement would increase substantially.

Unemployment rates would tend to channel funds to states which suffer structural economic problems, which may be compounded by imbalances in Federal domestic expenditures. Countercyclical revenue sharing, which provides the State and localities in Illinois over $47 million, is a good example of how this formula element can work in our favor.

STRUCTURAL ECONOMIC PROBLEMS IN THE NORTHERN INDUSTRIAL STATES

In addition to the basic question of equity, the federal government must address structural economic factors which place the Northern industrial states at a further disadvantage compared to the South and West. The economic factors argue for more than an "equitable" treatment for our region.

This country has a long tradition of channelling federal benefits to economically developing regions in order to stimulate growth. The massive public works in the South and West and Appalachia are examples of how the federal government has used its budget to stimulate regional economies.

While the Illinois economy is still strong and diverse, a number of factors will tend to bring to Illinois the kind of economic stagnation we find in the Northeast if we do not anticipate our problems, and—with the help of the federal government—cure them. These factors include:

Public services are more expensive than in "Sunbelt" states; as a result, the private sector has to pay generally higher taxes than in Sunbelt states.

In addition, businesses often face higher costs, including:

Higher energy costs;

Higher labor costs; and

Higher maintenance and replacement costs for aging plant and equipment. As some businesses leave for the federally subsidized "Sunbelt" the tax base of Northern states narrows, prompting local tax increases and a continuing economic spiral.

These factors argue for rigorous efforts not only to reverse the flow of federal outlays away from the "economically mature" states, but for an aggressive effort to develop Northern states economically by directing additional federal expenditures into our region.

MAIL DELIVERY

Mr. INOUYE. Mr. President, I would like to direct the attention of my colleagues to a letter I received from Dean Howard McKaughn of the University of Hawaii. In his correspondence, Dean McKaughn lists a number of cases in which extremely long delays in mail delivery between Hawaii and the mainland have caused the university to lose financial support for its programs, jeopardized the admission applications of students, and prevented faculty participation in important activities in their fields.

The unhappy result in each of these instances has been a small but perceptible decline in the educational opportunities that the school can offer its students. If allowed to continue, this increasing inability of Hawaii's only major university to give Hawaii's youth the best possible scholastic training and to conduct research of value to the public, will prove detrimental to the university and society in general. Understandably, Dean McKaughn asks that something be done to improve the quality of the mail service.

His is not the only request of this nature that I have received over the course of the year. Almost every week a number of complaints from constituents who have experienced undue delays in their mail delivery reach my office: Important business associations are threatened when a Honolulu company has difficulty communicating with its west coast affiliates, a public service organization's grant proposal is lost in the mail, a student is ineligible for a Rhodes scholarship because his letters of recommendation are not received in time.

Hawaii, gentlemen, is an island State and because of this relies on Trans-Pacific communication services, particularly the mail, to keep in tune with events on all levels, personal, professional, and what have you, that occur on the continent. Naturally the problems created by inefficient mail delivery are not unique to Hawaii.

Though we may be made more aware of them, because of our isolated position, I am sure that most of you have also received many complaints from the citizens of your own State. Not to respond to these demands would be a violation of the "public service" mandate of the Postal Service and a blatant neglect of the needs of the people.

We are all aware of the problems that this organization has been experiencing. It is true for example that more mail is now being delayed than was previously the case. The fact that between 85 and 95 percent of the mail slated for 1-, 2-, and 3-day delivery does reach its destination on time is scant comfort to those who depend on reliable service.

That relatively small percentage of lost or missent mail equals several billion pieces of mail a year. That adds up to a lot of unhappy people. It also adds up to a lot of individuals and organizations like the University of Hawaii that have sustained substantial losses, because they could not get their mail on time.

In answering the needs of the people, it is our purpose to revitalize and improve the Postal Service. We cannot accept that the institution of modern technology must be accompanied by a decline in service.

Mr. President, I request unanimous consent that the communication from Dean McKaughn be printed in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

AUGUST 4, 1976.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR INOUYE: I want to call your attention the increasing severity of problems with our U.S. mail delivery between Hawaii and Washington, D.C. There have been several cases in which we have mailed items from the University of Hawaii and delivery has been so slow that we have lost support for our programs. Let me list some cases from our School of Public Health.

Case 1—A special purpose traineeship grant was sent from the Office of Research Administration on February 18 in time to make the February 27 deadline for receipt in Washington. The packet of material was received in Washington March 19; missing the deadline and was thus returned as ineligible.

Case 2—A project grant for a curriculum in health planning analysis which was sent out from the Office of Research Administration on March 1 in time to make a March 15 deadline for receipt in Washington. As of April 6th the material had not yet been received in Washington.

Case 3—A certified airmail letter containing a transcript of a prospective student by the name of Kitkousky was sent to us from UCLA on March 11. This "certified mail" was received in the School of Public Health on April 2. It almost resulted in our inability to consider this student for admission.

Case 4—A letter from the Public Affairs Office of the Johns Hopkins Medical School which was sent first class from Baltimore on February 13 was received in the School of Public Health on April 2. This piece of mail announced an International Health Symposium that would have been profitable for us to have participated in; but by the time it was received, the session had already been held.

Compounding our problem is the fact that deadlines for consideration of research and training proposals are now based on their arrival in Washington, D.C. rather than the mailing date. This puts Hawaii at a distinct disadvantage.

Further, mail reaching us from Washington, D.C. is also slow. Therefore, we often receive notification of possible programs with very little time to respond.

I am hoping you can help us. I have contacted Senator Fong on the matter, too. I am enclosing a few items that are pertinent, showing a rather inconsistent picture in our various agencies on deadline dates.

I believe the problem is serious enough to warrant further investigation. If you do have suggestions, we will appreciate it very much.

Sincerely yours,
HOWARD P. MCKAUGHAN,
Dean, Graduate Division and Director of Research.

THE NEW RULERS OF THE AMERICAN POLITICAL SYSTEM

Mr. GOLDWATER. Mr. President, on August 31, the same day that I presented to the Senate a statement describing big labor's effort to gain control of the American political system, Jimmy Carter, the Democratic Presidential candidate, was huddled in Washington, D.C., with the bosses of big labor. When Mr. Carter left the Capital City, he took with him what a Washington Post staff writer called a ringing endorsement from organized labor.

According to news reports, AFL–CIO president, George Meany introduced Mr. Carter to a gathering of several hundred union leaders as "our candidate." The Washington Star reported that after speaking to the labor audience, Mr. Carter "had a private luncheon with some of the labor leaders." What went on at that closed meeting is unknown.

What the public does know, the Star indicated, is that Mr. Meany disclosed that he was setting up a steering committee of labor leaders to meet every 2 weeks to make sure that "our machinery is working to promote Mr. Carter." The story in the next morning's Washington Post revealed that Mr. Meany had also promised "an intensive campaign" on behalf of Mr. Carter by labor's political organization, which Mr. Meany proclaimed is "the best political machine in the country."

As the Carter-labor dialog was described in the New York Times of September 1:

> Top labor leaders promised Jimmy Carter today that they would stage "the strongest most effective get-out-the-vote campaign ever conducted by the labor movement" this autumn.

The same article disclosed:

> After [Mr. Carter's] speech before the general board of the A.F.L.-C.I.O., the board unanimously adopted a resolution of support that said victory in November would "require millions of volunteer hours, mil-

lions of telephone calls, massive mailings and the personal commitment that trade unionists bring to politics."

We also know that Mr. Carter welcomed these pledges of help from big labor. He is quoted in the Washington Star as telling union bosses:

> That they could make the difference between his winning or losing the election. Labor's help was badly needed.

Mr. President, big labor itself has openly confirmed exactly what I claimed in my speech of August 31. Union bosses are intent upon controlling this year's elections—will make greater efforts than ever before—and have enormous resources of the very kind required to get around the restrictions of the new election law.

Mr. President, among the evidence of organized labor's attempt to capture the American political system that appears in my earlier statement is a listing of union contributions to candidates for the U.S. Senate. An additional item has come to my attention since then, and in order to keep the list as current as possible, I am today revealing the updated figures, as follows:

NAME AND ORGANIZED LABOR CONTRIBUTIONS

MARYLAND

*J. Glenn Beall, Jr. (R), $17,900.
Paul Sarbanes (D), $71,595.

TEXAS

*Lloyd M. Bentsen (D),[1] $36,750.
Alan Steelman (R), none.

TENNESSEE

*William E. Brock (R), none.
James Sasser (D), $21,900.

NEW YORK[2]

*James L. Buckley (R), none.
Peter Peyser (R), $23,178.
Daniel Moynihan (D), $18,500.
Paul O'Dwyer (D), $500.
Robert Abrams (D), $300.
Bella Abzug (D), $19,420.

NORTH DAKOTA

*Quentin Burdick (D), $25,500.
Robert Stroup (R), none.

VIRGINIA

*Harry Byrd, Jr.,[1] none.
Elmo Zumwalt (D), $45,580.

WEST VIRGINIA

*Robert Byrd (D),[1] $79,300.

NEVADA

*Howard Cannon (D), $44,550.
David Towell (R), none.

FLORIDA

*Lawton Chiles (D), none.
John Grady (R), none.
Walter Simms (R), none.
Helen Hansel (R), none.

ARIZONA

*Paul Fannin (R), retiring.
Sam Steiger (R), none.
John Conlan (R), none.
Dennis DeConcini (D), $4,100.

HAWAII

*Hiram Fong (R), retiring.
William Quinn (R), none.
Spark Matsunaga (D), $26,650.
Patsy Mink (D), $2,400.

MICHIGAN

*Philip Hart (D), retiring.
Donald Riegle (D), $4,700.
James O'Hara (D),[3] $103,278.
Marvin Esch (R), $300.

INDIANA

*Vance Hartke (D), $101,775.
Richard Lugar (R), none.

NEBRASKA

*Roman Hruska (R), retiring.
Edward Zorinsky (D), $4,300.
John McCollister (R), none.

MINNESOTA

*Hubert Humphrey (D)[4] $95,175.
Gerald Brekke (R), none.

WASHINGTON

*Henry Jackson (D),[4] $168,477.
George Brown (R), none.
Henry Neilson (R), none.

MASSACHUSETTS

*Edward Kennedy (D), $55,550.
Mike Robertson (R), none.

WYOMING

*Gale McGee (D), $41,794.
Malcom Wallop (R), none.

MONTANA

*Mike Mansfield (D), retiring.
John Melcher (D), $21,650.
Stanley Burger (R), none.

NEW MEXICO

*Joseph Montoya (D), $41,200.
Harrison Schmitt (R), none.

UTAH

*Frank Moss (D), $58,475.
Jack Carlson (R), none.
Orrin Hatch (R), none.

MAINE

*Edmund Muskie (D), $27,863.
Robert Moks (R), none.

RHODE ISLAND

*John Pastore (D), retiring.
Philip Noel (D), $300.
John Chafee (R), none.

WISCONSIN

*William Proxmire (D), none.
Stanley York (R), none.

DELAWARE

*William Roth (R), none.
Thomas Maloney (D), $19,850.

PENNSYLVANIA

*Hugh Scott (R), retiring.
John Heinz (R), $1,500.
William Green (D), $64,075.
Jeanette Reidman (D),[3] $10,465.

VERMONT

*Robert Stafford (R), $7,850.
Tom Salmon (D), $3,000.

MISSISSIPPI

*John C. Stennis (D), none.

MISSOURI (6)

*Stuart Symington (D), retiring.
Warren Hearnes (D), $1,350.
Jerry Litton (D),[6] $800.
James Symington (D), $47,600.
John Danforth (R), none.

OHIO

*Robert Taft, Jr. (R), $3,700.
Howard Metzenbaum (D), $52,743.
James Stanton (D),[3] $30,969.

CALIFORNIA

*John Tunney (D), $118,583.
Tom Hayden (D),[3] $1,000.
S. I. Hayakawa (R), none.

CONNECTICUT

*Lowell Weicker (R), $4,500.
Gloria Schaffer (D), $2,500.

NEW JERSEY

*Harrison Williams (D), $115,750.
David Norcoss (R), none.

Total, $1,649,195.

FOOTNOTES

*Incumbent.

[1] Includes aborted Presidential campaign.

[2] Primary not yet held.

[3] O'Hara lost primary to Riegle; Reidman lost to Green; Stanton lost to Metzenbaum; Hayden lost to Tunney.

[4] Includes Presidential campaign contributions.

[5] Primary on Sept. 15th.

[6] Cong. Litton died; Hearnes nominated by Central Committee.

Now, there is a very interesting fact hidden among all this data. Note that nearly all labor contributions to Senate campaigns have gone to Democrat candidates. The respective totals are $1,590,267 given to the Democrats compared with only $58,928 contributed to Republicans. The Republican share of union largess is a barely visible 3 percent.

Mr. President, in the interest of further updating information which I compiled in my original remarks, I can state with assurance today that the true amount of total contributions by big labor, both in direct cash payments and in-kind efforts, to try to put their candidates in office by the 1976 elections will be an astounding $70 to $100 million. This will be the greatest attempt ever made by labor bosses in America to gain control over Government and the future of the Nation.

Mr. President, on August 31, I placed in the RECORD a lengthy statement concerning the influence which labor unions are attempting to wield in the forthcoming political campaign. In my list of contributions made by organized labor to incumbent Senators seeking reelection and to other candidates for the U.S. Senate in 1976, a contribution of $4,500 to Senator LOWELL WEICKER, Republican of Connecticut, and a $2,500 contribution to Gloria Schaffer, his Democrat opponent, were inadvertently omitted. The Senate total should be $1,649,195.

CHICAGO TRIBUNE TASK FORCE CITES NEED FOR REFORM IN TEAMSTERS CENTRAL STATES PENSION FUND

Mr. PERCY. Mr. President, the Central States, Southeast, and Southwest Areas Pension Fund of the Teamsters Union is the largest union-operated pension fund in the United States with assets exceeding $1.4 billion. Nonetheless, the fund is expected to absorb losses of over $50 million this year alone.

Although detailed lists of Teamsters loans are not required to be filed for the public record, Chicago Tribune reporters Chuck Neubauer and George Bliss have been able to piece together the fund's loan portfolio in the Chicago area from internal fund documents, land records and court files. Their startling findings, uncovered during an intensive, 3-month-long investigation, raise the following points:

First. The pension fund has invested approximately two-thirds of its assets in real estate ventures—especially in hotels and motels. In comparison, most pension funds, which are considered to be conservative investors, reportedly invest very little, if at all, in real estate because of the high risk involved.

Second. In attempting to recoup the fund's losses from bad loans, the fund further compounds its already high losses by refinancing at low interest rates, granting moratoriums on payments of interest or principal, or suspending payments altogether.

Third. The fund grants large loans to individuals with ties to or conflicts of interest with the Teamsters Union and to individuals linked to the crime syndicate.

Fourth. Many loans are backed by insufficient collateral.

The Central States Pension Fund is controlled by 16 trustees—half are Teamsters officials and the other half are trucking executives. The Tribune reporters point to evidence that some of these "trustees" may be abusing their fiduciary duties by making risky loans to individuals who would be unable to get a loan under any other circumstances from a more respectable institution, while increasing their own salaries with fees and commissions. The series reports that the fund is "bogged down with shaky, delinquent, and foreclosed mortgages" which, in most instances, are worth quite a bit less than the amount carried on the fund's books.

Mr. President, the Central States Pension Fund is not a charitable organization. Nor does it take an experienced businessman to realize that this is no way to run a business. With an average rate of return of 4.5 percent on its loans—as compared to a reported rate double that for other pension funds—it would be more profitable and far more secure to invest the fund's assets in a common bank savings account at 5½ percent interest.

Who has been hurt, and how many? That remains still to be determined. Fortunately, most members of the fund continue to receive their disability, annuity and death benefits. But in the coming years, inflation and a growing membership may begin to strain the fund's continued viability. The members who have been willing to look the other way as long as they received an increase in wages stand to lose a great deal while a handful of outsiders, some with criminal backgrounds, take home everything.

We are dealing with a very controversial and serious matter. In addition to investigations now being carried out in the executive branch by the Departments of Justice and Labor, the Internal Revenue Service recently revoked the fund's tax-exempt status retroactive to January 1965, on the theory that the fund was not being operated for the "exclusive benefit" of employees. In response to these charges, the fund's executive director, Daniel J. Shannon, has stated that the fund has made "mistakes * * * but all that has changed now." The fund must take advantage of this opportunity to put its house into order. The too-long silent membership should demand it.

Concurrently, the Permanent Subcommittee on Investigations, ably chaired by Senator SAM NUNN, is monitoring the activities of the Central States Pension Fund as well as other serious abuses in the labor-management field.

I commend Chuck Neubauer and George Bliss for their continuing efforts to bring the details of the Central States Pension Fund's loan activity to light. I would also like to express my appreciation to Todd Fandell, the Chicago Tribune financial reporter, for his contributions in writing the series.

Mr. President, I ask unanimous consent that the incisive five-part series appearing daily from the July 30 to August 3, 1976, editions of the Tribune and the editorial from the August 4, 1976 edition of that paper be printed in the RECORD following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 30, 1976]

BAD LOANS DRAINING TEAMSTER FUND

(By Chuck Neubauer and George Bliss)

(NOTE.—The Teamster union's Central States pension fund—with assets of $1.4 billion—is the richest union pension fund in the country. Two recent federal crackdowns have made it also the most controversial. The fund's tangled financial dealings in the Chicago area have been investigated by Chuck Neubauer and George Bliss, Tribune reporters, for three months. This is their first report in a five-part series written by Todd Fandell, Tribune financial reporter).

Daniel J. Shannon suddenly has grown fond of painting a picture of reform for the scandal-ridden Teamster union's Central States, Southeast, and Southwest Areas Pension Fund.

"Forget the past," Shannon, executive director of the huge fund, has been telling every reporter willing to listen.

"Sure, the fund made mistakes back in history, but all that has changed now," said the former president of the Chicago Park District and one-time political protege of Mayor Daley.

Coming from the 42-year-old former All-America football star at Notre Dame, the pious pronouncements have been an effective public relations move. They are a radical departure from a 21-year tradition in which Teamster officials refused to discuss any specifics regarding the pension fund's peculiar affairs.

But an intensive three-month Tribune investigation of the $1.4 billion fund indicates limited reforms by Shannon are too little and too late. The fund is in deep trouble, and Shannon and his bosses, the fund's 16 trustees, know it.

The fund's troubles are fully illustrated by studying its loan activity. Although the Teamsters haven't been required to file detailed lists of loans for the public record, The Tribune has pieced together for the first time a picture of the pension fund's major Chicago area loans from internal fund documents, land records, and court files.

Illinois is one of four states that has shared heavily in the pension fund's largesse over the years. The four—California, Nevada, and Florida are the other three—usually account for about 70 percent of the fund's outstanding loans. California projects take half that amount; Illinois, Nevada, and Florida split the remainder.

The investigation shows conclusively that in Illinois, as elsewhere, the pension fund has lost millions over the years in serving as the banker for persons who cannot get loans elsewhere. Cases to be detailed later in this series establish the following:

The fund, contrary to normal pension fund standards, has invested heavily in motels and hotels, considered among the riskiest types of real estate investments. Many such loans, though often granted on unusually liberal terms, have been foreclosed or restructured when recipients couldn't meet principal or interest payment schedules.

In many cases, the fund's struggles to remedy bad loan situations by refinancing them have simply prompted it to pour more money down the drain, compounding its heavy losses. In at least two local cases, the Teamsters have been forced to foreclose on the same property twice within a short time. One of these properties is under its third loan granted by the fund.

Large loans consistently have gone to persons with ties to and conflicts of interest with Teamster officials, as well as to persons with crime syndicate backgrounds or links. Most of these loans would not be granted under any circumstances by more respectable financial institutions, least of all by pension funds, which are expected to be conservative investors.

Many Teamster loans are backed by collateral insufficient to protect the outstanding balance on the loans. Many properties covered by these loans still are carried on the fund's books at highly inflated values that couldn't be met in a sale.

Besides the enormous task of unburdening itself of hundreds of millions of dollars of questionable loans, the fund is under attack by the federal government. After years of ignoring a steady flow of allegations that the union's leaders were using the fund for their own gain instead of for employe beneficiaries, federal officials now seem on the verge of a crackdown.

For nearly a year, investigators from the Labor and Justice departments have been closing in on the fund, checking claims of kickbacks, unjustified fees paid to consultants and "finders" who help arrange loans, links to organized crime, granting of hundreds of millions of dollars of improperly secured loans, missing money, and other misdeeds.

Observers say the investigation's goal may be to place the fund in some sort of receivership, to oust its badly tainted board of trustees and their cronies, and to turn the fund's management over to independent pension experts.

"At the very least, these guys will be nailed for a breach of their fiduciary duties to administer all this money for the good of the employes and not themselves," one source predicted.

Action against the fund isn't expected until after the November election, probably early next year. Investigation of its tangled web of bad loans and suspect dealings has proved a painstaking task, investigators concede. And experts disagree on the extent to which the government can prosecute the fund and force reforms under new federal pension legislation that has not been fully interpreted.

Further, preelection moves might antagonize Teamsters officials, who have considerable political clout. For this reason, skeptics still doubt an all-out offensive against the fund will ever come.

Reforms claimed by Shannon boil down to his efforts to clean up the fund's portfolio of bad loans and to sell real estate it owns because of foreclosures on delinquent loans. He wants to put more money into higher-grade investments such as stocks and bonds. He also has fired some members of his staff.

"It's mostly window dressing, designed to blunt the inevitable result of the government investigations and, possibly, protect his own hide," a Shannon acquaintance said. "When you come right down to it, he's still a front man for the Teamsters leaders on the fund's board of trustees and is powerless to do anything without their approval."

The biggest problem faced by Shannon or any potential reformer is shedding the burden of delinquent, foreclosed and shaky mortgages and the real estate loans that Teamsters officials have meted out for two decades to friends and associates, many with criminal records.

It is highly unusual for a pension fund to make real estate loans at all, financial experts told The Tribune. "They're just too risky," one said. "You would be hard-pressed to find many pension funds that are run by accepted standards that would put a nickel of that kind of money into any kind of real estate, let alone risky ventures like these loans."

Yet the Teamsters have seen fit to put two thirds of their nickels into real estate. About $900 million of the fund's $1.4 billion in assets is invested in real estate, Shannon said. Another $350 million to $375 million is in stocks, bonds, and short-term debt, types of securities prudent pension funds stick with.

Another $100 million is in property owned and operated by the pension fund, mostly as a result of foreclosures on delinquent loans. It is property "where somehow we got title, and all of it is for sale," Shannon said.

A policy of selling is relatively new for the fund, since it long has been stuck with properties it had loaned money on. "We're not in the business of running motels and real estate; we're in the finance business," Shannon recently told The Tribune. "If something has gone bad or doubtful, we should sell it."

Unfortunately, selling property with a history of financial failure is not easy and often results in big losses. Anticipating such losses, the fund last year diverted $50 million in assets to a reserve fund set up to cover the probable sale of real estate at prices below the value carried on the fund's books.

It marked the first time the fund had acknowledged the possibility of big losses on its investments. But experts who have studied the fund's real estate loans contend the $50 million won't be adequate. More money will be needed, they warn, further reducing assets available to pay pension benefits.

Shannon publicly has minimized the bad loans on the fund's books. "We have only $45 million in delinquent loans out of the $900 million in total real estate loans," he insisted.

But when pressed by The Tribune, he conceded his figure included only those loans on which current principal or interest payments were behind schedule. It does not include millions of dollars in loans that already have been modified from the original terms to give lower interest rates or stretched-out repayment schedules.

In the past, such situations have signaled repeat problems for the fund because borrowers also failed to meet the revised terms.

The Tribune has found numerous cases where the Teamsters have granted a borrower a moratorium on interest or principal payments. Sometimes the fund has suspended all payments on a loan, but such cases aren't considered delinquent.

Although Shannon and other Teamsters officials deny it, the Central States fund has earned a poor return on its investments in recent years, especially compared with most pension funds, The Tribune found.

"Last year we received a 4½ per cent return on our investment" before expenses, Shannon said. That would amount to an income of about $60 million in interest, dividends, and rent from the fund's total assets.

While conceding that is less than can be earned from an ordinary bank savings account, Shannon contended a consultant hired to evaluate the fund concluded that "we were a little better than average." Further, the fund's performance in this area will improve, he forecast.

But pension experts are dubious. Typical pension funds last year earned a rate of return more than double that of the Teamsters fund, they noted.

"Hell, they're not even keeping pace with inflation; they're actually losing ground at an alarming rate," a Chicago executive with years of experience as a director of a giant pension fund told The Tribune.

Another expert consulted by The Tribune said a properly managed pension fund, with a cash inflow of the size apparently enjoyed by the Central States fund, could have built its assets to a much higher figure, possibly even double the $1.4 billion.

To date, however, the fund has had little trouble paying its pensions and other benefits to retired and disabled employes. The fund's investment errors have been masked by contributions that in recent years have execeeded annual benefits paid by $100 million or more.

But in coming years that margin may be jeopardized, although weekly employer contributions are scheduled to jump to a maximum of $31 per worker in 1978 from the current $25. New federal pension rules may force an end to severely restrictive Teamsters position qualification rules under which thousands of longtime trucking industry employes have been barred in the past from receiving pension benefits. Along with a natural increase in the number of retirees, this will substantially increase required payouts.

Also, pension payments will have to be increased from current levels to offset inflation, even though the size of current benefits paid to employes who qualify is considered good by most standards.

Despite its investment troubles, the pension fund continues to be operated under the direction of the old crew of Teamsters officials associated with Jimmy Hoffa, several of them convicted of kickbacks, extortion, and other crimes.

"There will never be a true reform that can root out all the rotten apples in the fund until there's total upheaval at the top—an unlikely event unless it's forced by the government," one source close to current investigations of the fund said.

One example of the fund's current leadership talent is William Presser, a Teamsters vice president from Cleveland.

In 1971, Presser pleaded guilty to illegally accepting money from employers with Teamsters labor contracts in return for advertising in a union publication to ensure "labor peace." Such a practice violates the Taft-Hartley Act.

Presser was fined $12,000 but was not jailed because he pleaded ill health.

In the 1960s he did serve a six-month jail term after being convicted of obstructing justice by destroying union records sought by the government.

Criminal records never have been a barrier to high Teamsters officers. However, Presser was forced to step down in 1975 as a trustee of the pension fund because of new federal regulations on the qualifications of those who govern pension funds.

His place on the board was filled by his son, Jackie. That probably kept in the family most of the $29,000 in allowances collected in 1974 by William Presser from the pension fund, part of a personal income of at least $125,500 he gained from five union jobs that year, according to Labor Department reports. [Jackie did well that year too, collecting $177,000 from his assorted union positions.]

But the federal regulation excluded Presser from serving as a fund trustee only for five years following his last conviction. He quietly returned as a trustee earlier this year, Shannon admitted to The Tribune.

Moreover, the fund's executive director indicated an allegiance to the nefarious Presser. "For what it is worth, I wouldn't be here if it wasn't for Bill Presser," Shannon declared. "When I first came here [to the fund] in 1973, there was great consternation about the new kid on the block and what he was doing. Presser said: 'He stays.' If it wasn't for his gesture, I'd be gone today."

Shannon described Presser as "a hard working individual."

The Central States fund also is struggling with a tax problem that poses a major threat to its future. Charging the fund had been improperly managed, the Internal Revenue Service in late June revoked the fund's tax-exempt status retroactive to January, 1965.

Theoretically, the ruling may mean that the IRS won't allow employers to continue deducting expenses for pension contributions, that it will tax employes for contributions made by their employers, and that it will take a big tax bite out of the fund's already meager earnings.

The IRS, after negotiations with the fund's attorneys, agreed it would not apply the tax ruling on employers and employes until at least Aug. 31. But efforts to tax earlier earnings of the fund's assets may continue.

The ruling was based on a conclusion from IRS audits that the fund has not been operated for the "exclusive benefit" of employes, a strict requirement for maintaining tax-exempt status. In other words, the IRS seems to be supporting allegations the fund has been operated illegally for the benefit of Teamsters officials and their friends.

A settlement of the IRS charges probably will require the union to accept radical reforms, including possible changes in control of the fund, in its investment policies, and other practices that haven't benefited employes. The fund's trustees are fighting the ruling, charging it is "both legally and factually erroneous."

A negotiated settlement that would restore the "exclusive benefit" status is possible, but sources say the fund hasn't yet demonstrated a willingness to take the drastic steps necessary. In any event, it may be some time before the fund's muddy tax status is clarified.

16 DECIDE WHERE THE MONEY GOES

The rich, powerful, and aggressive International Brotherhood of Teamsters is the country's largest and most controversial union.

It represents 2.3 million workers in jobs encompassing the spectrum of American life—from hospital maternity workers to funeral directors, from bubble gum manufacturers and airline clerks to teachers and policemen.

But the union's power base remains the trucking industry, where it consistently has won favorable wages and benefits for its members. Pension and health benefits usually are administered through funds organized by the union and supported by employer contributions.

The largest of about 200 Teamster pension funds is the huge Central States, Southeast, and Southwest Areas Pension Fund. It covers most of the country's truckers—about 480,000 active and retired workers.

Each week nearly 16,300 trucking firms set aside as much as $25 for each of their active employes to pay pensions, disability, and death benefits. The money pours into the coffers of the Central States fund at a rate of $24 million a month—more than $400 million a year.

Assets of the fund, established Feb. 1, 1955, exceed $1.4 billion, according to Daniel J. Shannon, executive director. It is the largest union-operated pension fund in the United States.

In the 12 months ended Jan. 31, 1975, the fund received $283.2 million in employer contributions [the contribution rate was lower in 1974] and had investment income of $51.2 million. It paid out $175.2 million in pension benefits that year. Income exceeded expenditures by $150.9 million.

The fund is run by 16 trustees who have final say on what is done with the money. Eight trustees are Teamster officials, including Frank E. Fitzsimmons, president of the international.

The other eight are executives of trucking companies. Critics have charged these men "rubber stamp" recommendations for fund loans to maintain cozy relationships with the union and to assure favored treatment in labor negotiations.

During the last two decades, the fund has weathered frequent attacks on its policy of making loans to risky real estate ventures, alleged kickbacks, excessive fee payments, and other improprieties. Critics say it has been used mainly to enhance the union's power and to enrich individual union officials and their "friends," including many with unsavory reputations.

In addition to Fitzsimmons, the other Teamsters trustees of the pension fund are William Presser, Cleveland; Roy L. Williams, Kansas City, Mo.; Odell Smith, Little Rock, Ark.; Robert Holmes, Detroit; Donald Peters, Chicago; Frank H. Ranney, Milwaukee; and Joseph Morgan, Dallas.

The employer representatives are Thomas J. Duffey, Milwaukee; Herman A. Lueking, Jr., St. Louis; Albert Matheson, Detroit; William J. Kennedy, St. Louis; Andrew Massa, Bridgeview, Ill.; Jack A. Sheetz, Dallas; John Spickerman, Atlanta; and Bernard S. Goldfarb, Cleveland.

[From the Chicago Tribune, July 31, 1976]

Teamster Hotel Investment Here Shows Big Losses

The Teamster union's Central States Pension Fund stands to lose millions of dollars on its investment in a single real estate project, the McCormick Inn on Chicago's lakefront, a Tribune investigation shows.

Indeed, the fund's potential loss from bankrolling the hotel, once planned as part of a $175-million complex, could be nearly $20 million if the Cook County assessor's current opinion or the hotel's worth proves accurate.

The hotel's owners have protested that the assessor's $11.7-million valuation is "excessive"—even though it is little more than a third of the $31.3-million value at which the pension fund is carrying the hotel property on its books.

The pension fund's big prospective loss isn't the only item of interest in the McCormick Inn story. Other parts of the tale include a luxury private jet purchased at pension fund expense from Frank Sinatra and possible conflicts of interest related to the inn's financing by Donald Peters, president of a Chicago Teamster local, and Allen Dorfman, a shadowy power figure in the Teamster union and its pension fund for more than two decades.

The ill-fated financing of the hotel project is a classic example of the poor investment judgment demonstrated repeatedly by the Central States Pension Fund, formed in 1955 to administer pension benefits for most of the nation's truck drivers. Although the fund's assets have grown to $1.4 billion, making it the largest union-operated pension fund in the United States, its investment portfolio is riddled with bad real estate loans like those on McCormick Inn.

The fund faces the possibility of having to take big writedowns in its assets to account for the losses anticipated on many of its real estate ventures. It apparently started that process last year when it established a $50-million reserve for such losses.

The McCormick Inn investment, the fourth largest real estate commitment the pension fund has nationally and the largest in the Chicago area, is one of the many deals being probed by a joint Labor and Justice department federal task force that's been investigating the controversial Central States Fund since last fall.

The pension fund loaned $21.8 million between 1971 and 1973 to McCormick City Ltd., which built the 25-story, 640-room hotel, a check of land records shows. But the developers encountered financial problems and the loans had to be restructured.

As a result, they owed the fund $26.2 million Jan. 31, 1975, fund records obtained by The Tribune show. In addition, the fund listed a $5.1-million value for 17 acres of air rights it now owns under and adjacent to the hotel. The Teamsters were forced to purchase those rights from the developers as part of the loan restructuring.

Thus the McCormick Inn project is carried by the fund as a $31.3 million asset. But the hotel, by the admission of its developers, has been a financial flop since it opened in April 1973.

They put much of the blame on the failure to build the apartments and offices that were to make up McCormick City. Prospects for reviving the project in the foreseeable future are remote, they concede. So, too, are chances the hotel can turn profitable without the activity in the area the other buildings would have generated.

Further, lawyers for the project now claim the Teamsters' undeveloped air rights around the hotel and over the tracks of the Illinois Central Gulf Railroad are worth almost nothing, largely because of zoning problems that are preventing construction planning.

"The only reason I don't walk away from the whole project now is that I have never walked away from anything," says Eugene Heytow, president of Amalgamated Trust and Savings Bank and one of the three original general partners in McCormick City, a limited partnership.

Another of the general partners in McCormick City is Dr. Martin Gecht, chairman of Amalgamated, 100 S. State St. When the McCormick Inn financing was arranged, a director and shareholder of Amalgamated was Donald Peters, president of Teamster Local 743 in Chicago.

Peters also is on the pension fund's board of trustees, which approved the loan to the inn's developers.

During the period the loans were granted, Peters was receiving substantial fees from the pension fund—as much as $41,480 in 1973—for his role in investigating loan opportunities for the fund. Repeated efforts by The Tribune to reach Peters for comment on the McCormick Inn financing were unsuccessful.

In an interview with the Tribune, Heytow discounted Peters' possible conflict of interest as insignificant.

Another peculiar feature of the McCormick Inn loans involves Allen Dorfman, a one-time consultant to the pension fund. Justice Department sources say Dorfman dominates fund affairs to this day, as he has since its inception, whether or not he had an official title with the fund. [Dorfman denies current involvement with the fund.]

Dorfman was a $60,000-a-year consultant to the fund in charge of processing loans when the fund made its initial 25-year loan of $18.1 million at 8 per cent interest to McCormick City in January, 1971.

Barely a year later, in February 1972, Amalgamated loaned Dorfman $700,000 to help him pay for a $3-million, 12-seat Grumman Gulfstream II private jet he purchased from Frank Sinatra.

Dorfman had leased the jet to the Central States Pension Fund, pocketing for himself the big personal tax savings from depreciation on the plane.

Two weeks after signing for the aircraft loan, which actually went to Union Insurance Agency, a partnership of Dorfman and his mother, Dorfman was found guilty of accepting a $55,000 kick-back for arranging another loan from the fund. He eventually served a nine-month prison term on the charge.

The sleek Gulfstream, considered the Cadillac of private jets, served Dorfman well when he and other Teamster officials used it frequently for trips to places like Rancho La Costa, the union's posh Southern California resort development. What role the jet played for the pension fund isn't clear. The lease on the plane eventually was canceled by the Teamster fund because of bad publicity about the arrangement, and Dorfman sold it in 1974.

Dorfman and Heytow firmly deny that the bank's help in financing the plane for Dorfman constituted a kickback. Dorfman told The Tribune he couldn't remember details of the financing but asserted "that [the plane loan] was not the reason they got a pension fund loan."

"I didn't get any financial benefit out of the airplane," Dorfman said. "I never intended to have a jet. I bought it for the utilization of the pension fund. The jet was a tremendous savings to the fund for travel expenses.

"I bought the jet instead of the fund because the depreciation meant nothing to the fund. All I got was the depreciation." [The fund would have been unable to use tax credits generated by the plane because of its tax-exempt status, now being challenged by the Internal Revenue Service.]

Heytow told The Tribune he saw nothing wrong with the Gulfstream loan: "If the Teamsters pension fund came in for an airplane loan, there isn't a major bank in Chicago that wouldn't loan to them." The bank executive noted Continental Illinois National Bank and Trust Co. had financed the remaining $2.3 million of the jet's purchase price.

Reminded that it was Dorfman and not the union that signed the loan, Heytow said: "A loan on an airplane with a Teamster lease on it is a good loan . . . I wish I could get 10 more loans like that. The credit behind the loan was the Teamster credit, not Dorfman's."

"I don't know what one thing would have to do with another," Heytow said. "The bank has many different stockholders and the property has many different partners. You are trying to show something that is not true by putting two facts together."

The banker also said "It was nearly three years from the time we got a commitment from the pension fund for the [McCormick Inn] project until the airplane loan was made."

Shortly after the airplane loan went through the inn's developers found themselves in financial difficulties and went back to the pension fund for more help. They got it in the form of an additional $3.1-million loan granted in December, 1972, also at 8 per cent, and secured by a second mortgage on the property.

Further aid came in June, 1973, when the pension fund gave McCormick City an additional $600,000 at 8½ per cent interest, secured by a third mortgage on the hotel.

It was while this additional financing was being arranged that the pension fund acquired the 17 acres of air rights from McCormick City as part of the loan restructuring. At least one moratorium on repayment of the loans has been granted, according to Daniel J. Shannon, executive director of the pension fund.

If the fund had foreclosed on the developers, it wouldn't have been in any position to get its money back. "We are staying in there to keep faith with the lender," Heytow told The Tribune.

"The Teamsters had no choice but to cooperate by buying the air rights and refinancing the loan," he said. "It was either that or take over the hotel."

Shannon was vague when discussing the

McCormick Inn loan with The Tribune, saying he didn't know details of the refinancing and purchase of the air rights because he had no role in supervising the fund's assets until last year.

"I prefer not to get into details of specific loans until September when we expect to have prepared lists of our loans and other investments," Shannon said. He said he is having McCormick Inn and about 50 of the fund's other major real estate loans appraised to get their fair market value.

The McCormick City project has been troubled from its inception. Plans for developing the air rights over the Illinois Central tracks were first announced in 1959. However, construction didn't start until 1971 because of a lack of financing [which the Teamster fund resolved], the burning of the original nearby McCormick Place convention hall, and legal questions surrounding the air rights.

"Our plans are now in limbo for developing the rest of the project," Heytow said. "Right now that land can't be used for anything."

McCormick City originally purchased three parcels of air rights from Illinois Central Railroad for $5.4 million. [Although the Teamster fund is carrying them at a $5.1 million valuation, Heytow said the fund had paid his group the full $5.4 million when it acquired the air rights in the loan restructuring.]

The hotel was built on one of the three parcels but the other two apparently will be vacant for a long time. Part of the problem is the city's long delay in zoning the air rights, Heytow said.

"The McCormick Inn was never built with just one hotel in mind," he said. "It would be a great hotel spot if something else were up there. The proposed condominiums and nearby office buildings would have helped make the hotel a success."

At the time McCormick bought the air rights, the city of Chicago and the railroad were working on a plan to develop the whole lakefront area between 11th and 31st streets. "But those negotiations fell apart," Heytow said. "Today we couldn't even get a building permit on the two vacant parcels."

As a result, and because the city isn't moving to set zoning for the site, "we are thinking of suing the city and the IC," he said. "Our rights are being taken away."

The developers say the city hasn't even undertaken a study of the area that would be a necessary prerequisite for creation of a comprehensive plan.

Once such a plan was adopted, the Chicago Planning Commission and the city council would have to approve the property as a planned development before any construction could begin. All this would take years to complete.

The city also has failed to follow up on a promise to build a subway to McCormick Place, Heytow said.

These problems plus the recent economic recession and collapse of the real estate market have blocked further work on the project, Heytow says.

Meanwhile, his group has been losing money on McCormick Inn. The hotel had only a 52 per cent occupancy rate last year and suffered a net loss of $943,543 before depreciation, according to an income statement based on 10 months of actual operating figures and two months of estimated results.

The owners have protested to the assessor's office that the 1975 tax assessments on the hotel which put its fair market value at $11.7 million are too high, even though the Teamsters are carrying the same property on the pension fund's books at the $31.3 million total.

"Although the developer may have paid more to build a project, we try to assess a property on the fair market value, or what a buyer would pay for the property now," a spokesman for the assessor's office told The Tribune.

In protesting the assessment, the developers said one of the two parcels of air rights adjacent to the hotel should be valued at nothing even though they had paid $2.1 million for them.

The properties are "non revenue producing" and will be for some time, the complaint said.

[From the Chicago Tribune, Aug. 1, 1976]

TEAMSTER FUND GOOD TO DORFMAN; HE'S "PROUD"

A great many officials of the International Brotherhood of Teamsters have managed to earn a comfortable living through salaries, commissions, allowances, fees, and other forms of remuneration paid them by the pension and health and welfare insurance funds set up by the union ostensibly for the sole benefit of its members.

It's likely that no one has managed a more comfortable income from these funds than Allen Dorfman, whose personal financial machinations have been closely interwoven for years with the business dealings of such Teamster funds. These dealings have made Dorfman a millionaire many times over.

For example, in the last nine years Dorfman's companies have received $21.5 million in commissions and service fees from just one Teamster health and welfare fund, a Tribune investigation into the union's operations has discovered.

These payments are only a portion of the income Dorfman has derived over the years from various Teamster dealings, however. The intricacies of Dorfman's complex and far-flung financial empire, in fact, would awe the chairman of the board of any giant corporate conglomerate.

The problems of running the empire, composed of insurance companies, condominium developments, resorts and other assorted projects, frequently have kept him busy jetting between stops at homes he maintains in suburban Chicago, Wisconsin, Florida, California, and any one of several Las Vegas hotels financed with Teamster pension money.

All of this frequently draws attention to Dorfman, who Justice Department investigators say has been the second most powerful figure in the Teamsters for two decades, though he has rarely held any official position with the union.

Much of this attention has been in the form of unfavorable publicity, particularly since he was convicted in 1972 and served part of a one-year prison sentence for accepting a $55,000 kickback to arrange a loan from the Teamster Central States, Southeast, and Southwest Areas Pension funds.

Dorfman says he's sick of reading "all this crap in the press" about himself and the troubles of the Central States Fund. Because of a large number of questionable real estate loans on which it faces big losses and other charges, the fund is the subject of major federal government investigations into its affairs.

In an interview with two Tribune reporters—"The first one I've given in over 10 years," he says—Dorfman says he's proud of the investment record of the pension fund.

The fund has an investment portfolio that includes $900 million of outstanding loans to hotels, motels, gambling casinos, and other real estate ventures, many of doubtful value.

"The Teamsters are building for the American people," he boasts. "The American people are the beneficiaries of all these Teamsters loans."

Dorfman also insists the $1.4 billion pension fund has done a "magnificent job" for the nation's truck drivers. "It can stake its record against any fund in the country," he says. "Can you name one union or one employer that pays the pensions the Teamsters do?"

Dorfman's aggressive defense of the pension fund throughout the interview sounded somewhat strange for a man who insists he hasn't had anything to do with the pension fund for 3½ years. Throughout the session, he referred to the fund as "we," however.

The interview was conducted in Dorfman's luxurious office suite on the second floor of the 10-story Teamsters-owned office building at 8550 W. Bryn Mawr Av..

The building houses the headquarters of the pension fund and the union's health and welfare fund, which have common trustees and the same executive director, Daniel J. Shannon, a one-time political protege of Mayor Daley.

It is the Central States Health and Welfare Fund that has paid Dorfman's companies the $21.5 million in the nine years ended Jan. 31, 1975, according to documents inspected by The Tribune. The records showed $3.2 million of the payments were commissions and the remaining $18.3 million were service fees.

Earlier this year, the fund became self insured and Dorfman's firms lost the commissions. However, his firms continue to receive service fees from the Teamsters.

When asked about these payments, Dorfman says he was shocked that they amounted to that much, but quickly defended them. "We've got 300 employes [in his insurance service companies] and the most sophisticated computer systems for processing claims in the U.S.," he says. "And the Teamsters are one of our bigger clients."

Dorfman was attacked for taking excessive commissions from the Teamster funds. The late Robert Kennedy, who headed a Senate rackets committee staff in the late 1950s, said the committee established that over an eight-year period Dorfman and his mother, Rose, a partner in the firm, had collected $1,650,000 in "excessive fees" from the union, all of it constituting a payoff to them from "money coming out of Teamter members' pockets."

After the Senate investigation, the Dorfmans lost the right to do business in the state of New York.

Dorfman got his start with the Teamster union when Jimmy Hoffa gave Dorfman's fledgling insurance company the Teamster health and welfare account in 1950, allegedly in return for Hoffa's introduction to important figures in the crime syndicate by Dorfman's father, federal officials said.

Hoffa, until his disappearance a year ago, had been a constant defender of Dorfman, despite many charges against him and his dealings with the union's welfare funds. In the interview, Dorfman refused to discuss Hoffa's disappearance.

While Hoffa ran the union, Dorfman was known as the No. 2 man in power in the Teamsters. He is said to have maintained that position under Frank E. Fitzsimmons, who succeeded to the presidency of the union after Hoffa went to prison in March, 1967. At the time, Hoffa was quoted as saying, "When Dorfman speaks, he speaks for me."

Dorfman was named a consultant to the Central States Pension Fund a few days after Hoffa went to prison for jury tampering. From then until late 1972 Dorfman processed all loans made by the $1.4 billion fund and was responsible for arranging many of the major loans still on the fund's books.

Although he told The Tribune he misses being involved with the fund, he insists he has had nothing to do with it in years. Shannon, the executive director of both the pension fund and the health and welfare fund, also told The Tribune that Dorfman's only role now is with the latter fund.

Yet Justice Department sources insist Dorfman continues to be the power behind the pension fund, too, calling all the shots on moves it makes.

The sources also told The Tribune that Dorfman has close ties with the crime syndicate. Terrorists Anthony "Tough Tony" Spilotro and Joseph "The Clown" Lombardo, both members of the old Felix "Milwaukee

Phil" Alderisio gang, were codefendants last year with Dorfman in a trial in which they were accused of defrauding the Central States Pension Fund of $1.4 million in loans secured by an insolvent Deming, N. M., factory.

Another defendant was Irwin Weiner, a Chicago bail bondsman and crime syndicate associate said by government sources to be "the brains behind Dorfman because he [Dorfman] isn't that smart." The defendants were acquitted. A key witness in the case was killed in gangland style shortly before the trial began.

Of Spilotro and Lombardo, Dorfman told The Tribune: "I never met them until I walked in the courtroom and was arraigned. They seemed like two real nice guys. I don't know anything bad about them but what I read in the newspapers.

Of Wiener, a longtime associate of the Alderisio gang, Dorfman says: "I've known Irv Wiener all my life and if he is organized crime, then I'm the pope."

Dorfman blames the government charges for causing the pension fund's loss on the New Mexico plastics factory. "Had there not been interference, they would have preserved the assets," he says. "They would have made a viable entity out of it. Instead, all you media people did was harass them."

Discussing the 16 trustees of the Central States Pension Fund, the men who approve the fund's loans, Dorfman says: "I've worked alongside them. You couldn't find a more dedicated group of fellows. I don't know of any trustees up there who are fools."

He says "they are pretty astute businessmen and labor leaders" who would never intentionally make any bad loans. "Why do you want to fault them for helping in the progress of the nation?" he asks.

Several of the trustees are partners with Dorfman in various of his enterprises and two of them also were codefendants in the Deming fraud trial.

Continuing his defense of the pension fund, Dorfman insists he has done a fine job during his tenure as a $60,000-a-year consultant.

He says his role "was to preserve the pension fund's assets." Only $45 million of the fund's $900 million in real estate loans are delinquent, he says.

"Show me a major lending institution in this country which can show a loss factor as small as that," he says. "It's better than average for banks and insurance companies.'

Dorfman became extremely defensive when told that his $45 million figure didn't include vast amounts of the pension fund's real estate loans which already have been restructured because their recipients couldn't meet repayment schedules.

"Wouldn't you rather rework a loan than foreclose?" he asks. "The biggest lending institutions in the U.S. recast their loans or give moratoriums. Why do you want to fault bad loans made 10 years ago? Who was going to prejudge that a loan would go bad?"

FUND ILLS "GOOD" FOR LAWYERS

The Teamsters' Central States Pension Fund has been accused of paying excessive fees and commissions to those involved in arranging its real estate loans, which comprise about two-thirds of its $1.4 billion in assets.

Now many of those loans have gone bad and the pension fund is faced with the embarrassment of taking millions of dollars of losses on them.

But one thing seems certain: The lawyers and other agents retained by the pension fund to help resolve its bad loan problems are certain to do well for themselves in the process.

Two who already have are Thomas D. and James Flanagan, politically well-connected brothers who have been retained for the fund by its executive director, Daniel Shannon, a former member of the Daley Democratic machine.

The Flanagans' real estate and insurance firm, Heil and Heil Insurance Co., Evanston, once employed Mayor Daley's son, John, and later received nearly $3 million insurance business from several government bodies under Daley's control.

Thomas Flanagan has an arrangement with the fund under which he is handling tax appeals on Teamster properties in return for fee of 25 per cent of the first year's tax saving on any reduction he wins for the pension fund, according to a spokesman for the fund.

Earlier this year, in a case involving the Canterbury Shopping Center in Markham, Flanagan apparently earned a fee of $33,750 for getting the shopping center's taxes reduced by $135,000. He won from the County Board of Tax Appeals a drop in the financially ailing center's assessed valuation of $1,284,199 from $2,399,625—a cut of more than $1.1 million from the 1975 assessment.

But the pension fund stands to lose at least $1.7 million on the property, which it now owns after being forced to foreclose last year on its mortgage loans to the center.

A second corporation involving James Flanagan, Terracom Development Group, Inc., is attempting to sell the shopping center. With the property valued at $1.5 million according to an appraisal done for the pension fund last December, sale of the property could bring a fee of more than $100,000 at a 7% commission rate.

In an unrelated transaction handled by James Flanagan, Heil and Heil received a reported $25,000 commission on the sale last year by the Teamster fund of the Sheridan Plaza Hotel, 4607 N. Sheridan Rd. The commission amounted to more than 31 per cent of the $80,000 sale price for the decrepit hotel, a rate considered unusually high by real estate experts.

According to records filed in Washington by the fund, James Flanagan, who is not a lawyer, also received a $35,000 "legal fee" in the year ended Jan. 31, 1975, from the fund. Officals of the fund said that payment must have been for court-ordered receivership fees for the Sheridan Plaza.

Court files indicate only that on June 30, 1975, Flanagan was paid a $12,500 fee for handling the hotel.

The Flanagan brothers couldn't be reached for comment on their fee arrangements.

The Canterbury Shopping Center offers a case study of the risks involved in shopping center loans. Because real estate loans in general are considered less secure than other investments, less than 2 per cent of the assets of all pension funds in the United States are invested in real estate.

Yet the Teamster fund has put most of its money in real estate, much of it in the riskiest types of real estate.

Although Shannon, the fund's executive director, won't discuss the fund's loss on the property, The Tribune has pieced together the financial history of the project from land records and a copy of the appraisal ordered by Shannon from William McCann & Associates.

The pension fund gave Canterbury, located at 159th Street and Kedzie Avenue, two mortgage loans totaling $4.2 million—one for $3 million in 1960 and another for $1.2 million in 1963.

The pension fund foreclosed on the loans last December, still being owed $3,245,084 in unpaid principal, interest, property tax advances, and court costs. But the appraisal valued the property at only $1.5 million, less than half the Teamsters' remaining investment in it.

"The owners did not even attempt to negotiate a moratorium on principal or interest," said Thomas Flanagan in his tax appeal. "They felt this project was so helpless that they abandoned it by sending the leases and keys to the mortgage holder without any negotiation or warning," he said.

The shopping center's last owner apparently was U.S. Investment Fund, a Bahamas mutual fund. USIF was merged last year into Arlen Realty & Development Corp., New York City.

A spokesman for Arlen said his company had never taken over the Canterbury Shopping Center when it acquired USIF, however. "We looked it over and decided not to take it over because the taxes were too high to make it worthwhile," he said. "We gave the property back to the mortgage holders (the Teamsters' pension fund)."

The McCann appraisal concluded the shopping center's "economic viability" appears to be limited "for the near future." It cited a high vacancy rate in the center and surrounding area and the location nearby of three more modern, enclosed-mall shopping centers. Canterbury doesn't have an enclosed mall.

The appraisal also noted that "real estate values (in Markham) are static to declining due in part to the concentration of economically disadvantaged persons in the community."

Terms of the loans on the property were modified and final payment schedules extended in May, 1968, indicating the pension fund had ample warning of the center's troubles long before it defaulted.

Shannon acknowledged the undesirability of the pension fund's past concentration on real estate loans. He said he would like to diversify its assets to reduce real estate investments to 50 per cent.

But the difficulties it is experiencing in trying to get out of all its bad loan situations will hamper such efforts.

[From the Chicago Tribune, Aug. 2, 1976]

TEAMSTER INN INVESTMENTS TURN SOUR

The International Brotherhood of Teamsters long has had a penchant for investing its members' pension money in Chicago area motels and hotels. But big or small, old or new, most of those they have picked have turned out to be losers.

That pattern holds true whether you look at the sleek newer resting spots the Teamsters have financed, like the 640-room lakefront McCormick Inn or the 915-room O'Hare Hilton Hotel, or at rundown hotels like Uptown's Sheridan Plaza, or at cheap truckers' stops like the Motor World West in suburban Forest View.

For many weeks Tribune reporters, working from a list of the outstanding loans of the union's big Central States, Southeast and Southwest Areas Pension Fund, have been digging through land records, court files, and other documents on these and other real estate ventures of the controversial fund.

Some $900 million of the Central States fund's $1.4 billion in assets is tied in real estate, with Illinois ranking among the top four states as a recipient of the Teamster largesse. Most of the fund's Chicago area loans have gone to hotels and motels. The Tribune study turned up a number of recurring features of these loans:

Loans were doled out with little or no regard for poor histories of the projects involved or for their risky prospects.

Some went to recipients with crime syndicate ties.

Invariably loans went to recipients without credit availability elsewhere for properties which prudent financial institutions were not interested in financing.

The properties usually lost money after receiving Teamster loans, resulting in delinquencies and restructuring of many loans.

Refinanced loans often failed a second time.

Many loans are carried on the fund's books at inflated values because outstanding loan balances are much higher than the property's real worth.

The fund is faced with having to absorb heavy future losses on many of the loans.

The Chicago-based pension fund's curious past loan activity, both in the Chicago area and elsewhere, is the subject of a joint investigation by the federal Justice and Labor departments. They are exploring extensive charges of mismanagement and wrongdoing in connection with use of its assets.

In Saturday's editions, The Tribune disclosed that the Teamster fund is threatened with a substantial prospective loss on its largest Chicago investment, McCormick Inn, which the Cook County Assessor says is worth only a fraction of the $31.3 million at which the pension fund is carrying the inn and associated air rights on its books.

The inn's developers now say it has flopped financially chiefly because of the failure of the city to come up with plans that would allow future development surrounding air rights and bring more business to the hotel, located at 23d St. and Lake Shore Dr. It had an occupancy rate of only 52% last year and an estimated operating loss before depreciation charges of nearly $1 million. Its owner McCormick City Ltd., says it is worth less than its assessed $11.7 million fair market value.

A Chicago banker consulted by The Tribune said the lack of really firm assurances that the related development would materialize "probably should have warned the Teamsters off" the project in the first place. "Other potential financiers probably were aware that the convention hall [McCormick Place] alone would not provide enough business for a large hotel in that otherwise isolated location," he said.

It is considerations like this that make hotels and motels risky ventures in the eyes of most investors. Most pension funds refrain from investing in them or other forms of real estate, preferring "safer" forms of investment like stocks, bonds, and government securities.

Appraisers who specialize in motels concede they are among the shakiest of all real estate loans. An appraisal of one foundering Teamster-funded motel-restaurant, obtained by The Tribune, says the risk in operation of such facilities in a large metropolitan area like Chicago "is considered greater than many other types of real estate properties because of the variables which affect the quantity, quality, and durability of the income stream."

The appraisers, Joseph A. Nowicki and John B. Roadhouse, cited location, management, style and size, physical facilities, habits of travelers, the economic base of the immediate area, and competitive facilities as major variables that can quickly and significantly affect a motel's viability.

A classic example of a Teamster motel loan gone bad is the Motor World West at 5225 W. 47th St., Forest View, a $6-a-night stop for truckers.

The fund's loans on this property went to a borrower, Sam Rantis, with ties to the crime syndicate. The motel already was a bad credit risk, Rantis' R & A Motel Corp. having defaulted on a previous loan. Attempts to "preserve the assets" by lending money to a new owner after Rantis was arrested in 1970 resulted in further loss.

Finally, the property became outmoded and was sold for $350,000 to the Lewis University Endowment Fund at a loss of nearly $350,000 from the $698,415 value at which it was carried on the fund's books. The pension fund is still involved, having loaned all but $25,000 of the purchase price to the buyer. It's the fund's third mortgage loan on the motel.

The first loan on the property was made in 1965 when R & A Motel Corp., headed by Rantis, borrowed $650,000. It was then in default on a 1963 loan of $125,000 from Virginia Corp., which filed suit on the day before the Teamster loan was signed against a guarantor of the loan.

The guarantor, Henry Weber, an assistant corporation counsel for the city of Chicago, says he lost his interest in an Arlington Heights office building because he had signed for Rantis' loan "as a friendship thing."

Rantis used the $650,000 loan to finance a 77-room addition to the original 40-room motel. Investigators say they found it "unbelievable" that Rantis could get such a large loan because of his background.

They say he was an associate of such hoodlums as Manny Skar, Thomas Potenza, Mario DeStefano, Joseph Ferriola, and others.

In 1965, Rantis obtained a federal gambling tax stamp for the motel. In 1970, Rantis and five others were caught counterfeiting $500,000 in $5 bills in the motel. He was sent to jail for 11 months and lost the motel, which had been under foreclosure proceedings since 1968.

By the time the Teamsters got the deed back on the property, R & A owed more than $700,000 in interest, unpaid principal, and court costs. The pension fund then sold the building for $702,000 and provided the new owner, Modern Inns Inc., with a five-year loan at 3½ per cent interest for the full purchase price.

A year later, Modern Inns sold the motel to G. Reamer Loomis, a South Side real estate operator. Loomis paid the company $50,000 and assumed the loan payments which remained in Modern Inn's name.

But in 1975 the new owners defaulted too, despite the favorable terms, after paying only $3,585 of principal and owing the pension fund $729,463 in unpaid principal, interest, and court costs.

The motel was worth only $325,000 according to an apraisal done last year by William A. McCann and Associates Inc. for the Teamsters. "A considerable amount of deferred maintenance has been allowed to accumulate and the property is in rather poor condition," the report said.

The Report, underlining why motels can be risky long-term investments, pointed out that truckers must share washroom facilities in the motel while newer trucker motels have private baths. Most motels have relatively short economic lives due to the nature of their use," the report says. "As lifestyles change, customer acceptance of the older and outdated types of motels also change and, even though they may still have a long physical life, they become functionally obsolete and lose their profit-making ability."

As an aside to the Rantis story, he disappeared on Dec. 7, 1973, and his body was found in the trunk of an auto at O'Hare airport on Feb. 4, 1974.

According to police, he had become involved with two syndicate "juice loan" collectors, Joseph Grisafe and Sam J. Marcello, whose dismembered bodies were found in July, 1974, in 55-gallon drums behind Rantis' sandwich shop. They had been missing since Nov. 24, 1973. Three checks written to them by Rantis that had bounced were found on their bodies.

Police say they believe later slayings of two other men were related to the three deaths.

Another area motel on which the pension fund has run into trouble is the Ramada Inn in Dolton at 154th and the Calumet Expressway. The pension fund has had to foreclose on its one loan on the 142-unit motel and has had to modify repayment terms of a second.

The pension fund took over a mortgage loan on the motel from Continental Illinois National Bank and Trust Co. in 1964, but started foreclosure proceedings a year later. By the time the foreclosure was completed in 1967, the original owners owed the pension fund $2,392,270 in unpaid principal, interest, and court costs.

In 1968, the Central States fund agreed to sell the motel to H. Z. Enterprises for $1,540,000, lending the buyer the money at 5% interest payable in $9,000 monthly installments over 25 years.

Records checked by The Tribune show the principal owed on the property increased slightly between Feb. 29, 1972, and Jan. 31, 1975. Harry Zaidenberg, owner of H. Z. Enterprises and a Chicago attorney, banker and real estate man, told The Tribune he has never missed a payment, however.

But Zaidenberg did concede that during a "rough period" he had worked out a deal with the pension fund to lower his payments to $5,000 a month for a period of three or four years.

Zaidenberg said he agrees that motels are risky "but I happen to like the business and if you like it you're in it."

"If the Teamsters offered me another bad one, I'd look at it," he said. "I'm looking for more land investments."

Zaidenberg was a director of Modern Inns, the firm which defaulted in 1974 on a pension fund loan covering the Motor World West in Forest View.

The Ramada Inn Downtown, once known as the Imperial Inn at 506 W. Harrison St. in the shadows of Chicago's main post office, is still another Teamster-backed motel that has never lived up to its financial expectations.

The pension fund has loaned it $2,350,000. While it hasn't had to foreclose on the loan, at least one six-month moratorium on principal payments has been granted, according to records obtained by The Tribune.

The motel, built in 1962, has had financial difficulties from the start. In March, 1963, it reported it had recorded a mere 42% average occupancy rate and "prospects for an immediate future increase [in the occupancy rate] are dim."

Six months later the Teamster fund loaned the motel $2 million. It added another $350,000 loan in 1966, although the assessor has never placed more than $1.6 million fair market value on the motel.

The motel affiliated with the Ramada Inn chain in 1968 in the hope of improving business but by 1973 the motel owner had to ask for the repayment moratorium. In 1972, the motel's food and drink concessionaire backed out mid-way in a 10-year contract "because of the distressed condition [of the motel] and the inability of the lessee to sustain its operation." In 1974, the motel complained "the decline of the area in which it is located" was hurting business.

The pension fund has bankrolled a former Chicago strip joint operator in his ownership of the Mart Inn at 125 W. Ohio St.

"It was one of the good loans they made," Harry Boshes, president of Trans-American Construction Co., owner of the motel, told The Tribune.

Maybe so, but that's not the tune being sung by the motel's attorney who has told a tax hearing the property "consists of a very old structure which was remodeled into a motel several years ago." The facilities and amenities are such that the motel "is at a competitive disadvantage with new and more modern facilities," he said, adding it is in "a very poor area for a business."

Boshes, who operated several North Clark Street and South State Street strip joints in the 1940s and 1950s and had a few scrapes with the police during that time, borrowed 1.7 million from the pension fund in 1966. After recent losses on the motel's operation, he obtained last year a 12-month moratorium on principal repayments.

Almost $1.3 million is owed the pension fund on the motel loan but the property today is worth only $850,000, not including its parking garage, according to a complaint filed with the Board of Tax appeals by Boshes' attorney.

The pension fund, after a 13-year struggle, has taken a loss of about $800,000 on the Sheridan Plaza Hotel at 4607 N. Sheridan Rd.

The fund made and foreclosed on two mortgages on the aging structure—the first a $600,000 loan in 1962 and the second for $650,000 in 1967. During the entire period neither borrower made any significant repayments and the fund had to pay nearly $200,000 in taxes and other expenses.

The hotel had been hit by several fires and continually plagued with uncorrected building code violations that by 1973 reduced its permissible capacity to 132 rooms from an original 407. In 1974, a Teamster attorney estimated it would cost $595,000 to bring the property up to building code standards.

The rundown hotel, now boarded up, was sold at auction last year for $80,000.

The pension fund seems headed for trouble with its $16 million loan on the big O'Hare Hilton Hotel, although payments on the loan are current. The loan is the fund's second largest in the Chicago area, exceeded only by the McCormick Inn financing.

The hotel, located on city property at the airport and opened in June, 1973, has been a heavy loser for its owner, Midwestern Hotel Inc., a subsidiary of Madison Square Garden Corp. According to records filed with local government bodies, the hotel had losses before taxes of $2.9 million in 1974 and $710,000 in the first five months of 1975.

Madison Square Garden Corp., which has been unsuccessfully seeking a buyer for the hotel, has told the Securities and Exchange Commission the hotel has lost money since its opening and will again this year.

The pension fund hasn't been totally unsuccessful at salvaging some of its bad loans, however.

In 1974, the fund foreclosed on a $1.75 million note it held on the Flying Carpet Motor Inn, 6465 N. Mannheim Rd.; Rosemont. It was still owed $1.34 million in principal at the time but the 176-room motel was sold at auction last year for $2.13 million, with the new owners assuming the Teamster mortgage.

[From the Chicago Tribune, Aug. 3, 1976]

RISKY TEAMSTER LOANS OFTEN GIVEN TO CRONIES

When Melvin Woldorf and Maurice Kay bought a $43,000 condominium in Florida in 1971, they obtained it from their friend, Allen Dorfman, who just happened to have one for sale in a North Miami Beach development he was promoting.

That Woldorf and Kay, co-owners at the time of a Skokie car dealership, should be dealing with Dorfman was perfectly normal and proper, all three men say.

But other businessmen might not agree. That's because just a few months before the condominium transaction, Dorfman, then a $60,000-a-year consultant to the big Central States Pension Fund of the International Brotherhood of Teamsters, had processed a $650,000 loan from the fund that bailed his two friends out of a serious financial jam.

Dorfman long ago pocketed the benefits of his dealings with Woldorf and Kay. The 485,000 beneficiaries of the pension fund are still waiting. The fund's $650,000 loan, along with two others it gave Woldorf and Kay, is under a moratorium on principal payments and is not being repaid.

That persons getting loans from the $1.4-billion fund should end up doing some personal business on the side with Dorfman is not the least bit unusual, however. Throughout most of the 21-year history of the fund that's the way it's been done.

A long Tribune investigation of the controversial fund's peculiar loaning practices has turned up numerous examples that indicate transactions of the fund generally involved a high degree of cronyism. Borrowers from the fund, Dorfman, trustees of the fund, and others closely associated with it have been deeply enmeshed in personal business transactions that were closely related to official fund business.

Where the fund is concerned, friendship with principals regularly replaced normal criteria for determining the soundness of a loan. As a result, millions of dollars of trucking employes' pension money has been lost or jeopardized by risky and bad loans extended to motels, hotels, gambling casinos, real estate developments, and other businesses with shaky outlooks.

Allegations that the pension fund's administrators have played free and easy with the vast sums entrusted to their care are at the heart of current federal investigations of the fund, known formally as the Central States, Southeast, and Southwest Areas Pension Fund.

The story of the Woldorf-Kay dealings with the Teamster fund begins in October, 1967, when the two received their first loan from the fund, also $650,000 secured by the car dealership, Public Pontiac, and newly built office space at 3120–60 W. Ogden Av.

"I just don't remember how we got involved with the fund," Woldorf says now. "I know a lot of people that know other people at the fund."

However, in a court deposition Woldorf has said his "initial contact" at the fund was Dorfman, whom he had known previously.

"I've found Mr. Dorfman to be a first-class gentleman," Kay says. He said he first met Dorfman after filing of the first loan application with the fund.

"I've sold his family cars and leased cars to his insurance agency," Kay said. "His Amalgamated Insurance Agency is a very good customer."

[Amalgamated is one of several firms Dorfman operates primarily to do business serving Teamster funds. He has collected more than $21.5 million in fees and commissions from such business in the last nine years.]

Ten months after getting the first loan, Kay and Woldorf agreed to purchase for $1.4 million the real estate, personal property, and accounts receivable of Peter Epsteen Pontiac, 7501 N. Lincoln Ave., Skokie.

"We had a marvelous business on Ogden until the riots began on the West Side," Kay said. They moved Public Pontiac to the Skokie location.

Terms of the Epsteen purchase gave the partners 18 months to come up with $620,000 to be applied to the purchase of the real estate portion of the package.

But the two defaulted on the due date [March 6, 1970], blaming among other things "the general nonavailability of mortgage financing, the rise in interest rates, and the general decline in the new and used automobile business."

A new sales agreement was reached but Kay and Woldorf defaulted again, the matter ending up in court with the sellers trying to gain an eviction and the buyers charging the profitability and assets of the purchased Peter Epsteen dealership were misrepresented.

Kay and Woldorf charged, among other things, that the net operating profits of Peter Epsteen Pontiac had been represented as being $367,265 in 1967 and $137,921 in the following seven months, when in fact they were less than $25,000 and $20,000, respectively.

Reached at a Las Vegas hotel, Epsteen, who has moved to the West Coast, told The Tribune "there was nothing to any of those claims."

Epsteen drew criticism in 1968 from the Chicago Crime Commission for his alleged association with hoodlums. Also, he is an associate of Harold Gibbons, a Teamster vice president and head of the union's St. Louis operations who once was regarded as the likely heir to Jimmy Hoffa as international president.

In the middle of the litigation fight, Kay and Woldorf suddenly came up with a letter of commitment from the Teamster pension fund for a $650,000 loan at 9.5 per cent interest over 20 years to cover the remaining purchase price. The court suits were dropped and the deal completed in December, 1970.

Four months later, Kay and Woldorf bought their condominium in the Canongate Apartments in North Miami Beach from American & Overseas, Inc., according to Dade [Fla.] County records. American & Overseas is a Dorfman-controlled company operating out of his office in the Teamster pension fund building at 8550 W. Bryn Mawr Ave., Chicago, near O'Hare International Airport.

"I was involved in Canongate," Dorfman said in an interview.

Dorfman and several of his Teamster cronies developed Canongate, a 137-unit project that Dorfman modestly calls "the most beautiful apartment ever built in Florida."

Dorfman, Kay, and Woldorf all denied the condominum purchase was related to the fund's granting of the bail-out loan for Public Pontiac.

"I know the timing sounds bad but it wasn't anything like that," Kay said.

"What pathetic thinking," Dorfman said, contending that he couldn't have been forcing loan recipients into dealing with his own development because owners of Canongate condominiums who have resold them have "doubled their money."

Woldorf said the condominium was purchased through Al Baron, not Dorfman. He said he had heard about the condominum "from many people" and went down to Florida to look at it. "I liked it. . . . I like to golf," he said.

The condominium is located on the grounds of Sky Lakes Country Club which was financed with Central States pension fund money.

Baron at the time was a pension fund lawyer involved in processing loan applications. He had helped with the Kay-Woldorf applications. After Dorfman was convicted in February, 1972, of accepting a $55,000 kickback in return for arranging a pension fund loan, Baron took over as the man in charge of the fund's assets and loan processing.

Baron left the fund in March of last year. A federal grand jury reportedly is investigating charges by a California businessman that he had to pay Baron $200,000 in kickbacks to get a $1.3-million pension fund loan.

Baron has been a protege of Dorfman's involved in many of Dorfman's business deals. He served as a director of Dorfman's Amalgamated Insurance Service Agency, Inc., for years.

Two more Dorfman associates who helped develop Canongate were Cal Kovens and Zachary Strate, both of whom were convicted along with Hoffa in 1964 on charges of diverting more than $25 million from the pension fund.

Other Canongate condominium owners have included Frank Fitzsimmons, Teamster international president, and William Presser, a pension fund trustee who returned to the board earlier this year after being forced to step out temporarily because of a previous criminal conviction.

"I never met Presser but I think Woldorf once rented him a car," Kay told The Tribune. "But you are wrong if you are under the impression that there was any hanky-panky. There never was any kind of payoff or finders fees for us getting the Teamster loans. And you're not the first to ask those questions. . . . The IRS [Internal Revenue Service] asked questions too."

After moving to the Skokie location, Public Pontiac ran into hard times. In 1974, Kay bought out Woldorf's interest in the auto agency, and Woldorf got the condominium.

Last October, Kay asked for and received from the fund a two-year moratorium on principal payments on the 1970 loan and a subsequent $225,000 loan granted in 1973.

"I was doing very poorly when I asked them to suspend payments," Kay said. "We bought a great big white elephant. I've often regretted we made the move we did."

He blamed the Arab oil embargo and decline of Pontiac's position in the car industry. "In 18 months my business dropped in half," he said. Public Pontiac last year listed and accumulated operating deficit of $316,000. At the time of the moratorium, Kay owed $799,768 in principal on the Skokie property.

The firm's troubles should not have been too surprising to the lenders. Loans on car dealerships are considered high risks by more typical lending institutions because the facilities usually cannot be used for other purposes and because year-to-year fluctuations in business volumes for individual dealers can vary widely.

Last January, Kay sold the business to another dealer, retaining the real estate that secures his Teamster loan. "The property is worth consirably more than what they loaned me," he said.

Meanwhile, things have not gone well for the original Kay-Woldorf loan on their old Ogden Avenue location. Another car dealer to whom they leased the property abandoned it in 1971. In July, 1972, a fire burned most of the facility.

Kay and Woldorf have gone to court in an attempt to collect their full $358,538 insurance claim in the property. Their insurance company paid only $177,937, contending the full claim was "substantially in excess of the actual loss sustained."

The insurance money went to the pension fund, which still is owed at least $200,000 on the property.

Another "friend" of the Teamsters, Chicagoan Perry Franks, has been involved in two deals that were hatched on golf courses.

Franks said he took over a small shopping center in Mesa, Ariz., from the fund after golfing with Fitzsimmons in 1970.

"He told me the Teamster pension fund had a bad investment in Mesa and asked if I would take it over," Franks told The Tribune. "I didn't make anything out of it. It was a small project, small stores. But I made it turn around and now it is a viable project—not making a lot of money but at least it is paying its mortgage."

Franks used the property itself as his security for a $615,000 loan from the Teamster fund to pay for the purchase, on which the fund previously had foreclosed. The fund renegotiated the deal at least once. Franks said he's no longer involved.

Franks said another golf date with Jay Sarno, owner of the Circus Circus casino in Las Vegas, lead to him taking over the pin ball machine room and bumper car ride concessions in the casino, which has $22 million in outstanding Teamster loans.

Dorfman apparently has done business with Sarno as well. In 1968 Dorfman reportedly got an option to buy 6.3 percent of the Circus Circus stock for $75,000 with an arrangement that the purchase price be paid entirely from dividends on the stock.

Dorfman and Franks are old friends. In 1967, the two were driving to a golf course when two gunman fired four shotgun blasts into Franks' car as they were leaving Dorfman's Riverwoods home in north suburban Chicago.

Justice Department sources believe Dorfman was shot at by crime syndicate figures "to keep him in line."

"I almost lost my life," Franks said. "It cost me a new car and it was an embarrassment. The IRS and others have been on my back ever since. It's harassment and I resent it."

Asked about the propriety of the pension fund's business dealings with his friend Franks, Dorfman said: "So what if I have the availability of a friend to take over a bad loan. What's wrong with it?"

[Editorial from the Chicago Tribune, Aug. 4, 1976]

Teamster Pension Fund Scrutiny

In this issue The Tribune's Task Force concludes a five-part series on the Central States, Southeast, and Southwest Areas Pension Fund of the Teamsters union. These articles have detailed numerous investments of money collected from the employers of rank-and-file union members. This fund has 485,000 potential beneficiaries, who hope to derive retirement income from $1.4 billion of nominal assets.

The first article in the series stated in general terms findings of long investigation by George Bliss and Chuck Neubauer of our Task Force. One summary sentence stated: "The investigation shows conclusively that in Illinois, as elsewhere, the pension fund has lost millions over the years in serving as the banker for persons who cannot get loans elsewhere."

Trustees of other people's money cannot be expected to be successful in every investment decision, but the prudence reasonably expected of trustees has been spectacularly lacking in the handling of Central States' money. We have reported in detail one venture after another into real estate of "the riskiest types," one loan after another to borrowers who could find little if any credit except among their buddies among handlers of union money. Our Task Force reports strongly bring into question, for instance, any thought that union members got full value for the $21.5 million paid in the last nine years to Allen Dorfman, influential participant in pension fund decisions.

Members of many unions have tolerated undemocratic and arbitrary government of their unions by a handful of self-perpetuating officers. The typical member has complacently assumed that as long as the union got him ever higher pay he had nothing to worry about. This attitude obviously is irresponsible towards the public and towards employers. But many a member has been unconcerned about what the union did as long as he got his.

Our Task Force study of the Central States pension fund should, however, undermine such complacency. Union officials responsible to no one do not necessarily make the best trustees of pension funds on which union members rely for future income. The sour investments detailed in our series suggest that among the victims of Teamster officials may be the very union members who have been indifferent to what their officials did.

The federal departments of both Justice and Labor have also been investigating the Central States pension fund. Their findings are not expected for some months. When the findings of fact are in hand, there will still be some questions about the powers of the federal government over pension funds, as new legislation in force less than a year has not yet been fully interpreted by the courts. Clearly, government should vigorously prosecute whatever criminal misconduct is discovered.

But irresponsible union officials should fear their own membership, as well as government. It is past high time that union members insist on genuinely contested elections to union office, and on accountability from their officials. Sometime, we hope, monarchical conduct by union officials will cease to be tolerated by union members. Our Task Force report on the Central States pension fund should contribute substantially to this change for the better.

A HANDICAP IS JUST AN INCONVENIENCE

Mr. PELL. Mr. President, one of the truly important events of next year will be the convening of the White House Conference on Handicapped Individuals. In preparation for this conference, each State will hold regional and State conferences on the handicapped to discuss problems and solutions, victories, and continuing frustrations, in the efforts of handicapped individuals to lead full and independent lives.

One real benefit of these statewide conferences is that they bring to our attention the accomplishments of handicapped persons, and show us just what can be accomplished by someone who works hard, with the right kind of support, and with the right kind of motivation.

Margaret and Frank Fusco of Johnston, R.I., are both handicapped, although Frank prefers to refer to his cerebral palsy as an "inconvenience." Frank could not walk until the age of 16, and the Bureau of Motor Vehicles made him wait almost 10 years before they would give him a road test, but today Frank Fusco owns and runs his own landscaping business, drives his own tractor, and Margaret Fusco is the company's secretary and a moving force behind an organization of women, all of whom have polio, cerebral palsy, or other crippling diseases.

A sensitive and moving article by David A. Narsavage about the Fuscos appeared in the Providence Journal, entitled "For Frank Fusco, Infirmity Is 'Inconvenience—That's All,' " and I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

We can certainly all learn from the Fuscos. I am confident that, after these State conferences and the National Conference on Handicapped Individuals have been held, we as a Congress and as a Nation will see, more clearly than ever, that a handicap can also be seen simply as an "inconvenience."

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Providence Journal, Aug. 31, 1976]

For Frank Fusco, Infirmity Is "Inconvenience—That's All"

(By David A. Narsavage)

Johnston.—The way Frank Fusco tells it, he was born with an "inconvenience." Because that's his definition of handicapped people—"those born with an inconvenience. Simple. That's all it is."

An inconvenience, his cerebral palsy. Simple, the fact that he entered a hospital at the age of two and didn't come out until he was 10. That's all it was, for a boy who was never supposed to work, drive, walk and only barely talk, but who did it all any way and has his own landscaping business today. Born with an inconvenience is all.

It just wasn't as easy as it is for others. His crying mother forced him to help himself, staying downstairs while Frank dressed himself from 10 a.m. to 4 p.m. After finally teaching himself to walk in his own halting manner at 16, he helped support himself with a lawnmower, both physically and financially. But cutting neighbors' lawns only earned him a few dollars a week, and he was wearing out a special pair of shoes every two weeks.

After 10 years and about 20 written driving examinations, in all of which he excelled, he was finally allowed the chance at a two-hour-plus road test. He passed, and today he drives his own bulldozer. Despite the fact he's had potential customers slam doors on him, "because they thought I was drunk, or didn't want their children to see me or hear me," he's established enough of a business to "just pay the bills and stay in the red like everybody else." And doctors once said he was helpless.

"The important thing is not whether you can be helped, but whether you want to help yourself. Maybe I'm where I am because I was never given a plugged nickel. And if I can make a success of myself, anyone can."

Because of his "inconvenience" and the way he's worked to live around it, Fusco, 44, has been asked to help organize one of the regional public forums being held this month by the Rhode Island Conference on the Handicapped. Opinions culled from these forums will be passed along next spring to the White House Conference on Handicapped Individuals, the first national conference of its kind. Fusco, who has been a member of the state Advisory Council for the past eight years, is only too glad to help.

"If anything is to come out of the state conference and the White House conference, I'd like to see it be the means for more representation of the handicapped on state and municipal boards, like the Board of Regents, or the Governor's Council on Unemployment, or anything where such representation could be an education for those who aren't handicapped. Because ignorance is the greatest obstacle we have to overcome."

When Fusco was a child, his father worked two contracting jobs to pay the hospital bills, hoping those long years until finally there was no breakthrough, and medicine could help Frank Fusco no longer. It was up to Fusco and his parents then, and he credits their "hands-off" attitude with his remarkable development.

"They refused to baby me, and I know that was so very hard for my mother. But they were determined to not treat me any different than their three other children, to not give me any special privileges, and to be just as proud of me as they were the others. That requires a lot of work, and the parents have to be very hard, but it pays off for the handicapped in the long run."

In Fusco's case, he escalated from cutting nearby lawns to part-time gardening at the old Elmhurst Academy, first in Providence and then in Portsmouth. After he was laid off, he started his own business in 1964. Although he's capable of performing virtually all the tasks required, he employs two men regularly.

His good friend Frank Rivers started working with him at Elmhurst ("We kept everything in the back of an old beach wagon") and still does today, 22 years later. Fusco's uncle, 76-year-old Mario Impagliazzo, is the other regular employe. "He's a workhorse."

With the winning of his driver's license and the forming of his humble company, two of his three life's goals had been accomplished. He was still determined to share his life with a woman he loved.

His wife, Margaret, had polio as a child and walks with the aid of crutches. They met at a 1959 grade school reunion, both products of the old educational policy of keeping handicapped children apart from their peers, in their own school. They married in February of 1966.

Fusco designed and helped build their attractive Johnston home so that his wife needs no more than seven steps to move from one room to another. She stays home to act as secretary of the landscaping firm, and stays active with the Merriettes, a women's social organization she co-founded 30 years ago. All of its members have polio, cerebral palsy, or other crippling diseases.

Fusco says he is lucky. He can laugh at the way people have misinterpreted his speech and walk, and he can cry at conditions he has seen at the Ladd School. "I've had my laughs there too. I volunteered there once during a strike and it took me two hours to convince two patients, young men, that I wasn't another patient, flopping around the way I was."

It hasn't been as easy as it is for most. "My father once told me he'd be happy if I could just learn to take care of their yard and live my life with them doing that." Fusco smiled and lowered his voice. "But I went a little further." Because he was just born with an inconvenience. That's all it is.

HENRY HAZLITT ON THE REVAMPED IMF

Mr. HELMS. Mr. President, one of the most illustrious names in traditional economics is that of Prof. Henry Hazlitt. A long-time economic commentator and author of important texts on monetary matters, Professor Hazlitt was an early critic of the International Monetary Fund set up under the Bretton Woods international monetary system, which collapsed several years ago.

The Senate will be asked soon to approve a revised IMF. It is basically a stamp of approval for international monetary anarchy. The new IMF substitutes paper reserves—which are worth exactly the same as politicians' promises—for reserves which represent real resources. In the past, the real resources used were gold.

Under a stable system of international monetary exchanges, foolish policies would lead to direct, measurable costs to the Nation debasing its currency. Today, the offending nations risk only the frowns of international bankers. The currencies now "float" so that inflation is made easy and the international marketplace is left without a stable measure of value.

Mr. President, I ask unanimous consent that Professor Hazlitt's statement on the IMF bill be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Professor Henry Hazlitt on H.R. 13955, a Bill to Amend the Bretton Woods Agreement

I am gratified by the privilege of submitting testimony to this distinguished committee on the present proposed amendments to the IMF agreements.

My name is Henry Hazlitt. I am the author of fifteen books, most of them on economic subjects, and one of them specifically on What You Should Know About Inflation. From 1934 to 1946, I was a member of the New York Times Editorial Board, and wrote most of that publication's economic editorials. From 1946 to 1966, I wrote the signed weekly "Business Tides" column for Newsweek magazine. From 1966 to 1969, I wrote a twice-a-week internationally syndicated column for the Los Angeles Times Syndicate. My book on foreign aid, Will Dollars Save the World?, published in 1947, was condensed to 5,000 words by the Reader's Digest and published in all twenty of its international editions. I testified on the original foreign aid proposals at that time at the request of both the House and Senate Commitees in charge of the implementing legislation.

The bill before your committee might most appropriately be labelled: "A Bill to Promote Further American and World Inflation and Increasing International Economic Chaos, and to Make it Almost Impossible for the World or Any Individual Nation Ever To Restore a Sound Monetary System."

This is not its actual title. Officially it is a bill "to provide for amendment of the Breton Woods Agreements Act, and for other purposes." It is advocated by the Treasury Department. Secretary Simon, testifying in its favor, called it "the single most important piece of legislation in the international monetary spere since the Bretton Woods legislation itself." In one sense he was right. It would work more havoc in that sphere than any legislation passed by Congress since it accepted the Bretton Woods Agreements of 1944.

To view these latest proposals in perspective, it will help to recall a little histroy. Thirty-two years ago, a group of officials from some forty nations, under the leadership of Lord Keynes of England and Harry Dexter White of the United States, decided to set up a monetary system that would be a huge improvement, they thought, over the classic gold standard because it would drastically reduce the monetary role of gold. Only one currency, the U.S. dollar, would have to be convertible into gold—and even then no longer at the demand of anybody who held dollars, but only at the request of foreign central banks. All the other currencies were to be kept convertible merely into the dollar. With the dollar anchored to gold, and all the other currencies tied to the dollar, stability would be assured, and the need for gold reserves would be minimized.

The system seemed to relieve every other country but the United States from strict monetary discipline. If any country got into trouble it was assured almost automatic loans and credit to bail it out. The agreement also provided that any nation could at any time devalue its currency by up to 10 per cent, and explicitly stipulated that "the Fund shall raise no objection." The real but unstated and unacknowledged purpose of the Bretton Woods Agreements, as the present writer pointed out at the time (in The American Scholar, Winter 1944–45) was "to make resort to inflation easy, smooth, and above all respectable."

As early as 1949 the system started breaking down. The British pound was devalued 30 per cent on Sept. 18 of that year—from $4.03 to $2.80. Twenty-five other countries devalued within the following week. In succeeding years there were hundreds of devaluations of currencies in the Fund.

What had been overlooked from the beginning was the enormous increase in the burden and responsibility that the Bretton Woods arrangements put upon the United States. For the other countries could hold dollar reserves on the assumption that this was just as good as holding gold reserves. But their curency stability was, in fact, made dependent on the soundness of the dollar.

Yet successive U.S. governments remained completely oblivious of the gravity of the responsibility we had assumed. Our officials kept undermining the dollar—by foreign aid, huge domestic spending, chronic and mounting budget deficits, and by pushing down domestic interest rates and increasing the money supply. By 1968 we had practically ceased keeping the dollar convertible into gold, even by central banks. And on August 15, 1971 we abandoned the gold standard even officially.

Our repudiation of our solemn commitment was followed by mounting inflation, devaluations, and monetary disorganization everywhere. There seemed no longer any point in maintaining fixed exchange rates. There was not even any agreement on what they could be fixed to.

So what is our government now proposing as the cure? It is proposing to intensify everything that caused the disease.

The chief effect of the International Monetary Fund from the beginning has been to serve as an engine of inflation. The IMF is to be continued. Not only that; it is to be given more resources to play with. The United States is to be asked to turn over enough more dollars to increase its quota in the Fund by the equivalent of 1,705 million Special Drawing Rights (SDRs). And the IMF is to have its powers of inflation increased still further by being allowed to create more SDRs and by the relaxation of certain rules to make the SDR "a more usable asset."

What is an SDR? It is paper money—a

credit on a book—and it is to be issued as a "reserve" against national paper currencies. What is an SDR worth? That's an interesting question. When originally created in 1968, it was defined in terms of gold—though never convertible into it. It is now defined "in terms of a weighted basket of the market exchange rates of 16 major currencies, with the dollar representing approximately one-third of the basket." So even the nominal value of the SDR is changing every day and even every hour. But suppose you wanted to convert it into something definite? Something you could measure, weigh, feel, touch, or bite. What is par? You still don't seem to get the idea. It has no par. And the basket of currencies in terms of which it is defined has no par. The American dollar, one-third of that basket; is no longer to have any par. Nor any other currency. Now do you understand?

And yet, Secretary Simon tells us, the U.S. and other members under the new legislation accept "an obligation . . . to collaborate with the Fund toward the objective of making the SDR the principle reserve asset of the international monetary system." It is not only to be "an asset" but the "unit of account."

How can it serve as an asset and a unit of account when its own value is constantly fluctuating, and has to be recalculated every minute? Tomorrow, say, the German mark in terms of the dollar and the dollar correspondingly declines in terms of the mark. Has the mark risen or the dollar fallen? In olden days, when we had par values and a gold standard, the answer was easy and immediate, and suggested who should take the appropriate corrective steps. But now? Ah yes, we have the SDR, the "unit of account." But the value of the SDR is itself determined by the value, among other currencies, of the mark and the dollar, and has just been changed by the change in their value. Talk about relativity! Which is measuring which? Which is the image and which the mirror. Have we entered Wonderland? Or a lunatic asylum?

What is to happen to gold, which for centuries served this international unit-of-account function among others? Gold is to be treated as if it were something far more dangerous than heroin. We quote from the summary of Secretary Simon: "The new provisions of the IMF Articles of Agreement also promote the process of phasing gold out of the system—by abolishing the official price of gold and gold's role as common denominator of the system, by eliminating all requirements to use gold in transactions with the Fund, and by providing specific authority for future disposal of the Fund's gold holdings."

That isn't all. Not only must gold continue to be dumped on the market, depressing the price so that our monetary mismanagers can avenge themselves on the "gold bugs"—that is, on the people who seek a refuge for their otherwise evaporating paper money sayings—but government or central bank buyers must be prevented from entering the market as buyers.

As Secretary Simon says elsewhere, in addition to the present proposed legislation, "important side arrangements have been agreed among the Group of Ten—the major gold-holding nations—to assure that gold does not re-emerge as a major international monetary asset." Their understanding provides that participating nations "will not act to peg the price of gold" and 'will agree not to increase the total stock of monetary gold." That is, they will agree not to be buyers, no matter to what tempting low levels the IMF sales reduce the price of gold.

The Fund is to be "prohibited from accepting gold except by specific decision, by an 85 percent vote." It is to be "empowered to dispose of its remaining gold holdings," and it is to be turned in effect into another giveaway agency. The proceeds of its gold sales are to be "used for the benefit of developing countries." Let us remember that it is the American people's gold that is to be simply given away.

This is madness. Currencies are depreciating and in chaos everywhere because the world's monetary managers and officeholders, and specifically our own, did not have the integrity to abide by the requirements of the gold standard. So now, instead of acknowledging that this was mainly if not solely the result of their own bad faith and endless issuance of excessive paper money, they seek to make the gold standard itself the scapegoat, and to get legislation passed that would immensely increase the harm already done and tend to perpetuate international currency chaos.

If we ask what should be done instead, the first and main part of the answer is simple. Abolish the IMF. It has been from the beginning mainly an engine promoting international inflation. Whatever stabilizing function it may once have served ceased completely on August 15, 1971, when the U.S. openly abandoned gold convertibility for the dollar. The IMF's continuance now is inexcusable.

Gold, the only real asset of the Fund, should not be sold, but should be returned to the individual nations that originally turned it over to the Fund. It should be given back in proportion to each nation's present quota in the Fund. No further printing of SDRs should be permitted. Outstanding SDRs should be cancelled, and their holders compensated in gold at approximately the closing open market price of that metal (in terms of SDRs) on the day before the decision is reached and announced. This gold would be deducted pro rata from the amounts each country would otherwise receive back from the Fund in proportion to its quota.

Then each country would be on its own, and once more fully responsible for the soundness of its own currency. If it got into trouble, it could claim no automatic credit from other countries, but would be obliged to turn to private creditors. That might do something to restore discipline.

Inflation in most individual countries would no doubt continue for a while, but countries would at least cease exporting their inflations to each other.

For a variety of reasons, government return to a gold standard would probably not for a long time be practicable. But what Congress can and should do immediately is to provide that contracts calling for payment in gold (or, for that matter, in silver, platinum, or what not) voluntarily entered into by private parties, shall not only be legal but enforceable in the courts. When governments can no longer compel everybody to do business in their depreciating paper currencies, the prospects for monetary reform will be appreciably nearer.

MISLEADING INDUSTRY PROPAGANDA ON OUTER CONTINENTAL SHELF LEGISLATION

Mr. JACKSON. Mr. President, I expect that Congress will soon be sending to the President the Outer Continental Shelf Lands Act Amendments (S. 521) which has been passed by both the Senate and the House of Representatives and is now in conference. I am aware that the oil and gas industry is exerting every effort to prevent final congressional action on this legislation. One aspect of the energy industry campaign is a so-called "procedural leasing flow chart" which purports to prove that enactment of S. 521 will cause delays in production of at least 24 months.

This chart, which was sent to every Senator by the National Oceans Industry Association, is extremely misleading. For example, it implies that the requirement that the Secretary of Interior adopt a 5-year leasing program will prevent any leasing between the date of enactment and adoption of the program. This is wrong. The bill expressly provides that leasing can continue prior to the deadline for approval of the leasing program which is 18 months after enactment. The bill even allows leasing to continue after that time if the program is undergoing administrative or judicial review.

The flow chart also indicates that the requirement that the Secretary seek applications for stratigraphic drilling once in each frontier area "may take years." The fact is that the Secretary of the Interior can establish the time period during which he will seek applicants.

The flow chart implies that the review of environmental impact statements by State Governors and regional advisory boards will add 2 months to the leasing process. This is wrong. This review would take place at the same time that general public review would occur as is indicated on the flow chart itself.

The flow chart indicates another 2-month delay for regional advisory board and State Governor reviews on lease sale. It indicates that this period would come after the publication of the sale notice. Once again, this is wrong. This review would take place before the sale notice was published.

Finally, the chart implies that the requirements for a development and production plan and for State Governors review of such plan may lead to a delay of as much as 18 months. There are several errors in this portion of the chart. First, the chart implies that an environmental impact statement would be required on every development and production plan. This is not true. The bill simply requires one impact statement on a proposed development and production in each frontier area. Aside from this, the bill does not change the existing requirements of the National Environmental Policy Act which are applicable under the existing leasing system to development plans.

THE PASSING OF CHAIRMAN MAO TSE-TUNG

Mr. PERCY. Mr. President, the passing of Chairman Mao Tse-tung is the passing of an era in which he won a country, established a unique government, and improved the living standard of his people. Mao's China became a focus of international interest and concern, a nation of growing prestige and influence.

At this time, as millions of Chinese mourn, we should reflect on our relations with the People's Republic and determine that we will continue to do what is necessary to increase understanding and further reduce tensions in the interest of world peace. We want a relationship with China that is based on honest dealings and good will, so that neither will be a threat to the other. We want broader exchanges of governmental leaders and private citizens, of cultural groups, of business people, of tourists. We want more consultation on the issues which bring us together and the issues that divide us. We want to be more open with each other, talking frankly and talking frequently. We want to fully implement the Shanghai Communique of 1972 between the United States and the People's Republic of China.

As China faces a future without Chairman Mao, we wish our friends there a future of peace.

I concur with the editorial position of the Washington Post:

> Poet, revolutionary strategist, political organizer and theoretician, warrior and diplomat, shaper of a nation and molder of a people, Mao Tse-tung strode on a vast stage. Wielding a powerful idea—China's revival—at the historical moment when its time had come, he gathered great power and rallied the energies of a great people. For better or worse, he created a new China, and thereby changed the world.

THE MEANING OF "GROUP" IN THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have often challenged article III of the convention. They claim that because genocide is defined as an act directed toward destroying a group either in whole or in part, individual acts of homicide can be termed genocide.

Article III states that "genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, social, or religious group, as such." The Senate Foreign Relations Committee, in its recommendation to ratify the treaty, declared its understanding of this passage to include only acts committed in such a manner as to effect a substantial part of the group concerned. It is clearly a subversion of the language of the convention to suggest that this definition allows homicide to be construed as genocide.

The convention also carefully excludes any acts that do not arise from an intent to destroy the group as a group. Therefore, lynching, birth control clinics, school busing, harassment of groups, or any acts directed against only one member of a group, though deplorable, are not outlawed by this convention. The Genocide Convention, in clear and unambiguous language, seeks to outlaw only the crime of genocide.

Because genocide is defined to include intent as a necessary component of the crime, it would be very difficult to sustain a charge of genocide against anyone. But by doing this the writers of the convention sought to underscore the seriousness of a crime that is not committed against single individuals but against a specific group of people. Let us also realize the serious nature of this crime and do our small part to prevent the occurrence of it by ratifying the Genocide Convention.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10:45.

There being no objection, the Senate, at 10:25 a.m., recessed until 10:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STONE).

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF MEETING WITH SECRETARY KISSINGER TODAY

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I wish to announce that at 2:45 this afternoon, in S. 207, off the corridor, the Secretary of State, Mr. Kissinger, will meet with as many Senators are are interested to discuss the African situation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 14260, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (H.R. 14260) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, I ask the Chair to notify me when I have used 8 minutes.

Mr. President, I wish to address the distinguished manager of the bill (Mr. INOUYE) respecting that section of the bill which appears at page 6, line 17, to page 7, line 17.

Mr. President, the question of whether the Appropriations Committees of each House should have the authority of acting as if they were, each of them, the respective House which they represent, is a very, very difficult one for me and has been for some years. It is made even more difficult by the fact that I have the deepest personal affection, respect, and confidence in Senator INOUYE and Senator BROOKE. Indeed, I know of no other two Senators in whom I have any more confidence than in these two very distinguished Members. It makes it very difficult for me.

Having been in the position of struggling here all my legislative life to win for the Congress the equality of powers with the President as typified by the war powers resolution, which it is entitled to under the Constitution, I must hold the balance fairly in my own conscience and also act when I think the Congress is itself surrendering powers to a committee which it has no business to do.

Mr. President, we know that this particular measure is in very delicate balance, that it took a long time to work out, and that it would be a disservice to materially rock the boat by starting to struggle over this particular provision at this time. But we all live together here. Therefore, I have sought the opportunity to raise the issue on two levels: One, to pinpoint the fact that the Appropriations Committees of each House are, by this particular section, given the powers of the Congress, because only they are entitled to give approval to a change in any basic program—and they are all specified in this section—respecting foreign aid. So the money which is appropriated, may, with the approval of the two Appropriations Committees, be used for a totally different purpose than was justified by the committees as respects that money and that power is the power of the Appropriations Committees, not the power of the Congress.

Mr. President, this provision is probably subject to a point of order on the ground that it is legislation. We will have a vote on germaneness after considerable debate.

As I say, this matter at the moment is held in such delicate balance that I do not feel it would be a service to carry it on now. But I do feel that that level which I have described, to wit, that of the powers of the Congress, and the second level, which is also very troubling to me, that is, that these are foreign relations and foreign affairs matters, yet the two committees of each House are excluded from these approvals by the fact that they are confined only to the Appropriations Committees.

On one occasion, Senator INOUYE accepted an amendment to include Foreign Relations and the International Affairs Committees but that was very promptly dropped in conference.

This provision is not in the House bill. Theoretically, it could be amended in conference to include the Foreign Relations Committee and the International Affairs Committee. I am not encouraged that it will be included, by previous experience.

Under these very pragmatic questions of principle which I have raised, I would like to ask the manager of the bill the following: Will the manager of the bill undertake to advise the Foreign Relations Committee as to any actions which are taken by the Appropriations Committee of the Senate under this particular section?

If those actions relate to classified

matters, obviously the Senate Committee on Foreign Relations has just as much standing respecting secrecy on foreign aid as does the Appropriations Committee. I address that question to the manager.

I also advise him that at a meeting of the Foreign Relations Committee this morning I was instructed by the committee, in the name of the committee, to make that request of the manager of the bill.

Mr. INOUYE. Mr. President, as chairman of the subcommittee, I would be most pleased to meet with the Senator from New York, or with the Foreign Relations Committee, to establish some procedures, if such procedures are necessary, to see that the Foreign Relations Committee is also made aware of proposed program changes of which we are notified under this provision.

Mr. JAVITS. That is characteristic of the Senator. I knew what his answer would be. I will so inform the chairman and the ranking member. I thank the Senator very much. I thank the Senator for disposing of it at this time.

Mr. President, I ask unanimous consent that I may yield 2 minutes to Senator PERCY, of Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. I thank the Senator.

Mr. President, the distinguished Senator from Hawaii and I have discussed the Asia Foundation.

I was concerned to note that the $4 million intended by AID as a general support grant to the Asia Foundation for fiscal year 1977 has been removed from the foreign assistance appropriation bill. It was approved by the House, but has been deleted in the Senate Appropriations Committee. The committee's report recommends that this $4 million be withheld until—

> . . . any subsequent request for funding demonstrates that the Asia Foundation will fund at least 50% of its total budget from private sources.

This recommendation was made on two grounds:

First. That Asia Foundation programs did not meet current foreign assistance objectives, and

Second. That a large percentage of cash income of the foundation was from Government sources and, therefore, its status as a private voluntary organization was in question.

Since 1954 the Asia Foundation, a publicly supported, nonprofit organization, has worked in more than a dozen countries of Asia to help the people of Asia to find ways and means to solve the problems of human resource and leadership development in ways that serve both Asian and American mutual interests in an interdependent world. In the post-Vietnam era this type of program would seem all the more in the national interest as we build a stronger relationship with the nations of Asia based upon their own appropriations.

As to its private funding, I would point out that support for the foundation's work has come since its beginning from a combination of private and public funds and contributions in goods—primarily textbooks, reference books, and journals—and services which were always used to supplement the Asian beneficiaries' own efforts and resources, both human and material, on particular projects.

Over the past 7 years the proportion of private input from a wide variety of American and Asian private sources has risen significantly to the point that it can be shown that cash and in-kind private contributions are almost dollar for dollar in value equivalent to U.S. Government cash input: Since 1969 the total of nongovernmental contributions, in cash and in-kind, has amounted to $33,101,808. From 1969 the total value of cash grants from all U.S. Government sources has been $33,351,043. This would demonstrate that the foundation has, in effect, met the 50-percent requirement specified in the committee report. I ask unanimous consent that a chart summarizing 7 years of public and private support for the Asia Foundation be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD as follows:

ENCLOSURE 1

THE ASIA FOUNDATION—LEVELS AND SOURCES OF SUPPORT: 7-YR SUMMARY, FISCAL YEARS 1969–75

	State Department	A.I.D.	Other	Total
I. PUBLIC SUPPORT				
1969	$400,000	$2,102,000	$15,617	$2,517,617
1970	500,000	3,116,440	12,636	3,629,076
1971	750,000	3,825,000	17,984	4,592,984
1972	775,000	3,786,000	86,200	4,647,200
1973	850,000	6,036,000	11,000	6,897,000
1974	950,000	5,317,166		6,267,166
1975	900,000	3,900,000		4,800,000
Total	5,125,000	28,082,606	143,437	33,351,043

II. PRIVATE SUPPORT	Corporations	Foundations/ organizations	Individuals/ others	Total
A. Private sector cash contributions to operating fund:				
1969	$36,387	$6,822	$28,291	$71,500
1970	102,947	128,700	2,054	233,701
1971	56,056	134,172	35,953	226,181
1972	158,230	46,533	29,750	234,513
1973	113,403	303,050	7,010	423,463
1974	355,036	172,585	30,003	557,624
1975	129,706	138,761	11,678	280,145
Total	951,765	930,623	144,739	2,027,127

	Annual ending balance	Draw down of principal	Trustees' gifts	Interest earned
B. Private sector cash contributions to, and income from, endowment fund:				
1969	$3,707,154		$91,777	$144,970
1970	2,890,227	$1,038,122	37,650	177,954
1971	2,375,875	777,954	43,473	219,639
1972	1,946,386	694,639	51,550	199,664
1973	2,218,871		47,544	126,618
1974	2,543,421		43,665	162,666
1975	2,817,520	245,000	61,828	195,542
Total		2,755,715	377,487 +	1,227,053
			1,604,540	

	Books and journals	Equipment	Other	Total
C. Private sector contributions-in-kind:				
1969	$3,126,587			$3,126,587
1970	6,561,861		$300	6,562,161
1971	3,226,423	$559,130	300	3,785,853
1972	4,023,531		2,050	4,025,581
1973	4,500,063	20,000	300	4,520,363
1974	3,286,616	10,000	10,980	3,307,596
1975	4,142,000			4,142,000
Total	28,867,081	589,130	13,930	29,470,141
Grand total				33,101,808

	Amount
Total public sector support	$33,351,043
Total private sector support	33,101,808
Grand total	66,452,851

Mr. PERCY. Mr. President, a redoubled private fundraising effort is underway, and the foundation's goal is to add each year new corporate and foundation donors to its list of private supporters. But it will still be necessary for the Asia Foundation to continue to seek funds from the U.S. Government as well.

The congressional mandate of the current foreign assistance program in Asia focuses upon food and nutrition, population planning, intermediate technology, as well as the broader ranges of education and human resource development. The emphasis is on delivery of the benefits of development to the poorest sectors of developing societies. Much of the foundation's effort is directly aimed at this sector, and supplements larger bilateral and multilateral efforts in these fields.

I would also like to mention the Asia Foundation's books for Asia program and its special Bicentennial Year project, which will send more than one million high-quality American textbooks, reference books, classics and scientific, technical and academic journals to Asian users as gifts. These donations are from all parts of the United States, from people of all walks of life. The books are estimated to be worth almost $5 million. Books for Asia has supplied books to dozens of libraries, to thousands of students and teachers, where the need exists.

In a recent message, U.S. Ambassador to Indonesia, David Newsom, expressed the view that we would be doing Indonesians and ourselves a disservice if Asia Foundation programs were reduced. By sustaining our support for Asia Foundation we will be supporting an organization with an established record of excellence in identifying and carrying out programs which are responsive to some of Indonesia's critical development needs.

In my discussion with the distinguished Senator from Hawaii, I was reassured to learn that if the Asia Foundation continues to meet in the future 50 percent of its total budget by cash and in-kind contributions from private sources, it would be in compliance with the previously quoted provisions of the Senate report. I concur that this matching requirement is a worthy one.

Mr. President, the Asia Foundation is a valuable asset which should be strongly supported because it demonstrates how, in very concrete ways, the United States can assist Asians through an experienced organization which brings into play the public and private sectors. I trust that this unique private organization can continue to receive the essential Government funding so necessary to keep the foundation alive.

Mr. President, I concur completely with the objectives of the distinguished Senator from Hawaii because we do wish to move the Asia Foundation as far as we can toward being a private foundation. It has a totally private board. It is operated as a private activity. It has a stepped-up program to increase its cash contributions.

The provision in the Senate bill, which is not incorporated in the House bill, says that any subsequent request for funding demonstrate that the Asia Foundation will fund at least 50 percent of its total budget from private sources.

A tremendous amount of the work of the Asia Foundation is in the education field. Through the years they have worked out arrangements with publishers who have contributed to them the very texts that they would have to buy.

Requiring them to achieve a 50-percent level from private sources in cash and in kind is an objective that this year can be met and will be met. If it were all cash, it would simply be impossible to meet that objective. It would mean the Asia Foundation program, which is an extraordinarily valuable program, would collapse.

Certainly, post-Vietnam these are the very kinds of things we ought to be carrying on in Asia to keep our contacts strong, and to let Asia know we do not intend, because the war is over, to lose our interest in that very important part of the world.

I am delighted that the chairman of the subcommittee of the Foreign Relations Committee (Mr. Mansfield) is in the Chamber today.

I would ask confirmation of the conversations I have had with my distinguished colleague from Hawaii, that the Foundation would comply with the wording of the report if 50 percent of their private contributions in cash and in kind have been achieved.

Mr. INOUYE. If the Senator will yield, I will try to speak to his concerns. The committee was faced with this situation: The Asia Foundation in the last fiscal year raised 11 percent of its financial needs, while the U.S. Government provided 89 percent of the Foundation's budget. We felt this ratio of 89 percent to 11 percent was so disproportionate as to call into question the Asia Foundation's qualification as a private volunteer organization.

We realize that the Asia Foundation has endeavored to receive collections in kind, but we have been told that the value of some of these in-kind contributions have been a bit inflated. Some book companies have apparently been providing contributions of so-called surplus books of undetermined value. I am not suggesting there is fraud being committed, but I believe that the Asia Foundation and, indeed, all other voluntary organizations, should make an extra effort to increase cash revenues from private sources. I must ask how can the Asia Foundation be called a private volunteer organization, when the Federal Government is providing up to 89 percent of the Foundation's cash requirements? That is our major concern.

Mr. President, I ask unanimous consent that an earlier letter which I sent to the distinguished Senator from Illinois regarding this matter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 19, 1976.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Chuck: Thank you for your letter with reference to the pending foreign assistance appropriations bill as it relates to fiscal year 1977 funding of The Asia Foundation.

I share your support of utilizing Private and Voluntary Organizations to support our foreign assistance efforts. Nonetheless, I do not believe that any organization which receives nearly eighty percent of its cash resources from the United States government is properly classified in this category.

The Committee will, therefore, be most interested in the forthcoming report of the Canham Panel and has asked to see a draft of its findings at the very earliest possible date. I am hopeful that the Panel's report will address the concerns raised by the Committee in its fiscal year 1977 Report on foreign assistance appropriations.

You are quite correct in noting that this matter will be an item in conference and I can assure you that I will keep your views in mind as the conference proceeds. I must say, however, that I do not believe it unreasonable to expect private organizations to raise fifty percent of their cash needs from private sources.

Sincerely,

Daniel K. Inouye,
Chairman, Subcommittee on Foreign Operations.

Mr. PERCY. I concur. I have talked with a number of trustees, such as George McGee, the former ambassador. They do have a very distinguished board. A strong effort is being made to increase the cash contributions. The objective is a worthy one.

The board has, as I understand, no quarrel with it; it is just a matter as to whether or not their program can be fulfilled.

The PRESIDING OFFICER. The time of the Senator from New York has now expired.

Mr. INOUYE. Let me assure the Senator from Illinois that this matter will be discussed in conference, and his viewpoint will be made known to the conferees.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 14260, the foreign assistance and related programs appropriation bill for fiscal year 1977. I support this bill. I would like to comment briefly on its relationship to the Senate-passed second budget resolution for fiscal year 1977.

H.R. 14260 appropriates funds for bilateral economic development assistance, the Peace Corps, development assistance through multilateral banks, security supporting assistance, and military assistance. This bill provides $5.4 billion in budget authority and $6.3 billion in outlays for fiscal year 1977, including $4 billion in outlays from prior year appropriations.

The foreign assistance appropriation bill is consistent with the assumptions made in the second budget resolution functional ceilings for National Defense and International Affairs within which this bill falls. When the full Appropriations Committee revises its allocation to the Subcommittee on Foreign Operations pursuant to section 302(b) of the Congressional Budget Act, the outlay overage of $0.1 billion shown on page 29 of the latest Senate Budget Scorekeeping Report, September 7, is likely to disappear.

Mr. President, while there are several possible requirements not covered by this bill which may require later funding, we believe that they can be accommodated within levels provided in the second budget resolution. This does not signal, however, an open-season for floor amendments and supplemental requests—the budget is very tight, particularly on the outlay side. It will be essential for us to approach any possible later requirements with great restraint if we are to stick to the second budget resolution spending ceilings.

I wish to extend my appreciation to my good friend, the distinguished Senator from Hawaii, Senator Inouye, chairman of the Subcommittee on Foreign Operations, for his efforts in bringing before us a bill which is consistent with the second budget resolution. I believe the bill funds adequately our several essential development assistance—both bilateral and multilateral—programs.

I note that Senator Inouye has included language in this bill, as he did in last year's bill, that would require Appropriations Committee approval of new projects not previously justified, or increases in previously justified projects. I strongly support this congressional control; it is an important asset to the congressional budget process. I ask unanimous consent that a memorandum on this subject from the chairman of the subcommittee be printed in the Record at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 30, 1976.

DEAR COLLEAGUE: I want to call to your attention a most important administrative or "housekeeping" amendment to the fiscal year 1977 Foreign Assistance and Related Programs Appropriation Bill which restores to the Congress control over administrative reprogrammings of appropriated funds. Under the present schedule this bill will be taken up on the Floor on Thursday, July 1.

The Administration has historically contended that its annual presentation of foreign assistance to the Congress is only "illustrative" and therefore, once approved, can be altered at will between countries and projects. We saw this happen a few years ago with worldwide Public Law 480 programs being concentrated into Southeast Asia when appropriations for programs in that area were reduced. We saw it again last October when the Administration sought to push through a $22.7 million loan to Zaire as an addition to its fiscal year 1976 program.

The bill before you includes the same provision as the fiscal year 1976 bill and simply requires the Appropriations Committee's approval of new projects or increases in projects not previously justified to the Committee. If we are to control the ultimate allocation of the funds we appropriate, we must control reprogrammings. I am convinced this provision is both a reasonable and effective means of dealing with this age-old problem.

Any Member of the Senate who believes in Congressional control over spending can enthusiastically support this provision. I personally urge you to do so.

Sincerely,
DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Operations.

U.S. INVESTMENT OPPORTUNITIES IN BOTSWANA

Mr. PERCY. Mr. President, recent news from southern Africa has focused on the very tragic political developments in that region: civil war in Angola, racial strife in South Africa, and escalating guerrilla warfare in Rhodesia. However during my trip to southern Africa in April, I had the opportunity to visit the Republic of Botswana, the one nation in that volatile region without racial problems or political strife, and where recent mineral discoveries offer the promise of a prosperous future. Its progress is timely to note while considering the Foreign Assistance Act of 1977 that has important new provisions for southern Africa.

Recently, Botswana was judged the most democratic nation in Africa by New York's Freedom House. Yet, despite its enormous size and economic potential, Botswana has been largely ignored by the world press. Perhaps this lack of attention is because good news is all too often no news; and I can assure you Botswana definitely is good news. Under the able leadership of President Sir Seretse Khama—one of Africa's most respected leaders—Botswana is distinguished for its record of democratic, multiracial government, political stability, and rapid economic growth. I would like to take this opportunity to encourage the American business community to examine the excellent climate for American investment and trade that Botswana offers.

On September 30, Botswana will celebrate its first decade of independence. During the past 10 years, this traditionally poor, landlocked, Texas-sized nation, with a population of 700,000, has undergone a remarkable transformation. In 1968, the discovery of diamonds and a large copper-nickel deposit dramatically changed Botswana's prospects. The subsequent development of the mining industry, as well as the continued expansion of livestock farming, is turning Botswana into an economically viable nation with a gross domestic product now approaching $200 million at a recent annual rate of 15 percent.

The economic advantages derived from the country's raw materials are enhanced by the government's commitment to austerity and efficient planning which has given Botswana an excellent reputation for effective administration. Since independence, there has been a strong emphasis on planning and a system of 5-year rolling plans has been adopted. The basic strategy of Botswana's current 1973–1978 National Development Plan is to maximize the benefits of intensive capital investment in mining and to spread them as widely as possible over 90 percent of the population in the rural areas. Thus, as a result of the encouraging developments in the mining sector and competent government planning, Botswana has taken impressive first steps on the road to real economic and social development.

For geographical and historical reasons, Botswana's economy remains closely linked with that of South Africa. However, Botswana rejects South Africa's political system of apartheid, is firmly on the side of majority rule in Southern Africa, and has been actively working with Tanzania, Zambia, and Mozambique in an attempt to find negotiated solutions to the political problems in southern Africa. Firmly committed to a democratic, multiracial society, Botswana is seeking to reduce its economic dependence on South Africa by developing its trade links with African nations to the north and by diversifying its sources of foreign investment. Consequently, Botswana is actively seeking American investment and trade, and currently offers excellent opportunities for American business.

To accomplish its economic expansion and to develop its mineral resources, Botswana will need to rely heavily on imports of capital goods and construction equipment. According to a recent assessment by the Department of Commerce, therefore, trade opportunities for U.S. firms appear promising in avionics, telecommunications, energy systems, electricity transmission equipment, construction machinery, and transportation. Investment opportunities are equally attractive, and Botswana has recently focused on infrastructure development to encourage foreign investment.

Firmly committed to the free enterprise system, the Botswana Constitution specifically prohibits nationalization except by the express provision of legislation approved by the National Assembly. Prompt payment of adequate compensation is guaranteed, and provision is made for appeal to the High Court in case of a dispute. American investors in Botswana can be protected under the 1968 Investment Guarantee Agreement between Botswana and the United States. In 1971 the Overseas Private Investment Corporation—(OPIC), which insures U.S. private investors against political risk in developing countries, approved a resolution pledging to make a special effort to promote U.S. investment in Botswana.

U.S. investment in Botswana is currently over $22 million, but this figure represents less than 10 percent of total foreign investment. Except that all foreign investment proposals must be approved by the Botswana Government, there are no restrictions on private foreign investment, and no limitation on the guaranteed repatriation of profits. In addition, Botswana has two unique advantages which should be seriously weighed by any firm considering an investment in southern Africa. By virtue of its membership in the South African Customs Union, Botswana goods have access to the markets of South Africa, Swaziland, and Lesotho—Africa's largest and most highly developed industrial market.

American firms can thus obtain access to the South African market while avoiding involvement in South Africa's system of apartheid. Moreover, Botswana goods have access to all of the continent north of the Zambesi River, and this northward trade is likely to increase in importance with the completion of the Botswana-Zambia road which is being constructed with U.S. assistance. Also of special interest to potential U.S. investors, the Customs Union Agreement provides for infant industry protection in Botswana and common external tariffs to protect industries of major importance.

American firms should also be alert to opportunities in Botswana's rapidly growing mining sector where the future promises excellent opportunities for the establishment of chemical and petrochemical industries. Botswana also offers investment potential in cattle raising, crop agriculture, tourism, leather, and the processing of raw materials.

It has been the express policy of the U.S. Government to encourage U.S. investment in Botswana, and to encourage Botswana in its efforts toward independent economic development. The United States fully supports the nonracial policies of Botswana and, in part, sees it as a model in southern Africa of how multiracial nations might peacefully develop. Progress in that area will enable Botswana to play a more independent role with respect to its white-ruled neighbors.

In his historic policy statement in Lusaka, Zambia, Secretary of State Henry Kissinger emphasized the U.S. interest in working with the nations of southern Africa to help them achieve the economic progress that will give meaning to political independence. Botswana has all the conditions for development progress in which private American enterprise can make a constructive contribution, and I feel that increased U.S. business involvement in Botswana can serve as a model for cooperative economic relations between the

United States and the developing nations of Africa.

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to vote on the amendment (No. 2280) of the Senator from Hawaii (Mr. INOUYE).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the second vote there be a 10-minute limitation. That is on the vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Hawaii. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from UTAH (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Missouri (Mr. EAGLETON), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 67, nays 10, as follows:

[Rollcall Vote No. 578 Leg.]

YEAS—67

Abourezk
Bartlett
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Fong
Ford
Glenn
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Talmadge
Weicker
Young

NAYS—10

Allen
Curtis
Fannin
Garn
Goldwater
Hansen
Helms
Laxalt
McClure
Scott, William L.

NOT VOTING—23

Baker
Bayh
Beall
Buckley
Dole
Eagleton
Eastland
Gravel
Hart, Philip A.
Hartke
Hollings
Humphrey
Kennedy
McGee
Mondale
Montoya
Moss
Stevenson
Taft
Thurmond
Tower
Tunney
Williams

So Mr. INOUYE's amendment (No. 2280) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on passage of H.R. 14260.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 51, nays 26, as follows:

[Rollcall Vote No. 579 Leg.]

YEAS—51

Abourezk
Bartlett
Bellmon
Bentsen
Brock
Brooke
Bumpers
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Fong
Ford
Glenn
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Weicker

NAYS—26

Allen
Biden
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Curtis
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Laxalt
Long
Mansfield
McClellan
McClure
Nelson
Proxmire
Randolph
Roth
Scott, William L.
Stennis
Symington
Talmadge
Young

NOT VOTING—23

Baker
Bayh
Beall
Buckley
Dole
Eagleton
Eastland
Gravel
Hart, Philip A.
Hartke
Hollings
Humphrey
Kennedy
McGee
Mondale
Montoya
Moss
Stevenson
Taft
Thurmond
Tower
Tunney
Williams

So the bill (H.R. 14260) was passed.

Mr. INOUYE. I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 14260.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. INOUYE, Mr. PROXMIRE, Mr. MCGEE, Mr. CHILES, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. BROOKE, Mr. HATFIELD, Mr. MATHIAS, and Mr. YOUNG conferees on the part of the Senate.

EXTENSION OF TIME FOR REPORTING BILL

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Arizona yield me 30 seconds?

Mr. GOLDWATER. I am happy to.

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. CANNON, I ask unanimous consent that the Committee on Rules and Administration have until Monday, September 20, to report S. 2925, the sunset legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEDICAL CARE FOR CERTAIN MEMBERS OF ALLIED WARTIME FORCES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 71, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I and World War II.

UP AMENDMENT NO. 440

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized to call up an amendment on which there is to be 30 minutes of debate, to be equally divided and controlled.

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes unprinted amendment No. 440. At the end of the bill insert the following new section:

SEC. . Any person who served during World War II as a member of the Women's Air Force Pilots shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services under chapter 17 of title 38, United States Code, to the same extent as if such service had been performed in the active military service.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, this will not take long.

The amendment I have ordered would provide surviving members of the WASP—The Women's Air Forces Service Pilots—veterans benefits comparable to what the bill would provide to veterans of the Czech or Polish armed forces.

Mr. President, these women are U.S. citizens who served with our Army Air Corps during World War II and I believe it would be the height of discrimination if women citizens serving with our forces are not given at least the same medical and hospital benefits as we give to veterans of foreign nations.

Now, I know a little bit about this group. When I was attached to the Second Ferrying Group in Wilmington, Del., at New Castle Air Force Base, I had the pleasure of flying with the first volunteer women who came on duty. In fact, a number of them were in my squadron when I was in the ferrying command in 1943 at the place I have noted.

I have the greatest respect for them and believe that the time is long overdue when our women pilots should be given recognition for their services to their country.

The first women military pilot's program was activated in September of 1942 by the formation of a volunteer squadron of experienced women pilots to do ferry work in the Air Transport Command and by initiation of a training program for women pilots. In 1943, these two programs were merged into one organization, known as WASP.

It was headed, Mr. President, by that famous woman pilot, Jacqueline Cochran, with the rank of colonel. In Sweetwater, Tex., young ladies who desired to enter the Air Service were trained, given the same training, practically, as the men, at the same time.

In all, there were about 1,102 women assigned to ferrying duties flying both fighters and bombers. During the war, they flew 60 million miles for the Army Air Forces—equal to some 2,500 times around the globe. Their performance was equal in every way to that of male pilots, and was better than men's in some instances, such as towing targets for male pilots who were using live ammunition on the targets that were towed.

Mr. President, we used to hear the argument that a woman was not strong enough to fly military aircraft. I have personally flown with young ladies in every fighter plane that we made during the war. I remember, one day, flying a P–47 group from the factory on Long Island out to California for delivery to the Pacific. The woman who flew on my wing wanted to fly with me, under the hood, as it was called, which means they put the hood up and they could not see where they were going, but they flew by instruments. She flew it across the United States. We tried to get them into overseas assignments, but General Arnold of the Air Corps would not agree to that.

They had to meet stringent standards before they could join—and flew the same route and same aircraft that all male pilots did within the United States and Canada. Although they were hired as civilians, they did not enjoy freedom as civilians. As far as the Air Corps was concerned, they were in the Air Corps. They were paid military scale salaries, slightly less than a second lieutenant. They lived at Air Corps bases. They ate in mess halls. They were under military discipline and subject to all military rules and regulations.

However, they received no veterans benefits, nor Government insurance. The plain fact is these women were discriminated against because they were women, even though 38 of them gave their lives in the performance of military flight duty for their country. In my opinion, it is outrageous to deny the surviving women who rendered this service—and who probably do not number over 900—entitlement to at least medical and hospital benefits.

The recognition of their service is the important thing, not the small amount of benefits that a few women would receive under the amendment. This group of women was shunted aside by the country they served; and it is better that we should correct a past wrong now, rather than leave the record blemished.

Mr. President, I ask unanimous consent that a fact sheet on the amendment be printed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACTSHEET ON WASP AMENDMENT

The first women military pilot's program was activated in September of 1942, in two steps, (1) by the formation of an experimental squadron of experienced women pilots to do ferry work in the Air Transport Command, and (2) by the initiation of a training program for women pilots. On August 5, 1943, the women pilot trainees and the Women's Auxiliary Ferrying Squadron were merged into one organization, known as WASP—Women Airforces Service Pilots.

In all, 1830 women pilots were accepted for women pilot training and 1074 eventually graduated. In addition, 28 of the original WAFS's joined the WASP program without taking the training course. The Army Air Forces employed these ladies as federal civil service employees.

The women pilots flew approximately 60 million miles on operational duty for the Army Air Forces. There were 38 fatalities in the service of their country. They were paid military level pay, instead of higher civilian scale salaries. They lived on AAF bases and ate in mess halls. Yet they received no veterans benefits.

The Air Forces used them in the Air Transport Command, where they flew all types of airplanes used by the AAF, both fighters and bombers, including the Superfortress (B–29), from factories to modification centers, to depots, and to other destinations within the United States.

Women pilots also were used to tow targets for male pilots who were using live ammunition, for searchlight missions, simulated strafing, smoke laying and other chemical missions, engineering test flying, and utility flying in the weather wing. Tests also were started to see to what extent the women pilots could be used in the training command.

Of these roles, the main one was in the ferrying of combat aircraft, both fighters and bombers, within the United States during the war. For example, one of the WASPS was presented an air medal for flying during a period of only 5 days, a P–51, two P–47's, and a C–47, delivering all of them to their destination, covering distances in excess of 8,000 miles.

A bill, H.R. 4219, was reported by the House Committee on Military Affairs in March of 1944 to incorporate these women pilots into the Air Forces. The bill provided that women pilots appointed under the legislation shall be commissioned into the Army and shall be entitled to the same rights, privileges and benefits as members of the officer's reserve corps of the Army.

The bill was considered on the House Floor on June 21, 1944, but was rejected by 19 votes. Both a committee report recommendation and the House debate make clear that no objection was made to the commission of existing women pilots and the extension to them of benefits, in accordance with the duties they were performing. Instead, a question was raised about the open-ended possibility of the program being enlarged to bring in up to 5,000 additional women pilots. Also, opposition to that bill was developed by members who wanted to add special provisions authorizing male civilian pilots, trained under the C.A.A. program, to be admitted to the Air Forces.

Many of the C.A.A. trainees had physical disabilities since it had not been necessary for them to measure up to the physical requirements of men going into combat. Thus, the Air Corps had opposed lowering standards to accommodate these male trainees into the military. This fact was not known to the House of Representatives. Nor was the House aware of the fact that many of the male civilian contract pilots had knowingly side stepped military service because contract work was more lucrative. The truth is every male contract flyer was offered duty with the Army Air Corps, but many turned it down or were physically unfit. The ignorance in the House of Representatives of these basic facts resulted in the defeat of the WASP bill in 1944, not on its own merits, but due to extraneous matter.

After defeat of the House Bill, recruitment and training of the WASP's ceased. On October 1, 1944, each WASP received an announcement that the program would be deactivated. Inactivation occurred on December 20, 1944, leaving the WASP's without any rights, Government insurance or veteran's benefits.

The Goldwater amendment would provide long overdue recognition to the WASP for their valuable service with the military in wartime by having their duty with the Army Air Corps considered active for purpose of medical and hospitalization benefits administered by the VA.

Mr. GOLDWATER. Mr. President, I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, the majority on this bill accepts the amendment as a valid, meritorious, and worthwhile amendment. I refer to the Republican side for their position.

Mr. HANSEN. Mr. President, I would like to join with my good friend from Florida in expressing my pleasure in accepting this amendment and to take this opportunity to congratulate the Senator from Arizona for his awareness, because of personal involvement, of a great injustice that has been done these wonderful women who served this country so gallantly in World War II and who have been denied any consideration as veterans ought to deserve because of the fact that they were women.

I heartily agree with my friend from Florida in saying it is a very meritorious amendment.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. HANSEN. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. I associate myself with the manager of the bill and the Republican representative in the fine things they have said about my good friend from Arizona. Not only is he a wonderful human being, a great Senator, but he has proved again that he is a man of great chivalry, and I congratulate him.

Mr. GOLDWATER. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. STONE. Mr. President, yesterday the distinguished hardworking chairman of the Senate Veterans' Committee (Mr. HARTKE) spoke on behalf of H.R. 71, medical care for certain members of Allied Wartime Forces. However, action on the bill was delayed until today in order to provide our colleague from Arizona (Mr. GOLDWATER) the opportunity to present an amendment to the bill. Unfortunately, Senator HARTKE was unable to be here today to manage this most meritorious legislation.

Mr. President, let me briefly describe what is included in H.R. 71. The bill would extend to certain citizens of the United States eligibility for Veterans' Administration hospital, domiciliary and medical services on the same basis as any eligible veteran of the U.S. Armed Forces.

Mr. President, I think it important that we know who will benefit from this legislation. The beneficiaries are American citizens who served honorably during either World War I or World War II as a member of an armed force of a government which was allied or associated with the United States. To qualify, the beneficiary would also have had to serve under the command of France or Great Britain during either war. Subsequently, the veteran would have had to have immigrated to the United States and become a naturalized American citizen—and a citizen of at least 10 years duration. Thus, we are talking about men and women who have immigrated to our country and elected to become American citizens—we are talking about fellow Americans.

Let me briefly explain why this bill is necessary. The Veterans' Administration is presently authorized to provide medical care to veterans—whether they be American citizens or not—of nations allied with the United States in World War I or World War II. Service is rendered to eligible allied veterans in the same manner as medical care is rendered to eligible veterans. However, such benefits are only granted in those instances where the veterans' government has agreed to reciprocate and provide care for American veterans in their country. However, the countries under which flag these veterans fought are now behind the Iron Curtain and have refused to enter into a reciprocal agreement. Are we to penalize those who fought by our side and subsequently chose to become citizens of this great Nation? Are we to allow these American citizens to once again be victims of the Communist takeover in countries that were once our allies? I think not.

Mr. President, let me emphasize that no eligible veteran will be displaced from VA hospitals by this extension of eligibility to these allied veterans. There are approximately 40,000 of these worthy people who will qualify for benefits. If past experience can be a guide, only 10 percent of those who qualify will seek assistance from the VA. Costs for this bill are estimated to be not more than $5.6 million for fiscal year 1977 and for each of the next 4 years.

I support this legislation and urge the support of my colleagues.

Mr. STONE. Mr. President, I ask unanimous consent that a statement by the Senator from South Carolina (Mr. THURMOND) be printed in the RECORD.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

The statement follows:

STATEMENT BY SENATOR STROM THURMOND

While I have always been in favor of maintaining the integrity of our system of Veterans' Administration hospitals for use exclusively by the veteran, I think a valid distinction can be drawn in this instance.

It is clear that the individuals intended to be benefited under this bill were our fighting allies in World War I or World War II. Furthermore, they have been U.S. citizens for at least 10 years and any entitlement to medical or hospital care in their own countries has been cut off by virtue of their governments' being Communist dominated.

For the foregoing reasons I shall favor the passage of this bill.

Mr. WEICKER. Mr. President, the passage of H.R. 71 marks a happy day for thousands of gallant Americans who served in allied forces during the First and Second World Wars.

My State of Connecticut is proud to number among its citizens numerous defenders of freedom who, as members of the Polish and Czechoslovakian allied forces during the World Wars left their marks on the history of this century. Thousands of the brave soldiers of the Polish army-in-exile, famed for their significant role in the battle of Monte Cassino, populate the city of New Britain, where much of the army settled after the war. Their heroism, so well described by the British general, Lucian Truscott, merits remembrance:

> The fighting men of Poland were in the vanguard of that battle fighting with the same tenacious purpose that had ever made the name of Poland a byword among liberty-loving people.

Mr. President, I commend the Senator from Indiana for his efforts on behalf of this legislation, and I welcome the opportunity to give it my full support.

Mr. HANSEN. Mr. President, I rise in opposition to H.R. 71, which would provide hospital and medical care to certain members of the Armed Forces of Nations allied or associated with the United States in World War I or World War II who have been U.S. citizens for 10 years; namely, those from Poland and Czechoslovakia.

I have significant reservations about the wisdom of expanding the eligibility for admission to VA hospitals, particularly since the VA is currently under attack for not providing quality care to our own veterans.

Mr. President, let me briefly discuss some of the potential problems that enactment of H.R. 71 would entail.

I. OTHER PRIORITIES

Currently, the Committee on Veterans' Affairs has before it substantial questions dealing with adequate funds and personnel for the staffing of VA hospitals. At the insistance of some members of the committee, the National Academy of Sciences is preparing a report on the adequacy of staffing in these hospitals. In my view, expanding the eligibility requirements for veterans medical care at this point in time will only exacerbate the problems which already exist.

II. COST ESTIMATE

Unfortunately, there are practical fiscal constraints which we should consider before we enact legislation of this kind.

I have asked the Veterans' Administration for cost estimates on this bill, and am told that it is not possible to estimate the cost since neither the VA nor the committee has information as to how many individuals may qualify for these benefits; or once they qualify, how many individuals may take advantage of this new eligibility.

III. BAD PRECEDENT

Approval of this legislation would establish a bad precedent. While H.R. 71 limits eligibility to veterans of the Polish and Czechoslovakian forces under the British and French command during World War I or World War II who have been citizens of the United States for 10 years, it is fair, I think, to keep in mind that 52 governments were allied with the United States during World War I and World War II. Additionally, we have had other allies in Korea and Vietnam. If we take action to extend benefits to veterans of the Polish and Czechoslovakian forces, it is my feeling that we logically set in motion additional requests for other allied veterans for equal treatment.

The general rule for granting veterans benefits is to extend benefits only to those who have served in our Armed Forces. Let me quote from a letter from the Administrator of Veterans' Affairs, dated September 4, 1974, to the chairman of the Veterans' Affairs Committee which succinctly puts this policy in its proper perspective:

> It would be an unwise departure from the well-established policy that veterans benefits should be granted only to those who served in our Armed Forces. Moreover, we do not believe that residents of the United States who are non-veterans of this government should be provided medical care benefits at the expense of the taxpayers of this country, solely because of a period of lawful residence in the United States, and especially when the majority of United States citizen taxpayers are not entitled to the same benefits for themselves.

Mr. President, once we open the door to nonveterans of the U.S. Armed Forces, it is my feeling that other groups will have a legitimate request before the Congress to further expand eligibility for benefits.

IV. ADDITIONAL LEGISLATION

I have a list of legislative proposals which would extend veterans benefits to persons not in the U.S. Armed Forces and which have been introduced in the Congress. For the benefit of my colleagues, I think we ought to carefully consider the potential problems which we are creating by passing this legislation. Mr. President, I ask unanimous consent that this list be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL LEGISLATIVE PROPOSALS EXTENDING VETERANS BENEFITS TO PERSONS NOT IN U.S. ARMED FORCES, BUT CLOSELY ASSOCIATED THEREWITH

H.R. 13506, 93d Congress, Veterans education and home loan benefits to individuals who perform alternative service under selective service laws.

H.R. 5841, 92d Congress, Extend veterans reemployment benefits to individuals performing alternative civilian service.

H.R. 4634, 78th Congress, Grant conscientious objectors with an honorable discharge from the armed forces of the U.S.

S. 2154, 93d Congress, authorize wartime veterans benefits to veterans of Philippine Jolo Jolo campaign and Cuban Pacification Campaign, and their widows and children.

H.R. 16612, 93d Congress, Provide VA medical and hospital care to persons who served in the Local Security Patrol Force of Guam during WW II.

S. 3250, 90th Congress—Identical.

H.R. 10769, 86th Congress, Extend WWI veterans benefits to persons serving in Haiti, July 25, 1915–April 6, 1917.

H.R. 4302, 80th Congress, to Compensate certain Puerto Rican citizens for services rendered U.S. in WW I.

H.R. 12957, 93d Congress, Provide veterans benefits for service of females as telephone operators in Signal Corps.

H.R. 9834, 93d Congress, Provide women veterans maternity care in VA facilities.

H.R. 192, 93d Congress, Provide that service in Women's Army Auxiliary Corps be active duty for veterans benefits.

S. 2235, 86th Congress, Provide veterans benefits to persons graduated from Air Force Reserve Officers Training Corps in 1954 and served on active duty for training in the Air National Guard before February 1, 1955.

H.R. 5405, 89th Congress, Provide veterans benefits for members of the units of the Students' Army Training Corps at Alva and Edmond, Okla. during WWI.

H.R. 1778, 88th Congress, Provide veterans benefits for members of units of Students' Army Training Corps at Plattsburgh, N.Y., Presidio of San Francisco, Calif., and Fort Sheridan, Ill., during WWI.

S. 7481, 77th Congress, To provide veterans benefits for the services of the civilian officials and employees, citizens of the United States, engaged in and about the construction of the Panama Canal.

H.R. 7984, 76th Congress, Granting pensions to certain American Red Cross ambulance drivers of the World War.

S. 2970, 83d Congress, To provide certain benefits for persons who served on the United States revenue cutter Bear during its Arctic rescue cruise in 1898.

H.R. 7843, 81st Congress, To extend veterans' benefits to persons who served as members of State Guards during World War II.

H.R. 1834, 76th Congress, Extending the benefits for veterans of the Spanish-American War, including the Philippine Insurrection and the China Relief Expedition, to contract veterinarians.

S. 1626, 79th Congress, To provide certain services for persons who incur disabilities while serving as members of the American field service.

S. 947, 79th Congress, To provide for hospitalization and treatment of accredited war correspondents in Army, Navy, and Veterans' Administration hospitals.

S. 740, 78th Congress, Extending the provisions of the National Service Life Insurance Act of 1940 to American war correspondents.

H.R. 2535, 82d Congress, To provide hospitalization and flag burial for merchant marine veterans of World Wars I and II.

H.R. 6389, 77th Congress, Providing NSLI for certain civilians employed outside the continental U.S. in the maintenance and repair of military or naval equipment, aircraft, and aircraft pursuant to contracts entered into by the Secretary of War or the Secretary of the Navy.

H.R. 6287, 77th Congress, Conferring a military status upon certain civilian employees of the Engineer Department, United States Army.

H.R. 8582, 68th Congress, To extend pension benefits to certain persons who served in the Armed Forces of the U.S. in Honduras during the period of January 1, 1908 to December 31, 1911, and to their widows and children.

H.R. 15958, 91st Congress, To amend title 38, U.S. Code, to provide veterans' benefits to individuals who served as contract medical or dental personnel with the Armed Forces during World War I or any period of war thereafter.

H.R. 15538, 91st Congress, To amend title 38, U.S. Code, to provide veterans' benefits to individuals who served as contract surgeons with the Armed Forces during World War II.

S. 3190, 86th Congress, To amend section 106 of title 38, U.S. Code, to provide veterans' benefits for female contract surgeons who served with the Armed Forces during World War I.

S. 389, 85th Congress, To provide certain benefits for persons who served as contract surgeons or contract dental surgeons during the war with Spain, the Philippine Insurrection, or the China Relief Expedition.

H.R. 6072, 76th Congress, Giving civilian clerks, Signal Service at large, the same military status as Army field clerks.

EXAMPLES OF BILLS PROPOSING VETERANS' BENEFITS FOR CIVILIANS ASSOCIATED WITH, BUT NOT IN THE U.S. ARMED FORCES

H.R. 16332, 92d Congress, Women's Airforce Service Pilots.

H.R. 11265, 91st Congress, Aviation Midshipmen.

H.R. 3166, 87th Congress, Merchant Marine Service.

H.R. 1441, 81st Congress, Civilians serving aboard troop ships operated by U.S. Army.

H.R. 4853, 80th Congress, Civil Air Patrol who performed submarine patrol during WW II.

S. 1244, 77th Congress, Civilian employee—Indian Scout, Army.

Following WW I bills were introduced to extend veterans' benefits to following civilians:

Russian Railway Service Corps.
Draftsmen and clerks, Engineer Corps.
Field clerks, Signal Corps.
Postal field clerks, U.S. Army.
Auditors, War Department.
American Red Cross.
Contract nurses with Army.
Contract surgeons with Army.

Mr. HANSEN. Mr. President, once we open the door to members of the Polish and Czechoslovakian armed services, it is my firm belief that we will be asked to make more exceptions to the eligibility requirements for VA hospitalization.

Mr. President, for these reasons, I oppose passage of H.R. 71, and urge my colleagues to join me in opposition.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a copy of a letter from the Associate Deputy Administrator of the Veterans' Administration to the chairman of the Committee on Veterans' Affairs, U.S. Senate, dated September 5, 1975.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., September 5, 1975.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans' Administration on H.R. 71, 94th Congress, a bill "To amend ttile 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II." H.R. 71 passed the House of Representatives on July 21, 1975.

The subject bill would amend section 109 of title 38, United States Code, to extend to any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and has been a citizen of the United States for at least ten years, entitlement to hospital care and medical services, and domiciliary care under chapter 17 of title 38.

There is some confusion between the eligibility provisions of the bill and proposed paragraph (2) of the new subsection (c), which provides that in order to assist the Administrator in making a determination of proper service eligibility, each applicant shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either office which clearly indicate military service of the applicant and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

The eligibility provision in subsection (c) (1) does not require subsequent service in or with the armed forces of France or Great Britain. Moreover, since the bill would require the Veterans' Administration to furnish care to persons made eligible on the same basis as if service had been performed in the armed forces of the United States, it would appear to present an almost impossible task for VA hospital personnel to determine the extent of the VA medical care which can be provided, as well as determining whether the individual has a service-incurred disability. If the Committee is to give this legislation further consideration, we believe that these provisions should be clarified.

Under the bill, benefits would not be available to a person who is entitled to payment for equivalent care and services under a program established by such foreign government for persons who served in its armed forces during World War I or World War II.

Section 109(a) (1) of title 38 currently authorizes the Administrator, in consideration of reciprocal services extended to the United States and upon a reimbursable basis, to furnish hospital care, medical services, and education, training or similar benefits to discharged members of the armed forces of the government of any nation allied, or associated, with the United States in World War I (except a nation which was an enemy of the United States in World War I, or World War II, if such benefits are authorized by such government for its veterans. Section 109(b) provides that persons who served in the active service in the armed forces of any government allied with the United States in World War II, and who at the time of entrance into such service were citizens of the United States, are, if otherwise qualified, entitled to the benefits of chapters 31 and 37 of title 38 in the same manner and to the same extent as U.S. veterans of World War II, provided he is a resident at the time of filing a claim, and has not received similar benefits from the nation in whose armed forces he served.

The proposals under consideration go much further than the provisions for temporary World War II readjustment benefits. They would include many persons who were not citizens when they served and would provide basic hospital and medical benefits under our continuing program. While the need for medical benefits might appear to be most urgent, the granting of this relief would doubtless be followed by demands for other continuing benefits, such as compensation and pension.

The general policy of Congress, except as to those benefits in section 109(b) of title 38, United States Code, has been to provide benefits solely for veterans who served in the armed forces of the United States and their dependents. The extension of certain benefits (although provided on a reciprocal basis in section 109(a)) to persons who served with governments allied with the United States, but who rendered no service in the United States Armed Forces, would be a departure from this policy.

We not only believe that enactment of legislation in the form of the bill pending before you on this subject would be unwise, but it would be discriminatory and precedential. If medical benefits are provided to veterans of service with the Czechoslovakian and Polish armed forces, it could be argued that equity would require the extension of such benefits to those who served with the armed forces of Bulgaria, Estonia, Hungary, Latvia, Lithuania, Romania, or Yugoslavia, as well as to veterans of other allied forces such as Russia, China, and most of the Latin American countries, who are now United States citizens.

As a matter of policy it would be difficult to explain to nations such as Canada, Great Britain, Australia, New Zealand, and South Africa, why they should reimburse the Veterans' Administration for medical treatment provided veterans who served in their armed forces while we provide such services at no cost for veterans of other allied forces.

Aside from allied veterans, many other groups who have served with, but not in, our own armed forces during war periods have through the years sought to obtain benefits reserved to veterans of the military service. Applying the policy of restricting benefits to those who had military service, legislation to include these civilian groups has generally been rejected. If an exception were made for one or more classes of allied veterans, it might prove difficult to resist demands that similar provision should be made for a variety of civilian groups who served closely with our armed forces or who did alternate service as conscientious objectors.

The President has called for the development of plans for a comprehensive national health insurance system for all Americans. Consonant with that policy, we do not believe that citizens, who are not veterans of service in the armed forces of the United States, should be provided VA medical care benefits based purely on service with some other nation's armed forces rendered prior to becoming a citizen of this country.

Accordingly, we oppose the enactment of H.R. 71.

It is not possible to estimate the cost of the bill, since we have no information as to how many individuals may qualify for benefits.

We were advised by the Office of Management and Budget in regard to a report to the Chairman of the House Committee on Veterans' Affairs on H.R. 71, containing language identical to that in the subject bill, that there was no objection to the presentation of that report from the standpoint of the Administration's program.

Sincerely,

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.
(In the absence of Richard L. Roudebush, Administrator.)

Mr. HANSEN. Mr. President, I have statements and items which have been submitted by various veterans' organizations. I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 31, 1976.

Senator CLIFFORD P. HANSEN,
Senate Veterans' Affairs Committee,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: The Disabled Americans Veterans is greatly concerned over the ability of the VA medical programs to provide for the future needs of America's veterans, and we must therefore oppose the extension of hospital care and medical services to certain allied veterans.

H.R. 71, soon to be considered by the U.S. Senate, would extend to any person who served during World War I or World War II as a member of the armed forces of the governments of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States, entitlement to hospital care and medical services under Chapter 17 of Title 38, U.S. Code, to the same extent as if such service had been performed in the armed forces of the United States. To be eligible for such medical care, the person must have been a citizen of the United States for at least ten years, and not be entitled to equivalent benefits from a foregn government.

In our view, the enactment of this legislation would be a departure from the well-established Congressional policy of basing direct Federal benefits solely on service in the armed forces of the United States, and would be highly unfair to our many other World War I and World War II allies who are excluded from its provisions.

We therefore feel that the Senate's favorable consideration of H.R. 71 would be detrimental to the existing programs of hospital and medical care for America's veterans, and we urge the rejection of this legislation which would place an additional burden on the already hard-pressed capacity of the VA medical system.

Sincerely yours,

CHARLES L. HUBER,
National Director of Legislation.

OCTOBER 1, 1974.

Memorandum to Department Service Officers/Rehabilitation Directors, Department Rehabilitation Chairman, Members of National Veterans Affairs, and Rehabilitation Commission.

Subject: Statement of Robert E. Lyngh, Deputy Director, National Veterans Affairs and Rehabilitation Commission, the American Legion, to the Committee on Veterans' Affairs, U.S. Senate, September 26, 1974.

Mr. Chairman and Members of the Committee: Our purpose today is to comment for The American Legion on H.R. 10212 and H.R. 13377, both of which passed the House of Representatives on August 5, 1974.

H.R. 10212 would designate the Veterans Administration Hospital at Columbia, Missouri as the "Harry S. Truman Memorial Veterans Hospital." The American Legion supports the intent of H.R. 10212. The 55th National Convention, by the adoption of Resolution No. 306 (Missouri), expressed support for the designation of the hospital at Columbia as a Memorial to President Truman.

We are cognizant that it is the usual practice of the Veterans Administration to name its hospitals for the locality in which each is located, and not for individuals. This longstanding policy has been based upon the realization that a fair basis of selection would be difficult, that controversy might result in some instances, and that persons or organizations whose candidates were not chosen would be disappointed. Veterans Administration hospitals named by Congress, of course, are not subject to this administrative policy. There is precedent for Congressional action, and four VA hospitals have been named by Public Law.

In the case of the VA hospital at Columbia, Missouri, The American Legion takes note of the fact that Missouri is the home state of President Truman. Our 33rd President was a combat veteran of World War I. Throughout all of his life, following his military service, he was an active member of The American Legion, a fact which denoted his pride in being a veteran of the United States Armed Forces. Additionally, throughout his long career in public life, President Truman displayed his concern for the welfare of his fellow veterans. His public career was illustrious, and he served with distinction as President of the United States. In all of his life he was a model for emulation by his fellow citizens, and his memory is loved, revered and respected by all Americans. Therefore, we of The American Legion can conceive of no more appropriate Memorial to President Truman than that a veterans hospital, located in his home state, should bear his name.

The American Legion recommends to this Committee, favorable consideration of H.R. 10212.

This organization has given thought and study to H.R. 13377. The purpose of the bill is to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Specifically, the bill extends entitlement to hospital and medical care to any person who served during World War I or World War II as a member of any armed force of the governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and who has been a citizen of the United States for at least 10 years. Benefits would not be available to a person who is entitled to payment for equivalent care under a program established by the foreign government for persons who served in its armed forces during the subject periods of war. The estimated cost of these benefits, should they be provided to the designated class of beneficiaries, is not now available, because at this point, the number of persons who would be favorably affected is not known.

The American Legion perceives no compelling reason why the benefits stipulated in the measure should not be provided. It is not inconsistent, historically, for the United States to be generous to those allied with our cause who helped achieve victory in the contests in which our country engaged.

Should the Congress look with favor on the intent of H.R. 13377, however, we suggest that it should go further, and provide certain benefits, at the same time to veterans of the armed forces of our old and true friend beyond our northern borders, the Dominion of Canada, who now reside in the United States. In support of this concept of extended benefits, The American Legion has Resolution No. 201 (Minnesota), adopted by the 54th National Convention in August, 1972.

In consideration by the Committee of our proposal, we draw attention to the provisions of section 109 of title 38, United States Code, which currently provides the following benefits for discharged members of allied forces. Section 109 reads:

"In consideration of reciprocal services extended to the United States Government, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States during World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the law of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans in this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

"The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

"All amounts received by the Veterans Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans Administration from which expenditures were made under this subsection.

"Persons who serve in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces he served."

According to the Canadian War Veterans Allowance Act, as revised, veterans of the Canadian, Commonwealth and *Allied forces* may obtain the benefit of the War Veterans Allowance Act, if their war service, age, residence, and financial circumstances meet the requirements of that Act. The widows and orphans of such persons are also eligible.

In general terms, veterans of the Canadian forces are eligible if:

(a) they served in the theatre of war; or

(b) they are in receipt of pension for wartime disability; or

(c) they served in both World Wars and were honorably discharged from the last enlistment in each; or

(d) they served at least 365 days in Britain during World War I and prior to November 12, 1918; or

(e) they served in the United Nations Forces in Korea.

Veterans of Commonwealth and *Allied forces* must have the service or pension status of (a), (b), or (c) and have been domiciled in Canada when they joined such forces or, alternatively, *have resided in Canada for at least ten years.*

As far as service is concerned, eligibility of a widow or an orphan flows from the eligibility of the veteran concerned.

Allowances may be awarded to male veterans at age 60 and to female veterans or widows at age 55; or to either at earlier ages if they are deemed to be permanently unemployable because of physical or mental disabilities, or are unable to maintain and not likely to be able to maintain themselves due to a combination of economic handicaps and their disabilities.

The eligibility of an applicant also depends upon the financial circumstances, and an allowance may not be awarded if his personal property exceeds $1250 if he is single, or $2500 if he would qualify for the married rate.

Personal property includes cash, stocks and bonds, nonessential motor vehicles, and his interest in certain real property, other than his residence.

The maximum monthly allowances are $121 for a single recipient and $201 for one at the married rate. The rate for one orphan child is $69, for two $121, and for three or more orphans of one veteran, the rate is $163.

The amount awarded, however, depends upon the other income, exclusive of exempt income, that the recipient has; and the combination of other income and allowance may not exceed the relevant annual income ceiling. These ceilings are—

Single recipients	$1,932
Married recipients	3,252
One orphan	1,116
Two orphans	1,800
Three or more orphans	2,280

The ceiling is increased by $120 if the recipient or his spouse is blind.

Single war veterans allowance recipients may have exempt casual earnings of up to $800 a year and married recipients up to $1200. Casual earnings are defined as income from full-time employment of not more than four consecutive months in any one year, or part-time work for any period.

Earnings of both the recipient and his spouse are taken into account and the recipient must report all earnings and changes in income of his spouse as well as his own.

Medical and hospital treatment regulations provide that, under certain conditions of service and economic circumstances, veterans in receipt of award under the War Veterans Allowance Act may be granted medical treatment in Canada only for any conditions in accordance with the veterans treatment regulations.

According to these treatment regulations, the treatment privileges of United States veterans who receive the War Veterans Allowance include hospital and medical care, prosthetic appliances, hearing aids, dental care, and the provision of drugs. Domiciliary care for the elderly or chronically ill may also be provided where available.

Mr. Chairman, The American Legion is concerned about the welfare of those Canadian Armed Forces members, many of whom are United States citizens, or who, having served in the wartime Canadian forces, have since become residents of the United States, and who, by reason of illness or old age, are suffering distress. It is true that in many instances, assistance may be available to them through Federal, State or Community resources. However, The American Legion believes, in regard to this category of veteran, as it does about the veterans of our own armed forces, that they are indeed entitled to a measure of additional consideration because of their wartime service. The Dominion of Canada has recognized this special entitlement in its Canadian War Veterans Allowance Act. In our judgment, the United States, in so many ways the most generous nation on earth, should do no less.

In consideration of H.R. 13377, The American Legion urges that it be amended to include revision of section 109 of title 38, United States Code, so as to extend entitlement to pension and medical and hospital services to those Canadian Armed Forces veterans who have resided in the United States for ten years or more and who had wartime service such as would be required to qualify for these benefits under the Canadian War Veterans Allowance Act.

Thank you for receiving the views of The American Legion on this pending legislation.

FACT SHEET

Re H.R. 71—Medical care for certain members of Allied Wartime Forces.

1. INTENT OF LEGISLATION

This bill would extend to any person who served in the first or second World War as a member of the Armed Forces of Czechoslovakia or Poland, and has been a citizen for

ten years, entitlement to VA hospital and medical care benefits.

2. ADMINISTRATION'S POSITION

The Administration opposes this bill on the following grounds.

(a) Would be a departure from policy that VA benefits should be granted only to those who served in U.S. Armed Services.

(b) No way to estimate costs. See attached.

(c) Extension of these benefits would be on a nonreciprocal basis.

3. VETERAN'S ORGANIZATION OPINIONS

A. D.A.V. See attached.

B. American Legion. See excerpts attached from testimony given on these issues.

C. V.F.W. See excerpts attached from testimony on these issues.

WASHINGTON, D.C.
September 4, 1974.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans Administration on H.R. 13377 and S. 3890, identical 93d Congress bills "To amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II."

H.R. 13377 was passed by the House of Representatives on August 5, 1974. Each of the subject bills would amend section 109 of title 38, United States Code, to extend to any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and has been a citizen of the United States for at least ten years, entitlement to hospital care and medical services, and domiciliary care under chapter 17 of title 38.

Benefits under the subject bills would not be available to a person who is entitled to payment for equivalent care and service under a program established by such foreign government for persons who served in its armed forces during World War I or World War II.

Section 109(a)(1) of title 38 currently authorizes the Administrator, in consideration of reciprocal services extended to the United States and upon a reimbursable basis, to furnish hospital care, medical services, and education, training or similar benefits to discharged members of the armed forces of the government of any nation allied, or associated, with the United States in World War I (except a nation which was an enemy of the United States in World War II), or World War II, if such benefits are authorized by such government for its veterans. Section 109(b) provides that persons who served in the active service in the armed forces of any government allied with the United States in World War II, and who at the time of entrance into such service were citizens of the United States, are, if otherwise qualified, entitled to the benefits of chapters 31 and 37 of title 38 in the same manner and to the same extent as U.S. veterans of World War II, provided he is a resident at the time of filing a claim, and has not received similar benefits from the nation in whose armed forces he served.

The general policy of Congress, except as to those benefits in section 109(b) of title 38, United States Code, has been to provide direct benefits solely for veterans who served in the Armed Forces of the United States and their dependents. The direct extension of certain benefits (although provided on a reciprocal basis in sec. 109(a)) to persons who served with governments allied with the United States, but who rendered no service in the U.S. Armed Forces, would be a departure from that policy.

While the provision requiring each applicant to furnish an authenticated certification from the French Ministry of Defense or the British War Office as to service would make either of the subject bills more administratively feasible than similar purpose bills introduced in past years, we are still of the opinion that enactment of either H.R. 13377, or S. 3890 would be an unwise departure from the well-established policy that veterans' benefits should be granted only to those who served in our Armed Forces. Moreover, we do not believe that residents of the United States who are nonveterans of this Government should be provided medical care benefits at the expense of the taxpayers of this country, solely because of a period of lawful residence in the United States, especially when the majority of U.S. citizen taxpayers are not entitled to the same benefits for themselves.

Accordingly, we oppose the enactment of either H.R. 13377, or S. 3890.

It is not possible to estimate the cost of the subject bills should either be enacted, since we have no information as to how many individuals may qualify for benefits.

We were advised by the Office of Management and Budget in regard to a basically identical report to the Chairman, House Committee on Veterans' Affairs, on H.R. 13377, that there was no objection to the presentation of that report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

VFW

The Veterans of Foreign Wars has no official position on the specific bills before you which propose veterans medical care by the Veterans Administration for certain members of Allied Wartime Forces. The Veterans of Foreign Wars, however, does have positions of long standing which address themselves to the integrity of veterans programs and the definition of who is a veteran or his dependent. The central question to be asked by the proposal in H.R. 13377 and S. 684 by Senator Stevenson of Illinois is—Who is a veteran? The bills before you propose to expand the definition of a veteran to include persons who did not serve in the U.S. Armed Forces. The beneficiaries of the proposed legislation could have served in the Armed Forces of their respective national governments long before the United States entered World War I or World War II. This is because the dates of service for these allied veterans for entitlement to veterans assistance would be 1914 to 1918 for World War I and 1939 to 1945 for World War II.

No one denies that these veterans who would benefit by approval of this legislation fought valiantly on our side. We all know that after the war was over they found that their own countries had been taken over by alien regimes and they subsequently emigrated to this country by the hundreds of thousands, where they continue to live in the tranquility and freedom for which they fought.

Notwithstanding, there are thousands of U.S. citizens who consider themselves veterans, who are not entitled to one dime of veterans benefits. The most notable group from World War I are those Americans who went to France before America got into that war in 1917. They formed what is called the Lafayette Escadrille, whose record many believe was never surpassed. However, we have never done a thing for them.

During World War II another group who served with the Armed Forces was the Women's Army Auxiliary Corps. This group, too, has never received a dime of veterans benefits.

There are thousands of other Americans who have served in our Armed Forces, or been an integral part of the Armed Forces, such as female telephone operators who served with our Signal Corps during World War I, who have never been recognized for any veterans benefits.

Another fact to keep uppermost in mind is the estimate that there are 52 governments who were allied with the United States during World War I and II. The bill before you is limited to veterans of the Polish and Czechoslovakian forces under British and French commands. It is true that a ten-year citizenship period is necessary to qualify for veterans hospital care. Approval of this legislation, however, will establish a precedent. Once the precedent has been established, it logically follows that other Allied veterans will be asking for equal treatment.

Mr. Chairman, we all know the problems of having adequate funds and personnel recommended and approved for Veterans Administration hospitals. During the past several years the struggle for adequate funds for veterans medical care has been a number one issue of the Veterans of Foreign Wars. The bills before you to extend veterans medical care to allied veterans will certainly not relieve this situation.

Again, I hasten to add that these Allied veterans probably, more than most of us, realize what a precious possession freedom really is. These Allied veterans have made a great contribution to America. Regretfully, however, it must be emphasized that a principle is involved here, which should be looked at very carefully by this Committee and the Congress. If this legislation is approved it will expand the definition of a veteran entitled to veterans benefits by the U.S. Government for the millions who may have fought on our side during World War I and World War II.

AMERICAN LEGION TESTIMONY, SEPTEMBER 26, 1974

The purpose of the bill is to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Specifically, the bill extends entitlement to hospital and medical care to any person who served during World War I or World War II as a member of any armed force of the governments of Czechoslovakia or Poland, and participated while so serving in armed conflict with an enemy of the United States, and who has been a citizen of the United States for at least 10 years. Benefits would not be available to a person who is entitled to payment for equivalent care under a program established by the foreign government for persons who served in its armed forces during the subject periods of war. The estimated cost of these benefits, should they be provided to the designated class of beneficiaries, is not now available, because, at this point, the number of persons who would be favorably affected is not known.

The American Legion perceives no compelling reason why the benefits stipulated in the measure should not be provided. It is not inconsistent, historically, for the United States to be generous to those allied with our cause who helped achieve victory in the contests in which our country engaged.

Should the Congress look with favor on the intent of H.R. 13377, however, we suggest that it should go further, and provide certain benefits, at the same time to veterans of the armed forces of our old and true friend beyond our northern borders, the Dominion of Canada, who now reside in the United States. In support of this concept of extended benefits, the American Legion has Resolution No. 201 (Minnesota), adopted by the 54th National Convention in August, 1972.

In consideration by the Committee of our proposal, we draw attention to the provisions of section 109 of title 38, United States Code, which currently provides the following benefits for discharged members of allied forces. Section 109 reads:

"In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States during World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on final passage of H.R. 71 without intervening motion, amendment, or debate.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) would each vote "aye."

The result was announced—yeas 50, nays 25, as follows:

[Rollcall Vote No. 580 Leg.]

YEAS—50

Bentsen
Biden
Brooke
Bumpers
Burdick
Case
Chiles
Clark
Culver
Durkin
Fong
Glenn
Goldwater
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mathias
McClellan
McIntyre
Metcalf
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Talmadge
Weicker

NAYS—25

Abourezk
Allen
Bartlett
Bellmon
Brock
Byrd,
Harry F., Jr.
Byrd, Robert C.
Church
Cranston
Curtis
Domenici
Fannin
Ford
Garn
Hansen
Helms
Laxalt
Leahy
Mansfield
McClure
McGovern
Morgan
Scott,
William L.
Symington
Young

NOT VOTING—25

Baker
Bayh
Beall
Buckley
Cannon
Dole
Eagleton
Eastland
Gravel
Hart, Philip A.
Hartke
Hollings
Humphrey
Kennedy
McGee
Mondale
Montoya
Moss
Stennis
Stevenson
Taft
Thurmond
Tower
Tunney
Williams

So the bill (H.R. 71), as amended, was passed.

Mr. STONE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 15194, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill which had been reported by the Committee on Appropriations.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination reported earlier in the day.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I request the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to and the Senate resumed the consideration of legislative business.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

Mr. MANSFIELD. Mr. President, it is hoped we will be able to work out a time agreement on the pending bill. Whether or not we will succeed, the effort will be made.

Furthermore, I would like to emphasize to the Senate that the Secretary of State, Dr. Kissinger, will be meeting with all interested Senators in S. 207 at 2:45 this afternoon.

TIME LIMITATION AGREEMENT

Mr. PASTORE. Mr. President, if agreeable to the other side, I would like to make a unanimous-consent request.

I would like to request that we have a time limitation on amendments and motions in the usual form of 30 minutes to be equally divided, and 1 hour on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, this is a task I am performing on behalf of our distinguished chairman (Mr. MCCLELLAN) to explain H.R. 15194, which is the bill before us now, which was passed by the House of Representatives on August 25.

The next day the Senate Committee on Appropriations acted on this measure and reported it to the Senate on August 27.

The bill includes a grand total of $3,952,433,000 in new budget authority including appropriations of $2 billion to the Economic Development Administration of the Department of Commerce for grants for various State and local public works projects: $1,250,000,000 to the Department of the Treasury for an antirecesssionary program of revenue sharing and $700 million to the Environmental Protection Agency for additional waste treatment works construction grants. Also included in the bill is a total of $2,433,000 in new budget authority for certain related administrative expenses.

Mr. President, the recommendations of the committee represent the full amount authorized. The only change in the bill as passed by the House involves the appropriation to the Environmental Protection Agency for the waste treatment construction grants in fiscal year 1977. The committee amendment provides $700 million—the full amount authorized—which is $500 million more than the total approved by the House.

In view of the committee's decision to provide the total authorization, the language included in the bill by the House giving the agency the authority to allot funds only to States for which currently authorized funds are no longer available is superfluous and has been stricken. The committee has also deleted language indicating that no State can receive more than its full authorized allotment. The language is no longer required because the authorization act becomes controlling with the deletion of the above mentioned allotment authority language.

In preparing this bill, the committee utilized its existing subcommittee structure. The $2 billion appropriation for the Economic Development Administration was handled by the State-Justice-Commerce-Judiciary Subcommittee. The appropriation for the Environmental Protection Agency as well as the so-called antirecessionary appropriation was handled by the HUD-Independent Agencies Subcommittee chaired by the distinguished gentleman from Wisconsin (Mr. PROXMIRE), who will answer any questions on those programs.

Mr. President, the enactment of this legislation, in spite of the vetoes, is one more step in the achievement of the recommendations of the Congressional Program for Economic Recovery and Energy Sufficiency which was developed at the outset of the first session of the 94th Congress.

The bill is also within the budget resolution.

Now, Mr. President, I have a statement which explains the $2 billion for the EDA, the full amount authorized, for local public works projects.

The program will be administered by the Economic Development Administration of the Department of Commerce.

Seventy percent of the funds will be targeted for areas which have unemployment rates exceeding the national average, which now stands at 7.8 percent of the workforce. Thirty percent of the funds will be given to areas where unemployment is below the national rate but above 6.5 percent. In this way, funds will be targeted to those areas which are suffering from high and persistent unemployment and which are truly in need of Federal assistance.

Mr. President, it is clear that the funds are needed.

Unemployment is up to 7.9 percent in August, compared with 7.3 percent in May. This means that 646,000 more people have been added to the unemployment rolls in the last 3 months alone. Unemployment in the construction industry stands at 17.1 percent. Nationally, 7.5 million workers are now unemployed.

This will cost the country $17 billion this year in unemployment benefits, including $5 billion in Federal contributions to the unemployment trust fund.

The purpose of chapter 1 is to divert a portion of the budget to provide job opportunities that put people back to work constructing facilities of lasting value to the community, rather than passively continuing to pour more and more Federal funds into the unemployment trust fund. In other words, we are going to have to appropriate these funds one way or another. It seems to me that this bill represents the compassionate and sensible approach.

I do not think we need a lot of debate on this matter. The mandate of the Congress is clear. When the President vetoed the authorizing legislation, the Senate overrode the veto by a vote of 73 to 24.

A few days ago, the House passed this appropriations measure by a vote of 311 to 72.

I sincerely hope that my colleagues in the Senate will support the committee recommendation and provide the full $2 billion for chapter 1.

If there are any questions with reference to this title, I will be only to happy to explain it.

Mr. President, at this time I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded for the purpose of further amendment as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 3, in line 7, strike out "$200,000,000" and insert "$700,000,000".

On page 3, at the end of line 8, strike out the colon and lines 9 through 15.

Mr. PASTORE. I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. PASTORE. Whatever time he needs.

Mr. PROXMIRE. Mr. President, as chairman of the HUD-Independent Agencies Subcommittee I would like to summarize the action taken by the subcommittee as well as the full Senate Appropriations Committee on chapter II of H.R. 15194, the Public Works Employment Appropriations Act. This chapter of the bill contains $1,250,000,000 for an antirecession assistance program to be used for the maintenance of basic services by State and local governments and $700,000,000 for waste treatment construction grants. Administrative expenses are also included within total chapter II funding of $1,952,433,000.

The total amount provided is $500,000,000 above the funding approved by the House in passing H.R. 15194. This results from the committee's decision to provide the full $700,000,000 authorized for waste treatment construction grants rather than the $200,000,000 included in the House version of the bill. This committee decision followed on the heels of testimony by the Environmental Protection Agency to the effect that it would be an administrative nightmare to distribute the $200,000,000 provided by the House on the basis of an authorization entitling various States to $700,000,000.

The antirecession portion of this chapter provides emergency Federal assistance to State and local governments hard hit by recessionary pressures, in the form of general payments to State and local governments, beginning July 1, 1976, and covering 5 calendar quarters. The authorizing legislation allows appropriations of $125 million for each calendar quarter in which the national seasonally adjusted unemployment rate reaches 6 percent, plus an additional sum of $62.5 million in each quarter for each one-half percentage point above the 6 percent unemployment level. One-third of the payments would go to eligible States and two-thirds would be for eligible units of local government—a total of $1,250,000,000 overall.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. The bill before us today provides the full $1.25 billion authorized, with $312.5 million allocated for the transition quarter and the balance of $937.5 million targeted for obligation in fiscal year 1977.

The waste treatment grant funding in chapter II provides $700,000,000 for additional waste treatment construction grants in fiscal 1977 to be distributed to 37 States and Territories that did not previously receive the full amount to which they would have been entitled under an allocation formula based on a 1974 needs survey. The 1974 formula was not used in February 1975 to distribute $9 billion in previously impounded funds and consequently the funding to be provided here is meant to partially redress an inequity that arose from the distribution of previously authorized funding on the basis of an outmoded formula. In other words, this money is directed toward ironing out inequities in the formula for the construction grant program rather than creating immediate employment opportunities for those seeking jobs.

Mr. President, I believe that the Congress was ill-advised to pass the authorization and am compelled to oppose the appropriation of these funds.

Let us consider the specifics. There is no evidence that the EPA water and sewer funds contained in title III will attack unemployment quickly or in the areas of greatest need. As Assistant EPA Administrator Alm pointed out in testimony before the Appropriations Committee on August 26, many States with serious unemployment problems, such as New York, California, Rhode Island, and Massachusetts, are excluded. Furthermore, it will take a year just to obligate the first third of the funds authorized. Outlays creating jobs will take even longer.

Title II is very much a makeshift program. It pumps money into States and localities for the hiring of public employees without any effective controls over the way the money is to be used. It is conceivable that a community could utilize all the money at its disposal just for pay raises. In such a case the funds would not add a single man or woman to the employment rolls. Furthermore, there are substantial questions in my mind as to the degree to which title II funds will get to the highest unemployment areas in view of the large degree of error that may be inherent in some of the unemployment figures with which the Treasury Department will be dealing.

Not only are the programs this legislation funds costly and ineffective, they may result in the creation of jobs at a time when the Nation is confronted by inflationary pressures rather than recessionary problems. As I have already pointed out, jobs will not be created under title III for at least a year. The Treasury Department has made it clear that it will take a substantial amount of time to provide interim regulations and process assurance forms under title II of the act. Here again the funds may be disbursed at a time when their economic impact is a negative one.

For all of these reasons, as well as the excessive price tag of almost $4 billion attached to this legislation, I must cast my vote against the bill. I do this with the knowledge that it will in all likelihood pass the Congress and prevail over a Presidential veto, should there be one. I also recognize that many States and communities will be delighted to receive the substantial additional Federal funding contained in this measure. Yet in the face of a deficit for fiscal 1977 that may mount to more than $50 billion I believe most strongly that a "nay" vote is the only responsible course of action.

Mr. President, I thank the distinguished Senator from Rhode Island for yielding me time, and I yield the floor.

Mr. MATHIAS. Mr. President, I think it is appropriate that the Senate addresses itself to this bill in the week in which we come back from the Labor Day recess, because on Labor Day we celebrate what the working people of America have done to create the tremendous country that we now enjoy, and we draw attention to the great privilege that it is to be able to work.

But for anyone to be able to work, he has to find a job, and it is a distressing thing to me that we have 7.8 percent of our work force unable to find jobs in America today. That is really what this bill is all about.

The committee looked at the problem with a view to finding a way for every American to enjoy the privilege of work, to be able to make a contribution to the country through work, and we feel that this is a much better approach than the dole—a much better approach—and therefore this bill looks to substantial public works for ways in which people can contribute on meaningful, lasting projects for the Government.

There are some objections which I feel obliged to call attention to in the minority section of the report, of people who have raised the question that these jobs will be a long time coming on the line. I agree with that, but the committee has done the best it can, and we feel this gives us reassurance that the jobs will be created, and that meaningful contributions to the Nation will result from this bill.

Mr. JAVITS. Mr. President, I call attention to that section of the report dealing with antirecession financial assistance funds.

Mr. President, the reference I make is to the sentence in the report, on page 9, which reads as follows:

> The funds are to be used for the maintenance of basic services ordinarily provided by State and local governments, such as police and fire protection and sanitation services.

It is to be borne in mind that this money will go to the communities in the country hardest hit by the recession. As the recession eases, it will be phased out, but a new factor has emerged that Senator PASTORE has in mind, and it is necessary to have it on the public record, or I would have just filed my statement.

Yesterday, we concluded the conference on CETA, and one of the points of settlement on CETA, which is the public service employment program, was a provision—if I may have the attention of the Senator, because it is really important.

One of the provisions of the conference related to what will happen to jobs which are the subject of attrition now occupied under CETA. There are something in the area of 320,000 such jobs. The attrition, we decided—with some conditions, but they are not important here—would be divided 50–50 between municipal rehires for public health and safety purposes only and targeting to the long-term unemployed.

When the Senator has his conference on this bill, I hope he will have before him the text of the other bill. We are always accused of doing something with the right hand and not knowing what the left hand has done. I am informing the Senator that these two ideas and these two pots of money have to be related to each other and coordinated, because they both concern precisely the same thing.

One of the reasons for the 50–50 deal which I proposed was the contemplation of this very bill and this very appropriation. That would give more flexibility, depending upon what was available in each pot. But they must be coordinated, because they propose to do almost precisely the same thing..

Mr. PASTORE. Will the Senator yield on that very point?

Mr. JAVITS. I yield.

Mr. PASTORE. Does the Senator not think it would be a good idea, speaking of the point that is being made now by the Senator from New York—whom I consider to be a great human being—if he would put that in writing in a letter?

Mr. JAVITS. I will.

Mr. PASTORE. Then we can transmit that to the administrator of these programs, because I think that the problem that he sets forth, if his legislation does pass, is an administrative one more than a legislative one. I think that that ought to be taken into account.

Here we are, trying to create jobs, and as CETA goes out of operation, we are going to find those people out of work and they will not be getting the same jobs, for the reason that one is a public works program and the other is a public service program.

Mr. JAVITS. CETA, you see, is in business. If it passes, we put it in business for another year, we extend it for another year, and we have made allowance for precisely what the Senator has made allowance for in his bill.

But what we will need, may I say to the Senator—and I will get our conferees to do the same thing—is the two different administrators' problem——

Mr. PASTORE. Write to both.

Mr. JAVITS. That is correct. Notice to these administrators that we expect them to see the money is treated as a unit so that a municipality is not going to profit from one and lose in one or the other, or vice versa.

Mr. PASTORE. Has the Senator's bill been reported out of the committee?

Mr. JAVITS. The conference report was signed yesterday between House and Senate, so it is well on its way, and we think the President will sign the bill. And, of course, on this one we are so unanimous that again we may have to pass it over a veto, and we will, so this is not a real problem.

Mr. PASTORE. I hope we will not have to do that again. I hope the President of the United States will be conscious of the fact that his veto of the authorization bill was overridden, and I do not think we ought to go through this agony twice.

Mr. JAVITS. I do not think President Ford is a bad sport. I hope very much he signs this.

Mr. PASTORE. I know he is a good sport. He used to play football, and I would expect him to do the right thing. [Laughter.]

Mr. JAVITS. I thank the Senator.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President: The Senate is considering H.R. 15194, the public works employment appropriations bill. If this bill is enacted, it will provide full funding for the Public Works Employment Act of 1976.

The Senate has time and again reviewed the need for the job stimulus programs which this bill would provide. In recent months, we have so often voted in favor of its purpose and provisions that I hesitate to comment on its substance at any length.

I do want to point out, however, that in spite of protestations that the economy is fast on the way to recovery, the need remains great for this bill and for the 300 thousand jobs it will create.

In my own State of Maine, for example, unemployment in July rose more than a full percentage point over the June rate, to a rate of 8.9 percent. July unemployment rose nationally as well, although not as dramatically.

In Detroit, we are seeing a chilling example of what happens when a city is forced by an unprecedented budget crisis to reduce its law enforcement effort below the level at which public safety can be maintained.

Clearly, Mr. President, if the economy is finally improving in some parts of the country, the recovery still needs a push in others.

A principal purpose of this legislation it to provide a quick stimulus to the construction industry, and to individual State and local governments where the painful impact of the recession lingers on.

So I want to commend the distinguished chairmen of the two subcommittees involved, Senator PASTORE and Senator PROXMIRE, and the distinguished chairman of the committee, Senator McCLELLAN, for their dedicated effort in bringing this bill so quickly to the floor. The programs funded by this bill represent a major congressional priority. Full funding of this appropriation bill was assumed in the second budget resolution which the Senate yesterday passed overwhelmingly.

Certainly, this bill reflects the high priority Congress has placed on reducing the Nation's unacceptably high unemployment rate, and it should be passed. I am confident that the Senate can achieve the goals of the second budget resolution which included this important initiative.

Mr. RANDOLPH. Mr. President, today the Senate is considering the appropriations bill for the Public Works Employment Act of 1977 which was enacted on July 22, 1976, over the veto of the President. More than a year ago, the Committee on Public Works began developing legislation to combat our serious unemployment problem. We were prompted by concern for the American economy and the challenge to create new job opportunities for millions of unemployed Americans.

I am gratified that the Senate Appropriations Committee has recognized the problem and recommended full funding for the act. We need a new infusion of strength into the American economy and I believe that a broad-based public works program will provide such a stimulus. Our economy continues to suffer even though we hear daily optimistic predictions that it will soon right itself. I hope these predictions are true for we have suffered the consequences of economic downturn for too long a period. We continue to be faced with a severe downturn and the highest unemployment since the Great Depression of the 1930's. With unemployment currently at 7.9 percent, millions of American workers are unemployed. The unemployment rate has actually increased in recent months, giving further urgency to the need for positive action that will result in new jobs. The official statistics indicate that approximately 7 million Americans are without jobs. This is not the real unemployment. It is even higher because many have been driven by discouragement from the job market.

The appropriation of $3.95 million recommended in H.R. 15194 will commit funds to three important activities authorized by the Public Works Employment Act. First, $2 billion will be provided for the construction of local public works facilities. This program will provide jobs for skilled workers in the construction industry where unemployment remains at about double the national average. In addition, the creation of public facilities whose usefulness extends for many years beyond the life of the program will result. Second, $1.25 billion in countercyclical revenue-sharing assistance to States and communities will be provided. This money will be of great value to public bodies whose local revenues continue to be depleted by adverse economic conditions. Third, the bill funds the $700 million additional authorization for the waste water treatment construction grant program authorized by the Public Works Employment Act. These funds will enable many communities to move forward to eliminate water pollution problems while creating needed jobs.

The appropriations provided in this bill will be invested by State and local governments to create jobs. This employment is not only direct employment but will create jobs in related fields which supply and service the construction industry.

Mr. President, I am appreciative, as our colleagues, of the speed at which the Appropriations Committee has moved to approve funds for the Public Works Employment Act. One of the most carefully conceived provisions of the act was to require that this bill provide employment as quickly as possible. It was in this vein that we wrote the bill specifying that projects be funded which could begin within 90 days. Speed is of the essence if we are to create meaningful jobs for the unemployed workers of this country.

Mr. President, we know that in the past year there has been progress in the recovery from the recession in this country. This recovery, however, is incomplete. I repeat, with unemployment in the labor force increasing over the past several months to 7.9 percent, we cannot consider the economy healthy. We must move forward to provide the funds which will create jobs, jobs of lasting benefit to all Americans. I believe the Congress will support the recommendation of the Appropriations Committee to provide full funding for the Public Works Employment Act of 1976.

Mr. HUDDLESTON. Mr. President, I am pleased to support H.R. 15194, the Public Works Employment Appropriations Act, which is designed to provide an immediate economic stimulus in those areas which continue to experience unemployment levels that are far too high.

The overall national employment rate currently stands at 7.8 percent. That represents some improvement over the earlier high figure of 9.1 percent which we experienced during February, March, and June of 1975. For the 7.4 million Americans who remain out of work, however, the improvements in the figures mean little. The statistics mask the all too real situation of no work, no jobs. This situation is particularly acute in selected industries, such as the construction one, where unemployment runs about 17 percent.

The pending legislation will address the problem of selected areas which have high unemployment rates. It will focus on immediate assistance, which should help overcome the lull in economic recovery we have apparently entered, but should not extend over such a long period as to be stimulative when, if economic predictions are correct, such a stimulus will not be required. Furthermore, the legislation concentrates on tangible, productive work—on construction of projects which in many cases have already been determined to be of value and given some priority in local, State and Federal planning for future expenditures.

Title I of the legislation, for example, will focus on public work projects, such as schools, roads, libraries, water and sewer lines, and health and education facilities. Seventy percent of the funds will be spent in areas which have unemployment rates above the national average; 30 percent will go to areas with unemployment above 6.5 percent. Grant applicants will have to insure that onsite labor can begin within 90 days of approval. Surely, this reflects the intent to put dollars where they are needed in terms of worthwhile construction and in terms of reducing unemployment. Surely, these provisions reflect the intent that the funds be used as soon as possible so that there will be an immediate attack on unemployment.

If there is a problem with title I—and I think that there may be—it relates to the unemployment figures which are being used to determine eligibility. At the State and the sub-State level, where the latter are available, the figures being used are those which the Bureau of Labor Statistics has accumulated. These figures are not seasonally adjusted, and that has raised some justifiable fears among State and local officials, especially in areas where agriculture and tourism are significant. In the summer months, unemployment figures, if not seasonally adjusted, will be lower in these areas and may not adequately reflect the longer term situation. I pursued these matters with Assistant Secretary of Commerce for Economic Development, John Eden, when he appeared before the Subcommittee on State, Justice, and Commerce of the Senate Appropriations Committee; and I shall ask that a copy of our exchange appear at the end of this statement. I understand the problem which BLS and EDA face regarding the lack of seasonally adjusted data which can be used. But, I also hope that BLS and EDA will continue to be aware of the problem and, to the extent possible, be flexible in dealing with areas where the statistics may not adequately reflect the true situation.

While title I is generally referred to as the construction section, title II is generally considered the people section, for this section provides funds to the States for the maintenance of basic services such as police, fire protection and sanitation, which may have been curtailed or eliminated because local revenues could not support the services at previous levels. Again, funds are to be distributed according to unemployment rates.

Finally, title III provides additional

funding for wastewater treatment construction in States which did not receive the full amount which they would have been entitled to under an allocation based on a 1974, rather than an earlier, needs study.

While these funds may not be obligated as quickly as funds provided in titles I and II, it is important that these funds be provided so that States and localities can move ahead with projects whose need has already been recognized and so that those States whose need had grown but who did not see that need reflected in the disbursement of previously authorized funds can be compensated. I believe that it is only fair to provide these funds and that now is the best time to do it.

Unfortunately, the House provided only $200 million of the $700 million authorized. At the subcommittee level in the Senate, we were able to restore a full funding; and I hope that we will be able to retain the higher figure in conference in order to overcome the disadvantage to which some 33 of our States have been subjected.

Mr. President, I believe the bill is a timely one. I urge its adoption. I hope that it can be moved through the conference process and enacted into law promptly and that the funds provided can be expeditiously distributed so that we have the benefit of this legislation during this slowdown in economic recovery.

Mr. President, I ask unanimous consent that the material to which I have referred may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator HUDDLESTON. What three-month period is being used to determine the unemployment rate?

Mr. EDEN. We would use the most recent period of three consecutive months for which data was available for that project area at the time of application. The period would be different depending on when the application is submitted and what data is available for the project area.

Senator HUDDLESTON. Does EDA now have a list of those areas with unemployment above the national average and which, thereby, fall into the 70-percent category and above the 6.5-percent level which fall into the 30-percent category? If so, please supply. If not, when will they be available?

Mr. EDEN. This list is being made available to our Regional Offices so that they may advise localities of eligibility. We expect them to have this material by the middle of next week.

We plan to update this listing monthly.

Senator HUDDLESTON. What is EDA's source of unemployment data?

Mr. EDEN. We will rely primarily on BLS statistics but will also accept state employment data if the BLS data is not available.

Senator HUDDLESTON. Your regulations on page 5 seem to suggest that States and localities cannot question the data base being used or submit data of their own if they are in an area for which BLS has figures. I had understood that localities would be able to submit additional data. What is the policy?

Mr. EDEN. If BLS data is available, it prevails, except when a locality within a jurisdiction to which the BLS data applies, chooses to use State agency data. BLS data must be used if the project area is a jurisdiction which is on the BLS list.

Senator HUDDLESTON. How can additional data be submitted?

Mr. EDEN. The applicant would obtain statistics from the State Employment Security Agency and include the data as part of the application.

Senator HUDDLESTON. When will localities be able to do this? Will they be given sufficient time so as not to prejudice their applications?

Mr. EDEN. They could begin immediately to check on the availability of the data or to generate data when it is not available.

Senator HUDDLESTON. What kinds of data will be acceptable from localities?

Mr. EDEN. BLS has directed the SESAs to cooperate with localities in generating data where it is not already available in the basic BLS listings.

Senator HUDDLESTON. In cases where State employment or other agencies collect data, will localities still be allowed to submit their own data or question the data being used?

Mr. EDEN. The data will have to come from BLS or SESAs, with the exception of Indian reservations which may supply the data directly.

Senator HUDDLESTON. What data will be acceptable for indicating how an applicant might draw on unemployment persons in adjoining areas?

Mr. EDEN. Applicants may define their project area to include the full area from which they expect to draw employees to work on that project.

Senator HUDDLESTON. What criteria will be used to determine whether or not a neighborhood qualifies, and who will make that determination?

Mr. EDEN. An applicant may further define a neighborhood within a jurisdiction and EDA would consider this valid so long as the unemployment data is certified by the SESA.

Senator HUDDLESTON. Some States, including Kentucky, do not seasonally adjust State-collected unemployment figures. Do you know how many States this is true for?

Mr. EDEN. I do not know how many States do this. However, all data supplied to BLS for use in CETA and other Federal programs is raw data which has not been seasonally adjusted.

Senator HUDDLESTON. Have you made any administrative arrangements to adjust for this so that you will not penalize tourist and agricultural States which have low unemployment during summer months but a very high rate for the rest of the year?

Mr. EDEN. Since projects within a State will be competing with other projects within that State, we feel that impact of seasonality on the distribution of projects within a State would be minimized. There are no plans to make adjustments for seasonality in determining the State allocations because BLS does not have such data.

Senator HUDDLESTON. In your regulations, you propose a regional allocation for funds. Would you explain your formula for these funds?

Mr. EDEN. We are utilizing a State allocation formula. Within the statutory limitations, 65 percent of the funds appropriated will be allocated to the States based on their share of the national unemployment; the remaining 35 percent will be allocated on the basis of the relative severity of the States' unemployment.

Senator HUDDLESTON. Until title X, there was a very uneven substate distribution of funds. What do you propose to do in implementing this Act to assure a balanced, equitable substate distribution of funds?

Mr. EDEN. We feel fairly certain that the various factors in the selection formula will tend to balance the distribution of projects within the States between their urban and rural areas and among the various parts of the State where unemployment is a significant problem.

Senator HUDDLESTON. Section 108(c) of Title I of the Public Works Employment Act of 1976, states in part: "Information regarding unemployment rates may be furnished either by the Federal Government, or the States, or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization."

What are you doing and what form will the assistance take?

Mr. EDEN. The SESAs will be working with the localities.

Senator HUDDLESTON. Will it be through EDA grants or Bureau of Labor Statistics personnel being assigned?

Mr. EDEN. There will be no EDA grants for this purpose; all activity will be by BLS and the SESAs.

Mr. NUNN. Mr. President, title III of this bill appropriates funds for the so-called Talmadge-Nunn wastewater treatment construction grant amendment. This amendment was originally attached to the authorization bill in order to correct an inequity in the amount of waste water construction funds distributed to 33 States. That amendment would have redistributed the $9 billion of impounded funds in a fashion that would have resolved the problem at no additional cost to the taxpayers. The first conference committee, however, saw fit to reject the Senate's position and authorize $1.4 billion in new spending to make these 33 States whole.

As you know, the first bill was successfully vetoed and the second Public Works public service jobs bill, as passed by the Senate, contained the compromise title III language which had been developed in the first conference. The House then acted to deprive these 33 States of complete restitution by forcing the Senate to accept a 50-percent cut in authorization to a $700 million level.

The House Appropriations Committee continued the House erosion of the Senate's position by approving a mere $200 million for appropriations in title III, as compared to full funding of titles I and II. This completed a process which saw the House reduce the original Senate-passed bill $1.4 billion, which would have made whole the 33 States disadvantaged by EPA's procedures, to one-seventh its initial level.

The argument which EPA made in the House that the States are not prepared to obligate more than $200 million is simply incorrect. As a matter of fact, EPA has recently retracted that assertion.

Mr. President, fortunately the Senate Appropriations Committee, both at the subcommittee and full committee level, restored the $700 million to the bill. I believe that their action is eminently reasonable and consistent with the twice-recorded position of the full Senate on this matter. In view of the fact that $700 million represents one-half of the amount originally authorized, I believe it should be the bottom line.

Mr. FORD. Mr. President, I was extremely pleased when the Appropriations Committee included in H.R. 15194 the full funding of the $700 million authorization for waste treatment construction grants in fiscal year 1977. I feel that any reduction in this amount would be an error. I realize that the EPA testified in the House that they would obligate only $200 million and the House in its bill acted on this advice. However, I know from personal experience as

Governor that my State can encumber its share of the full $700 million appropriation. My position has been reinforced by the present Governor of the Commonwealth, Julian Carroll, and the secretary of the Kentucky Environmental Agency. I received the same advice from Governors of 10 of the other Southern States. This full funding is what has been needed and what has been awaited by the States.

I urge the Senate in all sincerity not to take action to reduce this amount; and I also hope that if the bill goes to conference, Senate conferees will insist on full funding, for it is right and it is feasible.

Mr. HRUSKA. Mr. President, House and Senate Appropriations Committee hearings on this legislation, (H.R. 15194), support and substantiate the President's July 6 veto of the Public Works Employment Act of 1976. In that veto message, President Ford listed five basic reasons for his action. Let me review those reasons at this time.

First, it created an intolerable addition to the budget.

Second, while the bill's sponsors estimated that it would create 325,000 new jobs, other estimates indicated that at the most some 160,000 work-years of employment would be created over a period of several years.

Third, the bill would create few new jobs in the immediate future.

Fourth, the cost of producing jobs under the bill would have been intolerably high, in excess of $25,000 per job.

Fifth, it would be inflationary because Federal spending would be increased with a resultant budget deficit of $1.5 billion in 1977 alone.

These reasons are equally valid when applied to this appropriations bill.

No one is more concerned over the effects of unemployment than the President. This appropriation will not cure unemployment. As a matter of fact this $4 billion will only reduce unemployment by one-tenth of 1 percent. It will, however, increase demands on the economy and on the borrowing requirements of the Government at a time when those demands are least desirable. Basic to meaningful job creation in the private sector is reducing the ever-increasing demands of the Federal Government for funds.

Passage of this appropriations bill will create an administrative nightmare for the Economic Development Administration of the Department of Commerce. Two billion dollars worth of project decisions will have to be made within 60 days. New bureaucrats, both in the field and in Washington, will have to be hired to cope with the applications and blizzard of paperwork. It has been estimated that EDT could receive 6,000 project applications—that would mean approval of over 100 applications per day for 2 months with each application accompanied by a favorable environmental impact statement. Does any Member of the Senate seriously believe that 6,000 favorable environmental impact statements can be acquired within 60 days? This appropriation is intended to create jobs, and create jobs it will, but far too many of the jobs will be in Washington.

Potential projects that could be funded range all the way from the modernization of tennis courts to the construction of a complex sewer system for a major municipality. Here is the rub. Local officials can delay any projects ready for bid in order to apply for funding under this program. If EDA is unable to make a decision on an application within 60 days, the application is automatically approved. Therefore, this appropriation may not create any new jobs. It may just substitute Federal money for local money, and there is no way EDA can assess how much of that is going to occur.

Mr. President, recent data reported by the Commerce Department shows that construction expenditures have increased more than $2 billion from May to June 1976, to a level prevailing in 1973. The economy, including the construction industry, is expanding rapidly as evidenced by the leveling in the inflation rate, interest rates, and the overall downward trend in unemployment rates. Notably, national employment is at the highest level in our history.

Pump priming the construction industry, as proposed in this appropriation, will provide relatively few jobs for the hardcore unemployed who are generally unskilled. Construction in general has a low degree of labor intensity and generally requires a greater share of skilled labor. Past studies have shown that countercyclical public works programs have been poorly timed, and have provided few employment opportunities for the unemployed. The impact of this appropriation would appear to be supportive of the inflationary policies of this Congress.

Mr. President, this appropriation is economically irresponsible. No new job opportunities are going to be created this year. Instead, the wage earner desperately trying to make ends meet must suffer the inflationary consequences of the Federal Government borrowing more billions of dollars. This appropriation is nothing more or less than a cruel election year illusion.

Mr. President, my objections to this measure will not, I suspect, stand in the way of a majority of my colleagues who will see fit to approve it. Nonetheless, if such a job-creation bill is going to be passed, I would like to draw attention to a much needed area where positive results could be achieved to improve the status of the criminal justice system in this Nation.

I refer specifically to the construction and renovation of jails and correctional facilities.

The unacceptable condition of our Nation's jails and prisons is well documented. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals found that—

> The most striking inadequacy of jails is their abominable physical condition.

A recent General Accounting Office report on conditions in local jails indicates that overall physical conditions of jails and the availability of services remain inadequate. Clearly, our correctional system is facing a crisis.

Evidence recently presented to the Judiciary Subcommittee on Criminal Laws and Procedures and the Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary by acknowledged experts in the field of corrections substantiates the critical nature of the problem which faces us. It has been conservatively estimated that it would cost more than $4 billion to renovate the Nation's jails. Replacement would cost even more. In 1971, Congress took heed of this problem by adding a new part E to the authorizing legislation of LEAA. Since enactment of this extraordinary provision, LEAA has made every effort to realistically meet the situation within the limitations of available funds and the constraints of its legislation. Since fiscal year 1972, LEAA funds for construction have amounted to $170 million. Yet, in light of the magnitude of the problem, it is obvious that much more needs to be done.

Between 1967 and 1973, incarceration of criminal offenders increased by 60 percent. There is every reason to believe that pressure for improved or expanded jail and prison capacity will continue to grow. As crime rates continue to climb, as more crime prone youth continue to constitute a high percentage of our population, as female crime increases, and as police and prosecutors become more effective in bringing criminals to justice, the entire criminal justice system will continue to suffer by the low quality of the Nation's jails and prisons.

Even if the population of those held in jails stabilizes, there is still an obvious need for improved facilities. A jail census funded by the Law Enforcement Assistance Administration found that 25 percent of cells in use were built prior to 1920. The frequency with which both Federal and State judges are beginning to view inadequate and overcrowded facilities as cruel and unusual punishment further suggests an urgent need for both facilities improvement and program reforms. The closing by court order of the Tombs jail in New York City and the ruling of a Federal judge in Alabama requiring the State prison system to meet specific standards within 2 years are prominent examples of recent judicial rulings in this area.

I am gratified to note that the Economic Development Administration's guidelines for the local public works capital development and investment program includes construction, renovation, repair, and other improvements to detention facilities among eligible projects. However, I urge the administrators of the program to give emphasis to such projects. Too often we are faced with priorities which allow the Federal Government to spent four times as much on wastewater treatment as on improvement of the criminal justice system. The desperate condition of the country's corrections facilities mandates that more attention be given to this critical area.

While expanded construction and renovation of correctional facilities is necessary, care must be taken to assure that we do not engage in such construction merely for the sake of construction. To this end, it is important that the Department of Commerce and EDA, in regulations to implement the Public Works Improvement Act published on August 23, 1976, state that projects involving construction of detention facilities must comply with the requirements of part E of LEAA's enabling legislation. Part E places stringent requirements on the construction of jails. The intent of this provision is to encourage planning and program development and assure that any jails and prisons constructed are not patterned on the unsuccessful models of the past.

The National Advisory Commission on Standards and Goals, an LEAA Blue Ribbon Committee on Corrections, the National Council on Crime Delinquency, and the Society of Friends have all urged caution in the construction of new detention facilities. Thus, the LEAA requirements emphasize community based programs and the reasonable use of alternatives to incarceration. Where construction is funded, it must meet guidelines incorporating advanced techniques approved by the National Clearinghouse for Criminal Justice Planning and Architecture. The clearinghouse also provides technical assistance to State and local governments in program planning, architectural designs and development of correctional master plans.

There are today, Mr. President, a large number of construction projects which meet the requirements of the Public Works Employment Act and which have received clearinghouse approval. All that is lacking is money with which to initiate construction or provide matching funds. As I noted earlier, if any public works jobs bill is going to be approved even though I oppose its approval, the administrators of the funds made available under the bill should direct substantial attention to the condition of our jails and prisons and the jobs that could be created in their renovation and construction.

Mr. PASTORE. Mr. President, if there are no further amendments, I suggest we go to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that I have just received from John W. Eden, Assistant Secretary of Commerce for Economic Development.

Mr. Eden's letter clarifies a situation that was brought to my attention by Mayor Lynch of Pawtucket, R.I., and others.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 10, 1976.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on State, Justice, and Commerce, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: EDA has amended the Local Public Works Act Regulations. The amendments will appear in the Federal Register on Monday, September 13, 1976.

One of the amendments involves the third factor in the project selection formula, which is set forth in Section 316.10(a)(2)(1). It changes this factor from cost per person month to the relationship of labor costs to total project costs. The amendment also provides that projects having labor costs greater than 35% of total project costs will receive the maximum score for this factor. In other words, projects having labor costs in excess of 35% will not receive any additional credit for this factor.

Finally, the amendment provides that projects where labor costs constitute more than 80% or less than 10% of total project costs will be rejected and denied.

EDA believes that this amendment will help the agency maintain a reasonable balance between new construction projects and renovation/repair projects, and thus answer the concern expressed by Members of Congress and the public that the project ranking formula tended to favor "leaf raking" type projects. These amendments articulate the intent of Congress that the program promote the construction of permanent and substantial public facilities.

Sincerely,

JOHN W. EDEN,
Assistant Secretary
for Economic Development.

Mr. PASTORE. I yield to the Senator from Florida.

Mr. STONE. Mr. President, I notice with interest that the preliminary estimates of the funds for my State of Florida in this bill exceed $133 million, mainly for sewer and water construction, building public works, pollution control, and meaningful forms of construction employment.

I would like to call to the attention of the Senate the unique situation we have in my State, which is that, at the same time that tourism is doing well in Florida, at the same time that our other major industry, agriculture, is doing well in Florida, so that the two major props to our economy are doing pretty well, at the same time that is taking place, Florida is tied with Michigan—and may now be worse than Michigan—for the highest unemployment rate in the Nation.

Why? Because our building people are out of work. Our building trades people are not working.

The point is that it occurs at the same time that the major elements of our economy are doing well. Therefore, this kind of countercyclical assistance is vital to a State such as mine, and I certainly urge the passage of this good bill.

Mr. MATHIAS. Mr. President, I ask unanimous consent that all Senators who wish to make statements on this matter may insert them in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. Is all remaining time yielded back?

Mr. MATHIAS. Mr. President, I make a point of the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. I ask unanimous consent that a statement on this bill by the Senator from New Mexico (Mr. MONTOYA) be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MONTOYA

As an initial co-sponsor with Senator Randolph of the authorizing bill, I urge my colleagues to support this appropriation measure. The Congress has stated its will in overriding the President's July 6 veto of the Public Works Employment Act of 1976. This is the important money bill to make it a reality.

Once again, we will send this bill to the President with large majorities behind it.

Applications for projects under the public works program are already distributed across this land. Local governments everywhere are now preparing project applications.

The Economic Development Administration under the direction of the recently confirmed Assistant Secretary John Eden has done a creditable job in preparing the guidelines and regulations for the program. Mr. Eden and Secretary Richardson have tried to be responsive to Congress during the important regulation writing phase.

I learned today that a change has been made in one of the criteria in selecting projects—namely the cost per person month of employment on each project. Many of us thought that provision would in fact bias project selection toward renovation and repair projects. But the Congress wished to emphasize construction, particularly new construction.

The change puts a ceiling on the weight for "labor intensity." No project may gain additional weight if the labor costs are estimated to exceed 35% of the project costs. That in my judgment is good news. We assuredly did not want a repeat of the title X experience. No projects will be accepted if the labor costs are less than 10% or more than 80%.

I wish to thank the members of the appropriations committee who have brought out this bill asking for the full appropriations.

I trust and hope President Ford—in the face of a 4-month rise in the national unemployment rate—will sign this money bill into law.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order from the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back?

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming

(Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. Stevenson), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Illinois (Mr. Stevenson), and the Senator from Massachusetts (Mr. Kennedy) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Delaware (Mr. Roth), the Senator from Vermont (Mr. Stafford), the Senator from Ohio (Mr. Taft), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

On this vote, the Senator from Ohio (Mr. Taft) is paired with the Senator from Arizona (Mr. Goldwater).

If present and voting, the Senator from Ohio would vote "aye" and the Senator from Arizona would vote "nay."

The result was announced—yeas 60, nays 14, as follows:

[Rollcall Vote No. 581 Leg.]

YEAS—60

Abourezk
Allen
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Fong
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stone
Symington
Talmadge
Weicker

NAYS—14

Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
McClure
Proxmire
Scott, William L.
Young

NOT VOTING—26

Baker
Bayh
Beall
Buckley
Cannon
Dole
Eagleton
Eastland
Goldwater
Gravel
Hartke
Hollings
Humphrey
Kennedy
McGee
Mondale
Montoya
Moss
Roth
Stafford
Stevenson
Taft
Thurmond
Tower
Tunney
Williams

So the bill (H.R. 15194) as amended, was passed.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. Pastore, Mr. McClellan, Mr. Proxmire, Mr. Johnston, Mr. Huddleston, Mr. Young, Mr. Hruska, Mr. Mathias, and Mr. Bellmon conferees on the part of the Senate.

Mr. JAVITS. Mr. President, I wish to be heard on the bill.

Mr. MANSFIELD. Will the Senator from New York allow me to proceed briefly?

Mr. JAVITS. Yes.

Mr. MANSFIELD. I take this occasion to commend once again the distinguished Senator from Rhode Island (Mr. Pastore) and his counterpart, the distinguished Senator from Maryland (Mr. Mathias). I must say of Mr. Pastore that I never anticipated in my wildest dreams that a bill of this nature would get through so quickly unamended. It is a great tribute to a man who is probably the best floor manager of bills in this body. I just want the public record to show my high esteem and deep love and great appreciation for the distinguished senior Senator from Rhode Island (Mr. Pastore) and my gratitude for the way he was able to accomplish what he did within a period of an hour.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for just a minute?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. JAVITS. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, we have the distinction in West Virginia of having a young man there who was the first to fly faster than sound, Charles (Chuck) Yeager, of a little community in Lincoln County, in the tobacco-growing area of West Virginia—the first man to fly faster than sound. As I have observed John Pastore, year after year, I do not know of any Member of this Senate who can generate more sound than John Pastore. But when he manages a bill, literally and figuratively speaking, it moves faster than sound.

Mr. JAVITS. Mr. President, I adopt both statements as my own. They are excellent. I also wish to say that that is precisely why I am on my feet: He moved faster than sound—even my sound. I had a word to say about this bill.

Mr. YOUNG. Will the Senator yield for just a minute?

Mr. JAVITS. I yield.

Mr. YOUNG. I thank the distinguished Senator from New York.

I wish to add my comments to those of the distinguished majority floor leader and the distinguished assistant majority floor leader concerning the Senator from Rhode Island. He is the most effective Member that I know of on the Senate floor and in committee, of any Member that I have known in many years. It is very difficult to argue with him. He is very effective. He is well posted on his subject. He is so persuasive that on this bill, even though I voted against it, I declined even to argue with him but did put my objections in the committee report.

Mr. JAVITS. Mr. President, it is a shame to get back to such mundane things after such flights of speech on a very dear and beloved colleague and friend. They are fully deserved.

VISIT TO THE COMMITTEE ON FOREIGN RELATIONS BY MEMBERS OF THE FRENCH SENATE

Mr. SPARKMAN. Mr. President, on Wednesday, September 8, the Committee on Foreign Relations and the Senate were honored to receive a group of distinguished Senators from France. Many Senators met them at lunch and when they were presented on the floor.

The occasion of their visit was to present two very important gifts from the French Senate to the U.S. Senate to commemorate the U.S. Bicentennial. The gifts presented to the Senate are a beautiful and beautifully framed early 19th century engraving of George Washington's Farewell Address, which for many years was kept at La Grange, the family home of General Lafayette, and a letter written in English by General Lafayette to General Washington on April 19, 1783, which conveyed to Washington that the end of the war was inevitable and imminent.

Mr. President, the occasion also commemorates the bicentennial of unbroken friendship between the Republic of France and the United States of America, a friendship begun with a personal friendship between George Washington and General Lafayette.

Without the support of General Lafayette—who furnished enough money to feed and maintain an entire regiment during the entire period of our Revolutionary War, and who never took any pay—there might not be a United States of America. He convinced his Government to send 8,000 of their best soldiers and the best general on the continent—Rochambeau—to the aid of the fledgling United States.

One can then understand the close emotional ties which all America felt in 1824 and 1825, when General Lafayette visited the United States. He brought with him his son—George Washington Lafayette—and spent an entire year visiting all 23 States of the Union. He traveled to Monticello, Va., to pay his respects to former President Thomas Jefferson. He traveled to Boston, to call on former President John Adams. While in Massachusetts, he was present at the dedication of Boston Commons. He then went to Bunker Hill, where he obtained a large box that he filled with dirt to take back to France.

Mr. President, as a further indication of the gratitude which our country felt for General Lafayette, the Congress did two remarkable things. One, they commissioned a ship to be built and given to Lafayette for his voyage back to France. It was named the *Brandywine*. Second, they invited him to appear before the Senate and House, something which had never been done for a foreigner.

With Henry Clay as host, Lafayette appeared before the Senate in the old Senate Chamber—now-called—on December 9, 1824. In his address to the Senate he stated:

> My obligations to the United States, sir, far exceed any merit I might claim. They date from the time when I have had the happiness to be adopted as a young soldier, a favored son of America. They have been continued to me during almost half a century of constant affection and confidence; and now, sir, thanks to your most gratifying invitation, I find myself greeted by a series of welcomes, one hour of which would more than compensate for the public exertions and suffering of a whole life.

In Senator Daniel Webster's speech in the Senate that day, he referred to Lafayette as "our foreign aid"—the first time that the term was used.

John Quincy Adams was elected President during the year of Lafayette's visit to the United States. In December 1825. President Adams honored Lafayette with a glittering farewell reception at the White House. From the White House reception, Lafayette went directly to the sloop which was to take him to the *Brandywine* which lay at anchor in Chesapeake Bay. As the sloop sailed down the Potomac past Mt. Vernon, General Lafayette asked that he be rowed ashore for what he knew would be his last visit to the grave of his adopted father. As he left Mt. Vernon, according to story—though not proven—he reached down and scooped up a handful of soil.

General Lafayette returned to his home at Chevanac in France. Prior to his death in 1834, his wife had insisted that they be buried in Picpus Cemetery near Paris among the commoners who were beheaded after they had stormed the Bastille.

Mr. President, General Lafayette is buried with the soil from Bunker Hill in his casket, and possibly soil from Mount Vernon. Thus, he is buried in American soil.

The presentation of gifts from the French Senate to the U.S. Senate on Wednesday was made by the Honorable Etienne Dailly, vice president of the Senate of France, and president of the Franco-American Friendship Group in the Senate of France. Senator Dailly's statement on behalf of his colleagues was so eloquent and so moving I want to share it with you.

I should like to quote at this point a portion of Senator Dailly's statement:

STATEMENT OF SENATOR ETIENNE DAILLY OF FRANCE

We should also like to express to you our sentiments regarding the anniversary which you celebrate this year, and to describe to you what the commemoration of the Bicentennial of American independence means to us, the Senators of France.

Mr. Chairman, Senators, Distinguished Guests, there are people, just as there are men, who tend to prick the conscience of other peoples and of other men. They epitomize such an inspiring example of truth, of courage, of hard work and of faith, that the mere facts of withholding approval, of refusing them support in times of tribulation, constitutes moral turpitude, and a lack of character.

This explains what was undoubtedly, and already, the profound motivation of that handful of Frenchmen, who did not for a moment hesitate in offering what proved to be an instrument contribution to the independence of those 13 faraway British Colonies along the northeast coast of the American continent.

Born out of rebellion and hope, the United States of America have justified the confidence of those who once came to their aid, for your nation is today, sometimes in spite of herself, still the advance guard in that eternal battle, the battle for liberty.

Thus, it is with modest pride that France recalls the role she played—while not even yet the Republic of France in the birth of the American nation. And is it not remarkable that the alliance forged in 1778 has survived time's vicissitude without ever once having been reprehended?

But two hundred years have passed, two hundred years during which we have witnessed the development of a nation whose individuality and strength have often appeared overpowering sometimes astonishing, but always fascinating. Two hundred years during which products, techniques and ideas have continued to flow across the Atlantic Two hundred years during which, in two instances, and in multifold repayment of that original debt, Salvation has come from America. There is no French woman there is no Frenchman to forget it, ever.

So beyond historical reminiscences, however flattering they may be for our nation, the Bicentenary of the United States of America's independence, is, for us, and above all, the history of these two centuries, as perceived in the hearts of those who forged that history. The United States Bicentennial is above all, for us, your nation's communal celebration, an expression of your joy at having lived and worked together, of the solidarity which has come as a result of obstacles achievements, accomplished together, by an entire people.

Mr. President, I cannot improve on that expression of friendship between our two countries.

I ask unanimous consent that Senator Dailly's statement, and a copy of the April 19, 1783, letter from General Lafayette to George Washington, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS DELIVERED BY ETIENNE DAILLY, VICE-PRESIDENT OF THE FRENCH SENATE, PRESIDENT OF THE SENATE FRANCO-AMERICAN FRIENDSHIP GROUP, DURING PRESENTATION OF GIFTS OFFERED BY THE SENATE OF THE FRENCH REPUBLIC TO THE SENATE OF THE UNITED STATES OF AMERICA IN HONOR OF THE BICENTENNIAL OF AMERICAN INDEPENDENCE

Mr. Chairman,
Mr. Majority Leader,
Mr. Minority Leader,
Secretary,
Distinguished guests,

First of all, I want to express thanks and gratitude of my colleagues and myself for your welcome, Mr. Chairman, and for the reception with which we are honored on this very moment.

We know that this time is difficult for senators because of the election. And that is why we are so grateful to both of you, Mr. Majority Leader, to you Mr. Minority Leader, and to all of you Senators to be present here today.

Your Senate, I imagine, has received many visits in this Bicentennial year, from delegations from all the world. Our delegation has been chosen among all the members of the Franco-American Friendship Group of the Senate of the French Republic.

The Parliamentary Friendship Groups, which I believe have no comparable counterpart in the United States Congress, are a traditional institution in Parliamentary Assemblies in European countries. There are a good thirty such groups in our two Houses but the Franco-American Friendship Group is quite a different one.

First of all, in terms of the number of its adherents. Composed of 136 Senators—practically one out of every two Senators, for our Senate includes 283 members—it is the most important Friendship Group in the Senate, and even on the two Houses of the French Parliament.

Secondly, in terms of the quality of its members. Membership in our Group emanates from all political parties represented in our Senate without any exception. This is evidence that the bonds of friendship which unite the French and American peoples, transcend the complex vicissitudes of our nation's internal policies.

That is why our Senate Franco-American Group intends to act efficiently with a view to promoting contacts and facilitating both the mutual comprehension between our two nations, and the singular comprehension between the American Senators and the French Senators.

This is one of the reasons we are here with you today.

We are also here, on the occasion of your nation's Bicentennial, to offer congratulations, not only on behalf of all our colleagues members of our group, but on behalf of the entire Senate of the French Republic.

For I should like to underscore the fact that this is the first time, that the President and the Board of our Senate have decided to designate a Friendship Group as an official representative of the entire Senate of the French Republic. I consider it of symbolic significance, that on the occasion of your nation's Bicentennial, this exceptional honor and privilege has been bestowed upon our Friendship Group.

We wished, as undoubtedly many of your visitors during this anniversary year, to offer to you, in addition to congratulations on behalf of the French Senate and the Nation we represent, three small gifts.

The first is this large frame, in which is displayed a printed copy of George Washington's inspiring farewell message to the American Nation. We do not know how many copies of this document were printed after the death of Washington, although I was told this very morning by the best specialist in this Senate that only two copies of it exist today in the United States. So here is the third original print, which is further more of a special interest because it was sent by Washington's family to La Fayette at his home in France.

La Fayette had the document mounted. He placed it in the grand salon of his home of La Grange, La Grange restored with remarkable care since 1956 by the Chambrun Foundation, La Grange where this document, as it is now framed, remained until last October and where it would be still, had not the President of the Senate and I opened negotiations with the Chambrun Foundation and taken the numerous steps necessary so that it might be placed at our disposal, and so that our Senate could, in honor of this anniversary, offer it to the Senate of the United States of America.

The second gift which the French Senate should like to offer to the United States Senate, and which you see here, displayed in a pivoting frame on this small stand, is a letter written by La Fayette to George Washington, and dated April 19th, 1783. The letter is written in English—a somewhat quaint and curious English. In this letter, La Fayette announced to Washington that Great Britain at last had a government in which the King had five votes against the Rockingham Coterie's four, and that nothing, henceforth, could prevent signature of the treaty, a treaty which would become, a few months after, the Treaty of Versailles.

This letter, which includes an annotation made by George Washington, was returned by Washington's descendants after his death, to La Fayette. The document's historical interest lies in its own text but is in many ways picturesque, and its message is exceptionally warm. Due to lack of time, I shall read to you only the last lines:

"The dangers of war being over, I know there is no danger of your forgetting to let your best friend hear of your welfare. George's state of health makes me uneasy. I hope the sea may be beneficial. My three children are well and their mother requests her respectful compliments be paid to you and to Mrs. Washington. My most affectionate respects wait upon her and upon you, my dear General, whom I so tenderly love and to whom so long as I can breathe I shall ever be the most grateful, devoted and affectionate friend."

It is my hope that the warmth, the friendship and the trust expressed in this letter will represent for you, as for us, a sign and a symbol of the very special bonds which have united our two nations throughout the years.

The third gift, which, in addition to the two official mementos. We, French Senators, wish to present individually to each of the hundred United States Senators, is a commemorative chest.

This chest is identical to the one which was designed, last year, as a gift to the 283 French Senators on the occasion of the French Senate's Centennial. It contains a number of items relative to our Senate, medallions, philatelic souvenirs, books, etc. For the anniversary which we celebrate today, we have added a folder in which appear the photograph and the text of the presentation of the gifts I was just talking about, as well as the names of each of the French Senators who are members of our Friendship Group.

It is our hope that these mementos shall be also for you a symbol, more intimate and personal, of the special and time-honored bonds which unite our two peoples.

We should also like to express to you our sentiments regarding the anniversary which you celebrate this year, and to describe to you what the commemoration of the Bicentennial of American Independence means to us, the Senators of France.

Mr. Chairman, Senators, Distinguished Guests, there are peoples, just as there are men, who tend to prick the conscience of other peoples and of other men. They epitomize such an inspiring example of truth, of courage, of hard work and of faith, that the mere facts of withholding approval, of refusing them support in times of tribulation, constitutes moral turpitude, and a lack of character.

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Born out of rebellion and hope, the United States of America have justified the confidence of those who once came to their aid, for your nation is today, sometimes in spite of herself, still the advance guard in that eternal battle, the battle for liberty.

Thus, it is with modest pride that France recalls the role she played—while not even yet Republic of France—in the birth of the American nation. And is it not remarkable that the alliance forged in 1778 has survived time's vicissitudes, without ever once having been reprehended?

But two hundred years have passed, two hundred years during which we have witnessed the development of a nation whose individuality and strength have often appeared overpowering, sometimes astonishing, but always fascinating. Two hundred years during which products, techniques and ideas have continued to flow across the Atlantic. Two hundred years during which, in two instances, and in multifold repayment of that original debt, Salvation has come from America. There is no French woman, there is no Frenchman to forget it, ever.

So beyond historical reminiscences, however flattering they may be for our nation, the Bicentenary of the United States of America's independence, is, for us, and above all, the history of these two centuries, as perceived in the hearts of those who forged that history. The United States Bicentennial is above all, for us, your nation's communal celebration, an expression of your joy at having lived and worked together, of the solidarity which has come as a result of obstacles surmounted together, and of the pride in the overwhelming achievements, accomplished together, by an entire people.

Let us set aside then, the questions of history, and the role which France played in the origins of the American Nation.

Let us also set aside the overpowering material successes of your nation. Let us even set aide it extraordinary technological achievement for which those hesitant steps taken on the moon by an astronaut on a certain evening of July 1969, remain a brilliant and unforgettable example.

Let us set aside the economic strength of the United States of America, a strength that has made efforts at economic or monetary organization in Europe singularly dependent on American policy. Let us set aside even American military strength, although it remains the single most effective guarantee of security for Europe and the Free World.

Indeed, let us set all of this aside today, and let us consider only one single element of the American civilization, the remarkable lesson of Democracy which your great Nation's 200 years of existence provide.

First of all, a Democracy of principles . . .

With the Declaration of 1776, the newborn American Nation played an instrumental role in the process, never wholly completed, for the liberation of mankind. Have not these basic rights, which the French people would soon declare "inalienable and sacred" but which the United States had been the first to proclaim, have not these basic rights remained firmly anchored in the societal fiber of the American Nation?

What country has prevailed, as have the United States of America, for 200 years without ever a single year, indeed, without even a single day of dictature, or even of simple authoritarianism? If happiness is no longer, as Saint-Just—one of the significant features of the French Revolution—once proclaimed, "a new idea" what country has prevailed itself, as have the United States of America, of a Constitution which inscribes in its very text the pursuit of Happiness as a finality?

Secondly, a Democracy of institutions . . .

Circumstantial considerations—and they are paramount during electoral periods—stir up in a recurrent fashion the criticisms of those who disparage the American institutional system. But what superb example the one which is given to the world by the ancestor of all constitutions, a Constitution which Tocqueville himself, for all the admiration he held for it, could not believe would long endure.

"Power must be employed to check power", said Montesquieu. What institutions better exemplifies the principle inherent in the United States' Constitution whereby, according to a complex system of checks and balances, all excesses of Presidential power are countered by the powers of a Congress, whereby any attempts on the part of a Congress to depart from its defined role, is curbed by Presidential prerogatives, and eventually doomed to failure?

Finally, and most important, a day-to-day Democracy.

Some observers thought they were witnessing, in the recent great political difficulties we all know, some of which happened here—the dangerous converging signs of amoral decline. And yet, are not these public trials vigorous evidence, on the contrary, of the undefatigable will of a people to leave no aspects of its public life in shadow, even if it must be at the expense of a nation's pride? Are not these public trials proof that the American people's inexhaustible need for truth, can be based on unrestricted freedom of opinion and information?

From the defense of liberty throughout the world to the conquest of space, from the fight against wilderness to the fight against poverty, the American society has never lost its taste for ever-new frontiers. What is true in the lives of peoples is true in the lives of men; it is the youthful years which contribute most to the forging of great themes, which will subsequently animate the lives of nations, and help them to join together and endure the tribulations and the vicissitudes of History.

France stood at America's side from the very first day, and has remained thus for 200 years. Let us then, today, together, you Senators of the United States and us Senators of the French Republic, vow to continue our mightiest efforts, so that this will hold true tomorrow, as it does today. For this, it seems to us, is the best means by which we can work together to defend liberty throughout the world.

OLAINVILLE NEAR PARIS,
April the 19th 1783.

MY DEAR GENERAL,

Having been told by Marquis de Castries at whose country seat I am, that he now is sending a vessel to America, I cannot resist an opportunity to write you a few lines.

My letter's journey by land will be almost as long as in voyage across the ocean, and the New England Porthmouth is very far distant to the banks of the Potowmack for I suppose, my dear General, that you intend spending this summer at home and unless I am prevented by the answers of Congress, I hope before long to partake of your country pleasures.

Our friend, Mr. de Chattelux is just coming in and requests his affectionate respects.

Great Britain having at last got a Ministry, wherein the King has five votes and the Rockingam interest has but four nothing now can put a stop to the definitive treaty. Mr. Laurens has arrived and Mr. David Hartley is hourly expected. The Duke of Manchester is also coming as an Ambassador to France. A bill has been proposed in England which greatly favours the American trade but it now meets with difficulties. I hope France will make alterations in her commercial scheme which in some respects is very foolishly regulated. It is a business to which I will the more earnestly apply as it also immediately concerns the American interest. Upon these points I consult with Mr. Barklay, the Consul, and I hope we may obtain many useful amendments. To my great satisfaction Mr. de Fleury has been obliged to resign. His principles and his views were quite opposed to mine and I hope Mr. d'Ormesson, his successor, will have a more liberal way of thinking.

There has been a quarrel between Russia and Turkey which, had our war lasted, would have made me tremble for its consequences. But now it may be amicably ended and at all events, nothing now, thank God, can affect the great cause of America and mankind. The general opinion is that the dispute I allude to will be friendly compromised.

Doctor Franklin has applied for his recall—who is to replace him? I do not know but in case, as I am told, General Schuyller takes that career, he is of all men the properest I know for an Embassy to France. Hamilton should come out as his secretary and the more I think of this, the more I wish Schuyller may be induced to accept the employment. I do not like to meddle with the foreign choices of Congress but I think you will serve the public by impressing the hint I take the liberty to given confidentially to you.

Since the letter of which Mr. de Chattelux was bearer not a line of my dear General has come to my hands. But now I hope to be more fortunate and the dangers of war being over, I know there is no danger of your forgetting to let your best friend hear of your welfare.

George's state of health makes me uneasy. I hope the sea may be beneficial—My three children are well and their Mother requests her respectful compliments to be paid to you and to Mrs. Washington—My most affectionate respects wait upon her and upon you, my dear General, whom I so tenderly love, and to whom, so long as I can breath, I shall ever be the most grateful, devoted and
affectionate friend,

LAFAYETTE.

RESOLUTION EXPRESSING THE APPRECIATION OF THE SENATE TO JERRY LEWIS FOR HIS OUTSTANDING CONTRIBUTIONS IN THE FIGHT AGAINST MUSCULAR DYSTROPHY

Mr. PASTORE. Mr. President, I send a resolution to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

S. RES. 542

Whereas Jerry Lewis has for many years been a leader in raising funds to be used in research for a cure for muscular dystrophy and in otherwise providing help and encouragement to individuals afflicted with that disease, and

Whereas as a result of the Jerry Lewis Labor Day Telethon approximately $23,000,000 was pledged to the Muscular Dystrophy Association, Inc., to enable it to continue its work: Now, therefore, be it

Resolved, That the Senate of the United States hereby recognizes and expresses its appreciation to Jerry Lewis for his outstanding contributions in the fight against muscular dystrophy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jerry Lewis.

Mr. PASTORE. Mr. President, for the past 2 years I have had the distinct privilege and honor of acting as honorary chairman of this Labor Day telethon in my own State of Rhode Island, so I know firsthand the amount of work that is involved, and the quality of man who has inspired the Nation by his dedication and his ability to raise tremendous amounts of money in the spirit of brotherly love in order to help these afflicted people. I think it would be a wonderful thing if this Senate would so recognize it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. JAVITS. I am all for it. I would like to call this to the attention of the leadership. We do not have enough honors of this kind. There are many people doing great things, and I hope our leadership will be liberal about this kind of situation which is typified by the generous statements which Senator PASTORE has made.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 542) was agreed to.

The preamble was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under "New Reports."

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Defense.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, in the Navy, and in the Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that under "Treaties" beginning with Calendar 9 and going down through Calendar 13, that is, 9, 10, 11, 12, and 13, that they be considered at this time and carried through up to final reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CUSTOMS CONVENTION ON CONTAINERS, 1972, AND INTERNATIONAL CONVENTION FOR SAFE CONTAINERS, EXECUTIVE X, 93D CONGRESS, 1ST SESSION,

THE AGREEMENT ON THE CONSERVATION OF POLAR BEARS, EXECUTIVE I, 94TH CONGRESS, 1ST SESSION,

THE CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS, EXECUTIVE K, 94TH CONGRESS, 1ST SESSION,

THE 1976 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS, EXECUTIVE M, 94TH CONGRESS, 2D SESSION,

THE FIFTH INTERNATIONAL TIN AGREEMENT, EXECUTIVE J, 94TH CONGRESS, 2D SESSION

The Senate, as in Committee of the Whole, proceeded to consider the following conventions, agreements, and protocol, which were read the second time:

CUSTOMS CONVENTION ON CONTAINERS, 1972

PREAMBLE

The contracting parties, desiring to develop and facilitate international carriage by container, have agreed as follows:

CHAPTER I

General

Article 1

For the purposes of the present Convention:

(a) the term "import duties and taxes" shall means Customs duties and all other duties, taxes, fees and other charges which are collected on, or in connection with, the importation of goods, but not including fees and charges limited in amount to the approximate cost of services rendered;

(b) the term "temporary admission" shall mean temporary importation, subject to re-exportation, free of import duties and taxes and free of import prohibitions and restrictions;

(c) the term "container" shall mean an article of transport equipment (lift-van, movable tank or other similar structure):

(i) fully or partially enclosed to constitute a compartment intended for containing goods;

(ii) of a permanent character and accordingly strong enough to be suitable for repeated use;

(iii) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

(iv) designed for ready handling, particularly when being transferred from one mode of transport to another;

(v) designed to be easy to fill and to empty; and

(vi) having an internal volume of one cubic metre or more;

the term "container" shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. The term "container" shall not include vehicles, accessories or spare parts of vehicles, or packaging;

(d) the term "internal traffic" shall mean the carriage of goods loaded in the territory of a State for unloading at a place within the territory of the same State;

(e) the term "person" shall mean both natural and legal persons;

(f) the term "operator" of a container shall mean the person who, whether or not its owner, has effective control of its use.

Article 2

In order to benefit from the facilities provided for in the present Convention, containers shall be marked in the manner prescribed in Annex 1.

CHAPTER II

Temporary admission

(a) Temporary admission facilities:

Article 3

1. Subject to the conditions laid down in articles 4 to 9, each Contracting Party shall grant temporary admission to containers, whether loaded with goods or not.

2. Each Contracting Party reserves the right not to grant temporary admission to containers which have been the subject of

purchase, hire-purchase, lease or a contract of a similar nature, concluded by a person resident or established in its territory.

Article 4

1. Containers granted temporary admission shall be re-exported within three months from the date of importation. However, this period may be extended by the competent Customs authorities.

2. Containers granted temporary admission may be re-exported through any competent Customs office, even if that office is different from the one of temporary admission.

Article 5

1. Notwithstanding the requirement of re-exportation laid down in article 4, paragraph 1, seriously damaged containers shall not be required to be re-exported provided that, in conformity with the regulations of the country concerned and as the Customs authorities of that country may authorize, the containers are:

(a) subjected to the import duties and taxes to which they are liable at the time when, and in the condition in which they are presented; or

(b) abandoned, free of all expense, to the competent authorities of that country; or

(c) destroyed, under official supervision, at the expense of the parties concerned, any parts or materials salvaged being subjected to the import duties and taxes to which they are liable at the time when, and in the condition in which they are presented.

2. If, as a result of a seizure, a container granted temporary admission cannot be re-exported, the requirement of re-exportation laid down in article 4, paragraph 1, shall be suspended for the duration of the seizure.

(b) Temporary admission procedures:

Article 6

Without prejudice to the provisions of articles 7 and 8, containers temporarily imported under the terms of the present Convention shall be granted temporary admission without the production of Customs documents being required on their importation and re-exportation and without the furnishing of a form of security.

Article 7

Each Contracting Party may require that the temporary admission of containers be subject to compliance with all, or part of, the provisions of the procedure for temporary admission of containers, set out in Annex 2.

Article 8

Each Contracting Party shall retain the right, when the provisions of article 6 cannot be applied, to require the furnishing of a form of security and/or the production of Customs documents on the importation or re-exportation of the container.

(c) Conditions of use of containers granted temporary admission:

Article 9

1. Contracting Parties shall permit containers granted temporary admission under the terms of the present Convention to be used for the carriage of goods in internal traffic, in which case each Contracting Party shall be entitled to impose one or more of the conditions set out in Annex 3.

2. The facility provided for in paragraph 1 shall be granted without prejudice to the regulations in force in the territory of each Contracting Party regarding vehicles either drawing or carrying containers.

(d) Special cases:

Article 10

1. Temporary admission shall be granted to component parts intended for the repair of temporarily admitted containers.

2. Replaced parts not re-exported shall, in conformity with the regulations of the country concerned and as the Customs authorities of that country may authorize, be:

(a) subjected to the import duties and taxes to which they are liable at the time when, and in the condition in which they are presented; or

(b) abandoned, free of all expense, to the competent authorities of that country; or

(c) destroyed, under official supervision, at the expense of the parties concerned.

3. The provisions of articles 6, 7, and 8 shall be applicable mutatis mutandis to temporary admission of component parts, referred to in paragraph 1.

Article 11

1. The Contracting Parties agree to grant temporary admission to accessories and equipment of temporarily admitted containers, which are either imported with a container to be re-exported separately or with another container, or imported separately to be re-exported with a container.

2. The provisions of article 3, paragraph 2, and articles 4, 5, 6, 7 and 8 shall be applicable mutatis mutandis to the temporary admission of accessories and equipment of containers referred to in paragraph 1. Such accessories and equipment may be used in internal traffic under the terms of article 9, paragraph 1, when carried with a container covered by the provisions of the said paragraph.

CHAPTER III

Approval of containers for transport under customs seal

Article 12

1. To qualify for approval for transport of goods under Customs seal, containers shall comply with the provisions of the Regulations set out in Annex 4.

2. Approval shall be granted under one of the procedures laid down in Annex 5.

3. Containers approved by a Contracting Party for the transport of goods under Customs seal shall be accepted by the other Contracting Parties for any system of international carriage involving such sealing.

4. Each Contracting Party reserves the right to refuse to recognize the validity of the approval of containers which are found not to meet the conditions set forth in Annex 4. Nevertheless, Contracting Parties shall avoid delaying traffic when the defects found are of minor importance and do not involve any risk of smuggling.

5. Before it is used again for the transport of goods under Customs seal, any container, the approval of which is no longer recognized, shall be either restored to the condition which had justified its approval or presented for reapproval.

6. Where a defect appears to have existed when the container was approved, the competent authority responsible for that approval shall be informed.

7. If it is found that containers approved for the transport of goods under Customs seal in accordance with the procedures described in Annex 5, paragraph 1 (a) and (b), do not in fact comply with the technical conditions of Annex 4, the authority which granted the approval shall take such steps as are necessary to bring the containers up to the required technical condition or to withdraw the approval.

CHAPTER IV

Explanatory notes

Article 13

The explanatory notes set out in Annex 6 interpret some provisions of the present Convention and its Annexes.

CHAPTER V

Miscellaneous provisions

Article 14

The present Convention shall not prevent the application of greater facilities which Contracting Parties grant or may wish to grant either by unilateral provisions or in virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of the provisions of the present Convention.

Article 15

Any contravention of the provisions of the present Convention, and any substitution, false declaration, or act having the effect of causing a person or an article improperly to benefit from the provisions of the present Convention, may render the offender liable, in the country where the offence was committed, to the penalties prescribed by the laws of that country.

Article 16

The Contracting Parties shall communicate to one another, on request, the information necessary for implementing the provisions of the present Convention, and more particularly information relating to the approval of containers and to the technical characteristics of their design.

Article 17

The Annexes to the present Convention and the Protocol of Signature form an integral part of the Convention.

CHAPTER VI

Final clauses

Article 18

Signature, ratification, acceptance, approval and accession:

1. The present Convention shall be open for signature until 15 January 1973 at the Office of the United Nations at Geneva and subsequently from 1 February 1973 until 31 December 1973 inclusive at the Headquarters of the United Nations at New York by all States Members of the United Nations or members of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the present Convention.

2. The present Convention is subject to ratification, acceptance or approval by States which have signed it.

3. The present Convention shall remain open for accession by any State referred to in paragraph 1.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 19

Entry into force:

1. The present Convention shall enter into force nine months from the date of the deposit of the fifth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to the present Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force six months after the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Convention shall be deemed to apply to the Convention as amended.

4. Any such instrument deposited after an amendment has been accepted but before it has entered into force shall be deemed to apply to the Convention as amended on the date when the amendment enters into force.

Article 20

Termination of the operation of the Customs Convention on Containers (1956):

1. Upon its entry into force, the present Convention shall terminate and replace, in relations between the Contracting Parties, the Customs Convention on Containers, opened for signature at Geneva on 18 May 1956.

2. Notwithstanding the provisions of article 12, paragraphs 1, 2 and 4 containers approved under the provisions of the Customs Convention on Containers (1956) or under the agreements arising therefrom concluded under the auspices of the United Nations,

shall be accepted by any Contracting Party for the transport of goods under Customs seal, provided that they continue to comply with the relevant conditions under which they were originally approved. For this purpose certificates of approval issued under the provisions of the Customs Convention on Containers (1956) could be replaced by an approval plate prior to the expiry of their validity.

Article 21

Procedures for amending the present Convention including its Annexes:

1. Any Contracting Party may propose one or more amendments to the present Convention. The text of any proposed amendment shall be notified to the Customs Co-operation Council which shall communicate it to all Contracting Parties and inform the States, referred to in article 18, which are not Contracting Parties. The Customs Co-operation Council shall also, in accordance with the rules of procedure set out in Annex 7, convene an Administrative Committee.

2. Any amendment proposed in accordance with the preceding paragraph or prepared during the meeting of the Committee, and adopted by a two-thirds majority of those present and voting in the Committee, shall be communicated to the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations shall circulate the amendment to the Contracting Parties for their acceptance, and to the States referred to in article 18 which are not Contracting Parties for their information.

4. Any proposed amendment circulated in accordance with the preceding paragraph shall be deemed to be accepted if no Contracting Party expressed an objection within a period of 12 months following the date of circulation of the proposed amendments by the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall, as soon as possible, notify all Contracting Parties and the States referred to in article 18 which are not Contracting Parties whether an objection to the proposed amendment has been expressed. If an objection to the proposed amendment has been communicated to the Secretary-General of the United Nations the amendment shall be deemd not to have been accepted and shall be of no effect whatever. If no such objection has been communicated to the Secretary-General of the United Nations the amendment shall enter into force for all Contracting Parties three months after the expiry of the period of 12 months referred to in the preceding paragraph, or on such later date as may have been determined by the Committee at the time of its adoption.

6. Any Contracting Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the present Convention. The Secretary-General of the United Nations shall notify all Contracting Parties of the request and a revision conference shall be convened by the Secretary-General of the United Nations if, within a period of four months following the date of notification by the Secretary-General of the United Nations, not less than one-third of the Contracting Parties notify him of their concurrence with the request. Such conference shall also be convened by the Secretary-General of the United Nations upon notification of a request by the Administrative Committee. The Administrative Committee shall make such a request if agreed to by a majority of those present and voting in the Committee. If a conference is convened in accordance with this paragraph, the Secretary-General of the United Nations shall invite to it all States referred to in article 18.

Article 22

Special procedure for amending Annexes 1, 4, 5 and 6:

1. Independently of the amendment procedure set out in article 21, Annexes 1, 4, 5 and 6 may be amended as provided for in this article and in accordance with the rules of procedure set out in Annex 7.

2. Any Contracting Party shall communicate proposed amendments to the Customs Co-operation Council. The Customs Co-operation Council shall bring them to the attention of the Contracting Parties and of the States referred to in article 18 which are not Contracting Parties, and shall convene the Administrative Committee.

3. Any amendment proposed in accordance with the preceding paragraph or prepared during the meeting of the Committee, and adopted by a two-thirds majority of those present and voting in the Committee, shall be communicated to the Secretary-General of the United Nations.

4. The Secretary-General of the United Nations shall communicate the amendment to the Contracting Parties for their acceptance, and to the States referred to in article 18 which are not Contracting Parties for their information.

5. The amendment shall be deemed to have been accepted unless one-fifth or five of the Contracting Parties, whichever number is less, have notified the Secretary-General of the United Nations, within a period of 12 months from the date on which the proposed modification has been communicated by the Secretary-General of the United Nations to the Contracting Parties, that they object to the proposal. An amendment which is not accepted shall be of no effect whatever.

6. If an amendment is accepted, it shall enter into force for all Contracting Parties which did not object to the amendment three months after the expiry of the period of twelve months referred to in the preceding paragraph, or on such later date as may have been determined by the Committee at the time of its adoption. At the time of adoption of an amendment the Committee may also provide that, during a transitional period, the existing Annexes shall remain in force, wholly or in part, concurrently with such amendment.

7. The Secretary-General of the United Nations shall notify the date of the entry into force of the amendment to the Contracting Paries and inform the States, referred to in article 18, which are not Contracting Parties.

Article 23

Denunciation:

Any Contracting Party may denounce the present Convention by effecting the deposit of an instrument with the Secretary-General of the United Nations. The denunciation shall take effect one year from the date of such deposit with the Secretary-General of the United Nations.

Article 24

Termination:

The present Convention shall cease to be in force if the number of Contracting Parties is less than five for any period of twelve consecutive months.

Article 25

Settlement of Disputes:

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of the present Convention which cannot be settled by negotiation or other means of settlement shall, at the request of one of them, be referred to an arbitration tribunal composed as follows: each party to the dispute shall appoint an arbitrator and these two arbitrators shall appoint a third arbitrator, who shall be the Chairman. If three months after receipt of a request one of the parties shall have failed to appoint an arbitrator or if the arbitrators shall have failed to elect the Chairman, any of the parties may request the Secretary-General of the United Nations to appoint an arbitrator or the Chairman of the arbitration tribunal.

2. The decision of the arbitration tribunal designated under the provisions of paragraph 1 shall be binding on the parties to the dispute.

3. The arbitration tribunal shall decide its own rules of procedure.

4. Decisions of the arbitration tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote.

5. Any controversy which may arise between the parties to the dispute as regards the interpretation and execution of the award may be submitted by either party for judgment to the arbitration tribunal which made the award.

Article 26

Reservations:

1. Reservations to the present Convention shall be permitted, excepting those relating to the provisions of articles 1–8, 12–17, 20, 25 and of the present article, and those relating to the provisions contained in the Annexes on condition that such reservations are communicated in writing and, if communicated before the deposit of the instrument of ratification, acceptance, approval or accession, are confirmed in that instrument. The Secretary-General of the United Nations shall communicate such reservations to all States referred to in article 18.

2. Any reservation made in accordance with paragraph 1:

(a) modifies for the Contracting Party which made the reservation the provisions of the present Convention to which the reservation relates, to the extent of the reservation; and

(b) modifies those provisions to the same extent for the other Contracting Parties in their relations with the Contracting Party which entered the reservation.

3. Any Contracting Party which has communicated a reservation under paragraph 1 may withdraw it at any time by notification to the Secretary-General of the United Nations.

Article 27

Notification:

In addition to the notifications and communications provided for in articles 21, 22 and 26, the Secretary-General of the United Nations shall notify all the States referred to in article 18 of the following:

(a) signatures, ratifications, acceptances, approvals and accessions under article 18;

(b) the dates of entry into force of the present Convention in accordance with article 19;

(c) the date of entry into force of amendments to the present Convention in accordance with articles 21 and 22;

(d) denunciations under article 23;

(e) the termination of the present Convention under article 24.

Article 28

Authentic texts:

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall communicate certified true copies to all States referred to in article 18.

In witness whereof the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at Geneva this second day of December one thousand nine hundred and seventy-two.

AGREEMENT ON THE CONSERVATION OF POLAR BEARS

The Governments of Canada, Denmark, Norway, the Union of Soviet Socialist Republics, and the United States of America,

Recognizing the special responsibilities and special interests of the States of the Arctic Region in relation to the protection of the fauna and flora of the Arctic Region;

Recognizing that the polar bear is a significant resource of the Arctic Region which requires additional protection;

Having decided that such protection should be achieved through coordinated national measures taken by the States of the Arctic Region;

Desiring to take immediate action to bring further conservation and management measures into effect;

Have agreed as follows:

ARTICLE I

1. The taking of polar bears shall be prohibited except as provided in Article III.

2. For the purpose of this Agreement, the term "taking" includes hunting, killing and capturing.

ARTICLE II

Each Contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns, and shall manage polar bear populations in accordance with sound conservation practices based on the best available scientific data.

ARTICLE III

1. Subject to the provisions of Articles II and IV, any Contracting Party may allow the taking of polar bears when such taking is carried out:

(a) for bona fide scientific purposes; or

(b) by that Party for conservation purposes; or

(c) to prevent serious disturbance of the management of other living resources, subject to forfeiture to that Party of the skins and other items of value resulting from such taking; or

(d) by local people using traditional methods in the exercise of their traditional rights and in accordance with the laws of that Party; or

(e) wherever polar bears have or might have been subject to taking by traditional means by its nationals.

2. The skins and other items of value resulting from taking under sub-paragraphs (b) and (c) of paragraph 1 of this Article shall not be available for commercial purposes.

ARTICLE IV

The use of aircraft and large motorized vessels for the purpose of taking polar bears shall be prohibited, except where the application of such prohibition would be inconsistent with domestic laws.

ARTICLE V

A Contracting Party shall prohibit the exportation from, the importation and delivery into, and traffic within, its territory of polar bears or any part or product thereof taken in violation of this Agreement.

ARTICLE VI

1. Each Contracting Party shall enact and enforce such legislation and other measures as may be necessary for the purpose of giving effect to this Agreement.

2. Nothing in this Agreement shall prevent a Contracting Party from maintaining or amending existing legislation or other measures or establishing new measures on the taking of polar bears so as to provide more stringent controls than those required under the provisions of this Agreement.

ARTICLE VII

The Contracting Parties shall conduct national research programmes on polar bears, particularly research relating to the conservation and management of the species. They shall as appropriate coordinate such research with research carried out by other Parties, consult with other Parties on the management of migrating polar bear populations, and exchange information on research and management programmes, research results and data on bears taken.

ARTICLE VIII

Each Contracting Party shall take action as appropriate to promote compliance with the provisions of this Agreement by nationals of States not party to this Agreement.

ARTICLE IX

The Contracting Parties shall continue to consult with one another with the objective of giving further protection to polar bears.

ARTICLE X

1. This Agreement shall be open for signature at Oslo by the Government of Canada, Denmark, Norway, the Union of Soviet Socialist Republics and the United States of America until 31 March 1974.

2. This Agreement shall be subject to ratification or approval by the signatory Governments. Instruments of ratification or approval shall be deposited with the Government of Norway as soon as possible.

3. This Agreement shall be open for accession by the Governments referred to in paragraph 1 of this Article. Instruments of accession shall be deposited with the Depositary Government.

4. This Agreement shall enter into force ninety days after the deposit of the third instrument of ratification, approval or accession. Thereafter, it shall enter into force for a signatory or acceeding Government on the date of deposit of its instrument of ratification, approval or accession.

5. This Agreement shall remain in force initially for a period of five years from its date of entry into force, and unless any Contracting Party during that period requests the termination of the Agreement at the end of that period, it shall continue in force thereafter.

6. On the request addressed to the Depositary Government by any of the Governments referred to in paragraph 1 of this Article, consultations shall be conducted with a view to convening a meeting of representatives of the five Governments to consider the revision or amendment of this Agreement.

7. Any Party may denounce this Agreement by written notification to the Depositary Government at any time after five years from the date of entry into force of this Agreement. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

8. The Depositary Government shall notify the Governments referred to in paragraph 1 of this Article of the deposit of instruments of ratification, approval or accession, of the entry into force of this Agreement and of the receipt of notifications of denunciation and any other communications from a Contracting Party specifically provided for in this Agreement.

9. The original of this Agreement shall be deposited with the Government of Norway which shall deliver certified copies thereof to each of the Governments referred to in paragraph 1 of this Article.

10. The Depositary Government shall transmit certified copies of this Agreement to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Agreement.

DONE at Oslo, in the English and Russian languages, each text being equally authentic, this fifteenth day of November, 1973.

I hereby certify that this is a true copy of the original document deposited in the archives of the Royal Norwegian Ministry of Foreign Affairs.

PER TRESSELT,
Head of Division, Legal Department, Royal Norwegian Ministry of Foreign Affairs.

CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

The Contracting Parties,

Recalling the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted under the Antarctic Treaty signed at Washington on 1 December 1959;

Recognizing the general concern about the vulnerability of Antarctic seals to commercial exploitation and the consequent need for effective conservation measures;

Recognizing that the stocks of Antarctic seals are an important living resource in the marine environment which requires an international agreement for its effective conservation;

Recognizing that this resource should not be depleted by over-exploitation, and hence that any harvesting should be regulated so as not to exceed the levels of the optimum sustainable yield;

Recognizing that in order to improve scientific knowledge and so place exploitation on a rational basis, every effort should be made both to encourage biological and other research on Antarctic seal populations and to gain information from such research and from the statistics of future sealing operations, so that further suitable regulations may be formulated;

Noting that the Scientific Committee on Antarctic Research of the International Council of Scientific Unions (SCAR) is willing to carry out the tasks requested of it in this Convention;

Desiring to promote and achieve the objectives of protection, scientific study and rational use of Antarctic seals, and to maintain a satisfactory balance within the ecological system,

Have agreed as follows:

ARTICLE 1

Scope

(1) This Convention applies to the seas south of 60° South Latitude, in respect of which the Contracting Parties affirm the provisions of Article IV of the Antarctic Treaty.

(2) This Convention may be applicable to any or all of the following species:

Southern elephant seal *Miroungaleonina*,
Leopard seal *Hydrurga leptonyx*,
Weddell seal *Leptonychotes weddelli*,
Crabeater seal *Lobodon carcinophagus*,
Ross seal *Ommatophoca rossi*,
Southern fur seals *Arctocephalus* sp.

(3) The Annex to this Convention forms an integral part thereof.

ARTICLE 2

Implementation

(1) The Contracting Parties agree that the species of seals enumerated in Article 1 shall not be killed or captured within the Convention area by their nationals or vessels under their respective flags except in accordance with the provisions of this Convention.

(2) Each Contracting Party shall adopt for its nationals and for vessels under its flag such laws, regulations and other measures, including a permit system as appropriate, as may be necessary to implement this Convention.

ARTICLE 3

Annexed measures

(1) This Convention includes an Annex specifying measures which the Contracting Parties hereby adopt. Contracting Parties may from time to time in the future adopt other measures with respect to the conser-

vation, scientific study and rational and humane use of seal resources, prescribing *inter alia*.

(*a*) permissible catch;

(*b*) protected and unprotected species;

(*c*) open and closed seasons;

(*d*) open and closed areas, including the designation of reserves;

(*e*) the designation of special areas where there shall be no disturbance of seals;

(*f*) limits relating to sex, size, or age for each species;

(*g*) restrictions relating to time of day and duration, limitations of effort and methods of sealing;

(*h*) types and specifications of gear and apparatus and appliances which may be used;

(*i*) catch returns and other statistical and biological records;

(*j*) procedures for facilitating the review and assessment of scientific information;

(*k*) other regulatory measures including an effective system of inspection.

(2) The measures adopted under paragraph (1) of this Article shall be based upon the best scientific and technical evidence available.

(3) The Annex may from time to time be amended in accordance with the procedures provided for in Article 9.

ARTICLE 4

Special permits

(1) Notwithstanding the provisions of this Convention, any Contracting Party may issue permits to kill or capture seals in limited quantities and in conformity with the objectives and principles of this Convention for the following purposes:

(*a*) to provide indispensable food for men or dogs;

(*b*) to provide for scientific research; or

(*c*) to provide specimens for museums, educational or cultural institutions.

(2) Each Contracting Party shall, as soon as possible, inform the other Contracting Parties and SCAR of the purpose and content of all permits issued under paragraph (1) of this Article and subsequently of the numbers of seals killed or captured under these permits.

ARTICLE 5

Exchange of information and scientific advice

(1) Each Contracting Party shall provide to the other Contracting Parties and to SCAR the information specified in the Annex within the period indicated therein.

(2) Each Contracting Party shall also provide to the other Contracting Parties and to SCAR before 31 October each year information on any steps it has taken in accordance with Article 2 of this Convention during the preceding period 1 July to 30 June.

(3) Contracting Parties which have no information to report under the two preceding paragraphs shall indicate this formally before 31 October each year.

(4) SCAR is invited:

(*a*) to assess information received pursuant to this Article; encouraging exchange of scientific data and information among the Contracting Parties; recommend programmes for scientific research; recommend statistical and biological data to be collected by sealing expeditions within the Convention area; and suggest amendments to the Annex; and

(*b*) to report on the basis of the statistical, biological and other evidence available when the harvest of any species of seal in the Convention area is having a significantly harmful effect on the total stocks of such species or on the ecological system in any particular locality.

(5) SCAR is invited to notify the Depositary which shall report to the Contracting Parties when SCAR estimates in any sealing season that the permissible catch limits for any species are likely to be exceeded and, in that case, to provide an estimate of the date upon which the permissible catch limits will be reached. Each Contracting Party shall then take appropriate measures to prevent its nationals and vessels under its flag from killing or capturing seals of that species after the estimated date until the Contracting Parties decide otherwise.

(6) SCAR may if necessary seek the technical assistance of the Food and Agriculture Organization of the United Nations in making its assessments.

(7) Notwithstanding the provisions of paragraph (1) of Article 1 the Contracting Parties shall, in accordance with their internal law, report to each other and to SCAR, for consideration, statistics relating to the Antarctic seals listed in paragraph (2) of Article 1 which have been killed or captured by their nationals and vessels under their respective flags in the area of floating sea ice north of 60° South Latitude.

ARTICLE 6

Consultations between contracting parties

(1) At any time after commercial sealing has begun a Contracting Party may propose through the Depositary that a meeting of Contracting Parties be convened with a view to:

(a) establishing by a two-thirds majority of the Contracting Parties, including the concurring votes of all States signatory to this Convention present at the meeting, an effective system of control, including inspection, over the implementation of the provisions of this Convention;

(b) establishing a commission to perform such functions under this Convention as the Contracting Parties may deem necessary; or

(c) considering other proposals, including:

(i) the provision of independent scientific advice;

(ii) the establishment, by a two-thirds majority, of a scientific advisory committee which may be assigned some or all of the functions requested of SCAR under this Convention, if commercial sealing reaches significant proportions;

(iii) the carrying out of scientific programmes with the participation of the Contracting Parties; and

(iv) the provision of further regulatory measures, including moratoria.

(2) If one-third of the Contracting Parties indicate agreement the Depositary shall convene such a meeting, as soon as possible.

(3) A meeting shall be held at the request of any Contracting Party, if SCAR reports that the harvest of any species of Antarctic seal in the area to which this Convention applies is having a significantly harmful effect on the total stocks or the ecological system in any particular locality.

ARTICLE 7

Review of operations

The Contracting Parties shall meet within five years after the entry into force of this Convention and at least every five years thereafter to review the operation of the Convention.

ARTICLE 8

Amendments to the Convention

(1) This Convention may be amended at any time. The text of any amendment proposed by a Contracting Party shall be submitted to the Depositary, which shall transmit it to all the Contracting Parties.

(2) If one-third of the Contracting Parties request a meeting to discuss the proposed amendment the Depositary shall call such a meeting.

(3) An amendment shall enter into force when the Depositary has received instruments of ratification or acceptance thereof from all the Contracting Parties.

ARTICLE 9

Amendments to the Annex

(1) Any Contracting Party may propose amendments to the Annex to this Convention. The text of any such proposed amendments shall be submitted to the Depositary which shall transmit it to all Contracting Parties.

(2) Each such proposed amendment shall become effective for all Contracting Parties six months after the date appearing on the notification from the Depositary to the Contracting Parties, if within 120 days of the notification date, no objection has been received and two-thirds of the Contracting Parties have notified the Depositary in writing of their approval.

(3) If an objection is received from any Contracting Party within 120 days of the notification date, the matter shall be considered by the Contracting Parties at their next meeting. If unanimity on the matter is not reached at the meeting, the Contracting Parties shall notify the Depositary within 120 days from the date of closure of the meeting of their approval or rejection of the original amendment or of any new amendment proposed by the meeting. If, by the end of this period, two-thirds of the Contracting Parties have approved such amendment, it shall become effective six months from the date of the closure of the meeting for those Contracting Parties which have by then notified their approval.

(4) Any Contracting Party which has objected to a proposed amendment may at any time withdraw that objection, and the proposed amendment shall become effective with respect to such Party immediately if the amendment is already in effect, or at such time as it becomes effective under the terms of this Article.

(5) The Depositary shall notify each Contracting Party immediately upon receipt of each approval or objection, of each withdrawal of objection, and of the entry into force of any amendment.

(6) Any State which becomes a party to this Convention after an amendment to the Annex has entered into force shall be bound by the Annex as so amended. Any State which becomes a Party to this Convention during the period when a proposed amendment is pending may approve or object to such an amendment within the time limits applicable to other Contracting Parties.

ARTICLE 10

Signature

This Convention shall be open for signature at London from 1 June to 31 December 1972 by States participating in the Conference on the Conservation of Antarctic Seals held at London from 3 to 11 February 1972.

ARTICLE 11

Ratification

This Convention is subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland, hereby designated as the Depositary.

ARTICLE 12

Accession

This Convention shall be open for accession by any State which may be invited to accede to this Convention with the consent of all the Contracting Parties.

ARTICLE 13

Entry into force

(1) This Convention shall enter into force on the thirtieth day following the date of deposit of the seventh instrument of ratification or acceptance.

(2) Thereafter this Convention shall enter into force for each ratifying, accepting or acceding State on the thirtieth day after deposit by such State of its instrument of ratification, acceptance or accession.

ARTICLE 14

Withdrawal

Any Contracting Party may withdraw from this Convention on 30 June of any year by giving notice on or before 1 January of the same year to the Depositary, which upon receipt of such a notice shall at once communicate it to the other Contracting Parties. Any other Contracting Party may, in like manner, within one month of the receipt of a copy of such a notice from the Depositary, give notice of withdrawal, so that the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

ARTICLE 15

Notifications by the Depositary

The Depositary shall notify all signatory and acceding States of the following:

(*a*) signatures of this Convention, the deposit of instruments of ratification, acceptance or accession and notices of withdrawal:

(*b*) the date of entry into force of this Convention and of any amendments to it or its Annex.

ARTICLE 16

Certified copies and registration

(1) This Convention, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit duly certified copies thereof to all signatory and acceding States.

(2) This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Convention.

DONE at London, this 1st day of June 1972.

ANNEX

1. Permissible Catch—

The Contracting Parties shall in any one year, which shall run from 1 July to 30 June inclusive, restrict the total number of seals of each species killed or captured to the numbers specified below. These numbers are subject to review in the light of scientific assessments:

(a) in the case of crabeater seals *Lobodon carcinophagus*, 175,000;

(b) in the case of Leopard seals *Hydrurgo leptonyx*, 12,000;

(c) in the case of Weddell seals *Leptonychotes weddelli*, 5,000.

2. Protected Species—

(a) It is forbidden to kill or capture Ross seals *Ommatophoca rossi*, Southern elephant seals *Mirounga leonina*, or fur seals of the genus *Arctocephalus*.

(b) In order to protect the adult breeding stock during the period when it is most concentrated and vulnerable, it is forbidden to kill or capture any Weddell sea *Leptonychotes weddelli* one year old or older between 1 September and 31 January inclusive.

3. Closed Season and Sealing Season—

The period between 1 March and 31 August inclusive is a Closed Season, during which the killing or capturing of seals is forbidden. The period 1 September to the last day in February constitutes a Sealing Season.

4. Sealing Zones—

Each of the sealing zones listed in this paragraph shall be closed in numerical sequence to all sealing operations for the seal species listed in paragraph 1 of this Annex for the period 1 September to the last day of February inclusive. Such closures shall begin with the same zone as is closed under paragraph 2 of Annex B to Annex 1 of the Report of the Fifth Antarctic Treaty Consultative Meeting at the moment the Convention enters into force. Upon the expiration of each closed period, the affected zone shall reopen:

Zone 1—between 60° and 120° West Longitude.

Zone 2—between 0° and 60° West Longitude, together with that part of the Weddell Sea lying westward of 60° West Longitude.

Zone 3—between 0° and 70° East Longitude.

Zone 4—between 70° and 130° East Longitude.

Zone 5—between 130° East Longitude and 170° West Longitude.

Zone 6—between 120° and 170° West Longitude.

5. Seal Reserves—

It is forbidden to kill or capture seals in the following reserves, which are seal breeding areas or the site of long-term scientific research:

(a) The arm around the South Orkney Islands between 60° 20′ and 60° 56′ South Latitude and 44° 05′ and 46° 25′ West Longitude.

(b) The area of the southwestern Ross Sea south of 76° South Latitude and west of 170° East Longitude.

(c) The area of Edisto Inlet south and west of a line drawn between Cape Hallet at 72° 19′ South Latitude, 170° 18′ East Longitude, and Helm Point, at 72° 11′ South Latitude, 170° 00′ East Longitude.

6. Exchange of Information—

(a) Contracting Parties shall provide before 31 October each year to other Contracting Parties and to SCAR a summary of statistical information on all seals killed or captured by their nationals and vessels under their respective flags in the Convention area, in respect of the preceding period 1 July to 30 June. This information shall include by zones and months:

(i) The gross and net tonnage, brake horsepower, number of crew, and number of days' operation of vessels under the flag of the Contracting Party;

(ii) The number of adult individuals and pups of each species taken.

When specially requested, this information shall be provided in respect of each ship, together with its daily position at noon each operating day and the catch on that day.

(b) When an industry has started, reports of the number of seals of each species killed or captured in each zone shall be made to SCAR in the form and at the intervals (not shorter than one week) requested by that body.

(c) Contracting Parties shall provide to SCAR biological information, in particular:

(i) Sex.

(ii) Reproductive condition.

(iii) Age.

SCAR may request additional information or material with the approval of the Contracting Parties.

(d) Contracting Parties shall provide to other Contracting Parties and to SCAR at least 30 days in advance of departure from their home ports, information on proposed sealing expeditions.

7. Sealing Methods—

(a) SCAR is invited to report on methods of sealing and to make recommendations with a view to ensuring that the killing or capturing of seals is quick, painless and efficient. Contracting Parties, as appropriate, shall adopt rules for their nationals and vessels under their respective flags engaged in the killing and capturing of seals, giving due consideration to the views of SCAR.

(b) In the light of the available scientific and technical data, Contracting Parties agree to take appropriate steps to ensure that their nationals and vessels under their respective flags refrain from killing or capturing seals in the water, except in limited quantities to provide for scientific research in conformity with the objectives and principles of this Convention. Such research shall include studies as to the effectiveness of methods of sealing from the viewpoint of the management and humane and rational utilization of the Antarctic seal resources for conservation purposes. The undertaking and the results of any such scientific research programme shall be communicated to SCAR and the Depositary which shall transmit them to the Contracting Parties.

1976 PROTOCOL AMENDING THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics and the United States of America, Parties to the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended, hereinafter referred to as the Convention,

Having given due consideration to the recommendations adopted by the North Pacific Fur Seal Commission on March 28, 1974, and to the exchange of views expressed at the North Pacific Fur Seal Conference in March and December 1975, and

Desiring to amend the Convention,

Have agreed as follows:

ARTICLE I

The Convention shall be amended by this Protocol as from the date of its entry into force.

ARTICLE II

Article II, paragraph 2(f) of the Convention shall be replaced by the following:

"(f) relationship between fur seals and other living marine resources, including the extent to which fur seals affect commercial fish catches, the damage fur seals inflict on fishing gear, and the effect of commercial fisheries on the fur seals;".

ARTICLE III

1. In Article II, paragraph 2 of the Convention, "and" at the end of subparagraph (h) shall be deleted and "(i)" shall be replaced by "(j)".

2. After Article II, paragraph 2(h) of the Convention, the following shall be inserted:

"(i) effects of man-caused environmental changes on the fur seal populations; and".

ARTICLE IV

Article II, paragraph 3(b) of the Convention shall be replaced by the following:

"(b) to devote to pelagic research an effort which, to the greatest extent possible, should be similar in extent to that expended in recent years, provided that this shall not involve the annual taking by all the Parties combined of more than 2,500 seals in the Eastern and more than 2,200 seals in the Western Pacific Oceans, unless the Commission, pursuant to Article V, paragraph 3, shall decide otherwise; and".

ARTICLE V

Article IV of the Convention shall be replaced by the following:

"ARTICLE IV

Each Party shall bear the expense of its own research. Title to sealskins taken during the research shall vest in the Party conducting such research."

ARTICLE VI

Article V, paragraph 2(d) of the Convention shall be replaced by the following:

"(d) recommend appropriate measures to the Parties on the basis of the findings obtained from the implementation of such coordinated research programs, including measures regarding the size and the sex and age composition of the seasonal commercial kill from a herd and regarding a reduction or suspension of the harvest of seals on any island or group of islands in case the total number of seals on that island or group of islands falls below the level of maximum sustainable productivity; provided, however, that due consideration be given to the subsistence needs of Indians, Ainos, Aleuts, or Eskimos who live on the islands where fur seals breed, when it is not possible to provide sufficient seal meat for such persons from the seasonal commercial harvest or research activities; and".

ARTICLE VII

Article V, paragraph 2(e) of the Convention shall be replaced by the following:

"(e) study whether or not pelagic sealing on conjunction with land sealing could be permitted in certain circumstances without adversely affecting achievement of the objectives of the Convention, and make recommendations thereon to the Parties at the end of the twenty-first year after entry into force of the Convention".

ARTICLE VIII

Article V, paragraph 3 of the Convention shall be replaced by the following:

"3. In addition to the duties specified in paragraph 2 of this Article, the Commission shall, subject to Article II, paragraph 3, determine from time to time the number of seals to be marked on the rookery islands, and the total number of seals which shall be taken at sea for research purposes, the times at which such seals shall be taken and the areas in which they shall be taken, as well as the number to be taken by each Party, taking into account any recomendations made pursuant to Article V, paragraph 2(d)."

ARTICLE IX

Article V, paragraph 6 of the Convention shall be replaced by the following:

"6. The Commission shall hold an annual meeting at such time and place as it may decide. Additional meetings shall be held when requested by two or more members of the Commission."

ARTICLE X

Article IX, paragraph 3 of the Convention shall be replaced by the following:

"3. The respective Parties will seek to ensure the utilization of those methods for the capture and killing and marketing of fur seals on land or at sea which will spare the fur seals pain and suffering to the greatest extent practicable."

ARTICLE XI

Article XI of the Convention shall be replaced by the following:

"ARTICLE XI

"The Parties agree to meet in the twenty-second year after entry into force of the Convention to consider the recommendations in accordance with Article V, paragraph 2(e) and to determine what further agreements may be desirable in order to achieve the maximum sustainable productivity of the North Pacific fur seal herds."

ARTICLE XII

Article XIII, paragraph 3 of the Convention shall be replaced by the following:

"3. The Convention shall enter into force on the date of the deposit of the fourth instrument of ratification."

ARTICLE XIII

Article XIII, paragraph 4, of the Convention shall be replaced by the following:

"4. The Convention shall continue in force for twenty-two years and thereafter until the entry into force of a new or revised fur seal convention between the Parties, or until the expiration of one year after such period of twenty-two years, whichever may be the earlier; provided, however, that the Convention shall terminate one year from the day on which a Party gives written notice to the other Parties of an intention of terminating the Convention."

ARTICLE XIV

1. In Article XIII of the Convention, paragraph "5" shall be redesignated as "6".

2. After Article XIII, paragraph 4, of the Convention, the following shall be inserted:

"5. At the request of any Party, representatives of the Parties will meet at a mutually convenient time within ninety days of such request to consider the desirability of modifications of the Convention."

ARTICLE XV

1. This Protocol shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United States of America as soon as practicable.

2. The Government of the United States of America shall notify the other signatory Governments of ratifications or acceptances deposited.

3. This Protocol shall enter into force on the date on which the fourth instrument of ratification or acceptance is deposited with the Government of the United States of America.

4. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to this Protocol.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Washington this seventh day of May, 1976, in the English, Japanese, and Russian languages, each text equally authentic.

Signatories to the 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, Done at Washington May 7, 1976:

For the Government of Canada:

VERNON G. TURNER.

For the Government of Japan:

FUMIHIKO TOGO.

For the Government of the Union of Soviet Socialist Republics:

A. DOBRYNIN.

For the Government of the United States of America:

FREDERICK IRVING.

FIFTH INTERNATIONAL TIN AGREEMENT

PREAMBLE

The participating countries, recognizing:

(a) The significant assistance to economic growth, especially in developing producing countries, that can be given by commodity agreements in helping to secure stabilization of prices and steady development of export earnings and of primary commodity markets;

(b) The community and interrelationship of interests of, and the value of continued co-operation between, producing and consuming countries in order to support the purposes and principles of the United Nations and the United Nations Conference on Trade and Development and to resolve problems relevant to tin by means of an international commodity agreement, taking into account the role which the International Tin Agreement can play in the establishment of a new international economic order;

(c) The exceptional importance of tin to numerous countries whose economy is heavily dependent upon favourable and equitable conditions for its production, consumption or trade;

(d) The need to protect and foster the health and growth of the tin industry, especially in the developing producing countries, and to ensure adequate supplies of tin to safeguard the interests of consumers;

(e) The importance of tin producing countries of maintaining and expanding their import purchasing power; and

(f) The desirability of improving efficiency in the use of tin in both the developing and industrialized countries, as an aid to the conservation of world tin resources;

Have agreed as follows:

Chapter I: Objectives

ARTICLE 1

Objectives

The objectives of this Agreement are:

(a) To provide for adjustment between world production and consumption of tin and to alleviate serious difficulties arising from surplus or shortage of tin, whether anticipated or real;

(b) To prevent excessive fluctuations in the price of tin and in export earnings from tin;

(c) To make arrangements which will help to increase the export earnings from tin, especially those of the developing producing countries, so as to provide such countries with resources for accelerated economic growth and social development, while at the same time taking into account the interests of consumers;

(d) To ensure conditions which will help to achieve a dynamic and rising rate of production of tin on the basis of a remunerative return to producers, which will help to secure an adequate supply at prices fair to consumers and to provide a long-term equilibrium between production and consumption;

(e) To prevent widespread unemployment or under-employment and other serious difficulties which may result from maladjustments between the supply of and the demand for tin;

(f) To improve further the expansion in the use of tin and the indigenous processing of tin, especially in the developing producing countries;

(g) In the event of a shortage of supplies of tin occurring or being expected to occur, to take steps to secure an increase in the production of tin and a fair distribution of tin metal in order to mitigate serious difficulties which consuming countries might encounter;

(h) In the event of a surplus of supplies of tin occurring or being expected to occur, to take steps to mitigate serious difficulties which producing countries might encounter;

(i) To review disposals of non-commercial stocks of tin by Governments and to take steps which would avoid any uncertainties and difficulties which might arise;

(j) To keep under review the need for the development and exploitation of new deposits of tin and for the promotion, through, inter alia, the technical and financial assistance resources of the United Nations and other organizations within the United Nations system, of the most efficient methods of mining, concentration and smelting of tin ores;

(k) To promote the development of the tin market in the developing producing countries in order to encourage a more important role for them in the marketing of tin; and

(l) To continue the work of the International Tin Council under the Fourth International Tin Agreement (hereinafter referred to as the Fourth Agreement) and previous International Tin Agreements.

Chapter II: Definitions

ARTICLE 2

Definitions

For the purposes of this Agreement:

Tin means tin metal, any other refined tin or the tin content of concentrates or tin ore which has been extracted from its natural occurrence. For the purposes of this definition, "ore" shall be deemed to exclude (a) material which has been extracted from the ore body for a purpose other than that of being dressed and (b) material which is discarded in the process of dressing.

Tin metal means refined tin of good merchantable quality assaying not less than 99.75 percent.

Buffer stock means the buffer stock established and operated in accordance with the provisions of chapter X of this Agreement.

Tin metal held means the metal holding of the buffer stock, including metal which has been bought for the buffer stock but not yet received, and excluding metal which has been sold from the buffer stock but not yet delivered, by the Manager of the buffer stock.

Tonne means a metric ton, i.e., 1,000 kilogrammes.

Control period means a period which has been so declared by the Council and for which a total permissible export tonnage has been fixed.

Quarter means a calendar quarter beginning on 1 January, 1 April, 1 July or 1 October.

Net exports means the amount exported in the circumstances set out in part one of annex C to this Agreement less the amount imported as determined in accordance with part two of the same annex.

Participating country means a country whose Government has ratified, approved, accepted or acceded to this Agreement, or given notification of intention to ratify, approve, accept it, or accede to it, or any territory or territories whose separate participation has taken effect under article 53, or, as the context may require, the Government of such country or of such territory or territories themselves, or an organization referred to in article 54.

Producing country means a participating country which the Council has declared, with the consent of that country, to be a producing country.

Consuming country means a participating country which the Council has declared, with the consent of that country, to be a consuming country.

Contributing country means a participating country which has contributions in the buffer stock.

A simple majority is attained if a motion is supported by a majority of the votes cast by participating countries.

A simple distributed majority is attained if a motion is supported by both a majority of the votes cast by producing countries and a majority of the votes cast by consuming countries.

A two-thirds distributed majority is attained if a motion is supported by both a two-thirds majority of the votes cast by producing countries and a two-thirds majority of the votes cast by consuming countries.

Entry into force means, except when qualified, the initial entry into force of this Agreement, whether such entry into force is provisional in accordance with article 50 or definitive in accordance with article 49.

Financial year means a period of one year beginning on 1 July and ending on 30 June of the next year.

A session shall comprise one or more meetings of the Council.

The International Tin Council: Constitutional Provisions

Chapter III: Membership

ARTICLE 3

The Council

(a) The International Tin Council (hereinafter called the Council), established by the previous International Tin Agreements, shall continue in being for the purpose of administering the Fifth International Tin Agreement, with the membership, powers and functions provided for in this Agreement.

(b) The seat of the Council shall be in London, unless the Council decides otherwise.

ARTICLE 4

Participation in the Council

(a) The Council shall be composed of all the participating countries.

(b) (i) Each participating country shall be represented in the Council by one delegate, and may designate alternates and advisers to attend sessions of the Council;

(ii) An alternate delegate shall be empowered to act and vote on behalf of the delegate during the latter's absence or in other special circumstances.

(c) Each participating country shall constitute a single member of the Council, except as otherwise provided in article 53.

ARTICLE 5

Categories of participants

(a) Each member of the Council shall be declared by the Council, with the consent of the country concerned, to be a producing or a consuming country, as soon as possible after receipt by the Council of notice from the Secretary-General of the United Nations that such member has deposited its instrument of ratification, approval, acceptance or accession under article 48 or 52, or notification of intention to ratify, approve, accept or accede to this Agreement under article 50 or article 52.

(b) The membership of producing countries and consuming countries shall be based respectively on their domestic mine production and their consumption of tin metal provided that:

(i) The membership of a producing country which is a substantial consumer of tin metal derived from its own domestic mine production shall with the consent of that country be based on its exports of tin; and

(ii) The membership of a consuming country which produces from its own domestic mines a substantial proportion of the tin it consumes shall with the consent of that country be based on its imports of tin.

(c) In its instrument of ratification, approval, acceptance or accession or in its notification of intention to ratify, approve, accept or accede to this Agreement, each Government may state the category of participating countries to which it considers that it should belong.

(d) At the first ordinary session of the Council after the entry into force of this Agreement, the Council shall take the decisions necessary for the application of this article by a majority of votes cast by the participating countries listed in annex A and by a majority of votes cast by the participating countries listed in annex B, the votes being counted separately and voting rights being set out as in annexes A and B to this Agreement, the operation of article 13 being left out of account for this purpose.

ARTICLE 6

Change of category

(a) Where the position of a participating country has changed from that of a consuming country to that of a producing country, or vice versa, the Council shall, on the request of that country or on its own initiative with the country's consent, consider the new position and determine what tonnage or percentage would be applicable for the purposes of the relevant annexes to this Agreement.

(b) The Council shall determine the date when the tonnage and/or percentage, as the case shall require, which it has arrived at under paragraph (a) of this article, shall come into effect.

(c) From the date of coming into effect determined by the Council under paragraph (b) the participating country concerned shall cease to hold any of the rights and privileges in, or to be bound by any of the obligations under, this Agreement which pertain to countries in its previous category, except any undischarged financial or other obligations incurred by the country in its previous category, and shall acquire all the rights and privileges in, and shall be bound by all of the obligations under, this Agreement which pertain to countries in its new category:

Provided that:

(i) If the change of category is from that of a producing country to that of a consuming country, the country which has changed shall nevertheless retain its rights to the refund at the termination of this Agreement of its share in the liquidation of the buffer stock in accordance with articles 25 and 26; and

(ii) If the change of category is from that of a consuming country to that of a producing country, the conditions laid down by the Council for the country which has changed shall be equitable as between the country and the other producing countries already participating in this Agreement.

Chapter IV: Powers and functions

ARTICLE 7

Powers and functions of the Council

The Council:

(a) Shall have such powers and perform such duties as may be necessary for the administration and operation of this Agreement.

(b) Shall receive from the Executive Chairman, whenever it so requests, such information with regard to the holdings and operations of the buffer stock as it considers necessary to fulfill its functions under this Agreement.

(c) May request participating countries to furnish available data concerning tin production, the production costs of tin, the level of tin production, tin consumption, international trade in and stocks of tin and any other information necessary for the satisfactory administration of this Agreement, not inconsistent with the national security provisions as laid down in article 44, and the countries shall furnish to the fullest extent possible the information so requested.

(d) Has the power to borrow for the purposes of the Administrative Account established under article 16, or of the Buffer Stock Account in accordance with article 24.

(e) Shall publish after the end of each financial year a report of its activities for that year.

(f) Shall publish after the end of each quarter, but not earlier than three months after the end of that quarter in the absence of a contrary decision by the Council, a statement showing the tonnage of tin metal held at the end of that quarter.

(g) Shall make whatever arrangements are appropriate for consultation and co-operation with:

(i) The United Nations, its appropriate organs—particularly the United Nations Conference on Trade and Development—the specialized agencies, other organizations within the United Nations system and appropriate intergovernmental organizations; and

(ii) Non-participating countries which are Members of the United Nations or members of its specialized agencies or which were parties to the previous International Tin Agreements.

ARTICLE 8

Procedures of the Council

The Council:

(a) Shall establish its own rules of procedure.

(b) May make whatever arrangements it considers necessary to advise the Executive Chairman at times when the Council is not in session.

(c) May appoint such committees as it considers necessary to assist it in the performance of its functions, and may draw up their terms of reference; these committees may, unless the Council otherwise decides, establish their own rules of procedure.

(d) (i) May at any time, by a two-thirds distributed majority, delegate to any committee any power which the Council may exercise by a simple distributed majority, other than those relating to: Assessment of contributions under article 19; floor and ceiling prices under articles 27 and 31; assessment of export control under articles 32, 33, 34, 35 and 36; or action in the event of a tin shortage under article 40;

(ii) Shall, by a two-thirds distributed majority, fix the membership and terms of reference of any such committees; and

(iii) May by a simple majority revoke at any time any delegation of powers to any such committee or the appointment of any such committee.

ARTICLE 9

Statistics and Studies

The Council:

(a) Shall, at least once in every quarter, estimate the probable production and consumption of tin during the following quarter or quarters, with a view to assessing the total statistical tin position for that period, and in this connection, may take into account such other factors as are relevant.

(b) Shall make arrangements for the continuing study of the production costs of tin, the level of tin production, price trends, market trends and the short-term and long-term problems of the world tin industry; to this effect it shall undertake or promote such studies on problems of the tin industry as it deems appropriate.

(c) Shall keep itself informed of new uses of tin and the development of substitute products which might replace tin in its traditional uses.

(d) Shall encourage closer relationships with and wider participation in organizations devoted to research into the efficient exploration for and production, processing and use of tin; and

(e) Shall make a study of alternative means to supplement or replace existing methods of financing the buffer stock.

Chapter V: Organization and administration

ARTICLE 10

Executive Chairman and Vice-Chairmen of the Council

(a) The Council shall, by a two-thirds distributed majority and by ballot, appoint an independent Executive Chairman, who may be a national of one of the participating countries. The appointment of the Executive Chairman shall be considered at the first ordinary session of the Council after the entry into force of this Agreement.

(b) An executive Chairman shall not be appointed if he has been actively engaged in the tin industry or in the tin trade during the five years preceding his appointment and shall comply with the conditions set out in article 12.

(c) A member of the staff of the Council shall not be excluded from appointment as Executive Chairman by virtue of paragraph (b) of this article.

(d) The Executive Chairman shall hold office for such period and on such other terms and conditions as the Council may determine.

(e) The Executive Chairman shall preside over sessions and meetings of the Council; he shall have no vote.

(f) The Council shall elect annually two Vice-chairmen, one from among the delegates of the producing countries and one from among the delegates of the consuming countries. The two Vice-chairmen shall be designated respectively First Vice-chairman and Second Vice-chairman. The First Vice-chairman shall be selected for each alternate year from producing countries and consuming countries respectively.

(g) If the Executive Chairman resigns or is permanently unable to perform his duties, the Council shall appoint a new Executive Chairman in accordance with the procedure provided for in paragraph (a) of this article. Pending such appointment, or during temporary absences of the Executive Chairman, he shall be replaced by the First Vice-chairman, or if necessary by the Second Vice-chairman, who shall have only the duties of presiding over sessions and meetings, unless the Council decides otherwise. The Council shall also provide in its Rules of Procedures for the appointment of an Acting Chief Executive Officer responsible for the administration and operation of this Agreement in accordance with article 12 during temporary absences of the Executive Chairman, or pending the appointment of a new Executive Chairman in accordance with this paragraph.

(h) When a Vice-chairman performs the duties of the Executive Chairman he shall have no vote; the right to vote of the country he represents may be exercised in accordance with the provisions of subparagraph (ii) of paragraph (b) of article 4 and paragraph (c) of article 14.

ARTICLE 11

Sessions of the Council

(a) The Council shall hold four ordinary sessions a year. The Council may also hold such special sessions as may be required.

(b) The Secretary-General of the United Nations shall convene the first ordinary session of the Council under this Agreement in London. This session shall begin within eight days after entry into force of this Agreement.

(c) Sessions shall be convened, at the request of any participating country or as may be required by the provisions of this Agreement, by the Executive Chairman or, after consultation with the First Vice-Chairman, and on his behalf by the Acting Chief Executive Officer in the event of the incapacity of the Executive Chairman. Sessions may also be convened by the Executive Chairman at his discretion.

(d) Sessions shall, unless otherwise decided by the Council be held at the seat of the Council. Except in the case of sessions convened under article 31, at least seven days' notice of each session shall be given.

(e) Delegates holding two-thirds of the total votes of all producing countries and two-thirds of the total votes of all consuming countries shall together constitute a quorum at any session or meeting of the Council. If for any session of the Council, there is not a quorum as defined above, a further session shall be convened after not less than seven days, at which delegates holding more than 1,000 votes shall together constitute a quorum.

ARTICLE 12

The Staff of the Council

(a) The Executive Chairman appointed under article 10 shall be responsible to the Council for the administration and operation of this Agreement in accordance with the decisions of the Council.

(b) The Executive Chairman shall also be responsible for the management of the administrative services and staff.

(c) The Council shall appoint a Manager of the Buffer Stock (hereinafter called the Manager) and a Secretary and shall determine the terms and conditions of service of those two officers.

(d) The Council shall give instruction to the Executive Chairman as to the manner in which the Manager is to carry out his responsibilities laid down in this Agreement.

(e) The Executive Chairman shall be assisted by the staff considered necessary by the Council. All staff, including the Manager and the Secretary of the Council, shall be responsible to the Executive Chairman. The method of appointment and the conditions of employment of the staff shall be approved by the Council.

(f) Neither the Executive Chairman nor members of the staff shall have any financial interest in the tin industry, tin trade, tin transport, tin publicity, or other activities related to tin.

(g) In the performance of their duties, neither the Executive Chairman nor the members of the staff shall seek or receive instructions from any Government or person or authority other than the Council or a person acting on behalf of the Council under the terms of this Agreement. They shall refrain from any action which might reflect on their position as international officials responsible only to the Council. Each participating country undertakes to respect the exclusively international character of the responsibilities of the Executive Chairman and the members of the staff and not to seek to influence them in the discharge of their responsibilities.

(h) No information concerning the operation or administration of this Agreement shall be revealed by the Executive Chairman, the Manager, the Secretary of the Council or other staff of the Council, except as may be authorized by the Council or as is necessary for the proper discharge of their duties under this Agreement.

Chapter VI: Votes in the Council

ARTICLE 13

Percentages and Votes

(a) The producing countries shall together hold 1,000 votes. Each producing country shall receive five initial votes; the remainder shall be divided among the producing countries as nearly as possible in proportion to the percentages of each producing country as listed in annex A or as otherwise determined in accordance with this article.

(b) The consuming countries shall together hold 1,000 votes. Each consuming country shall receive five initial votes, or, if there are more than 30 consuming countries, the highest whole number so that the total of such initial votes shall not exceed 150; the remainder shall be divided among the consuming countries as nearly as possible in proportion to the percentage of each consuming country as listed in annex B or as otherwise determined in accordance with this article.

(c) No participating country shall have more than 450 votes.

(d) There shall be no fractional votes.

(e) Where, by reason of the failure of one or more Governments of the countries listed in annex A or annex B to ratify, approve, accept, or accede to, or to give notification of intention to ratify, approve, accept or accede to this Agreement, or by reason of a change in the category of a participating country in accordance with article 6, or by reason of the withdrawal of a participating country, or by reason of the operation of any of the provisions of this Agreement, the total of the percentages of the producing countries or of the consuming countries becomes less than 100, or the total of their respective votes becomes less than 1,000, the balance of percentages and votes shall be distributed among the other producing or consuming countries, as the case may be, as nearly as possible in proportion to the percentages they already hold so that the respective totals of the percentages of producing and consuming countries are each 100, and the respective totals of their votes reach 1,000.

(f) (i) If, prior to entry into force of this Agreement, a Government of a country not listed in annex A or B has ratified, approved, accepted or acceded to this Agreement, or has given notification of intention to ratify, approve, accept or accede to this Agreement; or

(ii) If, after the entry into force of this Agreement, the Government of any country not already a participating country ratifies, approves, accepts or accedes to this Agreement, or gives notification of intention to ratify, approve, accept, or accede to it, or if any participating country has been approved for a change in its category in accordance with article 6;

The Council shall determine a percentage for that country, and shall re-determine the percentages of other participating countries in proportion to their current percentages so that the respective totals of the percentages of producing and consuming countries are each 100 and the respective totals of their votes each 1,000. Except as provided in paragraph (i) of this article, a percentage determined in accordance with this paragraph shall take effect upon the date decided by the Council for the purposes of this article as if it were one of the percentages listed in annex A or annex B, as the case may be.

(g) (i) The Council shall review the percentages of the producing countries in annex A and re-determine them in accordance with the rules of annex F. Except for the first re-determination, which shall take place at the first ordinary session of the Council, the percentage of a producing country shall not, during any period of 12 months, be reduced by more than one-tenth of its percentage at the commencement of that period;

(ii) In any action which it may propose to take in accordance with the rules of annex F, the Council shall give due consideration to any circumstances stated by any producing country as being exceptional and may, by a two-thirds distributed majority, waive or modify the full application of those rules;

(iii) The Council may, from time to time, by a two-thirds distributed majority revise the rules of annex F, and any such revision shall have effect as if it were included in that annex;

(iv) The percentages resulting from the procedure set out in this paragraph shall be published and shall take effect upon the first day of the quarter following the date of the decision of the Council in replacement of the percentages listed in annex A.

(h) The Council shall at its first ordinary session revise annex B and shall publish the revised annex, which shall be effective for the purpose of this article forthwith; and subsequently, at sessions to be held during the second quarter of each calendar year the Council shall review the figures of the consumption of tin of each consuming country for each of the three preceding calendar years and shall publish revised percentages for each consuming country on the basis of the averages of such figures of consumption, which percentages shall take effect on 1 July next following for the purposes of this article as if they were the percentages listed in annex B.

(i) When, by reason of the application of paragraph (f) of this article, the percentages of producing countries have been proportionately adjusted, during a control period declared by the Council in accordance with article 33, the Council shall then publish as soon as possible the revised table of percentages which shall come into force for the purposes of article 33 with effect from the first day of the quarter following the period in which the decision to revise percentages was taken.

ARTICLE 14

Voting Procedure of the Council

(a) Each member of the Council shall be entitled to cast the number of votes it holds in the Council. When voting, a delegate shall not divide his votes. When abstaining, a delegate shall be deemed not to have cast his votes.

(b) Decisions of the Council shall, except when otherwise provided, be taken by a simple distributed majority.

(c) Any member may, in a form satisfactory to the Council, authorize any other member to represent its interests and to exercise its voting rights at any session or meeting of the Council.

Chapter VII: Privileges and immunities

ARTICLE 15

Privileges and Immunities

(a) The Council shall be accorded in each participating country such currency exchange facilities as may be necessary for the discharge of its functions under this Agreement.

(b) The Council shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

(c) The Council shall have in each participating country to the extent consistent with its law, such exemption from taxation on the assets, income and other property of the Council as may be necessary for the discharge of its functions under this Agreement.

(d) The status, privileges and immunities of the Council in the territory of the United Kingdom shall continue to be governed by the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Tin Council signed at London on 9 February 1972.

Financial Provisions

Chapter VIII: Accounts and audit

ARTICLE 16

Financial Accounts

(a) (i) There shall be kept two accounts—the Administrative Account and the Buffer Stock Account—for the administration and operation of this Agreement;

(ii) The administrative expenses of the Council, including the remuneration of the Executive Chairman, the Manager, the Secretary and the staff, shall be entered into the Administrative Account;

(iii) Any expenditure which is solely attributable to buffer stock transactions or operations, including expenses for borrowing arrangements, storage, commission and insurance, shall be entered into the Buffer Stock Account by the Manager;

(iv) The liability of the Buffer Stock Account for any other type of expenditure shall be decided by the Executive Chairman.

(b) The Council shall not be responsible for the expenses of delegates to the Council or the expenses of their alternates and advisers.

ARTICLE 17

Cash contributions—currency of payment

Cash payments to the Administrative Account by participating countries under articles 19 and 58, cash payments to the Buffer Stock Account by contributing countries under articles 21, 22 and 23, cash payments from the Administrative Account to participating countries under article 58 and cash payments from the Buffer Stock Account to contributing countries under articles 21, 22, 23 and 25 shall be assessed in pounds sterling and paid in sterling or, at the option of the country concerned, the equivalent of the amount due in sterling at the rate of exchange on the date of payment may be paid in any currency which is freely convertible into sterling on the London foreign exchange market.

ARTICLE 18

Audit

(a) The Council shall appoint auditors for the purpose of auditing its books of account.

(b) The Council shall as soon as possible after the end of each financial year publish the independently audited Administrative and Buffer Stock Accounts, provided that such Buffer Stock Accounts shall not be published earlier than three months after the end of the financial year to which they relate.

Chapter IX: The administrative account

ARTICLE 19

The budget

(a) The Council shall at its first ordinary session after the entry into force of this Agreement approve the budget of contributions and expenditure on the Administrative Account for the period between the date of entry into force of this Agreement and the end of the first financial year. Thereafter, it shall approve a similar annual budget for each financial year. If at any time during any financial year, because of unforeseen circumstances which have arisen or are likely to arise, the balance remaining in the Administrative Account is likely to be inadequate to meet the administrative expenses of the Council, the Council may approve a necessary supplementary budget for the remainder of that financial year.

(b) On the basis of the budget described in paragraph (a) of this article, the Council shall assess in pounds sterling the contribution to the Administrative Account of each participating country, which shall be liable to pay its full contribution to the Council on notice of assessment. Participating countries with 21 or more votes on the date of assessment shall each pay 1 per cent of the total budget and participating countries with 20 or less votes on the date of assessment shall each pay three-tenths of 1 per cent of the total budget. That portion of the budget which is not covered by the above payments shall be met by a payment in respect of each vote which a participating country holds on the date of assessment of one two-thousandth of the total amount required.

(c) Any participating country which fails to pay its contribution to the Administrative Account within six months of the date of notice of assessment may be deprived by the Council of its right to vote. If such a country fails to pay its contribution within 12 months of the date of notice of assessment, the Council may deprive it of any other rights under this Agreement, provided that the Council shall, on receipt of any such outstanding contribution, restore to the country concerned the rights of which it has been deprived under this paragraph.

Chapter X: The buffer stock account

ARTICLE 20

Establishment of the Buffer Stock

(a) A buffer stock shall be established, the aggregate of which shall consist of contributions by producing countries in accordance with article 21 and of contributions by consuming countries in accordance with article 22.

(b) The resources of the buffer stock may be supplemented by borrowing from the capital market and by making arrangements as stated in article 24.

(c) For the purposes of this article, any part of a contribution made in cash shall be deemed to be equivalent to the quantity of tin metal which could have been purchased at the floor price in effect at the date when this part is called in accordance with article 21 or contributed under article 22.

ARTICLE 21

Contributions by Producing Countries

(a) (i) Producing countries shall make contributions to the buffer stock in either cash, tin metal or a combination of both, amounting to the equivalent of 20,000 tonnes of tin metal of which the equivalent of 7,500 tonnes shall be due on the entry into force of this Agreement;

(ii) The Council shall decide what portion of the initial and subsequent contributions shall become due in cash or in tin metal;

(iii) Subject to the provisions of subparagraph (iv), payment of the initial contributions shall be made on the date of the first ordinary session of the Council under this Agreement;

(iv) Producing countries shall make the payment of the cash portion of any contribution due by them on the date determined by the Council and shall deliver the portion due in tin metal not later than three months from the date of such decision;

(v) Notwithstanding the provisions of subparagraph (iii), the Council may at any time determine by which date or dates and in what instalments the whole or part of the balances of the aggregate contribution shall be made. However, the Council may authorize the Executive Chairman to request payment of instalments of these balances at not less than fourteen days' notice;

(vi) If at any time the Council holds cash assets in the Buffer Stock Account whose total amount exceeds the sum of the initial contributions required under subparagraph (i) and of any additional contributions received under article 22, the Council may authorize refunds out of such excess to the producing countries in proportion to the contributions they have made under this article. At the request of a producing country, the refund to which it is entitled may be retained in the buffer stock. The balances remaining to be paid out of the aggregate contributions due under sub-paragraph (i) shall be increased by the amount of such refunds, but not by the amount of any refund authorized but retained in the buffer stock.

(b) Contributions due in accordance with paragraph (a) of this article may, with the consent of the contributing country concerned, be made by transfer from the buffer stock held under the Fourth Agreement.

(c) The contributions referred to in paragraph (a) of this article shall be apportioned among the producing countries according to the percentages in annex A, as reviewed and re-determined at the first ordinary session of the Council in accordance with paragraph (g) of article 13.

(d) (i) If on or after the entry into force of this Agreement a country listed in annex A deposits an instrument of ratification, approval, acceptance or accession, or gives notification of intention to ratify, approve, accept, or accede to, this Agreement, or if a consuming country has changed its category to that of a producing country in accordance with article 6, the contribution of that country shall be determined by the Council with reference to its percentage in annex A;

(ii) Contributions determined under sub-paragraph (i), shall be made on the date of the deposit of such instrument or on the date determined by the Council under paragraph (b) of article 6;

(iii) In this connexion, the Council may direct that refunds, not exceeding in the aggregate the amount of any contribution received under sub-paragraph (i), be made to the other producing countries or consuming countries. If the Council decides that such refunds or parts of such refunds are to be made in tin metal, it may attach to these refunds such conditions as it deems necessary. At the request of a producing country, the refund to which it is entitled may be retained in the buffer stock.

(e) (i) A producing country which for the purpose of making a contribution under this article wishes, during a period of export control, to export tin from stocks lying within that country may apply to the Council for permission to export tonnage so desired in addition to its permissible export tonnage, if any, determined under article 34;

(ii) The Council shall consider any such application and may approve it subject to such conditions as it deems necessary. Subject to these conditions being satisfied and to the furnishing of such evidence as the Council may require to identify the metal or concentrates exported with the tin metal delivered to the buffer stock, paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 shall not apply to such exports.

(f) Contributions in tin metal may be accepted by the Manager in warehouses officially approved by the London Metal Exchange or at such other place or places as are determined by the Council. The brands of tin so delivered shall be brands registered with and recognized by the London Metal Exchange.

ARTICLE 22

Additional Contributions

(a) Consuming countries may, upon conditions agreed upon by the Council, make contributions to the buffer stock in either cash, tin metal or a combination of both, up to an additional amount equivalent to 20,000 tonnes of tin metal. Notwithstanding the conditions which shall have been imposed under this paragraph, the Council may refund to any country which has made a contribution to the buffer stock under this paragraph the whole or any part of such contributions. If such refund or part of such refund is made in tin metal the Council may attach to this refund the conditions which it deems necessary.

(b) Any country invited to the United Nations Tin Conference, 1975, may make contributions to the buffer stock in cash, or in tin metal or both, subject to the agreement of the Council and upon such conditions as shall include conditions as to refund. Such contribution shall be additional to the contributions shown in paragraph (a) of article 21 and paragraph (a) of this article.

(c) The Executive Chairman shall notify the participating countries of the receipt of any contributions received under paragraphs (a) and (b) of this article and shall also notify any non-participating countries which have made a contribution under paragraph (b) of this article of the receipt of any such contribution.

(d) At the expiration of 30 calendar months after the entry into force of this Agreement, the Council shall review the results obtained as regards the additional contributions referred to in paragraphs (a) and (b) of this article and it may decide that a negotiating conference is to be convened within six months of the date of the Council's decision in order wholly or partly to amend this Agreement by a Protocol or other appropriate international instrument. If such a decision is reached, the Council shall request the Secretary-General of the United Nations to convene such a negotiating conference.

ARTICLE 23

Penalties Relating to Contribution

(a) The Council shall determine penalties to be applied to countries which fail to meet their obligations under sub-paragraph (v) of paragraph (a) of article 21.

(b) If a producing country does not fulfill its obligations under article 21, the Council may deprive it of any or all of its rights and previleges under this Agreement and may also require the remaining producing countries to make good the deficit in cash or in tin metal or in both.

(c) If a part of the deficit is to be made good in tin metal, the producing countries which are making good that deficit shall be permitted to export the amounts required to them in addition to any permissible export amounts that may have been determined under article 34. Subject to the furnishing of such evidence as the Council may require to identify the metal or concentrates exported with the tin metal delivered to the buffer stock, paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 shall not apply to such exports.

(d) The Council may at any time and on such conditions as it may determine:

(i) Declare that the default has been remedied;

(ii) Restore the rights and privileges of the country concerned; and

(iii) Refund the additional contributions made by the other producing countries under paragraph (b) of this article together with interest at a rate which shall be determined by the Council; taking into account prevailing international interest rates, provided that, in respect of that part of the additional contribution which has been made in tin metal, such interest shall be calculated on the basis of an appropriate price for tin metal on the date of the decision of the Council under paragraph (b) of this article, on a recognized market to be agreed by the Council. If such refunds or parts of such refunds are made in tin metal the Council may attach to these refunds the conditions which it deems necessary.

ARTICLE 24

Borrowing for the buffer stock

(a) The Council may borrow for the purposes of the buffer stock and upon the security of tin warrants held by the buffer stock such sum or sums as it deems necessary provided that the maximum amount of such borrowing and the terms and conditions thereof shall have been approved by the majority of the votes cast by consuming countries and all the votes cast by producing countries.

(b) The Council may, by a two-thirds distributed majority, make any other arrangements it sees fit for borrowing for the purpose of the buffer stock or to supplement its resources.

(c) Without prejudice to paragraph (d) of this article, all charges connected with these borrowings and arrangements shall be assigned to the Buffer Stock Account, but the Council may decide that participating non-contributing countries may contribute towards these charges. The Executive Chairman shall make regular reports to the Council on the operation of this paragraph. The operation of this paragraph shall be considered in relation to the provisions of paragraph (d) of article 22.

(d) No obligation shall be laid upon any participating country under this article without the consent of that country.

(e) In the event of any financial resources being made available to the Council, the Council may, by a two-thirds distributed majority decide to modify the figures stated in paragraph (a) of article 21 and paragraph (a) of article 22.

Chapter XI: Liquidation of the buffer stock

ARTICLE 25

Liquidation procedure

(a) On the termination of this Agreement all buffer stock operations under articles 28, 29, 30, 31 or paragraph (b) of article 29 shall cease. The Manager shall thereafter make no further purchase of tin metal and may sell tin metal only as authorized by paragraphs (b), (c) or (i) of this article.

(b) Unless the Council substitutes other arrangements for those contained in this article, the Manager shall, in connexion with the liquidation of the buffer stock take the steps set out in paragraphs (c), (d), (e), (f), (g), (h), (i) and (j) of this article.

(c) As soon as possible after the termination of this Agreement, the Manager shall make an estimate of the total expenses of liquidation of the buffer stock in accordance with the provisions of this article and shall set aside from the balance remaining in the Buffer Stock Account a sum which is in his opinion sufficient to meet such expenses. Should the balance remaining in the Buffer Stock Account be inadequate to meet such expenses, the Manager shall sell a sufficient quantity of tin metal to provide the additional sum required.

(d) Subject to and in accordance with the terms of this Agreement, the share of each contributing country in the buffer stock shall be refunded to that country.

(e) (i) The share of each contributing country shall be ascertained in accordance with paragraph (f) of this article;

(ii) Upon the request of all contributing countries, the Council shall revise paragraph (f) of this article.

(f) For the purpose of ascertaining the share of each contributing country in the buffer stock, the Manager shall adopt the following procedure:

(i) The contributions of each contributing country to the buffer stock excluding any contributions or part of a contribution which has been made under article 22 and which has been refunded under article 22, shall be evaluated, and for this purpose any contribution or portion of any contribution made by a contributing country in metal shall be calculated at the prevailing floor price in effect on the date of call-up of such contribution and shall be added to the total contributions made by the country in cash;

(ii) All the tin metal held by the Manager on the date of termination of this Agreement shall be valued on the basis of an appropriate price for tin metal on that date on a recognized market to be agreed by the Council, and an amount to that value shall be added to the total cash held by him at that date after setting aside a sum as required by paragraph (c) of this article;

(iii) If the total arrived at under sub-paragraph (ii) is greater than the sum total of all the contributions made to the buffer stock by all the contributing countries, calculated in accordance with subparagraph (i), the surplus shall be apportioned among the contributing countries in proportion to the total contributions to the buffer stock of each contributing country multiplied by the number of days that such contributions have been at the disposal of the Manager on the termination of this Agreement. For this purpose contributions in tin metal shall be calculated in accordance with sub-paragraph (i) and each individual contribution, in metal or in cash, shall be multiplied by the number of days that it has been at the disposal of the Manager. For the purpose of calculating the number of days that a contribution has been at the disposal of the Manager neither the day on which the contribution was received by him nor the day of the termination of this Agreement shall be counted. The amount of surplus so apportioned to each contributing country shall be added to the total of the contributions of that country, calculated in accordance with sub-paragraph (i). In calculating the apportionment of such a surplus a forfeited contribution shall not be regarded as having been at the disposal of the Manager during the period of forfeiture;

(iv) If the total arrived at under sub-paragraph (ii) is less than the sum of all the contributions made to the buffer stock by all the contributing countries, the deficit shall be apportioned among the contributing countries in proportion to their total contribution. The amount of the deficit so apportioned to each contributing country shall be deducted from the total of the contributions of that country, such contributions shall be calculated in accordance with sub-paragraph (i);

(v) The result of the foregoing calculation shall in the case of each contributing country, be treated as its share of the buffer stock.

(g) Subject to the provisions of paragraph (c) of this article, the share of each contributing country in the cash and tin metal available for distribution in accordance with paragraph (f) of this article shall be allocated to it, provided that if any contributing country has forfeited the whole or part of its rights to participate in the proceeds of the liquidation of the buffer stock by virtue of articles 19, 23, 36, 45, 46 or 56, it shall to that extent be excluded from the refund of its share and the resulting residue shall be apportioned between the other contributing countries in proportion to their respective shares in the buffer stock.

(h) The ratio of tin metal to cash allocated under the provisions of paragraphs (d), (e) and (g) of this article to each contributing country shall be the same.

(i) Each contributing country shall be repaid the cash allocated to it as the result of the procedure set out in paragraph (f), and either:

(i) The tin metal so allocated to each contributing country may be transferred in such instalments and over such period as the Council may dem appropriate, but in any case not exceeding twenty-four months; or

(ii) At the option of any contributing country any such instalment may be sold and the net proceeds of such sale paid to that country.

(j) When all the tin metal has been disposed of in accordance with paragraph (i) of this article, the Manager shall distribute among the contributing countries any balance remaining of the sum set aside under paragraph (c) of this article in the proportions allocated to each country in accordance with paragraphs (e) and (f) of this article.

ARTICLE 26

Liquidation and export control

(a) When fixing the total permissible export tonnage for any control period in accordance with the provisions of article 32, the Council shall, in the light of consideration given to the renewal of this Agreement under paragraph (c) of article 57, decide whether there is need to reduce the tonnage of tin metal currently held in the buffer stock. In such case, the total permissible export tonnage may be fixed at such figure, lower than the figure which the Council would otherwise have fixed as the total permissible export tonnage for that period, as the Council may decide.

(b) Within the framework of instructions of the Council, the Manager may sell from the buffer stock at any price, but not less than the floor price, the quantities of tin metal by which the Council has reduced the total permissible export tonnages in accordance with the provisions of paragraph (a) of this article.

Economic provisions

Chapter XII: Floor and Ceiling Prices

ARTICLE 27

Floor and Ceiling Prices

(a) For the purposes of this Agreement there shall be floor and ceiling prices for tin metal which shall be expressed in Malaysian ringgit or in any other currency which the Council may decide. The range between the floor and ceiling prices shall be divided into three sectors.

(b) The initial floor and ceiling prices and sectors within the price range shall be those in force under the Fourth Agreement at the date of the termination of that Agreement.

(c) The Council may at any session decide the extent of each or any of the sectors referred to in paragraph (a) of this article.

(d) (i) The Council shall at its first ordinary session after the entry into force of this Agreement and, based on continuing studies, at any time thereafter or in accordance with the provisions of article 31, consider whether the floor and ceiling prices are appropriate for the attainment of the objectives of this Agreement and may revise either or both of them. If the Council does not determine new floor and ceiling prices at its first ordinary session after the entry into force of this Agreement, the floor and ceiling prices and sectors within the price range shall remain the same as those in force at the date of the termination of the Fourth Agreement.

(ii) In so doing, the Council shall take into account the short-term developments and medium-term trends of tin production, the production costs of tin and the level of tin production and consumption, the existing capacity for mine production, the adequacy of the current price to maintain sufficient future mine production capacity and other relevant factors affecting movements in the price of tin.

(e) The Council shall publish as soon as possible any revised floor and ceiling price, including any provisional or revised price determined under article 31 and any revised division of the range.

Chapter XIII: Management of Buffer Stock Operations

ARTICLE 28

Operation of the Buffer Stock

(a) The Manager shall, in conformity with article 12 and within the provisions of this Agreement and the framework of instructions of the Council, be responsible to the Executive Chairman for the operation of the buffer stock.

(b) For the purposes of this article, the market price of tin shall be the price of tin in that market recognized by the Council at the termination of the Fourth Agreement or such other price as the Council may at any time decide.

(c) If the market price of tin

(i) Is equal to or greater than the ceiling price, the Manager shall, unless instructed by the Council to operate otherwise and subject to articles 29 and 31, offer for sale at the market price on recognized markets such tin as is at his disposal until the market price of tin falls below the ceiling price or the tin at his disposal is exhausted;

(ii) Is in the upper sector of the range between the floor and ceiling prices, the Manager may operate on recognized markets at the market price if necessary to prevent the market price from rising too steeply, provided he is a net seller of tin;

(iii) Is in the middle sector of the range between the floor and ceiling prices, the Manager may operate only on special authorization by the Council;

(iv) Is in the lower sector of the range between the floor and ceiling prices, the Manager may operate on recognized markets at the market price if necessary to prevent the market price from falling too steeply, provided he is a net buyer of tin; or

(v) Is equal to or less than the floor price, the Manager shall, unless instructed by the Council to operate otherwise, if he has funds at his disposal and subject to articles 29 and 31, offer to buy tin on recognized market at the floor price until the market price of tin is above the floor price or the funds at his disposal are exhausted.

(d) For the purposes of this article recognized markets shall be taken to mean the Penang Straits Tin Market, the London Metal Exchange, and/or any other market which may be from time to time recognized by the Council for the purposes of the operation of the buffer stock.

(e) The Manager may engage in forward transactions under paragraph (c) of this article only if these will be completed before the termination date of this Agreement or before some other date after the termination of this Agreement as determined by the Council.

ARTICLE 29

Restriction or suspension of buffer stock operations

(a) Notwithstanding the provisions of sub-paragraphs (ii) and (iv) of paragraph (c) of article 28, the Council may restrict or suspend forward transactions of tin when the Council considers it necessary to achieve the purposes of this Agreement.

(b) Notwithstanding the provisions of sub-paragraph (i) and (v) of paragraph (c) of article 28, the Council, if in session, may restrict or suspend the operations of the buffer stock if, in its opinion, the discharge of the obligations laid upon the Manager by those subparagraphs will not achieve the purposes of this Agreement.

(c) At such times as the Council is not in session, the power to restrict or suspend operations under paragraph (b) of this article shall be vested in the Executive Chairman.

(d) The Executive Chairman may at any time revoke a restriction or suspension made under paragraph (c) of this article.

(e) Immediately after a decision by the Executive Chairman to restrict or suspend the operations of the buffer zone under paragraph (c) of this article, he shall convene a session of the Council to review such decision. Such session shall be held within fourteen days after the date of the restriction or suspension.

(f) The Council may confirm or cancel any restriction or suspension under paragraph (c) of this article. If the Council does not come to a decision, buffer stock operations shall be resumed or continue without restriction in accordance with the provisions of article 28.

(g) So long as any restriction or suspension of the operations of the buffer stock determined in accordance with this article remains in force, the Council shall review this decision at intervals of not longer than six weeks, if at a session to make such a review the Council does not come to a decision in favour of the continuation of the restriction or suspension, buffer stock operations shall be resumed.

ARTICLE 30

Other Operations of the Buffer Stock

(a) The Council may authorize the Manager to buy tin from, or sell tin to or for the account of, a governmental non-commercial stock. The Council may also authorize the Manager to buy tin from contributing countries to the buffer stock of the Fourth Agreement from their share of the liquidation of the buffer stock under that Agreement. The provisions of paragraph (c) of article 28 shall not apply to buying or selling of tin for which authority has been given in accordance with the provisions of this paragraph.

(b) Notwithstanding the provisions of articles 28 and 29, the Council may authorize the Manager, if his funds are inadequate to meet his operational expenses, to sell sufficient quantities of tin at the current price to meet expenses.

ARTICLE 31

The Buffer Stock and Changes in Exchange Rates

(a) The Executive Chairman may convene, or any participating country may request him to convene, a session of the Council immediately to review the floor and ceiling prices if the Executive Chairman or the participating country, as the case may be, considers that changes in exchange rates make such a review necessary. Sessions may be convened under this paragraph at less than seven days' notice.

(b) In the circumstances set forth in paragraph (a) of this article, the Executive Chairman may, pending the session of the Council referred to in that paragraph, provisionally restrict or suspend the operations of the buffer stock if such a restriction or suspension is in his opinion necessary to prevent buying or selling of tin by the Manager to an extent likely to prejudice the purposes of this Agreement.

(c) A restriction or a suspension of buffer stock operations under this article may be confirmed, amended or cancelled by the Council. If the Council does not come to a decision, buffer stock operations, if provisionally restricted or suspended, shall be resumed.

(d) Within thirty days of its decision to confirm, amend or cancel a restriction or a suspension of buffer stock operations under this article, the Council shall consider the determination of provisional floor and ceiling prices and may determine these prices. If the Council does not determine provisional floor and ceiling prices in accordance with this paragraph, the existing floor and ceiling prices shall, subject to the provisions of paragraph (f) of this article, remain in force.

(e) Within ninety days from the establishment of provisional floor and ceiling prices, the Council shall review these prices and may determine new floor and ceiling prices. If the Council does not determine new floor and ceiling prices in accordance with this paragraph, the provisional floor and ceiling prices shall remain in force.

(f) If the Council does not determine provisional floor and ceiling prices in accordance with paragraph (d) of this article, it may at any subsequent session determine what the floor and ceiling prices shall be.

(g) Buffer stock operations shall be resumed in accordance with the provisions of article 28 on the basis of such floor and ceiling prices as are determined in accordance with paragraphs (d), (e), or (f) of this article, as the case may be.

Chapter XIV: Export Control

ARTICLE 32

Determination of Export Control

(a) The Council may from time to time determine the quantities of tin which may be exported from producing countries in accordance with the provisions of this article and may declare a control period and shall, by the same decision, fix a total permissible export tonnage for that control period. In fixing such a permissible export tonnage the Council shall take into account the estimates of production and consumption made under paragraph (a) of article 9, the quantity of tin metal and cash held in the buffer stock, of other stocks of tin, the trade in tin, the current price of tin metal and any other relevant factors.

(b) It shall also be the duty of the Council to adjust supply to demand so as to maintain the price of tin metal between the floor and ceiling prices. The Council shall also aim to maintain available in the buffer stock tin metal and cash adequate to rectify discrepancies between supply and demand which may arise.

(c) The limitation of exports under this Agreement in each control period shall depend on the decision of the Council, and no such limitation shall operate in any period unless the Council has declared it to be a control period and fixed a total permissible export tonnage in respect of it.

(d) The Council may declare control periods and fix total permissible export tonnages, notwithstanding the restriction or suspension of buffer stock operations in accordance with the provisions of article 29 or 31.

(e) A total permissible export tonnage previously fixed under paragraph (a) of this article may be increased, but not decreased, by the Council during the control period to which it relates.

(f) When, under the provisions of paragraph (a) of this article, the Council has declared a control period and has fixed a total permissible export tonnage in respect of that period, the Council may at the same time call upon any country which is also a producer of tin from mines within its territory or territories to put into effect for that period such a limitation of its exports of tin derived from such production as may be agreed to be appropriate between the Council and the country concerned. The Council may also consult with countries which are consumers of tin with a view to improving the effectiveness of controls on supplies of tin coming on to international markets.

ARTICLE 33

Control periods

(a) Control periods shall correspond to quarters, provided that, on any occasion when the limitation of exports is being introduced for the first time during the currency of this Agreement or is being reintroduced after an interval during which there has been no limitation of exports, the Council may declare as the control period any period not being greater than five months or less than two months, ending on 31 March, 30 June, 30 September or 31 December.

(b) The Council shall not declare a control period unless it finds that at least 10,000 tonnes of tin metal are likely to be held in the buffer stock at the beginning of that period, except that:

(i) If a control period is declared for the first time after an interval during which no limitation of exports was in force, the figure for the purposes of this paragraph shall be 5,000 tonnes, and

(ii) The Council may by a two-thirds distributed majority revise in respect of any control period the required figures of 10,000 tonnes or 5,000 tonnes, as the case may be, to take account of the total capacity of the buffer stock at that time.

(c) A total permissible export tonnage which has become effective shall not cease to be effective during the course of the period to which it relates by reason only of the fact that the buffer stock holding has fallen below the minimum tonnage of tin metal required under paragraph (b) of this article or any other tonnage substituted therefor under the same paragraph.

(d) A control period already declared may be cancelled before, or terminated during, the currency of that period by the Council and the period so cancelled or terminated shall not be regarded as a control period for the purposes of paragraph (f) of article 32 and subparagraph (ii), (iii) and (iv) of paragraph (a) of article 36.

(c) Notwithstanding the provisions of this article, if, under the Fourth Agreement, a total permissible export tonnage has been fixed in respect of the last quarter of that Agreement and is still effective at the termination of that Agreement:

(i) A control period, commencing upon the entry into force of this Agreement, shall be deemed to have been declared under this Agreement; and

(ii) The total permissible export tonnage for such control period shall be at the same quarterly rate as that fixed by the Fourth Agreement for the last quarter of that Agreement unless and until revised by the Council in accordance with the provisions of article 32:

Provided that, if at the time of the first ordinary session of the Council under this Agreement less than 10,000 tons are held in the buffer stock, the Council shall consider the position at its first ordinary session, and if a decision to continue the limitation of exports is not reached, the period in question shall cease to be a control period.

ARTICLE 34

Division of total permissible export tonnage

(a) The total permissible export tonnage for any control period shall be divided among producing countries in proportion to their production or export figures, as appropriate, for the last four consecutive quarters which preceded the control period and which were not declared control periods. In the division of the total permissible export tonnage under this paragraph, the Council shall give due consideration to any circumstances referred to in Rule 6 of annex F, or stated by any producing country as being exceptional according to Rule 9 of annex F, and may, with the consent of other producing countries, use for that country production or export figures, as appropriate, relating to another period decided by the Council.

(b) (i) Notwithstanding the provisions of paragraph (a) of this article the Council may, with the consent of a producing country, reduce its share in the total permissible export tonnage and redistribute the tonnage of the reduction among the other producing countries in proportion to the percentages of those countries, or if circumstances so require, in some other manner;

(ii) The quantity of tin determined according to sub-paragraph (i) for any producing country for any control period shall for the purpose of this article be deemed to be the permissible export tonnage of that country for that control period.

(c) Each producing country shall take such measures as may be necessary to maintain and enforce the provisions of this article so that its exports shall correspond as closely as possible to its permissible export tonnage for any control period.

(d) (i) It shall be the duty of any producing country which believes itself unlikely to be able to export in any control period as much tin as it would be entitled to export in accordance with its permissible export tonnage for that control period, to make to the Council a declaration to that effect as soon as possible, but in any case not later than two calendar months after the date upon which such permissible export tonnage has become effective;

(ii) If the Council has received such a declaration, or is of the opinion that any producing country is unlikely to be able to export in any control period as much tin as it would be entitled to export in accordance with its permissible export tonnage, the

Council may take such steps as will, in its opinion, ensure that the total permissible export tonnage required will in fact be exported.

(e) For the purposes of this article, the Council may decide that exports of tin from any producing country shall include the tin content of any material derived from the mineral production of the country concerned.

ARTICLE 35

Point of export

Tin shall be deemed to have been exported if, in the case of a country named in annex C, the formalities set out in that annex opposite the name of that country have been completed, provided that:

(i) The Council may, from time to time, with the consent of the country concerned, revise annex C and any such revision shall have effect as if it were included in that annex; and

(ii) If any tin shall be exported from any producing country by any method which is not provided for by annex C, the Council shall determine whether such tin shall be deemed to have been exported for the purposes of this Agreement and, if so, the time at which such export shall be deemed to have taken place.

ARTICLE 36

Penalties relating to export control

(a) (i) The net exports of tin from each producing country for each control period shall be limited, except as otherwise provided for in this Agreement, to the permissible export tonnage for that country for that control period;

(ii) If, notwithstanding the provisions of sub-paragraph (i), the net exports of tin from a producing country in any control period exceed its permissible export tonnage for that control period by more than five percent, the Council may require the country concerned to make an additional contribution to the buffer stock not exceeding the tonnage by which such exports exceed its permissible export tonnage. Such a contribution shall be in tin metal or in cash or in such proportions of tin metal and cash and before such date or dates as the Council may decide. That part, if any, of the contribution which is to be paid in cash shall be calculated at the floor price in effect on the date of the decision. That part, if any, of the contribution which is to be made in tin metal shall be included in and shall not be additional to the permissible export tonnage of the country in question for the control period in which such contribution is due to be made;

(iii) If, notwithstanding the provisions of sub-paragraph (i), the aggregate net exports of tin from a producing country in any four successive control periods including, if appropriate, the control period referred to in sub-paragraph (ii) exceed by more than one per cent the aggregate of its permissible export tonnages for those periods, the permissible export tonnages of that country during each of the four subsequent control periods may be reduced by one-quarter of the aggregate tonnage so over-exported or, if the Council so decides, by any greater fraction not exceeding one-half. Such reduction shall take effect in and from the control period next following that in which the decision was taken by the Council;

(iv) If, after any four such successive control periods, during which the aggregate net exports of tin from a country have exceeded its permissible export tonnage as mentioned in sub-paragraph (iii), the aggregate net exports of tin from that country in any four further successive control periods, which shall not include any control period covered by sub-paragraph (iii), exceed the aggregate of the permissible export tonnages for those four control periods, the Council may, in addition to reducing the total permissible export tonnage of that country in accordance with the provisions of sub-paragraph (iii), declare that the country shall forfeit a part, which shall on the first occasion not exceed one-half of its rights to participation on liquidation of the buffer stock. The Council may at any time restore to the country concerned the portion of its rights so forfeited on such terms and conditions as it may determine;

(v) It shall be the duty of a producing country which has exported a tonnage of tin in excess of its permissible export tonnage and of any tonnage permitted by other provisions of this article to take effective steps to correct its breach of this Agreement at the earliest possible opportunity. The Council, when deciding the action to be taken under this paragraph, shall take account of any failure to take steps or delays in doing so.

(b) For the purposes of sub-paragraphs (ii), (iii) and (iv) of paragraph (a) of this article, control periods for which total permissible export tonnages have been fixed, tonnages which have been exported in excess of such permissible export tonnages, and penalties which have been imposed under article 33 of the Fourth Agreement shall be deemed, as from the entry into force of this Agreement, to have been fixed, exported or imposed under this article.

ARTICLE 37

Special exports

(a) At any time when it has declared a control period the Council may, by a two-thirds distributed majority, permit the export (hereinafter called a special export) of a specified quantity of tin in addition to the permissible export amount referred to in paragraph (a) of article 34, on the condition that:

(i) it considers that the proposed special export is destined to form part of a governmental stockpile; and

(ii) it considers that the proposed special export is unlikely to be used for any commercial or industrial purpose during the currency of this Agreement.

(b) The Council may by a two-thirds distributed majority impose such conditions upon a special export as it deems necessary.

(c) If the provisions of article 39 and the conditions imposed by the Council under paragraph (b) of this article are fulfilled, a special export shall not be taken into account when the provisions of paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 are being applied.

(d) The Council may by a two-thirds distributed majority at any time revise the conditions in paragraph (a) of this article, provided that any such revision shall be without prejudice to anything done by a country in pursuance of permission given and conditions already imposed under paragraph (b) of this article.

ARTICLE 38

Special deposits

(a) A producing country may at any time with the consent of the Council make special deposits of tin metal with the Manager. A special deposit shall not be treated as part of the buffer stock and shall not be at the disposal of the Manager.

(b) A producing country which has informed the Council of its intention of making a special deposit of tin metal originating within that country shall, subject to furnishing such evidence as the Council may require to identify the metal or the concentrates for conversion into tin metal which is the subject of the special deposit, be permitted to export such metal or concentrates in addition to any permissible export amount that may have been allocated to that country under article 34 and, subject to the compliance by the producing country with the requirements of article 39, paragraphs (b) and (d) of article 34 and paragraph (a) of article 36 shall not apply to such exports.

(c) Special deposits may be accepted by the Manager only at such place or places as may be convenient to him.

(d) The Executive Chairman shall notify the participating countries of the receipt of any such special deposit, but not sooner than three months after the date of receipt.

(e) A producing country which has made a special deposit of tin metal may withdraw the whole or part of that special deposit in order to fulfill the whole or part of its permissible export amount in any control period. In such a case the amount withdrawn from the the special deposit shall be regarded as having been exported for the purposes of article 33 in the control period in which the withdrawal was made.

(f) In any quarter which has not been declared a control period any special deposit shall be at the disposal of the country which has made the deposit, subject only to the provisions of paragraph (h) of article 39.

(g) All charges incurred in connection with any special deposit shall be borne by the country making the deposit and no charges shall be borne by the Council.

ARTICLE 39

Stocks in producing countries

(a) (i) The stocks of tin within any producing country which have not been exported within the definition for that country contained in annex C shall not at any time during a control period exceed the tonnage shown against that country in annex D;

(ii) Such stocks shall not include tin in the course of transport between the mine and the point of export as defined in annex C;

(iii) The Council may revise annex D, but, if in doing so it has increased the tonnage listed in annex D against any country, it may impose conditions, including conditions as to period and subsequent export, in relation to any such addition.

(b) Any increase in the proportion approved under paragraph (a) of article 36 of the Fourth Agreement and still operative at the termination of that Agreement and any conditions imposed in connexion therewith shall be deemed to have been approved or imposed under this Agreement unless the Council otherwise decides within six months after the entry into force of this Agreement.

(c) Any special deposit made under article 38 shall be deducted from the amount of stocks permitted under this article to be held during a control period within the producing country concerned.

(d) (i) Where in a producing country mentioned in annex E tin ore is unavoidably extracted from its natural occurrence in the mining of the other minerals mentioned in that annex and for that reason the limitation of stocks prescribed in paragraph (a) of this article would unreasonably restrict the mining of those other minerals, additional stocks of tin-in-concentrates may be held within that country to the extent that these are certified by the Government of that country as having been won exclusively in association with those other minerals and actually retained in that country, provided that the proportion which such additional stocks bear to the total amount of the other minerals mined shall not at any time exceed the proportion stated in annex E;

(ii) Except with the consent of the Council, the export of such additional stocks shall not commence until after the liquidation of all the tin metal in the buffer stock and the rate of export thereafter shall not exceed one-fortieth of the whole or two hundred and fifty tonnes, whichever is the greater, in each quarter.

(e) Countries listed in annex D or annex E shall, in consultation with the Council, make regulations governing the maintenance, protection and control of such additional stocks as may be approved in accordance with this article.

(f) The Council may, with the consent of the producing country concerned, revise annex D and annex E.

(g) Each producing country shall forward to the Council at such intervals as the Council may require statements as to the stocks of tin within its territory which have not been exported in accordance with the definition for that country in annex C. Such statements shall not include tin in course of transport between the mine and the point of export as defined in annex C. These statements shall show separately the stocks held under paragraph (d) of this article.

(h) A country which holds special deposits under article 38 or is permitted to increase tonnages in accordance with the provisions of paragraph (a) of this article shall, not later than twelve months before the termination of this Agreement, inform the Council of its plans for the disposal of such special deposits and the export of all or part of such increased tonnages, but not including additional stocks whose export is governed by paragraph (d) of this article, and shall consult with the Council as to the best means of making such export without avoidable disruption of the tin market and in harmony with the provisions for the liquidation of the buffer stock under article 26. The producing country concerned shall give due consideration to the recommendations of the Council.

Chapter XV: Tin shortage

ARTICLE 40

Action in the Event of a Tin Shortage

(a) If at any time, when the price is in or above the upper sector, the Council concludes that a serious shortage of supplies of tin has developed or is likely to develop, the Council:

(i) May, in accordance with paragraph (a) of article 32 and paragraph (d) of article 33, terminate any export control which might be in operation and recommend the level of stocks which should not be exceeded; and

(ii) Shall recommend to the participating countries that they take all possible steps to ensure as rapid an increase as possible in the amount of tin which they are able to make available.

(b) The Council shall determine the period of time during which measures provided for in this article shall remain in effect; such period shall be reckoned in quarters, it being understood that when these measures are applied for the first time under this Agreement or are applied again after an interval when there was no recognized shortage, the Council may declare as a period of applicability of these measures any period not longer than five months or shorter than one month and ending on 31 March, 30 June, 30 September or 31 December.

(c) The Council may cancel any measures taken on the basis of this article before their entry into force or terminate them while in progress or extend them from quarter to quarter.

(d) In the light of the Council's estimates of production and consumption made under paragraph (a) of article 9, and taking into account the amount of tin metal and cash held in the buffer stock and all other relevant factors, in particular, the utilization of production capacity, the availability of other tin stocks and trend in current prices, the Council shall carry out any studies necessary to enable it to estimate total tin demand and availability for the declared period and such subsequent periods as it may determine.

(e) The Council may by a two-thirds distributed majority invite the participating countries to enter into such arrangements with it as may assure consuming countries an equitable distribution of the available supplies of tin.

(f) The Council may make recommendations to producing countries on appropriate measures, not inconsistent with other international agreements on trade, to ensure that, in the event of a shortage, preference as regards the supply of tin available shall be given to consuming countries which participate in this Agreement.

(g) The Council shall, at each session held while this article is in effect, review the results of measures taken under this article since the preceding session.

Other provisions

Chapter XVI: Miscellaneous

ARTICLE 41

General obligations of members

(a) Participating countries shall during the currency of this Agreement use their best endeavours and co-operate to promote the attainment of its objectives.

(b) The participating countries shall accept as binding all decisions of the Council under this Agreement.

(c) Without prejudice to the general scope of paragraph (a) of this article, participating countries shall in particular observe the following:

(i) They shall not, so long as sufficient quantities of tin are available to meet their full requirements, prohibit or limit the use of tin for specified end-uses except in circumstances in which such prohibition or limitation would not be inconsistent with other international agreements on trade;

(ii) They shall create conditions which would promote the transfer of tin production from less efficient to more efficient enterprises; and

(iii) They shall encourage the conservation of the natural resources of tin by preventing the premature abandonment of deposits.

ARTICLE 42

Fair labour standards

The participating countries declare that, in order to avoid the depression of living standards and the introduction of unfair competitive conditions in world trade, they will seek to ensure fair labour standards in the tin industry.

ARTICLE 43

Disposal of tin from noncommercial stockpiles

(a) A participating country desiring to dispose of tin from noncommercial stockpiles shall, at adequate notice, consult with the Council concerning its disposal plans.

(b) At the time when a participating country gives notice of a plan to dispose of tin from non-commercial stockpiles, the Council shall promptly enter into official consultations on the plan with that country for the purpose of assuring adequate fulfillment of the provisions of paragraph (d) of this article.

(c) The Council shall from time to time review the progress of such disposals and may make recommendations to the disposing participating country. Any participating country so concerned shall give due consideration to the recommendations of the Council.

(d) Disposals from non-commercial stockpiles shall be made with due regard to the protection of tin producers, processors and consumers against avoidable disruption of their usual markets and against adverse consequences of such disposals on the investment of capital in exploration and development of new supplies and the health and growth of tin mining in the producing countries. The disposals shall be in such amounts and over such periods of time as will not interfere unduly with production and employment in the tin industry in the producing countries and as will avoid creating hardships to the economies of the participating producing countries.

ARTICLE 44

National security

(a) Nothing in this Agreement shall be construed:

(i) To require a participating country to furnish any information the disclosure of which it consider contrary to its essential security interests;

(ii) To prevent a participating country from taking, either singly or with other countries, any action which it considers necessary for the protection of its essential security interests where such action relates to traffic in arms, ammunition or implements of war, or to traffic in other goods and materials carried on directly or indirectly for the purpose of supplying a military establishment of any country, or which is taken in time of war or other emergency in international relations;

(iii) To prevent a participating country from entering into or carrying out any intergovernmental agreement, or other agreement on behalf of a country for the purpose specified in this paragraph, made by or for a military establishment for the purpose of meeting essential requirements of the national security of one or more of the countries participating in such agreements; or

(iv) To prevent a participating country from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

(b) Participating countries shall notify the Executive Chairman as soon as possible of any action they take respecting tin in consequence of sub-paragraph (ii) or (iv) of paragraph (a) of this article and the Executive Chairman shall so notify other participating countries.

(c) Any participating country which considers its economic interests under this Agreement seriously injured by action taken by any other participating country or countries, other than action taken in time of war, under the provisions of paragraph (a) of this article, may complain to the Council.

(d) On receipt of such a complaint the Council shall review the facts of the situation and shall by a majority of the total votes held by all consuming countries and a majority of the total votes held by all producing countries decide whether the complainant country is justified in its complaint and shall, if it so decides, permit the complainant country to withdraw from this Agreement.

Chapter XVII: Complaints and Disputes

ARTICLE 45

Complaints

(a) Any complaint that any participating country has committed a breach of this Agreement for which a remedy is not provided elsewhere in this Agreement shall, at the request of the country making the complaint, be referred to the Council for a decision.

(b) Save where otherwise provided in this Agreement, no participating country shall be found to have committed a breach of this Agreement unless a resolution to that effect is passed. Any such finding shall specify the nature and extent of the breach.

(c) If the Council finds under this article that a participating country has committed a breach of this Agreement, the Council may, unless some other penalty is provided elsewhere in this Agreement, deprive the country concerned of its voting and other rights until it has remedied the breach or has otherwise fulfilled its obligations.

(d) For the purposes of this article, the expression "breach of this Agreement" shall be deemed to include the breach of any condition imposed by the Council on failure to fulfill any obligation laid upon a participating country in accordance with this Agreement.

ARTICLE 46

Disputes

(a) Any dispute concerning the interpretation or application of this Agreement which is not settled by negotiation shall, at the request of any participating country, be referred to the Council for decision.

(b) Where a dispute has been referred to the Council in accordance with this article a majority of participating countries or any participating countries holding not less than one-third of the votes in the Council may require the Council, after full discussion, to seek the opinion of the advisory panel referred to in paragraph (c) of this article, on the issues in dispute before giving its decision.

(c) (i) Unless the Council, by a unanimous decision of votes cast, agrees otherwise, the panel shall consist of:

Two persons, one having wide experience in matters of the kind in dispute and the other having legal standing and experience, nominated by the producing countries;

Two such persons nominated by the consuming countries; and

A chairman selected unanimously by the four persons nominated above, or, if they fail to agree, by the Executive Chairman;

(ii) Persons appointed to the advisory panel shall act in their personal capacity and without instructions from any Government;

(iii) The expenses of the advisory panel shall be paid by the Council.

(d) The opinion of the advisory panel and the reasons therefor shall be submitted to the Council which, after considering all the relevant information, shall decide the dispute.

Chapter XVIII: Final provisions

ARTICLE 47

Signature

This Agreement shall be open for signature at United Nations Headquarters from 1 July 1975 to 30 April 1976 inclusive, by parties to the Fourth Agreement and by Governments invited to the United Nations Tin Conference, 1975.

ARTICLE 48

Ratification, approval, acceptance

This Agreement shall be subject to ratification, approval or acceptance by the signatory Governments in accordance with their respective constitutional procedures. A signatory Government which intends to ratify, approve or accept this Agreement may give notification of intention to do so. Instruments of ratification, approval or acceptance, or notifications of intention to ratify, approve or accept, shall be deposited with the Secretary-General of the United Nations.

ARTICLE 49

Definitive entry into force

(a) This Agreement shall, for the Governments which have deposited instruments of ratification, approval, acceptance or accession, enter into force definitively as soon after 30 June 1976 as such instruments have been deposited by Governments representing at least six producing countries holding together at least 950 votes as set out in annex A and at least nine consuming countries holding together at least 300 votes as set out in annex B.

(b) For any Government which has deposited an instrument of ratification, approval, acceptance or accession after the definitive entry into force of this Agreement, this Agreement shall enter into force definitively on the date of the deposit of such instrument.

(c) If this Agreement has entered into force provisionally under paragraph (a) of article 50, then as soon as instruments of ratification, approval, acceptance or accession have been deposited by Governments representing countries satisfying the conditions laid down in paragraph (a) of this article, it shall enter into force definitively for those Governments.

ARTICLE 50

Provisional entry into force

(a) (i) If this Agreement has not entered into force definitely by 1 July 1976 or, if the Fourth Agreement is extended, by the day following the termination of that Agreement, this Agreement shall the enter into force provisionally for Governments which have deposited instruments of ratification, approval, acceptance or accession, or notifications of intention to do so, if such instruments or notifications have been deposited by Governments represents at least six producing countries holding together at least 950 votes as set out in annex A, and at least nine consuming countries holding together at least 300 votes as set out in annex B;

(ii) For each Government which has deposited an instrument of ratification, approval or acceptance of, or accession to, or has given notification of intention to ratify, approve, accept or accede to, this Agreement while it is provisionally in force, this Agreement shall enter into force provisionally on the date of the deposit of such instrument or notification.

(b) If, within six months after the termination of the Fourth Agreement, this Agreement has entered into force provisionally but not definitely as laid down in article 49, the Executive Chairman shall as soon as possible convene a session or sessions of the Council to consider the position. If, however, the entry into force remains provisional, this Agreement shall be terminated not later than one year after the provisional entry into force.

ARTICLE 51

Expiry of notifications of intention

If this Agreement has entered into force definitely under paragraph (a) or paragraph (c) of article 49, and if any Government which has given a notification of intention to ratify, approve, accept or accede has failed to deposit an instrument of ratification, approval, acceptance or accession within a period of ninety days from the date of definitive entry into force, that Government shall cease to participate in this Agreement, provided that:

(i) The Council may extend the period aforesaid if so requested by that Government; and

(ii) That Government may cease to participate in this Agreement before the expiry of the period aforesaid or any extension thereof by giving to the Secretary-General of the United Nations at least thirty days' notice.

ARTICLE 52

Accession

(a) Any Government invited to the United Nations Tin Conference, 1975, or any party to the Fourth Agreement shall have the right to accede to this Agreement upon conditions to be determined by the Council. Instruments of accession from such Governments shall state that they accept all those conditions.

(b) The conditions laid down by the Council shall be equitable, in respect of voting rights and financial obligations, as between the Governments seeking to accede and other Governments already participating in this Agreement.

(c) Upon the accession of a producing country to this Agreement the Council:

(i) Shall fix, with the consent of that country, the tonnages and proportions to be shown against that country in annexes D and E where appropriate; and

(ii) Shall also fix the circumstances for the purpose of export control to be shown against the name of that country in annex C. The tonnage, proportion or description so fixed shall have effect as though it were included in such annexes.

(d) Any Government referred to in paragraph (a) of this article which intends to accede to this Agreement may give notification of intention to do so.

(e) The Council of the Fourth Agreement may, pending the entry into force of this Agreement, determine the conditions referred to in paragraph (a) of this article, subject to confirmation by the Council of this Agreement and the Government or Governments concerned.

(f) Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 53

Separate participation

A Government may, at the time of depositing its instrument of ratification, approval, acceptance or accession, or giving notification of intention to ratify, approve, accept or accede, or at any time thereafter, propose the separate participation as a producing or as a consuming country, as may be appropriate, of any territory or territories, interested in the production or consumption of tin, for whose international relations the Government is responsible and to which this Agreement applies or will apply when this Agreement enters into force. Such separate participation shall be subject to the consent of the Council and to the conditions which the Council may determine.

ARTICLE 54

Intergovernmental Organization

(a) Any reference to a Government in articles 47, 48, 49, 50, 51 and 52 shall be construed as including a reference to an intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.

(b) Such an organization shall not itself hold any votes, but in the case of votes on matters within its competence, it shall be entitled to cast the votes of its member States and shall cast them collectively. In such cases, the member States of the organization in question shall not be entitled to exercise their individual voting rights.

ARTICLE 55

Amendment

(a) The Council may, by a two-thirds majority of the total votes held by all producing countries and a two-thirds majority of the total votes held by all consuming countries, recommend to participating countries amendments to this Agreement. The Council shall, in its recommendation, fix the time limit within which each participating country shall notify the Secretary-General of the United Nations whether or not it ratifies, approves or accepts the amendment.

(b) The Council may extend the time fixed by it under paragraph (a) of this article for notification of ratification, approval or acceptance.

(c) If, within the time fixed under paragraph (a) of this article or extended under paragraph (b) of this article, an amendment is ratified, approved or accepted by all participating countries it shall take effect immediately on the receipt by the Secretary-General of the United Nations of the last ratification, approval or acceptance.

(d) If, within the time fixed under paragraph (a) of this article or extended under paragraph (b) of this article, an amendment is not ratified, approved or accepted by participating countries holding all of the votes of producing countries and by participating countries holding two-thirds of the total votes of all consuming countries, it shall not take effect.

(e) If, by the end of the time fixed under paragraph (a) of this article or extended under paragraph (b) of this article, an amendment is ratified, approved or accepted by participating countries holding all of the votes of producing countries and by participating countries holding two-thirds of the total votes of all consuming countries:

(i) The amendment shall, for the participating countries by which ratification, approval or acceptance has been signified, take effect at the end of three months next following the receipt by the Secretary-General of the United Nations of the last ratification, approval or acceptance necessary to compromise all of the votes of producing countries and two-thirds of the total votes of all consuming countries; and

(ii) Any participating country which does not ratify, approve or accept an amendment by the date of its coming into effect shall as of that date cease to participate in the Agreement, unless any such participating country satisfies the Council at its first session following the effective date of the amendment that its ratification, approval or acceptance could not be secured in time by reason of constitutional difficulties, and the Council decides to extend for such participating country the period fixed for ratification, approval or acceptance until these difficulties have been overcome.

(f) If a consuming country considers that its interests will be adversely affected by an amendment it may, before the date of its coming into effect, give notice to the Secretary-General of the United Nations of withdrawal from this Agreement. Withdrawal shall become effective on the effective date of the amendment. The Council may, at any time, on such terms and conditions as it considers equitable, permit such country to withdraw its notice of withdrawal.

(g) Any amendment to this article shall take effect only if it is ratified, approved or accepted by all participating countries.

(h) The provisions of this article shall not affect any power under this Agreement to revise any annex to this Agreement or the operation of any other article of this Agreement which provides for a specific procedure relating to the modification of this Agreement.

ARTICLE 56

Withdrawal

A participating country which withdraws from this Agreement during its currency, except:

(i) In accordance with the provisions of paragraph (d) of article 44 or paragraph (f) of article 55; or

(ii) Upon at least twelve months' notice being given to the Secretary-General of the United Nations not earlier than one year after the entry into force of this Agreement,

shall not be entitled to any share of the proceeds of the liquidation of the buffer stock under the terms of article 25 nor shall it be entitled to a share of the other assets of the Council under the terms of article 57 on the termination of this Agreement.

ARTICLE 57

Duration, Extension and Termination

(a) The duration of this Agreement shall, except as otherwise provided in this article or in paragraph (b) of article 50, be five years from the date of entry into force.

(b) The Council may by a two-thirds majority of the total votes held by all producing countries and a two-thirds majority of the total votes held by all consuming countries extend the duration of this Agreement by a period or periods not exceeding twelve months in all.

(c) The Council, in a recommendation to the participating countries, not later than four years after the entry into force of this Agreement, shall inform them whether it is necessary and appropriate that this Agreement should be renewed and, if so, in what form; it shall at the same time consider what the relationship between the supply of and demand for tin is likely to be at the expiration of this Agreement.

(d) (i) A participating country may at any time give notice in writing to the Executive Chairman that it intends to propose at the next session of the Council the termination of this Agreement;

(ii) If the Council, by a two-thirds majority of the total votes held by all producing countries and by all consuming countries, adopts the proposal to terminate, it shall recommend to the participating country that this Agreement shall terminate;

(iii) If participating countries holding two-thirds of the total votes of all producing countries and two-thirds of the total votes of all consuming countries notify the Council that they accept that recommendation, this Agreement shall terminate on the date the Council shall decide, being a date not later than six months after the receipt by the Council of the last of the notifications from those participating countries.

ARTICLE 58

Procedure on termination

(a) The Council shall remain in being for as long as may be necessary for the carrying out of paragraph (b) of this article, for the supervision of the liquidation of the buffer stock and any stocks held in producing countries in accordance with article 39 and for the supervision of the due performance of conditions imposed under this Agreement by the Council or under the Fourth Agreement; the Council shall have such of the powers and functions conferred on it by this Agreement as may be necessary for the purpose.

(b) On termination of this Agreement:

(i) The buffer stock shall be liquidated in accordance with the provisions of article 25;

(ii) The Council shall assess the obligations into which it has entered in respect of its staff and shall, if necessary, take steps to ensure that, by means of a supplementary estimate to the Administrative Account raised in accordance with article 19, sufficient funds are made available to meet such obligations;

(iii) After all liabilities incurred by the Council, other than those relating to the Buffer Stock Account, have been met, the remaining assets shall be disposed of in the manner laid down in this article;

(iv) If the Council is continued, it shall retain its archives, statistical material and all other documents;

(v) If the Council is not continued but a body is created to succeed the Council, the Council shall transfer its archives, statistical material and all other documents to such successor body and may by a two-thirds distributed majority either transfer all or any of its remaining assets to such successor body, or otherwise dispose of them as the Council may direct;

(vi) If the Council is not continued and no successor body is created, the Council shall transfer its archives, statistical material and any other documents to the Secretary-General of the United Nations or to any international organization nominated by him or, failing such nomination, as the Council may determine, and the remaining non-monetary assets of the Council shall be sold or otherwise realized in such manner as the Council may direct;

(vii) The proceeds of realization of non-monetary assets and any remaining monetary assets shall then be distributed in such a manner that each participating country shall receive a share proportionate to the total of the contributions which it has made to the Administrative Account established under article 19.

ARTICLE 59

Authentic texts of the Agreement

The texts of this Agreement in the Chinese, English, French, Russian and Spanish languages are all equally authentic, the originals being deposited with the Secretary-General of the United Nations.

In witness whereof the undersigned, having been duly authorized to this effect by their respective Governments or authorities, have signed this Agreement on the dates appearing opposite their signatures.

ANNEX A

PERCENTAGES AND VOTES OF PRODUCING COUNTRIES

Country	Percentage	Votes: Initial	Votes: Additional	Votes: Total
Australia	4.37	5	42	47
Bolivia	18.06	5	174	179
Indonesia	13.71	5	133	138
Malaysia	43.60	5	421	427
Nigeria, Federal Republic of	4.17	5	40	45
Thailand	12.55	5	121	126
Zaire, Republic of	3.54	5	34	39
Total	100.00	35	965	1,000

Note: The countries, percentages, and votes listed in this annex are those arrived at during the United Nations Tin Conference, 1975, at which the 5th International Tin Agreement was drawn up. The list of countries and the figures are subject to revision from time to time in accordance with the operation of the provisions of this agreement.

ANNEX B

PERCENTAGES AND VOTES OF CONSUMING COUNTRIES

Country	Percentage	Votes: Initial	Votes: Additional	Votes: Total
Austria	0.31	5	3	8
Belgium/Luxembourg	1.95	5	17	22
Bulgaria	.48	5	4	9
Canada	2.91	5	25	30
Cuba	.05	5	1	6
Czechoslovakia	1.91	5	16	21
Denmark	.30	5	3	8
Dominican Republic	.03	5	0	5
France	6.09	5	52	57
German Democratic Republic	.53	5	5	10
Germany, Federal Republic of	8.16	5	70	75
Hungary	.68	5	6	11
India	1.88	5	16	21
Ireland	.04	5	1	6
Italy	4.37	5	38	43
Japan	18.55	5	160	165
Korea, Republic of	.38	5	3	8
Netherlands	2.50	5	21	26
Nicaragua	.03	5	0	5
Poland	2.39	5	20	25
Romania	1.62	5	14	19
Spain	1.99	5	17	22
Switzerland	.41	5	3	8
Turkey	.72	5	6	11
United Kingdom of Great Britian and Northern Ireland	8.10	5	70	75
United States of America	29.56	5	254	259
Union of Soviet Socialist Republics	3.21	5	28	33
Yugoslavia	.85	5	7	12
Total	100.00	140	860	1,000

Note: The countries, percentages and votes listed in this annex are those arrived at during the United Nations Tin Conference, 1975, at which the 5th International Tin Agreement was drawn up. The list of countries and the figures are subject to revision from time to time in accordance with the operation of the provisions of this agreement.

ANNEX C

PART I

Circumstances in which tin shall be deemed to have been exported for the purpose of export control

Australia.—Tin shall be deemed to be exported on the date of the Restricted Goods Export Permit issued under the Customs (Prohibited Exports) Regulations.

Bolivia.—Tin shall be deemed to have been exported when it has passed the control of the Customs Authorities of Bolivia for payment of export duty.

Indonesia.—Tin shall be deemed to have been exported from Indonesia when the tin has been cleared through customs and/or when tin concentrates have been delivered to and weighed by the smelter under customs' supervision and the customs officials have issued a customs certificate for such tin. Such tin shall not include tin subsequently imported into Indonesia for domestic consumption.

Malaysia.—Tin shall be deemed to have been exported from Malaysia at the time at which the Royal Customs and Excise Department of Malaysia has weighed the concentrates or, where the concentrates have been smelted before the payment of export duty, has weighed the metal for the payment of such export duty.

Nigeria, Federal Republic of.—Tin shall be deemed to have been exported when the concentrates have been delivered to the smelter, weighed and passed for payment of royalty: Provided that tin not delivered to the smelter shall be deemed to have been exported when a waybill has been delivered by the Nigerian Railway Corporation acknowledging the delivery for export of concentrates to that Corporation.

Thailand.—Tin shall be deemed to have been exported from Thailand when the Department of Mineral Resources has officially certified that the concentrates have been delivered to and weighed by a smelting company in Thailand, provided that tin for export not delivered to a smelting company shall be deemed to have been exported from Thailand when the Department of Mineral Resources has issued an export permit in respect of such tin.

Zaire, Republic of.—Tin shall be deemed to have been exported when a through bill of lading has been delivered by a carrier affiliated to the Comité intérieur des Transporteurs de la République du Zaïre acknowledging the delivery of the tin to that carrier.

If, for any reason, no such document has been delivered for a particular consignment, the tonnage of tin in that consignment shall be deemed to have been exported for the purposes of this Agreement when export documents have been delivered by the Customs Administration of the Republic of Zaire.

General proviso.—Any tin transported from a producing country during a control period shall be deemed to have been exported and treated as part of the permissible export tonnage of that country for that control period, except:

(a) as stated in this annex in respect of Australia; or

(b) as may be determined by the Council in accordance with subparagraph (ii) of article 35, unless the formalities set out in this annex opposite the name of that producing country have been completed in respect of that tin before the beginning of the control period.

PART II

Imports into producing countries

For the purpose of determining net exports of tin under article 35, imports deductible from exports during a control period shall be the amount imported into the producing country concerned during the quarter immediately preceding the declaration of the control period in question, provided that tin imported for smelting and exported shall not be taken into account.

ANNEX D

Stocks in producing countries under article 39

Country:	*Tonnes*
Australia	3,000
Bolivia	8,000
Indonesia	6,200
Malaysia	17,050
Nigeria, Federal Republic of	1,500
Thailand	5,300
Zaire, Republic of	2,000

ANNEX E

Additional stocks won unavoidably—Tin content of concentrates permitted to be stocked additionally for each ton of other mineral mined

Country and other mineral:	*Tonnes*
Australia, Tantalo-columbite	1.5
Nigeria, Federal Republic of, Columbite	1.5
Thailand, Wolframite-scheelite	1.5
Zaire, Republic of, Tantalo-columbite	1.5

ANNEX F

Rules for the re-determination of the percentages of the producing countries

RULE 1

The first re-determination of the percentages of the producing countries shall be made at the first ordinary session of the Council under this Agreement. Nothwithstanding the provisions of rule 2, this re-determination shall be made on the basis of the last four quarters immediately preceding the introduction of any export control period for which figures of the production of tin in each of the producing countries are available. New percentages for the producing countries shall be determined in direct proportion to the production of tin in each of them during those four quarters.

Subsequent re-determination of the percentages shall be made at yearly intervals that no period after the quarter referred following the first re-determination, provided to in this Rule shall have been declared to be a control period.

In such subsequent re-determinations, made under this Rule, the new percentage shall be calculated as follows:

(i) the percentages in the second re-determination shall be in direct proportion to the production of tin in each of the producing countries in the latest twenty-four consecutive calendar months for which figures are available; and

(ii) the percentages in the third re-determination, and all later re-determinations, shall be in direct proportion to the production of tin in each of the producing countries in the latest thirty-six consecutive calendar months for which figures are available.

RULE 2

Should any period be declared to be a control period, no re-determination of the percentages shall be made until four consecutive quarters have not been declared to be control periods. The next re-determination shall then be made as soon as figures for the production of tin in each of the producing countries in such four consecutive quarters are available, and re-determinations shall be made at yearly intervals thereafter for as long as no period is declared to be a control period.

In any re-determination made under this Rule the new percentages shall be calculated as follows:

(i) the percentages in the first re-determination following a period of export control shall be in direct proportion to the sum of the production of tin in each of the producing countries in the latest twelve consecutive calendar months for which figures are available and in the four quarters immediately preceding that control period;

(ii) the percentages in the second re-determination, provided that no further control period shall have been declared, shall be in direct proportion to the production of tin in each of the producing countries in the latest twenty-four consecutive calendar months for which figures are available; and

(iii) the percentages in each subsequent re-determination, provided that no further control period shall have been declared, shall be in direct proportion to the production of tin in each of the producing countries in the latest thirty-six consecutive calendar months for which figures are available.

RULE 3

For the purposes of these Rules, re-determination shall be deemed to have been made at yearly intervals if they are made in the same quarter of the calendar year as were the preceding re-determinations.

RULE 4

For the purposes of these Rules, all producing countries shall make available to the Council their latest twelve months' production figures within three months after the date of the latest calendar month. If a country has failed to make such figures available, the production of that country for a period of twelve months shall be calculated by multiplying by twelve the average monthly rate of production figures available for such period.

RULE 5

Figures of the production of tin in any producing country for any period earlier than forty-two months before the date of any re-determination shall not be employed in that re-determination nor shall account be taken of figures of the production of tin in control periods.

RULE 6

The Council may reduce the percentage of any producing country which has failed to export the whole of its permissible export tonnage as determined under paragraph (a) of article 34, or of any greater amount accepted by it under paragraph (b) of that article. In considering its decision, the Council shall regard as mitigating circumstances that the producing country concerned surrendered under paragraph (b) of article 34 a part of its permissible export tonnage in time for effective steps to be taken by the other producing countries to make good the deficit or that the producing country concerned which has failed to export the amount determined under paragraph (d) of article 34 has exported the whole of its permissible export amount as determined under paragraph (a) or (b) of article 34.

RULE 7

If a reduction in the percentage of any producing country is made in accordance with Rule 6, the percentage so made available shall be distributed among the other producing countries in proportion to their percentages current at the date of the decision to make the reduction.

RULE 8

If, by the application of the foregoing Rules, the percentage of a producing country is reduced to less than the minimum figure permitted by the operation of the proviso to paragraph (g) (i) of article 13, then the percentage of that country shall be restored to such minimum figure and the percentages of the other producing countries shall be proportionately reduced so that the total of the percentages is restored to one hundred.

RULE 9

For the purposes of sub-paragraph (ii) of paragraph (g) of article 13, and paragraph (a) of article 34 the following circumstances *inter alia* may be regarded as exceptional: a national disaster, a major strike which has paralyzed the tin mining industry for a substantial period, a major breakdown of power supplies or of the main line of transport to the coast or to the point of export as defined in annex C.

RULE 10

For the purposes of these Rules, the calculation for producing countries which are substantial consumers of tin derived from their domestic mine production shall be based on their exports of tin and not on mine production of tin.

RULE 11

In this annex the expression "the production of tin" shall be deemed to refer exclusively to mine production, and smelter production shall accordingly be ignored.

Certified a true copy of the original for the Secretary-General of the United Nations.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-35), explaining the convention.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

PURPOSE

The primary objective of this Convention is to protect the Antarctic Seal population.

BACKGROUND

The Antarctic continent is an area in which temperatures can drop to 127° below zero and where the deepest ice has remained frozen for over 2,000 centuries. Along its 18,500 miles of coastline and drifting icebergs live uncounted numbers of seals. Estimates of the total seal population have ranged as high as 50 million. The crabeater seal is the most abundant, representing about 95 percent of the seal population. Crabeaters live on the floating ice of the Southern Ocean, far from land, and feed on a type of plankton called krill. The Weddell seal (2 percent), leopard seal (2 percent) and the Ross seal (1 percent), feed on fish, squid, or warm-blooded vertebrates. Occasionally, a fur seal or elephant seal will wander south to the edge of the pack ice, but very seldom will they breed in the Antarctic.

In 1959, the representatives of twelve nations, including the United States, signed the Antarctic Treaty. This Treaty provided a mechanism to protect seals while they are on the continent itself. However, seals in the seas and on the pack ice around the continent cannot be conserved under the Antarctic Treaty because Article I of the Agreed Measures states that "nothing in these Agreed Measures shall prejudice or in any way affect the rights, or the exercise of the rights of any State under international law with regard to the high seas within the Treaty area." It is precisely in these seas that all of the Antarctic seal species spend a major portion of their lives.

Until 1964, the fur seal of the Antarctic proper had never been hunted commercially. At that time, the first exploratory sealing operation was carried out by Norwegians. In the belief that profitable commercial sealing was a near term possibility, the Parties to the Antarctic Treaty: (1) agreed to begin drafting a separate treaty to protect seals on the Antarctic seas; and (2) recommended Interim Guidelines for the Voluntary Regulation of Antarctic Pelagic Sealing. Preliminary views on the draft convention were exchanged at the Fifth Consultative Meeting in 1968, and the draft was presented to the Conference of Plenipotentiaries in February 1970. It was subsequently revised at the 1972 Consultative Meeting. A final agreement was opened for signature in June 1972, and was signed by all twelve nations party to the Antarctic Treaty by the end of that year.

Public reaction to the news that the pack ice of the Southern Ocean was "open for sealing" was mixed. The National Audubon Society, the New York Zoological Society, and the Defenders of Wildlife issued a joint statement to the Secretary of State:

> (We) can find no rational basis for the introduction of commercial sealing into Antarctica. We cannot countenance this destruction of the earth's last remaining ecologically intact continent. We believe it is contrary to the wishes and best interests of a majority of the American people. Should the United States sign a Convention to this effect, we could not support ratification.

On January 31, 1972, a special hearing was called by the Subcommittee on Fisheries and Wildlife Conservation of the House Merchant Marine and Fisheries Committee. During that hearing, the State Department was accused of having made no effort to tell Congress, which was considering legislation to protect sea mammals, the Council on Environmental Quality, the Interior Department or interested private groups that it was about to negotiate a treaty. The Department was also criticized for not having filed an environmental impact statement as required by the National Environmental Policy Act.

On the other hand, an equal number of environmentalists have supported this Convention. They view this agreement primarily as a deterrent, with provisions for stronger action should this become necessary. Although not in favor of commercial sealings, these environmentalists believe that without a convention there would have been no limit on the numbers taken by any nation that wanted to start. They look upon this agreement as the first major experiment in international arrangements for the conservation of a natural resource which is not yet being exploited.

At the present time, there is no known intention in the U.S. of commencing commercial sealing in the Antarctic, and the U.S. Government would prefer that none be initiated. However, various countries have expressed an interest in the possibilities of commercial sealing, and as mentioned earlier, Norway has already conducted an exploratory expedition. If such operations become widespread, the success of this Convention will depend solely on the goodwill of each of the contracting parties. There is absolutely no enforcement system for this Convention. The U.S. delegation to the London Conference attempted to include a provision which would have set up a control authority, utilizing international observers. This proposal was, however, defeated.

MAJOR PROVISIONS

Article 1 defines the areas covered by the Convention as the seas south of 60° South Latitude, and lists the six species of seals covered by this Convention.

Article 2 provides that each contracting party shall adopt for its nationals and flag vessels those laws, regulations, and other measures necessary to implement this Convention.

Article 3 stipulates that the Annex is an integral part of this Convention.

Item 1 of this Annex sets a yearly limit of 175,000, 12,000 and 5,000 respectively, for the killing or capturing of the Crabeater, Weddel, and Leopard seals.

Item 2 prohibits the killing or capturing of the Ross, Southern Elephant, and fur seals of the genus *Arctocephalus*.

Item 3 allows sealing operation to take place between September 1 and the last day in February. It should be noted that this is the pupping season and will allow the killing of baby seals.

Item 4 established sealing zones and sets up a system of rotation for the use of these zones as hunting areas.

Item 5 prohibits the capturing or killing of seals in certain designated breeding areas.

Item 6 requires each contracting party to provide a yearly report to the Special Committee on Antarctic Research (SCAR) on the number and types of seals taken and the equipment used.

Item 7(b) prohibits the killing or capturing of seals in the water, except in limited quantities for scientific research.

The other provisions of this Convention deal with such subjects as Special Permits, Exchange of Scientific Advice and Information, Consultation, Amendments to the Convention and the Annex, Ratification, Accession, Entry Into Force, etc.

DATE OF ENTRY INTO FORCE

This Convention will enter into force on the thirtieth day following the date of deposit of the seventh instrument of ratification or acceptance. At the present time, only four nations (Norway, South Africa, United Kingdom and France) have ratified this Agreement.

COMMITTEE ACTION AND RECOMMENDATION

On August 31, 1976, the Committee held a public hearing on this Convention, at which time testimony was heard from Lindsay Grant, Acting Deputy Assistant Secretary for Environmental and Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; and Richard Frank, Attorney, Center for Law and Social Policy. The prepared statements of the witnesses are reprinted in the Appendix to this report along with a statement submitted by the Committee for Humane Legislation.

On the same day, the Committee in open session and by voice vote without dissent, ordered the Convention to be reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-34), explaining the agreement.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The primary objective of this agreement is to provide a plan of protection for polar bears consisting of a prohibition of hunting, killing or capturing these animals subject to specified exceptions.

BACKGROUND

The polar bear, which many believe existed during the ice ages of the Pleistocene period, is the world's largest known carnivorous land animal. Specimens have been measured up to lengths of nine feet and have been reported as weighing close to 1600 pounds.

This animal inhabits the land and floating ice of the frozen north, and is found on the high seas of the Arctic Ocean and the Arctic regions of five countries: The United States (Alaska), Norway, Denmark, (Greenland), Canada, and the U.S.S.R. This beast once roamed the shores of Manchuria, Japan, and Iceland, but intensive hunting has eliminated it from all but the most inaccessible regions of the far north.

The polar bear has no natural enemies and is clearly the dominant species of the Arctic. The estimates of the world-wide population of these animals range between 5,000 and 20,000. Despite these low population estimates, the annual polar bear kill is about 1,300. By 1970, the situation had become desperate enough for the world's leading polar bear experts to meet in Morges, Switzerland, to issue an appeal to the five polar bear nations to "drastically curtail harvests' of these animals.

Until 1973, approximately 300 polar bears were being shot legally off Alaska each year (about 25 percent of which were females). However, there is a large illegal market for polar bear hides, and it is estimated that the illegal catch almost equals that of the legal take. The kill by native Eskimos for fur and food is relatively small, averaging only 25 to 30 animals a year, although Eskimo hunting has now been stepped up as the value of hides and trophies has increased.

In 1972, Congress acted to protect the polar bear on an international basis. At that time both Houses of Congress passed a resolution (H.J. Res. 1268) directing the executive branch to seek an international solution to preserve and protect the polar bear. As a result of this Congressional mandate, the Administration called for an international conference to negotiate an agreement on the conservation of polar bears. The meeting was held in Oslo, Norway, in November 1973, and was attended by all five polar bear nations. It was at this meeting that the Agreement on the Conservation of Polar Bears was concluded.

SUMMARY OF MAJOR PROVISIONS

Article I prohibits the hunting, killing or capturing of polar bears subject to specified exceptions set out in Article III.

The exceptions in Article III permit the "taking" of polar bears for *bona fide* scientific purposes, for conservation purposes, for prevention of serious disturbance of the management of other living resources, and by local people using traditional methods in the exercise of their traditional rights, in accordance with the applicable laws. All of the exceptions specified in Article III are subject to the general understanding that—

Each Contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns, and shall manage polar bear populations in accordance with sound conservation practices based on the best available scientific data.

Article IV provides that the use of aircraft and large motorized vessels for the purpose of taking polar bears shall be prohibited, except where the application of such prohibition would be inconsistent with domestic laws.

DATE OF ENTRY INTO FORCE

This Agreement entered into force on May 26, 1976, ninety days after the third instrument of ratification, approval or accession had been filed. Of the five polar bear nations, only Canada and the United States have failed to ratify this Agreement.

COMMITTEE ACTION AND RECOMMENDATION

On August 31, 1976, the Committee held public hearings on this Agreement, at which time testimony was heard from Lindsay Grant, Acting Deputy Assistant Secretary for Environmental and Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; and Richard Frank, Attorney, Center for Law and Social Policy. On that same date, the Committee in open session, and by voice vote without dissent, ordered this Agreement reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–36), explaining the protocol.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This Protocol extends and modifies the 1957 Convention, as amended by the Protocol of October 8, 1963, and extended by the Agreement of September 3, 1969. The extension pursuant to the present Protocol is for a period of four years, which may be further extended.

The dual purpose of the Protocol, as of the Convention itself, is first to continue the prohibition now being observed by the four Governments party to the Convention with respect to pelagic sealing and, second, to provide a joint research program designed to furnish, as appropriate, sufficient factual data to prepare the groundwork for a more permanent agreement or arrangements among the parties to conserve the valuable fur seal herds of the North Pacific Ocean and to maintain these herds at the level of maximum sustainable productivity.

BACKGROUND

The northern fur seal is a creature of the high seas and comes ashore only to bear its young and to breed. Each year the fur seals leave their rookery islands of the North Pacific to migrate as far south as California, and as far west as Japan. Each year their amazing homing instinct draws them back across the trackless ocean to these same rocky nursery islands.

The rookeries under U.S. jurisdiction are on Alaska's Pribilof Islands. The Pribilofs are the most isolated of U.S. lands, two islands—St. George and St. Paul—lying in the Bering Sea 200 miles north of the Aleutians. Together, they cover 60 square miles, and between them are 40 miles of sea. The residents (450 on St. Paul, 180 on St. George) are the descendants of Aleut slaves.

The rookeries under Soviet Union jurisdiction are on the Commander Islands in the western Bering Sea and those on Robben Island and some of the Kurile Islands in the Sea of Okhotsk. There is substantial intermixing between the herds of the eastern and western Pacific Ocean.

In the 18th Century, the fur seals' rich pelt made them targets of intensive hunting in both the Northern and Southern hemisphere. Uncontrolled exploitation reduced the herds to perilously low levels.

The Russians discovered the Pribilofs in 1768. At that time, the number of seals on those islands was estimated to have been as large as 3 million animals. The islands, along with Alaska, were sold to the United States in 1867. In the intervening years, the Russian sealers reportedly killed over 2.5 million animals. Initially, harvesting was uncontrolled and pups and breeding females were unprotected. During this period, the Pribilof herds were reduced to mere remnants of their original numbers. In 1834, when the resource had almost been annihilated, the Russians stopped killing females and the herd began to increase. By the time the U.S. purchased Alaska, the Pribilof herd had recovered to approximately 2.5 million.

The U.S. began its jurisdiction under the encouragement of the Department of the Treasury (in time Labor, Interior and Commerce were to take turns supervising the Pribilofs) by permitting a number of private contractors to operate. The only conservation restrictions were that they should not take females or more than 100,000 animals a year. This quota was regularly met and exceeded. An equal number of animals were killed at sea by sealers of all nationalities. This practice, called pelagic sealing, was extremely inefficient, since a majority of the carcasses were lost in the water.

In 1869, Congress set the Pribilofs aside as a special reservation for seals. During the 20-year period following 1869, sealing on the Pribilofs was conducted under a leasing arrangement, with some 2 million sealskins taken. A second 20-year lease produced only 343,000 skins. This regulated catch combined with the pelagic kill devastated the Pribilof herds, and by 1910, only 200,000 seals remained.

In 1911, a treaty prohibiting pelagic sealing was signed by the U.S., Great Britain (on behalf of Canada), Japan and Russia. Although suspended during World War II, this treaty has remained in effect and is embodied in the Interim Convention on Conservation of North Pacific Fur Seals.

Only native people using primitive methods may continue to kill fur seals on the high seas. In exchange for the ban on pelagic sealing, the United States and the Soviet Union provide Japan and Canada each with 15 percent of the kill from the Pribilofs and 15 percent of the kill from those islands under jurisdiction of the Soviet Union. The rookery-owning nations keep the rest of the skins and manage the herds so as to provide for a "maximum sustainable productivity."

The Pribilof herd is now estimated at some 1.5 million animals. Since 1972, approximately 30,000 three to four-year old male seals are slaughtered each year. Under a leasing arrangement with the Fouke Fur Company, the skins are sent to South Carolina for processing and auction. The carcasses are ground up in factories on the islands for mink food.

EFFECT OF MARINE MAMMAL PROTECTION ACT OF 1972

The negotiation of this Protocol ran into a number of problems. The primary difficulty was the Marine Mammal Protection Act of 1972 (P.L. 92–522). Under this Act, international treaties dealing with marine mammals and to which the U.S. is a party must agree in intent and policy with this Act.

Section 108(b) of the Marine Mammal Protection Act required the Secretary of Commerce, in consultation with the Secretary of State, to study the provisions of the Act, as they relate to North Pacific fur seals, and the provisions of the Interim Convention on Conservation of North Pacific Fur Seals, "to determine what modification, if any, should be made to the provisions of the Convention, or of this Act, or both, to make the Convention and the Act consistent with each other." The study concluded that although there was no basic incompatibility between the Act and the Convention, negotiations were recommended to modify the Convention to take into account the difference of emphasis between the Interim Convention which emphasizes commercial exploitation, and the Act, which is strongly oriented towards the welfare and conservation of marine mammals and the health and stability of the ecosystem.

The critical section of the Marine Mammal Protection Act (Sec. 2) states that marine mammals must be managed so as to achieve the "optimum sustainable population" keeping in mind the optimum carrying capacity of the habitat. On the other hand, the Convention calls for management to produce the maximum sustainable commercial productivity.

Consequently, the U.S. delegation during the negotiations of this Protocol proposed a new convention which would have essentially continued the present management arrangements and amended the management objectives, as stated in the Convention, to provide for the maintenance of the health and stability of the marine ecosystem and in other ways bring the Convention into conformity with the purposes and policies of the Marine Mammal Protection Act of 1972.

Objections to rewriting the Convention to conform to U.S. law came principally from the Japanese, who since the 1930's have advocated an even larger seal harvest and are now pressing for the return of pelagic sealing. The Japanese are not concerned with getting more sealskins. What they want is more fish. The North Pacific fur seals herd consumes approximately 445,000 metric tons of fish in the Bering Sea each year. The Japanese commercial fishing interests believe that the seals are eating fish that would otherwise end up in their trawlers' nets.

Therefore, this Protocol while incorporating a few changes in the Interim Convention does not contain the U.S. proposals for a new management regime based upon an "optimum sustainable population" concept.

MAJOR PROVISIONS

The 1976 Protocol extends the Interim Convention for a period of four years. The Interim Convention will expire this October

14, 1976, if this Protocol is not given favorable consideration by the Senate before that date.

The following are some of the modifications of the Interim Convention provided by the Protocol:

(1) Articles II, III, and IV of the Protocol define pelagic research responsibilities of the Parties and provide for research on the relationship among fur seals, other living resources, and commercial fishing activity, and on the effects of man-causal environmental changes on fur seals.

(2) The U.S.S.R. is relieved, by Article V of the Protocol, of the obligation to suspend sealing in the Commander Islands if the total number of seals decreases and falls below 50,000. As the total number of fur seals inhabiting those islands has increased significantly over the past ten years, this provision is now obsolete.

(3) Article VI of the Protocol provides for the Commission to recommend, on the basis of coordinated research programs, a reduction or suspension of the fur seal harvest when population levels fall below maximum sustainable productivity.

(4) Article VI of the Protocol also provides for the supplying of subsistence needs of native populations living on rookery islands. The Convention did not allow Indians, Ainus, Aleuts or Eskimos to use either outboard motors or firearms in the taking of seals. As a result, these people have found it difficult, under the terms of the Convention, to provide yearly supplies of fresh seal meat for entire villages.

(5) Article X of the Protocol ensures humane methods of capturing, killing and marking fur seals.

In addition to the four-year extension of the Convention to October 14, 1979, in accordance with Article XIII of the Protocol, the Convention shall terminate one year from the day on which a party gives written notice to the other parties of an intention of terminating the Convention. Article XIV of the Protocol provides that, at the request of any party, representatives of the parties will meet at a mutually convenient time within 90 days of such request to consider the desirability of modifications of the Convention. The Protocol, in accordance with Article XV, will enter into force on the date of the deposit of the fourth instrument of ratification.

DATE OF ENTRY INTO FORCE

The Protocol will enter into force on the date on which the fourth instrument of ratification or acceptance is deposited with the Government of the United States. At the present time, no nation has ratified this Protocol.

COMMITTEE ACTION AND RECOMMENDATION

On August 31, 1976, the Foreign Relations Committee held a public hearing on this Protocol, at which time testimony was heard from Lindsay Grant, Acting Deputy Assistant Secretary for Environmental and Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; and Richard Frank, Attorney, Center for Law and Social Policy. On the same day, the Committee in open session and by voice vote without dissent ordered this Protocol to be reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-33), explaining the convention.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

CUSTOMS CONVENTION FOR CONTAINERS

The Customs Convention on Containers, 1972, is designated to supersede and update the Customs Convention on Containers of 1956. As a result of the considerable increase in number of containers used in international traffic and the need both for simplifying customs formalities and for facilitating container transport, the provisions of the 1956 Convention have become obsolete or inadequate. Specifically, the new Customs Convention provides for: (1) the temporary importation, free of import duties and taxes, and free of import prohibitions and restrictions, of containers, either loaded or empty, their accessories and equipment, and component parts for the repair of temporarily admitted containers; (2) the use of temporarily imported containers in internal transport operations under specified conditions; (3) the acceptance of containers by the customs administration of each party to the Convention which meet the specifications in, and are approved and documented or marked in accordance with, the procedures set forth in the technical annexes to the Convention; and (4) the approval of containers for transport under customs seal.

The Administration believes that this Customs Convention should contribute significantly to the development of international container traffic on a global basis. A primary effect of the Convention will be to facilitate the use of United States owned and operated containers in international traffic by ensuring that they receive treatment in the territories of the Parties to the Convention similar to that which is afforded to foreign-owned containers in the United States at the present time.

The Convention entered into force on December 6, 1975, nine months after the date of deposit of the fifth instrument of ratification, acceptance, approval or accession. At the present time, fifteen nations have signed this Convention and the following countries have ratified or acceded to it: Canada, Hungary, Czechoslovakia, Romania, German Democratic Republic, New Zealand, Spain and Australia.

INTERNATIONAL CONVENTION FOR SAFE CONTAINERS

According to the Coast Guard, the containerization movement has achieved an excellent safety record, largely due to the effectiveness of principles developed in the United States private sector. Notwithstanding this record, in recent years, a number of nations have indicated their intention of developing national regulations which would be applied to all containers transiting their borders. Concern over the adverse impact that unilateral construction requirements would have on the facilitation of containerization and interest in assuring continued safe operating experience combined in motivating the drafting of this Convention. The Convention signals agreement by those States which become party to it that such regulations would best be developed on a common basis.

The Safety Convention specifies the structural requirements which transport containers must meet to assure that they are safe. It does not include the stowage of goods in the container, the handling of containers at interface points, or the actual transport of containers on vehicles of any mode. Its requirements relate to all containers above a specified size except those which are designed to be transported exclusively by air. The Convention lays down specific engineering requirements which all affected containers must meet and provides a framework for an administrative system to assure compliance therewith.

Each Party to the Convention would designate an appropriate authority to be responsible for implementation of effective procedures for testing, inspection, approval, and periodic reexamination of containers. Testing, inspection, and approval could be entrusted to nongovernmental organizations. Approvals granted under terms of the Convention would be indicated on a "Safety Approval Plate" attached to the container, and all other Parties to the Convention would be required to recognize these approvals as having the same force as an approval by them. Additional controls by the other Parties would be limited to verifying that the container carried a valid "Safety Approval Plate" unless there were clear grounds for believing that the condition of the container was such as to create an obvious risk to safety. In such a case, control would be limited to action necessary to ensure that the container was restored to a safe condition before it continued in service.

The Safety Convention presents a uniform safety regulation for the international movement of containers and should avoid the proliferation of individual national container safety requirements.

The International Convention will enter into force 12 months from the date of deposit of the tenth instrument of ratification, acceptance, approval or accession.

At the present time, 19 nations have signed this Convention and the eight countries have ratified or acceded to it, as follows: Federal Republic of Germany, Hungary, France, Czechoslovakia, Romania, Spain, German Democratic Republic and New Zealand.

COMMITTEE ACTION

On August 31, 1976, the Foreign Relations Committee held public hearings on both of these Conventions, at which time testimony was heard from: (1) Richard Abbey, Assistant Chief Counsel, U.S. Customs Service, Department of the Treasury, accompanied by David Banowetz, Senior Operations Officer, U.S. Customs Service, Department of the Treasury; and (2) Rear Admiral William M. Benkert, Chief, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation.

On that same date, the Committee in open session, and by voice vote without dissent, ordered these Conventions to be reported favorably to the Senate for advice and consent to ratification.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-37), explaining the agreement.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE AND BACKGROUND OF THE AGREEMENT

The purpose of Executive J, 94th Congress, 2d Session, is to make the United States a party to the Fifth International Tin Agreement (ITA).

Secretary Henry Kissinger announced in September, 1975, in his speech before the 7th Special Session of the United Nations General Assembly, that the United States would participate in the Fifth International Tin Agreement, subject to action by the U.S. Senate. Accordingly, the U.S. signed the document on March 11, 1976.

The agreement is a five-year treaty between tin producing countries and tin consuming countries. Its major objctive is to stabilize the supply of tin at price levels which are "fair" to consumers and "remuner-
achieve this objective through the use of a
ative" to producers. The ITA hopes to
tin buffer stock and export controls.

The major tin producers belonging to the agreement are Australia, Bolivia, Indonesia, Malaysia, Nigeria, Thailand and Zaire. These countries account for approximately two-thirds of the world tin production. The only major producer not a member is the People's

Republic of China. The United States, the Federal Republic of Germany and Japan consume approximately 50 percent of the annual supply of exported tin.

Because of the geology of tin deposits, there are thousands of producers in each country. Tin is a high-cost commodity and has numerous substitutes. Growth in demand for tin over the last decade, as a consequence, has been limited. Tin prices rose dramatically in the commodity price boom of 1973, fell in the recession of 1974 and 1975, and rose again as recovery began in early 1976. The Tin Council has been selling tin from its buffer stock in order to moderate prices. When tin prices drop, the Tin Council will repurchase tin for its buffer stock at lower prices in an effort to inhibit the price decline. Should the price decline be so great that the Council can no longer finance continued purchases, it can impose export controls to limit supply.

The International Tin Agreement (ITA) has been a functioning commodity agreement for the last 20 years. The first five-year agreement went into effect in 1956. There have been three more subseqent agreements each of five years duration. These have not been totally effective in stabilizing tin prices. There has been more success in establishing a floor price by setting country by country export quotas than there has been in establishing a ceiling price. The latter efforts have been hampered by the inadequate size of the international buffer stock controlled by the International Tin Council, the administrative body of the ITA.

The United States has not been a party to any of the four previous tin agreements. In fact, through the sale and purchase of tin for its strategic stockpile, the U.S. has attempted to moderate extremes in world tin prices. Presently, the U.S. stockpile is 205,000 tons, of which 165,000 tons have been determined by the GSA to be in surplus of U.S. needs. The U.S. has no significant domestic deposits of tin ore. Very little tin is smelted in the United States. The U.S. imports its tin supplies from less developed countries and from Australia.

BUDGETARY COST OF U.S. MEMBERSHIP IN THE INTERNATIONAL TIN AGREEMENT

In joining the International Tin Agreement, the United States assumes a monetary obligation to support the costs of the International Tin Council in London. The Council appoints a director, who in turn hires a staff. The staff supports the Tin Council, provides information for ITA members, and does economic research on issues related to tin production and consumption. The costs of supporting the Tin Council and staff are proportioned on the percentage of votes a country has in the Council. The cost to the United States will be $115,000 a year. These funds will be drawn from funds previously appropriated in the State Department budget in the line item "for contributions to international organizations."

There is provision in the Fifth ITA for importing nations to contribute voluntarily to the international tin buffer stock. The U.S. Government has publicly stated that the U.S. will make no contribution to the buffer stock.

MAJOR PROVISIONS OF THE FIFTH INTERNATIONAL TIN AGREEMENT

The ITA is a five-year agreement which will enter into force as soon as six producing nations representing 95 percent of exports, and nine consuming nations representing 30 percet of imports, have deposited instruments of ratification with the Secretary-General of the United Nations. The agreement is so worded as to continue the basic structure and institutions of the fourth agreement.

The major objectives of the Fifth ITA are listed as follows:

a. To prevent excessive fluctuations in the price of tin and in export earnings from sales by providing for adjustments between world supply and demand for tin;

b. To encourage increased production of tin at prices which are remunerative to the producers, fair to the consumers, and supportive of a long-term equilibrium between production and consumption;

c. In the event of a shortage of tin supplies, to encourage the production of tin and provide for a fair distribution of tin metal in order to mitigate serious difficulties in consuming countries;

d. In the event of a surplus of supplies of tin, to take steps to mitigate serious difficulties which producing countries might encounter;

e. To promote increased consumption of tin, more processing of tin in the producing countries, and the introduction of technical and financial assistance to insure the most efficient methods of extracting tin ore.

The United States assumes two obligations in participating in the Fifth ITA. The first obligation is its $115,000 annual contribution to the administrative cost of the Tin Council. The second obligation is to consult with the Tin Council on the disposition of U.S. strategic stockpiles of tin. The U.S. commits itself not to dispose of stockpiles in such a manner as to interfere unduly with production and employment in the tin industry. However, nothing in the ITA is to prevent any member from taking any action which it considers necessary for the protection of its national security interests.

The International Tin Agreement establishes an International Tin Council which will be headquartered in London. The Council "has such powers and performs such duties as may be necessary for the administration and operation" of the agreement. The Council will appoint an Executive Chairman who will be responsible to the Council for administering the agreement in accordance with the Council's decisions. The Executive Chairman is also responsible for the management of the administrative services and staff. The staff of the Council is to provide the necessary support for meetings of the Council, provide for economic research on the tin industry in its broadest sense, and act as a central point of information for member countries.

The Council will also appoint a Buffer Stock Manager, responsible to the Executive Chairman. The Council will set price ranges at which the Buffer Stock Manager must purchase tin, sell tin, or stay out of the market.

The buffer stock is one of two mechanisms the Council has in order to achieve the objective of controlling supply in an effort to influence the world price of tin in such a manner as to be "remunerative" to producers and "fair" to consumers. Producers must make mandatory contributions to the buffer stock, but consumer contributions are voluntary. Profits generated by the stocks are divided proportionately among the contributors. The United States has stated it will not contribute to the buffer stock. However, the issue of voluntary contributions will be reviewed in two-and-one-half years.

The other supply control mechanism available to the Council is the assignment of tin export quotas to producing nations. For the Council to consider implementation of export quotas, the buffer stock must have a predetermined level of tin. It is not the intent of the agreement to use export controls except in cases where purchases for the buffer stock are not adequate to protect the floor price set by the Council.

For purposes of casting votes, the Council is divided into two bodies—the consumer (importer) group, and the producer (exporter) group. Each body has 1,000 votes divided proportionately on the basis of the percentage of the world's tin imported, or the percentage of the world's tin exported. The two bodies vote independently. For most motions to be accepted by the Council, they must receive at least fifty percent of the consumer votes and fifty percent of producer votes. Motions dealing with exceptional conditions, such as waiving of clauses in the agreement, certain financial matters, and changes in the agreement, require a two-thirds majority of both bodies. In the latter case, approved amendments must be ratified by participating governments. All producing nations and two-thirds of the consuming nations, by weighted votes, must ratify for an amendment to be accepted. Any nation not ratifying after the effective date of an amendment to the agreement will cease participation in the agreement.

No participating country may hold more than 450 votes in its respective voting group. Providing all countries which have signed the agreement do ratify the agreement, the United States will have 259 consumer votes. Japan will hold 160 consumer votes, Federal Republic of Germany—70, United Kingdom—70, France—51, and Italy—38. The voting strengths of consumers and producers are annexed to this report.

COMMITTEE HEARINGS AND ACTION

The Committee held public hearings on the Fifth International Tin Agreement on July 27, 1976, in conjunction with hearings on the International Coffee Agreement of 1976 and the extension of the International Wheat Agreement of 1971. Witnesses included Mr. Joseph Greenwald, Assistant Secretary of State for Economics and Business Affairs; Mr. Gerald Parsky, Assistant Secretary of the Treasury for International Affairs; and Mrs. Joan Braden, Consumer Affairs Advisor for the Department of State. The Chairman submitted for the record a letter and short analysis of the tin agreement from Dr. Isaiah Frank, Professor of International Economics, School of Advanced International Studies, Johns Hopkins University.

Statements were received in support of ratification of the agreement from Mrs. Ruth Clusen, President of the League of Women Voters, and Mr. R. D. Coursen, Director of the Malayan Tin Bureau. Statements in opposition were filed by Mr. James J. Ferrigan, Assistant General Purchasing Agent, Bethlehem Steel Corporation; Mr. W. W. Crawford, Vice President—Purchasing, United States Steel Corporation; and Mr. J. Allen Overton, Jr., President of the American Mining Congress.

The Committee considered this agreement on August 10, August 24, and August 31, 1976. On the last date, the Committee by voice vote ordered the agreement reported without reservation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these treaties be considered as having passed through their various parliamentary stages up to and including presentation of the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions of ratification of Executive X, 93d Congress, 1st session; Executive I, 94th Congress, 1st session; Executive K, 94th Congress, 1st session; Executive M, 94th Congress, 2d session; and Executive J, 94th Congress, 2d session, will be read.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the

Customs Convention on Containers, 1972, as corrected by a Process-Verbal of Rectification issued on April 29, 1974, and the International Convention for Safe Containers, both signed at Geneva on December 5, 1972 (Ex. X, 93–1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973, (Ex. I, 94–1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Convention for the Conservation of Antarctic Seals, with Annex, done at London June 1, 1972, (Ex. K, 994–1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, which Protocol was signed at Washington on May 7, 1976 (Ex. M, 94–2).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Fifth International Tin Agreement, 1976, formulated by a conference of governments which met in Geneva, Switzerland, on June 21, 1975, open for signature at the United Nations Headquarters from July 1, 1975, through April 30, 1976, and signed by the United States on March 11, 1976. (Ex. J. 94–2).

Mr. MANSFIELD. Mr. President, these treaties have been reported unanimously from the Committee on Foreign Relations. I ask unanimous consent that when the vote is taken on these treaties there be one vote, but that one vote will count as five.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized. The Senator from Montana has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. Surely.

Mr. ROBERT C. BYRD. On next Tuesday there are several primaries which will occur in our country, and I would hope we would not schedule this vote, which would count for five, before next Wednesday.

I indicated yesterday that we would attempt to do this, and I just want to make sure now at this time so that Senators will be notified in the RECORD, if it is agreeable, that the vote not occur before next Wednesday on these five treaties.

Mr. MANSFIELD. That is a splendid idea, and it is just another indication of how the distinguished assistant majority leader looks after his colleagues in the Senate.

Would the Senator care to suggest a time which would be most agreeable to all concerned?

Mr. ROBERT C. BYRD. I would suggest, I think, it would be better if we wait until Tuesday, Mr. President, if I may suggest to the distinguished majority leader, Monday or Tuesday, when we will be better able to see at that time at what time the vote should occur, but I just want to be sure that it will not occur before Wednesday. Why do we not tentatively now say 1 o'clock Wednesday afternoon?

ORDER TO TENTATIVELY VOTE AT 1 O'CLOCK WEDNESDAY, SEPTEMBER 15, 1976

Mr. MANSFIELD. All right. Mr. President, I make that request, Wednesday at 1 o'clock as the time when the vote will occur, and if circumstances having to do with primaries call for reconsideration that will be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes in the order stated: Mr. BARTLETT, Mr. HATHAWAY, Mr. GLENN, Mr. GRAVEL, Mr. HOLLINGS, Mr. BUMPERS, Mr. HASKELL, and Mr. MANSFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the special orders on Monday, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF THE REVENUE SHARING EXTENSION BILL ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Monday the Senate proceed to the consideration of the revenue sharing extension bill .

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 139

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conferees of Committee on the Budget have until midnight Saturday to file the budget resolution conference report on Senate Concurrent Resolution 139.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBEERT C. BYRD. Mr. President, I understand that this request has been cleared on both sides. I ask unanimous consent that the Committee on Veterans' Affairs have permission to meet on Monday next, September 13, for the purpose of reporting a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE NOTICE OF PROSPECTIVE HEARINGS ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee may have until midnight tonight to file notice of prospective hearings on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR LEADERSHIP TO CALL UP EITHER REVENUE-SHARING BILLS ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership may be authorized to call up either of the revenue sharing bills on Monday, at the conclusion of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO CALL UP CONFERENCE REPORT ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, the conference report on defense appropriations will also be called up on Monday.

Mr. President, I ask unanimous consent that the leadership may be authorized at any time on Monday to call up that conference report. It is a privileged matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I will clarify one request that I made earlier.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now, without action being taken thereon today, to the consideration of Calendar Order No. 1141, H.R. 13367.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 13367) which had been reported from the Committee of Finance with an amendment.

Mr. ROBERT C. BYRD. Mr. President, this is the so-called Revenue Sharing Extension Act, and at the conclusion of routine morning business on Monday, the Senate, under the order previously entered, will resume consideration of this measure. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Messrs. BARTLETT, HATHAWAY, GLENN, GRAVEL, HOLLINGS, BUMPERS, HASKELL, and MANSFIELD; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each; at the conclusion of which the Senate will resume consideration of the revenue sharing bill, H.R. 13367.

Votes will undoubtedly occur on that measure, or in relation thereto, during Monday. Also, the defense appropriations conference report will be called up, and other measures, including conference reports, may be called up during the day.

ORDER FOR NO ROLLCALL VOTES TO OCCUR ON MONDAY PRIOR TO THE HOUR OF 3 P.M.

Mr. President, I ask unanimous consent that no rollcall votes occur on Monday prior to the hour of 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. ON MONDAY, SEPTEMBER 13, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of *10 a.m.* on Monday next.

The motion was agreed to; and at 1:03 p.m., the Senate adjourned until Monday, September 13, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 1976:

IN THE NAVY

The following named officers of the United States Navy and Naval Reserve for temporary promotion to the grade indicated in the staff, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

To be Captain

Arko, Frank R.
Ashworth, Halbert E.
Blackwell, Owen G.
Bohan, Lawrence D.
Bohan, Michael E.
Bradley, Mark E.
Browning, William H.
Brownlow, Wilfred J.
Campbell, Axel F.
Candela, Harry J.
Clymer, John F.
Corcoran, Francis H.
Deane, Frederick R.
Ervin, James F.
Farrier, Paul H., Jr.
Felder, Jerald B.
Gaskins, Ronald D.
Gaudry, Charles L.
Gibbons, James A.
Gibbs, Robert L.
Goscienski, Philip J.
Griffin, George E.
Howell, James W.
Huff, Arden L.
Huurman, Walter W.
Karney, Walter W.
Kreider, Stanley J.
Lee, Bertram J.
Looney, George R.
Lynn, Clyde A.
Marriott, John D.
Marsh, Donald W.
Merritt, Thomas B.
Nelson, Lawrence E.
Ruggiero, Joseph A.
Schmidt, Rainer S.
Scott, Cornelius C.
Smith, Lee E.
Sorensen, Kurt
Stokos, James NMN.
Stone, George M.
Summitt, James K.
Vantassel, Peter V.
Wallin, John D.
Wasson, Robert D.

SUPPLY CORPS

Abele, Robert B.
Ault, William U.
Barnett, Andrew F., Jr.
Bosco, Clement, Jr.
Buckley, John E.
Bulluck, Edgar G.
Daddona, John M.
Dolenga, Harold E.
Evans, Lloyd R.
Fitzpatrick, Edmond J., Jr.
Frampton, Robert T.
Gerstenberger, Wayne W.
Gorenflo, Louis W.
Harmon, Robert G.
Hummel, Don F.
Hurst, Harvey R.
Kruse, William E.
Langer, Gerald D.
Maldonado, Teodosio
McKinnon, Daniel W., Jr.
McNall, Phillip F.
Morgan, Richard E.
Murphy, Joseph J.
Olivier, Denny R.
Peters, William A.
Pistolessia, Vincent J.
Prokop, Jan S.
Raymond, James A.
Rounds, Richard N.
Shaughnessy, John M.
Smith, Franklin D.
Starrett, William I., Jr.
Walsh, Richard S.
Webster, John C.
Willis, John J.
Young, Jack L.

CHAPLAIN CORPS

Gaughan, Geoffrey E.
Jerauld, Philip E.
McDermott, Thomas J.
McPhail, Clark B.
Running, Paul H.
Voth, Murray H.

CIVIL ENGINEER CORPS

Brockwell, Sterling M., Jr.
Cerreta, Ralph M., Jr.
Collins, Allan W.
Dickpeddie, John I.
Ford, James E.
Glover, William F.
Groff, James B.
Johnson, Don P.
MacDonald, Malcolm J.
McHugh, Robert J., Jr.
Newcomb, Frank M.
Petersen, Norman W.
Quinn, Robert E., Jr.
Schade, Robert A., Jr.
Shanley, John J., Jr.
Shirley, Ronald G.
Wilson, Robert B.

DENTAL CORPS

Badger, Daniel G.
Bisson, Roger E.
Bourgeois, Aubrey J.
Brazil, Robert W.
Cottle, Kenneth L.
Drake, David L.
Eisenburger, Michael M.
Groat, Jack E.
Hesby, Richard A.
Jann, Robert C.
McCoy, Richard B.
Pierce, Gerald L.
Rackley, Otis D., Jr.
Richardson, William G.
Stefl, Charles T.
Thibodeau, Richard A.
Turner, Donald W.
Walker, Oscar B.
Wheetley, Woodrow D.
Yacabucci, James E.
Zotter, Frank E.

JUDGE ADVOCATE GENERAL'S CORPS

Abernathy, Kenneth L.
Fasanaro, Michael F., Jr.
Palmer, William R.
Redding, Robert M.
Toms, James E.

MEDICAL SERVICE CORPS

Barboo, Samuel H., Jr.
Fowler, Ephraim E., Jr.
Gallagher, Thomas J.
Myers, James I.
Nichols, Lloyd B.
Pittington, Francis C.
Wilcox, James G.

NURSE CORPS

Barker, Elizabeth A.
Butler, Phyllis A.
Dunn, Dorothea J.
Gampper, Mary E.
Jones, Kathaleen R.
Moris, Patricia J.
Shaw, Joan S.
Steinocher, Anne M.
Wilson, Ruth A.

The following named woman officer of the United States Navy, for permanent promotion to the grade of captain in the staff, subject to qualification therefor as provided by law:

SUPPLY CORPS

Carr, Mildren L.

CONFIRMATIONS

Executive confirmations received by the Senate September 10, 1976.

DEPARTMENT OF DEFENSE

John J. Bennett, of Virginia, to be an Assistant Secretary of the Navy.

Everett T. Keech, of the District of Columbia, to be an Assistant Secretary of the Air Force.

DEPARTMENT OF STATE

Ralph E. Becker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Richard Giles Stilwell, [redacted], Army of the United States (major general, U.S. Army).

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Lieutenant General (U.S. Army, retired) Glenn David Walker, [redacted].

To be brigadier general

Colonel (ARNGUS) Charles Mercier Kiefner, [redacted].

Colonel (ARNGUS) Francis Lally Winner, [redacted].

IN THE AIR FORCE

Air Force nominations beginning James G. Abbee, to be lieutenant colonel, and ending Gerald J. Roseman, to be lieutenant colonel, which nominations were received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

IN THE ARMY

Army nominations beginning Edmund A. Anderson, Jr., to be colonel, and ending Stanley J. Wilk, to be lieutenant colonel, which nominations were received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

IN THE NAVY

Navy nominations beginning Robert W. Abel, to be captain, and ending Victoria Ellen Young, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 10, 1976.

Navy nominations beginning John R. Bolton, to be ensign, and ending Gayle V. Voth, to be commander, which nominations were received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

IN THE MARINE CORPS

The nomination of Donald W. Andrews, U.S. Marine Corps, to be major, which nomination was received by the Senate on August 12, 1976, and appeared in the CONGRESSIONAL RECORD on August 23, 1976.

HOUSE OF REPRESENTATIVES—*Friday, September 10, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

That God would grant you, according to the riches of His glory, to be strengthened with might by His spirit in the inner man.—Ephesians 3: 16.

O God, our Father, source of the love that never fails and the light that never fades, let Thy love and Thy life flow through our weary and worried hearts. In Thy presence we would lift up the duties which demand our devotion and the problems which persist in perplexing us. Grant us wisdom, strength, and faith to do our very best to keep our minds on a high plane, scorning all that is unworthy and keeping ourselves true to that which is worthy.

God bless America, land that we love, stand beside her and guide her through the night with the light from above.

God bless China in her sorrow. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 513. Concurrent resolution providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas;

H. Con. Res. 592. Concurrent resolution authorizing the printing of 2,000 copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program";

H. Con. Res. 629. Concurrent resolution providing for the printing of a document entitled "The Working Congress";

H. Con. Res. 641. Concurrent resolution to provide for the printing of additional copies of a report of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives;

H. Con. Res. 655. Concurrent resolution providing for the printing of the publication entitled "Summary of Veterans' Legislation Reported, 94th Congress"; and

H. Con. Res. 682. Concurrent resolution to authorize the printing of a booklet entitled "Black Americans in Congress."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14238) entitled "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. MCCLELLAN, Mr. HUDDLESTON, Mr. PASTORE, Mr. SCHWEIKER, Mr. MATHIAS, Mr. YOUNG, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 522. An act to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the concurrent resolution (S. Con. Res. 139) entitled "An act revising the congressional budget for the U.S. Government for the fiscal year 1977," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. MAGNUSON, Mr. MOSS, Mr. HOLLINGS, Mr. CRANSTON, Mr. BELLMON, Mr. BEALL, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 201. Concurrent resolution authorizing the printing of the prayers of the chaplain of the Senate during the 94th Congress as a Senate document.

CALL OF THE HOUSE

Mr. YATES. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 709]

Abdnor
Abzug
Addabbo
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Biester
Boggs
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cohen
Conlan
Conyers
Corman
Crane
Dellums
Derrick
Derwinski
Diggs
Drinan
Duncan, Oreg.
du Pont
Edwards, Ala.
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Fary
Fascell
Ford, Tenn.
Fountain
Fraser
Gibbons
Green
Gude
Hansen
Harrington
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Hinshaw
Holland
Horton
Howe
Ichord
Jacobs
Jarman
Johnson, Colo.
Jones, N.C.
Karth
Kelly
Ketchum
Keys
Lehman
Long, Md.
Lujan
McCloskey
McCollister
McDade
McDonald
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Mills
Mink
Mitchell, N.Y.
Mollohan
Morgan
Murphy, Ill.
Murphy, N.Y.
Neal
Obey
O'Hara
O'Neill
Patterson, Calif.
Paul
Peyser
Pressler
Pritchard
Quie
Railsback
Randall
Rangel
Rhodes
Richmond
Roncalio
Rose
Rosenthal
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Sebelius
Seiberling
Shuster
Sisk
Snyder
Spellman
Staggers
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Sullivan
Symms
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Weaver
Wiggins
Wilson, Bob
Wright
Wydler
Young, Alaska
Young, Ga.
Young, Tex.
Zeferetti

The SPEAKER. On this rollcall 259 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO MEET DURING 5-MINUTE RULE THIS MORNING

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may meet this morning during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 13, 1976

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 10498.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 9, 1976, the Clerk had read through line 19 on page 236.

The Clerk will read title II.

The Clerk read as follows:

"INDIRECT SOURCE REVIEW PROGRAM STUDY

"SEC. 318. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 124(g) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1976, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study.".

(b) Section 110(a) of such Act (42 U.S.C. 1857c–5(a), as amended by section 103(c) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6) Except as may be otherwise provided under paragraph (2)(I) and section 124—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 124(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan.".

(c) Section 110(a)(2) of such Act (42 U.S.C. 1857c–5(a)(2) is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 124 if the Administrator determines—

"(i) as provided under section 124(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 124(b), that such program is likely to be effective in reducing emissions of a mobile source-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant; and".

(d) Title I of the Clean Air Act (42 U.S.C. 1857c–5), as amended by sections 101, 103, 105, and 202 of this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON INDIRECT SOURCE CONTROLS

"SEC. 124. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date for such pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b)(1) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a)(2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) under any specified set of conditions, or

"(C) in any designated air quality control region, or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1)(B) or (C), then any such regulations may apply only in any air quality control region where the conditions specified in paragraph (1)(B) exist or in any region designated in paragraph (1)(C).

"(c)(1)(A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A) or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a)(2) shall submit to the Administrator a plan revision containing such a program.

"(C) Within eight months from the date required for submission of a plan revision under subparagraph (B), the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he determines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of a park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1)(C) for approval or disapproval of a State plan revision submitted under paragraph (1)(B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such construction or modification complies with such approved plan.

"(d)(1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e)(3)), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c)(3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e)(1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate regulations under section 110(c)(1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Administrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c)(1)(C) for approval or disapproval of a State plan revision.

"(f)(1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program permitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or

which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section or a plan revision under section 110(a)(3), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than January 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 123(b)(5),

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan. No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g)(1) For purposes of this section the term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraph (A) or (B) of paragraph (1).".

(e) Section 302 of such Act (42 U.S.C. 1857h), as amended by section 106(f) of this Act, is further amended by adding the following new subsections at the end thereof:

"(j) The term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110(c)(2)(D)(ii)).

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211(c)(1)(A), 231, or 235 of this Act.".

(f) Section 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)) is amended by striking out "land use and" in paragraph (2)(B) and by inserting after "transportation controls" the following: ", air quality maintenance plans, and preconstruction review of direct sources of air pollution".

EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

SEC. 202. Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by sections 101, 103, and 105 of this Act, is further amended by adding at the end thereof the following new section:

"EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

"SEC. 123. (a)(1) Upon application submitted by the Governor of a State, the Administrator may extend the date required for compliance with any transportation control measure adopted by a State and included in an applicable implementation plan.

"(2) Upon application submitted by the chief executive officer of a general purpose unit of local government which is carrying out responsibility delegated under section 110(c)(3), or on his own motion, the Administrator may extend the date required for compliance with any transportation control measure which was promulgated by the Administrator under section 110(c). In the case of an application submitted by such officer, such extension shall apply only to the extent that such measure applies within the jurisdiction of such unit.

"(b)(1)(A) No extension may be granted under subsection (a) with respect to any transportation control measure unless such measure is applicable in an air quality control region in which the State or unit of local government (or the Administrator, as the case may be) has implemented within such jurisdiction all requirements (except as provided in subparagraph (B)) of the applicable implementation plan which are required to be implemented as of the date of application and are intended to control any mobile source-related pollutant. Such implementation includes initiating and diligently pursuing enforcement actions to bring noncomplying persons into compliance.

"(B) For purposes of subparagraph (A), the State or unit of local government (or Administrator) shall not be required, as of the date on which such extension is granted, to have implemented:

"(i) transportation control measures with respect to which a finding has been made under (2), and

"(ii) requirements for indirect source review programs (as defined in section 124).

"(2) No extension may be granted under subsection (a) for any transportation control measures unless—

"(A) the Administrator finds that implementation of such measure on the required date would (i) cause, or contribute to, a failure to meet basic transportation needs of the area, (ii) be infeasible, or (iii) otherwise cause seriously disruptive and widespread economic or social effects,

"(B) the Administrator states with reasonable specificity the factual basis of the finding made under subparagraph (A), and

"(C) the applicant has submitted (or the Administrator has prepared, if acting on his own motion)—

"(i) a detailed planning study identifying and quantifying the respect (if any) in which the basic transportation needs of the area could not be met if the applicable measure were not extended, the seriously disruptive and widespread economic or social effects (if any) of not extending such measure, the respects (if any) in which implementation of such measure would be infeasible, and the effects on public health and welfare expected to result from the continued air pollution associated with the extension.

"(ii) an examination of measures (including establishment, improvement, or expansion of public transportation) other than those measures for which an extension is sought, which could be implemented and used to attain and maintain national ambient air quality standards as expeditiously as practicable, and

"(iii) a detailed description of the measures to be undertaken during all such extensions to minimize any risk to public health.

"(3) No extension may be granted under subsection (a) unless there has been prior notice and opportunity for public hearing.

"(4) No finding may be made under paragraph (2)(A)(i) unless the Administrator finds that implementation of public transportation (or other means) which would meet such needs by such required date would be impracticable.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, each transportation control measure for which an extension is granted under subsection (a) shall be required to be implemented (under a compliance schedule containing increments of progress prescribed pursuant to such extension) as expeditiously as practicable but not later than January 1, 1980.

"(B) Such measure shall be required to be implemented as expeditiously as practicable but not later than January 1, 1985, if the applicable implementation plan is revised within the one-year period specified in paragraph (6)—

"(i) to include comprehensive measures (including compliance schedules containing increments of progress) to, as expeditiously as practicable, establish, expand, or improve public transportation to meet basic transportation needs while implementing transportation control measures necessary to attain and maintain national ambient air quality standards, and

"(ii) to meet the requirements of paragraphs (1) and (2) of subsection (d).

"(6) No extension of any transportation control measure under subsection (a) shall remain in effect for more than one year after such extension is granted unless, before such date, the applicable implementation plan is revised to include—

"(A) requirements to use (insofar as necessary), for the purpose of implementing the transportation control measures with respect to which such extension was granted, funds which are reasonably available to the State or local government; and

"(B) in the case of an area which has been granted an extension beyond January 1, 1980, requirements to use (insofar as necessary), for the additional purpose of implementing the comprehensive public transportation measures required under paragraph (5)(B), funds which are reasonably available to the State or local government.

"(c) In the case of any applicable implementation plan containing measures requiring—

"(1) retrofits on other than commercially owned in-use vehicles, or

"(2) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects if implemented before January 1, 1985,

the Administrator may, after notice and opportunity for public hearing, approve elimination of such measures from the plan notwithstanding the requirements of section 110 (a). No later than nine months after approval of the elimination of any such measure is granted with respect to any applicable implementation plan, a revised plan must be submitted (as provided in section 110(a)(2)(H)) to meet such requirements.

"(d) Not later than one year after date of enactment of this section, the Administrator shall complete a review of all applicable implementation plans for mobile source-related pollutants to determine whether or not such plans would be adequate as of such date to attain, by the date required under section 110, the national primary ambient air quality standards for such pollutants and maintain them thereafter if no extensions, exemptions, or variances had been granted under sections 111(f), 118, 119, 121, 124, and this section. Unless the Administrator determines that any such plan would be adequate (within the meaning of the preceding sentence) he shall require revision of such plan. The revised plan shall be such as would be adequate (within the meaning of the first sentence of this subsection). The Administrator shall promptly notify the State when any plan revision is required under this subsection and shall require submission of such revised plan on such date (not sooner than sixty days or later than six months after such notice) as he may determine. Such revised plan shall—

"(1) identify and provide for implementation of the remaining emission reductions necessary for the plan to be adequate within the meaning of this subsection with respect to mobile source-related pollutants and the measures to be implemented to accomplish these reductions;

"(2) identify the financial and manpower resources necessary to carry out such measures, and commit the State or local government to provide those resources; and

"(3) include emission limitations, applicable to stationary sources which emit any mobile source-related air pollutant in significant amounts, requiring reduction of such emissions to the maximum extent technologically feasible (or a finding that any such emission limitation not so included is not necessary for the plan to be adequate within the meaning of this subsection and a justification for such finding).

If the Administrator determines that a proposed plan revision does not incorporate the most expeditious practicable date for achievement of adequacy within the meaning of this subsection, he shall notify the Governor of the deficiencies in the proposed revision. This notification shall include the Administrator's judgment as to the additional control strategies that should be incorporated, and the most expeditious dates which are practicable for implementing the measures included or to be included in the plan. The notification shall also specify a date for submission of the modified plan revision not more than one hundred and twenty days from the date of notification.

"(e) Except for a compliance date extension issued under this section, a plan revision under section 110(a)(3), or an elimination approved under subsection (c), no extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any transportation control measure by the State or by the Administrator.

"(f)(1) For purposes of this section and section 110(a)(2)(B), the term 'transportation control measure' does not include any measure for management of parking supply (as defined in section 110(c)(2)(D)(ii) except that such definition shall be applied without regard to whether or not a facility is new) or any indirect source review program (as defined in section 124).

"(2) For purposes of subsection (b)(6), the term 'funds which are reasonable available' means—

"(A) grants which have been made to a State or local government under Federal law,

"(B) funds which have been appropriated under State or local law, or

"(C) any combination of such grants and funds, which may, consistent with the terms of the legislation providing for such grant or making such appropriation, be used for the purposes referred to in such subsection (b)(6).".

LIGHT-DUTY MOTOR VEHICLES EMISSIONS

SEC. 203. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f-1(b)(1)(A)) is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during the model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.".

(b) Subparagraph (B) of such section 202(b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light-duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.".

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A) Any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of standard required under the third sentence of subparagraph (B) of paragraph (1) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1981 or in any following model year before the model year 1985. During any calendar year no manufacturer may file an application with respect to more than one model year.

"(B) No suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1981	1978
1982	1979
1983	1980
1984	1981

"(C) If the Administrator determines, in accordance with the provisions of this paragraph, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation an interim emission standard which shall apply (in lieu of the standards required to be prescribed under the third sentence of paragraph (1)(B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during such model year. Any interim standard prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost and impact on fuel economy of applying such technology within the period of time available to manufacturers. No such interim standard shall permit emissions of oxides of nitrogen in excess of—

"(i) 2.0 grams per vehicle mile from such vehicles and engines manufactured during model years 1981 and 1982; or

"(ii) 1.5 grams per vehicle mile from such vehicles and engines manufactured during model years 1983 and 1984.

"(D) Within ninety days after the receipt of the application for any such suspension and after notice and public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that the applicant has established that the application of the standard which would otherwise be applicable would result in an excessive fuel penalty, or that such applicant has established that—

"(i) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standard, and

"(ii) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) (and other information available to him) has not indicated that technology, processes, methods, or other alternatives are available to meet such standard.

"(6) The standard required under the third sentence of subparagraph (B) of paragraph (1) (pertaining to oxides of nitrogen) shall not apply with respect to any manufacturer for any model of light duty vehicles or engines if the Administrator determines that such model will emit for a period of ten years or one hundred thousand miles, whichever first occurs, not more than .41 grams per vehicle mile of hydrocarbons, not more than 3.4 grams per vehicle mile of carbon monoxide, and not more than 1.0 grams per vehicle mile of oxides of nitrogen. Such determination shall be made in accordance with the certification test procedures required under section 206 (with durability testing for not less than one hundred thousand miles).".

"(7)(A) Any manufacturer may file with the Administrator an application requesting the suspension for any model year before the model year 1985 of the effective date of any standard applicable to light-duty motor vehicles or engines under this section (including any interim standard prescribed under paragraph (5)(C)) for emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, or for suspension of any combination thereof. During any calendar year, no manufacturer may file an application with respect to more than one model year. The Administrator shall grant such suspension for such model year only if—

"(i) standards applicable to emissions of sulfates or sulfuric acid, or both, from such vehicles or engines have been promulgated under subsection (a)(1) for such model year.

"(ii) the Administrator finds, after notice and public hearing, that the applicant has established that—

"(I) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time prior to their effective dates to achieve compliance with the standards applicable in such model year to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and the standard or standards applicable to sulfates and sulfuric acid, or

"(II) fuel economy of such vehicles or engines would be substantially less in the case of vehicles or engines meeting standards applicable to emission of all such pollutants than the fuel economy of light-duty vehicles or engines meeting standards applicable for such model year only to emission of carbon monoxide, hydrocarbons, and oxides of nitrogen,

"(iii) the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles or engines cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions from such vehicles of the pollutant or pollutants with respect to which application is made under this paragraph.

"(iv) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report contrary to the findings of the Administrator under clauses (ii) and (iii), and

"(v) notice of such suspension has been reported to the Congress by the Administrator and neither House has passed a resolution disapproving such suspension before the expiration of sixty calendar days of continuous session of Congress after receipt of such notice by such House.

For purposes of congressional action under clause (v), the provisions of subsection (b) and subsections (d) through (g) of section 155 shall apply to suspensions under this paragraph in the same manner as to regulations of the Administrator under subtitle B of title I (relating to stratosphere and ozone protection).

"(B) No suspension under this paragraph of any standard with respect to a pollutant may permit emissions of such pollutant in excess of the levels (expressed in grams per vehicle mile) specified in the following table:

"Suspension of oxides of nitrogen standard	2.0
Suspension of hydrocarbon standard	1.5
Suspension of carbon monoxide standard	15.0

"(C) During any calendar year, no suspension under this paragraph may be granted with respect to any standard for more than one model year and no suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1980	1977
1981	1978
1982	1979
1983	1980
1984	1981

"(D) In any case in which the requirements of clauses (i) and (ii) of subparagraph (A) are met, if the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles and engines do not in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions of the other pollutants referred to in subparagraph (A), and if the National Academy of Sciences has not issued a report under subsection (c) contrary to such finding or contrary to the finding under subparagraph (A)(ii), he shall suspend the standard applicable to emissions of sulfates or sulfuric acid, or both (as may be consistent with such finding), subject to the requirements and limitations contained in subparagraphs (A) (other than clauses (iii) and (iv) thereof) and (C) of this paragraph. Such suspension shall not permit emissions of such pollutant in excess of the level which the Administrator determines to be technologically feasible for vehicles or engines to meet without resulting in substantially less fuel economy in relation to the fuel economy which would result if no standard for such pollutant were applicable."

(d) Section 202(c)(1) of such Act, relating to arrangements for NAS study, is amended by striking out "subsection (b) of".

(e) Part A of title II of such Act is amended by redesignating section 214 as section 218 and by inserting after section 213 the following new section:

"STUDY OF UNREGULATED POLLUTANTS FROM MOTOR VEHICLES

"SEC. 214. (a) The Administrator shall conduct a study concerning the effects on health and welfare of emissions from motor vehicles or motor vehicle engines to which section 202 applies of sulfuric acid mist, other pollutants which are not subject to standards under section 202, and pollutants which may be present in the ambient air which are derivatives of any pollutant emitted from motor vehicles. Such study shall characterize and quantify such emissions, and determine the effects of such pollutants emitted from diesel, rotary, stratified, charge, lean burn, catalytically equipped, and conventional internal combustion engines as well as engines or control devices which the Administrator determines are likely to come into common use.

"(b) The Administrator shall report to Congress the findings and results of the study conducted under subsection (a) not later than one year after the date of the enactment of the Clean Air Act Amendments of 1976 and annually thereafter.

"(c) The reports required to be submitted to the Congress under this section shall be submitted directly to the Congress by the

Administrator before disclosure or submission of such reports to the Office of Management and Budget, the President, or any other department or agency of the United States. Nothing in this subsection shall be construed to preclude the Office of Management and Budget from submitting its comments concerning any such report to the Congress.".

(f) Section 203(a) of the Clean Air Act (42 U.S.C. 1857f–2(a)) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and substituting "; or ", and by adding the following new paragraph at the end thereof:

"(5) for any manufacturer applying for a suspension under section 202(b)(5) or to which a revised or changed standard under section 202(a)(3) applies, to fail to make maximum efforts which are feasible for such manufacturer to comply with the standard with respect to which such suspension was granted or with such revised standard.".

(f) Section 204(a) and the first sentence of Section 205 of such Act are each amended by striking out "paragraph (1), (2), (3) or (4) of".

EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 204. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1857f–1) is amended by adding the following new paragraph at the end thereof:

"(3)(A)(i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1978. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1978 through 1984 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year 1985 shall contain standards which require a reduction of at least 65 percent in the case of oxides of nitrogen and a reduction of at least 90 percent in the case of carbon monoxide and hydrocarbons from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicles or engines, or any class or category thereof, manufactured during the baseline model year.

"(iii) In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factor as may be appropriate.

"(iv) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

"(B) During the period of June 1, through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A)(ii) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning five model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production for such period and shall prescribe a revised emission standard in accordance with such determination.

"(C) Action revising any standard for any period may be taken by this Administrator under subparagraph (B) only if—

"(i) he finds that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods or other alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

"(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report substantially contrary to the findings of the Administrator under clause (i).

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found or believed to be associated with the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under section 160 (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply,

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A)(ii) or, if applicable, subparagraph (E), and

"(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

"(E)(i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1979, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such other information as is available to him (including the studies under sections 214 and 215), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A)(ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year five years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category.".

(b) Section 202(b)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.".

(c) Section 312 of such Act is amended by inserting "AND STUDIES ON COST-EFFECTIVENESS ANALYSES" at the end of the heading thereof and by adding the following new subsection at the end thereof:

"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act.".

(d) Part A of title II of such Act (as amended by sections 203 and 216 of this Act) is further amended by inserting after section 215 the following new section:

"STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES

"SEC. 216. (a)(1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than two years after the date of the enactment of the Clean Air Act Amendments of 1976. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a).".

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(f)(1) In the case of any class or category of heavy-duty vehicles or engines or motorcycles to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing.

"(2) No certificate of conformity may be issued under pargraph (1) if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than December 31, 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than December 31, 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant-to-pollutant;

"(B) may vary by class or category or vehicle or engine;

"(C) shall be based on the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) shall create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction.".

AIRCRAFT EMISSION STANDARDS

SEC. 205. (a) Section 231(c) of the Clean Air Act (42 U.S.C. 1857f–9(c)) is amended to read as follows:

"(c) Any regulations in effect under this section on date of enactment of the Clean Air Act Amendments of 1976 or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

(b) Section 231(a) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) Not later than 12 months after the date of the enactment of this paragraph and after fulfillment of the procedural requirements contained in paragraph (3) (whether before or after the enactment of this paragraph), the Administrator shall issue final regulations containing emission standards under this section applicable to emissions of air pollutants from nonmilitary supersonic aircraft or supersonic aircraft engines.".

ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

SEC. 206. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1857f–1(a)), as amended by section 204(a) of this Act, is further amended by inserting "paragraph (1) of" before "this section" in paragraph (2) thereof and by adding a new paragraph at the end thereof:

"(4)(A) Effective with respect to vehicles and engines manufactured after model year 1977, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

"(B) In determining whether an unreasonable risk exists under subparagraph (A), the administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214.".

(b) Section 206(a) of such Act (42 U.S.C. 1857f–5(a)) is amended by adding at the end thereof the following:

"(3)(A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202 (a)(4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design.".

(c)(1) Section 206(b)(2)(A)(i) of such Act (42 U.S.C. 1857f–5(b)(2)(A)(i)) is amended by inserting "and with the requirements of section 202(a)(4)" after "conformity was issued".

(2) Section 206(b)(2)(A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.

TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SEC. 207. Section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f–1(b)(1)) is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured during or after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after date of enactment of this subparagraph.".

RAILROAD LOCOMOTIVE EMISSION STANDARDS

SEC. 208. (a) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART C—RAILROAD LOCOMOTIVE EMISSION STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 235. (a) Within ninety days after the date of enactment of this section, the Administrator shall commence a study and investigation of emissions of air pollutant from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock, in order to determine—

"(1) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(2) the technological feasibility of controlling such emissions.

"(b) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of locomotives, locomotive engines, and secondary power sources on railroad rolling stock, which in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare.

"(c)(1) The Administrator shall hold public hearings with respect to such proposed standards. Within ninety days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(2) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(3) Any regulations under this section, or amendments thereto, shall apply unless disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to railroad safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.

"COMPLIANCE

"SEC. 236. The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 235 by the Administrator. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"STATE STANDARDS AND CONTROLS

"SEC. 237. No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any railroad locomotives, locomotive engines, or secondary power sources on railroad rolling stock if the Administrator has promulgated a standard applicable to such emissions, unless such standard is identical to a standard applicable to such locomotives, locomotive engines, or secondary power sources on railroad rolling stock, under this part.".

(b) Section 116 of the Clean Air Act is amended by striking out "and 233" and inserting in lieu thereof "233, and 237".

MOTOR VEHICLE PARTS CERTIFICATION AND STUDY BY FEDERAL TRADE COMMISSION

SEC. 209. (a) Section 207(b)(2) of the Clean Air Act (42 U.S.C. 1857f–5a(b)(2)) is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2).".

(b) Section 207(a) of such Act is amended by inserting "(1)" and "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph.".

(c)(1) Section 207(b) of such Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs".

(2) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) In lieu of the eighteen-month or eighteen thousand mile period referred to in subsection (b) there shall be substituted the useful life of the vehicle or engine) as determined under section 202(d)) if the Federal Trade Commission finds under section 209 (d) of the Clean Air Act Amendments of 1976 that no significant anticompetitive effects would result from the application of such warranty for such useful life.".

(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such warranty applies in lieu of the eighteen month or eighteen thousand mile period specified in such section 207(b). Such study shall include public hearings. Such study shall include an analysis of any measures implemented by the Administrator to prevent or diminish such anticompetitive effects and shall include a finding with respect to whether or not significant anticompetitive effects would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs.

(e) Section 207(c)(3) of the Clean Air Act is amended by inserting after the first sentence thereof the following: "The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control device and systems may be performed by any automotive repair establishment using any automotive part which meets the performance and engineering specifications of the manufacturer or which has been certified as provided in subsection (a)(2).".

VEHICLE INSPECTION AND MAINTENANCE

SEC. 210. (a) Section 110(a)(2)(G) of the Clean Air Act (42 U.S.C. 1857c–5(a)(2)(G)) is amended by inserting the following before the semicolon at the end thereof: ", and it complies wtih applicable provisions of section 217 respecting the annual inspection and maintenance of motor vehicles registered in such State".

(b) Part A of title II of the Clean Air Act (42 U.S.C. 1857f–1 and following), as amended by sections 203, 216, and 206 of this Act, is further amended by inserting the following new section after section 216:

"INSPECTION AND MAINTENANCE

"SEC. 217. (a) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation control measures applicable to any air quality control region in a State shall provide for the annual inspection and testing of all light-duty vehicles to which this section applies which are registered in such State by any person whose residence or principal place of business (or both) is located in such air quality control region. Such inspection and testing shall be for purposes of determining compliance by such vehicles with the emission standards specified in subsection (b). Such plan shall, except as permitted under subsection (b)(4) (B) and subsection (c)(1), prohibit the registration and operation of vehicles subject to such inspection and testing in such State unless such vehicles comply with such standards.

"(b)(1) The standards applicable to light duty motor vehicles operating during the annual period beginning eighteen months after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969	8.0	800
1970 through 1974	6.0	600
After 1974	3.0	300

"(2) The standards applicable to light duty motor vehicles operating during the annual period beginning thirty months after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969	7.0	700
1970 through 1974	5.0	500
After 1974	2.0	200

"(3) The standards applicable to light duty motor vehicles operating during any annual period beginning forty-two months or more after the date of the enactment of this section shall require that such vehicles manufactured during a model year shall not emit more than the levels of carbon monoxide (CO) and hydrocarbons (HC) specified in the following table:

"Vehicle model year—	CO level (percent of total mass of emissions)	HC level (parts per million)
1968 and 1969	5.0	600
1970 through 1974	4.0	400
After 1974	2.0	200

"(4) The Administrator shall promulgate regulations—

"(A) providing for the exemption from the inspection and testing required under this section of such antique and other vehicles as the Administrator deems appropriate, and

"(B) authorizing the operation of vehicles which have not met the applicable standards for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such standards or to undertake the tuneup required for registration and operation of the vehicle pursuant to subsection (c)(1).

"(5) For the purposes of complying with the provisions of subsection (a), the plan shall require testing for emissions using testing procedure and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate. Compliance with the levels specified in the tables contained in paragraph (1) shall be determined on the basis of engines operating at idle (as determined by the Administrator).

"(c)(1) Each applicable implementation plan required under subsection (a) to prohibit the registration and operation of noncomplying vehicles may permit the registration and operation of such vehicles if, following the inspection and testing by reason of which such vehicle was determined to be a noncomplying vehicle or within the three-month period immediately preceding the date of such inspection and testing, a major engine tuneup has been undertaken with respect to such vehicle and in the case of a vehicle having such a tuneup following such inspection and testing, such vehicle has (for purposes of providing statistical information only) been reinspected and retested under this section following such tuneup. Nothing in the preceding sentence shall be construed to prohibit the Administrator from approving any implementation plan which contains any requirement prohibiting the registration and operation of any noncomplying vehicles.

"(2) Not later than four years after the date of enactment of this section, the Administrator shall include in his report to the Congress under section 313 an analysis of any new inspection and testing methods or technology which have become available during such four-year period and which may be appropriate (taking cost into account) for purposes of this section.

"(d) The requirements or authority contained in this section shall not be deemed to affect or impair any requirement contained in any other provision of this Act.".

(c) Section 210 of such Act (42 U.S.C. 1857f–6b) is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. The preceding sentence shall not apply to any amounts expended by a State before the date of the enactment of the Clean Air Act Amendments of 1976. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection maintenance program is not equal to or more stringent than the procedures and standards specified in section 217.".

(d) Not later than three months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and maintenance program for purposes of compliance with the amendments made by this section and each such State shall, within 9 months after receiving such notice, submit to the Administrator a revision of such plan. Within 3 months after the date required for submission of such revision, the Administrator shall approve or disapprove the revision if he determines that it complies with the amendments made by this Act and was adopted after reasonable notice and hearing. The provisions which are required under section 217 to be included in such plan shall be implemented not later than 18 months after the date of enactment of this Act.

COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

SEC. 211. (a) Title III of the Clean Air Act, as amended by sections 306, 201, and 304 of this Act, is further amended by adding the following new section at the end thereof:

"COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE BORNE BY OWNER OF RETAIL OUTLET

"SEC. 320. The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after the date of enactment of the Clean Air Act Amendments of 1976 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment.".

(b) Section 113(b)(3) of such Act (42 U.S.C. 1857c–8(b)(3)), as amended by section 107, is further amended by inserting "or 320" before the semicolon.

(c) Title III of such Act, as amended by sections 306, 201, 304, 312, 313, and 108 of this Act and by subsection (a) of this section is further amended by adding the following new section at the end threof:

"VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS

"SEC. 324. (a) The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide a four year phase-in period to independent small business marketers of gasoline responsible for installing vapor recovery equipment. Such regulations shall require that small business marketers shall have 25 percent of their outlets in compliance with the regulations at the end of the first year, 50 percent the second, 75 percent the third, and 100 percent the fourth.

"(b) For the purposes of this section, the term 'independent small business marketer' shall mean any petroleum marketing company or corporation with gross sales below $50,000,000 annually.".

TESTING BY SMALL MANUFACTURERS

SEC. 212. Section 206(a)(1) of the Clean Air Act (42 U.S.C. 1857f–(5)(a)(1)) is amended by adding at the end thereof the following: "In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life with the regulations prescribed under section 202 of this Act.".

CALIFORNIA WAIVER

SEC. 213. Section 209(b) of the Clean Air Act (42 U.S.C. 1857f–6a(b)) is amended to read as follows:

"(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

"(A) the determination of the State is arbitrary and capricious,

"(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

"(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.".

LOW-EMISSION VEHICLES

SEC. 214. (a) Section 212(d) of the Clean Air Act (42 U.S.C. 1857f–6e(d)) is amended—

(1) by striking out "a classic or model" in paragraph (1)(C) and inserting in lieu thereof "a class, model, or other category (including a category based on limited use or determined on the basis of such other criteria as will effectuate the purpose of procuring low-emission vehicles)",

(2) by striking out "class or model" each place it appears in the second and third sentences of paragraph (1) and in paragraph (3) and inserting in lieu thereof in each such place "class, model or category", and

(3) by striking out "any class or classes" in paragraph (3)(F) and inserting in lieu thereof "any class, model or category".

(b) Section 212(e) of such Act is amended by striking out "class or model" in paragraphs (1) and (2) thereof and substituting "class, model, or category".

REMOVING OR TAMPERING WITH CERTAIN DEVICES, ETC.

SEC. 215. (a) Section 203(a)(3) of the Clean Air Act (42 U.S.C. 1857(f)–2(a)(3)), relating to prohibited acts, is amended by striking out "or dealer" and inserting in lieu thereof ", dealer, or person engaged in the business of repairing motor vehicles".

(b) Section 203(a) of such Act is amended by adding the following at the end thereof: "Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term 'manufacturer parts' means parts produced by the manufacturer of the motor vehicle or motor vehicle engine.".

HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 216. (a) Section 203(a) of the Clean Air Act (42 U.S.C. 1857f–2(a)), as amended by section 215 of this Act, is further amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alternation of such element) shall be treated as a prohibited Act under such paragraph (3) if such action will not adversely affect the emission control performance of the vehicle or engine.".

(b) Title II of such Act as amended by section 203 of this Act is further amended by inserting the following new section after section 214:

"HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 215. (a) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated for purposes of section 203(a) as not adversely affecting the emission control performance of the vehicle or engine if such action is performed in accordance with instructions—

"(1) provided by the manufacturer and approved by the Administrator, or

"(2) promulgated by the Administrator.

No such instructions may be approved or promulgated by the Administrator unless he finds that the actions authorized pursuant to such instructions will insure emission control performance at least equivalent to that which would result if no such action were authorized. Such findings shall be based upon test data which the Administrator determines to be adequate with respect to such emission control performance.

"(b) Unless the manufacturer of a class or category of motor vehicles or motor vehicle engines publishes instructions approved by the Administrator for the purpose of subsection (a) for such class or category providing for high altitude performance adjustments and makes such instructions generally available to the public within six months after (1) the date on which such class or category first becomes available for sale to the general public, or (2) the date of enactment of this section, whichever last occurs, or unless he determines that he cannot make the finding required under subsection (a) with respect to such class or category, the Administrator shall, within eighteen months after such date, promulgate such instructions for such class or category.

"(c) No instructions which require the use of any manufacturer parts (within the meaning of section 203(a)) may be promulgated or approved by the Administrator under this section.".

PARTS STANDARDS; PREEMPTION OF STATE LAW

SEC. 217. Section 209 of the Clean Air Act (42 U.S.C. 1857f–6a) (relating to State standards) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c) Whenever a design or performance standard with respect to any motor vehicle part or motor vehicle engine part is in effect under regulations of the Administrator under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any design or performance standard or any requirement of certification, inspection, or approval applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).".

FILL PIPE STANDARDS

SEC. 218. Section 202(a) of the Clean Air Act (42 U.S.C. 1857f–1(a)) as amended by sections 204 and 206 of this Act is further amended by adding the following new paragraph at the end thereof:

"(5)(A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the

Administrator shall prescribe, by regulations, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which receives certification of performance capability. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum fill pipe or nozzle insertion angle, and such other factors as he deems pertinent.

"(B) Regulations prescribing standards under subparagraph(A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate lead time for design and production.

"(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configuration, modelling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

"(D) Any standards promulgated under subparagraph (A), or amendments thereto, may be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for vehicle safety.

"(E) For the purpose of this paragraph, the term 'fill pipe' shall include the fuel tank fill pipe, fill neck, fill inlet, and closure.".

ONBOARD HYDROCARBON TECHNOLOGY

SEC. 219. Sec. 202(a) of the Clean Air Act (42 U.S.C. 1957f–1(a)), as amended by sections 204, 206, and 218 of this Act, is further amended by adding the following new paragraph at the end thereof:

"(6)(A) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize onboard hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall prescribe, by regulations, standards which shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.

"(B) Any regulations promulgated under subparagraph (A), or amendments thereto, shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulations would create a hazard to vehicle safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made.".

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL. Mr. Chairman, is it not a fact that no amendments can be offered to this title until the entire title is read?

The CHAIRMAN. The gentleman is correct.

Mr. BROYHILL. I thank the Chair.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair would advise the gentleman that this request is not in order during the reading of the title.

Mr. CARTER. Mr. Chairman, I ask unanimous consent that this title be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I did not hear the request.

The CHAIRMAN. The gentleman from Kentucky has asked unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued reading title II.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Page 258, strike out line 7 and all that follows down through line 2 on page 263 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that the emissions from such vehicles and engines may not exceed .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A)(i) The Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate, affording a sufficient period to permit the development and application of the requisite technology (giving appropriate consideration to the cost of compliance within such period), regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactured during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect public health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years within the period specified in subparagraph (A)(i).

"(6)(A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practical following submission by the Administrator of the fuel consumption report referred to in subparagraph (A), separate reports respecting such fuel consumption."

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I would merely state to my friend from Michigan that I have no real objection, but I do get a little tired over here of watching the Members in the early part of the debate get all the time they want, but when we get down to the end, time is restrained and closed. If the gentleman is going to move to close debate later, I would object.

Mr. DINGELL. I would advise the gentleman that this is the first time I have spoken under the 5-minute rule. Furthermore, I have no intention of seeking a limitation of debate.

Mr. ASHBROOK. Mr. Chairman, with that assurance, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, my colleagues are well familiar, I believe, with this amendment and its purposes.

Mr. Chairman, I think my colleagues should know the committee's bill is founded on no careful study of the facts or circumstances relating to energy use and other environmental circumstances. The only meaningful study which has been made of energy use, of energy wastage, and of environmental benefits on the different amendments which will be offered to this bill, and the committee bill itself, were made after the committee had acted and after it had adopted the sections relating to automotive emissions. The only definitive study which has been made on this point has been made by the three Federal agencies chargeable with responsibility in the area: The Department of Transportation, which deals with automobile fuel efficiency and energy wastage, the Environmental Protection Agency, which deals with air quality, and the Federal Energy Administration, which has broad concerns in the area of energy use. Those are the only definitive studies, and they were made at my request after the committee had acted.

The subcommittee gave no thought and no consideration to these points and had no data whatsoever of any validity.

It has been charged that the amendment which we, my able colleague and friend, Mr. BROYHILL and I, now offer, which tightens up over an appropriate period of time auto emission standards, is one which prevents, slows down or retards clean up of the air and reduction of emissions. That statement is categorically false, and I would like to treat of it at the appropriate time.

Let me first of all give my colleagues the consequences in regard to the effect of alternative emission standards with regard to future air quality. My colleagues will observe the standards of the three different alternatives before the House are set up here. The green, my colleagues will observe, is the Train proposal, which is the proposal which I offer today. Next to it is the Broadhead proposal, which is the committee bill, and next to that is the Waxman proposal, which will be offered shortly by the gentleman from California.

Observe, if you please, the difference in hydrocarbons, one of the important emissions, is fixed by the three.

They are in each instance the same over the period between now and 1990 with regard to both hydrocarbons and oxidents.

With regard to carbon monoxide, the consequences of all three proposals, the Dingell-Broyhill—Train amendment, the Waxman proposal and the committee bill are exactly the same, according to EPA, DOT, and FEA.

Oxides of nitrogen are not statistically different. I repeat, statistically the difference between the three proposals in levels of oxides of nitrogen is statistically insignificant.

I would urge my colleagues to observe that between the three, difference in benefits, in terms of environment and health, are nonexistent. The amendment which I offer today has the endorsement of EPA Administrator Train as being the best mix of air quality, environmental benefits, health, energy savings, energy efficiency and overall economic benefits to the consumer.

Let us go a little further. I would like my colleagues to look with me now at the effect of auto air emission standards on future air quality. These are the figures which have been done in the joint study by EPA, DOT, and FEA. Observe that in each instance the Train figures which are offered by me and my friend and colleague, the gentleman from North Carolina (Mr. BROYHILL), the Brodhead language, which is the committee bill, and the Waxman proposal, in each and every instance the effect on future air quality in 1990 is exactly the same.

Thirty-one air quality regions in each instance will be out of conformity with the requirements of Federal law. In each instance the air quality standards and results in terms of conformity with air quality standards will be precisely the same. I will point out parenthetically that with the same expenditure of money we can get four times as much clean-up on NO_x by attacking the stationary sources, which the committee bill does not do, over the same period of time.

Mr. Chairman, I think my colleagues ought to understand that one of the major problems this Nation has is high cost of living, and another problem is wastage of fuel and energy. This is something that was not addressed by the subcommittee prior to the time that I requested a study made by the Department of Transportation, the Environmental Protection Administration, and FEA.

I will ask the Members to observe the difference in cost to the consumers, the people we serve.

It has been said that this is an auto industry amendment. The auto industry does support it, as do scores of other industries, but it ought to be known that that auto industry will make any car that the Government says that it has to make, and of those it will sell any car that the consumer desires to buy.

The consequences in terms of added consumer cost from the 3 different proposals before this body are, I believe, clear to see. Let us observe that by the committee bill, between 1977 and 1985 it is going to cost the consumer $22.3 billion. That is $22.3 billion in additional cost for purchase of the automobile, for fuel wasted, and for additional maintenance, and with no health or environmental benefit. Just observe the difference between the amendment which I offer and the committee bill; the figure is $22.3 billion in savings to the consumer. But then observe the cost additionally to the American consumer by the Waxman amendment shortly to be offered. In real constant dollars, the figure is $27.99 billion.

Mr. Chairman, if we figure the consequences of inflation, the committee bill will cost the consumer $30 billion more, and the Waxman amendment will cost $39 billion more, and, remember, for no discernible health or environmental benefit.

More importantly, let us look at energy use. We have been hard scrabbling and grubbing around here to find ways to reduce our dependency on imported oil. Now, equally important is the fact that with an oil shortage goes inflation, and with an oil shortage goes other environmental evils such as trans-Alaskan pipelines, additional off-shore drilling, strip mining, and an abundance of other undesirable environmental consequences, because the environmental consequences are not just the pollutants that go into the air but include a broad spectrum of other things.

I would beg my colleagues to look at the fuel penalty consequences of the committee bill, and that is shown on this chart in blue. These are the cumulative model years, 1977 to 1985. This shows that 1.03 billion gallons per year are the fuel penalty consequences of the bill before the House today. My amendment would reduce that by 1.3 billion gallons. That is 67,000 barrels of oil a day as a penalty. This line represents the Waxman-Maguire proposal, and this shows 121,000 barrels a day or 1.85 billion gallons of gasoline every year.

So what is before the House today? What is before the House at this time is the question: Are we going to get something which gives us the most responsible mix of wholesome environmental health, safety, consumer protection, low cost to consumers, and a reduction in the wastage and loss of fuel?

Mr. Chairman, let us remember, with the wastage and loss of fuel go strip mining, trans-Alaska pipelines, additional atomic generating capacity, and loss of employment.

Mr. Chairman, let us talk about loss of employment a little bit because that is important to us.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, the Nation is just recovering from one of its most serious economic recessions since 1929. According to a study made by Chase Econometrics, an unbiased economic analysis and modeling institution, the loss in employment between now and 1985, from the committee bill, will be the loss of production of 8 million automobiles and the loss of 830,000 jobs.

Mr. Chairman, those are the political

consequences, the economic consequences, the environmental benefits, and the fuel penalty that lie before us. One enormous tanker load of oil—61,000 barrels—imported from the Arabs every day is the fuel penalty, the consequences of the committee bill.

Mr. Chairman, I ask my colleagues, the Members of the House, to understand that this is not peanuts because every one of those barrels is priced at $15.50.

Mr. Chairman, I urge my colleagues to support this responsibly crafted Dingell-Broyhill—Train—proposal, which is based on sound and careful analytical work. Every single assumption on this matter has been made available by me to my colleagues. I have asked the DOT, FEA and EPA in their study to lay out the facts, assumptions, and the consequences of this, warts and all, so that my colleagues can know precisely what it is all about.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding.

The gentleman has not explained this to the House, and I wonder whether he would not agree that it is important that the House understand that the study he has cited includes, in fact, a range of possible outcomes and that the fuel penalty chart which he is showing us here is, in fact, the worst possible case he could give us.

Mr. DINGELL. That is not true, that is not true. In fact, I have chosen the fairest case based on the best technology available at this time. I am aware that that charge is made, but it is not true.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(On request of Mr. MAGUIRE and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the ranges of fuel economy outcomes in the study, as it is expressed in written form, is from less than 1 percent to 5 percent. That is a big difference. What does the chart represent?

Mr. DINGELL. I do not really understand the gentleman's question. I will be glad to explain if he will make it clear. I will be glad to answer the question raised by the gentleman from New Jersey if he will make it clear.

Mr. MAGUIRE. The EPA, in responding to an inquiry with respect to the claim that the gentleman from Michigan (Mr. DINGELL) is making, has said:

> We are unable to reconcile the April 8 report with the estimate of twenty percent fuel economy loss in 1981–82 due to NO_x control in the House Committee bill vs. the Dingell Amendment. The cases as estimated in the report show a maximum fuel economy loss of five percent for the low range estimate and no loss for the high range estimate, for those model years.

Mr. Chairman, I emphasize that "no loss (of fuel economy) for the high range estimate."

Mr. BROYHILL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have joined with my colleague, the gentleman from Michigan Mr. DINGELL), to offer this amendment, for several reasons. Among them, of course, are energy savings, less cost to the consumer with respect to the initial cost of automobiles, and also less cost in operation.

Mr. Chairman, as the gentleman from Michigan (Mr. DINGELL) has very eloquently pointed out with the charts that he has just presented to the Members here, the amendment which he offers will result in equally clean air.

At the same time the amendment that has been offered by the gentleman from Michigan (Mr. DINGELL) would free up the technical options that would be avaliable to the automobile industry, it would also result in less risk of an economic setback at a time when we are moving out of the recession.

All of these reasons indicate to me that we should support this amendment. We do have a record that we can point to that would justify Members voting for this amendment. I would urge the Members to take a look at the minority views and additional views that were filed by the gentleman from Michigan (Mr. DINGELL) and myself and others about this particular amendment.

One fact I would like to point out is that the Dingell amendment turns the final, tough, technical decision that will have to be made on NO_x over to the Environmental Protection Agency. It seems to me that that is where it belongs. The Congress just does not have the technical expertise to make a technical judgment about this matter of what standards we have to set on NO_x.

Let me see if I can explain it this way. NO_x is created when gasoline is burned. It is not present in gasoline. According to the technical people who have briefed me on this, the higher the temperature of the burn, the better mileage you get and the more pollutants you consume but higher the NO_x you get out of the tailpipe.

If you lower the temperature, you form less NO_x but you do not get as much mileage from the gasoline and you get more pollutants coming from the burn.

As we heard in committee, you just cannot repeal the law of thermodynamics.

So this is a highly technical scientific decision that is going to have to be made on the level of NO_x that we set. In the Dingell-Broyhill amendment, the final decision as to whether you bring it down to 0.4, sooner or later, is left up to the EPA.

We created EPA for the purpose of gathering the expertise to analyze such questions as this. The Dingell-Broyhill amendment would let them do what we intended that they should do.

As far as energy and cost savings are concerned, I do not believe I can add anything to what my colleague, the gentleman from Michigan (Mr. DINGELL) has already said and pointed out earlier. Certainly as the gentleman from Michigan pointed out, the health benefits alone certainly do not justify the costs that are associated with the standards that are set in cement in the committee bill. In regard to HC and CO, there are no identifiable differences between the standards set in the committee bill and the Dingell-Broyhill amendment and as far as the NO_x differences are concerned, they are less than a 10-percent improvement. But as the chart that the gentleman from Michigan (Mr. DINGELL) showed to the Members indicates, the health benefits are negligible, the consumer costs are great. So our argument is that we should adopt the Dingell-Broyhill standards in order to permit additional time to work out the technology and not be adding this tremendous cost to the consumers.

Mr. Chairman, I urge that the Members support the Dingell amendment.

AMENDMENT OFFERED BY MR. WAXMAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DINGELL

Mr. WAXMAN. Mr. Chairman, I offer an amendent as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN as a Substitute for the amendment offered by Mr. DINGELL: Page 258, strike out line 7 and all that follows down through line 3 on page 267 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during the model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed the levels (expressed in grams per vehicle mile) specified in the following table:

"Model year	Carbon monoxide level	Hydrocarbon level
1977	15.0	1.5
1978	9.0	0.9
1979	9.0	.41
1980	9.0	.41

The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during of after model year 1981 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.".

(b) Subparagraph (B) of such section 202 (b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxide of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxide of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1978 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1979 and 1980 shall contain standards which provide that emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light-duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.".

(c) Section 202(b) of such Act is amended by adding the following new paragraphs at the end thereof:

"(6) The standard required under the third sentence of subparagraph (B) of paragraph (1) (pertaining to oxides of nitrogen) shall not apply with respect to any manufacturer for any model of light duty vehicles or engines if the Administrator determines that such model will emit for a period of ten years or one hundred thousand miles, whichever first occurs, not more than .41 grams per vehicle mile of hydrocarbons, not more than 3.4 grams per vehicle mile of carbon monoxide, and not more than 1.0 grams per vehicle mile of oxides of nitrogen. Such determination shall be made in accordance with the certification test procedures required under section 206 (with durability testing for not less than one hundred thousand miles).".

"(7) (A) Any manufacturer may file with the Administrator an application requesting the suspension for any model year before the model year 1981 of the effective date of any standard applicable to light-duty motor vehicles or engines under this section for emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, or for suspension of any combination thereof. During any calendar year, no manufacturer may file an application with respect to more than one model year, The Administrator shall grant such suspension for such model year only if—

"(i) standards applicable to emissions of sulfates or sulfuric acid, or both, from such vehicles or engines have been promulgated under subsection (a)(1) for such model year,

"(ii) the Administrator finds, after notice and public hearing, that the applicant has established that—

"(I) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time prior to their effective dates to achieve compliance with the standards applicable in such model year to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and the standard or standards applicable to sulfates and sulfuric acid, or

"(II) fuel economy of such vehicles or engines would be substantially less in the case of vehicles or engines meeting standards applicable to emission of all such pollutants than the fuel economy of light-duty vehicles or engines meeting standards applicable for such model year only to emission of carbon monoxide, hydrocarbons, and oxides of nitrogen,

"(iii) the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles or engines cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions from such vehicles of the pollutant or pollutants with respect to which application is made under this paragraph.

"(iv) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report contrary to the findings of the Administrator under clauses (ii) and (iii), and

"(v) notice of such suspension has been reported to the Congress by the Administrator and neither House has passed a resolution disapproving such suspension before the expiration of sixty calendar days of continuous session of Congress after receipt of such notice by such House.

For purposes of congressional action under clause (v), the provisions of subsection (b) and subsections (d) through (g) of section 155 shall apply to suspensions under this paragraph in the same manner as to regulations of the Administrator under subtitle B of title I (relating to stratosphere and ozone protection).

"(B) No suspension under this paragraph of any standard with respect to a pollutant may permit emissions of such pollutant in excess of the levels (expressed in grams per vehicle mile) specified in the following table:

Suspension of oxides of nitrogen standard	2.0
Suspension of hydrocarbon standard	1.5
Suspension of carbon monoxide standard	15.0

"(C) During any calendar year, no suspension under this paragraph may be granted with respect to any standard for more than one model year and no suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1980	1977
1981	1978

"(D) In any case in which the requirements of clauses (i) and (ii) of subparagraph (A) are met, if the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles and engines do not in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions of the other pollutants referred to in subparagraph (A), and if the National Academy of Sciences has not issued a report under subsection (c) contrary to such finding or contrary to the finding under subparagraph (A) (ii), he shall suspend the standard applicable to emissions of sulfates or sulfuric acid, or both (as may be consistent with such finding), subject to the requirements and limitations contained in subparagraphs (A) (other than clauses (iii) and (iv) thereof) and (C) of this paragraph. Such suspension shall not permit emissions of such pollutant in excess of the level which the Administrator determines to be technologically feasible for vehicles or engines to meet without resulting in substantially less fuel economy in relation to the fuel economy which would result if no standard for such pollutant were applicable."

(d) Section 202(c)(1) of such Act, relating to arrangements for NAS study, is amended by striking out "subsection (b) of".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, the Waxman-Maguire amendment has two provisions. First, it provides that the statutory standards be met in 1981—a 3-year delay from current law. Second, our amendment calls for the imposition nationwide, in the interim, of the 1976 and 1977 California standards.

This amendment reflects the arguments I have been making in the Congress for over a year—that there is no justifiable reason why an extended freeze of the current automobile emissions standards should be granted.

What is being proposed by Representative DINGELL, President Ford, and the automobile manufacturers is nothing less than a complete subversion of the Congress mandate that the full 90-percent reduction in tailpipe emissions be accomplished with all deliberate speed.

The Congress established the statutory standards 6 years ago in order to protect public health. Every year, 4,000 Americans die and 4 million workdays are lost to illness due to automobile pollution. Exposure to harmful tailpipe emissions has been shown to cause cardiovascular and respiratory diseases, particularly among the very young and the very old. Although the Clean Air Act directs that there be established air quality standards designed to protect public health, there are no known "threshold" levels of pollution—levels below which no adverse health effects occur.

In dollars, the cost to the American people from the damage caused by automotive air pollution lies somewhere between $2.5 and $10 billion per year. This is an extraordinarily high cost to the American people and our quality of life.

The industry has contended time and again that meeting the statutory standards would cause enormous fuel penalties, greatly increased car costs, and provide only marginal improvements in air quality. We have been told that the earliest date that a car meeting the statutory standards could be marketed would be after the end of this decade.

The automobile industry was wrong. Cars meeting the statutory standards will be on the road later this year. These automobiles will get 10 percent better fuel economy than last year's models. The increased cost to the consumer—$50—is minimal.

It is no coincidence, in my judgment, that one manufacturer is mass producing a car that meets the full statutory standards this year. Almost every outside analysis of the industry, including the National Academy of Sciences, has previously concluded that the statutory standards could be met by 1978, without a fuel penalty, and at a modest cost to the consumer. Those analyses were correct.

The Volvo achievement has dramatically demonstrated that fuel economy and emissions reduction are not incompatible—a fact that is also plainly evident when one considers that while tailpipe emissions have been cut some 67 percent since 1970, fuel economy has increased significantly. And the pollution control hardware, a CRS study has shown, has been responsible for only a fraction of the huge increases in car prices over the last several years.

All of the foregoing has served as the rationale behind the Waxman-Maguire amendment. It is therefore of crucial importance for my colleagues to realize that our amendment is not an endorsement of Volvo or the means they have chosen to achieve the end; rather, the Volvo is an endorsement of the Waxman-Maguire amendment, which accurately reflects the progress which has been made to date in meeting the statutory standards.

By establishing 1981 as the final deadline for compliance with the full statutory standards, we are giving Detroit 4 years from the time a car meeting those standards has been marketed to achieve them on an industrywide basis. We believe this is eminently reasonable.

Additionally, although we are greatly encouraged by the success of the three-way catalyst, we do not wish to lock the manufacturers into any one particular device or engineering technique. By establishing the current California standards as the interim levels, we have provided the industry a large amount of flexibility in its exploration of various ways and means toward meeting the statutory standards.

Finally, by requiring the adoption of the California standards in the interim, our amendment will keep pressure on Detroit to maintain a step-by-step progression toward final compliance in 1981. Moreover, all the standards our amendment would apply nationally between now and 1981 will have been in effect for at least 2 years beforehand in California. They are, in other words, proven and available.

I am therefore convinced that we now have available the means which can finally resolve the differences between Detroit and the Congress over this issue. All of these promising efforts will be compromised, however, if the Congress obviates their need by granting an extended freeze of the current Federal standards. Defeat of the Waxman-Maguire amendment would remove any incentive Detroit might have to capitalize on these developments.

We believe our amendment is a reasonable compromise of all the issues involved. It will result in further progress in cleaning up the air, to the benefit of the public health. We can achieve this goal at a cost that is acceptable to the consumer and to industry.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

Mr. WIRTH. Mr. Chairman, I ask unanimous consent that the gentleman from California may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. DINGELL. Mr. Chairman, reserving the right to object, the gentleman from California has made a number of statements and refused to yield.

Mr. WAXMAN. Mr. Chairman, I would be pleased to yield when I finish my statement. I extended the gentleman the courtesy to finish his statement. I will yield when I finish.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized for 2 additional minutes.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, could the gentleman inform the House whether or not the average life of a car in California is longer than the average life of a car in the Northeast or other parts of the country?

Mr. WAXMAN. Mr. Chairman, I cannot answer that. I do not believe there is any difference, except the difference that might be accounted for by the weather differences and not by virtue of air pollution emission controls. I have not been informed by any responsible study that would indicate that air pollution controls in any way diminish the life of a car.

Mr. MYERS of Pennsylvania. Mr. Chairman, if the gentleman will yield further, the gentleman is on the track that I would like to have the gentleman respond to.

Mr. Chairman, it is my opinion that the life of a car because of the weather conditions in California is, in fact, a more durable machine which will effect a longer life at less cost, so that the impact of the over-the-life cost for the average consumer in California, is lower, though the increased cost of the pollutant devices would be somewhat dissipated as related to the cost of a car in the Northeast because of those weather conditions.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has again expired.

(At the request of Mr. MYERS of Pennsylvania, and by unanimous consent, Mr. WAXMAN was allowed to proceed for an additional 2 minutes.)

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I think if this factor is not built into the air pollution devices cost debate, it is truly a void that should be filled.

Mr. WAXMAN. Mr. Chairman, in response to the gentleman's statement, there is a difference in cost as it might be reflected by the differences in weather between the Northeast and California. That would be a given, whether we had emission control devices of greater magnitude than we now have or not.

In the Volvo experience they are talking about producing a car that will be manufactured this fall that will cost $50 more per consumer for each car than is now being paid out and it will include stricter enough pollution control devices that will not only meet the statutory standards, but go beyond particularly with respect to of NO_x control.

Mr. Chairman, I want to complete this statement further, because I was concerned about the question of cost. I asked the Congressional Research Service to do a study for me of the impact of the cost for pollution control devices. They concluded that there are costs involved in other features of a car that are far greater and they did not see any relationship in the increase in cost that would result if antipollution devices were required on the cars to meet the statutory standards or to meet the standards now in effect in California.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, with respect to the question raised by the gentleman from Pennsylvania, cars with catalytic converters use unleaded gas, and that extends the life of a car because they do not have lead fouling the carburetor and the muffler and other parts of the engine.

Mr. WAXMAN. I just want to say one thing in conclusion, because I think my time is about up. We have been lobbied very heavily in this Congress to give another extension—another extension—to the automobile manufacturers to meet the standards which we required of them 6 years ago to protect public health. They will only come in and lobby further if we do not stand up and say that we expect them to do what we, in passing the Clean Air Act of 1970, required of them, and that is to protect the public health.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Dingell amendment to the auto emission provisions of section 203 of this bill, and in opposition to the Waxman-Maguire substitute. Once again, of course, the provisions of this section and the Waxman-Maguire substitute demonstrate how Congress attempts to solve problems in a vacuum without considering the interrelationships of many of our Nation's problems.

The gentleman from North Carolina (Mr. BROYHILL) has discussed the medical aspects of the problem, and I think established that there is very little in the change between what is in the basic committee bill and the Dingell substitute with reference to greater impact on health. So, I would like to expand on a couple of the points made by the gentleman from Michigan (Mr. DINGELL).

As the Members will recall, the Congress—against my advice—included in the Energy Policy and Conservation Act provisions which established fuel economy standards for automobiles.

The average auto manufacturer's fleetwide average must meet the following standards: By the year 1978, 18 miles per gallon; by 1979, 19 miles per gallon; by 1980, 20 miles per gallon; between 1981 and 1984, miles per gallon as determined by the Secretary of the Department of Transportation; then, in 1985, 27.5 miles per gallon. Although the standards for 1978 through 1980 appear to be feasible and capable of being met, the 1985 standard set by this Congress of 27.5 miles per gallon is beyond any presently proven technology. In other words, we have legislated the accomplishment of the impossible, at least as far as fuel efficiency technology now knows. Add to that, the requirements now in law for emission reduction and you reduce the likelihood of auto manufacturers being able to produce what our law requires.

Under this legislation, manufacturers will not be forgiven for any loss in fuel economy due to pollution control requirements unless such loss exceeds half a mile per gallon. Antipollution requirements have caused fuel economy losses of as much as 15 percent to date, and increasing the stringency of these standards thereby places the auto industry—and all of us who buy cars—in a Catch 22 position. And because of the unique emission standards in California, cars in that State are 10 percent less fuel efficient than cars sold elsewhere. Now, I am not guessing at that figure. Let me quote from the committee report on what has been established by the California experience. I am quoting from page 498 of the report:

> The projections of reduced fuel economy where more stringent emission controls are mandated is not an idle guess. We already have real world experience with the California situation. California standards for model year 1976 require that cars emit no more than 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. For the other 49 states, the standards are less stringent and require that cars emit no more than 1.5 grams per mile of hydrocarbons, 15 grams per mile of carbon monoxide, and 3.1 grams per mile of oxides of nitrogen. As a result of these more stringent standards, 1976 California cars are approximately 10% less fuel efficient than 1976 cars meeting the standards for the other 49 states. This fuel penalty has been confirmed by EPA certification data.

Let us look at the consumer impact of the current provisions of the law. The FEA estimates that, if the provisions in the bill we are now considering are enacted, the fuel penalty by 1981 would be as much as 300,000 barrels of oil per day. That would mean an additional $1.6 billion per year in payments to the OPEC cartel by U.S. consumers, a considerable impact on our entire economy.

Furthermore, the consumer costs of the new equipment necessary to meet current increasingly stringent statutory standards is estimated to be between $125 and $350 per vehicle. It should be noted also that no one as yet knows how to meet the ultimate combined statutory emission and fuel efficiency standard of most vehicles, and that is why we seek to postpone the applicability of the more stringent emission standards for the second time in 6 years.

We all want to clear the air as soon as possible, but it is not realistic to do it by trying to outlaw the automobile by setting contradictory standards that cannot be mutually attained under present technologies without extreme impact on our economy.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, California, which has higher standards than the rest of the country, provides a good example of what will happen if application of the more stringent standards is not deferred for a time.

General Motors estimates that 70 of its models for 1977 cannot be sold in California in 1977. Chrysler estimates that 90 of its 1977 models will not be able to be sold there. American Motors says that a full one-half of its models will not be able to be sold in California.

This means reduced sales and a corresponding rise in unemployment in the auto industry if we move imprudently to apply California standards.

It has been suggested that those standards can be accomplished, that we can now design an automobile to meet the California standards. That is right. We can. But we cannot convert 90 percent of the automobile industry in 1 year without putting a whale of a lot of people out of work and without having a whale of an impact on the cost of living for the average consumer who has to have an automobile to get around. That is what we are talking about. We want to try to meet the more stringent standards in time, but we want to be reasonably logical about it, in terms of the economy and in terms of public health. But if we can do it reasonably logically and if we can do it on a gradualized basis, without having an adverse effect on the Nation's health, it seems to me that is what we should do.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. I thank the gentleman for yielding.

On that specific point, it is one thing to talk about Volvo's capability. It is another thing to listen to what they have to say, specifically.

In a statement to the gentleman from Michigan (Mr. DINGELL), Volvo said, and I quote:

> In conclusion, Volvo feels that it would be unrealistic to conclude that the three-way catalyst technology can be immediately applied to all engine configurations or that in doing so, the very low emissions levels specified in the Clean Air Act could be met.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. ESCH and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. ESCH. If the gentleman will yield further, this is Volvo stating that they cannot possibly meet those standards in all instances. They also admit that the converter system that they have suggested uses very small amounts of both platinum and rhodium as active constituents.

And I go on to quote:

> Volvo has been assured of supplies to meet its estimated production requirements, but the availability of these constituents for wider application for this system is a subject which should be referred to catalyst manufacturers.

It is very clear that there are not sufficient materials, even if we wanted at this time to utilize that system.

The point is that the technology, even from Volvo, just is not there. It would be the height of absurdity to accept this amendment when the facts are completely to the contrary.

Mr. BROWN of Ohio. How many cars do we manufacture in the United States a year? Ten million cars? Is that about it? If we pass what has been proposed here as the substitute, I suppose we could all drive Volvos or buy Volvos and produce 10 million Volvos. But we cannot get the materials to produce those Volvos.

Mr. ESCH. Mr. Chairman, if the gentleman will yield, Volvo says they cannot produce the cars. They may want to sell them, but they cannot produce enough cars.

Mr. BROWN of Ohio. Absolutely, and not to mention the fact that we would put out of work everyone in Detroit who is still working.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to congratulate my good friend, the gentleman from Ohio (Mr. BROWN). He is absolutely right, and his is an excellent statement of where the public interest lies.

I have a letter from SAAB in which that Swedish auto manufacturer points out that there is a fuel penalty because of the California standards, of 10 to 23 percent in comparison with the existing Federal standards. That would be at least the level of penalties that would be imposed by the Waxman-Maguire amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Kentucky, my good friend and ranking member of the subcommittee.

Mr. CARTER. Mr. Chairman, certainly I have no quarrel with the level of emissions that Volvo produces at the present time and with the fact that they meet the present standards. However, I do think that as Americans we should buy American products and let Volvo stay in Sweden.

Mr. BROWN of Ohio. Mr. Chairman, I agree with the gentleman, and I am also concerned about the fact that even Volvo says they could not produce enough Volvos to meet the American market, given the shortage of constituent materials. They could not produce the cars that would be necessary.

I just think that we are again living, as we so frequently do in this Chamber, in the hothouse atmosphere of an unreal world. We must understand that we cannot suddenly see car sales in the United States go to zero without having devastating effects on the U.S. economy.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I would be glad to yield to the gentleman from California so that he can explain to me why we should destroy the American automobile manufacturing industry and the jobs it creates.

Mr. WAXMAN. Mr. Chairman, what a smokescreen this is. Destroy the American automobile manufacturing industry? What a smokescreen this all is.

Many of the Members want to pick on Volvo, and they want to talk about "buy American." Let us be Americans about it, and let us protect the health of the American people.

I would like to talk about the National Academy of Sciences. This is not some group that is trying to destroy the automobile industry. The National Academy of Sciences says the emission standards for HC and CO for 1978, which is the date we now have in the law to meet the standards in subsequent years, should be maintained. They say we should meet them in 1978. That is not even as far as I say it should go. I say, in 1981. They say that in 1978 we can meet these standards.

They are not going to destroy the automobile industry. Let us look at the situation for what it is.

Mr. BROWN of Ohio. Mr. Chairman, I will not yield further.

Mr. WAXMAN. I am just pointing this out as an example of what can be done if we are shown the way to do it.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from California (Mr. Waxman) just made a slick transfer from saying that it would be nice to maintain the standards to saying that the standards could be met in 1981. It seems to me that the National Academy of Sciences did not say that. They did not say we could economically produce enough automobiles in this country that would meet the standards they would like to see met.

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield further, I will read to the gentleman what the National Academy of Sciences concluded, and I will quote, as follows:

> Emission standards for HC and CO (.41 and 3.4 g/mi) for 1978 and subsequent model year light-duty vehicles should be maintained at the current statutory levels. Attaining these levels by 1978 is both feasible and worthwhile. * * * It is probably feasible with catalyst technology to achieve the statutory emission standards for NO_x * * * in 1978. There would be less certainty today if there had not been a slackening of effort in pursuing this goal. "Report of the Conference on Air Quality and Automobile Emission" * * *

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Brown) has again expired.

(By unanimous consent, Mr. Brown of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, I agree with that attitude of the National Academy of Sciences.

Mr. WAXMAN. I will ask the gentleman if that means the National Academy of Sciences is trying to destroy the automobile industry.

Mr. BROWN of Ohio. Mr. Chairman, I am trying to use my own time, and I have not yielded to the gentleman.

The CHAIRMAN. The Chair will protect the gentleman from Ohio (Mr. Brown), and we will proceed in regular order. The gentleman in the well has the time, and if Members want him to yield, they must ask him to yield. They should address the Chair first and ask the gentleman to yield to them.

The gentleman from Ohio (Mr. Brown) is recognized for 1 minute.

Mr. BROWN of Ohio. Mr. Chairman, I agree that what was read by the gentleman from California (Mr. Waxman) is the attitude of the National Academy of Sciences. I would like to see that accomplished, too. But they do not say it can be accomplished by the automobile industry at present without startling economic impact. That is where the gentleman from California (Mr. Waxman) and I have our differences of opinion.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Not at this time.

Mr. Chairman, I would like to see us have no air pollution from automobiles, but unfortunately that cannot be accomplished without closing down a good portion of the remaining 90 percent of the American automobile industry which does not currently meet the California standard. It takes time to redesign automobiles, replace the tools to make new models, and alter all assembly lines.

Mr. LEVITAS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. BROWN of Ohio. Mr. Chairman, on that worthy note, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) yields back the balance of his time.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

Mr. CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have joined with the gentleman from California (Mr. Waxman) in offering this amendment in the form of a substitute for the Dingell amendment. I would like to comment on a couple of points made by the gentleman from Michigan in his opening presentation.

First of all the difficulty with the presentation of the sort we saw, with all the charts and colors and numbers is: Whose numbers? What we have is the familiar device of a worst case being presented to the House as if it were gospel. The three-agency study—DOT-EPA-FEA—upon which the gentleman relied in his presentation does in fact include consideration of a whole series of possible outcomes. Uniformly the gentleman from Michigan has taken the worst case in presenting his data to the House and has ignored the best case and also intermediate cases.

In addition the three-agency study itself with respect to health, for example, admits that it is examining only selected health effects and an analysis of the study shows that the bottom line is that the Dingell health analysis has focused on headaches and eye irritation and has ignored cancer, birth difficulties, genetic breakdowns, and chronic lung and heart diseases. I submit that is not an adequate analysis on the basis of which the House should act.

With respect to fuel efficiency, various speakers have said it is fuel efficiency which underlies the cost and of course that is absolutely correct.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman.

The gentleman has made the statement that I chose the worst cases in making the presentation. The fact of the matter is that is not so. I chose a point midway between the worst case and the best case so as to give the House a fair presentation.

Mr. MAGUIRE. I am glad to have that correction. Those are not the data the gentleman has previously presented to the Congressional Record.

Mr. DINGELL. That is the middle case, I assure the gentleman.

Mr. MAGUIRE. Then we move from the worst case presented by the gentleman in the Congressional Record to what is now represented to be the middle case, and that is an improvement, but I would like to have this House consider what the best possible results to the American people should be and that is what my argument is here today.

The question of costs does in fact derive of course from the question of what kind of fuel efficiency or lack thereof we are going to get. I know in the material presented at least at an earlier stage by the gentleman from Michigan the low-range estimate with respect to fuel economy is the material presented in the three-agency study by DOT, EPA, and FEA, and identified by them as the General Motors estimate.

If we are looking at the facts with respect to fuel efficiency, we have to come up with the conclusion that the assumptions that the gentleman from Michigan has made are flatly inconsistent with the facts.

The facts are, and I quote from the Society of Automotive Engineers Journal that:

> The use of a more sophisticated emission control technology in 1976 has resulted in fuel economy in a fixed model mix of 11 percent better than 1967, despite a reduction of uncontrolled emissions for 49 State cars by 83 percent for HC and CO and 11 percent for NO_x.

The fact of the matter is that in California improvements in fuel economy have been realized between this year's model car and last year's. There has not been a deterioration in fuel economy. Every National Academy of Science study and every EPA study has indicated that the two, fuel economy and emission control, can go hand in hand.

It is not beyond the genius of this technological Nation to achieve that. We have been doing it and we can do it.

Now, a final point.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Maguire) has expired.

(By unanimous consent, Mr. Maguire was allowed to proceed for an additional 2 minutes.)

Mr. MAGUIRE. Mr. Chairman, finally, we are talking about incentives. How are we going to get where I am sure we would all agree, including the gentleman from Michigan, that we want to get; namely, to a maximum position on emission control and safeguarding health, to a maximum position on fuel economy and to a maximum position on protecting the American people? That is what we want to achieve. How do we get it? Let me quote from a Newsweek article about clean air:

> A Washington spokesman for the company—

This is one of the automobile companies—

> said U.S. auto companies would use the more efficient model "when the law requires it."

Does anything more need to be said? The fact of the matter is that we are not going to get technological improvements until we set a schedule and some deadlines. That is as simple as A, B, C, and that is what this debate is all about.

Finally, after all the disputes about the figures, are we going to have a schedule, are we going to have some deadlines, are we going to come close to what the National Academy of Science and every other objective observer has said can be achieved? I submit we should set those schedules and those deadlines and that we will all be better off in the end if we do that.

Mr. Chairman, I urge support for the Waxman-Maguire amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, to clear up this matter of the Academy of Science to which the two gentlemen referred, the National Academy of Science did not say the currently mandate standards can be achieved without severe damage to the economy. They said the standards should be achieved, and I agree they should be achieved. It would be wonderful.

The gentleman in the well said he offered the best possible alternative for the health of the Nation. The best possible alternative would be to ban automobiles altogether and ban smoking along with it, but it just is not practical.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for his comments.

The Academy of Science has said it can be achieved. That is what the Academy of Science said.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Maguire) has expired.

(At the request of Mr. Waxman, and by unanimous consent, Mr. Maguire was allowed to proceed for an additional 2 minutes.)

Mr. MAGUIRE. Mr. Chairman, with respect to the remainder of the point made by the gentleman from Ohio (Mr. Brown), I would say that is where judgment comes into it. What I am appealing for today is some reason and judgment to evaluate the facts with respect to the economy and cost, to recognize that these effects are minimal and greatly overbalanced by the cost and health benefits, and on that point I would be happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to apologize to the gentleman from Ohio. Earlier we were both answering each other's points at the same time; but I do want to point out the point I was trying to make is that the National Academy of Science says, and I want to quote them, they report that fuel economy can be improved further while meeting more stringent emission standards.

In the June 1976 conference, the Academy concluded that the statutory 1978 emission standards "could and should be achieved while improving fuel economy."

The gentleman from Ohio maintained that it was not technologically feasible to get to these standards by 1978.

He said that we cannot get there now. Nobody is asking that we get there now. 1978 is the standard in the law, and everyone agrees that we should give them a little bit more time. But, for 1978 the National Academy of Sciences said that statutory emission standards are both feasible and worthwhile, and it can be done. We ought to commit ourselves to doing it. The National Academy of Sciences said that it can be done, not Henry Waxman, who would like to see the air in Los Angeles cleaned up. That was the point I was trying to make earlier.

Mr. MAGUIRE. I thank the gentleman. Let me add a point.

The gentleman from Michigan (Mr. Dingell), in the material he submitted to the Congress in anticipation of this debate on the question of fuel economy, makes the assumption that under the committee bill, if it were to be passed, EPA would act most foolishly.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(On request of Mr. Dingell and by unanimous consent Mr. Maguire was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Whereas, if the Dingell amendment were to be passed, EPA would act most wisely. If, in fact, the assumptions are analyzed, it is just as possible to argue that the Dingell amendment would result in a 10-percent fuel economy loss in 1982 relative to the committee bill. It just depends on one's assumptions.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. DINGELL. The gentleman is totally at variance with the fact. First of all, the figures I have in the amendment I have offered are inherently generated in fuel efficiency; but second, the gentleman said that I had chosen the worst case. He said that the second time, and each time he has been in grave error.

In point of fact, I have given the very best fuel efficiency figures in making the assumptions with regard to fuel efficiency penalties that are possible. I have assumed the waiver up to the highest level of NO_x would be given in each instance in the amendment I have offered. As a result, the fuel penalty has been held to the lowest level rather than the highest level. The gentleman is totally in error.

Mr. MAGUIRE. The gentleman has changed his stripes.

Mr. DINGELL. I have not changed my stripes.

Mr. MAGUIRE. I do not yield further.

Mr. DINGELL. The same figures are presented today.

Mr. MAGUIRE. The gentleman, unfortunately, has not given us all the numbers in these charts and graphs.

The CHAIRMAN. The gentlemen will desist. The Chair would like to say that if a Member wants to interrupt the speaker, he should address the Chair and ask the gentleman to yield. We can save time if we follow an orderly procedure.

Mr. MAGUIRE. I thank the Chairman. Let me conclude by simply saying that I have addressed my comments to the materials presented by the gentleman from Michigan over a period of months in the Congressional Record, and it is on the basis of those materials that many Members have made their judgments.

Mr. DINGELL. Mr. Chairman, will the gentleman yield further?

Mr. MAGUIRE. I am saying that apparently now he has something different being presented.

I yield to the gentleman.

Mr. DINGELL. The gentleman has made that statement time after time. The figures that appear today are the same figures that appeared in April. The assumptions of today are the same assumptions of April, and they are the worst insofar as my presentation is concerned.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(On request of Mr. Rogers and by unanimous **consent** Mr. Maguire was allowed to proceed for 2 additional minutes.)

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Florida.

Mr. ROGERS. I must say that it is our complete understanding that in the figures presented by the gentleman from Michigan (Mr. DINGELL), they project on a 2 NO_x basis.

Mr. MAGUIRE. That is my understanding.

Mr. ROGERS. Does the gentleman not project on a 2 NO_x basis into the future?

Mr. DINGELL. That is correct.

Mr. ROGERS. That is what the gentleman has been saying, I must say.

The CHAIRMAN. The Chair will announce that the gentleman in the well has the time.

Mr. MAGUIRE. I would like to yield further to the chairman for the completion of his statement.

Mr. ROGERS. This is exactly the point that is being made, that the gentleman's figures are based on the worst case, that we are never going to get below 2 NO_x, and that is one of the problems we have with this whole presentation. We do not ever have to go below 2 NO_x.

That affects the health of the American people. That is what we are talking about, and that is what the AMA is talking about and that is what the National Academy of Science is talking about.

Let me just read here from this analysis.

Working with staff from the interagency study to evaluate the case in which auto manufacturers are required to achieve a 1-gram-per-mile NO_x emission under the Brodhead from 1981 to 1984, and under the Waxman, they draw conclusions that are entirely different from this. In fact, they say there is really not much difference, we do not have a fuel loss when we look at the highs and the lows.

So I must agree with the gentleman from New Jersey that the figures presented, the graphs, are the worst case, and it is so admitted by the gentleman.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Waxman substitute amendment and in support of the Dingell amendment.

Mr. Chairman, I think that the gentleman from California (Mr. WAXMAN) made an extremely important point earlier. He stated that this is in fact a public health bill. I think if the gentleman from California (Mr. WAXMAN) were honest with himself and if he were honest with the House, he would have to admit that we cannot take simply one set of pollutants out of the atmosphere or out of society and present the argument that this will in fact solve the health problems.

I would like to present the case in point of cigarette smoking. We have heard testimony in the Committee on Science and Technology that went along this vein: that the highly publicized case of lung cancer in relationship to asbestos workers was much higher in the instance of those who smoke, as opposed to those who did not smoke. In fact, the testimony went like this: Asbestos workers who were not smokers did not experience a higher rate of cancer than the normal population in the United States. However, those individuals who smoke and are asbestos workers experienced a rate of cancer about 30 times the normal average rate for Americans. I think this is important in this legislation because if we go to the American people with a bill which causes them to have to pay a penalty for energy efficiency, they are going to have to pay a penalty on the market price of automobiles, and hold out our hands and say, "This is going to solve your health problem," I think we are kidding them.

It is a little ironic, as I watch Members come before the House and argue this great public health issue, that these same Members do not have any hesitation to light up a cigarette in the committee room where we meet or in the restaurant downstairs where we eat. They do not have any reservation probably about lighting up a cigarette as they drive down the highway with their family and children in the car. And I would submit that in many cases the real health hazards are inside the car, as compared to outside the car, under these conditions.

I do think, and I have said many times, that there is one single thing the American people in general could do to improve their health much more than any other single item, and that is to quit smoking or reduce it to a reasonable level. The effect on health of the abusive use of cigarettes is shown in the statistics on cancer and every other type of health issue we face. That certainly confuses the issue about the significance of other pollution. I do not think the rate at which the American people smoke should inhibit us from moving toward realistic goals toward cleaning up the atmosphere, but I would say to the Members that I have been through the steel mills—and that has been my life up to this point—and I would say that if we subjected the steelworkers or automobile drivers in the United States to engulfing the concentrations of pollutants into their lungs at the rate equivalent to what a voluntary cigarette smoker engulfs them, it would outrage us so much that we would be on the floor of the House here criticizing industry and automakers—and rightly so.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. MYERS of Pennsylvania. I will as soon as I am finished. I waited patiently and quietly to get this time, and I would like to use it.

Thus, Mr. Chairman, I do not think we should kid the American people into believing this is going to solve their health problem. There are many interrelated problems.

The other point about the Dingell amendment simply is that those who say that the market will respond more rapidly and that the new-car market will grow more rapidly are arguing this point: What we will be doing is in fact replacing some of those older cars at a much more rapid rate, those dirty, old cars that last much longer in California. I can see why they need a higher standard in California than the Northeast does. We turn our cars over much more rapidly because we put salt on the highways and the cars get eaten up. The cars in California last much longer.

I would say that if the gentleman from California (Mr. WAXMAN) wanted to do a thorough analysis, he should determine what the average original car date is for California as compared to the rest of the United States, and I would submit that he would probably find some interesting statistics.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. MYERS of Pennsylvania was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman makes a very good point. It really bears right on what the issue is here.

Nobody is against trying to clean up the air. We are all for that. The question is: What is the impact of what we do when we try to accomplish that, and are we living in a real world of trying to get that done over a period of time in such a way that it is effective from a health aspect without being devastating from an economic standpoint?

The gentleman from Pennsylvania (Mr. MYERS) says that smoking is harmful. We all know that, but people still smoke. We might tomorrow pass legislation in the Congress that would prohibit everybody from smoking, but it would have very little chance of being effective on getting the job done.

We could go ahead with the Waxman amendment, but if we damage the automobile industry in this country to the extent that we damage the country's entire economy on the theory that we can tolerate no gradualism in cleaning up the air, we are going to have a grave reaction to the economic impact our action has on the United States. That reaction will not be desirable toward what we hope to accomplish.

Mr. Chairman, I would hope that we can do this in a much more logical fashion, such as proposed by the gentleman from Michigan (Mr. DINGELL).

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, did the gentleman say that studies showed that there was no increased incidence of cancer in asbestos workers who did not smoke?

Mr. MYERS of Pennsylvania. The evidence we had before the Committee on Science and Technology, through the U.S. Department of Labor, indicated that the normal mean average of asbestos workers who did not smoke and experienced the incidence of lung-related cancer was not significantly different from the general population, whereas those asbestos workers who smoked had a rate of cancer about 30 times the normal average rate of the general population.

Mr. OBEY. Mr. Chairman, I serve on the Subcommittee on Labor-Health, Education, and Welfare of the Committee on Appropriations, and over the last 3 years. We have heard from Dr. Rall from NIEHS and Dr. Rauscher from NCI. We have also had extensive conversations with Dr. Selikoff who has done more research on asbestos than anyone else in the country, and he simply states that is not true.

Mr. MYERS of Pennsylvania. What did he say?

Mr. OBEY. He certainly grants that there is a much higher rate of cancer among asbestos workers who do smoke, but he also said that there was a much higher rate of cancer occurring in asbestos workers as against the general population even when they do not smoke.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to say that the witnesses probably agree on this: that cigarette smoking among those workers incapacitates the use of their lungs for about 12 minutes during the period immediately following the smoking of a cigarette. So if in fact we take the pollutants that the gentleman from California (Mr. WAXMAN) and I are concerned about, his lungs are not capable of dealing with those pollutants, and that is the problem we must deal with. The lungs are wonderful machines and are capable of dealing with certain levels of pollutants if not incapacitated by ingredients such as cigarettes. If that element were removed from the health statistics we could quite possibly arrive at different assumptions in relation to balancing the environment and the economic viability of our system.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the gentleman for yielding.

I would not tell the Members that smoking is at all helpful, but I am telling the Members that the evidence that has been presented to us many, many times over is that the inhalation of asbestos fibers does cause mesothelioma, and there is no question about it. That is a known fact.

Mr. MYERS of Pennsylvania. The relationship between such pollution and cigarettes and the incidence of cancer must be considered.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman's yielding, and I would just like to commend the gentleman for his suggestion of the impact of this problem upon workers throughout the country.

Mr. Chairman, I rise today commending my two colleagues, Mr. DINGELL and Mr. BROYHILL for their efforts and wisdom in proposing the Dingell-Broyhill amendment to the Clean Air Act.

I rise in support of that amendment as the best achievable effective balance on the issue of emission standards. This amendment is designed to give predictability to the automobile industry and, quite frankly, that means jobs. The unemployment that my State of Michigan faces is simply unacceptable. I know there are others here today that face this same problem in their States. I have always felt that the best opportunity for providing employment is by using the private sector. This amendment clearly affords us the opportunity of utilizing that philosophy. The statistics are strongly supportive. One out of five jobs in this country can be attributed to the automobile.

According to a study for the New York Times by Wassily Leontief, a Nobel Prize-winning Harvard economist, each drop in car sales of $1 billion would put 57,000 Americans out of work. Most of those lost jobs—34,100—are in nonautomotive industries such as steel, textiles, chemicals, glass, mining, and the service industry. Thus, the entire economy—not just Detroit—would suffer if car sales are artificially depressed.

This industry must therefore be allowed to continue unfettered by Government interference to produce and strengthen our economy. Let us help them put Americans to work.

I know there is strong disagreement, to say the least, regarding the various provisions of this bill. Much rancor fills this House. However, I believe this body serves best when it acts with measured emotion and fine-honed reason. Many of our colleagues would have us vote for even more stringent standards than have been reported by the Interstate and Foreign Commerce Committee, while others like myself would have preferred a 5-year deferral. Those who propose to tighten the standards beyond the committee's standards, I believe, to any person of moderate measure, will be easily discerned as being not only unnecessarily harsh but burdensome as well by requiring two sets of standards to which the industry must comply in 2 years. Those of us who have supported the 5-year deferral realize our position is as likewise untenable.

Therefore, the issue is squarely framed as to whether to accept the bill's present standards or to amend the emissions standards with the Dingell/Broyhill amendment. The comparable merits of these two positions should then be analyzed.

For the years 1977–79 there is no difference whatsoever between the two contending positions. For 1980 and 1981, the Dingell/Broyhill provides 2 years of transitional HC and CO standards before establishing the same final standard that the committee bill would implement in 1980 and thereafter.

In effect, the Dingell/Broyhill amendment during those 2 years tightens the standards but not as far so quickly as does the committee bill. Under Dingell/Broyhill, the NO_x standard, rather than being mandated by Congress is left to the discretion of the Administrator of EPA, who must provide the impacted industry 3 years' notice as to the standard required to be implemented.

The impact on the environment of the two contending positions is simply unappreciable, but the effect on fuel economy efficiency is appreciable. The standards of the committee bill will increase the cost to the consumer for fuel, and this I believe is also unacceptable and inflationary.

Because of the statutory certification process, predictability for the automoble industry is crucial. Each day of delay in establishing these standards has a devastating economic impact on the industry. Such delay because of production leadtime creates lost resources and lost time which could be better used to complete the certification process. Because of the industry's multiplier effect on the Nation's economy, the cost of these economic detriments is not borne solely by the automobile industry, but by the whole country as well. This also translates into costs to the consumer.

I believe that the merits weigh on behalf of the Dingell/Broyhill amendment. With such an amendment, our workers will benefit, our industries will benefit, and so will America.

I would, therefore, ask your support of this amendment.

Mr. BROOMFIELD. Mr. Chairman, there are none among us who would argue against the goals of the Clean Air Act amendments which are now under consideration. We all realize its effect on plant and animal life, and we all want to give future generations air that is fresh, clean, and healthy.

While striving for this goal, however, we must remember that this bill will affect more than the quality of our environment. It will have an impact on our unemployment rate, consumer costs, efforts to achieve energy independence, and the health of the economy.

Because of its wide-ranging impact, we must remove any "environmental blinders" from our deliberations and consider this bill in its total context.

In our deliberations, we will be asked to consider several different auto emissions standards.

The most realistic of these has become known as the Dingell-Broyhill emissions standards which have the support of Russell Train, Administrator of the Environmental Protection Agency.

These are more energy efficient, more consumer oriented, and more protective of jobs than any of the other proposals. Beyond these benefits, the Dingell-Broyhill amendment provides about the same improvement in air quality as any of the other proposals.

The recent Environmental Protection Agency-Department of Transportation-Federal Energy Administration interagency study clearly indicates the benefits of the Dingell-Broyhill standards.

With the Dingell-Broyhill standards as compared to the committee proposals, the study clearly shows a 2.46 billion gallons savings in fuel consumption for the life of the 1980 model year cars, and a $1.47 billion savings in purchase and operating costs of cars in the 1980 model year. The year 1980 is significant because this is the year that the Dingell-Broyhill standards deviate from the committee proposals.

The Dingell-Broyhill standards will also protect workers by phasing in the standards gradually. It will help keep the costs of buying and operating cars down and therefore not discourage the purchase of new cars. In speaking about employment, we are discussing not only auto assembly lines but one of every six jobs in this country which are in auto-related industries.

The inter-agency study shows that the effect on air quality in the next decade will be about the same no matter which standard is accepted. Exactly 31 air quality control regions are expected to exceed ambient air quality standards in 1990 under all three proposals.

The evidence is clear that the Dingell-Broyhill standards serve our Nation best in striking a balance among all the pertinent factors. In terms of modern management, it is cost-beneficial as opposed to the other proposed standards.

Mr. Chairman, it has taken a long time for this bill to come before the House for consideration—too long in fact. This delay has already been costly to the auto industry and to consumers.

The auto industry is waiting to find out what the emissions standards will be. They have been holding up production plans, testing, and supply orders waiting for Congress to make up its mind but this bill still has a long way to go. Due to our inaction before the recent recess, it has been delayed even longer than many of us care to think.

Under normal circumstances the auto industry would already be sending engineering data to EPA for its 1978 model cars and planning for 1979. This long lead time is necessary because it normally takes up to 10 months to complete the necessary tests for EPA.

When Congress finally makes up its mind, the auto companies will be able to act. But the time will be very short and the work will have to be rushed. The work will be done, no doubt, but it will cost money and that money will come from the consumer.

Mr. Chairman, the Congress, by its long delay, has interrupted the hum of the manufacturing process and is forcing the consumer to pay for it. If we now act and pass this bill without the Dingell-Broyhill emissions standards, we will be punishing the auto buyer even more. For this to be done in the name of promoting "the general welfare" would be an unconscionable act.

Mr. RUPPE. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment to section 203 of the Clean Air Act amendments containing revised auto emissions standards.

This amendment would modify the bill that we have before us today by postponing the standards for hydrocarbons and carbon monoxide until 1982.

I believe that a 6-year postponement represents a more realistic deadline for the auto industry to develop the appropriate technology at a price which will be more palatable to the consumer.

This amendment will also leave the timetable for meeting standards for oxides of nitrogen—NO_x—emissions to the judgment of the Administrator of EPA. I do not feel that the need for the NO_x standards found in the committee bill has been adequately demonstrated. Furthermore, the attainment of the committee's standards has not been shown to be technologically feasible.

I think that it is important for my colleagues to keep in mind that since the Congress passed the original Clean Air Act in 1963, industry and Government have spent billions of dollars trying to comply with the law and its many revisions. These efforts are still going forth. We are getting the job done. New York City, Los Angeles, and Washington, D.C., all report substantial improvements in air quality. The Wall Street Journal notes that New York City's overall air quality index credited 1969 with zero "good" days and only 38 "acceptable" days whereas the report for 1975 indicates 107 "good" days and 204 "acceptable" days. We are making significant progress.

I believe that it would be in the best interest of the Nation at this time not to set the most stringent standards we can think of, but to focus instead on doing the best job we can do to comply with an admittedly tough present law.

I urge the adoption of the Dingell-Broyhill amendment.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 8603, POSTAL REORGANIZATION

Mr. HENDERSON. Mr. Speaker, I call up the conference report on the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 31, 1976.)

Mr. HENDERSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. The gentleman from North Carolina is recognized for 30 minutes.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report was agreed to unanimously by all of the House and Senate conferees who participated. Senator FONG was absent from the meeting and was not able to participate in the agreement.

The report has two particularly important aspects which I will discuss and I will call on the gentleman from New York (Mr. HANLEY), chairman of our Subcommittee on Postal Service to explain the details of the agreement.

First, what does the conference report do with the Alexander amendment?

Second, what impact will the authorization for additional funds have on the second concurrent budget resolution?

The House conferees began preliminary discussions on the differences at 9:30 a.m. on Monday, August 26, and then met with the Senate conferees from 11 a.m. until after 5 p.m. before the last difference had been resolved.

We first passed over the Alexander amendment until the other major differences in the conference were resolved in order to afford a comprehensive discussion of the role that should be played by the Congress in overseeing and reviewing the operations of the Postal Service.

As you know, the Alexander amendment is not a part of the conference agreement, but I am confident that the conference agreement provides more meaningful legislative controls than would have been provided by the Alexander amendment.

The Alexander amendment would have required the Appropriations Committee to appropriate the postal budget each year, and would have required the entire budget of the Postal Service, more than $14 billion for the current fiscal year, to have been included in the budget.

One of the lessons we learned under the old system of annually appropriating money to the Post Office Department was that there never was very much room for adjustment in the postal budget. Fixed costs were almost never subject to reasonable manipulation. Payroll, transportation costs, facility expenses, and materials accounted for nearly all the postal budget. They still do. The only room for "fattening up" or "whittling down" the postal budget was to postpone projects for new buildings or to cut back upon the merger funds used for research and development. That kind of fiscal management bears a large measure of the responsibility for the accumulated problems of the postal system which lead to the demand for changes in 1969 and 1970.

The managers on the part of the House as well as the Senate remember those problems and the origin of those problems. All of the managers for the House have served on the committee for at least 12 years, and have experienced the problems of the Postal Service. It was our judgment, based on that experience over the years, that putting the Postal Service back under the annual appropriation process would not have been an effective way to try to solve the problems which so many of our colleagues have brought to our attention during the past year or two.

The frustrations which have, time and time again, been expressed to us about the Postal Service, closing of post offices, consolidating post officers, failing to provide the kind of service with the speed and reliability which was once characteristic of the Postal Service, will not be solved merely by requiring annual appropriations. The better answer, in our opinion, is effective and continuous oversight by the Congress to insure that policies of the Congress, as expressed in law and other ways, are faithfully carried out by the Postal Service.

The conference report includes very specific and stringent requirements to insure that result. Under existing law, the Postal Service is required to prepare an annual report as well as a report to the Congress on its compliance with the public service cost provisions of title 39. Since postal reorganization, those reports have been little more than a picture book and an enumeration of how many small post offices there are this year compared to last year.

The conference report requires a much broader regular reporting system to the Committees on Post Office and Civil Service and the Committees on Appropriations. The Postal Service is specifically required to submit its budget to the Congress at the same time it submits its budget to the Office of Management and Budget so that we can study it well in advance of the beginning of a new Congress. The new law will also require the Postal Service to submit a comprehensive statement relating to its plans, policies, and procedures for complying with all of the policy provisions of the Postal Reorganization Act.

The Service must prepare a general statement on postal operations and detailed reports on the speed and reliability of service, mail volume, employee productivity, trends in postal operations, and analyses of the probable impact of internal and external factors which may presently or in the future affect the Postal Service. The Postal Service is also required to provide a detailed financial statement. Finally, any other material which the Committee may wish to have in order to be fully and currently consulted and informed must be provided.

That is not all. After the submission of this material, the new law will require the Postal Service to appear before the Committees on Post Office and Civil Service to submit information which the committees consider necessary to evaluate the postal budget and make an independent judgment of postal operations. The law will require the submission of this information so that each committee may determine the validity of the postal budget as well as judge whether the Postal Service is carrying out the law as the Congress has enacted it.

If the committees find that the Postal Service has been remiss or that the estimate of expenditures and requests for appropriations under section 2401 of title 39 or under section 2004 of title 39 in the case of requests for transitional appropriations, the committees may take whatever action it deems appropriate. I think it would be appropriate in such cases for the legislative committee to advise the Appropriations Committee of its views and recommend that the amount appropriated to the Postal Service for public services, revenues foregone, or other amounts authorized by law be adjusted.

This language stops just short of requiring annual authorization of the funds to be appropriated to the Postal Service for public services. The existing law, which authorizes a public service appropriation related to fiscal year 1971 levels and which authorizes revenue foregone appropriations for certain kinds of second-, third-, and fourth-class mail, is not disturbed, but this new language makes it clear that the Postmaster General must come to the Congress and present a detailed justification to the legislative committee on all aspects of postal operations, and the committee is directed to take such action as it deems appropriate after the Postal Service has presented its case.

I am certain that this system can work. I believe that the principal reasons for the deterioration of the relationship between the Postal Service and the Congress and the public's dissatisfaction with the Postal Service have been a sustained attempt on the part of postal officials to ignore the reality that the Postal Service must respond to the legitimate interests and directions of the Congress, and a fixation upon the goal of complete financial independence from the Congress or the President. The acknowledgment by Postmaster General Bailar that financial independence cannot be achieved in the foreseeable future and that the taxpayer must be asked to contribute more to maintain the postal system the way the people want it, is a major acknowledgement of the reality of the situation and the first significant step toward restoring a partnership with the Congress which should be restored.

The second point is the impact of the authorization for an additional billion dollars upon the budget resolution. Early this year our committee, in compliance with the provisions of the Budget Act, requested that funds be included in the budget to insure that there would be a sufficient amount available for an increase in congressional appropriations to the Postal Service. The House Committee on the Budget rejected that recommendation. The Senate committee accepted the recommendation, but in conference the billion dollars which the Senate approved was not included. Most recently, our Budget Committee has again refused to include the billion dollars, even though at the time of its deliberations both Houses had approved H.R. 8603.

In a letter dated June 18, 1976, the Office of Management and Budget advised the chairman of the Senate Committee on Post Office and Civil Service as follows:

> The Administration is prepared to accept legislation and to transmit a request to the Congress from the U.S. Postal Service for the funding of the authorizations provided for under section 2, subject to the passage of a bill which is consistent with our agreement.

The conference report before the House today authorizes the appropriation of $500 million for fiscal year 1976 and the transitional quarter, and $500 million for fiscal year 1977. The conference report is "consistent" with the agreement which the OMB letter refers to. It is my understanding that our Committee on Appropriations is prepared to report legislation to carry out the purpose of this legislation if it is enacted.

Now let me point out where we will be if we do not appropriate this money and make room for it in the pending budget resolution. The operating loss of the Postal Service for fiscal year 1976 and the transitional quarter will be $1,352,000,000. The estimated loss for fiscal year 1977 will be $708 million. The Postmaster General will have no alternative but to request a rate increase not later than October 15, 1976, unless this legislation is enacted and the appropriation is forthcoming. That is not a threat, that is simply a fact. The law requires that postal revenues and appropriations equal postal costs. The Postmaster General has sworn to uphold the law and cannot abandon his commitment to do his job by failing to insure that revenues will equal costs if there is any means to do it. If we do not include the money in the budget resolution and appropriate it, we are simply telling the Postmaster General that he may go ahead and increase rates to cover his costs.

The moratorium on the closing of post offices, which is included in this conference report, will be nullified unless the appropriation is made. The financial crisis and the confrontation between the Congress and the Postal Service will not be resolved.

In view of the support which this legislation has now received from the President, the postal workers, mail users, and the Congress, I strongly urge my colleagues to vote yes on the conference report.

There is one additional matter which I would like to clarify. Under the provisions of the House bill and the conference report, publishers and distributors of books are permitted to mail books to schools and libraries at the rate which heretofore has applied only to books mailed between schools and libraries.

This is a special low rate and the loss incurred has been made up out of appropriations authorized under 39 U.S.C. 2401(c). In adopting the new provision we neglected to authorize an appropriation for the loss which may occur because of this change. Until the law can be changed, we on the Post Office and Civil Service Committee believe that it would be a suitable solution for the Postal Service to request the appropriation under 39 U.S.C. 2004.

The amount of money is about $5 million, which is an inconsequential sum, but which should be paid by appropriations rather than charged to other mail users.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from California, a member of the committee.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am rather disappointed, as can be imagined, with the conference report that has come out.

It is difficult for me to understand how we are going to have greater congressional oversight as a result of the conference than we might have had had the Alexander amendment been made a part of this legislation.

However, since reading some of the provisions, and perhaps they were in the original bill that was in the House, with some changes that were made in conference, I wonder whether there was really a need for a subsidy for the Postal Service. I see one applying to parcel post. It provides that parcel post rates will not be reduced more than 10 percent as a result of any postal subsidies.

Is it the gentleman's understanding that had the conferees not put this provision in the bill, the Postal Service would have used the subsidy to lower parcel post rates so that they could better compete with the private carriers who have taken part of their business from them?

Mr. HENDERSON. Mr. Speaker, if the gentleman will permit me to respond, that provision was contained in the House passed bill. It was the feeling that if there were action to reduce parcel post rates drastically as a result of the additional appropriations that that might not be justifiable. Further, the study commission is a very important segment of the legislation, and that certainly would be one of the specific issues that they would address and report to the President and to the Congress. So that the limitation of the 10 percent was insurance that there not be drastic action in the area of parcel post rates that could be disruptive to the private sector as they attempt to compete with the Postal Service for the delivery of parcel post.

Mr. CHARLES H. WILSON of California. Another observation I have: Could the gentleman tell me how many areas of disagreement you had in the conference between the two bodies?

Mr. HENDERSON. I think the best way I can respond to the gentleman from California is to state that the conferees set aside the major differences that resulted from the Alexander amendments. We very quickly resolved the several other issues in dispute and we then took the major part of the time of the conference on the objectives of the Alexander amendments as contained in the House passed bill.

We believe that the language that has been adopted by the conference does a better job of providing for congressional oversight. If I may be specific, inasmuch as the gentleman questioned that point, we require that the Postal Service, as one example, submit its budget to the Congress and the congressional committees when it is submitted to the Office of Budget and Management. That is not the law at the present time. This would enable the House legislative committees of the Congress, to begin an earlier study of the requests of the Postal Service that they provide in their budget. There are other requirements here by way of reporting concerning plans for changes in postal services that we believe specifically would be most helpful to give the congressional oversight we had intended by the Alexander amendment.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a list of the various differences that was prepared by the staff as to the changes in the bill and it appears there were 22 or 23 differences between the House and the Senate. All I can determine is that the House prevailed in about 5 instances.

I have served on conference committees such as in the Committee on Armed Services, on the military construction bill, where we have done a much better job than that in behalf of the House position.

Mr. HENDERSON. Mr. Speaker, let me say in response to the gentleman from California that I was very impresed with the conferees' actions. We all had long service on our committee, as the gentleman from California has. They were on the committee at the time of the postal reorganization in 1970 and were very familiar with the background and history. But, most importantly in this conference, while the gentleman from California recites the score by numbers, I believe that the House conferees won the major provisions reflecting the House position. While it is true that we may have given in on more of the minor differences to the other body, we think we have been able to preserve the legislation that was earlier acted on by the House.

Mr. CHARLES H. WILSON of California. Mr. Speaker, if I may make one other observation, if the gentleman from North Carolina will yield, concerning the 5 items in which the House prevailed, all of these appear to be special interest sections in the bill. There is the one that prohibtis the parcel post rates from being reduced below 10 percent, which was obviously something that was desired by the United Parcel Service.

There are the amendments that Mr. Ford had sponsored in the full committee on behalf of the book publishers, and the second-class mailing privileges, and so forth. These are the only areas in which the House position seems to prevail. I do hope the Senate bill was that good that the gentleman was able to accept it in toto with the exception of these special things to which I have referred, and that we have a bill that is not going to be just a special interest bill but one that is going to give us an opportunity to improve the Postal Service, which I think the gentleman will agree with me must be done. It is not in good shape at the present time.

Mr. HENDERSON. I do agree with the gentleman, and I appreciate the efforts that he has made for this objective. I would be disappointed if he did not concur at this late date that we have made a very fair effort. Rather than take any more time, however, I should like to yield to others because of the limited time we have—the subcommittee chairman, the gentleman from New York (Mr. Hanley) and the gentleman from Michigan, the sponsor of the amendments the gentleman referred to. Mr. Ford and Mr. Hanley are well prepared to speak on the amendments and the action of the conferees.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Mr. HENDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Speaker, Americans all across this great land are saying that they are disillusioned with government. A recent poll indicates that as much as 50 percent of the voting population may not go to the polls in November because they feel their vote will not change anything.

Americans are saying that government does not work, that government is not interested in our problems, that government does not serve our needs.

Some of us are trying to change it, to make government work; others have become discouraged and may go fishing on election day.

America is down on bureaucracy and the Washington establishment. And I say it is about time. For years I have struggled with the Washington Postal Establishment and numerous other Federal agencies because I am determined to make government work, so that it will respond to the needs of the people it was created to serve.

The Postal Service for many Americans is their only continual contact with the Federal Government.

Ten years ago Americans could depend upon the mail service. But that reputation is a thing of the past.

Today the Washington Postal Establishment characterizes what is wrong with America.

While doubling its own bureaucracy, the Washington Postal Establishment has cut back the work force and mail service to Americans. The Washington Postal Establishment has demonstrated such gross mismanagement that it has produced a loss of revenues of almost $8 billion in the 5 years since reorganization, despite increasing postal rates.

What America needs is a government with a bureaucracy that strives to serve the people, instead of a self-serving bureaucracy that helps only itself and a favored few, at the expense of the taxpayers who foot the bills.

Congress itself will have gone fishing if it approves this conference report. It will have gone fishing on the issue of postal reform and will have "passed the buck" to the 95th Congress to solve the serious problems that persist in our Postal Service.

Returning the USPS to congressional control is only a matter of time because the American taxpayer is saying loudly and clearly that he will no longer buy "blank check" bureaucracy.

And when Congressmen and Senators running for reelection this November get this message from home, reform of the postal mess is inevitable.

I believe, as strongly now as I did 5 years ago when I began looking into the failings of our Postal Service, that the proper course of action is to restore accountability of the postal management to the Congress and the people.

Accountability can be attained by:

Requiring an annual or biennial authorization and appropriation for the Postal Service; and

Requiring that the Postmaster General and his Chief Deputy be appointed by the President and confirmed by the Senate.

I still maintain that the primary problems with the Postal Service are not financial. They are managerial. And until this Congress retrieves this quasi-independent body from its isolation and its management from its ivory tower existence, then Congress will continue to submit to writing the Postal Service a blank check year after year, the price of a stamp will continue to increase, USPS will continue to lose millions of dollars daily, and most tragic of all, the service will continue to deteriorate.

I find it rather ironic, Mr. Chairman, that the House is considering the budget resolution and this postal subsidy bill in the same week.

The reason this conference report will pass today is that President Ford has said he will sign the bill and thus join the Congress in passing the buck on postal reform.

While on the one hand, President Ford asks the Congress to balance the budget, he supports another "blank check" for the Postal Service on the other.

If integrity and credibility are issues in the November Presidential election, then I believe the President owes the American people an explanation as to how he can balance the budget and at the same time support blank check bureaucracy.

Mr. Chairman, I urge, in the interest of the American taxpayer, the defeat of this conference report because it will serve to perpetuate "blank check" bureaucracy.

The CHAIRMAN. The gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before this body represents the last chance we will have this session to respond in a responsible manner to the problems of the U.S. Postal Service. In adopting the conference report on H.R. 8603—Postal Reorganization Act Amendments of 1976—and clearing the legislation for the President's signature, we will be signifying to the Nation's postal patrons, the postal craft unions, and postal management we recognize the need for stability in postal operations in the months ahead.

There is nothing illusory about this legislation. Its objectives are to provide the Postal Service with much needed immediate financial relief, to head off another round of postal rate increases, and to prevent post office closings and further reductions in Postal Service pending a report and recommendations from a special Postal Service Study Commission. It is a realistic approach which already has won the approval of the other body. It is the end product of protracted negotiations involving the ranking majority and minority members of the two Post Office Committees in shaping legislation that would be acceptable to the Office of Management and Budget and the White House. As a testimonial to our efforts, the legislation now pending has the support of the mail-using public, the postal unions, the postmaster general, and even the United Parcel Service.

From a practical standpoint, H.R. 8603 will buy us time for a careful study which will provide the foundation upon which we can build comprehensive postal legislation in the next session of Congress.

To deal with the postal financial problem, conferees agreed to authorize two $500 million appropriations which will be applied to the accumulated indebtedness of the Postal Service. The legislation authorizes $500 million for the transition period ending September 30, and $500 million for fiscal year 1977.

The moratorium on rate increases and service cutbacks will remain in effect through March 15, 1977, the reporting date for the Study Commission. To forestall arbitrary post office closings after the March 15 deadline, the legislation imposes strict procedures which provide for maximum input from concerned segments of the public. If, after the moratorium, the Postal Service proposes to close a post office, the public will be allowed sufficient time for notice and comment and will have the right to appeal any decision on a post office closing to the Postal Rate Commission.

Under the Postal Reorganization Act of 1970, the Postal Service can increase rates on a temporary basis 90 days after filing a rate request with the Postal Rate Commission, and those rates can remain in effect indefinitely since there is no deadline on Commission deliberations. In H.R. 8603, there is a provision which extends the time for the imposition of temporary rate increases from 90 days to 10 months, and other provision which puts a 10-month deadline on Postal Rate Commission deliberations.

The legislation also provides for Senate confirmation of Presidential appointees to the Postal Rate Commission, and retains all of the language contained in the earlier House-approved version of this legislation relating to second-class mailing privileges. It also provides that parcel post rates will not be reduced more than 10 percent as a result of any postal subsidies.

This is forward-looking legislation which proposes realistic solutions to pressing problems in the time frame in which we are operating. We cannot tolerate any more delay while we grope for a solution. The conference report deserves an overwhelming vote of support.

Mr. Speaker, I would like to point out that the gentleman who preceded me in this brief discussion, the gentleman from North Carolina (Mr. HENDERSON), chairman of the committee, and the gentleman from California (Mr. CHARLES H. WILSON), one of the most dynamic Members, and of course the gentleman from Arkansas (Mr. ALEXANDER) are all great statesmen and all extremely knowledgeable and all have done their homework on this legislation. But their difference of opinion merely shows us that even the greatest of minds do differ on a subject regardless of the detail and concentration which they have given it.

Let me present this conference report to the Members in what I consider a necessarily practical fashion.

First of all, the conference report has been approved by the Senate, so the only issue before us is: Shall we or shall we not approve the conference report? I strongly recommend approval.

What have we done in this conference?

First of all, we provided for $500 million in the transition period and then $500 million in fiscal year 1977 to be applied against the indebtedness of the Postal Service. For those Members who are economy minded, this is approximately $800 million less over a 2-year period than the bill that passed the House a little over a year ago.

In order to help the Members in dealing with their constituents in this fascinating time of the year called an election period, we provide for a moratorium on raising rates until March 15, 1977, so when the Members will go back home for the next several weeks they will not have to explain why under their leadership and their sponsorship the postal rates have gone up again.

We further provide for a moratorium on cuts in service and a moratorium on the closing of small post offices, so again the Members will not have to explain.

So basically what this bill does is in a very practical but timely and necessary fashion provide the necessary time for a commission to look into these matters, for the committees at the start of the next Congress to look into them. We remove from this immediate period any concern the Members and their constituents have over budgetary problems of the Postal Service, or any possibility of a rate increase, or any possibility of service cuts or any possibility of small post office closings.

In addition, most Members have been contacted and in turn have contacted the gentleman from North Carolina (Mr. HENDERSON), the gentleman from New York (Mr. HANLEY), the gentleman from California (Mr. CHARLES H. WILSON), and myself and other committee members about the views of the U.S. Parcel Service.

The language in this bill as it applies to parcel post is, let us say, in compatibility with the views of the United Parcel Service, so those who have written to the gentleman from North Carolina (Mr. HENDERSON) can thank the gentleman for providing proper language in this report.

The gentleman from New York (Mr. HANLEY) who worked along with the gentleman from California (Mr. WILSON) on this subject will acknowledge the fact that this is compatible with the letters they have received from the United Parcel Service.

Mr. Speaker, the real issue is this. The post office has problems. The answer to the problems of the Postal Service does not include the Congress of the United States suddenly taking sole jurisdiction at this time, which is the proposal the gentleman from Arkansas (Mr. ALEXANDER) would have us follow.

The answers to the problems of the post office are not simple answers. They are going to be solved on soap boxes. They are going to be solved by necessary objective studies at a time when we are not subject to artificial pressures. So the logical position and really the only position one could take at this time is to support this conference report. It is not going to solve all the problems of the Postal Service. It is a stopgap measure, if we wish to call it that, but it is logical, it is sensible, and it will give us the mechanics to address this subject in much more detail and in a much more effective fashion at the start of the next part of Congress.

Mr. Chairman, I urge overwhelming support of the conference report.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I cannot help but be disappointed at some of the changes that were wrought in the conference. There is one relatively small matter that I find difficult to understand. When the bill was being debated on the floor, I thought it was the intent of Congress to clarify language as to the nature of postal services. We had indicated that if the Postal Service brought about a change in the major postal services that was nationwide or substantially nationwide in scope, they should first submit in writing that change to the Postal Rate Commission. The Postal Rate Commission should hold hearings so that interested parties could state their case for or against that proposed change and the changes not be implemented until after the Postal Rate Commission had given an advisory opinion in writing to the Postal Service.

Now, this was done to protect people from declining services, that the Postal Service should go through this procedure for increases in rate, but also for a decline in services.

Many Americans have been concerned, and among them my own people that I represent, over the Postal Service's high-handed decisions in some instances to radically alter and cut back services without going through this procedure.

I personally filed suit in the Federal Court, which became a landmark case, to force this the first time they went before the Postal Rate Commission on a services case and that was done and we did win substantially.

I thought by clarifying the intent of Congress and the law we could make clear that we do not want them to cut back services to the people, to their customers, without going through a procedure in which the people can have their day in court and express their concern about this when it is on a nationwide basis.

I know that clarifying language was cut out of the bill in conference. I wonder if the gentleman would explain that to us?

Mr. DERWINSKI. Mr. Speaker, first, may I point out to the gentleman from Alabama, we do have provisions in the bill for the moratorium on the closing of offices and services; but more importantly, we have permanent procedures to apply to the closing of small post offices. That includes a provision whereby any patron may appeal a decision to close a post office to the Postal Rate Commission. That partially meets the point that the gentleman is addressing.

Now, the specific point is covered by the gentleman's amendment. We ran into a brick wall with the other body. Their conference advised us that they would not accept that amendment. It was one of the two or three things in which we found ourselves deadlocked and it was one of the points in which we had to recede. It was just that the other body was adamant.

Mr. BUCHANAN. Mr. Speaker, if the gentleman will yield further, I commend the gentleman for including language about closing branches, because in my district what was involved, without any notification or any notice to their own advisory board, they were about to close some 27 branches in an urban area and make other radical changes, with no advance warning, with no consultation, with no chance for people to have a hearing on the matter.

I had to go to Federal court to stop it. That certainly ought not to happen over and over again, so I am glad that the gentleman included that language. But, I would hope that this action on the part of the conferees would not infer that this section of the law is meaningless, because we said they had to run these changes in the nature of services by the Postal Rate Commission where they were substantially nationwide. I hope we are not forgetting that is already a part of the law, and imply that they can bring about ridiculous changes in services with no consultation with the Postal Rate Commission.

Mr. DERWINSKI. I think the implication the gentleman draws from this is that the Senate at this time, in this bill, set this limit in application to March 15, 1977. The Senate just would not take the gentleman's amendment. We have advised them in the conference that we come back with a major bill next session, and obviously the gentleman's point will again be included in our bill.

I have no doubt that this will be the committee position that will be sustained on the floor of the House.

Mr. BUCHANAN. I thank the gentleman.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report on H.R. 8603, Postal Reorganization Act Amendments of 1976, although not without some reservations.

Mr. Speaker, I am deeply disappointed that after 2 years of labor, the Congress has conceived a bill that really satisfies no one, yet seemingly possesses one undeniably attractive quality—aside from the not-to-be-overlooked factor that the President will sign this measure—and that is that H.R. 8603 enables the Congress in the midst of an election year fight to side step the very hard political decisions that must be made if we are to correct the burgeoning problems of the U.S. Postal Service.

Consider the compromise we have wrought: two $500 million emergency appropriations for each of fiscal years 1976 and 1977 to be applied strictly to USPS debts, authorization of the regular $920 million annual public service subsidy, a temporary freeze on further service cutbacks and postal rate hikes, and creation of a seven-member blue-ribbon commission to analyze the problems of the Postal Service and then hopefully to arrive at solutions that should, if truth be told, already appear in this legislation. Fortunately, we have moved wisely to preserve vital second-class mailing privileges for college catalogs and looseleaf publications and to apply library rates to books mailed to and from libraries and educational institutions. Equally important, we have assured ourselves and our constitutents that no longer will there be indiscriminate closures of post offices.

Over the past 2 years since becoming a member of the Postal Office and Civil Service Committee, I have watched with growing dismay a Postal Service deficit that is predicated to reach $4.5 billion by the end of fiscal year 1977, undue delays in the ratemaking process—although some of these problems have been administratively rectified—costing the Postal Service thousands of dollars each day in lost revenues, revelation after revelation of incredibly sloppy postal management, and irrational, potentially harmful Postal Service cutbacks.

Mr. Speaker, I was truly hopeful that H.R. 8603 would have attempted to address most, if not all, of these very serious problems.

I am, of course, aware that the President has threatened to veto any postal bill save the compromise now before us. I acknowledge the fact that both postmasters and postal employees, fearing further service cutbacks, and consequently, layoffs, freezes and reassignments, support this legislation. I grant that educators, librarians, professional groups, and trade associations will be pleased by the continuations of special mailing-class privileges, and rightly so. I recognize that Postal Union leaders, because they perceive this bill as not endangering collective-bargaining agreements, feel that they can live with this bill until something more favorable to their cause can be passed. And I allow that most Members want to be rid of this issue in a difficult election year.

But, Mr. Speaker, the day of reckoning cannot indefinitely be postponed. Whether today, March 15, 1977, or later, we must face the hard truth that the problems of the Postal Service will not fade away, and by temporizing, we can only compound the difficulties of the Postal Service and the Congress. Fiscal accountability, promotion of experienced, seasoned veterans to positions of management, and rational service operations cannot be magically conjured up one day, as much as we would like that to happen. It will only result from the will of Congress imposed on those who run the Postal Service.

Accordingly, I urge my colleagues to support this measure, not only because, in all practicality, this bill is the only one that will fly this year, but also to at least temporarily save the public from the action of the Postal Service, to save the Postal Service from its own follies, and to permit the 95th Congress to address these critical issues 5 months hence from a vantage that is at least hopefully no worse that it is today.

Mr. DERWINSKI. The gentleman's comments are to the point. This Postal Service has imperfections—that is an understatement. This bill is not the perfect, final solution, but it is the necessary vehicle that we must approve at this time.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the very distinguished gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman, and return his generous characterization.

Could the distinguished gentleman tell us why one of the letters circulated to the Members, signed by the conferees, says that the conference report prevents the closing of most post offices until March 15, 1977, whereas the letter the gentleman from Illinois sent around made the unequivocal statement that it stops all closings? Is there some conflict here? If some are to be closed, what post offices and what criteria are to be used?

Mr. DERWINSKI. It is a technical difference. Let me specifically quote. The conference report places a moratorium on closing post offices serving 35 or more families. Post offices serving fewer families, fewer than 35 families, cannot be closed unless 60 percent of the patrons approve. That is the only exception. In other words, any post office serving less than 35 families may be closed if 60 percent of the patrons being served approve that closing.

Of course, the condition attached thereto would be equivalent service to be available from a facility equally comfortable for use of these patrons.

With over 35, 35 or more families served by the post office, there is an absolute moratorium until March 15, 1977.

Mr. BAUMAN. Then this moratorium covers all post offices regardless of whether they actually have been proposed for closing or have been under consideration, or whatever the status may be?

Mr. DERWINSKI. That is right. The moment we pass this bill and it is signed by the President, that moratorium will be effective.

Mr. BAUMAN. I thank the gentleman for his explanation. This provision offers some temporary comfort to me and the many Members from rural areas where severe curtailment of postal service has been proposed.

Mr. HENDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. Burke).

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to address a question to the distinguished chairman of the Committee on Post Office and Civil Service. But before I make my inquiry, I would like to commend the chairman, the gentleman from New York (Mr. Hanley), the gentleman from Illinois (Mr. Derwinski), the gentleman from California (Mr. Wilson) and other members of the conference committee, for the work they have done on this conference report.

My question is in the nature of the personnel problems that are faced at the South Postal Annex in the city of Boston. The area Congressmen up there, including the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill), the gentleman from Massachusetts (Mr. Moakley) and myself have received numerous complaints from the personnel there about the policies that are now in effect. Many of the employees are being faced with transfers up to the western part of the State on very short notice. There are shifts in the hours of those working on the late shift in the evening. The shift in the hours has been changed to the point that when the termination of time is reached, there is no local transportation for them to get home.

I talked with a lady last week who works at the South Postal Annex, and she said if she cannot leave 5 or 10 minutes ahead of time, she is obliged to take a taxicab home and it costs her $7 to get home at night.

I have talked to other employees who sleep at the South Postal Annex at night because there is no way for them to get back home.

I was wondering if the chairman can inform me what the Post Office Committee has done as a result of the requests from the area Congressmen.

Mr. HENDERSON. Mr. Speaker, I thank the gentleman for his comments in regard to the conference report.

In regard to the specific situation raised affecting the area represented by the gentleman from Massachusetts (Mr. Burke), the gentleman from Massachusetts (Mr. O'Neill), and the gentleman from Massachusetts (Mr. Moakley), we dispatched our staff personnel to that facility for an investigation, when this problem was brought to our attention by the area Congressmen. They are completing their preliminary investigations. I was informed this morning that they are now prepared to talk with the area Members. It will be the intention of the chairman and the committee to pursue this matter, working with the gentleman and his colleagues in that area and the postal officials, to bring about the best solution that we can to the personnel problems in that area. I believe that it can be done very quickly and very effectively. But certainly the Members of Congress are to be commended for bringing this to our attention.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from California (Mr. Charles H. Wilson).

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

In connection with that particular problem, we have held many hearings in my Subcommittee on Postal Facilities, Mail, and Labor Management, and we have found many things of this type that are being done wrong and that we disagree with, but we run into this bind that we cannot do anything about them because they are an autonomous organization. Next year we must make an effort to try to get congressional control over the Postal Service. It is the only way we as Congressmen can do anything to straighten out this very serious problem. It is too late this year, but we can hold hearings and bring attention to these problems.

Mr. BURKE of Massachusetts. I want to thank the gentleman.

Mr. Speaker, I think it should be brought to the attention of the post office officials that they are dealing with human beings. I think it is harsh treatment to tell a woman employee that she has to work until a certain hour at night and yet she is unable to get transportation to her home.

There is enough crime on the streets today without subjecting the postal employees to further risks of their lives. Can we imagine letting somebody out of work at night just 10 minutes after the last train has gone or after the last rapid transit has left? It does not seem to me that the post office officials should allow such cold and harsh treatment.

Mr. Speaker, I want to thank the gentleman for sending the investigators up there, and I hope we do bring about a solution of this problem so that they will be more humane in the treatment of their employees.

Mr. HENDERSON. Mr. Speaker, if the gentleman will yield, I am delighted to have had this colloquy with the gentleman from Massachusetts (Mr. Burke). I appreciate his interest in this conference report and his interest in the personnel problems in this area.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Ford), a very valuable member of the Committee on Post Office and Civil Service and, more especially, of the conference committee that brought us the conference report that is now before us.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the conference report, and I would like at this time to take the opportunity to add my heartfelt congratulations to the gentleman from New York, Jim Hanley, who has spent several years trying to get to the point we have now reached on this floor.

The gentleman from New York worked very, very diligently during all of that time. Without that kind of devotion we would be without a bill, and we would be facing perhaps an immediate disaster in the Postal Service, one that would far surpass the worst that anybody has described.

I would also like to say that it has been a very distinct privilege for me to work on this committee with the committee chairman, the gentleman from North Carolina, DAVE HENDERSON, who will be leaving us at the end of this term of Congress, having announced his retirement. He certainly deserves the appreciation of this body and of the members of the committee for the time that he has spent and the effort that he has put into moving this bill to this point. I commend him particularly for the success that he has displayed in recent months in moving an otherwise sluggish other body to recognize the urgency of this legislation.

Mr. Speaker, there are two provisions in this bill which I think should be noted in particular and upon which I would like to engage in a colloquy with the chairman of our committee as to the legislative intent of the conference report.

The first provision is section 11 of the conference report, which declares that, as a matter of law, college catalogs, post-bar admission mail announcements, and looseleaf reporting service publications relating to law or public policy, are entitled to be entered as second-class mail matter if they meet the entry conditions prescribed in former section 4354 through 4357 of title 39, as that law existed immediately prior to the Postal Reorganization Act.

In recent years, relying on language in a Supreme Court decision issued in 1904, officials in the Postal Service have undertaken a fairly active campaign to revoke the permits of second-class publications on the grounds that they do not meet this particular definition of what is a "periodical publication." College catalogs, looseleaf publications and post-bar admission educational materials are among those who have lost, or are in the process of losing, their second-class permits. Section 11 of H.R. 8603 requires that such publications be entered at second-class rates. It will be merely a ministerial duty for the Postal Service to reissue these permits as soon as this legislation is signed into law in the case of publications which have already had their permits revoked.

I would like, however, for it to be made clear, and I would like for the chairman of our committee, who was the chairman of the conference committee, to make it clear, that in singling out these three types of publications for legislative protection, there be no misunderstanding by the Postmaster General or his subordinates, that our committee or the conference committee were, by not including any other publications, implying approval of the Postal Service's actions in revoking other second-class permits. The three classes of publications which we have included in this legislation are three types which have come to our attention. They were threatened with losing their publication status at the Postal Service and they came to Congress to seek relief. Relief has been granted. No other implication should be drawn.

Mr. HENDERSON. Mr. Speaker, if the gentleman will yield, I concur totally with his interpretation, and I commend the gentleman for permitting us to have this legislative history. It does reflect the intent of the conferees that any other interpretation would be absolutely wrong.

Mr. FORD of Michigan. Mr. Speaker, I thank the chairman of the committee.

Mr. Speaker, I think it might be appropriate if the new Commission on Postal Service give attention to this problem because there are undoubtedly other second-class publications whose very existence is threatened by such administrative action. The Postal Service may be behaving responsibly, fairly, and with even-handed justice; but for a Federal agency today to apply a 72-year-old rule of questionable applicability to the definition of what is a periodical publication in this computer age at the very least raises questions which should be examined more carefully by the Congress. Recommendations on this issue by the Commission on Postal Service might prove helpful before any further action is taken.

The second provision I wish to mention is section 10 of the conference report, which establishes a new criterion for setting postal rates. Existing law does not require the Postal Rate Commission to consider the subjective values of the various kinds of mail in recommending postal rates. The law is designed to accomplish that in mail classification proceedings, but those proceedings have progressed so very slowly that postal rates may go through the roof before the Postal Rate Commission ever gets around to deciding that a book, a magazine, or a newspaper has more intrinsic value to the public than a brick. They may all have the same shape, size, and weight, but they are not all the "same." The conference report includes a new criterion which requires that the Postal Rate Commission take into account the "educational, cultural, scientific, and informational value" of mail matter in fixing postal rates.

Heretofore, the Postal Rate Commission has seemed to concentrate on cost factors almost exclusively. The U.S. Court of Appeals for the District of Columbia Circuit once expressed the view, in a lengthy concurring opinion which had nothing to do with the issue in the case, that the cost factors in section 3622(b)(3), and the attribution of cost to the maximum extent possible, were of overriding importance in fixing postal rates. There has been a great deal of discussion on that issue.

It is not my purpose today to attempt to insinuate in the columns of the CONGRESSIONAL RECORD any legislative support for a particular view beyond this specific and unmistakable point: Congress has now enacted legislation to require that the educational, cultural scientific, and informational value of mail matter must be considered in fixing postal rates.

Mr. DERWINSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. JOHNSON).

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I would like verification from the gentleman from Illinois (Mr. DERWINSKI) that the conference report includes the special library rate for books mailed to and from libraries and educational institutions.

Mr. DERWINSKI. Yes. Mr. Speaker, if the gentleman will yield, that is the amendment that the gentleman offered and which was adopted in the original Hanley bill. That was included in the conference report, yes.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I want to thank the gentleman very much.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. HENDERSON. I yield briefly to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I want to ask this question: We have read that there is a general agreement that the Postal Service will not be curtailed. While that agreement is supposed to be enforced, we found sometimes that they did not even deliver the mail. It is reported that they are in the process of changing regional offices and doing other things, and that is typical of the way they have treated the average Member of Congress since this law was changed. Of course, I voted against the change, and have and do have a bill pending to return to the former law.

I am just wondering whether we can count on this committee to ride herd and see that they leave things alone and do not give us lipservice and do things that certainly my friends on the committee have not been aware of, nor have my friends on the Committee on Appropriations been aware of. Therefore, I am just wondering how far this commitment with the Postal Service goes because we are just about to lose the mail service; there is no question about it.

Mr. HENDERSON. Mr. Speaker, to answer the gentleman's question, we have provisions clearly in the language in the conference report against the closing of offices or reduction in service. More importantly, the study commission provided for here will report early to the Congress on these matters. Certainly I can assure the gentleman that any service curtailment between now and the time that the moritorium expires will be properly investigated by our committee.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield further?

Mr. HENDERSON. Mr. Speaker, I wonder whether the gentleman from Illinois (Mr. DERWINSKI) might yield to the gentleman from Mississippi (Mr. WHITTEN).

Mr. DERWINSKI. Yes, Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I do not know any group for which I have a higher regard than I have for members of this committee; but I do think that the committee members to whom I have talked are unaware of many things that are actually going on at the local level.

Perhaps it is true that they have not let anybody go, but in my section they have changed the location of jobs so that people have had to retire because in order to keep the jobs, they would have had to go 100 miles away.

My home town has a postmaster from 30 miles away. He is a fine fellow and my friend. In turn they moved the assistant from my town to his. The office employees are from another direction, so that everybody is being dragged all over the place. The purpose seems to be to get them to quit so that they can name somebody who suits them.

Under this agreement, are they going to leave conditions alone and quit this practice of moving people all around, particularly regional offices? They are getting ready to move people in my State to the adjoining State, so I am advised under the guise of changing regional offices.

Mr. DERWINSKI. If the gentleman will yield, the gentleman is correct that one of the administrative decisions of the Postal Service which ought to be reviewed is this new tendency to totally disregard residential factors when appointing a postmaster.

This was done supposedly to give management greater flexibility in the proper use of personnel. However, it has had an adverse effect in weakening the traditional relationship of the postmaster to his home community.

I think that is the point the gentleman is making.

Mr. WHITTEN. No; the point is a little different from that. If they disregard it, that might be all right. However, they are not doing that. Instead, they are deliberately doing the things that I have been talking about. They move people from here to there and from there to here. This upsets their living conditions. They make a man sell his house and buy a new house or travel many miles daily, and many of them are retiring, which seems to be the Postal Service's purpose so that they can name new people whom they want to name.

The point I am making is that as we have gone along here, we could, in my opinion, have changed this practice a long time ago.

Are we getting a commitment to leave things alone or are they going to do the same things during these months except where it is specifically set out in the language of the report? The language, by the way, does not go nearly so far as what I am talking about, as I read it.

Mr. DERWINSKI. The organization representing postmasters has protested what they consider abuses and have negotiated, on behalf of individual postmasters, with the postal officials.

Mr. WHITTEN. A Member of Congress cannot even meet with these people.

Mr. DERWINSKI. Right.

Mr. WHITTEN. Has that been changed under the agreement?

Mr. DERWINSKI. As the gentleman will recall, under the postal reform law, we are prohibited from anything which is considered political involvement in personnel matters.

Mr. WHITTEN. That was the way it was sold, but what we have done is that we have taken service away from the people.

Nobody wants the job of naming postmasters, but as long as an elected official has the responsibility, he is going to try to serve the public. When we take away service to the public insisted upon by the elected official, the public is bound to be up in arms.

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, I thank the gentleman for yielding. I wanted to respond as briefly and as effectively as I could to the gentleman from Mississippi (Mr. WHITTEN).

Mr. Speaker, it was absolutely impossible to get into all of the matters that the gentleman from Mississippi has mentioned in this legislation.

Mr. Speaker, we have before us a conference report that we think reflects the best product we can work out at this time. Let me add that the things that the gentleman from Mississippi (Mr. WHITTEN) has brought to the attention of the Members today will definitely have the attention of the committee in the next Congress and as far as possible in the interim we will do the best we can to continue our congressional oversight. But the conference report that we have before us goes a long way toward resolving many of the problems that have given concern to many Members of the Congress. That was our immediate objective in the conference and is reflected in the report we bring to the House today.

Mr. WAGGONNER. Mr. Speaker, will the gentleman from Illinois yield?

Mr. DERWINSKI. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I thank the gentleman for yielding to me and I requested the time so as to pursue for just a moment further the concern expressed by the gentleman from Mississippi (Mr. WHITTEN). During the time he was talking I had just picked up a letter while sorting through my mail and also listening to the debate, and that letter deals with exactly that same subject.

I appreciate the remarks of the gentleman from North Carolina (Mr. HENDERSON) and I know that that gentleman fully intends that the thoughts he has expressed will be continued in the next Congress. However, just to elaborate a little further, here is a specific case much in the nature of that which the gentleman from Mississippi (Mr. WHITTEN), was discussing. This is a letter addressed to me by a postal employee and it says:

> I work for the Postal Service and in June they excessed me from Spring Hill and transferred me to Shreveport. They said they were doing away with the TC route then. Since I was transferred they did not do away with the route but are running it with substitutes.
>
> I would like for you people in Congress to know how our Postal Service is being run. I was driving about 12 miles to work, now I have to drive about 60 miles.

That is the type of thing that the gentleman from Mississippi (Mr. WHITTEN) was referring to.

Mr. DERWINSKI. Mr. Speaker, in reply to the gentleman from Louisiana, let me say to the gentleman to please remember that the Postal Service does have major personnel problems. I will be the first one to acknowledge that they have made some major mistakes in their personnel relations and in the handling of their personnel. But this vehicle before us the Members must remember, is a stopgap measure so as to get us through until next March, and if there are certain major problems such as the very points the gentleman from Mississippi (Mr. WHITTEN) and the gentleman from Louisiana (Mr. WAGGONNER) have mentioned, those problems will be major items of review under the chairmanship of the gentleman from New York (Mr. HANLEY), and the gentleman from California (Mr. CHARLES H. WILSON) during the next Congress.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield further, I appreciate what our friends here are doing, they are doing the best they can. What I am trying to do is find out what did the Postal Service promise? The Postal Service can destroy the last remnants of public service between now and the time that Congress can take this up next year. I hope they will at least leave what service we have left.

The point I want to know, are they going to continue these disruptive practices in the interim? If they are, we will not have anything left when the committee gets to it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield 3 minutes to the very distinguished gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I do not believe that I will need that much time, I would say to the gentleman from Illinois (Mr. DERWINSKI) and I appreciate the gentleman yielding to me. I would like to state that there is an obligation here on behalf of the employee unions, the postal unions, to look into matters of this type, as well as criticizing the Postal Service. They are the ones who are supposed to be representing the employees. If they have problems of this type, they should straighten those things out. The union has the responsibility.

The Postal Service has been making some very drastic and sad mistakes, I think I would agree with the gentleman from Illinois on that. They are trying to get rid of as many of their postal employees as they can, trying to discourage them from staying on as career people. They are deliberately doing this so they can hire casual employees. They feel it is less expensive because of the benefits involved with their full time employees. There are some very serious matters involved which again I say is responsible for my feeling that the Congress has to have a greater say in the work of the Postal Service.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Missouri.

Mr. HUNGATE. I thank the gentleman for yielding.

I commend the committee certainly on the improvement in the area of our Postal Service problems. I did want to say that the gentleman from Mississippi and the gentleman who followed him from Louisiana have eloquently described the situation that does exist, that is, the problem with the Postal Service in my district. I commend them, and I urge the committee to keep that under study.

Mr. DERWINSKI. I would also urge the committee not to let illegitimate complaints interfere with its support of the conference report.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENDERSON. Mr. Speaker, I yield the remaining 5 minutes to the Chairman of the Postal Service Subcommittee, the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, on Monday, August 30, a House-Senate conference approved the final version of H.R. 8603, the Postal Reorganization Act of 1976. The next day the Senate approved the conference report.

We are all aware that the Postal Service is on the verge of bankruptcy. Its financial pinch has been transmitted to our constituents in the form of declining postal service.

Since last October, much has transpired which makes immediate action almost imperative. We have had another unpopular rate increase, rules governing the closing of small post offices have been liberalized, placing literally thousands of small post offices under the gun. The Postal Service's financial condition has worsened to the extent that draconian service cuts are being contemplated.

Postal Service officials tell us that they must implement these cuts if they are to break even financially by 1984 as stipulated in the Postal Reorganization Act of 1970.

It was obvious that the time had come for Congress to examine the 1970 Act in order to determine what legislative changes should be instituted to assist not only the Postal Service, but to assist the American people as well.

We have had debates on this bill that I believe reflected the extreme frustration of this House with the policies of the Postal Service; a frustration which I wholeheartedly share. It indicated to me that the House was insisting that it have a greater voice in establishing postal policy, a goal which I share.

In conference consideration was given to the strong sentiments of some of the Members on the matter of additional funding for the Postal Service, and on the degree of congressional oversight.

It also authorizes $1 billion in two increments of $500 million each to be applied against the accumulated debt.

It sets up a seven-member commission to examine the postal system and report its findings by March 15, 1977, to the President and the Congress.

But most important, from the point of view of our constituents, it provides for a moratorium on postal rate increases, service cuts, and post office closings until March 15, 1977.

It provides rigorous procedures allowing maximum public input before any post office can be closed after the moratorium period is over.

As you well know, our constituents are demanding postal reform now. I believe that H.R. 8603 is in step with the will of all Americans, and the will of the House, that Congress become more intimately involved in the development of postal policy. This bill lays the groundwork for greater and more fruitful congressional involvement in the future.

This bill must reach the President for signature as soon as possible. It is imperative that postal reform legislation be acted upon by this Congress.

I urge you to support the conference report on H.R. 8603.

The following is a comparison of the House version of H.R. 8603 and what was agreed to in the conference on August 30, 1976.

The House version required that all postal revenues be deposited in the general fund of the Treasury and that Congress annually appropriate all of the Postal Service funds. All operating expenses would have been appropriated annually, with all postal revenues going to the Treasury. No specific provision for a subsidy was provided for in the House version, though the authorization was permanent and open ended.

The conferees approved a provision requiring the Postal Service to submit budget and other material to Congress annually. It requires Postal Service officials to testify before House and Senate Post Office Committees by March 15 of each year.

It also authorizes $500 million for the transition period ending September 30 and $500 million for fiscal year 1977 to be applied against the Postal Service's accumulated operation indebtedness.

The House-passed bill required the Postal Service to provide door or curbline delivery to residential addresses under conditions essentially determined by local authorities. The conferees adopted language requiring the Postal Service to provide door or curbline delivery and prohibits installation of cluster-boxes delivery in new areas from the day the first $500 million appropriation is made until March 15, 1977.

This compromise is a responsible one which puts a temporary halt to the seemingly constant rate increases and declining service. The House bill did not include language regarding a moratorium on rate increases and service cuts. In the conference report there is a moratorium on rate increases, service cuts, and post office closing that would run from the day the first $500 million appropriation is made until March 15, 1977.

The House bill provided that parcel post rates will not be reduced more than 10 percent as a result of any postal subsidies. This was accepted by the Senate in conference.

The House bill defined service changes as "any change or alteration in type, quality, terms or conditions of providing for the receipt, transmission or delivery of mail matter of any type." All Postal Service decisions to initiate a service change will be appealed to the Postal Rate Commission. This was deleted by the conference.

The conference accepted the House section addition "educational, cultural and scientific and informational value to criteria for setting rates." The House version preserving second-class mailing privileges for college catalogs and certain looseleaf publications, was accepted by the conference.

The conference adopted the House provisions relating to publications of State fish and wildlife agencies and relating to the definition of an agricultural nonprofit association or organization.

The conference also accepted the House bill that contained a provision making the rates applicable for books mailed between schools and libraries applicable to the rates for books when mailed by a publisher or distributor to schools and libraries.

After the moratorium period, the bill establishes specific procedures for closing post offices, giving the public sufficient time and notice for comment. Any patron may appeal a decision to close a post office to the Postal Rate Commission.

The House bill established the Commission on Postal Service, lasting 2 years, consisting of five members to study specific areas, particularly the public service aspects of the Postal Service, and the method of establishing postal rates.

The conferees adopted language establishing a seven-member commission: three appointed by the Senate, and two each by the President pro tempore of the Senate and the Speaker of the House. The Commission has general responsibility to study postal problems and is required to study and issue recommendations on several specific areas of interest, including public service aspects of the Postal Service.

The Commission will be appointed within 15 days after the enactment of the bill. The Commission must report its findings by March 15, 1977.

The House bill contained a provision which required that the Postmaster General and the Deputy Postmaster General must be confirmed by the Senate. It was decided in conference, instead, that the Commission would issue recommendations on the feasibility and desirability of alternate means of appointment.

The House bill required that the Postal Rate Commission would be subject to Senate confirmation. This was accepted in conference.

The House version requires that the Postal Rate Commission be subject to a 10-month period for consideration of rates and classification cases. The conference accepted a 10-month waiting period for rate increases but retained the 90-day waiting period for classification cases.

The House version removed the proceedings of the Postal Rate Commission from the Administration Procedure Act. In conference it was decided that the existing law would not be changed.

Mr. ADAMS. Mr. Speaker, the conference report on H.R. 8603 is substantially different from the bill passed by the House several months ago. This conference report provides for authorization for two back-to-back appropriations of $500 million each for additional Federal subsidies to the U.S. Postal Service.

As Members know, Mr. Speaker, the Budget Committee does not ordinarily comment on authorization bills, since they do not in themselves provide budget authority. However, the situation with respect to authorizations for appropriations for postal subsidies is different. Typically, the Appropriations Committees have considered authorization action by the Congress to be a principal expression of the will of Congress on the subsidy question. Therefore, although this legislation is not an entitlement, nor does it provide budget authority, it must be viewed in the nature of a very powerful advance commitment.

The first budget resolution for fiscal year 1977 did not provide additional funds for postal subsidies over and above those which had heretofore been authorized under existing law. The second budget resolution which we adopted yesterday likewise made no provision for additional postal subsidies.

If I understand the intentions of the proponents of this legislation, it is expected that the President will transmit a supplemental appropriation request at the same time he signs this bill. I understand that a request for $500 million will be made for the transition quarter and a further request for $500 million for fiscal year 1977.

Based upon the most recent analysis of actions by Congress on transition quarter amounts, sufficient funds remain within the ceilings to accommodate an appropriation of $500 million prior to October 1.

However, the situation with respect to funds for fiscal year 1977 is uncertain. The second budget resolution passed by the House yesterday did not make provision for an additional $500 million appropriation; the Senate resolution, also passed yesterday, is understood to include these funds. I cannot, of course, predict what the outcome of the conference may be.

It seems clear, Mr. Speaker, that enactment of additional postal subsidies for fiscal year 1977 may require that an equal amount of funds be withheld from some other program or the deficit be raised because the second budget resolution is very tight. The third alternative is to have this force a third budget resolution. This disclosure puts the public on notice of the problems involved in this.

Mr. AuCOIN. Mr. Speaker, this legislation calls for a moratorium on lowering the levels or types of services offered as of July 1, 1977. Whether or not a Postal Service action constitutes a lowering of the level or type of service is not always clear. Before passing this legislation, we need to clarify what kind of evidence Congress intends to accept as proof that a change in the function of a post office does not represent a lowering of the level of service. I say this because it is too easy for the Postal Service to make changes by simply claiming that service will improve or costs will be cut. In my district, for example, the Postal Service district manager proposes to transfer the mail distribution function out of the Beaverton Post Office. He claims that—

> The net result will be a reduction in total operating costs while the level of service to the Beaverton and Portland communities will not be affected adversely in any way.

I have asked him to show me the figures which he used to determine that a reduction in total operating costs will be achieved, but I have received no reply. I am not convinced that the transfer will not result in a lowering of the level of service to the community. If the transfer takes place, fewer clerks will be available to serve customers at the windows, where 20-minute lines are not uncommon now, according to the Beaverton postmaster. Although first- and third-class letter mail can be processed faster by machine. I have seen no evidence that a comparison study of error rates has even been done. I am concerned about the effect on delivery of flats and packages which cannot be machine processed.

If the Postal Service can prove that the proposed transfer will reduce operating costs without adversely affecting service, I will support it. But Congress should not merely accept promises while being denied access to the figures and methodology to back them up.

Mr. HENDERSON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 33, answered "present" 1, not voting 120, as follows:

[Roll No. 710]

YEAS—276

Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burke, Mass.
Burton, John
Butler
Byron
Carr
Carter
Cederberg
Chappell
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Meeds
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Quillen
Regula
Reuss
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vanik
Wampler
Whalen
White
Whitehurst
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—33

Adams
Alexander
Anderson, Calif.
Armstrong
Ashbrook
Broomfield
Buchanan
Burleson, Tex.
Burlison, Mo.
Collins, Tex.
de la Garza
Devine
Findley
Ginn
Gradison
Hall, Tex.
Hébert
Ichord
Jarman
Kasten
Kazen
Kindness
McDonald
Mottl
Ottinger
Poage
Satterfield
Schulze
Skubitz
Taylor, Mo.
Waggonner
Whitten
Wilson, C. H.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—120

Abdnor
Abzug
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Biester
Bonker
Brademas
Brodhead
Brooks
Burgener
Burke, Calif.
Burton, Phillip
Carney
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Conable
Conlan
Corman
Crane
Derrick
Diggs
du Pont
Early
Edwards, Ala.
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Fary
Ford, Tenn.
Fuqua
Green
Hammerschmidt
Hansen
Harrington
Heinz
Helstoski

Hinshaw
Holland
Horton
Howe
Johnson, Colo.
Jones, N.C.
Karth
Kelly
Ketchum
Lujan
McCloskey
McCollister
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Mink
Mitchell, N.Y.
Mollohan
Morgan
Murphy, Ill.
Murphy, N.Y.
Nichols
O'Neill
Paul
Peyser
Pressler
Quie
Railsback
Randall
Rangel
Rees
Rhodes
Richmond
Roncalio
Rose
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Sebelius
Sikes
Sisk
Snyder
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Symms
Van Deerlin
Vander Veen
Vigorito
Walsh
Waxman
Weaver
Wiggins
Wilson, Bob
Wilson, Tex.
Wright
Wydler
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. du Pont for, with Mr. Clancy against.

Mr. Heinz for, with Mr. Del Clawson against.

Mr. Horton for, with Mr. Hansen against.

Mr. Kelly for, with Mr. Paul against.

Mr. Railsback for, with Mr. Rousselot against.

Mr. Walsh for, with Mr. Symms against.

Mr. Wydler for, with Mr. Snyder against.

Until further notice:

Mr. Annunzio with Mr. Abdnor.

Mr. O'Neill with Mr. Hammerschmidt.

Mr. Brademas with Mr. Bell.

Mr. St Germain with Mr. Lujan.

Mr. Fary with Mr. Mitchell of New York.

Mr. Addabbo with Mr. Andrews of North Dakota.

Mr. Corman with Mr. Edwards of Alabama.

Mr. Zeferetti with Mr. Sebelius.

Mrs. Chisholm with Mr. Biester.

Mr. Phillip Burton with Mr. McCloskey.

Mr. Murphy of New York with Mr. Crane.

Mr. Fuqua with Mr. Michel.

Mr. Bonker with Mr. Aspin.

Mr. Biaggi with Mr. Peyser.

Mr. Vander Veen with Mr. Ruppe.

Mr. AuCoin with Mr. Bergland.

Mr. Helstoski with Mr. Esch.

Ms. Abzug with Mr. Steelman.

Mrs. Meyner with Mr. Don H. Clausen.

Mr. Mikva with Mr. Pressler.

Mr. Nichols with Mr. Wiggins.

Mr. Rose with Mr. Young of Alaska.

Mr. Sikes with Mr. Karth.

Mr. Badillo with Mr. Steiger of Arizona.

Mr. Beard of Rhode Island with Mr. Conlan.

Mr. Rangel with Mr. McCollister.

Mr. Edwards of California with Mr. Quie.

Mr. Howe with Mr. Conable.

Mr. Murphy of Illinois with Mr. Bob Wilson.

Mr. Morgan with Mrs. Burke of California.

Mr. Matsunaga with Mr. Eshleman.

Mrs. Mink with Mr. Brodhead.

Mr. Harrington with Mr. Burgener.

Mr. Metcalfe with Mr. Young of Georgia.

Mr. Jones of North Carolina with Mr. Brooks.

Mr. Ford of Tennessee with Mr. Diggs.

Mr. Carney with Mr. English.

Mr. Derrick with Mr. Holland.

Mr. Early with Mr. Mazzoli.

Mr. Evans of Colorado with Mr. Melcher.

Mr. Green with Mr. Milford.

Mr. Mann with Mr. Randall.

Mr. Mollohan with Mr. Rees.

Mr. Richmond with Mr. Runnels.

Mr. Roncalio with Mr. Ryan.

Mr. Weaver with Mr. Charles Wilson of Texas.

Mr. Waxman with Mr. Sisk.

Mr. Wright with Mr. Stephens.

Mr. Vigorito with Mr. Steed.

Mr. Van Deerlin with Mr. James V. Stanton.

Mr. KAZEN changed his vote from "yea" to "nay."

Mr. HOWARD changed his vote from "present" to "yea."

Mr. GONZALEZ changed his vote from "yea" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 8603 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 5465, RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE

Mr. HENDERSON. Mr. Speaker, I call up the conference report on the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 1, 1976.)

Mr. HENDERSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. HENDERSON) is recognized for 30 minutes.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 5465 differs in several respects from the bill as it originally passed the House on May 3, 1976.

The emphasis in the House bill was on moving employees of the Bureau of Indian Affairs and the Indian Health Service, whose careers have been adversely affected by the Indian preference laws, out of those agencies and into vacant positions within the Department of the Interior or the Department of Health, Education, and Welfare, as appropriate.

To accomplish this objective, the House bill provided that such adversely affected employees would be given priority consideration for appointments to vacant positions within their Department.

In addition, the House bill permitted an employee to elect to retire under the involuntary retirement provisions of existing law, if he were passed over on three occasions for appointment to a vacant position.

The Senate amended H.R. 5465 by striking out all of the provisions of the House bill and substituting an entirely new text.

The Senate version of the bill provided retirement benefits only; it did not provide placement assistance or appointment preference for those employees who are adversely affected by the Indian preference provisions.

The Senate committee rejected the placement assistance program established under the House-passed bill primarily for two reasons:

No. 1, the Department of the Interior has had a similar placement assistance program for BIA employees in effect since December 1975.

No. 2, notwithstanding a strong placement assistance program, the opportunities for careers outside of the Indian services agencies are nonexistent or severely restricted for many employees.

A majority of the House conferees accepted the Senate amendment to H.R. 5465 and recommend adoption of the conference substitute which is essentially the same as the Senate amendment.

The conference substitute authorizes payment of an immediate annuity to employees of the Bureau of Indian Affairs or the Indian Health Service who are not entitled to the benefits of the Indian preference laws and who retire before December 31, 1985, provided they satisfy certain requirements.

To be eligible for retirement under the conference substitute, an employee must:

First, have completed 25 years of service or attained age 50 and completed 20 years of service;

Second, have been continuously employed in the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974;

Third, have been twice passed over for promotion or transfer because of the Indian preference laws; and

Fourth, not otherwise be entitled to full retirement benefits.

An employee who meets all of those requirements will be entitled to an annuity computed at the rate of 2½ percent of his average pay for the first 20 years of service plus 2 percent of his average pay for all of his service in excess of 20 years.

It is estimated that the conference substitute will affect approximately 2,700 employees and result in additional budget authority of $8.4 million and outlays of $3 million for fiscal year 1977.

Mr. Speaker, these employees need and deserve our help. No other group of Federal employees is subjected to such legally sanctioned discrimination. They have little or no opportunity to advance in their careers.

For these reasons, I urge the adoption of the conference report.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report on H.R. 5465.

This is a product of separate House and Senate "conferences," whose members never met as a group to carefully consider the differences in the bill. Instead, each member merely signed the report acceding entirely to the Senate version. Congressman Taylor and I refused to sign the conference report.

I think most Members would agree this is a rather unique legislation exercise.

Nevertheless, this procedure might be overlooked if it were not for the conference agreement. As mentioned, the House conferees completely capitulated to the Senate position, thereby making the bill unacceptable.

The House passed bill was the lesser of two evils in response to the June 17, 1974, Supreme Court decision which reaffrmed and upheld the policy, as enunciated by Congress in prior legislation, of providing Indian employees of the Bureau of Indian Affairs with employment and promotional preferences. This decision and its likely impact on the careers of non-Indian employees of the Bureau of Indian Affairs was recognized.

The House version provided assistance to non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service by requiring that such employees be given preferential consideration for appointments to vacant positions within the Department of Interior or the Department of Health, Education and Welfare. In addition, the bill provided for retirement in accordance with the involuntary retirement provisions of the civil service retirement law.

That is, these employees may retire upon completion of 20 years of service and attainment of age 50, or upon completion of 25 years of service under the regular computation formula.

The Senate struck all of the House language and substituted a completely new text. It provides solely for preferential retirement benefits for non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service. Specifically, an affected employee may retire under the involuntary separation standards except that the annuity will be computed at 2½ percent for each of the first 20 years, and 2 percent for each year thereafter

The retirement benefits proposed are more liberal than the benefits available to other groups of Federal employees that have been granted special treatment. For example, firefighters, law enforcement personnel, and air traffic controllers are subject to the same liberal retirement qualification provisions and multiplication factor as proposed in the Senate amendment, however, these employees must serve as an air traffic controller, law enforcement officer, or firefighter 20 years in that occupation to qualify for early preferential retirement. This is not the case of non-Indians in the Bureau of Indian Affairs and the Indian Health Service. The conference report only provides that these employees must have been "continuously employed in the Bureau of Indian Affairs or the Indian Health Service since June 17, 1974." This means any type of Federal service could come under the special formula.

The bill also provides that an employee separated from the service from June 17, 1974, would qualify for special preferential retirement. Such employees would not receive retroactive benefits, but would be entitled to the more liberal computation formula proposed under this bill.

Further, the cost of the Senate amendment is over 500 percent more than the House-passed bill. Specifically, the Senate amendment will increase the unfunded liability of the civil service retirement fund by $136 million, while the House proposal cost $25 million.

Mr. Speaker, the conference report on H.R. 5465 is unacceptable. It is a costly, unimaginative, narrow approach to a difficult problem. It is another example of solely using the civil service retirement system to solve a personnel management problem. It is not a workable solution.

Mr. HENDERSON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 5465, just agreed to.

The SPEAKER pro tempore (Mr. Nedzi). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON S. 327, AMENDING THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AS AMENDED, TO ESTABLISH THE NATIONAL HISTORIC PRESERVATION FUND

Mr. TAYLOR of North Carolina. Mr. Speaker, I call up the conference report on the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 2, 1976.)

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Taylor) is recognized for 30 minutes, and the gentleman from Kansas (Mr. Skubitz) is recognized for 30 minutes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

I am happy today to bring to the House of Representatives the conference report on the bill S. 327—a bill which amends both the Land and Water Conservation Fund Act and the Historic Preservation Act of 1966.

This is an historic measure. It is one of the most important and constructive conservation bills presented during the 94th Congress. Perhaps more than any other bill, this legislation will enhance the ability of our Nation to promote and protect its natural and historic heritage.

As recommended in the conference report the authorization fund for the land and water conservation fund would be increased from $300 million this fiscal year to $600 million in fiscal 1978, $750 million in 1979, and $900 million in 1980 and thereafter for the life of the fund. The committee accepted the House version which increased this authorization in steps, so that no increase occurs until fiscal year 1978.

The report clearly indicates that 60 percent of the fund should continue to go to the States in the form of matching grants for recreation programs. These grants have gone to every State in the Union to help establish and develop local park and recreation projects. The conferees did agree, however, that if the States should be unable to match their share of the funds appropriated in any particular fiscal year, then the unmatched portion should be put to use for the land acquisition needs of the Federal agencies having outdoor recreation responsibilities.

Another important issue addressed by the conferees involved the allocation of moneys among the States. The House version of the bill revised the distribution formula with respect to the portion divided equally among the States. We did this because we recognized that the inequity of the existing formula would be compounded as the level of the fund increases. In resolving this issue, the conferees compromised the point so that as the level of the fund increases, the portion distributed equally decreases. This will assure every State that it will receive more money, but will help the more populated States at a greater rate as the level of the fund goes up.

The conferees also addressed the sheltered facilities issue. As the Members of the House will recall, the House version of the bill precluded the use of Federal matching funds for sheltering facilities constructed with land and water conservation fund moneys. The Senate approved language which allowed up to 25 percent of a State's allocated moneys to be used to shelter facilities. To resolve this dilemma, the conferees recommend a compromise which would allow ice skating rinks and swimming pools to be covered where severely cold climates require shelters, but not more than 10 percent of a State's share of its land and water conservation fund allocation is permitted to be used for this purpose.

The second principal feature of the conference report establishes a fund for an expanded historic preservation matching grants program. All of the money in this program has been, and will continue to be, provided on a basis to encourage the preservation of historic places.

The authorization for fiscal year 1977 totals $24.4 million. Under the provisions recommended in the conference report, a fund similar to the land and water conservation fund would be created and the level of funding would be increased to $100 million annually in fiscal years 1978 and 1979 and to $150 million in 1980 and 1981. While this represents an increase over the House provisions for these years, the program is limited to 5 years rather than being extended to 1989 as the House bill provided.

The conferees recommend acceptance of provisions in the Senate version of the bill dealing with the Advisory Board on Historic Preservation. Basically the Senate language converted this Board into an independent agency because it deals with a variety of Federal activities. It increases the membership on the Board to include representation from the Departments of State, Defense, and Health, Education, and Welfare, as well as the Council on Environmental Quality, the Council on the Arts and Humanities, and the Architect of the Capitol. In addition, it includes the president of the National Conference on Historic Preservation and two more public members. While this should assure the independence of the Council, it should not result in any significant increase in the administrative costs, since its functions remain largely unchanged.

Finally, the conferees considered two provisions in the Senate bill which were not in the House version. One dealt with Senate confirmation of various officials in the Department of the Interior. The Senate agreed to drop this provision. The other provision permits those States receiving payments for oil shale resources on public domain lands to use these moneys for such public purposes as the State legislatures provide. At the present time, the law limits the use of these payments to schools and roads. In any event these are moneys which will be paid to the States involved, so that the only change is to allow the States more flexibility in determining how the moneys can best be used.

In conclusion, I want to say that the land and water conservation fund program, as it has developed since 1965, has proven itself. It is the sole source of funding for our Federal outdoor recreation land acquisition program. It has encouraged the States to expand their efforts to meet the outdoor recreation needs of their people. It is a popular, useful, and desirable program that deserves the continued support of this Congress. The House bill passed by a vote of 392 to 3 and I am confident that both the House and Senate will approve this conference report and that, in keeping with his recent statements regarding park and recreation needs, that the President will sign this legislation into law.

Mr. Speaker, I urge my colleagues to approve the conference report on the bill S. 327.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, I congratulate the chairman of our subcommittee and the other conferees on bringing back a sound, solid piece of legislation. It is badly needed, and it will help parks all over America, State, local, and Federal. I hope it will be approved this afternoon with a resounding vote.

Mr. TAYLOR of North Carolina. I thank the gentleman for his comments.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

Mr. Speaker, I should like to commend the gentleman in his last year in Congress for bringing forth a bill as critically important as is this one.

If one looks back over 100 years of expenditures and what has happened to Federal moneys, the moneys that have been invested in national parks are far and away the best investment ever made. What is done in this bill is a strong step further in that direction. I would hope that in the future the backlog of acquisitions of park land can be resolved and that we can get into the increasingly important issue of urban national park lands.

Mr. TAYLOR of North Carolina. I appreciate the gentleman's comments.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding. I would like to say I too have enormously enjoyed the privilege of working with the chairman of the subcommittee on this legislation. I think that he has done a superb job with it under difficult circumstances. This conference report is not all that we would have hoped for but I think it is a reasonable compromise considering the fact that the Senate started out in what they termed to be adamant opposition to certain provisions of the House bill and particularly the modification of the formula, and I think we emerged with what is a satisfactory solution at least in the long run.

In the long run, as the Members will note, the formula does move to the type of formula that was adopted in the House bill.

I want to salute the gentleman for his leadership in this field and again say it has been a pleasure working with him.

Mr. TAYLOR of North Carolina. I thank the gentleman from New York and I would state at this time that the cooperation of the gentleman from New York has been very helpful.

One of the controversies we had, and which I knew we would have, dealt with this change in the allocation formula. Here in the House we go according to State population. Of course in the Senate each State has the same representation. Our conferees included the gentleman from California (Mr. JOHNSON) the gentleman from Texas (Mr. KAZEN) the gentleman from New York (Mr. BINGHAM) the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Texas (Mr. ECKHARDT) all from larger States. We wanted the larger States to be fully represented and one of the most difficult decisions for us to reach was this change in the formula. The Senate conferees started out by taking a firm position that they had a mandate from the Senate to make no change in the formula. We said we had a mandate from the House to make one. It looked as if we could fail to get a bill on that issue, just as we did fail 2 years ago when there was a deadlock on that issue and we failed to get a bill because we could not resolve the difficulty.

But this time, after we conferred with the Members of the other body, and they conferred with their people, they came back to the conference with a willingness to meet us halfway, and that is the compromise that took place.

Mr. BINGHAM. Mr. Speaker, I am glad that the House is to take final action today on the land and water conservation and historic preservation fund bill. The bill will raise the annual authorization for the land and water conservation fund from the present $300 million to $900 million by 1980 and will make other improvements in the fund. Hopefully, President Ford, a new convert to the parks cause, will break with the past and sign this bill. That would indeed be a Bicentennial gift to the Nation.

This legislation was first considered in the Committee on Interior and Insular Affairs in the 93d Congress. At that time I urged that the existing formula for distributing the States share of the funds be drastically changed to correct the injustice that had been written into the original legislation. Under the distribution formula then in effect—and still in effect—only 60 percent of the funds for States was distributed according to need; 40 percent was distributed to each State equally, with Delaware and Alaska receiving the same amount as New York and California. This resulted in extreme disparities in the funds distributed when measured on a per capita basis: for example, the per capita share of the fund received in New York State was 61 cents, as against $5 in Alaska.

Under the leadership of the chairman of the Parks and Recreation Subcommittee, Mr. TAYLOR, a compromise was finally worked out in the committee which provided that the old formula would apply for the first $240 million of funds to be distributed to the States, but that above that amount the per-State distribution formula would apply to only 20 percent of the States share. The bill passed the House with that compromise formula included, but was not enacted into law because the House and Senate conferees were unable to agree. The Senate, which is of course composed of two Senators for each State regardless of population, stood firm against any change in the formula.

In the current Congress the Committee again recommended the compromise formula previously agreed upon, and the House passed the bill in that form by a large majority, but once again the Senators on the conference committee reacted strongly against any change in the formula. Finally, the formula contained in the present conference report was agreed to; under this formula, 40 percent of the first $225 million—reduced from $240 million—will be evenly distributed; only 30 percent of the next $275 million will be so distributed, and above the level of $500 million the 20 percent figure will apply. This means that eventually—and hopefully not too far in the future—the 80–20 division provided for in the house bill will apply.

It should be noted that, while the larger States benefit by the proposed benefits, the amounts actually received by the smaller States will in all cases increase, so that no State gets hurt.

Other sections of the bill also will benefit New York and the other large States. The bill raises from 7 to 10 percent the amount any one State can receive from the fund. Frankly, I do not see the need for any ceiling whatsoever. But, obviously, a ceiling of 10 percent is superior to one of 7 percent.

The bill will also permit States with cold weather to use up to 10 percent of their matching grants to construct sheltered swimming pools and ice skating rinks. Again, I see no need to so severely limit such expenditure. But the position that land and water conservation funds should be used solely for outdoor recreation is strongly held by many Members. The modest move away from that position contained in this conference report represents some progress.

The bill as recommended by the conference committee also calls upon the Secretary of the Interior to undertake a serious study of the country's needs for urban recreation and how they may best be met, to be submitted to the Congress within a year. Hopefully, this study may lead to more effective action by the Congress in providing for Federal assistance to States in the area of urban recreation.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the conference report.

Mr. Speaker, I also want to recognize the invaluable leadership of the gentleman from North Carolina (Mr. TAYLOR). I think over the years he has evolved a recognition of the importance of open spaces, parks, and recreation facilities for the American people, and especially as it pertains and applies to those who live in urban areas, the highly concentrated population centers.

This concept, this idea that people need an opportunity to expand, to get away from the inner cities is important to the health and welfare of our American people. This vehicle, the Land and Water Conservation Fund Act, is the only vehicle that truly existed that allowed a cooperative spirit between the Federal Government and the States, to expand these open spaces.

Obviously throughout the time period of this program there have been those who have had various opinions and points of view, some conflicts, and I believe we owe a debt of gratitude to the gentleman from North Carolina (Mr. TAYLOR), the chairman of this committee. He has demonstrated a tremendous amount of leadership in ironing out the difference and points of view and eventually over the last year and a half or two coming up with a piece of legislation that accommodates those who had different points of view but also expands the program and allows an expanded development of these open spaces, especially in such areas as my own area of Los Angeles, Calif.

I thank the gentleman for yielding and I urge support for the conference report.

Mr. TAYLOR of North Carolina. Mr. Speaker, let me state in response to the gentleman that the members of the House Committee on Interior and Insular Affairs share the gentleman's concern for the development of urban parks. We have created some urban parks at the Federal level where a particular area had national significance.

This bill which we have before us today contains a provision added first by the House and retained in conference, directing the Department of the Interior to make a study of urban park needs, to identify urban park lands, and to make a report back to Congress recommending a range of options for meeting these very important recreation needs, hopefully at the State level. In conference, that provision was left in the bill, so when we approve this today, we will be directing the Secretary of the Interior to make a study and give us both guidance and information in viewing this urban park problem.

Mr. GOLDWATER. Mr. Speaker, if the gentleman will yield further, the gentleman certainly has been a guiding light and has demonstrated great foresight in pursuing this relatively new concept, at least to many, of the plight and the need of those in the inner cities that, in fact, need to get out. Hopefully, we can resolve this question and create an opportunity to explore and expand on that concept.

Mr. TAYLOR of North Carolina. Mr. Speaker, I might state that the Committee on the Interior spent 30 minutes yesterday just talking about the urban park problem.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I also join in commending the chairman for his efforts in bringing forth this important measure. I think this is a great milestone, and it certainly will be something that we will think of when we remember ROY TAYLOR, a truly fitting memorial to him. I am sure it will be passed overwhelmingly.

I should like to ask the chairman a question, if I might.

Mr. Speaker, both the Senate and House bills, and the conference report, provide for the sheltering of certain outdoor facilities under specified circumstances. Neither the House or Senate bills, nor the conference report, were specific in defining what constituted a shelter, or how elaborate it could be.

However, in the measure adopted by the House, the record is quite clear that a shelter would not be construed to constitute a totally and permanently enclosed building which is enclosed for all time. The conference report is clear in its use of the word "shelter" and certainly purposely does not refer to these as "enclosure." I would expect therefore, that the intent of what constitutes a shelter would continue to be in accord with the understanding as adopted by the House.

I would ask the chairman of the Parks Subcommittee, the gentleman from North Carolina (Mr. TAYLOR), if he would concur in this statement?

Mr. TAYLOR of North Carolina. Yes, I would generally concur. I think the conference report makes it very definite as to the facilities that can be sheltered and under what circumstances.

First, it must be in a northern climate and approved by the Secretary.

Next, it must be either a swimming pool or an ice skating rink.

Third, the State can use only 10 percent of its Federal matching funds for sheltering such facilities. If a State wishes to shelter more facilities, we go back to the provisions of the House-passed bill and provide for sheltering swimming pools and ice skating rinks in a northern climate. The State may proceed to provide such shelters as it sees fit at its own expense and with its own money.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, for purposes of legislative history, I would like to cover a couple of points in colloquy with the distinguished chairman, the gentleman from North Carolina.

First, with respect to the allocation of funds for Federal and State purposes, a large measure of the importance and political vitality of the land and water conservation fund lies in the fact that its resources have, over the life of the program, had a significant impact on all the States and thousands of communities nationwide. The original sponsors of the act recognize the wisdom of sharing these national resources with the States on a 60 State, local 40 Federal basis.

The House of Reperensentatives in approving amendments to the act in May, directed that this ratio become fixed and that appropriations be allocated accordingly.

The net effect of a section of the conference report could be to alter this ratio. At section 5 "Allocation", found on page 2, the language now reads:

> That not less than 40 percent of such appropriations shall be available for Federal purposes.

This, of course, can be construed to mean the opposite of what the House originally approved; that is, the 40 percent for Federal agencies is a floor or minimum. It protects only the Federal agencies and leaves the States and communities largely unprotected under the law.

It is my understanding, however, after reading the statement of the committee of conference, at page 16, paragraph 2, that it remains the intent of Congress that appropriations from the fund should continue to reflect the 60 State, local 40 Federal allocation ratio.

Is this the understanding of the chairman of the intent of the conference and of this Congress?

Mr. TAYLOR of North Carolina. Mr. Speaker, I do share that understanding. It is the intent of Congress that 60 percent of the funds go to the States and 40 percent to the Federal agencies.

Now, in some past years the bulk of the Fund has been appropriated, first to the Federal agencies, and then to the States. I cannot help but think we would have a sounder program if we would stick to the 60-40 ratio each year.

Mr. MAGUIRE. Mr. Speaker, if the gentleman will yield further, with respect to disposition of any unobligated money, as the gentleman is aware, no State has, over the life of the fund, lost 1 cent of its apportionment because of the State's failure to match the Federal portion. In fact, the apportionment to most States has been woefully inadequate. This condition has led to recommending the increases contained in this bill.

Another section of the proposed amendment, and the corresponding references in the explanatory language, I believe, need clarification. It is my understanding that section 6(a)(4) directs the Secretary of the Interior to distribute any Fund resources not obligated by a State after the allowable 3-year period to be reapportioned to the other States on the basis of need.

The conference report, however, again at page 16, paragraph 2, states:

> . . . the conference believes that if the situation arises when the States are unable to match their portion of a full appropriation, then the unmatched monies should be distributed to the Federal agencies.

It is my understanding, consistent with the language of the law which I previously recited, that only when the States collectively are unable to utilize their portion of a full appropriation, that this money would then be made available to the various Federal agencies.

Is this the intention of the conference and of the Congress?

Mr. TAYLOR of North Carolina. I would state that the sense of the agreement is just what is stated. The conference report intends that if a State cannot use its allocation during a 3-year period, this money can be assigned to other States which can use it. It further provides that if States collectively are not able to use the funds that are allocated to them, then these funds can be allocated to Federal agencies to purchase the backlog of land that we need to purchase. Again, I say that the National Park Service alone has a half billion dollars in outstanding obligations to acquire lands that have been authorized.

Mr. MAGUIRE. I thank the gentleman. If he would yield further, I want to join in commending the distinguished chairman and his committee for their work on this bill as a whole. I am, however, going to be constrained to vote against the conference report for two reasons, and I want to clarify those reasons in the RECORD at this point.

I offered an amendment during the discussion of this bill on the floor which received 177 favorable votes, which would have insisted that moneys allocated above the current level of the States' share of $180 million should be allocated on the basis of a 20 percent equal division between the States, and 80 percent on need. Unfortunately, in the conference the House has moved away even from its minimum position, that the 20 percent–80 percent distribution formula should click in at $240 million, and it now does not click in at the current $180 million or even at a future $240 million level.

It clicks in at $500 million, which is a level of appropriation which we may not soon reach. Therefore, the new formula, which so many of the Members of this House favored for allocations above $180 million, or at least above $240 million, has little, if any, reality when the "click-in" point becomes $500 million, under these conditions, the new formula is merely a theoretical change.

This is a classic example of a case in which the allocation formula is prejudicial to and unsatisfactory for our larger, more populated States, and particularly our urban areas, where needs are greatest. When will we overcome our parochialism and address needs, wherever they are, in a fair and effective way?

The second problem is the arbitrary distinction between indoor and outdoor facilities. We are going to do things with swimming pools and skating rinks, but we are going to ignore, apparently, the tremendous resources in other existing recreation facilities which provide significant opportunities for citizens in many of our older, major cities. Those resources, if they are allowed to deteriorate, will not be able to be recaptured. They will be lost for all time.

I believe the indoor versus outdoor and the swimming pool-skating rink versus all other indoor recreation distinctions are arbitrary. Surely we should look at recreation as recreation and as a whole, whether urban or rural, indoor or outdoor. People in different places and with different resources have different but equally legitimate recreational needs.

For the above two reasons, I feel constrained to vote against the conference report, although I do, of course, endorse the overall approach of the bill and compliment the committee on its work.

Mr. TAYLOR of North Carolina. In responding to the gentleman, let me just state that if his attitude is one of voting against every bill that he does not regard as perfect, he will cast many a negative vote. This bill, as approved by the conference, with the full $900 million funding, would give the State of New Jersey $18,522,000 a year for outdoor recreation development. Under the Senate formula, without the amendment we were able to get approved in conference, New Jersey would get $15,160,000. So, New Jersey stands to gain over $3 million every year under the amendment which was agreed to in conference over that which it would have received under the Senate formula.

So, I would state to the gentleman from New Jersey that we have put up as hard a fight as we can to help his State. We think it will get a fair deal.

Mr. MAGUIRE. I voted for this bill when we reported it out of the House. The House did not go far enough, in my judgment, in improving the formula, but it was at least far better than the Senate formula. The conference has now gone beyond the line which I think is minimally acceptable on this very important provision, and I am voting against it for that reason only.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I want to commend the conferees on this bill for having achieved a very satisfactory conclusion in ironing out differences between the House and Senate bills. I sincerely believe that the result has incorporated the best features of both bills, and where conflicts had occurred, the resolution of them has come through in a very satisfactory manner. The parks and outdoor recreation programs, and most importantly, the American public of present and future generations, will benefit greatly from the enactment and implementation of this legislation.

This legislation, if implemented at the funding levels authorized would provide a tremendous and urgently needed boost to the preservation of the best of our natural and historical heritage. We all should be greatly heartened by the strength of support we should now be able to expect from the administration for the signing into law of this legislation. The President's proposed Bicentennial land heritage program, recently announced at Yellowstone National Park, has some identical and many similar objectives to that proposed by this legislation now before us. Enactment of this legislation provides an opportunity for the Congress and the administration to be mutually supportive of a major funding effort to protect some of the best of our natural and historical landscape. I would expect that the President's announcement is tantamount to a virtual assurance that we can expect his signature on this very important piece of legislation. Moreover, in oversight hearings held September 1 by the Senate Interior Committee relative to the President's newly proposed Bicentennial land heritage program, Interior Secretary Thomas Kleppe indicated that he was favorably inclined to support the land and water conservation and historic preservation legislation the House is now considering, and hopefully, he would provide a favorable recommendation to the President to sign this bill.

In view of the tremendous support shown for this very similar legislation when acted on by the House recently—favorably adopted 392 to 3—coupled with the vigorous support for greater aid to parks and outdoor recreation needs as reflected by the President's recent Bicentennial land heritage program proposal, I would certainly hope that this legislation, when enacted into law, will receive full funding to its authorized limits. For without that type of follow-through, this mere authorization legislation constitutes no more than an empty promise to the American people.

I urge the adoption of this conference report, and hope that the support given it by the House in its adoption today will equal the enthusiastic degree of support given it when it was before the House in its most recent appearance, at which time it received nearly unanimous support.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with regret that I oppose the adoption of this conference report during the consideration of this bill on the floor. I offered amendments that reduced the authorization to a figure that I thought the Executive Department could live with.

The land and water conservation fund presently has a funding ceiling of $300 million per year. The administration opposes any increase in that amount, arguing that an excessive growth in Federal spending would result in an eroding inflation and seriously undermine our economic recovery. Nevertheless, the House adopted H.R. 12234, which increased authorizations to $450 million in fiscal year 1978, $625 million in 1979, and $800 million for each year from 1980–81, as I have said.

And now these authorizations have been increased even more; more money has been specified in the conference agreement. You see, the Senate bill called for $1 billion a year from next year until 1989. And rather than insisting on the lower, more reasonable House figures, the House conferees compromised with the Senate and raised the funding levels even more. Instead of the present $300 million per year, if you pass this bill, the authorizations will be increased to $600 million in 1978, $750 million in 1979, and $900 million in 1980 until 1989. One might ask, "Was this the result of some carefully-orchestrated noble compromise"? Hardly. Where is the evidence which justifies a funding level that reaches nearly $1 billion in 1980 more than 230-percent increase?

I submit that the only reason the conference recommended a final ceiling of $900 million was because that was halfway between the House version of $800 million and the Senate version of $1 billion. There was no attempt made to determine exactly how much was necessary to satisfy the demand of the States for recreational projects. There was no attempt to hammer out a proposal that the President could accept. Instead, the conferees ask you to endorse a $900-million figure, a total which invites a Presidential veto.

Even if it were true that the conferees had determined that there would be $900 million available each year in OCS receipts, remember this: Every dollar taken from OCS receipts for the land and water conservation fund is another dollar which must be made up in the general treasury either by increasing taxes or adding to the national debt. It is not the 8 Senators or 10 Congressmen who made up the conference committee who must fork out the $900 million; no, we find it so easy to double, indeed triple, the expenditures for a certain program and charge the taxpayers for our "noble compromises." If Congress does not have the guts to hold down Federal spending, I hope the President does.

Finally, you might recall what money from this fund is used for: To help create parks and recreational areas. More and more Federal dollars will be available to create more and more recreational areas. Consider what this body has done at the urging of the Interior Committee—the House has passed the payments-in-lieu-of-taxes bill which supplies millions of additional Federal tax dollars to State and local treasuries. In this bill we have directed the Park Service to submit a report on urban parks. We are going to pay taxes on any new park we create for a city—since 1971 and hereafter—we are going to pay taxes on the land in our national parks, forests, wilderness areas, and wild and scenic rivers.

And now I just get the news that the Senate Interior Committee has also passed a payment in lieu of taxes bill which is some $30 million a year more expensive than ours and they are going to include all Indian lands to receive Federal payment.

Recently, I introduced for the administration its $1.5 billion parks bill. Think of it and an administration parks bill for $1.5 billion. A payment in lieu of taxes bill. Now we raise the land and water conservation fund to $900 million a year.

How much recreation do we need?

Should the Government provide funds from the land and water conservation fund to acquire and develop parks—at the request of the States and localities—and then pay taxes on the land they ask us to take?

How ridiculous can you get?

I ask you to reject this conference report, but, in doing so, I do not expect miracles. It is always easier to shrink from your responsibilities as a legislator and routinely accept a conference committee recommendation. And it is always easier to vote to spend, spend, spend when it is not your own money you are spending.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, of course, the increase to $900 million is phased out over a period of 4 years.

I think the gentleman from Kansas (Mr. SKUBITZ) left out one factor, and that is that we hope we are going to have an expanding economy and therefore, the increase will not necessarily result in an increase in either the deficit or the taxes.

Mr. SKUBITZ. To answer the gentleman, Mr. Speaker, I have found in my 14 years in the House that as the economy expanded, the spending kept going up, up, and up.

Is it not true, I ask the gentleman from Ohio (Mr. SEIBERLING), that this bill does call for an expenditure of $900 million in 1980?

Mr. SEIBERLING. Authorized in 1980.

Mr. SKUBITZ. That is right. Now we get to the old cry: This is just an authorization, which proves that we on the legislative committee are great guys for living in a world of dreams. We push our responsibilities over to the Committee on Appropriations which has to be practical.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, first of all, let me express my personal commendation of the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR). The people of this country owe him a debt which they will never be able to repay in terms of the tremendous devotion he has given to the cause of recreation for people all over this country. This bill is a monument to him, if it is to anybody in Congress.

Mr. Speaker, I would like to ask the gentleman from North Carolina (Mr. TAYLOR) one question: There is a section in the bill which requires the National Park Service, the Department of the Interior, to make a study of urban recreation needs. I understand that to mean that they are not just to make a prototype or a hypothetical study, but they are actually to look at the major urban areas of this country and evaluate the urban needs and make some recommendations as to the resources available to meet them, and that then they will take the other smaller communities of the country and perhaps study them on a more random sampling basis. Is that the intention of the bill, as far as the gentleman understands?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, my answer is "Yes": that is the intent of that section, as I understand it, that the Park Service make a list of areas near cities that have national significance, which probably should be acquired at the Federal level, and that it study other areas that probably should be acquired at the city level, and that it come forth with a program or plan as to how we can proceed in securing these areas.

Mr. SEIBERLING. Therefore, this bill is a net gain for urban recreation, no matter how one looks at it dollarwise or in terms of developing a basis for future action to meet those needs.

Mr. Speaker, I commend the chairman and the conferees for working out this formula.

Mr. PICKLE. Mr. Speaker, I rise in support of S. 327 land and water conservation fund, that will provide for a substantial expansion of the land and water conservation fund that will permit the States to have the necessary supplementary funds to accomplish needed historic preservation, as well as other conservation of land and water resources. I had the honor to cosponsor a bill (H.R. 2764), whose provisions are similar to those contained in this conference report, that would establish a program for the preservation of additional historic properties throughout the Nation.

In this our Bicentennnial Year, it is appropriate that we not only talk about history but that we take active steps to preserve the remaining historic properties that we have. The rich heritage of our country can be visually passed on to later generations if these historic properties are preserved. Unfortunately, sometimes in our haste to develop something new, we overlook the importance of preserving the good things that we already have. Once the wrecker's ball has destroyed a property, it is gone forever.

I commend the conference committee, in its work on this bill it has furthered the quality of life for future generations.

Mr. TAYLOR of North Carolina. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken and the Speaker pro tempore announced that the ayes appear to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 3, not voting 146, as follows:

[Roll No. 711]

YEAS—281

Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bowen
Breaux
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Carr
Cederberg
Chappell
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conte
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Mahon
Martin
Mathis
Meeds
Michel
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Poage
Preyer
Price
Pritchard
Quillen
Regula
Reuss
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vanik
Waggonner
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—3

McDonald
Maguire
Skubitz

NOT VOTING—146

Abdnor
Abzug
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Beard, R.I.
Bell
Bergland
Biaggi
Biester
Bolling
Bonker
Brademas
Brodhead
Brooks
Broomfield
Burgener
Burke, Calif.
Burton, Phillip
Carney
Carter
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Conable
Conlan
Conyers
Corman
Coughlin
Derrick
Dickinson
Diggs
du Pont
Early
Edwards, Ala.
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Fary
Findley
Fish
Ford, Tenn.
Frey
Fuqua
Green
Hammerschmidt
Hansen
Harrington
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Horton
Howe
Jacobs
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Karth
Kelly
Kemp
Ketchum
Keys
Landrum
Lujan
Lundine
McCloskey
McCollister
Madigan
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Mink
Mitchell, N.Y.
Mollohan
Morgan
Murphy, Ill.
Murphy, N.Y.
Nichols
Nix
O'Brien
O'Hara
O'Neill
Passman
Paul
Peyser
Pike
Pressler
Quie
Railsback
Randall
Rangel
Rees
Rhodes
Richmond
Roncalio
Rose
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Sebelius
Sikes
Simon
Sisk
Smith, Nebr.
Snyder
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Symms
Van Deerlin
Vander Veen
Vigorito
Walsh
Wampler
Waxman
Weaver
Wiggins
Wilson, Bob
Wilson, Tex.
Wright
Wydler
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Aspin.
Mr. Fary with Mr. Lujan.
Mrs. Keys with Mr. Hammerschmidt.
Mr. O'Neill with Mr. Bell.
Mr. Brademas with Mr. Sebelius.
Mr. Addabbo with Mr. Mitchell of New York.
Mr. Corman with Mr. Andrews of North Dakota.
Mr. Jacobs with Mr. Edwards of Alabama.
Mr. Zeferetti with Mr. Biester.
Mr. Weaver with Mr. McCloskey.
Mrs. Chisholm with Mr. Beard of Rhode Island.
Mr. Phillip Burton with Mr. Peyser.
Mr. Murphy of New York with Mr. Ruppe.
Mr. Fuqua with Mr. Esch.
Mr. Bonker with Mr. Steelman.
Mr. Biaggi with Mr. Young of Alaska.
Ms. Abzug with Mr. Conlan.
Mr. Vander Veen with Mr. Wiggins.
Mr. AuCoin with Mr. Pressler.
Mr. Helstoski with Mr. Don H. Clausen.
Mrs. Meyner with Mr. Karth.
Mr. Mikva with Mr. McCollister.
Mr. Nichols with Mr. Quie.
Mr. Rose with Mr. Steiger of Arizona.
Mr. Sikes with Mr. Conable.
Mr. Badillo with Mr. Bob Wilson.
Mr. Rangel with Mr. Burgener.
Mr. Murphy of Illinois with Mr. Abdnor.
Mr. Morgan with Mr. du Pont.
Mr. Matsunaga with Mr. Wydler.
Mr. Jones of North Carolina with Mr. Walsh.
Mr. Ford of Tennessee with Mr. Railsback.
Mr. Metcalfe with Mr. Snyder.
Mr. Howe with Mr. Symms.
Mr. St Germain with Mr. Rousselot.
Mrs. Burke of California with Mr. Paul.
Mr. Carney with Mr. Horton.
Mr. Brodhead with Mr. Kelly.
Mr. Young of Georgia with Mr. Clancy.
Mr. Diggs with Mr. Hansen.
Mr. Brooks with Mr. English.
Mr. Derrick with Mr. Holland.
Mr. Early with Mr. Mazzoli.
Mr. Evans of Colorado with Mr. Sisk.
Mr. Green with Mr. Charles Wilson of Texas.
Mr. Mann with Mr. Ryan.
Mr. Mollohan with Mr. Runnels.
Mr. Richmond with Mr. Randall.
Mr. Roncalio with Mr. Milford.
Mr. Waxman with Mr. Melcher.
Mr. Vigorito with Mr. Stephens.
Mr. Van Deerlin with Mr. Steed.
Mr. Wright with Mr. James V. Stanton.
Mr. Broomfield with Mr. Pike.
Mr. Bergland with Mr. Del Clawson.
Mr. Carter with Mr. Coughlin.
Mr. Dickinson with Mr. Cleveland.
Mr. Conyers with Mr. Harrington.
Mr. Findley with Mr. Eshleman.
Mr. Fish with Mr. Hechler of West Virginia.
Mr. Johnson of Pennsylvania with Mr. Frey.
Mr. Kemp with Mr. Heinz.
Mr. Lundine with Mr. Henderson.
Mr. Madigan with Mr. Landrum.
Mr. O'Brien with Mrs. Mink.
Mr. Nix with Mr. O'Hara.
Mr. Rhodes with Mr. Passman.
Mr. Simon with Mr. Rees.
Mrs. Smith of Nebraska with Mr. Wampler.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the House recede from its amendment to the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DIRECTING CLERK OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 327

Mr. TAYLOR of North Carolina. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 745) directing the clerk in the Senate to make corrections in the enrollment of the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 745

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 327), To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, the Clerk of the Senate shall make the following corrections:

(1) In paragraph (1) of section 101 (amending Section 2), strike out "June 30," and insert "September 30,".

(2) In paragraph (3) of Section 101 (amending Section 6(f)), strike out "acquired to be developed" and insert "acquired or developed".

(3) In paragraph (5) of section 201 (amending section 201(a)), strike out "(17) The President of the National Conference; and" and insert "(17) The President of the National Conference of State Historic Preservation Officers; and".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 327, just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT OF 1953

Mr. UDALL. Mr. Speaker, on behalf of the gentleman from New York (Mr. MURPHY), chairman of the Ad Hoc Select Committee on the Outer Continental Shelf, I ask unanimous consent to take from the Speaker's table the bill (S. 521) to amend the Outer Continental Shelf Lands Act of 1953, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, and I will not object, but purely to ask the gentleman from Arizona if the gentleman has any information as to the time of the start of this conference?

Mr. UDALL. No. The chairman of the Ad Hoc Committee is not in town. The chairman tells me they will go to conference as soon as they can.

Mr. FORSYTHE. Mr. Speaker, if the gentleman will yield further, as I understand, the chairman and ranking Member are occupied through Tuesday of next week and that enters into the consideration.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none and appoints the following conferees: Messrs. MURPHY of New York, UDALL, Mrs. MINK, Messrs. EILBERG, BREAUX, STUDDS, DODD, HUGHES, MILLER of California, FISH, FORSYTHE, DU PONT, and YOUNG of Alaska.

CONFERENCE REPORT ON S. 2184, OLYMPIC WINTER GAMES AUTHORIZATION ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2184) to authorize appropriations for the Winter Olympic Games, and for other purposes, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of August 31, 1976.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The gentleman from West Virginia is recognized for 30 minutes.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report authorizes the Secretary of Commerce to provide financial assistance in connection with the staging of the Winter Olympic Games at Lake Placid, N.Y., in 1980. The major points of difference between the House and Senate versions of this legislation related to the amount of financial assistance which could be provided, the types of facilities for which such assistance would be provided, and the manner in which the Secretary would be required to assure the preservation and enhancement of the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area.

FINANCIAL ASSISTANCE

Under the conference agreement, the Secretary is required to make grants to the Lake Placid 1980 Olympic Games, Incorporated—a not-for-profit corporation incorporated under the laws of the State of New York—or State, local, or other governmental agengies, for purposes of staging the 1980 Olympic Winter Games.

The conference agreement follows the House provision in placing an overall limit of $49,040,000 on the total amount of money authorized to be appropriated for making grants, and also in providing an overall limit of $250,000 for the administrative expenses of the Secretary.

Under the conference agreement, the grant is not based initially on the estimated cost of the project. Any cost savings may be applied to the cost overruns of any other project. If any project exceeds the original estimated cost, plus any cost savings applied to that project, the Secretary cannot make a grant for more than 50 percent of the remaining costs of that project. The total amount expended for all grants must remain within the $49,040,000 limitation.

TYPES OF FACILITIES

The conference agreement provides for the planning, design, and construction or improvement of existing or proposed winter games facilities. The term "winter games facilities" is defined to include all of the winter sports facilities, and related supporting facilities, necessary to the staging of the 1980 Winter Olympic Games.

The conference agreement also includes a House provision requiring that all facilities receiving assistance under this act must be designed and constructed in a manner which will provide maximum continued public use and benefit following completion of the games.

ENVIRONMENTAL PROTECTION

The conference agreement also contains a modification of the House provision relating to environmental protection.

The conference agreement provides that the Secretary must require that all facilities be planned, designed, and constructed in a manner consistent with State laws and regulations governing the use and development of Adirondack Park. The Secretary is also required to take whatever action is necessary to provide that activities relating to the Olympic Games will be carried out in a manner designed to recognize the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area and meet the needs of the Olympic Games. It is the intent of the conferees that the Secretary take whatever steps are necessary to preserve wilderness values to the maximum extent possible consistent with the provisions of adequate facilities necessary for the Olympic Games.

REPORTS, RECORDS AND AUDIT

The conference report also contains a modification of the House provision requiring progress reports to both the Congress and the President and also a final report summarizing all activities undertaken by the Secretary under this legislation.

The conference agreement also follows the House provision requiring each recipient of financial assistance to keep whatever records the Secretary might describe disclosing the amount and disposition of grants and giving both the Secretary and the Comptroller General of the United States access to the books and records of each grant recipient for purposes of audit and examination for a period of 3 years after the completion of the project for which the grant was made.

Mr. Speaker, I urge the adoption of this conference report.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. WIRTH. I thank the gentleman for yielding to me.

As the chairman knows, I opposed this bill when it came through the House previously, and I oppose it again today. The 1972 Olympics were going to be held in Colorado, in the district which I represent. At that time, we found out that the Olympic game cost was going to be a bottomless pit. The citizens of the State of Colorado had the good judgment to vote down having the Olympics in our State.

I only stand here for two reasons: First, I am happy that the games will not be held in Colorado; second, to warn my colleagues that I am convinced that the Olympic games will be back to this body asking for further funding in the future.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, the Olympic Winter Games Authorization Act recommended by the conferees is substantially the same as the one passed by the House on June 11. The recommended bill contains the same amount of authorized funds—that is, $49,290,000—as was contained in the House-passed version whereas the Senate-passed version contained only $28 million.

Similarly, the recommended bill contains the same provisions contained in the House-passed version pertaining to reports by the Secretary of Commerce and audits by the Comptroller General of the United States which were not in the Senate-passed version. The Senate receded from its version because it was readily seen that the facilities necessary for conducting the games could not be constructed with the limited funds provided in the Senate bill and because the reports and audits provided in the House version were essential to good administration.

The only changes between the recommended bill and the House-passed version pertain to cost overruns and environmental protection.

The House passed version provided that if the actual cost for a facility exceeded the estimate used as a basis for a grant, not more than 50 percent of such excess cost could be provided by Federal funds. The Senate-passed version did not have a similar provision.

The conferees agreed, however, that the House cost overrun provision was unduly restrictive and that any cost savings on a particular project should be applied to the cost overruns on any other project without regard to the 50-percent limitation, so long as the overall expenditures remain within the $59 million limitation.

With regard to environmental protection, the House-passed version required that the games be carried out in a manner designed to assure the preservation and enhancement of the recreational and wilderness values of the Adirondack and the Lake Placid area. In addition, it provided that the activities and plans must be consistent with existing State laws, rules and regulations governing the use, management and development of Adirondack Park.

Again, the Senate-passed version did not have a similar provision. The conferees agreed that the House version could be difficult to administer. For example, since "wilderness" by State definition means that no changes can be made, not even removing fallen trees, it would be impossible to enhance recreation values and still preserve the wilderness.

Therefore, the conferees agreed to modify the environmental protection provision to permit the Secretary of Commerce to take whatever action may be necessary to provide that the games will be carried out in a manner designed to "recognize" outdoor recreational and wilderness values.

Also, by limiting activities to existing State laws it appeared that the State was unnecessarily being precluded from changing its State laws. This restriction was therefore removed.

I believe that the recommended bill provides an adequate but modest amount of funds. We have been assured that the necessary facilities for conducting the games can be improved and constructed with the $49 million being provided by the bill and the contributions by the State and local community. At the same time the amount is considered modest especially as compared to other recent Olympic events. With this modest amount we are assured that the 1980 Olympic winter games will not degenerate into an extravaganza and the "spectacle" aspects will be kept to a minimum. The facilities to be improved and constructed are to be designed in a manner to assure maximum continued public use after the completion of the games.

I am sure that you will agree that the holding of the 1980 Olympic winter games at Lake Placid, N.Y., will be a great honor for all of the people of the United States. I believe that we will be proud of our athletes, proud of our country, and by passing this bill, be proud that we took this forthright action.

Mr. SKUBITZ. Mr. Speaker, I rise in support of the adoption of the conference report on legislation authorizing funds for the Winter Olympic games in 1980. As I have previously told this body, I went to Lake Placid, N.Y., last spring to review with members of the committee staff the plan for the 1980 Winter Olympic games. The bill which we passed earlier this year is essentially the same as the one reported from conference.

The sum of $49 millionis authorized to be used for the construction of specific facilities needed for the 1980 Winter Olympic games. The safeguards contained in our bill with respect to cost overruns is contained in the bill reported by conference. While there is some difference between the administration and the Congress with respect to the total amount of money needed, there is no difference with respect to the desirability of the legislation.

I urge the adoption of the report of the conferees on S. 2184.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. ANDERSON of Illinois. Mr. Speaker, I have asked for this time in order to inquire of the acting majority leader, the distinguished gentleman from California (Mr. McFALL) if he can inform us as to the program for the week of September 13.

Mr. McFALL. If the distinguished acting minority leader will yield to me, I will be happy to respond.

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, there is no further legislative business for today. After announcing the program for next week, we will go over to Monday, September 13.

The program for the House of Representatives for next week is as follows:

Monday is District day. There is one bill, H.R. 15276, U.S. Park Police. Then, we will have three bills:

H.R. 13958, defense officer personnel, with an open rule and 1 hour of debate; H.R. 13615, CIA retirement, with an open rule and 1 hour of debate; and H.R. 3605, reduction in beer tax for small brewers, closed rule, 1 hour of debate.

On Tuesday, we will have H.R. 15319, habeas corpus rules, open rule and 1 hour of debate; H.R. 14940, Treaty of Friendship—Spain-United States of America, with an open rule and 1 hour of debate; followed by S. 2371, mining in national parks, with an open rule and 1 hour of debate.

On Wednesday, we will have the House Concurrent Resolution 728, second budget resolution for fiscal year 1977, conference report; H.R. 10498, Clean Air

Act amendments, conclude consideration.

Thursday and the balance of the week:

H.R. 10612, tax reform, conference report;

H.R. 15069, national forest timber management reform, the so-called Monongahela bill, under an open rule, with 1 hour of debate;

H.R. 15377, Export Administration Act amendments, subject to a rule being granted; and

H.R. 12112, synthetic fuels, subject to a rule being granted.

Of course, conference reports may be brought up at any time, and any further program will be announced later.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I only do so to inquire of the gentleman about the rumor that a rule has been requested on the tax reform bill, which would in some way allow a separate vote on the estate tax.

It is my understanding that the estate tax provisions of the conference report are germane and there is no need for a separate vote on them.

Is such a plan afoot, and why?

Mr. McFALL. If the gentleman will yield, I have discussed this matter with the chairman of the committee this morning. It is my understanding at this time that he does not intend to ask for a rule. I do not see a member of the Committee on Ways and Means here who would like to discuss this, but there would be some kind of a separate vote involved because there is some technical disagreement. That is one of the issues involved. But there is no rule planned at this time, if that is the gentleman's request for information.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

Mr. McFALL. Mr. Speaker, if the gentleman from Illinois will yield further, I would like to point out that on Wednesday the second budget resolution will be up first. It is a conference report. It ought not to take too long. Then we will go back to the Clean Air Act amendments. We plan to finish that on that night. So the Members should probably look forward to working a little later on Wednesday night.

I understand that on Thursday we will probably finish about 6 o'clock because of scheduled matters.

The perennial question is whether or not we are going to work on Friday. This schedule would have us working on Friday. There are two bills and, as we can see on the calendar, the Export Administration Act amendments and the synthetic fuels are scheduled on which rules have not yet been granted, and we will have to find out later on in the week concerning both those measures.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask our distinguished majority whip whether he knows that there are already some 75 amendments that are contemplated on the synthetic fuels bill. It is one of the most controversial bills to come before the Congress. It was already defeated once by the House.

Mr. McFALL. If the gentleman from Illinois will yield, I will say to the gentleman from New York that I have discussed this matter with the gentleman previously, and I know there is considerable controversy over the synthetic fuels bill. The gentleman's committee has one point of view and the Committee on Science and Technology has another view. The matter has been scheduled by the Speaker and the majority leader. If there is a rule granted—I have no assurance there will be a rule granted—it is on the schedule and it will probably have to come up and we will have to resolve all of the conflicts that are involved on the floor.

FOOD STAMP REFORM

The SPEAKER pro tempore (Mr. HUNGATE). Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

Mr. JEFFORDS. Mr. Speaker, in the 21 months I have served in this House, I have learned a great deal about the inefficiency of Congress, and its slowness in responding to national needs.

On many occasions, I have defended Congress, in the face of complaints by constituents, and have explained that a representative government cannot always be efficient. At other times, I have been somewhat upset myself over the inability or unwillingness of Congress as a whole to respond to a clear national need.

But I have never been so astonished as when I learned, recently, that this House will probably not have a chance to vote on the food stamp reform bill.

Having served on the food stamp study group as well as the full Agriculture Committee, I have personally devoted more than 9 months of work to this legislation.

Our study group held 12 meetings, just to analyze the data. The full committee held nine hearings, and spent 36 legislative days marking up the bill.

We paid $160,000 for a food stamp study, and at least another $150,000 in salaries for committee staff assistance on this issue.

In my own office, my staff and I have spent countless hours working on this legislation, including development of a major amendment which I introduced and which was accepted by the committee. The same is true of many other committee members and their staffs.

There is no possible way to quantify the dollar value of this effort. But if we were able to do it, the sum would easily exceed $1 million, and probably be much higher.

But the money spent is hardly the only factor in my concern. Members of this House are busy people. We budget our time carefully, zeroing in on a relatively small number of issues which we, and our constituents, consider to be of high priority.

Mr. Speaker, from the correspondence and conversations I have had with my constituents, I know that reforming the food stamp program is considered by Vermonters to be one of the most important things that Congress should be doing. I know that the same is true of many of my colleagues and their constituents.

It is for that reason that we devoted an extreme of time and effort to this legislation. This time and effort could well have been spent on other important issues. But because we felt food stamp reform was a priority issue, we wanted to make sure that a bill would be prepared, for consideration on the House floor. The issues involved are highly complex. We knew that when we started, and it was confirmed every day that we met.

Hardly a sentence in this bill was unanimously agreed upon by the diverse membership of our committee. Progressing through the markup, word by word and paragraph by paragraph, was often like pulling teeth. Working on this bill was difficult and frustrating, but we continued to pursue it because we considered it to be something that had to be done.

Certainly, the end product was not a perfect bill. It is impossible to come up with a perfect bill in this complex and controversial area. I certainly do not agree with all of its provisions, and neither does any other member of the committee, or any other Member of the House.

But a lot of good people spent a tremendous amount of time and energy—not to mention money—coming up with the best bill we could develop.

What does this bill do?

For one thing, it makes food stamp benefits more accessible and available to the people who are most in need. My own amendment alone is expected to increase participation by 775,000 of the neediest of the needy among the elderly, blind, and disabled.

At the same time, the bill makes food stamp benefits less available to people who are not needy. The recipients who have tended to give this program a bad name, because they are using up taxpayer money which they do not need, would largely be cut from the program.

A third benefit to be derived from this bill is the saving of taxpayer money. The bill is projected to reduce the overall cost of the food program by $100 million—a significant amount of money even by the Federal Government's standards.

Mr. Speaker, I would submit that the Agriculture Committee—every Democratic and Republican member, and every staff assistant, acted with wisdom and sincerity in developing this bill. Chairman FOLEY and the full committee proceeded in exemplary fashion in difficult circumstances. The $1 million or so which it cost to prepare this legislation was money well spent—or at least would be, if the bill were to be presented on the House floor.

Some Members of the House, including some of the committee members, object strongly to individual provisions in the bill, and do not support it in its present form. However, if the bill is presented on the floor, nothing will prevent those members from offering amendments.

But for now, we have a bill which is necessarily imperfect, but which was developed at considerable time, effort, and expense; which would provide substantial help for the neediest of the needy; which would allow the taxpayers to stop subsidizing many non-needy persons' and which would save about $100 million a year.

Are we now going to tell our constituents that this House cannot spare an afternoon or two to debate and vote on such a bill? Are we to tell our constituents that this House had plenty of time to make George Washington a six star general, and to make Robert E. Lee eligible to apply for a Federal job, but not to address the needs of huge numbers of living Americans?

Mr. Speaker, if this bill is voted on in the House and defeated, that will exemplify the kind of waste which is unfortunate, but which is inherent in a representative government. But there can be no possible excuse for refusal by the leadership to bring this bill to the floor for a vote.

SOLARZ CRITICIZES KISSINGER "LONE RANGER" DIPLOMACY IN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 10 minutes.

Mr. SOLARZ. Mr. Speaker, I am deeply concerned that the Secretary of State insists on duplicating his previous diplomatic errors by operating another "Lone Ranger" foreign policy mission, this time to southern Africa. I say this not because I disapprove of his laudable objective to effect a peaceful transition to majority rule in Namibia and Rhodesia but because the Secretary is continuing his apparent policy of committing the Congress to policies which he has not in any way discussed in advance with the Congress and which Congress might not be willing to accept.

I would like to emphasize that there is little doubt about the importance to world peace of a successful conclusion to Secretary Kissinger's current efforts. The bloody warfare that is in store for Rhodesia and Namibia, unless a peaceful transition to majority rule is accomplished, can only lead to tragic consequences for all parties concerned.

However, it is most disturbing that Mr. Kissinger insists on continuing what Democratic Presidential candidate Jimmy Carter has characterized as a Lone Ranger form of diplomacy.

The Secretary is willing to talk with the South African Prime Minister, the heads of state of several black "front line" states, and even to consult with some of our important European allies. Yet the Congress is the one responsible party with which Kissinger has refused to talk.

Secretary Kissinger may be in the process of concluding major commitments on behalf of the Congress and the U.S. people without any serious effort to consult Congress—except perhaps for the usual briefing well after the negotiations have taken place.

If this were a mere matter of personal pique for not being listened to, that would be one thing. However it is a matter of far more seriousness than mere courtesy.

Last year the administration made important—if nonpublic—commitments to aid one of the parties struggling for power in Angola without any attempt to gain advance congressional approval. The Congress, upon discovering the secret funding, massively repudiated a policy with which we could not abide. The resulting imbroglio was a double disaster for U.S. foreign policy: Not only did the United States embark on a woefully mistaken strategy but we also suffered a tremendous loss of credibility and deep embarassment by repudiating that policy once it became known. I am afraid that we may be heading in the same direction.

There is talk of guarantees to various parties in Rhodesia and Namibia as well as financial compensation running over a billion dollars—presumably in substantial part at the expense of the American taxpayer. It is vital that the Secretary of State determine before he makes any new commitments for the United States what is politically possible—in other words, what the Congress will accept.

At a minimum, I would hope that the Secretary, before he undertakes his next round of shuttle diplomacy, consult the Members of Congress on the relevant committees. I would think that it would be useful for Kissinger to appear before the Foreign Relations and Armed Services Committees, whether in public or executive session, for genuine consultation, rather than a hasty briefing.

It would be a genuine disaster for the United States to conclude an agreement that is subsequently repudiated by this Congress. I would have hoped that in the waning days of the Kissinger tenure, he might have learned from some previous bitter experiences. I would hate to conclude that the Lone Ranger will continue his solitary forays right up to the end of his stay in office.

U.S. SPECIALTY CROP EXPORTS TO THE COMMON MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. MCFALL. Mr. Speaker, I am today introducing a House resolution that addresses a very serious point in our trading relations with the European Economic Community. As a result of efforts and actions by the EEC over the past many months, it has become clear that the EEC is determined to establish and maintain a hostile posture regarding European importation of American dried prunes and walnuts.

The economic stability of America's domestic dried prune and walnut industries are of great importance to both my congressional district and the State of California generally. First, nearly 100 percent of the domestic production of these crops is in California. Additionally, these crops represent a major segment of America's agricultural community. Approximately 15,000 growers of these crops employ nearly 50,000 year-round employees, and about 150,000 workers during harvest. The combined annual sales of these crops now exceed $320 million.

In regards to dried prunes, the EEC's hostility toward the importation of this U.S. specialty crop became particularly clear in the late summer and early fall of 1975. During that period the EEC unilaterally imposed several restrictive regulations without benefit of hearings, prior notice, or explanation. This action was taken in spite of a long period of mutually acceptable and economically sound trade between U.S. suppliers of dried prunes and their customers in the EEC.

These regulations take effect in January 1978. They relate to license systems, prior deposit schemes, and put in place a mechanism for establishment of minimum import prices at some future time.

The EEC imports of dried prunes represent approximately 55 percent of the total U.S. dried prune export market. By the end of the 1976 crop year, the value of EEC imports of U.S. dried prunes had become nearly $48 million. Because of the importance of the EEC segment of dried prune exports to the total success of the American dried prune industry, the EEC's restrictive importation regulations promise to have a very serious depressing effect on this segment of the American specialty crop industry.

As a matter of fact, industry representatives have advised me that these regulations have already adversely affected future marketing contracts between U.S. suppliers and their EEC customers.

I also wish to point out that in light of the level of internal EEC production of dried prunes, the need for these restrictive regulations is nonexistent. France is the only EEC member nation that produces dried prunes, and France's total production is consumed within the EEC. This accounts for only 28 percent of the EEC's total consumption, however. Obviously, if France doubled its production, or even tripled it, the EEC would still have to import dried prunes to meet its needs. A similar situation exists in reference to EEC internal production of walnuts.

In regards to U.S. walnut exports to the EEC, the EEC represents approximately 55 percent of the total export market for U.S. walnuts, amounting to about $36 million for the crop year ending July 1976. At present, the EEC has yet to impose restrictive importation regulation for U.S. walnuts.

However, efforts have been undertaken within the EEC to promulgate such regulations, and as recently as June 1976, U.S. walnut industry representatives were advised that unless U.S. producers voluntarily restrict their exports to the EEC, the imposition of such regulations could become a reality. Needless to say, this harassment by the EEC has had a dampening effect on the sales and general health of the U.S. walnut industry. U.S. producers are operating under a constant threat that at any time unilateral action by the EEC may cause havoc with their crop production and export calculations.

Mr. Speaker, the resolution I am introducing today expresses the sense of the House that the President shall use all means at his disposal to obtain the immediate removal of these restrictive trade regulations as well as obtain agreement from the EEC Commission that similar regulations will not be imposed in the future. In light of GATT, the Trade Act of 1974, and the spirit of the Rambouillet Conference, this is a totally consistent position for the United States to adopt, and I urge the favorable consideration of this resolution by the House.

GENERAL HAIG'S IMPROPRIETY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, revelations in Leon Jaworski's recently published memoirs, "The Right and the Power," indicate that Alexander Haig acted in a grossly improper way while serving as President Nixon's Chief of Staff. Mr. Jaworski says that, when he was called to Washington to discuss the job of Special Prosecutor, Haig raised the possibility that Jaworski might be appointed to the Supreme Court. Specifically, Jaworski recounts that Haig told him:

> You're highly regarded, and it's no secret that you're high on the list for appointment to the Supreme Court.

It was vital that the Special Prosecutor be independent. His mandate was to investigate all Watergate-related crimes, including any committed by the President. It was, therefore, grossly improper for the President's Chief of Staff to dangle a possible Supreme Court appointment in front of the next Special Prosecutor. Haig's reprehensible remarks resemble John Ehrlichman's discussion of a possible appointment to the FBI directorship with Judge Byrne, while the latter was presiding at Daniel Ellsberg's trial.

Nonetheless, Haig continues to hold a position of importance and trust as Chief of our NATO Forces. After this revelation of his impropriety, I fail to understand why he is permitted to retain this position.

SYNFUELS BILL DESERVES TO BE DEFEATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAYES) is recognized for 10 minutes.

Mr. HAYES of Indiana. Mr. Speaker, for the benefit of my undecided colleagues, I am having here reprinted Representative RICHARD OTTINGER's recent testimony before the House Rules Committee in opposition to H.R. 12112, the "SynFuels" bill.

In a clear and concise manner, Congressman OTTINGER details the many reasons this $4 billion boondoggle deserves to be defeated. His statement should be recommended reading for those Members who have yet to join us in recognizing the economic folly H.R. 12112 represents.

The testimony follows:

OTTINGER STATEMENT AGAINST H.R. 12112

Mr. Chairman: I am in strong opposition to H.R. 12112 for the following reasons:

1. H.R. 12112 seeks to resurrect legislation already defeated once in this Congress.

The Motion to Reconsider this legislation has already been laid upon the table. There is no earthly reason to require the House to consider it a second time.

A virtually identical bill was soundly defeated by the House on December 11, 1975, by a resounding vote of 263–140.

The only significant difference is cosmetic: The defeated bill authorized $6 billion in loan guarantees while this bill purports to authorize $4 billion. But the President made clear in his July 22 Message to Congress of "Must" legislation that this is just a $4 billion bite on the same $6 billion apple, saying:

"A total of $6 billion in loan guarantees is expected to be necessary over the 1976 to 1978 period in order to reach the 1985 objective of 350,000 barrels per day of synthetic fuel production capacity."

ERDA testified that the package really comes to $11.5 billion, requiring in addition to the loan guarantees, $4.5 billion price supports and $.5 billion construction grants.

While the original bill came to us from the Senate without opportunity for full House hearings, those hearings that have now been held have only served to cast further doubt on the wisdom of the program. There is no reason for second consideration of this huge commitment to technology that according to the GAO is likely to become obsolete before the plants are completed.

2. The GAO has confirmed that H.R. 12112 is unsound from economic, environmental and energy priority points of view.

In a report just issued on August 24, 1976, on this legislation, the GAO concludes:

"Serious questions exist regarding any national commitment at the present time to uneconomic, high-cost supply technologies which substantially exceed the cost of imported oil. Certainly, larger commitment to building complex, highly capital-intensive energy sources will result in less incentive in future years to develop alternative lower cost energy sources. In addition technologies producing energy that costs more than energy from imported oil would put exporting countries in a position to increase energy prices."

* * * * *

"The large investments required to build synthetic fuel plants would direct Federal incentives primarily to the large industries which have access to capital."

* * * * *

"In the present circumstances, GAO believes Government financial assistance for commercial development of synthetic fuels should not be provided at this time. Full priority should be directed to development of improved synthetic fuels technologies, however; it appears possible to gain adequate information of an environmental and regulatory nature from smaller plants under Government control. When commercialization of the technology becomes a prime objective, consideration should also be given to approaches other than loan guarantees for gaining private industry interest."

3. H.R. 12112 is bad, special-interest legislation to subsidize a handful of giant energy corporations in obsolete technology.

H.R. 12112 reeks of special interest favoritism to a handful of multi-billion dollar corporations that are promoting it, primarily Texas Eastern Transmission Corp. and its collaborators in the consortium called WESCO, but also American Natural Gas, Pacific Lighting, and Exxon. It is a "sweetheart" arrangement whereby the Government will take all the risks—so great that the GAO says these loan guarantees should be included in full in the budget—while, should OPEC prices unexpectedly soar to the $18–30 per barrel equivalent at which fuel is expected to be produced so as to permit economic operation under this program, the companies would make all the profits, with the government retaining no interest.

ERDA testified repeatedly that the purpose of the legislation is not even to produce fuel, however—not really so surprising because the $11½ billion total price tag to produce an estimated 350,000 barrel equivalent a day comes to a staggering cost of over $90 per barrel—but only to ascertain the environmental and socio-economic effects of a commercial size plant! That would make this the most expensive environmental impact statement in history.

4. Key plant-size studies commissioned by ERDA have not been completed.

Incredibly, ERDA is asking us to undertake this multi-billion dollar environmental impact statement before key studies it has commissioned have been completed. In particular, two $100,000 studies by Stamford Research Corp. on the size plant needed to demonstrate the environmental and socio-economic effects under this program are not to be completed until November—yet we are being asked to rush through this giant program said to be just to ascertain environmental and socio-economic effects before the knowledge is acquired! ERDA testified that no interim reports have been delivered under these studies (as was required by the contract) and no preliminary data is available.

Yet, ERDA is financing second generation technology with very substantial-size demonstration plants ¼ to ⅕ the size of those on which this program is based on a 50–50 basis with industry. These plants will come on line before any of the plants sought to be financed by this legislation and are estimated to be 15% more cost-effective, likely permitting private financing without Government help at all for commercialization.

These studies may well show that these second generation plants are adequate to test environmental and socio-economic effects, and it seems outrageous to finance an $11½ billion program with old technology just to ascertain environmental and socio-economic effects that may be discoverable under existing contracts to be complete in just a couple of months.

5. The legislation is too controversial for end-of-session consideration, opposed by a broad bi-partisan spectrum of the House, and Democratic Presidential nominee, Jimmy Carter.

The attached "Dear Colleague" letters

show the breadth of opposition to this program, ranging from the most conservative Republicans, such as Reps. Broyhill, Goldwater and Simms, to the most liberal of Democrats.

In addition, the bill is opposed by the American Public Power Association, the UAW, virtually all environmental and consumer groups, and the Wall St. Journal.

Presidential candidate Jimmy Carter specifically opposed this kind of program in his energy statement of December saying:

"A decision to subsidize the production of fuels for which there is no genuine market—for example, the synthetic fuels commercialization now before Congress—would divert capital away from the production of useful energy and create even more pressure to raise the price of all energy. A commitment to initiate synthetic fuels industries in the water-short states of the West, instead of in Midwestern states closer to adequate water supplies, would sacrifice water needed for the growth of industry and agriculture in the Pacific Northwest, northern Plains, or Colorado River basin."

It makes no sense at all to saddle the next Administration with a multi-billion dollar commitment it doesn't support if a change of Administration occurs; if President Ford is re-elected, there will be plenty of time in the next Congress to consider synthetic fuels commercialization, then with the benefit of the studies that ERDA has payed so much taxpayers' money to commission.

Four Committees have considered this legislation coming out with four different recommendations, and in the case of the Commerce Committee, striking loan guarantees for coal gasification altogether and substituting a vehicle to facilitate private financing of commercial coal gasification, removing a number of what are said to be the principal roadblocks to private financing at the present time.

If a Rule were to be granted, there would be an absolute donneybrook on the floor of the House similar to that which occurred upon consideration of the Energy Policy and Conservation Act. In addition, time would have to be allotted to each of the four Committees and procedures devised to accommodate each of the four versions as amendments. It would be difficult to ascertain who was managing which portions of the bill and what amendments were germain to which version. There were 75 amendments to the legislation considered in the Science and many to each of the other versions. Surely, consideration of the bill would take days at a time when so much really important end-of-session legislation must be considered in the short period left.

6. Teague substitute breaks the budget and was not approved by the Science Committee.

I would also like to point out that, contrary to the assertions of Chairman Teague, the Science Committee has never considered the fifth version of this legislation which he proposed to offer as the principal vehicle for consideration of this legislation, and in fact specifically rejected in its May 15, 1976 Report the price supports which are included to the tune of $1/2 billion in this version which also permits multiple-subsidies and "double-dipping."

Also, the Teague version violated the budgeting provision for this program which was based on a $500,000,000 reserve for loan guarantee defaults without any provision for the $500,000,000 price supports included in the Teague version.

This will result in many more of the Science Committee members rejecting the bill, as already indicated by a letter from various Committee members to the Chairman (copy attached,) and will result in a bill less palatable than that resoundingly defeated by the House last year.

7. Opposition to this bill does not constitute opposition to synthetic fuels development.

I, and so far as I know, all of those opposing this bill support synthetic fuels development. What we oppose is this foul arrangement to subsidize the energy giants into commercialization of unsound, uneconomic, obsolete technology in the name of environmental and socio-economic research and development.

I personally supported the $416 million R.D. & D. money presently in the ERDA budget for Synfuels development which includes funding of two high-BTU coal gasification plants, and supported Congressman Hechler's proposed amendment even to increase those funds.

The issue here is not whether or not we should proceed with development of synfuels, but how.

As the GAO Report stated: "Full priority should be given to development of synthetic fuels technologies; however, it appears possible to gain adequate information of an environmental and regulatory nature from smaller plants under government control."

The GAO went on to point out:

"Research and development on 'second generation' synthetic gas technologies is expected to reduce costs by about 15 percent."

What we are saying is, let's pursue with all speed synthetic fuels research, development and demonstration to the point at which private commercial development becomes attractive and feasible. But leave us not, in desperation to "do something about energy" enter into an unsound, uneconomic, special interest, already defeated program that will unjustly enrich and extend the power of a few giant energy corporations at tremendous risk and cost to the taxpayer, rushing in even before the key ERDA-financed studies are complete, and at the end of a session take on legislation that is very controversial, time-consuming, and is likely to be defeated anyway in the House.

STATEMENT OF BROCK ADAMS ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 5 minutes.

Mr. ADAMS. Mr. Speaker, I am very pleased at the news that the conferees on the tax reform bill have agreed on provisions which will save almost $1.6 billion in tax expenditures in fiscal year 1977. These reforms are fully consistent with the assumptions made in the second concurrent budget resolution as it passed the House.

Chairman ULLMAN and the other members of the Committee on Ways and Means have provided an outstanding service to the cause of tax reform and fiscal responsibility by securing the adoption, in conference, of most of the reform provision originally contained in the bill as it passed the House. Considering the fact that the Senate version of the bill would have lost $300 million in fiscal 1977, this accomplishment clearly represents a substantial victory.

The conference agreement also represents a substantial victory for the congressional budget process. In the spring, Congress adopted a budget resolution which sought to raise $2 billion in tax reform. Last week the House agreed to assume a savings of $1.6 billion. By holding to the amounts assumed in the second resolution, the tax conferees have demonstrated that Congress is willing to live within its budget and begin the lengthy and arduous task of instituting responsible reform in sensitive areas such as tax expenditures.

SYNFUELS—AGAIN

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the House is being asked by its proponents to consider H.R. 12112—the synthetic fuels loan guarantee and price support bill—with only a few legislative days left in the 94th Congress.

PROPONENTS DELAY CONSIDERATION

H.R. 12112 was introduced on February 25, 1976, which was nearly 3 months after the House rejected a $6 billion version on December 11, 1975, by a vote of 263 to 140.

The Science and Technology Committee reported it on May 15, 1976.

The Banking, Currency and Housing and Ways and Means and Interstate and Foreign Commerce Committees all reported it by June 25, 1976, before the recess for Democratic Convention.

However, no rule was requested by the principal committee, Science and Technology, until August 27, 1976.

Now the Rules Committee is being stampeded by the proponents to rush this complicated and controversial bill to the floor with an assurance by the proponents that far less than a bare majority of the House favors it.

Why must this be when there are numerous other important bills in conference, bills for which a rule has been granted, appropriations, and so forth. Why cannot H.R. 12112 wait a few more months until the 95th Congress and the election of the next President of the United States? We will not lose any appreciable amount of energy in the next decade if we wait.

PROPONENTS WANT HOUSE TO CONSIDER SUBSTITUTE NOT APPROVED BY ANY COMMITTEE

In requesting the rule, the proponents asked that the House consider a substitute amendment "as an original bill" which is purportedly "agreed" to by three of four committees. The substitute amendment is printed in six pages of the CONGRESSIONAL RECORD of August 26, 1976—pages 27908–27913.

However, the substitute was, in fact, never considered by the House Science and Technology Committee. It contains some provisions from the versions of three committees, but in several instances those versions have been changed from the way they were reported to the House. This destroys the very fabric of the committee system and asks the House to consider and vote on a version that is not backed or explained in any committee approved report to the House.

I stress that Chairman TEAGUE conceded to Congressman HECHLER of West Virginia and me that the substitute was not "agreed" to by the three committees.

PRICE SUPPORT PROVISIONS OF SUBSTITUTE REJECTED BY SCIENCE AND TECHNOLOGY COMMITTEE

The new substitute authorizes $500 million in direct price supports, as well as

$3.5 billion loan guarantees, for synthetic fuel modular and commercial size demonstration plants. It gives ERDA "blank check" authority to establish the support price with no standards, guidelines, or criteria.

Mr. Speaker, the Science and Technology Committee in its May 15 report on H.R. 12112 specifically and unequivocably rejected price supports for these plants. The committee's report states—pages 45–46:

> The Committee especially emphasized that the approval of Section 18 in no way constitutes an expression of approval of approaches for assistance beyond loan guarantees or cooperative agreements. Nothing in section 18 authorizes construction grants, price supports or price guarantees for the products from demonstration projects nor does the approval of Section 18 constitute any expression of Congressional commitment to other proposals which are pending or may be advanced in the future.

We were not alone in this view. The House-Senate conferees, in commenting on the ill-fated $6 billion loan guarantee proposal of last December, made a similar declaration. (H. Rept. 94–696, Dec. 8, 1975, p. 68.)

THIS IS SPECIAL INTEREST LEGISLATION

Some have been saying this bill will help farmers get loan guarantees to build small facilities to convert animal wastes to energy. Make no mistake, this bill does not provide such assistance to farmers. The proponents admitted this in questioning before the Rules Committee.

This bill is special-interest legislation. Its chief proponents are the oil and gas industry.

Up to 80 percent of the $4 billion in loan guarantees is earmarked for gasification and oil shale projects. The beneficiaries are: Texas Eastern Transmission Corp. and its other partners in the WESCO project in New Mexico; American Natural Gas Service Co.; Exxon, Shell Oil Co., Ashland Oil, Oil Shale Corp., Sunoco, and Gulf Oil, to name just a few. Also, the Wall Street banks and financial houses whose loans and interest therein will be guaranteed 100 percent by the Federal Government will benefit.

The individual taxpayers who will have to bail out these white elephants will get only 350,000 barrels of oil a day by 1985 at a cost of $11.5 billion, or $90 per barrel.

Mr. Speaker, I hope that the Rules Committee will exercise its proper role and decline next Wednesday to grant a rule to this substitute amendment or H.R. 12112 so that the House may move expeditiously toward adjournment sine die on October 2. If that committee does not do so, we will undoubtedly spend a long time on this complicated legislation and severely jeopardize our October 2 adjournment.

TOPSY-TURVEY JOBS PRIORITIES

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I want to bring to the attention of my colleagues a most poignant letter I received from one of my constituents in Yonkers, N.Y., Mr. Carmine La Magna, vice president of the Westchester County Civil Service Employees Association. Mr. La Magna has taken the time to register an all-too-familiar complaint: the frustration faced by the middle-income taxpayer at a time when the Federal Government is struggling to meet its responsibility to those suffering from continued unemployment. I am sure my colleagues will appreciate the tragic irony in Mr. La Magna's letter: He is wondering why Government is laying off people and at the same time creating programs to have new people. Mr. La Magna, himself a civil servant, has recently seen several of his colleagues' employment terminated in the name of cutting Government spending at the same time jobs are created by CETA. I think Mr. La Magna has raised some thought-provoking questions pertaining to our spending priorities which I feel many more citizens, as well as my colleagues in the House, would do well to consider.

The letter I refer to follows:

YONKERS, N.Y., *July 29, 1976.*

Hon. RICHARD OTTINGER,
Washington, D.C.

DEAR CONGRESSMAN OTTINGER: I am one who believes in helping those who really need help but when I see what is going on and I as a tax payer am pretty well perturbed at what I see. When West County Playland Commission can lay off 14 Employees and then see the waste going on I say when is our Government going to do something about it?

The Agricultural Dept distributes out Food. Drink and Money for the Minorities and when you see cases of Orange Drinks, Food thrown away into the garbage while millions are starving. Summer help just putting in time and getting paid for it.

I am VP West Co CSEA and if I bring this to their attention and when they might be the next one laid off simply because the news media and TV News say the waste lies in government employees, I say it is about time some Politician who has created these conditions get up and let the people know that it is not all Government Employees that are to blame for these conditions.

If Mayor Beame and a lot of other Mayors can raise salaries of Management while laying off Police and Firemen who are essential then there should be something done about it.

I feel that just once I would like to address my self to congress to see what reaction I would get. Some of us are Democrats and some Republicans but I think it is about time we become Americans like our men of 200 years ago. If Your Country Will Pray To Me, There is Nothing I Will Do For You, So Sayeth The Lord. You don't know how much I believe in Him.

Sincerely,

CARMINE LA MAGNA.

Ps. Could you read this letter in Congress and I would take the time off to be there.

MCPL EDUCATION FUND SPEAKERS SERIES MEETING WITH DR. SEYMOUR MELMAN, COLUMBIA UNIVERSITY, ON MARCH 31, 1976, TO DISCUSS "THE IMPACT OF DEFENSE SPENDING ON THE U.S. ECONOMY"

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am offering for the RECORD a summary of the remarks of Dr. Seymour Melman, professor of economics at Columbia University, on "The Impact of Defense Spending on the U.S. Economy," which he made before Members of Congress and their staffs in a seminar on March 31, 1976, as part of the MCPL education fund speakers series.

Dr. Melman is one of the Nation's leading experts in this field. The summary of Dr. Melman's remarks follows:

THE LIMITS OF MILITARY POWER

To date very little discussion has taken place on the limits of military power. There has been lots of discussion of the competence and capability of military power, but very little discussion of its limits. But there are limits. In 1963, then-Secretary of Defense McNamara laid out before the House of Representatives the thesis of "mutual deterrence," that is, the reciprocal ability of the United States and the Soviet Union to destroy each other, an era which he said was approaching rapidly. One member of Congress repeatedly questioned this thesis, calling it a "grim prospect," and "refusing to concede that the energy and industry of 180 million Americans" could not prevent it. That Congressman was Gerald Ford. This is the point of view that sees no limit to military power, and this is a characteristic of the American people. But this point of view is not a guide to the real world. It leads to an even more dangerous collateral assumption: that you can continually add to military power in the nuclear age, and have it be meaningful. This point of view also has disastrous economic ramifications.

The Impact of a War Economy. This society is in the midst of an ideological crisis. The ideas that purport to show how the world works are in conflict with reality, with observable events.

Economy as a field is in an ideological crisis. In the center, the theory is (from Keynes) that either we have government spending to prime the pump, or recession/depression. In the recent past, we have had both simultaneously.

On the right, the theory is that unemployment is a trade-off for curbing inflation. There too, we've had both simultaneously.

On the left, the theory of monopoly capital says that we must have either a war economy or economic stagnation. And we've had both. Never before, even in the great depression, have the conventional tenets of economics been so much in question.

In all of the theories, there are three assumptions:

(1) Economic problems are superstructural; they pertain to matters of money, magnitude, interest and flow.

(2) If an allocation of resources is made, there will be people waiting for orders to proceed, and they will then do so.

(3) The underlying production system is fully competent, and only waits for the order to produce.

This third assumption is no longer valid. In the past, it was typically assumed, confidently based on experience, that the underlying production system of the United States was so efficient that the U.S. could pay the world's highest wages and still compete against cheap foreign wages. In fact, our productivity was the highest in the world. For example, the automobile industry in the United States, in the early post World War II period, produced the lowest priced vehicles in the world, in price per pound. This, however, has ceased to be the case, and it has ceased because of the sustained war economy.

A war economy is an economy in which war production is both on a large scale and sustained over a long period of time, is treated as if it were any other kind of production, and aggregated into the gross national product. Such aggregation misleads, because an increase in part of the economy, is treated as an increase in the whole, even though it causes stagnation elsewhere.

In science, categories have no autonomous validity. They have no use except as they have predictivity. What is a product? To Marx, Adam Smith, and Keynes, a product was something valued in money. By doing that, you lose sight of what the product will be used for. It took Thorstein Veblen to formulate the idea of the difference between the pecuniary and the industrial employment of capital, that is the difference between use for monetary gain and serviceable use.

In Smith, Marx, and Keynes, you classify by exchange value, in Veblen by use value. The Veblenian type of class is essential to understanding the U.S. economy. Crucial elements in the economy, especially the use of money capital, have been converted to military purposes. In the thirty years since the end of World War II, 75–80% of Federal research and development funds, which dominated all research and development, have been for military purposes. If you give attention to the use of capital, the budgets alloted to one element, the Defense Department, exceeded every year since the end of World War II the corporate after-tax profits. It was President Eisenhower who first underscored that relationship. Nobody has ever mentioned it since, much less credited it to Eisenhower. The functional use of technology and capital has a controlling effect, and been decisive in the growth of the American economy, especially in the growth of productivity. The rate of growth of the economy, per civilian, has lagged dramatically behind that of the Europeans and Japan in the last decade. Output per man-hour in the United States is far behind much of the rest of the industrialized world.

Why has the economic performance of the rest of the industrialized world been so spectacular, and that of the U.S. so lackluster? The United States has used its output gains for the military.

Why has West Germany no currency inflation? Primarily because its technology has been used with overwhelming emphasis on productivity growth.

Consequence: Unemployment. As civilian technology advanced less, as the civilian economy slowed, people holding funds for civilian capital investment discovered that if you invested abroad, you got a more rapid rate-of-return. So, capital investment went abroad, a niagara of capital export—$47 billion in the decade of the 1960's, a historically unprecedented level. This was direct, fixed investment.

If we leave out the mining/extractive industries, which have to be located where the ore is, you cannot escape finding that between 3 and 4 million job opportunities were thereby exported. If you allow for a modest calculation of the multiplier effect, between 6 and 8 million jobs were terminated. The United States is becoming a community that cannot organize production efficiently. And you cannot escape the link between the permanent war economy and this loss of jobs.

The magnitude of this job loss is strikingly similar to the level of unemployment shown to exist by the President's Council of Economic Advisers, and that which they think likely to continue, and for which they offer no explanation. Their methods (unintentionally) make it impossible for them to understand the effect of the permanent war economy.

U.S. plants now operate the oldest stock of metal-working machinery in the world. The keystone of production technology, electric power generation, has risen in price for the first time practically since it was introduced onto the scene. The underlying production system of the United States is no longer in good shape.

Crisis of the Cities. The cities are involved in this common problem. The older cities of the Northeast have had a massive removal of capital funds elsewhere to go for federal enterprises. $16 billion has been taken from New York City, $7.5 billion from New York state. This is seven times the naughty budget deficit which Mayor Beame ran up. At the same time, $13 billion of revenues in excess of collections was spent in the so-called Sunbelt states. Other federal policies have lead to the creation of a "lumpenproletariat" in the cities which require all manner of community services.

A baleful feature of the present election campaign is that not a single one of these topics have been dealt with in the course of this election campaign. This is a pity because a campaign offers a platform to discuss such things, and if there is even a fractional validity to this argument, it should be discussed.

SELECTED QUESTIONS AND ANSWERS

(All questions and answers have been paraphrased and condensed.)

Q: One thing you didn't touch on, were recent studies by Roger Bezdek showing that military expenditures directly produced unemployment. Are you in accord with this view?

A: Yes. That is a slightly different problem, which generates proximate effects. I'm trying to get at an underlying assumption, which is that the means of production are decaying. Literally, our machines are second best. We now have the oldest stock of metal working machinery in the world. Oldest means a slow-down in the rate of replacement. We are replacing at a slower rate because the cost of new machinery is higher than the cost of the labor it is replacing. This is because machinery producers have become less competent. They have been confronted by the Defense Department, NASA, the AEC, all organizations which demand cost maximization, rather than minimization. This has meant that the end of a long increase in the attractiveness of machines versus manual production. Productivity is not a planned effect, it is a derived effect. As it pays to mechanize, the derived effect is larger output per worker. When there is no incentive, the process is cut off. That has led to the aging of our stock of machinery.

Q: Since World War II, we've spent, by various estimates, between $1.5 and $2 trillion on defense. What does that mean in terms of economic effect? Is that a diversion?

A: It is emphatically that. To give you an idea of the magnitude, you can compare it with the money value of the *reproducible wealth* of the United States. Taking the lowest figure for defense expenditures, that is, $1.5 trillion, that is 63% of all the reproducible national wealth, i.e., the quantity of resources required to rebuild ⅔ of what is man-made on the surface of the U.S. And this is what has been forgone by the United States.

Q: If we had not spent this on military items, could we have raised the standard of living 63%?

A: Probably not, but we could have terminated economic underdevelopment in the United States, and we could have redone the capital assets of the United States, including our cities, to a standard at or close to the highest that the professionals in each field know how to design. This society is still marvelously wealthy. It is the presence of this wealth that blinds us to the absence of wealth (i.e. pockets of poverty in U.S. society).

Q: What would it take to redistribute the expenditures of the defense budget and convert to a peacetime economy?

A: (1) A clear plan for the productive use of the capital investment needed was given in January 1969, by the Council of Economic Advisers, which published a report: *The Economy After Viet Nam.* That report proposed new programs derived from various proposals. The whole unmet national needs agenda amounted to $39.7 billion per year. In current dollars, about $50 billion per year. This was a hard enumeration of the uses to which the so-called "peace dividend" could be put to. The report was ignored. The importance of such a document is that it constitutes an effective new market to direct the military industry and bases towards, and to prepare new industry. Such planning is best done locally, with local responsibility, and authority. The reason for this is to make sure that real needs are met.

(2) Defense-oriented companies probably would not be able to plan effectively their own civilian conversion, because cost maximizers tend to fall on their faces in the civilian economy. So you need measures to guarantee employment and income to defense workers.

(3) You need a National Economic Conversion Committee to oversee capital investment, and to encourage people to do it in a competent way.

Q: Wouldn't such a plan make us fall behind the Soviet Union in military forces?

A: On the basis of all available evidence, there is no way either country can achieve first strike capability. Even if there was, there would be no possibility of avoiding a radiation backlash on the launching country. The U.S. can destroy the 219 Soviet communities of 100,000 people or more forty times over. The Soviet Union can destroy us twenty times over. When I address American military officers concerned about the Soviet threat, I always ask them if there would be any difference if the nuclear forces of the two sides were reversed.

Q: This is a losing game for both the United States and the Soviet Union. It would seem that the job of leadership is to negotiate a freeze, and then a mutual reduction of weapons. The importance of the 1969 report is that it gives a decision-maker ways to provide such leadership, that here is an alternative to simply cutting off defense industries.

A: May I report that I asked an astonished House Armed Services Committee what activity they've pursued to lead to reducing our armed forces, preferably jointly. I didn't get a very lengthy reply. The bitter truth is that the United States is simply not interested in reversing the arms race. There have been no proposals, no schemes, no committees of Congress have undertaken hearings on the reversal of the arms race. That means that newspapermen don't know about such ideas, many writers of textbooks know that there is no money in writing about the reversal of the arms race. And ACDA is a less than vigorous advocate of such things.

MCPL EDUCATION SPEAKERS SERIES MEETING WITH PROF. GRAHAM ALLISON, HARVARD UNIVERSITY, ON APRIL 28, 1976, ON "IMPROVING U.S. FOREIGN POLICY DECISIONMAKING"

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am offering for insertion in the Record a summary of the remarks of Dr. Graham Allison, Harvard University professor of political science and consultant to the Murphy Commission, on the subject of "Improving U.S. Foreign Policy Decisions: Some Highlights from the Murphy Commission Report." Dr. Allison talked with Members of Congress and their staffs on April 28, 1976, in one of a series of meetings on new directions in foreign policy, defense policy and arms control policy sponsored by the MCPL Education Fund.

The summary of Dr. Allison's remarks follows:

Summary of Remarks by Dr. Graham Allison

A recent James Reston column characterized our present foreign policy decision-making system as an "incoherent mess," in which Congress and the President "can't seem to agree on anything."

The relative virtues of Congress and the Presidency with respect to foreign policy decision-making are uncertain, and both have their liimtations. However, as has been observed, the Constitution invited a struggle and a struggle has ensued. The purpose of the Murphy Commission was to examine how to best organize the U.S. government for foreign policy decision-making and how it could be improved. In addition to the Murphy Commission report Dr. Peter Szanton and I have recently written a book on how to improve the decision system and I choose to outline those ideas rather than the report itself. Nevertheless, in passing, the Murphy Commission Report inspired the best line in a government document in the past decade, penned by Senator Mike Mansfield, a member of the Commission, who observed that the report represented "thin gruel served up in a thick bowl."

SENSIBLE CHANGES

Peter Szanton and I in our book recommend several changes in foreign policy decision-making as it relates to Congress. These include:

(1) Restore a workable level of trust and comity, and strengthen centripetal forces.

(2) In relations between the President and the Departments, the role of the President and his appointees should be enlarged to ensure that they are able to shape policy and that the broader national interest is served. This means an active President, and strong Secretaries.

Secretaries should be the chief substantive policy officers and principal advisors to the President in their areas.

There should be an executive cabinet, with the principal Secretaries as members.

(3) Strengthen the Secretaries and lengthen their terms, improve intra- and inter-team relationships, and improve the level of understanding of political appointees.

KEY PROBLEMS

What are the problems of the current organization, and why does organization matter, and what objectives should we strive for?

(1) How does one conduct foreign policy on behalf of the larger national interest, under conditions of broadly dispersed power?

This is a problem that is not new in town, but is new in the degree of dispersion of power. State, Defense, Treasury, and also the Departments of Labor, Agriculture, Commerce, almost everyone is involved in foreign policy decisions now. The tightening economic and physical interdependence of nations causes foreign and domestic policy to impact on one another, and diffuse power through the Executive Branch.

There is also a diffusion of power in the Congress. This is caused partly by weak leadership, partly by the Committee system.

Also, there is more dispersion of power between government and the private sector. Many of our key industries are multinationalized and we tend to lose some influence over them as a result.

Lastly, there is more dispersion among nations. There are now two superpowers, eight to ten large powers, many middle-sized states, and 100 odd others.

If you look at the oil issue, a decision by a dozen oil-producing states could create 10% inflation in the U.S., long lines of cars at gas stations, and impact on the prosperity, stability, and economic development of the Fourth World. While this was met with more success than we had hoped for, as the multinational oil companies divvied up the oil equitably, it was not done with government guidance.

Nixon's "Project Independence" may or may not be just a piece of rhetoric, but in any event the response of the rest of the government was not impressive. Henry Kissinger argued for a floor price for oil, while William Simon disagreed with him. A dozen Congressional Committees held hearings, and virtually every government agency—the EPA, ICC, FEA, State, Commerce—all got involved. The administration was not able, however, to get an energy policy bill through Congress until 1975, and it was a weak bill, which has been weakened further by inaction since then.

(2) How to meet rapidly changing conditions with foreign policy structures which persist from the late 1940's.

A small example: we have had export controls on trade with the Communist states since 1950 or so, on national security grounds, until, in 1969, the policy was changed, on Congressional initiative. Previously, the policy had two objectives:

(A) don't sell anything that could help the Soviet military;

(B) don't sell anything that could help the Soviet economy grow.

In 1969 the Legislature said, "Wipe out the economic warfare objective, and focus only on trying to control high technology exports."

This change was followed by no directives for its administration, no change in administrative procedures, and the same people in Defense, State and the CIA remained in charge of determining what should be controlled. Although the rationale changed, behaviour changed very little indeed.

The problem is how to change these organizational structures that were put together in the 1950's for Cold War purposes. These structures matter because any particular organizational structure creates a capability for doing particular things, and vests decisionmaking weight on particular actors. Which department makes a judgement will have a predictable effect. If you want a decision made differently, change the departmental actor making the decision.

In 1961, the Arms Control and Disarmament Agency (ACDA) was created and more recently, the Arms Control Impact Statements were instituted, these give the Executive Branch more hoops to jump through when they make a decision.

GENERAL OBJECTIVES

While almost at the level of platitudes, these are essential:

(1) Restore trust in government.

(2) Rethink and restate U.S. objectives in the world. For people who became conscious of foreign policy in the Vietnam era, there is a substantial gap between rhetoric and reality, which we should try to do away with. E.g., it makes little sense to refer to a shaky and unstable relaxation of tensions with the U.S.S.R. as a "generation of peace."

(3) Advance national interests over particular interests, and long-run objectives over short-run.

(4) Adjust to U.S. interdependence. There are many new threats and opportunities in the world, and we should organize to meet them.

(5) Making government work. Many people in the country are anti-Washington, because they don't see why we need it. The depth of this feeling is surprising. Also, there is a lot of inflated rhetoric, part fashionable, part true. At the moment, intra-government relations could hardly be worse.

IMPORTANT, NEEDED CHANGES

Executive-Legislative relations. The factor most likely to disrupt U.S. foreign policy will be the shift in power from the Executive towards Congress. This will not be motivated mainly by public suspicion of Presidential adventurism, but because of a shift in the content of foreign policy. Most of our relations will not be security, but the tightening of economic and physical interdependence. These economic issues are the very stuff of domestic politics, so a greater Congressional role is inevitable.

However, Congress can be deeply involved without being either responsible or effective. People who observe the shortcomings of Congress tend to want to turn it into either a Brookings or a Systems Analysis office, which ignores the inherent nature of the institution. But changes can be made.

The first is to assist in the reconstruction of trust and comity between the President and Congress. In doing this, the Presidential attitude is important. But, there are also a number of informal steps that can be taken.

There should be steady and genuine coordination between the President and Congress. There is a role for Cabinet and Subcabinet officers to consult, early-on, and ungrudgingly, and also between Congressional and Presidential staffs.

Also, there should be a willingness by the Executive Branch to share the credit for a successful foreign policy, and to be seen as willing to share the credit.

More Effective Congressional Organization. The Congress should be organized so that it can actually deal with issues. To this end, there should be a sharp reduction in the number of subcommittees, perhaps a merging of the authorization and appropriations process, maybe changing the constitutional term of House members to four years. There are many interesting reforms that deserve debate, without gainsaying the possibility of more radical changes.

There are also more informal changes that would be desirable. The President should make an effort to strengthen his political influence on the Hill, perhaps through party caucuses.

Another good idea would be to have the President make a biennial statement on U.S. foreign policy objectives, and, in addition, White Papers on specific issues at a rate of perhaps ten or fifteen per year. Second, Committees should be created in both Houses of Congress, functionally committees on interdependence, whose purpose would be to receive these documents, prepare a response, and to propose a Congressional response to the program. The membership would be drawn from the Congressional leadership, the chairmen and ranking minority members of the key committees.

This biennial statement has precedents which have not been particularly useful, but they could be, if used systematically, and if ways were found of tying these documents to on-going processes (for example, tying the biennial statement to pressing legislation, as in making the preface to the military posture statement as an annual Joint State-Defense White Paper, and using specific White Papers as framework for ongoing policy decisions).

Such committees would (without unduly encroaching on the Executive) provide an opportunity for the Congress to do something in this field.

Another recommendation is for a longer foreign policy appropriations process. This should be at least biennial. Even longer periods would be sensible.

Better means for dealing with substantive areas. Particularly the War-making powers. The War Powers Act is clearly a step in the right direction, though it is rather mild compared to, say, the Constitution. Congress should also have a greater role in the first use of nuclear weapons, and also in economic management. The Trade Act of 1974 is a step backwards.

In intelligence oversight, a Joint Committee with teeth is required, more like those originally suggested than those which the House prefers. Messrs. Allison and Zamlan think a most important problem is for there to be a serious check on intelligence activities. They hope that a Joint Committee would exercise jurisdiction over the intelligence community, confirm Directors of Central Intelligence, and that its staff would receive all intelligence estimates, as well as receiving advance notice of all covert operations, in association with responsible rules and procedures to protect confidentiality.

SELECTED QUESTIONS AND ANSWERS

(All questions and answers have been paraphrased and condensed.)

Q: How would the practice of "comity" fit with the separation of powers? It seems to me that we got into the Gulf of Tonkin through comity.

A: That's a good hard one. Sometimes, when an executive calls for comity, it means, "I'll call you into a meeting, and tell you what you'll do."

The call is to the Executive Branch. If you read the Nixon tapes, the Executive's views of Congress could hardly be less charitable, and could be characterized as: "how do you manipulate this rather sleepy uncle?" The tone had to make Congress alert, and made it more likely to play a more serious role as a check. While a danger is that it may become corrupting, it is not so serious if one considers the alternative. The Tonkin Gulf Resolution is not comity, but deference. On the other hand, we see the problems—with Most Favored Nation status for the Soviet Union, oil, Turkey, exports of nuclear technology—arising from the lack of comity.

Q: Henry Kissinger has said that he would like to deal with Congress, if only some one could tell him who to deal with. My answer was that people in Congress could tell him, were he to ask.

A: I think that's right. Kissinger's relations with Congress are not based on comity, and people who have dealt with him say he doesn't know much about Congress. The Congress doesn't trust him, particularly since he tells different things to different people, and Congressmen talk to each other.

If a President is interested in seriously consulting with Congress, he can find out who to talk to. If a Senator Humphrey were to become President, there would be a most ready opportunity to create a consultative relationship.

Q: How important is talking about policy and organization, if policy has no impact on the budget?

A: That's true of any project. There is a story about a friend of mine who worked in the ABM project office in the Defense Department. They were working on a city-defense ABM system, when McNamara announced that it was an anti-Chinese system. Later on, it became a site defense to protect Minuteman missiles. The Program Director, when asked, professed to be willing to call it an anti-Martian system if that would get it through Congress. The words justifying a system are the easiest things to change. However, justifications are useful, because Congress can be educated, and it creates incentives for rationality in the Defense Department, though the link between forces and justifications will never be very fine.

Q: Getting information around here is a closed shop. On the oil bill all our information was from the oil industry, and on the defense budget all our information was from the defense industry.

A: I agree very much. Congress should have its own group. The Office of Technology Assessment and the General Accounting Office are a help.

But the largest part of the problem is getting information already in the possession of the Executive Branch. On the one hand, most Committees with responsibilities have not generally been interested in getting Executive information. On the other hand, if the Chairman of the Senate Armed Services Committee says "I want this," he is likely to get it that same day.

WHY NOT A REAL NUCLEAR TEST BAN?

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I offer for the Record an article by Thomas A. Halsted, "Why Not a Real Nuclear Test Ban?" from the June issue of Arms Control Today, a newsletter published by the Arms Control Association. Mr. Halsted is executive director of the association.

Mr. Halsted's article closely parallels a talk he gave to Members of Congress and their staffs at one of the series on new directions in foreign policy, defense policy, and arms control policy, sponsored by the MCPL Education Fund on March 24, 1976.

Mr. Halsted makes a point that needs underscoring, namely, that a comprehensive test ban agreement is feasible and is more desirable than a threshold test ban treaty of the type recently negotiated by the United States and the Soviet Union. Mr. Halsted's article follows these remarks:

WHY NOT A REAL NUCLEAR TEST BAN?

(By Thomas A. Halsted)

On May 28, 1976, in separate ceremonies in Washington and Moscow, President Ford and Soviet General Secretary Brezhnev signed a Treaty on Underground Explosions for Peaceful Purposes (the "PNE" Treaty). It was negotiated as a companion agreement to a Treaty on the Limitation of Underground Nuclear Weapon Tests (the Threshold Test Ban or the "TTB" Treaty). Both Treaties are to be submitted to the Senate for ratification.

The Arms Control Association believes that both new Treaties represent a step backward from responsibility. Now is not the time for agreements which will tend to legitimize nuclear weapon testing at high yields and endow nuclear explosions for peaceful purposes with unwarranted new respectability. What is needed now is an end to all nuclear testing. Accordingly, the ACA has called on President Ford to reopen negotiations toward a comprehensive test ban treaty (CTB).

Why can't we quit testing nuclear weapons? In thirty-one years the United States and Soviet Union alone have conducted more than 1,000 nuclear tests between them, yet by agreeing to these two Treaties they are declaring that there is a need for still more. Meanwhile a growing number of critics in the United States and abroad are complaining that agreements like the TTB and PNE Treaties, in the guise of setting new controls are really only devices for setting new rules to continue doing as they please. As the ACA statement points out, the limits imposed by the Treaties are hardly limits at all. (There is even an escape clause in the PNE Treaty—Article III, Paragraph 3, allowing for tests larger than the 150 kiloton ceiling: "The question of carrying out an individual explosion having a yield exceeding [150 kilotons] . . . will be considered by the Parties at an appropriate time to be agreed.") Is it any wonder that some critics of the Treaties call them worse than nothing?

The reasons that the Threshold Test Ban and Peaceful Nuclear Explosion Treaties are inadequate are spelled out in the ACA statement (see page 4). The case for the harder, but only acceptable course—a complete test ban—is not a complicated one.

Simply put, a CTB would be a clear and unambiguous signal that the nuclear weapons states were at last willing to take a major step away from the nuclear brink. Since the nuclear weapons age began, only one of the arms control agreements between the nuclear superpowers—the 1972 ABM Treaty—has resulted in stopping a nuclear weapons development. After nearly twenty years of negotiations, the failure to achieve a comprehensive nuclear test ban treaty has become a symbol of superpower unwillingness to end a wasteful and destructive arms race which has produced more and more lethal weaponry, but has only diminished world security. Agreeing to a CTB would be a positive sign that the United States and the Soveit Union were at last moving away from dependence on nuclear weapons and from the beliefs that the possession of nuclear weapons is the hallmark of a great power, and that nuclear wars are thinkable, fightable, and even winnable.

Three of the six countries that have conducted nuclear tests are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (the NPT). Year after year since that Treaty went into effect, and particularly at the 1975 NPT Review Conference, the non-nuclear weapons states party to the Treaty have warned the nuclear weapons states that they cannot go on forever building up nuclear arsenals, threatening to use nuclear weapons, and most of all, continuing to test nuclear weapons while still expecting other nations to agree to forgo nuclear weapons of their own. A CTB would undeniably be a symbolic gesture towards these critics. By itself it would not end the arms race, but it would be a symbol badly needed if mankind is to avoid almost certain destruction at his own hand.

WHAT ARE THE OBSTACLES TO A CTB?

The Threshold Test Ban, like the Limited Test Ban and the Non-Proliferation Treaty, gives lip service to a commitment to end all nuclear weapons testing, but neither the United States nor the U.S.S.R. has adopted a public position which would make achievement of a CTB realistic. The United States contends that it would be possible for the U.S.S.R. to conduct militarily significant tests in secret unless the CTB included a provision for on-site inspection to resolve any ambiguities. The U.S.S.R. asserts that such inspections are unnecessary, but insists on the right to conduct PNEs, and further declares that all nuclear weapons states must be party to a comprehensive test—a condition to which China and France, neither of them a party to the 1963 Limited Test Ban or the Non-Proliferation Treaty, are unlikely to agree.

Both sides' arguments are a smokescreen for a more basic objection to a CTB: neither the U.S. nor the U.S.S.R. wants to give up the option to conduct nuclear weapons tests. As far as the capability of identifying small nuclear tests is concerned, it is highly improbable that the Soviet Union could confidently conduct clandestine, *militarily important* nuclear tests without detection by a combination of seismic and other intelligence means—chiefly photographic satellites. On-site inspection is no longer necessary. Furthermore, a test ban observed by only the United States and Soviet Union, without the participation of other nuclear weapons states, would not affect the security interests of either superpower for many years, regardless of the amount of testing France or China conducted. The utility of PNEs is so dubious that further efforts should be made to persuade the U.S.S.R. to shelve its PNE program, as the United States already has. In no event should the unlikely prospect that they might some day prove to be useful be allowed to stand in the way of a ban on all nuclear tests.

A recent Energy Research and Development Administration (ERDA) report* provides for the first time some public details of the accomplishments of thirty years of U.S. nuclear testing: 74 different types of weapons have been tested, 50 of them accepted in the stockpile at one time or another, 26 of them currently in the stockpile in 33 different weapons systems. It can be assumed that Soviet weapons development is at a comparable level of diversity. There is hardly any theoretically possible development that has not been explored by now, at least by the two superpowers, and scant reason to expect such developments in the future. To be sure, weapons designers can always come up with new concepts to explore; under a CTB, they would have to make do with existing designs. Under the 150 kiloton TTB, in fact, the ERDA report acknowledges that such adaptation would be necessary for any higher yield weapons that might be required.

DOMESTIC PRESSURES FOR TESTING

Large and well established bureaucracies exist in the United States and the Soviet Union which have an unavoidable vested interest in the continuation of nuclear weapons programs, including testing. According to the ERDA report, last year the "weapons complex"—the U.S. weapons laboratories, the Nevada Test Site, and the seven government-owned plants which produce nuclear weapons "employed more than 40,000 people, had an operating budget of more than a billion dollars, and represented an investment of more than $2.6 billion." In the event of a comprehensive nuclear test ban, many of these individuals, a large number of whom may have devoted their entire lives to nuclear weapons, would need to acquire new skills and seek work elsewhere. They and their supporters in the Executive branch and Congress could be expected to strongly oppose a CTB. In a recent speech, Lt. Gen. Edward B. Giller, Director of Weapons Development for ERDA, expressed his concern about this possibility: "Above all we must not allow the nuclear weapons development and production complex to erode. In many respects this complex is unique and some of the assets are unreplaceable. The weapons laboratories represent a combination of trained manpower and physical resources that is available nowhere else in the West."

A narrow view—one that has prevailed until now—suggests that ending nuclear testing, because it means foreclosing options to test in the future, is *ipso facto* a bad thing for the United States. But would CTB really hinder national security? There are scarcely any new developments "interesting" enough to justify further weapons testing; a CTB would inhibit Soviet as much as U.S. developments. The security issue therefore becomes one of whether the U.S. is better off in a situation where neither side is testing than in one where both continue to test.

Since the present trend in U.S. weapons development is toward more accurate delivery systems rather than higher yields, future concerns lie more in missile guidance developments than in nuclear weapon testing. If there are possible "breakthroughs" ahead, a CTB would inhibit their likelihood for both the United States and the U.S.S.R.

DÉTENTE AND THE TEST BAN

Finally, it has been suggested that to reject the TTB and PNE Treaties would be damaging to detente, already battered badly out of shape. But would it? Why would it not be more constructive for the U.S. and U.S.S.R. to agree to work out a test ban treaty with real arms control significance, rather than a transparent phony? Because the TTB and PNE Treaties are so inadequate, they tend to devalue detente rather than enhance it, and serve to further erode public support.

If the two nations, which have been engaged in a devastating nuclear arms race for over thirty years were instead to jointly take the first meaningful step toward ending that race, that would have more meaning for detente, not only for the two adversaries but for the entire world, than any step yet taken.

There is another aspect of the detente/arms control issue to remember: even if there were no detente, and relations between the two countries were far worse than they are today, arms control measures would *still* be in our net interest. We can survive with detente in a weakened condition, as long as we are honestly pursuing means of ending the arms race. The reverse is simply not the case.

The Threshold Test Ban and Peaceful Nuclear Explosion Treaties are more likely to prove to be stumbling blocks than stepping stones toward a comprehensive test ban. The TTB is an idea whose time is past; linking the PNE Treaty to it has ensured that no CTB will be possible as long as the Soviet Union maintains an interest in peaceful nuclear explosions. It is time to put aside PNEs as a costly and unnecessary obstacle to at last fulfill a thirteen year old commitment, first stated in the preamble to the Limited Test Ban Treaty, "to achieve the discontinuance of all test explosions of all nuclear weapons for all time."

"Mr. Chairman, it is our intention not to allow (the comprehensive test ban) to be buried beneath the threshold of any partial underground test ban treaty, as—contrary to any such ban—the CTB is the single most decisive step towards nuclear disarmament that could be taken, a step to be greeted with joy and relief all over the world, a step in the way of which there are no technical difficulties that could be accepted as an excuse not to take it." Mrs. Inga Thorson, Leader of the Swedish Delegation to the Conference of the Committee on Disarmament, July 17, 1975.

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ACA Statement on Nuclear Test Treaties: the Threshold Test Ban and "Peaceful" Nuclear Explosions Stepping Back From Responsibility

On May 28, 1976, the Arms Control Association released the following statement:

The Arms Control Association today reaffirmed its opposition to the "threshold" test ban treaty signed in Moscow in July 1974 by former President Nixon and Soviet General Secretary Brezhnev, and to the companion treaty governing the conduct of nuclear explosions for peaceful purposes, which President Ford and Secretary Brezhnev have just signed in separate ceremonies.

The Association believes that the two treaties represent a disheartening step backward from responsible arms control policies. By permitting continued nuclear weapons tests of very sizeable magnitudes and by establishing arrangements for conducting nuclear explosions for peaceful purposes, the agreements are likely to delay indefinitely the achievement of a long-sought treaty banning all nuclear tests, and to provide new respectability for the arguments of states which seek to develop nuclear weapon capabilities by professing an interest in peaceful explosions alone. By so doing, the proposed treaty sets back still further the prospects for preventing the spread of nuclear weapons to other countries, and for countering the grave threat to world peace and security such proliferation poses.

The Association continues to believe, as it did in 1974, that the President should not submit the treaties to the Senate for its consent to ratification. Instead, the Presiden should reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and should instruct the United States delegation to the Conference of the Committee on Disarmament to undertake serious negotiations in that multilateral forum toward a treaty banning all nuclear weapons tests, in fulfillment of the commitment made by the United States government, along with all other parties, in the 1963 Limited Test Ban Treaty and the 1968 Non-Proliferation Treaty.

Five aspects of the proposed treaties are of particular concern:

(1) The Threshold: A limit of 150 kilotons has no relationship to verification capabilities, which now permit the reliable detection and identification of nuclear explosions underground at much lower yields, in most cases at such low yields that any tests which went undiscovered would be of small military utility. The 150 kiloton limit does, however, permit continued testing of nuclear weapons of considerable magnitude—more than ten times the size of the weapon that devastated Hiroshima.

(2) Peaceful Explosions Given New Respectability: Furthermore, it is clear that peaceful nuclear explosions (PNEs), which are indistinguishable from nuclear weapons tests, can be used by other countries as an excuse to justify nuclear weapons development. There was widespread skepticism when India announced that its May, 1974 nuclear explosion was entirely for peaceful purposes. Brazil, Argentina, and others have all expressed an interest in PNEs. By completing a treaty allowing such explosions, the United States and Soviet Union give new and unwarranted respectability to India and other nations which undoubtedly will use the new treaty to argue that their conduct of PNE programs has been vindicated.

(3) A Freeze On Further Test Limitations: The proposed treaties, if adopted, are likely to freeze the level of permissible nuclear tests at 150 kilotons for years to come. There is no provision for systematically lowering the threshold or number of tests to zero; furthermore, U.S. acquiescence in tieing peaceful explosions to the threshold test ban has made an eventual comprehensive test ban treaty hostage to the continued Soviet interest in PNEs.

The United States has quite properly, but belatedly, all but abandoned efforts to develop nuclear explosives for peaceful purposes. Years of experimentation and millions of dollars in research into ways of using nuclear explosives for excavation, underground engineering, and electric power generation have all led to the conclusion that PNEs cannot compete with conventional means of accomplishing the same objectives, when all economic, environmental, and political considerations are taken into account.

The value of PNEs may be seen in a different light elsewhere, but in no case should the prospect that PNEs might prove useful some day be used today as an excuse for preventing a total ban on all nuclear tests.

(It should be noted that the preamble to the Threshold Treaty at least reaffirms the principles of the 1963 Limited Test Ban Treaty which bars the presence of radioactive material outside the national boundaries of states conducting underground nuclear explosions. This provision almost certainly will prevent the Soviet Union from carrying out announced plans to excavate a large canal using nuclear explosives.)

(4) "On-Site Inspection" Provision Is No Breakthrough: References to the inspection provisions of the PNE treaty as a "breakthrough" are misleading. The complex and highly specialized procedure for inviting designated observers to a predetermined location to witness a preplanned explosion bears little relationship to the on-site inspections sought in the late 1950s and 1960s in connection with test ban negotiations. The principle that U.S. negotiators then sought to establish involved the dispatch of U.S. or Soviet inspection teams, upon acquisition of suspicious information suggestive of nuclear testing, to any location, anywhere in the USSR or United States, at any time. In any event, care should be taken in future arms control negotiations that on-site inspections not be made a condition where they are not necessary.

Furthermore, the science of nuclear test identification has now reached the point where almost all seismic events which can be detected can also be identified, either as earthquakes or explosions, by national technical means, so there would hardly ever be any occasion to call for such an on-site inspection.

Finally, research on on-site inspection technology has shown that such inspections are easily made unreliable by a determined evader. Thus on-site inspection, as it was conceived years ago, would no longer contribute in any way to the verification of a comprehensive test ban. Such specialized verification techniques as have been devised for the PNE agreement might have some relevance to some equally specialized verification problems, but essentially none in the case of a nuclear test ban.

(5) Commitment To The Non-Proliferation Treaty: The United States and Soviet Union have been criticized widely in recent years for the non-implementation of their obligations under the Non-Proliferation Treaty, not only to end all nuclear testing, but also to bring about more rapid and meaningful progress at SALT and provide security assurances to parties to the Treaty which have been asked to forgo nuclear weapons. The two superpowers have responded by saying, in effect, that how they handle their arms race is nobody's business but their own. But that is not true. The ending of all nuclear weapons tests is an essential goal of all nations; any test ban treaty requires the participation of as many nations as possible. Bilateral actions by the two superpowers affect the world's future security and well-being, and cosmetic "arms control" agreements drawn up solely for their mutual convenience, to keep all possible options open, are not good enough.

The Arms Control Association therefore calls on the President to reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and to instruct the United States delegation in Geneva to negotiate with all parties in the Conference of the Committee on Disarmament a comprehensive ban ending all nuclear weapons tests for all time.

Note.—This statement has been approved by the Board of Directors of the Arms Control Association with the exception of Secretary of Transportation William T. Coleman, Jr. ACA felt it inappropriate to ask him to take a position on this matter.

Verification: Important Question for the Nuclear Test Ban

In the past, the question of adequate verification has been one of the primary obstacles to the negotiation of a comprehensive test ban (CTB) on nuclear weapons testing. Similarly, the issue of verification will be at the heart of any future debate on the Threshold Test (TTB) Treaty and the Peaceful Nuclear Explosion (PNE) Treaty. This is especially true since Administration officials are likely to highlight the precedence of Soviet agreement to a form of on-site inspection in the PNE Treaty rather than the TTB's limited effect on the nuclear arms race. As discussed in the ACA statement (see p. 4) the "prearranged" on-site inspection procedures of the PNE Treaty are much less effective than the on-site inspection concept which once was an essential U.S. requirement for a CTB. Furthermore, in recent years the actual value of on-site inspection for detecting clandestine nuclear tests has been questioned by many experts including Defense Department officials.

One reason why on-site inspection is not as important as it once was is due to the significant advances in national means of verification such as seismic monitoring and surveillance satellites. Seismic detection relies upon very sensitive seismograph systems to detect the long-range vibrations or seismic waves created by nuclear explosions. In recent years great progress has been made towards solving the problem of distinguishing nuclear explosions from natural earthquakes at very low seismic levels.

The lowest yield at which a nuclear test ban can be detected and identified with a high probability is still a matter of debate. Many experts believe that tests of only a few kilotons can be verified while Administration officials tend to place the threshold for detection at a higher level. (For a more detailed discussion of the issues of seismic detection and evasion see the May 1974 *ACT*.) Even including a conservative margin for verifictaion, it is clear that the 150 kiloton ceiling of the TTB has little relationship to current detection capabilities. The high ceiling of the TTB is more likely the result of bureaucratic resistance within each country to greater restrictions upon nuclear weapons development.

The combination of improvements in seimsic detection systems and satellite surveillance capabilities has lead many arms control experts to conclude that a CTB could be adequately verified at the present time by national means. They stress that the verification question is not whether an extremely small nuclear test (a few kilotons) can go undetected, but rather whether the risks of not being able to detect such small tests would be of any military significance. Furthermore, the country contemplating such a violation of a CTB would also need to examine whether a weapons test of such a small yield would produce military benefits worth risking detection and the abrogation of the treaty.

A final concern of verification deals with the PNE Treaty. The U.S. position has been that there is no fundamental distinction between a nuclear test for "peaceful" purposes and one for weapons development. Consequently, the U.S. sought corresponding limits upon military and peaceful nuclear tests. The PNE Treaty is accompanied by a detailed eight-page Protocol dealing with the technical and information requirements which must be met before a peaceful nuclear explosion can be undertaken. The provisions of the Protocol are likely to be carefully examined in Congress since the implications of some are ambiguous such as Article III which suggests that individual PNE tests above the 150 kiloton ceiling might be permitted at a later time.

THE PLIGHT OF THE VINOKUR AND EPSHTEIN FAMILIES

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, all of us must be concerned when human rights are jeopardized. Recently several of my constituents brought to my attention correspondence from a family in Israel regarding the attempt of their relatives to leave the Soviet Union.

The following letter which came to me from Mr. David Hildes eloquently details the current plight of the families Vinokur and Epshtein. I am including the letter in the RECORD in hopes that public concern will encourage the U.S.S.R. to reevaluate their present position:

We entreat you in the name of the humanity principles of the Helsinki Conference Declaration on Human Rights to help us reunite with relatives in the Soviet Union. For almost two years, the Soviet Authorities have refused to allow them to leave Leningrad and reunite with us in Israel.

They are: Our ill sister, Anna Vinokur, 69 years old, widow of a disabled world war II veteran, her daughter, Olga Vinokur Epshtein, 38 years old, her daughter's husband, Yakov Epshtein, 42 years old, their daughter, Marina Epshtein, 19 years old. Their address—Leningrad, Maikov Skogo 10– Flat 10. On April 24, 1974 they filed applications for exit visas to Israel. After 7 months of waiting, they were refused visas. In addition they were told that they would not even be considered for visas before 1979. These decisions had been based on false statements by persons from Yakov Epshtein's former place of work, an office in which he stopped working on September 12, 1973.

This outrageous time span is in direct defiance of both the spirit and the words of the Helsinki agreement. We beg you to appeal to the leaders of the Soviet government, L. I. Breznev, A. N. Kosigin, and N. Y. Podgorni on the occasion of your humane and positive consideration of our requests.

Due to the age and poor health of the people involved, our requests are of an urgent nature and need whatever attention you can give them.

With great respect,

Grateful members of families Vinokur and Epshtein.

THE HIGHLIGHTS OF THE DANIEL SCHORR DRAMA AS SEEN BY THE HONORABLE CHARLES W. WHALEN, JR.

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, we as a Congress face the possibility of a showdown between the public's "right to know" and the Government's "right to classify."

Before that showdown develops, we might well review the thoughts of Mr. WHALEN, our colleague from Ohio who is also the author of "Your Right to Know," regarding the issues. These ideas, published in the New York Times of August 29, are hereby submitted:

THE HIGHLIGHTS OF THE DANIEL SCHORR DRAMA

(By CHARLES W. WHALEN, JR.)

WASHINGTON.—Arthur Miller's talents are not needed to complete "The View from the D.C. Jail." The first two acts of the Daniel Schorr drama already have been produced. The last act could be penned by any sophomore.

Act I occurred on Feb. 19. Finding that the "alleged actions of the said Daniel Schorr may be in contempt of . . . this House," the House of Representatives directed the Committee on Standards of Official Conduct to "inquire into the circumstances surrounding the publication of the text and any part of the report of the Select Committee on Intelligence."

Act II, Scene I, was staged on March 3 when the House authorized Chairman John Flynt's committee to subpoena witnesses to carry out its investigation. In scene 2, presented on March 29, the House granted the committee $150,000 to hire investigative staff.

The script of the last act is predictable. Congressman Flynt announced last Wednesday that C.B.S. reporter Schorr will be subpoenaed to testify before the Flynt committee. Citing the journalists' code of ethics which forbids disclosure of sources, Schorr will refuse to name his informant. The committee's subsequent contempt of Congress citation will be approved by the House. The Supreme Court, reaffirming its 1972 Caldwell decision, will reject Mr. Schorr's claim of First Amendment protection. In the final scene, Mr. Schorr will be escorted to the District of Columbia jail, remaining until Congress adjourns in October.

Is the foregoing scenario likely?

Mr. Schorr's transmittal of the "leaked" report to the Village Voice presents the House with a rare opportunity to wreak vengeance against what many members view as their mortal enemy—the press. Cooler heads, of course, might help avert a confrontation with Mr. Schorr. Yet when Majority Leader Thomas P. O'Neill moved to sidetrack the inquiry resolution to the Rules Committee, he was overruled by a 172–219 margin. Thus, House members also might ignore Minority Leader John Rhodes' suggestion that if Mr. Schorr refuses to disclose his sources, "so be it; that is his prerogative as a newsman."

In deciding whether to make a Schorr-Congressional showdown a reality, the Flynt committee should consider the following facts.

First, in almost every instance, journalists, when subpoenaed, refuse to reveal their sources. One of the earliest press-government conflicts involved James Simonton, a New York Times reporter. More than a century ago, he wrote that several Congressmen were accepting bribes. When asked by a House select committe to name his informants, Simonton responded: "I cannot without a violation of confidence, than which I would rather suffer anything." On Jan. 21, 1857, the House voted Simonton in contempt and placed him in custody. Nineteen days later, however, convinced that Simonton would never divulge his sources, the House approved his discharge.

Second, investigative authorities, notwithstanding journalists' uncommunicativeness, usually have unraveled the mysteries assigned them. For example, without learning James Simonton's source of information, the select committee determined that his charges were true and three Congressmen subsequently resigned.

Third, the Schorr case brings into focus the question of government classification. Representative Otis Pike (New York Democrat), Chairman of the Select Committee on Intelligence, states that the contents of his report, while embarrassing, are not inimical to our nation's security. There are 14,738 individuals empowered to classify material handled by the executive branch. Few papers escape the classifier's stamp.

The Flynt committe's principal function is to identify the person who transmitted Congressionally proscribed material to unauthorized individuals. However, the committee can make a truly significant contribution to the public's "right to know" by analyzing classification procedures and recommending a more realistic system—one designed to protect security, not misdeeds or mistakes.

In pursuing these dual objectives, the committee has two choices. It can follow the "D.C. Jail" script which is sure-fire box office. Or it can adopt a modified third act which extends Mr. Schorr the right to protect his source of information. In either case, the findings ultimately would be the same. However, the latter version would spare the country the spectacle of a public trial and incarceration.

CONFERENCE REPORT ON H.R. 15193

Mr. NATCHER submitted the following conference report and statement (pursuant to the order of the House on September 9, 1976) on the bill (H.R. 15193) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes":

CONFERENCE REPORT (H. REPT. No. 94–1500)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 8, 9, 54, 55, 56, 57, 58, 59, and its unnumbered amendment to amend the title of the Act.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 7, 10, 11, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 35, 37, 39, 40, 42, 44, 46, 47, 50, and 52, and agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$54,182,600"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,854,600"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the matter stricken by said amendment insert:

"SEC. 107. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed."

And the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "108"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "109"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "110"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "111"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "112"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "113"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "114"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "115"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "116"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "117"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 6, 16, 18, 19, 48, and 60.

William H. Natcher,
Robert N. Giaimo,
Louis Stokes
(except amendment No. 12),
Gunn McKay,
Bill Burlison,
Bill Alexander,
Yvonne Burke
(except amendment No. 12),
Charles Wilson,
George Mahon,
Bill Young,
Jack Kemp,
Clair W. Burgener,
Elford A. Cederberg,
Managers on the Part of the House.
Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
John L. McClellan,
Thomas F. Eagleton,
Charles McC. Mathias, Jr.
(except amendment No. 12),
Dick Schweiker,
Milton R. Young
(except amendment No. 12),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The manager on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Deletes language proposed by the Senate to include the Pennsylvania Avenue Development Corporation in the enacting clause.

TITLE I—DISTRICT OF COLUMBIA

Amendment No. 2: Inserts title and heading as proposed by the Senate.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $259,797,400 instead of $270,000,000 as proposed by the House and $259,973,300 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

Amendment No. 4: Appropriates $101,292,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

Amendment No. 5: Inserts word title as proposed by the Senate instead of Act as proposed by the House.

GENERAL OPERATING EXPENSES

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $84,453,300 instead of $112,870,700 as proposed by the House and $84,550,800 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Provides that $799,300 shall be payable from the revenue sharing trust fund as proposed by the Senate instead of $4,561,600 as proposed by the House.

Office of the Mayor.—The conference action provides $1,195,700 as proposed by the Senate instead of $1,066,000 as proposed by the House and includes the transfer of the legislative function from the Office of the Corporation Counsel to the Office of the Mayor, as well as the transfer of $52,100 from the Department of Human Resources and the establishment of three new positions to provide for a Latino community affairs activity.

Executive Office.—The conference action provides $24,705,900 as proposed by the Senate instead of $23,183,200 as proposed by the House. Included is $7,075,900 for the Office of Budget and Management Systems as proposed by the Senate instead of $5,575,900 as proposed by the House and provides $1,500,000 in District of Columbia funds for financial management programs as proposed by the Senate, which at some future time will be matched with Federal funds as authorized by Public Law 94–399 which provides for an independent audit of the financial condition of the Government of the District of Columbia. The sum of $1,849,100 is provided for the Municipal Planning Office as proposed by the Senate instead of $1,851,800 as proposed by the House. The sum of $129,200 is provided for the Office of Emergency Preparedness as proposed by the Senate instead of $63,200 as proposed by the House. The sum of $770,400 is provided for the Rental Accommodations Office as proposed by the Senate instead of $811,000 as proposed by the House.

Department of Finance and Revenue.—The conference action provides $10,139,600 and 583 positions, including 49 positions in Tax Administration to collect delinquent taxes, as proposed by the Senate instead of $9,460,100 and 542 positions as proposed by the House.

Office of the Corporation Counsel.—The conference action provides $4,103,000 and 171 positions instead of $4,180,600 and 174 positions as proposed by the House and $4,200,500 and 176 positions as proposed by the Senate. The conferees have approved the transfer of the Legislation Office to the Office of the Mayor as proposed by the Senate. The conferees have denied the additional positions proposed by the Senate for prosecuting delinquent tax cases, but direct that the Corporation Counsel assign at least 5 existing positions for the sole purpose of prosecuting delinquent tax cases.

Contributions to metropolitan area agencies.—The conference action provides $212,800 as proposed by the Senate instead of $27,222,200 as proposed by the House and reflects the transfer of the Washington Metropolitan Area Transit Authority Metrobus subsidy program and the Washington Metropolitan Area Transit Commission to the Transportation appropriation as proposed by the Senate.

Miscellaneous contributions.—The conference action provides $252,000 as proposed by the Senate instead of $3,914,300 as proposed by the House and reflects the transfer of the School Transit Subsidy to the Transportation appropriation. The sum of $200,000 is provided for the Washington Convention and Visitors Bureau as proposed by the Senate instead of $100,000 as proposed by the House.

Amendment No. 8: Deletes language inserted by the Senate providing that not to exceed $15,000 of the appropriation for the period July 1, 1976, through September 30, 1976, shall remain available in fiscal year 1977 for expenses of the Advisory Neighborhood Commissions during fiscal year 1976.

PUBLIC SAFETY

Amendment No. 9: Appropriates $247,160,400 as proposed by the House instead of $246,258,800 as proposed by the Senate.

Metropolitan Police Department.—The conference agreement provides the sum of $128,046,100 as proposed by the House instead of $127,144,500 as proposed by the Senate and includes $901,600 for 105 uniform police officers as proposed by the House and deleted by the Senate.

HUMAN RESOURCES

Amendment No. 10: Appropriates $268,475,600 as proposed by the Senate instead of $267,955,800 as proposed by the House.

Executive direction and support.—The conference action approves the transfer of $52,100 to the Office of the Mayor for Latino community affairs activity as proposed by the Senate.

Payments Assistance Administration.—The conference action provides 86 additional positions and an increase of $916,300 for implementation of a billing system for health care institutions as proposed by the Senate. The conference action reduces the base for financial assistance $2,492,300 as a result of reducing the high overpayment and ineligibility rates as proposed by the Senate. The conference action provides $431,100 to fund 50 previously unfunded positions associated with case work efforts of the various welfare programs as proposed by the Senate. The conference action provides a reduction of $1,500,000 in the base for Medical Vendor Services as proposed by the Senate.

Mental Health Administration.—The conference action concurs in the proposal of the Senate which denies the requested redirection of 101 positions and $1,676,500 from the Rehabilitation Center for Alcoholics (RCA) to various other agencies in the Mental Administration. The conference action concurs in the proposal of the Senate to restore $3,600 to the base as a result of the denial of the redirection from the Rehabilitation Center for Alcoholics. The conference action concurs in the proposal of the Senate providing 188 additional positions and $3,213,200 to meet all Federal standards at Forest Haven.

Amendment No. 11: Appropriates $13,733,000 for care and treatment of the mentally retarded at Forest Haven as proposed by the Senate instead of $10,994,400 as proposed by the House.

TRANSPORTATION

Amendments Nos. 12 and 13: Appropriate $54,182,600 instead of $25,810,900 as proposed by the House and $55,162,600 as proposed by the Senate, of which $6,262,300 shall be payable from the revenue sharing trust fund as proposed by the Senate instead of $2,500,000 as proposed by the House. The conference action reflects the transfer of the Washington Metropolitan Area Transit Authority Metrobus subsidy program, the Washington Metropolitan Area Transit Commission and the School Transit Subsidy to the Transportation appropriation as proposed by the Senate.

Department of Transportation.—The conference action provides $25,810,900 as proposed by the House instead of $26,790,900 as proposed by the Senate and deletes the sum of $980,000 proposed by the Senate for street lighting.

Washington Metropolitan Area Transit Authority.—The conference action provides $24,536,000, including $23,403,600 for the Metrobus operating subsidy as proposed by the Senate instead of a total of $26,936,000, including $25,803,600 for Metrobus operating subsidies as proposed by the House, and reflects a reduction of $2,400,000 in the District of Columbia contribution for Metrobus subsidies as proposed by the Senate.

ENVIRONMENTAL SERVICES

Amendment No. 14: Appropriates $69,036,000 as proposed by the Senate instead of $69,078,000 as proposed by the House.

SETTLEMENT OF CLAIMS AND SUITS

Amendment No. 15: Appropriates $166,600 as proposed by the Senate instead of $143,100 as proposed by the House.

CAPITAL OUTLAY

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $36,586,700 instead of $35,794,700 as proposed by the House and $36,286,700 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides funding for projects in which there were differences in the amounts proposed by the House and Senate as follows:

[In thousands of dollars]

Project	House allowance	Senate allowance	Conference allowance
Prevocational/Vocational Center for the Handicapped	300	0	300
Permanent improvements, various District buildings	7,800	7,300	7,300
Sursum Corda Neighborhood Development Center	0	1,292	1,292

The conferees are agreed that no expenditure of funds will be approved to construct a new facility for the Prevocational/Vocational Center until the City provides adequate justification that existing space cannot be used or converted for this purpose.

Amendment No. 17: Provides that $1,854,600 shall be available for construction services instead of $1,938,000 as proposed by the House and $1,554,600 as proposed by the Senate.

Amendments Nos. 18 and 19: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate appropriating $1,292,000 for the Sursum Corda Neighborhood Center of which $900,000 shall be for the completion of the Sursum Corda Neighborhood Center to be repaid to the city out of funds raised by Sursum Corda, Inc. through fundraising activities and provides that all sums so collected be applied to the cost of construction with a corresponding reduction in, or refund of, appropriated District of Columbia funds, and $392,000 shall be for equipment for the center.

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

Amendment No. 20: Amends heading to include District of Columbia as proposed by the Senate.

Amendments Nos. 21 through 31: Change section numbers and references as proposed by the Senate.

Amendment No. 32: Restores language proposed by the House and stricken by the Senate and changes section number and title reference as follows:

Sec. 107. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed.

Amendments Nos. 33 through 46: Change section numbers and references.

Amendment No. 47: Provides employment ceiling of 35,145 filled positions as proposed by the Senate instead of 35,250 as proposed by the House. The conferees are agreed that the 105 police positions, for which funds are provided under Public Safety, are included within this ceiling.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: ", exclusive of positions initially authorized or funded by this title; and exclusive of the 20 positions approved in the transition period for Forest Haven, Department of Human Resources; 28 positions approved in fiscal year 1976 for Tax Administration, Department of Finance and Revenue; and 303 positions approved in fiscal year 1976 for the District of Columbia General Hospital, Department of Human Resources".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendments Nos. 49 through 53: Change section numbers and references.

Amendment No. 54: Changes reference to Act as proposed by the House instead of title as proposed by the Senate.

TITLE II—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Amendments Nos. 55 through 58: Delete title and language proposed by the Senate appropriating $25,000,000 for Land Acquisition and Development and $11,450,000 for Public Development.

Amendment No. 59: Deletes Act citation inserted by the Senate.

TITLE III—DEPARTMENT OF TRANSPORTATION

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, making funds provided for the Coast Guard's Pollution Fund in Public Law 94-387 immediately available upon enactment of the bill, as proposed by the Senate, and changing title number as follows:

TITLE II—DEPARTMENT OF TRANSPORTATION

Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

UNNUMBERED SENATE AMENDMENT

The Senate recedes from its amendment to amend the title of the Act.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amount, the 1977 budget estimates, and the House and Senate bills for 1977 follows:

FEDERAL FUNDS

New budget (obligational) authority, fiscal year 1976	$464,636,700
Budget estimates of new (obligational) authority, fiscal year 1977	[1] 396,894,000
House bill, fiscal year 1977	372,707,000
Senate bill, fiscal year 1977	[2] 400,422,300
Conference agreement	363,796,400
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1976	−100,840,300

FEDERAL FUNDS—Continued	
Budget estimates of new (obligational) authority, fiscal year 1977	−33,097,600
House bill, fiscal year 1977	−8,910,600
Senate bill, fiscal year 1977	−36,625,900
DISTRICT OF COLUMBIA FUNDS	
New budget (obligational) authority, fiscal year 1976	1,159,849,200
Budget estimates of new (obligational) authority, fiscal year 1977	1,128,075,600
House bill, fiscal year 1977	1,118,859,800
Senate bill, fiscal year 1977	1,119,983,300
Conference agreement	1,120,107,400
New budget (obligational) authority, fiscal year 1976	−39,741,800
Budget estimates of new (obligational) authority, fiscal year 1977	−7,968,200
House bill, fiscal year 1977	+1,247,600
Senate bill, fiscal year 1977	+124,600

[1] Excludes budget estimate of $36,450,000 for Pennsylvania Avenue Development Corporation as it is already reflected in estimates considered in connection with the Department of the Interior and Related Agencies Appropriation Act, 1977.

[2] Includes $36,450,000 for the Pennsylvania Avenue Development Corporation.

William H. Natcher,
Robert N. Giaimo,
Louis Stokes
(except amendment No. 12),
Gunn McKay,
Bill Burlison,
Bill Alexander,
Yvonne Burke
(except amendment No. 12),
Charles Wilson,
George Mahon,
Bill Young,
Jack Kemp,
Clair W. Burgener,
Elford A. Cederberg,
Managers on the Part of the House.

Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
John L. McClellan,
Thomas F. Eagleton,
Charles McC. Mathias, Jr.
(except amendment No. 12),
Dick Schweiker,
Milton R. Young
(except amendment No. 12),
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 366

Mr. EILBERG submitted the following conference report and statement (pursuant to the order of the House on September 9, 1976) on the bill (H.R. 366) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty:

Conference Report (H. Rept. No. 94–1501)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"Sec. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"Sec. 702. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"Sec. 703. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(A) eighteen years of age or under;

"(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"Sec. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.".

MISCELLANEOUS PROVISIONS

Sec. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.".

Sec. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

Sec. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Sec. 6. The amendments made by this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

Peter W. Rodino,
Joshua Eilberg,
Paul S. Sarbanes,
John F. Seiberling,
Tom Railsback,
Hamilton Fish, Jr.,
Managers on the Part of the House.
John L. McClellan,
Philip A. Hart,
Edward M. Kennedy,
Roman L. Hruska,
Strom Thurmond,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

OCCUPATIONAL COVERAGE

The House bill provided a $50,000 death benefit to the survivors of law enforcement officers who die in the performance of duty.

The Senate amendment provided a $50,000 death benefit to the survivors of both law enforcement officers and firemen who die in the line of duty.

The Conference substitute conforms to the Senate amendment.

The Managers believe that coverage should be provided to both categories of public safety officers (law enforcement officers and firemen); and it is noted that the House approved separate legislation (H.R. 365) which would have provided a similar benefit to firemen.

SCOPE OF COVERAGE

The House bill authorized payment if the public safety officer's death was the result of a personal injury sustained in the line of certain hazardous duties which are specified in the bill. Such duties included: apprehending or guarding criminals; preventing crime; and other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous. The parallel House bill for firemen (H.R. 365) authorized payment whenever a fireman sustained fatal injuries while actually and directly engaged in fighting fires or in other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous.

The Senate amendment authorized payment of the death benefit to the survivors of law enforcement officers and firemen for all line of duty deaths.

The Conference substitute conforms to the Senate amendment.

The Managers believe that "line of duty" is a well established concept and that it is appropriate to extend coverage to all acts performed by the public safety officer in the discharge of those duties which are required of him in his capacity as a law enforcement officer or as a fireman.

DEFINITION OF "LAW ENFORCEMENT OFFICER"

The House bill defined "law enforcement officer" to specifically include police, corrections, probation, and parole officers as well as officials engaged in programs relating to the prevention, control, and reduction of juvenile delinquency or narcotics addiction.

The Senate amendment defined "law enforcement officer" to specifically include police, corrections, probation, parole, and judicial officers.

The Conference substitute is a combination of both the House and Senate definitions. It defines "law enforcement officer" to mean "a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers."

The Managers have not expressly included officials engaged in programs relating to narcotics addiction. It is, however, the intent of the Managers that the definition of "law enforcement officer" be construed to cover such individuals if they are exposed, on a regular basis, to criminal offenders such as those responsible for screening arrestees or prisoners for possible diversion into drug treatment programs.

DEPENDENCY TEST

The House bill required survivors of the public safety officer (other than children who are a defined category) to be dependent for more than one half of their support on the public safety officer in order to be eligible for the death benefit.

The Senate amendment provided that only a parent must be dependent on the public safety officer in order to be eligible for the death benefit, and "dependent" is defined as being "substantially reliant for support upon the income of the deceased public safety officer".

The Conference substitute conforms to the Senate amendment. It was felt that the Senate provision was more flexible than that contained in the House bill, and the Managers agreed that the language contained in the Conference substitute should be liberally interpreted.

EFFECTIVE DATE FOR DEATH BENEFITS

The House bill provided that death benefits shall apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972.

The Senate amendment provided that the bill would become effective for deaths resulting from injuries sustained on or after the date of enactment of the bill.

The Conference substitute conforms to the Senate amendment.

GROUP LIFE INSURANCE PROGRAM

The Senate amendment contained provisions establishing a Group Life Insurance Program for public safety officers.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment.

VICTIMS OF CRIME

The Senate amendment contained provisions authorizing Federal funds to compensate the victims of crime.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment, and the Managers agreed that this subject should be handled through separate legislation.

Peter W. Rodino,
Joshua Eilberg,
Paul S. Sarbanes,
John F. Seiberling,
Tom Railsback,
Hamilton Fish, Jr.,
Managers on the Part of the House.
John L. McClellan,
Philip A. Hart,
Edward M. Kennedy,
Roman L. Hruska,
Strom Thurmond,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Andrews of North Dakota (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Corman (at the request of Mr. O'Neill), for today on account of official business.

Mr. Horton (at the request of Mr. Rhodes), for today, on account of official business, committee hearings.

Mr. Jones of North Carolina (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Mann (at the request of Mr. O'Neill), for today, on account of official committee business.

Mr. Moss, for the period beginning close of business on September 24 to October 9, 1976, on account of travel to district for official business.

Mr. Rangel, for today, Friday, September 10, on account of constituent business outside of Washington.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Moore), to revise and extend their remarks, and to include extraneous matter:)

Mr. Jeffords, for 10 minutes, today.

Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Hall of Texas) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Solarz, for 10 minutes, today.

Mr. Rostenkowski, for 10 minutes, today.

Mr. McFall, for 5 minutes, today.

Ms. Holtzman, for 15 minutes, today.

Mr. Hayes of Indiana, for 10 minutes today.

Mr. Adams, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Seiberling, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,501.50.

Mr. BROOMFIELD, to extend his remarks prior to the vote on the Dingell-Broyhill amendment in the Committee of the Whole today.

(The following Members (at the request of Mr. MOORE, and to include extraneous matter:)

Mr. ANDERSON of Illinois.

Mr. PRITCHARD.

Mr. FINDLEY.

Mr. DEVINE.

Mr. SCHNEEBELI.

Mr. BROWN of Ohio.

Mr. KEMP in three instances.

Mr. GILMAN.

Mr. WIGGINS.

Mr. DERWINSKI.

Mr. CRANE.

(The following Members (at the request of Mr. HALL of Texas) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. JONES of Tennessee.

Mr. OTTINGER.

Mr. RODINO.

Mr. FRASER in two instances.

Mr. PIKE.

Mr. SIMON.

Mr. HAWKINS in two instances.

Mr. FAUNTROY.

Mr. McDONALD in two instances.

Mr. JOHNSON of California.

Mr. BRECKINRIDGE.

Mr. EVINS of Tennessee.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 201. Concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 94th Congress as a Senate ducument; to the Committee on House Administration.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5465. An act to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes;

H.R. 8603. An act to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes; and

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

ADJOURNMENT

Mr. HALL of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until Monday, September 13, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4000. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new system of records for the Department of Commerce, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4001. A letter from the Secretary, Federal Trade Commission, transmitting notice of a proposed system of records of the Commission, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4002. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92-403; to the Committee on International Relations.

4003. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 76th national encampment of the United Spanish War Veterans; to the Committee on Veterans' Affairs and ordered to be printed with illustrations.

RECEIVED FROM THE COMPTROLLER GENERAL

4004. A letter from the Acting Comptroller General of the United States, transmitting a report on deficiencies in State safety and health enforcement activities; jointly, to the Committees on Government Operations, and Education and Labor.

4005. A letter from the Acting Comptroller General of the United States, transmitting the third annual report of the General Accounting Office on its program to improve the usefulness of fiscal, budgetary, and program-related information to congressional users, pursuant to section 202(e) of the Legislative Reorganization Act of 1970, as amended; jointly, to the Committees on Government Operations, and House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FLOWERS: Committee on the Judiciary. H.R. 6816. A bill for the relief of Dr. Daryl C. Johnson; with an amendment (Rept. No. 94–1492). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 11859. A bill for the relief of William H. Klusmeier, publisher of the Austin Citizen of Austin, Tex. (Rept. No. 94–1493). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. S. 3035. An act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson (Rept. No. 94–1494). Referred to the Committee of the Whole House.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1531. A resolution providing for the consideration of H.R. 12808. A bill to amend sections 358, 358a, 359, and 373 of the Agricultural Adjustment Act of 1938 and title I of the Agricultural Act of 1949 for the purpose of improving peanut programs, and for other purposes (Rept. No. 94–1495). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1532. A resolution providing for the consideration of H.R. 14319. A bill to amend the Public Health Service Act and the Social Security Act to revise and improve the authorities under those Acts for the regulation of clinical laboratories (Rept. No. 94–1496). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1533. A resolution providing for the consideration of H.R. 14496. A bill to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste (Rept. No. 94–1497). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules, House Resolution 1534. A resolution providing for the consideration of H.R. 15069. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes (Rept. No. 94–1498). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1535. A resolution providing for the consideration of H.R. 15319. A bill to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code (Rept. No. 94–1499). Referred to the House Calendar.

Mr. NATCHER: Committee of conference. Conference report on H.R. 15193 (Rept. No. 94–1500). Ordered to be printed.

Mr. EILBERG: Committee of conference. Conference report on H.R. 366 (Rept. No. 94–1501). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS (for himself, Mr. AUCOIN, Mr. BLOUIN, Mr. HARKIN, Mr. HARRINGTON, Mr. KREBS, Mr. MANN, Mr. MINETA, Mrs. MINK, Mr. RIEGLE, Mr. ROSE, Mr. SIMON, Mr. STARK, and Mr. UDALL):

H.R. 15512. A bill to authorize Federal assistance under the Consolidated Farm and Rural Development Act with respect to using solar energy in residential structures on family farms; to the Committee on Agriculture.

H.R. 15513. A bill to provide more Federal assistance under certain housing programs for dwelling units which utilize solar energy; to the Committee on Banking, Currency and Housing.

H.R. 15514. A bill to amend title 38, United States Code, to provide Federal loans and loan guarantees to veterans for the purchase and installation of heating and cooling systems which utilize solar energy; to the Committee on Veterans' Affairs.

By Mrs. BURKE of California (for herself, Mr. KOCH, and Mr. STOKES):

H.R. 15515. A bill to establish a national commission on neighborhoods; to the Committee on Banking, Currency and Housing.

By Mr. DE LUGO:

H.R. 15516. A bill to convey mineral rights in certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN:

H.R. 15517. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to certain individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself, Mr. ABDNOR, Mr. AUCOIN, Mr. ANDERSON of California, Mr. BAFALIS, Mr. BLOUIN, Mr. BONKER, Mr. BURKE of Massachusetts, Mrs. CHISHOLM, Mr. DRINAN, Mr. FASCELL, Mr. FISHER, and Mr. FITHIAN):

H.R. 15518. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. LENT:

H.R. 15519. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 15520. A bill to direct the Secretary of Health, Education, and Welfare to develop and implement a system for the issuance of social security benefit checks on a staggered or cyclical basis; to the Committee on Ways and Means.

H.R. 15521. A bill to amend title XVIII of the Social Security Act to include the cost of drugs requiring a doctor's prescription among the medical expenses with respect to which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

H.R. 15522. A bill to amend title II of the Social Security Act to reduce from 72 to 70 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits; to the Committee on Ways and Means.

By Mr. LOTT:

H.R. 15523. A bill to amend the Public Health Service Act to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians; jointly, to the Committees on Interstate and Foreign Commerce and Post Office and Civil Service.

By Mr. QUILLEN:

H.R. 15524. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activities authorized thereunder; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 15525. A bill to reorganize the executive branch of the Government in order to improve the management of the Outer Continental Shelf; to the Committee on Government Operations.

By Mr. ANDERSON of California (for himself and Mr. MOORHEAD of Pennsylvania):

H.J. Res. 1091. A resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on Post Office and Civil Service.

By Mr. GREEN:

H. Con. Res. 746. A resolution relating to the disapproval of the waiver by the Secretary of the Treasury of the imposition of countervailing duties on imports of leather handbags from Brazil; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H. Con. Res. 747. A resolution disapproving certain proposed sales to Iran of defense articles and services; to the Committee on International Relations.

By Mr. LAGOMARSINO:

H. Res. 1529. A resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

By Mr. McFALL (for himself and Mr. JOHNSON of California):

H. Res. 1530. A resolution expressing the sense of the House with respect to the immediate removal of certain regulations unilaterally put in place by the European Economic Community which have the effect of damaging and interfering with historic and acceptable trade patterns in the U.S. exports of dried prunes, and efforts made to restrict exports of walnuts to the EEC, and action taken by the United States if such import regulations are not immediately removed and if additional unilateral regulations are instituted; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

457. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to violence on prime-time television, which was referred to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Massachusetts:

H.R. 15526. A bill for the relief of Zivka Jovanovic; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 15527. A bill for the relief of Rosalinda Flores Vaow; to the Committee on the Judiciary.

By Mr. ROBINSON (by request):

H.R. 15528. A bill for the relief of Beulah C. Shifflett; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

579. Mr. WYLIE presented a petition of members of credit unions in the 15th Congressional District of Ohio, relative to the proposed "Financial Institutions Act of 1975," which was referred to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 2371

By Mr. HECHLER of West Virginia:

On page 9, after line 15, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 13. (a) Each officer or employee of the Secretary of the Interior who—

"(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

"(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System;

"shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) the Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

H.R. 12112

By Mr. HAYES of Indiana:

On page 40 (which is part of the Science and Technology Committee amendment), strike the sentence beginning on line 1 and ending on line 5 and insert therein the following: "Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, who obtained such guaranteed obligataion for value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation."

On page 80 (which is part of the Banking, Currency and Housing Committee amendment), strike the sentence beginning on line 3 and ending on line 7 and insert therein the following: "Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, who obtained such guaranteed obligation for value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation."

On page 71 (which is part of the Banking, Currency and Housing Committee amendment), after the period on line 13, insert the following: "Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent."

On page 33 (which is part of the Science and Technology Committee amendment), after the period on line 11, insert the following: "Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent."

On page 69 (which is part of the Banking, Currency and Housing Committee amendment), strike the sentence beginning on line 12 and ending on line 15 and insert the following:

"(13) The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under this section terminates on September 30, 1981. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this section prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this section."

On page 31 (which is part of the Science and Technology Committee amendment), strike the sentence beginning on line 11 and ending on line 14 and insert therein the following:

"(13) The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under this section terminates on September 30, 1981. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this section prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts or paid out in carrying on operations under this section."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 9, 1976, page 29579:

HOUSE BILLS

H.R. 15121. August 9, 1976. Ways and Means. Amends the Internal Revenue Code of 1954 and the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization on behalf of its employees shall constitute a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund of such taxes.

H.R. 15122. August 9, 1976. Interior and Insular Affairs. Designates specified trails for study as potential additions to the National Trails System.

H.R. 15123. August 9, 1976. Interior and Insular Affairs. Designates specified trails for study as potential additions to the National Trails System.

H.R. 15124. August 9, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15125. August 9, 1976. International Relations. Directs the Director of the United States Information Agency to make a master copy of a certain film available to a specified organization.

H.R. 15126. August 9, 1976. Post Office and Civil Service. Directs that the veterans readjustment of the civil service appointment of a certain individual be deemed to have been made within 1 year after such individual's separation from the Air Force

H.R. 15127. August 10, 1976. Merchant Marine and Fisheries; Science and Technology. Establishes a clearinghouse through which all research projects conducted in, or which affect, the Chesapeake Bay area will be reviewed and to identify the needs and priorities for such additional research projects as are required.

H.R. 15128. August 10, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 15129. August 10, 1976. Agriculture. Directs the Secretary of Agriculture to formulate five-year goals in specified areas of rural development and to include in an annual report to Congress the progress made or anticipated in meeting such goals.

Requires the appointment of a new Assistant Secretary of Agriculture for Rural Development within 60 days if a vacancy should occur in such position.

H.R. 15130. August 10, 1976. Education and Labor. Amends the program of Aid to Families with Dependent Children of the Social Security Act to: (1) increase the incentive of a recipient to work by increasing the amount of earnings which an individual may retain without losing eligibility for such aid; (2) direct a study of the requirements for participation by recipients in work incentive programs; and (3) establish two supplementary work programs for individuals who do not participate in work incentive programs and who are not exempted from such programs under existing regulations.

H.R. 15131. August 10, 1976. Education and Labor. Directs the Secretary of Labor to formulate and administer an employment and training program under which Federal grants will be made available to State agencies upon request for distribution to unemployed individuals within the State through employers.

States that such subsidies shall be made available to employers who provide unemployed individuals with employment and training opportunities.

H.R. 15132. August 10, 1976. Ways and Means. Amends the Internal Revenue Code to increase the amount of the personal exemption from $750 to $1,000. Provides for automatic annual cost-of-living increases in individual income tax rates. Allows a tax credit for educational expenses paid to an institution of higher education for the taxpayer, his spouse, and any of his dependents.

H.R. 15133. August 10, 1976. Post Office and Civil Service. Permits credit, for civil service retirement purposes, for National Guard technician service before January 1, 1969 where such an individual performs creditable service after such date.

H.R. 15134. August 10, 1976. Public Works and Transportation; Government Operations. Amends the Public Buildings Act of 1959 and the Federal Property and Administrative Services Act of 1949 to require the Administrator of General Services, when acquiring or managing space necessary for Federal agencies, to (1) utilize space in buildings of historic, architectural, or cultural significance where feasible; (2) encourage the location of commercial, cultural, educational, or recreational activities within or near public buildings; and (3) encourage the public use of public buildings outside of regular Federal working hours.

Requires the Administrator to place on the access level of Federal buildings those activities requiring regular public contact.

H.R. 15135. August 10, 1976. Post Office and Civil Service. Repeals the provisions of Public Law 94–82 authorizing increases in the salaries of Members of Congress.

H.R. 15136. August 10, 1976. Armed Services. Authorizes appropriations for the construction of military facilities and housing on Guam.

H.R. 15137. August 10, 1976. Interstate and Foreign Commerce. Establishes a National Voluntary Medical and Hospital Services Insurance Agency charged with the responsibility to make all necessary preparations to offer subscriptions and enrollments, and to commence payment of claims for benefits claimed by enrollees under a National Voluntary Medical and Hospital Services Insurance Plan. Preempts all similar or duplicate hospital and medical service insurance benefits or payments provided by any other agency of the United States.

H.R. 15138. August 10, 1976. Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of demonstration projects designed to increase economic productivity and expand employment opportunities. Establishes an Advisory Committee on Human Resources and Employment Opportunities to furnish advice and assistance in the administration of the demonstration projects program.

H.R. 15139. August 10, 1976. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to require utilities to file curtailment plans to meet anticipated power shortages.

Requires public hearings on proposals for utility rate increases. Authorizes the Commission to take additional measures to eliminate discriminatory and anticompetitive practices by utilities.

H.R. 15140. August 10, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake the advanced engineering and design stage of the Sowashee Creek modification project in Mississippi.

H.R. 15141. August 10, 1976. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to authorize the Commissioner of Education to make grants to, and enter into contracts with, schools of medicine, dentistry, and osteopathy for the purpose of offering regional three-year demonstration programs introducing secondary students from disadvantaged backgrounds to the health professions.

H.R. 15142. August 10, 1976. Education and Labor. Amends the Higher Education Act of 1965 to direct the Commissioner of Education to make annual grants to schools of medicine, dentistry, and osteopathy for the purpose of offering regional medical academic summer enrichment programs for undergraduate students from deprived educational or economic backgrounds.

H.R. 15143. August 10, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make annual grants to schools of medicine, osteopathy, and dentistry for the support of education programs of such schools relating to the special needs of students from disadvantaged backgrounds enrolled in such schools.

H.R. 15144. August 10, 1976. Interior and Insular Affairs. Amends Acts authorizing the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for maintenance and operation on specified Pueblo Indian lands to delete the five-year limitation on authorizations of annual appropriations to pay the costs of such maintenance and operation.

H.R. 15145. August 10, 1976. Agriculture. Directs the Administrator of the Rural Electrification Administration of the Department of Agriculture to conduct a study and institute a pilot project regarding anaerobic digesters and to issue reports relating to such study and project. Defines "anaerobic digester" as any device which converts waste materials into usable gas or fertilizer. Authorizes the Administrator to make grants to specified small farmers for the construction of digesters which have been proven to be safe and efficient.

H.R. 15146. August 10, 1976. Ways and Means. Amends the Internal Revenue Code to specify that the only records which an employer shall be required to keep in connection with charged tips shall be charge receipts and copies of statements furnished by employees.

H.R. 15147. August 10, 1976. Ways and Means. Amends the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act to provide that service performed by members of the Armed Forces in combat zones shall be counted twice in determining the number of quarters of Social Security coverage of such service personnel.

H.R. 15148. August 10, 1976. Post Office and Civil Service. Directs the Secretary of Commerce, upon the request of a municipality or a subdivision of a municipality, to provide without charge to such entity census statistics which relate to the population of such municipality or subdivision. States that census statistics more than 22 years old shall not be provided pursuant to such a request.

H.R. 15149. August 10, 1976. Interstate and Foreign Commerce. Requires any person who makes payments to any individual or entity in connection with an official action, sale, or contract with a foreign government for the commercial benefit of the person or foreign affiliate to report such payments to the Secretary of Commerce under such regulations as the Secretary may issue.

Imposes civil and criminal penalties for the violation of this Act.

Directs the Secretary to disseminate copies of reports filed under this Act to the Department of Justice, the Department of State, the Internal Revenue Service, and where appropriate the Securities Exchange Commission.

H.R. 15150. August 10, 1976. Banking, Currency and Housing. Amends the Consumer Credit Protection Act to prohibit specified practices in the case of second mortgages which secure residential property including: prepayment penalty, foreclosure without opportunity for judicial hearing, and harassment through collection practices.

Prescribes remedies with respect to any violation.

H.R. 15151. August 10, 1976. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to make such Act inapplicable to the importation, transportation, exportation, or sale of any endangered species born in captivity if such transaction occurs between approved dealers or exhibitors.

Directs the Secretary of the Interior, Commerce or Agriculture, as responsibilities are vested by Reorganization Plan Numbered 4 of 1970, to promulgate regulations for enforcement of this Act, including registration of approved dealers or exhibitors and an inventory system for endangered species.

Imposes fines for violation of such regulations.

H.R. 15152. August 10, 1976. Ways and Means. Amends the Medicare program of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders.

H.R. 15153. August 10, 1976. Government Operations. Requires any Federal agency proposing a new rule or any committee of Congress reporting legislation which may have a significant impact on costs to the public to prepare a Regulatory Cost/Benefit Assessment.

Sets forth procedures for preparing such Assessment.

H.R. 15154. August 10, 1976. Government Operations. Requires any Federal agency proposing a new rule or any committee of Congress reporting legislation which may have a significant impact on costs to the public to prepare a Regulatory Cost/Benefit Assessment.

Sets forth procedures for preparing such Assessment.

H.R. 15155. August 10, 1976. Merchant Marine and Fisheries; Interior and Insular Affairs. Repeals the prohibition against the sale of remains of free-roaming wild horses and burros destroyed to control their population.

Authorizes the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service to enter into contracts for the sale of free-roaming wild horses and burros under population control programs.

Authorizes the appropriate Secretary to utilize aircraft or motor vehicles in administration of the population control program.

H.R. 15156. August 10, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 15157. August 10, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 15158. August 10, 1976. Public Works and Transportation. Authorizes the Administrator of the Environmental Protection Agency to make grants and provide technical assistance to eligible States, municipalities, or municipal or interstate agencies for the construction or acquisition of facilities for the use of land disposal of sewage sludge.

H.R. 15159. August 10, 1976. Ways and Means. Amends the medicare program of the Social Security Act to authorize payment under such title for services furnished by physician extenders, as defined in this Act, and clinical staff of community mental health centers.

H.R. 15160. August 10, 1976. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to provide for the award of grants to port authorities in the United States to enable such authorities to protect public ports and land areas adjacent to such ports from fires and other accidents or casualties occuring in such ports.

H.R. 15161. August 10, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15162. August 10, 1976. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to establish within the National Cemetery System a national cemetery in the east or central part of the State of Florida at such location as he determines most appropriate.

H.R. 15163. August 10, 1976. Public Works and Transportation. Amends the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to study the effects of sewage sludge disposal in the territorial seas, the contiguous zone, and the oceans.

Requires modification of permits for disposal sites, following completion of the study.

H.R. 15164. August 10, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition provision of such Act athletic programs or activities.

H.R. 15165. August 10, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition provision of such Act, musical or social programs or activities.

H.R. 15166. August 10, 1976. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase the amount of available Federal assistance as a percentage of the total costs of Appalachian development highway projects.

H.R. 15167. August 10, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to recognize representatives of the Italian American War Veterans of the United States in the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration.

H.R. 15168. August 10, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to establish criteria for granting and renewing broadcast licenses. Provides for the payment of reasonable expenses, including attorney's fees, of participating in any rulemaking proceedings of the Federal Communications Commission.

H.R. 15169. August 10, 1976. Judiciary. Eliminates the appellate jurisdiction of the United States Supreme Court over any claim that a Federal or State law which prohibits an abortion is invalid under the Constitution.

H.R. 15170. August 10, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in such programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 15171. August 10, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in such programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 15172. August 10, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in such programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 15173. August 10, 1976. Judiciary. Entitles any person to receive reasonable legal fees associated with such person's participation in a proceeding before a Federal agency or before a court while challenging any action of such agency if such participation could not be undertaken without such reimbursement, is helpful, and is not entered into for the purpose of promoting unreasonable gain to such person.

H.R. 15174. August 10, 1976. Judiciary. Entitles any person to receive reasonable legal fees associated with such person's participation in a proceeding before a Federal agency or before a court while challenging any action of such agency if such participation could not be undertaken without such reimbursement, is helpful, and is not entered into for the purpose of promoting unreasonable gain to such person.

H.R. 15175. August 10, 1976. Interior and Insular Affairs. Amends the Mineral Lands Leasing Act of 1920 to require inclusion of certain lands to be leased in a comprehensive land use plan. Requires compliance with Federal environmental laws as a condition of each lease.

Authorizes the Secretary of the Interior to conduct a comprehensive exploratory program to determine the extent of available coal resources. Establishes additional requirements for exploratory drilling activities.

Authorizes disposition of royalties to States for additional public purposes.

H.R. 15176. August 10, 1976. Interior and Insular Affairs. Modifies the authorization for the construction of the San Luis unit of the Central Valley Project in California to authorize the Secretary of the Interior to construct wells for the integration of ground water.

H.R. 15177. August 10, 1976. Banking, Currency and Housing. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to Federal agencies. Provides criminal and civil penalties for violations of this Act.

H.R. 15178. August 10, 1976. Merchant Marine and Fisheries. Authorizes the Secretary of the Army to oversee the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project. Establishes the Panama Canal Advisory and Inspection Board to study and review all plans and designs for the Third Locks project. Requires the Board to report to the Governor of the Canal Zone, the President, and the Congress.

H.R. 15179. August 10, 1976. Interstate and Foreign Commerce. Eliminates the requirement, under the Federal Food, Drug, and Cosmetic Act, that new drugs will be regulated according to their effectiveness. States that such drugs will be regulated solely to assure their safety.

H.R. 15180. August 10, 1976. Interstate and Foreign Commerce. Eliminates the requirement, under the Federal Food, Drug, and Cosmetics Act, that new drugs will be regulated according to their effectiveness. States that such drugs will be regulated solely to assure their safety.

H.R. 15181. August 10, 1976. Ways and Means. Authorizes semiannual computation of cost-of-living increases in Old Age, Survivors and Disability Insurance benefits under the Social Security Act.

H.R. 15182. August 10, 1976. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 15183. August 10, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to allow air carriers to offer reduced-rate transportation on a space-available basis to persons who are 65 years of age or older or 21 years of age or younger, to handicapped persons, and to an attendant of such a handicapped person.

H.R. 15184. August 10, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to make the United States liable for claims for personal injury or death resulting from the administration of vaccine under the national swine flu innoculation program where such claims are based upon the act or omission of a program participant (except in cases of negligence).

Establishes procedures for bringing such actions. Makes the remedy accorded by this Act the exclusive legal remedy.

H.R. 15185. August 10, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specific findings in connection with Commission actions authorizing specialized carriers.

H.R. 15186. August 10, 1976. Ways and Means. Amends the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving Old-Age, Survivors, and Disability Insurance benefits.

H.R. 15187. August 10, 1976. Interstate and Foreign Commerce. Specifies the minimum annual rate of basic pay for the Assistant Secretary for Health of the Department of Health, Education, and Welfare, the Director of the National Institutes of Health, and the Director of each institute within the National Institutes of Health.

H.R. 15188. August 10, 1976. Post Office and Civil Service. Provides, under the Legislative Reorganization Act, that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved.

H.R. 15189. August 10, 1979. Post Office and Civil Service. Provides, under the Legislative Reorganization Act, that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved.

H.R. 15190. August 10, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from his evacuation from Saigon, Vietnam, in April, 1975.

EXTENSIONS OF REMARKS

JASON JAY MEADOWS CALLED FOR A DECLARATION OF SELF-DEPENDENCE IN AN UNDELIVERED SPEECH

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, September 10, 1976

Mr. RANDOLPH. Mr. President, last April a cherished friend, Jason Jay Meadows, from my hometown of Elkins, had prepared a speech for Loyalty Day ceremonies at the Tygart Valley Post 3647 of the Veterans of Foreign Wars.

Jason was a former Randolph County Superintendent of Schools. The speech he was to have delivered contained an excellent assessment of moral and human qualities. He had given more than 42 years of service to public education, starting as a teacher in a one-room schoolhouse. He became Superintendent of Schools for Randolph County, of which Elkins is the county seat, in 1971. Under his leadership the county realized real progress in replacing outmoded facilities with new buildings, including a much needed vocational center. The address Jay Meadows was to have given stressed the character traits of our Founding Fathers, and called for a declaration of self-dependence for Americans.

According to his wife, Margaret, he gave of himself in the preparation of his address. In the early morning of May 1, of the day he was to speak, our friend was stricken with a heart attack which resulted in his death 13 days later.

Mr. President, there is wisdom in Jay's thoughts. I ask unanimous consent that excerpts from his prepared remarks be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Mr. Commander, Guests, Members:

You all know that I hold your invitation to be here as a distinct honor and privilege as you bring to a conclusion the week's observation that included the worthy and significant objectives: Religious Freedom, Honor America, Community Services Day, Education Day, Help the Needy Day, Uniformed Services Day, and Loyalty Day. My invitation was to attend to Loyalty, defined by the dictionary as:

"Faithful to love, promise, or duty, as a faithful husband; Faithful to one's country or government, as a loyal citizen; Characterized by showing faithfulness to obligations, duties, contracts; One who is true, devoted, constant."

Now, to men who have demonstrated loyalty beyond that of other veterans, the Veterans of Foreign Wars, attention to this quality, this trait of genuine character, may come belatedly, many, many years belatedly. This may be exemplified by asking you to recall, in the early 1940's, your first Sunday aboard ship on the way to wherever you were destined. Remember? A fellow viewed things quite differently, I daresay. I surely did!

Recently at a Davis and Elkins College gathering for foreign students (D. & E. has now enrolled some 84 students from twenty-four foreign nations), a fellow at our table told us of a device he had: throwing out a challenge topic to get the conversation going when there were people present who had never met before. His device was very clever, yet very simple. It was to throw out a topic, social, political, or philosophical, and invite each guest to air his opinion. The topic he demonstrated to us was this: "What quality in human character do you consider the most admirable of all?" Well, one reply was: "Tolerance toward another's viewpoint without any smugness about your own view." Another reply was: "Giving of one's self or means without any thought of reward or of recognition." A third was "Refusal to judge another's actions or motives without first knowing what lies behind them." The fourth person said: "Forgiving wrongs done us with no thought of recrimination or retaliation."

As the talk went round the table, it came to me that most of the people were naming some aspect of the noblest and rarest of all human graces: forgiving loyalty; magnanimity; rising above pettiness or meanness; generosity, a major virtue which at any level sweetens life, and at the highest level, glorifies it.

Now that we agree what we are talking about, let me invite you to consider how our nation came to be, back there in the early 1770's. Bear in mind that the colonists at first did not intend to revolt; there was no planned revolution. All those good men wanted to do was to get their mother country to treat them fairly, justly, honestly. King George's stupid stubbornness, his uninformed advisors, their harsh and tyrannical replies to the entreaties of the colonists—all this encouraged, indeed, formed the idea of separating from England. This resulted in the formation of the Continental Congress to consider what should be done. These men decided after long and thorough debate to separate from England, their country.

Each time we review history we are more and more impressed with the amazing brilliance of the minds of these men, the clarity of their perception, and the thoroughness of their understanding. During the long, hot summer, every aspect of the action was analyzed with the risks involved. The risks were enormous. These men were risking everything, as they said when they signed the Declaration of Independence, and "to this we pledge our lives, our fortunes, and our sacred honor." All to signify loyalty, faithfulness, duty, and honor! . . .

What is our declaration of independence

in 1976? What should be our declaration of self-dependence in 1976?

Are we courageous enough to say that we believe the principles which rule the conscience of the individual should also rule the conscience of the government? Do we hold that government waste in any form is intolerable and that just as a family cannot for long spend more than it earns, neither can a government? Do you hold that respect is the root of morality, and that disrespect for oneself, for others, or for the nation or its flag is contrary to the American spirit? Do you believe that self-dependence produces self-respect; therefore, to help a man to be self-dependent is admirable, while to do permanently for a man what he can do and should do for himself is contrary to and destructive of the American tradition? Is there still a belief in our beloved nation in the dignity of labor and the pursuit of excellence? Do we feel that striving for the most pay for the least amount of work is immoral? Do we think we can strengthen the weak by weakening the strong?

If we agree on these things, we are saying that the moral strength of the nation is just as strong as the moral strength of its individuals. We then as loyal Americans commit ourselves to the pursuit of labor, excellence, respect, thrift, independence, and peace. I consider "In God We Trust" a profound statement of our national commitment and I believe that a democracy without a commitment to God is a departure from the original ideas of our forefathers.

Why is America on its 200th birthday still the most admired, most sought after, most desired land on earth, to which countless millions of people would run, walk, crawl, or creep to enter? Why is this most favored nation the envy of the world? There are countless reasons, as countless as the people wanting to come here, but probably the most compelling of all the reasons is that our land has a way for what the sociologists call 'upward mobility.' This is a most precious attribute. It prevents disadvantaged people from feeling locked into ugly situations from which no escape is possible. It prevents people from feeling that a revolution is the only way out. Our country has an orderly procedure whereby everybody has a fighting chance to win an education, land a good job, and make a contribution to a better way of life for all.

My hope for America is sustained mostly on this one reason, because I was born like many others into extremely poor circumstances through no fault of my parents. I am convinced that in any other country than ours I could never have escaped the poverty we knew as children. In no other country would I have received an education nor would I have ever had any chance to better myself in every detail. Never would I have been permitted to become a learned man or to work in difficult fields of endeavor or hold high offices.

In any other country I would have been limited to the most menial jobs, never being allowed to learn much, but just doing the hardest type of labor for the lowest wage. America provided me an escape, not easy, not free, but it was there for my salvation. I am forever grateful.

U.S. CANAL ZONE SOVEREIGN CONTROL: AMERICAN LEGION AND VFW OPPOSE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. MURPHY of New York. Mr. Speaker, the question of the future sovereign control over the U.S. Canal Zone and the Panama Canal has become a major national issue. Extensive indications are that the sovereign people of the United States, in spite of a major propaganda campaign waged under the guidance of the Department of State, strongly oppose the projected surrender that is being so strenuously supported by elements in the Department of State.

Among these opponents are various veteran organizations the membership of which includes many who have served in the Armed Forces in the Canal Zone and know the Isthmian situation from firsthand observation. Also included among those opponents are eminent students of global strategy and the current geopolitical struggle for world domination.

In this conflict, the canal is a focal issue because it is a vital element of American sea power and a crucial point for the defense of the Caribbean-Gulf of Mexico danger zone. It is not a "mere shopping center" for placing on an auction block, but a world canal built by the United States and paid for by its taxpayers in compliance with treaty commitments for its construction and perpetual operation.

In connection with the current clamor for its giveaway to Panama, it must be realized that this small country is only the tip of the iceberg." Allied with the Havana-Moscow axis, it is only a puppet supporting Soviet designs for securing control over strategic waterways. Thus, as has been stated many times in the Congress, the real issue involved in the Canal Zone sovereignty question is not between the United States and Panama but between the United States and the U.S.S.R., which makes it a matter of global significance that cannot be ignored, except at our peril.

The resolution adopted at the 1976 annual conventions on the Panama Canal by both the American Legion and the Veterans of Foreign Wars of the United States are notable in several respects.

The sovereign control by the United States over the Canal Zone is not negotiable. Differences between canal authorities and the Republic of Panama should be resolved on the spot without disturbing present treaty arrangements, and the election of a nonvoting delegate in the Congress by U.S. citizens residing in the zone should be promptly authorized as was done for Guam, the Virgin Islands, and the District of Columbia.

But most important is the major increase of capacity and operational improvement of the existing Panama Canal under existing treaty provision as provided in H.R. 15178, introduced by Representatives M. GENE SNYDER of Kentucky and DANIEL J. FLOOD of Pennsylvania (CONGRESSIONAL RECORD, Aug. 10. 1976, pp. 26851-26853).

In order that the indicated resolutions may be readily available for all Members of the Congress as well as to candidates for public office, I include both as part of my remarks:

RESOLUTION No. 414: U.S. SOVEREIGNTY OVER THE "U.S. CANAL" LOCATED ON THE ISTHMUS OF PANAMA

Whereas, Article II of the 1903 Convention between Panama and the United States, as modified in part by the 1936 Treaty between the two Governments, states:

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described shall not be included within this grant . . .

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamence; and

Whereas, the United States of America has fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated an ever-increasing number of transits and amount of tonnage through the canal; and

Whereas, the revolutionary government of Panama, a product of coup d'etat, has since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign of anti-American propaganda fueled in large part by Cuban and Soviet Communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama set to explode to the detriment of the United States and the world shipping community, as was the case in the abortive meeting of the UN Security Council in Panama and the subsequent threat to the U.S./UN Ambassador and the Panamanian dictator's "red carpet treatment" in Cuba; and

Whereas, due largely to our unswerving V.F.W. support, more than one-third of the U.S. Senate, led by Senators Thurmond (S.C.) and McClellan (Ark.), has gone on record in opposition to the unprincipled "Statement of Principles" signed by the Administration and the Panamanians, and a parallel effort is being conducted in the House of Representatives led by Congressman Dan Flood (Pa.); now, therefore

Be it resolved, by the 77th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. operation, control and defense of the Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. Sovereignty;

(d) the foregoing position be again communicated to both the President and the Congress; and

(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done by Puerto Rico, the District of Columbia, and the Virgin Islands.

APPROVED TRANSFERS

Resolution 90 (Kentucky) "The Panama Canal" Consolidated with Res. Nos. 62 (Utah), 67 (Miss.), 121 (Mass.), 210 (Wash.), 222 (Va.), 242 (N.C.), 282 (Minn.), 309 (Calif.), 320 (Md.), 348 (N.Y.), 361 (D.C.), 393 (Nev.), and 422 (Tex.):

Whereas, Under the 1903 Treaty with Panama, the United Statees obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power, and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, The United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and in its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, the United States Executive branch is currently engaged in negotiations with the Government of Panama without authorization of the Congress, which would diminish, if not absolutely abrogate, the present United States treaty-based sovereignty and ownership of the Zone; and

Whereas, The American people have consistently opposed further concessions to any Panamanian Government that would further weaken United States control over either the Canal Zone or Canal; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Seattle, Washington, August 24, 25, 26, 1976, that the United States must be vigilant against all efforts to surrender any of the U.S. sovereignty or jurisdiction in the Panama Canal Zone or over the Panama Canal obtained under the 1903 Treaty with the Republic of Panama, as amended and revised in 1936 and 1955; and should in no way cede, dilute, forfeit, negotiate or transfer any of the U.S. sovereign rights, power, authority, jurisdiction, territory or properties directly or indirectly or by subterfuge all of which are indispensably necessary for the protection of the U.S. and the Western Hemisphere, and, be it further

Resolved, That The American Legion reaffirm its opposition to new treaties or executive agreements with Panama that would in any way reduce our indispensable control over the U.S.-owned Canal or Canal Zone; and, be it further

Resolved, That the American Legion urge the immediate resumption of the modernization of the present Panama Canal as provided under the current legislative measures for the Terminal Lake-Third Lock proposal.

Resolution 470 (Committee) *"The Panama Canal Questions on Communist Influence"*;

Whereas, As a result of recent hearings by the House of Representatives Merchant Marine and Fisheries Committee questions were raised concerning Communist influence in the U.S.-Panamian negotiations, relative to the U.S. Canal Zone and the Canal; and

Whereas, Chairman Leonor K. Sullivan posed Seven Questions of the Committee to the President of the United States concerning the possibility of Communist influence in the Panama negotiations as follows:

1. Does there exist information or reports to indicate that Cuban or other foreign personnel are now in the Republic of Panama teaching military or non-military students guerrilla warfare and terrorist tactics? In the presentation of such tactics, if they are being taught, is reference made directly or indirectly to the Panama Canal and Canal Zone? If personnel foreign to Panama are not teaching such tactics, are there Panamanian officials teaching these tactics with the advice of foreign nationals?

2. Does there exist information or reports to indicate that General Torrijos or members of the cabinet of the Panamanian Government have been saying in formal or informal circumstances that nationalization of the Panama Canal is the ultimate objective of the Panamanian Government after a new treaty is signed?

3. Does there exist information or reports that the Partido del Pueblo, which apparently operates openly in the Republic of Panama is essentially a communist organization, controlled and directed by communist leaders? Does there exist information or reports that General Torrijos and/or members or former members of the Panamanian cabinet have made contributions to the Partido el Pueblo?

4. Does there exist information or reports to indicate that Colonel Noriega, the G-2 in Panama, has travelled to Cuba secretively in order to meet with various Cuban officials? If such trips have taken place, is it known who Colonel Noriega has met with while in Cuba?

5. Does there exist information or reports to indicate that U.S. citizens have been imprisoned on the island of Coiba by the Government of Panama? Is there information to indicate that U.S. citizens have been killed attempting to escape from that island prison?

6. Does there exist information or reports that indicate planning contingencies within the Government of Panama for seizure, violent or non-violent, of all or any parts of the Canal Zone or facilities within the Canal Zone? More specifically, is there any evidence at all to substantiate the rumor recently promulgated to the effect that some attempt at confrontation will be attempted by the Government of Panama in late 1976 in order to bring the Canal issue to the attention of the United Nations?

7. Does there exist information or report to indicate that Cuban military troops have recently come into the Republic of Panama? If such an entry has occurred, what is the purpose of their entry into Panama? Does there exist information or reports to indicate that Angolan troops have recently come into the Republic of Panama?

Whereas, Each of the "Seven Questions" deserves a complete and forthright answer by this Administration which prides itself in candor and openness in such matters of vital security interest; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Seattle, Washington, on August 24, 25, 26, 1976, that unless the Seven Questions are immediately answered, before any further treaty or executive agreement negotiations are conducted between the United States and Panama, that the U.S. Congress undertake an investigation of alleged communist influence to force the United States to relinquish its sovereignty and control of the U.S. Canal Zone and Canal which are freely granted in the Treaty of 1903 and subsequently reaffirmed by the Treaties of 1936 and 1955.

KENTUCKIANS SALUTE COLONEL SANDERS ON HIS 86TH BIRTHDAY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BRECKINRIDGE. Mr. Speaker, yesterday was the 86th birthday of a prominent Kentuckian, a fine American, and, I am proud to say, one of my most famous constituents—Col. Harland Sanders.

As all of my colleagues are aware, Colonel Sanders is the goodwill ambassador for Kentucky Fried Chicken—a company he formed many years ago through hard work and determination.

The success story of this Kentucky colonel—known around the world—is one worth repeating. At the age of 65, with only a $105 social security check as income, the Colonel began selling his "secret recipe" chicken, using the backseat of his car as an office. Today, the company he originated has grown into the largest retail food service system in the world with more than 5,000 outlets in 44 countries.

Before getting into the restaurant business, Colonel Sanders had a varied and interesting career, including such jobs as farmhand, railroad fireman, and steamboat ferry operator. Today, the Colonel and his chicken recipe have surmounted geographic and language barriers throughout the world.

In addition to being a goodwill ambassador for our country, Colonel Sanders has also been a good citizen. He has contributed not only to our Nation's cuisine, but also to countless charitable foundations in the United States and Canada.

With this in mind, it is with great pride that his fellow Kentuckians salute him on this very special day.

DEATH OF MAO TSE-TUNG

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. CRANE. Mr. Speaker, the death of Mao Tse-tung, at the age of 82, marks the passing of a major figure from the world scene. As Chairman of the Chinese Communist Party and the revolutionary leader of the People's Republic of China, Mao long held the preeminent position in mainland China's Communist society, and served as an inspiration to radical revolutionaries, the world over.

Mao Tse-tung's accomplishments have been frequently noted in the past, and are now being trumpeted loudly on the occasion of his passing. A certain amount of recognition may be due in some areas—however, the less attractive aspects of Mao's regime should not be overlooked. Tens of millions of Chinese have been killed or disappeared in the PRC's frequent and periodic purges. At any given time as many as 20 million people are incarcerated. Real power remains an elite phenomenon—despite all the talk of rule by workers and peasants—with masses of Chinese being repeatedly and cynically manipulated in "mass movements" which, beyond their ideological overtones, are weapons in the personal power struggles within the top party leadership. All aspects of life are dominated by the Chinese Communist Party, which maintains a control apparatus parallel to the state structure at all levels. Central control reaches down as far as the street level, where "street committees' overlook all aspects of an individual's life. "Thought reform" or "reform through labor" await those suspected of deviant tendencies.

As we review the situation in China it remains important to bear in mind the tremendous costs which have been inflicted by this totalitarian dictator. Political and personal liberty do not exist; any self-expression is the object of immediate repression. With one brief exception—the Hundred Flowers movement, which was quickly suppressed—Mao's China has never known personal or political liberty, nor is there any indication that this legacy promises better for the future.

We must, then, note the passing of Mao Tse-tung as a significant and historic occasion. To put it in proper perspective however, the immense human cost of Mao's regime must be emphasized. The enormity of that burden is the stark but real side of Mao Tse-tung's China, and must be considered when evaluating Mao's place in Chinese history and the applicability of his thought elsewhere in the world.

HIGH RATES OF TAXATION IN UNITED STATES CAUSES PROBLEMS: WHY WE MUST CUT THE TAX RATES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. KEMP. Mr. Speaker, the high rates of taxation in the United States hold down productive effort, investment, and the economic growth of our economy. They reduce jobs and the incentive to work, and make people dependent on welfare by denying them work.

The adverse effects of high tax rates on employment are made worse by the fact that our progressive income tax system is not neutral with regard to inflation. It forces people to pay not just more in taxes when there is inflation, but to pay at higher rates of taxation on a money income that is shrinking in purchasing power. Thus, at the same time people's purchasing power shrinks as a result of higher prices, they are forced to pay a larger proportion of their income in taxes. Not only does this reduce job opportunities and the incentive to work, it is inequitable.

The greater the rate of inflation, the more serious is the economic squeeze put on the people by this inequity. For the past several years this inequity has forced the American people to pay billions of dollars in higher taxes even though the real buying power of their income was falling. Furthermore, it is a tax increase that is not legislated and is, thereby, "taxation without representation."

This inequity should be corrected by raising the thresholds on the personal income tax by the amount of inflation since January 1, 1973. This will lower tax brackets across the board without altering the progressivity of the tax rates. It treats everybody equally and brings the tax brackets in line with the shrunken buying power of everyone's income. It compensates for the tax increase of the last several years that was not legislated.

When taxation is not fairly linked to real purchasing power, people lose respect for their Government. This adjustment in the personal income tax is necessary to restore the relationship between taxation and purchasing power that existed prior to the inflation of the past several years.

Not only must taxes be reduced to restore equity, they must also be reduced to restore full employment. It is impossible to get more employment by taxing it higher. The tax barrier against full employment must be removed.

The barrier against full employment should be eliminated by eliminating the double-taxation of dividends. Taxing the earnings of jobs-creating investments twice makes many investments unprofitable which would otherwise be undertaken and provide new jobs.

The double-taxation of dividends also holds wages lower than they would otherwise be. Holding down investment holds down capital formation and the productivity of labor. It means people produce less in the same amount of working time and, thus, earn less. Eliminating the double-taxation of dividends is necessary to increase employment and the real wage.

The double-taxation of dividends also holds down the pensions of the retired working men and women, making it especially difficult for them to cope with the high cost of living during times of inflation. Since the pension funds of the workingman are major shareholders of American corporations, the retired workingman would be a major beneficiary of eliminating the double-taxation of dividends.

Eliminating the double-taxation of dividends would also restore economic efficiency and sound accounting practices to our economic system. When dividends are taxed twice, corporations are not allowed to treat the cost of capital raised in the stock market as a cost of production. Treating something as a profit which in fact is a cost both causes higher prices and forces firms to rely more on debt to finance their expansions and less on venture capital.

Allowing firms to treat the cost of venture capital as a cost of production would mean lower prices and greater output. It is an economic policy that is simultaneously anti-inflationary and proemployment.

Removing the double-taxation of dividends removes a tax barrier to full employment, to lower prices, to higher wages, to larger pensions, and to a more efficient economic system.

The tax barrier against small business has also been made greater by the inflation. With the buying power of any given amount of money so shrunken by inflation, many small businessmen have nothing left to reinvest in their businesses after providing for their families. As a result of the inflation small amounts of purchasing power are taxed at high rates. To overcome this inequity and lessen the tax barrier against small business, whose costs have also been raised in recent years by regulation and Government paperwork, the corporate surtax exemption should be increased to $100,000.

The United States has fallen short of its employment and output potentials, because it heavily taxes work and subsidizes nonwork. The tax barrier to productive work is a primary cause of growing government spending programs and growing deficits.

Lower tax rates will expand the private sector of our economy and increase employment opportunities. The result will be to reduce the number of people dependent upon Government spending programs and to increase the tax revenues of the Government. Lower tax rates mean a greater tax base and larger tax revenues for the Government. Tax cuts eliminate deficits by enlarging the amount of economic activity that is subject to taxation.

The New York Times once understood this fact of life. In the 1920's the newspaper editorialized in favor of cutting taxes in order to encourage industry and provide funds for capital investment. The Times said that a tax cut "would lighten the demands upon millions of purses hard to fill. It would not only do away with oppressive taxes. It would lower the cost of living. It would release capital for productive industry and enterprise of all kinds. This would result in fuller employment of labor, multiplication of goods in common consumption, and probably bring about a period of great and legitimate expansion of industry and commerce never surpassed in the United States.

The Times was exactly right. Within 4 years of the tax cuts, the enormous expansion of the economy produced enough revenue gains to pay off a third of the national debt.

Today the Congress could restore the productivity of the American economy and eliminate Federal budget deficits by increasing the reward to work. This is the alternative which people desire to bigger Government spending programs.

COMMUNIST CHINA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DERWINSKI. Mr. Speaker, the glowing reports from some political commentators concerning life in the People's Republic of China have dominated the news for a number of years. We have been told chapter and verse about how Chairman Mao led the peasants in the long march. We are told of his great organizational and leadership abilities.

Ignored in these testimonials is the brutal history which accompanied the victory over the Chinese Government founded by Sun Yat-sen.

From the first civil war, 1927–36, until today, Prof. Richard Walker of the University of South Carolina estimates that 64 million lives may have been sacrificed.

As Professor Walker so aptly sums up the matter:

> The Communist movement in China, despite its proclaimed high ideals, must be judged on performance, and, as regards the human equation, there is little to commend it. Those who wish to rationalize public assassinations, purges of classes and groups or

slave labor as a necessary expedient for China's progress are resorting to the same logic which justified a Hitler and his methods for dealing with economic depression in the Third Reich.

It is important that we in America remember some of the basic facts of human values lest we be beguiled into forgetting that those who succeeded in inducing an artificial American euphoria in the wake of ping-pong diplomacy from Peking in the spring of 1971, are the same leaders who have extracted such a great human cost from their own people, in the name of a doctrine long since discredited in the world, both in terms of performance and intellectual respectability.

In the eulogies for Chairman Mao, we must not forget how and at what cost the "peasant" leader came to dominate the people of Communist China.

The instability of the ruling clique which became clear after the death of Chou En-lai, and now becomes even more important, reemphasizes the need for caution on the part of the United States.

We should not rush to formalize relations, as some have suggested, and we must remain strong in our commitment to the people of Free China on Taiwan who remain a beacon of hope to their countrymen on the mainland. We cannot predict nor should we interfere in the turmoil of Chinese succession.

DISTINGUISHED MINISTER STEPS DOWN FROM CAPITAL PULPIT

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FAUNTROY. Mr. Speaker, on Tuesday, August 31, Dr. George M. Docherty retired after 26 years as pastor of one of the Nation's major churches—the New York Avenue Presbyterian Church in Washington.

During his quarter-century ministry, Docherty's has been one of the stirring voices of the Protestant faith in the United States. A Scot by birth and a naturalized U.S. citizen by choice, he has been called Washington's best known preacher and Scotsman.

His Lincoln Day sermon on February 7, 1954 on "One Nation Under God" sparked the final, successful move to add the words "Under God" in the Pledge of Allegiance to the U.S. flag. This was done by Joint Resolution presented to Congress by the Senator, Homer Ferguson, of Michigan on March 19, 1954.

Dr. Docherty was born in Glasgow, Scotland and educated at Glasgow University. He has received the honorary degrees Doctor of Divinity from Temple University in Philadelphia and Doctor of Letters from Monmouth College in Illinois. In 1958, Harper and Row published his book, "One Way of Living," a collection of observations and experiences setting forth his personal definition of the Christian faith.

The New York Avenue Presbyterian Church was founded in 1803 and is one of the first Protestant churches in the city of Washington, tracing its history back to a group of Scottish stonemasons who worshipped in a carpenter's shop on the grounds of the White House during its construction. No less than 17 Presidents—including most notably, Abraham Lincoln, have worshipped there. The church's downtown location two blocks from the White House and the prominence and convictions of its minister have provided a unique focus for national crises and social concerns of recent years.

Dr. Docherty was deeply involved in civil rights activities and joined the Selma, Ala., march for voter registration with Dr. Martin Luther King in 1965. The church was the "headquarters of Resurrection City for white churches during the 1968 Poor People's campaign." He was among the early critics of the Vietnam War and spoke often of the agony of it at services which were frequently attended by then Secretary of Defense Robert McNamara.

More recently, several hundred attorneys from bar associations of the District, Maryland, and Virginia met at the church "to explore the legal implications of what was for the first time beginning to be called Watergate." On a subsequent Sunday, President Richard M. Nixon and Special Prosecutor Leon Jaworski were both present at the same Lincoln Day worship service, by coincidence.

A widely known evangelistic preacher, he has spoken in at least 6 foreign countries and for the past 22 years has appeared regularly on Washington television under the auspices of the Council of Churches, and for 11 years on radio each Sunday evening.

Following his retirement, Dr. Docherty will divide his time between teaching and writing. For a few months each year he will teach at Episcopal Theological Seminary in Alexandria and occasionally he will return as minister emeritus to his historic pulpit, but the Nation's Capital will surely miss his regular deeply moving and challenging sermons.

HAMILTON SUPPORTS LEGISLATION HELPING OLDER AMERICANS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HAMILTON. Mr. Speaker, the concerns of older Americans deserve the highest priority and our continuing attention.

More than 20 million elderly citizens form the most rapidly growing minority in the Nation. It is a minority of people with diverse backgrounds, wide-ranging problems, and a common bond of age.

In one key move, the 94th Congress insured that social security beneficiaries received the full 8 percent increase in July, 1975, due them under law by moving to block an effort by President Ford to limit the increase to 5 percent. Under this same law, which provides for periodic and automatic cost-of-living increases in benefit levels, beneficiaries received a 6.4 percent increase in July, 1976.

The 94th Congress has passed several bills with my support to assist older Americans. Chief among them are the following:

First, a law authorizing demonstration grants for home health services, with preference in awarding grants given to communities with high concentrations of elderly and/or medically indigent individuals in need of home health services.

Second, a law was enacted that revises and extends many important programs for older Americans through fiscal year 1978. Included are priority funding for areas like transportation and home repair; community service employment for low-income persons aged 55 and older; and a prohibition on age discrimination in activities receiving Federal financial assistance.

Third, discrimination in the granting of credit on the basis of age was prohibited in a recent law.

Fourth, the elderly at all income levels were allowed to continue to receive services at federally supported senior citizens' centers in a law enacted in early September, 1976.

Fifth, a law increases the funds available for direct loans to nonprofit sponsors who want to develop multifamily housing for persons aged 62 and over.

Other bills of importance to older Americans are still pending final congressional action before adjournment. They include these:

First, a bill to revise the Supplemental Security Income—SSI—program.

Second, a measure to revise the Federal food stamp program and give special consideration to senior citizens in the program's eligibility requirements.

Third, a bill to provide funds to assist States and local public bodies and nonprofit entities in providing mass transit services to elderly and handicapped individuals.

Fourth, legislation to revise and extend the Federal revenue sharing effort with a provision to prohibit discrimination against the elderly in any program of a State or local government which receives revenue sharing funds.

I am hopeful that action can be completed this year on these important pieces of legislation. The Congress should do all that it can to meet the special needs of our senior citizens.

YWCA VIGOROUSLY SUPPORTS FULL EMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HAWKINS. Mr. Speaker, I would like to call the attention of the Members to a resolution passed at the YWCA National Convention in June of 1976. The resolution reaffirms the support of the YWCA to a Federal policy assuring full employment. It is another example of a concerned organization's opinion that this Nation must act to achieve full employment. The resolution follows:

PROPOSED RESOLUTION ON FULL EMPLOYMENT ECONOMIC SECURITY

Whereas, the YWCA has given special importance to measures that advance and safeguard an adequate standard of living and economic justice for all citizens without barriers based on race, sex, creed, national origin or geographic location; and

Whereas, the overall unemployment rate remains at an intolerably high level with a disproportionately high burden of unemployment placed upon women, minorities, and youth; and

Whereas, unemployment in the United States continues to be much higher than in many other industrial nations; and

Whereas, the YWCA in reaffirming its commitment to the One Imperative believes that a federal policy assuring full employment is essential to that commitment and is also essential to meeting many other desirable national goals; therefore be it

Resolved that the YWCA will support vigorously strong full employment policies, to be implemented by the federal government, which will assure a job opportunity for every American willing and able to work.

IN RECOGNITION OF DR. CHARLES A. LEALE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. OTTINGER. Mr. Speaker, last year I introduced legislation—recently passed by the Senate—to preserve and restore St. Paul's Church of Mount Vernon, N.Y., a building of national historical significance. St. Paul's, you may recall, was the scene of events leading up to the 1734 trial of John Peter Zenger, whose acquittal laid the foundation for the Bill of Rights principle of "freedom of the press."

One of my constituents, Miss Helen Leale Harper, Jr. of Pelham, N.Y., has worked long and hard on the St. Paul's project. As an active member of the Knapp Chapter of the Daughters of the American Revolution and as national historian of the Dames of the Loyal Legion of the United States, she has consistently demonstrated her concern for our national heritage. Recently, she brought to my attention an interesting account concerning her grandfather, Dr. Charles A. Leale, whose significant place in American history I would like to recognize today.

Dr. Leale was the surgeon who first assisted President Lincoln after an assassin's bullet struck him down in Ford's Theater on April 14, 1865. The following description by Miss Harper recounts the heroic effort her grandfather displayed as he attempted to revive the President. In this Bicentennial Year of historical self-consciousness, it is fitting that we recognize the spirit of this young doctor who struggled valiantly to save a great man's life. It is perhaps this same spirit which motivates his granddaughter to work so diligently to preserve the treasures of our Nation's history:

[Reprint From the National DAR Magazine, February 1953]

LINCOLN'S LAST NIGHT

(By Helen Leale Harper, Jr.)

A 23-year-old Army doctor, Charles A. Leale, who was the surgeon in charge of the Wounded Commissioned Officers Ward at the United States General Hospital, Armory Square, Washington, D.C., had been greatly impressed with President Lincoln's appearance when the Chief Executive delivered his last public speech. This experience left Dr. Leale with the great desire once again to behold the President's inspiring face.

Having been told that President Lincoln would be present at Ford's Theater to see the play, *Our American Cousin*, Dr. Leale, after completing his hospital duties for the day, changed to civilian dress and went to the theater. As Ford's Theater was crowded, Dr. Leale obtained the last seat which was in the Dress Circle about forty feet from the Presidential box.

When the President's party arrived at the theater, the play was in progress. The President's entrance caused a cheering ovation. Out of respect to President Lincoln, the acting ceased. After the Chief Executive was seated in his box, the play was resumed.

Suddenly, a shot was heard. The assassin leaped from the Presidential box, caught his spur, and fell to the stage. Quickly he hopped off the stage and disappeared into the night.

In response to shouts for a doctor, Assistant Surgeon Leale vaulted over the seats to the Presidential box. Being an Army surgeon, he was the first person permitted to enter the box, where he found Mrs. Lincoln holding the President upright in his chair. When Dr. Leale identified himself as an Army surgeon, Mrs. Lincoln beseeched the young doctor to take charge of the case and to do everything possible for the President.

The President's pulse was imperceptible. In an effort to revive the Chief Executive, his body was moved to the floor where Dr. Leale examined the dying President. Raising the eyelids, Dr. Leale saw signs of a brain injury. Quickly the young surgeon ran his fingers through the President's hair, discovering the mortal wound behind the left ear. From time to time, he removed the blood clot from the wound, thus relieving the pressure on the brain. Dr. Leale administered artificial respiration until the President was able to breathe independently, so preventing the President's immediate death.

This diagnosis of Dr. Leale was telegraphed throughout the country: "His wound is mortal; it is impossible for him to recover."

When Dr. Charles S. Taft and Dr. Albert F. A. King arrived, they gave their assistance. The surgeons decided that the President would be unable to survive the long journey over the rough cobblestones to the White House, but, instead, he should be carried to the nearest house.

The guards cleared the passage through the crowds as the President was carried by Dr. Leale, Dr. Taft, Dr. King, and a number of other persons into Mr. Petersen's house, which was across the street from Ford's Theater. As the bed was much too short for the tall President of six feet four inches, his body was stretched diagonally across it. After the Chief Executive had been placed in the most comfortable position, the surgeons examined him for additional wounds, but no more were found. Then Dr. Leale dispatched messengers to call Captain Robert T. Lincoln, Surgeon General Joseph K. Barnes, Surgeon D. Willard Bliss, Dr. Robert K. Stone, the Rev. Dr. Gurley, and every member of President Lincoln's Cabinet.

When Secretary of War Edwin M. Stanton arrived, he transformed an adjoining room into an office. During the night he met with his counsellors and dispatched messages to various Army and government officials. In those important hours, Secretary Stanton was of great service to his country.

Dr. Leale remained by President Lincoln, holding his right hand, until the end came at 7:20 A.M. on April 15, 1865. Those who remained in the room knelt around the bed as the Rev. Dr. Gurley prayed.

NOTES.—NSDAR has granted permission for this reprint.

(This article is based upon *Lincoln's Last Hours* by Charles A. Leale, M.D., who was the first surgeon to reach the assassinated President Lincoln, April 14, 1865. On the 100th anniversary of the birth of President Abraham Lincoln, Dr. Leale's friends in the Commandery of the State of New York of the Military Order of the Loyal Legion of the United States persuaded him to deliver this address which was printed in "Harper's Weekly", February 13th, 1909 and later reprinted as a booklet. Lincoln historians often refer to *Lincoln's Last Hours* by Charles A. Leale, M.D. This was the only time that Dr. Leale spoke on the subject as he preferred to care for his patients.)

(Miss Harper is a granddaughter of the late Dr. Leale. She is National Historian of the Dames of the Loyal Legion of the U.S.A.; Historian, N.Y. State Society, DLL; author of *Ford's Theatre Revisited*, printed in "The Westchester Historian", Spring 1968; member of The Lincoln Group of the District of Columbia; Knapp Chapter, NSDAR; Westch. Co. Hist. Soc.)

FLOOR PRIVILEGE VIOLATION INQUIRY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, yesterday the House voted 371 to 1 for my question of privilege resolution (H. Res. 1526) which instructed the Rules Committee to inquire into the facts of an alleged violation of the floor privilege rule by a former Member, and report back its findings along with any recommendations for securing strict enforcement of that rule.

I want to thank my colleagues for their support of my question of privilege and their obvious concern that not even the appearance be given of lobbying taking place on the House floor. I do want to underscore the fact that my action was not motivated by any desire to embarrass or attack the former Member involved in the alleged violation, or any other former Member for that matter. It was necessary to present a specific allegation in order to raise a legitimate question of privilege. This is but one example. Other abuses of the floor privilege have occurred. However, I do think that most former Members now engaged in lobbying have been scrupulous in abiding by the present rule as it has been interpreted. That interpretation is that they shall not be present on the floor or in the adjourning rooms when bills in which they have a direct interest are actually under consideration. My own preliminary research into the history of this rule leads me to believe that this might be a mistaken interpretation and that the original intention was to bar such persons from the floor at all times. The main reason I raised this matter is because our attempts to secure a hearing in the Rules Committee on a revision of the rule have been in vain, despite the cosponsorship of 106 Members. The second part of the resolution adopted yesterday requires the Rules Committee to consider this question and report on what remedy is needed, if any, to secure strict enforcement of the rule. It is, therefore, my intention to lay out our proposal before the Rules Committee when this matter is considered. That proposal, contained in House Resolution 1364, would restore the old requirement that former Members and former elected majority and minority officers register for floor access and make a declaration, on honor, that they are not engaged for the purpose of influencing, directly or indirectly, any legislation pending before the House or any of its committees. In short, it would effectively bar ex-Member lobbyists from the House floor at all times. I would hope the Rules Committee would give this proposal favorable consideration and report it to the floor as part of its recommendation on strict enforcement.

Mr. Speaker, yesterday I wrote to the chairman of the Rules Committee to further explain my own intentions and suggest how our committee might proceed with this inquiry and report. For the benefit of the Members of this body I include the text of that letter at this point in the RECORD:

WASHINGTON, D.C.,
September 9, 1976.

Hon. RAY J. MADDEN,
Chairman, House Committee on Rules,
Washington, D.C.

DEAR RAY: As you know, the House today voted 371-1 in favor of my resolution (H. Res. 1526) which instructs the Rules Committee to inquire into an alleged violation of the House floor privilege rule (Rule XXXII) and to report on the facts of that incident and what remedy, if any, is necessary to secure a strict enforcement of the rule. I have already forwarded to your chief counsel, at his request, a complete file on this matter, including the article containing the allegation, my prepared floor remarks today on the question of privilege, and background information on the existing floor privilege rule and the proposal which Representative John Burton and I, along with 104 cosponsors, have introduced to clarify and strengthen that rule (see H. Res. 1364).

I appreciate the fact that the remaining days in this session are numbered and that the Rules Committee is in the midst of clearing a heavy backlog of bills. I do not anticipate, though, that the requirements of my resolution will entail either a lengthy investigation or hearings. It seems to me that the facts of the allegation should be fairly easy to ascertain prior to our meeting on this by inquiring of the Speaker and the Member mentioned in the news article. I don't think it will be necessary to call any witnesses to testify on the allegation unless, of course, the Member named wishes to appear on his behalf. It is not my purpose to focus primary attention on the allegation and former Member involved, nor is it within the scope of my resolution to recommend any punishment. This is but one example of abuse of the floor privilege rule. My principal reason for raising this matter is to focus the attention of our committee on the general problem of floor access for former Members now engaged in lobbying and how this rule might be clarified and better enforced. This is the second part of the "resolved" clause of my resolution and what I hope the Rules Committee will devote its most careful consideration to.

I would therefore respectfully propose that you set aside a morning or afternoon session sometime during the week of September 20th on this matter. In the meantime the staff could collect the necessary information on the alleged violation for presentation to the committee at that session. If the former Member involved wishes to testify at that time, such an opportunity should be afforded him. I would then ask that I be given an opportunity to testify on what remedy I think is necessary to secure strict enforcement of the floor privilege rule, specifically on the need for a clarification of the rule and the restoration of a registration requirement for floor access as proposed in H. Res. 1364. I do not think it would be necessary to open the session to all interested Members who may wish to appear as witnesses since technically, no legislative measure would be pending before the committee. Obviously, it would be for you as Chairman, and the committee to decide to what extent the session should be opened to witnesses. I would only ask that you also consider permitting Representative John Burton to testify if he wishes since he is the principal author, with me, of the proposed reform of the floor privilege rule.

If you wish any further information or have any further questions on either the question of privilege or our proposed reform, I will be happy to discuss the matter with you at your convenience. I again emphasize that it is not my intention, nor do I think it will be necessary, to take much of the committee's time in complying with the instructions of H. Res. 1526. But the fact that this resolution did pass by an overwhelming vote in the House, coupled with the large bipartisan list of cosponsors of our floor privilege reform rule (71 Democrats and 35 Republicans) clearly demonstrates that the problem of ex-Member lobbyists on the House floor is deserving of our serious consideration and affirmative action. I look forward to hearing from you on this in the near future.

With warm personal regards, I am,
Very truly yours,
JOHN B. ANDERSON,
Member of Congress.

CANAL ZONE SURRENDER DEMANDS: "THE TIP OF THE ICEBERG"

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. MURPHY of New York. Mr. Speaker, some of our country's leading historians and strategists long ago recognized the basins of the Caribbean Sea and the Gulf of Mexico as the danger zone in hemispheric defense. The main points for its defense are Puerto Rico, the Guantanamo Naval Base in Cuba, and the U.S. Canal Zone—Panama Canal.

Though much has been published on these subjects during the last year, few of our citizens know that wresting control of the Panama Canal from the United States has been a Soviet objective since 1917. The real issue concerning the Isthmus today is not between the United States and Panama as so many have been led to believe but between the United States and the U.S.S.R. The choice is retention of our unimpaired sovereign control over the Canal Zone or permitting a threatening takeover by Soviet imperialists of the entire Caribbean-Gulf area.

As to the argument of those favoring surrender of the Canal Zone to Panama, because of the threat of guerrilla warfare and sabotage of the canal if we do not cede it, the answer is to compare those risks with what we would inevitably face were the isthmus to be occupied by forces of the U.S.S.R. or its satellites.

The United States has defended the Canal Zone and canal during several crucial periods in our history and it can do so again. The first step for its future protection might be the prompt reestablishment of the U.S. Navy's special service squadron with the Canal Zone as its home base.

A perceptive editorial in a recent issue of the Officer Review, the monthly publication of the Military Order of the World Wars, by Vice Adm. T. G. W. Settle, an able and experienced naval officer, stresses the essential points in the situation.

Mr. Speaker, because the indicated editorial should be read by all concerned with the canal issue, especially Members of the Congress, and the Joint Chiefs of Staff, I quote it as part of my remarks:

[From the Officer Review, September 1976]

THE TIP OF THE ICEBURG

(By Vice Adm. T. G. W. Settle, USN, retired)

Sovereign control of the Panama Canal and Zone is vital to the interests and security of our Nation. But our current confrontation with the Republic of Panama on this issue is only the "Tip of the Iceburg." Our basic confrontation is with the Soviet Union, with her Cuban and Panamanian satellites.

The Russians obviously seek to build a Zone of Preponderant Influence in Latin America. They have effective beachheads in Cuba and Panama. To gain control of the Panama Canal, through their puppets, would be a major step towards making the Caribbean a Red Lake, and spreading their Zone of Influence into other Latin American nations.

The people of the U.S.A. formerly rejected any kind of surrender. Have they now changed so radically as to "knuckle under" to the puny threats of Cubans and Panamanians?

If we surrender our sovereign control over the Panama Canal and Zone, Eisenhower's Domino Doctrine will become operative. U.S. bases and interests in the Caribbean basin will be early "dominoes."

Will our Nation's people supinely accept such expulsion by the Moscow-Havana-Panama Axis from that vital region on our doorstep? It is to be hoped, and expected, that they will answer emphatically *NO* to these questions.

THE IMPORTANCE OF VOTING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. CONYERS. Mr. Speaker, in an effort to increase citizen participation in the political process. I am communicating with all the citizens of the First District of Michigan on the importance of voting, by means of the following statement:

STATEMENT ON VOTING

I am writing to urge you to register to vote by October 4th, if you are not already registered, and to vote in the general election on Tuesday, November 2nd. Nothing is more important this year than to have each and every citizen participate in the decision on who will be our elected officials and what policies they will follow in the coming years.

The sad fact is that millions of Americans whose lives are most affected by what the government does or fails to do are some of the citizens who in the past have been least involved in the political process. Decisions that affect our daily lives—how many Americans will be able to work; how much food will be on the table; how our city is managed; whether civil rights laws are enforced or not—depend on how many people vote, who the voters are, and as a consequence to whom government will be responsive in its actions.

Use your full vote power: Register to vote by Monday, October 4, and vote on Tuesday , November 7! Urge every eligible member of your family and friends to register and vote—the entire ballot!

CLEAN AIR

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DEVINE. Mr. Speaker, all of the talk about significant deterioration and general decline in environment is disputed somewhat by one Dr. Rene Jules Dubos, professor emeritus, as reported in an article by Jolyon Wilde as follows:

MAN IS NOT DESTROYING THE EARTH, HE'S STEADILY IMPROVING IT, SAYS SCIENTIST

(By Jolyon Wilde)

Far from destroying his planet, man is actually steadily improving it, according to a world-famous scientist who says he's sick and tired of doomsday prophets.

"If it weren't for the influence of man's civilization, the Earth wouldn't look much different than the moon," said Dr. Rene Jules Dubos, professor emeritus at New York City's Rockefeller University.

Dr. Dubos, a pioneer in the use of microbes to fight disease, including the practical use of penicillin and streptomycin, and a Pulitzer Prize winner for his book, "So Human an Animal," told The ENQUIRER:

"If man were to pack up and leave this world right now, it would be a lot better place than it was when he found it.

"Most of the beautiful landscapes, parks, and man-made forests we have all over the world would be just barren, ugly expanses, instead of what they are, if it had not been for man," he explained.

"I'm one of those who is immensely bored with doomsday talk of escalating pollution and ultimate disaster—mostly because it just isn't true.

"In five to 10 years, I'll bet you this doomsday theory will be forgotten," he said at his office in New York.

"The most dangerous disease to the well-being of the world is boredom and apathy caused by these gloomy warnings of impending disaster. As a result, people may become disinterested and pessimistic about doing anything to improve the earth's environment," he explained.

He said that people are growing tired of stories by scientists of gloom and doom in the air and the plant world.

Most of the world's major cities are now much freer of pollution than they were five or 10 years ago, said the 73-year-old French-born scientist. The same applies to many of the world's great water and land expanses, particularly those in America.

He pointed to the example of Lake Washington, outside the city of Seattle, Wash.

"Just a few years ago, the cynics said the lake was dead—that it would never support life again. They said it would never recover from the garbage and chemicals that had been dumped into it.

"But the community decided to do something about it. They stopped all the garbage and industrial waste being thrown into it, put in proper drainage, and now it's as good, if not better, than it ever was.

"This and other examples just go to prove that if people decide to do something about pollution it's never too late.

"Nature can always recover."

The battle against pollution is by no means won, Dr. Dubos conceded, but conditions have improved immensely in recent years. "The important thing is that things are getting better, not worse," he said.

POSTMASTER RETIRES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. JONES of Tennessee. Mr. Speaker, on September 30, Mrs. LaVerne Gearhiser will retire from her position as postmaster of the Big Sandy, Tenn., Post Office, after 42 years with the Postal Service.

Mrs. Gearhiser's service has been outstanding, and her dedicated presence in the post office will be missed by the citizens of Big Sandy and of the entire area.

The Camden, Tenn., Chronicle announced her retirement in its issue of September 2, 1976:

BIG SANDY POSTMASTER RETIRES AFTER 30 YEARS

After serving under seven presidents, Mrs. LaVerne Watson Gearhiser will retire Sept. 30 as postmaster at Big Sandy.

First appointed by President Franklin D. Roosevelt, Mrs. Gearhiser has also served under the administrations of Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon and Gerald Ford.

She was first recommended for the position by then-Congressman Gordon Browning. Successive recommendations came from Congressman Herron Pearson and Tom Murray.

"When I first came to work, the mail was delivered in a horse and buggy," Mrs. Gearhiser remembered. "Some people would have to walk a mile for their mail." All that has changed with progress. "We have a good postal service today. I've tried to give good service throughout the years," she said.

At 70 years of age, Mrs. Gearhiser has reached mandatory retirement from the Postal Service, but admits, "I don't want to leave. I've enjoyed my work; it's been my life."

One of the changes in the Postal Service during the 42 years Mrs. Gearhiser has worked has been the increase in the postal stamp price. "The first stamp I remember cost 6 cents. It is hard to remember, maybe it cost a nickel."

The daughter of the late George and Annie Rushing Watson, Mrs. Gearhiser is of English and Scotch-Irish descent. She married the late Walter J. Gearhiser of Faxon, Tenn., and has three daughters, Mrs. Anitta Baker of Big Sandy, Mrs. Carol Mahony of Avon, Conn., and Mrs. Jeanette Campbell of Decatur, Ala.

A graduate of Big Sandy High School, Mrs. Gearhiser attended Union University and received her accounting degree from LaSalle University. She also studied writing under George Kelton of Malibu, Calif., and became a member of Songwriters Association, ASCAP. Mrs. Gearhiser was named to "Who's Who in Tennessee" in 1961. She is also a certified Baptist minister.

Some of Mrs. Gearhiser's songs have been published by Vanity Publishing Co. of Paterson, New Jersey. Some of her songs were recorded by Anita Kerr and Tony Martin.

Mrs. Gearhiser has been active in several areas, including church, Eastern Star, National Association of Postmasters and several charities, including polio, muscular dystrophy and cancer.

GOVERNOR CARTER'S IMPRESSIVE OPENING SPEECH INVOKED MEMORIES AND PHILOSOPHY OF F.D.R., H.S.T., AND J.F.K.

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr EVINS of Tennessee. Mr. Speaker, the opening speech of Governor Carter, in his campaign for the Presidency, delivered at Warm Springs, Ga., on Labor Day is most impressive.

The speech invoked memories and philosophy of Franklin D. Roosevelt, Harry S Truman, and John F. Kennedy.

The address summed up the difference between the political parties in the words of Harry S Truman:

> The Republicans believe that the powers of government should be used, first of all, to help the rich and privileged people in this country. With them, property comes first.
>
> The Democrats believe that the powers of government should be used to give the common man more protection and a chance to make a decent living. With us, people come first.

In this connection, and in the interest of this speech being preserved, I include this address in the RECORD.

The address follows:

REMARKS BY JIMMY CARTER AT WARM SPRINGS, GA. SEPTEMBER 6, 1976

Warm Springs is a place of history, of healing and of leadership. With me today are many friends like David Webb, Eunice Fiorito and Jim Gashel who are physically handicapped but who have still been able to forge enjoyable and full lives of public service. Other patients here are now preparing themselves for similar courageous achievements.

Today I would like for us to remember the most famous of all patients who came here looking for a new life.

Fifty years ago in 1926, Franklin Roosevelt purchased Warm Springs, including the historic ground on which we stand. He lived here, worked here, and here he spent his final days. Roosevelt first came to Warm Springs because he was physically handicapped, and the warm waters gave him strength and hope, just as later he gave strength and hope to an afflicted nation when he was president.

Although born into a family of wealth and prominence, Franklin Roosevelt yet understood and served well those millions of American families who were left jobless, hungry and filled with hopelessness and despair by the Great Depression.

His opponent in 1932 was an incumbent president, a decent and well-intentioned man who sincerely believed that there was nothing our government could or should do to attack the terrible economic and social ills of our nation; he was leading a Republican party which lacked the strength and vision to bring us out of those dark days.

But Roosevelt knew our country could be better, and with bold and forceful action he restored confidence in our economic system, he put our nation back to work, and he unified our people.

On Labor Day it is also important to remember that this strong leader in the White House restored the quiet dignity and self-respect of the working men and women of America. With such programs as rural electrification, minimum wage laws, Social Security and the Civilian Conservation Corps our wounded national spirit was healed.

In 1960 another Democratic leader came to Warm Springs. As a candidate, John Kennedy was considered an outsider because of his youth and relative inexperience and because of his religious beliefs. No Catholic had ever been elected president. But Kennedy came here to ask us Georgians for support, and we gave him more than 62% of our vote, an even greater victory than he received in his home state of Massachusetts.

This year, as in 1932, our country is divided, our people are out of work, and our national leaders do not lead. This year, as in 1960, our nation is drifting, without inspiration and purpose.

As in those critical years, it is time to restore the faith of American people in our own government, and to get our country moving again! This is a year for new ideas, and a new generation of leadership.

How can we restore confidence in our government?

We must carefully decide what government can and cannot do.

People should control government, and not the other way around.

We need a minimum of government secrecy and a maximum of personal privacy.

We should decentralize power, eliminate the trappings of authority, and remember that public officials are not bosses, but the servants of those who put them in office.

When there is a choice between government and private responsibility, the private role should have priority.

When there is a choice, among governments, the responsibility should be assigned as near as possible to the individual citizen.

When there is a choice between welfare and work, let's go to work!

We must always be careful not to overpromise, but we also should never underestimate our potential in our nation to correct our mistakes, to root out hatred and discrimination, to enhance equality of opportunity, to insure personal freedom and to carve out for ourselves and our children a better life.

We can and must provide a nationwide comprehensive system of health care, a completely reformed welfare system and educational opportunities for our people. The weak, the elderly and the disabled must have special care.

Families and neighborhoods must be strengthened and protected.

But all of this requires strong leadership. Political leaders must be willing to tackle economic problems head on, without timidity or fear. We must not lower our standards to accept high inflation, high unemployment, and huge deficits as a normal circumstance.

Under Johnson and Kennedy, the inflation rate was 2%—and when Truman went out of office the inflation rate was only 1%. Unfortunately, under this Republican administration the inflation rate has averaged more than 6%.

When President Johnson went out of office unemployment was less than 4%, and at the end of Truman's term less than 3% of our people were out of work. But the unemployment rate today is 7.9%. Under this Republican administration the unemployment rate has been the highest since the Hoover depression.

Under this Republican administration annual deficits have averaged more than $24 billion, 600% more than under Kennedy and Johnson. The present White House incumbent has recommended annual budget deficits averaging more than $50 billion. Under Harry Truman, by the way, there was not a deficit but an average surplus of more than $2 billion a year!

It is obvious that good leadership makes a difference and it is also obvious that if our government is concerned about all our people instead of selfish special interests, then the whole nation prospers. The Democratic party has traditionally given that kind of leadership.

Harry Truman summed up the difference between our two political parties with these words:

"The Republicans believe that the power of government should be used, first of all, to help the rich and privileged people in this country. With them, property comes first.

"The Democrats believe that the powers of government should be used to give the common man more protection and a chance to make a decent living. With us, people come first."

Mr. Truman's words are still true today.

We must also eliminate waste in government. Scandals and mismanagement have hit us like hammer blows. The latest one is in the Medicaid program. Designed to give our people better health care, 25% to 50% of the billions of hard-earned tax dollars are being stolen or wasted. Who is responsible? No one knows!

When Harry Truman was in the White House a sign on his desk said, "The buck stops here." There was never any doubt about who was captain of the ship.

Now no one seems to be in charge. No one is responsible.

Every time another ship runs around—CIA, FBI, Panama, unemployment, deficits, welfare, inflation, Medicaid—the captain hides in his stateroom while the crew argues about who is to blame.

We must have an effective and efficient government—with tough management and careful planning leading to a balanced budget. Each year the confusion has been getting worse.

We must have fair taxes for a change, and shift the excessive burdens off the shouders of our working families. Each year the tax system has been getting worse.

Crime must be controlled. There is a constant threat to our property and our lives. Each year the crime rate has been getting worse.

We are a powerful nation, but we can be more powerful. We must have a strong defense—tough, muscular, simple, well-organized, supported and appreciated by all Americans—with waste and confusion eliminated, and with a sharply focused purpose—the ability to fight. With this ability will come the best guarantee of peace.

We have learned some hard lessons in international affairs because of mistakes made by powerful officials acting in secret.

We have also learned: that we must coordinate domestic and foreign policy; that we cannot control the internal affairs of a foreign nation; that we cannot buy the good will of other countries; and that quiet strength is the best avenue to lasting peace.

We must face the Soviet Union with the hope and expectation of a struggle without the use of arms—of continuing peaceful competition. The best way to meet this inevitable competition is to make our system work at home!

We need not be afraid. Our economic strength, our system of government, and the freedom and character of our people are all tremendous resources waiting to be tapped.

But now our country is stagnant, divided, and drifting.

It is time for a change. It is time for leadership. We must be united and strong, and we must get our nation moving again.

I will try to be a good candidate and if elected a worthy leader of our great country. During my lifetime, from farm boy to nominee for president, I have always been close to the working families of this nation.

As a political candidate, I owe special interests nothing. I owe the people everything.

We are beginning our campaign here not many miles from my own home. My family and friends and I have have already covered much of the nation during the spring primary elections. We listened and we learned. Our political success has come directly from the voters. We have not depended on powerful intermediaries for victory.

To whatever degree I can stay close to you, and learn from you, and derive my opinions, advice and criticism from you and millions of other Americans like you—to that degree my campaign for president of the United States will be successful.

We have come a long way and we have a long way to go. I thank you for your past support. I will need your continued help and advice and tough criticism throughout the campaign and, if I am successful, as president. I will always try to be worthy of you.

As in 1932 and 1960, the choice before our people is clear. Are we Americans satisfied with a divided nation—one of timidity, confusion and mediocrity?

Most of us believe we can do better.

We will be proud to work hard—together—and to sacrifice if necessary—to achieve once again a united nation—a nation of faith and vision, of courage and greatness.

Thank you.

A 2-YEAR EXTENSION OF THE INTERNAL REVENUE CODE TO MIAS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing legislation extending for 2 years certain provisions of the Internal Revenue Code of 1954 relating to individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict.

This measure would extend the January 2, 1977, deadline until January 2d, 1979, for the purpose of first extending the date a surviving spouse may take advantage of the special rule pertaining to joint income tax returns for surviving spouses; second, excluding from gross income the military compensation of members of the Armed Forces serving in Vietnam or hospitalized as a result of the Vietnam conflict; third, extending for 2 years the period during which the death of a missing serviceman results in the forgiveness of income taxes for the years after the individual first served in Vietnam; fourth, extending the time period that the spouse of a missing serviceman may elect to file a joint return; and fifth, providing the spouse of an MIA an extension of time to perform certain acts, such as the filing of tax returns and the paying of taxes, that are postponed by reason of the Vietnam conflict.

The Internal Revenue Service publication 816, revised June 1975, entitled "Tax Information for Families and Executors of Missing Servicemen," clearly states:

> Military compensation during the period a serviceman is carried as missing is exempt from income tax. All other tax matters are postponed until a stated period after his status as "missing" is terminated. For the serviceman who has been determined killed in action, income tax is forgiven, and any estate tax liability is almost totally eliminated. The wife of a missing serviceman who subsequently is determined killed in action may file joint income tax returns for the years during which the serviceman was carried as missing and, in many cases, she may file as a "surviving spouse," using joint return rates, for 2 years thereafter.

Mr. Speaker, Vietnam's announcement on September 6 that 12 American airman listed as missing in action were killed during the Vietnam conflict underscores the need to obtain a full accounting of our missing servicemen and to continue for at least 2 years those provisions of the Internal Revenue Code pertaining to servicemen whose status has not been terminated and to servicemen who have been hospitalized as a result of the conflict. Since the 94th Congress is rapidly drawing to a close and the January 2, 1977, deadline is quickly approaching, I urge the support of my colleague of this measure and I insert a copy of this legislation in full at this point in the RECORD.

H.R. 15517

A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to certain individuals who are prisoners of war, missing in action, or hospitalized as a result of the Vietnam conflict

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Definition of Surviving Spouse.—Subparagraph (B) of section 2(a)(3) of the Internal Revenue Code of 1954 (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B)(i) January 2, 1979, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(ii) the date which is 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in clause (i)."

(b) CERTAIN COMBAT PAY OF MEMBERS OF THE ARMED FORCES.—The last sentence of section 112(a) of such Code (relating to certain combat pay of enlisted members of the Armed Forces) and the last sentence of section 112(b) of such Code (relating to certain combat pay of commissioned officers of the Armed Forces) are each amended by striking out "more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 31, 1979".

(c) INCOME TAXES ON MEMBERS OF ARMED FORCES ON DEATH.—The second sentence of section 692(b) of such Code (relating to individuals in missing status) is amended to read as follows:

"The preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning—

"(1) after January 2, 1979, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

(d) JOINT RETURN WHERE INDIVIDUAL IS IN MISSING STATUS AS A RESULT OF VIETNAM CONFLICT.—The last sentence of section 6013(f)(1) of such Code (relating to joint return where individual is in missing status) is amended by striking out "more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 2, 1979".

(e) TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF VIETNAM CONFLICT.—The second sentence of section 7508(b) of such Code (relating to time for performing certain acts postponed by reason of war) is amended to read as follows: "The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning—

"(1) after January 2, 1979, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

DOME FOR NATION'S CAPITOL MADE IN BRONX FACTORY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BINGHAM. Mr. Speaker, as a delightful article in the September 9 issue of City News, the newspaper of Co-Op City, notes, the dome of the U.S. Capitol, which has been called one of the most difficult pieces of architectural ironworks ever conceived and which has stood for over 100 years as a symbol of American determination and ingenuity, was made in Bronx County, N.Y. The Janes and Kirkland Foundry of the Bronx completed the casting and the dome was set in place even as Civil War divided the Nation. President Lincoln pushed ahead with the dome's construction, exclaiming:

> If the world sees this Capitol going on, it will know that we intend the Union shall go on.

I submit the text of the City News piece, which was based on information supplied by the Bronx County Historical Society, for my colleagues' perusal:

DOME FOR NATION'S CAPITOL MADE IN BRONX FACTORY

(EDITOR'S NOTE: The information for this article was supplied courtesy of the Bronx County Historical Society library.)

The dome of the U.S. Capitol, with its elegant columns and balustrades, has been called one of the most difficult pieces of architectural ironworks ever conceived, and most people are surprised to learn that it was made in the Bronx.

In the 19th century, however, the world of commerce and industry in the Bronx was dominated by the smoke stacks of iron foundries, and the Janes and Kirkland Foundry, which produced the Capitol dome, was one of the nation's largest.

The Bronx was also the home of the Isaac Johnson Foundry, which developed one of the earliest armor-piercing projectiles, and the Jordan Mott Iron Works, whose founder invented the coal-burning stove.

Jordan Mott's stove won him acclaim as one of the major inventors of the century, and he was included in a group portrait of inventors which now hangs in the White House.

Mott also gained a certain local infamy when he purchased 200 acres of Morrisania for his foundry and renamed the property Mott Haven. The former owner, Gouvernuer Morris II, reportedly remarked that he supposed Mott would soon rename the nearby Harlem River the Jordan River.

Mott Iron Works, built in 1828, was the first to come to the Bronx, and the Johnson Foundry arrived here in 1853. Janes and Kirkland was a relative latecomer, settling on the south side of Westchester Avenue between Brook and St. Ann's Avenues in 1857.

Since the firm had received the dome commission while still at its lower Manhattan location work on the mammoth project began almost immediately in the new foundry.

The dome's 36 giant ribs, hundreds upon hundreds of panels and innumerable screws and clamps had to be cast in the Bronx and then assembled over the Capitol more than 100 feet above the ground. The ingenious derricks and scaffolding required to lift 8,909,200 pounds of iron by horsepower were just as unprecedented as the dome itself.

Work on the dome dragged into the Civil War, which drained attention from the construction, but beleaguered President Lincoln doggedly continued because he needed a symbol. Lincoln said, "If the world sees this Capitol going on, it will know that we intend the Union shall go oh."

The dome was completed as 1864 approached. It towers 287 feet above the ground, has a diameter of 135 feet and cost the government $1,074,291.

Other government commissions received by Janes and Kirkland in the 1860's included the ironwork for the Patent Office, the General Post Office and the Treasury office, all in Washington, and for the U.S. Post Office and Courthouse in Portland, Ma.

Janes and Kirkland was also a pioneer in ornamental, as well as architectural, ironwork, and its statues and ornate fountains were shipped throughout the country and the world. One of the Janes and Kirkland fountains stands in Cuzco, Peru.

The huge Bronx foundry also made the Bow Bridge over Central Park Lake and the railings on approaches of the Brooklyn Bridge.

By the 1890's, however, the public was losing its fascination for elegant iron work, and popular taste turned to more functional designs. Early in the decade, Janes and Kirkland had to discontinue its ornate work and then manufactured only stoves and furnaces.

The annexation of the Bronx by New York City in 1898 touched off a real estate boom, so the descendants of the company's founders tore down most of the faltering foundry to build apartments.

The remaining part of the iron works was rented out, but the property continued to lose money. The rest of the once proud foundry was finally razed around 1910 to make way for a refrigerated warehouse.

The other Bronx foundries followed a similar pattern of decline, so that there are no iron works in the Bronx today.

Nothing remains of the Janes and Kirkland Company in the Bronx, except the name of Jane's Hill in St. Mary's Park, the site of co-founder Adrian Jane's mansion.

The buildings of the Mott Iron Works, however, still survive in the South Bronx, as does the name of Mott Haven. A junior high school at 147th Street and College Avenue is also named after Jordan Mott.

Johnson Avenue in Spuyten Duyvil, near the site of the Johnson Iron Works, is a reminder of the street where the workers of that foundry lived.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on September 10, 1776, the Continental Congress directed its President to inform Washington that he had complete authority over American forces should they be evacuated from New York City. Apparently, a question had arisen among some officers on Washington's staff over Congress September 3 instructions regarding the abandonment of the city. Those officers believed that Congress did not want all troops withdrawn from New York City. In response to a letter from Washington describing the misunderstanding, Congress decided to clarify its earlier instructions and leave no doubt about his complete control over the use of his forces.

ELIOT JANEWAY POINTS TO POSTAL DEFICIENCIES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. SIMON. Mr. Speaker, Eliot Janeway recently wrote a column for the Chicago Tribune syndicate about the Postal Service, which I think has real significance.

What he is suggesting is first, that the Postal Service has to be integrated into the total economic picture of the United States. If we have 8 million people unemployed, that somehow has to relate to what we are doing in the Postal Service and today the unemployment problem could just as well be on the Moon for all the attention the Postal Service pays to it.

The second point he makes, which I have never read anywhere else—except in letters I receive from postal employees—is that the Postal Service is "hopelessly overautomated." People sit at desks here in Washington and come to fancy conclusions about how to improve service and cut down costs and the net result has been worse service and higher costs.

I hope my colleagues will read this column by Eliot Janeway.

JANEWAY FINANCIAL SERVICE

(By Eliot Janeway)

Postal service ranks ahead of crime as America's No. 1 noncontroversial issue. Americans disagree about the causes of crime and the culprits; but everyone agrees that postal rates are an abomination, and that postal service is a scandal beyond the reach of a cover-up. Moreover, the backlash from the bankruptcy of the present postal system is hurting the economy—and it's in an obstacle race anyway.

The postal crisis has become so severe that amendments to the Postal Reorganization Act of 1975 dominated the debate on the Sentae floor early last week. The act provides for the federal government to pour another billion dollars into the bottomless pit that is the cumulative postal deficit. In return, the public is to be guaranteed a ceiling against further rate boosts and a floor against further service cuts. The familiar institution of a blue-ribbon commission would be set up to report on the shortcomings of the present system and make recommendations by February 1977.

This debate—as well as the problem behind it—is more than a mere nuisance. The founding fathers recognized an unconditional Constitutional obligation to provide postal service. The brashness of the present generation in blithely disregarding their judgment is now haunting us; so is our increasingly casual breach of Constitutional precepts. The federal government has washed its hands of the Postal Service except for the responsibility to put up the money for its deficits, and the right to pry into the mail. It is important to remember that when this country first became a going concern, the functions of the Post Office were deemed so important that Benjamin Franklin himself became the first postmaster general of the United States.

The post office today is a major business enterprise in the United States. It has 700,000 employees; AT&T itself has only 950,000 on the payroll. Its high-cost malfunctioning is now visiting hardship on the rich and the poor alike. The banks are complaining about their collections, and so are the folks on social security.

Inflation will not go away while a single first-class stamp costs more than a local telephone call. Nor will recovery stabilize if the thousands of small businesses which depend on the Postal Service for their selling and collecting continue to be squeezed at the mailbox.

Typically, the position of the Postal Service in the political and economic scheme of things is squarely in the middle of no-man's land. The victims blame the mess on the government, but the government has washed its hands of the problem. The Postal Service, as it is now called, is no longer the post office department; consequently, the postal unions claim the right to strike against it. Yet the post office still reserves the right to bring the full weight of government prosecution down upon private entrepreneurs presuming to compete with it.

Two senators have advanced constructive proposals in the debate. Sen. Jennings Randolph (D–W.V.) is insisting that the post office be restored to its Constitutional status with a postmaster general who enjoys Cabinet status and direct access to the President. The present head of the Postal Service has testified that he has had no such access. As Sen. Randolph points out, if the President and the attorney general were aware that the Postal Service is systematically breaking the law by depriving rural America of postal service, they would not tolerate it.

Sen. Ernest F. Hollings (D–S.C.) estimates the cost of the six-year postal disaster at $8 billion. He cites abuses that would be funny if they were not so annoying; such as mail's being shipped all around the country at extortionate costs to be delivered down the street from its mailing point. He recommends the cancellation of wasteful truck-buying.

But the truck industry is not exactly at the top of the list of trouble spots in the American economy this year. The employment of human resources—especially of those persons who have lost jobs and any hope of finding them—is. But the postal service is hopelessly overautomated. The computer industry does not need government spending subsidies; but the fringes of the work force do need paychecks. Sorting out and delivering the mail is for hand labor; those not being paid to do this are wards of the Treasury anyway. Paying people to work at regular wage rates would give the country value received for the money it must spend anyway, and would move the mails.

PROUD TO HAVE KINGSVILLE NAVAL AIR STATION

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DE LA GARZA. Mr. Speaker, the city of Kingsville, Tex., and its county—Kleberg—in my congressional district, are proud to have the Kingsville Naval Air Station as their neighbor and friend.

The relations between all the three entities have been on the highest level of respect and cooperation, as has been also between the personnel stationed there and the people of the community.

A fine example of this respect and cooperation is the fact that National Hispanic Heritage Week will be celebrated at Kingsville NAS to honor not only those members of the Navy and Marine Forces stationed there, but also to honor the community at large. This I applaud.

There are compliments to be paid on the splendid cooperation of the base's commanding officer, B. E. Eakle, and the base commander, Capt. J. J. Shanaghan.

Heading the committee in charge of ceremonies is my good friend, Hon. Mike Ybarra.

I extend my congratulations and best wishes to all concerned and ask my colleagues to join me in extending our tribute to all of Hispanic heritage and to our friends at Kingsville Naval Air Station.

GEORGE B. SURBER BIDS FAREWELL TO TORRANCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. ANDERSON of California. Mr. Speaker, on Sunday, September 19, the city and people of Torrance will pay tribute to a man whose leadership and wisdom as a member of the city council has been an asset to the community. On that day George B. Surber, who first won election as a city official in 1968, will say farewell to the city where he has lived for the past 25 years.

George will be missed in Torrance. He has stepped down from the city council because of his new residence, which is well outside the Torrance city limits. However, Councilman Surber will long be remembered for the leadership he brought to a growing, vital city—and for his many activities as an involved member of the community.

A longtime resident of the South Bay area, George graduated from Redondo Union High School in 1939. He joined the U.S. Marine Corps in 1941, and served for the duration of World War II. He participated in the first landing on Guadalcanal as a radio operator in the First Amphibious Tractor Battalion, from August 7 to December in 1942. Following his experiences in the South Pacific, George was an instructor of shore communications and amphibious landings for 2 years until he was honorably discharged from military service in November 1945, as a staff sergeant.

On November 24, 1947, George Surber received his appointment to the Los Angeles Police Department after graduating from the Los Angeles Police Academy. Since that time, he has served as a field officer, currently as an accident investigator for a hit and run unit.

In September of 1968, George received

the Los Angeles Police Department's Medal of Valor—a highly regarded decoration reserved only for those men and women who perform outstandingly in the line of duty. Officer Surber pulled a woman and three small children from the burning wreckage of an automobile to earn the commendation.

The father of three children—Ron, David, and Sandi—George has been active in many youth-oriented projects in Torrance. He served in many capacities for the Torrance Youth Baseball Leagues for 13 years, many of them on executive boards as president, vice president, equipment manager, and team manager. In addition, Councilman Surber was an adult leader and youth counselor for the Torrance family YMCA, and a member of the YMCA's Men's Club for 5 years. He was also active with a Torrance Club Scout Pack, serving as treasurer for 2 years.

Mr. Speaker, throughout his career George Surber has demonstrated a deep concern and involvement with his community. This has been amply demonstrated by his choice of career as a police officer, his outstanding service on the Torrance City Council, and by his many community activities.

Men like George Surber are hard to find. The respect and affection he has earned in the Torrance area will be remembered for a long time to come, and he will undoubtedly miss his many friends in the South Bay area.

My wife, Lee, joins me in thanking George Surber for his many contributions to our area, and in wishing him the best of luck in the years to come. His children, and his wife, Peggy, must be justly proud of his many accomplishments.

NATIONAL SCENIC TRAILS

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. PRITCHARD. Mr. Speaker, outdoorsmen all across the Pacific Northwest have shown tremendous interest in and support for our Pacific Northwest National Scenic Trail legislation, contained in the omnibus trail proposal bill, H.R. 15122.

Recently, over a thousand people expressed an enthusiasm for participating in the Pacific Northwest Trail Association's August 28–29 series of backpacking trips. Groups of 10 to 12 hikers walked existing Northwest trails representative of the proposed Pacific Northwest National Scenic Trail route.

Thousands of hikers use the Appalachian Trail in the East and the Pacific Crest Trail in the West and are clearly crying out for more trails and consequent less pressure on already existing ones. We feel that if there are additional national scenic trails established, the impact on any one trail will be reduced.

The omnibus trail bill has been favorably reported out of the House Interior Committee. We encourage support for this important legislative package, creating a backpacking trail not only in the Pacific Northwest, but also in several other parts of the country as well. Hikers from all over are waiting, backpacks packed, and hiking boots ready.

RESOLUTION OF DISAPPROVAL OF $4.5 BILLION IN ARMS TO IRAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HARRINGTON. Mr. Speaker, I am today introducing a resolution of disapproval of the proposed $4.5 billion arms sales to the Government of Iran.

Between 1972 and 1975 the United States sold over $10 billion in arms to Iran. We are now on the verge of selling the Shah $4.5 billion more in sophisticated weaponry. Surely a sale of this magnitude deserves careful scrutiny by the Congress, especially in light of the commitments we may already have with that country. On March 5, 1959, for example, the United States signed the "Agreement of Cooperation Between the Government of the United States and the Imperial Government of Iran." Article I of this treaty specified that "in the case of aggression against Iran, the United States will take such appropriate action, including the use of armed force, as may be mutually agreed upon." It seems clear that to allow this sale to go through without any congressional debate as to the nature of our commitment to Iran and the state of the regional arms race in the Persian Gulf would make a complete charade of the procedures worked out earlier this year for congressional oversight of U.S. arms sales.

For the benefit of my colleagues I am inserting in the RECORD two articles on the Iranian arms sales:

[From the Washington Post]

ARMS SALES TO IRAN: AN ANALYSIS

(The Senate Foreign Assistance Subcommittee's staff report on U.S. military sales to Iran appeared on Aug. 2, just before Secretary of State Kissinger arrived in Teheran for talks with the Shah. It set off renewed controversy over American arms shipments to the Middle East. These excerpts are taken from the report's findings:)

Iran has purchased large quantities of some of the most sophisticated equipment in the U.S. inventory including the F–14 Tom Cat Fighter and the DD993 modified Spruance Class destroyer. The F–14 system is so complicated that the United States Navy is having major difficulty keeping it operational; Iran's Spruance Class destroyer will be even more sophisticated than those being procured by the U.S. Navy. Iran is already the dominant military power in the Persian Gulf area. Upon delivery between now and 1981 of equipment ordered to date, Iran, on paper, can be regarded as a regional superpower. Although future purchases of new U.S. equipment and related services are likely to decline in absolute terms from the fiscal year 1974 and 1975 levels, any additional sales will add to an already sizable inventory.

Iran is considering the purchase of additional sophisticated equipment such as the F–16 or F–18 and AWACS aircraft;

To pay for new systems and complete its planned purchases of such systems as the Spruance Class destroyer, Iran has proposed barter arrangements (weapons for oil) to compensate for a reduction in normal oil revenues;

The government of Iran is attempting to create an extremely modern military establishment in a country that lacks the technical, educational and industrial base to provide the necessary trained personnel and management capabilities to operate such an establishment effectively. Iran also lacks experience in logistics and support operations and does not have the maintenance capabilities, the infrastructure (port facilities, roads, rail nets, etc.), and the construction capacity to implement its new programs independent of outside support.

Most informed observers feel that Iran will not be able to absorb and operate within the next five to ten yaers a large proportion of the sophisticated military systems purchased from the U.S. unless increasing numbers of American personnel go to Iran in a support capacity. This support alone may not be sufficient to guarantee success for the Iranian program;

The schedule for virtually every major program except equipment deliveries to the point of entry into Iran has slipped considerably due to the limitations noted above;

In the face of immense obstacles, our investigation indicated that the Iranian armed forces are making a maximum effort to ensure the success of the modernization program; their efforts, however, are hampered because of rapid expansion in the civilian sector as well. The military, for example, has difficulty in matching civilian salary offers to the growing, but still insufficient numbers of trained personnel.

The 1972 decision by President Nixon to sell Iran the F–14 and/or the F–15 aircraft and, in general, to let Iran buy anything it wanted effectively exempted Iran from arms sales review processes in the State and Defense Departments. This lack of policy review on individual sales requested inhibited any inclinations in the embassy, the U.S. military mission in Iran (ARMISHMAAG), or desk officers in State and DOD to assert control over day-to-day events; it created a bonanza for U.S. weapons manufacturers, the procurement branches of the three U.S. services and the Defense Security Assistance Agency.

Between 1973–75, the activities of U.S. arms salesmen, official and private, were not closely supervised by executive branch officials charged with doing so, or by the Congress;

Each of the U.S. services, particularly the Air Force and Navy, was trying to sell equipment for its own reasons, usually to lower per-unit costs of its own procurements or to recoup part of its prior research and development investment. On occassion, the services fiercely competed with each other for sales to Iran, e.g. the Air Force and Navy to sell the F–15 and F–14 respectively;

The services often did not inform the Iranians of the full extent of the training, logistics, and maintenance implications of the systems they were trying to sell. Thus, Iran may have been unaware of the complexities involved in translating its purchases into an effective fighting force. Problems in all of these areas are very serious;

Discussions both in Washington and Iran have confirmed that until recently U.S. appreciation of the management problems of the arms programs in Iran was extremely limited;

Secretary Schlesinger's decision to appoint a senior civilian Defense Representative in Iran in September, 1975, to oversee and coordinate U.S. military programs in Iran is considered by virtually everyone to be a positive and necessary development, given the chaos and problems that had emerged in program management and implementation. Nevertheless, until there is clear policy direction and effective program management in Washington, the problems in the field (Iran) will continue. Deputy Secretary Ellsworth issued a directive in February, 1976, that he hopes will ensure coordination and policy direction within the DOD:

Evidence gathered indicates that the Iranian arms sales program is not yet fully under control. Only with more effective control from Washington can the inherent propensity of civilian contractors and U.S. armed services to sell in an unrestrained manner be curbed.

The presence of large and growing numbers of Americans in Iran has already given rise to socio-economic problems. Although many of these have proven to be manageable, they could become worse should there be a major change in U.S.-Iranian relations.

On the whole, U.S.-Iranian personal relationships are excellent, if somewhat formal;

We were told that some of the early problems were due to the presence of large numbers of young single American male civilians without adequate recreational outlets. Decisions by some of the private companies to limit the number of unattached male employees have improved social relations, especially in more traditional cities such as Isfahan;

There are many other foreigners in Iran as well as Americans, including British, German, South Korean, French, Filipino, Indian and Pakistani;

Anti-Americanism could become a serious problem in Iran, as it has elsewhere, if there were to be a change in government in Iran. The possibility of a future crisis situation cannot be totally ignored and for this reason contingency plans to deal with such an emergency are necessary.

The U.S. having sold sophisticated arms in large quanities to Iran, has assumed a growing and significant "commitment" in terms of supporting that equipment—an unstated but nevertheless obligation to train Iranians and to provide logistical support for the lifetime of the equipment. To the extent that the decisions to sell the arms were politically motivated, a failure to provide follow-on support to the satisfaction of Iran would violate the political benefit of having made the sales. The deep involvement of U.S. personnel assisting Iran in program implementation has significant foreign policy implications for the United States in the Persian Gulf.

The U.S. cannot abandon, substantially diminish, or even redirect its arms programs without precipitating a major crisis in U.S.-Iranian relations;

If Iran is not able effectively to use the equipment it has purchased, it may blame the U.S. for the failures;

There is general agreement among U.S. personnel involved with the Iranian programs that it is unlikely that Iran could go to war in the next five to ten years with its current and prospective inventory, i.e. purchases to date of sophisticated weapons (as distinct from some of the less sophisticated ground equipment) without U.S. support on a day-to-day basis.

[From the New York Times, Aug. 28, 1976]

UNITED STATES TO SELL IRAN 160 NEW FIGHTERS—KISSINGER INFORMS SENATE PANEL WHOSE STAFF STUDY OPPOSED FURTHER SALES

(By Bernard Gwertzman)

WASHINGTON, Aug. 27.—Secretary of State Henry A. Kissinger told a Senate Foreign Relations subcommittee today that the United States had agreed to sell Iran 160 F-16 fighter planes at a cost of about $3.4 billion.

Despite a staff study by the Foreign Relations Committee earlier this month that said Iran was unable to absorb the sophisticated equipment it already had bought in recent years. Mr. Kissinger told the closed-door meeting that the Ford Administration had decided to go ahead with the sale.

But he stressed that delivery of the new General Dynamics fighters would not begin until 1979, when 10 trainers would be shipped to Iran, with the remaining 150 planes due to be sent over the following four years.

According to participants in the two-hour session, Mr. Kissinger said that a formal notification would be sent to Congress Monday on the pending F-16 deal as well as an addition $600 million in Iranian orders for Sidewinder, Phoenix and Sparrow missiles, making a total of $4 billion.

The staff report, whose conclusions were rejected by Shah Mohammed Riza Pahlevi when Mr. Kissinger visited him in Iran earlier this month, said that "self-sufficiency is not attainable" for the Iranian Air Force in the foreseeable future, even if it makes no additional major purchases.

At the time the report was written, Iran's most modern plane was the F-14, a larger and more complex aircraft than the F-16. The F-16 is the plane of the future as far as most of America's European allies are concerned, since they have also ordered it in quantity.

SIDEWINDERS TO SAUDIS

Most of the discussion with Mr. Kissinger was on contemplated sales to Saudi Arabia, participants said, with Senators only raising a few questions about sales to Iran.

Mr. Kissinger told the Senators that the Administration planned to sell $573 million in equipment to Saudi Arabia, including some 1,000 Sidewinder air-to-air missiles, Maverick TV-guided bombs and construction equipment.

When the matter was discussed yesterday and several Senators raised questions about the size of the Saudi order, Mr. Kissinger agreed to seek a compromise today.

But in the discussion, according to participants, Mr. Kissinger only agreed to discuss with President Ford over the weekend the objections of the Senators and to see if the size of the order could be reduced.

The Administration plans to sell 1,500 Mavericks, and Senators argued that this should be reduced as well as the Sidewinder order.

CONGRESSIONAL VETO

By law Congress has 30 days, once it is formally notified by the Administration, to veto by a majority vote in both houses any military sale over $25 million.

The Administration, faced with Congress' plans to adjourn on Oct. 2, must notify both houses by Thursday or else put off completing the sales until next year.

In this last-minute rush, the Administration plans to propose to Congress next week nearly $5 billion in new sales, the State Department said.

Besides the $4 billion to Iran and $573 million to Saudi Arabia, it intends to inform Congress of $90 million in orders for Israel, mostly for helicopters, and $84 million for Pakistan, including Sidewinders for its aircraft.

THREAT BY ROSENTHAL

Several supporters of Israel, including Representative Benjamin S. Rosenthal, Democrat of Queens, have threatened to introduce a resolution to block the sale of Sidewinder missiles to Saudi Arabia if the number is not reduced from 1,000 to 500.

Congress has not vetoed any projected sale since the law became effective last year. But by raising questions Congress has forced the Administration to alter some plans, such as the sale of antiaircraft missiles to Jordan, whose characteristics were changed.

Mr. Kissinger, according to a participant in the session, agreed to submit a study to the panel—the subcommittee of foreign assistance—justifying large-scale sales of military equipment. Such sales have amounted to more than $6 billion in the last two years.

The Secretary has consistently defended sales to Iran and Saudi Arabia as vital to insure that moderate regimes friendly to the United States are strengthened in the crucial Persian Gulf area.

Iran's purchases of about $10 billion in the last few years and another $10 billion estimated for the second half of this decade are said to reflect Iran's concern about having to defend borders with the Soviet Union and Iraq.

TROTSKYISM AND TERRORISM: PART X—SOCIALIST WORKERS PARTY STRUCTURE AND IDEOLOGY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. McDONALD. Mr. Speaker, the Socialist Workers Party is a revolutiontary Communist Party working for the imposition of a worldwide Communist system.

At its founding conference held December 31, 1937 to January 3, 1938, it passed a declaration of principles of the Socialist Workers Party. This said that the role of the Socialist Workers Party was "the overthrow of the capitalist state and the transfer of sovereignty from it to their own workers' state—the dictatorship of the proletariat." [1]

It said:

> The main specific task of the S.W.P. is the mobilization of the American masses for struggle against American capitalism and for its overthrow.[2]
>
> In the imperialist United States, the S.W.P. fights against war preparations and militarization; but at the same time always makes clear that war cannot be permanently prevented unless the imperialist government of the United States is overthrown and its place taken by a Workers' State, that lasting peace as possible only under socialism.[3]
>
> It is, consequently, the elementary and imperative duty of all workers, and especially of the revolutionary party, to defend the Soviet Union unconditionally against any and every imperialist nation.[4]

The April 1940 SWP National Convention reaffirmed the resolution, "on the internal situation and the character of the party," drafted by Cannon and Max Shachtman and originally adopted at the founding convention:

> The Socialist Workers Party is a revolutionary Marxian party, based on a definite program, whose aim is the organization of the working class in the struggle for power and the transformation of the existing social order. All of its activities, its methods and its internal regime are subordinated to this aim and are designed to serve it.
>
> * * * * *
>
> The struggle for power organized and led by the revolutionary party is the most ruthless and irreconcilable struggle in all history. A loosely-knit, heterogeneous, undisciplined, untrained organization is utterly incapable of accomplishing such world-historical tasks as the proletariat and the revolutionary party are confronted with in the present area. * * * From this follows the party's unconditional demand upon all its members for complete discipline in all the public activities and actions of the organization.
>
> Leadership and centralized direction are

Footnotes at end of article.

indispensable prerequisites for any sustained and disciplined action, * * *.

It is from these considerations * * * that we derive the Leninist principle of organization, namely democratic centralism.

*   *   *   *   *

* * * It is an important sign of a serious and firmly constituted party * * * that it throws up out of its ranks cadres of more or less able leading comrades, * * * and that it thus insures a certain stability and continuity of leadership by such a cadre.[5]

The same resolution specifies that "discussion, debate, and criticism" are restricted "by such decisions and provisions as are made by the party itself or by bodies to which it assigns this function" and that all criticism and discussion of party programs and leadership must take place "inside the ranks of the party."[6]

The resolution further states that "The first obligation of party membership is loyal acceptance of the program of the party * * *. Party membership implies the obligation of 100 percent loyalty to the organization, * * *."[7]

A second resolution adopted at the 1940 SWP National Convention stated:

> The Bolshevik party of Lenin is the only party in history which successfully conquered and held state power. The S.W.P., as a combat organization, which aims at achieving power in this country, models its organization forms and methods after those of the Russian Bolshevik party, adapting them, naturally, to the experience of recent years and to concrete American conditions.
>
> The S.W.P. as a revolutionary workers' party is based on the doctrines of scientific socialism as embodied in the principal works of Marx, Engels, Lenin and Trotsky and incorporated in the basic documents and resolution of the first four Congresses of the Communist (3rd) International and of the conferences and congresses of the Fourth International.[8]

SWP founder James Cannon wrote in thesis 15 of his "Theses on the American Revolution":

> The hopeless contradictions of American capitalism inextricably tied up with the death agony of world capitalism, are bound to lead to a social crisis of such catastrophic proportions as will place the proletarian revolution on the order of the day.
>
> *   *   *   *   *
>
> The revolutionary vanguard party destined to lead this tumultuous revolutionary movement in the U.S. does not have to be created. It already exists, and its name is the Socialist Workers Party.
>
> It is the sole legitimate heir and continuator of pioneer American Communism and the revolutionary movements of the American workers from which it sprang.[9]

In his speech to the Socialist Workers Party 1973 convention, SWP National Secretary Jack Barnes admitted:

> You know, our ideas aren't originally American ideas. Our ideas are basically Russian. That's what Comrade Cannon always emphasized. And if you look up at the banners of Lenin and Trotsky there, you will see the two main Russians whose ideas they are.[10]

SWP National Chairman Jack Barnes gave a "state of the party" report to the national committee on May 2, 1975, in which he said:

> Maybe we can say there are three basic stages in the development of a revolutionary party. One is a propaganda nucleus. Second is a cadre group capable of initiating propaganda actions. And third is a party of mass action. * * *
>
> We can say we are crossing the bridge from the first to the second stage, to a cadre nucleus capable of initiating propaganda actions. * * *[11]

The Socialist Workers Party leadership is self-perpetuating. As John Studer noted in his nominating commission report to the 1975 SWP National Convention, "The regular members of the national committee represent the rounded team of the tested leaders of the party. * * * The alternate list we viewed as serving two purposes. It includes those who are next in line to be brought on to the full list. * * * and it is a testing ground for developing party leaders."[12]

The process of leadership selection was demonstrated in 1971 when a minority grouping called the Proletarian Orientation Tendency—POT—recommended two of their members for the national committee. These were "Lewis" who was actually Ralph Levitt and "Gregorich" who is Barbara Gregorich. Their nominations were rejected because they did not have enough "individual stature" in the party, this despite the fact that they represented almost 10 percent of the SWP membership.[13]

In rejecting the POT nominations, Peter Seidman, selected in 1973 and 1975 as an alternate national committee member himself, noted, "There has never been an automatic right of any grouping within the party to have its views represented on the national committee."[14]

The national committee selections at the 1971, 1973, and 1975 conventions as well as the members of the political committee may be found in the appendix. The political committee runs the SWP between conventions. Its composition has been basically the same for a number of years.

The SWP is divided into branches, usually one to a city except in a few cases such as New York City where they have sufficient members for more than one branch.

In 1971, the Socialist Workers Party made an extensive survey of its membership. They determined that 60 percent of the membership had joined in the previous 2 years. Over 50 percent of the membership held dual membership in the Young Socialist Alliance, the SWP youth group. Of the members who joined during or since 1960, 91.8 percent had come through the YSA.[15]

The SWP reported that 21.4 percent of all members had full-time jobs with the Socialist Workers Party or its fronts. In a membership of less than 1,000, this is at least 200 people—a tremendous financial burden on the others.[16]

FOOTNOTES

[1] "Declaration of Principles and Constitution of the Socialist Workers Party," 1938, p. 9.

[2] *Ibid.*, p. 19.

[3] *Ibid.*, p. 23.

[4] *Ibid.*, p. 25.

[5] "The Organization Principles Upon Which the Party Was Founded," *The Struggle for a Proletarian Party*, James P. Cannon, 1943, pp. 227–229.

[6] *Ibid.*, p. 229.

[7] *Ibid.*, pp. 229–230.

[8] "The Organizational Conclusions of the Present Discussion," *The Struggle for a Proletarian Party*, James P. Cannon, 1943, p. 232.

[9] "Theses on the American Revolution," James P. Cannon, 1946.

[10] *Internal Information Bulletin*, No. 7 in 1974, August 1974, p. 15.

[11] *SWP Discussion Bulletin*, Vol. 33, No. 4, June 1975, p. 9.

[12] *Internal Information Bulletin*, No. 2 in 1975, October 1975, p. 21.

[13] *Internal Information Bulletin*, No. 6 in 1971, November 1971, p. 19.

[14] *Ibid.*, p. 20.

[15] *Internal Information Bulletin*, No. 7 in 1971, November 1971, pp. 7–8.

[16] *Idem*.

APPENDIX I

(Compiled from Internal Information Bulletin, No. 2 in 1975, p. 10–11.)

Regular members of the SWP National Committee selected at the 27th National Convention of the Socialist Workers Party, August 17–21, 1975:

Jack Barnes, Nelson Blackstock, George Breitman, Joel Britton, Peter Camejo, Pearl Chertov, Clifton DeBerry, Maceo Dixon.

Dick (Richard Catarino) Garza, Fred Halstead, Al Hansen, Gus Horowitz, Doug Jenness, Linda Jenness, Lew Jones, Carol Lipman.

Frank Lovell, Caroline Lund, Wendy Lyons, Malik Miah, Derrick Morrison, Andrew Pulley, Harry Ring, Bev Scott.

Larry Seigle, Ed Shaw, Barry Sheppard, Syd Stapleton, Betsey Stone, Tony Thomas, Jean Tussey, Mary-Alice Waters, Nat Weinstein.

Alternate members of the SWP National Committee selected at the 1975 national convention are:

John Benson, Frank Boehm, Steve Chainey, Steve Chase, Les Evans, Rich Finkel, Gerry Foley, John Hawkins.

Ed Heisler, Lynn Henderson, Susan LaMont, Dick McBride, Jeff Mackler, Sam Manuel, Ray Markey.

Barbara Matson, Andrea Morell, Omari Musa, Willie Mae Reid, Dick Roberts, Olga Rodriguez, Peter Seidman.

Katherine Sojourner, Baxter Smith, Dan Styron, Pedro Vasquez, Judy White.

The members of the national control commission, the group responsible for security and party discipline, are:

Peggy Brundy, Anna Chester, Wayne Clover, Helen Scheer.

APPENDIX II

(Compiled from SWP Discussion Bulletin, Vol. 33, No. 4, June 1975, p. 51.)

Regular members of the SWP National Committee selected at the August 1973 SWP National Convention.

Jack Barnes, Charles Bolduc, George Breitman, Joel Britton, Peter Camejo, Pearl Chertov, Clifton DeBerry, Dick Garza.

Fred Halstead, Al Hansen, Joe Hansen, Gus Horowitz, Doug Jenness, Linda Jenness, Joe Johnson, Lew Jones.

Carol Lipman, Frank Lovell, Derrick Morrison, Harry Ring, Larry Seigle, Art Sharon, Ed Shaw, Barry Sheppard, Betsey Stone, Tony Thomas, Jean Tussey, Mary-Alice Waters, Nat Weinstein.

Alternate members of the SWP National Committee selected at the 1973 national convention:

John Benson, Nelson Blackstock, Frank Boehm, Maceo Dixon, Les Evans, John Hawkins, Lynn Henderson, Linda Jenness.

Susan LaMont, Caroline Lund, Wendy

Lyons, Dick McBride, Jeff Mackler, Andrea Morell, Andrew Pulley, Dick Roberts.

Bev Scott, Peter Seidman, Syd Stapleton, Dan Styron, Judy White, David Wulp.

Advisory members of the SWP National Committee (this position for elderly leaders abolished in 1975) selected at 1973 convention:

Milton Alvin, James Cannon, B. Chester, Farrell Dobbs, Asher Harer.

Tom Kerry, J. Liang, George Novack, Evelyn Reed.

The 1973 national control commission members were:

Anna Chester, D. Ferguson, B. Matson, Helen Scheer.

APPENDIX III

(Compiled from SWP Discussion Bulletin, Vol. 13, No. 4, May 1973, p. 5.)

Regular members of the SWP National Committee selected at the 1971 SWP National Convention were:

Jack Barnes, George Breitman, Joel Britton, Peter Camejo, Pearl Chertov, Oscar Coover, Clifton DeBerry, Farrell Dobbs.

Dick Garza, Fred Halstead, Al Hansen, Joe Hansen, Robert Himmel, Gus Horowitz, Doug Jenness, Joe Johnson.

Lew Jones, Frank Lovell, George Novack, Harry Ring, Art Sharon, Edward Shaw, Barry Sheppard, Betsey Stone, Jean Tussey, Mary-Alice Waters, Nat Weinstein.

Alternate SWP National Committee members in 1971 were:

John Benson, Charles Bolduc, Tony Camejo, Edwards, Les Evans, Lynn Henderson, Herman Kirsh.

Tom Leonard, Carol Lipman, Sarah Lovell, Mary Lou Montauk, Derrick Morrison, Andrew Pulley, Dick Roberts.

Charles Scheer, Bev Scott, Larry Seigle, Evelyn Sell, Dan Styron, Tony Thomas, Judy White, David Wulp.

Advisory SWP National Committee members in 1971 were:

Milton Alvin, James Cannon, B. Chester, Asher Harer.

Tom Kerry, J. Liang, Evelyn Reed, Larry Trainor.

APPENDIX IV

SOCIALIST WORKERS PARTY POLITICAL COMMITTEE 1966–75

On May 4, 1975, the SWP National Committee approved a motion that the political committee consist of 12 persons:

Jack Barnes, SWP National Secretary; George Breitman, Peter Camejo, Al Hansen, Doug Jenness, Frank Lovell.

Ed Shaw, Larry Seigle, Barry Sheppard, SWP Organization Secretary; Tony Thomas, Mary-Alice Waters, YSA National Executive Committee member.

The 1973–74 political committee included:

Jack Barnes, George Breitman, Joel Britton (transferred to Illinois), Peter Camejo, Farrell Dobbs (retired), Al Hansen, Joe Hansen (retired), Gus Horowitz (transferred to Paris), Doug Jenness.

Lew Jones (transferred to California), Tom Kerry (retired), Frank Lovell, Derrick Morrison (transferred to Pennsylvania), George Novack (retired), Ed Shaw, Barry Sheppard, Betsey Stone (transferred to Chicago as field organizer), Mary-Alice Waters.

The 1971 political committee members were:

Jack Barnes, George Breitman, Joel Britton, Peter Camejo, Farrell Dobbs, Clifton DeBerry, Fred Halstead, Al Hansen, Joe Hansen, Gus Horowitz.

Doug Jenness, Lew Jones, Frank Lovell, George Novack, Harry Ring, Ed Shaw, Barry Sheppard, Betsey Stone, Mary-Alice Waters.

In 1969, Political Committee members were:

Jack Barnes, George Breitman, Clifton DeBerry, Farrell Dobbs, Fred Halstead, Joe Hansen.

Tom Kerry, George Novack, Harry Ring, Ed Shaw, Barry Sheppard.

In 1966 and 1968 the Political Committee members were:

Jack Barnes, Clifton DeBerry, Farrell Dobbs, Fred Halstead, Joe Hansen.

Tom Kerry, George Novack, Ed Shaw, Barry Sheppard, YSA representative.

NEWARK'S KENNETH GIBSON: A MAYOR'S MAYOR

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. RODINO. Mr. Speaker, it is my pleasure to call my colleagues' attention to an article on the distinguished mayor of Newark, Mr. Kenneth Gibson, which appears in the September issue of Ebony Magazine.

As a resident of the city of Newark, I am pleased to bring to the attention of my colleagues the election of Mayor Gibson to the presidency of the U.S. Conference of Mayors and the many accomplishments achieved during his tenure as mayor.

HE BECOMES THE FIRST BLACK PRESIDENT OF U.S. CONFERENCE OF MAYORS

(By Alex Poinsett)

The funky jazz band, the table laden with hors d'oeuvres, the happy crowd milling about a Milwaukee hotel ballroom—all signal party time. Bubbling despite his tee-totaling, generally subdued demeanor, Newark's Mayor Kenneth A. Gibson is graciously receiving congratulations from an ever-tightening circle of well-wishers. Then, amidst the friendly pushing and shoving, New Orleans Mayor Moon Landrieu squeezes through to ask laughingly: "May I approach the throne?"

The exaggerated request is a good-humored salute from the outgoing president of the United States Conference of Mayors (USCM) to his successor—the first black president in the group's 43-year history, a "mayor's mayor" who was clearly elected more because of performance than popularity. Already, his success in rebuilding the tarnished image of a city whose previous mayor was jailed for taking kickbacks, and his success in restoring public confidence in the basic integrity and sincerity of the city's government, have brought him national attention, the prestigious Fiorello H. LaGuardia Award, selection by Time Magazine as one of America's 200 outstanding young men, and a citation by the Times of London newspaper as an example of the type of international political leadership which will be developed in the near future.

And so this busy week of USCM festivities in Milwaukee have culminated in Gibson becoming the official spokesman for a major forum through which mayors of 750 cities (each with more than 30,000 population) can articulate their concerns and devise strategies addressed to urban America's urgent need for general revenue sharing, flexible transportation systems, law enforcement assistance and in general, the expanding range of subjects about which a mayor must be knowledgeable if he is to be effective. As USCM vice-president during the past year, Gibson served a sort of apprenticeship for his new post, testifying on behalf of urban America before several congressional committees and numerous national and state forums.

The central thrust of his continuing crusade echoed in his presidential acceptance speech: "The cities are the heart of our nation, pumping blood of survival into the towns, townships, hamlets and rural areas of our nation, and they return the flow back to the heart. Collectively, we are the circle of life in this nation. We, the U.S. Conference of Mayors, must work to enlighten those who have been misled into thinking in isolationist terms of urban, suburban or rural interests."

From coast to coast, Newark's mayor has been airing his contention that most large American cities are in serious trouble, a trouble reflected in their fiscal condition but also caused by fundamental changes in the nation's social and economic fabric. Part of his proof is a recent USCM report that nearly 85 percent of American cities are not only bogged down in fiscal chaos but are burdened by problems of inflation, unemployment and an inadequate economic growth rate, problems which are largely outside their control.

Indeed, Gibson's own Newark was the nation's Exhibit A of urban decay when he first took office. Despite his six years of struggle, the city's nearly 400,000 residents are still squeezed into 17 square miles while the remainder of the area's 24 square miles is gobbled up in seaport, airport and marshland. Because of this staggering percentage of nontaxable land, Newark's real estate tax yield is so limited that, for example, the annual tax on a $20,000 house is a whopping $2,000. Worst still, the State of New Jersey has steadily refused to grant the city the right to levy additional taxes despite Gibson's continuing campaign for a statewide graduated income tax.

Meanwhile, about 37,000 of the city's 170,000 employables are out of work and about a third of Newark's residents receive some form of public assistance. "When I walk the streets," Gibson reports, "the people say to me, 'Mayor, can you help me get a job?' This is uppermost in their minds. That means it has to be uppermost in my mind too."

Like many of the USCM colleagues Gibson is confronted with a city saddled with high crime rates, a dwindling reservoir of middle-class black and whites, and new business that plays hard to get. In the past two years, the nation's recession has forced Newark to curtail its services in health clinics, welfare case work, garbage collection, manual street cleaning and recreation. How Gibson has managed to cope with this bewildering array of conditions—despite a white-majority City Council that has blocked many of his proposals and a business community that is committed primarily to downtown Newark—how he has kept the city solvent despite a shrinking tax base, how he has maintained the investor confidence long-since lost by nearby New York City, how he has struck a balance between raising taxes and cutting back services—all this has won him the respect and admiration of his USCM peers. A visiting congressman once observed that Newark had received every federal grant available "except a program or two aimed at fattening cattle." This obvious overstatement underscores the city's receipt of more than $480 million in numerous federal aid programs since 1970, and it is a tribute of sorts to Gibson's lobbying and "grantsmanship."

The mayor's federally-supported, 54 million manpower programs have created 6,500 new jobs since 1973 and officials estimate that one additional job develops naturally for every six that are created. Federal funds have also helped finance new housing units for more than 2,700 families. Since 1973, Newark has sold $1.1 million of tax delinquent property and demolished about 2,400 condemned buildings, thus eliminating what was once a crisis situation. Gibson's appointment two years ago of Hubert Williams—a black attorney who rose through the police ranks to the grade of lieutenant—as police director, has helped stabilize the crime rate.

Unlike most of his USCM colleagues, the mayor's biggest challenges, perhaps are the Puerto Ricans who are an increasingly vocal 10 percent of Newark's population. Complaining that blacks received more jobs and money from City Hall than they did, the Puerto Ricans staged a two-day riot in September 1974 which resulted in two deaths, 54 injured persons and 77 arrests. Militant Puerto Rican leaders called for the resignation of Police Director Williams who, at the time, had been in office only two months. Williams is still there but so also are a disproportionately high unemployment rate among the Puerto Ricans and limited political clout to help solve these and other problems within the immediate future. "The day I took office in 1970," Gibson recalls, "I appointed a Puerto Rican deputy mayor. He's the first in Newark's history. I've been looking for a Puerto Rican judge, because the people who go through our judicial system have been blacks and Puerto Ricans. We have black judges but Newark has never had a Puerto Rican judge. I've been searching for one for six years. There's not a Puerto Rican lawyer in Newark. Not one. I can't appoint a guy off the street as a judge. Legally, he has to be a lawyer."

While Gibson wants to unify Newark's 60 percent black, 10 percent Puerto Rican and 30 percent "minority" (his term) populations, he is a political moderate who will not be razzle-dazzled by rhetoric or forced to act because others think he should. Quiet, methodical, unobtrusive, he explains: "I don't do anything too rapidly. I don't read fast or walk fast or run fast. My basic metabolism is slow. Even my heart doesn't beat fast."

Such a general posture helps explain Gibson's response last March when 75 persons, led by fiery state senator Anthony Imperiale and city councilman Anthony Carrino, arrived at City Hall in a chartered bus and demanded to see the mayor. They had come to protest the appointment by Police Director Williams of Capt. Edward Cullen as commander of the city's North Ward. Supposedly angered because Cullen did not live in the ward (they wanted to handpick a police officer who did), they had demonstrated in front of Williams' home the previous night. The protestors pushed their way past several secretaries to the mayor's waiting room even though they were told that he was on the phone. Within minutes, Carrino, a policeman on leave from the force since his 1974 election to the City Council, kicked open the locked door of Gibson's private office and the crowd bulled its way in shoving the mayor's bodyguard, Police Detective Will Darden, across the office, breaking a pen-and-pencil set on Gibson's desk, and standing on chairs and a conference table to hurl racial epithets.

Recovering from the surprise onslaught, Darden pulled out his service revolver and aimed it at Carrino. Meanwhile, like the eye in a hurricane, Gibson sat calmly behind his desk, waited a few minutes for the crowd to quiet down, then invited them to participate in a discussion in the larger City Council chambers nearby. Carrino and Imperiale did most of the talking, repeatedly hurling obscenities at Gibson to dramatize their disagreement with him on a variety of issues. Their obscenities were greeted with frequent applause.

"You are ignoring the people," Imperiale bellowed. "You are not going to push all the whites out of the city. If you try, you are going to have a fight on your hands."

"You all pay my salary," Gibson responded, "but you all don't pay me to take abuse. Anyone who breaks into my office will be asked to leave." And then he turned the matter over to legal authorities. Nearly two months later, Carrino received a six-month suspended jail sentence, six months probation and a $850 fine on charges of assaulting Gibson and willfully damaging city property. To the mayor's dismay, Carrino was acquitted on other, more serious charges.

The bizarre series of events hint at the rigors of Gibson's occupation. Some observers feel that his political base in Newark has become so eroded that he is beginning to develop strategy to undermine the stiff mayoral competition City Council President Earl Harris is expected to pose in 1978. Harris, a fellow black, reportedly has charged that "three-quarters of Gibson's appointees are incompetents—they collect top salaries, carry briefcases and spend two to three hours a day in the ginmills." Harris promised the Council would "investigate" Gibson's employes within the next six months and dismiss those "guilty of thinking and acting like their appointments are 52-week vacations." To sustain the physical fitness he needs to survive his trials, the mayor arises at 6 o'clock in the morning, jogs in the city parks from 7 a.m. until 8:30 a.m., then returns to his moderately priced private home in the solidly black Central Ward where, he has said, "We wouldn't mind whites moving in if they kept their property up, refrained from playing loud music and from late-night parties."

A succession of Newark's diverse population troops in and out of Gibson's busy office, airing problems, complaints and hopes for Newark's future that create a daily barometer of much of urban America's problems. Wrestling with those problems will be Gibson's continuing challenge as president of the United States Conference of Mayors. Recently he called for the formation of a "national urban policy" to outline the future of American cities. "No one deals with the question of what do we expect from our cities and how well they find the funds to provide essential services to their residents," he complained to a group of New York investment specialists. One hope for the cities, the mayor continued, was to expand the current relationship they have with their business communities. The proposal flows from his understanding that Newark is not really run by its mayor but rather by the big business leaders of the city. Hence, as he later explained in Milwaukee, "political power" is non-existent. What a mayor exerts is "political influence"—that is, he tries to influence the real power brokers of America. That, in any case, is how Kenneth Allen Gibson conceives his role in Newark. Whether he can institutionalize that insight during his one-year term as USCM president remains to be seen.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BROWN of Ohio. Mr. Speaker, this will conclude my listing of my voting record for the 1st session of the 94th Congress. I hope it will be valuable in assisting interested persons in evaluating my votes. The material follows:

VOTING RECORD

H.R. 25—SURFACE MINING CONTROL AND RECLAMATION ACT

Amendment requiring Director of Office of Surface Mining Reclamation and Enforcement to report directly to Assistant Secretary of Interior for Land & Water Resources, adopted 145–100, no; Amendment to provide transfer of administering responsibility from Interior to EPA, rejected 67–147, no; Amendment to abolish proposed reclamation fee and to finance the abandoned Mine Reclamation Fund with $200 million per year from outer Continental Shelf leasing revenue, rejected 140–250, aye; Amendment prohibiting issuance of any permits for surface coal mining on slopes of 20 degrees or more, rejected 136–262, no; Amendment to prohibit surface coal mining operations in National grasslands, rejected 168–248, no; Amendment to strike section on Anthracite coal mines, rejected 170–248, aye.

Final passage, a bill providing for cooperation between Interior Secretary and states with respect to regulation of surface mining operations and acquisition and reclamation of abandoned mines, passed 333–86, yea; 3–18–75.

Conference Report, adopted to provide minimum Federal standards for regulation of surface mining and the reclamation of strip-mined lands, adopted 293–115, nay; 5–7–75.

Motion to postpone a House vote to either sustain or override the Presidents veto, agreed to 208–195, nay; passage over the President's veto, rejected 278–143, nay; 6–10–75.

H.R. 5559 TAX REDUCTIONS

Conference report, motion to adopt the conference report on the bill to cut taxes by $8.4 billion by extending 1975 tax reductions through June 30, 1976, rejected 256–160, Nay; 12–16–75.

Attempt to override the President's veto was rejected 265–157, Nay; 12–19–75.

H.R. 9968 TAX, REVENUE ADJUSTMENT ACT

Motion to concur in the Senate amendment with an amendment pledging Congress to attempt to cut fiscal 1977 spending to equal any further extension of 1975 tax cuts beyond the January 1 to June 30 extension provided by H.R. 9968, agreed to 472–10, Yea; 12–19–75.

H. RES. 732 STATE INCOME TAX

Motion to pass the bill to authorize the voluntary withholding of state income taxes for members of Congress and congressional employees, agreed to 394–7, Yea; 11–4–75.

H.R. 2166 TAX REDUCTION ACT

Amendment to retain depletion allowance for natural gas subject to Federal price regulations, rejected 157–254, Aye; Amendment to retain depletion allowance for first 3,000 barrels of oil produced daily by independent firms that owned no gasoline stations, refineries or pipelines, rejected 197–216, Aye; Amendment to allow a 15% depletion allowance until 1985 on oil pumped from Alaska's N. Slope oil fields, rejected 81–239, Aye; Amendment repealing 22% oil depletion allowance available for natural gas sold under Federal price regulations until 7–1–76 or until the price ceiling was increased and for natural gas sold under fixed price contracts until price was increased, adopted 248–163, Nay; Amendment to substitute $12 billion rebate on '74 taxes for Committee bill provisions granting an $8.1 billion rebate for '74 taxes and reducing '75 taxes by $8.1 billion, rejected 160–251, Aye.

Final passage, a bill to cut Federal taxes by $16.2 billion for individuals over two years and $5.1 billion for businesses over three years and repealing percentage depletion allowance for most oil and gas income retroaction to 1–1–75, passed 317–97, Aye; 2–27–75.

Conference report, adopted 287–125, Yea; 3–26–75.

H.R. 10612 TAX REFORM ACT

Motion to order the previous question, thus ending debate and barring the introduction of amendments, agreed to 219–197, Nay; Amendment to delete provisions allowing individual with capital losses in excess of $3,000 in any year starting in 1974 to carry them back against capital gains in three previous years, adopted 379–27, No; Amendment to strike the enacting clause, rejected 60–355, Aye; Amendment to apply a limitation on artificial losses to real estate on a property by property basis, making the provision fully effective on persons with investments in more than one real estate project, rejected 192–226, No; Amendment to tighten provisions to strengthen the minimum tax on preference income by expanding the list of tax preferences subject to the tax and by eliminating completely a deduction for 50% of regular federal income taxes in computing the minimum tax, adopted 315–107, No; Amendment to delete provisions establishing a limitation on artificial losses and tightening the minimum tax and substitute provisions to impose federal income taxes on a minimum taxable income including tax preferences, rejected 85–334, No; Amendment to delete provisions to repeal the existing 30% withholding tax on dividends and interests earned by foreign portfolio investments in the U.S., adopted 301–119, No; Amendment to shorten to three years from five years the grace period provided in provisions limiting the amount of export income by a domestic international sales corporation eligible for deferral of federal taxes, rejected 199–223, No; Motion to recommit the bill to the Ways and Means Committee, rejected 202–220, Yea.

Final passage, A bill to reduce 1976 individual and business taxes by $15.5 billion, passed 257–168, Nay; 12–4–75.

CHINA AFTER MAO

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. WOLFF. Mr. Speaker, the record of more than 9 months of hearings I have been privileged to chair on the tripartite relationship between China, Russia and our own country will soon be published. And last April, I journeyed to China herself in the company of Chairman PRICE of Armed Services and other colleagues to view the Chinese defense systems in Manchuria, and to meet with the Chinese leadership in Peking.

While the death of Chairman Mao has been expected for some time, the passing of a statesman of Mao's stature means that no matter how great the "expert," predictions on what will happen in China remain educated guesswork at best.

Because of my recent visit, and thanks to the wealth of information made available to my future foreign policy subcommittee, a number of news organizations yesterday solicited my views on the meaning of the passing of Mao. I would like to share with my colleagues the gist of my remarks in the hope that they may find useful some of the thoughts gained from my recent experience:

STATEMENT OF HONORABLE LESTER L. WOLFF, CHAIRMAN, SUBCOMMITTEE ON FUTURE FOREIGN POLICY RESEARCH AND DEVELOPMENTS ON DEATH OF MAO TSE-TUNG

September 9, 1976.

The passing of Communist Party Chairman Mao Tse-tung brings sharply into focus the problems that have been emerging since the death of Chou En-lai in January: Who will succeed to Party leadership and will the transition be made calmly or in turmoil?

Since Mao's illness pre-dated Chou's death and his recent frailty had cut his participation in China's political life to ceremonial appearances, it is most likely that the mechanism for ruling post-Mao China has already been put into place.

If Mao's death has already been discounted, as I believe it has, then the future Chinese leadership is most likely to be a consortium of interests. (There is no one on the scene today, apparently, neither a so-called "moderate" nor "radical", of sufficient stature to replace Mao. Of his early colleagues from the Yennan hills that survive in the Party hierarchy, both Yeh Chien-ying, Standing Committee CCP, and Minister of Defense, Liu Po-ch'ang, Standing Committee CCP, are aged and infirm.) Whether this consortium could manage—as had the Mao-Chou leadership—to keep the opposing factions of "moderates" and "radicals" in relatively peaceful tension, is the major problem facing China today.

The spotlight at this moment, however, must be on Moscow as well as Peking. Will Mao's death signal a move for Soviet adventurism along their 4,500 mile common border? Will the Soviet Union make a move to test the strength and cohesiveness of the new Chinese leadership? Or might Moscow make an attempt to heal the deep Sino-Soviet split that in 1960 broke the communist world into two opposing camps?

The major issue in U.S. relations with the PRC is the question of normalization, according Peking the full diplomatic recognition implied in the Shanghai Communique that was jointly issued in 1972. Would our move to normalize relations at this time, a position advocated by many China specialists, pre-empt any Soviet effort to regain a measure of influence in Peking?

I was told in a recent trip to Peking that ideological differences between the Chinese and the Soviet Union would last 10,000 years. I was also told, however, by senior Chinese officials in Peking that the relationship between the United States and the PRC is based on "our common adversary"—the Soviet Union. Should the United States seize this moment for building a deeper and more meaningful relationship with the post-Mao leadership?

We cannot help but speculate at this moment about the emerging personalities of the new hierarchy. When I was in China just a couple of months ago, I had a long talk with Chang Chun-chiao. Since Mao's death, he is the Number 2 man, after Premier Hua Kuo-feng. But he wears the three caps of ultimate power (Standing Committee CCP; Political Commissar of the PLA; Senior Vice President of Government) which makes him a leading candidate for the top position in the consortium. Chang is also a man with a foot in each camp—he was a Radical; he is now considered a bridge to the Moderates. And I suspect that it is the "Radicals" with their emphasis on revolutionary ideology who will emerge with greater strength in the post-Mao leadership.

I would like to comment also briefly on the recent looting and gangsterism that has been taking place in China. While the looting is described as post-earthquake hooliganism, the great earth-movement itself has roots in Chinese folklore. It supposedly has heralded a major dynastic change in Chinese history since the time of the Hans in 200 BC. The fact that a major earthquake took place as Mao lay dying may well be perceived as a popular signal if not of great post-Mao changes, then of present discontent.

TIME FOR ANOTHER CCC

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FRASER. Mr. Speaker, the recent upward trend in the unemployment rate clearly shows that the recovery from this deep recession is, at best, slow. New entrants into the labor force are having the toughest time finding jobs. In some urban areas almost half of the young men and women are unable to find work. Nationally the teenage unemployment rate has been hovering at about 20 percent.

In the depression of the 1930's the Civilian Conservation Corps provided jobs for 2.5 million young people. Among those young workers was Harold Chucker, now associate editor of the Minneapolis Star. In an article in the Star of August 31, Chucker makes a persuasive case for creation of a similar program, the Young Adult Conservation Corps.

Like the CCC, the corps will provide many benefits: Young people will have jobs to earn both money and self-esteem. They will be learning both skills and good work habits needed for meaningful careers. At the same time society gains needed services in areas where public spending has lagged.

I would like to share with my colleagues this article "Idea Whose Time Has Returned" by Harold Chucker.

[From the Minneapolis Star, Aug. 31, 1976]

IDEA WHOSE TIME HAS RETURNED

(By Harold Chucker)

The spring of 1939 was not the best of times to lose a job, even a part-time, low-paying, muscle-over-brains type of job. Bad as it was, it still had paid my tuition ($26 a quarter at that time) for three years at the University of Minnesota.

There was double-digit unemployment, and no jobs to be had anywhere during that depression year. With my senior year at the university six months away, and with no money put aside for tuition, I turned in desperation to the Civilian Conservation Corps.

The corps, an innovation of Franklin Roosevelt's New Deal, took me in, and for three months I was a conservation worker at a camp near Brimson, Minn., almost directly north of Duluth. The work was hard—we planted trees and built roads—the food was adequate, if plain, and the barracks were primitive. The pay was minuscule by today's standards—$30 a month, with the CCC worker permitted to keep $5 and the rest going to his family. For myself, and the mostly rural youths in the camp, the CCC was a lucky windfall.

The corps was formed in 1933—during Roosevelt's "hundred days"—and lasted until 1942, when World War II and the demand for labor in the war industries created a labor shortage. During the period in which it existed, 2.5 million youths served in the CCC.

They worked in national and state parks, built dams and bridges, planted trees, and worked on restoration projects. During off-duty hours, they attended classes that gave them basic learning skills as well as the elements of a trade.

The pay was important in helping many families bridge the gap between hunger and having food on the table. But in retrospect, what was even more important was providing their first work experience for the several million youths who were not able to find jobs on the farms and in the towns and cities.

The problem is somewhat different today, although there are strong similarities in the plight of millions of youths—mostly minorities—who are chronically unemployed and face becoming adults with no work experience. Unemployment among young blacks range from the official estimate of 40 percent to upward of 70 percent. It is no accident that crime and vandalism have become serious problems in cities where there are large concentrations of unemployed young blacks.

For several years now, there have been calls for creation of another version of the CCC to meet the youth unemployment problem at least part way. Last May, the House of Representatives passed a bill to create a year-round program to put young people to work improving public land.

The Young Adult Jobs Bill was designed to supplement the successful Youth Conservation Corps, which was established in 1970 to provide summer employment for 15- and 19-year-olds. The new measure was aimed at a slightly older group, and would give hiring preference to those living in areas with unemployment rates of 6 percent or more.

There is no lack of work for what would be the Young Adult Conservation Corps. The national parks are overrun by visitors and seriously undermanned because of budget cuts. There is not even enough park personnel to do routine maintenance work. A report of the House Education and Labor Committee also noted there is a reforestation backlog of 3 million acres. The bill originally called for appropriations of $9.1 billion over the next four fiscal years. The House, however, adopted an amendment offered by Rep. Al Quie, R-Minn., to authorize appropriation of "such sums as may be necessary." Quie said his amendment was designed to eliminate "unreasonable goals" for appropriations, and to avoid making "false promises."

The corps, in its first year, would employ up to 100,000 youths; during the fourth year, it would have up to 500,000. Unlike the CCC, youths could serve in the new corps for only a year. Pay would be at least the minimum wage, now $2.30 an hour.

Unfortunately, the Senate is so preoccupied with other measures which its leaders feel have higher priority that the Young Adult Conservation Corps seems dead for this year. When the new Congress takes office in January, backers of the legislation will have to start all over again.

The CCC, born in a period of deep economic depression, was an idea whose time had come. Today, there is no depression; rather, there is a modest recovery from the recent recession. But structural unemployment among young people, especially those with no skills, is an increasingly serious problem. The Young Adult Conservation Corps, modeled after the CCC, is an idea whose time has returned.

DAM SYSTEM SAVED STATE IN DROUGHT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. JOHNSON of California. Mr. Speaker, as many of my colleagues know, California has experienced one of the most severe droughts in recorded history. It has been serious and the damage has been substantial, but it has not been a catastrophy. The main reason that this is true is because of an outstanding system of reservoirs built and maintained by the Federal and State governments in California.

In recent years, we have heard from some who have objected to reservoir development. I have been a supporter of this water resource program, as you all well know, for I feel that it is essential that man conserve and use wisely the most important of the God-given resources—water. In California today, we have a dramatic example of the importance of this.

Tom Arden, a staff reporter on the Sacramento Bee, has written a concise, knowledgeable article about the importance of the reservoirs in California in this critically dry year. So that my colleagues may benefit from the report prepared by an unbiased, dedicated newsman. I insert the article entitled "Dam System Saved State in Drought" in the CONGRESSIONAL RECORD at this point.

DAM SYSTEM SAVED STATE IN DROUGHT

(By Tom Arden)

The year of the drought—1976—has found some streams have dried up as August begins. Others have slowed to a trickle and the major rivers have a natural runoff reminiscent of the driest years on record—years when water was not in as heavy a demand as 1976.

Salvation has been the water stored behind the dams on the Sacramento, Feather and American Rivers as the result of earlier wet years.

The current objective is to maintain this year a safe water quality in the Sacramento-San Joaquin Delta. Plans for 1977 are indefinite. Federal and state officials are hesitant to even hazard a prediction on whether next year will be another dry year.

About all that can be done, figures David Schuster, chief of water control for the federal Central Valleys Project, is consider the odds that there will not be a repeat of a disastrous drought next year and hope for rain.

"We don't put much faith in long range forecasts, says Schuster. Rather than strict curtailment of water use, water contract commitments are being met. This is being done at heavy cost to the storage in Northern California's CVP and state-operated water project reservoirs.

The six major reservoirs will end the 1976 irrigation season—Oct. 1—with only about 5 million acre feet of storage.

This compares, federal and state officials report, to storage of more than 10.5 million acre feet at the end of last year's irrigation season.

A comparison of last year's carryover to the projected storage this coming Oct. 1, with the 1975 figures listed first, are:

Shasta Lake, 3,569,500, 930,000; Clair Engle Lake behind Trinity Dam, 2,040,700, 1.5 million; Lake Oroville, 2,857,472, 1,726,000; Folsom Lake, 773,000, 320,000; Lake Millerton behind Friant Dam, 160,100, 135,000, and San Luis reservoir, 1,031,600, 387,000.

The total capacity of the major reservoirs is more than 14 million acre feet which means by the fall storage will be down to 30 to 40 percent of capacity, lowest in the history of the system, which initially went into operation in the 1940s with the construction of Shasta Dam on the upper Sacramento River.

The operation of the extensive dam system is a cooperative function of the Bureau of Reclamation and State Department of Water Resources.

The bureau is meeting 75 per cent of all water demands on the Sacramento River from Redding to the Sacramento Delta, including delta outflows for water quality maintenance. The state is required to meet 25 per cent of the needs.

The drawdown at Shasta Lake has been particularly heavy, the storage level dropping to 1,635,000 compared to storage of nearly 4.1 million acre feet at this time last year. The state's Lake Oroville, second to the 4.5 million acre foot capacity Lake Shasta as the largest reservoir, has lowered to 2.1 million acre feet. This is nearly 1.3 million acre feet less storage than last year at this time in the 3.5 million capacity Oroville reservoir on the Feather River.

In the 2.5 million capacity Clair Engle Lake storage at the current time is about 1,820,000 acre feet compared to 2.3 million last year. Folsom Lake on the American River has been depleted to 515,000 acre feet in contrast to 857,000 at this date last year.

Lake Millerton on the San Joaquin River, with a capacity of 520,000 acre feet, has a storage of 240,000 acre feet and storage in San Luis reservoir in Merced County is down to around 759,000 acre feet of its 2.1 million acre foot capacity. Both are considerably below last year's levels at this date also.

Ironically, the Bureau of Reclamation's Lake Berryessa behind Monticello Dam just west of the Sacramento Valley has "water to burn." The 1.6 million acre foot capacity reservoir currently has nearly 1.2 million acre feet of storage and is projected to drop only to about 1 million acre feet at the end of the season.

Billy Martin, regional director of the Bureau of Reclamation, said during July the natural flows in the Sacramento River system, which includes the American and Feather Rivers and several smaller streams, had dipped to about 4,500 cubic feet per second. Martin said by the end of 1976, the CVP is expected to deliver more than 6 million acre feet of water for farming and municipal and industrial use.

In stressing the handicap of water management by not knowing what the future will bring, Ronald B. Robie, state director of water resources, commented, "We may well be storing water this year that should be utilized; on the other hand, we may be using water now which should be kept in storage."

Robie said his agency is actively working to develop technology for long-range weather forecasting. The state is participating in Project Hydrospect II with the Scripps Institution of Oceanography.

"Forecasts for the current season, because of changing and modifying the forecast procedures," Robie stated, "were inconclusive and would have been no great assistance to operations.

"Therefore, much as we would like to be able to predict next year's weather, probably the best forecast we can make at this time is that it will be a surprise.

"It will be surprisingly wet, surprisingly dry or, most improbable of all, surprisingly normal. Until we have greater assurances of our ability to predict the future, we will necessarily be limited in our management capabilities."

In addition to a prayer for rain, Robie emphasized it is essential that water agencies each develop plans to cope with a dry 1977 and extended irought even beyond next year.

"Urban areas must involve people, identify non-essential uses, assess water supply sources and develop strategies. Agricultural area strategies involve reduced water use, selective loss of usual crop production, and increased use of groundwater.

"Regional strategies could include water exchanges, temporary heavy pumping of groundwater, and local groundwater use in lieu of surface water to extend supplies. Reduction of high water using crops such as rice would require assessment of the impact on the industry as a whole and the world market. Use of evaporation suppressants and anti-transpirants could also be employed."

SELECT COMMITTEE ON NARCOTICS CONTROL AND ABUSE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. WOLFF. Mr. Speaker, periodically I distribute a newsletter to my constituents in a continuing effort to keep them informed of my activities as their representative in Washington.

In the present instance, I felt that the initiative of this Congress, acting with the encouragement of the leadership, in our recent creation of the Select Committee on Narcotics Control and Abuse was a landmark step which would be welcome news to the people of Long Island.

I would like to share with my colleagues my latest newsletter:

DEAR FRIEND AND CONSTITUENT: Drug abuse, the torment that is eroding the potential capabilities of much of America's youth, is not waning, but rather has spread to the point where the number of hard core drug addicts has doubled and the annual toll for drug related crime now costs this nation more than $27 billion. The number of addicts today, according to NIDA figures, totals 800,000, up from the high point of the 60's of 500,000.

We cannot tolerate the deaths of 5,000 young Americans each year from overdoses or as victims of drug related crime. We cannot tolerate the continuing high incidence of crime that is spawned by drug abuse—our nation's economy is suffering enough without this further drain on its resources. Remember, no heroin is grown in this country—all is brought in from abroad to contaminate Americans.

As you know, I have been working for many years to stem the tide of this rising drug scourge by attacking the root causes of the problem, the poppy fields of Turkey, the Golden Triangle of Asia and of Latin America that produce the supplies for the international traffickers.

Back when the Administration took my recommendation and had Turkey cut off its opium production, the addict population in the United States dropped to 250,000. It shows it can be done with cooperation. Up to the present time, I have only had the power of persuasion. Now, I have been named Chairman of the Select House Committee on Narcotics Abuse and Control, armed with subpoena power to drag in those of organized crime who prey on our children, and I can deal not only with the international aspects of the drug problem but with the domestic operations running the gamut from investigation and law enforcement to social implications and drug rehabilitation.

This Select Committee, a full committee of the House, will coordinate the efforts of the seven House committees and subcommittees that heretofore have exercised jurisdiction over the various facets of the overall drug problem—from the poppy fields to the veins of America's youth. For far too long, jurisdiction over this complex issue of drug abuse and control has been fragmented among legislative committees with the result that little in the way of a concerted effort to actually reverse the scourge has been realized.

An "umbrella" was needed to unite these forces of the House in the war against drugs. My Committee on Narcotics Abuse and Control is that vehicle.

In brief, the House on July 29 voted overwhelmingly (361-10) to establish the Select Committee and I was appointed Chairman by the Speaker. Seventeen of my colleagues on a bipartisan basis, Democrats and Republicans, were named to serve with me on this new committee including Chairman Peter Rodino of the House Judiciary Committee, Chairman Rogers of the Subcommittee on Health and Environment and New York Congressmen Rangel, Scheuer, Badillo and Gilman. Together, we will examine the total problem, both here and abroad, and effect meaningful measures to eliminate this problem which tears at the heart of our Nation. As an aside, I am the only member of the New York Congressional Delegation who heads a full Committee of the House.

We will not close our eyes to any segment of the drug scourge nor will we place political considerations or motivatings above the most treacherous enemy our Nation has ever faced—debilitating drug addiction.

During my past investigations of the opium producing countries, as Chairman of the Special House Subcommittee on International Narcotics, I have been criticized for demanding that farmers abroad stop growing opium in quantities beyond that required for legitimate medical purposes, for their excess only feeds the illegal markets. I have been told by those in foreign countries that, as long as America remains lax in cracking down on its flourishing drug markets, the poppies will continue to bloom and be harvested—a poignant example of the age old axiom of supply and demand.

My Select Committee intends to take a hard line. We will exert every effort to plug both ends of this deadly pipeline, at the sources and in the markets where the greedy fingers of organized crime ply their ugly trade.

Only when we have curbed both the production of the poppy and have broken up the major syndicates that import and distribute the heroin, will we have lived up to our obligation and responsibility to protect those who are being plagued more and more by abuses and crimes directly attributable to illegal drug use. Street crime is still on the rise. Walking the streets in safety, keeping a secure house is a problem for every American family today. Drug abuse is at the heart of this problem.

We do not intend, however, to limit our scope to illegal trafficking and law enforcement. More jails and more criminals imprisoned are not the long term solutions to the control of drug abuse.

We have set up as one of our prime goals, the entire syndrome of the drug user: "Why really is American youth into the drug scene?"

Enforcement programs must be balanced with a penetrating study of the contributing social factors if we are to successfully come to grips with all aspects of the drug problem and achieve our objectives.

My colleagues and I will thoroughly investigate the reasons responsible for the rampant increase in drug abuse—international trafficking, organized crime, law enforcement, narcotics in the military, as well as existing education prevention, treatment and rehabilitation programs and the criminal justice system that deals with narcotics laws and drug related crimes. Under our mandate from the Congress, we will review and recommend changes, where needed, to narcotics abuse and control policies made by the President and any federal department or agency and examine the judicial response, or lack of it, to the drug problem.

We cannot permit the aspirations and goals of our society and of future generations of Americans to become further corroded by a lethal drug culture that already has gained too deep a foothold. I intend to pursue a vigorous course, for we can no longer afford to pay the awesome price of allowing our citizens and institutions to be destroyed by drugs.

Sincerely,

LESTER WOLFF.

FULL EMPLOYMENT IS NECESSARY FOR EQUALITY OF SEXES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. HAWKINS. Mr. Speaker, Audrey C. Cohen, the president of the College for Human Services, delivered a very enlightening speech on the topic "Women and a Full Employment Policy." Her primary theme states that a Federal policy of full employment is a basic prerequisite if equality for women is to be achieved. She discusses the role women could play in a full employment economy, placing great stress on the development of a service society, one which places equal importance on service and production. Her speech is an instructive insight into the future of our society, if we are to continue to better the quality of life. Ms. Cohen's speech, given before the Full Employment Action Council on May 7, 1976, follows:

WOMEN AND A FULL EMPLOYMENT POLICY

(Speech by Audrey C. Cohen)

I am committed to a policy of full employment. Only under such a policy can we initiate a total program of job development to meet human needs . . . can we create new employment opportunities that will give women real equality of opportunity. Only in this way can our economic structure be made compatible with the fundamental changes taking place in our society today. Let me elaborate.

One of the major changes we are seeing is, of course, in the role and position of women. The Women's Movement has brought to the forefront the discontent that many women—and many men—feel with traditional roles and behaviors. Under the pressure generated by Women's Movement, we have begun to realize that women, as well as men, must be allowed to fulfill their own potential, to make choices about the courses of their lives.

Virtually everyone acknowledges the endless discrimination to which women have been subjected. Reforms have begun—new legislation, significant court decisions, affirmative action policies, for example. But this is not enough. Without a fundamental rethinking of our domestic economic policies, women, along with minorities, will continue to be "last hired, first fired." New directions can change this, and, at the same time, give us unparalleled opportnuities to improve the quality of life for all Americans.

In the last 20 years female participation in the work force has doubled. Women are working because they have to work. Forty percent of our work force is female. Thirty-seven percent of those women work to support themselves. Thirty-nine percent work to supplement another family income—where that supplement is essential to a decent standard of living. Women predominate in community services such as health, education, and social welfare. Women also predominate in clerical and sales work. According to economist Victor Fuchs, by 1980 the dominant tone of our society will be set by this service component. Clearly then, women can be in the vanguard of a new society. Not only can women be expected to fill prominent roles in the industrial sector—and I support any mechanisms that make this possible—but they can be at the forefront in the broadening—and in many ways, new—service sector. It is on the latter—the service sector—that I wish to focus this testimony.

With service becoming more and more important, with employment opportunities concentrated in the service sector, service positions will gain new status. At the same time, wages must be made commensurate with those in the production sector. Full employment is the mechanism and the impetus we need to effect both these developments. It is time for us to change gears, to put human beings—men and women—into jobs where service to people is paramount.

Let me sketch briefly for you some of the other changes in our society that support the need for a new economic policy. They are basic. They involve changes in our values, our view of ourselves and others, the systems that affect our lives, the skills that are necessary for the work that must be done, and to achieve our goals.

The very values which women cite as important to them in a work situation—an opportunity to put ideas in practice, the need for self-expression, and the chance to make a significant contribution—are in total harmony with the ethos of a service society. Women entering or re-entering the work force wish to combine their very real economic motivation with their desire to make a positive contribution. The greatest opportunity to achieve these goals lies in people work. Here is the place where human needs and an ethos which responds to those needs meet.

In a service society a strong relationship exists between the humanizing of women and the kinds of jobs we should be opening in the human services. But the conclusion is inescapable that today the service worker does not receive the prestige and is not valued as he or she should be. We cannot arbitrarily elevate the importance of the worker in either service or industry. But it is essential that through our educational system we begin to reorder our values and attitudes so that work of all kinds is given the respect it deserves. This means that work done by women must be given the respect it deserves, and there must be an end now and for all time to unequal pay for equal work. A virtue of the service society is that it will help all of us to see each other as human beings and to break down the divisions of race and sex.

Women have an impressive history of activism. Women fought for child labor laws, pure food and drugs, for factory safety legislation, for conservation and health reform. Women were early activists in the labor movement and continue to fight for social and political issues that affect their lives.

Mothers in Manhattan lead the struggle to keep schools open. Young women in The Bronx spearhead a program of community health education.

The unifying theme of all these actions by women is a demand for more humane values. Working women no longer view themselves in a single context. Ninety percent of American women will be working at least part of their lives. Having made gains in entering the labor force in recent years, women are not about to return exclusively to the home. When nearly one-half of all women say that they want to participate in a rewarding activity outside the home, this reflects a radical change in social attitudes that will have a long-range effect on the labor market, on social customs, and on family life. The costs of an ungratified existence can be gauged by the high percentage of alcoholics, the amount of pills and drugs consumed, the number of abused children, and the soaring crime rate.

The systems that affect all our lives affect women in unique ways. At the whim of economic policy we are Rosie the Riveter during World War II, and Betty Crocker when the economy buckles and men need jobs. The texture of family life is changing. Declining fertility rates and the closer spacing of births have freed up a woman's time for paid work outside her home. Yet when employment cutbacks strike, the first casualty is those very supportive services that make feasible both jobs and children. New York City government-sponsored day-care has been cut drastically. As a result, some families need welfare to supplement time lost from the job to meet child care demands. This is economics at its most counter-productive. People who are employed pay taxes, buy goods. They contribute to and stimulate the economy, whereas the unemployed drain the economy. Tax dollars that could be used to develop new jobs are, instead, siphoned off to pay unemployment compensation, and family assistance subsidies. Of course we have a moral obligation and responsibility to help each other. But how much better is it to create jobs, rather than to make it difficult and, sometimes, even a disadvantage, to work.

There is another aspect to the employment problems women face. It is cultural rather than economic and begins early in life with educational materials, and follows the girl and then the young women through testing, counseling, right into job availability. The stereotype is bolstered and the potential contribution of women downgraded. Women are not exactly encouraged to seek factory work, although we have been doing so in increasing numbers. Math, science, and management have been areas in which aspiring young women have been discouraged. And there has been nothing subtle about it—it has been overt, resulting in systematic direction of women down a path toward jobs considered suitable for members of the weaker sex.

Three-fourths of all persons receiving welfare supplements or some form of public assistance are women. Fifteen percent of working mothers earn such low pay that they receive welfare supplements just to survive. A controlled recession is presumed to contain inflation. The result? Those most recently hired, women and minority groups, are the victims. Mr. Keyserling tells us this is not sound economics. Whether it is equitable is beyond question. The answer is a thunderous "NO"!

Full employment must mean an end to the divisive competition between women, men, and minorities for existing jobs. Legislation that prohibits job discrimination against women is toothless without job opportunities for all who wish to work—men and women alike. Yet deep in our culture is the feeling, hidden just below the surface today, that in times of high unemployment, equity means one job per family, and that job ought to go to the man. I say to you that justice and economic progress are inseparable. The skills of many talented and competent women will be lost to us unless we recognize the richness inherent in full employment opportunities. Women are a great natural resource. Let us make creative use of this abundant human energy.

For women, full employment means a chance to bring their skills to a job market. We cannot follow the sexist patterns of the past. Developing service occupations means learning new roles. Everyone learning new roles. There is no reason why a woman cannot be president of a corporation that services computers, or manages department stores, or administers a health facility. Some have already achieved such positions and have shown themselves thoroughly competent. More women will follow in their steps. There is no dichotomy between warmth and decisiveness. Leadership devoid of understanding is a disaster. In that service society upon which our country is now entering, where close to 70 percent of our working population will be involved in rendering service, attitudes of interest, concern for one another, and a desire to offer quality are essential. This applies whether the service rendered is maintaining a heating system for a house full of fellow human beings, or helping to decide where a foster child's best interests lie.

Women insist upon recognition of their skills and capabilities. This recognition can be made to mean something only through full employment. We don't want to carry off a trophy engraved with our good works. We want jobs. However, a full employment policy will be meaningless both to women and men without a re-ordering of our priorities; a rethinking of our goals. We must define and meet human needs. The cost of unmet needs is already too high in human anguish, mental illness, crime, destruction of property, poverty and deprivation, welfare. We must translate our needs into jobs.

Now to specifics:

The elderly need a variety of services: nutritional and recreational programs, quality nursing homes, services for the severely ill or disabled. Such services are less expensive than the costs of institutionalization; but more important, they are the very least that we owe to old people.

We need a program of home rehabilitation to maintain our housing stock and to permit people of all ages to live in neighborhoods where a sense of community and self-respect is intact.

There is a shortage of nurses on every level. We need facilities and personnel adequate to the demand to deal with alcohol and drug abuse, mental health problems, and handicapped people.

We need children's and youth services including: day care; programs for pregnant teenagers; for those with home problems; runaways, delinquents, and those who will shortly be delinquents.

In this City our schools are closing down rapidly. Let's bring back the teachers and put them to work educating not only the young, but the middle-aged and elderly. We talk about education as a lifelong ongoing process. Let us make that a reality.

Clearly, there are job shortages in the area of service to people. Human services not only provides jobs themselves, but generate other jobs, too, such as planning, development, and programming. A service society requires clerks, supervisors, trainers. It also creates jobs through a multitude of ancillary activities—for example, the construction of new facilities requiring building-trades workers, the use of materials, and heavy equipment.

Full employment is essential to the preservation of a democratic society, and it need not be inflationary. It can be achieved through programs and proposals that increase or extend the quality of life. Our present system limits access. It maintains the status quo. Our shortage of providers of human services is too often the result of an arbitrary definition of what constitutes professionalism in the delivery of service.

Human services can best be provided by comprehensive training that is germane to jobs. We need education that prepares not only men, but women, too, for rewarding work at decent wages; education that fosters behaviors free of sex stereotypes; education that imbues students with self-confidence. Let's plan a system of learning that makes mutual responsibility to each other more valued than self-interest.

Such education requires a blending of theory plus practice in the field. It also calls for development of well-defined human service skills. As for credentials—I believe that

the capacity to perform will be the new guideline. The service worker and professional **of the future will tend to be assessed** by the citizen who receives service.

Implicity in all that I have said is a recognition that the effective service worker must have such hard skills as the ability to draw up a sound, sophisticated budget; a working knowledge of math and statistics; capacity to **use the computer as a tool; a multitude of** necessary management skills. The "working-with-people" **abilities that women have** learned so well will combine with these solid skills to allow women to take their place as executives and managers, in addition to all the other work roles in a service society.

An approach like this one is more likely to create worker satisfaction than any form of education yet devised. Furthermore, the creation of essential jobs may finally rectify the double inequities of too few jobs and inadequate services.

A plan for full employment can only be implemented with our support. We must each see the benefit, economically and socially, of our fellow citizens joining us on the work force and sharing in the satisfactions of leading productive lives. Most importantly—we must welcome women.

CONGRESSMAN OTIS G. PIKE REPORTS TO HIS CONSTITUENTS ON 2D SESSION, 94TH CONGRESS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. PIKE. Mr. Speaker, I take this opportunity, as the 94th Congress, hopefully, approaches adjournment, to report to the people of the First Congressional District of the State of New York on the actions and activities of that Congress and of their Congressman.

Some sessions of Congress are rather easy to characterize—2 years ago, for example, the great issues were energy and Watergate. Last year the two great issues were the collapse of the government of South Vietnam and the sickness of our economy at home. This year has not been marked by any single great issues, but rather by a great host of important, but not overwhelming, issues—frequently in conflict with each other. The economy has been better this year, but is still not good. Our energy problems have moved from shortages at the pump to higher prices and an ever greater dependence on other people, particularly the Middle Eastern countries, for our energy supplies and our lifestyle.

The legislative year just passed has featured an almost evenly balanced conflict between those who would sacrifice the environment for the sake of jobs and those who would sacrifice jobs for the sake of environment. A similar conflict has existed throughout the year, between those who would endure more inflation in order to reduce unemployment and those who would endure greater unemployment in order to reduce inflation.

As we approach the end of our Bicentennial year, it is fitting to remember that these or similar conflicts have always existed within any political or governmental system and it is part of the uniqueness and success of our own system that these conflicts do get resolved by popular will and majority vote—eventually. The year featured some disappointments and some successes, but so do most years.

As this is written we have had since our first vote on January 19, 538 votes on record issues which is not only more votes that can be included in any annual report of reasonable length, it is more votes than Congressmen themselves can handle intelligently. It seems to this Congressman that the institution of Congress itself is being challenged to streamline its own procedures. We have far too many votes on junk. We have votes on wholly noncontroversial issues. We have unnecessary votes on procedural matters. We have useless quorum calls. Any Member with a grudge or a hangover can force a vote in the House on a trivial issue in order to vent his spleen. One of the great problems of the Congress—far more important than the aberrations such as Elizabeth Ray which preempted so much of the media last year, is the eternal conflict between the necessity of protecting the rights of the minority—even a minority of one Member in the House and the necessity of seeing that what the majority wants gets accomplished. In this session of Congress and in the preceding session of Congress, we have done a great deal about ending the abuses of the seniority system, of conflicts of interest, of campaign financing, of government in secret. We have not made Congress an efficient instrument for carrying out national policies and this must be our goal in the years ahead.

Our Bicentennial year started in a rather noncontroversial manner. In January, in the first of many energy bills considered during the year, we amended the law pertaining to the use of coal deposits on Federal lands. At the end of the month we had the first of many confrontations with the President passing, over his veto, appropriations for health and education which were larger than he wanted and cutting off aid to Angola. The House timidly voted to suppress the report of the House Select Committee on Intelligence thereby setting the stage for another investigation as to how Dan Schorr got it. (It turned out he already had it before the House voted to suppress it.) In February, a very controversial and close vote was won by the oil and gas lobby when the price of some natural gas was freed from regulation. Another controversial, but not so close, issue involved continuing the public employment program providing up to 600,000 emergency jobs. Jobs were the issue in another vote to override a Presidential veto in February, when we passed a $6.1 billion job-creating public works bill, including anti-recession aid to State and local governments. By the end of February we had the first, but not the last, vote of the year on a bill to increase the debt limit and, as always, I remain amazed at the number of people who can vote to create new programs for which there is no money and then vote against increasing the debt in the name of fiscal responsibility.

March saw the passage of a bill important to our area authorizing $1.45 billion in Federal financial aid to help coastal areas cope with the problems inevitably associated with the development of offshore oil and gas resources and a bill even more important to our area—the final passage of the bill establishing a 200-mile exclusive U.S. fishing zone in order to protect our fishermen from foreign competition and depletion of our dwindling fisheries resources.

The following month we reestablished the Federal Election Commission which the Supreme Court had ruled in its earlier version to be partly unconstitutional and at the moment it is working again, but not without strain and criticism.

A new scare called swine flu appeared on the horizon and the Congress with rare haste appropriated $135 million in order to produce a vaccine to immunize all Americans against it. We had our annual debate over procurement for defense and eventually passed the largest military procurement bill in my career—$33.3 billion. Before doing so, we had our annual vote on continuing the B–1 bomber and by a narrow margin, the House voted to continue it. The closer it gets to production, apparently, the more people vote against it.

Having voted to spend $33.3 billion for weapons procurement in 1977, we voted to spend $250 million for the arts and humanities. We then voted to provide $3.2 billion to other countries for arms and military assistance.

One of the hopeful developments out of this Congress has been the adoption by the Congress of a congressional budget process which has the aim of making Congress really look at budget priorities and make hard choices instead of simply voting for everything and against raising the national debt. The last votes of April were largely on this issue.

In May, we authorized $10.9 million for programs to protect our waterways and ocean waters from unregulated dumping. While the concept is good, the amount authorized hardly scratches the surface of the problem.

In May, we also handled several bills of interest to environmentalists, including extending the sea-grant college program, tightening safety regulations in the construction of gas pipelines, authorizing $256 million for the Environmental Protection Agency and $450 million for the land and water conservation fund. We authorized $116 million for solar, thermal, and wind energy development programs, and a total of $7.4 billion for both nuclear and nonnuclear programs of the Energy Research and Development Administration. We established a program to employ young adults in conservation projects on public lands.

June marked the end of the old fiscal year and the beginning of a 3-month interim period during which we changed the accounting system of the U.S. Government from the fiscal year running from July 1 through June 30 in each year to a fiscal year running from October 1 through September 30 in each year. This was done in the hope that we might get our appropriation bills voted on so that the people in the Government agencies would know what they were going to have to spend before they had to start spending it. During June the House voted on many appropriation bills—most of which I voted for, but some of which (foreign aid, agricultural price support) I voted against. Before we got through appropriating $3.4 billion for military construction and $105 billion for Defense Department operations and programs with my support and $7 billion for foreign military assistance (I voted "no" on this one) we had to increase the national debt limit again.

We continued every politician's favorite giveaway program—revenue sharing—and 153 Congressmen who voted to give away money we haven't got, voted against increasing the national debt.

With most of our appropriation bills out of the way, we had time in July to revise our own rules as an offshoot of the Elizabeth Ray case, do something for consumers, extend the unemployment compensation law to almost 9 million additional workers and override another Presidential veto of a bill providing money for public works projects, including sewage treatment facilities.

July and August were interrupted by the two national political conventions. Unfortunately, but perhaps inevitably, more and more of our actions seem to take on a political flavor as the Presidential campaigns heat up. The President's veto of the bill changing the law on coal deposits on Federal lands was overridden and the House passed a bill permitting voters to register by post card for Federal elections. The President promised to veto this one if the Senate passed it.

We amended the brand new swine flu program to make the Federal Government rather than the drug manufacturers the primary target for lawsuits which might be instituted by anyone who believed he had been made ill by the shots.

We got into a lot of parliamentary tangles and political oratory on the subject of the estate and gift tax revision, on salaries for Congressmen, judges, and other Federal officials, on clean air, and the budget for fiscal 1977.

To put the budget in perspective, most of the political oratory involves very tiny differences between the budget as proposed by the President and the budget as enacted by Congress. The largest change in the congressional budget from the President's recommendation amounted to a reduction of 1.6 percent in what we are spending for income security for retired and poor people from 34.8 percent of the bduget recommended by the President to 33.2 percent of the budget recommended by Congress. The largest increase was from 4.2 percent of the budget recommended by the President for education, job training, employment, and social services to 5.4 percent recommended by the Congress. The oratory will continue and the differences will continue to be relatively small.

Before the Congress adjourns, it is my hope that we can complete action on a decent income tax reform bill and a decent revision of the estate and gift tax law—both of which my own Committee on Ways and Means labored hard to achieve and completed action on some time ago. Then it will be time for the 94th Congress in the history of our Nation to pass into history.

It has not been a great Congress and it has not been a miserable Congress. It has been an average Congress—dealing as best it could with the kind of problems which have always been there and which always will.

Your Congressman, once his stint as Chairman of the House Committee on Intelligence was over, returned to his job on the Ways and Means Committee where the work is more demanding, tedious, and meticulous than it was on the Armed Services Committee, but where our actions affect the daily lives of all Americans. The best thing about the Ways and Means Committee is that it is philosophically balanced. We have a great many issues which are hotly and closely contested and every Member's vote means something.

On a personal note, it seems to me that we continue to work harder although we don't necessarily get more done. Since reporting to you last, I have stayed healthy, had some frustrations, continued to think that the privilege of representing the more than half-million people of the First Congressional District of New York was a very high honor and tried to treat the job accordingly.

As of 10:03 p.m. on September 9, 1976, when the House adjourned, we have had 538 record votes this year. Your Congressman was present and voting on 531 of them.

Listed below are most of the major or tough controversial ones. I will be more than happy to have your views on this record:

Date	Issue	Pike vote
1976		
Jan. 19	Bill to make federal grants to states to reimburse local school districts for the actual costs they incurred in providing education services to Indochinese refugee students. (yea 311; nay 75)	Yea
Jan. 21	Bill to amend the Mineral Leasing Act of 1920 to revise procedures governing the leasing and development of coal deposits on federal lands. (yea 344; nay 51)	Yea
Jan. 27	Passage, over the President's veto, of the bill to make fiscal 1976 appropriations of $36,073,748,318 and transition period appropriations of $8,953,070,000 for the Departments of Labor and Health, Education and Welfare and related agencies. (yea 310; nay 113)	Yea
Jan. 27	Bar U.S. aid to the factions fighting in the civil war in Angola except for intelligence gathering. Motion agreed to. (yea 323; nay 99)	Yea
Jan. 29	Rules Committee amendment authorizing the House Select Intelligence Committee to file a report on the CIA and other intelligence agencies by Jan. 30, but barring the release of classified information until the study had been certified by the President as not containing information that would adversely affect the intelligence activities of the CIA or other agencies. (yea 246; nay 124)	Nay
Feb. 5	Bill to deregulate the price of natural gas sold by small producers with sales of less than 100-billion cubic feet a year, but continue regulation of major gas producers by the Federal Power Commission. (yea 205; nay 194)	Yea
Feb. 9	Bill to strengthen the authority of the Secretary of Agriculture to establish and enforce humane standards for the transportation of animals in interstate commerce, to make violators subject to civil and criminal penalties, and to prohibit and make a federal crime transporting animals in interstate commerce for the purpose of holding animal fights involving live birds, dogs or other mammals. (yea 335; nay 34)	Yea
Feb. 10	Bill to authorize the continuation through fiscal 1977 of the public employment program under the Comprehensive Employment and Training Act, providing up to 320,000 emergency jobs, and to establish a new project-oriented public service jobs program to create an additional 280,000 jobs. (yea 239; nay 154)	Yea
Feb. 17	Extend the Library Service and Construction Act for five years, through fiscal 1981. (yea 378; nay 7)	Yea
Feb. 18	Appropriate $2.032-billion to provide for the purchase of Consolidated Rail Corporation (ConRail) securities by the United States Railway Association for fiscal years 1976, 1978, 1979. (yea 298; nay 95)	Yea
Feb. 19	Passage, over the President's veto, of the bill to authorize $6.1 billion for job-creating public works projects and anti-recession aid to state and local governments. (yea 319; nay 98)	Yea
Feb. 19	Resolution to require the House Committee on Standards of Official Conduct to look into the circumstances surrounding publication of portions of the report of the	

Date	Issue	Pike vote
	House Select Intelligence Committee and to make recommendations. (yea 269; nay 115)	Yea
Feb. 25	Bill to raise the temporary debt limit by $32 billion, to $627 billion, through June 30, 1976. (yea 212; nay 189)	Yea
Mar. 4	Appropriate $4,989,013,054 for foreign military and economic assistance and related programs in fiscal 1976. (yea 214; nay 152)	Nay
Mar. 9	Bill to outlaw credit discrimination based on age, race, color, religion or national origin. (yea 384; nay 3)	Yea
Mar. 11	Authorize $1.45 billion in new federal financial aid over five years to help coastal states cope with the development of their offshore oil and gas resources. (yea 370; nay 14)	Yea
Mar. 11	Authorize $445,041,000 in fiscal 1977 for certain maritime programs of the Commerce Department including maritime training and education at the Merchant Marine Academy at Kings Point, N.Y. (yea 315; nay 42)	Yea
Mar. 22	Authorize $81 million in fiscal 1977 for programs and administrative expenses of the Peace Corps. (yea 274; nay 75)	Yea
Mar. 22	Authorize $3.7 billion for the National Aeronautics and Space Administration for fiscal 1977. (yea 330; nay 35)	Yea
Mar. 23	Provide $125 million to help states comply with health, safety, and staffing standards for federally supported day care centers serving low-income families. (yea 316; nay 72)	Yea
Mar. 23	Joint resolution to amend the Constitution to provide for voting representation for the District of Columbia in Congress. (yea 229; nay 181) (failed—requires two-thirds vote)	Nay
Mar. 25	Authorize $801 million in fiscal 1977 for the National Science Foundation. (yea 358; nay 33)	Yea
Mar. 29	Authorizing the House Committee on Standards of Official Conduct to spend up to $150,000 in its investigation of the unauthorized release of the final report of the Select Committee on Intelligence. (yea 278; nay 87)	Nay
Mar. 30	Bill to give federal employees the right to participate in partisan political campaigns and to run for local, state or federal office. (yea 241; nay 164)	Yea
Mar. 30	Adoption of the conference report on the Bill to extend the 12-mile exclusive U.S. fishing zone off U.S. coasts to 200 miles in order to protect American fishermen from foreign competition for scarce fish stocks, and to establish eight regional fish conservation councils. (yea 346; nay 52)	Yea
Mar. 31	Bill to authorize production of oil and gas from U.S. Naval Petroleum Reserves. (yea 390; nay 5)	Nay
Apr. 1	Reconstitute the Federal Election Commission and to make revisions in the 1974 campaign finance law. (yea 241; nay 155)	Yea
Apr. 5	Authorize $304,069,000 in fiscal 1977 for procurement of Coast Guard vessels and aircraft and for the construction of facilities. (yea 358; nay 9)	Yea
Apr. 5	Appropriate $135,064,000 in fiscal 1976 to finance the production of a vaccine to immunize U.S. citizens against swine influenza. (yea 354; nay 12)	Yea
Apr. 8	Defer expenditure of $960 million recommended in the bill for purchase of 3 B-1 bombers until the President certified to Congress, after Feb. 1, 1977, that the purchase was in the national interest and Congress approved the purchase by concurrent resolution. (yea 177; nay 210)	Yea
Apr. 9	Authorize appropriation of $33.3 billion for weapons procurement and military research and development programs of the Defense Department in fiscal 1977. (yea 298; nay 52)	Yea
Apr. 12	Authorize $1.3 billion in fiscal 1976–78 for federal programs to combat heart, lung and blood diseases, to prevent and control genetic diseases and to provide research training support for students in advanced scientific fields. (yea 360; nay 0)	Yea
Apr. 13	Supplemental appropriations of $8.1 billion for fiscal year 1976 and $2.3 billion for the transition period, July-Sept. 1976, including $2.4 billion for public assistance grants to the states, $2.6 billion to pay for a 5% wage increase for federal workers, and $1.6 billion for increased veterans benefits. (yea 352; nay 35)	Yea
Apr. 26	Authorize a total of $250 million for fiscal 1977, $297 million for fiscal 1978 and open-ended funding for fiscal 1979 and 1980 to extend support for the National Foundation on the Arts and Humanities. (yea 279; nay 59)	Yea
Apr. 28	Add $610 million in budget authority and outlays to the veterans' affairs budget category for extension of eligibility for educational benefits. (yea 218; nay 188)	Yea
Apr. 28	Reduce budget authority for national defense to $110 billion, from $112 billion, and reduce outlays to $100.3 billion, from $100.6 billion. (yea 145; nay 255)	Nay
Apr. 29	Passage, over the President's veto, of the bill to give federal employees the right to participate in partisan political campaigns and to run for local, state or federal office. Rejected (thus sustaining the President's veto). (yea 243; nay 160). (Requires two-thirds vote)	Yea
Apr. 29	Adoption of the resolution setting fiscal 1977 budget targets of $454.1 billion in budget authority, $415.4 billion in outlays, revenues of $363 billion and a deficit of $52.4 billion. (yea 221; nay 155)	Yea
Apr. 30	Extend through Sept. 30, 1976, the authorization for appropriations under Title VI of the Comprehensive Employment and Training Act. (yea 287; nay 42)	Yea
Apr. 30	Provide a payment of $50,000 to the family of any law enforcement officer killed in the line of duty. (yea 199; nay 93)	Yea
Apr. 30	Provide a $50,000 payment to the family of any firefighter killed in the line of duty. (yea 178; nay 80)	Yea
May 3	Authorize $10.9 million through fiscal 1977 for programs to protect the nation's waterways and ocean waters from unregulated dumping. (yea 362; nay 0)	Yea
May 4	Passage, over the President's veto, of the bill to provide $125 million through Sept. 30, 1976, to help states comply with health, safety and staffing standards for federally supported day care centers serving low-income families. (yea 301; nay 101)	Yea
May 4	Passage of the bill to authorize $256.6 million for EPA research and development activities in fiscal 1977. (yea 381; nay 16)	Yea
May 5	Increase the annual authorization for the Land and Water Conservation Fund to $450 million in fiscal 1978, $625 million in fiscal 1979 and $800 million in fiscal 1980–89; and to establish a federal grant program for preservation of historic properties. (yea 392; nay 3)	Yea
May 12	Extend for one year the authorization for federal aid to higher education programs. (yea 388; nay 7)	Yea
May 17	Establish a federal Commission on Security and Cooperation in Europe to monitor compliance with and violations of the 1975 Helsinki Agreement, particularly its humanitarian principles. (yea 240; nay 95)	Yea
May 19	Authorize $116 million for solar electric, ocean thermal, wind energy, biomass and related research and development programs by allocating $58 million to solar heating and cooling programs and $58 million to other solar programs and to delete line-item authorizations for specific solar technologies and provisions to increase the ERDA Solar Division staff by 74 positions. (yea 321; nay 68)	Yea

Date	Issue	Pike vote
May 20	Authorize $2.25 billion for the U.S. share of Inter-American Development Bank loan funds through fiscal 1979, and providing for U.S. participation in the African Development Fund. (yea 275; nay 120)	Yea
May 20	Authorize $7.4 billion in fiscal 1977 for Energy Research and Development (ERDA) nuclear and non-nuclear programs. (yea 316; nay 26)	Yea
May 21	Authorize $481.5 million in fiscal 1977–79 for federal programs designed to prevent and treat alcoholism and alcohol abuse. (yea 271; nay 3)	Yea
May 21	Authorize $318.25 million in fiscal 1977–79 for federal health services research, health statistics and medical library programs. (yea 268; nay 8)	Yea
May 24	Authorize an additional assistant secretary in the Department of Commerce for congressional affairs. (yea 143; nay 178)	Nay
May 25	Establish a program to employ young adults in public service conservation projects on public lands. (yea 291; nay 70)	Yea
June 2	Delete language added by the International Relations Committee placing a ceiling on military assistance to South Korea during fiscal 1976–77 of $290 million. (yea 241; nay 159)	Nay
June 2	Authorize $3.2 billion in foreign military assistance, weapons sales credits, security aid and related programs for fiscal 1976 and $3.1 billion for fiscal 1977; the bill also imposed new controls on the sale of military equipment by both the federal government and U.S. private industry to other countries. (yea 255; nay 140)	Nay
June 3	Authorize fiscal 1977–79 funds for the Federal Water Pollution Control Act Amendments of 1972 and to make certain modifications in the 1972 law. (yea 339; nay 5)	Yea
June 9	Authorize grants to the National Railroad Passenger Corporation (Amtrak) of $430 million for fiscal 1977 for operating expenses, $140 million for each of fiscal 1977 and 1978 for capital needs and $68 million for fiscal 1977 and $75 million for fiscal 1978 for passenger service in the Washington-Boston population corridor. (yea 359; nay 21)	Yea
June 10	Resolution to give the chairman and ranking minority member of the House Committee on Standards of Official Conduct temporary authority through the 94th Congress to get funds for committee expenses from the House contingent fund. (yea 400; nay 0)	Yea
June 10	Extend the federal revenue sharing program to Sept. 30, 1980, and to authorize the distribution of $24.95 billion as an entitlement to state and local governments. (yea 361; nay 35)	Nay
June 11	Authorize $49,290,000 for planning, design and construction of winter sports facilities at Lake Placid, N.Y. for the 1980 Olympic Winter Games. (yea 179; nay 147)	Yea
June 14	Provide fiscal 1977 appropriations of $8,267,636,000 for Treasury, postal service and general government operations, including funds for the White House and the Executive Office of the President. (yea 261; nay 99)	Yea
June 14	Raise the temporary debt limit to $700 billion through Sept. 30, 1977. (yea 184; nay 177)	Yea
June 15	Appropriate $9,666,809,000 in fiscal 1977 for public water and power projects and for Energy Research and Development Administration (ERDA) operating expenses and construction projects. The bill also provided $200 million in supplemental fiscal 1976 appropriations to compensate victims of the June 5, 1976, Teton River Dam disaster in Idaho. (yea 378; nay 20)	Yea
June 16	Appropriate $11,703,438,000 for the Department of Agriculture and related agencies for fiscal 1977. (yea 377; nay 26)	Nay
June 17	Appropriate $105,397,343,000 for operations and programs of the Department of Defense for fiscal 1977. (yea 331, nays 53)—	Yea
June 21	Make permanent the 8% increase provided in PL 94–169 for eligible veterans, widows and other dependents and to provide a 7% cost-of-living increase in benefits, effective Jan. 1, 1977, and to raise the limitation on outside income that recipients may earn. (yea 354; nay 0)	Yea
June 22	Resolution expressing the sense of the House that the Postal Service should not close small post offices, except in cases of clear and compelling need, or make any other cuts in service for the period of a year following adoption of the resolution. (yea 399; nay 14)	Yea
June 22	Appropriate $42,982,730,000 in fiscal 1977 for the Department of Housing and Urban Development, Veterans Administration, National Aeronautics and Space Administration, National Science Foundation and other independent agencies. (yea 369; nay 18)	Yea
June 23	Authorize funding through fiscal 1977 of $2 billion for job-creating state and local public works projects, $1.25 billion for countercyclical aid to help state and local governments maintain services and $700 million for waste water treatment programs. (yea 328; nay 83)	Yea
June 24	Exempt farming operations in which 10 or fewer persons were employed from OSHA regulations. (yea 273; nay 124)	Yea
June 24	Prohibit use of funds in the Labor-HEW Appropriations bill to pay for or to promote abortions. (yea 207; nay 167)	Yea
June 25	Appropriations of $5,957,896,000 for the Interior Department and related agencies in fiscal 1977. (yea 295; nay 1)	Yea
June 28	Prohibit use of funds in the Transportation Appropriations bill for commercial flights of supersonic transport (SST) jets to land at U.S. airports until the aircraft could meet federal noise standards. (yea 126; nay 269)	Yea
June 28	Passage of the bill to appropriate $5,296,077,357 for the transportation programs of the Dept. of Transportation and related agencies in fiscal 1977. (yea 376; nay 21)	Yea
June 28	Appropriate $5,179,890,909 for foreign assistance programs in fiscal 1976 and $759,275,000 for the July-Sept. transition period. (yea 231; nay 158)	Nay
June 29	Passage of the bill to appropriate $4,833,498,000 for foreign assistance programs in fiscal 1977. (yea 238; nay 169)	Nay
June 30	Authorize $850 million in fiscal 1977 contract authority for federally subsidized housing programs, to increase funding available for housing programs for the elderly and to extend a number of other housing-related programs through fiscal 1977. (yea 341; nay 68)	Yea
June 30	Appropriate $6,680,314,453 in fiscal 1977 for the Departments of State, Justice and Commerce, the Judiciary and 20 related agencies. (yea 360; nay 42)	Yea
June 30	Resolution expressing disapproval of the House to the administration's energy action No. 3 removing price and allocation controls from certain heating oil and diesel fuel. (yea 194; nay 208)	Yea
July 1	Adoption of the resolution to rescind the unilateral authority of the House Administration Committee to alter members' perquisites. (yea 311; nay 92)	Yea
July 1	Adoption of the bill appropriating $3,338,795,000 for fiscal 1977 for military construction programs and family housing for the armed services. (yea 357; nay 26)	Yea
July 20	Amendment to require states to pay a maximum weekly benefit equal to 50% of a claimant's weekly wage, up to two-thirds	

Date	Issue	Pike vote
	of the statewide average weekly wage in covered employment. (yea 113; nay 281)	Nay
July 20	Bill to extend coverage to 8.9 million additional workers, to increase the tax rate temporarily to 0.7% from 0.5%, and to increase the taxable wage base to $6,000 from $4,200. (yea 237; nay 157)	Yea
July 21	Bill to revise leasing procedures for the oil and gas resources on the Outer Continental Shelf. (yea 247; nay 140)	Yea
July 22	Passage, over the President's veto, the bill to authorize funding through fiscal 1977 of $2 billion for job-creating state and local public works projects, $1.25 billion for anti-recessionary aid to help state and local governments maintain services and $700 million for waste water treatment programs. (yea 310; nay 96)	Yea
July 22	Passage, over the President's veto, the bill to authorize $3.3 billion for military construction projects in fiscal 1977 and to require a year's advance notice of Pentagon plans to close or greatly reduce any major military base in the U.S. (yea 270; nay 131)	Yea
July 22	Bill to consolidate and strengthen the administration of public lands and make changes in federal grazing laws. (yea 169; nay 155)	Yea
July 27	Bill to amend the Articles of Agreement of the International Monetary Fund to permit floating exchange rates. (yea 289; nay 121)	Yea
July 27	Passage of the bill to prohibit debt collection agencies operating in more than one state from engaging in certain practices unfair to consumers. (yea 239; nay 162)	Yea
July 28	Passage of the bill to strengthen mine health and safety standards and enforcement practices. (yea 309; nay 66)	Yea
July 28	Passage of the bill to require that all meetings of federal agencies headed by 2 or more persons be open to the public unless the members voted to close a meeting for specified reasons. (yea 390; nay 5)	Yea
July 29	Bill to permit California to continue to pay special bonuses to Supplemental Security Income (SSI) recipients instead of entitling them to food stamps only if the state also passed federal cost-of-living increases in SSI benefits through to recipients. (yea 210; nay 179)	Nay
July 29	Adoption of the resolution to establish a House Select Committee on Narcotics Abuse and Control. (yea 361; nay 10)	Yea
July 30	Passage of the bill to authorize $475.6 million in fiscal 1978–80 for improvement of Indian health care programs. (yea 310; nay 9)	Yea
Aug. 2	Establish in the Energy Research and Development Administration (ERDA) an Energy Extension Service to provide a program of assistance to state and local governments on energy conservation. (yea 323; nay 55)	Yea
Aug. 4	Passage, over the President's veto, of the bill to amend the Mineral Leasing Act of 1920 to revise procedures governing the leasing and development of coal deposits on federal lands. (yea 316; nay 85)	Yea
Aug. 5	Passage of the bill to require annual federal payments to local governments to partially compensate for loss of tax revenues because of tax-exempt federal lands within their boundaries. (yea 270; nay 125)	Nay
Aug. 9	Bill to create a Voter Registration Administration within the Federal Election Commission to authorize a nation-wide voter postcard registration program. (yea 239; nay 147)	Yea
Aug. 10	Extending the life of the Federal Energy Administration through 1977, providing for federal financial incentives for energy conservation, eliminating certain oil price constraints, and encouraging reform of electric rate structures. (yea 293; nay 88)	Yea
Aug. 10	Bill to designate a 26.5 mile stretch of the New River in North Carolina as part of the Wild and Scenic Rivers System, thus invalidating a Federal Power Commission license for the construction of a hydroelectric power project. (yea 311; nay 73)	Yea
Aug. 10	Appropriate $56,618,207,575 for the Departments of Labor and Health, Education, and Welfare and related agencies for fiscal 1977. (yea 279; nay 100)	Yea
Aug. 10	Motion that the House recede from its disagreement to the Senate amendment striking from the bill a section to forbid the use of federal funds to pay for, promote or encourage abortions. (yea 150; nay 223)	Nay
Aug. 10	Passage of the bill to authorize a national swine flu immunization program and to give the federal government primary liability for law suits arising from the program. (yea 250; nay 83)	Yea
Aug. 23	Bill to establish a federal regulatory program for industrial and commercial chemicals, to require manufacturers to notify the Environmental Protection Agency (EPA) before marketing new chemicals and to authorize the agency to require testing of potentially dangerous substances. (yea 319; nay 45)	Yea
Aug. 24	Bill to give George Washington the rank of General of the Armies of the United States. (yea 275; nay 107)	Nay
Aug. 25	Passage of the bill to extend the federal guaranteed student loan program through fiscal 1980 and to modify the program to reduce the loan default rate. (yea 391; nay 3)	Yea
Aug. 25	Appropriations through fiscal 1977 of $2 billion for job-creating state and local public works projects, $1.25 billion for "counter-cyclical" aid to help state and local governments maintain services and $200 million for waste water treatment programs. (yea 311; nay 72)	Yea
Aug. 26	Authorizing the chairman of the Subcommittee on Oversight and Investigation of the Interstate and Foreign Commerce Committee to intervene in a pending court case regarding telephone wiretap information held by the American Telephone and Telegraph Co., and authorizing $50,000 to employ special counsel in the case. (yea 180; nay 143)	Yea
Aug. 30	Passage of the bill to revise the federal Supplemental Security Income (SSI) welfare program for the aged, blind and disabled. (yea 374; nay 3)	Yea
Aug. 31	Bill to authorize $100 million for the first two years of a five-year program to promote development of cars that use nonpetroleum-based fuels. (yea 344; nay 39)	Yea
Sept. 1	Amendment to Legislative Appropriations bill to deny the automatic cost-of-living salary increase scheduled to take effect on Oct. 1 for members of the House, senators, judges and top-level federal officials. (yea 325; nay 75)	Nay
Sept. 2	Passage of the bill to extend Law Enforcement Assistance Administration Authorization for one year, through fiscal 1977, with an authorization level of $895 million. (yea 324; nay 8)	Yea

COMPETITION IN THE TELEPHONE INDUSTRY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FRASER. Mr. Speaker, the appropriate role of competition in the telecommunications industry is a question many of us in the Congress are wrestling with. From my own study of the issue I have found that the limited degree of competition now allowed by the FCC in the terminal equipment and private line services has been useful in promoting and hastening technological changes. These improvements in the kinds of equipment available for consumers have been made both by the new competitors and by the Bell System.

Two events have occurred within the last few weeks which may have a major impact on the degree of competition which will eventually be allowed in the industry. First, Administrative Judge David Kraushaar issued a lengthy decision in the Federal Communications Commission docket 18128, which investigated the structure of A.T. & T. and Western Electric and the rate schedule for interstate long-distance telephone service. Second, on August 26 Data Transmission Corp.—Datron—which competed with A.T. & T. in transmitting computerized data, went out of business. This decision was reached 1 day after officials of Datron filed an antitrust suit against A.T. & T. on charges of predatory pricing practices designed to establish barriers to entry to competitors in the communications market and driving existing competitors out of business.

Much publicity has been given to Judge Kraushaar's decision which was largely favorable to A.T. & T., but I would like to bring to the attention of my colleagues a portion of the judge's ruling. In this section of the ruling, Judge Kraushaar summarizes much of the trial staff's findings on the atmosphere in the telecommunications industry after the Carterfone decision in 1968.

I think this record speaks for the positive role competition plays in bringing new products to the market. A.T. & T. was so aware of the shortcomings of some of its PBX equipment for the specialized needs of certain customers that it allowed Bell operating companies to purchase the non-Bell equipment to supply its customers.

The result of the Carterfone decision was not poor service as the telephone company had predicted. Instead it was a period of new and exicting developments as companies sought to meet the specialized needs of businesses. Such innovation would have been impossible to mandate by FCC regulations—but the FCC was able to effect such through its rulings to allow carefully restricted competition.

I would like to share with my colleagues portions of Judge Kraushaar's decision which deal with the developments in technology due, at least in part, to meeting the pressures of competition:

d. The Post-Carterfone Era, 1969–73.

357. The Trial Staff's proposed findings adequately review the changes in the market environment after *Carterfone*. Because of the market metamorphosis in the competitive climate that has occurred and the significance of this topic most of these findings are adopted (with editorial revisions) below.

358. As electronic PBXs became available in the 1960's it became apparent that these were not economical compared with the systems they were to replace. Also, independently manufactured products became available to the operating telephone company customers due to *Carterfone* in 1968. The impact of the latter on Western's PBX Product Line of the 60's has already been demonstrated, and, as will be shown, competition continued to impact the Bell System PBX service throughout the 1970's.

359. In November, 1968 the New Products Board, which was the forerunner of the Customer Products Council (CPC) recognized that interconnection would result in a more competitive market which would require "faster policy level decision on products and services being sold directly to customers." After discussing the role it should play in improving the decision process, the Board decided to review in detail the Bell System position in the PBX market. This review took place at the next meeting in January, 1969, where it was reported (Trial Staff Phase II Ex. 296C–22, p. 4):

> The presentation and discussion which developed were intended to acquaint Board members with our current posture in this market and to highlight weaknesses in our present line of offerings and services. Broad comparisons of cost, size and features of Bell System and competitive devices indicated need for more variety in our PBX line for small to medium users. It is expected that Marketing, Engineering, Western Electric and the Labs will step up efforts to develop the necessary new offerings. The New Products Board will be kept advised.
>
> Competition had already probed the market and deficiencies were found in the Bell product line serving small and medium users. These users comprised over 80% of total PBX users.

360. To meet the new competitive threat, Bell determined that a new product line and a new approach to the PBX market was necessary. The new product line was to be comprised of the 801A, 805A, 802A and 770A PBXs. The new approach to the PBX market included the new Western Electric Denver Plant, and greater emphasis on all aspects of the PBX market by the entire Bell System.

361. In the period 1969–70 some Bell operating telephone companies were beginning to consider the purchase of PBX equipment from non-Bell manufacturers. These purchases were tabulated and enumerated by the "Subscriber Product Information and Research Department" of Western Electric. Figures on the expected Bell operating company purchases of non-Bell equipment for the year 1970 were also tabulated. The major suppliers of non-Bell equipment were ITT and Nippon Electric, a Japanese manufacturer. In total, the purchases of non-Bell equipment came to 84 PBXs, with an additional purchase of 83 PBXs being planned.

362. SNETCO, *supra*, one of the Bell operating telephone companies that had purchased non-Bell equipment, declared in a memo entitled "Outside Suppliers—Customer Equipment," dated July 7, 1969, the reason for such purchases (Trial Staff Phase II Ex. 296C–22, p. 16):

> For some time now, our ability to provide our PBX and Centrex customers with the service they want—on relatively short notice—with modern equipment—and at a reasonable cost to us has been in jeopardy. For obsolete step-by-step equipment (701PK, 701B), intervals are long and costs are high—particularly engineering and installation labor costs which are increasing rapidly; packaged crossbar systems (756A, 757A), are costly and the 757A has proved to be troublesome to install and maintain, modern electronic system development (810A) seems to be lagging. These conditions force us to look to manufacturers outside the Bell System.
>
> Outside manufacturers appear to be equipped to meet our needs. There are four specific areas where we are impressed.

363. The four specific areas that "impressed" SNETCO about the independent manufacturers were: i) features; ii) schedules; iii) attitude; and iv) costs. These areas were not being met satisfactorily by Western in SNETCO's opinion. The conclusion of SNETCO's memo on Outside Suppliers was: "we can obtain well designed, reliable PBX equipment from manufacturing outside the Bell System, at reasonable cost, within reasonable time intervals at attractive prices." Trial Staff Phase II Ex. 296C–22, p. 17). SNETCO's management evidently thought well enough of its actions to report to its State Public Utilities Commission that its purchase from non-Bell suppliers had saved the company about 2.1 million dollars in one year.

364. Mr. Schiavoni, AT&T Engineering Director, Customer Telephone Systems, wrote the Engineering Staff heads of all the Bell operating telephone companies on March 30, 1970, concerning their recent interest in non-Bell PBX systems. After extolling the advantages of future Western equipment, to be available in 1971 and 1972, Mr. Schiavoni declared: "It is our understanding that a number of the operating companies are interested in non-Bell PBX systems to meet service commitments. In this connection, arrangements have been made for Western Eletcric Company to purchase PBXs of other than Western manufacturers for the operating companies when requested to do so." Trial Staff Phase II Ex. 296C–19, p. 23. The letter also provided information to the operating companies on various non-Bell PBXs.

365. Mr. Schiavoni sent two follow up letters to his March 30, 1970 General Letter. The first letter, dated April 16, 1970, transmitted planning information on the proposed electronic PBX product line and requested the operating telephone companies' views on plans for utilizing electronic PBX systems. The letter explained that the PBX product line would be comprised of the 101 ESS, 801A, 805A and 810A PBXs. Mr. Schiavoni noted that the five systems which he listed were "clearly not the final line, and indeed may not be a complete product line." Mr. Schiavoni also solicited information from the operating telephone company customers concerning the types of products that should be provided.

366. The second letter by Mr. Schiavoni, dated June 22, 1970, was a supplement to his March 30, 1970 General Letter. It provided a basic review of the Nippon Electric NA4–09. It was sent because "considerable interest" had been expressed by the operating companies in the NA4–09 PBX.

367. Mr. Ellinghaus, AT&T Executive Vice President, sent a letter to the Presidents of the operating companies dated June 25, 1970 supporting the three General Letters by Mr. Schiavoni. After discussing the availability of the new Western Electric Product Line, Mr. Ellinghaus explained that, while it was Bell's continuing intention to serve business customers, operating telephone companies ought to consider outside manufactured PBXs where "Bell System PBXs do not fully satisfy significant customer needs and our new designs are not yet available."

368. The record reflects two responses from the operating companies to the series of letters from Mr. Schiavoni and Mr. Ellinghaus. The first is a letter, dated September 28, 1974, from Mr. McMillan, Chairman of the TelCo CUE to Mr. Schiavoni. Mr. McMillan presented the TelCo CUE position

with respect to these letters stating (Trial Staff Phase II Ex. 296C–19, p. 34):

We believe you will find most, if not all, companies opposed to the discontinuance of the 756A PBX at this time. Because of the significant cost difference, neither the 800A nor the proposed 810A are considered a suitable replacement for the 756A. Outside suppliers are quickly becoming capable of meeting customer service demands and with the current interconnection policy, we must be able to provide comparable service at comparable cost if we are to place them in a competitive environment. In addition, we must realize a reduction in installation intervals and customer space requirements.

Mr. McMillan concluded his letter by stating (Trial Staff Phase II Ex. 296C–19, p. 35):

The Operating Companies would like the opportunity to express their views on plans for using the total dial PBX product line—those systems existed today as well as the proposed 800 line of PBX systems proposed in the 70's. We believe a different picture may emerge than that presented by the April, 1970 survey.

Seemingly, the operating companies did not believe that the new product line would be able to meet the competitive equipment and services provided by independent manufacturers.

369. The second response to the series of letters from Mr. Schiavoni was from Assistant Vice President—Planning, and Assistant Vice President—Development, of New York Telephone Company. Their reply to Mr. Schiavoni made several points concerning Messrs. Schiavoni's and Ellinghaus' letters. First, they reiterated the position of the TelCo CUE on the replacement of the 756A PBX with the 800 electronic PBX product line stating: "We do not consider the 800A or 801 a suitable replacement for the 756A, because of the significant cost differential in favor of the latter system." Second, they indicated that New York Tel. was "giving serious consideration" to the purchase of non-Bell PBX systems due to price and availability. But they indicated "[u]se of these systems, if adopted, will not be considered as an expedient or an interim measure," as recommended by Mr. Ellinghaus. Finally, they made it clear that long term planning was "nebulous at this time" because there was no firm cost, price, and availability information available from Western on its new product line.

371. In the July, 1970 meeting of the PBX Council, the activities of both Bell and the independent suppliers in the PBX market were discussed. First, the Council noted that a Cost Price Review Team (CPRT) was undertaking a comprehensive review of customer switching prices using independently manufactured competitive machines as a basis for comparison. Second, the Council discussed the Current Business Picture. Western's representatives explained that one reason for the current surplus of PBX systems at Western was the rapidly increasing rate of lost sales * * * purchase of foreign made PBXs. A report was presented to the Council on the results of a trip that various members of Bell had made to Japan. The report made it clear to the PBX Council that Bell could (Trial Staff Phase II Ex. 296C–19 p. 45):

. . . expect continued and aggressive pressures from the Japanese manufacturing companies. Japanese PBX equipment is in general well built and economical. Few innovations are involved but the low cost and availability will continue to plague us.

372. The PBX Council, which became the Customer Switching Committee (CSC), continued to investigate the PBX market. On October 28, 1970, the Committee met to review a presentation on PBXs they were to make to the Customer Products Council. Among other things, this review revealed that the Bell System was ". . . in price difficulty in the middle of the size range of our PBX offerings, i.e., 80–300 lines. The principal competitors are two Japanese machines." The latter conclusion was based on the CPRT price study of all PBXs, and it identified the two Japanese machines as the NEPAX 100, and the NA4–09, both manufactured by Nippon Electric. With respect to the NA4–09 the Customer Switching Committee recommended to the Customer Products Council that (Trial Staff Phase II Ex. 269C–19, p. 63):

. . . we provide such a machine with its known deficiencies, but make sure the purchaser is well aware of the operating characteristics. (One exception is that we would correct its transmission shortcomings.) We should provide such a machine promptly, or not at all. We will return to the CPC in about a month with a specific proposal to either purchase the Nippon PBXs for use by the operating companies or to present a plan for Western to manufacture a machine with very similar characteristics.

373. On November 5, 1970, the Customer Products Council met to review the proposals and recommendations of the Customer Switching Committee. The CPC determined that it was not necessary for the CSC to conduct a feasibility study on the possible purchase of the NA4–09. The minutes of the CSC reported this decision was made because the CPC "thought it mandatory that a Western-manufactured machine be provided." On the issue of competition and rates a Mr. Kemp, of AT&T's Marketing and Service Plans, reported to the CPC that competition was making inroads into the PBX market. To meet this threat he "stressed that an improved customer switching plan is needed to respond to expressed customer needs, to meet competition, to reflect actual investment and improve profitability, and to accommodate [sic] immediate changes and future innovations." Trial Staff Phase II Ex. 269C–19, p. 67. The outline for an improved customer switching plan approved by the CPC was (Trial Staff Phase II Ex. 296C–19, p. 67):

Short term—

Continue packaging concept—it has field support.

Get series 100 filed (only 18 states now have it):

805A and any other low cost vehicle will help.

Existing hardware prices must be adjusted.

Restructure present series 200 and 300 packages:

Offer features individually or at lower package rate.

Offer more package flexibility

Develop a DID/AIOD PBX offering.

Long term—

Continue effort to reduce cost of electronic PBX's (Need the flexibility).

Develop low-cost capabilities to offer:

All features as individual options to series 100.

All features optionally on "per station" basis.

Modular growth.

Develop pricing options:

Front end loading.

Lower rate after "X" years.

Separate maintenance visit charges.

Introduce usage oriented service.

374. The operating telephone companies were also involved in the probe of Bell problems in the PBX market. During the year 1970 a joint AT&T Bell Labs task force was organized to meet with operating telephone companies on the subject of customer switching systems. The task force report, entitled *Short Range Customer Switching Study Final Report,* reflected the Bell operating companies' viewpoints, as of October, 1970 on competition and the proposed new product line. On the issue of competition the report noted that AT&T Marketing was collecting information on "the level of competitive activity in each TelCo." Each telephone company sent a list of "competitive cases" to AT&T Marketing indicating the reasons why a customer did or did not choose Bell System equipment. The task force summarized the pattern of operating company interest in non-Bell equipment stating (Trial Staff Phase II Ex. 296C–19, p. 53):

It was interesting, and on the whole not unexpected, to note that those telcos which were not experiencing strong competition were not investigating Telco purchase of outside supplier customer switching equipment.

It was also reported that a number of telephone companies were investigating the use of outside-supplied PBXs as a means of improving their rates of return. A later study by New York Telephone Co. on PBX rate of return, entitled "Interdepartmental PBX/CTX Task Force Study," dated February 2, 1971, found that New York Telephone Co. had achieved a higher rate of return using the Nippon Electric NA4–09 over the existing Western PBXs at that time, for both series 200 and 300 PBX service.

375. On the question of the proposed product line, the joint AT&T-Bell Labs task force reported that the Bell operating telephone companies felt it would be a mistake to A&M (additions and maintenance only) the older 700 series PBXs, because the new 800 series PBXs were more expensive. Also, the Bell operating companies reported to the task force that the price and availability estimates by AT&T and Bell Labs lacked "credibility." The reason for the credibility gap given by the companies was: "Having been burned too often, the Telcos simply do not believe AT&T/BTL price and availability estimates." (Trial Staff Phase II Ex. 296C–19, p. 55).

376. On balance, the facts as described justify the Staff's summation that many problems had been manifested with the Bell PBX market. The Bell operating telephone companies were not satisfied with Western's PBX products and service and they exercised their independence by purchasing the competing products of the general trade manufacturers, whether in order to satisfy and retain their business customers or to improve their rates of return. Competitive equipment evidently became available that offered more features and was less costly than Bell equipment at that time. Also, there seem to have been product voids in Bell's PBX product lines that competitive equipment had been able to fill. This new market environment induced, or stimulated, Bell to develop new product lines (*i.e.,* the 801A, 805A, 802A and 770A PBXs), to improve its service, and to innovate new pricing techniques and tariffs. The case histories of the development of these new products are set forth in detail at para. D179–239, Volume II, of the Staff's Phase II Proposed Findings. They are a matter of record, and for that reason there is no need to go into such detail herein.

377. The Trial Staff has devoted considerable attention to discussing the "market environment" between 1972 and 1975 and a so-called Small PBX Study, followed by detailed analysis under the heading "Development of the New Product Line." Trial Staff Phase II Proposed Findings, Volume II, para. D240–263, inclusive. Again, it is considered to be redundant in the context of this Initial Decision to reiterate such detail herein, all of which is evidently cited in support of the identical Trial Staff thesis regarding such matters as a "serious gap" in Western's product line, the competitive superiority of non-Bell products in the "under 100 PBX product line," and a blow-by-blow description of how Bell tried to meet the competition. The evi-

dence in general does appear to support the following proposed summary of the Trial staff, however:

e. Summary.

378. A second action under Bell's new approach, as indicated above, was the development of a new product line to be comprised of the 801A, 805A, 802A, and 770A PBXs. Bell did not seriously consider the standardization and purchase of the lower cost independently manufactured PBXs. Instead, it used the Bell products already available on the market as a price and service benchmark for its new product line yet to be developed. Competition continued to impact the new product line throughout its development and introduction, causing Bell to:

Shorten development schedules.

Undertake cost reduction efforts.

Incorporate additional features not previously considered.

Introduce new products.

Terminate the development of PBXs if they could not meet the competition.

379. With the expedited implementation of its new approach to PBXs, Bell expected to thwart the competitive inroads into its market. The competition, however, was not inclined to give up its newly won customers, for it proceeded to develop new electronic PBX offerings still lower in cost and with additional features and space savings. Thus, the competition continued to erode the Bell PBX market share by concentrating on the under-100 line PBX market, which accounted for over 80% of all PBX users. Once again, Bell found its product line wanting in terms of price and features vis-a-vis competitive equipment.

380. As it had done in 1969, Bell in 1972 gave consideration to purchasing the superior independently manufactured equipment but then proceeded to develop yet another new product line in order, ostensibly, to leapfrog the competition and thereby protect the Bell market share.

381. It is thus self-evident that the ratepayers have benefitted in the PBX market from competition that made available lower cost equipment with new features that met customers' needs on a timely basis. Bell's response to PBX competition also redounded ultimately to the ratepayers' advantage. Bell purchased PBX equipment from general trade manufacturers, usually as an interim measure, while it proceeded with the development of new products of its own. Bell did not standardize on independently manufactured PBXs, even though many were more advanced, apparently, than Bell equipment and available at lower cost. Instead, Bell seems to have developed new products that sometimes, at least, were similar to competitive designs in order to stem the erosion of its PBX markets by the competition.

NATIONAL FLOWER

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. SCHNEEBELI. Mr. Speaker, recently there has been increased interest in the idea of selecting a national flower for the United States.

A good friend of mine happens to be a colorful newspaper columnist for the Harrisburg Patriot, and he has spurred interest in central Pennsylvania by conducting a post card poll of his readers.

Paul "Irish" Walker has provided me with a copy of his September 7 "Roundabout" column reporting on his findings thus far. I know there is little likelihood the matter will be decided by the 94th Congress, but I wish to call this article to the attention of my colleagues and to insert it in the RECORD at this point so that it will be available at such time as the issue is actively considered.

Here then are the preliminary results of Mr. Walker's poll, and the opinion he solicited from an expert in the field of botany:

ROUNDABOUT

(By Paul Walker)

In our "postcard poll," ascertaining readers' choice for a national flower, the marigold is leading. The rose has quite a few backers as does the daisy, field buttercup and queen anne's lace. Phlox, which is our personal choice because it blooms in red, white and blue, also has many supporters.

As the balloting continues, we called in an expert—Dr. Edgar T. Wherry, 91, of Philadelphia, retired botany professor at the University of Pennsylvania, and well-known author. His book, "American Wildflowers" has been through many printings and is still a steady seller.

Let's share Dr. Wherry's thoughts on the national flower:

"First it must be native to the United States. This rules out marigold, daisy, dandelion, queen anne's lace and field buttercup.

"It should not be the national flower of any other country. This rules out the rose, sponsored by ex-Sen. Margaret C. Smith, R-Maine.

"Phlox fits the above requirements. It has the advantage, too, of growing in all 48 contiguous states and Alaska. Furthermore, it comes in red, white and blue, so that flower beds could be planted in our national flag design.

"Copies of the above qualifications should be sent to all senators and representatives."

Thank you, Dr. Wherry, and we're about to turn lobbyist for the phlox. Be sure your opinion will be relayed to the senators via Republican Sens. Hugh Scott and Richard S. Schweiker and Reps. Herman T. Schneebeli, R-Williamsport, and William F. Goodling, R-Jacobus.

Phlox's name is variety: garden phlox, wild sweet william, mountain phlox, sword-leaf phlox, wild blue phlox, crawling phlox and moss pink.

The rose, incidentally, is the national flower of Great Britain, Luxembourg, Iran and Honduras.

No country has picked phlox, which is par for the course, seeing as how phlox is 100 per cent American. Vote phlox!

(Write c/o The Patriot, Box 2265, Harrisburg, 17105; Ph. 737-0117)

HAS SALT I THREATENED OUR NATIONAL SECURITY?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. KEMP. Mr. Speaker, in a recent syndicated column John Lofton, very ably summarized the Congressional Budget Office's report on "SALT and the U.S. Strategic Forces Budget." Mr. Lofton writes :

The CBO study states that within a year or so of the SALT I interim agreement, the U.S. witnessed an "unprecedented modernization program" of the Soviet ICBM force that had "a surprised scope and potential threat."

The emphasis the Russians have placed on this expansion is reflected in the estimate by the director of the CIA that in 1975 the dollar costs of these Soviet programs were seven times the U.S level.

The surprising magnitude of these Soviet programs—which are expected to spawn yet another generation of Russian ICBMs in 1978-79—has reinforced the U.S. concern with the future vulnerability of the 1,000 Minuteman ICBMs in the U.S. force structure. By the end of the 1970s, the pessimistic estimates, and by early to mid-1980s, by more optimistic estimates, the Soviets are expected to be able to destroy a high percentage of our Minuteman force, according to the CBO study.

The CBO summarized its report in this way:

In the case of strategic offensive programs, the SALT objectives were not achieved by the 1972 agreements, in light of the continued momentum of Soviet programs with a destabilizing potential.

The CBO report goes on to say that—

Since SALT I, the Soviets have concentrated on an unprecedented moderniaztion of their ICBM force. This has enabled them to increase the very type of threat which had been a principal concern of the United States in SALT I, and which it had hoped had been significantly curbed by SALT I: the destabilizing capability of a force of large Soviet ICBMs to destroy a high percentage of the U.S. ICBM force. Prior to and during SALT I, there was only one Soviet ICBM system, the SS-9, which posed that destabilizing potential. Since SALT I, there are at least two, if not three, such systems: the SS-18 follow-on to the SS-9; and the SS-17 and SS-19, the follow-on replacements for the widely deployed SS-11. This continued Soviet momentum in such programs—the very type that the United States had tried in 1969-72 to convince the Soviets would be contrary to a stability goal of SALT—raises troubling questions: Do the Soviets share the objective of stability and believe an attempt to achieve some form of major strategic advantage would be futile?

Mr. Speaker, Soviet actions clearly demonstrate that they do not share the objective of stability and that they are most determined to achieve military superiority. As the CBO study points out:

The very concepts of "stability" and "stable balance" are alien to Soviet ideology and their view of interstate relations.

Soviet actions are definitely alien to the very concepts of stability and stable balance, as their current deployment of their new mobile nuclear ballistic missile, the SS-X-20, indicates. On August 31, Dr. Ikle, the Director of our Arms Control and Disarmament Agency, denounced this new Soviet missile deployment as "a massive, unwarranted, and unexplained expansion."

Mr. Lofton's article follows:

KISSINGER'S STRANGE SALT INTERPRETATION

(By John D. Lofton, Jr.)

In a recent interview with reporter Theo Sommer from the West German newspaper Die Zeit, Secretary of State Henry Kissinger expressed incredulity that anyone would suggest that the 1972 Strategic Arms Limitation Talks (SALT) have not turned out to be in the best interest of the United States.

Rejecting the idea that detente has been a one-way street, or that the 1972 SALT-I agreement, which he negotiated, was to the unilateral benefit of the Soviets, Dr. Kissinger declared:

"I fail to see why an agreement that

stopped ongoing Soviet programs but no United States programs, could be against the interests of the United States."

Well, now. The fact is SALT-I did not stop the ongoing Soviet military buildup and, since this is so widely known, it is puzzling why Dr. Kissinger would say something that is so blatantly untrue.

The principal objectives of SALT-I, signed in Moscow on May 26, 1972, were to enhance the long-term stability and constrain the costs of the U.S.-Soviet strategic arms competition. As Ambassador Gerard Smith, chief U.S. SALT negotiator, stated at the time:

"What we are trying to do is to set up a useful device that will hold the situation while we negotiate, hopefully, a matching treaty. . . . I think that the measures that we have succeeded in spelling out in this interim agreement with the Russians will do just that. There will be a commitment on their part not to build any more of these ICBMs that have concerned us over the years."

But the Soviets have shown no such constraint whatsoever. A new study released by the nonpartisan Congressional Budget Office (CBO), titled "SALT and the U.S. Strategic Forces Budget," concludes:

"Since SALT-I, the Soviets have concentrated on an unprecedented modernization of their ICBM force. This has enabled them to increase the very type of threat which had been a principal concern of the U.S. in SALT-I and which it had been hoped had been significantly curbed by SALT-I: the destabilizing capability of a force of large Soviet ICBMs to destroy a high percentage of the U.S. ICBM force.

"Prior to and during SALT-I, there was only one Soviet system, the SS-9, which posed that destabilizing potential. Since SALT-I, there are at least two, if not three, such systems: the SS-18 follow-on to the SS-9; and SS-17 and SS-19, the follow-on replacements for the widely deployed SS-11.

"This continued Soviet momentum in such programs—the very type that the United States had tried in 1969-72 to convince the Soviets would be contrary to the stability goal of SALT—raises troubling questions: Do the Soviets share the objective of stability and believe an attempt to achieve some form of major strategic advantage would be futile?"

The CBO study states that within a year or so of the SALT-I interim agreement, the United States witnessed an "unprecedented modernization program" of the Soviet ICBM force that had "a surprising scope and potential threat."

The emphasis the Russians have placed on this expansion is reflected in the estimate by the director of the CIA that in 1975 the dollar costs of these Soviet programs were seven times the U.S. level.

The "surprising magnitude" of these Soviet programs—which are expected to spawn yet another generation of Russian ICBMs in 1978-79—has reinforced the U.S. concern with the future vulnerability of the 1,000 Minutemen ICBMs in the U.S. force structure. By the end of the 1970s, by pessimistic estimates, and by early to mid-1980s, by more optimistic estimates, the Soviets are expected to be able to destroy a high percentage of our Minuteman force, according to the CBO study.

Incidentally, this astounding Soviet buildup, ostensibly to be restrained by SALT-I, has occurred at a time when the U.S. strategic forces budget has declined significantly in real terms. In constant fiscal year 1977 dollars, our direct budget costs for strategic forces has declined from $10.3 billion in fiscal year * * *

Another expectation expressed by U.S. participants in the SALT-I negotiations was that the Soviets shared, or would come to share, the U.S. concern with strategic stability and see a mutual interest in parity or equality. But this hope has also been dashed by the Russians.

As the CBO study points out: "The very concepts of 'stability' and 'stable balance' are alien to Soviet ideology and their view of interstate relations. Their commentary on strategic arms limitation seems driven by their general concept of 'the correlation of forces,' which is the world balance of military, economic, political, social and ideological forces. This correlation is believed by them to be inexorably shifting over the long term in favor of the USSR vis-a-vis the United States."

Henry Kissinger isn't the only person perpetuating the myth that SALT-I was a good deal for the United States. Jimmy Carter has also hailed this sell-out to the Soviets as "a good agreement," one that "limited atomic weapons in a practical way."

Thus, it comes as no surprise that Dr. Kissinger is privately telling friends he could live with President Carter's foreign policy. The question is: Can the American people?

SUGAR PRICES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. DE LA GARZA. Mr. Speaker, the continuance of rapidly declining sugar prices will put this Nation at the mercy of foreign suppliers—repeating in the kitchen what is happening on the highways where we are now at the mercy of foreign cartels.

Avenues are being explored to stop this decline. There have been appeals made to the President to remove the established foreign import sugar quota of 7 million tons. My colleague BOB BERGLAND, has introduced the Sugar Supply Assurance Act of 1976 to establish a base domestic price at which raw sugar may be imported into the United States. I wholeheartedly support these efforts.

In my district a sugar mill was established a few years ago to make us more independent of foreign suppliers.

Mr. Speaker, I want to bring directly to the attention of this House what officials of this new mill, Rio Grande Valley Sugar Growers, Inc. of Santa Rosa, Tex., have said to me in a telegram I received today recommending Executive action and congressional enactment so that a fine domestic industry will not be foresaken. I bring it to your attention rather than to say somewhere down the road "I told you so."

The telegram is as follows:

MAILGRAM

RIO GRANDE VALLEY
SUGAR GROWERS, INC.,
Santa Rosa, Tex., September 9, 1976.

Hon. KIKA DE LA GARZA,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: The letter of August 31, 1976 from your office is indeed appreciated.

Global conditions which portend the destruction of the domestic sugar industry have been matters of critical concern to management of this office for several weeks, certainly, I concur in the concepts presented both by Senator Humphrey and Senator Long in their petition to the President for remedial action.

The world sugar economy has been under intensive study and continuing analysis here since the demise of the "Sugar Act", under the authority of which South Texas Enterprise was in good faith developed and initiated. The developments of recent months are indeed causes for industry alarm.

The sugar policy study, development by the President's Council on International Economic Policy, is characterized by his interpretations and errors in judgment, many of which were readily apparent by the time of its release in March 1976. The predicted inaccuracies of the administration are further demonstrated in L. William Seidman's reply of July 7 to Senator Long's letter of June 17.

The President's so-called "free open trade" policy is not compatible with global economics as related to sugar trade; in all other countries, the sugar economy is subject to government regulation. In view of this policy, we are deeply concerned in regards to U.S. participation in any "new international sugar agreement"; the nullification of headnote 2 provisions of the trade schedule would leave the domestic industry entirely to the mercy of foreign interests.

Executive action to provide interim relief and subsequent congressional inactment of equitable laws is imperative to the survival of the domestic industry.

Prayerfully we look forward to Angela's full recovery and return to youthful vigor and activity.

Sincerely,

ART W. BECKWITH,
President.

UNITED STATES SUPPORT FOR AFRICAN TERRORISTS AND THE PATRICE LUMUMBA COALITION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the Communists have long supported terrorism—violent attacks on a noncombatant segment of the community for the purpose of intimidation to achieve a political or military objective—as a useful revolutionary tactic. Support for terrorism has now become fashionable—or at least expedient—in other circles.

Yesterday the Fund for New Priorities in America and the Women's Division of the United Methodist Church sponsored a congressional conference on Southern Africa in the Russell Senate Office Building. The invited panel of speakers participating included representatives of the Soviet and Communist Chinese-backed terrorist groups in Southern Africa who style themselves "national liberation movements."

Apparently in a bid to steal a march over the Soviets and their Cuban mercenary storm troopers by preempting their objectives, Secretary of State Kissinger at Lusaka declared American support for a program which will replace white, Western-alined influences with black Marxist totalitarian regimes. The Ambassador to the United Nations has stated that the United States is ready to provide medical and other aid to the terrorists in Rhodesia whose victims have overwhelmingly been black Rhodesian civilians.

The terrorist conference participants clearly could not have been in this country without State Department waivers. The rhetoric at the meeting was shockingly vindictive, racist, and extreme. The Rhodesian terrorists were united in their opposition to Western nations subsidizing evacuation of Rhodesian whites and called for a "quick kill" policy.

Among the scheduled participants were:

O. T. Emvula, South West African Peoples Organization (pro-Soviet).

Thami Mhlambiso, African National Congress (ANC) of South Africa, the New York and U.N. representative of ANC, controlled by the pro-Soviet South African Communist Party.

Oliver Tambo, president of the African National Congress of South Africa.

David Sibeko, representing the Red Chinese supported Pan Africanist Congress (PAC) of Azania (South Africa).

Eddison Zvobgo, member of the central committee of the Red Chinese supported Zimbabwe African National Union (ZANU) and its faction of the African National Council of Rhodesia controlled by Abel Muzorewa, resident in the U.S. as an instructor in law at Lewis College.

Elton Razemba, also representing ZANU/ANC of Rhodesia, in New York.

Tapson Mawere, also representing ZANU/ANC of Rhodesia, in New York.

Callistus Ndlovu, representing the Zimbabwe African People's Union (ZAPU), Soviet backed and supported, and ZAPU's faction of the African National Council of Rhodesia led by Joshua Nkomo.

Basker Vashee, identified as an economist from the Transnational Institute (TNI), the Netherlands branch of the Institute for Policy Studies (IPS), Washington's leftist think-tank which consistently takes a pro-Soviet and pro-Cuban line. Vashee was also introduced as a member of the national executive of Nkomo's pro-Soviet ZAPU.

While the Fund for New Priorities in America targeted congressional personalities and staff, another organization is working to develop direct private assistance to the terrorist forces in Rhodesia.

The Patrice Lumumba Coalition—PLC—operating from Post Office Box 1651, New York, N.Y. 10017 (212-662-1235) and from the offices of the Pan African Skills Project—PASP, Room 826, National Council of Churches—NCC, 475 Riverside Drive, New York, N.Y. 10027 (same phone number as PLC), has stepped forward in recent months as a highly vocal support group for Marxist-Leninist African terrorists—the Zimbabwe African National Union—ZANU, and the South West African People's Union—SWAPO.

In addition to supporting the ZANU and SWAPO terrorists, the Patrice Lumumba Coalition is also promoting revolutionary violence in South Africa, stating in an August 23, 1976, mailgram:

> Since armed struggle is the only solution to injustices in Southern Africa, the U.S. government should give massive military aid to the liberation movements, i.e., ZILA [Zimbabwe African Liberation Army of ZANU] in Zimbabwe, SWAPO in Namibia [South West Africa]; PAC [Pan-Africanist Congress of Azania and ANC [African National Congress] in South Africa.

The PLC claims chapters in New York; Washington, D.C.; Philadelphia; New Orleans; Baltimore; Indianapolis; San Francisco; Memphis and Oxford, Miss. The PLC was formed some 9 months ago, according to PLC chairman Irving Davis, who is also organizer of the PASP, by "leaders of the black consciousness movement of the 1960's, the principal agitators for black power."

These organizations include the Republic of New Africa—RNA—a violence-prone separatist group which hopes to carve an all-black nation out of several Southern States; the Black Liberation Army—BLA—operating through its above-ground support group, the National Committee for the Defense of Political Prisoners—NCDPP; the Pan-African Congress; and the Organization of African Unity—OAU—from its United Nations offices.

On August 25, 1976, the PLC and the Washington, D.C., based June 16 Coalition—J16C—cosponsored an educational forum in Washington, D.C., at which the main speakers were Rev. Muhammad Kenyatta of Philadelphia and Representative JOHN CONYERS, Democrat of Michigan. At this meeting the PLC stated:

> Our strategic importance to the African revolution results from two factors. The first is that we are the largest visible aggregation of Black people outside of the African continent. The second is that we are a potential Achilles heel or Trojan horse that will either cripple the USA efforts to subvert African liberation or provide a political cover for that subversion.

On September 2, 1976, the Patrice Lumumba Coalition held a press conference at the Interchurch Center, 475 Riverside Drive, New York City, at which Irving Davis was joined by Elombe Brath, also of the PLC, and Tapson A. Mawere, chief representative of ZANU in North America, to denounce the upcoming meeting between Secretary of State Kissinger and South African Prime Minister Vorster.

During the press conference, Davis made repeated calls for the raising of money "by any means necessary" for the "support of armed struggle" and for "destroying black support for South Africa in the United States." In particular, PLC rhetoric was directed against Vernon Jordan of the Urban League; Rev. Leon Sullivan of the Opportunities Industrialization Center; Roy Wilkins; Jesse Jackson; Bishop H. H. Brookins; and Manhattan Borough President Percy Sutton.

The Patrice Lumumba Coalition issued an attack which read:

> Help us expose the subtle treachery underfoot by certain Negro Judases * * * We need your support and that of all friends of African liberation to counteract this treachery and to make a positive contribution to African freedom.

The PLC position on Rhodesia was stated:

> This is the time for armed struggle to be escalated—it is no time for political discussion.

Tapson Mawere, speaking for the Red Chinese-oriented ZANU, launched an attack on U.S. supporters of the Soviet-backed Nkomo faction which is now being proffered to the U.S. public as the "moderate" terrorist guerrilla organization. Specifically Mawere was highly critical of the Institute for Policy Studies and its trustee, National Lawyers Guild Attorney Robert L. Borosage, director of the Center for National Security Studies, for leading support for the Nkoma/Soviet faction which is also the apparent choice of the U.S. State Department as the future rulers of Rhodesia

The lives of the black and the white citizens of Rhodesia are being given into the hands of Communist totalitarians. The control of the Rhodesian chrome deposits is being turned over to enemies of America who will make the U.S.S.R. the sole world supplier of that vital and strategic metal. Congress and responsible Americans must immediately move to end this disastrous policy and to control the activities of terrorist agents in this country.

PLOWING UP FARM FACTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. FINDLEY. Mr. Speaker, let the record speak for itself. Under the past 3 years of Republican farm policy administration, per capita farm income has averaged 98 percent of nonfarm income—the best in history. This contrasts with 65 percent under the Kennedy-Johnson years. Total farm income is more than twice as high as it was under the previous Democratic administration. In 1969, the U.S. taxpayer was providing 27 percent of the farmers' income in the form of Federal payments. Last year that was down to 2 percent—and a good portion of the 2 percent was spent on the peanut subsidy program.

The farmer is no longer on the Federal payroll, waiting for handouts, getting Government checks for not producing. He is working to harvest fence-row to fence-row so that others at home and abroad may eat. The farmer is not havesting Federal dollars, he is reaping the benefits of a free competitive market. He alone makes the farm management decisions; they are not made in Washington.

Although some aspirants for public office decry the present farm administration, look at the record. Agriculture Secretary Earl Butz has done a monumental job for all citizens, helping to put the farmer off Federal tax dollars and back into the business of producing food.

I would like to share the timely article by Mr. Patrick Buchanan which was published in the Chicago Tribune September 2, 1976. In it he plows straight, clear furrows through the farm facts.

The article follows:

PLOWING THROUGH FARM FACTS

(By Patrick Buchanan)

WASHINGTON.—"What America needs is a secretary of agriculture who speaks to the

President and for the farmer—not the other way around."

That cheer line, written by this author, was a pledge made by Richard Nixon to rural America in the campaign of 1968. It was a promise kept—with the naming of Earl L. Butz as secretary of agriculture.

Jimmy Carter sharply disagrees. To hear him out in Iowa last week, one would think the Republican administration's treatment of American farmers has been roughly comparable to Stalin's handling of the Ukrainian kulaks in the '30s.

"Rural families are just looking for an even break," he shouted. "That's not too much to ask, but it's a lot more than we've been getting the last eight years."

That so, Mr. Jimmy! Well, let's look at the record.

From 1960-69, the years of Kennedy, Johnson, and Orville Freeman at Agriculture, per capita income averaged 65 per cent of nonfarm income. From 1973 through 1975, it averaged 98 per cent of nonfarm income, and in 1973 it was almost 107 per cent. During those eight Democratic years, total net farm income averaged $12 billion a year. From 1973 through 1975, it averaged almost $27 billion.

Farm exports have risen from $6.7 billion in 1970 to an estimated $22 billion this year.

The total acreage for major crops has risen from 291 million acres in 1969 to 355 million planned for 1976.

During the '70s, the decades-long exodus of 30 million Americans from the farms trickled off. Between 1970 and 1974, the average annual decline in farm population was down to 1.2 percent. Enrollment in agricultural schools is rising.

In short, the '70s, the years when Butz was deciding government policy for American agriculture, have produced the greatest farm boom in United States history. And consumers and taxpayers have fared as well.

Today, Americans spend only 17 percent of disposable income for food, the lowest percentage in the world.

In 1969, the U.S. taxpayer was providing 27 percent of the farmers' income in government payment. Last year that was down to 2 percent.

Federal payments to farmers have fallen from an average of $3.4 billion in the calendar years 1966–1969 to only $768 million in calendar year 1975. Of that $768 million, no less than $490 million was for farmers' losses sustained in natural disasters.

This is hardly a record to justify Carter's rhetoric of rebellion out in Des Moines. Indeed, the last "agrarian populist" we let run American agriculture, Henry A. Wallace, FDR's Cabinet secretary, went down in history as the man who murdered 6 million baby pigs.

Butz prefers the free market approach. That approach has done more than take the American farmer through the best years in our agricultural history.

It has created a new respect for the American farmer. No longer is he the butt of jokes for living off congressional welfare or ploughing federal programs. Today, the U.S. farmer is recognized as the most efficient of American workers. The American farm community is credited with saving this country, through production and exports, from a monstrous trade deficit and a balance of payments crisis—after OPEC quintupled the price of imported oil.

True, the embargo on U.S. grain sales was a mistake. And there remains one redoubt of rural reaction Butz has been unable to conquer. That is the farm commodity, which a tiny monopoly still dominates, where subsidies and allotments remain, where competition is ferociously restricted, where the market has not been allowed its play That commodity is peanuts.

THE BALANCE(S) OF POWER: IV (vi)—STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. BRECKINRIDGE. Mr. Speaker, the foundation of the U.S. deterrence policy, that of assured destruction, has been undermined by a significant, though undramatic, element of the U.S.S.R.'s military posture—the Soviet Union's massive strategic civil defense program.

The extent and implications of Soviet war-survival preparations have too long remained in the shadows of détente and of the frantic search for "mutual limitation" of strategic arms. Civil defense as employed by the Communists is as much a part of the strategic balance as are missiles, bombers, and submarines. That crucial fact can no longer be ignored.

To continue my discussion of the Strategic Defense Balance in my series on the "Balance(s) of Power," I wish to conclude the section dealing with the debate on civil defense by inserting an article written by John L. Frisbee, executive editor of Air Force Magazine, that highlights aspects of the Soviet war-survival strategy * while opening a crack on a scene that has chilling implications for U.S. deterrence as expressed in an article, "Soviet Civil Defense—Upsetting the Strategic Balance," that appeared in the August 1976, issue of Air Force Magazine.

The article follows:

STRATEGIC DEFENSIVE BALANCE

Assured Destruction, the foundation of US deterrence on which our survival as an independent and influential world power ultimately rests, has been undermined by a significant, though undramatic, element of the USSR's military posture. That element—Russia's massive civil defense program—has been known to, but ignored by the US SALT negotiators. Consequently, you will find scant evidence of concern in the annual defense reports of the Secretary of Defense and the Chairman of the JCS. Nevertheless, concern is real, and it is justified. In recent weeks, the door has been opened a crack on a scene that has chilling implications for the US deterrent.

While these implications are being studied in the Pentagon (and one hopes in the State Department, too) and discovered on Capitol Hill, an important book has come off the press: War Survival in Soviet Strategy, by Leon Gouré, Director of Soviet Studies at the University of Miami's Center for Advanced International Studies. Here are a few highlights that emerge from the book and from other sources:

The Soviets have never accepted Assured Destruction as an operational strategy. They do not share the Western notion that a nuclear war would be over in a few days, and that there could be no winner. The Soviet concept is based on a first strike to blunt the US retaliatory capability and decimate our control and industrial structure, an extensive air defense system, and comprehensive civil defense measures that would enable them to fight on to victory. Civil defense, in their view, is a "decisive strategic factor"; victory depends on "survival preparations."

Guided by this strategy, the USSR began in the mid-1950s to invest an estimated $1 billion a year in civil defense. Since the SALT agreements of 1972, they have stepped up their civil defense expenditures. (The US Defense budget for FY '77 includes $71 million for civil defense.)

The scope of Soviet war survival preparations is difficult to grasp. The entire program is headed by a Deputy Minister of Defense, General Colonel A. T. Altunin. Enough hardened shelters have been built already to accommodate a large part of the administrative and industrial work force. Elaborate plans have been made and rehearsed for evacuating other urban residents to safe areas. All citizens are required to take courses in civil defense, and several million people, including 40,000 regular Civil Defense Troops, are involved in administering the program. Essential industry has been dispersed to nonurban areas, hardened against nuclear attack, and spare parts cached in secure storage.

How has all this affected the US Assured Destruction capability, generally defined as the ability to respond to a Soviet first strike by destroying half of their industry and killing forty percent of the population? The Soviets claim, and US defense experts believe, that Soviet preparations would reduce their casualties to about seven percent of the entire population and five percent of workers in essential industry. The US, with virtually no civil defense program, would lose half its population or more, depending on the nature of the Soviet first strike.

Now an even more ominous development has emerged. The Soviets are increasing their emphasis on shelters (to which people could repair in minutes) and reducing reliance on evacuation, which would take about seventy-two hours, could not be concealed, and hence would give us strategic warning. This move, coupled with the enormous buildup of Soviet offensive forces, has the earmarks of a drive for a credible first-strike posture and a world in which there would be only one superpower.

What can the US do about it? For economic, social, and political reasons, we may as well forget about duplicating the Soviet civil defense system or persuading them to scrap theirs. But former US Ambassador to the USSR Foy Kohler offers some alternatives in his foreword to Dr. Gouré's book. The purpose of the SALT talks supposedly is to achieve equal security for both sides. We, therefore, should demand a higher ceiling on US offensive weapons to offset the imbalance in civil defense. He also suggests that we could threaten to pull out of the ABM Treaty of 1972 and build a comprehensive ABM system, relying on our technology to outdistance the Soviets. There are other, perhaps more effective measures, such as accelerating development of MX and improving missile accuracy; and still others that could be taken concurrently, including withholding technical and economic aid to the Soviets.

The extent and implications of Soviet war survival preparations have too long remained in the shadows of détente and of the frantic search for "mutual limitation" of strategic arms. Civil defense is as much a part of the strategic balance as are missiles and bombers. That crucial fact must no longer be ignored.

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*See Part IV (i), July 28, 1976, p. E4157 CONGRESSIONAL RECORD; Part IV (ii) August 5, 1976, p. 26066 CONGRESSIONAL RECORD.

SENATE—*Monday, September 13, 1976*

The Senate met at 10 a.m. and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, help us not only to acknowledge Thee at the opening of a new week, but to enshrine Thee in our lives, to worship Thee as we work and to follow Thee in our actions. May Thy spirit so possess and so guide us that we may set forward Thy kingdom among the nations of the Earth. Help us to contend without bigotry, to fight without animosity, and to guard with undivided devotion the precious heritage of freedom. Guard us and guide us through our labors for Thy kingdom here that in the end we may be inheritors of that kingdom whose Builder and Maker is God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 13, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 10, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar for unobjected-to measures be waived under rule VIII.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on September 16 and 17 for the purpose of considering nominations; that the Committees on Interior and Commerce be authorized to hold a joint hearing on September 21 concerning the trans-Alaska pipeline system; that the Subcommittee on Federal Spending Practices of the Committee on Government Operations be authorized to meet on September 21 and 23 concerning the procurement of meat by the military, that the Committee on Commerce be authorized to meet today to consider a nomination; that the Subcommittee on Multinational Corporations and the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations be authorized to meet today to consider the Grumman Corp. and problems dealing with the water level in Lake Ontario and the rest of the Great Lakes; that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet on September 16 and 17 concerning the role of U.S. corporations in South Africa; that the Subcommittee on Foreign Assistance of the Committee on Foreign Relations be authorized to meet September 16 on F-16 sale to Iran; and that the Committee on Foreign Relations be authorized to meet on September 14 and 15 on various nominations and legislation on acquisition of lands in connection with the international Tijuana River flood control project; arms sales; and implementation of defense cooperation agreement with Turkey.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the assistant minority leader seek recognition?

Mr. GRIFFIN. Mr. President, I do not seek recognition.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

VERTICAL DIVESTITURE

Mr. BARTLETT. Mr. President, Senate bill S. 2387, the vertical divestiture legislation, was recently reported by the Judiciary Committee. Although it is unlikely that the Senate will consider this ill-advised legislation this year, I would like to comment on why I oppose it and why the Senate should defeat it if and when it is brought to the floor.

This bill would require each of the 18 largest petroleum companies to choose one of three functions—producing, refining/marketing, or transportation—and divest itself of the other two functions. Additionally, a large number of other, but smaller, companies would be required to divest themselves of their pipeline assets.

If enacted, S. 2387 would have tragic consequences for this Nation, both economically and strategically. Among the more onerous of these consequences are the following:

Higher energy costs to consumers;

Enhancement of OPEC's power to increase their share of world markets, set prices, control production levels, and integrate downstream into refining, marketing, and transportation;

Reduced development of domestic and non-OPEC energy resources; and

Endangerment of our national security.

Before elaborating on why each of these would occur if S. 2387 is enacted, I shall first comment on one of the arguments of the proponents of this legislation—that relating to the competitive—or anticompetitive—nature of the oil industry.

Supposedly, divestiture legislation is required because the oil industry is noncompetitive. This is a proposition, however, that the proponents of S. 2387 have been unable to establish factually. Instead, they attempt to capitalize on the antioil sentiment resulting from the 1973 Arab oil embargo and the subsequent rapid increase in petroleum prices. While it may be good politics, legislation, founded on emotionalism, as far-reaching as S. 2387 is not sound public policy.

There are three economic indicators which can be used to evaluate whether an industry is noncompetitive: Concentration, profitability, and entry into the market.

The concentration ratios for the top four and top eight firms in the petroleum industry are lower than in many of the other major industries in the United States and, in fact, are lower than the average for all U.S. manufacturing.

The proponents continually refer to concentration figures for the top 20 petroleum companies—a spurious, sensationalistic approach; but it should be remembered that very few industries can be considered to have 20 major firms.

Relative to profitability, the petroleum industry's historical performance has been only mediocre. With the exception of 1974, the industry's long-run profitability, measured in a number of different ways, has been less than the average for all U.S. industry. Such performance hardly indicates the presence of monopoly.

Obviously, profitability has a direct relationship with supply and demand. The present short supply of domestic energy available to meet the expanding demand requires higher prices and profits than the controlled domestic wellhead prices of oil and gas will permit.

Further, considering that petroleum industry profits average less than 2 cents per gallon of product, which is equivalent to approximately 4-5 percent on sales, petroleum company earnings could hardly be considered "obscene" or unreasonable. It is also apparent from this figure that there is little room for consumer benefit even if divestiture would have a desirable consumer impact.

Data on entry into various segments of the petroleum industry also indicate the presence of competition. For example, during the period 1951 to 1975, 22 refiners grew to more than 50,000 barrels per day of refining capacity, showing that entry has occurred and does occur. Ironically, 2 of these 22 companies would be subject to the divestiture required by S. 2387, hardly a reward for their aggressive growth policies.

According to a Treasury Department staff study, the market shares for the top 4, top 8, and top 20 firms in marketing actually decreased between the years 1970 and 1975. A similar trend occurred in the refining segment. Thus, independent marketers and refiners have each captured a greater share of the marketplace.

Considering these facts, the primary anticompetitive argument of the proponents appears to be based more on inference than on hard economic fact. Realizing this, they attempt to explain away the significance of the lack of concentration, the mediocre profitability, and the entry and success of new and independent firms by referring to joint production and pipeline arrangements and exchange agreements which, when combined with vertical integration, provide an opportunity for collusion.

Such logic is specious for the following reasons:

First, the entry, market share, and profitability data prove that there is competition or, at least, that the companies have been dismally ineffective at collusion.

Second, if joint ventures and exchange agreements are improper, which they are not, divestiture seems a rather broad and extreme solution. Surely the real problem must be clearly defined before a solution can be adopted.

Third, joint ventures and exchange agreements actually act to enhance competition, not detract from it. Joint ventures in lease bidding serve to reduce risk and permit the participation of a greater number of firms including the independents. Joint ventures in production are frequently required by State law for conservation purposes and do promote efficiency. Joint ventures in pipelines serve to facilitate the building of projects like the Trans-Alaskan pipeline. Exchange agreements permit companies to compete more vigorously with one another and help to lower costs. As the Court decided in the case Thomas against Amerada Hess Corp.:

> (Exchange agreements have been) used to aid the independent in securing unbranded regular grade gasoline . . . and permit one refiner of gasoline to do business in the backyard of its competitor's refinery by the exchange of manufactured products.

It appears, then, that this additional twist to the argument of the proponents is also a ruse; joint ventures and exchange agreements are procompetitive. Again, the proponents have confused the issue and attempt to capitalize on these complex aspects of petroleum operations, which few understand, to make their case. Senators should not be fooled.

If the petroleum industry is, in fact, competitive, as the preponderance of economic data and testimony indicates, the potential gains of S. 2387 cannot be realized. Rather, its enactment would be very costly to this Nation. What are some of the negative ramifications of S. 2387?

First, consumer prices for petroleum will rise.

Managerial and administrative staffs and facilities would have to be duplicated at every level of the industry; and the industry would have to increase its working stocks and storage facilities at the refinery level to maintain an orderly operating schedule. These economies of integration would be eliminated.

There will be higher costs associated with borrowed capital. Economists and underwriters have repeatedly made the point that the cost of borrowed capital for the integrated companies is relatively low, because they have diversified their risks, and because they have, over the years, built up excellent credit ratings. In order to attract investors to debt issued by the divested and fragmented companies, the dismantled companies will have to offer premium interest rates. In the long run, these higher costs of borrowed capital will also have to be passed to the consumer—again, in the form of higher, not lower, prices.

The dismembered companies would incur substantial costs in carrying out the details of divestiture. Here again, no one really knows how much these additional costs would amount to; but, according to experts who testified before the Judiciary Committee, it could involve the time and the attention of the managements of the affected companies for as long as 10 to 20 years—depending on the resolution of operating, financial, and legal details. These costs, too, would directly or indirectly have to be passed on to the consumer.

Prices would rise for the consumer because the Nation's dependence on higher cost imported oil would increase. After divestiture, U.S. refiners would have to go into the marketplace to buy their crude. That would place them in a vulnerable situation. After divestiture the companies buying crude oil would be much smaller in size. The prices they pay may well be higher, because there will be more and weaker bidders, who must deal with a cartel, to bid up the prices higher. The higher average prices they pay for crude oil would mean, once again, higher prices for consumers.

The price of petroleum products ought to be a matter of deep concern to us. Improved petroleum products, good service, and above all, reasonable prices, ought to be the intended result of any action we take. These, plus secure and adequate supplies of petroleum, are certainly the proper objectives of congressional policy. I am convinced that, if the large American oil companies are forced to disintegrate, the prices of petroleum products, instead of going down, would rise.

Second, OPEC's power would be enhanced.

The United States depends on oil for about 46 percent of our energy needs, and we now import more than 40 percent of our oil needs. Over 78 percent of these imports are from nations which are part of the Organization of Petroleum Exporting Countries—OPEC. Those Arab nations that participated in the boycott of the United States in the winter of 1973–74 now account for some 32 percent of total imports, up from around 14.5 percent just prior to the embargo.

Gerald L. Parsky, Assistant Secretary of the Treasury, in his testimony to the Senate Judiciary Committee, stated that:

> Divestiture would in all probability increase OPEC's influence in the international oil market, thus increasing our vulnerability to a cutoff in supply by OPEC. Divested U.S. firms would probably be less able to develop non-OPEC foreign sources of supply, and a divested U.S. international energy industry would complicate the operation of the International Energy Agency emergency oil sharing program—one of our main lines of defense in case of another embargo.

Even were we not dependent directly on OPEC oil for a growing proportion of our energy needs, our allies and trading partners are already overwhelmingly dependent on OPEC. Last year, Western Europe imported 89 percent of its crude oil from OPEC. Japan imported 94 percent of its crude oil from OPEC. All told, 67.8 percent of Free World production originates with OPEC.

OPEC is under no strain to meet this demand. It is estimated that OPEC's shut-in capacity amounted to 12.2 million barrels a day for the first 8 months of 1975. During this time an average of more than 31 percent of OPEC's capacity of over 39 million barrels a day has been shut in. Because of recession in the economies of the industrialized Western nations, world demand for petroleum products was down between 5 and 6 percent for the first half of 1975. By limiting production, OPEC members have not only been able to prevent a decrease in the price of oil as would be expected during a time of slack demand, but they have actually been able to increase the price.

The prime factor enabling the OPEC cartel to stay together is that Saudi Arabia contains 27.4 percent of Free World reserves, or about 34 percent of OPEC's reserves. The Saudis have the production capability to be the world's leading oil producer but have limited financial needs, which can be met at production levels far below their capacity.

The FEA report on vertical divestiture points out that:

> The majors' power to adjust production rates has been diminished as the OPEC member countries have continued to rationalize oil production assets. Furthermore, strict quantity prorationing need not be a necessary condition for cartel stability so long as at least one member of the cartel (notably Saudi Arabia) is willing and able to adjust its own output so as to balance total cartel supply with total demand.

Because they are willing to withhold production to maintain pric—or to maintain an embargo, OPEC is able to maintain this monopoly stance. The solution—other than diplomatic—is the development of sufficient alternatives to OPEC oil, such as the North Sea, Alaska, and our own Outer Continental Shelf. Increased petroleum supplies, and in time, sufficient nonpetroleum energy, could soften the market sufficiently so that even Saudi Arabia's willingness to sustain huge production cutbacks would be insufficient to prevent a drop in prices. This is the process going on now, as the high OPEC price encourages exploration and production—and conservation—worldwide. And that process is largely being carried out by America's integrated oil companies.

It should be pointed out, also, that America's domestic and worldwide effort to expand energy supply, is hampered severely by the low, controlled price of crude oil in the United States.

The New York Times in an editorial on June 21 of this year, stated:

> Breaking up the largest oil companies—and the long period of uncertainty through which the industry would have to pass—would probably cause a major cutback in investment in new energy resources, both in the United States and abroad (including non-OPEC areas). This would strengthen the market domination by OPEC by contracting other sources of supply.

Thus, this legislation would disrupt the American oil industry in the short run, discourage exploration and production in the long run, and assist OPEC to stay in business as a cartel even longer.

Further, the charge that the existence of international oil companies, with their readymade, neutral system for allocating supply withdrawals from among OPEC members, keeps OPEC nations from competing with each other and thus breaking the monopoly is simply not supported by fact or logic.

As indicated in the minority report accompanying S. 2387—

> With respect to the asserted prorationing one should consider the period between the first quarter of 1974, when OPEC production reached a post-embargo high level, and the February to April period of 1975 when it reached a low. Total OPEC production fell 19 percent over the period. Iraqi production rose 20 percent, however, and Libyan output declined 42 percent. Algeria and Nigeria, both urgently in need of foreign exchange, had cuts in production of 20 percent and 26 percent, respectively, while Qatar's production fell only 9 percent. These changes reflect the fact that the oil companies were aggressively shopping around for lower priced oil rather than fostering any prorationing scheme for the benefit of exporting nations.

Richard G. Darman, Assistant Secretary for Policy of the Department of Commerce, testified on this very point before the Judiciary Committee. He stated that:

> Insofar as the argument for vertical divestiture rests on a hypothetically associated improvement in bargaining power vis-a-vis the OPEC cartel, it is difficult to comprehend. It does not seem to rest on any accepted competitive theory, gain theory, psychological theory, or other behavioral theory. And indeed, in simple common sense terms, it is difficult to appreciate why a proposal to weaken the set of parties on one side of a transaction should increase their leverage in relation to the untouched set of parties on the other.

Third, domestic oil and gas and other energy production would be reduced.

Because divestiture would involve 10 to 20 years of uncertainty and the time and energies of company management, expenditure programs not directly related to current profitability would in all probability be reduced. Further, the consensus of the testimony of the financial witnesses before the Judiciary Committee was that divestiture would dramatically affect the ability of the petroleum companies to raise the amount of capital necessary to meet our future energy requirements. This is so because if divestiture legislation is passed, the petroleum industry's overall capital needs would be increased due to the redundant investments and the higher working capital levels that would be required in a fragmented industry. Also, the industry would be less able to obtain capital from internal sources because of reduced operating efficiency and hence higher costs.

Capital from external sources would be less available because of the substantially greater risks brought on by divestiture and the tendency of investors to channel funds into other industries during the long period of uncertainty in which divestiture would be accomplished and in which the new companies would attempt to establish their new financial track records. Additionally, because of the forced abrogation of a number of debt commitments, lenders could require the companies to curtail capital investment programs to repay outstanding debt in the shortest period of time.

Investment in production would also be reduced because divestiture itself tends to discourage investments by those producing companies who are just under the arbitrary cutoff producing or refining rate for fear of exceeding it and then having to undergo divestiture themselves. Further, because the divestiture legislation would prohibit a divested marketing or refining company from owning any producing assets, possible competitors are thereby automatically excluded from the marketplace.

All in all, there is no rational reason to believe that divestiture, with its attendant psychological, financial, and legal ramifications, could in any way improve the country's ability to increase domestic energy supplies.

Fourth, our national security would be impaired.

A secure, dependable, stable supply of oil is obviously of importance to national defense, and to the Nation's security and well being. As I have indicated, imports of oil into this country now amount to more than 40 percent; and this promises to increase even more in future years. Further, the imports of oil from Arab members of OPEC are also increasing rapidly.

An interruption in the supply of foreign oil would obviously affect national security, because our military machine is supplied from the same sources. As long as our country depends on foreign oil—and particularly on oil from countries that can turn off the flow with any change in the political breezes—the Nation's security is under a threat.

Our defense posture, of course, involves not only the fuel needs of our ships, tanks, and planes, but also the fuel needs of industry and agriculture here at home necessary to mount a sustained defense effort.

For example, the normal supply pattern of the Sixth Fleet was upset at the time of the embargo. The fleet never ran out of oil, fortunately, because the oil companies had access to oil from non-Arab countries. And, on a broader scale, the Federal Energy Administration and the Senate Foreign Relations Subcommittee on Multinational Corporations reported that the U.S. oil companies "helped to blunt the edge of the Arab oil weapon by acting as a buffer between producer and consumer nations."

Today, however, a disruption of supply patterns would be much more serious because our dependence on Arab oil is twice as great now as it was 3 years ago.

Consider what Charles W. Robinson, Deputy Secretary of State, said:

> A structural change of our oil industry through divestiture or displacement of the companies in negotiations for purchase contracts for OPEC oil would not go to the heart of our problem of dependence, but only complicate it. OPEC's power does not arise from the integrated structure of the industry nor from company attempts to procure adequate supplies at competitive prices. OPEC was only able to quadruple oil prices when dependence and demand, especially U.S. dependence and demand, gave the producers the power to do so.
>
> At the same time, the vertically integrated international companies still perform essential functions for the U.S. by retaining substantial control over the delivery of oil imports essential to us.

Surely splitting up 18 large oil companies is not going to add a single drop to the Nation's domestic energy supply. Just the opposite will happen. Even the proponents of divestiture are willing to concede that it will create a climate of uncertainty for the industry, and for investors. To the extent that it does, investment in domestic energy will decline, and the drop in domestic production will be accelerated. That will surely increase the risks that are already a part of our national defense picture.

The impact of S. 2387 on our national defense and economy are questions that must be faced. The proponents of S. 2387 have not provided adequate answers. The dangers to our Nation are very real and very serious. I urge all my colleagues to consider fully all the ramifications of S. 2387. If this is done, I am confident they will vote and speak against divestiture.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maine (Mr. HATHAWAY) is recognized for not to exceed 15 minutes.

THE ADMINISTRATION ENERGY POLICY

Mr. HATHAWAY. The administration energy policy since the OPEC oil embargo has been based on one primary premise—that ever-increasing energy prices must be accepted as a fact of life if we are to attain "energy independence." Thus the administration has proposed that oil and natural gas prices be decontrolled, despite record high oil and gas industry profits; that areas of the country which must use imported oil products pay even higher prices through an import fee on those products, and that there be headlong development of domestic energy resources, even if the price is lessened nuclear power safeguards, vast areas of the country being strip mined, or the development of offshore oil and gas resources in frontier areas with little consideration of the cost to areas of the country which must bear the risk of such development.

The administration has given little consideration to the impact of this policy on the consumer, on the individual who must heat his home, pay his fuel bills, and drive his car in order to get to work, if work is available. The message of this energy policy, if it can be fairly characterized as such, is clear; the consumer must transfer his income to the multinational companies to see if they can somehow manage to buy, both figuratively and literally, new sources of energy for the future. And if they cannot, energy prices will be so high that at least the consumer will be forced to conserve what we have because quite simply, he will not be able to afford to heat his home properly or run his automobile.

Quite properly Congress has rejected this administration energy policy. Instead we have recognized the need to have a coherent energy policy which results in the expeditious yet safe development of all energy resources, from the Sun to the atom, while giving priority emphasis to positive programs to eliminate the wasteful use of resources in industry, in transportation, in buildings and in manufacturing. We have determined that incentives for the efficient use of energy must be a high priority in overall energy policy. Conservation through ever escalating prices, on the other hand, can only result in conservation at the expense of middle and low income people, and continuation of the twin plagues of inflation and unemployment in our economic life.

Legislation in the area of energy conservation has covered many areas; for example, the 55-mile-per-hour speed limit, mandatory fuel economy standards for new cars, increased support for urban mass transit, fuel efficiency standards and energy labeling of major appliances, and insistence upon a focused overall conservation strategy which receives appropriate funding and priority in our energy research and development policy.

One area of congressional policy which has been of particular interest to me is the program to aid the low-income homeowner through Federal assistance for the winterization of homes. This program is illustrative of the difference between congressional and administration policy in the area of energy conservation, as it highlights the concern of Congress about the adverse impact of a conservation policy based on ever-increasing prices on those who simply cannot pay the price of such a conservation program.

The winterization program began as a demonstration project in my own State of Maine shortly after the embargo, in the winter of 1974. Known as Project FUEL, the program was funded through the Office of Economic Opportunity and was the first funded energy-related program strictly directed at the consumer. In 4 months in Maine, 2,878 homes of low-income people were winterized at a cost of approximately $95 per home, resulting in both decreased fuel bills for some 10,000 low-income residents, and in decreased energy consumption in those homes.

Following the lead of this successful demonstration program, Congress insured its continuation on a national basis. The rationale for extension of such a program nationwide is easily found—23 percent of America's energy consumption is for residential buildings, and between 20 and 40 percent of this energy usage is the result of inadequate insulation in a minimum of 18 million of the country's single-family units. The Federal Energy Administration has estimated that 5 million of these 18 million homes are occupied by low-income persons, and that these households spend almost three times as much of their income as other households for energy in the home. These people are clearly the most vulnerable to energy price increases and cannot afford to make the types of energy improvements on their homes which would help them to offset the cost of these energy price increases.

With the success of the Maine demonstration project, Congress established the Community Services Administration, a successor agency to OEO which the administration had desired to lose within the Department of Health, Education, and Welfare. The authorization for CSA included an Emergency Conservation Services program which continued the program of winterization of low-income homes throughout the Nation.

More recently, in August, Congress passed the FEA extension act. Titles III and IV of this bill reflect the congressional priority on development of an overall conservation strategy as part of national energy policy. These titles addressed areas of encouraging energy conservation in residential, commercial and industrial buildings through the development of energy conservation performance standards for new residential and commercial buildings, and through various programs of loan guarantees and grants for energy conservation investments. Additionally, in this commitment of resources to energy conservation is a revised 3-year, $200 million program for the weatherization of the homes of low income people. This program will build upon the experience of CSA in administering the prior winterization program, and again recognizes the need to provide meaningful assistance to those people in our economy who have been hardest hit by the price increases of the past 3 years, increases which have had willing allies in the present administration. Through programs such as the winterization projects, Congress has made clear its commitment to increasing the efficient use of our energy resources, and to equitable energy conservation programs which mitigate the distorted impact of energy price increases on consumers at the lower levels of our economic scale.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Ohio (Mr. GLENN) is recognized for not to exceed 15 minutes.

Mr. GLENN. Mr. President, I ask unanimous consent that the following three staff members have the privilege of the floor during the colloquy this morning: Lyle Morris, Len Weiss, and Dave Hafemeister.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY CONSERVATION

Mr. GLENN. Mr. President, our country has developed and prospered in an era of plentiful fuel and low energy prices. It may be correct to say that at least until recently, the American way of life has included a constant search to relieve human physical activity and inconveniences by devices consuming, in the aggregate, significant amounts of fuel or electricity in their operation. The result has been a continual rise in energy consumption to the point where approximately one-third of the world's consumption of energy and I repeat that one-third of the world's consumption of energy occurs in the United States.

The Arab oil embargo in 1973, however, forcefully brought to our attention a number of facts which could no longer be ignored:

First. American production of oil peaked in 1970, at 9.6 million barrels a day, and the present state of decline—current level is 8.2 million barrels a day—of this finite resource is as inexorable as the rising and setting of the Sun.

Second. Dependence on foreign sources of oil is a potential threat to national security. In the fall of 1973, we imported 6 million barrels of oil per day, accounting for 35 percent of domestic oil consumption. Today, despite our memories of the embargo, oil imports are on the order of 7 million barrels a day, representing 42 percent of the oil consumed in the United States. Furthermore, despite the hazards inherent in U.S. reliance upon OPEC, those countries, which provided 70 percent of U.S. oil imports before the embargo, are now supplying 82 percent. The situation with respect to oil is being followed in the case of natural gas as well.

Third. The American lifestyle has been affected by the promotion of energy consumption and wastefulness. We have been encouraged to buy large, heavy cars with low gas mileage, to use electricity profligately with the promise of the lowest rates to the greatest user, and to allow our community development patterns to take shape without any thought given to mass transit.

Clearly, any policy must contain a mix of the following courses of action:

First. Develop new and better techniques of exploration and recovery of oil and natural gas.

Second. Expand coal production and use.

Third. Expand use of nuclear power.

Fourth. Develop alternative sources of energy such as solar, geothermal, and synthetic fuels.

Fifth. Adopt and encourage conservation measures to reduce the growth of demand.

It is self-evident that a society which has geared its entire development on the use of fossil fuels, particularly oil and gas, cannot make an immediate shift to alternate sources of energy. Time is needed for development of those sources.

For that reason, and because of the entire drain on our economy of the wastefulness that characterizes our use of energy, there is an abiding need to make energy conservation a pillar of American energy policy. As a nation we must realize that our fuel supplies are finite and that they should be used wisely.

The energy which can be saved by applying the present level of energy conservation technology is well documented and those energy savings would be substantial. The investment required to install a wide variety of energy conservation measures can often be recouped within a few years, yielding substantial cost savings thereafter. ERDA has indicated that by the year 2000, energy conservation actions can result in energy savings equivalent to a boost of one-third in energy resources. The Ford Foundation's middle case technical fix seenario goes even further.

In the absence of a living conservation ethic among our people, it is imperative that action be taken at the highest levels of Government to promote energy conservation.

The Ford administration policy to reduce energy consumption almost entirely through higher prices is misguided and shortsighted. There is reason to believe that higher prices will not be effective in significantly reducing energy demand. As an example, gasoline prices have risen 60 percent since the embargo, yet demand is close to the pre-embargo peak. These high prices hit the very hardest at those who can afford them the least. The wealthy will not be penalized, but those who have to get to and from a job at the factory or on a construction site, those to whom a dollar has been shrinking through all these years, are the ones who are being hit the hardest by these rises in gasoline prices. Furthermore, higher energy prices at this stage in the economic recovery would inject unacceptable inflationary pressures.

The Congress has, wisely, rejected the administration approach in favor of a more reasonably balanced course of action. No claim is being made that the problem has been resolved by actions taken in this session by the U.S. Congress. However, the Senate in the past year has become increasingly aware of the necessity to enact comprehensive energy conservation legislation, and a significant start has been made by the passage of two landmark pieces of legislation. The present administration, which should have been in the forefront of proposing such legislation, fought us tooth-and-nail all the way.

These public laws, the Energy Policy and Conservation Act of 1975 and the Energy Conservation and Production Act of 1976 have established the following important conservation actions, many of which have been opposed by the administration:

First. Mandatory auto efficiency standards which require a fleet average of 20 miles per gallon in model year 1980 and 27.5 miles per gallon by 1985.

Second. Appliance labeling requirements so as to provide the consumer with reliable energy efficiency information.

Third. Federal grants to assist States in developing energy conservation plans.

Fourth. An industrial energy efficiency program which provides for voluntary reporting.

Fifth. Federal energy conservation standards applicable to new residential and commercial buildings.

Sixth. Federal grant program to weatherize low-income dwellings.

Seventh. A State energy conservation implementation program to provide the public with reliable energy conservation information.

Eighth. A demonstration program to provide financial assistance to homeowners for energy conservation purposes.

Ninth. A program of energy conservation obligation guarantees to encourage the retrofit of industrial, commercial, and public buildings.

Tenth. An electric utilities program to develop electric utility rate design initiative and fund demonstration projects.

When the history of this session of Congress is written, it can fairly be said that the U.S. Senate, in the face of consistent opposition by the administration, took the first steps toward esablishment of an energy conservation policy for the American people.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Arkansas (Mr. BUMPERS) is recognized.

ENERGY CONSERVATION

Mr. BUMPERS. Mr. President, the phrase "energy conservation" may carry in the minds of some a connotation of nonuse of energy. This misconception should be dispelled, and energy conservation should be characterized instead as the efficient use of energy.

The efficient use of energy involves the development of renewable or inexhaustible energy resources, such as solar energy, wind, ocean thermal, and biomass conversion.

As Dr. Edward Teller, one of the Nation's top nuclear physicists, stated in the Friday edition of the New York Times:

> Too little attention and too little money is being spent on such alternate uses of energy.

The budget recently requested by the Energy Research and Development Administration—ERDA—for fiscal year 1977 reflects the misdirected efforts of the Ford administration in the area of energy conservation.

Dr. Barry Commoner, Director of the Center for the Biology of Natural Systems, summarized the inadequacy of the ERDA program in testimony before the Senate Interior Committee, when he said:

> In sum, the ERDA effort in support of nuclear power, the breeder program, coal conversion, and shale oil production, which represents $2,242 million of the total $3,445 million of non-military research and development expenditure (or about 65 percent) could not possibly achieve the essential goal of a national energy program—to establish an energy system capable of meeting national needs, on a continuous basis, at stable prices—in less than 60–75 years. In my opinion, continuously rising energy prices would place an unacceptable stress on the economy, and on the people of the U.S. whom the economy is intended to support, long before that time.

This administration has failed to recognize some important facts regarding our national energy problem. We are rapidly running out of oil and gas. We have enough coal to last until nonfossil sources of power—solar power, wind, and thermonuclear fusion—are perfected and commercialized, though the mining and burning of coal presents hazards to health and environment that have not yet been resolved. Practical methods of energy conservation—better building insulation and more efficient use of waste heat from power generation and manufacturing—can at least slow the growth of our energy demands. But this administration has continued to promote nuclear breeder reactors at the expense of solar energy programs.

For example, the President asked Congress to appropriate $160 million for solar development programs in fiscal year 1977, which was approximately $95 million less than ERDA had proposed during executive branch budget negotiations in the fall of 1975. The Senate Committee on Interior and Insular Affairs proposed fiscal 1977 authorizations of $278.3 million for solar energy development, a $118.3 million increase in the President's budget proposal. The committee also approved a $12.5 million increase in the administration's $50.1 million request for geothermal energy projects.

This administration has lacked imagination in recognizing the need to provide increased levels of funding for solar energy research, development, and demonstration. The apparently forced resignation of the Assistant Administrator of ERDA for Solar Energy is only one fact evidencing this lack.

On the other hand, Congress has recognized the energy potential of the biofuels resource. The energy potential of this resource is vast. The Earth's green plants are estimated to store annually six times the world's technological energy consumption. Obviously all of this cannot be utilized to meet our energy needs, but this is still an enormous resource. Specialty crops are known which are capable of collecting the energy equivalent of 10 barrels of oil per acre each year. One ton of dry plant material or annual waste is the energy equivalent of about 1.3 barrels of oil. A special National Science Foundation seminar held at the University of California in 1974 estimated that there are 800 million recoverable tons of crop residues and animal wastes produced annually. Unused forest materials provide an additional 50 to 180 million tons per year. This means that we have an enormous potential untapped resource in this country.

Since the basic research on this resource has already been done, it is incumbent upon us to develop the technologies to convert it into the fuels which we so badly need. For reasons I fail to understand, ERDA proposed to spend only $3 million in fiscal year 1977 on this area. The Interior Committee and the Senate raised that amount to $8 million in the ERDA authorization bill. The House of Representatives proposes to raise that amount to $13.5 million.

Solar spending cuts have been characterzied by the administration as "normal budget cuts." The energy problem facing our country is not a normal situation. It requires immediate increases in ERDA's nonnuclear budget requests above the President's budget proposals.

Mr. President, Dr. Commoner has just restated the urgency of our country's needs in this area. I ask unanimous consent that an article of his in the Washington Post of Sunday, September 12, be printed immediately following these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SOLAR SOLUTION

(By Barry Commoner)

For the first time in history the U.S. economy now confronts a sharp and continuing rise in the relative price of energy. This is painfully apparent to householders; many suddenly find themselves paying more for fuel and electricity than they do for their mortgage.

The overall data, which are readily computed from Department of Commence statistics that got back to 1811, are unequivocal: In the entire history of modern industrial and agricultural development in the United States—up to 1973—relative energy prices (that is, relative to the average price of all commodities) have either decreased or remained essentially constant. In 1973 the trend suddenly changed. In that year the energy price index stood at 72 per cent of the commodity price index, having slowly and steadily declined from a value of 77 per cent in 1950. In 1974 energy prices jumped to 94 per cent, in 1975 to 100 per cent, and in the first quarter of 1976 to 104 per cent of the commodity price index.

The immediate cause was, of course, the 1973 embargo, and the rise in the price of oil imposed by the Organization of Petroleum Exporting Countries (OPEC). However, the price has since then continued to rise with no sign of abatement. This reflects the basic fact that the sources of energy on which we largely depend, especially petroleum and natural gas, are nonrenewable and therefore are certain, at some point, to increase in price at an accelerating rate. The OPEC actions served only as an abrupt means of anticipating the inevitable inflationary impact of the nonrenewability of oil on world oil prices.

The basic energy problem we now face is to learn how to slow the unprecedented rise in the price of energy, and to stabilize it.

Can this be done? The present U.S. energy program (if it can thus be dignified) offers no grounds for optimism. By perpetuating our massive dependence on nonrenewable fuels, and forcing us to rely on new, immature energy technologies, the present program would continue the present rise in energy prices.

There is an alternative. Solar energy is renewable, and its costs, rather than rising, are ready to become economically competitive as its technologies are brought into wider use. All that is required is a national commitment to invest enough capital to bring down the costs of solar energy so that it can begin to offset the continuing rise in the prices of other forms of energy.

The flaws in the U.S. government's present approach are evident from the most detailed description of the federal energy program, the ERDA National Plan for Energy Research and Development (1976). In the near term ("now to 1985 and beyond") the ERDA plan proposes to rely on enhanced recovery of domestic oil and gas and increased production of nuclear power. Enhanced recovery of these fuels is subject to the law of diminishing returns and relying on them is simply a guarantee of escalating prices.

In the near term ERDA also proposes to promote the growth of fission nuclear power, which—once more—means a sharp increase in future energy prices because of the technological immaturity of the nuclear industry. One sign of its immaturity is the escalation of the price of power from nuclear plants resulting from the rapid rise in their capital costs.

In the mid-term ("1985 to 2000 and beyond") the ERDA plan proposes to rely on coal conversion and shale oil to provide the synthetic liquid and gaseous fuels that would be essential (particularly in vehicles) to replace petroleum imports and dwindling domestic production of petroleum and natural gas. But the capital cost (per unit of energy produced) of coal conversion and shale oil processes is about 10 times that of coal mining itself and well above the capital cost of even intensified petroleum production. This means that the introduction of coal conversion and shale oil products would involve a sharp increase in fuel prices that would worsen progressively if these products were to increasingly take over the present functions of natural gas and petroleum.

The only conventional energy technology that could be used in the near and mid-term to stabilize energy prices is the direct combustion of coal. Coal reserves are so large (they represent a 400-year or more supply) and laterally dispensed that production costs may remain free of the effect of diminishing returns for some time—perhaps 100 or more years. (The present rise in the price of coal is more a response to rising oil prices than to increased production costs.) Since direct combustion (as in coal-fired power plants) is a mature technology, coal can for the time being contribute to the stabilization of energy prices. Further environmental safeguards are needed, in strip mines and power plants. But these are well known, mature technologies and adopting them would not lead to a continuous escalation in price.

In the long term ("2000 and beyond") the ERDA plan emphasizes breeder-based nuclear power and fusion on the grounds that these techniques meet the necessary requirement for resource inexhaustibility. Breeder technology is confronted with a number of very severe, unsolved problems. As to fusion, there is no evidence as yet that the basic physical process actually works.

Even if we accept ERDA's optimistic expectations that the breeders will actually breed and that the program can be safely introduced, it cannot become mature, in the sense of producing power at a stable price, before 2040. Thus, the ERDA plan, as a whole, could not possibly establish an energy capable of meeting national needs, on a continuous basis, at stable prices, in less than 60 to 70 years. Long before then, the economy is likely to collapse under the strain of steadily rising energy prices.

THE SOLAR ALTERNATIVE

One of the most striking features of the technologies on which the ERDA energy plan would rely is that they yield so little energy in return for the invested capital. For example, the capital productivity of shale oil production (that is, the rate of energy production achieved per dollar of invested capital) is one-fortieth of that experienced in current oil production. The capital productivity of the manufacture of synthetic crude oil from coal is about one-eighth of the capital productivity of coal mining itself. The capital productivity of nuclear power is significantly inferior to that of coal-fired power, and becoming progressively worse.

All this explains the rather startling economic innovation proposed by the Ford administration as a means of financing its energy plan. The Energy Independence Authority Bill, which is now before Congress, would apply $100 billion of public funds, as capital, to private enterprise for the development of precisely those energy production technologies that are most wasteful of capital: nuclear power, synthetic oil from coal and shale oil. The rationale is that these technologies are so demanding of capital (because of their low capital productivity) and so risky (because of their technological immaturity) that private entrepreneurs are unwilling to invest their own capital.

Now that Mr. Ford has led the way in proposing to use such a magnificent sum of public funds ($100 billion is, after all, almost equal to the annual military budget) for the development of a national energy program that would only worsen the present, disastrous rise in energy prices, it is appropriate to think of a better way of investing it. There is a better way: solar energy.

Contrary to the myth that solar technologies are only distant, exotic hopes, most of them have been tried out and are known to work. For example, even one of the more elaborate solar technologies—photovoltaic cells—originally developed to power satellites at a cost of about $200 per watt, sold for $50 per watt in 1973, and are now available at $12-14 per watt. While the price is still too high to be competitive, the falling price is clear evidence that the technology is sufficiently mature to avoid unpleasant future surprises that raise its cost. The same is true of every other solar technology now being developed, including the energy storage techniques that are essential to most applications of solar energy.

Particularly important is the rapid development of practical hydrogen-based technologies, since hydrogen is not only a convenient way to store solar-generated electric power, but is also a means of delivering solar energy in a form that is usable in transportation. The feasibility of the direct use of hydrogen to fuel cars and buses, with only a minor modification of the gasoline engine, is well established; a hydrogen-fueled bus is operating in Provo, Utah. Once hydrogen is in hand, hydrocarbon fuels—for example, to operate jet aircraft—are fairly simple to produce as well.

Solar energy has some distinctive characteristics: Sunlight falls on every square inch of the earth's surface, it can be captured only where it falls, and the capture of one sunbeam has no effect on our ability to capture another one. As a result, many solar devices can be built on any desired scale at about the same cost per energy unit. This contrasts sharply with conventional energy technologies, where economies of scale are so large that only power plants in the billion-dollar range are economically competitive.

The introduction of solar technologies into the national energy system will need to be planned to coincide with the expected time at which their costs become equal to or less than the conventional technologies that they are to replace. One major solar technology—the production of space heat and hot water—is expected to be economically competitive with natural gas within a year. Both of these technologies are ready to be introduced now, as the first steps toward stable energy prices. The remaining solar technologies are at various stages of economic development, but most of them could be introduced and contribute to energy price stabilization in the next 15 years.

In sum, it is possible, beginning at once, to slow down the present escalation of energy prices and to move toward stabilization by relying on coal-fired power production in the near and mid-term, and introducing the various solar technologies as they become economically competitive, beginning at once with solar heat and methane installations. In this way, it should be possible to gradually approach approximate energy price stabilization over the next 20 to 25 years—a period which is, in any case, the minimum time in which all the huge productive enterprises could be completed.

The common response to such an account—or even to the simple assertion that solar technologies really exist in practical, usable forms—is that if all this is true, why is solar energy so little used?

The answer lies, once more, in the realm of economics. Specifically, the problem is that we have failed, thus far, to take advantage of a very special, powerful economic characteristic of solar technology. Because fuel prices are escalating, a capital investment that produces energy without purchased fuel has a value which will itself grow exponentially with time. Because of the nature of the energy crisis itself, such a capital investment (if technologically mature) can solve it. Solar technology is precisely such an investment. In an era of energy-induced inflation, it becomes the ideal hedge against inflation. The initial capital costs can be readily recovered in fuel savings.

All that stands in the way of making practical use of this opportunity is the cost of the initial investment. However, now that the Ford administration proposes to invest $100 billion of public funds in an effort—albeit technologically and economically misguided—to solve the energy crisis, we can look at what solar energy could do with that magnificent sum.

At the Center for the Biology of Natural Systems we have recently estimated the impact of investing $100 billion in residential and commercial solar space heater on national energy savings and on the cost of heat to the consumer. We adopted the following approach: Between now and 1980, the U.S. government would loan a total of $100 billion to homeowners and commercial establishments to purchase solar heaters, on an interest-free basis. In return each year, for a 10-year period, the latter would pay back to the government the amount of money saved in fuel costs. The saving is computed in terms of the 1980 price, so that, to the extent to which solar energy is used, the consumers' heat costs remain constant from year to year, thus, to this extent, accomplishing the sought-for energy price stabilization. The money paid back to the government is to go into a rotating fund to provide loans for further solar installations, thus expanding the overall program. At the end of 10 years, all of the solar heating systems would still be saving fuel costs, and these savings would also be returned to the government, in subsequent annual payments, until all of the original $100 billion is recovered.

FIFTEEN-YEAR PAYOFF

One set of calculations was based on a currently available solar space heating system which in most parts of the country could provide 60 per cent of the heat load for a single family dwelling at an initial cost of $7,500 (including extra insulation). At the end of the 10-year period, 75 per cent of the single-family dwellings and 40 per cent of the commercial floor space in the United States (exclusive of the South, where heating needs are minimal), would be receiving 60 per cent of their heat from the sun and 40 per cent from conventional sources. In every successive year starting with the 10th, the fuel saved would be sufficient to reduce oil imports by 20 per cent. In the 10th year and thereafter, a total of $6.52 billion per year would be saved in fuel costs (based on a price fixed at the 1980 level) so that the initial $100 billion investment could be paid back in the next 15 years.

A new combined solar heating/electric generation system developed by Drs. Roy Kaplow and Robert Frank of MIT could yield even better results. Based on current cost estimates, over a 10-year period the $100 billion loan fund could be used to install such solar systems to provide 80 per cent of the required heat and a considerable fraction of the electric power in 75 per cent or more of the single-family dwellings and all of the commercial establishments in the United States. At the end of 10 years the fuel saved per year would amount to 58 per cent of oil imports. The annual fuel savings would be about $21 billion, so that the $100 billion investment could be paid back in five years.

It should be added that such a massive program would go a long way toward reducing unemployment. It would require considerable labor—by sheet metal workers, carpenters, plumbers, electricians—spread over most of the country.

The purpose of this exercise is not so much to specify in detail how such a program could be carried out, but to demonstrate, by a simple example, the immediate, powerful economic capabilities of the application of existing solar technology. Using the same principle—the temporary investment of government funds to provide the capital needed to purchase solar equipment and the reinvestment of the resulting savings in fuel expenditures—additional solar technologies could be introduced, step by step, as they become economically feasible.

Here, then, is the real meaning of solar energy. It is a way of ending our short-sighted dependence on nonrenewable fuels. It is a way of ending the risks, to our security, to our lives and to the quality of the environment, of nuclear power. It is a way of ending the economic tyranny of centralized production. It is the only way to slow down the escalating costs of energy and halt the forced march toward economic catastrophe.

Solar energy is the way to end the energy crisis and to begin a new era in the nation.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

ENERGY CONSERVATION COLLOQUY

Mr. GRAVEL. Mr. President, during the past two Congresses, we have been greatly concerned about the subject of "energy" and "energy usage" in the United States. This is an extremely complex area, complicated by the fact that decisionmakers have been unable to agree on how to approach the problem of our impending "energy shortage." Can the problems be handled through a program designed to encourage the energy-producing industry to find new deposits of energy resources? Can we accept the notion that our problems have arisen through our profligate attitude and all would be remedied if we would only conserve our resources? Too often the debate has adopted an "either or" stance, with the result that we have yet to articulate an energy policy for the Nation.

Conservation has, unfortunately, been identified in people's minds with economic stagnation or decline. Somehow, it seems to follow that if fewer energy resources are used, the well-being of society and its members will decrease. This assumption is wholly untrue. It results partially from a misunderstanding about the nature and purpose of energy. It ignores the possibility of being able to get more work out of the resources that we consume.

Energy is nothing more or less than the ability to do work. It comes in many forms, oil, natural gas, coal, geothermal deposits, hydropower, solar heat, and wind. All of these naturally occurring phenomena possess energy. Yet, unless they are harnessed, they are of no value to us. The vast oil and gas deposits at Prudhoe Bay are of no value to the energy consumer now. They do no work; they run no automobiles. We really do not care if they are 10 billion barrels or 10 barrels. But they have potential value and when they are refined, or harnessed to work for us, they will be valuable sources of energy. Therefore, when we consider the possibilities for conserving energy, we should be thinking of ways to increase the amount of work that we get from a barrel of oil, not on how to use fewer barrels of oil.

In order to get an idea of how potentially important this kind of increased conservation effort can be, we need only look at various energy efficiencies in the country. The American Physical Society has studied the use of energy in America and their results should disturb us greatly. They show that the average efficiency of our transportation and heating and cooling systems is only about 10 percent. This is an appalling figure when we realize that space conditioning accounts for more than 25 percent of the annual U.S.

energy demand. The society estimates that by using existing technologies, the efficiency rates of these two consumers of energy could be doubled or possibly tripled. In other words, we could heat twice as many homes with the same amount of electricity or we could heat the same number with half as much as is being used today.

What would this kind of increased efficiency mean for our gross level of consumption? The Project Independence blueprint estimated that an energy conservation program for residential and commercial buildings only would save 500 million barrels of oil annually. If we were able to reach the levels of 20 to 30 percent projected by the society, we would be able to achieve far greater savings without any decline in the quality of life.

But those levels of efficiency will remain out of our reach unless we have a dramatic change in attitude on the part of the Federal, State, and local governments, as well as the individual. We need to ask ourselves a whole different set of questions about energy usage. We must throw out our old set of assumptions based on plentiful, cheap energy supplies.

Energy resources are of two basic types, renewable and nonrenewable. Where we can, we should be giving preference to renewable resources. Hydrocarbon resources are limited. We consume in a day what took millions of years to create. It only makes good sense for us to be very careful with these supplies, insuring that they are used in the most efficient manner possible.

This change will require energy systems planning on some sort of regional basis. During the 1960's we became sensitized to our environment and the reality of living in a complex, interdependent natural system. We became impressed with the need to assess the impact of an action on the whole system and not just those things immediately affected. We now need to apply this same kind of analysis to the energy situation.

People and institutions need energy to do different types of work in very different social, economic, and physical environments. Sometimes the type of energy needed will be available locally, sometimes it will not be. In some cases, climate or geography will alter the economics of a particular energy resource. If we are going to be able to make our resources provide the maximum amount of work for us, we must be able to analyze the needs and the available resources and match them up.

In doing this, there are several questions that decisionmakers must focus on. One, what is the work to be done? Does it require high or low quality energy? What sources produce that quality energy and are any of them available locally? At this point we are able to begin to develop our list of possible options for the region, including possible combination energy systems. Only in this way can consumers be reasonably assured that the relative efficiencies have been assessed and that there is a possibility that the kind of energy used will fit the type of work required.

There has been some progress made by corporations and cities in assessing energy usage and in trying to increase its efficiency. Corporations that do so are finding that tangible, financial rewards exist. Cities will benefit to the extent that analysis and planning cut down on the projected growth of energy consumption and eliminate the need for costly utilities. However, these efforts are presently sporadic and uncoordinated. They are not likely to lead to the sort of energy planning that we need in this country.

During the 94th Congress we passed the Energy Policy and Conservation Act which had two significant sections related to energy conservation. The first section required the Federal Government to get its own house in order by developing a 10-year plan for energy conservation in buildings owned or leased by it. The plan is to include thermal efficiency and insulation requirements, lighting efficiency standards, and thermostat controls. It will also include plans for retrofitting existing Federal buildings to meet conservation standards.

The second part of the legislation has much potential importance. This section authorized grants-in-aid to States to help them establish and carry out energy conservation programs based on State needs. This is an ideal forum for the States to analyze, project, and plan for future energy needs based on relative efficiencies and local resources.

The State government is the most appropriate level at which to establish such a program. The people must start thinking about their consumption of energy and the ways in which wasteful consumption affects their lives and their communities. It simply is not very convincing to hear bureaucrats in Washington talk about problems in the cities and towns of America. The people have heard a lot of talk from Washington and they are tired of it. But a local jurisdiction is in a position to investigate and understand local problems. The people are more likely to respond to their mayor or Governor than to suggestions from some Washington agency or department.

In addition, State control and direction of the energy study is the only way in which we can assure that regional and local variations are taken into account in setting up these standards. It would seem to be beyond dispute that the needs of Alaska and the needs of New York are going to be vastly different. But they may also experience some common problems and the differences may not be the obvious ones. All sorts of variables should enter the picture. States may have resources in solar or geothermal that exceed the experts' expectations. My point is that we will never know the potentials of energy conservation until we throw out the old assumptions and controls and let the States and local governments do their own assessment of their problems and potentials in the State.

The State of Oregon has done such an energy study. It focused on the potential of various energy sources and tried to determine which ones were the most practical for satisfying the State's needs. I do not know the ultimate fate of this study, but I would commend it to the administration as an example of the kind of activity we at the Federal level should be encouraging.

Unfortunately, the present administration does not have a very good record in regard to giving the States a meaningful role in decisionmaking. Their policy with regard to the Outer Continental Shelf is an excellent example of the way in which the administration has overruled legitimate State interests in protecting its citizens and resources from the adverse effects of offshore oil development. State involvement in the decisionmaking process was solicited on a pro forma basis, but meaningful contacts have been so few that several of the States have had to go to court in an attempt to protect their rights.

The rationale most often given for ignoring State interests has been the overriding Federal interest in developing these offshore energy deposits for the benefit of the entire Nation. However, it can be argued that since the offshore areas will take so long to develop, the national interest would have been equally well served by giving money and encouragement to State conservation programs and the development of alternative sources such as solar energy.

Given the dismal record of the current administration, there is little reason to hope that energy conservation programs will receive more than the routine interest they have received over the last 4 years.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while we are awaiting the arrival of a Senator for consummation of a special order, I ask unanimous consent that the period for routine morning business now take place without prejudice to the order of the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. McGOVERN ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders have been recognized under the standing order, Mr. McGOVERN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. McGovern on tomorrow be transferred to Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF CERTAIN SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for recognition of Mr. Haskell and Mr. Mansfield be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that on September 10, 1976, he approved and signed the following bills:

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

S. 3779. An act for the relief of Mrs. David C. Davis.

REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States which was referred to the Committee on Agriculture and Forestry:

To the Congress of the United States,

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended June 30, 1975.

Gerald R. Ford.

The White House, *September 13, 1976*.

MESSAGES FROM THE HOUSE

At 10:15 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and that the House recedes from its amendment to the title.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes.

The message further announced that the House insists upon its amendments to the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf: to amend the Outer Continental Shelf Lands Act; and for other purposes, disagreed to by the Senate, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Murphy of New York, Mr. Udall, Mrs. Mink, Mr. Eilberg, Mr. Breaux, Mr. Studds, Mr. Dodd, Mr. Hughes, Mr. Miller of California, Mr. Fish, Mr. Forsythe, Mr. du Pont, and Mr. Young of Alaska were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5465. An act to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes;

H.R. 8603. An act to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes; and

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Leahy).

ENROLLED BILL SIGNED

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bill:

S. 3669. An act to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Leahy).

At 1:32 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Shipley, Mr. Giaimo, Mr. Addabbo, Mr. McFall, Mr. Yates, Mr. Evans of Colorado, Mr. Roybal, Mr. Roush, Mr. Mahon, Mr. Coughlin, Mr. Cederberg, Mr. Armstrong, and Mr. Regula were appointed managers of the conference on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE FEDERAL TRADE COMMISSION

A letter from the Secretary of the Federal Trade Commission transmitting, pursuant to law, a report on a new system of records (with accompanying report); to the Committee on Government Operations.

OCTOBER 1976 TERM OF THE SUPREME COURT

A letter from the Chief Justice of the United States informing that the Supreme Court will open the October 1976 Term on October 4, 1976, at 10 a.m.; placed on the table.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET—(S. Doc. 94-253)

A letter from the Director of the Office of Management and Budget transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated September 1976 (with an accompanying report); referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Agriculture and Forestry, Commerce, Public Works, Labor and Public Welfare, Banking, Housing and Urban Affairs, Interior and Insular Affairs, Foreign Relations, Finance, Armed Services, the Judiciary, the District of Columbia, Government Operations, and Aeronautical and Space Sciences, and ordered to be printed.

REPORT OF THE GENERAL ACCOUNTING OFFICE—(S. Doc. 94–252)

A letter from the General Counsel of the General Accounting Office informing the Senate of the release by the Department of Transportation of certain impounded budget authority to Amtrak; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Commerce, and ordered to be printed.

REPORT OF THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting, pursuant to law, the second annual report on the implementation of the Federal Fire Prevention and Control Act of 1974, for the calendar year 1975 (with an accompanying report); to the Committee on Commerce.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter dated September 9, 1976, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE DEPARTMENT OF COMMERCE

A letter from the Assistant Secretary of Commerce transmitting, pursuant to law, a report on a new system of records (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Acting Comptroller General transmitting, pursuant to law, a report entitled "States' Protection of Workers Needs Improvement" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, the fifth annual progress report on the 5-year plan for family planning services and population research (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE COMPTROLLER GENERAL (S. Doc. 94– —)

A letter from the Deputy Comptroller General reporting, pursuant to law, on a proposed rescission of budget authority to the Legal Services Corporation submitted by the President in his first special message of fiscal year 1977; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, the Judiciary, and Labor and Public Welfare, and ordered to be printed.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

A petition from Project 76 relating to proposed legislation; to the Committee on the Judiciary.

A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Interior and Insular Affairs:

"RESOLUTION NO. 806

"To Express the Support of the Legislature For the 'Jackson Amendment' to S. 2998, Pending Before the 94th Congress of the United States and Pertaining to the Return of Gasoline Excise Taxes to the Commonwealth of Puerto Rico and, As Proposed to be Amended, to the Territory of the Virgin Islands of the United States.

"Whereas Senator Henry M. Jackson introduced S. 2998 into the Congress of the United States on February 19, 1976, entitled 'To amend the Puerto Rico Federal Relations Act'; and

"Whereas the amendment to the Puerto Rico Federal Relations Act being sought by S. 2998 is one that would provide for the return to the Treasury of the Commonwealth of Puerto Rico of gasoline excise taxes collected by virtue of 26 U.S.C.A. 4081 (Internal Revenue Code of 1954), which taxes amount to several millions of dollars annually and are currently being deposited into the Treasury of the United States; and

"Whereas Senator Henry M. Jackson subsequently introduced an amendment to S. 2998 which would add thereto two additional sections for the purpose of amending Section 28b of the Revised Organic Act of 1954 in the same manner as Sections 1 through 3 of said bill amended the Federal Relations Act of Puerto Rico, in order to provide for the return to the Treasury of the Virgin Islands of all gasoline taxes imposed and collected by virtue of 26 U.S.C.A. 4081 (Internal Revenue Code of 1954); and

"Whereas the significance of this proposed amendment to the Virgin Islands is particularly enhanced in view of the extreme economic difficulties which have been experienced by the Virgin Islands over the course of the past several years, forcing severe cutbacks in essential Virgin Islands Government programs and services; and

"Whereas it is the sense of this body that its firm position with regard to the passage of S. 2998, as proposed to be amended by Senator Henry M. Jackson, should be expressed unequivocally to those members of Congress who will be called upon to decide the fate of this most important legislation; Now, Therefore, Be it

Resolved by the Legislature of the Virgin Islands:

"SECTION 1. That the Legislature of the Virgin Islands hereby expresses its unanimous and unwavering support for the passage of S. 2998, 94th Congress, Second Session, as amended by the "Jackson Amendment", the effect of which will be to provide for the return to the treasuries of the Commonwealth of Puerto Rico and the Territory of the Virgin Islands of the United States of all excise taxes collected on the production of gasoline within those respective jurisdictions.

"SEC. 2. That copies of this Resolution shall, immediately upon its passage, be forwarded to the President of the United States Senate, the Speaker of the United States House of Representatives, the respective chairmen of the committees on Interior and Insular Affairs of the Senate and House of Representatives and the Virgin Islands Delegate to the United States House of Representatives, Washington, D.C.

"Thus passed by the Legislature of the Virgin Islands on August 17, 1976."

Assembly joint resolutions 62 and 66, adopted by the Legislature of the State of California; to the Committee on Commerce:

"RESOLUTION CHAPTER —

"(Assembly joint resolution No. 62—Relative to abandoned airplane wreckage)

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 62, Thurman. Abandoned airplane wrecks.

"This measure would memorialize the Congress to prohibit the abandonment of airplane wrecks in California, and elsewhere in the nation, as it deems appropriate, except in exceptional circumstances where removal would endanger life.

"Whereas, Abandoned airplane wreckage hampers or delays the actual rescue attempt to find survivors of airplane crashes when rescue groups are mistakenly dispatched to old wreckage, thereby creating additional and unnecessary expense; and

"Whereas, Abandoned airplane wreckage creates needless additional hazards to search and rescue units; and

"Whereas, Abandoned airplane wreckage is frequently spotted and reported as a 'down plane' creating needless extra work for law enforcement officials, land agency administrators, and search and rescue coordinators, who must deal with these reports; and

"Whereas, The common practice of abandoning airplane wreckage on the less accessible terrain of the California countryside has resulted in a buildup of hundreds of abandoned wrecks; and

"Whereas, In the absence of regulations, airplane wreckage is still being abandoned in California, usually after it is stripped of valuables, although some land agencies are now trying to force the complete removal of new airplane wreckage from their lands on a case-by-case basis; and

"Whereas, Abandoned wreckage represents a blight on the countryside that, if not removed, will exist indefinitely; and

"Whereas, Scavengers will often scatter wreckage or alter the appearance of known wreckage in their search for valuables and souvenirs; and

"Whereas, Metal from an airplane wreckage that is not recycled represents a loss of an increasingly scarce nonrenewable resource; and

"Whereas, The nature of air travel indicates a need for a federal approach when dealing with specific reforms; now, therefore, be it

"*Resolved* by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to prohibit the abandonment of airplane wrecks in California and elsewhere in the nation, as it deems appropriate, except in exceptional circumstances where removal would endanger life; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Federal Aviation Administration, and to the National Transportation Safety Board."

"Resolution Chapter—

"(Assembly joint resolution No. 66—Relative to public utilities)

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 66, Ingalls. Public utilities.

"This measure would memorialize the Congress of the United States to give urgent consideration to amending the Federal Power Act to provide that no wholesale rate increases become effective until hearings have been completed and a final order issued by the Federal Power Commission upholding the lawfulness of all or a portion of any such increase.

"Whereas, Many private electric utilities during the past two years have forced repeated sharp increases in wholesale rates upon municipal systems, thereby raising doubts in the public mind concerning the credibility of such municipal operations; and

"Whereas, In many cases the wholesale power rate charged to such municipal systems is considerably higher than the rate charged to industrial customers by such private utilities; and

"Whereas, The Federal Power Commission has refused to consider such rate discrimination against municipal utilities and is appealing a recent court of appeals decision which would require the commission to consider and correct this price squeeze situation; and

"Whereas, A continuance of this price squeeze has caused many to question whether these municipal systems should be continued in operation, thereby inhibiting the development of publicly owned alternative energy resources and endangering the fiscal well-being of such cities; and

"Whereas, Under existing Federal Power Act procedure these wholesale rate increases are normally made effective within 30 days after filing, or at the latest within a five-month suspension; and

"Whereas, The final decision of such rate cases before the commission generally takes two years or longer while such rates are in effect; and

"Whereas, An amendment to the Federal Power Act could provide for appropriate hearings before rate increases are permitted, to reflect the consumer's interest as well as the private utility's interest; now, therefore, be it

"*Resolved* by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to give urgent consideration to amending the Federal Power Act to provide that no wholesale rate increases become effective until hearings have been completed and a final order issued by the Federal Power Commission upholding the lawfulness of all or a portion of any such increase; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON (for Mr. HARTKE), from the Committee on Veterans' Affairs, with an amendment:

H.R. 2735. An act to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes (title amendment).

By Mr. JACKSON (for Mr. SYMINGTON), from the Committee on Armed Services, with amendments:

H.R. 14846. An act to authorize certain construction at military installations, and for other purposes (Rept. No. 94–1233).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry:

S. Res. 545. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2823. (Referred to the Committee on the Budget.

With amendments:

S. 2823. A bill to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations (Rept. No. 94–1234).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 524. A resolution regarding the terrorist attack at Istanbul Airport (Rept. No. 94–1235).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

David Robert Macdonald, of Illinois, to be Under Secretary of the Navy.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 13, 1976, he presented to the President of the United States the following enrolled bill:

S. 3669. An act to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BROOKE:

S. 3805. A bill to amend title XVI of the Social Security Act so as to make the provisions thereof relating to limitation on eligibility of individuals in public institutions inapplicable to residents of certain small publicly operated community residence facilities, and for other purposes. Referred to the Committee on Finance.

By Mr. FORD:

S. 3806. A bill for the relief of Doctor Orlando Fusilero Bravo. Referred to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 3807. A bill to amend Public Law 93–198. Referred to the Committee on the District of Columbia.

By Mr. ALLEN:

S. 3808. A bill to amend Part D of title IV of the Social Security Act to limit the amount of an individual's wages which is subject to garnishment thereunder, for the enforcement of child support and alimony obligations, to 50 percent of such wages (or such lower amount as may be provided by State law). Referred to the Committee on Finance.

By Mr. TAFT:

S. 3809. A bill for the relief of Deborah Worrell. Referred to the Committee on the Judiciary.

By Mr. GRIFFIN:

S. 3810. A bill to amend the Communications Act of 1934 to provide just and reasonable rates, terms, and conditions for the use of certain rights-of-way by persons desiring to lease space for wire communication. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROOKE:

S. 3805. A bill to amend title XVI of the Social Security Act so as to make the provisions thereof relating to limitation on eligibility of individuals in public institutions inapplicable to residents of certain small publicly operated community residence facilities, and for other purposes. Referred to the Committee on Finance.

Mr. BROOKE. Mr. President, today I am introducing legislation to eliminate roadblocks in the supplemental security income program to the eligibility of persons living in community group homes.

In my State of Massachusetts and across our Nation, there is a growing movement to develop group homes and other similar community residences for disabled, the elderly, and other vulnerable people. These community residences are designed to provide a home for people who, because of advancing age or disability, are unable to live totally independently. They offer such persons the opportunity to live a fairly normal life and to remain active participants in their communities, despite their handicaps. Group homes are an alternative to a lifetime in a nursing home or State institution—an alternative which is not only more humane, but also considerably less costly.

I believe that public policy should encourage the development of group homes and other alternatives to institutional care. But a patchwork of statutory provisions under the SSI program have exactly the opposite effect.

The legislation I am introducing today would remedy this by making several changes in current SSI law. First, the legislation makes persons living in publicly operated community residence for 16 or fewer residents eligible for SSI benefits on the same basis as those living in private community residences of the same nature. Current law precludes SSI payments to any person living in a public institution. The second change permits State and local governments to subsidize room and board costs in a home when necessary, without penalizing the residents by reducing or eliminating their SSI benefits. Under current law, funds provided by nonprofit organizations to subsidize group homes and other community residences are not counted as income to the residents, but public funds for the same purpose are counted. Thus, if private funds are used, SSI payments are not reduced; but if any public funds are used, SSI payments are reduced.

The legislation also requires States to develop and enforce standards for such community residences. This is designed to replace a section of existing law which attempts to guard against substandard health facilities, but which has never been implemented because of its complexity. Requiring States to develop their own regulatory mechanism is a more effective approach than the current provisions, I believe, and one strongly supported by HEW and a number of consumer groups.

The cost of this legislation is modest and well within the congressional budget resolution. The administration estimates that the first year cost will fall between $8 and $16 million. Net Federal costs would be somewhat less than this, since any movement of SSI recipients into community residences from publicly financed institutional care will cause a decrease in Federal medicaid expenditures.

This legislation has broad, bipartisan support. Introduced in the House by Congresswoman MARTHA KEYS of Kansas, it was unanimously approved by the Ways and Means Committee as a committee amendment to H.R. 8911, the Supplemental Security Income Amendments of 1976, and was passed by the House as a whole by 374 to 3. The legislation also has broad support among consumer groups such as the National Association for Retarded Citizens, the American Association of Retired Persons, and a variety of other public-interest groups.

I believe that the time has come to make good on our oft-repeated promises to encourage alternatives to institutional care, as this legislation is designed to do. I urge my colleagues on the Finance Committee to give this legislation the earliest possible consideration, so that action will not have to await the 95th Congress.

By Mr. ALLEN:

S. 3808. A bill to amend part D of title IV of the Social Security Act to limit the amount of an individual's wages which is subject to garnishment thereunder, for the enforcement of child support and alimony obligations, to 50 percent of such wages (or such lower amount as may be provided by State law). Referred to the Committee on Finance.

PROTECTING FEDERAL WAGE EARNERS FROM ABUSIVE GARNISHMENT

Mr. ALLEN. Mr. President, I believe strongly that parents of children owe a duty of support to their offspring until the children have reached maturity. If divorce separates the parents, I do not feel that the fact of divorce in any way lessens a parent's duty to its child.

Mr. President, I also believe strongly in and have always supported laws which permit courts having jurisdiction of divorce cases to make a reasonable determination of the financial contribution, if any, one spouse should make to the other in light of all of the circumstances surrounding the marriage.

But, Mr. President, I have also always supported statutes which put some limitation on the power of a creditor to garnish the wages of a worker in order to satisfy a debt. Without such limitation workers can be rendered destitute by creditors and thereby made to feel that there is little point in having any employment at all since virtually all of the wages earned are, by process of court, immediately forfeited to the creditor.

So, Mr. President, while I endorse wholeheartedly requirements that a parent be held legally responsible for the support of its child and that State courts have plenary power to set out the financial obligations of divorced persons, one to another, I do not believe the Federal Government should permit unrestrained enforcement of those obligations in those cases in which the United States is named as garnishee in legal process designed to secure all or nearly all of the wages of a Federal employee or former Federal employee.

The unrestrained garnishment of Federal wages has given rise in many cases to clearly inequitable and severe consequences. For example, in some instances a court in one jurisdiction may set the financial obligations of a divorced parent to his spouse and children at a given level based on the current wages. Thereafter the divorced parent, a Federal employee, retires and receives retirement income at approximately one-half the amount received prior to retirement. However, the retiree—having moved to another jurisdiction—is unable to secure an adjustment from the jurisdiction having originally fixed his obligation to spouse and children. The result, Mr. President, is simply that the retiree's entire retirement income is paid over automatically by the United States to the spouse and children without any effective inquiry with respect to the relative financial condition of the parties involved.

Now, Mr. President, I believe that result is harsh. In fact, I believe the result is especially harsh when considered against a legal structure governing these matters which already permits for contempt of court the imprisonment of a divorced parent who is unable to pay child support or alimony. Without going into the serious constitutional questions raised by such imprisonment—which is effectively imprisonment for nonpayment of a debt—I do feel that the Federal Government ought to set some reasonable limit on the amount of an employee's Federal wages which can be seized under writ or garnishment.

I suggest that 50 percent is a reasonable limitation. Others may feel that 50 percent is too high and still others that it is too low, but I believe only a few, if any, would disagree with the principle that some part of Federal wages ought to be preserved to the wage earner.

So, Mr. President, I am hopeful that the appropriate committee of the Senate will study the measure I have introduced and hold hearings thereon, if necessary, to arrive at an appropriate limitation. If time proves too short to enact legislation in this Congress, I will introduce a similar measure in the 95th Congress. I recommend that consideration of this proposal begin now so that action may be taken by the Senate as soon as is practical.

By Mr. GRIFFIN:

S. 3810. A bill to amend the Communications Act of 1934 to provide just and reasonable rates, terms, and conditions for the use of certain rights-of-way by persons desiring to lease space for wire communication. Referred to the Committee on Commerce.

REGULATION OF POLE ATTACHMENTS

Mr. GRIFFIN. Mr. President, today I am introducing a bill—substantially similar to two House measures (H.R. 15268 and H.R. 15372)—which is designed to ameliorate a growing problem affecting the cable television industry. At present, in most States, there is no public authority designated to regulate rates charged cable television operators for the use of utility poles.

Legislation on this subject is needed for several reasons.

First, the owners of these utility poles may charge whatever they wish for rental of space without providing any evidence that such charges reflect a fair and reasonable apportionment of the costs of placing and maintaining the poles.

Second, the Federal Communications Commission has declined to assert jurisdiction over pole rental charges for both telephone and nontelephone utility poles without specific legislative authority. It would seem that the FCC is an appropriate agency to exercise lead jurisdiction in this area.

Under the provisions of this bill, the FCC is required to promulgate regulations and assert jurisdiction over this area within 9 months after the bill is signed into law. In formulating these regulations the FCC must consult with an advisory panel composed of the Chairman of the Federal Power Commission and one representative of State regulatory authorities.

Finally, the several States would not be precluded from adopting their own regulations for determining rates, terms, and conditions for pole attachment rentals. The FCC could then exempt a State from provisions of this bill upon a showing that its State regulations are just and reasonable.

Mr. President, I ask unanimous consent that the bill be printed.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 224 (a) As used in this section:

"(1) The term 'utility' means any person whose rates or charges are regulated by a State or the Federal Government and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any railroad, any person which is cooperatively organized, or any person owned by the Federal Government or any State.

"(2) The term 'State' means any State or any political subdivision, agency, or instrumentality thereof.

"(3) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment for wire communication on a pole, duct, conduit, or other right-of-way owned or controlled by a utility.

"(b)(1) Except as otherwise provided in paragraph (3) of this subsection, the Commission shall regulate the rates, terms, and conditions for pole attachments. The Commission shall promulgate regulations to provide that such rates, terms, and conditions are just and reasonable.

"(2) Regulations promulgated under paragraph (1) shall not take effect until the expiration of the nine-month period which begins on the date of enactment of this section. Except as otherwise provided by law, the States shall have the opportunity, during such nine-month period, to assert jurisdiction over the rates, terms, and conditions for pole attachments.

"(3) The Commission may not require any utility to permit any new pole attachment.

"(4) The Commission shall consult with the advisory board established pursuant to subsection (d) in the promulgation of the regulations under paragraph (1).

"(b)(1) Any State may apply to the Commission, in such form as the Commission shall prescribe, to exempt rates, terms, and conditions of pole attachments from the authority of the Commission under subsection (b)(1) and regulations promulgated by the Commission under such subsection. The Commission shall review any such application and make a final determination thereon not later than three months after the date of receipt by the Commission of such application. Failure of the Commission to make a final determination within three months after the date of receipt of such application shall be deemed to constitute approval for purposes of this section.

"(2) The Commission shall approve the application submitted under paragraph (1) and exempt the rates, terms, and conditions for pole attachments in any State from the authority of the Commission under subsection (b) (1) and regulations promulgated under such subsection if the Commission finds that such State regulates rates, terms, and conditions for pole attachments in a manner designed to provide just and reasonable rates, terms, and conditions for pole attachments in such State.

"(3) The Commission, upon request of an interested person, may review any State pole attachment regulatory program which has been exempted from the authority of the Commission under subsection (b) (1) and regulations promulgated under such subsection and, after affording an opportunity for submission of written data, views, and arguments, withdraw such approval if it finds that such State no longer regulates rates, terms, and conditions for pole attachments in a manner designed to provide just and reasonable rates, terms, and conditions for pole attachments in such State.

"(d) The Commission shall establish an advisory board to assist the Commission in the promulgation of the regulations under subsection (b) (1). Such Board shall include—

"(1) the Chairman of the Federal Power Commission or his delegate; and

"(2) at least one representative of State regulatory authorities".

ADDITIONAL COSPONSORS

S. 3182

At the request of Mr. TAFT, the Senator from Wyoming (Mr. HANSEN) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 3182, to amend the Occupational Safety and Health Act of 1970.

AMENDMENT NO. 2219

At the request of Mr. MUSKIE, the Senator from Michigan (Mr. PHILIP A. HART) was added as a cosponsor of amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

SENATE RESOLUTION 544—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH (for himself, Mr. WILLIAMS, Mr. JAVITS, and Mr. STAFFORD) submitted the following resolution:

S. RES. 544

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare one thousand nine hundred additional copies of its committee print of the current session entitled "Rehabilitation and Developmental Disabilities Legislation."

SENATE RESOLUTION 545—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 2823.

(Referred to the Committee on the Budget.)

Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, reported the following original resolution:

S. RES. 545

Resolved, That pursuant to the section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) are waived with respect to the consideration of S. 2823, a bill to amend section 502(c) of the Rural Development Act of 1972 to assist small farmers in upgrading their farming operations. Such waiver is necessary in order to permit consideration of explicit statutory authority for the implementation during fiscal year 1977 of the survey and program for small farmers mandated by S. 2823.

AMENDMENTS SUBMITTED FOR PRINTING

SUSPENSION OF IMPORT DUTY ON CERTAIN HORSES—H.R. 9401

AMENDMENT NO. 2284

(Ordered to be printed and to lie on the table.)

Mr. HUGH SCOTT. Mr. President, while the heartland of America's mushroom industry is located in Pennsylvania, there are prime mushroom canning and growing centers in the States of California, Delaware, Michigan, New York, and Ohio. Within the last 10 years we have gone from near zero imports to what now accounts for 46 percent of our processed mushroom market. The mushroom industry has been trying for several years to obtain import relief, but to no avail. The predicted disaster is now a reality—the need for legislative action never more compelling.

It is no coincidence that subsequent to President Ford's decision for "adjustment assistance" for our domestic industry last May, imports by Asian mushroom processors have increased by the largest volume ever experienced. The imports in the months of June, July, and August 1976, compared with the same 3 months last year are set out in a table which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Canned pounds, drained weight]

	1976	1975	1974
June	10, 390, 838	4, 741, 303	2, 703, 474
July	* 12, 000, 000	6, 025, 025	2, 943, 734
August	* 20, 000, 000	5, 035, 017	2, 815, 186
	42, 390, 838	15, 801, 345	8, 462, 394

*Rounded pending official data.

The total imports for fiscal year ending:

June 30, 1975: 57,701,060 canned pounds.

June 30, 1974: 45,514,861 canned pounds.

The current 3 months almost equals the year 1974.

Mr. HUGH SCOTT. This increase in imports is occurring during an off-season period for Asian processors. Their crop and canning season is yet to come in the later months of this year. At that time even greater monthly increases are expected.

I am submitting an amendment today which is the substance of a bill which I introduced on July 28, 1976 (S. 3704), which would impose quantitative limitations on the importation of mushrooms into the United States.

Our domestic mushroom industry must have immediate legislative protection to survive, and I urge my colleagues, particularly those from the mushroom growing and processing States, to support this amendment. Our mushroom industry is not asking for a handout—they want to work.

After fighting this difficult battle for almost 10 years, it would give me great satisfaction and relief as I retire from public service to help to save this proud, struggling industry, so important to the economy, not only of Pennsylvania, but of the Nation.

Mr. President, I ask unanimous consent that the text of a letter from the commissioner of agriculture, State of Minnesota, Mr. Jon Wefald, as well as the text of my amendment be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2284

At the end of the bill insert the following new section:

SEC. 3. (a) The aggregate quantity of the articles specified in item 144.20 (relating to mushrooms otherwise prepared or preserved) of the Tariff Schedules of the United States (19 U.S.C. 1202) which may be entered during any marketing year beginning on or after the effective date of this section shall not exceed—

(1) in the case of any foreign country other than a foreign country referred to in paragraph (2) or (3), the average aggregate drained weight quantity of such articles of such country which was entered during the marketing year which began on July 1, 1970, and the four following marketing years;

(2) in the case of the Republic of China (Taiwan), 25,000,000 pounds (drained weight); and

(3) in the case of the Republic of Korea, 6,000,000 pounds (drained weight).

(b) The Secretary of Agriculture shall compute the quantities provided for in subsection (a) (1) on the basis of available import data and shall certify to the Secretary of the Treasury the amounts which may be entered from any foreign country under such subsection. The Secretary of the Treasury shall take such actions as may be necessary to insure that the amounts entered under subsection (a) do not exceed the quantities provided for in such subsection.

(c) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "customs territory of the United States" means customs territory of the United States as defined in the Tariff Schedules of the United States.

(3) The term "marketing year" means the 12-month period beginning on July 1 of a calendar year.

(d) This section shall take effect on July 1, 1976.

STATE OF MINNESOTA,
DEPARTMENT OF AGRICULTURE,
St. Paul, Minn., September 2, 1976.

Senator ABRAHAM RIBICOFF,
Chairman, International Trade Subcommittee, Senate Finance Committee, U.S. Congress Russell Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: On behalf of the commercial mushroom producers in Minnesota, I urge your most serious and favorable consideration of three pieces of pending legislation before your subcommittee of the

United States Congress—proposing reasonable restriction of mushroom imports. The bills, all identical, are H.R. 14881, H.R. 14889, and H.R. 15198.

Although mushroom production is not a major part of our agricultural economy in Minnesota, it does contribute jobs, food, and economic growth to the state and its is an important industry in our state.

The truth is that our domestic mushroom industry all across America is being severely hurt by unfair foreign competition—like so much of our domestic agriculture industry.

You and the members of our subcommittee need only look at the latest and accumulative reports on our nation's unfavorable balance of payments in international trade. We are in a serious deficit position.

The mushroom imports are only the latest example of unfair and unlimited imports damaging American agriculture in the past few years. Recently, we have also had the devastating impact of near-record beef imports that damaged our domestic livestock agriculture and the attendant totally uncontrolled palm oil imports raising comparable havoc with domestic vegetable oil agriculture. . . . along with thousands of other industrial and consumer products that are imported to benefit foreign economies and some of our nation's own huge conglomerates at the weakening of our own national economy.

Organized labor can tell the Congress how many jobs have been exported to foreign competitors during the past decade.

I recommend that you specifically weigh the written testimony of William F. Lehmann, President of Lehmann, Inc., St. Paul, Minnesota, the northwest's oldest and largest mushroom grower. It clearly tells what is happening to his business. Imports are forcing him to retrench rather than expand and provide new jobs. Unless the problem is solved, he admits that bankruptcy is inevitable.

Federal indifference is forcing food processors and wholesalers to buy the imports produced by cheap, unorganized foreign labor, to meet competition and maintain their own economic stability.

The truth is, limits on mushroom imports will protect both the producer and the marketer of mushroom products, and most of all, will protect the American consumer—on supply, on quality, and on the stability of a fair price.

Domestic production provides jobs that imports foreclose.

I think that it is high time we face the realities of good, sound economics. To remain healthy and strong, America must continue to safeguard all of its producing industries—corporate and agricultural.

We know that America is too dependent on other nations for its oil supply. We do not want that to happen in any other area of our raw materials industry in America. We have to remember that it is the raw material industry in general, and the agricultural industry in particular, that has the greatest potential to generate in America the necessary new wealth and earned income that will give this nation full production, full employment, and a balanced budget.

Sincerely,

JON WEFALD, *Commissioner*.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976—H.R. 13367

AMENDMENT NO. 2285

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY (for himself and Mr. MUSKIE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

AMENDMENT NO. 2286

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (H.R. 13367), supra.

AMENDMENTS NOS. 2287 AND 2288

(Ordered to be printed and to lie on the table.)

Mr. CULVER submitted two amendments intended to be proposed by him to the bill (H.R. 13367), supra.

NOTICE OF HEARINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

September 15.—House-Senate conference: 2 p.m., room S-407, Capitol, S. 507, Federal Land Policy and Management Act of 1976.

September 16.—House-Senate conference: 10 a.m., room 3110, conference, S. 521, Outer Continental Shelf Lands Act amendments.

September 21.—Joint hearing, Commerce and Interior: 10 a.m., room 3110, hearing, oversight hearing on west coast crude oil surplus.

September 22.—Full committee and national fuels and energy policy study: 10 a.m., room 3110, hearing, S. 3486, to amend the Emergency Petroleum Allocation Act of 1973.

September 23.—Full committee and national fuels and energy policy study: 10 a.m., room 3110, hearing, oversight hearing on oil refinery policy.

September 28.—Energy Research and Water Resources Subcommittee: 10 a.m., room 3110, hearing, oversight hearing on ERDA long-range program.

ANNOUNCEMENT OF HEARING

Mr. McGOVERN. Mr. President, the Subcommittee on Agricultural Credit and Rural Electrification, of the Committee on Agriculture and Forestry, will hear testimony on Friday on legislation which would affect eligibility for rural electric and telephone borrowers under the Rural Electrification Administration's programs.

REA Administrator David Hamil and a representative of REA will testify at 2 p.m. on Friday, September 17, in the committee hearing room, 324 Russell Building, about H.R. 12207. The bill, in effect, would cut by about one-half the number of REA electric and telephone borrowers who are eligible at the present time for special rate, 2-percent REA loans.

ADDITIONAL STATEMENTS

FARNBOROUGH AIR SHOW IN ENGLAND

Mr. GOLDWATER. Mr. President, recently it was my honor to have been asked by President Ford to represent him at the Farnborough Air Show in England. A report of that trip has just been completed and I ask unanimous consent that this and cogent remarks from the London Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 10, 1976.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This is a short report to you of my impressions of the Farnborough Air Show which I attended as your representative from September the 5th to the 9th.

My first day included a delightful visit with Ambassador Anne Armstrong during which we toured part of the American exhibit and she made some remarks to the assembled companies. She is an outstanding ambassador and everyone I met in official capacities seemed to be greatly appreciative of her efforts.

My report will be necessarily brief because, frankly, there was not much new that was being shown. This does not mean that aviation has reached a dead end or that aviation is even standing still. There is no question that it will make progress in new and existing fields. But, the general thought among all countries, and I visited with most of them, is that the costs of development of new air frames, engines and even avionics has reached such a stage that it will be virtually impossible for the private entrepreneur to make these developments, and it may even be impossible for some governments to underwrite them.

What we heard more than anything else was the growing need for mutual cooperation between all countries of the free world interested in a continuing advancement in aviation. I firmly believe that this is going to be necessary, even though the United States may remain capable of some large-scale developments on its own.

I was particularly impressed by the quality of the American exhibit particularly in avionics, but I am likewise impressed with the improvements shown in the same fields by other countries indicating that the United States no longer has a "lock" on this important segment of the aircraft industry. There were no new aircraft that brought the ohs and ahs from the crowd. We had our F–17 which may become the F–18 if we can ever get it off the drawing board and it, of course, is a spectacular performer. Enclosed is an article from the London Times which in a much better way than I can, sums up the attitudes of the aircraft industry in other countries.

One of the more interesting meetings I had was with General Johannes Steinhoff, former Chief of the German Air Force and a longtime friend. He has just written a new book, "Wither NATO?" which has not been translated into English yet. In effect, the General warns that NATO must have forces in being, in place and ready, with the most important factor, the willingness to use them evident at all times. He envisions a possible first attack by the massive structure of the Soviet ground forces at night or in bad weather which would virtually preclude the use of any close air support aircraft primarily because of the present development of avionics to be used for that purpose. What he is also saying, Mr. President, is that NATO is not a cohesive force, that its members tend to wander off and this is not going to change. In his opinion, until the United States shows signs of willingness and ability to use its military power, we cannot hope to balance the critics of NATO in the Congress and abroad. He speaks most highly of General Haig as did every other military man I spoke with.

Outside of aviation matters there was one other major concern of many people I met. While I know it is not a subject that would normally come under a report to my President on aviation, nevertheless. I think it is of sufficient importance to bring to your attention. Practically every businessman I spoke with and several members of Parliament wondered how long our country, the United States, would continue to spend money in the wanton way which we have been doing because they see nothing but disaster ahead if it continues. Many wondered why we couldn't take our lessons from Europe which is in such bad shape now because of unchecked spending practices and complete submission to organized labor which we are now practicing in our country.

It was my distinct pleasure to have served you in this official capacity and if I can ever be of help to you in any way at all, don't hesitate to call.

With respect,

BARRY GOLDWATER.

[From the London Times]

MATING DANCE IN THE WESTERN SKY

The aircraft industries of the world are meeting at Farnborough at a time of great transition for aviation in general, and for the manufacturing sector in particular.

Hardly any major new civil aircraft will be on display, a reflection of the fact that world aerospace is pausing before deciding which big new projects it should embark upon for the rest of the century.

The pause is likely to be a lengthy one, as with any new civil airliner project of any size costing £500m or more, it is plainly essential that the industry should be certain that what it produces is what the airline industry wants to buy. Gone for ever are the days when an industry could produce a series of new airliners speculatively and then rely on its government to meet the costs if they proved a commercial failure.

It is doubtful whether any national aircraft industry—with the exception of that of the Soviet Union—will again develop and produce on its own a major new airliner, so great is the financial risk involved, and so vital is it to have such an airliner marketable in a world, rather than a purely local, market.

It is as a result of this that what has been termed the mating dance of western aerospace has been going on during most of this year, with European companies courting their opposite numbers in the United States for the establishment of collaborative deals, while they in their turn have been courted by the Americans.

Nothing has yet been signed between the two sides, but there is little doubt that big deals are in the offing, and that when they come—as they probably will before the next Farnborough show—they will mark the ending of the purely parochial British, or European, or American aircraft industries, and the beginning of a western world aerospace consortium.

Meanwhile, the age of the derivatives continues, with existing civil projects, already funded and partly written down, being scaled up or scaled down to meet new gaps in the market as they appear.

A classic case is the successful European A300 Airbus, being produced by France, West Germany, Holland and Spain, and as a private venture by the British Hawker Siddeley company, although Britain is now negotiating to return to the project at government level. There are active plans to produce it as a smaller version, and as a version with four engines, instead of two.

At the same time, the A300 is being used as a key to entry to collaboration with the United States aircraft industry, and as one of the most important components in a "family" of European-developed airliners proposed by the EEC.

Another familiar airliner which is being used for development for the future is the British Aircraft Corporation BAC 1–11, whose manufacturers see it being bought for service in remote areas with short runways where jets cannot normally operate, and also in a version with a new, wide body and quiet engines.

But many of these projects are only stopgaps. It cannot be long before the airlines of the world, reacting to the demands of passengers and the countries over which they fly, commission the aircraft industries to develop a new generation of airliners, of all sizes from 70 seats up to 600 or more, incorporating the latest thinking in technology, and particularly those sectors of technology which produce quiet engines and cheapness of operation.

Supersonic aviation fits into this pattern, although its development through to a second-generation airliner will be delayed longer than developments in the subsonic sector because of the enormous costs involved and the environmental protests which still cloud its future.

But what has been termed a "Concorde mark two" is certain to come—and its technical development and enormous financial costs are likely to be shared between Europe and the United States with, possibly, the Soviet Union entering the consortium as well. The generation after Concorde, the United States space shuttle—a cross between a supersonic airliner and a space capsule—is to make its maiden flight shortly and should go into regular service in the next decade.

In the military sector, world aerospace is far busier than in the development of civil aircraft. In spite of continuing detente the bigger countries are keeping their armouries topped up and modernized, while there is a continuing strong demand for aircraft and their attendant systems from the nations of the Third World—and particularly from the Arab states, the only one buying new airliners in any numbers at present.

In the new military contracts the trend towards international collaboration is also strongly apparent. The European multirole combat aircraft is now well down its development path and should be entering service with the forces of Britain, West Germany and Italy by the time the next Farnborough show comes round, while what came to be known as "the aircraft sale of the century"—the reequipping of the air forces of Europe with a new fighter—will bring vast amounts of work to the aircraft factories of the Continent, even though the dourly fought competition was won by the American General Dynamics with its F16.

The development of British aerospace is following the world trend closely, with near stagnation on the civil side, but with many of the shops busy fulfilling military orders. The industry continues to sell its engines, electronics and skill in heartening amounts, but there is still the fear among the industry's senior executives that the excellent annual export figure of about pound £600m is built largely on orders taken years ago, and that there will be a gradual decline in the performance unless new orders are placed soon.

But overshadowing these and all the other doubts for British aerospace is the prospect in the near future of nationalization.

British Aircraft Corporation, Hawker Siddeley Aviation, Hawker Siddeley Dynamics and Scottish Aviation will, because of the delays in the progress of the nationalization Bill, be appearing under their own banners at this show. But vesting day should come by about the end of the year, and at Farnborough 1978 these old established and internationally known companies will have disappeared by name and will appear under the general banner of British Aerospace.

Although long negotiation over terms of compensation is to come, most people in the aircraft industry appear to have come to accept that a large part of it is to be state-owned and welcome the fact that the hiatus which has affected the industry's long-term planning, and its credibility in the eyes of many potential overseas customers, is almost over.

AUTHUR REED, *Air Correspondent.*

SENATOR RANDOLPH URGES PROMPT ENACTMENT OF EMERGENCY NATURAL GAS LEGISLATION TO OFFSET SHORTAGES THIS COMING WINTER

Mr. RANDOLPH. Mr. President, too much time has been spent in search of a scapegoat for the U.S. natural gas shortages.

There is a general agreement in the Congress that curtailments are the result, in part, of unreasonable prices established by the Federal Power Commission for interstate natural gas, and also that the price should be raised. The controversy centers on what national price is reasonable for new natural gas production. The recent decision by the Federal Power Commission in Opinion No. 770 may have rendered action by the Congress on price unnecessary, but emergency legislation still is needed.

NEW NATURAL GAS PRICES

The current price for natural gas produced from wells drilled prior to January 1, 1973, and distributed in interstate commerce, is 32 cents per thousand cubic feet—Mcf. This supply amounts to approximately 90 percent of the total natural gas now transported in interstate commerce. The recent opinion by the Federal Power Commission would raise this regulated ceiling price for two categories of interstate natural gas:

> First, the price of "new" natural gas from wells commenced in the two year period between January 1, 1973, and December 31, 1974, or dedicated to interstate commerce during this period would be raised from the current 52 cents per Mcf up to $1.01 per Mcf.
>
> Second, the price of "new" natural gas from wells commenced after December 31, 1974, or dedicated to interstate commerce after that date would be set at $1.42 per Mcf.

The Federal Power Commission order does not affect 90 percent of present interstate sales or any intrastate natural gas supplies. The new interstate prices thus are applicable to only 6 to 7 percent of the natural gas presently consumed in the United States.

The FPC action recognizes that higher costs are associated with the development of new natural gas at greater depths and in frontier areas than are permitted by present rates.

The new prices were set by the Commission on the basis of its estimates of anticipated exploration and production costs—not on the basis of OPEC oil prices. An August 6, 1976, editorial in the Washington Post noted:

> . . . The whole theory of gas price regulation is based on an assumption that there is a clear and precise cost of production on which the FPC can base a fair price to the consumer. But the competition to natural gas is imported oil, which the OPEC cartel is selling for about twice as much as even the FPC's proposed price for gas. In order to make

> sense of this whole quarrel, you have to keep it in mind that the federal controls are keeping gas far cheaper than oil.
>
> For that reason, production cost does not determine prices. It is precisely the opposite: The price allowed by the FPC will determine production costs. . . . Gas exploration is a highly risky business. The higher the price, the more risks the industry will take.

The Christian Science Monitor observed on July 29, 1976, that—

> The country could face a serious natural gas shortage will become increasingly clear unless current trends are reversed. Proven reserves have dropped steadily since 1970 and it now is estimated that little more than a decade's supply remains, figured at today's rate of use. . . .

Discussing the new prices proposed by the Federal Power Commission on August 3, 1976, the Los Angeles Times concluded:

> Natural gas has been in short supply for several years. The shortage is worsening, and will continue to worsen with every passing month unless a major increase in gas prices is allowed. These are the facts of life, and the Federal Power Commission acted in the consumer interest by recognizing them in a decision last week.
>
> Those who call the Commission action an unwarranted rip-off are taking a mistakenly narrow view of the consumer interest, for it does the consumer little good to have 'cheap' gas if there isn't enough to go around.

The new rates, Mr. President, I repeat, apply to only 6 to 7 percent of the natural gas consumed in the United States.

According to the FPC these higher prices will add only about $1.30 per month to the average residential gas bill. These prices are consistent with proposals under consideration by the Congress.

We could have enacted new prices for interstate natural gas or even deregulated natural gas. Such legislation has been extensively debated by the 94th Congress. The Senate on October 22, 1975, passed S. 2310, the Natural Gas Emergency Standby Act of 1975, by 58 to 32. This measure contained new pricing authority for the Federal Power Commission as well as emergency provisions to cope with anticipated winter curtailments.

Subsequently, on May 19, 1976, the Commerce Committee also reported S. 3422, the Natural Gas Act Amendments of 1976. This measure, pending on the Senate calendar, proposes an initial base price for new natural gas of $1.35 per Mcf. This price would be established by the Congress for the 5-year period from January 1, 1976, through December 31, 1980. Certain limited adjustments would be available to the FPC but henceforth, the basic ceiling only could be adjusted by the Congress. Under S. 3422 the Congress would, in effect, assume regulation of interstate natural gas prices, as now performed by the Federal Power Commission. However, such price decisions should not be performed by the Congress. The Federal Power Commission has the expertise to regulate natural gas prices. This should be done by the FPC, subject to Congressional oversight.

The recent action by the FPC on Opinion No. 770 represents an exercise of that agency's authority over natural gas prices, as provided for by law.

The Congress now must turn its attention to emergency authorities for the Federal Power Commission to cope with anticipated winter curtailments.

NATURAL GAS SHORTAGES

Much uncertainty exists as to total natural gas reserves and whether industry is aggressively developing known reserves. What is certain is that total proved reserves in the United States peaked between 1968 and 1970 at approximately 290 trillion cubic feet, and have steadily declined over the intervening 6 years.

Consequently national production of natural gas peaked in 1973 and is expected to continue to decline in absolute terms. For the most part new reserves are smaller in size, more difficult to find, and in frontier areas such as the Atlantic offshore.

Because the existing and potential demand for natural gas is and will be much larger than available supplies, shortages will continue to grow. The December 1974 staff report of the Federal Power Commission concluded:

> A significant point that emerges from our analysis is that conventional U.S. gas production has reached its peak and will be declining for the indefinite future. This reverses a long historical record of growth and introduces a new dimension to the gas shortage. It is no longer simply a matter of gas supply failing to meet increased requirements. It means that from here on we must make do with less gas in absolute terms. We see this as inevitable regardless of the size of the U.S. undiscovered natural gas resource base.

This pessimistic 1974 assessment of future natural gas supplies will be substantiated in a dramatic way this winter. Shortages of natural gas will be 30 percent greater than last year, according to the Federal Power Commission. Besides adverse consumer and employment impacts, the financial viability of some pipeline companies is in jeopardy.

The first curtailments in 1970 involved only 100 billion cubic feet, and three pipeline companies. This winter 10 pipelines are forecasting curtailments that will affect commercial and, for the first time, residential customers.

The last two winters were mild and the recession kept industrial energy demand down. This winter, however, even with normal weather the shortages will be severe enough to affect residential customers.

Interstate pipelines will be unable to supply approximately 3.6 trillion cubic feet of natural gas, compared to a curtailment of 2.8 trillion cubic feet last year. This represents about a 25-percent shortfall to firm pipeline customers. These figures do not include curtailed interruptible customers who buy natural gas when it is plentiful with the understanding that they will be cutoff when natural gas is in short supply.

Over the six winter periods between 1970–71, and, this winter, 1976–77, interstate natural gas curtailments will have increased 36-fold or 3,600 percent. These escalated shortages now represent a national emergency with potentially severe impacts on the economy and employment. Moreover, these curtailments will occur just when the economy is on the upswing.

Eighteen months ago on February 5, 1975, Federal Power Commission Secretary Kenneth F. Plumb wrote me stating that—

> The United States is currently facing a period of shortage in the supply of available natural gas. Major pipeline companies have not only been forced to stop accepting new service contracts, but have also found it necessary to curtail the supply of gas to their existing customers.
>
> The impact of the natural gas shortage upon industrial users has not been confined to the State of West Virginia. Industrial customers . . . in the States of Louisiana, Mississippi, Alabama, Florida and Texas . . . are being curtailed . . . heavy curtailment of low-priority users has resulted in some cases in severe industrial disruption in the States of New York and Pennsylvania. The impact of the natural gas shortage on a particular area will largely depend on what natural gas pipelines serve it and on the availability and price of alternate fuel supplies.

In our State of West Virginia natural gas supplies 21 percent of our energy needs. Over 69 percent of the homes use natural gas. Last year's actual curtailments were 8.1 percent of normal usage.

Many industries dependent on natural gas have experienced severe curtailments, the largest in the State's history. Among these are the steel and glass industries, which have been forced to lay off workers during the winter months. Further curtailments seem highly probable as set forth in the same letter from Secretary Plumb:

> Impact of a curtailment of natural gas service upon an industrial user will depend upon whether the user has operational alternate fuel facilities and upon the availability of alternate fuel sources in the area.

The resultant adverse consequences on the economy and employment in West Virginia and Appalachia are obvious. In addition, there are the significant secondary impacts on other industries which depend on manufacturers within this region for materials and supplies.

Hardest hit will be the industrial sector: stone, clay, and glass products; chemical and allied products; and primary metals.

If alternative fuels are not available a 20-percent reduction in West Virginia's natural gas supplies could displace 8,300 workers in the State in manufacturing and related industries.

Even greater adverse economic and employment impacts are expected in other Midwestern and Eastern States. Natural gas provided approximately 40 percent of the U.S. total domestic energy supplies, slightly more than that supplied by domestic crude oil production.

Residential and commercial uses in 1976 account for approximately 41 percent of available supplies: industrial users, 37 percent; electric utilities, 15 percent; and pipelines and others, 7 percent.

Most residential and commercial customers are served by interstate pipelines and the interstate price is subject to FPC controls. Industrial users obtain about one-half of their natural gas supply within the State of production, gas which is not subject to price controls under existing law. Texas, Louisiana, and Oklahoma use more natural gas to generate electricity than the other 47 States combined.

This winter, natural gas curtailments are expected to be 3.6 trillion cubic feet. For the first time curtailments will impact not only on industrial customers, with accompanying unemployment, but on residential users, who often are not equipped to use alternative fuels.

Clearly legislation is needed to cope with anticipated emergencies this winter due to natural gas curtailments by interstate pipelines.

EMERGENCY LEGISLATION

The Natural Gas Emergency Standby Act of 1975, S. 2310, as passed by the Senate on October 22, 1975, contains the necessary authorities to cope with anticipated shortages this winter. To mitigate the anticipated adverse impact on employment, the emergency provisions of S. 2310 should be enacted by the 94th Congress. Price relief has been provided by the recent decision of the Federal Power Commission.

A reason for the shortage is that interstate pipelines cannot as a practical matter buy natural gas, except on the Federal domain, because intrastate natural gas can sell at the higher prices. Surplus gas is available in the intrastate market in sufficient quantities to mitigate shortages that would otherwise cause widespread additional unemployment. Legislation needs to provide a priority for the interstate pipeline systems in distress to buy the gas on equal terms with intrastate purchasers. Emergency legislation also should assure maximum production and delivery to essential users and do so without inflating the price of natural gas.

The essential minimum features of such legislation should include the following provisions:

First, the interstate pipelines experiencing curtailments of customers that cannot use alternative fuels, should be given a priority to buy natural gas in the intrastate market, at the same price as intrastate purchasers. All other interstate pipelines also should be able to purchase natural gas at the same price as intrastate purchasers if a priority interstate pipeline is not in a position to purchase the gas.

Second, an interstate pipeline that is not initially determined by the FPC to be a priority purchaser should by application be able to become a priority purchaser if it can demonstrate that without such designation its essential users will be without necessary natural gas supplies.

Third, high priority consumers of interstate natural gas, who are being curtailed, should be authorized to purchase natural gas from intrastate sources at market prices and arrange for its shipment through interstate pipeline systems. This would aid end-users which are unable to secure natural gas at regulated prices for high priority uses from their pipelines. While these end-users might pay more than the regulated interstate price, this authority would provide them with an alternative to shutting down due to lack of gas. Under such an arrangement, the pipeline would operate as a "common carrier" without owning the natural gas.

This authority also would facilitate the intrastate movement of natural gas by interstate pipeline. In West Virginia, for example, there is no intrastate pipeline system. This authority thus would facilitate the movement of new natural gas supplies within the State of West Virginia by means of interstate pipelines, which is not now possible. This has been a constraint on the development of new supplies to offset the curtailments being experienced.

Concern has been expressed that big industrial end users would bid high, thereby tying up all of the available gas and forcing the price of intrastate gas to an inordinately high level. This would occur only to a limited degree. However, in order to minimize this possibility, the authority should be limited to last resort relief for priority users who are unable to obtain natural gas from their pipelines.

On August 28, 1975, the Federal Power Commission endorsed the issuance of certificates of public convenience and necessity to interstate pipeline companies to permit transmission of gas purchased under such arrangements. However, the FPC has acknowledged that legal objections might be raised with respect to their existing authority to approve such actions. This provision would provide an explicit statutory base for such actions, which would provide as much as 50 to 70 billion cubic feet of natural gas to high priority end users.

Fourth, authority should be provided under the Energy Supply and Environmental Coordination Act of 1974 to require electric powerplants and major industrial installations with the capability to use other than natural gas to switch to coal or to oil if environmental requirements permit. The released natural gas can be made available to priority purchasers. In addition, consideration should be given to have the ultimate user of the released natural gas compensate the powerplant or industrial installation for extra costs required to switch and the affected pipelines for possible losses.

Fifth, new natural gas contracts by electric power plants and major industrial installations for boiler purposes should be prohibited.

Sixth, natural gas needed for essential agriculture production should be made available consistent with the goal of substantially limiting overall unemployment and maintaining gas supplies to residential users and to hospitals and services vital to public health and safety.

Seventh, withholding of gas should be discouraged by requiring maximum production and providing that any gas withheld could never be sold at a price higher than that permitted during the emergency period; and

Eighth, because emergency relief is at issue these authorities should expire on July 1, 1977.

Such emergency legislation would provide necessary relief for the pipelines in distress. The gas supply posture of the other interstate pipeline systems would be strengthened for the reasons stated in the Commerce Committee staff report on S. 2310:

> First, at present none of the interstate pipelines are able to purchase natural gas in the intrastate market in competition with intrastate purchasers. Pipelines in distress would be given a priority over other pipelines for buying as in the intrastate market at the same price as intrastate purchasers. But other interstate pipelines also would be able to enlarge their opportunities for buying more natural gas where there is no priority interstate purchaser in position to purchase the gas.
>
> Second, the provisions for maximizing production would enlarge the available supply for all pipelines.
>
> Third, the only diversions of existing supply would be the gas supply for electric utilities who could in fact obtain other alternative fuels. The customer receiving the diverted gas would thus be required to pay any extra costs incurred by the utility required to switch, and any losses incurred by affected pipeline;
>
> Fourth, diversion of natural gas from one pipeline system to another would be permitted except for boiler uses as specified.

These are urgently needed provisions that could be implemented this winter. They would minimize unemployment and assure full domestic food production of enacted.

Unemployment could increase drastically this winter as natural gas curtailments cut into industrial requirements where no substitute fuels are available. Projections for last winter of 6.5 million workers out of work might well be exceeded if we have a cold winter.

Our country cannot afford delay in taking the necessary steps to offset natural gas shortages expected this winter.

TEAMSTER PENSION REFORM

Mr. GRIFFIN. Mr. President, recently the Chicago Tribune published a series of articles on the Teamsters Union Central States Pension Fund which highlights the abuses and mismanagement of this country's largest pension program. Although the series focuses upon Illinois-related ventures of the Central States fund, information is provided that should be of interest to Teamsters Union members all over the country.

I ask unanimous consent that several articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Chicago Tribune, July 30, 1976]

Bad Loans Draining Teamster Fund

(By Chuch Neubauer and George Bliss)

Note.—The Teamsters union's Central States pension fund—with assets of $1.4 billion—is the richest union pension fund in the country. Two recent federal crackdowns have made it also the most controversial. The funds's tangled financial dealings in the Chicago area have been investigated by Chuch Neubauer and George Bliss, Tribune reporters, for three months. This is their first report in a five-part series written by Todd's Fandell, Tribune financial reporter.)

Daniel J. Shannon suddenly has grown fond of painting a picture of reform for the scandal-ridden Teamsters union's Central States, Southeast, and Southwest Areas Pension Fund.

"Forget the past," Shannon, executive director of the huge fund, has been telling every reporter willing to listen.

"Sure, the fund made mistakes back in history, but all that has changed now," said the former president of the Chicago Park District and one-time political protege of Mayor Daley.

Coming from the 42-year-old former All-American football star at Notre Dame, the pious pronouncements have been an effective public relations move. They are a radical departure from a 21-year tradition in which Teamsters officials refused to discuss any specifics regarding the pension fund's peculiar affairs.

But an intensive three-month Tribune investigation of the $1.4 billion fund indicates limited reforms by Shannon are too little and too late. The fund is in deep trouble, and Shannon and his bosses, the fund's 16 trustees, know it.

The fund's troubles are fully illustrated by studying its loan activity. Although the Teamsters haven't been required to file detailed lists of loans for the public record, The Tribune has pieced together for the first time a picture of the pension fund's major Chicago area loans from internal fund documents, land records, and court files.

Illinois is one of four states that has shared heavily in the pension fund's largesse over the years. The four—California, Nevada, and Florida are the other three—usually account for about 70 percent of the fund's outstanding loans. California projects take half that amount; Illinois, Nevada, and Florida split the remainder.

The investigation shows conclusively that in Illinois, as elsewhere, the pension fund has lost millions over the years in serving as the banker for persons who cannot get loans elsewhere. Cases to be detailed later in the series establish the following:

The fund, contrary to normal pension fund standards, has invested heavily in motels and hotels, considered among the riskiest types of real estate investments. Many such loans, though often granted on unusually liberal terms, have been foreclosed or restructured when recipients couldn't meet principal or interest payment schedules.

In many cases, the fund's struggles to remedy bad loan situations by refinancing them have simply prompted it to pour more money down the drain, compounding its heavy losses. In at least two local cases, the Teamsters have been forced to foreclose on the same property twice within a short time. One of these properties is under its third loan granted by the fund.

Large loans consistently have gone to persons with ties to and conflicts of interest with Teamsters officials, as well as to persons with crime syndicate backgrounds or links. Most of these loans would not be granted under any circumstances by more respectable financial institutions, least of all by pension funds, which are expected to be conservative investors.

Many Teamsters loans are backed by collateral insufficient to protect the outstanding balance on the loans. Many properties covered by these loans still are carried on the fund's books at highly inflated values that couldn't be met in a sale.

Besides the enormous task of unburdening itself of hundreds of millions of dollars of questionable loans, the fund is under attack by the federal government. After years of ignoring a steady flow of allegations that the union's leaders were using the fund for their own gain instead of for employe beneficiaries, federal officials now seem on the verge of a crackdown.

For nearly a year, investigators from the Labor and Justice departments have been closing in on the fund, checking claims of kickbacks, unjustified fees paid to consultants and "finders" who help arrange loans, links to organized crime, granting of hundreds of millions of dollars of improperly secured loans, missing money, and other misdeeds.

Observers say the investigation's goal may be to place the fund in some sort of receivership, to oust its badly tainted board of trustees and their cronies, and to turn the fund's management over to independent pension experts.

"At the very least, these guys will be nailed for a breach of their fiduciary duties to administer all this money for the good of the employes and not themselves," one source predicted.

Action against the fund isn't expected until after the November election, probably early next year. Investigation of its tangled web of bad loans and suspect dealings has proved a painstaking task, investigators concede. And experts disagree on the extent to which the government can prosecute the fund and force reforms under new federal pension legislation that has not been fully interpreted.

Further, preelection moves might antagonize Teamster officials, who have considerable political clout. For this reason, skeptics still doubt an all-out offensive against the fund will ever come.

Reforms claimed by Shannon boil down to his efforts to clean up the fund's portfolio of bad loans and to sell real estate it owns because of foreclosures on delinquent loans. He wants to put more money into high-grade investments such as stocks and bonds. He also has fired some members of his staff.

"It's mostly window dressing, designed to blunt the inevitable result of the government investigations and, possibly, protect his own hide," a Shannon acquaintance said. "When you come right down to it, he's still a front man for the Teamsters leaders on the fund's board of trustees and is powerless to do anything without their approval."

The biggest problem faced by Shannon or any potential reformer is shedding the burden of delinquent, foreclosed and shaky mortgages and real estate loans that Teamsters officials have meted out for two decades to friends and associates, many with criminal records.

It is highly unusual for a pension fund to make real estate loans at all, financial experts told The Tribune. "They're just too risky," one said. "You would be hard-pressed to find many pension funds that are run by accepted standards that would put a nickel of that kind of money into any kind of real estate, let alone risky ventures like these loans."

Yet the Teamsters have seen fit to put two thirds of their nickels into real estate. About $900 million of the fund's $1.4 billion in assets is invested in real estate, Shannon said. Another $350 million to $375 million is in stocks, bonds, and short-term debt, types of securities prudent pension funds stick with.

Another $100 million is in property owned and operated by the pension fund, mostly as a result of foreclosures on delinquent loans. It is property "where somehow we got title, and all of it is for sale," Shannon said.

A policy of selling is relatively new for the fund, since it long has been stuck with properties it had loaned money on. "We're not in the business of running motels and real estate; we're in the finance business," Shannon recently told The Tribune. "If something has gone bad or doubtful, we should sell it."

Unfortunately, selling property with a history of financial failure is not easy and often results in big losses. Anticipating such losses, the fund last year diverted $50 million in assets to a reserve fund set up to cover the probable sale of real estate at prices below the value carried on the fund's books.

It marked the first time the fund had acknowledged the possibility of big losses on its investments. But experts who have studied the fund's real estate loans contend the $50 million won't be adequate. More money will be needed, they warn, further reducing assets available to pay pension benefits.

Shannon publicly has minimized the bad loans on the fund's books. "We have only $45 million in delinquent loans out of the $900 million in total real estate loans," he insisted.

But when pressed by the Tribune, he conceded his figure included only those loans on which current principal or interest payments were behind schedule. It does not include millions of dollars in loans that already have been modified from the original terms to give lower interest rates or stretched-out repayment schedules.

In the past, such situations have signaled repeat problems for the fund because borrowers also failed to meet the revised terms.

The Tribune has found numerous cases where the Teamsters have granted a borrower a moratorium on interest or principal payments. Sometimes the fund has suspended all payments on a loan, but such cases aren't considered delinquent.

Although Shannon and other Teamsters officials deny it, the Central States fund has earned a poor return on its investments in recent years, especially compared with most pension funds, the Tribune found.

"Last year we received a 4½ per cent return on our investment" before expenses, Shannon said. That would amount to an income of about $60 million in interest, dividends, and rent from the fund's total assets.

While conceding that is less than can be earned from an ordinary bank savings account, Shannon contended a consultant hired to evaluate the fund concluded that "we were a little better than average." Further, the fund's performance in this area will improve, he forecast.

But pension experts are dubious. Typical pension funds last year earned a rate of return more than double that of the Teamsters fund, they noted.

"Hell, they're not even keeping pace with inflation; they're actually losing ground at an alarming rate," a Chicago executive with years of experience as a director of a giant pension fund told the Tribune.

Another expert consulted by the Tribune said a properly managed pension fund, with a cash inflow of the size apparently enjoyed by the Central States fund, could have built its assets to a much higher figure, possibly even double the $1.4 billion.

To date, however, the fund has had little trouble paying its pensions and other benefits to retired and disabled employes. The fund's investment errors have been masked by contributions that in recent years have exceeded annual benefits paid by $100 million or more.

But in coming years that margin may be jeopardized, although weekly employer contributions are scheduled to jump to a maximum of $31 per worker in 1978 from the current $25. New federal pension rules may force an end to severely restrictive Teamsters position qualification rules under which thousands of longtime trucking industry employes have been barred in the past from receiving pension benefits. Along with a natural increase in the number of retirees, this will substantially increase required payouts.

Also, pension payments will have to be increased from current levels to offset inflation, even though the size of current benefits paid to employes who qualify is considered good by most standards.

Despite its investment troubles, the pension fund continues to be operated under the direction of the crew of Teamsters officials associated with Jimmy Hoffa, several of them convicted of kickbacks, extortion, and other crimes.

"There will never be a true reform that can root out all the rotten apples in the fund until there's a total upheaval at the top—an unlikely event unless it's forced by the government," one source close to current investigations of the fund said.

One example of the fund's current leadership talent is William Presser, a Teamsters vice president from Cleveland.

In 1971, Presser pleaded guilty to illegally accepting money from employers with Teamsters labor contracts in return for advertising in a union publication to ensure "labor peace." Such a practice violates the Taft-Hartley Act.

Presser was fined $12,000 but was not jailed because he pleaded ill health.

In the 1960s he did serve a six-month jail term after being convicted of obstructing justice by destroying union records sought by the government.

Criminal records never have been a barrier to high Teamsters officers. However, Presser was forced to step down in 1975 as a trustee of the pension fund because of new federal regulations on the qualifications of those who govern pension funds.

His place on the board was filled by his son, Jackie. That probably kept in the family most of the $29,000 in allowances collected in 1974 by William Presser from the pension fund, part of a personal income of at least $126,500 he gained from five union jobs that year, according to Labor Department reports. [Jackie did well that year, too, collecting $177,000 from his assorted union positions.]

But the federal regulation excluded Presser from serving as a fund trustee only for five years following his last conviction. He quietly returned as a trustee earlier this year, Shannon admitted to The Tribune.

Moreover, the fund's executive director indicated an allegiance to the nefarious Presser. "For what it is worth, I wouldn't be here if it wasn't for Bill Presser," Shannon declared. "When I first came here [to the fund] in 1972, there was great consternation about the new kid on the block and what he was doing. Presser said: 'He stays.' If it wasn't for his gesture, I'd be gone today."

Shannon described Presser as "a hard working individual."

The Central States fund also is struggling with a tax problem that poses a major threat to its future. Charging the fund had been improperly managed, the Internal Revenue Service in late June revoked the fund's tax-exempt status retroactive to January, 1965.

Theoretically, the ruling may mean that the IRS won't allow employers to continue deducting expenses for pension contributions, that it will tax employes for contributions made by their employers, and that it will take a big tax bite out of the fund's already meager earnings.

The IRS, after negotiations with the fund's attorneys, agreed it would not apply the tax ruling on employers and employes until at least Aug. 31. But efforts to tax earlier earnings of the fund's assets may continue.

The ruling was based on a conclusion from IRS audits that the fund has not been operated for the "exclusive benefit" of employes, a strict requirement for maintaining tax-exempt status. In other words, the IRS seems to be supporting allegations the fund has been operated illegally for the benefit of Teamsters officials and their friends.

A settlement of the IRS charges probably will require the union to accept radical reforms, including possible changes in control of the fund, in its investment policies, and other practices that haven't benefited employees. The fund's trustees are fighting the ruling, charging it is "both legally and factually erroneous."

A negotiated settlement that would restore the "exclusive benefit" status is possible, but sources say the fund hasn't yet demonstrated a willingness to take the drastic steps necessary. In any event, it may be some time before the fund's muddy tax status is clarified.

SIXTEEN DECIDE WHERE THE MONEY GOES

The rich, powerful, and aggressive International Brotherhood of Teamsters is the country's largest and most controversial union.

It represents 2.3 million workers in jobs encompassing the spectrum of American life—from hospital maternity workers to funeral directors, from bubble gum manufacturers and airline clerks to teachers and policemen.

But the union's power base remains the trucking industry, where it consistently has won favorable wages and benefits for its members. Pension and health benefits usually are administered through funds organized by the union and supported by employer contributions.

The largest of about 200 Teamster pension funds is the huge Central States, Southeast, and Southwest Areas Pension Fund. It covers most of the country's truckers—about 480,000 active and retired workers.

Each week nearly 16,300 trucking firms set aside as much as $25 for each of their active employees to pay pensions, disability, and death benefits. The money pours into the coffers of the Central States fund at a rate of $34 million a month—more than $400 million a year.

Assets of the fund, established Feb. 1, 1955, exceed $1.4 billion, according to Daniel J. Shannon, executive director. It is the largest union-operated pension fund in the United States.

In the 12 months ended Jan. 31, 1975, the fund received $283.2 million in employer contributions (the contribution rate was lower in 1974) and had investment income of $51.2 million. It paid out $175.2 million in pension benefits that year. Income exceeded expenditures by $150.9 million.

The fund is run by 16 trustees who have final say on what is done with the money. Eight trustees are Teamster officials, including Frank E. Fitzsimmons, president of the international.

The other eight are executives of trucking companies. Critics have charged these men "rubber stamp" recommendations for fund loans to maintain cozy relationships with the union and to assure favored treatment in labor negotiations.

During the last two decades, the fund has weathered frequent attacks on its policy of making loans to risky real estate ventures, alleged kickbacks, excessive fee payments, and other improprieties. Critics say it has been used mainly to enhance the union's power and to enrich individual union officials and their "friends," including many with unsavory reputations.

In addition to Fitzsimmons, the other Teamsters trustees of the pension fund are William Presser, Cleveland; Roy L. Williams, Kansas City, Mo.; Odell Smith, Little Rock, Ark.; Robert Holmes, Detroit; Donald Peters, Chicago; Frank H. Ranney, Milwaukee; and Joseph Morgan, Dallas.

The employer representatives are Thomas J. Duffey, Milwaukee; Herman A. Lueking, Jr., St. Louis; Albert Matheson, Detroit; William J. Kennedy, St. Louis; Andrew Massa, Bridgeview, Ill.; Jack A. Sheetz, Dallas; John Spickerman, Atlanta; and Bernard S. Goldfarb, Cleveland.

[From the Chicago Tribune, Aug. 1, 1976]

TEAMSTER FUND GOOD TO DORFMAN; HE'S 'PROUD'

(Note.—This is their report in a five-part series written by Todd Fandell, Tribune financial reporter.)

A great many officials of the International Brotherhood of Teamsters have managed to earn a comfortable living through salaries, commissions, allowances, fees, and other forms of remuneration paid them by the pension and health and welfare insurance funds set up by the union ostensibly for the sole benefit of its members.

It's likely that no one has managed a more comfortable income from these funds than Allen Dorfman, whose personal financial machinations have been closely interwoven for years with the business dealings of such Teamster funds. These dealings have made Dorfman a millionaire many times over.

For example, in the last nine years Dorfman's companies have received $21.5 million in commissions and service fees from just one Teamster health and welfare fund, a Tribune investigation into the union's operations has discovered.

These payments are only a portion of the income Dorfman has derived over the years from various Teamster dealings, however. The intricacies of Dorfman's complex and farflung financial empire, in fact, would awe the chairman of the board of any giant corporate conglomerate.

The problems of running the empire, composed of insurance companies, condominium developments, resorts, and other assorted projects, frequently have kept him busy jetting between stops at homes he maintains in suburban Chicago, Wisconsin, Florida, California, and any one of several Las Vegas hotels financed with Teamster pension money.

All of this frequently draws attention to Dorfman, who Justice Department investigators say has been the second most powerful figure in the Teamsters for two decades, though he has rarely held any official position with the union.

Much of this attention has been in the form of unfavorable publicity, particularly since he was convicted in 1972 and served part of a one-year prison sentence for accepting a $55,000 kickback to arrange a loan from the Teamster Central States, Southeast, and Southwest Areas Pension funds.

Dorfman says he's sick of reading "all this crap in the press" about himself and the troubles of the Central States Fund. Because of a large number of questionable real estate loans on which it faces big losses and other charges, the fund is the subject of major federal government investigations into its affairs.

In an interview with two Tribune reporters—"The first one I've given in over 10 years," he says—Dorfman says he's proud of the investment record of the pension fund.

The fund has an investment portfolio that includes $900 million of outstanding loans to hotels, motels, gambling casinos, and other real estate ventures, many of doubtful value.

"The Teamsters are building for the American people," he boasts. "The American people are the beneficiaries of all these Teamsters loans."

Dorfman also insists the $1.4 billion pension fund has done a "magnificant job" for the nation's truck drivers. "It can stake its record against any fund in the country," he says. "Can you name one union or one employer that pays the pensions the Teamsters do?"

Dorfman's aggressive defense of the pension fund throughout the interview sounded somewhat strange for a man who insists he hasn't had anything to do with the pension fund for 3½ years. Throughout the session, he referred to the fund as "we," however.

The interview was conducted in Dorfman's luxurious office suite on the second floor of the 10-story Teamsters-owned office building at 8550 W. Bryn Mawr Ave.

The building houses the headquarters of the pension fund and the union's health and welfare fund, which have common trustees and the same executive director, Daniel J. Shannon, a one-time political protege of Mayor Daley.

It is the Central States Health and Welfare Fund that has paid Dorfman's companies the $21.5 million in the nine years ended Jan. 31, 1975, according to documents inspected by The Tribune. The records showed $3.2 million of the payments were commissions and the remaining $18.3 million were service fees.

Earlier this year, the fund became self insured and Dorfman's firms lost the commissions. However, his firms continue to receive service fees from the Teamsters.

When asked about these payments, Dorfman says he was shocked that they amounted to that much, but quickly defended them. "We've got 300 employes [in his insurance service companies] and the most sophisticated computer systems for processing claims in the U.S.," he says. "And the Teamsters are one of our bigger clients."

Dorfman was attacked for taking excessive commissions from the Teamster funds. The late Robert Kennedy, who headed a Senate rackets committee staff in the late 1950s, said the committee established that over an eight-year period Dorfman and his mother, Rose, a partner in the firm, had collected $1,650,000 in "excessive fees" from the union, all of it constituting a payoff to them from "money coming out of Teamster members' pockets."

After the Senate investigation, the Dorfmans lost the right to do business in the state of New York.

Dorfman got his start with the Teamster union when Jimmy Hoffa gave Dorfman's fledgling insurance company the Teamster health and welfare account in 1950, allegedly in return for Hoffa's introduction to important figures in the crime syndicate by Dorfman's father, federal officials said.

Hoffa, until his disappearance a year ago, had been a constant defender of Dorfman, despite many charges against him and his dealings with the union's welfare funds. In the interview, Dorfman refused to discuss Hoffa's disappearance.

While Hoffa ran the union, Dorfman was known as the No. 2 man in power in the Teamsters. He is said to have maintained that position under Frank E. Fitzsimmons, who succeeded to the presidency of the union after Hoffa went to prison in March, 1967. At the time, Hoffa was quoted as saying, "When Dorfman speaks, he speaks for me."

Dorfman was named a consultant to the Central States Pension Fund a few days after Hoffa went to prison for jury tampering. From then until late 1972 Dorfman processed all loans made by the $1.4 billion fund and was responsible for arranging many of the major loans still on the fund's books.

Although he told The Tribune he misses being involved with the fund, he insists he had had nothing to do with it in years. Shannon, the executive director of both the pension fund and the health and welfare fund, also told The Tribune that Dorfman's only role now is with the latter fund.

Yet Justice Department sources insist Dorfman continues to be the power behind the pension fund, too, calling all the shots on moves it makes.

The sources also told The Tribune that Dorfman has close ties with the crime syndicate. Terrorists Anthony "Tough Tony" Spilotro and Joseph "The Clown" Lombardo, both members of the old Felix "Milwaukee Phil" Alderisio gang, were codefendents last year with Dorfman in a trial in which they were accused of defrauding the Central States Pension Fund of $1.4 million in loans secured by an insolvent Deming, N.M., factory.

Another defendant was Irwin Welner, a Chicago bail bondsman and crime syndicate associate said by government sources to be "the brains behind Dorfman because he (Dorfman) isn't that smart." The defendants were acquitted. A key witness in the case was killed gangland style shortly before the trial began.

Of Spilotro and Lombardo, Dorfman told The Tribune: "I never met them until I walked in the courtroom and was arraigned. They seemed like two real nice guys. I don't know anything bad about them but what I read in the newspapers.

Of Wiener, a longtime associate of the Alderisio gang, Dorfman says: "I've known Iry Wiener all my life and if he is organized crime, then I'm the Pope."

Dorfman blames the government charges for causing the pensions fund's loss on the New Mexico plastic factory. "Had there not been interferences, they would have preserved the assets," he says. "They would have made a viable entity out of it. Instead all you media people did was harass them."

Discussing the 18 trustees of the Central States Pension Fund, the men who approve the fund's loans, Dorfman says: "I've worked alongside them. You couldn't find a more dedicated group of fellows. I don't know of any trustees up there who are fools."

He says "they are pretty astute businessmen and labor leaders" who would never intentionally make any bad loans. "Why do you want to fault them for helping in the progress of the nation?" he asks.

Several of the trustees are partners with Dorfman in various of his enterprises and two of them also were codefendants in the Deming fraud trial.

Continuing his defense of the pension fund, Dorfman insists he has done a fine job during his tenure as a $60,000-a-year consultant.

He says his role "was to preserve the pension fund's assets." Only $45 million of the fund's $900 million in real estate loans are delinquent, he says.

"Show me a major lending institution in this country which can show a loss factor as small as that," he says. "It's better than average for banks and insurance companies.

Dorfman became extremely defensive when told that his $45 million figure didn't include vast amounts of the pension fund's real estate loans which already have been restructured because their recipients could not meet repayment schedules.

"Wouldn't you rather rework a loan than foreclose?" he asks. The biggest lending institutes in the U.S. recast their loans or give moratoriums. Why do you want to fault bad loans made 10 years ago? Who was going to prejudge that a loan would go bad?"

FUND ILLS "GOOD" FOR LAWYERS

The Teamsters' Central States Pension Fund has been accused of paying excessive fees and commissions to those involved in arranging its real estate loans, which comprise about two-thirds of its $1.4 billion in assets.

Now many of those loans have gone bad and the pension fund is faced with the embarrassment of taking millions of dollars of losses on them.

But one thing seems certain: The lawyers and other agents retained by the pension fund to help resolve its bad loan problems are certain to do well for themselves in the process.

Two who already have are Thomas D. and James Flanagan, politically well-connected brothers who have been retained for the fund by its executive director, Daniel Shannon, a former member of the Daley Democratic machine.

The Flanagans' real estate and insurance firm, Heil and Heil Insurance Co., Evanston, once employed Mayor Daley's son, John, and later received nearly $3 million in insurance business from several government bodies under Daley's control.

Thomas Flanagan has an arrangement with the fund under which he is handling tax appeals on Teamster properties in return for a fee of 25% of the first year's tax saving on any reduction he wins for the pension fund, according to a spokesman for the fund.

Earlier this year, in a case involving the Canterbury Shopping Center in Markham, Flanagan apparently earned a fee of $33,750 for getting the shopping center's taxes reduced by $135,000. He won from the County Board of Tax Appeals a drop in the financially ailing center's assessed valuation of $1,284,199 from $2,399,625—a cut of more than $1.1 million from the 1975 assessment.

But the pension fund stands to lose at least $1.7 million on the property, which it now owns after being forced to foreclose last year on its mortgage loans to the center.

A second corporation involving James Flanagan, Terracom Development Inc., is attempting to sell the shopping center. With the property valued at $1.5 million according to an appraisal done for the pension fund last December, sale of the property could bring a fee of more than $100,000 at a 7% commission rate.

In an unrelated transaction handled by James Flanagan, Heil and Heil received a reported $25,000 commission on the sale last year by the Teamster fund of the Sheridan Plaza Hotel, 4607 N. Sheridan Rd. The commission amounted to more than 31% of the $80,000 sale price for the decrepit hotel, a rate considered unusually high by real estate experts.

According to records filed in Washington by the fund, James Flanagan, who is not a lawyer, also received a $35,000 "legal fee" in the year ended Jan. 31, 1975, from the fund. Officials of the fund said that payment must have been for court-ordered receivership fees for the Sheridan Plaza.

Court files indicate only that on June 30, 1975, Flanagan was paid a $12,500 fee for handling the hotel.

The Flanagan brothers couldn't be reached for comment on their fee arrangements.

The Canterbury Shopping Center offers a case study of the risks involved in shopping center loans. Because real estate loans in general are considered less secure than other investments, less than 2% of the assets of all pension funds in the United States are invested in real estate.

Yet the Teamster fund has put most of its money in real estate, much of it in the riskiest types of real estate.

Although Shannon, the fund's executive director, won't discuss the fund's loss on the property, The Tribune has pieced together the financial history of the project from land records and a copy of the appraisal ordered by Shannon from William McCann & Associates.

The pension fund gave Canterbury, located at 159th Street and Kedzie Avenue, two mortgage loans totalling $4.2 million—one for $3 million in 1960 and another for $1.2 million in 1963.

The pension fund foreclosed on the loans last December, still being owed $3,245,084 in unpaid principal, interest, property tax advances, and court costs. But the appraisal valued the property at only $1.5 million, less than half the Teamsters' remaining investment in it.

"The owners did not even attempt to negotiate a moratorium on principal or interest," said Thomas Flanagan in his tax appeal. "They felt this project was so helpless that they abandoned it by sending the leases and keys to the mortgage holder without any negotiation or warning," he said.

The shopping center's last owner apparently was U.S. Investment Fund, a Bahamas mutual fund. USIF was merged last year into Arlen Realty & Development Corp., New York City.

A spokesman for Arlen said his company had never taken over the Canterbury Shopping Center when it acquired USIF, however. "We looked it over and decided not to take it over because the taxes were too high to make it worthwhile," he said. "We gave the property back to the mortgage holders [the Teamsters' pension fund]."

The McCann appraisal concluded the shopping center's "economic viability" appears to be limited "for the near future." It cited a high vacancy rate in the center and surrounding area and the location nearby of three more modern, enclosed-mall shopping centers. Canterbury doesn't have an enclosed mall.

The appraisal also noted that "real estate values [in Markham] are static to declining due in part to the concentration of economically disadvantaged persons in the community."

Terms of the loans on the property were modified and final payment schedules extended in May, 1968, indicating the pension fund had ample warning of the center's troubles long before it defaulted.

Shannon acknowledged the undesirability of the pension fund's past concentration on real estate loans. He said he would like to diversify its assets to reduce real estate investments to 50 per cent.

But the difficulties it is experiencing in trying to get out of all its bad loan situations will hamper such efforts.

PITTSBURGH MAYOR FLAHERTY, CLOTHING WORKERS' SAMUEL TESTIFY ON YOUTH UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, last Thursday, September 9, the Joint Economic Committee held a day of hearings on the problem of youth unemployment. The purpose of the hearing was to look into the causes and effects of high unemployment among our Nation's young people, and to develop some new ideas on what could be done at the Federal, State, and local levels, using both the private and public sectors, to create the millions of jobs our young people need and to improve the job counseling and placement services available to them.

Two of the witnesses who appeared at this hearing to discuss what could be done to help our young people were the Honorable Pete Flaherty, mayor of Pittsburgh, and Mr. Howard Samuel, vice president of the Amalgamated Clothing and Textile Workers Union, AFL–CIO.

Mayor Flaherty has an intimate day-to-day knowledge of the problem high unemployment causes for young workers, especially in the innercity. His testimony provided some valuable suggestions for improvements in Federal policy. Mayor Flaherty said:

> As Mayor of one of America's greatest cities, I have seen the human dislocation and suffering that a 40 percent unemployment rate connotes. Because of these experiences, I am concerned that for too long we have only dwelled upon the surface effects of youth unemployment and prescribed costly patent medicines for its cure.

Mayor Flaherty, in his opening statement, was concerned that we have allowed our Nation's educational system to become too removed from the vocational needs of our youths, and that we have too often resorted to costly programs that have become institutionalized and ineffective.

Mayor Flaherty said:

> We must be careful that in advocating new programs we don't provide the excuse for allowing poorly functioning structures to escape change. . . . I am convinced that much of the funds needed to get our institutions revitalized are already being poured into redundant and obsolete programs.
>
> I feel that students, taxpayers, workers, consumers, and employers—we are all of them and they are all of us—are discouraged with our institutions. Things just don't seem to work and yet they are bigger, more complex, and more costly than ever. Young people have always been the vanguard for change. High youth unemployment rates are a symptom of a larger problem.
>
> We must change and make our systems work. We must not allow young people to opt out of the community and leave the mainstream. We must begin to shift the mainstream itself to encompass them. We can no longer be satisfied to buy peace and more time. We cannot live in two worlds—the old, tired world of platitudes and interest group trade-offs; and the young, dissatisfied, disillusioned world of idleness and destructiveness.

Among his suggestions, Mayor Flaherty urged that we expand efforts to combine work and education through cooperative educational and vocational programs, and that we develop greater incentives for employers to hire and train young workers through on-the-job training, job restructuring, job sharing, and continuing education programs for young workers.

Mr. Howard Samuel, who is secretary of the National Committee on Full Employment as well as a vice president of the Amalgamated Clothing and Textile Workers Union, AFL–CIO, emphasized in his statement before the JEC that solving, job restructuring, job sharing, and dependent on the Nation's economy reaching full employment among adults, and that lowering the minimum wage for youth will not help appreciably.

In his statement, Mr. Samuel said:

> In the first place, it is obvious that the problem will not and cannot be solved unless and until the nation can solve the problem of unemployment generally. It is not possible to create jobs for those least educated, those most disadvantaged, those without adequate experience and skills, when millions of others with more education and experience and skills are also unemployed. Approaching a full employment economy will not solve all of the youth unemployment problem, but without a reasonable approximation of full employment, there is no way to solve it.
>
> There is no proof that lower wages will have much effect on teenage unemployment. Certainly the opposite has not had any effect. Presumably if a lower minimum wage would be helpful, it should follow that a high minimum wage is damaging. But such is not the case.
>
> Lower wages for youth would not create additional jobs, but could lead to displacement of older workers, largely heads of families. And that is one way we should not solve the problem of youth unemployment.
>
> Furthermore, low wage jobs are an invitation to low productivity, to inefficiency, and eventually to inflation. With low wage jobs, employers have no incentive to rationalize inefficient jobs and generate productivity gains.

Mr. President, the prepared statements of these two witnesses are rich in insights and suggestions concerning youth unemployment and how to solve it, and I ask unanimous consent that their prepared statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF MAYOR PETE FLAHERTY OF PITTSBURGH BEFORE THE JOINT ECONOMIC COMMITTEE—SEPTEMBER 9, 1976

Thank you for the opportunity to discuss the youth unemployment situation.

I feel that forums like this are extremely important if we are to gain an appreciation for the complexity of this problem.

Certainly, everyone in this room is well aware of the alarming rates of unemployment for workers under 25 years of age, particularly among those in this age group who are black and living in urban areas.

The magnitude of these figures alone suggests to me that their causes run far deeper than just a shortage of job opportunities for young people.

As Mayor of one of America's greatest cities, I have seen the human dislocation and suffering that a 40% unemployment rate connotes. Because of these experiences, I am concerned that for too long we have only dwelled upon the surface effects of youth unemployment and prescribed costly patent medicines for its cure. I am concerned that for too long we have failed to take a hard look at the facts.

I do not think that we can continue to make the assumption that our basic educational and employment institutions are sound and all that we need are a few extra programs to supplement them. We have pursued this course in the past and have watched supplemental programs become institutionalized into a patchwork of government activities.

I think that times have changed but our institutions have only become bigger. Specialization rather than relevance has unfortunately been their emphasis.

Thirty or forty years ago graduating from school and being able to get a job that would last until retirement was thought to be very desirable—it represented job security. Today, taking a young person out of school and standing them before that same lathe with the realization that this is what their work life will be like for the next twenty-five years is a shattering experience.

Similarly, when I reflect on my experiences in school and then observe those of my children and their friends, I can see enormous shifts in attitudes and aspirations.

The populations of our cities and their values, their expectations and their needs have changed dramatically over the years in both school and the workplace. Have our educational institutions, employers, and labor organizations adequately recognized and adjusted to these changes?

I feel we are spending too much time talking about how to better relate schooling to employment without talking enough about relating both school and work to people—young and old.

Certainly, this economy still has far too much slack and the recovery has yet to produce an acceptable reduction in unemployment. But if we are ever to have full employment without inflation, the focus of that search must be in developing higher levels of productivity for people who are unemployed or unemployable today.

Given the nature of their schooling and the traditional types of jobs currently being offered, it is unlikely that many of our unemployed young people can be put to work productively. We then face the prospect of government potentially subsidizing the employment of young people poorly equipped for work, in jobs unsuited to their expectations.

This is why our assumptions of sound education and employment institutions must be re-examined.

We must put our existing resources to better use before creating new programs. We must improve what exists before expanding it. We must be careful that in advocating new programs we don't provide the excuse for allowing poorly functioning structures to escape change.

Public resources are too scarce for such extravangance. At the municipal level we have already witnessed the limits of government. In Pittsburgh, however, you will find evidence of how we dramatically raised the level of municipal services with improvements in productivity. At the same time, a lower level of taxation exists today than when I took office 6½ years ago.

I am convinced that much of the funds needed to get our institutions revitalized are already being poured into redundant and obsolete programs. I am also convinced that the costs of hiring younger workers—in terms of turnover, absenteeism, low productivity, etc.—have already become so great that private employers can easily afford to fund their own efforts to restructure work patterns so that young people can be profitably employed.

I am also convinced that parents can no longer view schools as custodial institutions and leave the education of their children to the "experts". We desperately need to restore the participation and involvement of parents in education. School cannot be held responsible for children—strong families and a sense of community must be rediscovered and reintroduced to the educational system.

In formulating recommendations for the Committee, I recognize that it is a great deal harder to talk about how to change institutions than it is to propose bright new programs. In many cases the problems young people face in finding and holding jobs are not far removed from those faced by other workers who dissatisfaction with work in general is manifested by alcoholism, absenteeism, grievances, and other white and blue collar "blues" syndromes.

I would like to see more discussion of the nature of work and the nature of education—where does one begin and the other end, if at all?

How can work itself be viewed as a long-term educational process, involving both classroom and on-the-job aspects, which will ultimately lead to the attainment of goals jointly established by the employer and the employee?

How can work be adapted to the values and aspirations of young people so that we not only educate people for jobs, but restructure jobs to fit people? How can this be accomplished by private employers so that younger workers can achieve higher productivity levels and be profitably employed without government subsidies?

How can our school systems be better integrated into the fabric of our communities and brought into more direct contact with parents, employers, and labor organizations?

How can the educational process be made more democratic for our young people without completely abandoning control of our schools at the same time? How can we help students develop meaningful goals and give them the tools to design their own long-range programs to meet them?

How can we reintroduce education to the workplace and vice versa so that workers do not feel trapped in their jobs or fail to understand their need for knowledge?

How can our strong labor unions participate in improving both the quality of work and education?

How can we translate the insights we have gained from innovative Job Corps Programs into institutional changes? What have we learned from our experiences under CETA that would be applicable?

I think these are very difficult questions, but in searching for ways to make things better rather than new, we can strike a chord in our society that could inspire people to respond. I feel that students, taxpayers, workers, consumers, and employers—we are all of them and they are all us—are discouraged with our institutions. Things just don't seem to work and yet they are bigger, more complex, and more costly than ever. Young people have always been the vanguard for change. High youth unemployment rates are a symptom of a larger problem.

We must change and make our systems work. We must not allow young people to opt out of the community and leave the mainstream. We must begin to shift the mainstream itself to encompass them. We can no longer be satisfied to buy peace and more time. We cannot live in two worlds—the old, tired world of platitudes and interest group trade-offs; and the young, dissatisfied, disillusioned world of idleness and destructiveness.

I would suggest the Committee consider:

(1) Requirements be built into federal education programs to mandate greater opportunity for parents, employers and labor unions to have a role in the planning and implementation of education programs.

(2) Expand efforts to combine work and education through cooperative educational and vocational programs.

(3) Develop greater opportunities and incentives for employers to hire and train young workers through on-the-job training, job restructuring, job sharing, and continuing education programs for young workers.

(4) Explore the possibility of offering incentives to youth to continue their education.

(5) Offer employers and unions the opportunity to develop career planning and development programs for their younger workers and members.

These are but a few suggestions that the Committee may wish to explore in formulating its recommendations.

Action is needed quickly to meet the growing dissatisfaction being caused by high youth unemployment and I look forward to working with you in meeting this important problem.

Testimony of Howard D. Samuel, Before the Joint Economic Committee's Hearing on Youth Unemployment

My name is Howard D. Samuel, and I am testifying today in behalf of Murray H. Finley, co-chairperson of the National Committee on Full Employment and the Full Employment Action Council, and president of the Amalgamated Clothing and Textile Workers Union, AFL–CIO. I am here hopeful I can represent Mr. Finley responsibly and accurately, since I am secretary of the National Committee on Full Employment as well as vice president of ACTWU.

For the record, may I take a moment to describe the National Committee on Full Employment. It is a voluntary organization representing a number of people and organizations in such fields as labor and business, civil rights and religion, academia and public service, who are committed to the principle that full employment is a number one domestic priority of this nation. The Committee, during its two and a half years of existence, has sponsored several conferences, published educational materials, promoted research, and worked closely with a myriad other groups to develop a greater awareness of the need for a full employment economy.

The Full Employment Action Council shares the same leadership and many of the same Board members, but is a legislative action group, and has dedicated itself to supporting the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976, as well as other measures which would bring a full employment economy closer to reality.

Let me also take a moment to describe the Amalgamated Clothing and Textile Workers Union, since both Mr. Finley and I are officers of the union and this testimony unavoidably reflects the policies established by the union and by the AFL–CIO with which we are affiliated. The ACTWU was formed just three months ago through the merger of the Amalgamated Clothing Workers of America, founded in 1914, and the Textile Workers Union of America, founded in 1937. Both unions had been close historically and both share a common desire to improve the conditions of our membership as well as the quality of life in our communities. Our membership of 510,000 work in a variety of industries in the men's and boys' apparel and the textile fields. These industries, it is useful to note, employ an exceptionally large number of women and members of minority groups, many of whom can successfully obtain jobs in our industry with minimal entry-level skills. This fact has some relevance to the subject under discussion today.

In respect to the problem of unemployment among young people, first let us look at the scope of the problem. In summary, at the peak of the current period of general unemployment, which occurred during the second quarter of 1975, when the general unemployment rate was 8.9%, teen-age unemployment (16–19) was 20.5%, and unemployment among young adults (20–24) was 14.1%. Since unemployment in the age groups above was only 6.5%, it is clear that the unemployment levels in the first eight years of working life caused a disproportionate amount of the unemployment in the entire population.

All of these figures, incidentally, come from the standard BLS reports, and do not account for the large numbers of people who have dropped out of the labor force entirely—the so-called discouraged worker—or those who are working part-time but who, if a full-time job were available, would work full-time. If these numbers were included for the age group 16–24, the total unemployment rate, instead of 17.5% would have been closer to 25% during the second quarter of 1975.

We are all aware that in analyzing unemployment among young people, a disproportionate burden is felt by members of minority groups. During the same time period, when teen-agers suffered a 20.5% unemployment rate, black teen-agers were at a 37.8% level.

When young adults were at a 14.1% rate, black young adults were at a 22.7% rate.

The phenomenon of black youth unemployment has continued to rise over the years, and continues to this very day, despite some modest and perhaps temporary improvement since the low point in 1975. Here are the figures:

Unemployment among teen-agers

[In percent]

	Blacks	Whites
1955	15.8	10.3
1965	26.2	13.4
1973	30.2	12.6
1976 (June)	40.3	16.1

It would be useful to note a couple of other characteristics of youth unemployment. It is common belief that the major reason for youth unemployment is that young people are forever skipping around from job to job, or from job to school and back again, testing the water of the job market. But Herbert Bienstock, Regional Commissioner of Labor Statistics (Middle Atlantic Region), points out that about 40% of the unemployment of youth was caused by involuntary loss of job, almost doubling between 1973 and the recession of 1975.

The other factor, not so surprising, is the effect of education on unemployment rates. In the young adult group (20–24), in the 1975 period, unemployment for college graduates was 6.3%, for high school graduates, 15.6%, and for high school drop-outs, 25.9%.

These facts suggest certain basic principles which should be established as criteria prior to devising programs to improve employment rates among young people.

In the first place, it is obvious that the problem will not and cannot be solved unless and until the nation can solve the problem of unemployment generally. It is not possible to create jobs for those least educated, those most disadvantaged, those without adequate experience and skills, when millions of others with more education and experience and skills are also unemployed. Approaching a full employment economy will not solve all of the youth unemployment problem, but without a reasonable approximation of full employment, there is no way to solve it. We found this out in the 1960s and 1970s, when despite spending billions of dollars on manpower training, we made only a modest dent in unemployment levels for the disadvantaged, including youth. Throwing money at some problems, contrary to some current commentators, does help solve them, but spending money to train people when there are inadequtae jobs for them at the end of the training period is a recipe for frustration for trainees and trainers alike.

Secondly, instead of looking for ways to get teenagers into the work force, we should spend more time and money looking for ways to get them back to school. Some young people drop out because they have to support their families. Some kind of family support should be devised to enable them to continue their education to the ultimate level they can handle. Some drop out because of boredom, finding that traditional schooling doesn't meet their needs. There should be more help to school systems to encourage them to devise alternate educational schemes. At the present time we are spending most of our money in this field to provide temporary, low-skill jobs. The money is actually income maintenance. Training for real jobs, must depend first on an economy which has jobs to offer, and secondly on real education, which provides the needed foundation which job training can refine into marketable skills.

Thirdly, let me refer again to our own industry, textile-apparel. In the manufacturing field, we offer more jobs than any other industry, and as I noted before, most of them require low-entry level skills. One would think that the government would regard these job opportunities—almost 2½ million all told—as valuable ammunition in the war on youth unemployment, and would treat these industries with tender, loving care. Unfortunately, such is not the case. The industry has been steadily losing production and jobs, largely because of rising levels of imports. Our government has had enough regard for these jobs to have instituted, a number of years ago, a program of international negotiations to govern imports of textiles and apparel. But over the years the level of protection afforded these jobs has slowly eroded, until today the ceilings imposed are so high that they have only modest effect. There are other industries like ours, such as shoes, handbags, consumer electronics, furniture and others, which have suffered similar job losses.

The young person walking along the street with a portable radio from Hong Kong dangling from his hand is not working because so many jobs in the electronics industry have been exported. Is it worth it—to him, or to the nation?

Finally, there is the question of wage levels. A number of proposals have surfaced which would claim to solve the youth job problem by putting young people to work at low wages—anything, it seems, to wedge them into the labor force. I have a number of objections to this theory.

First, there is no proof that lower wages will have much effect on teen-age employment. Certainly the opposite has not had any effect. Presumably if a lover minimum wage would be helpful, it should follow that a high minimum wage is damaging. But such is not the case. A Labor Department study in 1970 concluded, after studying the effects of several rises in the minimum wage, that "it was difficult to prove any direct relationship between minimum wages and employment effects on young workers."

Lower wages for youth would not create additional jobs, but could lead to displacement of older workers, largely heads of families. And that is one way we should not solve the problem of youth unemployment.

Furthermore, low wage jobs are an invitation to low productivity, to inefficiency, and eventually to inflation. With low wage jobs, employers have no incentive to rationalize inefficient jobs and generate productivity gains. We have seen this occur again and again in our history, each time a new wave of unskilled or disadvantaged workers have come into the labor force. It's being said today about illegal aliens: "they are only taking jobs which American workers wouldn't take anyway." It is probably said during each earlier wave of legal migration going back more than 100 years. And it has never been true. A ready supply of "cheap" labor cheapens jobs and removes the motivation to strive for productivity improvements. I saw it myself a few years ago in a garment factory in Hong Kong, where the machinery was antiquated and in poor repair. The owner told me it was not worth it to improve his machinery because the labor was so cheap.

In the United States, that's a recipe for industrial disaster and economic chaos.

There are other reasons for opposing specially low wage levels for youth. Many young people are obliged to help support their families. Paying them inadequate wages simply adds to the welfare burden—and nothing is more inflationary than using government money to pay people without any corresponding increase in goods and services.

Finally, paying low wages probably won't even attract young people into jobs. The cause of youth unemployment, as has been pointed out, is a combination of lack of experience, lack of adequate training, and discrimination. Trying to entice young people into the labor force on the basis of low wages—particularly without meeting the other problems—would be counter-productive. Young people are not going to flock to the labor market in search of low-wage, low-skill, dead-end jobs. The jobs have to carry with them some measure of self-esteem and future hope, and those factors are not components of low-wage jobs.

RUSSELL J. CAMERON

Mr. HANSEN. Mr. President, the sudden and serious illness of Russell J. Cameron comes as a shock to all who know and admire him.

In the prime of life, Russ Cameron had made frequent trips from his home in Denver to Washington as an adviser on energy matters and as one of the most knowledgeable witnesses in hearings on energy legislation.

He has been particularly helpful to the Committee on Interior and Insular Affairs in helping formulate legislation on development of natural resources.

He is an expert in the area of reclamation of surface-mined land, in oil shale, and coal gasification technology and has been most helpful in the general area of commercial development of a synfuels industry.

Russ Cameron long ago recognized the need for alternate fuels to supplement and eventually replace a dwindling base of domestically produced oil and gas. He knew the dangers inherent in overdependence on foreign sources of oil and gas and the vital need of a comprehensive energy policy.

The Nation has benefited greatly from his expertise in a field that has been too long neglected and will owe Russ Cameron a debt of gratitude when synfuels begin restoring the security we can attain only through energy self-sufficiency.

Mr. President, I join Russ Cameron's many other friends and admirers in a wish and prayer for his recovery. As others have said of him, he is a steadfast fighter of great courage and conviction who is widely respected by those of us in these Halls of Congress who know him.

I shall also print in the RECORD a resolution by the Rocky Mountain Oil and Gas Association to Russ Cameron for a speedy recovery and a timely return to the performance of his greatly appreciated service. I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

ROCKY MOUNTAIN OIL AND GAS ASSOCIATION

RESOLUTION

Whereas; the greatest service one may provide his fellow man is to devote his time and effort of the enrichment and advancement of the general community; AND

Whereas; this vital task has been courageously and unselfishly performed for many years by Mr. Russell J. Cameron; AND

Whereas; in particular, Russ Cameron is a pioneer who continues to urge the development of alternative energy sources essential to a future strong American economy; AND

Whereas; he brings great candor, intelligence, integrity and personal vigor to this life-long endeavor; AND

Whereas; we are saddened to learn that Russ is now engaged in a difficult battle with an untimely illness; now therefore, be it

Resolved, That the Rocky Mountain Oil and Gas Association, in behalf of all people of the Rocky Mountain region, does bestow our best wishes to Russ Cameron for a speedy recovery and a timely return to the performance of his greatly appreciated service.

RUSSELL J CAMERON

Mr. FANNIN. Mr. President, I join my colleague from Wyoming (Mr. HANSEN) in a tribute to a great American.

Russ Cameron has pioneered in the development of the natural resources with which our Nation is so bountifully blessed and which can mean the difference between economic growth or stagnation.

We need his great knowledge and expertise as we enter the threshold of development of a synfuels industry and I pray for his full and speedy recovery.

Mr. Cameron, a native of Austin, Tex., grew up in the excitement surrounding the great oil and gas discoveries in his home State. He attended the University of Texas from 1938 to 1942 and was graduated with a degree in chemical engineering.

Early on he was intrigued with the manipulative physical and chemical potential of hydrocarbons. During World War II he pursued the mysteries of synthetic rubber and was a member of the Phillips Petroleum Co. group which developed "cold" rubber.

In 1948 his interest turned to the oil, gas, and chemical feedstock bases to be found in oil shale. He joined the U.S. Bureau of Mines Oil Shale Experiment Station at Anvil Points near Rifle, Colo. The achievements there have become a foundation for progress in oil shale mining and processing throughout the world. Mr. Cameron worked as chief of planning and evaluation and supervisor of process development.

When the experiment station was closed in 1955 he cofounded the predecessor firm of Cameron Engineers, Inc., in Denver, Colo. Refusing to abandon the great promise of 4 trillion barrels of oil in the shales of Colorado, Utah, and Wyoming, Cameron worked to build what has become an international awareness of the versatile energy riches not only in oil shale but from coal, tar sands, and oil sands as well.

Mr. Cameron's interest in synthetic fuels has not been limited by geography. As an invited dignitary or as an inquiring researcher/businessman he has visited the oil shale country of the Soviet Union, Estonia, Jordan, Lebanon, Great Britain, Brazil, and Australia. He has a firsthand acquaintanceship with West German brown coal mining and processing.

The Brazilian Government responded 20 years ago to his zeal and expertise. Today, Brazil is operating an oil shale facility larger than any in the United States. It announced earlier this year it will forge ahead with its own multihundred million dollar commercial scale oil shale complex to diminish its reliance on foreign oil.

Repeatedly American and foreign industry, local, State, and National Governments, universities and trade organizations have relied upon Mr. Cameron's expertise, perspective, and vision in efforts to resolve the puzzles of nature, the challenges of technology, and intrigue of economics pertinent to synthetic fuels.

Mr. Cameron, through his own intense enthusiasm and the performance of his firm, now in its 21st year of offering resource evaluation, development, and analysis; management services, process design, mining design, and consulting services on synthetic fuels and associated resources, has succeeded in creating an international interest in alternate energy sources.

The information gained in research, travel, and resource investigation led him to writing a quarterly report on oil shale and related fuels. That modest effort has become the basis for worldwide dissemination of Cameron Engineers reports, maps, books, and information services.

His stature as a professional is reflected in his service as first vice chairman, Synthetic Liquid Fuels Panel, World Petroleum Congress, Tokyo, 1975; chairman of the Synthetic Fuels Symposium of the National Meeting of the American Institute of Chemical Engineers, 1973; 1973; vice chairman at Tallinn, Estonia, U.S.S.R., 1969; and a multitude of industry and governmental panels including the Regional Export Expansion Council of the U.S. Department of Commerce; the General Technical Advisory Committee of the Office of Coal Research, U.S. Department of the Interior; special advisor to the Administrator during the creation and organization of the Federal Energy Administration; the governor of Colorado's Oil Shale Advisory Committee; a past chairman of the Rocky Mountain Regional Export Expansion Council; member of the U.S. Trade and Industrial Development Mission to the Philippines.

He is a member of several professional organizations including the American Institute of Chemical Engineers, American Chemical Society, American Institute of Mining Engineers, and is a member and former director of the Colorado Mining Association.

Mr. Cameron is the author of numerous technical and general information papers. He is the founder of Synthetic Fuels Information Reporting Service. He is the holder and coholder of several patents pertaining to synthetic fuels processing.

Many times Mr. Cameron had appeared before various committees of this and previous Congresses to share his broad experience and wisdom. We have found him to be a courteous, responsive, exceptionally helpful gentleman deeply concerned about the Nation's energy/economic health.

This tribute is offered in recognition of Mr. Cameron's service to the Congress of the United States, which extends its best wishes for his rapid return to health, strength, and participation in energy affairs.

COSPONSOR OF THE MEDICARE AND MEDICAID ANTIFRAUD AMENDMENTS

Mr. MOSS. Mr. President, it is with a sense of urgency that I join Senator TALMADGE in sponsoring the medicare and medicaid antifraud amendments.

Medicare and medicaid were enacted in 1965 to make health care available to those who needed treatment the most, but could afford it the least. Over the years many aged, disabled, blind, and low-income persons have received quality care—care which would not otherwise be available to them.

Many dedicated doctors, nurses, and other health care personnel have provided exceptional service to medicare and medicaid patients. But some unscrupulous individuals have also participated in the programs, determined to profit from the misery of others. These individuals have seriously undermined our Nation's effort to provide quality care for persons who may not otherwise be able to obtain necessary treatment.

They have contributed little or nothing, except to increase medicare and medicaid costs substantially. Our Nation cannot afford this waste, especially now when there is an urgent need to reduce unnecessary Federal expenditures.

The Committee on Aging's Subcommittee on Long-Term Care, of which I am chairman, has conducted numerous hearings, beginning in 1969, concerning fraud and abuse in the nursing home field. All in all, we have held 27 hearings. At every juncture we have uncovered clear, convincing, and substantial evidence of fraud and abuse.

Last September, joint hearings were held by the Subcommittee on Long-Term Care and the Subcommittee on Health of the Elderly, chaired by Senator EDMUND S. MUSKIE. At this hearing we examined fraud and abuse by other medicare or medicaid practitioners associated in one way or another with long-term care. We learned about the excesses of factoring companies, the problems associated with hospitals catering to welfare patients and possible kickbacks among clinical laboratories.

In October, hearings were held on possible abuse of the medicaid program by for-profit home health agencies.

In December, hearings were held on conditions in Kane Hospital, a 2,200-bed facility in Allegheny County, Pa., which disclosed widespread patient abuse and mismanagement of public funds.

In September and again in March, we held hearings on the growing trend to dump patients from State mental hospitals into boarding homes. We examined the poor care in boarding homes and the associated ripoff of the supplemental security income program.

Last February, we released our report dealing with fraud and abuse among clinical laboratories. In that investigation, conducted jointly with Chicago's Better Government Association, we learned that perhaps $1 out of every $5 paid for laboratory services is ripped off.

Since that time, we have evaluated the performance of medicare's program integrity unit in a forthcoming report dealing with practitioner abuse. We have completed followup investigations into clinical laboratory, home health, pharmacy, and nursing home abuses. The results of these investigations have been given to the General Accounting Office or other Federal and State authorities because we simply do not have the manpower to follow through properly on each one of these efforts.

We expect to receive four reports from the General Accounting Office concerning the handling of patients' funds in nursing homes, the required supplementation of medicaid money by families placing patients in nursing homes, a financial audit of Kane Hospital and a closer look at the practices of factoring firms.

In an effort to examine fraud and abuse among practitioners in the medicaid program we started with a list of doctors making more than $100,000 a year from the program. We soon learned that most of these practitioners worked out of medicaid mills, small privately owned welfare clinics in the ghettos of our major cities. We decided to examine those facilities more closely. In the course of our clinical laboratory investigation we learned a great deal about their operations. To obtain a more indepth view we examined the problem from three perspectives: patient, provider and Government.

We learned the Government's point of view by interviewing local, State, and Federal officials, and reading reports detailing program deficiencies. We learned the provider's point of view by interviewing doctors, by posing as businessmen buying medicaid mills. We learned about the quality of care in medicaid mills by posing as patients, making about 200 visits to clinics in four States.

When I heard from the staff about the blatant overutilization, unnecessary testing, the "ping-ponging," and illegal referring of patients to particular pharmacies, I decided to go to New York to see things for myself.

I put on the oldest clothes I could find and posed as a patient. The Federal District Attorney in New York obtained a valid medicaid card in my name. I then made several visits to medicaid mills and discovered much.

If you are not sick, you would not be told you are not sick. If you are sick, the odds are you would not be helped. In the last analysis, the best description is one given by a mill owner who said:

> Medicaid isn't medicine, it's business. Curing patients is good medicine but bad business.

I want to tell you that after this first-hand personal experience, I am outraged. I am angry that the money appropriated for the care of the aged, blind and disabled is going to line the pockets of a few businessmen and real estate operators. I am angry that we still have a duel medical system which provides one standard of care for the rich or comfortable and another for the poor. I am angry that so much of the taxpayers' hard-earned dollars are lost because of fraud and abuse. There are millions of people in my home State of Utah and across the Nation who work too hard for their money to be able to stomach the fraud and abuse. This is evident to anyone who subjects the medicaid program to the slightest scrutiny.

I am not talking just about medicaid mills. I am talking about the fraud and abuse we have discovered in nursing homes. I am talking about the recent disclosures of fraud and abuse in prepaid health plans. I am talking about the rip-offs among some for-profit home health agencies and hospitals that specialize in welfare patients. I am talking about clinical laboratories. And I am talking about moving patients from State hospitals to nursing homes and boarding homes to take advantage of medicare and SSI.

The day is long past when we can tolerate the poor care and obvious fraud, waste, and abuse that exists in the medicaid program. It is time for an overhaul. The enactment of this bill would do much to reduce the festering problems with which we have been grappling for too many years.

I support this bill because it would:

Establish a central fraud and abuse unit within the Department of Health, Education, and Welfare to provide investigative support to Federal and State prosecutors.

Make fraudulent acts under medicare and medicaid a felony punishable by up to 5 years' imprisonment and a $10,000 fine, instead of only a misdemeanor.

Ban the use of factors, a practice that has often brought loan sharks into the medicaid program.

Require ownership disclosures and auditing provisions, both of which are needed to prevent overbillings, kickbacks, and rebates.

Extend the professional standards review organizations review functions to include ambulatory care facilities, such as the medicaid mills which the subcommittee investigated in several States.

Medicare and medicaid were designed to help those in need of medical care. But both programs—especially medicaid—are being defrauded by unscrupulous profiteers. Major action is needed to remove the cancerous growth of fraud and abuse.

The medicare and medicaid antifraud amendments would be an important step in achieving this goal.

For these reasons, I reaffirm my support for prompt and favorable action on this legislation.

MAO TSE-TUNG

Mr. HUMPHREY. Mr. President, Chairman Mao Tse-tung was one of the powerful figures of our time. He combined the qualities of scholar, soldier, statesman, and patriot in leading his nation from the caves of Yenan to the first rank of world power. In so doing, he lifted the misery which had so long afflicted his people and restored their pride.

Despite our ideological differences, we recognize his greatness. Americans everywhere should join the Chinese people in mourning the passing of this remarkable man, whose humble motto, "Serve the people," should inspire us all.

PERILOUS AIRPORT LAXITY

Mr. HUDDLESTON. Mr. President, the hijacking of the TWA flight last weekend only serves to remind us that we can never, for even a moment, relax our vigilance against terrorism and those who use unacceptable means of seeking to espouse their views at the expense of innocent persons.

Improved security procedures in this Nation during the past few years had resulted in discouraging hijackings. Indeed, there had not been a successful attempt in this country since November 1972. Unfortunately, however, new means of protection often only breed new ways of attack. For the cunning, there is always a way around the latest obstacle placed in their path. For this reason, we must constantly be alert to the need for better, more comprehensive security measures at our Nation's airports.

And, we must move ahead with efforts to create a binding procedure among nations for dealing with hijack situations. No one is safe; no place is safe unless the nations of the world are willing to work together to insure that security procedures are sufficient and sanctions severe enough to deter those who are so willing to play games with the lives of others.

I recently cosponsored the resolution introduced by the distinguished Senator from New York (Mr. JAVITS) urging the President to terminate air service to those nations which refuse to cooperate in dealing with terrorists and to review other policies which might be useful in thwarting terrorist activities. I offered an amendment to the Export Administration Act expressing the policy of the United States to use export controls as a means of effecting greater cooperation in dealing with terrorists. The New York Times carried an editorial this morning suggesting other efforts that should be undertaken.

In summary, the events of this past weekend have reinforced the fact that both constantly reassessed security procedures and continuing international cooperation are necessary in dealing with hijacking. I believe it imperative that we pursue both avenues of action.

Mr. President, I ask unanimous consent that the editorial from this morning's New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PERILOUS AIRPORT LAXITY

There is great relief that the passengers and crew of the hijacked Trans World Airlines jet survived their 60-hour ordeal as hostages without injury and great satisfaction that the Croatian nationalists who perpetrated the outrage have been flown back from Paris to New York for prompt arraignment. The terrorists are certain to face stern justice on several counts, including the charge of murder for the death of a New York police officer in the explosion of a bomb they planted.

It is now imperative that authorities make every effort to find out how the Croatians managed to smuggle aboard the airliner at La Guardia Airport an arsenal that evidently included handguns and grenades as well as bombs. T.W.A. spokesmen say the usual rigorous passenger security checks were in place and functioning. But Federal investigators believe the weapons may have been planted on the aircraft before the passengers boarded. If true, this would reflect a criminal lapse in airport security.

As Federal Aviation Administration officials point out, this is the first successful hijack in the United States since stringent security measures were adopted at the nation's airports four years ago. If security devices cannot detect certain explosives such as plastic bombs, the public has the right to know it. But it would be inexcusable if this hijacking succeeded because an excellent four-year American record had induced a more relaxed attitude in airport security officials.

PROPOSED ARMS SALE

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *Sept. 10, 1967*.

In reply refer to: 1-9019/76.
HON. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 7T-54, concerning the Department of the Air Force's proposed Letter of Offer to Spain for missiles estimated to cost $23.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, U.S. Air Force, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 7T-54—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(a) *Prospective Purchaser:* Spain.

(b) *Total Estimated Value:* $23.6 million.

(c) *Description of Articles or Services Offered:* Eight hundred-fifty (850) AIM-9J-1 Sidewinder Missiles.

(d) *Military Department:* Air Force.

(e) *Date Report Delivered to Congress:* September 10, 1976.

THE NATIONAL CONVENTION OF B'NAI B'RITH

Mr. HUMPHREY. Mr. President, on September 7, 1976, I had the privilege of addressing the national convention of the B'nai B'rith. Over the years I have had a close relationship with this organization. I consider it one of the leading groups dedicated to insuring that our Nation remains free and that American freedom is provided all of our citizens regardless of race, color, or creed.

I took the occasion of giving the keynote address to discuss four principles for democratic government which all of us should keep in mind as we celebrate the Bicentennial of our independence. These principles address domestic as well as foreign policy issues. At a time of growing world interdependence it is impossible to discuss American domestic concerns without mentioning our global responsibilities.

Mr. President, I ask unanimous consent that my address to the B'nai B'rith be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

I am honored to have the privilege of addressing the members of such a fine organization.

Tonight, I am among old and valued friends.

B'nai B'rith and Hubert Humphrey have been allies—allies in the struggles for equal opportunity in a free society. And allies for more humane and compassionate government.

Since the days when I was Mayor of Minneapolis working with B'nai B'rith's Anti-Defamation League in drafting the nation's first municipal anti-discrimination legislation, we have had a long and warm relationship.

But I recognize that my association with you is but a small moment in the history of B'nai B'rith.

Since its founding in 1843 in New York City, this great organization has grown until it now reaches into the small towns and great urban centers of over 40 nations.

And this week you will dedicate a new building in the nation's capital, which is a symbol of the permanence of your tradition and dedication to future progress.

And through the seven generations of your existence, the message of B'nai B'rith has been clear. And that message is derived from the age-old traditions and heritage of the Jewish people: The struggle for political democracy cannot be won unless it is joined with the battle for social and economic justice.

This is the concept of freedom at the heart of Judaism.

And this is the fundamental driving force of America's liberty.

The Jewish people brought to the New World their age-old struggle to be free. It is here in America that the memories of tyranny—of Pharaohs, Kings, Czars, Fuhrers Commissars—have kept alive the vigilance of the Jewish people to threats against freedom.

And it is here in America that the Jewish concept of social and economic justice was joined with the Jeffersonian and Jacksonian ideals of equality. Together, they form a potent force. A force capable of guaranteeing that we remain a free, vibrant, open society in which all men and women can make the most of their God-given potential.

This is the year of America's bicentennial.

And this bicentennial should provide us with an opportunity to explore our future as well as our past.

As we celebrate our bicentennial we must ask ourselves:

How will Americans insure that the freedoms of our first two centuries are preserved for America's third and fourth centuries?

We live in a world of rapid change. What took decades to accomplish in the past, now takes only weeks.

Years are compressed into milliseconds. Whole generations pass through eras and epochs at mind-boggling speed.

In an age when the world and time are shrinking the dimensions of our lives, at a moment when the power of private and public institutions is growing rapidly, the challenge of preserving democracy as we know it becomes formidable.

How do we go about this awesome task?

There are no easy answers to this challenge and no one should ever tell you that there are.

I would like to discuss four principles for our government and ourselves which I believe are fundamental to the preservation of American democracy.

We need to reaffirm these and other principles as we celebrate our bicentennial.

The first principle is perhaps the most important:

Government by consent of the governed cannot long endure if government does not respect the law.

The brilliant jurist, Mr. Justice Brandeis, said it best in one of his famous dissenting opinions:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously."

We have just passed through a tragic period of our history. Men and the institutions they led look the law unto themselves.

They eroded a people's trust and confidence in their government at all levels.

They damaged a people's belief in the viability of their political institutions.

We must never again let this happen.

Yes, it will take vigilance by the press, the Congress and the Courts.

But, even more it will take greater respect for the law by all Americans.

There is no easy solution to the problem of growing and pervasive violent and white collar crime in America. But as Brendeis so eloquently stated:

"Our government is the potent, omnipresent teacher. For good or for evil it teaches the whole people by its example."

Yes, government must set the highest standards for its own conduct. Unless it does, our democracy will be endangered.

Let me turn to another important principle.

We cannot seek democracy and social justice at home and abandon these principles abroad.

The time has come for the United States of America to put a premium on the support of democratic governments as a central tenet of American foreign policy.

I have seen too many Presidents embrace dictators.

I have seen too many Presidents cozy up to juntas in the name of security and expediency. We must learn that there can be little security in the world if democratic government becomes an endangered species.

The United States must aid and support those people and nations who choose to form governments guided by democratic principles, whether they be in Israel, in Greece, in Portugal or in Africa.

And we must aid those people who are fighting for freedom in nations which deny them the opportunity to be free. This is certainly the case with the Jews of the Soviet Union. Here as in other countries we have a moral obligation to help these people. They should be allowed to live as Jews or leave as Jews.

We can look to the very recent past for a good example of how one of our great leaders cherished democracy beyond our shores.

The great American President who first recognized the state of Israel, Harry Truman, knew that Israel's rebirth was the creation of a democracy at a time when democracy was threatened.

I must say that today, as in 1948, America's support of a democratic Israel is vital to the security of that nation and the maintenance of peace in that troubled part of the world.

Our democratic heritage is shared by Israel. America's love for freedom is a cornerstone of Israel's independence. Whether here in America or in Israel, we must stand for the preservation and protection of democratic values.

I want to say this evening that if we have a national policy to protect a free and democratic Israel we must reconsider our policies of selling very sophisticated weapons to those nations which have yet to recognize Israel's right to existence in the family of nations. We are in the process of selling arms as if they were bushels of wheat. There must be restraint in the sale of weapons to the Meddle East, the Persian Gulf and other areas of the world where the chance for conflict is great.

The only effective way to combat the tyranny of Communism and the totalitarianism of the "Right" is to battle for human rights and democratic values abroad. The Jewish Community has always been aware of the need for a more sensitive approach to problems of international human rights.

The time has come for moral values to play a greater role in our foreign policy. Until they do, we will not gain the support of peoples around the world who are struggling for their freedom.

In the coming weeks during the course of an election campaign, I want the candidates of both parties to tell the American people how they will restore our respect for international human rights.

Beyond the strength of our armies, beyond the wealth of our people, beyond the richness of our land, the multitudes around the world want to believe that we will support those who are struggling for basic human freedoms. An American foreign policy which does not convey this commitment is not only ineffective, it is bankrupt.

There is a third principle which I believe to be of critical importance to all Americans:

There can be no meaningful freedom in America without freedom from poverty, freedom from hunger and freedom from unemployment.

You and I have played a role in the unprecedented struggle of the past two decades to secure equal rights for all Americans. We have made gains in many areas: Equal access to public accommodations, equal job opportunity, non-discriminatory use of federal funds and protection of the right to vote.

Despite hard-won gains in Congress and the Courts, the struggle for eradication of prejudice and bigotry in America is not yet over.

As I have said in the past: It is not enough to allow a man or woman the right to sit at a lunch counter if they don't have the money in their pockets to pay for the meal.

The right to full participation in the economic life of our nation is the birthright of every American.

Until we guarantee this freedom to all Americans, we cannot call ourselves truly free.

I am disturbed that too many Americans are willing to accept growing poverty amidst affluence.

I am disturbed that we seem to be ready to accept large numbers of unemployed persons as a permanent part of the economic scene.

I am disturbed that urban decay increases as cities face rising costs and declining revenue sources.

I am disturbed that welfare rolls and food stamps become a way of life for ever-growing numbers of our fellow citizens.

An America divided between rich and poor and white and black is in trouble. Freedom for the comfortable cannot endure alongside of misery for over one quarter of the American population.

Americans are fast reaching the point when they can no longer run away from the horrible neglect of the poor and the underprivileged among us.

No suburb is safe from violent crime.

No household budget can escape the growing tax burden to support increased social costs.

Few children can long avoid being affected by an education system weighted against the poor.

The era of escape is over. The time has come to mobilize those in and out of government who want to eradicate poverty in America once and for all.

Let me turn to another final principle:

A free people who refuse to participate in their own political processes and government do so at their peril.

Democratic self-government will be threatened in the long run unless Americans take the time and effort to choose their leaders and work to make government a better protector of their rights and interests.

Just look at the alarming statistics of voter participation in our recent elections:

In 1972, with a clear ideological choice, only 55 percent of eligible voters went to the polls. This meant that sixty-eight million Americans eligible to vote did not do so.

In the Congressional elections of 1974, only 45 percent of the voting population bothered to go to the polls.

And, in 1974, among the critical group of young voters with still many elections ahead of them, 63.6 percent of 18 to 20-year-olds did not even bother to register.

If Americans think that they can fail to vote in such large numbers and still insure themselves of able and dedicated public servants they are dead wrong.

But this trend of non-participation extends all across the face of America—from the PTA and the town council, to serving on the Federal bench and in the Executive branch.

It is time for Americans to change their attitude about their government and their role in it. Government is not some monster apart from and detached from our lives. It is us—our values, our strengths and our weaknesses.

As a nation we are a community of people. Americans must participate in thic community to achieve common goals.

It is our duty and responsibility as citizens. If we as Americans do not care about our collective political destiny, we must accept the consequences of our own irresponsibility.

I sincerely believe that democracy is severely weakened if the many are governed by the votes of the few.

I am confident that the task of preserving America's democracy can be accomplished with the hard work and dedication which are so plentiful in our nation.

We have the inner strength and moral courage to overcome monetary setbacks.

American is still a young country.

The American people are builders.

They are restless. They are energetic. They are idealists eager to put their ideals to the test.

Let us not forget that we are the most heterogeneous mixture of races, religions and nationalities ever to coexist peacefully under the tent of democracy. And we are now the world's largest democracy celebrating two centuries of freedom.

There is every reason to believe that our third century can be one of freedom and prosperity for all Americans.

There is every reason to believe that Americans can make great contributions in the struggle to eradicate injustice, hunger and poverty wherever they are found.

America's future is a bright one. As the poet and scholar Carl Sandburg, so eloquently spoke:

"I see America, not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision . . ."

I know that the men and women of will and vision here this evening are ready to join hands for the kind of America which is in our hopes and dreams.

THE OMISSION OF POLITICAL GROUPS FROM THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have often cited the omission of political groups in the list of groups of article II as a basis for rejecting the entire convention. It is true that the original United Nations declaration against genocide, adopted in December 1946, defined genocide as occurring whenever "racial, religious, political, and other groups have been destroyed." It is also true that during the negotiations converting the declaration into a treaty political groups were excluded.

Nevertheless, this exclusion is no reason to reject the entire convention. Arguments have been made stating that the exclusion renders the convention "meaningless." But inclusion of political groups would have necessitated defining what constitutes a political group—a very difficult task. Conceivably, such disparate organizations as the Girl Scouts, Black Panthers, and the Soviet Communist Party could all be termed political groups. To include a term with such a vague and broad meaning would have raised additional questions about the scope of the convention.

In any case, the Genocide Convention, regardless of what it may omit, is valuable for what it includes. Arthur Goldberg stated his position on this issue during the hearings before the Senate Foreign Relations Committee:

> We have a treaty which like all treaties is not written by our prescription but is negotiated, and as negotiated it reaches a very important concern and that concern is the mass extermination of people for their racial, religious, and ethnical views.

We cannot reject the Genocide Convention of the basis of what it excludes. Rather, we must consider the very important provisions it does contain and vote to ratify this document.

PRESIDENT'S BICENTENNIAL LAND HERITAGE PROGRAM

Mr. MOSS. Mr. President, last Tuesday, my distinguished colleagues, Senator JACKSON, Senator NELSON, and Senator JOHNSTON, had a colloquy on the President's Bicentennial land heritage program which raised some important points concerning the administration's handling of our parks and refuge programs. The protection and wise management of our Nation's wonders are issues very close to my heart, and so I would like to comment on the President's proposal—particularly as it relates to the wildlife refuse program.

When President Ford delivered his national parks message at Yellowstone, my first reaction was one of delight that the long overlooked plight of our Nation's parks and wildlife refuges was finally getting Presidential attention. I was hopeful that his full message delivered to Congress would flesh out the grand structure for action that his speech briefly described. But after reviewing his Bicentennial land heritage program and the testimony of congressional oversight hearings, I find that his plan advances nothing that Congress and the public have not urged him to do, and it lacks the substance that many hoped it would have. If this was to be a fine birthday present for the Nation's Bicentennial, the wrapping was beautiful, but the box was empty. And, the present was delivered after the party was over and everyone had gone home.

My disappointment with the President's proposal is threefold: First is timing; second is the President's and OMB's mismanagement of our parks and wildlife programs that is reflected in the proposal; and third, the lack of depth and thoroughness to the proposal, for it does not seek to correct the considerable organizational problems in the wildlife refuge program which have been known for some time.

Second, management: I feel that the

President's proposal reflects the shortsightedness and shallowness of this administration's approach to the longstanding problems that have tarnished our park and refuge programs. First, he said we cannot afford to restore our national parks and refuges; and now, he says that restoration of these areas is one of our Nation's top priorities. To me, these inconsistent policies add up to plain mismanagement. The fact is that OMB and its bright economists has disregarded the plight of our parks and wildlife refuges and has consistently set budget authorities far below the needed authorization levels. For the last 4 years, OMB has cut Fish and Wildlife Service requests for refuge funding and personnel. It must be remembered that OMB's actions are the administration's position. Now the President is advocating increased money and personnel. But where has he been over the years while the needs of the park and refuge systems have been obvious and while OMB has been constantly cutting back?

The quickness of the President's switch surprised many of us, including the President's own Secretary of the Interior. During the congressional oversight hearings, it was evident that Secretary Kleppe had great difficulty explaining to Congress the tangled budgetary picture of the proposal: $1.5 billion—some to be appropriated from already authorized funds, some to be new authorization, some to be channeled from other programs. It boggles the mind.

Third, the treatment of the wildlife refuge program: Here I am particularly concerned about the President's proposal. During our Environmental Subcommittee hearings which I held last fall, it was revealed that the system has been crippled by serious shortages of funding and personnel. Over the past 3 years refuge personnel has decreased by approximately 7 percent but during that time the total acreage of the system has increased by 10 percent. The backlog on rehabilitation of facilities now is over $70 billion. While the President's proposed increases in refuge funding and personnel will help to alleviate this intolerable situation, last fall's hearings documented that the problems are not just monetary, they are organizational as well. The President's message, however, makes absolutely no mention of these problems.

For too long the refuge system has been the unwanted stepchild of the Department of the Interior; a conservation program in an agency largely devoted to development. At the Environmental Subcommittee's oversight hearings last year, it was revealed that plans were afoot within the administration to dismantle the refuge system by transferring its units to the States and other Federal agencies. As proof, one witness produced a 1973 Interior Department memo recommending that the Fish and Wildlife Service "deemphasize as rapidly as possible Federal involvement in refuges." In February of last year, former Interior Secretary Morton attempted to transfer three units of the refuge system to the Bueau of Land Management. His actions were foiled only by great public outcry and by the enactment of legislation preventing the transfer of any wildlife refuge without the express consent of Congress. One result of this uproar is a great decline in employee morale which is very counterproductive.

The refuge system is no longer administered as a comprehensive unit, but rather as a variety of scattered programs. Refuge managers interviewed by the General Accounting Office for a study undertaken at the request of the subcommittee, felt entirely unable to communicate refuge needs to officials in regional offices and in Washington. Other refuge employees feel that refuges have virtually no input into the budget process. Consequently, by not addressing these matters, the Bicentennial land heritage program is a slapdash proposal, an incomplete skeleton and no more.

I can assure that unless we address these organizational problems, we will not be getting the full value of the dollars the President wants to spend. Unless we have organic legislation which will set down long-term goals, guidelines, and priorities for operation of the refuge system, we will be simply throwing money at the problem. I intend to make every effort to insure that these problems are faced squarely by both the Congress and by the administration.

If we truly value the natural heritage of our parks and refuges, we must devote to them the time and resources they deserve. A sound, far-reaching program is necessary and is possible. I am very doubtful there is the time this year for Congress to do anything substantive, but in the next Congress we can carefully build a program worthy of our treasured natural wonders.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,

Washington, D.C., September 10, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T–52, concerning the Department of the Army's proposed Letter of Offer to Tunisia for missiles estimated to cost $58.0 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (ISA), Security Assistance.

Attachment.

[Transmittal No. 7T–52]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

a. Prospective Purchaser: Tunisia.

b. Total Estimated Value: $58.0.

c. Description of Articles or Services Offered: [Deleted] guided missile air defense systems, [deleted] guided missiles [deleted] and spare parts.

d. Military Department: Army.

e. Date Report Delivered to Congress: September 10, 1976.

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA

Washington, D.C., September 10, 1976.

In reply refer to: I–9023/76.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T–57, concerning the Department of the Army's proposed Letter of Offer to Kuwait estimated to cost $18.4 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

Attachment.

[Transmittal No. 7T–57]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

a. Prospective Purchaser: Kuwait.

b. Total Estimated Value: $18.4 million.

c. Description of Articles or Services Offered: [Deleted] armored personnel carriers and spare parts.

d. Military Department: Army.

e. Date Report Delivered to Congress: September 10, 1976.

ROTARY CLUB

Mr. TALMADGE. Mr. President, I recently had an opportunity to read a Rotary Club address delivered in Griffin, Ga., by Mr. T. E. Addison, Jr., a prominent Atlanta businessman.

In his forceful speech, Mr. Addison reflects concerns about the U.S. economy and about runaway "big government" that I believe are shared by overwhelming majority of the American people, myself included.

I bring this address to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ROTARY CLUB ADDRESS

(By T. E. Addison, Jr.)

As this is the 200th anniversary year of the founding of our country, I have been reviewing my history and thinking about the conditions which led the early colonists to sever their ties with the mother country. The more I thought about the events which took place 200 years ago, the more apparent it became to me that there exists a striking parallel between what we as citizens face today from government and what the colonists faced from the British Parliament and Monarch in 1776. As every high schooler knows, the root cause of the revolution lay in the fact that the colonists were subject to the dictates of a central government in whose deliberations they had no representation, and which was insensitive to their needs and desires. Frankly I feel like some of the early colonists must have felt, for there weighs heavy on my neck the deadening yoke of an insensitive central government which most assuredly is non-representative of my best interest.

Let's think about our plight for a minute. While we have a de jure representative national government, is it representative in fact? Sure, we have a national legislature whose members are duly elected in accordance with the laws of the land. It spends almost twelve months of each year considering over 25,000 separate items of legislation and passing many which are supposedly in the national interest, but, in reality how much of the legislative product of the Congress of the United States is either representative of the wishes of or in the best interest of those citizens who elected its members? Here are some examples of what we are getting for the $448.6 million we spend annually to keep the Congress in business:

1. Year after year of irresponsible spending at levels so far in excess of revenues that the government has been brought to the verge of bankruptcy and inflation has been kindled and sustained at rates which will eventually destroy our economy and free society unless it is brought under control. A recent study by Ervin A. Schiff, a Washington actuary, estimate the total wealth of the American people at 5.7 trillion dollars. A separate study by George Washington University put the federal government's funded, unfunded and contingent liabilities at $5.684 trillion net.

In other words, the liabilities of the federal government just about equal the total wealth of the American people. On top of the federal obligation there are of course many billions of state and local government obligations. Where would your business be if its balance sheet evidenced a similar condition?

Much of the money which the Congress has spent has been squandered on projects and activities of absolutely no worth. At the present time there exist in the federal government some 1,250 advisory committees, boards, commissions, and councils all created by the Congress and run by over 4,000 federal employees at a cost in excess of $75 million per year. Some 24,000 public and private citizens sit on these boards. Responsible studies have indicated that over 90% of them could be abolished with absolutely no loss of benefit to the country. Do we need a national board for the promotion of rifle practice? A water fowl advisory committee? Two advisory committees on contraceptives? An advisory panel on sunburn treatment? A dance advisory committee? Or a board of tea tasters? Of course we don't, yet they're still in business and Congress has done nothing to get rid of them.

The National Science Foundation, which is a creation of Congress, last year passed out over $50 million of our money in the form of social science research grants. Here are some typical examples of what we're getting for our hard-earned money:

1. $350,000 for a study of trends and tolerance of non-conformity. The principle finding of this particular study was that 48% of the American people believe in the devil.

2. $84,000 to study why people fall in love.

3. $1.2 million for a program to encourage college students to think up inventions for personal profit. One of the inventions resulting was an automated banana peeling machine.

4. $342,000 for a study of pre-marital sex among students at the University of Michigan. The principle conclusion of this effort was that times have changed and there is a hell of a lot of it going on today.

5. $71,000 to compile a history of comic books.

6. $70,000 for studying the sweat of Austraillian aborigines.

And we could go on all day enumerating projects which are just as ridiculous as these. How absurd can we get?

Of course the amount of money spent for projects of this nature, while the total is many millions, represents a small percentage of total government expenditures. However the fact that we are spending money this way is an indication of the quality of the legislative product which we are getting.

The Declaration of Independence in the tenth complaint against King George III states that "he has erected a multitude of new offices and sent hither swarms of officers to harrass our people and eat out their substance." There is a close parallel in this excerpt from the declaration to what is now happening to the American consumers and to American industry at the hands of HEW, OSHA, SDA, EPA, FDC, EEOC and a host of other government agencies and departments. Since the creation of Interstate Commerce Commission in 1887, Congress has set up 82 regulatory agencies of which 14 were legislated into existence in the last 8 years. None of them has been abolished and they now employ over 65,000 people. Their budgets for 1976 totaled $2.767 billion, an increase of 48% in the last two years.

In 1975 they published over 60,000 pages of rules, regulations, standards and notices in the Federal Register. The Congress has in essence created a fourth branch of government, the regulatory bureaucracy, the cost of maintaining the regulatory apparatus is peanuts when compared to the total cost to American industry, workers, and consumers of complying and attempting to comply with the various regulatory programs put into existence by the Congress. The president of General Motors has stated that this cost to GM was $1.3 billion in 1974 exclusive of the cost of hardware on products or taxes. The effort required 25,300 GM employees working full time. The cost to Goodyear Tire and Rubber of Federal regulation is projected by its president at $38 million in 1976. And the cost to a small business such as mine is frightening. What a colossal waste of the wealth of the American people!

At the present time, the Federal Government is spending money at a rate in excess of 1 billion dollars per day as a result of legislation enacted by the Congress. While the size of this figure is alarming, the fact which should be of most concern to each of us is the changing nature of the spending, it has been increasing by leaps and bounds, not because of military requirements, not because of Government is building cities, constructing dams, financing valid scientific research and development. The fact is that spending is mushrooming at a rapidly escalating rate because of government commitments to give cash to people who are not producing after extracting it from people who are producing. We are right in the middle of what many have labeled an explosion in transfer payments. Just as recently as 1965 total government payments to individuals came to only $37.1 billion.

Last month Federal, State, and local governments were disbursing cash to individuals at an annual rate of $155.9 billion in exchange for no goods or services. They include social security pensions, government pensions of all kinds, unemployment benefits, black lung money, subsidies of all types, food stamps, welfare payments, school lunches and health insurance benefits to name a few. While the payments are being defended on grounds of compassion they are having a serious effect on the economy by steadily breaking down the relationship between reward and effort. Transfer payments at an annual rate $155.9 billion are 20.4% of total wages and salaries which were at an annual rate of $765.4 billion. From 1970 to 1975 transfer payments increased 67.6% while expenditures for defense increased only 4.5%. The figures are even worse today. Now if this trend is to continue, where are the savings to come from to pay for capital investment in plant and equipment to provide the 15 million new jobs estimated to be needed by 1985?

If what the legislative branch has wrought upon the country is representative of the wishes of the local constituencies who sent its members to Washington, then so-be-it. But you know and I know that this is simply not the case. Unfortunately today we do not have a Government which is representative of the individual but is representative of groups of individuals bound together by common interests with specific legislative goals in narrow areas of interest. These constituencies are national in scope and transcend congressional district and State lines. Prominent among the most powerful national constituencies are the environmentalist groups, the consumerists, organized labor, veterans, welfare recipients, farmers, educators, feminists, blacks and other ethnic minorities—just to name a few. Pressures which these groups can and do bring to bear on Congress in pursuit of their individual goals are tremendous and often result in votes by your Congressman and Senators which are patently detrimental to the general welfare of the Nation and in no way representative of your will.

Here's one good example—2 weeks ago the President vetoed a bill providing for $3.8 billion in hand outs to local governments for the purpose of creating jobs. This bill is highly inflationary and will result in more of the same old situation which all of us have faced—that of being unable to get people to work because they can make more than we can pay living off of Government programs. We have two supposedly fiscally responsible Senators, but both Senators Talmadge and Nunn voted to override the veto. Both of them voted to override the President's veto earlier this year of the so-called "school lunch and child nutrition bill"—another totally irresponsible and highly inflationary give-away of 3.2 billions of our money—why? Because neither of them had the guts to put political considerations aside and vote in the national interest. They had to appease the national constituencies who supported the bills.

It is becoming increasingly apparent that representative government as it was meant to be by our Founding Fathers no longer exists in America, and it can never exist with the Congress as it is presently constituted and unfortunately as it will continue to be constituted under our electoral system. Redress of our ills through the ballot box is a naive and unrealistic hope, yet somehow, someway a responsible, national legislature whose legislative product demonstrates a commitment to the general welfare must be obtained if the institutions of a free people, which have been bought and paid for by the blood of countless martyrs, are to be preserved. Two hundred years have passed since our national birth and the time is upon us for another revolution of the people to shake the yoke of tyranny imposed upon us by those who would spend this Nation into bankruptcy and who would create by legislative fiat an egalitarian society in which all are given not equality of opportunity but equality of reward regardless of contribution—a condition which will result in a government totally authoritarian in nature and permitting no individual liberties or personal freedoms.

Armed insurrection to eject the Congress from the Capitol Building, while possessing an appealing quality of directiveness and resoluteness, if of course an impractical solution in 1976. However, we have an opportunity to effect a bloodless revolution. The method is provided in the constitutional process which gives us the power to revolutionize the thinking of every Member of Congress regardless of party affiliation or philosophical bent by amending the Constitution to mandate spending at levels which will not exceed revenues except in times of declared war or in the time of a well-defined national emergency. A constitutional amendment prohibiting deficit spending is a simple, straightforward, readily understood proposal of undeniable and universal desirability, so much so in fact, that one finds it difficult to grasp its potential for truly revolutionary consequence. Congress is an elected political body and purely political considerations would preclude its laying on the voters the taxes necessary to pay for all the idiotic programs and activities already underway in the name of social progress, let alone those of which are being placed in the legislative hopper with frightening frequency. The additional taxes required to fully fund $370 billion in spending are of course a political impossibility. Imagine the 180° switch that would take place in the thinking of Senator Humphrey, Representative Hawkins and other disciples of congressional munificence! A constitutional amendment prohibiting deficit spending would give every Member of Congress the out required to preserve his political life, and at the same time act responsibly and in the national interest. Instant rationality would prevail on the Potomac.

A number of bills have been introduced in the Congress to add a fiscal responsibility amendment to the Constitution. Probably the one with which you are already acquainted is Senator Talmadge's S.J. Res. 93 which at the present time is buried in the Senate Judiciary Committee. Similar bills have been introduced in the House and are also languishing in committee. Senator Talmadge told me that he sees no hope for any legislation of this type getting through the Congress as it is constituted today. The people who are in control simply do not want their power over the public purse limited in any way. However, we do have an alternative. Article V of the Constitution provides that the Congress must call a constitutional convention on application by two-thirds of the State legislatures for proposing amendments. Some 26 States, including Georgia, have already issued the call. I think it is up to us to do everything within our powers as individuals to provide the impetus to this movement. Responsible observers feel that if it appears that a convention will be called, the Congress will act first out of fear that a convention would result in a re-write of the total document.

200 years have passed since the Revolution gave birth to the United States and today the call is just as loud and clear as it was in 1776 to those who love this country to assume the responsibilities of patriotism and become soldiers in a revolution, the successful conclusion of which is as vital to the future of America in 1976 as was the Revolution in 1776. Had the colonial revolutionists not prevailed over the British, our country would not have been born and unless the patriots of 1976 can revolutionize the thinking of every Member of Congress, our Republic will never celebrate the tri-centennial of its birth.

The task is ours!

REPUBLICAN ADMINISTRATION LOSES BOTH THE INFLATION AND THE UNEMPLOYMENT FIGHT

Mr. HUMPHREY. Mr. President, President Ford, and President Nixon before him, posed the economic dilemma to the country in largely this form: Do you want more inflation or more unemployment? Now for years, I have been saying two things:

First. That is the wrong question, because if we have faith in capitalism and democracy, we must be able to conquer both.

Second. As a country, we have a right to ask of this administration, back to 1968, What benefits has it achieved by abstaining from a battle on unemployment? Have we been victorious against inflation as the administration has promised?

I submit that any meaningful analysis would show that virtually no progress has been made on the earning power front, and I thank Richard Strout for his perceptive and entertaining summary of the situation in his TRB column in the September 4, 1976 edition of New Republic. He points out what obscure Government statistics reveal to those who care enough to read them. And that is that from 1969 until today, the average increase in the average family's earnings has been $4.18 a year. That compares with $400 a year from 1961 through 1968 inclusive.

Mr. President, I ask unanimous consent that the TRB column be printed in the RECORD.

There being no objection, the Column was ordered to be printed in the RECORD, as follows:

IS EVERYTHING COPACETIC?

There's a pearl button on my rolltop desk that used to summon someone 50 years ago when Miss Rigby pushed it, but it brings nobody now except after hours when I press it to talk to the Jones family. The Jones family is the government's statistical abstraction, the average American family, with Papa Jones and Mama Jones and two "dependents" (Esmeralda, 10, and Agamemnon, 4).

So I "mashed" the button (as Lyndon used to say) and there they were, before you could say "microeconomics," and I said severely, "Jerry and Jimmy are going to engage in face-to-face television debate if the FCC and Congress and the Elections Commission and the FBI let them, and it will be the sensation of 1976. I want to bone up on a few vital statistics. So Mr. Jones—is it all right if I call you John?—will you please define yourself?"

"I am the breadwinner of a sociological unit known as the average American worker, in nonsupervisory, private, nonfarm, employment," answered Mr. Jones in a sing-song impersonal voice.

"Fine, fine," I said, trying to break the ice, "and how do you feel today?"

"Average. I always feel average. Mrs. Jones, too—average."

"How much do you earn a week?"

"In July 1976, my gross weekly earnings were $177.51. My 'take-home pay' (that's after they deduct federal income taxes, sir, was $157.42."

"Well, John—maybe I had better call you Mister Jones, after all—that sounds like a lot of money: that's about $8185 gross annually! Your father wouldn't have believed you were making that!"

"A lot of money with hamburger 89 cents?" protested Mrs. Jones.

"Exactly," I said. "President Ford in his acceptance speech said that the economy is hunky-dory, we are in the full surge of sound recovery to steady prosperity, and I wondered how this affected the average American working family. Your take-home pay, after federal taxes, is now about $157. What's that in 1967 dollars?"

"In constant 1967 dollars, sir, $92."

"What was your weekly take-home pay in 1966?"

"It was $91.32 in constant 1967 dollars, sir."

"Why, you don't mean to say, you don't mean to say that in 10 years you, as the representative of the average American working family! . . ."

("Nonsupervisory in private, nonfarm employment," interjected Jones.)

". . . you have managed to raise your weekly purchasing power by less than a dollar? It's astonishing! Why the financial pages tell how well we are all doing, how the economy is improving, how people are buying cars and how conservatives are going to vote Republican; and then you tell me you're hardly any better off. Surely it wasn't like this under the Democrats? Didn't spendable weekly earnings increase faster?"

"In the years 1961–68 inclusive, the average increase was 10 percent; eight dollars a week; around $400 a year."

"Well, that's Kennedy-Johnson. Now how about under Nixon-Ford?"

"It's averaged eight cents a week."

"Great Scot! Mr. Jones, can I be personal? How are you going to vote this November as a representative of the average American worker?"

I didn't get an answer. There was an alarming crash. Agamemnon was loose. Damn the boy, he had knocked over the water-cooler. When I looked up the Joneses were gone.

If I were Jimmy Carter boning up for a debate right now I would consider the Joneses, and be reading *The Promise of Greatness: The Social Programs of the Last Decade and Their Major Achievements* ($15; Harvard). It is by Sar A. Levitan and Robert Taggart. It is a cool, calm discussion of where we are and how we got there under Lyndon Johnson's "Great Society." Without palliating mistakes or execusing overblown rhetoric, it gives an almost point-by-point reply to a lot that was said at the Republican Kansas City convention.

"The Great Society did not eliminate poverty, but the number of poor was reduced and their deprivation significantly alleviated . . . The Great Society did not equalize the status of blacks and other minorities, but substantial gains were made which have not been completely eroded. Significant redistribution of income was not achieved or sought, but the disadvantaged and disenfranchised were helped.

"The Great Society did not have any magic formula for prosperity but its politics contributed to the longest period of sustained growth in . . . history."

The Jones family, as a matter of fact, might appeal to *The Promise of Greatness.*

Why has the economic advance of the average worker been so reduced? Because, say the authors, under Nixon and Ford "the policy response was to cool the economy by combatting inflation with joblessness. The result has been the highest unemployment since the Great Depression and persisting inflation."

Maybe yes; maybe no. Sar Levitan, professor of economics at George Washington University, and Robert Taggart, executive director of the National Manpower Policy Task Force, agree that Johnson made overblown promises and should have boosted taxes to check Vietnam inflation.

But along came Nixon: "The Nixon game plan was to let the recession run its course and clamp down on spending. But as the 1972 elections approached, a choice was made to spur the economy. Excessive stimulation and the decontrol of wages and prices led to inflation. The international oil and food crises then continued to push up prices. . . ."

The Great Society contributed to the 1969–71 slump—"but subsequent policies have missed the mark far more."

There is frequent reference today to the supposed "conservative mood" of America, and I caught two mentions of it the other day on the editorial page of The Wall Street Journal which felt abused that some liberal move was being made. I don't think the mood is conservative. It is discontented, cynical, frustrated. There is no more "silent majority" today, I think, than in 1972, or in Goldwater's day. Is social welfare bankrupting the nation? The authors say that as a proportion of GNP it has risen from 11.6 percent in fiscal 1965 to 17.7 percent in 1974. The GOP calls this a "welfare state." Jimmy Carter in reply has the opportunity to make 1976 one of the clearest choices on big issues in presidential history.

COALITION WARFARE: THE NEED TO PLAN

Mr. CULVER. Mr. President, if NATO is to be militarily viable and effective, for both deterrence and defense, its forces must have a well-conceived common doctrine and weapons which are standardized or at least interoperable among alliance members.

The U.S. Congress took a giant step forward this year by removing the legal roadblocks to standardization and by recommending a strategy for success, including joint planning and doctrine, licensing and coproduction of weapons, and collaboration among European nations.

The importance of this effort has been demonstrated most recently by Robert W. Komer, a RAND consultant on NATO and former Ambassador to Turkey. Writing in the new issue of Army magazine, Mr. Komer documents the lack of adequate attention given so far to planning and procurement for coalition warfare—where success depends on how well we fight together, and not necessarily on how strong we are alone.

Mr. President, so that all Senators may read Mr. Komer's cogent analysis of this problem, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COALITION WARFARE

[From Army magazine, Sept. 1967]

(By Robert W. Komer)

It is a tribute to the U.S. Army's resilience as an institution that it has bounced back so vigorously from the trauma of the Vietnam war. All in all, it seems surprisingly lean and healthy so soon after withdrawing from Vietnam. It has successfully made the tough transition from a draftee to a volunteer force. Spurred by a dynamic new Training and Doctrine Command, it has in process major changes in doctrine, tactics, training, equipment and even force structure.

It has pruned headquarters, facilities and the traditionally large expeditionary force supporting "tail" which characterizes an army structured to project itself overseas, to create more combat units—notably three additional divisions—out of a fixed personnel ceiling. And it has deployed two more brigades to Europe by cutting down tail within a fixed European ceiling, too. Many new items of sophisticated equipment—some of it impressive by any standards—are being developed and deployed. For the first time in its history, the Army even seems to have designed a superior tank, perhaps even better than the best the Germans can offer. Although the Army often seems to be its own worst publicity agent, these many evolutionary changes over the last few years add up to a near-revolutionary improvement.

This trend has been powerffully reinforced by the Army's wise decision, after disengaging from Southeast Asia, to reemphasize as its logical primary mission NATO deterrence and defense. This has always been the contingency which largely dictates the Army's overall size, configuration, doctrine, tactics and equipment. It is the only justification for a 16-division active Army and a 24-division total force. No other plausible contingencies call for a force of nearly this size. Indeed, the NATO scenario is the sizing case for most of our general-purpose forces, although this article will focus mostly on the Army.

Yet, there remains one enormous gap in this process of optimizing our forces for the NATO mission: we still are not taking adequately into account the special requirements of coalition war. These entail far more than combined command arrangements and adequate provision for liaison—important as these are. They mean more than overcoming the language barrier, too. They entail harmonization of doctrine, tactics and procedures, compatibility of forces and logistics, interoperability, if not standardization, of equipment, munitions and communications, even training and operating together—in short, all the interfaces so indispensable to fighting effectively alongside allies. Military history is replete with examples of the high costs of failing to take into account these obvious factors. One classic (and quite relevant) case is the Axis victory of 1940, when French-British-Dutch-Belgian failure to operate effectively together contributed to their disastrous defeat.

As noted in the Army's splendid new version of its basic doctrine, FM 100–5, the United States, too, has fought as part of a coalition in everyone of its major 20th-century wars. In World War I we were the late-arriving junior associate of the Entente and largely used their tactics and equipment. In World War II we became a senior partner, but we fought again in Europe as part of a coalition which we largely equipped from our own enormous war production. Korea and Vietnam were also coalition wars, if of a rather different type. Although we were the dominant partner, we also equipped and trained large Republic of Korea (ROK) and Republic of Vietnam (RVN) forces which during most of these conflicts were numerically larger and suffered more casualties than our own troops. Other substantial allied contingents also served.

Surprisingly, however, despite all this wartime experience, we never spent much effort during peacetime preparing explicity for coalition warfare again next time around. Instead, our services retreated back into their institutional shells and structured themselves as though we and the enemy would be the only ones on the battlefield. No coalition warfare doctrine ever emerged, and in each succeeding conflict, we developed an ad hoc response after war started. This worked out all right in World Wars I and II in Europe, because in both cases we had plenty of time for gradual buildup and sorting out the problems while our allies held the ring. In Korea the reverse was true. We had to hold the ring while we built up the ROK forces in a notably successful ad hoc response. Perhaps this conditioned us to "ad hoc" again an RVN buildup in Vietnam. It would be instructive to analyze the reasons why this worked so well with the ROK and so poorly in Vietnam.

But let us focus on today and tomorrow, because coalition war is even more likely to be the dominant mode of employment of our general-purpose forces—and of even more critical importance. For our strategy of forward defense and overseas force projection is highly dependent on working together with allies in the key NATO scenario (indeed, almost any major contingency for which we are currently structuring our forces).

This time, as FM 100–5 points out, we can no longer afford to be "historically unprepared to fight the first battle." Instead we must win it while fighting outnumbered. There will be no time to "ad hoc" it again after war starts. And when we stress building forces to win the first battle while fighting outnumbered, let us remember that this means NATO, not only the United States. It matters little if our V and VII Corps stand like the Rock of the Marne in the Fulda and Meiningen gaps if the rest of NATO's crucial central region crumbles around us.

But there remains a profound disconnect between this strategy and doctrine and our posture to carry it out, one so serious as to call into question whether we and our allies can successfully carry out the coalition strategy we have designed. A brief look at how we still tend to neglect preparing for coalition war will show what I mean. I will use the U.S. Army as my primary example, although the other services are in the same boat. And our allies are just as bad—outside of the alliance's military leadership, none of us think NATO; we all think only in terms of our own national force contributions.

Let us start with what we teach at our service schools, since here is where the thinking of our professionals is formed. I am stunned that even our war colleges teach so little about coalition war (or about war itself for that matter). Their curricula mostly ignore it. When I inquired whether the Army's Command and General Staff College at Fort Leavenworth, Kan., teaches coalition operations at the tactical level, I found they looked only briefly at allied unit organization and grade insignia. Or take our professional literature—hardly any attention to this subject here. Indeed, it is surprising how little attention there is to this subject in allied military literature as a whole.

While we plan to support allies in wartime, are our doctrines, tactics and procedures harmonized or at least compatible, so that we can cross-reinforce each other effectively? Do the tactics we teach at branch schools and at Leavenworth take into account that the allied troops alongside whom we are likely to fight are often structured and equipped differently, and use procedures quite different from ours? Hence, can our artillery readily support adjacent allied units and they us? Can we even read their map symbols and they ours? Are our logistics systems compatible, so that we can support each other logistically if need be? The answer to all these is no.

What about interoperability, if not standardization of equipment, so essential to coalition operations? Gardiner Tucker, NATO's former assistant secretary general for defense production, remarked that the trend is, instead, toward less standardization. Nowhere have the needs of coalition warfare been more sedulously neglected. Despite a few bright spots, the proliferation of widely varying systems among the NATO allies is appalling. This results from largely duplicative and overlapping research and development (R&D) programs, and failure to reap the production economies of scale. Of course, the maintenance and resupply complications are horrendous, too.

As for the U.S. Army, the tendency is to design and produce equipment as if the Army were the only force in NATO and we'd be fighting the Russians alone. Even in those few cases where we do seek common equipment the Army has often tripped over its own overzealous performance demands. We cannot expect that equipment designed for allied use as well necessarily mets all our own exaggerated criteria. Yet we usually do so expect.

Lack of adequate interoperability in tactical communications is particularly unfortunate, since it is indispensable to effective conduct of coalition war. We can't even talk with each other over most of the tactical communications now in use, and worse yet, those being developed by ourselves and others. For example, we have been working for years on TRI–TAC, a tri-service family of common equipment. But is it more important that our Army be able to communicate with our Navy than with allied ground forces like the German or British? The House Appropriations Committee says that in INTACS (Integrated Tactical Communications System) the Army has come up with its first comprehensive communications plan which looks ten years ahead. But does it take adequately into acocunt the need to communicate with allies? Sure, we can exchange liaison teams or add expensive black-box interfaces to our equipment. But these are cumulatively very expensive solutions to problems we should have thought through in the first place.

Underlying the renewed need for an ideal collective defense posture, in contrast to independent and often incompatible national ones, is a simple fact: growing military interdependence among allies. To put it baldly: the Japanese alone cannot defend Japan; the European allies alone cannot defend Europe. A U.S. contribution is indispensable, and we plan on it. But we must fashion our forces more sensibly for it, too, for the United States is also dependent on its allies. Aside from their real estate, we expect to use their port facilities, bases, depots, transport systems, communications and many other resources. So interdependence is a fact of life for U.S. as well as allied planners—whether we take it fully into account or not.

While the NATO scenario is our sizing case, we are not yet optimizing our general-purpose forces posture for this classic coalition need. Paradoxically, it is the United States that has been at the same time the strongest voice in NATO and the worst offender in terms of "go it alone." We were cast in the ambivalent role of leading NATO, yet insisting on full freedom of action in tailoring our own forces. Admittedly, the United States faces more of a dilemma than any other ally in terms of meeting NATO missions versus other contingencies. As a superpower it has a global role. And non-NATO contingencies seem far more likely to occur than a major Warsaw Pact-NATO clash. So the United States must maintain true general-purpose forces, not merely tailor them all for the NATO scenario.

Even our forces in Europe (not to mention our other NATO-earmarked forces) are more self-contained, the grossly overdone argument being that the United States must structure on an expeditionary force basis to project its military power overseas and must be able to use Europe-oriented forces for non-NATO contingencies. And in the area of defense production the United States wants to have its cake and eat it, too. It follows a policy of military self-sufficiency, while wanting NATO to standardize mostly on U.S. equipment.

Can we afford such expensive practices any longer in the face of a growing threat and continued fiscal constraints? Tailoring a large fraction of the U.S. force structure more explicitly for the NATO coalition mission could free substantial resources for trade-off, materially improve the effectiveness of our NATO contribution, and, last but not least, actually improve Army capabilities for responding to other contingencies as well. I have in mind such measures as faster reinforcement, a more relevant reserve structure, and the economies and efficiencies inherent in greater reliance on host-nation support and more compatible or common R&D and defense production.

For example, we are coming around belatedly to realize that we can no longer afford the luxury of gradual mobilization while our allies hold the ring, as was the case in World Wars I and II. If NATO's biggest worry is a short-warning blitzkreig breakthrough of its thin covering forces, then the quickest possible U.S. reinforcement is of even higher priority than more massive reinforcement later on. Lifting two or three U.S. divisions to Europe within a week of M-day might make all the difference. It would give NATO's central region its only real reserve to counter threatened breakthrough. And it is quite feasible to get at least the heavy divisions of Reforger and 2+10 (two divisions plus ten supporting units) to Europe in a week or so, particularly since all but their individual equipment will be pre-positioned in Europe when POMCUS (pre-positioning of materiel configured to unit sets) stocks are rebuilt. The remaining need is enhanced readiness, such as allowing higher unit strengths. This can be a straight trade-off between readiness and something less essential.

Quick reinforcement also means that the traditional U.S. Army practice of taking with an expeditionary force an enormous tail for self-sufficient operations is no longer feasible. Instead, we simply have to rely more on use of available host-nation resources if we are to be able to deploy sufficient combat forces quickly enough to cope with a lightning thrust by the Warsaw Pact. Fortunately, today's Western Europe is rich in many of the assets we formerly had to bring from continental United States (CONUS).

Maximum flexibility of force employment is also critical to halting blitzkrieg. As Gen. Alexander Haig Jr., supreme allied commander, Europe, is stressing, he must be able to quickly concentrate ground forces—of whatever nationality—at the crucial points if he is to prevent breakthroughs. But achieving this flexibility will be critically dependent on compatibility of forces, doctrine, tactics and procedures, not to mention interoperability, if not standardization, of equipment. I need hardly stress the importance of these factors to professional readers, especially for operating in other national sectors—as U.S. forces will inevitably have to do.

In short, there is an overwhelming case as to why we and our allies must start preparing better for coalition war. Failure to do so was not so crucial a flaw in earlier, more slow-moving conflicts, or when U.S. nuclear superiority provided NATO's real deterrent. But in today's fast-moving world, when Soviet blitzkrieg capabilities are growing, can we any longer neglect preparation in peacetime?

There are strong budgetary reasons, too. As any officer who ever served on a Pentagon staff well knows, affordability is what drives the decision process. At a time of sharp fiscal constraints and competing priorities, can national defense managers any longer afford the costly waste and duplication inherent in failing to structure our forces and procedure for coalition war? And how long will our Congress stand for it? Already Senators Sam Nunn (D-Ga.), John C. Culver (D-Iowa), Thomas J. McIntyre (D-N.H.) and Robert Taft Jr. (R-Ohio) are probing knowledgeably on this issue. But Congress in turn must recognize that funding for combined training and exercises, enhanced readiness and adequate lift is indispensable to a viable U.S. posture.

Moreover, many increasingly sophisticated high technology systems, which can also serve many allies simultaneously, are becoming so expensive that we can afford to fund them only multinationally. AWACS (Airborne Warning and Control System) is a case in point. A lesson here is that the United States only belatedly tried to get its NATO allies to help fund this highly promising system after it had been developed. They are finding great difficulty in fitting it into their budgets. Will the U.S. Army learn this timely lesson with respect to its enormously costly SAM–D missile system? Just as far more of the earlier generation Nike and Hawk missile systems are in the hands of allies and client states than in the U.S. inventory, friendly requirements for SAM–D, too, will exceed our own. And only through foresighted multilateral planning and programming well in advance are any of us likely to be able to fund them at affordable cost. Here is yet another aspect of preparing for coalition war.

Let me hasten to add that we Americans are hardly the only ones at fault. Our European allies, with infinitely more experience at coalition war than we, are also culpable. They, too, neglect peacetime preparation for coalition war. They expect to "*ad hoc*" it in wartime much as we do—even the Germans, who study war more seriously than most and have the most to lose soonest if NATO's defense crumbles. The worst allied offender, of course, is France, for reasons which are no less edifying for being well known. Regrettably, the only ones who seem to be systematically preparing for coalition operations are the Soviets. They not only dominate the Warsaw Pact command structure, but insist that all their allies march to their tune, use Soviet equipment and adopt common doctrine and tactics.

Nor is coalition war exclusively an Army problem. It affects all services. But in the determining NATO case, the U.S. air and naval forces form a far larger part of the total allied force, and tend to dominate technologically as well. Thus, it is more natural for our allies to follow our air and naval lead. However, our ground forces are a much smaller part of the NATO total. Although our Army is the largest in NATO, that part which is either already in Europe or can get there in time to fight the crucial early battle is relatively small. Thus, our Army should logically take the lead in thinking through coalition war. Yet, the U.S. Air Force, under the present Europe-oriented leadership, has shown far more initiative, especially in getting NATO to set up a new unified central region air command and seeking to weld all its air assets into a single flexible instrument.

While the NATO commands and NATO's own bureaucracy have naturally focused on the special requirements of an effective coalition posture, their halting efforts over the last 25 years have been frustrated by the fact that NATO is less a supranational institution than a classic alliance of sovereign states, with 14 different, largely incompatible, national forces. The NATO commanders who are expected to command this polyglot force in wartime have no direct power over it in peacetime. They can cajole and persuade—and their record of success to date is hardly reassuring. The periodic force goals they propose are in fact mostly the sum of national plans, and even these are often altered later by the member nations.

Hence, NATO cannot move any faster than the nations which comprise it. Moreover, it is remarkable how many allied officers who try hard to solve these problems when serving on NATO staffs seem to forget about them so promptly when they return to national roles. We Americans are no exception.

I do not want to overstate the problem. Notwithstanding their sad previous record, both NATO itself and most national commands are belatedly starting to come to grips with it, driven by the escalating costs of modern forces and the evolving threat. The 1975 NATO ministerial guidance for force planning calls for much heavier emphasis on alliance cooperation. Momentum is building up for greater stress on flexibility, rationalization, interoperability and standardization—more in the last few years than in the previous few decades. Our Army it self is looking much more seriously at utilization of host-nation resources, both to save money and manpower in peacetime and to meet urgent wartime requirements without having to bring so huge an expeditionary force tail from CONUS. And for the first time the new FM 100-5 includes a whole chapter on NATO (which in effect stresses the same need as does this article). But so far all this is only a promising beginning.

Nor do I wish to underestimate the difficulty of reaching practical solutions. The problems involved are enormously complex. Whatever the clear-cut benefits of defense cooperation, national particularism will die hard. Bureaucratic inertia is another potent obstacle. At a conservative estimate, it could take 20 years to create an ideal coalition structure from the present mess. But it will not be achieved at all unless all the problems outlined herein are addressed seriously.

This will not happen—it never has in NATO—unless the United States takes the lead. Since the U.S. Army has the most to gain and most to lose among our services, it should point the way by analyzing the lessons of the past, developing a coherent doctrine for coalition warfare, and then pressing for the decisions needed to carry it into effect. Unless the Army does so, it will be omitting a vital element from its promising post-Vietnam recovery.

Because our Army is being sized and shaped primarily for what FM 100-5 rightly calls the most demanding scenario, it must be able to demonstrate convincingly that Western Europe can be defended against a growing threat. To do so credibly within likely constraints, we and our allies much better prepare to fight together effectively. Nor should it be forgotten that organizing for coalition war is essential to most non-European contingencies, too. In sum, it is central to the Army's own future—and potentially the nation's future as well.

A DUTY AND PRIVILEGE

Mr. HATHAWAY. Mr. President, the Labor Record of Maine published in its September edition an editorial entitled: "A Duty and Privilege," which is most timely. Over the past several elections we have seen voting percentages continue to drop. The Labor Record takes note of this drop, and has developed a new name for this powerful "third party."

I share this comment with colleagues and ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Labor Record, Sept. 1976]

A Duty and Privilege

The only thing necessary for the triumph of evil is for good men to do nothing.—Edmund Burke

If you were asked what the largest and most powerful political party in the United States is, what would your answer be? Republican? Democratic? If you answered either way, you're wrong! It might be a further surprise for you to learn that a whopping 39 plus percent of Americans belong to a "third" party. As a matter of fact, you might be one of that party's members!

The name of the "third" party is the Do Nothings. They are the ones that stay away from the polls because they don't have the time, the weather is bad, or they know their vote isn't going to make any difference.

Members of the Do Nothing Party can't be bothered to really inform themselves on issues; they aren't going to get involved in national, state or local political scenes because they're too busy, or politics are crooked, or they're not good at that sort of thing, or one person can't do anything, or politics isn't their thing, etc. etc.

You probably know a lot of these party members. They complain that crime and immorality are rampant, taxes are too high, country is going to the dogs, and on and on. Then along comes an election, and with very sharp mental alertness and a real pioneer spirit of indifference, they do nothing.

On the other hand, there are some dedicated people that do spend long hours ringing doorbells, registering voters, manning the polls, addressing envelopes, etc. Why do these people do it? What makes them different from the "third" party members?

If you were to ask any ten of these workers "why", you'd receive ten reasons, but boiled down, you'd find out that they believe they really have a duty and a privilege. And they recognize their duty and value the privilege to participate freely in the government process—a privilege denied the peoples of many countries around the globe.

BUTLER HIGH SCHOOL MARINE CORPS JUNIOR ROTC UNIT

Mr. TALMADGE. Mr. President, I am very pleased to inform the Senate that the Butler High School Marine Corps Junior ROTC Unit, of Augusta, Ga., won the 1976 championship as the finest Marine ROTC Unit in the United States.

Competition is based on inspections, community activities, physical fitness, marksmanship, academics and overall unit performance. Butler High School opened in 1970, and it is the only school in the Nation to rank in the top three Marine ROTC Units every year.

Lt. Col. Roy B. Whitlock is Senior Marine Instructor at Butler High School, and I extend to him and all the students in the unit my sincere congratulations.

EMERGENCY JOBS BILL WILL BOOST THE RECOVERY

Mr. HUMPHREY. Mr. President, we are at a crucial juncture in the recovery from the 1974-75 recession. After a period of rapid economic growth in the fourth quarter of 1975 and the first quarter of 1976, real GNP grew at only a 4.3-percent rate in the second quarter. Preliminary data now available on the third quarter suggests that this sluggish pace of recovery may continue.

Because of the sharp slowdown in production and a continued increase in the labor force, the unemployment rate has risen steadily since May of this year. After rising to a level of 8.9 percent in 1975, the unemployment rate began coming down as congressionally mandated economic stimulus spurred growth in production and jobs. The unemployment rate had dropped to 7.3 percent by May. But since then it has continued to rise, reaching a level of 7.9 percent in August, the latest month for which figures are available.

Mr. President, it is for this reason, among others, that I am so pleased with the speedy Senate approval of the emergency public works appropriations bill. We cannot allow this devastating increase in unemployment to continue. Of course, we should have had the added boost from public works and countercyclical grants much earlier in the recovery, but the President twice vetoed the authorization for this vital bill. I urge the President not to delay the start of this program any further and to sign this appropriation with all deliberate speed.

Now, some will claim that the recovery is well underway and that we no longer need this legislation. Nothing could be further from the truth. I mentioned earlier the slowdown in growth and the rise in unemployment. Let me also point out that construction has been virtually flat for the last 6 months. And when measured in real terms, that is, allowing for inflation, construction spending is actually declining. That is why title I of this bill, which provides for $2 billion in grants to be distributed by the Economic Development Administration, will assist the weakest link in the economy right now. Furthermore, the bill provides that funds will be distributed on a priority basis, based on the severity of unemployment in an area. Those areas that are recovering at an adequate pace will receive only a minimum amount. But those where employment is lagging will receive additional funds to spur growth.

Title II provides countercyclical revenue sharing to States and local governments. Mr. President, I am proud to have been one of the original sponsors of this bill. In fact, as chairman of the Joint Economic Committee, I can say that we have recommended this approach for the last 5 years. As you all know, the economic recovery is not occurring at the same pace. Many States have unemployment rates in excess of 9 percent. And in some central cities, unemployment exceeds 20 percent. When the national economy develops a cold these cities get double pneumonia. When the economy recovers, these cities are left behind. That is why this bill is needed and why I am so pleased that it has passed.

Many local governments are still operating with deficits or have been forced to cut back on vital expenditures and/or raise taxes. The Federal Government hires public service employees and the States and localities are forced to lay them off. Government is giving with one hand and taking away with the other. Our economic recovery is simply too fragile to survive these inconsistencies.

BENEFITS TO MINNESOTA UNDER THIS BILL

Although exact allocations have not yet been made by the Department of Commerce, I have preliminary estimates of the funds that would be allocated to the State of Minnesota when this bill passes. Under title I, which will fund construction projects, Minnesota will receive at least $10 million, and possibly more, which will be distributed by the Secretary of Commerce.

Under title II, countercyclical revenue sharing, Minnesota, according to preliminary estimates made by the Government Operations Committee, will receive more than $15 million. Slightly over $5 million will go to the State government to relieve budget pressures. The rest, more than $10 million, will be allocated in the following way:

Anoka county	$219,300
Dakota county	93,900
Hennepin county	866,600
Bloomington	17,000
Minneapolis	1,064,200
Ramsey county	427,100
St. Paul	686,500
St. Louis county	741,900
Duluth	480,000
Stearns county	160,700
Washington county	99,800
Balance of State Communities of less than 50,000 population	5,161,200

Mr. President, this legislation will be good for Minnesota and good for the country. It will provide a needed boost at a time when the recovery is lagging. I urge the President to sign this important measure as quickly as possible.

TRIBUTE TO EATON CORPORATION

Mr. DOMENICI. Mr. President, I have been fortunate to work with the Italian Emergency Relief Committee, an organization formed to provide a framework for contributions from concerned Americans to the victims of earthquakes this past spring in Italy. My work on this committee reaffirms my belief in the innate generosity and compassion of Americans. Recognizing this as a natural disaster of immense proportions, even though struggling at home with rising inflation and higher prices, our citizens have responded without hesitation to the plight of the Italian people. This moving reaction by Americans symbolizes the spirit of charity that has characterized our Nation's relationship to other nations of the world.

At this time, I would like to bring to your attention the efforts of an American corporation and its employees to assist the Italian earthquake victims. While the image of the American multinational corporation is all too often that of a faceless, globe-gridling industrial giant, the reality is that its success depends upon a productive and harmonius relationship between its people and a local community. This kinship, particularly evident during natural disasters or catastrophies, is most clearly demonstrated by the selfless assistance of the employees and management of Eaton Corp.

Eaton, with headquarters in Cleveland, Ohio, has 10 operations in Italy employing some 5,000 people. Two of these plants are located at the outer fringes of the disaster area; an engine valve manufacturing plant at the tip of the Adriatic at Monfalcone and an appliance controls plant in the Dolomites at Belluno.

Immediately after the earthquake the company placed vehicles, supplies, and volunteer employee assistance at the disposal of disaster relief authorities.

When the full extent of the disaster was learned, employees of the two plants donated 4 hours of their salary to the Central Disaster Fund. In recognition of this charitable act by employees, the company's corporate management immediately authorized an outright contribution of $20,000 to match employee concern.

Followup efforts still continue. Each weekend, crews of volunteer workers from the Eaton plants, utilizing company-supplied vehicles and equipment, travel to the heart of the disaster area to assist in rebuilding homes. In all, more than $30,000 in direct relief aid and countless hours of volunteer manpower have gone into the effort to ease the suffering of disaster victims. Similar assistance by Eaton's Italian subsidiaries and their employees during the 1969 floods in Florence and Venice helped preserve the art heritage of Western civilization.

This immediate and effective response by Eaton and its Italian subsidiaries, and by other multinational companies, is positive evidence of the existence of corporate concern and responsibility. I applaud and salute Eaton Corp. and its employees in their humanitarian efforts. I know my pride and gratitude is shared by all Americans.

SENATOR NUNN ON DETERRENCE IN EUROPE

Mr. CULVER. Mr. President, one of the Senate's most careful students and knowledgeable experts on NATO is the distinguished Senator from Georgia, SAM NUNN.

In a recent address to the New York Militia Association, Senator NUNN raised some tough questions about our current assumptions and policy, and offered some bold suggestions to assure that, if war breaks out, we and our allies can prevail.

So that we may all have the benefit of his thoughtful analysis of this fundamental problem, I ask unanimous consent that the text of Senator NUNN's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

GEARING UP TO DETER COMBAT IN EUROPE: THE LONG AND SHORT OF IT

(By Senator SAM NUNN)

Mr. President, distinguished guests, ladies and gentlemen: It is an honor and a pleasure to address the 92nd Annual Conference of the New York Militia Association.

Few Southerners since the War of Northern Aggression—I believe you still call it the Civil War—have been accorded such gracious hospitality so far north of the Mason-Dixon line. Even the absence of mint juleps and boiled peanuts at this conference is an understandable indiscretion. Come January 20th of next year, we shall exact our revenge for this and other Yankee slights such as Reconstruction and Sherman's march through Georgia. As one of my southern colleagues in the Senate recently observed: "We've finally got an opportunity to get a man in the White House without an accent."

The recent unpleasantness known as the Civil War produced the most brilliant assemblage of military talent in the history of this country. Prominent among these men of genius and near-genius was Nathan Bedford Forrest, who never lost a single engagement and won many which contemporary military wisdom declared unwinnable. Rough-hewn and untutored, Forest is probably best known today for a remark attributed to him when he was asked to identify the key to his success. Victory comes to those, he is reported to have said, "who git thar fustest with the mostest."

While on the surface this statement appears glib, on reflection it represents a colorful summary of two cardinal principles of warfare, failure to adhere to which is an almost certain recipe for defeat. The first is timeliness—the critical capacity to maneuver one's forces rapidly enough so as to be in the right place at the right time. The second is sufficiency of force—it does little good to be at the right place at the right time if one's forces are too weak to survive an engagement.

Bedford Forrest's prescriptions for success are today nowhere in greater jeopardy than in NATO's Central Region, which remains the cockpit of Soviet-American military confrontation. To put it bluntly, after twenty-seven years of collective investment on an unparalleled scale, it is still questionable whether the United States and its European allies could muster sufficient military might in time to defeat a determined conventional Warsaw Pact invasion of Western Europe.

I believe that the survival of Western Europe is vital to the United States. Our political, economic, cultural, and historical ties with Europe are such that events on that Continent have and will continue to affect us in a way that events in no other part of the world can. The United States has fought two major wars in Europe in this century. The cost of these wars in blood and treasure dwarfs the cost of detering a future war on that continent. The defense of Europe is the defense of the United States. The fate of freedom in Europe and in the United States are closely linked.

We can and should insist that our allies pull their own weight in NATO, although in my opinion this is not the case today. But the answer to the ultimate question of whether the United States should be involved in NATO is, in my view, a simple one.

Would the United States be secure if the Soviet Union or any other hostile power dominated Western Europe politically, economically, and militarily? I believe the answer to this question in 1976 is the same as it was in 1917 and 1941.

Thus, the issue, in my view, is not whether the United States should be committed to the defense of Europe but how best to enhance the effectiveness of that defense without the necessity of an immediate resort to nuclear weapons. In my view, it is the conventional defense of Europe that is in question today. As long as the United States maintained a pronounced nuclear superiority over the Soviet Union at both the strategic and tactical levels, we could effectively deter conventional aggression. That superiority, however, has vanished, and with it the notion that NATO need not muster a credible conventional deterrent.

The numerical inferiority of NATO forces in the Central Region; their protracted war bias; and the great difficulties that would be encountered, once hostilities commence, of lifting sufficient U.S. reinforcements across the North Atlantic have, for several years, correctly been cited as the principal weaknesses of NATO's conventional force posture in the Center.

The degree to which Soviet forces and strategy have been deliberately tailored to exploit these weaknesses has, unfortunately, been less well publicized. In the event of conflict, the apparent aim of Soviet strategy is simple—to preclude NATO from bringing to bear in Europe its ultimately greater but typically less ready and more dispersed forces. To accomplish this, the Soviets and their Warsaw Pact allies have prepared to wage a short war of singular violence, preceded by little warning, and characterized by a massive blitzkrieg which seems aimed at overwhelming NATO forces deployed in the Center before they can be augmented from outside the European theatre.

Blitzkrieg is there, in the sheer magnitude of Soviet forces in Eastern Europe.

Blitzkrieg is there, in the concentration of the bulk of those forces—some twenty crack divisions—in East Germany, astride the North German Plain and within comparatively easy reach of critical objectives in NATO Center.

Blitzkrieg is there, in the Soviet Army's extraordinary emphasis on armor and mechanized infantry.

Blitzkrieg is there, in the maintenance of no fewer than seven airborne divisions.

Blitzkrieg is there, is an unsurpassed ability to rapidly negotiate rivers and other water obstacles.

Blitzkrieg is there, in the Soviet Army's high ratio of combat to support.

Blitzkrieg is there, in Warsaw Pact military exercises, which commonly feature preparatory missile and tactical air strikes followed by rapid exploitation by armor and mechanized infantry forces.

Blitzkrieg is there, in rates of sustained advance of 70 miles a day postulated in Soviet theatre warfare doctrine.

In sharp contrast are NATO, and particularly U.S. forces available for combat in the Central Region. NATO's posture continues to rely on a protracted war scenario preceded by warning time of sufficient duration to spare the Alliance the inconvenience of being interrupted during mobilization. This remains NATO's basic posture despite some commendable changes in U.S. and Allied force structure in recent years.

This reliance is manifest:

In the comparatively low combat-to-support ratios within NATO ground forces;

In the chronic shortage of ammunition and other consumables deployed in theatre;

And in the continuing maldeployment of NATO forces in Germany.

Each of these facets of our force structure properly may be viewed as compatible with the requirements of a protracted war conditioned by lower rates of attrition. However, they are not reconcilable with the more stringent demands of a short, sudden war of unprecedented violence—precisely the kind of war which the Soviets apparently intend to wage, if war comes. I believe some tough questions are in order for NATO.

Is it correct to assume that a military force which cannot survive the first twenty or thirty days of conflict can survive the first sixty or ninety days of conflict? What is the point of building into our force structure expensive deterrent against a long war if in the process we deny our forces the capacity to endure a short war? What would be the significance of a time-consuming naval campaign to secure sea lines of communication across the North Atlantic, if in the interim Soviet armor reached Belgium? What value would accrue to the attainment of theatre-wide air superiority on D+30, if the U.S. Army, Europe were crushed by D+15?

The numerous issues implicit in these questions are not new. However, the likelihood of a short as opposed to a long war has increased during the past several years. Indeed, recent developments strongly suggest that a future conflict in Europe between NATO and the Warsaw Pact is likely to be much shorter and more intense than even most of the prominent short-war theorists have envisaged.

What I'm saying in essence is this:

We do possess an adequate strategic nuclear deterrent.

We do possess an adequate tactical nuclear deterrent.

We do possess, in our vast industrial might and manpower resources, an adequate deterrent to protracted conventional war.

What we do not possess, and this is the focus of my remarks tonight, is an adequate deterrent to a short, intense conventional war.

Yet, the prospect of such a war has grown. First, Soviet forces in Eastern Europe have been substantially increased in the last five years, while the level of NATO forces immediately available for combat in the Central Region has remained comparatively static.

Second, the Soviets are moving toward a rough parity with the United States in the principal technologies associated with land forces. In so doing, they are on the road to realizing in full the potential always inherent in the Pact's numerical advantage.

Third, is the advent of precision-guided munitions, which has also enhanced the significance of the Pact's ponderance of forces. The virtual certainty of unparalleled losses of men and materiel in a combat environment dominated by such munitions suggests a conflict as short as it is violent. Success may well depend as much on an ability to absorb losses—a function of mass—as on a capacity to inflict them—a function of firepower.

Unfortunately, the price of the West's traditional technological supremacy has been a disinvestment in mass. This is not to deny the importance of technological superiority. It is to say, however, that:

At some point numbers do count.

At some point Technology fails to offset mass.

At some point Kipling's "thin red line of heroes" gives way.

I believe that the increase of Soviet forces in Eastern Europe coupled with Soviet attainment of rough technological parity in land warfare strongly suggests that a major revision of NATO strategy and force structure in the Center is in order. Failure to consider revision in light of the new threat now confronting NATO would be nothing short of irresponsible.

We now risk being caught as the French were caught in 1940—of having to say, as Nazi columns marched in lock-step down the Champs Elysee,

If only we had had sufficient warning

If only we had had time to mobilize

If only the enemy had waited until we were ready

If only the enemy had attacked where we wished them to attack

If only our Air Force could have gotten off the ground

If only we had studied enemy armor doctrine

If only we ourselves had understood how to use armor

Inherent in any such revision, first and foremost, would be a review of current force planning assumptions as to the likely duration of a future conflict in Europe and the amount of warning time NATO could prudently count on prior to the outbreak of hostilities. The Department of Defense currently projects, for planning purposes, twenty-three days' warning time followed by a conflict of thirty days to six months. These assumptions appear to be increasingly unrealistic in light of recent developments I have discussed. I believe that serious consideration should be given to posturing U.S. and NATO forces for an intense war of two or three weeks preceded by only a few days' warning, while at the same time retaining sufficient hedges in our force structure to deal with a war of extended duration. Thus, while not discarding the rationale behind current planning factors, we should hedge the bet implicit in them. With the economic power of the Western industrial world, the Soviets would be foolish indeed to risk a long war. For us to continue to focus our planning primarily on this unlikely scenario is to presume that the enemy will cater to our strength and ingore our weaknesses.

Second, the current strategy governing NATO forces in the center *also* must be altered to meet the demands of a short, intense war. Inherent in the current strategy is the loss of much of Germany and attendant demoralization of German military and civil authority. The strategy also rests upon a doubtful assumption that retreating NATO forces, which up to then had suffered the agony of defeat, could successfully halt, regroup, defeat, and eject from the Center a vastly larger enemy flushed with the thrill of victory.

Trading space for time works only if one has abundant space to trade and plenty of time to trade it.

As an alternative for consideration, why not force the Pact to wage the main battle along the Inter-German border? This would both preserve German territory and eliminate the need to mount a major counterattack to expel Soviet forces from the Ruhr and along the Rhine. It would also prevent dangerous concentrations of Warsaw Pact assault forces by compelling them to deploy for battle *before* crossing the inter-German border and permit NATO ground forces to launch local counterattacks across the border.

Third, the firepower currently available to NATO ground forces must be substantially increased. In the short term, this can be accomplished by procuring additional artillery, anti-tank and air defense systems, and by increasing the amount of ammunition stockpiled in the Central Region. Current stockpiles are woefully insufficient to sustain NATO forces for more than a few days at the kinds of expenditure rates which characterized the last Middle East war.

Fourth, the existing maldeployment of NATO ground forces in the Center should be corrected. The current disposition of forces in the Center is to no small extent a legacy of Allied logistics arrangements during World War II and of postwar occupation agreements. The result is that NATO continues to find itself weakest in the NORTHAG area, opposite which the Soviets have deployed the bulk of their forces in Eastern Europe, and the strongest in the CENTAG area, where the terrain is much less suitable for the blitzkrieg the Soviets are capable of waging. Moreover, in both NORTHAG and CENTAG, NATO's main ground combat forces are located far to the rear. Their present disposition virtually invites an unimpeded Pact advance to the Rhine. I am suggesting not only a northward redeployment of major U.S. forces but also the eastward relocation of major NATO combat units to their assigned wartime positions.

Fifth, a further shift of U.S. Army personnel in Europe from support to combat units should be considered. This would require shelving the notion that logistics support must remain exclusively national responsibility.

Finally, interoperability of arms and equipment within the Alliance must be relentlessly pursued. Whatever new directions in NATO strategy and force structure that may emerge during the next few years, the Alliance can no longer afford to pay the stiff military and economic price of dependence upon a museum of national armaments inventories incompatible with one another. In this regard the Defense Department's recent decision to delay selection of the new main battle tank, pursuant to an agreement with Germany to develop interoperable major components for both the XM-1 and Leopard II, represents a positive milestone in what I hope will be progress toward comprehensive interoperability and standardization.

To conclude my remarks, NATO is confronted with a substantially altered threat in the Central Region. To meet that threat, significant changes in both strategy and force structure are necessary. This poses a great challenge and opportunity to reserve components. It is clear that reserve units which take three to six months to mobilize and train will not play a role in a conventional war lasting three to six weeks. On the other hand, our reserve components are a major hedge against a war lasting three to nine months and longer. After that period of time, mobilization of our industrial capability and the implementation of the draft must begin to supplement the active duty and reserve forces.

The challenge for the reserve components is to reorganize and restructure to meet this changing threat. This will mean considering and studying new concepts and roles for reserve forces. Perhaps some reserve units should be fully ready to go within 48 hours. Other reserve units perhaps need to be less ready than they are today to meet the protracted war scenario. Perhaps more reserve units should be affiliated with active duty units while others may need reorganization to provide skilled personnel to supplement both active and reserve units. Obviously, money, equipment, and personnel would have to be reallocated for these new reserve concepts.

Our National Guard and Reserve forces under these changing conditions are just as vital today to the survival of democracy as they have been in our past history. People like you leaders here tonight must address these new challenges and provide the new thinking, planning, and initiative needed to preserve the security of the United States.

Realization of the changes in strategy and force structure I have outlined here tonight will not guarantee an ability to "Git thar fustest with the mostest". However, I believe it would enhance NATO's capacity to "Get there in time with enough."

MINERALS AVAILABILITY

Mr. DOMENICI. Mr. President, two reports have been released which I feel merit the attention of my colleagues. One report is a General Accounting Office report entitled "Need to Develop a National Non-Fuel-Mineral Policy." The other is the annual report of the Secretary of the Interior under the Mining and Minerals Policy Act of 1970.

The GAO report deals with the Department of the Interior's implementation of the Mining and Minerals Policy Act of 1970. This act was intended to promote private development of the domestic mineral industry to reduce the U.S. reliance on nonfuel-mineral imports. GAO could not effectively evaluate the act's accomplishments, because Interior has not structured long-range goals and objectives concerning expected achievements and has not developed quantifiable standards as to what constitutes a strong and stable domestic mining industry, including criteria for defining an acceptable level of imports.

The report states:

> Since passage of the act in 1970 the value of non-fuel-mineral imports, including processed materials of non-fuel-mineral origin, has increased. The United States depends on foreign sources, in whole or in part, for approximately 22 of the 74 non-energy-mineral commodities considered by the Department of the Interior to be most essential to our economy. Interior has predicted that by 1985 the United States will depend on imports for as much as half of its supplies of basic raw materials.
>
> Interior has claimed that other laws, other agency programs, and other national objectives impede implementing the 1970 Act.

Mr. President, on February 5, 1975, I introduced S. 552, legislation to establish a Council on Minerals Policy which would study the various rules, regulations and laws and report on their impact on the minerals industry. Unfortunately, this bill did not receive consideration during the 94th Congress.

Our entire economy is based on minerals and the Congress must begin to deal with minerals availability before it becomes a crisis situation. Of particular concern currently, and likely to remain so in the future, is the problem of shortages caused by the political activities of some producer nations, particularly the developing countries. These producer nations have caused supply-demand imbalances in this country, for example, through their control of petroleum supplies. Similarly, the bauxite-producing nations have formally organized into what could become a producer cartel.

While in the past, the annual report under the Mining and Minerals Policy Act of 1970 has not reflected a concern over the producer nations' ability to form cartels, the 1976 report states:

> Uncertainties have arisen from the organization of producer associations by foreign suppliers of bauxite, copper, iron ore, mercury, tin and tungsten. Although these producer groups have not yet been successful in cartelizing their respective supplies, their presence has increased the degree of uncertainty associated with foreign supplies.
>
> Along with the changing international condition affecting the future availability of metals and nonmetallic minerals is a growing concern that further availability of metals and nonmetallic minerals is a growing concern that further development of the domestic resource base is not receiving sufficient encouragement.

It has been estimated that each $10 million worth of minerals put into the economy supports a quarter billion dollars in total economic activity. Since 1950, the United States, European, and Japanese economies combined have consumed more minerals than the world had produced previous to 1950. The United States is by far the largest consumer of minerals, totally and per capita. In 1975, with about 6 percent of the world's population, the United States consumed an estimated one-quarter of the minerals produced. The United States demands over 4 billion tons of new mineral supplies each year—about 40,000 pounds per person. This demand is continuing to grow and domestic mineral production is not keeping pace.

Since the oil embargo, the Congress has focused its attention mainly on the energy shortage, however, other minerals are also important to our economy. During this time, minerals problems have become increasingly widespread and acute.

In 1970, concern over increasing demand and the fact that imports supplied over 75 percent of U.S. needs for 20 different minerals lead to enactment of the Mining and Minerals Policy Act. The legislative history of the act makes it clear that the Congres intended an equal emphasis to be placed on fuel and nonfuel minerals. This has not been done.

In summary, Mr. President, it is clear to me, as I am sure it is to many of my colleagues, that the inability of the Federal Government to focus on the real and pressing problems of minerals availability has become acute. It has become so acute that we can accept nothing short of an executive reorganization which will provide a high level policy examination of these problems and their solutions. This is the kind of restructuring of the Federal apparatus contained in my bill S. 522. I fully intend for however long I may be a Member of this body to continue to pursue diligently and with determination.

GOVERNMENT AS EMPLOYER OF LAST RESORT: A FALLACIOUS NOTION BEHIND S. 50

Mr. FANNIN. Mr. President, there are many sound economic reasons for opposing S. 50, the Humphrey-Hawkins bill, not the least of which is that in order to even attempt to reduce the unemployment rate to 3 percent, as the bill purports to do, it would cost the American taxpayers billions of dollars to create new jobs and billions more to pay for the ensuing inflation. To me, the most troublesome aspect of the so-called Full Employment and Balanced Growth Act and other such job-creating schemes, is the notion that the Federal Government should always be "the employer of last resort."

Concerning this concept behind S. 50, Dr. Murray Weidenbaum, director of the Center for the Study of American Business at Washington University has written:

> It is foolish to base government policy on the assumption that inflation will go away if we only can achieve full employment. There are ways to create more jobs. It does the nation no service, however, to ignore how difficult it is to reduce unemployment without worsening inflation. . . . Because the government already makes the private job creation process so difficult, the major thrust of the bill is to substantially increase the size of the public sector of the economy at the expense of the private sector.

Mr. President, the editors of the Phoenix Gazette have wisely pointed out that—

> Last resort hiring is bound to accelerate inflation. To meet these last resort payrolls, the government must raise taxes. This, in turn, squeezes out investment capital, thus reducing employment in the private sector and driving more and more workers into the arms of the government's "last resort."

The Gazette concluded:

> Far from being a way to achieve full employment and balanced growth, Humphrey-Hawkins is a prescription for inducing economic collapse.

Mr. President, I ask unanimous consent that the article by economist Murray Weidenbaum which appeared in the Los Angeles Times on June 27, 1976, be printed in the RECORD. I call attention to Dr. Weidenbaum's excellent economic analysis of the Humphrey-Hawkins bill and his prescriptions for congressional action to reduce unemployment without substantially increasing the role and scope of Federal power. I also request unanimous consent for including in the RECORD the Phoenix Gazette editorial of August 2, 1976, "'Last Resort' Fallacy."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, June 27, 1976]

VAGUE, EXPENSIVE: BILL WOULD FURTHER INFLATE THE PUBLIC SECTOR

(By Murray Weidenbaum)

To oppose the Humphrey-Hawkins bill has become the economic equivalent of attacking the Flag and apple pie. After all, who is not in favor of more jobs and balanced growth?

But, I must quickly add, I do not support the bill. Despite its good intentions, it would base national policy on a combination of wishful thinking, vague directives and avoidance of problems.

Amazingly, the bill contains not one word about deficit spending as a basic cause of inflation. The inflation problem is ascribed primarily to high unemployment. It is foolish to base government policy on the assumption that inflation will go away if we only can achieve full employment. There are ways to create more jobs. It does the nation no service, however, to ignore how difficult it is to reduce unemployment without worsening inflation.

Frankly, it is hard to pick out the most striking example of vagueness in the Humphrey-Hawkins bill, because there are so many sections to choose from. My favorite is the uncertainty about how much the bill will cost; no price tag is given for this extensive piece of legislation. Someone else may prefer the section that confers on the President the obscure but powerful mandate to determine our national priorities.

Then again, there is the section stating that if any inflationary problem results, the President should come up with a plan for handling it.

But the most important problems neglected by the Humphrey-Hawkins bill are in the employment area. The proponents forget that financing large budget deficits reduces the money available for capital formation (new factories, production equipment, etc.) which is fundamental to creating jobs. The bill does refer to encouraging "the optimum contribution of the private sector." But nowhere is there any mention of the numerous government activities that reduce the ability of the private sector to provide jobs—the adverse effects of the tax system on private saving and the negative effects of regulation on private employment.

Strip away the verbiage and the heart of Humphrey-Hawkins is the section which provides that adults seeking employment who do not otherwise have jobs shall be provided with "job opportunities" by the President of the United States, "through reservoirs of federally operated public employment projects and private non-profit employment."

This, of course, is the sweeping notion of the government as employer of "last resort." Because the government already makes the private job creation process so difficult, the major thrust of the bill is to substantially increase the size of the public sector of the economy at the expense of the private sector.

Some passages of the bill are beyond my understanding. Page 12 refers to ". . . environmental improvement policy and programs required for full employment and balanced growth, and required also to combat inflation by meeting full economic levels of demand . . . "The difficulty with this section is not the authors' poor literary ability, but their failure to recognize the hard choices that must be made.

A cleaner environment, full employment and less inflation are all desirable objectives. But it is most unhelpful to ignore the basic problem that advancing any one of these objectives often interferes with achieving the others. No matter how desirable it is on ecological grounds, closing down a factory that pollutes is likely to increase, not reduce, unemployment.

It is not enough to describe the shortcomings of the Humphrey-Hawkins bill. Its basic popularity does not derive from the merits of the bill itself. The attention being given it reflects the national desire to bring down the unemployment rate. The decrease in unemployment from 8.9% in May 1975 to 7.3% this past May was important but not enough.

What should be done? Our present high unemployment stems from the efforts in recent years to reduce an extremely high and damaging inflation rate. Those efforts were both necessary and successful; the inflation rate has been cut by more than half.

Unfortunately, the proponents of the Humphrey-Hawkins approach have forgotten this sequence of events. At the heart of the bill are programs that would accelerate inflation via greater deficit spending. We must learn from experience. The way to achieve a sustainable, high level of employment is not via a stop-and-go policy of first overheating the economy and then cooling it off with tight monetary and fiscal policies.

The existing policy of moderate economic stimulation is the more sensible approach, and it is working. It has succeeded in bringing down inflation while simultaneously reducing the unemployment rate. This course of action may not appeal to the impatient, but it continues to be the most effective way of providing a rising level of jobs without reigniting a fierce inflation.

On the positive side, there are many actions which Congress should take to increase the availability of productive jobs. To begin, Congress should change the current policies which interfere with the job creation process in the private sector. Our income tax system encourages consumption rather than saving. The federal tax system should be reformed to increase the flow of private savings to provide the investment funds needed to increase the availability of jobs.

To deal with inflation and unemployment simultaneously, Congress should recognize the extent to which many government regulations, often unwittingly, reduce the availability of productive jobs. Specifically, that statutory obstacle to rising employment—the compulsory minimum wage law—should be eliminated, especially for teen-agers. A study published by the Center for the Study of American Business showed that one recent increase in the federal minimum wage law priced over 300,000 teen-agers out of the labor market. The teen-age unemployment problem is a classic case of government pressing down on the accelerator without releasing the brake. In the Humphrey-Hawkins bill, the major response to all unemployment problems, however, is in terms of increasing the federal job role.

The course of action I am urging would require Congress to make hard choices and take unpopular positions, but the public welfare is not served by ignoring the real difficulties that face our society. That welfare is not enhanced by a bill which would have Congress take all the actions which, at least in the short run, seem to be popular (new spending programs) and impose on the executive branch, the onus of dealing with their adverse consequences, notably inflation. Supporters of bills such as Humphrey-Hawkins should reflect on the bitter experiences resulting from the over-promising of the "Great Society."

[From the Phoenix Gazette, Aug. 2, 1976]

"LAST RESORT" FALLACY

The Full Employment and Balanced Growth Act, commonly known as the Humphrey-Hawkins bill, is based on the premise that the federal government should be the employer of "last resort."

In theory this sounds eminently sensible. Designating the government as the employer of last resort suggests that every other source of employment, in both the private and public sectors, will be tapped to provide jobs.

Finally, when all the other possibilities for jobs have been exhausted, the government will step forward and create jobs as a last resort to bring the unemployment rate down to 3 per cent.

As with so many of the liberals' social welfare programs during the last 40 years, what sounds so good in theory in the Humphrey-Hawkins bill is all too likely to turn out bad in practice.

No matter how they may be dressed up, the "last resort" jobs will be of the make-work variety, which is to say, not genuinely productive in either goods or services, private or public.

Moreover, the mere presence of this "last resort" option hanging like a cloud over the labor market would act as a sort of depressant on hiring. Why strain to meet legitimate work needs when Uncle Sam stands ready to fill any and every job hole that can be dreamed up, and—most important of all—meet the payroll out of the coffers of the U.S. Treasury (read that, taxpayers' pockets)?

Further operating to make last resort hiring bad in practice would be the provision in the Humphrey-Hawkins bill requiring those the government hires under this program to be paid the "prevailing wage." This would prove to be a terrible disincentive for the unemployed to seek jobs in the private sector. Again, why strain to look for a real job when good old Uncle Sam stands ready to give you one that pays just as well, and which would require little if any effort to keep?

As the last resort employer, the government is not going to lay anyone off, no matter how poor the performance, as long as they put time in on the job.

Worst of all, last resort hiring is bound to accelerate inflation. To meet these last resort payrolls, the government must raise taxes. This, in turn, squeezes out investment capital, thus reducing employment in the private sector and driving more and more workers into the arms of the government's "last resort."

Far from being a way to achieve full employment and balanced growth, Humphrey-Hawkins is a prescription for inducing economic collapse. The bill deserves to be soundly rejected.

NATIONAL ACADEMY OF SCIENCES REPORT ON HALOCARBONS: ENVIRONMENTAL EFFECTS OF CHLOROFLUOROMETHANE RELEASE

Mr. **DOMENICI**. Mr. President, last month the Senate passed the Clean Air Act Amendment embodied in S. 3219. Part of the debate during consideration of that bill centered on the question of regulation of halocarbon—flourocarbon—emissions, primarily from aerosol containers. As you will recall, the Senate rejected attempts to amend the bill reported by the Public Works Committee and adhered to the regulatory and research plan contained in that bill.

As one who strongly defended the committee bill, I am pleased to advise my colleagues that a report released today by the National Academy of Science supports the propriety of the Senate's action relative to halocarbon regulation. This report, which is the product of a lengthy and deliberate scientific study, is entitled "Halocarbons: Environmental Effects of Chlorofluoromethane Releases."

The main point of controversy during consideration of the ozone protection and research provisions of S. 3219 related to the manner and timing of regulation. The committee bill set in place a specific regulatory framework with standards for implementation of a flexible regulatory scheme to meet the health threat found to exist by a comprehensive research and monitoring program already underway. Other Senators felt that we must move ahead now by imposing a ban on the use of aerosal containers utilizing halocarbons, such ban to be effective within a relatively short time unless within that time the Administrator of the Environmental Protection Agency found that halocarbons presented "no significant risk." On August 3, Senators BAKER and BUCKLEY joined me in a "Dear Colleague" letter outlining our reasons for opposing an "upfront, negative ban" on aerosols. I request unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks, to be followed, Mr. President, by pages 1–1 through 1–11 of the executive summary of the NAS report so that it may be compared directly with the thrust of our colleague's letter.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. It is important to note that the Senate bill fits extremely well into the recommendations contained in the NAS report. Accordingly I commend my colleagues for passing legislation which is supported by the finding of the National Academy of Sciences on a matter of great importance and tremendous complexity. I also highly commend the National Academy of Sciences on this report, particularly those members and employees who participated diligently in this effort. The Congress and the Nation are the beneficiaries of the work of the Academy and we are once again indebted for their continued guidance and assistance.

EXHIBIT 1

WASHINGTON, D.C.,
August 3, 1976.

DEAR COLLEAGUE: During consideration of the Clean Air Act Amendments of 1976 (S. 3219) on Wednesday, August 4, or Thursday, August 5, the Senate will take up the issue of protection of the ozone atmospheric shield. Preliminary scientific research has indicated that fluorocarbon emissions from aerosol containers and refrigeration systems may adversely impact the shield. Therefore the Committee has provided for careful evaluation by competent scientific experts and directed the Administrator of the Environmental Protection Agency to regulate these emissions if scientific evaluation indicates they may reasonably be anticipated to contribute to an endangerment of public health.

We are firmly convinced that the Committee's approach is consistent with the overwhelming weight of testimony presented in our hearings. It would not risk the public health or welfare and moreover, it would not incur the economic and employment disruptions resulting from an immediate ban of aerosol products. It would provide the EPA Administrator with the authority to regulate aerosol products anytime he believes there to be a risk to the public health or welfare.

We understand that Senator Packwood and Senator Nelson will be offering amendments which would impose a ban upon aerosol containers unless the EPA specifically finds that such containers pose no risk to public health and welfare. Senator Nelson's amendment would ban such products as of January 1, 1977 unless EPA finds that they pose "no unreasonable risk" to public health, safety or welfare. Senator Packwood's amendment would ban them as of January 1, 1978, without a finding of "no significant risk".

We feel the Senate should reject the "negative burden" approach prescribed by these amendments, for the same reasons the Senate Public Works Committee rejected it. The weight of evidence on the issue indicates (1) that current scientific knowledge about stratospheric ozone is incomplete, (2) that more information is needed before a reasonable conclusion can be drawn as to the validity of the fluorocarbon-ozone depletion theory, (3) that there is time to gather that information without incurring significant environmental risks, and (4) that such information is, in fact, being acquired and will be available for a timely decision regarding regulation of fluorocarbon emissions.

We therefore urge that you support Section 16 of the Committee's bill and oppose the Packwood, Nelson, and other similar amendments.

Sincerely,

PETE V. DOMENICI,
JAMES L. BUCKLEY,
HOWARD H. BAKER, Jr.

EXECUTIVE SUMMARY

This summary is divided into Findings, Conclusions, Recommendations, the Problem of Regulation, and Background. A fuller understanding of the Findings and Recommendations will usually require a reading of the Background. (References to Chapters and Appendixes related to individual findings are also included; these can further supplement the Background.)

Two chlorofluoromethanes, F–11 and F–12, have been produced in increasing amounts and used, worldwide, for a diversity of purposes, including spray-can propellants, working fluids for air conditioners and refrigerators, and agents for producing certain solid plastic foams. In this report, CFMs will refer specifically to these two compounds (and will not include other chlorofluoromethanes).

In June 1974, the Federal Task Force on Inadvertent Modification of the Stratosphere (IMOS, 1975) reported:

"The task force has concluded that fluorocarbon releases to the environment are a legitimate cause for concern. Moreover, unless new scientific evidence is found to remove the cause for concern, it would seem necessary to restrict uses of fluorocarbons–11 and –12 to replacement of fluids in existing refrigeration and air-conditioning equipment and to closed recycled systems or other uses not involving release to the atmosphere.

"The National Academy of Sciences is currently conducting an in-depth scientific study of man-made impacts on the stratosphere and will report in less than a year. If the National Academy of Sciences confirms the current task force assessment, it is recommended that the Federal regulatory agencies initiate rulemaking procedures for implementing regulations to restrict fluorocarbon uses. Such restrictions could reasonably be effective by January 1978—a date that, given the concern expressed now, should allow time for consideration of further research results and for the affected industries and consumers to initiate adjustments."

In preparing this report, the Committee on Impacts of Stratospheric Change has felt that its responsibilities, as a body of scientists charged with preparing an honest assessment of the evidence, included doing the best it could to distinguish among three possibilities:

1. The scientific evidence for the proposed consequences of CFM releases is demonstrably sound and gives reasonably certain answers;
2. The scientific evidence for the proposed consequences of CFM releases when carefully examined is coherent but leaves us with a substantial range of uncertainty;
3. The scientific evidence for the proposed consequences of CFM releases contained fundamental flaws that are not immediately repairable.

To try to distinguish only between the first and third of these would be to neglect a real, and possibly important, contingency. As discussed briefly just after our recommendations, the scientific picture has changed considerably during the 14 months since the issuance of the IMOS report.

In thinking about CFMs, it is important to recognize that they are a worldwide problem. Whatever is released is, before long, mixed throughout the atmosphere. Rather less than half of the 1975 uses and releases came from the United States, rather than half from other countries. Total cessation of uses in the United States would not quite halve uses and releases worldwide. Halving worldwide releases could more reasonably happen by halving uses and releases in all heavily using countries.

Just as the United States took the lead in pioneering the varied uses of CFMs, so too if there is to be worldwide control of CFM uses and releases, the United States will have to take the lead here also, when and if this is appropriate: The Congress and the Executive Branch will thus need to consider the effect of their decisions in encouraging similar actions by other countries, whose own decision will affect more than half of present releases and thus more than half of any change in impact of CFMs on the United States.

FINDINGS—EFFECTS OF CFM RELEASE

We find that—

(A) The accumulation of CFMs in the atmosphere, at all levels, increases the absorption and emission of infrared radiation. This retards heat losses from the earth and thus effects the earth's temperature and climate. The amount of change in infrared absorption and emission is well known, but both the amount and details of the further effects on the earth's climate are uncertain. This CFM effect is inevitably combined with the effect due to increasel CO_2 and acts in the same direction. (See also Chaper 6.)

(B) CFMs, after release at the surface of the earth, mix with the atmosphere and rise slowly into the stratosphere, where they are decomposed by the sun's ultraviolet radiation. Chlorine atoms (Cl) and chlorine oxide (C0), produced directly or indirectly by this decomposition, then react to remove ozone (catalytically), reducing the total amount of ozone and somewhat shifting the distribution of ozone toward lower altitudes. As a consequence (see also Chapter 5):

More biologically active ultraviolet (DUV) reaches the earth's surface.

The temperature distribution in the stratosphere is somewhat altered.

The reductions in ozone take place over a long time, individual release of CFMs having effects spread over decades.

(C) The extent of ozone reduction attributable to CFMs has not been measured. Because of the natural variations in the amount of ozone above us, much larger than any ozone reduction so far caused by CFMs, direct verification of CFM effects will not be feasible for at least several years. (See also Chapter 5.)

(D) At the moment, the ozone reduction and consequent DUV increase corresponding to a given CFM release is uncertain by a large factor. Continued release at the 1973 level, the usual example, is calculated to give an ultimate reduction in ozone of about 7 percent, where "about 7 percent" is relatively certain to be between 2 percent and 20 percent. This range does not allow for possible inadequacies of the bases of the calculation. Three of the possible kinds of inadequacies may be cited as examples: (1) essential chemical reactions not so far recognized as such, (2) the possibility of unexpected effects of tropospheric sinks (many possible sinks have been studied carefully), (3) possible important inadequacies in the one-dimensional transport models. (See also Chapter 5.)

(E) Continued CFM release at 1973 levels could by the year 2000 produce about half of the direct climatic effect caused by CO_2 increase over the same period, although the magnitude of both effects on climate is less certain. Thus, the CFM effect may well deserve serious concern. (See also Chapter 6, especially Table 5.)

(F) In our present state of knowledge, it would be imprudent to accept increasing CFM use and release, either in the United States or worldwide. (Recent reductions in CFM releases are ascribed by some to economic conditions and by others to consumer pressure, real or anticipated.) (See also Chapters 5, 6, and 7.)

However, we also find that—

(G) Advances in our knowledge of climate mechanisms over the next two years will improve our assessment of both climatic effects due to CFMs (through ozone reduction and displacement and through infrared absorption), but these advances cannot be expected to make our assessment of the climatic effects as precise as our assessments of ozone reduction and DUV increase. (See also Chapter 6.)

(H) The range of uncertainty about the amounts of ozone reduction and DUV increase consequent on a given CFM release pattern can be considerably reduced during the next two years; new stratospheric measurements (particularly those from the substantial program supported by the National Aeronautics and Space Administration), measurements of atmospheric CFMs, and improved laboratory measurements will contribute to this. More importantly, the possibility of unexpected inadequacies in the basis of our calculations will be greatly reduced by more extensive and better measurements. (See also Chapter 5.)

(I) Many other improvements in our knowledge can be attained over the next five to ten years, if we push hard to do this (see page 1–17), but others will take still longer to attain. (See, for example, Chapter 7.)

HOW SLOWLY DO THINGS HAPPEN?

We find that—

(J) If CFM uses and releases were to continue at a constant rate, the ozone reduction and consequent DUV increase would gradually flatten out, approaching a steady state. To reach half of this value would take roughly 50 years. In particular, if constant CFM releases at the 1973 rate are to give 7 percent ultimate reduction of ozone, this reduction will initially increase at about 0.1 percent a year, reaching 3.5 percent after roughly 50 years. (See also Chapter 5.)

(K) If the rate of CFM release, after continuing at a constant rate, were drastically reduced at any time in the next decade, say halved or eliminated, and then continued at the drastically reduced rate, ozone reduction and consequent DUV increase would continue to increase for at least a decade after the drastic reduction. It would then decrease, if releases had been nearly eliminated, by roughly 1/70 of its current value each year, taking roughly 50 years to fall back to half its peak value. (See also Chapter 5.)

(L) If CFM use and release were to continue at a constant rate, the amount of direct climatic effect would also flatten out, approaching a steady state, again reaching half of this value in about 50 years. The increase of infrared absorption and emission would similarly reach half of its ultimate value in about 50 years. Resulting climatic effects might be further delayed because of slowness in response in the climatic mechanism. (See also Chapter 6.)

(M) If the rate of CFM use and release were nearly eliminated at some date, the increase in infrared absorption and emission would, by contrast, begin to decrease immediately, with any delays arising only from the climatic mechanism itself. It would then decrease by roughly 1/70 of itself each year taking roughly 50 years to reach half of the value in cutoff. (See also Chapter 6.)

WHAT ARE THE IMPACTS?

We find that—

(N) The major effects of DUV increase due to ozone reduction could involve—

Increased incidence of malignant melanoma, a serious form of skin cancer frequently causing death, and thus an increase in mortality from this cause (see also Chapter 8 and Appendix A);

Increased incidence of basal- and squamous-cell carcinomas, less serious but much more prevalent forms of skin cancer, rarely causing death but causing much expense and, occasionally, more or less serious disfigurement (see also Chapter 8);

Effects on plants and animals of unknown magnitude (see also Chapter 7 and Appendix C).

Whether the first of these effects, melanoma increase, will occur is not firmly proven, but the evidence of its plausibility is now strong enough for it to be treated as a serious health hazard. The second effect, nonmelanoma increase, is relatively well established, and its amount reasonably assessable (see Climatic Impact Committee, 1975, pages 41 to 45). The third group of effects, action of DUV increases on plants and animals, is only beginning to be explored. For the present there is good reason for a strong concern to know more about this third group of effects, but, as yet, there is no clear indication of their seriousness.

(We are unlikely to make major strides in our knowledge of the connections, actual or potential, between DUV increase and any of these major effects during the next two years, although it is important to continue active work in each of these directions.)

(O) If the increased infrared absorption and emission due to the presence of CFMs in the atmosphere were to alter our climate by small amounts, the most important effects would be on agriculture, particularly through the boundaries of the regions in which particular crops can be grown effectively. (Other agricultural effects are possible.) (See also Chapters 6 and 7.)

[The influences of small climate changes on agricultural production are not easy to assess (see Climatic Impact Committee, 1975, pages 58–63), but the uncertainties here are less than those in the amount of climate change consequent on a given release of CFMs.]

WHAT ABOUT CFMS?

We find that—

(P) Worldwide, CFM uses and releases grew by about 10 percent a year through 1974. They decreased by about 15 percent in 1975. Recently, about half of the uses and releases have come from the United States. Most, but not all, of the 1975 decrease came from decreased use in the United States. (See also Chapter 5.)

(Q) The various uses of CFMs are of very different magnitude and of very different importance to human life, including human health. Home refrigeration of food, at one extreme, is important to human health and accounts for less than 1 percent of all releases. CFM uses in aerosol sprays, at the other extreme, are mainly replaceable by other dispensing techniques or by other propellant substances, at some loss in convenience, efficiency, or safety, and amount to about three quarters of all releases. (Some aerosol uses, including some for medical purposes, deserve special consideration.) (See also Appendix D.)

WHAT ARE THE PENALTIES OF DELAY?

(R) When the time history of past releases is considered, and based upon an ultimate ozone reduction of 7 percent (central value of 2 percent to 20 percent range), whether a halving in CFM use and release were to take place in 1977 or in 1979 would alter the ozone reduction at any later date by no more than 1/6 percent (central value of a 1/18 percent to ½ percent range). The difference in ultimate ozone reduction, if uses and releases continued at the halved level in each case, would be less than 1/10 of a percent (central value of a 1/30 percent to ¼ percent range). (See also Chapter 5.)

(S) Whether a halving of CFM use and release were to take place in 1977 or in 1979 would alter the total amount of CFMs in the atmosphere by no more than 10 percent of the amount now present—by no more than 10 percent of an amount whose climatic effects are probably undetectably small. (See also Chapter 6.)

CONCLUSIONS

Selective regulation of CFM uses and releases is almost certain to be necessary at some time and to some degree of completeness. Neither the needed timing nor the needed severity can be reasonably specified today. Costs of delay in decision are small, not more than a fraction of a percent change in ozone depletion for a couple of years' delay. Measurement programs now under way promise to reduce our uncertainties quite considerably in the near future.

RECOMMENDATIONS

Accordingly—

1. As soon as the inadequacies in the bases of present calculations are significantly reduced, for which no more than 2 years need be allowed, and provided that ultimate ozone reductions of more than a few percent then remain a major possibility, we recommend undertaking selective regulation of the uses and releases of CFMs on the basis of ozone reduction.

2. We recommend that, as soon as appropriate legislative authority is in place, as well as every three to five years thereafter, our current knowledge of the importance and the certainty or uncertainty of the direct climate effect be reviewed, so that appropriate decisions can be taken about regulation of CFM uses and releases on the basis of this effect. In so doing, the effects on CFM increases should be considered in the light of the effects of CO_2 increases with which they are inevitably combined.

3. Whenever regulation is undertaken, we

recommend that it should be selective, treating one use differently from another, both as to whether a particular use is to be excepted from regulation or not and as to the time allowed for compliance with regulation. (See also Chapter 4 and especially Appendix A.)

4. Legislative authority may not now be adequate among other things to (a) regulate the uses of CFMs selectively, (b) regulate the handling of CFMs (as in repairing auto air conditioners, for example), and (c) regulate CFMs on the basis of threats to plants and animals important to human life (either through DUV increases or climate changes) rather than on the basis of threats to human health. We recommend that immediate steps be taken, first to determine what inadequacies in legislative authority exist and then to eliminate, through additional legislation, those that exist.

5. Since carefully informative labeling would allow consumers an opportunity to distinguish, for example, CFM-propelled aerosols from aerosols using other propellants, we recommend that legislation be enacted requiring labeling of all products containing the CFMs F–11 and F–12 and not intended to remain under seal during use. (Aerosol cans and refill containers for air conditioners and refrigerators would then require labels; automobiles and refrigerators themselves would not.) Labeling should in no sense be regarded as a substitute for regulation but rather as an aid to consumer self-restraint in the use of CFMs and to consumer preparation for possible later regulation.

6. In view of the present inadequacies in the bases of our calculations, in view of the reduction in these inadequacies promised by ongoing measurement programs, and in view of the small changes in ozone reductions following from a year or two delay, we wish to recommend against decision to regulate at this time. (See also The Problem of Regulation, below.)

7. When and if regulation is decided upon by the United States, similar action by other countries should be encouraged by whatever appropriate means are most likely to be effective.

We also make the following recommendations:

8. Since both further laboratory studies and, especially, well-enough planned measurements in the atmosphere, can do much over the next few years to improve the basis for well-chosen regulation, we recommend that laboratory studies and atmospheric measurements should be given an appropriately high priority. (See also chapter 2.)

9. Since there are at least two important areas—

9(a) The mechanisms of climate determination and climatic change,

9(b) The effects of increased (or decreased) biologically active ultraviolet radiation on plants and animals,

where we still lack an adequate scientific foundation, and since adequate foundations cannot be constructed by short-term "crash" programs, longer-term research programs, extending over several years and guided by the consensus of the best scientific minds available, should be established and adequately funded in each such area as a matter of urgency. (See also Chapter 2.)

10. Since learning to identify population groups with drastically higher susceptibility to melanoma (and to other skin cancers) will greatly increase the efficiency and effectiveness with which individuals can be taught to protect themselves, it is urgent to undertake a program of learning better to identify such susceptible groups. (See also Chapter 2 and Appendix E.)

11. Information about the relative releases of CFMs from different uses would be so essential, if and when control of CFM release becomes appropriate, that vigorous efforts should be made to provide such information on a continuing basis.

12. Since ultraviolet-induced skin cancer will continue to present a serious health hazard, we need to study possible preventive medicine actions carefully, without regard to the effectiveness of CFMs in reducing ozone or decisions about their regulation. (See also Chapter 2 and Appendix E.)

THE PROBLEM OF REGULATION

This report makes two things clear. The impact on the world of waiting a couple of years before deciding whether or not to regulate the uses and releases of F–11 and F–12 is small although we are uncertain just how small. The impact on industry of a ban on uses of F–11 or F–12 in most types of spray cans would be appreciable. Against a background of a possible, although very small, change in world climate, however, the industrial impact does not loom large.

This Committee in meeting its responsibilities to assess what is scientifically known has focused on uncertainty about the adequacy of the bases of our calculation and recommended a brief delay before decision. Some scientists, emphasizing the possible critical importance of even small effects on climate and the relative unimportance of many spray-can uses, might well urge immediate decision to regulate, although authority to regulate on the basis of climate effects seems still to be lacking.

The report sets out what is known and, as best as this can be judged, with what amount of uncertainty it is known. The choice of when to make decisions about regulation is a political one in the highest sense of that word. The ultimate balance—between increased impact on industry and on spray-can uses, on the one hand, and possibly climatic impacts and more certain skin cancer increases, both very small for a short delay, on the other—has inevitably to be made by those who decide for the whole of each country concerned, in the United States by its Congress and President.

The report stresses the fundamental importance, clearly illustrated in this case but much more widely applicable, of conducting such regulation use by use. It is not sufficient to label a substance "good" or "bad." We often need, as we do here, to look use by use to see how important each is to human living—often, as here, to human health—and compare this with the size of the unfavorable impacts from that use. To begin to do this is not easy, but our world is complex enough to force us to face such difficulties more and more frequently.

Having laid open the facts as best it can and stressed the fundamental importance of regulation use by use, the scientific community as represented through the National Academies of Sciences and Engineering and the National Research Council, can, we believe, properly leave decisions about timing, in this country, to the Congress of the United States. (Individual scientists and engineers will no doubt wish to participate in the debate from a variety of points of view.)

STATE LEGISLATORS BACK CONTINUED U.S. SUPPORT OF FREE CHINA

Mr. FANNIN. Mr. President, I have before me a resolution in behalf of continued strong U.S. relations with the Republic of China.

This resolution, adopted unanimously by State legislators who are associated with the American Legislative Exchange Council, was personally delivered on August 30, 1976, by Arizona State Senator James Mack of Tempe to the offices of Secretary of State Henry Kissinger, Vice President ROCKEFELLER, the President of the Senate and House Speaker, CARL ALBERT.

Mr. President, the American Legislative Exchange Council is a nonpartisan nationwide association of State legislators, who are dedicated to preserving individual liberty, basic American values and institutions, productive free enterprise, and limited representative government.

The United States should maintain full diplomatic relations and defense commitments with the Taiwan Government. Our commercial and cultural exchanges as well as our defense commitments are vital to our long-term Chinese ally. Taiwan has been a valuable trading partner for the United States, providing us cultural and material products which are unavailable in the Western World.

Mr. President, I ask unanimous consent that the resolution of the American Legislative Exchange Council in support of free China be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL URGES THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO MAINTAIN CLOSE RELATION WITH THE REPUBLIC OF CHINA

Whereas, the Republic of China has been a continuous and faithful ally of the United States, supplying both moral and economic support to the benefit of both nations; has provided our country with strategic military defense of the eastern part of the world; has made every effort to develop a free enterprise-based democratic form of government; has pledged its human and economic resources to the defense of free people everywhere; and the cultural interchange between the Republic of China and the United States has benefited both nations:

Now, therefore, be it resolved, That members of the American Legislative Exchange Council strongly urge—

That the President and Congress of the United States make every effort to develop better social and economic relations with the Republic of China:

That the President and Congress of the United States do not in any way detract from our diplomatic relations with the Republic of China, and not concentrate efforts on development of a temporary and precarious relationship with the Communists of Red China.

FUMBLING THE DEFENSE ISSUE

Mr. GOLDWATER. Mr. President, I know that all Americans are looking forward eagerly to the coming debates between the President and Governor Carter. Having been interested in the military most of my life I, naturally, lean more toward the debate on national defense than I do the others, and I am hopeful that both men can keep this discussion on the keel it must be on if the American people are going to realize just what it is that faces us if we allow ourselves to become a second-rate power. I know there are many Members of Congress who state that they are not attempting to cut the budget, they are not attempting to weaken the United States, but I do not care what kind of excuses they come up with, when they deny the U.S. weapons that are badly needed, they are denying the United States the ability to keep peace in this world. I have heard some arguments made that there is waste in the Pentagon and I would remind these people that there is waste all the way through Government and the best way to get this waste cut down any place is for the Congress to do its job.

Mr. Robert Hotz writing in Aviation Week & Space Technology on September 13 has written an excellent editorial entitled "Fumbling the Defense Issue." I ask unanimous consent that this be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FUMBLING THE DEFENSE ISSUE

National defense has surfaced strongly as one of the major issues of the 1976 presidential election campaign between President Gerald Ford and his challenger, Gov. Jimmy Carter. It is encouraging that this vital issue of defense has assumed such an important role so early in what promises to be a spirited contest complete with national television debates. It is discouraging, however, to see both candidates and their parties fumbling the issue badly and shadow-boxing with outdated rhetoric that indicates they have no real conception of the rapidly developing realities of the Soviet technological threat.

Sen. Walter Mondale, the Democratic vice presidential candidate, leaped into the defense debate recently in San Francisco with a series of cliches that reflect faithfully the views of that band of liberal Democratic senators—Humphrey, Kennedy, Proxmire, Mansfield and McGovern—who regard most defense matters as inherently bad and have an apparently unbounded faith in the Soviet Union's good faith and goodwill. These senators, including Sen. Mondale, by their votes on key defense issues over the past few years have inflicted more irreparable damage to the U.S. defense posture than any foreign enemy. Their consistent votes to take the U.S. defense posture even below the already unbalanced SALT 1 levels have provided the Soviets with an incredible windfall and powerful new leverage for ongoing negotiations. Their vote to demolish unilaterally the sole U.S. anti-ballistic missile operational installation and cut ABM advanced research, while extracting no similar actions from the Soviet, will go down in history as an act of incredible folly. Sen. Mondale and his cohorts cannot erase their votes on that measure and should be held accountable.

Gov. Carter, who makes much of his youthful Navy service on the early nuclear submarines, indicates by his recent speeches that he too has only a vague and flimsy grasp of the real defense issues facing this nation with its gravest foreign threat since the War of 1812. Although he has some capable defense advisers in Paul Nitze and Elmo Zumwalt, he apparently has difficulty understanding what they are trying to tell him. Instead, he seems to be picking up sheaves of defense position papers prepared by the armchair academic experts of the Brookings Institution in Washington—the same people who think the B-52 fleet of the Strategic Air Command can fly forever.

There is certainly some merit in the case for some of the administrative military reforms echoed by Gov. Carter and some defense budget savings can be effected by their implementation. But nowhere in his extensive discussion of the defense problem is there any evidence that Gov. Carter understands the extremely grave dangers from the Soviet Union's massive qualitative buildup that is growing every hour he orates.

This is a genuine and fast-moving trend for which hard evidence can be found across the spectrum from under the sea to outer space. Until Gov. Carter demonstrates some sign that he has some comprehension of this problem, he will not merit his fellow citizens' endorsement of his self-appraised leadership qualifications.

In the case of President Ford, the fumbling of the defense issue is both inexplicable and tragic. In many ways, he has tried to take the appropriate action to counterbalance the massive Soviet threat externally and to curb the Machiavellian manipulations of Henry Kissinger internally.

In addition, he has had a chilling demonstration of what an orchestration of the defense issue did for his Republican challenger, who carried him down to the Kansas City convention eve and narrowly missed upsetting the presidential incumbent. Ronald Reagan had very little else in his repertoire besides the defense issue.

His amazing durability in the race for the Republican nomination rested primarily on the response of masses of American citizens, who are growing increasingly uneasy over these plainly visible trends. The people of this country are far ahead of their political candidates in recognizing the dangers inherent in the threat, and Reagan's success clearly demonstrated it.

After narrowly averting defeat for the nomination over the defense issue on which he could have run with great strength, President Ford has now apparently quickly forgotten the lesson and is pursuing the mirage of a SALT 2 agreement containing the worst of the Kissinger concessions. This will make him guilty of every Reagan campaign charge and cost him dearly in November votes he had won in August.

President Ford took decisive action last year to curtail the unlimited national security powers of Henry Kissinger and restore an element of legitimate debate inside the White House on national security affairs. This prevented Kissinger's first attempt last January at a complete sell-out to the Soviets on the Backfire supersonic bomber, the U.S. cruise missiles and nuclear throw weight to achieve a SALT 2 agreement. Now, inexplicably, President Ford has become remesmerized by the State Dept. Svengali and is hurrying to complete the same sell-out for a SALT 2 agreement before the election, with apparently no idea of the quantity of votes it will cost him or of the potential damage to the future of his country.

Meanwhile, the Soviets must be smirking at the inability of the American political contenders to perceive either the weight or direction of the massive Russian military thrust and their persistence in wallowing blindly along a path that can only lead to future tragedy for the nation they are striving to lead.

INDIAN HEALTH CARE IMPROVEMENT ACT, S. 522

Mr. DOMENICI. Mr. President, the Indian Health Care Improvement Act conference report now before us addresses what I consider to be a major problem confronting the Indian people today. Too many native Americans live with little or no health benefits. Too many have tuberculosis and other communicable diseases which are essentially eliminated throughout the rest of America. This fact is a blight on our society, and it is certainly time to direct our national efforts toward adequate health care for all our citizens.

The conference report represents a compromise between the House and Senate version of the Indian Health Act of 1976. As always, when parties need to compromise, some good provisions are lost to accommodate more pressing considerations. I was sorry the Domenici amendment, as accepted by the Senate to provide first aid health care in all BIA schools, was eliminated in consideration of budget restraints. As my colleagues know, I am a strong proponent of fiscal responsibility, and surely I intend to maintain that goal as one of my major considerations. But, to be fiscally responsible is not to ignore obvious social costs and failure of obligations resulting from inaction.

First aid facilities, taken for granted in most of the Nation's public schools, surely would have helped Indian schoolchildren, but I envision entire communities benefiting, as often any health care is many miles away on the reservations. Immediate health aid care is frequently less costly than more expensive examinations. These facilities, I believe, would have saved money over the long term, but I certainly understand immediate budgetary constraints which faced the conferees. I intend to introduce this amendment again next year, for I am sure it is a beneficial one.

Other provisions of the bill, including the educational loan program, the new commitment in areas of alcoholism and mental health, are extremely important when combating the Indian health crisis today. I am pleased the proper tools will now be available to help the Indian people. I urge my colleagues' strong support.

STATEMENT ON DR. COMMONER'S TESTIMONY

Mr. BUMPERS. Mr. President, I have had the privilege of chairing hearings on the long-range energy plan prepared by the Energy Research and Development Administration—ERDA. The preparation of such a plan is mandated by Congress under the Nonnuclear Energy Act of 1974. Since the plan is a central pillar of this Nation's overall energy strategy as envisioned by the administration, I am pleased to report that the Subcommittee on Energy Research and Water Resources of the Senate Committee on Interior and Insular Affairs is holding indepth hearings to examine both the plan and its assumptions.

So far the subcommittee has heard from Dr. Seamans, the Director of ERDA, who has described the plan for us. He will be returning later this month, on September 28, to respond to specific questions and criticisms raised by other witnesses. I would urge my colleagues to attend those hearings if they can find time in their busy schedules. We have also heard from a very distinguished panel assembled by the Congressional Office of Technology Assessment. OTA has also prepared an extremely detailed and soundly based analysis and critique of the ERDA plan. We have heard testimony from Mr. Jellinek, staff director of the President's Council on Environmental Quality, who described the environmental impact of the plan, and from Dr. Dowd of the Congressional Budget Office on its budget implications. Finally, Dr. Barry Commoner of Washington University in St. Louis provided us with his overall evaluation of the plan and its implications for the Nation.

Each of these witnesses provided extremely valuable testimony and insights into the plan's intrinsic strengths and weaknesses. I am taking the present opportunity, however, to draw your attention to the comments made by Dr. Commoner. First, he points out that the ERDA plan is not based upon a careful technical analysis of our future energy needs. Instead, he charged that this scientific and technical agency merely presumes that the President's analysis of our energy future is correct, and proceeds to draw up a plan to make sure it comes true. Second, Dr. Commoner states that should we succeed in implementing this plan, that—

> It will become a blueprint for economic disaster . . . I think they have stumbled onto a brilliant technique for ruining the American economy—

These are strong words of warning by a perceptive, publicly involved scientist. I would not wish to imply that we should deplore the ERDA plan on the basis of a single witness' testimony. However, Dr. Commoner goes on to document his claim in a most intriguing and alarming way. He explains why many features of the plan, as well as many actions of the Congress, need to be reexamined. To continue to pursue the development of technologies which consume nonrenewable fuel resources such as synthetic fuels or nuclear power, and to prolong our dependence upon oil and gas is a serious mistake, he argues. Such technologies are highly capital intensive, and many depend upon immature technologies whose safety and reliability remain to be demonstrated. Yet these are just the baskets into which ERDA has placed most of our eggs, both in its long-range plan and in next year's budget.

The import of Dr. Commoner's provocative analysis of the ERDA plan is so great that I would like for each Member of Congress to have an opportunity to read his comments. Unless we can satisfy ourselves that Dr. Commoner's analysis is incorrect, we cannot ignore the challenge which he presents to the Congress to avoid the economic disruptions which he sees in the implementation of the ERDA plan.

I ask unanimous consent that Dr. Commoner's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

OVERSIGHT HEARING ON ERDA LONG-RANGE PLAN AND PROGRAM

JULY 29, 1976.

STATEMENT OF PROFESSOR BARRY COMMONER, DIRECTOR, CENTER FOR THE BIOLOGY OF NATURAL SYSTEMS, WASHINGTON UNIVERSITY

Senator BUMPERS. I understand you have an extensive statement you would like to submit for the record. If you would like to summarize that statement, we will get into the question and answer session.

Is that all right?

Professor COMMONER. I would appreciate that, Mr. Chairman.

As you have already pointed out, in the very short time ERDA has been in existence, it has been authorized to spend nearly $6 billion, and to spend $6 billion on an extremely important program. I think it is important this overview should take place at this time. I am very glad to have this opportunity to participate.

I think we all know the nation's energy problems are very serious and urgent. Everything we do depends on energy, and because energy has an absolutely unique relationship to our entire system of production, and, therefore, to the national economy.

I think we have to recognize, despite the urgency and importance of understanding how energy relates to the national welfare, we simply have not had an organized, rational, national energy program, and we did not even know it was missing until the oil embargo caught us.

It is also fair to say the establishment of ERDA represents the nation's chief response to this lack, and, indeed, RD&D is the first step toward creating rational policy. There is one point I want to make right away. We sometimes forget that research is designed, not only to answer questions, but first to discover what the questions are.

Until you ask the right questions and define the problem, there is no logical way to seek useful answers or to create a national policy that responds effectively to those problems.

If there is any general fault with ERDA, it is right there. They have not asked the questions. They have not looked for the right questions. I think, therefore, the policy they have established, thanks to the enormous momentum of the money adopted, really has no rational basis.

It seems to me ERDA has had two fundamental and interrelated possibilities as a government agency.

First, since it is the responsible agency in the energy area of research and technology, it ought to have the duty to assemble and analyze the known facts about energy so that the right questions can be asked and the relevant national problems can be defined. In other words, it ought to provide the information base for the creation of a national policy.

In the same sense, let's say the National Cancer Institute provides the information base for the establishment of national policy with respect to that disease. It has that responsibility.

The second thing, of course, is once the policy has been established, ERDA has the responsibility to organize the research and development to carry out its part of the policy. The main point about my testimony is to examine ERDA's actions, its plans against those two responsibilities, as I define them.

First, let's look at the question of how ERDA has defined the national energy problem. I do not mean to go through that in detail with you. It is clear, I am sure, from your analysis of the ERDA plan, that ERDA defines the problem basically as one of filling in the gap between domestic energy demand and domestic supply.

What it is worried about is the imported fuel, and that is the basic drive.

The next question I have to ask is what is the scientific reference for that definition of the nation's energy problem. Although it is a scientific agency and therefore ERDA it is presumed reaches its conclusions on the basis of objective evidence, there is no scientific evidence in support of its evaluation of the national problem.

I looked very carefully for the references and what I found was a reference to an authority, namely, President Ford, and you will find on page 4—no disrespect to the President and to his office—but I don't think that is an adequate source of authority on energy.

But on page 4, you will find laid out very carefully a quote from the President's energy message below that, and I will quote this. The Plan says:

"It is the purpose of the National Plan for Energy R&D to translate these principles and goals into specific Federal programs for technology development—" and so on. There you have it.

ERDA got the message and established the program. As I say, with all due respect to President Ford, and for the office which he holds, I want to suggest that the President's analysis of the energy problem—which ERDA has adopted as its own—does not accurately reflect our current knowledge about the science and technology of energy and its relations to the national economy. There I think is the root cause of most of the faults in the ERDA Plan.

What I would like to do is offer an alternative analysis, which is by no means complete, but I think is more adequately based on science than the one ERDA is following.

The main point I want to make—and I would like to quickly run through my thesis and offer some brief illustrations of the evidence—I think the main point I want to make and I say this not out of any sense of antagonism or to indicate it was done deliberately, I really think if the ERDA Plan were carried out, in my opinion it will become a blueprint for economic disaster.

This is the main point I want to make. I think they have stumbled into a brilliant technique for ruining the American economy, and let me explain why I think that.

I think the problem of the diminution of supplies of energy has to be regarded as basically an economic question. Let me point out to you, we say so many years' supply of oil, coal, et cetera, there is an awful lot of fuel you can get out of ordinary shale. The only trouble is it would be monumentally expensive. We could not afford to do it.

When you run out of a nonrenewable source, the expression of that physical fact is not that somebody suddenly shuts a door and there is no more fuel.

The way you notice it is that the price of what you are after goes up. There are many examples. As we began to run out of whales, the price of whale oil went up. As people killed off egrets to get feathers, the price of egret feathers went up. Nobody said no more egret feathers. This is a very fundamental point which I think ERDA has missed.

The loss, the running out of a nonrenewable source and, of course, energy, as we now use it, is such a thing, is translated automatically into an economic process. That process is the exponential rise in the cost of producing the energy which we sense as the price.

The main burden of what I have to say is we have to test the consequences of what ERDA has to do by looking at the exponential rise in the price of energy. I want to show you how that relates to what has happened.

The points I want to make—and I will run through them very quickly—is that there is now for the first time in the history of the United States a very rapid exponential rise in the price of energy relative to the rest of the economy.

In other words, we are in an energy situation economically, which is absolutely unprecedented. The reason why this is serious is energy is not like egret feathers. You cannot get along without it. When ivory became scarce, plastics were put on piano keys. I don't know what was done when egret feathers became scarce, but apparently people got along without them. But you cannot get along without energy. There is no way of substituting anything else for energy.

The result is, as energy becomes more expensive so that the processes that use it become costly, you have no choice but to raise the price of the goods, which means a powerful impact on inflation, or to change the character of the production system, which means making capital goods obsolescent.

For example, I might point out the current trend, if it continues, with the public turning away from synthetic fabrics to cotton and wool, which has caused a beginning depression in the synthetic fabric industry, is a reflection of the fact the synthetic fabric industry is a very intensive user of energy.

If that fault becomes expressed economically, it will be an enormous loss to the country in the sense of the capital goods built up by the petrochemical industry, which will suddenly become or be a lot less.

The point I am making is we have to examine the ERDA Plan in terms of what its proposed development of energy sources and uses will do to the rising price of energy. If the price continues to rise, we are going to be in very deep trouble.

Senator Stone. Mr. Chairman, can I interrupt with one question?

Are you suggesting when ERDA makes a proposal for research into an alternate fuel or any other energy-producing system, that the forecast of the economic cost be an integral part of that?

Professor Commoner. Absolutely. It needs an economic impact statement.

Senator Stone. It is not whether you produce an alternative system but what it costs?

Professor Commoner. Yes.

As an interesting thing, we have data that indicates how much organic fossil fuel must have been deposited in the earth's surface from theoretical considerations. We also have crude estimates of how much we think we can find.

The latest figures indicate the amount of discoverable resources are probably one part per 1,000 or less of the amount of carbon that must have been deposited as fossil fuel. Where is the rest of it? The rest of it is probably disseminated in the form of very dilute organic matter in things like shale in soil and so forth. It is there, but you could not afford to get it.

The point I am making is it is absolutely essential to understand nonrenewability expresses itself in real life as an economic factor. As I will point out in a moment, there is also an economic factor that is embedded in the design of the machinery that you use to transform the fuel into useful energy. I don't see how ERDA can possibly design any research and development without considering this economic factor, and I am afraid it has.

Incidentally, as in irony, one of Mr. Ford's prescriptions was to keep the cost of energy down, but that is the one prescription they did not nail to the wall and look at it. Everything they are doing is raising the cost of energy.

Now, energy is nonsubstitutive. What energy does is to yield work. This is true all over the universe. There is no way of getting along without energy if you want work done, and that is true whether it is done by people or by machines.

The simple point I want to make is when you try to get along with less energy, you lose the value of capital goods. I might point out, for example, the people who now own all-electric homes have to face the fact that home is worth less than they thought it was. Why? Because the operating costs have gone up and will go up. In other words, as the price of electricity rises, the capital value of a home totally dependent on electricity falls.

This is also going to be true of the auto factories that produce big cars as industry has to shift over to smaller ones.

Senator Bumpers. It follows then, people who are making a bigger investment, to use as much solar energy in their homes right now will probably recoup that in increased value.

Professor Commoner. You anticipate my response, but that is exactly the issue. That is the test we ought to place on any energy policy.

As I pointed out, there are two ways of responding to the situation. Either you let the price of energy go up and price pass it through, through the production system, in which case the price of everything goes up.

If you don't do that, then you erode the value of capital goods.

Now that I have laid out what I think is the key issue, I want to direct your attention to Figure 2 in my testimony, and that is what ought to be nailed up on the wall over ERDA. What this is, this is data, the Department of Commerce provides a price index for a series of goods and commodities and an average for all commodities.

What I have plotted here is the ratio between the wholesale price index for fuel and power, is the energy figure divided by the wholesale index price of all commodities. This ratio tells you how much you have to pay for energy relative to what you have to pay for everything else.

All we have done here is simply to plot the data right off the Department of Commerce tables. There are three separate indices actually. The data go back to 1811, but they are not too reliable.

But what you see is there has been a lot of scatter and so on, but the basic trend is, since 1930 there has been a steady decline in the relative price of energy, and in the period since World War II, which is the period in which our modern industrial and agricultural system has been created.

You know on the farm, for example, this is the time when fertilizer was introduced and so on. During essentially the building up of our modern industrial and agricultural production system, there has been a rather steady, slightly declining price of energy.

I do not want to suggest this has been an extremely important factor in the success of our industrial and agricultural development. In fact, just yesterday I noticed—I think it was in Business Week—an article about the current worries about one of the lagging economic indicators in what is supposed to be the recovery from the recession, and that is the expenditure of our capital goods.

There was a query to one of the industries of why they weren't spending for capital goods and the answer was uncertainty, and particularly the uncertainty about the availability and the price of energy. Energy is so important, the reliability of that economic input I think is extremely important to any entrepreneur.

In fact, the stability of energy up to 1973, I think must have had a very important effect on industrial development. If you look at the point at 1973, suddenly there is what can only be called a historic discontinuity in the price of energy. Any scientist looking at a graph like this, worries about what happened in 1973. We all know 1973 was the embargo. You might say, "Well, sure the price was increased because OPEC jacked up the price," but you will notice the price is rising at an almost constant rate in 1974, '75, and we plotted the first quarter of 1976.

More important—and this is what I want to emphasize in a moment—it is inevitable that the price of energy will continue to escalate so long as we continue to use present forms of energy.

In other words, what I think has happened in 1973 is that OPEC anticipated the inevitable exponential rise in the price of energy and, in fact, the Shah of Iran has said that, has said over and over again, "What do you expect?"

This is not a renewable resource and of course the price is going up. We decided to make it go up at our choice, which had to do with politics and so on. So I think we have to regard this sudden rise as the inevitable consequence of our present pattern of the use of energy.

In other words, if we are using petroleum and natural gas, which is nonrenewable, as we take out a barrel of oil, the next barrel of oil becomes more expensive. You have to begin using secondary, tertiary methods, and so on.

I don't need to remind you about gas. Right now there is a big struggle about the price of gas. In other words, we are confronted with what I think can only be regarded as a very serious challenge to the stability of the major input into production. That is the price of energy.

I offer this as a background to what our problem is. Our problem is we are confronted with what may be a very serious and ultimately disastrous change in the price of energy. It seems to me the task of ERDA ought to be to devise ways of shifting from our present dependence on non-renewable sources and techniques that tend toward raising the prices, shift away from those to a process of production and use of energy which stabilizes the price.

In other words, this Figure 2, in future years we are going to have to flatten it out or else we are heading for disaster. If it keeps going up, we are in trouble.

What I have done is to analyze the ERDA Plan from that point of view, and I can summarize very quickly to tell you if the ERDA Plan is carried out, the price of energy will rise exponentially for the next 75 years, and I don't think we will make it. I don't see how we could possibly tolerate that.

Let me briefly give you the details. The Near-Term Plan is based on enhanced recovery of domestic oil and gas. This means an enormous increase in the price of the fuel because you are using much more expensive techniques. In addition, electrical power production is to be mainly based on light-water reactors.

I have included, as an appendix, a paper in which we have analyzed the relation between the nuclear power and the price of electricity. There is no question the price of uranium fuel will go up. As shown in Figure 1B, it rises exponentially. 1A is the rise in price anticipated for natural gas and oil simply based on the diminishing returns of trying to get more and more out.

The same thing is true of uranium because, as the rich uranium ores are used up, you have to go to poorer ones, and that means much more refining and so on. So there is no way the present light-water power system could continue without a rapid rise in the price of the electricity produced.

In fact, the rising capital costs of nuclear power are already bringing us close to the crossover point as compared with coal-fired power. So the near-term plans of ERDA guarantee a rapid rise in the price of energy.

Well, let's look at the mid-term plans. The mid-term plans rely chiefly on coal conversion and shale oil. As I pointed out in Table I, the capital costs per unit of energy produced in shale oil and coal conversion processes are 10 times higher than mining coal. They are much higher than the capital cost per Btu of producing oil. In other words, there is no way of going into coal conversion and oil shale production without a rapid escalation in the price of fuel.

The figure that has been quoted, the last one I remember was $26 a barrel, and you may remember Mr. Ford and Mr. Kissinger appealed to the OPEC nations to have a floor on the price of oil in order to encourage investers to go into shale oil and coal conversion.

As you know, that industry is in chaos now. They are unable to make the investments while the price of oil is still below $26 a barrel. In other words, the promulgation of those ways of producing fuel is predicated on a $26 a barrel oil price.

There is no way of having these things effective unless the price of oil goes up.

I might mention one of the problems is I don't think they really understand—

Senator Bumpers. May I interrupt you? You are talking about $26 a barrel. You are talking about oil shale and coal conversion?

Professor COMMONER. Yes. They are roughly comparable figures although there is a good deal of variation depending on how some of the pilot plans come out, but the last figure I remember—I think that was synthetic fuel—is $26 a barrel; shale oil, there are some techniques they could work that would be a little lower.

Senator BUMPERS. Occidental is insisting that will be much, much lower.

Professor COMMONER. Occidental has not faced the fact that shale oil is carcinogenic. This has been known since 1896. The CEQ people referred to that. That is an extremely important point and I looked carefully through the ERDA Plan and found no mention of it. I was a little put out about it. I had gone to ERDA at their invitation about a year ago, and gave a seminar on that problem.

Senator BUMPERS. There is no mention of that?

Professor COMMONER. There is no mention and there must have been 50 people on that staff when we presented our scientific data. In fact, I showed them an analysis of a synthetic oil sample we had gotten from the group at Oak Ridge that we had analyzed, and it clearly had carcinogenic materials.

Some of the staff I think really appreciated it, but I think the impact of this, as the testimony just before me has pointed out, has not really become embedded in the thinking of planning at ERDA. This means they are dealing with a problem very much like nuclear power where unexpected technological difficulties arise, and they keep escalating the cost.

I think before we are through, if we are going to use coal conversion, there will be problems like putting it in an air-tight seal to prevent dissemination of volatile carcinogenic materials.

The main plant operating in West Virginia, operated by Union Carbide, after six years it was shut down. The workers had something like 30 times the expected incidence of skin cancer.

Senator BUMPERS. I had heard the process the Germans used in World War II, that every worker came down with cancer.

Professor COMMONER. I have not seen those data, but the West Virginia data is a classical example of good scientific work. The Medical Department of that plant got alerted to it because a study had been done just after the plant started. They rubbed products of the plant on the skin of mice, and in nine months or a year, there were tumors, and immediately the Medical Department clamped down. There is a series of very good papers.

For example, whenever a worker had a blemish on his skin, he was required to come in and was photographed at weekly intervals. They really monitored those workers. There was a lot of hygiene. They were warned about washing and so on. Yet, after six years, a very short time, there was something like a thirtyfold excess rate of the incidence of skin cancer.

Senator BUMPERS. Was most of that skin cancer?

Professor COMMONER. Yes, and you understand most of these are polycyclic aromatics which dissolve in the oil on the skin, and the organ at risk is the skin.

This is something we have pointed out repeatedly. One of the organizations I am associated with, the Institute for Public Information, sent one of our people to a hearing—I forget which one—at which Mr. Seamans was present, and when the young lady got up to mention or ask about carcinogenicity, there was a good deal of objection this was irrelevant, and so on. It is not irrelevant. I think it is going to affect the price of what they are trying to do.

The point I am making, the mid-term plan, based on coal conversion and oil shale, will again increase the price of energy. The long-term plan will do the same. The long-term plan is based on what they regard as possibly three possible renewable sources of energy.

Let me say very quickly, if you want to think about our key question, the price, you will have to think about a key sequence of two steps: the source and the machinery converting the source of energy into useful work. In order for the price not to escalate, the source has to be renewable. That is clear.

If it is not renewable, then no matter what kind of machines you use, the price will go up. That is the trouble with an oil burner. An oil burner is a good, economic machine, but the oil burner is going to go up in price repeatedly, and the same way with gas furnaces.

The second question is what about the machine, is that going to go up in price? Nuclear reactors are going up in capital costs, escalating rapidly. So unless you contain both problems, unless you have an inexhaustible source of fuel and what I like to call a mature technology like an oil burner—we know enough about oil burners so the price does not go up because of unexpected peculiarities—but unless you have a mature technology and an inexhaustible technology, the cost will go up.

EDA proposes three possible inexhaustible energy resources. One is based on the breeder, the other is fusion, and the third is solar energy. I think fusion we might as well drop immediately in the discussion here because no one even knows whether it will work. It is already clear the capital costs will be enormous. It is going to take a very long time before this nonexistent process becomes mature. So I am not going to say any more about it.

The breeder is an excessively immature technology. In the first place, it now seems the breeders in England and France, which are usually referred to as examples of the success of the technology, in fact do not breed. The Soviet breeder is now operating at two-thirds capacity. I don't know of any evidence for or against as breeding. The difficulty is it takes very close tolerances in the arrangement of the fuel elements to get breeding. Those close tolerances make the safety devices that have been forced on conventional nuclear power plants very difficult to use in a breeder.

In other words, this is a very much unresolved technological issue, and for that reason there is no chance it is going to become mature in the sense of not rising in price for a very long time.

The other point I might make is I have actually taken an ADC data of when they expect breeders to produce, if they do, produce enough fuel to run the expected light-water reactors, and Figure 6 spells that out.

What that shows very simply is even if everything works in the breeder plant, it will not be until something like 2040 that you will be able to get away from natural uranium supplies to run the nuclear power program.

That means the exponential rise in the cost—

Senator BUMPERS. Let's go back. I didn't quite track you on that.

Professor COMMONER. If you want to look at Figure 6, it will help. Figure 6 is the scheme—well, let me go back for a moment. The present nuclear power system is a one-pass use of uranium. Therefore, as the cost of uranium rises, natural uranium, the price of energy, electricity, will go up. This was recognized by the AEC 10 years ago. That is why they introduced the breeder. The breeder was introduced to get away from the diminishing supplies of natural uranium. It would reproduce cycling of uranium and extend the supplies for years.

All right. Let's accept that. Now, let's ask when do you expect to have enough bred, artificially bred fuel to run the nuclear power program you think you are going to build up, and Figure 6 explains that.

The top figure is the total demand for fuel, including you need fuel to start the breeders going. So that is the total demand, the demand curve.

The second, B, is the expected production of plutonium in the breeders if everything works. What you have to do is subtract the second curve from the first in order to find out how much natural fuel you need, and it turns out you are going to need natural fuel until around 2040. Natural fuel will escalate in price as it is used. Therefore, the entire nuclear program is not free of that impulse toward a higher price in 2040 until the very earliest. That is the point I am making.

Senator BUMPERS. I follow you now.

Professor COMMONER. I want to finish now by saying that almost without exception—and I do not need to go into the figures, you already know—the major expenditures in the ERDA Plan are for nuclear power, coal conversion, shale oil, and so on.

Those expenditures are all for energy production techniques which are bound to raise the price of energy. That is why I think it is a prescription for disaster. They are moving toward the production of energy which will continue this historically new fact that the price of energy is rising, and as far as I can tell, if the ERDA Plan goes through and we actually become dependent on shale oil, nuclear power breeders, and so on, what will happen is the price of energy will rise relative to the rest of the economy for 75 years. I would like to see a professional economist tell us how we are going to survive that. I do not think it is possible.

Now we come to the question of can we do anything about it. As it turns out, as you have anticipated, that the only way to get both an inexhaustible source of energy and a mature technology is to turn to solar energy.

The first point I want to make is we now have for space heat and hot water a mature technology economically competitive. One of the appendices I have enclosed shows by properly mixing solar and conventional sources, you can today save money in producing hot water in St. Louis, counting the amortization of the investment, the whole works.

In the next year or two, in most parts of the country, it will be possible for a householder, if someone would lend them the money, to afford and save money by introducing partial dependence on solar energy for space heat and hot water.

I want to mention a new technology, which has been developed at MIT, which provides both hot water and electricity, a very clever way of using a solar photovoltaic cell. This will provide for 80 percent of the space heat and hot water for areas south of Washington State, and more than half of the electric needs.

What it says is we could start now to flatten out that price curve. Why would it do it? You do not pay for fuel, and the price of the equipment will not rise; in fact it will fall as mass production begins. In other words, there is an instance where we can flatten out the price and, incidentally, this becomes a hedge against inflation. You are investing in something which will reduce your expenditures for something that is going to be higher-priced later on, namely, fuel.

The other solar technologies, some of them are close to mature. I think that is true of wind energy. The price of photovoltaic cells is falling; it is not going up. But I want to emphasize it is the slope of the curve. If the technology becomes increasingly expensive, you are in trouble. If it is flat or falling, you at least know you are going to get to a point where you can flatten out the price of energy.

Ocean thermal is a project at Johns Hopkins which now claims to be able to produce ammonia competitively from the solar energy available from the temperature differences in the ocean. Ammonia is one of the most energy-intensive supplies we use now. I see no reason why we could not turn the entire program around and depend on solar energy and coal combustion in the interim in order to get a national energy plan that involves steady prices of energy.

This is exactly the reverse of the ERDA Plan and it is something that is already clear. I see no way of our achieving any sensible energy policy without a total reorganization, a 180-degree turn from the direction ERDA has taken. I hope these hearings will perhaps make them take the first step in that direction.

Senator Bumpers. Dr. Commoner, I so totally agree with everything you have said, I don't know what kind of questions to ask you.

What you have said makes such eminent good sense. The power industry present will take issue with what you have said, but it seems almost irrefutable to me.

I am not a scientist or an economist, but my native intelligence tells me everything you have said is precisely correct. I would not say here with a straight face that I have read all of ERDA's Plan. I have not. But everybody I have talked to that has, that I consider to be totally objective about it, has said very much what you have said about the cost effectiveness of the programs we are talking about.

Your opening statement was that it was a prescription for economic disaster, and I think you have fortified that statement as precisely as possible. It points out that Congress cannot, without cost effective options, assist ERDA in these choices.

Professor Commoner. ERDA has not given you the information you need to make that estimation. That is the problem. You should have gotten from ERDA some of the graphs I have produced in my testimony. It is silly for someone back in St. Louis to have to struggle through the Department of Commerce data. They should have done that a long time ago.

Senator Bumpers. I don't see how they can design a plan without it, to be frank with you.

The most persuasive and interesting graph, of course, is the historical cost of energy in the country, and I think it is fairly easy to predict. Who can argue with the fact that if we continue to rely on finite resources the cost is going to go up. It is like whale oil. In any event, I am going to try to arrange to get a transcript of what you have just said, not in your formal statement, but what you have said informally here today, get that transcribed, and get it into the hands of every member of the United States Senate.

Our priorities around here get mixed up. I regret every member of the committee is not here this morning, but they will have access to what I think is one of the most compelling cases that has ever been made for a gigantic leap into energy sources that are not finite.

I thought your conclusion was perhaps one of the most interesting. That is, we can start right now with a mix that would have a salutary effect on what will otherwise be a continuing dependence on non-renewable resources.

Professor Commoner. The University of Illinois has done a translation of our analysis for five typical homes in Illinois. They want to prepare a brochure for builders in Illinois and homeowners to show how this mix can be achieved today in Illinois.

In other words, there is no reason why it cannot go short of financing, and the financing will have a payback point of perhaps 10 or 12 years. It is a question of the government having the will and wait to put its money there.

Senator Bumpers. The suggested question is should ERDA be doing the same thing in demonstration projects.

Professor Commoner. Absolutely. I think it has been pointed out in OTA in criticism that ERDA has been technology-minded and has not looked at the system.

One of my favorite topics I did not talk about, thermodynamics, but there was an absolute historic analysis of our energy system made by a group from the American Physical Society two years ago. They are the ones who pointed out although engineers always use the Second Law of Thermodynamics in designing a power plant, they did not ask the question about the Second Law they hooked up the power plant to people's homes.

So, for example, the Second Law of Efficiency of electric home heat is less than one percent. You never hear that in the television ads. So the power company very carefully has its engineers use the Second Law inside the plant, but it never lets its customers in on that secret.

It seems to me—and this was a beautiful piece of work, the APS study. I carefully went through every ERDA document I could lay my hands on to find out if they knew or acknowledge the existence of that APS study. It is nowhere in sight.

That is one of the faults of ERDA, again. It is not in touch with the scientific community. Every one of us in science or many of us were enormously impressed with the study. It was a beautiful piece of work. It lays out for the first time the way in which we can use the science of thermodynamics to make drastic improvements in energy conservation.

You would have thought ERDA would alert the members of Congress to that. Literally, what should have happened when that APS study was published, ERDA, as the responsible scientific agency in the government, I think should have digested it, explained what it meant, and sent that to the Administration, to every member of Congress. I think it is a disgrace that that did not happen.

Again, it is not facing its responsibility to do an objective analysis of this enormously important problem.

Senator Bumpers. Dr. Commoner, I would say there are three or four questions that may occur to me later, which is usually the case, that I would like to submit to you in writing just informally for my own personal use, but probably to go in this record also.

I cannot tell you how much I have appreciated your being here and your testimony this morning.

Thank you so much.

Professor Commoner. Thank you.

DEFENSE OF MALCOLM CURRIE

Mr. GOLDWATER. Mr. President, while I was not in attendance of the Senate the day that two of my colleagues raked Malcolm Currie over the coals because he had been made the acquisition expert by the Pentagon, I do think a reply is needed. It is difficult for me to understand why some Members of this body feel that any man who ever worked for industry, in any capacity at all, is so completely a slave to industry or that particular industry that he cannot act with an open and fair mind toward problems or items involving that industry. I might point out that many of my colleagues receive tremendous sums of money from organized labor for one specific reason, and that is to vote the way labor wants them to vote, and I can also report that with one or two exceptions, they follow labor's line religiously. We even find people in the Hall during votes waiting to tap each Senator on the shoulder to tell him how to vote or how not to. How proper is it, then, that some of these same Senators accuse an honorable man like Malcolm Currie of wrongdoing because he was once connected with industry? It has been my pleasure to have known Mr. Currie for a good many years and I have never known a man in business or out of it, in Government or out of it who ever questioned for a moment his honesty or sincerity. If it is going to get down to the point where every single appointment made by the President is going to be criticized because they came from American industry or even the American academic field, fields which had anything to do at all with the development or manufacturing of a weapons system or anything related to the military, then I am afraid that those of us who are not supported by labor will start being extremely specific on every issue when our colleagues vote the way labor tells them to.

SOVIET BID FOR NUCLEAR SUPREMACY

Mr. THURMOND. Mr. President, it was with great concern that I read in the U.S. News & World Report, September 6, 1976 edition, an article entitled "Can U.S. Block Soviet Bid for Nuclear Supremacy?" by Joseph Fromm. The article grimly points out that the Soviet Union is resolved to acquire the capacity to deliver an effective nuclear attack upon the other side and survive the ensuing retaliation. When this goal is viewed with the knowledge that over the past 10 years the Soviets have spent $10 billion on civil defense while the United States has spent only $804 million, the prospects are frightening. This should be a matter of grave concern to the Congress and to the American people.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Challenge for Next Administration—Can U.S. Block Soviet Bid for Nuclear Supremacy?

Few issues in the presidential campaign will have a more profound afteraffect than the debate over the shifting Soviet-American nuclear balance.

It now is clear that the next Administration, whether headed by Gerald Ford or Jimmy Carter, will be forced into a reassessment of Russia's unparalleled strategic buildup, and the threat that it poses to American security.

Significant changes in U.S. defense planning and foreign policy are foreseen by high-ranking Government experts.

Mounting pressure for a reassessment of the Soviet threat is being generated, not by election rhetoric, but by a series of authoritative studies that have surfaced in the course of the campaign.

The studies point up these conclusions:

The Soviet Union, contrary to past assumptions of key U.S. policy makers, is driving hard for decisive strategic superiority over the U.S. rather than strategic stability between the superpowers. Neither détente nor the Strategic Arms Limitation Talks have slowed that drive.

An unprecedented Soviet deployment of powerful new missiles, now in full swing, is torpedoing Washington's basic objectives in the SALT negotiations. The Russian build-up soon will confront America's Minuteman-missile force with a knockout threat, the very danger that the U.S. has sought to avoid through arms negotiations.

Civil defense, written off in the U.S. in the early '60s as ineffective, is being expanded in the Soviet Union at a cost of more than a billion dollars annually. This program is designed to implement a Russian strategy aimed at fighting, and winning, a nuclear war—not simply deterring it.

The over-all picture that emerges from these studies is deeply troubling to U.S. defense planners. They fear that the strategic balance is shifting in a way that will tend to neutralize American nuclear might and encourage Russia to pursue higher-risk policies in future crises.

"Being demolished." The more pessimistic analysts maintain that the Soviet Union already has or soon will achieve strategic nuclear superiority over the United States. Lord Chalfont, a prominent British defense expert and former Minister of State for Disarmament, puts the argument in these words:

"I am deeply sorry if I tread on anyone's dreams, but I feel bound to draw attention to the fact that the nuclear balance, always a fragile and uncertain edifice, is being demolished before our very eyes."

Lord Chalfont explains: "The nuclear balance ceases to exist at the moment when one side believes that it has acquired the capacity to deliver an effective nuclear attack upon the other and survive the ensuing retaliation. My proposition is that the Soviet Union is resolved to acquire that capacity in the very near future."

Why the sudden concern about the effectiveness of America's policy of nuclear deterrence?

A major factor is a new assessment of Russia's civil-defense program and its impact on the strategic nuclear balance. The Central Intelligence Agency has just completed a study which, according to responsible officials, produced these findings: The Soviets have upgraded the importance of their program since the first Strategic Arms Limitation Agreement was signed in 1972. They recently have shifted the emphasis from mass evacuation of cities to the construction of shelters in urban areas to protect key Government and industrial personnel in a nuclear attack. And they are devoting increasing resources to this effort.

Further details are brought to light in a study of what is described as the "Soviet war survival program" by Leon Gouré, a civil-defense expert at the University of Miami's Center for Advanced International Studies. His conclusions:

The Soviets are spending about 1 billion dollars a year on civil defense and even more on schemes to disperse their industries. Russian strategists calculate that, if their program is effective, casualties in the Soviet Union could be limited to between 7 and 12 million in a nuclear exchange with the U.S. That is far below what American defense planners define as "unacceptable" damage—the level of "assured destruction" that is considered necessary to deter the Soviets from contemplating nuclear war.

Top officials at the Pentagon say that what is really important about the vast and growing civil-defense program is what it reveals about official Soviet thinking concerning nuclear war. In the words of one high-level Defense Department authority:

"We in America believe that nuclear war is unthinkable, that it will mark the end of history. Not so with Soviet leaders. They certainly want to avoid nuclear war. But if it comes, they think in terms of fighting and winning it."

Until quite recently, U.S. defense planners discounted the strategic importance of Russia's civil-defense program. They were confident that America's retaliatory force, in any conceivable circumstances, could inflict "unacceptable" damage on the Soviet Union—estimated by former Defense Secretary Robert McNamara as the killing of 20 to 25 per cent of the urban population and destruction of at least half of the country's industrial capacity. As long as Kremlin leaders faced that level of devastation, it was assumed that they could not possibly contemplate nuclear war.

But the picture has changed dramatically over the past year or so, and in a way that has shattered illusions of many top Washington officials about the results of the Strategic Arms Limitation Talks and about Russia's real objectives.

What has happened is that the Soviet Union has embarked on a massive build-up of powerful new weapons that threatens the survivability of America's retaliatory force.

Quadrupled power. The magnitude and implications of this build-up are spelled out in a study recently issued by the Congressional Budget Office.

The Russians, according to this study, are deploying four new missiles that are as much as four times more powerful than the launchers that they are replacing and are more accurate. Also, these missiles are armed with MIRV's, multiple independently targeted warheads.

This development, the congressional report indicates, defeats the two primary American objectives in the SALT negotiations. One is to stabilize the superpower strategic-arms competition and curb spending. The other is to prevent the Russians from acquiring the capability to cripple U.S. land-based missiles in a pre-emptive attack.

The congressional study characterizes as "unprecedented" in scope the Soviet build-up since the signing of the SALT I Agreement in May, 1972. And it reveals that the Russians in 1975 spent 100 per cent more than the U.S. for its intercontinental-attack forces.

As for the vulnerability of America's 1,000 Minuteman missiles, the Congressional Budget Office analysis came to this conclusion: "By the end of the 1970s, by pessimistic estimates, and by the early to mid-1980s, by more optimistic estimates, the Soviets are expected to be able to destroy a high percentage of the Minuteman force."

A second strategic-arms-limitation accord, on any terms that now seem feasible, would in no way diminish the "first strike" threat to these land-based missiles.

It is the combined effect of this threat plus the Soviet civil-defense program that is causing acute concern among Pentagon planners. The danger, as they see it, is not so much that Russia's leaders will rush into a nuclear war against the U.S. in the belief that they can come through with substantially less devastation than America. Rather, it is the likelihood that Kremlin decision makers will pursue higher-risk policies on the assumption that the U.S. will be the first to blink in any future eyeball-to-eyeball confrontation.

A top-level Pentagon specialist sums up the danger in these terms.

"What may be the most important but least discussed consequence of these developments is the impact on leaders, Russian and American. The Russians, with nuclear superiority, could be expected to be bolder, to take somewhat higher risks in a crisis even though basically they have a mentality that is defensive and cautious. At the same time, American leaders might be more timid, shakier, less convincing.

Some officials believe that such a psychological shift already is apparent. As evidence, they cite Soviet intervention in the Angolan civil war last year and signs that the Kremlin was ready to send airborne troops into the Mideast in the 1973 war.

The Kremlin's strategy, in the view of American analysts, is to utilize its local military superiority in a future crisis while U.S. strategic nuclear power is paralyzed.

What does all this mean for the winner of the November presidential election? The consensus among experts in the Pentagon, State Department and CIA:

A significant shift is imperative in the policy that the U.S. has pursued toward the Soviet Union over the past five years. Détente of a sort will continue, but no longer as the centerpiece of American foreign policy. A new approach toward SALT negotiations will be required, but with no illusions about Russia's determination to achieve strategic superiority rather than stability.

Strategic experts say that the next Administration will have to consider at least four other major policy moves to counter the Soviet bid for superiority over the U.S.:

1. Minuteman vulnerability. Either some means will have to be developed to protect the present land-based missile force against the threat of a Soviet first strike, or a new, less-vulnerable system will have to be built. One possibility: a force of semimobile missiles that would cost an estimated 30 billion dollars. Another possibility: a switch of more missiles from land to invulnerable submarines at sea.

2. Counterforce threat. A greatly expanded research and development program is advocated by some experts to improve the accuracy and explosive power of U.S. missiles. This would include the design of a new weapon known as MaRV, a maneuverable warhead that can be guided directly to its target. The aim: Confront Russians with a threat to their land-based missiles comparable to the threat that they pose to America's ICBM force. Also: More accurate missiles would be designed to knock out hardened bomb shelters and thus counter the Soviet civil-defense program.

3. Cruise missiles. Defense experts stress the importance of exploiting this revolutionary new weapon, a superbly accurate pilotless aircraft that can be launched from a bomber, surface ship or submarine. The Russians, in the SALT II negotiations, are attempting to frustrate further development of the cruise missile, which some authorities believe would insure future U.S. strategic superiority and might even help offset Soviet conventional military superiority in Europe.

4. China as a "semi-ally." A move toward closer collaboration with Russia's chief enemy, Communist China—even in the military field—is regarded by ranking analysts as another option that the next Administration must weigh. They maintain that a policy aimed at cultivating Peking as a semi-ally would complicate Soviet defense planning and help deter Moscow from risky military adventures.

Whatever course the next Administration adopts to counter Russia's bid for strategic superiority, this is evident to top U.S. military planners: The President—Ford or Carter—can no longer count on SALT negotiations or a policy of détente to prevent the Russians from shifting the nuclear balance in a way that would endanger the security of the U.S.

JOHN W. WARNER'S SUCCESSFUL EFFORTS

Mr. SPARKMAN. Mr. President, as John W. Warner completes 2 years of service as the first Administrator of the American Revolution Bicentennial Administration, it seems to me that we should recognize the success of his efforts.

Throughout the country, communities and organizations have mounted observances of the Bicentennial during this period. Communities, large and small, have participated and the Bicentennial has reached into every part of the Nation. The observance was international, as well as intranational.

Mr. Warner and his associates have earned our appreciation.

A COMMISSION TO STUDY THE ANTITRUST LAWS

Mr. MATHIAS. As President, I am pleased to join the distinguished Senator from New York in offering a bill—S. 3799—to create the Antitrust Review and Revision Commission to study the antitrust laws of the United States.

The establishment of such a Review Commission has been a long-time interest of mine. Several times during my congressional career I introduced legislation very similar to the bill presently before us. I believe that it is time that we create a mechanism for a thorough, thoughtful review by an expert but sufficiently broad based body to give Congress some real help in evaluating the adequacy of our present statutes and their administration. The composition of the Commission, as set forth in the bill, is certain to insure that the Commission can skillfully undertake a thorough and objective analysis of our existing antitrust laws and their enforcement.

The importance of establishing such a Commission is underscored by several factors. Almost 90 years have passed since the Congress first enacted antitrust legislation. Many argue that despite the subsequent antitrust bills that have become law in the intervening years, the conditions of our basic economy and the world economy in which U.S. businessmen must compete have so changed that some of these laws are out of date.

It is also suggested that these laws, because of inherent weaknesses and alleged lack of vigorous enforcement, have failed to prevent increasing concentration of control of U.S. industry and have permitted the development of conditions in a number of so-called oligopoly industries in which competition does not now adequately serve the interests of the consumers, taxpayers, businessmen, or of the Nation as a whole. And it is suggested that they work different results depending upon the form of business to which they are applied. Our system is further being tested in competition with other economic systems with different approaches to control of monopoly. These are matters of great controversy among economists, politicians, and lawyers inside and outside the Government.

I believe that the time has come for creating an Antitrust Review and Revision Commission.

The Brownell commission, established by Attorney General Herbert Brownell, one of our great Attorneys General, did significant and important work in codifying our antitrust laws. At the same time, however, the Brownell commission merely accepted the law as it then was, and made very little innovative change or creative contribution to what the law ought to be. That, I think, is what the Senator from New York and I perceive as necessary.

I think the way the Senator from New York proposes to do it is important. Years ago, when I was a Member of the other body, and proposed a similar plan to the then president of General Motors, he said:

> Yes, there ought to be changes in the antitrust laws.

And he was all for them, but he said:

> I don't know what kind of changes you fellows in Congress would make.

It seems to me that the way the Senator from New York has structured this commission, to give weight not only to what Members of Congress may feel, but to what people in the private sector feel, is a very constructive approach to one of the most important issues before the country.

SPACE PROGRAM INVESTMENT

Mr. GOLDWATER. Mr. President, many times I have said that the amount of money we have spent in space, something in the neighborhood of $40 billion, that in time the entire amount would be realized in our economy each year. One of these is the Landsat mapping satellite program which has revolutionized the way we map the Earth. Offshoots of this have also been able to tell our American farmers and farmers around the world how their crops are growing, whether they have too much water or not enough and on any number of occasions information from these satellites have prevented catastrophic occurrences caused by floods or a fast melting rate of snow. There appeared in the Washington Evening Star the other evening the first of a series of stories by Thomas Love, and I ask unanimous consent that this be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO SATELLITES REVOLUTIONIZE THE WAY WE MAP THE EARTH

(By Thomas Love)

Maps and mapping techniques really didn't change all that much during the several centuries before World War II.

Of course, accuracy increased—it didn't take too long to determine that California really wasn't an island. And printing methods improved—high speed presses replaced hand copying—but the basic methodology and end result stayed pretty much the same.

During the past few decades, however, things have changed drastically.

For instance:

Maps have been developed which can be used to update census data through land use alterations observed by a satellite 570 miles above the globe.

Vehicles used in mapping have self-contained internal navigation systems that sense and record not only the vehicle's every twist and turn but its changing altitude.

Aerial photographs of the earth's surface, which have supplanted most tedious ground surveying, are projected in midair to form a three-dimensional picture that is used to determine altitudes for maps.

Full-color maps of large areas can be "drawn" in just minutes from satellite-gathered data stored in a computer.

Maps are being produced which can predict the success or failure of a crop long before harvest time, help inventory forest products and show previously unsuspected geological features.

Two U.S. Government agencies are at the heart of this major change in cartography—the National Aeronautics and Space Administration and the U.S. Geological Survey. Together, they are revolutionizing the art.

NASA's contribution comes from its high-altitude aerial photography activities and its two mapping satellites, Landsats I and II, soon to be joined by the more sophisticated Landsat III.

Since the USGS conducts nearly all of the basic mapping in this country, it is the No. 1 NASA customer.

Von Braun's optimistic view of the economic impact of the Landsat project may not yet have been proven correct, but in one way, at least, Landsat I was a bargain for taxpayers—it was launched in 1972 with projected useful life of one year. It's still working fine and sending back useful data today.

The two satellites, which cost some $197 million, are actually research and development vehicles for NASA. According to Alex Tuyahov of NASA's User Affairs Division, they "were launched to find out what you can do with this new view from space."

The satellites—they're carbon copies—look at the earth with four "eyes" that record the visible colors red and green and well as two frequencies of infrared radiation. Landsat III—now Landsat C since satellites switch from alphabetical to numerical designation upon launch—will add a fifth heat sensing detector.

As the satellites spin around the globe, they are constantly monitoring what they see in the four frequencies of radiation and relay that information to earth.

Each passes over every point on earth once every 18 days. The orbits have been set, however, so that every point is monitored every nine days by one of the pair.

The data is returned to earth not in any visual, map-like form, but as a continuous series of numbers that tell the amount of reflected light recorded in each of the four monitored frequencies.

For instance, if a certain point reflects no green light, the satellite will report what amounts to a zero for that frequency. The more the green, the higher the number.

The satellites return a report on every 1.1-acre plot on the face of the earth, the smallest section they can "see."

All this data is relayed to the Geological Survey's data center in Sioux Falls, where it is available to anyone who has any use for it—domestic or foreign.

There is such a demand for Landsat data that a number of foreign governments have set up their own ground receiving stations. The only provisions that NASA demands are that the information must be made available to anyone and that the receiving government must sell it at cost.

The possible uses for all this information are almost endless. By making various combinations of the data in the four frequencies, map-makers, or cartographers, can determine an amazingly detailed picture of the earth.

For instance, James R. Wray of the USGS headquarters in Reston has used similar data from lower-level aerial photographs to develop a series of experimental maps of the Washington area, which show land uses and land-use changes over a period of time.

One set of maps shows the area in 1970, a census year, and two years later. They show that between the two dates there was a 4.6

percent increase in land devoted to multifamily housing, a 0.4 percent increase in single-family housing and a 2.2 percent drop in open space.

The 1972 map shows the construction of the Mormon Temple in Silver Spring, the destruction of the old Navy tempos along the Mall and the draining of Lake Barcroft in Fairfax County after its dam abutment was washed away during Hurricane Agnes.

Such maps could be used to update population data between the regular 10-year census counts, inventory land-use trends for local control measures and shown growth patterns before they become obvious from other sources.

Each of the maps was made from two sets of photographs taken several months apart for added accuracy. For instance, a freshly cut barley field looks like a house roof. A check of the field during a different time of the year would show it to be barley, not a roof.

Satellite data can be very detailed. It can show the difference between new and old residential areas; silver fir and douglas fir trees; healthy, vigorous crops and infected or stunted plants.

The government is now working on a program using such maps to help the Soviet Union check on its current corn crop.

With proper programing, the computerized satellite data can be sent through a film recorder to automatically create a color map.

However, most of the USGS cartographic activities deal with less exotic mapping.

According to Robert H. Lyddan, chief of the Topographic Division, "the U.S. has been little interested in mapping. As a result, we are now at the point England was 100 years ago. It is only recently that the general public here has become very much concerned."

Because of military interest, he continued, Germany and France were far better mapped at the outbreak of World War II than this country is today. The excellent maps now commonly used in Britain are more than a century old.

Serious modern mapping began in the United States with the creation of the Tennessee Valley Authority in 1933, he said. There was further impetus as World War II approached and there was fear that domestic maps might become a military necessity.

The survey is still trying to complete mapping the entire "lower 48" states with 1:24,000 large scale maps in which one inch represents 2,000 feet on the ground.

Only about 80 percent of the country has been mapped at that scale or the older 1:63,360 scale, in which one inch equals one mile. There are no plans to map Alaska at 1:24,000, only at 1:63,360.

The only maps which cover the entire nation are in a 1:250,000 scale in which one inch equals about four miles. At this small scale, little detail can be included in the map.

With the planned changeover to the metric system in the United States, the Geological Survey faces the additional challenge of having to redo all its maps in the new measurement. Although much of the same data can be used in the metric 1:25,000 scale maps, all altitudes will have to be redone in meters rather than feet.

This doesn't pose any great problem for such points as mountain peaks. But all the countour lines, a continuing line which connects all points of the same altitude, will have to be redone in meters—not a minor project.

The first of the new metric maps are being prepared for the Lake Placid area of New York. The Survey plans to have the project finished by the time the next winter Olympics are held there in 1980.

Although the basic topographic map of today doesn't look too different from those of a few decades ago, the way they're put together is a far cry from previous methods.

Once, a map was drawn almost entirely from information actually gathered on the ground. Surveyors walked through the area, measuring distances, recording angles, noting the location of streams and roads, checking altitudes and making voluminous notes on what they found.

Things have changed.

Now when a new map is planned for an area, the exact location and altitute of several key points is determined on the ground. Even this is often done differently than before with sophisticated distance measuring equipment utilizing such new developments as lasers.

Then two aerial photos are taken of the area. They are exposed a specific distance apart from a plane flying along a predetermined course at a specified altitude. Transparent prints from these pictures are placed into double-projection in the same orientation as when they were taken.

This machine is a distant relative of the old parlor stereoscope that produced a three-dimensional picture from two photos taken from slightly different angles.

With the map-making machine, the cartographer sees a clear three demensional projection of the land to be mapped floating above his tracing table. From this, the details from the photographs are traced on the base of the tracing table.

To get the countour lines, he sets a marker on a vertical instrument at a certain altitude—determined from the preselected points—and draws around what he sees as hills and valleys. These lines are recorded on the map table and become contour lines.

Ironically, the satellite photos that have been such a boon for so many aspects of map making can't be used for these large-scale maps. "They just aren't detailed enough for the 1:24,000 maps we're making now," Lyddan said. "It's too bad they weren't around 100 years ago when we were making small-scale maps."

ANTITRUST LEGISLATION

Mr. HUGH SCOTT. Mr. President, last week the Senate voted 69 to 18 to send a modified version of H.R. 8532 to the House. The sponsors of H.R. 8532, as amended, agreed to a number of changes in this important antitrust bill in hopes that the House would accept the Senate amendment.

As you know, Mr. President, the Antitrust Improvements Act was the subject of 10 days of extended debate before it was originally passed last June. On August 24 the House passed a resolution consolidating the three antitrust bills previously passed by that body into one and requested a conference. On the following day, Senator PHILIP HART was about to file a motion to appoint conferees on behalf of the Senate when he was informed by the opponents of this legislation that they intended to delay such action. At that point, the sponsors of this legislation were faced with the prospect of two filibusters: One on the appointment of Senate conferees and another one on a motion to accept a conference report. The distinguished majority leader made it clear to Senator HART and myself that he could not permit the work of the Senate to be disrupted by two filibusters. On our behalf, Senator ROBERT BYRD then filed a motion to concur in the House-passed antitrust bill with an amendment in the nature of a substitute. That amendment had been discussed with the House conferees informally. On Tuesday, August 31, the Senate voted 66 to 22 to shut off debate on Senator BYRD's amendment.

Mr. President, I have received a copy of a "Dear Colleague" letter signed by the Republican members of the House Judiciary Committee. The letter seeks the support of the members of the House of Representatives for a motion to refer the bill as passed by the Senate to the House Rules Committee for a rule which would open the bill to further amendment. The Republican members of the House Judiciary Committee have taken this action because of two provisions in the Senate bill; namely, the fact that the Senate bill does not prohibit all contingency fees and the fact that the Senate bill does not provide for a reduction from treble to single damages if a defendant can establish that he fixed prices in good faith. Those who signed the "Dear Colleague" letter are seeking an opportunity to maintain the previous position of the House with respect to these two issues.

Mr. President, obviously it would have been better if the differences between the House and the Senate could have been the subject of a conference. I can understand the frustration that some Members of the House may feel. Because of the Senate's inability to go to conference, the House is faced with a take-it-or-leave-it proposition. Nonetheless, I hope that the Republican members of the House Judiciary Committee will reconsider the actions they are contemplating with respect to this legislation. The bill before them is the most significant antitrust legislation to be considered since the passage of the Celler-Kefauver Act in 1950. Despite the procedural differences which we have encountered, I believe that we all want to see this legislation enacted.

One paragraph of this "Dear Colleague" letter is of specific concern to me. It reads as follows:

> When Mr. McClory and Mr. Railsback protested that no House member, to their knowledge, had agreed to the provisions of the Senate substitute (see Congressional Record, September 2, 1976, pages 28936 and 29032, certain Senators expressed their dismay. Thereupon, the Senate floor manager of the bill assured his colleagues that the substitute contained "the provisions we were advised could be accepted on the House floor without going to conference." Congressional Record, September 7, 1976, page 29147. Apparently, someone winked at the Senate's deletion of two very important safeguards in the House parens patriae title concerning contingency fees and the aggregation of damages. At this critical juncture, we were never consulted.

Mr. President, I wish to make it absolutely clear that no one winked at the Senate's deletion of these two provisions. To accommodate the strong views of certain members of the House Judiciary Committee, the Senate managers acceded to the demand that patent fraud be deleted from the parens patriae remedy. In light of this major concession, the managers of the Senate bill discussed with the House conferees on both sides of the aisle their views with respect to retaining the contingency fee and treble damage provisions and were advised of the element of risk involved in that course of action. The sponsors of this legislation in the Senate made their decision after taking all of these factors into consideration, including the concern expressed by some members of the House Judiciary Committee. With respect to these two issues, we believe that the public will be better served if the Senate version is enacted. Out of 41 identified points of difference between the Senate and House passed versions of H.R. 8532, approximately 25 were resolved in favor of the House position; 10 in favor of the Senate position; and 6 resolved in a compromise. Because it was the Senate who could not go to conference, the Senate was in a weak bargaining position. It is difficult to believe that the House would have fared better if this legislation had been the subject of a conference.

The House Judiciary Committee Republicans are upset because of two provisions in the Senate amendment. One would permit certain kinds of contingency fees to be paid by the State to a private attorney in parens patriae actions if the amount of the fee is determined by the court. The Senate amendment contains an absolute ban on percentage contingency fees, such as one-third, or 25 percent, of the amount recovered; but the Senate bill does leave open the possibility that a private attorney could have a fee arrangement whereby he receives nothing if he loses and $100 an hour if he wins. The Senate believes this compromise with respect to the contingency fee issue prohibits those types of contingency fees which could tend to award lawyers more in legal fees than consumers would receive in damages. The type of court-supervised fee permitted, however, will serve to deter the filing of frivolous suits, since a lawyer who will receive nothing if he loses should tend to file only meritorious cases.

The other provision about which the House Judiciary Committee Republicans are upset is the elimination in the Senate version of a provision which would permit the reduction of treble damages to single damages where a defendant can establish that the violation was in good faith. Whatever merit this provision had in the original House bill—which permitted damages to be aggregated for any violation of the Sherman Act—the Senate does not believe it necessary to continue that provision now that damages can only be aggregated for prospective price fixing. In our view, the notion of good faith price fixing no longer has legal significance and is by definition an impossibility.

It is my hope that these members of the House Judiciary Committee will reconsider their proposed actions to open the Senate bill to further amendment. It is my judgment that amending the bill is tantamount to killing the bill. I would like to ask the distinguished majority leader whether the antitrust bill will be scheduled for Senate action if it is amended by the House?

Mr. MANSFIELD. It is not a matter of the leadership scheduling the antitrust bill again, it is a matter of disposing of the bill if it must be considered again in the Senate. It is a known fact that if the antitrust bill returns to the Senate, it will never reach a vote before sine die adjournment. For these reasons, the antitrust bill would not be called up by the leadership for Senate consideration since such would be an act of futility.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Under the previous order, the Senator from South Carolina (Mr. HOLLINGS) is recognized for not to exceed 15 minutes.

ENERGY POLICY

Mr. HOLLINGS. Mr. President, with respect to the subject at hand, energy, it is sad that the administration has literally refused to set a comprehensive, understandable, energy policy so that the people of this Nation could receive some direction and, in turn, we in the Congress would be able to legislate that understandable policy.

I say that advisedly. I well remember the distingiushed majority leader's suggestion at the time that President Ford came into office and the economic summit conferences were underway which spilled over, necessarily, into the energy question.

At that particular time, we had experts come in, bankers, economists, energy experts, and what have you. We were talking of the impact of the October 1973 Arab embargo and the inordinate and insupportable quadrupling of oil prices by OPEC. The determination of the President of the United States was a determination of the Congress. The people also were of one mind, that we could not yield to monopolistic cartel pricing of energy in America.

The fact of the matter is that there was some thought at that particular time that we ought to have conservation of energy by inflation. Specifically, they thought that what we ought to do was to run up the price of a gallon of gasoline some 30 cents and that would economically force us to conserve. It would economically, of course, put the poor man out of a job. Of course, in essence and to some extent that did occur uncontrollably as a result of the embargo, but there were some who wanted that to be an affirmative policy of the Government.

It was Mr. Sawhill, if you will remember, Mr. President, who was the energy czar at the time, and he came forward that fall and suggested just that: a gasoline tax.

Well, the President was so disturbed that within 30 days that gentleman had left town. We were not going to have any increase in oil pricing according to the President. This is what President Ford said in support of the Republican candidates and in his speeches that fall, for example, in Anderson, Greenville, and Rock Hill, S.C., when he said there was no question about it the people would not suffer such a tax. If there was any further question, the Business Advisory Council on December 11, 1974, stated that such was the President's and the administration's position when that group began to see recession and high unemployment, and said the pending recession was due to the monopolistic pricing of oil by OPEC.

To show that the President was not only going to talk but act in the one direction, on December 31 he vetoed the cargo preference bill. This was the measure which not only tried to develop an energy policy but also to develop a vessel carriage capability, to have a deliverable capacity within our own merchant fleet. The 94 percent of the crude oil comes into the United States in foreign-flag vessels. Only 6 percent of the oil supplies imported into the United States, which now amounts to 40 percent of our consumption, is shipped in American bottoms.

Congress thought from a national policy we ought to have a National Cargo Preference Act mandating that at least one-third of our oil come in by our own vessels, realizing that it would cost additional money, estimated at that time to be some 12 cents a barrel extra, but deciding that the price was worth the assuredness of supply.

The President of the United States, on December 31, said—

> I veto this measure because this is inflationary. The ripple effect of an additional 12 cents a barrel in the cost of oil will veritably wreck the economy.

But by January 1, 1975, the President was racing Carl Albert to the TV. They could not wait for the annual message to the Congress. The Speaker was going to appear and the President was going to appear. When he appeared, within 12 days he had done a complete switch and instead of 12 cents being inflationary, instead of opposing the Shah of Iran who the Secretary of the Treasury, Mr. Simon, said was a nut, instead of controls to work the economy back into shape and protect the aircraft industry and our manufacturing productivity dependent upon energy, the President said:

> No, Mr. Shah of Iran, I was wrong. You were right. Rather than hold back, we are going to join you. Instead of 12 cents, we want $3 a barrel in oil and we want decontrol no later than April 1.

Therein the year 1975 was spent—in the debate and struggle between the Congress and the administration over price.

If we had adopted the President's program, the Library of Congress said we would have had $40 billion of additional inflation. So we held the line on that excise tax. We even brought lawsuits. We fought all year long on the floor, in committee and in conference committees, not to mention in the media, trying to counteract the blitz of big oil and the like. We held the line on controls. Finally, down to the wire in December, S. 522, the Energy Policy and Conservation Act, was signed by the President, which while it held the line to what extent we could, violated the spirit of trying not to increase the cost of energy. But we at least held it to that level. We were able to put in that bill, over the objection of the administration, certain conservation measures which had been opposed by them from the very beginning, such as auto fuel economy.

When we finally had the Conservation Act, it was interesting that the president of General Motors came on national TV to say:

> We at GM care about you and want to offer a car that gets better mileage.
>
> The cars are getting smaller.

Of course, that is what we all have to have if we are going to conserve energy as a national policy. But the industry and the administration opposed the fuel economy proposal all the way down the line. Of course, everyone said from the beginning that that was the cheapest energy source of all; namely, energy conservation.

The former FEA Assistant Administrator for Energy Conservation, Mr. Sant, said that conservation is the cheapest source of energy we have. He struggled for it but he finally gave it up—the ghost, as we say down my way.

Mr. President, I ask unanimous consent that a news article which appeared in the New York Times, dated April 28, 1976, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, April 28, 1976]

AN ENERGY AIDE TELLS OF THREE REBUFFS BY WHITE HOUSE IN CONSERVATION PLEA

WASHINGTON, April 27.—Roger W. Sant, for two years the Government's energy conservation chief, said in an interview that the White House had rebuffed three attempts by him to have President Ford give more conspicuous personal support to the conservation of energy.

He said that in 1974 and 1975 he twice proposed a conference sponsored by the White House, one along the lines of the 1974 anti-inflation conference, and once suggested a televised speech by the President on energy conservation.

Mr. Sant related this last week without rancor. He blamed himself for not making the speech proposal as attractive as he now thinks it should have been. He praised Mr. Ford for having embraced in January 1975 proposals for mandatory energy-efficiency standards for buildings and financial assistance to help low-income families winterize their houses.

PROPOSAL WAS REGISTERED

Mr. Sant, 44 years old, has resigned as an assistant Federal energy administrator for conservation and environment as of May 15 to return to business. Mr. Ford accepted the resignation in a letter that expressed "deep regret."

Mr. Sant's disclosure about failing to win more support from the President followed an announcement last week that the Energy Research and Development Administration had raised conservation to its top-priority category.

Some officials in the research agency have said privately that the President's budget office resisted the higher priority in a long inter-agency debate that resulted in a general toning down of conservation in a revised plan on energy development. But other high-ranking officials said that the debate was the kind that the Office of Management and Budget engaged in with all agencies on virtually all programs.

The budget office, it was reported, feared that the higher priority would lead to proposals to increase spending on conservation. So, it insisted on language emphasizing the role of the private sector in fostering conservation.

BUSINESS IS CRITICIZED

On Capitol Hill, too, there has been criticism of the budget office for what some Democrats see as insufficient support for conservation. In asking Congress for $50 million for grants on energy conservation for states in 1977, the budget office increased planned spending for conservation to $62.6 million. But at the same time, $40 million worth of other programs was dropped or scaled back.

Mr. Sant said that after two years of pushing energy conservation he concluded that the public would practice it "only to the extent it's economically attractive."

Even then, he said, the public needs "an awful lot of information," it does not have. "You almost have to go door to door," he said. "People don't have the information. They don't know how much they would save with storm windows, a more efficient refrigerator."

Even business, presumably more cost conscious and better able to appraise the economies of conservation, has done little to eliminate unnecessary consumption of energy, despite big increases in oil and electricity prices, Mr. Sant said.

Business can save 15 to 25 percent of its energy costs "without investing a thing," he said. For that matter, added Mr. Sant, who has a master's degree from the Harvard Business School, many businessmen "don't use materials and labor efficiently," said these factors usually account for a larger share of costs than energy does.

Mr. Sant said that the American people would drive less or accept other inconveniences to save energy in a national emergency, but not otherwise. He was asked whether this was not tantamount to saying that President Ford had failed to persuade the public that growing reliance on imported oil was a threat to the country.

"You'd almost have to say that," Mr. Sant replied. "We've not done a very good job of showing the threats of the future."

He said that in 1975; the Democratic Congress rejected all strong options to save energy, such as import quotas, production restrictions, rationing and much higher prices.

Although ostensibly sympathetic to regulatory devices instead of higher prices, House Democrats yielded, Mr. Sant said, to the political power of thousands of home builders and refused to make energy standards for buildings mandatory, as Mr. Ford had proposed.

Mr. HOLLINGS. The article states:

> Roger W. Sant, for two years the government's energy conservation chief, said in an interview that the White House had rebuffed three attempts by him to have President Ford give more conspicuous personal support to the conservation of energy.

This is what we are talking about.

When we get a strip mining bill even less burdensome than the State of Pennsylvania, a coal State, has adopted as a matter of policy, so we can go from the shortage of oil and gas over to the abundance of coal, we get a veto message and are stopped in our tracks.

When we come in with a bill for the conservation of energy and fuel economy, they say, "Let us wait 5 years." And now Mr. Zarb and others admit that we will have to set the policy at the Washington level if we are to have conservation.

Since my time is limited I jump quickly to the conservation within construction.

We have all heard of the tremendous waste wherein, for example, the World Trade Towers in the city of New York consumes as much energy as the entire city of Syracuse, with two-thirds of it being wasted.

As my colleague from Iowa talked about glass buildings when we were debating the Legislative Appropriations bill last week, we wanted to work with the American Institute of Architects and other groups to establish a national policy on new building standards and retrofit of existing structures. We had reported a $10 billion conservation program that would have paid for itself. The AIA testified that by the year 1990, 12.5 million barrels a day of oil could be saved if we had adopted that conservation approach.

That $10 billion program was watered down to a $200 million little demonstration, in struggling with this administration. If you look at the budget, specifically at ERDA—and the present Presiding Officer (Mr. BUMPERS) is very familiar with this particular budget—only 2 percent of the ERDA budget is directed at conservation.

Energy provides a clear example of the Ford administration's inability to properly analyze and provide leadership on critical national issues. This is particularly true with respect to energy conservation, where progress has been made largely through congressional initiative, and too often over the objections of the Office of Management and Budget, and other executive agencies.

The basic Ford administration approach to dealing with the energy problem is reflected in S. 2532, a bill to establish a supply-oriented Energy Independence Authority with a goal of energy independence by 1985. However, such a policy is doomed to failure, because as every knowledgeable energy expert knows, achieving such independence by 1985 is virtually impossible and would carry an unacceptable price tag in terms of cost and damage to the environment.

Equally disturbing is the complete omission in S. 2532 of a finding that investments in conservation can reduce imports more cheaply than could increased production. This is a fundamental failure of current administration energy policy, which some critics have labeled a "blueprint for an energy disaster."

Every study that has taken a broad look at our national energy posture has documented the enormous potential for conservation in this country. The American Institute of Architects, in a report entitled "A Nation of Energy Efficient Buildings by 1990," has estimated that:

> If we adopted a high-priority national program emphasizing energy efficient buildings, *we could by 1990 be saving the equivalent of more than 12.5 million barrels of petroleum per day.*" (Emphasis added)

Dennis Hayes, author of the Worldwatch Institute's study entitled "Energy: The Case for Conservation," categorically states that,

> Energy obtained through conservation is the largest source of new energy currently available to the United States.

Even the Energy Research and Development Administration has estimated that improved efficiencies in end-use energy systems could reduce the annual growth rate of energy consumption to less than 2 percent, resulting in a 25-percent reduction in consumption relative to the "business as usual" approach by the year 2000.

Energy conservation is also the lowest

cost, and most environmentally compatible means for minimizing dependence on imported fuel, and would seem to be the only option that could achieve substantial results in the next few years. Dr. George Hatsopolous, president of the Thermo-Electron Corp. of Waltham, Mass., has testified before the Commerce Committee that:

> To produce or supply as much energy as we could save in the next decade, we would need to spend over $50 billion for increased supplies, *whereas, the capital investments to accomplish these savings would be less than half*. (Emphasis added.)

Roger Sant, former FEA Assistant Administrator for Energy Conservation and Environment, has testified that:

> Conservation is the cheapest source of energy we have.

Energy conservation is also entirely consistent with continued economic growth and increased employment. This point was addressed by FEA Administrator Zarb in testimony before the Energy Subcommittee of the Joint Economic Committee:

> Conservation, as I view it, is not only a means to help achieve our national energy objectives; it is also in the economic self-interest of consumers and businessmen.

It was also addressed by Richard Aspenson, a vice president of the 3M Corp., who stated in a speech on October 20, 1975:

> Energy conservation does not put people out of work. It does not reduce our GNP. Instead, it keeps our people working. It also puts more people to work in the engineering, the construction, and the manufacturing sectors. It will also permit more capital formation by business so that new plants are built and more people employed . . . energy conservation, in addition to all its other virtues, makes good business sense.

And Dr. Charles Berg, former Chief Engineer for the Federal Power Commission, and currently a private energy consultant, who testified before the Senate Commerce Committee that:

> Conservation is fundamental to the economic integrity of the U.S.A.

In the face of all this evidence, what has been the Ford administration official response:

First, opposition to most of the conservation provisions in the Energy Policy and Conservation Act and the Energy Conservation and Production Act; and

Second, emphasis on development of environmentally risky and capital intensive supply options, to the relative neglect of other more benign supply options and conservation strategies.

This latter point is very well illustrated in the administration's approach to the fiscal year 1977 ERDA budget. This budget is topheavy in its bias toward nuclear power. Also, while paying lip service to the idea of conservation, even going so far as to identify it as a "highest priority energy option," the portion of the ERDA budget devoted to conservation activities is approximately 2 percent, or roughly one-third of the increase in their nuclear budget. This reflects a basic philosophical bias against Federal assistance for conservation measure, on the basis that free market activities will lead to their implementation. However, this only serves to point up the hypocrisy in the administration's overall policy, which calls for a $100 billion intervention in capital markets for new supply technologies via S. 2532, and major Federal financial support for the establishment of a domestic nuclear fuel enrichment and recycling industry.

It is instructive to examine the development of the ERDA fiscal year 1977 budget for its conservation program to see where the leadership has been on this critical issue. The relevant numbers are summarized in the following table:

FISCAL YEAR 1977 ERDA CONSERVATION BUDGET

[In millions of dollars]

Program	ERDA request to OMB		President's budget request		Congressional appropriation	
	BA	BO	BA	BO	BA	BO
Electric energy systems	40.0	29.3	24.5	19.5	26.5	21.1
Energy storage	48.5	39.0	22.3	18.5	33.5	27.1
Industrial conservation	31.8	22.0	12.4	9.7	15.4	12.4
Transportation conservation	35.0	27.0	23.7	20.4	27.7	24.0
Buildings conservation	65.6	38.3	21.6	18.4	26.6	22.6
Improved conversion efficiency	14.5	10.5	15.5	4.6	23.7	12.7
Energy extension service	0	0	0	0	7.5	5.0
Total	235.3	166.1	120.0	91.0	160.9	124.9

Examination of this table reveals that the original ERDA request to OMB, which was the product of two levels of in-house budget review at ERDA, was slashed in half in the President's budget. It was only through subsequent budget action by House and Senate committees that the funding levels shown in the final two columns were achieved. These figures are still adequate in light of the need and the opportunity that exists, but without the concern and leadership of the Congress, these figures would have been considerably smaller.

It seems clear that the Ford administration does not understand the vital role that conservation must play in our national policy. Several Government officials who did understand this need have left Government service severely disillusioned. Little has been done, in general, to steer our course away from increased dependence on foreign energy supplies on a timely basis. Project Independence is a failure, and the current administration is still pushing policies that have potentially long-term negative impacts for the Nation. New executive leadership is vitally needed to help steer our Nation into a more appropriate energy posture, a posture which the Congress has been struggling against heavy odds to define and implement.

We never have been able to sell the administration with respect to energy conservation, either in housing, in automobiles, or in industry, with respect to the wasteful policy relative to the burning of natural gas under boilers for example. They have opposed it at every turn. Whenever we went into a natural gas bill—and the distinguished leader has helped me try to bring in a bill, we were opposed. We had a compromise worked out with a number of our Republican colleagues, even Republican Senators from oil States could go along with it, we reported it out on a vote of 16 to 1 from the Committee on Commerce, and we finally thought we could go forward with this particular natural gas bill, but the administration opposed it. So as we stand here this morning discussing the Ford policy with respect to energy, there is none.

We tried. I suggested directly to the President an energy policy council, which has passed the U.S. Senate on three occassions. This is very much like the Council of Economic Advisers; we have economics permeating every agency and department of the Government, and so it is with energy. We used to have 78; we now have 91 different groups. I have had bipartisan support for such a council. Paul McCracken and many others have said this would be a wise approach, that we ought to have one spot in Government where we could go to obtain the information necessary, and I have included insertions in the RECORD which show we do not have the information on OPEC oil dealings with this country.

I wrote the Secretary of State, I wrote the Secretary of Commerce, I wrote the GAO, and I wrote Frank Zarb of the FEA, and I ask unanimous consent Mr. President, to have printed in the RECORD my letter and those letters.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JUNE 11, 1976.

Hon. HENRY KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: As you know, the problem of protecting the American consumer against the economic power of the OPEC cartel is a crucial concern of energy policy. In that connection I would appreciate it if you could provide me with answers to the following questions at the earliest possible time.

1. Do you or anyone in the Executive Branch know the complete terms and conditions of contracts or other arrangements between petroleum companies and producing state governments pursuant to which crude oil and refined petroleum products are imported into the United States? If so, please provide me with copies of the principal agreements between the major petroleum companies and the principal producing state governments.

2. If the Executive Branch now has access to such contracts or arrangements, can you assure me that appropriate officials of the

State Department or other agency have an opportunity to examine the terms and conditions of such contracts or arrangements to enable such responsible federal officials to advise the parties of public interest considerations prior to the time that such contracts or arrangements are concluded? If so, who are the responsible federal officials who provide advice prior to the final conclusion of such contracts or other arrangements?

3. Does the State Department or any other agency of the Executive Branch now have statutory authority to require key importers of oil to disclose to the federal government the terms and conditions of contracts or other arrangements between them and the oil producing governments? Is there current statutory authority whereby a responsible federal official can require petroleum companies to keep him fully and currently informed of the status and direction of all negotiations concerning the terms and conditions under which crude oil or refined petroleum products are imported into the United States? Please cite such statutory authority if it exists. If such statutory authority currently exists, has it been exercised?

I thank you in advance for your assistance. I would very much appreciate receiving your answer no later than June 18, 1976.

Sincerely yours,

ERNEST F. HOLLINGS,
U.S. Senator.

SECRETARY OF COMMERCE,
Washington, D.C., August 30, 1976.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: Thank you for your letter of June 7 in which you posed a number of questions regarding Executive Branch knowledge of the negotiations and resulting agreements between petroleum companies and producing state governments pursuant to which crude oil and products are imported in the United States. I regret the delay in my reply.

Several agencies within the Executive Branch, including the State Department, the Federal Energy Administration, the Department of Treasury and the Department of Commerce, frequently consult with United States oil companies on the current oil situation including any agreements which they are either negotiating or have negotiated with producer governments. While we have not established a formal mechanism for obtaining information of this sort from the oil companies, we have found that the companies appreciate our need for information and have in fact been responsive to our requests.

To give you an idea of what is involved here, State, FEA and Commerce have all been periodically briefed by the ARAMCO partners on the ongoing negotiations between ARAMCO and Saudi Arabia. We also have extensive knowledge of the agreements which have been concluded between OPEC nations and the oil companies in Kuwait and Venezuela. As you know, modifications of the current agreement with Iran are presently under discussion.

While these agreements are different in detail, they have several common elements:

1. Price levels are not the subject of the negotiations in that OPEC nations reserve the right to determine these on an ad-hoc basis. The companies as a result generally insist upon an escape clause in the event that either demand plummets or there are significant price differentials between different kinds of crude.

2. The countries often assume primary control over future investment and management.

3. The companies basically provide technical services and assure purchase of crude in return for a fee or discount.

4. The general practice is for the companies not to obligate themselves to purchase full peak production levels of crude.

The State Department and the Federal Energy Administration probably keep in closest touch with emerging agreements between oil companies and producer nations—State through its embassies abroad and in Washington and FEA as a part of its normal energy information gathering activities. While the State Department does not maintain a complete collection of the agreements between the major petroleum companies and the principal producing states, we can assure you that in general the Executive Branch does have the opportunity to discuss with the companies the terms and conditions of significant arrangements and is able to advise them of public interest considerations prior to the time that such arrangements are concluded.

As you know, Frank Zarb has stated in his letter to you of July 15 that he believes FEA has adequate authority to require production of individual contracts if that is necessary to assist in the formulation of energy policy or to carry out its statutory functions. FEA has not formally instituted such a system, because we have not felt that such a step is currently necessary. The matter is, however, under continuing review.

We share your concern that negotiations between the oil companies and OPEC nations have important implications for American consumers. However, given the market power of the OPEC cartel, the companies have only very limited leverage in negotiating these agreements, particularly with regard to price. We have, nevertheless, sufficient information to be able to intervene with the companies if the negotiations should move in a direction contrary to the interests of the American consumer. Thus, we do not believe there is a need for additional information gathering authority at this time.

I trust that you will consider this letter responsive to yours of June 7. Please let me know if you have any questions.

Kindest regards,

Sincerely,

ELLIOT L. RICHARDSON.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., July 15, 1976.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: This is in response to your letter concerning the knowledge of Executive Branch agencies regarding contracts made by United States oil companies with the governments of producing nations for the purchase of crude oil and refined petroleum products. Although we are still in the process of consulting with other agencies concerning their practices and the information available to them, we are writing you now concerning our practices and authority. We will be back to you again when our consultations with others in the Executive Branch are complete.

The Federal Energy Administration consults frequently with U.S. companies concerning their relationships with producing countries including their arrangements for access to crude oil. We are, however, not in possession of copies of the principal agreements between companies and producing governments, other than those contracts and agreements which have been made public, nor does FEA have formal arrangements to review prospective contracts prior to the time that contracts or arrangements are entered into.

Under section 13 of the Federal Energy Administration Act and section 11 of the Energy Supply and Environmental Coordination Act of 1974, FEA has broad information collection authority. Pursuant to these authorities, FEA currently collects comprehensive price data on all crude oil sales into the United States as well as all third-party sales by U.S. companies of foreign crude oil (whether or not destined for the United States). FEA also receives detailed data on the companies' acquisition cost of foreign crude oil. Finally, FEA collects volumetric data on the liftings and sales of U.S. companies worldwide.

These sections also provide, we believe, adequate authority to require production of individual contracts if that is necessary to assist in the formulation of energy policy or to carry out our statutory functions (e.g., such as the regulation of imported crude oil prices). To this point we have not done so, but requiring submission of individual contracts under certain circumstances is currently under consideration by FEA.

If we can be of further assistance prior to completing our consultations with other agencies, please let us know.

Sincerely,

FRANK G. ZARB,
Administrator.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., June 21, 1976.

Hon. ERNEST F. HOLLINGS,
U.S. Senate.

DEAR SENATOR HOLLINGS: Your letter of June 11, 1976, asked several questions concerning United States Government participation in foreign petroleum supply arrangements between private oil companies and petroleum exporting countries.

To comply with your request for a reply by June 18, 1976, answers to the questions you asked are provided based on the best information currently available to us. We have underway a major study of the relationships between major multinational oil companies and the governments of the Organization of Petroleum Exporting Countries. The study was requested by Senator Humphrey as Chairman of the Joint Economic Committee and by Senator Kennedy as Chairman of that Committee's Subcommittee on Energy.

In carrying out this study we will use the authority to conduct verification examinations of the energy and financial information of petroleum companies provided GAO under Title V of the Energy Policy and Conservation Act (42 U.S.C. § 501 ff) to obtain access to contracts and other arrangements between the companies and the exporting countries. As discussed below, information on such contracts and arrangements is not now routinely available to any United States Government agency nor do any formal mechanisms exist for United States Government input to negotiations between the companies and the exporting countries.

Answers to the specific questions you raised follow.

1. It is our understanding that contractual or other arrangements whereby oil companies maintain access to foreign crude oil are considered proprietary information by them. We are aware of no Federal agency or official which has knowledge of their complete terms and conditions. It is probable that the terms of some agreements become known to Federal officials in some cases. Also, terms of particular agreements frequently appear in the trade press. However, no Federal official to our knowledge receives full information concerning these arrangements on a routine basis. As discussed above, the General Accounting Office now has authority to obtain information on such agreements pursuant to the provisions of Title V of the Energy Policy and Conservation Act.

2. While the Federal Government does not have routine access to these agreements, and does not participate directly in the negotiations leading to them, the Department of State has taken the position that the companies voluntarily provide it with sufficient information concerning the agreement, and that the companies appropriately consider Departmental advice.

GAO issued a report in this area entitled "Issues Related to Foreign Sources of Oil for the United States", B-179411, January 23, 1974, based on review work completed before the Arab oil embargo in 1973. A main conclusion of that work was that the Department of State played a passive role in foreign oil negotiations. We reported that State should seek to be more effective in coordinating foreign policy with energy policy. The Department commented that an active role in negotiations would be inconsistent with traditional Government-business relationships and be of doubtful value in enhancing the interests of the United States as a whole. A copy of the report is enclosed. Intervening events have not caused a material change in the Department's position. It was essentially reiterated as recently as June 8, 1976, in testimony delivered by Deputy Secretary of State Charles W. Robinson before the Subcommittee on Energy of the Joint Economic Committee.

3. We are aware of no statutory authority having the broad application described in this question. Under Section 254 of the Energy Policy and Conservation Act (42 U.S.C. § 6247) the Federal Energy Administration is authorized to obtain oil company data necessary to fulfill the United States commitment to the emergency sharing procedures of the International Energy Agency (IEA). This data includes information as to price and amounts of crude oil purchased, by company and by country. It is to be transmitted to the IEA by FEA in "aggregated" form, so as to make it impossible to connect the price and "crude stream" information with particular companies. Legislation requiring reporting of the type envisioned in your question was introduced, and never enacted, in the 78th and 79th Congresses. Entitled the "Foreign Contracts Act," it was inspired by a desire to obtain Government knowledge of foreign oil contracts, but it was worded to apply to all types of contracts. A reference copy is enclosed.

I should emphasize that the General Accounting Office authority to examine foreign oil supply contracts discussed above is indirect and retrospective in nature. It cannot be viewed as a substitute for continuing Government knowledge and participation in negotiations of such arrangements for protection of the overall national interest.

We will be glad to meet with you or your staff and discuss these matters further if you desire. We will be happy to keep you apprised of the progress of the ongoing study which we are doing for the Joint Economic Committee.

ELMER B. STAATS,
Comptroller General of the United States.

DEPARTMENT OF STATE,
Washington, D.C., August 10, 1976.

Hon. ERNEST F. HOLLINGS,
U.S. Senate.

DEAR SENATOR HOLLINGS: Thank you for your letter of June 11 in which you asked about the extent of our information on arrangements between petroleum companies and producer governments. In contacts with your staff we explained that your questions would receive most careful consideration.

Although we do not possess a complete collection of contracts and agreements which have been made over the years between U.S. oil companies and producer governments, we do in fact possess a number of them, acquired not always from the companies but also from producer governments or third parties. There are two very broad categories: those governing the terms of a company investment in exploration and production and those governing offtake, either at armslength or in connection with partial or total producer government takeover of a company concession.

Within the Department of State and in our Embassies abroad in the producer countries our objective in these matters is to keep well informed of the main elements of company/government negotiations. Our concern is the one you mentioned, namely, to be in a position to consider the public interests which may be affected and to offer comments and advice to the company, or to the producer government, if there is cause or basis for doing so. We do not rely solely upon our voluntary consultations with U.S. companies to monitor these processes, although we have found that the companies are increasingly appreciative of our government's requirement to assess their arrangements in the light of U.S. national interests.

We do not have statutory authority to require disclosure of company/producer government agreements and have not to date felt a requirement for such authority. It is also important to understand what the standing and emerging agreements between companies and producer governments do *not* contain. It is ironic but possession and examinaiton of all the long-term agreements between companies and producer governments would not answer the question of how much oil is moving or will move at what prices to the consumers. Investment contracts for exploration cannot specify volumes but subsequent production is actually subject to unilateral government ceilings. Such contracts specify taxes but the price on which they are based will be adjusted unilaterally by the government. Offtake contracts specify volumes or a range of volume but whether the contract is in full effect, suspense or phasedown will depend upon price which is adjusted unilaterally by the government.

It must be remembered that OPEC's power over prices derives from our overdependence on oil imports and the lack of any clearly economic alternative energy source. The only long term solution to our energy problems is a reduction dependence on oil imports. This will require a serious national effort in energy conservation, research and development, and the accelerated development of existing energy resources.

We would welcome the opportunity to discuss further with your staff the elements of arrangements between U.S. companies and producer governments and the operations of the OPEC controlled market, if you so desire.

Sincerely yours,

KEMPTON B. JENKINS,
Acting Assistant Secretary for Congressional Relations.

Mr. HOLLINGS. We in the Congress do not have the information upon which to make an objective judgment, for example, with respect to vertical divestiture. I think I could do it with respect to horizontal, but we just do not know what actually would occur with vertical divestiture. So we have not gone this fall into the divestiture debate, because we have not been able to debate it intelligently. This exchange of correspondence will show that a fundamental item, necessary to a national energy policy has been totally lacking.

Whenever we turn to coal, whenever we turn to a policy on natural gas, whenever we turn to conservation, whenever we turn to automobile fuel economy, whenever we turn to a national energy policy, we have been turned off by this administration.

I think back a year ago, when the President was jumping on national TV, tearing the various paper months off the calendar—"What did they do in March? What did they do in April? What did they do in May?"—and ripping up the calendar.

Well, we have had all the year 1976, and we have not heard from our distinguished President, and we see, in turn, that those in charge of conservation have been quitting in disgust. We could, almost like in "What's My Line," have a contest in the National Capital and say, "Who is the energy czar? Who is the man?"

They change like the ice cream flavor of the week and we have gone through a long list. It certainly is not Rogers Morton; and do not guess Frank Zarb, because you would be wrong.

The only reason why I know who it is is that he told me so. Mr. Elliot Richardson, the Secretary of Commerce, is now the energy czar. It was hard to dig out, but he is the man we have to talk with.

Mr. President, I yield the floor.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, in accordance with an order of the Senate of Friday last, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 1141, H.R. 13367, an act to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, the so-called revenue-sharing bill, and that it be made the pending business.

The PRESIDING OFFICER (Mr. BUMPERS). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13367) to extend and and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert the following language:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976".

SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat 919).

SEC. 3. ELIMINATION OF EXPENDITURE CATEGORIES.

(a) Section 103 (relating to requirement that local governments use revenue-sharing funds only for priority expenditures is repealed.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

SEC. 4. ELIMINATAON OF PROHIBITION ON USE OF FUNDS FOR MATCHING.

(a) Section 104 (relating to prohibition on use of revenue-sharing funds as matching funds) is repealed.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or".

SEC. 5. EXTENSION OF PROGRAM AND FUNDING.

(a) IN GENERAL.—Section 105 (relatng to funding for revenue sharing) is amended—

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $5,237,500,000;

"(B) for the fiscal year beginning October 1, 1977, $7,050,000,000;

"(C) for the fiscal year beginning October 1, 1978, $7,200,000,000;

"(D) for the fiscal year beginning October 1, 1979, $7,350,000,000;

"(E) for the fiscal year beginning October 1, 1980, $7,500,000,000; and

"(F) for the fiscal year beginning October 1, 1981, $7,650,000,000.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,764,699;

"(B) for the fiscal year beginning October 1, 1977, $5,067,519;

"(C) for the fiscal year beginning October 1, 1978, $5,125,338;

"(D) for the fiscal year beginning October 1, 1979, $5,283,157;

"(E) for the fiscal year beginning October 1, 1980, $5,340,976; and

"(F) for the fiscal year beginning October 1, 1981, $5,498,795."; and

(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows:

"(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2)."

(3) Paragraph (1) of section 196(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

"(1) IN GENERAL.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

"(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(2)."

(4) Section 106(c)(2) (relating to amount of noncontiguous State adjustments) is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)", and

(B) by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) (relating to optional formula for allocation among local governments) is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1982,".

(7) Section 141(b) (relating to definition of "entitlement period" is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning October 1 of 1977, 1978, 1979, 1980, and 1981.".

SEC. 6. SPECIAL ENTITLEMENT RULES.

(a) STATE MAINTENANCE OF TRANSFERS TO LOCAL GOVERNMENTS.—

(1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) PRE-1977 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

"(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

"(B) POST-1976 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

"(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

"(C) For purposes of subparagraphs (A)(i) and (B)(i), the amount of any reduction in the entitlement of a State government under this subsection for an entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.".

(2) Section 107(b)(2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out "under paragraph (1)(B)" and inserting in lieu thereof "under paragraph (1)(A)(ii) or (1)(B)(ii)"; and

(B) by striking out "the one-year period beginning July 1, 1971," and inserting in lieu thereof "the period utilized for purposes of such paragraph".

(3) Section 107(b)(3) (relating to adjustments in the case of new taxing powers) is amended by striking out "paragraph (1)(B)" and inserting in lieu thereof "paragraph (1)(A)(ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1)(B)(ii) (in the case of an entitlement period beginning on or after January 1, 1977");

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into account under clauses (i) and (ii) of paragraph (1)(B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

"(7) ADJUSTMENT WHERE FEDERAL GOVERNMENT ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If, for an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1)(B)(i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1)(B)(ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph (1)(B)(ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1)(B)(ii).".

(b) WAIVERS BY INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence.

(2) Paragraph (6)(D) of such section (relating to effect of waivers) is amended by adding at the end thereof the following: "If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county

government of the county area in which such tribe or village is located.".

(c) SEPARATE LAW ENFORCEMENT OFFICERS.—

(1) GENERAL RULE.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

"(e) SEPARATE LAW ENFORCEMENT OFFICERS.—

"(1) ENTITLEMENT OF SEPARATE LAW ENFORCEMENT OFFICER.—The office of the separate law enforcement officer for any county area in the State of Louisiana (parish of Orleans excepted) shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area.

"(2) REDUCTION OF ENTITLEMENT OF COUNTY GOVERNMENT.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period.

"(3) REDUCTION OF ENTITLEMENT OF STATE GOVERNMENT.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period."

(2) CONFORMING AMENDMENTS.—

(A) Section 108(b)(7)(A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6)(D) last." and inserting in lieu thereof "any adjustment required under paragraph (6)(D) next, and any adjustment required under subsection (e) last.".

(B) Section 108(d)(1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e) (1) applies.".

(C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For reduction of State government entitlement because of provision for separate law enforcement officers, see section 108(e).".

(d) CURRENCY OF DATA.—

(1) Section 109(a)(7) (relating to data used and uniformity of data) is amended—

(A) in subparagraph (A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) or (C)", and

(B) by adding at the end thereof the following new subparagraph:

"(C) TAX COLLECTIONS.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c)(2)(B)) shall not be used in the determination of entitlements for such period."

(2) Section 109(c)(2)(B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.".

(e) LIMITATION ON ADJUSTMENT OF PAYMENTS.—Section 102 (relating to payments to State and local governments) is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) IN GENERAL.—Except"; and

(2) adding at the end thereof the following new subsection:

"(b) LIMITATIONS ON ADJUSTMENTS.—No adjustment shall be made to increase or decrease a payment previously made to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made."

(f) RESERVES FOR ADJUSTMENTS.—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(c) RESERVES FOR ADJUSTMENTS.—The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments."

SEC. 7. CITIZEN PARTICIPATION; REPORTS.

(a) Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows:

"SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

"(a) PUBLIC HEARINGS; PLANNED USE REPORTS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after October 1, 1977 (other than a government to which an election under subsection (b) applies with respect to such entitlement period), shall hold a public hearing on its proposed budget at least 7 days before the adoption of its budget. Such hearing shall be held at a time and place convenient for general public attendance. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget concerning the use of funds made available to such government under subtitle A. Before such hearing, such government shall have a copy of its report on its entire budget published in a newspaper which is published within the State and has general circulation within the geographic area of such government. Such report shall show a summary of the entire budget for such government's previous fiscal period, for such government's current fiscal period, and as proposed for such government's coming fiscal period, and for each such period shall show the amounts of funds made available or to be made available to such government under subtitle A, as well as other sources of funds and total expenditures. Such publication shall be made at such time as to give adequate notice of the public hearing, and indicate the time and place of the public hearing.

"(b) ELECTION.—

"(1) Subsection (a) shall not apply to any State government or unit of local government which—

"(A) is required by law to hold a public hearing at which citizens have the opportunity to provide written and oral comment to the body responsible for enacting the budget of such government, before the expenditures of its own revenues, and is required by law to provide for publication and adequate notice of such hearing;

"(B) certifies that it will conduct a hearing and provide for publication and notice with respect to the funds such government expects to receive under subtitle A, under the same law described in subparagraph (A); and

"(C) elects under this subsection that the provisions of subsection (a) shall not apply.

"(2) Such election shall include a brief description of the public hearing process and notice procedures that apply with respect to the expenditures of such government's revenues and that are proposed to apply with respect to the funds expected to be received under subtitle A. Such election shall apply to funds for such entitlement periods as are specified in such election and as to which such hearing process and notice procedure are applicable.

"(c) SPECIAL RULES.—

"(1) LEGISLATIVE BRANCH COMMITTEES.—In the case of a State government or a unit of local government where expenditures of funds expected to be received under subtitle A are considered by committees of a body exercising legislative powers, the provisions of this section shall apply with respect to hearings before such committees.

"(2) PUBLICATION OF PROPOSED USE REPORTS.—The requirement of newspaper publication of proposed use reports with respect to funds made available (or expected to be made available) for an entitlement period shall not apply if the direct cost of such publication would exceed 15 percent of the amount of the funds expected to be received under subtitle A for such entitlement period (or the sum of the amounts of funds expected to be received for such entitlement periods, where the report applies to funds expected to be received for more than one entitlement period). Such requirement may be waived in whole or in part with respect to an election period, if compliance with the waived requirement for such period is found by the Secretary (in accordance with regulations prescribed by the Secretary) to be impractical.

"(3) BUDGETS.—The Secretary shall provide for regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.".

SEC. 8. NONDISCRIMINATION PROVISIONS.

(a) IN GENERAL.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"SEC. 122. NONDISCRIMINATION PROVISIONS.

"(a) IN GENERAL.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which (1) has been designated as being funded in whole or in part with funds made available under subtitle A, or (2) under all the facts and circumstances is demonstrated to be funded in whole or in part with funds made available under subtitle A.

"(b) DETERMINATION BY THE SECRETARY.—

"(1) NOTICE OF NONCOMPLIANCE.—Within 10 days after the Secretary has received a holding described in subsection (c)(1) or has made a finding described in subsection (c)(4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government, clearly setting forth the specific acts of exclusion, denial, or discrimination which constitute the failure to comply with subsection (a).

"(2) PROCEDURE BEFORE SECRETARY; SUSPENSION OF PAYMENT OF REVENUE SHARING FUNDS.—Within 60 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

"(A) (except in the case of a holding described in subsection (c)(1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, and

"(B) whether the program or activity in connection with which such exclusion, denial, or discrimination is charged has been designated as being funded in whole or in part with funds made available under subtitle A or, under all the facts and circumstances, is demonstrated to be funded in whole or in part with funds made available under subtitle A.

Before the end of such 60-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government (before the 61st day after the issuance of such determination) enters into a compliance agreement or (within 70 days after the issuance of such determination) requests a full hearing with respect to such determination.

"(3) Hearings before administrative law judge; suspension of payment of revenue sharing funds.—

"(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

"(B) Within 60 days after the beginning of the hearing provided under subpargraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c)(2)) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

"(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then that suspension is to be continued.

"(D) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly terminated.

"(c) Holding by Court or Governmental Agency; Finding by Secretary.—

"(1) Description.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expects to receive funds under subtitle (a), that such government has, in the case of a person in the United States, excluded such person from participation in, denied such person the benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national original, or sex.

"(2) Effect on proceedings or hearing.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of proceedings by the Secretary pursuant to subsection (b)(2) or a hearing pursuant to subsection (b)(3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, or discrimination occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, shall be treated as conclusive.

"(3) Effect of reversal.—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be terminated; any suspension of payments resulting from such proceedings shall also be terminated.

"(4) Finding by secretary.—A finding is described in this paragraph if it is a finding by the Secretary (made within 60 days after the Secretary receives a complaint (within the meaning of subsection (d)(1)), a determination by a State or local administrative agency, or other information pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

"(d) Compliance Agreement.—For purposes of this section and section 124, a compliance agreement is an agreement between—

"(1) the Secretary, or

"(2) in the case of a holding described in subsection (c)(1), the government office or agency responsible for prosecuting the claim or complaint before the Federal or State court or Federal administrative law judge that conducted the proceedings giving rise to such holding (but only if the Secretary has approved such agreement)

and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), setting forth the terms and conditions with which such government has agreed to comply in order to satisfy the obligations of such government under subsection (a). Such agreement shall dispose of all the matters which had been held or found to constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (2), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint described in any paragraph of section 124(d) with respect to such failure to comply with subsection (a) (or, in the case of an agreement under paragraph (2), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a)).

"(e) Resumption of Payments.—If payment to a State government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b)(2) or (b)(3), payment of such funds shall be resumed only if—

"(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement (or, in the case of an agreement under subsection (d)(2), only at the times and under the circumstances set forth in the Secretary's approval of such agreement));

"(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b)(1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;

"(3) in the case of a hearing before an administrative law judge under subsection (b)(3), the judge determines that such government is in compliance with subsection (a);

"(4) in the case of a suspension under subsection (b)(2), the Secretary determines that such government is in compliance with subsection (a); or

"(5) the provisions of subsection (c)(3) (relating to reversal of holding of discrimination) require such suspension of payment to be terminated.

"(f) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow ending the outcome of the litigation.

"(g) Agreements Between Agencies.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.".

(b) Citizen Complaints.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new section:

"Sec. 124. Private Civil Actions

"(a) Standing.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by section 122(a), upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriated United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"(d) Exhaustion of Administrative Remedies.—A person shall not be treated as having exhausted his administrative remedies for purposes of this section unless—

"(1) such person files a complaint (in such form and manner as is provided in regulations prescribed by the Secretary) with the Secretary describing the failure of a State government or a unit of local government to comply with section 122(a),

"(2) the Secretary, within 60 days after such complaint has been filed, either—

"(A) issues a determination that such government has not failed to comply with section 122(a);

"(B) fails to act on such complaint; or

"(C) refers such complaint to the Attorney General;

"(3) in the case of a disposition described in paragraph (2) (A) or (2) (B), such person files a complaint with the Attorney General describing essentially the same failure of such government to comply with section 122 (a); and

"(4) in the case of either a disposition described in paragraph (2) (C) or a filing described in paragraph (3), the Attorney General, within 60 days of such disposition or such filing, either—

"(A) issues a determination that such government has not failed to comply with section 122(a); or

"(B) fails to act on the complaint described in paragraph (2) (C) or paragraph (3).".

(c) Judicial Review.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) or a determination under section 122(b) (3) (C) that payments be suspended,".

Sec. 9. Accounting and Auditing Provisions.

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (8), and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) Independent audits.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) Election.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable.

"(3) Series of audits.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

"(4) Entitlements under $25,000.—

"(A) The requirements of paragraph (2) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than $25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

"(B) in the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statement, then the conducting of such audit shall constitute compliance with the requirements of paragraph (1).

"(5) Waiver.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such government for such period are not auditable and (B) that such government demonstrates progress toward making such financial accounts auditable.

"(6) Coordination with other federally required audits.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

"(7) Audit opinions.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.".

Sec. 10. Miscellaneous Provisions.

(a) Budget Act.—In accordance with section 401(d) (2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d) (2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

(b) Optional Formulas.—Section 108(c) (1) (relating to optional formulas) is amended by adding after subparagraph (C) thereof the following new sentence: "If the entitlement of a unit of local government for any entitlement period is adjusted under subsection (e), then this paragraph shall not apply to such entitlement for such period.".

(c) Definition of "Unit of Local Government".—Section 108(d) (1) (defining "unit of local government") is amended by striking out "municipality, township, or other unit of local government below the State which is a unit of general government" and inserting in lieu thereof "municipality, or township, which is a unit of general government below the State".

Sec. 11. National Commission on Revenue Sharing and Federalism.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"Sec. 146. National Commission on Revenue Sharing and Federalism.

"(a) Establishment.—There is established a National Commission on Revenue Sharing and Federalism (hereinafter referred to as the 'Commission'), which shall consist of 14 members who shall be appointed in accordance with subsection (b).

"(b) Membership.—The Commission shall be composed of—

"(1) the Speaker and the minority leader of the House of Representatives;

"(2) the majority and minority leaders of the Senate; and

"(3) ten members appointed by the President, by and with the advice and consent of the Senate, as follows—

"(A) two members of the executive branch,

"(B) two State Governors,

"(C) two local government officials (one mayor and one county official),

"(D) two representatives of business, and

"(E) two representatives of labor.

Any vacancy on the Commission shall not affect its powers, and shall be filled in the same manner as the original appointment. The Commission shall, by majority vote, select its Chairman and Vice Chairman from the members appointed by the President.

"(c) Functions.—The Commission shall study and evaluate the American federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other federal government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the quality of financial control and audit procedures that exists among Federal, State, and local governments;

"(5) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions; and

"(6) the specific relationship of Federal general revenue sharing funds to other Federal grant programs to State and local governments, as well as the role of such revenue sharing funds in Federal, State, and local government fiscal interrelationships.

"(d) Powers and Administrative Provisions.—

"(1) Meetings.—The Commission, or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence, and sit and act at such times and places as the Commission may deem appropriate, and may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof. All meetings, hearings, conferences, or other proceedings of the Commission shall be open to the public unless the Commission members vote otherwise in an open session. Eight members shall constitute a quorum for purposes of transacting official business of the Commission; except that the Commission may fix a lesser number as a quorum for the purpose of taking testimony.

"(2) Staff.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

"(A) appoint and fix the compensation of an executive director, and such additional personnel as he deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title and any additional personnel may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-17 of such General Schedule, and

"(B) obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(e) Authority To Make Contracts.—The Commission is authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies, surveys, or research and prepare such reports as the Commission determines are necessary in order to carry out its functions.

"(f) COOPERATION OF OTHER FEDERAL AGENCIES.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

"(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(g) OTHER POWERS.—

"(1) The Commission may accept, use, and dispose of any gift or donation of services or property.

"(2) The Commission may use the United States mails in the same manner and upon the same conditions as any other Federal agency.

"(h) PAY AND TRAVEL EXPENSES.—

"(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(i) REPORTS.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the first day on which all members of the Commission have been appointed, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

"(j) TERMINATION.—The Commission shall cease to exist 90 days after the date of submission of its final report to the President and the Congress, and all offices and employment under it shall expire.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, without fiscal year limitation, such sums as may be necessary to carry out the provisions of this section.".

SEC. 12. EFFECTIVE DATES.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.

(b) The amendments made by section 6 (e) apply to demands made by the Secretary for any entitlement period beginning on or after January 1, 1972, and to demands made by a State government or a unit of local government with respect to any entitlement period beginning on or after January 1, 1977.

(c) The amendment made by section 11 takes effect on February 1, 1977.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of a conference report which I now submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 14262, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BUMPERS). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the RECORD of September 7, 1976, beginning at page 29178.)

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the rule that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives, it has been printed as a report of the House.

The PRESIDING OFFICER. Without objection, it is so ordered, and the conference report is agreed to.

Mr. GRIFFIN. Mr. President, I do not think that was the request of the Senator from Arkansas.

The PRESIDING OFFICER. Did the Senator from Arkansas request the immediate consideration and adoption of the conference report?

Mr. McCLELLAN. No, I only requested the immediate consideration, Mr. President.

The PRESIDING OFFICER. The Chair stands corrected, and will withdraw its statement that the conference report is agreed to.

Mr. McCLELLAN. Mr. President, on Wednesday, September 1, 1976, the conferees on the Department of Defense appropriations bill for fiscal year 1977 reached agreement on the differences between the two House after 3 days of meetings and about 9½ hours of deliberations.

The total amount of the new budget authority agreed to was $104,343,835,000. This is $3,620,637,000 or 3.4 percent below the administration's amended budget request. It is $1,053,508,000 below the House bill and $329,609,000 above the Senate bill.

Mr. President, this was a very harmonious conference conducted in the spirit of compromise. Altogether, there were 407 individual line item dollar or language differences, including 114 amendments made by the Senate to the House bill. The result is a bill that is $13,876,874,000, or 15.3 percent above the comparable amount funded in the defense appropriations bill last year.

All in all I think the conferees succeeded in fashioning a very reasonable compromise that funds the items needed for the security of this Nation. The conference bill is neither parsmonious nor excessive. It is, I believe, a prudent bill when one considers both this country's international responsibilities and the external threats that we must guard against.

COMPLIANCE WITH CONGRESSIONAL BUDGET RESOLUTION

Mr. President, I have a table (table I) prepared by the Congressional Budget Office showing the amount in the conference bill compared with the second concurrent resolution on the budget. The table shows that we are $405 million below the ceiling set for budget authority and $44 million below the outlay ceiling as reported by the Senate Budget Committee. I am very pleased that the conferees were able to bring this bill in at an amount that is both reasonable from the standpoint of the needs of our military forces and responsible in terms of meeting our own congressionally mandated budget ceilings.

MAJOR ITEMS IN CONFERENCE

TITLE I—MILITARY PERSONNEL

The conferees agreed to a reduction of $29,462,000 for lump sum terminal leave payments as proposed by the Senate.

However, the conferees agreed that personnel accumulating leave prior to enactment of Public Law 94-361, the 1977 Defense Authorization Act, will be paid for up to 60 days accrued leave, including allowances for quarters and subsistence. The conferees agreed that undergraduate helicopter flight training should not be consolidated in fiscal year 1977 as proposed in the budget request and the House bill. The conference directed further study, particularly of the cost savings involved with this proposal. The conferees agreed to reductions totaling $49,510,000 for military strength reductions relating to authorization. At the time the House bill was considered, authorization action had not been completed. On the question of naval districts, which the House recommended abolishing, the conference agreement funds not more than four districts and does not preclude the Navy from entirely abolishing the districts as a management concept.

TITLE II—RETIRED MILITARY PERSONNEL

The conferees agreed to provide $8,381,700,000 as proposed by the House, instead of $8,035,500,000 as proposed by the Senate. The conferees restored $346,200,000 to the bill which the Senate deleted. These funds will pay for anticipated cost of living increases that have not yet occurred. The conferees did not include any funds to pay for the additional one per cent "kicker" associated with cost of living increases pending resolution of this matter.

TITLE III—OPERATION AND MAINTENANCE

The conference agreement restored $104.2 million of a House reduction of $229.8 million for the stock fund surcharge and price stabilization program. Thus, the total amount provided for the surcharge was $448.0 million, instead of $573.6 million requested in the budget and included in the Senate bill for this program. The conferees further directed that item prices be adjusted so that funding in the bill is adequate to fully fund quantities justified for fiscal year 1977 and that the stabilization program be implemented for a 1-year trial period. The conferees agreed to the Senate reductions in civilian personnel strengths that were necessary in order to meet the strength ceilings specified in Public Law 94-361, the 1977 Defense Authorization Act. The conferees agreed to fully fund the costs associated with Exercise Reforger—a NATO exercise now under way that will be completed in fiscal year 1977.

With respect to the request for stock-funded war reserve materiel, the conferees provided a total of $219,800,000. The House had funded the full request of $357.9 million, while the Senate only provided $53 million. Subsequent to the Senate action, the Department submitted specific plans for procurement of certain war reserve items, and the conferees agreed to fund only those items where specific requirements existed.

TITLE IV—PROCUREMENT AIRCRAFT PROGRAMS

The conference agreement funds six A-6E attack aircraft for the Navy, the same number authorized. The conferees did not fund six US-3A carrier on-board delivery aircraft which had been authorized, but provided $2 million in research and development for competitive development of an aircraft that will meet all of the Navy's requirements. The conference agreement provides $28,800,000 for the advanced tanker/cargo aircraft program. In connection with the B-1 bomber, a compromise was reached which I believe to be equitable. At issue was whether the procurement funds for the B-1 could be obligated prior to February 1, 1977, which the Senate had precluded but the House permitted. The conferees agreed that, until February 1, 1977, the obligation of funds for B-1 procurement shall be limited to a cumulative rate of not to exceed $87 million per month. Essentially, this will maintain the contractor's work force intact and preserve the present B-1 schedule, but, at the same time, place an outside limit of $348 million on Government obligations through January 31, 1977.

MISSILE PROGRAMS

The conferees agreed to delete $48.4 million to initiate production of the Army's Stinger missile but provide $8,849,000 for testing of 125 development missiles. The conference agreement also includes $75 million for the nonnuclear Lance as proposed by the Senate and $41,900,000 for the AN/TSQ-73 air defense command and control system as proposed by the House. The conferees agreed to provide $67,900,000 for the AIM-7E/F Sparrow III air-to-air missile as proposed by the Senate, making a small reduction to conform to the authorization legislation. Of significance also, with regard to Navy missile programs, was the agreement that the Condor missile program be terminated as proposed by the House and the conference direction that the Navy use the remaining unobligated 1976 funds for termination costs. For Air Force missiles and related items, the conferees agreed to $179.9 million for the defense satellite communications system II—DSCS II, a compromise between $172.6 million proposed by the House and $195.4 million proposed by the Senate. The conference agreement also provides $7.3 million for procurement of a Titan IIIC booster needed in connection with the DSCS II program. The conferees also agreed to a reduction of $33,300,000 in the Maverick missile program as proposed by the Senate, in order to conform with the authorizing legislation.

SHIPBUILDING PROGRAM

A total cost of $6,195 million was included in the conference agreement, as proposed by the Senate for the shipbuilding program, instead of $6,618,300,000 as proposed by the House. The conferees agreed to the Senate position in all cases and took the following actions: Deleted funding for CSGN nuclear strike cruiser program and the DDG-47 AEGIS destroyer program—these ships were neither authorized nor included in the Senate bill; included $371 million to modernize and convert the U.S.S. *Long Beach* into an AEGIS cruiser; fully funded four PHM patrol hydrofoil missile ships approved in previous years that the House had proposed to cancel.

TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agreed to numerous reductions made by the Senate in the case of research and development program not authorized. Authorization action was not complete at the time the House passed the defense bill. Other actions are discussed below.

AIRCRAFT PROGRAMS

The conferees agreed to delete all funds for the Aerial Scout helicopter as proposed by the Senate, instead of providing $2 million as proposed by the House. Also included in the conference agreement was $2 million for the carrier onboard delivery aircraft to initiate a fully competitive development program that will meet all of the Navy's requirements. The conferees deleted all of the funds for the low cost aircraft program as proposed by the House.

MISSILE PROGRAMS

The conference agreement includes $5 million for the Army's surface-to-surface missile rocket system. Also agreed to was $100 million for the ballistic missile defense technology program as proposed by the House, instead of $75 million as proposed by the Senate. This is the authorized amount. The conference agreement provides $25,349,000 for the Stinger surface-to-air missile program. This includes funds necessary to purchase missiles for testing and related research efforts. With respect to the Trident missile progam, a total of $568,551,000 was provided, instead of $572,551,000 as proposed by the House and $519,551,000 as proposed by the Senate. The amount provided is the same as that authorized. The conferees also agreed to $5 million for Air Force development of a new Sparrow replacement. Also included was $30.6 million for the defense satellite communications III program as proposed by the Senate for full scale development of satellites which will be suitable for launch both with the Titan IIIC booster and the Space Shuttle.

OTHER MAJOR DEVELOPMENT PROGRAMS

The conference agreement provides $14.8 million for the SEAFARER program as proposed by the House, instead of $27.1 million as proposed by the Senate. This is essentially last year's funding level and specifically excludes any of the $4.7 million requested for full scale development. An amount of $11 million was included for conversion of the U.S.S. *Long Beach* as proposed by the Senate. The House had not funded this item. The conferees agreed to provide $16.3 million, the authorized amount, for the precision location strike system. The conferees agreed that NATO should participate in the funding of this program since two or three of the four systems to be procured will be located in Europe.

GENERAL PROVISIONS

The conference reached agreement on a number of differences in the general provisions, providing as follows on the major items:

Deletes a Senate provision that would have phased out the appropriated subsidy for military commissaries over a 6-year period. The conferees agreed, however, that, if economies and efficiencies can be made in commissaries, as directed in the authorizing legislation, future commissary subsidies will be reduced accordingly.

Includes a modified version of a Senate "Buy American" provision not in the House bill.

Includes a limitation of $5 million on funding for legislative liaison activities.

Includes modified Senate language that prohibits transfers of working capital cash balances prior to notification to the Congress of such transfers.

Permits funds for the civilian health and medical program of the uniformed services—CHAMPUS—to pay for pastoral, family, child, or marital counselors, as well as perceptual or visual training.

Places a limitation of 50 percent on the number of ROTC scholarships awarded for 2-year senior ROTC courses.

Permits continuation of not more than four naval districts.

Provides that no funds appropriated may be used to pay any claim over $5 million against the United States unless such claim has been thoroughly examined and evaluated by officials of the Defense Department and a report on its validity has been made to the Congress.

Limits the number of enlisted aides to 300. The Senate had eliminated these aides, while the House bill provided up to 396, the number authorized.

Deletes a Senate provision that prohibited the use of appropriated funds for the subsidy for transportation of military exchange goods overseas.

Deletes a Senate provision that required reasonable cost or reasonable charge criteria to be applied to CHAMPUS payments and directs a study of the matter.

Limits funds for public affairs activities of the Defense Department to $24 million.

TITLE VIII—RELATED AGENCY

The conferees agreed to provide $5.6 million for intelligence community oversight as proposed by the House and agreed that a separate appropriation would give increased independence and stature to the activities of the intelligence community staff and National Foreign Intelligence Board. Also, the conferees provided $28.3 million for the Central Intelligence Agency retirement fund, subject to enactment of authorizing legislation.

Mr. President, in connection with this conference report, I would like to point out that the one seriously controversial issue—the B-1 bomber—was satisfactorily resolved in a way that I think serves the best interests of the country. Work will continue on the B-1 bomber. There will not be a complete shutdown but at the same time the obligation of funds will be limited. By early next year there will have to be a further decision made as to whether we continue to proceed with it or make some other disposition of the issue.

For the time being, I think that was a very proper, simple, and prudent decision on the part of the conferees, and thus those on both sides who have strong feelings on this issue, are reasonably satisfied with the results that have been reached.

Mr. President, I ask unanimous consent that the table, table I, to which I have already referred comparing the amount in the conference bill with the second concurrent resolution on the budget and another tabulation, table II, summarizing the actions of the House, the Senate, and the conference be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—DEFENSE APPROPRIATIONS BILL IN COMPARISON WITH THE 2D CONCURRENT RESOLUTION, FOR FISCAL YEAR 1977, AS REPORTED BY THE COMMITTEES ON THE BUDGET

	Senate		House	
	Budget authority	Outlays	Budget authority	Outlays
Total amount in the resolution, as reported, for defense appropriations including supplementals [1]	$106,536,000,000	$95,896,000,000	$106,727,000,000	$96,034,000,000
Amount included for supplementals [1]	(1,787,000,000)	(1,729,000,000)	(2,127,000,000)	(1,934,000,000)
Amount included for H.R. 14262 [1]	(104,749,000,000)	(94,167,000,000)	(104,600,000,000)	(94,100,000,000)
H.R. 14262 as reported by the Committee of Conference	104,343,835,000	94,123,479,000	104,343,835,000	94,123,479,000
Amount H.R. 14262 is under (−) or over (+) 2d concurrent resolution as reported [1]	−405,165,000	−43,521,000	−256,165,000	+23,479,000

[1] Note: Figures shown reflect assumptions made by the Budget Committees about allocation of budget authority and outlays. Actual allocation will be made by the Appropriations Committee to the Defense Subcommittee in accordance with sec. 302(b) of Public Law 93-344 subsequent to congressional approval of S. Con. Res. 139/H. Con. Res. 728 (2d concurrent resolution).

Source: Prepared by the Congressional Budget Office Sept. 8, 1976.

TABLE II.—DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977 CONFERENCE AGREEMENT

	New budget authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates, fiscal year 1977	House, fiscal year 1977	Senate, fiscal year 1977	Conference, fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel:									
Army	$8,434,885,000	$8,642,866,000	$8,539,249,000	$8,601,811,000	$8,564,011,000	+$129,126,000	−$78,855,000	+$24,762,000	−$37,800,000
Navy	5,900,600,000	6,055,667,000	6,008,497,000	5,999,768,000	6,002,268,000	+101,668,000	−53,399,000	−6,229,000	+2,500,000
Marine Corps	1,861,277,000	1,883,900,000	1,879,173,000	1,844,624,000	1,854,334,000	−6,943,000	−29,566,000	−24,839,000	+9,710,000
Air Force	7,412,951,000	7,169,567,000	7,157,164,000	7,127,991,000	7,136,607,000	−276,245,000	−32,861,000	−20,458,000	+8,715,000
Reserve personnel:									
Army	478,800,000	447,690,000	469,141,000	469,919,000	469,919,000	−8,881,000	+22,229,000	+778,000	
Navy	205,925,000	153,415,000	221,315,000	215,010,000	215,010,000	+9,085,000	+61,595,000	−6,305,000	
Marine Corps	71,652,000	77,130,000	78,173,000	78,173,000	78,173,000	+6,521,000	+1,043,000		
Air Force	159,597,000	157,037,000	162,807,000	163,807,000	163,807,000	+4,210,000	+6,770,000	+1,000,000	
National Guard personnel:									
Army	696,900,000	699,565,000	707,565,000	714,665,000	714,665,000	+17,765,000	+15,100,000	+7,100,000	
Air Force	218,472,000	211,070,000	216,515,000	219,515,000	219,515,000	+1,043,000	+8,445,000	+3,000,000	
Total, Title I	25,441,059,000	25,497,907,000	25,439,599,000	25,435,283,000	25,418,408,000	−22,651,000	−79,499,000	−21,191,000	−16,875,000
Total, transfer from other accounts									
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	7,325,600,000	8,493,400,000	8,381,700,000	8,035,500,000	8,381,700,000	+1,056,100,000	−111,700,000		+346,200,000
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	7,276,850,000	8,060,400,000	8,050,635,000	7,829,885,000	7,898,285,000	+621,435,000	−162,115,000	−152,350,000	+68,400,000
Army stock fund	20,000,000	100,000,000	100,000,000	26,500,000	100,000,000	+80,000,000			+73,500,000
Operation and maintenance, Navy	8,299,800,000	9,660,800,000	9,553,164,000	9,605,564,000	9,565,164,000	+1,265,364,000	−95,636,000	+12,000,000	−40,400,000
Navy stock fund	10,000,000	32,000,000	32,000,000	7,400,000	32,000,000	+22,000,000			+24,600,000
Operation and maintenance, Marine Corps	519,010,000	580,400,000	577,038,000	569,288,000	569,288,000	+50,278,000	−11,112,000	−7,750,000	
Marine Corps stock fund	2,000,000	8,600,000	8,600,000		6,200,000	+4,200,000	−2,400,000	−2,400,000	+6,200,000
Operation and maintenance, Air Force	7,669,479,000	8,224,700,000	8,124,109,000	8,107,077,000	8,107,077,000	+437,598,000	−117,623,000	−17,032,000	
Air Force stock fund	15,000,000	76,700,000	76,700,000	19,100,000	58,800,000	+43,800,000	−17,900,000	−17,900,000	+39,700,000
Operation and maintenance, Defense agencies	2,550,931,000	2,765,300,000	2,751,400,000	2,694,600,000	2,718,900,000	+167,969,000	−46,400,000	−32,500,000	+24,300,000
Defense stock fund	88,000,000	140,600,000	140,600,000		22,800,000	−65,200,000	−117,800,000	−117,800,000	+22,800,000
Operation and maintenance:									
Army Reserve	319,710,000	375,100,000	374,100,000	351,800,000	356,100,000	+36,390,000	−19,000,000	−18,000,000	+4,300,000
Navy Reserve	287,725,000	294,600,000	288,000,000	286,600,000	288,000,000	+275,000	−6,600,000		+1,400,000
Marine Corps Reserve	12,031,000	14,800,000	14,800,000	14,800,000	14,800,000	+2,769,000			
Air Force Reserve	331,630,000	358,600,000	351,100,000	350,700,000	350,700,000	+19,070,000	−7,900,000	−400,000	
Army National Guard	670,730,000	719,200,000	713,200,000	706,200,000	706,200,000	+35,470,000	−13,000,000	−7,000,000	
Air National Guard	713,500,000	784,600,000	774,600,000	779,300,000	774,600,000	+61,100,000	−10,000,000		−4,700,000

	New budget authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates, fiscal year 1977	House, fiscal year 1977	Senate, fiscal year 1977	Conference, fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
National Board for the Promotion of Rifle Practice, Army	$239,000	$261,000	$291,000	$261,000	$291,000	+$52,000	+$30,000		+$30,000
Naval petroleum reserve	117,700,000					−117,700,000			
Claims, Defense	71,600,000	82,500,000	82,500,000	82,500,000	82,500,000	+10,900,000			
Contingencies, Defense	2,500,000	5,000,000	5,000,000	2,500,000	2,500,000		−2,500,000	−$2,500,000	
Court of Military Appeals	1,167,000	1,239,000	1,239,000	1,239,000	1,239,000	+72,000			
Total, title III	28,979,602,000	32,285,400,000	32,019,076,000	31,435,314,000	31,655,444,000	+2,675,842,000	−629,956,000	−363,632,000	+220,130,000
Total, transfer from other accounts									
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	333,500,000	555,500,000	538,300,000	546,900,000	541,900,000	+208,400,000	−13,600,000	+3,600,000	−5,000,000
Missile procurement, Army	422,600,000	552,400,000	422,300,000	504,300,000	497,400,000	+74,800,000	−55,000,000	+75,100,000	−6,900,000
Procurement of weapons and tracked combat vehicles, Army	881,400,000	1,147,900,000	1,117,300,000	1,090,200,000	1,089,800,000	+208,400,000	−58,100,000	−27,500,000	−400,000
Transfer from other accounts				(27,800,000)	(27,800,000)	(+27,800,000)	(+27,800,000)	(+27,800,000)	
Procurement of ammunition, Army	637,200,000	910,800,000	901,900,000	904,000,000	902,900,000	+265,700,000	−7,900,000	+1,000,000	−1,100,000
Other procurement, Army	912,300,000	1,417,900,000	1,352,900,000	1,377,300,000	1,366,600,000	+454,300,000	−51,300,000	+13,700,000	−10,700,000
Aircraft procurement, Navy	2,972,800,000	3,032,500,000	2,946,600,000	2,957,800,000	2,843,500,000	−129,300,000	−189,000,000	−103,100,000	−114,300,000
Weapons procurement, Navy	1,172,600,000	2,239,700,000	2,027,300,000	2,022,200,000	2,022,200,000	+849,600,000	−217,500,000	−5,100,000	
Shipbuilding and conversion, Navy	3,853,000,000	7,263,500,000	6,618,300,000	6,195,000,000	6,195,000,000	+2,342,000,000	−1,068,500,000	−423,300,000	
Transfer from other accounts	(75,000,000)		(192,800,000)			(−75,000,000)		(−192,800,000)	
Other procurement, Navy	1,829,700,000	2,192,800,000	2,157,400,000	2,176,900,000	2,173,400,000	+343,700,000	−19,400,000	+16,000,000	−3,500,000
Transfer from other accounts			(4,000,000)					(−4,000,000)	
Procurement, Marine Corps	281,000,000	337,700,000	328,400,000	331,000,000	328,400,000	+47,400,000	−9,300,000		−2,600,000
Aircraft procurement, Air Force	3,933,700,000	6,344,800,000	6,231,300,000	6,076,100,000	6,067,700,000	+2,134,000,000	−277,100,000	−163,600,000	−8,400,000
Transfer from other accounts	(24,300,000)			(21,500,000)	(21,500,000)	(−2,800,000)	(+21,500,000)	(+21,500,000)	
Missile procurement, Air Force	1,723,900,000	1,916,400,000	1,853,700,000	1,843,200,000	1,827,700,000	+103,800,000	−88,700,000	−26,000,000	−15,500,000
Transfer from other accounts				(33,300,000)	(33,300,000)	(+33,300,000)	(+33,300,000)	(+33,300,000)	
Other procurement, Air Force	2,046,400,000	2,424,900,000	2,301,600,000	2,349,700,000	2,309,700,000	+263,300,000	−115,200,000	+8,100,000	−40,000,000
Procurement, Defense agencies	205,600,000	264,600,000	244,100,000	255,200,000	250,100,000	+44,500,000	−14,500,000	+6,000,000	−5,100,000
Total, title IV	21,205,700,000	30,601,400,000	29,041,400,000	28,629,800,000	28,416,300,000	+7,210,600,000	−2,185,100,000	−625,100,000	−213,500,000
Total, transfer from other accounts	(99,300,000)		(196,800,000)	(82,600,000)	(82,600,000)	(−16,700,000)	(+82,600,000)	(−114,200,000)	
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation:									
Army	1,958,008,000	2,376,300,000	2,284,948,000	2,254,951,000	2,280,816,000	+322,808,000	−95,484,000	−4,132,000	+25,865,000
Navy	3,257,290,000	4,055,200,000	3,765,125,000	3,696,503,000	3,722,792,000	+654,502,000	−332,408,000	−42,333,000	+26,289,000
Air Force	3,598,911,000	3,916,600,000	3,773,430,000	3,740,530,000	3,749,530,000	+150,619,000	−167,070,000	−23,900,000	+9,000,000
Defense agencies	604,400,000	676,300,000	652,800,000	700,480,000	651,280,000	+46,880,000	−25,020,000	−1,520,000	−49,200,000
Director of Test and Evaluation, Defense	25,000,000	30,000,000	30,000,000	30,000,000	30,000,000	+5,000,000			
Total, title V	9,443,609,000	11,054,400,000	10,506,303,000	10,422,464,000	10,434,418,000	+990,809,000	−619,982,000	−71,885,000	+11,954,000
Total, transfer from other accounts									
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	2,668,000	3,665,000	3,665,000	3,665,000	3,665,000	+997,000			
TITLE VII—GENERAL PROVISIONS									
Additional transfer authority, sec. 733	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
TITLE VIII—RELATED AGENCIES									
CIA Retirement Fund				52,200,000	28,300,000	+28,300,000	+28,300,000	+28,300,000	−23,900,000
Defense Manpower Commission	1,300,000					−1,300,000			
Intelligence Community Oversight			5,600,000		5,600,000	+5,600,000	+5,600,000		+5,600,000
Total, related agencies	1,300,000		5,600,000	52,200,000	33,900,000	+32,600,000	+33,900,000	+28,300,000	−18,300,000
Grand total, NOA	92,399,538,000	107,936,172,000	105,397,343,000	104,014,226,000	104,343,835,000	+11,944,297,000	−3,592,337,000	−1,053,508,000	+329,609,000
Total, transfer from other accounts	(99,300,000)		(196,800,000)	(82,600,000)	(82,600,000)	(−16,700,000)	(+82,600; 000)	(−114,200,000)	
Total funding available	92,498,838,000	107,936,172,000	105,594,143,000	104,096,826,000	104,426,435,000	+11,927,597,000	−3,509,737,000	−1,167,708,000	+329,609,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from North Dakota.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, the distinguished chairman of the Committee on Appropriations (Mr. McCLELLAN) has provided a complete and detailed report on the conference for the fiscal year 1977 defense appropriations bill. I shall just highlight a few points concerning the actions of the conferees.

As the chairman has indicated, this $104 billion bill is $3.5 billion below the budget request for fiscal year 1977 and $11.9 billion over the funding provided for fiscal year 1976. The conferees agreed to a $1.1 billion reduction below the House bill and $329 million above the Senate bill.

Mr. President, the conferees worked diligently in arriving at the funding level of $104 billion for fiscal year 1977. There were 114 amendments considered by the conferees and these amendments required the conferees to agree on 407 individual items. Agreement on this number of items took several days of long and arduous effort.

Mr. President, this conference report provides the funding necessary to stop the downward trend of our defense capabilities. In particular, it provides a shipbuilding program that will start an upward trend for our naval forces. It will also provide the aircraft procurement necessary to support our tactical fighter and attack requirements for the next few years.

The conferees agreed to an $87 million per month obligation, until February 1, 1977, for the B–1 bomber. This will permit the administration to maintain the level of effort for the production of the B–1 and yet restrict the use of most of the funds appropriated for the B–1 until the next administration, Republican or Democrat, has the opportunity to review the program.

Some prominent people in and out of Congress, and even a few seeking high public office, claim there still is $5 to $7 billion of fat in this bill. Few have indicated when such cuts could be made and when they did it was usually at the sacrifice of some of our most important weapons systems.

I am sure some of those proposing these cuts may take a different viewpoint now since the Russian pilot flew Russia's most modern fighter, the Foxbat, to Japan. The press stories are correct when they say that the Foxbat can fly higher and faster than any fighter we have. We believe though that the F–15 fighter now going into production is a better overall fighter than the Foxbat. Most of our military authorities believe, too, that the F–14 fighters, if we put a bigger engine on it along with its Phoenix missile, would be a better fighter than the Russian Foxbat.

This conference report provides the best compromises possible of the differences between the House and Senate bills. I believe it provides sufficient funds to maintain our defense, and I urge all my colleagues to support it.

I yield to the Senator from Kentucky (Mr. HUDDLESTON).

Mr. HUDDLESTON. Mr. President, I wish to engage in a colloquy with the distinguished Senator from Arkansas.

The conference committee report speaks of a separate appropriation to increase the independence and stature of the activities of the intelligence community staff and of the National Foreign Intelligence Board. Was it the intent of the committee that the appropriation cited in title VII cover the salaries and activities of the NFIB?

Mr. McCLELLAN. No. The appropriation is earmarked for the salaries and related activities of the intelligence community staff itself. The committee recognized that the National Foreign Intelligence Board and the various DCI committees are composed of representatives from other organizations of the intelligence community who pay the salaries of their respective representatives.

Mr. HUDDLESTON. The conference committee report states:

> Any such administrative services must be funded from the Intelligence Community oversight appropriation through transfers or other appropriate devices.

Does this mean that the intelligence community staff may not receive assistance either in ad hoc personal services or incidental assistance, either personal or otherwise, from other Government organizations without paying for those services?

Mr. McCLELLAN. No. It was recognized that ad hoc task force, special committees, and study groups would be formed by the intelligence community staff with representatives from other community organizations with those organizations bearing the cost of the personal services. It was further recognized that incidental services such as classified trash collection, shuttle bus service, and assistance provided by community organizations as a "service of common concern" could be made available to the IC staff without reimbursement. However, salaries of the IC staff personnel, specific computer support rendered to the IC staff and those services which can be readily identified without an elaborate accounting mechanism should be funded through the intelligence community staff appropriation. What we have in mind is to insure that the IC staff has sufficient independent resources to stand on its own two feet. This objective can be realized without going to extremes such as requiring reimbursement for each and every item or service rendered where it is clearly reasonable and most efficient that the staff avail itself of services readily available elsewhere.

Mr. HUDDLESTON. Does the term in the conference committee report, "there is to be no augmentation of this appropriation except by supplemental appropriations" mean that the intelligence community staff may not receive incidental support and personal services from other community organizations?

Mr. McCLELLAN. No; but it does mean that the intelligence community staff may not receive funds from other organizations to supplement the appropriation.

Mr. HUDDLESTON. Does the term, "it would be inappropriate to depend upon other sources for policy sensitive services" mean that the DCI and the intelligence community staff could not avail themselves of support and guidance on policy issues regarding the intelligence community from individuals from the Office of the DCI?

Mr. McCLELLAN. No. The intent was to insure that policy support would not come from the CIA but would be issued under director Bush's responsibility as head of the intelligence community.

Mr. HUDDLESTON. Does the term, "intelligence community oversight" mean that the intelligence community staff has specific responsibility for insuring the propriety of the activities conducted by the intelligence community member organizations?

Mr. McCLELLAN. No. While the intelligence community staff would certainly call attention to any activity it thought was wrong, the responsibilities for insuring propriety of action rest with the respective organizations of the intelligence community.

Mr. HUDDLESTON. I thank the Senator.

ADDITIONAL STATEMENT

Mr. TAFT. Mr. President, I am going to vote for this conference report, because I believe we need to get this legislation finished and provide this money to our armed services.

However, I think some very serious problems have been created by this conference report, problems sufficiently serious that I would vote against it if it were not for the urgent need of our defense foray for the funds that have been included.

The first major deficiency in this conference report is its treatment of the B–1 bomber program. The B–1 is vitally needed if we are to maintain the strategic balance. Today, the Soviet Union has its equivalent of the B–1, the Backfire, in squadron service. In addition, the Soviets have deployed 4 new improved ICBM's; they have deployed at least 10 of the Delta class strategic missile submarines, which are the approximate equivalent of our Trident; they are developing new antimissile systems for strategic defense; they have a massive civil defense program underway; and they have in development another new family of ICBM's. To set against this massive program, we have only one new ICBM, the MX in very early development; we have our Trident program underway, although we will not have it in service until the 1980's: and we have the B–1 program. The action of the conference delays and throws doubt upon the B–1, which seems to imply that the Trident and the MX alone may be sufficient to meet the massive Soviet strategic program. Yet clearly, these other two programs alone would not be sufficient. Without the B–1, the strategic balance will inexorably shift in favor of the Soviet Union.

It is imperative that we go ahead with the B–1 bomber program on the planned schedule. We need to put the B–1 into production as soon as possible, and get it into squadron service as soon as possible. It is to be regretted that the conferees did not understand this.

The other major deficiency in this conference report is the cancellation of the Condor missile program. The Condor is a Navy program to develop and deploy a standoff missile for attacking ground and naval targets. In this age of increasingly effective ground and ship-based antiaircraft systems, it is imperative that aircraft be equipped with standoff weaponry. The Soviets have equipped their long-range naval aviation aircraft with standoff antiship missiles, often of ranges of several hundred miles, so that they can avoid the antiaircraft defenses on our ships. Not only Soviet but many third country port areas have strong antiaircraft defenses.

The Condor was a promising system to provide our Navy with this needed standoff attack capability. The Senate approved the continuation of the Condor program; the House, unfortunately, did not, and the House prevailed in conference. I think we will come, in the future, to regret not having the Condor system, particularly when we see the price we must pay in aircraft and pilots for making closein attacks against land or sea targets that have modern air defenses.

As I stated at the outset, I believe these two deficiencies are sufficiently serious that, if it were not for the pressing need of our armed services for the funds that did receive approval by the conference, I would vote against the conference report. I think we will regret both of the actions of the conference which I have discussed.

IN SUPPORT OF ARMY RECRUITING

Mr. ALLEN. Mr. President, the manpower needs of the Volunteer Army are such that it requires the addition of young men and women of quality on continuing basis if it is to remain viable and cost effective. Recruiting results from last year were below quality objectives and projections for next fiscal year are alarming. Recruiting is resource sensitive, and because of inadequate recruiting resources last year the former success and momentum of the Volunteer Army have been lost. Indication from the results of the last 3 months, traditionally the best recruiting period of the year of the Army, are that they will have difficulty recruiting the required number of personnel even at lower high school diploma graduate rates.

Additionally, resources need to be committed to the recruiting effort without delay. This infusion of resources is needed to provide a measure of impetus early in the fiscal year in order to assist the Army in reversing its present downward trend in quality and get it back on the path to achieving its long range recruiting goal.

The recent Joint Conference on the fiscal year 1977 appropriation bill provided the Army $207 million for active Army recruiting—about $18 million less than the President requested. The reduction in resources, along with the language of the conference report indicating "neither committee contemplates further action on all pending requests related to recruiting" concerns the Army very much as it seems to close the door on any future requests for recruiting resources.

Mr. President, I feel we cannot continue to underfinance recruiting, as the results of doing so will be disastrous, namely a forced return to the draft. We have made a commitment for a Volunteer Army, and I think we should uphold that commitment at all costs. By October 1, the Army plans to submit a reprograming request for next fiscal year for a balanced package of added resources to stop their downward trend in recruiting. Their request will be large, and will include an increase of at least 470 additional field recruiters, but I feel strongly that we must give their request every consideration. Unless we are to let the Army down at this critical phase of their effort to sustain a quality Volunteer Army, the Congress should approve the request before its October adjournment.

Mr. McCLELLAN. Mr. President, if there be no other comments on the report, I move the adoption of the conference report on H.R. 14262.

The PRESIDING OFFICER. The question is on agreeing to the conference report on H.R. 14262.

The conference report was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $13,100,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $72,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $28,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $198,400,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,089,800,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $2,843,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $6,067,700,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,827,700,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $651,280,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 723. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. No obligations may be made against a working capital fund to procure war reserve material inventory unless the Secretary of Defense has notified the Congress prior to any such obligation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 747. None of the funds appropriated in this Act may be used to pay any claim over $5,000,000 against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Congress as to the validity of these claims.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 750. Unless otherwise specified and during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided,* That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $28,300,000, subject to the enactment of legislation authorizing such payment.

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 19, 20, 21, 22, 42, 46, 59, 63, 70, 76, 91, 107, 112, and 114.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following measures on the calendar which have been cleared on both sides of the aisle: 1157 through 1161, omitting 1160.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

U.S. MILITARY SALES TO IRAN

The resolution (S. Res. 532) authorizing the printing for the use of the Senate Committee on Foreign Relations 2,000 additional copies of a committee print of the 94th Congress entitled "U.S. Military Sales Iran" was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Senate Committee on Foreign Relations two thousand additional copies of a committee print of the Ninety-fourth Congress entitled "U.S. Military Sales to Iran".

CONSULTANTS FOR COMMITTEE ON PUBLIC WORKS

The resolution (S. Res. 537) authorizing increased allotment for consultants for the Committee on Public Works was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 354, second session, Ninety-fourth Congress, agreed to March 1, 1976, is amended by striking "$5,000" and inserting in lieu thereof "$8,000".

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

The resolution (S. Res. 538) authorizing supplemental expenditures by the Select Committee on Intelligence was considered and agreed to, as follows:

Resolved, That section 15 of S. Res. 400, Ninety-fourth Congress, agreed to May 19, 1976, is amended by striking out "$275,000" and inserting in lieu thereof "$1,175,000".

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 541) authorizing additional expenditures by the Committee on Rules and Administration for routine purposes was considered and agreed to, as follows:

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-fourth Congress, $10,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in S. Res. 153, Ninety-fourth Congress, agreed to May 14, 1975, and S. Res. 246, Ninety-fourth Congress, agreed to September 18, 1975.

NONDISCRIMINATORY APPOINTMENT OF CADETS TO THE U.S. COAST GUARD ACADEMY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1119.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10192) to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the United States Coast Guard Academy,

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 441

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Johnston) proposes an unprinted amendment numbered 441.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 7, add the following new section:

Sec. 2. Notwithstanding the provisions of section 4123 of the Revised Statutes of the United States, as amended (46 U.S.C. 11), or the provisions of section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883), the Secretary of the department under which the United States Coast Guard is operating, shall cause the vessels, Bruja Mar (vessel number 546133), presently owned by Greenwood Marine, Incorporated; Barbara Ann (vessel number 529835), presently owned by Keith Malcolm of Marine City, Michigan; and Mary M (vessel number 230483), presently owned by Charles Hammond, Junior, of Glen Burnie, Maryland, to be documented as vessels of the United States with the privileges of engaging in coastwise trade or in the American fisheries, upon compliance with the usual requirements, so long as the vessels are owned by a citizen of the United States.

Mr. JOHNSTON. Mr. President, this amendment would attach to that measure which provides for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy the provisions of three vessel documentation bills which have been passed by the Senate.

These bills are S. 180, S. 1187, and S. 2951. All three were favorably reported by the Senate Commerce Committee before they were passed by the Senate. S. 180, introduced by Senator Beall, and S. 1187, which I introduced, were passed last year on December 19, 1975. The House Committee on Merchant Marine and Fisheries held a hearing on them on June 6, 1976. No further action has been taken on either of them since that time. S. 2951, introduced by Senator Hart of Michigan, was passed by the Senate on August 10, 1976. No action has been taken on it in the House or in the House Merchant Marine and Fisheries Committee.

Each of these bills authorizes the documentation as a U.S. vessel, with the privilege in the coastwise trades or fisheries of the United States, of a U.S. citizen-owned vessel currently ineligible for such documentation. The reports of the Commerce Committee on these bills set out the facts in each case. No objection was raised to any one of them in the committee or in the Senate.

I urge adoption of my amendment and passage of H.R. 10192, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 10192) was read the third time, and passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAND AND WATER CONSERVATION FUND ACT AMENDMENTS—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on S. 327 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HOLLINGS). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 2, 1976, beginning at page 28969.)

Mr. JOHNSTON. Mr. President, this is the third time within 2 years that the Senate has considered amendments to the Land and Water Conservation Fund. The last two times, the Senate overwhelmingly agreed to an immediate increase in the fund from the present $300 million per year to $1 billion per year. A substantial increase in the fund is absolutely necessary. State and local units of Government have over $40 billion in identified outdoor recreation needs to 1989 when the fund ends. The present Federal recreation lands acquisition backlog presently exceeds $3 billion.

The simple designation of a unit of the national park system is a vital first step, but it is a hollow and hypocritical act if the lands within that park, wild and scenic river area, wilderness area, or wildlife refuge are not acquired. The Land and Water Conservation Fund provides the source of funds for these acquisitions.

A very few days ago, President Ford announced a "bold new program" to fulfill the promises which our national parks hold for this and future generations. This bill, S. 327, is the legislation which President Ford must sign if that pledge is to be fulfilled. The supplemental appropriation request which President Ford sent to Congress was a good and useful act, but the money provided in his bill for Federal park acquisitions and grants to State and local government pales to insignificance beside the money provided by these amendments.

Mr. President, these amendments have been carefully considered, both in light of the needs of this Nation, and with a due regard for the appropriations and budget process. This measure proposes a staged increase in yearly authorization for the Land and Water Conservation Fund to $900 million by fiscal year 1980. Presently, the Land and Water Conservation Fund Act provides yearly authorization of $300 million. For fiscal year 1977, Congress exceeded this authorization limit by appropriating an additional $97 million out of a backlog created when the Nixon administration refused for several years to appropriate full funding for national park acquisitions. These amendments will authorize $600 million for fiscal year 1978, $750 million in fiscal year 1979, and, finally, $900 million in fiscal year 1980. Hopefully, the President, wherever he might be, will each year appropriate the full authorization. This staged increase will permit States and local units of government time to secure the necessary matching funds for the grant portion of the fund as well as allowing Federal agencies appropriately to arrange acquisition priorities.

Title II of this measure provides a 5-year extension of the Historic Preservation Act of 1966 with staged increases in funding to bring the authorizations in line with the needs of the programs.

Mr. President, the provisions of this bill, as agreed to in conference, are the result of a decade of experience and 3 years of careful consideration. The Land and Water Conservation Fund and the Historic Preservation Act of 1966 are the two most important measures ever enacted in the 200-year history of this Nation, for the creation of Federal, State, and local outdoor recreation areas and for the preservation of our historic treasures. S. 327 will provide the money needed to implement this Nation's objective of preserving our open spaces and our historic treasures.

This measure has had strong bipartisan support, both in committee and in the Senate. I express my deep gratitude and appreciation to the distinguished Senator from Wyoming (Mr. HANSEN), who serves as the ranking minority member of the Subcommittee on Parks and Recreation. Throughout our consideration, he has supported this measure and offered many constructive suggestions for improving this final product.

Mr. President, I urge my colleagues to vote overwhelming approval of this bill and I call upon the President to sign this measure into law.

Mr. President, I simply say that the House has now passed this conference report. With the passage by the Senate, it will now go to the President. I think it is the most important decision in terms of parks and recreation that the President of the United States will make. I trust that the President will match his rhetoric in terms of parks and recreation with his actions by both signing this bill and agreeing fully to fund the land and water conservation bill. I think any action less than that would be a step backward in terms of recreation and in terms of acquisition of areas for parks and recreation in this country.

Mr. JACKSON. Mr. President, the concept of the Land and Water Conservation Fund grew out of the findings of the Outdoor Recreation Resources Review Commission which also laid the foundation for such other landmark recreation and conservation measures as the Wilderness Act, the Wild and Scenic Rivers Act, and the Nationwide System of Trails Act among others. I was privileged to serve on that Commission and have always been proud to have authored the Land and Water Conservation Fund Act.

In the short history of the fund, over $2 billion of investment in outdoor recreation by the States has been generated and over $700 million has been spent by Federal agencies to preserve and protect lands in our national parks, forests, and wildlife refuges as well as some recreation lands administered by the Bureau of Land Management. The accomplishments on the fund have been great despite the constant efforts over the last 6 years by the administration to cut the fund. The accomplishments have been great, but the task before us is even greater. Our national park system needs over $700 million for land acquisition. Overall the Federal agencies need in excess of $3 billion for outdoor recreation land acquisition. For planning, acquisition, and development, the States and local units of government have identified over $40 billion in needs over the next decade.

The agreement reached between the conferees will enable us to provide needed recreational opportunities for the citizens of this Nation and preserve and protect the great natural resources of our Nation. This legislation has had broad bipartisan support since the distinguished junior Senator from Louisiana (Mr. JOHNSTON) and I first introduced it last Congress. The overwhelming vote of 282 to 3 last Friday in the House confirms that support. I would like to express my appreciation to the Senator from Louisiana (Mr. JOHNSTON) for his leadership in this area and his deep commitment to the preservation of our natural and historic resources.

Over the last 2 years we have struggled to enact this legislation despite the threat of a Presidential veto. I sincerely hope that the President's remarks at Yellowstone indicate that at least with respect to this measure, he will lay aside the petty politics and hollow rhetoric of the last few years and he will consider the good of this country and sign this measure.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move

to reconsider the vote by which the conference report was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR TESTIMONY IN THE CASE OF HUTCHINSON V. PROXMIRE, ET AL.

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 543) authorizing the Senator from Wisconsin (Mr. PROXMIRE), his administrative assistant, Howard E. Shuman, and his legislative assistant, Morton Schwartz, to give testimony by means of depositions on the motion to dismiss, or alternatively for summary judgment, in the case of *Hutchinson* v. *Proxmire, et al.*

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas a civil action has been filed against the senior Senator from Wisconsin (Mr. PROXMIRE) in the United States District Court for the Western District of Wisconsin (*Hutchinson* v. *Proxmire, et al.*, number 76C257);

Whereas the civil action against the Senator from Wisconsin (Mr. PROXMIRE) seeks damages for actions that were performed within the scope of a Member of the Senate's duties and responsibilities under the Constitution of the United States; and

Whereas the Senator from Wisconsin (Mr. PROXMIRE) has made a motion to dismiss such civil action, or alternatively for summary judgment: Now, therefore, be it

Resolved, that the Senator from Wisconsin (Mr. PROXMIRE), his administrative assistant, Howard E. Shuman, and his legislative assistant, Morton Schwartz, are authorized to give sworn testimony by means of depositions solely for the purpose of addressing issues raised by the motion to dismiss, or alternatively for summary judgment, made by the Senator from Wisconsin (Mr. PROXMIRE) in the case of *Hutchinson* v. *Proxmire, et al.*

INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3420.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3420) to authorize appropriations to the International Trade Commission.

(The amendments of the House are printed in the RECORD of May 19, 1976, beginning at page 14375.)

Mr. LONG. Mr. President, I move that the Senate disagree to the amendments of the House; agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. FANNIN, and Mr. HANSEN conferees on the part of the Senate.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. LONG. Mr. President, do we now have H.R. 13367 before the Senate?

The PRESIDING OFFICER. That is the pending business.

Mr. LONG. Mr. President, the Committee on Finance has reaffirmed its belief in the concept of the Federal revenue sharing and proposes that the State and Local Assistance Act of 1972 be extended. The committee believes that our federal system of government, composed of Federal, State and local governments, has been strengthened by the availability and distribution of unrestricted fiscal assistance on a continuing and certain basis.

By providing Federal funds with few limitations, the committee believes that State and local governments may more effectively meet the diverse needs and priorities of the Nation. The bill, H.R. 13367, as amended by the committee, renews and extends the 1972 act to achieve this result.

In addition to providing continued, growing financial assistance to State and local governments, the committee has made certain changes to the 1972 act which are designed to strengthen and clarify it.

Principally, the committee proposes that the act be extended for an additional 5¾ years. It also recommends that more money be made available by the Federal Government to State and local units of government. For fiscal year 1977, the committee originally proposed that $6.9 billion be distributed. Since the Finance Committee's action, the proposed second concurrent budget resolution has been approved by the Senate. It contains an assumption that $6.65 billion will be included for general revenue sharing. Under the circumstances, as soon as the parliamentary situation permits, I intend to offer an amendment to conform the proposed revenue-sharing distribution for fiscal year 1977 in the bill to the budget resolution. This amendment will also provide for an annual increase in the funds to be distributed by $200 million. Such annual increases will continue the modest growth in the revenue-sharing program in the same manner as provided under the original act.

It is the committee's firm view that the availability of these funds to the more than 39,000 State and local units of government—all 50 States and the District of Columbia, over 3,000 counties, almost 19,000 municipalities, nearly 17,000 townships, and more than 350 Indian tribes and Alaskan Native villages—materially enhances the strength of our Federal system and significantly broadens the decisionmaking process concerning the expenditure of approximately $42 billion of Federal funds in a manner totally consistent with our most democratic principles.

The formulas the Congress adopted in 1972 are continued by the bill, as amended by the committee. Very minor changes have been made to reduce the fluctuations in payments that have previously occurred.

Finally, the committee has sought to both simplify the reporting and accounting requirements imposed on the recipients of those funds and to make more meaningful the provision of the current act barring discrimination in the utilization of these same moneys. At this point, Mr. President, I ask unanimous consent that a summary explanation of the provisions contained in the Finance Committee amendment be inserted in the RECORD, immediately following my statement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF STATE AND LOCAL FISCAL ASSISTANCE ACT AMENDMENTS OF 1976 AS APPROVED BY THE COMMITTEE ON FINANCE

Under the Committee amendment (H.R. 13367), the general revenue sharing program is to be renewed for 5¾ years. Entitlement payments, which would be revised by floor amendment, of $6.65 billion would be provided for fiscal year 1977, and would be increased thereafter by $200 million per year. Also, the non-contiguous State adjustment amounts grow throughout the renewal period. Thus, unlike the House bill which did not provide for any growth in funding, the Committee amendment provides for an 11 percent increase in funding.

The aggregate entitlement amounts for the renewal period proposed are as follows:

Period	Basic amounts (millions)	Noncontiguous State amounts (millions)
Oct. 1, 1976 to Sept. 30, 1977	[1] $6,650	$4.78
Oct. 1, 1977 to Sept. 30, 1978	6,850	4.92
Oct. 1, 1978 to Sept. 30, 1979	7,050	5.07
Oct. 1, 1979 to Sept. 30, 1980	7,250	5.21
Oct. 1, 1980 to Sept. 30, 1981	7,450	5.36
Oct. 1, 1981 to Sept. 30, 1982	7,650	5.50
Total	[1] 42,900	30.84

[1] Includes $1,662.5 million of funds made available under prior legislation.

DISTRIBUTION OF FUNDS

Basically the committee continues the present provisions relating to the distribution of funds. As a result, the distribution of the funds to the States will continue to be based on one or two formulas: one is based on population, on tax effort, and on need—inverse per capita income—the other is based on population, urbanization, need, relative use of income taxes, and tax effort. The State governments themselves will receive one-third of the funds and the remainder distributed among the counties, cities, and other local governments for the most part on the basis of population, tax effort, and need. However, a few relatively minor changes to the distribution formulas are made on the basis of the experience to date.

The committee amendment provides for certain technical modifications designed to improve the administration of the formulas and achieve greater equity. At the State level, the committee amendment provides that the noncontiguous State adjustment be available to States—Hawaii and Alaska—with extraordinary costs of living under both the five-factor and three-factor formulas. Under current law, the adjustment has been available only for such States with extraordinary costs of living which benefit under the three-factor formula.

At the local level, the committee amendment also provides for certain technical changes in the administration of the formulas which are designed to achieve greater equity and greater certainty. First, the committee amendment would prohibit the retroactive application of a change in statistical methodology—for example, the precise manner in which, for example, school taxes are removed from total taxes to arrive at adjusted taxes—by the Office of Revenue Sharing which would result in a recipient having to repay revenue sharing funds received in a previous entitlement period. Second, to minimize fluctuations in entitlements, census data would be required to be used throughout the periods ending before the beginning of the next entitlement period. Third, revenue sharing funds waived by an Alaskan Native village or Indian tribe is to be added to the entitlement of the county government in which the tribe or village is located. This is the requirement of current law with respect to waivers by cities and townships and would provide parallel treatment for tribes and villages. Fourth, the committee amendment provides for an allocation to certain separate law enforcement officers in Louisiana, except in Orleans parish, from funds available to State and parish governments. Finally, a State may elect during the renewal period the proportional within-State distribution formula provided in current law.

FISCAL REQUIREMENTS

The committee amendment revises the fiscal requirements of the act by eliminating the requirements that localities spend revenue-sharing funds in priority categories and that recipients not use revenue sharing to match other Federal programs. Also, the State maintenance of effort requirement in the act is revised so that States must maintain their transfers to localities compared to a moving average of their previous transfers.

ELIGIBILITY REQUIREMENTS

The committee amendment continues the local government eligibility requirements of current law, and eliminates an unused category of recipients—"other units of local government."

ACCOUNTING AND AUDITING REQUIREMENTS

The committee amendment provides that where State or local law requires a financial audit of State and local revenues and expenditures, the same requirements are to be sufficient for revenue-sharing funds. Where no statutory audit requirement exists, an independent audit of the recipient's financial statements, according to generally accepted accounting standards, is to be required every 3 years. A series of audits which aggregate the entire financial activity of the recipient would be sufficient. In certain circumstances, where recipient units of Government are not auditable, the required audit is to be waived where it is demonstrated by the recipient—under regulations promulgated by the Secretary—that substantial progress toward being auditable is being achieved annually. Recipients with annual entitlements of less than $25,000 per year of revenue-sharing funds would be exempted from the required audit provisions. Coordination with other Federal audit requirements is mandated, in order to avoid duplication of audits in the case of units of Government not subject to State or local statutory audit requirements.

REPORTS, HEARINGS, AND PUBLIC PARTICIPATION

The committee amendment provides a general requirement for public hearings, notification, and publication of summary budgetary information. An exception to this general requirement is provided if a recipient holds public hearings after notice on the proposed uses of its own funds in which citizens can participate under generally applicable State or local law.

NONDISCRIMINATION

The committee amendment also strengthens the nondiscrimination provisions of current law by providing: First, a general prohibition against discriminating on the basis of race, color, national origin or sex, with respect to any program or activity of a recipient government which program or activity has been designated as receiving revenue sharing funds or which under all the facts and circumstances is demonstrated to be funded in whole or in part with revenue sharing funds; second, a procedure which provides certain timetables under which the Treasury Department must seek compliance, and which can result in suspension of revenue sharing payments; third, standing for citizens who, upon exhaustion of administrative remedies, can bring a civil action in an appropriate U.S. district or State court.

STUDY OF FEDERAL FISCAL SYSTEM

The committee amendment also creates a 14-member commission to study and evaluate our—and other—Federal systems in terms of the allocation of taxing and spending authorities; to study and evaluate State and local government organization to determine, especially at the local level, what general governments do and how they might relate to each other and to special districts in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities. In addition, the commission is to examine the effectiveness of Federal stabilization policies on local areas, and the effects of individual State and local fiscal decisions on aggregate economic activity, the quality of financial control and audit procedures that exists in our Federal system, and the formal and practical aspects of citizen participation in fiscal decisions in our Federal system. The commission is to have 3 years to make its study and report to the President and Congress. The commission is to be composed of the Speaker of the House, the minority leader of the House, the majority and minority leaders of the Senate, two members of the executive branch, two Governors, two local government officials, two representatives of the business community and two representatives from labor.

UP AMENDMENT NO. 442

Mr. LONG. Mr. President, as I explained in my original statement, I send to the desk an amendment to modify the committee amendment to conform to the budget resolution.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment No. 442.

The amendment is as follows:

On page 31, strike out line 5 and all that follows down through line 14 on page 32, and insert in lieu thereof the following:

"(c) Authorization of Appropriations for Entitlements.—

"(1) In general.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000;

"(B) for the fiscal year beginning October 1, 1977, $6,850,000,000;

"(C) for the fiscal year beginning October 1, 1978, $7,050,000,000;

"(D) for the fiscal year beginning October 1, 1979, $7,250,000,000;

"(E) for the fiscal year beginning October 1, 1980, $7,450,000,000; and

"(F) for the fiscal year beginning October 1, 1981, $7,650,000,000.

"(2) Noncontiguous States adjustment amounts.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(B) for the fiscal year beginning October 1, 1977, $4,923,759;

"(C) for the fiscal year beginning October 1, 1978, $5,067,519;

"(D) for the fiscal year beginning October 1, 1979, $5,211,278;

"(E) for the fiscal year beginning October 1, 1980, $5,355,038; and

"(F) for the fiscal year beginning October 1, 1981, $5,498,797."; and

Mr. LONG. As I indicated in my opening statement on the bill, the Committee on Finance acted on the bill before the Senate approved the proposed second concurrent budget resolution. To reconcile the proposed funding for revenue sharing in the bill with the amount agreed to by the Senate in that proposed resolution, I am now proposing an amendment to only provide $6.65 billion in revenue sharing for fiscal year 1977.

Under the committee bill, as reported, this amount would be $6.9 billion for fiscal year 1977. During each of the next 5 years, the committee proposed that such amount grow by $150 million.

In lieu of the committee provision, I am now proposing that we increase the amount of growth in the program by $200 million per year.

Mr. President, I ask unanimous consent that the committee amendment be so modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to and the bill, as thus amended, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I wish to make a brief statement on this matter of revenue sharing.

The program has been in operation for several years. It has been pending quite awhile now this year. The States, the counties, the townships, the cities, and towns have been anxiously waiting to see whether or not this legislation would be passed.

It is my feeling that in the best interests of wise budgeting that that decision ought to be made. I do not think Congress should put it off any longer. It is too bad we have not been able to consider this earlier.

The States and the subdivisions are entitled to know what they can expect in the way of revenue sharing. It was for that reason that I voted for reporting the revenue sharing bill from the Committee on Finance to the Senate for consideration.

Mr. President, I agree with the basic objections that have brought about revenue sharing. There is no question but what too much power, too much authority, and too much money are being centered in Washington. The Federal Government is handling things that can better be handled by the States and localities.

It is also true that the Federal Government, in carrying on these many, and some of them very large, programs, has reached out and taken possession of all the available revenue. This trend should be reversed. There should be more matters handled on the State and local level. The power over matters that are non-Federal in nature should remain in the States and localities. The best government is the government which is closest to the people.

It is also necessary for us to reverse the trend of the Federal Government taxing and taxing and taxing, to the end that there is nothing left to support State and local government.

In this objective, I agree with inauguration of the revenue-sharing bill and this proposal.

I do not like the details of this bill. I hope that we can have some vast reform in revenue sharing.

In the first place, for the Federal Government to be broke, rendering a huge deficit, and to borrow money to send out to States and subdivisions is not a wise procedure. It is not revenue sharing. It is the Federal Government using their power to borrow money, to turn that money over to officials who have had no responsibility in raising the money.

True revenue sharing should be built around the idea of sharing the available sources of revenue. That means that we can never actually have any revenue sharing that is real until we balance the budget.

Then we should examine our tax structure, find out where we are levying taxes in a given area, withdraw from that area of taxation, and let the States and localities impose the taxes in that particular situation.

It has sometimes been suggested that the tax on tobacco or alcohol—or both those fields of taxation—be returned to the States and they, in turn, could handle it for themselves, in the localities as they saw fit, and at the same time the Federal Government discontinue certain Federal programs that ought to be handled at home.

That is true revenue sharing. That is the only way we would perpetuate local government. It is the only way we can perpetuate that great American tradition of having local government as the training ground for good citizenship and good leadership.

The Federal Government should discontinue certain programs, whatever saved there, withdraw from areas of taxation so that the States and localities can impose that tax, collect the money, and meet the program. Or if they do not like the program, they could use it for something else.

But the quid pro quo would be that the Federal Government be relieved of certain programs and obligations and, in turn, they withdraw or let go certain sources of revenue.

If that were carried out, it would not damage the Federal budget at all because the quid pro quo would be that we are relieved of certain obligations of carrying programs that are expensive to operate in Washington and, in turn, we are releasing avenues of revenue.

No one could argue that it is in the interest of good government that one level of officeholders who vote to increase the debt or to levy taxes, give the money to somebody else to spend.

Politicians who want to spend money should face the music and raise the taxes. Because we deviate from that sound principle, there arise requests to put strings on these Federal funds.

There will be amendments offered today to put strings on this money. We should not do that. I am against it.

If this system of Federal revenue is to be continued, and I assume that it is, we should make it really revenue sharing and let the local people make some decisions. We should not have any strings.

Mr. President, I realize that my view of how revenue sharing is to be handled is perhaps a minority view. I think it is the right view. I believe it is in the interest of stronger States, stronger localities, and better Federal financing.

The time is late this year. So I would be a little bit overoptimistic if I thought the reform I talk about could be effectuated this year. But I do hope that, as this bill moves through the Senate, we will refrain from attaching strings to this money, from making requirements, from doing the very thing that we should not be doing. That is, making decisions that should be made back home.

Mr. President, there is something else defective about the present program. There is no question, with all the money we handle here and all the deficits that we run, the money we have to borrow, is one of the big factors in firing inflation.

Who suffers from inflation? Local and State governments.

It does not matter whether it is running their State institutions, such as the State university, or feeding the inmates of the penitentiary. The inflation goes on. As the price of a pair of overalls goes up, and the State has many wards, they feel it.

How much has construction gone up? How much have repair bills gone up? A great deal.

Local and State governments must carry on these programs. They must keep their buildings in safe and sanitary condition, and buildings must meet the requirements laid down in the law. It costs them, and costs them, and costs them.

Mr. President, the wasteful, excessive spending and the grab for power in Washington has increased the cost of the local and State government tremendously. Whatever they might think they are getting for free in the type of revenue sharing we have at the present time falls far below the added costs they must bear that were caused by Washington.

Therefore, my plea today is that we reform this program, that we have a genuine revenue sharing, that programs that can better be handled at home be turned back to the States.

In many instances, they will not choose to continue those programs, because they are not any good in that particular community.

Then at the same time, we should withdraw from certain fields of taxation. We should release sources of revenue to the States and localities. That is the course we should follow.

Mr. President, the course we have been following was not the right one. We are borrowing money, running huge deficits, adding to the fires of inflation, causing more and more expense on the local and State governments that is not redeemed by borrowing money and sending them a check.

We should get back to the principle of those politicians and officeholders who spend the money should levy the taxes.

That is not directed as a criticism at this time against State and local officials, because the Federal Government has reached out too far and taken too great a share of the available revenue.

Therefore, Mr. President, I cannot support this bill before us, but my plea is for real revenue sharing in the manner which, in my opinion, it was originally conceived. Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, I rise in support of this revenue sharing bill.

I rise in very strong support of this revenue sharing bill, because I think that the direction this bill is taking is the direction I would hope the Federal Government would take in any number of other expenditures that they make allegedly on behalf of local governments.

When general revenue sharing was passed a number of years ago, the philosophy was the Federal Government can collect the money and give it to the States, cities, counties, and townships with as few strings as possible, although even then we added some strings to the bill.

In the present version of the revenue sharing bill now before us, we have removed almost all the strings that had previously existed. We have eliminated the requirement that certain moneys must be spent for certain priorities. We have severely limited the auditing, reporting, and publication requirements.

The only string that is probably still in is the civil rights string, and I think justifiably so. If that be an exception to the provision that we are trying to give as much autonomy to local governments as possible to spend this money as they want, then so be it. There is still a fear, and I think justifiably in the country, that discrimination does exist at the local level. It certainly exists at many levels of the Federal Government.

So we have tried to put into this bill a very tight, self-enforcing civil rights provision that says simply if the local government discriminates in the spending of the money, future moneys can be set aside and not received by the local government.

Other than that, this is a model revenue sharing program. The Office of Revenue Sharing today has fewer than 100 employees.

Its administrative costs are less than thirteen one-hundredths of the money it administers, far and away the lowest cost administered Federal program that exists. The administrative costs are so low and the employees so few, because there are relatively few strings to the money. The Office of Federal Revenue Sharing basically takes a look at the formula under which the money is distributed and the formula is in the law.

An argument is made that this is Federal money and that we have in fact a right and a duty to direct the local governments how to spend it, apparently on the theory that it is Federal money, that we are wiser than local governments in what their priorities ought to be and we should direct them to spend it.

Well, first, this is not Federal money. This money does not belong to us here in Congress. It does not belong to the Members of the Senate or the Members of the House. This money belongs to the taxpayers of this country. We hold it in trust for a few months after it is collected and before it is spent. Let us disabuse ourselves, however, of any thought that this is "our" money. It belongs to the citizens of this country.

Second, if we have any thoughts left in Washington that we are smarter than the Governors, the county commissioners, and the mayors of this country, I hope we are willing to put those thoughts aside. The evidence of Federal Government misuse, mismanagement, and ineptness in spending money is colossal. The one thing we surely do when we have a Federal program that applies all over this country is that if we make a mistake in what that program is or how it should be administered, we apply it all over this country and the mistake is nationwide.

We are not any smarter than local officials. We surely do not know their priorities as well as they know their priorities.

If any city in this country cannot decide for itself within the limits of its budget whether it needs a fire engine, a day care center, or a park, we in Washington, D.C., cannot decide which they need most.

So as we go through the different provisions of this bill I hope we will remember this: One, the Federal Government can collect this money very cheaply. We are very efficient at collecting money. There is no reason why we should not relieve the burden, and I think unfair burden of local real property taxes, because that is what is used to pay for the bulk of local services, relieve that burden and transfer it to the Federal income tax which for all of its alleged loopholes is a fairer tax than most local taxes. The Federal Government would collect the money and then give it to the local government without strings, with the exception of the civil rights string, to spend as they want.

I frankly wish we would extend this concept to education; that we would gather up all of the primary and secondary education programs we have, put all of the money into a lump sum, not reducing it one whit from the amount now spent for education, and give it to the local school boards and tell them to spend it on their needs, to spend it for a librarian, for a PE teacher, for an addition to the cafeteria, for whatever they think is their most critical need.

I wish we would do it in most of the other programs that the Federal Government now undertakes which are to help people at the local level.

This is not 1935. The day has long since passed when local governments are unresponsive to local needs. The day has long since passed when local governments are more subject to corruption than the Federal Government. The day has long since passed when so-called special interests exercise a greater control over local government than they do over the Federal Government.

In my view, local governments spend money more wisely, spend it more cheaply, and spend it more honestly than the Federal Government. The biggest favor the Federal Government can do for States, counties, for cities and for townships is to collect the money with the Federal income tax, the Federal corporate tax, and give it to local governments with as few strings as possible, not in the hope but in the knowledge that they will spend it for their needs better than we could ever possibly spend it for their needs if we dictate how that money is to be spent from Washington, D.C.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. HUGH SCOTT. I ask unanimous consent that Kenny Butler, of my staff, be granted the privilege of the floor during the consideration of H.R. 13367, the revenue sharing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTES TO SENATOR MANSFIELD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday of this week, at the close of legislative business, the distinguished Republican leader, Mr. HUGH SCOTT, and I have 2 hours, to be equally divided, for the purpose of paying tributes to our distinguished majority leader, Mr. MANSFIELD, who will be retiring at the close of this Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 15 minutes.

The motion was agreed to; and at 12:34 p.m. the Senate took a recess for 15 minutes.

The Senate reassembled at 12:49 p.m., when called to order by the Presiding Officer (Mr. ALLEN).

UNANIMOUS-CONSENT AGREEMENT—VOTE ON TREATIES

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that on Wednesday next, the four treaties—Calendar Nos. 9 through 12—be voted on in one vote, to occur at 1 p.m., and the one vote to count for four; that immediately following that rollcall vote, a separate rollcall vote occur on Calendar No. 13, Executive J, 94th Congress, second session; and that the second rollcall vote, which will be a back-to-back vote, be a 10-minute vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PRIVILEGE OF THE FLOOR—VOTE ON TREATIES

Mr. THURMOND. Mr. President, I ask unanimous consent that Gene Lawrimore, of my Senate staff, and John Napier, of the Judiciary Committee staff, be accorded the privileges of the floor during the vote on the treaties on Wednesday of this week.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. GLENN. Mr. President, I ask unanimous consent that two members of my staff, Len Bickwit and Reg Gilliam, have the privilege of the floor during the consideration of the revenue sharing measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on H.R. 13655, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13655) to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of July 21, 1976, beginning at page 23124.)

Mr. MOSS. Mr. President, the conference report before us represents the culmination of 3 years of hard work on the part of the Senate to establish an aggressive automobile research and development program. Beginning in the 1st session of the 93d Congress, legislation has been repeatedly introduced on the Senate side. Bills have passed the Senate on four separate occasions.

The last time the Senate passed the legislation was early in June and has resulted in the conference report before us today.

The need for an aggressive program of automobile research and development has never been greater. As we have grown more complacent about the energy crisis, we find ourselves slipping back into the large car, gas guzzling pattern that has plagued us since World War II. Despite the 1973 Arab oil embargo and all of the economic and foreign policy realities brought sharply into focus by it, we still continue to import approximately 40 percent of our oil.

The automobile is the single largest end-user of petroleum in this country, accounting for nearly 40 percent of present consumption. The automobile is also a dominant source of pollutants, especially oxides of nitrogen, the precursor of smog, and gaseous hydrocarbons.

Despite all of the problems associated with automobiles, and especially automobile engines, the automobile industry continues to place virtually all of its effort into refining conventional internal combustion technology with all of its inherent tradeoffs concerning air pollution goals and fuel economy. Enormous pressures have been exerted against the Congress and the administration by the auto industry to compromise auto fuel economy goals and emission standards.

At the same time, there are a number of other promising engine types that do not present tradeoffs inherent in internal combustion engine technology. The most promising appear to be Stirling and Brayton cycle engines which can offer tremendous advantages in terms of fuel economy and emissions control.

For example, a recent study of the Jet Propulsion Laboratory in Pasadena, Calif., estimates that Stirling cycle engines are capable of achieving a 47-percent increase in average fuel economy over conventional internal combustion engines, while saving consumers approximately $600 over the lifetime of a full-sized automobile. This could save this country approximately 2 million barrels of oil per day by the year 2000.

Turbines could offer even greater consumer savings.

The conference report before us is designed to provide the kind of support for these alternatives which is necessary to exploit their full potential within the next decade. The conference report before the Senate today is the result of careful consideration and compromise between the Senate and House versions. It specifically meets those objections articulated by the administration to the enactment of this program.

A brief description of the conference report provisions is in order so that we may understand what we are voting on.

The conference report requires the Energy Research and Development Administration to establish a 5-year program which will result in the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles. In fulfilling these duties, the Administrator is to give priority attention to the development of advanced propulsion systems.

Nonetheless, the program will result in the development of an integrated test vehicle which incorporates advanced automobile propulsion systems, and other advanced systems as well, in a vehicle which has, in essence, been constructed from the ground up. The vehicle to be constructed must substantially increase automobile fuel economy and substantially reduce environmental impact. It must conform with Federal requirements with respect to safety and damageability, and otherwise be a satisfactory automobile.

It is important to note that the conference report before us does not authorize construction of production prototypes. Production prototypes are recognized by the industry as having gone through the final phases of engineering development and have been readied for mass production. This is a key provision which should alleviate any fears the administration and others had that this legislation would infringe upon the traditional responsibilities of the automobile industry.

At the same time, the goals of the Senate bill, which were to integrate and assemble a complete vehicle which utilizes advanced technology, are preserved.

It is also important to point out that while the Administrator of ERDA will have overall management responsibility for conducting the program, the role of other agencies is also recognized. For example, section 6(a) requires the Administrator to utilize the expertise of the Department of Transportation to the maximum extent practicable in the areas of safety and damageability, and to use other agencies as well, to the extent that he deems it appropirate. Thus, the expertise of the Department of Transportation in safety and damageability, and especially their work with respect to the research safety vehicle program, will be utilized fully. Rather than detracting from the present authority of DOT to conduct research and development, the result of this statute should be to enhance it through these requirements. But the program will be under the direction of a single agency, in this case, ERDA.

Provision is made for the evaluation and testing of advanced automobile technology which is developed under this act or elsewhere, and for the dissemination of information to developers.

The Senate bill contained provisions for mandatory licensing of any patented technology which was reasonably necessary to fostering expeditious commercial application of advanced automotive technologies. While I remain convinced that mandatory licensing is an appropriate vehicle to reap the benefits of an R. & D. program, it was clear that the House side was adamant on this point and was backed to the hilt by the administration. The conferees therefore agreed to accept the present provisions of the Federal Nonnuclear Energy Research and Development Act which will apply with respect to patents or other inventions made or conceived under this authority.

The conference report before us contains an authorization for appropriations of $25 million for fiscal year 1977 and $75 million for fiscal year 1978. This level of funding should be adequate to fund the contracts and grants program for the next 2 fiscal years. The loan guarantee provisions which appeared in the Senate bill were deleted in favor of a study by the ERDA Administrator on loan guarantees and how they might be used in the context of this kind of program. This should form a better basis upon which to make judgments about loan guarantees when the program will be reauthorized 2 years hence.

It should be recognized that the authorization for appropriations included in this conference report are in addition to any of those contained under the annual authorization for ERDA, which for fiscal year 1977 is approximately $27 million.

One of the more difficult issues before the conference was the extent to which the statute should contain authority for the Comptroller General to have independent access to books and records of recipients of financial assistance under the act. The House bill did not contain an explicit provision with the assumption that existing authority under the Energy Reorganization Act would apply.

The Senate amendment authorized the Administrator and the Comptroller General to have access to books, documents, papers, and records which, in the opinion of the Administrator or the Comptroller General, may be related to the financial assistance granted.

Given the fact that the Energy Reorganization Act contains a clause which gives the Comptroller General access to and right to examine any "directly pertinent books, documents, papers, and records of the contractor or any of its subcontractors," the provisions of existing law will apply. Litigation is currently being conducted over language similar to that contained in the Energy Reorganization Act concerning procurement by the Department of Defense. Thus, what is precisely meant by "directly pertinent books, documents, papers, and records" is now being delineated by the courts. While it is best to wait until that litigation is concluded before deciding whether additional legislative adjustments are necessary, it is appropriate to comment on what the intent of those provisions of the Energy Reorganization Act language should be in the context of this program. Of course, GAO and the Administrator will have access to those records which account for direct expenditures by a contractor or grant recipient for nonbid items. In addition, other management decisions of large corporations are directly relevant to the manner in which costs are assessed to an R. & D. project. For example, the manner in which overhead costs are assessed to a given R. & D. project is extremely important to finding out whether the Government is getting its money's worth or not. It would obviously be inappropriate to charge excessive overhead costs to R. & D. projects financed by this authority. The Comptroller General and the Administrator ought to have access to the manner in which these kinds of allocation decisions are made by recipients of financial assistance.

As the Senate today considers this conference report, we should recognize the efforts of the distinguished Senator from California (Mr. TUNNEY) in bringing this legislation to this point. He is the principal sponsor of the Senate bill which forms the basis for this conference report. He has worked persistently and diligently on this bill and we all should be grateful to him for it.

Mr. President, in my view, the conference report before us today represents a fair agreement between the House and the Senate. This is an extremely important program which should get off the ground without delay. I urge the acceptance of the conference report.

Mr. GRIFFIN. Mr. President, I hope the American people learn about this legislation. It would be difficult to think of legislation more ridiculous and less necessary than this particular bill, which, if enacted, will cost the taxpayers of the United States $100 million.

Ralph Nader once observed:

> If there is one thing worse than General Motors producing cars, it would be the United States Government producing them.

This bill goes a long way—toward putting the Federal Government in the business of designing and producing automobiles.

I do not know of any great objection to this legislation from the automobile companies. If the Government wants to spend $100 million to do research that private enterprise should do and has done, I suppose industry will accept the results of this legislation. But it is a ridiculous, wasteful expenditure of the taxpayers' money.

I am glad to call the Senate's attention to the fact that the Secretary of Transportation, William Coleman—who, I think, is doing an outstanding job in his position—has written a very forceful letter to the chairman of the Committee on Commerce, indicating that he opposes the bill and hopes the President will veto it. I, too, hope the President will veto the bill, and that the veto will be sustained in Congress.

The letter that Secretary Coleman has written to Senator MAGNUSON states:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C. July 14, 1976.
Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On June 28, 1976, I wrote to you to express the Department's strong opposition to both the House and Senate versions of H.R. 13655, the "Automotive Transport Research and Development Act of 1976." This letter is to express our continued opposition to provisions of the bill which we understand have been approved by the Conference Committee.

While we have not yet seen a printed version of the Conference Committee's report, we understand that the approved bill would provide for the development by the Energy Research and Development Administration (ERDA) of "several" "integrated test vehicles" to test advanced automobile propulsion systems which the bill also would direct ERDA to develop. It would also permit ERDA to support the development of the "integrated test vehicle" with as much as one-third of the funds authorized by the bill. It is our further understanding that an "integrated test vehicle" is not merely a test bed for the evaluation of propulsion systems, but is so broadly defined that it could be a complete vehicle with careful attention paid to safety, emissions, fuel economy, damageability, productibility and other features.

We continue to oppose such provisions for two reasons. First, they would duplicate programs already established within the Department of Transportation for research and development pertaining to complete advanced automobiles. We believe it is duplicative and unnecessary to assign ERDA responsibility to develop an "integrated test vehicle" when DOT's National Highway Traffic Safety Administration (NHTSA) is already well along in its implementation of a program to develop an integrated advanced vehicle which will be damage-resistant, safe, energy-efficient, and environmentally sound. NHTSA also conducts research on all major components and systems of automobiles, and has responsibility for promoting through its regulations the development and production of improved cars by the manufacturers under statutes to regulate motor vehicle safety, damageability, and fuel economy. In other words, ERDA would be doing exactly the same thing that DOT is already doing. The research and development activities are authorized by the Department of Transportation Act (49 U.S.C. 1651 *et seq.*), the National Traffic and Motor Safety Act of 1966 (15 U.S.C. 1381 *et seq.*) and the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 *et seq.*) For automotive research and development activities, DOT has obligated $17.7 million in FY 1976 and has requested obligational authority of $26.9 million in FY 1977.

Second, the Department opposes the bill because it would disrupt the existing DOT–ERDA working relationship designed to coordinate our respective development activities in the transportation area. This relationship is embodied in a carefully worked out memorandum of understanding, a copy of which is enclosed. The Department is fully prepared to integrate any advanced propulsion system developed by ERDA into our advanced vehicle. By proceeding in this way, the respective component capability and jurisdiction of ERDA can be respected, DOT can continue to fulfill its mission of promoting the development of complete advanced automobiles, and the Congress can avoid disrupting effective working arrangements between agencies.

Let me again call your attention to my letter to you of June 28, 1976, and its attachment indicating the joint view of ERDA and DOT that such legislation is unnecesary. Because we continue to believe that the expenditures of funds to carry out such duplicative purposes is not a responsible use of taxpayer's dollars, I regretfully must advise you that we will recommend that the President veto any measure containing such provisions.

Sincerely,
WILLIAM T. COLEMAN, Jr.

Mr. President, frankly, it is bad enough that one governmental agency is engaged in this kind of activity—an activity properly and traditionally performed by the private sector. But this legislative proposal requires that it be duplicated—that two Government agencies engage in the same activity.

Mr. President, I ask unanimous consent that the minority views I filed in connection with the Senate version of this legislation be reprinted at this point in the RECORD.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF MR. GRIFFIN TO S. 3267, THE AUTOMOTIVE TRANSPORT RESEARCH DEVELOPMENT ACT

Although Congress has already imposed Federal regulations on virtually every aspect of private sector design and production of the automobile, this bill would carry the process to the extreme: it would put the Federal Government into the business of designing automobiles.

The bill authorizes $330 million for the Government to build an "advanced automobile" (whatever that is), which would be "energy-efficient, safe, damage-resistant, and environmentally sound. . . ."

Under the bill, the Secretary of Transportation is directed to develop production prototypes of such a "supercar" within 4 years. A production prototype is described as an automobile in its final development stage that can be produced commercially in volumes of more than 10,000 per year.

Ralph Nader once observed, "If there is one thing worse than GM producing cars, it would be the U.S. Government producing them." On that point, he was absolutely right.

Perhaps some Federal R. & D. to improve engine fuel efficiency and safety technology can be justified. Indeed, both the Department of Transportation and the Energy Research and Development Administration have active auto R. & D. programs already underway. Additional funds to speed up such efforts could be defended.

But it is wasteful and foolhardy in the

extreme to move Government into the business of designing automobiles—or for that matter dishwashers, television sets, or vacuum cleaners. During hearings before the Committee last year, Dr. James Kane, Acting Deputy Assistant Administrator of ERDA for Conservation, emphasized that:

"The Government does not have, and in my opinion, should not seek to develop, capabilities in engineering development and product improvement. In other words, the final phase, manufacturing, is an area in which industry has superior capabilities *and Government has almost none*." (emphasis added)

More recently, in March of this year, Dr. R. Rhoads Stephenson of the Jet Propulsion Laboratory at the California Institute of Technology strongly counseled the House Science and Technology Committee against "Government involvement in the production, engineering, tooling, or actual production."

Similar advice was given to the House Committee by Dr. Lawrence H. Linden of the Energy Laboratory at the Massachusetts Institute of Technology, who recommended that the Government should not "commence an Apollo-style crash program for the development of production prototypes. . . ."

Those who genuinely seek to help consumers by holding down prices will resist this ridiculous, extravagant thrust toward more—not less—Government intervention. This legislation represents an unwise abandonment of the very economic system that has made our country great.

Mr. GRIFFIN. I think this conference report should be rejected, and I ask for the yeas and nays.

Mr. MOSS. If the Senator will withhold his request, I will be glad to agree to it, but I understand there is an order, Mr. President, that no votes occur before 3 o'clock.

Mr. GRIFFIN. That is satisfactory to me. At the appropriate time I will request the yeas and nays.

Mr. MOSS. If the yeas and nays are ordered, I ask that the vote be after 3 o'clock, perhaps to follow the first vote that is on the agenda.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MOSS. Mr. President, if the Senator has withheld his request, I have a very brief reply to the Senator from Michigan, and I hope in the meantime we can get enough Senators in the Chamber so that the yeas and nays can be ordered.

Mr. President, the Senator from Michigan indicates that we should simply leave it to the private sector to carryout the research and development on new automobile propulsion systems and other related research.

The Automotive Transport Research and Development Act is in response to the great frustration we have experienced with the automobile industry, due to the fact that the automotive industry has not pressed hard enough to find alternatives to the present engine configurations.

Recently many people have adjusted to the higher price of petroleum. The automobile industry has drifted back toward manufacturing big cars, and we read about these trends in the press and in advertisements. We are again beginning to drive internal combustion engine powered cars that get poor mileage, which use a great deal of fuel and continue to pollute our atmosphere. We are in a crisis situation in trying to find out how we can conserve fuel, petroleum particularly, and how we can clear our air in our cities.

This is an assignment to be handed over to either a person who does not have any economic stake in it, or to the Government which does not have any economic stake, whether it can sell cars or not, to see if we can develop the kind of car that would relieve us from these burdens.

Now, of course, this program costs money. But any meaningful R. & D. is going to cost money. If the automobile industry, with appropriate motivation, would suddenly turn and start to do all this research it apparently would spend approximately the same number of dollars. As little as we all like to spend tax funds, I think these funding levels are eminently justified for this important program.

As I pointed out in my opening statement, we have been working on this for a number of years. The Senate has four times passed essentially this bill and, therefore, I do not think there ought to be any delay now since the House has finally agreed. We have given ERDA lead agency responsibility, but other agencies like DOT will be involved with their expertise and are directed to be brought in. We must go forward with this research and, hopefully, out of it we will get the breakthrough we are looking for.

I emphasize again that there is no authorization for building production prototype vehicles under this authority. It is designed to get the research done and choose a propulsion system or systems, and integrate the other features of an automobile with it. Private industry would then take over, tool up, and begin to prepare to produce the production models that would then be sold to the buyers of this country.

I think everyone recognizes that we need to step onward. We are caught in the clutches of the internal combustion engine which has turned out to be very damaging to our environment and is a great consumer of petroleum.

So I would be glad to agree to a rollcall vote, in accordance with the unanimous-consent agreement granted by the Chair.

Mr. President, I suggest the absence of a quorum so that we can get a sufficient number of Senators for the yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. I ask for the yeas and nays, with a vote to occur as agreed to.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. By unanimous consent, the vote will occur after the hour of 3 p.m.

TIME FOR VOTE ON CONFERENCE REPORT ON H.R. 13655

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the conference report on H.R. 13655 occur at 3 p.m. today.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I would like to speak in support of H.R. 13655. Last June 14, when the Senate Committee on Commerce version of this bill, S. 1883, came to the floor, I had three objections to the bill. First, it called for the Federal Government to engage in advanced prototype production. In short, the Federal Government was to build a car. Second, the bill failed to emphasize the propulsion system, which I consider the key to further advances in meeting the Nation's energy and environmental problems. Third, S. 1883 placed responsibility for the program in the Department of Transportation. I felt the Energy Research and Development Administration, because of its existing role in automobile research and development, would be a more appropriate lead agency.

Because of my concerns over these issues, I offered an amendment to S. 1883 which fortunately passed and which placed the program in ERDA, emphasized automotive propulsion systems, and deleted the production prototype program. I am pleased to say that these elements have been retained in the conference report. In particular, the conferees have provided that "integrated test vehicles" are exactly that test vehicles, and not production prototypes. It is my belief that there remains more of the fear shared by many of us that the Government was building a vehicle that would be imposed on the American automobile industry.

Accordingly, Mr. President, I am pleased to cast my vote in favor of this conference report.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. McCLURE. Mr. President, this year the Congress will be called upon to make a number of key budgetary decisions. General revenue sharing is one of these major policy choices. However, in this instance, the impact of extension cannot be measured simply by counting the dollars involved and relating them to total Federal spending. The issue is clearly more dramatic than that and the response which this Congress makes, will and must be interpreted as a commentary on the state of this Federal union. In that sense, the renewal and expansion of general revenue sharing is a key to the philosophical reality of the Bicentennial.

This Union of States to form a Federal Republic had no historic parallel in scale during the 2,000 years which preceded its inception. In fact, every other nation which possessed a land mass of comparable size had been an autocracy ruling its people with tyranny and viewing its neighbors with distrust. Added to this initial historical contradiction was yet another paradox in that the Federal union responded to the need for unified self-defense and yet maintained a republican framework to insure and protect the citizens of the several States from any encroachment on their individual liberty by the central government. In short, we created an imperishable union of sovereign states. The temper of that union has been tested from the very moment in which it was forged and that test continues today.

Over the years real power, as measured by the control of resources, has shifted dramatically to the central government. To the extent that the Federal Government preempts resources generated at the State level and uses those resources to execute its perceived responsibilities, it reduces the ability of the other partners in government to meet emerging needs at the State and local level. General revenue sharing represents an attempt to redefine and reshape the relationship between the Federal Government, State and local governments, and the citizens along those lines which have served so well for so long.

The tests which must be applied by this Congress include not only those of sophisticated budgetary analysis, but also the qualitative measures by which we determine the value of federalism itself. The Congress must determine whether or not a revitalization of federalism will contribute to the preservation of freedom, the efficiency and responsiveness of government, and the improvement of the quality of life for the individual citizens. The question is not whether these goals can be fully achieved at the State as opposed to the Federal level, but rather can they be more effectively pursued by governmental units at lower levels.

Those who oppose the renewal of general revenue sharing do not share my enthusiasm for federalism. Nor, in many cases, do they exhibit the same level of trust which I have in local government officials to identify and meet the demands of a local electorate. The rationale which is employed by those who seek the termination of general revenue sharing is founded, I believe, on at least two weak precepts.

The first of these precepts is that a principle of good government is that the authority to tax and the authority to spend should not be separated. Unfortunately, many legislators, while adopting the former principle, fail also to recognize that a responsible legislative process demands that as Federal Government programs are enacted, the resources to implement these programs must be made available at the State and local level. This is especially evident when over the years it can be seen that decisions in the Congress, by the executive, and by the judiciary have mandated that the costs of many Federal initiatives be borne at the State and local level. The question at hand is not whether this shift or these programs have been good, bad, or indifferent. The question is whether or not this shift has been accompanied by an expanding level of resources at the State and local level which is consistent with the implementation of these initiatives.

For example, the Federal Government has mandated certain costs which must be met by State and local governments. Among these are minimum levels of salaries, minimum wage law extensions, social security contributions, unemployment compensation, workmen's compensation, old age survivors and disability insurance, hospital insurance, et cetera. We have forced compliance at the local level with the Davis-Bacon Act, the Occupational Safety and Health Act, extensive environmental legislation, equal employment opportunity regulations.

In addition, we have forced the States to become involved in any number of matching or participatory programs which have a large impact on the cost of State and local government. In short, then, as the Federal Government has adopted initiatives which have increased the cost of local government, it has not been willing to make available, in a meaningful way, the resources which would be consistent with such enactments. The result has been that while taxes have remained stable, in fact even declined at the Federal level, State and local governments are forced to increase their regressive taxes consistently from year to year. State and local governments have no method by which they can raise the large sums of money mandated by a Congress from afar. It appears to me that the pleasures of legislating now require some balance and that pains must be taken to meet, through an extension of general revenue sharing, the enormous and expensive implications of the legislation which has already been enacted.

The second precept which appears to underlie the current criticism of general revenue sharing is that the urgent needs of citizens are better identified at the Federal level. It is argued that State and local governments are not utilizing shared revenues to meet the "most pressing" local needs. I reject out of hand the precept that "big brother" knows best. If we have learned anything from our experience with categorical grants we surely should all now share the understanding that ours is not a homogenous society and that the priorities of States and communities are vastly different. It is blatantly obvious that Federal bureaucrats cannot understand and interpret the aspirations and needs of different electorates as well as can the locally elected representatives of the people who make up those communities.

The argument that general revenue sharing funds are not being used to meet high priority needs is difficult to substantiate inasmuch as it is virtually impossible to designate which dollars actually spent at the local level are general revenue sharing dollars. In short, all dollars available to State and local bodies commingle and thus for all practical purposes become indistinguishable. Reported uses, however, do indicate that the majority of the impact of this aid was felt in the areas of public safety, education, and public transportation.

The logic and the arguments advanced by those who oppose a continuation of general revenue sharing are not compelling. What little persuasive value they may have, however, is overcome by an examination of the need for and the performance of the program itself.

It is not my aim today to simply examine the rationale advanced by those who seek to terminate or modify the concept of general revenue sharing. I do intend to make a case for the extension and expansion of the current program. It is to that task that I now turn.

We all recognize the fact that this country has an unparalleled record of achievement with respect to creating a level of spiritual and material fulfillment for its people. We have been aided in this endeavor by any number of factors not the least of which has been our pragmatic approach to problem solving. We have identified our aspirations as a people and translated them democratically into national policies. These policies and the legislation which reflects them have assured our citizens of certain fundamental rights and opportunities. In this we have been successful. However, as we have sought to go beyond this basic function of government, we have been increasingly less successful because we are forced to assume that specific problems are common problems and that a heterogeneous society shares a homogeneous philosophy on even the most specific of problems. I believe that our frustrating experience with categorical grant programs reflects the fact that we have gone too far in specifying what the citizen needs and wants and how he shall achieve it.

There exist any number of unmet needs throughout this country but I submit that many of them are diverse and local rather than national in nature. It is this expanding phenomenon which general revenue sharing is desiged to address. Since its inception, the program has distributed over $20 billion to 39,000 governmental units in 50 States and the District of Columbia. This massive, flexible and locally responsive program has been administered by a total staff of 100 employees at an annual operating cost of $3 million. It is far and away the most efficient of our hundreds of fiscal assistance programs.

The impact of the program can be measured in any number of ways but of these, two are most important. In the area of taxes and local debt creation, recipient governmental units have reported that, in the majority of cases, the receipt of revenue-sharing funds has reduced the rate of tax increase and/or reduced the rate of debt increase at the local level. In this sense, at least the program has permitted State and local governments to avoid large increases in regressive taxes. To be sure taxes have risen but that rate of increase has moderated. In this sense, general revenue sharing has been an effective response to the fact that while income sources have expanded at the Federal level, needs have expanded at the local level.

A second measure of the need for revenue sharing relates to the fact that the program recycles money, power, and decisionmaking from the Federal level to local governments which are best able to understand and respond to the specific needs of diverse communities. In this respect the program represents a reaffirmation of our historic faith in federalism and of our faith and trust in government which exists in close proximity to the governed.

The recycling of money, power, and decisionmaking is fully consistent with the fact that State and local governments are more innovative, sophisticated, and open now than at any time in the recent past. They are better able, than we in Washington, to enact and review new or innovative programs which, when successful, can be modified and applied elsewhere. In this sense, social initiatives can be more daring than anything focused at a national level which runs the risk of turning the entire Nation into a social laboratory for the experiments of Federal bureaucrats. Had we been able to see the full implications of the Occupational Safety and Health Act on a limited scale, we would, I am sure, have recognized some of the potential problems associated with national implementation. This is only one example of the many which would occur to anyone familiar with the inherent problems associated with any new form of Federal regulation.

In yet another sense the provision of resources without "strings" is consistent with our tradition of permitting and encouraging citizens to participate in meaningful decisions related to government and spending. Those who oppose an extension of general revenue sharing are in many cases unhappy with the choices or spending decisions that local communities have made. They would prefer to preempt such choices and channel funds into more "socially useful purposes" as they define them. I find this fear of democracy and free choice to be both dangerous and inappropriate. At its best, it smacks of an approach to government which gives people what arrogance prescribes rather than what free choice demands.

Perhaps I have made too much of general revenue sharing by using it as a symbol of vital and vibrant federalism. Perhaps we can approach the task of meeting local problems by some other method. I do not preclude that possibility but until such time as that possibility becomes a reality we must continue to respond within the framework of a program of revenue sharing. In this way it becomes possible for the Federal Government and this Congress to concentrate our talents and attention on the truly national issues of foreign policy, defense, and the general welfare in its broadest sense. In like manner, other units of government are given the resources which enable them to seek solutions to other numerous and diverse problems which continue to afflict the average citizen.

I have confined my remarks to the extension of the revenue sharing program. While this is critical it is also important that the program and the funds involved in it be protected from the erosive effects of inflation. In 1974 alone inflation reduced the buying power of the $6.5 billion revenue sharing payment to $5.5 billion. In order to avoid the reduction in purchasing power associated with a multiyear appropriation of a fixed number of dollars, it is necessary that we relate revenue sharing to Federal income tax collections which rise in response to inflation. I would propose that the percentage of the Federal income tax collections now represented by the funds allocated to general revenue sharing be maintained for the life of the new program with the added proviso that the amounts actually allocated to the program at no time be reduced below the absolute dollar level of the first year's funding.

Extension and expansion of the revenue sharing program are important not only in a fiscal but also in a philosophical sense. It is my intention to vigorously pursue both reenactment and expansion.

Mr. President, at a letter time I shall offer an amendment to carry forward the initiative which I have just described. Pending that time, I suggest the absence of a quorum.

Mr. FANNIN. Mr. President, will the Senator withhold that request?

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator withhold?

Mr. McCLURE. Yes. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I yield to the Senator from Virginia.

The VICE PRESIDENT. The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, I have listened with interest to our distinguished friend from Idaho and commend him on the statement he has made.

I, too, favored revenue sharing in its initial concept, and yet over the years we have come to the place where I believe the State and local governments are better able to raise revenue than the Federal Government in order to meet the needs of the people.

I believe we would all agree that public funds, whether they are Federal, State, or local, come from the taxpayer's pocket. The people pay for public services. There is no such thing as Federal funds. It is taxpayers' money, whether collected at one level of government or another level.

So I am going to vote against the measure before us. I am going to vote against it because we have a Federal debt now in excess of $600 billion. I am told that interest on the national debt for the month of July alone was $3.75 billion. That is $3.75 billion as carrying charges on the Federal debt for 1 month alone.

Somehow we need to find a way to bring about a balance between the income the Federal Government receives and the amount of money it expends, and I know that this thought is shared by our colleague from Idaho.

In my opinion we have to weigh more carefully the needs of the people for services against the ability of the people, and the desire of the people, for particular services. Frankly, I believe the Federal Government and perhaps even the State and local governments are providing too many services for the people, services people may well be able to perform for themselves. I know the people of Virginia in their correspondence to me indicate that perhaps their greatest desire is for less Government regulations of their lives and for a balance of our budget. They are concerned about excessive Federal spending.

So while I feel that, if the Federal Government is better able to collect taxes and to raise revenue than the State and the local governments as I believe it was a decade ago, then revenue sharing would be a good thing. But today this does not appear to be true. We now have a high Federal debt; $3.75 billion in carrying charge for 1 month alone is, to me, an untenable situation, and I believe we need to rethink this whole concept of the Federal Government raising the money and letting some other level of government spend it.

I just wonder in the event the State and local governments receive their funds from the Federal Government if they weigh as carefully the expenditure of funds as they would weigh expenditures they had to collect the revenue themselves. I know the Senator from Idaho addressed himself at least in part to this thought. But if the local governments had to raise the money for a given community purpose and had to tax the people for it, would they more carefully consider the projects that they authorize and the expenditure of public funds? There are situations where for a sewage disposal plant or something of this nature communities need to have aid from the State or from the Federal Government.

General revenue sharing in theory is an excellent thing, but we do not have any revenue to share. We are borrowing money to give to the States and localities. Obviously, I would much prefer block grants than categorical grants, but it looks like we have both. We have both the block grants and the categorical grants. And if there is ever going to be a way that we balance the budget, we are going to have to say "no" to a lot of good programs, and so for myself I am going to say "no" to this bill and vote "nay" on final passage.

Mr. McCLURE. Mr. President, I understand what my good friend, the Senator from Virginia, has said in regard to the cost of the Federal debt, both in aggregate and philosophical terms. The second concurrent resolution which was just approved by this body calls for an appropriate level of Federal debt in excess of $700 billion. I think it is no less a matter of concern to the Senator from Idaho than it is to the Senator from Virginia. But Congress has taken various actions in the last several weeks and months that have set appropriate levels of spending, upon the economic premise which the majority has adopted that spending at this level is the only way to work our way out of the recession in which we find ourselves.

There is no likelihood under those circumstances that a denial of this program of revenue sharing would in any wise reduce the total amount of Federal expenditure.

Mr. WILLIAM L. SCOTT. Will the Senator yield at that point?

Mr. McCLURE. I am happy to yield.

Mr. WILLIAM L. SCOTT. I cannot believe my distinguished friend, the Senator from Idaho, believes in that theory that "the way you work yourself out of debt is to spend more money," because he and I have served in both bodies during the same period of time and have voted, in most instances, the same way, and his votes have not been cast in a manner to indicate that he believes "you spend yourself out of a bad fiscal situation."

Mr. McCLURE. I thank my friend. Of course, he is correct. I do not believe that is necessarily correct, but nevertheless the majority of this body and Congress, as a whole, have voted for that philosophy. So, the question is not whether or not the two of us, the distinguished Senator from Virginia and the Senator from Idaho, can control the pattern of spending, or whether or not we will reduce the size of the deficit. We have been unable to do that. The question then, within the context of this debate, as far as I am concerned, revolves around how should those funds be allocated. And it is my belief that it is far better to apportion a portion of those funds to State and local governments for them to spend, as they see fit, to meet their needs, as they perceive their needs, than it is to have that money spent only at the direction of the Federal Congress and the Federal bureaucracy.

I am sure that my friend, the Senator from Virginia, will agree that if that is the only choice that we have the appropriate choice is to put our reliance in State and local governments in perference to that of the Federal Government.

Mr. WILLIAM L. SCOTT. Of course, I agree with the comments that it is better for the decision to be made at the local or the State level. But in our present fiscal situation I believe the State and the local governments can raise the money and can more carefully weigh the needs of the people. When they have to raise the money before they can spend it, I just believe they will be more careful. If we had a surplus in the Federal Treasury, I would probably vote for this bill. But with an indebtedness of more than $600 billion, with the debt ceiling of which the Senator speaks of $700 billion, I cannot vote for this bill, and I just wished to explain that this is, in large measure, the reason that I cannot support the measure.

Mr. McCLURE. I understand the reasoning of the Senator from Virginia. I, just for myself, was willing to adopt the other of the two choices that are available to us and say that among the aggregate spending initiatives of the Federal Government there ought to be a reliance upon State and local government to direct at least a portion of that expenditure.

UP AMENDMENT NO. 443

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The second legislative clerk read as follows:

> The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 443.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

> On page 31, in lieu of the committee amendment (unprinted amendment numbered 442) insert the following:
>
> "(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENT.—
>
> "(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—
>
> "(A) for the period beginning January 1, 1977, and ending September 30, 1977, 75 percent of an amount which bears the same ratio to the sum of the taxes collected under chapter 1 of the Internal Revenue Code of 1954 within the 12-month period which ends on June 30, 1976, as $5,300,000,000 bears to the sum of the taxes collected under such chapter within the 12-month period which ended on June 30, 1971; and
>
> "(B) for each fiscal year beginning after September 30, 1977, an amount which bears the same ratio to the sum of the taxes collected under such chapter within the 12-month period which ends on the preceding June 30 as $5,300,000,000 bears to the taxes collected under such chapter within the 12-month period which ended on June 30, 1971.
>
> "(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—
>
> "(A) for the period beginning January 1, 1977 and ending September 30, 1977, 75 percent of an amount which bears the same ratio to the sum of the taxes collected under chapter 1 of the Internal Revenue Code of 1954 within the 12-month period which ends on June 30, 1976, as $4,780,000, bears to the taxes collected under such chapter within the 12-month period which ended on June 30, 1971, and
>
> "(B) for each of the fiscal years beginning after September 30, 1977, an amount which bears the same ratio to the sum of the taxes collected under such chapter within the 12-month period which ends on the preceding June 30 as $4,780,000 bears to the taxes collected under such chapter within the 12-month period which ended on June 30, 1971."; and

Mr. McCLURE. Mr. President, simply, this amendment would do what I stated in my general remarks. It would relate the disbursement of Federal funds to State and local governments to a fixed percentage of personal income tax receipts at the Federal level.

One of the reasons we got into the situation we have found ourselves in recently has been that as inflation has changed the economy of the United States, we have exacted a Federal income tax increase by reason of pushing people upward in the very steep progressive income tax brackets in the Federal tax system. The result has been that for every 1 percent increase in gross national product there has been about a 1.7 percent increase in Federal tax collections at the personal income tax level.

At the same time this was going on, the relative ability of State and local governments to finance their own needs and demands has diminished as a percentage of gross national product. The result was that as demands of government increased—and they were increasing at the State and local level more rapidly than at the Federal Government level—precisely the opposite was occurring on revenues. The ability to finance the demands of government was increasing at the Federal level and it was not increasing at the State level. That is exactly the inverse condition of where the demand for services was occurring.

The result was and will continue to be that if we do not make an adjustment periodically, the Federal Government will again acquire an imbalance of financial resources compared to the State and local governments with regard to the needs. It seems to me that we will respond to that need. We will respond either by the fixed incremental increase, as provided in the Finance Committee bill, or by the amendment I have suggested, or by annual or periodic adjustments by specific act of Congress.

It seems to me that the better way of doing it is to set a fixed relationship or a fixed percentage of the amount of Federal personal income tax receipts that will flow through the Federal Treasury to the State and local governments.

As I related in my general remarks, the overhead on the administration of the revenue sharing has been handled by very few people at a very low cost. It is perhaps one of the most efficient forms of providing financial assistance to State and local government that we have yet devised. I would like to see that at least continued at the same relative level, and that is why my amendment would tie it to the personal income tax receipts level.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. WILLIAM L. SCOTT. I wonder whether the Senator will explain his amendment further. The question in my mind is this: Does allocation of funds to the States in any way depend upon the amount of money that a particular State contributes to the total overall Federal income receipts?

Mr. McCLURE. My amendment would not change the allocation formula which is in the basic law, which is also being extended by the Finance Committee bill. All my amendment does is relate to the total amount of money which would be available for allocation under the formula which is in the present law.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. McCLURE. Mr. President, I do not know whether it is the desire of the Senator from Louisiana, the chairman of the committee, to handle these amendments as they come up now or, under the unanimous-consent agreement, to postpone their consideration until later in the day. I would be willing for my amendment to be handled and considered now or set aside and considered later, whatever is the desire of the committee.

Mr. LONG. Mr. President, I can state briefly what some of the problems are that relate to the Senator's amendment.

One problem is that we feel there should be some uncertainty on the part of the cities and the counties that they will receive a given amount of money. They need to be able to plan on it. If the Senator's amendment were agreed to, there would be less certainty as to the amount of money that any city or county would be entitled to, and that would create a problem.

Furthermore, if we vote a big tax cut, as we have done recently, at the very time when the communities need the money, there would be a drastic reduction in the amount of money available to many units of government whose revenues are tied to the Federal tax base because of the tax reduction voted by Congress.

If we found ourselves in a recession, the amount of Government revenue collections could be expected to go down, even though at that time communities need money more than they would need it otherwise.

It has been the judgment of Congress that we should do just the opposite: Instead of providing less money to local governments to help with their problems in times of recession, we should provide more. The Senator's amendment would move in the opposite direction from that of the considered judgment of Congress in that regard. We have looked at that kind of problem and decided that, faced with a recession which would reduce revenues to all levels of government, we should make more money available to local governments, rather than less.

We believe that the amendment should not be agreed to for these reasons: First, lack of certainty as to what the amount of money would be, which would mean units of government could not plan as adequately as they could otherwise, under existing law in accord with what we recommend for the future; second, this amendment would work exactly opposite to the policy we want to pursue with regard to the economic cycle. When we found ourselves in a recession, the communities would get less, rather than more.

In due course, Mr. President, as the manager of the bill, I will be compelled to resist the amendment. I am sure the Senator offers the amendment for very laudable reasons, but I regret that we feel it probably would be counterproductive. Therefore, I will have to resist it.

Mr. McCLURE. I thank the Senator from Louisiana. I understand some of the reasoning he has stated. I also understand the difficulty of trying to modify or change the thrust of legislation once it gets beyond the committee stage. The reason that I offered it, of course, is to relate it to the income increases at the Federal level, which respond to the general state of the economy, partly to meet some of the criticisms of the Senator from Virginia, who said we are unduly burdening the deficit. If we relate it to our receipts, then we are not burdening the deficit further in terms of recession. I would separate the general revenue-sharing provisions in the bill and in general law from those which are countercyclical in nature. As income rises at the Federal level, my amendment would have that apportionment rise at the local level. As income fell at the Federal level, the apportionment of the State and local governments would fall. That would leave the adjustment for countercyclical purposes to other provisions of statute than the general revenue sharing.

It seems to me that that is more appropriate, that the countercyclical actions should be separated from the general revenue disbursements. Whatever reduction there would be as a result of the income tax cuts we are enacting in Congress would be very small in terms of this total percentage; and certainly if, as a matter of fact, we work our way out of the recession, as the personal income tax receipts to the Federal Government were very greatly increased, our capacity to pay, our capacity to make those disbursements, would increase.

Under those circumstances, it is quite possible that the State and local governments would receive a larger disbursement under my amendment than they would under the committee amendment. But if, on the contrary, the economy does not respond as well, it seems to me that, in logic at least, the general revenue sharing that would go to the State and local governments would, correspondingly, not increase as rapidly, leaving to Congress, then, the opportunity to allocate whatever spending it does through programs designed to be stimulative rather than simply general revenue sharing.

Mr. LONG. Mr. President, these matters, of course, get to be matters of judgment. I do think that the committee's judgment in the past about the way the funds should be divided and the way that it falls among States and also within States has a good track record. We agreed to a formula 5 years ago as to how we will divide the money among the States. Now we have the bill back before us 5 years later, and both the House of Representatives agreed to the division as agreed to in the previous Revenue-Sharing Act, and the Senate Committee on Finance, having had occasion to view the way the program is working over the years, has concluded that we have a good formula and we really did not think we could improve on it. So it is one that has met the test of time insofar as the House of Representatives is concerned, and, we think, has met the test of time insofar as the Senate is concerned.

We really have a right to have even greater pride in how the money is divided inside the States. We on the Committee on Finance worked out a formula that we thought was the best way to do it. Our formula took into account the tax effort, per capita income, and population, multiplying each by the other. When we went to conference with the House, the House conferees saw that merit of our amendment; so much so that they agreed, without any substantial argument at all, to take the formula of the Senate Committee on Finance with regard to dividing the money within the States. That formula gave the States the right to change it. If a State thought that one county should receive more than another county or one city should receive more than another city, they could change the formula. Fifty States out of 50 have had the right to change that formula and how many States do you think have changed it? Not 1 State out of the whole 50?

That is a far higher degree of acceptance than this Senator would have expected. He would have certainly thought that one State or maybe two, or maybe 20, would have changed the formula for distribution within the State. Yet the merit intrinsic in the Finance Committee formula has been so fully accepted that 50 States out of 50 have seen fit to stay within that formula.

As a matter of fact, Mr. President, under that bill, which is existing law, the States had a right to change that formula in the first year. They could have changed it immediately. Instead, not 1 State in 50 saw fit to change the distribution formula provided by the Committee on Finance and agreed to by the Senate and the House of Representatives.

I do think we can say, with pardonable pride, that the committee has shown good judgment in providing for that method of distribution. We have some good credentials to suggest, since our judgment has been good in the past, that perhaps this method of distribution should be continued in the future.

Of course, the Senator has given a lot of thought to his amendment and I am sure it appeals to him as the best way to structure this program. All I will say is that, insofar as it makes a difference, I really cannot see that it is going to be an overall improvement of the program. I oppose it for that reason.

Mr. McCLURE. I thank the Senator from Louisiana. Certainly, I share the general statement that he has made, that the Committee on Finance has done a good job with this legislation. The history that he has cited seems to me to be pretty good proof of that. I served in the State legislature for 6 years before coming to Congress, and one of the fights we had in every session of Congress was over the allocation of education money—how we dealt with the formula. It was always inequitable to someone and it was always changed in some detail. The fact that this formula has not met with that change would indicate that there was some wisdom in its drafting in the first instance. But I still am impelled to believe that there can be a better recognition of the allocation of Federal funds on a shifting base rather than trying to anticipate over a long period of time what might be done.

The reason I suggest that is that it is very difficult for us to know what the economy is going to be 1 year from now, let alone 2 or 3 or 4 or 5 years from now. When we put into a program a specific allocation with specific increases, we are making some pretty far-reaching estimates or guesses, informed guesses, of what the economy is going to be and what real relative impact the allocation with have to the States and local governments out of the Federal revenues.

I have sought to remove that uncertainty by setting a fixed percentage because, if, as a matter of fact, the economy goes up very rapidly but so does inflation, if inflation goes up more rapidly than income tax receipts, then the State and local governments will be getting less in actual constant dollars than they are now getting. I suggest that, if that happens, Congress will be back in, being asked to change the allocation, which, of course, we can do at any time.

Mr. PACKWOOD. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. PACKWOOD. Under the formula of the Senator from Idaho, if we get into a recession, the likelihood is that the action of Congress, at least if past experience is any indication, would be to cut the taxes, which in turn would force down the receipts of local governments at a time of inflation—in which case, we would be likely to come back here and vote to increase the funds anyway—I think.

I think we are wiser to stay with a fixed factor unless inflation becomes so debilitating that the fixed factor is no longer relevant, in which case we would be wiser to increase that on an annual basis to keep up with inflation, rather than tie it to a fluctuating figure that we might have from year to year on an income tax basis.

Mr. McCLURE. I understand the point the Senator has made, and I think it is a good one, in that we can expect some response on the part of Congress. But it still seems to me that in the event that happens, we are going to be looking at a lot of different relationships, not just this one. We can adjust to a lot of different relationships, not just this one, if, as a matter of fact, inflation should get so out of hand that it throws all relationships out of balance.

But, it seems to me, we could anticipate and State and local governments could anticipate their revenues better in terms of actual purchasing power by fixed relationship to income tax receipts than they could to a fixed dollar amount.

I understand both what the Senator is saying and what the distinguished Senator from Louisiana (Mr. LONG) has said in terms of predictability, and I suspect that I know, since the committee has not embraced this amendment eagerly, that it is not apt to be passed. But I would hope that if we do not adopt this amendment at this time I could at least get some assurance from the committee, as I am sure I can, that in the event the allocations under the committee measure actually turn out to be a decreasing proportion of the personal income tax receipts from the Federal Government or of the financial resources of the Federal Government, that the committee will within the time frame set forth in this bill again take a look at that relationship.

Mr. THURMOND. Mr. President, will the Senator yield briefly?

Mr. McCLURE. I am happy to.

Mr. THURMOND. Mr. President, I ask unanimous consent that Gene Lawrimore of my Senate staff, and John Napier of the Judiciary Committee staff be allowed the privileges of the floor for the revenue-sharing bill and the vote thereon.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. McCLURE. I yield to the Senator from Oregon.

Mr. PACKWOOD. As a member of the Finance Committee I would have been happy to have voted for a higher amount in the bill. They wanted to start with a $6.9 billion figure, but the Budget Committee has knocked it down to a $6.5 billion, and I would have been happy to increase the formula far beyond the $150 million or $250 million annual increase we are now facing. But again we did not do that.

In all fairness, the formula right now does not even keep up with the inflation we have had in the past, and what we have built into it does not even keep up with the inflation if the inflation is 5 percent a year, and I have seen very few projections that project less than 5 percent a year for the next 2 years.

So as far as local governments are concerned even under this formula of the Finance Committee they are going to lose money, and I think it is inadequate. But at the moment it is all we could get from the Budget Committee, at least for this first year.

Mr. McCLURE. Well, I would say to the Senator that is one of the primary reasons for my amendment, to respond not only to the beginning level but also to the anticipated directions of the economy because I share with the Senator from Oregon the conviction that our rate of inflation is going to be above the 5 percent a year range for too many years in the future.

If we do not adopt my amendment today, we are going to be back a year or two from now trying to moderate the impact of a fixed dollar amount which is stated in this bill. If we do not adopt this amendment this year, I hope the Finance Committee will be back in within the term of this legislation seeking to make some adjustments in the level of the revenues that are allocated under general revenue-sharing.

Mr. President, I am prepared to vote.

Mr. LONG. Mr. President, I would assume that is a matter on which the Senator might want a rollcall vote, if that is the case.

Mr. McCLURE. I would be satisfied with a voice vote.

Mr. President, I wonder if it might be well, even though it would be a voice vote, to set it off until the hour of 3 o'clock when we consider these amendments.

Mr. LONG. I suggest we do that.

Mr. McCLURE. I ask unanimous consent, Mr. President, that the amendment be handled in that manner.

The PRESIDING OFFICER (Mr. THURMOND). Without objection, it is so ordered.

Mr. FANNIN. Mr. President, would the Senator be willing to set his amendment aside in order that I might offer an amendment, with all votes being set aside so that voting can occur as the manager of the bill decides?

Mr. McCLURE. Certainly.

Mr. FANNIN. Mr. President, will the Senator from Idaho be willing to make that request?

Mr. McCLURE. I make that unanimous-consent request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 444

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Idaho.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Arizona (Mr. FANNIN) proposes an unprinted amendment No. 444:
>
> On page 62, between lines 20 and 21, insert the following new subsection:
>
> (d) DAVIS-BACON ACT.—Section 123(a) (relating to assurances to the Secretary) is amended by striking out paragraph (6) and (7).

Mr. FANNIN. Mr. President, I am absolutely opposed to continuing the extension of the provisions of the Davis-Bacon Act essentially to local construction projects developed with revenue sharing funds. In view of the clear inflationary effect of the Davis-Bacon Act on construction programs, I find it hard to justify its application in a program which is based on meeting financial problems caused by inflation. My amendment seeks to remove the Davis-Bacon Act provision from the extension of the State and Local Fiscal Assistance Act of 1972. This amendment not only will insure that local governments will have more revenue-sharing money to spend, but also that the Federal Government would have had less control over how it is spent. This will be impossible if the Davis-Bacon provision is retained. I need hardly remind my colleagues that back when we first passed revenue sharing in 1972, two of the basic premises arguing strongly in its favor were that: First, State and local governmens were hard pressed financially; and second, the people closest to the problems were in the best position to solve them.

Because I do not believe that the Federal Government should be taking sides in labor-management relations, my amendment proposes that we eliminate the Davis-Bacon provision from the bill. If it is wrong to apply Davis-Bacon to all construction projects financed in any way by revenue sharing, then it is wrong to apply Davis-Bacon to just the larger ones. Philosophically speaking, there is no magic to the 25 percent figure; a project 23 percent financed by revenue sharing is no different from one 26 percent financed through that mechanism.

Philosophy aside, the economics of the situation strongly suggest that it would be wise to disassociate Davis-Bacon from revenue sharing. Not long ago, Dr. Armand J. Thiebolt, Jr., of the prestigious Wharton School of Finance completed a study on the impact of Davis-Bacon in which he concluded that the annual cost of the act to the American taxpayer might well come to $1.5 billion.

If anything, such a figure is conservative inasmuch as a 1971 GAO study indicated that Davis-Bacon drove up the cost of Federal construction—estimated at $40 billion a year—projects by 5 to 15 percent.

Examples of the adverse economic impact of Davis-Bacon abound. For example, the April 1975 issue of Reader's Digest gives two case histories that should give every advocate of applying Davis-Bacon to revenue sharing pause for reflection. In one instance requiring certain Vermont roofers and electricians to be paid at the union scale in effect in Albany, N.Y., 125 miles away, added $42 million to the cost of Government-financed projects. And, in Pittsburgh, requiring union wage scale where 90 percent of all residential construction workers were nonunion added about $9,000 per unit to the cost of a 500-unit public housing project.

According to a GAO study, one 400-unit public housing project in Oklahoma City had its costs inflated by over $1 million—$1,026,000—thanks to Davis-Bacon while a 50-unit project in the same city wound up costing $208,000 more than it should have for the same reason. Similarly, Davis-Bacon provisions are estimated to have added $100,000 to the cost of a $1.1-million project in Hampton, Va.

With examples such as these, local governments should have every reason to be concerned about Davis-Bacon and particularly any extension of it.

The Davis-Bacon Act was passed back in 1931 when conditions were far different than they are today. Even if one accepts the dubious proposition put forth at the time, that there was a need to protect labor union wage scales in the midst of a depression, certainly that argument has lost its validity. If anything, Mr. President, the balance of power between labor and management has shifted in favor of the former and economic conditions have improved enormously. In fact, Mr. President, the biggest threats to economic prosperity today are inflation and increased Government regulation—both of which would be promoted by the retention of Davis-Bacon provisions in this bill.

If State and local governments are still as hard pressed for funds as proponents suggest, we should be doing everything possible to see that they can get the most out of their revenue sharing dollars. While I have serious reservations about the constitutional propriety of severing the nexus of accountability between the tax gatherers and the tax spenders, it stands to reason that if we are going to continue the revenue sharing program, we should do so in a manner that will permit maximum efficiency in the use of funds and a minimum of Federal control. As history has repeatedly shown, those close to a problem are able to handle it best.

May I remind my colleagues that, when this revenue sharing program was first adopted, the anticipation was that there would be, even if there was not at the time, surplus revenue to share. However, with budget deficits totaling over $120 billion in the last 2 years, and more of the same predicted, there is obviously no surplus revenue to share.

Therefore, the very least we should have done is delete from this bill language that adds to its cost while detracting from its effectiveness. Striking the Davis-Bacon provisions would do that, and would at the same time get the Federal Government away from siding with a single special interest group that has proved perfectly capable of taking care of itself.

Mr. President, in addition to the inflationary impact of the Davis-Bacon provision on revenue sharing funds, there is an even more important reason for us to remove that provision from law, since the application of the Fair Labor Standards Act to State and local governments may, within the intent of National League of cities against Usery, be unconstitutional. The Supreme Court's decision in that case denied the right of the Federal Government to set wage and hour standards for employees of State and local governments. Mr. President, by rejecting the arguments of those who would stretch the commerce clause of the Constitution to cover Federal implementation of their social welfare schemes the Supreme Court, in National League of Cities against Usery, has not only reaffirmed the concept of States' rights, as set forth in the Constitution and the 10th amendment thereto, but has struck a blow that will benefit both the American taxpayer and the American consumer.

The significance of National League of Cities against Usery stretches far beyond the fact that State and local taxpayers will not have the Federal Government telling them to pay more for State and local government services than they might have to otherwise. The Court's ruling also suggests that legislation to apply the provisions of the National Labor Relations Act to State and local employees would be equally inappropriate. Thus, the threat to the sovereignty of State and local governments—in dealing with their employees—is mitigated if not altogether removed.

Furthermore, it seems to me that if it is unconstitutional to apply the provisions of the Fair Labor Standards Act to State and local governments, it is equally unconstitutional to apply the provisions of the Davis-Bacon Act to State and local governments. Currently, and also in the general revenue sharing bill the House passed on June 10, Davis-Bacon provisions come into play on any project more than 25 percent of which is financed out of general revenue sharing funds. Since those projects are State and local government projects financed by the taxpayers of those jurisdictions, having the Federal Government set pay scales for workers on them is just as much an abridgment of States' rights as having the Federal Government set pay scales for workers directly in the employ of those governments.

Mr. President, my amendment to the general revenue sharing bill would delete Davis-Bacon applicability altogether. My concern is not just that such applicability was, in any case, inflationary but that it compromised State and local autonomy in all instances, not just those where a project was more than 25 percent funded out of general revenue sharing moneys. It appears to me that, in reaching its decision in National League of Cities against Usery, the Supreme Court is saying much the same thing—that the constitutional concept of States' rights is abridged by Federal intervention in the question of pay scales for people in the employ of State or local governments regardless of how well-intentioned the motives may be.

Mr. President, in the wake of this landmark decision, I urge that we drop the Davis-Bacon applicability provisions from the general revenue sharing bill altogether. If the Senate fails to do so, and the 25 percent formula remains in the final version of the bill, I think there is a strong possibility that the Supreme Court would, if a case came before it, throw out at least the section of the revenue sharing bill containing the Davis-Bacon provisions.

Mr. President, they are counterproductive anyway, it seems to me, and it would be better to drop them now than risk the uncertainty and inconvenience a court test might bring.

There will obviously be those who will view the Supreme Court decision in National League of Cities against Usery with fear and trepidation. However, when the dust has settled and the smoke has cleared, I think we will find that this decision is going to be a great benefit to the American people. By keeping alive the distinction between intrastate commerce and interstate commerce and by building on the time proven axiom that the level of government best able to solve problems is the closest to the people involved, the ingenious American system of checks and balances can continue to function as it should. If anything, State and local governments should take over more of the responsibility for problem solving from the bloated Federal bureaucracy.

Mr. President, I feel this would be the case and it would be of great benefit to the worker and to the American people.

Mr. President, it is the understanding of the Senator from Arizona that this amendment—and I will ask at a later time for the yeas and nays—will be set aside until the time the distinguished manager of the bill designates it should be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Gordon Gilman of my staff be granted privilege of the floor during the debate and voting on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, the Senator from Arizona raises two questions about the Davis-Bacon Act, one is excessive wages driving up the cost of the projects and the other is interference with State and local governments.

Let me separate my response into those two issues.

Let us take the argument about excessive wages first. As we are all aware, those in the building trades, in the construction industry, by and large do not work a normal work year through reasons of inclement weather, through reasons of construction starting and stopping.

Most in that industry are lucky if they work 1,500 hours a year, rather than the normal 2,000 hours that a member working a 5-day week, a 40 hour-a-week job, works.

If we presume that a good plumber, or a good carpenter, makes $10 an hour, that means they are grossing—not netting, but grossing—$15,000 a year.

I do not find that to be an excessive wage for someone who is a talented carpenter, cabinetmaker, plumber, or electrician. Most of those people perform jobs that most of us and most others do not have the talent or ability to perform.

After they have had to apprentice 3, 4, or 5 years in one of these trades, they do have a craft and a talent that is genuinely unique and genuinely worth, I think, $15,000 a year.

That certainly does not put somebody into a high bracket, rich category. Anybody in this country who is getting by today, trying to raise a family, to put children through school, who grosses—not takes home, but grosses—$15,000 a year, is not living high off the hog.

As far as interference with local government is concerned, in the past 4 years under this program—4½ years now—we have had many complaints from local government about planned use reports, which was in the existing law that expires December 31 of this year.

We have had complaints about a whole variety of reports that local governments have had to file. We have had complaints about the priority spending that the bill requires. We have had next to no complaints about the Davis-Bacon Act.

During the hearings on the bill this year, at the request of the Senator from Arizona (Mr. FANNIN), I proposed to each of five witnesses who were appearing before the Finance Committee as a panel the question of whether or not they were bothered by the current law which required compliance with the Davis-Bacon Act if 25 percent of the cost of a project was funded by Federal revenue sharing.

A governor, as I recall, three mayors, a county commissioner, and a State legislator, five people all together, formed the panel.

To each individual I asked the question, "Are you in any way hampered, inconvenienced, or overburdened by the present provision that if a project is more than 25 percent funded by Federal revenue sharing you must meet the provisions of the Davis-Bacon Act?" Each one of them said no, they were not bothered; they were not overburdened. Bear in mind, they said no even though they had numerous other complaints about Federal revenue sharing, the reporting provisions and the other obligations that they felt were a nuisance and unnecessary.

If this is a burden to local government these people would have taken the opportunity right then to say "Yes." I do not think it is a burden. Local government has not seriously complained. It certainly is not giving somebody who happens to be paid the prevailing wage some kind of a lock on the Federal Treasury to enrich themselves unjustifiably if what they make, if they are lucky, is $15,000 a year, on the average.

I would oppose the Senator's provision to eliminate the Davis-Bacon requirement, first, because nobody is getting rich off it and, second, because it is not a burden on local governments.

Mr. FANNIN. Mr. President, evidently the Senator did not have the opportunity of reading about this, or he did not absorb the article published in Reader's Digest. For every item that he can cite where people are in favor of it, I can give him 10 people who oppose it.

I understand the position of those who have to deal with unions and all.

Since we do have guests at the present time in the Chamber, I will not continue the discussion on this particular amendment, Mr. President.

I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY MEMBERS OF THE BELGIAN DEFENSE COMMISSION

Mr. ROBERT C. BYRD. Mr. President, we are honored today by a visit by a large group of distinguished Members of the Belgian Parliament. They are standing in the back of the Chamber.

I should call attention to the fact that these gentlemen are members of the Belgian Defense Commission and have been visiting the United States since the 4th of September. They have visited Palm Beach, Miami, Fort Worth, Edwards Air Force Base, San Francisco, and Washington, D.C.

I ask unanimous consent that a list of the names of these distinguished gentlemen be printed in the RECORD.

There being no objection, the list of participants was ordered to be printed in the RECORD, as follows:

ROSTER OF PARTICIPANTS OF BELGIAN DEFENSE COMMISSION

(Revised September 7, 1976)

Mr. Descamps, Pres. Parliamentary Commission of the Senate.
Mr. Carpels, Vice President.
Mr. Vangronsveld, Secretary.
Mr. Herbage, Senator.
Mr. Lambiotte, Senator.
Mr. Bourgeois, Senator.
Mr. Rubens, Senator.
Mr. Sweert, Senator.
Mr. Thomas, Senator.
Mr. Nauwelaerts, Senator.
Mr. Vanderborght, Senator.
Mr. Strobants, Senator.
Mr. Maes, Senator.
Mr. Leys, Senator.
Mr. Cuvellier, Senator.
Mr. Tanghe, Vice President.
Mr. Poswick, Former Minister of Defense, Member of the House.
Mr. DeMey, Member of the House.
Mr. Mattheyssens, Member of the House.
Mr. Vanijlen, Member of the House.
Mr. Denilson, Member of the House.
Mr. Dejardin, Member of the House.
Mr. Van Steenkiste, Member of the House.
Mr. Remacle, Member of the House.
Mr. Daems, Secretary of the House Commission.
Mr. Ducobu, Member of the House.
Lt. General A. Crekillie, Belgian Air Force, Chief of General Staff.
Colonel Bamps, Belgian Air Force, Chief Supply Section.
Colonel J. Lefebvre, Belgian AF, Staff Minister of Defense.
Colonel V. Delafontaine, Belgian AF (Admin. & Tech. Section).
Lt. Colonel De Creamer, Belgian AF.
Mr. Pirotte, Admin. Secretary of the Defense Committee, Senate.
Mr. Delescluze, Admin. Secretary of the House.
Mr. Van Orshoven, (Director General) Prime Minister's Office.
Brig. General Camiel De Wilde, Belgian Defense and Armed Forces Attache, Washington, D.C.
Mr. Champenois, Cabinet Member of Foreign Affairs Ministry.

RECESS UNTIL 2:55 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes so that we may personally greet each of our visitors.

Mr. HUGH SCOTT. Mr. President, I join in the request for the recess so that we may greet the President of the Parliamentary Commission, and the other Members of Parliament who have distinguished us with their presence. I propose that we show our appreciation to our Belgian colleagues by our applause at this time as the recess takes place.

[Applause.]

There being no objection, the Senate, at 2:45 p.m., recessed until 2:55 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. THURMOND).

AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13655) to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

The PRESIDING OFFICER. By unanimous consent, the Senate will proceed to vote on the conference report on H.R. 13655.

The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 58, nays 19, as follows:

[Rollcall Vote No. 582 Leg.]

YEAS—58

Baker
Bayh
Beall
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Haskell
Hathaway
Hollings
Huddleston
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Weicker
Williams

NAYS—19

Allen
Biden
Bumpers
Curtis
Durkin
Fannin
Goldwater
Griffin
Hansen
Hart, Gary
Helms
Hruska
McClure
Roth
Scott, William L.
Taft
Thurmond
Tower
Young

NOT VOTING—23

Abourezk
Bartlett
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Garn
Hart, Philip A.
Hartke
Hatfield
Humphrey
Inouye
Kennedy
McIntyre
Mondale
Montoya
Pell
Sparkman
Symington
Tunney

So the conference report on H.R. 13655 was agreed to.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Senate will now proceed to vote on unprinted amendment No. 443, by Mr. MCCLURE.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The result was announced—yeas 7, nays 70, as follows:

[Rollcall Vote No. 583 Leg.]

YEAS—7

Brooke
Curtis
Helms
Javits
McClure
Scott, William L.
Thurmond

NAYS—70

Allen
Baker
Bayh
Beall
Biden
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Hollings
Hruska
Huddleston
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Tower
Weicker
Williams
Young

NOT VOTING—23

Abourezk
Bartlett
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Garn
Hart, Philip A.
Hartke
Hatfield
Humphrey
Inouye
Kennedy
McIntyre
Mondale
Montoya
Pell
Sparkman
Symington
Tunney

So Mr. MCCLURE's amendment was rejected.

Mr. LONG. Mr. President, I ask for the yeas and nays on the Fannin amendment, which is the pending amendment.

The PRESIDING OFFICER (Mr. DOMENICI). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask unanimous consent that this next rollcall be a 10-minute rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, will the Senator yield to me?

Mr. LONG. Mr. President, I ask unanimous consent that I yield to the Senator.

RECLAMATION AUTHORIZATIONS ACT OF 1976

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3283.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3283) to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph dam project, Washington, and for other purposes.

(The amendment of the House is printed in the RECORD of August 26, 1976.)

Mr. CHURCH. Mr. President, the effect of the House amendments is to change S. 3283 from a bill authorizing a single reclamation project to an "omnibus" reclamation authorization bill including the original Oroville-Tonasket project which was approved by the Senate on August 6, 1976, and six other reclamation project authorizations.

I wish to stress that a Senate companion measure for each of these project authorizations has been carefully considered by the Subcommittee on Energy Research and Water Resources of the Senate Interior and Insular Affairs Committee. Each has been the subject of public hearings, and each has been considered by the full committee and unanimously reported to the floor of the Senate. Five of the seven authorizations have already received full Senate approval and have been forwarded to the House of Representatives.

The House version of S. 3283 contains seven titles. Five of these encompass projects which have already been approved in individual Senate bills as follows:

Title I, the Kanopolis Unit, Kansas, was approved as S. 1821 on September 7;

Title II, the Oroville-Tonasket project, Washington, which was the original subject of S. 3283 as it passed the Senate on August 6;

Title III, the Uintah Unit, Utah, which was considered by the Senate as S. 3395 when it passed the Senate on August 26;

Title VI, the repair of the Leadville

Tunnel, Colorado, was approved as S. 3394 on August 25; and

Title VII, the McGee Creek project, Oklahoma, which was considered and approved by the Senate as S. 2194 on September 7.

The other two titles involve projects which would be authorized by measures reported favorably by the Senate Interior Committee on September 10, and which are presently pending on the Senate calendar. They are:

Title IV, the American Canal extension, Texas, which corresponds to S. 3712; and

Title V, the Allen Camp project, California, as proposed in S. 3727.

Mr. President, the House amendments are not substantially different from the respective companion Senate measures as reported to the floor by the Senate Interior and Insular Affairs Committee.

I have discussed these amendments with the chairman of the committee (Mr. JACKSON) who was an original sponsor of S. 3283, and in light of full committee approval of companion measures, he is amenable to their acceptance. They have also been cleared with Senator FANNIN, the ranking minority member.

The amount authorized by the House version is identical to that which would be authorized by the Senate companion measures. I ask unanimous consent that a tabulation of the projects and the authorized amounts be included in the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. CHURCH. I would like to take a moment to thank the staff of the Subcommittee on Energy Research and Water Resources whose professional advice was invaluable during the many hours of public hearings which established the need for this important legislation especially Mr. Russell R. Brown, professional staff member of the subcommittee.

Mr. President, these projects are of vital interest to the local citizens who would be directly affected by them, and to the Nation as well.

So, Mr. President, with the concurrence of the leadership and the ranking members of the committee on both sides, I move that the Senate concur in the amendments of the House to S. 3283.

EXHIBIT 1

Authorized expenditures as contained in the House version of S. 3283

[Amount authorized in dollars]

Title I, Kanopolis Unit, Kansas	30, 900, 000
Title II, Oroville-Tonasket Unit, Washington	39, 370, 000
Title III, Uintah Unit, Utah	90, 247, 000
Title IV, American Canal Extension, Texas	21, 714, 000
Title V, Allen Camp Unit, California	64, 220, 000
Title VI, Leadville Mine Drainage Tunnel, Colorado	2, 750, 000
Title VII, McGee Creek project, Oklahoma	83, 239, 000
Total	332, 440, 000

Mr. JACKSON. Mr. President, I rise in strong support of the motion by the distinguished Senator from Idaho (Mr. CHURCH) that the Senate accept the amendments by the House to S. 3283, which authorizes the Oroville-Tonasket reclamation project in Washington State.

Mr. President, the language in the House version of S. 3283 which authorizes the Oroville-Tonasket project is identical to that in the original Senate version. The House action has been a consolidation of several separate authorization bills into one package and is virtually identical to the corresponding Senate versions.

In regard to the Oroville-Tonasket project, I am personally familiar with the area and the farmland that would benefit from its construction. It was my privilege to chair the hearings when local supporters presented testimony to the Congress urging authorization of the project. I can say without qualification that this is a good project and that benefits would accrue nationwide.

I would like to thank the chairman of the subcommittee (Mr. CHURCH) for his strong efforts in insuring that the Senate is prepared to act on S. 3283.

Mr. President, approval of the House version of S. 3283 by the Senate will send the measure to the White House for signature into law. I urge the entire Senate to concur in the motion of the distinguished subcommittee chairman (Mr. CHURCH).

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Arizona (Mr. FANNIN). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Vermont (Mr. LEAHY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN) would vote "yea."

The result was announced—yeas 15, nays 62, as follows:

[Rollcall Vote No. 584 Leg.]

YEAS—15

Curtis
Fannin
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Morgan
Scott,
  William L.
Thurmond
Tower
Young

NAYS—62

Allen
Baker
Bayh
Beall
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hathaway
Hollings
Huddleston
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Weicker
Williams

NOT VOTING—23

Abourezk
Bartlett
Bellmon
Bentsen
Brock
Buckley
Byrd,
  Harry F., Jr.
Cannon
Dole
Garn
Hart, Philip A.
Hartke
Hatfield
Humphrey
Inouye
Kennedy
Leahy
McIntyre
Mondale
Pell
Sparkman
Symington
Tunney

So Mr. FANNIN's amendment was rejected.

(Later the following occurred:)

Mr. CHURCH. Mr. President, I ask unanimous consent that on the last vote, which I mistakenly cast in the affirmative, my vote be recorded as in the negative.

The VICE PRESIDENT. Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

The VICE PRESIDENT. The Senator from Connecticut.

UP AMENDMENT NO. 445

Mr. WEICKER. Mr. President, I have an amendment at the desk, in which I am joined by Senators BROOKE, JAVITS, HUMPHREY, ROTH, and RIBICOFF. I ask that the amendment be immediately considered.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER), for himself and others, proposes an unprinted amendment No. 445:

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 12 and 13, insert the following:

"(2) the distributional effects of the allocation formulas established by this Act, as well as the distributional effects of possible alternative formulas, including an analysis of the distributional effects of an allocation formula based in part upon differentials in the cost of living among the various regions of the country;

"(3) the technical feasibility of developing alternate measurements of the economic needs of state and local governments, and the potential use of such measurements as formula factors in the allocation of federal funds;"

On page 64, line 13, strike "(2)", and insert in lieu thereof, "(4)";

On page 64, line 19, strike "(3)", and insert in lieu thereof, "(5)";

On page 64, line 23, strike "(4)", and insert in lieu thereof, "(6)";

On page 65, line 1, strike "(5)", and insert in lieu thereof, "(7)";

On page 65, line 4, strike "(6)", and insert in lieu thereof, "(8)".

Mr. WEICKER. Mr. President, we have before us today a bill to continue revenue sharing entitlements for the next 5 years. I have been and continue to be a strong supporter of revenue sharing. It is a unique concept which combines the Federal Government's tax collecting ability with the expenditures being made by those State and local officials closest to the problem.

I would in no way propose to change this concept.

However, after reviewing the revenue-sharing process, I find one deficiency: the statistics. I see an ever increasing need for new data which can tell Congress more about the makeup of this country. We need to know more about the cost-of-living variables across the country and the different regional characteristics of our country's poor. We also need to know more about the economic needs of our State and local governments—particularly whether the tools for measuring these needs are accurate and whether the data provided is fairly applied.

This is the purpose of the amendment which is offered today. It would direct the National Commission on Revenue Sharing and Federalism to study the current allocation formulas under revenue sharing and report the distributional effects of these and possible alternative formulas after taking into account factors, such as cost of living.

In addition, the amendment would require that the Commission study the current methods of allocating Federal funds to State and local governments giving particular emphasis to the manner in which the needs of State and local governments are measured.

Mr. President, the socioeconomic makeup of this Nation is constantly changing. We need to know whether the current formulas reflect these changes.

Twenty years ago—even 10 years ago—there were valid reasons for distributing Federal money to what were then economically disadvantaged States of our Nation because we are as strong as our separate regions. There were and still are valid and necessary reasons for maintaining a Federal focus on regions of the country like Appalachia.

However, today, we must reexamine these programs to determine whether, in fact, those programs which were instituted to help the economically disadvantaged States are working to the detriment of States like my own State of Connecticut, and whether Federal assistance is flowing to States which no longer need this help.

Frankly, I look at recent statistics developed by both government and private organizations and I do not like what I see. My State of Connecticut carries the highest Federal tax burden in the Nation. On a per capita basis, it has been established that a citizen of Connecticut pays $1,800 per year in Federal taxes. That is $400 more per capita than the national average of $1,400.

Worse yet, for every dollar Connecticut pays in Federal taxes, it receives back 92 cents from the Federal Government, while some States receive as much as $2.60 back for every tax dollar sent to Washington. Connecticut is not alone in this regard. For it enjoys the unhappy company of States like New York, Delaware, Minnesota, Illinois, Massachusetts, Ohio, Michigan, and Oregon—to name a few.

For the last 15 years, Connecticut, along with others, now labeled "mature industrial States," has suffered deteriorating cities high unemployment, high energy costs, and loss of skilled young workers.

These factors have had a spiraling effect on State and local government. They have eroded the tax base so severely as to force a choice between raising taxes to impossible levels or cutting services so drastically as to diminish the quality of life. The "Catch 22" in this is that whichever route is taken, the cost of living and the real costs of State and local government will continue to rise at a rate higher than the national average. For instance, according to the most recent data available, what $1 will buy nationally, costs $1.03 in Connecticut, 91 cents in Georgia.

Recent studies have reinforced the belief that the problems of Connecticut and those other States which make up our mature industrial States are not cyclical—but, are structural in nature. Connecticut was suffering an 8.9-percent unemployment rate as early as 1971, 2 years before the current national recession began. Today, as unemployment nationally has dropped to 7.9 percent—unemployment in Connecticut hovers around 10 percent—a rate which is unacceptable for any State to suffer.

Yet, as I look at the recent studies on Federal funds transfers, the Federal moneys are not flowing to States like Connecticut which need it most, but rather from Connecticut to States which, in comparison, are experiencing relatively low-unemployment, high-capital growth rates and general increases in the quality of life.

The studies are numerous, but none is complete. Therefore, we cannot hold up this important legislation in anticipation of finding the right formula adjustment overnight. That will not happen.

Instead, we need a governmental organization, like the Commission to examine these formulas from the standpoint of need, to determine if current formulas accurately reflect the needs of our State and local governments and equitably distribute Federal funds among the several States. We need the Commission to put the mass of reference material together in a single document for us to study and work from in the future.

If we do find that the allocation formulas discriminate against individual regions of this country, then we must work together to equalize the burden. The continuance of this trend would create a permanent, structural, economic imbalance which spells fiscal crisis for my State of Connecticut and others for years to come. Stretching from Minnesota, and Illinois, all the way east to Connecticut, New York, New Jersey, and Delaware, we will have a new Appalachia on our hands.

I have discussed the amendment with the joint committee staff and Senator HATHAWAY and it seems to be acceptable to him.

Mr. LONG. Did the Senator say he had discussed it with Senator HATHAWAY?

Mr. WEICKER. We have discussed it with Senator HATHAWAY and it seems to be acceptable to him.

Mr. LONG. With the assurance that this is acceptable to Senator HATHAWAY, I would be willing to accept the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FANNIN. Mr. President, I ask unanimous consent that Linda Gould, of Senator HANSEN's office, be granted the privilege of the floor during the consideration of this bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask unanimous consent that Alison Wiley, of my staff, be granted the privilege of the floor during the consideration of this bill.

The VICE PRESIDENT. Without objection, it is so ordered.

UP AMENDMENT NO. 446

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes an unprinted amendment No. 446.

The amendment is as follows:

On page 69, after line 15, add the following new section:

SEC. 13. RELATIONSHIP TO THE BUDGET

PROCESS.—Notwithstanding any other provision of this Act or the State and Local Fiscal Assistance Act of 1972—

(1) if the amounts appropriated under the State and Local Fiscal Assistance Act of 1972 as amended by this Act are less than the amounts authorized under section 105 of such Act, for any period beginning on or after October 1, 1978, then the allocation to each State as provided in section 106 of such Act shall be reduced proportionately;

(2) appropriations for payments into the Trust Fund are authorized to be included in any appropriation Act for the fiscal year preceding the fiscal year for which such appropriations are available; and

(3) appropriations made as authorized under paragraph (2) for any period beginning on or after October 1, 1978, shall be deemed, for purposes of title III of the Congressional Budget Act of 1974 and for only such purposes, to have become available during the preceding fiscal year.

Mr. LONG. Does the Senator desire the yeas and nays on the amendment?

Mr. BIDEN. Yes.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask unanimous consent that all future votes be 10-minute votes.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that Dick Andrews of the Budget Committee staff and Lee Lockwood of the Intergovernmental Relations staff, be granted the privileges of the floor during the consideration of this amendment and any further amendments on this bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I will be fairly brief for the benefit of my colleagues who do not know whether or not to go back to their offices. I do not expect this debate to take more than 10 or 20 minutes on the outside. The subject matter of my amendment, Mr. President, has been argued in the past, both in committee and, as I understand it, before I got here in 1972 when revenue sharing was first brought up, or at least at that point.

The amendment I am submitting today, Mr. President, is intended to restore what I would consider some budgetary control over revenue sharing. It is not offered in opposition to revenue sharing. It is offered as an opportunity to take a step toward what I would deem to be a more controlled and balanced budget process.

My amendment deletes those provisions in the committee amendment that establish revenue sharing as an entitlement to the States and localities. It provides that the funds to be made available, after the 1978 fiscal year, shall be subject to the appropriations process that is an essential part of congressional budget control. The funding to be made available for revenue sharing, after 1978, would be subject to review and competition with all other Federal programs for which funds are appropriated annually. However, in order to permit advance planning by the recipient State and local governments, the amendment does permit 1 year forward funding, much as we now have for elementary and secondary education programs.

The maximum dollar amounts authorized in my amendment are the same as those authorized in the Finance Committee amendment. The number of years for which the revenue sharing program is authorized is the same as in the Finance Committee amendment. But, after 1978, the exact amount to be appropriated will be decided year by year by the Congress.

Let me also say that I would not expect Congress to appropriate significantly less than the amounts authorized, except in extraordinary conditions. What is most important is that it will give us control over marginal decisions on expansion of budget programs.

The State and Local Fiscal Assistance Act of 1972, better known as the Revenue Sharing Act, expires on December 31, 1976. Under this act, nearly $30 billion will have been distributed by the end of 1976 to over 38,000 units of State and local governments. No matter how you look at it, this amount of money makes the existence of revenue sharing a fact. The only responsible course is to search for some way of extending it that will prevent fiscal hardship to our State and local governments and their citizens, while achieving our national goals and priorities.

I am not one of those who believes that the revenue sharing experiment, begun in 1972, has been a complete success. In many instances, I believe it has placed money in the wrong places, at the wrong times, and for the wrong purposes. While it has increased the Federal deficit by $30 billion, even this amount was not enough to stabilize the financial condition of our State and local governments, partly, at least, because the money was not targeted to the problems, in my opinion. When a recession came, we found that a special form of countercyclical revenue sharing was necessary to keep our State and local governments going.

For these reasons, I am deeply concerned that the bill reported by the Finance Committee does not really require a true, periodic fiscal review of this major Federal program. It does not permit annual review of the effectiveness with which the money is used. While it calls for an annual appropriation, in reality it makes the payment an entitlement of State and local governments. Thus, the appropriation is mandatory and could be enforced in a court.

In order words, if the Federal Government decided not to distribute a State's share of revenue sharing, that State could go to court and show evidence that they are entitled to it, and the court could force Congress to appropriate it. That is an appearance of fiscal control, but not real fiscal control.

I am disturbed that the proponents of revenue sharing—many of whom share with me a sincere concern for Federal fiscal responsibility—would have us now, in 1976, commit ourselves to the distribution of $42 billion from the Federal Treasury to State and local governments between now and 1982. What will this do to our often repeated promises to balance the budget in 1980 or 1981? The answer is that no one knows or can know at this time.

The recently enacted Congressional Budget Act set up the machinery for responsible congressional budget action—and now this bill proposes to weaken it. It is said that money must be committed years ahead to permit good financial planning by State and local governments. But what does that do to Federal financial planning?

As a member of the Budget Committee, I am becoming increasingly concerned about spending programs that tie our hands for many years to come. Our new budget process has been effective in curbing large new Federal spending programs. To continue to be effective, we must have the ability to examine our existing priorities and the use of our fiscal resources. In other words, if we are to balance the budget, we must find the most effective and useful purposes for which our limited resources may be spent.

Now that the budget process has aged a little, we can see ahead a bit, and it is clear that one real problem, to which there is no easy answer, is how to control the uncontrollables. The so-called uncontrollable expenditures—of which revenue sharing is one—have become so large that it is not meaningful to talk about budget control and fiscal responsibility unless the uncontrollables can become subject to annual scrutiny. Uncontrollable outlays are now more than 75 percent of the budget, or about $300 billion. Balancing a budget does not take magic. All it takes is hard work and something to work with. But if we persist in limiting our own ability to control the budget, even magic will not work to do the job.

I believe that the Federal Government has a responsibility to assist State and local governments in cooperative efforts to achieve national goals of benefit to all our people. To the extent that we freeze for almost 6 years the amounts of Federal revenue sharing funds, we may limit the growth of future assistance for other programs such as health care and research, education, or housing. Federal aid programs are now at about $71 billion, or about 17 percent of the budget. We have pledged ourselves to balance the Federal budget over the next few years. To do so may require some difficult decisions on the part of the Congress, as well as State and local officials.

As we review the financial condition of the Federal Government and its ability to provide financial assistance to other units, we will be doing no one a favor by tying ourselves so tightly to this one program, possibly at the expense of other important national programs that are appropriated annually, that we will not be able to move with any flexibility, or with little flexibility.

I am sure that every Member of this body has expressed his concern about our economic recovery, about unemployment, about inflation. I know I have. Can anyone say, at this time, what future impacts on unemployment and inflation will result from this massive commitment to spend billions of dollars for revenue sharing?

In its recent report on the second concurrent resolution, the Budget Committee noted the challenge to budgetary and fiscal policy "to maintain a fiscal stimulus which will hold the economy in a moderate, steady and prolonged recovery until 1980." It warns that "excessive Federal spending" will result in "either a heavier tax burden or more inflation, accompanied by the "crowding out" of needed private investment." It says further that achieving economic health:

> will require both patience and flexibility because the stimulus will have to be adjusted. . . . Success will require both budgetary discipline for permanent programs and budgetary imagination . . . in using temporary fiscal measures.

Where the discipline, the imagination, the patience, or the flexibility in committing ourselves in one afternoon to spending $42 billion?

We talk about programs for economic recovery. We talk about programs to curb inflation. But we keep right on tying ourselves to long-term spending programs with no way of knowing whether their ultimate economic impact will be good or bad, whether it will be expansionary or have a recessionary impact.

Whether we favor big budgets or small budgets, more spending or less spending, large government or small government, we all know that control of our budgets, control of our spending, control of our Government is one key to helping guide our economy, our employment, our inflation. Today we propose to throw away a $42 billion key to our country's economic well being.

The so-called entitlement process of funding has been described as a compromise between the normal annual authorization-appropriation process and the present revenue sharing method—direct appropriation for a multiyear period. I do not see this as a compromise. Creation of an entitlement guarantees State and local governments that the funds provided in the bill will be available. It leaves little or no discretion to future sessions of Congress about the level of Federal spending for which their Members must take responsibility. This has been described by the House Appropriations Committee as:

> A dangerous and undesirable practice and counter to the philosophy of the recent efforts of Congress to strengthen legislative budget control.

The committee went on to say:

> Entitlement provisions . . . make a mockery of the legislative budget . . . .

In fact, I believe that the House Appropriations Committee has stated the case for my amendment very well, and I ask unanimous consent that the text of a portion of the report of the committee on Appropriations of the House of Representatives be printed in the RECORD.

There being no objection, the excerpt from the report (H. Rept. No. 94-1165, pt. 3) was ordered to be printed in the RECORD, as follows:

CONCERN OF THE COMMITTEE ABOUT ENTITLEMENT PROGRAMS

> The Committee is extremely concerned about the entitlement provisions of H.R. 13367. By definition an "entitlement program" allows a recipient, in this case state and local units of government, more or less automatic claim to certain amounts of money, in the case of revenue sharing some $24.9 billion over three and three quarter years. The Committee considers this to be a dangerous and undesirable practice and counter to the philosophy of the recent efforts of Congress to strengthen legislative budget control.
>
> Entitlement provisions, such as contained in H.R. 13367, make a mockery of the legislative budget and the appropriations process. The Congress is placed in the position of having absolutely no choice but to make an appropriation for entitlement programs even though the basic legislation technically might contain an authorization for appropriations. This results because if the Congress did not make such an appropriation then it could conceivably be subject to a judgment issued by the courts. This approach removes such entitlement programs from any effective annual fiscal control by the Congress.
>
> Why is this important? And why does it matter that the Congress follow the orderly fiscal process of periodic executive and legislative review associated with the authorization and appropriation process?
>
> By providing for a regular appropriation and not an entitlement, the Congress has an opportunity to make a choice about budget decisions, to arrange priorities in the way that best fits the needs of the country at the time, and to achieve greater fiscal stability.
>
> If revenue sharing is turned into an entitlement program, some $24.9 billion is added to the uncontrollable columns of the budget and any flexibility that the Congress might otherwise have is thereby forfeited. This is a dangerous practice and is not justified in view of the new budget procedures the Congress has recently adopted. Already about 75% of total expenditures in a given fiscal year are classified as uncontrollable under existing law.
>
> It is not a question of whether the Congress is for or against revenue sharing, but rather whether or not the Congress will proceed in a responsible fiscal manner. Such entitlement provisions and other financing devices which circumvent the regular process must be rejected if the Congress is to honor its stated objective of achieving better legislative budget control.

Mr. BIDEN. I want to note at this point that many groups that favor revenue sharing also favor making it subject to the appropriations process.

There is a report titled "General Revenue Sharing—The Case for Reform," prepared under the auspices of the League of Women Voters Education Fund, the National Urban Coalition, the Center of Community Change, and the Center for National Policy Review. This report recommends use of the appropriations process—although with a longer forward funding time than I propose.

The Ad Hoc Committee on General Revenue Sharing Reform has also taken a position on this matter. This ad hoc committee has been convened by 25 organizations, and I ask unanimous consent that the names of these organizations be printed in the RECORD.

There being no objection, the names of the organizations were ordered to be printed in the RECORD, as follows:

Amalgamated Clothing Workers of America.
Amalgamated Meat Cutters and Butcher Workmen of North America—AFL-CIO.
Americans for Democratic Action.
Americans for Indian Opportunity.
American Jewish Committee.
Center for Community Change.
Center for National Policy Review.
Common Cause.
Friends' Committee on National Legislation.
International Ladies' Garment Workers Union.
League of Women Voters of the U.S.
Movement for Economic Justice.
National Association of Social Workers.
National Center for Urban Ethnic Affairs.
National Congress of Hispanic American Citizens.
National Council of Churches.
National Council of Jewish Women.
National Council of LaRaza.
National Council of Negro Women.
National Council on the Aging.
National Organization for Women.
National Urban League, Inc.
Southern Regional Council.
United Auto Workers International Union.
United Steelworkers of America.

Mr. BIDEN. In a memorandum transmitted on September 3, 1976, this ad hoc committee stated under the heading, "Entitlement Against Advanced Funding":

> General Revenue Sharing should be subject to the same kind of periodic review and analyses which Congress regularly conducts for other legislation, and it should be subject to the regular appropriations and budget process.

While I recognize that our system of Government depends upon fiscally sound State and local units, it also depends upon fiscal soundness at the Federal level. For this reason, I believe that one essential element in extending any form of revenue sharing should be its inclusion in the annual budgetary and appropriations process. Who, at this point, would dare to predict, over the next several years, whether the fiscal problems of the Federal Government will be more or less than those of State and local governments? This is a decision that must be made as we go along, through the appropriations process. Our constituents who want fiscal integrity at the Federal level will settle for nothing less.

For these reasons, my amendment would eliminate the "right" of State and local governments to a fixed sum each year. It would require an annual review of the needs of State and local governments, as well as what the Federal Government can afford before the funds would have to be appropriated. To permit better fiscal planning for other governments, it permits appropriations a year in advance. But it does not create a permanent right to the money.

Mr. President, in conclusion, I point out that the thrust of Congress has been over at least in the last year of the 4 years that I have been here to tighten up budgetary controls and to move in the direction of what we all call fiscal responsibility.

Along these lines, we have not only had the new Budget Act and the new Budget Committees created, which I think are working well, but we had introduced into this body several pieces of legislation which have come to be referred to as sunset legislation.

A year and a half ago I introduced the first such piece of legislation in this body and at that time both my liberal and conservative friends were a bit concerned that we would require that the bureaucracy be accountable to us every 4 years on a basis they have not been to date, that is, that every 4 years in my bill—I realize subsequent bills have changed that time—but in my bill their programs would go out of existence unless we affirmatively voted them back into existence, to put it in a nutshell. Since then it has gotten a good deal of credibility and credence, both in academic and political circles.

Men of more stature than I have come forward and introduced very similar bills and have gotten a good deal of support. Congress and both Presidential candidates running this year are talking about the need for us to control, to control what we are doing, to make sure that we are fiscally responsible. We say we are going to do that, and we say we are going to bring things under control until we get approached by a very, very formidable force, that is, those 39,000 or so local government agencies that have mayors, State senators and congressmen, Governors, and city councilmen who come before us and say, "Hey, look, Federal Government, we want you to continue to help us. We are Democrats and Republicans. We have joined arms together, and we want to make sure that this Federal revenue-sharing program is locked in. We want it locked in tight, and we want it locked in tightly for the next 5 years because we don't want to have to climb up this hill every year."

That is the same hill that we a year and a half ago said we did not want to make agencies climb up.

That was the objection to my sunset legislation. They did not want to make the agencies climb that hill every 4 years. It was too much trouble.

But now everyone is saying: "Hey, let us make the Federal bureaucracy climb that hill and justify their existence."

Why are State governments any different? Why are local governments any different?

I have, since I have been in the Senate, voted for more money into cities, States, and local units of government where they need our help. But I do not want us to tie in now, to tie in 5 years in advance when at the same time we are saying to the American people: "Hey, look, we are going to balance your budget 5 years out, and we know it will be difficult at best." At least those on the Budget Committee, Finance Committee, and the Appropriations Committee have been looking at it.

If we are going to be lucky, in 5 years we can do that.

So it seems to me that this runs counter to the entire move in this country and this Congress, and I suspect the reason it runs counter to that movement is because there is a very strong counterforce, both Democratic and Republican, at the local levels, which is saying: "We want it now. We want to be assured now."

I have been told by the people in my State, Democrats as well as Republicans, at the local level that "BIDEN, this is going to hurt you a great deal at home. We don't like it a bit."

Every mayor, every local official, and all the State officials called me and told me: "BIDEN, you will have a problem if you keep persisting in this."

Well, I will tell you what. We are going to have a problem at the Federal level if we do not persist in this because we are now moving State and local governments in a position where they can balance their budget, reduce taxes, and talk about being fiscally responsible. There are notable exceptions, Mr. President, I realize, that we must come to aid, as the present Presiding Officer knows, that I supported in States that have gotten in serious trouble. But I do not like the idea of us now committing 5 years in advance when in fact we say we are stopping that kind of foolishness.

That was a long conclusion, Mr. President, and now it is concluded. I yield the floor.

Mr. PACKWOOD. Mr. President, in response to the junior Senator from Delaware, let me add that the three specific groups that he mentioned did testify in opposition to perpetual revenue sharing. It is not perpetual. It is 5¾ years and it terminates. They testified against it not because they are unhappy with the way local governments accounted for the money. They testified against it because they do not like the way local governments spend it. It is very clear when one reads their questions and answers that that is their objection.

In the polls that have been taken, asking local people "How would you like your revenue sharing money spent?", law enforcement ran first, education second, and then depending on the area, different items third and fourth.

How is revenue sharing spent? The first 24 percent on law enforcement, the second 22 percent on education, and the rest of it trails off according to the area that they are from and upon what may be the particular priority of that area.

Revenue-sharing money is spent exactly as the local citizens want it spent.

These groups that came and testified do not want it spent that way. In their mind, we are not taking into account the right priorities.

The Senator from Delaware made reference, and I think I am quoting correctly, that local governments often spend the money at the wrong time in the wrong place and on the wrong priorities, I might add "as we see them."

There is nothing wrong with the way the revenue-sharing program has worked in the past. Next year, if this bill passes, the local governments will get $6.65 to $6.85 billion depending upon where the House of Representatives and the Senate compromise their difference, and after that each year, if they are lucky, they will get an additional $200 million increase if the full Senate position is maintained.

What that means is that every year, even if inflation is 4 percent, local governments will fall behind in the percentage of money they get because $200 million will not keep up with 4-percent inflation.

There is only one justifiable reason for anyone in this body to vote against revenue sharing, and that is if that Senator thinks that he so knows the priorities of this Nation, all over this Nation, not nationwide priorities—let me emphasize—the priorities all over this Nation. And we are going to dictate them from here. We are going to make local governments come and be subject to an annual budgeting process because we make the other departments of the Federal Government do it.

We are not satisfied that every local government has to go through a budget law and every State legislature meets and has committee meetings, and every one of those officials has to run for office. This is not enough of an accounting. Now, we are going to bring them here in addition.

I am saying that if this pittance that we give to local government, and it is a pittance in comparison to the $412 billion Federal budget next year, cannot be spent without our supervision, cannot be spent without requiring every city, township, county, and State to come here every year and justify how they are spending the money, then there is no point in our giving them the money at all. We might as well go back to the grant system. We might as well dissolve the federal system. We might as well say that local governments are not worth the powder to blow them up because they cannot be trusted. They spend the money at the wrong time, at the wrong place, on the wrong priorities.

I urge the defeat of the amendment.

Mr. BIDEN. Mr. President, I have the greatest respect for the distinguished Senator from Oregon. He is one of the most skillful debaters in the U.S. Senate, as he has just demonstrated.

He has made a very moving statement that was completely nonresponsive to my amendment. The amendment speaks to the budgetary process, to which this bill, if passed as is, would not be subject.

Granted, there are those who feel strongly that the Federal Government should have more control over the expenditure of the revenue-sharing funds and who do not trust the local governments.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BIDEN. If I can just finish my thought, I will be happy to yield.

The issue is this—and I ask the question of the Senator from Oregon either now or later, whenever it is most convenient for him to answer: Whether or not he thinks it is wise fiscal policy to have $42 billion to committed 5¾ years out, when we do not know what our revenues will be 5¾ years out, and when we do not know what the state of the economy will be 5¾ years out, and we do not know what the mood of this country will be. Is that wise budgetary process?

Mr. LONG. Mr. President, I ask unanimous consent that further debate on the amendment be limited to 10 minutes, to be equally divided.

Mr. BIDEN. That is fine with me.

Mr. PACKWOOD. It is fine with me.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PACKWOOD. The answer is "Yes." [Laughter.]

Mr. BIDEN. The answer is "Yes." Clearly, the lines are drawn. Those who think it is wise policy, from a budgetary standpoint, to commit "pittances" of $42 billion over the next 5 years should vote against my amendment and go back and tell their constituency that they think it is good planning to commit small "pittances" of $42 billion 5¾ years out. I will be happy to go to their States and help them convince their voters that that is a good reason to support you—I say "you" in an editorial sense—as a fiscally responsible U.S. Senator.

I have now been in 38 States, campaigning for one of the Presidential contenders, and I have had occasion to run across various people running for various offices in the various parties, and everybody is a fiscal conservative. I have not found one yet who is not. That is funny. I have not found anybody who is not a fiscal conservative.

Everybody wants to tighten up the process, and everybody wants to make sure that we balance the budget. We even have some in both political parties who are telling the people that the budget should be balanced now, which is totally outrageous. It is not capable of being done. But they all say it will be balanced by 1980.

Every year, the President sends up his budget. Either President Ford or President Carter, whoever it may be, will send his budget to the Appropriations Committees and other committees next year, in the beginning of the year; and we will all talk about how it is too big, the deficits are too big, and we will not listen to the chairman of the Appropriations Committee or others who say, "We should note, ladies and gentlemen, that over $300 billion of that budget you are telling us to cut cannot be touched." By law, it is committed. We cannot do a thing with it, not at all. Our taxpayers should know that. We committed it before—the other day, last year, 2 years ago, 5 years ago.

Really, what we are talking about is approximately 30 to 40 percent of the budget maximum that can be cut. And guess where that is—in the very programs that the Senator from Oregon and I would be concerned about most of the time, the programs that deal with the social welfare of this Nation.

We have had colleagues stand on the floor of the Senate and say that, in fairness, we must cut across the board 5 percent or we must cut across the board 10 percent. The only ones being cut are the programs for human needs and human services. It seems to me a little silly to call that good fiscal planning.

I am a little perplexed, as a member of the Budget Committee, about what we have been doing for the last year and a half. I am also perplexed as to why, all of a sudden, my legislation, the "sunset legislation"—I never called it that, but it is now being called "sunset legislation"—is receiving so much credibility and credence across the Nation.

Everybody says, "Bring the bureaucracies under control, so we will know how much we are spending." How is State government different from that? It is still the taxpayers' money that is being spent.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. McCLELLAN. Mr. President, I commend the distinguished Senator from Delaware. He is making a fight today that I made a few years ago and lost, when revenue sharing was first authorized.

I do not believe that we can ever balance the budget with equity without all programs sharing proportionately in whatever reductions have to be made to accomplish that very desirable result.

As the distinguished Senator has pointed out, we now have so much of this expenditure fixed that we cannot cut and cannot touch, that if we do cut, we will have to reduce expenditures, and we will have to do it often where it hurts the most, instead of where the burden could be and should be borne more evenly.

We can set this precedent, and we have; and we can add to this precedent some other expenditures so they cannot be cut. Where is the end of it?

There are many programs today that come under the appropriations processes which are just as worthy and just as essential as is revenue sharing. They have to come under the appropriations processes and under the Budget Committee's jurisdiction and evaluation. I do not know why this should have such preferred treatment. Perhaps it is popular politically. But it is not practical from the standpoint of sound fiscal policies of the National Government.

Mr. BIDEN. I thank the chairman very much.

The VICE PRESIDENT. The time of the Senator from Delaware has expired.

Mr. BIDEN. Mr. President, I ask unanimous consent for 1 additional minute.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BIDEN. One thing should be noted, Mr. President: I think there is a reasonable and logical argument on the part of the States that they have to have some forward funding. That makes sense; that is necessary if we are going to have this problem.

I should note that my amendment does allow forward funding of a single year. There is 1 year out. That is sound; that makes sense. It needs that, with the time lapses and for other reasons. But 5¾ years is not the way we should be going.

Mr. FORD. Mr. President, is there any time in opposition?

The VICE PRESIDENT. The Senator from Louisiana has 5 minutes.

Mr. FORD. Mr. President, will the Senator yield me 1 minute?

Mr. LONG. I yield.

Mr. FORD. Mr. President, I understand the eloquence of the junior Senator from Delaware.

A great many Senators have worked with local communities and understand that the decisionmaking process of the Government closest to the people is the best. I think Washington finally has understood that we should not make all the decisions for the people at the local level; that we should return some of their tax money so that they can make the decisions as to what is best for their community. Three years down the pike, they can accommodate the citizens of their community. I have been there, I have seen it work, and this amendment should not be agreed to.

Mr. BIDEN. With all due respect, that is not the issue.

Mr. LONG. Mr. President, the Senator has made an eloquent argument. I do not think it is any more eloquent than the argument made by the Senator from Arkansas and those who supported the same position when we voted on this measure in 1972. Since that time, we have had experience with the act, and I believe that most of the fears people had have not been realized, on the whole. The vote will demonstrate that Senators are satisfied that this is a good program.

One of the principal arguments made for revenue sharing is that Governors, mayors, county commissioners, and even the smaller units of government, need to depend on getting a certain amount of money so they can budget it and can make their plans; there should be some certainty about it. That is basically what the issue was when we voted on the McClure amendment previously today: Do we want to let the mayors, county commissioners, Governors, and State legislators know how much they can expect with some degree of certainty so that they can count on it? I really think that most of them, if they had to, would rather settle for somewhat less money, if that eventuality should materialize, rather than have the uncertainty of not knowing—do they get the money or do they not get the money?

What the Senator's amendment would do is subject this to a process where, just because someone might have a scandal in one jurisdiction, or something of that sort, the whole program might be brought to a conclusion, or it might be reduced by half. We have supported the program and it has operated very well. I believe it is a popular program, especially with those who are implementing it and making it work. We have a minimum of Federal interference, and I hope we can keep it that way. The local and State governments are able to plan with some degree of certainty and are able to know exactly how much money they will receive in advance.

I hope, Mr. President, the Senate will stand by the decision I believe it wisely made before; that basically, local governments should be able to depend upon the amount of revenue that the Federal Government has indicated they can expect under this program. I hope very much this amendment will not be agreed to.

Mr. FANNIN. Mr. President, will the Senator yield for one moment?

Mr. LONG. Yes, I yield.

Mr. FANNIN. Mr. President, I thank the Senator.

I am very proud of the mayor of the city of Phoenix, a fine young lady who has done an outstanding service for that community. I have a letter from her which says the following:

City of Phoenix,
Office of Mayor,
September 13, 1976.

Hon. Paul Fannin,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Paul: I have reviewed the final product of the Finance Committee extending and revising Federal General Revenue Sharing and wish to emphasize that we are most pleased with the bill as it currently is written.

I understand that the $6.9 billion funding level will be adjusted to $6.65 billion in order to accommodate the Congressional budget target figure. I have no problem with that action provided the annual increment, now at $150 million will be increased to $200 million.

I have been advised that Senator Biden will offer an amendment which would subject General Revenue Sharing to the annual appropriations process with one year advance funding. The City of Phoenix is unalterably opposed to this amendment. Such action would be a disaster for the City's budgetary planning process. I strongly urge you to defeat the Biden amendment.

Moreover, I would urge you also to defeat any non-germane amendments to the bill. As I have repeatedly advised you, Federal General Revenue Sharing is a critical component of our budget. I trust you can support our position and wish you well this afternoon.

Sincerely,

Margaret Hance,
Mayor.

I have correspondence from several other cities in the State, but I thought this was certainly representative of what, perhaps, exists throughout the United States.

I thank the Senator from Louisiana for yielding.

The VICE PRESIDENT. The Senator from Louisiana has 1 minute remaining.

Mr. LONG. I yield back my time.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from Montana (Mr. Metcalf), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), The Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater), and the Senator from Utah (Mr. Garn) would each vote "nay."

The result was announced—yeas 14, nays 62, as follows:

[Rollcall Vote No. 585 Leg.]

YEAS—14

Biden
Byrd, Robert C.
Chiles
Church
Eagleton
Fong
Helms
Hollings
Mansfield
McClellan
Montoya
Proxmire
Stennis
Young

NAYS—62

Allen
Baker
Bayh
Beall
Brooke
Bumpers
Burdick
Case
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eastland
Fannin
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
Mathias
McClure
McGee
McGovern
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NOT VOTING—24

Abourezk
Bartlett
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Garn
Goldwater
Hart, Philip A.
Hartke
Hatfield
Inouye
Kennedy
Leahy
McIntyre
Metcalf
Mondale
Pell
Sparkman
Symington
Tunney

So Mr. Biden's amendment was rejected.

APPOINTMENT BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair would like to make an announcement. In accordance with Public Law 94-399, appoints the following Senators to the Temporary Commission on Financial Oversight of the District of Columbia: the Senator from Missouri (Mr. Eagleton), the Senator from Florida (Mr. Chiles), and the Senator from Maryland (Mr. Mathias).

Several Senators addressed the Chair.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and local Fiscal Assistance Act of 1972, and for other purposes.

The VICE PRESIDENT. The Senator from Arkansas.

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. I yield.

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Steve Entin of Senator Taft's staff be given floor privileges during the voting and consideration of the present bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. FANNIN. I thank the Chair and I thank the Senator from Arkansas.

UP AMENDMENT NO. 447

Mr. BUMPERS. Mr. President, I have an amendment at the desk which I call up at this time.

The VICE PRESIDENT. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. Bumpers) proposes an unprinted amendment No. 447.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee amendment, insert the following:

"Section 108(d)(1) (defining 'unit of local government') is amended by adding at the end thereof the following:

" 'Such term also means a suburban improvement district organized under the laws of Arkansas: *Provided, however,* That such district must impose taxes or receive intergovernmental transfers for substantial performance of at least two of the following governmental services: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance; (M) mass transportation; and (N) education: *And provided further,* That at least ten per centum of a district's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services just listed and numbered (A) through (N).' "

Mr. NELSON. Mr. President, may we have order in the Senate so that we can hear the Senator from Arkansas.

The VICE PRESIDENT. Order in the Senate, please.

Mr. BUMPERS. Mr. President, under the State and Local Fiscal Assistance Act of 1972, States and units of local governments receive general revenue-sharing payments from the United States. Section 108(d)(1) of this act, 31 U.S.C. 1277(d)(1), defines the term "unit of local government" to mean "the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes)." The term also means for certain purposes, "the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions."

The rationale of this definition is clear. It was, and remains, the intention of Congress that revenue-sharing payments go only to general-purpose governments, and not to governmental or public entities that perform only one service, or a limited range of services, for the public.

This rationale is entirely sound, and no one in either House of Congress, so far as I know, has challenged it during consideration of H.R. 13367, the bill to extend and amend the 1972 act. As passed by the House on June 10, 1976, the definition of the term "unit of local government" would be somewhat elaborated, but the same principle would be preserved. As explained on pages 10 and 11 of part I of House Report No. 94–1165, the report of the Committee on Ways and Means, some concern had been expressed before the committee that large numbers of single-purpose governmental units were qualifying as recipients under existing law. The House, therefore, clarified the existing definition by including several additional specifications. To meet the revised definition proposed by the House, a unit of local government must impose taxes or receive intergovernmental transfer payments for the substantial performance of at least two services for its citizens from among the several commonly provided municipal services listed in the bill. In addition, a local unit would have to spend at least 10 percent of its total expenditures in the most recent fiscal year for each of two such services. This additional requirement would not apply to a local unit that performs four or more such services.

The Senate Committee on Finance, in considering this matter, was governed by the same principle, that payments should be limited to general purpose governments. The Senate committee's approach took a slightly different tack from that of the House. The committee amendment would propose no change in the definition of eligible units of government, other than deleting the phrase "other unit of government below the State," a provision that apparently is of no practical effect.

In addition, an amount equal to 15 percent of the annual revenue-sharing entitlement of each parish in Louisiana, except Orleans Parish, would be distributed to the sheriffs of each parish. Half of the funds for this distribution would come from the revenue-sharing entitlement of the parish—except Orleans—and the other half would come from the revenue-sharing entitlement for the State of Louisiana. This provision is justified on the ground that sheriffs in Louisiana maintain and direct their own police forces, in addition to the parish police force.

A particular situation has arisen in Arkansas that deserves the consideration of the Senate. Under chapter 7 of title 20 of the Arkansas Statutes, section 20–701 et seq., so-called suburban improvement districts may be created. Many of these districts perform functions traditionally associated with ordinary cities and towns. They are often, for all practical purposes, indistinguishable from incorporated municipalities, and they are in fact units of local general purpose government. One such community is Cherokee Village, Ark., the full legal title of which is Cherokee Village Suburban Improvement District No. 1.

Cherokee Village is a retirement village. There are 2,800 full-time residents in the village. Its government is controlled by three commissioners. These officials approve all expenditures, budgets, budget appropriations, tax levies, and assessments. The village has constructed and equipped three fire stations. There are 350 miles of streets and roads to repair and maintain, recreation centers and recreation facilities to operate and maintain, and salaries to pay to persons employed in the fire department, roads and streets department, and recreation department. In addition, there are bond and interest payments to be made for the construction of the fire stations.

Mr. President, there is no practical or functional reason why a community organized in this fashion should be treated differently from a city or town incorporated in the usual form. In fact, the residents of communities such as this—and there are several others in Arkansas—will be seriously disadvantaged in a discriminatory fashion if the law is not clarified to insure that their local government is eligible to participate in the revenue-sharing program.

I am, therefore, proposing an amendment to H.R. 13367 to provide expressly that suburban improvement districts organized under the laws of Arkansas will be included in the term "unit of local government" if they actually function as a general-purpose government, performing a broad range of services for all of the citizens residing within their borders. This is not an attempt to expand revenue sharing or distort its purpose by making special districts or other special units of local government eligible for payments. It is merely an effort to avoid disqualifying large numbers of citizens for no reason other than the technical legal title that their local government bears under State law.

Mr. President, in order that the factual justification for this amendment may be spread on the record, I ask unanimous consent that a letter dated June 24, 1976, from Mr. J. I. Durham, village manager of Cherokee Village, be printed in the RECORD immediately following these remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHEROKEE VILLAGE SUBURBAN
IMPROVEMENT DISTRICT NO. 1,
Cherokee Village, Ark., June 24, 1967.

Senator DALE BUMPERS,
Dirksen Building,
Washington, D.C.

DEAR SIR: State Representative John Miller has advised me that there is a new revenue sharing bill, HR 13367 with seven amendments being prepared. I would like to have details of this bill if possible.

I am especially interested in section 7 which changes the definition of local government. I would like to be sure that it will include communities such as Cherokee Village, Arkansas. If it does not I hope that the bill can be amended to do so.

Cherokee Village is a retirement village. There are two thousand eight hundred full time residents in the village. The village is organized under the suburban improvement district statutes of Arkansas.

The village is controlled by three Commissioners. These officials approve all expenditures, budgets, budget appropriations and tax levies and assessments.

The village has constructed and equipped three fire stations. There are three hundred fifty miles of streets and roads to repair and maintain: recreation centers and recreation facilities to operate and maintain and salaries to pay to persons employed who work in the fire department, roads, and streets department and recreation department.

In addition there are bond and interest payments to be made for the construction of the fire stations.

These are some of the reasons why any revision of a revenue sharing bill should be inclusive enough to cover retirement communities such as Cherokee Village.

Please do not confuse an Improvement District and a Suburban Improvement District. The Suburban Improvement District is one that is set up by statute to operate a community such as Cherokee Village.

I have taken enough of your time on this matter. However, I am very interested in promoting any change that will enable retirement communities, where fixed income limits the financial resources, to participate in a fair share of revenue sharing.

If I can be of any help or supply you with any information please advise.

Sincerely,

J. I. DURHAM,
Village Manager.

Mr. BUMPERS. Mr. President, I discussed this amendment a few moments ago with the distinguished floor manager and, very briefly, it is an amendment that is designed to take care of a very unique situation in my home State. I hope my colleagues will not think this is parochial because it is not. It actually redresses a serious inequity.

In the State of Arkansas we have a unique law which provides the development of "suburban improvement districts," and we have an improvement district in the State of Arkansas that is a retirement community of 2,800 citizens. They levy taxes, they distribute the taxes through a commissioner system rather than a mayor-council system; they have fire stations; they have about 300 miles of roads and streets to maintain.

This amendment would simply include them in the revenue-sharing program, and I think it is only proper that they do it. It does not add any money. It simply allows them to participate in the municipalities that share within the State of Arkansas.

I discussed this with the floor leader earlier, and it is very similar to one that was put on for a unique situation in Louisiana.

Mr. LONG. Mr. President, I have not had the opportunity to study the amendment. But, as I understand, it does not increase the amount of money available to Arkansas. It merely seeks to see to it that a unit of government in Arkansas would be recognized that would share in the amount of money that would be made available; is that correct?

Mr. BUMPERS. That is correct.

Mr. LONG. Under those circumstances, Mr. President, I personally would be willing to accept the amendment and discuss it with the House in conference, and if it presents no more problems than would appear on the face of it, I would be optimistic that we could work this matter out.

Mr. PACKWOOD. Mr. President, will the Senator from Arkansas yield for a question? I realize this is no increase, but out of whose share intrastate does this share come from?

Mr. BUMPERS. I am sorry, I did not hear the question.

Mr. PACKWOOD. The Senator's amendment does not give Arkansas any more money.

Mr. BUMPERS. That is right.

Mr. PACKWOOD. Yet we are going to add a unit that does not now get it.

Mr. BUMPERS. That is correct.

Mr. PACKWOOD. From whose share does it come out of in the State?

Mr. BUMPERS. It comes out of the total allocation for the municipalities in the State.

The counties and municipalities of the State have three separate amounts. This would dilute the amount admittedly that would otherwise go to all other communities, all other municipalities in the State. It would dilute it to a certain minimal amount, not very much. This is a community of 2,800 citizens.

Mr. PACKWOOD. I have some misgivings. It is similar to the amendment the chairman had for the law enforcement sheriffs in Louisiana. I do not want to see it get into too many local special governments because there are a lot of local special governments and the formula at the Federal level becomes very complex. But if this is going to be worked out intrastate, I would be willing to accept the amendment.

Mr. BUMPERS. Mr. President, I thank the floor managers very much.

I move we adopt the amendment.

The PRESIDING OFFICER (Mr. LAXALT). The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

AMENDMENT NO. 1653

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1653 and ask that it be stated.

The PRESIDING OFFICER (Mr. LAXALT). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, between lines 3 and 4, insert the following new section:

"SEC. 12. (a) The Act is amended by adding at the end thereof the following new subtitle:

"'Subtitle D—Determinations by States to Receive Payments

"'SEC. 161. STATE LAWS MUST SPECIFY THAT AMOUNTS ARE TO BE PAID STATES AND UNITS OF LOCAL GOVERNMENT.

"'Effective with respect to the fiscal year beginning October 1, 1977, and each fiscal year thereafter, a State and its units of local government shall be paid the amounts to which they are otherwise entitled under sections 107 and 108 for such fiscal year only if on or before July 1 preceding the beginning of such fiscal year, there is a law of such State in effect which—

"'(1) specifies that such amounts are to be paid to such State and its units of local government for such fiscal year, or

"'(2) specifies that a percentage of such amounts is to be paid to such State and its units of local government for such fiscal year.

No such State law may be effective beyond the second fiscal year beginning after the date on which it is enacted.

"'SEC. 162. UNPAID AMOUNTS TO BE ALLOWED AS INCOME TAX CREDIT TO RESIDENTS OF THE STATES.

"'(a) NO AMOUNTS TO BE PAID TO STATE AND UNITS OF LOCAL GOVERNMENT.—In the case of any State which does not have in effect a State law described in section 161 for a fiscal year beginning on or after October 1, 1977, the amounts to which such State and its units of local government are entitled under section 107 and 108 shall be allowed as an income tax credit, as provided in section 45 of the Internal Revenue Code of 1954, to the individuals residing in such State for their taxable years beginning in the calendar year in which such fiscal year ends.

"'(b) PARTIAL AMOUNTS TO BE PAID TO STATE AND UNITS OF LOCAL GOVERNMENT.—In the case of any State which has in effect a law described in section 161(2) for a fiscal year beginning on or after October 1, 1977, the amounts to which such State and its units of local government are entitled under sections 107 and 108 for such fiscal year, reduced by the amounts that will be paid to such State and its units of local government during such fiscal year, shall be allowed as income tax credit, as provided in section 45 of the Internal Revenue Code of 1954, to the individuals residing in such State for their taxable years beginning in the calendar year in which such fiscal year ends.'.

"(b) (1) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 45 as 45A, and by inserting after section 44 the following new section:

"'SEC. 45. UNPAID REVENUE-SHARING FUNDS.

"'(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a resident of a State which for a fiscal year does not have in effect a State law described in section 161 of the State and Local Fiscal Assistance Act of 1972, or which has in effect a State law described in section 161(2) of such Act, there shall be allowed as a credit against the tax imposed by section 1, for such individual's taxable year which begins in the calendar year in which such fiscal year ends, an amount of the payments to which such State and its units of local government are entitled under sections 107 and 108 of such Act, as determined under subsection (b).

"'(b) AMOUNT OF CREDIT.—

"'(1) DETERMINATION.—The amount of the credit allowed by subsection (a) for a taxable year is—

"'(A) an amount (i) which bears the same ratio to (ii) the total amount to which such State and its units of local government are entitled but will not be paid under the State and Local Fiscal Assistance Act of 1972 for such fiscal year, as

"'(B) the amount (i) which the taxpayer's tax liability for the preceding taxable year bears to (ii) the sum of the tax liability of all individuals who were residents of such State for the preceding taxable year, as determined by the Secretary or his delegate.

"'(2) TAX LIABILITY.—For purposes of paragraph (1), the term "tax liability" means the tax imposed by section 1 reduced by the sums of the credits allowed by this part, other than the credits allowed by this section and sections 31 and 39.

"'(3) SUBSTITUTION FOR PRECEDING TAXABLE YEAR.—If statistics are not available to determine the amount under paragraph (1) (B) based on the preceding taxable year, there shall be substituted the second preceding taxable year.

"'(C) PUBLICATION OF TABLES.—The Secretary or his delegate shall publish tables for each taxable year which begins on January 1 of a year, for each State the residents of which are allowed a credit under subsection (a), setting forth, by appropriate brackets of tax liability, the amount of credit to which such residents are entitled as determined under subsection (b). Such tables shall also provide instructions for determining the amount of credit in the case of taxpayers whose taxable year does not begin on January 1 of a year.

"'(d) REFUNDABLE CREDITS.—

"'For treatment as overpayment of tax when credit exceeds tax liability, see section 6401(b).

"'(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out this section.'.

"(2) The table of sections for such subpart A is amended by renumbering item 45 as 45A, and by inserting after item 44 the following:

"'45. Unpaid revenue-sharing funds.'.

"(3) Section 6401(b) of the Internal Revenue Code of 1954 (relating to excessive credits) is amended—

"(A) by inserting ', 45 (relating to unpaid revenue sharing funds),' after 'lubricating oil)'; and

"(B) by striking out '31 and 39' and inserting in lieu thereof '31, 39, and 45'.

"(4) Section 6201(b) (4) of such Code (relating to erroneous credit) is amended—

"(A) by striking out '39' in the heading and inserting in lieu thereof '39 or 45'; and

"(B) by inserting 'or 45 (relating to unpaid revenue sharing funds)' after 'lubricating oil)'.

"(5) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1977.".

On page 69, line 14, strike out "12" and insert "13".

On page 69, after line 15, add the following:

(d) The amendment made by section 12(a) of this Act shall take effect on the date of enactment.

Mr. PROXMIRE. Mr. President, I will explain the amendment.

Mr. President, before I describe my amendment I want to make a few general comments about revenue sharing.

NO REVENUE TO SHARE

The first problem with revenue sharing is that there has been no revenue to share. When it was proposed by Walter Heller and Joe Pechman, two brilliant economists, about 10 years ago, they argued that there would be large Federal budget surpluses which would put a great fiscal drag on the economy and create unemployment and recession, it would slow down economic growth. These anticipated surpluses, it was argued, could best be used to help State and local governments meet their fiscal needs.

But instead of surpluses there have been deficits—in fact, about $160 billion in Federal deficits since revenue sharing went into effect.

Meanwhile we have provided $30 billion in Federal revenue sharing spending without providing one cent in new revenues for the program. It has been financed by deficit spending. This bill proposes to spend another $41 billion over 5¾ fiscal years. And again there is no revenue to share. The budget estimate for the fiscal year 1977 deficit is almost $43 billion.

Ironically, the States and localities are now where the big spending problems exist. Over the past decade the Federal Government has held its spending to about 22 percent of the GNP. But State and local spending has gone up dramatically. Further, since 1960 State and local government employment has gone up from 6 million to 12 million persons, double in only 15 years, while Federal Government employment has risen by only 500,000 or from 2.37 to 2.85 million persons. The point is that if one is really interested in cutting Government spending—and taxes—one very important place to examine spending is at the State and local level.

What revenue sharing does is, in effect, put the money on the stump and run. It does not require the accountability, responsibility, and obligation to the taxpayer which is the only effective restraint against wasteful government spending, whether Federal, State, or local.

Instead, what revenue sharing does is to give the States and localities an open ended appropriation for which they have to make no serious accounting to the people. In fact, I am sure all Senators have heard of examples where local citizens balked at some particular proposed local spending proposal on grounds that it was foolish or had a very low priority. Local officials then paid for it through revenue sharing because there was no specific local or State tax burden relating to the foolish spending of those funds.

THOSE WHO SPEND MONEY SHOULD HAVE TO RAISE IT

Mr. President, that leads to a second problem with revenue sharing and a major reason for my amendment; namely, that it offends against a fundamental fiscal principle. That principle is that those who spend money should have to raise it. That is the way to get fiscal restraint, and the one effective way.

The one way to do it is require those who spend it to go through the painful discipline of having to raise taxes in order to spend the money.

The State and local officials who spend revenue sharing money do not have to impose the taxes to raise it.

I can understand why governors, mayors, city managers, and county officials are so strongly for revenue sharing. We, in Congress, pass the taxes or sanction the deficit, and they get to spend the money with few or no strings attached.

They have the best of all worlds. But they should not moralize against those of us who criticize revenue sharing and who believe the program often results in the use of funds for foolish or low priority projects. As a measure of this, the League of Women Voters made a 2-year study of revenue sharing.

I think, whether we have a high regard or a lesser regard for the League of Women Voters, we have to recognize it is an organization that does not have an ax to grind. It does not have an economic interest in this that would give it a biased conclusion. It was an expert, competent, thorough study, in which they went into great detail in six States and found that 38 percent of those who were interviewed for their studies—area governors, State legislators, mayors, city council members, media representatives, agency and department heads, comptrollers, civil rights and human affairs officers, et cetera—did not know how the revenue sharing money was spent.

The League study also concludes that in measuring the success of the program almost none of the arguments or goals originally offered in support of the program's passage have been met.

Mr. President, I ask unanimous consent that two excerpts from page 24 of that study be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Because of the fungibility of GRS funds, it was impossible for survey monitors to conclude whether or not general revenue sharing has helped create job opportunities or has altered the pattern of state spending. However, since the influx of these new dollars occurred at a time when other federal domestic programs were being reduced and terminated, it is unlikely that either economic goal was accomplished.
>
> And what has happened in the areas of citizen participation in revenue sharing and civil rights compliance at the state level? The former has not materialized at all, and the presence of the latter is highly questionable.
>
> (Source: Pg. 24, "General Revenue Sharing & the States," League of Women Voters.)

Mr. PROXMIRE. Mr. President, let me point out, and I will quote from the report:

> Because of the fungibility of GRS funds, it was impossible for survey monitors to conclude whether or not general revenue sharing has helped create job opportunities or has altered the pattern of state spending. However, since the influx of these new dollars occurred at a time when other federal domestic programs were being reduced and terminated, it is unlikely that either economic goal was accomplished. . . .
>
> And what has happened in the areas of citizen participation in revenue sharing and civil rights compliance at the state level? The former has not materialized at all, and the presence of the latter is highly questionable.

PROPOSED AMENDMENT

So what do we do about the lack of fiscal accountability in the program? Here is what I propose:

My amendment would reimpose some fiscal discipline on the program. It would return the revenue sharing money to individual Federal income tax payers unless the State legislatures, by law, specify that the funds should be distributed to the State and local units of government according to the revenue sharing formula.

In effect each State legislature has to determine whether it is going to spend the money or return the money to the taxpayers.

It would provide, in the case of Nevada, or Wisconsin, or any of our States, that the same amount of money would go back to the State as the present bill provides.

However, that money would go back in the form of a refund on the Federal income tax, to the Federal income taxpayers in that State, unless the State passed an appropriation, appropriating those funds for revenue sharing.

In the case of the State of Wisconsin if my amendment had been in effect for the last year for which we have complete figures—1974—and the State legislature had failed to pass a law distributing the funds, some $152 million in revenue sharing funds would have been returned to 1,798,702 Wisconsin taxpayers who had filed a Federal income tax return.

This would have amounted to about $85 per average tax return or a 7-percent Federal income tax cut.

In order for the State to expend that money for revenue sharing purposes, it would have had to pass an appropriation bill and this would have been the instrument on which the taxpayers could demand, as they would demand, that the money be spent carefully and only if it could be spent wisely, and otherwise, of course, their tax money would go back to them.

LEGISLATURES HAVE A CHOICE

I recognize that the cities and towns of this country urgently—in some cases desperately—need this money. Local taxes are punishing, and local needs are vital. That is why the legislatures should have the choice my amendment requires them to make.

My amendment would also allow a State legislature to split the money by allowing a part of it to go for revenue sharing and a part of it returned as a tax refund.

The amendment would in no way change the revenue sharing formula, the amount due each State or any other provision of the law.

If a State legislature by law passes the money on to the local units of government, fine. They get the money. But a State under my amendment has it bite the bullet, has to make the painful choice of spending instead of refunding the taxpayer his money. If a State legislature fails to act then the people who paid the taxes get their fair share of the money by way of a tax refund.

Since the one-man, one-vote decision of the Supreme Court State legislatures fairly represent all the people of a State. Further, they are the right ones to make the decision, because all other local units of government—counties, cities, towns, et cetera—are the legal creatures of the State governments.

SPECIFIC PROVISIONS

The amendment provides that the law must be passed by July 1, preceding the beginning of the fiscal year in which the revenue sharing funds are paid out. Each State would have until July, 1977, to pass the law dealing with funds due in the fiscal year beginning October 1, 1977. Because of the late date, the amendment would not apply to fiscal 1977. The amendment provides that a State legislature can act for 2 years in advance, as some legislatures meet only once every 2 years.

Technically, the formula provides that each taxpayer would get the same percentage of the total revenue-sharing funds due each State as the percentage his personal Federal income taxes are to the total Federal income taxes paid by all individual taxpayers in the State.

To put it more simply, if the revenue-sharing funds due a State were equal to 5 percent of the Federal personal income taxes paid by the citizens of the State, then each taxpayer would get a 5-percent refund.

The amounts would be provided in tables in the tax instructions just as tables are now provided for amounts of State gasoline taxes and State sales taxes which can be claimed.

RETURNS FISCAL DISCIPLINE TO THE PROGRAM

I believe my amendment would give the fiscal responsibility and fiscal discipline this program now lacks. The people, working through their State legislators, will make their wishes known. I believe the effect will be to make State and local governments far more careful than they have been as to how they spend revenue sharing money. If they are not careful, the people will demand that the money be returned rather than spent foolishly.

May I make one more point? I am told that when this amendment was proposed in the committee, it was said that it was unneeded, already in the law, that it duplicated a Talmadge amendment adopted when the original law was passed.

Mr. President, that is just not the case. There is no similar provision in the present law or the present bill. There had to be a mistake or misunderstanding for that idea to have been broached and accepted.

I ask unanimous consent that an editorial from the Fond du Lac, Wis., Reporter, entitled "Proxmire and Revenue Sharing" and an editorial from the Elkhorn, Wis., Independent be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Fond du Lac Reporter,
Aug. 30, 1976]

Proxmire and Revenue Sharing

One criticism that Sen. William Proxmire is certain to encounter often as he campaigns for re-election relates to his questioning of the federal revenue sharing program.

Since it was started under former President Nixon, revenue sharing has become almost a way of life for state and local governments. At the time it was introduced, Nixon proudly said it would provide financial assistance at the local level "with no strings attached," and everyone applauded.

Once the flow of money got under way, states and cities were able to bring their budgets under reasonable control while also lowering tax rates.

What everyone had a tendency to forget is that federal revenue sharing was one of those programs that wasn't supposed to be permanent. Cities and states needed help. Congress set up temporary revenue sharing to assist them.

With the federal government now faced with increasing burdens because of deficit spending and a national budget that shrieks for attention, efforts have been made to lop off expenditures. Sen. Proxmire and others have considered dropping federal revenue sharing. The outcry has been so intense, however, that they've been forced to back off and consider other measures.

What Sen. Proxmire now supports is tighter control over revenue sharing funds. He favors a system of auditing so that taxpayers know exactly how this money is being spent.

There seems to be no valid reason for objecting to such a demand for responsibility. Is the money being used for the best possible purposes? Is it distributed on a high priority basis? Or has it become simply a crutch for state and local governments, used for questionable purposes in areas where local tax expenditures should prevail?

Certainly the veteran Democratic senator from Wisconsin knows he did not make a hit with those in state and local government by questioning the revenue sharing program. The pressures they have applied have been eloquent in making that clear. But even though continued revenue sharing has great merit in returning taxes to states and cities in need, it is a program that must be monitored carefully so that the billions appropriated in its name are not misused. For his efforts in that direction, Sen. Proxmire deserves praise rather than criticism.

[From the Elkhorn Independent, Aug. 17,
1976]

Proxmire and Revenue Sharing

It will take a great deal of courage for Sen. William Proxmire particularly in an election year, to maintain his opposition to continuing federal revenue sharing after it expires this year. He is getting heat from local and state officials all down the line who want to see that federal giveaway program continued.

The question has, indeed, made some "strange political bedfellows" as Proxmire's Republican opponent this fall is almost as vehement in his denunciations of the Senator's stand as is Henry Maier, Democratic mayor of the City of Milwaukee.

It is easy to understand why local and state officials want to see the revenue sharing program continued. What elected official wouldn't want this "manna from Heaven" that he can spend without having to justify the cause to the local taxpayer. The position of Proxmire's Republican opponent is a little more difficult to understand.

Sen. Proxmire's alternative to the present revenue sharing program is so beautifully simple that it is probably politically impossible. He wants to return these funds directly to the taxpayer and then let the local or state levels of government justify the taxation necessary to finance whatever programs were initially proposed.

This idea puts the responsibility for raising the money in the proper spot. . . . in the same place where it's going to be spent.

While most revenue sharing funds have been prudently spent, there is always the gnawing question: "Would we have spent this money for this purpose if we had to raise it locally?" The answer in the majority of cases would be, no.

Proponents of continued revenue sharing flail their arms about how much local taxes would have to go up to replace the missing federal funds. Of course, they would go up if we continued to spend at the same pace, but there would also have to be a commensurate DECREASE in the federal tax burden. It is our opinion that we would soon learn to live a little "lower off the hog" with some of our governmental services if we were paying for them at the local level.

School districts are a beautiful example of taxing responsibility located closest to spending authority as the bulk of school costs come directly from the property tax. While the majority of citizens still choose not to exercise their rights at annual school meetings when budgets are set, the framework is still there for plain old grassroots dissent in a place where something can actually be done. Occasionally, a controversial item like the recent tennis court construction question here, smokes out a decent sized crowd, but the opportunity always exists to have a real say on what your property taxes will be.

Granted, it appears to be old fashioned, but we like the idea of having more to say about how our tax dollars are being spent, and the elimination of federal revenue sharing would at least point us back in that direction.

Hang in there, Senator!

Mr. PROXMIRE. Mr. President, I recognize the objections to amending this bill.

I do not know of any bill which has had stronger support from the mayors and city council members, and the other highly influential people in States, than this bill, for obvious reasons.

The vote on the Biden amendment made it clear what the disposition of the Senate is. In the House, it was 10 to 1—361 to 35—for passage of the bill in the form very similar to that we are considering here in the Senate, that is as to the attitude Members of Congress have on this legislation.

I am a realist. I have been here long enough; I know this amendment has no chance of passing. But I do think it is important to have it before the Senate.

For that reason, I appeared before the Finance Committee to support the amendment and have made this presentation on the floor.

However, recognizing that the amendment has no real chance of passage, I now withdraw the amendment.

UP AMENDMENT NO. 448

Mr. HUGH SCOTT. Mr. President, I wish to propose two amendments to H.R. 13367 which are not different in any way in content with my previous amendments 2245 and 2246, but differ as to the pertinent sections of H.R. 13367, as reported to the Senate Finance Committee, that will be amended.

Mr. President, I call up my unprinted amendment which I have offered in lieu of amendment No. 2246 and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Hugh Scott), for himself, Mr. Young, Mr. McGovern, Mr. Stevens, and Mr. Thurmond, proposes an unprinted amendment numbered 448:

On page 47, line 7, after the period add the following:

No provision of this section shall be deemed to prevent units of local government served by the same newspaper of general circulation from combining and consolidating the information required to be published under this subsection in a single joint publication, provided such a joint publication clearly identifies the required information pertaining to each such unit.

Mr. HUGH SCOTT. Mr. President, this is a very simple amendment. It deals only with the method by which units of local government advertise in the newspaper their proposed use reports. The public reporting requirements in the original revenue-sharing program required repetitive advertising and resulted in a drain of revenue-sharing moneys. This amendment would permit government units to join together and publish their reports. The reports obviously could be published in much less space and at a cheaper cost. At the same time, the public will be better able to compare projects, budgets, and revenue-sharing expenditures with other communities who cooperate in this program requirement. In no way does this amendment eliminate the quantity or quality of public disclosure under the act.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the senior Senator from Pennsylvania, Senator HUGH SCOTT, to the general revenue sharing bill, H.R. 13367, which would allow cities and towns served by the same newspaper of general circulation to join in their publication of required information, concerning revenue sharing. I want to commend the Senator from Pennsylvania on his foresight in recognizing the problems of small towns and fashioning remedies for these situations, and I was pleased to join him as a cosponsor.

As I am sure you are all aware, there are many instances in which a number of towns in a county are served by the same newspaper. This occurs not only when a county is basically rural and has one weekly or semiweekly newspaper of general circulation in the county. It also results where satellite townships are served by a large metropolitan newspaper.

Obviously, the expense of publication of required information would be greatly reduced by this amendment. Revenue sharing was designed to return much-needed funds to local governments, not to require needless expenditures by these governments when a simplified alternative is available. This amendment provides such an alternative, and I urge its favorable consideration.

Mr. YOUNG. Mr. President, I join in support of the amendment. It would save a lot of money on the part of local political subdivisions, especially the smaller ones. They could join together and publish at one time. Maybe some of the smaller newspapers would not like it too well as they would lose a little money, but it would save an expense to many smaller towns.

Mr. HUGH SCOTT. I appreciate the comment of the Senator from North Dakota.

Mr. LONG. I believe the amendment has merit. It could amount to an overall saving in the cost of advertising without reducing the effectiveness or the notice that the public is expected to receive. I think the amendment should be agreed to. Unless we can find some unforeseen problem with it, I would very much hope that the House would also accept it.

Mr. HUGH SCOTT. I thank the distinguished Senator.

Mr. PACKWOOD. Mr. President, I support the amendment of the Senator from Pennsylvania.

Mr. HUGH SCOTT. I thank the Senator from Oregon. I call for a vote, Mr. President.

The PRESIDING OFFICER (Mr. CULVER). The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 449

Mr. HUGH SCOTT. Mr. President, I call up my unprinted amendment in lieu of my former amendment No. 2245.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HUGH SCOTT) proposes unprinted amendment No. 449.

The amendment is as follows:

On page 44, insert the following:

(g). Section 102 (relating to payments to State and local governments) is amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof the following: ", except that, where the Secretary determines that the entitlement of a unit of local government to funds made available under this subtitle for an entitlement period will be less than $2,000, the payment not later than 5 days after the close of the first quarter of such entitlement period.".

Mr. HUGH SCOTT. This amendment is offered to provide more budgetary flexibility for hundreds of small jurisdictions throughout the United States. I think it is a meritorious amendment.

A jurisdiction that receives $2,000 or less in revenue sharing funds for 1 fiscal year would be permitted to receive their full entitlement no later than 5 days after the close of the first quarter of the entitlement period. This amendment will provide an amount of money to smaller communities in a more usable size and at the same time will result in a number of administrative savings—public hearings and reporting requirements will only be required once, and fewer checks and less paperwork will be needed at the Federal level. I strongly urge the Senate to adopt this amendment and provide more budgetary flexibility for hundreds of small jurisdictions throughout the United States.

I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, this is another amendment which is very important to sparsely populated States. In many small cities, towns, or townships they only got $70 or $80 per quarter. This means a great deal of expense to the Government to mail out the checks. This being a 6-year bill, it would mean mailing out 24 checks. I realize they would have a little trouble changing their system, but it would leave it so that they would not have to mail out but six checks in the next 6 years. When there is such a small amount, it does not make much sense to have to mail out these little checks four times a year for the next 6 years.

Mr. LONG. Mr. President, there are problems with this amendment beyond those which meet the eye. We have in this bill agreed that each community would only have to report one time instead of two times on what they do with their money.

In addition to that, Mr. President, they do not have to report to Washington at all. All they have to do is just report to their own people.

The Senator from Pennsylvania has wisely offered an amendment that we agreed to take that would say that these people can consolidate their reporting with other communities to reduce publication expenses and consolidate their reporting operations. But, Mr. President, when we say that communities can receive a single payment for an entitlement period, up to a certain figure, we are faced with the question of where do we cut this off? If we say we will set it at a fixed level, say the cutoff is $2,000, someone will immediately complain, "We are getting only $5,000, why not give a lump sum to our community?" And someone else asks that the cutoff be set at a higher level.

Once we start saying, "You will not send four checks but only one check a year," I do not know how any of us can defend any particular cutoff point and say that a community with something more than that should not have the benefit of a lump sum payment.

Obviously, if we provide small communities with their money in one annual installment, then the interest cost to the Federal Government could also add to the cost of this program. Really, Mr. President, if extended—and I do not see how we could keep it from being extended if we start down this road—it could lead to a very substantial additional cost to the Federal Government and also a cash flow problem for the Federal Government.

If communities are going to spend this money the way we anticipate, they should be spending it over four quarters rather than one quarter. In view of the fact that their tax collections or revenue usually comes in over a period of a year, we would contend that the money which we collect should be shared with them as we receive it also.

I would hope very much that the Senator would not insist on his amendment at this time. Maybe later on we could find a better answer to the problem, but right now it poses other problems to which we are not able to provide answers.

Mr. HUGH SCOTT. I would hope as revenue sharing develops that this sort of simplification could be given careful consideration. I believe in the amendment. I believe it is a good one. I have to face the realities that the committee expresses opposition to it through its chairman and that it would have difficulty surviving in conference if we were fortunate enough to have it passed. I would much prefer to see it in the bill.

In view of this situation, I would most reluctantly withdraw the amendment, though I hate very much to do so.

Mr. LONG. I thank the Senator. I want to assure the Senator that the amendment to which we agreed we will definitely fight for in conference.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. I yield to the Senator from New York.

Mr. JAVITS. On behalf of Senator SCOTT, I would like to make this observation: I am considering proposing an amendment calling for monthly payments to States which receive in excess of $40 million a quarter in view of the very grave difficulties the States, including my own, have in raising money. It would affect 19 States. The estimate of the possible cost to the Federal Government is $15 million in interest. The effect would be of such inestimable value to the States and State financing in the country that I believe it is eminently justified. I wanted to serve notice, because it properly belongs with Senator SCOTT's amendment. I wish he had persisted. I shall offer that somewhat later today. I thank my colleague.

UP AMENDMENT NO. 450

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL), for himself, Mr. BROOKE, Mr. JAVITS, and Mr. KENNEDY, proposes unprinted amendment No. 450. The amendment is as follows:

On page 47, line 25, immediately after the period add the following: "Any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (39 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355) shall also apply to any such program or activity.".

On page 48, line 20, immediately before "and" insert the following: "or a violation of any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355),".

On page 48, line 22, strike out "or".

On page 48, line 23, immediately before "is" insert a comma and "or violation".

On page 51, line 18, immediately before the period insert a comma and the following: "or violated any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355) in connection with any such program or activity".

On page 52, line 7, immediately after "sex," insert the following: "or a violation of any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975 (89 Stat. 728) or a handicap as provided in section 504 of the Rehabilitation Act of 1973 (87 Stat. 355),".

Mr. GRAVEL. Mr. President, I ask unanimous consent that William L. Hoffman of my staff, Janet McNair of the House Judiciary Committee, and Richard Aks, of my staff, be granted the privilege of the floor during the consideration of the pending bill, and also Mark Coven, of the office of Senator DURKIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I would like to include Senator BIDEN as cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, addressing myself to the manager of the bill, the Senator from Louisiana, if I may have his attention, I would be happy to take up each one of the amendments and then agree to voting three times in a row, the first to be a normal length vote and the other two votes to be 10-minute votes to accommodate the membership. I think we could handle each of the three amendments in 10 or 15 minutes' time in toto, if that would be agreeable.

The PRESIDING OFFICER. It has already been agreed that all votes today will be 10-minute votes.

Mr. LONG. Mr. President, I believe the Senator has made a suggestion that would be a convenience to the Senate. I would be willing to do that. The Senator's three amendments would be offered and after we debate them we would vote without further debate.

Mr. GRAVEL. Right, on all three of them.

Mr. LONG. And three rollcall votes?

Mr. GRAVEL. Three rollcall votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AGE AND HANDICAPPED STATUS

Mr. GRAVEL. Mr. President, this amendment to the Senate version of H.R. 13367 would reinstate the prohibitions against discrimination on the basis of age and handicapped status in the uses of general revenue sharing funds. Although the House bill contains these prohibitions, the Senate Finance Committee unfortunately voted to delete the references.

The Age Discrimination Act of 1975 prohibits unreasonable discrimination on the basis of age in programs or activities receiving Federal financial assistance, including a specific reference to funds provided under the State and Local Fiscal Assistance Act of 1972. I believe that we should amend the Revenue Sharing Act itself to prohibit age bias.

The enforcement mechanism provided in the 1975 act is much more general and loosely structured. In effect, the enforcement mechanism of that act tracks the existing revenue sharing law. The Senate Finance Committee, however, in reporting H.R. 13367 found that it was necessary to tighten up, substantially, the civil rights enforcement procedures under revenue sharing. Therefore, by adding an age bias prohibition to the Revenue Sharing Act itself, as I propose, that prohibition would be subject to the strict enforcement timetables adopted by the committee. To not adopt my amendment and instead to rely solely on the 1975 legislation is to leave those suffering from age bias with much weaker and more loosely structured remedies.

With regard to handicapped status, Congress passed the Rehabilitation Act of 1973 which stated that "no otherwise qualified handicapped individual in the United States—shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." This law was a clear recognition that this type of discrimination persists and must be ended. Both the House Judiciary Subcommittee on Civil and Constitutional Rights and the General Counsel of the General Accounting Office share the opinion that the revenue sharing program should be deemed to be covered by this legislation. However, the Treasury Department has refused to carry out a responsible civil rights program and will not act on the issue of discrimination against handicapped persons without express congressional authorization.

This amendment would prohibit discrimination against the aged and handicapped in exactly the same fashion as is done under existing law.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. GRAVEL. I am happy to yield.

Mr. LONG. Could we agree to a limitation of debate, so that Senators could know how to make their plans? Would the Senator be willing to agree, for example, that on these three amendments we would have, let us say, 40 minutes of debate to be equally divided between the proponent of the amendment and the manager of the bill?

Mr. GRAVEL. That might shortchange us on a particular amendment. Could we agree to a time on each amendment, rather than 40 minutes on all of them, so that in case we need more time for one, say, if we had 20 minutes per amendment, that would be 10 minutes to each side? This one is considerably simpler than another one, and we could yield back some of our time on this one and proceed to the next amendment.

Mr. PACKWOOD. Mr. President, in behalf of the ranking Republican Members, I would have to object to a time limitation agreement on any amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. The Age Discrimination Act clearly allows the existence of programs that are specifically designed to assist the aged. This is something very important to understand, because the allegation may well be made that what we are placing in motion here is the ability to discriminate against the aged. That is not the case at all. Let me repeat: The Age Discrimination Act clearly allows the existence of programs that are specifically designed to assist the aged.

Mr. PACKWOOD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I yield.

Mr. PACKWOOD. Does that mean it is for persons 65 or over, and someone who is 63 cannot claim discrimination? The same applies to the handicapped. For example, if the Government decides to have special programs for the blind, a person who is deaf could not complain of being discriminated against because it applied only to the blind.

Mr. GRAVEL. I think it is a question of reasonableness. I do not think a handicapped person could complain that a post office does not have a wheelchair ramp to every single door, but if they had wheelchair access to the building, that would certainly be a reasonable circumstance.

Mr. PACKWOOD. In looking at the Senator's amendment, though, I want to be sure the record is sufficiently clear that in execution this would not permit what some people might call reverse discrimination. Just singling out a group of people 65 or older should not mean that others cannot bring suit, or just because you have a certain handicap should not mean others differently handicapped could not sue. I would not want to put into something that would result in lawsuits of that nature.

Mr. GRAVEL. No, this does nothing more than take existing law and focus it on this type of funding, which is necessary because of lack of attention by the Treasury to the civil rights aspect of this issue.

Mr. PACKWOOD. Is the Senator's amendment on religion also at the desk?

Mr. GRAVEL. It is not at the desk. I will be sending it to the desk shortly. We have one on attorneys' fees also.

Mr. PACKWOOD. I thank the Senator.

Mr. GRAVEL. We can provide the Senator a copy.

This amendment defines age discrimination as it is defined in existing law.

Similarly, the Rehabilitation Act of 1973 has been interpreted to require reasonable accommodation to the known physical and mental limitations of a handicapped person. Some have raised the argument that a prohibition on handicap discrimination raises the specter of wheelchair ramps at every door of any building funded in whole or in part with revenue sharing funds. I want to make it very clear that we are talking about reasonable accommodation. A handicapped person should have access to every building, but not necessarily access to every door of that building.

I urge my colleagues to accept this amendment which specifies the types of discrimination the Department of Treasury must prohibit and which will put the revenue sharing program in harmony with existing Federal civil rights statutes and other parts of existing law.

Mr. President, I have no further comment to make on this amendment, and would be happy to address myself to any response that any Senator in opposition to the amendment may wish to make.

Mr. LONG. Mr. President, the problem raised by this amendment, as well as those that will follow, is that really one cannot tell just what the amendments are going to mean until they have been construed by the courts.

We already have in this bill two procedures whereby revenue sharing funds can be withheld because of discrimination based on race or because of discrimination based on sex.

The provision regarding discrimination based on sex, Mr. President, is similar to the equal rights amendment. Revenue sharing money will be held up if it should be found that a recipient government is discriminating based on sex.

The reason that the equal rights amendment has not been approved by all the State legislatures, in spite of the enormous pressure by very able and talented women's organizations to enact it, is because nobody can tell you what the amendment means; in other words, given 100 different hypothetical situations people cannot tell you for certain what the answer will be with regard to any of them.

In an effort to meet this problem we did say, "All right, we will leave in this bill the provision permitting revenue sharing money to be held up if there appears to be a case of discrimination based on sex."

That alone provides a basis for anyone, be he man or woman, to file a lawsuit and tie the money up in court while it is contended that there is discrimination based on sex. A man can contend that the money ought to be held up because they hired a woman and he is a man, and this was a case of a woman being favored because they prefer a woman to be a secretary. A man can file his lawsuit, and all these procedures will apply. The man can either go the administrative route by petitioning for the exercise of the powers of the Secretary of the Treasury, or he can proceed by way of the Attorney General, and sue to tie the money up. The recipient units of government may very well have to expend as much money as they receive in revenue sharing money in fighting this matter through the courts if they want to argue about it, because an individual contends that there is a discrimination based on sex.

Units of Government have that to contend with in addition to the various civil rights matters that are so familiar to all of us.

In addition to that, the Senator now seeks to add a provision to say that you tie the money up because of discrimination based on disability. Look at all the potential for some little government, be it a county government or city government, having its money tied up because someone says he is discriminated against because of disability.

Let us take a situation that is familiar to me where we had a man who was blind operating a little stand, that was a tradition in the courthouse in my hometown, where we always save that job operating this little stand to sell Coca-Colas, refreshments, pencils, and various other items, such as you would see around an airport available to you, including newspapers, and various things that could be handled in a little newsstand. This blind person would handle such things as he could, and that job was always reserved for a blind person.

Under this amendment, someone could file a lawsuit and contend that revenue sharing money ought to be cut off because in the courthouse they had a man who was permitted to operate this little stand and that only a blind person is permitted to have that job, and he was being discriminated against because he was not blind.

If we have a program implemented, let us say, to have a sheltered workshop to help disabled people and we are going to have some limitation as to who we are going to help or we are not going to help because they are disabled, anyone can contend that he has some disability and the regulations we have are not broad enough to include him so he is being discriminated against and the money ought to be held up.

The Senator has another amendment, which follows behind this, that would tie the money up because of religion. We had people from the Catholic groups and the Jewish organizations coming before the committee testifying against that. Let us say, various religious groups have homes for aged people. They sponsor these homes. If a local government has some service, such as meals that they serve, or some other social service, and they provide it to all people, including those who are in this home, it can be contended that because they serve those people in that particular home and in that particular home those of a particular religion are favored, that amounts to discrimination based on religion.

Likewise, when bus service to take children to school is provided, as is done in many States, similar discrimination suits may be instituted. I know it is difficult to keep up with the latest pronouncements of the Supreme Court, but I know for many years, after I came to the Senate, my understanding was that that did not prevent providing services to children regardless of what school the children happened to attend. Whether they went to a parochial school or whether they went to a public school, the theory was the service was being provided to children and it did not make any difference if they went to a public school or a parochial school. They still had a right to the service that was being provided to children.

My father won the case in the Supreme Court to say that you could provide schoolbooks to children regardless of where those children went to school. That was one of the difficulties that had to be overcome in providing free schoolbooks in the State of Louisiana.

To put this provision in here, that you cannot discriminate because of religion, lays the whole program open. If someone is providing a book or service to a child attending a parochial school, that may be discrimination based on religion.

I recall how the whole problem arose in Louisiana many, many years ago because I read about it. Back at that time the problem arose for a Governor who was trying to provide schoolbooks to children. As a practical matter it would have very greatly reduced the support for that proposal if he were not able to provide books to those little children going to Catholic schools. One could expect the Catholics, therefore, to be against the program because they paid their share of taxes and would not be permitted to share in the benefits.

If you were going to do this for children you needed to be able to do it for Catholic children as well as for those who did not attend the parochial schools.

Otherwise, politically it was not feasible.

When you provided books to all children, you were then accused of favoring or, at least, violating the separation of church and state. So it was necessary to win that lawsuit in the Supreme Court to prove that you could provide the service to all children regardless of where they happened to go to school.

I do not know why we would want to tie up a revenue sharing bill with all these uncertainties. No one can tell you at this point what the Court is going to hold in reference to all that. There is a whole area of reverse discrimination where you start out trying to say that women will have equal pay for equal work and then you find that you are being sued by men who contend they are being discriminated against because they are not getting the corresponding rate that was sought to provide equal pay for women. There is also this area where you try to say that you are going to see that one is not discriminated against because of race and then the way the case develops in court it is just the other way around. The white man sues and contends he is being discriminated against because someone of another color was hired and he was not considered because, in that case, he was of the wrong color, white rather than black. Then there is this problem involving religion where one contends that he was discriminated against because he was a member of a religious group rather than because he was not, or vice versa.

All of those things, Mr. President, present more potential and more ways to hold up someone's revenue sharing than the mind of man can conceive here in the Senate today. I do not think there is a single Senator who can conceive of even 50 percent of the various bases upon which one can file a suit and tie up revenue sharing money. If we look at all the different ways in which one can raise the issue either directly or indirectly, either of discrimination or reverse discrimination, and at this point no one knows how the courts are going to rule on discrimination, we just do not know what the limits of these provisions will be. Now we say you cannot discriminate based on race. That is in the bill, and that we support.

Then you cannot discriminate based on sex, and no one can tell you right now what all that is going to mean, but that is an additional burden on the communities. Then you are going to add that you cannot discriminate based on age, and no one can tell you all that will lead to.

Then you cannot discriminate based on a person's ability or disability. No one can tell you what that is going to lead to. You cannot discriminate on the basis of religion, and no one can tell you what that is going to lead to. It gets down to this point: Do you want these people to get some money or not?

Mr. ROTH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. ROTH. I am concerned, as the distinguished Senator from Louisiana is, that this is going to bring great uncertainty into this whole picture. It seems to me that there are two things we have to bear in mind. No one really knows what the effect of the so-called Gravel amendments will be.

As the Senator from Louisiana has pointed out, it means that much of this is going to end up in the courts, to be litigated, and the funds are not going to accomplish the good they have accomplished in the past.

We recognize the fact that many valuable services are being provided by religious groups—the Catholic Church, the Protestant, as well as the Jewish.

With respect to changing or modifying the language which was very carefully drafted 5 years ago, when the legislation fire came up, Mr. Celler, who was chairman of the Judiciary Committee, purposely kept some of these words out because of these inconsistencies and the lack of precision.

It seems to me—and I ask the Senator from Louisiana whether he agrees—that a second negative effect of the language in these amendments is that it not only puts it into the courts, but also, many States and many administrators are going to be afraid to make these funds available to the religious and other institutions, for fear that it is illegal or that the courts will rule against them and that, as a result, these services that are being provided by churches and other groups—lunches, safety, and buses for children—may be stopped.

There also is the problem of fundibility and the question of what the State or the community, if the revenue funds become part of the State or community funds, is going to do with those funds.

These are questions no one can answer with certainty. Does the Senator agree with that?

Mr. LONG. Yes. In other words, the question is, Do we provide a social service? Do we try to do something for our aged? The Senator is right.

One might say: "I would like to help these old people, but we might be sued, and we better not take that chance. So the safe thing to do is not to use any of this money to help these old people. We would like to do something to help alcoholics. Alcoholism can be regarded as a disability. We would like to do something to help redeem alcoholics, but we might be sued, so we better not get involved in that. That might be regarded as discrimination based on disability."

We might want to do something to help children, for instance, develop a program for physical fitness for little children. The playground we would like to use for that purpose is owned by the YMCA. That stands for Young Men's Christian Association. We had better not do that, because we might be sued, because that is a YMCA playground or a YMCA gymnasium. The safe thing to do is not to get involved in any of this.

With all that, the town or county then is confronted with the problem of trying not to put money into anything that will help young people or old people or the disabled.

If we think of all the problems and bases upon which these people can be sued, just based on existing law—race, color, national origin, or sex—nobody can tell where the court will wind up. Now, it is proposed that we put in restrictions on age, handicaps, and religion, and that raises the question, "Are you ready for revenue sharing? Do you want the people to have the money or not?"

I think the House committee chairman would tell most of us forthrightly that his view is that he does not want them to have the money, anyhow. I have shared the platform with the House chairman, Mr. Jack Brooks, and he has spoken out against revenue sharing. He compared the program to a snake. He said, "If you see a snake, you ought to kill it at any chance you get." He indicated that if he could, he would kill the revenue-sharing program. Having failed to find the votes to kill the program directly, we see all these strings being added, which to me present an insurmountable burden for one to be sure he will get the money.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

CRIME CONTROL ACT OF 1976

Mr. McCLELLAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2212.

The PRESIDING OFFICER (Mr. Culver) laid before the Senate the amendments of the House of Representatives to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

(The amendments of the House are printed in the Record of September 2, 1976, beginning at page 28965.

Mr. McCLELLAN. Mr. President, I move that the Senate disagree to the amendments of the House, that the Senate request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McClellan, Mr. Philip A. Hart, Mr. Eastland, Mr. Kennedy, Mr. Robert C. Byrd, Mr. Hruska, Mr. Hugh Scott, Mr. Thurmond, and Mr. William L. Scott conferees on the part of the Senate.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Massachusetts.

Mr. BROOKE. I just want to make it crystal clear to the distinguished chairman of the committee that I am for revenue sharing. I do not want to do anything in any way to hurt revenue sharing. I would like to see it continued, I would like to see its funding increased; and I want to see this bill passed. I think that is also true of the distinguished Senator from Alaska who has proposed these amendments.

As I understand it, we are not trying to write new law. All we are trying to do is to track the existing law in this bill.

The House passed this measure with nondiscrimination provisions for the aged and the handicapped and a nondiscrimination provision with respect to religion. I do not know whether they included attorneys' fees or not, but certainly they had the other provisions in the language of the bill. It is my understanding that the Finance Committee deleted these sections. And that is why we do not have it before the Senate at the present time.

But let me again emphasize that the provisions passed by the House and contained in our amendments restate the existing law.

Why does the Senator feel that we have any more difficulty with having antidiscrimination language in the revenue-sharing bill than in any other legislation that we have or have had before Congress?

Mr. LONG. Let me read the existing law:

> No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be

> denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with funds made available under subtitle A.

That is fine; that is the existing law.

The House bill then proceeds to add to this the provisions as to age, disability, religion.

When all those are added to it, it sets the stage for so many bases upon which the money can be tied up and so much uncertainty as to what the money can be used for that it very drastically and severely limits what can be done with this money in order to help people or to benefit those in a community.

I do not think any Member of the Senate has more consistently tried to help the disabled than has the Senator from Louisiana. When I came to the Senate 28 years ago, I was leading the charge to provide that disabled people be protected under public welfare, and we got that. I fought to have them protected under social security. Then we fought to see that we would get them under medicaid and medicare. I support all those things.

However, when we think of all the bases upon which people can sue, we can see the problem. For example, one can sue the community and say:

> You have a program over here for a sheltered workshop for disabled people. They have certain guidelines by which they decide who should get the benefits. Now, I am not permitted to participate in that program; therefore, I am being discriminated against.

So you can sue to say:

> The revenue money should be held up because they are discriminating against me based on disability. I have some slight disability, not enough to bring me into the guidelines they have for the sheltered workshop.

Just as the Senator from Delaware points out, people say:

> Look, the best thing to do is not put money into a program like that; then they cannot sue for it. Then they cannot hold up the money.

The same type of thing applies to people in a great number of other areas.

For example, here came in good people speaking for the Catholics with regard to their parochial schools, and speaking for certain Jewish people whom they represent, to say, "All right, we have people here who have a nursing home," or, "We have a home for aged people." They are Catholics, maybe somebody else is Jewish. They say, "All right, we are going to take care of our own before we take care of others."

That is definite discrimination based on religion. Then you seek to provide services to all people in the community who are disabled or who are aged and you would like to provide them a social service.

Mr. BROOKE. But that is out of the Gravel amendment, as I understand it.

Mr. LONG. There is no way we can take that out of it.

Mr. GRAVEL. If I may correct the Senator, that is existing law.

Mr. LONG. I understand that there is an existing law that does not apply to local government at this moment, which the Senator from Alaska would like to make applicable to this.

Now, there is going to be enough litigation on this law the way it stands now, without holding up revenue-sharing money for it.

Mr. GRAVEL. That is not the law I am talking about. I am talking about the Age Discrimination Act of 1975. It permits an old folks' home to discriminate for old folks. That is built right into the law. So nobody is going to be able to say:

> You know, I want to be an old folk and I am being denied something.

Unfortunately, my colleague is bringing in religion and other matters which are really not germane to this amendment. If we stick to aged and handicapped, I think we can be precise.

Mr. LONG. That is age only and has nothing to do with handicapped.

Mr. BROOKE. But there is also the Rehabilitation Act of 1973.

Mr. GRAVEL. That is right. The specter that is being raised is false. In fact. I want to focus on that one point. It gets to the guts of the opposition. First, there is uncertainty here and the fear that people are going to be denied their funds. That is not the case at all. Let us just back up and say, in reference to the comment that the only safe thing to do is not take the funds—the motivation behind all of this is the fact that there exists some discrimination. That is the motivation. So, if there is a safe thing to do, it is to not discriminate. If you want the money and you are discriminating, you are not going to be able to do it.

Understand one thing: My colleague from Louisiana repeated on three different occasions, "File the suit and tie up the funds."

Another comment is that the money will be held up. Let me make it abundantly clear: There is no money held up as a result of this amendment. To hold up money—and I hope no one will come in with the homily that one old blind man is going to be sued by another guy who is not blind. Let us be very clear that you cannot hold up these moneys by merely filing a suit. You have to win your suit. A responsible Federal judge has to come in and say, "Hey, you have discriminated"—which was the case in Chicago, where there was discrimination in the police department. The Treasury was doing nothing, and it took a Federal judge to make them hold up the money.

We would not have legislation here if the Department of the Treasury had done its job under existing law. But it has not. That is why we have to be precise and take them by the scruff of the neck and stick their nose in it and make them obey the law.

Mr. BROOKE. And there must be a finding of noncompliance.

Mr. GRAVEL. By the Secretary of the Treasury, no less a person. So we are not talking about holding up money through some capricious misunderstanding or by somebody who has a beef against the city, or municipality, or State. It has to be done by the Secretary of the Treasury or an administrative law judge, or brought to Federal court and have a finding of some Federal court.

There is no room for irresponsibility here. If it goes through that due process of law and these responsible people find discrimination, is it so much to ask that now we can say, "You cannot use your funds?"

Here is what happens to the funds. The funds are escrowed. It is not taken away from them. It is not in permanent damage. They are escrowed until they stop discriminating.

To answer a question like that of my colleague from Louisiana when he says, the only safe thing to do is not take the money—you know what the only safe thing to do is? Stop discriminating. Then they can have the money like everybody else.

Mr. BROOKE. Will the Senator yield?

Mr. GRAVEL. Yes, I am happy to yield.

Mr. BROOKE. As I understand it, and I think the Senator from Louisiana is correct, the House bill, as such, is so loosely drawn that I can understand why he cannot accept it. But the amendment of the Senator from Alaska, I think, tightens it up. Under the language of the Gravel amendment, I think the Senator from Louisiana would take that amendment and the one on religion because we have corrected the discrepancy left in there by the House language, which, admittedly, was loosely drawn.

Mr. LONG. Mr. President, here is a provision on nondiscrimination under Public Law 93–112 regarding the handicapped. It says:

> No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

If we accept the Gravel amendment, the bill will proceed to provide a procedure whereby an individual can apply to the Secretary of the Treasury, and the Secretary of the Treasury must decide this matter. Thereafter the complaint can be argued before an administrative judge and funds can be held up if discrimination is found to exist.

Now, if the individual is not satisfied with that, he can hire his own lawyer and sue the community because he is not satisfied and can take that matter to court. The Senator has another amendment for the Government to be required to pay the cost of the lawyer.

Furthermore, I refer to page 55 of the bill, new section 122(f) of the revenue sharing law:

> "(f) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.

Mr. PASTORE. May I ask a question for clarification?

Mr. LONG. Yes.

Mr. PASTORE. We usually indulge in generalities here and talk around the mulberry bush, and we never seem to get at the meat of the nut. I have been sitting here now for almost an hour, and I heard the discussion about religion, Catholicism, and that sort of thing.

In my State, there is a place known as Villa Scalabrini. I had a lot to do with the establishment of that. It takes care of people mostly of Italian descent, and the institution is run mostly by nuns. What does that have to do with this bill or this amendment?

Mr. GRAVEL. I shall help my colleague.

Mr. PASTORE. I do not want any help, I just want a little explanation.

Mr. GRAVEL. That is what I intend to do. I assume a little explanation would be of some help.

Mr. PASTORE. It would be a help to greater understanding.

Mr. GRAVEL. That is our goal, better understanding through knowledge, so we can make better decisions.

Here is how it would affect that nursing home that would cater to, let us say, an Italian clientele. It would still be the decision of the local authorities if they wanted to have the money go to this nursing home, either State or local government. They would turn the money over to help out the nursing home, either for a hot lunch program or whatever type of program was decided upon. They could receive that money.

At the same time, the home could discriminate toward Italian Catholics if they chose. If they have so many beds, let us say 100, and they have 500 people on the waiting list, they have every right to turn around and say, "We are going to take the first 100 Italian Catholics into this old folks' home, because this is the reason we, as nuns, have founded this home, to take care of good Italian Catholics until they go to their greater reward." There is nothing to prevent that.

Mr. PASTORE. Wait a minute. Let us take this step by step. Would you mind doing that?

Mr. GRAVEL. Nothing will stop that.

Mr. PASTORE. Let us take it step by step. This institution is already established. This institution does exist. I would dare say that 100 percent of the elderly who are there, men and women, are of Italian descent, and they are being provided for by these Nuns of Mercy who do a marvelous job.

Do you mean to tell me that without the Senator's amendment or with his amendment if we had a hot lunch program that would apply to them in this particular case because they are all nuns and all Catholics, and it is not open, let us say, to the Protestants or the Jews or whatever the case might be that the practice has been, that this is a home for the Italian aged, that in that particular case you could not have the hot lunch program?

Mr. GRAVEL. No; that is the point I am making, you see, because we are doing——

Mr. PASTORE. Will somebody explain that?

Mr. GRAVEL. The reason is we are doing no more than existing law. Existing law permits what you are trying to arrive at. The Senator voted for that existing law when it came into being in 1975. So we are not trying to do any more than what is in existing law and what existing law has done.

What is tragic is that the Finance Committee has backwatered from the level we have arrived at in existing law. We are not writing new law, we are writing existing law, and it permits your Italian old folks home to use Federal moneys for a hot lunch program or other program areas they may choose if the Senate will approve my amendment.

Mr. LONG. Let me put it my way. The way I read the amendment, it says if the Federal Government wants to make a grant to that home, because there is a religious aspect to it or racial aspect to it, and they tend to prefer their own kind in determining who may be a resident, that home should not participate in a Federal program that helps to pay part of the cost of it.

We then get to point No. 2, and regardless of what the final holding is, you have these uncertainties. You never know what the court is going to hold until the matter is decided by the court.

Another point is that the locality takes its money and puts it into its operating budgets. Then there is a lawsuit which says that all the revenue-sharing money ought to be held up because the locality is discriminating in providing some of this money to an organization which is clearly discriminating in favor of a certain racial group or certain group with the same national origin or discriminating in favor of people of the Catholic faith.

Mr. PASTORE. May I take it one step further. Let us assume you have a parochial school and in that case they happen to be 100 percent of the Catholic religion. In that particular case what would happen if the city or town that school happens to be in would allow them to come in on a hot lunch program?

Mr. LONG. The same problem.

Mr. GRAVEL. I could read the Senator the specific language.

Mr. PASTORE. There you are confusing, confusing. You disagree with that?

Mr. GRAVEL. Very strongly.

Mr. LONG. That is why this witness came up here to testify on behalf of the U.S. Catholic Conference that from their point of view they can see how this amendment could mean that these little children who go to a Catholic parochial school could not participate in a free lunch program if the city was putting some of its money into it, and they could not participate in, let us say, bus transportation the city might be providing to get the children to and from the school on the ground it could be contended that this amounted to helping someone who, in turn, favored their own religious group in terms of the fact that most of the people they selected—not all, but most of the people they selected—were people of a particular religious faith because that is why the school was established.

Mr. PASTORE. Do I understand the Senator correctly that the representatives of the Catholic Conference are opposed to the Gravel amendment?

Mr. LONG. And came up testifying against it.

Mr. GRAVEL. That is not the amendment we have before us; that is not so.

Mr. LONG. That is what the House had in its bill, which is basically what the Senator is seeking to do here.

Mr. GRAVEL. That is not the amendment we have before us.

Mr. LONG. It is the point that the Senator from Delaware is making, and I do not see any way out of this: If one is receiving a substantial amount of revenue sharing where it is important to them, and if any of this money directly or indirectly finds its way into benefiting that little school you are talking about or that old folks home you are talking about, you know you are subject to being sued, and you do not know for certain how the thing is going to come out, then what is the tendency of the average public official? The average official might say, "Don't give that school any money because if you give them some, you could be sued." So you do not know what to expect.

Mr. PASTORE. Let us get away from a parochial school. Let us take a Hebrew school.

Mr. LONG. The same thing.

Mr. PASTORE. Yes.

Mr. GRAVEL. What the Senator is doing is arguing against existing law. He is not arguing against my amendment; he is arguing against existing law. If the Senator's Italian old folks home is surviving under existing law and these white or black schools are surviving under existing law, my amendment does nothing more than existing law.

What the Senator is trying to do is to make a case, he is arguing against the 1975 act. It is like we have a deja vu.

We are now having the debate under the 1975 handicap bill. This is a debate that should have taken place last year, not this year. The Congress passed the bill, the President signed this into law, and now we are rearguing it. What we are saying here to the Secretary of the Treasury is, "Mr. Secretary, these are Federal funds. We have already got a piece of legislation that covers that. But, Mr. Secretary, you have not done your job."

Mr. PASTORE. Mr. President, will the Senator yield? Is the Senator saying then the bill as reported from the committee vitiates existing law?

Mr. GRAVEL. Exactly, because it backs away——

Mr. PASTORE. Does it?

Mr. GRAVEL. From the ground we have acquired, and that will create great confusion in the courts. So when my colleagues say that we will have a lot of onerous lawsuits, let me tell you if we do not make it abundantly clear it is wrong to discriminate in this country we are going to have a lot of suits occasioned by this. I do not think the Congress wants to go backward. It should at least want to hold the line and go forward.

Mr. LONG. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. It is just this simple. You have existing law for grant-in-aid programs which provide that you will not discriminate based on disability, you will not discriminate based on age, you will not discriminate based on national origin, you will not discriminate based on several items, so you have those limitations on grant-in-aid programs.

All right. Now, the question is, do you want to extend that limitation because you give somebody some revenue sharing money? That is basically what we are talking about.

Mr. PASTORE. No. Is it the question of extending it or including it? Why should we not include in revenue sharing the same philosophy we have included in the grant programs? It is still the money of the Federal Government being paid over to a municipality or to a State. Why should not the same rule apply? Why are we making a distinction here?

Mr. BROOKE. The House thought it should apply and included it in the language.

Mr. GRAVEL. The Senator has touched the heart of the problem.

Mr. LONG. There is a lot of uncertainty in this program, and why we want to extend more uncertainty over to the local communities than we have now is the question. If they come in for a Federal grant and they get a grant for this purpose, yes, that is the case. But under the revenue sharing law, some of us would like to think that is just as much their money as if their own taxpayers had paid it to begin with, and some of us really think in fact that is how it is. It is as if their own taxpayers paid it.

Mr. BROOKE. Why should the revenue-sharing bill be sacrosanct? Why should it be exempt from antidiscrimination language? There is no justification for it at all.

Mr. LONG. The same argument would apply to adding every limitation that exists on a grant-in-aid program to revenue sharing. I do not think it ought to be that way, and up to now, generally speaking, we have not done that.

Now, we have acted in regard to two very touchy subjects. We said:

> All right, we will impose a restriction with regard to civil rights and we will impose restrictions with regard to sex.

We have resisted restrictions regarding these other things.

Mr. BROOKE. But we have had two other limitations. We enacted the Rehabilitation Act in 1973, and we enacted the Age Discrimination Act in 1975. Why should they not now be included in the revenue-sharing bill? That is only fair.

Mr. LONG. Well, the question is to what extent do we want to dictate to and run these local governments by virtue of the fact that they are getting some of their own money back. That is money they paid which is being recycled back to them.

Why do we want to try to dictate what they can do with their money and add uncertainties to their programs and tie them up in so much litigation?

Mr. BROOKE. Why do you do it in grants-in-aid?

Mr. LONG. They might just be inclined to say, "Just forget about the money."

Mr. BROOKE. Why do you do it in grants-in-aid? Is there any difference?

Mr. LONG. A great deal of difference. Grant-in-aid-money has been regarded as being entirely a case of the Federal Government determining whether we pay for an activity directly or for a part of it, and it is fully understood in grant-in-aid programs. It comes with strings attached, and we usually put a great number of strings on it.

Mr. BROOKE. I would just like to say to the distinguished chairman of the committee, as I prefaced my earlier remarks, I am a strong supporter of revenue sharing, I think most of us in the Senate are strong supporters. But I must commend the Senator from Alaska for proposing these amendments. They are sound. They merely make revenue sharing keep pace with antidiscrimination law in this country. It is not doing any more.

It is not extending it. It is including it, and it ought to be included.

The Senator said himself that the legislation includes the Civil Rights Act. Fine. But the Senate and the Congress in its wisdom adopted the Rehabilitation Act in 1973, as I have said, and the Age Discrimination Act in 1975.

Why do we not now, since we have passed these very important, very necessary, and very useful pieces of legislation, make revenue-sharing funds subject to them as well as any other funds?

I just cannot see any justification for leaving revenue sharing out. Apparently, the House did not see any such justification.

I cannot understand why the Finance Committee deleted this from the bill that came before the Senate.

I hope the Senator from Alaska's amendments are adopted. I think if they are not, it puts us far back, really, in antidiscrimination law. It would be an injustice to the disabled in this country. It would be an injustice to the aged in this country. And it would be an injustice generally insofar as this important money is concerned.

So I hope the Senator's amendments will be adopted.

Mr. GRAVEL. Mr. President, I would like to reply briefly, just to comment.

I think the Senator from Rhode Island rendered a distinct service to the Senate, because we are trying to grab at the hub, the nexus, of this entire situation.

What this really, simply, is about, is that we want to take Federal funds and use a different criterion. For revenue-sharing funds, we want to use a special criterion—for normal grant funds, Mr. President, a normal criteria.

The normal criterion for grant of Federal funds with respect to existing law, is very simple: We cannot discriminate. What we are going to see is backing away.

Also, in the Federal activities we can undertake, there is one little part of the law that says, "Well, we're going to fudge on that and not make it very clear and purposely leave it out."

I think when my colleague from Louisiana states that there is going to be uncertainty, there is surely going to be a lot of it. And unfortunately, I feel it would be a step backward.

One quote my colleague made was, "Look at the potential."

I think what he was going to say was, "Look at the potential. Some people could really hold up a lot of Federal courts in the normal situation."

Let me say, we do have a potential. That potential is to do something very good or to permit something very bad to continue in this country.

Congress opted time and again to do something good.

Mr. President, I would like to send to the desk another amendment and ask that it be taken up. Would that be in order, or how should we go at that parliamentarily?

The PRESIDING OFFICER (Mr. HUDDLESTON). That is in order, pursuant to the agreement.

UP AMENDMENT NO. 451

Mr. GRAVEL. Mr. President, I call up my second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alaska (Mr. GRAVEL), for himself and Mr. BROOKE, Mr. JAVITS and Mr. KENNEDY, propses an unprinted amendment No. 451.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 58, line 16, strike out the quotation mark and the period which follows and immediately after line 16 insert the following:
>
> "(e) ATTORNEY FEES.—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person".

Mr. GRAVEL. Mr. President, allow me to explain to my colleagues what we are doing in order to accommodate their interests: we will discuss all three amendments briefly. We have just completed one. Then we will have three rollcall votes in a row, three short rollcall votes, and we will have the entire issue dispensed with.

Mr. President, this amendment to H.R. 13367 provides that the prevailing party, in a civil suit brought to enforce civil rights compliance in the use of general revenue-sharing funds, may be awarded, by the court, reasonable attorney fees.

While H.R. 13367 gives explicit recognition to the right of citizens to bring civil suits in Federal court to prevent discrimination in revenue sharing, it fails to permit courts to make awards of attorney fees to the prevailing party in discrimination cases, although the House Government Operations Committee voted to allow such fee awards.

Mr. President, this amendment speaks to the problem of enforcement of our laws. Congress has placed a high priority on protection of civil rights for our citizens. The Congress has continually instructed the executive branch and the courts to use the broadest and most effective remedies to achieve the goals of our civil rights laws. Yet the record of enforcement is almost embarrassing. The House Judiciary Subcommittee on Civil and Constitutional Rights held oversight hearings on the civil rights aspects of revenue sharing and uncovered repeated instances of discriminatory conduct and nonenforcement of the existing prohibitions on discrimination. These findings have been substantiated by the U.S. Commission on Civil Rights and the National Revenue Sharing Monitoring project.

One of the best means of securing enforcement of these laws is to enable an aggrieved citizen to act as a "private attorney general." In effect, that citizen would be securing his legal rights through the courts and enforcing the congressional intent of a civil rights statute. It strikes me as an exciting prospect that private citizens should have the tools to enforce the laws in an area which is so very basic to the conduct of a free society. This principle is already recognized in other civil rights statutes including those dealing with housing, education, and employment. Let me state again, this is the existing law in those areas, housing, education, and employment.

The sad fact of the matter is that not everyone can afford adequate legal counsel, particularly those who are victims of discrimination. It is up to the Congress to provide the tools that will allow our legal system to work for all citizens.

My amendment provides one of those tools. It is necessary that the Congress grant express authorization to allow an award of attorney fees. The Supreme Court in Alyeska Pipeline Service Co. against the Wilderness Society held that only Congress can designate which laws are important enough to merit an award of attorney fees under the "private attorney general" concept. This amendment is in response to that decision.

An award to the prevailing party assures that a person who has been deprived of civil rights under revenue sharing shall have the opportunity to engage adequate legal counsel in pursuing the enforcement of the statute. We must act today to specifically allow courts to make such awards—for our failure to do so may preclude many victims of discrimination, under this program, from adequate relief.

Finally, I want to point out that the Senate Finance Committee was evenly split 9 to 9 on this amendment.

Revenue sharing is part of a national effort to retain leadership responsibility in State and local governments. I hope the Senate will act favorably on my amendment which will enable citizens to exercise a leadership role in the enforcement of their civil rights.

Mr. BROOKE. Will the Senator yield?

Mr. GRAVEL. I am happy to.

Mr. BROOKE. Mr. President, I rise to support this amendment as a necessary tool if we are to enforce the nondiscrimination provisions in the revenue-sharing legislation.

This amendment is nothing unusual. We have specific legislation where attorney's fees are allowed in such areas as housing, employment, and education.

These fees must be reasonable, and they are only awarded by a court of competent jurisdiction.

If we are going to have this right of nondiscrimination, as we should, in revenue sharing, then the only way for us to insure that the law will be enforced is to award reasonable counsel fees to plaintiffs who have been discriminated against. I certainly hope, and I think the Senator from Alaska has made a strong case, that the Senate would sustain and uphold his amendment which, as I have said, is a vital tool if this legislation is to be effective.

Mr. GRAVEL. Mr. President, I ask that Senators Bayh and Biden be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, this amendment would provide an additional procedure other than that which exists already by law. Those who might feel discriminated against, would be able to sue any government and claim that they were being discriminated against because of race, they could sue and claim that they are being discriminated against because of sex, and, in addition to that, they would be able to sue and claim that they were being discriminated against because of age and have the money held up.

They could sue that they were being discriminated against because of disability, because someone who has a different disability is being favored over them. They could sue and claim discrimination on a religious basis, or on the basis of separation of church and state they could claim that the money is not properly spent, either as involves them or as involves someone else.

In addition to that, Mr. President, we already have a program for the Federal Government to provide lawyers for the poor under the old poverty program, I believe it is now referred to as the Legal Services Corporation, and we have the State laws that let people sue without advancing court costs, by suing in forma pauperis, and we have the ancient and honorable principle of a judge appointing a lawyer to sue on behalf of an indigent client. We would now have a new proposal whereby the Federal Government would pay the cost, or else the community would have to pay the cost, of someone hiring a lawyer to sue it on these different bases in the event the case was successful, the cost as allowed by the judge.

All of those things are enormous burdens to place on the program, Mr. President. It tends to bear out the prediction of Mr. WILBUR MILLS when he used to speak to the legislatures and tell them they are going to make a mistake if they ask for this revenue sharing because the Federal Government would in time insist on controlling everything about these local governments. The Federal Government would be dictating to them what they are going to do in every respect from beginning to the end, supervising in the utmost of detail how they could spend their money, invading the decisions that would properly be those of local governments, and using this leverage of revenue sharing to do it. I must say if these amendments are agreed to, in my judgment, we will go a long way in that direction.

Mr. BROOKE. Will the Senator yield?

Mr. LONG. Yes.

Mr. BROOKE. I want to reassure the Senator that first of all, when we restrict the counsel fees to the prevailing parties we really prevent frivolous suits. If the individual brings a frivolous suit that individual may be called upon to pay the counsel fees and the court costs themselves. So I think we need not fear frivolous suits.

The Senator has said consistently: Why subject these local governments to this? My response is: Why should we not subject local governments to it? We have antidiscrimination laws. We do not want discrimination by private concerns. Who best should be the ones not to discriminate and to set the example in this country than the government itself? If anybody should be called upon for nondiscrimination it ought to be the government: the Federal Government, the State government, the county government, and the local government. It seems to me we cannot justify in any manner not requiring that Federal funds be used in a nondiscriminatory way, whether it applies to national origin, race, religion, age, sex, color, or disability. That is all we are trying to do. We have passed those laws. Thank God, we have passed those laws. All we are saying in these amendments is that it ought to apply to revenue sharing as well. How can we justify saying, "All right, we are going to give you Federal Government money but you do not have to abide by the law because you are the government."

How can we justify that? There is no justification for it whatsoever. I just want to assure the distinguished Senator from Louisiana that he has no fear about frivolous suits or counsel fees because counsel fees have worked very well without frivolous suits, as I have said before, in employment, in education, and also in housing. I say to the Senator that we need it in this revenue sharing more than any place else, because this is a coverall. These funds are used for a variety of purposes. There should be no discrimination in the use of these funds. I thank the Senator for yielding.

Mr. LONG. Mr. President, this adds three more conditions to comply with. And mind you, the committee has already required compliance with the Davis-Bacon Act under certain conditions, and we have a civil rights provision in the bill as we have in the original act. We also have a provision barring discrimination on the basis of sex. I agree with that.

In addition to imposing three more conditions, it will be more profitable for the lawyers to sue recipient units of government.

There are poverty lawyers already available and who can already sue in forma pauperis. If we buy the argument that is being made for these amendments, Mr. President, we might as well go ahead and take any condition under any grant-in-aid program and make that a part of revenue sharing.

When revenue sharing was originally proposed we were led to believe that it would be free of many of the strings that were on the grant-in-aid program. I submit that anyone looking at revenue sharing now, be it a mayor or be it a county commissioner, is going to be very much dismayed to see that more and more strings are being added to the revenue sharing program, making it look more and more like a grant-in-aid program. That is precisely what they hoped to avoid.

Mr. GRAVEL. Mr. President, we are trying to do no more than what present State law does. That cannot be too revolutionary in this area. In a situation in Mississippi, we have a case where the State courts have awarded a judgment against the NAACP for a 1966 boycott. The NAACP will have to come up with $1.2 million. Of that award, $300,000 is for attorney fees. So this sword cuts two ways.

My colleague says that we already have programs that provide lawyers for the poor. That is right. The Congress has already spoken to that issue. What we are asking here is for considerably less and, in a sense, something that is considerably less onerous. There might be some attorney who the Government has hired for the poor who may be irresponsible, may be overzealous, who might bring frivolous suits, and we would be using tax money to pay for that.

That is not what we are asking for. Here is the test that must be met. They have to win in the court case. They are not coming in with a lot of hairbrained cases. They are coming in after they have been through the Federal process, after they have been through a Federal court, and after the judge has said that the case is just, that there is discrimination. The Government lost and, therefore, the plaintiff should get some fees.

That is one heck of a test. If someone meets that test, if there is a citizen who comes forward with an attorney, who is prepared to subject himself to that test, the test of being right as determined by a Federal court, then that individual ought to be paid and applauded for what he has discovered and the fact that he now has a remedy. That is all we are asking for here.

If I, as MIKE GRAVEL, were to be wronged by someone and I sued him in court and won my case, as a human being under our law I would be entitled to get some of my legal fees as a remedy. Why can we not use those same rights on this? We ask no more than that.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. RIBICOFF. I wonder if I could have the attention of the chairman as well as the Senator from Alaska.

What bothers me, of the Senator's three amendments, is the one on religion. Taking my own experience in my own State of Connecticut, practically every religious group maintains either a home for the aged or day care centers for children. Some have religious schools. Invariably they are set up in neighborhoods, ethnic, if you will, where people in that parish, of that religion, reside and go to church.

Is there anything in the amendment of the Senator from Alaska that would strike down any benefit from a group in a Polish neighborhood, for example, that had a Polish school or home for the aged, where the residents were all Polish, or an Italian neighborhood, or a Swedish group, or a Jewish group? Is there anything in the Senator's amendment that would exclude them from getting benefits under revenue sharing?

I would like the comments of both the chairman and the Senator from Alaska as to whether these would be consequences of his amendment.

Mr. BROOKE. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I do not have the floor.

Mr. GRAVEL. I yield to the Senator from Massachusetts.

Mr. BROOKE. The language has been modified. I do not know whether the Senator from Connecticut has this new language. The language of the House measure was not satisfactory where it referred to that provision.

The language we have now is:

> On page 47, line 25, immediately after the period add the following: "Any prohibition against discrimination on the basis of religion—

And these are the key words—

> or any exemption from such prohibition, as provided in the Civil Rights Act . . . shall also apply to any revenue sharing program or activity.

The cases that the Senator names are exemptions under that act, existing exemptions under that act.

Mr. RIBICOFF. In other words, under the act, if you had a home for the aged, a Polish home for the aged, a Hebrew home for the aged, or an Italian home for the aged which had been basically supported over the decades by one racial or religious group, and the inhabitants of that home were practically 100 percent of that religious group, they would not be in violation if we adopted the Gravel amendment?

Mr. BROOKE. The Senator is correct; they would not be in violation. They are entitled to revenue sharing funds, and would still receive revenue sharing funds under this amendment.

Mr. RIBICOFF. Then what does the chairman fear?

Mr. BROOKE. I do not know. I think the chairman fears the House language, but not the language of this amendment.

Mr. LONG. Mr. President, the uncertainty that one is confronted with already is further compounded by adding the word "religion" to the provision, it is further compounded by adding the word "disability," and also further compounded by adding the word "age" to the provision, so that more and more it tends to put revenue sharing on the basis of a grant-in-aid program; and frankly, what people are going to find if they are confronted with all these uncertainties is the point raised by the Senator from Delaware (Mr. ROTH): They are just going to say, "Don't put any money into this kind of thing; if it subjects you to litigation, don't get involved with it, and then you will not be subjected."

As a civil rights matter based on race, that is in present law, we do not quarrel about that. The governments are complying with it, and that is fine; we expect them to continue to comply with it. But when you put all these additional uncertainties in with regard to age, religion, and disability, and then proceed to pay the lawyers to go fight the lawsuits on that basis in addition to what is already available under the Legal Services Corporation, the Secretary of the Treasury being able to hire lawyers to pursue the matter under section 122, and the fact that a good lawyer would take a case, if he thinks someone's civil rights are not being properly protected, just to do it for them as a public service, in my opinion, it makes it more and more into a grant-in-aid program, and that is what the communities had hoped to avoid.

Mr. PACKWOOD. Mr. President, will the Senator from Alaska yield further?

Mr. GRAVEL. I yield.

Mr. PACKWOOD. Listening to the answer of the Senator from Massachusetts, I am not sure that the question the Senator from Connecticut asked was divided properly. He mentioned Polish homes or Catholic homes or something of that nature.

Mr. RIBICOFF. Mr. President, I am taking my own experience in my own State of Connecticut, where I know how the situation has developed over the decades. Long ago they had grant-in-aid programs, civil rights programs, and revenue sharing, and it has developed over the decades, where one religious or national group would feel a responsibility to the people of that group, and they have established these institutions to take care of basic social needs, and this is what concerns me, this possible shattering of a pattern that has been a pattern for many years.

Mr. PACKWOOD. Present law prohibits discrimination based upon four factors: Race, color, national origin, or sex. I would assume that if you maintained a home for the aged to which only Polish Americans were eligible, you might be in violation of the present revenue-sharing law. I believe the Senator from Massachusetts said that would not be the case, but would that not be a violation under present law, if you discriminate on the basis of national origin?

Mr. BROOKE. I was responding on religion. That was the question, I believe.

Mr. PACKWOOD. The Senator talked about Polish homes.

Mr. RIBICOFF. In my hometown of New Britain, there is a large Polish community that, for decades, was under the direction of a very dynamic monsignor who is now dead. These were basically poor people; they were Catholics; it was a Catholic church, and he developed schools, he developed hospitals, he developed nursing homes, and homes for the aged where, generally, people from that parish, when they got old, would have a place to go to, or if they were sick they would have a nursing home to go to. It was not a question of discriminating against other people, but it just so happened that it was a Polish neighborhood and the people were Polish Catholics. In the same way, in the city of Hartford——

SEVERAL SENATORS addressed the Chair.

Mr. BROOKE. That would be legal under existing law and also under the Gravel amendment.

Mr. RIBICOFF. This becomes a very important factor in my opinion because there was nothing in the intentions of those who are responsible to discriminate against anybody. It is just a continuing pattern where church funds have been used, tithes have been paid by people in their younger years, and now they have a home to take care of them.

Mr. PACKWOOD. If I may get down to the original amendment of the Senator from Alaska, I think if the discrimination were solely on national origin, and nothing else, not religion or anything else but solely national origin, it might violate the present revenue sharing law. The religious amendment of the Senator from Alaska, however, prohibits discrimination based on either the Civil Rights Act of 1964 or the Civil Rights Act of 1968. Those acts prohibit discrimination in three areas: Employment, housing, and public accommodations, but there is an exception. In employment, there is exception for discrimination, in essence, by educational or religious organizations. In housing, the same exception exists for religious organizations or educational organizations. For public accommodations, there are no exceptions.

So to the extent that you want a home for Catholics or a Jewish day care center, or a Jewish day school, you could indeed, and with justifiability, discriminate on the basis of religion as to whom you took in, and I favor that. I think religious diversity in this country is good; religious divisiveness is not.

But I wish to return to the amendment of the Senator from Alaska, because he premises it on the 1964 and 1968 Civil Rights Acts as to employment, housing, public accommodations, and I assume adopts by reference the exceptions of educational religious organizations in employment or in housing. Do I state that correctly? I ask the Senator from Alaska.

Mr. GRAVEL. I think the Senator not only states it correctly but very cogently.

Mr. PACKWOOD. So I think for the normal kind, and the Senator and I wish to protect exactly the same thing, these are good for America. The diversity is good for America. But I would not want to mislead the Senator from Connecticut into incorrect thinking. If they discriminated solely on the basis of national origin, took in Polish Americans of all religions, this was not a religious home at all, just Polish Americans, they might have a problem.

Mr. RIBICOFF. Generally there is a coincidence.

Mr. PACKWOOD. Right.

Mr. RIBICOFF. I know a Lutheran church. It so happens practically every member of that church happens to be Swedish. So the church sets up a home for the aging. It is the Lutheran church, but just by coincidence they are Swedish. I know another home, as I say, a Catholic church, but the members of that parish are 100 percent Polish. It happens to be in the neighborhood where for years people of the Polish descent lived. I know another place, the Hebrew Home for the Aged, and for maybe 50 or 60 years all the inhabitants of that home happened to be Jewish. So they have both an ethnic and religious background mixed in together because that is the way the community has developed. And there is no attempt to discriminate, but this is how the pattern has developed.

If we take away that pattern, we shatter a constructive element of society where people are really taking care of their own.

Mr. PACKWOOD. I am quite sure that the amendment, as based upon the 1964 and 1968 Civil Rights Act, would not and does not shatter that.

Mr. RIBICOFF. Does the Senator think Senator GRAVEL's amendment would?

Mr. PACKWOOD. I do not think it would. So long as they had a predominantly religious purpose and religious background, run by nuns, run by a Catholic church, run by a monsignor that has a prevalence of religion about it, then I think they are all right. I do not think his amendment will touch it.

Mr. RIBICOFF. Then the Senator's amendment would not strike that down.

Mr. PACKWOOD. I do not think it would, no.

Mr. BROOKE. That is true of existing law as well.

Mr. PACKWOOD. That is correct.

Mr. ROTH addressed the Chair.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. GRAVEL. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I wish to address myself to another one of the amendments, but I do not want to interrupt the thread of this discussion.

Mr. RIBICOFF. I hope he will hold it until we finish this particular religious one and then go to Senator JAVITS.

Mr. JAVITS. As long as we have time.

Mr. GRAVEL. We have full time. I would appreciate it, since I have the floor, if we would stick to the religious issue.

Mr. ROTH. I shall make a comment in connection with questions raised by the Senator from Connecticut. The amendment proposed now by the Senator from Alaska, I think, is an improvement over what was considered in the Committee on Finance.

But the thing that really concerns me and others is the fact that no one is exactly certain as to what its effect and what its impact is, and we are dealing with, as I think the Senator has properly pointed out, very important services that all of us, I think, are in agreement should continue. I have within an hour discussed, for example, this matter with representatives from the U.S. Catholic Conference. I have talked to Protestant and Jewish groups as well. No one really has had the opportunity to study this language, and it is not drafted with such precision that anyone can say with certainty what its impact is. These are very valuable services being provided by religious groups and we should keep them. This concerns me.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. ROTH. If I could complete my remarks, first. We should continue to provide these services. No one is in a position here today to talk about this new language with certainty. I hope they are right, and I do not think there is much disagreement.

Mr. GRAVEL. I shall respond to the Senator and say that there is a great deal of certainty. I believe the statement of the Senator from Oregon that might have indicated a lack of certainty was not with the amendment but with existing law, because all my amendment does is track existing law. It does not go beyond that. So the certainty in this amendment is very clear. If there is a problem, it is not with this amendment; it is a problem with existing law. All we are trying to do is to arrive at an area of conformity.

Mr. ROTH. I shall make one comment. The language is such that there are some lawyers who have raised some questions. They may be wrong or they may be right. But I think we are dealing with a matter of such extreme importance that I question the wisdom of adopting this language.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. ROTH. I do not have the floor.

Mr. GRAVEL. I yield to the Senator from Massachusetts.

Mr. BROOKE. Lawyers will always ask questions. That is what lawyers are for, and I understand that. But I simply emphasize that all we are doing under this amendment is a restatement of the existing law, so there is no ambiguity at all involved in it.

Mr. ROTH. But words are not all words of precision. Furthermore, if we are merely restating what is already on the books, why is it necessary to say it once more?

Mr. BROOKE. Because, as the Senator has well pointed out, he was dissatisfied with the language that was in the House bill. He was very dissatisfied with it, when it came up to the Finance Committee; is that correct?

Mr. GRAVEL. That is correct.

Mr. BROOKE. There were many organizations that were upset, as the Senator has mentioned. So in an effort to correct that, because he did not want to exclude these groups from Federal funds, the Senator from Alaska amended this language so we say: "Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 of title VIII of the Civil Rights Act of 1968 shall also apply to any such revenue sharing program of activity."

That is very clear language. The Senator has corrected the mistake of the House of Representatives. I think the House of Representatives is well aware of it and will appreciate that correction.

But there is no need for an interpretation of this specific language. It merely closes a loophole that was opened by the House of Representatives in the language of their bill. That is all. Of course, it is no very small thing, and I reassure my friends from Delaware that even though lawyers might question it maybe they just want some time for the next subject we are talking about, namely, counsel fees.

Mr. ROTH. No. This has nothing to do with counsel fees.

Mr. BROOKE. No; they may want counsel fees for interpreting this language. I did not want to pay those counsel fees because the language is clear.

Mr. ROTH. No. I was talking about the representatives of various religious groups.

Mr. BROOKE. Let us assure them this language is clear and takes care of all those institutions that would be adversely affected by the House language.

Mr. ROTH. As a lawyer I recognize full well what my very able and distinguished Senator from Massachusetts is saying. The only thing I am saying is I think we should be cautious in this area because of the importance of what we are dealing with, and there are respected people who raise the question that the Gravel amendment may cause some serious problem. That is the only thing I say.

Mr. JAVITS. Mr. President, will the Senator yield to me on this issue?

Mr. GRAVEL. I am happy to yield to the Senator from New York.

Mr. JAVITS. Let us remember we are not signing the bill into law. This bill is going to conference, and the thrust and purpose of this amendment has been made crystal clear. Therefore, it seems to me that there is no risk once we agree with the fundamental purpose of the amendment in adopting it because if it is imperfect in technical terms it can be perfected. The point is that we shall be sure because it is generally felt that there has been a very distinct lack of observance of nondiscrimination provisions in respect to revenue sharing. The point is that this law shall bind up that loophole and we shall be sure that there is no religious discrimination of the kind that we intend to deal with by law. I think the mover has made that crystal clear. Senator Brooke has. I am a cosponsor. I do. But the fact is that it should be adopted because it is high time we tightened this up over, above, and beyond what it was and such a fact be taken into consideration within the limitations that we have already laid down. We have already laid down the policy. And that is all, as I understand it, that is the intention of this amendment.

Mr. RIBICOFF. Is it fair to state for the legislative history to those who sponsor this amendment that affirmative action programs such as have been discussed in the last half hour will not be affected by the Gravel proposal which uses the 1964 Civil Rights Act as a guideline for determining discrimination?

Can the sponsor say that that would be the result?

Mr. GRAVEL. That is correct.

Mr. JAVITS. There is no question about affirmative action programs. There is no question in my mind whatever. They are a negative provision against discrimination.

Mr. President, will the Senator yield?

Mr. GRAVEL. I yield, so that we can pursue the other area.

Mr. JAVITS. The provision respecting counsel fees is attributable, as I understand it, to the decision of the courts that in the absence of statutory mandate, they will not award them.

Mr. GRAVEL. Right.

Mr. JAVITS. That, generally speaking, has been the policy we thought existed, that they would award them. In the absence of that statutory policy, this is certainly one provision which the United States should insist on for all States as a condition for Federal revenue sharing, and I hope very much that it will be adopted.

Mr. GRAVEL. I thank my colleague. All Senators have really addressed themselves to the religious issue, although I have not brought up my amendment, and I shall now call up that amendment. I think the debate has been taken care of, and I will be prepared to close after that amendment.

UP AMENDMENT NO. 452

I send to the desk my last amendment.

Mr. President, I ask unanimous consent that the name of the Senator from Indiana (Mr. Bayh) be added as a cosponsor of all the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Gravel), for himself and others, proposes an unprinted amendment numbered 452.

Mr. GRAVEL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, line 25, immediately after the period add the following: "Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73) shall also apply to any such program or activity.".

On page 48, line 20, immediately before "and" insert the following: "or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73),".

On page 48, line 22, strike out "or".

On page 48, line 23, immediately before "is" insert a comma and "or violation".

On page 51, line 18, immediately before the period insert a comma and the following: "or violated any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 (78 Stat. 241) or title VIII of the Civil Rights Act of 1968 (82 Stat. 73) in connection with any such program or activity".

On page 52, line 7, immediately after "sex" insert the following: "Or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 (78 Stat. 241) or Title VIII of the Civil Rights Act of 1968 (82 Stat. 73),".

Mr. GRAVEL. Mr. President, this amendment to H.R. 13367 would add a paragraph to the nondiscrimination provisions that would apply existing civil rights prohibitions and exemptions on religious discrimination to the revenue sharing program. A reference to "religion" is included in the House bill. The Senate Finance Committee voted to delete any reference to religion from the Senate bill.

Several major Federal civil rights provisions currently prohibit discrimination on the basis of religion. Specifically, title VII of the 1964 Civil Rights Act prohibits employment discrimination based on religion, title VIII of the 1968 Civil Rights Act prohibits religious discrimination in the sale or rental of housing, and title II of the 1964 Civil Rights Act prohibits religious discrimination in places of public accommodation. The House Judiciary Subcommittee on Civil and Constitutional Rights held oversight hearings on the civil rights aspects of revenue sharing and concluded that the Revenue Sharing Act should be amended to prohibit discrimination on account of religious beliefs or affiliation. The U.S. Commission on Civil Rights concurred in this judgment.

More recently, the Congress included a prohibition on religious discrimination in the Antirecession Provisions of the Public Works Employment Act of 1976. The counter-cyclical program is very similar to general revenue sharing in the manner of distribution of funds and the uses of payments by State and local governments under the program.

The Revenue Sharing Act, as passed by the House, contained a prohibition on religious discrimination. That prohibition was not clearly constructed and open to a variety of interpretations. Many religious groups contested the House language on the grounds that it prohibited discrimination in the services in day-care centers, hospitals, and other charitable organizations financed or operated by religious groups for their members.

Assistant Attorney General for Civil Rights Stanley Pottinger confirmed those fears in a September 7 letter to Congressman Edward Koch. He said:

> Title VI of the Civil Rights Act of 1964 generally prohibits discrimination on the grounds of race, color or national origin in any federally funded program or activity. Title VI does not however prohibit discrimination in religion in federally funded programs or activities. Other provisions of those civil rights laws prohibit discrimination on grounds of religion with respect to employment, housing and public education. As presently written, therefore, H.R. 13367 could be construed as prohibiting only those kinds of discrimination prohibited in the Civil Rights Act of 1964. On the other hand, because of the broad provisions of the first sentence of Section 122(a), the Act could be read as prohibiting discrimination in services by religious organizations which provide services such as running day-care centers and providing school lunches, even though such discrimination is not prohibited by Title VI of the Civil Rights Act of 1964.

The Senate Finance Committee attempted to clarify this ambiguity by removing any reference to religion from section 122. In my judgment, simply removing the word "religion" is not the best approach, since it would permit cities, towns, and States to provide funds for purposes which discriminate on religious grounds. Congress has already registered its disapproval of such discrimination in existing law.

This amendment will incorporate in the Revenue Sharing Act the prohibitions against discrimination on the grounds of religion contained in the Civil Rights Act of 1964 and the Civil Rights Act of 1968. It also incorporates any exemptions for religious organizations in those acts. The amendment is careful to avoid any inference that we seek to prohibit the kinds of activities which are permitted by existing civil rights laws. It would still permit religious organizations to give preference to members of the same religion in offering employment and service.

In my judgment, therefore, the purpose of this provision is in accord with the other civil rights provisions in this bill—that is, to secure broader coverage and more efficient enforcement of existing rights, rather than to bring about substantive changes in the kinds of rights protected by Federal civil rights laws.

Mr. GRAVEL. Mr. President, in closing, I point out that the import of these amendments is one that I think is easily understood. The Senate has been over this ground for decades. Where Congress has arrived at a level, I would hate to see this Nation backwater with respect to the civil rights we have attained. Passing the Revenue Sharing Act with the present committee language would put us in that position.

My colleague raises one important point, and that is that in the concept of revenue sharing, we want to give back some money to local government without any strings. Just give them the money without any bureaucracy. He quoted WILBUR MILLS as saying that some day the Federal Government will control all local government. That may be the case. That is not the goal we are after here.

I am as concerned as the Senator from Louisiana about the fact that we have too much Federal Government and too much bureaucratic involvement in some of these areas; but I am equally concerned about the moral fiber of this country. So here we draw the line; we make a distinction.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. MANSFIELD. Mr. President, I wonder whether it will be possible to reach a unanimous-consent agreement of 10 minutes on the pending amendment, the time to be equally divided between the sponsor and the manager of the bill, but the vote on this amendment to be preceded by the vote on the other two amendments.

Mr. GRAVEL. So we would have them in order. The first amendment would be on age discrimination, the second would be on legal fees, and the third would be on religion.

Mr. MANSFIELD. The third one would be on religion.

Mr. PACKWOOD. Mr. President, reserving the right to object—only for clarification—I suggest to the majority leader that because the religion amendment is the confusing one, we vote on the first two, 10 minutes apiece, and then have 10 minutes for discussion on the religion amendment, and then vote. We would then have a fair number of people here, and that is the proposal on which I think many people are confused.

Mr. GRAVEL. That is acceptable to me.

Mr. BROOKE. Mr. President, reserving the right to object, could we have 10-minute rollcall votes after the first?

Mr. MANSFIELD. Yes.

I ask unanimous consent that we have 10-minute rollcall votes from now on.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. And I ask unanimous consent with respect to the other agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, we have to set a moral tone for this country, and the moral tone is that we want this Nation free of discrimination.

All we are saying is this: If we are going to give you money with the least amount of bureaucratic involvement, we also want to make sure that money is tied to a moral principle involved, and that is that we will guarantee that when we are using Federal tax dollars, those dollars in no way will be party to a moral practice which is abhorrent to the total population of this country. That is all we are doing.

I state again that we are not charting any new ground; we are not moving into any new area of the law. We are trying to hold the lines in the gains that have been gained through the decades. Unfortunately, the committee regressed in this area, and we are trying to adhere to existing law, not one iota beyond that.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on all three amendments.

The PRESIDING OFFICER (Mr. STONE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, for the information of the Senate, these three votes will be the last votes tonight, because I understand we have four or five other amendments to take up.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren have the privilege of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. GRAVEL. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. What is the amendment we are voting on now?

The PRESIDING OFFICER. This is on unprinted amendment No. 450, by the Senator from Alaska, on age discrimination.

Mr. GRAVEL. The second one will be on attorneys' fees, and then we will have a short debate on the third one, which will be on religion.

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. And all votes will be 10 minutes in duration.

The PRESIDING OFFICER. The Senator is correct.

The yeas and nays have been ordered on all three amendments. The clerk will call the roll on the first amendment.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshere (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The vote was announced—yeas 60, nays 15, as follows:

[Rollcall Vote No. 586 Leg.]

YEAS—60

Allen
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Magnuson
Mansfield
Mathias
McClellan
McGee
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Thurmond
Weicker
Williams
Young

NAYS—15

Baker
Curtis
Eastland
Fannin
Goldwater
Griffin
Hansen
Hruska
Long
McClure
Roth
Scott,
William L.
Stennis
Talmadge
Tower

NOT VOTING—25

Abourezk
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd,
Harry F., Jr.
Cannon
Dole
Garn
Hart, Philip A.
Hartke
Hatfield
Inouye
Kennedy
Leahy
McGovern
McIntyre
Metcalf
Mondale
Montoya
Pell
Symington
Tunney

So Mr. Gravel's amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the next amendment by the Senator from Alaska. The question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. GRAVEL. Mr. President, will the Chair explain the amendment? It is for legal fees.

The PRESIDING OFFICER. That is correct. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Garn), and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

The result was announced—yeas 40, nays 35, as follows:

[Rollcall Vote No. 587 Leg.]

YEAS—40

Bayh
Biden
Brooke
Bumpers
Burdick
Case
Church
Clark
Cranston
Culver
Eagleton
Fong
Glenn
Gravel
Hart, Gary
Haskell
Hathaway
Humphrey
Jackson
Javits
Laxalt
Magnuson
Mansfield
Mathias
McGee
Moss
Muskie
Nelson
Packwood
Pearson
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Taft
Weicker
Williams

NAYS—35

Allen
Baker
Byrd, Robert C.
Chiles
Curtis
Domenici
Durkin
Eastland
Fannin
Ford
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Morgan
Nunn
Pastore
Randolph
Ribicoff
Scott, William L.
Sparkman
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—25

Abourezk
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Garn
Hart, Philip A.
Hartke
Hatfield
Inouye
Kennedy
Leahy
McGovern
McIntyre
Metcalf
Mondale
Montoya
Pell
Symington
Tunney

So the amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the first amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I would like to have the attention of the Senate. We have a brief period of time. I would like to have a colloquy. I yield to the Senator from Connecticut who has great concern with the preciseness of this amendment, and this will be responded to. I think it might clear up the misunderstanding.

Mr. RIBICOFF. Mr. President, may we have order? This is a very controversial amendment.

The PRESIDING OFFICER. Will the Senator suspend momentarily and the Chair will get order.

Mr. RIBICOFF. Mr. President, may I have the attention of the Senator from Rhode Island, who is deeply concerned?

This is a very controversial amendment, and I think it should be clarified by the answer to this question.

Does the Gravel amendment affect affirmative action programs, such as a Catholic orphanage, a Jewish day care center, or a Lutheran home for the aged?

Mr. GRAVEL. The answer to that is no, it does not.

I yield to the Senator from Oregon.

Mr. PACKWOOD. Let me give the specific reasons why it does not apply to any of those.

The Gravel amendment incorporates by reference, and only by reference, the 1964–68 Civil Rights Acts. Any imperfection in those acts would be an imperfection here. Any lack of them would be a lack. There is no new language.

Those two acts prohibit religious discrimination in three areas: employment, housing, and public accommodation.

If any one thing we are talking about falls outside those three areas, it is not covered, to begin with.

Second, even those two acts exempt from religious discrimination any discrimination by an educational organization, or a religious organization, as far as it applies to employment or to housing.

In answer to the question of the Senator from Connecticut, the answer is no to every one of the ones he poses.

Mr. BROOKE. Will the Senator yield?

Mr. GRAVEL. Yes.

Mr. BROOKE. Mr. President, many of us have been concerned about these day care centers, religious institutions, and homes. I have many of them in my State, as there are many in the State of Rhode Island, and in many other States as well.

The House language could have prohibited money going to these homes. But the Gravel amendment, as amended, says that "any prohibition against discrimination on the basis of religion, or any other exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968 shall also apply to any such" revenue-sharing program or activity. This language corrects the possible problem in the House language and puts back the language we have in the existing law. And therefore, the day care centers and religious homes would not be adversely affected.

Mr. PASTORE. Will the Senator yield?

Mr. GRAVEL. Yes.

Mr. PASTORE. Is this comparable to the language we have included with reference to grants?

Mr. BROOKE. Yes.

Mr. PASTORE. In other words, whatever we have done with reference to grants, we are carrying that over?

Mr. BROOKE. Over into this.

Mr. PASTORE. Into this money.

Mr. BROOKE. The revenue sharing.

So there is no adverse effect upon these homes whatsoever.

Mr. JAVITS. Will the Senator yield?

Mr. GRAVEL. I yield.

Mr. JAVITS. As one of the cosponsors, I would like to concur in these interpretations and to point out that the purpose and effect, in answer to the very precise questions, is so clear that, if there is any problems whatever, it can be perfected in conference.

Several Senators. Vote! Vote!

Mr. HATHAWAY. Mr. President, I ask unanimous consent that John Crawford be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I am prepared to vote.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. GRAVEL. Yes.

Mr. MANSFIELD. Mr. President, once again, this will be the last rollcall vote tonight.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I am prepared to vote at this point in time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. I yield back my time.

Mr. GRAVEL. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the Clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the

Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The result was announced—yeas 59, nays 16, as follows:

[Rollcall Vote No. 588 Leg.]

YEAS—59

Allen
Baker
Bayh
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Goldwater
Gravel
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Magnuson
Mansfield
Mathias
McClellan
McGee
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Thurmond
Weicker
Williams

NAYS—16

Biden
Curtis
Domenici
Eastland
Fannin
Griffin
Hansen
Hruska
Long
McClure
Roth
Scott, William L.
Stennis
Talmadge
Tower
Young

NOT VOTING—25

Abourezk
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Garn
Hart, Philip A.
Hartke
Hatfield
Inouye
Kennedy
Leahy
McGovern
McIntyre
Metcalf
Mondale
Montoya
Pell
Symington
Tunney

So the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. I would like to add Senator RANDOLPH as a cosponsor to the first amendment. The amendment he hopes will accomplish what he had hoped to accomplish over a number of years.

ADDITIONAL STATEMENTS

Mr. HUDDLESTON. Mr. President, I am pleased to support the basic provisions of the general revenue sharing extension bill reported by the Senate Committee on Finance. The committee and its distinguished chairman are to be commended on the exemplary job which they have done in writing a bill which makes significant and necessary reforms in the areas of public participation, accountability, and nondiscrimination while maintaining, and in some ways increasing, the flexibility for State and local officials which is the cornerstone of the revenue sharing program.

Since its inception in 1972, general revenue sharing has provided $30.2 billion to 39,000 State and local governments at a time when recession has reduced their revenues, inflation has eaten up much of what is left, but the needs of their citizens for more and better services have drastically increased. In the Commonwealth of Kentucky, revenue sharing money represents 3 to 4 percent of our State budget and better than 85 percent of the budgets of some of our localities. At the State level these funds support both current operating costs as well as sorely needed capital expenditures in such areas as elementary and secondary education, health services, and public safety. Locally, revenue sharing buys and staffs ambulances, finances senior citizen programs, upgrades police and fire protection, builds sewage and sanitation facilities, assists transit systems, and supports other vital programs which otherwise would be beyond the reach of underbudgeted town and county governments.

General revenue sharing has reaffirmed the Jeffersonian concept of democracy that the best government is the government closest to the people. It has placed final spending decisions with governments where the taxpayer has the maximum influence. And, it has accomplished this with a minimum of the costly paperwork and redtape which have become closely identified with so many of our Federal categorical assistance programs. In fact, the entire revenue sharing program has been run with a staff of fewer than 100 people, one computer, and negligible administrative costs.

The bill which we have before us today improves upon what has proven to be a highly successful program. It provides for a 5¾-year extension, giving State and local governments firm funding figures on which to base their budgetary decisions. It provides an annual increment to help keep up with inflation. It increases the local voice in expenditure decisions by eliminating the existing priority category provision and the prohibition against the use of revenue-sharing money as matching funds. It includes hearing requirements designed to encourage citizens to participate in the budget processes of their communities. It includes reporting and auditing requirements comprehensive enough to help prevent abuses but realistic enough not to place unnecessary and costly burdens on responsible officials. And, it provides for strong enforcement of the discrimination prohibition.

Mr. President, this is a good, well thought-out bill, and I urge its adoption without major modification.

THE USE OF REVENUE SHARING FUNDS BY LOCAL GOVERNMENT IN IDAHO

Mr. CHURCH. Mr. President, I intend to support the extension of the State and Local Fiscal Assistance Act of 1972, commonly known as general revenue sharing. Originally, I had reservations about this program, based mainly on Federal budgetary considerations, but I have been persuaded that revenue sharing should be continued.

One of the studies which has been most helpful to me in reaching this decision is entitled "The Use of Revenue-Sharing Funds by Local Government in Idaho," published by the University of Idaho. The report concludes that if revenue sharing were not renewed, local governments in Idaho would be hard pressed for funds.

The report uses Pocatello as an example of an Idaho city in which revenue sharing has been particularly important:

> If Pocatello had eliminated all its capital expenditures from revenue sharing funds and raised its general fund levy to the tax limit, the city would still have been short at least several hundred thousand dollars to pay for public safety and other current needs. It seems probable that without revenue sharing funds in 1974–75, Pocatello might have been faced with a substantial reduction in police protection, fire protection, ambulance and other services.

The report states that revenue sharing made possible important capital projects in Caldwell, Moscow, and Twin Falls:

> For Caldwell it meant the opportunity to extend sewer lines within the city limits, to install a new sprinkling system in the city park, to drill a badly needed new well, to develop bike paths which would allow children to ride in safety off city streets, and to build much needed rest rooms in two city parks.
>
> For Twin Falls, revenue sharing provided the funds to build a new fire station to replace a station more than sixty years old and to expand the city library. The Twin Falls City Library was crowded to the point that patrons had no place to sit.
>
> Moscow uses revenue sharing funds to provide senior citizens earning less than $5,000 a year with the opportunity to use local taxi cab services at a greatly reduced rate. Senior citizens pay 50¢ per ticket for taxi rides and the taxi companies redeem the used tickets for $1.75 from the city.

As for smaller Idaho towns the report states that—

> Revenue sharing funds often meant the ability to support a vital service, buy an important piece of equipment, or construct an important building.

The following are typical quotes from revenue-sharing forms as printed in the report:

> BUHL: Some of the city streets were in such poor condition that the patching each year didn't hold up. We put a 2 inch compacted mat overlay on the worst streets. This would have been extremely difficult without revenue sharing money.
>
> EMMETT: Being faced with a sudden loss of a major well supplying the city's all domestic water—due to a well cave-in—the

city was able to drill, construct and put into operation an emergency well so as to not disrupt our supply of water. Without the availability of revenue sharing and the absolute lack of red tape, thereof, the city would have been faced with a major crisis.

Ketchum: Funds were used to help erect a needed bridge for residents to get to town. The old bridge was a hazard and without revenue sharing funds the new bridge could not have been erected.

Marsing: For the first time since the beginning of the city we are able to build a city hall. In the past the city was run from a home or in the past few years from a log cabin that was donated to the city for the purpose of a museum.

McCammon: The City Office had been in need of repairs for years, but due to the lack of funds was never thought feasible. The ceilings were 14' high, with cinder block walls and no floor coverings, and the heat bill each winter was horrendous and was still not comfortable, so the council decided that if all the organizations who used the building for various meetings would donate the labor, the city would donate the material. Everyone is proud of the finished product.

The report lists some typical examples of the effect of revenue sharing on county governments—

Ada County: Revenue sharing has helped finance a joint Boise-Ada County Administration Building. This building is part of a continuing effort to consolidate certain county-city functions thereby reducing the taxpayers contribution.

Camas County: A new ambulance was purchased and has been used many times since the county seat is 35 miles from the nearest hospital. Revenue-sharing was used to lease a site for a sanitary landfill. The old site was close to a creek that ran through town and was a health hazard. Camas County used part of its money to fund the first County Free Library.

Idaho County: Revenue sharing was of great value in placing refuse containers at important collection centers throughout the county and developing sanitary landfills. The funds were also used to replace an old, narrow, unsafe bridge over the Salmon River with a bridge which would be used by logging, farming, and other heavy vehicles.

Oneida County: Used revenue sharing funds to increase the size of its county nursing home by ten beds thus enabling the nursing home to pay its own way.

As this report indicates, revenue sharing is one funding approach which seeks to return money, power and decision-making to the localities with a minimum of bureaucratic procedures. Despite shortcomings, it allows communities to see clearly that local government can directly benefit from Federal taxation. Such a program deserves to be renewed.

Mr. MATHIAS. Mr. President, I rise in support of H.R. 13367, the proposed extension of the general revenue-sharing program. During the past 5 years revenue sharing has been a critical component in the Nation's overall fiscal system. Along with block grants and categorical grant-in-aid programs, general revenue sharing serves to maintain the partnership among Federal, State, and local Governments.

I commend the Senate Finance Committee, and especially the chairman, Senator Long, for their hard work in producing a bill that is a tremendous improvement over what has been proposed by the House and provides reasonable solutions to a number of perplexing problems.

Without revenue sharing, the financial pressures on State and local governments would clearly be unbearable. Nevertheless the economic forces that are eroding the financial stability of many local governments have also been having an impact on the value of the revenue-sharing program. Current provisions for an annual increment of $150 million in the revenue-sharing program would provide a yearly growth rate of about 2 percent. City governments over the past 7 years, however, have experienced inflation rates in excess of 10 percent. Recent studies have documented that the net impact of inflation on State governments alone between 1972 and 1974 was a loss of more than $6.6 billion in purchasing power—an amount greater than the total 1974 revenue sharing entitlement. Counties, municipalities, and townships lost $3.3 billion in buying power to inflation. As Dr. Richard Nathan, director of the Brookings Institution revenue-sharing monitoring project, has pointed out: The cumulative effects of inflation on the value of shared revenues will be a shortfall of $11.8 billion. This means that in 1982 the 39,000 State and local governments will, in real terms, be getting 24 percent less than they received in 1972.

Mr. President, local governments have to depend for the most part of their revenues on relatively regressive taxes on sales and property. Many of these governments are faced with a declining economic base and rapidly increasing costs for public services. Increasing local taxes hurts the poor and tends to drive out those who can afford to pay. Unless the revenue sharing program can help local governments to keep pace with inflation, the outlook for the future of our cities is bleak, indeed.

I can certainly understand the budgetary constraints at the Federal level that impose some practical limits on any annual increments in the revenue sharing program. Nevertheless, it is important to consider the role of State and local governments in the total economy. The State and local level now represents almost 50 percent of all government expenditures in the United States. Employment by the State and local governments, totaling almost 12 million people, is a very important factor in the national economy. Unless we realistically address the fiscal problems of State and local governments, their budgetary cuts may counteract what we are trying to do at the Federal level and undermine a distressingly slow trend toward economic recovery.

Mr. President, I hope that the Finance Committee will continue to monitor the revenue sharing program closely to see what steps can be taken to insure that the real value of shared revenue keeps up with inflation and increased costs of State and local government.

In addition to my concern about the adequacy of the total amount of money being provided by the revenue sharing program, I think it is necessary to take note of the questions that have been raised about equity in the distribution formula. Development of a formula to accurately take account of need in light of the great variations among almost 39,000 different units of government is an exceptionally formidable task. While the current revenue sharing formula may not be ideal in terms of serving all of our desired objectives, I believe that the decision of the committee not to make any significant changes is probably a prudent one. It seems that most efforts to adjust the revenue sharing formula to increase allocations to one type of government invariably have undesirable repercussions for other equally deserving units.

The current ceiling of 145 percent on per capita revenue-sharing allocations does, however, provide one example of a factor that deserves careful scrutiny. The original intent to prevent certain jurisdictions with an exceptionally large tax base from receiving a disproportionate entitlement was certainly a reasonable effort to have an equitable formula. Nevertheless, the 145-percent ceiling has not only prevented some resort towns and industrial enclaves from receiving an excessive revenue-sharing payment—it has also restricted the payments to some of the neediest cities including Baltimore, St. Louis, Detroit, New Haven, Cincinnati, Pittsburgh, Philadelphia, and Boston.

Mr. President, I believe that a gradual increase of the 145-percent ceiling to 175 percent could remove an unreasonable restriction on many hard-pressed local governments. In conjunction with an adequate annual increment, this change in the per capita allocation ceiling should not result in any significant reduction to units of government which are now below the ceiling. Any changes in the ceiling should, of course, include provisions to account for tax effort to insure that exceptionally wealthy resort towns or industrial enclaves do not get a windfall.

Without more complete data on the total impact of such a change in the 145-percent ceiling in the revenue-sharing formula, I can certainly understand the committee's desire to avoid any formula modifications at this time. I hope that the committee will, therefore, give careful consideration to the need for a change in the 145-percent ceiling in their oversight of the program.

Mr. President, the revenue-sharing program represents only about 10 percent of the total system of Federal aid to State and local governments. I do believe that the formula for distributing revenue-sharing funds should take account of the special needs of jurisdictions that have a high concentration of low-income people. Because of the vast scope of the revenue-sharing program, however, and its relatively small part in the total system of Federal aid, we cannot realistically expect revenue sharing to solve all of the problems facing State and local governments. Similarly, we cannot expect revenue sharing to be the vehicle for implementing all of the objectives that Congress may feel are worthwhile, when those objectives should be addressed in other legislation. In this light, I hope that the Finance Committee's review of the 145-percent ceiling can also produce some recommendations for alternative ways in which the Federal fiscal system can better direct assistance to those local governments which are most in need.

Mr. HRUSKA. Mr. President, I rise in support of H.R. 13367 as amended. I believe it will continue the policy of decentralizing the authority of the Federal Government over essentially local problems. Revenue sharing contributes to a revitalized, balanced Federal system enabling State and local governments to provide the essential public services which they are best suited to deliver. Our experience with revenue sharing in America has been a good one. It has the support of the Nation's Governors, county boards, and mayors. It deserves to be continued.

In Nebraska, revenue sharing funds have been used to improve county roads, to purchase equipment, to build new jails, to furnish clinics and to enlarge firehouses. These facilities are critical to rural areas, and without revenue sharing, many local governments would have been unable to finance these public services.

The bill before us not only provides greater assistance by increasing the amount of money in the program, but extends the period of assistance, giving local governments the opportunity to evaluate and to plan more thoroughly for their particular needs. Of special importance are the provisions which I strongly support, easing restrictions on the use of the funds. If revenue sharing is truly to slow the trend toward even greater power and control from Washington, State and local governments must be able to decide for themselves how best to use such funds. By eliminating the priority categories, revenue sharing assistance becomes more responsive to the special needs of this diverse country. It provides the needed flexibility for financing public services required in urban centers as well as in rural areas.

Other provisions of the bill which I especially support assure fiscal responsibility in expending these funds and provide citizens with the opportunity to participate in the determination of the use of such funds.

By passage of this bill, we continue the policy of decentralization of big government envisioned with the initial enactment of the Local Fiscal Assistance Act in 1972.

Mr. MONTOYA. Mr. President, today the Senate is considering a bill to extend for 5¾ years the general revenue sharing program. This program has provided more than $30 billion to approximately 39,000 units of State and local government since 1972. This program accounts for almost 12 percent of all Federal assistance payments to the State and local governments, and is now the Nation's single largest domestic program.

As chairman of the Appropriations Subcommittee on Treasury, Postal Service and General Government, I have been able to observe this program first hand. While this program, like all new programs has had its difficulties, I think the final evaluation must be a positive one.

This program has provided funds to our State and local governments which enabled those governments closest to the people to set priorities and spend Federal tax dollars at the local level.

Mr. President, I have just returned from an extensive tour of New Mexico where I was able to meet and discuss with local people and their elected officials the significance of the general revenue sharing program. Time after time local officials expressed to me their strong and unwavering support for the program. In this era of anti-Washington sentiment this program stands out as an example of the kind of Federal program favored at the grassroots level.

I am pleased that the Finançe Committee under the leadership of its distinguished chairman, Senator RUSSELL LONG, has proposed to this body a bill which would provide over $41 billion to be distributed during the next 5¾ years. In recognition of the need to keep pace with the rising costs of goods and services, the committee has provided for an increment of $150 million per year for each year of the program.

Mr. President, on September 8, 1976, before the 19th Annual Conference of the New Mexico Municipal League, I stated my support for this program, and I remain firm in my support. I urge my colleagues to continue their support of the general revenue sharing program and make available to our States, cities, and counties the assistance they critically need.

Mr. HUMPHREY. Mr. President, I urge my colleagues to support this bill, the Fiscal Assistance Amendments Act of 1976, which revises and extends General Revenue Sharing for another 5¾ years. The passage of this bill is vital if we are to continue the congressional fight against double-digit unemployment plaguing many of our cities, to continue the fight for the return of full employment, and to insure that local governments are able to maintain their current level of services without substantial increases in State and local taxes.

Revenue sharing has been the integral component maintaining the budgetary stability of State and local governments. Those who argue that the program should be terminated or be given only a short-term extension forget that a healthy national economy depends on healthy State and local governments. Our national economy will not recover from its recession until States and localities recover from the blow dealt them by the double-whammy of inflation and recession. This bill is yet another step, a most vital step, in helping them to recover from that blow.

Our State and local governments are still discovering that the Draconian tax increases and budget cuts they have imposed are not enough to balance their budgets. Failure to continue revenue sharing would push them further into the red and would force them to utilize counter-productive fiscal policies which would only undercut what is already an anemic recovery.

Termination of this program would either result in an immediate increase in local taxes or a reduction in the level of essential services. A short-term extension of it would only create major budgetary uncertainties at the local level thereby preventing local governments from accomplishing necessary goals and projects. It would be utterly nonsensical to exacerbate the fiscal and employment problems facing State and local governments, yet the termination or only a short-term extension of the program would do just that. And, these are not just big city problems. They are problems of urban and rural America, big and small cities, State and local governments.

This legislation should not only be judged by needs the bill addresses, but also by the successes the program has had. This program has accomplished its intended objectives. It has relieved the fiscal pressures on State and local governments; it has reduced the regressive burden of State and local taxes by substituting revenues from progressive Federal income taxes; and, due to its long-term nature, it has given State and local governments the resources and flexibility to develop long-range plans which address the problems which plague them.

State and local governments have spent their general revenue sharing funds wisely—they have not squandered this money. For example, the State of Minnesota and local governments within my home State have received about $600 million in revenue sharing funds and these governments have put this money to good use. The city of Minneapolis has increased the size and improved the effectiveness of its police force and has been able to maintain the size of its fire department with the aid of general revenue sharing funds. Without this money, the city would have been forced to cut back the size of both departments. The city of Duluth has been able to build a new recreational center and the city of Rochester has a new library because of general revenue sharing.

This bill will mean that my home State will receive an estimated $850 million during the next 5¾ years, 40 percent more than Minnesota received since September of 1972 when revenue sharing was first authorized. In fiscal year 1977, our State will receive an estimated $138 million. I assure you that this money will continue to be spent wisely because there are many worthy projects and goals which still need to be accomplished in Minnesota.

The bill will provide untold benefits to the American people. It will provide new opportunities for direct citizen participation in public policy decisions; it will increase the capacity of local governments to respond to local needs; it contains the resources which will give local governments more long-term stability thereby increasing their effectiveness. But this bill will do more. It will increase the coordination of Federal, State, and local government economic policies. It will help prevent the circumstances where local government employees are laid off as more Federal Government employees are hired and where local taxes are raised as Federal taxes are lowered. In short, it will improve our capacity to implement national economic goals at the local level.

Mr. President, no one can question the need for this legislation for it is tremendous. I urge my colleagues to join me in supporting it.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. DOLE

No single action by the Congress in recent years has done more to revitalize State and local governments than the general revenue sharing program. I am very pleased to support H.R. 13367 which extends this excellent program through fiscal year 1982.

BETTER FUNDING

As a member of the Finance Committee, an author of renewal legislation, and an early proponent of the revenue sharing concept, I take a personal stake in the successful passage of this bill. In its present form, H.R. 13367 renews the revenue sharing program for 5¾ years beyond its expiration date on December 31, 1976. An extension of this duration will enable State and local budget makers to plan ahead with some degree of certainty, but it also assures a thorough congressional review of the program at the end of period.

The bill further provides for annual increases in the funding level of $150 million—building upon the basic level of $6.9 billion authorized for fiscal year 1978. While these increases seem huge, they hardly keep pace with the likely rate of inflation during the future term of the program. We should also keep in mind that the entire revenue sharing expenditure accounts for only 12 percent of total federal aid to State and local governments.

FEWER STRINGS, BETTER ACCOUNTABILITY

In keeping with the underlying philosophy of the revenue sharing concept, H.R. 13367 also eliminates some of the Federal "strings" or conditions imposed on recipients at the present time. Among those strings that have been eliminated are requirements that local communities spend revenue sharing funds in certain "priority categories," that recipients furnish "planned use reports" to the Treasury Department, and that they not use revenue sharing funds to match other Federal grant programs.

Although unnecessary Federal strings are severed, H.R. 13367 does require greater accountability on the part of recipients in the areas of civil rights, budget auditing and citizen participation. Such restrictions are merely meant to curb discrimination and fiscal mismanagement, and they stop short of interfering with the legitimate policy making prerogatives of recipient governments.

ROOM FOR IMPROVEMENT

My favorable comments are not meant to suggest that there's no room for improvement in the program's operation. In the past, for instance, I've called for the elimination of the provision requiring recipient governments to comply with the highly inflationary Davis-Bacon act whenever 25 percent or more of revenue sharing funds are used in a construction project. I've also suggested that a gradual reduction of the 50 percent budget constraint would result in a more equitable distribution of funds. But these criticisms while worthy of further consideration, are not sufficient grounds for opposing the bill now before us.

A COMMENDABLE RECORD

I conclude my remarks by poining out that the revenue sharing program has already established a commendable record. It has helped communities bridge the fiscal gap between rising expenditures and declining revenues. It has lessened the burden of regressive sales and property taxes. It has given recipient governments the means to meet local needs as locally determined. And it has encouraged local initiative and slowed the trend toward Federal centralization. H.R. 13367, as amended by the Finance Committee, will further strengthen and improve this worthy program, and I urge the Senate to support it.

Mr. FORD. Mr. President, the Senate today has the opportunity to do a great public service to State and local units of government throughout the Nation by extending the general revenue sharing program for 5¾ years.

I urge my colleagues to move with dispatch and enthusiasm to adopt this legislation.

I do so because I have had the opportunity to see first hand the good work this program has done and how it has become essential to the Federal-State-local partnership.

General revenue sharing was first enacted in 1972 while I was Governor of Kentucky. The program grew out of a belief shared by many of us at the State and local levels that the Federal Government had become too isolated and too powerful.

It was obvious to us, as it was to many in the Congress, that the time had come to decentralize political power in our federal system by channeling money and decisionmaking away from Washington, back to those officials who are closest to the people.

The program has now been in existence for 5 years and there is no doubt in my mind that revenue sharing has proved its worth.

In community after community across Kentucky, I have seen how revenue sharing has made the critical difference, for without it during this period of runaway inflation and high unemployment, basic services and essential projects would either have had to be discontinued or funded through higher taxes.

I have seen how community after community has put these funds to wise and responsible use.

Revenue sharing has given local officials a greater opportunity than ever before to determine the course to take, without infringement or interference from far-removed seats of government.

It has served to restore faith and confidence in government by demonstrating that programs can be run for the needs of communities and people rather than just for the convenience of people in charge.

It has reversed the planning process from the traditional scheme of planning from the top down, and it has increased and improved communications between Federal, State and local governments by forming a strong partnership to best utilize our resources.

The support for revenue sharing in my State is unanimous, because State and local officials know as I do that the program can and does work. By extending this program for 5¾ years, we will enable government throughout the land to provide for long-range planning and increased community participation.

Mr. President, it took a long time for Washington to realize that people just might be best served by government when the decisions are made by those closest to the people. It took a long time to recognize that all decisions dealing with Federal tax dollars do not have to be made in Washington; that the people closest to the situation are quite capable of setting priorities for their communities.

Given the success of general revenue sharing's first 5 years and its value to State, local and, yes, even the Federal Government, it is imperative that we take the necessary action to extend this program.

This is what the American people want, and this is what we owe them.

Mr. BAKER. Mr. President, it is with some sense of relief that I rise to speak in support of the extension of the general revenue sharing program. I speak with a sense of relief because I was beginning to believe that it was going to take us as long to pass the extension of the revenue sharing program as it did for us to establish the program itself. As some of my colleagues may remember, Mr. President, I made my maiden speech on the floor of the Senate advocating the establishment of a "tax sharing" program early in 1967. Over the years, tax sharing became revenue sharing and the program was finally enacted into law in the fall of 1972.

I am pleased, Mr. President, that I was able to play a part in the bipartisan effort that culminated in the enactment of the revenue sharing program. I believe that the history of the program in the intervening years since 1972 has proved the wisdom of that enactment and has demonstrated abundantly and well the validity of the principle underlining the program. That principle, one of the most important elements of our federal system of government, and one I believe to be mandated by the inherent logic of the federal system as established by the Constitution, is that although the Central Government is the most efficient and progressive means of raising revenue, it is the State and local governments, those governments closest to the people from whence those revenues are derived, that can best determine how those revenues can be spent to meet most effectively and efficiently the needs of the people. In this regard it is well to remember that the Federal tax dollar is not created by the Federal Government, but through the exertions and productivity of the American people; and, whenever possible, the decisions regarding the use of those dollars should abide in those governmental entities most directly responsive to the people.

Over the past several years, Mr. President, there have been numerous suggested changes to the revenue sharing program. The bill now before us reflects some of those changes; the House version of this bill, unfortunately, reflects others. I believe strongly, Mr. President, that this bill, the bill as reported by the Senate Finance Committee, is far the better of the two.

Very briefly, Mr. President, let me explain why I endorse the Finance Committee's version of the bill. First, it provides for an extension of the present level of funding annually incremented for inflation for the full 5¾-year period with complete continuity of participant eligibility and allocation formulae. The longer entitlement is obviously more conducive to efficient management and planning in the budgetary processes of the States or the recipient governmental entities.

Secondly, the elimination of the priority categories and the prohibition against use of revenue sharing to meet Federal grant matching requirements, together with the reasonable and realistic modifications to the requirements for citizen participation in the budgetary planning process of recipient governments and the equally reasonabe and realistic modifications to the reporting requirements, strike a much needed balance between the trust reposed in local government and the need to insure that that large measure of trust is not abused.

Finally, and perhaps most importantly, the antidiscrimination provisions of the Finance Committee bill effectively enforce the intolerance of the Federal Government to any form of discrimination based on race or sex in any governmental program funded in whole or in part by the revenue sharing program. In enacting this legislation, we assume, and in the overwhelming majority of the cases we assume correctly, that revenue sharing funds will be spent fairly, wisely and well; but for those instances in which discrimination persists, we will have provided for effective Federal and private redress.

Mr. President, I endorse without qualification the extension of the revenue sharing program as reported by the Senate Finance Committee. I regret only that the Congress has come so slowly to the consideration of this extension, and I strongly urge my colleagues to consider favorably the passage of the bill in its present form. May I take this opportunity also to urge those of my colleagues who will sit in conference on the bill to insist that the provisions of this version be retained.

Mr. PERCY. Mr. President, I strongly support extension of the revenue sharing program for an additional 5¾ years. Revenue sharing has proved to be of immense importance to all States and local units of government.

The bill reported by the Finance Committee would extend revenue sharing 5¾ years. This will enable units of government to adequately plan ahead with assurance of funding for their programs on a multiyear basis.

Of the fiscal year 1977 proposed figure of $6.9 billion, $353,174,066 would be provided for the State of Illinois and local units of governent within the State. These funds will allow the continuance of many useful programs and projects within the State.

I support the annual increment of $150 million as this will account for inflation and maintain the flow of revenue sharing dollars to the States at a more constant level of actual benefit.

The elimination of categories of expenditures for which revenue sharing funds must be used and the removal of the prohibition on using revenue sharing funds for matching other Federal program expands upon the idea that revenue sharing funds should be unrestricted in their usage by their recipients. The whole point of revenue sharing is to allow local units of government to make their own decisions and set their own priorities on use of these funds. I am pleased that this concept is further expanded upon in this legislation.

The continuation of auditing requirements, requirements for public hearings and discussions on use of revenue sharing funds, and the nondiscrimination provisions provide appropriate safeguards in the use of revenue sharing funds to insure that they are used in accordance with the wishes of the people and for the benefit of all citizens.

Mr. President, I can think of no more appropriate action in this Bicentennial Year than to reaffirm our support of the States and local units of government in this country. By passage of this legislation we will be reaffirming our belief in the federal system of government.

I wholeheartedly support this legislation, urge its speedy enactment into law, and intend to vote against any amendments that will attach unnecessary strings or redtape to the program.

Mr. DOMENICI. Mr. President, I am pleased the Senate is finally considering H.R. 13367, legislation to extend and amend the State and Local Fiscal Assistance Act of 1972. The revenue sharing concept is one I have strongly supported since its inception, and I heartily endorse the committee's efforts to strengthen the present law.

In particular, I support the provisions which remove many present cumbersome restrictions. The elimination of the requirement that localities spend revenue sharing funds in priority categories and the elimination of the present requirement that State and local governments not use revenue sharing to match other Federal programs are certainly welcome changes to the officials trying to administer the funds. Furthermore, the Senate bill stipulates that, where State or local law requires an audit of State and local revenues and expenditures, the same requirement would be applicable to revenue sharing funds. Where no statutory audit requirement exists, an independent audit of the recipient's financial statements, according to generally acceptable accounting standards, would be required every 3 years. These liberalizing provisions will make the present program more workable on the local level.

Other criteria of funding stipulated in the bill will also strengthen the present law such as the general requirement for public hearings, the notification and publication of summary information, and the tougher nondiscrimination provisions of the bill. I strongly endorse the enactment of these improvements as well.

Mr. President, over the past 2½ years, the Nation has suffered the worst recession since the Great Depression. Not only has the private sector been adversely affected, but so too has the State and local sector. Rapidly rising service costs coupled with sluggish or declining tax bases have meant that State and local governments have had to raise tax rates and/or cut services. For example, State spending grew in 1975 by 18.2 percent while revenues grew by only 9.8 percent. The impact of the recession has been especially severe in some of the older, industrial cities.

A chronic problem State and local governments face is that the demand for public services is more elastic than the availability of revenues to finance them. Thus, because of inflation and other factors, expenditure requirements tend to outpace revenues. State and local governments have tended to rely on revenue sources that do not grow as the economy does. The continued provision of general revenue sharing thus not only serves to help solve the fiscal problems of individual State and local governments, but also serves to stabilize the economy. Since 1972, general revenue sharing has become an integral part of State and local budgets. Initially proposed as a new and additional form of Federal assistance, revenue sharing has been used by State and local governments to hold the fiscal line as other Federal categorical programs were reduced. As such, revenue sharing has become not only well integrated into the State and local fiscal process, but also an essential source of funding to State and local governments. For this reason and the before mentioned revisions in the present law, I believe we should support the legislation before us today, and I urge my colleagues affirmative vote.

Mr. HANSEN. Mr. President, I rise today in support of the revenue sharing program which provides to the States the opportunity to decide for themselves what programs they need, and just how those programs should be administered. This is a concept which I would like to see grow.

Much has been made of the contribution of the revenue sharing program to revitalize State and local governments. My State of Wyoming is a rapidly growing rural State. The revenue sharing program will be a tremendous benefit to other rapidly growing States which can use the revenue sharing program funds to provide the services needed in growth phases in towns and cities. Some areas in my State have doubled and tripled in population over the past few years. The $11 million available to those Wyoming locales can do much to provide needed services and improve existing programs.

While I was Governor of Wyoming, Wyoming participated as a member of the Interstate Oil Compact Commission. I found that when those member States each had an opportunity to act on their individual problems, to address their unique situations, far better answers resulted. States, acting singly, are innovative. The Federal Government, on the other hand, by imposing one Federal standard never provides a solution which precisely fits any specific set of circumstances.

The advantages of local and State problem solving resulting from this experience have been seized upon by other States. The options and choices are numerous, and the benefits flowing from this facet of federalism have inured to all the people.

Basically, it gets down to one fundamental concept: many people making individual decisions over the long run will make fewer serious mistakes and errors in judgment than will be made by one central authority. Students of government have long recognized this inherent weakness in the U.S.S.R.

The distinguished Senator from Oregon has already risen to speak in favor of the "no strings" concept of this legislation. I wholeheartedly support his view that States should have the greatest latitude possible in administering their programs. My experience has borne out the value of independence. Burdensome "strings attached" requirements only serve to dilute the impact of the revenue sharing funds. Our State and local governments should be agencies of creative problem solving, and revenue sharing helps achieve this goal.

Further significant aspects of the Senate Finance Committee's report of the revenue sharing bill is the extension of the timespan of the legislation to 5¾ years. I feel that this is extremely important, because such an extension allows States to rely on the availability of funds over a long period so that they can get the greatest benefit from the program. It would be disastrous if locales were forced to delay their programs, because of the uncertainty as to availability of funds. We can all recall the plight of school systems which were relying on Federal funds only to find that the Congress did not always appropriate the funds when it was expected to. Local units of government need to know two things: The amount of money they are to receive and when they are to receive it. The whole budget process hinges upon this knowledge.

I commend my colleagues on the Finance Committee in making the program effective for 5¾ years.

I support the revenue sharing concept for the contribution it can make toward innovative, creative local problem solving, and urge Senators to support this program.

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Oklahoma (Mr. Bartlett).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Bartlett

I wish to express my support for the extension of the State and Local Fiscal Assistance Act of 1972 as embodied in H.R. 13367. I feel that, as reported by the Finance Committee, this bill will enable the continuation of a program that has helped strengthen the role of local governments throughout the Nation. From my own State of Oklahoma, I have received numerous city and town resolutions calling for the continuation of the 1972 law.

The revenue sharing program is one of the few programs that has attempted to provide a means of offsetting the expenses that are being caused by the increasing number of federal regulations. At the same time, the majority of such revenue sharing funds are being used to maintain and improve basic urban services such as police and fire protection, sanitation collection, health care facilities, and improved management technology. Although the FY 77 funding level of $6.9 billion may be just slightly excessive, it does at least face the fact that the costs of these vital state and local government services have been increasing at alarming rates. In a period when many cities and towns are experiencing fiscal difficulty this legislation is like a breath of spring.

The continuance of revenue sharing will also forestall the necessity of our states and localities from having to increase their sales and property taxes. States and localities depend primarily for their funds on such taxes, whereas revenue sharing monies come from income taxes. Income taxes are economically more efficient and despite some obvious inequities which have to be corrected, fairer taxes than property or sales taxes. No one, especially the poor, would wish to pay the increased regressive property taxes that would very likely result if this program is not continued.

I find particularly encouraging the fact that the committee bill eliminates the requirement for mandatory priority expenditures for localities. The present law contained no such restrictions on the states and I am happy to see that the restrictions on the localities have ben removed. These priority categories complicated substantially the operation of what was intended to be an administratively simple program, they also introduced a noxious element of parentalism that thankfully will be absent from the program as extended. Local responsibility has been recognized and will be strengthened by H.R. 13367—common sense has won one.

COMMITTEE MEETINGS

COMMITTEE ON PUBLIC WORKS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Public Works be authorized to meet on September 14 to consider the Water Resources Development Act of 1976.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet on September 15 to consider sunset legislation.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on September 14 and 16 to continue hearings on the Army's XM-1 tank program, other legislative items, and authorization to repair typhoon damage to U.S. Navy and Air Force facilities in Guam.

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service be authorized to meet on September 20 to consider census bills.

Mr. GRIFFIN. Mr. President, at the request of another Senator, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture and Forestry be authorized to meet on September 17 to consider H.R. 12207, a bill to amend the Rural Electrification Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCHANGE OF MEDICAL INFORMATION BETWEEN THE VETERANS' ADMINISTRATION AND THE MEDICAL COMMUNITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 847.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3348) to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment as follows:

On page 2, beginning at line 9, insert:

Sec. 2. (a) Subchapter I of chapter 2 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 203. Availability of appropriations

"Any funds appropriated to the Veterans' Administration may, to the extent provided in this title or an appropriations Act, remain available until expended.".

(b) The table of sections for subchapter I of chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new item:

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3348) was passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94-891), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Introduction and Summary of H.R. 3348, as Reported

H.R. 3348 was passed unanimously by the House of Representatives on June 16, 1975, and was referred to the Senate Committee on Veterans' Affairs on June 17, 1975. On February 2, 1976, S. 2908, the proposed Veterans Omnibus Health Care Act of 1976, was introduced in the Senate. Section 121 of S. 2908 contained provisions which were similar in scope and purpose to those of the House-passed H.R. 3348.

On February 18 and 19, the Subcommittee on Health and Hospitals held hearings on S. 2908 and other pending veterans health care legislation. In order to satisfy the reporting requirements of the Congressional Budget Act of 1974 (Pub. L. 93-344), with respect to authorizing legislation, section 121 has been separated from S. 2908 and this bill, in lieu of that section, is being reported to the Senate. (The Committee has also determined, as a result of its consultation with the Senate Committee on the Budget, that the May 15 reporting deadline is generally inapplicable to the other provisions of S. 2908, which constitute entitlement legislation to which the May 15 required reporting date in section 402(a) of that Act does not apply).

During the 2-week period from April 12 to April 23, the members of the Committee by poll voted unanimously to report favorably H.R. 3348 and the amendment to it.

The basic purpose of H.R. 3348 is to permit the continued growth and development of the Department of Medicine and Surgery's Exchange of Medical Information (EMI) program by authorizing, through fiscal year 1979, expenditures to support grants and pilot programs in this field. The bill also provides that proceeds to the Government received under the EMI program shall be credited to the applicable VA medical appropriation instead of being returned to the Treasury as miscellaneous receipts (as under current law).

Specifically, H.R. 3348 as reported would:

(1) Amend section 5054(b) of title 38 to require that any proceeds to the Government received for providing medical information to the medical community under the EMI program be credited to the applicable VA medical appropriation;

(2) Amend section 5055(c) of title 38 (authorizing appropriations to carry out EMI programs) to authorize expenditures for the EMI program of $3,500,000 for fiscal year 1976, $1,700,000 for the transition quarter beginning July 1 and ending September 30, 1976, and $4,000,000 annually for fiscal years 1977, 1978, and 1979; and

(3) Add a clarifying technical amendment which explicitly authorizes that funds appropriated to the Veterans' Administration, may to the extent provided in title 38 or an Appropriations act, remain available until expended.

BACKGROUND AND DISCUSSION

The exchange of medical information program

To strengthen medical programs at Veterans' Administration hospitals not affiliated with medical schools or in locations remote from medical teaching centers, and to foster the widest possible cooperation and consultation among members of the medical profession, Congress, 10 years ago enacted legislation (Public Law 89–785, the Veterans Hospitalization and Medical Services Modernization Amendments of 1966) to authorize the Administrator of Veterans' Affairs to enter into agreements with medical schools, hospitals, medical centers, and individual members of the medical profession for the free exchange of medical information. The EMI program was part of a comprehensive program for the sharing of medical facilities, equipment, and information, now codfied as subchapter IV of chapter 81 of title 38, United States Code.

The purpose of the EMI program was to bring modern medical and communications technology to bear on the quality of services available to veterans at VA hospitals which, for reasons of size, location, or lack of resources, were unable to take full advantage of the latest medical information. The 1966 legislation charged the VA with the responsibility to engage in pilot projects having as their objective the strengthening of VA hospitals through the exchange of medical information, and authorized annual appropriations of $3,000,000 for the 4 fiscal years ending June 30, 1971 to support projects in that area.

Initial funding commenced in fiscal year 1968, with the appropriation of $942,000. This amount was increased to $974,000 in fiscal year 1969, and to $2,000,000 for each of the next 2 fiscal years.

By 1971, Congress had come to recognize the EMI program as an integral part of the VA's ongoing programs for patient care, research, and medical education. In that year, legislation was enacted (Pub. L. 92–69) extending the authorization of appropriations for the program for an additional 4 years, or through fiscal year 1975. Appropriations for the program increased from $2,000,000 in fiscal year 1972 to $2,500,000 in fiscal year 1973, and to $3,000,000 annually for fiscal years 1974 and 1975.

The EMI program is now concluding its eighth year of operation. Since its beginning in 1968, over 50 projects have been supported under the EMI program. Every one of the VA's 171 hospitals has contributed to the program, either as "core" institutions from which information flows to outlying hospitals or as recipients of this information. Health professionals in 100 communities in the United States have participated in and benefited from the program. The funds provided have been fully expended and wisely invested in pilot programs which, once established, have contributed directly and significantly to patient care.

Program accomplishments

The Veterans' Administration's health care system of 171 hospitals and more than 200 outpatient clinics is an established nationwide resource as well as integral part of the community health care system in each population center in which the VA has a medical facility. The operation of this vast system carries with it a mandate to provide the best possible care to every individual who comes to a VA facility regardless of its location. This means that the agency must constantly look to the latest scientific and technological developments to determine what impact each may have on the delivery of quality medical care.

Through the development of modern electronics and communications systems, the barriers of time and distance have largely disappeared. It is now technologically possible for all physicians and other health care professionals throughout the United States to operate in one professional milieu. For example, the day is approaching when physcians in the most remote parts of our country will have immediately available to them the same consultants and other professional resources as do their colleagues in medical teaching centers. The technology to do this is available. All that remains is to harness it to our needs in ways that are cost effective and in the best interests of the patient.

The EMI program is the vehicle through which this and other advances in biomedical communications are being accomplished.

Since its inception in fiscal year 1968, a wide variety of innovative activities has been supported under the EMI program through grants to medical schools, hospitals, and research centers and via direct funding to VA hospitals. The activities supported under this program vary in concept, scope, and content, although each has as its objective the investigation, development, and implementation of innovative programs in the exchange of medical information. The following are typical of the pilot projects conducted under this program.

(1) Participation in a series of biomedical communication experiments via a satellite which was launched in April 1974 by the National Aeronautics and Space Administration.—This satellite, known as Applications Technology Satellite-F (ATS-F), provides a unique opportunity for the VA to explore new modalities of information exchange involving 10 VA hospitals located in the Appalachian region of the United States. ATS-F is an attempt to broaden, through experimentation, the scope of health services through long-distance, simultaneous, low-cost, interactive transmission of consultations and pertinent clinical and educational materials.

(2) Establishment of a pilot Nuclear Medicine Network consisting of the 4 VA institutions in eastern Missouri and southern Illinois.—The participating hospitals are Marion, Ill.; Poplar Bluff, Mo.; St. Louis (John Cochran Division), Mo.; and St. Louis (Jefferson Barracks Division), Mo. This is a patient-care-oriented project which will, when fully operational, investigate the feasibility of utilizing a geographic electronic network to provide diagnostic nuclear medicine services. The major impediment to the establishment of nuclear medicine services in outlying hospitals has been the lack of trained professional and technical nuclear medicine personnel in these institutions. The Nuclear Medicine Network is a plan to provide the highest level of nuclear medicine services through the use of computer communications technology and without the need for a professional specialist in residence at the remote hospitals. These services include dynamic and static imaging, in vitro procedures, and in vivo function and volume measurements. All the major items of nuclear medicine equipment have been installed. The procurement of the computer equipment is in process and various necessary instructional materials have been prepared so as to ensure effective utilization of the Nuclear Medicine Network.

(3) Development of a Center for Continuing Health Education (CCHE) in the Rocky Mountain Region through a grant with the University of Utah Medical Center.—Initially the VA hospitals at Boise, Idaho; Fort Harrison, Mont.; Grand Junction, Colo.; Reno, Nev.; Salt Lake City, Utah; and Sheridan, Wyo., were included in the project. During fiscal year 1973, the VA hospitals at Cheyenne, Wyo.; Fort Lyon, Colo.; and Miles City, Mont., became active participants in the network. The major purpose of this project is to create an environment conducive to the provision of the best possible patient care at the participating hospitals by fostering educational programs which meet the hospital's needs. In keeping with the intent of the EMI legislation, development of the CCHE is also directed toward improvement in the quality of patient care rendered to all residents of each community in which the participating VA hospitals are located. The impact of the CCHE activities on patient care in the isolated locales of the participating hospitals is demonstrable.

(4) The Veterans Education Training and Extramural Regional Audiovisual Network (VETERAN).—This program, initiated in 1973, is a conceptual merger of the EMI and the VA's regionalization policy. When fully developed it will provide for access and exchange of medical information via television between the VA hospitals in St. Louis, Mo.; Poplar Bluff, Mo.; and Marion, Ill.; as well as with the medical schools and other major health care facilities in the St. Louis area. Thus, it will serve to bring those VA hospitals which are in the district, but remote from urban medical centers, within one orbit educationally and clinically, by facilitating cost-effective exchange of medical information. It will also provide the opportunity for close cooperation between the VA medical programs and other public and private health care agencies in the region.

(5) Interactive Telecommunications System for Central Maine.—The project is designed to train family practice physicians who live and practice in underserved areas of low populations density. Involved is a consortium of 5 hospitals, including the VA facility at Togus, Maine.

(6) Center for Continuing Health Education.—Development of coordinated educational program fulfilling a variety of needs at eight VA hospitals in Colorado, Wyoming, Montana, Idaho, and Nevada.

(7) Regional Computerized Consultation: Fluid and Electrolytes.—Extension of im-

mediate clinical consultation to VA hospitals remote from urban medical centers.

(8) Dial Access for Physicians and Nurses.—Over 400 lectures for physicians and nurses available nationally by dialing a single number.

(9) Endoscopy in Television.—Utilization of closed circuit television for visualization and documentation of endoscopic findings developed at the VA hospital, Lake City, Florida.

(10) VA/Nebraska Television Network.—Two-way closed circuit television system between the University of Nebraska Medical Center, University of Nebraska College of Dentistry, Creighton University School of Medicine, and VA hospitals, Omaha, Lincoln, and Grand Island.

(11) Statewide Tumor Registry.—Establishment of an automatic, computerized statewide tumor registry in Alabama encompassing the University of Alabama Medical Center and the four VA hospitals in Alabama.

(12) Telemedicine/Teleconsultation. — Closed circuit television system between the VA hospital, Bedford, Mass., and Massachusetts General Hospital used for therapy and consultation.

The EMI program complements the concept of regionalization, as it is being applied in the Department of Medicine and Surgery, in seeking the common goal of enabling every VA hospital to offer the advantages of the latest developments in medical care to its patients.

TECHNICAL AMENDMENT

H.R. 3348 as reported would also add a clarifying technical amendment which explicitly authorizes that funds appropriated to the Veterans' Administration may, to the extent provided in title 38 or an Appropriations act, remain available until expended. This clarification is apparently required because of a recent interpretation by the Parliamentarian of the House of Representatives. For years Appropriation acts have specified, for most VA appropriation accounts, that the funds appropriated may remain available until expended. The Committee understands that with respect to the fiscal year 1976 appropriations for the Veterans' Administration a parliamentary inquiry was initiated which questioned the authority for the Appropriations Act to specify the continued availability of VA funds. The Committee further understands that it is the position of the House Parliamentarian that unless the substantive law authorizing the various VA programs permits funds to be continued available until expended, such an Appropriations act specifying the same would be subject to point of order on the floor of the House.

Some Veterans' Administration programs authorized under title 38 already have such specific authorization with respect to multi-year availability of appropriations. They include Medical and Prosthetic Research (section 216(b)); Grants to the Republic of the Philippines (section 631(d)); Grants for Construction of State Extended Care Facilities (section 644(d)); Loan Guaranty Revolving Fund (section 1824); and Assistance for Health Manpower Training Institutions (section 5082(b)). As to certain other VA programs, there is not such a specific authorization. Accordingly, the clarifying technical amendment adopted by the Committee would provide explicit authority in order to authorize the House Appropriations Committee to continue existing practice. New section 203, thus provides that funds may be available until expended either if authorized under title 38 or so specified in an Appropriations act.

COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Pub. L. 91-510, 91st Congress), the Committee, estimates that, if all funds authorized to be appropriated are appropriated, the costs entailed by enactment of H.R. 3348 as reported would be: Authorize an appropriation of $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976 and ending September 3, 1976; $4 million for fiscal year 1977; $4 million for fiscal year 1978, and $4 million for fiscal year 1979.

SPECIAL ORDERS FOR TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. RIBICOFF, MOSS, HATHAWAY, CHILES, and MANSFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each at the conclusion of which the Senate will resume the consideration of the revenue sharing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMILLA A. HESTER

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. ALLEN, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 1134.

The bill (S. 3790) for the relief of Camilla A. Hester, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement), Camilla A. Hester, of Foley, Alabama, shall be deemed a widow within the meaning of subsection (a)(1) of section 8341 of such title, and if otherwise entitled to a survivor annuity under such section, shall be paid that annuity from September 28, 1972.

SEC. 2. Any amounts payable by reason of the first section of this Act with respect to any period prior to the date of the enactment of this Act shall be paid in a lump sum within sixty days after such date, including interest at an annual rate of 6 per centum from the time when payments were due under the first section of this Act.

SEC. 3. In addition to amounts payable by reason of the first section of this Act, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 to the said Camilla A. Hester, as compensation for hardships endured and expenses incurred, over a period of four years, in seeking to qualify for a survivor annuity.

SEC. 4. No part of the amount authorized by this Act in excess of 15 per centum of the sums described in sections 2 and 3 of this Act shall be paid or delivered to or received by an agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. A violation of this section is a misdemeanor punishable by a fine in an amount not to exceed $1,000.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF TIME DESIGNATED FOR TRIBUTES TO SENATOR MANSFIELD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 2 hours under the control of the distinguished Republican leader and myself during which tributes may be expressed to our distinguished majority leader concerning his forthcoming retirement at the end of this Congress, which was originally set up for Friday at the close of business, be shifted to Thursday of this week at the close of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 11 a.m. After the two leaders or their designees have been recognized under the standing order, Messrs. RIBICOFF, MOSS, HATHAWAY, CHILES, and MANSFIELD will be recognized, each for not to exceed 15 minutes, and there will then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will resume the consideration of the revenue sharing bill. Rollcall votes will occur on that measure throughout the afternoon, and other measures may be taken up during the afternoon on which rollcall votes could occur. Conference reports may be called up, and I should mention that Calendar Order No. 1127, S. 1439, may be called up during the afternoon.

ADJOURNMENT UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 7:34 p.m., the Senate adjourned until tomorrow, Tuesday, September 14, 1976, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1976:

UNITED NATIONS

The following-named persons to be Representatives of the United States of America to the Thirty-first Session of the General Assembly of the United Nations:

William W. Scranton, of Pennsylvania.

W. Tapley Bennett, Jr., of Georgia.

George McGovern, United States Senator from the State of South Dakota.

Howard H. Baker, Jr., United States Senator from the State of Tennessee.

Reverend Robert P. Hupp, of Nebraska.

The following-named persons to be Alternate Representatives of the United States of America to the Thirty-first Session of the General Assembly of the United Nations:

Albert W. Sherer, Jr., of Illinois.

Jacob M. Myerson, of South Carolina.

Nancy V. Rawls, of Georgia.

Stephen Hess, of the District of Columbia.

Ersa Hines Poston, of New York.

NATIONAL SCIENCE FOUNDATION

The following-named persons to be Members of the National Science Board, National Science Foundation, for a term expiring May 10, 1982:

Raymond L. Bisplinghoff, of Missouri.
Lloyd Miller Cooke, of New York.
Herbert D. Doan, of Michigan.
John R. Hogness, of Washington.
William F. Hueg, Jr., of Minnesota.
Marian E. Koshland, of California.
Alexander Rich, of Massachusetts.

IN THE NAVY

Vice Admiral Kent L. Lee, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of Title 10, United States Code, Section 5233.

HOUSE OF REPRESENTATIVES—*Monday, September 13, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God is with you in all that you do.—Genesis 21: 22.

"Breathe on us, Breath of God,
Fill us with life anew,
That we may love what thou dost love,
And do what thou wouldst do."

In this spirit, our Father, we come to Thee and with this song on our lips we would make ourselves ready for the responsibilities which are ours. Lift the burden of demanding duties from our heavy hearts that with the shield of love and the sword of truth we may face our tasks with faith and without fear.

Kindle in our hearts a devotion to freedom, justice, and good will in our land and in our world that the time may come when our people shall live together in friendly relations and the nations shall get along together in peace.

In the spirit of Him who keeps us free we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 9, 1976:

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact.

On September 10, 1976:

H.R. 11481. An act to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes; and

H.R. 11670. An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes.

On September 11, 1976:

H.R. 13372. An act to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes; and

H.R. 15371. An act to provide for protection of the spouses of major Presidential and Vice Presidential nominees.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agreed to House amendments to Senate amendments numbered, 19, 20, 21, 22, 42, 46, 59, 70, 76, 91, 107, 112, and 114 to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 71. An act to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II;

H.R. 14260. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes; and

H.R. 15194. An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14260) entitled "An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. PROXMIRE, Mr. MCGEE, Mr. CHILES, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. BROOKE, Mr. HATFIELD, Mr. MATHIAS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 15194) entitled "An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PASTORE, Mr. MCCLELLAN, Mr. PROXMIRE, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. YOUNG, Mr. HRUSKA, Mr. MATHIAS, and Mr. BELLMON to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 14238, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1977

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. SHIPLEY, GIAIMO, ADDABBO, MCFALL, YATES, EVANS of Colorado, ROYBAL, ROUSH, MAHON, COUGHLIN, CEDERBERG, ARMSTRONG, and REGULA.

CALL OF THE HOUSE

Mr. ROUSH. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 712]

Abzug
Addabbo
Alexander
Ambro
Andrews, N.C.
Ashley
AuCoin
Badillo
Beard, R.I.
Bell

Biaggi
Boland
Bonker
Brinkley
Brooks
Burgener
Burke, Calif.
Carter
Chappell
Chisholm

Cleveland
Conlan
Conte
Conyers
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney

to the Congress under such section 5305) of the adjustment made in the rates of pay under the General Schedule.

"(2) No adjustment in the annual rate of basic compensation of such officers and members may be made except in accordance with paragraph (1).

"(c) Any reference in any law to the salary schedule in section 101 of this Act with respect to officers and members of the United States Park Police force shall be considered to be a reference to such schedule as adjusted in accordance with subsection (b).".

REPORT ON THE FEASIBILITY OF CODIFYING LAWS RELATING TO THE PARK POLICE

SEC. 3. The Secretary of the Interior shall submit to Congress not later than one year after the date of enactment of this Act a report on the feasibility and desirability of enacting as a part of the United States Code those provisions concerning the powers, duties, functions, salaries, and benefits of officers and members of the United States Park Police force which presently are contained in several statutes and are compiled in the District of Columbia Code.

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall take effect on October 1, 1976.

Mr. MANN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the bill and the amendment be considered as read and printed in the RECORD at this point.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The SPEAKER. The gentleman from South Carolina is recognized for 5 minutes.

Mr. MANN. Mr. Speaker, H.R. 15276, as amended, is a bill to amend the D.C. Police and Firemen's Salary Act of 1958 to provide that future salary adjustments for officers and members of the U.S. Park Police shall be made in accordance with the Federal pay comparability system.

For many years the pay and benefits of the U.S. Park Police have been governed by the D.C. Police and Firemen's Act of 1958. Prior to the full implementation of the Home Rule Act on January 2, 1975, it was logical to deal with salaries and benefits for the U.S. Park Police and the D.C. Metropolitan Police in a single piece of legislation, because the Congress had the direct responsibility for compensation of both police forces. Now that the Council of the District of Columbia has the direct responsibility for the salary and benefits of the Metropolitan Police under the Home Rule Act, it appears reasonable to take the Park Police out of the compensation adjustment provisions of the D.C. Police and Firemen's Act and bring them under the relevant provisions of the United States Code. Bringing the Park Police under the Federal pay comparability system, as H.R. 15276 does, would insure that the Park Police would be treated the same as other Federal employees with regard to future pay adjustments, and would eliminate the need for Congress to consider new pay legislation every year or two in order to provide the Park Police with appropriate cost of living increases as has been done in the past.

H.R. 15276, as amended, also calls for the Department of the Interior to submit to Congress comprehensive recommendations for consolidating and updating the various provisions of the law relating to the Park Police powers, duties, functions, salaries, and benefits presently scattered in a number of statutes compiled in the D.C. Code.

LEGISLATIVE HISTORY

The Subcommittee on the Judiciary considered several previous bills (H.R. 11131, H.R. 13250, H.R. 14322) which provided for Federal pay comparability for the Park Police, as well as a 10.6-percent pay increase, longevity amendments, increase night and weekend differential pay, establishment of a new and separate Retirement Board within the Department of the Interior, and other benefits. One of these bills took 65 pages to remove the Park Police from all the relevant provisions of the D.C. Code for pay, retirement and other benefit purposes, and to establish such benefit provisions in a single part of the United States Code. Even then, the Department of the Interior had reservations about certain parts of that bill. As previously indicated, during the pendancy of these bills in July of this year, the Park Police received the 6-percent increase granted the Metropolitan Police. Consequently, with time running out under the September 15 deadline of the Budget Control Act of 1974, the subcommittee determined not to attempt the complicated and complete transfer of all the Park Police pay, retirement, and other benefits.

Hearings and markup on the legislation were held by the Subcommittee on the Judiciary on August 25, 1976, at which representatives of the Interior Department, the Park Police, and the policemen's association were invited to testify. All comments received by the subcommittee were in support of the legislation. The subcommittee reported to the committee H.R. 15276, providing for the essential element of Federal pay comparability for the Park Police, and calling for the Department of the Interior to submit to Congress within 1 year comprehensive recommendations for transfer of the other matters affecting the Park Police. The full committee met on September 1, 1976, and adopted an amended version of the bill reflecting mainly technical improvements suggested by the Department of the Interior and the Office of Management and Budget.

The committee unanimously approved H.R. 15276, as amended, the Department of the Interior supports it, and I am aware of no controversy over the essential purposes sought to be achieved by the bill.

Before yielding, I would like to commend our distinguished colleague from New York (Mr. ZEFERETTI) and his staff, for their able assistance in fashioning this worthy legislation.

Mr. Speaker, I yield to the gentleman from New York (Mr. ZEFERETTI) at this time.

Mr. ZEFERETTI. Mr. Speaker, I have the honor today of speaking in support of H.R. 15276, legislation I introduced to insure the 725 officers and members of the U.S. Park Police force will receive the same increases and basic compensation as other Federal employees under the Federal pay comparability system.

Since 1791, the U.S. Park Police have had a distinguished and unblemished record of service to our country. Its officers are carefully chosen and well-trained, and are learned in the laws of the State and local jurisdictions in which they serve. As do other law enforcement personnel, U.S. Park Police perform their duties under conditions which are hazardous and require the constant utilization of wisdom. They patrol over 70,000 Federal areas performing police services in 7 States and the District of Columbia. This is an enormous responsibility and a fact that should be made known to Members of Congress as well as the general public. The Park Police have jurisdiction over a full range of criminal acts and are on call to assist local and other Federal law enforcement agencies. Beyond law enforcement, the Park Police provide other major services to the public in both community relations functions and hazard relief. For example, they maintain and operate two helicopters staffed with paramedics to provide emergency assistance to victims of accidents requiring immediate care or hospitalization.

It is known that there is an ever-increasing need for national parks to benefit all the citizens of our Nation. President Ford, in recognizing this, has proposed a massive $1.5 billion Bicentennial Land Heritage Act—it calls for an accelerated acquisition and development of national parks and wildlife refuges and 1500 new park personnel. It is evident that professional, well-qualified men and women are needed to provide for visitors' safety and well-being and to maintain our national parks for the enjoyment of present as well as future generations.

For years, under the District of Columbia Code, the salaries of park policemen and policewomen have been treated jointly with those of the District of Columbia Metropolitan Police Department and the Executive Protective Service. The recent District of Columbia home rule legislation, however, while requiring the D.C. government to bargain with labo. representatives of the Metropolitan Police Department, provides no such procedures for the Park Police.

It is ridiculous to have the City Council control the pay and benefits of the U.S. Park Police; an independent Federal agency apart from the control of the District of Columbia government.

The argument has been raised, Mr. Speaker, that to provide any extra benefits or pay for the U.S. Park Police would indeed have an effect on the negotiated settlement with the District of Columbia police officers. While this may be a fact of life, it is also a fact that the District of Columbia has no control over the salaries and benefits of the FBI, the Secret Service, the U.S. marshals, or the Federal Protective Service since they are all Federal agencies as is the Department of Interior that employs the U.S. Park

Police. In fact, I do not believe that there can be found any other Federal agency with employees located throughout this great country that does not have control over their employees.

The present law is counterproductive and in addition to withholding fairness from the Park Police, operates to cause well-trained and high-caliber officers to look elsewhere, thus reducing the potential effectiveness of this valuable Federal resource. H.R. 15276 entitles the Park Police to the same adjustments in basic compensation which civil service general schedule employees receive under Federal pay comparability, cost-of-living increases which will be granted to other Federal employees on October 1 of this year. This bill also requires the Department of Interior to review all laws relating to U.S. Park Police presently found in the District of Columbia Code and submit their findings to Congress within 1 year. It brings justice, sensibility, and fairness to the members of the U.S. Park Police and I urge my colleagues to approve this legislation.

Mr. WHALEN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would simply like to associate myself with the remarks of my good friend from South Carolina and join him in commending our colleague from New York, Mr. ZEFFERETTI, for his able assistance with this legislation.

It is particularly important to note that this bill would unburden Congress of the duty of legislating cost-of-living adjustments for the U.S. Park Police every year or two. I think this bill presents a most appropriate and expeditious means of accomplishing these perfunctory periodic pay changes.

We also should take special notice of the fact that since 1972 Federal employees have received pay increases amounting to approximately 27 percent, while the U.S. Park Police have received increases totaling only 22 percent. I am aware of no justification for such a differential in cost-of-living adjustments. The bill before us today should prevent any such imbalance in cost-of-living raises in the future.

I urge approval of this measure.

The committee amendment was agreed to.

Mr. DIGGS. Mr. Speaker, the essential purpose of H.R. 15276, as amended and reported (H. Rept. 94–1473), is to remove the U.S. Park Police from the pay adjustment provisions of the D.C. Police and Firemen's Salary Act of 1958, and to provide that future adjustments shall be made pursuant to the pay comparability system of the Federal Government. In making this change, the bill provides a beginning for the eventual transfer of Park Police salary, retirement, and other benefits out from the D.C. law into the United States Code.

NEED FOR THE LEGISLATION

For many years the pay and benefits of the U.S. Park Police have been governed by the D.C. Police and Firemen's Act of 1958 (4 D.C. Code §§ 832 et seq.). Prior to the full implementation of the "Home Rule" Act (Public Law 93–198) on January 2, 1975, it was logical to deal with salaries and benefits for the U.S. Park Police and the D.C. Metropolitan police in a single piece of legislation, because the Congress had the direct responsibility for compensation of both police forces. Now that the Council of the District of Columbia has the direct responsibility for the salary and benefits of the Metropolitan Police under the "Home Rule" Act, it appears reasonable to take the Park Police out of the compensation adjustment provisions of the D.C. Police and Firemen's Act and bring them under the relevant provisions of the U.S. Code. Bringing the Park Police under the Federal pay comparability system, as H.R. 15276 does, would insure that the Park Police would be treated the same as other Federal employees with regard to future pay adjustments, and would eliminate the need for Congress to consider new pay legislation every year or two in order to provide the Park Police with appropriate cost-of-livng increases as has been done in the past.

BACKGROUND ON THE U.S. PARK POLICE

The Park Police is an organizational unit under the National Park Service, U.S. Department of the Interior. The Park Police is composed of approximately 500 uniformed officers. It has law enforcement jurisdiction in the District of Columbia, its environs, and various national parks located throughout the United States. In addition to the District of Columbia, Maryland and Virginia, Park Police are assigned in New York, New Jersey, California and Nevada. In the District of Columbia, the Park Police has concurrent law enforcement jurisdiction with the Metropolitan Police Department. Park Police patrol areas administered by the Department of Interior such as the Mall, the Jefferson and Lincoln Memorials, the Washington Monument, Ford's Theatre, the Kennedy Center, the Golden Gate National Recreation Area in San Francisco, the Gateway National Recreation Area in New York City, various National Battlefields, Parks, and Highways. They also provide escorts for the President of the United States and maintain two helicopters staffed with paramedics for emergency assistance to victims of accidents in the local area.

The steadily increasing number of visitors to these recreation areas within the jurisdiction of the Park Police in recent years has resulted in a proportionately greater increase in major crimes such as homicide, rape, robbery and assault. Thus the enforcement and investigation responsibilities of the Park Police have extended well beyond Park rules and regulations to serious crimes usually associated with urban areas. Park Police perform their duties under conditions which can be as hazardous as those under which urban police forces operate. Their basic compensation should permit continued recruitment of high calibre officers.

Testimony at the hearings indicated that since 1972, Federal employees have received pay increases amounting to approximately 27 percent. By comparison, since 1972 the Park Police has received pay increases of 22 percent, including the most recent increase of 6 percent enacted by the D.C. Council in March of this year, effective retroactively to October, 1975. When the 6 percent increase adopted by the Council for the Metropolitan Police went into effect, the Park Police became entitled to the same increase pursuant to the provisions of the Police and Firemen's Act of 1958. The Park Police began receiving this increase in their first regular paycheck in July, 1976.

PROVISIONS OF THE REPORTED BILL

Section 1 sets forth the purpose of the bill to entitle the Park Police to the same adjustments in basic compensation which civil service general schedule employees receive under the Federal pay comparability system.

Section 2 amends the District of Columbia Police and Firemen's Salary Act of 1958 to provide for regular adjustments of the annual rate of basic compensation of officers and members of the Park Police only in the same overall percentage adopted for Federal civil service general schedule employees under the Federal pay comparability system. The amendment adds two new subsections, (b) and (c). Paragraph (1) of subsection (b) is similar to language in Public Law 94–82, which provided for similar cost-of-living increases for Members of Congress, Federal judges, and certain executive officials, all of whom were not covered under the pay comparability system. The paragraph has been drafted to insure that adjustment in the Park Police's salary schedule conforms to that percentage actually adopted under the procedures provided in section 5305 of title 5, rather than to a percentage recommended in the various reports transmitted to Congress under the different subsections within section 5305. Paragraph (2) of subsection (b) makes clear that the foregoing procedure will be the exclusive method under which the Park Police will receive pay comparability increases. The Park Police would no longer be entitled to salary adjustments approved by the District of Columbia Council for the Metropolitan Police.[1] This paragraph is only intended to limit adjustments in the basic salary schedule and does not affect other provisions of the Salary Act providing for automatic step adjustments and for additional compensation for helicopter pilots, technicians, and others. Subsection (c) is intended to clarify the committee's intent to use the adjusted salary schedule of the Park Police where other forms of additional compensation, such as overtime and service longevity, are calculated based upon basic rates of compensation provided in such schedule.

Section 3 requires the Department of the Interior to submit to Congress within 1 year a report reviewing the adequacy of all the laws relating to the U.S. Park Police powers, duties, functions, salaries, and benefits which are presently contained in various statutes and compiled in the District of Columbia Code. This report should contain detailed recommendations and specific legislative proposals for amending, updating, and supplementing these existing authorities for enactment in a single part of the United States Code. One bill reviewed by the committee, H.R. 13250, attempted to achieve some of these changes, and it should serve as a good starting basis for the required report.

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[1] E.g. 4 D.C. Code §§ 833, 839.

Section 4 provides that the effective date of the amendments made by this bill shall be October 1, 1976. It is the intent of Congress to insure that the Park Police shall receive any adjustments under the Federal pay comparability system becoming effective on or after October 1, 1976.

DEPARTMENTAL RECOMMENDATION

The Department of the Interior letter in support of H.R. 15276, as amended, follows:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., September 2, 1976.

Hon. Charles C. Diggs, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Your Committee has requested the views of this Department on H.R. 15276, as amended, a bill "To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police."

We recommend that the amended bill be enacted.

H.R. 15276, as amended, would provide that officers and members of the United States Park Police be entitled to adjustments in basic compensation in the same overall percentage as are other Federal employees within the General Schedule under the Federal pay comparability system.

The bill would also require the Secretary of the Interior to submit to Congress within 1 year a report on the feasibility and desirability of enacting as a part of the United States Code those provisions affecting the United States Park Police which presently are contained in statutes compiled in the District of Columbia Code.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, and that the Department of the Treasury opposes enactment of H.R. 15276.

Sincerely yours,

John Kyl,
Assistant Secretary of the Interior.

Mr. GUDE. Mr. Speaker, I move to strike the last word. H.R. 15276 would provide for pay raises for officers and members of the U.S. Park Police force pursuant to the provisions of the Federal Pay Comparability Act effective October 1, 1976. It would also require the Secretary of the Interior to submit to Congress within 1 year of the date of enactment, a report on the feasibility and desirability of compiling in the U.S. Code the provisions of law with respect to the U.S. Park Police force presently compiled in the D.C. Code. Historically the salary and benefits of the officers and members of the U.S. Park Police force have been the same as those for the officers and members of the Metropolitan Police. However, with the advent of home rule, it is no longer appropriate for the Park Police with its national scope of duty to be part of the system now operated by the locally elected officials of the District of Columbia. Therefore, I urge my colleagues to support this bill.

Mr. MANN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police force."

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. YOUNG of Texas. Mr. Speaker, am I correct in understanding that it is the Speaker's desire that we be permitted to bring up three rules at this time, the rules on the Defense Officer Personnel Management Act, the CIA Retirement Act, and the reduction in beer tax for small brewers?

The SPEAKER. The gentleman is correct.

PROVIDING FOR CONSIDERATION OF H.R. 13958, DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1432 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1432

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13958) to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

The SPEAKER. The gentleman from Texas (Mr. Young) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1432 is an open rule providing 1 hour of general debate on the bill H.R. 13958, the Defense Officer Personnel Management Act. The rule waives section 401(b) of the Congressional Budget Act of 1974 to permit consideration of this measure. That section prohibits consideration of bills providing new spending authority, entitlements, which would become effective prior to the first day of the fiscal year of the calendar year in which the bill is reported. The Budget Committee will not oppose this waiver on the condition that an amendment is offered during the consideration of the bill postponing the effective date until October 1, 1976, thereby bringing the bill into compliance with the requirements of the Budget Act.

Mr. Speaker, H.R. 13958 would revise the laws governing the management of commissioned officer active duty forces. It is a measure which has been carefully considered by the Committee on Armed Services and I would therefore urge the adoption of House Resolution 1432 so that we may proceed to the consideration of H.R. 13958.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1432 is a 1-hour, open rule waiving section 401(b) of the Congressional Budget Act, relating to entitlements which become effective before the first day of the fiscal year, to permit consideration of H.R. 13958, the Defense Officer Personnel Management Act.

The purpose of H.R. 13958 is to revise the laws which govern the management of the commissioned-officer active-duty force. The legislation is a Department of Defense-drafted proposal which grew out of a study that began in 1972. The bill was submitted to the 93d Congress in 1974, but it was not reported out of committee because time did not permit. H.R. 13958 is a resubmitted draft of that legislation.

Briefly the provisions contained in the bill would:

First, establish new statutory limitations on the number of officers who may serve in senior grades below flag rank;

Second, provide common law for the appointment of regular officers and for the active-duty service of Reserve officers;

Third, provide uniform laws for promotion procedures for officers in the separate services;

Fourth, establish common provisions governing career expectation in the various grades; and

Fifth, establish common mandatory separation and retirement points.

I am informed that the cost of carrying out this legislation from fiscal 1977 to fiscal 1981 will be $127,000,000.

Mr. Speaker, I support the adoption of the rule and the passage of the bill.

I have no requests for time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. THONE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 1, not voting 110, as follows:

[Roll No. 713]

YEAS—319

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Corman
Cornell
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Emery
Erlenborn
Evins, Tenn.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Hefner
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mazzoli
Melcher
Metcalfe
Mezvinsky
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
O'Brien
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Crane

NOT VOTING—110

Abzug
Addabbo
Ashley
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Boland
Breaux
Brinkley
Burgener
Byron
Carter
Chappell
Chisholm
Cleveland
Conlan
Conte
Conyers
Cotter
Coughlin
D'Amours
Davis
de la Garza
Delaney
Diggs
Dodd
du Pont
Eckhardt
Edwards, Calif.
Eilberg
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fascell
Ford, Mich.
Ford, Tenn.
Gibbons
Green
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Hubbard
Jeffords
Johnson, Pa.
Jones, Okla.
Kindness
Koch
LaFalce
Landrum
Lujan
Lundine
McCloskey
McCollister
McEwen
Maguire
Mathis
Matsunaga
Meeds
Meyner
Michel
Mikva
Mink
Moakley
Moffett
Morgan
Murphy, Ill.
Nix
Obey
O'Hara
O'Neill
Pepper
Peyser
Rangel
Richmond
Riegle
Risenhoover
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shriver
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Udall
Van Deerlin
Wilson, Bob
Wolff
Wright
Young, Fla.
Young, Ga.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Michel.
Mr. Addabbo with Mr. Eshleman.
Mrs. Meyner with Mr. Lujan.
Mr. Delaney with Mr. du Pont.
Mr. Breaux with Mr. Conte.
Mr. Boland with Mr. Harsha.
Mr. St Germain with Mr. Landrum.
Mr. Rangel with Mr. Kindness.
Mr. Hanley with Mr. Esch.
Mr. Fascell with Mr. Burgener.
Ms. Abzug with Mrs. Heckler of Massachusetts.
Mr. Chappell with Mr. McCollister.
Mr. Eilberg with Mr. Steelman.
Mrs. Chisholm with Mr. Bell.
Mr. Matsunaga with Mr. Hubbard.
Mr. Biaggi with Mr. Bob Wilson.
Mr. Meeds with Mr. Heinz.
Mr. Wolff with Mr. Young of Florida.
Mr. Udall with Mr. Ashley.
Mr. Van Deerlin with Mr. McCloskey.
Mr. Sisk with Mr. Shriver.
Mr. Ryan with Mr. Carter.
Mr. Russo with Mr. Peyser.
Mr. Koch with Mr. Jeffords.
Mr. LaFalce with Mr. Steiger of Arizona.
Mr. Mathis with Mr. Brinkley.
Mr. Mikva with Mr. Cleveland.
Mr. Evans of Colorado with Mr. Conyers.
Mr. Cotter with Mr. Johnson of Pennsylvania.
Mr. Byron with Mr. McEwen.
Mr. Beard of Rhode Island with Mr. Coughlin.
Mr. Badillo with Mr. Conlan.
Mr. AuCoin with Mr. Evans of Indiana.
Mr. Helstoski with Mr. Maguire.
Mr. Ford of Tennessee with Mr. Howe.
Mr. Lundine with Mr. Green.
Mr. D'Amours with Mr. Hansen.
Mr. Jones of Oklahoma with Mr. Gibbons.
Mr. Holland with Mr. Eckhardt.
Mr. Ford of Michigan with Mr. English.
Mr. Davis with Mr. Diggs.
Mr. Dodd with Mr. Hagedorn.
Mr. Harkin with Mr. O'Hara.
Mr. Murphy of Illinois with Mr. Morgan.
Mr. Moakley with Mrs. Mink.
Mr. Obey with Mr. Nix.
Mr. Pepper with Mr. Riegle.
Mr. Richmond with Mr. Risenhoover.
Mr. Sarbanes with Mr. Scheuer.
Mr. Young of Georgia with Mrs. Sullivan.
Mr. Wright with Mr. Steed.
Mr. Stuckey with Mr. James V. Stanton.
Mr. de la Garza with Mr. Henderson.
Mr. Moffett with Mr. Stephens.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PROVIDING FOR CONSIDERATION OF H.R. 13615, TO AMEND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES, AS AMENDED

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1457

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(5)(B) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13615) to amend the Central Intellligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1457 is an open rule providing 1 hour of general debate on H.R. 13615, a bill amending the C.I.A. Retirement Act of 1964. The rule waives the provisions of clause 2(l) (5) (B) of rule XI which requires that a report of a committee, when it contains a cost estimate from the Congressional Budget Office, state that fact on its cover. Finally, the rule provides that the bill shall be read for amendment by titles instead of by sections.

Mr. Speaker, H.R. 13615 would equalize the benefit provisions of the CIA retirement act and the Civil Service Retirement Act; improve the financial structure of the CIA retirement system; and shorten the interval between the time changes are made in the Civil Service system and comparable changes can be effected for the CIA system.

Mr. Speaker, this bill was reported unanimously by the Committee on Armed Services. I urge the adoption of House Resolution 1457 so that we may proceed to its consideration.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Texas, this resolution provides for 1 hour of general debate on H.R. 13615, to amend the CIA Retirement Act, and that the bill shall be open to all germane amendments. The rule provides that the bill shall be read for amendment by titles instead of by sections.

Mr. Speaker, this rule does contain a waiver of clause 2(l) (5) (B) of rule XI, which requires that reports carry on their cover page, a statement that the report contains the cost estimate provided by the Congressional Budget Office.

Mr. Speaker, the administration has no objection to this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 0, not voting 105, as follows:

[Roll No. 714]

YEAS—325

Abdnor
Adams
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Emery
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Hefner
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mazzoli
Melcher
Mezvinsky
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—105

Abzug
Addabbo
Ambro
Ashley
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Breckinridge
Brinkley
Burgener
Carter
Chappell
Chisholm
Clausen, Don H.
Cleveland
Conyers
Cotter
D'Amours
Davis
de la Garza
Delaney
Diggs
du Pont
Eckhardt
Edwards, Calif.
Eilberg
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Ford, Mich.
Ford, Tenn.
Green
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Hubbard
Jeffords
Jones, Okla.
Kindness
Koch
LaFalce
Landrum
Lujan
McCloskey
McCollister
McEwen
Maguire
Mathis
Matsunaga
Meeds
Metcalfe
Meyner
Michel
Mikva
Mink
Moakley
Moffett
Morgan
Murphy, Ill.
Nix
O'Neill
Pepper
Peyser
Rangel
Richmond
Riegle
Risenhoover
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shriver
Sisk
Solarz
Spellman
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Udall
Van Deerlin
Waggonner
Wilson, Bob
Wolff
Wright
Young, Alaska
Young, Fla.
Young, Ga.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Bell.

Mr. Murphy of Illinois with Mr. Young of Florida.

Mr. Addabbo with Mr. Steiger of Arizona.

Mr. Cotter with Mr. Kindness.

Mr. Badillo with Mr. Peyser.

Mr. Delaney with Mr. Michel.

Mr. Eilberg with Mr. Landrum.

Mr. Ambro with Mr. Burgener.

Mr. Nix with Mr. McEwen.

Mr. Young of Georgia with Mr. Esch.

Mr. Waggonner with Mr. Bob Wilson.

Mrs. Meyner with Mr. Steelman.

Mr. Moakley with Mrs. Heckler of Massachusetts.

Mr. Diggs with Mr. Don H. Clausen.

Mr. Biaggi with Mr. Jeffords.

Mr. Moffett with Mr. du Pont.

Mr. AuCoin with Mr. Young of Alaska.

Mrs. Chisholm with Mr. Hubbard.

Mr. Chappell with Mr. Carter.

Mr. English with Mr. McCollister.

Mr. Wolff with Mr. Harsha.

Mrs. Spellman with Mr. Heinz.

Mr. St Germain with Mr. Cleveland.

Mr. Helstoski with Mr. Hansen.

Mr. Sisk with Mr. Eshleman.

Mr. Ryan with Mr. Henderson.

Mr. Sarbanes with Mr. Lujan.

Mr. Harkin with Mr. Howe.

Mr. Green with Mr. Shriver.

Mr. Ashley with Mr. Hagedorn.

Ms. Abzug with Mr. McCloskey.

Mr. Brinkley with Mr. Maguire.

Mr. Evans of Colorado with Mr. Udall.

Mr. Ford of Michigan with Mr. Metcalfe.

Mr. Meeds with Mrs. Sullivan.

Mr. Matsunaga with Mr. Mikva.

Mr. Ford of Tennessee with Mr. Holland.

Mr. Eckhardt with Mr. Conyers.

Mr. de la Garza with Mr. Davis.

Mr. Beard of Rhode Island with Mr. Jones of Oklahoma.

Mr. D'Amours with Mr. Mathis.

Mr. Evans of Indiana with Mr. Morgan.

Mr. Hanley with Mr. Pepper.

Mr. Breckinridge with Mr. Riegle.

Mr. Edwards of California with Mr. Stuckey.

Mrs. Mink with Mr. Van Deerlin.

Mr. Rangel with Mr. Steed.

Mr. Richmond with Mr. Stephens.

Mr. Risenhoover with Mr. Scheuer.

Mr. Solarz with Mr. James V. Stanton.

Mr. Koch with Mr. LaFalce.
Mr. Russo with Mr. Wright.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT TODAY DURING DEBATE UNDER THE 5-MINUTE RULE

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to sit today during debate under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 3605, REDUCTION IN BEER TAX FOR SMALL BREWERS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1510 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 1510

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3605) to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer). After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment to said bill in the House or in Committee of the Whole shall be in order except amendments recommended by the Committee on Ways and Means, and said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) for the minority, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1510 is a closed rule providing 1 hour of general debate on H.R. 3605, a bill to amend the Internal Revenue Code of 1954 to provide a reduction in beer tax for small brewers. Only amendments offered by direction of the Committee on Ways and Means will be in order under this rule, and those amendments will not be subject to amendment.

Mr. Speaker, this measure was before the House once before under suspension of the rules; however, it failed to receive the required two-thirds vote necessary to pass. The vote which it did receive, 236 to 144, is evidence that it has the support of a substantial majority of the Members of this House.

Mr. Speaker, in the past few years, thousands of individuals have lost their jobs as a result of the closing of small breweries. This bill will reduce the tax liability for the small brewers to enable them to compete more effectively with the larger national brewing companies. The reduction in revenues involved, while critical to the small individual brewers, will amount to less than one-third of 1 percent of the revenue presently derived from excise taxes on beer.

Mr. Speaker, I urge the adoption of House Resolution 1510 so that we may proceed to the consideration of H.R. 3605.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Florida, this rule provides for 1 hour of general debate on H.R. 3605, reduction in beer tax for small brewers. This is a closed rule that provides for amendments by the Committee on Ways and Means, but those amendments will not be subject to amendment.

This bill proposes to reduce the excise tax on the first 60,000 barrels per year for small brewers that produce no more than 2 million barrels of beer per calendar year. The status of the small brewer would be determined from year to year. Present law imposes an excise tax of $9 per barrel on beer and other fermented beverages produced or imported in the United States. This bill would reduce that tax to $7.

This bill received a vote of 236 to 144 in the House under suspension on August 2 but failed since it did not receive a two-thirds vote.

I have no requests for time.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Texas. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding.

I would like to ask the distinguished gentleman from the Committee on Rules why it was the decision of the Committee on Rules to bring this matter back at this time.

It failed under suspension of the rules some time ago. Now in the press of business when we have so many things to do why was it the wish of the Committee on Rules to bring this bill back under a closed rule? Especially since that was the basic objection that many of us had when it was before the House the first time. We objected that we could not amend it, yet now it comes back under a closed rule; it is the very identical bill that was rejected by this House 2 or 3 weeks ago.

Mr. YOUNG of Texas. At that time it failed to receive a two-thirds vote. The bill now only requires a majority vote.

Mr. DRINAN. If the gentleman will yield still further, why was the bill not open to amendment? Why is it coming before us under a closed rule?

Mr. YOUNG of Texas. Because it involves the Internal Revenue Code and the Committee on Ways and Means did not want an open rule on it, they wanted a closed rule.

Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken and the speaker announced that the ayes appeared to have it.

Mr. DRINAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 73, answered "present" 1, not voting 101, as follows:

[Roll No. 715]

YEAS—255

Abdnor
Adams
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Aspin
Bafalis
Baldus
Baucus
Beard, Tenn.
Bedell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Cederberg
Clancy
Clausen, Don H.
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Coughlin
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Dent
Derrick
Derwinski
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Haley
Hall, Tex.
Hamilton
Hammerschmidt
Hawkins
Hayes, Ind.
Hébert
Hicks
Hillis
Holt
Horton
Howard
Hughes
Hungate
Hyde
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Krueger
Latta
Leggett
Lent
Lloyd, Calif.
Long, La.
Lott
Lundine
McCormack
McDade
McFall
McHugh
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mazzoli
Melcher
Metcalfe
Mezvinsky
Milford
Miller, Ohio
Mills
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Pa.
Mosher
Moss
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak

Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Poage
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rees
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Seiberling
Shipley
Shuster
Sikes
Simon
Skubitz
Slack
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Symms
Talcott
Teague
Thompson
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Whitten
Wilson, Tex.
Winn
Wydler
Yates
Yatron
Young, Alaska
Young, Tex.
Zablocki
Zeferetti

NAYS—73

Allen
Armstrong
Bauman
Bennett
Broomfield
Broyhill
Buchanan
Burlison, Mo.
Carr
Clawson, Del
Cornell
Crane
Dellums
Devine
Dodd
Drinan
Early
Emery
Erlenborn
Frey
Fuqua
Ginn
Guyer
Hall, Ill.
Hannaford
Harrington
Harris
Hechler, W. Va.
Hefner
Hightower
Holtzman
Hutchinson
Ichord
Jacobs
Kelly
Keys
Krebs
Levitas
Lloyd, Tenn.
Long, Md.
McClory
McDonald
McKay
Miller, Calif.
Mitchell, Md.
Moore
Moorhead, Calif.
Neal
Ottinger
Pike
Pressler
Quillen
Regula
Roberts
Rogers
Rosenthal
Roush
Runnels
Schroeder
Sharp
Smith, Iowa
Smith, Nebr.
Stark
Taylor, Mo.
Taylor, N.C.
Thone
Vanik
Waxman
Whalen
Wiggins
Wilson, C. H.
Wirth
Wylie

ANSWERED "PRESENT"—1

Lagomarsino

NOT VOTING—101

Abzug
Addabbo
Ashley
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Boggs
Brinkley
Burgener
Carter
Chappell
Chisholm
Cleveland
Conyers
Cotter
D'Amours
Davis
de la Garza
Delaney
Diggs
du Pont
Eckhardt
Edwards, Calif.
Eilberg
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Ford, Mich.
Ford, Tenn.
Green
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Hubbard
Jeffords
Jones, Okla.
Karth
Kindness
Koch
LaFalce
Landrum
Lehman
Lujan
McCloskey
McCollister
McEwen
Maguire
Mathis
Matsunaga
Meeds
Meyner
Michel
Mikva
Mink
Moakley
Moffett
Morgan
Murphy, Ill.
Murphy, N.Y.
Nix
O'Neill
Pepper
Peyser
Rangel
Riegle
Risenhoover
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shriver
Sisk
Spellman
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Udall
Van Deerlin
Wilson, Bob
Wolff
Wright
Young, Fla.
Young, Ga.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Cleveland.
Mr. Murphy of Illinois with Mr. Hagedorn.
Mrs. Boggs with Mr. Henderson.
Ms. Abzug with Mr. McEwen.
Mr. Wright with Mr. Karth.
Mr. Addabbo with Mr. Bell.
Mr. Udall with Mr. Morgan.
Mr. Murphy of New York with Mr. du Pont.
Mr. AuCoin with Mr. Heinz.
Mrs. Chisholm with Mr. Riegle.
Mr. Wolff with Mr. Hansen.
Mr. Mathis with Mr. Landrum.
Mr. Biaggi with Mr. Young of Florida.
Mr. Moakley with Mr. Steiger of Arizona.
Mr. Matsunaga with Mr. Hubbard.
Mr. Rangel with Mr. Shriver.
Mrs. Mink with Mr. Burgener.
Mr. Koch with Mr. Peyser.
Mr. Conyers with Mr. Esch.
Mr. Eilberg with Mr. Harsha.
Mr. Edwards of California with Mr. Lujan.
Mr. Cotter with Mr. Carter.
Mr. Chappell with Mr. McCloskey.
Mr. Beard of Rhode Island with Mr. Bob Wilson.
Mr. Badillo with Mr. Eshleman.
Mr. Ashley with Mr. Steelman.
Mr. Hanley with Mr. Kindness.
Mr. LaFalce with Mr. Scheuer.
Mr. Meeds with Mrs. Heckler of Massachusetts.
Mr. Harkin with Mrs. Sullivan.
Mr. Lehman with Mr. James V. Stanton.
Mr. Holland with Mr. Jeffords.
Mrs. Meyner with Mr. Stephens.
Mr. Evans of Colorado with Mr. Steed.
Mr. Ford of Michigan with Mr. McCollister.
Mr. Mikva with Mr. Stuckey.
Mr. Nix with Mr. Howe.
Mr. Pepper with Mr. Diggs.
Mr. Brinkley with Mr. Eckhardt.
Mr. Moffett with Mr. Evans of Indiana.
Mr. D'Amours with Mr. Ford of Tennessee.
Mr. Helstoski with Mrs. Spellman.
Mr. de la Garza with Mr. Sarbanes.
Mr. Delaney with Mr. Russo.
Mr. Davis with Mr. Sisk.
Mr. English with Mr. Maguire.
Mr. Green with Mr. Michel.
Mr. Young of Georgia with Mr. Ryan.
Mr. Van Deerlin with Mr. Jones of Alabama.
Mr. St Germain with Mr. Risenhoover.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Mr. STRATTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13958) to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. STRATTON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 13958, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. STRATTON) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. O'BRIEN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this bill that comes before us today is a complex bill. The explanation of all of the matters included in the bill will be somewhat detailed. I apologize to the members of the Committee for this fact, but I think it is important that we understand the circumstances which bring this bill to the floor of the House at this particular time.

This is essentially a legislative response to something that has been going on now in our armed services for the last several years. It is no secret that following the Vietnam war, our military forces have gradually been going down, and in the past few years the Congress has been cutting the size of these forces even more rapidly than the Defense Department felt advisable.

As we reduce the size of the Armed Forces, the percentage of officers become higher, because the enlisted forces are on for a short tour of duty, but many of the officers are career personnel; therefore, they remain.

We have frequently discussed this subject on the floor of the House, and Members have complained that we have more of a particular grade of officer in the forces today than we had at the height of World War II. That is the kind of thing that always happens when we get a reduction of this kind.

Now, this situation forces us to make a difficult decision. If we really want a flexible, mobile force which gives adequate opportunities for advancement for qualified people, then we have got to have a fair and predictable promotion rate. If we are not going to do that, we are not going to attract capable people, and we certainly do not want to go back to the kind of thing which existed before World War II when Omar Bradley spent so many years stagnated in lieutenant colonel grade. So, if we are going to maintain a force that will provide some incentive for promotion and some opportunity for advancement for young, capable people, it means that when we reach a period—as we have reached now following the Vietnam war—of more officers at certain grades than we actually need, some officers are going to have to be separated. Essentially, what this bill does is to revise the system for such separations to make them more equitable.

This idea of separating officers at a period when the size of the military forces are in decline is nothing new. We had the "hump" problem before and after World War II; we had the "hump" problem after the Korean war, and we devised procedures for involuntarily making this tough, difficult decision—and it is a tough one—to separate certain officers in certain grades simply because we no longer had a need and requirement for the numbers that we found ourselves saddled with.

The difference between this bill and some of the other measures that have been presented following previous emergencies is that we had a kind of hodgepodge of legislation dealing with this subject. Different services had developed different promotion systems, different rules and regulations. And so what we have tried to do in this bill is to pull all of these procedures together so that we have got one standard for the Army or the Navy, or Marine Corps, or the Air Force.

That, essentially, is what this bill does, and I think it is important that we recognize its purpose, because it does present us with some tough decisions. However, I do not think there is any way we can avoid them. This bill affects over 400 sections of the law, and if we take a look at it, it is a pretty big bill. In fact, the report itself looks more like a copy of the hearings than it does like an ordinary report. But its principal purpose is to standardize officer promotion procedures among the services and move toward tightening up the allowance of the numbers of officers in higher grades.

Present officer-promotion laws in the different services are a hodgepodge of inconsistent and complicated procedures with inconsistent career opportunity among the services. There have been efforts to standardize promotion laws among the services since 1965 when the Bolte Committee—chaired by the distinguished Army Gen. Charles Bolte—recommended a uniform promotion approach. But all these efforts failed.

In H.R. 13958 we are finally establishing uniform provisions governing appointment, promotion, career expectation, and mandatory separation and retirement for career active-duty officers. At the same time we have begun the process of reducing the number of senior officers.

In providing common promotion procedures, we have continued the up-or-out system which calls for officers to be reviewed regularly, to be considered competitively for promotion, and to be removed from active duty after repeated failure of selection. The system has been in effect for 28 years and has given us a capable, fully combat-ready officer corps, something the country never had before in peacetime.

Over the years the Congress has periodically approved grade-relief legislation for the Air Force. The latest extension expires on September 30 of this year.

When the last extension was approved 2 years ago we stated that we would not consider a further extension independent of legislation to revise the officer grade structure and promotion procedures of the Armed Forces as a whole. In reporting H.R. 13958, the committee carries out that commitment.

BACKGROUND

To understand the impact of the bill, one must understand the background of officer-personnel management. Up to, and including, World War II, the officer corps was invariably unready at the beginning of a war and hasty measures were required to eliminate over-age and unfit officers. Following World War II, the Congress sought to create a combat-ready officer corps. In 1947, the Congress passed the Officer Personnel Act which provided the up-or-out promotion system to assure proper distribution of officers by grade and to allow reasonable promotion opportunity. The Officer Personnel Act was modified by the Officer Grade Limitation Act of 1954 which provided more stringent limitations on the grade structure. The officer personnel of the services have been essentially managed under these two laws since 1954, with occasional patchwork amendments such as the Air Force grade relief. H.R. 13958 represents the first major updating and extensive revision of these basic laws.

The bill is 108 pages long and affects—including revisions, deletions, and additions—over 400 sections of law. The report has been available for some time.

Let me simply highlight some major features of the legislation:

REDUCTION IN THE NUMBER OF COLONELS AND LIEUTENANT COLONELS

The allowances for field-grade officers are expressed in law as a finite number of officers in relation to the strength of the officer corps as a whole.

The committee reduced the grade authorizations requested for grades O–6 and O–5—that is, colonel and lieutenant colonel and captain and commander in the Navy—by 3 percent. I might note that the bill as proposed by the Department of Defense had provided for a reduction in the allowances for colonels and lieutenant colonels compared with what is allowed under the present Officer Grade Limitation Act. The committee's action reducing the allowances even further is, therefore, the beginning of a downward trend in the allowance for officers in senior grade.

The committee approved the grade authorizations for grade O–4—majors and lieutenant commanders—at the levels requested by the Department of Defense. Some of the services still have inventory imbalances in the O–4 and O–3 grades. Any further reduction in the grade table would exacerbate this problem, particularly in the Air Force, and would unduly delay the promotion timing.

STUDY OF ALTERNATIVE CAREER PATTERNS

While supporting the continuation of the up-or-out system as the principal method for managing the active-duty officer force, the committee agreed to direct the Department of Defense to conduct a further study into establishing varied career patterns for noncombat specialties and to submit proposals for such career patterns which might be initiated on an experimental basis.

SINGLE-PROMOTION SYSTEM

The bill provides for a single-promotion system in all services to replace the present dual-temporary and permanent-promotion systems in the Army and Air Force and the present complicated running-mate system in the Navy. Officers will no longer be required to undergo two separate selections for a given grade. Promotion opportunity will be more consistent among the services and administration simplified.

ALL-REGULAR CAREER FORCE

The bill provides that active-duty officers with more than 11 years' commissioned service would be Regular officers. This will eliminate the present situation where Reserve officers with long years of service are continually vulnerable to reductions in force and are sometimes eliminated from active duty a few years short of retirement while Regular officers are not similarly vulnerable. Excepted from this requirement would be a small number of reservists engaged in the training and administration of the Reserve components and reservists recalled to active duty in a future national emergency.

SELECTIVE CONTINUATION

The bill continues the concept in present law of mandatory separation and retirement after specified years of service dependent upon the grade attained: 30 years of commissioned service for colonel and Navy captain, 26 years for lieutenant colonel and Navy commander and 20 years for major and Navy lieutenant commander.

The bill would also provide selective continuation procedures for these grades. Authority would be provided to convene continuation boards for officers in grade O–6 with over 4 years in grade or for O–5's who have twice failed of selection for promotion. In both ranks the board would have to retain at least 70 percent of those considered; and the officer, once retained, would not again be vulnerable to board action for 5 years. The committee approved a Defense proposal to provide a one-time separation payment of $4,000 to officers discontinued during the transition period; that is, officers who are in the grades, or have been selected to the grades of O–6 or O–5 when the bill is enacted. In the future, officers selected to these grades would accept the promotion with the awareness that they might face a continuation review at a specified point of service.

In the case of O–4 grade the grade tables in the bill are structured to allow a 70-percent selection opportunity to O–5. For those twice passed over for O–5, the bill provides that the service Secretary would normally convene a board to consider the officers concerned for continuation until 20 years of service. The boards would not have to separate any O–4's if there was a need for the numbers retained. However, with the elimination of the temporary-promotion system and the integration of reservists at 11 years, some provision for forced separation is required. Otherwise, there would be no method to prevent overages in the O–4 grade.

All of these selective-continuation authorities are intended to be used sparingly and are primarily a means of reducing the numbers in the senior grades which are necessary, such as during a force reduction. In the case of continuation boards for O–6 and O–5, for example only one service, the Air Force, has present plans for using the authority over the next 5 years.

COMMODORE ADMIRAL

The committee determined that the present Navy system of automatically advancing a flag officer from grade O–7 to O–8—rear admiral/lower half to rear admiral/upper half—should not continue. The committee, therefore, amended the bill to require a normal selection process for promotion from O–7 to O–8 as occurs in the other services. The new O–7 pay grade will be called com modore admiral and will have the single broad stripe worn by commodores in the past and will wear one star rather than the two stars of a rear admiral. However, the new grade will be phased in over a 3-year period and no present rear admiral will be required to remove a star.

Flag and general officers are not otherwise included in the bill. However, the committee announced in its report that following completion of congressional action on H.R. 13958 it will review the authorizations for general and flag officers.

WOMEN OFFICERS

The bill would make promotion procedures equally applicable to female and male officers. The Women's Army Corps would be abolished on the ground that a separate corps is inconsistent with equal treatment.

CONSTRUCTIVE CREDIT

Constructive service credit is given to newly appointed officers for time spent in graduate education or training when such training is a prerequisite for appointment as a commissioned officer. A young man is thus given recognition for time invested in professional training and is also brought into the service at a rank comparable to his age contemporaries. The present rules for awarding constructive credit are confusing and inequitable. H.R. 13958 provides uniformity of treatment in awarding such credit.

The bill provides, essentially, 1 year of constructive credit for each year of education normally required beyond the baccalaureate level—in other words, beyond 4 years. The Defense Department defines "normally required" as the stated minimum cited in the catalogs of the majority of the schools in the profession.

The bill provides for additional credit for health professions where appropriate to recognize a particular situation.

The committee found that in the health professions the de facto requirement was considerably higher than the stated requirement. The professional schools tend to demand more undergraduate education than their stated minimum, and the committee wanted to provide a mechanism to allow for additional credit when the overwhelming majority of schools in a discipline make such a demand. The bill, therefore, provides that an additional year of credit beyond the stated minimum can be awarded when more than 75 percent of the entering students in the discipline have at least a year more preprofessional education than the stated minimum.

SEPARATION PAY

Present law limits separation pay to officers released in a reduction in force to $15,000. This $15,000 ceiling has been in effect for many years.

The committee believed the selection-out procedure of H.R. 13958 should not be instituted without a more adequate separation pay and, therefore, amended the bill to provide increased separation pay for involuntarily separated officers who have not qualified for retirement, equal to 10 percent of annual pay for each year of service up to a maximum of $30,000.

The committee states in the report on the bill that at such time as it is able to conduct hearings on retirement modernization, it intends to examine the concept of providing retirement equity prior to 20 years of service so as to allow a deferred annuity at age 60.

EXCLUSIONS/RECALLED RESERVISTS

DOPMA provides for uniform provisions throughout the services regarding exclusions from the grade tables. These are categories of officers not counted against the grade allowances for O–4, O–5, and O–6—such as recalled retirees, Selective Service officers and reservists involved in training and administering the Reserve component. Generally, the exclusions are jobs that are outside the normal, competitive progression of career officers.

The Defense proposal would have excluded, for a period of 2 years, reservists recalled to active duty in a national emergency declared after January 1, 1975. The committee amended the bill—we call this the Mitchell-Downey amendment—to limit the exclusion to the duration of the emergency plus 6 months.

MINIMUM AGE

The bill as submitted by the Department of Defense would have lowered the minimum age for appointment as a Regular commissioned officer to 18 to be consistent with recent national actions declaring 18-year-olds to be adults. The committee believes that while an 18-year-old might be qualified to vote, that does not assure the maturity required to be a military officer. Therefore, the committee amended the bill to retain the present minimum age of 21 for appointment as a Regular officer.

OFFICERS SERVING OUTSIDE THEIR SERVICE

While some officers must be assigned to joint-service or Defense Department activities, the committee found that an unusually high number of field-grade officers were assigned outside their own service. In the grade of colonel it is 21 percent. The committee, therefore, has directed the Department of Defense to submit plans for limiting the numbers assigned outside their own service.

COMMITTEE AMENDMENTS

The committee amendments to the bill are all technical amendments to correct typographical errors, except for the amendment on page 54, which is a minor change in present law to allow optometrists, podiatrists, and veterinarians to be retained in organized Reserve units beyond the normal mandatory retirement point where there is a bona fide shortage of such personnel in the unit. The provision applies only to the nonactive-duty Ready Reserve.

COST IMPACT

The Defense Department indicates the bill will not result in increased budgetary requirements. The cost in fiscal year 1977 is $22 million, related to the payment to discontinued officers in the O–5 and O–6 grade and to the increased separation pay. The fiscal year 1977 budget contained a contingency for the proposed Retirement Modernization Act, which included the cost of increased separation payments: thus, including those payments in this bill requires no new budgetary allowance. Beyond the first 5 years the bill should result in cost savings, because of the reduced number of officers authorized to serve in senior grades.

However, cost savings are not our principal aim. Our aim is to make the officer-promotion system more uniform and equitable while maintaining the quality of the force.

The quality of the officer corps is as important as any ingredient in military victory and thus the quality of our officer corps is important to our national security. The quality of our officer corps is the equal of any in the world. It would be difficult to find at any time in history a free nation that maintained an armed force with an officer corps as large, as varied, as combat-ready and of as generally high quality as we have today.

H.R. 13958 attempts to maintain high quality by making needed changes in the officer-promotion laws—changes in some cases long overdue. We have tried to maintain a system which is attractive to the most outstanding officers. Our committee intends to examine further changes in the future. But the grade authorizations must give due regard to the effect on career patterns which might adversely affect retention. Any changes instituted, therefore, must be on a gradual basis, with the quality of the forces as a whole uppermost in mind.

TECHNICAL COMPLIANCE WITH THE BUDGET ACT

The bill as reported has an effective date of "the first day of the first month after enactment." If the bill were enacted in August, therefore, an officer involuntarily separated in September could, under section 25 of the bill, be entitled to higher separation pay than he is entitled to under present law. This could make the bill in technical violation of section 401(b)(1) of the Budget and Impoundment Control Act of 1974 by providing an increased entitlement in the present fiscal period.

The committee has determined that there are only three officers scheduled for separation who would be eligible for higher separation pay than they are entitled to under present law.

However, to avoid a point of order and a violation of the Budget Act, I will offer the following amendment when the committee rises and the House is considering the bill under the 5-minute rule:

> On page 108, line 23, strike the period after "enactment" and add "or on October 1, 1976, whichever is later."

This will set the effective date as the first of the month after enactment, or the first day of fiscal year 1977, whichever is later.

Mr. Chairman, before closing, I wish to express my appreciation to the members of the Military Compensation Subcommittee for their cooperation and hard work during what has been a long, difficult, and tedious undertaking. I particularly want to extend my thanks to the ranking minority member of the subcommittee, Mr. O'Brien, for his diligent attendance, his unfailing courtesy, and his wise and judicious counsel. His finely trained legal mind has been of immense value to the subcommittee.

Some members were prevented from taking a more active part by other pressing business—such as three members who served on the Select Committee on Intelligence during the time of our hearings—but many members helped shape the bill. Mr. Nichols, Mr. Mitchell of New York, Mr. Brinkley, Mrs. Holt, Mr. Won Pat, and Mr. Downey of New York all made significant contributions and I thank them all.

I urge the Members of the House to support the bill.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I thank the gentleman for yielding.

With respect to the boards for grades O–5 and O–6, the gentleman from New York (Mr. Stratton) says that 70 percent must be retained.

May a higher percentage be retained? In other words, is it a mandatory 30 percent out?

Mr. STRATTON. This is for continuation of O–5's and O–6's.

Mr. TREEN. Right.

Mr. STRATTON. The continuation boards would have to retain 70 percent. However, they could retain more than that.

Mr. TREEN. That is the point.

Mr. STRATTON. But they would have to retain at least 70 percent, depending on the needs. Therefore, we are giving them authority to force out the 30 percent.

Mr. Chairman, I reserve the remainder of my time.

Mr. O'BRIEN. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Mitchell), a member of the committee.

Mr. MITCHELL of New York. Mr. Chairman, I rise in support of H.R. 13958 and ask Members of the House to support this legislation which makes significant improvements in the laws governing the officer corps of the Armed Forces. It is difficult to think of anything more important to a successful defense establishment than a capable, high-morale officer corps; so this bill is one of the most important defense measures we will act on in this Congress.

It is a good bill. It has been the subject of long and careful study in subcommittee. We have worked on it for over a year. There are many significant improvements made by the committee, and the bill bears the stamp of congressional decisionmaking in an important defense area.

I would particularly commend one aspect of the bill, the provisions relating to the level of constructive credit for members of the health professions and other professional groups in the Armed Forces.

It is necessary to provide credit to officers with professional training who must undergo extensive advanced schooling before coming into the Armed Forces. Additional credit is necessary to recognize the time spent in formal training and to assure that these officers come on active duty at an age and rank comparable to their contemporaries.

We found that present laws are inconsistent and inequitable in their treatment of different professions and even found that the treatment of certain professions varies from service to service.

This is a confusing area, and we worked long and hard on it in subcommittee. But I think we have come up with a revision which is fair to the professional groups concerned, as well as the taxpayers and which recognizes some unique situations in the health professions. Basically the bill would provide constructive credit on a year-for-year basis for each year of qualifying additional education required beyond the normal baccalaureate level—limited, of course, to officer categories requiring such advanced education as a prerequisite for appointment as a commissioned officer.

The bill states that the credit would be given only for the number of years "normally required" to receive advanced education. For example, take the case where the advanced schooling is 4 years and 3 years of undergraduate schooling are required for entry in the professional school, for a total of 7 years. Since the baccalaureate requirement is 4 years and the education "normally required" beyond the baccalaureate level is 3 years, the officer would be eligible for 3 years of constructive credit.

But we provided for additional credit for health professionals because we found a particular situation: The Defense Department had proposed that the number of years "normally required" be defined as the stated minimum requirement of the majority of schools in the professions. For example, if a majority of schools require 3 years of undergraduate training before a student enters the advanced school, and the duration of the school is 4 years, the constructive credit would be 3 years for all officers appointed in that profession.

This is fine as far as it goes. But in stating that the number of years normally required will be defined as the "stated minimum," the Department was, in effect, saying that the number would be based on what the advanced schools state in their literature as the minimum preprofessional schooling required for entry.

Examination by the committee, however, found that there was a de facto requirement which was quite different from the de jure requirement. For example, 76 percent of veterinary schools state a minimum preprofessional requirement of 2 years undergraduate training. In actual practice, however, only about 10 percent of those who enter veterinary school have as little as 2 years preprofessional training. Almost 90 percent actually have 3 or more years schooling and many have 4 or more.

Similarly, while almost 90 percent of medical schools state a minimum requirement of 2 years or less, in actual practice 88 percent of entering medical students have 4 or more years of undergraduate training.

The committee wanted to allow for more realistic credit in cases where the overwhelming majority of students faced an actual requirement beyond the stated minimum. The bill as reported by the committee, therefore, provides that in the health professions, where the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced school is higher than the stated requirement by 1 or more years, the members of the profession may be awarded an additional year of constructive credit.

For example, the stated requirement for the majority of medical schools is 3 years preprofessional education. Any newly appointed medical officer would begin with 3 years service credit. However, since over 75 percent of entering classes actually had 4 years undergraduate education, the legislation would allow an additional year—giving a new medical officer 4 years credit.

The bill provides, however, that an individual would receive credit exceeding the stated minimum only when he actually had the undergraduate training. In other words, in the example I just cited, an officer who got into medical school with only 3 years of undergraduate training would get only 3 years constructive credit.

I think the members of the health professions would agree that the committee has written a bill which is preferable to the proposal of the Department of Defense and a vast improvement on the system now in effect. Under the Defense proposal as originally submitted, constructive credit would have been reduced to 2 years for veterinarians, would have remained at 2 years for optometrists and podiatrists, and would have been reduced to 3 years for physicians and dentists.

Under the bill as reported, the credit would be 4 years for medicine and dentistry and 3 years for the other three health professions—based on the most recent statistical data on preprofessional schooling in those professions. This compares with our out dated present law which provides 4 years of credit for medicine, dentistry, and veterinary medicine and 2 years for optometry and podiatric medicine.

In summary, the committee has written a bill which recognizes the real world rather than optimum situations and which should continue to attract the number and quality of health professionals we need in our modern Armed Forces.

I urge Members of the House to support this legislation.

Mr. O'BRIEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. Holt).

Mrs. HOLT. Mr. Chairman, I rise in support of H.R. 13958, and urge the Members of the House to support this needed legislation.

I have been particularly interested in the effect of the bill on women officers in the Armed Forces. The number of women in the military is on the rise. In the Air Force, for example, the number of women doubled between 1968 and 1971; it doubled again between 1971 and 1974, and will double again between 1974 and 1978. The other services have also shown significant increases in the number of women on active duty.

At a time when we are trying to do without the draft and make the all-volunteer force a reality, the increase in the number of women in the Armed Forces is a very constructive development, and it is imperative that we provide equality of promotion opportunity.

In the past, women have competed in artificial promotion groups—competing solely among themselves. There have been a variety of laws to limit the promotion opportunity of women officers and restrict the duty they may perform.

H.R. 13958 would abolish separate promotion procedures for women officers, and provide that they compete on an equal basis with male officers. The promotion laws will be applied equally to all. Coincident with this equal treatment in promotion consideration, appointment, and retirement provisions, the bill serves the important function of abolishing the limitations on areas where women officers in the Army to the Women's Army Corps and the medical, dental, nurse, and medical specialist corps. This restriction would be removed by the committee bill, and women would be eligible for service in all of the corps of the Army. In the same vein, present Navy laws which restrict the appointment of women to certain categories of assignment will be repealed. For example, the bill eliminates sex discrimination with regard to the procurement of aviation cadets.

An important change in the Navy and Marine Corps is that women, for the first time, will have an opportunity to compete equally for general and flag rank and to achieve permanent general and flag rank. The present law allows women in the Army and Air Force to be considered for promotion to general officer along with other officers.

In the Navy and Marine Corps, however, present law limits women to "spot" promotions to flag and general rank, that is, a woman may be promoted to the grade of rear admiral or brigadier general to fill a specific billet which carries that rank. However, once the assignment is completed, she reverts to the grade of captain, or colonel as the case may be, and the rank does not attach to her personally as is the case of male officers. Under the equalization provisions of the bill we bring to the floor today, these discriminatory practices would be abolished and women would compete for flag rank the same way as male officers.

Present law also allows limiting the authority of women officers to perform command functions. These archaic laws likewise would be eliminated by the bill.

There is one important difference in treatment of male and female personnel which is not changed by the bill. These are the special provisions of law which exclude women from duty in aircraft engaged in combat missions or on ships other than hospital ships or transports. In passing the equal rights amendment, the Congress made it clear it did not want to change these laws as far as women engaging in combat; and the committee, therefore, did not want to make any further change in the historic practice of limiting the combat role of female members of the Armed Forces.

I might say that service women are not now protected by law from the dangers of combat. Nurses and other female personnel have served in Vietnam and in other areas where they are in combat zones and subject to great danger. Historically, however, we as a nation have not assigned women to such combat missions as carrying a machinegun or flying attack aircraft, and I do not believe that the people of America want to commit women to combat. The committee did not attempt to change this tradtiion.

Mr. Chairman, there is one other point I particularly want the Members to keep in mind about this legislation. In recent years we have reduced the size of the Armed Forces following the Vietnam involvement and have released from active duty capable officers who performed well in combat in Vietnam. I have some very serious concerns about our method of release.

I know that all Members are concerned when officers from their districts with outstanding records are sometimes forced off active duty. We must find a better way to deal with this matter. But the committee was told that one of the reasons this happens is because the up-or-out system, which is now in law and which this bill continues in somewhat modified form, is working successfully. It has produced an officer corps of youthful, vigorous, capable people; and we have, quite literally, more outstanding officers on active duty than we have billets for.

Because of the wording of present law, where there is a reduction in force, the reduction is applied most severely against Reserve officers—particularly in those middle-level grades such as major and lieutenant colonel with which the present bill is concerned. One of the things I like about this bill is that it would create a career structure in the future where the Reserve officer, after a certain number of years, would be integrated with other officers and become a Regular if he remains on active duty. Under this bill, this would happen at the 11th year. This should eliminate in the future those situations where Reserve officers with 15, 16, or more years of service are forced off active duty a few years short of earning retirement while Regular officers of the same length of service are not vulnerable.

I also wish to say that I hope Members will note the section in the committee report, beginning on page 21, headed "Promotion Passover Is Not Considered a Stigma." Because of the system we have, as I noted, we have more outstanding officers than we need; and at times it is necessary to release outstanding officers. But we should not get into the habit of thinking that an officer who is not promoted to one of the very highest grades is a failure because of that. Many men and women serve full and distinguished careers and complete their service as a major or lieutenant colonel, and their outstanding contributions to their country and the Armed Forces should be recognized.

The system we have, as modified by H.R. 13958, is an effort to meet this need. I hope all Members will support the bill.

Mr. O'BRIEN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, before touching on the merits of the case, I should like to extend my compliments to our chairman, the gentleman from New York (Mr. STRATTON). This was a most difficult piece of legislation. If ever a Congressman did his homework, indeed, the gentleman from New York did. He chaired the meetings with superb skill.

I would also like to extend my compliments to the chairman, to the gentleman from North Carolina (Mr. SPENCE) and to the gentleman from Texas (Mr. WHITE) for their painstaking efforts in helping us put together this complicated but important legislative effort.

Mr. Chairman, H.R. 13958, which the Armed Services Committee brings to the floor today, while long and technically complex, has a relatively simple overall objective: to provide a rational and uniform system of personnel management for the officer corps of the military services.

That objective would be achieved by establishing new, lower grade limitations for the senior grades; by providing common provisions for the appointment of Regular officers and for the active-duty service of Reserve officers; by providing uniform laws for officer-promotion procedures in the separate services; and by establishing common provisions governing career expectation and mandatory separation and retirement.

The legislation is the product of careful and painstaking review of the separate officer-personnel laws of the military services.

Most of those laws were enacted immediately following the end of World War II, and they have served us well on the whole. But there were some defects which have caused problems with the management of the force and resulted in inconsistent and inequitable treatment of officers.

The problems arose in part because the basic laws contemplated a return to a smaller, peacetime force—which never happened.

Force-management problems included the inadequate permanent grade structure for the Air Force; the fact that the grade structure was inadequate for recalled Reserve units; and the statutory length-of-service expectation for various grades, which made it difficult to thin out the force systematically during reductions in force. As a result of this latter problem, reductions in force have fallen unduly heavily on reservists.

The Officer Personnel Act of 1947 also continued historic differences among the several services in promotion procedure. The Army and Air Force still use a wasteful, dual temporary and permanent promotion system; and the Navy continues a confusing system where only the unrestricted line is directly under the grade table. There are also differences in mandatory separation points and differences in treatment of female officers. Reservists on active duty are not given any career-expectation assurance, with the resultant inequitable treatment of long-service reservists.

These archaic differences have no rational basis, and H.R. 13958 would eliminate them.

The committee examined the full spectrum of separate provisions governing appointment, promotion, involuntary separation and retirement. In each area the committee has adopted or established provisions which appear most desirable in terms of the efficiency and equity for the officer corps.

The committee also adopted a series of transition and savings provisions which are designed to assure equitable treatment of officers during the implementation of new procedures.

For example, an officer of the Army or Air Force who has twice failed of selection for promotion to the grade of first lieutenant, captain or major when the bill becomes law is authorized to elect to receive severance pay under current law, instead of the proposed new separation-pay formula, if it is advantageous for him to do so.

Another example is the officer in the Army or Air Force who, when the bill becomes law, is a permanent lieutenant colonel or selected for permanent lieutenant colonel. Under the bill future lieutenant colonels will be mandatorily retired at 26 years of service if not sooner promoted. However, under present law, permanent lieutenant colonels are not mandatorily retired until completion of 28 years. The bill contains a savings provision which defers the mandatory retirement of a person who, on the date of enactment, is a permanent lieutenant colonel or is on a selected list for such promotion until he completes the 28 years of service as provided under current law.

Within 6 months of enactment, all officers, Regular and Reserve, with the exception of Reserve officers on active duty for training and administering Reserve programs, will be placed on a single seniority list of their respective services. This "active-duty list" determines future eligibility for promotion consideration under the new system.

Transition to an all-Regular career force for officers with over 11 years of service will be accomplished over a 2-year period. Within this period "active-duty list" Reserve officers with over 9 years of service on the date of enactment will be integrated into the Regular force or released. The number who will be given Regular commissions during this period will depend on officer strengths authorized. Should strengths remain substantially at present levels, it is anticipated that most Reserve officers with 9 to 18 years of service on the date of enactment could be augmented to Regular status. Reductions in service strengths by the Congress would change this prognosis. Reserve officers who have 18 years of service on enactment of H.R. 13958, or who attain 18 years of service during the 2-year transition period, will be permitted to serve, in a Reserve status, until they are eligible for retirement.

All promotions made after the date of enactment will be under the new single-step promotion system. Officers serving on the date of enactment in a temporary grade higher than their permanent grade will retain the higher grade under the new system. Officers recommended for promotion, but not yet promoted, prior to enactment will be considered as recommended for promotion under the new system.

What the committee has attempted to do is protect the service member from a change in the law which he may view as adverse, if his status was such that he could reasonably have expected to benefit from the current law.

I want to make just two additional points:

It is important to understand that the officer corps is a closed system. There is very limited lateral entry. You cannot take a man into service in midcareer and make him an instant major of infantry. An officer has to come in at the bottom and be trained as he progresses. Therefore, the system has to be managed carefully to meet the long-range needs of the force.

It is also important to view the system as a whole. The grade tables are designed to meet the needs of the services for officers in various grades and at the same time offer career opportunity sufficient to attract and retrain outstanding officers. Career opportunity is a function of the promotion timing and promotion opportunity to each grade. When you change one variable of the system, you have to be aware of its effect on the other variables. For example, reducing the grade authorizations retards promotion timing and reduces promotion opportunity. In revising the authorizations downward, the committee has taken due account of the effect on the promotion timing for the officers concerned.

In summary, Mr. Chairman, while seemingly complex, the bill retains the best features of the present system, eliminates inefficient procedures and seeks to provide equity of treatment among our four services.

I urge passage of the legislation.

Mr. DICKINSON. Mr. Chairman, I rise in support of H.R. 13958, The Defense Officer Personnel Management Act. I would also like to commend the gentleman from New York, Mr. Stratton, for the excellent work he has done in this field.

Officer personnel management today is governed by the Officer Personnel Act of 1947 and the Officer Grade Limitation Act of 1954. On the whole, these laws have served us well, but they have certain deficiencies which have been recognized by both the Department of Defense and the Congress. The proposed Defense Officer Personnel Management Act, H.R. 13958, represents the culmination of several efforts over a period of many years to update and extensively revise the 1947 and 1954 Acts.

The legislative proposal before us is a lengthy document. It would overhaul or eliminate more than 300 sections of current law, and codify others. I would like to emphasize, however, that despite its length, this is not, in principle, a complex piece of legislation; nor does it represent a radical shift from the present system. It basically clears up existing inefficiencies and anachronisms in the current law and provides consistent treatment for officers in all Services.

Congress and the Department of Defense identified a number of defects in the existing laws. The present law has defects relating to management of the force and grade structure.

One of the most serious faults with the present law is the fact that the Air Force has substantially lower permanent limits than the Army or Navy in the lieutenant colonel and colonel grades. This occurred because the Air Force was a new service with a young officer corps when the Officer Grade Limitation Act was passed in 1954. Adherence to these lower limits would provide Air Force officers drastically lower career progression opportunity than officers of the other services. Congress, however, has provided temporary relief by suspending the Air Force's limits seven times since 1959. The need to establish more realistic permanent grade limitations for the Air Force has been one of the principal motivations for revising the officer management laws.

Other deficiencies in the present laws are those that result in inconsistent or inequitable treatment of officers. Most of these deficiencies result from the respective historic origins of the statutes.

Different laws controlling promotions result in Army and Air Force officers undergoing two selections to each grade—one temporary and one permanent—while Navy and Marine Corps officers undergo only one. Different provisions for mandatory separation and retirement result in different lengths of tenure for members of each Service.

Differentiations based on sex, particularly in the laws relating to the Navy and Marine Corps, are another example of legal requirements that can result in inequitable treatment of officers. For example, women officers in the Navy are not afforded the same legal opportunities for promotion to flag rank as male officers—but on the other hand they are not subject to the same provisions for involuntary separation.

I think you will agree that some changes are needed to allow us to manage our officers properly and efficiently. DOPMA will enable us to do this by modifying and rationalizing the laws governing officer management, and I urge that the House pass it.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I am afraid I used most of the time allotted to this side. I wonder if the gentleman from Illinois would be kind enough to yield 5 minutes time to the gentleman from Alabama (Mr. Nichols) and to the gentleman from California (Mr. Lloyd).

Mr. O'BRIEN. I will be happy to yield to the gentleman in that order.

I yield to the gentleman from Alabama (Mr. Nichols).

Mr. NICHOLS. Mr. Chairman, I thank the gentleman from Illinois for yielding.

Mr. Chairman, if the gentleman will yield further, I would ask the chairman of the subcommittee if he would answer some questions at this time.

Mr. STRATTON. I will be happy to try to respond.

Mr. NICHOLS. Is it not correct that the committee amended the bill to eliminate the use of constructive credit in the future for longevity-pay purposes?

Mr. STRATTON. Yes. The bill eliminates the use of constructive credit for longevity pay for those who enter the service in the future. There are savings provisions so that those now on active duty do not lose the credit they have when the bill passes.

Mr. NICHOLS. Is it not correct that the committee directed the Defense Department to submit recommendations for needed legislative changes in the future to increase bonus authority as necessary to avoid any adverse impact on retention from the elimination of the longevity-pay credit? That is, is it not correct that the committee took the position that it wanted the additional pay to be "up front" in the form of bonuses rather than the subterfuge of giving longevity credit? The committee did not intend to cut the pay of these professionals.

Mr. STRATTON. That is correct. The committee directed that the Defense Department provide recommendations for such increased bonus authority as is necessary to offset any adverse impact by eliminating longevity credit. The committee also directed that the Department submit recommendations for eliminating longevity credit for those on active duty now and replacing that credit with additional bonus payments as necessary.

Mr. NICHOLS. In the case of dentists who do not get the bonus now but do get continuation pay, replacing the income lost by eliminating longevity pay could take the form of increased continuation pay or, if that was not adequate, authority for providing bonuses for dentists as necessary. Is that not correct?

Mr. STRATTON. Yes. Dentists do not presently get the bonus.

However, the dentists do get continuation pay, which is a multiplier of their base pay. The loss of longevity credit would mean a lower-base pay for those who come in in the future. So the Defense Department was asked in its recommendations to consider including dentists in the straight bonus authority or else increasing the multiplier of continuation pay to make up for what they have lost in the loss of longevity.

As we know, dentists were not included in the bonus pay because the other body opposed it, and the Defense Department did not support it on the ground they did not have a shortage of dentists. So presumably the Department will want to make either one arrangement or the other in an effort to prevent any loss of total pay to dentists as a result of this new longevity arrangement.

Mr. NICHOLS. Mr. Chairman, I thank the gentleman for clarifying these points and I thank the gentleman from Illinois for yielding.

Mr. O'BRIEN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Lloyd).

Mr. LLOYD of California. Mr. Chairman, this is a step in the right direction. It is a good bill. It does, however, have one fundamental flaw that Congress is going to have to face up to and that is we are retiring people with the taxpayers' money at the end of 20 years because the armed services finds them no longer acceptable or able to contribute at the peak of their career where once they contributed. The reason for that is simple. They have a basic formula, "up or out." I have no objection to getting rid of the deadwood. I am sure that in any given period of time in industry people rise to their first level of incompetence. I am sure that this also occurs in military organizations, but I am not convinced that in the space of 20 years that the military could not have made this determination, say at the 10th year, certainly at the 11th or 12th. Frankly, industry is able to make this evaluation the first year or two; but at least we should be able to say that this individual simply is not going to be the kind of person that would provide the kind of leadership we want further down the line.

I think we have to address this in the future. This bill does not do that.

I think, although I am supporting it, not in totality, we will eventually have to address ourselves to this specific promotional problem of the armed services. When we get all through with it we end up with an individual retiring at the end of 20 years at the age of 40 years old and he or she can start a new career while the taxpayers pay them a retirement for the rest of their lives. That is the only major objection I have to the bill as it stands. Obviously, I am going to support the bill.

Mr. Chairman, I would like to say without any reservation that the subcommittee and the committee chairmen have done just an excellent job of wrestling with what has to be a monumental problem which has been with us for a number of years.

Mr. Chairman, I urge support of the bill. I will be submitting an amendment.

Mr. O'BRIEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Downey).

Mr. DOWNEY of New York. Mr. Chairman, I thank the gentleman. I just want to congratulate both the chairmen of the committee and the staff for the work they have done. This is 700 pages of positively scintillating reading that makes cross references to some 5,000 statutes in the present law. It has not been a particularly easy task for the chairman or the committee to wade through it in the last year.

I believe it deals fairly with the promotional problems for all officers in the military. It provides adequate force level for flag officers in the ranks; although personally I would like to see the number of generals and admirals reduced, but I can understand the problems that, that would create.

Mr. JENRETTE. Mr. Chairman, I rise in support of H.R. 13958, a proposal which represents extensive work by the Armed Services Committee.

Some of my colleagues have voiced their concern that the provision contained in the proposal which separates officers who fail to be promoted is a costly unneeded provision.

However, it was determined by the committee to be actually less cost effective to retain officers who fail to be promoted. One could ask what costs would increase since it would appear that retaining a qualified, yet noncompetitive, officer would reduce the costs of having to hire a replacement.

The most significant cost increase occurs in the retirement costs paid to the member who retires at a later point in his or her career. The officer who would have retired after 20 years of service would retire after 25 or 30 years of service and receive a higher retirement annuity. Also, during the longer period of time the individual is retained on active duty, he continues to draw his pay. Thus, if the Department of Defense retained captains to 20 years, majors to 26 years and lieutenant colonels to 30 years, we could expect an approximate $18 million increase in annual expenditures.

Going beyond the costs of such a proposal, if the services are required to retain those who fail promotion, they would be faced with separating the young, vigorous force needed to defend this country. The "up or out" provision contained in H.R. 13958 prevents an overly aged force, prevents promotion stagnation and prevents the services from retaining costly and excessive experience. In a closed system where it is impractical to hire fighter wing commanders or destroyer skippers straight from the civilian sector, it is necessary to maintain adequate promotion flow. This flow performs the function of motivating younger officers while providing for selective enforced release of those not selected for higher rank.

I wholeheartedly endorse our passage of this most crucial personnel bill.

Mr. BRINKLEY. Mr. Chairman, because of its sheer bulk, I think the natural inclination of many Members will be to look at H.R. 13958 and simply throw up their hands in despair of trying to understand it. While that would be an understandable reaction, I think it would also be an unfortunate one because it is possible to bridge the gap between a detailed mastery of the myraid of technical points and a broad overview of what DOPMA is all about.

At the present time, officer personnel management in the armed services is based upon two pieces of permanent legislation—"The Officer Personnel Act of 1947," and "The Officer Grade Limitation Act of 1954," and temporary grade legislation for the Air Force which has to be renewed periodically. Over the course of the years, existing legislation has gradually outlived its usefulness and proved to be an inadequate mechanism to achieve all of the goals of the service. H.R. 13958 is the product of almost 4 years of comprehensive analysis, adapting modern principles of personnel management to the unique needs and mission of the armed services. It reflects the thinking of personnel management experts in the private sector, as well as input from the Department of Defense, and few pieces of legislation have ever been subjected to more detailed examination by the Armed Services Committee of the House.

I think it might be helpful to think of H.R. 13958 in terms of what might be called "The Seven C's." Of course, these are not the same seven seas that old time Navy men will recognize, but I think they do encompass the basic principles, objectives, and concerns manifested in the Defense Officer Personnel Management Act.

The first of the C's is capability. Whatever system is evolved is useless unless it affords the services the capability to perform their unique missions with maximum effectiveness over a sustained period of time. The key phrase here is sustained period of time. Most of the other solutions proposed as alternatives to DOPMA would probably work adequately over the short haul, but eventually they would begin to break down because they fail to provide any effective alternative to the so-called "up or out" principle which DOPMA would incorporate into law. In the days before this principle was accepted by military personnel managers, Abraham Lincoln was obliged to fight the opening rounds of the Civil War with an 82-year-old Chief of Staff in the Army and General Marshall found it necessary to ask Congress for special permission to purge the commissioned ranks in 1935 just to get rid of the deadwood and superannuated officers who would otherwise have been in command at the onset of World War II. DOPMA, by confirming the up-or-out system will insure that the armed services have a constant supply of leaders who are young enough to do the job and who have risen to command by virtue of ability rather than longevity.

The second "C" is consistency—consistency between the services. At the present time, a lack of uniformity between the services creates inconsistent career opportunities in the different services. The major deficiency in the existing system is that there are no standard interservice promotional gates linked with a mechanism for systematic elimination of personnel identified as surplus to the needs of the service.

The third "C" is competitive advancement. The ideal system is one that allows all individuals to compete on an equal footing and to advance as rapidly as their ability will permit. DOPMA would move toward these objectives by eliminating the promotion discrimination against career reservists whose retirement opportunities under the present system resemble a roulette game played with people instead of red and black balls. DOPMA would establish a single promotion list for line officers on active duty and integrate surviving career reservists into the regular forces no later than the 11-year point in their careers. Furthermore, DOPMA accelerates the promotion opportunities for exceptional officers, providing that up to 15 percent of the number of promotions for a grade may come from officers junior to the primary promotional zone. This is simply a device that makes it easier and faster for the cream to rise to the top. Under the present system, the cream often becomes soured on the service because of stagnation.

The fourth "C" is clarity. By eliminating many of the cumbersome features such as the dual system for temporary and permanent promotions, standardizing the timing of promotional opportunities and eliminating the discrimination against women and reservists, DOPMA results in a simplified, easily understood system which will make it easier for the service to administer and easier for an individual to evaluate his career prospects at any given time.

The fifth "C" is control. The reforms embodied within DOPMA will make it easier for military personnel managers to control the force structure and manage it in an orderly manner that will preclude the kind of costly and inequitable adjustments such as the RIF program of a few years ago. Under DOPMA, the humps and the valleys will disappear.

The sixth "C" is cost effectiveness. The present system results in the statutory retention to the 20-year retirement point of a number of officers in the 03–04 category who are surplus to the force structure requirements. Every such officer who is allowed to remain on active duty until retirement eligibility receives an annuity worth in excess of $300,000. DOPMA recognizes that it is one thing to demonstrate compassion for the individual whose career has been suddenly aborted in the middle years, but it is quite another to saddle the taxpayers with an exorbitant financial burden in the years to come without offsetting benefits to the armed services.

The seventh "C," however, is compensation which does recognize that a man whose career is terminated between the 5th and 20th years is entitled to some consideration for his years of service. It provides for adjustment or severance pay of up to $30,000, depending upon the length of service and grade. By any reasonable criteria, this is an extremely generous settlement, matched by few, if any, other employers. But, considering the unique demands of a military career, it is not unwarranted largesse.

In summary, let me say that H.R. 13958 represents the product of a long dialog between the executive and legislative branches, reflecting a blend of the thinking of both civilian and military personnel managers, and incorporating useful managerial principles that apply to the unique requirements of the military. Its adoption will insure that the armed services are led by the very best men the system can produce at the peak of their abilities, and at the least long term cost to the taxpayers.

Mr. ALEXANDER. Mr. Chairman, I rise in support of this legislation. This bill will relieve some of the problems that have contributed to rising personnel costs in the Defense budget by revising the management of military officers.

A major provision of this bill will eliminate an anomaly that has existed among the Army, Navy, and Air Force for some time. Currently, a Regular Army or Air Force officer who is promoted to major is not entirely assured of retirement with 20 years of service. However, the Regular Naval officer selected to lieutenant commander is guaranteed, by law, retirement at 20 years even if he fails promotion to commander—the equivalent to lieutenant colonel in the other services.

Under H.R. 13958, both majors and lieutenant commanders who have failed to be promoted to the next grade will be separated from active duty. However, should a definite need for the officer exist, the Secretary of the Service concerned may continue the officer to retirement.

This provision will make it possible for the services to better manage their forces in times of force reductions when officers who are not promoted to senior grades can be separated instead of eliminating only up-and-coming officers.

H.R. 13958 establishes uniform provisions governing appointment, promotion, career expectation, and mandatory separation and retirement for career active officers and at the same time will reduce the number of senior officers.

This standardization of officer-promotion laws in the different services is long overdue. I urge my colleagues to support this legislation.

Mr. O'BRIEN. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. STRATTON. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. O'BRIEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired on general debate.

The Clerk will read.

The Clerk read as follows:

H.R. 13958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Officer Personnel Management Act".

SEC. 2. Subtitle A of title 10, United States Code, is amended by:

(1) Inserting the following new item in the chapter analysis and the chapter analysis of part II:

"30. Strength and Distribution in
Grade ---------------------------- 451".

(2) Inserting the following new chapter in part II:

"Chapter 30.—STRENGTH AND DISTRIBUTION IN GRADE

"Sec.
"451. Armed forces: members on active duty.
"452. Commissioned officers on active duty in grades below brigadier general or commodore admiral.
"453. Commissioned officers on active duty in grades below brigadier general or commodore admiral; prescribed number, vacancies.

"§ 451. Armed forces: members on active duty

"(a) The total strength of an armed force (other than the Coast Guard when it is not operating as a service in the Navy) in members on active duty is as authorized annually by law. Unless otherwise provided by law, that strength does not include—

"(1) Reserves on active duty for training;

"(2) members paid directly from appropriations for the reserve components;

"(3) Reserves ordered to active duty in time of war, or of national emergency declared by Congress or the President after January 1, 1975;

"(4) members in a Reserve Officers' Training Corps or other officer candidate programs under which the period of active duty does not exceed six months; and

"(5) officers on active duty for the administration of the Selective Service System under section 10(b)(2) of the Military Selective Service Act, as amended (50 U.S.C. App. 460(b)(2)).

"(b) Unless otherwise provided by law:

"(1) The Secretary of Defense may, for any armed forces except the Coast Guard when it is not operating as a service in the Navy, prescribe the total strength in officers on active duty.

"(2) The Secretary of the military department concerned may prescribe the numbers of any other category of members of an armed force under his jurisdiction authorized to be on active duty.

"(3) The total strength and officer strength of the Navy shall be increased by the authorized total strength and officer strength of the Coast Guard when the Coast Guard is operating as a service in the Navy. However, during such a period the Secretary of Defense may prescribe the total strength in Navy, Coast Guard, and Marine Corps officers on active duty, as the case may be. The Secretary of the Navy may prescribe the total numbers of any other category of members of the Navy, Coast Guard, and Marine Corps authorized to be on active duty, as the case may be.

"§ 452. Commissioned officers on active duty in grades below brigadier general or commodore admiral

"(a) Of the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, or Marine Corps, as the case may be, exclusive of the officers specified in subsection (d), the number of commissioned officers who may serve in each of the grades named in the table below may not, except as provided in subsections (c) and (f), exceed a number appropriate to the total as set forth in the following table:

"Total number of commissioned officers, excluding officers specified in subsection (d), on active duty	Colonel or captain (Navy)	Lieutenant colonel or commander	Major or lieutenant commander
Army:			
70,000	3,706	9,244	13,396
75,000	3,896	9,587	14,242
80,000	4,085	9,933	15,065
85,000	4,265	10,267	15,911
90,000	4,455	10,613	16,756
95,000	4,663	11,090	17,329
100,000	4,870	11,558	17,925
Navy:			
45,000	2,600	6,025	9,738
48,000	2,730	6,230	10,229
51,000	2,861	6,436	10,721
54,000	2,991	6,642	11,212
57,000	3,121	6,847	11,704
60,000	3,253	7,052	12,195
63,000	3,327	7,283	12,642
66,000	3,421	7,504	13,105
Marine Corps:			
12,500	625	1,436	2,743
15,000	635	1,515	2,943
17,500	647	1,595	3,142
20,000	676	1,707	3,371
22,500	704	1,818	3,600
25,000	732	1,928	3,828
27,500	760	2,039	4,056
Air Force:			
85,000	4,407	10,839	16,517
90,000	4,607	11,243	17,321
95,000	4,806	11,649	18,126
100,000	5,007	12,054	18,930
105,000	5,207	12,459	19,735
110,000	5,407	12,864	20,539
115,000	5,576	13,168	21,186
120,000	5,752	13,511	21,893

If the number of commissioned officers serving on active duty is between two of the figures listed in the first column of the table, the corresponding strengths in grade are determined by mathematical interpolation between the respective numbers of the two strengths. If it is determined that the number serving on active duty is greater or lesser than the figures listed in the first column of the table, the Secretary concerned shall fix the corresponding strengths in grade at the same proportion as reflected in the nearest limit shown in the table.

"(b) The Secretary of the military department concerned, whenever the needs of the service require but at least once each fiscal year, shall compute the number of officers authorized under subsection (a) to serve on active duty in each grade above captain (Army, Air Force, or Marine Corps) or lieutenant (Navy).

"(c) Whenever the total number of officers on active duty, exclusive of officers specified in subsection (d), is reduced by more than 7 percent in any one-year period, the Secretary concerned may delay by not more than one year the next computation required by subsection (b).

"(d) Officers in the following categories shall be excluded in computing and determining strengths under this section:

"(1) Reserve commissioned officers—

"(A) on active duty for training;

"(B) on active duty under section 265, 678, 3033, 3496, 5251, 5252, 8033, or 8496 of this title, or section 708 of title 32;

"(C) on active duty to pursue special work; or

"(D) ordered to active duty (other than for training)—

"(i) under section 672(a), 673, or 674 of this title; or

"(ii) in other emergency situations.

However, reserve commissioned officers covered by clause (D) may be excluded in determining strengths for the armed force concerned for not more than the duration of the war or emergency for which those officers were ordered to active duty, and for six months thereafter.

"(2) Officers serving in grades above colonel or captain (Navy).

"(3) Medical officers.

"(4) Dental officers.

"(5) Warrant officers.

"(6) Retired officers on active duty.

"(7) Officers on active duty for the administration of the Selective Service System under section 10(b)(2) of the Military Selective Service Act, as amended (50 U.S.C. App. 460(b)(2)).

"(e) A commissioned officer may not suffer a reduction in grade, pay, or allowances because of a reduction in the number of commissioned officers computed under subsection (a) that is authorized by this section for his grade.

"(f) The authorized number for a grade computed under this section is temporarily increased, during the period between one computation and the next succeeding computation, by—

"(1) the number of officers originally appointed in that grade during that period; and

"(2) the number of officers of that grade for whom a vacancy exists in the higher grade but whose promotion has been delayed for any reason.

"(g) In time of war, or national emergency declared by Congress or the President after January 1, 1975, the President may suspend the operation of any provision of this section.

"§ 453. Commissioned officers on active duty in grades below brigadier general or commodore admiral; prescribed number; vacancies

"(a) The Secretary of the military department concerned shall, whenever the needs of the service require, prescribe the number of commissioned officers, exclusive of those specified in section 452(d) of this title, that shall be maintained in each of the grades of major through colonel or lieutenant commander through captain (Navy). The number prescribed for each grade may be the number authorized to serve in that grade as computed under section 452 of this title or a lesser number. If the number prescribed for a grade is less than the number authorized for that grade, the reduction may be applied as an increase to the authorized number in a lower grade.

"(b) Except as provided in subsection (c), the actual number of officers in a grade, exclusive of those specified in section 452(d) of this title, may not exceed the prescribed number. Vacancies occur whenever, and to the extent that, the actual number falls below the prescribed number.

"(c) The prescribed number for a grade is temporarily increased during the period between one computation and the next succeeding computation by—

"(1) the number of officers originally appointed in that grade during that period; and

"(2) the number of officers of that grade for whom a vacancy exists in the higher grade but whose promotion has been delayed for any reason.

"(d) At the time of making the computations required by this section, or whenever the needs of the service require, the Secretary concerned shall also determine the number of officers that will be required to meet the needs of the service in the grades of second lieutenant, first lieutenant, or captain (Army, Air Force, or Marine Corps) or ensign, lieutenant (junior grade), or lieutenant (Navy).".

(3) Amending chapter 33 by inserting the following new sections and inserting corresponding new items in the chapter analysis:

"§ 542. Commissioned officers: original appointment; how made

"(a) Except as otherwise provided in this title, original appointments in commissioned grades in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall be made by the President, by and with the advice and consent of the Senate.

"(b) Original appointments in commissioned grades in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, may not be made under this section, or under section 543 or 544 of this title in warrant officer grades or in grades above colonel or captain (Navy).

"§ 543. Commissioned officers: original appointment; qualifications

"(a) Under regulations prescribed by the Secretary of the military department concerned, original appointments in commissioned grades in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps may be made from persons who—

"(1) are citizens of the United States;

"(2) are at least 21 years of age;

"(3) are able to complete 20 years of active commissioned service before their fifty-fifth birthday;

"(4) are of good moral character;

"(5) are physically qualified for active service; and

"(6) have such other qualifications as the Secretary concerned may, by regulation, prescribe.

"(b) Original appointments may not be made under this section as medical or dental officers or those officers designated for limited duty.

"(c) Original appointments of chaplains are not subject to subsection (a)(3).

"§ 544. Commissioned officers: original appointment; service credit

"(a) For the purposes of determining grade and position on the active-duty list under section 620 of this title, a person originally appointed in a commissioned grade, other than a warrant officer, in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, shall be credited, except as provided in section 620

(d) of this title, at the time of his appointment with the active commissioned service, other than service as a commissioned warrant officer, in any armed force that he performed after becoming 21 years of age and before his appointment.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall, in addition to the credit set forth in subsection (a), credit an officer with the amount of service, if applicable, for the following purposes and under the following conditions—

"(1) one year of constructive service for each year of qualifying advanced education beyond the normal baccalaureate level, limited to those officer categories requiring advanced education as a prerequisite for appointment as a commissioned officer (except as provided in clause (5), in determining the years of service under this clause, the Secretary concerned shall grant credit for only the number of years normally required to receive the advanced education or degree);

"(2) credit for advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic educational criteria for appointment as an officer when such advanced education will be directly used by the armed force concerned;

"(3) additional credit of not more than one year for internship or equivalent graduate medical, dental or other formal professional specialty training required by the armed forces and not more than one year of additional credit for each additional year of such graduate level training creditable towards certification in a specialty required by the armed forces;

"(4) additional credit, in usual cases, based on a member's special experience in a particular field;

"(5) additional credit for one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering the discipline concerned exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that particular health profession. The percent of such persons will be computed on an annual basis for each discipline for the data for the year in which a person was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that particular health profession, determined on the basis prescribed in the preceding sentence.

However, except as authorized by the Secretary concerned in individual cases, the amount of service credit granted under this subsection shall not exceed that amount required for original appointment in the grade of major in the Army and Air Force and in the grade of lieutenant commander in the Navy.

"(c) The amount of constructive service prescribed under subsection (b) shall be used for determining—

"(1) entry grade;

"(2) entry position on an active-duty list;

"(3) seniority in grade; and

"(4) time in grade for promotion eligibility.

"(d) The amount of service credited under subsection (b) may not be used to compute the years of service for—

"(1) active-duty pay and allowances;

"(2) voluntary retirement;

"(3) involuntary retirement;

"(4) involuntary separation;

"(5) retired pay or transition payments; or

"(6) involuntary separation readjustment compensation.

"(e) The amount of service creditable under subsection (b) may not be granted for any education, training, experience, or qualifications attained while serving on active duty, except for constructive service credit for board certification of medical and dental officers.

"(f) A cadet or midshipman at the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy who, upon graduation, is originally appointed in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps as a second lieutenant or ensign, is not entitled to any service credit under subsection (a) or (b), for service performed, or education, training, or experience obtained, prior to graduation."

(4) Amending chapter 33 by amending section 564(a)(3) by striking out "severance pay computed under section 1167" and inserting in place thereof ", if eligible therefor, separation pay under section 1173a".

(5) Inserting the following new items in the chapter analysis and the chapter analysis of part II:

"35A. Temporary Appointments______ 605
"36. Promotion, Separation, Retirement of Officers on the Active-Duty List: Second Lieutenants or Ensigns through Colonels or Captains (Navy)_____________ 611".

(6) Inserting the following new chapters in part II:

"Chapter 35A.—TEMPORARY APPOINTMENTS

"Sec.
"605. Temporary appointments in time of war or national emergency.

"§ 605. Temporary appointments in time of war or national emergency.

"(a) In time of war, or national emergency declared by Congress or the President after January 1, 1975, the President may appoint any qualified person who does not hold an appointment in the Army, Navy, Air Force, or Marine Corps, in a commissioned grade below brigadier general or commodore admiral, except a warrant officer grade, as a temporary commissioned officer in one of those grades in the Army, Navy, Air Force, or Marine Corps.

"(b) An officer appointed under this section is entitled to the service credit prescribed in section 544 of this title.

"(c) An officer appointed under this section may be ordered to active duty for such period as the President prescribes.

"(d) Appointments under this section shall be made by the President alone.

"(e) Appointments under this section may be vacated by the President at any time.

"(f) Appointments under this section do not change the permanent status of members of the armed forces so appointed. A person who is appointed under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment under this section.

"(g) Temporary appointments made under this section shall, if not sooner terminated, terminate not later than—

"(1) six months after the end of the war or national emergency; or

"(2) the date the appointee is released from active duty; whichever is earlier.

"Chapter 36.—PROMOTION, SEPARATION, RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST: SECOND LIEUTENANTS OR ENSIGNS THROUGH COLONELS OR CAPTAINS (NAVY)

"Sec.
"611. Commissioned officers: selection boards; promotion.
"612. Commissioned officers: selection boards; composition of boards.
"613. Commissioned officers: selection boards; notice of convening; communications with board.
"614. Commissioned officers: selection boards; oath of members.
"615. Commissioned officers; selection boards; information furnished boards.
"616. Commissioned officers: selection boards; recommendations for promotion.
"617. Commissioned officers: selection boards; reports.
"618. Commissioned officers: selection boards; submission of reports.
"619. Commissioned officers: eligibility for consideration for promotion.
"620. Commissioned officers: active-duty lists.
"621. Commissioned officers: competitive categories for promotion.
"622. Commissioned officers; promotion zones.
"623. Commissioned officers: numbers to be selected for promotion.
"624. Commissioned officers: promotions.
"625. Commissioned officers: promotions; acceptance; oath of office.
"626. Commissioned officers: failure of selection.
"627. Commissioned officers: special selection boards.
"628. Commissioned officers: removal from selection list.
"629. Regular commissioned officers: less than five years' service or failure of promotion to first lieutenant or lieutenant (junior grade); discharge.
"630. Regular first lieutenants and captains (Army, Air Force, Marine Corps) and lieutenants (junior grade) and lieutenants (Navy): effect of failure of selection for promotion.
"631. Regular majors and lieutenant commanders: effect of failure of selection promotion.
"632. Regular lieutenant colonels and commanders: retirement for failure of selection for promotion.
"633. Regular colonels and captains (Navy); retirement for years of service.
"634. Regular commissioned officers: continuation on active duty.
"635. Authority to convene selection boards to recommend certain officers for continuation on active duty.
"636. Continuation on active duty for disciplinary action.
"637. Computation of creditable service for involuntary retirement and other purposes.
"638. Deferment of retirement or separation.
"639. Promotion, separation, and involuntary retirement of medical and dental officers.
"640. Officers performing professional functions: defined; discharge upon loss of qualifications.
"641. Exclusion of certain officers.
"642. Suspension: preceding sections.
"643. Commissioned officers: entitlement to separation pay or retired pay.

"§ 611. Commissioned officers: selection boards; promotion

"At least once a year and at such other times as the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher grade officers on the active-duty list in each grade from first lieutenant through lieutenant colonel in the Army, Air Force, or Marine Corps, and from lieutenant (junior grade) through commander in the Navy. The Secretary concerned may convene separate selection boards for each competitive category. However, the Secretary concerned is not required to convene a board to recommend offices in a competive category for promotion to a grade when no officers are eligible for promotion in the promotion zone for that grade and competitive category.

"§ 612. Commissioned officers; selection boards; composition of boards

"(a) A board convened under section 611 of this title shall consist of five or more officers serving in a grade of major, or above, or lieutenant commander, or above.

"(b) A board convened under section 611 of this title shall consist of officers who are serving in a grade at least equal to the grade to which the board may recommend officers for promotion.

"(c) Boards convened under section 611 of this title shall consist of officers on the active-duty list of the same armed force as the officers under consideration. However, if qualified officers on the active-duty list are not available in sufficient numbers to comprise a board, the Secretary of the military department concerned shall complete the membership by appointing as members of the board retired officers of the same service who have the prescribed qualifications.

"(d) When reserve officers of an armed force are eligible for consideration by a board convened under section 611 of this title, the board shall, when possible, include an appropriate number of reserve officers of that armed force.

"(e) No officer may be a member of two boards convened under section 611 of this title for the consideration of officers of the same competitive category and grade for promotion.

"(f) A board convened to consider officers shall, consistent with subsections (a)–(e), consist of such officers as may be determined by the Secretary concerned. A board considering officers of a competitive category for promotion shall, when possible, include at least one officer of that competitive category among its members except as provided in sections 5701, 5702, and 5703 of this title.

"§ 613. Commissioned officers: selection boards; notice of convening; communications with board.

"(a) Before a board is convened under section 611 of this title, notice of the convening date and the promotion zone shall be promulgated to the officers eligible for consideration or to the armed force concerned at large.

"(b) Each officer in or above a promotion zone being considered by a selection board convened under section 611 of this title may send a communication through official channels to the board, to arrive not later than the date the board convenes, calling attention to any matter concerning himself that he considers important to his case. However, if notice of the convening date of the board has not been promulgated to the officers eligible for consideration or to the armed force concerned at large, at least 10 days before the convening date, each eligible officer in or above the promotion zone may send a communication concerning his record to the board through official channels, to arrive not later than 10 days after the date the board convenes. A communication sent under this section may not criticize any other officer or reflect upon the character, conduct, or motive of any other officer.

"§ 614. Commissioned officers: selection boards; oath of members

"Each member of a board convened under this chapter shall swear that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of his armed force, perform the duties imposed upon him.

"§ 615. Commissioned officers: selection boards; information furnished boards

"The Secretary of the military department concerned shall furnish the appropriate board convened under section 611 of this title with—

"(1) the number of officers in each competitive category under consideration that the board shall, subject to section 616 of this title, recommend for promotion to the next higher grade;

"(2) the names of all officers to be considered by the board for promotion to the next higher grade to which the board will recommend officers for promotion with identification of those officers who are in the promotion zone;

"(3) the pertinent records of all officers whose names are furnished to the board; and

"(4) such guidance, which shall be consistent with this chapter, as may be necessary to enable the board to properly fulfill its functions.

"§ 616. Commissioned officers: selection boards; recommendations for promotion

"(a) A board convened under section 611 of this title shall recommend only those eligible officers whom the board considers best qualified for promotion.

"(b) From among those officers of the Army, Navy, Air Force, or Marine Corps, who are to be considered for promotion by a selection board in accordance with section 3297(f), 5706, or 8297(f) of this title, and those whose position on the active-duty list is below the junior officer in the appropriate promotion zone in any grade below colonel or captain (Navy), a board convened under section 611 of this title may, unless the Secretary of the military department concerned prescribes a lesser number, recommend as best qualified for promotion in each competitive category a number of officers that does not exceed 15 percent of the total number of officers in each competitive category that the board is authorized to recommend for promotion to the grade concerned, unless that number is less than one, in which case it may recommend one such officer. Selection under this subsection shall not increase the total number authorized to be recommended for promotion under section 615 of this title.

"(c) No officer may be recommended for promotion unless—

"(1) the officer receives the recommendation of at least a majority of the members of a board; and

"(2) a majority of the members of the board finds that the officer is also fully qualified for promotion.

"(d) If the board finds that the number of officers who are best qualified for promotion and who are also fully qualified for promotion is less than the total number authorized to be recommended for promotion under section 615 of this title, the board shall recommend the lesser number.

"§ 617. Commissioned officers: selection boards; reports

"(a) Each board convened under section 611 of this title shall submit a report in writing, signed by all the members thereof, containing the names of officers recommended for promotion, and shall certify in its report that the board has carefully considered the records of each officer whose name was furnished to it under section 615 of this title.

"(b) A board convened under section 611 of this title certify that in the opinion of at least a majority of the members the officers recommended for promotion are best qualified for promotion.

"(c) A board convened under section 611 of this title may be required to report the name of each officer from among those officers whose record, in the opinion of the board, indicates that he should be required to show cause for his retention on active duty under chapter 60 of this title.

"(d) As required by section 6384 of this title, each board convened under this chapter to recommend officers of the Navy or Marine Corps for promotion shall report, from among those officers eligible for consideration, the name of each Navy or Marine Corps officer with less than 20 years of service whose record, in the opinion of the board, indicates—

"(1) his unsatisfactory performance of duty in his present grade; and

"(2) that he would not satisfactorily perform the duties of a higher grade.

"§ 618. Commissioned officers: selection boards; submission of reports

"(a) A board convened under section 611 of this title shall submit its report to the Secretary of the military department concerned who shll return the report for proceeding in revision and resubmission if the board has acted contrary to law.

"(b) After his final review, the Secretary concerned shall submit the report of the board, with his recommendations for action thereon, to the Secretary of Defense for transmittal to the President for approval, modification, or disapproval.

"(c) The name of an officer may be removed from the report of the board only by the President.

"(d) Upon approval by the President, the names of officers recommended for promotion by a board convened under section 611 of this title shall be promptly disseminated to the armed force concerned.

"(e) Except as required by this section, proceedings of a selection board convened under section 611 of this title shall not be disclosed to any person not a member of the board.

"§ 619. Commissioned officers: eligibility for consideration for promotion

"(a) An officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps (other than a medical or dental officer) may not be considered for promotion to the next higher grade by a selection board convened under section 611 of this title unless he will have completed the following minimum period of service in the grade in which he is serving by the end of the period which is the basis for determining the number of officers which the board is authorized to recommend for promotion:

"(1) One year in the grade of first lieutenant or lieutenant (junior grade).

"(2) Three years in the grade of captain (Army, Air Force, or Marine Corps) or lieutenant (Navy).

"(3) Three years in the grade of major or lieutenant commander.

"(4) Three years in the grade of lieutenant colonel or commander.

However, the Secretary of the military department concerned may, when the needs of the service so require, increase the minimum amount of service in grade for eligibility for consideration for promotion to the next higher grade.

"(b) For the purpose of this section, service in a grade is computed from an officer's date of rank except that an officer whose position on the active-duty list has been adjusted for any reason while serving in his current grade will be considered to have the same service in a grade as the officer next junior on the active-duty list whose position on the active-duty list has not been adjusted in that grade. Service in a grade under a temporary appointment, which by its own terms is limited in duration, shall be excluded from computation under this subsection.

"(c) In addition to the time-in grade requirements set out in subsection (a), no officer may become eligible for consideration for promotion until all officers of his grade in his competitive category on the active-duty list senior to him are so eligible.

"(d) Each officer having once failed of selection for promotion to the next higher grade remains eligible for selection for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted to that grade.

"(e) A selection board convened under section 611 of this title may not consider for promotion to the next higher grade any officer whose name is on the promotion list for that grade as a result of his selection to that grade by an earlier board convened under that section.

"§ 620. Commissioned officers: active-duty lists

"(a) The Secretary of the military department concerned shall maintain a single active-duty list of officers of the Army, Navy, Air Force, or Marine Corps, as the case may be, on active duty in the grades of second lieutenant or ensign, and above.

"(b) Officers shall be carried on active-duty lists in the order of seniority of the grade in which they are serving on active duty. Officers serving in the same grade shall be carried in the order of their seniority in that grade.

"(c) Under regulations prescribed by the Secretary concerned, the grade and position on the active-duty list of an officer shall be determined as follows:

"(1) Except as provided in section 2106(b) of this title, and except as otherwise provided in this section, an officer who has no prior commissioned service shall be placed on the active-duty list in the grade of second lieutenant or ensign in a position on the list immediately below the junior officer on that list, or if he has received constructive service credit under section 544(b) of this title or any other provision of law, shall be placed immediately below the junior due-course officer whose commissioned service is the same or next longer in comparison to the service credit of the officer whose position on the list is being determined.

"(2) An officer who is placed on the active-duty list as a reserve officer or as a regular officer shall be placed on the list in the same grade and in the position he would have occupied had he been on active duty as a due-course officer if—

"(A) the period between his commissioning and placement on the active-duty list was—

"(i) less than one year; or

"(ii) one year or more, during which time he participated in an active status as a reserve commissioned officer to the extent required to maintain retirement eligibility under section 1331 of this title;

"(B) he has been on continuous active duty since he was commissioned; or

"(C) the latest period during which he has not been on active duty since he was commissioned was—

"(i) less than one year; or

"(ii) one year or more, during which time he participated in an active status as a reserve commissioned officer to the extent required to maintain retirement eligibility under section 1331 of this title.

"(3) An officer not covered by clause (2) who is placed on the active-duty list as a reserve officer or as a regular officer shall, if he is an officer who—

"(A) has been on continuous active duty since he was commissioned; and

"(B) during those periods when he was not on active duty, was in an active status in the Reserves, but failed to participate to the extent required to maintain retirement eligibility under section 1331 of this title; be placed on the list on higher than the grade and position he would have occupied had he been on active duty as a due-course officer, but no lower than the grade and position of the junior due-course officer who has the same or next longer period of active commissioned service.

"(4) An officer not covered by clause (2) who is placed on the active-duty list as a reserve officer or as a regular officer shall, if he is an officer who—

"(A) has not been on continuous active duty since he was commissioned; and

"(B) during those periods when he was not on active duty, terminated his active status, or was separated from the service;

be placed on the list lower than the position he would have occupied had he been on active duty as a due-course officer but no lower than the grade and position of the junior due-course officer who has the same or next longer period of active commissioned service.

"(5) When the position of an officer on the active-duty list would be the same as that of any other officer, his position on the list relative to the other officer shall be determined under regulations prescribed by the Secretary concerned.

"(d) The Secretary of Defense shall prescribe regulations to enable the Secretary of the military department concerned to credit prior commissioned service to determine the grade and position which shall be given to officers who are placed on the active-duty list, or originally appointed as regular officers and placed on that list in the following competitive categories:

"(1) The Army—

"(A) Veterinary Corps;

"(B) Medical Service Corps;

"(C) Nurse Corps;

"(D) Medical Specialist Corps;

"(E) Medical Corps; or

"(F) Dental Corps.

"(2) The Navy—

"(A) Medical Service Corps;

"(B) Medical Corps;

"(C) Dental Corps; or

"(D) Nurse Corps.

"(3) The Air Force—

"(A) officers designated as medical service officers;

"(B) officers designated as biomedical sciences officers;

"(C) officers designated as nurses;

"(D) officers designated as veterinary officers;

"(E) officers designated as medical officers; or

"(F) officers designated as dental officers.

"(e) Each officer serving in a temporary grade, or a grade held by reason of his office, above colonel or captain (Navy) has, upon the termination of his appointment in that grade, the grade and position on the active-duty list that he would have held if he had not received that appointment. This subsection does not apply to an officer appointed under section 3066, 5231, 5232, or 8066 of this title.

"(f) The Secretary concerned may correct any erroneous position on an active-duty list that was caused by administrative error. Any officer—

"(1) whose position on the active-duty list is changed;

"(2) whose grade is changed under this section; or

"(3) who is placed on the active-duty list among officers with dates of rank differing from his own;

may be reappointed in the same, a lower, or a higher grade to reflect his position, and his date of rank may be changed to conform to his new position on the active-duty list. The authorized number of officers in any grade may be temporarily exceeded, by the number of officers whose grades were changed under this section, until the next suceeding computation.

"§ 621. Commissioned officers: competitive categories for promotion

"(a) Each commissioned officer whose name appears on the active-duty list of the Army shall be carried in one of the following competitive categories of officers with whom he will complete for promotion:

"(1) Army line.

"(2) Chaplains.

"(3) Veterinary Corps.

"(4) Medical Service Corps.

"(5) Nurse Corps.

"(6) Medical Specialist Corps.

"(7) Medical Corps.

"(8) Dental Corps.

"(b) Each commissioned officer whose name appears on the active-duty list of the Navy shall be carried in one of the following competitive categories of officers with whom he will compete for promotion:

"(1) Officers not restricted in the performance of duty in the line.

"(2) Officers designated for each of the categories authorized by section 5587(c) of this title.

"(3) Officers in one of the staff corps.

"(4) Officers designated for limited duty in the line.

"(5) Officers designated for limited duty in one of the staff corps.

Officers listed in clauses (2), (3), and (5) shall compete for promotion only among officers within one of the staff corps established for the Navy under this title or categories as set forth in section 5587(c) of this title.

"(c) Each commissioned officer whose name appears on the active-duty list of the Air Force shall be carried in one of the following competitive categories of officers with whom he will compete for promotion:

"(1) Line of the Air Force.

"(2) Officers designated as chaplains.

"(3) Officers designated as medical service officers.

"(4) Officers designated as biomedical sciences officers.

"(5) Officers designated as nurses.

"(6) Officers designated as veterinary officers.

"(7) Officers designated as medical officers.

"(8) Officers designated as dental officers.

"(d) Each commissioned officer whose name appears on the active-duty list of the Marine Corps shall be carried in one of the following competitive categories of officers with whom he will compete for promotion:

"(1) Officers not restricted in the performance of duty.

"(2) Officers designated for limited duty.

"(e) Additional competitive categories may be established under regulations prescribed by the Secretary of the military department concerned for officers performing other functions requiring special training or experience.

"§ 622. Commissioned officers: promotion zones

"(a) Before he convenes a selection board to consider officers for promotion to any grade above first lieutenant and below brigadier general, or above lieutenant (junior grade) and below commodore admiral, the Secretary of the military department concerned shall establish a promotion zone.

"(b) The promotion zone shall consist of the designated junior officer in the zone and those officers who have not previously failed of selection who are senior to him.

"(c) The Secretary concerned shall determine the number of officers in each promotion zone from among officers eligible for promotion on the basis of a consideration of—

"(1) the number of vacancies estimated for the next higher grade in each of the next five years; and

"(2) the number of officers who will be placed in the promotion zone in those years to assure to individuals in succeeding years equality of opportunity for promotion.

"§ 623. Commissioned officers: numbers to be selected for promotion

"(a) Before convening a board to select officers for promotion to any grade below brigadier general or commodore admiral, the Secretary of the military department concerned shall determine the total number of officers who may be selected for promotion to the grade. The number of officers who may be promoted to the higher grade is equal to the number of vacancies in the grade plus the number of additional vacancies estimated for the promotion period minus the number of officers on the selection list for promotion for the grade.

"(b) Having determined the total number of officers to be selected for promotion to any grade, the Secretary concerned shall apportion that number among the competitive categories of the grade from which such officers are to be selected. This apportionment shall provide for equality of opportunity of selection among the competitive categories from which selections are made, except that the Secretary concerned may adjust the number of officers to be selected in a competitive category on the basis of a consideration of an estimate of service needs and the number of anticipated losses and officers to be placed in the promotion zone during the next five years in each competitive category.

"§ 624. Commissioned officers: promotions

"(a) An officer serving on active duty in the grade of second lieutenant or ensign may be promoted to the next higher grade subject to regulations prescribed by the Secretary of the military department concerned. An officer serving in the grade of first lieutenant or lieutenant (junior grade), whose name is on an approved list of officers recommended for promotion by a selection board convened under section 611 of this title, may be promoted subject to such regulations as the Secretary concerned may prescribe.

"(b) When the reports of all boards convened under section 611 of this title to select officers of all competitive categories from which selections are authorized for promotion to any grade of an armed force, below the grade of brigadier general or commodore admiral, have been approved by the President, the Secretary concerned shall place the names of all officers selected and approved for promotion on a single list in the order of their seniority on the active-duty list. Except in the case of promotions governed by subsection (a) and except as provided in subsection (e), officers shall be promoted to the next higher grade in accordance with subsection (c) as vacancies occur in the authorized active-duty strength of that grade. Promotions shall be made in the order that officers' names appear on the promotion list, and after officers previously selected have been promoted.

"(c) An officer appointed under subsection (a) shall have an effective date of promotion and date of rank in the grade to which promoted from the date the appointment is made. An officer appointed under subsection (b) shall have an effective date of promotion and date of rank in the grade to which promoted from the first day of the month following the date of occurrence of the vacancy he was appointed to fill.

"(d) Appointments of officers under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments, other than an original appointment as a regular officer, in the grade of first lieutenant or lieutenant (junior grade) shall be made by the President alone. An appointment of a reserve officer under this section shall be retained after release from active duty for the purpose of promotion under any other chapter of this title.

"(e) An appointment under this section may be delayed under the following circumstances:

"(1) When—

"(A) proceedings of a court-martial, a board of officers as constituted under chapter 60 of this title, or an investigation incident to such court-martial or board are pending against an officer; or

"(B) sworn charges are received by an officer exercising general court-martial jurisdiction over an officer;

the appointment of an officer who has been selected for promotion may be delayed by the Secretary concerned until completion of the proceedings or inestigation. If, upon completion of the proceedings or investigation, or upon dismissal of the charges against him, the officer is retained on the list of officers to be appointed, his date of rank, pay, and allowances, when appointed, shall be the same as he would have had if no delay had intervened.

"(2) In cases where the Secretary concerned finds that there is good cause to believe that an officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade for which he was selected. If the Secretary concerned subsequently determines that the officer is qualified for promotion, the officer's date of rank, pay, and allowances shall be the same as if no delay intervened.

In no case shall the date of rank, pay, and allowances of an officer whose appointment is delayed be computed from a date earlier than the date which would have been employed for such computation in accordance with section 908 of title 37 had the appointment not been delayed. In any case in which delay of the appointment of an officer is contemplated, such officer shall be given written notice of the grounds for the delay, and he shall be afforded an opportunity to make a written statement in response. That statement, if made, shall be considered by the Secretary concerned in determining whether to institute a delay. An appointment may not be delayed for more than six months after the date the officer would otherwise have been appointed, unless the Secretary concerned determines delay to be necessary for the good of the service for a further period which he shall specify. However, an officer's promotion may not be delayed beyond 18 months from the time the officer would otherwise have been appointed, unless the basis for the delay is the result of—

"(1) a pending criminal proceeding in a State or Federal court; or

"(2) final action not having been taken by a board or court-martial due to a delay caused by a proceeding described in clause (1).

"§ 625. Commissioned officers: promotions; acceptance; oath of office

"(a) An officer who receives an appointment under section 624 of this title is considered to have accepted his appointment on its effective date, unless he expressly declines the appointment.

"(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.

"§ 626. Commissioned officers: failure of selection

"An officer who is in or above the promotion zone established for his grade under section 622 of this title, and is considered but not selected for promotion, shall be considered to have failed of selection.

"§ 627. Commissioned officers: special selection boards

"(a) The Secretary of the military department concerned may convene a special selection board composed in accordance with section 612 of this title to determine whether an officer who is in, or above, the promotion zone established for his grade under section 622 of this title, and otherwise eligible for promotion, should be recommended for promotion when the Secretary concerned determines that the officer was—

"(1) not considered by a selection board because of administrative error; or

"(2) considered by a selection board, and not selected, when the board's action was contrary to law or involved material error of fact, material administrative error, or when material new evidence has been discovered.

"(b) The special board convened under subsection (a) shall consider the record of an officer as his record, if corrected, would have appeared to the board that should have considered, or did consider him. That record shall be compared with the records of those officers who were, and who were not, selected by the board which should have considered, or did consider, the officer described in subsection (a).

"(c) In the case of an officer specified in subsection (a), if the report of a special board, as approved by the President, recommends the officer for promotion, and he is appointed to the higher grade, he is entitled to the same date of rank, pay, and allowances of that grade, and the same position on the active-duty list as he would have had if he had been selected by the board which should have considered, or did consider, him. If a special board does not recommend for promotion an officer who is referred to it for consideration under subsection (a)(1), that officer is considered as having failed of selection. If a special board does not recommend for promotion an officer who is referred to it for consideration under subsection (a)(2), that officer incurs no additional failure of selection.

"§ 628. Commissioned officers: removal from selection list

"(a) The President may remove the name of any officer from a list of selectees.

"(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees, that officer's name shall be removed from the list.

"(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board and promoted, he is entitled to the same position on the active-duty list, date of rank in the grade, and the same pay and allowances upon promotion to which he would have been entitled if his name had not been so removed. However, if the officer is not recommended for promotion by the next selection board or if his name is again removed under this section from the list of officers recommended for promotion by the next selection board, or if the Senate again does not consent to his appointment, he is considered for all purposes as having twice failed of selection for promotion.

"§ 629. Regular commissioned officers: less than five years' service or failure of promotion to first lieutenant or lieutenant (junior grade); discharge

"The Secretary of the military department concerned, under regulations prescribed by him—

"(1) may discharge any regular officer on the active-duty list who has less than five years of active commissioned service; and

"(2) shall discharge a regular officer, except one who is covered by section 6383(e) of this title, serving on the active-duty list in the grade of second lieutenant or ensign who is found not qualified for promotion to the next higher grade.

"§ 630. Regular first lieutenants and captains (Army, Air Force, Marine Corps) and lieutenants (junior grade and lieutenants (Navy): effect of failure of selection for promotion

"Except as provided in section 641(c) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps serving in the grade of first lieutenant or captain, or each officer of the Regular Navy serving in the grade of lieutenant (junior grade) or lieutenant, who has failed of selection for promotion to the next higher grade for the second time, and whose name is not on a recommended list for promotion shall—

"(1) be honorably discharged on the date requested by him and approved by the Secretary of the military department concerned, but not later than the first day of the seventh calendar month after the President approves the report of the last board that considered but did not recommend him for promotion;

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh month after the President approves the report of the last board that considered but did not recommend him for promotion; or

"(3) unless sooner retired or separated under another provision of law, if he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then retired.

The discharge of an officer under clause (1) shall be considered an involuntary separation under any other provision of law.

"§ 631. Regular majors and lieutenant commanders (Navy): effect of failure of selection for promotion

"(a) Except as provided by section 641(c) of this title, each officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in the grade of major or lieutenant commander who has failed of selection for promotion to the grade of lieutenant colonel or commander for the second time and whose name is not on a recommended list for promotion shall—

"(1) be honorably discharged on the date requested by him and approved by the Secretary of the military department concerned, but not later than the first day of the seventh calendar month after the President approves the report of the last board that considered but did not recommend him for promotion;

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary of the military department concerned, but not later than the first day of the seventh month after the President approves the report of the last board that considered but did not recommend him for promotion; or

"(3) unless sooner retired or separated under another provision of law, if he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then retired.

The discharge of an officer under clause (1) shall be considered an involuntary separation under any other provision of law.

"(b) When the needs of the service require, the Secretary concerned may convene selection boards to recommend officers in a competitive category, except limited-duty officers of the Navy and Marine Corps, for continuation on active duty. Notwithstanding subsection (a), each officer described in subsection (a) who has failed of selection for promotion to the grade of lieutenant colonel or commander for the second time may be continued on active duty if selected for continuation in the approved report of a board convened under section 635 of this title. An officer who is selected for continuation but declines to continue on active duty shall be honorably discharged, or if he is eligible for retirement under any provision of law, be retired.

"(c) Each officer who—

"(1) has failed of selection for promotion to the grade of lieutenant colonel or commander for the second time;

"(2) has been continued under subsection (b), but has not been subsequently promoted; and

"(3) is not carried on any list of officers recommended for appointment to the next higher grade;

shall, unless sooner separated or retired under another provision of law, be retired on the first day of the month following the month in which that officer becomes qualified for retirement under section 3911, 6323, or 8911 of this title. An officer subject to retirement under this subsection may, in the discretion of the Secretary concerned, be retired on any earlier date on which that officer is eligible for retirement under any other provision of law.

"§ 632. Regular lieutenant colonels and commanders: retirement for failure of selection for promotion

"Each officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, serving in the grade of lieutenant colonel or commander, except an officer designated for limited duty, who is not on a list of officers recommended for promotion, and who is considered as having twice failed of selection for promotion to the grade of colonel or captain (Navy), shall be retired on the first day of the month following the month in which he completes 26 years of service as computed under section 637 of this title. However, an officer whose second failure of selection for promotion occurred within six months before the date he would have completed 26 years of service, as computed under section 637 of this title, shall not be retired earlier than the first day of the seventh calendar month after the President approves the report of a board convened under section 611 of this title that considered, but did not recommend, him for promotion. No officer shall be retired under this section earlier than the date which would qualify him for retirement under section 3911, 6323, or 8911 of this title.

"§ 633. Regular colonels and captains (Navy): retirement for years of service

"(a) Each officer of the Regular Navy or Regular Marine Corps who is serving in the grade of captain (Navy) or colonel (Marine Corps), except an officer designated for limited duty, whose name is not on a recommended list for promotion to a higher grade shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 30 years of service as computed under section 637 of this title. However, an officer in a grade below commodore admiral or brigadier general on the active-duty list who—

"(1) has the rank of commodore admiral or rear admiral or bridgadier general while serving in a statutory office; and

"(2) would be retired under this section; may have his date of retirement deferred by the Secretary of the Navy during the time the officer serves in the statutory office.

"(b) Each officer of the Regular Army or Regular Air Force who has the regular grade of colonel, and who has not been recommended for promotion under section 3306 or 8306 of this title, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 30 years of service as computed under section 637 of this title.

"(c) No officer shall be retired under this section earlier than the date which would qualify him for retirement under section 3911, 6323, or 8911 of this title.

"§ 634. Regular commissioned officers: continuation on active duty

"(a) Notwithstanding section 632 or 633 of this title, each regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps, except limited-duty officers of the Navy and Marine Corps, serving the grade of—

"(1) lieutenant colonel or commander who has failed of selection for promotion to the grade of colonel or capital (Navy) two or more times and whose name is not on a recommended list for promotion; or

"(2) colonel or captain (Navy) who has served at least four years in grade and whose nam is not on a recommended list for promotion;

may be considered for continuation on active duty by boards convened under section 635 of this title. The number of such officers authorized by the Secretary of the military department concerned to be selected for continuation on active duty may not be less than 70 percent of the number in each grade of those officers considered in each of the competitive categories.

"(b) An officer who is considered, but not selected, for continuation under this section shall—

"(1) if he is eligible for retirement under any other provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh month after the Secretary concerned approves the report of the board that considered, but did not recommend, him for continuation;

"(2) if he is not eligible for retirement under any other provision of law, be retained on active duty until qualified for retirement under section 3911, 6323, or 8911 of this title, and then retired, unless he is sooner separated or retired under some other provision of law; or

"(3) if his name is on an approved list for promotion to a higher grade than that in which he was serving at the time he was considered, but not selected, for continuation under this section, be retained on active duty.

"(c) An officer who has once been recommended for continuation on active duty under this section, but has not been selected for promotion to the next higher grade, is not eligible for consideration for continuation on active duty by a subsequent board convened under section 635 of this title sooner than the fifth fiscal year after the date of the approval by the Secretary concerned of the report of the previous board that recommended him for continuation on active duty.

"(d) An officer continued under this section is subject to involuntary retirement under section 632 and 633 of this title.

"§ 635. Authority to convene selection boards to recommend certain officers for continuation on active duty

"The Secretary concerned—

"(1) may, whenever the needs of the service require, convene selection boards to recommend certain officers for continuation on active duty under sections 631 and 634 of this title; and

"(2) shall prescribe regulations for administration of this section and sections 631 and 634 of this title.

"§ 636. Continuation on active duty for displinary action

"In the case of an officer to be separated under section 629, 630, or 631 of this title, when action has commenced against him with a view to trial by court-martial (as by apprehension, arrest, confinement, or filing of charges) the separation of that officer may be delayed, without prejudice, by the Secretary of the military department concerned until the completion of the action. If the officer is not separated as a result of action with a view to trial by court-martial, he shall be separated under section 629, 630, or 631 of this title. However, unless the Secretary concerned determines that a further delay is necessary for the good of the service, a separation may not be delayed under this section for more than one year after the date the officer would otherwise have been separated.

"§ 637. Computation of creditable service for involuntary retirement and other purposes

"The period of service which subjects an officer on the active-duty list to involuntary retirement under section 632 or 633 of this title, release from active duty under section 687a of this title, and the period of service of an officer in a grade below brigadier general or commodore admiral for purposes of section 1208(a)(1) of this title, shall be computed as follows:

"(1) For an officer who has served continuously on active duty since his appointment in the grade of second lieutenant or ensign, his period of creditable service is his period of active commissioned service in any armed force.

"(2) For any other officer, his period of creditable service shall be computed by adding—

"(A) his commissioned service during his latest period of continuous active duty; and

"(B) under regulations prescribed by the Secretary of the military department concerned, a period of service to be determined at the time the officer is placed on the active duty list under section 620 of this title during his latest period of continuous active duty, which period—

"(i) may not, except for a medical or dental officer, be greater than the creditable service of the next senior due-course officer or less than that of the next junior due-course officer; and

"(ii) for a medical or dental officer, shall reflect the officer's position on the active-duty list relative to other officers of his competitive category.

If an officer has received constructive service credit under section 544(b) of this title, or any other provision of law, such credit shall be subtracted from the period of service otherwise computed under this section.

"§ 638. Deferment of retirement or separation

"The Secretary of the military department concerned may defer the retirement or separation under this title of any officer, including an officer covered by section 641 of this title, in the grade of second lieutenant or ensign, or above, if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date he would otherwise be required to retire or be separated under this title.

"§ 639. Promotion, separation, and involuntary retirement of medical and dental officers

"Notwithstanding any other provision of this title, the selection and promotion of medical and dental officers to grades below brigadier general or commodore admiral shall be based on the needs of the service as determined by the Secretary of the military department concerned. The selection and promotion of those officers shall be under regulations prescribed by the Secretary of Defense and in accordance, as nearly as practicable, with the provisions of this chapter. However, a regular medical or regular dental officer shall be subject to the involuntary retirement, selective continuation, and separation provisions of this chapter.

"§ 640. Officers performing professional functions: defined; discharge upon loss of qualifications

"(a) A commissioned officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps who is appointed or designated as a medical officer, dental officer, judge advocate, veterinary officer, medical service officer, nurse, medical specialist, or chaplain is an officer performing a professional function.

"(b) Under regulations prescribed by the Secretary of the military department concerned, an officer performing a professional function as set forth in subsection (a) may, if he fails to maintain the qualifications needed to perform his professional function—

"(1) be separated; or

"(2) if eligible under any provision of law, be retired.

"§ 641. Exclusion of certain officers

"(a) Officers in the following categories are not subject to this chapter:

"(1) Reserve commissioned officers—

"(A) on active duty for training;

"(B) on active duty under section 175, 265, 678, 3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033, or 8496 of this title, or section 708 of title 32;

"(C) on active duty to pursue special work;

"(D) ordered to active duty (other than training)—

"(i) under section 672(a), 673 or 674 of this title; or

"(ii) in other emergency situations; or

"(E) on active duty for the administration of the Selective Service System under section 10(b)(2) of the Military Selective Service Act, as amended (50 U.S.C. App. 460(b)(2)). However, reserve commissioned officers covered by clause (D) may be excluded from the provisions of this chapter for not more than the duration of the war or emergency for which those officers were ordered to active duty and for six months thereafter.

"(2) The registrar and permanent professors at the United States Military Academy and the United States Air Force Academy.

"(3) Warrant officers.

"(4) Retired officers on active duty.

"(b) Officers serving in grades above colonel or captain (Navy), other than those officers included in subsection (a), are subject to sections 620, 633, 637, 638, and 643 of this chapter only, and no other provision.

"(c) An officer designated for limited duty in the Navy or Marine Corps who fails of selection for promotion to the next higher grade for the second time and is not selected for promotion is governed by section 6383 of this title.

"§ 642. Suspension: preceding sections

"In time of war, or of national emergency declared by Congress or the President after January 1, 1975, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond the end of the fiscal year following the year in which the war or national emergency ends.

"§ 643. Commissioned officers: entitlement to separation pay or retired pay

"(a) An officer discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1173a of this title.

"(b) An officer retired under this chapter is entitled to retired pay computed under section 3991 or 8991, or chapter 71, 571, or 573, of this title, as appropriate.".

(7) Amending chapter 39 by—

(A) repealing section 687 and striking out the corresponding item for that section from the chapter analysis; and

(B) inserting the following new section and a corresponding new item for that section in the chapter analysis:

"§ 687a. Reserve commissioned officers: active duty limitation; separation pay

"(a) A reserve commissioned officer who has completed 11 years of service computed under section 637 of this title and who is not recommended for, or who declines, an appointment as a regular officer, may not be placed on, or continue on, the active-duty list as a Reserve.

"(b) An officer released from active duty under this section is entitled, if eligible therefor, to separation pay under section 1173a of this title.

"(c) In time of war, or of national emergency declared by Congress or the President after January 1, 1975, the President may suspend the operation of this section.".

(8) Amending chapter 59 by—

(A) amending section 1165 by striking out the second sentence and inserting in place thereof: "A warrant officer who is separated under this title is entitled, if eligible therefor, to separation pay under section 1173a of this title, or he may be enlisted under section 515 of this title.";

(B) amending section 1166 by—

(i) striking out "severance pay computed under section 1167(b)" in the second sentence and inserting in place thereof ", if eligible therefor, separation pay under section 1173a"; and

(ii) amending the third sentence to read as follows: "However, instead of being granted the benefits of the preceding sentence, he may be enlisted under section 515 of this title.";

(C) repealing section 1167 and striking out the corresponding item for that section from the chapter analysis; and

(D) inserting the following new section and inserting a corresponding new item for that section in the chapter analysis:

"§ 1173a. Members: separation pay upon involuntary discharge or release from active duty

"(a) For the purposes of chapter 36 (except sections 629(1) and 640(b)), and sections 564, 687a, 3814a, and 6383(i), of this title, an officer who is involuntarily discharged or released from active duty and who has completed five or more, but less than 20, years of active service immediately before that discharge or release is entitled to separation pay equal to 10 percent of the product of his years of active service multiplied by 12 times the monthly basic pay of which he was entitled at the time of his discharge. However, no person is entitled to separation pay under this subsection that is more than $30,000.

"(b) For the purposes of sections 1165, 1166, 1187, and 6384 of this title, and under regulations prescribed by the Secretary of Defense, an officer who is discharged or released from active duty and who has completed five or more, but less than 20, years of active service immediately before that discharge or release is entitled, as determined by the Secretary concerned (except when he determines that the conditions under which the officer is discharged do not warrant payment of separation pay) to separation pay computed as follows:

"(1) 10 percent of the product of his years of active service multiplied by 12 times the monthly basic pay to which he was entitled at the time of his discharge; or

"(2) 5 percent of the product of his years of active service multiplied by 12 times the monthly basic pay to which he was entitled at the time of his discharge.

An officer discharged under section 629(1) or 640(b) of this title is entitled, if eligible therefore, to separation pay under subsection. However, no person is entitled to separation pay under this subsection that is more than $30,000.

"(c)(1) Under regulations prescribed by the Secretary of Defense, a reserve or temporary commissioned officer, a reserve or temporary warrant officer, or a reserve or temporary enlisted member, of an armed force who is discharged or released from active duty, and who has completed five or more, but less than 20, years of service computed under section 1405(a)(1) of this title immediately before that discharge or release, is entitled to separation pay in accordance with this subsection, if—

"(A) his discharge or release from active duty is involuntary; or

"(B) he was not accepted for an additional tour of active duty for which he volunteered.

"(2) A member described in this subsection is entitled, as determined by the Secretary concerned (except when he determines that the conditions under which the member is discharged do not warrant payment of separation pay) to separation pay computed as follows:

"(A) 10 percent of the product of his years of active service under section 1405(a)(1) of this title multiplied by 12 times the monthly basic pay to which he was entitled at the time of his discharge or release from active duty; or

"(B) 5 percent of the product of his years of active service under section 1405(a)(1) of this title multiplied by 12 times the monthly basic pay to which he was entitled at the time of his discharge or release from active duty.

"(3) However, no person is entitled to separation pay under this subsection that is more than $30,000. This subsection does not apply to a member who—

"(A) is discharged or released from active duty at his request;

"(B) is released from active duty for training; or

"(C) upon discharge or release from active duty is immediately eligible for retired or retainer pay based entirely on his military service.

"(d) In determining the total number of years of service to be used as a multiplier in computing separation pay under this section, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

"(e) For the purposes of this section—

"(1) a period for which the member concerned has previously received separation pay, severance pay, or readjustment pay under this section, or under any other provision of law, based on his service in the armed forces shall not be included in computing the number of years of service that may be used as a multiplier; and

"(2) the total amount of separation pay, readjustment pay, or severance pay that a member may receive under this section, or under any other provision of law, based on his service in the armed forces may not exceed $30,000.

"(f) A member who received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on his service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14, shall have deducted from each of his retired or retainer pay payments so much thereof as is based on the service for which he has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, until the total deductions equal the amount of the separation pay, and severance pay or readjustment pay, received. In addition, a member who received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on his service in the armed forces is not deprived of any disability compensation to which he may be entitled under a law administered by the Veterans' Administration, but there shall be deducted from that disability compensation an amount equal to the separation pay, and severance pay or readjustment pay, received. However, the preceding sentence does not require that a deduction be made from disability compensation of the amount of the separation pay, and severance pay or readjustment pay, received because of an earlier discharge or release from a period of active duty, if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.".

(9) Inserting the following new item in the chapter analysis and the chapter analysis of part II:

"60. Separation of Regular Officers for Various Reasons, 1181".

(10) Inserting the following new chapter in part II:

"CHAPTER 60.—SEPARATION OF REGULAR OFFICERS FOR VARIOUS REASONS

"Sec.
"1181. Boards of officers: substandard performance of duty; authority to convene.
"1182. Boards of officers: other than substandard performance of duty; authority to convene.
"1183. Boards of inquiry: composition; duties.
"1184. Boards of review: composition; duties.
"1185. Removal of officer: action by Secretary upon recommendation.
"1186. Rights and procedures.
"1187. Officer considered for removal: retirement or discharge.
"1188. Officers eligible to serve on boards.

"§ 1181. Boards of officers: substandard performance of duty; authority to convene

"The Secretary of the military department concerned may, at any time, convene a board of officers to review the record of any commissioned officer, other than a commissioned warrant officer or a retired officer, of the Regular Army, Regulary Navy, Regular Air Force, or Regular Marine Corps, as the case may be, to determine whether he shall be required, because his performance of duty has fallen below standards prescribed by the Secretary concerned, to show cause for his retention on active duty.

"§ 1182. Boards of officers: other than substandard performance of duty; authority to convene

"The Secretary of the military department concerned may at any time convene a board of officers to review the record of any commissioned officer, other than a commissioned warrant officer or a retired officer, of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, as the case may be, to determine whether he should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interets of national security to show cause for his retention on active duty.

"§ 1183. Boards of inquiry: composition; duties

"(a) Boards of inquiry, each composed of three or more officers, shall be convened, at such places as the Secretary of the military department concerned may prescribe, to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 1181 or 1182 of this title should be retained on active duty.

"(b) A fair and impartial hearing before a board of inquiry shall be given to each officer required under subsection (a) to show cause for retention on active duty.

"(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

"(d) If a board of inquiry determines that the officer has established that he should be retained on active duty, his case is closed. However—

"(1) at any time after one year from the date of that determination, an officer who is required to show cause for retention under section 1181 of this title may again be required to show cause for retention; or

"(2) an officer who is required to show cause for retention under section 1182 of this title may again be required to show cause for retention at any time.

A member who has been required to show cause as a result of proceedings under section 1182 of this title and thereafter retained may not again be required to show cause solely for conduct which was the subject of the previous proceedings, unless the findings or recommendations of a board of officers are determined to have been obtained by fraud or collusion.

"§1184. Boards of review: composition; duties

"(a) Boards of review, each composed of three or more officers, shall be convened by the Secretary of the military department concerned, at such times as he may prescribe, to review the records of cases of regular commissioned officers recommended for removal from active duty by boards of inquiry convened under section 1183 of this title.

"(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained on active duty, it shall send its recommendation to the Secretary concerned for his action.

"(c) If, after reviewing the record of the case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However—

"(1) at any time after one year from the date of that determination, he may be again required to show cause for retention in those cases brought under section 1181 of this title; or

"(2) in those cases brought under section 1182 of this title, an officer may be again required to show cause for retention at any future time.

A member who has been required to show cause as a result of proceedings under section

1182 of this title and thereafter retained may not again be required to show cause solely for conduct which was the subject of the previous proceedings, unless the findings or recommendations of a board of officers are determined to have been obtained by fraud or collusion.

"§ 1185. Removal of officer: action by Secretary upon recommendation

"The Secretary of the military department concerned may remove an officer of a regular component of an armed force from active duty if his removal is recommended by a board of review under this chapter. The Secretary's action in such a case is final and conclusive.

"§ 1186. Rights and procedures

"Under regulations prescribed by the Secretary of the military department concerned, each officer under consideration for removal from active duty under this chapter shall be—

"(1) notified in writing of the reasons, at least 30 days before the hearing of the case by a board of inquiry, for which the officer is being required to show cause for retention on active duty;

"(2) allowed reasonable time, as determined by the board of inquiry, to prepare his defense;

"(3) allowed to appear in person and be represented by counsel at proceedings before a board of inquiry; and

"(4) allowed full access to, and furnish copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary concerned determines should be withheld in the interest of national security.

When any records are withheld under clause (4), the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

"§ 1187. Officer considered for removal: retirement or discharge

"(a) At any time during proceedings under this chapter and before the removal of an officer of a regular component of an armed force from active duty, the Secretary of the military department concerned may grant a request—

"(1) for voluntary retirement, if the officer is otherwise qualified therefor;

"(2) for honorable discharge under subsection (b), in those cases brought under section 1181 of this title; or

"(3) for discharge under subsection (b), in those cases brought under section 1182 of this title.

"(b) Each officer of a regular component of an armed force removed from active duty under this chapter shall—

"(1) if he is eligible for voluntary retirement under any law on the date of his removal, be retired in the grade and with the pay for which he would be eligible, if retired at his request;

"(2) if he is ineligible for voluntary retirement under any law on the date of his removal—

"(A) be honorably discharged in the grade then held, in those cases brought under section 1181 of this title; or

"(B) be discharged in the grade then held, in those cases brought under section 1182 of this title.

"(c) An officer discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1173a of this title. An officer retired under this chapter is entitled to retired pay computed under section 3991 or 8991, or chapter 571, of this title, as appropriate.

"§ 1188. Officers eligible to serve on boards

"(a) An officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being considered. No officer may serve on a board under this chapter unless he is serving on active duty in a grade above lieutenant colonel or commander, and is senior in regular grade to, and outranks, any officer of his armed force considered by that board. However, if qualified officers on active duty are not available in sufficient numbers to comprise a board, the Secretary of the military department concerned shall complete the membership by appointing retired officers of the same armed force who have the prescribed qualifications.

"(b) No person may be a member of more than one board convened under this chapter for the same officer.".

(11) Amending chapter 1 by amending section 101 by—

(A) striking out "active list" and inserting in place thereof "active-duty list" in clause (22);

(B) repealing clause (36); and

(C) adding the following new clauses:

"(37) 'Active-duty list' means the list maintained under section 620 of this title. With respect to—

"(A) regular officers, other than those excluded under chapter 36 of this title, it is the list on which they are carried while on active duty;

"(B) reserve officers, other than those excluded under chapter 36 of this title, it is the list on which they are carried along with regular officers while on active duty (other than for training); and

"(C) officers serving under temporary appointments under section 605 of this title, and officers in the Navy or Marine Corps designated for limited duty who are serving under temporary appointments, it is the list on which they are carried while on active duty along with regular officers.

"(38) 'Competitive category' means a community of officers in which officers appointed therein or so designated compete among themselves for promotion.

"(39) 'Medical officer', with respect to the Army and Navy, means an officer of the Medical Corps and, with respect to the Air Force, means an officer designated as a medical officer.

"(40) 'Dental officer', with respect to the Army and Navy, means an officer of the Dental Corps and, with respect to the Air Force, means an officer designated as a dental officer.

"(41) 'Due-course officer' means an officer on the active-duty list who—

"(A) has been on continuous active duty since the date he was commissioned;

"(B) has not been awarded service credit under section 544(b) of this title;

"(C) has not failed to be promoted for any reason;

"(D) has never been selected for promotion below the zone;

"(E) with respect to the Navy and Marine Corps, has not lost numbers of precedence; and

"(F) is serving in a grade below general or commodore admiral, except a warrant officer.".

(12) Amending chapter 3 by amending section 123 by striking out "3571,", "5867,", "6398,", and "8571,".

(13) Amending chapter 43 by—

(A) amending section 741 to read as follows:

"(a) The commissioned officers listed below rank among themselves as follows:

"Army, Air Force, and Marine Corps	Navy
General	Admiral.
Lieutenant general	Vice admiral.
Major general	Rear admiral.
Brigadier general	Commodore admiral.
Colonel	Captain.
Lieutenant colonel	Commander.
Major	Lieutenant commander.
Captain	Lieutenant.
First lieutenant	Lieutenant (junior grade).
Second lieutenant	Ensign.

"(b) The rank, within each grade, is determined by date of rank.";

(B) adding the following new section and a corresponding new item for that section in the chapter analysis:

"§ 741a. Rank: commissioned officers on active duty

"(a) Rank among officers in the Army, Navy, Air Force, or Marine Corps on active duty in the same grade, is determined as follows:

"(1) Officers on the active-duty list rank among themselves according to their position on the list, except as otherwise provided by law.

"(2) Officers not on the active-duty list rank among themselves according to their dates of rank.

"(3) As between two officers, one on the active-duty list and one not on the active-duty list, rank depends on the date of rank.

"(b) The date of rank—

"(1) for an officer on the active-duty list, is determined under regulations prescribed by the Secretary of the military department concerned upon placement on the active-duty list under section 620 of this title, and subsequently upon promotion under other provisions of this title; and

"(2) for an officer who is not on the active-duty list is, unless otherwise provided by law, determined under regulations prescribed by the Secretary concerned.

"(c) When the dates of rank prescribed in subsection (b) are the same, rank, unless otherwise provided by law, is determined under regulations prescribed by the Secretary concerned."; and

(C) amending section 743 by striking out "active list" and inserting in place thereof "active-duty list".

(14) Amending chapter 49 by amending section 973 by striking out "active list" and inserting "active-duty list", and by inserting "the active list of the" before "Regular Coast Guard", in subsections (a) and (b).

(15) Amending chapter 55 by amending section 1072 by—

(A) striking out "wife" and inserting in place thereof "spouse" in clause (2)(A);

(B) repealing clause (2)(C); and

(C) by amending clause (2)(D) to read as follows:

"(D) the unremarried widower;".

(16) Amending chapter 61 by—

(A) amending section 1208(a)(1) by inserting "and active-duty list" before the words "active list".

(B) amending section 1211(a)(1) by striking out "active list" and inserting in place thereof "active-duty list".

(17) Amending chapter 65 by inserting the following new section and a corresponding new item for that section in the chapter analysis:

"§ 1316. Voluntary retirement: time in grade

"A regular commissioned officer is not eligible for voluntary retirement under chapter 367, 571, or 867 of this title until he completes at least six months in the grade in which he is to be retired.".

(18) Amending chapter 71 by—

(A) amending the table in section 1401 by—

(i) adding new formula 5, as follows:

"5	630 631 632 633	Monthly basic pay[1] of grade[5] to which member is entitled on day before retirement.	2½% of years of service credited under section 1405.[3]	Amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based.	Excess over 75% of pay upon which computation is based. "; and

(ii) adding a new footnote 5, as follows: "[5] For the purposes of this section, determine member's retired grade as if sections 3962(c) and 8962(b) did not apply.":

and

(B) amending section 1405 to read as follows:

"§ 1405. Years of service

"(a) For the purposes of section 1401 (formula 4), 3888(1), 3927(b)(1), 3991 (formula B), 6151(b), 6323(e), 6325(a)(2) and (b)(2), 6381(a)(2), 6383(c)(2), 6390(b)(2), 6394(h), 8888(1), 8927(b)(1), or 8991 (formula B) of this title, the years of service of a member of the armed forces are computed by adding—

"(1) his years of active service;

"(2) the years of service, not included in clause (1), with which he was entitled to be credited on May 31, 1958, in computing his basic pay; and

"(3) the years of service, not included in clause (1) or (2), which which he would be entitled to be credited under section 1333 of this title, if he were entitled to retired pay under section 1331 of this title.

"(b) For the purposes of section 1401 (formula 5) of this title, the years of service are—

"(1) for a member of the Regular Army, computed under section 3927(b) of this title;

"(2) for a member of the Regular Navy or Regular Marine Corps, computer under subsection (a) of this section;

"(3) for a member of the Regular Air Force, computed under section 8927(b) of this title.

"(c) For the purposes of this section, a part of a year that is six months or more is counted as a whole year, and a part of a year that is less thn six months is disregarded.".

SEC. 3. Subtitles B and D of title 10, United States Code, are amended by:

(1) Repealing chapters 359, 360, 859, and 860.

(2) Amending the chapter analyses and the chapter analyses of part II by striking out the items relating to chapters 359, 360, 859, and 860.

(3) Amending chapters 307 and 807 by—

(A) amending sections 3066(c) and 8066(c) by striking out "active list" and inserting in place thereof "active-duty list";

(B) repealing section 3071 and striking out the corresponding item for that section from the analysis of chapter 307;

(C) amending section 8062(e) by striking out "chapter 831" and inserting in place thereof "chapters 30 and 831";

(D) amending section 8067(a) by striking out "8289 or"; and

(E) amending section 8067(e) by striking out "in conformity with section 8291 of this title".

(4) Amending chapter 331 by—

(A) amending the language of the catchline of section 3202 and the corresponding item for that section in the chapter analysis to read as follows: "Army: strength in grade; general officers";

(B) amending section 3202 by—

(i) amending subsection (a) to read as follows:

"(a) The authorized strength of the Army in general officers on active duty on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is, except as provided in subsection (f), based on the total number of officers authorized in all commissioned grades as follows:

"If the total number authorized is—	The authorized strength for general officers is—
50,000	350
60,000	400
70,000	425
80,000	450
90,000	475
100,000	495
110,000	510
120,000	520
130,000	530
140,000	540
150,000	550.

If the total number authorized is determined to be between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If it is determined to be more than 150,000, the Secretary of the Army shall fix the corresponding authorized strength in general officers in general conformity with the table."; and

(ii) by repealing subsection (c):

(C) amending section 3209 to read as follows:

"§ 3209. Regular Army: commissioned officers on the active-duty list; Corps of Engineers

"The strength prescribed by the Secretary of the Army under section 451(b) of this title for the Corps of Engineers may not be less than 788.";

(D) amending the language of the item for section 3209 in the chapter analysis to read as follows: "Regular Army: commissioned officers on the active-duty list; Corps of Engineers.";

(E) amending section 3210 by striking out "active list" wherever it appears and inserting in place thereof "active-duty list";

(F) amending section 3212 by striking out the first sentence and inserting in place thereof "The authorized strength in any regular general officer grade or any reserve grade, as prescribed by or under this chapter, is automatically increased to the maximum extent necessary to give effect to each appointment in the grade under section 1211(a), 3036, 3365(a), or 3366 of this title.";

(G) amending sections 3222 and 3225 by striking out "of 837,000" and "in section 3201(a) of this title";

(H) repealing sections 3201, 3203, 3204, 3205, 3206, 3207, 3211, 3213, 3214, 3215, and 3230 and by striking out the corresponding items for those sections from the chapter analysis.

(5) Amending chapter 831 by—

(A) amending the language of the catchline of section 8202 and the corresponding item for that section in the chapter analysis to read as follows: "Air Force: strength in grade; general officers";

(B) amending section 8202 by—

(i) amending subsection (a) to read as follows:

"(a) The authorized strength of the Air Force in general officers on active duty on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is, except as provided in subsection (f), based on the actual strength in commissioned officers on active duty as follows:

"If the actual strength[1] is—	The authorized strength for general officers is—
50,000	312
60,000	324
70,000	336
80,000	349
90,000	363
100,000	380
110,000	398
120,000	416
130,000	434
140,000	452
150,000	470
160,000	478
170,000	486
180,000	495.

[1] As determined by the Secretary of the Air Force.

If the actual strength is determined to be between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If it is determined to be more than 180,000, the Secretary shall fix the corresponding authorized strength in general officers in general conformity with the table."; and

(ii) by repealing subsection (e);

(C) amending section 8210(a) and (c) by striking out "active list" and inserting in place thereof "active-duty list";

(D) amending section 8212 by striking out the first sentence and inserting in place thereof "The authorized strength in any regular general officer grade or reserve grade, as prescribed by or under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 8365(a) and (c), 8366(a) and (d), 8375, 8376, 8380, or 8381 of this title.";

(E) amending sections 8222 and 8225 by striking out "of 502,000" and "in section 8201(a) of this title";

(F) repealing sections 8201, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8211, 8213, 8214, 8215, and 8230 and by striking out the corresponding items for those sections from the chapter analysis.

(6) Amending chapters 335, 833, and 835 by—

(A) amending section 8257 by striking out "male" wherever it appears;

(B) amending section 3283 by striking out "in the Women's Army Corps," in subsection (a), and "and the Women's Army Corps" in subsection (b);

(C) amending—

(i) section 3290 by striking out "3287(c)" and inserting in place thereof "544"; and

(ii) chapter 835 by inserting the following new section and a corresponding new item for that section in the chapter analysis:

"§ 8290. Commissioned officers: nurses; original appointment; professional qualifications

"To be eligible for original appointment in the Regular Air Force with a view to designation as an Air Force nurse, a person must be a graduate of a hospital or university school of nursing and a registered nurse.";

(D) amending section 3291 by—

(i) amending subsection (b) by inserting "in the Regular Army" after "appointment" and by striking out "under this section";

(ii) repealing subsections (a) and (c); and

(iii) amending the language of the catchline and the corresponding item for that section in the analysis of chapter 335 to read as follows: "Commissioned officers: Army Nurse Corps; original appointment; professional qualifications";

(E) repealing sections 3294(b) and 8294(b);

(F) amending sections 3297 and 8297—

(i) amending subsection (a) by striking out "promotion-list officers" and inserting in place thereof "colonels", by striking out "lieutenant colonel" after "grade above" and inserting in place thereof "colonel", and by striking out the last sentence;

(ii) amending subsection (d) to read as follows:

"(d) Except as otherwise provided by law, regular officers may be promoted to the regular grade of brigadier general and major general only when recommended by a selection board. A recommendation for promotion must be made by the majority of the total membership of the board. Notwithstanding any other provision of law, a board that is to recommend officers for promotion under this chapter whom it considers to be the best qualified may recommend only those officers whom it also considers to be fully qualified."; and

(iii) by adding the following new subsection:

"(f) All eligible officers who are in or above the promotion zone as established by section 622 of this title, shall be considered for promotion by a selection board convened under chapter 36 of this title. From among the officers eligible in accordance with section 619 of this title, the officers to be considered for promotion by a selection board considered from below the promotion zone under section 616 of this title may be determined under regulations prescribed by the Secretary.";

(G) amending sections 3306(d) and 8306 (d) by striking out "on any promotion list";

(H) amending sections 3307(d) and 8307 (d) by striking out "on any promotion list";

(I) amending sections 3308 and 8308 by—

(i) striking out "promotion-list officer" and inserting in place thereof "colonel";

(ii) striking out "promotion list" and inserting in place thereof "active-duty list"; and

(iii) striking out the last sentence;

(J) amending sections 3312(a) and 8312 (a) by inserting "to a grade above colonel" after "who is promoted";

(K) amending sections 3314 and 8314 by—

(i) striking out "a higher regular grade" and inserting in place thereof "a regular grade above colonel"; and

(ii) striking out the last sentence; and

(L) repealing sections 3285, 3286, 3287, 3288, 3289, 3295, 3296, 3298, 3299, 3300, 3302, 3303, 3305, 3309, 3311, 8285, 8286, 8287, 8288, 8289, 8295, 8296, 8298, 8299, 8300, 8301, 8302, 8303, 8305, and 8309 and by striking out the corresponding items for those sections from the chapter analysis.

(7) Amending chapters 337 and 837 by—

(A) amending chapter 337 by amending section 3353 by—

(i) amending subsection (b) to read as follows:

"(b) A person covered by subsection (a) who is appointed with a view to assignment or designation in one of the categories requiring advanced education as a prerequisite for appointment as a commissioned officer shall, under regulations prescribed by the Secretary of Defense, be credited by the Secretary of the Army with an amount of service in an active status that is not less than the amount of active commissioned service creditable under section 544 of this title to a regular commissioned officer of his category."; and

(ii) repealing subsection (c); and

(B) amending chapter 837 by amending section 8355 by—

(i) amending subsection (b) to read as follows:

"(b) A person covered by subsection (a) who is appointed with a view to assignment or designated in one of the categories requiring advanced education as a prerequisite for appointment as a commissioned officer shall, under regulations prescribed by the Secretary of Defense, be credited by the Secretary of the Air Force with an amount of service in an active status that is not less than the amount of active commissioned service creditable under section 544 of this title to a regular commissioned officer of his category"; and

(ii) repealing subsection (c).

(8) Amending chapters 337 and 837 by—

(A) amending chapter 337 by adding the following new section and a corresponding new item for that section in the chapter analysis:

"§ 3396. Exclusion of certain officers

"The preceding sections of this chapter, except section 3353, shall not apply to those reserve officers covered by chapter 36 of this title.";

and

(B) amending chapter 837 by adding the following new section and a corresponding new item for that section in the chapter analysis:

"§ 8396. Exclusion of certain officers

"The preceding sections of this chapter, except section 8353, shall not apply to those reserve officers covered by chapter 36 of this title.".

(9) Amending chapters 339 and 839 by—

(A) amending section 3442 by—

(i) striking out "second lieutenant" and inserting in place thereof "colonel" in subsection (a); and

(ii) amending subsection (b) to read as follows:

"(b) Whenever, under authorization by Congress, the number of commissioned officers of the Regular Army on active duty plus the number of other commissioned officers of the Army ordered to active duty for a period of more than 30 days is more than the authorized strength of the Regular Army in commissioned officers on the active-duty list, the Secretary of the Army shall determine the additional number of officers needed in commissioned grades above colonel based upon the number of commissioned officers serving on active duty and the tasks being performed by the Army. Vacancies resulting from that determination may then be filled by the appointment of qualified officers as prescribed in subsection (c).";

(B) amending section 8442 by—

(i) striking out "second lieutenant" and inserting in place thereof "colonel" in subsection (a); and

(ii) amending subsection (b) to read as follows:

"(b) Whenever, under authorization by Congress, the number of commissioned officers of the Regular Air Force on active duty plus the number of other commissioned officers of the Air Force ordered to active duty for a period of more than 30 days is more than the authorized strength of the Regular Air Force in commissioned officers on the active-duty list, the Secretary of the Air Force shall determine the additional number of officers needed in the commissioned grades above colonel based upon the number of commissioned officers serving on active duty and the tasks being performed by the Air Force. Vacancies resulting from that determination may then be filled by the appointment of qualified officers as prescribed in subsection (c).";

(C) amending—

(i) sections 3444(a) and 8444(a) by inserting "above the grade of colonel" before the period at the end;

(ii) section 3444(d) by striking out "a promotion list" and inserting in place thereof "the active-duty list", and by striking out "3294(b)" and inserting "544" in place thereof;

(iii) section 8444(d) by striking out "a promotion-list" and inserting in place thereof "the active-duty list", and by striking out "8294(b)" and inserting "544" in place thereof;

(D) amending sections 3445 and 8445 by—

(i) amending subsection (a) by inserting "serving in the grade of colonel or above" after "regular officer"; and

(ii) amending subsection (b) by inserting "above the grade of colonel" before the period at the end;

(E) amending sections 3447(b) and 8447 (b) to read as follows:

(b) Temporary appointments shall be made by the President alone in warrant officer grades, and by the President, by and with the advice and consent of the Senate, in general officer grades.";

(F) amending sections 3448(b) and 8448 (b) by striking out "active list" and inserting in place thereof "active-duty list";

(G) amending sections 3451(a) and 8451 (a) by inserting "above the grade of colonel" after "temporary grade"; and

(H) repealing sections 3446, 3452, 8446, and 8452 and by striking out the corresponding items for those sections from the chapter analyses.

(10) Amending chapters 341 and 841 by—

(A) amending section 3494 to read as follows:

"§ 3494. Commissioned officers: grade in which ordered to active duty

"A reserve commissioned officer who is ordered to active duty and—

"(1) is placed on the active-duty list, shall be ordered to that duty in a grade as determined under section 620 of this title; or

"(2) is not placed on the active-duty list, shall be ordered to that duty in his reserve grade unless the Secretary of the Army in his discretion, orders him to active duty (other than for training) in a higher grade."; and

(B) amending section 8494 to read as follows:

"§ 8494. Commissioned officers: grade in which ordered to active duty

"A reserve commissioned officer who is ordered to active duty and—

"(1) is placed on the active-duty list, shall be ordered to that duty in a grade as determined under section 620 of this title; or

"(2) is not placed on the active-duty list shall be ordered to that duty in his reserve grade unless the Secretary of the Air Force, in his discretion, orders him to active duty (other than for training) in a higher grade.".

(11) Amending chapter 343 by amending section 3532 by striking out "active list" and inserting in place thereof "active-duty list".

(12) Amending chapters 345 and 845 by—

(A) repealing section 3574 (a) and (b) and 8574 (a) and (b);

(B) amending section 3579 by—

(i) striking out ", other than an officer of the Army Nurse Corps or Army Medical Specialist Corps," in subsection (a); and

(ii) repealing subsection (b);

(C) amending section 8579 to read as follows:

"§ 8579. Command: commissioned officers in certain designated categories

"An officer designated as a medical, dental, veterinary, medical service, or biomedical sciences officer or as an Air Force nurse is not entitled to exercise command because of rank, except within the categories prescribed in section 8067 (a)-(f) or (i) of this title, or over persons placed under his charge."; and

(D) repealing sections 3571, 3580, and 8571 and by striking out the corresponding items for those sections from the chapter analyses.

(13) Amending chapters 361 and 861 by repealing sections 3814 and 8814 and by strik-

ing out the corresponding items for those sections from the chapter analyses.

(14) Amending chapter 361 by amending section 3814a by—

(A) striking out "a readjustment payment as provided in subsection (c) of this section" in subsection (b)(3) and inserting in place thereof ", if eligible therefor, separation pay under section 1173a of this title"; and

(B) repealing subsections (c) and (d).

(15) Amending chapters 365 and 865 by—

(A) amending section 3888(2) by striking out "3287(a)(2)(A) or (B) or"; and

(B) amending section 8888(2) by—

(i) striking out "or (H)," and inserting in place thereof "(H), or (I),";

(ii) inserting "as it existed on the day before the effective date of the Act amending this clause" after "of this title" in clauses (D) and (H)(iii); and

(iii) adding the following new clause:

"(I) For an officer appointed in the Regular Air Force after the effective date of the Act adding this clause, his years of active commissioned service.".

(16) Amending chapters 367 and 867 by—

(A) amending sections 3919 and 8919 by—

(i) striking out "active list of the Regular" and inserting in place thereof "active-duty list of the" in the first sentence;

(ii) striking out "active list" and inserting in place thereof "active-duty list" in the second sentence; and

(iii) inserting "regular" before "commissioned" in the first and second sentences;

(B) amending sections 3922(a) and 8922(a) by striking out "active list" and inserting in place thereof "active-duty list";

(C) amending section 3927 by—

(i) striking out "3913, 3915, 3916, 3919, 3921, 3922, or 3923" in subsections (a) and (b) and inserting in place thereof "3919, 3922, or 3923";

(ii) amending subsection (a)(1) by inserting "544(b)," before "3287(a)(2)(A) or (B)", and by inserting "as they existed on the day before the effective date of the Act amending this clause" between "of this title" and "or under section 506(c)";

(D) amending section 8927 by—

(i) striking out "8913, 8915, 8916, 8919, 8921, 8922, or 8923" in subsections (a) and (b) and inserting in place thereof "8919, 8922, or 8923";

(ii) amending subsection (a) by inserting "as it existed on the day before the effective date of the Act amending this clause" after "of this title" in clauses (4) and (8)(C), and by adding the following new clause:

"(9) For an officer appointed in the Regular Air Force after the effective date of the Act adding this clause, his years of active commissioned service."; and

(iii) amending subsection (b)(2) by striking out "or (8)" and inserting in place thereof "(8), or (9)"; and

(E) repealing sections 3913, 3916, 3921, 8913, 8915, 8916, and 8921 and by striking out the corresponding items for those sections from the chapter analyses.

(17) Amending chapters 369 and 869 by amending sections 3962(a) and 8962(a) by inserting "or on the active-duty list" before the period at the end.

(18) Amending chapters 371 and 871 by—

(A) amending section 3991 (formula A) in the column headed "For sections" by striking out "3913", "3915", "3916", and "3921"; and

(B) amending section 8991 (formula A) in the column headed "For sections" by striking out "8913, "8915", "8916", and "8921".

(19) Amending chapters 401 and 901 by amending sections 4301(b) and 9301(b) by striking out "active list" and inserting in place thereof "active-duty list".

(20) Amending chapters 403 and 903 by—

(A) amending section 4333(d) by—

(i) striking out "applicable promotion list" and inserting in place thereof "active-duty list"; and

(ii) striking out "regular or temporary"; and

(B) amending sections 4336 and 9336 by—

(i) striking out "a promotion-list officer" in subsections (a) and (b) and inserting in place thereof "an officer";

(ii) striking out "promotion list" in subsections (a) and (b) and inserting in place thereof "active-duty list"; and

(iii) striking out "temporary" in subsection (c) and adding the following new sentences at the end thereof: "Appointment to the grade of lieutenant colonel or colonel under this subsection does not vacate the grade held by the officer under section 624 of this title, and, for the purposes of promotion, he shall be considered as serving in the grade held by him under section 624 of this title. If his appointment under this subsection terminates, he is entitled to resume any other grade that he may then be entitled to hold.".

SEC. 4. Subtitle C of title 10, United States Code, is amended by:

(1) Amending chapter 501 by repealing section 5001(a) (9) and (10) and adding the following new clause:

"(11) 'Flag officer' means an officer of the Navy serving in the grade of admiral, vice admiral, rear admiral, or commodore admiral.".

(2) Amending chapter 507 by amending section 5064 by—

(A) inserting "regular" before "officers"; and

(B) inserting "-duty" after "active".

(3) Amending chapter 509 by—

(A) amending section 5081(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active";

(B) amending section 5085(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active";

(C) amending section 5086(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active";

(D) amending section 5087(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active"; and

(E) amending section 5088(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active".

(4) Amending chapter 513 by—

(A) amending section 5133 by—

(i) inserting "-duty" after "active"; and

(ii) striking out the second sentence of subsection (b);

(B) amending section 5137 by—

(i) inserting "regular" before "officers" and by inserting "-duty" after "active" in subsection (a); and

(ii) striking out "An" and inserting in place thereof "A regular", and by inserting "-duty" after "active", in subsection (b);

(C) amending section 5138(a) by striking out "in the grade of rear admiral" and inserting in place thereof "not below the grade of commodore admiral";

(D) amending section 5139(a) by—

(i) inserting "regular" before "officers";

(ii) inserting "duty" after "active"; and

(iii) striking out "in the Navy" and inserting in place thereof "unless otherwise entitled to a higher rank or grade";

(E) amending section 5140(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active";

(F) amending section 5142 by—

(i) inserting "regular" before "officers";

(i) inserting "-duty" after "active"; and

(ii) striking out "rear" and inserting in place thereof "commodore";

(G) repealing section 5143 and striking out the corresponding item for that section from the chapter analysis;

(H) amending subsection 5149 by—

(i) striking out "(upper half)" in subsection (a);

(ii) striking out "rear admiral (lower half)" and inserting in place thereof "commodore admiral" in the second and third sentences of subsection (b); and

(iii) amending the last sentence of subsection (b) to read as follows: "If he is retired as a commodore admiral, he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law."; and

(I) amending section 5150 by—

(i) inserting "regular" before "officers" in subsection (b);

(ii) striking out "An" and inserting in place thereof "A regular' in subsection (d); and

(iii) inserting "-duty" after "active" in subsections (b) and (d).

(5) Amending chapter 515 by—

(A) amending section 5201(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active";

(B) amending section 5202(a) by—

(i) striking out "An" and inserting in place thereof "A regular"; and

(ii) inserting "-duty" after "active"; and

(C) repealing section 5206 and striking out the corresponding item for that section from the chapter analysis.

(6) Amending chapter 516 by amending section 5222 by striking out "rear admiral" and inserting in place thereof "commodore admiral".

(7) Amending chapter 517 by—

(A) amending section 5231 by—

(i) inserting "regular" before "officers" in the first sentence of subsection (a);

(ii) inserting "-duty" after "active" in subsection (a);

(iii) amending subsection (b) to read as follows:

"(b) The number of officers serving in the grades of admiral and vice admiral under subsection (a) may not, at any time, exceed 15 percent of the number of flag officers serving on active duty. Of the number of officers that may serve in the grades of admiral and vice admiral as determined under this subsection, not more than 25 percent may have the grade of admiral.";

(iv) repealing subsection (c); and

(v) striking out "subsections (b) and (c)" in subsections (d) and (e) and inserting in place thereof "subsection (b)";

(B) amending section 5232(a) by—

(i) inserting "regular" before "officers"; and

(ii) inserting "-duty" after "active"; and

(C) amending section 5233 by—

(i) striking out "An" and inserting in place thereof "A regular"; and

(ii) inserting "-duty" after "active".

(8) Amending chapter 531 by repealing sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, 5416, and 5417 and striking out the corresponding items for those sections from the chapter analysis.

(9) Amending chapter 533 by—

(A) amending section 5441 by striking out "or combination of grades";

(B) amending the language of the catchline of section 5442 and the corresponding item in the chapter analysis for that section to read as follows: "Navy: line officers on active duty; commodore admiral and rear admiral";

(C) amending section 5442 by—

(i) amending subsection (a) to read as follows:

"(a) Of the total number of officers established under section 452 (b) of this title in the line of the Navy in the grade of ensign and above excluding officers carried as additional numbers in grade, the number of officers who may serve in the grades of commodore admiral and rear admiral may not, except as provided in subsection (b), exceed a number appropriate to the total number set forth in the following table. If the total number of officers established under section 452(b) of this title in the line of the Navy in the grade of ensign and above, excluding officers carried as additional numbers in grade, falls between two strengths shown in the first column of the table, the number for the grades of commodore admiral and rear admiral is determined by proportionate interpolation between the respective numbers for the two strengths.

"Total line officers serving on active duty in the grade of ensign and above, excluding officers carried as additional numbers in grade	Commodore, admiral and rear admiral
32,000	215
40,000	222
50,000	228
60,000	237
70,000	244
80,000	252
90,000	259
100,000	262
125,000	291
150,000	305
175,000	323
200,000	342
250,000	379";

(ii) amending subsection (b) to read as follows:

"(b) The Secretary of the Navy, whenever the needs of the service require, but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral combined. The number so computed for the grades combined is the number of officers on active duty, excluding officers carried as additional numbers in grade, specified for the grades combined. If the Secretary decides at the time of making these computations that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral combined is less than the specified number for the grades combined, the lesser number becomes the specified number for the grades combined and the reduction may be applied as an increase in the prescribed number for any lower grade. The Secretary shall, when making the specification under this subsection, prescribe a number for the grade of rear admiral. The number prescribed for the grade of commodore admiral shall be the number specified in this subsection less the number prescribed for the grade of rear admiral.";

(iii) repealing subsections (c), (d), (e), and (g);

(iv) amending the last sentence of subsection (i) to read as follows: "However, each officer serving under an appointment in the grade of admiral or vice admiral, and each officer serving in the grade of commodore admiral or rear admiral who was appointed under section 5597, or promote under section 5787, of this title, is counted in the grade he would hold had he not been so appointed or promoted.";

(v) amending subsection (f) to read as follows:

"(f) The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall specify the number of officers designated for engineering duty, aeronautical engineering duty, and special duty serving on active duty in the grades of commodore admiral and rear admiral combined. The number specified may not exceed 13 percent of the number of officers specified in subsection (b) for the grade of commodore admiral and rear admiral combined. If the Secretary decides at the time of making these computations, that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral combined is less than the specified number for the grades combined as computed in this subsection, the lesser number becomes the specified number for the grades combined and the reduction may be applied as an increase in the prescribed number for any lower grade. The Secretary shall, when making the specification under this subsection, prescribe a number for the grade of rear admiral. The number prescribed for the grade of commodore admiral shall be the number specified in this subsection less the number prescribed for the grade of rear admiral."; and

(vi) adding a new subsection to read as follows:

"(j) The sum of the prescribed numbers for the grade of rear admiral in subsections (b) and (f) may not exceed 50 percent of the sum of the numbers specified under subsections (b) and (f).";

(D) amending the language of the catchline of section 5443 and the corresponding item in the chapter analysis for that section to read as follows: "Marine Corps: officers on active duty; brigadier general and major general";

(E) amending section 5443 by—

(i) amending subsection (a) to read as follows:

"(a) Of the total number of officers established under section 452(b) of this title in the Marine Corps in the grade of second lieutenant and above, the number of officers who may serve in each of the grades above colonel may not, except as provided in subsection (b), exceed a number appropriate to the total number as set forth in the table. If the total number of officers established under section 452(b) of this title falls between two strengths shown in the first column of the table, the number for the grades of brigadier general and major general is determined by proportionate interpolation between the respective numbers for the two strengths.

"Total officers serving on active duty in the grade of second lieutenant and above	Brigadier general and major general
10,000	58
12,500	62
15,000	69
17,500	72
20,000	75
22,500	79
25,000	82
27,500	84
30,000	85
32,500	87
35,000	89";

(ii) striking out "subsection (c)" in the last sentence of subsection (b) and inserting in place thereof "section 452(a) of this title";

(iii) repealing subsections (c), (d), (e), and (f);

(iv) repealing clause (1) of subsection (g); and

(v) amending the last sentence of subsection (h) to read as follows: "However, each officer serving under an appointment in the grade of general or lieutenant general, and each officer serving in the grade of brigadier general or major general who was appointed under section 5597, or promoted under section 5787, of this title, is counted in the grade he would hold had he not been so appointed or promoted.";

(F) amending section 5444 by—

(i) amending the first sentence of subsection (a) to read as follows:

"(a) The number of officers serving on active duty in the grades of commodore admiral and rear admiral combined in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineering Corps, and the Dental Corps, respectively, excluding any flag officer serving as a Chief of Bureau, may not exceed, in each corps, a number appropriate to the total number of officers in that corps serving on active duty, as set forth in the following tables.";

(ii) amending subsection (a) by inserting "and commodore admirals combined" after "rear admirals" in the second sentence; by inserting "and commodore admiral combined" after "rear admiral" in the third sentence; and by inserting "and commodore admirals combined" after "rear admirals" in the heading of the second column of the table for each corps.

(iii) amending subsection (c) to read as follows:

"(c) The Secretary of the Navy, whenever the needs of the service require, but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral combined in each corps. The number so computed for the grades combined in each corps is the number of officers on active duty specified for the grades combined in the corps concerned. If the Secretary decides at the time of making these computations that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral combined for each corps is less than the specified number for the grades combined for each corps, the lesser number becomes the specified number for the grades combined for each corps and the reduction may be applied as an increase in the prescribed number for any lower grade.";

(iv) amending subsection (d) by inserting "or commodore admiral" before "under section 5772"; and by striking out "the grade of rear admiral" before "in his corps" and inserting in place thereof "his grade"; and

(v) inserting a new subsection to read as follows:

"(g) The Secretary shall prescribe the number of rear admirals in each corps. The sum of these prescribed numbers of rear admirals for all the corps combined may not exceed 50 percent of the sum of the numbers specified in subsection (c). The prescribed number for the grade of commodore admiral in each corps is the number specified for that corps in subsection (c) less the prescribed number for the grade of rear admiral in that corps.";

(G) amending section 5446 by—

(i) amending subsection (a) by inserting "regular" before "officers" and striking out "active list" and inserting in place thereof "active-duty list"; and

(ii) repealing subsection 5447 by—

(i) amending subsections (a) and (c) by inserting "regular" before "officers" and "-duty" after "active";

(ii) striking out "fleet admirals and" in subsection (a);

(iii) amending subsection (a) (1) by striking out "—75/100 of 1 percent" after "Rear admiral" and inserting in place thereof "—375/1000 of 1 percent";

(iv) repealing subsection (a) (2)–(6);

(v) amending subsection (a) by adding a new subsection (a) (2) to read "Commodore admiral—75/100 of 1 percent less the number of rear admirals.";

(vi) amending subsection (b) to read as follows:

"(b) The Secretary of the Navy, as of January 1 each year, shall compute the number of officers authorized under subsection (a). The number so computed is the number of regular line officers on the active-duty list, excluding officers carried as additional numbers in grade, prescribed for the grade concerned. However, the prescribed number for the grade of rear admiral may not exceed 50 percent of the number prescribed under this subsection for that grade and the grade of commodore admiral combined.";

(vii) amending subsection (c) by striking out "grade of" and inserting in place thereof "grades of commodore admiral and rear admiral combined";

(viii) repealing subsections (d), (e), and (g);

(ix) amending subsection (f) to read as follows:

"(f) The number of regular officers on the active-duty list designated for engineering duty, aeronautical engineering duty, and special duty holding permanent appointments in the grades of rear admiral and commodore admiral combined may not exceed 13 percent of the number of regular officers prescribed for the grades of rear admiral and commodore admiral combined as computed under subsection (b). The Secretary, as of January 1 of each year, shall compute the number of regular officers authorized by this subsection to hold permanent appointments in the grades of rear admiral and commodore admiral combined. The number so computed is the specified number of regular officers on the active-duty list, restricted in the performance of duty, for the permanent grades of rear admiral and commodore admiral combined. The Secretary shall prescribe the number of rear admirals. However, the prescribed number of rear admirals may not exceed 50 percent of the number specified. The prescribed number for the grade of commodore admiral will be equal to the number specified less the number prescribed for the grade of rear admiral. However, except in time of war or national emergency, the total number of regular officers on the active-duty list, restricted in the performance of duty, holding permanent appointments in the grades of rear admiral and commodore admiral combined may not exceed 19.";

(x) amending subsection (i) to read as follows:

"(i) For the purpose of this section, each officer is counted in his permanent grade."; and

(xi) amending the language of the catchline and the corresponding item in the chapter analysis for that section to read as follows: "Navy: line officers on the active-duty list; permanent grade";

(I) amending section 5448 by—

(i) amending subsections (a) and (b) by inserting "regular" before "officers" and by inserting "-duty" after "active";

(ii) repealing subsection (a)(2)–(6);

(iii) repealing subsections (c), (d), and (e);

(iv) amending subsection (g) to read as follows:

"(g) For the purpose of this section, each officer is counted in his permanent grade."; and

(v) amending the language of the catchline and the corresponding item in the chapter analysis for that section to read as follows: "Marine Corps: officers on the active-duty list; permanent grade";

(J) amending section 5449 by—

(i) amending section (a) to read as follows:

"(a) The number of regular officers on the active-duty list of the Navy holding permanent appointments in the grades of commodore admiral and rear admiral in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, and the Dental Corps, respectively, excluding any flag officer serving as a Chief of Bureau, may not exceed, in any of those corps, 5/10 of 1 percent of the number of regular officers on the active-duty list in that corps. The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall compute the number of officers authorized under this section to hold permanent appointments in the grades of commodore admiral and rear admiral combined in each corps. The number so computed for each corps is the specified number of officers on the active-duty list in that corps for the permanent grades of commodore admiral and rear admiral. The Secretary shall prescribe the number of rear admirals in each corps. The sum of these prescribed numbers of rear admirals for all the corps combined may not exceed 50 percent of the sum of the numbers specified. The prescribed number for the grade of commodore admiral in each corps is the number specified for that corps less the prescribed number for the grade of rear admiral in that corps. The number of officers who may hold permanent appointments on the active-duty lists of the Navy in the grades of rear admiral and commodore admiral combined in these corps, except in time of war or national emergency may not exceed—

"(1) 15 in the Medical Corps;
"(2) 13 in the Supply Corps;
"(3) 2 in the Chaplain Corps;
"(4) 4 in the Civil Engineer Corps; and
"(5) 4 in the Dental Corps.";

(ii) amending subsection (b) by inserting "regular" before "officer"; by inserting "-duty after active"; by inserting "commodore admiral or" before "rear admiral in a staff corps"; and by striking out "the permanent grade of rear admiral" and inserting in place thereof "in his permanent grade";

(iii) amendment subsection (e) to read as follows:

"(e) For the purpose of this section each officer is counted in his permanent grade."; and

(iv) amending the language of the catchline and the corresponding item in the chapter analysis for that section to read as follows: "Navy: staff corps officers on the active-duty list; permanent grade";

(K) amending section 5450(a) by striking out "rear admiral" and inserting in place thereof "commodore admiral";

(L) amending section 5451 by striking out "relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps";

(M) amending section 5455 by—

(i) inserting "regular" before "officer";

(ii) inserting "duty" after "active"; and

(iii) striking out "5449 or 5452" and inserting in place thereof "or 5449";

(N) amending section 5457(a) by—

(i) striking out "grade of rear admiral" and inserting in place thereof "grades of commodore admiral and rear admiral combined"; and

(ii) inserting "Not more than 50 percent of the officers in an active status authorized under this subsection may serve in the grade of rear admiral" after clause (7); and

(O) repealing sections 5445 and 5452 and striking out the corresponding items for those sections from the chapter analysis.

(10) Amending chapter 535 by—

(A) amending section 5501 by—

(i) amending subsection (a) by inserting a new clause (4) to read as follows: "(4) Commodore admiral.", and by redesignating clauses (4) through (9) as (5) through (10); and

(B) amending subsections (b) and (c);

(i) amending the language of the catchline and the corresponding item in the chapter analysis for that section to read as follows: "Active-duty list: rank and pay of certain rear admirals and major generals";

(ii) repealing subsections (a), (b), (c), (e), (h), (i), and (k);

(iii) amending subsections (f) and (g) by striking out "lineal" wherever it appears and inserting in place thereof "active-duty";

(iv) amending subsection (g) by striking out "with pay of the upper half" in the first and last sentences; and

(v) amending subsection (j) to read as follows:

"(j) A reserve officer who when ordered to active duty is excluded from the active-duty list by the operation of section 640 of this title shall retain his grade. The grade of a reserve officer ordered to active duty and placed on the active-duty list shall be as prescribed under section 620 of this title.";

(C) repealing section 5505 striking out the corresponding item for that section from the chapter analysis;

(D) amending section 5506 by striking out "When" and inserting in place thereof "Except as provided in section 741a of this title, when";

(E) amending the chapter analysis by striking out the item relating to section 5507; and

(F) amending section 5058 by—

(i) amending subsection (a) by striking out "a lineal" and inserting in place thereof "an active-duty" and by striking out the last sentence; and

(ii) amending subsection (b) by inserting "and in section 741a of this title" after "subsection (a)".

(11) Amending chapter 539 by—

(A) repealing sections 5571 and 5572 and striking out the corresponding items for those sections from the chapter analysis;

(B) amending section 5573 by—

(i) striking out "an" before "ensign" and inserting in place thereof "a regular" in subsection (a)(1);

(ii) inserting "regular" before "second lieutenant" in subsection (a)(2); and

(iii) striking out "active list" wherever it appears in subsection (a) and inserting in place thereof "active-duty list"; and

(iv) repealing subsection (b);

(C) amending section 5573a by—

(i) amending subsection (a) by striking out "active list" wherever it appears and inserting in place thereof "active-duty list", inserting "as regular officers" after "Appointments", striking out "lieutenant" and inserting in place thereof "captain", and striking out "captain" and inserting in place thereof "colonel";

(ii) repealing subsection (b); and

(iii) amending subsection (d) by striking out "permanent" in the first sentence, by striking out "active list" and inserting in place thereof "active-duty list" in the first sentence, and striking out the second and third sentences;

(D) amending section 5574 by—

(i) striking out "active list" wherever it appears and inserting in place thereof "active-duty list";

(ii) amending subsection (a) by inserting "as regular officers" after "Original appointments", and striking out clause (1);

(iii) amending subsections (a) and (b) by striking out the last sentence; and

(iv) repealing subsection (d);

(E) amending section 5575 by—

(i) inserting "-duty" after "active";

(ii) repealing clause (1);

(iii) striking out "male"; and

(iv) inserting "as regular officers" after "appointments";

(F) amending section 5576 by—

(i) inserting "-duty" after "active";

(ii) repealing clause (1);

(iii) inserting "as regular officers" after "appointments";

(iv) striking out "male"; and

(v) striking out the last sentence;

(G) amending the text of section 5577 to read as follows:

"Original appointments to the active-duty list of the Navy in the Civil Engineering Corps may be made under chapter 33 of this title.";

(H) amending section 5578 by—

(i) inserting "-duty" after "active" in subsections (a) and (b);

(ii) inserting "as regular officers" after "appointments" in the first sentence of subsections (a) and (b);

(iii) striking out the last sentence of subsections (a) and (b);

(iv) repealing clause (1) of subsection (a); and

(v) repealing subsection (c);

(I) amending section 5578a by—

(i) repealing clause (1) of subsection (a);

(ii) inserting "as regular officers" after "appointments" in subsections (a) and (b);

(iii) inserting "-duty" and after "active" in subsections (a) and (b); and

(iv) striking out the last sentence of subsections (a) and (b);

(J) amending section 5579 by—

(i) repealing clause (1) of subsection (a);

(ii) inserting "-duty" after "active" in subsection (a);

(iii) inserting "as regular officers" after "appointments" in subsections (a) and (b); and

(iv) repealing subsection (c);

(K) amending section 5580 by—

(i) amending subsection (a) to read as follows:

"(a) Original appointments as regular officers to the active-duty list of the Navy in the Nurse Corps may be made from persons who have physical, mental, moral, educational, and professional qualifications satisfactory to the Secretary of the Navy."; and

(ii) repealing subsections (b) and (c);

(L) amending section 5582 by—

(i) striking out "male" and inserting in place thereof "regular" in subsections (a) and (b);

(ii) inserting "-duty" after "active" wherever it appears; and

(iii) striking out the last sentence of subsection (a);

(M) amending section 5587 by—

(i) amending subsection (a) to read as follows:

"(a) Persons may be originally appointed to the active-duty list in the line of the Navy as officers designated for engineering duty, aeronautical engineering duty, or special duty.";

(ii) amending subsection (b) by striking out "active duty" and inserting in place thereof "active-duty list";

(iii) amending subsection (c) by striking out "public information" and inserting in place thereof "public affairs", and by inserting "geophysics, cryptography," after "psychology,"; and

(iv) amending subsection (d) by striking out "are additional numbers in grade. They";

(N) amending section 5587a by—

(i) inserting "regular" before "officer" and inserting "-duty" after "active" in subsection (a); and

(ii) repealing subsection (b);

(O) amending section 5589 by—

(i) inserting "as regular officers" after "appointments" in subsections (a) and (b);

(ii) inserting "-duty" after "active" in subsections (a) and (b);

(iii) striking out "male" in subsections (a) and (b);

(iv) striking out "the grade of ensign" and inserting in place thereof "a grade not above lieutenant" in subsection (a);

(v) striking out "the grade of second lieutenant" and inserting in place thereof "a grade not above captain" in subsection (b)); and

(vi) striking out "10" and inserting "five" in subsection (c);

(P) amending section 5596 by—

(i) repealing subsections (a), (b), (c), and (e);

(ii) amending subsection (d) to read as follows:

"(d) Temporary appointments in warrant officer grades and as officers designated for limited duty in grades and from sources authorized under section 5589 of this title, may be made in the Regular Navy and Regular Marine Corps by the Secretary of the Navy under such regulations as he prescribes. Such appointments shall be made by warrant if in the grade of warrant officer, W–1, and by commission if in a higher warrant officer grade or as an officer designated for limited duty."; and

(iii) repealing clause (1) of subsection (g);

(Q) amending section 5597 by—

(i) repealing subsection (b), (c), and (d); and

(ii) amending subsection (e) to read as follows:

"(e) Temporary appointments under subsections (f) and (g) may be made in grades above captain in the Navy by the President, by and with the advice and consent of the Senate.";

(R) amending section 5600 by—

(i) amending the first sentence of subsection (a) by striking out "and lineal position," and inserting in place thereof ", seniority in his grade, and eligibility for promotion,"; and

(ii) amending subsection (b) to read as follows:

"(b) For the purposes of this section, a person who is appointed with a view to assignment or designation in one of the officer categories requiring advance education as a prerequisite for appointment as a commissioned officer shall, under regulations prescribed by the Secretary of Defense, be credited by the Secretary of the Navy with an amount of service in an active status that is not less than the amount of active commissioned service creditable under section 544 of this title to a regular commissioned officer of his category."; and

(S) repealing sections 5581, 5583, 5584, 5585, 5586, 5590, 5591, 5592, 5593, 5594, 5595, and 5599 and striking out the corresponding items for those sections from the chapter analysis.

(12) Amending chapter 541 by—

(A) amending section 5665 by—

(i) striking out "lineal list" wherever it appears and inserting in place thereof "active-duty list";

(ii) inserting "regular" after "running mate shall be the" in subsections (a) and (b);

(iii) striking out "active duty" and inserting in place thereof "active-duty list" in subsection (b);

(iv) repealing subsection (d);

(v) striking out "Except as provided in subsection (d), the" in subsections (a) and (b), and inserting "The" in place thereof; and

(vi) amending subsection (c) to read as follows:

"(c) An officer in an active status in the Naval Reserve or the Marine Corps Reserve who is assigned a running mate after the initial assignment under subsection (a) or (b) shall be assigned a running mate in accordance with regulations prescribed by the Secretary of the Navy."; and

(B) repealing sections 5651, 5652, 5652a, 5652b, 5652c, 5653, 5654, 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, and 5666 and striking out the corresponding items for those sections from the chapter analysis.

(13) Amending chapter 543 by—

(A) amending section 5701 to read as follows and amending the item for that section in the chapter analysis to correspond to the revised catchline:

"§ 5701. Navy; line officers: promotion on the active-duty list

"(a) At least once each year; the Secretary of the Navy shall convene the following selection boards under this chapter to recommend officers in the line of the Navy for promotion on the active-duty list:

"(1) A board to recommend commodore admirals, excluding those appointed under sections 5597 and 5787 of this title and those serving in that grade as a result of a statutory appointment, for promotion to the grade of rear admiral, consisting of not less than nine officers serving in the grade of rear admiral or above.

"(2) A board to recommend captains for promotion to the grade of commodore admiral, consisting of not less than nine officers serving in the grade of commodore admiral or above.

"(b) In accordance with section 611 of this title, the Secretary of the Navy shall convene selection boards under chapter 36 of this title to recommend officers in the line of the Navy for promotion:

"(1) A board to recommend commanders for promotion to the grade of captain, consisting of not less than nine officers serving in the grade of captain or above, except that not more than 25 percent of the board membership may be composed of officers serving in the grade of captain.

"(2) A board to recommend lieutenant commanders for promotion to the grade of commander, consisting of not less than nine officers serving in the grade of commander or above, except that not more than 25 percent of the board membership may be composed of officers serving in the grade of commander.

"(3) A board to recommend lieutenants for promotion to the grade of lieutenant commander and a board to recommend lieutenants (junior grade) for promotion to the grade of lieutenant, each consisting of not less than nine officers serving in the grade of lieutenant commander or above, except that not more than 20 percent of the board membership may be composed of officers serving in the grade of lieutenant commander and not more than 25 percent of the board membership may be composed of officers serving in the grade of commander.

"(c) Except as provided in subsections (d) and (e), selection boards convened under this chapter or chapter 36 of this title shall be composed of regular officers on the active-duty list in the line of the Navy not restricted in the performance of duty.

"(d) Except as provided in subsection (e), when officers designated for engineering duty, aeronautical engineering duty, or special duty are eligible for consideration by a selection board convened under this chapter or chapter 36 of this title, the Secretary shall appoint, as alternate members of the board, three regular officers on the active-duty list of the Navy serving in the grades specified in subsection (a) or (b) of the same designation and classification as any such eligible officer. However, not more than one alternate member may be serving in the grade immediately above the grade of the officers under consideration by the board. If three such officers are not available, the Secretary shall appoint as many as are available. Junior members of the board who are not restricted in the performance of duty, in like number, may not act upon the case of any officer designated for engineering duty, aeronautical engineering duty, or special duty. No alternate member may act upon the case of any officer who is not of the same designation as himself. When a board convened under this chapter or chapter 36 of this title consists of more than nine members, only nine officers may act upon the case of any officer designated for engineering duty, aeronautical engineering duty, or special duty; namely, the three alternate members of the same designation as the officer under consideration (or the lesser available number of such officers) plus the number of the most senior members not restricted in the performance of duty necessary to make a total of nine.

"(e) When officers of the Naval Reserve are eligible for consideration by a selection board convened under this chapter or chapter 36 of this title, the Secretary shall appoint an appropriate number of reserve officers, otherwise qualified under this section, as members or alternate members of the board and shall appoint regular officers on the active-duty list of the Navy, qualified under this section, to complete the prescribed membership.

"(f) No officer may be a member of two successive boards for the consideration of officers for promotion to the same grade.";

(B) amending section 5702 to read as follows and amending the item for that section in the chapter analysis to correspond to the revised catchline:

"§ 5702. Navy; staff corps officers: promotion

"(a) The Secretary of the Navy shall convene the following selection boards under this chapter to recommend officers of each staff corps on the active-duty list for promotion:

"(1) A board to recommend commodore admirals, excluding those appointed under sections 5597 and 5787 of this title and those serving in that grade as a result of a statutory appointment, for promotion to the grade of rear admiral, consisting of not less than three or more than nine officers serving in the grade of rear admiral or above.

"(2) A board to recommend captains for promotion to the grade of commodore admiral, consisting of not less than three or more than nine officers serving in the grade of commodore admiral or above.

"(b) In accordance with section 611 of this title, the Secretary of the Navy shall convene the following selection boards under chapter 36 of this title to recommend staff corps officers for promotion:

"(1) A board for each corps to recommend commanders for promotion to the grade of captain, consisting of not less than six officers serving in the grade of captain or above.

"(2) A board for each corps to recommend lieutenant commanders for promotion to the grade of commander, consisting of not less than six officers serving in the grade of commander or above.

"(3) A board for each corps to recommend lieutenants for promotion to the grade of lieutenant commander and a board for each corps to recommend lieutenants (junior grade) for promotion to the grade of lieutenant, each consisting of not less than six officers serving in the grade of lieutenant commander or above, except that no more than one-third of the board membership may be composed of officers serving in the grade of lieutenant commander.

"(e) Each board convened under this chapter or chapter 36 of this title to consider officers in the Medical Corps, the Judge Advocate General's Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, the Dental Corps, the Nurse Corps, or the Medical Service Corps shall consist of officers in the corps concerned. Each board convened to consider officers of the Navy designated for limited duty shall consist of officers who are not officers designated for limited duty. Except as provided in subsections (d) and (e), each board convened under this chapter or chapter 36 of this title shall consist of officers of the regular Navy on the active-duty list or the retired list.

"(d) When there is an insufficient number of staff corps officers legally and physically qualified to serve on a board convened under this chapter or chapter 36 of this title, the Secretary shall complete the minimum required membership by appointment as members of the board regular officers on the active-duty list in the line of the Navy serving in the grades prescribed in subsections (a) and (b) of this section. However, in the case of the boards considering officers in the Nurse Corps, the Secretary may complete the minimum required membership by appointing as members of the board regular officers on the active-duty list of the Navy Medical Corps serving in the prescribed grades and in the case of the boards considering officers of the Medical Service Corps, the Secretary may complete the minimum required membership by appointing as members of the board regular officers on the active-duty list of the Navy Medical or Dental Corps serving in the prescribed grades.

"(e) When officers of the Naval Reserve are eligible for consideration by a selection board convened under this chapter or chapter 36 of this title, the Secretary shall appoint an appropriate number of reserve officers, otherwise qualified under this section, as members of the board and shall appoint officers of the Regular Navy, qualified under this section, to complete the prescribed membership.

"(f) No officer may be a member of two successive boards convened under this chapter or chapter 36 of this title for the consideration of officers for promotion to the same grade.";

(C) amending section 5703 by—

(i) amending the first sentence of subsection (a) by striking out "male", by striking out "and for continuation on the active list", by striking out "and a board to recommend lieutenant colonels for promotion to the grade of colonel, each" in clause (2), and repealing clauses (3), (4), and (5);

(ii) amending subsection (b) by inserting "Each board convened under section 611 of this title to consider officers of the Marine Corps designated for limited duty shall consist of officers who are not officers designated for limited duty." before "Except", and by inserting "-duty" after "active";

(iii) amending subsection (c) by striking out ", brigadier general, or colonel" and by inserting in place thereof "or brigadier general", by inserting "-duty" after "active", and by striking out "rear" and inserting in place thereof "commodore"; and

(iv) amending the language of the catchline and the corresponding item for that section in the chapter analysis to read as follows: "Marine Corps; officers: promotion";

(D) repealing section 5704 and striking out the corresponding item for that section from the chapter analysis;

(E) amending section 5706 by—

(i) amending the introductory language before clause (1) to read as follows:

"The Secretary of the Navy shall furnish the appropriate selection boards convened under this chapter or chapter 36 of this title with—";

(ii) amending clause (1) by inserting "and" after "aeronautical engineering duty,", by striking out ", and the number of line officers designated for limited duty", and by striking out "next higher grade" and inserting in place thereof "grade of commodore admiral or rear admiral";

(iii) amending clause (2) by striking out "and the number of staff corps officers designated for limited duty" and by striking out "next higher grade" and inserting in place thereof "grade of commodore admiral or rear admiral";

(iv) amending clause (3) to read as follows:

"(3) the number of officers of the Marine Corps not restricted in the performance of duty that the board may recommend for promotion to the grades of brigadier general or major general;";

(v) striking out "active list" and inserting in place thereof "active-duty list" wherever it appears in the section; and

(vi) repealing clauses (5), (6), (7), (8), and (9);

(F) amending section 5707 by—

(i) amending subsection (a) to read as follows:

"(a) Of the officers considered for promotion by a selection board convened under this chapter, the board shall recommend for promotion as appropriate—

"(1) those eligible officers on the active-duty list in the grade of captain or above in the Navy, or colonel or above in the Marine Corps, whom the board considers best fitted for promotion; or

"(2) those eligible officers not on the active-duty list of the Navy or Marine Corps qualified for continued active duty.";

(ii) repealing subsections (c) and (e);

(iii) amending subsection (d) by striking out "or limited duty, or officers of the Marine Corps designated for limited duty", and by inserting "or" before "special duty"; and

(iv) amending subsection (i) by inserting "regular" before "officer", by inserting "-duty" after "active" in the first sentence, and by striking out "an" and inserting in place thereof "a regular" in the second sentence;

(G) amending section 5708 by—

(i) amending subsection (b) by striking out "any of the following categories" and inserting in place thereof "grades above captain (Navy) and colonel", by striking out "subject to the limitations prescribed in section 5707(c) of this title,", by striking out the colon after "higher grade" and inserting a period in place thereof, and by repealing clauses (1)–(7);

(ii) amending subsection (e) by striking out "officers not on the active list of the Navy or Marine Corps" and inserting in place thereof "reserve officers in grades above captain (Navy) and colonel on active duty";

"(iii) amending subsection (g) by striking out "active list" and inserting in place thereof "active-duty list"; and

(iv) repealing subsections (c) and (d);

(H) amending section 5709 by—

(i) repealing subsection (a);

(ii) amending the first sentence of subsection (b) by inserting "regular" before "officers", and by inserting "-duty" after "active" wherever it appears in that subsection; and

(iii) amending the language of the catchline and corresponding item in the chapter analysis for that section to read as follows: "Marine Corps: retention of major generals on the active-duty list";

(I) amending section 5710 by—

(i) inserting "-duty" after "active" in subsections (a) and (b);

(ii) amending subsection (b) by striking out "or 5704", by striking out "except as provided in subsection (c) of this section", by inserting "or" after "5702", and by inserting "to recommend officers for promotion to grades above captain (Navy) and colonel" after "title"; and

(iii) repealing subsection (c); and

(J) amending section 5711 by—

(i) repealing subsection (a); and

(ii) amending subsection (c) by striking out "and are not counted as officers serving on active duty for the purpose of subsection (a)".

(14) Amending chapter 545 by—

(A) amending section 5751 by—

(i) amending the language of the catchline and the corresponding item for that section in the chapter analysis by striking out ", male line officers; Marine Corps, male officers" and inserting in place thereof "and Marine Corps; regular officers";

(ii) repealing subsections (b), (c), and (e);

(iii) amending subsection (d) to read as follows:

"(d) No regular officer of the Navy or Marine Corps who has not lost numbers or precedence may become eligible for consideration by a selection board that is convened under chapter 543 of this title until all officers of his grade and competitive category senior to him on the active-duty list are so eligible."; and

(iv) adding the following new subsection:

"(f) Officers serving in the grade of commodore admiral in the Navy are eligible for consideration for promotion to the grade of rear admiral by a selection board that is convened under chapter 543 of this title in the fiscal year in which they complete two years of service in the grade of commodore admiral or such later time as the Secretary of the Navy may determine.";

(B) amending section 5756 by striking out "male" in the catchline of the section, in the corresponding item for that section in the chapter analysis, and wherever else it appears in the section;

(C) amending section 5758 by—

(i) striking out "male" in the catchline of the section and in the corresponding item for that section in the chapter analysis;

(ii) amending subsection (a) by striking out "rear admiral" in the first sentence and inserting in place thereof "commodore admiral or rear admiral, as the case may be", and by striking out "rear admiral" in the third sentence and inserting in place thereof "commodore admiral or rear admiral, as the case may be,"; and

(iii) repealing subsection (b);

(D) amending section 5761 by—

(i) striking out "grade of rear admiral" in the catchline of the section and in the corresponding item for that section in the chapter analysis and inserting in place thereof "grades of commodore admiral and rear admiral";

(ii) striking out "rear admiral" in the first sentence and inserting in place thereof "commodore admiral or rear admiral, as the case may be"; and

(iii) amending the last sentence by striking out "rear admiral" and inserting in place thereof "commodore admiral or rear admiral, as the case may be,", and by inserting "or commodore admirals, as the case may be," after "captains";

(E) amending section 5764 by—

(i) striking out "; male line" in the catchline of the section and in the corresponding item for that section in the chapter analysis;

(ii) amending subsection (a) to read as follows:

"(a) When he convenes a selection board under chapter 543 of this title to consider officers for recommendation for promotion to the grade of commodore admiral, the Secretary of the Navy shall establish a promotion zone in the grade of captain for officers in the line not restricted in the performance of duty and, if numbers to select are authorized for their corps, for officers in a staff corps. The promotion zone shall be composed of the most senior such officers under consideration, who are eligible for selection for promotion to the grade of commodore admiral and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the grade of commodore admiral in each of the next five years and the number of officers who will be eligible for selection in each of those years.";

(iii) repealing subsections (b), (c), and (d); and

(iv) inserting the following new subsection:

"(e) Officers in a staff corps are in the promotion zone under this section when the next junior line officer on the active-duty list not restricted in the performance of duty is in the promotion zone.";

(F) amending section 5765 by—

(i) amending subsection (b) to read as follows:

"(b) The Secretary of the Navy shall establish a promotion zone in the grade of colonel for officers of the Marine Corps not restricted in the performance of duty at the time he convenes a selection board under chapter 543 of this title to consider officers in that grade for recommendation for promotion to the grade of brigadier general. The promotion zone shall be composed of the most senior such officers under consideration, who are eligible for selection for promotion to the grade of brigadier general and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the grade of brigadier general in each of the next five years and the number of officers who will be eligible for selection in each of those years."; and

(ii) repealing subsection (c) and (d);

(G) repealing section 5766 and striking out the corresponding item for that section from the chapter analysis;

(H) amending section 5767 by—

(i) amending subsection (a) by striking out "rear admiral" and inserting in place thereof "commodore admiral or rear admiral" in the first sentence;

(ii) amending subsection (b) by striking out the last sentence; and

(iii) amending section (c) to read as follows:

"(c) In competitive categories where no officers are authorized in grades above colonel in the Marine Corps, or captain in the Navy, and whenever the Secretary determines that there is a position of sufficient importance and responsibility in one of these categories to require an incumbent in the grade of commodore admiral or brigadier general, the Secretary of the Navy may convene a selection board, to be composed and to follow procedures in general conformity with those set forth in chapter 543 of this title, to recommend for promotion an officer in the grade of captain in the Navy, or colonel in the Marine Corps, in the appropriate competitive category, who is best qualified to perform the duties of the position. An officer so designated may be appointed by the President, by and with the advice and consent of the Senate, to the grade of commodore admiral or brigadier general. Such an appointment is effective on the date the officer reports for the designated duty and terminates on the date he is detached. No appointment may be made under this subsection in the competitive category of officers designated for limited duty, and in no case may more than one officer in a competitive category hold a grade to which he was promoted under this subsection.";

(I) amending section 5769 by—

(i) amending the language of the catchline and the corresponding item for that section in the chapter analysis to read as follows: "Navy and Marine Corps officers; eligible for promotion on the active-duty list to flag and general officer grades; date of rank";

(ii) amending subsections (a) and (b) by striking out "Male officers in the line of the Navy and male" and inserting in place thereof "Officers of the Navy and";

(iii) amending subsection (a) by inserting "and competitive category" after "for the grade", and by striking out "male" in the last sentence;

(iv) amending subsection (b) by repealing clauses (2) and (4), by amending clause (3) by striking out "Captains" and inserting in place thereof "Officers", by striking out "grade of rear admiral" and inserting in place thereof "next higher grade", by striking out the last sentence, and by adding the following new clause:

"(5) Officers of a staff corps whose names appear on the promotion list are, in the order in which their names appear, eligible for promotion to the next higher grade as a vacancy occurs in the corps concerned.";

(v) amending subsection (c) to read as follows:

"(c) An officer—

"(1) of the line restricted in the performance of duty, when promoted to the grade of rear admiral or commodore admiral, as the case may be, shall be assigned the date of rank of the line officer not restricted in the performance of duty next senior to him on the promotion list but, if there is no such officer, he shall be assigned the date of rank of the line officer not restricted in the performance of duty next senior to him; or

"(2) of a staff corps, when promoted to the grade of rear admiral or commodore admiral, as the case may be, shall be assigned the date of rank of the line officer not restricted in the performance of duty next senior to him on the promotion list but, if there is no such officer, he shall be assigned the date of rank of the line officer not restricted in the performance of duty next junior to him;

However, if the line officer restricted in the performance of duty or the staff corps officer is promoted to the grade of rear admiral or commodore admiral before the line officer whose date of rank will determine his date of rank, the line officer restricted in the performance of duty or the staff corps officer shall have as his interim date of rank, the date of occurrence of the vacancy that he was promoted to fill. Each officer, when promoted to the grade of rear admiral or commodore admiral, shall be assigned the date of rank and registered number that will give him rank in the order in which his name appears on the promotion list for that grade."; and

(vi) adding the following new subsections:

"(e) Notwithstanding subsection (c), if a selection board for the grade of commodore admiral or rear admiral in a staff corps is not convened between the dates of convening of two or more line selection boards for that grade, a staff corps officer promoted to the grade of commodore admiral or rear admiral shall have assigned to him as his date of rank, the date assigned to the junior commodore admiral or rear admiral, as appropriate, who is not restricted in the performance of duty on the active-duty list who—

"(1) was recommended for promotion by the line selection board immediately following the last selection board in the staff corps concerned; and

"(2) was senior to the staff corps officer on the active-duty list at the time that the last selection board was convened.

"(f) An officer of the Marine Corps when promoted to the grade of brigadier general or major general, shall be assigned the date of rank and registered number that will give him rank in the order in which his name appeared on the promotion list for that grade.";

(J) amending section 5776 by—

(i) amending subsection (a) by striking out "in the line";

(ii) amending subsection (b) to read as follows:

"(b) An officer of the Navy serving in the grade of commodore admiral and officers in the line of the Navy restricted in the performance of duty serving in the grade of captain, who are eligible for consideration for promotion by a selection board convened under chapter 543 of this title, who are not selected for promotion are not considered as having failed of selection."; and

(iii) repealing subsection (c);

(K) amending section 5778 by striking out the first sentence and by striking out "other" in the second sentence;

(L) amending section 5780 by—

(i) striking out "male" in the catchline of the section and in the corresponding item for that section in the chapter analysis;

(ii) amending subsection (a) by striking out "any grade" and inserting in place thereof "the grade of commodore admiral or rear admiral", and by inserting "-duty" after "active";

(iii) amending subsection (b) by striking out "any grade" and inserting in place thereof "the grade of brigadier general or major general", and by inserting "-duty" after "active";

(iv) repealing subsection (c); and

(v) amending subsection (d) by striking out "lineal" and inserting in place thereof "active-duty list";

(M) amending section 5781 by—

(i) striking out "rear admiral" in the catchline of the section and the corresponding item for that section in the chapter analysis and inserting in place thereof "rear admiral and commodore admiral";

(ii) amending subsection (a) to read as follows:

"(a) The President may fill vacancies in the grade of commodore admiral or rear admiral in any staff corps of the Regular Navy, as provided under section 5449 of this title, by making permanent appointments in—

"(1) the grade of commodore admiral from officers on the active-duty list in the corps concerned who, under the preceding sections of this chapter, have been temporarily promoted to that grade or are on the promotion list to that grade; or

"(2) the grade of rear admiral from officers on the active-duty list in the corps concerned who, under the preceding sections of this chapter, have been temporarily promoted to that grade or are on the promotion list to that grade.";

(iii) amending subsection (b) to read as follows:

"(b) Officers shall be permanently appointed under this section in the order of their active-duty list position or, if they have not been temporarily appointed in the grade to which the permanent appointment is to be made, in the order in which their names appear on the promotion list for temporary promotion to the grade concerned."; and

(iv) amending subsection (c) to read as follows:

"(c) Each officer permanently promoted to the grade of commodore admiral or rear admiral under this section shall be assigned the date of rank that will give him rank in the order in which his name appeared on the promotion list for the grade concerned.";

(N) amending section 5783 by—

(i) amending subsection (a) by amending the first sentence to read as follows: "Permanent appointments may be made in the grade of commodore admiral or rear admiral in the Naval Reserve from officers holding permanent appointments in the grade of captain or above in the Naval Reserve who are on active duty and who—

"(1) have been temporarily promoted to the grade of commodore admiral or rear admiral under the preceding sections of this chapter; or

"(2) are on the promotion list for promotion to grade of commodore admiral or rear admiral under the preceding sections of this chapter."; and by amending the second sentence by striking out "in the line" after "An officer", by striking out "a grade" and inserting in place thereof "the grade of commodore admiral or rear admiral", by striking out "male line" before "officers", and by inserting "-duty" after "active";

(ii) amending subsection (b) by amending the first sentence by striking out "any grade" and inserting in place thereof "the grade of brigadier general or major general" and by striking out "second lieutenant" and inserting in place thereof "colonel"; and by amending the second sentence by striking out "a grade" and inserting in place thereof "the grade of brigadier general or major general", by striking out "male" before "officers", and by inserting "-duty" after "active"; and

(iii) repealing subsection (3);

(O) amending section 5785 by—

(i) repealing subsection (a); and

(ii) amending subsection (b) by striking out ", other than women officers appointed under section 5590 of this title";

(P) amending section 5786(b) by striking out "sections 5784 and" and inserting in place thereof "section";

(Q) amending section 5787 by—

(i) amending subsection (b) by striking out "ensign" and inserting in place thereof "captain" and by striking out "second lieutenant" and inserting in place thereof "colonel";

(ii) repealing subsection (d);

(iii) amending subsection (e) by striking out the second sentence, and by striking out "alone" in the last sentence and inserting in place thereof ", by and with the advice and consent of the Senate"; and

(iv) amending subsection (f) by striking out "lieutenant" and inserting in place thereof "commodore admiral", by striking out "captain" and inserting in place thereof "brigadier general", and by striking out the last sentence;

(R) amending section 5787c to read as follows and amending the item for that section in the chapter analysis to correspond with the revised catchline:

"§ 5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotions

"(a) Warrant officers may be temporarily promoted to higher warrant officer grades under such regulations as the Secretary of the Navy may prescribe.

"(b) Officers designated for limited duty may be temporarily promoted to a higher grade under such regulations as the Secretary of the Navy may prescribe.";

(S) amending section 5791(b) by striking out "sections 5787 and 5790" and inserting in place thereof "section 5787"; and

(T) repealing sections 5752, 5753, 5757, 5760, 5762, 5763, 5768, 5770, 5771, 5772, 5773, 5782, 5784, 5787a, 5787b, 5788, 5789, 5790, and 5793 and striking out the corresponding items for those sections from the chapter analysis.

(15) Repealing chapter 547 and striking out the corresponding item from the chapter analysis of subtitle C and the chapter analysis of part II.

(16) Amending chapter 549 by—

(A) amending section 5891 by—

(i) amending subsection (b) by striking out "a lineal list maintained under section 5504" and inserting in place thereof "the active-duty list maintained under section 620";

(ii) amending subsection (c) by striking out "chapter 543" and inserting in place thereof "chapter 36 or 543", and by striking out "a lineal list" and inserting in place thereof "the active-duty list";

(iii) amending subsection (d) by striking out "a lineal list" wherever it appears and inserting in place thereof "the active-duty list";

(iv) amending subsections (e) and (f) by striking out "chapter 543" and inserting in place thereof "chapter 36 or 543", and by striking out "the lineal list" and "a lineal list" wherever they appear and inserting in place thereof "the active-duty list"; and

(v) repealing subsection (g);

(B) amending section 5892 by striking out "prescribed for line and staff corps officers on the active list of the Navy" and inserting in place thereof "established by the Secretary for regular line and staff corps officers on the active-duty list under other provisions of this title";

(C) amending section 5896 by—

(i) amending subsection (a)(3) by striking out "and eligible women officers appointed under section 5581 of this title";

(ii) amending subsection (a)(4) by striking out "and women officers appointed under section 5581 of this title,";

(iii) amending subsection (a) (7) and (8) by striking out "and officers appointed under section 5581 of this title"; and

(iv) amending subsection (b) by striking out "or an officer appointed under section 5581 of this title";

(D) amending section 5897 by—

(i) amending subsections (b)(6) and (d)(1) by striking out "and officers appointed under section 5581 of this title" before the period at the end thereof; and

(ii) amending subsection (c)(1) by striking out ", and women officers appointed under section 5581 of this title,";

(E) amending section 5898(b) by striking out "or an officer appointed under section 5581 of this title";

(F) amending section 5899 by—

(i) amending subsection (a) by striking out ", or a woman officer appointed under section 5581 of this title,";

(ii) amending subsection (a) by inserting "or above" after "captain" in the second sentence;

(iii) amending subsection (c) by striking out "or an officer appointed under section 5581 of this title";

(iv) amending subsections (a) and (c) by inserting "622 or" before "5764";

(v) amending subsections (b) and (e) by inserting "622 or" before "5765", and by striking out "lineal list" and inserting in place thereof "active-duty list"; and

(vi) amending subsection (e) by inserting "611 or" before "5702";

(G) amending section 5901 by inserting "623 and" before "5756–5763";

(H) amending section 5902 (b) and (c) by inserting "36 or" before "545"; and

(I) amending section 5905(c) by striking out "lineal rank and".

(17) Amending chapter 553 by striking out "active list" and inserting in place thereof "active-duty list" in section 5982(c).

(18) Amending chapter 555 by repealing section 6018 and striking out the corresponding item for that section from the chapter analysis.

(19) Amending chapter 573 by—

(A) inserting the following new section and inserting a corresponding new item for that section in the chapter analysis:

"§ 6372. Regular Navy: commodore admiral and real admiral: retirement for length of service

"(a) Each officer of the Regular Navy, serving in the grade of commodore admiral, who is not on a list of officers recommended for promotion to a higher grade shall, if not earlier retired, be retired on the first day of the month following the month in which he completes 30 years of service as computed under section 6387 of this title or the first day of the month following the month in which he completes five years in grade, whichever is later.

"(b) Each officer of the Regular Navy, serving in the grade of rear admiral shall, if not earlier retired, be retired on the first day of the month following the month in which he completes 35 years of service as computed under section 6387 of this title or the first day of the month following the month in which he completes five years in grade, whichever is later. However, the Secretary of the Navy may defer for a specified time the retirement under this section of any rear admiral, as limited by the provisions of section 6390 of this title.

"(c) For the purposes of this section, an officer's service in grade is computed from the date of the occurrence of the vacancy that he was promoted to fill.";

(B) amending section 6373 by striking out "total", by striking out "active list" wherever it appears and inserting in place thereof "active-duty list", and by amending the catchline and the corresponding item for that section in the chapter analysis by striking out "active list" and inserting in place thereof "active-duty list";

(C) amending section 6374 by striking out "active list" wherever it appears and inserting in place thereof "active-duty list";

(D) amending section 6383 by—

(i) amending subsection (a) by striking out "active list" and inserting in place thereof "active-duty list";

(ii) amending subsection (b) to read as follows:

"(b) Each regular officer on the active-duty list designated for limited duty whose name is not on a limited-duty officer promotion list who is serving in the grade of lieutenant commander or commander in the Navy or serving in the grade of major or lieutenant colonel in the Marine Corps shall be retired on the first day of the seventh month following the month in which he is considered as having twice failed of selection for promotion to the next higher grade.";

(iii) amending subsection (d) to read as follows:

"(d) Each regular officer on the active-duty list designated for limited duty whose name is not on a list of officers recommended for promotion who is serving in the grade of lieutenant in the Navy or serving in the grade of captain in the Marine Corps shall be honorably discharged on the first day of the seventh month following the month in which he is considered as having twice failed of selection for promotion to the grade of lieutenant commander or major.";

(iv) amending subsection (e) to read as follows:

"(e) Each regular officer on the active-duty list of the Navy or the Marine Corps designated for limited duty whose name is not on a list of officers recommended for promotion who is serving in the grade of ensign or second lieutenant, or lieutenant (junior grade) or first lieutenant, shall be honorably discharged on the first day of the seventh month following the month in which he was found not qualified for promotion in the case of an ensign or second lieutenant or is considered as having twice failed of selection for promotion to the grade of lieutenant (Navy) or captain (Marine Corps).";

(v) repealing subsection (f);

(vi) amending subsection (g) by striking out "retirement or" in the first sentence, and by striking out "retired or" in the first and second sentences;

(vii) adding the following new subsection:

"(i) An officer discharged under this section is entitled, if eligible therefor, to separation pay under section 1173a of this title."; and

(viii) striking out "or severance" in the catchline and in the corresponding item for that section in the chapter analysis;

(E) amending section 6384 by—

(i) amending subsection (a) by inserting "36 or" after "chapter";

(ii) amending subsection (b) to read as follows:

"(b) Each officer on the active-duty list of the Navy and the Marine Corps whose name is reported under this section shall, subject to subsection (d), be honorably discharged from the naval service on June 30 of the fiscal year in which his name is reported, with, if eligible therefor, separation pay under section 1173a of this title.";

(iii) repealing subsection (c); and

(iv) striking out "; severance pay" in the catchline and in the corresponding item for that section in the chapter analysis;

(F) amending section 6386 by repealing subsections (a) and (b);

(G) amending section 6387 to read as follows and amending the corresponding item for that section in the chapter analysis to correspond to the revised catchline:

"§ 6387. Regular Navy and Regular Marine Corps officers: computation of total commissioned service

"For the purposes of computing years of service for eligibility for consideration for continuation or retirement under section 6372a of this title, the years of service which an officer had as computed under section 637 of this title at the time he was promoted to commodore admiral in the Navy or brigadier general in the Marine Corps shall be added to the years of active commissioned service that he has served since he was promoted to commodore admiral in the Navy or brigadier general in the Marine Corps. Where an officer has not been on continuous active duty since he was promoted to commodore admiral or brigadier general, such time as he was not on active duty shall be counted for purposes of this section as shall be specified in regulations prescribed by the Secretary of the Navy.";

(H) amending section 6389 by—

(i) amending subsection (b) by striking out "subsection (a)" in the first sentence and inserting in place thereof "subsection (a) or (f)";

(ii) amending the second sentence of subsection (d) to read as follows: "Each other officer is considered to have for this purpose as much total commissioned service as the years of service computed under section 637 of this title or any officer on the active-duty list of the Navy not restricted in the performance of duty, or any officer on the active duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as ensign on the active-duty list of the Navy or as second lieutenant on the active-duty list of the Marine Corps, but not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer."; and

(iii) amending subsection (e) to read as follows:

"(e). This section does not apply to female reserve officers or to reserve officers in the Nurse Corps.";

(iv) inserting the following new subsection:

"(f) an officer in an active status in the Naval Reserve serving in the grade of commodore admiral shall be eliminated from active status if he is not on a promotion list to the next higher grade, has 30 years of total commissioned service, and has served five years in grade. An officer in an active status in the Naval Reserve serving in the grade of rear admiral shall be eliminated from active status if he has 35 years total commissioned service, and has served five years in grade.";

(I) amending section 6390(a) to read as follows:

"(a) Each officer on the active-duty list of the Navy or of the Marine Corps serving in the grade of admiral or general or below shall be retired by the President when he becomes 62 years of age unless the President defers his retirement.";

(J) amending section 6394 by—

(i) amending the language of the catchline and the corresponding item for that section in the analysis of chapter 573 by striking out "commodores" and inserting in place thereof "commodore admirals";

(ii) striking out "active list" wherever it appears and inserting in place thereof "active-duty list";

(iii) amending subsection (a) by inserting "admiral" after "commodore";

(iv) amending subsection (a) by inserting after the last sentence "The Secretary may instruct a board convened under chapter 543 to perform the functions of a board under this section with respect to any officer of the Navy subject to the provisions of this section."; and

(v) amending subsection (b) to read as follows:

"(b) Each board convened under this section to consider and recommend rear admirals or commodore admirals for retirement shall be composed of not less than five officers on the active-duty list of the Navy serving in grades above all officers under consideration. However, officers on the active-duty list in any staff corps, who are senior in rank to all officers under consideration, may be detailed as members of any such board to consider and recommend officers of the staff corps for retirement.";

(K) amending section 6397(a) to read as follows:

"(a) An officer of the Naval Reserve in any grade in the Nurse Corps may be eliminated from an active status under the conditions prescribed in this title for the separation from the active-duty list of a regular officer in the same grade.";

(L) amending section 6403 by—

(i) amending subsections (a) and (b) by inserting "or chapter 36 of this title" after "chapter", and by striking out "active list" and inserting in place thereof "active-duty list"; and

(ii) amending subsection (a) by inserting "regular" after "woman line", and by striking out "or an officer appointed under section 5581 of this title";

(M) amending section 6404 by—

(i) striking out "and lump-sum payments on discharge" after "retired pay"; and

(ii) striking out "and severance pay" in the catchline and in the corresponding item in the chapter analysis.

(N) amending the first sentence of section 6407 by inserting "regular" before "officer" and by inserting "-duty" after "active"; and

(O) repealing sections 6371, 6372, 6376, 6377, 6378, 6379, 6380, 6382, 6388, 6392, 6395, 6396, 6398, 6400, 6401, and 6402 and striking out the corresponding items for those sections from the chapter analysis.

(20) Amending chapter 575 by amending section 6487 by—

(A) amending the language of the catchline and the corresponding item for that section in the chapter analysis by striking out "rear" and inserting in place thereof "commodore"; and

(B) striking out "rear" after "grade of" and inserting in place thereof "commodore"; by striking out "who is entitled to the pay of the lower half of that grade, and"; and by striking out "in the upper half of that grade".

(21) Amending chapter 601 by—

(A) amending section 6909 by inserting "-duty" after "active" wherever it appears, by inserting "as a regular officer" after "appointments", and by striking out "male";

(B) amending section 6911 by striking out "male" wherever it appears; and

(C) repealing section 6914 and striking out the corresponding item from the chapter analysis.

(22) Amending chapter 605 by amending section 7042(a) by striking out "an" before

"officer" and inserting in place thereof "a regular", and by inserting "-duty" after "active".

SEC. 5. Title 32, United States Code, is amended by amending section 101(12) by striking out "active list" and inserting in place thereof "active-duty list".

SEC. 6. Title 37, United States Code, is amended by:

(1) Amending section 101(18) by striking out "active list" and inserting in place thereof "active-duty list".

(2) Amending the table in section 201(a) by—

(A) striking out "Environmental Science Administration" and inserting in place thereof "National Oceanic and Atmospheric Administration" in the heading of the third column;

(B) striking out "Rear admiral (upper half)" in the third column and inserting in place thereof "Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard and National Oceanic and Atmospheric Administration)"; and

(C) striking out "Rear admiral (lower half) and Commodore" in the third column and inserting in place thereof "Commodore admiral (Navy) and Rear admiral (lower half) (Coast Guard and National Oceanic and Atmospheric Administration)".

(3) Amending section 202 by—

(A) repealing subsections (a) through (d);

(B) amending subsection (e) to read as follows:

"(e) An officer of the—

"(1) Navy holding a permanent appointment in the grade of commodore admiral on the retired list; or

"(2) Coast Guard holding a permanent appointment in the grade of rear admiral on the retired list who is entitled to the basic pay of a rear admiral of the lower half; who, in time of war or national emergency, has served satisfactorily on active duty for two years in that grade or in a higher grade is entitled when on active duty to the basic pay.";

(C) striking out "of the upper half" in subsection (h);

(D) striking out " active list" and inserting in place thereof "active-duty list", by striking out "of the upper half", and by inserting "or commodore admiral" after "grade of rear admiral" in subsection (j);

(E) striking out "a woman" and inserting in place thereof "an" and by striking out "rear admiral of the lower half" and inserting in place thereof "commodore admiral", in subsection (k); and

(F) amending the language of the catchline of section 202, and the corresponding item for that section in the analysis of chapter 3, by striking out "of upper half".

(4) Amending section 205 by—

(A) Amending subsection (a) by repealing clauses (7) and (8);

(B) amending subsection (b) by striking out the second sentence; and

(C) repealing subsection (c).

(5) Amending sections 302 (last sentence), 302a(b), 302b (last sentence), and 303(b) by inserting ", separation pay," before "severance pay".

(6) Amending section 406 by amending subsections (d)(2) and (g)(2) by inserting "separation pay or" before both "severance pay" and "readjustment pay".

(7) Amending section 904 by—

(A) striking out "male" wherever it appears;

(B) inserting "above the grade of captain (Navy) or colonel" after "an officer" in subsection (a);

(C) amending subsection (a)(2) by inserting "or commodore admiral" after "rear admiral";

(D) amending subsection (a)(11) by inserting "or commodore admiral" after "rear admiral";

(E) inserting "above the grade of captain" after "line officer" in subsection (b).

(F) repealing clauses (3), (4), (5), (9), and (10) of subsection (a); and

(G) repealing subsection (d).

(8) Amending section 905 by repealing subsections (d), (e), and (g), and by amending subsection (b) by striking out the last sentence thereof.

(9) Inserting the following new section and a corresponding item for that section in the chapter analysis:

"§ 908. Officers of the Army, Navy, Air Force, or Marine Corps promoted under chapter 36 of title 10: effective date of beginning of pay and allowances

"An officer of the Army, Navy, Air Force, or Marine Corps who is promoted under section 624(a) of title 10 is entitled to the pay and allowances of the grade to which promoted from the date the promotion is made. An officer promoted under section 624(b) of title 10 is entitled to the pay and allowances of the grade to which promoted from the first day of the month following the date of the occurrence of the vacancy that he was promoted to fill.".

SEC. 7. Section 6 of the Act of March 31, 1947, ch. 26 (50 U.S.C. App. 326(d)) is amended by striking out "active" and inserting in place thereof "active-duty list".

SEC. 8. Section 10(b)(4) of the Act of June 24, 1948, ch. 625, as amended (50 U.S.C. App. 460(b)(4)), is amended by striking out "active" and inserting in place thereof "active-duty list".

SEC. 9. Notwithstanding any other provision of this Act:

(1) Reserve commissioned officers of the Army, Navy, Air Force, or Marine Corps, and officers appointed under section 5596 of title 10, United States Code, except officers designated for limited duty, on active duty on the effective date of this Act, other than those excluded under section 641 of title 10, United States Code, who have completed nine or more years of active commissioned service, may be appointed as regular officers within two years from the effective date of this Act, or by September 30, 1977, whichever is later.

(2) Under regulations prescribed by the Secretary of the military department concerned, if an officer described in clause (1) of this section is not qualified, not selected for appointment as a regular officer, or declines his appointment, he shall be released from active duty on such date as the Secretary concerned may determine, but not later than the earliest of the following dates—

(A) two years from the effective date of this Act;

(B) the date of expiration of his commitment under a written agreement concluded under section 679 of title 10, United States Code; or

(C) the date the officer requests and the Secretary approves.

(3) Depending on the needs of the service, an officer serving on active duty on the effective date of this Act, who is not qualified for an appointment as a regular officer, may have any disqualification waived by the Secretary of the military department concerned and be appointed as a regular officer in the grade in which serving.

However, unless sooner retired or separated under another provision of law, an officer who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of title 10, United States Code, shall be retained on active duty until he is qualified for retirement.

SEC. 10. Notwithstanding any other provision of this Act:

(1) An officer of the Army or Air Force serving in a regular grade who has been recommended for promotion to a temporary or permanent grade below brigadier general or a Reserve officer who has been recommended for promotion to a temporary grade below brigadier general in the Army or Air Force in an approved report of a board of officers convened for that purpose under laws in effect on the day before the effective date of this Act, if not earlier promoted to the grade for which he was recommended, shall be placed on a promotion list in order of his seniority on the active-duty list established by this Act, and shall be considered to have been so recommended for promotion in an approved report of a selection board convened under this Act.

(2) An officer of the Army or Air Force who has the regular grade of first lieutenant, captain, or major, who was considered once but not recommended for promotion to the next higher regular grade by a selection board convened under the laws in effect on the day before the effective date of this Act, shall, within one year from the effective date of this Act, be considered again by a selection board for promotion to the next higher grade. If he is not recommended for promotion by the board again considering him, he shall be retired and entitled to retired pay or honorably discharged, as the case may be, under the laws in effect on the day before the effective date of this Act. However, an officer who is discharged is entitled, at his election, to—

(A) the severance pay to which he would have been entitled under the laws in effect before the effective date of this Act; or

(B) if qualified, the separation payment as provided by section 1173a of title 10, United States Code.

If he is recommended for promotion by that board and is serving in his regular grade, he shall be considered to have been so recommended for promotion to the next higher grade in an approved report of a selection board convened under this Act. However, if he is recommended for promotion by the board again considering him and is serving in a higher grade than his regular grade under the laws in effect on the day before the effective date of this Act, his status shall be as prescribed in clause (5) of this section.

(3) An officer of the Army or Air Force who has a regular grade below colonel, or a reserve officer other than one specified in section 641 of title 10, United States Code, who was considered but not recommended for promotion under laws in effect on the day before the effective date of this Act to a temporary grade below brigadier general that is higher than the grade in which he is serving, shall be considered to have once failed of selection for promotion under chapter 36 of title 10, United States Code.

(4) An officer of the Army or Air Force who has the regular grade of first lieutenant, captain, or major, who has twice failed of selection for promotion to the next higher regular grade under the laws in effect on the day before the effective date of this Act, shall be retired and entitled to retired pay, or honorably discharged, as the case may be, under the laws in effect on the day before the effective date of this Act. However, an officer who is discharged is entitled, at his election, to—

(A) the severance pay to which he would have been entitled under the laws in effect before the effective date of this Act; or

(B) if qualified, the separation payment as provided by section 1173a of title 10, United States Code.

(5) An officer of the Army or Air Force who, on the day before the effective date of this Act, was serving in a temporary grade below brigadier general which is higher than his regular grade shall be considered to have been recommended for promotion to that grade under chapter 36 of title 10, United States Code. However, such an officer who is also subject to the provisions of clause (2) of this section shall be retired or discharged, as appropriate, if he is not recommended for promotion under that clause.

(6) An officer on the active-duty list of the Navy or Marine Corps who, on the effective date of this Act, is recommended for or is serving under a temporary appointment in a grade below commodore, admiral, or brigadier general which is higher than his permanent grade, shall be considered to have been so recommended for or promoted to the higher grade under chapter 36 of title 10, United States Code. This clause does not apply to—

(A) an officer serving under a temporary appointment which, by its terms, is limited in duration; and

(B) an officer designated for limited duty in a grade to which he was appointed under section 5596 of title 10, United States Code, or who has been recommended for promotion or promoted under section 5787 of that title.

(7) An officer of the Navy or Marine Corps who was considered to have failed of selection for promotion to a grade below commodore, admiral, or brigadier general one or more times under laws in effect the day before the effective date of this Act shall be subject to the provisions of this Act as if such failure or failures had occurred under this Act.

(8) An officer of the Army, Navy, Air Force, or Marine Corps, recommended for continuation on the active list under the Act of August 11, 1959, Public Law 86-155 (73 Stat. 333), as amended (74 Stat. 396), or section 10 of the Act of July 12, 1960, Public Law 86-616 (74 Stat. 395), shall not be subject to the continuation provisions of this Act.

(9) An officer of the Army or Air Force who, on the day before the effective date of this Act, was serving in or recommended for promotion to, the temporary grade of brigadier general or higher, and held a regular grade below colonel, shall be considered to have been recommended for promotion to colonel under chapter 36 of title 10, United States Code.

(10) An officer who—

(A) on the effective date of this Act, is either serving in the grade of lieutenant colonel or commander or colonel or captain (Navy), or is on a promotion list to one of those grades;

(B) is not recommended for promotion to a higher grade after the effective date of this Act; and

(C) is considered but not selected for continuation on active duty under section 634 of title 10, United States Code;

is entitled to a lump-sum payment of $4,000.

(11) The enactment of this Act does not terminate the appointment of any officer. For the purpose of determining the amount of service that an officer has in a particular grade, there shall be counted all service in that grade before, on, and after the effective date of this Act that would be creditable under the provisions of this Act.

(12) An officer of the Army, Navy, Air Force, or Marine Corps, who on the effective date of this Act is serving under a temporary appointment and also has a permanent status as an enlisted member or a warrant officer, and who on or after the effective date of this Act—

(A) has not completed 10 years of commissioned service for retirement eligibility under section 3911, 6323, or 8911 of title 10, United States Code; and

(B) becomes eligible for retirement under any other provision of law;

is entitled to retire in the highest permanent grade he held as an enlisted member or a warrant officer, as the case may be, prior to the effective date of this Act.

SEC. 11. Not later than six months after the effective date of this Act, an officer of the Army, Navy, Air Force, or Marine Corps shall be placed on an active-duty list under regulations prescribed by the Secretary of the military department concerned under section 620 of title 10, United States Code, in the same relative seniority which he held on the day before the effective date of this Act. However, such an officer is considered to have been placed on the active-duty list as of the effective date of this Act.

SEC. 12. Notwithstanding any other provision of this Act, except an officer who is excluded under section 641 of title 10, United States Code, a regular officer of the Army, Navy, Air Force, or Marine Corps on active duty on the effective date of this Act shall be subject to the provisions of this Act concerning promotion, selective continuation, years of active commissioned service, and separation or retirement, except:

(1) An Army or Air Force officer who is serving in, or is on a recommended list of officers selected for promotion to, the regular grade of major, except an officer serving in a higher temporary grade, shall, unless separated or retired under another provision of law, or later promoted under the provisions of this Act, be retained on active duty until he completes 21 years of service as computed under section 3927(a) or 8927(a) of title 10, United States Code, as they existed on the day before the effective date of this Act, and then retired under the provisions of section 3913 or 8913 of that title, as they existed on the day before the effective date of this Act, on the first day of the month following the month in which he completes that service.

(2) An Army or Air Force officer who is serving in, or is on a recommended list of officers selected for promotion to, the regular grade of lieutenant colonel, except an officer serving in a higher temporary grade, shall unless separated or retired under another provision of law, or later promoted under the provisions of this Act, be retained on active duty until he completes 28 years of service computed under section 3927(a) or 8927(a) of title 10, United States Code, as they existed on the day before the effective date of this Act, and then retired under the provisions of section 3916 or 8916 of that title, as they existed on the day before the effective date of this Act. However, such an officer shall be subject to the selective continuation provisions of section 634 of title 10, United States Code.

(3) An Army or Air Force officer who is serving in, or is on a recommended list of officers selected for promotion to the regular grade of colonel, including such an officer who holds a temporary general officer appointment shall, unless separated or retired under another provision of law, or later promoted to a higher regular grade, be retained on active duty until he completes 30 years of service computed under section 3927(a) or 8927(a) of title 10, United States Code, as they existed on the day before the effective date of this Act, and then retired under the provisions of section 3921 or 8921 of that title, as they existed on the day before the effective date of this Act. However, such an officer, except an officer serving in a temporary general officer grade or an officer on a recommended list for promotion to that grade, shall be subject to the selective continuation provisions of section 634 of title 10, United States Code.

(4) A Navy officer serving in the grade of lieutenant commander or recommended for promotion to the grade of lieutenant commander, or a Marine Corps officer serving in the grade of major or recommended for promotion to the grade of major, shall retain the entitlement to the years of commissioned service specified in section 6380 of title 10, United States Code, as it existed on the day before the effective date of this Act.

(5) An officer of the Navy serving in the grade of commander or captain, or a Marine Corps officer serving in the grade of lieutenant colonel or colonel, on the effective date of this Act shall be subject to the provisions of section 634 of title 10, United States Code.

Notwithstanding any other provision of law, for the purpose of involuntary retirement or discharge under chapter 36 of title 10, United States Code, the years of service of an officer subject to this section shall be computed by adding to that service creditable for involuntary retirement or discharge with which such officer is credited on the day before the effective date of this Act all subsequent service as computed under section 637 of title 10, United States Code. In the case of an officer for whom no means of computing service creditable for involuntary retirement or discharge existed under law in effect on the day before the effective date of this Act, creditable service for the period prior to the effective date of this Act shall be determined under regulations prescribed by the Secretary of the military department concerned, provided that in no case shall such an officer be credited with less than his active commissioned service.

SEC. 13. For the purpose of computing years of service for eligibility for consideration for continuation or for retirement under section 6372a of title 10, United States Code, for an officer of the Navy in a grade above captain or an officer of the Marine Corps in a grade above colonel on the day before the effective date of this Act, the years of service with which such an officer is credited, as computed under chapter 573 of that title as it existed on the day before the effective date of this Act, shall be added to the years of commissioned service that he has served since the effective date of this Act in a grade above captain in the Navy or above colonel in the Marine Corps. If an officer has not been on continuous active duty since he was promoted to a grade above captain in the Navy or above colonel in the Marine Corps, such time as he was not on active duty shall be counted for purposes of this section as shall be specified in regulations prescribed by the Secretary of the Navy. Each officer subject to this section is entitled to count for the purpose of computing retired pay, or the computation of basic pay, any service that was so creditable on the day before the effective date of this Act.

SEC. 14. Notwithstanding any other provision of this Act:

(1) All officers formerly serving in any staff corps of the Navy under an appointment made in accordance with section 5590 of title 10, United States Code, as it existed on the day before the effective date of this Act, shall be reappointed in that corps pursuant to this Act notwithstanding any limitations otherwise specified with regard to age, grade, or physical standards. Such officers shall be considered for all purposes as having been originally so appointed, and all provisions of law applicable to male officers previously appointed in those staff corps apply to officers reappointed under this Act, except as otherwise specifically provided in this Act. Any officer reappointed in any staff corps of the Navy under this section, shall be reappointed in the grade and with the date of rank held at the time of reappointment. Officers so reappointed who at the time of reappointment have to their credit leave accrued but not taken shall not, by reason of reappointment, lose such accrued leave.

(2) Any officer appointed to the line of the Navy under section 5590 of title 10, United States Code, as it existed on the day before the effective date of this Act, who possesses the requisite statutory qualifications for appointment into any staff corps, may be reappointed in that corps under the terms and conditions specified in this section.

(3) All officers on the active list of the line of the Navy or the Marine Corps appointed under section 5590 of title 10, United States Code, as it existed on the day before the effective date of this Act, shall be reappointed pursuant to this Act, notwithstanding any limitations otherwise specified with regard to

age, grade, or physical standards. All provisions of law relating to male officers on the active list of the Navy or Marine Corps apply to officers reappointed under this Act except as otherwise specifically provided in this Act. Any officer so reappointed under this section, shall be reappointed in the grade and with the date of rank held at the time of reappointment. Officers so reappointed who at the time of reappointment have to their credit leave accrued but not taken shall not, by reason of reappointment, lose such accrued leave.

(4) Notwithstanding any provision of law, other than section 634 of title 10, United States Code, an officer of the Navy or Marine Corps appointed under section 5590 of that title, as it existed on the day before the effective date of this Act, who has not twice failed of selection for promotion prior to the effective date of this Act and who is not selected for promotion to a higher grade after the enactment of this Act, may not be retired earlier than she would have been retired had this Act not been enacted.

(5) Any officer who, under section 6401, 6402, or 6396 of title 10, United States Code, as it existed on the day before the effective date of this Act, would have been discharged on June 30 of the fiscal year in which—

(A) that officer, as a lieutenant in the Navy or captain in the Marine Corps, is not on a promotion list and has completed 13 years of active commissioned service; or

(B) as a lieutenant (junior grade) in the Navy or first lieutenant in the Marine Corps, is not on a promotion list and has completed 7 years of active commissioned service;

and who, because of the enactment of this Act, would be subject to discharge under section 630 of that title, following enactment of this Act if twice failed of selection, shall, if that officer has not completed 13 or 7 years of active commissioned service, respectively, and so requests, be not discharged until June 30 of the fiscal year in which the offfcer completes 13 or 7 years of active commissioned service, respectively.

(6) As soon as practicable after completion of the appointments provided for in clauses (1), (2), and (3) of this section, the name of each officer so reappointed shall be entered on the appropriate active-duty list of the Navy or of the Marine Corps in a position among officers of her grade as may be determined in accordance with such regulations as the Secretary of the Navy may prescribe. All officers shall be placed on the active-duty list without change in their relative positions held on any list for promotion established for them while they were appointed under any provisions of title 10, United States Code, which are repealed by this Act. Any female officer who, by virtue of her date of rank and other considerations, would be placed on a promotion list senior to an officer who has failed of selection for promotion one or more times, and who is considered to have failed of selection for promotion not more than once, shall, for purposes of determining her eligibility for consideration for promotion to the next higher grade, be considered for promotion with those officers who are considered to have failed of selection for promotion the same number of times as she, or who are considered never to have failed of selection for promotion, as the case may be. No female officer who is considered to have failed of selection for promotion one or more times and whose position on the active-duty list is junior to any male officer who is considered to have failed of selection for promotion a fewer number of times or not at all, as the case may be, may derive any advantage in the selection process by virtue of such active-duty list position.

(7) An officer of the Navy or Marine Corps designated for limited duty before the effective date of this Act who on or after the effective date of this Act—

(A) fails of selection for promotion to the next higher grade for the second time; or

(B) is not promoted to a higher grade at any time, shall be governed by section 6383 of title 10, United States Code, as it existed on the day before the effective date of this Act. An officer designated for limited duty who after the effective date of this Act is promoted shall be governed by section 6383 of that title as it existed on the effective date of this Act.

SEC. 15. Notwithstanding any provisions of this Act:

(1) Crediting of years of service shall not be affected by this Act for any person who before the effective date of this Act was—

(A) credited with years of service upon an original appointment, or subsequently credited with years of service; or

(B) participating in a program leading to a commission or appointment which will result in the crediting of years of service.

(2) For purposes of computing retired pay or the computation of basic pay, each officer of the Army or Navy in the Medical or Dental Corps, or each officer of the Air Force who was a designated medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer, on the effective date of this Act is entitled to count any service that was so creditable under laws in effect on the day before the effective date of this Act.

SEC. 16. Notwithstanding any other provision of this Act, a reserve officer of the Army or Air Force on active duty on the effective date of this Act who is promoted under the provisions of chapter 36 of title 10, United States Code, does not vacate any higher reserve grade to which he was entitled under any law in effect on the day before the effective date of this Act so long as he remains a reserve officer.

SEC. 17. Notwithstanding any other provision of this Act, a reserve officer of the Army or Air Force serving on active duty on the effective date of this Act shall be subject to the provisions of chapter 36 of title 10, United States Code, while he continues on that tour of active duty.

SEC. 18. A commissioned officer of the Army or Air Force (other than a commissioned officer of the Regular Army or Regular Air Force or a reserve commissioned officer specified in section 641 of title 10, United States Code) serving on active duty on the effective date of this Act shall be considered to have been recommended for promotion under chapter 36 of title 10, United States Code, in the temporary grade in which he is serving on the effective date of this Act.

SEC. 19. A reserve commissioned officer of the Army or Air Force, other than one specified in section 641 of title 10, United States Code, serving on active duty on the effective date of this Act, who has the reserve grade of first lieutenant, capitain, or major, who was considered once and not recommended for promotion to the next higher reserve grade under section 3366 or 8366 of title 10, United States Code, shall, if otherwise eligible, be considered again for promotion to the next higher reserve grade by a selection board convened under section 3366 or 8366 of that title, as appropriate. If selected, he may be retained on active duty subject to the provisions of this Act or any other provision of law. If he is not recommended for promotion he shall be released from active duty under regulations prescribed by the Secretary of the military department concerned and be treated as provided in section 3846 or 8846 of title 10, United States Code, as appropriate.

SEC. 20. A reserve commissioned officer of the Army or Air Force, other than one specified in section 641 of title 10, United States Code, who has the reserve grade of first lieutenant, captain, or major, who on the effective date of this Act has twice failed of selction for promotion to the next higher reserve grade under section 3366 or 8366 of that title, as appropriate, shall be released from active duty under regulations prescribed by the Secretary concerned and be treated as provided in section 3846 or 8846 of that title, as appropriate.

SEC. 21. Notwithstanding any other provision of law, any regular officer of the Army or Air Force whose retirement was deferred under chapter 367 or 867 of title 10, United States Code, or suspended under section 3313 or 8313 of that title, may continue to serve on active duty in a deferred status for the period that his retirement was deferred or suspended.

SEC. 22. Notwithstanding any provision of law other than section 634 of title 10, United States Code, a Regular Navy line officer restricted in the performance of duty serving in the grade of captain, a staff corps officer of the Regular Navy serving in the grade of captain, and a Nurse Corps officer of the Regular Navy serving in the grade of commander on the effective date of this Act may continue to serve on active duty for the number of years prescribed by former section 6377 of title 10, United States Code, as it existed on the day before the effective date of this Act.

SEC. 23. (1) An officer who is on active duty in the grade of rear admiral on the day before the effective date of this Act, and who is entitled to the basic pay of a rear admiral of the upper half or of the lower half, shall be considered as serving in the grade of rear admiral or commodore admiral, respectively, and will retain the title of rear admiral. An officer who, on the day before the effective date of this Act, is on an approved list of officers recommended for promotion to the grade of rear admiral, shall upon promotion be considered as serving in the grade of commodore admiral with the title of rear admiral.

(2) An officer on active duty in the grade of rear admiral on the day before the effective date of this Act, who is entitled to the basic pay of a rear admiral of the lower half, or an officer who, on the day before the effective date of this Act is on an approved list of officers recommended for promotion to rear admiral, shall henceforth, or in the case of a selectee, upon promotion to the grade of commodore admiral, be entitled to wear the uniform and insignia which a rear admiral entitled to the basic pay of a rear admiral of the lower half was entitled to wear on the day before the effective date of this Act.

(3) An officer who, on the day before the effective date of this Act, hold the grade of rear admiral and is a retired officer not on active duty, including an officer on the temporary disability retired list, shall retain the title of rear admiral and such rights to wear the uniform and insignia of his grade as he held on the day before the effective date of this Act. Should such an officer while in the grade of rear admiral be recalled or returned to active duty, he shall retain such rights to wear the uniform and insignia of his grade as he held on the day before the effective date of this Act. However, upon recall or return to active duty, he shall—

(A) if, on the day before the effective date of this Act, he held the grade of rear admiral entitled to the pay of a rear admiral of the lower half, shall retain the uniform, insignia, and title of rear admiral, and shall be considered as holding the grade of commodore admiral as established by this Act, both while on active duty, and, unless entitled to a higher grade under some other law, upon subsequent release from active duty; and

(B) if, on the day before the effective date of this Act, he held the grade of rear admiral entitled to the pay of a rear admiral of the upper half, be considered to hold the grade, and have the title of rear admiral as established by this Act, while on active duty, and, unless entitled to a higher grade under some other law, upon subsequent release from active duty.

(4) Notwithstanding any other provision of this Act, an officer of the Navy on the day before the effective date of this Act in the grade of rear admiral entitled to the basic pay of a rear admiral of the lower half who was subject to section 202(a)–(d) of title 37, United States Code, as it existed on the day before the effective date of this Act, or an officer who on the day before the effective date of this Act is on an approved list of officers recommended for promotion to rear admiral who, upon promotion to that grade would have been subject to those provisions as they existed on the day before the effective date of this Act, shall not be subject to the provisions of this Act respecting promotion to the grade of rear admiral. Officers subject to this clause are entitled to the grade of rear admiral under the circumstances described in section 202 of title 37, United States Code, as it existed on the day before the effective date of this Act. In applying section 202 of title 37, United States Code, for the purpose described herein, rear admirals and commodore admirals shall be considered as serving in the grade of rear admiral, as it existed on the day before the effective date of this Act.

(5) Notwithstanding any other provision of this Act, an officer of the Navy who, on the day before the effective date of this Act, is serving in the grade or rear admiral or who is on an approved list of officers recommended for promotion to the grade of rear admiral and who—

(A) has not been considered for retirement under section 6394 of title 10, United States Code, shall not be subject to section 6372 (a) of that title, as added by this Act, until after he is considered for retirement under section 6394 of that title; and

(B) has been considered for retirement under section 6394 of that title, shall not be subject to section 6372a of that title, as added by this Act.

(6) Notwithstanding any other provision of this Act, the effective date and applicability of sections 5442(j), 5444(g), and 5457(a) of title 10, United States Code, as amended or added by this Act, shall be determined as follows—

(A) each subsection shall become effective only when all the officers to which it applies, who were in the grade of rear admiral entitled to the basic pay of a rear admiral of the lower half or on an approved list of officers recommended for promotion to the grade of rear admiral on the day before the effective date of this Act, are entitled to the grade of rear admiral as established by this Act, pursuant to section 23(4) of this Act; and

(B) after the effective date of sections 5442(j), 5444(g), and 5457(a), the limitations under any one of those sections may be exceeded only if no new appointments and promotions, among officers subject to the sections, are made to the grade of rear admiral as established by this Act. Once the percentage limitation imposed by a section specified in the preceding sentence is initially complied with, the authority to exceed such limitation is terminated.

(7) Notwithstanding any other provision of this Act, a reserve officer of the Navy who, on the day before the effective date of this Act, is serving in the grade of rear admiral or who is on an approved list of reserve officers recommended for promotion to the grade of rear admiral, is not subject to section 6389(f) of title 10, United States Code, as added by this Act.

SEC. 24. The active-duty list established by section 620 of title 10, United States Code, takes the place of the active list, promotion list, or lineal list of the Army, Navy, Air Force, or Marine Corps, as the case may be, under the provisions of title 10, United States Code, as they existed on the day before the effective date of this Act.

SEC. 25. Notwithstanding any other provision of law, a member of the Army, Navy, Air Force, or Marine Corps who is on active duty (other than for training) on the effective date of this Act, and who is involuntarily discharged or released from active duty, is entitled, at his election, to—

(1) any readjustment payment or severance pay to which he would have been entitled under laws in effect before the effective date of this Act; or

(2) if qualified, to the separation payment as provided by section 1173a of title 10, United States Code, as added by section 2(8) of this Act.

SEC. 26. Except as otherwise provided in this Act, the provisions of this Act do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

SEC. 27. If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

SEC. 28. No inference of a legislative construction is to be drawn from the part of title 10, United States Code, in which any section enacted by this Act is placed, or from the catchline of any chapter or section enacted or amended by this Act.

SEC. 29. If a provision of law that is in a suspended status on the day before the effective date of this Act is amended by this Act, the suspended status of that provision is not affected by that amendment.

SEC. 30. This Act becomes effective on the first day of the first month after enactment.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments:

The amendments are as follows:

Page 6, line 29, strike "21" and insert in lieu thereof "18".

Page 7, line 10, insert a comma following the word "dental".

Page 7, line 15, strike "usual" and insert in lieu thereof "unusual".

Page 7, line 17, following the word "credit" strike the word "for" and insert in lieu thereof the word "of".

Page 7, line 24, following the word "discipline" strike the word "for" and insert in lieu thereof the word "from".

Page 8, line 21, insert a period following the quotation marks at the end of the line.

Page 8, between lines 27 and 28, in the new items being added in the chapter analysis and the chapter analysis of part II, strike the semi-colon appearing after the word "List" and insert a colon in lieu thereof.

Page 9, on lines 22 and 23, strike the words "whichever is earlier." as they now appear and insert the same words flush with the left margin of line 23.

Page 10, in the listing of the section titles of the proposed new chapter 36:

(a) In the section title for section 630, strike the semicolon following "(Navy)" and insert a colon in lieu thereof.

(b) In the section title for section 631, insert "for" following the word "selection".

Page 11, line 9, strike the word "successful" and insert in lieu thereof the word "successive".

Page 16, line 22, insert "not" following "has".

Page 17, line 40, strike the comma following "8066".

Page 29, line 6, insert a hyphen following "depart".

Page 29, line 32, insert a hyphen following "active".

Page 33, line 17, strike the word "of" and insert the word "to" in lieu thereof.

Page 34, line 5, insert a comma following "20".

Page 35, line 6, strike the comma following "pay".

Page 35, following line 35, in the listing of the section titles of the proposed new chapter 60, delete the colon following the word "duty" in the title of the new section 1181 and insert a semicolon in lieu thereof.

Page 36, line 1, delete the colon following "duty" and insert a semicolon in lieu thereof.

Page 40, line 27, strike "of" and insert "or" in lieu thereof.

Page 40, line 33, following the word "amending" insert "the text of".

Page 44, line 11, strike "(c)" and insert "(e)" in lieu thereof.

Page 44, line 29, strike "maximum" and insert in lieu thereof "minimum".

Page 45, in the table following line 18, the footnote number "1" as it now appears following the word "is" in the column heading entitled "If the actual strength is[1] * * *" is deleted and reinserted following the word "strength" in that column heading.

Page 46, line 21, strike "Woman's" and insert "Women's" in lieu thereof.

Page 48, line 24, strike "8355" and insert "8353" in lieu thereof.

Page 48, line 33, strike the comma following the word "category" and insert a period in lieu thereof.

Page 50, line 19, strike the single quotation mark following the word "colonel" and insert a double quotation mark in lieu thereof.

Page 54, insert the following new clause between lines 12 and 13: "(21) Amending chapters 363 and 863 by—

(A) amending section 3855 by—

(i) inserting "Veterinary Corps, in the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, in the Optometry Section of the Medical Service Corps," following "Dental Corps," and

(ii) adding the following sentence at the end thereof: "An officer may be retained in an active status under the authority of this section only to fill a bona fide existing vacancy.".

(B) amending section 8855 by—

(i) inserting "veterinary officer, optometrist, podiatrist," following "dental officer,"; and

(ii) adding the following sentence at the end thereof: "An officer may be retained in an active status under the authority of this section only to fill a bona fide existing vacancy."."

Page 55, line 14, delete "duty" and insert "-duty" in lieu thereof.

Page 55, line 28, strike "subsection" and insert "section" in lieu thereof.

Page 56, line 33, strike "tion" and insert "tions" in lieu thereof.

Page 58, line 25, delete "promote" and insert "promoted" in lieu thereof.

Page 59, in the table following line 27, in the left column heading strike the word "lieutenants" and insert the word "lieutenant" in lieu thereof.

Page 64, line 28, strike the entire line and insert the following in lieu thereof: "serve in the grade of rear admiral." as a flush sentence at the end; and

Page 67, line 18, strike the word "and".

Page 80, line 4, strike the word "eligible" and insert the word "eligibility" in lieu thereof.

Page 83, line 15, add the word "the" following the word "to".

Page 86, line 25, strike the single quotation mark following the word "list" and insert a double quotation mark in lieu thereof.

Page 89, line 25, insert a hyphen between the words "active" and "duty".

Page 92, line 29, strike "or paygrade O–8" and insert "of pay grade O–8" in lieu thereof.

Page 93, line 26, strike the word "clause" and insert the word "clauses" in lieu thereof.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, and that further reading of the amendments be dispensed with and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The committee amendments were agreed to.

AMENDMENTS BY MR. LLOYD OF CALIFORNIA

Mr. LLOYD of California. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. LLOYD of California: On page 14, line 10, insert after "section" the following: "or by section 626 of this title."

On page 22, line 35, insert "(a)" after the opening quotation marks and before "An."

On page 22, between lines 37 and 38 insert the following:

"(b) An officer who has failed of selection by a board convened under section 611 of this title may, within 30 days after he is notified that he has failed of selection, request reasons why he was not selected for promotion. The request shall be in writing and be submitted through official channels. Within 30 days of receipt of such a request, the selection board shall advise the officer in writing of the reasons why he was not selected for promotion.

"(c) An officer in the regular grade of captain, major, or lieutenant colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, or commander in the Navy who has requested reasons under subsection (b) of this section may, within 30 days after receipt of the advise of reasons from the selection board, appeal his failure of selection to a board of review convened under subsection (d) of this section. The appeal shall be in writing and submitted through official channels and may not criticize any other officer or reflect on the character, conduct, or motive of any other officer.

"(d) Boards of review, each composed of three or more officers, shall be convened by the Secretary of the military department concerned at such times as he may prescribe to consider appeals from failure of selection under subsection (c) of this section. No officer may be a member of a board of review to consider an appeal from a failure of selection by a selection board of which he was a member. If the board of review determines that the failure of selection was contrary to law or involved material error of fact or material administrative error, the Secretary concerned shall refer the record of the officer to a special selection board convened under section 627 of this title. Otherwise, failure of selection shall be affirmed.

"(e) Except as provided in section 628, a decision pursuant to subsection (d) is final and conclusive and is binding on all departments, courts, agencies and officers of the United States."

On page 24, line 27, insert after "time", the following: "whose right of appeal, if any, under section 626 of this title has been exhausted,".

On page 25, line 13, insert after "time" the following: ", whose right of appeal under section 626 of this title has been exhausted,".

On page 26, line 25, strike out "and".

On page 26, line 27, insert after "(Navy)," the following: "and whose right of appeal under section 262 of this title has been exhausted,".

Mr. LLOYD of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc and considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LLOYD of California. Mr. Chairman, in essence, what these amendments do, in my opinion, is something that we have needed to do for a long time in the armed services. That is, when an officer whose career is now going to be interrupted, we offer him the opportunity to know exactly why he has been passed over or failed of selection.

Essentially, what these amendments do is as follows: An officer has been passed over for promotion, and he can request the reasons for the failure of his selection. I think it is a very reasonable part of the function of due process. The officer not only may find out why he was failed of selection, but he can also have the opportunity to appeal that failure. It must be done, of course, within 90 days.

In addition to that, this does not provide for judicial proceedings beyond that of the military. It also states that there will be a proviso for automatic promotions which normally occur between second and first lieutenants, or ensigns and lieutenant jg's in the Navy. It also does not treat with the promotion to flag rank.

Flag rank is an entirely different and separate process. The individuals are very closely scrutinized. There is not so much of a mechanical process, where a person can just be failed for selection. They pretty well know why. Their career patterns demonstrate to them, for instance, in the case of a Navy captain who is up for selection to admiral and, hopefully, in this bill, to commodore admiral, they will know that if they have not had a deep-draft vessel their chance for promotion is greatly diminished.

What we are talking about here, for an officer who is a lieutenant commander, up for selection to commander, or a captain in the Army who is up for selection to major, that he has an opportunity to know why he did not get selected, why was he not satisfactory, after putting in all of this time, if he believed that his career patterns had been adequate and he had done the things he ought to do, and all of a sudden, boom, he is dropped.

Oftentimes this breeds discontent in the services for the following reason: There is constantly an officer coming into the service who is not from one of the service academies. These people are thoroughly convinced their opportunity for selection is diminished as compared to those who came from the service academies.

This will allow them to find out if indeed this is so. It does not give any feeling of an inside track for an individual who is going up for promotion. If a person is, let us say, an aviator, and he did not get enough flight time, and it develops that he did not get enough flight time because he had an accident which was no fault of his own, say, a catapult failed on a carrier, and he was laid up for 6 months, and somebody says, "You do not have enough time in the squadron; we are, therefore, not going to select you at this time," he can appeal that. I know for a fact of a person who was a victim of this system. People are passed over for a lot less reason than that. I remember very clearly I was a victim of what they call the hump out of World War II, and literally I think it was 60 percent or 70 percent of the people failed the selection for the simple reason they did not have anyplace else to cut. I think they have a right to be told that. If it is a reduction in force, this will say to these people, "All we are facing at this point, however you may feel about it, is a reduction in force, and you have not fouled up and you are in no way inadequate." This is a due process of our Constitution.

I think this is a good amendment, and I ask the Members to support it.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, my colleague, the gentleman from California, has touched on a very important point in his amendment. I can understand his concern. But this is the very thing that I was mentioning earlier in my discussion of the bill. Unfortunately, when we reduce the size of the armed services, we find ourselves with an overage of officers, and if we are going to keep a healthy viable force, with a reasonable opportunity for promotion, some of those officers are going to have to be selected out.

The basis on which this is done, in the various selection boards the gentleman refers to, is that they simply pick the best qualified officers.

The gentleman from Louisiana (Mr. TREEN), for example, raised the question earlier of what percentage of eligible officers would be promoted to the grade of O–4. It was 70 percent. So that means 30 percent of those eligible for promotion are not going to be promoted. We have to pick the best qualified 70 percent. That does not mean that the fellow who is not in that 70-percent bracket has anything particularly wrong. He is just not part of the upper 70 percent.

So, to require these selection boards to explain the reasons why they did not select a particular individual, would boil down to one response: "Unfortunately, you were not quite in the best qualified group."

Moreover, the gentleman's amendment would require that all selection boards which are convened for a particular purpose would have to be retained in being for an additional 60 days just to go through this procedure. And yet the only thing they would be able to say to those who requested the reasons for their nonselection, would be: "You got caught in the hump, buddy. You are OK, but unfortunately we can only take 70 percent."

So this amendment is really not going to accomplish anything.

The amendment also provides that there should be a separate appeal procedure for those cases in which the selection or the failure of selection was contrary to law or involved material error. But I would invite the attention of the committee to page 23 of our bill which sets up the authority for special selection boards precisely for that purpose.

Notice that the gentleman's amendment involves only cases where there is material error or something contrary to law. On line 7 of page 23 of the bill it is provided that the Secretary could convene such a board in the case of an officer who was "considered by a selection board, and not selected, when the board's action was contrary to law or involved material error of fact, material administrative error, or when material new evidence has been discovered."

Mr. Chairman, I can understand the gentleman's feeling, but the real point that he proposes is already covered in our legislation. And the attempt to get reasons for passovers would simply lead to the point I have already made, that we simply cannot promote everybody to every grade.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman for yielding.

I would point out to the gentleman that one of the most important provisions we have in our society right here in the United States under the Constitution is the due process provision, and that is true in this case where we are judged by a group of men as to their satisfactory service.

Now, we are talking about the life of an individual, we are talking about a career, and if one gets passed over in the military, that in all probability means he is not going to get to the end of that career, which can go totally to a flag rank, although most people feel that if they go as far as captain or colonel, they have gone as far as they are going.

All this amendment does is to ask that the man have a right to know why he was passed over. That is all. It does not in any way defeat the purpose of the bill. The gentleman's bill is a fine one, but what this amendment does is to define the due process right.

Mr. Chairman, I think the gentleman has a great in-depth knowledge of the armed services, and that he certainly recognizes these are the things that really stick in the craw of military people and this is one of the main gripes for officers.

Mr. O'BRIEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I shall yield to the gentleman from California (Mr. LLOYD) if he wishes to finish his statement.

Mr. LLOYD of California. Mr. Chairman, I have finished my statement, and I thank the gentleman for yielding. I may ask the gentleman to yield later on.

Mr. O'BRIEN. I will be happy to yield later.

Mr. Chairman, in connection with this amendment, albeit that its purpose is salutary, I rise in opposition to it. I would call the Chair's attention to the words in the third paragraph of the amendment:

> If the board of review determines that the failure of selection was contrary to law or involved material error of fact or material administrative error, the Secretary shall . . .

And it goes on.

I would like to remind the gentleman from California (Mr. LLOYD) that there is already a provision in the correction of military records chapter, in section 1552, which provides for that sort of situation. If, for example, it was determined that an award of the DSC had been overlooked or had not been entered in the record, that fact could be made known to the Secretary of the Army, and under this particular section almost anything could be corrected; correction of an error; removal of an injustice. Even a promotion could be recommended.

So I would suggest to my friend, the gentleman from California (Mr. LLOYD) that, since we have a most complicated bill here, and since I am not entirely certain of the ramifications of his amendment, the amendment should be defeated; and, secondly, since I believe we have a fairly good means of remedying a gross error, the amendment is not necessary. Therefore, I must oppose it.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I thank the gentleman for yielding.

The point the gentleman makes is well taken except for one small item, and that is, if the individual knows precisely why his DSC was not entered as a major medal into the promotion record, then he is all set.

However, if he cannot find out what happened, it may well be he would never know about his DSC, which he wears very proudly, and assumes automatically that his own record reflects that. However, he has no way of knowing that his DSC is not reflected because the records of the board are not available to him.

All this does is that it says he has the option of reviewing that. Many people are probably going to be keenly aware of why they were passed over.

We are talking about a marginal situation. The statement with respect to the DSC, of course, is a very glaring one.

Let us talk about an individual, for instance, who was on detached duty. On detached duty it is very difficult sometimes to get reports of fitness or whatever it may be, which are necessary for promotion. These somehow do not get into a man's record. The next thing he knows, he is up for selection. He assumes these things have been done, and he finds out, far too late, that this was not re-reflected in his record.

Mr. Chairman, I will tell the gentleman that this precise situation occurred to me personally, where a detachment record was never filed in my service record. I was in the regular Navy.

As a result of it, I certainly think it had a bearing on my promotional opportunities.

Mr. Chairman, this is all we are talking about. I am pleading for the opportunity for the man to review his own record as it pertains to his promotion.

I agree with the gentleman that they have really done a magnificent job. I still think we have a way to go, but I think they have done a magnificent job, one which is necessary. Certainly I mean to support the bill, but I am only pleading and asking that we give the individual the right to review his record to judge his own promotional opportunities.

Mr. NICHOLS. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Alabama.

Mr. NICHOLS. Mr. Chairman, I thank the gentleman for yielding.

I rise in opposition to the amendment.

I am in sympathy with the position of the gentleman from California (Mr. LLOYD). I simply believe that there are sufficient safeguards already in the mechanism of review to take care of most people who find themselves in this situation.

I would also remind the committee that this same amendment, the same, identical amendment, I believe, came up in the full committee and was defeated by a vote of 22 to 6.

Mr. O'BRIEN. I thank the gentleman.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment a question, please.

In subsection (d) of the proposed new section, the same material just read by the gentleman from Illinois (Mr. O'BRIEN), there is language that "the Board of Review determines that failure of selection was contrary to law," et cetera, et cetera.

Then in another section of your amendment there is a provision that there be no judicial remedy except as provided in section 628.

Mr. Chairman, if the amendment of the gentleman from California (Mr. LLOYD) were adopted, this would prevent an officer from having access to judicial review even if the decision by the Board of Review was contrary to law.

Is that presently provided in the law, or does the gentleman make a change here? In other words, is the gentleman from California diminishing the officer's rights, perhaps?

Mr. LLOYD of California. Mr. Chairman, if the gentleman will yield, no, no.

It was not intended in any way to diminish his rights. I do not read it that way.

All that was intended in this, in the limitation, is for him to go into the civilian courts afterward and carry this thing forward in a court procedure. In other words, I am trying to keep within the bounds or the framework of the powers of the military. That is all I ever intended.

Mr. TREEN. I understand that. As the gentleman knows, I am in sympathy with the thrust of what he is trying to do.

Mr. LLOYD of California. Yes.

Mr. TREEN. Does the gentleman know—or perhaps the chairman of the subcommittee can answer the question—if action by a board is contrary to law, that is, contrary to statute, does an officer have a right to go into the civilian court system; and if he presently has that right, is the gentleman not, through his amendment, taking that right away?

Mr. LLOYD of California. I am advised by counsel that he does not have that right.

Mr. TREEN. He does not have the right at the present time?

Mr. LLOYD of California. He does not have the right at the present time.

Mr. TREEN. If the selection is contrary to law, he may not go into court; is that what the gentleman is saying?

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, my understanding is that if he has exhausted his administrative remedies, then he may go into court.

Mr. TREEN. Right.

Mr. STRATTON. But, of course, this bill sets up, as I have already indicated, a new administrative remedy, which is almost exactly the same kind of board that the gentleman from California (Mr. Lloyd) wants provided. It is provided for on pages 22 and 23 of the bill.

Mr. TREEN. Mr. Chairman, it would just seem to me, in view of the remarks made, that we actually may be cutting down an officer's rights because the material at the top of page 2 of this amendment would limit him with respect to his right to go into court, except as provided in section 628, which I do not think is pertinent here.

Mr. LLOYD of California. Mr. Chairman, if the gentleman will yield further, I do not believe that is correct. I do not think it would do that and, as a matter of fact, I am sure it would not do that and would not in any way limit an individual. The amendment limits it no further than what the bill does without the amendment. What it really does is it gives him the due process. And it does say that he is not going to, at every moment that he does not receive the selection say that he will run to the other courts and appeal the decision in that court and thus hold up the whole process there.

So, Mr. Chairman, that is essentially what the amendment does. I think it is a good amendment. I think it does indeed provide for the due process. I would say only this, that even if I fail this year in this amendment I will be back because I think this is something that is important and it is not just something that I am suggesting. I have a multitude of letters I have received from people in the armed services pleading and begging. As a matter of fact, Mr. Chairman, many members of the Committee on Armed Services have also received those kind of letters pleading for this kind of information to be made available to them. I think that is really all that we are trying to do.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. Lloyd.)

The question was taken; and on a division (demanded by Mr. Stratton) there were—ayes 11, noes, 19.

So the amendments were rejected.

AMENDMENTS OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Hughes: Page 32, after line 26, insert the following (and redesignate succeeding paragraphs accordingly):

(8) Amending chapter 49 by inserting the following new section and a corresponding new item for that section in the chapter analysis:

"§ 975. Senior retired and former officers: civilian employment restricted

"(a) No officer who is on a retired list of the Army, Navy, Marine Corps, or Air Force in the grade of colonel or captain (Navy), or above, and no former officer of the Army, Navy, Marine Corps, or Air Force who served in such grade at any time during the 12-month period preceding his separation from the armed forces may, during the three-year period beginning on the date such officer is discharged or released from active duty, be employed by, or accept compensation for employment from, any person who is or has been a party to any contract for the provision of goods or services to the United States if such officer or former officer, while serving on active duty in the grade of colonel or captain (Navy), or higher, during the 3-year period ending with such discharge or release from active duty, participated personally and substantially, through decision, recommendation, investigation, or otherwise, in the awarding of such contract.

"(b) Any person who violates subsection (a) shall be assessed a civil penalty of the amount of compensation received by such person in the course of, or as a result of, such violation.

"(c) This section shall apply to any retired officer or former officer described in subsection (a) who is discharged or released from active duty after the end of the six-month period beginning with the date of enactment of this of this section.".

Page 94, after line 5, insert the following:

(10) Amending section 801 by inserting the following new subsection:

"(d)(1) An officer of the Army, Navy, Marine Corps, or Air Force holding an appointment in the grade of colonel or captain (Navy), or higher, on the retired list may not, during the three-year period beginning on the date of his release from active duty, be employed by a person who is or has been a party to any contract for the provision of goods or services to the United States if such officer, while serving on active duty in the grade of colonel or captain (Navy), or higher, during the 3-year period ending with such release from active duty, participates personally and substantially, through decision, recommendation, investigation, or otherwise, in the awarding of such contract. If such an officer is so employed, he is not entitled to any payment from the United States during that employment.

"(2) This subsection shall apply to any officer described in paragraph (1) who is released from active duty after the end of the six-month period beginning with the date of enactment of this subsection.".

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that the amendments will be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, I want to commend my colleague, the gentleman from New York (Mr. Stratton) for a very fine piece of legislation. I am in support of the legislation but I think there is one problem area that needs rectifying. I am hopeful that the distinguished chairman will be able to accept my amendments. They are intended to deal with a long-standing problem in Government. I am referring to the revolving door which exists between the highest levels of Government and industry and which has been a particularly serious problem in the military. This is one facet of what our esteemed former President Dwight D. Eisenhower called the military-industrial complex.

My amendments provide that high ranking officers of the Armed Forces may not accept employment for a period of 3 years after leaving the service with a Government contractor, if a former officer participated in the awarding of a contract to that corporation or contractor. It is similar to amendments that I have already offered to the Outer Continental Shelf Lands Act amendments and the nuclear fuel assurance legislation, both of which were agreed to by their respective committees and adopted by the House.

There is an urgent need to confront the problem of musical chairs in Government and industry which has seriously eroded the faith of the American people in our regulatory processes and procedures and the procedures by which contracts are awarded to private industry.

The American people are asking whether, when high-ranking officials in Government make important decisions affecting the welfare of the Nation, they do really have the public interest in mind and heart, or are their eyes set on some job down the pike when they retire into private industry. This is, in my judgment, a very serious problem.

As early as 1969 a distinguished Member of the other body pointed out that more than 2,000 retired military officers with the rank of colonel or Navy captain were employed by 100 defense contractors. Early in 1972 a Pentagon survey compiled for Congress identified some 993 officers above the rank of major who had moved into defense industry jobs in the previous 3 fiscal years. One specific example is that of Gen. James Ferguson, who was commander of the Air Force Systems Command, which buys aircraft and jet engines, who was hired as vice president of United Aircraft Corp., a major aerospace manufacturer which does half of its business with the Government.

My amendment would not affect all military officers, only those with the rank of colonel or above, or captain in the case of the Navy.

It is not an across-the-board prohibition of all employment with defense contractors, but only those contractors which the former officer affected by participating in the award of a contract to that contractor. It is not a permanent disqualification; it would only last for a period of 3 years after severance from the military.

Mr. Chairman, I urge my colleagues to support this amendment which would go a long way toward restoring public confidence in the integrity of the defense contracting process and draw a clear and distinct line between the buyers and the sellers. It would remove any temptation that a Government official might have to forsake his public trust in hopes of receiving a high-paying job in private industry at some future date.

I urge my colleagues to support my amendment.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

I just have a question dealing with a rather critical part of the amendment at the top of page 2 where it describes the participation that would disqualify. It speaks of this particular officer who has participated personally and substantially through decision, recommendation, investigation, or otherwise in the awarding of such contract. Does not the gentleman think that use of the term "otherwise" is unbelievably comprehensive? Would he not be obliged to be subject to this if he merely walked through the office when a contract was being signed? I am concerned about the broad scope of his language.

Mr. HUGHES. It is not intended to do that; it is just intended to get at those officers who personally and substantially participate in the awarding of a contract. The words referred to would be modified by the very specific language in the amendment.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. DOWNEY of New York. I thank the gentleman for yielding.

I do not disagree with what the gentleman is attempting to do. I think it is sound and necessary. I am just wondering if this bill is the vehicle to attach the amendment to. I say this in all sincerity, because the committee either at the end of this session or in the next session will be developing and working on a Retirement Modernization Act, which I think would be a more appropriate vehicle for the gentleman's amendment than the Defense Officer Personnel Management Act, which really deals with internal questions or whether or not we should have certain reserve officers in grade.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. I just want to respond to my colleague. I can only say to my colleague that this particular legislation amends title 37. There is already in title 37, 801(c) dealing with this type of conflict. As my colleague knows, around here that is one of the famous ways of putting things on the back shelf: It does not fit here or there. If this does not fit here, I do not know where it would fit.

Mr. DOWNEY of New York. If the gentleman would yield further, it is not a question so much of my questioning him substantively, and I hope he does not misinterpret that. I think the amendment is sound. The question is, there is the Retirement Modernization Act which will be pending before the committee, which makes a lot more sense than this as a vehicle. But I can understand my colleague's desire to see it done in short order.

Mr. HUGHES. I would say to my colleague that this particular aspect of conflict legislation is extremely important today when the American people have lost such confidence in our decisionmaking. It seems to me that this is the type of legislation that we have to adopt across the board, not for just military personnel.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I rise in support of this amendment, and I urge its sponsor not to delay its implementation. I think it is nost needed.

Mr. HUGHES. I thank the gentlewoman for her comment.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Connecticut.

Mr. DODD. I thank the gentleman for yielding.

I should like to compliment the gentleman from New Jersey on his amendment. It is long overdue; it is needed in every aspect of the Government.

The gentleman has just pointed out this is not just the military. We support it in one agency after another. We see it in one agency after another, where people go to work for the agencies for a year or two or more and then leave immediately for higher salaries in the industries they were supposed to be regulating. It is a conflict of interest. I think the gentleman should be commended for his amendment.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(On request of Mr. HÉBERT, and by unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HÉBERT. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Louisiana.

Mr. HÉBERT. Mr. Chairman, I too compliment the gentleman on his approach to this subject, but I wonder if the gentleman has studied the subject very well. One of the biggest investigations conducted here in about 1950, when President Eisenhower was in office, was on the conflict of interest between officers and industry. As a result of that investigation, which I happened to chair at that time, there came about that phrase which the gentleman just used, "the military-industrial complex."

Now on the books under title 18 there is a series of prohibitions against any officers taking positions with industry until a certain time has elapsed, and yet the Reserve officers are exempt from those positions.

Mr. HUGHES. Will the chairman yield back to me on that?

Mr. HÉBERT. I am giving the gentleman the background.

Mr. HUGHES. I understand. I am a new Member of Congress, as the gentleman knows, so I have not studied the subject very long. But title 18 has been interpreted to mean direct participation. Unfortunately a great many officers have gotten around existing law without too much difficulty.

I can say coming in as I do as a new Member of the Congress and as a former prosecutor, that one of our major problems today, and not just in the military but across the wide spectrum of government service, is this area of conflict of interest. We have so many abuses that it is scandalous.

This amendment is not providing criminal sanctions. It does not penalize through criminal sanctions. It takes the economic incentive out of that type of public wrongdoing.

Mr. HÉBERT. I cannot agree more with the gentleman's position and attitude toward the problem but this is certainly not the place in which to put this particular amendment. If the law is to be amended or tightened or expanded, it should be in the area of the existing law on the books, not on the legislation which is now being considered. It should be in the existing law..

Mr. HUGHES. We are amending 801 (c) in this legislation which deals with just that. Let me read the section which says that retired pay may not be made to a retired officer of the Armed Forces:

> . . . who is engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to an agency of the Department of Defense—

For a period of 3 years, so he is prohibited.

It is the very same thing in 801(c) which is being amended by this legislation, so this bill would be the proper vehicle to amend the law.

Mr. HÉBERT. If the gentleman will yield again, it has been demonstrated that this is a very complex situation and it should be resolved after complete hearings which I am sure the Armed Services Committee will give.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from New Jersey is, of course, trying to deal with a situation that has caused a great deal of concern to all of us. Unfortunately the gentleman's amendment was never offered to the committee.

Certainly the idea of eliminating any conflict of interest among retired officers is something which I support 100 percent. But as the gentleman from Louisiana (Mr. HÉBERT) has pointed out, we already have legislation on the books almost identical with the gentleman's amendment.

In fact, section 18, United States Code 281, prohibits a retired regular officer "at all times" from receiving or agreeing to receive any compensation for representing any person in a sale or anything to the Government, et cetera, in a service in which he holds a retired status.

And section 37, United States Code 281, that says that no payment may be paid from appropriations to any retired officer or any officer of the Army, Navy, or Marine Corps, et cetera, for a period of 3 years after retirement if he is engaged in selling or contracting.

Now, this legislation was put on the books as a result of very extensive hearings conducted by the gentleman from Louisiana many years ago. I can remember when those hearings were held and I testified at them.

But the matter of employment after retirement, even with military officers, is something we ought to approach with some care. We need hearings on this amendment to understand its full implications. We need to protect the legitimate interests of our service personnel.

I will say to the gentleman that what this bill is doing essentially is forcing a lot of career military officers into retirement at an early age. The average age of retirement is about 40 or 42. I do not think we ought to deny them employment opportunities in fields for which they are trained without realizing exactly how far we are going. Many of these retirees at age 40 will have three or four kids in college, and all of a sudden find they have to live just on their retired pay.

Mr. Chairman, let us consider this matter in the regular course. If a person has spent his entire career on ships or in submarines, about the only place he can go to get a job is some place where they build submarines or ships.

Mr. Chairman, this amendment is very complicated. It applies to anybody who "through his decision, recommendation, investigation, or otherwise" is connected with some defense contract. Why do we not have hearings?

Let us vote this amendment down. I can assure the House if I have anything to do with it, we will hold hearings in our committee on the matter.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I want to thank the gentleman for his support; but around this body, as my distinguished colleague well knows, we find the argument that an amendment should be somewhere else is advanced often—without merit. The amendment is germane. As a matter of fact, the bill is already making some modifications in the area that my colleague just described as beyond the scope of this legislation. If it is good and it is going to be law and it makes sense, why not do it here? It is germane—and this is the proper place to impose conflict of interest provisions for the brass at the Pentagon.

Mr. STRATTON. Mr. Chairman, our committee has literally spent months trying to devise legislation that affects people's retirement and to do it fairly. We need to understand fully all the implications of any changes we make.

Would the gentleman favor an amendment that would deny any employment to retired Members of Congress without even an opportunity to understand clearly the implications of the amendment?

Mr. DOWNEY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned here, because I think the gentleman from New Jersey raises an important point; but as a member of the subcommittee, I have some appreciation for what the chairman is saying with respect to the complexity of the issues we are dealing with.

It is not just a simple matter of preventing someone from engaging, as the gentleman from New Jersey says, in a conflict of interest. None of us want that.

It is my hope, personally, Mr. Chairman, if the gentleman could respond, we must take up the Retirement Modernization Act either at the end of this session or in the next one, could the gentleman give us guarantees whether we could have hearings at that time? Would the gentleman from New Jersey be able to address himself to that important issue, so that we could go into detail on the issues the gentleman raises, so we could have a better appreciation of the impact on retired officers?

Mr. STRATTON. I think that in all candor we have to recognize that Congress is scheduled to adjourn on the 2d of October, and I am not sure that we can get into the retirement modernization bill before that time. But if the time is available or if we come back after the election, then we may very well get into it, and this would be an opportunity.

I would also say that the decision as to which subcommittee should look into this matter would have to be made by the chairman of our committee, so I would not be in a position to say for sure whether this kind of legislation should be discussed by our subcommittee. But, as far as I am concerned, I will certainly agree to look into it once we have available time in the committee.

Mr. DOWNEY of New York. This causes me a great deal of trouble, because the gentleman's amendment is an important one, but having dealt with the legislation it really does not appear to be an appropriate vehicle. I support his idea, however, implicitly.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I support the chairman in this instance, although I agree in principle with what the gentleman from New Jersey (Mr. HUGHES) is trying to do. I think there is some question of constitutionality and some question about whether there is an adequate standard, and there is a serious problem here, in light of the language employed, whether some people, innocent of any conflicts, might be deprived of their livelihoods in the years ahead.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from New Jersey.

Mr. HUGHES. I have, as a matter of fact, discussed this particular amendment with legislative counsel. It was very carefully and decisively drawn and patterned after language that already exists in the law. I do not know what constitutional questions the gentleman is talking about. I am an attorney by profession, and I can assure the gentleman that I drew the amendment very narrowly to limit it to those people who personally and substantially participate in the award of defense contracts.

There is already language in existing law, which has a number of loopholes, which this particular amendment would plug. That is all it is doing, and is patterned after the present 3-year rule. I think it a good conflict of interest amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. HUGHES).

The question was taken; and on a division (demanded by Mr. HUGHES) there were—ayes 8; noes 22.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. Chairman, I withdraw my previous point of no quorum and demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 136, not voting 85, as follows:

[Roll No. 716]

AYES—209

Abdnor
Adams
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Aspin
Bafalis
Baldus
Baucus
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Clay
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Coughlin
Daniels, N.J.
Danielson
de la Garza
Dellums
Dent
Derrick
Dingell
Dodd
Drinan
Early
Edgar
Edwards, Ala.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Fithian
Florio
Flowers
Flynt
Ford, Mich.
Forsythe
Fountain
Fraser

Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goodling
Gradison
Gude
Hall, Ill.
Hamilton
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Jacobs
Jenrette
Johnson, Colo.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Keys
Krebs
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McDade
McHugh
McKay
McKinney
Madden
Mann
Mathis
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moore
Moorhead, Pa.
Mosher
Moss
Mottl
Neal
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pressler
Preyer
Pritchard
Railsback
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rosenthal
Roush
Roybal
Ruppe
Santini
Sarasin
Schroeder
Sebelius
Seiberling
Sharp
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stark
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Vander Jagt
Vander Veen
Vanik
Waxman
Weaver
Whalen
Whitten
Wirth
Wydler
Yates
Yatron
Zablocki
Zeferetti

NOES—136

Alexander
Annunzio
Archer
Ashbrook
Ashley
Bauman
Beard, Tenn.
Bowen
Broomfield
Brown, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Fary
Fisher
Flood
Foley
Gibbons
Goldwater
Gonzalez
Grassley
Guyer
Haley
Hall, Tex.
Hammerschmidt
Hébert
Hicks
Hightower
Hillis
Holt
Hyde
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kazen
Kelly
Kemp
Ketchum
Krueger
Lagomarsino
Landrum
Leggett
Lloyd, Tenn.
Lott
McCormack
McDonald
McFall
Madigan
Mahon
Martin
Milford
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
O'Brien
O'Hara
Passman
Paul
Perkins
Pettis
Pickle
Pike
Poage
Price
Quie
Quillen
Randall
Rees
Rhodes
Robinson
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Satterfield
Schneebeli
Schulze
Shipley
Shuster
Sikes
Spence
Stanton, J. William
Stratton
Symms
Talcott
Taylor, Mo.
Teague
Thornton
Treen
Ullman
Vigorito
Waggonner
Walsh
Wampler
White
Whitehurst
Wiggins
Wilson, Tex.
Winn
Wright
Wylie
Young, Alaska
Young, Tex.

NOT VOTING—85

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Boland
Brinkley
Burgener
Carter
Chappell
Chisholm
Cleveland
Conlan
Conyers
Cotter
D'Amours
Delaney
Diggs
du Pont
Eckhardt
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Ford, Tenn.
Green
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Jeffords
Jones, Okla.
Kindness
Koch
LaFalce
Lujan
McCloskey
McCollister
McEwen
Maguire
Matsunaga
Meeds
Michel
Mikva
Mink
Moakley
Moffett
Murphy, Ill.
Nix
O'Neill
Pepper
Peyser
Rangel
Riegle
Risenhoover
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shriver
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Van Deerlin
Wilson, Bob
Wilson, C. H.
Wolff
Young, Fla.
Young, Ga.

Mrs. BOGGS, Mrs. SMITH of Nebraska, Messrs. BREAUX, THONE, HUTCHINSON, and BEVILL changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to have the attention of the chairman of the committee, the gentleman from New York (Mr. STRATTON) to ask some questions. I direct the attention of the gentleman from New York to the Continuation Board on page 28 of the committee report.

In reading that section it would appear that the committee has provided for individuals who have been passed over twice to be continued by the Continuation Board until their retirement date. My question is this: What does that do to the more qualified lower level officers? Does this bottle them up so as to prevent them from moving up into the higher ranks, because of officers who are continued in positions ahead of them even though these lower levels of officers may have a higher evaluation?

Mr. STRATTON. Mr. Chairman, if the gentleman from Pennsylvania would yield, I would say that present procedure would normally retain far more than 70 percent of those who have already been passed over. Therefore, the Continuation Board allows us to reduce the number of those who have been passed over. The 70-percent figure, in other words, is less than the present arrangement.

Mr. MYERS of Pennsylvania. If the gentleman will yield further, it was my impression that the procedure was if an individual was passed over twice, he was forced out, and it was my impression that the purpose of the Continuation Board was to protect those who had been passed over twice until they could get retirement. Is that correct? Or is the gentleman in fact telling me that the Continuation Board is being formed to put more people out quicker?

Mr. STRATTON. We have in the law, already a provision that if one reaches the O-5 level he can continue to serve for 26 years; and if he got to O-6, he could serve for 30 years. What the Continuation Board proposal does is to allow us to force out some of those career officers prior to those dates.

Mr. MYERS of Pennsylvania. I thank the gentleman for his explanation. Through the gentleman's clarification I am pleased that the intent of the Continuation Board is to guarantee that the more qualified younger officers are not going to be bottled up.

Mr. STRATTON. That is exactly the purpose of it. We are dealing with a situation where those who have devoted their entire careers to the services deserve to have some assurance that they can fulfill a full career. So we had the provision written into law that if one makes lieutenant colonel, one can stay for 26 years; if he makes colonel, he can stay for 30 years. But today we have too many officers in these grades. So we have provided for Continuation Boards in order to create opportunities for younger officers and give them an opportunity to advance. That is the basic reason for the entire bill.

The CHAIRMAN. The time of the gentleman has expired.

Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13958) to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes, pursuant to House Resolution 1432, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

RECORDED VOTE

Mr. STRATTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 343, noes 4, not voting 83, as follows:

[Roll No. 717]

AYES—343

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr

Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conte
Corman
Cornell
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Baley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Tex.
Zablocki
Zeferetti

NOES—4

Burleson, Tex.
Burlison, Mo.
Davis
Weaver

NOT VOTING—83

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Boland
Brinkley
Burgener
Carter
Chappell
Chisholm
Conable
Conlan
Conyers
Cotter
D'Amours
Delaney
Diggs
du Pont
Eckhardt
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Ford, Tenn.
Green
Guyer
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Jeffords
Jones, Okla.
Kindness
Koch
LaFalce
McCloskey
McCollister
McEwen
Maguire
Matsunaga
Meeds
Michel
Mink
Moakley
Moffett
Murphy, Ill.
Nix
O'Neill
Pepper
Peyser
Rangel
Riegle
Risenhoover
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shriver
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Van Deerlin
Wilson, Bob
Wolff
Young, Fla.
Young, Ga.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. McEwen.
Mr. Murphy of Illinois with Mr. du Pont.
Mrs. Chisholm with Mr. Bell.
Mr. Boland with Mr. Hagedorn.
Mr. AuCoin with Mr. Heinz.
Mr. Addabbo with Mr. Young of Florida.
Ms. Abzug with Mr. Steiger of Arizona.
Mrs. Mink with Mr. Riegle.
Mr. Udall with Mr. Van Deerlin.
Mr. Wolff with Mr. Shriver.
Mr. Moakley with Mr. Kindness.
Mr. Matsunaga with Mr. Jeffords.
Mr. Biaggi with Mr. McCollister.
Mr. Conyers with Mr. Steelman.
Mr. Koch with Mr. Carter.
Mr. Rangel with Mr. Esch.
Mr. Cotter with Mr. Bob Wilson.
Mr. Badillo with Mr. Steed.
Mr. Chappell with Mr. Eshleman.
Mr. Hanley with Mr. Peyser.
Mr. LaFalce with Mr. Hansen.
Mr. Meeds with Mr. Henderson.
Mr. Harkin with Mr. Harsha.
Mr. Evans of Colorado with Mr. Guyer.
Mr. Diggs with Mr. Michel.
Mr. Eckhardt with Mr. Jones of Oklahoma.
Mr. Beard of Rhode Island with Mr. Maguire.
Mr. Ford of Tennessee with Mr. Sisk.
Mr. Pepper with Mr. Sarbanes.
Mr. Nix with Mr. Howe.
Mr. Moffett with Mr. Scheuer.
Mr. Helstoski with Mr. Stuckey.
Mr. D'Amours with Mr. St Germain.
Mr. Delaney with Mr. Green.
Mr. Young of Georgia with Mr. Brinkley.
Mr. English with Mr. Burgener.
Mr. Edwards of California with Mr. Conable.
Mr. Holland with Mr. Conlan.
Mr. Risenhoover with Mr. McCloskey.
Mr. Russo with Mr. Ryan.
Mr. Stephens with Mr. James V. Stanton.

Mr. FOUNTAIN changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 13958) just passed.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from New York?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

AUTHORIZING CORRECTION IN ENGROSSMENT OF HOUSE CONCURRENT RESOLUTION 745

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that in the engrossment of the concurrent resolution (H. Con. Res. 745), correcting the enrollment of S. 327, the word "Clerk" in line 5 be changed to read "Secretary."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 9019, HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1976

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 9019) to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations:

CONFERENCE REPORT (H. REPT. No. 94–1513)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9019) to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1976".

(b) Whenever in title I an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—AMENDMENTS TO TITLE XIII OF THE PUBLIC HEALTH SERVICE ACT

SUPPLEMENTAL HEALTH SERVICES

SEC. 101. (a) Section 1301(b)(1) is amended by adding at the end the following: "A health maintenance organization may include a health service, defined as a supplemental health service by section 1302(2), in the basic health services provided its members for a basic health services payment described in the first sentence.".

(b) The first sentence of section 1301(b)(2) is amended by striking out "the organization shall provide" and all that follows in that sentence and substituting "the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 1302(2))."

(c) Section 1301(b)(4) is amended by striking out "and supplemental health services in the case of the members who have contracted therefor" and substituting "and only such supplemental health services as members have contracted for".

STAFFING

Sec. 102. (a)(1) The first sentence of section 1301(b)(3) is amended (A) by striking out "or through" and by substituting ", through", (B) by striking out "(or groups) or" and substituting "(or groups), through an", and (C) by inserting after "(or associations)" the following: ", through health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or health professionals under contract with the organization".

(2) Section 1301(b)(3) is amended by adding after the first sentence the following: "A health maintenance organization may also, during the thirty-six month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide basic and supplemental health services through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for purposes of this title. After the expiration of such period, the organization may provide basic or supplemental health services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of basic and supplemental health services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education).".

(b)(1) Section 1302(4)(C) is amended (A) by striking out clause (iv), (B) by redesignating clause (v) as clause (iv), and (C) by inserting "and" at the end of clause (iii).

(2) Section 1302(5)(B) is amended (A) by striking out clause (i), and (B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

OPEN ENROLLMENT

Sec. 103. (a) Section 1301(c) is amended by amending paragraph (4) to read as follows:

"(4) have an open enrollment period in accordance with the provisions of subsection (d);"

(b) Section 1301 is amended by adding at the end thereof the following:

"(d)(1)(A) A health maintenance organization which—

"(i) has for at least 5 years provided comprehensive health services on a prepaid basis, or

"(ii) has an enrollment of at least 50,000 members,

shall have at least once during each fiscal year next following a fiscal year in which it did not have a financial deficit an open enrollment period (determined under subparagraph (B)) during which it shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (2), without regard to preexisting illness, medical condition, or degree of disability.

"(B) An open enrollment period for a health maintenance organization shall be the lesser of—

"(i) 30 days, or

"(ii) the number of days in which the organization enrolls a number of individuals at least equal to 3 percent of its total net increase in enrollment (if any) in the fiscal year preceding the fiscal year in which such period is held.

For the purpose of determining the total net increase in enrollment in a health maintenance organization, there shall not be included any individual who is enrolled in the organization through a group which had a contract for health care services with the health maintenance organization at the time that such health maintenance organization was determined to be a qualified health maintenance organization under section 1310.

"(2) Notwithstanding the requirements of paragraph (1) a health maintenance organization shall not be required to enroll individuals who are confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the health maintenance organization if such individual were enrolled.

"(3) A health maintenance organization may not be required to make the effective date of benefits for individuals enrolled under this subsection less than 90 days after the date of enrollment.

"(4) The Secretary may waive the requirements of this subsection for a health maintenance organization which demonstrates that compliance with the provisions of this subsection would jeopardize its economic viability in its service area.".

DEFINITION OF SERVICES

Sec. 104. (a)(1) Paragraph (1)(H) of section 1302 is amended to read as follows:

"(H) preventive health services (including (i) immunizations, (ii) well-child care from birth, (iii) periodic health evaluations for adults, (iv) voluntary family planning services, (v) infertility services, and (vi) children's eye and ear examinations conducted to determine the need for vision and hearing correction).".

(2) Paragraph (1) of section 1302 is amended by striking out "or podiatrist" each place it occurs and substituting "podiatrist, or other health care personnel".

(b) Paragraph (2) of such section is amended—

(1) by striking out "under paragraph (1)(A) or (1)(H)" in subparagraphs (B) and (C);

(2) by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and substituting "; and", and by adding after subparagraph (F) the following:

"(G) other health services which are not included as basic health services and which have been approved by the Secretary for delivery as supplemental health services.";

(3) by striking out "or podiatrist" each place it occurs and substituting "podiatrist, or other health care personnel".

COMMUNITY RATING

Sec. 105. (a)(1) Section 1301(b)(1) is amended by adding at the end thereof the following new sentence: "In the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of clause (C) shall not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization.".

(2) The last sentence of section 1301(b)(2) is amended by inserting before the period the following: "except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization".

(3) Section 1306(b) is amended (A) by striking out "and" at the end of paragraph (6), (B) by redesignating paragraph (7) as paragraph (8), and (C) by inserting after paragraph (6) the following new paragraph:

"(7) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 1301(b) respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and"

(b) Section 1302(8)(A) is amended by inserting "differences in marketing costs and" after "reflect".

(c) Subparagraph (B) of section 1302(8) is redesignated as subparagraph (C) and the following new subparagraph is inserted after subparagraph (A):

"(B) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.".

MEDICAL GROUP REQUIREMENT

Sec. 106. (a) Section 1302(4)(C) is amended by striking out "(i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization" and substituting "(i) as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization".

(b) Section 1302(4)(C)(ii) is amended by striking out "plan" and substituting "similar plan unrelated to the provision of specific health services".

(c) '1302(4)(C) (as amended by section 102(b)(1)) is amended by—

(1) striking "and" before "(iv)", and

(2) striking out the period at the end of subparagraph (C) and substituting "; and (v) establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member.".

INCREASE IN LIMITS ON ASSISTANCE FOR FEASIBILITY SURVEYS, PLANNING, INITIAL DEVELOPMENT, AND INITIAL OPERATION

Sec. 107. (a) Section 1303(e) is amended by striking "$50,000" and substituting "$75,000".

(b)(1) Section 1304(f)(1)(A) is amended by striking "$125,000" and substituting "$200,000".

(2) Section 1304(f)(2)(A) is amended by

inserting after "$1,000,000" the following: "or, in the case of a project for a health maintenance organization which will provide services to an additional service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous, $1,600,000".

(c) Section 1305(a) is amended by striking out "first thirty-six months" each place it occurs and substituting "first sixty months".

LOAN GUARANTEES FOR PRIVATE ENTITIES

SEC. 108. (a) Section 1304(a)(2) is amended to read as follows:

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

"(A) nonprofit private entities for planning projects for the establishment or expansion of health maintenance organizations, or

"(B) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.".

(b) Section 1304(b)(1)(B) is amended to read as follows:

"(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

"(i) nonprofit private entities for projects for the initial development of health maintenance organizations, or

"(ii) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.".

(c) Section 1305(a)(3) is amended to read as follows:

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

"(A) nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or

"(B) other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population.".

(d)(1) Section 1304(d) is amended by adding at the end the following new sentence: "In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for projects for health maintenance organizations which will serve medically underserved populations.".

(2) Section 1305 is amended by adding at the end thereof the following new subsection:

"(f) In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications of health maintenance organizations which will serve medically underserved populations.".

MISCELLANEOUS AMENDMENTS

SEC. 109. (a)(1) Section 1305(a) is amended by striking out "in the period of" in paragraphs (1) and (2) and substituting "during a period not to exceed".

(2) The last sentence of 1305(b)(1) is amended to read as follows: "In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed $1,000,000.".

(b)(1) Section 1307(e) is amended—

(A) by inserting "for a private health maintenance organization (other than a private nonprofit health maintenance organization)" after "may be made", and

(B) by inserting "for private health maintenance organizations (other than private nonprofit health maintenance organizations)" after "guaranteed".

(2) Section 1308(c) is amended by adding after paragraph (4) the following new paragraph:

"(5) Any reference in this title (other than in this subsection and in subsection (d) to a loan guarantee under this title does not include a loan guarantee made under this subsection.".

(c)(1) Section 1308(a)(1)(A) is amended by striking out "for similar loans" and substituting "for loans with similar maturities, terms, conditions, and security".

(2) Section 1308(b)(2)(D) is amended by striking out "loans guaranteed under this title" and substituting "marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges".

(d)(1) The last sentence of section 1303 (i) is amended—

(A) by striking "the fiscal year ending June 30, 1974, or June 30, 1975," and substituting "any fiscal year"; and

(B) by striking "for projects other than those described in clause (1) of such sentence" and substituting "for any project, with priority being given to projects described in clause (1) of such sentence".

(2) The last sentence of section 1304(k) (1) is amended—

(A) by striking "the fiscal year ending June 30, 1974, or June 30, 1975," and substituting "any fiscal year"; and

(B) by striking "for projects other than those described in clause (A) of such sentence" and substituting "for any project, with priority being given to projects described in clause (A) of such sentence".

(3) The last sentence of section 1304 (k)(2) is amended—

(A) by striking "the fiscal year ending June 30, 1974, or in either of the next two fiscal years" and substituting "any fiscal year"; and

(B) by striking "for projects other than those described in clause (A) of such sentence" and substituting "for any project, with priority being given to projects described in clause (A) of such sentence".

(e) Section 1304(b)(2)(D) is amended by striking out "for such an organization" and substituting "who will engage in practice principally for the health maintenance organization".

EMPLOYEE HEALTH BENEFITS PLANS

SEC. 110. (a) Section 1310 is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 1310. (a)(1) In accordance with regulations which the Secretary shall prescribe—

"(A) each employer—

"(i) which is now or hereafter required during any calendar quarter to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay its employees such wage but for section 13(a) of such Act), and

"(ii) which during such calendar quarter employed an average number of employees of not less than 25,

shall include in any health benefits plan, and

"(B) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of the payment to the State of funds under section 314(d), 317, 318, 1002, 1525, or 1613, shall include in any health benefits plan,

offered to such employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in health maintenance organization service areas in which at least 25 of such employees reside.

"(2) If any of the employees of an employer or State or political subdivision thereof described in paragraph (1) are represented by a collective bargaining representative or other employee representative designated or selected under any law, offer of membership in a qualified health maintenance organization required by paragraph (1) to be made in a health benefits plan offered to such employees (A) shall first be made to such collective bargaining representative or other employee representative, and (B) if such offer is accepted by such representative, shall then be made to each such employee.";

(2) by amending paragraphs (1) and (2) of subsection (b) to read as follows:

"(1) one or more of such organizations provides basic health services (A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals, and

"(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization.";

(3) by striking out the last sentence of subsection (c); and

(4) by adding after subsection (d) the following new subsections:

"(e)(1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

"(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

"(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

"(f) For purposes of this section, the term 'employer' does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

"(g) If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a), the Secretary shall terminate payments to such State under sections 314(d), 317, 318, 1002, 1525, and 1613 and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

"(h) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312(a).".

(b) Section 8902 of title 5, United States Code, relating to Federal employee health insurance, is amended by adding at the end thereof the following new subsection:

"(1) The Commission shall contract under this chapter for a plan described in section 8903(4) of this title with any qualified health maintenance carrier which offers such a plan. For the purpose of this subsection, 'qualified health maintenance carrier' means any qualified carrier which is a qualified health maintenance organization within the meaning of section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300c–9(d)).".

ENFORCEMENT REQUIREMENTS

SEC. 111. (a) Section 1312(a) is amended by striking out all of the section following paragraph (3) and substituting the following: "the Secretary may take the action authorized by subsection (b)."

(b) Section 1312(b) is amended to read as follows:

"(b)(1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 1310 (d)(1), a determination described in subsection (a), the Secretary shall notify the entity in writing of the determination. Such notice shall specify the manner in which the entity has not complied with such assurances and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines as reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes (A) the entity shall not be a qualified health maintenance organization for purposes of section 1310 until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 1310, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

"(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this title, a determination described in subsection (a), the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this title for the grant, contract, loan, or loan guarantee.

(c) Section 1312 is amended by adding at the end the following new subsection:

"(c) The Secretary, acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) in the Office of the Assistant Secretary for Health.".

HMO'S AND FEDERAL HEALTH BENEFITS PROGRAMS

SEC. 112. Section 1307(d) is amended by adding after and below paragraph (2) the following new sentence: "An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, United States Code, may be considered as a health maintenance organization for purposes of receiving assistance under this title if with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c).".

EXTENSIONS AND AUTHORIZATIONS

SEC. 113. (a) Section 1304(j) is amended (1) by striking out "September 30, 1976" and substituting "September 30, 1978", and (2) by striking out "September 30, 1977" and substituting "September 30, 1979".

(b) Subsection (d) of section 1305 is amended to read as follows:

"(d) No loan may be made or guaranteed under this section after September 30, 1980.".

(c) Section 1309(a) is amended—

(1) by striking out "and" after "1975,",

(2) by inserting after "1976" the following: ", $45,000,000 for the fiscal year ending September 30, 1977, and $45,000,000 for the fiscal year ending September 30, 1978",

(3) by striking out "ending June 30, 1977" and substituting "ending September 30, 1977", and

(4) by striking out "$85,000,000" the first time it occurs and substituting $40,000,000", and by striking out "$85,000,000" the second time it occurs and substituting "$50,000,000".

RESTRICTIVE STATE LAWS

SEC. 114. Section 1311 is amended by adding at the end the following new subsection:

"(c) The Secretary shall, within 6 months after the date of the enactment of this subsection, develop a digest of State laws, regulations, and practices pertaining to development, establishment, and operation of health maintenance organizations which shall be updated at least quarterly and relevant sections of which shall be provided to the Governor of each State annually. Such digest shall indicate which State laws, regulations, and practices appear to be inconsistent with the operation of this section. The Secretary shall also insure that appropriate legal consultative assistance is available to the States for the purpose of complying with the provisions of this section."

PROGRAM EVALUATION BY THE COMPTROLLER GENERAL

SEC. 115. So much of section 1314(a) as precedes paragraph (1) thereof is amended to read as follows:

"SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least ten or one-half (whichever is greater) of the health maintenance organizations for which assistance was provided under sections 1303, 1304, and 1305, and which, by December 31, 1976, have been designated by the Secretary under section 1310(d) as qualified health maintenance organizations. The Comptroller General shall report to the Congress the results of the evaluation by June 30, 1978. Such report shall contain findings—".

ADMINISTRATION OF PROGRAM

SEC. 116. Title XIII is amended by adding after section 1315 the following new section:

"ADMINISTRATION OF PROGRAM

"SEC. 1316. The Secretary shall administer this title (other than sections 1310 and 1312) through a single identifiable administrative unit of the Department.".

CONFORMING AMENDMENTS

SEC. 117. (a) Section 1532(c) is amended by adding the following sentence at the end thereof: "The criteria established by any health systems agency or State Agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary under section 1306(c) of this Act.".

(b)(1) Paragraph (6) of section 1302 is amended to read as follows:

"(6) The term 'health systems agency' means an entity which is designated in accordance with section 1515 of this Act.".

(2) Paragraph (7) of section 1302 is amended by—

(A) striking "section 314(a) State health planning agency whose section 314(a) plan" and substituting "State health planning and development agency which"; and

(B) striking "section 314(b) areawide health planning agency whose section 314(b) plan", and substituting "health systems agency designated for a health service area which".

(3) Paragraph (1) of section 1303(b) is amended by striking "section 314(b) areawide health planning agency (if any) whose section 314(b) plan" and substituting "each health systems agency designated for a health service area which".

(4) Paragraph (1) of section 1304(c) is amended by striking "section 314(b) areawide health planning agency (if any) whose section 314(b) plan" and substituting "each health systems agency designated for a health service area which".

(5) Section (b)(5) of section 1306 is amended to read as follows:

"(5) each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted:".

(6) Subsection (c) of section 1306 is amended by striking "section 314(b) areawide health planning agencies and section 314(a) State health planning agencies" and substituting "health systems agencies".

EFFECTIVE DATES

SEC. 118. (a) Except as provided in subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 101, 102, 103, 104, and 106 shall (A) apply with respect to grants, contracts, loans, and loan guarantees made under sections 1303, 1304, and 1305 of the Public Health Service Act for fiscal years beginning after September 30, 1976, (B) apply with respect to health benefit plans offered under section 1310 of such Act after such date, and (c) for purposes of section 1312 take effect October 1, 1976.

(2) Subsection (d) of section 1301 of the Public Health Service Act (added by section 103(b) of this Act) shall take effect with respect to fiscal years of health maintenance organizations beginning on or after the date of the enactment of this Act.

(3) The amendments made by section 107 shall apply with respect to grants, contracts, loans, and loan guarantees made under sections 1303, 1304, and 1305 of the Public Health Service Act for fiscal years beginning after September 30, 1976.

(4) The amendments made by sections 109 (a)(1) and 109(c) shall apply with respect to loan guarantees made under section 1305 of the Public Health Service Act after September 30, 1976.

(5) The amendment made by section 109 (e) shall apply with respect to projects assisted under section 1304 of the Public Health Service Act after September 30, 1976.

(6) The amendments made by paragraphs (1) and (2) of section 110(a) shall apply with respect to calendar quarters which begin after the date of the enactment of this Act.

(7) The amendments made by paragraphs (3) and (4) of section 110 shall apply with respect to failures of employers to comply with section 1310(a) of the Public Health Service Act after the date of the enactment of this Act.

(8) The amendment made by section 111 shall apply with respect to determinations of the Secretary of Health, Education, and Welfare described in section 1312(a) of the Public Health Service Act and made after the date of the enactment of this Act.

TITLE II—AMENDMENTS TO SOCIAL SECURITY ACT

MEDICARE AMENDMENTS

Sec. 201. (a) Section 1876(b) of the Social Security Act is amended to read as follows:

"(b)(1) The term 'health maintenance organization' means a legal entity which provides health services on a prepayment basis to individuals enrolled with such organizations and which—

"(A) provides to its enrollees who are insured for benefits under parts A and B of this title or for benefits under part B alone, through institutions, entities, and persons meeting the applicable requirements of section 1861, all of the services and benefits covered under such parts (to the extent applicable under subparagraph (A) or (B) of subsection (a)(1)) which are available to individuals residing in the geographic area served by the organization;

"(B) provides such services in the manner prescribed by section 1301(b) of the Public Health Service Act, except that solely for the purposes of this section—

"(i) the term 'basic health services' and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

"(ii) the organization shall not be required to fix the basic health services payment under a community rating system;

"(iii) the additional nominal payments authorized by section 1301(b)(1)(D) of such Act shall not exceed the limits applicable under subsection (g) of this section; and

"(iv) payment for basic health services provided by the organization to its enrollees under this section or for services such enrollees receive other than through the organization shall be made as provided for by this title;

"(C) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act, except that solely for the purposes of this section—

"(i) the term 'basic health services' and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

"(ii) the organization shall not be reimbursed for the cost of reinsurance except as permitted by subsection (i) of this section; and

"(iii) the organization shall have an open enrollment period as provided for in subsection (k) of this section.

"(2)(A) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a 'health maintenance organization' within the meaning of paragraph (1), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

"(B) Except as provided in subparagraph (A), the Secretary shall administer the provisions of this section through the Commissioner of Social Security.".

(b) Section 1876(h) of such Act is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who have not attained age 65.

"(2) The Secretary may waive the requirement imposed in paragraph (1) for a period of not more than three years from the date a health maintenance organization first enters into an agreement with the Secretary pursuant to subsection (i), but only for so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plan for each year that it is making continuous efforts and progress toward compliance with the provisions of paragraph (1) within such three-year period.".

(c) Section 1876(i)(6)(B) of such Act is amended by striking out "(other than those with respect to out-of-area services)" and inserting in lieu thereof "(other than costs with respect to out-of-area services and, in the case of an organization which has entered into a risk-sharing contract with the Secretary pursuant to paragraph (2)(A), the cost of providing any member with basic health services the aggregate value of which exceeds $5,000 in any year)".

(d) Section 1876 is amended by adding at the end thereof the following—

"(k) Each health maintenance organization with which the Secretary enters into a contract under this section shall have an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of subsection (h)) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.".

(e) The amendments made by this section shall be effective with respect to contracts entered into between the Secretary and health maintenance organizations under section 1876 of the Social Security Act on and after the first day of the first calendar month which begins more than 30 days after the date of enactment of this Act.

MEDICAID AMENDMENTS

Sec. 202. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(m)(1)(A) The term 'health maintenance organization' means a legal entity which provides health services to individuals enrolled in such organization and which—

"(i) provides to its enrollees who are eligible for benefits under this title the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905, and to the extent required by section 1902(a) (13)(A)(ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a);

"(ii) provides such services and benefits in the manner prescribed in section 1301(b) of the Public Health Service Act (except that, solely for purposes of this paragraph, the term 'basic health services' and references thereto, when employed in such section, shall be deemed to refer to the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a), and, to the extent required by section 1902(a) (13)(A)(ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a)); and

"(iii) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act (except that solely for purposes of this paragraph, the term 'basic health services' and references thereto, when employed in such section shall be deemed to refer to the services and benefits described in section 1905(a)(1), (2), (3), (4)(C), and (5), and to the extent required by section 1902(a)(13)(A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a)).

(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a health maintenance organization within the meaning of subparagraph (A), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312(a) and (b) of the Public Health Service Act.

"(2)(A) Except as provided in subparagraphs (B) and (C), no payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided by any entity—

"(i) which is responsible for the provision of—

"(I) inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a), or

"(II) any three or more of the services described in such paragraphs,

when payment for such services is determined under a prepaid capitation risk basis or under any other risk basis;

"(ii) which the Secretary (or the State as authorized by paragraph (3)) has not determined to be a health maintenance organization as defined in paragrph (1); and

"(iii) more than one-half of the membership of which consists of individuals who are insured under parts A and B of title XVIII or recipients of benefits under this title.

"(B) Subparagraph (A) does not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services provided by an entity which—

"(i)(I) received a grant of at least $100,000 in the fiscal year ending June 30, 1976, under section 319(d)(1)(A) or 330(d)(1) of the Public Health Service Act, and (II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title has been the recipient of a grant under either such section; and

"(II) provides to its enrollees, on a prepaid capitation risk basis or on any other risk basis, all of the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) and, to the extent required by section 1902(a)(13)(A)(ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of such section; or

"(ii) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

"(I) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

"(II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this title on a prepaid capitation risk basis or on any other risk basis; or

"(iii) which has contracted with the single State agency for the provision of services (but not including inpatient hospital services) to persons eligible under this title on a prepaid risk basis prior to 1970.

"(C) Subparagraph (A)(iii) shall not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on the date of enactment of this subsection or beginning on the date the entity enters into a contract with the State under this title for the provision of health services on a prepaid risk basis, whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A)(iii).

"(3) A State may, in the case of an entity which has submitted an application to the Secretary for determination that it is a health maintenance organization within the meaning of paragraph (1) and for which no such determination has been made within 90 days of the submission of the application, make a provisional determination for the purposes of this title that such entity is such a healthy maintenance organization. Such provisional determination shall remain in force until such time as the Secretary makes a determination regarding the entity's qualification under paragraph (1).".

(b) The amendment made by subsection (a) shall apply with respect to payments under title XIX of the Social Security Act to States for services provided—

(1) after the date of enactment of subsection (a) under contracts under such title entered into or renegotiated after such date, or

(2) after the expiration of the 1-year period beginning on such date of enactment, whichever occurs first.

TITLE III—MISCELLANEOUS AMENDMENTS

CENTER FOR HEALTH SERVICES POLICY ANALYSIS

SEC. 301. Section 305(d)(1) of the Public Health Service Act is amended (1) by striking out "two national special emphasis centers" and substituting "three national special emphasis centers", (2) by striking out "and one" and substituting "one", and (3) by inserting before the last close parenthesis a semicolon and the following: "and one of which (to be designated as the Health Services Policy Analysis Center) shall focus on the development and evaluation of national policies with respect to health services, including the development of health maintenance organizations and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system".

HOME HEALTH EXTENSION

SEC. 302. (a) Section 602(a)(5) of Public Law 94-63 is amended by inserting ", $2,000,000 for the period July 1, 1976, through September 30, 1976, $8,000,000 for the fiscal year ending September 30, 1977" after "1976".

(b) Section 602(b)(4) of Public Law 94-63 is amended by inserting ", $1,000,000 for the period July 1, 1976, through September 30, 1976, and $4,000,000 for the fiscal year ending September 30, 1977" after "1976".

EXTENSION OF REPORTING DATE

SEC. 303. Section 603(b) of Public Law 94-63 is amended by striking "Within one year" and substituting "Not later than 2 years".

TECHNICAL

SEC. 304. Section 514(a) of the Federal Food, Drug, and Cosmetic Act is amended by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

And the Senate agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
RICHARDSON PREYER,
JAMES W. SYMINGTON,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HARRISON A. WILLIAMS,
THOMAS F. EAGLETON,
ALAN CRANSTON,
CLAIBORNE PELL,
WALTER F. MONDALE,
W. D. HATHAWAY,
JOHN A. DURKIN,
RICHARD S. SCHWEIKER,
J. K. JAVITS,
J. GLENN BEALL, JR.,
BOB TAFT, JR.,
ROBERT T. STAFFORD,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9019) to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUPPLEMENTAL HEALTH SERVICES

Combining of basic and supplemental health services

Existing Law: Requires HMOs to offer just basic health services, without inclusion of any supplemental health services, to any member or group of members who wish to purchase only the basic health services. Section 1301(b) of existing law.

House Bill: Allows HMOs to include supplemental health services in the basic health services which they require all members to purchase. Section 2(a) of H.R. 9019.

Senate Amendment: No comparable change in existing law.

Conference Substitute: Conforms to the House bill because there are some States which require HMOs under State law to offer services which are not included among the defined basic health services. Therefore in such States the Senate bill is inconsistent with State laws which are not preempted by the provisions of section 1311 of existing law.

Capacity to deliver supplemental health services

Existing Law: Requires that HMOs make supplemental health services available and accessible within the areas they serve to all members promptly, as appropriate, and in a manner which assures continuity. This has been interpreted to apply to all possible supplemental health services whether or not any member of the HMO has actually contracted for them. Section 1301(b)(4) of existing law.

House Bill: Limits the requirement for the availability of supplemental health services to only such supplemental health services for which members have actually contracted. Section 2(c) of H.R. 9019.

Senate Amendment: No comparable change.

Conference Substitute: Conforms to the House bill.

STAFFING OF HMOS

Allowable sources of professional staffing

Existing Law: Provides that the services of health professionals which the HMO offers as basic health services may be provided through the staff of the HMO, or through one or more medical groups, or through one or more individual practice associations (IPAs) but does not permit HMOs to make mixed use of staff, medical groups, and/or IPAs. Section 1301(b)(3) of existing law.

House Bill: Permits HMOs to provide professional services through any combination of staff, medical groups, IPAs, or professionals under contract. Section 3(a) of H.R. 9019.

Senate Amendment: No comparable change.

Conference Substitute: Conforms to the House bill.

Authority to Contract for Professional Services

Existing Law: Prevents HMOs from contracting with individual health professionals, or groups of health professionals which do not qualify as medical groups or IPAs as defined, except where their services are unusual or infrequently used. Section 1301(b)(3) of existing law.

House Bill: Permits contracting directly with health professionals for their services (subject to such provisions as the Secretary may require, including provisions requiring appropriate continuing education). Section 3(a) of H.R. 9019.

Senate Amendment: No comparable change.

Conference Substitute: Contains a compromise which provides that HMOs may contract for professional services with individual health professionals, or groups of health professionals which do not qualify as medical groups or IPAs, provided that the amount contracted for does not exceed 30 percent of the dollar value of the HMO's physician services if it is principally located in a rural area, or 15 percent if it is located in an area which is not principally rural. The Conferees noted their expectation that such arrangements would ordinarily be used only for services which cannot feasibly be provided any other way. The compromise was designed to recognize that the primary difficulties faced by HMOs in delivering services through their own employees, medical groups, or IPAs are in delivering the services of particular medical specialities, particularly in rural areas where the need for the subspecialty services is limited. It gives HMOs flexibility in contracting for these services in such situations while retaining limits to assure that the major provision of services will be by the HMO (or medical groups or IPAs contracting with them). This authority would also permit HMOs to contract with independent institutions such as cancer centers or visiting nurse associations for their specialized services.

Requirements that Members of a Medical Group Practice Their Profession for an HMO

Existing Law: Requires members of a medical group, by its definition to engage in the coordinated practice of their profession as their principal professional activity and as a group responsibility *for an HMO*. Section 1302(4)(C)(i) of existing law.

House Bill: Provides that, for a five year period beginning on the date which an HMO qualifies as such under section 1310 of existing law, an HMO may provide services using medical groups which do not meet the requirement that their members practice for the HMO as their principal professional activity. Further provides that, after the expiration of the five year period, the HMO may continue to use such deficient medical groups if authorized by the Secretary to do so in accordance with regulations. Section 3(a) of H.R. 9019.

Senate Amendment: No comparable waiver of the existing requirement, but changes the definition of a medical group to require that its members engage in the coordinated practice of their profession as their principal professional activity and as a group responsibility *having substantial responsibility for delivery of medical services to enrollees in an HMO*. Section 7 of S. 1926.

Conference Substitute: Contains a conference substitute which would define medical groups so as to require that their members individually engage in coordinated group practice as their principal professional activity and collectively take substantial responsibility for the delivery of services to the members of the HMO. The Conferees understand this to mean that each member of the group will have to give over half his time to the group practice but that no such requirement would apply to the amount of time each group member served HMO members. However, a substantial portion (over 35 percent) of the whole group's services would have to go to HMO members.

HMO would not have to meet this requirement for the first three years after qualification. The Secretary would be authorized to waive the requirement beyond three years but only in the kinds of situations described in the Senate Committee report.

Requirement that IPA's be legal entities

Existing Law: Defines the term "individual practice association" (IPA) to mean "a partnership, corporation, association, or other legal entity . . .". Section 1302(5) of existing law.

House Bill: No change in existing law except to the extent that the use of the contracting authority allows HMOs to avoid using IPAs entirely.

Senate Amendment: Redefines an IPA to mean "a partnership, corporation, association, or an entity . . .". Section 3 of S. 1926.

Conference Substitute: Conforms to the House bill, a position consistent with the Conference compromise allowing HMOs to contract for professional services with health professionals under certain conditions.

Requirement that employers offer employees a choice of types of HMO's in which to enroll

Existing Law: Requires employers to offer their employees the option of membership in at least one qualified HMO which provides basic health services through professionals who are members of the staff of the organization or of one or more medical groups, and at least one HMO which provides services through one or more individual practice associations (if at least one of each type is engaged in the provision of services in the area in which the employees of the employer reside). Section 1310(b) of existing law.

House Bill: Requires employers to offer their employees the option of membership in at least one HMO which provides its services without the use of an IPA and without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals, and at least one HMO which provides its services using one or more IPAs, health professionals who have contracts with the HMO for their services, or a combination of the two. This amendment conforms section 1310(b) to the change in the number of different types of HMOs, which may qualify under the law, made by the amendments previously described, which allow contracting with health professionals and combining of different sources of staff services. Section 3(c) of H.R. 9019.

Senate Amendment: No comparable change (such a change is unnecessary in the context of S. 1926 which does not make the corresponding changes in allowable staffing for HMOs).

Conference Substitute: Conforms to the House bill, a position consistent with the Conference, compromises allowing HMOs to contract with health professionals and to combine different sources of staff services.

Income pooling in medical groups

Existing Law: Requires the members of medical groups to pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan. Section 1302(4)(C)(ii) of existing law.

House Bill. No change.

Senate Amendment: Requires the members of medical groups to pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other *similar* plan *unrelated to the provision of specific health services*. Section 7(b) of S. 1926.

Conference Substitute: Conforms to the Senate amendment because this provision is seen as specifying and clarifying the law's original intent while adding flexibility to the ways in which that intent can be achieved by allowing "similar" plans to those described.

Requirement that professionals not know members' enrollment status

Existing Law: No requirement (see section 1302(4)).

House Bill: No requirement.

Senate Amendment: Requires the members of medical groups to establish an arrangement whereby an individual's enrollment status is not known to the health professional who provides health services. Section 7(c) of S. 1926.

Conference Substitute: Conforms to the Senate amendment because the feasibility of the practice has been demonstrated and it assists in assuring equitable treatment for members of an HMO by assuring that those who serve them do not know the source of their payment.

OPEN ENROLLMENT

Existing Law: Requires HMOs to have an open enrollment period, of not less than 30 days at least once during each consecutive year, during which they accept, up to their capacity, individuals in the order in which they apply for enrollment. The Secretary is authorized to waive compliance with the open enrollment requirement for not more than three consecutive years, and to provide additional waivers, if the HMO demonstrates to the satisfaction of the Secretary that:

(a) It has enrolled or will be compelled to enroll a disproportionate number of individuals who are likely to use its services more than the average and that such enrollment would jeopardize its economic viability, or

(b) If it maintained the required open enrollment period it would not be able to comply with the requirement that HMOs enroll persons who are broadly representative of the various age, social and income groups within its service area.

Section 1301(c)(4) of existing law:

House Bill: Eliminates the open enrollment requirement. Section 4 of H.R. 9019.

Senate Amendment: Replaces the existing open enrollment requirement with a modified one which, effective on the date of enactment, would require HMOs which:

(a) have been in existence for a period of five years or have an enrollment of 50,000 members, and

(b) for the most recent fiscal year did not incur a financial deficit,

to have an open enrollment period of not less than 30 days at least once during each year during which period they accepted individuals in the order in which they applied for enrollment without regard to preexisting illness, medical condition, or degree of disability.

HMOs would not be required to comply with the open enrollment requirement, if they had enrolled a number of individuals during each year in excess of 4 percent of their total net increase in enrollment during the preceding calendar year. In determining total net increases in enrollment, individuals who had enrolled in the HMO through a group which had an existing contract for health services with the HMO at the time that it became qualified under section 1310 would not be included among those considered as having enrolled in the preceding calendar year.

The open enrollment requirement notwithstanding, an HMO would not be required to enroll individuals who are, at the time of their application, confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the HMO if such individual were enrolled. HMOs would not be required to make the effective date of benefits for individuals enrolled under the open enrollment less than 90 days after the date of enrollment. The Secretary would be authorized to waive the requirement for open enrollment if the HMO demonstrated that compliance with its provisions would jeopardize its economic viability in the serve area which it served. Section 4 of S. 1926.

Conference Substitute: Contains a compromise which generally conforms to the Senate amendment except to provide that HMOs would not be required to continue to comply with the open enrollment requirement if they had enrolled during the enrollment period a number of individuals to equal three percent of their total net increase in enrollment during the preceding calendar year. The compromise maintains the principle of open enrollment but sets a standard which HMOs believe is realistic and feasible to meet without jeopardizing their economic viability.

BASIC AND SUPPLEMENTAL HEALTH SERVICES

Alcohol and addiction services

Existing Law: Requires HMOs to offer as basic health services "medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol or drugs". Section 1302(1)(E) of existing law.

House Bill: Drops alcohol and addiction services from the required basic health services and adds to the optional supplemental health services "referral services and medical treatment for the abuse of or addiction to alcohol or drugs". Section 5(a) of H.R. 9019.

Senate Amendment: No comparable change.

Conference Substitute: Conforms to the Senate amendment and existing law because of indications that provision of alcohol and addiction services as part of basic services is not an economic burden on the HMO.

Preventive health services

Existing Law: Requires HMOs to offer as basic health services preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction). Section 1302(1) (H) of existing law.

House Bill: Amends the required preventive health services to omit preventive dental care for children, and to add, to those specified as included, immunizations, well child care from birth, periodic health evaluations for adults, and children's ear examinations conducted to determine the need for hearing correction. Section 5(a) of H.R. 9019.

Senate Amendment: Limits preventive health services to those specified, rather than merely specifying certain services which must be included in the preventive health services offered. Omits from preventive health services preventive dental care for children and adds to those specified immunizations, well child care from birth, and periodic health evaluations for adults. Section 5(a) of S. 1926.

Conference Substitute: Conforms to the House bill.

COMMUNITY RATING

Waiver of Community Rating

Existing Law: Requires HMOs to fix the payment for basic health services, and for supplemental health services whose payments are fixed on a prepayment basis, under a community rating system. No waiver or delay of the applicability of this requirement is provided. Section 1301(b) (1) and (2) of existing law.

House Bill: Provides that the requirement that basic and supplemental health services payments be fixed under a community rating system shall not apply until five years after the date on which the HMO becomes qualified under section 1310. Section 6(a) of H.R. 9019.

Senate Amendment: Provides that for any entity which, on the date of enactment, is providing comprehensive health services as a prepaid group practice, or otherwise providing comprehensive health services on a prepaid basis, the requirement that basic health services payments be fixed under a community rating system shall not apply until three years after the date of enactment. No waiver is provided for the requirement for community rating of supplemental health services payments. Section 6(a) of S. 1929.

Conference Substitute: Contains a compromise which generally conforms to the Senate amendment but provides that the four year postponement of the requirement for use of a community rating system apply to supplemental as well as basic health services, and similarly allows the Secretary to waive the community rating requirement for supplemental as well as basic health services. The compromise recognizes that existing, prototype HMOs which have not been community rating, or have community rated but not in the fashion required by the existing law, need time to come into compliance with the requirement, while new HMOs have generally been able to comply with it.

Variation in community rates

Existing law: Provides only for the following differentials in rates of payment established under community rating systems:

(a) nominal differentials which reflect the different administrative costs of collecting payments from different categories of members, and

(b) differentials for members enrolled in an HMO under a Federal, State or local health benefits plan.

Section 1302(8) of existing law.

House Bill: No change.

Senate Amendment: Provides in addition for differentials in community rates which reflect the distribution or compositing of the rates of payment in a systematic and uniform manner to accommodate group purchasing practice of the various employers. Section 6(c) of S. 1926.

Conference Substitute: Conforms to the Senate amendment, except that the system is not required to be uniform so that three step rates are possible.

INCREASES IN LIMITS ON FEDERAL FINANCIAL ASSISTANCE

Limits on feasibility surveys

Existing Law: Limits the amount of Federal assistance under a grant or contract for a feasibility survey to $50,000 in each year. Section 1303(e) of existing law.

House Bill: No change.

Senate Amendment: Increases the limit to $75,000 in each year. Section 8(e) of S. 1926.

Conference Substitute: Conforms to the Senate amendment, because the experience of the existing program, with the effects of inflation since the original enactment of the HMO Act, is that $50,000 is often an inadequate amount for a satisfactory feasibility survey. Since feasibility surveys are effectively weeding impossible HMOs out and preventing their receiving more expensive planning grants, a satisfactory feasibility survey is recognizably a wise investment on the part of the Federal government.

Limits on planning projects

Existing Law: Limits the amount of Federal assistance for planning projects to $125,000 in each year. Section 1304(f) (1) (A) of existing law.

House Bill: No change.

Senate Amendment: Increases the limit to $200,000 in each year. Section 6(e) of S. 1926.

Conference Substitute: Conforms to the Senate amendment, because the present limit on planning projects, $125,000 a year, is substantially less than the present limit on the next stage in the development process, initial development with a limit of $1 million, and the Department has found that with a slightly higher limit on planning projects it can more reliably decide which projects do, and which do not, require the larger investment of initial development funds. Increasing these limits does not increase the total authorization for the program, or the amount which the Department must in fact give to HMOs since the amount of grants is discretionary.

Limits on initial development projects

Existing Law: Limits the amount of Federal assistance for initial development projects to the lesser of $1,000,000 or 90 percent of the project's cost (unless the project will serve a medically underserved population in which case the limit is 100 percent of projected costs). Section 1304(f) (2) of existing law.

House Bill: No change.

Senate Amendment: Increases the limit to $2,000,000 in the case of a project where an HMO will provide services to an additional service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous. Section 6(e) of S. 1926.

Conference Substitute: Contains a compromise which increases the limit to $1,600,000 in the case of a project where a qualified HMO will provide services to an additional service area or in one or more areas which are not contiguous because such increase may be necessary in view of inflation in costs.

Limits on initial operations loans

Existing Law: Limits the number of years of Federal assistance for initial operation of HMOs to three: the amount of loans which may be made or guaranteed in any one year to $1,000,000, and the total amount of loans which may be made or guaranteed to $2,500,000. Section 1305(a) and (b) of existing law.

House Bill: No change.

Senate Amendment: Increases the total amount of loans which may be made or guaranteed to $5,000,000 during a period not to exceed five years, but does not change the $1,000,000 annual limit, or the three year limit on the period for which assistance may be made available for operating costs. Section 6(e) of S. 1926.

Conference Substitute: Contains a compromise which retains the existing annual limit of $1,000,000 in loan assistance and the existing $2,500,000 total limit on loan assistance, but extends the period for which loans may be made available from three to five years, because program experience has demonstrated that few HMOs need more than the existing maximum amount of loan assistance but that a reasonable number need to spread the availability of the $2,500,000 over a longer period than the existing three year limit.

EARMARKS FOR HMOS WHICH WILL SERVE NON-METROPOLITAN AREAS

Existing Law: Requires that 20 percent of the funds appropriated in any fiscal year for feasibility surveys, planning projects, and initial development projects be set aside for projects which the Secretary determines may reasonably be expected to draw not less than 66 percent of their membership from residents of non-metropolitan areas. Sums thus set aside during fiscal years 1974 and 1975, but not obligated for lack of applicants, are to remain available in the succeeding fiscal year for projects which need not serve non-metropolitan areas. Sections 1303 (i) and 1304(k) of existing law.

House Bill: No change.

Senate Amendment: Deletes reference to fiscal years 1974 and 1975 so that funds set aside in any fiscal year for projects to serve non-metropolitan areas will be available in the succeeding fiscal year for projects which need not serve such areas. Section 9(d) of S. 1926.

Conference Substitute: Contains a compromise which generally adopts the provisions of the Senate amendment, but requires that projects located in non-metropolitan areas have priority for receipt of funds carried over to a succeeding fiscal year.

DUAL CHOICE

Service area

Existing Law: Requires employers of more than 25 employees to offer in any health benefits plan offered to their employees the option of membership in qualified HMOs which are engaged in the provision of basic and supplemental health services in the areas in which such employees reside. Section 1310 (a) of existing law. Existing law refers on several occasions to the area served by an HMO but does not define such an area.

House Bill: Requires employers who employ more than 25 employees to offer in any health benefits plan offered to their employees the option of membership in qualified HMOs which are engaged in the provision of basic health services in health maintenance organization service areas in which at least 25 of such employees reside. Does not define such service areas. Section 9(a) of H.R. 9019.

Senate Amendment: Makes a comparable revision and also defines "service area" for the purposes of the dual choice section (section 1310) to mean a "defined geographic area within which those basic health services, included in section 1301 of the Act, are easily and conveniently accessible to each member of an HMO". Section 10(1) of S. 1926.

Conference Substitute: Conforms to the House bill without definition of "service area" because existing law refers to HMO service areas without defining them and this has not caused difficulty to date.

Penalties for violation of section 1310

Existing Law: Specifies that failure of any employer to comply with the requirements of section 1310 shall be considered a willful violation of section 15 of the Fair Labor Standards Act of 1938. Section 1310(c) of existing law.

House Bill: Deletes the existing penalty provision and substitutes a new one which provides that any employer who knowingly does not comply with one or more of the requirements of section 1310(a) shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, civil penalty may be assessed and collected for each thirty day period of noncompliance. Each penalty may be assessed by the Secretary and collected in a civil action brought by the U.S. in a U.S. District Court. In any proceeding to assess a civil penalty, no penalty is to be assessed until the employer charged shall have been given notice and an opportunity to present its views on the charges. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary is to consider the gravity of noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary. In any civil action brought to review the assessment of a civil penalty the Court is to, at the request of any party to the action, hold a trial *de novo* on the assessment of the penalty. In any civil action to collect such a penalty, the Court is to, at the request of any party to the action, hold a trial *de novo* on the assessment of the penalty unless in a prior civil action to review the assessment of such penalty the court held a trial *de novo* on the assessment. Section 9(a)(3) of H.R. 9019.

Senate Amendment: Contains a similar new penalty provision except that:

1. Violations need not be "knowing".
2. No indication is given that the amount of a penalty may be agreed upon in compromise.
3. Court review may be obtained by any person against whom a violation is found and a penalty assessed in the Court of Appeals of the U.S. for the circuit in which such person resides or has his principal place of business, or in the U.S. Court of Appeals for the District of Columbia, by filing a notice of appeal in the court within thirty days from date of the assessment and by simultaneously sending a copy of the notice to the Secretary. The Secretary is to promptly file in such court a certified copy of the record upon which the violation was found and the penalty assessed as provided in section 2112 of title 28, U.S.C. If any person fails to pay assessment of a civil penalty, after it has become final or after the appropriate Court of Appeals has entered final judgment in favor of the Secretary, the Secretary is to recover the amount assessed in the appropriate District Court of the U.S. In such action, the validity and appropriateness of the final order imposing the civil penalty is not to be subject to review.

Section 10(3) of S. 1926.

Conference Substitute: Conforms to the House bill.

Exemptions of churches from the requirements of section 1310

Existing Law: Exempts only employers who employ an average of fewer than 25 persons from the effects of section 1310.

House Bill: Adds exemption for the Government of the U.S., the District of Columbia or any territorial possession of the U.S., or any agency or instrumentality (including the U.S. Postal Service and the Postal Rate Commission) of any of the foregoing governments. Section 9(a)(3) of H.R. 9019.

Senate Amendment: Provides similar exemptions and also exempts a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization is included within the provisions of section 501(c)(3) of the Internal Revenue Code; provided, however, that any such entity may not discriminate

(i) in the employment, promotion or termination of employment of any personnel, or

(ii) in the extension of staff or other privileges to any physician or other health personnel,

because such persons seek to obtain health care, or participate in providing health care through an HMO. Section 10(c) of S. 1926.

Conference Substitute: Conforms to Senate amendment with the addition or a requirement that exempt church organizations do not discriminate in the compensation of personnel because they use an HMO. Compensation in this case should be understood to include fringe and other indirect benefits of employment as well as direct compensation.

Administration of section 1310

Existing Law: Leaves administration of section 1310 discretionary with the Secretary of HEW. Section 1310 of existing law.

House Bill: No change

Senate Amendment: Requires that the duties and functions of the Secretary, when they involve determining whether an HMO is qualified within the meaning of subsection 1310(d), be administered through the Assistant Secretary for Health in the Office of Assistant Secretary for Health, and that the Administration of such duties and functions be integrated with the administration of section 1312(a) (providing for continued regulation of HMOs). Section 10(3) of S. 1926.

Conference Substitute: Conforms to the Senate amendment, because the Department of Health, Education, and Welfare is presently administering qualification activities in conjunction with the administration of section 1312(a) in this manner, and to this extent acceptance of the Senate amendment reflects the existing situation, and because existing law already requires the administration of section 1312(a) to be located in the Office of the Assistant Secretary for Health, a requirement of the existing law which has always been flouted. The conferees except that with passage of these amendments such an office will be established and adequately staffed.

FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM

Existing Law: Applies the dual choice requirements of section 1310 to the Federal government as an employer. Section 1310 of existing law.

House Bill: Exempts the Federal government from the requirements of section 1310 as an employer but amends the authority for the Federal employee's health benefits program, section 8902 of title 5, U.S.C., to require the Civil Service Commission to contract for a Federal employee health benefits plan with any qualified health maintenance carrier which offers such a plan. A qualified health maintenance carrier is defined as a qualified carrier (within the meaning of the Federal employees health benefits program) which is a qualified HMO within the meaning of section 1310(d) of the HMO Act. Section 9(b) of H.R. 9019, page 19 of the comparative print.

Senate Amendment: No comparable change.

Conference Substitute: Conforms to the House bill, because it is an appropriate way to effectively extend general policy relating to dual choice to Federal employees.

ENFORCEMENT OF REQUIREMENTS OF HMOS

Existing Law: Requires the Secretary to undertake continuing regulation of HMOs and, for any HMO which fails to provide basic and supplemental health services, fails to provide services in the manner prescribed by section 1301(b) or is not organized and operated in the manner prescribed by section 1301(c), authorizes the Secretary (in addition to any other remedies available to him) to bring civil action in the U.S. District Court in which the HMO is located to enforce its compliance with assurances given in connection with receipt of assistance under the Act. Section 1312(a) of existing law.

House Bill: Revises the enforcement procedures under section 1312 to provide for formal notice to HMOs which fail to comply with the Act's requirements, and require loss of qualification under section 1310 and notification of parties affected by any failure by the HMO to comply with the law's requirements. Section 10 of H.R. 9019.

Senate Amendment: Makes similar revisions and in addition provides that an enrollee of an HMO may (in addition to any other remedy available to him) bring a civil action, notwithstanding the amount in controversy, in the U.S. District Court in which the HMO is located to enforce its compliance with assurances it furnished him, directly or indirectly, respecting the provision of basic and supplemental health services. Section 11 of S. 1926.

Conference Substitute: Conforms to the House bill. The conferees noted that the resolution of these issues in this manner does not change any existing right of individuals to bring suit in State courts. Further, they agreed to examine the frequency and outcome of such suits when the program is next considered.

AUTHORIZATIONS OF APPROPRIATIONS

Authorizations of appropriations for HMO development are found in section 1309(a) and 1305(d) of existing law, section 12 of H.R. 9019, section 13 of S. 1926, and section 113 of the Conference substitute.

TABLE 1.—AUTHORIZATION OF APPROPRIATIONS FOR HMO DEVELOPMENT

[In millions of dollars]

	1976	1977	1978	1979	Total
Existing law	85	[1] 85			170
House bill	45	45	40	[1] 40	170
Senate amendment	40	55	70	85	250
Conference substitute	40	45	45	[1] 50	180

[1] Available only for initial development purposes.

RESTRICTIVE STATE LAWS

Notification of preemption

Existing Law: No provision. Section 1311 of existing law.

House Bill: Requires the Secretary, within six months of the date of enactment, to notify the Governor of each State of each requirement in effect to which section 1311 applies. Section 13(c) of H.R. 9019.

Senate Amendment: Requires the Secretary to develop, through grants or contracts, a digest of State laws and regulations pertaining to development, establishment and operation of HMOs which is to be updated at least quarterly and relevant sections of which are to be provided to the Governor of each State annually. The Secretary is also to assure that appropriate legal consultative assistance is available to the States for the purposes of complying with the provisions of section 1311. Section 11(d) of S. 1926.

Conference Substitute: Contains a compromise which generally conforms to the Senate amendment with the addition of the six month deadline for action on the part of the Secretary included in the House bill, and a requirement that the information which the Secretary provides to the Governors contains an indication of which State laws and practices appear to be inconsistent with the preemption of State laws and practices contained in section 1311.

Enforcement of provisions respecting restrictive State laws and practices

Existing Law: States that specified State laws and practices shall not apply to entities seeking to operate as HMOs so as to prevent them from operating as HMOs in accordance with section 1301, but does not provide any mechanism for assuring that States will not apply such laws or practices. Section 1311 of existing law.

House Bill: No change.

Senate Amendment: Provides that an interested party may bring a civil action (notwithstanding the amount in controversy) in the U.S. District Court in which the HMO is located to enforce the provisions of section 1311. The District Court is authorized to award reasonable attorney's fees to a plaintiff for an action brought under section 1311, as amended. Section 11(d) of S. 1926.

Conference Substitute: Conforms to House bill.

PROGRAM EVALUATION BY THE COMPTROLLER GENERAL

Existing Law: Requires the Comptroller General to evaluate the operation of at least 50 HMOs for which financial assistance was provided under the Act and which have been in operation for at least 36 months. The Comptroller General is to report the results of such evaluation not less than 90 days after at least 50 such HMOs have been in operation for at least 36 months. Section 1314(a) of existing law.

House Bill: Requires the Comptroller General to evaluate the operation of at least 10 or one-half, whichever is greater, of the HMOs which have received financial assistance under the Act, and which have qualified as HMOs under section 1310 by December 31, 1976. The Comptroller General is to report the results of such evaluation by June 30, 1977. Section 16 of H.R. 9019.

Senate Amendment: Makes a similar change, except that the Comptroller General's report is to be made by the end of June 30, 1978. Section 17 of S. 1926.

Conference Substitute: Conforms to the Senate amendment.

TREATMENT OF HMO'S UNDER MEDICARE

Definition and requirements of an HMO

Existing Law: Title XVIII of the Social Security Act defines and sets forth requirements for HMOs for the purposes of title XVIII without reference to the definition of an HMO found in title XIII of the PHS Act. The definition and requirements in title XVIII are, however, generally comparable to those in title XIII except that:

(1) The services required are those covered under Parts A and B of title XVIII rather than the basic health services.

(2) Physicians' services are to be provided primarily either directly through physicians who are employees or partners of the HMO or under arrangements with groups of physicians (whether organized on a group practice or individual practice basis) who are prepaid by the HMO, rather than by physicians who are either on the staff of the HMO, in a medical group or in an individual practice association.

(3) The definition specifically requires the HMO to provide both primary care and specialty care physicians for its members and defines a "specialty care physician".

(4) At least half of the members of the HMO are to be under age 65 (with a three year waiver provided for making the transition to meet this requirement).

(5) The institutions, entities, or persons who provide the covered service to Medicare beneficiaries, either directly or under arrangements, must meet Medicare definitions and requirements.

(6) Provision is made for enrollment of not only beneficiaries eligible for benefits under Part A and Part B of Medicare, but for those eligible only for Part B benefits.

(7) The HMO premium rate or other charge to Medicare enrollees is based on the actuarial value of the Medicare deductible plus any coinsurance (rather than community-rated as under title XIII).

(8) HMOs participating in Medicare are not required to assume full financial risk; rather, payment to the HMOs is made either on a reasonable cost basis or under a special risk formula.

(9) Payments for out-of-area services are made directly to the institution, entity, or person who furnished the service (rather than through the beneficiary as under title XIII).

And

(10) There is no provision for waiver of the open enrollment requirement.

Section 1876(b) of title XVIII of the Social Security Act.

House Bill: No change.

Senate Amendment: Amends the definition and requirements of an HMO in section 1876 (b) to rely upon, by cross reference, the definition and requirements of an HMO in title XIII of the PHS Act, except to specify that the services which the HMO must provide are those covered in Parts A and B of title XVIII rather than the basic health services defined in title XIII. The requirements of existing law (subparagraphs (4)-(10) above) which are additional to those in title XIII are preserved. The requirements for physicians' services are eliminated in deference to those in title XIII and the requirement for provision of primary and specialty care physicians is eliminated outright. Section 14 of S. 1926.

Conference Substitute: Conforms to the Senate amendment. The issues were discussed with both the House Committee on Ways and Means and Senate Committee on Finance. The Senate amendment was acceptable to all concerned; because it creates desirable uniformity in HMO policy and administration.

Administration

Existing Law: Makes no specific provision for the administration of the HMO provisions in title XVIII of the Social Security Act.

House Bill: No change.

Senate Amendment: Requires the Secretary to administer determinations of whether an organization is an HMO within the meaning of the amended definition in section 1876 through the Assistant Secretary for Health, and in the Office of the Assistant Secretary for Health, and to administer the making of such determinations in an integrated fashion with the administration of section 1312 (a) and (b) of the PHS Act (concerning continued regulation of HMOs). Further specifies that the administration of the remainder of section 1876 shall be done through the Commissioner of Social Security. Section 14 (a) of S. 1926.

Conference Substitute: Conforms to the Senate amendment.

Requirements respecting reinsurance costs

Existing Law: Requires that each contract with an HMO under section 1876 provide that no reinsurance costs (other than those with respect to out-of-area services) including any underwriting of risk relating to costs in excess of adjusted average per capita cost, as defined in clause III of section 1876(a)(3)(A), shall be allowed for purposes of determining payment, authorized under section 1876. Section 1876(i)(6)(B) of the Social Security Act.

House Bill: No change.

Senate Amendment: Strikes the requirement. Section 14(c) of S. 1926.

Conference Substitute: Contains a compromise which in general conforms to existing law, but is made consistent with the policy of reinsurance in existing title XIII of the PHS Act, by allowing HMOs at risk under title XVIII to reinsure for out-of-area and catastrophic costs.

15. TREATMENT OF HMOS UNDER MEDICAID

Definition of an HMO

Existing Law: Title XIX of the Social Security Act does not include (or define) the term "health maintenance organization". However, provision is made in the law for contracts by the State with an organization which has agreed to provide care and services to individuals and allows such an organization to provide care and services in addition to those in the State Medicaid plan to its enrollees without violating the legal requirement that covered program services must be offered on a Statewide basis. Additionally, program regulations allow for State contracts for services on a paid capitation basis, which may be on a risk basis, and includes health maintenance organizations as potential contractors for services.

House Bill: No change.

Senate Amendment: Provides a definition of an HMO in Medicaid which relies upon, by cross reference, the definition of an HMO in section 1301 of the PHS Act, except to specify that for purposes of title XIX "basis health services" means the following mandatory Medicaid services: inpatient hospital services, outpatient hospital services, other laboratory and X-ray services, family planning services, and physicians' services. The amendment also provides that an HMO under title XIX may have no more than half of its enrollees who are either covered under Medicare or recipients of Medicaid, except that the Secretary may waive this requirement for up to three years if the organization demonstrates that it is making progress toward meeting the requirement. Section 15 of S. 1926.

Conference Substitute: Conforms to the Senate amendment with a technical correction to include home health services since they are a required service under title XIX. The amendment was agreed to because it will provide uniformity in policy in the major public health financing programs.

Administration

Existing Law: No provision.

House Bill: No change.

Senate Amendment: Requires the Secretary to administer determinations as to whether an organization is an HMO within the meaning of the new definition in Medicaid through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and to administer the making of such determinations in an integrated fashion with the administration of sections 1312 (a) and (b) of the PHS Act (concerning continued regulation of HMOs). Allows a State to make a provisional determination for purposes of its Medicaid program that an organization is an HMO where (1) the organization has applied to the Secretary to become a qualified HMO under section 1310(d) of the Public Health Service Act and (2) no determination has been made within 90 days. The provisional determination by the State remains in effect until the Secretary makes a determination. Section 15 of S. 1926.

Conference Substitute: Conforms to the Senate amendment because it assures uniformity in application of policy.

Prohibition on payments to other organizations providing service on a prepaid risk basis

Existing Law: No provision. Title XIX regulations allow States to contract for services with organizations on a prepaid capitation at-risk basis.

House Bill: No change.

Senate Amendment: The intent of the Senate amendment is to eliminate Federal matching funds under title XIX for State expenditures incurred for payment for services of an organization which provides on a prepaid capitation at-risk basis inpatient hospital services and any other mandated Medicaid service, or any three other Medicaid services, unless the organization either

(a) has qualified as an HMO, or

(b) has received a grant as a community health center or a migrant health center of $100,000 or more in fiscal year 1976 and a similar grant in subsequent fiscal years, and

(c) provides on a prepaid capitation at-risk basis inpatient and outpatient hospital services, laboratory and X-ray services, family planning services, and physicians' services.

Section 15 of S. 1926.

Conference Substitute: Contains a compromise which conforms to the Senate amendment but (1) delays the effective date for the provision for existing contracts for one year, or until the contract is renegotiated, whichever is earlier, and (2) adds two additional exceptions to the requirement that Federal matching be available for services provided by an organization providing hospital service and any other mandated Medicaid service, or any three other Medicaid services, on a prepaid risk basis only if that organization is determined to be an HMO. The additional exceptions are:

(1) The requirement will not apply to an organization which is a nonprofit primary health care entity located in a rural area which received a grant (or subgrant or subcontract) of $100,000 or greater under the Appalachian Regional Development Act in fiscal 1976, and in each year thereafter either continued to receive such grant or provided services under contract on a risk basis for title XIX recipients (this parallels the exception for community health centers and migrant health centers already continued in the Senate amendment);

(2) The requirement will not apply to an organization which has contracted for the provision of services (but not including inpatient hospital services) to persons eligible under title XIX on a prepaid risk basis prior to 1970.

The Conferees generally supported the Senate amendment because of the need for increased Federal oversight of arrangements under title XIX for services provided on a prepaid risk basis. The Conferees were concerned, however, that the provision should not preclude primary health care organizations receiving funds from the Appalachian Regional Commission, such as the Mountain Trails Health Plan in Middlesboro, Kentucky, from serving Medicaid recipients on a risk basis, or prevent continuing risk contracts with organizations, such as the Health Insurance Plan in New York City, which have had a longstanding contractual relationship to provide services to Medicaid recipients on a prepaid risk basis. This concern was the source of the two changes in the Senate amendment agreed to by the Conferees. Additional concern was expressed about the impact of the change brought about the Senate amendment on existing demonstration projects, such as the one underway in Newark, New Jersey. Since the authority in section 1115 of the Social Security Act is unchanged by the amendment, and continues to allow the requirements of section 1902 to be waived and the requirements of section 1903 to be overridden in determining expenditures eligible for Federal matching, these demonstration projects, and other projects which are designed as legitimate demonstrations of new and previously undemonstrated ways to deliver health care more effectively to Medicaid recipients, would not be endangered.

RELATIONSHIP BETWEEN HMO'S AND HEALTH PLANNING PROGRAMS

Applicability of certificate of need

Existing Law: Specifically includes HMOs in the definition of "institutional health services" in section 1531(5) of the PHS Act. This subjects HMOs to law to the certificate of need process required by title XV in every State.

House Bill: No change.

Senate Amendment: Deletes reference to HMOs from the definition of institutional health services. This has the effect of subjecting those specific services of HMOs which are institutional health services as defined in regulations of the Secretary to certificate of need but not the specific services of HMOs which are not institutional health services nor the establishment of the HMO itself. Section 16(a) of S. 1926.

Conference Substitute: Conforms to the House bill. The Conferees noted that the entire subject of certificate of need for outpatient and ambulatory services in both prepaid and fee-for-service settings will be considered next year when P.L. 93–641 is reviewed for extension. Thus it was felt that it would be more appropriate to deal wtih inclusion of HMOs under the requirements of the planning act at that time.

Consistency in procedures and criteria

Existing Law: Section 1306(c) of the PHS Act requires the Secretary to establish standards and procedures for areawide and State health planning agencies to follow in reviewing HMO applications for assistance under title XIII. Section 1532 requires areawide and State health planning agencies to follow procedures and criteria, developed and published in accordance with regulations, which criteria are to include criteria respecting the special needs and circumstances of HMOs for which assistance is available under title XIII.

House Bill: No change.

Senate Amendment: Requires the criteria established by areawide and State health planning agencies under section 1532(c) to be consistent with standards and procedures established by the Secretary under section 1306(c). Section 16(b) of S. 1926.

Conference Substitute: Conforms to the Senate amendment, because, although the procedures and criteria required of health planning programs by P.L. 93–641 were required to include special consideration of the needs and circumstances of HMOs, this provision was not enlarged upon or specified in any way in regulations published by HEW. The Senate amendment would assist in correcting this situation because the standards and procedures established by the Secretary under section 1306(c) would be the responsibility of the HMO program rather than the health planning program.

Specification of criteria for HMOs is of critical importance because projects for the development and expansion of HMOs and their services should be judged on the basis of the need for HMOs and the need for their services for their enrolled members and reasonably anticipated new members and not on the need for the services in general if proposed by non-HMO providers.

Thus, in considering requests for new HMOs or the expansion of existing ones, the State agency and the health system agency should consider:

1. The number of HMOs of the same type in the area,

2. The number of persons in the area enrolled in qualified HMOs of the same type, and

3. The percentage of major employers and all employers of over 25 employees in the area which offer or will offer qualified HMOs as benefits for their employees.

In considering requests by HMOs to provide or arrange for new institutional health services, the agencies should consider whether the proposed service is available from non-HMO providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In making such a determination, the agencies should consider:

1. Whether the alternative service would be more costly to the members of the HMO.

2. Whether the alternative service would be available to the members of the HMO on a long-term basis, and

3. Whether the alternative service would be available and conveniently accessible through physicians and other health professionals associated with the HMO. (For example, whether physicians associated with the HMO are granted full staff privileges at the hospital which is proposed to provide the alternative services.)

Proposals to provide new institutional health services, after feasibility of an HMO has been demonstrated, should not be subject to redetermination, subsequent reviews, public hearings, etc., at large stages of activity, if the proposals are consistent with the basic objectives, schedule and plan of the earlier application approved by the HSA. Similarly, certificate of need determinations should be made during the planning stage of the HMO's development. This is to prevent up to $1 million of initial development funds being awarded only to have a certificate of need denied, or the need for an HMO questioned by antagonistic groups late in the HMO's developmental sequence.

REQUIREMENTS FOR PUBLIC HEARINGS ON THE PART OF THE SECRETARY

Existing Law: No requirement.

House Bill: No requirement.

Senate Amendment: Requires the Secretary to conduct public hearing within the area which will be served by an applicant for HMO assistance within 30 days after the receipt of an application for a feasibility survey, planning project, or initial development project. In each case the Secretary is required to provide individual written notice of the hearing, giving information as to the nature and purpose of the application to all mayors or other appropriate government officials, hospital administrators, medical societies and public health planning agencies or councils within the area proposed to be served by the applicant. The notice is to be given not less than 10 days prior to the date of the hearing and parties so notified are to be requested to submit written or oral recommendations concerning the proposed grant or contract. Section 18 of S. 1926.

Conference Substitute: Conforms to the House bill.

CENTER FOR POLICY ANALYSIS

Existing Law: No requirement.

House Bill: No requirement.

Senate Amendment: Adds a requirement for funding of an additional national special emphasis center to the two already required by section 305(d)(1) of the PHS Act (the authority for health services research and demonstrations). The required additional center is to be designated as the Health Services Policy Analysis Center and is to focus on the development and evaluation of national policies with respect to health services, including the development of HMOs and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system. Section 21 of S. 1926.

Conference Substitute: Conforms to the Senate amendment. The conferees noted that this center should be chosen in accordance with the usual grant and contract review procedures applicable to this section to assure competence.

RECRUITMENT OF HEALTH PERSONNEL FOR HMOS

Existing Law: Specifies some of the uses which financial assistance for initial development may be put to including the recruitment of personnel for HMOs and the conduct of training activities for them. Section 1304 (b)(2)(D) of existing law.

House Bill: No change.

Senate Amendment: Changes the reference to recruitment to become the recruitment of personnel for "an HMO, medical group, or individual practice association who will provide health services through such organization, group or association". Section 22 of S. 1926.

Discussion and Staff Recommendation: Existing law has provided inflexible with respect to recruiting, particularly in rural areas, physicians who would work for either a medical group or individual practice association, rather than for an HMO itself. However, the argument has been made that it would be unreasonable to use Federal funds to recruit health professionals who might contribute only a small fraction of their time and services to the HMO under the terms of their agreement with the medical group or individual practice association.

Conference Substitute: Contains a compromise which conforms to the Senate amendment with a change specifying that funds may be used only for recruitment of personnel who will engage in practice principally for the HMO (thus requiring that over half of the time of people recruited using Federal funds be available for the purposes for which the Federal funds were made available).

HOME HEALTH SERVICES

Existing Law: P.L. 94–63, the Health Revenue Sharing and Health Services Act of 1975, includes authorization of appropriations for a one year demonstration grant program for home health services in fiscal year 1976. Section 602 of P.L. 94–63.

House Bill: No change.

Senate Amendment: Extends the one year demonstration grant program through the transitional quarter and fiscal year 1977 with a total authorization of appropriations of $15 million. Section 23 of S. 1926.

Conference Substitute: Conforms to Senate amendment.

The Conferees felt that a Senate one-year extension was appropriate, despite the fact that the original provision had been agreed to only as a "one year demonstration program", so that areas in which home health services are not otherwise available could be afforded the opportunity to develop new, or expand existing, home health agencies. There are over 600 counties within the United States containing over 58 million persons who are denied the benefits of home health services because there is no home health agency to provide that service. Further, many of the 2,264 home health agencies certified under Medicare provide only skilled nursing and one other service. This limited scope of home health services is particularly true in rural areas. The emphasis during the year of extended authorization should be on defining the kinds of home health services needed and the extent of the need, and building the capacity, in areas with a high percentage of elderly and medically indigent, to deliver home health service as defined under Title XVIII.

Cognizant of the concerns raised by the Congress during the passage of the initial home health authorization, the Conferees are encouraged by the recent efforts of the Undersecretary to achieve greater uniformity in the Medicaid and Medicare regulations, as they apply to home health services. The Conferees believe that the future of home health services is dependent in large measure upon the development of a consistent Federal approach to the establishment of and payment for these services.

In extending the current authorization, it is expected that the Secretary of HEW will use this opportunity to collect uniform data on the home health agencies which are funded through this provision. In addition, the Conferees strongly urge the Secretary of HEW to compile available data on the 2,264 home health agencies already in existence and to collect further information where necessary. Continuing Federal support for home health agencies requires that complete and accurate information be obtained from each home health agency concerning the number of individuals served, the number of visits provided, staffing patterns, the types of services provided, the unit cost of each service and the estimated number of hospital days saved by the service.

REGULATIONS

Existing Law: No provision.

House Bill: No provision.

Senate Amendment: Requires the Secretary to promulgate regulations under title XIII, and amendments made by the proposed legislation not later than 135 days after the date of enactment of the proposed legislation. Section 24 of S. 1926.

Conference Substitute: Conforms to House bill, because past experience with deadlines which have been included in law for the promulgation of regulations indicates that they have rarely been achieved, but the requirements are not enforced because of the lack of an effective enforcement mechanism. However, the Conferees specifically noted their dismay at the administration's inability to issue regulations within a reasonable period of time.

The Conferees recognize that many organizations have been working for some time to meet the requirements of the existing legislation and become qualified HMOs. Organizations who wish to qualify under existing regulations should therefore be allowed the opportunity to do so until regulations implementing the amendments are finalized since the existing requirements are more stringent than the new ones. However, the Conferees believe that HEW should issue provisional regulations as rapidly as possible to allow organizations to qualify pending final regulations under these amendments. The Conferees have noted the time left under this Act and find that it would be in the public interest to issue provisional regulations without notice of proposed rulemaking. Any organization which qualifies under such procedure would of course be required to re-submit its application upon the issuance of final regulations and to comply with them.

SEPARABILITY PROVISION

Existing Law: No provision.

House Bill: No provision.

Senate Amendment: Contains a separability provision providing that, if any provision of the proposed legislation or the amendments made by it or their application to any person or circumstances is held invalid, the remainder of the Act, its amendments and its application is not to be affected thereby. Section 25 of S. 1926.

Conference Substitute: Conforms to the House bill because the general provisions of U.S. law contain separability provisions which make the Senate provision unnecessary.

WATER TREATMENT PROGRAMS

Existing Law: No provision.

House Bill: No provision.

Senate Amendment: Authorizes the appropriation of $2 million for fiscal year 1977, $3 million for fiscal year 1978 and $4 million for fiscal year 1979 for grants (only in such instances where the applicant voluntarily requests such assistance) to States, political subdivisions of States and other public or nonprofit private agencies, organizations and institutions to assist them in initiating, in communities or in public elementary or secondary schools, water treatment programs designed to reduce the incidence of oral disease or dental defects among residents of such communities or the students of such schools. The grant funds are to be used for (but are not limited to) the purchase and installation of water treatment equipment. The grant amounts are not to exceed 80 percent of the cost of the treatment program. Section 26 of S. 1926.

Conference Substitute: Conforms to the House bill, because water treatment programs are more appropriately dealt with in separate legislation which the House Conferees expressed an intent to conduct hearings during the coming year.

EXTENSION OF REPORTING DATE FOR COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Existing Law: Section 603(b) of P.L. 94–63 requires a report within one year after the date of enactment from the required Committee on Mental Health and Illness of the Elderly.

House Bill: No change.

Senate Amendment: Changes the requirement from within one year to not later than two years. Section 27 of S. 1926.

Conference Substitute: Conforms to the Senate amendment, because the Committee on Mental Health and Illness of the Elderly has not yet been appointed. This delay necessitates extra time to prepare the report.

Harley O. Staggers,
Paul G. Rogers,
Richardson Preyer,
James W. Symington,
Tim Lee Carter,
James T. Broyhill,
Managers on the Part of the House.

Edward M. Kennedy,
Harrison A. Williams, Jr.,
Thomas F. Eagleton,
Alan Cranston,
Claiborne Pell,
Walter F. Mondale,
William D. Hathaway,
John A. Durkin,
Richard S. Schweiker,
Jacob K. Javits,
J. Glenn Beall, Jr.,
Bob Taft, Jr.,
Robert T. Stafford,
Paul Laxalt,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 15194, PUBLIC WORKS EMPLOYMENT APPROPRIATION ACT

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Mahon, Boland, Evins of Tennessee, Shipley, Roush, Traxler, Baucus, Stokes, Mrs. Burke of California, Messrs. Cederberg, Talcott, McDade, and Young of Florida.

AMENDING THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES, AS AMENDED

Mr. HÉBERT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13615) to amend the Central Intelligence Agency Retirement Act of 1964 for certain Employees, as amended, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. HÉBERT).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13615, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Louisiana (Mr. HÉBERT) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. BEARD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. HÉBERT).

Mr. HÉBERT. Mr. Chairman, I yield myself much time as I may consume.

Mr. Chairman, the Central Intelligence Agency operates under two retirement systems. The regular civil service retirement system for the majority of its employees and another established under the CIA Retirement Act for a smaller number.

The primary purpose of the latter system is to sustain a shorter career base for service where the conditions of employment are substantially different from those associated with normal Government employment. Key provisions of the CIA Retirement Act include a straight 2-percent factor in the computation formula and retirement eligibility at age 50 after 20 years of service, both modeled after provisions of the Foreign Service Retirement Act. Other provisions of the CIA Retirement Act are, for the most part, patterned after those of the civil service retirement system.

The CIA Retirement Act was enacted to provide a comprehensive retirement and disability program for a limited number of employees whose duties either were in support of Agency activities abroad, hazardous to life or health, or so specialized as to be clearly distinguishable from normal Government employment.

Over the past few years the Civil Service Retirement Act has been amended to provide increased benefits for those on the retired rolls. Examples are: expanded survivor benefits through a broader definition of a surviving spouse, the incorporation of a widower as an eligible beneficiary, and expanded benefits for an adopted child. This legislation would incorporate such benefits in the CIA Retirement Act.

The CIA Act is in need of financial restructuring as was the Civil Service Retirement Act. H.R. 13615 would provide similar relief through setting up a system for Federal assistance through providing interest on unfunded liability, funding to offset deficits created by credit for military duty and financing to cover increased benefits not covered by employee-employer contributions.

In sum, Mr. Chairman, this legislation is designed to bring into the CIA system those benefits and financial adjustments approved by Congress in recent years for the civil service retirement system and most recently approved for the Foreign Service retirement system as title V of the fiscal year 1977 State Department authorization bill. Thus, Mr. Chairman, it would be accurate to state that we are simply asking Congress to approve for the CIA, amendments which have previously received the wholehearted support of Congress for retirement plans in other agencies.

The bill before you today incorporates some amendments which are basically technical in nature and do not affect the substantive aspects of the legislation.

Mr. Chairman, I urge my colleagues to approve this legislation in order that the provisions of the CIA retirement system may be brought to the level of other Federal systems which have received the congressional stamp of approval.

Mr. BEARD of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I rise to support H.R. 13615, the CIA Retirement Act, which I feel is reasonable and necessary.

I served for a number of years myself during the 1960's as a career employee of the Central Intelligence Agency.

I should like to point out, however, that upon termination of my service with the Agency in the autumn of 1968 I withdrew all of my retirement contributions, so that I do not stand to benefit in any way from the passage of this legislation.

Mr. BEARD of Tennessee. Mr. Chairman, I yield myself such time as I may consume, and I rise in support of this legislation.

Mr. Chairman, I join my distinguished subcommittee chariman in urging the House to approve H.R. 13615, a bill which would amend the CIA Retirement Act to conform with legislation already approved by Congress for the civil service employees and members of the Foreign Service.

As indicated in the background section of our report, the CIA Retirement Act covers that special group of people involved in Agency activities abroad which could be hazardous to life or health or so specialized as to be clearly distinguishable from normal Government employment. During the past year, Mr. Chairman, we have witnessed a vivid example of how hazardous to life a foreign CIA post may be.

There is nothing new about the provisions of this bill which would incorporate existing statutory changes in the civil service retirement system into the CIA Retirement Act. Chairman HÉBERT, in his statement, has mentioned some of the principal features of the legislation.

This legislation would also bring the CIA Retirement Act in line with other congressionally approved Federal systems to provide remedies for fiscal deficiencies.

Historically, Mr. Chairman, retirement systems have been funded by employer/employee contributions, transfer of contributions among systems where employees shift jobs and, lastly, interest earned on the investment of such funds.

Experience has proven that those sources are not sufficient to meet obligations. The reasons are clear: Until 1956 the Government did not match employee contributions. There have been changes in benefits without concomitant funding adjustments. Active duty pay increases have been made without proper retirement fund support, and transfers into the system with credit for military duty were made, again without equalizing support for the fund.

This legislation would provide for annual payments of interest on the unfunded liability. That provision would recognize that the fund is deficient, that the deficient funds are not available to accrue interest, and, therefore, such lost interest would be funded from the Treasury through the appropriations process.

A second provision would pay for disbursement attributable to credit for military service. In effect, this would replenish that portion of the annuity based upon retirement credit for military service for which there have been no prior contributions.

A third provision would finance unfunded liability for new benefits, extended coverage and salary increases. This, too, would prevent growth of unfunded liability because of those factors. This replenishment would be made through amortized payments over a period of 30 years.

A final provision recognizes that the normal cost of projected benefits to be paid exceeds employee/employer contributions and provides for annual funding of the difference.

Mr. Chairman, these funding provisions are styled after those incorporated by the Congress in recent years for the civil service and Foreign Service retirement systems, and, thus, I urge my colleagues to support this amending legislation which would bring the CIA retirement system in line with others in the executive branch.

Mr. YATES. Mr. Chairman, will the gentleman yield for a question?

Mr. HÉBERT. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman stated that the purpose of the legislation was to provide CIA employees the same kind of retirement system as other Federal employees enjoy. Does that mean that this system will provide for the 1 percent kicker that is now in effect in the Federal retirement system?

Mr. HÉBERT. I have prepared an answer to that question since I anticipated its being asked.

The fiscal year 1977 military authorization bill contained a provision that would eliminate the 1 percent kicker on military and CIA retirement program pay, provided identical action was taken to eliminate the 1 percent kicker for civil service retirees. The Foreign Service retirement system amendments, enacted into law on July 12, 1976, contained a similar provision.

House action aimed at eliminating the 1 percent civil service kicker failed to gain the necessary two-thirds vote under a suspension of the rules on August 2, 1976. Therefore, the 1 percent kicker has not been eliminated from the CIA retirement authorization. An amendment to repeal the kicker was added to H.R. 14238, the Legislative Appropriations Act, in the Senate on September 8.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. HÉBERT. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

I wonder whether there is any provision in this retirement plan regarding CIA employees who may have engaged in violations of the Federal law. Are they entitled to benefits under this act?

Mr. HÉBERT. There is nothing in this bill with respect to that.

Ms. HOLTZMAN. Therefore, there is nothing to preclude full retirement benefits from going to CIA officials who may have violated the laws of this country; is that correct?

Mr. HÉBERT. Not in this bill, no.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman.

Mr. NEDZI. Mr. Chairman, the most serious aspect of the state of affairs of Federal retirement plans has been the alarming deficiency in funding which has come about, not as a result of inadequate contributions by beneficiaries, but rather as a result of gross underfunding by the Government in those earlier years in the history of the funds. Until 1956 the Government failed to match employee contributions and to the present time there has been no matching contributions for retirement credit applied because of active military service.

Likewise, Mr. Chairman, there have been changes in wages and benefits over the years which have automatically resulted in underfunding since there were no retroactive Government contributions to cover such changes. Perhaps the most obvious facet of the deficiency in funding materialized when the absent funds were not available for investment to produce additional capital. Finally, normal costs have exceeded employer/employee contributions and without funding for these costs there was a gradual increase in the unfunded liability.

The remedies proposed to ameliorate the funding deficiency comprise the provisions of title I and include providing for interest on the unfunded liability, funds representing credit allowed for military service, funds covering increased wages and benefits, and normal costs which are not otherwise met.

Current estimates are that the cost of the legislation in fiscal year 1977 would be $52 million, increasing to $76.4 million in 1981. The bill contains a provision that funding of interest on investment and military service credit would commence at the 70-percent level for fiscal year 1977, rising to the 100-percent level for fiscal year 1980 and thereafter. Financing of unfunded liability for new benefits, extended coverage and salary increases would be met through amortized payments over a period of 30 years.

As my colleagues have stated, there is nothing unique about this legislation. These provisions conform to the provisions of the Civil Service and Foreign Service Retirement Acts, which this body has already approved and I urge similar approval for the CIA program.

Mr. CEDERBERG. Mr. Chairman, in rising to support H.R. 1365, I want to take a few moments to speak of the intelligence community and its members.

There is no doubt that the persons involved in intelligence work for this country have been much maligned in recent months. The flurry of attention given to intelligence activity has been, with little exception, related to negative incidents. The legislation at hand would provide equitable treatment for employees of the Central Intelligence Agency. For those dedicated persons, who have served with loyalty, dedication, and anonymity, such treatment in their retirement program is the least we can do.

The Congress must not stop at this gesture, however. We must recommit ourselves to maintain the strength and integrity of our intelligence network. The recent revelations and criticisms of the CIA and other intelligence organizations have weakened public respect and internal morale. In today's world, we cannot afford to have a weakened intelligence system. The problems and complexities of the international situation require immediate, accurate information and analysis that only an active intelligence community can provide.

Mr. Chairman, I speak with sincerity when I say that our security depends on the continued strength of our intelligence gathering organizations. For this reason, I am deeply concerned over the attitude and direction the Congress has taken. Rather than taking positive action to reduce abuses and strengthen the system, the Congress has further contributed to an erosion of public confidence in the vital institutions of America.

When questions of wrongdoing and illegal activity within intelligence agencies arose, the Congress made an attempt to examine the intelligence community to prevent such occurrences. Unfortunately, the record of the House and Senate committees, selected to review intelligence activity is filled with more failings than positive accomplishments.

In its infinite wisdom, the other body has chosen to create another special committee to have permanent oversight of intelligence matters. While the need for tighter congressional oversight is clear, the current situation of a special Senate committee, combined with several other standing committees, having jurisdiction over the delicate matters of intelligence activity is not acceptable.

What is needed is a single joint committee of the Congress to centralize congressional oversight of the intelligence network. Within the confines of this joint committee, security and intelligence matters could be examined in great depth, with minimal risk of breaches of security. There would no longer be any question of where the responsibility for congressional attention lies.

Resolutions have been drafted by myself and several of my colleagues which would establish such a joint committee. My legislation would create a joint committee made up of nine Representatives and nine Senators which would consolidate congressional oversight of intelligence activities. It would enable, in fact encourage Congress to take a more thorough approach to the foreign intelligence activities of our government. Such a joint committee would allow Congress to effectively supervise intelligence activity, while maintaining the security needed to preserve integrity.

What has happened to these resolutions? What has the House of Representatives done to correct problems with the intelligence network? Unfortunately, nothing. The bills and resolutions introduced by Members still sit in the Rules Committee, having received no action. In light of the inaction of the House, the Senate took unilateral action and created yet another committee on intelligence. That the most prominent aspect of the House involvement in intelligence oversight is the leaking of classified information is a regrettable statement of nonaccomplishment.

Mr. Chairman, in supporting the CIA employee retirement bill, I urge every Member to consider what action the House has taken to deal with the intelligence situation. The House can ill afford to rest on its record of failure. We must take action on the vital issue of congressional oversight of intelligence activity.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by title.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RETIREMENT FINANCING

SEC. 101. Section 111 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by striking out "and" at the end of paragraph (2);

(b) by striking out the period at the end of paragraph (3) and inserting a semicolon in lieu thereof; and

(c) by adding the following new paragraphs (4), (5), and (6);

"(4) 'Fund balance' means the sum of—

"(a) the investments of the fund calculated at par value; and

"(b) the cash balance of the fund on the books of the Treasury;

"(5) 'Unfunded liability' means the estimated excess of the present value of all benefits payable from the fund to participants and former participants, subject to this Act, and to their survivors, over the sum of—

"(a) the present value of deductions to be withheld from the future basic salary of participants currently subject to this Act and of future Agency contributions to be made in their behalf; plus

"(b) the present value of Government payments to the fund under section 261 (b) and (c) of this Act; plus

"(c) the fund balance as of the date the unfunded liability is determined; and

"(6) 'Normal cost' means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military service.".

SEC. 102. Section 261 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by inserting "(a)" after "261." and by adding the following new paragraphs (b), (c), and (d):

"(b) Any statute which authorizes—

"(1) new or liberalized benefits payable from the fund, including annuity increases other than under section 291 of this Act;

"(2) extension of the coverage of this Act to new groups or employees; or

"(3) increases in salary on which benefits are computed is deemed to authorize appropriations to the fund to finance the unfunded liability created by that statute in thirty equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of coverage, or increase in salary is effective.

"(c) There is hereby authorized to be appropriated to the fund each fiscal year, such amounts as may be necessary to meet the amount of normal cost for that year which is not met by contributions under section 211(a).

"(d) There are hereby authorized to be appropriated such sums as may be necessary to provide the amount equivalent to (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service, not to exceed the following percentages of such amounts: 60 per centum for 1976; 70 per centum for 1977; 80 per centum for 1978; 90 per centum for 1979; and 100 per centum for 1980 and for each fiscal year thereafter."

TITLE II—RETIREMENT ACT AMENDMENTS

SEC. 201. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by striking "dependent" in subsection (a);

(b) by striking "Dependent widower" and inserting "Widower" in lieu thereof in subsection (b)(2);

(c) by inserting a period before the first comma and striking the remainder of the sentence is subsection (b) (2);

(d) by inserting before the comma in subsection (b)(3)(i) the words: "or a child who lived with and for whom a petition for adoption was filed by a participant and who is adopted by the surviving spouse after the participant's death."; and

(e) by striking out "two years" wherever it appears and inserting in lieu thereof "one year".

SEC. 202. Section 221(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended to read as follows:

"(b)(1) If a participant dies after having retired and is survived by a spouse to whom he or she was married at the time of retirement, or by a widow or widower whom he or she married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by the participant as the base for such survivor benefits at the time of retirement. The annuity of the participant shall be reduced by 2½ per centum of any amount up to $3,600 specified by the participant as the base for such survivor benefit plus 10 per centum of any amount over $3,600 as specified. If at the time of retirement the participant does not desire any surviving spouse to receive an annuity under this paragraph he shall so state in writing to the Director.

"(2) If an annuitant dies after having elected a reduced annuity provided in paragraph (2) of section 221 (f) the surviving widow or widower is entitled to an annuity computed as prescribed in paragraph (1) of this subsection.

"(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or another retirement system for Government employees. The annuity of the spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the spouse, widow, or widower—

"(A) dies; or

"(B) remarries before becoming sixty years of age.

"(4) An annuity which is reduced under this subsection shall, for each full month during which an annuitant is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the annuitant, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.".

SEC. 203. Section 221(f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by inserting "(1)" immediately after "(f)"; and

(b) by adding at the end thereof the following new paragraph (2):

"(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received in the Agency within one year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection.".

SEC. 204. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding at the end thereof the following new subsection:

"(1)(1) Notwithstanding any other provision of this section, the monthly rate of annuity payable under subsection (a) of this section, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

"(2) Notwithstanding any other provision of this section, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

"(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.".

SEC. 205. Section 231(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees as amended (78 Stat. 1043; U.S.C. 403 note), is amended by adding at the end thereof the following: "Retirement for disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be waived by the Director for a participant or annuitant who at the date of separation from the Agency or within one year thereafter is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant or annuitant to competency or the appointment of a fiduciary, whichever is earlier.".

SEC. 206. Section 231(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; U.S.C. 403 note), is amended—

(a) by inserting the figure "(1)" immediately after the letter "(b)";

(b) by striking the words "six months" in the sixth sentence and substitute "one year"; and

(c) by adding at the end of the section a new paragraph (2) as follows:

"(2) If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or one year after the end of the calendar year in which earning capacity is restored whichever is earlier. Earning capacity is restored if in each of two succeeding calendar years the income of the annuitant from wages or self-employment or both equals at least 80 per centum of the current rate of pay of the position occupied at the time of retirement.".

SEC. 207. Section 231(c) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by inserting the figure "(1)" immediately after the letter "(c)";

(b) by inserting immediately after the words "If a recovered" the words: "or restored";

(c) by inserting immediately after the words "shall be considered" the words: "except for service credit";

(d) by inserting immediately after the words "as of the date" the words: "of termination of the disability annuity";

(e) by striking the words: "he was retired for disability";

(f) by striking the period after the last word "provisions" and adding the words: "or he may be placed by the Director in an involuntary retired status if he qualifies under the provisions of section 235(a). Retirement rights under this section shall be based on the provisions of this Act in effect as of the date the disability was discontinued.".

(g) by adding at the end of the section a new paragraph (2):

"(2) If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age sixty-two, again become totally disabled due to recurrence of the disability for which he was originally retired, his terminated disability annuity (same type and rate) is reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that his income from wages and self-employment in any calendar year before reaching age sixty-two was less than 80 per centum of the pay rate attached to the position from which he retired, his terminated disability annuity (same type and rate) is reinstated from the first of the next following year. If he has been allowed an involuntary or voluntary retirement annuity in the meantime, his reinstated disability annuity is substituted for it unless he elects to retain the former benefit.".

Sec. 208. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by striking "dependent" wherever it occurs; and

(b) by inserting a period after "section 221(g)" and striking the remainder of the section.

Sec. 209. Section 241(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended to read as follows:

"(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Agency before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;".

Sec. 210. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) is amended—

(a) by striking "the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.)" and inserting in lieu thereof "chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based"; and

(b) by adding at the end thereof the following new sentence: "A participant or former participant who returns to Government duty after a perod of separation shall have included in his period of service that part of the period of separation in which he was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based.".

Sec. 211. Section 252 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by striking the period at the end of paragraph (a)(2) thereof and adding the following: "or active and honorable service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.".

Sec. 212. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding in "Part G—Moneys" thereof the following new section 264:

"RECOVERY OF PAYMENTS

"Sec. 264. Recovery of payments under this Act may not be made from an individual when in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this Act on account of a certification or payment made by a former employee of the Central Intelligence Agency in the discharge of his official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.".

Sec. 213. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding at the end thereof the following new section:

"PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

"AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEMS

"Sec. 292. (a) Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, he may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which:

"(1) amends subchapter III, chapter 83, title 5, United States Code, and is applicable to civil service employees generally, or

"(2) otherwise affect current or former participants in the Civil Service Retirement and disability System, or their survivors.

Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors. Any such order shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

"(b) Any provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

"(2) any prior provision of an Executive order issued under authority of this section.".

Sec. 214. (a) An annuity payable from the Central Intelligence Agency Retirement and Disability Fund to an annuitant which is based on a separation occurring prior to October 20, 1969, is increased by $240 per annum.

(b) in lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Central Intelligence Agency Retirement and Disability Fund to the surviving spouse of an annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by $132 per annum.

(c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) for purposes of computing the minimum annuity under new section 221(l) of the Act, as added by section 204 of this Act.

Sec. 215. (a) This Act shall become effective October 1, 1976.

(b) The amendments made by sections 201 (a), (b), (c), and (d), 202, and 208 shall not apply in the case of participants who died before January 8, 1971. The amendments made by section 201(e) shall not apply in the case of participants who died before April 9, 1974. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(c) The amendment made by section 203 shall apply to a participant who married prior to enactment but only if the election is made within one year after enactment.

(d) The amendment made by section 210 is effective only with respect to annuity accruing for full months beginning after January 8, 1971; but any part of a period of separation referred to in such amendment in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based shall be counted whether the person returns to duty before, on, or after January 8, 1971. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the retired person.

(e) The amendment in section 211 to credit certain service in the Public Health Service is effective as of April 8, 1960, and the amendment to credit certain service in the National Oceanic and Atmospheric Administration is effective as of September 14, 1961.

(f) The amendment in section 212 is effective as of June 30, 1974.

(g) The amendment to recompute a reduced annuity during periods when not married in section 202 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to November 1, 1974.

(h) Annuity increases under sections 204 and 214 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to August 1, 1974, or the date on which the annuity commences, whichever is later.

Mr. HÉBERT (during the reading). Mr. Chairman, I ask unanimous consent that the entire bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: On page 3, line 25, immediately after "year," insert "beginning with fiscal year 1977".

On page 4, line 1, strike "that" and insert "each".

On page 4, line 3, strike "are" and insert "is".

On page 4, line 3, immediately after "appropriated" insert "to the fund each fiscal year".

On page 4, line 11, strike "60 per centum for 1976;".

On page 11, line 2, immediately before "was" insert "annuity".

Mr. HÉBERT (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the committee amendments be dispensed with, that they be considered en bloc and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore Mr. McFALL having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13615) to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, and for other purposes, pursuant to House Resolution 1457, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 335, nays 5, answered "present" 3, not voting 87, as follows:

[Roll No. 718]

YEAS—335

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Corman
Cornell
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gradison
Grassley
Gude
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holt
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steiger, Wis.
Stratton
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—5

Harrington
Holtzman
Krueger
Stark
Stokes

ANSWERED "PRESENT"—3

Carney
Gonzalez
Seiberling

NOT VOTING—87

Abzug
Addabbo
Anderson, Ill.
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Boland
Brinkley
Burgener
Carter
Chappell
Chisholm
Conable
Conyers
Cotter
D'Amours
Delaney
Diggs
du Pont
Eckhardt
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Ford, Tenn.
Goodling
Green
Guyer
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Jeffords
Jones, Okla.
Kindness
Koch
LaFalce
McCloskey
McCollister
McEwen
Maguire
Matsunaga
Meeds
Michel
Mink
Moakley
Moffett
Murphy, Ill.
Nix
O'Neill
Pepper
Peyser
Rangel
Riegle
Risenhoover
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shriver
Sisk
Slack
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Van Deerlin
Wiggins
Wilson, Bob
Wolff
Young, Fla.
Young, Ga.
Young, Tex.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Anderson of Illinois.

Mr. Addabbo with Mr. Guyer.

Mr. Murphy of Illinois with Mr. Young of Florida.

Mr. Edwards of California with Mr. Peyser.

Mr. AuCoin with Mr. Harsha.

Ms. Abzug with Mr. Bob Wilson.

Mrs. Mink with Mr. Bell.

Mr. Udall with Mr. Shriver.

Mr. Wolff with Mr. du Pont.

Mr. Moakley with Mr. Heinz.

Mr Matsunaga with Mr. Esch.

Mr. Koch with Mr. Goodling.

Mr. Rangel with Mr. Wiggins.

Mr. Cotter with Mr. Green.

Mr. Badillo with Mr. Jeffords.

Mr. Chappell with Mr. Hagedorn.

Mr. Hanley with Mr. Hansen.

Mr. LaFalce with Mr. Steelman.

Mr. Meeds with Mr. Eshleman.

Mr. Harkin with Mr. Kindness.

Mr. Evans of Colorado with Mr. McEwen.

Mr. Ford of Tennessee with Mr. Steiger of Arizona.

Mr. Biaggi with Mr. Stuckey.

Mr. Beard of Rhode Island with Mr. McCloskey.

Mr. Pepper with Mr. Michel.

Mr. Nix with Mr. Ryan.

Mr. Moffett with Mr. Sarbanes.

Mr. Helstoski with Mr. McCollister.

Mr. D'Amours with Mr. Riegle.

Mr. Delaney with Mr. Slack.

Mr. Boland with Mr. James V. Stanton.

Mr. English with Mr. Van Deerlin.

Mr. Brinkley with Mr. Russo.

Mr. Conyers with Mr. Risenhoover.

Mr. Diggs with Mr. Scheuer.

Mr. Eckhardt with Mr. Sisk.

Mr. Young of Georgia with Mr. Stephens.

Mr. Jones of Oklahoma with Mr. Howe.

Mr. Holland with Mr. Henderson.

Mr. Maguire with Mr. Conable.

Mrs. Chisholm with Mr. Burgener.

Mr. St Germain with Mr. Steed.

Mr. CARNEY changed his vote from "no" to "present."

Mr. SEIBERLING changed his vote from "yea" to "present."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just passed, H.R. 13615.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CONFERENCE REPORT ON H.R. 12987, EMERGENCY JOBS PROGRAMS EXTENSION ACT OF 1976

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94–1514)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Emergency Jobs Programs Extension Act of 1976".

SEC. 2. Title VI of the Comprehensive Employment and Training Act of 1973 is amended by striking out section 601 and inserting in lieu thereof the following:

AUTHORIZATION OF APPROPRIATIONS

"SEC. 601. There are authorized to be appropriated such sums as may be necessary for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for fiscal year 1977, for carrying out the provisions of this title.".

SEC. 3. (a)(1) Section 203(b) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"(b) Notwithstanding the provisions of section 208(a)(7) of this Act, not less than 85 per centum of the funds allocated in accordance with the provisions of this title which are used by an eligible applicant for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title, and the remainder of such funds may be used for administrative costs, including rental costs (within such reasonable limitations as the Secretary may prescribe with respect to the rental of space), and to obtain necessary supplies, equipment, and materials.".

(2) Section 602(b) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"(b) Notwithstanding the provisions of section 208(a)(7) of this Act, not less than 85 per centum of the funds allocated in accordance with the provisions of this title which are used by an eligible applicant for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title, and the remainder of such funds may be used for administrative costs, including rental costs (within such reasonable limitations as the Secretary may prescribe with respect to the rental of space), and to obtain necessary supplies, equipment, and materials.".

(b) Section 704 of the Comprehensive Employment and Training Act of 1973 is amended by inserting at the end thereof the following new subsection:

"(d) Financial records of a prime sponsor relating to public service employment programs assisted under this Act and records of the names, addresses, positions, and salaries of all persons employed in public service jobs assisted under this Act shall be maintained and made available to the public.".

SEC. 4(a)(1). With respect to appropriations made by the Emergency Supplemental Appropriations Act of 1976 (Public Law 94–266, enacted April 15, 1976) for the purpose of carrying out activities authorized by title II of the Comprehensive Employment and Training Act of 1973—

(A) notwithstanding any other provision of law, funds made available under section 202(b) of the Comprehensive Employment and Training Act of 1973 may be used in any areas qualifying under title VI of such Act to provide a continuation of public service employment activities under both title II and title VI of such Act; and

(B) in order to enable persons employed in public service jobs financially assisted under title VI of such Act to be transfered to jobs financially assisted under title II of such Act, the Secretary of Labor is authorized to waive the provision of section 205(a) of such Act requiring a thirty-day period of unemployment.

(2) The provisions of paragraph (1) of this subsection shall be deemed to have taken effect on the date of enactment of the Emergency Supplemental Appropriations Act of 1976. Persons transferred after such date from jobs financially assisted under title VI of the Comprehensive Employment and Training Act of 1973 to jobs financially assisted under title II of such Act, using funds made available under the Emergency Supplemental Appropriations Act of 1976, shall after the date of enactment of this Act be considered to be public service jobholders financially assisted under such title VI.

(b) Subsection (b) of section 603 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end of such subsection the following new sentences: "In distributing funds available for the discretionary use of the Secretary of Labor under this subsection, the Secretary is authorized to utilize such funds to assure a continuation of public service employment activities supported under this Act. In distributing such funds under this subsection to prime sponsors, the Secretary shall base allocations upon the public service employment activities sustained within the jurisdiction of each unit of general local government within the area served by each such prime sponsor in accordance with subsection (c) of this section.".

SEC. 5. (a) Title VI of the Comprehensive Employment and Training Act of 1973 is further amended by adding at the end thereof the following new sections:

"RESERVATION OF FUNDS; EMPLOYMENT OF LONG-TERM UNEMPLOYED LOW-INCOME PERSONS

"SEC. 607. (a) Each prime sponsor, in accordance with regulations which the Secretary shall prescribe, shall reserve out of any allocation which it receives under this title from appropriations for fiscal year 1977 such amount as will be sufficient when added to funds available for use under title II of this Act during such fiscal year, to enable the prime sponsor to sustain throughout such fiscal year the number of public service jobholders supported under this title and title II of this Act on June 30, 1976.

"(b) The amount of each prime sponsor's allocation under this title remaining after funds are reserved for the purpose described in subsection (a) of this section shall be used to provide public service jobs for eligible unemployed persons (as described in section 608) in projects and activities carried out by project applicant (as defined in section 701 (a)(15) of this Act). Such projects and jobs shall not exceed twelve months in duration and shall provide employment consistent with the aim of maintaining average federally supported wage rates for public service jobholders (adjusted on a regional and area basis) as set forth under section 209(b) of this Act.

"(c) Vacancies occuring after June 30, 1976, in jobs supported under this title and the Emergency Supplemental Appropriations Act of 1976 (Public Law 94–266) to which subsection (a) of this section is applicable shall be filled as follows:

"(1) Fifty per centum of such vacancies shall be filled in accordance with the provisions of section 608.

"(2) Fifty per centum of such vacancies shall be filled in accordance with the provisions of this title (other than the provisions of this section, except for this paragraph, and of sections 608 and 609) except that a prime sponsor may give preference in filling such vacancies to unemployed public health and safety personnel in public health and safety positions for which they are qualified.

"ELIGIBILITY OF LONG-TERM UNEMPLOYED LOW-INCOME PERSONS

"SEC. 608. (a) In filling public service jobs with financial assistance available for the purposes of subsections (b) and (c)(1) of section 607, each prime sponsor shall determine that any person to be employed in any such public service job (1) is an individual—

"(A) who has been receiving unemployment compensation for fifteen or more weeks;

"(B) who is not eligible for such benefits and has been unemployed for fifteen or more weeks;

"(C) who has exhausted unemployment compensation benefits; or

"(D) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

and (2) is not a member of a household which has current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and other public payments which such individual will be disqualified from receiving by reason of employment under this title) at a rate exceeding 70 per centum of the lower living standard income level.

"(b) For purposes of this section, the term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.

"(c) In filling public service jobs, each prime sponsor shall take reasonable steps, which such sponsor shall determine, to insure that funds provided in accordance with subsections (b) and (c)(1) of section 607 shall be equitably allocated for jobs among the categories of eligible persons described in section 608(a) in light of the composition of the population of unemployed eligible persons served by the prime sponsor.

"(d) In providing public service jobs and determining hours of work for eligible persons with financial assistance provided in accordance with subsection (b) and (c)(1) of section 607, each prime sponsor shall take into account the household support obligations of the men and women applying for such jobs, and shall give special consideration to such alternative working arrangements as flexible hours of work, shared time, and part-time jobs, for eligible persons, particularly for parents of young children and for older persons.

"(e) The Secretary, through the affiliated State employment security agencies, shall take steps to inform the recipients of unemployment compensation benefits of any available public service jobs for which such recipients may be eligible, but such notification shall clearly state that such notification is designed only to inform, and in no way to coerce, such recipients with respect to the availability of such jobs.

"APPROVAL OF PROJECTS

"SEC. 609. (a) In order for a project application submitted by a project applicant to be approved by the prime sponsor for financial assistance provided in accordance with subsection (b) of section 607, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 104, for the purpose of affording such council an opportunity to submit comments and recommendations with respect to that application to the prime sponsor. No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a project in which that member (or any organization with which that member is associated) has a direct interest.

"(b) Consistent with procedures established by the prime sponsor in accordance with regulations which the Secretary shall prescribe, the prime sponsor shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the prime sponsor's planning council and unless it has provided such applicant and the planning council with a written statement of its reasons for such disapproval.".

(b) (1) Section 701(a) of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new paragraph:

"(15) 'project applicants' includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies as defined in section 801 (f) of the Elementary and Secondary Education Act of 1965, institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, community-based organizations as defined in paragraph (1) of this subsection, community development corporations, nonprofit groups and organizations serving Indians or Native Hawaiians, and other nonprofit private organizations or institutions engaged in public service.".

(2) The last sentence of section 606 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows: "In reallocating any such funds, the Secretary shall give priority first to other areas within the same State and then to areas within other States, taking into account the number of eligible unemployed individuals (as described in section 608) in such areas.".

(3) Section 605 of the Comprehensive Employment and Training Act of 1973 is amended by inserting after "projects and activities" a comma and the following: "including projects and activities to be carried out by project applicants as defined in section 701(a)(15) of this Act,".

(c) Section 702 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall not, by regulation or otherwise, impose any quota or limitation on the number or percentage of persons hired under title II or VI, or both, of this Act who were former employees of public employers under this Act and who held jobs supported under title II or VI of this Act on June 30, 1976, or who are hired to fill vacancies under the provisions of section 607(c)(2). Any person who, between June 30, 1976, and the date of enactment of this Act, was laid off from a job supported under title II or VI of this Act by reason of such a quota or limitation may be reinstated by the prime sponsor without regard to the provisions of section 607(c). Nothing in this subsection shall be construed to relieve any prime sponsor from complying with section 205(c)(8) of this Act.".

(d) Section 605 of the Comprehensive Employment and Training Act of 1973 is amended by inserting "(a)" after such section designation and by adding at the end thereof the following new subsection:

"(b) No funds for public service employment programs under this Act may be used to provide public services, through a private or non-profit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the project.".

SEC. 6. (a) Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new part:

"PART B—REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON BASIS OF PUBLIC SERVICE EMPLOYMENT

"PAYMENTS TO STATES

"SEC. 220. (a) Each State shall be paid by the United States with respect to each individual—

"(1) who receives compensation with respect to any benefit year, and

"(2) whose base period wages for such benefit year include public service wages,

an amount which bears the same ratio to the total amount of compensation paid to such individual with respect to such benefit year for weeks of unemployment which began on or after January 1, 1976, as the amount of the public service wages included in the individual's base period wages bears to the total amount of the individual's base period wages.

"(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary, the sum that the Secretary estimates is payable to such State under this part for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. Estimates shall be made on the basis of reports made by the State to the Secretary as prescribed by the Secretary.

"(c) The Secretary shall, from time to time, certify to the Secretary of the Treasury the sum payable to each State under this part. The Secretary of the Treasury, prior to audit and settlement by the General Accounting Office, shall pay the State in accordance with the certification from funds for carrying out the purposes of this part.

"(d) Money paid to a State under this part may be used solely for the purpose of paying compensation. Money so paid which is not used for such purpose shall be returned, at the time specified by the Secretary, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this part may be made.

"(e) In the case of any political subdivision of a State which has in effect an unemployment compensation program which provides for the payment of compensation on the basis of services performed in its employ, such political subdivision shall be entitled to payments under this part in the same manner and to the same extent as if such political subdivision were a State.

"STATE LAW PROVISIONS

"SEC. 221. (a) The unemployment compensation law of any State may provide that any organization which elects to make payments (in lieu of contributions) into the State unemployment compensation fund—

"(1) shall not be liable to make such payments after the date of the enactment of this section with respect to any compensation to the extent that such State is entitled to payments with respect to such compensation under this part; and

"(2) shall receive credit against payments required to be made after such date of enactment for any such payments made on or before such date of enactment to the extent that such payments were made with respect to compensation for which the State is entitled to receive payments under this part.

"(b) The unemployment compensation law of any State may, without being deemed to violate the standards set forth in section 3303(a) of the Internal Revenue Code of 1954, provide for appropriate adjustments, as may be determined by the Secretary, in the account of any employer who has paid public service wages to reflect the payments to which such State is entitled under this part with respect to compensation attributable to such wages.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 222. There are hereby authorized to be appropriated for purposes of this part such sums as may be necessary.

"DEFINITIONS

"SEC. 223. As used in this part, the term—

"(1) 'State' means the States of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands;

"(2) 'compensation' means cash benefits payable to individuals with respect to their unemployment, except that such term shall not include special unemployment assistance payable under part A;

"(3) 'public service job' means any public service job funded with assistance provided under the Comprehensive Employment and Training Act of 1973;

"(4) 'public service wages' means remuneration for services performed in a public service job to the extent that such remuneration is paid with funds provided under the Comprehensive Employment and Training Act of 1973;

"(5) 'benefit year' means the benefit year as defined by the applicable State unemployment compensation law;

"(6) 'base period' means the base period as defined by the applicable State unemployment compensation law for the benefit year; and

"(7) 'Secretary' means the Secretary of Labor."

(b) Title II of such Act is further amended—

(1) by inserting after the heading of such title the following:

"PART A—SPECIAL UNEMPLOYMENT ASSISTANCE";

(2) by striking out "this title" each place it appears and inserting in lieu thereof "this part"; and

(3) by striking out "the title" in section 210(a) and inserting in lieu thereof "this title".

(c) The amendments made by this section shall take effect on October 1, 1976, with respect to compensation paid for weeks of unemployment beginning after December 31, 1975.

SEC. 7. Section 205(c)(24) of the Comprehensive Employment and Training Act of 1973 is amended by striking out "job category" in both places where that term occurs in such clause and inserting in lieu thereof "promotional line".

SEC. 8. (a) Section 602(e) of the Comprehensive Employment and Training Act of 1973 is amended by striking out "Indian tribes on Federal or State reservations" and inserting in lieu thereof "Indian tribes, bands, and groups qualified under section 302(c)(1) of this Act".

(b) Section 603(a) of the Comprehensive Employment and Training Act of 1973 is amended by redesignating paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively, and by inserting immediately after "(a)" the following: "(1) The Secretary shall reserve an amount equal to not less than 2 per centum of the amounts appropriated under section 601 for any fiscal year to enable Indian tribes, bands, and groups which are designated as eligible applicants under this title to carry out public service employment programs.".

(c) Section 603(a)(2) of such Act, as redesignated by subsection (b) of this section, is amended by inserting after "per centum" the following: "of the remainder".

SEC. 9. (a) Section 704 of the Comprehensive Employment and Training Act of 1973 (as amended by section 3(b) of this Act) is further amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, funds allocated by a prime sponsor or an Indian tribe, band, or group for the employment of individuals under this Act may be expended in conjunction with funds from any other public or private source, but funds allocated under this Act may only be expended in accordance with the requirements of this Act.".

(b) The heading of such section 704 is amended to read as follows:

"SPECIAL PROVISIONS".

SEC. 10. Section 311 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection.

"(e) The Secretary is authorized to undertake projects (either directly or by grant or contract) for the purpose of demonstrating the feasibility of providing relocation assistance to unemployed workers residing in areas of substantial unemployment who would otherwise be eligible for public service employment under this Act. Such assistance shall be in such form and amount as the Secretary deems appropriate for demonstration purposes, except that he shall use as a general guideline the form and amount of relocation assistance available under chapter 2 of title II of the Trade Act of 1974.".

SEC. 11. Section 704 of the Comprehensive Employment and Training Act of 1973 (as amended by sections 3(b) and 9 of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, employment and training services furnished under this Act in connection with weatherization projects authorized under section 222(a)(12) of the Economic Opportunity Act of 1964 may include work on such projects for the near poor, including families having incomes which do not exceed 125 per centum of the poverty line as established by section 625 of the Economic Opportunity Act of 1964.".

SEC. 12. (a) Section 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by—

(1) striking out "by this Act" after "amended"; and

(2) inserting at the end of such subsection the following new sentence: "They shall also report to such committees on the same subjects not later than ninety days after the date of enactment of the Emergency Jobs Programs Extension Act of 1976.".

(b) Title I of the Comprehensive Employment and Training Act of 1973 is amended by—

(1) inserting at the end of section 105(a)(3) the following "and (E) provides such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-job training opportunities available under section 1787 of title 38, United States Code:"; and

(2) striking out in section 106(b)(5) "provide special emphasis" and inserting in lieu thereof "take affirmative action".

SEC. 13. (a)(1) The Congress finds and declares that—

(A) the reliable and comprehensive measurement of employment and unemployment is vital to assessing the Nation's economic well-being and the utilization of its work force, and is an important determinant of public policies toward job creation, education, training, assistance for the jobless, and other labor market programs;

(B) the allocation of billions of dollars of Federal funds on the basis of unemployment data is increasing, making even more crucial the timely, accurate, and uniform measurement of the labor force;

(C) the formulation of public policies to promote the most effective use of our human resources is hindered by inadequate information on the utilization and effect of education and training programs;

(D) in order for governmental and private sector policy decisions to have maximum effect upon reducing unemployment and strengthening the labor force, an accurate and precise system for measuring employment and its impacts on particular segments of the potential work force is essential;

(E) the current method of data collection and the form of its presentation, at national, regional, and subregional levels, may not fully reflect unemployment and employment trends, and may produce incomplete and, therefore, misleading conclusions, thus impairing the validity and utility of this critical economic indicator;

(F) it is critical to retain public confidence in the procedures, concepts, and methodology of collecting, analyzing, and presenting employment and unemployment statistics; and

(G) objectivity is a necessity in considering reform of statistical processes.

(2) It is the purpose of this section to establish a National Commission of Employment and Unemployment Statistics to have responsibility for examining the procedures, concepts, and methodology involved in employment and unemployment statistics and suggesting ways and means of improving them.

(b)(1) There shall be established a National Commission on Employment and Unemployment Statistics (hereinafter in this section referred to as the "Commission") which shall consist of nine members appointed by the President, by and with the advice and consent of the Senate. Seven of the members shall be selected on the basis of their knowledge of and experience in the procedures, methodology, or use of employment and unemployment statistics, and shall be broadly representative of labor, business and finance, education and training, economics and statistics, and State and local government. Two of the members shall be selected from the general public. The membership of the Commission shall be generally representative of significant segments of the labor force, including women and minority groups. Any vacancy in the Commission shall not affect its powers as long as there continues to be at least five members; and any such vacancy may be filled in the same manner as the original appointment is made.

(2) Except when six members of the Commission shall vote to hold an executive session for a particular purpose, the Secretary of Labor, the Secretary of Commerce, the Commissioner of Labor Statistics, the Director of the Bureau of the Census, the Director of the Office of Management and Budget, the Chairman of the National Commission for Manpower Policy, the Chairman of the Council of Economic Advisers, and a majority and a minority member each of the Joint Economic Committee, of the Committee on Labor and Public Welfare of the Senate, and of the Committee on Education and Labor of the House of Representatives, or in each case a designee, shall assist and participate in the hearings, deliberations, and other activities of the Commission on an advisory basis.

(3) The President shall designate a Chairman from among the appointed members of the Commission.

(4) The Chairman, with the concurrence of the Commission, shall appoint an executive director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the chairman or the Commission. The executive director may appoint, with the concurrence of the Chairman, such professional, technical, and clerical staff as are necessary to carry out the provisions of this section. The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments to the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of GS-18 of the General Schedule under section 5332 of such title. The executive director, with the concurrence of the Chairman, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. The Commission may utilize such staff, with or without reimbursement, from the Department of Labor, the Department of Commerce, and such other appropriate Federal agencies as may be available to assist the Commission in caryring out its responsibilities.

(5) The Commission shall determine its own internal procedures, including the constituting of a quorum.

(6) The Commission is authorized to accept and utilize voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code.

(7) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of not to exceed the per diem equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the work of the Commission, including traveltime; and while serving away from their homes or regular places of business, shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as such expenses are authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(c) The Commission shall—

(1) identify the needs of the Nation for labor force statistics and assess the extent to which current procedures, concepts, and methodology in the collection, analysis, and presentation of such statistics constitute a comprehensive, reliable, timely and consistent system of measuring employment and unemployment and indicating trends therein; and

(2) conduct or provide (through contract with institutions, organizations, and individuals, or appropriate Federal or State agencies, or otherwise) for such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations.

The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purposes of carrying out the provisions of this section, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(d)(1) The Commission shall make a report of its findings and recommendations to the President and the Congress within eighteen months after the date of appointment of the first five members of the Commission.

(2) In preparing its report, the Commission shall consider the following:

(A) The methodology of collection of employment and unemployment data at all levels, including National, regional, State, and local statistics.

(B) The methodology of analysis of such data, including its relevance and application.

(C) The methodology of presentation of employment and unemployment statistics, including the dissemination, current utilization, and application of such statistics.

(D) Alternative methods of such collection, analysis, and presentation.

(E) The need for additional special statistical surveys (including longitudinal studies) and reports on a continuing basis.

(F) The need for additional data and analysis on job vacancies, job turnover, job matching, discouraged workers, part-time workers, youth, minorities, women, and other labor force participants.

(G) Accuracy and uniformity of seasonal adjustments in all categories of labor force statistics.

(H) Methods of achieving current, accurate, and uniform employment and unemployment statistics on a State and local basis, including their use as a determinant of the allocation of Federal assistance.

(I) The need for, and methods to obtain, data relating to employment status and earnings, economic hardship, and family support obligations.

(J) The extent to which employment and earnings data assist in determining the impact of public programs and policies upon persons who are economically disadvantaged, unemployed, or underemployed.

(K) The availability of and need for periodic information on education and training enrollments and completions in the public and private sectors.

(L) Statistical indicators of the relationship between education and training and subsequent employment, earnings, and unemployment experience.

(M) The value and usefulness of other statistics regarding employment and unemployment, such as those obtained through operation of the unemployment insurance system.

(N) The availability of and need for current and projected occupational information, particularly on a local basis, to assist youths and adults in making training, education, and career choices.

(O) Such other matters as the Commission deems appropriate or necessary, including such matters as are suggested by the President or by the Congress that the Commission deems appropriate.

(3) The Commission's report shall contain its findings and recommendations, including a feasible schedule for their implementation, cost estimates, and any appropriate draft regulations and legislation to implement such recommendations.

(4) The Commission may make such interim reports or recommendations as it may deem desirable.

(e) Upon submission of the Commission's final report, the Secretary of Labor shall take steps to ascertain the views of each affected executive agency and, within six months after the report's submission, shall make an interim report to the Congress on—

(1) the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to their implementation; and

(2) recommendations with respect to any legislation proposed by the Commission, the need for any alternative or additional legislation to implement the Commission's recommendations, and any other proposals to strengthen and improve the measurement of employment and unemployment.

Within two years after submission of the Commission's final report, the Secretary shall submit a final report to the Congress detailing the actions taken with respect to the recommendations of the Commission, together with any further recommendations deemed appropriate.

(f)(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to cooperate fully with the Commission in furnishing appropriate information to assist the Commission in carrying out its functions under this section.

(2) The head of each department, agency, or instrumentality of the Federal Government is authorized to provide such support and services to the Commission, upon request of the Chairman, as may be agreed between the head of the department, agency, or instrumentality and the Chairman.

(g) The Commission shall cease to exist one hundred and eighty days after submission of its final report as required under subsection (d)(1) of this section.

(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(2) Notwithstanding any other provision of law, any funds appropriated to carry out this section which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year.

SEC. 14. (a) Section 202 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) Whenever the Secretary allocates any funds available under subsection (b) of this section through a distribution based upon a formula, he shall, not later than 30 days prior to such allocation, publish in the Federal Register for comment the specific formula upon which such distribution is based, the rationale supporting the selection of the formula, and the proposed distribution to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.".

(b) Section 603 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Whenever the Secretary allocates any funds available under subsection (b) of this section through a distribution based upon a formula, he shall, not later than 30 days prior to such allocation, publish in the Federal Register the specific formula upon which such distribution is based, the rationale behind the selection of the formula, and the proposed distribution for each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.".

SEC. 15. (a) The National Commission for Manpower Policy, established under title V of the Comprehensive Employment and Training Act of 1973, shall conduct a study of the net employment effects of the public service employment programs authorized by title II and title VI of the Comprehensive Employment and Training Act of 1973.

(b) The National Commission for Manpower Policy shall prepare and submit to the Congress not later than March 31, 1978, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as such Commission deems advisable.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

CARL D. PERKINS,
DOMINICK V. DANIELS,
JOHN H. DENT,
JAMES G. O'HARA,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
EDWARD P. BEARD,
A. F. HAWKINS,
WILLIAM LEHMAN,
LLOYD MEEDS,
ALBERT H. QUIE,
JOHN M. ASHBROOK,
M. L. ESCH,
RONALD A. SARASIN,
JOHN N. ERLENBORN,
Managers on the Part of the House.

GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
JENNINGS RANDOLPH,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.,
THOMAS F. EAGLETON,
ROBERT TAFT, Jr.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, Jr.,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. The House bill may be cited as the "Emergency Job Programs Stop-Gap Extension"; the Senate amendment as the "Emergency Jobs Programs Extension Act of 1976."

The House recedes.

2. The House bill authorizes "such sums" for fiscal year 1976 and for the Transition Quarter (July through September 1976). The Senate amendment includes the House bill's provision and extends the authorization through fiscal year 1977.

The House recedes.

3. The House bill makes inapplicable to the new authorizations: that section of CETA (section 4(b)) which provides that funds remain available for obligation for one year after appropriation and may be expended within a two year period after obligation. The Senate amendment has no comparable provision.

The House recedes.

4. The Senate amendment provides for the public disclosure of the names, addresses, and salaries of persons employed in public service jobs. The House bill has no comparable provision.

The House recedes.

5. The Senate amendment provides that the discretionary funds available under the Title II supplemental appropriation enacted last April may be used in areas not qualifying under Title II and that the 30 days of unemployment requirement in that Title may be waived by the Secretary where necessary to transfer a person from a job funded under Title VI to one funded under Title II. The House has no comparable provision.

The House recedes.

6. The Senate amendment provides that the Secretary may use his discretionary funds so as to prevent layoffs of public service jobholders supported under CETA.

The House bill has no comparable provision.

The House recedes.

The Senate amendment provides that the remaining discretionary funds may be used for public service employment demonstration projects. The House bill has no comparable provision.

The Senate recedes.

7. The Senate amendment provides that funds received by a prime sponsor in excess of those needed to maintain through FY 77 those employed in FY 76 shall be used to fund public service employment projects for long-term unemployed persons (or AFDC recipients) who have low household income. The House bill has no comparable provision.

The House recedes with an amendment.

The conference agreement provides that each prime sponsor shall reserve from the allocation made to it under any appropriation for title VI for fiscal year 1977 an amount sufficient, when added to funds available for use under title II of this Act during such fiscal year, to enable the prime sponsor to sustain the number of public service employees that were employed under titles II and VI on June 30, 1976. Any jobs in excess of that number must be in a new program of employment projects and activities with the eligibility limited to long-term unemployed persons (or AFDC recipients) who have low household income. For purposes of determining income eligibility based on the "lower living standard budget", the managers expect that the Secretary's regulations will provide that a period of three months prior to the date of hire shall be used and that the annualized income shall be extrapolated from that period. However, the Conferees recognize that such a three month period may be unrepresentative because of seasonal employment, summer work for teenagers or other special circumstances, and they expect that the Secretary's regulations will take into account the fact that the three month period may not give a proper picture of annualized income. In determining household income, unemployment compensation received by the applicant for the job is not to be used and neither are any public payments received by the applicant from which that person will be disqualified when such individual is employed, such as, for example, under the program of aid to families with dependent children of unemployed fathers.

With respect to any vacancies resulting from attrition below the June 30, 1976, number of Titles II and VI jobholders for any prime sponsor, the conference agreement provides that one-half of such vacancies shall be filled by persons meeting the new long-term, low-income eligibility requirements. However, the project requirements do not apply to these jobs.

The other half of the vacancies resulting from attrition may be filled without regard to the new eligibility requirements and in accordance with other requirements of the Act except that prime sponsors may give preference to the hiring of unemployed former public health and safety employees for public health and safety jobs.

The conference agreement also prohibits the Secretary of Labor from applying any quota or numerical restriction on the number of rehired public service employees that may be employed in those jobs to which the new eligibility requirements do not apply. If any public service employee has been laid off by a prime sponsor after June 30, 1976, but before the enactment of this legislation (at which time the provisions described in the preceding sentence will take effect), because of such a quota, he may be rehired. However, the conference agreement makes plain that this provision in no way affects the continuing prohibition against hiring any employee who was laid off in anticipation that he be rehired under the Act.

The conference agreement provides that each prime sponsor shall take steps which it determines will insure that the new jobs are equitably allocated among the different categories of long term unemployed persons (and AFDC recipients) specified in the Act. The Conferees are aware that prime sponsors may lack data concerning the number of eligibles in each category but intend that prime sponsors make a good faith effort to meet this requirement to the extent that such data is made available to them. The Conferees intend that the Secretary issue no regulations imposing stricter requirements on prime sponsors with respect to this equitable allocation requirement.

The Conferees emphasize that the new program of work projects for long-term unemployed persons from low-income families in no way diminishes the importance of CETA's existing maintenance-of-effort requirements, labor standards, or other provisions protecting the rights of existing employees.

The Conferees expect prime sponsors to provide a substantial portion of the project funds to nonprofit agencies which both insure that real, new jobs are created and avoid the substitution of Federal funds for services customarily provided by State and local governments.

A new requirement has been included in Section 605(b) to prevent prime sponsors from substituting Federal for State or local funds by contracting out any of their customary services to nonprofit agencies or by reducing their customary level of such services. Moreover, where State and local governments themselves operate projects, the Conferees expect strict enforcement of Sections 205(c)(7), 205(c)(8), and 208(a)(1) regarding maintenance-of-effort requirements. The Labor Department should carefully review the type of work performed by all of the projects in order to insure compliance with all such requirements.

If administrative funds authorized under Section 602(b) are used to pay the wages of supervisory personnel for the projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

Work performed on the projects must be compared with similar work performed by regular employees of the same employer in order to establish appropriate prevailing wages for such work.

Strict enforcement of these requirements is essential to prevent the projects from undermining existing employment standards and agreements.

8. The Senate amendment amended Title II of the Emergency Jobs and Unemployment Assistance Act (providing for the Special Unemployment Assistance program) to provide that unemployment benefits for certain laid-off public service employees shall be a charge to that program rather than to CETA funds. It provided for each State to be reimbursed out of Title II funds for the amount of unemployment compensation paid on the basis of CETA public service employment after December 31, 1975. The Senate amendment further required the States or political subdivisions to reimburse the employers for any amounts they have paid or will pay to provide unemployment benefits for laid-off CETA workers, or, in the case of employers who participate in the State unemployment insurance system on a contributory basis making regular contributions (based upon an experience rating), to reimburse such employers for their contributions with respect to public service employees and adjust the experience ratings of such employers accordingly. The House bill has no comparable provisions.

The House recedes with an amendment making technical changes in the Senate language and the following substantive changes:

The Conference agreement authorizes rather than requires the States to make appropriate adjustments in the accounts of affected individual employers. The Conference agreement also authorizes the States to provide credits to such employers against existing or future obligations, rather than reimbursements which would require withdrawals from unemployment trust funds in order to make such reimbursements. In sum, the States would be authorized to:

(1) waive any liability for future CETA unemployment insurance claims against employing agencies, and

(2) apply a credit for past payments (since January 1, 1976) of CETA unemployment insurance claims against future unemployment charges to the CETA employing agency.

The Conference agreement further provides for the Secretary of the Treasury to recapture any Federal funds which are paid to the States and are not credited by the States to the accounts of the affected employers. In addition, political subdivisions acting as proxies for the States in providing unemployment insurance benefits are to be treated as if they were a State.

The Conference agreement is designed to avoid, to the maximum extent possible, the delays that would result from a necessity to amend State laws to implement the purposes of these provisions. The Conferees are depending heavily upon the States to promptly arrange administrative procedures for providing credits to the accounts of individual employers, so as to avoid diversion of funds from providing jobs to providing unemployment assistance. The Secretary of Labor is directed to act expeditiously to provide the States the necessary guidance and assistance with respect to procedures for adjusting the accounts of employers who are participating in the State system on a contributory basis. Utilizing procedures already established for correcting erroneous contributions, for example, such adjustments might be made (in the case of contributing employers) by recomputing the experience rating of affected employers, disallowing the effect of layoffs of public service employees on the computation.

The Conferees note that, while the Senate provisions were initiated originally to remedy a situation in 9 States that provide unemployment insurance coverage of public employees (including public service employees) under the regular State system, the provisions as passed by the Senate and as modified by the Conference agreement would impact in all States, to the extent that private, non-profit organizations are employing public service employees under CETA. These provisions, therefore, are addressed toward insuring that the States utilize the Federal reimbursements provided to adjust the accounts of all employers of public service employees—public agencies as well as private, non-profit organizations.

9. The Senate amendment specifies that public service jobs in each promotional line, rather than in each job category, not infringe on the promotional opportunities of existing employees. The House bill has no comparable provision.

The House recedes.

10. The Senate amendment expands the definition of Indian tribes eligible to receive Title VI funds by eliminating the restriction to those tribes on "Federal or State reservations." The House bill has no comparable provisions.

The House recedes.

11. The Senate amendment provides that 4% of Title VI funds be reserved for Indian

programs. The House bill has no comparable provision.

The House recedes, with an amendment providing that 2 percent of such funds be reserved for Indian public service employment programs.

12. The Senate amendment provides that the Secretary of Labor shall provide, and shall assure that prime sponsors provide, financial assistance to community-based organizations of demonstrated effectiveness, and shall seek to have other Federal agencies give them special consideration in administering job creation programs. The House bill has no comparable provision.

The Senate recedes.

13. The Senate amendment provides that public service employment funds may be expended in conjunction with funds from other public or private sources. The House bill has no comparable provision.

The House recedes.

14. The Senate amendment provides for relocation assistance demonstration projects for unemployed workers. The House bill has no comparable provision.

The House recedes.

15. The Senate amendment authorizes CETA employees to work on weatherization projects on homes of the near poor, including persons with incomes up to 125 percent of the poverty level. The House bill has no comparable provision.

The House recedes.

16. The Senate amendment includes a definition of project applicants for the purpose of the proposed new sections of title VI. The House bill contains no comparable provision.

The House recedes.

17. The Senate amendment provides for a report on certain veteran's employment provisions 90 days after enactment. The House bill has no comparable provision.

The House recedes.

18. The Senate amendment requires prime sponsor plans to promote maximum use of the veterans' apprenticeship and on-the-job training program. The House bill has no comparable provision.

The House recedes with an amendment designed to make clear that prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible uses of these opportunities. The conferees stress that this does not authorize the Secretary to establish any quotas for prime sponsors' performance for carrying out the provisions of this section.

19. The Senate amendment provides for a National Commission on Employment and Unemployment Statistics. The House bill has no comparable provision.

The House recedes with three minor amendments.

20. The Senate amendment provides for a reduction from 20 percent to 10 percent in the discretionary funds available to the Secretary of Labor under title II of CETA. The House bill contains no comparable provision.

The Senate recedes.

21. The Senate amendment provides that, in distributing public service employment funds which are set aside for use in the Secretary of Labor's discretion (10 percent of CETA title VI and 20 percent of CETA title II), the Secretary shall, for purposes of receiving public comment, give 30 days notice in the Federal Register of the specific formula and the rationale upon which the proposed distribution of funds is based, and the proposed distribution to each prime sponsor. The House bill contains no comparable provision.

The House recedes with an amendment making clear that such publication of a formula is required only if the Secretary chooses to distribute discretionary funds by formula.

The Conferees wish to emphasize that it is not their purpose here to encourage the Secretary to distribute discretionary funds by formula distribution. The Conferees believe that the discretionary funds should be used in a genuinely discretionary manner, consistent with the provisions of the Act. Specifically, the provision applicable to title II discretionary funds (section 202(b) of CETA) states: "The remainder may be distributed by the Secretary in his discretion taking into account the severity of unemployment within such areas." Section 603(b) of CETA, as amended by this legislation, provides for the use of title VI discretionary funds "as the Secretary deems appropriate to carry out the purposes of this title, taking into account changes in rates of unemployment. In distributing funds available for the discretionary use of the Secretary of Labor under this subsection, the Secretary is authorized to utilize such funds to assure a continuation of public service employment activities supported under this Act."

22. The Senate amendment authorizes financial assistance under certain conditions for manpower services to projects involving the operation of a business enterprise. The House bill contains no comparable provision.

The Senate recedes.

23. The Senate amendment provides for a study of the net job-creating impact of public service employment programs under CETA by the National Commission for Manpower Policy (the existing Presidentially-appointed Commission established under title V of CETA). The House bill contains no comparable provision.

The House recedes.

CARL D. PERKINS,
DOMINICK V. DANIELS,
JOHN H. DENT,
JAMES G. O'HARA,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
EDWARD P. BEARD,
A. F. HAWKINS,
WILLIAM LEHMAN,
LLOYD MEEDS,
ALBERT H. QUIE,
JOHN M. ASHBROOK,
M. L. ESCH,
RONALD A. SARASIN,
JOHN N. ERLENBORN,
Managers on the Part of the House.

GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
JENNINGS RANDOLPH,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.
THOMAS F. EAGLETON,
ROBERT TAFT, Jr.
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, Jr.,
PAUL LAXALT,
Managers on the Part of the Senate.

REDUCTION IN BEER TAX FOR SMALL BREWERS

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3605) to amend section 5051 of the Internal Revenue Code of 1954—relating to the Federal excise tax on beer.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3605, with Mr. MONTGOMERY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. CLANCY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the bill that is now before the Committee of the Whole House, H.R. 3605, provides a limited reduction in the excise tax on beer for small U.S. brewers. I say this is a "limited reduction," because the beer tax is expected to produce more than $1.4 billion next year, and this bill will reduce that amount by less than $5 million.

Present law imposes an excise tax of $9 per barrel on manufacturers and importers of beer and other fermented beverages, such as ale and sake.

The bill reduces this excise tax to $7 per barrel. The benefit of this $2 per barrel reduction in the tax is limited to beer produced in the United States. In addition, it is available only to those brewers who produce no more than 2 million barrels of beer during the calendar year. For these eligible small brewers, the reduced tax will apply only to the first 60,000 barrels produced during the year. As a result, the maximum benefit any one brewer can receive is $120,000 each year it qualifies as a small brewer.

Mr. Chairman, last month this bill was debated on the House floor and received the votes of 236 Members, more than 62 percent of those voting. I do not intend to repeat everything that was said on that occasion. However, I do want to correct one error, or misunderstanding, on the part of one of our colleagues, who suggested that beer brewed abroad could be benefited under this bill.

On the contrary, the bill provides the tax reduction only for beer brewed, and I quote from the bill, "at qualified breweries in the United States." Foreign production is taken into account only to make sure that the benefits are not available to large foreign producers who may have small breweries in the United States.

Mr. Chairman, the bill has been carefully drafted to limit its benefits to small brewing operations, the revenue loss is small, the bill applies only to future years, and a large majority of our colleagues have already voted for this bill.

Mr. Chairman, I urge the House to approve H.R. 3605.

Mr. CLANCY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of H.R. 3605, which would reduce the present Federal excise tax on beer in the case of small brewers by amending section 5051 of the Internal Revenue Code of 1954, as amended. The present excise tax is imposed at a rate of $9 per 31-gallon barrel of beer which is either produced in the United States and removed for consumption or sale, or which is imported.

Shortly after the end of prohibition in 1933, there were approximately 700 breweries operating in the United States. In the period since then, this number has declined to about 100. This decline took place at a time when annual U.S. beer production increased from about 38 million barrels in 1934 to 158 million barrels in 1975.

Almost 60 of the approximately 100 breweries still operating comprise multiple locations, operated predominantly by the large national brewery-growing companies. The remaining 40 breweries are run primarily by small regional brewers. The 10 largest domestic brewers supplied four-fifths of all U.S. beer production in 1974.

A number of analysts of the beer industry have suggested that the continuing decline in small breweries is attributable to their inability to compete effectively with the very large national brewing companies. Accordingly, this bill was reported by the Ways and Means Committee in an attempt to help these small brewers compete more effectively by imposing upon them a somewhat lower Federal excise tax on beer.

Under this bill, the beer excise tax would be reduced from $9 to $7 per barrel in the case of small brewers on the first 60,000 barrels of their annual production in the United States which is removed for consumption or sale during that calendar year. To qualify for this reduced tax, a small brewer would have to produce fewer than two million barrels of beer in the calendar year in question. The reduced tax would apply only in the case of domestically produced beer.

In those cases in which the brewer in question is a member of an affiliated group, both the two million barrel restriction and the 60,000 barrel limit, as to which the reduced tax would apply, would be applied and allocated among the controlled group as a whole.

The bill applies to all calendar years beginning after the date of enactment. The estimate is that enactment of H.R. 3605 would decrease excise tax revenues by less than $5 million annually. I urge enactment of the bill.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to a member of the committee, the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman and colleagues, I want the Members to think very carefully.

The distinguished chairman of the Committee on Ways and Means is quite correct, in that this is only $5 million that we are giving away. But there is absolutely no reason to give this money to these approximately 40 breweries that anybody has been able to put forth, except that Members feel like giving $5 million of their constituents' money to these approximately 40 companies.

Why should we single out breweries, as opposed to small shore manufacturers or small clothing manufacturers or small anybody?

Never before in the 200-year history of this country have we singled out for reduction in excise tax a particular group of a particular industry.

If the Members want to open that can of worms, I submit that we will be back here raising the $5 million next year to $10 million. We will be moving into other areas. We will be moving into the area of small wineries, which we have plenty of in California. The mail has just now started to come in: "What about reducing the excise tax for small wineries?" I can name two very excellent ones in my district. We do not want to start that. There is no end to this specialized privilege. It has absolutely no socialized value or economic value. There has been no evidence at any time in the hearings that they are in danger of going broke. It is just a matter of providing additional money to a specialized group within an industry. I beg the Members not to start that because we will have to answer every time we cut back on a public works program or some other reduction, and we will have to remember that $5 million that is being needlessly given away.

Mr. Chairman, I urge the Members to vote down the bill.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I oppose this legislation, which was defeated before on suspension. Why? Because it gives $120,000 away to 47 of the breweries of this Nation, whether they need it or not, and it reduces in this unique way the Federal excise tax liability, as the gentleman from California (Mr. STARK) said so well, for the first time in the history of the Republic.

Before we give away $5 million or $6 million, we should consider who is going to be the beneficiary. The Pearl Brewing Co., a wholly owned subsidiary of Southdown, Inc., would receive this tax break of $120,000 each year. Another one is Southdown, Inc., which has extensive holdings in natural gas, rice, and sugar industries, and only one tiny brewery. Others include a Delaware conglomerate, the Lone Star Brewing Co., a thriving concern which has no need.

I see no justification for a tax subsidy on the pretext that this is going to make these corporations more competitive. Even if every potential beneficiary of this special interest bill were in financial trouble, this bill is not going to enable them to compete effectively with the giants of the industry. The representatives of the Brewers Association of America, testifying before the Committee on Ways and Means, said that the small breweries have been unable to build the modern, efficient plants that they need to compete.

But this giveaway of $120,000 a year is not going to achieve that avowed objective of this bill.

Furthermore, it is a dangerous precedent. The Treasury Department put it well when they said that the trend in the beer industry is no different from that of most other consumer goods, and that if we go this route, pretty soon we will have every industry in America begging for relief from the excise tax.

The most indefensible aspect of this bill is the fact that no evidence is required on the part of these breweries that they need this special tax break. That is why I called for a record vote on the rule today, because once again this is back here under a closed rule. This bill failed before when we could not amend it, but once again the Committee on Ways and Means is gagging us and depriving us of the right to submit amendments.

Mr. Chairman, I will say to the Members of the House that today we have one choice: either to get rid of this giveaway or to vote for it. I cannot amend it, and neither can any other Member. I have an amendment that I could propose that would say that these corporations, if they have financial difficulties, would be allowed to go and get a remission of the excise tax, just as other small businesses that are in trouble can go to the SBA and get a loan or a grant. But that is impossible. We vote the way this committee wants or we do not vote at all. A closed rule on this was indefensible before and it is indefensible now.

I point out that the administration has opposed the bill, the conservative National Taxpayers' Union has opposed it, and the liberal organization, Taxation With Representation, has opposed it. Today we have a chance to avoid taking a step backward.

Mr. Chairman, I urge the Members to vote down this unwarranted gift of $5 million of the taxpayers' money to private firms in a chosen industry. I urge a no vote.

Mr. CLANCY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I thank the gentleman from Ohio for yielding this time to me. I take this time to pose a question to the distinguished chairman of the Committee on Ways and Means, and I will ask that he respond to the question.

This is an excise tax. As I understand it, excise taxes deal not with income but, rather, with consumption. Am I correct in my understanding that this is the first time in the history of our country that we are making a differentiation in the amount or rate of excise tax on a particular product?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Oregon.

Mr. ULLMAN. No. I am not sure that an example will come immediately to my mind, but differentials in taxation for small business is by no means a new precedent. There is nothing in any way here that is inconsistent with the practices we have followed in connection with small business in general under the Internal Revenue Code.

Mr. WHALEN. Mr. Chairman, do I understand, then, that the effect of this is that if one drinks brand X, he or she in effect would be paying a lower excise tax than if brand Y, which commands a higher excise tax, were consumed?

I realize that this tax would not be paid directly by the consumer, but nevertheless the effect is, of course, that it is ultimately passed on to the consumer.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, the tax is paid by the brewer.

Mr. WHALEN. I realize that.

Mr. ULLMAN. Second, it only applies to the first 60,000 barrels of production, a small amount. It does not apply to all of their production.

Third, I would like to point out that the large brewers of the country are wholly supportive of this because they recognize the importance of having local breweries around the country, which are becoming a scarce commodity because more and more breweries have gone out of business. So it is fully supported, I believe, by the entire beer industry

Mr WHALEN. Would the chairman of the committee agree that this intrusion by the Federal Government would alter the competitive situation?

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, I think not adversely at all. To the contrary, it should improve the competitive situation in the beer industry, because the relief is directed to the small brewer.

Mr. WHALEN. Mr. Chairman, I thank the gentleman.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, one answer to the gentleman who spoke about or asked the question previously is that the whole cigar industry is based upon the bracket-type tax, the whole cigar industry of the United States. However, this legislation is necessary if we are to have any semblance at all of a small business entity in the United States.

I was just speaking to a Member of the House a few minutes ago who was in the ice cream business in my State. He was a very successful small ice cream maker. I do not think there is one left in all of Pennsylvania.

Mr. Chairman, this particular bill refers to 35 breweries in the United States. There are less than 100 breweries left in the entire country now. My town had seven breweries at one time, in my congressional district, and it is now down to two breweries. They are small, but one of them is known practically all over the United States. However, it cannot get into the market to make it a nationwide distribution. It is known as the Rolling Rock Brewery. Another is Stoney's.

They have been back in those valleys of mine for a long, long time.

They have a local product that is produced in competition with nationwide advertising. With one particular game during which they advertise on the air, the large brewery can reach more people than could possibly be reached by this small brewery by advertising its local production for 10 years.

Mr. Chairman, the big brewery spends more on that one bit of advertising than the entire profit of these small companies. We have to give the small companies a break if we want to see them survive.

They produce particular types of beer made from the old, standardized system, not in the way it is automated today in the big breweries. They are still made by the same system used years ago in the Reisenhausen process and things like that. The beer is a slowly produced product, produced mostly for local and other persons who have the beer sent to them. They are in competition with Budweiser, Coors, Schmidts, and Schlitz. They are in competition with them, but they are being slowly driven right out of the market; and only 35 of them are still left in the country.

Mr. Chairman, this is not a giveaway to the Treasury as the good reverend, the gentleman from Massachusetts (Mr. DRINAN), who spoke before me said. It is a giveaway of no kind.

It is time to preserve something in this Nation which needs preservation, and only Congress can do it. Mr. Chairman, that is small enterprise, individual endeavor.

If we do not help small business, sooner or later there will not be one single person who can say, "I am starting to save because one of these days I want to own this little business."

There will not be any little business for him to own.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I commend the gentleman in the well for his statement. He made a very excellent point.

What do we do with these people if these small breweries close? Do we provide public service jobs?

We are all talking about providing jobs in the private sector, and now I am astounded to see some of my colleagues today take the well and say that we are giving a break to small business.

It is about time that this Congress began to do something for small business.

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. VIGORITO).

Mr. VIGORITO. Mr. Chairman, I rise in firm support of this legislation. It is vitally needed, and only $5 million is in question.

If 30-odd breweries go out of business, this country will lose, by far, much more than $5 million in taxes, in payroll taxes, local real estate taxes, sales taxes, and so forth. That loss will have to be made up by direct welfare benefits or benefits to the unemployed.

Mr. Chairman, I urge my colleagues to vote for this legislation. We are forever being called upon to help in various situations; therefore, let us not worry about setting a precedent now.

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 3605.

This is badly needed legislation, which would provide a reduction in excise tax for small brewers.

After the repeal of prohibition there were more than 700 breweries operating in this country. Since that time over 500 plants have shut down and others have been absorbed by larger companies. Today, only 53 breweries, with 95 plants, remain in existence. Fourteen of these companies each produce over 2 million barrels of beer a year. The 10 largest breweries account for roughly 80 percent of U.S. beer production. The remaining 39 companies make anywhere from 8,000 to under 2 million barrels of beer a year.

It is these small brewers who concern us. Their number is constantly dropping. There may be only 38 or 37 still in operation at this moment. This week's Business Week tells of Olympia Beer's buying out the Lone Star Brewing Co. in Texas. So maybe that number should be 36.

The bill before us would reduce the Federal excise tax by $2 a barrel—from $9 to $7—for the first 60,000 barrels sold by brewers producing 2 million barrels or less a year.

The current excise tax discriminates against the small brewer who must pay a much higher percentage in tax than larger competitors. The small brewer, finds it difficult to compete with economies of scale practiced by companies that produce as much as 35 million barrels a year and that spend enormous sums on advertising.

A company now operating in my district, the Fred Koch Brewing Co. in Dunkirk, N.Y., falls in this category. This company paid more than $1,070,000 in Federal and State excise taxes in 1974—about $400,000 more than its entire payroll. The Koch Brewing Co. has been in business for over 87 years and would like to stay in business for many more. Passage of this bill today will help it to do so.

Helping the small business segment of the brewing industry will help the general economy. The 38, or so, small brewers affected by H.R. 3605 spent about $75 million for agricultural products last year, $200 million for packaging supplies, and more than $93 million in wages and salaries—excluding fringe benefits—for their own employees. They paid $114 million in Federal and $59 million in State excise taxes. Many other enterprises, such as wholesale beer distributors, fuel, power, water, and advertising companies, transporters, and banks depend upon those small brewers for business.

Since 1935 about 64 small beer-brewing companies have gone out of existence in my State of New York alone. I ask permission, Mr. Chairman, to include in the RECORD at this point a list of those now defunct companies.

BREWERIES IN NEW YORK STATE WHICH HAVE GONE OUT OF BUSINESS, 1936-1976

American Brewing Co., Rochester.
Amsterdam Brewing Co., Inc., Amsterdam.
Bartels Brewing Co., Syracuse.
Magnus Beck Brewing Co., Inc., Buffalo.
Beverwyck Breweries, Inc., Albany.
Burks Brewery, Inc., Long Island City.
Canavan-Leggett Brewery, Inc., Niagara Falls.
Cataract Brewing Co., Inc., Rochester.
City Brewing Corp., Ridgewood.
Deerpark Breweries, Inc., Port Jarvis.
Dobler Brewing Co., Inc., Albany.
The Eagle Brewing Co., Utica.
The Ebling Brewing Co., Inc., New York.
The Ebling Brewing Co., Inc., Brooklyn.
The John Eichler Brewing Co., New York.
Empire City Brewing Co., Inc., Brooklyn.
Empire State Brewery Corp., Olean.
Fidelio Brewery, Inc., New York.
Fitzgerald Bros. Brewing Co., Troy.
Flanagan-Nay Brewing Corp., New York.

Globe Brewing Co., Inc., Utica.
Greenway Brewery Co., Inc., Syracuse.
Haberle Congress Brewing Co., Inc., Syracuse.
Hedrick Brewing Co., Inc., Albany.
Hittleman Goldenrod Brewery, Inc., Brooklyn.
Hornell Brewing Co., Inc., Hornell.
Horton Pilsener Brewing Co., Inc., New York.
J. Chr. G. Hupfel Brewing Corp., New York.
Iroquois Beverage Corp., Buffalo.
Kings Brewery, Inc., Brooklyn.
Kips Bay Brewing Co., Inc., New York.
Koenig Brewing Corp., Auburn.
John Kuhlmann Brewing Co., Inc., Ellenville.
Kuhn's Beer, Inc., Jamestown.
Gerhard Lang Brewery, Buffalo.
Liebmann Breweries, Inc., Brooklyn.
Linden Brewery, Inc., Lindenhurst.
Lion Brewery, New York.
V. Loewers Gambrinus Brewery Co., New York.
Moore & Quinn, Inc., Syracuse.
Nectar Brewing Corp., Elmira.
North American Brewing Co., Brooklyn.
The Northern Brewing Co., Inc., Watertown.
Old Dutch Brewers, Inc., Brooklyn.
Omeida Brewing Co., Inc., Utica.
Phoenix Brewery Corporation, Buffalo.
Piel Bros., Brooklyn.
Pilser Brewing Co., Inc., New York.
Quandt Brewing Co., Inc., Troy.
Ben Record Brewery, Inc., Watkins Glen.
Riverview Products, Inc., Niagara Falls.
Rochester Brewing Co., Inc., Rochester.
Home Brewery, Inc., Home.
Rubsam & Horrmann Brewing Co., Stapleton, Staten Island.
Jacob Ruppert, Inc., New York.
Adolph H. Schmedtje, New York.
Schreiber Brewing Co., Inc., Buffalo.
The William Simon Brewery, Buffalo.
Standard Brewing Co., Inc., Rochester.
The Stanton Brewery, Inc., Troy.
Geo. F. Stein Brewery, Buffalo.
John F. Trommer, Inc., Brooklyn.
The Utica Brewing Co., Inc., Utica.
Yonkers Colonial Corporation, Yonkers.

Mr. Chairman, H.R. 3605 will help keep in business the small brewers still operating. The reduction in revenue involved is small, but it is critical to many of the individual brewers concerned. The revenue loss amounts to less than $5 million a year, under one-third of 1 percent of revenues presently derived from beer.

The bill before you was approved by 236 Members of the House on August 2, but failed by 18 votes to receive the two-thirds majority necessary for passage under suspension of the rules. It was approved by the House Ways and Means Committee as part of the 1974 tax reform bill, which failed to get through the 93d Congress.

H.R. 3605 will help the small business segment of the brewing industry remain viable. It will keep alive about 4,500 jobs in 38 small breweries throughout the country. I strongly ask for your support of this bill.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Chairman, the facts surrounding the demise of small breweries in this country are well known. In 1933, there were 700 brewers in operation in the U.S. Today there are less than 100. The 10 largest breweries account for 80 percent of the beer production. The continuation of this regressive excise tax can only help to seal the fate of those that remain.

The most dramatic impact will be felt in rural communities which depend upon local breweries for their prosperity. The 37 small businesses affected by this bill provide 12,600 jobs. In 1974, they paid over $93 million in wages and salaries and contributed millions more to the economy in the purchase of supplies and agricultural products.

In my own area, the Cold Spring Brewery employees 70 to 80 people—one of the largest employers in my rural district. The impact of the closing of such an operation upon the surrounding economy would be disastrous.

Much is said in Congress about the vitality of small businesses, about encouraging competition and preserving the integrity of our free enterprise system. But our present tax laws work to the advantage of large brewers and have only speeded the demise of small operations. This bill would provide small businesses with much-needed relief and restore a measure of equity to our tax structure. On August 2, under suspension of the rules, the bill received the support of 239 members. I expressed my support for the bill at that time, and I do so again today. It is a worthy piece of legislation, and I urge my colleagues to give it their support.

Mr. CLANCY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I rise in support of this piece of legislation.

As one of the Members indicated a few moments ago, the smaller breweries of this country today are in need of some assistance. Some 15 large breweries produce approximately 90 percent of the beer sold in the United States today, and the 37 small breweries are left with the remaining portion of the business. This cut in the excise tax will enable the 37 smaller breweries to have a far better opportunity and a chance to stay in business.

Let me remind the Members that one of the reasons there are so few small breweries left in the country is the fact that Government policy during World War II put 188 of them out of business. During World War II the large breweries were able to buy up with their financial resources almost all of the hops in the country, which is one of the three essential ingredients in the making of beer. Second, barley malt was made available to the large breweries of this country at that time by the Government so that they could supply the needs of the soldiers and servicemen fighting and living outside of the United States. So they really had the assistance of the Federal Government.

The end result was that when the war ended by 1950, 188 of the breweries went out of business. The big guys had the financial resources, and the Federal Government gave them the barley malt, and the ingredients to do the job, so that they were able to expand production, yet people like my own family, who are no longer in the brewery business, could not expand and were put at a tremondous competitive disadvantage after the war.

Mr. Chairman, it always amazes me to see people stand up and express concern about $4 million, but if this was a $6 billion public works bill then some of my friends would be leading the parade or perhaps if this were a giveaway program or a foreign aid bill to help Africa, Asia or Timbuktu, they would not question the spending of the money. But, all of a sudden when we have a $4 million bill without the big constituencies, then it is a marvelous thing to attack it. If this was a multibillion dollar package some of the Members would be pleading on the floor, and probably the gentleman from Massachusetts (Mr. DRINAN) and I yield to the gentleman.

Mr. DRINAN. Mr. Chairman, let me say to the gentleman from Michigan that I am supporting the Ford administration and the Treasury Department in opposing this bill.

Mr. RUPPE. There is always one time for each of us to support them, the gentleman can support them at another date but I will support the people today.

Mr. DRINAN. Mr. Chairman, will the gentleman yield further?

Mr. RUPPE. I yield further to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I would ask the gentleman from Michigan how he would purport to say that this could in any way prevent the smaller breweries from being bought up by the larger ones?

Mr. RUPPE. I am glad the gentleman from Massachusetts brought that up because the Lone Star Brewery has just announced that they are being acquired by Olympia, but Olympia will not be able to gain a thing by this bill.

Mr. DRINAN. My question to the House is that the total rationale of this bill is that it is designed to tighten up the antitrust because the smaller brewery industries allegedly are being purchased and being acquired. If in effect we need the antitrust legislation to be enforced, we should do it but in no way can this particular remedy reach the problem of the smaller companies being bought up by the larger ones.

Mr. RUPPE. I can hear the antitrust argument like I see the cows coming over whatever they come over at the end of the day. When I consider the brewery business in the past 50 or 60 years I note we have had the antitrust department and we have had the Federal Trade Commission, and not one time did they aid the smaller breweries; they let them die. Now all of a sudden we hear let the antitrust and let the Federal Trade Commission hande this. They were never used before so why call on them when they failed to do their job over the past 30 years?

Mr. ULLMAN. Mr. Chairman, I would inform my colleagues that I will ask permission for all Members to revise and extend their remarks. Now, in closing debate, I yield 5 minutes to the gentleman from Texas, a member of the committee (Mr. PICKLE).

Mr. PICKLE. I thank the chairman for yielding.

Mr. Chairman, H.R. 3605, reduction in beer tax for small brewers, came before the House once before this session, on August 2, 1976, under suspension of the rules and while it was a few votes short of the necessary two-thirds vote, it did receive 236 votes, and it is apparent that a majority of the House approve the bill.

This bill merely reduces the excise tax of $9 per barrel to $7 per barrel, on the first 60,000 barrels produced in the United States. This reduction in the excise tax would apply only to the small brewers, defined as those who produce no more than 2 million barrels of beer for that calendar year. It applies only to domestic producers of beer.

The aim is to enable the small brewers to compete more effectively with the major breweries. This will preserve what is left of competition within the brewing industry. The figures tell the story of what has been happening to the small breweries. They are a rapidly disappearing species. Shortly after the 21st amendment to the Constitution repealing prohibition was adopted in 1933 there were more than 700 breweries operating in the United States. Since that time the number has declined until at present there are less than 54 breweries operating in the United States. This bill will affect 39 brewing companies. The revenue loss will be less than $5 million.

However, while we show a $5 million revenue loss to the Federal Government, if we figure what the small brewery contributes to the Federal Government if it stays open, we find that it actually costs the Federal Government nothing. For example, take a brewery with 100 employees assuming production of 60,000 barrels. That brewery will receive a $120,000 tax break, the maximum amount provided in this bill. Divide the sum of $120,000 by 100 employees, it comes out to a Federal subsidization of $1,200 per brewery employee.

But if that small brewery stays open, each of the 100 employees pays $23.08 a week in withholding taxes. Therefore our excise tax program will cost the Federal Government nothing.

In contrast, if we do not pass this bill, and more breweries are forced out of business, as is continually happening, then the brewery workers will be out of jobs. Not only will they pay nothing in withholding taxes, but in all likelihood he will have to go on welfare, and become a burden to the government.

The House on August 25 approved a $3.5 billion appropriation for a public works jobs program. Here we are talking about $5 million, also for jobs, but this time jobs—25,000 jobs—provided by private industry. I am glad to say that labor supports this bill, because it means jobs.

Another important feature of this bill is the effect that it has on related industries. The 39 breweries affected by this bill spent about $75 million for agricultural products last year, $200 million for packaging supplies, and more than $93 million in wages and salaries—excluding fringe benefits—for their own employees. They paid $114 million in Federal taxes and $59 million in State excise taxes. Many other enterprises such as wholesale beer distributors, fuel, power, water, and advertising companies, transporters, and banks depend upon these small brewers for business.

The only brewery that is in my district is the Spoetzel Brewery in Shiner, Texas that produces Shiner beer. This is wonderful beer, good and wholesome. But the point is, it is a small brewery in a predominantly rural region. If this little brewery goes out of business, that is the end for the people that are employed there. There is no other business of comparable size to pick up the slack. This is true in other areas of the country. This bill is most important to these small brewers and I urge its passage.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Texas.

Mr. KRUEGER. I thank the gentleman for yielding.

I wish to associate myself with the remarks of my distinguished colleague and say that we do not wish in this country to see the end of Lone Star beer; we do not wish to see the end of Pearl beer; and some of us would not wish to see the end of Krueger beer. Rather, for the good of the country, for the sake of small business and of competition, we should certainly keep these small brewers in operation.

Mr. Chairman, I support the legislation.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the bill and commend the gentleman for his assistance in this matter.

Mr. MAZZOLI. Mr. Chairman, I am pleased to rise in behalf of H.R. 3605, amending section 5051 of the Internal Revenue Code of 1954 which relates to the Federal excise tax on beer.

In increasing numbers, smaller breweries have been forced to close because of their inability to compete with the large brewers.

H.R. 3605 would help relieve this unfortunate situation by easing the excise tax burden of smaller breweries.

By way of background, Mr. Chairman, in 1938 the top 10 brewers accounted for 22 percent of the beer market; in 1968, the top 10 controlled 68 percent; and in 1974, 81 percent.

In 1935 there were 705 seperate brewing plants in the United States, while in 1974 there were only 99 separate plants. These remaining plants were owned by 54 parent companies. Unmistakably, the trend is toward the domination of the market by the larger breweries.

Thirty of the Nation's 54 remaining breweries produce less than 1 million barrels per year. These smaller breweries would receive, under H.R. 3605, helpful and much-needed relief from their tax burden.

Smaller breweries provide thousands of jobs and contribute to the tax base of local governments. They are "good neighbors" in their communities, because their interests and concerns are bound to those of their area. Falls City Brewery, located in my congressional district, provides an excellent example of the beneficial impact of these industries on local economies.

If small breweries continue to close at the current rate, the plight of some local economies already suffering from the general economic problems will worsen, creating more unemployment and further decreasing urban tax bases.

Smaller brewers also provide consumers with a wider variety of beers. If they are forced to close, consumers would be restricted to a few national brands. Such restriction of choice is not desirable in our consumer-oriented economy.

Congress has recognized the need for tax relief for small breweries. At one time, there were some 10 bills before the House proposing some kind of tax relief.

Any relief whatever would be welcomed by the smaller breweries. Because of the seriousness of the situation, however, I recommend passage of H.R. 3605.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of H.R. 3605. I spoke in support of the bill when it was considered on August 2 under suspension of the rules and 18 months earlier when I introduced similar legislation. The purpose of the bill is quite simply to reduce the Federal excise tax on the beer that is produced by the Nation's smallest breweries.

Unfortunately, H.R. 3605 fell 18 votes short of the necessary two-thirds at the beginning of last month. I am pleased that we have the opportunity today to pass this bill because there is more at stake here than heritage, more at stake here than tradition and more at stake here than the classic battle of the small struggling for existence in the shadow of the big; there is the very real fact that as each and every small brewery that has ceased operations in the past 25 years closed its doors, hundreds of jobs were lost. Not only jobs at the plant itself, but all the way down through the distribution channels. Each operation that is forced to close today will further exacerbate our still rising unemployment problem.

When I last addressed the House on this matter, I spoke about the number of breweries that have vanished. I mentioned that—

> As the ethnic center of our country my own city of Chicago was long the home for many of our most famous smaller breweries; breweries which developed products that added to our city's uniquely diverse atmosphere. In the last 25 years, however, the city of Chicago has watched the number of its breweries decrease from 48 to but 1, the Peter Hand Brewing Co. * * * Chicago is but one example of an incredible national trend.

My remarks at that time described the 300-percent increase in consumption of beer while the number of breweries has decreased to less than 9 percent of the 700 that were operating in 1933. I direct my colleagues to page 25062 of the CONGRESSIONAL RECORD for August 2, 1976, where my complete statement can be found.

In the past 10 years 10,000 brewery employees, and from 13,000 to 18,000 distribution employees, have lost their jobs as a result of the closing of small breweries. H.R. 3605 will help to keep the thousands who are still employed by the small brewers working.

I urge all of my colleagues to join me in supporting this legislation.

Mr. MAHON. Mr. Chairman, for the record, I wish to say that I am not in favor of the Government encouraging greater production or consumption of beer. My Texas colleagues have argued that the pending bill would not encourage a greater production or consumption of beer, insisting that the pending bill would simply insure that smaller businessmen would have an opportunity to stay in business and produce a portion of the beer that would otherwise be produced by the big companies.

Under these circumstances, I shall vote for the bill.

Mr. WHALEN. Mr. Chairman, I rise in opposition to H.R. 3605.

As luxury items, beer, wine, and distilled spirits are a logical source of taxation. The consumption of alcoholic beverages, as a voluntary act, is an appropriate source of revenue. Indeed, a Federal excise tax on beer has been levied on a continuous basis since 1862. Interestingly, one of the first acts of the U.S. Brewers Association when it was organized in 1862 was to ask the Federal Government to tax their product.

This bill would reduce the excise tax on beer for 47 small brewers from $9 per barrel to $7 per barrel on the first 60,000 barrels sold for consumption or sale during each calendar year. The tax break is intended to assist the competitive position of the dwindling number of small brewers.

I, too, am disturbed by the alarming decline in the number of small brewers. This is a serious problem which affects the vitality of the industry and the economic well-being of the communities where the small breweries are located. However, I do not believe that the approach of this bill is a desirable response to this situation.

First, I share the view of the Treasury Department that the excise tax system should not be used to alter the competitive position of firms within an industry. It is not equitable to provide tax relief only to brewers which do not produce more than 2 million barrels of beer per year.

If this precedent were once incorporated into the excise tax system, it could become the basis for tax measures which would interfere with the efficient distribution of resources and the development of new technologies or systems. In a free enterprise system, the Federal Government should not intervene with tax benefits to assist firms within a particular field which might be in financial difficulty.

Second, it is estimated that this bill will result in a revenue loss of approximately $5 million per year. At the same time, the maximum tax savings of $120,000 per year per brewer will not be large enough to have a significant impact on the overall viability of the small brewers. Only froth is coming out of the spigot of the Federal tap in this giveaway proposal.

Third, several of the potential beneficiaries of the bill are neither small nor struggling. One company which earned $3.66 million in 1974 on sales of $42 million would receive more than $100,000 under this measure. Another apparently small brewer which meets the bill's criteria is a wholly-owned subsidiary of a conglomerate with revenues exceeding $300 million.

While I am concerned over the decrease in the number of small brewers in recent years, I do not believe that special tax legislation for a group within a single industry is appropriate. In addition, the loss of Federal revenues will not result in a significant improvement in the status of the recipients.

I urge my colleagues to stand by their wise decision of August 2 and once again defeat this bill.

Mr. MINISH. Mr. Chairman, I rise in strong support of H.R. 3605, which would provide much needed relief for the small brewers of our country.

The bill calls for a $2 reduction, from $9 to $7, in the Federal excise tax on the first 60,000 barrels of beer produced by small breweries. A small brewery is defined in the legislation as one making less than 2 million barrels of beer per year.

The need for this legislation is imperative if competition is to be preserved in this industry. Small breweries today are facing an uphill fight. Just look at the statistics—in 1935 there were 750 brewing companies in the United States. Today there are less that 100 left in business. In 1935, the average brewer sold 75,000 barrels of beer each year. In 1975, this figure had risen 50 times to 2,800,000.

Today, the large major brewers also have an increasing share of the market. While in 1950, the 15 largest brewers represented 45 percent of total beer sales, in 1974 this increased to 89 percent.

Mr. Chairman, unfortunately, it is apparent that unless some change is made, the Nation's small brewers will be forced out of business and the industry will be reserved for giant corporations.

This legislation will not result in a great revenue loss for the Treasury. However, it will mean a much needed boost to America's small brewers and to our competitive enterprise system.

Mr. Chairman, I urge my colleagues to support H.R. 3605, the Reduction in Beer Tax for Small Brewers Act.

Mr. CLANCY. Mr. Chairman, I yield back the remainder of my time.

Mr. ULLMAN. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered as having been read for amendment. No amendment to the bill in the House or in the Committee of the Whole shall be in order except amendments recommended by the Committee on Ways and Means, and said amendments shall not be subject to amendment.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 2, strike out line 4 and all that follows down through line 17 and insert:

(2) REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.—

(A) $7 A BARREL RATE.—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be $7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) CONTROLLED GROUPS.—In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding 2 sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the Chair, Mr. MONTGOMERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 3605) to amend section 5051 of the Internal Revenue Code of 1954—relating to the Federal excise tax on beer—pursuant to House Resolution 1510, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the

Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ULLMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 126, answered "present" 1, not voting 92, as follows:

[Roll No. 719]

AYES—211

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Bergland
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Breaux
Breckinridge
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Byron
Carney
Cederberg
Clancy
Clausen, Don H.
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Corman
Cornell
Coughlin
Crane
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dent
Derwinski
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Edgar
Eilberg
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Flynt
Ford, Mich.
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Goldwater
Gonzalez
Gradison
Gude
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hayes, Ind.
Hébert
Heckler, Mass.
Hillis
Holt
Horton
Howard
Hubbard
Hughes
Hungate
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Krueger
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McCormack
McDade
McFall
McHugh
Madden
Madigan
Mahon
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Pa.
Morgan
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pickle
Poage
Preyer
Price
Quie
Railsback
Randall
Rees
Richmond
Rinaldo
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Ruppe
Sarasin
Sarbanes
Satterfield
Schneebeli
Schulze
Shipley
Sikes
Skubitz
Smith, Iowa
Snyder
Solarz
Spellman
Stanton, J. William
Steiger, Wis.
Studds
Sullivan
Symington
Symms
Teague
Thompson
Traxler
Treen
Ullman
Vander Jagt
Vigorito
Waggonner
Walsh
Weaver
White
Wilson, Tex.
Wright
Wydler
Yatron
Young, Alaska
Zablocki
Ginn
Grassley
Hammerschmidt
Hannaford
Harrington
Harris
Hawkins
Hechler, W. Va.
Hefner
Hicks
Hightower
Holtzman
Hutchinson
Hyde
Ichord
Jones, Ala.
Jones, Tenn.
Kelly
Keys
Krebs
Lloyd, Tenn.
Lott
McClory
McDonald
McKay
McKinney
Mann
Martin
Mathis
Mikva
Miller, Calif.
Mills
Mitchell, Md.
Montgomery
Moorhead, Calif.
Mosher
Moss
Mottl
Neal
Nichols
O'Brien
Ottinger
Pettis
Pike
Pressler
Pritchard
Quillen
Regula
Reuss
Rhodes
Roberts
Rogers
Rosenthal
Roush
Roybal
Runnels
Santini
Schroeder
Seiberling
Sharp
Shuster
Simon
Smith, Nebr.
Spence
Staggers
Stark
Stokes
Stratton
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Tsongas
Vander Veen
Vanik
Waxman
Whalen
Whitten
Wiggins
Wilson, C. H.
Winn
Wirth
Wylie
Yates

NOES—126

Adams
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Armstrong
Beard, Tenn.
Bedell
Bennett
Bevill
Bowen
Brademas
Broomfield
Broyhill
Buchanan
Burlison, Mo.
Butler
Carr
Clawson, Del
Cleveland
Cochran
Conte
Daniel, Dan
Dellums
Derrick
Devine
Dodd
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fisher
Foley
Fountain
Frey
Fuqua
Gibbons

ANSWERED "PRESENT"—1

Lagomarsino

NOT VOTING—92

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Bell
Biaggi
Boland
Brinkley
Brown, Calif.
Burgener
Burton, Phillip
Carter
Chappell
Chisholm
Clay
Conyers
Cotter
D'Amours
Delaney
Diggs
du Pont
Eckhardt
Edwards, Calif.
English
Esch
Eshleman
Evans, Colo.
Ford, Tenn.
Forsythe
Goodling
Green
Guyer
Hagedorn
Hanley
Hansen
Harkin
Harsha
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Jeffords
Jones, Okla.
Kindness
Koch
LaFalce
Landrum
McCloskey
McCollister
McEwen
Maguire
Matsunaga
Meeds
Michel
Mink
Moakley
Moffett
Murphy, Ill.
Nix
O'Neill
Pepper
Peyser
Rangel
Riegle
Risenhoover
Russo
Ryan
St Germain
Scheuer
Sebelius
Shriver
Sisk
Slack
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Udall
Van Deerlin
Wampler
Whitehurst
Wilson, Bob
Wolff
Young, Fla.
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Sebelius.
Mr. Addabbo with Mr. Guyer.
Mr. Murphy of Illinois with Mr. Young of Florida.
Mr. Edwards of California with Mr. Peyser.
Mr. AuCoin with Mr. Harsha.
Ms. Abzug with Mr. Bob Wilson.
Mr. Wolff with Mr. Bell.
Mrs. Chisholm with Mr. Shriver.
Mr. Udall with Mr. du Pont.
Mr. Matsunaga with Mr. Heinz.
Mr. Koch with Mr. Esch.
Mr. Rangel with Mr. Green.
Mr. Cotter with Mr. Jeffords.
Mrs. Mink with Mr. Hagedorn.
Mr. Badillo with Mr. Hansen.
Mr. Chappell with Mr. Steelman.
Mr. Hanley with Mr. Eshleman.
Mr. LaFalce with Mr. Kindness.
Mr. Meeds with Mr. McEwen.
Mr. Harkin with Mr. Steiger of Arizona.
Mr. Evans of Colorado with Mr. Stuckey.
Mr. Ford of Tennessee with Mr. McCloskey.
Mr. Beard of Rhode Island with Mr. Ryan.
Mr. Pepper with Mr. Michel.
Mr. Nix with Mr. Stephens.
Mr. Moffett with Mr. McCollister.
Mr. Helstoski with Mr. Riegle.
Mr. D'Amours with Mr. James V. Stanton.
Mr. Delaney with Mr. Van Deerlin.
Mr. English with Mr. Risenhoover.
Mr. Brinkley with Mr. Scheuer.
Mr. Conyers with Mr. Sisk.
Mr. Eckhardt with Mr. Howe.
Mr. Moakley with Mr. Burgener.
Mr. Russo with Mr. Whitehurst
Mr. Young of Georgia with Mr. Wampler.
Mr. Maguire with Mr. Steed.
Mr. St Germain with Mr. Henderson.
Mr. Diggs with Mr. Brown of California.
Mr. Biaggi with Mr. Carter.
Mr. Boland with Mr. Clay.
Mr. Phillip Burton with Mr. Forsythe.
Mr. Holland with Mr. Goodling.
Mr. Jones of Oklahoma with Mr. Landrum.
Mr. Zeferetti with Mr. Slack.

Mr. BURKE of Florida changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 3605) just passed.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Oregon?

There was no objection.

CONFERENCE REPORT ON H.R. 10612, TAX REFORM ACT OF 1975

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 10612) to reform the tax laws of the United States:

CONFERENCE REPORT (H. REPT. NO. 94–1515)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10612) to reform the tax laws of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 33, 42, 47, 50, 51, 53, 57, 60, 61, 64, 65, and 67.

That the House recede from its disagreement to the amendments of the Senate numbered 11, 14, 31, and 40, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. TABLE OF CONTENTS.—

TABLE OF CONTENTS

Sec. 1. Table of contents.

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Sec. 103. Capitalization and amortization of real property construction period interest and taxes.

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Sec. 201. Recapture of depreciation on real property.
Sec. 201A. Amendment of section 167(k).

Sec. 202. Limitations on deductions for expenses.
Sec. 202A. Gain from disposition of interest in oil and gas property.
Sec. 203. Amendments to farm loss recapture rules.
Sec. 204. Limitations on deductions in case of farming syndicates and capitalization of certain orchard and vineyard expenses.
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And the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—SHORT TITLE AND AMENDMENT OF 1954 CODE

SEC. 101. SHORT TITLE.

This Act may be cited as the "Tax Reform Act of 1976".

SEC. 102. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 103. CAPITALIZATION AND AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 189. AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

"(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), in the case of an individual or an electing small business corporation (within the meaning of section 1371(b)), no deduction shall be allowed for real property construction period interest and taxes.

"(b) AMORTIZATION OF AMOUNTS CHARGED TO CAPITAL ACCOUNT.—Any amount paid or accrued which would (but for subsection (a)) be allowable as a deduction for the taxable year shall be allowable for such taxable year and each subsequent amortization year in accordance with the following table:

If the amount is paid or accrued in a taxable year beginning in—			
Nonresidential real property	Residential real property (other than low-income housing)	Low-income housing	The percentage of such amount allowable for such amortization year shall be the following percentage of such amount
1976	----------	----------	see subsection (f)
----------	1978	1982	25
1977	1979	1983	20
1978	1980	1984	16⅔
1979	1981	1985	14²⁄₇
1980	1982	1986	12½
1981	1983	1987	11⅑
after 1981	after 1983	after 1987	10

"(c) AMORTIZATION YEAR.—

"(1) IN GENERAL.—For purposes of this section, the 'amortization year' means the taxable year in which the amount is paid or accrued, and each taxable year thereafter (beginning with the taxable year after the taxable year in which paid or accrued or, if later, the taxable year in which the real property is ready to be placed in service or is ready to be held for sale) until the full amount has been allowed as a deduction (or until the property is sold or exchanged).

"(2) RULES FOR SALES AND EXCHANGES.—For purposes of paragraph (1)—

"(A) PROPORTION OF PERCENTAGE ALLOWED.—For the amortization year in which the property is sold or exchanged, a proportionate part of the percentage allowable for such year (determined without regard to the sale or exchange) shall be allowable. If the real property is subject to an allowance for depreciation, the proportion shall be determined in accordance with the convention used for depreciation purposes with respect to such property. In the case of all other real property, under regulations prescribed by the Secretary, the proportion shall be based on that proportion of the amortization year which elapsed before the sale or exchange.

"(B) UNAMORTIZED BALANCE.—In the case of a sale or exchange of the property, the portion of the amount not allowable shall be treated as an adjustment to basis under section 1016 for purposes of determining gain or loss.

"(C) CERTAIN EXCHANGES.—An exchange or transfer after which the property received has a basis determined in whole or in part by reference to the basis of the property to which the amortizable construction period interest and taxes relates, shall not be treated as an exchange.

"(d) CERTAIN RESIDENTIAL PROPERTY EXCLUDED.—This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business or in an activity conducted for profit.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—The term 'construction period interest and taxes' means all—

"(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

"(B) real property taxes,

to the extent such interest and taxes are attributable to the construction period for such property and would be allowed as a deduction under this chapter for the taxable year in which paid or accrued (determined without regard to this section).

"(2) CONSTRUCTION PERIOD.—The term 'construction period', when used with respect to any real property, means the period—

"(A) beginning on the date on which construction of the building or other improvement begins, and

"(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

"(3) NONRESIDENTIAL REAL PROPERTY.—The term 'nonresidential real property' means real property which is neither residential real property nor low-income housing.

"(4) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means property which is or can reasonably be expected to be—

"(A) residential rental property as defined in section 167(j)(2)(B), or

"(B) real property described in section 1221(1) held for sale as dwelling units (within the meaning of section 167(k)(3)(C)).

"(5) LOW-INCOME HOUSING.—The term 'low-income housing' means property described in clause (i), (ii), (iii) or (iv) of section 1250(a)(1)(B).

"(f) TRANSITIONAL RULE FOR 1976.—In the case of amounts paid or accrued by the taxpayer in a taxable year beginning in 1976, the percentage of such amount allowable for—

"(1) the taxable year beginning in 1976 shall be 50 percent, and

"(2) each amortization year thereafter shall be 16⅔ percent."

(b) CLERICAL AMENDMENT.—The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 189. Amortization of real property construction period interest and taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purpose of this subsection, the terms "nonresidential real property", "residential real property (other than low-income housing)", "low-income housing", and "construction period" have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 201. RECAPTURE OF DEPRECIATION ON REAL PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1975.—

"(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1975, then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation (as defined in subsection (b)(1) or (4)) attributable to periods after December 31, 1975, in respect of the property, or

"(ii) the excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(ii) in the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower income families, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iii) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service;

"(iv) in the case of section 1250 property with respect to which a loan is made or insured under title V of the Housing Act of 1949, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months; and

"(v) in the case of all other section 1250 property, 100 percent.

In the case of a building (or a portion of a building devoted to dwelling units), if on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i), (ii), and (iv) shall not apply with respect to the additional depreciation described in subsection (b)(4).

"(2) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1969, AND BEFORE JANUARY 1, 1976.—

"(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1969, and the amount determined under paragraph (1)(A)(ii) exceeds the amount determined under paragraph (1)(A)(i), then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation attributable to periods after December 31, 1969, and before January 1, 1976, in respect of the property, or

"(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the amount determined under paragraph (1)(A)(i).

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) in the case of section 1250 property disposed of pursuant to a written contract which was, on July 24, 1969, and at all times thereafter, binding on the owner of the property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

"(ii) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

"(iii) in the case of residential rental property (as defined in section 167(i)(2)(B)) other than that covered by clauses (i) and (ii), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iv) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

"(v) in the case of all other section 1250 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subsection (b)(4).

"(3) Additional depreciation before January 1, 1970.—

"(A) In General.—If section 1250 property is disposed of after December 31, 1963, and the amount determined under paragraph (1)(A)(ii) exceeds the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation attributable to periods before January 1, 1970, in respect of the property, or

"(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle

"(B) Applicable percentage.—For purposes of subparagraph (A), the term 'applicable percentage' means 100 percent minus 1 percentage point for each full month the property was held after the date on which the property was held for 20 full months."

(b) Property Disposed of Pursuant to Foreclosure Proceedings.—Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

"(10) Foreclosure dispositions.—If any section 1250 property is disposed of by the taxpayer pursuant to a bid for such property at foreclosure or by operation of an agreement or of process of law after there was a default on indebtedness which such property secured, the applicable percentage referred to in paragraph (1)(B), (2)(B), or (3)(B) of subsection (a), as the case may be, shall be determined as if the taxpayer ceased to hold such property on the date of the beginning of the proceedings pursuant to which the disposition occurred, or in the event there are no proceedings, such percentage shall be determined as if the taxpayer ceased to hold such property on the date, determined under regulations prescribed by the Secretary, on which such operation of an agreement or process of law, pursuant to which the disposition occurred, began."

(c) Conforming Amendments.—

(1) Amendment of section 1250(f)(2).—Paragraph (2) of section 1250(f) (relating to special rule for property which is substantially improved) is amended to read as follows:

"(2) Ordinary income attributable to an element.—For purposes of paragraph (1), the amount taken into account for any element shall be the sum of a series of amounts determined for the periods set forth in subsection (a), with the amount for any such period being determined by multiplying—

"(A) the amount which bears the same ratio to the lower of the amounts specified in clause (i) or (ii) of subsection (a)(1)(A), in clause (i) or (ii) of subsection (a)(2)(A), or in clause (i) or (ii) of subsection (a)(3)(A), as the case may be, for the section 1250 property as the additional depreciation for such element attributable to such period bears to the sum of the additional depreciation for all elements attributable to such period, by

"(B) the applicable percentage for such element for such period.

For purposes of his paragraph, determinations with respect to any element shall be made as if it were a separate property."

(2) Amendment of section 1250(g)(2).—Paragraph (2) of section 1250(g) (relating to special rules for qualified low-income housing) is amended to read as follows:

"(2) Ordinary income attributable to an element.—For purposes of paragraph (1), the amount taken into account for any element shall be determined in a manner similar to that provided by subsection (f)(2)."

(3) Amendment of section 167(e)(3).—Paragraph (3) of section 167(e) (relating to change in depreciation method with respect to section 1250 property) is amended by striking out "beginning after July 24, 1969," and inserting in lieu thereof "beginning after December 31, 1975,".

(d) Effective Date.—The amendments made by this section (other than subsection (b)) shall apply for taxable years ending after December 31, 1975. The amendment made by subsection (b) shall apply with respect to proceedings (and to operations of law) referred to in section 1250(d)(10) of the Internal Revenue Code of 1954 which begin after December 31, 1975.

Sec. 201A. Amendment of Section 167(k).

(a) General Rule.—Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out "January 1, 1976," in paragraph (1) and inserting in lieu thereof "January 1, 1978";

(2) by striking out "$15,000" in paragraph (2)(A) and inserting in lieu thereof "$20,000";

(3) by striking out "the policies of the Housing and Urban Development Act of 1968" in paragraph (3)(B) and inserting in lieu thereof "the Leased Housing Program under section 8 of the United States Housing Act of 1937"; and

(4) by adding the following new subparagraph at the end of paragraph (3):

"(D) Rehabilitation expenditures incurred.—Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1978 and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, shall be deemed incurred before January 1, 1978."

(b) Effective Date.—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall apply to expenditures paid or incurred after December 31, 1975, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978. The amendment made by paragraph (2) of subsection (a) shall apply to expenditures incurred after December 31, 1975.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

LIMITATIONS ON DEDUCTION: FOR EXPENSES.

(a) In General.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction is taken) is amended by adding at the end thereof the following new section:

"Sec. 465. Deductions Limited to Amount at Risk in Case of Certain Activities.

"(a) General Rule.—In the case of a taxpayer (other than a corporation which is not an electing small business corporation (as defined in section 1371(b))) engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

"(b) Amounts Considered at Risk.—

"(1) In general.—For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

"(A) the amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

"(B) amounts borrowed with respect to such activity (as determined under paragraph (2)).

"(2) Borrowed amounts.—For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

"(A) is personally liable for the repayment of such amounts, or

"(B) has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in such property).

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

"(3) Certain borrowed amounts excluded.—For purposes of paragraph (2)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

"(A) has an interest (other than an interest as a creditor) in such activity, or

"(B) has a relationship to the taxpayer specified within any one of the paragraphs of section 267(b).

"(4) Exception.—Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements.

"(5) Amounts at risk in subsequent years.—If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considered to be at risk (within the meaning of subsection (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subsection (a)) is allowable as a deduction.

"(c) Activities to Which Section Applies.—

"(1) Types of activities.—This section applies to any taxpayer engaged in the activity of—

"(A) holding, producing, or distributing motion picture films or video tapes.

"(B) farming (as defined in section 464 (e)),

"(C) leasing any section 1245 property (as defined in section 1245(a)(3)), or

"(D) exploring for, or exploiting, oil and gas resources, as a trade or business or for the production of income.

"(2) Separate activities.—For purposes of this section, a taxpayer's activity with respect to each—

"(A) film or video tape,

"(B) section 1245 property which is leased or held for leasing,

"(C) farm, or

"(D) oil and gas property (as defined under section 614),

shall be treated as a separate activity. A partner's interest in a partnership or a shareholder's interest in an electing small business corporation shall be treated as a single activity to the extent that the partnership or an electing small business corporation is engaged in activities described in any subparagraph of this paragraph.

"(d) Definition of Loss.—For purposes of this section, the term 'loss' means the excess of the deductions allowable under this chapter for the taxable year (determined without regard to this section) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity."

(b) Clerical Admendment.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 465. Deductions limited to amount at risk in case of certain activities."

(c) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.

(2) Special transitional rules for movies and video tape.—

(A) In general.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to—

(i) deductions for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and

(ii) deductions attributable to producing or distributing property the principal production of which began before September 11, 1975.

(B) Exception for certain agreement where principal photography began before 1976.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(i) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of $100,000 or 10 percent of the estimated costs of producing the film, and

(ii) the production takes place in the United States.

Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(3) Special transitional rules for leasing activities.—

(A) Rule for leases other than operating leases.—In the case of any activity described in section 465(c)(1)(C) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply with respect to—

(i) leases entered into before January 1, 1976, and

(ii) leases where the property was ordered by the lessor or lessee before January 1, 1976.

(B) Holding of interests for purposes of subparagraph (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(C) Special rule for operating leases.—In the case of a lease described in section 46(e) (3)(B) of the Internal Revenue Code of 1954—

(i) subparagraph (A) shall be applied by substituting "May 1, 1976" for "January 1, 1976" each place it appears therein, and

(ii) subparagraph (B) shall be applied by substituting "April 30, 1976" for "December 31, 1975".

Sec. 202A. Gain From Disposition of Interest in Oil or Gas Property.

(a) Recapture Rules.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"Sec. 1254. Gain From Disposition of Interest in Oil or Gas Property.

"(a) General Rule.—

"(1) Ordinary income.—If oil or gas property is disposed of after December 31, 1975, the lower of—

"(A) the aggregate amount of expenditures after December 31, 1975, which are allocable to such property and which have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

"(ii) the adjusted basis of such interest, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) Disposition of portion of property.—For purposes of paragraph (1)—

"(A) In the case of the disposition of a portion of an oil or gas property (other than an undivided interest), the entire amount of the aggregate expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) In the case of the disposition of an undivided interest in an oil or gas property (or a portion thereof), a proportionate part of the expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

"(3) Oil or gas property.—The term 'oil or gas property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.

"(4) Special rule for paragraph (1)(A).—In applying paragraph (1)(A), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under section 611 with respect to such interest would have been increased if such costs incurred (after December 31, 1975) had been charged to capital account rather than deducted.

"(b) Special Rules Under Regulations.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules of subsection (g) of section 617 and to the rules of subsections (b) and (c) of section 1245 shall be applied for purposes of this section; and

"(2) in the case of the sale or exchange of stock in an electing small business corporation (as defined in section 1371(b)), rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in subsection (a)(1)(A) of this section."

(b) Partnerships.—Section 751(c) (relating to definition of unrealized receivables) is amended by striking out "and farm land (as defined in section 1252(a))" and inserting in lieu thereof "farm land (as defined in section 1252(a)), and an oil or gas property (described in section 1254)", and by striking out "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254(a)".

(c) Technical Amendments.—

(1) The following provisions are each amended by striking out "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254 (a)"—

(A) the second sentence of section 170 (e)(1);

(B) section 301(b)(1)(B)(ii);

(C) section 301(d)(2)(B);

(D) section 312(c)(3); and

(E) section 453(d)(4)(B).

(2) Section 341(e)(12) is amended by striking out "and 1252(a)" and inserting in lieu thereof "1252(a), and 1254(a)".

(3) Section 163(d)(3)(A)(iii) is amended by striking out "and 1250" and inserting in lieu thereof "1250, and 1254".

(d) Clerical Amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1254. Gain from disposition of interest in oil or gas property."

(e) Effective Date.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Amendments to Farm Loss Recapture Rules.

(a) Termination of Additions to Excess Deductions Account.—Paragraph (2) of section 1251(b) (relating to additions to excess deductions account) is amended by adding at the end thereof the following new subparagraph:

"(E) TERMINATION OF ADDITIONS.—No amount shall be added to the excess deductions account for any taxable year beginning after December 31, 1975.".

(b) CERTAIN REORGANIZATIONS.—

(1) Subparagraph (A) of section 1251(b)(5) is amended to read as follows:

"(A) CERTAIN CORPORATE TRANSACTIONS.—

"(i) In the case of a transfer described in subsection (d)(3) to which section 371(a), 374(a), or 381 applies, the acquiring corporation shall succeed to and take into account as of the close of the day of distribution or transfer, the excess deductions account of the transferor.

"(ii) In the case of a transfer which is described in subsection (d)(3), which is in connection with a reorganization described in section 368(a)(1)(D), and which is not described in clause (i), the transferee corporation shall be deemed to have an excess deductions account in an amount equal to the amount in the excess deductions account of the transferor. The transferor's excess deductions account shall not be reduced by reason of the preceding sentence."

(2) Paragraph (3) of section 1251(b) is amended by adding at the end thereof the following: "In the case of a corporation which has made or received a transfer described in clause (ii) of paragraph (5)(A), subtractions from the excess deductions account shall be determined, in such manner as the Secretary shall prescribe, applying this paragraph to the farm net income, and the amounts described in subparagraph (B), of the transferor corporation and the transferee corporation on an aggregate basis.".

(3) The amendments made by this subsection shall apply to transfers occurring after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 7: Tnat the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES AND CAPITALIZATION OF CERTAIN ORCHARD AND VINEYARD EXPENSES

(a) PREPAID EXPENSES.—

(1) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken) is amended by inserting after section 463 the following new section:

"SEC. 464. LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES.

"(a) GENERAL RULE.—In the case of any farming syndicate (as defined in subsection (c)), a deduction (otherwise allowable under this chapter) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed in the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, in the taxable year for which allowable as a deduction (determined without regard to this section).

"(b) CERTAIN POULTRY EXPENSES.—In the case of any farming syndicate (as defined in subsection (c))—

"(1) the cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted ratably over the lesser of 12 months or their useful life in the trade or business, and

"(2) the cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

"(c) FARMING SYNDICATE DEFINED.—

(1) IN GENERAL.—for purposes of this section, the term 'farming syndicate' means—

"(A) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if at any time interests in such partnership or enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

"(B) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if more than 35 percent of the losses during any period are allocable to limited partners or limited entrepreneurs.

"(2) HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.—For purposes of paragraph (1)(B), the following shall be treated as an interest which is not held by a limited partner or a limited entrepreneur:

"(A) in the case of any individual who has actively participated (for a period of not less than 5 years) in the management of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation,

"(B) in the case of any individual whose principal residence is on a farm, any partnership or other enterprise engaged in the trade or business of farming such farm,

"(C) in the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in subparagraph (A) or (B), any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in subparagraph (A) or (B), and

"(D) any interest held by a member of the family (within the meaning of section 267(c)(4)) of a grandparent of an individual described in subparagraph (A), (B), or (C) if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in subparagraph (A), (B), or (C).

For purposes of subparagraph (A), where one farm is substituted for or added to another farm, both farms shall be treated as one farm.

"(d) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

"(2) any amount required to be charged to capital account under section 278.

"(e) DEFINITIONS.—For purposes of this section—

"(1) FARMING.—The term 'farming' means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.

"(2) LIMITED ENTREPRENEUR.—The term 'limited entrepreneur' means a person who—

"(A) has an interest in an enterprise other than a partnership, and

"(B) does not actively participate in the management of such enterprise."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by inserting after the item relating to section 463 the following new item:

"SEC. 464. Limitations on deductions in case of farming syndicates.".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of a farming syndicate in existence on December 31, 1975, and for which there was no change of membership throughout its taxable year beginning in 1976, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(b) ORCHARD AND VINEYARD EXPENSES.—

(1) IN GENERAL.—Section 278 (relating to capital expenditures incurred in planting and developing citrus and almond groves) is amended by striking out subsection (b) and by inserting in lieu thereof the following:

"(b) FARMING SYNDICATES.—Except as provided in subsection (c), in the case of any farming syndicate (as defined in section 464(c)) engaged in planting, cultivating, maintaining, or developing a grove, orchard, or vineyard in which fruit or nuts are grown, any amount—

"(1) which would be allowable as a deduction but for the provisions of this subsection,

"(2) which is attributable to the planting, cultivation, maintenance, or development of such grove, orchard, or vineyard, and

"(3) which is incurred in a taxable year before the first taxable year in which such grove, orchard, or vineyard bears a crop or yield in commercial quantities,

shall be charged to capital account.

"(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to amounts allowable as deductions (without regard to this section) attributable to a grove, orchard, or vineyard which was replanted after having been lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty.".

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 278 is amended to read as follows:

"SEC. 278. CAPITAL EXPENDITURES INCURRED IN PLANTING AND DEVELOPING CITRUS AND ALMOND GROVES; CERTAIN CAPITAL EXPENDITURES OF FARMING SYNDICATES.".

(B) Subsection (a) of section 278 (relating to general rule) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1975. The amendments made by this subsection shall not apply in the case of a grove, orchard, or vineyard referred to in the amendment made by subsection (b)(1) which was planted or replanted on or before December 31, 1975. For purposes of the preceding sentence, a tree or vine which, on or before December 31, 1975, was planted at a place other than the grove, orchard, or vineyard of the taxpayer but which on such date, was owned by the taxpayer (or with respect to which the taxpayer had a binding contract to purchase) shall be treated as planted on December 31, 1975, in the grove, orchard, or vineyard of the taxpayer.

(c) METHOD OF ACCOUNTING FOR CORPORATIONS IN FARMING.—

(1) GENERAL RULE.—

(A) Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 447. METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.

"(a) GENERAL RULE.—Except as otherwise provided by law, the taxable income from farming of—

"(1) a corporation engaged in the trade or business of farming, or

"(2) a partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership,

shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in subsection (b). This section shall not apply to the trade or business of operating a nursery or to the raising or harvesting of trees (other than fruit and nut trees).

"(b) PREPRODUCTIVE PERIOD EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'preproductive period expenses' means any amount which is attributable to crops, animals, or any other property having a crop or yield during the preproductive period of such property.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) to taxes and interest, and

"(B) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought.

"(3) PREPRODUCTIVE PERIOD DEFINED.— For purposes of this subsection, the term 'preproductive period' means—

"(A) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

"(B) in the case of any other property, the period before such property is disposed of.

For purposes of this section, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

"(c) EXCEPTION FOR SMALL BUSINESS AND FAMILY CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an electing small business corporation (within the meaning of section 1371 (b)),

"(2) a corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, or

"(3) a corporation the gross receipts of which meet the requirements of subsection (e).

"(d) MEMBERS OF THE SAME FAMILY.—For purposes of subsection (c)(2)

"(1) the members of the same family are an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

"(2) stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

"(3) if 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as 'first corporation') is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation (or a wholly owned subsidiary of such second corporation) owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value of all the stock in the first corporation.

For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

"(e) CORPORATIONS HAVING GROSS RECEIPTS OF $1,000,000 OR LESS.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one corporation.

"(f) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

"(1) such change shall be treated as having been made with the consent of the Secretary,

"(2) for purposes of section 481(a)(2), such change shall be treated as a change not initiated by the taxpayer, and

"(3) under regulations prescribed by the Secretary, the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

"(g) CERTAIN ANNUAL ACCRUAL ACCOUNTING METHODS.—

"(1) IN GENERAL.—If—

"(A) for its 10 taxable years ending with its first taxable year beginning after December 31, 1975, a corporation used an annual accrual method of accounting with respect to its trade or business of farming,

"(B) such corporation raises crops which are harvested not less than 12 months after plantings, and

"(C) such corporation has used such method of accounting for all taxable years intervening between its first taxable year beginning after December 31, 1975, and the taxable year.

such corporation may continue to employ such method of accounting for the taxable year with respect to its trade or business of farming.

"(2) ANNUAL ACCRUAL METHOD OF ACCOUNTING DEFINED.—For purposes of paragraph (1), the term 'annual accrual method of accounting' means a method under which revenues, costs, and expenses are computed on an accrual method of accounting and the preproductive expenses incurred during the taxable year are charged to harvested crops or deducted in determining the taxable income for such years.

"(3) CERTAIN REORGANIZATIONS.—For purposes of this subsection, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation computed its taxable income from such trade or business on an annual accrual method."

(B) The table of sections for such subpart A is amended by adding at the end thereof the following:

"Sec. 447. Method of accounting for corporations engaged in farming."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(3) ELECTION TO CHANGE FROM STATIC VALUE METHOD TO ACCRUAL METHOD OF ACCOUNTING.—

(A) IN GENERAL.—If—

(i) a corporation has computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops for the 10 taxable years ending with its first taxable year beginning after December 31, 1975,

(ii) such corporation raises crops which are harvested not less than 12 months after planting, and

(iii) such corporation elects, within one year after the date of the enactment of this Act and in such manner as the Secretary of the Treasury or his delegate prescribes, to change to the annual accrual method of accounting (within the meaning of section 447(g)(2) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1976,

such change shall be treated as having been made with the consent of the Secretary of the Treasury, and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of the Internal Revenue Code of 1954 to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(B) COORDINATION WITH SECTION 447 OF THE CODE.—A corporation which elects under subparagraph (A) to change to the annual accrual method of accounting shall, for purposes of section 447(g) of the Internal Revenue Code of 1954, be deemed to be a corporation which has computed its taxable income on an annual accrual method of accounting for its 10 taxable years ending with its first taxable year beginning after December 31, 1975.

(C) CERTAIN CORPORATE REORGANIZATIONS.—For purposes of this paragraph, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops during the period for which the transferor corporation computed its taxable income from such trade or business on such accrual and static value method.

And the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TREATMENT OF PREPAID INTEREST.

(a) GENERAL RULE.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection:

"(g) PREPAID INTEREST.—

"(1) IN GENERAL.—If the taxable income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Secretary, is properly allocable to any period—

"(A) with respect to which the interest represents a charge for the use or forbearance of money, and

"(B) which is after the close of the taxable year in which paid, shall be charged to capital account and shall be treated as paid in the period to which so allocable.

"(2) Exception.—This subsection shall not apply to points paid in respect of any indebtedness incurred in connection with the purchase or improvement of, and secured by, the principal residence of the taxpayer to the extent that, under regulations prescribed by the Secretary, such payment of points is an established business practice in the area in which such indebtedness is incurred, and the amount of such payment does not exceed the amount generally charged in such area."

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts paid after December 31, 1975, in taxable years ending after such date.

(2) Certain amounts paid before 1977.—The amendment made by subsection (a) shall not apply to amounts paid before January 1, 1977, pursuant to a binding contract or written loan commitment which existed September 16, 1975 (and at all times thereafter), and which required prepayment of such amounts by the taxpayer.

An the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with the following amendments: Strike out the matter proposed to be stricken by the Senate amendment and on page 60, after line 12, of the House bill insert the following:

Sec. 206. Limitation on Interest Deduction.

(a) In General.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In general.—In the case of a taxpayer other than a corporation, the amount of investment interest (as defined in paragraph (3)(D)) otherwise allowable as a deduction under this chapter shall be limited, in the following order, to—

"(A) $10,000 ($5,000, in the case of a separate return by a married individual), plus

"(B) the amount of the net investment income (as defined in paragraph (3)(A)), plus the amount (if any) by which the deductions allowable under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), or 212 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year.

In the case of a trust, the $10,000 amount specified in subparagraph (A) shall be zero.

"(2) Carryover of disallowed investment interest.—The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year.";

(2) by adding at the end of paragraph (3) (A) the following new sentence: "If the taxpayer has investment interest for the taxable year to which this subsection (as in effect before the Tax Reform Act of 1976) applies, the amount of the net investment income taken into account under this subsection shall be the amount of such income (determined without regard to this sentence) multiplied by a fraction the numerator of which is the excess of the investment interest for the taxable year over the investment interest to which such prior provision applies, and the denominator of which is the investment interest for the taxable year.";

(3) by striking out "limitations in paragraphs (1) and (2)(A)" in paragraph (3)(E) and inserting in lieu thereof "limitation in paragraph (1)";

(4) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(5) by adding at the end of paragraph (5) (as so redesignated) the following:

For taxable years beginning after December 31, 1975, this paragraph shall be applied on an allocation basis rather than a specific item basis."; and

(6) by adding at the end thereof the following new paragraph:

"(7) Special rule where taxpayer owns 50 percent or more of enterprise.—

"(A) General rule.—In the case of any 50 percent owned corporation or partnership, the $10,000 figure specified in paragraph (1) shall be increased by the lesser of—

"(i) $15,000, or

"(ii) the interest paid or accrued during the taxable year on investment indebtedness incurred or continued in connection wtih the acquisition of the interests in such corporation or partnership.

In the case of a separate return by a married individual, $7,500 shall be substituted for the $15,000 figure in clause (1).

"(B) Ownership requirements.—This paragraph shall apply with respect to indebtedness only if the taxpayer, his spouse, and his children own 50 percent or more of the total value of all classes of stock of the corporation or 50 percent or more of all capital interests in the partnership, as the case may be."

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

(2) Indebtedness incurred before September 11, 1975.—In the case of indebtedness attributable to a specific item of property which—

(A) is for a specified term, and

(B) was incurred before September 11, 1975, or is incurred after September 10, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer,

the amendments made by this section shall not apply, but section 163(d) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall apply. For purposes of the preceding sentence, so much of the net investment income (as defined in section 163(d)(3)(A) of such Code) for any taxable year as is not taken into account under section 163(d) of such Code, as amended by this Act, by reason of the last sentence of section 163(d)(3)(A) of such Code, shall be taken into account for purposes of applying such section as in effect before the date of enactment of this Act with respect to interest on indebtedness referred to in the preceding sentence.

And the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Amortization of Production Cost of Motion Pictures, Books, Records, and Other Similar Property

(a) In General.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280. Certain Expenditures Incurred in Production of Films, Books, Records, or Similar Property.

(a) General Rule.—Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) and except in the case of production costs which are charged to capital account, amounts attributable to the production of a film, sound recording, book, or similar property which are otherwise deductible under this chapter shall be allowed as deductions only in accordance with the provisions of subsection (b).

"(b) Proration of Production Cost Over Income Period.—Amounts referred to in subsection (a) are deductible only for those taxable years ending during the period during which the taxpayer reasonably may be expected to receive substantially all of the income he will receive from any such film, sound recording, book, or similar property. The amount deductible for any such taxable year is an amount which bears the same ratio to the sum of all such amounts (attributable to such film, sound recording, book, or similar property) as the income received from the property for that taxable year bears to the sum of the income the taxpayer may reasonably be expected to receive during such period.

"(c) Definitions.—For purposes of this section—

"(1) Film.—The term 'film' means any motion picture film or video tape.

"(2) Sound recording.—The term 'sound recording' means works that result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes, or other phonorecordings, in which such sounds are embodied."

(b) Clerical Amendment.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 280. Certain expenditures incurred in production of films, books, records, or similar property."

(c) Effective Date.—The amendment made by this section applies to amounts paid or incurred after December 31, 1975, with respect to property the principal production of which begins after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Basis Limitation for and Recapture of Depreciation on Player Contracts

(a) Basis Limitations—

(I) In general.—Par IV of subchapter O of chapter 1 (relating to special rules applicable to gain or loss on disposition of property) is amended by redesignating section 1056 as section 1057, and by inserting after section 1055 the following new section:

"Sec. 1056. Basis Limitation for Player Contracts Transferred in Connection With the Sale of a Franchise

"(a) General Rule.—If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

"(1) the adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

"(2) the gain (if any) recognized by the transferor on the transfer contract.

For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of section 337(a), shall be treated as recognized to the extent recognized by the transferor's shareholders.

"(b) Exceptions.—Subsection (a) shall not apply—

"(1) to an exchange described in section 1031 (relating to exchange of property held for productive use or investment), and

"(2) to property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of section 1014(a)).

"(c) Transferor Requested To Furnish Certain Information.—Under regulations prescribed by the Secretary, the transfer shall, at the times and in the manner provided in such regulations, furnish to the Secretary and to the transferee the following information:

"(1) the amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subsection (a),

"(2) the amount which the transferor bebelieves to be the gain referred to in paragraph (2) of subsection (a), and

"(3) any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

"(d) Presumption as to Amount Allocable to Player Contracts.—In the case of any sale or exchange described in subsection (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Secretary that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration to contracts for the services of athletes is not a proper allocation."

(2) Clerical amendment.—The tables of sections for such part VI is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1056. Basis limitation for player contracts transferred in connection with the sale of a franchise.

"Sec. 1057. Cross references."

(3) Effective date.—The amendments made by this subsection apply to sales or exchanges of franchises after December 31, 1975, in taxable years ending after such dates.

(b) Recapture.—

(1) In general.—Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by adding at the end thereof the following new paragraph:

"(4) Special rule for player contracts.—

"(A) In general.—For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the greater of—

"(i) the previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

"(ii) the previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

"(B) Previously unrecaptured depreciation with respect to initial contracts.—For purposes of subparagraph (A)(i), the term 'previously unrecaptured depreciation' means the excess (if any) of—

"(i) the sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation of any player contracts acquired by him at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses with respect to such player contracts acquired at the time of such acquisition, over

"(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior disposition of such player contracts acquired upon acquisition of the franchise.

"(C) Previously unrecaptured depreciation with respect to contracts transferred.—For purposes of subparagraph (A) (ii), the term 'previously unrecaptured depreciation' means—

"(i) the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer, over

"(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior disposition of such player contracts acquired upon acquisition of the franchise.

"(D) Player contract.—For purposes of this paragraph, the term 'player contract' means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167."

(2) Effective date.—The amendment made by this subsection applies to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Certain Partnership Provisions.

(a) Dollar Limitation With Respect to Additional First-Year Depreciation Allowance.—Subsection (d) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Dollar limitation in case of partnerships.—In the case of a partnership, the dollar limitation contained in the first sentence of subsection (b) shall apply with respect to the partnership and with respect to each partner."

(b) Clarification of Treatment of Partnership Syndication Fees, Etc.—

(1) In general.—Part I of subchapter K of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new section:

"Sec. 709. Treatment of Organization and Syndication Fees.

"(a) General Rule.—Except as provided in subsection (b), no deduction shall be allowed under this chapter to the partnership or to any partner for any amounts paid or incurred to organize a partnership or to promote the sale of (or to sell) an interest in such partnership.

"(b) Amortization of Organization Fees.—

"(1) Deduction.—Amounts paid or incurred to organize a partnership may, at the election of the partnership (made in accordance with regulations prescribed by the Secretary), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the partnership (beginning with the month in which the partnership begins business), or if the partnership is liquidated before the end of such 60-month period, such deferred expenses (to the extent not deducted under this section) may be deducted to the extent provided in section 165.

"(2) Organizational expenses defined.—The organizational expenses to which paragraph (1) applies, are expenditures which—

"(A) are incident to the creation of the partnership;

"(B) are chargeable to capital account; and

"(C) are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would be amortized over such life."

(2) Clerical amendment.—The table of sections for such part is amended by adding at the end thereof the following:

"Sec. 709. Treatment of organization and syndication fees."

(3) Determination of amounts chargeable to capital account.—Section 707(c) (relating to guaranteed payments) is amended by striking out "and section 162 (a)" and inserting in lieu thereof "and, subject to section 263, for purposes of section 162(a)".

(c) Items Must Be Allocated to Portion of Year Partner Held Interest.—

(1) In general.—Subparagraph (B) of section 706(c)(2) (relating to disposition of less than entire interest) is amended by striking out "or with respect to a partner whose interest is reduced" and inserting in lieu thereof "or with respect to a partner whose interest is reduced (whether by entry of a new partner, partial liquidation of a partner's interest, gift, or otherwise)".

(2) Certain provisions of subchapter K may not be overridden by partnership agreement.—Subsection (a) of section 704 (relating to effect of partnership agreement) is amended by striking out "except as otherwise provided in this section" and inserting in lieu thereof "except as otherwise provided in this chapter".

(3) Cross references.—

(A) Section 704 is amended by adding at the end thereof the following:

"(f) Cross Reference.—

"For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see section 706(c)(2)."

(B) Section 761 (relating to terms defined) is amending by adding at the end thereof the following:

"(e) Cross Reference.—

"For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see sections 704(b) and 706(c)(2)."

(d) Determination of Partner's Distributive Shares.—Subsection (b) of section 704 (relating to distributive share determined by income or loss ratio) is amended to read as follows:

"(b) Determination of Distributive Share.—A partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if—

"(1) the partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction, or credit (or item thereof), or

"(2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect."

(e) Treatment of Partnership Liabilities With Respect to Which the Partner Is Not Personally Liable.—Section 704(d) (relating to limitation on allowance of losses) is amended by adding at the end thereof the following new sentences:

"For purposes of this subsection, the adjusted basis of any partner's interest in the partnership shall not include any portion of any partnership liability with respect to which the partner has no personal liability. The preceding sentence shall not apply with respect to any activity to which section 465 (relating to limiting deductions to amounts at risk in case of certain activities) applies, nor shall it apply to any partnership the principal activity of which is investing in real property (other than mineral property)."

"(f) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply in the case of partnership taxable years beginning after December 31, 1975.

(2) Subsection (e).—The amendment made by subsection (e) shall apply in the case of partnership taxable years beginning after December 31, 1976.

(3) Section 709(b) of the code.—Section 709(b) of the Internal Revenue Code of 1954 (as added by the amendment made by subsection (b)(1) of this section) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

MINIMUM TAX AND MAXIMUM TAX

Sec. 301. Minimum Tax.

(a) In General.—Subsection (a) of section 56 (relating to minimum tax for tax preferences) is amended to read as follows:

"(a) General Rule.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceeds the greater of—

"(1) $10,000, or

"(2) the regular tax deduction for the taxable year (as determined under subsection (c))."

(b) Conforming Changes.—

(1) Section 56(b) (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out $30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is amended to read as follows:

"(c) Regular Tax Deduction Defined.—For purposes of this section, the term 'regular tax deduction' means an amount equal to one-half of (or in the case of a corporation, an amount equal to) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), 408(f), 531, and 541), reduced by the sum of the credits allowable under—

"(1) sections 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment credit),

"(4) section 40 (relating to expenses of work incentive program),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to general tax credit),

"(7) section 44 (relating to purchase of new principal residence), and

"(8) section 44A (relating to expenses for household and dependent care services necessary for gainful employment)."

(c) Additional Tax Preference Items.—

(1) Additional preference items.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Excess itemized deductions.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (b))."

(B) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) Intangible drilling costs.—The excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (d)) had been used with respect to such costs.

"Paragraph (1), (3), and (11) shall not apply to a corporation."

"(C) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease) is amended to read as follows:

"(3) Accelerated depreciation on leased personal property.—With respect to each item of section 1245 property (as defined in section 1245(a)(3)) which is subject to a lease, the amount by which—

"(A) the deduction allowable for the taxable year for depreciation or amortization, exceeds

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight-line method for each taxable year of its useful life for which the taxpayer was held the property.

For purposes of subparagraph (B), useful life shall be determined as if section 167(m)(1) (relating to asset depreciation range) did not include the last sentence thereof."

(2) Excess itemized deductions defined.—Section 57(b) is amended to read as follows:

"(b) Excess Itemized Deductions.—

"(1) In general.—For purposes of paragraph (1) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(A) deductions allowable in arriving at adjusted gross income,

"(B) the standard deduction provided by section 141,

"(C) the deduction for personal exemptions provided by section 151,

"(D) the deduction for medical, dental, etc., expenses provided by section 213, and

"(E) the deduction for casualty losses described in section 165(c)(3),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year.

"(2) Special rule for trusts and estates.—In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

"(A) under section 642(c) (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

"(B) under section 642(d), 642(e), 642(f), 651(a), 661(a), or 691; or

"(C) for costs paid or incurred in connection with the administration of the trust or estate;

shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at paragraph (1), be treated as a deduction allowable in arriving at an adjusted gross income.

(3) Straight line recovery of intangibles defined.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) Straight Line Recovery of Intangibles Defined.—For purposes of paragraph (11) of subsection (a)—

"(1) In General.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) Election.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(11)."

(4) Special rules for timber.—

(A) Preference reduction for timber.—Section 57(a)(9) is amended by adding at the end thereof the following new subparagraph:

"(C) Preference reduction for timber.—In the case of a corporation, the amount of the tax preference under subparagraph (B) shall be reduced (but not below zero) by the sum of—

"(i) one-third of the corporation's timber preference income (as defined in subsection (e)), plus

"(ii) $20,000,

but in no event shall this reduction exceed the amount of timber preference income."

(B) Regular tax deduction adjustments for timber.—Section 56 is amended by adding at the end thereof the following new subsections:

"(d) Regular Tax Deduction Adjustment for Timber.—In the case of a corporation, the regular tax deduction (as determined under subsection (c)) shall be reduced by an amount equal to the lesser of—

"(1) one-third of the amount determined under subsection (c) without regard to this subsection, or

"(2) the preference reduction for timber determined under section 57(a)(9)(C).

"(e) Tax Carryover for Timber.—

"(1) In general.—In the case of a corporation, if for any taxable year, including a taxable year beginning before January 1, 1976—

"(A) the taxes imposed by this chapter (computed without regard to this part and without regard to the tax imposed by section 531) which, under regulations prescribed by the Secretary, are attributable to income from timber, reduced by the sum of the credits allowable under—

"(i) section 33 (relating to foreign tax credit),

"(ii) section 38 (relating to investment credit), and "(iii) section 40 (relating to expenses of work incentive programs), exceed

"(B) the items of tax preference (as determined under section 57),

then the excess of the taxes described in subparagraph (A) over the items of tax preference shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which such excess may be carried.

"(2) LIMITATION.—The amount of any carryover under paragraph (1) which may be deducted in a taxable year shall be limited to—

"(A) the excess of—

"(i) the amount of timber preference income for the taxable year (as defined in section 57(e)), over

"(ii) the amount determined under section 57(a)(9)(C) for the taxable year,

"(B) reduced by the excess of—

"(i) the regular tax deduction for the taxable year (as determined under subsection (c) without regard to this subsection), over

"(ii) the amount determined under subsection (d) for the taxable year."

(C) TIMBER PREFERENCE INCOME DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) TIMBER PREFERENCE INCOME DEFINED.—For purposes of this part, the term 'timber preference income' means the sum of—

"(1) the gains referred to in section 631(a) and section 631(b),

"(2) long-term capital gains on timber, and

"(3) gains on the sale of timber included in paragraph 1231(b)(2),

multiplied by the fraction determined in paragraph 57(a)(9)(B)."

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, section 56 shall be applied by substituting $5,000 for $10,000 each place it appears.".

(2) by striking out "$30,000" each place it appears in subsection (b) and (c)(2) and inserting in lieu thereof "$10,000", and

(3) by adding at the end thereof the following new subsections:

"(h) REGULATIONS TO INCLUDE TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax under this subtitle for any taxable year."

"(i) CORPORATION DEFINED.—Except as provided in subsection (d)(2), for purposes of this part, the term 'corporation' does not include an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)."

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) SECTION 21 NOT TO APPLY.—For purposes of section 21 of the Internal Revenue Code of 1954, the amendments made by this section shall not be treated as a change in a rate of tax.

(g) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided by paragraph (4), the amendments made by this section shall apply to items of tax preference for taxable years beginning after December 31, 1975.

"(2) TAX CARRYOVER.—Except as provided in paragraph (4) and in section 56(e) of the Internal Revenue Code of 1954, the amount of any tax carryover under section 56(c) of such Code from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

(3) SPECIAL RULE FOR TAXABLE YEAR 1976 IN THE CASE OF A CORPORATION.—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation which is not an electing small business corporation or a personal holding company the tax imposed by section 56 of such Code for taxable years beginning in 1976, is an amount equal to the sum of—

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of the enactment of the Tax Reform Act of 1976, and

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

(4) CERTAIN FINANCIAL INSTITUTIONS.—In the case of a taxpayer which is a financial institution to which section 585 or 593 of the Internal Revenue Code of 1954 applies, the amendments made by this section shall apply only to taxable years beginning after December 31, 1977, and paragraph (2) shall be applied by substituting "January 1, 1978" for "January 1, 1976" and by substituting "December 31, 1977" for "December 31, 1975".

And the Senate agree to the same

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 302. MAXIMUM TAX AMENDMENTS.

(a) IN GENERAL.—Section 1348 (relating to 50-percent maximum rate on earned income) is amended to read as follows:

"SEC. 1348. 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.

"(a) GENERAL RULE.—If for any taxable year an individual has personal service taxable income which exceeds the amount of taxable income specified in paragraph (1), the tax imposed by section 1 for such year shall, unless the taxpayer chooses the benefits of part I (relating to income averaging), be the sum of—

"(1) the tax imposed by section 1 on the highest amount of taxable income on which the rate of tax does not exceed 50 percent,

"(2) 50 percent of the amount by which his personal service taxable income exceeds the amount of taxable income specified in paragraph (1) of this subsection, and

"(3) the excess of the tax computed under section 1 without regard to this section over the tax so computed with reference solely to his personal service taxable income.

"(b) DEFINITIONS.—For purposes of this section—

"(1) PERSONAL SERVICE INCOME.—

"(A) IN GENERAL.—The term 'personal service income' means any income which is earned income within the meanings of section 401(c)(2)(C) or section 911(b) or which is an amount received as a pension or annuity.

"(B) EXCEPTIONS.—The term 'personal service income' does not include any amount—

"(i) to which section 72(m)(5), 402(a)(2), 402(e), 403(a)(2)(A), 408(e)(2), 408(e)(3), 408(e)(4), 408(e)(5), 408(f), or 409(c) applies; or

"(ii) any amount which is includible in gross income under section 409(b) because of the redemption of a bond which was not tendered before the close of the taxable year in which the registered owner attained age 70½.

"(2) PERSONAL SERVICE TAXABLE INCOME.—The personal service taxable income of an individual is the excess of—

"(A) the amount which bears the same ratio (but not in excess of 100 percent) to his taxable income as his personal service net income bears to his adjusted gross income, over

"(B) the sum of the items of tax preference (as defined in section 57) for the taxable year.

For purposes of subparagraph (A), the term 'personal service net income' means personal service income reduced by any deductions allowable under section 62 which are properly allocable to or chargeable against such earned income.

"(c) MARRIED INDIVIDUALS.—This section shall apply to a married individual only if such individual and his spouse make a single return jointly for the taxable year."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1348 and inserting in lieu thereof the following:

"Sec. 1348. 50-Percent maximum rate on personal service income."

(c) CONFORMING AMENDMENTS.—Section 1304(b)(5) is amended by striking out "earned" and inserting in lieu thereof "personal service".

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

SEC. 401. EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS.

(a) GENERAL TAX CREDIT.—

(1) 1-YEAR EXTENSION OF CREDIT.—Section 3(b) of the Revenue Adjustment Act of 1975 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

(2) TECHNICAL AMENDMENTS.—

(A) The heading and subsection (a) of section 42 (relating to allowance of taxable income credit) are amended to read as follows:

"SEC. 42. GENERAL TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(1) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000; or

"(2) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151."

(B) Paragraph (1) of section 42(c) (relating to special rule for married individuals filing separate returns) is amended to read as follows:

"(1) IN GENERAL.—Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (2) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '$4,500' for '$9,000'."

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. General tax credit."

(b) STANDARD DEDUCTION.—

(1) LOW INCOME ALLOWANCE.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $2,100 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,050 in the case of a married individual filing a separate return.".

(2) PERCENTAGE STANDARD DEDUCTION.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income, but not more than—

"(1) $2,800 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,400 in the case of a married individual filing a separate return."

(3) FILING REQUIREMENTS.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,450,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,850, or

"(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $3,600 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

(c) EARNED INCOME CREDIT.—

(1) EXTENSION OF CREDIT.—

(A) Section 209(b) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1978".

(B) Subsections (a) and (b) of section 43 (relating to earned income credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000."

(2) DEFINITION OF ELIGIBILE INDIVIDUAL.—Subparagraph (A) of section 43(c)(1) (relating to definition of eligible individual) is amended to read as follows:

"(A) maintains a household (within the meaning of section 44A(f)(1) in the United States which is the principal place of abode of that individual and—

"(i) a child of that individual if such child meets the requirements of section 151(e)(1)(B) (relating to additional exemptions for dependents), or

"(ii) a child of that individual who is disabled (within the meaning of section 72(m)(7) and with respect to whom that individual is entitled to claim a deduction under section 151; and".

(d) WITHHOLDING AMENDMENTS.—

(1) Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary. With respect to wages paid prior to January 1, 1978, the tables so prescribed shall be the same as the tables prescribed under this section which were in effect on January 1, 1976. With respect to wages paid after December 31, 1977, the Secretary shall prescribe new tables which shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made to subsections (b) and (c) of section 141 by the Tax Reform Act of 1976. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1)."

(2) Paragraph (6) of section 3402(c) (relating to wage bracket withholding), as such paragraph was in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

(3) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowance based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,800 ($2,400 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)))."

(e) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years ending after December 31, 1977. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1975. The amendments made by subsection (d) shall apply to wages paid after September 14, 1976.

SEC. 402. REFUNDS OF EARNED INCOME CREDIT DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) Subsection (d) of section 2 of the Revenue Adjustment Act of 1975 is amended by striking out "which begins prior to July 1, 1976,".

(b) Subsection (g) of section 2 of such Act is amended to read as follows:

"(g) EFFECTIVE DATES.—The amendments made by this section (other than by subsection (d)) apply to taxable years ending after December 31, 1975, and before January 1, 1978. Subsection (d) applies to taxable years ending after December 31, 1975."

And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

SEC. 501. REVISION OF TAX TABLES FOR INDIVIDUALS.

(a) IN GENERAL.—Section 3 (relating to optional tax tables for individuals) is amended to read as follows:

"SEC. 3. TAX TABLES FOR INDIVIDUALS HAVING TAXABLE INCOME OF LESS THAN $20,000.

"(a) GENERAL RULE.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual whose taxable income for such year does not exceed $20,000, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 1.

"(b) TAX TREATED AS IMPOSED BY SECTION 1.—For purposes of this title, the tax imposed by this section shall be treated as tax imposed by section 1."

(b) CONFORMING AMENDMENTS.—

(1) Section 4 (relating to rules for optional tax) is hereby repealed.

(2) Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended—

(A) by striking out "PAYING OPTIONAL TAX OR" in the heading; and

(B) by striking out "elects to pay the optional tax imposed by section 3, or if he" in such section.

(3) Subsection (a) of section 144 (relating to election of standard deduction) is amended to read as follows:

"(a) Method of Election.—The standard deduction shall be allowed if the taxpayer so elects in his return, and the Secretary shall prescribe the manner of signifying such election in the return.".

(4) Subsection (c) of section 144 is amended—

(A) by striking out paragraph (2);

(B) by inserting "or" at the end of paragraph (1); and

(C) by redesignating paragraph (3) as paragraph (2).

(5) Subsection (d) of section 144 is hereby repealed.

(6) Section 1211(b)(3) (relating to computation of taxable income for purposes of limitation on capital losses) is amended by striking out the last sentence thereof.

(7) Section 1304(b) (relating to certain provisions inapplicable for income averaging is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(8) Section 6014(a) (relating to tax not computed by taxpayer) is amended—

(A) by striking out in the first sentence "entitled to elect to pay the tax imposed by section 3" and inserting in lieu thereof "entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e))"; and

(B) by striking out in the second sentence "pay the tax imposed by section 3" and inserting in lieu thereof "take the standard deduction".

(9) Paragraph (5) of section 6014(b) is amended to read as follows:

"(5) to cases where the taxpayer does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relating to limitations in case of certain dependent taxpayers)."

(c) Clerical Amendments.—

(1) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the items relating to sections 3 and 4 and inserting in lieu thereof:

"Sec. 3. Tax tables for individuals having taxable income of less than $20,000."

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out "paying optional tax or" in the item relating to section 36.

Sec. 502. Deduction for Alimony Allowed in Determining Adjusted Gross Income.

(a) In General.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

"(13) Alimony.—The deduction allowed by section 215."

(b) Conforming Amendment.—The first sentence of subparagraph (A) of section 3402(m)(2) (relating to withholding allowances based on itemized deductions) is amended by striking out "under section 62" and inserting in lieu thereof "under section 62 (other than paragraph (13) thereof)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

Sec. 503. Revision of Retirement Income Credit.

(a) In General.—Section 37 (relating to retirement income) is amended to read as follows:

"Sec. 37. Credit for the Elderly.

"(a) General Rule.—In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

"(b) Section 37 Amount.—For purposes of subsection (a)—

"(1) In general.—An individual's section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (c).

"(2) Initial amount.—The initial amount is—

"(A) $2,500 in the case of a single individual,

"(B) $2,500 in the case of a joint return where only one spouse is eligible for the credit under subsection (a),

"(C) $3,750 in the case of a joint return where both spouses are eligible for the credit under subsection (a), or

"(D) $1,875 in the case of a married individual filing a separate return.

"(3) Reduction.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

"(A) under title II of the Social Security Act,

"(B) under the Railroad Retirement Act of 1935 or 1937, or

"(C) otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees' trust), 403 (relating to taxation of employee annuities), or 405 (relating to qualified bond purchase plans).

"(c) Limitations.—

"(1) Adjusted gross income limitation.—If the adjusted gross income of the taxpayer exceeds—

"(A) $7,500 in the case of a single individual,

"(B) $10,000 in the case of a joint return, or

"(C) $5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.

"(2) Limitation based on amount of tax.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Married couple must file joint return.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(2) Marital status.—Marital status shall be determined under section 143.

"(3) Joint return.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(e) Election of Prior Law With Respect to Public Retirement System Income.—

"(1) In General.—In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subsection.

"(2) One spouse age 65 or over.—In the case of a married individual who has not attained age 65 before the close of the taxable year but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Secretary shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subsection.

"(3) Computation of credit.—In the case of an individual whose credit under this section for the taxable year is determined under this subsection, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

"(4) Retirement income.—For purposes of this subsection, the term 'retirement income' means—

"(A) in the case of an individual who has attained age 65 before the close of the taxable year, income from—

"(i) pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which are exempt from tax under section 501(a)),

"(ii) interest,

"(iii) rents,

"(iv) dividends,

"(v) bonds described in section 450(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or retirement bonds described in section 409, and

"(vi) an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b); or

"(B) in the case of an individual who has not attained age 65 before the close of the taxable year, income from pensions and annuities under a public retirement system (as defined in paragraph (8)(A)),

to the extent included in gross income without reference to this subsection, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(5) Limitation on retirement income.—For purposes of this subsection, the amount of retirement income shall not exceed $2,500 less—

"(A) the reduction provided by subsection (b)(3), and

"(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

"(i) if such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8)(B)) in excess of $900 received by such individual in the taxable year, or "(ii) if such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of $1,200 but not in excess of $1,700, and the amount of earned income so received in excess of $1,700.

"(6) Limitation in case of married individuals.—In the case of a joint return, paragraph (5) shall be applied by substituting '$3,750' for '$2,500'. The $3,750 provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than $2,500 may be assigned to either spouse.

"(7) Limitation in the case of separate returns.—In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting '$1,875' for '$2,500'.

"(8) Definitions.—For purposes of this subsection—

"(A) Public retirement system defined.—The term 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

"(B) Earned income.—The term 'earned income' has the meaning assigned to such term by section 911(b), except that such terms does not include any amount received as a pension or annuity.

"(f) Nonresident Alien Ineligible for Credit.—No credit shall be allowed under this section to any nonresident alien."

(b) Technical Amendments.—

(1) Section 904 (relating to limitation on foreign tax credit), as amended by this Act, is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) Coordination With Credit for the Elderly.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly)."

(2) Section 6014(a) (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) (as amended by section 501(b)(9)) as paragraph (4), and

(C) by inserting "or" at the end of paragraph (3).

(4) Sections 41(b)(2), 42(b)(2), 46(a)(3)(C), and 50A(a)(3)(C) are each amended by striking out "retirement income" and inserting in lieu thereof "credit for the elderly".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

"Sec. 37. Credit for the elderly."

Sec. 504. Credit for Child Care Expenses.

(a) Allowances of Credit for Child Care Expenses.—

(1) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44A. Expenses for Household and Dependent Care Services Necessary for Gainful Employment.

"(a) Allowance of Credit.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subseciton (c)(2)) paid by such individual during the taxable year.

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to general tax credit), and

"(7) section 44 (relating to purchase of new principal residence).

"(c) Definitions of Qualifying Individual and Employment-Related Expenses.—For purposes of this section—

"(1) Qualifying individual.—The term 'qualifying individlual' means—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

"(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

"(2) Employment-related expenses.—

"(A) In general.—The term 'employment-related expenses' means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

"(i) expenses for household services, and

"(ii) expenses for the care of a qualifying individual.

"(B) Exception.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A).

"(d) Dollar Limit on Amount Creditable.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(1) $2,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

"(2) $4,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

"(e) Earned Income Limitation.—

"(1) In general.—Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(A) in the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

"(B) in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

"(2) Special rule for spouse who is a student incapable of caring for himself.—In the case of a spouse who is a student or a qualified individual described in subsection (c)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

"(A) $166 if subsection (d)(1) applies for the taxable year, or

"(B) $333 if subsection (d)(2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

"(f) Special Rules.—For purposes of this section—

"(1) Maintaining household.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

"(2) Married couples must file joint return.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

"(3) Marital status.—An individual legally separated from his spouse under a decree of divorce or of separate maintenence shall not be considered as married.

"(4) Certain married individuals living apart.—If—

"(A) an individual who is married and who files a separate return—

"(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

"(ii) furnishes over half of the cost of maintaining such household during the taxable years, and

"(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

"(5) Special dependency test in case of divorced parents, etc.—If—

"(A) a child (as defined in section 151(e)(3) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

"(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subsection (c)(1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

"(6) Payments to related individuals.—

"(A) In general.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section.

"(B) Exception.—Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of section 3121(b).

"(7) STUDENT.—The term 'student' means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

"(8) EDUCATIONAL ORGANIZATION.—The term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii).

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44A. Expenses for household and dependent care services necessary for gainful employment."

(b) REPEAL OF DEDUCTION FOR CHILD CARE EXPENSES.—

(1) IN GENERAL.—Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 214.

(c) TECHNICAL AMENDMENTS.—

(1) Section 213(f) (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "a deduction under section 214" and inserting in lieu thereof "a credit under section 44A".

(2) Section 6096(b) (defining income tax liability) is amended by striking out "and 44" and inserting in lieu thereof ", 44, and 44A".

(3) Paragraph (4) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) may take into account tax credits to which employees are entitled."

SEC. 505. CHANGES IN EXCLUSIONS FOR SICK PAY AND CERTAIN MILITARY, ETC., DISABILITY PENSIONS.

(a) SICK PAY.—Subsection (d) of section 105 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

"(d) CERTAIN DISABILITY PAYMENTS.—

"(1) IN GENERAL.—In the case of a taxpayer who—

"(A) has not attained age 65 before the close of the taxable year, and

"(B) retired on disability and, when he retired, was permanently and totally disabled, gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

"(2) LIMITATION.—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of $100.

"(3) PHASEOUT OVER $15,000.—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds $15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over $15,000.

"(4) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year. For purposes of this subsection, marital status shall be determined under section 143.

"(5) PERMANENT AND TOTAL DISABILITY DEFINED.—For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

"(6) JOINT RETURN.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013.

"(4) COORDINATION WITH SECTION 72.—In the case of an individual described in subparagraphs (A) and (B) of paragraph (1) for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years."

(b) CERTAIN MILITARY, ETC., DISABILITY PENSIONS.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TERMINATION OF APPLICATION OF SUBSECTION (a)(4) IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(4) shall not apply in the case of any individual who is not described in paragraph (2).

"(2) INDIVIDUALS TO WHOM SUBSECTION (a)(4) CONTINUES TO APPLY.—An individual is described in this paragraph if—

"(A) on or before September 24, 1975, he was entitled to receive any amount described in subsection (a)(4),

"(B) on September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subsection (a)(4) or under a binding written commitment to become such a member,

"(C) he receives an amount described in subsection (a)(4) by reason of a combat-related injury, or

"(D) on application therefor, he would be entitled to receive disability compensation from the Veteran's Administration.

"(3) SPECIAL RULES FOR COMBAT-RELATED INJURIES.—For purposes of this subsection, the term 'combat-related injury' means personal injury or sickness—

"(A) which is incurred—

"(i) as a direct result of armed conflict,

"(ii) while engaged in extrahazardous service, or

"(iii) under conditions simulating war; or

"(B) which is caused by an instrumentality of war.

In the case of an individual who is not described in subparagraph (A) or (B) of paragraph (2), except as provided in paragraph (4), the only amounts taken into account under subsection (a)(4) shall be the amounts which he receives by reason of a combat-related injury.

"(4) AMOUNT EXCLUDED TO BE NOT LESS THAN VETERANS' DISABILITY COMPENSATION.—In the case of any individual described in paragraph (2), the amounts excludable under subsection (a)(4) for any period with respect to any individual shall not be less than the maximum amount which such individual, on application therefore, would be entitled to receive as disability compensation from the Veterans' Administration."

(c) SPECIAL RULE FOR EXISTING PERMANENT AND TOTAL DISABILITY CASES.—In the case of any individual who—

(1) retired before January 1, 1976,

(2) either retired on disability or was entitled to retire on disability, and

(3) on January 1, 1976, was permanently and totally disabled (within the meaning of section 105(d)(5) of the Internal Revenue Code of 1954),

such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section).

(d) SPECIAL RULE FOR COORDINATION WITH SECTION 72.—In the case of an individual who—

(1) retired on disability before January 1, 1976, and

(2) on December 31, 1975, was entitled to exclude any amount with respect to such retirement disability from gross income under section 105(d) of the Internal Revenue Code of 1954,

for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years.

SEC. 506. MOVING EXPENSES.

(a) DECREASE IN MILEAGE TEST FROM 50 MILES TO 35 MILES.—Paragraph (1) of section 217(c) (relating to conditions for allowance of deduction for moving expenses) is amended by striking out "50 miles" each place it appears and inserting in lieu thereof "35 miles".

(b) INCREASE IN DOLLAR AMOUNTS.—

(1) CERTAIN EXPENSES OF TRAVELING, MEALS, AND LODGING AFTER OBTAINING EMPLOYMENT.—The first sentence of subparagraph (A) of section 217(b)(3) (relating to dollar limits) is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(2) AGGREGATE DOLLAR LIMIT.—The second sentence of subparagraph (A) of section 217(b)(3) is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(3) SEPARATE RETURNS.—The second sentence of subparagraph (B) of section 217(b)(3) (relating to dollar limits in the case of husband and wife) is amended to read as follows: "In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$750' for '$1,500', and by substituting '$1,500' for '$3,000'."

(c) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Section 217 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—In the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station—

"(1) the limitations under subsection (c) shall not apply;

"(2) any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member, his spouse, or his dependents, shall not be includible in gross income, and no reporting with respect to such expenses shall be required by the Secretary of Defense or the Secretary of Transportation, as the case may be; and

"(3) if moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member's spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one from which such member moves), this section shall apply with respect to the moving expenses of his spouse and dependents—

"(A) as if his spouse commenced work as an employee at a new principal place of work at such location;

"(B) for purposes of subsection (b)(3), as if such place of work was within the same general location as the member's new principal place of work, and

"(C) without regard to the limitations under subsection (c)."

(d) Effective Date.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1976.

Sec. 507. Tax Revision Study.

(a) Study.—The Joint Committee on Taxation shall make a full and complete study and investigation with respect to simplifying and indexing the tax laws of the United States. Such study and investigation shall include a consideration of whether the rates of tax can be reduced by repealing any or all tax deductions, exemptions, or credits.

(b) Report.—Before July 1, 1977, the Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations, including recommendations for legislation.

Sec. 508. Effective Date.

Except as otherwise provided, the amendments made by this title shall apply to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

Sec. 601. Deductions for Expenses Attributable to Business Use of Homes, Rental of Vacation Homes, Etc.

(a) Nondeductibility of Certain Expenses.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280A. Disallowance of Certain Expenses in Connection With Business Use of Home, Rental of Vacation Homes, Etc.

"(a) General Rule.—Except as otherwise provided in this section, in the case of a taxpayer who is an individual or an electing small business corporation, no deduction otherwise allowable under this chapter shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxabe year as a residence.

"(b) Exception for Interest, Taxes, Casualty Losses, Etc.—Subsection (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

"(c) Exceptions for Certain Business or Rental Use; Limitation on Deductions for Such Use.—

"(1) Certain business use.—Subsection (a) shall not apply to any item to the extent such item is allowable to a portion of the dwelling unit which is exclusively used on a regular basis—

"(A) as the taxpayer's principal place of business,

"(B) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

"(C) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

"(2) Certain storage use.—Subsection (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer's trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of such trade or business.

"(3) Rental use.—Subsection (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subsection (e)).

"(4) Limitation on deductions.—In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this chapter for the taxable year by reason of being attributed to such use shall not exceed the excess of—

"(A) the gross income derived from such use for the taxable year, over

"(B) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used.

"(d) Use as Residence.—

"(1) In general.—For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

"(A) 14 days, or

"(B) 10 percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes.

"(2) Personal use of unit.—For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day if, for any part of such day, the unit is used—

"(A) for personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in section 267(c)(4)) of the taxpayer or such other person;

"(B) by any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

"(C) by any individual (other than an employee with respect to whose use section 119 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

The Secretary shall prescribe regulations with respect to the circumstances under which use of the unit for repairs and annual maintenance will not constitute personal use under this paragraph.

"(e) Expenses Attributable to Rental.—

"(1) In general.—In any case where a taxpayer who is an individual or an electing small business corporation uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this chapter with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during each year that the unit (or portion thereof) is rented at a fair rental bears to the total number of days during such year that the unit (or portion thereof) is used.

"(2) Exception for deductions otherwise allowable.—This subsection shall not apply with respect to deductions which would be allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was rented.

"(f) Definitions and Special Rules.—

"(1) Dwelling unit defined.—For purposes of this section—

"(A) In general.—The term 'dwelling unit' includes a house, apartment, condominium, mobile home, boat, or similar property, and all structures or other property appurtenant to such dwelling unit.

"(B) Exception.—The term 'dwelling unit' does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment.

"(2) Personal use by electing small business corporation.—In the case of an electing small business corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting 'any shareholder of the electing small business corporation' for 'the taxpayer' each place it appears.

"(3) Coordination with section 183.—If subsection (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

"(A) section 183 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

"(B) such year shall be taken into account as a taxable year for purposes of applying subsection (d) of section 183 (relating to 5-year presumption).

"(g) Special Rule for Certain Rental Use.—Notwithstanding any other provision of this section or section 183, if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then—

"(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

"(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61."

(b) Clerical Amendment.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 280A. Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc."

(c) Effective Date.—The amendments

made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 602. Deductions for Attending Foreign Conventions.

(a) Nondeductibility of Certain Expenses.—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Foreign Conventions.—

"(1) Deductions with respect to not more than 2 foreign conventions per year allowed.—If any individual attends more than 2 foreign conventions during his taxable year—

"(A) he shall select not more than 2 of such conventions to be taken into account for purposes of this subsection, and

"(B) no deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under subparagraph (A)) shall be allowed under section 162 or 212.

"(2) Deductible transportation cost cannot exceed cost of coach or economy air fare.—In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under section 162 or 212 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting 'first class' for 'coach or economy'.

"(3) Transportation costs deductible in full only if at least one-half of the days are devoted to business related activities.—In the case of any foreign convention a deduction for the full expenses of transportation (determined after the application of paragraph (2) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities.

"(4) Deductions for subsistence expenses not allowed unless the individual attends two-thirds of business activities.—In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

"(A) a deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least 6 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

"(B) a deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least 3 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities.

Notwithstanding subparagraphs (A) and (B), a deduction for subsistence expenses of all of the days or half days, as the case may be, if the convention shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least 6 hours of scheduled business activities and each such half day consists of at least 3 hours of scheduled business activities.

"(5) Deductible subsistence costs cannot exceed per diem rate for United States civil servants.—In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under section 5702(a) of title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Foreign convention defined.—The tem 'foreign convention' means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

"(B) Subsistence expenses defined.—The term 'subsistence expenses' means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

("C) Allocation of expenses in certain cases.—In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

"(D) Subsection to apply to employee as well as to traveler.—This subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by each individual.

"(7) Reporting requirements.—No deduction shall be allowed under section 162 or 212 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

"(A) a written statement signed by an individual attending the convention which includes—

"(i) information with respect to the total days of the trip, excluding the days of transportation to and from the site of each convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

"(ii) a program of the scheduled business activities of the convention, and

"(iii) such other information as may be required in regulations prescribed by the Secretary; and

"(B) a written statement signed by an officer of the organization or group sponsoring the convention which includes—

"(i) a schedule of the business activities of each day of the convention,

"(ii) the number of hours which the individual attending the convention attended such scheduled business activities, and

"(iii) such other information as may be required in regulations prescribed by the Secretary."

(b) Effective Date.—The amendments made by this section shall apply to conventions beginning after December 31, 1976.

Sec. 603. Change in Tax Treatment of Qualified Stock Options.

(a) In General.—Section 422(b) (defining qualified stock option) is amended by inserting "and before May 21, 1976 (or, if it meets the requirements of subsection (c)(7), granted to an individual after May 20, 1976)," after "section 424(c)(3)(A)),".

(b) Certain Options Granted After May 20, 1976.—Section 422(c) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(7) Certain options granted after May 20, 1976.—For purposes of subsection (b), an option granted after May 20, 1976, meets the requirements of this paragraph—

"(A) if such option is granted to an individual pursuant to a written plan adopted before May 21, 1976, or

"(B) if such option is a new option substituted, in a transaction to which section 425(a) applies, for an old option which was granted before May 21, 1976, or which met the requirements of subparagraph (A).

An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981."

(c) Restricted Stock Options Must Be Exercised Before May 21, 1981.—Section 424(c)(3) (relating to special rules for restricted stock options) is amended by adding at the end thereof the following new sentence: "An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981."

(d) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1975.

Sec. 604. State Legislators' Travel Expenses Away From Home.

(a) In General.—For purposes of section 162(a) of the Internal Revenue Code of 1954, in the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1976, and who elects the application of this section, for any period during such a taxable year in which he was a State legislator—

(1) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(2) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

(b) Legislative Days.—For purposes of subsection (a), a legislative day during any taxable year for any individual shall be any day during such year on which (1) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or (2) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(c) Limitation.—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this section shall not exceed the amount claimed for such purpose under a return (or amended return) filed before May 21, 1976.

(d) Making and Effect of Election.—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1976, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.

Sec. 605. Deduction For Guarantees of Business Bad Debts to Guarantors Not Involved in Business.

(a) Repeal of Section 166(f).—Section 166 (relating to bad debts) is amended by striking out subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(b) Conforming Amendment.—Paragraph (1) of section 81 (relating to certain increases in suspense accounts) is amended by striking out "section 166(g)" in the text and inserting in lieu thereof "section 166(f)".

(c) Effective Date.—The amendments made by this section shall apply to guarantees made after December 31, 1975, in taxable years beginning after such date.

And the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

ACCUMULATION TRUSTS

Sec. 701. Accumulation Trusts.

(a) Revision of Method of Taxing Accumulation Distribution From Trusts.—

(1) Section 667 (relating to denial of refund to trusts; authorization of credit to beneficiaries) is amended to read as follows:

"Sec. 667. Treatment of Amounts Deemed Distributed by Trust in Preceding Years.

"(a) General Rule.—The total of the amounts which are treated under section 666 as having been distributed by a trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a)(2) (and, with respect to any tax-exempt interest to which section 103 applies, under section 662(b)) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this subtitle on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

"(1) a partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and

"(2) a partial tax determined as provided in subsection (b) of this section.

"(b) Tax on Distribution.—

"(1) In general.—The partial tax imposed by subsection (a)(2) shall be determined—

"(A) by determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) to have been distributed,

"(B) by taking from the 5 taxable years immediately preceding the year of the accumulation distribution the 1 taxable year for which the beneficiary's taxable income was the highest and the 1 taxable year for which his taxable income was the lowest,

"(C) by adding to the beneficiary's taxable income for each of the 3 taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and

"(D) by determining the average increase in tax for the 3 taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a)(2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under sections 666 (b) and (c).

"(2) Treatment of loss years.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.

"(3) Certain preceding taxable years not taken into account.—For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a), the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to such year.

"(4) Effect of other accumulation distributions.—In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 as a result of prior accumulation distributions (whether from the same or another trust).

"(5) Multiple distributions in the same taxable year.—In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

"(c) Special Rule for Multiple Trusts.—

"(1) In general.—If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as 'third trust') is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior distributions by each of 2 or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 shall not apply with respect to such part of the accumulation distribution from such third trust.

"(2) Accumulation distributions from trust not taken into account unless they equal or exceed $1,000.—For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under section 666(a) to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds $1,000."

(2) Section 666 (relating to accumulation distribution allocated to preceding years) is amended by adding at the end thereof the following new subsection:

"(e) Denial of Refund to Trusts and Beneficiaries.—No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under this section."

(3) Section 668 (relating to treatment of amounts deemed distributed in preceding years) is hereby repealed.

(b) Income Accumulated Before Child Attains Age of 21 Years Not To Be Subject to the Throwback Rule.—Subsection (b) of section 665 (defining accumulation distribution) is amended by adding at the end thereof the following new sentence: "For purposes of section 667 (other than subsection (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21."

(c) No Accumulation Distribution Where Distributions Do Not Exceed Accounting Income.—Section 665(b) (defining accumulation distribution), as amended by subsection (b), is amended by adding at the end thereof the following new sentence: "If the amounts properly paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year."

(d) Repeal of Special Capital Gain Throwback.—

(1) Section 669 (relating to treatment of capital gain deemed distributed in preceding years) is hereby repealed.

(2) Paragraph (1) of section 665(e) (defining preceding taxable year) is amended—

(A) by striking out subparagraph (C),

(B) by inserting "or" at the end of subparagraph (A), and

(C) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; and".

(3) Section 665 (definitions applicable to subpart D) is amended by striking out subsections (f) and (g).

(e) Special Rule for Gain on Property Transferred to Trust at Less Than Fair Market Value.—

(1) In general.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"Sec. 644. Special Rule for Gain on Property Transferred to Trust at Less Than Fair Market Value.

"(a) Imposition of Tax.—

"(1) In general.—If—

"(A) a trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than 2 years after the date of the initial transfer of the property in trust by the transferor, and

"(B) the fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includible gain realized on such sale or exchange.

"(2) Amount of Tax.—The amount of the tax imposed by paragraph (1) on any includible gain realized on the sale or exchange of any property shall be equal to the sum of—

"(A) the excess of—

"(i) the tax which would have been imposed under this chapter for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includible gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

"(ii) the tax actually imposed under this chapter for such taxable year on the transferor, plus

"(B) if such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under section 6621.

"(3) Taxable year for which tax imposed.—The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

"(4) Tax to be in addition to other taxes.—The tax imposed by this subsection for any taxable year of the trust shall be in addition to any other tax imposed by this chapter for such taxable year.

"(b) Definition of Includible Gain.—For purposes of this section, the term 'includible gain' means the lesser of—

"(1) the gain realized by the trust on the sale or exchange of any property, or

"(2) the excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the basis of such property immediately after such transfer.

"(c) Character of Includible Gain.—For purposes of subsection (a)—

"(1) the character of the includible gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

"(2) the portion of the includible gain subject to the provisions of section 1245 and section 1250 shall be determined in accordance with regulations prescribed by the Secretary.

"(d) Special Rule for Short Sales.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(e) Exceptions.—Subsection (a) shall not apply to property—

"(1) acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of section 1014), or

"(2) acquired by a pooled income fund as defined in section 642(c)(5)), or

"(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d)(2) and (3)), or

"(4) if the sale or exchange of the property occurred after the death of the transferor.

"(f) Special Rule for Installment Sales.—If the trust elects to report income under section 453 on any sale or exchange to which subsection (a) applies, under regulations prescribed by the Secretary—

"(1) subsection (a) shall be applied as if each installment were a separate sale or exchange of property to which such subsection applies, and

"(2) the term 'includible gain' shall not include any portion of an installment received by the trust after the death of the transferor."

(2) Exclusion of includible gain from taxable income.—Section 641 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

"(c) Exclusion of Includible Gain From Taxable Income.—

"(1) General rule.—For purposes of this part, the taxable income of a trust does not include the amount of any includible gain as defined in section 644(b) reduced by any deductions properly allocable thereto.

"(2) Cross reference.—

"For the taxation of any includible gain, see section 644.".

(f) Conforming Amendments.—

(1) Subparagraph (B) of subsection (a)(2), and subparagraph (B) of subsection (b)(2), of section 1302 (definition of averageable income; related definitions) are each amended by striking out "668(a)" and inserting in lieu thereof "667(a)".

(2) Section 6401(b) (relating to excessive credits), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "wages)," and inserting in lieu thereof "wages) and", and by striking out "and 667(b) (relating to taxes paid by certain trusts)".

(3) Section 6401(b) (relating to excessive credits), as amended by the Tax Reduction Act of 1975, is amended by striking out "lubricating oil)," and inserting in lieu thereof "lubricating oil), and", and by striking out "and section 667(b) (relating to taxes paid by certain trusts)".

(g) Clerical Amendments.—

(1) The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by striking out the items relating to sections 667, 668, and 669 and inserting in lieu thereof the following:

"Sec. 667. Treatment of amounts deemed distributed by trust in preceding years."

(2) The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 644. Special rule for gain on property transferred to trust at less than fair market value.".

(h) Effective Dates.—The amendments made by sections (a), (b), (c), (d), and (f) of this section shall apply to distributions made in taxable years beginning after December 31, 1975. The amendments made by subsection (e) of this section shall apply to transfers in trust made after May 21, 1976.

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

CAPITAL FORMATION

Sec. 801. Extension of $100,000 Limitation on Used Property for 4 Years.

Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1981".

Sec. 802. Extension of 10 Percent Credit for 4 Years and First-in-First-Out Treatment of Investment Tax Credit.

(a) In General.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended—

(1) by redesignating paragraphs (2) through (6) as (3) through (7), respectively, and

(2) by striking out so much of such subsection as precedes paragraph (3) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

"(a) General Rule.—

"(1) First-in-first-out rule.—The amount of the credit allowed by section 38 for the taxable year shall be an amount equal to the sum of—

"(A) the investment credit carryovers carried to such taxable year,

"(B) the amount of the credit determined under paragraph (2) for such taxable year, plus

"(C) the investment credit carrybacks carried to such taxable year.

"(2) Amount of credit for current taxarle year.—

"(A) 10 percent credit.—Except as otherwise provided in subparagraph (B), in the case of a property described in subparagraph (D), the amount of the credit determined under this paragraph for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

"(B) Additional credit.—In the case of a corporation which elects (at such time, in such form, and in such manner as the Secretary prescribes) to have the provisions of this subparagraph apply, the amount of the credit determined under this paragraph shall be an amount equal to—

"(i) 11 percent of the qualified investment (as determined under subsections (c) and (d)), plus.

"(ii) an additional percent (not in excess of one-half percent) of the qualified investment (as determined under such subsections) equal in amount to the amount determined under section 301(e) of the Tax Reduction Act of 1975.

An election may not be made to have the provisions of this subparagraph apply unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975.

"(C) 7 percent credit.—In the case of property not described in subparagraph (D), the amount of credit determined under this paragraph for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).

"(D) Transitional rules.—The provisions of subparagraphs (A) and (B) shall apply only to—

"(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1981,

"(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981, and

"(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1981.

For purposes of applying clause (ii) of subparagraph (B), the date "December 31, 1976," shall be substituted for the date "January 21, 1975," each place it appears in this subparagraph.

(b) Conforming Amendments.—

(1) Paragraphs (4), (5), (6), and (7) of section 46(a) (as redesignated by subsection (a)) are each amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(2) (Subsection (b) of section 46 (relating to carryback and carryover of unused credits) is amended to read as follows:

"(b) Carryback and Carryover of Unused Credits.—

"(1) IN GENERAL.—If the sum of the amount of the investment credit carryovers to the taxable year under subsection (a)(1)(A) plus the amount determined under subsection (a)(1)(B) for the taxable year exceeds the amount of the limitation imposed by subsection (a)(3) for such taxable year (hereinafter in this subsection referred to as the "unused credit year"), such excess attributable to the amount determined under subsection (a)(1)(B) shall be—

"(A) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) an investment credit carryover to each of the 7 taxable years following the unused credit year,

and, subject to the limitations imposed by paragraphs (2) and (3), shall be taken into account under the provisions of subsection (a)(1) in the manner provided in such subsection. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B) such credit may be carried and then to each of the other 9 taxable years to the extent, because of the limitations imposed by paragraphs (2) and (3), such unused credit may not be taken into account under subsection (a)(1) for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), the paragraph shall be applied—

"(A) by substituting 10 taxable years' for '7 taxable years' in subparagraph (B), and by substituting '13 taxable years' for '10 taxable years', and '12 taxable years' for '9 taxable years' in the preceding sentence, and

"(B) by carrying such an investment credit carryover to a later taxable year (than the taxable year to which it would, but for this subparagraph, be carried) to which it may be carried if, because of the amendments made by section 801(b)(2) of the Tax Reform Act of 1976, carrying such carryover to the taxable year to which it would, but for this subparagraph, be carried would cause a portion of an unused credit from an unused credit year ending after December 31, 1970 to expire.

"(2) LIMITATION ON CARRYBACKS.—The amount of the unusued credit which may be taken into account under subsection (a)(1) for any preceding taxable year shall not exceed the amount by which the limitation imposed by subsection (a)(3) for such taxable year exceeds the sum of—

"(A) the amounts determined under subparagraphs (A) and (B) of subsection (a)(1) for such taxable year, plus

"(B) the amounts which (by reason of this subsection) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

"(3) LIMITATION ON CARRYOVERS.—The amount of the unusued credit which may be taken into account under subsection (a)(1)(A) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by subsection (a)(3) for such taxable year exceeds the sum of the amounts which, by reason of this subsection, are carried to such taxable year and are attributable to taxable years preceding the unused credit year."

(3) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended by striking out "subsection (a)(1)(C)" and inserting in lieu thereof "subsection (a)(2)(C)".

(4) Paragraph (1) of section 46(e) (relating to limitations with respect to certain persons) is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(3)".

(5) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow-through of investment credit) is amended by inserting after "the Tax Reduction Act of 1975" the following: "and the Tax Reform Act of 1976".

(6) Subsection (f) of section 48 (relating to estates and trusts) is amended by striking out "section 46(a)(2)" and inserting in lieu thereof "section 46(a)(3)".

(7) Section 301(d) of the Tax Reduction Act of 1975 is amended by striking out "section 46(a)(1)(B)" each place it appears and inserting in lieu thereof "section 46(a)(2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 803. EMPLOYEE STOCK OWNERSHIP PLANS.

(a) AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.—Section 46(f) (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR ADDITIONAL CREDIT.—If the taxpayer makes an election under subparagraph (B) of subsection (a)(2), for a taxable year beginning after December 31, 1975, then, notwithstanding the prior paragraphs of this subsection, no credit shall be allowed by section 38 in excess of the amount which would be allowed without regard to the provisions of subparagraph (B) of subsection (a)(2) if—

"(A) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to an employee stock ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975;

"(B) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan; or

"(C) any portion of the amount of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders."

(b) SPECIAL RULES.—

(1) Paragraph (4) of section 46(f) is amended—

(A) by striking out "paragraphs (1) and (2)" in subparagraph (A) and inserting in lieu thereof "paragraphs (1), (2), and (9)";

(B) by striking out "paragraph (1) or (2)" each place it appears in subparagraph (A) and inserting in lieu thereof "paragraph (1), (2), or (9)"; and

(C) by striking out "paragraph (2)," in subparagraph (B)(ii) and inserting in lieu thereof "paragraph (2) or the election described in paragraph (9),".

(2) Section 401(a) (relating to qualified pension, etc., plans) is amended by adding after paragraph (20) the following new paragraph:

"(21) A trust forming part of an employee stock ownership plan which satisfies the requirements of section 301(d) of the Tax Reduction Act of 1975 shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in subsection (d)(6) or (e)(3) of section 301 of the Tax Reduction Act of 1975."

(3) Section 1504(a) is amended by striking out "dividends." at the end thereof and inserting in lieu thereof "dividends, employer securities within the meaning of section 301(d)(9)(A) of the Tax Reduction Act of 1975, or qualifying employer securities within the meaning of section 4975(e)(8) while such securities are held under an employee stock ownership plan which meets the requirements of section 301(d) of such Act or section 4975(e)(7), respectively."

(4) Section 415(e)(5) is amended by striking out "For purposes of this subsection," and inserting in lieu thereof "For purposes of this section,".

(c) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL CREDIT.—Section 301(d) of the Tax Reduction Act of 1975 is amended—

(1) by adding at the end of paragraph (3) the following sentence: "For purposes of this paragraph, the amount of compensation paid to a participant for a year is the amount of such partcipant's compensation within the meaning of section 415(c)(3) of such Code for such year.",

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund—

"(A) in the case of a taxable year beginning before January 1, 1977, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year, and

"(B) in the case of a taxable year beginning after December 31, 1976—

"(i) to transfer employer securities to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the quaified investment (as determined under section 46 (c) and (d) of such Code) of the employer for the taxable year,

"(ii) except as provided in clause (iii), to effect the transfer not later than 30 days after the time (including extensions) for filing its income tax return for a taxable year, and

"(iii) in the case of an employer whose credit (as determined under section 46(a)(2)(B) of such Code) for a taxable year beginning after December 31, 1976, exceeds the limitations of paragraph (3) of section 46(a) of such Code—

"(I) to effect that portion of the transfer allocable to investment credit carrybacks of such excess credit at the time required under clause (ii) for the unused credit year (within the meaning of section 46(b) of such Code), and

"(II) to effect that portion of the transfer allocable to investment credit carryovers of such excess credit at the time required under clause (ii) for the taxable year to which such portion is carried over.

For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.",

(3) by deleting paragraph (8) and inserting in lieu thereof the following:

"(8)(A) Except as provided in subparagraph (B)(iii), if the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured or redetermined in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and subsection (e) and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the plan.

"(B) If the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured in accordance with the provisions of such Code—

"(i) the employer may reduce the amount required to be transferred to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the current taxable year or any succeeding taxable years by the portion of the amount so recaptured which is attributable to the contribution to such plan,

"(ii) notwithstanding the provisions of paragraph (12), the employer may deduct such portion, subject to the limitations of section 404 of such Code (relating to deductions for contributions to an employees' trust or plan), or

"(iii) if the requirements of subsection (f)(1) are met, the employer may withdraw from the plan an amount not in excess of such portion.

"(C) If the amount of the credit claimed by an employer for a prior taxable year under section 38 of the Internal Revenue Code of 1954 is reduced because of a redetermination which becomes final during the taxable year, and the employer transferred amounts to a plan which were taken into account for purposes of this subsection for that prior taxable year, then—

"(i) the employer may reduce the amount it is required to transfer to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the taxable year or any succeeding taxable year by the portion of the amount of such reduction in the credit or increase in tax which is attributable to the contribution to such plan, or

"(ii) Notwithstanding the provisions of paragraph (12) the employer may deduct such portion subject to the limitations of section 404 of such Code.",

(4) by striking out "in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954)" in paragraph (9)(A) and inserting in lieu thereof "a member of a controlled group of corporations which includes the employer (within the meaning of section 1563(a) of the Internal Revenue Code of 1954, determined without regard to section 1563(a)(4) and (e)(3)(C) of such Code)", and

(5) by adding at the end thereof the following new paragraphs:

"(13)(A) As reimbursement for the expense of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established, or the plan may pay so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of 10 percent of the first $100,000 that the employer is required to transfer to the plan for that taxable year under paragraph (6) (including any amounts transferred under subsection (e)(3)) and 5 percent of any amount in excess of the first $100,000 of such amount.

"(B) As reimbursement for the expense of administering the plan, the employer may withhold from amounts due the plan, or the plan may pay so much of the amounts paid or incurred by the employer during the taxable year as expenses of administering the plan as does not exceed the smaller of—

"(i) the sum of 10 percent of the first $100,000 and 5 percent of any amount in excess of $100,000 of the income from dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, or

"(ii) $100,000,

"(14) The return of a contribution made by an employer to an employee stock ownership plan designed to satisfy the requirements of this subsection or subsection (e) (or a provision for such a return) does not fail to satisfy the requirements of this subsection, subsection (e), section 401(a) of the Internal Revenue Code of 1954, or section 403(c)(1) of the Employee Retirement Income Security Act of 1974 if—

"(A) the contribution is conditioned under the plan upon determination by the Secretary of the Treasury that such plan meets the applicable requirements of this subsection, subsection (e), or section 401(a) of such Code.

"(B) the application for such a determination is filed with the Secretary not later than 90 days after the date on which the claim is made for credit under section 38, and

"(C) the contribution is returned within one year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this subsection, subsection (e), or section 401(a) of such Code."

(d) Plan Requirements for Taxpayers Electing Additional One-Half Percent Credit.—Section 301 of the Tax Reduction Act of 1975 (relating to increase in investment credit) is amended by adding at the end thereof the following new subsections.

"(e) Plan Requirements for Taxpayers Electing Additional One-Half Percent Credit.—

"(1) General rule.—For purposes of clause (ii) of section 46 (a)(2)(B) of the Internal Revenue Code of 1954, the amount determined under this subsection for a taxable year is an amount equal to the sum of the matching employee contributions for the taxable year which meet the requirements of this subsection.

"(2) Election; basic plan requirement.—No amount shall be determined under this subsection for the taxable year unless the corporation elects to have this subsection apply for that year. A corporation may not elect to have the provisions of this subsection apply for a taxable year unless the corporation meets the requirements of subsection (d) and the requirements of this subsection.

"(3) Employer contribution.—On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer shall state in such claims that the employer agrees, as a condition of receiving any such credit, adjustment, or refund attributable to the provisions of section 46(a)(2)(B)(ii) of such Code, to transfer employer securities (as defined in subsection (d)(9)(A)) to the plan having an aggregate value at the time of the transfer of not more than one-half of one percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

"(4) Requirements relating to matching employee contributions.—

"(A) An amount contributed by an employee under a plan described in subsection (d) for the taxable year may not be treated as a matching employee contribution for that taxable year under this subsection unless—

"(i) each employee who participates in the plan described in subsection (d) is entitled to make such a contribution,

"(ii) the contribution is designated by the employee as a contribution intended to be used for matching employer amounts transferred under paragraph (3) to a plan which meets the requirements of this subsection, and

"(iii) the contribution is in the form of an amount paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year in which the portion of the credit allowed by section 38 of such Code (and determined under clause (ii) of section 46(a)(2)(B) of such Code which the contribution is to match) is allowed, and is invested forthwith in employer securities (as defined in subsection (d)(9)(A)).

"(B) The sum of the amounts of matching employee contributions taken into account for purposes of this subsection for any taxable year may not exceed the value (at the time of transfer) of the employer securities transferred to the plan in accordance with the requirements of paragraph (3) for the year for which the employee contributions are designated as matching contributions.

"(C) The employer may not make participation in the plan a condition of employment and the plan may not require matching employer contributions as a condition of participation in the plan.

"(D) Employee contributions under the plan must meet the requirements of section 401(a)(4) (relating to contributions).

"(5) A plan must provide for allocation of all employer securities transferred to it or purchased by it under this subsection to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of the plan year in an amount equal to his matching employee contributions for the year. Matching employee contributions and amount so allocated shall be deemed to be allocated under subsection (d)(3).

"(f) Recapture.—

"(1) General rule.—Amounts transferred to a plan under subsection (d)(6) or (e)(3) may be withdrawn from the plan by the employer if the plan provides that while subject to recapture—

"(A) amounts so transferred with respect to a taxable year are segregated from other plan assets, and

"(B) separate accounts are maintained for participants on whose behalf amounts so transferred have been allocated for a taxable year.

"(2) Coordination with other law.—Notwithstanding any other law or rule of law, an amount withdrawn by the employer will neither fail to be considered to be nonforfeitable nor fail to be for the exclusive benefit of participants or their beneficiaries merely because of the withdrawal from the plan of—

"(A) amounts described in paragraph (1), or

"(B) employer amounts transferred under subsection (e)(3) to the plan which are not matched by matching employee contributions or which are in excess of the limitations of section 415 of such Code,

nor will the withdrawal of any such amount be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974."

(e) Clerical Amendment.—

(1) The heading of section 301(d) of the Tax Reduction Act of 1975 is amended by striking out "11-Percent" and inserting in lieu thereof "Additional".

(2) Section 301(d) of the Tax Reduction Act of 1975 is amended by—

(A) striking out "A corporation" in paragraph (1) and inserting in lieu thereof "Except as expressly provided in subsections (e) and (f), a corporation",

(B) inserting "or subsection (e)(3)" in paragraph (7)(A) immediately after "(6)",

(C) striking out "this subsection" in paragraph (10) and substituting in lieu thereof "this subsection and subsections (e) and (f)", and

(D) striking out "this subsection" each time it appears in paragraph (11) and substituting in lieu thereof "this subsection or subsection (e) or (f)".

(f) Limitations on Contributions.—

(1) Special limitation for employee stock ownership plans.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:

"(6) Special limitation for employee stock ownership plan.—

"(A) In the case of an employee stock ownership plan (as defined in subparagraph (B), under which no more than one-third of the employer contributions for a year are allocated to the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii), the amount described in subsection (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1)) for a year with respect to any participant shall be equal to the sum of (i) the amount described in subsection (c)(1)(A) (as so adjusted) determined without regard to this paragraph and (ii) the lesser of the amount determined under clause (i) or the amount of employer securities contributed to the employee stock ownership plan.

"(B) For purposes of this paragraph—

"(i) the term 'employee stock ownership plan' means a plan which meets the requirements of section 4975(e)(7) or section 301 (d) of the Tax Reduction Act of 1975,

"(ii) the term 'employer securities' means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7), qualifying employer securities within the meaning of section 4975(e)(8), but only if they are described in section 301(d)(9)(A) of the Tax Reduction Act of 1975, or, in the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reduction Act of 1975, employer securities within the meaning of section 301(d)(9)(A) of such Act,

"(iii) an employee described in this clause is any participant whose compensation for a year exceeds an amount equal to twice the amount described in subsection (c)(1)(A) for such year (as adjusted for such year pursuant to subsection (d)(1)), determined without regard to subparagraph (A) of this paragraph, and

"(iv) an individual shall be considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.".

(2) Conforming amendment.—Paragraph (3)(B) of section 415(e) (relating to defined contribution plan fraction) is amended by inserting "determined without regard to paragraph (6) of such subsection)" after "employer".

(g) Waiver of Penalty for Underpayment of Estimated Tax.—If

(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1954 (as it existed before the date of enactment of this Act) apply for such taxable year, and

(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flowthrough of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate,

then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year.

(h) Effective Dates.—

(1) General rule.—Except as provided in paragraph (2), the amendments made by this section shall apply for taxable years beginning after December 31, 1974.

(2) Exceptions.—

(A) Section 301(e) of the Tax Reduction Act of 1975, as added by subsection (d), shall apply for taxable years beginning after December 31, 1976.

(B) The amendments made by subsections (a) and (b)(1) shall apply for taxable years beginning after December 31, 1975.

(C) The amendments made by subsections (b)(4) and (f) shall apply for years beginning after December 31, 1975.

Sec. 804. Investment Credit in the Case of Movie and Television Films.

(a) Special Rules for Movie and Television Films.—Section 48 (relating to definitions and special rules for purposes of the investment credit) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Movie and Television Films.—

"(1) Entitlement to credit.—

"(A) In general.—A credit shall be allowable under section 38 to a taxpayer with respect to any motion picture film or video tape—

"(i) only if such film or tape is new section 38 property (determined without regard to useful life) which is a qualified film, and

"(ii) only to the extent that the taxpayer has an ownership interest in such film or tape.

"(B) Qualified film defined.—For purposes of this subsection, the term 'qualified film' means any motion picture film or video tape created primarily for use as public entertainment or for educational purposes. Such term does not include any film or tape the market for which is primarily topical or is otherwise essentially transitory in nature.

"(C) Ownership interest.—For purposes of this subsection, a person's 'ownership interest' in a qualified film shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such film.

"(2) Applicable percentage to be 66⅔.—Except as provided in paragraph (3), the applicable percentage under section 46(c)(2) for any qualified film shall be 66⅔ percent.

"(3) Election of 90-percent rule.—

"(A) In general.—If the taxpayer makes an election under this paragraph, the applicable percentage under section 46(c)(2) shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 would equal or exceed 90 percent of the basis of the film.

"(B) Making of election.—An election under this paragraph shall be made at such time and in such manner as the Secretary may by regulation prescribe. Such an election shall apply for the taxable year for which it is made and for all subsequent taxable years and may be revoked only with the consent of the Secretary.

"(C) Who may elect.—If for any prior taxable year paragraph (2) of this subsection applied to the taxpayer or any related business entity, or if for the taxable year paragraph (2) applies to any related business entity, an election under this paragraph may be made by the taxpayer only with the consent of the Secretary.

"(D) Related business entity.—Two or more corporations, partnerships, trusts, estates, proprietorships, or other entities shall be treated as related business entities if 50 percent or more of the beneficial interest in each of such entities is owned by the same or related persons (taking into account only persons who own at least 10 percent of such beneficial interest). For purposes of this subparagraph, a person is a related person to another person if—

"(i) such persons are component members of a controlled group of corporations (within the meaning of section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)), or

"(ii) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for these purposes a family of an individual includes only his spouse and minor children. For purposes of this subparagraph, the term 'beneficial interest' means voting stock in the case of a corporation, profits interest or capital interest in the case of a partnership, or beneficial interest in the case of a trust or estate.

"(4) Predominant use test; qualified investment.—In the case of any qualified film—

"(A) section 48(a)(2) shall not apply, and

"(B) in determining qualified investment under section 46(c)(1), there shall be issued (in lieu of the basis of the property) an amount equal to the qualified United States production costs (as defined in paragraph (5)).

"(5) Qualified United States production costs.—

"(A) In general.—For purposes of this subsection, the term 'qualified United States production costs' means with respect to any film—

"(i) direct production costs allocable to the United States, plus

"(ii) if 80 percent or more of the direct production costs are allocable to the United States, all other production costs other than direct production costs allocable outside the United States.

"(B) Production costs.—For purposes of this subsection, the term 'production costs' includes—

"(i) a reasonable allocation of general overhead costs,

"(ii) compensation (other than participations described in clause (vi)) for services performed by actors, production personnel, directors, and producers.

"(iii) costs of 'first' distribution of prints,

"(iv) the cost of the screen rights and other material being filmed,

"(v) 'residuals' payable under contracts with labor organizations, and

"(vi) participations payable as compensation to actors, production personnel, directors, and producers.

Participations in all qualified films placed in service by a taxpayer during a taxable year shall be taken into account under clause (vi) only to the extent of the lesser of 25 percent of each such participation or 12½ percent of the aggregate qualified United States production costs (other than costs described in clauses (v) and (vi) of this subparagraph) for such films, but taking into account for both the 25 percent limit and 12½ percent limit no more than $1,000,000 in participations for any one individual with respect to any one film. For purposes of this subparagraph (other than clauses (v) and (vi) and the preceding sentence), costs shall be taken into account only if they are capitalized.

"(C) Direct production costs.—For purposes of this paragraph, the term 'direct production costs' does not include items referred to in clause (i), (iv), (v), (vi) of subparagraph (B). The term also does not include advertising and promotional costs and such other costs as may be provided in regulations prescribed by the Secretary.

"(D) ALLOCATION OF DIRECT PRODUCTION COSTS.—For purposes of this paragraph—

"(i) Compensation for services performed shall be allocated to the country in which the services are performed, except that payments to United States persons for services performed outside the United States shall be allocated to the United States. For purposes of the preceding sentence, payments to an electing small business corporation (within the meaning of section 1371) or a partnership shall be considered payments to a United States person only to the extent that such payments are included in the gross income of a United States person other than an electing small business corporation or partnership.

"(ii) Amounts for equipment and supplies shall be allocated to the country in which, with respect to the production of the film, the predominant use occurs.

"(iii) All other items shall be allocated under regulations prescribed by the Secretary which are consistent with the allocation principle set forth in clause (ii).

"(6) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

(b) OVERESTIMATION OF USEFUL LIFE AND DISPOSITIONS WHERE 90-PERCENT RULE APPLIES.—Section 47(a) (relating to certain dispositions, etc., of section 38 property) is amended by adding after paragraph (6) the following new paragraph:

"(7) MOTION PICTURE FILMS AND VIDEO TAPES.—

"(A) DISPOSITION WHERE DEPRECIATION EXCEEDS 90 PERCENT OF BASIS OR COST.—A qualified film (within the meaning of section 48 (k)(1)(B)) which has an applicable percentage determined under section 48(k)(3) shall cease to be section 38 property with respect to the taxpayer at the close of the first day on which the aggregate amount allowable as a deduction under section 167 equals or exceeds 90 percent of the basis or cost of such film (adjusted for any partial dispositions).

"(B) OTHER DISPOSITIONS.—In the case of a disposition of the exclusive right to display a qualified film which has an applicable percentage determined under section 48(k) (3) in one or more mediums of publication or exhibition in one or more specifically defined geographical areas over the remaining initial period of commercial exploitation of the film or tape in such geographical areas, the taxpayer shall be considered to have disposed of all or part of such film or tape and shall recompute the credit earned on all of his basis or cost or on that part of the basis or cost properly allocable to that part of the film or tape disposed of. In the case of an affiliated group of corporations, a transfer within the affiliated group shall not be treated as a disposition until there is a transfer outside the group. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given to such term by section 1504 (determined as if section 1504(b) did not include paragraph (3) thereof). For purposes of this paragraph, section 1504(a) shall be applied by substituting '50 percent' for '80 percent' each place it appears.".

(c) ALTERNATIVE METHODS OF COMPUTING CREDIT FOR PAST PERIODS—.

(1) GENERAL RULE FOR DETERMINING USEFUL LIFE, PREDOMINANT FOREIGN USE, ETC.—In the case of a qualified film (within the meaning of section 48(k)(1)(B) of the Internal Revenue Code of 1954) placed in service in a taxable year beginning before January 1, 1975, with respect to which neither an election under paragraph (2) of this subsection nor an election under subsection (e)(2) applies—

(A) the applicable percentage under section 46(c)(2) of such Code shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 of such Code would equal or exceed 90 percent of the basis of such property (adjusted for any partial dispositions),

(B) for purposes of section 46(c)(1) of such Code, the basis of the property shall be determined by taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code),

(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

(D) section 47(a)(7) of such Code shall apply.

(2) ELECTION OF FORTY-PERCENT METHOD.—

(A) IN GENERAL.—A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

(B) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1954 shall apply to all qualified films described in subparagraph (A) with the following modifications:

(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code, there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

(ii) paragraph (2) shall be applied by substituting "100 percent" for "66⅔ percent", and

(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

(C) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(D) THE TAXPAYERS MUST CONSENT TO JOIN IN CERTAIN PROCEEDINGS.—No election may be made under this paragraph or subsection (e) (2) by any taxpayer unless he consents, under regulations prescribed by the Secretary of the Treasury or his delegate, to treat the determination of the investment credit allowable on each film subject to an election as a separate cause of action, and to join in any judicial proceeding for determining the person entitled to, and the amount of, the credit allowable under section 38 of the Internal Revenue Code of 1954 with respect to any film covered by such election.

(3) ELECTION TO HAVE CREDIT DETERMINED IN ACCORDANCE WITH PREVIOUS LITIGATION.—

(A) IN GENERAL.—A taxpayer described in subparagraph (B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made.

(B) WHO MAY ELECT.—A taxpayer may make an election under this paragraph if he has filed an action in any court of competent jurisdiction, before January 1, 1976, for a determination of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1975, with respect to any film.

(C) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph—

(i) paragraphs (1) and (2) of this subsection, and subsection (d) shall not apply to any film placed in service by the taxpayer, and

(ii) subsection 48(k) of the Internal Revenue Code of 1954 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning befor January 1, 1975, and as to which an election under subsection (e)(2) is not made, shall be determined as though this section (other than this paragraph) has not been enacted.

(D) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 90 days after the date of the enactment of this Act, by filing a notification of such election with the national office of the Internal Revenue Service. Such an election, once made, shall be irrevocable.

(d) ENTITLEMENT TO CREDIT.—Paragraph (1) of section 48(k) of the Internal Revenue Code of 1954 (relating to entitlement to credit) shall apply to any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1974.

(2) ELECTION MAY ALSO APPLY TO PROPERTY DESCRIBED IN SECTION 50(a).—At the election of the taxpayer, made within 1 year after the date of the enactment of this Act in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1954 and which is placed in service in taxable years beginning before January 1, 1975.

SEC. 805. INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"(g) 50 PERCENT CREDIT IN THE CASE OF CERTAIN VESSELS.—

"(1) IN GENERAL.—In the case of a qualified withdrawal out of the untaxed portion of a capital gain account or out of an ordinary income account in a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), for—

"(A) the acquisition, construction, or reconstruction of a qualified vessel, or

"(B) the acquisition, construction, or reconstruction of barges or containers which are part of the complement of a qualified vessel and to which subsection (f)(1)(B) of such section 607 applies,

for purposes of section 38 there shall be deemed to have been made (at the time of such withdrawal) a qualified investment (within the meaning of subsection (c)) or qualified progress expenditures (within the meaning of subsection (d)), whichever is appropriate with respect to property which is section 38 property.

"(2) Amount of credit.—For purposes of paragraph (1), the amount of the qualified investment shall be 50 percent of the applicable percentage of the qualified withdrawal referred to in paragraph (1), or the amount of the qualified progress expenditures shall be 50 percent of such withdrawal as the case may be. For purposes of determining the amount of the credit allowable by reason of this subsection for any taxable year, the limitation of subsection (a)(3) shall be determined without regard to subsection (d)(1)(A) of such section 607.

"(3) Coordination with section 38.—The amount of the credit allowable by reason of this subsection with respect to any property shall be the minimum amount allowable under section 38 with respect to such property. If, without regard to this subsection, a greater amount is allowable under section 38 with respect to such property, then such greater amount shall apply and this subsection shall not apply.

"(4) Coordination with section 47.—Section 47 shall be applied—

"(A) to any property to which this subsection applies, and

"(B) to the payment (out of the untaxed portion of a capital gain account or out of the ordinary income account of a capital construction fund established under section 607 of the Merchant Marine Act, 1936) of the principal of any indebtedness incurred in connection with property with respect to which a credit was allowed under section 38.

For purposes of section 47, any payment described in subparagraph (B) of the preceding sentence shall be treated as a disposition occurring less than 3 years after the property was placed in service; but, in the case of a credit allowable without regard to this subsection, the aggregate amount which may be recaptured by reason of this sentence shall not exceed 50 percent of such credit.

"(5) Definitions.—Any term used in section 607 of the Merchant Marine Act, 1970, shall have the same meaning when used in this subsection.

"(6) No inference.—Nothing in this subsection shall be construed to infer that any property described in this subsection is or is not section 38 property, and any determination of such issue shall be made as if this section had not been enacted."

(b) Effective Dates.—

(1) In general.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975, in the case of property placed in service after such date.

(2) Section 46(g)(4).—Section 46(g)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning after December 31, 1975.

(a) In General.—Section 172(b)(1)(B) is amended by adding at the end thereof the following new sentence: "Except as provided in subparagraphs (C), (D), (E) and (F), a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 7 taxable years following the taxable year of such loss."

(b) Regulated Transportation Corporations.—

(1) In general.—Section 172(b)(1)(C) is amended by adding at the end thereof the following new sentence: "For any taxable year ending after December 31, 1975, the preceding sentence shall be applied by substituting '9 taxable years' for '7 taxable years'."

(2) Conforming amendment.—Paragraph (3) of section 172(g) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) in the case of a net operating loss carryover from a loss year ending after December 31, 1975, subparagraphs (A) and (B) shall be applied by substituting '8th taxable year' for '6th taxable year' and '9th taxable year' for '7th taxable year.' "

(c) Election to Forego Carryback Period.—Section 172(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(E) Any taxpayer entitled to a carryback period under paragraph (1) may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1975. Such election shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year."

(d) Insurance Companies.—

(1) Life insurance companies.—

(A) In general.—Paragraph (1) of section 812(b) is amended by adding at the end thereof the following new sentence:

"In the case of an operations loss for any taxable year ending after December 31, 1975, this paragraph shall be applied by substituting '7 taxable years' for '5 taxable years'."

(B) Election to forego carryback periods.—Section 812(b) is amended by adding at the end thereof the following new paragraph:

"(3) Election for operations loss carrybacks.—In the case of a loss from operations for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year."

(2) Mutual insurance companies.—

(A) In general.—Section 825(d) is amended to read as follows:

"(d) Years to Which Carried.—

"(1) In general.—The unused loss for any taxable year shall be—

"(A) an unused loss carryback to each of the 3 taxable years preceding the loss year, and

"(B) an unused loss carryover to each of the 5 taxable years following the loss year.

In the case of an unused loss for a taxable year ending after December 31, 1975, such unused loss shall be an unused loss carryover to each of the 7 taxable years following the loss year.

"(2) Election for unused loss carrybacks.—In the case of an unused loss for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the unused loss for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year."

(e) Amendment on Section 382.—Section 382 (relating to special limitations on net operating loss carryovers) is hereby amended to read as follows:

"Sec. 382. Special Limitations on Net Operating Loss Carryovers.

"(a) Certain Acquisitions of Stock of a Corporation.—

"(1) In general.—If—

"(A) on the last day of a taxable year of a corporation,

"(B) any one or more of the persons described in paragraph (4)(B) own, directly or indirectly, a percentage of the total fair market value of the participating stock or of all the stock of the corporation which exceeds by more than 60 percentage points the percentage of such stock owned by such person or persons at—

"(i) the beginning of such taxable year, or

"(ii) the beginning of the first or second preceding taxable year, and

"(C) such increase in percentage points is attributable to—

"(i) a purchase by such person or persons of such stock, or of the stock of another corporation owning stock in such corporation, or of an interest in a partnership or trust owning stock in such corporation,

"(ii) an acquisition (by contribution, merger, or consolidation) of an interest in a partnership owning stock in such corporation, or an acquisition (by contribution, merger, or consolidation) by a partnership of such stock,

"(iii) an exchange to which section 351 (relating to transfer to corporation controlled by transferor) applies, or an acquisition by a corporation of such stock in an exchange in which section 351 applies to the transferor,

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"(iv) a contribution to the capital of such corporation,

"(v) a decrease in the amount of such stock outstanding or in the amount of stock outstanding of another corporation owning stock in such corporation (except a decrease resulting from a redemption to pay death taxes to which section 303 applies),

"(vi) a liquidation of the interest of a partner in a partnership owning stock in such corporation, or

"(vii) any combination of the transactions described in clauses (i) through (vi),

then the net operating loss carryover, if any, from such taxable year and the net operating loss carryovers, if any, from prior taxable years to such taxable year and subsequent taxable years of such corporation shall be reduced by the percentage determined under paragraph (2).

"(2) Reduction of net operating loss.—The reduction applicable under paragraph (1) shall be the sum of the percentages determined by multiplying—

"(A) by three and one-half the increase in percentage points (including fractions thereof) in excess of 60 and up to and including 80, and

"(B) by one and one-half the increase in percentage points (including fractions thereof) in excess of 80.

The reduction under this paragraph shall be determined by reference to the increase in percentage points of the total fair market value of the participating stock or of all the stock, whichever increase is greater.

"(3) Minimum ownership rule.—Notwithstanding the provisions of paragraph (1), a net loss carryover from a taxable year shall not be reduced under this subsection if, at all times during the last half of such taxable year, any of the persons described in paragraph (4)(B) (determined on the last day of the taxable year referred to in paragraph (1)(A)) owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the corporation. For the purposes of the preceding sentence, persons owning stock of a corporation on the last day of its first taxable year shall be considered to have owned such stock at all times during the last half of such first taxable year.

"(4) Operating rules.—For purposes of this subsection—

"(A) Definition of purchase.—The term 'purchase' means an acquisition of stock the basis of which is determined by reference to its cost to the holder thereof.

"(B) Description of person or persons.—The person or persons referred to in paragraph (1) (B) shall be the 15 persons (or such lesser number as there are persons owning the stock on the last day of the taxable year) who own the greatest percentage of the total fair market value of all the stock on the last day of that year, except that if any other person owns the same percentage of such stock at such time as is owned by one of the 15 persons, that other person shall also be included. If any of the persons are so related that the stock owned by one is attributed to the other under the rules specified in subparagraph (C), such persons shall be considered as only one person solely for the purpose of selecting the 15 persons (more or less) who own the greatest percentage of the total fair market value of all the stock.

"(C) Constructive ownership.—Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a) (2) (C) and 318(a) (3) (C) shall be applied without regard to the 50 percent limitation contained therein.

"(D) Short taxable years.—If one of the taxable years of the corporation referred to in paragraph (1) (B) is a short taxable year, then such paragraph and paragraph (6) shall be applied by substituting 'first, second, or third' for 'first or second' each time such phrase occurs.

"(5) Exceptions.—This subsection shall not apply to a purchase or other acquisition of stock (or of an interest in a partnership or trust owning stock in the corporation)—

"(A) from a person whose ownership of stock would be attributed to the holder by application of paragraph (4) (C) to the extent that such stock would be so attributed;

"(B) if (and to the extent) the basis thereof is determined under section 1014 or 1023 (relating to property acquired from a decedent), or section 1015(a) or (b) (relating to property acquired by gift or transfers in trust);

"(C) by a security holder or creditor in exchange for the relinquishment or extinguishment in whole or part of a claim against the corporation, unless the claim was acquired for the purpose of acquiring such stock;

"(D) by one or more persons who were full-time employees of the corporation at all times during the period of 36 months ending on the last day of the taxable year of the corporation (or at all times during the period of the corporation's existence, if shorter);

"(E) by a trust described in section 401(a) which is exempt from tax under section 501 (a) and which benefits exclusively the employees (or the beneficiaries) of the corporation, including a member of a controlled group of corporations (within the meaning of section 1563(a) determined without regard to section 1563(a) (4) and (e) (3) (C)) which includes such corporation;

"(F) by an employee stock ownership plan meeting the requirements of section 301(d) of the Tax Reduction Act of 1975; or

"(G) in a recapitalization described in section 368(a) (1) (E).

"(6) Successive applications of subsection.—If—

"(A) a net operating loss carryover is reduced under this subsection at the end of a taxable year of a corporation, and

"(B) any person described in paragraph (4) (B) who owns stock of the corporation on the last day of such taxable year does not own, on the last day of the first or second succeeding taxable year of the corporation, a greater percentage of the total fair market value of the participating stock or of all the stock of the corporation than such person owned on the last day of such taxable year.

then, for purposes of applying this subsection as of the end of the first or second succeeding taxable year (as the case may be), stock owned by such person at the end of such succeeding taxable year shall be considered owned by such person at the beginning of the first or second preceeding taxable year. Other rules relating to the manner and extent of successive applications of this section in the case of increases in ownership and transfers of stock by the persons described in paragraph (4) (B) shall be prescribed by regulations issued by the Secretary.

"(b) Reorganizations.—

"(1) In general.—If one corporation acquires the stock or assets of another corporation in a reorganization described in section 368(a) (1) (A), (B), (C), (D) (but only if the requirements of section 354(b) (1) are met), or (F), and if—

"(A) the acquiring or acquired corporation has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, and

"(B) the shareholders (immediately before the reorganization) of such corporation (the 'loss corporation'), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 40 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation,

then the net operating loss carryover (if any) of the loss corporation from the taxable year which includes the date of the acquisition, and the net operating loss carryover (if any) of the loss corporation from prior taxable years to such taxable year and subsequent taxable years, shall be reduced by the percentage determined under paragraph (2).

"(2) Reduction of net operating loss carryover.—

"(A) Ownership of 20 percent or more.—If such shareholders own less than 40 percent, but not less than 20 percent, of the total fair market value of participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the precentage equal to the number of percentage points (including fractions thereof) less than 40 percent, multiplied by three and one-half.

"(B) Ownership of less than 20 percent.—If such shareholders own less than 20 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the sum of—

"(i) the percentage that would be determined under subparagraph (A) if the shareholders owned 20 percent of such stock, plus

"(ii) the percentage equal to the number of percentage points (including fractions thereof) of such stock less than 20 percent, multiplied by one and one-half.

The reduction under this paragraph shall be determined by reference to the lesser of the percentage of the total fair market value of the participating stock or of all the stock of the acquiring corporation owned by such shareholders.

"(3) Losses of controlled corporations.—For purposes of this subsection—

"(A) Holding companies.—If, immediately before the reorganization, the acquiring or acquired corporation controls a corporation which has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, the acquiring or acquired corporation, as the case may be, shall be treated as the loss corporation (whether or not such corporation is a loss corporation). The reduction, if any, so determined under paragraph (2) shall be applied to the losses of such controlled corporation.

"(B) Triangular reorganizations.—Except as otherwise provided in paragraph (5), if the shareholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such shareholders shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the fair market value of the participating stock and of all the stock, respectively, of the controlling corporation owned by such shareholders.

"(4) Special rules.—For purposes of applying paragraph (1) (B)—

"(A) Certain related transactions.—If, immediately before the reorganization—

"(i) one or more shareholders of the loss corporation own stock of such corporation which such shareholder acquired during the 36-month period ending on the date of the acquisition in a transaction described in paragraph (1) or in subsection (a) (1) (C) (unless excepted by subsection (a) (5)), and

"(ii) such shareholders own more than 50 percent of the total fair market value of the stock of another corporation a party to the reorganization, or any such shareholder is a corporation controlled by another corporation a party to the reorganization,

then such shareholders shall not be treated as shareholders of the loss corporation with respect to such stock.

"(B) Certain prior ownership of loss corporation.—If, immediately before the reorganization, the acquiring or acquired corporation owns stock of the loss corporation, then paragraph (1) (B) shall be applied by treating the shareholders of the loss corporation as owning an additional amount of the total fair market value of the participating stock and of all the stock of the acquiring corporation, as a result of owning stock in the loss corporation, equal to the total fair market value of the participating stock and of all the stock of the loss corporation, respectively, owned (immediately before the reorganization) by the acquiring or acquired corporation. This subparagraph shall not apply to stock of the loss corporation owned by the acquiring or acquired corporation if such stock was acquired by such corporation within the 36-month period ending on the date of the reorganization in a transaction described in subsection (a) (1) (C) (unless excepted by subsection (a) (5)); or to a reorganization described in section 368(a) (1) (B) or (C) to the extent the acquired corporation does not distribute the stock received by it to its own shareholders.

"(C) Certain asset acquisitions.—If a loss corporation receives stock of the acquiring corporation in a reorganization described in section 368(a) (1) (C) and does not distribute such stock to its shareholders, paragraph (1) (B) shall be applied by treating the shareholders of the loss corporation as owning (immediately after the reorganization) such undistributed stock in proportion to the fair market value of the stock which such shareholders own in the loss corporation.

"(5) Certain stock-for-stock reorganizations.—In the case of a reorganization described in section 368(a) (1) (B) in which the acquired corporation is a loss corporation—

"(A) Stock which is exchanged.—Paragraphs (1) (B) and (2) shall be applied by reference to the ownership of stock of the loss corporation (rather than the acquiring corporation) immediately after the reorganization. Shareholders of the loss corporation who exchange stock of the loss corporation shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the loss corporation acquired in the exchange by the acquiring corporation which is equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, of the acquiring corporation owned (immediately after the reorganization) by such shareholders.

"(B) Stock which is not exchanged.—Stock of the loss corporation owned by shareholders immediately before the reorganization which was not exchanged in the reorganization shall be taken into account in applying paragraph (1)(B). For purposes of the preceding sentence, the acquiring corporation (or a corporation controlled by the acquiring corporation) shall not be treated as a shareholder of the loss corporation with respect to stock of the loss corporation acquired in a transaction described in paragraph (1), or in subsection (a)(1)(C) (unless excepted by subsection (a)(5)), during the 36-month period ending on the date of the exchange.

"(C) Triangular exchange.—For purposes of applying the rules in this paragraph, if the shareholders of the loss corporation receive stock of a corporation controlling the acquiring corporation, such shareholders shall be treated as owning a percentage of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, which such shareholders own of the controlling corporation immediately after the reorganization.

"(6) Exceptions.—The limitations in this subsection shall not apply—

"(A) if the same persons own substantially all the stock of the acquiring corporation and of the other corporation in substantially the same proportions; or

"(B) to a net operating loss carryover from a taxable year if the acquiring or acquired corporation owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the loss corporation at all times during the last half of such taxable year.

For purposes of subparagraph (A), if the acquiring or acquired corporation is controlled by another corporation, the shareholders of the controlling corporation shall be considered as also owning the stock owned by the controlling corporation in that proportion which the total fair market value of the stock which each shareholder owns in the controlling corporation bears to the total fair market value of all the stock, in the controlling corporation.

"(c) Rules Relating to Stock.—For purposes of this section—

"(1) The term 'stock' means all shares of stock, except stock which—

"(A) is not entitled to vote,

"(B) is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent,

"(C) has redemption and liquidation rights which do not exceed the paid-in capital or par value represented by such stock (except for a reasonable redemption premium in excess of such paid-in capital or par value), and

"(D) is not convertible into another class of stock.

"(2) The term 'participating stock' means stock (including common stock) which represents an interest in the earnings and assets of the issuing corporation which is not limited to a stated amount of money or property or percentage of paid-in capital or par value, or by any similar formula.

"(3) The Secretary shall prescribe regulations under which—

"(A) stock or convertible securities shall be treated as stock or participating stock, or

"(B) stock (however denoted) shall not be treated as stock or participating stock,

by reason of conversion and call rights, rights in earnings and assets, priorities and preferences as to distributions of earnings or assets, and similar factors."

(f) Conforming Amendments.—

(1) Amendment of section 368.—Section 368(c) (relating to the definition of control) is amended by striking out "and this part." and inserting in lieu thereof "this part, and part V,".

(2) Amendment of section 383.—Section 383 (relating to special limitations on certain carryovers) is amended to read as follows:

"Sec. 383. Special Limitations on Unused Investment Credits, Work Incentive Program Credits, Foreign Taxes, and Capital Losses.

"In the case of a change of ownership of a corporation in the manner described in section 382(a) or (b), the limitations provided in section 382 in such cases with respect to net operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation under section 46(b), to any unused work incentive program credit of the corporation under section 50A(b), to any excess foreign taxes of the corporation under section 904(d), and to any net capital loss of the corporation under section 1212."

(g) Effective Date.—

(1) The amendments made by subsections (a), (b), (c), and (d) shall apply to losses incurred in taxable years ending after December 31, 1975.

(2) For purposes of applying section 382(a) and 383 (as it relates to section 382(a) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f), the amendments made by subsections (e) and (f) shall take effect for taxable years beginning after June 30, 1978, except that the beginning of the taxable years specified in clause (ii) of section 382(a)(1)(B) of such Code, as so amended, shall be considered to be the later of:

(A) the beginning of such taxable years, or

(B) January 1, 1978.

(3) Sections 382(b) and 383 (as it relates to section 382(b) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f)), shall apply (and such sections as in effect prior to such amendment shall not apply) to reorganizations pursuant to a plan of reorganization adopted by one or more of the parties thereto on or after January 1, 1978. For purposes of the preceding sentence, a corporation shall be considered to have adopted a plan of reorganization on the date on which a resolution of the board of directors is passed adopting the plan or recommending its adoption to the shareholders, or on the date on which the shareholders approve the plan of reoganization, whichever is earlier.

Sec. 807. Small Fishing Vessel Construction Reserves.

In addition to any other vessel which may be deemed an "eligible vessel" and a "qualified vessel" under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), a commercial fishing vessel under five net tons but not under two net tons—

(1) which is constructed in the United States and, if reconstructed, is reconstructed in the United States;

(2) which is owned by a citizen of the United States;

(3) which has a home port in the United States; and

(4) which is operated in the commercial fisheries of the United States,

shall be considered to be an "eligible vessel" and a "qualified vessel" for the purposes of such section 607.

And the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SMALL BUSINESS PROVISIONS

Sec. 901. Small Business Provisions.

(a) In General.—Subsections (a), (b), (c), and (d) of section 11 (relating to tax imposed on corporations) are amended to read as follows:

"(a) Corporations in General.—A tax is hereby imposed for each taxable year on the taxable income of every corporation. The tax shall consist of a normal tax computed under subsection (b) and a surtax computed under subsection (c).

"(b) Normal Tax.—The normal tax is equal to—

"(1) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable income, and

"(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, the sum of—

"(A) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(B) 22 percent of so much of the taxable income as exceeds $25,000.

"(c) Surtax.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(d) Surtax Exemption.—For purposes of this subtitle, the surtax exemption for any taxable year is—

"(1) $25,000 in the case of a taxable year ending after December 31, 1977, or

"(2) $50,000 in the case of a taxable year ending after December 31, 1974, and before January 1, 1978,

except that, with respect to a corporation to which section 1561 (relating to certain multiple tax benefits in the case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section."

(b) Mutual Insurance Companies.—

(1) In general.—Section 821(a)(1) (relating to mutual insurance companies) is amended to read as follows:

(1) Normal Tax.—A normal tax equal to—

"(A) in the case of a taxable year ending after December 31, 1977, 22 percent of the mutual insurance company taxable income, or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser, or

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978—

"(i) 20 percent of so much of the mutual insurance company taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the mutual insurance company taxable income as exceeds $25,000,

or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser; plus".

(2) Small companies.—Section 821(c)(1)(A) (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) Normal tax.—A normal tax equal to—

"(i) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable investment income, or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser, or

"(ii) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, 20 percent of so much of the taxable investment income as does not exceed $25,000, plus 22 percent of so much of the taxable investment income as exceeds $25,000, or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser; plus".

(c) CONFORMING AMENDMENTS.—

(1) Section 1561(a) (relating to certain multiple tax benefits in the case of certain controlled corporations) is amended by adding at the end thereof the following new sentence: "In applying section 11(b)(2), the first $25,000 of taxable income and the second $25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated."

(2) Subsection (f) of section 21 (relating to change in surtax exemption treated as a change in a rate of tax) is amended by striking out "Tax Reduction Act of 1975" and all that follows and inserting in lieu thereof the following: "Tax Reduction Act of 1975 in the surtax exemption and any change under section 11(d) in the surtax exemption shall be treated as a change in a rate of tax."

(3) Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by striking out subsection (h).

(d) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on December 23, 1975. The amendments made by subsection (b) shall apply to taxable years after December 31, 1974. The amendments made by subsection (c) shall apply to taxable years ending after December 31, 1975.

And the Senate agree to the same.

Amendment number 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

CHANGES IN THE TREATMENT OF FOREIGN INCOME

PART I—FOREIGN TAX PROVISIONS AFFECTING INDIVIDUALS ABROAD

SEC. 1011. INCOME EARNED ABROAD BY UNITED STATES CITIZENS LIVING OR RESIDING ABROAD.

(a) REDUCTION OF LIMITATIONS ON AMOUNT EXCLUDABLE.—Paragraph (1) of section 911(c) (relating to limitations on amount of exclusion) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $15,000.

"(B) EMPLOYEES OF CHARITABLE ORGANIZATIONS.—If any individual performs qualified charitable services during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(C) SPECIAL RULE.—If any individual performs qualified charitable services and other services during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of subparagraph (A) with respect to such earned income) exceed $15,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income during subsection (a) for the taxable year.

"(D) QUALIFIED CHARITABLE SERVICES.—For purposes of this subsection, the term 'qualified charitable services' means services performed by an employee for an employer created or organized in the United States, or under the law of the United States, any State, or the District of Columbia, which meets the requirements of section 501 (c)(3)."

(b) ADDITIONAL LIMITATIONS ON EXCLUSION.—

(1) DISALLOWANCE OF FOREIGN TAX CREDIT WITH RESPECT TO EXCLUDED AMOUNTS.—The last sentence of subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deductions or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection."

(2) DISALLOWANCE OF EXCLUSION FOR INCOME RECEIVED OTHER THAN IN COUNTRY WHERE EARNED.—Section 911(c) (relating to special rules for earned income from sources without the United States) is amended by adding at the end thereof the following new paragraph:

"(8) REQUIREMENT AS TO PLACE OF RECEIPT.—No amount received by an individual during the taxable year which constitutes earned income (entitled to the exclusion under subsection (a)) attributable to services performed in a foreign country or countries shall be excluded under subsection (a) if such amount is received by such individual outside of the foreign country or countries where such services were performed and if one of the purposes is the avoidance of any tax imposed by such foreign country or countries on such amount."

(3) INCLUSION OF EARNED INCOME IN COMPUTATION OF RATE OF TAX.—Section 911 (relating to earned income from sources without the United States) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) AMOUNT EXCLUDED UNDER SUBSECTION (a) INCLUDED IN COMPUTATION OF TAX.—

"(1) COMPUTATION OF TAX.—If for any taxable year an individual has earned income which is excluded from gross income under subsection (a), the tax imposed by section 1 or section 1201 shall be the excess of—

"(A) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net taxable income, over

"(B) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net excluded earned income.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'net taxable income' means an amount equal to the sum of the amount of taxable income for the taxable year plus the amount of net excluded earned income of such individual for such taxable year; and

"(B) the term 'net excluded earned income' means the excess of the amount of earned income excluded under subsection (a) for the taxable year over the amount of the deductions disallowed with respect to such excluded earned income for such taxable year under subsection (a).

"(e) SECTION NOT TO APPLY.

"(1) IN GENERAL.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply.

"(2) EFFECT OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and to all subsequent taxable years. Such election may not be revoked except with the consent of the Secretary."

(c) ALLOWANCE OF FOREIGN TAX CREDITS TO INDIVIDUALS TAKING STANDARD DEDUCTION.—Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended by striking out "sections 32, 33, and" and inserting in lieu thereof "sections 32 and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1012. INCOME TAX TREATMENT OF NONRESIDENT ALIEN INDIVIDUALS WHO ARE MARRIED TO CITIZENS OR RESIDENTS OF THE UNITED STATES.

(a) ELECTION TO BE TREATED AS RESIDENTS OF THE UNITED STATES.—

(1) IN GENERAL.—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsections:

"(g) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

"(2) INDIVIDUALS WITH RESPECT TO WHOM THIS SUBSECTION IS IN EFFECT.—This subsection shall be in effect with respect to any individual who, at the time an election was made under this subsection, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

"(3) DURATION OF ELECTION.—An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

"(4) TERMINATION OF ELECTION.—An election under this subsection shall terminate at the earliest of the following times:

"(A) REVOCATION BY TAXPAYERS.—If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

"(B) DEATH.—In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

"(C) LEGAL SEPARATION.—In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

"(D) TERMINATION BY SECRETARY.—At the time provided in paragraph (5).

"(5) TERMINATION BY SECRETARY.—The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—

"(A) to keep such books and records,

"(B) to grant such access to such books and records, or

"(C) to supply such other information,

as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.

"(6) Only one election.—If any election under this subsection for any two individuals is terminated under paragraph (4) or (5) for any taxable year, such two individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.

"(h) Joint Return, Etc., for Year in Which Nonresident Alien Becomes Resident of United States.—

"(1) In general.—If—

"(A) any individual is a nonresident alien individual at the beginning of any taxable year but is a resident of the United States at the close of such taxable year,

"(B) at the close of such taxable year, such individual is married to a citizen or resident of the United States, and

"(C) both individuals elect the benefits of this subsection at the time and in the manner prescribed by the Secretary by regulation,

then the individual referred to in subparagraph (A) shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

"(2) Only one election.—If any election under this subsection applies for any 2 individuals for any taxable year, such 2 individuals shall be ineligible to make an election under this subsection for any subsequent taxable year."

(2) Clerical amendment.—Section 871(g) (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(7) For election to treat married nonresident alien individual as resident of the United States in certain cases, see subsections (g) and (h) of section 6013."

(b) Tax Treatment of Certain Community Income in the Case of a Resident or Citizen of the United States Who Is Married to a Nonresident Alien Individual.—

(1) In general.—Subpart A of part II of subchapter N of chapter 1 (relating to nonresident alien individuals) is amended by adding at the end thereof the following new section:

"Sec. 879. Tax Treatment of Certain Community Income in the Case of a Resident or Citizen of the United States Who Is Married to a Nonresident Alien Individual.

"(a) General Rule.—In the case of a citizen or resident of the United States who is married to a nonresident alien individual and who has community income for the taxable year, such community income shall be treated as follows:

"(1) Earned income (within the meaning of section 911(b)), other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services,

"(2) Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5),

"(3) Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable community property law) of one spouse shall be treated as the income of such spouse, and

"(4) All other such community income shall be treated as provided in the applicable community property law.

"(b) Exception Where Election Under Section 6013(g) Is in Effect.—Subsection (a) shall not apply for any taxable year for which an election under subsection (g) or (h) of section 6013 (relating to election to treat nonresident alien individual as resident of the United States) is in effect.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Community income.—The term 'community income' means income which, under applicable community property laws, is treated as community income.

"(2) Community property laws.—The term 'community property laws' means the community property laws of a State, a foreign country, or a possession of the United States.

"(3) Determination of marital status.—The determination of marital status shall be made under section 143(a)."

(2) Repeal of section 981.—Subpart II of part III of subchapter N of chapter 1 (relating to election as to treatment of income subject to foreign community property laws) is hereby repealed.

(3) Clerical amendments.—

(A) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 879. Tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual."

(B) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart G.

(c) Due Date for Filing Estimated Tax Returns in the Case of Certain Nonresident Aliens.—Subsection (a) of section 6073 (relating to time for filing declarations of estimated tax by individuals) is amended by adding at the end thereof the following sentence:

"In the case of a nonresident alien described in section 6072(c), the requirements of section 6015 shall be deemed to be first met no earlier than after April 1 and before June 2 of the taxable year.".

(d) Effective Dates.—The amendments made by subsection (a) shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1976.

Sec. 1013. Foreign Trusts Having One Or More United States Beneficiaries to Be Taxed Currently to Grantor.

(a) Taxation of Income to Grantor of Trust.—Subpart E of part I of subchapter J of chapter 1 (relating to grantors and others treated as substantial owners) is amended by adding at the end thereof the following new section:

"Sec. 679. Foreign Trusts Having One or More United States Beneficiaries.

"(a) Transferor Treated as Owner.—

"(1) In general.—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4)) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of any portion of such trust.

"(2) Exceptions.—Paragraph (1) shall not apply—

"(A) Transfers by reason of death.—To any transfer by reason of the death of the transferor.

"(B) Transfers where gain is recognized to transferor.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.

"(b) Trusts Acquiring United States Beneficiaries.—If—

"(1) subsection (a) applies to a trust for the transferor's taxable year, and

"(2) subsection (a) would have applied to the trust for his immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having income for the taxable year (in addition to his other income for such year) equal to the undistributed net income (at the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

"(c) Trusts Treated as Having a United States Beneficiary.—

"(1) In general.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

"(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

"(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

"(2) Attribution of ownership.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

"(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

"(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

"(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).".

(b) Grantor To Be Treated as Owner.—Subsection (b) of section 678 (relating to persons other than grantors treated as substantial owners) is amended by striking out everything after "modified," and inserting in lieu thereof "if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section.".

(c) Treatment of Capital Gains and Losses of Certain Foreign Trusts.—

(1) Foreign trusts created by United States persons treated like other foreign trusts.—Subparagraph (C) of section 643(a)(6) (relating to distributable net income in case of foreign trusts) is amended by striking out "foreign trust created by a United States person" and inserting in lieu thereof "foreign trust".

(2) Transitional rule for foreign trusts.—Section 643(a)(6) is amended by adding at the end thereof the following new subparagraph:

"(D) Effective for distributions made in taxable years beginning after December 31, 1975, the undistributed net income of each foreign trust for each taxable year beginning on or before December 31, 1975, remaining undistributed at the close of the last taxable year beginning on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202."

(d) Returns for Foreign Trusts Having One or More United States Beneficiaries.—

(1) Section 6048 (relating to returns as to creation of or transfers to certain foreign trusts) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ANNUAL RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—Each taxpayer subject to tax under section 679 (relating to foreign trusts having one or more United States beneficiaries) for his taxable year with respect to any trust shall make a return with respect to such trust for such year at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.".

(2) Section 6677(a) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "to a trust" and inserting in lieu thereof "to a trust (or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)".

(e) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart E of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec 679. Foreign trusts having one or more United States beneficiaries."

(2) Subsection (d) of section 643 is hereby repealed.

(3) Subsection (d) of section 6048 (as redesignated by subsection (d)) is amended to read as follows:

"(d) CROSS REFERENCE.—

"For provisions relating to penalties for violation of this section, see sections 6677 and 7203."

(4) The heading of section 6048 is amended to read as follows:

"SEC. 6048. RETURNS AS TO CERTAIN FOREIGN TRUSTS.".

(5) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6048 and inserting in lieu thereof the following:

"Sec. 6048. Returns as to certain foreign trusts.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (c)) shall apply to taxable years ending (after December 31, 1975, but only in the case of—

(A) foreign trusts created after May 21, 1974, and

(B) transfers of property to foreign trusts after May 21, 1974.

(2) CHANGES IN CAPITAL GAIN RULES FOR FOREIGN TRUSTS.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1975.

SEC. 1014. INTEREST CHARGES ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

(a) TAX TO INCLUDE SPECIAL INTEREST CHARGE.—Section 667(a) (as amended by section 701 of this Act) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of a foreign trust, the interest charge determined as provided in section 668.".

(b) COMPUTATION OF SPECIAL INTEREST CHARGE.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distribution by trusts) is amended by adding at the end thereof the following new section:

"SEC. 668. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a), the interest charge is an amount equal to 6 percent of the partial tax computed under section 667(b) multiplied by a fraction—

"(1) the numerator of which is the sum of the number of taxable years between each taxable year to which the distribution is allocated under section 666(a) and the taxable year of the distribution (counting in each case the taxable year to which the distribution is allocated but not counting the taxable year of the distribution), and

"(2) the denominator of which is the number of taxable years to which the distribution is allocated under section 666(a).

"(b) LIMITATION.—The total amount of the interest charge shall not, when added to the total partial tax computed under section 667(b), exceed the amount of the accumulation distribution (other than the amount of tax deemed distributed by section 666 (b) or (c)) in respect of which such partial tax was determined.

"(c) SPECIAL RULE.—

"(1) INTEREST CHARGE NOT DEDUCTIBLE.—The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title.

"(2) TRANSITIONAL RULE.—For purposes of this section undistributed net income existing in a trust as of January 1, 1977, shall be treated as allocated under section 666(a) to the first taxable year beginning after December 31, 1976."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by adding at the end of the following new item:

"SEC. 668. Interest charge on accumulation distributions from foreign trusts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 1015. EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.

(a) AMENDMENT OF SECTION 1491.—Section 1491 (relating to imposition of tax) is amended to read as follows:

"SEC. 1491. IMPOSITION OF TAX.

"There is hereby imposed on the transfer of property by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign trust, or to a foreign partnership, an excise tax equal to 35 percent of the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the sum of—

"(A) the adjusted basis (for determining gain) of such property in the hands of the transferor, plus

"(B) the amount of the gain recognized to the transferor at the time of the transfer."

(b) AMENDMENTS OF SECTION 1492.—Section 1492 (relating to nontaxable transfers) is amended—

(1) by striking out in paragraph (3) "section 367(d) applies." and inserting in lieu thereof "section 367 applies; or" and

(2) by adding at the end thereof the following new paragraph:

"(4) To a transfer for which an election has been made under section 1057."

(c) ELECTION TO TREAT AS TAXABLE EXCHANGE.—Part IV of subchapter O of chapter 1 (relating to special rules for determining gain or loss on disposition of property) is amended by redesignating section 1057 as section 1058 and by inserting after section 1056 the following new section:

"SEC. 1057. ELECTION TO TREAT TRANSFER TO FOREIGN TRUST, ETC., AS TAXABLE EXCHANGE.

"In lieu of payment of the tax imposed by section 1491, the taxpayer may elect (for purposes of this subtitle), at such time and in such manner as the Secretary may prescribe, to treat a transfer described in section 1491 as a sale or exchange of property for an amount equal in value to the fair market value of the property transferred and to recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for determining gain) of such property in the hands of the transferor.".

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the last item thereof and inserting in lieu thereof:

"Sec. 1057. Election to treat transfer to foreign trust, etc., as taxable exchange.

"Sec. 1058. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after October 2, 1975.

PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

SEC. 1021. AMENDMENT OF PROVISION RELATING TO INVESTMENT IN UNITED STATES PROPERTY BY CONTROLLED FOREIGN CORPORATIONS.

(a) EXCEPTIONS TO DEFINITION OF UNITED STATES PROPERTY.—Section 956(b)(2) (relating to exceptions to definition of United States property) is amended by striking out "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (H), and by inserting after subparagraph (E) the following new subparagraphs:

"(F) the stock or obligations of a domestic corporation which is neither a United States shareholder (as defined in section 951 (b)) of the controlled foreign corporation, nor a domestic corporation, 25 percent or more of the total combined voting power of which, immediately after the acquisition of any stock in such domestic corporation by the controlled foreign corporation, is owned, or is considered as being owned, by such United States shareholders in the aggregate;

"(G) any movable property (other than a vessel or aircraft) which is used for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or under such waters when used on the Continental Shelf of the United States; and".

(b) CONSTRUCTIVE OWNERSHIP OF STOCK.—Section 958(b) (relating to rules for determining stock ownership) is amended—

(1) by striking out "954(d)(3)," the first place it appears and inserting in lieu thereof "954(d)(3), 956(b)(2),";

(2) by striking out "954(d)(3)," the second place it appears and inserting in lieu thereof "954(d)(3), to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(b) (2),"; and

(3) by adding at the end thereof the following new sentence: "Paragraphs (1) and (4) shall not apply for purposes of section 956(b)(2) to treat stock of a domestic corporation as not owned by a United States shareholder."

(c) Effective Date.—The amendments

made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end. In determining for purposes of any taxable year referred to in the preceding sentence the amount referred to in section 956(a)(2)(A) of the Internal Revenue Code of 1954 for the last taxable year of a corporation beginning before January 1, 1976, the amendments made by this section shall be deemed also to apply to such last taxable year.

Sec. 1022. Repeal of Exclusion for Earnings of Less Developed Country Corporations for Purposes of Section 1248.

(a) Amendment of Section 1248(d).—Paragraph (3) of section 1248(d) (relating to exclusion from earnings and profits of gain from certain sales or exchanges of stock in certain foreign corporations) is amended to read as follows:

"(3) Less developed country corporations under prior law.—Earnings and profits of a foreign corporation which were accumulated during any taxable year beginning before January 1, 1976, while such corporation was a less developed country corporation under section 902(d) as in effect before the enactment of the Tax Reduction Act of 1975.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

Sec. 1023. Exclusion From Subpart F of Certain Earnings of Insurance Companies.

(a) In General.—Paragraph (3) of section 954(c) (relating to foreign personal holding company income) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(C) dividends, interest, and gains from the sale or exchange of stock or securities received from a person other than a related person (within the meaning of subsection (d)(3)) derived from investments made by an insurance company of an amount of its assets equal to one-third of its premiums earned on insurance contracts (other than life insurance and annuity contracts) during the taxable year (as defined in section 832 (b)(4)) which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d)(3)).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

"Sec. 1024. Shipping Profits of Foreign Corporations.

(a) Certain Shipping Operations.—Subsection (b) of section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new paragraph:

"(7) Special exclusion for foreign base company shipping income.—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection) shall be excluded from foreign base company income if derived by a controlled foreign corporation from, or in connection with, the use (or hiring or leasing for use) of an aircraft or vessel in foreign commerce between two points within the foreign country in which such corporation is created or organized and such aircraft or vessel is registered."

(b) Effective date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

Part III—Amendments Affecting Treatment of Foreign Taxes

Sec. 1031. Requirement That Foreign Tax Credit Be Determined on Overall Basis.

(a) Overall Limitation on Foreign Tax Credit.—Section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"Sec. 904. Limitation on Credit.

"(a) Limitation.—The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

"(b) Taxable Income for Purposes of Computing Limitation.—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642 (b).

"(c) Carryback and Carryover of Excess Tax Paid.—Any amount by which all taxes paid or accrued to foreign countries or possessions of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceed the limitation under subsection (a) shall be deemed taxes paid or accrued to foreign countries or possessions of the United States in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable years, in that order and to the extent not deemed taxes paid or accrued in a prior taxable year, in the amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the taxes paid or accrued to foreign countries or possessions of the United States for such preceding or succeeding taxable year and the amount of the taxes for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemed paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions of the United States.

"(d) Application of Section in Case of Certain Interest Income and Dividends From a DISC or Former DISC.

"(1) In general.—The provisions of subsections (a), (b), and (c) shall be applied separately with respect to each of the following items of income:

"(A) the interest income described in paragraph (2),

"(B) dividends from a DISC or former DISC (as defined in section 992(a)) to the extent such dividends are treated as income from sources without the United States, and

"(C) income other than the interest income described in paragraph (2) and dividends described in subparagraph (B).

"(2) Interest income to which applicable.—For purposes of this subsection, the interest income described in this paragraph is interest other than interest—

"(A) derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country or a possession of the United States,

"(B) derived in the conduct by the taxpayer of a banking, financing, or similar business,

"(C) received from a corporation in which the taxpayer (or one or more includible corporations in an affiliated group, as defined in section 1504, of which the taxpayer is a member) owns, directly or indirectly, at least 10 percent of the voting stock, or

"(D) received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock.

For purposes of subparagraph (C), stock owned, directly or indirectly, by or for a foreign corporation, shall be considered as being proportionately owned by its shareholders.

"(e) Transitional Rules for Carrybacks and Carryovers for Taxpayers on the Per-Country Limitation.—

"(1) Application of subsection.—This subsection shall apply only to a taxpayer who is on the per-country limitation for his last taxable year beginning before January 1, 1976.

"(2) Carryovers to years beginning after December 31, 1975.—In the case of any taxpayer to whom this subsection applies, any carryover from a taxable year beginning before January 1, 1976, may be used in taxable years beginning after December 31, 1975, to the extent provided in subsection (c), but only to the extent such carryover could have been used in such succeeeding taxable years if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.

"(3) Carrybacks to years beginning before January 1, 1976.—In the case of any taxpayer to whom this subsection applies, any carryback from a taxable year beginning after December 31, 1975, may be used in taxable years beginning before January 1, 1976, to the extent provided in subsection (c), but only to the extent such carryback could have been used in such preceding taxable year if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.

"(4) Application of limitations.—For purposes of this subsection—

"(A) the overall limitation shall be applied before the percountry limitation, and

"(B) where the amount of any carryback or carryover is reduced by the overall limitation, the reduction shall be allocated to the amounts carried from each country or possession in proportion to the taxes paid or accrued to such country or possession in the tabable year from which such amount is being carried.

"(f) Cross Reference.—

"For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b)."

(b) Conforming Amendments.—

(1) Sections 901(a), 901(b), and 960(b) are amended by striking out "applicable

limitation" each place it appears and inserting in lieu thereof "limitation".

(2) Subparagraph (B) of section 243(b) (3) is amended to read as follows:

"(B) the members of such affiliated group shall be treated as one taxpayer for purposes of making the election under section 901(a) (relating to allowance of foreign tax credit), and".

(3) Paragraph (3) of section 1351(d) is amended to read as follows:

"(3) FOREIGN TAXES.—For purposes of this subsection, any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed.".

(4) Section 1503(b)(1) is amended by striking out ", and if for the taxable year an election under section 904(b)(1) (relating to election of overall limitation on foreign tax credit) is in effect".

(5) Sections 383, 6038(b)(1)(A), and 6501 (i) are each amended by striking out "section 904(d)" each place it appears therein and inserting in lieu thereof "section 904 (c)".

(6) Subsection (e) of section 907 (relating to transitional rules) is amended—

(A) by striking out "(d) and (e) of section 904" in paragraphs (1) and (2) and inserting in lieu thereof "(d) and (e) of section 904 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976)";

(B) by striking out "section 904(a)(1)" in paragraph (2) and inserting in lieu thereof "section 904(a)(1) (as so in effect)"; and

(C) by striking out "section 904(e)(2)" in paragraph (2)(A) and inserting in lieu thereof "section 904(e)(2) (as so in effect)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) EXCEPTION FOR CERTAIN MINING OPERATIONS.—In the case of a domestic corporation or includible corporation in an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which has as of October 1, 1975—

(A) been engaged in the active conduct of the trade or business of the extraction of minerals (of a character with respect to which a deduction for depletion is allowable under section 613 of such Code) outside the United States or its possessions for less than 5 years preceding the date of enactment of this Act,

(B) had deductions properly apportioned or allocated to its gross income from such trade or business in excess of such gross income in at least 2 taxable years,

(C) 80 percent of its gross receipts are from the sale of such minerals, and

(D) made commitments for substantial expansion of such mineral extraction activities,

the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained in taxable years beginning before January 1, 1979, by any corporation to which this paragraph applies, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(3) EXCEPTION FOR INCOME FROM POSSESSIONS.—In the case of gross income from sources within a possession of the United States (and the deductions properly apportioned or allocated thereto), the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained in a possession of the United States in taxable years beginning before January 1, 1979, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(4) CARRYBACKS AND CARRYOVERS IN THE CASE OF MINING OPERATIONS AND INCOME FROM A POSSESSION.—In the case of a taxpayer to whom paragraph (2) or (3) of this subsection applies, section 904(e) of such Code shall apply except that "January 1, 1979" shall be substituted for "January 1, 1976" each place it appears therein. If such a taxpayer elects the overall limitation for a taxable year beginning before January 1, 1979, such section 904(e) shall be applied by substituting "the January 1, of the last year for which such taxpayer is on the per-country limitation" for "January 1, 1976" each place it appears therein.

SEC. 1032. RECAPTURE OF FOREIGN LOSSES.

(a) IN GENERAL.—Section 904 (as amended by section 1031 of this Act) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) RECAPTURE OF OVERALL FOREIGN LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall foreign loss for any taxable year, that portion of the taxpayer's taxable income from sources without the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent (or such larger percent as the taxpayer may choose) of the taxpayer's taxable income from sources without the United States for such succeeding taxable year, shall be treated as income from sources within the United States (and not as income from sources without the United States).

"(2) OVERALL FOREIGN LOSS DEFINED.—For purposes of this subsection, the term 'overall foreign loss' means the amount by which the gross income for the taxable year from sources without the United States (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) DISPOSITIONS.—

"(A) IN GENERAL.—For purposes of this chapter, if property which has been used predominantly without the United States in a trade or business is disposed of during any taxable year—

"(i) the taxpayer, notwithstanding any other provision of this chapter (other than paragraph (1)), shall be deemed to have received and recognized taxable income from sources without the United States in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the overall foreign losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.

In determining for purposes of this subparagraph whether the predominant use of any property has been without the United States, there shall be taken into account use during the 3-year period ending on the date of the disposition (or, if shorter, the period during which the property has been used in the trade or business).

"(B) DISPOSITION DEFINED AND SPECIAL RULES.—

"(i) For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property whether or not gain or loss is recognized on the transfer.

"(ii) Any taxable income recognized solely by reason of subparagraph (A) shall have the same characterization it would have had if the taxpayer had sold or exchanged the property.

"(iii) The Secretary shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect taxable income recognized solely by reason of subparagraph (A).

"(C) EXCEPTIONS.—Notwithstanding subparagraph (B), the term 'disposition' does not include—

"(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

"(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).

"(4) DETERMINATION OF FOREIGN OIL RELATED LOSS WHERE SECTION 907 APPLIES.—In the case of a corporation to which section 907(b)(1) applies, the foreign oil related loss shall be the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.".

(b) COORDINATION WITH SECTION 907.—Section 907 is amended—

(1) by striking out the last sentence of subsection (b) (as amended by section 1035 (b)), and

(2) by striking out subsection (f), and by redesignating subsection (g) as subsection (f).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b)(2) shall apply to losses sustained in taxable years beginning after December 31, 1975, and the amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975.

(2) OBLIGATIONS OF FOREIGN GOVERNMENTS.—The amendments made by subsection (a) shall not apply to losses on the sale, exchange, or other disposition of bonds, notes, or other evidences of indebtedness issued before May 14, 1976, by a foreign government or instrumentality thereof for the acquisition of property located in that country or stock of a corporation (created or organized in or under the laws of that foreign country) or indebtedness of such corporation.

(3) SUBSTANTIAL WORTHLESSNESS BEFORE ENACTMENT.—The amendments made by subsection (a) shall not apply to losses incurred on the loss from stock or indebtedness of a corporation in which the taxpayer owned at

least 10 percent of the voting stock and which has sustained losses in 3 out of the last 5 taxable years beginning before January 1, 1976, which has sustained an overall loss for those 5 years, and with respect to which the taxpayer has terminated or will terminate all operations by reason of sale, liquidation, or other disposition before January 1, 1977, of such corporation or its assets.

(4) Limitation based on deficit in earnings and profits.—If paragraph (3) would apply to a taxpayer but for the fact that the loss is sustained after December 31, 1976, and if the loss is sustained in a taxable year beginning before January 1, 1979, the amendments made by subsection (a) shall not apply to such loss to the extent that there was on December 31, 1975, a deficit in earnings and profits in the corporation from which the loss arose.

Sec. 1033. Dividends From Less Developed Country Corporation To Be Grossed Up for Purposes of Determining United States Income and Foreign Tax Credit Against That Income.

(a) Foreign Taxes Deemed Paid by Domestic Corporations.—Section 902 (relating to credit for corporate stockholders in foreign corporations) is amended to read as follows:

"Sec. 902. Credit for Corporate Stockholder in Foreign Corporation.

"(a) Treatment of Taxes Paid by Foreign Corporation.—For purposes of this subpart, a domestic corporation which owns at least 10 percent of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends (determined without regard to section 78) bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(b) Foreign Subsidiary of First and Second Foreign Corporation.—

"(1) One tier.—If the foreign corporation described in subsection (a) (hereinafter in this subsection referred to as the 'first foreign corporation') owns 10 percent or more of the voting stock of a second foreign corporation from which it receives dividends in any taxable year, it shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such second foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such second foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(2) Two tiers.—If such first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation which, in turn, owns 10 percent or more of the voting stock of a third foreign corporation from which the second foreign corporation receives dividends in any taxable year, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such third foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes.

"(3) Voting stock requirement.—For purposes of this subpart—

"(A) paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the first foreign corporation and the percentage of voting stock owned by the first foreign corporation in the second foreign corporation when multiplied together equal at least 5 percent, and

"(B) paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the second foreign corporation in the third foreign corporation is equal to at least 5 percent.

"(c) Applicable Rules.—

"(1) Accumulated profits defined.—For purposes of this section, the term 'accumulated profits' means, with respect to any foreign corporation, the amount of its gains, profits, or income computed without reduction by the amount of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income by any foreign country or by any possession of the United States. The Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid, treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits or earnings.

"(2) Accounting periods.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word 'year' as used in this subsection, shall be construed to mean such accounting period.

"(d) Cross References.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

"(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038."

(b) Conforming Amendments.—

(1) Section 78 (relating to dividends received from certain foreign corporations) is amended—

(A) by striking out "section 902(a)(1)" and inserting in lieu thereof "section 902(a)", and

(B) by striking out "section 960(a)(1)(C)" and inserting in lieu thereof "section 960(a)(1)".

(2) Paragraph (1) of section 960(a) (relating to special rules for foreign tax credit) is amended by striking out "bears to—" and all that follows down through the period at the end of such paragraph and inserting in lieu thereof "bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.".

(3) Section 535(b)(1) (relating to accumulated taxable income) is amended by striking out "section 902(a)(1) or 960(a)(1)(C)" and inserting in lieu thereof "section 902(a) or 960(a)(1)".

(4) Section 545(b)(1) (relating to undistributed personal holding company income) is amended by striking out "section 902(a)(1) or 960(a)(1)(C)" and inserting in lieu thereof "section 902(a) or 960(a)(1)".

(c) Effective Dates.—The amendments made by this section shall apply—

(1) in respect of any distribution received by a domestic corporation after December 31, 1977, and

(2) in respect of any distribution received by a domestic corporation before January 1, 1978, in a taxable year of such corporation beginning after December 31, 1975, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1975.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign corporation to which section 902(b) of the Internal Revenue Code of 1954 applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1976, to the extent that such distribution was paid out of the accumulated profits of such foreign corporation for a taxable year beginning before January 1, 1976.

Sec. 1034. Treatment of Capital Gains for Purposes of Foreign Tax Credit.

(a) In General.—Section (b) of section 904 (relating to taxable income for purposes of computing the foreign tax credit limitation), as amended by section 1031 of this Act, is amended to read as follows:

"(b) Taxable Income for Purpose of Computing Limitation.—

"(1) Personal exemptions.—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

"(2) Capital gains.—For purposes of subsection (a)—

"(A) Corporations.—In the case of a corporation—

"(i) the taxable income of such corporation from sources without the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by three-eighths of foreign source net capital gain,

"(ii) the entire taxable income of such corporation shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by three-eighths of net capital gain, and

"(iii) any net capital loss from sources without the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to three-eighths of the excess of net capital gain from sources within the United States over net capital gain.

"(B) Other taxpayers.—In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(3) Definitions—For purposes of this subsection—

"(A) Foreign source capital gain net income.—The term 'foreign source capital gain net income' means the lesser of—

"(i) capital gain net income from sources without the United States, or

"(ii) capital gain net income.

"(B) Foreign source net capital gain.—The term 'foreign source net capital gain' means the lesser of—

"(i) Net capital gain from sources without the United States, or

"(ii) net capital gain.

"(C) Exception for gain from the sale of certain personal property.—For purposes of this paragraph, there shall be included as gain from sources within the United States any gain from sources without the United States from the sale or exchange of a capital asset which is personal property which—

"(i) in the case of an individual, is sold or exchanged outside of the country (or possession) of the individual's residence,

"(ii) in the case of a corporation, is stock in a second corporation sold or exchanged other than in a country (or possession) in which such second corporation derived more than 50 percent of its gross income for the 3-year period ending with the close of such second corporation's taxable year immediately preceding the year during which the sale or exchange occurred, or

"(iii) in the case of any taxpayer, is personal property (other than stock in a corporation) sold or exchanged other than in a country (or possession) in which such property is used in a trade or business of the taxpayer or in which such taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred,

unless such gain is subject to an income, war profits, or excess profits tax of a foreign country or possession of the United States, and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange (computed under this chapter).

"(D) SECTION 1231 GAINS.—The term 'gain from the sale or exchange of capital assets' includes any gain so treated under section 1231."

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975, except that the provisions of section 904(b) (3) (C) shall only apply to sales or exchanges made after November 12, 1975.

SEC. 1035. FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) REDUCTION IN LIMITATION ON FOREIGN TAX CREDITS ALLOWABLE FOR OIL AND GAS EXTRACTION INCOME.—Subsection (a) of section 907 (relating to reduction in amounts allowable as foreign tax under section 901) is amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11.

(b) FOREIGN OIL RELATED INCOME EARNED BY INDIVIDUALS.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—

"(1) CORPORATIONS.—In the case of a corporation, the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil related income, and

"(B) other taxable income.

"(2) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, the provisions of subsection (a) shall not apply and the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil and gas extraction income, and

"(B) other taxable income (including other foreign oil related income).

In the case of a corporation, with respect to foreign oil-related income, and in the case of a taxpayer other than a corporation, with respect to foreign oil and gas extraction income, the overall limitation provided by section 904(a) (2) shall apply and the per-country limitation provided by subsection (a) (1) shall not apply."

(c) TAX CREDIT FOR PRODUCTION-SHARING CONTRACTS.—

(1) For purposes of section 901 of the Internal Revenue Code of 1954, there shall be treated as income, war profits, and excess profits taxes to be taken into account under section 907(a) of such Code amounts designated as income taxes of a foreign government by such government (which otherwise would not be treated as taxes for purposes of section 901 of such Code) with respect to production-sharing contracts for the extraction of foreign oil or gas.

(2) The amounts specified in paragraph (1) shall not exceed the lesser of—

(A) the product of the foreign oil and gas extraction income with respect to all such production-sharing contracts multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code, or

(B) the excess of the total amount of foreign oil and gas extraction income (as defined in section 907(c) (1) of such Code) for the taxable year multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code over the amount of any income, war profits, and excess profit taxes paid or accrued (or deemed to have been paid) without regard to paragraph (1) during the taxable year with respect to foreign oil and gas extraction income.

(3) The production-sharing contracts taken into account for purposes of paragraph (1) shall be those contracts which were entered into before April 8, 1976, for the sharing of foreign oil and gas production with a foreign government (or an entity owned by such government) with respect to which amounts claimed as taxes paid or accrued to such foreign government for taxable years beginning before June 30, 1976, will not be disallowed as taxes. No such contract shall be taken into account for any taxable year ending after December 31, 1977.

(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—

(1) IN GENERAL.—Section 907 (as amended by section 1032) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CARRYBACK AND CARRYOVER DISALLOWED CREDITS.—

"(1) IN GENERAL.—If the amount of the oil and gas extraction taxes paid or accrued during any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year shall be deemed to be oil and gas extraction taxes paid or accrued in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable year, in that order and to the extent not deemed tax paid or accrued in a prior taxable year by reason of the limitation imposed by paragraph (2). Such amount deemed paid or accrued in any taxable year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions. For purposes of this subsection, the terms 'second preceding taxable year', and 'first preceding taxable year' do not include any taxable year ending before January 1, 1975. For purposes of determining the amount of such taxes which may be deemed paid or accrued in any taxable year ending in 1975, 1976, or 1977, the first sentence of this paragraph shall be applied by substituting 'such excess' for 'so much of such excess as does not exceed 2 percent of the foreign oil and gas extraction income for such taxable year'.

"(2) LIMITATION.—The amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued, in any preceding or succeeding taxable year shall not exceed the lesser of—

"(A) the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

"(i) the oil and gas extraction taxes paid or accrued during such taxable year, plus

"(ii) the amounts of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year; or

"(B) the amount by which the limitation provided by section 904 on taxes paid or accrued with respect to foreign oil-related income for such taxable year exceeds the sum of—

"(i) the taxes paid or accrued (or deemed to have been paid under section 902 or 960) to all foreign countries and possessions of the United States with respect to such income during such taxable year,

"(ii) the amount of such taxes which were deemed paid or accrued in such taxable year under section 904(c) and which are attributable to taxable years preceding the unused credit year, plus

"(iii) the amount of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year.

"(3) SPECIAL RULES.—

"(A) In the case of any taxable year which is an unused credit year under this subsection and which is an unused credit year under section 904(c) with respect to oil-related income, the provisions of this subsection shall be applied before section 904(c).

"(B) For purposes of determining the amount of oil-related taxes paid or accrued in any taxable year which may be deemed paid or accrued in a preceding or succeeding taxable year under section 904(c), any tax deemed paid or accrued in such preceding or succeeding taxable year under this subsection shall be considered to be tax paid or accrued in such preceding or succeeding taxable year.

"(C) For purposes of determining the amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any taxable year ending before January 1, 1977, subparagraph (A) of paragraph (2) shall be applied as if the amendment made by section 1035(a) of the Tax Reform Act of 1976 applied to such taxable year."

(2) DEFINITION OF OIL AND GAS EXTRACTION TAXES.—Subsection (c) of section 907 is amended by adding at the end thereof the following new paragraph:

"(5) OIL AND GAS EXTRACTION TAXES.—The term 'oil and gas extraction taxes' means any income, war profits, and excess profits tax paid or accrued (or deemed to have been paid under section 902 or 960) during the taxable year with respect to foreign oil and gas extraction income (determined without regard to paragraph (4)) or loss which would be taken into account for purposes of section 901 without regard to this section."

(3) TECHNICAL AMENDMENT.—Subsection (i) of section 6501, as amended by section 1031, (relating to foreign tax carrybacks) is amended—

(A) by striking out "excess foreign taxes)" and inserting in lieu thereof "excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)"; and

(B) by striking out "section 904(c)" the second place it appears and inserting in lieu thereof "section 904(c) or 907(f)".

(e) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1974; except that the last sentence of section 907(b) of the Internal Revenue Code of 1954 shall only apply to taxable years ending after December 31, 1975.

(3) The amendment made by subsection (c) shall apply to taxable years beginning after June 29, 1976.

(4) The amendments made by subsection (d) shall apply to taxes paid or accrued during taxable years ending after the date of the enactment of this Act.

Sec. 1036. Underwriting Income.

(a) Treatment as Income From Sources Within the United States.—Section 861(a) (relating to gross income from sources within the United States) is amended by adding the following new paragraph:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the insurance of United States risks (as defined in section 953(a)).".

(b) Treatment as Foreign Source Income.—Section 862(a) (relating to gross income from sources without the United States) is amended by adding the following new paragraph:

"(7) Underwriting income other than that derived from sources within the United States as provided in section 861(a)(7).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

Sec. 1037.—Third Tier Foreign Tax Credit When Section 951 Applies.

(a) Foreign Taxes Deemed Paid by Foreign Corporations.—Section 960(a)(1) (relating to special rules for foreign tax credits), as amended in section 1033, is further amended to read as follows:

"(1) General rule.—For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

"(A) of a foreign corporation (hereafter in this subsection referred to as the 'first foreign corporation') at least 10 percent of the voting stock of which is owned by such domestic corporation, or

"(B) of a second foreign corporation (hereinafter in this subsection referred to as the 'second foreign corporation') at least 10 percent of the voting stock of which is owned by the first foreign corporation, or

"(C) of a third foreign corporation (hereinafter in this subsection referred to as the 'third foreign corporation') at least 10 percent of the voting stock of which is owned by the second foreign corporation,

then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to the entire amount of the earnings and profits of such corporation for such taxable year. This paragraph shall not apply with respect to any amount included in the gross income of such domestic corporation attributable to earnings and profits of the second foreign corporation or of the third foreign corporation unless, in the case of the second foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied, and in the case of the third foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied."

(b) Effective Date.—The amendment made by this section shall apply with respect to earnings and profits of a foreign corporation included, under section 951(a) of the Internal Revenue Code of 1954, in the gross income of a domestic corporation in taxable years beginning after December 31, 1976.

Part IV—Money or Other Property Moving Out or Into the United States

Sec. 1041. Portfolio Debt Investments in United States of Nonresident Aliens and Foreign Corporations.

The last sentence of section 861(c) (relating to interest on deposits, etc.) is hereby repealed.

Sec. 1042. Changes in Ruling Requirements Under Section 367; Certain Changes in Section 1248.

(a) Amendment of Section 367.—Section 367 (relating to foreign corporations) is amended to read as follows:

"Sec. 367. Foreign Corporations.

"(a) Transfers of Property From the United States.—

"(1) General rule.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183d day after the beginning of such transfer (and filed in such form and manner as may be prescribed by regulations by the Secretary), it is established to the satisfaction of the Secretary that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

"(2) Exception for transactions designated by the secretary.—Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Secretary by regulations designates as not requiring the filing of a request.

"(b) Other Transfers.—

"(1) Effect of section to be determined under regulations.—In the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer of property described in subsection (a)(1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.

"(2) Regulations relating to sale or exchange of stock in foreign corporations.—The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

"(A) the circumstances under which—

"(i) gain shall be recognized currently, or amounts included in gross income currently as a dividend, or both, or

"(ii) gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

"(B) the extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

"(c) Transactions To Be Treated as Exchanges.—

"(1) Section 355 distribution.—For purposes of this section, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange.

"(2) Contribution of capital to controlled corporations.—For purposes of this chapter, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who, immediately after the transfer, own (within the meaning of section 318) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

"(d) Transitional Rule.—In the case of any exchange beginning before January 1, 1978—

"(1) subsection (a) shall be applied without regard to whether or not there is a transfer of property described in subsection (a)(1), and

"(2) subsection (b) shall not apply.".

(b) Earnings and Profits of Subsidiaries of Foreign Corporations for Purposes of Section 1248.—Subparagraph (C) of section 1248(c)(2) is amended by striking out "; and" at the end thereof and inserting in lieu thereof the following: "(or on the date of any sale or exchange of the stock of such other foreign corporation occurring during the 5-year period ending on the date of the sale or exchange of the stock of such foreign corporation, to the extent not otherwise taken into account under this section but not in excess of the fair market value of the stock of such other foreign corporation sold or exchanged over the basis of such stock (for determining gain) in the hands of the transferor); and".

(c) Certain Section 311, 336, or 337 Transactions.—

(1) General rule.—Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Certain Section 311, 336, or 337 Transactions.—

"(1) In general.—If—

"(A) a domestic corporation satisfies the stock ownership requirements of subsection (a)(2) with respect to a foreign corporation, and

"(B) such domestic corporation distributes, sells, or exchanges stock of such foreign corporation in a transaction to which section 311, 336, or 337 applies,

then, notwithstanding any other provision of this subtitle, an amount equal to the excess of the fair market market value of such stock over its adjusted basis in the hands of the domestic corporation shall be included in the gross income of the domestic corporation as a dividend to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock was held by such domestic corporation while such foreign corporation was a controlled foreign corporation. For purposes of subsections (c)(2), (d), and (h), a distribution, sale, or exchange of stock to which this subsection applies shall be treated as a sale of stock to which subsection (a) applies.

"(2) Exception for certain distributions.—In the case of any distribution of stock of a foreign corporation, paragraph (1) shall not apply if such distribution is to a domestic corporation—

"(A) which is treated under this section as holding such stock for the period for which the stock was held by the distributing corporation, and

"(B) which, immediately after the distribution, satisfies the stock ownership requirements of subsection (a)(2) with respect to such foreign corporation.

"(3) NONAPPLICATION OF PARAGRAPH (1) IN CERTAIN CASES.—Paragraph (1) shall not apply to a sale or exchange to which section 337 applies if—

"(A) throughout the period or periods the stock of the foreign corporation was held by the domestic corporation (or predecessor referred to in paragraph (2)) all the stock of such domestic corporation was owned by United States persons who satisfied the 10-percent stock ownership requirements of subsection (a)(2) with respect to such domestic corporation, and

"(B) subsection (a) applies to the proceeds of the sale or exchange and also applied to all transactions described in subsection (e)(1) which took place during the period or periods referred to in subparagraph (A).

"(4) APPLICATION TO CASES DESCRIBED IN SUBSECTION (e).—To the extent that earnings and profits are taken into account under this subsection, they shall be excluded and not taken into account for purposes of subsection (e).".

(2) INTEREST IN PARTNERSHIP HOLDING STOCK IN CERTAIN FOREIGN CORPORATIONS.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out "(as defined in section 1245a)(3))," and inserting in lieu thereof "as defined in section 1245(a)(3)), stock in cretain foreign corporations (as described in section 1248)," and

(B) by striking out "1245(a)," and inserting in lieu thereof "1245(a), 1248(a),".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of paragraph (2) of subsection (c) of section 1248 is amended by striking out "subsection (a) applies to a sale or exchange" and inserting in lieu thereof "subsection (a) or (f) applies to a sale, exchange, or distribution".

(B) Subparagraph (A) of paragraph (3) of subsection (g) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended to read as follows:

"(A) a dividend (other than an amount treated as a dividend under subsection (f),".

(C) Subsection (h) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended by striking out "subsection (a)" each place it appears and inserting in lieu thereof "subsection (a) or (f)".

(d) DECLARATORY JUDGMENT PROCEDURE FOR REVIEW BY THE TAX COURT OF SECTION 367 DETERMINATIONS.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO TRANSFERS OF PROPERTY FROM THE UNITED STATES.

"(a) CREATION OF REMEDY.—

"(1) IN GENERAL.—In a case of actual controversy involving—

"(A) a determination by the Secretary—

"(i) that an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

"(ii) of the terms and conditions pursuant to which an exchange described in section 367(a)(1) will be determined not to be in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

"(B) a failure by the Secretary to make a determination as to whether an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, upon the filing of an appropriate pleading, the Tax Court may make the appropriate declaration referred to in paragraph (2). Such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(2) SCOPE OF DECLARATION.—The declaration referred to in paragraph (1) shall be—

"(A) in the case of a determination referred to in subparagraph (A) of paragraph (1), whether or not such determination is reasonable, and, if it is not reasonable, a determination of the issue set forth in subparagraph (A)(ii) of paragraph (1), and

"(B) in the case of a failure described in subparagraph (B) of paragraph (1), the determination of the issues set forth in subparagraph (A) of paragraph (1).

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by a petitioner who is a transferor or transferee of stock, securities, or property transferred in an exchange described in section 367(a)(1).

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with respect to whether or not an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes before the expiration of 270 days after the request for such determination was made.

"(3) EXCHANGE SHALL HAVE BEGUN.—No proceeding may be maintained under this section unless the exchange is described in section 367(a)(1) with respect to which a decision of the Tax Court is sought has begun before the filing of the pleading.

"(4) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail to the petitioners referred to in paragraph (1) notice of his determination with respect to whether or not an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes or with respect to the terms and conditions pursuant to which such an exchange will be determined not to be made in pursuance of such a plan, no proceeding may be initiated under this section by any petitioner unless the pleading is filed before the 91st day after the day after such notice is mailed to such petitioner.

"(c) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of a person seeking a declaratory judgment under section 7477, the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation.".

(B) Section 7482(b)(1) is further amended—

(i) by striking out "subparagraph (A), (B), and (C) do not apply" in the second sentence and inserting in lieu thereof "no subparagraph of the preceding sentence applies"; and

(ii) by striking out "section 7476" in the last sentence and inserting in lieu thereof "section 7476 or 7477".

(C) The heading for section 7476 is amended to read as follows:

"SEC. 7476. DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS."

(D) The table of sections for part IV of subchapter C of chapter 76 is amended to read as follows:

"Sec. 7476. Declaratory judgments relating to qualification of certain retirement plans.

"Sec. 7477. Declaratory judgments relating to transfers of property from United States."

(E) The heading of part IV of subchapter C of chapter 76 is amended to read as follows:

"PART IV—DECLARATORY JUDGMENTS"

(F) The table of parts for subchapter C of chapter 76 is amended by striking out the item relating to part IV and inserting in lieu thereof the following:

"Part IV. Declaratory judgments."

(e) EFFECTIVE DATES.—

(1) The amendments made by this section (other than by subsection (d)) shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date. The amendments made by the subsection (d) shall apply with respect to pleadings filed with the Tax Court after the date of the enactment of this Act but only with respect to transfers beginning after October 9, 1975.

(2) In the case of any exchange described in section 367 of the Internal Revenue Code of 1954 (as in effect on December 31, 1974) in any taxable year beginning after December 31, 1962, and before the date of the enactment of this Act, which does not involve the transfer of property to or from a United States person, a taxpayer shall have for purposes of such section until 183 days after the date of the enactment of this Act to file a request with the Secretary of the Treasury or his delegate seeking to establish to the satisfaction of the Secretary of the Treasury or his delegate that such exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes and that for purposes of such section a foreign corporation is to be treated as a foreign corporation.

SEC. 1043. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

(a) AMENDMENT OF SUBCHAPTER L.—Subpart E of part I of subchapter L of chapter 1 (relating to life insurance companies) is amended by inserting after section 819 the following new section:

"SEC. 819A. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) EXCLUSION OF ITEMS.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch, there shall be excluded from each and every item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.—For purposes of this section, the term 'contiguous country life insurance branch' means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) Separate Accounting Required.—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) Recognition of Gain of Assets in Branch Account.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) Transactions Between Contiguous Country Branch and Domestic Life Insurance Company.—

"(1) Reimbursement for home office services, etc.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

"(2) Repatriation of income.—

"(A) In general.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the life insurance company taxable income of the domestic life insurance company (as computed without regard to this paragraph).

"(B) Limitation.—The addition provided by subparagraph (A) for the taxable year with respect to any contingous country life insurance branch shall not exceed the amount by which—

"(i) the aggregate decrease in the life insurance company taxable income of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

"(ii) the amount of additions to life insurance company taxable income pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

"(f) Other Rules.—

"(1) Treatment of foreign taxes.—

"(A) In general.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

"(B) Treatment of repatriated amounts.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) United states source income allocable to contiguous country branch.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) Election.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year beginning after December 31, 1975. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) Special Rule for Domestic Stock Life Insurance Companies.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets."

(b) Clerical Amendment.—The table of sections for such subpart E is amended by inserting after the item relating to section 819 the following new item:

"Sec. 819A. Contiguous country branches of domestic life insurance companies."

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 1044. Transitional Rule for Bond, Etc., Losses of Foreign Banks.

(a) General Rule.—Section 582(c) (relating to bond, etc., losses and gains of financial institutions) is amended by adding at the end thereof the following new paragraph:

"(4) Transitional rule for banks.—In the case of a corporation which would be a bank except for the fact that it is a foreign corporation, the net gain, if any, for the taxable year on sales and exchanges described in paragraph (1) shall be considered as gain from the sale or exchange of a capital asset to the extent such net gain does not exceed the portion of any capital loss carryover to such taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) for a taxable year beginning before July 12, 1969. For purposes of the preceding sentence, the portion of a net capital loss for a taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) is the amount of the net capital loss on such sales or exchanges for such taxable year (but not in excess of the net capital loss for such taxable year)."

(b) Effective Date.—

(1) The amendment made by subsection (a) shall apply with respect to taxable years beginning after July 11, 1969.

(2) If the refund or credit of any overpayment attributable to the application of the amendment made by subsection (a) to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1954, relating to compromises) on the day which is one year after the date of the enactment of this Act, such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.

Part V—Special Categories of Foreign Tax Treatment

Sec. 1051. Tax Treatment of Corporations Conducting Trade or Business in Puerto Rico and Possessions of the United States.

(a) Allowance of Puerto Rican and Possession Tax Credit.—Section 33 (relating to taxes of foreign countries and possessions of the United States) is amended to read as follows:

"Sec. 33. Taxes of Foreign Countries and Possessions of the United States; Possession Tax Credit. United States; Possession Tax

"(a) Foreign Tax Credit.—The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax imposed by this chapter to the extent provided in section 901.

"(b) SECTION 936 CREDIT.—In the case of a domestic corporation, the amount provided by section 936 (relating to Puerto Rico and possession tax credit) shall be allowed as a credit against the tax imposed by this chapter."

(b) RULES ON POSSESSION TAX CREDIT.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end thereof the following new section:

"SEC. 936. PUERTO RICO AND POSSESSION TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a domestic corporation which elects the application of this section, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to taxable income, from sources without the United States, from the active conduct of a trade or business within a possession of the United States, and from qualified possession source investment income, if the conditions of both subparagraph (A) and subparagraph (B) are satisfied:

"(A) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)); and

"(B) TRADE OR BUSINESS.—If 50 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

"(2) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by paragraph (1) shall not be allowed against the tax imposed by—

"(A) section 56 (relating to minimum tax),

"(B) section 531 (relating to the tax on accumulated earnings),

"(C) section 541 (relating to personal holding company tax),

"(D) section 1333 (relating to war loss recoveries), or

"(E) section 1351 (relating to recoveries of foreign expropriation losses).

"(b) AMOUNTS RECEIVED IN UNITED STATES.—In determining taxable income for purposes of subsection (a), there shall not be taken into account as income from sources without the United States any gross income which was received by such domestic corporation within the United States, whether derived from sources within or without the United States.

"(c) TREATMENT OF CERTAIN FOREIGN TAXES.—For purposes of this title, any tax of a foreign country or a possession of the United States which is paid or accrued with respect to taxable income which is taken into account in computing the credit under subsection (a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

"(d) DEFINITIONS.—For purposes of this section—

"(1) POSSESSION.—The term 'possession of the United States' includes the Commonwealth of Puerto Rico, but does not include the Virgin Islands of the United States.

"(2) QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The term 'qualified possession source investment income' means gross income which—

"(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and

"(B) the taxpayer establishes to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment,

less the deductions properly apportioned or allocated thereto.

"(e) ELECTION.—

"(1) PERIOD OF ELECTION.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election shall apply to the first taxable year for which such election was made and for which the domestic corporation satisfied the conditions of subparagraphs (A) and (B) of subsection (a)(1) and for each taxable year thereafter until such election is revoked by the domestic corporation under paragraph (2). If any such election is revoked by the domestic corporation under paragraph (2), such domestic corporation may make a subsequent election under subsection (a) for any taxable year thereafter for which such domestic corporation satisfies the conditions of subparagraph (A) and (B) of subsection (a)(1) and any such subsequent election shall remain in effect until revoked by such domestic corporation under paragraph (2).

"(2) REVOCATION.—An election under subsection (a)—

"(A) may be revoked for any taxable year beginning before the expiration of the 9th taxable year following the taxable year for which such election first applies only with the consent of the Secretary; and

"(B) may be revoked for any taxable year beginning after the expiration of such 9th taxable year without the consent of the Secretary.

"(f) DISC OR FORMER DISC CORPORATION INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to a corporation for a taxable year for which it is a DISC or former DISC (as defined in section 992(a)) or in which it owns at any time stock in a DISC or former DISC.

"(g) EXCEPTION TO ACCUMULATED EARNINGS TAX.—

"(1) For purposes of section 535, the term 'accumulated taxable income' shall not include taxable income entitled to the credit under subsection (a).

"(2) For purposes of section 537, the term 'reasonable needs of the business' includes assets which produce income eligible for the credit under subsection (a)."

(c) AMENDMENTS OF SECTION 931.—

(1) Subsection (a) of section 931 (relating to general rule in the case of income from sources within possessions of the United States) is amended to read as follows:

"(a) GENERAL RULE.—In the case of individual citizens of the United States, gross income means only gross income from sources within the United States if the conditions of both paragraph (1) and paragraph (2) are satisfied:

"(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such citizen (computed without the benefit of this section) for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

"(2) TRADE OR BUSINESS.—If 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.".

(2) Subsection (c) of section 931 (defining the term "possession") is amended to read as follows:

"(c) DEFINITION.—For purposes of this section, the term 'possession of the United States' does not include the Commonwealth of Puerto Rico, the Virgin Islands of the United States, or Guam.".

(3) Subsections (d), (e), and (f) of section 931 are each amended by striking out "persons" each place it appears and inserting in lieu thereof "a citizen of the United States".

(d) AMENDMENTS OF SECTION 901.—

(1) Section 901(d) (relating to certain corporations treated as foreign corporations) is amended to read as follows:

"(d) TREATMENT OF DIVIDENDS FROM A DISC OR FORMER DISC.—For purposes of this subpart, dividends from a DISC or former DISC (as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States.".

(2) Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) CERTAIN TAXES PAID WITH RESPECT TO DISTRIBUTIONS FROM POSSESSIONS CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation, to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

"(2) POSSESSIONS CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a possessions corporation for any period during which an election under section 936 applied to such corporation or during which section 931 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) applied to such corporation."

(e) AMENDMENT OF SECTION 904(b).—Section 904(b) (as amended by sections 1031 and 1034(a) of this Act) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 936.—For purposes of subsection (a), in the case of a corporation, the taxable income shall not include any portion thereof taken into account for purposes of the credit (if any) allowed by section 936."

(f) DIVIDENDS RECEIVED DEDUCTION ALLOWED.—

(1) Section 243(b)(1) (defining qualifying dividends) is amended by adding "either" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof a comma and "or", and by adding at the end thereof the following new subparagraph:

"(C) such dividends are paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividends are paid.".

(2) Section 243(b)(5) (defining affiliated group) is amended by inserting ", 1504(b)(4)," immediately after "1504(b)(2)".

(3) Section 246(a) (relating to dividends from certain corporations) is amended to read as follows:

"(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations)."

(g) Consolidated Return Treatment.—Section 1504(b)(4) (defining includible corporation) is amended to read as follows:

"(4) Corporations with respect to which an election under section 936 (relating to possession tax credit) is in effect for the taxable year.".

(h) Conforming Amendments.—

(1) Section 48(a)(2)(B)(vii) (relating to definition of section 38 property) is amended by striking out "(other than a corporation entitled to the benefits of section 931 or 934(b))" and inserting in lieu thereof the following: "(other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b))".

(2) Paragraph (2) of subsection 116(b) (relating to certain dividends excluded from partial exclusion of dividends received by individuals) is amended to read as follows:

"(2) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or".

(3) Section 861(a)(2)(A) (relating to income from sources within the United States) is amended by striking out "other than a corporation entitled to the benefits of section 931," and inserting in lieu thereof the following: "other than a corporation which has an election in effect under section 936,".

(4) Section 6091(b)(2)(B)(ii) (relating to place of filing for corporations) is amended by striking out "section 931 (relating to income from sources within possessions of the United States)," and inserting in lieu thereof the following: "section 936 (relating to possession tax credit),".

(i) Effective Date.—

(1) Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1975, except that "qualified possession source investment income" as defined in section 936(d)(2) of the Internal Revenue Code of 1954 shall include income from any source outside the United States if the taxpayer establishes to the satisfaction of the Secretary of the Treasury or his delegate that the income from such sources was earned before October 1, 1976.

(2) The amendment made by subsection (d)(2) shall not apply to any tax imposed by a possession of the United States with respect to the complete liquidation occurring before January 1, 1979, of a corporation to the extent that such tax is attributable to earnings and profits accumulated by such corporation during periods ending before January 1, 1976.

Sec. 1052. Western Hemisphere Trade Corporations.

(a) Phaseout of Special Deduction for Western Hemisphere Trade Corporations.—Section 922 (special deduction for Western Hemisphere trade corporations) is amended by adding at the end thereof the following new subsection:

"(b) Phaseout of Deduction.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1980, the percent specified in subsection (a)(2)(A) shall be (in lieu of 14 percent) the percent specified in the following table:

"For a taxable year beginning in—	The percentage shall be—
1976	11
1977	8
1978	5
1979	2".

(b) Repeal of Western Hemisphere Trade Corporation Deduction for Taxable Years Beginning After 1979.—Subpart C of part III of subchapter N of chapter 1 (relating to Western Hemisphere trade corporations) is hereby repealed.

(c) Conforming Amendments.—

(1) The first sentence of section 922 (relating to special deduction) is amended by striking out "In the case of" and inserting in lieu thereof the following:

"(a) General Rule.—In the case of".

(2) Section 170(b)(2) (relating to percentage limitations on charitable contributions in the case of corporations) is amended by adding "and" at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(3) Section 172(d) (relating to modifications for purposes of the net operating loss deduction) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(4) Subsection (g) of section 907 is hereby repealed.

(5) Section 1503 (relating to computation and payment of tax in the case of consolidated returns) is amended by striking out subsection (b) and by striking out "(a) General Rule.—".

(6) Section 6091(b)(2)(B)(ii) (relating to place for filing returns of corporations) is amended to read as follows:

"(ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and".

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart C.

(d) Effective Dates.—The amendments made by subsection (a) and paragraph (1) of subsection (c) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsection (b) and by subsection (c) (other than paragraph (1)) shall apply with respect to taxable years beginning after December 31, 1979.

Sec. 1053. Repeal of Provisions Relating to China Trade Act Corporations.

(a) Phaseout of Section 941.—Section 941 (relating to special deductions for China Trade Act corporations) is amended by adding the following new subsection:

(d) Phaseout of Deduction.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the special deduction under subsection (a) (determined without regard to this subsection) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	The percentage reduction shall be—
1976	33⅓
1977	66⅔."

(b) Phaseout of Section 943.—Section 943 (relating to the exclusion of certain dividends to residents of Formosa or Hong Kong) is amended by adding at the end thereof the following new sentence: "In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the distributions which are excludable from gross income under this section (determined without regard to this sentence) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	The percentage reduction shall be—
1976	33⅓
1977	66⅔."

(c) Repeal.—Subpart E of part III of subchapter N of chapter 1 (relating to China Trade Act corporations) is hereby repealed.

(d) Technical and Conforming Amendments.—

(1) Section 116(b) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Section 1504(b) is amended by striking out paragraph (5).

(3) Section 6072 is amended by striking out subsection (e).

(4) Section 6091(b)(2)(B)(ii) is amended by striking out the comma after "trade corporations)" and inserting in lieu thereof "or" and by striking out "or section 941 (relating to the special deduction for China Trade Act corporations),".

(5) The table of subparts for part II of subchapter N of chapter 1 is amended by striking out the item relating to subpart E.

(e) Effective Dates.—The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsections (c) and (d) shall apply with respect to taxable years beginning after December 31, 1977.

Part VI—Denial of Certain Tax Benefits for Cooperation With or Participation in International Boycotts and in Connection With the Payment of Certain Bribes

Sec. 1061. Denial of Foreign Tax Credit.

(a) In General.—Subpart A of part III of subchapter N (relating to income from sources without the United States) is amended by adding at the end thereof the following new section:

"Sec. 908. Reduction of Credit for Participation in or Cooperation With an International Boycott.

"(a) In General.—If a taxpayer, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the taxpayer, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable for the taxable year under section 901 shall be reducted by an amount equal to the product of—

"(1) the amount of the credit which, but for this section, would be allowed under section 901 for the taxable year, multiplied by

"(2) the international boycott factor (determined under section 999).

"(b) Application With Section 275(a)(4).—Section 275(a)(4) shall not apply to any amount of taxes denied credit under subsection (a)."

(b) Clerical Amendment.—The table of sections for such subpart is amended by adding at the end thereof the following new item:

"Sec. 908. Reduction of Credit for Participation in or Cooperation With an International Boycott."

Sec. 1062. Denial of Deferral of International Boycott Amounts.

(a) Denial of Deferral.—Section 952(a) (relating to general definition of subpart F income) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and the word "and", and

(3) by adding at the end thereof the following new paragraph:

"(3) an amount equal to the product of—

"(A) the income of such corporation other than income which—

"(i) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph), or

"(ii) is described in subsection (b), multiplied by

"(B) the international boycott factor (as determined under section 999)."

Sec. 1063. Denial of DISC Benefits.

(a) International Boycott Activity.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended to read as follows:

"(D) the sum of—

"(i) one-half of the excess of the taxable income of the DISC for the taxable year, before reduction for any distributions during the year, over the sum of the amounts deemed distributed for the taxable year under subparagraph (A), (B), and (C), and

"(ii) an amount equal to the amount determined under clause (i) multiplied by the international boycott factor determined under section 999, and".

Sec. 1064. Determinations as to Participation in or Cooperation With an International Boycott.

(a) In General.—Subchapter N of chapter 1 (relating to tax based on income from sources within or without the United States) is amended by adding at the end thereof the following new part:

"Part V—International Boycott Determinations

"Sec. 999. Reports by taxpayers; determinations.

"Sec. 999. Reports by Taxpayers; Determinations.

"(a) International Boycott Reports by Taxpayers.—

"(1) Report required.—If any taxpayer, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the taxpayer, has operations in or related to—

"(A) a country (or with the government, a company, or a national of a country) which is on the list maintained by the Secretary under paragraph (3), or

"(B) any other country (or with the government, a company, or a national of that country) in which the taxpayer (or such member) had operations during the taxable year if the taxpayer or member knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with such government, company, or national,

the taxpayer shall report such operations to the Secretary at such time and in such manner as the Secretary prescribes.

"(2) Participation and cooperation; requests therefor.—A taxpayer shall report whether he or any member of a controlled group which includes the taxpayer has participated in or cooperated with an international boycott at any time during the taxable year, or has been requested to participate in or cooperate with such a boycott, and, if so, the nature of any operation in connection with which he participated in or cooperated with such boycott (or was requested to participate or cooperate).

"(3) List to be maintained.—The Secretary shall maintain and publish not less frequently than quarterly a current list of countries which require or may require participation in or cooperation with an international boycott (within the meaning of subsection (b)(3)).

"(b) Participation In or Corporation With an International Boycott.—

"(1) General rule.—If the taxpayer or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the taxpayer participates in or cooperates with an international boycott in the taxable year, all operations of the taxpayer or such group in that country and in any other country which requires participation in or cooperation with the boycott as a condition of doing business within that country, or with the government, a company, or a national of that country, shall be treated as operations in connection with which such participation or cooperation occurred, except to the extent that the taxpayer can clearly demonstrate that a particular operation is a clearly separate and identifiable operation in connection with which he did not participate in or cooperate with an international boycott.

"(2) Special rule.—

"(A) Nonboycott operations.—A clearly separate and identifiable operation of a person, or of a member of the controlled group (within the meaning of section 993(a)(3)) which includes than person, in or related to any country within the group of countries referred to in paragraph (1) shall not be treated as an operation in or related to a group of countries associated in carrying out an international boycott if the person can clearly demonstrate that he, or that such member, did not participate in or cooperate with the international boycott in connection with that operation.

"(B) Separate and identifiable operations.—A taxpayer may show that different operations within the same country, or operations in different countries, are clearly separate and identifiable operations.

"(3) Definition of boycott participation and cooperation.—For purposes of this section, a person participates in or cooperates with an international boycott if he agrees—

"(A) as a condition of doing business directly or indirectly within a country or with the government, a company, or a national of a country—

"(i) to refrain from doing business with or in a country which is the object of the boycott or with the government, companies, or nationals of that country;

"(ii) to refrain from doing business with any United States person engaged in trade in a country which is the object of the boycott or with the government, companies, or nationals of that country;

"(iii) to refrain from doing business with any company whose ownership or management is made up, all or in part, of individuals of a particular nationality, race, or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality, race, or religion; or

"(iv) to refrain from employing individuals of a particular nationality, race, or religion; or

"(B) as a condition of the sale of a product to the government, a company, or a national of a country, to refrain from shipping or insuring that product on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott (within the meaning of subparagraph (A)).

"(4) Compliance with certain laws.—This section shall not apply to any agreement by a taxpayer (or such member)—

"(A) to meet requirements imposed by a foreign country with respect to an international boycott if United States law or regulations, or an Executive Order, sanctions participation in, or cooperation with, that international boycott,

"(B) to comply with a prohibition on the importation of goods produced in whole or in part in any country which is the object of an international boycott, or

"(C) to comply with a prohibition imposed by a country on the exportation of products obtained in such country to any country which is the object of an international boycott.

"(c) International Boycott Factor.—

"(1) International boycott factor.—For purposes of sections 908(a), 952(a)(3), and 995(b)(3), the international boycott factor is a fraction, determined under regulations prescribed by the Secretary, the numerator of which reflects the world-wide operations of a person (or, in the case of a controlled group (within the meaning of section 993(a)(3)) which includes that person, of the group) which are operations in or related to a group of countries associated in carrying out an international boycott in or with which that person or a member of that controlled group has participated or cooperated in the taxable year, and the denominator of which reflects the world-wide operations of that person or group.

"(2) Specifically attributable taxes and income.—If the taxpayer clearly demonstrates that the foreign taxes paid and income earned by the taxpayer for the taxable year with respect to his world-wide operations are attributable to specific operations, then, in lieu of applying the international boycott factor for such taxable year, the amount of the credit disallowed under section 908(a), the addition to subpart F income under section 952(a)(3), and the amount of deemed distribution under section 995(b)(1)(D)(ii) for the taxable year, if any, shall be the amounts specifically attributable to the operations in which the taxpayer participated in or cooperated with an international boycott under section 999(b)(1).

"(3) World-wide operations.—For purposes of this subsection, the term 'world-wide operations' means operations in or related to countries other than the United States.

"(d) Determination With Respect to Particular Operations.—Upon a request made by the taxpayer, the Secretary shall issue a determination with respect to whether a particular operation of the taxpayer, or of a member of a controlled group which includes the taxpayer, constitutes participation in or cooperation with an international boycott. The Secretary may issue such a determination in advance of such operation in cases which are of such a nature that an advance determination is possible and appropriate under the circumstances. If the request is made before the operation is commenced, or before the end of a taxable year in which the operation is carried out, the Secretary may decline to issue such a determination before the close of the taxable year, whichever first occurs.

"(e) Participation or Cooperation by Related Persons.—If two or more corporations which are members of the same controlled group (within the meaning of section 993(a)(3)) are controlled by five or fewer persons—

"(1) participation in or cooperation with an international boycott by such a corporation shall be considered to be such participation or cooperation by each of those persons, and

"(2) participation in or cooperation with such a boycott by such a person shall be considered to be such participation or cooperation by those corporations.

"(f) Willful Failure to Report.—Any person (within the meaning of section 6671(b)) required to report under this section who willfully fails to make such report shall, in addition to other penalties provided by law, be fined not more than $25,000, imprisoned for not more than one year, or both.".

(b) Clerical Amendment.—The table of parts for such subchapter is amended by adding at the end thereof the following new item:

"Part V. International Boycott Determinations."

Sec. 1065. Foreign Bribes.

(a) Denial of Deferral.—

(1) Controlled foreign corporations.—Section 952(a) (relating to general definition of subpart F income) is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new paragraph:

"(4) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government."

(2) DISC's.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended—

(A) by striking out "and" at the end of clause (i),

(B) by adding at the end thereof the following new clause:

"(iii) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the DISC directly or indirectly to an official, employee, or agent in fact of a government, and".

(b) Bribes Not to Reduce Foreign Earnings and Profits.—Section 964(a) (relating to earnings and profits of foreign corporations) is amended by adding at the end thereof the following sentence: "In determining such earnings and profits, or the deficit in such earnings and profits, the amount of any illegal bribe, kickback, or other payment (within the meanings of section 162(c)) shall not be taken into account to decrease such earnings and profits or to increase such deficit.".

Sec. 1966. Effective Dates.

(a) International Boycotts.—

(1) General rule.—The amendments made by this part (other than by section 1065) apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act.

(2) Existing contracts.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.

(b) Foreign Bribes.—The amendments made by section 1065 apply to payments described in section 162(c) of the Internal Revenue Code of 1954 made more than 30 days after the date of enactment of this Act.

Sec. 1067. Reports by Secretary.

(a) Reports To The Congress.—As soon after the close of each calendar year as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth, for that calendar year—

(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within such taxable year,

(2) the number of such reports on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such calendar year.

(b) Initial List.—The Secretary of the Treasury shall publish an initial list of those countries which may require participation in or cooperation with an international boycott as a condition of doing business within such country, or with the government, a company, or a national of such country, (within the meaning of section 999(b) of the Internal Revenue Code of 1954) within 30 days after the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

AMENDMENTS AFFECTING DISC

Sec. 1101. Amendments Affecting Disc.

(a) In General.—Section 995 (relating to taxation of DISC income to shareholders) is amended—

(1) in paragraph (1) of subsection (b) thereof, by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, by striking out "and (C)" in subparagraph (F) (as so redesignated) and inserting in lieu thereof "(C), (D), and (E)", and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 50 percent of the taxable income of the DISC for the taxable year attributable to military property.

"(E) the taxable income for the taxable year attributable to base period export gross receipts (as defined in subsection (e)),";

(2) in paragraph (2)(B) of subsection (b) thereof, by striking out "more than the number" and inserting in lieu thereof "more than twice the number";

(3) by adding at the end of subsection (b) thereof the following new paragraph:

(3) Taxable income attributable to military property.—

"(A) In general.—For purposes of paragraph (1)(D), taxable income of a DISC for the taxable year attributable to military property shall be determined by only taking into account—

"(i) the gross income of the DISC for the taxable year which is attributable to military property, and

"(ii) the deductions which are properly apportioned or allocated to such income.

"(B) Military property.—For purposes of subparagraph (A), the term 'military property' means any property which is an arm, ammunition, or implement of war designated in the munitions list published pursuant to the Military Security Act of 1954 (22 U.S.C. 1934)."; and

(4) by adding at the end thereof the following new subsections:

"(e) Definitions and Special Rules Relating to Computation of Taxable Income Attributable to Base Period Export Gross Receipts.—

"(1) Taxable income attributable to base period export gross recipts.—For purposes of this section, the taxable income attributable to base period export gross receipts shall be an amount equal to that portion of the adjusted taxable income of a DISC which—

"(A) the amount of the adjusted base period export gross receipts, bears to

"(B) the amount of the export gross receipts of the DISC for the taxable year.

"(2) Adjusted taxable income.—For purposes of this section, the term 'adjusted taxable income' means the income of a DISC for the taxable year, reduced by the amounts described in subparagraph (A), (B), (C), and (D) of paragraph (1) of subsection (b).

"(3) Adjusted base period export gross receipts.—For purposes of this section, the term 'adjusted base period export gross receipts' means 67 percent of the average of the export gross receipts of the DISC for taxable years during the base period (as defined in paragraph (5)). For purposes of the preceding sentence, if any property would not qualify during the taxable year as export property by reason of section 993(c)(2), gross receipts from such property shall be excluded from export gross receipts during the taxable years in the base period.

"(4) Export gross receipts.—For purposes of this section, the term 'export gross receipts' means—

"(A) qualified export receipts described in subparagraph (A), (B), (C), (G), and (H) of section 993(a)(1), reduced by

"(B) 50 percent of such qualified export receipts which are attributable to military property (as defined in subsection (b)(3)(B)).

"(5) Base period.—For purposes of paragraph (3)—

"(A) for any taxable year beginning before 1980, the base period shall be taxable years beginning in 1972, 1973, 1974, and 1975, and

"(B) for any taxable year beginning in any calendar year after 1979, the base period shall be the taxable years beginning in the fourth, fifth, sixth, and seventh calendar years preceding such calendar year.

"(6) No base period year.—If a DISC did not have a taxable year beginning in a calendar year specified in paragraph (5), then, for purposes of computing the adjusted base period export gross receipts, such DISC is deemed to have a taxable year and export gross receipts of zero for that year.

"(7) Short taxable year.—The Secretary shall prescribe such regulations as he deems necessary with respect to a short taxable year for purposes of computing base period export gross receipts of a DISC, or a short taxable year in which deemed distributions (as described in subsection (b)) are made, including the circumstances under which the short taxable year shall be annualized, and the proper method of annualization.

"(8) Controlled group.—If more than one member of a controlled group (as defined in section 993(a)(3)) for the taxable year qualifies as a DISC, then subsection (b)(1)(E), this subsection, and subsection (f) shall each be applied in a manner provided by regulations prescribed by the Secretary by aggregating the export gross receipts and taxable income of such DISCs for the taxable year and by aggregating the export gross receipts of such DISCs for each taxable year in the base period.

"(9) Special rule where the ownership of DISC stock and the trade or business giving rise to export gross receipts of the DISC are separated.—

"(A) In general.—If, at any time after the beginning of the base period, there has been a separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC, then the persons who own the trade or business during the taxable year shall be treated as having had additional export gross receipts during the base period attributable to such trade or business.

"(B) Exceptions.—Subparagraph (A) shall not apply—

"(i) where the stock in the DISC and the trade or business are owned throughout the taxable year by members of the same controlled group, and

"(ii) to the extent that the taxpayer's ownership of the stock in the DISC for the taxable year is proportionate to his ownership during the taxable year of the trade or business.

"(10) DISC base period attributed through shareholders in certain cases.—

"(A) In general.—If—

"(i) any person owns 5 percent or more of the stock of a DISC (hereinafter in this paragraph referred to as 'first DISC'), and

"(ii) such person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC,

then, to the extent provided in such regulations as the Secretary may prescribe to prevent circumvention of the application of subsection (b)(1)(E), an amount equal to such shareholder's share of the base period export gross receipts of the second DISC shall be added to the base period export gross receipts of the first DISC.

"(B) Ownership of stock.—For purposes of subparagraph (A), the ownership of stock shall be determined under section 318.

"(f) Small DISC's.—

"(1) Adjusted taxable income of $100,000 or less.—If a DISC has adjusted taxable income of $100,000 or less for a taxable year, subsection (b)(1)(E) shall not apply with respect to such year.

"(2) Special rule.—If a DISC has adjusted taxable income of more than $100,000 for a taxable year, then the amount taken into account under subsection (b)(1)(E) shall be deemed to be an amount equal to the excess (if any) of—

"(A) the amount which would (but for this paragraph) be taken into account under subsection (b)(1)(E), over

"(B) twice the excess (if any) of $150,000 over the adjusted taxable income.

"(g) Certain Transfers of DISC Assets.—If—

"(1) a corporation owns, directly or indirectly, all of the stock of a subsidiary and a DISC,

"(2) the subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b)) throughout the 5-year period ending on the date of the transfer and continues to be so engaged thereafter, and

"(3) during the taxable year of the subsidiary in which its stock is transferred and its preceding taxable year, such trade or business gives rise to qualified export receipts of the subsidiary and the DISC.

then, under such terms and conditions as the Secretary by regulations shall prescribe, transfers of assets, stock, or both, will be deemed to be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination thereof. The preceding sentence shall apply only to the extent that the transfer or transfers involved are for the purpose of preventing the separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC."

(b) Amendment of Section 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended—

(1) by striking out "or" at the end of subparagraph (B), and

(2) by striking out "under section 611" in subparagraph (C) and inserting in lieu thereof "under section 613 or 613A".

(c) Amendments to Section 993(d).—Section 993(d) (relating to definition of producers's loans) is amended—

(1) by inserting in paragraph (1)(C) immediately after "export property", the following: "determined without regard to subparagraph (C) or (D) of subsection (c)(2),".

(2) by inserting in paragraph (2) immediately after "of property which would be export property" the following: "(determined without regard to subparagraph (C) or (D) of subsection (c)(2))".

(d) Recapture of Accumulated DISC Income on Disposition of Stock in a DISC or Former DISC.—

(1) Section 995(c) is amended to read as follows:

"(c) Gain on Disposition of Stock in a DISC.—

"(1) In general.—If—

"(A) a shareholder disposes of stock in a DISC or former DISC any gain recognized on such disposition shall be included in gross income as a dividend to the extent provided in paragraph (2),

"(B) stock of a DISC or former DISC is disposed of in a transaction in which the separate corporate existence of the DISC or former DISC is terminated other than by a mere change in place of organization, however effected, any gain realized on the disposition of such stock in the transaction shall be recognized notwithstanding any other provision of this title to the extent provided in paragraph (2) and to the extent so recognized shall be included in gross income as a dividend, or

"(C) a shareholder distributes, sells, or exchanges stock in a DISC or former DISC in a transaction to which section 311, 336, or 337 applies, then an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the shareholder shall, notwithstanding any provision of this title, be included in gross income of the shareholder as a dividend to the extent provided in paragraph (2).

"(2) Amount included.—The amounts described in paragraph (1) shall be included in gross income as a dividend to the extent of the accumulated DISC income of the DISC or former DISC which is attributable to the stock disposed of and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by the shareholder which disposed of such stock."

(2) Interest in a partnership holding stock in a DISC.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out "(as defined in section 617(f)(2))," and inserting in lieu thereof "(as defined in section 617(f)(2), stock in a DISC (as described in section 992(a))," and

(B) by striking out "617(d)(1), 1245(a)," and inserting in lieu thereof "617(d)(1), 995(c), 1245(a),".

(e) Rules for Allocating Distributions Made to Meet Qualification Requirements.—Paragraph (2) of section 996(a) (relating to rules for actual distributions and certain deemed distributions) is amended by adding at the end thereof the following new sentence: "In the case of any amount of any actual distribution made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to one-half of such amount, and paragraph (1) shall apply to the remaining one-half of such amount."

(f) Amendment of Section 603(b) of Tax Reduction Act of 1975.—Section 603(b) of the Tax Reduction Act of 1975 (relating to effective date) is amended to read as follows:

"(b) Effective Dates.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

"(2) Binding contract.—The amendments made by subsection (a) shall not apply to sales, exchanges, and other dispositions made after March 18, 1975, but before March 19, 1980, if such sales, exchanges, and other dispositions are made pursuant to a fixed contract. The term 'fixed contract' means a contract which was, on March 18, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a)(3) of the Internal Revenue Code of 1954) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same controlled group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased."

(g) Effective Dates.—

(1) For subsections (a) and (e).—Except as provided in paragraphs (2), the amendments made by subsections (a) and (e) shall apply to taxable years beginning after December 31, 1975.

(2) For subsection (b).—The amendments made by subsection (b) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

(3) For subsections (c) and (f).—The amendments made by subsections (c) and (f) shall apply to taxable years ending after March 18, 1975.

(4) For subsection (d).—The amendments made by subsection (d) shall apply to sales, exchanges, or other dispositions after December 31, 1975, in taxable years ending after such date.

(5) Proration of base period in case of fixed contracts.—For purposes of determining adjusted base period export gross receipts (under section 995(e)(3) of the Internal Revenue Code of 1954, as amended by this section), if any DISC has export gross receipts from export property by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975, then the export gross receipts of such DISC for the taxable years of the base period shall be increased by an amount equal to the amount of gross receipts which were excluded from export gross receipts during each taxable year of the base period by reason of the last sentence of section 993(e)(3) of such Code multiplied by a fraction, the numerator of which is the amount of the gross receipts in the taxable year which are export gross receipts by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975 and the denominator of which is the amount of total gross receipts which are excluded from export gross receipts in the taxable year by reason of subparagraph (C) or (D) of paragraph (2) of section 993(c) (determined without regard to paragraph (2) of section 603(b) of the Tax Reduction Act of 1975).

And the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

ADMINISTRATIVE PROVISIONS

Sec. 1201. Public Inspection of Written Determinations by Internal Revenue Service.

(a) Requirement That Written Determinations Be Open to Public Inspection.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6110 as 6111 and by inserting after section 6109 the following new section:

"Sec. 6110. Public Inspection of Written Determinations.

"(a) General Rule.—Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

"(b) Definitions.—For puproses of this section—

"(1) Written determination.—The term 'written determination' means a ruling, determination letter, or technical advice memorandum.

"(2) Background file document.—The term 'background file document' with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

"(3) Reference and general written determinations.—

"(A) Reference written determination.—

The term 'reference written determination' means any written determination which has been determined by the Secretary to have significant reference value.

"(B) GENERAL WRITTEN DETERMINATION.—The term 'general written determination' means any written determination other than a reference written determination.

"(c) EXEMPTIONS FROM DISCLOSURE.—Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

"(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d)(1), identified in the written determination or any background file document;

"(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

"(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

"(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

"(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a proceeding under subsection (f)(3)) to make such deletions.

"(d) PROCEDURES WITH REGARD TO THIRD PARTY CONTRACTS.—

"(1) NOTATIONS.—If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representation with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

"(3) DISCLOSURE OF IDENTITY.—In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of such person. The court may also direct the Secretary to disclose any portion of any other deletions made in accordance with subsection (c) where such disclosure is in the public interest. If a proceeding is commenced under this paragraph, the person whose identity is subject to being disclosed and the person about whom a notation is made under paragraph (1) shall be notified of the proceeding in accordance with the procedures described in subsection (f)(4)(B) and shall have the right to intervene in the proceeding (anonymously, if appropriate).

"(4) PERIOD IN WHICH TO BRING ACTION.—No proceeding shall be commenced under paragraph (3) unless a petition is filed before the expiration of 36 months after the first day that the written determination is open to public inspection.

"(e) BACKGROUND FILE DOCUMENT.—Whenever the Secretary makes a written determination open to public inspection under this section, he shall also make available to any person, but only upon the written request of that person, any background file document relating to the written determination.

"(f) RESOLUTION OF DISPUTES RELATING TO DISCLOSURE.—

"(1) NOTICE OF INTENTION TO DISCLOSE.—The Secretary shall upon issuance of any written determination, or upon receipt of a request for a background file document, mail a notice of intention to disclose such determination or document to any person to whom the written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person).

"(2) ADMINISTRATIVE REMEDIES.—The Secretary shall prescribe regulations establishing administrative remedies with respect to—

"(A) requests for additional disclosure of any written determination or any background file document, and

"(B) requests to restrain disclosure.

"(3) ACTION TO RESTRAIN DISCLOSURE.—

"(A) CREATION OF REMEDY.—Any person—

"(i) to whom a written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person), or who has a direct interest in maintaining the confidentiality of any such written determination or background file document (or portion thereof),

"(ii) who disagrees with any failure to make a deletion with respect to that portion of any written determination or any background file document which is to be open or available to public inspection, and

"(iii) who has exhausted his administrative remedies as prescribed pursuant to paragraph (2),

may, within 60 days after the mailing by the Secretary of a notice of intention to disclose any written determination or background file document under paragraph (1), together with the proposed deletions, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination or background file document which is to be open to public inspection.

"(B) NOTICE TO CERTAIN PERSONS.—The Secretary shall notify any person to whom a written determination pertains (unless such person is the petitioner) of the filing of a petition under this paragraph with respect to such written determintion or related background file document, and any such person may intervene (anonymously, if appropriate) in any proceeding conducted pursuant to this paragraph. The Secretary shall send such notice by registered or certified mail to the last known address of such person within 15 days after such petition is served on the Secretary. No person who has received such a notice may thereafter file any petition under this paragraph with respect to such written determination or background file document with respect to which such notice was received.

"(4) ACTION TO OBTAIN ADDITIONAL DISCLOSURE.—

"(A) CREATION OF REMEDY.—Any person who has exhausted the administrative remedies prescribed pursuant to paragraph (2) with respect to a request for disclosure may file a petition in the United States Tax Court or a complaint in the United States District Court for the District of Columbia for an order requiring that any written determination or background file document (or portion thereof) be made open or available to public inspection. Except where inconsistent with subparagraph (B), the provisions of subparagraphs (C), (D), (E), (F), and (G) of section 552(a)(4) of title 5, United States Code, shall apply to any proceeding under this paragraph. The Court shall examine the matter de novo and without regard to a decision of a court under paragraph (3) with respect to such written determination or background file document, and may examine the entire text of such written determination or background file document in order to determine whether such written determination or background file document or any part thereof shall be open or available to public inspection under this section. The burden of proof with respect to the issue of disclosure of any information shall be on the Secretary and any other person seeking to restrain disclosure.

"(B) INTERVENTION.—If a proceeding is commenced under this paragraph with respect to any written determination or background file document, the Secretary shall, within 15 days after notice of the petition filed under subparagraph (A) is served on him, send notice of the commencement of such proceeding to all persons who are identified by name and address in such written determination or background file document. The Secretary shall send such notice by registered or certified mail to the last known address of such person. Any person to whom such determination or background file document pertains may intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the written determination or background file document (or any portion thereof) in accordance with the final decision of the court.

"(5) EXPEDITION OF DETERMINATION.—The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date and the Court of Appeals shall expedite any review of such decision in every way possible.

"(6) PUBLICITY OF TAX COURT PROCEEDINGS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this subsection may be closed to the public or to inspection by the public.

"(g) TIME FOR DISCLOSURE.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the text of any written determination or any background file document (as modified under subsection (c)) shall be open or available to public inspection—

"(A) no earlier than 75 days, and no later than 90 days, after the notice provided in subsection (f)(1) is mailed, or if later,

"(B) within 30 days after the date on which a court decision under subsection (f)(3) becomes final.

"(2) POSTPONEMENT BY ORDER OF COURT.—

The court may extend the period referred to in paragraph (1)(B) for such time as the court finds necessary to allow the Secretary to comply with its decision.

"(3) Postponement of disclosure for up to 90 days.—At the written request of the person by whom or on whose behalf the request for the written determination was made, the period referred to in paragraph (1)(A) shall be extended (for not to exceed an additional 90 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determinaion has been completed.

"(4) Additional 180 days.—If—

"(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (3), and

"(B) the person by whom or on whose behalf the request for the written determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the written determination to public inspection,

the period referred to in paragraph (3) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

"(5) Special rules for certain written determinations, etc.—Notwithstanding the provisions of paragraph (1), the Secretary shall not be required to make available to the public—

"(A) any technical advice memorandum and any related background file document involving any matter which is the subject of a civil fraud or criminal investigation or jeopardy or termination assessment until after any action relating to such investigation or assessment is completed, or

"(B) any general written determination and any related background file document that relates solely to approval of the Secretary of any adoption or change of—

"(i) the funding method or plan year of a plan under section 412,

"(ii) a taxpayer's annual accounting period under section 442,

"(iii) a taxpayer's method of accounting under section 446(e), or

"(iv) a partnership's or partner's taxable year under section 706,

but the Secretary shall make any such written determination and related background file document available upon the written request of any person after the date on which (except for this subparagraph) such determination would be open to public inspection.

"(h) Disclosure of Prior Written Determinations and Related Background File Documents.—

"(1) In general.—Except as otherwise provided in this subsection, a written determination issued pursuant to a request made before November 1, 1976, and any background file document relating to such written determination shall be open or available to public inspection in accordance with this section.

"(2) Time for disclosure.—In the case of any written determination or background file document which is to be made open or available to public inspection under paragraph (1)—

"(A) subsection (g) shall not apply, but

"(B) such written determination or background file document shall be made open or available to public inspection at the earliest practicable date after funds for that purpose have been appropriated and made available to the Internal Revenue Service.

"(3) Order of release.—Any written determination or background file document described in paragraph (1) shall be open or available to public inspection in the following order starting with the most recent written determination in each category:

"(A) reference written determinations issued under this title;

"(B) general written determinations issued after July 4, 1967; and

"(C) reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law.

General written determinations not described in subparagraph (B) shall be open to public inspection on written request, but not until after the written determinations referred to in subparagraphs (A), (B), and (C) are open to public inspection.

"(4) Notice that prior written determinations are open to public inspection.—Notwithstanding the provisions of subsections (f)(1) and (f)(3)(A), not less than 90 days before making any portion of a written determination described in this subsection open to public inspection, the Secretary shall issue public notice in the Federal Register that such written determination is to be made open to public inspection. The person who received a written determination may, within 75 days after the date of publication of notice under this paragraph, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination which is to be made open to public inspection. The provisions of subsections (f)(3)(B), (5), and (6) shall apply if such a petition is filed. If no petition is filed, the text of any written determination shall be open to public inspection no earlier than 90 days, and no later than 120 days, after notice is published in the Federal Register.

"(5) Exclusion.—Subsection (d) shall not apply to any written determination described in paragraph (1).

"(i) Civil Remedies.—

"(1) Civil action.—Whenever the Secretary—

"(A) fails to make deletions required in accordance with subsection (c), or

"(B) fails to follow the procedures in subsection (g), the recipient of the written determination or any person identified in the written determination shall have as an exclusive civil remedy an action against the Secretary in the Court of Claims, which shall have jurisdiction to hear any action under this paragraph.

"(2) Damages.—In any suit brought under the provisions of paragraph (1)(A) in which the Court determines that an employee of the Internal Revenue Service intentionally or willfully failed to delete in accordance with subsection (c), or in any suit brought under subparagraph (1)(B) in which the Court determines that such employee intentionally or willfully failed to act in accordance with subsection (g), the United States shall be liable to the person in an amount equal to the sum of—

"(A) actual damages sustained by the person but in no case shall a person be entitled to receive less than the sum of $1,000, and

"(B) the costs of the action together with reasonable attorney's fees as determined by the Court.

"(j) Special Provisions.—

"(1) Fees.—The Secretary is authorized to assess actual costs—

"(A) for duplication of any written determination or background file document made open or available to the public under this section, and

"(B) incurred in searching for and making deletions required under subsection (c) from any written determination or background file document which is available to public inspection only upon written request.

The Secretary shall furnish any written determination or background file document without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing such determination or background file document can be considered as primarily benefiting the general public.

"(2) Records disposal procedures.—Nothing in this section shall prevent the Secretary from disposing of any general written determination or background file document described in subsection (b) in accordance with established records disposition procedures, but such disposal shall, except as provided in the following sentence, occur not earlier than 3 years after such written determination is first made open to public inspection. In the case of any general written determination described in subsection (h), the Secretary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.

"(3) Precedential status.—Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.

"(k) Section Not to Apply.—This section shall not apply to—

"(1) any matter to which section 6104 applies, or

"(2) any—

"(A) written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501 (c) or (d), the status of an organization as a private foundation under section 509(a), or the status of an organization as an operating foundation under section 4942(j)(3),

"(B) written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,

"(C) determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,

"(D) background file document relating to any general written determination issued before July 5, 1967, or

"(E) letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974.

"(l) Exclusive Remedy.—Except as otherwise provided in this title, or with respect to a discovery order made in connection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents."

(b) Effect Upon Pending Requests.—Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (h)(1), but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976.

(c) Clerical Amendment.—The table of

sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6110 and inserting in lieu thereof the following:

"Sec. 6110. Public inspection of written determinations.
"Sec. 6111. Cross references."

(d) Letters Made Public.—

(1) Section 6104(a)(1)(A) (relating to inspection of applications for tax exemption) is amended—

(A) by inserting after "such application," in the first sentence thereof the following: "and any letter or other document issued by the Internal Revenue Service with respect to such application"; and

(B) by inserting after "such application" in the second sentence thereof the following: "and such letter or document".

(2) The amendments made by this subsection apply to any letter or other document issued with respect to applications filed after October 31, 1976.

(e) Effective Date.—Except as otherwise provided in this section, the amendments made by this section shall take effect on November 1, 1976.

Sec. 1202. Confidentiality and Disclosure of Returns and Return Information.

(a) Confidentiality.—

(1) In general.—Section 6103 (relating to publicity of tax returns and disclosure of information as to persons filing tax returns) is amended to read as follows:

"Sec. 6103. Confidentiality and Disclosure of Returns and Return Information.

"(a) General Rule.—Returns and return information shall be confidential, and except as authorized by this title—

"(1) no officer or employee of the United States,

"(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

"(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii) or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term 'officer or employee' includes a former officer or employee.

"(b) Definitions.—For purposes of this section—

"(1) Return.—The term 'return' means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

"(2) Return information.—The term 'return information' means—

"(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

"(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

but such term does not include data in a form which cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

"(3) Taxpayer return information.—The term 'taxpayer return information' means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

"(4) Tax administration.—The term 'tax administration'—

"(A) means—

"(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

"(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

"(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

"(5) State.—The term 'State' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(6) Taxpayer identity.—The term 'taxpayer identity' means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

"(7) Inspection.—The terms 'inspected' and 'inspection' mean any examination of a return or return information.

"(8) Disclosure.—The term 'disclosure' means the making known to any person in any manner whatever a return or return information.

"(9) Federal agency.—The term 'Federal agency' means an agency within the meaning of section 551(1) of title 5, United States Code.

"(c) Disclosure of Returns and Return Information to Designee of Taxpayer.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a written request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(d) Disclosure to State Tax Officials.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by or disclosure to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including and procedures with respect to locating any person why may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the return or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(e) Disclosure to Persons Having Material Interest.—

(1) In general.—The return of a person shall, upon written request, be open to inspection by or disclosure to—

"(A) in the case of the return of an individual—

"(i) that individual,

"(ii) if property transferreed by that individual to a trust is sold or exchanged in a transaction described in section 644, the trustee or trustees, jointly or separately, of such trust to the extent necessary to ascertain any amount of tax imposed upon the trust by section 644, or

"(iii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provision of section 2513;

"(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

"(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

"(D) in the case of the return of a corporation or a subsidiary thereof—

"(i) any person designated by resolution of its board of directors or other similar governing body,

"(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,

"(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,

"(iv) if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company,

"(v) if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or

"(vi) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

"(E) in the case of the return of an estate—

"(i) the administrator, executor, or trustee of such estate, and

"(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

"(F) in the case of the return of a trust—

"(i) the trustee or trustees, jointly or separately, and

"(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

"(2) Incompetency.—If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

"(3) Deceased individuals.—The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

"(A) the administrator, executor, or trustee of his estate, and

"(B) any heir at law, next of kin, or beneficiary under the will, or such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

"(4) Bankruptcy.—If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such receiver or trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

"(5) Attorney in fact.—Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), or (4) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

"(6) Return information.—Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

"(f) Disclosure to Committees of Congress.—

"(1) Committee on ways and means, committee on finance, and joint committee on taxation.—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(2) Chief of staff of joint committee on taxation.—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(3) Other committees.—Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

"(4) Agents of committees and submission of information to Senate or House of Representatives.—

"(A) Committees described in paragraph (1).—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(B) Other committees.—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(g) Disclosure to President and Certain Other Persons.—

"(1) In general.—Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

"(A) the name and address of the taxpayer whose return or return information is to be disclosed,

"(B) the kind of return or return information which is to be disclosed,

"(C) the taxable period or periods covered by such return or return information, and

"(D) the specific reason why the inspection or disclosure is requested.

"(2) Disclosure of return information as to presidential appointees and certain other Federal government appointees.—The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

"(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;

"(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

"(C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or

"(D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

"(3) Restriction on disclosure.—The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

"(4) Restriction on disclosure to certain employees.—Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

"(5) Reporting requirements.—Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

"(h) Disclosure to Certain Federal Officers and Employees for Purposes of Tax Administration, Etc.—

"(1) Department of the treasury.—Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

"(2) Department of justice.—A return or return information shall be open to inspection by or disclosure to attorneys of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court in a matter involving tax administration, but only if—

"(A) the taxpayer is or may be a party to such proceeding;

"(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

"(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

"(3) Form of request.—In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

"(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

"(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose the information so requested.

"(4) Disclosure in judicial and administrative tax proceedings.—A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

"(A) if the taxpayer is a party to such proceeding;

"(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

"(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

"(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(5) Prospective jurors.—In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax inevstigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry.

"(i) Disclosure to Federal Officers or Employees for Administration of Federal Laws Not Relating to Tax Administration.—

"(1) Nontax criminal investigation.—

(A) Information from taxpayer.—A return or taxpayer return information shall, pursuant to, and upon the grant of an ex parte order by a Federal district court judge as provided by this paragraph, be open, but only to the extent necessary as provided in such order, to officers and employees of a Federal agency personally and directly engaged in and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party.

"(B) Application for order.—The head of any Federal agency described in subparagraph (A) or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, may authorize an application to a Federal district court judge for the order referred to in subparagraph (A). Upon such application, such judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

"(ii) there is reason to believe that such return or return information is probative evidence of a matter in issue related to the commission of such criminal act; and

"(iii) the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines and certifies to the court that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(2) Return information other than taxpayer return information.—Upon written request from the head of a Federal agency described in paragraph (1)(A), or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) described in paragraph (1)(A). Such request shall set forth—

"(A) the name and address of the taxpayer with respect to whom such return information relates;

"(B) the taxable period or periods to which the return information relates;

"(C) the statutory authority under which the proceeding or investigation is being conducted; and

"(D) the specific reason or reasons why such disclosure is or may be material to the proceeding or investigation.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(3) Disclosure of return information concerning possible criminal activities.—The Secretary may disclose in writing return information, other than taxpayer return information, which may constitute evidence of a violation of Federal criminal laws to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility for enforcing such laws.

"(4) Use in judicial or administrative proceedings.—Any return or return information obtained under paragraph (1), (2), or (3) may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or an agency described in paragraph (1)(A) is a party but, in the case of any return or return information obtained under paragraph (1), only if the court finds that such return or return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. However, any return or return information obtained under paragraph (1), (2), or (3) shall not be admitted into evidence in such proceeding if the Secretary determines and notifies the Attorney General or his delegate or the head of such agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in such proceeding.

"(5) Renegotiation of contracts.—A return or return information with respect to the tax imposed by chapter 1 upon a taxpayer subject to the provisions of the Renegotiation Act of 1951 shall, upon request in writing by the Chairman of the Renegotiation Board, be open to officers and employees of such board personally and directly engaged in, and solely for their use in, verifying or analyzing financial information required by such Act to be filed with, or otherwise disclosed to, the board, or to the extent necessary to implement the provisions of section 1481 or 1482. The Chairman of the Renegotiation Board may, upon referral of any matter with respect to such Act to the Department of Justice for further legal action, disclose such return and return information to any employee of such department charged with the responsibility for handling such matters.

"(6) Comptroller general.—

"(A) Returns available for inspection.—Except as provided in subparagraph (B), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

"(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67), or

"(ii) any audit authorized by subsection (p)(6), except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

"(B) Disapproval by joint committee on taxation.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) with respect to an audit—

"(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

"(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation reecives such notice.

"(j) Statistical Use.—

"(1) Department of commerce.—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

"(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

"(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

"(2) Federal trade commission.—Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

"(3) Department of treasury.—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

"(4) Anonymous form.—No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

"(k) Disclosure of Certain Returns and Return Information for Tax Administration Purposes.—

"(1) Disclosure of accepted offers-in-compromise.—Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

"(2) Disclosure of amount of outstanding lien.—If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

"(3) Disclosure of return information to correct misstatements of fact.—The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

"(4) Disclosure to competent authority under income tax convention.—A return or return information may be disclosed to a competent authority of a foreign government which has an income tax convention with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention.

"(5) State agencies regulating tax return preparers.—Taxpayer identity information with respect to any income tax return preparer, and information as to whether or not any penalty has been assessed against such income tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

"(6) Disclosure by internal revenue officers and employees for investigative purposes.—An internal revenue officer or employee may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

"(l) Disclosure of Returns and Return Information for Purposes Other Than Tax Administration.—

"(1) Disclosure of certain returns and return information to social security administration and railroad retirement board.—The Secretary may disclose returns and return information with respect to—

"(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

"(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057 (d); and

"(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

"(2) Disclosure of returns and return information to the department of labor and pension benefit guaranty corporation.—The Secretary may furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

"(3) Disclosure of returns and return information to privacy protection study commission.—The Secretary may, upon written request, disclose returns and return information to the Privacy Protection Study Commission, or to such members, officers, or employees of such commission as may be named in such written request, to the extent provided under section 5 of the Privacy Act of 1974.

"(4) Disclosure of returns and return information for use in personnel or claimant representative matters.—The Secretary may disclose returns and return information—

"(A) upon written request—

"(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

"(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026),

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

"(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

"(5) Department of health, education, and welfare.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, an accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing programs.

"(6) Disclosure of return information to federal, state, and local child support enforcement agencies.—

"(A) Return information from internal revenue service.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

"(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

"(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

"(B) Restriction on disclosure.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

"(m) Disclosure of Taxpayer Identity Information.—The Secretary is authorized—

"(1) to disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons, and

"(2) upon written request, to disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(n) Certain Other Persons.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.

"(o) Disclosure of Returns and Return Information With Respect to Certain Taxes.—

"(1) Taxes imposed by substitute e.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

"(2) Taxes imposed by chapter 35.—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

"(p) Procedure and Recordkeeping.—

"(1) Manner, time, and place of inspections.—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

"(2) Procedure.—

"(A) Reproduction of returns.—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

"(B) Disclosure of return information.—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

"(C) Use of reproductions.—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

"(3) Records of inspection and disclosure.—

"(A) System of recordkeeping.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections disclosed, under the authority of subsections (c), (e)(h)(1), (3)(A), or (4), (i)(4) or (6)(A)(ii), (k)(1), (2), or (6), (l)(1) or (4)(B), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

"(B) Report by the secretary.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determines.

"(C) Public report on disclosures.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records and accounting described in subparagraph (A) which—

"(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d) or (l)(3) or (5), and the General Accounting Office the number of—

"(I) requests for disclosure of returns and return information,

"(II) instances in which returns and return information were disclosed pursuant to such requests,

"(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

"(ii) describes the general purposes for which such requests were made.

"(4) Safeguards.—Any Federal agency described in subsection (h)(2), (i)(1), (2) or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d) or (l)(3) or (6) shall, as a condition for receiving returns or return information—

"(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

"(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

"(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

"(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

"(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

"(F) upon completion of use of such returns or return information—

"(i) in the case of an agency, body, or commission described in subsection (d) or (l)(6), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

"(ii) in the case of an agency described in subsections (h)(2), (i)(1), (2), or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3), or the General Accounting Office, either—

"(I) return to the Secretary such returns or return information (along with any copies made therefrom),

"(II) otherwise make such returns or return information undisclosable, or

"(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

"(5) Report on procedures and safeguards.—After the close of each calendar quarter, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

"(6) Audit of procedures and safeguards.—

"(A) Audit by Comptroller General.—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

"(B) Records of inspection and reports by the comptroller general.—The Comptroller General shall—

"(i) maintain permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i)(6)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

"(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

"(7) Administrative review.—The Secretary shall by regulations prescribe procedures which provide for administrative reveiw of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

"(8) State law requirements.—

"(A) Safeguards.—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

"(B) Disclosure of returns or return information in state returns.—Nothing in this section shall be construed to prohibit this disclosure by any officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

"(q) Regulations.—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section."

(2) Conforming amendment.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6103 and inserting in lieu thereof the following:

"Sec. 6103. Confidentiality and Disclosure of Returns and Return Information."

(b) Statistical Publications and Studies.—Section 6108 (relating to publication of statistics of income) is amended to read as follows:

"Sec. 6108. Statistical Publications and Studies.

"(a) Publication or Other Disclosure of Statistics of Income.—The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

"(b) Special Statistical Studies.—The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

"(c) Anonymous Form.—No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer."

(c) Inspection of Certain Records by Local Officers.—

(1) In general.—Section 4102 (relating to inspection of records, returns, etc., by local officers) is amended to read as follows:

"Sec. 4102. Inspection of Records by Local Officers.

"Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils."

(2) Conforming amendment.—The table of sections for subpart B or part III of chapter 32 is amended by striking out the item relating to section 4102 and inserting in lieu thereof the following:

"Sec. 4102. Inspection of records by local officers."

(d) Penalty for Unauthorized Disclosure of Information.—Section 7213 (relating to unauthorized disclosure of information) is amended by striking out subsection (c), redesignating subsections (d) and (e) as (c) and (d), respectively, and by amending subsection (a) to read as follows:

"(a) Returns and Return Information.—

"(1) Federal employees and other persons.—It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, to disclose to any person, except as authorized in this title any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

"(2) State and other employees.—It shall be unlawful for any officer, employer, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)) or any local child support enforcement agency to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under section 6103(d) or (l)(6). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(3) Other persons.—It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title to thereafter print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(4) Solicitation.—It shall be unlawful for any person to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(5) Shareholders.—It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution."

(e) Civil Damages for Unauthorized Disclosure of Returns an Return Information.—

(1) In general.—Part I of subchapter A of chapter 75 (relating to miscellaneous penalties and forfeitures) is amended by adding at the end thereof the following new section:

"Sec. 7217. Civil Damages for Unauthorized Disclosure of Returns and Return Information.

"(a) General Rule.—Whenever any person knowingly, or by reason of negligence, discloses a return or return information (as defined in section 6103(b)) with respect to a taxpayer in violation of the provisions of section 6103, such taxpayer may bring a civil action for damages against such person, and the district courts of the United States shall have jurisdiction of any action commenced under the provisions of this section.

"(b) Damages.—In any suit brought under the provisions of subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual damages sustained by the plaintiff as a result of the unauthorized disclosure of the return or return information and, in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, but in no case shall a plaintiff entitled to recovery receive less than the sum of $1,000 with respect to each instance of such unauthorized disclosure; and

"(2) the costs of the action.

"(c) An action to enforce any liability created under this section may be brought, without regard to the amount in controversy, within 2 years from the date on which the cause of action arises or at any time within 2 years after discovery by the plaintiff of the unauthorized disclosure."

(2) Conforming amendment.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec 7217. Civil damages for unauthorized disclosure of return and return information."

(f) Processing of Returns, Return Information, and Other Documents.—Section 7513 (relating to reproduction of returns and other documents) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(g) Other Applicable Rules.—Section 7852 (relating to other rules applicable under title 26) is amended by adding at the end thereof the following new subsection:

"(e) Privacy Act of 1974.—The provisions of subsections (d) (2), (3), and (4), and (g) of section 552a of title 5, United States Code, shall not be applied, directly or indirectly, to the determination of the existence or possible existence of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense to which the provisions of this title apply."

(h) Technical and Conforming Amendments.—

(1) Section 6106 (relating to publicity of unemployment tax returns) is hereby repealed.

(2) Section 6323 (relating to validity and priority of tax liens against certain persons)

is amended by striking out paragraph (3) of subsection (i).

(3) Subsection (d) of section 7213 (relating to cross references) is amended by striking out paragraph (1) and inserting in lieu thereof:

"(1) Penalties for disclosure of information by preparers of returns.—For penalty for disclosure or use of information by preparers of returns, see section 7216."

(4) Section 7515 (relating to special statistical studies and compilations and others services on request) is hereby repealed.

(5) Subsection (c) of section 7809 (relating to deposit of collections) is amended by striking out in paragraph (1) "section 7515 (relating to special statistical studies and compilations for other services on request)" and inserting in lieu thereof "section 6103 (p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations)".

(6) Subsection (d) of section 4424 (relating to disclosure of wagering tax information) is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(i) EFFECTIVE DATE.—The amendments made by this section take effect January 1, 1977.

SEC. 1203. INCOME TAX RETURN PREPARERS.

(a) DEFINITION.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(36) INCOME TAX RETURN PREPARER.—

"(A) IN GENERAL.—The term 'income tax return preparer' means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

"(B) EXCEPTIONS.—A person shall not be an 'income tax return preparer' merely because such person—

"(i) furnishes typing, reproducing, or other mechanical assistance,

"(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

"(iii) prepares a return or claim for refund for any trust or estate with respect to which he is a fiduciary, or

"(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.".

(b) ASSESSABLE PENALTIES WHERE PREPARER UNDERSTATES TAXPAYER'S LIABILITY.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6694. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

"(a) NEGLIGENT OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $100 with respect to such return or claim.

"(b) WILLFUL UNDERSTATEMENT OF LIABILITY.—If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PREPARER PAYS 15 PERCENT OF PENALTY.—

"(1) In general.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421 (a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PREPARER MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(d) ABATEMENT OF PENALTY WHERE TAXPAYER'S LIABILITY NOT UNDERSTATED.—If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.

"(e) UNDERSTATEMENT OF LIABILITY DEFINED.—For purposes of this section, the term 'understatement of liability' means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

"(f) CROSS REFERENCE.—

"For definition of income tax return preparer, see section 7701 (a)(36)."

(2) BURDEN OF PROOF UNDER 6694 (b).—

(A) Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7427 as section 7428 and by inserting after section 7426 the following new section:

"SEC. 7427. INCOME TAX RETURN PREPARERS.

"In any proceeding involving the issue of whether or not an income tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694(b)), the burden of proof in respect of such issue shall be upon the Secretary."

(B) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7427. Income tax return preparers.
"Sec. 7428. Cross references."

(c) PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN COPY OR LIST.—Subchapter 8 of chapter 61 (relating to information and returns) is amended by inserting after section 6106 the following new section:

"SEC. 6107. INCOME TAX RETURN PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN A COPY OR LIST.

"(a) FURNISHING COPY TO TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

"(b) COPY OR LIST TO BE RETAINED BY INCOME TAX RETURN PREPARER.—Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

"(1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and

"(2) make such copy or list available for inspection upon request by the Secretary.

"(c) REGULATIONS.—The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

"(d) DEFINITIONS.—For purposes of this section, the terms 'return' and 'claim for refund' have the respective meanings given to such terms by section 6696(e), and the term 'return period' has the meaning given to such term by section 6060(c)."

(d) TAXPAYER IDENTIFYING NUMBER OF PREPARER TO BE FURNISHED.—Section 6109(a) (relating to supplying of identifying numbers) is amended by adding at the end thereof the following:

"(4) FURNISHING IDENTIFYING NUMBER OF INCOME RETURN PREPARER.—Any returns or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms 'return' and 'claim for refund' have the respective meanings given to such terms by section 6696(e).

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual's social security account number."

(e) PREPARER MUST FILE ANNUAL INFORMATION RETURN.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new subpart:

"SUBPART F—INFORMATION CONCERNING INCOME TAX RETURN PREPARERS

"Sec. 6060. Information returns of income tax return preparers.

"SEC. 6060. INFORMATION RETURNS OF INCOME TAX RETURN PREPARERS

"(a) GENERAL RULE.—Any person who employs an income tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who is acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

"(b) ALTERNATIVE REPORTING.—In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

"(c) RETURN PERIOD DEFINED.—For purposes of subsection (a), the term 'return period' means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977."

(f) OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new sections:

"SEC. 6695. OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.

"(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(b) FAILURE TO SIGN RETURN.—Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(d) FAILURE TO RETAIN COPY OR LIST.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107 (b) with respect to such return or claim shall pay a penalty of $50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000.

"(e) FAILURE TO FILE CORRECT INFORMATION RETURN.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

"(1) $100 for each failure to file a return as required under such section, and

"(2) $5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $20,000.

"(f) NEGOTIATION OF CHECK.—Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of $500 with respect to each such check.

"SEC. 6696. RULES APPLICABLE WITH RESPECT TO SECTIONS 6694 AND 6695.

"(a) PENALTIES TO BE ADDITIONAL TO ANY OTHER PENALTIES.—The penalties provided by sections 6694 and 6695 shall be in addition to any other penalties provided by law.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and chapter 42 taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694 and 6695.

"(c) PROCEDURE FOR CLAIMING REFUND.—Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary.

"(d) PERIODS OF LIMITATION.—

"(1) ASSESSMENT.—The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at anytime.

"(2) CLAIM FOR REFUND.—Except as provided in section 6694(d), any claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

"(e) DEFINITIONS.—For purposes of sections 6694 and 6695—

"(1) RETURN.—The term 'return' means any return of any tax imposed by subtitle A.

"(2) CLAIM FOR REFUND.—The term 'claim for refund' means a claim for refund of, or credit against, any tax imposed by subtitle A."

(g) AUTHORITY TO SEEK INJUNCTION AGAINST INCOME TAX RETURN PREPARERS.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7407 as section 7408 and by inserting after section 7406 the following new section:

"SEC. 7407. ACTION TO ENJOIN INCOME TAX RETURN PREPARERS.

"(a) AUTHORITY TO SEEK INJUNCTION.—Except as provided in subsection (c), a civil action in the name of the United States to enjoin any person who is an income tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as an income tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the income tax preparer resides or has his principal place of business or in which the taxpayer with respect to whose income tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such income tax preparer or any taxpayer.

"(b) ADJUDICATION AND DECREES.—In any action under subsection (a), if the court finds—

"(1) that an income tax return preparer has—

"(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title.

"(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experince or education as an income tax return preparer,

"(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

"(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

"(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that an income tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as an income tax return preparer.

"(c) BOND TO STAY INJUNCTION.—No action to enjoin, under subsection (b)(1)(A) shall be commenced or pursued with respect to any income tax return preparer who files and maintains, with the Secretary in the internal revenue district in which is located such preparer's legal residence or principal place of business, a bond in a sum of $50,000 as surety for the payment of penalties under section 6694 and 6695."

(h) CROSS REFERENCES.—

(1) Section 6503(h), as redesignated by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) Income tax return preparers, see section 6694(c)(3)."

(2) Section 6504, as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(11) Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1)."

(3) Section 6511(g) is amended by adding at the end thereof the following new paragraph:

"(7) For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696 (d)(2)."

(i) CONFORMING AMENDMENTS.—

(1) The table of subparts for part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Subpart F. Information concerning income tax return preparers."

(2) The table of sections for subchapter B of chapter 61 is amended by inserting immediately after the item relating to section 6106 the following new item:

"Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list."

(3) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new items:

"Sec. 6694. Understatement of taxpayer's liability by income tax return preparer.
"Sec. 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.
"Sec. 6696. Rules applicable with respect to sections 6694 and 6695."

(4) The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7407. Action to enjoin income tax return preparers.
"Sec. 7408. Cross references."

(j) Effective Date.—The amendments made by this section shall apply to documents prepared after December 31, 1976.

Sec. 1204. Jeopardy and Termination Assessments.

(a) Review of Jeopardy and Termination Assessments.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7428 the following new section:

"Sec. 7429. Review of Jeopardy Assessment Procedures.

"(a) Administrative Review.—

"(1) Information to taxpayer.—Within 5 days after the day on which an assessment is made under section 6851(a), 6861(a), or 6862, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relies in making such assessment.

"(2) Request for review.—Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which such statement is required to be furnished, the taxpayer may request the Secretary to review the action taken.

"(3) Redetermination by secretary.—After a request for review is made under paragraph (2), the Secretary shall determine whether or not—

"(A) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances.

"(b) Judicial Review.—

"(1) Actions permitted.—Within 30 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of his determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States in a district court of the United States for a determination under this subsection.

"(2) Determination by district court.—Within 20 days after an action is commenced under paragraph (1), the district court shall determine whether or not—

"(A) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862, is appropriate under the circumstances.

"(3) Order of district court.—If the court determines that the making of such assessment is unreasonable or that the amount assessed or demanded is inappropriate, the court may order the Secretary to abate such assesment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.

"(c) Extension of 20-Day Period Where Taxpayer So Requests.—If the taxpayer requests an extension of the 20-day period set forth in subsection (b)(2) and establishes reasonable grounds why such extension should be granted, the district court may grant an extension of not more than 40 additional days.

"(d) Computation of Days.—For purposes of this section, Saturady, Sunday, or a legal holiday in the Distritc of Columbia shall not be counted as the last day of any period.

"(e) Venue.—A civil action under subsection (b) shall be commenced only in the judicial district described in section 1402(a)(1) or (2) of title 28, United States Code.

"(f) Finality of Determination.—Any determination made by a district court under this section shall be final and conclusive and shall not be reviewed by any other court.

"(g) Burden of Proof.—

"(1) Reasonableness of termination or jeopardy assessment.—In an action under subsection (b) involving the issue of whether the making of an assessment under section 6851, 6861, or 6862 is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the Secretary.

"(2) Reasonabless of amount of assessment.—In an action under subsection (b) involving the issue of whether an amount assessed or demanded as a result of action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, the Secretary shall provide a written statement which contains any information with respect to which his determination of the amount assessed was based, but the burden of proof in respect of such issue shall be upon the taxpayer."

(b) Jeopardy Assessment of Income Tax.—

(1) Termination of assessments.—So much of section 6851 (relating to termination of taxable year) as precedes subsection (c) is amended to read as follows:

"Sec. 6851. Termination Assessments of Income Tax.

"(a) Authority for Making.—

"(1) In general.—If the Secretary finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the current or the immediately preceding taxable year unless such proceeding be brought without delay, the Secretary shall immediately make a determination of tax for the current taxable year or for the preceding taxable year, or both, as the case may be, and notwithstanding any other provision of law, such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of the tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current taxable year or such preceding taxable year, or both, as the case may be, and shall cause notice of such determination and assessment to be given the taxpayer, together with a demand for immediate payment of such tax.

"(2) Computation of tax.—In the case of a current taxable year, the Secretary shall determine the tax for the period beginning on the first day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the taxpayer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

"(3) Treatment of amounts collected.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

"(4) This section inapplicable where section 6861 applies.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

"(b) Notice of Deficiency.—If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or less than the amount assessed under subsection (a)."

(2) Bonds.—Section 6851 is amended by striking out subsection (e) (relating to bonds) and inserting in lieu thereof the following:

"(e) Sections 6861 (f) and (g) To Apply.—The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

"(f) Cross References.—

"(1) For provisions permitting immediate levy in case of jeopardy, see section 6331 (a).

"(2) For provisions relating to the review of jeopardy, see section 7429."

(c) Technical and Conforming Amendments.—

(1) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by inserting "or section 7429" immediately after "section 7426".

(2) Section 443(a)(3) (relating to returns for terminated period) is repealed.

(3) Section 6091(b) (relating to place for filing returns) is amended—

(A) by striking out "and" at the end of paragraph (1)(B)(iii) thereof, and by striking out paragraph (1)(B)(iv) and the matter following such paragraph and inserting in lieu thereof the following:

"(iv) nonresident alien persons, and

"(v) persons with respect to whom an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate."; and

(B) by striking out "and" at the end of paragraph (2)(B)(ii), and by striking out paragraph (2)(B)(iii) and the matter following such paragraph and inserting in lieu thereof the following:

"(iii) foreign corporations, and

"(iv) corporations with respect to which an assessment was made under section 6851 (a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate."

(4) Section 6211(b)(1) (relating to rules for determining deficiencies) is amended by striking out "and" after "31," and by inserting before the period at the end thereof the following: ", and without regard to any credits resulting from the collection of amounts assessed under section 6851 (relating to termination assessments)".

(5) Section 6212(c) (relating to restrictions on further deficiency letters) is amended by inserting after "errors)," the following: "in section 6851 (relating to termination assessments),".

(6) Section 6213(a) (relating to time for

filing petition with the Tax Court) is amended by inserting "section 6851 or" before "section 6861".

(7) Section 6863(a) (relating to bond to stay collection) is amended—

(A) by striking out "6861" and inserting in lieu thereof "6851, 6861,";

(B) by striking out "a jeopardy assessment" in the first sentence thereof and inserting in lieu thereof "an assessment"; and

(C) by striking out "the jeopardy assessment" each place it appears therein and inserting in lieu thereof "such assessment".

(8) Section 6863(b)(3)(A) (relating to stay of sale of seized property) is amended to read as follows;

"(A) General rule.—Where, notwithstanding the provisions of section 6213(a), an assessment has been made under section 6851 or 6861, the property seized for collection of the tax shall not be sold—

"(i) before the expiration of the periods described in subsection (c)(1) (A) and (B),

"(ii) before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period provided in section 6213(a) for filing a petition with the Tax Court, and

"(iii) if a petition is filed with the Tax Court (whether before or after the making of such assessment), before the expiration of the period during which the assessment of the deficiency would be prohibited if neither sections 6851(a) nor 6861(a) were applicable.

Clauses (ii) and (iii) shall not apply in the case of a termination assessment under section 6851 if the taxpayer does not file a return for the taxable year by the due date (determined with regard to any extensions)."

(9) Section 6863 (relating to stay of collection of jeopardy assessments) is amended by adding at the end thereof the following new subsection:

"(c) Stay of Sale of Seized Property Pending District Court Determination Under Section 7429.—

"(1) General rule.—Where a jeopardy assessment has been made under section 6862 (a), the property seized for the collection of the tax shall not be sold—

"(A) if a civil action is commenced in accordance with section 7429b, on or before the day on which the district court judgment in such action becomes final, or

"(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 7429(a) for requesting an administrative review, and if such review is requested, before the day after the expiration of the period provided in section 7429(b), for commencing an action in the district court.

"(2) Exceptions.—With respect to any property described in paragraph (1), the exceptions provided by subsection (b)(3)(B) shall apply."

(10) Section 7103(a)(4) (relating to a cross reference) is repealed.

(11) section 7421(a) (relating to prohibition of suits to restrain assessment or collection of taxes) is amended by striking out "and 7426 (a) and (b)(1)" and inserting in lieu thereof "7426 (a) and (b)(1), and 7429(b)".

(12) The table of sections for part I of subchapter A of chapter 70 is amended to read as follows:

"Sec. 6851. Termination assessments of income tax."

(13) The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7428 of the following:

"Sec. 7429. Review of jeopardy assessment procedures."

(d) Effective Date.—The amendments made by this section apply with respect to action taken under section 6851, 6861, or 6862 of the Internal Revenue Code of 1954 where the notice and demand takes place after December 31, 1976.

Sec. 1205. Administrative Summons.

(a) Requirement That Notice Be Served on Person Whose Books, Etc., Are Being Summoned.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7609 as section 7611 and by inserting after section 7608 the following new sections:

"Sec. 7609. Special Procedures for Third-Party Summonses.

"(a) Notice.—

"(1) In general.—If—

'(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and

"(B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person summoned) who is identified in the description of the records contained in the summons,

then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 14th day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under subsection (b)(2).

"(2) Sufficiency of notice.—Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

"(3) Third-party recordkeeper defined.—For purposes of this subsection, the term 'third-party recordkeeper' means—

"(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

"(B) any consumer reporting agency (as defined under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));

"(C) any person extending credit through the use of credit cards or similar devices;

"(D) any broker (as defined in section 3 (a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

"(E) any attorney; and

"(F) any accountant.

"(4) Exceptions.—Paragraph (1) shall not apply to any summons—

"(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

"(B) to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

"(C) described in subsection (f).

"(5) Nature of summons.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(B)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

"(b) Right to Intervene; Right to Stay Compliance.—

"(1) Intervention.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

"(2) Right to stay compliance.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to stay compliance with the summons if, not later than the 14th day after the day such notice is given in the manner provided in subsection (a)(2)—

"(A) notice in writing is given to the person summoned not to comply with the summons, and

"(B) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(c) Summons to Which Section Applies.—

"(1) In general.—Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under 6420(e) (2), 6421(f)(2), 6424(d)(2), or 6427(e)(2) and requires the production of records.

"(2) Exceptions.—A summons shall not be treated as described in this subsection if—

"(A) it is solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in subsection (a) (3)(A), or

"(B) it is in aid of the collection of—

"(i) the liability of any person against whom an assessment has been made or judgment rendered, or

"(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

"(3) Records; certain related testimony.—For purposes of this section—

"(A) the term 'records' includes books, papers, or other data, and

"(B) a summons requiring the giving of testimony relating to records shall be treated as a summons requiring the production of such records.

"(d) Restriction on Examination of Records.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the expiration of the 14-day period allowed for the notice not to comply under subsection (b)(2), or

"(2) when the requirements of subsection (b)(2) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

"(e) Suspension of Statute of Limitations.—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

"(f) Additional Requirement in the Case of a John Doe Summons.—Any summons described in subsection (c) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

"(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

"(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

"(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

"(g) Special Exception for Certain Summonses.—In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

"(h) Jurisdiction of District Court.—

"(1) The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine proceedings brought under subsections (f) or (g). The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order which may be appealed.

"(2) Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

"Sec. 7610. Fees and Costs for Witnesses.

"(a) In General.—The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

"(1) fees and mileage to persons who are summoned to appear before the Secretary, and

"(2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

"(b) Exceptions.—No payment may be made under paragraph (2) of subsection (a) if—

"(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

"(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

"(c) Summons to Which Section Applies.—This section applies with respect to any summons authorized under section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602."

(b) Clerical Amendment.—The table of sections for such subchapter A is amended by striking out the item relating to section 7609 and inserting in lieu thereof the following:

"Sec. 7609. Special procedures for third-party summonses.
"Sec. 7610. Fees and costs for witnesses.
"Sec. 7611. Cross references."

(c) Effective Date.—The amendments made by this section shall apply with respect to any summons issued after December 31, 1976.

Sec. 1206. Assessments in Case of Mathematical or Clerical Errors.

(a) In General.—Section 6213(b) (relating to exceptions to restrictions on assessment in certain cases) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) Assessments arising out of mathematical or clerical errors.—If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

"(2) Abatement of assessment of mathematical or clerical errors.—

"(A) Request for abatement.—Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

"(B) Stay of collection.—In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph."

(b) Definitions Relating to Mathematical or Clerical Errors.—Section 6213 is amended by redesignating subsection (f) as subsection (g), and by inserting immediately after subsection (e) the following new subsection:

"(f) Definitions.—For purposes of this section—

"(1) Return.—The term 'return' includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 42 or 43.

"(2) Mathematical or clerical error.—The term 'mathematical or clerical error' means—

"(A) an error in addition, subtraction, multiplication, or division shown on any return,

"(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

"(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

"(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return, and

"(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 42 or 43, if such limit is expressed—

"(i) as a specified monetary amount, or

"(ii) as a percentage, ratio, or fraction, and if the items entering into the application of such limit appear on such return."

(c) Technical and Conforming Amendments.—

(1) Section 6213(b)(3) (relating to assessments arising out of tentative carryback adjustments), as redesignated by subsection (a), is amended—

(A) by striking out "he may assess" and inserting in lieu thereof "he may assess without regard to the provisions of paragraph (2)", and

(B) by striking out "mathematical error" and inserting in lieu thereof "mathematical or clerical error".

(2) Section 6201(a)(3) (relating to assessments regarding erroneous income tax prepayment credits) and section 6201(a)(4) (relating to assessments regarding erroneous credit under section 39 or 43) are each amended—

(A) by striking out "mathematical error" and inserting in lieu thereof "mathematical or clerical error", and

(B) by inserting immediately before the period at the end thereof the following: ", except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph".

(3) Section 6212(c)(1) (relating to deficiency letters) is amended by striking out "(relating to mathematical errors)" and inserting in lieu thereof "(relating to mathematical or clerical errors)".

(d) Effective Date.—The amendments made by this section shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1954) filed after December 31, 1976.

Sec. 1207. Witholding.

(a) Withholding State and District Income Taxes From Compensation of Members of Armed Forces Who Are Residents of the State or District of Columbia.—

(1) Withholding of state income taxes.—The last sentence of section 5517(a) of title 5, United States Code, is amended to read as follows: "In the case of pay for service as a member of the armed forcers, the preceding sentence shall be applied by substituting 'who are residents of the State with which the agreement is made' for 'whose regular place of Federal employment is within the State with which the agreement is made'."

(2) Withholding of district income taxes.—Subsection (a) of section 5516 of title 5, United States Code, is amended—

(A) by striking out in the third sentence "pay for service as a member of the armed forces, or to"; and

(B) by adding after the third sentence the following new sentence: "In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting 'who are residents of the District of Columbia' for 'whose regular place of employment is within the District of Columbia'."

(b) Withholding State and City Income Taxes From the Compensation of Members of the National Guard or the Ready Reserve.—Section 5517 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For the purpose of this section and sections 5516 and 5520, the terms 'serve as a member of the armed forces' and 'service as a member of the Armed Forces' do not include—

"(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

"(2) participation in scheduled drills or training periods, or service on active duty for training, under section 270(a) of title 10, United States Code, by a member of the Ready Reserve."

(c) Voluntary Withholding of State Income Taxes From the Compensation of Federal Employees.—Paragraphs (1) and (2) of section 5517(a) of title 5, United States Code, are amended to read as follows:

"(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

"(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;".

(d) Withholding Tax on Certain Gambling Winnings.—Section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new subsection:

"(q) Extension of Withholding to Certain Gambling Winnings.—

"(1) General rule.—Every person, including the Government of the United States, a State, or a political subdivision thereof, or any instrumentalities of the foregoing, making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 20 percent of such payment.

"(2) Exemption where tax otherwise withheld.—In the case of any payment of winnings which are subject to withholding made to a nonresident alien individual or a foreign corporation, the tax imposed under paragraph (1) shall not apply to any such payment subject to tax under section 1441(a) (relating to withholding on nonresident aliens) or tax under section 1442(a) (relating to withholding on foreign corporations).

"(3) Winnings which are subject to withholding.—For purposes of this subsection, the term 'winnings which are subject to withholding' means proceeds from a wager determined in accordance with the following:

"(A) In general.—Except as provided in subparagraphs (B) and (C), proceeds of more than $1,000 from a wagering transaction, if the amount of such proceeds is at least 300 times as large as the amount wagered.

"(B) State-conducted lotteries.—Proceeds of more than $5,000 from a wager placed in a lottery conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such lottery, or with its authorized employees or agents.

"(C) Sweepstakes, wagering pools, and other lotteries.—Proceeds of more than $1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a wager described in subparagraph (B)).

"(4) Rules for determining proceeds from a wager.—For purposes of this subsection—

"(A) proceeds from a wager shall be determined by reducing the amount received by the amount of the wager, and

"(B) proceeds which are not money shall be taken into account at their fair market value.

"(5) Exemption for bingo, keno, and slot machines.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine, keno, and bingo.

"(6) Statement by recipient.—Every person who is to receive a payment of winnings which are subject to withholding shall furnish the person making such payment a statement, made under the penalties of perjury, containing the name, address, and taxpayer identification number of the person receiving the payment and of each person entitled to any portion of such payment.

"(7) Coordination with other sections.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of winnings which are subject to withholding shall be treated as if they were wages paid by an employer to an employee."

(e) Withholding of Federal Taxes on Certain Individuals Engaged in Fishing.—

(1) In general.—

(A) Section 3121(b) (defining employment) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

"(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

"(C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals."

(B) Section 1402(c)(2) (defining trade or business) is amended by striking out "and" at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding after subparagraph (E) the following new subparagraph:

"(F) service described in section 3121(b)(20);".

(C) Section 3401(a) (defining wages for purposes of withholding) is amended by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or", and by adding after paragraph (16) the following new paragraph:

"(17) for service described in section 3121(b)(20)."

(2) Conforming amendments.—

(A) Section 210(a) of the Social Security Act is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)).

"(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

"(C) the amount of such individual's share depends on the amount of the boat's (or boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals."

(B) Section 211(c)(2) of such Act is amended by striking out "and" at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding after subparagraph (E) the following new paragraph:

"(F) service described in section 210(a)(20);".

(3) Reporting requirement.—

(A) Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"Sec. 6050A. Reporting Requirements of Certain Fishing Boat Operators.

"(a) Reports.—The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b)(20) shall submit to the Secretary (at such time, and in such manner and form, as the Secretary shall by regulations prescribe) information respecting—

"(1) the identity of each individual performing such services;

"(2) the percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

"(3) if such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such share; and

"(4) if such individual receives a share of the proceeds of such catches, the amount so received.

"(b) Written Statement.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(B) Section 6652(b) (relating to failure to file certain information returns) is amended by inserting after "withheld)," the following: "in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators),".

(C) Section 6652(b) is further amended by inserting after "tips)," the following: "or section 6050A(b) (relating to statements furnished by certain fishing boat operators),".

(f) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act.

(2) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to wages withheld after the 120-day period following the date of the enactment of this Act.

(3) Subsection (d).—The amendments

made by subsection (d) shall apply to payments of winnings made after the 90th day after the date of the enactment of this Act.

(4) Subsection (e).—

(A) The amendments made by paragraphs (1)(A) and (2)(A) of subsection (e) shall apply to services performed after December 31, 1971. The amendments made by paragraphs (1)(B), (1)(C), and (2)(B) of such subsection shall apply to taxable years ending after Decemebr 31, 1971. The amendments made by paragraph (3) of such subsection shall apply to calendar years beginning after the date of the enactment of this Act.

(B) Notwithstanding subparagraph (A), if the owner or operator of any boat treated a share of the boat's catch of fish or other aquatic animal life (or a share of the proceeds therefrom) received by an individual after December 31, 1971, and before the date of the enactment of this Act for services performed by such individual after December 31, 1971, on such boat as being subject to the tax under chapter 21 of the Internal Revenue Code of 1954, then the amendments made by paragraphs (1)(A) and (B) and (2) of subsection (e) shall not apply with respect to such services performed by such individual (and the share of the catch, or proceeds therefrom, received by him for such services.)

Sec. 1208. State-conducted Lotteries.

(a) Exemption From Wagering Tax.—Paragraph (3) of section 4402 (relating to State-conducted sweepstakes) is amended to read as follows:

"(3) State-conducted lotteries, etc.—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency or a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents."

(b) Exemption From Occupational Tax on Coin-Operated Devices.—Section 4462(b) (relating to exclusions from definition of coin-operated gaming devices) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(3) a vending machine which—

"(A) dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, and

"(B) is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents."

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply with respect to wagers placed after March 10, 1964.

(2) The amendments made by subsection (b) shall apply with respect to periods after March 10, 1964.

Sec. 1209. Minimum Exemption From Levy for Wages, Salary, and Other Income.

(a) General Rule.—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(9) Minimum exemption for wages, salary, and other income.—Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d)."

(b) Determination of Exempt Amount.—Section 6334 is amended by adding at the end thereof the following new subsection:

"(d) Exempt Amount of Wages, Salary, or Other Income.—

"(1) Individuals on weekly basis.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be—

"(A) $50, plus

"(B) $15 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

"(i) over half of whose support for the payroll period was received from the taxpayer,

"(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

"(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period.

For purposes of subparagraph (B)(ii) of the preceding sentence, 'payroll period' shall be substituted for 'taxable year' each place it appears in paragraph (9) of section 152(a).

"(2) Individuals on basis other than weekly.—In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis."

(c) Conforming Amendment.—The paragraph heading for paragraph (8) of section 6334(a) is amended to read as follows:

"(8) Judgments for support of minor children.—".

(d) Levy on Wages, Etc., To Be Continuing.—

(1) Subsection (d) of section 6331 (relating to levy on salaries and wages) is amended by adding at the end thereof the following new paragraph:

"(3) Continuing levy on salary and wages.—

"(A) Effect of levy.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

"(B) Release and notice of release.—With respect to a levy described in subparagraph (A), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released."

(2) The second sentence of section 6331(b) (relating to seizure and sale of property) is amended by striking out "A levy" and inserting in lieu thereof "Except as otherwise provided in subsection (d)(3), a levy".

(3) The first sentence of section 6332(c)(1) (relating to enforcement of levy) is amended by striking out "from the date of such levy" and inserting in lieu thereof "from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)".

(4) Paragraph (1) of section 6331(d) (relating to levy on salaries and wages) is amended by striking out the last sentence.

(e) Effective Date.—The amendments made by this section shall apply only with respect to levies made after December 31, 1976.

Sec. 1210. Joint Committee Refund Cases.

(a) In General.—Section 6405(a) (relating to reports of refunds and credits) is amended to read as follows:

"(a) By Treasury to Joint Committee.—No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to private foundations and pension plans under chapters 42 and 43, in excess of $200,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decisions of the Secretary, is submitted to the Joint Committee on Taxation."

(b) Tentative Refunds.—Section 6405(c) is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

(c) Audit.—Section 8023(a) (relating to powers to obtain information from the Internal Revenue Service) is amended by adding at the end thereof the following new sentence: "In the investigation by the Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return."

(d) Effective Dates.—

(1) The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act under subsection (a) or (b) of section 6405 of the Internal Revenue Code of 1954.

(2) The amendment made by subsection (c) shall take effect on January 1, 1977.

Sec. 1211. Social Security Account Numbers.

(a) Section 208(g) of the Social Security Act is amended, in the matter preceding clause (1) thereof, by striking out "entitled—" and inserting in lieu thereof "entitled, or for any other purpose—".

(b) Section 205(c)(2) of such Act is amended by adding at the end thereof the following new subparagraphs:

"(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

"(ii) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i) of this subparagraph, such provision shall, on and after the date of the enactment of this subparagraph, be null, void, and of no effect.

"(iii) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of part A or D of title IV of the Social Security Act.

"(iv) For purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of Northern Marianas, and the Trust Territory of the Pacific Islands."

(e) Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(d) USE OF SOCIAL SECURITY ACCOUNT NUMBER.—The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title."

(d)(1) Section 208 of the Social Security Act is amended by inserting after subsection (g) the following new subsection:

"(h) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;"

(2) Section 208(g)(2) of such Act is amended by adding "or" at the end thereof.

SEC. 1212. ABATEMENT OF INTEREST WHEN RETURN IS PREPARED FOR TAXPAYER BY THE INTERNAL REVENUE SERVICE

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(d) ASSESSMENTS ATTRIBUTABLE TO CERTAIN MATHEMATICAL ERRORS BY INTERNAL REVENUE SERVICE.—In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(f)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to returns filed for taxable years ending after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

MISCELLANEOUS PROVISIONS

SEC. 1301. TAX TREATMENT OF CERTAIN HOUSING ASSOCIATIONS.

(a) GENERAL RULE.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VII—CERTAIN HOMEOWNERS ASSOCIATIONS

"Sec. 528. Certain homeowners associations.

"SEC. 528. CERTAIN HOMEOWNERS ASSOCIATIONS.

"(a) GENERAL RULE.—A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

"(b) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the homeowners association were a corporation and as though the homeowners association taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11(d) shall not be allowed.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year any homeowners association has a net capital gain, then in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

"(A) a partial tax, computed as provided by paragraph (1), on the homeowners association taxable income determined by reducing such income by the amount of such gain, and

"(B) a tax of 30 percent of such gain.

"(c) HOMEOWNERS ASSOCIATION DEFINED.—For purposes of this section—

"(1) HOMEOWNERS ASSOCIATION.—The term 'homeowners association' means an organization which is a condominium management association or a residential real estate management association if—

"(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

"(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

"(i) owners of residential units in the case of a condominium management association, or

"(ii) owners of residences or residential lots in the case of a residential real estate management association,

"(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property,

"(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

"(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

"(2) CONDOMINIUM MANAGEMENT ASSOCIATION.—The term 'condominium management association' means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used as residences.

"(3) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION.—The term 'residential real estate management association' means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

"(4) ASSOCIATION PROPERTY.—The term 'association property' means—

"(A) property held by the organization,

"(B) property commonly held by the members of the organization,

"(C) property within the organization privately held by the members of the orgainzation, and

"(D) property owned by a governmental unit and used for the benefit of residents of such unit.

"(d) HOMEOWNERS ASSOCIATION TAXABLE INCOME DEFINED.—

"(1) TAXABLE INCOME DEFINED.—For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

"(A) the gross income for the taxable year (excluding any exempt function income), over

"(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

"(2) MODIFICATIONS.—For purposes of this subsection—

"(A) there shall be allowed a specific deduction of $100,

"(B) no net operating loss deduction shall be allowed under section 172, and

"(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

"(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term 'exempt function income' means any amount received as membership dues, fees, or assessments from—

"(A) owners of condominium housing units in the case of a condominium management association, or

"(B) owners of real property in the case of a residential real estate management association."

(b) Section 216(c) (relating to treatment of property subject to depreciation) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders."

(c) REQUIREMENT OF RETURN.—Section 6012(a) (relating to persons required to make returns of income) is amended by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph:

"(7) Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year."

(d) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Part VII. Certain homeowners associations."

(e) EFFECTIVE DATE.—Except as provided in subsection (f)(2), the amendments made by this section shall apply to taxable years beginning after December 31, 1973.

(f) CERTAIN STOCK OF COOPERATIVE HOUSING CORPORATIONS.—

(1) Section 216(b) is amended by adding at the end thereof the following new paragraph:

"(5) STOCK ACQUIRED THROUGH FORECLOSURE BY LENDING INSTITUTION.—If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition. The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation."

(2) The amendment made by paragraph (1) shall apply to stock acquired by banks or other lending institutions after the date of the enactment of this Act.

"SEC. 1302. TREATMENT OF CERTAIN DISASTER PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 451 (relating to special rule for crop insurance proceeds) is amended by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops."

(b) TECHNICAL AMENDMENT.—The subsection heading for such subsection (d) is amended by striking out "Proceeds" and inserting in lieu thereof "Proceeds or Disaster Payments".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after December 31, 1973, in taxable years ending after such date.

SEC. 1303. TAX TREATMENT OF CERTAIN 1972 DISASTER LOSSES.

(a) APPLICATION OF SECTION.—This section shall apply to any individual—

(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government.

(2) who in connection with such disaster—

(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act, or

(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, and

(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

(b) EFFECT OF ELECTION.—In the case of any individual to whom this section applies—

(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year,

(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

(c) INCOME TAKEN INTO ACCOUNT.—For purposes of this section, the income taken into account is—

(1) in the case of an individual described in subsection (a)(2)(A), the amount of income (not in excess of $5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a)(1), or

(2) in the case of an individual described in subsection (a)(2)(B), the amount of compensation (not in excess of $5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a)(1).

(d) PHASEOUT WHERE ADJUSTED GROSS INCOME EXCEEDS $15,000.—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded $15,000, the $5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds $15,000. In the case of a married individual filing a separate return, the preceeding sentence shall be applied by substituting "$7,500" for "$15,000".

SEC. 1304. TAX TREATMENT OF CERTAIN DEBTS OWED BY POLITICAL PARTIES, ETC., TO ACCRUAL BASIS TAXPAYERS.

(a) IN GENERAL.—Section 271 (relating to debts owed by political parties, etc.) is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION.—In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if—

"(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

"(2) the taxpayer made substantial continuing efforts to collect on the debt."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 1305. TAX-EXEMPT BONDS FOR STUDENT LOANS.

(a) IN GENERAL.—Section 103(a) (relating to interest on certain government obligations) is amended by striking out "or" at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(4) qualified scholarship funding bonds."

(b) DEFINITION OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 103 is amended by redesignating subsection (f) or (g), and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED SCHOLARSHIP FUNDING BONDS.—For purposes of subsection (a), the term 'qualified scholarship funding bonds' means obligations issued by a corporation which—

"(1) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

"(2) is organized at the reqeust of a State or one or more political subdivisions thereof or is requested to exercise such power by one or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof."

(c) CONFORMING AMENDMENTS.—

(1) Section 103(d) (relating to arbitrage bonds) is amended by redesignating paragraph (5) as paragraph (6), and inserting after paragraph (4) the following new paragraph:

"(5) STUDENT LOAN INCENTIVE PAYMENTS.—Payments made by the Commissioner of Education pursuant to section 2 of the Emergency Insured Student Loan Act of 1969 are not to be taken into account, for purposes of subsection (d)(2)(A), in determining yields on student loan notes."

(2) Section 103(d) (relating to arbitrage bonds) is amended by striking out "(a)(1)" each place it appears in paragraph (1) (including the heading) and paragraph (2) and inserting in lieu thereof "(a)(1) or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section apply to obligations issued on or after the date of the enactment of this Act.

SEC. 1306. PERSONAL HOLDING COMPANY INCOME AMENDMENTS.

(a) IN GENERAL.—Section 543(a)(6) (relating to definition of personal holding company income) is amended to read as follows:

"(6) USE OF CORPORATE PROPERTY BY SHAREHOLDER.—

"(A) Amounts received as compensation (however designated and from whomever received) for the use of, or the right to use, tangible property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property (whether such right is obtained directly from the corporation or by means of a sublease or other arrangement).

"(B) Subparagraph (A) shall apply only to a corporation which has personal holding company income in excess of 10 percent of its ordinary gross income.

"(C) For purposes of the limitation in subparagraph (B), personal holding company income shall be computed—

"(i) without regard to subparagraph (A) or paragraph (2), .

"(ii) by excluding amounts received as compensation for the use of (or right to use) intangible property (other than mineral, oil, or gas royalties or copyright royalties) if a substantial part of the tangible property used in connection with such intangible property is owned by the corporation and all such tangible and intangible property is used in the active conduct of a trade or business by an individual or individuals described in subparagraph (A), and

"(iii) by including copyright royalties and adjusted income from mineral, oil, and gas royalties."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

SEC. 1307. WORK INCENTIVE PROGRAM EXPENSES.

(a) INCREASE IN LIMITATION BASED ON AMOUNT OF TAX.—

(1) Paragraph (2) of section 50A(a) (relating to limitation based on amount of tax) is amended by striking out "$25,000" each place it appears and inserting in lieu thereof "$50,000".

(2) Paragraph (4) of section 50A(a) (relating to married individuals) is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$25,000", and

(B) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(3) Paragraph (5) of section 50A(a) (relating to controlled groups) is amended by striking out "$25,000" each place it appears therein and inserting in lieu thereof "$50,000".

(4) Paragraph (3) of section 50B(e) is amended by striking out "$25,000" each place it appears therein and inserting in lieu thereof "$50,000".

(b) Reduction of Period During Which Discharge of Employee Causes Recapture.—Subparagraph (A) of section 50A(c)(1) (relating to work incentive program expenses) is amended—

(1) by striking out "12 months" each place it appears and inserting in lieu thereof "90 days",

(2) by striking out "12th calendar month" and inserting in lieu thereof "90th calendar day", and

(3) by striking out "the calendar month" and inserting in lieu thereof "the day".

(c) Recapture Not To Apply Where Termination Is Result of Declining Business.—Subparagraph (A) of section 50(c)(2) (relating to certain terminations of employment) is amended—

(1) by striking out "or" at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof a comma and "or", and

(3) by adding at the end thereof the following:

"(v) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer."

(d) Extension of Welfare Employee Incentives.—Paragraph (2) of section 50B(a) (relating to definition of federal welfare recipient employment incentive expenses) is amended by striking out "before July 1, 1976," and inserting in lieu thereof "before January 1, 1980,".

(e) Limitation of Federal Welfare Recipient Employment Incentive Expenses to First 12 Months of Employment.—Subparagraph (B) of section 50B(a)(1) is amended to read as follows:

"(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive)."

(f) Certification of Welfare Recipient Employees by Secretary of Labor.—Subparagraph (A) of section 50B(g)(1) (relating to eligible employees) is amended by inserting "the Secretary of Labor or by" after "certified by".

(g) Technical Amendments.—

(1) The second sentence of section 6411(a) (relating to application for adjustment) is amended by inserting "(or, in the case of a work incentive program carryback, to an investment credit carryback)" after "capital loss carryback".

(2) The following provisions are each amended by inserting ", an investment credit carryback," after "net operating loss carryback":

(A) Section 6501(o).
(B) Section 6511(d)(7).
(C) Section 6601(d)(4).
(D) Section 6611(f)(4).

Sec. 1308. Repeal of Excise Tax on Light-Duty Truck Parts.

(a) In general.—Section 6416(b)(2) (relating to special cases in which tax payments are considered overpayments) is amended—

(1) by striking "or" at the end of subparagraph (R);

(2) by striking the period at the end of subparagraph (S) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(T) in the case of any article taxable under section 4061(b), sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), if credit or refund of such tax is not available under any other provisions of law."

(b) Effective Date.—The amendments made by this section shall apply to parts and accessories sold after the date of the enactment of this Act.

Sec. 1309. Exclusion From Excise Tax on Certain Articles Resold After Modification.

(a) In general.—Section 4063 (relating to exemptions from excise tax on motor vehicles) is amended by adding at the end thereof the following new subsection:

"(d) Resale After Certain Modifications.—Under regulations prescribed by the Secretary, the tax imposed by section 4061 shall not apply to the resale of any article described in section 4061(a)(1) if before such resale such article was merely combined with any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor."

(b) Effective Date.—The amendment made by this section shall apply to the resale of any article on or after the date of the enactment of this Act.

Sec. 1310. Franchise Transfers.

(a) Application of Franchise Rules to Partnerships.—Section 751(c) (relating to unrealized receivables of a partnership), as amended by this Act, is amended—

(1) by striking out "farm land (as defined in section 1252(a))," and inserting in lieu thereof "farm land (as defined in section 1252(a)), franchises, trademarks, or trade names (referred to in section 1253(a))," and

(2) by striking out "1252(a)" and inserting in lieu thereof "1252(a), 1253(a)".

(b) Effective Date.—Subsection (a) shall apply to transactions described in section 731, 736, 741, or 751 of the Internal Revenue Code of 1954 which occur after December 31, 1976, in taxable years ending after that date.

Sec. 1311. Employer's Duties in Connection With the Recording and Reporting of Tips.

(a) Suspension of Rulings.—Until January 1, 1979, the law with respect to the duty of an employer under section 6041(a) of the Internal Revenue Code of 1954 to report charge account tips of employees to the Internal Revenue Service (other than charge account tips included in statements furnished to the employer under section 6053(a) of such Code) shall be administered—

(1) without regard to Revenue Rulings 75-400 and 76-231, and

(2) in accordance with the manner in which such law was administered before the issuance of such rulings.

(b) Effective Date.—This section shall take effect on January 1, 1976.

Sec. 1312. Treatment of Certain Pollution Control Facilities.

(a) Availability of Investment Credit for Certain Pollution Control Facilities.—

(1) In general.—Section 48(a)(8) (relating to amortized property) is amended by striking out "169," and by striking out the second sentence thereof.

(2) Applicable percentage in determining amount of credit.—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(5) Applicable percentage in the case of certain pollution control facilities.—Notwithstanding subsection (c)(2), in the case of property—

"(A) with respect to which an election under section 169 applies, and

(B) the useful life of which (determined without regard to section 169) is not less than 5 years,

50 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169."

(b) Definition of Certified Pollution Control Facilities.—Paragraph (1) of section 169(d) (defining certified pollution control facilities) is amended—

(1) by striking out "January 1, 1969," and inserting in lieu thereof "January 1, 1976,";

(2) by striking out "or storing" and inserting in lieu thereof "storing, or preventing the creation or emission of"; and

(3) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(C) does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

"(ii) alter the nature of the manufacturing or production process or facility."

(c) Extension of Amortization.—Paragraph (4) of section 169(d) (relating to new identifiable treatment facility) is amended to read as follows:

"(4) New identifiable treatment facility.—

"(A) In general.—For purposes of paragraph (1), the term 'new identifiable treatment facility' includes only tangible property (not including a building and its 'structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which is property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

"(ii) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date.

In applying this section in the case of property described in clause (i) there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

"(B) Certain plants, etc., placed in operation after 1968.—In the case of any treatment facility used in connection with any plant or other property not in operation before January 1, 1969, the preceding sentence shall be applied by substituting December 31, 1975, for December 31, 1968."

(d) Effective Dates.—

(1) The amendments made by subsection (a) shall apply to—

(A) property acquired by the taxpayer after December 31, 1976, and

(B) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1976, (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date),

(2) The amendments made by subsection (b) shall apply in taxable years beginning after such date. Such amendments shall not apply in the case of any property with respect to which the amortization period under section 169 of the Internal Revenue Code of 1954 has begun before January 1, 1976.

Sec. 1313. Clarification of Status of Certain Fishermen's Organizations.

(a) In General.—Section 501 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) Definition of Agricultural.—For purposes of subsection (c) (5), the term 'agricultural' includes the art or science of cultivating land, harvesting crops or aquatic resources or raising livestock."

(b) Effective Date.—The amendment made by this section applies to taxable years ending after December 31, 1975.

Sec. 1314. Changes in Subchapter 5 Rules.

(a) Number of Shareholders.—Subsection (a) (1) of section 1371 (relating to the definition of small business corporation) is amended to read as follows:

"(1) have (except as provided in subsection (e)) more than 10 shareholders;".

(b) Special Shareholder Rules.—(1) Section 1371 is amended by adding at the end thereof the following new subsection:

"(e) Special Shareholder Rules.—

"(1) A small business corporation which has been an electing small business corporation for a period of five consecutive taxable years may not have more than 15 shareholders.

"(2) If, during the 5-year period set forth in paragraph (1), the number of shareholders of an electing small business corporation increases to an amount in excess of 10 (but not in excess of 15) solely by reason of additional shareholders who acquired their stock through inheritance, the corporation may have a number of additional shareholders equal to the number by which the inheriting shareholders cause the total number of shareholders of such corporation to exceed 10."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

Sec. 1315. Application of Section 6013(e) of the Internal Revenue Code of 1954.

(a) In General.—Section 3 of the Act of January 12, 1971, Public Law 91–679 (84 Stat. 2064), is amended by adding at the end thereof the following new sentences: "Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning after December 31, 1961, and ending before January 13, 1971. The preceding sentence shall apply solely to a taxpayer to whom the application of the provisions of section 6013(e) of the Internal Revenue Code of 1954, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer."

(b) Effective Date.—The application permitted under the amendment made by subsection (a) of this section must be filed with the Secretary of the Treasury during the first calendar year beginning after the date of the enactment of this Act.

Sec. 1316. Amendments to Rules Relating to Limitation on Percentage Depletion in Case of Oil and Gas Wells.

(a) Retailer Exclusion.—Paragraph (2) of section 613A(d) (relating to the retailer exclusion) is amended by inserting "(excluding bulk sales of such items to commercial or industrial users)" after "natural gas" where it first appears, and by adding at the end thereof the following:

"Notwithstanding the preceding sentence this paragraph shall not apply in any case where the combined gross receipts from the sale of such oil, natural gas, or any product derived therefrom, for the taxable years of all retail outlets taken into account for purposes of this paragraph do no exceed $5,000,000. For purposes of this paragraph, sales of oil, natural gas, or any product derived from oil or natural gas shall not include sales made of such items outside the United States, if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year."

(b) Transfer Rule.—

(1) In general.—Subparagraph (B) of section 613A(c) (9) (relating to exceptions to the transfer rule) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) a change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of such trust or is a lineal descendant of the grantor or any other vested beneficiary of such trust, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c) (4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust."

(2) Conforming amendments.—Paragraph (1) of section 613A(d) (relating to the limitation on percentage depletion based upon taxable income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) any depletion on production from an oil or gas property which is subject to the provisions of subsection (c),",

(B) by striking out "and" at the end of subpragraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ",and", and

(D) by adding at the end thereof the following new subparagraph:

"(D) in the case of a trust, any distributions to its beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c) (4) of a settlor who created intervivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust."

(c) Partnership Rules.—

(1) Subparagraph (D) of section 613A(c) (7) (relating to the computation of depletion in the case of partnerships) is amended to read as follows:

"(D) Partnerships.—In the case of a partnership, the depletion allowance shall be computed separately by the partners and not by the partnership. The partnership shall allocate to each partner his proportionate share of the adjusted basis of each partnership oil or gas property. The allocation is to be made as of the later of the date of acquisition of the oil or gas property by the partnership, or January 1, 1975. A partner's proportionate share of the adjusted basis of partnership property shall be determined in accordance with his interest in partnership capital or income and, in the case of an agreement described in section 704(c) (2) (relating to effect of a partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Each partner shall separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in mineral property shall be an amount equal to the sum of the partners' adjusted basis in such property as determined under this paragraph."

(2) Subparagraph (G) of section 703(a) (2) (relating to deductions not allowed to a partnership) is amended by striking out "production subject to the provisions of section 613A(c)" and inserting in lieu thereof "welts".

(3) Subsection (a) of section 705 (relating to the determination of basis of a partner's interest in a partnership) is amended—

(A) by striking out "and" in paragraph (1) (C),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following:

"(3) decreased (but not below zero), by the amount of the partner's deduction for depletion under section 611 with respect to oil and gas wells."

(d) Related Person.—Paragraph (3) of section 613A(d) (relating to the definition of related person is amended by adding at the end thereof the following:

"For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be."

(e) Effective Date.—The amendments made by this section shall take effect on January 1, 1975, and apply to taxable years beginning after December 31, 1974.

Sec. 1317. Implementation of Federal-State Tax Collection Act of 1972.

(a) Election by States To Participate.—Section 204(b) (2) of the Federal-State Tax Collection Act of 1972 is amended to read as follows:

"(2) the first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code."

(b) Adjustments to Qualified Resident Taxes for Purposes of Federal Collection of State Individual Income Taxes.—

(1) Qualified resident tax based on taxable income.—

(A) Required adjustments.—Section 6362 (b) (I) (relating to required adjustments) is amended—

(i) by striking out "and" at the end of subparagraph (B),

(ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(iii) by adding at the end thereof the following new subparagraph:

"(D) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (2) (C), by adding an amount equal to the amount of his deduction under section 164(a) (4) for such sales tax."

(B) PERMITTED ADJUSTMENTS.—Section 6362 (b)(2) (relating to permitted adjustments) is amended by adding at the end thereof the following new subparagraph:

"(C) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents."

(2) QUALIFIED RESIDENT TAX WHICH IS A PERCENTAGE OF THE FEDERAL TAX—

(A) PERMITTED ADJUSTMENTS.—Section 6362 (c)(3) (relating to permitted adjustments) is amended—

(i) by striking out "both" and inserting in lieu thereof "all",

(ii) by striking out "and" at the end of subparagraph (A),

(iii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(iv) by adding at the end thereof the following new subparagraph:

"(C) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (4)(B), the liability for tax is increased by the increase in such liability which would result from including as an item of income an amount equal to the amount of his deduction under section 164 (a)(4) for such sales tax."

(B) FURTHER PERMITTED ADJUSTMENTS.—Section 6362(c)(4) (relating to further permitted adjustments) is amended to read as follows:

"(4' FURTHER PERMITTED ADJUSTMENTS.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because it provides for one or both of the following adjustments:

"(A) A credit determined under rules prescribed by the Secretary is allowed against such tax for income tax paid to another State or a political subdivision thereof.

"(B) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents."

(c) PROHIBITION ON CHARGES FOR FEDERAL COLLECTION OF STATE INCOME TAXES.—Section 6361(a) (relating to general rules for Federal collection and administration of State individual income taxes) is amended by inserting after the first sentence thereof, the following: "No fee or other charge shall be imposed upon any State for the collection or administration of the qualified State individual income taxes of such State or any other State.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1318. CANCELLATION OF CERTAIN STUDENT LOANS.

(a) IN GENERAL.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

(b) STUDENT LOAN.—For purposes of this section the term "student loan" means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) of such Code—

(1) by the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) by any such educational organization pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational organization.

(c) EFFECTIVE DATE.—The provision of this section shall apply to discharges of indebtedness made before January 1, 1979.

SEC. 1319. TREATMENT OF GAIN OR LOSS ON SALES OF EXCHANGES IN CONNECTION WITH SIMULTANEOUS LIQUIDATION OF A PARENT AND SUBSIDIARY CORPORATION.

(a) IN GENERAL.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding the following sentence at the end of subsection (c)(2) thereof: "This paragraph shall not apply to a sale or exchange by a member of an affiliated group of corporations, as defined in section 1504(a) (but without regard to the exceptions contained in section 1504(b)), if each member of such group (including the common parent corporation) which receives, within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the corporation which made the sale or exchange, a distribution in complete liquidation from any other member of such group which is itself completely liquidated within such 12-month period."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

SEC. 1320. REGULATIONS RELATING TO TAX TREATMENT OF CERTAIN PREPUBLICATION EXPENDITURES OF PUBLISHERS.

(a) GENERAL RULE.—With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of this Act, the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to any prepublication expenditure shall be administered—

(1) without regard to Revenue Ruling 73–395, and

(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditures before the date of the issuance of such revenue ruling.

(b) REGULATIONS TO BE PROSPECTIVE ONLY.—Any regulations issued after the date of the enactment of this Act which deal with the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to prepublication expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) PREPUBLICATION EXPENDITURES DEFINED.—For purposes of this section, the term "prepublication expenditures" means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

SEC. 1321. CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES.

(a) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) where the contribution is in property which is other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amounts (or any property acquired or constructed with such amounts) are not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's property to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINATELY.—The term 'predominately' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero."

(b) CONFORMING AMENDMENT.—Section 362 (c) (relating to special rule for contributions to capital) is amended by adding the following new paragraph immediately after paragraph (2):

"(3) EXCEPTION FOR CONTRIBUTIONS IN AID OF CONSTRUCTION.—The provisions of this subsection shall not apply to contributions in aid of construction to which section 118 (b) applies."

(c) EFFECTIVE DATE.—The amendments made by this section apply to contributions made after January 31, 1976.

SEC. 1322. PROHIBITION OF DISCRIMINATORY STATE TAXES ON PRODUCTION AND CONSUMPTION OF ELECTRICITY.

(a) IN GENERAL.—The Act entitled "An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto", approved September 14, 1959 (73 Stat. 555; 15 U.S.C. 381 et seq.) is amended by striking out title II (relating to studies) and inserting in lieu thereof the following:

"TITLE II—DISCRIMINATORY TAXES

"Sec. 201. No State, or political subdivision thereof, may impose or assess a tax on or with respect to the generation or transmission of electricity which discriminates against out-of-State manufacturers, producers, wholesalers, retailers or consumers of that electricity. For purposes of this section a tax is discriminatory if it results, either directly or indirectly, in a greater tax burden on electricity which is generated and transmitted in interstate commerce than on electricity which is generated and transmitted in intrastate commerce."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning June 30, 1974.

SEC. 1323. ALLOWANCE OF DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS FOR THE HANDICAPPED.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

"(a) TREATMENT AS EXPENSES.—

"(1) IN GENERAL.—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—The term 'architectural and transportation barrier removal expenses' means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

"(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.—The term 'qualified architectural and transportation barrier removal expense' means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

"(3) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

"(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed $25,000.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly."

(2) Section 263(a)(1) (relating to capital expenditures) is amended—

(A) by striking out "or" at the end of subparagraph (D) thereof,

(B) by striking out the period at the end of subsection (E) thereof and inserting in lieu thereof a comma and the word "or", and

(C) by adding at the end thereof the following new subparagraph:

"(F) expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190."

(3) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(A) by striking out "or 188" each place it appears in paragraphs (2) and (3)(D) and inserting in lieu thereof "188, or 190",

(B) by striking out "or 185" in paragraph (2)(D) and inserting in lieu thereof "185, or 190"; and

(C) by adding at the end of paragraph (2) the following new sentence: "For purposes of this section, any deduction allowable under section 190 shall be treated as if it were a deduction allowable for amortization."

(4) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 188" and inserting in lieu thereof "188, or 190".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1980.

SEC. 1324. HIGH INCOME TAXPAYER REPORT.

The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth in three ways:

(1) by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income,

(2) by subtracting any investment expenses incurred in the production of such income to the extent of the investment income, and

(3) by making both of the adjustments referred to in paragraphs (1) and (2).

In any event these data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions or credits used by them to avoid tax.

SEC. 1325. TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES

(a) AMORTIZATION OF REHABILITATION EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

"SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is locted in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

"(2) AMORTIZABLE BASIS.—The term 'amortizable basis' means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

"(3) CERTIFIED REHABILITATION.—The term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(g) Cross References.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(2) Gain on Disposition.—Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "or 190" each place it appears and inserting in lieu thereof "190, or 191".

(3) Conforming amendments.—

(A) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 191. Amortization of certain rehabilitation expenditures for certified historic structures."

(B) Section 642(f) (relating to amortization deductions of estates and trusts) is amended by striking out "and 188" and inserting in lieu thereof "188, and 191".

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 188" and inserting in lieu thereof "188, or 191".

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190 or 191".

(4) Effective date.—The amendments made by this subsection shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981.

(b) Demolition.—

(1) Disallowance of deductions.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280B. Demolition of Certain Historic Structures.

"(a) General Rule.—In the case of the demolition of a certified historic structure (as defined in section 191(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as properly chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) Special Rule for Registered Historic Districts.—For purposes of this section, any building or other structure located in a Registered Historic District shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(2) Clerical amendment.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280B. Demolition of certain historic structures."

(3) Effective date.—The amendments made by this subsection shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1981.

(c) Depreciation of Improvements.—

(1) Method of depreciation.—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) Straight Line Method in Certain Cases.—

"(1) In general.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (as defined in section 191(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 191(d)(3)) after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply,

"(B) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) Exception.—The limitations imposed by this subsection shall not apply to personal property."

(2) Effective date.—The amendment made by this subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1981.

(d) Substantially Rehabilitated Property.—

(1) Section 167 (relating to depreciation) is amended by inserting after subsection (n) (as added by subsection (c) of this section) the following new subsection:

"(o) Substantially Rehabilitated Historic Property.—

"(1) General rule.—Pursuant to regulation prescribed by the Secretary, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) and all succeeding taxable years.

"(2) Substantially rehabilitated property.—For purposes of paragraph (1), the term 'substantially rehabilitated historic property' means any certified historic structure (as defined in section 191(d)(1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in section 191(d)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

"(A) the adjusted basis of such property, or

"(B) $5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250(e)), whichever is later."

(2) Effective date.—The amendment made by this subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981.

(e) Transfers of Partial Interests in Property for Conservation Purposes.—

(1) Income tax deductions for charitable contributions of partial interests in property for conservation purposes.—Section 170(f)(3) (relating to charitable contributions) is amended—

(A) by striking out "or" at the end of subparagraph (B)(i),

(B) by striking out "property.", at the end of subparagraph (B)(ii) and inserting in lieu thereof "property,",

(C) by adding after clause (ii) of subparagraph (B) the following new clauses:

"(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or

"(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.", and

(D) by adding at the end thereof the following new subparagraph:

"(C) Conservation purposes defined.—For purposes of subparagraph (B), the term 'conservation purposes' means—

"(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

"(ii) the preservation of historically important land areas or structures; or

"(iii) the protection of natural environmental systems".

(2) Estate tax deduction for transfer of partial interests in property for conservation purposes.—Section 2055(e)(2) (relating to deductions from gross estate) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(3) Gift tax deduction for transfers of partial interest in property for conservation purposes.—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(4) Effective date.—The amendments made by this subsection shall apply with respect to contributions or transfers made after June 13, 1976, and before June 14, 1977.

Sec. 1326. Amendment to Supplemental Income Program

Section 1612(a)(2)(A)(iii) of the Social Security Act is amended by striking out "fifth month" and inserting in lieu thereof "seventeenth month".

Sec. 1327. Trade Act of 1974 Amendments.

Section 502(b) of the Trade Act of 1974 (Public Law 93–618; 88 Stat. 1978) is amended—

(1) by striking out "and" at the end of paragraph (5), inserting in lieu thereof "; and",

(2) by striking out the period at the end of paragraph (6) and

(3) by inserting immediately after paragraph (6) the following new paragraph:

"(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism."; and

(4) by striking out "and (6)" in the unnumbered paragraph at the end of such section and inserting in lieu thereof "(6), and (7)".

Sec. 1328. Extension of Carry-Over Period for Cuban Expropriation losses.

Subparagraph (D) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "15" and inserting in lieu thereof "20".

And the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment inserting the following:

TREATMENT OF CERTAIN CAPITAL LOSES; HOLDING PERIOD FOR CAPITAL GAINS AND LOSSES

Sec. 1401. Increase in Amount of Ordinary Income Against Which Capital Loss May Be Offset

(a) General Rule.—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out "$1,000" and inserting in lieu thereof "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Paragraph (2) of section 1211(b) (relating to limitation on capital losses for taxpayers other than corporations) is amended to read as follows:

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(B), the term 'applicable amount' means—

"(A) $2,000 in the case of any taxable year beginning in 1977; and

"(B) $3,000 in the case of any taxable year beginning after 1977.

In the case of a separate return by a husband or wife, the applicable amount shall be one-half of the amount determined under the preceding sentence."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 1402. Increase in Holding Period Required for Capital Gain or Loss to be Long Term.

(a) INCREASE IN TWO STEPS FROM 6 MONTHS TO 1 YEAR.—

(1) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "6 months" and inserting in lieu thereof "9 months".

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, paragraphs (1), (2), (3), and (4) of section 1222 are each amended by striking out "9 months" and inserting in lieu thereof "1 year".

(b) CONFORMING AMENDMENTS.—

(1) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, the following provisions are each amended by striking out "6 months" each place it appears and inserting in lieu thereof "9 months":

(A) Paragraph (1)(B) of section 166(d) (relating to non-business debts).

(B) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(C) Paragraph (2) of subsection (a) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(D) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(E) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(F) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(G) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(H) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(I) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).

(J) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(K) Section 644 (relating to special holding period rules for gain on property transferred to trust at less than fair market value).

(L) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(M) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(N) Subparagraph (B) of paragraph (3), and paragraph (4), of section 852(b) (relating to taxation of shareholders of regulated investment companies).

(O) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(P) Subparagraph (B) of paragraph (3), and paragraph (5), of section 857(b) (relating to taxation of shareholders of real estate investment trusts).

(Q) Paragraph (11) of section 1223 (relating to holding period of property).

(R) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(S) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(T) Subsections (b), (d), and (e) of section 1233 relating to gains and losses from short sales).

(U) Paragraph (1) of section 1234(b) (relating to special rule for gain on lapse of an option granted as part of a straddle), as amended by this Act.

(V) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(W) Paragraph (4) of section 1246(a) relating to holding period in the case of gain on foreign investment company stock).

(X) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(Y) Subsection (b), and subparagraph (C) of subsection (f)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(Z) Paragraph (1) of section 1251(e) (defining farm recapture property).

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, each provision referred to in paragraph (1) is amended by striking out "9 months" each place it appears and inserting in lieu thereof "1 year".

(3) TECHNICAL AMENDMENT.—Effective with respect to taxable years beginning after December 31, 1976, section 631(a) (relating to gain or loss in the case of timber) is amended by striking out "before the beginning of such year."

(c) TRANSITIONAL RULE FOR CERTAIN INSTALLMENT OBLIGATIONS.—In the case of amounts received from sales or other dispositions of capital assets pursuant to binding contracts, includng sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a)(1) of the Internal Revenue Code of 1954, if the gain or loss was treated as long-term for the taxable year for which the amount was realized, such gain or loss shall be treated as long-term for the taxable year for which the gain or loss is returned or otherwise recognized.

(d) RETENTION OF 6-MONTH PERIOD FOR FUTURES TRANSACTIONS IN COMMODITIES.—Section 1222 (relating to other terms relating to capital gains and losses) is amended by adding at the end thereof the following new sentence:

"For purposes of this subtitle, in the case of futures transactions in any commodity subject to the rules of a board of trade or commodity exchange, the length of the holding period taken into account under this section or under any other section amended by section 1402 of the Tax Reform Act of 1976 shall be determined without regard to the amendments made by subsections (a) and (b) of such section 1402."

SEC. 1403. Allowance of 8-Year Capital Loss Carryover in Case of Regulated Investment Companies

(a) GENERAL RULE.—Paragraph (1) of section 1212(a) (relating to capital loss carrybacks and carryovers for corporations) is amended by striking out "and" at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) except as provided in subparagraph (C), a capital loss carryover to each of the 5 taxable years succeeding the loss year; and

"(C) a capital loss carryover—

"(i) in the case of a regulated investment company (as defined in section 851) to each of the 8 taxable years succeeding the loss year, and

"(ii) to the extent such loss is attributable to a foreign expropriation capital loss, to each of the 10 taxable years succeeding the loss year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to loss years (within the meaning of section 1212(a)(1) of the Internal Revenue Code of 1954) ending on or after January 1, 1970.

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

PENSION AND INSURANCE TAXATION

SEC. 1501. Retirement Savings for Certain Married Individuals.

(a) ALLOWANCE OF DEDUCTION.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

"SEC. 220. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) LIMITATIONS AND RESTRICTIONS.—

"(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed—

"(A) twice the amount paid to the account or annuity, or for the bond, established for the individual or for his spouse to or for which the lesser amount was paid for the taxable year,

"(B) an amount equal to 15 percent of the compensation includible in the individual's gross income for the taxable year, or

"(C) $1,750,

whichever is the smallest amount.

"(2) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 219 for the taxable year.

"(3) COVERAGE UNDER CERTAIN OTHER PLANS.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year—

"(A) he or his spouse was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

"(B) amounts were contributed by his employer, or his spouse's employer, for an annuity contract described in section 403(b) (whether or not his, or his spouse's rights in such contract are nonforfeitable).

"(4) Contributions after age 70½.—No deduction is allowed under subsection (a) with respect to any payment which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

"(5) Recontributed amounts.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C).

"(6) Amounts contributed under endowment contract.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(7) Employed spouses.—No deduction is allowed under subsection (a) with respect to a payment described in subsection (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to section 911) for the taxable year of such spouse ending with or within such taxable year.

"(c) Definitions and Special Rules.—

"(1) Compensation.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) Married individuals.—This section shall be applied without regard to any community property laws.

"(3) Determination of marital status.—The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of section 143(a).

"(4) Time when contributions deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceeding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.

"(5) Participation in govermental plans by certain individuals.—A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subsection (b)(3)(A)(iv) if, under section 219(c)(4), he is not considered to be an active participant in such a plan."

(b) Conforming Amendments.—

(1) Paragraph (10) of section 62 (relating to retirement savings) is amended by inserting before the period the following: "and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)".

(2) Paragraph (2) of section 408(c) is amended by inserting "(or spouse of an employee or member)" after "member".

(3) Subsection (a) of section 415 (relating to limitations on benefits and contributions under qualified plans) is amended—

(A) by striking out "In the case" in paragraph (2) and inserting in lieu thereof "except as provided in paragraph (3), in the case", and

(B) by adding at the end thereof the following new paragraph:

"(3) Accounts, etc., established for non-employed spouse.—Paragraph (2) shall not apply for any year to an account, annuity, or bond described in section 408(a), 408(b), or 409, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under section 220 to such individual with respect to such contribution for such year.".

(4) Section 219 (relating to retirement savings) is amended—

(A) by striking out "during" in subsection (a) and inserting in lieu thereof "for",

(B) by adding at the end of subsection (b) the following new paragraph:

"(6) Alternative deduction.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 220 for the taxable year.",

(C) by adding at the end of subsection (c)(2) the following new sentence: "For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).", and

(D) by adding at the end of subsection (c) the following new paragraph:

"(3) Time when contributions deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year."

(5) Paragraph (4) of section 408(d) (relating to excess contributions returned before due date of return) is amended—

(A) by inserting "or 220" after "219", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made."

(6) Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by striking out "in any taxable year" and inserting in lieu thereof "for any taxable year".

(7) Paragraph (12) of section 3401(a) (relating to definition of wages) is amended by inserting "or 220(a)" after "219(a)".

(8) Section 4973 (relating to tax on excess contributions to individual retirement accounts, etc.) is amended—

(A) by striking out "such individual" in the last sentence of subsection (a) and inserting in lieu thereof the following: "the individual to whom a deduction is allowed for the taxable year under section 219 (determined without regard to subsection (b)(1) thereof) or section 220 (determined without regard to subsection (b)(1) thereof), whichever is appropriate";

(B) by inserting "or 220" after "219" in subsection (b)(1)(B); and

(C) by striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following;

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219 or 220 for the taxable year over the amount contributed to the accounts or for the annuities or bonds for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all taxable years) which were included in the gross income of the payee under section 408(d)(1).

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed if such distribution consists of an excess contribution solely because of employer contributions to a plan or contract described in section 219(b)(2) or by reason of the application of section 219(b)(1) (without regard to the $1,500 limitation) or section 220(b)(1) (without regard to the $1,750 limitation) and only if such distribution does not exceed the excess of $1,500 over the amount described in paragraph (1)(B)."

(9) Subsection (d) of section 6047 (relating to other programs) is amended by inserting "or 220(a)" after "219(a)".

(c) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Retirement savings for certain married individuals.
"Sec. 221. Cross references.".

(d) Effective date.—The amendments made by this section, other than the amendment made by subsection (b)(3), shall apply to taxable years beginning after December 31, 1976. The amendment made by subsection (b)(3) shall apply to years beginning after December 31, 1976.

Sec. 1502. Limitation on Contributions to Certain Pension, Etc., Plans.

(a) In General.—

(1) Limit on contributions.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:

"(5) Application with section (404)(e)(4).—In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under section 404(e) with respect to any individual who is an employee within the meaning of section 401(c)(1)."

(2) Minimum deduction limitation.—Section 404(e)(4) of such Code (relating to minimum deductible amount for pension plan contributions by self-employed individuals) is amended by adding after subparagraph (B) the following: "This paragraph does not apply for any taxable year to any employee whose adjusted gross income for such taxable year (determined separately for each individual, without regard to any community property laws, and without regard to the deducton allowable under subsection (a)) exceeds $15,000."

(b) Effective Date.—The amendment made by subsection (a)(1) shall apply to years beginning after December 31, 1975. The amendment made by subsection (a)(2) shall apply to taxable years beginning after December 31, 1975.

Sec. 1503. Participation by Members of Reserves of National Guard in Individual Accounts, Etc.

(a) General Rule. Section 219 (c) (relating to definitions and special rules for retirement savings deduction) is amended by adding at the end thereof the following new paragraph:

"(4) Participation in governmental plans by certain individuals.—

"(A) Members of reserve components.—A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b)(3)(A)(iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days on active duty (other than active duty for training) during such year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1504. CERTAIN INVESTMENTS BY ANNUITY PLANS.

(a) IN GENERAL.—Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by striking out ", and which issues only redeemable stock" in subparagraph (C).

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

SEC. 1505. SEGREGATED ASSET ACCOUNTS.

(a) SEGREGATED ASSET ACCOUNTS OF LIFE INSURANCE COMPANIES.—Paragraph (1)(B) of section 801(g) is amended—

(1) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) which is described in subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1) (other than a life, health or accident, property, casualty, or liability insurance contract) or which provides for the payment of annuities, and ", and

(2) by striking out "as annuities" in clause (iii) and inserting in lieu thereof "out".

(b) CONFORMING AMENDMENT.—Section 401 (relating to qualified pension, etc. plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) CERTAIN CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this title, a custodian account, an annuity contract, or a contract (other than a life, health or accident, property, casualty, or liability insurance contract) issued by an insurance company qualified to do business in a State shall be treated as a qualified trust under this section if—

"(1) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) in the case of a custodial account the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or contract treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or holding such contract shall be treated as the trustee thereof.".

(c) EFFECTIVE DATE.—The amendments made by this section apply for taxable years beginning after December 31, 1975.

SEC. 1506. STUDY OF SALARY REDUCTION PENSION PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by striking out "January 1, 1977" each place it appears and inserting in lieu thereof "January 1, 1978", and

(2) by striking out "December 31, 1976" in subsection (d) and inserting in lieu thereof "December 31, 1977".

SEC. 1507. CONSOLIDATED RETURNS FOR LIFE AND OTHER INSURANCE COMPANIES.

(a) IN GENERAL.—Section 1504(c) (relating to the definition of includible insurance companies) is amended to read as follows:

"(c) INCLUDIBLE INSURANCE COMPANIES.—Notwithstanding the provisions of paragraph (2) of subsection (b)—

"(1) Two or more domestic insurance companies each of which is subject to tax under section 802 shall be treated as includible corporations for purposes of apply ing subsection (a) to such insurance companies alone.

"(2)(A) If an affiliated group (determined without regard to subsection (b)(2)) includes one or more domestic insurance companies taxed under section 802 or 821, the common parent of such group may elect (pursuant to regulations prescribed by the Secretary to treat all such companies as includible corporations for purposes of applying subsection (a) if all such companies have been members of the affiliated group for the 5 taxable years immediately preceding the taxable year for which the election is made or revoked.

"(B) If an election under this paragraph is in effect for a taxable year—

"(i) section 243(b)(6) and the exception provided under section 243(b)(5) with respect to subsections (b(2) and (c) of this section,

"(ii) section 542(b)(5), and

"(iii) subsection (a)(4) and (b)(2)(D) of section 1563, and the reference to section 1563(b)(2)(D) contained in section 1563(b)(3)(C),

shall not be effective for such taxable year.

(b SPECIAL RULES AND CONFORMING AMENDMENTS.—

(1) Section 821 (relating to tax on mutual insurance companies to which part II applies) is amended by redesignating subsection (f) as subsection (g), and by adding after subsection (e) the following new subsection:

"(f) TAX APPLICABLE TO MEMBER OF GROUP FILING CONSOLIDATED RETURN.—Notwithstanding any other provision of this section, if a mutual insurance company to which this section applies joins in the filing of a consolidated return (or is required to so file), the applicable tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the mutual insurance company taxable income of such company were the taxable income referred to in section 11".

(2) Section 843 (relating to annual accounting period) is amended by adding at the end thereof the following sentence: "Under regulations prescribed by the Secretary, an insurance company which joins in the filing of a consolidated return (or is required to so file) may adopt the taxable year of the common parent corporation even though such year is not a calendar year."

(3) Section 1503 (relating to computation and payment of tax) is amended by adding the following new subsection:

"(c) SPECIAL RULE FOR APPLICATION OF CERTAIN LOSSES AGAINST INCOME OF INSURANCE COMPANIES TAXED UNDER SECTION 802.—

"(1) IN GENERAL.—If an election under section 1504(c)(2) is in effect for the taxable year and the consolidated taxable income of the members of the group not taxed under section 802 results in a consolidated net operating loss for such taxable year, then under regulations prescribed by the Secretary, the amount of such loss which cannot be absorbed in the applicable carryback periods against the taxable income of such members not taxed under section 802 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable year to the extent of 35 percent of such loss or 35 percent of the taxable income of the members taxed under section 802, whichever is less. The unused portion of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years. For purposes of this subsection, in determining the taxable income of each insurance company subject to tax under section 802, section 802(b)(3) shall not be taken into account. For taxable years ending with or within calendar year 1981, '25 percent' shall be substituted for '35 percent' each place it appears in the first sentence of this subsection. For taxable years ending with or within calendar year 1982, '30 percent' shall be substituted for '35 percent' each place it appears in that sentence.

"(2) LOSSES OF RECENT NON-LIFE AFFILIATES.—Notwithstanding the provisions of paragraph (1), a net operating loss for a member of the group not taxed under section 802 cannot be taken into account, for the taxable year as a loss for that year, or as a net operating loss carryover or carryback to the taxable year, in determining the taxable income of a member of the group taxed under section 802 to the extent that such loss is attributable to a taxable year ending before the first taxable year taken into account (with respect to the member not taxed under section 802) for purposes of section 1504(c)(2)(A).".

(c) EFFECTIVE DATE AND TRANSITIONAL RULES.—

(1) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1980.

(2) TRANSITION RULES WITH RESPECT TO CARRYOVERS OR CARRYBACKS RELATING TO PRE-ELECTION TAXABLE YEARS AND NONTERMINATION OF GROUP.—

(A) LIMITATIONS ON CARRYOVERS OR CARRYBACKS FOR GROUPS ELECTING UNDER SECTION 1504(C)(2).—If an affiliated group elects to file a consolidated return pursuant to section 1504(c)(2) of the Internal Revenue Code of 1954, a carryover of a loss or credit from a taxable year ending before January 1, 1982, and losses of credits which may be carried back to taxable years ending before such date, shall be taken into account as if this section had not been enacted.

(B) NONTERMINATION OF AFFILIATED GROUP.—The mere election to file a consolidated return pursuant to such section 1504(c)(2) shall not cause the termination of an affiliated group filing consolidated returns.

SEC. 1508. TREATMENT OF CERTAIN LIFE INSURANCE CONTRACTS GUARANTEED RENEWABLE.

(a) IN GENERAL.—Paragraph (d)(5) of section 809 (relating to certain nonparticipating contracts) is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957.

SEC. 1509. STUDY OF EXPANDED PARTICIPATION IN INDIVIDUAL RETIREMENT ACCOUNTS.

The Joint Committee on Taxation shall carry out a study with respect to broadening the class of individuals who are eligible to claim a deduction for retirement savings under section 219 or 220 of the Internal Revenue Code of 1954 to include individuals who are participants in pension plans described in section 401(a) of such Code (relating to qualified pension, profit-sharing, and stock bonus plans) or similar plans established for its employees by the United States, by a State or political division thereof, or by an agency or instrumentality of the United States or a State or political division thereof. The Joint Committee shall report its findings to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

REAL ESTATE INVESTMENT TRUSTS

SEC. 1601. DEFICIENCY DIVIDEND PROCEDURE.

(a) IN GENERAL.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is

amended by adding at the end thereof the following new section:

"Sec. 859. Deduction for Deficiency Dividends.

"(a) General Rule.—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as he defined in subsection (b)(1)) for any taxable year, a deduction shall be allowed to such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining the deduction for dividends paid (for purposes of section 857) for such year.

"(b) Rules for Application of Section.—

"(1) Adjustment.—For purposes of this section, the term 'adjustment' means—

"(A) any increase in the sum of—

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) Interest and additions to tax determined with respect to the amount of deficiency dividend deduction allowed.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the real estate investment trust for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made, and

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(3) Credit or refund.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

"(c) Determination.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax.

"(d) Deficiency Dividends.—

"(1) Definition.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (e).

"(2) Limitations.—

"(A) Ordinary dividends.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of subsection (b)(1) over the amount of any increase in the deduction for dividends paid (computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decrease referred to in subparagraph (C) of subsection (b)(1).

"(B) Capital gain dividends.—The amount of deficiency dividends qualifying as capital gain dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of subsection (b)(1) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) Effect on dividends paid deduction.—

"(A) For taxable year in which paid.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) For prior taxable year.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(e) Claim Required.—No deficiency dividend reduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

"(f) Suspension of Statute of Limitations and Stay of Collection.—

"(1) Suspension of running of statute.—If the real estate investment trust files a claim as provided in subsection (e), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) Stay of collection.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(g) Deduction Denied in Case of Fraud.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(h) Penalty.—

"For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697."

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 859. Deduction for deficiency dividends."

(b) Penalty.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6697. Assessable Penalties With Respect to Liability for Tax of Real Estate Investment Trust

"(a) Civil Penalty.—In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase.

"(b) 50-Percent Limitation.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) for such taxable year.

"(c) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(2) The table of sections for such subchapter B is amended by adding at the end thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts."

(c) Late Designation and Payment of Capital Gain Dividend.—The first sentence of subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A)(ii) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

(d) Definition of Dividend.—Subsection (b) of section 316 (relating to the definition of dividend) is amended by adding a new paragraph (3) at the end thereof, to read as follows:

"(3) Deficiency dividend distributions by a real estate investment trust.—The term 'dividend' also means any distribution of property (whether or not a dividend as defined in subsection (a)) which constitutes a 'deficiency dividend' as defined in section 859(d)."

(e) Carryover of Deficiency Dividend.—Section 381(c) (relating to carryovers in certain corporate acquisitions) is amended by adding a new paragraph (25) at the end thereof, to read as follows:

"(25) Deficiency dividend of real estate investment trust.—If the acquiring corporation pays a deficiency dividend (as defined in section 859(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction provided in section 859."

(f) Technical Amendments.—

(1) Section 6422 (relating to certain cross references) is amended by adding a new paragraph (14) at the end thereof to read as follows:

"(14) for credit or refund in case of deficiency dividends paid by a real estate investment trust, see section 859.".

(2) Section 6503(i) (relating to certain cross references) is amended by adding a new paragraph (5) at the end thereof, to read as follows:

"(5) Deficiency dividends of a real estate investment trust, see section 859(f)."

(3) Section 6515 (relating to certain cross references) is amended by adding a new paragraph (8) at the end thereof, to read as follows:

"(8) Deficiency dividends of a real estate investment trust, see section 859."

Sec. 1602. Trust Not Disqualified in Certain Cases Where Income Tests Were Not Met.

(a) Disqualification Not Applied.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(7) A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year shall nevertheless be considered to have satisfied the requirements of such paragraphs for such taxable year if—

"(A) the nature and amount of each item of its gross income described in such paragraphs is set forth in a schedule attached to its income tax return for such taxable year;

"(B) the inclusion of any incorrect information in the schedule referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

"(C) the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, is due to reasonable cause and not due to willful neglect."

(b) Imposition of Special Taxes.—

(1) Section 857(b) (relating to method of taxation of real estate investment trust, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Imposition of tax in case of failure to meet certain requirements.—If section 856(c)(7) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in an amount equal to the greater of—

"(A) the excess of—

"(i) 95 percent (90 percent in the case of taxable years beginning before January 1, 1980) of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(2); or

"(B) the excess of—

"(i) 75 percent of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(3),

multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(B) and (2)(E), without regard to any net operating loss deduction, and by excluding any net capital gain) and the denominator of which is the gross income for the taxable year (excluding gross income from prohibited transactions; gross income and gain from foreclosure property (as defined in section 856(e), but only to the extent such gross income and gain is not described in subparagraph (A), (B), (C), (D), (E), or (G) of section 856(c)(3)); long-term capital gain; and short-term capital gain to the extent of any short-term capital loss)."

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (D) (as redesignated by section 1606(a) of this Act) the following new subparagraph:

"(E) There shall be deducted an amount equal to the tax imposed by paragraph (5) for the taxable year.".

Sec. 103. Treatment of Property Held for Sale to Customers.

(a) Elimination of Holding for Sale Rule as Qualification Requirement.—Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

(b) Tax on Income From Property Described in Section 1221(1) That Is Not Foreclosure Property.—Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by inserting after paragraph (5) (as added by section 1602(b)(1) of this Act) the following new paragraph:

"(6) Income from prohibited transactions.—

"(A) Imposition of tax.—There is hereby imposed for each taxable year of every real estate investment trust a tax equal to 100 percent of the net income derived from prohibited transactions.

"(B) Definitions.—For purposes of this part—

"(i) the term 'net income derived from prohibited transactions' means the excess of the gain from prohibited transactions over the deductions allowed by this chapter which are directly connected with prohibited transactions;

"(ii) the term 'net loss derived from prohibited transactions' means the excess of the deductions allowed by this chapter which are directly connected with prohibited transactions over the gain from prohibited transactions; and

"(iii) the term 'prohibited transaction' means a sale or other disposition of property described in section 1221(1) which is not foreclosure property."

(c) Technical Amendments.—

(1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—".

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof "which is not property described in section 1221(1)".

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof "which is not property described in section 1221(1)".

(4) Section 856(e)(1) (definining foreclosure property) is amended by adding at the end thereof the following sentence: "Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not originally acquired as foreclosure property."

(5) Section 857(b(2) (relating to real estate investment trust taxable income) is amended by adding a new subparagraph (F) immediately after subparagraph (E) (as added by section 1602(b)(2) of this Act), to read as follows:

"(F) There shall be excluded an amount equal to any net income derived from prohibited transactions and there shall be included an amount equal to any net loss derived from prohibited transactions."

Sec. 1604. Other Changes in Limitations and Requirements.

(a) Increase in 90-Percent Gross Income Requirement to 95-Percent.—Section 856(c)(2) (relating to limitations) is amended by striking out "90 percent of its gross income" and inserting in lieu thereof "95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions)".

(b) Apportionment of Rental Income and Charges for Customary Services; Change in Definition of Independent Contractor.—Subsection (d) of section 856 (defining rents from real property) is amended to read as follows:

"(d) Rents From Real Property Defined.—

"(1) Amounts included.—For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' includes (subject to paragraph (2))—

"(A) rents from interests in real property,

"(B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and

"(C) rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

"(2) Amounts excluded.—For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' does not include—

"(A) except as provided in paragraph (4), any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term 'rents from real property' solely by reason of being based on a fixed percentage or percentages of receipts or sales);

"(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

"(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

"(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

"(C) any amount received or accrued, directly or indirectly, with respect to any real or personal property if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

"(3) Independent contractor defined.—For purposes of this subsection and subsection (e), the term 'independent contractor' means any person—

"(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

"(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

"(4) Special rule for certain contingent rents.—Where a real estate investment trust receives or accrues, with respect to real or personal property, any amount which would be excluded from the term 'rents from real property' solely because the tenant of the real estate investment trust receives or accrues, directly or indirectly, from subtenants any amount the determination of which depends in whole or in part on the income or profits derived by any person from such property, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from that tenant will be excluded from the term 'rents from real property'.

"(5) Constructive ownership of stock.—For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that '10 percent' shall be substituted for '50 percent' in subparagraph (C) of section 318(a)(2) and 318(a)(3)."

(c) Commitment Fees.—

(1) In general.—Paragraphs (2) and (3) of section 856(c) (relating to limitations) are each amended by striking out "and" after the semicolon at the end of subparagraph (E), by inserting "and" after the semicolon at the end of subparagraph (F), and by adding at the end thereof the following new subparagraph:

"(G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);".

(2) Conforming amendment.—Section 857(b)(4)(B) (relating to net income from foreclosure property) is amended by striking out "(D), or (E)" in subdivision (i) and inserting in lieu thereof "(D), (E), or (G)".

(d) Income From Sale of Mortgages Held Less Than 4 Years.—Section 856(c)(4) (relating to limitations) is amended to read as follows:

"(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

"(A) stock or securities held for less than 6 months;

"(B) section 1221(1) property (other than foreclosure property); and

"(C) real property (including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

"(i) property compulsorily or involuntarily converted within the meaning of section 1033, and

"(ii) property which is foreclosure property within the definition of section 856(e); and".

(e) Options To Purchase Real Property Treated as Interests in Real Property.—Section 856(c)(6)(C) (relating to limitations) is amended to read as follows:

"(C) The term 'interests in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests."

(f) Real Estate Investment Trusts May Be Incorporated.—

(1) In general.—So much of subsection (a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

"(a) In General.—For purposes of this title, the term 'real estate investment trust' means a corporation, trust, or association—

"(1) which is managed by one or more trustees or directors;

"(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;".

(2) Exception for financial institutions and insurance companies.—Section 856(a) (defining real estate investment trust) is amended by inserting after paragraph (3) the following new paragraph:

"(4) which is neither (A) a financial institution to which section 585, 586, or 592 applies, nor (B) an insurance company to which subchapter L applies;".

(3) Conforming amendments.—

(A) So much of section 856(c) (relating to limitations) as precedes paragraph (1) thereof is amended by striking out "A trust or association" and inserting in lieu thereof "A corporation, trust, or association".

(B) The second sentence of section 857(d) (relating to earnings and profits) is amended by striking out "a domestic unincorporated trust" and inserting in lieu thereof "a domestic corporation, trust,".

(g) Interest.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

"(f) Interest.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that:

"(1) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(2) where a real estate investment trust receives or accrues any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from such debtor will be excluded from the term 'interest'.

The provisions of this subsection shall apply only with respect to amounts received or accrued pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976."

(h) Certain Dividends.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) Adoption of Annual Accounting Period.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"Sec. 860. Adoption of Annual Accounting Period.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

(j) Change in Distribution Requirements.—Section 857(a)(1) (relating to requirements applicable to real estate investment trusts) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but determined without regard to capital gains dividends) equals or exceeds—

"(A) the sum of—

"(i) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the real estate investment trust taxable income for the taxable year (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain); and

"(ii) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the excess of the net income from foreclosure property over the tax imposed on such income by subsection (b)(4)(A); minus

"(B) the sum of—

"(i) the amount of any penalty imposed on the real estate investment trust by section 6697 which is paid by such trust during the taxable year; and

"(ii) the net loss derived from prohibited transactions. and".

(k) Manner and Effect of Termination or Revocation of Election.—

(1) In general.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (f) (as added by section 1604(g) of this Act) the following new subsection:

"(g) Termination of Election.—

"(1) Failure to qualify.—An election under subsection (c)(1) made by a corporation, trust, or association shall terminate if the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply for the taxable year with respect to which the election is made, or for any succeeding taxable year. Such termination shall be effective for the taxable year for which the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply, and for all succeeding taxable years.

"(2) Revocation.—An election under subsection (c)(1) made by a corporation, trust, or association may be revoked by it for any taxable year after the first taxable year for which the election is effective. A revocation under this paragraph shall be effective for the taxable year in which made and for all succeeding taxable years. Such revocation must be made on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective. Such revocation shall be made in such manner as the Secretary shall prescribe by regulations.

"(3) ELECTION AFTER TERMINATION OR REVOCATION.—Except as provided in paragraph (4), if a corporation, trust, or association has made an election under subsection (c) (1) and such election has been terminated or revoked under paragraph (1) or paragraph (2), such corporation, trust, or association (and any successor corporation, trust, or association) shall not be eligible to make an election under subsection (c) (1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which such termination or revocation is effective.

"(4) EXCEPTION.—If the election of a corporation, trust, or association has been terminated under paragraph (1), paragraph (3) shall not apply if—

"(A) the corporation, trust, or association does not willfully fail to file within the time prescribed by law an income tax return for the taxable year with respect to which the termination of the election under subsection (c) (1) occurs;

"(B) the inclusion of any incorrect information in the return referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

"(C) the corporation, trust, or association establishes to the satisfaction of the Secretary that its failure to qualify as a real estate investment trust to which the provisions of this part apply is due to reasonable cause and not due to willful neglect."

(2) CONFORMING AMENDMENTS.—

(A) Section 856(c) (1) (relating to limitations) is amended by striking out the semicolon at the end and inserting in lieu thereof ", and such election has not been terminated or revoked under subsection (g);".

(B) Section 857(a) (relating to requirements applicable to real estate investment trust) is amended by striking out "(other than subsection (d) of this section)" and inserting in lieu thereof "(other than subsection (d) of this section and subsection (g) of section 856)".

SEC. 1605. EXCISE TAX.

(a) IMPOSITION OF TAX.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 44—REAL ESTATE INVESTMENT TRUSTS

"Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

"SEC. 4981. EXCISE TAX BASED ON CERTAIN REAL ESTATE INVESTMENT TRUST TAXABLE INCOME NOT DISTRIBUTED DURING THE TAXABLE YEAR.

"Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b) (2), but determined without regard to section 857(b) (2) (B), and by excluding any net capital gain for the taxable year) exceeds the amount of the dividends paid deduction (as defined in section 561, but computed without regard to capital gains dividends as defined in section 857(b) (3) (C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of the real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out "and chapter 43." and inserting in lieu thereof ", chapter 43, and chapter 44."

(2) Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981."

(3) Section 6161(b) (1) (relating to extensions of time for payment of tax), as amended by this Act, is amended by striking out "42 or 43" and inserting in lieu thereof "42, 43, or 44". The second sentence of section 6161(b) is amended by striking out "or chapter 43" and inserting in lieu thereof "43, or 44".

(4) Section 6211 (defining deficiency) is amended—

(A) by striking out "and 43" in subsection (a) and inserting in lieu thereof "43, and 44",

(B) by striking out "or 43" in subsection (a) and inserting in lieu thereof "43, or 44", and

(C) by striking out "or 43" in subsection (b) (2) and inserting in lieu thereof "43, or 44".

(5) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "or 43" in subsection (a) and inserting in lieu thereof "43, or 44",

(B) by striking out "or chapter 43" in subsection (b) (1) and inserting in lieu thereof "chapter 43, or chapter 44",

(C) by striking out "chapter 43, and this chapter" in subsection (b) (1) and inserting in lieu thereof "chapter 43, chapter 44, and this chapter", and

(D) by striking out "of chapter 43 tax for the same taxable years," in subsection (c) (1) and inserting in lieu thereof "of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable year,".

(6) Section 6213(a) (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(7) Section 6214 (relating to determinations by Tax Court) is amended—

(A) by striking out "or 43" in the heading of subsection (c) and inserting in lieu thereof "43, or 44", and

(B) by striking out "or 43" each place it appears in subsection (c) and inserting in lieu thereof "43, or 44", and

(C) by striking out "or 43" in subsection (d) and inserting in lieu thereof "43, or 44".

(8) Section 6344(a) (1) (relating to cross references) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(9) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "or 43" each place it appears and inserting in lieu thereof "43, or 44".

(10) Section 6601(c) (relating to suspension of interest in certain income, etc. tax cases) is amended by striking out in the heading thereof "or 43" and inserting in lieu thereof "43, or 44".

(11) Section 7422 (relating to civil actions for refund) is amended by striking out "or 43" in subsection (e) and inserting in lieu thereof "43, or 44".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

"Chapter 44. Real estate investment trusts."

SEC. 1606. ALLOWANCE OF NET OPERATING LOSS CARRYOVER.

(a) ALLOWANCE OF DEDUCTION.—Section 857(b) (2) (relating to real estate investment trust taxable income) is amended by striking out subparagraph (E) and by redesignating subparagraph (F) as subparagraph (D).

(b) YEARS TO WHICH LOSS MAY BE CARRIED.—Section 172(b) (1) (relating to years to which a net operating loss may be carried) is amended by adding at the end thereof the following:

"(I) In the case of a taxpayer which has a net operating loss for any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to such taxpayer, such loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss, except, in the case of a net operating loss for a taxable year ending before January 1, 1976, such loss shall not be carried to the 6th, 7th, or 8th taxable year following the taxable year of such loss unless part II of subchapter M applied to the taxpayer for the taxable year to which the loss is carried and for all intervening taxable years following the year of loss. A net operating loss shall not be carried back to a taxable year for which part II of subchapter M applied to the taxpayer."

(c) DETERMINATION OF THE AMOUNT OF THE NET OPERATING LOSS AND THE CARRYOVER.—Section 172(d) (relating to modifications in computing net operating loss) is amended by adding a new paragraph (7) at the end thereof, to read as follows:

"(7) In the case of any taxable year for which part II of subchapter M (relating to real estate investment trusts) applies to the taxpayer—

"(A) the net operating loss for such taxable year shall be computed by taking into account the adjustments described in section 857(b) (2) (other than the deduction for dividends paid described in section 857 (b) (2) (B)); and

"(B) where such taxable year is a 'prior taxable year' referred to in paragraph (2) of subsection (b), the term 'taxable income' in such paragraph shall mean 'real estate investment trust taxable income' (as defined in section 857(b) (2))."

(d) CONFORMING AMENDMENTS.—

(1) Section 172(b) (1) (relating to years to which a loss may be carried carrybacks and carryovers) is amended by striking out "and (G)," in subparagraph (A) (i) and inserting in lieu thereof "(G), and (I)," and by striking out in subparagraph (B) "and "(E)" and inserting in lieu thereof "(E), and (I),".

(2) Subparagraph (B) of section 857(b) (2) (relating to real estate investment trust taxable income), as redesignated by section 1607(b) of this Act, is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (D)".

SEC. 1607. ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.

(a) ALTERNATIVE TAX.—Section 857(b) (3) (A) (relating to imposition of tax on capital gain) is amended to read as follows:

"(A) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year a real estate investment trust has a net capital gain, then, in lieu of the tax imposed by subsection (b) (1), there is hereby imposed a tax (if such tax is less than the tax imposed by such subsection) which shall consist of the sum of—

"(i) a tax, computed as provided in subsection (b) (1), on the real estate investment trust taxable income (determined by excluding such net capital gain and by computing the deduction for dividends paid without regard to capital gain dividends), and

"(ii) a tax of 30 percent of the excess of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only.

(b) Conforming Amendments.—

(1)(A) Section 857(b)(2) (relating to method of taxation of real estate investment trust taxable income) is amended by deleting subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(B) Subsection (e)(2) of section 46 (relating to investment credit) is amended—

(i) by striking out "857(b)(2)(C)" in subparagraph (B) and inserting in lieu thereof "857(b)(2)(B)", and

(ii) by inserting "determined without regard to any deduction of capital gains dividends (as defined in section 857(b)(3)(C)) and by excluding any net capital gain" immediately before the period at the end of the last sentence thereof.

(C) Section 443(e)(5) (relating to cross references) is amended by striking out "857 (b)(2)(D)" and inserting in lieu thereof "857(b)(2)(C)".

(2) Subparagraph (B) of section 857(b)(2) (relating to real estate investment trust taxable income) as redesignated by paragraph (1) of this subsection, is amended by striking out "shall be computed without regard to capital gains dividends and".

(3) Section 857(b)(3)(C) (relating to definition of capital gain dividend) is amended by inserting after the second sentence thereof the following: "For purposes of this subparagraph, the net capital gain shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561) for the taxable year."

Sec. 1608. Effective Date for Title.

(a) Deficiency Dividend Procedures.—The amendments made by section 1601 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act. If the amendments made by section 1601 apply to a taxable year ending on or before the date of enactment of this Act:

(1) the reference to section 857(b)(3)(A)(ii) in sections 857(b)(3)(C) and 859(b)(1)(B) of such Code, as amended, shall be considered to be a reference to section 857(b)(3)(A) of such Code, as in effect immediately before the enactment of this Act, and

(2) the reference to section 857(b)(2)(B) in section 859(a) of such Code, as amended, shall be considered to be a reference to section 857(b)(2)(C) of such Code, as in effect immediately before the enactment of this Act.

(b) Trust Not Disqualified in Certain Cases Where Income Tests Not Met.—The amendment made by section 1602 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act. In addition, the amendments made by section 1602 shall apply to a taxable year of a real estate investment trust beginning before the date of the enactment of this Act if, as the result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954) with respect to such trust occurring after the date of the enactment of this Act, such trust for such taxable years does not meet the requirements of section 856(c)(2) or section 856(c)(3), or of both such sections, of such Code as in effect for such taxable year. In any case, the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trusts beginning after the date of the enactment of this Act. If the amendments made by section 1602 apply to a taxable year ending on or before the date of enactment of this Act, the reference to paragraph (2)(B) in section 857(b)(5) of such Code, as amended, shall be considered to be a reference to paragraph (2)(C) of section 857(b) of such Code, as in effect immediately before the enactment of this Act.

(c) Alternative Tax and Net Operating Loss.—The amendments made by sections 1606 and 1607 shall apply to taxable years ending after the date of the enactment of this Act, except that in the case of a taxpayer which has a net operating loss (as defined in section 172(c) of the Internal Revenue Code of 1954) for any taxable year ending after the date of enactment of this Act for which the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer, such loss shall not be a net operating loss carryback under section 172 of such Code to any taxable year ending on or before the date of enactment of this Act.

(d) Other Amendments.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

(2) If, as a result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954), occurring after the date of enactment of this Act, with respect to the real estate investment trust, such trust does not meet the requirement of section 856(a)(4) of the Internal Revenue Code of 1954 (as in effect before the amendment of such section by this Act) for any taxable year beginning on or before the date of the enactment of this Act, such trust may elect, within 60 days after such determination in the manner provided in regulations prescribed by the Secretary of the Treasury or his delegate, to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) apply with respect to such taxable year. Where the provisions of section 1603 apply to a real estate investment trust with respect to any taxable year beginning on or before the date of the enactment of this Act—

(A) credit or refund of any overpayment of tax which results from the application of section 1603 to such taxable year shall be made as if on the date of the determination (as defined in section 859(c) of the Internal Revenue Code of 1954) 2 years remained before the expiration of the period of limitation prescribed by section 6511 of such Code on the filing of claim for refund for the taxable year to which the overpayment relates,

(B) the running of the statute of limitations provided in section 6501 of such Code on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of any deficiency (as defined in section 6211 of such Code) established by such a determination, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of such determination, and

(C) the collection of any deficiency (as defined in section 6211 of such Code) established by such determination and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of such determination.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under paragraph (3) during the period for which the collection of such amount is stayed.

(3) Section 856(g)(3) of the Internal Revenue Code of 1954, as added by section 1604 of this Act, shall not apply with respect to a termination of an election, filed by a taxpayer under section 856(c)(1) of such Code on or before the date of the enactment of this Act, unless the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer for a taxable year ending after the date of the enactment of this Act for which such election is in effect.

And the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

RAILROAD PROVISIONS

Sec. 1701. Certain Provisions Relating to Railroads.

(a) Treatment of Certain Railroad Ties.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(g) Railroad Ties.—In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties of any material (and fastenings related to such ties) shall be accorded the same tax accounting treatment as expenditures for replacement ties of wood (and fastenings related to such ties)."

(b) Increase in 50-Percent Limitation.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

"(8) Alternative limitation in the case of certain railroads.—

"(A) In general.—If, for a taxable year ending after calendar year 1976, and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to railroad property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) Applicable percentage.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) Tentative percentage.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1977 or 1978	50
1979	40
1980	30
1981	20
1982	10

"(D) Railroad property defined.—For purposes of this paragraph, the term 'railroad property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company)."

Sec. 1702. Amortization over 50-Year Period of Railroad Grading and Tunnel Bores Placed in Service Before 1969.

(a) In General.—Section 185 (relating to amortization of railroad grading and tunnel bores) is amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

"(d) ELECTION WITH RESPECT TO PRE-1969 PROPERTY.—A taxpayer may, for any taxable year beginning after December 31, 1974, elect for purposes of this section to treat the term 'qualified railroad grading and tunnel bores' as including pre-1969 railroad grading and tunnel bores. An election under this subsection shall be made by filing with the Secretary, in such manner, in such form, and within such time, as the Secretary may by regulations prescribe, a statement of such election. The election under this subsection shall remain in effect for all taxable years, after the first year for which it is effective, for which an election under subsection (c) is effective. The election under this subsection shall apply to all pre-1969 railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election.

"(e) ADJUSTED BASIS FOR PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—

"(1) IN GENERAL.—The adjusted basis of any pre-1969 railroad grading and tunnel bores shall be determined under this subsection.

"(2) PROPERTY ACQUIRED OR CONSTRUCTED AFTER FEBRUARY 28, 1913.—

"(A) In the case of pre-1969 railroad grading and tunnel bores—

"(i) acquired by the taxpayer after February 28, 1913, or

"(ii) the construction of which was completed by the taxpayer after February 28, 1913,

the adjusted basis of such property shall be equal to the adjusted basis (for determining gain) of such property in the hands of the taxpayer.

"(B) In the case of property described in subparagraph (A)(i)—

"(i) which was in existence on February 28, 1913,

"(ii) for which the taxpayer has a substituted basis, and

"(iii) such substituted basis for which would, but for the provisions of this section, be determined under section 1053,

then the adjusted basis of such property shall be determined as if such property were property described in paragraph (3)(A).

"(3) PROPERTY ACQUIRED OR CONSTRUCTED BEFORE MARCH 1, 1969.—

"(A) In the case of pre-1969 railroad grading and tunnel bores—

"(i) acquired by the taxpayer before March 1, 1913, or

"(ii) the construction of which was completed by the taxpayer before March 1, 1913,

the adjusted basis of such property shall be determined under the provisions of subparagraph (B), (C), or (D) of this paragraph.

"(B) In the case of any property valued under an original valuation made by the Interstate Commerce Commission pursuant to section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), the adjusted basis of such property shall be equal to the amount ascertained by the Interstate Commerce Commission as of the date of such valuation to be such property's cost of reproduction new (as the term 'cost of reproduction new' is used in such section 19a).

"(C) In the case of property which was not valued by the Interstate Commerce Commission in the manner described in subparagraph (B), but which was valued under an original valuation made by a comparable State regulatory body, the adjusted basis of such property shall be equal to the amount ascertained by such State regulatory body as of the date of its original valuation to be such property's value.

"(D) If, in the case of any property to which this paragraph applies—

"(i) neither subparagraph (B) nor (C) applies, or

"(ii) notwithstanding subparagraphs (B) and (C), either the taxpayer or the Secretary can establish the adjusted basis (for purposes of determining gain) of such property in the hands of the taxpayer,

then the adjusted basis of such property shall be equal to its adjusted basis (for purpose of determining gain) in the hands of the taxpayer."

(b) DEFINITION OF PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—Subsection (f) of section 185 (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

"(3) PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—The term 'pre-1969 railroad grading and tunnel bores' means railroad grading and tunnel bores the original use of which commences before January 1, 1969.".

SEC. 1703. CERTAIN PROVISIONS RELATING TO AIRLINES.

Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

"(9) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN AIRLINES.—

"(A) IN GENERAL.—If, for a taxable year ending after calendar year 1976 and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to airline property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is airline property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1977 or 1978	50
1979	40
1980	30
1981	20
1982	10

"(D) AIRLINE PROPERTY DEFINED.—For purposes of this paragraph, the term 'airline property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration."

And the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVISIONS OF INTERNAL REVENUE CODE OF 1954

SUBTITLE A—AMENDMENTS OF INTERNAL REVENUE CODE GENERALLY

SEC. 1901. AMENDMENTS OF SUBTITLE A; INCOME TAXES.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 2.—Subsection (c) of section 2 (relating to certain married individuals living apart) is amended to read as follows:

"(c) CERTAIN MARRIED INDIVIDUALS' LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 143(b)."

(2) REPEAL OF SECTION 35.—Section 35 (relating to partially tax-exempt interest received by individuals) is repealed.

(3) AMENDMENT OF SECTION 39.—Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out subsections (b) and (c) and inserting after subsection (a) the following new subsection:

"(b) EXCEPTION.—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed and, under section 6421(i), 6424(f), or 6427(f), is payable under such section."

(4) AMENDMENTS OF SECTION 46.—

(A) The second sentence of section 46(a)(4), as redesignated by this Act, is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(B) Clause (iii) of section 46(c)(3)(B) (relating to public utility property) is amended by striking out "47 U.S.C., sec. 222(a)(5)" and inserting in lieu thereof "47 U.S.C. 222(a)(5)".

(5) AMENDMENTS OF SECTION 48.—

(A) Section 48(a)(2)(B)(vi) (relating to section 38 property used outside the United States) is amended by striking out "; 43 U.S.C., sec. 1331)" and inserting in lieu thereof "(43 U.S.C. 1331))".

(B) Section 48(a)(2)(B)(viii) is amended by striking out "47 U.S.C., sec. 702" and inserting in lieu thereof "47 U.S.C. 702".

(6) AMENDMENT OF SECTION 50A.—The second sentence of section 50A(a)(3) (relating to liability for tax) is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(7) REPEAL OF SECTION 51.—Subchapter A of chapter 1 is amended by striking out part V (relating to tax surcharge).

(8) AMENDMENTS OF SECTION 62. Section 62 (relating to definition of adjusted gross income) is amended by redesignating paragraph (11), as added by the Act of October 26, 1974 (Public Law 93–483), as paragraph (12).

ADDITIONAL AMENDMENT OF SECTION 62.—Section 62(12), as redesignated by subparagraph (A) of this paragraph, is amended by striking out "trade or business to the extent" and inserting in lieu thereof "trade or business, to the extent".

(10) DEFINITION OF ORDINARY INCOME AND ORDINARY LOSS.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income and taxable income) is amended by adding at the end thereof the following new section:

"SEC. 64. ORDINARY INCOME DEFINED.

"For purposes of this subtitle the term 'ordinary income' includes any gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b). Any gain from the sale or exchange of property which is treated or considered under other provisions of this subtitle as 'ordinary income' shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)."

(11) DEFINITION OF ORDINARY LOSS.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income and taxable income) is amended by adding at the end thereof the following new section:

"SEC. 65. ORDINARY LOSS DEFINED

"For purposes of this subtitle, the term 'ordinary loss' includes any loss from the sale or exchange of property which is not a capital asset. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as 'ordinary loss' shall be treated as loss from the sale or exchange of property which is not a capital asset."

(12) AMENDMENT OF SECTION 72.—Section 72(d)(1) (relating to employees' annuities) is amended by striking out "(whether or not before January 1, 1954)" and by striking out "(under this paragraph and prior income tax laws)".

(13) ADDITIONAL AMENDMENT OF SECTION 72.—Section 72(m)(4)(A) (relating to assignments or pledges) is amended by striking out "an individual retirement amount" and inserting in lieu thereof "an individual retirement account".

(14) REPEAL OF SECTION 76.—Section 76 (relating to mortgages made or obligations issued by joint stock land banks) is repealed.

(15) AMENDMENT OF SECTION 83.—Section 83(b)(2) (relating to election to include the value of restricted property in gross income) is amended by striking out "(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)".

(16) AMENDMENT OF SECTION 101.—Section 101 is amended by striking out subsection (f) (relating to effective date of section).

(17) AMENDMENTS OF SECTION 103.—

(A) Section 103(a) (relating to tax-exempt interest), as amended by this Act, is amended by inserting "and" at the end of paragraph (1), by striking out paragraphs (2) and (3), and by redesignating paragraph (4) as paragraph (2).

(B) Section 103 is amended by striking out subsection (b) (relating to certain exceptions) and by redesignating subsections (c), (d), (e), (f), and (g) (as added by this Act) as subsections (b), (c), (d), (e), and (f) respectively.

(C) Section 103(b)(1) (relating to industrial development bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(a)(1)".

(D) Section 103(c)(2)(A) (relating to definition of arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(a)(1)".

(E) Section 103(e) (relating to certain cross references) as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(f) CROSS REFERENCES.—

"For provisions relating to the taxable status of—

"(1) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(2) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1949 (48 U.S.C. 1403).

"(3) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452(g))."

(18) AMENDMENTS OF SECTION 104.—

(A) Section 104(a)(4) (relating to exclusion of compensation for injuries or sickness) is amended by striking out "; 60 Stat. 1021".

(B) Section 104(b)(2) is amended to read as follows:

"(2) For exclusion of part of disability retirement pay from the application of subsection (a)(4) of this section, see section 1403 of title 10, United States Code (relating to career compensation laws)."

(19) AMENDMENT OF SECTION 115.—Section 115 (relating to income of States, municipalities, etc.) is amended to read as follows:

"SEC. 115. INCOME OF STATES, MUNICIPALITIES, ETC.

"Gross income does not include—

"(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

"(2) income accruing to the government of any possession of the United States, or any political subdivision thereof."

(20) AMENDMENT OF SECTION 116.—Subsection (a) of section 116 (relating to partial exclusion of dividends received by individuals) is amended by striking out "Effective with respect to any taxable year ending after July 31, 1954, gross income" and inserting in lieu thereof "Gross income".

(21) AMENDMENT OF SECTION 124.—Section 124 (relating to cross references to other Acts) is amended to read as follows:

"SEC. 124. CROSS REFERENCES TO OTHER ACTS.

"(a) For exemption of—

"(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (11 U.S.C. 1079).

"(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

"(3) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).

"(4) Benefits under laws administered by the Veterans' Administration, see section 3101 of title 38, United States Code.

"(5) Earnings of ship contractors deposited in special reserve funds, see section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177).

"(6) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).

"(7) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935 (45 U.S.C. 2281).

"(8) Railroad unemployment benefits, see section 2(e) of the Railroad Unemployment Insurance Act (45 U.S.C. 352).

"(9) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 562(a)-(c).

"(b) For extension of military income-tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213)."

(22) AMENDMENT OF SECTION 143.—Section 143 (relating to determination of marital status) is amended by striking out "this part" each place it appears and inserting in lieu thereof "this part and part V".

(23) AMENDMENT OF SECTION 151.—Section 151(e)(4) (defining student and educational institution) is amended to read as follows:

"(4) STUDENT DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170 (b)(1)(A)(ii); or

"(B) is pursuing a full-time course of institutional on farm training under the supervision of an accredited agent of an educational organization described in section 170 (b)(1)(A)(ii) or of a State or political subdivision of a State."

(24) AMENDMENTS OF SECTION 152.—

(A) Section 152(a) (defining dependent) is amended—

(i) by inserting "or" at the end of paragraph (8),

(ii) by striking out ", or" at the end of paragraph (9) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (10).

(B) Section 152(b)(3) (relating to rules concerning the definition of dependent) is amended to read as follows:

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States."

(25) AMENDMENTS OF SECTION 164.—Section 164(d)(2) (relating to apportionment of taxes on real property between the seller and purchaser) is amended by striking out subparagraphs (B) and (C), and by redesignating subparagraph (D) as subparagraph (B).

(26) AMENDMENTS OF SECTION 165.—Section 165 (relating to deduction of losses) is amended by striking out subsection (i) (relating to property confiscated by Cuba), and by redesignating subsection (j) as subsection (i).

(27) AMENDMENTS OF SECTION 167.—

(A) Section 167(d) (relating to agreement as to useful life for depreciation) is amended by striking out "after the date of enactment of this title" and inserting in lieu thereof "after August 16, 1954."

(B) Section 167(e) (relating to change in method of depreciation) is amended by striking out paragraph (2) and by redesignating paragraph (3) as (2).

(C) Section 167(f)(2) (defining personal property) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(D) Section 167(l)(4)(A) (relating to election as to increased-capacity property) is amended by striking out "within 180 days after the date of the enactment of this subparagraph" and inserting in lieu thereof "before June 29, 1970,".

(28) AMENDMENTS OF SECTION 170.—

(A)(i) Section 170 (relating to charitable deductions) is amended by striking out subsections (f)(6) and (g) (relating to unlimited charitable deductions allowed for taxable years beginning before January 1, 1975), and by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

(ii) Section 170(b)(1) (relating to percentage limitations on deductions for individuals) is amended by striking out subparagraph (C) (relating to unlimited deductions), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively.

(iii) Section 170(b)(1)(A)(vii) is amended by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (D)".

(iv) Section 170(b)(1)(B)(ii) is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

(v) Section 170(c) (relating to definition of charitable contribution) is amended by striking out in the last sentence "subsection (h)" and inserting in lieu thereof "subsection (g)".

(vi) Section 170(e) (1) (B) (ii) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "subsection (b) (1) (E)" and inserting in lieu thereof "subsection (b) (1) (D)".

(B) Section 170(d) (1) (A) (relating to carryover of excess charitable contributions) is amended by striking out "(30 percent, in the case of a contribution year beginning before January 1, 1970)".

(C) Section 170(h) (relating to disallowance of deductions in certain cases), as redesignated by subparagraph (A) (i) of this paragraph, is amended by striking out "64 Stat. 996;".

(D) Section 170(i) (relating to cross references), as redesignated by subparagraph (A) (i) of this paragraph, is amended to read as follows:

(i) Other Cross References.—

"(1) For charitable contributions of estates and trusts, see section 642(c).

"(2) For nondeductibility of contributions by common trust funds, see section 584.

"(3) For charitable contributions of partners, see section 702.

"(4) For charitable contributions of nonresident aliens, see section 873.

"(5) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for use of the United States, see section 6973 of title 10, United States Code.

"(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(7) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)."

(29) Amendments of section 172.—

(A) (i) Section 172(b) (1) (relating to years to which loss may be carried) is amended by striking out subparagraph (E).

(ii) Clause (i) of section 172(b) (1) (A) is amended by striking out "(E),".

(iii) Subparagraph (B) of section 172(b) (1), as amended by this Act is amended by striking out ", (E), and (I)" and inserting in lieu thereof "and (I)".

(iv) Section 172(b) (3) is amended by striking out subparagraphs (E) and (F).

(B) Section 172(c) (relating to definition of net operating loss) is amended by striking out "(for any taxable year ending after December 31, 1953)".

(C) (i) Section 172 (relating to net operating loss deduction) is amended by striking out subsections (f), (g), and (i), and by redesignating subsections (h), (j), (k), and (l) as subsection (f), (g), (h), and (i), respectively.

(ii) Section 172(b) (1) (C) (relating to regulated transportation corporations) is amended by striking out "subsection (j) (1)" and "subsection (j)", and inserting in lieu thereof "subsection (g) (1)" and "subsection (g)", respectively.

(iii) Paragraphs (1) (D) and (3) (C) (i) of section 172(b) (relating to net operating loss carryovers and carrybacks) are each amended by striking out "subsection (k)" and inserting in lieu thereof "subsection (h)".

(iv) Section 172(b) (2) (relating to amount of carrybacks and carryovers) is amended by striking out "subsections (i) and (j)" and inserting in lieu thereof "subsection (g)".

(D) Section 172(e) (relating to law applicable to computations) is amended by striking out the last sentence.

(E) Section 172(g) (2) (relating to certain regulated transportation corporations), as redesignated by subparagraph (C) of this paragraph, is amended by striking out paragraph (4).

(30) Amendments of sections 174 and 175.—Section 174(a) (2) (A) (i) (relating to research and development expenditures) and section 175(d) (1) (A) (relating to soil and water conservation expenditures) are each amended by striking out "the date on which this title is enacted," and inserting in lieu thereof "August 16, 1954,".

(31) Repeal of section 187.—Section 187 (relating to rapid amortization for certain coal mine safety equipment) is repealed.

(32) Amendment of section 219.—Section 219(b) (2) (A) (iv) (disqualifying governmental plan participants from contributing to individual retirement accounts, etc.) is amended by striking out "division" and inserting in lieu thereof "subdivision".

(33) Repeal of section 242.—Section 242 (relating to partially tax-exempt interest received by corporations) is repealed.

(34) Amendment of section 243.—

(A) Section 243(a) (2) (relating to the dividends received deduction) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(B) Section 243(b) (2) (A) (relating to dividends received by a member of an affiliated group) is amended by striking out "(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year)".

(35) Amendment of section 247.—Section 247(b) (2) (relating to preferred stock) is amended to read as follows:

"(2) Preferred stock.—

"(A) In general.—The term 'preferred stock' means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

"(B) Certain stock issued on or after October 1, 1942.—Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D)), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

"(C) Determination under regulations.—The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

"(D) Issuance of stock.—For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368 (a)), a transaction to which section 371 (relating to insolvency reorganizations) applies, or a transaction subject to part VI of subchapter O (relating to exchanges in SEC obedience orders), or the respectively corresponding provisions of the Internal Revenue Code of 1939."

(36) Amendment of section 248.—Section 248(c) (relating to organizational expenditures) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(37) Amendment of section 265.—Section 265(2) (relating to tax-exempt interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(38) Amendment of section 269.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by striking out subsection (c) (relating to presumption in the case of disproportionate purchase price).

(39) Amendment of section 275.—Section 275(a) (1) (C) (relating to nondeductible taxes) is amended by striking out ", and corresponding provisions of prior revenue laws".

(40) Amendment of section 281.—

(A) Section 281(d) (1) (A) (relating to definition of terminal railroad corporation) is amended by inserting after "Interstate Commerce Act" the following: "(49 U.S.C. 1 and following)".

(B) Section 281 (relating to terminal railroad corporations and their shareholders) is amended by striking out subsection (e) (relating to taxable years ending before October 23, 1962) and by redesignating subsection (f) as subsection (e).

(41) Amendment of section 301.—Section 301 (relating to distributions of property) is amended by striking out subsection (e) (relating to certain distributions by personnel service corporations).

(42) Amendments of section 311.—

(A) Section 311(d) (1) (relating to appreciated property used to redeem stock) is amended by striking out "then again shall be recognized" and inserting in lieu thereof "then a gain shall be recognized".

(B) (i) Section 311(d) (2) (relating to exceptions and limitations) is amended by striking out subparagraph (C) (relating to certain distributions before December 1, 1974) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(ii) The amendments made by clause (i) shall apply only with respect to distributions after November 30, 1974.

(C) Section 311(d) (2) (C), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "26 Stat. 209;" and "38 Stat. 730;".

(43) Amendments of section 312.—

(A) Section 312(d) (1) (relating to certain distributions of stock and securities) is amended by striking out "this Code" and each place it appears and inserting in lieu thereof "this title".

(B) Section 312 (relating to earnings and profits) is amended by striking out subsection (h) (relating to personal service corporations) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(C) Subsection (i) of section 312 (relating to distribution of proceeds of certain loans), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(i) Distribution of Proceeds of Loan Insured by the United States.—If a corporation distributes property with respect to its stock and if, at the time of distribution—

"(1) there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and

"(2) the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan, then the earnings and profits of the corporation shall be increased by the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of paragraph (2), the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 1016(a)(2) (relating to adjustment for depreciation, etc.). For purposes of this subsection, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan."

(D) Section 312(j)(3) (relating to foreign investment companies, as redesignated by subsection (b)(32)(B)(i), is amended to read as follows:

"(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed."

(44) AMENDMENT OF SECTION 333.—Section 333(a)(1) (relating to election as to recognition of gain in certain liquidations) is amended by striking out "on or after June 22, 1954".

(45) AMENDMENT OF SECTION 334.—Section 334(b)(2)(A) (relating to liquidation of subsidiary) is amended to read as follows:

"(A) the distribution is pursuant to a plan of liquidation adopted not more than 2 years after the date of the transaction described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and".

(46) AMENDMENTS OF SECTION 337.—

(A) Section 337(a) (relating to nonrecognition of gain or loss on certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period."

(B) The first sentence of section 337(d) (relating to certain minority stockholders) is amended by striking out "on or after January 1, 1958".

(47) REPEAL OF SECTION 342.—Section 342 (relating to the liquidation of certain foreign personal holding companies) is repealed.

(48) AMENDMENTS OF SECTION 351.—

(A) Section 351(a) (relating to transfer to corporation controlled by transferor) is amended by striking out "(including, in the case of transfers made on or before June 30, 1967, an investment company)".

(B) Section 351(d) (relating to application of June 30, 1967, date) is amended to read as follows:

"(d) EXCEPTION.—This section shall not apply to a transfer of property to an investment company."

(C) The amendments made by this paragraph shall take effect with respect to transfers of property occurring after the date of the enactment of this Act.

(49) REPEAL OF SECTION 363.—Section 363 (a cross reference to other sections) is repealed.

(50) AMENDMENTS OF SECTION 371.—Section 371(a)(1) (relating to certain reorganization exchanges by corporations) is amended—

(A) by striking out "49 Stat. 922;" and

(B) by striking out "(52 Stat. 883–905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law" and inserting in lieu thereof "(11 U.S.C. 501 and following)".

(51) AMENDMENT OF SECTION 372.—Section 372(a) (relating to basis in connection with bankruptcy proceedings) is amended by striking out "54 Stat. 709;".

(52) REPEAL OF SECTION 373.—Section 373 (relating to nonrecognition of loss in certain railroad reorganizations) is repealed.

(53) AMENDMENT OF SECTION 374.—Section 374(a) (relating to nonrecognition of gain or loss in certain railroad reorganizations) is amended by striking out "49 Stat. 922;".

(54) AMENDMENT OF SECTION 381.—Section 381(c) (relating to items carried over in certain corporate acquisitions) is amended by striking out paragraph (20).

(55) REPEAL OF SECTIONS 391 THROUGH 395.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by striking out part VII (relating to effective dates of subchapter C).

(56) AMENDMENTS OF SECTION 401.—

(A) Paragraphs (12) and (13) of section 401(a) (relating to requirements of qualification) are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(B) Paragraph (15) of section 401(a) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".

(C) Paragraph (19) of section 401(a) is amended by striking out "enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(D) The last sentence of section 401(a) is amended to read as follows:

"Paragraphs (11), (12), (13), (14), (15), (19), and (20) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section."

(57) AMENDMENTS OF SECTION 402.—

(A) Section 402(a)(4) (relating to distributions made to non-resident alien individuals) is amended by striking out "basic salary" each place it appears therein and inserting in lieu thereof "basic pay", and by amending the last sentence in such paragraph to read as follows:

"In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code."

(B) Section 402 (relating to taxability of beneficiary of employees' trusts) is amended by striking out subsection (d) (relating to certain trust agreements made before October 2, 1942).

(C)(i) So much of the third sentence of section 402(e)(4)(A) (relating to definition of lump sum distributions) as precedes "a distribution of an annuity contract" is amended to read as follows:

"Except for purposes of subsection (a)(2) and section 403(a)(2),".

(ii) The amendment made by clause (i) shall apply with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.

(58) AMENDMENT OF SECTION 403.—The last two sentences of section 403(a)(4) (relating to taxation of employee annuities) are amended to read as follows: "For purposes of this title, a transfer described in subparagraph (B)(i) shall be treated as a rollover contribution described in section 408(d)(3). Subparagraph (B)(ii) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in subparagraph (A) is attributable to an annuity plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan."

(59) AMENDMENT OF SECTION 404.—Section 404 (relating to deduction for contributions to pension plans, etc.) is amended by striking out subsection (d) (relating to carryover of pre-1954 unused deductions).

(60) AMENDMENT OF SECTION 409.—Section 409(b)(3)(C) (relating to tax-free rollovers of individual retirement bonds) is amended by striking out "section 403(d)(3)." and inserting in lieu thereof "section 408(d)(3)."

(61) AMENDMENTS OF SECTION 410.—

(A) Subparagraphs (C) and (D) of section 410(a)(5) (relating to breaks in service) are each amended by striking out "purposes of subsection (a)(1)" and inserting in lieu thereof "purposes of paragraph (1)".

(B) Paragraph (1)(C) of section 410(c) (relating to application of minimum participation standards) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".

(C) Paragraph (2) of section 410(c) is amended by striking out "the day before the date of the enactment of this section" and inserting in lieu thereof "September 1, 1974".

(62) AMENDMENTS OF SECTION 411.—

(A) Subsection (a) of section 411 (relating to minimum vesting standards) is amended by striking out "subsection (a)(8)" and inserting in lieu thereof "paragraph (8)".

(B) Subsection (a)(3)(D)(iii) of section 411 is amended—

(i) by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and "the date of the enactment of such Act" and inserting in lieu thereof in both such places "September 2, 1974", and

(ii) by striking out "the date of the enactment of the Act" and inserting in lieu thereof "September 2, 1974,".

(C) The heading for subparagraph (C) of section 411(a)(7) is amended to read as follows:

"(C) REPAYMENT OF SUBPARAGRAPH (B) DISTRIBUTIONS.—

(D) Subsection (b)(1)(D)(i) and (e)(1)(C) of section 411 are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(E) Subsection (e)(2) of section 411 is amended by striking out "the date before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(63) AMENDMENTS OF SECTION 412.—

(A) Subsection (h) of section 412 (relating to minimum funding standards) is amended by striking out "the day before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(B) Subsection (h)(5) of section 412 is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(64) AMENDMENTS OF SECTION 414.—

(A) The heading for section 414(f) (relating to multiemployer plans) is amended to read as follows:

"(f) MULTIEMPLOYER PLAN.—"

(B) Section 414(l) (relating to mergers and consolidations of plans or transfers of plan assets) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(65) AMENDMENTS OF SECTION 415.—

(A) Section 415(b)(2)(A) (relating to adjustments for certain forms of benefits) is amended by striking out "and 409(b)(3)

(C)" and inserting in lieu thereof "and 409 (b) (3) (C))".

(B) Section 415(b) (2) (B) is amended by striking out "(as defined in section 401(a) (11) (H) (iii))" and inserting in lieu thereof "(as defined in section 401(a) (11) (G) (iii))".

(66) AMENDMENTS OF SECTION 453.—

(A) Section 453(c) (3) (relating to adjustment in tax for amounts previously taxed) is amended by striking out "corresponding provisions of the Internal Revenue Code of 1939" and inserting in lieu thereof "corresponding provisions of the Internal Revenue Code of 1954".

(B) Section 453(d) (4) (B) (relating to liquidations to which section 337 applies) is amended by striking out "or section 617 (d) (1)" and inserting in lieu thereof ", 617 (d) (1)".

(67) AMENDMENT OF SECTION 455.—Section 455(c) (3) (B) (relating to prepaid subscription income) is amended by striking out "for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business" and inserting in lieu thereof "for his first taxable year in which he receives prepaid subscription income in the trade or business".

(68) AMENDMENT OF SECTION 456.—Section 456(c) (3) (B) (relating to election without consent with respect to treatment of prepaid dues) is amended by striking out "for its first taxable year (i) which begins after December 31, 1960, and (ii)" and inserting in lieu thereof "for its first taxable year".

(69) AMENDMENTS OF SECTION 461.—

(A) Section 461(c) (relating to accrual of real property taxes) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 461(c) (2) (relating to elections without consent), as redesignated by subparagraph (A), is amended by striking out "his first taxable year which begins after December 31, 1953, and ends after the date of enactment of this title in which the taxpayer" and inserting in lieu thereof "his first taxable year in which he".

(70) AMENDMENTS OF SECTION 481.—

(A) Section 481(b) (relating to limitation on tax where substantial adjustments are required by a change in accounting method) is amended by striking out paragraphs (4), (5), and (6) (relating to pre-1954 adjustments).

(B) Section 481(b) (1) and (2) are each amended by striking out ", other than the amount of such adjustments to which paragraph (4) or (5) applies," each place it appears.

(71) AMENDMENTS OF SECTION 508.—

(A) Subsections (a) and (b) of section 508 (relating to special rules relating to 501(c) (3) organizations) are each amended by striking out the last sentence therein.

(B) Section 508(e) (2) (relating to special rules for existing private foundations) is amended by striking out subparagraph (A) (relating to taxable years beginning before 1972), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by striking out "(B)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "(A)".

(C) Section 508(d) (2) (A) (relating to disallowance of deductions for certain charitable gifts or bequests) is amended by striking out "(e) (2) (B) and (C)" and inserting in lieu thereof "(e) (2)".

(72) AMENDMENTS OF SECTION 514.—

(A) Section 514(c) (1) (relating to definition of acquisition indebtedness) is amended by striking out the comma at the end of subparagraph (C) and all that follows, and inserting in lieu thereof a period.

(B) Section 514 (relating to unrelated debt-financed income) is amended by striking out subsection (f) (relating to definition of business lease), by striking out subsection (g) (relating to definition of business lease indebtedness), and by redesignating subsection (h) as subsection (f).

(C) Section 514(b) (3) (C) (iii) (relating to definition of debt-financed property) is amended to read as follows:

"(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1976)."

(D) Section 514(f) (relating to personal property leased with real property), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and the term 'premises' include" and inserting in lieu thereof "includes".

(73) AMENDMENTS OF SECTION 534.—

(A) Section 534(b) (relating to mailing notices of deficiency) is amended by striking out the last sentence.

(B) Subsection (e) of section 534 (relating to effective date of section) is repealed.

(74) AMENDMENT OF SECTION 535.—Section 535(b) (1) (relating to adjustments in computing accumulated taxable income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)".

(75) AMENDMENTS OF SECTION 537.—

(A) Section 537(b) (2) (relating to definition of excess business holdings redemption needs) is amended by striking out ", with respect to taxable years of the corporation ending after May 26, 1969,".

(B) Section 537(b) (4) (relating to inferences as to prior years) is amended by striking out "or (2)".

(76) AMENDMENTS OF SECTION 542.—

(A) Section 542(a) (2) (relating to definition of personal holding company) is amended by striking out the last sentence.

(B) Section 542(b) (2) (relating to ineligible affiliated group) is amended by striking out ", other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942,".

(C) Section 542(c) (2) (relating to financial institutions) is amended by striking out "without regard to subparagraphs (D) and (E) thereof".

(D) Sections 542(c) (8) (relating to small business investment companies) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(77) AMENDMENTS OF SECTION 545.—

(A) Section 545(b) (1) (relating to deduction of taxes in computing undistributed personal holding company income) is amended—

(i) in the first sentence, by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)"; and

"(ii) by striking out the last two sentences (relating to deduction of taxes).

(B) Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (7) (relating to payment of indebtedness incurred before 1934).

(C) Section 545(c) (2) (A) (relating to corporations to which special adjustment applies) is amended by striking out "the date of enactment of this subsection" and inserting in lieu thereof "February 26, 1964".

(78) AMENDMENT OF SECTION 547.—Section 547 (relating to the deduction of deficiency dividends) is amended by striking out subsection (h) (relating to the effective date).

(79) AMENDMENT OF SECTION 551.—Section 551(c) (relating to foreign personal holding company income tax returns), as redesignated by subsection (b) (1) (F) of this section, is amended by striking out "taxable income, foreign personal holding company," and inserting in lieu thereof "taxable income, foreign personal holding company income,".

(80) AMENDMENT OF SECTION 556.—The first sentence of section 556(b) (1) (relating to deduction of taxes in computing undistributed foreign personal holding company income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 1, 1940)".

(81) AMENDMENT OF SECTION 564.—Section 564 (relating to dividend carryovers) is amended by striking out subsection (c) (relating to carryovers from pre-1954 years).

(82) REPEAL OF SECTION 583.—Section 583 (relating to deduction of dividends paid on certain preferred stock by banks or trust companies) is repealed.

(83) REPEAL OF SECTION 592.—Section 592 (relating to the deduction by mutual savings banks for repayment of certain loans) is repealed.

(84) AMENDMENTS OF SECTION 593.—

(A) Section 593(b) (2) (relating to additions to bad debt reserves for mutual savings banks, etc.) is amended by striking out, in the table in subparagraph (A), the following:

"1969	60 percent.
1970	57 percent.
1971	54 percent.
1972	51 percent.
1973	49 percent.
1974	47 percent.
1975	45 percent."

(B) Section 593(c) (relating to reserves for mutual savings banks) is amended by striking out paragraphs (2), (3), (4), and (5), by redesignating paragraph (6) as paragraph (3), and by inserting immediately after paragraph (1) the following:

"(2) CERTAIN PRE-1963 RESERVES.—Notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1976) during a taxable year beginning before January 1, 1977, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b) (1) (B), and for such purpose such amount shall be treated as remaining in such reserve."

(C) Section 593 is amended by striking out subsection (d) (relating to taxable years beginning in 1962 and ending in 1963), and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(D) Section 593(b) (2) (E) (i) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(85) REPEAL OF SECTION 601—Subchapter H of chapter 1 (relating to banking institutions) is amended by striking out part III (relating to special deduction for bank affiliates).

(86) AMENDMENTS OF SECTION 613A.—

(A) Section 613A(b) (1) (C) (relating to exemption for certain domestic gas wells) is amended by striking out "within the meaning of section 613(b) (1) (A)".

(B) Section 613A(c) (6) (i) (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out "determined with" and inserting in lieu thereof "determined without".

(87) AMENDMENTS OF SECTION 614.—

(A) (i) Section 614(c) (relating to aggregation of mineral interests in mines) is amended by striking out paragraph (4) (relating to special rules as to exploration deductions prior to aggregation).

(ii) The amendment made by clause (i) shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c)(1) of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1976.

(B) The third sentence of section 614(c)(2) (relating to election to treat a single interest as more than one property) is amended to read as follows: "A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3)."

(C) Section 614(c)(3) (relating to manner and scope of election) is amended to read as follows:

"(3) Manner and scope of election.—The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

"(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

"(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property.

An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made."

(88) Repeal of section 615.—Section 615 (relating to deduction of pre-1970 exploration expenses) is repealed.

(89) Amendment of section 617.—Section 617(a)(2)(B) (relating to time and scope of election to deduct certain mining exploration expenditures) is amended by striking out "may not be revoked after the last day of the third month following the month in which the final regulations issued under the authority of this subsection are published in the Federal Register, unless" and inserting in lieu thereof "may not be revoked unless".

(90) Repeal of section 632.—Section 632 (relating to tax in case of sale of oil and gas properties) is repealed.

(91) Amendment of section 691.—Section 691(c)(1)(B) (relating to deduction for estate tax) is amended by striking out the last sentence.

(92) Amendment of section 692.—The heading of section 692 (relating to income taxes of members of Armed Forces who die in a combat zone) is amended by striking out "ON" the first time it appears in the section heading and inserting in lieu thereof "OF".

(93) Amendment of section 751.—Section 751(c) (relating to unrealized receivables) is amended by striking out "1254(a), or 1250(a)," and inserting in lieu thereof "1245(a), 1250(a),".

(94) Repeal of section 771.—Part IV of subchapter K of chapter 1 (relating to effective date of subchapter K) is repealed.

(95) Amendments of section 802.—

(A) Section 802(a)(1) (relating to tax imposed on life insurance companies) is amended by striking out "beginning after December 31, 1957,".

(B) Section 802(a)(2) (relating to alternative tax in case of capital gains) is amended by striking out "beginning after December 31, 1961,".

(C) Section 802(a) is amended by striking out paragraph (3) (relating to special rules for 1959 and 1960).

(96) Amendments of section 804.—

(A) Section 804(a) is amended by striking out paragraph (6) (relating to certain exceptions).

(B) Section 804(b)(2) (relating to short-term capital gains) is amended by striking out "In the case of a taxable year beginning after December 31, 1958, the" and inserting in lieu thereof "The".

(97) Amendments of section 805.—

(A) Section 805(b)(3)(B) (relating to average earnings rate) is amended to read as follows:

"(B) Special rule.—For purposes of subparagraph (A), the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year."

(B) Section 805(b)(4)(B) (relating to basis of assets) is amended by striking out "(determined without regard to fair market value on December 31, 1958)".

(C) Section 805(d) (relating to pension plan reserves) is amended to read as follows:

"(d) Pension Plan Reserves.—For purposes of this part, the term 'pension plan reserves' means that portion of the life insurance reserves which is allocable to contracts—

"(1) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be (A) trusts described in section 401(a) and exempt from tax under section 501(a), or (B) trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws;

"(2) purchased under contracts entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of section 165(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of section 401(a), (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), and (20);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing; or

"(5) purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b)."

(98) Amendments of section 809.—

(A) Section 809(b) (relating to definition of gain and loss from operations) is amended by striking out paragraph (4).

(B)(i) Section 809(d) (relating to life insurance company deductions) is amended by striking out paragraph (11) (relating to mutualization distributions before 1963), and by redesignating paragraph (12) as paragraph (11).

(ii) Section 809(e) is amended by striking out "subsection (d)12" and inserting in lieu thereof "subsection (d)(11)".

(C) Section 809 (relating to computation of gain and loss from operations) is amended by striking out subsection (g) (relating to deduction for certain mutualization distributions before 1963).

(99) Amendment of section 812.—Section 812(b)(1) (relating to years to which operating losses of an insurance company may be carried) is amended to read as follows:

"(1) Years to which loss may be carried.— The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 5 taxable years following the loss year, and

"(C) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in subparagraph (B)."

(100) Amendments of section 817.—Section 817 (relating to rules applicable to certain gains and losses) is amended by striking out subsection (c) (relating to treatment of pre-1959 capital losses) and subsection (e) (relating to certain 1958 reinsurance transactions).

(101) Amendment of section 818.—Section 818 (relating to life insurance accounting provisions) is amended by striking out subsection (e) (relating to certain rules applicable to taxable years 1957, 1958, and 1959), and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(102) Amendments of section 819.—

(A) The first sentence of section 819(a)(2)(A) (relating to definition of minimum figure for foreign life insurance companies) is amended to read as follows: "The minimum figure is the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year to be determined and proclaimed by the Secretary."

(B) The second sentence of section 819(a)(2)(A) is amended by striking out "under clause (ii)" and inserting in lieu thereof "under the preceding sentence".

(C) Clause (i) of section 819(b)(2)(B) (relating to distributions pursuant to certain mutualizations) is amended to read as follows:

"(i) the minimum figure for 1958 determined under subsection (a)(2)(A) computed by using a percentage of 9 percent in lieu of the percentage determined and proclaimed by the Secretary, or".

(103) Amendment of section 820.—

(A) Section 820(c) (relating to optional treatment of certain reinsured policies) is amended by striking out paragraph (6) (relating to reimbursement for 1957 income taxes), and by redesignating paragraph (7) as paragraph (6).

(B) The last sentence of section 820(c) is amended by striking out "(5), and (6) and the rules prescribed under paragraph (7)" and inserting in lieu thereof "and (5) and the rules prescribed under paragraph (6)".

(104) Amendments of section 821.—

(A) Section 821(a) (relating to imposition of tax on certain mutual insurance companies) is amended by striking out "beginning after December 31, 1963,".

(B) Section 821(c)(1) (relating to alternative tax for certain small insurance companies) is amended by striking out "In the case of taxable years beginning after December 31, 1963, there is" and inserting in lieu thereof "There is".

(C) Section 821 (relating to tax on certain mutual insurance companies) is amended by striking out subsection (e) (relating to 1962 transitional rules) and by redesignating subsection (f) as subsection (e).

(105) Amendments of section 822.—

(A) Section 822(c)(5) (relating to deduction of interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(B) The last sentence of section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by striking out "For taxable years beginning after December 31, 1962, no accrual" and inserting in lieu thereof "No accrual".

(106) Amendments of section 825.—Section 825(g) (relating to unused loss deduction of certain insurance companies) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(107) Amendment of section 831.—Section 831(a) (relating to tax on certain insurance companies) is amended by striking out "or the taxable income" and inserting in lieu thereof "on the taxable income."

(108) Amendments of section 832.—Paragraphs (1) and (6) of section 832(b) (definitions relating to insurance company taxable income) are each amended by striking out "Convention" and inserting in lieu thereof "Association".

(109) Amendments of section 851.—

(A) Section 851 (a)(1) (relating to definition of regulated investment company) is amended by striking out "54 Stat. 789;".

(B) Section 851(b)(1) (relating to regulated investment companies) is amended by striking out "which began after December 31, 1941".

(110) Amendments of section 852.—

(A) Subparagraph (C) of section 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders) is amended by striking out the third sentence.

(B)(i) Section 852(b)(3)(D)(iii) is amended by striking out "by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a) (1)(B) or (2)" and inserting in lieu thereof "by 70 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)".

(ii) The amendment made by clause (i) shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1954 which is based upon amounts subject to tax under section 1201 of such Code in taxable years beginning before January 1, 1975.

(C) Section 852(d) is amended by inserting after "Investment Company Act of 1940" the following: "(15 U.S.C. 80a-1 and following)".

(111) Amendments of section 856.—

(A) Section 856(c)(1) (relating to real estate investment trusts) is amended by striking out "which began after December 31, 1960".

(B) Section 856(a)(6)(D) (relating to definition of other terms) is amended by inserting after "Investment Company Act of 1940, as amended" the following: "(15 U.S.C. 80a-1 and following)".

(112) Amendment of section 857.—Section 857(b)(3)(C) (relating to the taxation of capital gains in the case of real estate investment trusts) is amended by striking out the last sentence.

(113) Amendments of section 864.—

(A) Subsection (a) of section 864 (definitions relating to determinations of sources of income) is amended to read as follows:

"(a) Produced.—For purposes of this part, the term 'produced' includes created, fabricated, manufactured, extracted, processed, cured, or aged."

(B) Clauses (i) and (iii) of section 864(c)(4)(B) and subparagraph (C) of section 864(c)(5) (relating to effectively connected income) are each amended by striking out "sale" each place it appears and inserting in lieu thereof "sale or exchange".

(C) Section 864(c)(4)(B)(iii) (relating to effectively connected income) is amended by striking out "sold" and inserting in lieu thereof "sold or exchanged".

(114) Amendment of section 905.—Section 905(b) (relating to proof of foreign tax credits) is amended by striking out the last sentence (relating to the treatment of certain royalty payments).

(115) Amendment of section 911.—Section 911(c) (relating to earned income from sources without the United States) is amended by striking out paragraph (7) (relating to taxable years ending in 1963, 1964, or 1965).

(116) Amendment of section 921.—Section 921 (relating to definition of Western Hemisphere Trade Corporation) is amended by striking out the last sentence (relating to taxable years before 1954).

(117) Amendments of section 931.—Section 931 (relating to income from sources within possession) is amended by striking out subsection (h) (relating to certain persons taken as prisoners of war while working in a possession), and by redesignating subsection (i) as subsection (h).

(118) Amendment of section 934.—Section 934(b) (relating to gross income received by a corporation from the Virgin Islands) is amended by striking out the last sentence.

(119) Amendment of section 951.—Section 951(a)(1) (relating to treatment of subpart F income) is amended by striking out " beginning after December 31, 1962".

(120) Repeal of section 972.—Section 972 (relating to consolidation of export trade corporations) is repealed.

(121) Amendment of section 1001.—Section 1001(c) (relating to recognition of gain or loss) is amended to read as follows:

"(c) Recognition of gain or loss.—Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized."

(122) Amendments of section 1015.—

(A) Subparagraph (A) of section 1015(d)(1) (relating to increased basis for gift tax paid) is amended by striking out "the date of the enactment of the Technical Amendments Act of 1958" and inserting in lieu thereof "September 2, 1958".

(B) Subparagraph (B) of section 1015(d)(1) is amended by striking out "the date of the enactment of the Technical Amendments Act of 1958" and inserting in lieu thereof "September 2, 1958,".

(123) Amendment of section 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out paragraph (19).

(124) Amendment of section 1018.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is amended by striking out "54 Stat. 709;".

(125) Repeal of section 1020.—Section 1020 (relating to election in respect of depreciation allowed before 1952) is repealed.

(126) Repeal of section 1022.—

(A) Section 1022 (relating to the basis of certain foreign personal holding company stock) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(127) Amendment of section 1023.—Section 1023 (containing cross references) is amended by striking out paragraph (4).

(128) Amendments of section 1033.—

(A) Section 1033(a) (relating to involuntary conversions) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 1033(a)(2) (relating to conversion into money), as redesignated by subparagraph (A) of this paragraph and as amended by this Act, is amended—

(i) by striking out "WHERE DISPOSITION OCCURRED AFTER 1950" in the paragraph heading;

(ii) by striking out "(g)" each place it appears and inserting in lieu thereof "(h)";

(iii) by striking out "and the disposition of the converted property (as defined as paragraph (2)) occurred after December 31, 1950," in the text; and

(iv) by adding at the end thereof the following new subparagraph:

"(E) Definitions.—For purposes of this paragraph—

"(i) Control.—The term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(ii) Disposition of the converted property.—The term 'disposition of the converted property' means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation."

(C) Section 1033 (relating to involuntary conversions) is amended by striking out subsection (b) (relating to certain conversions occurring before 1954) and by redesignating subsections (c), (d), (e), (f), (g), and (h), as subsections (b), (c), (d), (e), (f), and (g), respectively.

(D) The first sentence of section 1033(b) (relating to basis of a property acquired through involuntary conversions), as redesignated by subparagraph (C) of this paragraph, is amended by striking out "or (2)" and inserting in lieu thereof "or section 112 (f)(2) of the Internal Revenue Code of 1939".

(E) Section 1033(f)(2) (relating to condemnation of real property), as redesignated by subparagraph (C) of this paragraph, is amended to read as follows:

(F) Section 1033(g)(1) (relating to condemnation of real property); as amended by this Act, is amended by striking out "(a)(3)(B)(i)" and inserting in lieu thereof "(a)(2)(B)(i)".

"(2) Limitation.—Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A)."

(129) Amendments of section 1034.—

(A) Section 1034(a) (relating to gain on sale of residence) is amended by striking out "after December 31, 1953,".

(B) Section 1034(b) (defining adjusted sales price) is amended by striking out paragraph (3) (relating to effective date of subsection (b)).

(C) Section 1034(d) (relating to certain limitations) is amended by striking out "or section 112(n) of the Internal Revenue Code of 1939".

(D) Section 1034(i) (relating to involuntary conversions) is amended to read as follows:

"(i) Special Rule for Condemnation.—In the case of the seizure, requisition, or condemnation of a residence, or the sale or exchange of a residence under threat or imminence thereof, the provisions of this section, in lieu of section 1033 (relating to involuntary conversions), shall be applicable if the taxpayer so elects. If such election is made, such seizure, requisition, or condemnation shall be treated as the sale of the residence. Such election shall be made at such time and in such manner as the Secretary shall prescribe by regulations."

(E) Section 1034(j) (relating to statute of limitations) is amended by striking out "after December 31, 1950,".

(130) AMENDMENT OF SECTION 1037.—Section 1037(b)(1) (relating to certain exchanges of United States obligations) is amended by striking out "section 1232(a)(2)(A)" and inserting in lieu thereof "section 1232(a)(2)(B)".

(131) AMENDMENT OF SECTION 1051.—Section 1051 (relating to property acquired before 1929 during affiliation) is amended by striking out the last two sentences.

(132) AMENDMENTS OF SECTION 1081.—

(A) Subsection (c) of section 1081 (relating to distributions required by the SEC) is amended to read as follows:

"(c) DISTRIBUTION OF STOCK OR SECURITIES ONLY.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property, without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized."

(B) Section 1081(f) (relating to conditions for application of section) is amended by striking out "Except in the case of a distribution described in subsection (c)(2), the provisions" and inserting in lieu thereof "The provisions", and by striking out "49 Stat. 820;".

(C) Section 1081(g) (relating to applicability of other provisions) is amended by striking out "If a distribution described in subsection (c)(2), or an" and inserting in lieu thereof "If an", and by striking out the comma after "Commission".

(133) AMENDMENTS OF SECTION 1083.—

(A) Section 1083(a) is amended by striking out "49 Stat. 820;".

(B) Section 1083(b) is amended by striking out "49 Stat. 804;".

(C) Section 1083(e)(4) is amended by striking out "49 Stat. 820;".

(134) REPEAL OF SECTION 1111.—Part IX of subchapter O of chapter 1 (relating to distributions pursuant to orders enforcing the antitrust laws) is repealed.

(135) AMENDMENTS OF SECTION 1201.—

(A) Section 1201(a) (relating to the alternative tax on capital gain) is amended to read as follows:

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821(a) or (c) and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 30 percent of the net capital gain.".

(B) Section 1201(c) (relating to computation of alternative tax) is amended to read as follows:

"(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS $50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net capital gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the sum referred to in subsection (b)(2)(A)."

(C)(i) Section 1201 is amended by striking out subsection (d) (defining subsection (d) gain) and by redesignating subsection (e) as subsection (d).

(ii) Section 1201(b)(2)(A) (relating to alternative tax on noncorporate taxpayers) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum of the long-term capital gains for the taxable year, but not to exceed $50,000 ($25,000 in the case of a married individual filing a separate return)".

(iii) Section 1201(b)(3) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum referred to in subparagraph (A)".

(136) AMENDMENTS OF SECTION 1222.—

(A) Paragraph (9) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(9) CAPITAL GAIN NET INCOME.—The term 'capital gain net income' means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges."

(B) Paragraph (11) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(11) NET CAPITAL GAIN.—The term 'net capital gain' means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.

(137) AMENDMENT OF SECTION 1233.—Section 1233(c) (relating to certain options to sell) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(138) AMENDMENT OF SECTION 1237.—Section 1237 (relating to real property subdivided for sale) is amended by striking out subsection (d) (relating to effective date).

(139) REPEAL OF SECTION 1240.—Section 1240 (relating to taxability to employee of certain termination payments) is repealed.

(140) AMENDMENT OF SECTION 1245.—Section 1245(b)(7)(B) (relating to transfers to tax-exempt organization where property will be used in unrelated business) is amended by striking out "such organization acquiring such property,".

(141) AMENDMENT OF SECTION 1246.—Section 1246(f) (relating to gain on foreign investment company stock) is amended by striking out "beginning after December 31, 1962".

(142) AMENDMENT OF SECTION 1311.—Paragraph (2)(A), (2)(B), and (3) of section 1311(b) (relating to mitigation of effect of limitations) are each amended by striking out "Tax Court of the United States" and inserting in lieu thereof "Tax Court".

(143) REPEAL OF SECTION 1315.—Section 1315 (relating to effective date of part II of subchapter Q of chapter 1) is repealed.

(144) REPEAL OF SECTION 1321.—Part III of subchapter Q of chapter 1 (relating to involuntary liquidation of LIFO inventories) is repealed.

(145) REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) Part IV of subchapter Q of chapter 1 (relating to war loss recoveries) is repealed.

(B) The repeal by subparagraph (A) shall apply with respect to war loss recoveries in taxable years beginning after December 31, 1976.

(146) AMENDMENT OF SECTION 1341.—Section 1341(b)(2) (relating to claim of right) is amended by striking out the last sentence.

(147) REPEAL OF SECTION 1342.—Section 1342 (relating to computation of tax on certain amounts recovered as a result of a patent infringement suit) is repealed.

(148) REPEAL OF SECTION 1346.—Section 1346 (relating to recovery of unconstitutional Federal taxes) is repealed.

(149) AMENDMENTS OF SECTION 1372.—

(A) Section 1372(b)(1) (relating to effect of election under subchapter S) is amended by striking out "(other than the tax imposed by section 1378)" and inserting in lieu thereof "(other than as provided by section 58(d)(2) and by section 1378)".

(B) Section 1372(c) (relating to subchapter S elections by small business corporations) is amended to read as follows:

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary shall prescribe by regulations."

(C) Section 1372 is amended by striking out subsection (g) (relating to certain elections for years beginning before 1961).

(150) AMENDMENTS OF SECTION 1374.—

(A) Section 1374(b) (relating to net operating losses of subchapter S corporations) is amended by adding at the end thereof the following new sentence: "The deduction allowed by this subsection shall, for purposes of this chapter, be considered as a deduction attributable to a trade or business carried on by the shareholder."

(B) Subsection (d) of section 1374 (relating to treatment of net operating losses of subchapter S corporations) is repealed.

(151) AMENDMENTS OF SECTION 1375.—

(A) The heading of subsection (b) of section 1375 is amended by striking out "RECEIVED CREDIT NOT ALLOWED" and inserting in lieu thereof "NOT TREATED AS SUCH FOR CERTAIN PURPOSES".

(B) Section 1375(f) (relating to elections as to certain distributions) is amended by striking out paragraph (3).

(152) AMENDMENT OF SECTION 1378.—Section 1378(b) (relating to the taxation of capital gain in the case of electing small business corporations) is amended by striking out the last sentence.

(153) AMENDMENTS OF SECTION 1388.—

(A) Section 1388(c)(2)(B)(i) (relating to patronage dividends) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(B) Section 1388(h)(2)(B)(i) (relating to per-unit retain certificates) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "November 13, 1966".

(154) AMENDMENTS OF SECTION 1401.—

(A) Section 1401(a) (relating to rate of tax on self-employment income) is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 7.0 percent of the amount of the self-employment income for such taxable year."

(B) Section 1401(b) (relating to rate of tax on self-employment income for hospital insurance) is amended by striking out paragraphs (1) and (2) and by redesignating paragraphs (3), (4), (5), and (6), as paragraphs (1), (2), (3) and (4), respectively.

(155) AMENDMENTS OF SECTION 1402.—

(A) Paragraph (1) of section 1402(b) (relating to definition of self-employment income) is amended by read as follows:

"(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus (ii) the amount of the wages paid to such individual during such taxable year; or".

(B) Section 1402 is amended by striking out subsection (g) (relating to treatment of self-employment income for years prior to 1962), and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(C) Section 1402(g)(2) (relating to self-employment income of members of certain religious faiths), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(2) TIME FOR FILING APPLICATION.—For purposes of this subsection, an application must be filed on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year for which the individual has self-employment income (determined without regard to this subsection or subsection (c) (6)), except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely."

(156) REPEAL OF SECTION 1465.—Section 1465 (relating to definition of withholding agent) is repealed.

(157) AMENDMENTS OF SECTION 1481.—

(A) Section 1481(a) (1) (A) (relating to mitigation of effect of renegotiation of Government contracts) is amended by striking out "within the meaning of the Federal renegotiation act applicable to such transaction" and inserting in lieu thereof "within the meaning of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 and following)".

(B) Section 1481(a) (1) (relating to renegotiation) is amended by striking out subparagraph (D).

(C) Subparagraphs (B) and (C) of section 1481(a) (1) are each amended by striking out "applicable Federal renegotiation act" and inserting in lieu thereof "Renegotiation Act of 1951, as amended".

(158) AMENDMENT OF SECTION 1551.—Section 1551(a) (relating to disallowance of surtax exemption) is amended by striking out "determined under subsection (d)" and inserting in lieu thereof "determined under subsection (c)".

(159) AMENDMENT OF SECTION 1552.—The first sentence of section 1552(a) (relating to earnings and profits of an affiliated group) is amended by striking out "beginning after December 31, 1953, and ending after the date of enactment of this title,".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 35 AND 242.—

(A) Section 36, as amended by this Act, is amended by striking out "sections 32 and 35" and inserting in lieu thereof "section 32".

(B) Section 41(b) (2) is amended by striking out "section 35 (relating to partially tax-exempt interest),".

(C) Section 46(a) (3) is amended by striking out subparagraph (B), by inserting "and" at the end of subparagraph (A), and by redesignating subparagraph (C) as subparagraph (B).

(D) Section 50A(a) (3) is amended by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E), as subparagraphs (B), (C), and (D), respectively.

(E) (i) The heading of paragraph (1) of section 171(a) is amended to read "(1) TAXABLE BONDS.—".

(ii) The heading of paragraph (2) of section 171(a) is amended to read "(2) TAX-EXEMPT BONDS.—".

(iii) Section 171(a) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(iv) Section 171(b) (1) (B) (ii) is amended by striking out "subsection (c) (1) (B)" and inserting in lieu thereof "subsection (a) (1)".

(v) So much of section 171(c) as precedes paragraph (2) is amended to read as follows:

"(c) ELECTION AS TO TAXABLE BONDS.—

"(1) ELIGIBILITY TO ELECT; BONDS WITH RESPECT TO WHICH ELECTION PERMITTED.—In the case of bonds the interest on which is not excludable from gross income, this section shall apply only if the taxpayer has so elected."

(F) (i) Section 551 is amended by striking out subsection (c), and by redesignating subsections (d), (e), (f), and (g), as subsections (c), (d), (e), and (f), respectively.

(ii) Section 1016(a) (13) is amended by striking out "section 551(f)" and inserting in lieu thereof "section 551(e)".

(G) Section 584(c) (2) is amended to read as follows:

"(2) DIVIDENDS RECEIVED.—The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant."

(H) (i) Section 642(a) is amended by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(ii) Section 41(d) is amended by striking out "section 642(a) (3)" and inserting in lieu thereof "section 642(a) (2)".

(iii) Section 901(g) (3), as amended by this Act, is amended by striking out "section 642(a) (2)" and inserting in lieu thereof "section 642(a) (1)".

(I) (i) Section 702(a) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(ii) Section 702(b) is amended by striking out "paragraphs (1) through (8)" and inserting in lieu thereof "paragraphs (1) through (7)".

(iii) Section 1402(a) is amended by striking out "702(a) (9)" each place it appears and inserting in lieu thereof "702(a) (8)".

(J) (i) Section 804(a) is amended by striking out paragraph (3), and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(ii) Section 243(b) (3) (C) (iii), as redesignated by paragraph (21) (A) of this subsection, is amended by striking out "section 804(a) (4)" and inserting in lieu thereof "section 804(a) (3)".

(iii) Section 804(a) (2) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraph (4)" and inserting in lieu thereof "parapragh (3)".

(iv) Section 809(d) (10) is amended by striking out "section 804(a) (4)", and inserting in lieu thereof "section 804(a) (3)".

(v) Section 1561(a) (3) is amended by striking out "section 804(a) (4)" and inserting in lieu thereof "sections 804(a) (3)".

(vi) Section 1564(a) (1) (C) is amended by striking out "sections 804(a) (4)" inserting thereof "section 804(a) (3)".

(K) Section 804(a) (2) (A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(L) (i) Section 809(d) (8) (A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(ii) Section 809(d) (8) (B) is amended by striking out "subparagraph (A) (iii)" and inserting in lieu thereof "subparagraph (A) (ii)".

(M) Sections 804(a) (1), 804(a) (2), 809 (a) (1), 809(b) (1) (A) and 809(b) (2) (A) are each amended by striking out ", partially tax-exempt interest,".

(N) Section 809(e) is amended by striking out paragraph (6), and by redesignating paragraph (7) as paragraph (6).

(O) Section 815(b) (2) (A) (iii) is amended by striking out "the deduction for partially tax-exempt interest provided by section 242 (as modified by section 804(a) (3))," and by striking out the comma after "809 (d) (8) (B))".

(P) Section 822(c) (2) is amended by striking out "partially tax-exempt interest and".

(Q) Section 822(e) (6) (A) is amended by striking out "or to the deduction provided in section 242 for partially tax-exempt interest".

(R) Section 822(c) (7) is amended by striking out "partially tax-exempt interest and to".

(S) Section 822(d) (2) is amended by striking out ", the deduction provided in subsection (c) (1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)" and inserting in lieu thereof "and the deduction provided in subsection (c) (1)".

(T) Section 832(c) (5) (A) is amended by striking out "or to the deductions provided in section 242 for partially tax-exempt interest".

(U) Section 832(c) (12) is amended by striking out "partially tax-exempt interest and to".

(V) Sections 852(b) (1) and 857(b) (1) are each amended by striking out the last sentence.

(W) Section 1244(c) (1) (E) is amended by striking out "sections 172, 242, 243" and inserting in lieu thereof "sections 172, 243".

(X) Section 1402(a) (2) is amended by striking out "(other than interest described in section 35)".

(Y) Section 1503(b) (3) is amended by striking out subparagraph (C).

(Z) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35.

(AA) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the item relating to section 242.

(2) AMENDMENT CONFORMING TO REPEAL OF SECTION 51.—The table of parts for subchapter A of chapter 1 is amended by striking out the item relating to part V.

(3) AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) Paragraphs (1) (C), (5) (A), (6) (D), and (12) of section 341(e) are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 (b)" each place it appears and inserting in lieu thereof "ordinary income".

(B) Section 483(f) (3) is amended by striking out "no part of any gain on such" and inserting in lieu thereof "all of the gain, if any, on such" and by striking out "gain from the sale or exchange of a capital asset or property described in section 1231" and inserting in lieu thereof "ordinary income".

(C) Section 707(b) (2) is amended by striking out "as gain from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income".

(D) Paragraphs (1) and (2) of section 735 (a) are each amended by striking out "gain or loss from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income or as ordinary loss, as the case may be".

(E) Section 1236(b) is amended by striking out "loss from the sale or exchange of property which is not a capital asset" and inserting in lieu thereof "an ordinary loss".

(F) Sections 1242 and 1243 are each amended by striking out "a loss from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(G) Section 1244 is amended by striking out "a loss from the sale or exchange of an asset which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(H) Section 1248(g) (3) (B), as redesignated by this Act, is amended by striking out "gain from the sale of an asset which is not a capital asset" and inserting "ordinary income".

(I) The following provisions are each amended by striking out "gain from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "ordinary income": sections 341(a), 871(a)(1)(C) (i) and (ii), 881 (a)(3) (A) and (B), 996(d) (1) and (2), 1037 (b)(1)(A), 1232(a)(2) (A) and (B), 1232(c), 1246(a), and 1385(c)(2)(C).

(J) The following provisions are each amended by striking out "gain from the sale of property which is not a capital asset" and inserting in lieu thereof "ordinary income": Sections 306(a)(1)(A), 306(a)(1)(B), and 306(f).

(K) The following provisions are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231" each place it appears and inserting in lieu thereof "ordinary income": sections 80(c)(1), 163(d) (3) and (5), 613(a), 617 (d)(1), 995(b)(1)(C), 1238, 1245(a)(1), 1249(a), 1250(f) and (g), 1251(b)(3)(B), (c)(1), and (c)(2), and 1252(a)(1).

(4) CLERICAL AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new items:

"Sec. 64. Ordinary income defined.
"Sec. 65. Ordinary loss defined."

(B) The heading for part I of subchapter B of chapter 1 is amended by striking out "AND TAXABLE INCOME" and inserting in lieu thereof ", TAXABLE INCOME, ETC."

(C) The table of parts for subchapter B of chapter 1 is amended by striking out "and taxable income." in the item relating to part I and inserting in lieu thereof "taxable income, etc."

(5) AMENDMENT CONFORMING TO REPEAL OF SECTION 76.—The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 76.

(6) Amendments conforming to amendment of section 103.—

(A) Section 6049(b)(2)(A) is amended by striking out "section 103(a) (1) or (3)" and inserting in lieu thereof "section 103(a)".

(B) Section 852(a)(1)(B), as added by this Act, is amended by striking out "section 103 (a)(1)" and inserting in lieu thereof "section 103(a)".

(7) Amendments conforming to amendment of section 143.—

(A)(i) Part V of subchapter B of chapter 1 is amended by striking out section 153 (relating to determination of marital status) and by redesignating section 154 as section 153.

(ii) The table of sections for part V of subchapter B of chapter 1 is amended by striking out the items relating to sections 153 and 154 and inserting in lieu thereof the following:

"Sec. 153. Cross references.".

(B) Section 152(a)(9) is amended by striking out "section 153" and inserting in lieu thereof "section 143".

(C) Section 153, as redesignated by subparagraph (A) of this paragraph, is amended by adding at the end thereof the following new paragraph:

"(5) For determination of marital status, see section 143."

(8) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 151.—

(A) The following provisions are each amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)": sections 117 (a)(1)(A), 117(b)(1), 117(b)(2)(A), and 117(b(2)(B), 152(d), 170(g)(1)(B) (as redesignated by subsection (a)(28)(A)(i) of this section), and 403(b)(1)(A)(ii).

(B) Section 103(c)(3)(A), as redesignated by subsection (a)(17) of this section, is amended by striking out "educational institution (within the meaning of section 151 (e)(4))" and inserting in lieu thereof "educational organization described in section 170 (b)(1)(A)(ii)".

(C) Section 163(b)(1) is amended by striking out "educational institution (as defined in section 151(e)(4)) and which is provided for a student of such institution" and inserting in lieu thereof "educational organization described in section 170(b)(1) (A)(ii) and which is provided for a student of such organization".

(D)(i) Subparagraphs (A), (B), and (C) of section 415(c)(4) are each amended by striking out "educational institution" each place it appears and inserting in lieu thereof "educational organization".

(ii) Subparagraph (D)(ii) of section 415 (c)(4) is amended to read as follows:

"(ii) For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)."

(iii) Section 415(c)(4) is amended by striking out "EDUCATIONAL INSTITUTIONS" from the paragraph heading and inserting in lieu thereof "EDUCATIONAL ORGANIZATIONS".

(E) Section 508(c)(2)(A) is amended to read as follows:

"(A) educational organizations described in section 170(b)(1)(A)(ii), and".

(F) Section 512(b)(15)(B), as redesignated by section 1951(b)(8)(A) of this Act, is amended by striking out "educational institution (as defined in section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1) (A)(ii)".

(G) Section 1303(d) is amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1) (A)(ii)".

(H) Sections 4941(d)(2)(G)(ii) and 4945 (g)(1) each are amended by striking out "educational institution described in section 151(e)(4)" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(9) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 152.—Section 2(b) (3)(B) is amended by striking out clause (ii) by adding "or" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(10) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 172.—

(A) Section 374(e)(2) is amended by striking out "section 172(j)" and inserting in lieu thereof "172(g)".

(B) Section 904(f)(2)(B)(i) and 904(f)(4) (B)(i), as amended by this Act, are each amended by striking out "section 172(k)(1)" and inserting in lieu thereof "section 172(h)".

(11) AMENDMENTS CONFORMING TO REPEAL OF SECTION 187.—

(A) Section 48(a)(8) (relating to section 38 property) is amended by striking out "187,".

(B) The table of sections for Part VI of subchapter (B) of chapter 1 is amended by striking out the item relating to section 187.

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "187,".

(D) Section 1245(a)(2) (relating to gain from dispositions of certain depreciable property) is amended by striking out "187," each place it appears.

(12) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 342.—

(A) Section 551(f), as redesignated by paragraph (1)(F) of this subsection, is amended by striking out paragraph (3).

(B) The table of subparts for part II of subchapter C of chapter 1 is amended by striking out the item relating to subpart C and inserting in lieu thereof:

"Subpart C. Collapsible corporations."

(C) The table of sections for subpart C of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 342.

(D) The heading of subpart C of part II of subchapter C of chapter 1 is amended to read as follows:

"Subpart C—Collapsible Corporations".

(13) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 363.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 363.

(14) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 373.—(A) Section 372(b)(1) is amended by striking out "373 (b) or".

(B) Section 374(b) is amended to read as follows:

"(b) BASIS.—

"(1) RAILROAD CORPORATIONS.—If the property of a railroad corporation, as defined in section 77(m) of the Bankruptcy Act (11 U.S.C. 205(m)), was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

"(A) in a receivership proceeding, or

"(B) in a proceeding under section 77 of the Bankruptcy Act,

and the acquiring corporation is a railroad corporation (as defined in section 77(m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under subsection (a)(2) to the transferor on such transfer.

"(2) PROPERTY ACQUIRED BY STREET, SUBURBAN, OR INTERURBAN ELECTRIC RAILWAY CORPORATION.—If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77 of the Bankruptcy Act (11 U.S.C. 501 and following), and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of the Bankruptcy Act (11 U.S.C. 670), the basis shall be the same as it would be in the hands of the corporation whose property was so acquired."

(C) Section 374(c)(3) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

(D) Section 1232(b)(2) is amended by striking out "section 371, 373, or 374" and inserting in lieu thereof "section 371 or 374".

(E) The table of sections for part IV of subchapter C of chapter 1 is amended by striking out the item relating to section 373.

(15) AMENDMENT CONFORMING TO REPEAL OF SECTIONS 391 THROUGH 395.—The table of parts for subchapter C of chapter 1 is amended by striking out the item relating to part VII.

(16) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 481.—Section 381 (c) is amended by striking out paragraph (21).

(17) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 545.—Section 381 (c)(15) is amended by striking out "subsections (b)(7) and (c)" and inserting in lieu thereof "subsection (c)".

(18) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 583.—The table of sections for part I of subchapter II of chapter 1 is amended by striking out the item relating to section 583.

(19) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 592.—The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 592.

(20) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 601.—

(A) Section 535(b) is amended by striking out paragraph (8).

(B) (i) Section 545(b) is amended by striking out paragraph (6), and by redesignating paragraph (8) as paragraph (6).

(ii) Section 545(b)(2) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(iii) Section 545(c)(5) is amended by striking out "subsection (b)(8)" and inserting in lieu thereof "subsection (b)(6)".

(C) The table of parts for subchapter H of chapter 1 is amended by striking out the item relating to part III.

(21) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 615.—

(A) (i) Section 243(b)(3)(C) is amended—

(I) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) $400,000 limitation for certain exploration expenditures under section 617(h)(1),", and

(II) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(ii) Section 1564(b)(2)(C) is amended by striking out "section 243(b)(3)(C)(v)" and inserting in lieu thereof "243(b)(3)(C)(iv)".

(B) Section 381(c)(10) is amended to read as follows:

"(10) TREATMENT OF CERTAIN MINING DEVELOPMENT AND EXPLORATION EXPENSES OF DISTRIBUTION OR TRANSFEROR CORPORATION.—The acquiring corporation shall be entitled to deduct, as if it were the distributor or transferor corporation, expenses deferred under section 616 (relating to certain development expenditures) if the distributor or transferor corporation has so elected. For the purpose of applying the limitation provided in section 617(h), if, for any taxable year, the distributor or transferor corporation was allowed a deduction under section 617(a), the acquiring corporation shall be deemed to have been allowed such deduction."

(C) Section 617(h)(1) is amended by striking out "and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b)" and inserting in lieu thereof "and subsection (a) of section 615 (as in effect before the enactment of the Tax Reform Act of 1976)".

(D) Section 617(h)(3) is amended to read as follows:

"(3) APPLICATION OF PARAGRAPH (2)(B).—Paragraph (2)(B) shall apply with respect to all amounts deducted before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2)(B) shall apply only if—

"(A) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer; or

"(B) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 374(b)(1), 1051, or 1082 apply to such transfer."

(E) Section 617 is amended by adding at the end thereof the following new subsection:

"(i) CERTAIN PRE-1970 EXPLORATION EXPENDITURES.—If—

"(1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor,

"(2) an election made by the transferor under subsection (e) of section 615(e) (as in effect before the enactment of the Tax Reform Act of 1976) applied with respect to expenditures which were made by him and which are properly chargeable to such property, and

"(3) the taxpayer has made or makes an election under subsection (a),

then in the application of this section with respect to the transferee, the amounts allowed as deductions under such section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, shall be treated as expenditures allowed as deductions under subsection (a) to the transferor."

(F) Section 703(b) is amended by striking out "under section 615 (relating to pre-1970 exploration expenditures),".

(G) Section 1016(a) is amended by striking out paragraph (10).

(H) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 615.

(22) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 632.—

(A) The table of sections for part III of subchapter I of chapter 1 is amended by striking out the item relating to section 632.

(B) Section 5(b) is amended by striking out paragraph (1).

(23) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 771.—The table of parts for subchapter K of chapter 1 is amended by striking out the item relating to part IV.

(24) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 802.—Section 815(c)(3)(B) is amended by striking out "(determined without regard to section 802(a)(3))".

(25) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 812.—Section 844(b)(2) is amended by striking out "section 812(b)(1)(A)(iii)" and inserting in lieu thereof "section 812(b)(1)(C)".

(26) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 864.—

(A) Paragraphs (5) and (6) of section 861(a) (relating to items treated as income from within United States) are each amended by striking out in the heading "SALE" and inserting in lieu thereof "SALE OR EXCHANGE", and by striking out "sale" in the text and inserting in lieu thereof "sale or exchange".

(B) Section 861(e)(1) (relating to income from certain aircraft and vessels) is amended by striking out "sale or other disposition" and inserting in lieu thereof "sale, exchange, or other disposition".

(C) Paragraphs (5) and (6) of section 862(a) (relating to items treated as income from without the United States) and paragraphs (2) and (3) of section 863(b) (relating to sources of income) are each amended by striking out "sale" and inserting in lieu thereof "sale or exchange".

(D) Paragraph (2) of section 863(b) (relating to sources of income) is amended by striking out "sold" each place it appears and inserting in lieu thereof "sold or exchanged".

(27) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 972.—

(A) Section 970(b)(1) (relating to inclusion of certain previously excluded amounts of subpart F income) is amended by striking out "application of section 972" and inserting in lieu thereof "treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of 1966) of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation".

(B) The table of sections for subpart G of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 972.

(28) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 1001.—

(A) Subsection (c) of section 331 is amended to read as follows:

"(c) CROSS REFERENCE.—

"For general rule for determination of the amount of gain or loss recognized, see section 1001."

(B) (i) Section 1002 (relating to recognition of gain or loss) is repealed.

(ii) The table of sections for part I of subchapter O of chapter 1 is amended by striking out the item relating to section 1002.

(29) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1020.—

(A) The third sentence of subsection (a) of section 1016 is amended by striking out "under section 1020" and inserting in lieu thereof "under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1976)".

(B) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1020.

(30) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1022.—

(A) Section 1016(a) is amended—

(i) by striking out paragraph (21), and

(ii) by redesignating paragraphs (20) and (22) as paragraphs (19) and (20), respectively.

(B) The amendment made by subparagraph (A)(i) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act

(C) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1022.

(31) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 1033.—

(A) Section 1250(d)(4)(B) is amended by striking out "1033(a)(3)(A)" and inserting in lieu thereof "1033(a)(2)(A)".

(B) Section 1250(d)(4) (C) and (D) are each amended by striking out "1033(a)(3)" and inserting in lieu thereof "1033(a)(2)".

(C) Section 6212(c)(2)(B) is amended by striking out "1033(a)(3) (C) and (D)" and inserting in lieu thereof "1033(a)(2) (C) and (D)".

(D) Section 6504(4) is amended by striking out "1033(a)(3) (C) and (D)" and inserting in lieu thereof "1033(a)(2) (C) and (D)".

(E) Sections 1071(b) and 1250(d)(4)(D) are each amended by striking out "1033(c)" and inserting in lieu thereof "1033(b)".

(32) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1111.—

(A) Section 301 is amended by striking out subsection (f), and by redesignating subsection (g) as subsection (e).

(B) (i) Section 312 is amended by striking out subsection (k), and by redesignating subsections (l) and (m) as subsections (j) and (k), respectively.

(ii) Section 1246(g) is amended by striking out "312(l)" and inserting in lieu thereof "312(j)".

(iii) Sections 964(a) and 1248(c)(1) are each amended by striking out "312(m)(3)" and inserting in lieu thereof "312(k)(3)."

(iv) Subsection (d) of section 1377, as added by this Act, is amended by striking out "312(m)" and inserting in lieu thereof "312(k)".

(C) Section 535(b) is amended by striking out paragraphs (9) and (10).

(D) Section 543(a)(1) is amended by inserting "and" at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177)."

(E) Section 545(b) is amended by striking out paragraphs (10) and (11).

(F) Section 553(a)(1) is amended to read as follows:

"(1) DIVIDENDS, ETC.—Dividends, interest, royalties, and annuities."

(G) Section 556(b) is amended by striking out paragraphs (7) and (8).

(II) Section 561(b) is amended to read as follows:

"(b) SPECIAL RULES APPLICABLE.—In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable."

(I) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part IX.

(33) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 1222.—

(A) Section 57(a)(9(A) is amended by striking out "the amount by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "the net capital gain".

(B) So much of the first sentence of section 57(a)(9)(B) as precedes "by a fraction" is amended to read as follows: "In the case of a corporation having a net capital gain for the taxable year, an amount equal to the product obtained by multiplying the net capital gain".

(C) Section 527(b)(2) is amended by striking out "net section 1201 gain" and inserting in lieu thereof "net capital gain".

(D) Sections 527(b)(6) and 545(b)(5) are each amended—

(1) by striking out from the paragraph heading "LONG-TERM" and inserting in lieu thereof "NET",

(2) by striking out from the text "the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year" each place it appears and inserting in lieu thereof "the net capital gain for the taxable year", and

(3) by striking out from the text "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(E) Section 802(a)(2) is amended—

(i) by striking out "the net long-term capital gain of any life insurance company exceeds the net short-term capital loss" and inserting in lieu thereof "any life insurance company has a net capital gain", and

(ii) by striking out "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(F) Section 804(a)(2) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(G) Sections 809(b)(1)(B) and 809(b)(2)(B) are each amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(H) Section 815(b)(2)(A)(ii) is amended by strikiing out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(I) Section 852(b)(2)(A) is amended by striking out "the excess, if any, of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount of the net capital gain, if any".

(J)(i) Section 852(b)(3)(A) is amended to read as follows:

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only."

(ii) The second sentence of section 852(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(K) The second sentence of section 857(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(L) Section 1201(b) is amended by striking out "net section 1201 gain" each place it appears and inserting in lieu thereof "net capital gain".

(M) the first sentence of section 1202 is amended to read as follows: "If for any taxable year, a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income."

(N) Sections 381(c)(3)(B), 381(c)(3)(C), 852(d), 4940(c)(1), and 4940(c)(4) are each amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(O) Section 1212(a)(1) is amended by striking out "net capital gain" each place it appears and inserting in lieu thereof "capital gain net income", and by striking out "net capital gains" and inserting in lieu thereof "capital gain net income".

(P) Section 1247(a)(1)(B) is amended by striking out "the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount (determined as if such corporation were a domestic corporation) of the net capital gain".

(Q)(i) Section 1375(a)(1) is amended by striking out "the excess of the corporation's net long-term capital gain over its short-term capital loss" and inserting in lieu thereof "the corporation's net capital gain".

(ii) The second sentence of section 1375(a)(1) is amended by striking out "such excess" and inserting in lieu thereof "such net capital gain".

(iii) Section 1375(a)(3) is amended by striking out "the excess of an electing small business corporation's net long-term capital gain over its net short-term capital loss" and inserting in lieu thereof "an electing small business corporation's net capital gain".

(R) The following provisions are each amended by striking out "the excess of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the net capital gain": Sections 1247(a)(2)(A)(i), 1247(a)(2)(C), 1247(d) (1) and (2), 1378(a)(1), 1378(b)(1), and 1378(c)(3).

(34) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1240.—The table of sections of part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1240.

(35) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1315.—The table of sections for part II of subchapter Q of chapter 1 is amended by striking out the item relating to section 1315.

(36) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1321.—

(A) Section 472 is amended by striking out subsection (f).

(B) Section 6422, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3) through (13) as paragraphs (2) through (12), respectively.

(C) Section 6504 is amended by striking out paragraph (1).

(D) Section 6515 is amended by striking out paragraph (1).

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part III.

(37) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) The third sentence of section 901(a) is amended by striking out "under section 1333 (relating to war loss recoveries) or".

(B) Section 936(a)(2), as added by this Act, is amended—

(i) by inserting "or" at the end of subparagraph (C), and

(ii) by striking out subparagraph (D).

(C) Section 6212(c)(2) is amended by striking out subparagraph (D).

(D) Section 6515 is amended by striking out paragraph (6).

(E) Section 6515, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (1), (2), (3), (4), (5), and (6) respectively.

(F) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part IV.

(38) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1342.—The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.

(39) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1342.—The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.

(39) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1346.—

(A) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1346.

(B) Section 6504 is amended by striking out paragraph (7).

(40) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 1372.—Section 58(d)(2) is amended by striking out ", notwithstanding the provisions of section 1371(b)(1),".

(41) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1465.—The table of sections for subchapter C of chapter 3 is amended by striking out the item relating to section 1465.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 37(f) is amended by striking out "a Territory,".

(2) Sections 105(e)(2), 273, and 454(b)(2) are each amended by striking out ", a Territory,".

(3) Section 117(b)(2)(A)(iv) is amended by striking out "a territory,".

(4) Section 162(a) is amended by striking out "territory".

(5) Section 581 is amended by striking out ", of any State, or of any Territory" and inserting in lieu thereof "or of any State", and by striking out ", Territorial,".

(6) Section 801(b)(3) is amended by striking out "or Territorial".

(7) Section 861(a)(1) is amended by striking out ", any Territory, any political subdivision of a Territory,".

(8) Paragraphs (6) and (7) of section 1014(b) are each amended by striking out "Territory,".

(9) Section 1221(5) is amended by striking out "or Territory,".

(d) EFFECTIVE DATE.—Except as otherwise expressly provided in this section, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

SEC. 1902. AMENDMENTS OF SUBTITLE B; ESTATE AND GIFT TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 2012.—

(A) Section 2012(b) (relating to credit for gift tax) is amended—

(i) by striking out "(b) In applying," and inserting in lieu thereof "(b) VALUATION REDUCTIONS.—In applying,", and

(ii) by striking out in paragraphs (2)

and (3) "deduction)—then" and inserting in lieu thereof "deduction), then".

(B) Section 2012(c) (relating to gift by spouse or third party) is amended by striking out "(c) Where the decedent" and inserting in lieu thereof "(c) Where Gift Considered Made One-Half by Spouse.—Where the decedent".

(C) Section 2012(d)(1) (relating to computation of amount of gift tax) is amended by striking out "(d)(1) For purposes of" and inserting in lieu thereof the following:

"(d) Computation of Amount of Gift Tax Paid.—

"(1) Amount of tax.—For purposes of".

(D) Section 2012(d)(2) (relating to credit for gift tax) is amended by striking out "(2) For purposes" and inserting in lieu thereof: "(2) Amount of gift.—For purposes".

(2) Amendments of section 2013.—Section 2013(d)(3) is amended by striking out ", or the corresponding provision of prior law,".

(3) Amendment of section 2038.—Section 2038 (relating to revocable transfers) is amended by striking out subsection (c) (relating to effect of disability in certain cases).

(4) Amendments of section 2055.—

(A) Section 2055(b) (relating to powers of appointment) is amended to read as follows:

"(b) Powers of Appointment.—Property includible in the decedent's gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent."

(B) Section 2055(f) (relating to cross references) is amended to read as follows:

"(f) Cross References.—

"(1) For option as to time for valuation for purpose of deduction under this section, see section 2032.

"(2) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

"(3) for treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

"(4) For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

"(5) For treatment of gifts, devices, or bequests accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts, devices, or bequests to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(6) For treatment of gifts or bequests of money accepted by the Attorney General for credit to 'Commissary Funds, Federal Prisons,' as gifts or bequests to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s–4).

"(7) For payment of tax on gifts and bequests of United States obligations to the United States, see section 24 of the Second Liberty Bond Act (31 U.S.C. 757e).

"(8) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

"(9) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

"(10) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code."

(5) Amendments of section 2106.—

(A) Section 2106(a)(2)(F) (relating to cross references concerning the charitable deduction for estate tax purposes) is amended to read as follows:

"(F) Cross References.—

"(1) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(2) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f)."

(B) Section 2106 (relating to taxable estate of nonresidents) is amended by striking out subsection (c) (relating to treatment of United States bonds),

(6) Amendment of sections 2107 and 2108.—Section 2107(a) (relating to estate tax on expatriates) and section 2108(a) (relating to application of pre-1967 estate tax provisions) are each amended by striking out "the date of enactment of this section" and inserting in lieu thereof "November 13, 1966".

(7) Amendment relating to section 2201.—

(A) Section 6(b)(1) of the Act of January 2, 1975 (Public Law 93–597; 88 Stat. 1950) is amended by striking out "Section 2210" and inserting in lieu thereof "Section 2201".

(B) The amendment made by subsection (A) is effective July 1, 1973.

(8) Repeal of section 2202.—Section 2202 (relating to missionaries in foreign service) is repealed.

(9) Amendment of section 2204.—The last sentence of section 2204(b) (relating to the discharge from personal liability of a fiduciary other than the executor) is amended by striking out "has not been" and inserting in lieu thereof "has been".

(10) Amendment of section 2501.—Section 2501(a)(1) relating to imposition of gift tax) is amended to read as follows:

"(1) General rule.—A tax computed as provided in section 2502, is hereby imposed for each calendar quarter on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(11) Amendment of section 2522.—Subsection (d) of section 2522 (relating to cross references) is amended to read as follows:

"(d) Cross Reference.—

"For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f)."

(12) Amendments to sections referring to territories.—

(A) The following provisions are each amended by striking out "Territory,": sections 2055(a)(1), 2056(c)(2)(B), and 2106 (a)(2)(A)(i).

(B) The following provisions are each amended by striking out "or Territory": sections 2011(a), 2011(e), and 2053(d).

(C) Section 2016 is amended by striking out "Territory or".

(D) Sections 2522(a)(1) and 2522(b)(1) are each amended by striking out "Territory,".

(E) Section 2523(f)(1) is amended by striking out "Territory, or".

(b) Conforming and Clerical Amendments.—

(1) Amendment conforming to repeal of section 2202.—The table of sections for subchapter C of chapter 11 is amended by striking out the items relating to section 2202.

(2) Amendments conforming to amendment of section 2055.—

(A) Section 6503, as amended by this Act, is amended by striking out subsection (e), and by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(B) Section 6167(h)(2) is amended by striking out "section 6503(f)" and inserting in lieu thereof "section 6503(e)".

(c) Effective Dates.—

(1) Estate tax amendments.—The amendments made by paragraphs (1) through (10), and paragraphs (14) (A), (B), and (C), of subsection (a), and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (11) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

(2) Gift tax amendments.—The amendments made by paragraphs (12), (13), and (14) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976.

Sec. 1903. Amendments of Subtitle C; Employment Taxes.

(a) In General.—

(1) Amendments of section 3101 and 3111.—

(A) Section 3101(a) (relating to rate of tax on employees for old-age, survivors, and disability insurance) and section 3111(a) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1), (2), (3), and (4), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(B) Section 3102(b) (relating to rate of tax on employees for hospital insurance) and section 3111(b) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1) and (2), and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

(2) Repeal of section 3113.—Section 3113 (relating to application of social security tax on District of Columbia credit unions) is repealed.

(3) Amendments of section 3121.—

(A) Section 3121(b) (relating to employment) is amended—

(i) by striking out "performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954" and inserting in lieu thereof ", of whatever nature, performed", and

(ii) by striking out ", in the case of service performed after 1954,".

(B) Section 3121(b)(1) is amended by striking out "65 Stat. 119;".

(C) Section 3121(b)(6)(B)(v) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 3121(g)(3) (relating to agricultural labor) is amended by striking out "46 Stat. 1550, § 3;".

(E) Section 3121(k)(1) (relating to exemption of certain organizations) is amended by striking out subparagraphs (F) and (H) and by redesignating subparagraph (G) as subparagraph (F).

(F) Section 3121(l)(2) (relating to employees of foreign subsidiaries) is amended by striking out ", but in no case prior to January 1, 1955".

(G) Section 3121(m)(1) (relating to service in the uniformed services) is amended by striking out "after December 1956".

(4) Amendments of section 3122.—The last sentence of section 3122 (relating to Federal service) is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of Transportation".

(5) Amendment of section 3125.—Section 3125(c) (relating to returns in the case of Governmental employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia or such agents as they may designate" and by inserting in lieu thereof "Mayor of the Dis-

trict of Columbia or such agents as he may designate".

(6) Amendment of section 3201.—Section 3201 (relating to rate of tax on railroad employees) is amended—

(A) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(B) by striking out "of such Code";

(C) by striking out "after September 30, 1973, as is" and inserting in lieu thereof "as is"; and

(D) by striking out "any month after September 30, 1973" and inserting in lieu thereof "any month".

(7) Amendments of section 3202.—

(A) The second sentence of section 3202(a) (relating to reduction of tax by railroad employer) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973 and the aggregate" and inserting in lieu thereof "and the aggregate";

(iii) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(iv) by inserting a comma immediately after "for any month" each place it appears.

(B) Section 3202(b) (relating to indemnification of employer) is amended by striking out "made".

(8) Amendments of section 3211.—Section 3211(a) (relating to rate of tax on railroad employee representatives) is amended—

(A) by striking out "3111(a), 3111(b)" and inserting in lieu thereof "3111(a), and 3111(b)";

(B) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(C) by striking out "rendered by him after September 30, 1973," and inserting in lieu thereof "rendered by him"; and

(D) by striking out "after September 30, 1973".

(9) Amendments of section 3221.—

(A) The first sentence of section 3221(a) (relating to rate of tax on railroad employers) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973; except that" and inserting in lieu thereof ", except that";

(iii) by striking out "after September 30, 1973 of the aggregate" and inserting in lieu thereof "of the aggregate";

(iv) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(v) by inserting a comma before "the tax imposed".

(B) Section 3221(b) (relating to rate of tax on railroad employers) is amended to read as follows:

"(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b)."

(C) Section 3221(c) (relating to additional railroad retirement tax) is amended—

(i) by striking out "(1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970," and

(ii) by striking out "commencing with the quarter beginning April 1, 1970".

(10) Amendments of section 3231.—

(A) Section 3231(a) (defining employer) is amended by striking out "44 Stat. 577;".

(B) Section 3231(b) (defining employee) is amended by striking out "50 Stat. 312;".

(C) Section 3231(c) (defining employee representative) is amended by striking out "44 Stat. 577;".

(D) Section 3231(d)(7) (defining service) is amended by striking out "50 Stat. 308;".

(11) Amendments of section 3301.—Section 3301 (relating to Federal unemployment tax rate) is amended—

(A) by striking out "the calendar year 1970 and each calendar year thereafter" and inserting in lieu thereof "each calendar year", and

(B) by striking out the last sentence.

(12) Amendments of section 3302.—

(A) Section 3302(a) (relating to credits against tax) is amended by striking out "(10-month period in the case of October 31, 1972)".

(B) Section 3302(b) (relating to additional credit) is amended—

(i) by striking out "(10-month period in the case of October 31, 1972)", and

(ii) by striking out "12 or 10-month period, as the case may be," and inserting in lieu thereof "12-month period".

(C)(i) Section 3302(c) (relating to limitation on credits against unemployment tax) is amended by striking out paragraph (2) and the unnumbered paragraph immediately following such paragraph (2) (relating to advances made to a State unemployment account before September 13, 1960), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(ii) Section 3302(c)(2) (relating to advances made to a State unemployment account after September 12, 1960), as redesignated by clause (i) of this subparagraph, is amended by striking out "on or after the date of the enactment of the Employment Security Act of 1960", and by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(iii) Section 3302(c)(3) (relating to reductions with respect to certain agreements under the Trade Act of 1974), as redesignated by clause (i) of this subparagraph, is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (2)".

(iv) Section 3302(d)(3) (relating to effect of repayment of advances) is amended by striking out "or (3)".

(v) Section 3302(d) (4), (5), and (6) (relating to special rules) are each amended by striking out "subsection (c)(3)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(vi) Section 3302(d)(7) (relating to determination and certification of percentages) is amended by striking out "subsection (c)(3)(B) or (C)" and inserting in lieu thereof "subsection (c)(2)(B) or (C)".

(D) Section 3302(d) (relating to special rules for credits against the unemployment tax) is amended by striking out paragraph (8) (a cross reference).

(13) Amendments to section 3303.—Section 3303(b) (relating to certification with respect to additional credit allowance) is amended—

(A) by striking out "(10-month period in the case of October 31, 1972)" each place it appears,

(B) by striking out "12 or 10-month period, as the case may be," each place it appears in paragraphs (1), and (2), and inserting in lieu thereof "12-month period", and

(C) by striking out "12 or 10-month period, as the case may be," in paragraph (3) and inserting in lieu thereof "12-month period,".

(14) Amendments of section 3304.—

(A) Section 3304(a)(3) (relating to requirements) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".

(B) Section 3304(c) (relating to certification) is amended by striking out "(10-month period in the case of October 31, 1972)".

(15) Amendments of section 3305.—

(A) Section 3305(g) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(B) Section 3305(h) (relating to certain contributions to States) is amended by striking out "on or after July 1, 1953, and".

(C) Section 3305(j) (relating to denial of credits in certain cases) is amended by striking out "after December 31, 1971,".

(16) Amendments of section 3306.—

(A) Section 3306(c)(9) (relating to the exclusion of service performed by certain employees and employee representatives from the definition of employment) is amended by striking out "52 Stat. 1094, 1095;".

(B) Section 3306(c)(18) (relating to the exclusion of certain service performed by nonresident aliens from the definition of employment) is amended by inserting after the "Immigration and Nationality Act, as amended" the following: "(8 U.S.C. 1101(a) (15) (F) or (J))".

(C) Section 3306(f) (relating to the definition of an unemployment fund) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".

(D) Section 3306(n) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(17) Amendment of section 3402.—Section 3402(i)(3)(B) (relating to marital status) is amended by striking out "section 2(b)" and inserting in lieu thereof "section 2(a)".

(b) Amendment Conforming to the Repeal of Section 3113.—The table of sections for subchapter B of chapter 21 is amended by striking out the item relating to section 3113.

(c) Amendments to Provisions Referring to Territories.—Sections 3401(c) and 3404 are each amended by striking out "Territory," each place it appears.

(d) Effective Dates.—The amendments made by this section shall apply with respect to wages paid after December 31, 1976, except that the amendments made to chapter 22 of the Internal Revenue Code of 1954 shall apply with respect to compensation paid for services rendered after December 31, 1976.

Sec. 1904. Amendments of Subtitle D; Miscellaneous Excise Taxes

(a) In General.—

(1) Amendments of chapter 31.—

(A) So much of chapter 31 (relating to retailers excise taxes) as precedes section 4041 is amended to read as follows:

"CHAPTER 31—SPECIAL FUELS

"Sec. 4041. Imposition of tax."

(B) Section 4041(g) (relating to exemptions from fuel taxes) is amended to read as follows:

"(g) Other Exemptions.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

"(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

"(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

"(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

"(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(C) Section 4041 (relating to tax on fuels) is amended by adding at the end thereof the following new subsection:

"(i) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(D) Chapter 31 is amended by striking out section 4042 (a cross reference) and subchapter F (special provisions applicable to retailers taxes).

(2) AMENDMENTS OF SECTION 4216.—

(A) Section 4216 (relating to definition of price) is amended by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Paragraphs (3), (4), and (5) of section 4216(b) (relating to constructive sales price) are each amended by striking out "subsections (a) and (f)" each place it appears and inserting in lieu thereof "subsections (a) and (e)".

(3) AMENDMENT OF SECTION 4217.—Section 4217(d) (relating to lease treated as sale) is amended by striking out paragraph (4) (relating to certain 1958 transitional rules).

(4) REPEAL OF SECTION 4226.—Section 4226 (relating to floor-stock taxes imposed before 1967) is repealed.

(5) AMENDMENT OF SECTION 4227.—Section 4227 (relating to cross references) is amended to read as follows:

"SEC. 4227. CROSS REFERENCE

"For credit for taxes on tires and inner tubes, see section 6416(c)."

(6) AMENDMENT OF SECTION 4253.—Section 4253 (relating to exemptions from the tax on communications services) is amended by adding at the end thereof the following new subsections:

"(i) STATE AND LOCAL GOVERNMENT EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

"(j) EXEMPTION FOR NONPROFIT EDUCATIONAL ORGANIZATIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(7) AMENDMENTS OF SECTION 4261.—

(A) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "which begins after June 30, 1970,".

(B) Section 4261(c) is amended by striking out "and begins after June 30, 1970".

(8) AMENDMENT OF SECTION 4271.—Section 4271(a) (relating to tax on transportation of property by air) is amended by striking out "which begins after June 30, 1970,".

(9) REPEAL OF SECTION 4292.—Section 4292 (relating to State and local governmental exemption from the tax on communications services) is repealed.

(10) REPEAL OF SECTION 4294.—Section 4294 (relating to exemption of nonprofit educational organizations from the tax on communications services) is repealed.

(11) REPEAL OF SECTION 4295.—Section 4295 (a cross reference) is repealed.

(12) AMENDMENT OF CHAPTER 34.—Chapter 34 (relating to documentary stamp taxes) is amended to read as follows:

"CHAPTER 34—POLICIES ISSUED BY FOREIGN INSURERS

"Sec. 4371. Imposition of tax.
"Sec. 4372. Definitions.
"Sec. 4373. Exemptions.
"Sec. 4374. Liability for tax.

"SEC. 4371. IMPOSITION OF TAX.

"There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

"(1) CASUALTY INSURANCE AND INDEMNITY BONDS.—4 cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

"(2) LIFE INSURANCE, SICKNESS AND ACCIDENT POLICIES, AND ANNUITY CONTRACTS.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819; and

"(3) REINSURANCE.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

"SEC. 4372. DEFINITIONS.

"(a) FOREIGN INSURER OR REINSURER.—For purposes of section 4371, the term 'foreign insurer or reinsurer' means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond. The term does not include a foreign government, or municipal or other corporation exercising the taxing power.

"(b) POLICY OF CASUALTY INSURANCE.—For purposes of section 4371(1), the term 'policy of casualty insurance' means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.

"(c) INDEMNITY BOND.—For purposes of this chapter, the term 'indemnity bond' means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

"(d) INSURED.—For purposes of section 4371(1), the term 'insured' means—

"(1) a domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

"(2) a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liability within the United States.

"(e) POLICY OF LIFE, SICKNESS, OR ACCIDENT INSURANCE, OR ANNUITY CONTRACT.—For purposes of section 4371(2), the term 'policy of life, sickness, or accident insurance, or annuity contract' means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

"(f) POLICY OF REINSURANCE.—For purposes of section 4371(3), the term 'policy of reinsurance' means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

"SEC. 4373. EXEMPTIONS.

"The tax imposed by section 4371 shall not apply to—

"(1) DOMESTIC AGENT.—Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, or in the District of Columbia, within which such insurer is authorized to do business; or

"(2) INDEMNITY BOND.—Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war saving certificate, warrant, or check, issued by the United States.

"SEC. 4374. LIABILITY FOR TAX.

"The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax."

(13) AMENDMENTS OF SECTION 4493.—

(A) Section 4493(b)(1) (relating to certain persons engaged in foreign air commerce) is amended by striking out "beginning on or after July 1, 1970".

(B) Section 4493(b)(2) is amended by striking out the last sentence.

(14) AMENDMENT OF CHAPTER 37.—So much of chapter 37 as precedes section 4501 (relating to tax on sugar) is amended to read as follows:

"CHAPTER 37—SUGAR

"Sec. 4501. Imposition of tax.
"Sec. 4502. Definitions.
"Sec. 4503. Exemptions for sugar manufactured for home consumption."

(15) REPEAL OF SECTIONS 4591 THROUGH 4597.—Chapter 38 (relating to import taxes on oleomargarine) is repealed.

(16) REPEAL OF SECTIONS 4801 THROUGH 4806.—Subchapter B of chapter 39 (relating to tax on white phosphorus matches) is repealed.

(17) REPEAL OF SECTIONS 4811 THROUGH 4826.—Subchapter C of chapter 39 (relating to tax on adulterated butter) is repealed.

(18) REPEAL OF SECTIONS 4881 THROUGH 4886.—Subchapter E of chapter 39 (relating to tax on circulation other than of national banks) is repealed.

(19) AMENDMENT OF SECTION 4901.—Section 4901 (relating to payment of occupational taxes) is amended by striking out subsection (c).

(20) AMENDMENT OF SECTION 4905.—Section 4905(a) (relating to liability for occupational taxes in case of death or change of

location) is amended by striking out "wife" and inserting in lieu thereof "spouse".

(21) REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A) Chapter 41 (relating to interest equalization tax) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974.

(22) AMENDMENTS OF SECTION 4973.—

(A) So much of section 4973(a) (relating to tax on excess contributions) as follows "of any individual," in paragraph (3) thereof is amended to read as follows:

"there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts, annuities, or bonds (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the account, annuity, or bond (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax imposed by this subsection shall be paid by such individual."

(B) Section 4973(c) is amended by striking "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF CHAPTER 31.—

(A) Section 6416(a)(1) is amended by striking out "(retailers taxes)" and inserting in lieu thereof "(special fuels)".

(B) Section 6416(e) is amended by striking out "subchapter E of".

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 4216.—Section 6416(b)(1) is amended by striking out "section 4216(f) (2) and (3)" and inserting in lieu thereof "section 4216(e) (2) and (3)".

(3) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 4226.—The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4226.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTIONS 4292, 4294, AND 4295.—The table of sections for subchapter E of chapter 33 is amended by striking out the items relating to sections 4292, 4294, and 4295.

(5) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 34.—

(A) Section 7270 is amended by striking out "the affixing of stamps on insurance policies, etc." and inserting in lieu thereof "liability for tax on policies issued by foreign insurers".

(B) Section 6808 is amended by striking out paragraph (4).

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 37.—

(A) Section 7240 is amended by striking out "subchapter A of".

(B) Section 7655(a) is amended—

(i) by striking out "Subchapter A of chapter 37" in paragraph (5) and inserting in lieu thereof "Chapter 37", and

(ii) by redesignating paragraph (5) as paragraph (3).

(7) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4591 THROUGH 4597.—

(A) Section 6808 is amended by striking out paragraph (7).

(B)(i) Section 7234 (relating to violations of laws concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7234.

(C)(i) Section 7265 (relating to other offenses concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7265.

(D) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (1).

(E) The table of chapters for subtitle D is amended by striking out the item relating to chapter 38.

(8) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4801 THROUGH 4806.—

(A) section 4905(b) is amended to read as follows:

"(b) REGISTRATION.—

"For registration in case of wagering, see section 4412."

(B) Section 6808 is amended by striking out paragraph (12).

(C) Section 7012 is amended by striking out subsection (e).

(D)(i) Section 7239 (relating to violations of laws concerning white phosphorus matches) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7239.

(E)(i) Sections 7267 and 7274 (relating to offenses and penalties concerning white phosphorus matches) are each repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the items relating to sections 7267 and 7274.

(F) Section 7272(b) is amended by striking out "4804(d),".

(G) Section 7303 is amended by striking out paragraph (6).

(H)(i) Part II of subchapter C of chapter 75 (relating to provisions common to forfeitures) is amended by striking out section 7328 (relating to confiscation of white phosphorus matches), and by redesignating section 7329 (relating to cross references) as section 7328.

(ii) The table of sections for part II of subchapter (C) of chapter 75 is amended by striking out the last two items and inserting in lieu thereof the following:

"Sec. 7328. Cross references."

(9) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4811 THROUGH 4826.—

(A) Section 6808 (relating to cross references) is amended by striking out paragraph (10).

(B)(i) Section 7235 (relating to violations of laws concerning adulterated butter and process or renovated butter) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7235.

(C)(i) Section 7264 (relating to offenses concerning renovated or adulterated butter) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7264.

(D) Section 7303 is amended by striking out paragraphs (3), (4), and (5), and by redesignating paragraphs (7) and (8) as paragraphs (2) and (3), respectively.

(E) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(10) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A)(i)(I) Section 263, as amended by this Act, is amended by striking out subsections (a)(3) and (d) (relating to the allowance of deductions for payment of interest equalization tax), and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(II) Section 263(d), as redesignated by clause (i)(I) of this subparagraph, is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(ii) Section 6011 (relating to requirement of return, statement, or list) is amended by striking out subsection (d) (relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(iii)(I) Section 6076 (relating to time for filing interest equalization tax returns) is repealed.

(II) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6076.

(iv) Section 6611 (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h).

(v) Section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns).

(vi)(I) Section 6680 (relating to failure to file interest equalization tax returns) is repealed.

(II) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6680.

(vii) The amendments made by this subparagraph shall apply with respect to acquisitions of stock or debt obligations made after June 30, 1974, except that the repeal of paragraph (2) of section 6011(d) under clause (ii) shall apply with respect to loans and commitments made after such date.

(B) Section 861(a)(1)(G) (relating to income from sources within the United States) is amended—

(i) by striking out "section 4912(c)" and inserting in lieu thereof "subsection (c) of section 4912, as in effect before July 1, 1974"; and

(ii) by striking out "section 4912(c)(2)" and inserting in lieu thereof "subsection (c) (2) of such section".

(C) The second sentence of section 1232 (b)(2) (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out "section 4911" and inserting in lieu thereof "section 4911, as in effect before July 1, 1974".

(D)(i) Section 6681 (relating to false equalization tax certificates) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6681.

(iii) The amendments made by this subparagraph shall apply with respect to actions occurring after June 30, 1974.

(E)(i) Sections 6689 (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6689.

(iii) The amendments made by this subparagraph shall apply with respect to stock or debt obligations issued after June 30, 1974.

(F)(i) Section 7241 (relating to penalty for fraudulent equalization tax certificates) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7241.

(iii) The amendments made by this subparagraph shall apply with respect to statements and certificates executed after June 30, 1974.

(G) The table of chapters for subtitle D is amended by striking out the item of chapter 41.

(c) AMENDMENT TO PROVISION REFERRING TO TERRITORIES.—Section 4482(c)(1) is amended by striking out ", a Territory of the United States,".

(d) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

Sec. 1905. Amendments of Subtitle E; Alcohol, Tobacco, and Certain Other Excise Taxes.

(a) In General.—

(1) Amendment of section 5005.—Section 5005(c)(2) (relating to transfers in bond of distilled spirits) is amended by striking out the last two sentences and inserting in lieu thereof of the following: "Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later."

(2) Amendments of section 5008.—

(A) Section 5008(b)(1) (relating to abatement, remission, refund, and allowance for loss of destruction of distilled spirits) is amended by inserting immediately after "the tax imposed by this chapter" the following: "or by section 7652".

(B) Section 5008(b)(2) is amended by striking out "the taxes imposed under section 5001(a)(1)" and all that follows and inserting in lieu thereof the following: "the taxes imposed under section 5001(a)(1), under subpart B of this part, or under section 7652 on the spirits so destroyed, to the proprietor of the distilled spirits who withdrew the distilled spirits on payment or determination of tax."

(C) Subsections (c)(1) and (d)(1) of section 5008 are each amended by inserting immediately after "under section 5001(a)(1)" the following: "or under section 7652".

(D) Section 5008(d)(1) is amended by striking out ", on or after July 1, 1959,".

(3) Amendment of section 5009.—Section 5009(b)(3) is amended by striking out "46 Stat. 694;".

(4) Amendment of section 5025.—Section 5025(j) (relating to stabilization of distilled spirits) is amended by striking out "the bottling of distilled spirits," and inserting in lieu thereof "the bottling of distilled spirits, or preparatory to exportation,".

(5) Amendment of section 5054.—Section 5054 (relating to determination and collection of tax on beer) is amended by striking out subsection (c) (relating to stamps or other devices as evidence of payment of tax) and by redesignating subsection (d) as subsection (c).

(6) Amendments of section 5061.

(A) Section 5061(a) (relating to collections of alcohol taxes) is amended by striking out the last sentence.

(B) Section 5061(b) (relating to methods of collection) is amended to read as follows:

"(b) Exceptions.—Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, rectified distilled spirits and wines, and beer under—

"(1) section 5001(a) (5), (6), or (7),
"(2) section 5006(c) or (d),
"(3) section 5026(a)(2),
"(4) section 5041(d),
"(5) section 5043(a)(3),
"(6) section 5054(a)(3) or (4), or
"(7) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed."

(C) Section 5061(c) (relating to applicability of other provisions of law) is amended to read as follows:

"(c) Import Duties.—The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax."

(7) Amendment of section 5113.—Section 5113(f)(1) (relating to retail dealers in liquors) is amended by striking out "wines or beer" and inserting in lieu thereof "distilled spirits, wines, or beer".

(8) Amendments of section 5117.—Section 5117 (relating to prohibited purchases by dealers) is amended by redesignating subsection (b) as subsections (c) and by inserting after subsection (a) the following new subsection:

"(b) Limited Retail Dealers.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors."

(9) Amendment of section 5121.—Section 5121(c) (relating to limited retail dealers) is amended to read as follows:

"(c) Limited Retail Dealers.—Every limited retail dealer shall pay a special tax of $4.50 for each calendar month in which sales are made as such dealer; except that the special tax shall be $2.20 for each calendar month in which only sales of beer or wine are made."

(10) Amendment of section 5122.—Section 5122(c) (relating to definition of limited retail dealer) is amended by striking out "beer or wine" each place it appears and inserting in lieu thereof "distilled spirits, wine, or beer".

(11) Amendment of section 5131.—Section 5131(a) (relating to eligibility for drawback) is amended by striking out "produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits, withdrawn from the bonded premises of a distilled spirits plant,".

(12) Amendment of section 5142.—Section 5142(c) (relating to payment of occupational taxes) is amended to read as follows:

"(c) How Paid.—

"(1) Payment by return.—The special taxes imposed by this part shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

"(2) Stamp denoting payment of tax.—After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period."

(13) Amendments of section 5171.—Section 5171(b) (relating to permits for operation of businesses as distillers, etc.) is amended—

(A) in paragraph (1), by striking out "49 Stat. 978;", and

(B) by striking out paragraph (3) (relating to continuance of business after June 30, 1959, pending application for permit).

(14) Amendment of section 5174.—Section 5174(a)(2)(A) (relating to withdrawal bonds for distilled spirits) is amended by striking out "such spirits" and inserting in lieu thereof "distilled spirits from bond".

(15) Amendment of section 5232.—Section 5232(a) (relating to transfer of imported distilled spirits) is amended by striking out "and the importer" and inserting in lieu thereof "and the importer, or the person bringing such distilled spirits into the United States,".

(16) Amendment of section 5233—Section 5233(b)(4) (relating to bottling requirements) is amended by striking out "49 Stat. 977;".

(17) Amendment of section 5234—The first sentence of section 5234(a)(2) (relating to the mingling of distilled spirits) is amended by striking out "8 years" and inserting in lieu thereof "20 years".

(18) Amendment of section 5314.—Section 5314(a)(2) (relating to application of certain provisions of Puerto Rico) is amended by striking out "section 5001(a)(4)" and inserting in lieu thereof "section 5001(a)(10)".

(19) Repeal of section 5315.—Section 5315 (relating to the status of certain distilled spirits on July 1, 1959) is repealed.

(20) Amendments of section 5368.—

(A) The heading of section 5368 is amended to read as follows:

"Sec. 5368. Gauging and Marking."

(B) Section 5368(b) (relating to removal of wines) is amended to read as follows:

"(b) Marking.—Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels, evidencing compliance with this chapter, as the Secretary may by regulations prescribe."

(21) Amendment of section 5392.—Section 5392(f) (defining own production) is amended by striking out "49 Stat. 990;".

(22) Amendment of section 5601.—Section 5601(b) (relating to presumptions in the case of criminal penalties) is amended to read as follows:

"(b) Presumption.—Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or rectifier was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury)."

(23) Amendments of section 5685.—

(A) Section 5685(a) (relating to penalty for possession of devices for emitting gas, smoke, etc.) is amended by striking out "section 5848" and inserting in lieu thereof "section 5845".

(B) Section 5685(c) (relating to forfeiture of firearms, devices, etc.) is amended by striking out "section 5862" and inserting in lieu thereof "section 5872".

(C) Section 5685(d) (relating to the definition of machine gun) is amended to read as follows:

"(d) Definition of Machine Gun.—As used in this section, the term 'machine gun' means a machine gun as defined in section 5845(b)."

(24) Amendment of section 5701.—Section 5701(e) (relating to imported tobacco products, etc.) is amended by striking out "such articles" and inserting in lieu thereof "such articles, unless such import duties are imposed in lieu of internal revenue tax".

(25) Amendments of section 5703.—

(A) Section 5703(a)(2) (relating to transfer of liability for tobacco taxes) is amended by adding at the end thereof the following new sentence: "All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose."

(B) The second sentence of section 5703(b) (relating to method of payment of tobacco taxes) is amended by striking out ", except that the taxes shall continue to be paid by stamp until the Secretary or his delegate provides, by regulations, for the payment of the taxes on the basis of a return".

(C) Section 5703 is amended by striking out subsection (c) (relating to stamps to evidence tobacco taxes) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(26) Amendments of section 5704.—Subsection (c) and (d) of section 5704 (relating to exemptions from tobacco taxes) are each amended by inserting after "to a manufacturer of tobacco products or cigarette papers and tubes" the following: "or to the proprietor of an export warehouse".

(27) Amendment of section 5712.—Section 5712 (relating to application for permit) is amended by striking out the last sentence.

(28) Amendments of section 5723.—

(A) The heading of section 5723 is amended by striking out "NOTICES, AND STAMPS" and inserting in lieu thereof "AND NOTICES".

(B) Section 5723(b) (relating to marks, and so forth, on packages) is amended to read as follows:

"(b) Marks, Labels, and Notices.—Every package of tobacco products or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices, if any, that the Secretary by regulation prescribes."

(b) Conforming and Clerical Amendments.—

(1) Amendments conforming to amendment of section 5054.—

(A) Section 5676 (relating to beer stamp penalties) is repealed.

(B) The table of sections for part III of subchapter J of chapter 51 is amended by striking out the item relating to section 5676.

(2) Amendments conforming to the amendments of section 5061.—

(A) Section 5007(b)(1) is amended by striking out the second sentence.

(B) Section 5026(b) is amended by striking out "Except as provided in subsection (a)(2), the taxes" and inserting in lieu thereof "The taxes".

(C) Section 5043(b) is amended by striking out "Except as provided in subsection (a)(3), the taxes" and inserting in lieu thereof "The taxes".

(D) Section 5662 is amended by striking out "stamp," each place it appears.

(E)(i) Section 5689 (relating to penalty and forfeiture for tampering with a stamp machine) is repealed.

(ii) The table of sections for part IV of subchapter J of chapter 51 is amended by striking out the item relating to section 5689.

(iii) Section 5061 is amended by striking out subsection (d).

(3) Amendments conforming to amendment of section 5142.—

(A)(i) Section 5104 (relating to method of payment of tax on stills) is repealed.

(ii) The table of sections for subpart C of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5104.

(B) Section 5111(a) is amended by striking out the second sentence.

(C) Section 5121(a) is amended by striking out the second sentence.

(D)(i) Section 5144 (relating to supply of stamps) is repealed.

(ii) The table of sections for subpart G of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5144.

(E) Section 5148(3) is amended by striking out "penalties" and inserting in lieu thereof "penalties, authority for assessments,".

(4) Amendment conforming to the repeal of section 5315.—The table of sections for part III of subchapter E of chapter 51 is amended by striking out the item relating to section 5315.

(5) Amendment conforming to the amendment of section 5368.—The item relating to section 5368 in the table of sections for part II of subchapter F of chapter 51 is amended to read as follows:

"Sec. 5368. Gauging and marking."

(6) Amendments conforming to the amendment of section 5601.—

(A) Section 5105(b)(2) is amended by striking out ", 5601(b)(1),".

(B) Section 5177(b)(2) is amended by striking out "5601(b)(2)," and inserting in lieu thereof "5601(b),".

(C) Section 5179(b)(1) is amended by striking out ", 5601(b)(1),".

(D) Section 5222(d) is amended by striking out "5601(b)(3), 5601(b)(4),".

(E) Section 5505(i) is amended by striking out "5601(b)(1),".

(7) Amendments conforming to the amendment of section 5723.—

(A) Paragraphs (2) and (3) of section 5751(a) are each amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(B)(i) Section 5752 is amended to read as follows:

"Sec. 5752. Restrictions Relating to Marks, Labels, Notices, and Packages.

"No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied."

(ii) Section 5762(a) is amended by striking out paragraphs (6), (7), (8), (9), (10), and (11) and inserting in lieu thereof the following:

"(6) Destroying, obliterating, or detaching marks, labels, or notices before packages are emptied.—Violates any provision of section 5752;".

(iii) The item relating to section 5752 in the table of sections for subchapter E of chapter 57 is amended to read as follows:

"Sec. 5752. Restrictions relating to marks, labels, notices, and packages."

(C)(i) Section 5763(a)(2) is amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(ii) Section 5763(b) is amended by striking out "internal revenue stamps,".

(D) The item relating to section 5723 in the table of sections for subchapter C of chapter 52 is amended to read as follows:

"Sec. 5723. Packages, marks, labels, and notices."

(c) Amendments to Provisions Referring to Territories.—

(1) Section 5114(b) is amended by striking out "or Territory" each place it appears and by striking out "Territories,".

(2) Section 5214(a)(2) is amended by striking out "or Territory" each place it appears.

(3) Section 5272(b) is amended by striking out "and Territories".

(4) Section 5362(c)(9) is amended by striking out "and Territories".

(5) Section 5551(b)(2) is amended by striking out "Territory, or".

(6) Section 5685(a) is amended by striking out "Territory or".

(d) Effective Date.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

Sec. 1906. Amendments of Subtitle F; Procedure and Administration.

(a) In General.—

(1) Amendments of section 6013.—

(A) Section 6013(b)(2)(C) (relating to petition to the Tax Court) is amended by striking out "of the United States".

(B) The heading of section 6013(d) is amended to read as follows:

"(d) Special Rules.—".

(C) Section 6013(d)(1) (relating to joint return after death of one spouse) is amended by striking out "and" at the end of subparagraph (A) and inserting in lieu thereof "or", and by striking out "and" at the end of the subparagraph (B).

(2) Amendment of section 6015.—Section 6015 (relating to declaration of estimated tax by individuals) is amended by striking out subsection (j) (relating to an effective date provision).

(3) Amendment of section 6037.—Section 6037 (relating to returns of subchapter S corporations) is amended by striking out "section 1371(a)(2)" and inserting in lieu thereof "section 1371(b)".

(4) Amendment of section 6046.—Section 6046(e) (relating to information as to organization of foreign corporation) is amended to read as follows:

"(e) Limitation.—No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a)."

(5) Amendment of section 6051.—Section 6051(a) (relating to information required to be furnished to employees) is amended by striking out "and" where it appears at the end of paragraph (6).

(6) Amendments of section 6065.—Section 6065 (relating to verification of returns) is amended by striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following: "(a) Penalties of Perjury.—".

(7) Repeal of section 6105.—Section 6105 (relating to compilation of data for certain excess profits tax cases) is repealed.

(8) Amendment of section 6111.—Section 6111 (relating to cross references), as redesignated by this Act, is amended to read as follows:

"Sec. 6111. Cross Reference.

"For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102."

(9) Amendment of section 6152.—Section 6152(a)(1), (relating to installment payments by corporations) is amended to read as follows:

"(1) Corporations.—A corporation subject to the taxes imposed by chapter 1 may elect to pay the unpaid amount of such taxes in two equal installments."

(10) Amendments of section 6154.—

(A) Section 6154(c)(1)(B) (relating to definition of estimated tax) is amended—

(i) by adding "and" after the comma at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) Section 6154(c)(2)(A)(ii) (relating to temporary estimated tax payments) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C) Section 6154(c)(2)(B) (relating to estimated tax) is amended by striking out the following:

"1968, 1969, 1970, 1971, and 1972	100 percent
1973	80 percent
1974	60 percent".

(D) Section 6154(c) (relating to estimated tax) is amended by striking out paragraph (3) (relating to transitional exemption for taxable years beginning before 1972).

(11) Amendments of section 6157.—

(A) Section 6157 (relating to payment of Federal unemployment tax) is amended by striking out subsection (c) (relating to special rules for 1970 and 1971), and by redesignating subsection (d) as subsection (c).

(B) Section 6157(a) is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)".

(12) Repeal of section 6162.—Section 6162 (relating to payment of tax on gain on liquidation of certain personal holding companies) is repealed.

(13) Amendment of section 6205.—Section 6205(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(14) Amendment of section 6207.—Section 6207 (relating to cross references) is amended by striking out paragraph (7).

(15) Amendment of section 6213.—Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by striking out "States of the Union and the District of Columbia" and inserting in lieu thereof "United States".

(16) Amendment of section 6215.—Section 6215(b)(5) (a cross reference) is amended by striking out "60 Stat. 48;".

(17) Amendment of section 6302.—Section 6302(b) (relating to collection of certain excise taxes) is amended by striking out "sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39" and inserting in lieu thereof "section 4501(a) of chapter 37".

(18) Repeal of section 6304.—Section 6304 (relating to a cross reference) is repealed.

(19) Amendment of section 6313.—Section 6313 (relating to fractional parts of a cent) is amended by striking out "not payable by stamp".

(20) Amendments of section 6326.—

(A) Paragraph (2) of section 6326 (cross references) is amended by striking out "52 Stat. 851;".

(B) Paragraph (3) of section 6326 is amended by striking out "52 Stat. 867;".

(C) Paragraph (4) of section 6326 is amended by striking out "52 Stat. 867–877;".

(D) Paragraph (5) of section 6326 is amended by striking out "52 Stat. 938;".

(21) Amendment of section 6365.—Section 6365(b) (relating to definition of governor) is amended by striking out "Commissioner of the District of Columbia" and inserting in lieu thereof "Mayor of the District of Columbia".

(22) Amendment of section 6412.—Section 6412(a) (relating to floor stock refunds) is amended by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

(23) Amendment of section 6413.—

(A) Section 6413(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(B)(i) Section 6413(c)(1) (relating to refunds of certain employment taxes) is amended to read as follows:

"(1) In general.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

(ii) So much of section 6413(c)(2)(A) (relating to Federal employees) as follows "and the term 'wages' includes" is amended to read as follows: "for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee."

(iii) The amendments made by clauses (i) and (ii) shall apply with respect to remuneration paid after December 31, 1976.

(C) Section 6413(c)(2)(F) (relating to government employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(D) Section 6413(c)(3) (relating to special refunds) is amended by striking out "after 1967".

(24) Amendments of section 6416.—

(A) Section 6416(a)(3) (relating to special rules for refund of overpayment of tax) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(B)(i) Section 6416(b)(2) (relating to overpayments of certain excise taxes) is amended by striking out subparagraphs (G), (H), (I), and (J), and by redesignating subparagraphs (F), (K), (L), (M), (R), and (S) as subparagraphs (E), (F), (G), (H), (I), and (J), respectively.

(ii) The repeals made by clause (i) shall apply with respect to the use or resale for use of liquids after December 31, 1976.

(25) Repeal of section 6417.—Section 6417 (relating to coconut and palm oil) is repealed.

(26) Amendments of section 6420.—

(A) Section 6420(b)) (relating to time for filing refund claims on gasoline) is amended to read as follows:

"(b) Time for Filing Claims; Period Covered.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A."

(B) Section 6420(e)(1) (relating to application of other laws) is amended by striking out "apply in in respect" and inserting in lieu thereof "apply in respect".

(C)(i) Section 6420 is amended by striking out subsection (g) (relating to effective date) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(ii) Section 6420(a) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(D) Section 6420(g) (relating to income tax credit in lieu of gas tax refund), as redesignated by subparagraph (C)(i) of this paragraph, is amended by striking out "with respect to gasoline used after June 30, 1965," and inserting "for gasoline used after June 30, 1965".

(27) Amendments of section 6421.—

(A)(i) Subsections (a) and (e)(3) of section 6421 (relating to nonhighway use of gasoline) are each amended by striking out "after June 30, 1970,".

(ii) The amendments made by clause (i) shall only apply with respect to gasoline used as a fuel after June 30, 1970.

(B) Section 6421(c) (relating to nonhighway use of gasoline) is amended to read as follows:

"(c) Time for Filing Claims; Period Covered.—

"(1) In general.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) Exception.—If $1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(C) Section 6421(h) (relating to effective dates) is amended by striking out "after June 30, 1956, and".

(D) Section 6421(i) (relating to income tax credit in lieu of refund) is amended—

(i) by striking out, in paragraph (1), "with respect to gasoline used after June 30, 1965,",

(ii) by striking out, in paragraph (2), "subsection (c)(3)(B)" and inserting in lieu thereof "subsection (c)(2)", and

(iii) by striking out, in paragraph (3), "for gasoline used after June 30, 1965."

(28) Amendments of section 6422.—

(A) Paragraph (9) of section 6422 (relating to cross references), as redesignated by section 1901(b)(36)(B), is amended by striking out "60 Stat. 48;".

(B) Paragraph (11) of section 6422, as so redesignated, is amended by striking out "47 Stat. 1516;".

(29) Amendments of section 6423.—

(A) Section 6423(b) (relating to filing of refund claim in case of alcohol and tobacco taxes) is amended to read as follows:

"(b) Filing of Claims.—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with in claim."

(B) Section 6423 is amended by striking out subsection (c) (relating to suits barred on April 30, 1958) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 6423(c) (relating to application of section), as redesignated by subparagraph (B) of this paragraph, is amended by adding "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(30) Amendments of section 6424.—

(A) The last sentence of section 6424(b)(1) (relating to refund claims with respect to lubricating oil) is amended by striking out ", except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year".

(B) Section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out subsection (f) (relating to effective date of section), and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(31) Amendments of section 6427.—

(A) Subsections (a), (b), and (c) of section 6427 (relating to fuels not used for taxable purposes) are each amended by striking out ", after June 30, 1970,".

(B) The amendments made by subparagraph (A) shall apply only with respect to fuel used or resold after June 30, 1970.

(32) AMENDMENTS OF SECTION 6504.—

(A) Section 6504 (relating to cross references) is amended by striking out paragraphs (13) and (14) and inserting in lieu thereof:

"(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline use for certain nonhighway purposes or by local transit systems), 6424 (relating to lubricating oil not used in highway motor vehicles), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, 6424, or 6427, see section 6206."

(B) Section 6504, as amended by this Act, is further amended by redesignating paragraphs (2), (3), (4), (5), (9), (10), (11), (12), (13), and (15) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(33) AMENDMENTS OF SECTION 6511.—

(A) Section 6511(d)(2)(A)(ii) (relating to net operating loss carryback) is amended by striking out "September 1, 1959, or" and by striking out ", whichever is the later".

(B) Section 6511(d)(5) is amended by striking out "the later of the following dates: (A)", and by striking out ", or (B) December 31, 1965".

(34) AMENDMENT OF SECTION 6601.—Section 6601(h) (relating to interest on estimated tax payments) is amended by striking out "(or section 59 of the Internal Revenue Code of 1939)".

(35) AMENDMENT OF SECTION 6654.—Section 6654 (relating to payment of estimated income tax) is amended by striking out subsection (h) (relating to applicability of section).

(36) AMENDMENT OF SECTION 6802.—Section 6802(2) (relating to supply and distribution of stamps) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(37) AMENDMENT OF SECTION 6803.—Section 6803 (relating to accounting and safeguarding) is amended to read as follows:

"SEC. 6803. ACCOUNTING AND SAFEGUARDING.

"(a) BOND.—In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

"(b) REGULATIONS.—The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802."

(38) AMENDMENT OF SECTION 6863.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by striking out subparagraph (C) (relating to effective date).

(39) AMENDMENT OF SECTION 7012.—Section 7012 (relating to cross references), as amended by section 1904(b)(8)(C) of this Act, is amended to read as follows:

"SEC. 7012. CROSS REFERENCES.

"(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

"(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

"(3) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

"(4) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

"(5) For penalty for failure to register, see section 7272.

"(6) For other penalties for failure to register with respect to wagering, see section 7262."

(40) AMENDMENT OF SECTION 7103.—Section 7103 (relating to cross references regarding bonds) is amended by striking out subsection (d).

(41) AMENDMENTS OF SECTION 7271.—Section 7271 (relating to penalties for offenses concerning stamps) is amended by striking out paragraph (2), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(42) AMENDMENT OF SECTION 7272.—Section 7272(b) (relating to cross references) is amended by striking out "4722, 4753,".

(43) AMENDMENTS OF SECTION 7326.—Section 7326 (relating to disposal of forfeited property) is amended—

(A) by striking out "section 5862(b)" and inserting in lieu thereof "section 5872(b)", and

(B) by redesignating subsection (c) as subsection (b).

(44) AMENDMENTS OF SECTION 7422.—Section 7422(c) (relating to suits against collection officers) is amended by striking out "instituted after June 15, 1942,", and by striking out "where the petition to the Tax Court was filed after such date".

(45 AMENDMENTS OF SECTION 7428.—

(A) Paragraph (1) of section 7428 (cross references), as redesignated by this Act, is amended by striking out "52 Stat. 851;".

(B) Paragraph (2) of such section 7428 is amended by striking out "52 Stat. 867;".

(C) Paragraph (3) of such section 7428 is amended by striking out "52 Stat. 876–877;".

(D) Paragraph (4) of such section 7428 is amended by striking out "52 Stat. 938;".

(46) AMENDMENTS OF SECTION 7448.—

(A) Subsection(a)(6) of section 7448 (relating to annuities to widows and dependent children of tax court judges) is amended—

(i) by striking out "The term 'widow' means a surviving wife of" and inserting in lieu thereof "The term 'surviving spouse' means a surviving spouse of"; and

(ii) by striking out "the mother of issue" and inserting in lieu thereof "a parent of issue".

(B) Section 7448(h) is amended—

(i) by striking out "surviving widow or widower" and inserting in lieu thereof "surviving spouse";

(ii) by striking out "such widow" each place it appears and inserting in lieu thereof "such surviving spouse";

(iii) by striking out "a widow" each place it appears and inserting in lieu thereof "a surviving spouse";

(iv) by striking out "widow's" each place it appears and inserting in lieu thereof "surviving spouse's;" and

(v) by striking out "surviving her" and inserting in lieu thereof "surviving such spouse".

(C) Sections 7448 (h) and (o) are each amended by striking out "she" and inserting in lieu thereof "such spouse".

(D) Section 7448(o) is amended by striking out "her" and inserting in lieu thereof "such spouse's".

(E) Sections 7448 (d), (j), (m), (n), (o), and (q) are each amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(F) The section heading for section 7448 is amended by striking out "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES".

(47) AMENDMENTS OF SECTION 7471.—

(A) Subsection (a) of section 7471 (relating to Tax Court employees) is amended by striking out "is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended, to fix the compensation of," and inserting in lieu thereof "is authorized to appoint, in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and to fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title,".

(B) Subsection (b) of section 7471 is amended by striking out "as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16)." and inserting in lieu thereof "as provided in chapter 57 of title 5, United States Code."

(48) AMENDMENT OF SECTION 7476.—Section 7476(a) (relating to declaratory judgments) is amended by striking out so much thereof as follows paragraph (2)(B) and inserting in lieu thereof the following:

"upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such."

(49) AMENDMENT OF SECTION 7502.—Section 7502(b) (relating to timely mailing treated as timely filing and paying) is amended by striking out "United State Post Office" and inserting in lieu thereof "United States Postal Service".

(50) AMENDMENTS OF SECTION 7507.—Paragraphs (2) and (3) of section 7507(c) (relating to insolvent banks) are each amended by striking out "after May 28, 1938,".

(51) AMENDMENTS OF SECTION 7508.—

(A) The heading of section 7508 (relating to time for performing certain acts) is amended by striking out "BY REASON OF WAR" and inserting in lieu thereof "BY REASON OF SERVICE IN COMBAT ZONE".

(B) Section 7508(a) (relating to time to be disregarded) is amended by striking out "States of the Union and the District of Columbia" each place it appears and inserting in lieu thereof "United States".

(52) AMENDMENTS OF SECTION 7509.—Section 7509 (relating to expenditures incurred by the Post Office Department) is amended—

(A) in the section heading, by striking out "POST OFFICE DEPARTMENT" and inserting in lieu thereof "UNITED STATES POSTAL SERVICE";

(B) by striking out "Post Office Department" each place it appears and inserting in lieu thereof "United States Postal Service";

(C) by striking out "such Department" and inserting in lieu thereof "such Service"; and

(D) by striking out ", together with the receipts required to be deposited under section 6803(a),".

(53) AMENDMENT OF SECTION 7621.—Section 7621(b) (relating to boundaries of internal revenue districts) is amended to read as follows:

"(b) BOUNDARIES.—For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States."

(54) REPEAL OF SECTION 7641.—Subchapter C of chapter 78 (relating to supervision of operations of certain manufacturers) is repealed.

(55) AMENDMENTS OF SECTION 7652.—Section 7652(b)(3) (relating to disposition of internal revenue collections) is amended—

(A) by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B),

(B) by striking out "approved emergency relief purposes and essential public projects as provided in subparagraph (B)" and inserting in lieu thereof "emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative", and

(C) by striking out ", including payments under subparagraph (B),".

(56) Amendment of section 7653.—Section 7653(d) (a cross reference) is amended by striking out "c. 512, 64 Stat. 392, section 30;".

(57) Amendments of section 7701.—

(A) Section 7701(a)(11) (relating to definition of Secretary) is amended to read as follows:

"(11) Secretary of the Treasury and Secretary.—

"(A) Secretary of the Treasury.—The term 'Secretary of the Treasury' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

"(B) Secretary.—The term 'Secretary' means the Secretary of the Treasury or his delegate.".

(B) Section 7701(a)(12)(A) (relating to definition of Secretary or his delegate) is amended to read as follows:

"(A) In general.—The term 'or his delegate'—

"(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

"(ii) when used with reference to any other official of the United States, shall be similarly construed."

(58) Amendment of section 7803.—Section 7803 (relating to other personnel) is amended by redesignating subsection (d) as subsection (c).

(59) Amendment of section 7809.—Section 7809(a) (relating to deposit of collections) is amended by striking out "4735, 4762,".

(b) Conforming and Clerical Amendments.—

(1) Amendment conforming to the repeal of section 6105.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6105.

(2) Amendments conforming to amendment of section 6110.—The item relating to section 6110 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6110. Cross reference."

(3) Amendments conforming to amendments of section 6154.—

(A) Paragraph (1)(B) of section 6655(e) is amended:

(i) by adding "and" at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) Paragraph (2)(B) of section 6655(e) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C)(i) Section 6655(e) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(ii) Section 243(b)(3)(C)(iv), as redesignated by section 1901(b)(20)(A) of this Act, is amended by striking out "sections 6154(c) (2) and (3)" and inserting in lieu thereof "section 6154(c)(2)", and by striking out "sections 6655(e) (2) and (3)" and inserting in lieu thereof "section 6655(e)(2)".

(4) Amendment conforming to the repeal of section 6162.—The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6162.

(5) Amendment conforming to the repeal of section 6304.—The table of sections for subchapter A of chapter 64 is amended by striking out the item relating to section 6304.

(6) Amendments conforming to the amendment of section 6416.—

(A) Subparagraph (A) of section 6420(c)(3) is amended to read as follows:

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person other than the owner, tenant, or operator of such farm, then for purposes of this subparagraph, in applying subsection (a) to this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 issued shall be treated as the user and the ultimate purchaser of such gasoline or liquid;".

(B) The amendments made by subparagraph (A) shall apply with respect to the use of liquids after December 31, 1976.

(7) Amendments conforming to the repeal of section 6417.—The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6417.

(8) Amendment conforming to amendment of section 6420.—Section 39(a)(1) is amended by striking out "section 6420(h)" and inserting in lieu thereof "section 6420(g))".

(9) Amendment conforming to amendment of section 6424.—Section 39(a)(3) is amended by striking out "section 6424(g)" and inserting in lieu thereof "section 6424(f)".

(10) Amendment conforming to amendment of section 7448.—The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended to read as follows:

"Sec. 7448. Annuities of surviving spouses and dependent children.".

(11) Amendment conforming to amendment of section 7508.—The item relating to section 7508 in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7508. Time for performing certain acts postponed by reason of service in combat zone.".

(12) Amendment conforming to amendment of section 7509.—The item relating to section 7509 in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7509. Expenditures incurred by the United States Postal Service.".

(13) Amendment conforming to repeal of section 7641.—The table of subchapters for chapter 78 is amended by striking out the item relating to subchapter C.

(A) The Internal Revenue Code of 1954, as amended by this Act, is amended by striking out "Secretary or his delegate" each place it appears and inserting in lieu thereof "Secretary".

(B) The following provisions are each amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of the Treasury": sections 4293, 4483(b), 5551, 7801(b), 7802(a), 9006(a), 9006(b), and 9007(d).

(C) The following provisions are each amended by striking out "to the Secretary" each place it appears and inserting in lieu thereof "to the Secretary of the Treasury": sections 3121(b)(12)(B), 3303(b), 3304(a)(3), 3304(c), 3305(j), 3306(c)(12)(B), 9005(a), 9007(b), 9010(b), and 9012(e)(3).

(D) Section 31(b)(1) is amended by striking out "(or his delegate)".

(E) The last sentence of section 3304(c) is amended by striking out "the Secretary shall" and inserting in lieu thereof "the Secretaray of Labor shall".

(F) Section 3310(d)(2) is amended by striking out "the Secretary's action" each place it appears and inserting in lieu thereof "the Secretary of Labor's action".

(G) Section 3221(a) and 3221(c) are each amended by striking out "of the Treasury" each place it appears.

(H) Section 3310(e) is amended by striking out "of the Secretary" and inserting in lieu thereof "of the Secretary of Labor".

(I) Section 4412(c) is amended by striking out "he or his delegate" and inserting in lieu thereof "the Secretary".

(J) Section 5845(f) is amended by striking out "of the Treasury or his delegate".

(K) Section 6402(b) is amended by striking out "(or his delegate)".

(L) Section 7458 is amended by striking out "nor his delegate".

(M) Section 7514 is amended by striking out "functions of the Secretary" and inserting in lieu thereof "functions of the Secretary of the Treasury".

(c) Amendments to Sections Referring to Territories.—

(1) Section 6871(a) is amended by striking out "or Territory".

(2) Section 7622(b) is amended by striking out ", Territory,".

(3) Section 7701(a)(4) is amended by striking out "or Territory".

(d) Effective Date.—

(1) General rule.—Except as otherwise expressly provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(2) Amendments relating to income tax.—The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1954, shall take effect with respect to taxable years beginning after December 31, 1976.

Sec. 1907. Amendments of Subtitle G; the Joint Committee on Internal Revenue Taxation.

(a) In General.—

(1) Amendment of section 8001.—Section 8001 (relating to creation of the Joint Committee) is amended by striking out "Joint Committee on Internal Revenue Taxation" and inserting in lieu thereof "Joint Committee on Taxation".

(2) Amendment of section 8004.—Section 8004 (relating to compensation of staff) is amended by striking out "compensation of a clerk" and inserting in lieu thereof "compensation of the Chief of Staff of the Joint Committee".

(3) Amendment of section 8021.—Section 8021(d) (relating to authority to make expenditures) is amended to read as follows:

"(d) To Make Expenditures.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.".

(4) Amendment of section 8023.—Section 8023(c) (relating to reorganization plans) is amended to read as follows:

"(c) Application of Subsection (a) and (b).—Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection.".

(5) All references in any other statute, or

in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.

(b) Amendments Conforming to the Amendment of Section 8001.—

(1) The heading of subtitle G is amended by striking out "Internal Revenue".

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle G and inserting in lieu thereof the following:

"Subtitle G. The Joint Committee on Taxation.".

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

Sec. 1908. Effective Date of Certain Definitions and Designations.

For purposes of any amendment made by any provision of this Act (other than this title)—

(1) which contains a term the meaning of which is defined in or modified by any provision of this title, and

(2) which has an effective date earlier than the effective date of the provision of this title defining or modifying such term,

that definition or modification shall be considered to take effect as of such earlier effective date.

Subtitle B—Amendments of Code Provisions With Limited Current Application: Repeals and Savings Provisions

Sec. 1951. Provisions of Subtitle A.

(a) References to Internal Revenue Code.—Except as otherwise expressly provided, whenever in this section a reference is made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) Amendments.—

(1) Amendment of section 72.—

(A) Repeal.—Section 72 (relating to annuities) is amended by striking out subsection (i) (relating to joint and survivor annuities where first annuitant died in 1951, 1952, or 1953).

(B) Savings pfovision.—Notwithstanding subparagraph (A), if the provisions of section 72(i) applied to amounts received in taxable years beginning before January 1, 1977, under an annuity contract, then amounts received under such contract on or after such date shall be treated as if such provisions were not repealed.

(2) Amendments of section 108.—

(A) Repeal.—Section 108 (relating to income from discharge of indebtedness) is amended by striking out subsection (b) (relating to certain railroad corporations) and by striking out of subsection (a) the following: "(a) Special Rule of Exclusion.—".

(B) Savings provision.—If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1976, pursuant to an order of a court in a proceeding referred to in section 108(b) (A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A), the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness.

(3) Amendments of section 164.—

(A) Repeal.—Section 164 (relating to taxes) is amended by striking out subsection (f) (relating to payments for municipal services in atomic energy communities) and by redesignating subsection (g) as subsection (f).

(B) Savings provision.—Notwithstanding subparagraph (A), any amount paid or accrued in a taxable year beginning after December 31, 1976, to the Atomic Energy Commission or its successors for municipal-type services shall be allowed as a deduction under section 164 if such amount would have been deductible by reason of section 164(f) (as in effect for a taxable year ending on December 31, 1976) and if the amount is paid or accrued with respect to real property in a community (within the meaning of section 21 b. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304 (b)) in which the Commission on December 31, 1976, was rendering municipal-type services for which it received compensation from the owners of property within such community.

(4) Repeal of section 168.—

(A) Repeal.—Section 168 (relating to amortization of emergency facilities) is repealed.

(B) Savings provision.—Notwithstanding the repeal made by subparagraph (A), if a certificate was issued before January 1, 1960, with respect to an emergency facility which is or has been placed in service before the date of the enactment of this Act, the provisions of section 168 shall not, with respect to such facility, be considered repealed. The benefit of deductions by reason of the preceding sentence shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary in accordance with regulations prescribed under section 642(f).

(5) Amendments of section 171.—

(A) Repeal.—

(i) Section 171(b)(1)(B) (relating to amount of bond premium) is amended by striking out clause (iii) (relating to certain bonds acquired before 1958).

(ii) Section 171(b)(1)(B)(i) is amended by striking out "clause (ii) or (iii) applies," and inserting in lieu thereof "clause (ii) applies, or", and by inserting "and" at the end thereof.

(iii) Section 171(b)(1)(B)(ii) is amended by striking out ", or" and inserting ", and" in lieu thereof.

(iv) The second sentence in section 171(b)(2) is amended by striking out "or (iii)".

(B) Savings provision.—Notwithstanding the amendments made by subparagraph (A), in the case of a bond the interest on which is not excludable from gross income—

(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958.

the bond premium for a taxable year beginning after December 31, 1975, shall not be determined under section 171(b)(1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b)(2).

(6) Amendment of section 383.—

(A) Repeal.—Section 333 (relating to election as to recognition of gain in certain liquidations) is amended by striking out subsection (g) (relating to the liquidation of certain personal holding companies).

(B) Savings provision.—Notwithstanding subparagraph (A), if any corporation meets all the requirements of section 333(g)(2)(B), as in effect before its repeal by this Act, the liquidation of such corporation shall be treated as if paragraphs (2), (3), and (4) of section 333(g) had not been repealed.

(C) Phase-in of 12-month holding period requirement.—For purposes of subparagraph (B), the period for holding of stock specified in section 333(g)(2)(A)(ii), as in effect before such repeal, shall—

(i) in the case of taxable years beginning in 1977, be considered to be "9 months"; and

(ii) in the case of taxable years beginning after December 31, 1977, be considered to be "1 year".

(7) Amendment of section 453.—

(A) Repeal.—Section 453(b)(2) (relating to limitation on use of installment sales method) is amended to read as follows:

"(2) Limitation.—Paragraph (1) shall apply only if in the taxable year of the sale or other disposition—

"(A) there are no payments, or

"(B) the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price.".

(B) Savings provision.—Notwithstanding subparagraph (A), in the case of installment payments received during taxable years beginning after December 31, 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b)(1) of section 453 (relating to sales of realty and casual sales of personalty) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of such Code.

(8) Amendments of section 512.—

(A) Repeal.—Section 512(b) (relating to unrelated business taxable income) is amended by striking out paragraphs (13) and (14) and by redesignating paragraphs (15), (16), and (17) as paragraphs (13), (14), and (15) respectively.

(B) Savings provision.—Notwithstanding subparagraph (A), income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose.

(9) Amendment of section 545.—

(A) Repeal.—Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (9) (relating to deductions on account of certain liens in favor of the United States).

(B) Savings provision.—Notwithstanding subparagraph (A), if any amount was deducted under paragraph (9) of section 545(b) in a taxable year beginning before January 1, 1977, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph.

(10) Amendments of section 691.—

(A) Repeal.—Section 691 (relating to income in respect of decedents) is amended by striking out subsection (e) (relating to certain installment obligations transmitted at death) and by redesignating subsection (f) as subsection (e).

(B) Savings provision.—Notwithstanding subparagraph (A), any election made under section 691(e) to have subsection (a)(4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1976. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies.

(11) Amendments of section 817.—

(A) Repeal.—Section 817 is amended by striking out subsection (d) (relating to certain gains occurring before 1959).

(B) Savings provision.—Notwithstanding subparagraph (A), any gain in a taxable year beginning after December 31, 1976, from any sale or other disposition of property prior to January 1, 1959, would be excluded or not taken into account for purposes of part 1 of subchapter L of chapter 1 if subsection (d) of section 817 of such Code were still in effect for such taxable year, such gain shall be excluded for purposes of such part.

(12) Repeal of section 1347.—

(A) Repeal.—Section 1347 (relating to certain claims filed against the United States before January 1, 1958) is repealed.

(B) Savings provision.—Notwithstanding subparagraph (A), if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed.

(13) Repeal of section 1471.—

(A) Repeal.—Subchapter A of chapter 4 (relating to recovery of excessive profits on certain Government contracts) is repealed.

(B) Savings provision.—If the amount of profit required to be paid into the Treasury under section 2382 or 7300 of title 10, United States Code, is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

(14) Amendment of section 1481.—

(A) Repeal.—Section 1481 (relating to mitigation of effect of renegotiation of government contracts) is amended by striking out subsection (d) (relating to renegotiations for years prior to 1954).

(B) Savings provision.—If, during a taxable year beginning after December 31, 1976, a recovery of excessive profits through renegotiation which relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect to such renegotiations shall be made under section 3806 of such Code.

(c) Conforming and Clerical Amendments.—

(1) Amendment conforming to the amendment of section 108.—Section 1017 is amended by striking out "section 108(a)" each time it appears therein and inserting in lieu thereof "section 108".

(2) Amendments conforming to repeal of section 163.—

(A) Section 1238 is amended by striking out "(relating to amortization deduction of emergency facilities)" and inserting in lieu thereof "(as in effect before its repeal by the Tax Reform Act of 1976)".

(B) Sections 642(f) and 1082(a)(2)(B) are each amended by striking out "168,".

(C) Sections 1245(a)(2) and 1250(b)(3) are each amended by striking out "168," each place it appears and inserting in lieu thereof "168 (as in effect before its repeal by the Tax Reform Act of 1976).".

(D) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 168.

(3) Amendments conforming to the repeal of section 1347.—

(A) Section 5(b) is amended by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(B) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1347.

(C) The heading of part VI of subchapter Q of chapter 1 is amended to read as follows:

"Part VI—Maximum Rate on Personal Service Income."

(D) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI and inserting in lieu thereof the following:

"Part VI. Maximum rate on personal service income."

(4) Amendment conforming to the repeal of section 1471.—The table of subchapters for chapter 4 is amended by striking out the item relating to subchapter A.

(d) Effective Date.—Except as otherwise expressly provided, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

Sec. 1952. Provisions of Subchapter D of Chapter 39; Cotton Futures.

(a) Short Title.—This section may be cited as the "United States Cotton Futures Act".

(b) Repeal of Tax on Cotton Futures.—Subchapter D of chapter 39 (relating to tax on cotton futures) is repealed.

(c) Definitions.—For purposes of this section—

(1) Cotton futures contract.—The term "cotton futures contract" means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a "contract market" by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the term "contract of sale" as so used shall be held to include sales, agreements of sale, and agreements to sell.

(2) Future delivery.—The term "future delivery" shall not include any cash sale of cotton for deferred shipment or delivery.

(3) Person.—The term "person" includes an individual, trust, estate, partnership, association, company, or corporation.

(4) Secretary.—The term "Secretary" means the Secretary of Agriculture of the United States.

(5) Standards.—The term "standards" means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended.

(d) Bona Fide Spot Markets and Commercial Differences.—

(1) Definition.—For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(2) Determination.— In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f) (1) and (2) shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agency acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) Withholding information.—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(e) Form and Validity of Cotton Futures Contracts.—Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) Basis Grade Contracts.—

(1) Conditions.—Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with regulations.—Conform to the regulations made pursuant to this section.

(B) Specification of grade, price, and dates of sale and settlement.—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) Provision for delivery of standard grades only.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) Provision for settlement on basis of actual commercial differences.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) PROHIBITION OF DELIVERY OF INFERIOR COTTON.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) PROVISIONS FOR TENDER IN FULL, NOTICE OF DELIVERY DATE, AND CERTIFICATE OF GRADE.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) PROVISION FOR TENDER AND SETTLEMENT IN ACCORDANCE WITH GOVERNMENT CLASSIFICATION.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(2) INCORPORATION OF CONDITIONS IN CONTRACTS.—The provisions of paragraph (1) (C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

(3) DELIVERY ALLOWANCES.—For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

(g) TENDERED GRADE CONTRACTS.—

(1) CONDITIONS.—Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) COMPLIANCE WITH SUBSECTION (f).—Comply with all the terms and conditions of subsection (f) not inconsistent with this subsection; and

(B) PROVISION FOR CONTINGENT SPECIFIC PERFORMANCE.—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) APPLICATION OF SUBSECTION.—Nothing in this subsection shall be so constructed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this section.

(h) SPECIFIC GRADE CONTRACTS.—

(1) CONDITIONS.—Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH RULES AND REGULATIONS.—Conform to the rules and regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND DELIVERY.—Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) PROHIBITION OF DELIVERY OF OTHER THAN SPECIFIED GRADE.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) PROVISION FOR SPECIFIC PERFORMANCE.—Provide that the delivery of cotton under the contract shall not be effected by means of "setoff" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—The provisions of paragraph (1) (A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to United States Cotton Futures Act, subsection (h)".

(3) APPLICATION OF SUBSECTION.—This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g).

(1) LIABILITY OF PRINCIPAL FOR ACTS OF AGENT.—When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) REGULATIONS.—The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) VIOLATIONS.—Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than $100 nor more than $500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court except that this subsection shall not apply to violations subject to subsection (d)(3).

(l) APPLICABILITY TO CONTRACTS PRIOR TO EFFECTIVE DATE.—The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until susperseded, amended, or terminated by the Secretary.

(m) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(n) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 6808 (relating to cross references) is amended by striking out paragraph (2), and by redesignating paragraphs (3), (6), and (11) as paragraph (1), (2), and (3), respectively.

(2)(A) Section 7233 (relating to failure to pay tax on cotton futures) is repealed.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7233.

(3)(A) Section 7263 (relating to penalties concerning cotton futures) is repealed.

(B) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7263.

(4)(A) Subchapter E of chapter 76 (relating to miscellaneous provisions regarding cotton futures contracts) is repealed.

(B) The table of subchapters for chapter 76 is amended by striking out the items relating to subchapter E.

(5) Chapter 39 (relating to regulatory taxes) is amended by striking out the chapter heading and the table of subchapters.

(6) The table of chapters for subtitle D is amended by striking out the item relating to chapter 39.

(o) Effective Date.—The provisions of this section shall take effect on the 90th day after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the Senate amendment numbered 21, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE XXI—TAX EXEMPT ORGANIZATIONS

Sec. 2101. Disposition of Private Foundation Property Under Transition Rules of Tax Reform Act of 1969.

(a) In General.—Paragraph (2) of section 101(l) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) the sale, exchange, or other disposition (other than by lease) of property which is owned by a private foundation to a disqualified person if—

"(i) such foundation is leasing substantially all of such property under a lease to which subparagraph (C) applies.

"(ii) the disposition to such disqualified person occurs before January 1, 1978, and

"(iii) such foundation receives in return for the disposition to such disqualified person an amount which equals or exceeds the fair market value of such property at the time of the disposition or at the time (after June 30, 1976) a contract for the disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law).".

(b) Effective Date.—The amendments made by subsection (a) shall apply to dispositions after the date of the enactment of this Act in taxable years ending after such date.

Sec. 2102. New Private Foundation Set-Asides.

(a) In General.—Section 4942(g)(2) (relating to definition of qualifying distributions) is amended to read as follows:

"(2) Certain set-asides.—

"(A) In general.—For all taxable years beginning on or after January 1, 1975, subject to such terms and conditions as may be prescribed by the Secretary, an amount set aside for a specific project which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution if it meets the requirements of subparagraph (B).

"(B) Requirements.—An amount set aside for a specific project shall meet the requirements of this subparagraph if at the time of the set-aside the foundation establishes to the satisfaction of the Secretary that the amount will be paid for the specific project within 5 years, and either—

"(i) at the time of the set-aside the private foundation establishes to the satisfaction of the Secretary that the project is one which can better be accomplished by such set-aside than by immediate payment of funds, or

"(ii)(I) the project will not be completed before the end of the taxable year of the foundation in which the set-aside is made,

"(II) the private foundation in each taxable year beginning after December 31, 1975 (or after the end of the fourth taxable year following the year of its creation, whichever is later), distributes amounts, in cash or its equivalent, equal to not less than the distributable amount determined under subsection (d) (without regard to subsection (i)) for purposes described in section 170(c)(2)(B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years), and

"(III) the private foundation has distributed (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years) during the four taxable years immediately preceding its first taxable year beginning after December 31, 1975, or the fifth taxable year following the year of its creation, whichever is later, an aggregate amount, in cash or its equivalent, of not less than the sum of the following: 80 percent of the first preceding taxable year's distributable amount; 60 percent of the second preceding taxable year's distributable amount; 40 percent of the third preceding taxable year's distributable amount; and 20 percent of the fourth preceding taxable year's distributable amount.

"(C) Certain failures to distribute.—If, for any taxable year to which clause (ii)(II) of subparagraph (B) applies, the private foundation fails to distribute in cash or its equivalent amounts not less than those required by such clause and—

"(i) the failure to distribute such amounts was not willful and was due to reasonable cause, and

"(ii) the foundation distributes an amount in cash or its equivalent which is not less than the difference between the amounts required to be distributed under clause (ii)(II) of subparagraph (B) and the amounts actually distributed in cash or its equivalent during that taxable year within the initial correction period provided in subsection (j)(2).

such distribution in cash or its equivalent shall be treated for the purposes of this subparagraph as made during such year.

"(D) Reduction in distribution amount.—If, during the taxable years in the adjustment period for which the organization is a private foundation, the foundation distributes amounts in cash or its equivalent which exceed the amount required to be distributed under clause (ii)(II) of subparagraph (B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in prior years), then for purposes of this subsection the distribution required under clause (ii)(II) of subparagraph (B) for the taxable year shall be reduced by an amount equal to such excess.

"(E) Adjustment period.—For purposes of subparagraph (D), with respect to any taxable year of a private foundation, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after December 31, 1975, and immediately preceding the taxable year.

In the case of a set-aside which satisfies the requirements of clause (i) of subparagraph (B), for good cause shown, the period for paying the amount set aside may be extended by the Secretary."

(b) Statute of limitations.—Subsection (n) of section 6501 (relating to limitations on assessments and collections) is amended by adding at the end thereof the following new paragraph:

"(3) Certain set-asides described in section 4942(g)(2).—In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(ii)(II), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1974.

Sec. 2103. Minimum Distribution Amount for Private Foundations.

(a) In General.—Subsection (e) of section 4942 (relating to minimum investment return) is amended to read as follows:

"(e) Minimum Investment Return.—

"(1) In general.—For purposes of subsection (d), the minimum investment return for any private foundation for any taxable year is 5 percent of the excess of—

"(A) the aggregate fair market value of all assets of the foundation other than those which are used (or held for use) directly in carrying out the foundation's exempt purpose, over

"(B) the acquisition indebtedness with respect to such assets (determined under section 514(c)(1) without regard to the taxable year in which the indebtedness was incurred).

"(2) Valuation.—

"(A) In general.—For purposes of paragraph (1)(A), the fair market value of securities for which market quotations are readily available shall be determined on a monthly basis. For all other assets, the fair market value shall be determined at such times and in such manner as the Secretary shall by regulations prescribe.

"(B) Reductions in value for blockage or similar factors.—In determining the value of any securities under this paragraph, the fair market value of such securities (determined without regard to any reduction in value) shall not be reduced unless, and only to the extent that, the private foundation establishes that as a result of—

"(i) the size of the block of such securities,

"(ii) the fact that the securities held are securities in a closely held corporation, or

"(iii) the fact that the sale of such securities would result in a forced or distress sale, the securities could not be liquidated within a reasonable period of time except at a price less than such fair market value. Any reduction in value allowable under this subparagraph shall not exceed 10 percent of such fair market value."

(b) Effective Date.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

Sec. 2104. Extension of Time to Amend Charitable Remainder Trust Governing Instrument.

(a) Extension of Time.—Section 2055(e)(3) (relating to the allowance of deductions in certain cases) is amended—

(1) by striking out "September 21, 1974," and inserting in lieu thereof "December 31, 1977,", and

(2) by striking out "December 31, 1975" each place it appears and inserting in lieu thereof "December 31, 1977".

(b) Extension of Period for Filing Claim for Refund of Estate Tax Paid.—A claim for refund or credit of an overpayment of the tax imposed by section 2001 of the Internal Revenue Code of 1954 allowable under section 2055(e)(3) of such Code (as amended by subsection (a)) shall not be denied because of the expiration of the time for filing such a claim under section 6511(a) if such claim is filed not later than June 30, 1978.

(c) Effective Date.—The amendments made by this section shall apply in the case of decedents dying after December 31, 1969.

Sec. 2105. Unrelated Trade or Business Income of Trade Shows, State Fairs, Etc.

(a) In General.—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(d) Certain Activities of Trade Shows, State Fairs, Etc.—

"(1) GENERAL RULE.—The term 'unrelated trade or business' does not include qualified public entertainment activities of an organization described in paragraph (2)(C), or qualified convention and trade show activities of an organization described in paragraph (3)(C).

"(2) QUALIFIED PUBLIC ENTERTAINMENT ACTIVITIES.—For purposes of this subsection—

"(A) PUBLIC ENTERTAINMENT ACTIVITY.—The term 'public entertainment activity' means any entertainment or recreational activity of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes, including, but not limited to, any activity one of the purposes of which is to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

"(B) QUALIFIED PUBLIC ENTERTAINMENT ACTIVITY.—The term "qualified public entertainment activity' means a public entertainment activity which is conducted by a qualifying organization described in subparagraph (C) in—

"(i) conjunction with an international, national, State, regional, or local fair or exposition,

"(ii) accordance with the provisions of State law which permit the activity to be operated or conducted solely by such an organization, or by an agency, instrumentality, or political subdivision of such State, or

"(iii) accordance with the provisions of State law which permit such an organization to be granted a license to conduct not more than 20 days of such activity on payment to the State of a lower percentage of the revenue from such licensed activity than the State requires from organizations not described in section 501(c) (3), (4), or (5).

"(C) QUALIFYING ORGANIZATION.—For purposes of this paragraph, the term 'qualifying organization' means an organization which is described in section 501(c) (3), (4), or (5) which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition.

"(3) QUALIFIED CONVENTION AND TRADE SHOW ACTIVITIES.—

"(A) CONVENTION AND TRADE SHOW ACTIVITY.—The term 'convention and trade show activity' means any activity of a kind traditionally conducted at conventions, annual meetings, or trade shows, including, but not limited to, any activity one of the purposes of which is to attract persons in an industry generally (without regard to membership in the sponsoring organization) as well as members of the public to the show for the purpose of displaying industry products or to stimulate interest in, and demand for, industry products or services, or to educate persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry.

"(B) QUALIFIED CONVENTION AND TRADE SHOW ACTIVITY.—The term 'qualified convention and trade show activity' means a convention and trade show activity carried out by a qualifying organization described in subparagraph (C) in conjunction with an international, nation, State, regional, or local convention, annual meeting, or show conducted by an organization described in subparagraph (C) if one of the purposes of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

"(C) QUALIFYING ORGANIZATION.—For purposes of this paragraph, the term 'qualifying organization' means an organization described in section 501(c) (5) or (6) which regularly conducts as one of its substantial exempt purposes a show which stimulates interest in, and demand for, the products of a particular industry or segment of such industry.

"(4) SUCH ACTIVITIES NOT TO AFFECT EXEMPT STATUS.—An organization described in section 501(c) (3), (4), or (5) shall not be considered as not entitled to the exemption allowed under section 501(a) solely because of qualified public entertainment activities conducted by it."

(b) EFFECTIVE DATES.—The amendments made by subsection (a) apply to qualified public entertainment activities in taxable years beginning after December 31, 1962, and to qualified convention and trade show activities in taxable years beginning after the date of enactment of this Act.

SEC. 2106. DECLARATORY JUDGMENTS WITH RESPECT TO SECTION 501(c)(3) STATUS AND CLASSIFICATION.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7428 as 7430, and by inserting after section 7427 the following new section:

"SEC. 7248. DECLARATORY JUDGEMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATION UNDER SECTION 501(c)(3), ETC.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving—

"(1) a determination by the Secretary—

"(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

"(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)), or

"(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or

"(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),

upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Claims, as the case may be, and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

"(c) VALIDATION OF CERTAIN CONTRIBUTIONS MADE DURING PENDENCY OF PROCEEDINGS.—

"(1) IN GENERAL.—If—

"(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

"(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

"(C) either—

"(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

"(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

"(iii) a judgment of the Court of Claims has been entered,".

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

"(2) LIMITATION.—Paragraph (1) shall apply only—

"(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed $1,000 (for this purpose treating a husband and wife as one contributor), and

"(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

"(3) EXCEPTION.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7451 (relating to fee for filing petition) is amended by inserting before the period at the end thereof the following: "or under section 7428".

(2) Section 7459(c) (relating to date of decision) is amended by inserting after "under part IV of this subchapter" the following: "or under section 7428".

(3) Section 7476(c) (relating to use of Tax Court commissioners) is amended by striking out "this section" and inserting in lieu thereof "this section or section 7428".

(4) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization.".

(5) Section 7482(b)(1) is further amended by striking out "section 7476" in the last sentence and inserting in lieu thereof "section 7428, 7476,".

(6) The table of sections for subchapter

B of chapter 76 is amended by striking out the item relating to section 7428 and inserting in lieu thereof the following:

"Sec. 7428. Declaratory judgments relating to status and classification of organizations under section 501 (c)(3), etc.

"Sec. 7430. Cross references."

(7) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant), is amended by inserting "or section 7428 (in the case of the United States district court for the District of Columbia)" immediately after "section 7426".

(8) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy), is amended by striking out "taxes" and inserting in lieu thereof "taxes other than actions brought under section 7428 of the Internal Revenue Code of 1954".

(9) (A) Chapter 92 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1507. Jurisdiction for certain declaratory judgments

"The Court of Claims shall have jurisdiction to hear any suit for and issue a declaratory judgment under section 7428 of the Internal Revenue Code of 1954.".

(B) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"1507. Jurisdiction for certain declaratory judgments."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after the date of the enactment of this Act but only with respect to determinations (or requests for determinations) made after January 1, 1976.

And the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE XXIII—OTHER AMENDMENTS

SEC. 2301. OUTDOOR ADVERTISING DISPLAYS.

(a) In General.—Section 1033(g) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO TREAT OUTDOOR ADVERTISING DISPLAYS AS REAL PROPERTY.—

"(A) IN GENERAL.—A taxpayer may elect, at such time and in such manner as the Secretary may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this chapter. The election provided by this subparagraph may not be made with respect to any property with respect to which the credit allowed by section 38 (relating to investment in certain depreciable property) is or has been claimed or with respect to which an election under section 179(a) (relating to additional first-year depreciation allowance for small business) is in effect.

"(B) ELECTION.—An election made under subparagraph (A) may not be revoked without the consent of the Secretary.

"(C) OUTDOOR ADVERTISING DISPLAY.—For purposes of this paragraph, the term 'outdoor advertising display' means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

"(D) CHARACTER OF REPLACEMENT PROPERTY.—For purposes of this section, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in subparagraph (C) shall be considered property similar or related in service or use to the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1970.

SEC. 2302. TAX TREATMENT OF LARGE CIGARS.

(a) IN GENERAL.—So much of section 5701 (a) (relating to the manner of taxation and the rates of tax on cigars) as follows paragraph (1) is amended to read as follows:

"(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, a tax equal to 8½ percent of the wholesale price, but not more than $20 per thousand.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale."

(b) DEFINITION OF WHOLESALE PRICE.—Section 5702 is amended by adding at the end thereof the following new subsection:

"(m) WHOLESALE PRICE.—'Wholesale price' means the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary."

(c) RECORDING REQUIREMENT.—Section 5741 is amended to read as follows:

"SEC. 5741. RECORDS TO BE MAINTAINED.

"Every manufacturer of tobacco products or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours."

(d) CLERICAL AMENDMENTS.—

(1) The heading of subchapter D of chapter 52 is amended to read as follows:

"Subchapter D—Records of Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors".

(2) The table of subchapters for chapter 52 is amended by striking out the item relating to subchapter D and inserting in lieu thereof the following:

"SUBCHAPTER D. Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 2303. TREATMENT OF GAIN FROM SALES OR EXCHANGES BETWEEN RELATED PARTIES.

(a) IN GENERAL.—Section 1239 (relating to gain from sale of certain property between spouses or between an individual and a controlled corporation) is amended to read as follows:

"SEC. 1239. GAIN FROM SALE OF DEPRECIABLE PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.

"(a) TREATMENT OF GAIN AS ORDINARY INCOME.—In the case of a sale or exchange of property, directly or indirectly, between related persons, any gain recognized to the transferor shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167.

"(b) RELATED PERSONS.—For purposes of subsection (a), the term 'related persons' means—

"(1) a husband and wife,

"(2) an individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, or

"(3) two or more corporations 80 percent or more in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual.

"(c) CONSTRUCTIVE OWNERSHIP OF STOCK.—Section 318 shall apply in determining the ownership of stock for purposes of this section, except that sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into before that date.

SEC. 2304. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out "and 1975" and inserting in lieu thereof the following: "and 1975, and, in the case of a member of a uniformed service receiving training in programs described in subsection (a) during calendar year 1976, with respect to amounts received during calendar years 1976, 1977, 1978, and 1979."

SEC. 2305. EXCHANGE FUNDS.

(a) CORPORATE REORGANIZATIONS.—Paragraph (2) of section 368(a) (special rules relating to definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

"(F) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

"(i) If, immediately before a transaction described in paragraph (1) (other than subparagraph (E) thereof), 2 or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of clause (ii).

"(ii) A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers. For purposes of this clause, all members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one issuer.

"(iii) For purposes of this subparagraph the term 'investment company' means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities and more than 80 percent of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

"(iv) For purposes of this subparagraph, in determining total assets there shall be excluded cash and cash items (including receivables), Government securities, and, under regulations prescribed by the Secretary, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of clause (ii) or ceasing to be an investment company.

"(v) This subparagraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

"(vi) If an investment company which is not diversified within the meaning of clause (ii) acquires assets of another corporation, clause (i) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B) (hereafter referred to as the 'actual acquisition'), clause (i) shall be applied to the shareholders and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of section 1001, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated as a sale or exchange of property by the corporation and by the shareholders and security holders to which clause (i) is applied."

(b) PARTNERSHIP.—Section 721 (relating to nonrecognition of gain or loss on transfers to partnerships) is amended to read as follows:

"SEC. 721. NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

"(b) SPECIAL RULE.—Subsection (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated."

(c) CONFORMING AMENDMENT.—Sections 722 and 723 (relating to tax basis) are each amended by striking out "contribution," and inserting in lieu thereof "contribution increased by the amount (if any) of gain recognized to the contributing partner at such time."

(d) COMMON TRUST FUNDS.—Subsection (e) of section 584 (relating to admission to and withdrawal from a common trust fund) is amended by inserting after the first sentence the following new sentence: "The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest."

(e) TRUSTS.—

(1) IN GENERAL.—Section 683 (relating to applicability of provisions) is amended to read as follows:

"SEC. 683. USE OF TRUST AS AN EXCHANGE FUND.

"(a) GENERAL RULE.—Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

(b) EXCEPTION FOR POOLED INCOME FUNDS.—Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning section 642(c)(5))."

(2) CONFORMING AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683 and inserting in lieu thereof the following:

"Sec. 683. Use of trust as an exchange fund."

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(2) The amendment made by subsection (a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code of 1954.

(3) Except as provided in paragraph (4), the amendments made by subsections (b) and (c) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(4) The amendments made by subsections (b) and (c) shall not apply to transfers to a partnership made on or before the 90th day after the date of the enactment of this Act if—

(A) either—

(i) a ruling request with respect to such transfers was filed with the Internal Revenue Service before March 27, 1976, or

(ii) a registration statement with respect to such transfers was filed with the Securities and Exchange Commission before March 27, 1976.

(B) the securities transferred were deposited on or before the 60th day after the date of the enactment of this Act, and

(C) either—

(i) the aggregate value (determined as of the close of the 60th day referred to in subparagraph (B), or, if earlier, the close of the deposit period) of the securities so transferred does not exceed $100,000,000, or

(ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in subparagraph (A)(ii).

(5) If no registration statement was required to be filed with the Securities and Exchange Commission with respect to the transfer of securities to any partnership, then paragraph (4) shall be applied to such transfers—

(A) as if paragraph (4) did not contain subparagraph (A)(ii) thereof, and

(B) by substituting "$25,000,000" for "$100,000,000" in subparagraph (C)(i) thereof.

(6) The amendments made by subsections (d) and (e) shall take effect on April 8, 1976, in taxable years ending on or after such date.

SEC. 2306. DISTRIBUTIONS BY SUBCHAPTER S CORPORATIONS.

(a) IN GENERAL.—Section 1377 (relating to special rules applicable to earnings and profits of electing small business corporations) is amended by adding at the end thereof the following new subsection:

"(d) DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME PREVIOUSLY TAXED TO SHAREHOLDERS.—For purposes of determining whether a distribution by an electing small business corporation constitutes a distribution of such corporation's undistributed taxable income previously taxed to shareholders (as provided for in section 1375(d)), the earnings and profits of such corporation for the taxable year in which the distribution is made shall be computed without regard to section 312(m). Such computation shall be made without regard to section 312(m) only for such purposes."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE XXIV—UNITED STATES INTERNATIONAL TRADE COMMISSION

SEC. 2401. UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) TERMS OF OFFICE.—The last sentence of section 330(b) of the Tariff Act of 1930 (19 U.S.C. 1330(b)) is amended to read as follows: "The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that—

"(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

"(2) any commissioner may continue to serve as a commissioner after the expiration of his term of office until his successor is appointed and qualified."

(b) VOTING PROCEDURES.—Section 330(d) of the Tariff Act of 1930 is amended by—

(1) redesignating paragraph (2) as paragraph (5); and

(2) striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) In a proceeding in which the Commission is required to determine—

"(A) under section 201 of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as 'serious injury'), or

"(B) under section 406 of such Act, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the Commission.

"(2) If under section 201 or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section 201(d)(1) of such Act or the finding described in section 406(a)(3) of such Act, as the case may be (hereafter in this subsection referred to as a 'remedy finding'), then—

"(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of section 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

"(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 203(b) of such Act that—

"(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

"(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission.

"(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

"(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section 203(c)(1) of the Trade Act of 1974, notwithstanding section 152(a)(1)(A) of such Act, the second blank space in the concurrent resolution described in such section 152 shall be filled with the appropriate date and the following: 'The action which shall take effect under section 203(c)(1) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners ————, ————, and ————.' The three blank spaces shall be filled with the names of the appropriate Commissioners."

(c) Effective Date.—The amendments made by subsection (b) shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE XXV—ADDITIONAL MISCELLANEOUS PROVISIONS

Sec. 2501. Certain Disability Income.

(a) In General.—Section 104(a) (relating to compensation for injuries or sickness) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) amounts received by an individual as disability income attributable to injuries incurred as a direct result of a violent attack which the Secretary of State determines to be a terrorist attack and which occurred while such individual was an employee of the United States engaged in the performance of his official duties outside the United States."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

Sec. 2502. Contributions of Certain Government Publications.

(a) In General.—Section 1221 (relating to definition of capital asset) is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(3) adding after paragraph (5) the following new paragraph:

"(6) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

"(A) a taxpayer who so received such publication, or

"(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales, exchanges, and contributions made after the date of enactment of this Act.

Sec. 2503. Lobbying by Public Charities.

(a) Loss of Exempt Status.—

(1) Loss of exempt status because of substantial lobbying.—Section 501 (relating to exemption from income tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Expenditures by Public Charities to Influence Legislation.—

"(1) General rule.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally—

"(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

"(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

"(2) Definitions.—For purposes of this subsection—

"(A) Lobbying expenditures.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

"(B) Lobbying ceiling amount.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

"(C) Grass roots expenditures.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1)(B) thereof).

"(D) Grass roots ceiling amount.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

"(3) Organizations to which this subsection applies.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

"(A) is described in paragraph (4), and

"(B) is not a disqualified organization under paragraph (5).

"(4) Organizations permitted to elect to have this subsection apply.—An organization is described in this paragraph if it is described in—

"(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

"(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

"(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

"(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

"(E) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

"(F) section 509(a)(3) (relating to organizations supporting certain types of public charities), except that for purposes of this subparagraph, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

"(5) Disqualified organizations.—For purposes of paragraph (3), an organization is a disqualified organization if it is—

"(A) described in section 170(b)(1)(A)(i) (relating to churches),

"(B) an integrated auxiliary of a church or of a convention or association of churches, or

"(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

"(6) Years for which election is effective.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

"(A) end after the date the election is made, and

"(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

"(7) No effect on certain organizations.—With respect to any organization for a taxable year for which—

"(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

"(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, 'no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,' under subsection (c)(3).

"(8) Affiliated organizations.—

"For rules regarding affiliated organizations, see section 4911(f).".

(2) Status of organization which ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying.—Part I of subchapter F of chapter 1 relating to general rules as to exempt organizations) is amended by adding at the end thereof the following new section:

"Sec. 504. Status After Organization Ceases to Qualify for Exemption Under Section 501(c)(3) Because of Substantial Lobbying.

"(a) General Rule.—An organization which—

"(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

"(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation.

shall not at any time thereafter be treated as an organization described in section 501 (c)(4).

"(b) Regulations To Prevent Avoidance.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an oganization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

"(c) Churches, Etc.—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).".

(3) Rules of interpretation.—It is the intent of Congress that enactment of this section is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in the Christian Echoes National Ministry, Inc. versus United States, 470 F.2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

(4) Disclosure.—Section 6033(b) (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out "and" at the end of paragraph (6), by striking out the period at end of paragraph (7) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

"(A) the lobbying expenditures (as defined in section 4911(c)(1)),

"(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

"(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

"(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.".

(b) Taxes on Excess Expenditures To Influence Legislation.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 42 the following new chapter:

"CHAPTER 41—PUBLIC CHARITIES

"Sec. 4911. Tax on excess expenditures to influence legislation.

"Sec. 4911. Tax on Excess Expenditures to Influence Legislation.

"(a) Tax Imposed.—

"(1) In general.—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

"(2) Organizations to which this section applies.—This section applies to any organization with respect to which an election under section 501(h) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

"(b) Excess Lobbying Expenditures.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

"(2) the amount by which the grass roots expenditures made by the organization during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.

"(c) Definitions.—For purposes of this section—

"(1) Lobbying expenditures.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

"(2) Lobbying nontaxable amount.—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) $1,000,000 or (B) the amount determined under the following table:

"If the proposed expenditures are—	The lobbying nontaxable amount is—
Not over $500,000	20 percent of the exempt purpose expenditures.
Over $500,000 but not over $1,000,000	$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.
Over $1,000,000 but not over $1,500,000	$175,000 plus 10 percent of the excess of the exempt purpose expenditures over $1,000,000.
Over $1,500,000	$225,000, plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.

"(3) Grass roots expenditures.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).

"(4) Grass roots nontaxable amount.—The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

"(d) Influencing Legislation.—

"(1) General rule.—Except as otherwise provided in paragraph (2), for purposes of this section, the term 'influencing legislation' means—

"(A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

"(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.

"(2) Exceptions.—For purposes of this section, the term 'influencing legislation', with respect to an organization, does not include—

"(A) making available the results of nonpartisan analysis, study, or research;

"(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

"(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization;

"(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

"(E) any communication with a government official or employee, other than—

"(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

"(ii) a communication the principal purpose of which is to influence legislation.

"(3) Communications with members.—

"(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1)(B) shall be treated as a communication described in paragraph (1)(B).

"(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1)(A).

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Exempt purpose expenditures.—

"(A) In general.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (relating to religious, charitable, educational, etc., purposes).

"(B) Certain amounts included.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170 (c)(2)(B), and

"(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170 (c)(2)(B)).

"(C) Certain amounts excluded.—The term 'exempt purpose expenditures' does not include amounts paid or incurred to or for—

"(i) a separate fundraising unit of such organization, or

"(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

"(2) Legislation.—The term 'legislation' includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

"(3) Action.—The term 'action' is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

"(4) Depreciation, etc., treated as expenditures.—In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

"(f) Affiliated Organizations.—

"(1) In general.—Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under section 501(h) is effective for at least one such organization for such year, then—

"(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(h)(1) have been exceeded shall be made as though such affiliated group is one organization.

"(B) if such group has excess lobbying expenditures, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures,

"(C) if the expenditure limits of section 501(h)(1) are exceeded, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which is not described in section 501(c)(3) by reason of the application of 501(h), and

"(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.

"(2) Definition of affiliation.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

"(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

"(B) the governing board of one such organization includes persons who—

"(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

"(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

"(3) Different taxable years.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary.

"(4) Limited control.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

"(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

"(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization is not a member of such affiliated group.".

(c) Disallowance of Deduction for Contribution to Influence Legislation.—Section 170(f) (relating to disallowance of charitable contribution deductions in certain cases) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Deductions for out-of-pocket expenditures.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organiaztion desccribed in section 501(h)(5) (relating to churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).".

(d) Technical Amendments.—

(1) Amendments conforming to new section 501(h).—

(A) Section 501(c)(3) is amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation." and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),".

(B) The following sections are amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,":

(i) section 170(c)(2)(D) (relating to the definition of charitable contributions):

(ii) section 2055(a)(2) (relating to transfers for public, charitable, and religious uses):

(iii) section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses):

(iv) section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and

(v) section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(C) Sections 2055(a)(3) and 2106(a)(2)(A)(iii) (relating to transfers for public, charitable, and religious uses) are amended by striking out "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,".

(2) Amendments conforming to new chapter 41.—

(A) Paragraph (6) of section 275(a) (denying deductions for certain taxes), as amended by this Act, is amended to read as follows:

"(6) Taxes imposed by chapters 41, 42, 43, and 44."

(B) Section 6104(c)(1)(B) (relating to notification of state officers regarding taxes imposed on certain exempt organizations), is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 41 or 42".

(C) Section 6161(b) (relating to extensions of time for paying tax) is amended—

(i) in paragraph (1) by striking out "12" and inserting in lieu thereof "12.41": and

(ii) in the second sentence by striking out "42," and inserting in lieu thereof "41.42,".

(D) Section 6201(d) (relating to assessment authority) is amended by striking out "chapter 42, and chapter 43 taxes" and inserting in lieu thereof "and certain excise taxes".

(E) Section 6211(a) (defining deficiency) is amended by striking out "chapters 42" and inserting in lieu thereof "chapters 41, 42.".

(F) The following sections are amended by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, 42,":

(i) subsections (a) and (b)(2) of section 6211 (defining deficiency);

(ii) section 6212(a) (relating to notice of deficiency);

(iii) section 6213(a) (relating to restrictions applicable to deficiencies and petitions to Tax Court);

(iv) subsections (c) and (d) of section 6214 (relating to determinations by Tax Court);

(v) section 6344(a)(1) (relating to cross references);

(vi) section 6501(e)(3) (relating to limitations on assessment and collection);

(vii) subsections (a) and (b)(1) of section 6512 (relating to limitations in case of petition to Tax Court); and

(viii) section 7422(e) (relating to civil actions for refund).

(G) Section 6212 (relating to notice of deficiency) is amended—

(i) in subsection (b)(1) by striking out "chapter 42" each place it appears and inserting in lieu thereof in each place "chapter 41, chapter 42"; and

(ii) in subsection (c)(1) by striking out "of chapter 43 tax for the same taxable years," and inserting in lieu thereof "of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year,".

(H) The headings of section 6214(c) (relating to determinations by Tax Court) and 6601(c) (relating to interest on underpayments, etc.) are amended by striking out "Chapter 42" and inserting in lieu thereof in each such place "Chapter 41, 42,".

(3) Amendments to tables of chapters and sections.—

(A) The table of chapters for subtitle D is amended by inserting before the item relating to chapter 42 the following:

"Chapter 41. Public charities."

(B) The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following:

"Sec. 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying."

(e) Effective Date.—The amendments made by this section shall apply—

(1) except as otherwise specified in paragraph (2), in the case of amendments to subtitle A, to taxable years beginning after December 31, 1976;

(2) in the case of the amendment made by subsection (a)(2), to activities occurring after the date of the enactment of this Act;

(3) in the case of amendments to chapter 11, to the estates of decedents dying after December 31, 1976;

(4) in the case of amendments to chapter 12, to gifts in calendar years beginning after December 31, 1976;

(5) in the case of amendments to subtitle D, to taxable years beginning after December 31, 1976; and

(6) in the case of amendments to subtitle F, on and after the date of the enactment of this Act.

Sec. 2504. Tax Liens, Etc., Not To Constitute Acquisition Indebtedness.

(a) General Rule.—Section 514(c)(2) (relating to property acquired subject to mortgages, etc.) is amended by adding at the end thereof the following new subparagraph:

"(C) Liens for taxes or assessments.—Where State law provides that—

"(i) a lien for taxes, or

"(ii) a lien for assessments,

made by a State or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with State law.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after December 31, 1969.

SEC. 2505. EXTENSION OF SELF-DEALING TRANSITION RULES FOR PRIVATE FOUNDATIONS.

(a) Extension of Rule.—Section 101(l)(2)(B) of the Tax Reform Act of 1969 is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1977".

(b) Effective Date.—The amendment made by this section shall apply to dispositions made after the date of the enactment of this Act.

SEC. 2506. IMPUTED INTEREST.

(a) General Rule.—Section 4942(f)(2) (relating to income modification) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) section 483 (relating to imputed interest) shall not apply in the case of a binding contract made in a taxable year beginning before January 1, 1970.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2507. TAX INCENTIVES STUDY.

(a) Study.—The Joint Committee on Taxation, in consultation with the Treasury, shall make a full and complete study and comparative analysis of the cost effectiveness of different kinds of tax incentives, including an analysis and study of the most effective way to use tax cuts in a period of business recession to provide a stimulus to the economy.

(b) Report.—The Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a final report of its study and investigation together with its recommendations, including recommendations for legislation, as it deems advisible.

(c) Reporting Date.—The final report called for in subsection (b) of this section shall be submitted no later than September 30, 1977.

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE XXVI—OTHER MISCELLANEOUS AMENDMENTS

SEC. 2601. PREPAID LEGAL EXPENSES.

(a) Exclusion.—Part III of subchapter B of chapter 1 is amended by inserting after section 119 the following new section:

"SEC. 120. AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

"(a) Exclusion by Employee for Contributions and Legal Services Provided by Employer.—Gross income of an employee, his spouse, or his dependents, does not include—

"(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)); or

"(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

"(b) Qualified Group Legal Services Plan.—For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

"(c) Requirements.—

"(1) Discrimination.—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

"(2) Eligibility.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) Contribution limitation.—Not more than 25 percent of the amounts contributed under the plan during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(4) Notification.—The plan shall give notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of the status of a qualified group legal services plan.

"(5) Contributions.—Amounts contributed under the plan shall be paid only (A) to insurance companies, or to organizations or persons that provide personal legal services, or indemnification against the cost of personal legal services, in exchange for a prepayment or payment of a premium, (B) to organizations or trusts described in section 501(c)(20), (C) to organizations described in section 501(c) which are permitted by that section to receive payments from an employer for support of one or more qualified group legal services plan or plans, except that such organizations shall pay or credit the contribution to an organization or trust described in section 501(c)(20), (D) as prepayments to providers of legal services under the plan, or (E) a combination of the above.

"(d) Other Definitions and Special Rules.—For purposes of this section—

"(1) Self-employed individual; employee.—The term 'self-employed individual' means, and the term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(2) Employer.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

"(3) Allocations.—Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed by the Secretary and shall take into account the expected relative utilization of benefits to be provided from such contributions or plan assets and the manner in which any premium or other charge was developed.

"(4) Dependent.—The term 'dependent' has the meaning given to it by section 152.

"(5) Exclusive benefit.—In the case of a plan to which contributions are made by more than one employer, in determining whether the plan is for the exclusive benefit of an employer's employees or their spouses or dependents, the employees of any employer who maintains the plan shall be considered to be the employees of each employer who maintains the plan.

"(6) Attribution rules.—For purposes of this section—

"(A) ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)), and

"(B) the interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(7) Time of notice to secretary.—A plan shall not be a qualified group legal services plan for any period prior to the time notification was provided to the Secretary in accordance with subsection (c)(4), if such notice is given after the time prescribed by the Secretary by regulations for giving such notice."

(b) Exempt Status.—Section 501(c) (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(20) an organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in section 501(c)(20) merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan."

(c) Technical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 119 the following new item:

"SEC. 120. Amounts received under qualified group legal services plans."

(d) Study and Report by Secretaries of Treasury and Labor.—

(1) A complete study and investigation with respect to the desirability and feasibility of continuing the exclusion from income of certain prepaid group legal services benefits under section 120 of the Internal Revenue Code of 1954 shall be made by the Secretary of Labor and by the Secretary of the Treasury.

(2) The Secretary of Labor and the Secretary of the Treasury shall report to the President and the Congress with respect to the study and investigation conducted under paragraph (1) not later than December 31, 1980.

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1976, and ending before January 1, 1982.

(2) Notice requirement.—For purposes of section 120(d)(6) of the Internal Revenue Code of 1954, the time prescribed by the Secretary of the Treasury by regulations for

giving the notice required by section 120(c)(4) of such Code shall not expire before the 90th day after the day on which regulations described under such section 120(c)(4) first become final.

(3) EXISTING PLANS.—

(A) For purposes of section 120 of the Internal Revenue Code of 1954, a written group legal services plan which was in existence on June 4, 1976, shall be considered as satisfying the requirements of subsections (b) and (c) of such section 120 for the period ending with the compliance date (determined under subparagraph (B)).

(B) COMPLIANCE DATE.—For purposes of this paragraph, the term "compliance date" means—

(i) the date occurring 180 days after the date of the enactment of this Act, or

(ii) if later, in the case of a plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be collective bargaining agreements, the earlier of December 31, 1981, or the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

SEC. 2602. CERTAIN HOSPITAL SERVICES.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN HOSPITAL SERVICES.—In the case of a hospital described in section 170(b)(1)(A)(iii), the term 'unrelated trade or business' does not include the furnishing of one or more of the services described in section 501)(e)(1)(A) to one or more hospitals described in section 170(b)(1)(A)(iii) if—

"(1) such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

"(2) such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

"(3) such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 2603. CLINICAL SERVICES OF COOPERATIVE HOSPITALS.

(a) IN GENERAL.—Section 501(e)(1)(A) (relating to cooperative hospital service organizations) is amended by inserting "clinical," after "food,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1976.

SEC. 2604. SPECIAL RULE FOR CERTAIN CHARITABLE CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.

(a) IN GENERAL.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.—

"(A) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an electing small business corporation within the meaning of section 1371(b)) to an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), but only if—

"(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

"(ii) the property is not transferred by the donee in exchange for money, other property, or services;

"(iii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (i) and (ii); and

"(iv) in the case where the property is subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, such property must fully satisfy the applicable requirements of such Act and regulations promulgated thereunder on the date of transfer and for one hundred and eighty days prior thereto.

"(B) AMOUNT OF REDUCTION.—The reduction under paragraph (1)(A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

"(i) one-half of the amount computed under paragraph (1)(A) (computed without regard to this paragraph), and

"(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

"(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1)(A) which would be long-term capital gain but for the application of section 617, 1245, 1250, 1251, or 1252."

(b) EFFECTIVE DATE.—The amendment made by this section applies to charitable contributions made after the date of enactment of this Act, in taxable years ending after such date.

And the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2701. EMPLOYEE STOCK OWNERSHIP PLANS.

The Congress, in a series of laws (the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974, the Trade Act of 1974, and the Tax Reduction Act of 1975) and this Act has made clear its interest in encouraging employee stock ownership plans as a bold and innovative method of strengthening the free private enterprise system which will solve the duel problems of securing capital funds for necessary capital growth and of bringing about stock ownership by all corporate employees. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of the employee trusts and employers to take the necessary steps to implement the plans, and which otherwise block the establishment and success of these plans. Because of the special purposes for which employee stock ownership plans are established, it is consistent with the intent of Congress to permit these plans (whether structured as pension, stock bonus, or profit-sharing plans) to distribute income on employer securities currently.

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2702. EXEMPTION OF CERTAIN AMATEUR ATHLETIC ORGANIZATIONS FROM TAX.

(a) IN GENERAL.—Paragraph (3) of section 501(c) (relating to exempt religious, charitable, etc., organizations) is amended by inserting after "or educational purposes," the following: "or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(b) TREATMENT OF GIFTS TO SUCH ORGANIZATIONS FOR INCOME, ESTATE AND GIFT TAX PURPOSES.—

(1) Subparagraph (B) of section 170(c)(2) (relating to definition of charitable contribution) is amended by inserting after "or educational purposes" the following: ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(2) Paragraph (2) of section 2055(a) (relating to transfers for public, charitable, and religious uses) is amended by inserting after "the encouragement of art" the following: ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(3) Paragraph (2) of section 2522(a) (relating to charitable and similar gifts) is amended by inserting after "or educational purposes" the following: ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(c) An organization which (without regard to the amendments made by this section) is an organization described in section 170(c)(2)(B), 501(c)(3), 2055(a)(2), or 2522(a)(2) of the Internal Revenue Code of 1954 shall not be treated as an organization not so described as a result of the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply on the day following the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2703. TAXABLE STATUS OF PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Section 4002(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(f)(1)) is amended by inserting "by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act), or" immediately after "imposed".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 2, 1974.

And the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 2704. Level Premium Plans Covering Owner-Employees.

(a) In General.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding after paragraph (6) the following new paragraph:

"(7) Certain level premium annuity contracts under plans benefiting owner-employees.—Paragraph (1)(B) shall not apply to a contribution described in section 401(e) which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of section 401(c)(3)), if—

"(A) the annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

"(B) the participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

For purposes of this section and section 401(e), in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B)."

(b) Effective Date.—The amendment made by this section shall apply for years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 2705. Lump-Sum Distributions From Qualified Pension, Etc., Plans.

(a) In General.—Section 402(e)(4) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(L) Election to treat pre-1974 participation.—For purposes of subparagraph (E), subsection (a)(2), and section 403(a)(2), if a taxpayer elects (at the time and in the manner provided under regulations prescribed by the Secretary), all calendar years of an employee's active participation in all plans in which the employee has been an active participant shall be considered years of active participation by such employee after December 31, 1973. An election made under this subparagraph, once made, shall be irrevocable and shall apply to all lump-sum distributions received by the taxpayer with respect to the employee. This subparagraph shall not apply if the taxpayer received a lump-sum distribution in a previous taxable year of the employee beginning after December 31, 1975, unless no portion of such lump-sum distribution was treated under section 402(a)(2) or 403(a)(2) as gain from the sale or exchange of a capital asset held for more than 6 months.".

(b) Effective Date.—The amendment made by this section shall apply to distributions and payments made after December 31, 1975, in taxable years beginning after such date.

And the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 2706. Tax Treatment of the Grantor of Options of Stock, Securities, and Commodities.

(a) Section 1234 (relating to options to buy or sell) is amended to read as follows:

"Sec. 1234. Options to Buy or Sell.

"(a) Treatment of Gain or Loss in the Case of the Purchaser.—

"(1) General rule.—Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, an option to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by him).

"(2) Special rule for loss attributable to failure to exercise option.—For purposes of paragraph (1), if loss is attributable to failure to exercise an option, the option shall be deemed to have been sold or exchanged on the day it expired.

"(3) Nonapplication of subsection.—This subsection shall not apply to—

"(A) an option which constitutes property described in paragraph (1) of section 1221;

"(B) in the case of gain attributable to the sale or exchange of an option, any income derived in connection with such option which, without regard to this subsection, is treated as other than gain from the sale or exchange of a capital asset; and

"(C) a loss attributable to failure to exercise an option described in section 1233(c).

"(b) Treatment of Grantor of Option in the Case of Stock, Securities, or Commodities.—

"(1) General rule.—In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 6 months.

"(2) Definitions.—For purposes of this subsection—

"(A) Closing transaction.—The term 'closing transaction' means any termination of the taxpayer's obligation under an option in property other than through the exercise or lapse of the option.

"(B) Property.—The term 'property' means stocks and securities (including stocks and securities dealt with on a 'when issued' basis), commodities, and commodity futures.

"(3) Nonapplication of subsection.—This subsection shall not apply to any option granted in the ordinary course of the taxpayer's trade or business of granting options."

(b) Effective Date.—The amendment made by subsection (a) shall apply to options granted after September 1, 1976.

And the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 2707. Exempt-Interest Dividends of Regulated Investment Companies.

(a) General.—Section 852(a)(1) (relating to regulated investment companies) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gain dividends) equals or exceeds the sum of—

"(A) 90 percent of its investment company taxable income for the taxable year determined without regard to subsection (b)(2)(D); and

"(B) 90 percent of the excess of (i) its interest income excludable from gross income under section 103(a)(1) over (ii) its deductions disallowed under sections 265, 171(a)(2), and".

(b) Dividends Paid Deduction.—Section 852(b)(2)(D) (relating to taxable income) is amended to read as follows:

"(D) the deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gain dividends and exempt-interest dividends."

(c) Exempt-Interest Dividends.—Section 852(b) (relating to method of taxation of regulated investment companies and shareholders) is amended by inserting after paragraph (4) the following new paragraph (5);

"(5) Exempt-interest dividends.—If, at the close of each quarter of its taxable year, at least 50 percent of the value (as defined in section 851(c)(4)) of the total assets of the regulated investment company consists of obligations described in section 103(a)(1), such company shall be qualified to pay exempt-interest dividends, as defined herein, to its shareholders.

"(A) Definition.—An exempt-interest dividend means any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including exempt-interest dividends paid after the close of the taxable year as described in section 855) is greater than the excess of—

"(i) the amount of interest excludable from gross income under section 103(a)(1), over

"(ii) the amounts disallowed as deductions under section 265 and 171(a)(2),

the portion of such distribution which shall constitute an exempt-interest dividend shall be only that proportion of the amount so designated as the amount of such excess for such taxable year bears to the amount so designated.

"(B) Treatment of exempt-interest dividends by shareholders.—An exempt-interest dividend shall be treated by the shareholders for all purposes of this subtitle as an item of interest excludable from gross income under section 103(a)(1). Such purposes include but are not limited to—

"(i) the determination of gross income and taxable income,

"(ii) the determination of distributable net income under subchapter J,

"(iii) the allowance of, or calculation of the amount of, any credit or deduction, and

"(iv) the determination of the basis in the hands of any shareholder of any share of stock of the company."

(d) Technical Amendment.—Section 103(g), as redesignated by section 1305 of this Act (relating to exclusions from gross income of interest on certain government obligations) is amended by inserting after paragraph (23) the following new paragraph:

"(24) Exempt-interest dividends.—For treatment of exempt-interest dividends, see section 852(b)(5)(B)."

(e) Disallowance of Deductions.—Section 265 (relating to nonallowance of deductions for expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraphs:

"(3) Certain regulated investment companies.—In the case of a regulated investment company which distributes during the taxable year an exempt-interest dividend (including exempt-interest dividends paid after the close of the taxable year as described in section 855), that portion of any amount otherwise allowable as a deduction which the amount of the income of such company wholly exempt from taxes under this subtitle bears to the total of such exempt income and its gross income (excluding from gross income, for this purpose, capital gain net income, as defined in section 1222(9)).

"(4) Interest related to exempt-interest dividends.—Interest on indebtedness incurred or continued to purchase or carry shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2708. COMMON TRUST FUND TREATMENT OF CERTAIN CUSTODIAL ACCOUNTS.

(a) IN GENERAL.—Section 584(a)(1) (relating to definition of common trust fund) is amended to read as follows:

"(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity—

"(A) as a trustee, executor, administrator, or guardian, or

"(B) as a custodian of accounts—

"(i) which the Secretary determines are established pursuant to a State law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute, and

"(ii) with respect to which the bank establishes, to the satisfaction of the Secretary, that it has duties and responsibilities similar to duties and responsibilities of a trustee or guardian; and".

And the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2709. TRANSFERS OF OIL AND GAS PROPERTY WITHIN THE SAME CONTROLLED GROUP OR FAMILY.

(a) IN GENERAL.—Subparagraph (B) of section 613A(c)(9) (relating to transfer of oil or gas property), as amended by this Act, is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following:

"(iv) a transfer of property between corporations which are members of the same controlled group of corporations (as defined in paragraph (8)(D)(i)), or

"(v) a transfer of property between business entities which are under common control (within the meaning of paragraph (8)(B)) or between related persons in the same family (within the meaning of paragraph (8)(C)), or

"(vi) a transfer of property between a trust and related persons in the same family (within the meaning of paragraph (8)(C)) to the extent that the beneficiaries of that trust are and continue to be related persons in the family that transferred the property, and to the extent that the tentative oil quantity is allocated among the members of the family (within the meaning of paragraph (8)(C)).

Clause (iv) or (v) shall apply only so long as the tentative oil quantity determined under the table contained in paragraph (3)(B) is allocated under paragraph (8) between the transferor and transferee."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.

And the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2710. SUPPORT TEST FOR DEPENDENT CHILDREN OF DIVORCED, ETC., PARENTS.

(a) IN GENERAL.—Section 152 (relating to definition of dependents) is amended by striking the word "all" in subsection (e)(2)(B)(i) thereof and inserting in lieu thereof "each".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2711. STUDY OF EXPANDED STOCK OWNERSHIP.

(a) IN GENERAL.—Section 3022(a) of the Employee Retirement Income Security Act of 1974 (relating to duties of Joint Pension Task Force) is amended—

(1) by redesignating paragraphs (4) and (5) as (5) and (6), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) the broadening of stock ownership, particularly with regard to employee stock ownership plans (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954 and section 407(d(6) of this Act) and all other alternative methods for broadening stock ownership to the American labor force and others;"

(b) CHANGE OF TITLE.—

(1) Subtitle B of title III of such Act is amended—

(A) by striking out "Pension" in the caption of such subtitle and inserting in lieu thereof "Pension, Profit-sharing, and Employee Stock Ownership Plan",

(B) by striking out "PENSION" in the caption of part 1 of such subtitle and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN", and

(C) by striking out "Joint Pension" each place it appears in sections 3021 and 3022 and inserting in lieu thereof the following: "Joint Pension, Profit-sharing, and Employee Stock Ownership Plan".

(2) The table of contents of such Act is amended—

(A) by striking out "PENSION" in the item relating to title III and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN",

(B) by striking out "Pension" in the item relating to subtitle B of title III and inserting in lieu thereof the following: "Pension, Profit-sharing, and Employee Stock Ownership Plan", and

(C) by striking out "PENSION" in the item relating to part 1 of subtitle B of title III and inserting in lieu thereof "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN".

And the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2712. INVOLUNTARY CONVERSIONS OF REAL PROPERTY.

(a) IN GENERAL.—Section 1033(g) (relating to involuntary conversions), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE.—In the case of a compulsory or involuntary conversion described in paragraph (1), subsection (a)(3)(B)(i) shall be applied by substituting '3 years' for '2 years'".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any disposition of converted property (within the meaning of section 1033(a)(2) of the Internal Revenue Code of 1954) after December 31, 1974, unless a condemnation proceeding with respect to such property began before the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2713. SALE OF RESIDENCE BY ELDERLY.

(a) IN GENERAL.—Section 121(b)(1) (relating to gain from sale or exchange of residence of individual who has attained age 65) is amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$35,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2714. ADDITIONAL CHANGES IN SUBCHAPTER S SHAREHOLDER RULES.

(a) ESTATE OF DECEASED SPOUSE NOT TO BE TREATED AS SHAREHOLDER.—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

"(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1) stock which—

"(1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State,

"(2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common.

"(3) was, on the date of death of a spouse, stock described in paragraph (1) or (2), and is, by reason of such death, held by the estate of the deceased spouse and the surviving spouse, or by the estates of both spouses (by reason of their deaths on the same date), in the same proportion as held by the spouses before such death, or

"(4) was, on the date of the death of a surviving spouse, stock described in paragraph (3), and is, by reason of such death, held by the estates of both spouses in the same proportion as held by the spouses before their deaths,

shall be treated as owned by one shareholder."

(b) BROADENING CLASSES OF PERMISSIBLE SHAREHOLDERS TO INCLUDE CERTAIN TRUSTS.—

(1) Section 1371 (relating to definitions for purposes of subchapter S) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (a), the following trusts may be shareholders:

"(1) A trust all of which is treated as owned by the grantor under subpart E of part I of subchapter of this chapter.

"(2) A trust created primarily to exercise the voting power of stock transferred to it.

"(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for purposes of subsection (a) (1), be treated as a shareholder.".

(2) Paragraph (2) of section 1371(a) is amended by striking out "(other than an estate)" and inserting in lieu thereof "(other than an estate and other than a trust described in subsection (f))".

(c) NEW SHAREHOLDERS MUST AFFIRMATIVELY ELECT TO TERMINATE ELECTION.—Paragraph (1) of section 1372(e) (relating to termination of election) is amended to read as follows:

"(1) NEW SHAREHOLDERS.—

"(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

"(i) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

"(ii) on the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary shall by regulations prescribe) to consent to such election on or before the 60th day on which he acquires the stock.

"(B) If the person acquiring the stock is the estate of a decedent, the period under subparagraph (A) for affirmatively refusing to consent to the election shall expire on the 60th day after whichever of the following is the earlier:

"(i) The day on which the executor or administrator of the estate qualifies; or

"(ii) The last day of the taxable year of the corporation in which the decedent died.

"(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.".

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2715. PARTICIPATION BY VOLUNTEER FIREFIGHTERS IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

(a) IN GENERAL.—Section 219(c)(4) (relating to participation in governmental plans by certain individuals) is amended by adding at the end thereof the following new subparagraph:

"(B) VOLUNTEER FIREFIGHTERS.—An individual whose participation in a plan described in subsection (b)(3)(A)(iv) is based solely upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of $1,800 (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2716. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) IN GENERAL.—Section 451 (relating to general rules for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.—

"(1) IN GENERAL.—In the case of income derived from the sale or exchange of livestock (other than livestock described in section 1231(b)(3)) in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs if he establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the Federal Government.

"(2) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3))."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

That the amendment of the Senate numbered 35 is reported in disagreement.

AL ULLMAN,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
PHIL M. LANDRUM,
CHARLES A. VANIK,
H. T. SCHNEEBELI,
BARBER B. CONABLE, JR.,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
ABE RIBICOFF,
LLOYD BENTSEN,
MIKE GRAVEL,
W. D. HATHAWAY,
FLOYD K. HASKELL,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD P. HANSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 10612) to reform the tax laws of the United States, submit the following joint statement to the House and the Senate as an explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

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603. Qualified stock options.
604. State legislators' travel expenses away from home.
605. Nonbusiness guaranties.
Senate amendment numbered 20: Accumulation trusts.
701. Accumulation trusts.
Senate amendment numbered 21: Capital formation.
801. Extension of $100,000 limitation on used property for the investment credit.
802(a). Extension of 10 percent credit.
802(b). First-in-first-out treatment of investment credits.
803. ESOP investment credit provisions.
804. Investment credit for movie and television films.
805. Investment credit for certain vessels.
806(a). Net operating loss carryover and carryback election.
806(b). Limitations on net operating loss carryovers.

807. Small fishing vessel construction reserves.

Sections omitted in Senate amendment No. 21: Extension of expiring investment credits.

Credit for works of art by artists to charitable organizations.

Senate amendment numbered 22.

901. Small business provisions.

Senate amendment numbered 23:

1011. Income earned abroad by United States citizens living or residing abroad.

1012. Income tax treatment of nonresident alien individuals who are married to citizens or residents of the United States.

1013. Foreign trusts having one or more United States beneficiaries to be taxed currently to grantor.

1014. Interest charge on accumulation distributions from foreign trusts.

1015. Excise tax on transfers of property to foreign persons to avoid Federal income tax.

1021. Amendment of provision relating to investment in United States property by controlled foreign corporations.

1022. Repeal of exclusion for earnings of less-developed country corporations for purposes of section 1248.

1023. Exclusion from subpart F of earnings of insurance companies.

1024. Shipping profits of foreign corporations.

1031. Requirement that foreign tax credit be determined on overall basis.

1032. Recapture of foreign losses.

1033. Gross up of dividends from less-developed country corporations.

1034. Treatment of capital gains for purposes of foreign tax credit.

1035. Foreign oil and gas extraction income.

1036. Underwriting income.

1037. Third-tier foreign tax credit when section 951 applies.

1041. Interest on bank deposits earned by nonresident aliens and foreign corporations.

1042. Changes in ruling requirements under Code section 367; certain changes in section 1248.

1043. Contiguous country branches of domestic life insurance companies.

1044. Transitional rule for bond, etc., losses of foreign banks.

1051. Tax treatment of corporations conducting trade or business in Puerto Rico and possessions of the United States.

1052. Western Hemisphere Trade Corporations.

1053. Repeal of provisions relating to China Trade Act Corporations.

1061–1064; 1066–1067. Denial of certain tax benefits on income derived in connection with participation in an international boycott.

1065. Denial of certain tax benefits attributable to bribe-produced income.

Section omitted from Senate Amendment No. 23:

Agricultural products of foreign corporations

Senate amendment numbered 24: Amendments affecting DISC.

1101. Amendments affecting DISC.

Senate amendment numbered 25: Administrative provisions.

1201. Public-inspection of written determinations by Internal Revenue Service.

1202. Disclosure of returns and return information.

1203. Income tax return preparers.

1204. Jeopardy and termination assessments.

1205. Administrative summons.

1206. Assessments in case of mathematical or clerical errors.

1207. Withholding provisions:

1207(a). Withholding State income taxes from military personnel.

1207(b). Withholding of State or local income tax from members of the National Guard or Ready Reserve.

1207(c). Voluntary withholding of State income taxes from Federal employees.

1207(d). Withholding of income tax on certain gambling winnings.

1207(e). Withholding of Federal taxes on certain individuals engaged in fishing.

1208. State-conducted lotteries.

1209. Minimum exemption from levy for wages, salary, and other income.

1210. Joint committee refund cases.

1211. Use of Social Security numbers.

1212. Interest on mathematical errors on returns prepared by IRS.

Sections omitted from Senate amendment No. 25:

Definition of city for purposes of withholding for Federal employees.

Voluntary withholding of State income taxes for certain legislative officers and employees.

Award of costs and attorneys fees to prevailing taxpayer.

Senate amendment numbered 26:

1301. Certain housing associations.

1302. Treatment of certain crop disaster payments.

1303. Tax treatment of certain 1972 disaster losses.

1304. Worthless debts by political parties.

1305. Tax-exempt bonds for student loans.

1306. Personal holding company income amendments.

1307. Work incentive (WIN) and Federal welfare recipient employment tax credits.

1308. Repeal of excise tax on certain light-duty truck parts.

1309. Exemption from manufacturers excise tax for certain articles resold after modification.

1310. Franchise transfers.

1311. Employers' duties to keep records and report tips.

1312. Treatment of certain pollution control facilities.

1313. Qualification of fishing organizations as tax-exempt agricultural organizations.

1314. Subchapter S corporation shareholder rules.

1315. Application of section 6013(e) of the Code (innocent spouse).

1316. Modifications in limitation on percentage depletion in case of oil and gas wells.

1317. Implementation of Federal-State Tax Collection Act of 1972.

1318. Cancellation of certain student loans.

1319. Simultaneous liquidation of parent and subsidiary corporations.

1320. Prepublication expenditures of publishers.

1321. Contributions in aid of construction for certain utilities.

1322. Prohibition of discriminatory State or local taxes on generation or transmission of electricity.

1323. Deduction for cost of removing architectural and transportation barriers for the handicapped and elderly.

1324. Reports on high-income taxpayers.

1325. Tax treatment of historic structures.

1326. Supplemental Security Income for victims of certain natural disasters.

1327. Exclusion of countries which aid and abet international terrorists from preferential tariff treatment.

1328. Net operating loss carryovers for Cuban expropriation losses.

Sections omitted of Senate amendment No. 26:

Study of tax treatment of married and single persons.

Prohibition of State-local taxation of certain vessels, barges, or other craft.

Senate amendment No. 27: Capital gains.

1401. Capital loss offset against ordinary income.

1402. Holding period for long-term capital gains.

1403. Capital loss carryover for mutual funds.

Senate amendment No. 28:

1501. Individual retirement account (IRA) for spouse.

1502. Limitation on contributions to certain H.R. 10, plans.

1503. Retirement deductions for members of Armed Forces Reserves and National Guard.

1504. Tax-exempt annuity contracts in closed-end mutual funds.

1505. Pension fund investments in segregated asset accounts of life insurance companies.

1506. Study of salary reduction pension plans.

1507. Consolidated returns for life and other insurance companies.

1508. Treatment of certain guaranteed renewable life insurance contracts.

1509. Study of expanded participation in individual retirement accounts.

Senate amendment numbered 29: Real estate investment trusts.

1601. Deficiency dividend procedure.

1602. Failure to meet income source tests.

1603. Treatment of property held for sale to customers.

1604(a). Income in 90-percent gross income requirement to 95 percent.

1604(b). Change in definition of "rents from real property".

1604(c). Change in distribution requirements.

1604(d). Termination or revocation of election.

1605. Excise tax on distributions made after taxable year.

1606. Allowance of net operating loss carryover.

1607. Alternative tax in case of capital gains.

Senate amendment numbered 30: Railroad provisions.

1701(a). Railroad ties.

1701(b). Investment credit limitations for railroads.

1702. Amortization of railroad grading and tunnel bores.

1703. Investment credit limitations for airlines.

Section omitted from Senate Amendment No. 30: Amortization of track accounts.

Senate amendment numbered 31 (omitted): Tax credit for garden tools.

Senate amendment numbered 32: Repeal and revision of obsolete, rarely used, etc., provisions of Internal Revenue Code of 1954. 1900–1907; 1951–52. "Deadwood provisions".

Senate amendment numbered 33 (omitted): Energy-related provisions.

Senate amendment numbered 34: Tax-exempt organizations.

1201. Modification of foundation self-dealing rules in 1969 Act relating to leased property.

2102. Private foundation set-asides.

2103. Mandatory payout rate for private foundations.

2104. Extension of time to amend charitable remainder trust governing instruments.

2105. Unrelated trade or business income of trade shows, State fairs, etc.

2106. Declaratory judgments regarding tax-exempt status of charitable, etc., organizations.

Sections omitted from Senate Amendment No. 34:

Reduction of private foundation investment income excise tax.

Alcoholism Trust Fund.

Individuals providing companion sitting placement services.

Minimum distribution requirements to include consideration of miscellaneous distributions.

Senate Amendment Numbered 35: Estate and Gift Taxes (reported in technical disagreement—See Appendix A).

Senate amendment numbered 36: Other amendments.

2301. Outdoor advertising displays.

2302. Excise tax treatment of large cigars.

2303. Gain from sales or exchanges between related parties.

2304. Armed Forces Health Professions Scholarships.

2305. Exchange funds.

2306. Distributions by subchapter S corporations.

Sections omitted from Senate Amendment No. 36:

Tax counseling for the elderly.

Commission on value added taxation.

Senate amendment numbered 37: United States International Trade Commission.
2401-2406. U.S. International Trade Commission.
Senate amendment numbered 38: Additional miscellaneous provisions.
2501. Certain disability payments for injuries resulting from acts of terrorism.
2502. Contributions of certain Government publications.
2503. Lobbying by public charities.
2504. Tax liens, etc., not to constitute acquisition indebtedness.
2505. Extension of private foundation transitional rule for sale of business holdings.
2506. Private operating foundation; Imputed interest.
2507. Study of tax incentives by Joint Committee.
Senate Amendment Numbered 39:

OTHER MISCELLANEOUS AMENDMENTS

2601. Group prepaid legal expenses.
2602. Certain hospital services.
2603. Clinical services of cooperative hospitals.
2604. Charitable contributions of inventory.
Sections omitted from Senate Amendment No. 39:
Credit for certain education expenses.
Interest on certain governmental obligations for hospital construction.
Senate Amendment Numbered 40.

ADDITIONAL SENATE FLOOR AMENDMENTS

Senate Amendment Numbered 41:
2701. Employee stock ownership plan regulations.
Senate Amendment Numbered 42 (omitted):
Expenses of amateur athletes engaging in national or international competition.
Senate Amendment Numbered 43:
2702. Exemption of certain amateur athletic organizations from tax.
Senate Amendment Numbered 44:
2703. Taxable status of Pension Benefits Guaranty Corporation.
Senate Amendment Numbered 45:
2704. Level premium plans covering owner-employees.
Senate Amendment Numbered 46:
2705. Lump-sum distributions from qualified pension, etc., plans.
Senate Amendment Numbered 47 (omitted):
Deductions for attending foreign conventions.
Senate Amendment Numbered 48:
2706. Tax treatment of grantor of certain options.
Senate Amendment Numbered 49:
2707. Exempt-interest dividends of regulated investment companies.
Senate Amendment Numbered 50 (omitted):
Amortization of replacement railroad ties.
Senate Amendment Numbered 51 (omitted):
Commission on tax simplification and modernization.
Senate Amendment Numbered 52:
2708. Common trust fund treatment of certain custodial accounts.
Senate Amendment Numbered 53 (omitted):
Business use of homes.
Senate Amendment Numbered 54:
2709. Transfers of oil and gas property within the same controlled group or family.
Senate Amendment Numbered 55:
2710. Support test for dependent children of separated or divorced parents.
Senate Amendment Numbered 56:
2711. Study of expanded stock ownership.
Senate Amendment Numbered 57 (omitted):
Definition of low and moderate income housing.
Senate Amendment Numbered 58:
2712. Deferral of gain on involuntary conversions of real property.
Senate Amendment Numbered 59:
2713. Sale of residence by elderly.
Senate Amendment Numbered 60 (omitted):
Valuation of certain property for purposes of the Federal estate tax.
Senate Amendment Numbered 61 (omitted):
Exemption from taxation for certain mutual deposit guarantee funds.
Senate Amendment Numbered 62:
2714. Additional changes in subchapter S shareholder rules.
Senate Amendment Numbered 63:
2715. Individual retirement accounts for volunteer firefighters.
Senate Amendment Numbered 64 (omitted):
Exemptions from items of minimum tax preference.
Senate Amendment Numbered 65 (omitted):
Certain sales of low-income housing projects; recapture of depreciation on real property; section 167(k).
Senate Amendment Numbered 66:
2716. Livestock sold on account of drought.
Senate Amendment Numbered 67 (omitted):
Appendix A: Bill Language and statement of managers on Senate Amendment numbered 35; Estate and Gift Tax Provisions (Reported in Technical Disagreement).
Bill Language.
Statement of Managers.
Unified Credit.
Unification of Estate and Gift Tax Rates.
Transfers Made Within 3 Years of Death.
Gross-up for Gift Taxes.
Increase in Estate Tax Marital Deduction.
Increase in Gift Tax Marital Deduction.
Joint Interests.
Special Valuation for Certain Property.
Extension of Time for Payment of Estate Tax.
Carryover of Basis of Property.
Generation-Skipping Transfers.
Redemption of Stock to Pay Estate Tax.
Orphans' Exclusion.
Requirement That IRS Furnish a Statement Explaining Estate or Gift Valuation.
Gift Tax Returns.
Public Index of Filed Tax Liens.
Inclusion of Stock in Decedent's Estate Where Decedent Retained Voting Rights.
Disclaimers.
Estate and Gift Tax Exclusions for Qualified Retirement Benefits.
Gift Tax Treatment of Certain Community Property.
Income Tax Treatment of Certain Selling Expenses of Estates and Trusts.
Estate Tax Credit for Payment in Kind.
Appendix B: Revenue Estimates on House, Senate and Conference Versions of H.R. 10612.

SENATE AMENDMENT NUMBERED 1

House bill.—No provision.

Senate amendment.—The Senate amendment includes the table of contents.

Conference agreement.—The conference agreement omits the Senate table of contents. (The table of contents is inserted under Senate amendment numbered 2.)

SENATE AMENDMENT NUMBERED 2

House bill.—The House bill includes a short title, the table of contents, and the limitation on artificial losses (LAL).

LAL provides a limit on accelerated deductions which may be taken currently to the net income from the property. It applied to real estate, farming, oil and gas, movies, equipment leasing, and sports franchises. The amount of the accelerated deductions not allowed currently are to be deferred and made available in subsequent years to the extent of net income from the property in a subsequent period.

Under present law, interest and taxes on real property during the construction period may be deducted currently or may be capitalized and depreciated over the life of the property. The House bill applies LAL to interest and taxes during the construction period and to accelerated depreciation (in excess of straight-line depreciation) on a consolidated basis for all real property. Generally, this provision applied to construction beginning after 1975. An exception is provided for residential construction begun before January 1, 1978 (if there is a binding commitment before 1977), and for governmentally subsidized housing on which construction begins before January 1, 1981 (if a binding commitment is obtained before 1979).

Senate amendment.—The Senate amendment includes "findings" that it is the sense of the Senate to deal with the problems of converting ordinary income into capital gain and the deferral of tax resulting from the use of tax shelters by the minimum tax, at risk provisions, recapture provisions, capitalization provisions in certain cases, and partnership provisions.

The Senate amendment does not apply LAL to construction period interest and taxes or to the accelerated depreciation on real property in excess of straight-line depreciation. However, a Senate amendment restricts the amount of partnership liabilities which may be included in a limited partner's basis in his partnership interest to an amount equal to any further contributions (over and above any actual contributions) which the limited partner is obligated to make pursuant to the partnership agreement. The effect of this provision is to limit deductions which may be passed through to a limited partner to the amount of investment which he actually has and will have at risk in the partnership. (In addition, a Senate amendment included interest during the construction period as a preference item in the minimum tax.)

Conference agreement.—The conference agreement includes the short title and inserts a table of contents which conforms to the conference action. In the case of real estate, the conference agreement adopts a substitute for both the House bill and the Senate amendment, as follows:

103. Capitalization and Amortization of Real Property Construction Period Interest and Taxes

Under the conference agreement, construction period interest and taxes are to be capitalized in the year in which they are paid or incurred and amortized over a 10-year period. A portion of the amount capitalized may be deducted for the taxable year in which paid or incurred. The balance must be amortized over the remaining years in the amortization period beginning with the year in which the property is ready to be placed in service or is ready to be held for sale.

The provision is not to apply to any amount that is capitalized at the election of the taxpayer as a carrying charge under present law (sec. 266). In addition, the provision is not to apply to interest or taxes paid or incurred with respect to property that is not held (or will not be held) for business or investment purposes (e.g., the taxpayer's residence).

Under the conference agreement, separate tansitional rules are provided for non-residential real estate, residential real estate, and government subsidized housing.

In the case of nonresidential real estate, this provision is to apply only to property where the construction period begins after December 31, 1975. In the case of residential real estate (other than certain low-income housing), this provision is to apply to construction period interest and taxes paid or accrued after December 31, 1977, and, in the case of low-income housing, to construction period interest and taxes paid or accrued after December 31, 1981. For this purpose, the definition of low-income housing is to be the same as the Senate amendment relating to depreciation recapture.

In addition, the length of the amortization period is to be phased-in over a 7-year period. The amortization period is to be 4 years in the case of interest and taxes or accrued in the first year to which these rules apply. The amortization period increases by one year for each succeeding year after initial effective date until the amortization period becomes 10 years (i.e., the 10-year period is fully phased-in for construction period interest and taxes paid or accrued in 1982, in the case of non-residential real estate; 1984, in the case of residential real estate, and 1988, in the case of government subsidized housing). As a transition rule for 1976, the amount that may be deducted currently is 50 percent and the remaining 50 percent is to be amortized over a 3-year period beginning in the year the property is ready to be placed in service or is ready to be held for sale.

The application of the general transitional rules and the phase-in of the amortization period can be illustrated by the following example. Assume that $120,000 of interest and taxes are paid or accrued in 1980 with respect to the construction of residential real estate (other than government subsidized) and that the property is ready to be placed in service in 1982. For taxable year 1980, the $120,000 must be capitalized under this provision, but a deduction is to be allowed for $20,000 ($\frac{1}{6}$ of the amount capitalized). The remaining $100,000 (i.e., $\frac{5}{6}$ of the total) is to be deducted ratably over a 5-year period beginning in 1982 (the year in which the property is placed in service). Thus, $20,000 is to be allowed as a deduction for taxable year 1982 and in each of the next 4 years.

In the case of a sale or exchange of property, the unamortized balance of the construction period interest and taxes is to be added to the basis of the property for purposes of determining gain or loss on the sale or exchange. In the case of a nontaxable transfer or exchange (i.e., a transfer to a partnership or controlled corporation, a like-kind exchange, or a gift), the transferor is to continue to deduct the amortization allowable over the amortization period remaining after the transfer. Thus, in these cases, the allowance of the deduction is considered to be personal to the taxpayer who paid or incurred the interest and taxes because the deduction would have been allowed to him currently but for the capitalization requirement.

SENATE AMENDMENT NUMBERED 3

House bill.—No provision.

Senate amendment.—The Senate amendment includes a short title, a reference to the fact that the provisions included in the bill refer to the provisions of the Internal Revenue Code of 1954, and a provision which requires the Secretary of the Treasury or his delegate to submit to the Committee on Ways and Means, not later than 90 days after date of enactment of the Act, a draft of any technical and conforming changes necessary to reflect the substantive provisions provided by the Act.

Conference agreement.—Under the conference agreement, the short title and the reference to the Internal Revenue Code of 1954 are included in Senate amendment numbered 2. The conference agreement does not include the provision requiring the Treasury to submit a draft of changes.

SENATE AMENDMENT NUMBERED 4

201. Recapture of Depreciation on Real Property

House bill.—Under present law, special rules are provided for the recapture of depreciation allowed (or allowable) as a deduction with respect to real estate. In the case of non-residential real estate, any gain realized is treated or "recaptured" as ordinary income to the extent of post-1969 depreciation taken in excess of straight-line depreciation. In the case of residential property generally, this rule applies to property held during the first 100 months ($8\frac{1}{3}$ years) with a phaseout during the next 100 months; that is, no recapture after $16\frac{2}{3}$ years. For governmentally subsidized housing, acquired or constructed before January 1, 1976, the phaseout begins at 20 months ($1\frac{2}{3}$ years) and is completed at 120 months (10 years).

The House bill modifies the existing rules relating to the recapture of depreciation on real estate. In the case of residential real estate, the House bill provides for the recapture of all post-1975 depreciation in excess of straight-line, in the same manner as is presently the case for non-residential real estate. In the case of government subsidized housing, the bill provides full recapture of post-1975 depreciation in excess of a straight-line for the first 100 months ($8\frac{1}{3}$ years) and a phaseout of the amount recaptured during the second 100 months (up to $16\frac{2}{3}$ years). There will be no recapture thereafter.

Senate amendment.—In the case of residential real estate (other than government subsidized housing), the Senate amendment is the same as the House bill. In the case of government subsidized housing, the Senate amendment provides full recapture where the construction of the property commences after 1981. In the case where the construction of the property commenced before 1982 (or pursuant to a binding contract entered before such date), the amount of recapture attributable to accelerated depreciation taken after 1975 is to be the present 100-month rule for residential real property. The Senate amendment extends the definition of low-income housing to include subsidized housing programs administered by the Farmers Home Administration.

Conference agreement.—The conference agreement follows the House bill with one modification. With respect to the definition of low-income housing, the conference agreement adopts the definition provided in the Senate amendment.

201A. Five-year Amortization for Low-Income Housing

House bill.—Special rules are provided under present law to permit the rapid amortization of expenditures to rehabilitate low-income rental housing. In the case of low-income rental housing, taxpayers can elect to compute depreciation on certain rehabilitation expenditures over 60 months if the additions or improvements have a useful life of 5 years or more. The aggregate rehabilitation expenditures as to any housing must not exceed $15,000 per dwelling unit and the sum of the rehabilitation expenditures for two consecutive taxable years must exceed at least $3,000 per dwelling unit. This special 5-year amortization rule for low-income rental housing expired on December 31, 1975.

The House bill extends the special 5-year depreciation rule for two years (until January 1, 1978). Also the aggregate rehabilitation expenditures that can be taken into account per dwelling unit is increased from $15,000 to $20,000.

Senate amendment.—The Senate amendment is the same as the House bill except that it provides that rehabilitation expenditures that are made pursuant to a binding contract entered into before January 1, 1978, would qualify for the 5-year amortization rule even though the expenditures are actually made after December 31, 1977. The amendment also modifies the definition of families and individuals of low income by providing that the income limits would be determined in a manner consistent with those presently established for the leased housing program under sec. 8 of the 1937 Housing Act.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 5

202. Limitation on Deductions to Amount at Risk

House bill.—Under present law, the amount of losses a taxpayer may claim on any investment activity is generally limited to the taxpayer's cost or other basis in the activity. Basis included not only the taxpayer's actual cash investment in the property and liabilities the taxpayer is obligated to pay, but also costs financed through nonrecourse loans for which the taxpayer will not be held personally liable. The taxpayer's actual risk of economic loss may also be further limited by other contractual arrangements (such as guarantees or repurchase agreements). As a result, a taxpayer is, in many situations, entitled to deduct losses which substantially exceed the amount he is actually "at risk" in an activity.

The House bill provides that the amount of any loss (otherwise allowable for the year) which may be deducted in connection with (1) the raising of livestock (other than poultry) and the raising or harvesting of grain, oil seed, fiber, pasture, tobacco, silage, or forage crops, or (2) the trade or business of producing, distributing or displaying a motion picture, television film or series for public entertainment cannot exceed the aggregate amount with respect to which the taxpayer is at risk in each such business at the close of the taxable year.

In general, this provision applies to losses incurred after September 10, 1975, in taxable years ending after that date. In the case of films or television tapes, this provision does not apply if the principal photography had begun before September 11, 1975, or if a binding contract for nonrecourse financing of the film was in effect before that date. Also, this provision does not apply to films produced in the United States if the principal photography had begun before January 1, 1976, if certain commitments with respect to that film were made by September 10, 1975.

The House bill also provides that the amount of any deduction (otherwise allowable for the year) for intangible drilling and development costs with respect to oil and gas property may not exceed the aggregate amount with respect to which the taxpayer is at risk at the close of the taxable year. This provision applies to intangible drilling and development costs paid or incurred after December 31, 1975, in taxable years ending after that date.

Senate amendment.—The Senate amendment provides that the amount of any loss (otherwise allowable for the year) which may be deducted in connection with one of certain activities cannot exceed the aggregate amount with respect to which the taxpayer is at risk in each such activity at the close of the taxable year. This "at risk" limitation applies to the following activities: (1) farming (except farming operations involving trees other than fruit or nut trees); (2) exploring for, or exploiting, oil and gas resources; (3) holding, producing, or distributing motion picture films or video tapes; and (4) equipment leasing. The limitation applies to all taxpayers (other than corporations which are not subchapter S corporations) including individuals and sole proprietorships, estates, trusts, shareholders in subchapter S corporations, and partners in a partnership which conducts an activity described in this provision.[1]

Under this provision, a taxpayer is generally to be considered "at risk" with respect to an activity to the extent of his cash and the adjusted basis of other property contributed to the activity, any amounts borrowed for use in the activity with respect to which the taxpayer has personal liability for payment from his personal assets, and his net fair market value of personal assets which secure nonrecourse borrowings. The Senate amendment applies to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment.

In applying the at risk provision to farming operations,[2] the conferees intend that the existence of a governmental target price program (such as provided by the Agriculture and Consumer Protection Act of 1973) or other governmental price support program with respect to a product grown by a taxpayer does not, in the absence of agreements limiting the taxpayers' costs, reduce the amount which such taxpayer is at risk.

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[1] Since, except for subchapter S corporations, this provision does not limit the deductibility of amounts paid or incurred by corporations, the provision would not apply to a partnership in which all the partners are corporations (other than subchapter S corporations).

[2] The conference agreement follows the Senate amendment's definition of farming. Thus, the at risk provision does not apply to forestry or the growing of timber.

In general, the at risk provisions apply to losses attributable to amounts paid or incurred (and depreciation or amortization allowed or allowable) in taxable years beginning after December 31, 1975. However, with respect to equipment leasing activities, the conferees agreed that the at risk rule would not apply to net leases under binding contracts finalized on or before December 31, 1975, and to operating leases under binding contracts finalized on or before April 30, 1976. With respect to motion picture activities, the conferees also agreed that the at risk provision does not apply to a film purchase shelter if the principal photography began before September 11, 1975, there was a binding written contract for the purchase of the film on that date, and the taxpayer held his interest in the film on that date. The at risk rule also does not apply to production costs, etc., if the principal photography began before September 11, 1975, and the investor had acquired his interest in the film before that date. In addition, the at risk provision does not apply to a film produced in the United States if the principal photography began before January 1, 1976, if certain commitments with respect to the film had been made by September 10, 1975.

In applying the at risk provisions to activities which were begun in taxable years beginning before January 1, 1976 (and not exempted from this provision by the above transition rules), amounts paid or incurred in taxable years beginning prior to that date and deducted in such taxable years will generally be treated as reducing first that portion of the taxpayers basis which is attributable to amounts not at risk. (On the other hand, withdrawals made in taxable years beginning before January 1, 1976, will be treated as reducing the amount which the taxpayer is at risk.)

202A. The Recapture of Intangible Drilling Costs for Oil and Gas Wells

House bill.—The House bill requires that amounts deducted for intangible drilling expenses on productive wells are to be recaptured upon disposition of the oil or gas property by treating those amounts as ordinary income to the extent that they exceed the amounts which would be allowed if the intangible expenses were capitalized and amortized over the useful life of the well. The provision applies with respect to costs paid or incurred after December 31, 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

SENATE AMENDMENT NUMBERED 6

203. Termination of Additions to Excess Deductions Accounts (EDA)

House bill.—Present law (sec. 1251) provides, in general, that where a taxpayer has generated substantial losses from farming operations in excess of his income from farming operations (in the same or later years than the losses), he may have to treat certain farm income he later realizes as ordinary income rather than capital gain. The amount of potential recapture is measured by the farm losses in the taxpayer's excess deductions account (EDA). The House bill provides that there will be no further additions to EDA accounts in taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill with respect to further additions to EDA accounts. The Senate amendment adds a provision allowing divisive "D" reorganizations without triggering EDA recapture. In these reorganizations, the entire EDA account is applied to both the transferor corporation and the transferee corporation. This provision applies to reorganizations occurring after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 7

204 (a) and (b). Limitations on Deductions for Farming Syndicates and Capitalization of Certain Orchard and Vineyard Expenses

House bill.—No provision. (However, the House bill applies LAL to farming operations and subjected farming syndicates to more restrictive rules than other farming enterprises.)

Senate amendment.—The Senate amendment requires farming syndicates (1) to deduct expenses for feed, seed, fertilizer, and other farm supplies only when used or consumed (not when paid); (2) to capitalize costs of poultry; and (3) to capitalize the costs of planting, cultivating, maintaining and developing a grove, orchard or vineyard which are incurred prior to the year the grove, orchard or vineyard becomes productive. This provision applies generally to taxable years beginning after December 31, 1975, except that it does not apply to farming syndicates in which securities have been registered for sale with the Securities and Exchange Commission prior to April 15, 1976. The rules apply to orchards, groves and vineyards planted after December 31, 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, the definition of "farming syndicate" is revised. A farming syndicate includes (1) a partnership or any other enterprise (other than a corporation which has not elected to be taxed under subchapter S) engaged in the trade or business of farming if at any time interests in the partnership or other enterprise have been offered for sale in an offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale or (2) a partnership or any other enterpirse (other than a corporation which has not elected to be taxed under subchapter S) engaged in the trade or business of farming if more than 35 percent of the losses during any period are allocable to limited partners or limited entrepreneurs.[1] In general, a limited entrepreneur means a person who has an interest in an enterprise other than a partnership and who does not actively participate in the management of the enterprise.

The determination of whether a person actively participates in the operation or management of a farm depends upon the facts and circumstances. Factors which tend to indicate active participation include participating in the decisions involving the operation or management of the farm, actually working on the farm, living on the farm, or hiring and discharging employees (as compared to only the farm manager). Factors which tend to indicate a lack of active participation include lack of control of the management and operation of the farm, having authority only to discharge the farm manager, having a farm manager who is an independent contractor rather than an employee, and having limited liability for farm losses.

The provision specifies four cases where an individual's activity with respect to a farm will result in his not being treated as a limited partner or limited entrepreneur. These cases cover the situations where an individual—

(1) has an interest attributable to his active participation for a period of not less than 5 years in the management of a trade or business of farming;

(2) lives on the farm on which the trade or business of farming is being carried on;

(3) actively participates in the management of a trade or business of farming which involves the raising of livestock (or is treated as being engaged in active management pursuant to one of the first two exceptions set forth above), and the trade or business of the partnership or any other enterprise involves the further processing of the livestock raised in the trade or business with respect to which he is (actually or constructively) an active participant; or

(4) is a member of the family (within the meaning of section 267(c)(4)) of a grandparent of an individual who would be excepted under any of the first three cases listed above and his interest is attributable to the active participation of such individual.

For purposes of the farming syndicate rules, activities involving the growing or raising of trees (other than fruit or nut trees) are not considered farming. Thus, this provision does not apply to forestry or the growing of timber.

The provisions of the conference agreement relating to prepaid feed and other farm supplies and poultry expenses apply generally to amounts paid or incurred in taxable years after December 31, 1975. In the case of farming syndicates in existence on December 31, 1975 (but only if there is no change in membership in the farming syndicate between December 31, 1975, and the end of the syndicate's last taxable year beginning before January 1, 1977), these provisions apply to amounts paid or incurred in taxable years beginning after December 31, 1976. The provisions relating to orchards, groves and vineyards do not apply where the trees or vines were planted or purchased for planting prior to December 31, 1975, or where there was a binding contract to purchase the trees or vines in effect on December 31, 1975.[2]

204(c) Accrual Accounting for Farm Corporations

House bill.—Under present law, any taxpayer engaged in farming may use the cash method of accounting and generally can deduct preproductive period expenses. The House bill generally requires any corporation (other than a subchapter S corporation or a family corporation) and any partnership in which a corporation is a partner to use the accrual method of accounting and to capitalize preproductive period expenses. This provision applies to taxable years beginning after December 31, 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with several modifications.

The exception for family corporations is broadened by providing that a corporation can qualify if the members of one family own, directly or through attribution, at least 50 percent (rather than 66⅔ percent) of the voting stock and of all other classes of stock of such corporation. (The lowering of this percentage makes unnecessary two special rules in the House bill, relating to "two-family" ownership and existing stockholdings of certain employees.) The family corporation exception in the House bill is also broadened by allowing attribution of stock ownership, under certain circumstances, through two tiers of corporations.[3]

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[1] The term "partnership" is used only in a descriptive sense: it is not intended that this definition of farming syndicate operate to preclude the Internal Revenue Service from applying the regulations under section 7701 to an organization described in such definition to determine its proper classification (as a partnership or corporation) for Federal tax purposes.

[2] The conference agreement provides that if a farming syndicate is engaged in planting, cultivating, maintaining or developing a citrus or almond grove, the provisions of section 278(a) which require capitalization of costs which are attributable to planting, cultivating, maintaining or developing the grove and which are incurred before the close of the fourth taxable year from the year of planting apply prior to the capitalization rules of section 278(b) (which requires the costs to be capitalized if they are incurred prior to the first year in which the grove bears a crop or yield in commercial quantities).

The conference agreement also added an exception to cover small corporations since a principal justification for use of the cash method of accounting in agriculture is that small enterprises should not be required to keep books and records on the accrual method of accounting. The provision exempts any corporation whose gross receipts (when combined with the gross receipts of related corporations) do not exceed $1,000,000 per year. However, once this level of receipts is exceeded for a taxable year beginning after December 31, 1975, the corporation must change to the accrual method of accounting for subsequent taxable years and may not change back to the cash method of accounting for subsequent taxable years even if its receipts subsequently fall below $1,000,000.

The conference agreement also adds an exception to the required accrual accounting rules for nurseries. Thus, a corporation which is engaged in the business of operating a nursery will not be required to utilize the accrual method of accounting by reason of this section of the conference agreement. No inference is intended, however, with respect to any business operation which is required to utilize the accrual method of accounting under provisions of existing law.

Similarly, the conference agreement makes it clear that for purposes of this provision, a corporation engaged in forestry or the growing of timber is not thereby engaged in the business of farming.[4] Consequently, this provision is not intended to affect the method of accounting (or treatment of preproductive period expenses) of corporations engaged in forestry or the growing of timber.

The conference agreement also adds special rules which provide that if a corporation (or its predecessors) has, for a 10-year period prior to the date of enactment, used an "annual" accrual method of accounting (in which preproductive period expenses are either deducted currently or charged to the current year's crops), it may continue to use this method of accounting. Also, a taxpayer who has used, for a 10-year period, the static value method of accounting for the costs of deferred crops may change to the annual accrual method of accounting and be treated as if it had used such method of accounting for that 10-year period.

Under the conference agreement, this provision applies to taxable years beginning after December 31, 1976.[5]

SENATE AMENDMENT NUMBERED 8

205. Prepaid Interest

House bill.—Under present law, a taxpayer reporting his income on the accrual method of accounting can deduct prepaid interest only in the period or periods in which the interest represents the cost of using the funds during that period. However, generally, a cash method taxpayer can deduct expenses in the year he actually pays them. It is unsettled, however, whether a cash method taxpayer can deduct prepaid interest in full in the year paid. Recent court decisions have supported the Internal Revenue Service in requiring a cash method taxpayer to allocate his deductions for prépaid interest over the period of the loan.

The House bill requires a cash method taxpayer to deduct prepaid interest over the period of the loan to the extent the interest represents the cost of using the borrowed funds during each period. The House bill also requires points paid on a loan to be deducted ratably over the term of the loan, except in the case of a mortgage incurred in connection with the purchase or improvement of, and secured by, the taxpayer's principal residence. The House bill applies to prepayments made after September 16, 1975, except for prepayments made before January 1, 1976, pursuant to a binding contract or loan commitment in existence on September 16, 1975 (and at all times thereafter).

Senate amendment.—The Senate amendment is the same as the House bill, except that the rule permitting current deductibility of points on a home mortgage is amended to apply only if points are generally charged in the geographical area where the loan is made and to the extent of the number of points generally charged in that area for a home loan. The Senate amendment applies to prepayments of interest on and after January 1, 1976, except for interest paid before January 1, 1978, pursuant to a binding contract or written loan commitment in existence on September 16, 1975.

Conference agreement.—The conference agreement follows the Senate amendment; however, the exception for prepayments of interest pursuant to a binding contract or written loan commitments in existence on September 16, 1975, applies only to prepayments made before January 1, 1977.

SENATE AMENDMENT NUMBERED 9

206. Limitation on deduction of investment interest

House bill.—Under present law the deduction for interest on investment indebtedness is limited to $25,000 per year plus the taxpayer's net investment income and long-term capital gain plus ½ of any interest in excess of these amounts. The House bill limits the interest deduction for nonbusiness interest (i.e., personal plus investment interest) to $12,000 per year plus the amount of a taxpayer's net investment income and long-term capital gain. However, in no case can personal interest in excess of $12,000 be deducted in any year. Any investment interest which is not deductible because of this limitation may be carried forward and deducted in future years. (There is no carryover of any unused personal interest.)

Senate amendment.—The Senate amendment has no limitation on the deductibility of personal or investment interest (although investment interest in excess of investment income, but not capital gains, is made a preference for purposes of the minimum tax).

Conference agreement.—Under the conference agreement, interest on investment indebtedness is limited to $10,000 per year, plus the taxpayer's net investment income. No offset of investment interest is permitted against long-term capital gain. An additional deduction of up to $15,000 more per year is permitted for interest paid in connection with indebtedness incurred by the taxpayer to acquire the stock in a corporation, or a partnership interest, where the taxpayer, his spouse, and his children have (or acquired) at least 50 percent of the stock or capital interest in the enterprise. Interest deductions which are disallowed under these rules are subject to an unlimited carryover and may be deducted in future years (subject to the applicable limitation). Under the conference agreement, no limitation is imposed on the deductibility of personal interest.

Generally, these rules are applicable to taxable years beginning after December 31, 1975. However, under a transition rule, present law (sec. 163(d) before the amendments made under the conference agreement) continues to apply in the case of interest on indebtedness which is attributable to a specific item of property, is for a specified term, and was either incurred before September 11, 1975, or is incurred after that date under a binding written contract or commitment in effect on that date and at all times thereafter (hereinafter referred to as "pre-1976 interest"). As under present law, interest incurred before December 17, 1969 ("pre-1970 interest") is not subject to a limitation.

Under the conference agreement, carryovers are to retain their character. Thus, carryovers of pre-1976 interest will continue to be deductible under the limitation of present law. Carryovers of post-1975 interest will be subject to the new rules adopted under the conference agreement.

In a case where the taxpayer has interest which is attributable to more than one period (pre-1970, pre-1976, and post-1975), the taxpayer's net investment income is to be allocated between (or among) these periods. For example, assume a taxpayer has $30,000 of pre-1976 interest and $60,000 of post-1975 interest; also assume that the taxpayer has $45,000 of investment income. Under the conference agreement, one-third of the investment income ($15,000) is to be allocated to the pre-1976 interest, which would be fully deductible (the $25,000 allowance, plus the $15,000 of net investment income—exceeds the $30,000 of pre-1976 interest, which is therefore fully deductible). Two-thirds of the net invesmtent income ($30,000) is allocated to the post-1975 interest; this amount, added to the $10,000 allowance provided under the conference agreement, would result in a total deduction of $40,000 for the post-1975 interest. The remaining amount, ($20,000) could be carried forward.

SENATE AMENDMENT NUMBERED 10

207. Amortization of Production Costs of Motion Pictures, Books, Records, and Other Similar Property

House bill.—No provision. (The House bill applies LAL to depreciation or amortization of a film or video tape and also applies LAL to costs of producing, displaying and distributing a film or video tape.)

Senate amendment.—The Senate amendment does not have a LAL provision. The Senate amendment does apply an at risk rule to the film production shelter (see Senate amendment numbered 5). In addition, the Senate amendment contains a capitalization rule, which requires individuals and subchapter S corporations to capitalize the costs of producing and distributing motion pictures, books, records and other similar property and permits them to deduct these capitalized costs over the life of the income stream generated from the production activity. The amendment applies to amounts paid or incurred after December 31, 1975, with respect to property the principal production of which begins after December 31, 1975.

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[3] In determining family ownership under this provision, the conferees believe that, if the trustee of a trust has discretion to distribute income or principal to family members or charities and if the trustee has made no distributions (or taken deductions for set-asides) to charities, family beneficiaries should be treated as the sole beneficiaries of the trust.

[4] This exclusion of forestry or the growing of timber from "farming" is consistent with the distinction drawn in regulations relating to provisions of the Code allowing taxpayers engaged in the trade or business of farming to deduct currently expenditures for soil or water conservation, fertilizer for land used in farming, and land clearing (secs. 175, 180, 182 and Regs. §§ 1.175–3, 1.180–1 (b), and 1.182–2).

[5] A partnership with a corporate general partner may be required to use the accrual method of accounting and may also be a farming syndicate subject to limitations on deductible expenses for prepaid feed and other farm supplies, expenses for poultry, and certain expenses of orchards, groves and vineyards. However, feed and other farm supplies are required to be inventoried under the accrual method of accounting, and the expenses (of poultry, orchards, groves and vineyards) that must be capitalized under the farming syndicate rules are also capitalizable preproductive period expenses under the accrual method of accounting (as required by this provision). Consequently, the application of both provisions is not inconsistent: the farming syndicate rules do not appear to impose any additional requirements for an organization subject to this provision.

Conference agreement.—The conference agreement generally follows the capitalization rules of the Senate amendment. However, the rules are to apply only to production costs (including the costs of making prints of the film for distribution) and not to distribution costs.

SENATE AMENDMENT NUMBERED 11

208. Clarification of Definition of Produced Film Rents

House bill.—Under present law "produced film rents" is one category of personal holding company income. Generally, this category covers payments received by a corporation from the distribution and exhibition of motion picture films if these rents arise from an "interest" in the film acquired before the completion of production. Produced film rents are not treated as personal holding company income, however, if such rents constitute 50 percent or more of the corporation's ordinary gross income.

The House bill clarifies any ambiguities in present law regarding whether a qualifying "interest" in a film includes interests other than depreciable interests. Under the House bill, in the case of a producer who actively participates in producing a film, the term "produced film rents" includes an interest in the proceeds or profit from the film, but only to the extent that this interest is attributable to active participation in production activities.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

SENATE AMENDMENT NUMBERED 12

209. Sports Franchise Provisions

House bill.—Under present law, depreciation taken with respect to player contracts is recaptured on a contract-by-contract basis. In addition, no provision under present law prescribes definitive rules relating to the allocation of a portion of the purchase price for a franchise to depreciable player contracts. Finally, under present law, no portion of the depreciation of player contracts is treated as a tax preference for purposes of the minimum tax.

The House bill applies LAL to depreciation (or amortization) of a specified portion of the basis in player contracts. In the case of the sale or exchange of a sports franchise, the House bill provides that the amount allocable to player contracts by a purchaser could not exceed the amount of the sales price allocated to these contracts by the seller. The House bill also provides a presumption that in the case of the sale or exchange of a sports franchise, not more than 50 percent of the consideration would be allocable to player contracts unless the taxpayer can satisfy the Secretary of the Treasury that (under the facts and circumstances of the particular case) it is proper to allocate an amount in excess of 50 percent.

Senate amendment.—With respect to the allocation of basis to player contracts, the Senate amendment is the same as the House bill, except that it adds a provision in the case of a one-year corporate liquidation to take into account for purposes of computing the adjusted basis of player contracts. Gain realized by the corporation (but only to the extent gain is recognized by the shareholders) and it does not contain the 50-percent presumption rule.

With respect to recapture of depreciation, the Senate amendment is the same as the House bill except that (1) the pool recapture of depreciation and deductions for losses taken with respect to player contracts applies only in the case of the sale or exchange of the entire sports franchise and (2) the amount subject to recapture on the sale of the entire sports franchise would be limited to the greater of (a) the sum of the depreciation taken plus any deductions taken for losses attributable to player contracts initially acquired as a part of the original acquisition of the franchise, or (b) the amount of depreciation taken on those player contracts owned by the seller at the time of sale of the franchise: but not in excess of the gain, if any, attributable to player contracts. This provision would apply to transfers of player contracts in connection with any sale of a franchise after December 31, 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, the conference agreement adopts the 50-percent presumption rule contained in the House bill which is made applicable to the allocation of basis to player contracts acquired in connection with the purchase of a sports franchise.

SENATE AMENDMENT NUMBERED 13 PARTNERSHIP PROVISIONS

210(a). Dollar Limitation With Respect to Additional First Year Depreciation for Partnerships

House bill.—Under present law, an owner of certain tangible personal property is eligible to elect, for the first year the property is depreciated, a deduction for additional first-year (or "bonus") depreciation of 20 percent of the cost of the property. The maximum bonus depreciation deduction is limited to $2,000 ($4,000 for an individual filing a joint return). Where the owner is a partnership, the election for bonus depreciation is made by the partnership; however, the dollar limitation described above is applied to each individual partner rather than to the partnership as a whole.

Under the House bill, the amount of the additional first-year depreciation that a partnership can pass through to its partners in any taxable year is limited to $2,000. This provision applies in the case of partnership taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conferenec agreement.—The conference agreement is the same as the House bill and the Senate amendment.

210(b). Partnership Syndication and Organization Fees

House bill.—Until recently, it has been common for limited partnerships to claim a deduction for payments made to a general partner for services rendered by him with respect to the syndication and organization of the limited partnership. Recently, the Service ruled (Rev. Rul. 75-214, 1975-1 C.B. 185) that these payments represent capital expenditures and, as such, are not currently deductible. Moreover, in a recent case the United States Tax Court disallowed the deduction for payments of this type made to a general partner. (*Jackson E. Cagle, Jr.*, 63 T.C. 86 (1974), on appeal to C.A. 5.)

The House bill requires that fees paid in connection with the organization and syndication of a partnership be capitalized. This provision applies to all taxable years to which the Internal Revenue Code of 1954 applies.

Senate amendment.—The Senate bill is the same as the House bill with respect to syndication fees, but allows the amortization of organization fees over a 5-year period. The provisions in the Senate amendment apply to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment but the provision permitting the amortization of organization fees is delayed until taxable years beginning after December 31, 1976. The conferees intend that no inferences should be drawn as to the deductibility (when paid) of partnership organization and syndication fees paid or incurred in taxable years beginning before January 1, 1976.

210(c). Retroactive Allocations of Partnership Income or Loss

House bill.—Presently, investments in tax shelter limited partnerships are commonly made toward the end of the year. It is also common for the limited partnership to have been formed earlier in the year on a skeletal basis with one general partner and a so-called "dummy" limited partner. In many cases, the limited partnership incurs substantial deductible expenses prior to the year-end entry of the limited partner-investors. In these cases, a full share of the partnership's losses for the entire year is usually allocated to these limited partners. These are referred to as "retroactive allocations." It is not clear under present law whether retroactive allocations are permissible, although in practice they are frequently utilized.

The House bill provides that income or losses will be allocable to a partner only for the portion of the year he is a member of a partnership. In determining the income, loss or special item allocable to an incoming partner, the partnership will either allocate on a daily basis or separate the partnership year into two (or more) segments and allocate income, loss or special items in each segment among the persons who were partners during that segment. This provision applies to partnership taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as House bill, except for changes adding clarifying language.

Conference agreement.—The conference agreement follows the Senate amendment.

210(d). Partnership Special Allocations

House bill.—Under present law, a partnership agreement may allocate income, gain, loss, deduction, or credit (or items thereof) among the partners in a manner that is disproportionate to the capital contributions of such partners. These are referred to as "special allocations" and, with respect to any taxable year, may be made by amendment to the partnership agreement at any time up to the initial due date of the partnership tax return for that year. A partnership agreement special allocation of "any item of income, gain, loss, deduction, or credit" will not be recognized, however, if its principal purpose is to avoid or evade any income tax. Since this provision applies to allocations of *items* of income, gain, loss, deduction, or credit, it has been argued that the provision does not apply to, and would not preclude, allocations of taxable income or loss, as opposed to specific items of income, gain, deduction, loss or credit.

The House bill provides that an allocation of taxable income or loss, as well as any item of income, gain, loss, deduction or credit, will be controlled by the partnership agreement only if the partner receiving the allocation can demonstrate that the allocation has a business purpose and that no significant tax avoidance or evasion results from the allocation. If an allocation made by the partnership is set aside, a partner's share of the income, gain, loss, deduction or credit (or item thereof) will be determined in accordance with the partnership's permanent method of allocating the taxable income or loss, or, if there is no such method, in accordance with the partner's interest in the partnership. These provisions apply to partnership taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except in two minor respects. First, the Senate amendment disallows a special allocation only if it lacks "substantial economic effect", while the House bill does so with respect to a special allocation if it lacks "a business purpose" or if "significant avoidance or evasion of any tax . . . results from such allocation." Second, in the event of a disallowance of a special allocation, the Senate amendment provides for reallocation only in accordance with the partner's interest in the partnership, thereby deleting the House bill's alternative method of reallocating in accordance with the partnership's permanent method of allocating taxable income or loss.

Conference agreement.—The conference agreement follows the Senate amendment.

210(e). Treatment of Partnership Liabilities Where a Partner Is Not Personally Liable

House bill.—No provision.

Senate amendment.—Under present law, a limited partner may deduct his allocable share of all the deductible items of the partnership, but not more than the amount of the basis for his interest in the partnership. A limited partner's basis in his partnership interest is increased (in the same proportion as he shares profits) by any partnership liability with respect to which there is no personal liability on the part of any of the partners. Consequently, a limited partner may substantially increase the basis in his partnership interest, and thus the amount of partnership losses he may deduct, by a portion of the partnership liabilities with respect to which he has no personal liability. This rule enables limited partners to deduct amounts exceeding the amount of investment they have at risk in the partnership.

The Senate amendment restricts the amount of partnership liabilities which may be included in a limited partner's basis in his partnership interest to an amount equal to any further contributions (over and above any actual contributions) which the limited partner is obligated to make pursuant to the partnership agreement. The effect of this provision is to limit deductions which may be passed through to a limited partner to the amount of investment which he actually has and will have at risk in the partnership. This provision applies to limited partnerships formed after June 30, 1976, except in the case of low-income and moderate-income housing limited partnerships, where it will apply to limited partnership formed after December 31, 1981.

Conference agreement.—The conference agreement generally follows the Senate amendment, providing that for purposes of the limitation on allowance of losses under section 704(d) of the Code, the adjusted basis of a partner's interest will not include any portion of any partnership liability with respect to which the partner has no personal liability.

It is intended that in determining whether a partner has personal liability with respect to any partnership liability, rules similar to the rules of section 465 (relating to the limitation on deductions to amounts at risk in case of certain activities) will apply. Thus, for example, guarantees and similar arrangements will be taken into account in determining whether there is personal liability.

This provision will not apply to any activity to which section 465 (relating to the limitation on deductions to amounts at risk in case of certain activities) applies, nor will it apply to any partnership the principal activity of which involves real property (other than mineral property).

It is contemplated that this provision and the specific at-risk rules section 465 could apply to a partnership carrying on more than one activity. For example, a partnership involved in equipment leasing, to which the at-risk provisions of section 465 would apply, may also be indebted on a nonrecourse basis with respect to activities which are unrelated to the equipment leasing activity of the partnership. In this instance, separate computations for purposes of allowance of losses would have to be made under both sections 465 and 704(d).

Under the conference agreement, this provision would apply to liabilities incurred after December 31, 1976.

SENATE AMENDMENT NUMBERED 14

211. Scope of Waiver of Statute of Limitations in Case of Hobby Loss Elections

House bill.—Present law provides generally that if an activity makes a profit in two out of five years, it is presumed not to be a hobby (which would be subject to the limitations on deductions for hobby losses). In certain circumstances, a taxpayer may elect to have the results of certain years be relevant to the existence of this presumption for earlier years.

The House bill provides that a taxpayer need not waive the statute of limitations for unrelated items on his return in order to take advantage of this special presumption. This provision applies to taxable years beginning after December 31, 1969, except that it does not reopen taxable years with respect to which the statute of limitations has expired and does not limit general waivers of the statute of limitations.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

SENATE AMENDMENT NUMBERED 15

301(a). Minimum Tax for Individuals

House bill.—Under present law, individuals and corporations pay a minimum tax, in addition to their regular income tax, equal to 10 percent of their items of tax preference, reduced by a $30,000 exemption and their regular tax liability. The tax preferences subject to the minimum tax are: (1) the excluded one-half of capital gains; (2) the excess of percentage depletion over the basis of the property; (3) accelerated depreciation on real property; (4) the bargain element of stock options; (5) accelerated depreciation on personal property subject to a net lease; (6) the excess of amortization of on-the-job training and child care facilities over regular depreciation; (7) the excess of amortization of pollution control facilities over regular depreciation; (8) the excess of amortization of railroad rolling stock over regular depreciation; and (9) excess bad debt reserves of financial institutions. Regular taxes not used to offset preferences in the current year may be carried over for up to 7 additional years.

The House bill raises the minimum tax rate to 14 percent, abolishes the deduction for regular taxes, and reduces the exemption to $20,000 (with a phaseout as preferences rise to $40,000). The House bill adds the following new preferences: (1) itemized deductions in excess of 70 percent of adjusted gross income; (2) intangible drilling costs for oil and gas wells in excess of the deduction if costs were capitalized; (3) construction period interest and taxes; (4) accelerated depreciation on all leased personal property (including ADR and bonus first-year depreciation); and (5) depreciation on player contracts of sports teams acquired in connection with a franchise purchase. A deduction is not subject to the minimum tax if deferred under the Limitation on Artificial Losses (LAL). These changes apply only to individuals, estates and trusts.

Also, the House bill directs the Secretary of the Treasury to issue regulations under which neither individuals nor corporations would be subject to the minimum tax on a tax preference if they received no tax benefit from the preference.

Senate amendment.—The Senate amendment raises the minimum tax rate to 15 percent and reduces the exemption to $10,000 or regular tax liability, whichever is greater. It eliminates the carryover of regular taxes. Also, it adds the following new preferences: (1) itemized deductions (other than medical and casualty deductions) in excess of 60 percent of adjusted gross income; (2) intangible drilling costs in excess of the amount deductible if capitalized and in excess of net income from oil production; (3) construction period interest; (4) accelerated depreciation on all personal property subject to a lease (excluding ADR and bonus first-year depreciation, as under present law); and (5) investment interest in excess of investment income (with income and interest expense of limited partners considered to be investment income and expense). Transition rules are provided for preferences (3) and (5) as applied to low- and moderate-income housing and to houses held as inventory for sale.

Conference agreement.—The conference agreement raises the minimum tax rate to 15 percent. It reduces the exemption to $10,000 or one-half of regular tax liability, whichever is greater, in place of the $30,000 exemption and deduction for regular taxes under existing law. It repeals the carryover of unused regular taxes. Also, it includes the tax benefit rule from the House bill. It adds new preferences for: (1) itemized deductions (other than medical and casualty deductions) in excess of 60 percent of adjusted gross income: (2) intangible drilling costs in excess of the amount deductible if capitalized and written off over 10 years; and (3) accelerated depreciation on all personal property subject to a lease (including ADR but not bonus first-year depreciation).

The new preference for intangible drilling expenses applies to those expenses in excess of the amount which could have been deducted had the intangibles been capitalized and either (1) deducted over the life of the well as cost depletion, or (2) deducted ratably over 10 years, the taxpayer may choose whichever of these two methods of capitalization is most favorable. This preference does not apply to taxpayers who elect to capitalize their intangible drilling costs. Nor does it apply to nonproductive wells. For this purpose, nonproductive wells are those which are plugged and abandoned without having produced oil and gas in commercial quantities for any substantial period of time. Thus, a well which has been plugged and abandoned may have produced some relatively small amount of oil and still be considered a non-productive well, depending on the amount of oil produced in relation to the costs of drilling.

In some cases it may not be possible to determine whether a well is in fact nonproductive until after the close of the taxable year in question. In these cases, no preference is included in the minimum tax base with respect to any wells which are subsequently determined to be nonproductive. Thus, if a well is proved to be nonproductive after the end of the taxable year but before the tax return for the year in question is filed, that well can be treated as nonproductive on that return. If a well is not determined to be nonproductive by the time the return for the year in question is filed, the intangible expenses with respect to that well are to be subject to the minimum tax. However, the taxpayer may later file an amended return and claim a credit or refund for the amount of any minimum tax paid with respect to that well if the well subsequently proves to be nonproductive.

301(b). Minimum Tax for Corporations

House bill.—No provision.

Senate amendment.—Under present law, the minimum tax for corporations is the same as that for individuals, except that the capital gains preference equals 18/48 of capital gains (rather than one-half of such gains) and the preference for accelerated depreciation on personal property subject to a net lease does not apply. The Senate amendment raises the corporate minimum tax rate to 15 percent and reduces the exemption to $10,000 or regular tax liability, whichever is greater. It eliminates the carryover of regular taxes, effective for taxable years beginning after December 31, 1975. It adds new preferences for construction period interest and accelerated intangible drilling costs in excess of related income. Timber is exempt from the increase in the minimum tax, and commercial banks are exempt from the increase in 1976 and 1977. For 1976, only one-half of the increase in the minimum tax applies. Subchapter S corporations and personal holding companies are treated like individuals under the Senate amendment, not corporations.

Conference agreement.—The conference agreement follows the Senate amendment with several modifications. First, timber is made subject to the minimum tax on the same basis as other industries, but certain adjustments are allowed that have the effect of retaining the old minimum tax for timber. Second, the preferences for construction period interest and accelerated intangible drilling costs are not added to the base of the minimum tax. Third, the delayed effective date for commercial banks is extended to all financial institutions with excess bad debt reserves.

The conference agreement provides special rules for timber income of corporations, including both gains from the cutting of timber and long-term gains from the sale of timber. These rules have the effect of exempting timber income from the increase in the minimum tax for corporations. These rules provide that the item of tax preference for timber gains is to be reduced by one-third and then further reduced by $20,000. Also, the deduction for regular taxes is to be reduced by the lesser of (a) one-third or (b) the preference reduction described above. In effect, the adjustments compensate for the general minimum tax rate increase from 10 percent to 15 percent by scaling down the entire minimum tax base, as it relates to timber, by one-third and then subjecting that lower base to a 15-percent rate. This gives the same result as subjecting the normal tax base to a 10-percent rate. The reduction in timber preferences by $20,000 (two-thirds of $30,000), in effect, compensates timber for the loss of the $30,000 exemption.

The agreement also retains a regular tax carryover for timber. Taxpayers will first have to determine how much of their corporate income tax is attributable to timber income (including both gains from the cutting of timber and long-term gains from the sale of timber). This allocation is to be made under regulations prescribed by the Secretary of the Treasury. This allocation must be made for years prior to 1976 as well as future years, in order to determine how much of a corporation's existing regular tax carryover remains available for use in 1976 and subsequent years. The conferees do not intend that there be a carryover of regular taxes not attributable to timber income. To the extent that regular corporate income taxes attributable to timber exceed the items of tax preference in a taxable year, they may be carried forward for up to 7 additional years. The amount of the carryover that may be deducted in a subsequent year is limited to timber tax preferences in that year, reduced by the timber preference reduction described above, minus the regular tax deduction for the year (as reduced by the regular tax adjustment described above). This has the effect of permitting a carryforward of timber-related regular taxes that are not used in the current year and limiting the use of that carryforward to the part of the minimum tax base that is attributable to timber.

In accordance with the Senate amendment, the effective date of these changes is delayed for two years for commercial banks, and the delay is extended to other financial institutions. The conferees expect the Secretary of the Treasury to issue regulations dealing with how the minimum tax is to be computed for taxpayers who file consolidated returns with financial institutions. These will involve separating the minimum taxes of the corporations in the group for the years 1976 and 1977, and applying the new rules to preferences of corporations other than financial institutions and the old rules to financial institutions for these years.

In accordance with the Senate amendment, the general carryover of regular taxes is repealed effective for taxable years beginning after December 31, 1975.

SENATE AMENDMENT NUMBERED 16

302. Maximum Tax

House bill.—No provision.

Senate amendment.—Under present law, there is a maximum marginal tax rate of 50 percent on earned income. The amount of earned income eligible for the maximum tax is reduced by current year tax preferences (or, if greater, one-fifth of tax preferences for past five years) in excess of $30,000.

The Senate amendment eliminates the $30,000 exemption to the preference offset and the 5-year averaging provision. It adds the new minimum tax preferences to the preference offset. It also extends the maximum tax to pensions, annuities and deferred compensation.

Conference agreement.—The conference agreement follows the Senate amendment with certain technical modifications. The additional preferences are those added to the minimum tax in the conference agreement, not the Senate amendment.

SENATE AMENDMENT NUMBERED 17

Extensions of Individual Income Tax Reductions

401(a). General Tax Credit

House bill.—The Revenue Adjustment Act of 1975 included a credit equal to the greater of $35 per capita or 2 percent of the first $9,000 of taxable income. This applied for the first half of 1976. The House bill, which was passed before the Revenue Adjustment Act was enacted, includes a tax credit for 1976 equal to the greater of 2 percent of the initial $12,000 of taxable income or $30 per capita.

Senate amendment.—The Senate amendment extends the general tax credit in the Revenue Adjustment Act for the second half of 1976 and for calendar 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

401(b). Standard Deduction

House bill.—Prior to 1975, the minimum standard deduction was $1,300; the percentage standard deduction was 15 percent; and the maximum standard deduction was $2,000. The Tax Reduction Act of 1975 raised the minimum standard deduction to $1,600 for single returns and $1,900 for joint returns; raised the percentage standard deduction to 16 percent; and raised the maximum standard deduction to $2,300 for single returns and $2,600 for joint returns. These increases applied to 1975.

The Revenue Adjustment Act of 1975 raised the minimum standard deduction to $1,700 for single returns and $2,100 for joint returns; the percentage standard deduction to 16 percent; and the maximum standard deduction to $2,400 for single returns and $2,800 for joint returns. These changes applied only to the first half of 1976.

The House bill makes permanent the increases in the standard deduction from the Tax Reduction Act of 1975.

Senate amendment.—The Senate amendment makes permanent the larger increase in the standard deduction from the Revenue Adjustment Act of 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

401(c). Earned Income Credit

House bill.—No provision.

Senate amendment.—Under present law, the earned income credit equals 10 percent of the first $4,000 of earnings. It is phased out as adjusted gross income rises from $4,000 to $8,000 and is refundable. The credit is available only to people who maintain a household for a dependent child who is either under 19 or a student and for whom they are entitled to claim a personal exemption. This credit applied to 1975 and to the first 6 months of 1976.

The Senate amendment makes the earned income credit permanent. Also, it extends eligibility for the credit to people with adult disabled dependents and to people who maintain a houshold for a child who is either a student or under age 19 but who are not entitled to claim a personal exemption for the child.

Conference agreement.—The conference agreement follows the Senate amendment, except that it extends the earned income credit only through calendar years 1976 and 1977.

402. Disregard of Earned Income Credit

House bill.—Under present law, refunds resulting from the earned income credit received before July 1, 1976, are to be disregarded in determining eligibility for any benefits under Federal or federally assisted aid programs if the recipient is a beneficiary in the month prior to the refund.

The House bill provides a permanent "disregard" without the requirement of present law that the recipient be a beneficiary of the program in the month before he receives the refund.

Senate amendment.—The Senate amendment provides a permanent "disregard" identical to the one that applied under present law.

Conference agreement.—The conference agreement follows the Senate amendments for calendar years 1976 and 1977, as the conference agreement extends the earned income credit only through calendar 1977.

SENATE AMENDMENT NUMBERED 18

Tax simplification for individuals

501. Revision of Tax Tables for Individuals

House bill.—Under present law, the tax tables are used by taxpayers who use the standard deduction and who have adjusted gross incomes below $10,000 ($15,000 for 1975 only). The House bill adopts new tax tables based on taxable income of $20,000 or less to be used by both standard deductors and itemizers, effective for taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

502. Deduction for Alimony

House bill.—under present law, taxpayers claiming a deduction for alimony payments must claim them as an *itemized* deduction. The House bill changes the alimony deduction from an itemized deduction to a deduction in arriving at AGI. The change applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

503. Revision of Retirement Income Credit

House bill.—Under present law, for taxpayers age 65 or over, and for taxpayers under 65 who receive a public retirement system pension, a tax credit is provided equal to 15 percent of retirement income up to $1,524 for a single person and $2,286 for a married couple. The maximum amount of retirement income must be reduced on a dollar-for-dollar basis for social security and other types of exempt pension income. For taxpayers age 62 or over and under age 72, these base amounts for the credit are also reduced by one-half of the annual amount of earned income over $1,200 and under $1,700, and by the entire amount of earned income in excess of $1,700.

The House bill simplifies the rules on eligibility for the credit and increases the maximum base for the credit for a single person to $2,500 and for a married couple to $3,750. It also eliminates the parallel to social security by making the credit available for earned income as well as retirement income and renames the credit "credit for the elderly." The bill reduces the maximum amount of the credit base by one-half of AGI in excess of $7,500 for a single person and $10,000 for a married couple filing a joint return. The maximum amount is also reduced by exempt social security and exempt retirement income. Similarly, for public retirement system retirees under age 65, the base for the credit is increased but no change is made in the definition of retirement income. (In the case where one spouse is under 65 and one is over 65, they may elect this treatment or the new provision.) These changes are effective for taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

504. Credit for Child Care Expenses

House bill.—Under present law, taxpayers may claim as an itemized deduction expenses incurred for the care of a child or disabled dependent or spouse up to $4,800 a year. The maximum deduction is reduced by one dollar for every two dollars of income in excess of $35,000. Payments to relatives are not deductible.

The House bill converts the deduction to a tax credit of 20 percent of eligible expenditures. It limits the maximum eligible expenses to $2,000 for one dependent and $4,000 for two or more; and eliminates the $35,000 income limit. The bill extends the credit to married couples where one spouse works part-time or is a student and to divorced or separated parents who have custody of a child. The bill also makes payments to relatives who are not dependents of the taxpayer deductible if: (1) they do not live in the taxpayer's home and (2) their pay for child care is subject to social security tax. These changes apply to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that the credit is refundable and payments to relatives who are members of the taxpayer's household are eligible.

Conference agreement.—The conference agreement follows the Senate amendment except that the credit is not refundable.

505. Sick Pay and Certain Disability Pensions

House bill.—Under present law, an employee may exclude from income up to $100 a week received under wage continuation plans when he is absent from work on account of injury or sickness. Military personnel can exclude from income pensions for personal injuries or sickness paid by the Department of Defense (as well as all Veterans Administration disability compensation).

The House bill repeals the sick pay exclusion and provides an exclusion of up to $5,200 a year for retirees under age 65 who are permanently and totally disabled. The bill reduces this $5,200 exclusion dollar-for-dollar for AGI (including disability income) in excess of $15,000. It also eliminates the exclusion for non-combat related disability pensions for those who joined the armed forces after September 24, 1975, but continues the exemption for V.A. disability compensation or an equivalent amount paid by the Department of Defense. These changes apply to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment retains the present law sick pay exclusion but adds a dollar-for-dollar phaseout of the exclusion for adjusted gross income (including sick pay) in excess of $15,000. The Senate amendment also includes separate language extending the sick pay provision to civilian Federal employees, regardless of age, who by the date of enactment retired, or were entitled to retire, on disability, and who were either totally or partially disabled by the date of enactment.

In the case of the military, the amendment, like the House bill, eliminates the exclusion for noncombat-related disability pay, and allows disability payments for injuries to civilian government employees resulting from acts of terrorism the same exclusion granted military disability payments for combat-related injuries.

Conference agreement.—The conference agreement follows the House bill. The conference agreement also includes a separate Senate provision regarding the exclusion for disability payments for injuries to civilian government employees resulting from acts of terrorism; the provision is included in section 2521, Senate amendment numbered 38.

The conference agreement also includes a clarifying technical amendment applicable to partially disabled individuals who were retired on disability before January 1, 1976, and were entitled to a sick pay exclusion on December 31, 1975. For purposes of the section 72 annuity exclusion, such an individual's annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of the sick pay exclusion for such year and all subsequent years.

506. Moving Expenses

House bill.—Under present law, a taxpayer may deduct exepnses of up to $2,500 for house-hunting, the sale of a residence, and temporary lodging, related to moving to a new place of work which is 50 miles farther from his former residence than was his former place of work. As a result of the lapse of the moratorium (provided by legislation) on the application of the Tax Reform Act of 1969 with respect to the new moving expense rules in the case of the military, in-kind moving services and moving expense reimbursements for members of the armed forces are includable in income and deductible under the same rules as civilians.

The House bill increases the $2,500 maximum deduction to $3,000 and decreases the 50-mile test to 35 miles. It exempts in-kind or reimbursed moving expenses for members of the armed forces on active duty moved by military orders. The changes apply to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it increases the $3,000 maximum to $3,500 and expands the provision for the military to include (a) the cost of moving a spouse to a place in the United States when the member is stationed overseas and (b) the cost of storing personal effects of military personnel who are forced to relocate when such costs are borne by the armed services. The Senate amendment changes apply generally for taxable years beginning after December 31, 1976, except that the military provisions apply for years after 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment except that the $3,000 limit of the House bill is adopted. With regard to military moves, the conference agreement also exempts military moves from the time and mileage requirements and excludes from income cash reimbursements or allowances to the extent of expenses actually paid or incurred, as well as all in-kind services provided by the military. The Armed Services are exempted from the reporting requirements under section 82 with regard to in-kind moving services, reimbursements and allowances provided to members. In addition, the conference agreement provides that when a military member is required to relocate and the member's spouse and dependents cannot accompany the member and must move to a different location, all in-kind moving and storage expenses, and reimbursements and allowances (to the extent of moving expenses actually paid or incurred) provided by the military to move the member and the spouse and dependents both to and from their separate locations are excluded from income. In cases where the military moves the member and the member's spouse and dependents to or from separate locations and they incur unreimbursed expenses, their moves are treated as a single move to a new principal place of work for purposes of section 217.

507. Tax Simplification Study by Joint Committee

House bill.—No provision.

Senate amendment.—Present law (sec. 8022 of the Code) provides that the Joint Committee on Internal Revenue Taxation is to investigate the operation and effects of the Federal system of internal revenue taxes, including studies for the simplification of the income tax. The Joint Committee is to publish its proposals and report the results and any recommendations to the Finance and Ways and Means Committees.

The Senate amendment requires the Joint Committee to conduct a study on "simplifying and indexing the tax laws" (including whether tax rates can be reduced by repealing any or all tax deductions, exemptions or credits). A report is to be submitted to the Senate Finance and House Ways and Means Committees within 18 months of the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment except that the report is to be submitted by June 30, 1977.

Section omitted from Senate amendment No. 18:

Treasury Report on Simplification of Income Taxes

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Secretary of the Treasury to submit a final report on its study on tax simplification (including an analysis of the integration of corporate and individual income taxes) to the Senate Finance and House Ways and Means Committees.

Conference agreement.—The conference agreement omits this provision, as the Treasury Department is planning to submit its report in January 1977.

SENATE AMENDMENT NUMBERED 19

Business-related individual income tax

601(a). Deductions for Expenses Attributable to Business Use of Homes

House bill.—The House bill provides definitive rules relating to deductions for expenses attributable to the business use of homes. Under the House bill, a taxpayer is not permitted to deduct any expenses attributable to the use of his home for business purposes except to the extent attributable to the portion of the home used exclusively on a regular basis as: (a) the taxpayer's principal place of business, or (b) a place of business which is used for patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of business. Further, in the case of an employee, the business use of the home must be for the convenience of his employer. An exception to the exclusive use test is provided where the dwelling unit is the sole fixed location of a trade or business which consists of selling products at retail and the taxpayer regularly uses a separate identifiable portion of the residence for inventory storage. An overall limitation is provided which limits the amount of the deductions to the income generated by the business activity of the taxpayer in his home. The provision applies after 1975.

Senate amendment.—The Senate amendment is the same as the House bill except a deduction is allowed for the portion of the dwelling unit which is exclusively used on a regular basis (a) as the sole fixed location of the taxpayer's trade or business of selling goods or services at retail or wholesale, but only if the portion is used in connection with the sale of goods or services, (b) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business, or (c) if the employer provides no office or fixed location for the use of the employee in the employer's trade or business (in connection with such trade or business). In addition, the Senate amendment provides that the business use of home includes in its meaning the use of the home in connection with the management, conservation, or maintenance of property held for the production of income and which is the substantial business of the taxpayer.

Conference agreement.—The conference agreement follows the House bill but includes the exception under the Senate amendment for a separate structure exclusively used on a regular basis in connection with the taxpayer's trade or business. In addition, the conference agreement permits the exception for inventory storage to apply in the case of a wholesale business as well as a retail business.

601(b). Rental of Vacation Homes

House bill.—Under present law, there are no definitive rules relating to how much personal use of vacation property will result in the disallowance of losses because the rental activities are not engaged in for profit. The House bill provides a limitation on the amount allowable to a taxpayer for the deductions attributable to the rental of a vacation home if the home is used by a taxpayer for personal purposes in excess of the greater of 2 weeks or 5 percent of the actual business use (that is, its rental time). In this case, the deductions allowed in connection with a vacation home cannot exceed the gross income from the business use of the vacation home, except expenses which are allowable in any event (such as interest and taxes). The provision applies after 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that: (1) one of the tests relating to the determination of personal use is increased from 5 percent to 10 percent of the number of days during the year for which the vacation home is rented; and (2) if a vacation home is actually rented for less than one month during the year, then no business deductions nor income derived from the use of the vacation home are to be taken into account in the taxpayer's return for the year.

Conference agreement.—The conference agreement follows the Senate amendment but reduces the rental period from less than one month to less than 15 days in the case where neither business deductions nor income from the use of the vacation home is to be taken into account in the taxpayer's return for the year.

602. Deductions for Attending Foreign Conventions

House bill.—Generally, to be deductible under present law, traveling expenses (domestic and foreign) must be ordinary and necessary in the conduct of the taxpayer's business and directly attributable to the trade or business. If a trip is primarily related to the taxpayer's business, the entire traveling expenses (including food and lodging) to and from a destination are deductible. If a trip is primarily personal in nature, the traveling expenses to and from the destination are not deductible even if the taxpayer engages in business activities while at the destination. With respect to expenses incurred in attending a convention or other meeting, deductibility depends upon the facts and circumstances of each case.

The House bill modifies the facts and circumstances test under existing law and provides definitive rules for the deductibility for expenses incurred in attending certain conventions or similar meetings. Deductions would be allowed for expenses incurred in attending not more than two conventions, educational seminars, or similar meetings outside the United States, its possessions and the Trust Territory of the Pacific.

The amount of the deduction for transportation expenses to and from these foreign conventions could not exceed the cost of airfare based on coach or economy class charges. Transportation expenses would be deductible in full only if more than one-half of the total days of the trip (excluding the days of transportation to and from the site of the convention) are devoted to business-related activities. If less than one-half of the total days of the trip are devoted to business-related activities, a deduction would be allowed for transportation expenses only in the ratio of the business time to total time.

In addition, deductions for subsistence expenses, such as meals, lodging, and other ordinary and necessary expenses, paid or incurred while attending the convention would be limited to the fixed amount of per diem allowed to government employees at the location where the convention is held. However, in order to deduct subsistence expenses up to this limitation for a day, there must generally be at least 6 hours of business-related activities scheduled daily (or 3 hours for a deduction for one-half day) and the taxpayer must attend two-thirds of these activities. The provision applies to conventions held after December 31, 1975.

Senate amendment.—The Senate amendment provides that no deduction is to be allowed for expenses allocable to a convention, seminar or other meeting held outside the North American area unless, taking certain factors into account, it is more reasonable for the meeting to be held outside the North American area than within it. Generally, this requirement would be satisfied if the application of these factors demonstrated a compelling need to hold the meeting outside the North American area. In addition, no deduction would be allowed for a convention, etc., held on a cruise ship. The amendment applies generally to meetings held after June 30, 1976. However, it does not apply to any trip which begins before 1978, if it is established that the meeting was publicly announced before 1976 and that accommodations for the meeting were booked before 1976.

Conference agreement.—The conference agreement follows the House bill with two modifications and the addition of certain reporting requirements. The House bill rule limiting the deduction for travel expenses to an amount not in excess of the lowest coach or economy rate charged by any commercial airline is modified to allow a deduction for reasonable costs of travel within the United States. Additionally, in the case where the taxpayer travels coach or economy class on a regularly scheduled flight operated by a commercial airline, the conferees intend that the deductible transportation cost taken into account will generally be limited to the coach or economy rate charged by the airline.

The conference agreement provides that no deduction is to be allowed unless the taxpayer complies with certain reporting requirements in addition to present law substantiation requirements. Under these reporting requirements, the taxpayer must furnish information indicating the total days of the trip exclusive of the transportation days to and from the convention, the number of hours of each day that he devoted to business-related activities, attach a program or agenda of the convention activities (and a brochure describing the convention, if available), and furnish any other information required by regulations. In addition, the taxpayer must attach a statement signed by an appropriate officer of the organization to his income tax return which must include a schedule of the business activities of each convention day, the number of hours of business-related activities that the taxpayer attended each day and any other information required by regulations.

Under the conference agreement the provision is to apply to conventions, seminars and similar meetings which take place after December 31, 1976.

603. Qualified Stock Options

House bill.—The House bill repeals qualified stock option treatment and subjects qualified stock options to the same rules as presently apply in the case of nonqualified options. The bill generally applies to options granted after September 23, 1973, but contains certain transition rules for options granted after that date under preexisting plans.

Senate amendment.—The Senate amendment is generally the same as the House bill, including the transition rules, but applies to options granted after May 20, 1976. In addition, however, the Senate amendment contains a provision which allows an employee to elect early valuation of an option which does have a readily ascertainable fair market value at the time it is granted. If the election is made, the option is to be valued and be subject to tax at the time it is granted. Otherwise, tax recognition is to be postponed until the option is exercised.

Conference agreement.—Under the conference agreement, the qualified stock option provisions are repealed. The additional provision in the Senate amendment dealing with an election for early valuation of an option which does not have a readily ascertainable fair market value when granted is not included in the bill (but see discussion below.) The agreement adopts the effective date of the Senate amendment. In interpreting the transition rules, the conferees agree with the statement in the Senate Finance Committee Report (p. 164) that if a corporation adopted an option plan in 1974 and is reorganized in 1977 into a holding company with one or more operating subsidiaries, the holding company may adopt the 1974 option plan and continue to grant qualified stock options to the extent permissible had the reorganization not occurred.

Under the conference agreement, for the future, all options are to be governed under the rules which apply under present law for nonqualified stock options. This means that if the option has a "readily ascertainable fair market value" at the time it is granted, then the value of the option will constitute ordinary income to the employee at that time, but any gain later realized by the employee upon the sale of any stock acquired under the option will generally be treated as capital gain. On the other hand, if the option does not have a readily ascertainable fair market value at the time it is granted, it would not constitute income to the employee at that time, but if the option is subsequently exercised, and if the fair market value of the stock exceeds the option price, this excess will constitute ordinary income to the employee at the time the option is exercised.

The conferees intend that in applying these rules for the future, the Service will make every reasonable effort to determine a fair market value for an option (i.e., in cases where similar property would be valued for estate tax purposes) where the employee irrevocably elects (by reporting the option as income on his tax return or in some other manner to be specified in regulations) to have the option valued at the time it is granted (particularly in the case of an option granted for a new business venture). The conferees intend that the Service will promulgate regulations and rulings setting forth as specifically as possible the criteria which will be weighed in valuing an option which the employee elects to value at the time it is granted.

The conferees intend that under these rules, the value of an option would be determined under all the facts and circumstances of a particular case. Among other factors that would be taken into account would be the value of the stock underlying the option (to the extent that this could be ascertained), the length of the option period (the longer the period, the greater the chance the underlying stock might increase in value), the earnings potential of the corporation, and the success (or lack of success) of similar ventures. Corporate assets, including patents, trade secrets and knowhow would also have to be taken into account.

The conferees anticipate that under the Service's rules, certain options, such as those traded publicly, would be treated as having a readily ascertainable fair market value, regardless of whether the employee makes an election. However, the regulations could provide that in certain other cases the option would ordinarily not be valued at the time it is granted unless the employee so elects.

604. Deduction for Legislators' Travel Expenses Away From Home

House bill.—Under present law, the place of residence of a Member of Congress within the Congressional district he represents in Congress is considered his tax home. However, amounts expended by the Member within the tax year for living expenses away from home are not deductible in excess of $3,000. The House bill modifies the $3,000 limitation presently allowed to Members of Congress to provide that deductions by a Member of Congress would be limited to an amount determined by the IRS. The IRS is to establish an annual amount taking into account the number of days that the Members are away from home, the cost of living in Washington, D.C., and the amount normally allowed businessmen in similar circumstances.

The rule under present law (as described above) for determining the tax home of a Member of Congress does not apply in the case of a State legislator. The tax home of a State legislator is determined by taking into account a number of factors, such as; (a) the total time ordinarily spent by the taxpayer at each location, (b) the degree of business activity at each location, (c) the amount of income ordinarily spent by the taxpayer at each location, etc. The House bill provides that the tax home of a State legislator is his place of residence within the legislative district he represents. The allowable deduction for living expenses is limited to an amount determined by the IRS. The IRS is to determine a daily amount taking into account the cost of living at the place where the State legislature meets and the amounts normally allowed businessmen under similar circumstances. A State legislator is allowed to deduct up to this daily amount multiplied by the number of days of his legislative participation during the calendar year.

This provision generally applies for taxable years beginning after December 31, 1974. For taxable years beginning before December 31, 1974, a State legislator can elect to have the above rules apply. If an election is made, the legislator is to be treated as having expended for living expenses an amount equal to the daily per diem allowed U.S. Government employees of the Executive branch multiplied by the number of days the State legislature was in session. However, the total amount of deductions allowable cannot exceed the amount already claimed on the State legislator's tax return for the year in question.

Senate amendment.—The Senate amendment deletes the provision in the House bill relating to Members of Congress; thus, the present $3,000 limitation is retained.

In the case of State legislators, the Senate amendment is the same as the House bill except that it (1) provides that the Secretary of Labor (rather than the IRS) is to establish the daily amount allowable as a deduction for State legislators, and (2) modifies the definition of a legislative day for taxable years beginning on or before January 1, 1976, to include any day in which the State legislature was not in session for a period of 4 consecutive days or less.

Conference agreement.—The conference agreement follows the Senate amendment in the case of Members of Congress. In the case of State legislators, the conference agreement follows the Senate amendment but only for taxable years beginning before January 1, 1976.

605. Nonbusiness Guaranties

House bill.—Where a taxpayer has a loss arising from the guaranty of a loan, he would receive the same treatment as where he has a loss from a loan which he makes directly. If the guaranty arose out of the guarantor's trade or business, the loss would be treated as an ordinary loss. If the guaranty were a transaction entered for profit by the guarantor (but not as part of his trade or business), the loss would be treated as a short-term capital loss. The provision applies to taxable years beginning after 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill. This provision applies to losses for taxable years beginning after December 31, 1975, in connection with guaranties made after that date.

SENATE AMENDMENT NUMBERED 20

701. Accumulation Trusts

House bill.—Under present law, distributions by a trust of previously accumulated income are taxed substantially the same as if they were distributed when earned, i.e., "thrown back" to the year earned. The tax on the distributions of previously accumulated income is computed under either the "exact method" or the "short-cut" method. Under the "exact method", the tax on the accumulation distribution is the sum of the additional taxes that would have been payable by the beneficiary if the income had been distributed when earned and if the tax on the beneficiary had been entirely recomputed. Under the "short-cut" method, the tax on the accumulation distribution is computed by averaging the accumulation distribution over the number of years during which the accumulated income was earned by the trust, including this average amount in the beneficiary's income for each of the 3 immediate prior years, and then multiplying the average additional tax for those years by the number of years during which the accumulated income was earned. Under both methods, the beneficiary is entitled to a credit for taxes paid by the trust on the accumulation distribution. The "throw-back" rules also apply to distributions of accumulated capital gains.

The House bill repeals the "exact method" of computing the tax on accumulation distributions. It also modifies the "short-cut" method by throwing back the average accumulation distribution to 3 of the 5 preceding years, excluding those years with the highest and lowest incomes. It does not permit refunds of excess taxes paid by the trust. In addition, the House bill provides that income accumulated prior to the beneficiary's attaining the age of 21 and the years a beneficiary was not in existence are not subject to the throw-back rule. The House bill also provides special rules for multiple trusts. Finally, the House bill repeals the capital gain throw-back rules, but taxes the "built-in" gain on sales occurring within 2 years of the transfer to the trust as short-term capital gain. The provision applies to distributions made in taxable years beginning after 1974.

Senate amendment.—The Senate amendment generally follows the House bill, except that instead of a 2-year holding period, the trust is taxed at the grantor's rate brackets on "built-in" gain on sales or exchanges occurring within 2 years of the transfer to the trust. In addition, the Senate amendment delays the House effective date one year so that the modifications apply to distributions made in taxable years beginning after December 31, 1975. An exception is made to apply the new rules to distributions actually made after 1975 in those cases where the distributions are deemed to have been made before 1977. The special rule for gain on property transfererd to a trust applies to transfers made after May 21, 1976.

Conference agreement.—The conference agreement follows the Senate amendment, except that it deletes one of the effective date provisions in the Senate amendment which would have made the modifications in the accumulation distribution rules applicable to deemed distributions made before 1977, if the actual distributions were made after 1975.

SENATE AMENDMENT NUMBERED 21

CAPITAL FORMATION

801. Extension of $100,000 Limitation on Used Property for the Investment Credit

House bill.—Prior to 1975, up to $50,000 of the cost of used property could be taken into account as qualified investment for purposes of the investment tax credit for a taxable year. The Tax Reduction Act of 1975 increased the amount to $100,000 for 1975 and 1976. The House bill extends the limit of $100,000 on used property for 4 additional years, through December 31, 1980.

Senate amendment.—The Senate amendment makes permanent the increased limitation of $100,000 on used property.

Conference agreement.—The conference agreement follows the House bill.

802(a). Extension of 10-percent Investment Credit

House bill.—Present law provides a permanent investment credit of 7 percent (4 percent for certain utility property) for qualified investment. The Tax Reduction Act of 1975 increased the credit to 10 percent for all qualified property (including utility property) through December 31, 1976.

The House bill extends the 10-percent credit for 4 years, through December 31, 1980.

Senate amendment.—The Senate amendment makes permanent the 10-percent credit.

Conference agreement.—The conference agreement follows the House bill.

802(b). First-in-First-out Treatment of Investment Credits

House bill.—No provision.

Senate amendment.—Present law provides in general that the amount of investment credit used in any year cannot exceed $25,000 of tax liability plus 50 percent of any liability in excess of $25,000. A 3-year carryback and 7-year carryforward is then applied to credits which are not used because of the tax liability limitation. (A 10-year carryforward is available for pre-1971 credits.) Generally, investment credits earned in a particular year are applied first to the tax liability for that year, after which carryovers and carrybacks of unused credits from other years may be applied.

Under the Senate amendment, credits carried over are used first and then credits earned currently are used; after that, any carryback credits may be applied. If there is more than one carryforward or carryback to a particular year, the oldest credit is generally used first. The amendment applies to taxable years beginning after December 31, 1975.

Conference agreement.— The conference agreement follows the Senate amendment.

803. ESOP Investment Credit Provisions

House bill.—No provision.

Senate amendment.—Under present law an extra percentage point of investment credit (11 percent rather than 10 percent) is allowed where the additional credit amount is contributed to an employee stock ownership plan (ESOP). The additional credit expires after 1976. The Senate amendment increases the additional ESOP credit to 2 percentage points permanently, for taxable years beginning after December 31, 1976.

The Senate amendment also makes a series of modifications in the case of ESOPs. It (1) prevents flow-through of the investment credit contributed by a public utility to an ESOP; (2) permits employer securities to be contributed to an ESOP as the credit is allowed rather than when it is claimed; (3) provides that future contributions under the investment credit rules may be reduced if investment credits which have been contributed to an ESOP are recaptured or disallowed; (4) permits use of stock of "brother-sister" corporations, "second-tier" subsidiaries and corporations which would be affiliates except for nonvoting preferred stock to be contributed to an ESOP under the investment credit rules; (5) excludes employer stock held by an ESOP for purposes of determining whether corporations are sufficiently affiliated to permit the filing of consolidated returns; (6) permits ESOPs to be considered permanent plans even though contributions are contingent upon the availability of the additional investment credit; (7) doubles the dollar amount the overall limitation on contributions permitted to be made to an ESOP and provides that employee compensation for purposes of the ESOP rules is the same as that under the overall limitations; (8) permits a limited amount of "start up" and administrative expenses to be charged against the additional investment credit contributed to an ESOP; and (9) permits an employer to qualify for the additional 1975 investment credit if the additional credit is contributed to an ESOP not later than 90 days after date of enactment. These nine provisions are generally effective for taxable years beginning after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment but limits the additional credit program to qualified investments made before January 1, 1981, and limits the additional credit generally to 1 percentage point. An additional one-half percentage point is available only if the first percentage point is contributed to the ESOP, and only to the extent the one-half percent is matched by employee contributions to the ESOP. Under the conference agreement, separate accounting would be required for matching employee and employer contributions. Continuing present law treatment, an employer contribution for a taxable year in excess of the amount attributable to the additional credit allowed for such year is deductible for that year, subject to the usual rules for deduction of contributions to employee plans.

Under the conference agreement, employer and employee contributions to an investment credit ESOP are subject to overall limitations on contributions and benefits under tax-qualified pensions, etc. plans. These limitations may restrict the amount of additional investment credit allowable.

The conferees intend that employee contributions can be taken into account for the additional credit if they are contributed to the plan before the end of the year in which the credit is allowed or if the contributions are pledged by the employees to be paid within 2 years after the close of that year and the pledge is made before the return is filed. If employee contributions are made in excess of the amount pledged and matched with employer contributions, additional credit can be claimed by the employer for the year the property giving rise to the credit was placed in service. Under the agreement, employee contributions made under the matching rules are to be invested in employer securities under the same rules that apply to employee contributions.

If the plan provides, the agreement permits funds contributed by the employer to be withdrawn from an investment credit ESOP (1) to refund employer contributions which are not matched by employee contributions within the period specified, or (2) to permit the employer to recover from the ESOP any portion of the employer's contribution which is recaptured from the employer under the investment credit rules (for example, where the property for which the credit is claimed is disposed of prematurely). The conferees intend that the withdrawal of employer contributions made under the one-half percent credit rules because they are not matched by employee contributions or a withdrawal of employer contributions under the recapture rules should not cause the plan to be considered as other than for the exclusive benefit of employees and that employee rights to employer-derived benefits under the plan should not be considered forfeitable merely because employer contributions of investment credit may be withdrawn under the matching or recapture rules. Recovery of recaptured investment credit would not be permitted unless the employer contributions for each year are separately accounted for (all contributions made before enactment of the Act could be aggregated for this purpose).

Under the conference agreement, employee funds contributed to an ESOP are subject to employee withdrawal unless they are matched by employer contributions under the one-half percent credit rules. For example, if matching employer contributions cannot be made because of the overall limitations on benefits and contributions (sec. 415 of the Code) the unmatched employee contributions would be refunded to the employee (unless he instructs the plan to the contrary).

Also, under the agreement employee contributions to an investment credit ESOP are subject to the same antidiscrimination rules as apply to employee contributions under a tax-qualified pension plan, and matched employee contributions are subject to the same restrictions on distribution as employer contributions (generally, no withdrawal is permitted for 84 months).

Employee contributions may not be compulsory; that is, employee contributions may not be made a condition of employment or a condition of participation in the plan. Of course, the level of employer-derived benefits under the matching rules may depend upon employee contributions.

The conference agreement follows the Senate amendment on items (1) through (8) above, but provides that the non-flow through rule applies to credits claimed for taxable years after 1975. The agreement also provides that on recapture a deduction for the employer or recovery of the recaptured contribution from the ESOP are available as additional alternatives. To use the option of recapture from an ESOP for any year's contribution, the ESOP must establish separate accounts for that year's contribution. Under (8), the ESOP may pay "start up" and ongoing administrative expenses, but an annual ceiling of $100,000 was agreed to with respect to ongoing expenses (in addition to the limits by the Senate amendment). The grace period under (9) was not agreed to. The conferees agreed that contributions could be made to a plan contingent upon an Internal Revenue Service determination that the plan qualifies under the investment credit and employee plan rules.

The conferees understand that some employers may have reduced their estimated tax payments in anticipation of the enactment of the 90-day grace period provision (item (9)) or anti-flow through provisions of the Senate amendment. Because that provision was not agreed to, the agreement provides that no penalties are to be imposed for underpayment of the tax where the underpayment is caused by the taxpayer's inability to avail itself of the grace period or anti-flow through provisions.

The conference agreement follows the Senate amendment on items (1) through (8) above, but provides under (3) that on recapture a deduction for the employer and recapture from the ESOP are available as alternatives. Under (8), the ongoing expenses may not exceed $100,000 (in addition to the limits in the Senate amendment). The flow-through provisions under (1), will be effective only for taxable years ending after December 31, 1975.

804. Investment Credit for Movie and Television Films

House bill.—The House bill provides that for the future, as a general rule, taxpayers will receive ⅔'s of a full investment credit for all their films regardless of the actual useful life of any particular film. For the past, taxpayers may elect to take a 40-percent compromise credit for all of their films, regardless of the actual useful life or foreign use of any particular film. Alternatively, taxpayers may determine their investment credit on a film-by-film basis.

Senate amendment.—The Senate amendment is generally the same as the House bill. However, the amendment clarifies that the investment credit is to be available for educational films as well as entertainment films. It also deletes a restriction imposed by the House bill on investment credit carryovers. Unlike the House bill, the Senate amendment permits participations to be included in the credit base of an 80 percent or more U.S. produced film, but not in excess of (a) $1 million with respect to any one individual for any one film and (b) not in excess of the lesser of (i) 50 percent of participations qualifying under rule (a) or (ii) 25 percent of the production costs of the taxpayer's films for the year. The amendment also provides that any taxpayer who filed a petition in a court by January 1, 1976, may have his investment credit for prior years determined under present law (rather than under the rules of the bill) if he elects present law treatment within 30 days after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment except in two respects. First, in the case of participations the conference agreement provides one-half of the amount of participations permitted to be included in the credit base by the Senate amendment. As a result, under the conference agreement, participations are limited to the lesser of (a) $1,000,000 with respect to any one individual for any one film, but (b) not in excess of the lesser of (i) 25 percent of participations qualifying under rule (a) or (ii) 12½ percent of the production costs of the taxpayer's films for the year. Second, a taxpayer who wishes to elect present law treatment for prior years may do so within 90 days from the date of enactment if the taxpayer had filed a petition in a court by January 1, 1976.

In addition, the conferees wish to clarify that under certain circumstances, it may be possible for the rights to the film to be leased under section 48(d) before the film is placed in service. However, it is intended that this right is to be available only where the lessee acquires full rights to exploit the movie or film for its estimated useful life through a particular medium or in a particular geographic area; it is not to be available where the lessee is precluded (by law, regulation or government action) from acquiring all rights to commercially exploit the film or tape.

805. Investment Tax Credit for Certain Vessels

House bill.—No provision.

Senate amendment.—Under current law, the tax on income deposited into a capital construction fund (established under section 21 of the Merchant Marine Act of 1970) for the construction of certain vessels is deferred. When the funds are withdrawn to purchase a qualified vessel, there is no tax basis in the purchased vessel to the extent of the withdrawal. This reduces the amount of investment credit available on the purchased vessel. The Senate amendment provides that the amount of investment tax credit is not to be reduced because of a deposit in, or qualified withdrawal from, a capital construction fund. The Senate amendment takes effect for taxable years beginning after December 31, 1969.

Conference agreement.—The conference agreement provides for an investment credit of one-half the regular credit on the tax-deferred amounts withdrawn from the capital construction fund which are used to purchase qualified vessels. In addition, the conferees intend that taxpayers are to have the right to obtain a court determination as to whether they are, under already existing law, also eligible for the other one-half of the regular investment credit. The conferees intend that no inferences be drawn either way on this issue from the action taken here.

If a taxpayer claims the full investment credit on its tax return it is expected that the Internal Revenue Service will provide, by regulations, procedures which will require the taxpayer to indicate on its return that the full investment credit is being claimed. This will alert the Internal Revenue Service as to the position taken by the taxpayer on this point. If the IRS asserts a deficiency in this case, the taxpayer will have the option of pursuing its claim for the full credit in the tax court. In addition the taxpayer may file a claim for a refund which would allow the taxpayer to pursue its claim with the Court of Claims or in the District Courts.

Where a taxpayer purchases a ship with borrowed funds and uses the capital construction fund to pay off the indebtedness, there initially would be allowed a full investment credit and then subsequently there is to be a recapture of no more than 50 percent of the amount of the investment credit taken on the purchase price of the ship representing the indebtedness which is being liquidated with tax deferred amounts from the capital construction fund.

The conference agreement applies to taxable years beginning after December 31, 1975. This is not intended to provide any inference as to the application of existing law with respect to the availability of the credit for prior (as well as future) years.

806(a). Net Operating Loss Carryover and Carryback Election

House bill.—No provision.

Senate amendment.—Present law provides that taxpayers in general are allowed to carry a business net operating loss back to the preceding 3 years and forward to the 5 years following the year of the loss. Differing carryback and/or carryover periods are allowed for certain specific types of taxpayers and certain types of losses.

Under the Senate amendment, taxpayers who are presently allowed a 3-year carryback (business taxpayers in general, regulated transportation corporations and insurance companies) may elect to convert their carryback period into 3 additional carryover years. This year extended carryover election will also apply to losses which occur during the carryover period for the loss to which the election first applies, but may be revoked for subsequent losses. The amendment applies to net operating losses incurred in tax years ending in 1976 or later.

Conference agreement.—The conference agreement provides two additional carryover years for business taxpayers in general and insurance companies (making a 7-year carryover), as well as for regulated transportation corporations (making a 9-year carryover). In addition, all taxpayers presently entitled to carryback periods for their net operating losses may elect to forego the entire carryback period for a net operating loss in any taxable year. This conference agreement applies to net operating losses incurred in tax years ending in 1976 or later.

806(b). Limitations on Net Operating Loss Carryovers

House bill.—No provision.

Senate amendment.—Present law provides that where new owners buy over 50 percent of the stock of a loss corporation during a 2-year period, its loss carryovers from prior years are allowed in full if the company continues to conduct its prior trade or business. It may add or begin a new business, however, and apply loss carryovers incurred by the former owners against profits from the new business (unless tax avoidance can be shown to be the principal purpose for the acquisition). If the same business is not continued, however, loss carryovers are completely lost. In the case of a tax-free reorganization, loss carryovers are allowed on a declining scale. If the former owners of the loss company receive 20 percent or more of the value of the stock of the acquiring company, the loss carryovers are allowed in full. For each percentage point less than 20 which the former owners receive, the loss carryover is reduced by 5 percentage points. It is immaterial whether the business of the loss company is continued after the reorganization.

The Senate amendment provides parallel rules for taxable acquisitions and tax-free acquisitions of a loss company. In both cases, the test for carryovers will no longer depend on whether the loss company continues its same trade or business. The required continuity of ownership by the former owners of a loss company is increased to 40 percent. For each percentage point less than 40 which the owners of the loss company get (or retain), the allowable loss carryover will be reduced by 2½ percentage points. These rules apply both where new owners take over a loss company in a taxable purchase of stock or in a tax-free reorganization.

Several technical revisions to present law are also made:

(1) The transactions which trigger the loss limitations are expanded.

(2) The limitations can no longer be escaped by using a controlled subsidiary of a profit company to acquire a loss company.

(3) The period in which taxable purchases of a loss company's stock may bring the limitations into play is increased from 2 to 3 years.

(4) The losses affected by the limitations are broadened to include operating losses in the acquisition year itself.

(5) In a reorganization the former owners of a loss company must receive a participating stock interest in the acquiring company (nonvoting preferred stock will not be sufficient).

(6) The limitations will now apply to stock-for-stock ("B") reorganizations not now covered.

The Senate amendment applies generally to reorganizations and other changes in stock ownership occurring after the date of enactment.

Conference agreement.—The conference agreement generally follows the Senate amendment with a series of technical revisions. The schedule under which net operating loss carryovers will be limited following a reorganization, purchase of stock, or other change in ownership of a loss corporation is revised. Under the revision, for each percentage point increase in stock ownership above 60 and up to 80 which new owners buy in a loss company, the loss carryover will be reduced by 3½ percentage points. Above an 80-point increase in percentage points, the carryover will be reduced by 1½ percentage points for each 1 percentage point increase within that range. A parallel change is made in the continuity of ownership required for the former owners of a loss company following a taxfree reorganization.

Under the revision, the continuity of ownership requirements are to be measured by reference to the ownership by the former owners of a loss company of the lesser of participating stock of the loss company (or, in the case of a reorganization, of the acquiring company) or of the fair market value of all the stock of that company.

Where stock of a loss company changes hands other than in a taxfree reorganization, the group of new owners whose stock ownership causes a reduction in loss carryovers is increased from 10 to 15 persons. The transactions which trigger the limitations are also expanded to cover several technical gaps in present law, such as cases where a new investor acquires a partnership interest directly from a partnership (as well as from other partners) which owns stock in the loss corporation and where two or more partnerships merge with each other.

Consistent with the new 40-percent continuity of ownership rule, loss carryovers will not be reduced from any acquisition year (or from any earlier or later taxable year) of a loss company if the new owners owned at least 40 percent of the stock of the loss company during all of the last half of any such year. Exceptions are also made from the new purchase rules for start-up losses of a newly formed corporation, exchanges in which creditors of a financially troubled company take over the equity, recapitalizations (including changes in the ownership of a family corporation), and acquisitions of employer stock by key employees or by a qualified profit-sharing plan or employee stock ownership plan. Acquisitions of stock by gift or inheritance are also expected.

In the case of taxfree reorganizations, the conference agreement adds a rule to cover a situation under which the new rules could otherwise be escaped by using a holding company (which owns one or more loss companies as controlled subsidiaries) as a party to the reorganization. Another rule is added to prevent avoidance of the new rules by combining a taxable purchase of stock with a later taxfree reorganization involving a corporation controlled by the shareholder who made the purchase. Special rules are added for the technical problems which arise in limiting carryovers following a "B"-type (stock-for stock) reorganization. The common ownership exception in present law (sec. 382(b)(3)) is revised so that this rule will operate in a more realistic fashion.

The conference agreement also changes the definition of "stock" in present law in order to limit the present exception for certain kinds of preferred stock to fixed-dividend stock which is not convertible into other stock and the redemption and liquidation rights of which are limited generally to paid-in capital or par value. The term "participating stock" is also redefined.

The conferees agree with the discussion of the *Libson Shops* case on page 206 of the Senate Finance Committee report. The conferees intend that no inference should be drawn from that discussion concerning the applicability or nonapplicability of the *Libson Shops* case, either generally or as to specific types of transactions, in determining net operating loss carryovers to tax years governed by present law. (The conferees do not intend the amendments in the bill to affect the "continuity of business enterprise" requirement, which the courts and the Treasury have long established as a condition for basic nonrecognition treatment of a corporate reorganization (see sec. 368–1(b) of the regulations)). The conferees also agree with the discussion on page 206 of the Senate report concerning the general tax avoidance test in section 269 of the Code.

In order to allow a reasonable time for the Internal Revenue Service to issue regulations under the new rules, the conference agreement delays the effective date of the new rules generally for one year. The revised rules will apply, in the case of taxfree reorganizations, to reorganizations pursuant to plans adopted by one or more of the parties on or after January 1, 1978. (A reorganization plan will be considered adopted on the date the board of directors adopts the plan or recommends its adoption to the shareholders, or on the date the shareholders approve the plan, whichever is earlier). If the new limitations affect a reorganization occurring in 1978, net operating losses incurred in 1977 will not be limited, but carryovers of such losses to 1978 and later years may be limited.

In the case of purchases of stock of a loss company and other acquisitions subject to sec. 382(a), the new rules take effect for taxable years of a loss corporation beginning after June 30, 1978. However, the "lookback" period under these rules may be made to earlier taxable years. The earliest lookback point, however, is January 1, 1968. For example; section 382(a) as amended will take effect for a calendar year corporation during calendar 1979. However, the first "lookback" period under the new rules will be a transitional 24-month period from December 31, 1979, back to January 1, 1978. In 1980, when the new rules become fully effective, the lookback period will cover three years so that at the end of 1980, reference will be made back to the first day of that year and then back to January 1, 1979, and then to January 1, 1978.

In this example the present rules of section 382(a) will govern the allowance of loss carryovers of the company to its calendar years 1977 and 1978. The new rules will govern loss carryovers from 1978 and earlier years to 1979 and later years. Although the new rules will thus not actually limit losses in this example until 1979, the new limitations will affect loss carryovers to 1979 from earlier years. Also, changes in stock ownership occurring during 1978 will be taken into account as part of the lookback period from December 31, 1979, for purposes of testing loss carryovers to 1979 and later years.

For a fiscal year corporation whose taxable year begins, for example, on July 1, the rules of present law will govern loss carryovers to fiscal 1977 and 1978. The new rules will govern loss carryovers to fiscal 1979, and for this purpose changes in stock ownership measured by reference back to stock ownership on July 1, 1978, and on January 1, 1978, will be taken into account.

807. Small Commercial Fishing Vessel Construction Reserves

House bill.—No provision.

Senate amendment.—Under current law, domestic shipping vessels must be of 5 net tons or more to be eligible for the capital construction fund. The Senate amendment reduces the minimum weight displacement required to 2 net tons or more, to be effective upon date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

SECTIONS OMITTED IN SENATE AMENDMENT NO. 21: EXTENSION OF EXPIRING INVESTMENT CREDITS

House bill.—No provision.

Senate amendment.—Present law generally provides a 3-year carryback and a 7-year carryforward of unused investment credits. (Unused credits earned before 1970 may be carried forward 10 years.)

The Senate amendment extends for two additional years investment credits which would otherwise expire in 1976.

Conference agreement.—The conference agreement omits this provision.

Credit for Artist's Donations of Own Work to Charitable Organizations

House bill.—No provision.

Senate amendment.—Under present law, an artist may deduct only the basis (generally, the out-of-pocket expenses) in art works which he creates and which he contributes to charities.

The Senate amendment allows an artist to claim a 30-percent credit for the full value (up to $35,000 value annually) of charitable contributions of his own literary, musical or artistic compositions. The credit may not exceed the tax on related income (aggregated over all prior years) from the sale of art works; nor may it offset in any one year more than the greater of $2,500 of income tax liability or 50 percent of income tax liability. Contributions in excess of the maximum amount eligible for the credit may be carried forward 5 years. No credit is allowed for works produced as a public employee. The amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 22

901. Small Business Provisions

House bill.—Prior to the 1975 Tax Reduction Act, corporate taxable income was subject to a 22-percent normal tax and a 26-percent surtax, with a surtax exemption of $25,000. The Tax Reduction Act and the Revenue Adjustment Act increased the surtax exemption to $50,000 and reduced the normal tax to 20 percent on the first $25,000 of taxable income. These provisions expired on July 1, 1976. The House bill extends the reduction in corporate tax rate and the increase in the surtax exemption through December 31, 1977.

Senate amendment.—The Senate amendment makes permanent the changes in corporate tax rates and increase in surtax exemption. In addition it applies these changes to mutual insurance companies effective for taxable years ending after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment but with the House expiration date of December 31, 1977.

SENATE AMENDMENT NUMBERED 23: CHANGE IN THE TREATMENT OF FOREIGN INCOME

1011. Income Earned Abroad by U.S. Citizens Living or Residing Abroad

House bill—Under present law U.S. citizens working abroad may exclude from their income up to $20,000 of earned income ($25,000 in some cases). U.S. citizens may claim credit directly against U.S. tax for the foreign taxes paid on the excluded earned income. Any employee is entitled to exclude from gross income lodging furnished by the employer on the business premises if the employee is required to accept it as a condition of employment.

The House bill generally phases out the exclusion over 4 years (except for employees of U.S. charitable organizations who work abroad), and provides in lieu thereof a deduction for individuals who incur expenses in providing education for their children and an exclusion for the value of employer-supplied municipal-type services. Individuals working on foreign construction projects do not have the exclusion reduced during the phaseout period. The amount of foreign taxes paid on income which is eligible for the exclusion would not be allowed as a foreign tax credit against U.S. income tax. The House bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment retains the earned income exclusion subject to the following modifications: (1) foreign taxes paid on income which is eligible for the exclusion would not be allowed as a foreign tax credit against U.S. income tax (same as House bill): (2) income derived beyond the income eligible for exclusion would be subject to U.S. tax at the higher rate brackets which would apply if the excluded income were also subject to tax; and (3) income earned abroad which is received outside of the country in which earned in order to avoid tax in that country would be ineligible for the exclusion. The Senate amendment also provides an exclusion for income attributable to certain housing which is either furnished to the employee by the employer or reimbursed by the employer. Under the Senate amendment a taxpayer may make a permanent election not to have the earned income exclusion apply in the year of the election and all subsequent years.

Conference agreement.—The conference agreement follows the Senate amendment except that (1) the earned income exclusion is limited to $20,000 for all employees of U.S. charitable organizations and is reduced to $15,000 for all other taxpayers and (2) the special exclusion for housing is eliminated.

1012. Income Tax Treatment of Nonresident Alien Individuals Who Are Married to Citizens or Residents of the United States

House bill.—Under present law, a joint return may not be made by a husband and wife if either one of them at any time during the taxable year was a nonresident alien. If a husband and wife are subject to community property rules, one-half of the earned income of one spouse is treated as being the income of the other spouse and is not subject to U.S. taxation if the other spouse is a nonresident alien and if the income is from foreign sources. The House bill provides that a U.S. citizen or resident married to a nonresident alien would be allowed to file a joint return provided that an election is made by both individuals to be taxed on their worldwide income. Where the election to be taxed on worldwide income is not made, certain community property laws are to be made inapplicable for income tax purposes. The provision applies to taxable years ending on or after December 31, 1975, in the case of an election, otherwise to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill. In addition, a modification is made to the general requirement that nonresident aliens file estimated tax returns by April 15 of the year in question, although they have until June 15 to file the income tax return for the previous year. The Senate amendment provides that in the case of nonresident alien individuals not subject to wage withholding, the due date for filing the estimated tax return is not to be any earlier than the due date for the tax return for the previous year. The Senate amendment applies to taxable years beginning after December 31, 1976, except that individuals would be allowed to file joint returns for all open years beginning after December 31, 1971.

Conference agreement.—The conference agreement follows the Senate amendment except that the effective date for joint returns follows the House date of taxable years ending on or after December 31, 1975.

1013. Foreign Trusts Having One or More United States Beneficiaries To Be Taxed Currently to Grantor

House bill.—Under present law, a trust is taxed in a manner similar to nonresident alien individuals if it is considered to be a foreign trust. It is not taxed on its foreign source income, but distributions to a U.S. taxpayer from a foreign trust are taxed basically in the same manner as distributions from a domestic trust. A foreign trust created by a U.S. person must include capital gains (without the sec. 1202 deduction) in distributable net income; however, the beneficiary is entitled to the section 1202 deduction.

Under the House bill, a U.S. person who transfers property to a foreign trust is treated as the owner of such property and taxed currently for each taxable year during which such trust has a U.S. beneficiary. In addition, all foreign trusts must include capital gains (without the sec. 1202 deduction) in distributable net income. However, the undistributed net income remaining as of December 31, 1975, shall be redetermined with the section 1202 deduction. The provision applies to taxable years ending after December 31, 1975, but only for trusts created after May 21, 1974, and transfers of property after May 21, 1974. However, the provisions dealing with capital gains of foreign trusts apply to taxable years ending after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, except that employee trusts described in Code section 404(a)(4) are excluded. The Senate amendment applies to taxable years ending after December 31, 1976, but only for trusts created after May 21, 1974, and transfers of property after May 21, 1974. The effective date of the capital gains provision is the same as the House bill.

Conference agreement.—The conference agreement follows the Senate amendment except that the effective date of the House bill is adopted.

1014. Interest Charge on Accumulation Distributions From Foreign Trusts

House bill.—Under present law there is no interest charge on accumulation distributions from a foreign trust. The House bill imposes an interest charge in the form of an additional tax on beneficiaries receiving taxable accumulation distributions from foreign trusts. The additional tax is 6 percent of the tax otherwise imposed with respect to the distribution for the average number of years during which the amounts were earned. No charge is imposed for the period before January 1, 1976. The provision applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, except that no interest charge is imposed for the period before January 1, 1977. The Senate amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1015. Excise Tax on Transfers of Property to Foreign Persons To Avoid Federal Income Tax

House bill.—Under present law, an excise tax of 27½ percent is imposed on the amount of the appreciation of stock or securities transferred to foreign entities. The House bill imposes an excise tax of 35 percent on the amount of the unrecognized appreciation of all property transferred to foreign entities. The provision applies to transfers made after October 2, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, except for the addition of an election to recognize gain in lieu of paying the excise tax.

Conference agreement.—The conference agreement follows the Senate amendment.

1021. Amendment of Provision Relating to Investment in U.S. Property by Controlled Foreign Corporations

House bill.—Under present law, a U.S. shareholder of a controlled foreign corporation is taxed on the undistributed earnings and profits of the corporation to the extent of the annual increase of its investment in U.S. property. Investment in U.S. property includes the acquisition by a controlled foreign corporation of any tangible property located in the U.S., or stock of a domestic corporation or obligations of a U.S. person (even though unrelated to the investor).

The House bill redefines U.S. property to include only stock and obligations of a U.S. shareholder of the controlled foreign corporation and tangible property which is leased to, or used by, a U.S. shareholder regardless of where used. The provision applies generally to taxable years of foreign corporations beginning after December 31, 1974. In addition an election is provided under which taxpayers could exclude from the definition of U.S. property investments made in property used on the U.S. continental shelf, retroactive to taxable years of foreign corporations beginning before January 1, 1975.

Senate amendment.—The Senate amendment excepts from the definition of U.S. property in existing law (1) stock or debt of a domestic corporation (other than a U.S. shareholder) which is not 25 percent owned by the U.S. shareholders, and (2) movable drilling rigs when used on the U.S. continental shelf. The Senate amendment applies to taxable years of foreign corporations beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1022. Repeal of Exclusion for Earnings of Less-Developed Country Corporations for Purposes of Section 1248

House bill.—The House bill repeals the exclusion from dividend treatment provided in present law for sales or exchanges of stock in less-developed country corporations. However, the exclusion still applies to earnings accumulated before January 1, 1976, whether or not the corporation remains a less-developed country corporation. The provision applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1023. Exclusion From Subpart F of Certain Earnings of Insurance Companies

House bill.—The House bill adds an exception to the rules of present law subjecting to current taxation (under subpart F) the tax haven income of foreign subsidiaries of U.S. corporations. The exception applies to dividends and interest income and gains from the sale or exchange of stock or securities by an insurance company in an amount equal to one-third of the company's premium income. The provision applies to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of U.S. shareholders within which or with which such taxable years of such foreign corporations end.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1024. Shipping Profits of Foreign Corporations

House bill.—Under present law, tax haven income subject to current taxation includes base company shipping income, except to the extent reinvested in shipping assets. Under the House bill, shipping operations within one country are excluded from base company shipping income if ships are registered within that country and the company is incorporated there. The House bill also makes it clear that debt obligations are taken into account in determining the amount invested in shipping assets. The provisions apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of U.S. shareholders within which or with which such taxable years of the foreign corporations end.

Senate amendment.—The Senate amendment follows the House bill with minor technical changes in the provision in the House bill concerning shipping operations within a single country. The Senate amendment does not contain the provision relating to the manner in which debt obligations are taken into account in determining shipping assets. The Senate amendment provides that shipping income derived from the transportation of men and supplies from a point in a foreign country to a point off-shore (such as on an oil-drilling rig) located on the continental shelf of that country or on the continental shelf adjacent to the continental shelf of that country is excluded from base company shipping income if the ship is registered in that country and the company is incorporated there.

Conference agreement.—The conference agreement follows that part of the Senate amendment which deals with shipping operations within a single country. The provision in the House bill relating to the treatment of debt obligations is omitted because the Treasury Department has agreed that that treatment is to be provided for in the regulations. The provision in the Senate amendment relating to transporation to points offshore is not included.

1031. Requirement That Foreign Tax Credit Be Determined on Overall Basis

House bill.—Under present law, the foreign tax credit limitation may be determined on either a per-country or an overall basis (taxpayer must elect the latter). The House bill repeals the per-country limitation and requires that all taxpayers determine their foreign tax credit limitation on the overall basis. The per-country limitation is retained for possession source income. Special transitional rules are provided for taxpayers previously on the per-country limitation to permit the carryover of some excess credits from per-country years to overall years. The provision applies to taxable years ending after December 31, 1975. In the case of certain mining companies, the effective date is delayed for 3 years.

Senate amendment.—The Senate amendment is the same as the House bill, except that the per-country limitation is also repealed for possession source income. The Senate amendment applies to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment generally. However, it follows the House bill with respect to the effective date for certain mining companies. In addition, losses sustained by these mining companies during the period that they are permitted to use the per-country limitation are to be subject to recapture on a per-country limitation basis if foreign source income is earned in future years. Further, with respect to income from sources within a possession, the repeal of the per-country limitation is also delayed for a three-year period, subject to recapture on a per-country basis.

1032. Recapture of Foreign Losses

House bill.—In general, under present law foreign losses reduce U.S. tax on U.S. source income by decreasing the worldwide taxable income on which the U.S. tax is based. In addition, when the business operations in the loss country (or countries) become profitable, a credit against U.S. tax will be allowed for taxes paid to that country (or countries) without any recapture of the prior benefits (except in the case of foreign oil-related losses). The House bill extends the recapture provisions to apply to all overall foreign losses. The provision applies to losses sustained in taxable years beginning after December 31, 1975. In the case of losses incurred in U.S. possessions, the effective date is delayed for 5 years.

Senate amendment.—The Senate amendment is the same as the House bill, with minor technical changes, except (1) the taxpayer may elect to have more than 50 percent of its foreign source income recaptured in any taxable year, and (2) the proportionate foreign tax credit disallowance rule is deleted. The amendment applies to losse-sustained in taxable years beginning after December 31, 1975. It is not applicable to (a) a loss from the disposition of a debt obligation of a foreign government issued before May 14, 1976, for property located in that country, and (b) a loss suffered subsequent to the effective date but attributable to an economic loss (worthlessness of stock or debt) which actually occurred prior to the effective date.

Conference agreement.—The conference agreement follows the Senate amendment.

1033. Gross-up of Dividends From Less-Developed Country Corporations

House bill.—The House bill repeals the rule provided in present law under which dividends from less-developed country corporations are not grossed-up by the amount of foreign taxes paid on the underlying income and the deemed-paid foreign tax credits attributable to those dividends are reduced proportionately.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference

agreement follows the House bill and the Senate amendment.

1034. Treatment of Capital Gains for Purposes of Foreign Tax Credit

House bill.—The rules under present law as to the netting of long-term and short-term gains and losses in cases where some gains or losses are U.S. source income while others are foreign source are unclear. The foreign tax credit limitations are not adjusted to reflect the lower tax rate on capital gains income received by corporations. The foreign tax credit can be inflated because the source of capital gain income is determined by the place of the sale of the asset, regardless of where used. Under the House bill, the following modifications in the foreign tax credit limitation would be made: (1) net U.S. capital losses would offset net foreign capital gains; (2) in the case of corporations, only 30/48 of the net foreign source gain would be included in the foreign tax credit limitation; and (3) the gain from the sale or exchange of personal property outside the United States would be considered U.S. source income unless one of three exceptions applies. The bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill with certain technical changes, except that the source rule modification would only apply to sales or exchanges made after November 12, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1035. Foreign Oil and Gas Extraction Income

House bill.—Under present law, foreign taxes which are allowable as a credit with respect to foreign oil and gas extraction income (including income from the extraction by the taxpayer of oil or gas for another person) are limited to a percentage of that income (52.8 percent in 1975, 50.4 percent in 1976, and 50 percent in 1977 and thereafter, computed on an overall basis) and may only be used to offset U.S. tax on oil-related income. The House bill provides transition period carryback rules which allow a carryback to any taxable year ending in 1975, 1976, or 1977 (on a per-country basis) of otherwise creditable taxes in excess of the percentage limitations, but not to exceed the net U.S. tax liability on the extraction income from the country for the year after taking into account the foreign tax credit. The provision is effective as of the date of enactment.

Senate amendment.—The Senate amendment does not contain transition period carryback rules. However, the Senate amendment contains several other changes with respect to the taxation of foreign oil and gas extraction income.

Under present law, interest from a domestic corporation is not included in the definition of foreign oil-related income. The Senate amendment revises the definition of foreign oil-related income to include interest from a domestic corporation (if the interest is treated as foreign source income because less than 20 percent of the corporation's gross income is derived from U.S. sources). This provision applies to taxable years beginning after December 31, 1976.

Under present law, individuals are subject to the same percentage limitations on creditable taxes paid with respect to foreign oil and gas extraction income as those imposed on corporations. The Senate amendment provides that the allowable foreign tax credit on foreign oil and gas extraction income for individuals is equal to the average U.S. effective rate of tax on that income (individuals will be limited to a separate overall foreign tax credit limitation for foreign oil and gas extraction income). The provision applies to taxable years ending after December 31, 1974.

Rev. Rul. 76–215, 1976 I.R.B. No. 23, holds that the contractor under a production-sharing contract in Indonesia is not entitled to a foreign tax credit for payments made by the government-owned company to the foreign government. The IRS has announced that this ruling will apply only prospectively to claims for credits for taxes paid in taxable years beginning after June 30, 1976. The Senate amendment provides that Rev. Rul. 76–215 is not to be applicable for taxable years ending in 1977 to amounts paid to foreign governments and designated as taxes under production-sharing contracts entered into before April 8, 1976, for taxable years beginning on or after June 30, 1976. The credit is limited to 48 percent of the extraction income from the contracts. This provision applies to taxable years beginning on or after June 30, 1976.

Under present law, the amount of foreign taxes paid with respect to foreign oil and gas extraction income which under U.S. law are creditable taxes with respect to foreign oil and gas extraction income is limited to 50 percent of that income on an overall basis for taxable years ending after 1976. For purposes of this limitation "foreign oil and gas extraction income" is the income derived by the taxpayer from extraction (by the taxpayer or any other person) of minerals from oil and gas wells. Income from extraction includes the purchase and sale of crude oil by the taxpayer in cases where the taxpayer is not performing the extraction operations. Also it includes cases where the taxpayer is performing extraction services within the country for the government of that country (whether or not the taxpayer may purchase the oil from that government). Any excess may only be used to offset U.S. tax on other oil-related income.

The Senate amendment provides that the amount of foreign taxes allowable as a credit with respect to foreign oil and gas extraction income is reduced to 48 percent of that income on a per-country basis for taxable years ending after 1976. The definition of extraction income is broadened to include interest from foreign corporations and dividends from domestic corporations, provided the corporations are engaged in oil-extraction activities. In addition, the Senate amendment would treat as a royalty rather than a tax any payment made as a tax to a foreign government on income from the extraction, production, or refining of oil, gas, or other related natural resources unless the foreign government imposes a substantially similar tax on income from other activities. The provision applies to taxable years ending after December 31, 1976.

Conference agreement.—The conference agreement combines the transitional carryback rule for the foreign tax credit limitation contained in the House bill with the reduction in the amount allowed as foreign tax credit on oil extraction income provided for in the Senate amendment. Under the conference agreement, the limitation on foreign taxes on extraction income allowable as a credit is reduced, for taxable years ending after 1976, to 48 percent of that income on an overall basis. The conference agreement does not include the changes in the definition of extraction income and in the treatment of foreign taxes as royalties which are contained in the Senate amendment. The conference agreement provides permanent carryover rules for excess extraction taxes rather than the transition period carryback rules in the House bill. Under the agreement, extraction taxes paid in taxable years ending after the date of enactment which exceed the limitation for the year can be carried back for two years to taxable years ending after December 31, 1974, and can be carried forward for five years. The amount carried to years after 1977 may not exceed 2 percentage points above the corporate tax rate.

The conference agreement does not include the change in the definition of oil-related income contained in the Senate amendment.

The conference agreement follows the Senate amendment with respect to the limitation on foreign oil and gas extraction income earned by individuals and the tax credit for production-sharing contracts.

1036. Underwriting Income

House bill.—The House bill contains no provision.

Senate amendment.—The source of insurance underwriting income is not specified in the Code. The Senate amendment provides that the source of underwriting income is to be the place where the risk is located. The amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1037. Third-Tier Foreign Tax Credit When Code Section 951 Applies

House bill.—The House bill contains no provision.

Senate amendment.—Under present law, if a domestic corporation is required to include in its income amounts under subpart F, a deemed-paid foreign tax credit is available with respect to foreign taxes paid by a first-tier foreign subsidiary (10 percent owned by the domestic corporation) and by a second-tier foreign subsidiary (50 percent owned by the first-tier foreign subsidiary), but, unlike the credit on actual distributions, there is no credit with respect to foreign taxes paid by a third-tier foreign subsidiary. Under the Senate amendment the foreign tax credit subpart F is made consistent with the credit for actual dividends from second- and third-tier foreign subsidiaries. Thus, a credit is allowed for foreign taxes paid by a third-tier foreign subsidiary, and a second-tier or a third-tier need only be 10 percent owned by a prior tier, provided the domestic corporation has, directly or indirectly, at least a net 5 percent ownership in each lower tier. The amendment applies with respect to earnings and profits included in income in taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1041. Interest on Bank Deposits Earned by Nonresident Aliens and Foreign Corporations

House bill.—Under present law interest paid to a nonresident alien or foreign corporation from deposits with persons carrying on the banking business is exempt from U.S. tax, but the exemption is due to expire with respect to interest paid after December 31, 1976. The House bill makes the exemption permanent without any termination date.

Senate amendment.—The Senate amendment extends the exemption under existing law through December 31, 1979.

Conference agreement.—The conference agreement follows the House bill.

1042. Changes in Ruling Requirements Under Code Section 367; Certain Changes in Section 1248

House bill.—In certain exchanges relating to the organization, reorganization, and liquidation of a foreign corporation, nonrecognition of gain is not available under present law unless a ruling that tax avoidance is not present has been obtained from the IRS before the exchange. The House bill permits nonrecognition of gain if a request for a ruling that tax avoidance is not present is filed within 183 days after the beginning of the exchange in the case of outbound transfers. In the case of all other transfers, regulations are to provide the extent that earnings are to be taken into account as a dividend in order to prevent avoidance of tax.

Under present law no court review of the ruling is available. The House bill provides for Tax Court review of these rulings.

In addition, under present law certain nonrecognition provisions allow repatriation of accumulated earnings and profits of a foreign corporation without dividend treatment. The nonrecognition provisions are modified under the House bill so that repatriated earnings and profits do not escape dividend treatment.

The House bill applies generally to sales, exchanges, and distributions taking place after October 9, 1975. However, until January 1, 1978, rulings are required on all transfers. In certain transfers not involving U.S. persons which took place between 1962 and 1976, taxpayers are given 183 days after the enactment of the Act to get a ruling.

Senate amendment.—The Senate amendment follows the House bill with minor technical amendments. The Senate amendment provides that if, after the beginning of an exchange for which a ruling has been obtained, there are subsequent transfers which are treated by the Secretary as part of the exchange but which are not described in the ruling, the taxpayer may file a new request for a ruling with respect to the entire exchange not later than the 183rd day after the beginning of the subsequent transfer.

Conference agreement.—The conference agreement follows the Senate amendment with a technical change dealing with the situation where there are a number of transfers which are treated by the Secretary as part of the same exchange. Pursuant to this change, if there is an organization reorganization, or liquidation involving a transfer or transfers of property by a U.S. person to a foreign corporation, nonrecognition of gain will be permitted if a request for a ruling that a tax avoidance purpose is not present is filed within 183 days after the beginning of the transfer. Under this rule, the taxpayer may request a ruling not later than the 183rd day after the beginning of any transfer which is part of the exchange, whether or not a ruling has been requested with respect to prior transfers which are part of the exchange. If the Secretary determines that the entire exchange does not involve a tax avoidance purpose, nonrecognition of gain will be permitted for that transfer and any subsequent transfers. Nonrecognition will be provided with respect to those transfers which are part of the exchange but which begin more than 183 days before the ruling request is made if the Secretary determines that tax avoidance will not result if the earlier transfers are provided nonrecognition treatment and if a ruling was obtained for the earlier transfer. If no ruling was obtained for the earlier transfer, nonrecognition will not be accorded the earlier transfer if a ruling is required for that transfer for there to be nonrecognition.

However, failure of the taxpayer to apply for a ruling with respect to an earlier transfer will not automatically result in taxable treatment of the earlier transfer because the Secretary may require nonrecognition treatment of the earlier transfer in those situations he deems appropriate even in the absence of a ruling.

1043. Contiguous Country Branches of Domestic Life Insurance Companies

House bill.—Present law subjects all U.S. companies to tax on their worldwide taxable income. Under the House bill a U.S. mutual life insurance company may elect to account for contiguous country business separately from other business to avoid U.S. taxation on contiguous country income to the extent such income is not repatriated. A company making this election must recognize as gain the net unrealized appreciation on the branch's assets. A domestic stock company selling policies similar to those sold by a mutual company may transfer assets to a contiguous country subsidiary and recognize the net gain on the assets transferred.

The House bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment extends the House bill to stock companies selling, through contiguous country subsidiaries, policies which are similar to those sold by mutual companies.

Conference agreement.—The conference agreement follows the Senate amendment.

1044. Transitional Rule for Bond, etc. Losses of Foreign Banks

House bill.—Under present law, gains and losses on the sale or exchange of government and corporate bonds and certain other types of indebtedness are treated as ordinary income and loss in the case of financial institutions and foreign corporations which would be considered banks if they were domestic corporations. However, for taxable years beginning before July 12, 1969, these amounts were treated as capital gain or loss. The House bill provides that, for foreign corporations which otherwise would be considered financial institutions, net gains from these transactions will be considered capital gain to the extent of any capital loss carryovers attributable to the same types of sales or exchanges in taxable years beginning before July 12, 1969.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1051. Tax Treatment of Corporations Conducting Trade or Business in Puerto Rico and Possessions of the United States

Under present law corporations operating a trade or business in a possession are entitled to exclude from gross income all income from sources without the United States including foreign source income earned outside the possession if they satisfy an 80-percent source and a 50-percent active trade or business test. However, dividends from a possessions corporation are not eligible for the intercorporate dividends received deduction.

Under the House bill a corporation meeting the 80-percent and 50-percent tests is entitled to a special foreign tax credit equal to the U.S. tax on that income plus income from certain investments in that possession. In addition, dividends from a possessions corporation are eligible for the intercorporate dividends received deduction. The bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, with minor technical changes, except that the Senate amendment disallows any foreign tax credits on the Puerto Rican withholding tax on liquidation. However, the Senate amendment continues to exempt foreign source income derived from sources outside the possession which is earned before October 1, 1976 whether or not the invested funds are derived from the possessions business.

Conference agreement.—The conference agreement follows the Senate amendment except that the agreement allows a foreign tax credit on taxes paid with respect to liquidations occuring before January 1, 1979, to the extent the taxes are attributable to amounts earned before January 1, 1976.

1052. Western Hemisphere Trade Corporations

House bill.—The House bill phases out the 14-percent tax rate reduction provided under present law for Western Hemisphere trade corporations over a 4-year period beginning in 1976.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1053. Repeal of Provisions Relating to China Trade Act Corporations

House bill. The special tax benefits granted to China Trade Act corporations and their shareholders, which generally permit the corporation and its shareholders to pay no U.S. tax, are phased out over four years beginning in 1976.

Senate amendment.—The Senate amendment provides a two-year phaseout of the special tax treatment for China Trade Act corporations and their shareholders.

Conference agreement.—The conference agreement phases out the special tax treatment for China Trade Act corporations and their shareholders over a 3-year period beginning in 1976.

1061–1064, 1066, and 1067. Denial of Certain Tax Benefits on Income Derived in Connection With Participation in an International Boycott

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment denies to any taxpayer that agrees to participate in or cooperate with an international boycott based on race, nationality or religion the benefits of the foreign tax credit, deferral of earnings of foreign subsidiaries, DISC, and the exclusion from gross income of foreign earned income on income from countries requiring boycott participation. The Secretary is to require the filing of reports (subject to criminal penalties) to determine whether a taxpayer has participated in a boycott. The provision is effective with respect to conduct 30 days or more after date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment by denying the foreign tax credit and the benefits of DISC and deferral. However, the exclusion for income earned abroad is not denied to employees of a taxpayer who participates in or cooperates with an international boycott.

The benefits of deferral and DISC are denied to the taxpayer by requiring a deemed distribution of earnings to the shareholders of the DISC or controlled foreign corporation. The benefits of the foreign tax credit are denied to the taxpayer by reducing the otherwise allowable foreign tax credit to which the taxpayer would be entitled under section 901 of the Code after applying the limitation, if applicable, of section 907 and of section 904. Taxes which are denied the foreign tax credit under this provision are not entitled to be carried backwards or forwards as foreign tax credits but may be eligible to be deducted in computing taxable income. Of course, if so deducted, the rules of sections 861 and 862 would be applied with respect to the deduction.

A taxpayer participates in or cooperates with an international boycott if the taxpayer agrees, as a condition of doing business directly or indirectly within a country or with the government, a company, or a national of a country (1) to refrain from doing business within a country which is the object of an international boycott or with the government, companies or nationals of that country; (2) to refrain from doing business with any U.S. person engaged in trade within another country which is the object of an international boycott or with the government, companies, or nationals of that country; (3) to refrain from doing business with any company whose ownership or management is made up, all or in part, of individuals of a particular nationality, race, or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality, race, or religion; (4) to refrain from employing individuals of a particular nationality, race, or religion: or (5) to refrain from shipping or insuring products on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott. While it is anticipated that in most cases a third country will be the object of an international boycott, it is possible that the United States may be the object of an international boycott. The agreement may be with respect to any type of business (including manufacturing, banking, and service businesses).

The conference agreement permits a taxpayer to agree to comply with certain laws without being treated as agreeing to participate in or cooperate with an international boycott. A taxpayer may agree to meet requirements imposed by a foreign country with respect to an international boycott if a U.S. law, executive order, or regulation sanctions that participation or cooperation. Secondly, the taxpayer may agree to comply with a prohibition on the importation of goods produced in whole or in part in any boycotted country or to comply with a prohibition imposed by a country on the exportation of products obtained in that country to any boycotted country. The taxpayer, however, may not agree to refrain from importing or exporting to or from a particular country products which are, or which contain components which are, made by a company on a boycott list.

A taxpayer is not considered as having participated in or cooperated with an international boycott unless he has agreed to such participation or cooperation. The agreement need not be in writing; there may be an implied agreement. However, an agreement will not be inferred from the mere fact that any country is exercising its sovereign rights. Thus, a taxpayer is not considered to have agreed to participate in or cooperate with an international boycott merely by reason of the inability of the taxpayer to obtain an export or import license from a sovereign country for specific goods. Similarly, a taxpayer's inability, under the laws or administrative practices of a country, to bring certain personnel into that country, to bring certain ships into the waters of that country, to provide certain services in that country, or to import or export certain products to or from a country, is not to be considered to constitute an agreement to participate in or cooperate with an international boycott. Further, the signing (at the time of import), of a certification as to content, which is required to obtain an import license, does not by itself constitute an agreement by the taxpayer. However, this would not permit the making of an agreement not to import certain goods into the country. In addition, a course of conduct of complying with sovereign law may, along with other factors, be evidence of the existence of an agreement.

If the taxpayer has participated in or cooperated with an international boycott in a country, he is presumed to have participated in or cooperated with that boycott with respect to all operations in all countries which require of the taxpayer (or of other persons, whether or not related to the taxpayer) participation in or cooperation with that international boycott. However, the taxpayer may establish that he has conducted clearly separate and identifiable operations in that country or another country through the same corporation or related corporations with respect to which there is no cooperation with or participation in that boycott.

Where there are not continuous business activities within a country, separate and identifiable operations may include separate export or import transactions. Where there are continuous business activities within a country, each separate business activity (taking into account basic differences in the types of any products sold or services offered, clear separation of the management of the activities, and so forth) may represent a separate and identifiable operation. If the taxpayer is able to establish separate and identifiable operations, he may then establish that with respect to certain operations there was no participation in or cooperation with that international boycott. The burden of proof will be upon the taxpayer to establish that an operation is separate and identifiable and that there was no participation in or cooperation with an international boycott in connection with that operation.

In addition, the conference agreement provides a proration formula for computing the amount of tax benefits which are related to an international boycott, and thus are denied to the taxpayer. This formula, it is anticipated, will be used by taxpayers who are unable to separate their tax benefits between boycott and nonboycott operations. Under this formula, the reduction of the tax benefits allowed to the taxpayer are determined by multiplying the otherwise allowable tax benefits by a fraction. The numerator of the fraction reflects the worldwide operations of the taxpayer in countries associated in carrying out the international boycott (exclusive of those operations for which the presumption of participation or cooperation has been rebutted). The denominator reflects the worldwide foreign operations of the taxpayer. The factors to be taken into account in computing the fraction are to be determined in accordance with the regulations prescribed by the Secretary. It is anticipated that the regulations will reflect the nature of the boycott activity carried on by the taxpayer and will take into account such factors as purchases, sales, payroll or other items which my be relevant. Unless the taxpayer establishes to the contrary, all operations of the taxpayer in connection with countries which require participation in or cooperation with the boycott are to be reflected in the numerator of the fraction.

The proration formula is not to apply if instead the taxpayer, with respect to his operations which are related to participation in or cooperation with an international boycott, clearly demonstrates the amount of the foreign taxes and earnings which are allocable to the boycott operations. Those taxpayers who are not able to clearly account separately for the tax credits and earnings which are allocable to their boycott operations must apply the proration formula in computing the amount of tax benefits which are denied to them. Of course, all operations of the taxpayer in countries which require participation in or cooperation with that boycott are persumed to be boycott operations unless the taxpayer establishes to the contrary.

It is expected that the provisions of the conference agreement will be administered in the normal course of a tax audit. However, the taxpayer will be required to make a report if he has conducted operations in a country (or with the government, a company, or a national of a country) which is on a list (maintained by the Secretary of the Treasury) of countries requiring participation in or cooperation with an international boycott, or in any other country which the taxpayer has reason to believe requires such participation or cooperation. The taxpayer is to include in the report the identity of any country in connection with which the taxpayer has participated in or cooperated with (or has been requested to participate in) an international boycott as a condition of doing business in that country (or with such government, company or national). The report should also indicate the nature of any operations in connection with such countries.

A taxpayer will also be expected to disclose in the report any country where the taxpayer has been requested to participate in such a manner which could be interpreted as an official request of that country. This is not to say that the request must be made directly by a government official or representative.

The Secretary of the Treasury is to publish the list, which is to be updated periodically, of those countries which may require participation in or cooperation with an international boycott. The initial list must be published within 30 days after date of enactment. However, the absence of a country from the list does not mean that such country is not a country which requires participation in or cooperation with an international boycott.

The willful failure to make a report will subject the taxpayer to a fine of not more than $25,000 or imprisonment for not more than one year, or both. A failure to make a report will not be a willful failure if the taxpayer had no knowledge of a boycott operation unless the taxpayer's failure to have knowledge is so negligent as to constitute a reckless disregard of the requirements of the law.

The initial determination of participation in or cooperation with any international boycott is to be made by the taxpayer, who will be expected on his return to reduce the amount of the foreign tax credit, deferral benefits, or DISC benefits to the extent that the taxpayer has participated in or cooperated with an international boycott. The taxpayer is to show how any reduction is made. However, it is expected that the returns and the determinations by the taxpayer will be audited and the accuracy of the taxpayer's determinations will be verified in the usual course of such an audit. While this verification will be done in the usual course of a tax audit, it is anticipated that the IRS will develop a group of experts who are knowledgeable in audit aspects of determining whether a taxpayer is involved in an international boycott.

The conferees have also established a determination procedure so that Taxpayers conducted business with foreign countries will be able to obtain a determination from the Secretary of the Treasury as to whether their operations constitute an international boycott agreement. While the determination procedure may rely upon the audit expertise of the IRS, is anticipated that this procedure will be delegated to Treasury officials. The determination request may be filed by the taxpayer before he has computed and filed his tax return, or at any time during the course of an audit of a tax return in which the question is raised as to whether the taxpayer has agreed to participate in or cooperate with an international boycott. To obtain a determination from the Secretary, the taxpayer will be required to make available all factual materials which may be relevant to the Secretary's determination. If the request for a determination is made before the particular operation is commenced or before the close of the taxable year, the Secretary may defer making the determination until the close of the taxable year.

If the Secretary does determine that the taxpayer has agreed to participate in or cooperate within an international boycott, there will be a presumption that the participation or cooperation of the taxpayer relates to all of the operations of the taxpayer in all of the boycott countries involved. However, the taxpayer will be entitled to rebut this presumption by demonstrating that certain operations are clearly separate and identifiable and are not connected with an international boycott agreement. An adverse determination by the Secretary will be reflected by the taxpayer either directly in his return or by normal deficiency procedures of the Internal Revenue Service. Thus, a determination of participation in or cooperation with an international boycott agreement by the Secretary will be reviewable by the courts in the same manner as the usual tax controversy.

In order to assess the effectiveness of this legislation in discouraging participation in or cooperation with international boycotts, the conference agreement requires the Secretary to report annually to the taxwriting committees the number of boycott reports filed with the IRS and the percentage which indicated that the taxpayer had participated in an international boycott. Further, the report to the committees should contain a detailed description of the results of the audits of these taxpayers in connection with boycott operations, the changes made by the IRS on unreported boycott activities, and such other information which would be useful or helpful in evaluating the administration of these provisions. The report should also indicate to the extent possible the tax benefits which are claimed for operations in each boycott country; the benefits claimed by taxpayers in those countries and the benefits denied by application of these provisions; and the extent that benefits denied were attributable to boycott agreements determined by reason of an Internal Revenue audit. The report must be in such a form that it cannot, directly or indirectly, be associated with or otherwise identify a particular taxpayer.

The international boycott provisions are to apply to any participation in or cooperation with an international boycott made more than 30 days after the date of enactment. However, in the case of operations which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the international boycott provisions shall first apply to participation or cooperation after December 31, 1977.

1065. Denial of Certain Tax Benefits Attributable to Bribe-Produced Income

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment provides that if a taxpayer pays a bribe to a foreign government official, the tax benefits of the foreign tax credit, DISC, and the deferral of earnings of foreign subsidiaries are denied to that taxpayer. The Secretary is authorized to require (subject to criminal penalties) the filing of reports and to determine whether a taxpayer has bribe-produced income. The provision is effective for illegal payments made 30 or more days after date of enactment.

Conference agreement.—The conference agreement subjects to current taxation as a deemed dividend an amount equal to the amount of any bribe paid by a foreign subsidiary or a DISC of a U.S. company. In addition, the earnings and profits of any corporation paying a foreign bribe is not to be reduced by the amount paid. The provision applies to illegal payments made 30 or more days after enactment.

SECTION OMITTED FROM SENATE AMENDMENT NO. 23

Agricultural Products of Foreign Corporations

House bill.—Under present law, sales of agricultural products not grown in the U.S. in commercially marketable quantities are not included within the definition of base company sales income.

The House bill provides that sales of foreign-grown agricultural products which differ in grade or type from, and are not readily substitutable for (taking into account consumer preferences), agricultural products grown in the United States in commercially marketable quantities are not included within the definition of base company sales income. The provision applies to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of U.S. shareholders within which or with which the taxable years of the foreign corporations end.

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 24

1101. Amendments Affecting DISC

House bill.—The DISC provisions presently in effect permit shareholders to defer taxation of up to 50 percent of the export profits allocated to the DISC. Under the House bill, incremental rules are adopted for taxable years beginning after December 31, 1975, which permit DISC benefits to the extent that current export gross receipts exceed 75 percent of the average for a 3-year moving base period (initially 1972–1974) which moves forward after 1980. A small DISC exemption to the incremental rule is provided for DISCs having taxable income of $100,000 or less for a taxable year. This exemption phases out at $150,000. DISC benefits are terminated for sales of agricultural products made after October 2, 1975, except those subject to marketing quotas. DISC benefits are also terminated for military sales made after October 2, 1975, except if the products are to be used solely for nonmilitary purposes. Fixed contract sales of military and agricultural products continue to receive DISC benefits for sales made before October 3, 1978. Fixed contract sales of natural resource products denied DISC benefits under the Tax Reduction Act of 1975 are made eligible for DISC benefits for an additional 5-year period from March 17, 1975 until March 18, 1980.

Under present law, DISC benefits are denied for sales of depletable natural resources including timber. Under the House bill, timber is treated as an agricultural product. Upon the disqualification of a DISC, the accumulated DISC income is recaptured under present law over a period equal to the period that the DISC was in existence not to exceed 10 years. The House bill provides that upon the disqualification of a DISC, the accumulated DISC income is recaptured over a period equal to twice the period that the DISC was in existence not to exceed 10 years. Where DISC benefits with respect to a product terminate, loans to the related supplier no longer qualify as a producer's loan under present law. The House bill provides that where DISC benefits with respect to a product terminate, loans to a related supplier may still qualify as a producer's loan.

Senate amendment.—The incremental rule adopted under the Senate amendment limits DISC benefits to the extent the current export gross receipts exceed 60 percent of the average for 3 out of 4 base period years (initially 1973–1976) which moves forward after 1979. DISC benefits are retained for agriculture products, but the incremental rules will apply only after 1979 using a 3 out of 5-year base period. DISC benefits are terminated for military sales unless it is determined that the property is competitive with foreign-manufactured property.

Under present law, taxpayers can prevent recapture of DISC benefits by selling or distributing DISC stock in certain nontaxable transactions. Under the Senate amendment, the sale or distribution of DISC stock in certain nontaxable transactions will result in recapture of accumulated DISC income.

Under present law, the combination of the general deemed distribution rule and the rule prescribing the source of any distribution to meet the 95 percent export receipts requirement can result in a partial double counting of the DISC's taxable income with respect to terminating deferral of taxation to its shareholders. The Senate amendment eliminates the problem of double counting by altering the source rules for distributions to meet qualification requirements.

The Senate amendment is otherwise the same as the House bill, except for technical changes. The Senate amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—Under the conference agreement, the incremental rule applies to taxable years beginning after December 31, 1975, and is 67 percent of the average gross receipts for a 4-year base period (initially 1972–1975) which moves forward after 1979. Sales of agricultural products are treated the same as sales of other products. DISC benefits are terminated for 50 percent of military sales (whether or not competitive) made after October 2, 1975.

The conference agreement otherwise follows the Senate amendment.

SENATE AMENDMENT NUMBERED 25

ADMINISTRATIVE PROVISIONS

1201. Public Inspection of Written Determinations by Internal Revenue Service

House bill.—Under present law, private letter rulings and other determinations of the IRS have been made public by the courts under the Freedom of Information Act. Certain confidential and other information is exempted from disclosure by the FOIA, but the taxpayer's identity is disclosed. The full impact of the FOIA in this area is still being litigated.

Under the House bill. IRS determinations issued pursuant to a request made after September 24, 1975, are made public, after deletion of certain information. Deleted material includes commercial or financial information, the disclosure of which could cause material financial harm; trade secrets; classified matter; information exempted by statute; bank regulation information and matters of personal privacy. The taxpayer's identity is to be deleted only from audit-type determinations and required rulings. Prior determinations, issued after July 4, 1967 (the effective date of the Freedom of Information Act), and requested before September 25, 1975, are made public, but with identifying details deleted. Prior determinations are made public contingent upon funds being appropriated to the IRS for the purpose, but not until 6-months' public notice is given that they will be made public. (Written determinations issued before July 5, 1967, are not made public.) The House bill also establishes procedures for resolution of disputes regarding deletion of information before release of a determination, including court actions to restrain disclosure and to obtain additional disclosure, and provides that a determination shall not be used as a precedent by any person in any case.

Senate amendment.—The Senate amendment is similar to the House bill regarding requests made with respect to determinations issued after November 1, 1976, except that names and identifying details are not normally to be disclosed. Background file documents related to a determination are to be made available upon request. Deleted material also includes geological and geophysical information and data, including maps, concerning wells, and commercial or financial information which is privileged or confidential. Determinations requested before November 1, 1976, are made public, except for certain required rulings. Disclosure is contingent upon funds being appropriated to the IRS for the purpose. Rules are established for the order in which prior determinations will be released, with the more recent determinations given priority. If the IRS receives a communication concerning a pending request for a determination from anyone outside the IRS (other than the taxpayer), the contact is to be noted, or "flagged", on the determination when it is made public. Any person may file suit and learn the identity of the taxpayer, if the Tax Court finds evidence that an impropriety occurred or undue influence was exercised with respect to the determination. The court could also order disclosure of material previously deleted.

The amendment provides that the Secretary may determine any precedential effect by regulations and creates a civil remedy for intentional or willful failure of the IRS to make required deletions or to follow the procedures of this section, including minimum damages of $1,000 plus costs. It allows IRS collection of fees for search and duplication costs in making information available on request and establishes rules for IRS records disposal.

Conference agreement.—The conference agreement follows the Senate amendment. The confrees also make it clear that communications concerning a pending determination from another agency which provides assistance to the IRS upon its request are not to be flagged. Moreover, the conferees do not intend that internal memoranda within the Internal Revenue Service relating to a particular written determination, or the question involved therein, which relate to development of the Service's legal position on the question involved, should be a part of the background file (and for this purpose Chief Counsel should be considered part of the Internal Revenue Service). However, correspondence which seeks to elicit further factual information, and the response thereto, would not be excluded from the background file by the previous sentence (for example, in a case where the National Office seeks further information regarding a district director's request for technical advice). Because of their similarity to internal memoranda and attorneys work product, correspondence between the Internal Revenue Service and the Department of Justice regarding a particular civil or criminal investigation or case, which is related to a particular written determination, or with respect to the relationship of a determination to any civil or criminal investigation or case, shall not be considered part of the background file. (The question of the availability of these documents is to be governed by other provisions of law, including the Freedom of Information Act.)

1202. Disclosure of Returns and Return Information

House bill.—No provision.

Senate amendment.—(a) *General.*—Under present law, tax returns are "public records", but they are generally open to inspection only under regulations or under executive orders. Additionally, the statute provides a number of specific situations in which tax returns can be disclosed.

The Senate amendment provides that returns and return information are to be confidential and not subject to disclosure except as specifically provided by statute.

In general, "returns" are defined in the regulations presently in effect as including information returns, schedules, lists, and other written statements filed with the IRS which are supplemental to or become a part of the return and other records, reports, information received orally or in writing, factual data, documents, papers, abstracts, memoranda, or evidence taken, or any portion thereof relating to returns and schedules, etc. The Senate amendment defines the term "return" to mean any tax or information return, declaration of estimated tax or claim for refund which is required or permitted to be filed with respect to any person. It also includes any amendment, supplemental schedule or attachment, filed with the tax return, information return, etc. "Return information" is defined as any data received by or prepared by the Secretary with respect to a return or with respect to the determination of the existence of the liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition. Information as to whether a taxpayer's return was, is being, or will be examined is also to be considered return information. Under the amendment, data in a form that cannot be associated with or otherwise identify a particular taxpayer will not constitute return information.

(b) *Disclosure to Congress.*—Congressional committees are classified in three categories for disclosure purposes under present law. The tax committees may inspect tax information in executive session. Select committees of the House and Senate may inspect tax information in executive session if specifically authorized to do so by a resolution of the appropriate body. Standing and select committees may inspect tax information under an executive order issued by the President for the committee in question and on the adoption of a resolution (by the full committee) authorizing inspection.

The Senate amendment provides that the tax-writing committees, upon written request of their respective chairmen, may have access to returns and return information in executive session. The Chief of Staff of the Joint Committee on Taxation may have access to returns and return information. Nontax committees are to be furnished returns and return information in executive session upon (1) a committee action approving the decision to request such returns, (2) an authorizing resolution of the House or Senate, as the case may be, and (3) a written request by the Chairman of the committee. The resolution of the appropriate body authorizing these committees to obtain returns or return information must specify the purpose for the inspection and that the inspection is to be made only if there is no alternative source of information reasonably available to the committee. The committees, through the committee Chairman and ranking minority member, can designate no more than 4 agents (2 majority and 2 minority) to inspect the returns or return information requested.

Under present law, the tax committees and select committees authorized to inspect tax information may submit "any relevant or useful" information obtained to the House or Senate. The Senate amendment provides that the tax-writing committees may submit tax information to the Senate or House, as the case may be. The nontax-writing committees may submit such information to the Senate or House sitting in executive session. The Joint Committee on Taxation, or its Chief of Staff, may submit tax information to the Committee on Ways and Means or to the Committee on Finance sitting in executive session.

(c) *Disclosure to the President (and other Federal agencies).*—An existing executive order permits so-called "tax checks" and inspection of tax returns by the President and certain designated White House employees. Requests for tax checks and inspection are to be in writing and signed by the President personally.

The Senate amendment provides that disclosure of returns and return information can be made to the President and/or to certain named employees of the White House Office, upon the written request of the President, signed by him personally. A request is to specify, among other things, the reason disclosure is requested. The President (or a duly authorized representative of the Executive Office) and the head of a Federal agency also may make a written requested for a "tax check" with respect to prospective appointees. The "tax check" is limited to whether the individual has filed income tax returns for the last 3 years, within the last 3 years has failed to pay any tax within 10 days after notice and demand, has been assessed a negligence penalty within the last 3 years, has been or is under any criminal tax investigation (and the results of such investigation), or has been assessed a civil penalty for fraud. The President and the head of any agency requesting returns and return information under this section will be required to file annually a confidential report with the Joint Committee on Taxation identifying the taxpayers, the returns or return information involved, and the reason for requesting such returns or return information. However, the President will not be required to report on requests pertaining to current employees of the executive branch. The reports will be maintained by the Joint Committee on Internal Revenue Taxation for a period not exceeding 2 years unless, within that period of time, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(d) *Tax criminal cases.*—Under present law, tax returns and other tax information of any taxpayer may be furnished upon request without written application to U.S. Attorneys and Justice Department attorneys in civil or criminal tax cases referred by the IRS to the Justice Department for prosecution or defense. Where the Justice Department is investigating a possible violation of the civil or criminal tax laws and the matter has not been referred to the Justice Department by the IRS, a Justice Department attorney or U.S. attorney may obtain tax information upon written application where it is "necessary in the performance of his official duties". The Justice Department can obtain the returns of potential witnesses and third parties. Also, the IRS will answer an inquiry from the Justice Department as to whether a prospective juror has been investigated by the IRS.

Under the Senate amendment, the Justice Department will continue to receive returns and return information with respect to the taxpayer whose civil or criminal tax liability is at issue. Written request is required in cases other than refund cases and cases referred by the IRS. The return or return information of a third party will be disclosed to the Justice Department in the event that the treatment of an item reflected on his return is or may be relevant to the resolution of an issue of the taxpayer's liability under the Code. The return or return information of a third party will also be disclosed to the Justice Department when the third party's return or return information relates or may relate to a transaction between the third party and the taxpayer whose tax liability is or may be at issue and the return information pertaining to that transaction may affect the resolution of an issue of the taxpayer's liability. Disclosure of a third party return or return information will be made only pursuant to written request, except for refund cases and cases referred to Justice by the IRS. A third party return may also be disclosed in a court proceeding, subject to the same item and transactional tests described above, except that the items and transactions must have a direct relationship to the resolution of an issue of the taxpayer's liability. In tax cases, the Justice Department and the taxpayer whose liability is at issue will be allowed to inquire of the IRS as to whether a prospective juror has been under an audit or investigation by the IRS. However, responses to such inquiries are to be limited to the existence or nonexistence of an IRS investigation.

(e) *Nontax criminal cases.*—Under present law, a U.S. Attorney or an attorney of the Department of Justice may obtain tax information in any case "where necessary in the performance of his official duties". This may be obtained on written application, giving the name of the taxpayer, the kind of tax involved, the taxable period involved, and the reason inspection is desired. The application is to be signed by the U.S. Attorney involved or by the Attorney General, Deputy Attorney General, or an Assistant Attorney General. Tax information obtained by the Justice Department may be used in proceedings conducted by or before any department or establishment of the Federal Government or in which the United States is a party. The IRS also will answer an inquiry from the Justice Department as to whether a prospective juror has been investigated by the IRS.

Under the Senate amendment, tax information can be disclosed to the Justice Department and other Federal agencies for nontax criminal purposes only by order of a U.S. District Court. The order would be issued upon a showing (1) that there is probable cause to believe, based upon information believed to be reliable, that a specified criminal act has been committed, (2) that there is reason to believe that the information contained in the return is directly probative of the commission of the crime, and (3) that the information sought cannot reasonably be obtained from any other source. Only those parts of the return determined by the Court to be necessary to the investigation or prosecution would be subject to disclosure. The amendment authorizes the IRS, either upon its own initiative or pursuant to written request, to disclose in writing to the Justice Department or any other Federal agency, information relating to the possible violation of a Federal criminal law which is received from sources other than the taxpayer and his representatives.

(*f*) *Nontax civil matters.*—Under present law, U.S. Attorneys and officials of other Federal Agencies may obtain tax information in nontax civil cases in the same manner and to the same extent as in nontax criminal cases. The Senate amendment provides that disclosure of returns and return information cannot be made to the Justice Department or other Federal enforcement agencies in civil cases except in those instances where it is defending the United States in a suit involving a renegotiation of contracts previously determined by the Renegotiation Board. Disclosure would be allowed under the amendment to Treasury personnel (other than employees of the IRS) of returns or return information for purposes of tax administration.

The GAO does not presently have independent authority to inspect tax returns. It does have access to tax returns when it audits IRS operations as agent of the Joint Committee on Taxation. H.R. 8948 (reported by the Government Operations Committee and passed by the House) would specifically authorize the GAO to conduct audits of the IRS and the Bureau of Alcohol, Tobacco and Firearms. H.R. 8948 would permit GAO to have access to tax returns and tax records to the extent necessary to conduct the audits.

The Senate amendment provides that the GAO can initiate audits of the IRS on its own or at the request of any committee of Congress. The amendment authorizes the GAO to inspect returns and return information to the extent necessary in conducting the audits. It is intended that the GAO examine returns and individual tax transactions only for the purpose of, and in the number necessary to serve as a reasonable basis for, evaluating the effectiveness, efficiency and economy of IRS operations and activities. It is not intended that the GAO would superimpose its judgment upon that of the IRS in individual tax cases. GAO would notify the Joint Committee on Taxation in writing of the subject matter of the planned audit and any plans for inspection of income tax returns. GAO could proceed with its planned audit unless the Joint Committee, by a two-thirds vote of its members, vetoes the GAO audit plan within 30 days of first receiving notice of the proposed audit from GAO.

(*g*) *Statistical use.*—The Census Bureau, the Bureau of Economic Analysis, the Federal Trade Commission, and the Securities & Exchange Commission are presently authorized to use tax returns and return information for statistical purposes.

Under the Senate amendment, Census, the BEA, and FTC, and non-IRS Treasury personnel could obtain tax returns and limited return information for statistical and research purposes. The BEA and the FTC would only receive corporate tax information. Publication of statistical studies identifying any particular taxpayer is prohibited.

(*h*) *Inspection by Federal agencies.*—Under present law, several agencies may generally inspect tax information for qualified purposes without a specific written request. Inspection of tax information on a general basis is made most often by HEW, the Renegotiation Board and the FTC.

Under the Senate amendment, limited disclosures on a general basis would be permitted to the Social Security Administration, the Railroad Retirement Board, the Department of Labor, the Pension Benefit Guaranty Corporation, and the Renegotiation Board in certain limited situations where the return information is directly related to programs administered by the agency in question.

(*i*) *State and local governments.*—On the written request of the State Governor, tax returns may presently be inspected by State tax officials for purposes of administering the State's tax laws. Tax information may also be obtained by the States for local governments to be used in administering the local tax laws.

The Senate amendment provides that Federal tax returns and return information may be disclosed to State tax officials solely for use in administering the State's tax laws. The tax information would not be available to the State Governor or any other nontax personnel, or to local governments. No disclosure may be made to any State requiring taxpayers to attach to, or include in, State tax returns a copy of any portion of the Federal return (or any information reflected on the Federal return) unless the State adopts provisions of law by December 31, 1978 protecting the confidentiality of the Federal returns or return information.

In order to protect the confidentiality of returns which the States receive from the IRS under the present exchange programs, the returns are, in most States, processed on computers used solely by the State tax authorities. In certain States, however, the requirements of the tax authorities are not sufficient to justify a separate computer, and, accordingly, the tax authorities have the Federal tax returns processed on central computers shared by several State agencies which are operated by State employees who are not in the tax department. In such situations, the IRS requires that tax department personnel be present at all times when the Federal tax returns are being processed. The Senate amendment would permit those States currently time-sharing with other State agencies to continue to do so to the extent authorized and under the conditions specified in Treasury regulations.

(*j*) *Taxpayers with a material interest.*—Income tax returns presently are open to certain persons with a material interest in those returns. For example, returns are open to the filing taxpayers, trust beneficiaries, partners, heirs of the decedent, etc.

Under the Senate amendment, persons with a material interest would continue to have the right to inspect returns and, where appropriate, return information to the same extent as provided under current regulations. Return information (in contrast to "returns") could be disclosed to persons with a material interest only to the extent the IRS determines this would not adversely affect the administration of the tax laws.

(*k*) *Miscellaneous disclosures.*—Also, under present law, address information is provided to the Federal Parent Locator Service regarding "absent parents" under Public Law 93–647 (section 453 of the Social Security Act). Under the Senate amendment, returns and return information of taxpayers and spouses could be disclosed to appropriate Federal, State and local agencies for purposes of, and only to the extent necessary in, locating deserting parents and determining ability to make support payments.

Several provisions of the regulations allow the disclosure of tax information for miscellaneous administrative and other purposes. In other cases, the statute specifically requires public disclosure and certain types of returns (e.g., applications for exempt status by organizations). Under the Senate amendment, returns would continue to be open to public inspection in those situations where public disclosure is provided for in present law. Limited disclosure of returns and return information would be permitted in some, but not all, of the miscellaneous situations where disclosure is permitted under present law.

(*l*) *Procedures and records concerning disclosure.*—Several different offices of the IRS presently have the responsibility for approving the disclosure of tax information to particular agencies. The IRS presently maintains records concerning disclosure, but the type of records maintained are not standardized as between, e.g., Service Centers, and a complete inventory of records is not maintained.

The Senate amendment provides that in those cases in which disclosure or inspection of returns or return information would be permitted, it would be permitted only at the times, in the manner, and at the places prescribed by regulations. The IRS, and each Federal and State agency receiving tax information, would be required to maintain a standardized system of permanent records on the use and disclosure of returns and return information.

(*m*) *Safeguards.*—Except for the general criminal penalty for unauthorized disclosure, the tax law does not presently provide rules for safeguarding tax information disclosed by the IRS to other agencies. The IRS has no authority to audit the safeguards established by other agencies or to stop disclosure to other agencies that do not properly maintain safeguards.

Under the Senate amendment, no tax information would be furnished by the IRS to another agency (including commissions, States, etc.) unless the other agency complies with a comprehensive system of administrative, technical, and physical safeguards designed to protect the confidentiality of the returns and return information. In the event of unauthorized disclosure by the other agency or its failure to maintain adequate safeguards, the IRS could (subject to an administrative appeal procedure) terminate disclosure to that agency.

(*n*) *Reports to Congress.*—Since 1971, the Joint Committee has received from the IRS a semi-annual report on disclosure of tax information.

The Senate amendment requires the IRS to make a confidential report to the Joint Committee each year on all requests (and the reasons therefor) received for disclosure of tax returns or return information. The report would include, as a separate section to be publicly disclosed, a listing of all agencies receiving tax return information, the number of cases in which disclosure was made to them during the year, and the general purposes for which the requests were made. In addition, the IRS would be required to file a quarterly report with the tax committees regarding procedures and safeguards followed by recipients of returns and return information.

(*o*) *Enforcement.*—Under present law, unauthorized disclosure of a Federal income tax return or financial information appearing thereon by a Federal or State employee is a misdemeanor punishable by a fine of up to $1,000 or imprisonment of up to one year, or both. It is also a misdemeanor punishable in the same manner for any person to print or publish an income tax return or financial information appearing therein.

Under the Senate amendment, the criminal violation of the disclosure rules would become a felony punishable by a fine of up to $5,000 and imprisonment of up to 5 years, or both. It would also be a felony, subject to the same penalties, for any person willfully to receive returns or return information as a result of an offer by that person to exchange an item of material value for the unauthorized disclosure. A civil remedy is provided for any taxpayer damaged by any unlawful disclosure of returns or return information.

(*p*) *Effective date.*—The provisions in the Senate amendment concerning the confidentiality of tax returns are effective as of January 1, 1977.

Conference agreement.—The conference agreement generally follows the Senate amendment with the modifications described below.

Under the conference agreement, a prospective employee will receive notice from the IRS at the time it receives a request for a tax check with respect to the prospective employee. The confidential report to the Joint Committee by the President and heads of agencies will be made quarterly rather than annually as provided in the Senate amendment.

In addition, the court order required for disclosure of tax information to the Justice Department and other Federal agencies in nontax criminal cases will be issued upon a showing that: (i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed; (ii) there is reason to believe that the return or return information is probative evidence of a matter in issue related to the commission of the criminal act; and (iii) the information sought to be disclosed cannot reasonably be obtained from any other source unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of the criminal act.

The first requirement set forth above ("reasonable cause . . .") is intended to be less strict than the "probable cause" standard (contained in the Senate amendment) for issuing a search warrant, and this "reasonable cause" requirement is to be construed according to the plain meaning of the words involved. The term "criminal act" includes any act with respect to which the criminal penalty provisions of a Federal nontax statute (which may also include civil penalty provisions) would apply. This court procedure contemplates an *in camera* inspection of the return or return information by the judge to determine whether any part or parts thereof meet the requirements outlined above. Only the part or parts of the return or return information determined by the court to meet these requirements would be subject to disclosure under this provision. In this regard, the conference agreement contemplates that the more personal the information involved (e.g., medical and psychiatric information), the more restrictive the court would be in allowing disclosure.

The return or return information could be introduced in an administrative or judicial hearing if the court finds that it is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. The credibility of a witness does not constitute a matter in issue for purposes of these rules. Thus, under the conference agreement a return or return information would not be admissible for purposes of "collateral impeachment" (i.e., discrediting a witness on matters not bearing upon the question of the commission of a crime or the guilt of a party).

The conference agreement modifies the provision in the Senate amendment requiring those States which require taxpayers to attach to, or include in, their State tax return a copy of any portion of their Federal return (or any information reflected on the Federal return) to adopt provisions of law by December 31, 1978, protecting the confidentiality of the attached copy of the Federal return or of the included return information. Although the copy of the Federal return or the return information required by a State or local government to be attached to, or included in, the State or local return does not constitute Federal "return or return information", subject to the Federal confidentiality rules, the policy underlying this requirement is that the attached copy of the return and the included information should be treated by State and local governments as confidential rather than effectively as public information. However, it is not intended to require States to enact confidentiality statutes which are mirror images of the Federal statutes. The conference agreement makes it clear that State tax authorities can disclose State returns and return information, including any portion of the Federal return (or information reflected on the Federal return) which the State requires the taxpayer to attach to, or to include in, his State tax return, to any State or local officers or employees whose official duties or responsibilities require access to such State return or return information pursuant to the laws of such State.

The conference agreement also authorizes the GAO to review and evaluate the compliance by the Federal and State agencies which have received returns and return information from the IRS with the requirements regarding the use and safeguarding of the returns and return information.

The conference agreement modifies the disclosure of return information to the Federal, State and local child support enforcement offices by providing for disclosure of the information from IRS master files and permitting disclosure of other return information only to the extent that it cannot be reasonably obtained from another source.

The conference agreement authorizes the IRS to disclose to other Federal agencies the mailing addresses of taxpayers from whom the agencies are attempting to collect a claim under the Federal Claims Collection Act.

1203. Income Tax Return Preparers

House bill.—Present law provides that tax return preparers must sign returns they prepare, but no penalties are provided for failure to sign. Preparers are subject to criminal fraud penalties of fines up to $5,000 and 3 years' imprisonment for willfully aiding or assisting in the preparation of a fraudulent return. (Also, preparers are subject to penalties for improper disclosure of tax return information.)

Under the House bill, any person who prepares a return or claim for refund for compensation must meet specific disclosure requirements and is subject to penalties for negligent or fraudulent preparation of returns. Injunctions may be sought against preparers engaging in certain specified practices. The provision applies to documents prepared after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill with several modifications, including an exception for preparers of refund claims filed as a result of an IRS audit; authorization for the IRS to modify annual reporting requirements, provided detailed records and information are available and accessible to the Service. Also, the injunction provision is modified to establish more specifically the practices against which injunctive relief may be obtained. The amendment applies to documents prepared after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

The conferees also clarified certain language that appears in the Finance Committee's Report relating to income tax return preparers. The amendment imposes a penalty for any understatement of tax liability caused by an income tax return preparer due to negligent or intentional disregard of rules and regulations. The conferees share the Finance Committee's intention, as stated in the Committee Report, that this provision be interpreted in a manner similar to existing section 6653(a) of the Code which imposes penalties for disregard of rules and regulations by taxpayers on their own returns. Consistent with section 6653(a), the Committee Report states that an income tax return preparer's good faith dispute about an interpretation of a statute is not considered negligent or intentional disregard of rules and regulations.

However, the Report of the Finance Committee goes on to state that an income tax return preparer may complete a return relying on case law that conflicts with rulings or regulations, "provided he clearly sets forth in the return the relevant rulings or regulations which he disputes and the judicial decision upon which he relies." Such disclosure is not required to avoid penalties under section 6653(a) of the Code, and the Committee did not intend that more stringent requirements be applied under the new section 6694(a). The conferees agree that while there may be instances in which some form of disclosure on a return would be necessary to avoid penalties under section 6694(a), that would depend on all the relevant facts and circumstances in the particular case, as is true under section 6653(a).

1204. Jeopardy and Termination Assessments

House bill.—Under present law, no court or administrative review is made of the appropriateness of a jeopardy or termination assessment. No restrictions are placed on sale of property seized pursuant to one type of jeopardy assessment. A termination assessment creates a "deficiency" and presumably short taxable years.

The House bill provides expedited Tax Court review of the appropriateness of jeopardy and termination assessments (and the amount thereof). It also provides restrictions on the sale of seized property until this review is completed. The provisions of the House bill apply to assessments where notice and demand take place after December 31, 1975.

Senate amendment.—The Senate amendment is generally the same as the House bill but contains several modifications. The Senate amendment requires the Internal Revenue Service to furnish the taxpayer with a written statement setting forth the basis for a jeopardy or termination assessment within 5 days after the assessment is made, and provides for administrative review within an additional 15 days. The taxpayer may then obtain an expedited de novo determination of the reasonableness of the assessment by a United States District Court. The Commissioner has the burden of proof on whether it is reasonable for a jeopardy or termination assessment to stand, but the taxpayer has the burden of proof on the reasonableness of the amount assessed. In the case of termination assessments, the Senate amendment provides for notice of deficiency to the taxpayer only after the close of the normal taxable year and for no closing or reopening of a taxpayer's taxable year. The Senate amendment imposes the same restrictions on sale of seized property with respect to jeopardy assessments as the House bill, but the restrictions are broadened in the case of termination assessments. These provisions of the Senate amendment apply to assessments where the notice and demand take place after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment. In the court review of a jeopardy or termination assessment, the conference agreement places the burden of proof on the government as to whether the making of the jeopardy or termination assessment is reasonable under the circumstances, but places the burden of proof on the taxpayer as to the reasonableness of the amount assessed. The Report of the Committee on Finance (S. Rept. 94–938, p. 365) analogizes this division of the burden of proof to the division in a civil tax fraud case where the government has the burden of proof on the fraud issue, and the taxpayer the burden on the issue of a deficiency in tax. The analogy was used only to explain the division; neither the Committee on Finance nor the conferees intend that the government must carry its burden of proof in the court review of a jeopardy or termination assessment under the special evidentiary standard of proof applicable to proving civil fraud, i.e., "clear and convincing evidence." Rather, the usual standard is to apply, as it does where the government is given the burden of proof in a deficiency case on a tax issue it failed to raise in its notice of deficiency.

1205. Administrative Summons

House bill.—The House bill provides generally, in the case of a third party summons, the taxpayer (or other person to whom the summoned records pertain) is to receive notice of the summons from the Service at the time of its issuance and have the right to stay compliance by notifying the person summoned within 14 days not to comply with the summons. The Service is then required to seek enforcement of the summons in a Federal court and the taxpayer has standing to challenge such enforcement. Notice is not required in the case of an administrative summons to a bank issued in connection with IRS collection activities. In the case of a John Doe summons (where the identity of the taxpayer is not known) the Service must go into court, establish reasonable cause for requesting the summons, and receive court approval before issuing the summons.

Senate amendment.—The Senate amendment is generally similar to the House bill except that it permits the Service a 3-day grace period to mail the notice to the taxpayer. The amendment also provides for suspension of the criminal statute of limitations (as well as the civil statute, which is suspended under the House bill) where the summons is protested by the taxpayer. The amendment suspends the notice requirement where a summons is issued solely to determine if records exist or where notice may result in a material interference in an investigation. The amendment is intended to enable the Service to avoid material interference with an investigation where it reasonably believes that this might occur; however, petitions by the Service are not to be granted automatically by the courts and the petitions (and supporting affidavits) must show reasonable cause. The amendment also provides for the reimbursement of witness costs in accordance with regulations.

Conference agreement.—The conference agreement follows the Senate amendment. In addition, the agreement clarifies the definition of a third-party record keeper, limiting this category to attorneys, accountants, banks, trust companies, credit unions, savings and loan institutions, credit reporting agencies, issuers of credit cards, and brokers in stock or other securities. The conference agreement makes it clear that the criminal and civil statutes of limitations are to be suspended where the notice who protests enforcement of the summons is either the taxpayer himself (as under the House and Senate bills), his nominee or agent, or another person actually under the direction or control of the taxpayer. A corporation controlled by the taxpayer, for example, is covered under this rule. On the other hand, if the third-party record keeper (attorney, accountant, bank, etc.) protested enforcement of the summons, this would not suspend the statute of limitations with respect to the taxpayer because the third-party recordkeeper is not the noticee. (Also, these persons ordinarily would not be under the actual direction or control of the taxpayer.) The conference agreement also provides that the Service is not required to give notice or to follow the "John Doe" procedure where the purpose of the inquiry is simply to learn the identity of the person maintaining a numbered bank account (or similar arrangement). For purposes of these rules, a numbered bank account (or similar arrangement) is an account through which a person may authorize transactions solely through the use of a number, symbol, code name or other device not involving the disclosure of his identity. A person maintaining the account includes the person who established it and any person authorized to use the account or to receive records or statements concerning the account.

1206. Assessments in case of mathematical or clerical errors

House bill.—Under present law, where a tax deficiency results from a mathematical error, the taxpayer does not have a right to appeal to the Tax Court, as provided in other cases. In practice, the Internal Revenue Service allows the taxpayer time to explain and substantiate a claim that there is no error. The Service has applied the mathematical errors procedure in 5 general categories of mistakes, only one of which literally involves arithmetic miscalculations.

The House bill defines five sets of mathematical or clerical errors, and the procedure and timetable which is to be followed before the Service may assess a deficiency. Under the procedure, the taxpayer must be given an explanation of the error and time to file a request for abatement of the assessment. The Service may not assess a deficiency before the taxpayer has agreed to it or the specified period has expired. The provision covers: (1) arithmetic errors; (2) errors in transferring amounts on the tax forms; (3) missing schedules or forms; (4) inconsistent entries and computations; and (5) entries that exceed statutory limitations. The timetable allows (1) the taxpayer 90 days from date of notice to file a request for abatement, (2) the Service 60 days to abate or renew the assessment, and (3) the taxpayer another 30 days to demand abatement. This provision applies to returns filed after December 31, 1975.

Senate amendment.—The Senate amendment modifies the House provision by allowing 60 days for the taxpayer to file a request for abatement. If such a request is filed, the Service must abate the assessment; the Service then may assert a deficiency. The amendment applies to returns filed after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1207(a). Withholding State Income Taxes From Military Personnel

House bill.—Under present law. Federal withholding of State income taxes from military personnel is prohibited. The House bill provides for Federal withholding of State income taxes where requested by a member of the military. Such withholding is to be implemented within 120 days of enactment.

Senate amendment.—The Senate amendment is the same as the House bill except that withholding is mandatory rather than voluntary.

Conference agreement.—The conference agreement follows the Senate amendment.

1207(b). Withholding of State or Local Income Tax From Members of the National Guard or Ready Reserve

House bill.—Under present law, withholding of State or local income tax from members of the National Guard or ready reserve by the Federal Government is prohibited. The House bill requires the Federal Government to withhold in those cases when the State and local income taxes are paid for regular training. Withholding is to be implemented within 120 days of the date of enactment.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

1207(c). Voluntary Withholding of State Income Taxes From Federal Employees

House bill.—The House bill contains no provision.

Senate amendment.—Under present law, Federal withholding of State income taxes from Federal employees in States where withholding is voluntary is prohibited. The Senate amendment permits Federal withholding of State income taxes from Federal employees in States where it is voluntary when employees request it. This withholding is to be implemented within 120 days of date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1207(d). Withholding of Income Tax on Certain Gambling Winnings

House bill.—Under present law, withholding of Federal income tax from gambling winnings is not required although information reports must be submitted on winnings of $600 or more. The House bill imposes withholding at a 20-percent rate on winnings of more than $1,000 from sweepstakes, wagering pools, and lotteries and from other types of gambling if the odds are 300 to 1 or more. The withholding applies to wagers made after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it does not apply to winnings from slot machines, keno, and bingo, or from State-conducted lotteries. This withholding applies to wagers made after September 30, 1977.

Conference agreement.—The conference agreement follows the Senate amendment except that the exemption for State-conducted lotteries applies only to winnings of $5,000 or less, and the withholding begins to apply 90 days after date of enactment. State-conducted sweepstakes and wagering pools are not included in the $5,000 exemption, but rather are treated the same as privately-conducted sweepstakes and wagering pools (and thus are subject to withholding on any net winnings exceeding $1,000). Under the conference agreement, it is intended that the term "wagering pool" is to include all pari-mutuel betting pools, including on- and off-track racing pools, and similar types of betting pools.

The .conference agreement also makes it clear that withholding applies to winnings net of the ticket price, taking into account all tickets for identical wagers. For example, if one $100 bet and two $50 bets are placed on a single horse to win a single racetrack event, any winnings from the three tickets should be added together and the ticket prices of all three tickets should be deducted to determine net winnings. However, if the bets are placed on different horses or on different events, the net winnings are to be determined separately for each ticket.

In addition, under the conference agreement, the Internal Revenue Service is to report, prior to 1979, to the House Committee on Ways and Means and the Senate Committee on Finance on the operation of the present reporting system (IRS Form 1099) as applied to winnings from keno, bingo, and slot machine winnings and is to make a recommendation whether or not such winnings should be subject to withholding. The conferees also urge that, in the interim, the Internal Revenue Service modify the reporting requirements (on IRS form 1099) with respect to winnings from these sources. This modification should include a lower threshold for the requirement that the payor report payments to the Internal Revenue Service to the extent that current reporting practices differ from that set out in the Internal Revenue Code (sec. 6041).

1207(e). Withholding of Federal Taxes on Certain Individuals Engaged in Fishing

House bill.—No provision.

Senate amendment.—Under present law, crewmen on boats taking fish or other forms of aquatic animal life are usually treated, for tax purposes, as regular employees, not as self-employed. Under the Senate amendment, crewmen on boats engaged in taking fish or other aquatic animal life with an operating crew of fewer than ten are to be treated as self-employed for Federal tax purposes if their sole remuneration is a share of the boat's catch (or the proceeds of the catch), or, in the case of an operation involving more than one boat, a share of the entire fleet's catch. This provision is to apply, in general, to services performed after December 31, 1971, in taxable years ending after that date.

Conference agreement.—The conference agreement follows the Senate amendment but modifies the amendment to require boat operators to report the weight of the catch distributed to each crewman, or, in cases of distributions of proceeds of the catch, the dollar amount distributed to each crewman. In addition, the retroactive date of the provision is not to result in requiring crewmen who have been treated as ordinary employees to pay the higher rate of social security tax required of self-employed individuals, nor are refunds of the employer's share of social security taxes to be made to boat operators in such cases. Otherwise, the provision is applicable to services performed after December 31, 1971.

Because the status of individuals as independent contractors or employees for Federal tax purposes presents an increasingly important problem of tax administration, the conferees agreed to join in the request of the Senate Finance Committee (S. Rept. 94–938, p. 604) that the staff of the Joint Committee on Taxation make a general study of this area. The conferees also join in urging the Internal Revenue Service not to apply any changed position or any newly stated position which is inconsistent with a prior general audit position in this general subject area to past, as opposed to future taxable years until the requested staff study has been completed. Thus, the conferees agree with the statements on this aspect of the subject in the Finance Committee's Report (S. Rept. 94–938, p. 604), as amplified by the Chairman and ranking member of the Finance Committee on July 26, 1976, during consideration of H.R. 10612 by the Senate.

The conferees also make it clear that the designation of fishermen as "self-employed" is for the specific tax purpose only. It is not intended to affect their rights to bargain collectively or their status under the antitrust or other laws.

1208. State-Conducted Lotteries

House bill.—Under present law, an excise tax of 2 percent is placed on amounts wagered, and an annual occupational tax of $500 is imposed on each person who is liable for the wagering tax. In addition, a tax of $250 per year is imposed on coin gaming devices including those which dispense lottery tickets. An exemption is provided for sweepstakes or lotteries conducted by a State where the winners are determined by a horse race.

The House bill eliminates the rule that a winner of State lotteries be determined by a horse race and an exemption from the tax on gambling devices is provided for State lotteries. The change is effective for wagers made, or periods after, March 10, 1964.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

1209. Minimum Exemption From Levy For Wages, Salary, and Other Income

House bill.—Present law enumerates a relatively limited list of items of a taxpayer which are exempt from levy for taxes. These exempt items include unemployment benefits but not wages, salary, or other income (except that needed to pay pre-levy court-ordered child support). Present law also requires repeated levies in cases involving wages and salaries.

The House bill exempts from levy for taxes a minimum amount ($50 on a weekly basis, plus $15 per dependent) of wages, salary, or other income. It also allows continuous levies wages and salaries.

These provisions of the House bill apply to levies made after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it applies to levies made after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1210. Joint Committee Refund Cases

House bill.—No provision.

Senate amendment.—Under present law, a report concerning refunds of income, estate, gift and other types of taxes must be submitted to the Joint Committee on Taxation if the refund is in excess of $100,000.

The Senate amendment increases the jurisdictional amount for Joint Committee refund cases to $200,000. Also, the amendment adds refunds of taxes on private foundations and pension plans as subject to the report requirements and authorizes the Chief of Staff of the Joint Committee to conduct a post-audit review of other cases. The amendment is effective generally upon date of enactment, except that the post-audit review provision is effective on January 1, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

1211. Use of Social Security Numbers

House bill.—Under present law, a person required to file an income tax return must include an identifying number in his return; in general, individuals use their social security numbers for this purpose. It is a misdemeanor to willfully, knowingly, and deceitfully use a social security number for purposes relating to obtaining or increasing the amount of benefits under a Social Security Act or other Federally funded program. Under the Privacy Act of 1974, it is unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his social security account number, unless: (1) disclosure is required by Federal statute, or (2) disclosure is required by a Federal, State or local agency under statute or regulation adopted prior to January 1, 1975.

The House bill amends the Code to require use of a social security number as the taxpayer identifying number for Federal income tax purposes.

Senate amendment.—The Senate amendment requires that, except as otherwise specified under regulations, an individual shall use his social security number for Federal income tax purposes. It also makes a misdemeanor the willful, knowing, and deceitful use of a social security number for any purpose.

In addition, the Senate amendment changes the Privacy Act so that a State or political subdivision may use social security numbers for the purpose of establishing the identification of individuals affected by any tax, general public assistance, driver's license, and motor vehicle registration laws. If the State or local Government did not use the social security number for identification under a law or regulation adopted prior to January 1, 1975, it may require an individual to furnish his social security number solely for the purpose of administering tax laws, as well as general public assistance, driver's license and motor vehicle registration laws, and also for the purpose of responding to requests for information from an agency operating pursuant to the provisions of parts A and D of Title IV of the Social Security Act. Any individual who discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the U.S. is guilty of a misdemeanor.

Conference agreement.—The conference agreement follows the Senate amendment.

1212. Interest on Mathematical Errors on Returns Prepared by IRS

House bill.—No provision.

Senate amendment.—Under present law, interest on any underpayment of tax runs from the original due date (regardless of extensions) to the date on which payment is received. The Senate amendment provides that in the case of an income tax deficiency attributable to a mathematical error on a return prepared by an IRS taxpayer service representative, interest will not begin to run until the 30th day after notice and demand for payment of the deficiency, provided the deficiency did not result from a failure by the taxpayer to provide information to the IRS taxpayer service representative or from a willful misrepresentation of information by the taxpayer. This provision applies to returns filed for taxable years beginning after the date of enactment.

Conference agreement.—The conference agreement authorizes the IRS to abate any portion of interest owed by a taxpayer as a result of a mathematical error on returns prepared by the Internal Revenue Service where the amounts in question are below tolerance levels established by the IRS. The two principal factors to be taken into account by the IRS in establishing the tolerance levels are (1) the cost of determining, assessing, and collecting the interest and (2) sound and equitable tax administration.

SECTIONS OMITTED FROM SENATE AMENDMENT NO. 25

Definitions of City for Purposes of Withholding for Federal Employees

House bill.—No provision in H.R. 10612. However, a separate House-passed bill (H.R. 10572) provides that the Federal Government may withhold city income taxes for certain unincorporated localities.

Senate amendment.—The Senate amendment modifies the definition of city for withholding purposes as in H.R. 10572.

Conference agreement.—The conference agreement omits this provision, since a bill (H.R. 10572), which contains this provision, was enacted into law (P.L. 94–358).

Voluntary Withholding of State Income Taxes for Certain Legislative Officers and Employees

House bill.—The House bill requires the paying officers for the House of Representatives to enter into agreements with requesting States to withhold State income tax from any Member or House employees who request it. (Subsequent to the Committee's action, the House passed H. Res. 732 which provides for the voluntary withholding of State income taxes for House Members, officers and employees.)

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits this provision, as the provision has been separately adopted by the House of Representatives (H. Res. 732).

Award of Costs and Attorneys Fees to Prevailing Taxpayer

House bill.—No provision.

Senate amendment.—Under present law, there is no specific provision regarding costs and fees for tax litigation. However, the prevailing party in any civil litigation brought in the Federal District Courts by or against the U.S. Government may recover costs, but not attorneys' fees or expenses.

The Senate amendment provides that a prevailing taxpayer in any civil tax litigation may be awarded costs, including reasonable attorneys' fees up to $10,000, but only if it is found that it was unreasonable for the U.S. Government to bring the action. The amendment applies to civil actions and proceedings for redetermination of deficiencies commenced after the date of enactment.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 26

MISCELLANEOUS PROVISIONS

1301. Certain Housing Associations

House bill.—Under present law most cooperative housing corporations, condominium management associations and residential real estate management associations cannot qualify for exempt status.

The House bill provides that a cooperative housing corporation, condominium management association, or residential real estate management association may elect to be tax exempt with respect to its membership dues and assessments. On other income, an electing organization is taxed at corporate rates without the surtax exemption. This provision applies to taxable years beginning after December 31, 1973.

Senate amendment.—The Senate amendment is generally the same as the House bill, except that cooperative housing corporations are not permitted to elect. Technical amendments are made in the definitions of association property, qualifying expenditures, and qualifying purposes. The Senate amendment also allows a cooperative housing corporation to take depreciation on property leased to tenant-stockholders, even though the tenant-stockholder in a cooperative housing corporstock, if they use the proprietary lease or right of tenancy to which the stock is allocable in a trade or business or for the production of income. The Senate amendment also modifies the present law rule that a tenant-stockholders in a cooperative housing corporation must be an individual by permitting a lending institution which obtains stock in a cooperative housing corporation through foreclosure to be treated as a tenant-stockholder for up to three years. The Senate amendment generally applies to taxable years beginning after December 31, 1973. However, the provision relating to foreclosures by lending institutions applies to stock acquired after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1302. Treatment of Certain Crop Disaster Payments

House bill.—Under present law insurance proceeds received by a taxpayer as a result of destruction or damage to crops may be included in income in the taxable year following the year of their receipt, if it can be established that the income from the crops which were destroyed or damaged would otherwise have been properly included in income in the following taxable year. The House bill extends this provision to taxpayers using the cash receipts and disbursements method of accounting who receive certain payments pursuant to the Agricultural Act of 1949 if such payments are received as a result of (1) destruction or damage to crops caused by drought, flood or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster. The provision is effective for payments received after December 31, 1973, in taxable years ending after that date.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreeement.—The conference agreement is the same as the House bill and the Senate amendment.

1303. Tax Treatment of Certain 1972 Disaster Losses

House bill.—In the case of a 1972 disaster loss in a Presidentially designated disaster relief area, the tax on the first $5,000 of compensation received with respect to that loss is not to exceed the tax which would have been payable if the $5,000 (or lesser) deduction had not been claimed. This treatment applies only if elected by the taxpayer and only if certain conditions are satisfied. Any tax with respect to this $5,000 amount which was still unpaid on October 1, 1975, may be paid in three equal annual installments beginning on April 15, 1976.

Senate amendment.—The Senate amendment is the same as the House bill except that the first annual installment of tax liability still unpaid on October 1, 1975, is not due until April 15, 1977.

Conference agreement.—The conference agreement follows the Senate amendment. The provision is effective for all open years.

1304. Worthless Debts of Political Parties

House bill.—The House bill allows a deduction for worthless debts owed by political parties if the debts arise from bona fide sales of goods or services in the ordinary course of a trade or busines, if more than 30 percent of the total business is with political parties, and if substantial efforts are made to collect the debt. The House bill applies for taxable years beginning after 1974 and to all prior open years.

Senate amendment.—The Senate amendment is the same as the House bill except that the amendment applies for taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees agreed that the provision of present law was not intended to apply to taxpayers whose primary business is to provide goods or services to political parties and that the conference agreement reflects Congress' original intent regarding present law.

1305. Tax-Exempt Bonds for Student Loans

House bill.—No provision.

Senate amendment.—Under present law, only interest on obligations issued by or on behalf of governmental entities such as States and their political subdivisions is exempt from Federal income taxation. In addition, even these obligations are generally not exempt if the proceeds might be used to purchase nonexempt securities or obligations whose yield will likely exceed the yield on the governmental obligations. Under the Senate amendment, obligations are to be exempt from tax if issued by nonprofit corporations organized or requested to act by a State or a political subdivision solely to acquire student loan notes. Student loan incentive payments made by the Commissioner of Education are not to be taken into account in determining whether the yield on student loan notes is higher than the yield on obligations issued to finance the student loan program. The provision is effective for obligations issued on or after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1306. Personal Holding Company Amendments

House bill.—No provision.

Senate amendment.—Under present law, royalties (other than mineral, oil or gas royalties and copyright royalties) received by a corporation are personal holding company income, regardless of how much income of other types the corporation may have. "Royalties" include amounts received for a license to use trade brands, secret processes, franchises and similar intangible property. Rents received by a corporation from leasing corporate "property" to a 25-percent or greater shareholder are personal holding income, only if over 10 percent of the company's income comes from other types of personal holding company income. In Rev. Rul. 71-596, 1971-2 Cum. Bull. 242, the IRS ruled that a company's income from licensing a major shareholder to make and sell a secret process is governed by the "royalty" rule rather than by the "rent" rule.

The Senate amendment treats intangible property as property subject to the shareholder rent rule, rather than the royalty rule, if the intangible property is used together with tangible property in an active trade or business conducted by the major shareholder who leases such intangible property from the corporation. The amendment applies to taxable years ending after December 31, 1964, and before January 1, 1972. No interest is to be paid on any refund received by a taxpayer under the amendment.

Conference agreement.—The conference agreement deletes the retroactive provision in the Senate amendment. In its place, the shareholder rent rule (of section 543(a)(6)) is amended to apply only to tangible property leased by a corporation to one or more of its major shareholders. (Even if income received by the corporation from renting tangible property to a major shareholder qualifies (under the tests in section 543(a)(6)), as nonpersonal holding company income, such income also constitutes rental income for purposes of the general rent rules in section 543(a)(2) and, as such, must also be tested under those rules.)

This amendment clarifies the shareholder rent rule, which has been interpreted by the courts to mean that amounts received by a corporation from leasing intangible property to a major shareholder are to be treated as royalty income (under sec. 543(a)(1)), regardless of whether such income also qualifies under the shareholder rent rule of sec. 543(a)(6). The amendment makes clear that income from the use of secret processes, trade brands and other intangible property (but not including certain specially-treated royalties), are always to be treated as personal holding company income under the general royalty rule (sec. 543(a)(1)), regardless of whether they are received from a shareholder of the corporation or from an unrelated third party.

The conference agreement provides, however, that solely for purposes of determining (under section 543(a)(6), as amended) whether over 10 percent of the corporation's income is derived from personal holding company income, income from a lease of intangible property to a 25 percent or greater shareholder is not to be treated as personal holding company income. This special rule will apply only if the shareholder leases tangible property from the corporation a substantial amount of which he uses, along with the intangible property, in the active conduct of a trade or business.

The conference agreement also provides that even if income received by the corporation from renting tangible property to a major shareholder qualifies (under the tests in section 543(a)(6) as amended) as nonpersonal holding company income, such income also constitutes rental income from purposes of the general rent rules in section 543(a)(2) of present law and, as such, must also be tested under those rules.

Under the conference agreement, the provision applies to taxable years beginning after December 31, 1976.

1307. Work Incentive (WIN) and Federal Welfare Recipient Employment Tax Credits

House bill.—No provision.

Senate amendment.—Under present law, the work incentive (WIN) credit, equal to 20 percent of the wages paid during the first 12 months of employment to qualified AFDC recipients, is available to employers engaged in a trade or business who hired such employees. Qualified participants are certified by the local WIN agency. The credit is not available in the case of an employee who ceases to work for the original employer for an additional 12 months unless the employee voluntarily quits, becomes disabled, or is fired for misconduct. The amount of the credit available in any year is limited to the first $25,000 of tax plus one-half of tax liability in excess of $25,000. Under the Federal welfare recipient employment incentive tax credit (welfare recipient tax credit), which expired July 1, 1976, all private employers including those who provide employment for private household workers are eligible for the credit. Qualified employees are AFDC recipients who have received benefits for the 90 days preceding employment. The credit is essentially the same as the WIN credit: 20 percent of eligible wages, except that there is a limit of $5,000 a year on the annual eligible wages for non-business employees; the same overall credit limit of $25,000 of tax plus one-half of the excess also applies. There is no limit on the number of months the credit is available. The State or local welfare agency certifies recipients as qualified.

The Senate amendment makes the WIN credit available from the date of hiring if employment is not terminated without cause before the end of 90 days after the first 90 days of employment, and adds an additional exemption to the recapture rules so that there would be no recapture of the credit if the employee were laid off due to lack of business. It doubles the limit on the credit from $25,000 to $50,000 plus one-half of the excess over $50,000. The Senate amendment also doubles the limit on the welfare recipient tax credit from $25,000 to $50,000 plus one-half of the excess over $50,000. It provides a limit of 12 months for which the wages of any one employee would be eligible for the credit. The amendment authorizes the WIN agencies also to certify eligibility for the welfare recipient tax credit. The amendment extends the expiration date from July 1, 1976, to January 1, 1981.

Conference agreement.—The conference agreement follows the Senate amendment, except that the expiration date is moved up one year to January 1, 1980.

1308. Repeal of Excise Tax on Certain Light-Duty Truck Parts

House bill.—No provision.

Senate amendment.—Under present law, an 8-percent manufacturers excise tax applies to the sale of truck parts and accessories. However, no tax is imposed on such parts when included on a light-duty truck (10,000 lbs. or less) by the truck manufacturer, since the excise tax on light-duty trucks was repealed in 1971. If the part is added by a dealer (and is not considered to be "further manufacture"), the 8-percent tax applies. Under the Senate amendment, the 8-percent excise tax on truck parts and accessories is to be refunded or credited to the manufacturer where the part or accessory is sold on or in connection with the first retail sale of a light-duty truck. The provision applies to sales after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1309. Exemption From Manufacturers Excise Tax for Certain Articles Resold After Modifications

House bill.—No provision.

Senate amendment.—Under present law, a 10-percent manufacturers excise tax is imposed on sales of bodies and chassis for heavy trucks, buses not used for mass transport, heavy trailers and semitrailers, and highway tractors. An 8-percent tax is imposed on sales of parts or accessories for trucks and buses. Persons who obtain bodies or chassis and certain parts or accessories from different manufacturers and combine them are considered further manufacturers and must pay a 10-percent tax on their further sale, after credit for tax previously paid. Persons who buy the entire combination from a single manufacturer do not pay a manufacturers excise tax on a further sale.

Under the Senate amendment, a resale of an article subject to the 10-percent tax is not to be taxed merely because the article was combined with any coupling device, wrecker crane, loading and unloading equipment, aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor. The provision applies to resale on or after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1310. Franchise Transfers

House bill.—No provision.

Senate amendment.—Under present law, the transfer of a franchise, trademark or trade name is not the sale or exchange of a capital asset if the transferor retains any significant power, right, or continuing interest with respect to the subject matter of the franchise, trademark, or trade name. No statutory rule prevents avoidance of this limitation through the use of partnerships. The Senate amendment adds a provision treating potential ordinary income from a franchise, trademark or trade name as an "unrealized receivable" of a partnership. The effect is to apply to partnerships the same rule that currently applies to sole proprietorships. This provision is effective for transactions occurring after December 31, 1976, in taxable years ending after that date.

Conference agreement.—The conference agreement follows the Senate amendment.

1311. Employer's Duties To Keep Records and To Report Tips

House bill.—No provision.

Senate amendment.—Under present law, employees must report to employers all tips received, including charge account tips. Employers must include such tips in reporting to the IRS the employees' wages subject to withholding. The IRS has recently ruled that sec. 6041(a) of the Code requires employers to report separately to the IRS charge account tips not reported to employers by employees and therefore not reported to IRS by employers as wages subject to withholding.'

Under the Senate amendment, employers need only report to IRS the tips, including charge account tips, reported to the employers by their employees. In addition, the only records employers are required to retain in connection with charge account tips are statements of tips received furnished by their employees and charge receipts.

Conference agreement.—Under the conference agreement, the IRS is not to take action to enforce its recent rulings on these matters before 1979. Thus, the charge tip reporting rules are to be administered during this period as they were prior to the recent rulings. This provision is not intended to affect the Service's ability to effect audits in the area of tip income.

1312. Treatment of Certain Pollution Control Facilities

House bill.—No provision.

Senate amendment.—From 1969 through December 31, 1975, an election for 5-year amortization was available to a taxpayer who installed a new identifiable, certified pollution facility in connection with property that was in operation before January 1, 1969. The amortizable basis of the facility was not eligible for the investment tax credit. The Senate amendment provides a 5-year amortization election for facilities installed in property in the past, makes amortization available for facilities that will prevent the creation or emission of pollutants, and provides a two-thirds investment credit for such facilities placed in service after December 31, 1976. The extension of the 5-year amortization election and its availability for preventive facilities apply for taxable years beginning after December 31, 1975. The investment credit provision applies for taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment with modifications that extend the election to facilities that will prevent the creation or emission of pollutants when installed at the site of a plant or other property in existence before January 1, 1976, which do not lead to a significant increase in output or capacity, a significant extension of useful life, or a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing or production process or facility. For the purposes of this provision, significant means a change of more than 5 percent. Only one-half of the investment tax credit will be available for such pollution control facilities. In determining how significant is the effect of a pollution control facility upon output, capacity, costs or useful life of property, the relevant area for examination is to be the operating unit most directly associated with the pollution control facility. The conference agreement also provides that the broader definition of a pollution control facility which is eligible for the amortization election does not apply in determining whether a facility is a pollution control facility eligible for tax-exempt industrial development bond financing.

The conference agreement extends the definition of a qualified pollution control facility to include, for example, a facility located at a plant site which prevents the creation of a pollutant by removing sulphur from fuel before it is burned at the plant. The definition also includes such facilities as a recovery boiler that removes pollutants from material at some point in the otherwise unchanged production process at the plant. The conference agreement does not include as a qualified pollution control facility a facility that makes a significant change in a, or functions as a new, manufacturing or production process or facility. Where a plant that has employed heat to process a material changes to an electrolytic process, the latter is not a qualified pollution control facility because it is also a new manufacturing or production process even though it may prevent the creation and emission of pollutants.

1313. Qualification of Fishing Organizations as Tax-Exempt Agricultural Organizations

House bill.—No provision.

Senate amendment.—Under present law, fishing organizations may qualify as tax-exempt business leagues, but not as tax-exempt agricultural organizations. Tax-exempt agricultural organizations receive lower postal rates than do tax-exempt business leagues. Under the Senate amendment, the term "agricultural", for tax purposes, is to include the harvesting of aquatic resources. The provision is to be effective for all taxable years beginning after December 31, 1972.

Conference agreement.—The conference agreement follows the Senate amendment, but the rule is to be effective only for taxable years beginning after December 31, 1975.

1314. Subchapter S Corporation Shareholder Rules

House bill.—No provision.

Senate amendment.—Under present law, a corporation is required to have 10 or fewer shareholders in order to be eligible to elect and maintain subchapter S treatment.

Under the Senate amendment, 15 shareholders are allowed after the corporation has elected subchapter S treatment for 5 consecutive taxable years. In addition, a corporation may have up to 15 shareholders during this 5-year period if the additional shareholders have acquired their interests through inheritance. Also, where a husband and wife were treated as one shareholder, the surviving spouse and the deceased spouse's estate are treated as one shareholder. The amendments are effective with tax years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment except that it deletes the provisions under which a surviving spouse and the estate of a deceased spouse may be treated as 1 shareholder, since this provision is duplicated in another Senate amendment adopted by the conferees (Senate amendment numbered 62, section 2722).

1315. Application of Section 6013(e) of the Code (Innocent Spouse)

House bill.—No provision.

Senate amendment.—Section 6013(e) of the Code, enacted January 12, 1971, relieves a spouse from tax liability for income omitted from a tax return, if he or she is not responsible for the omission and did not benefit from the unreported income. The Senate amendment extends relief under the innocent spouse provision to taxpayers who, but for the *res judicata* effect of an adverse judicial decision, would have been relieved of liability under the 1971 statute. The amendment applies to all taxable years beginning after December 31, 1961, and ending on or before January 12, 1971, and is effective until the end of the first calendar year following the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1316. Modification in Limitations on Percentage Depletion for Oil and Gas Wells

House bill.—No provision.

Senate amendment.—Present law, adopted as part of the Tax Reduction Act of 1975, generally repeals percentage depletion for oil and gas but provides a limited exemption from repeal for taxpayers who are neither refiners nor retailers. In any event, percentage depletion is disallowed on proven property transferred after 1974. Also, percentage depletion on oil and gas is limited to 65 percent of the taxpayer's taxable income.

The Senate amendment modifies these provisions in certain respects to correct certain technical problems in connection with these provisions and to prevent instances of unintended hardship. Under the amendment, a taxpayer is not to be treated as a retailer in cases where gross sales of oil and gas products attributable to the taxpayer are less than $5 million in any one year. Also, bulk sales of oil or natural gas to industrial or utility customers are not to be treated as retail sales. Likewise, a taxpayer is not to be treated as a retailer, if all sales of oil or natural gas products occur outside the United States, and none of the taxpayer's domestic production is exported.

In addition, the amendment provides that oil or natural gas property is not to be treated as "transferred" property merely because there is a change in beneficiaries under a trust if the change occurs by reason of births, adoptions, or deaths involving a single family. Also, trusts are permitted to compute the 65 percent of taxable income limitation without regard to any deduction for distributions to beneficiaries. The rules outlined above are effective for taxable years beginning after December 31, 1974 (which is also the effective date of the provisions in the Tax Reduction Act of 1975).

Conference agreement.—The conference agreement follows the Senate amendment.

1317. Implementation of Federal-State Tax Collection Act of 1972

House bill.—No provision.

Senate amendment.—Under current law, a State whose individual income tax substantially conforms to the Federal individual income tax may enter into an agreement with the Internal Revenue Service for the IRS to collect and administer the State tax. At least two States with 5 percent of the Federal individual tax returns must elect to have their taxes "piggybacked" for the piggyback system to be generally available. The Senate amendment makes explicit that no costs will be charged to any State for "piggybacking": reduces to one the number of States necessary to start the system; and eliminates the requirement that 5 percent or more of Federal returns be initially involved in triggering the system. Also, it permits certain adjustments for State sales tax credits. The amendment takes effect upon the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1318. Cancellation of Certain Student Loans

House bill.—No provision.

Senate amendment.—Under present law, gross income includes income from discharge of indebtedness. Gross income does not include amounts received as a scholarship or fellowship grant at an educational institution, unless such amounts represent compensation for services or are primarily for the benefit of the grantor. The Service has ruled that discharge of indebtedness on student loans issued after June 11, 1973, are includable in gross income.

The Senate amendment provides that no amount shall be included in gross income by reason of the discharge of all or part of a student loan if, pursuant to the loan agreement, such discharge is made if the individual works for a certain period of time in certain geographical areas or for certain classes of employers. This provision applies only to loans made by a governmental agency. The provision is effective for discharges of indebtedness made before January 1, 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1319. Simultaneous Liquidation of Parent and Subsidiary Corporations

House bill.—No provision.

Senate amendment.—Under present law, a corporation which sells its assets and liquidates completely within 12 months generally is not taxable on gain from its sale of assets. Its shareholders, however, are taxable on the liquidation proceeds they receive. The selling company in this situation is taxable, however, if it is a controlled subsidiary of a parent corporation. In this latter situation, the parent corporation is not taxable when it liquidates the subsidiary. If both the parent and the subsidiary plan to liquidate after the subsidiary sells its assets, however, two taxes may be imposed. The subsidiary may be taxed on its gain from the sale and the parent's shareholders may also be taxable when the parent liquidates.

The Senate amendment adds a rule that if a controlled subsidiary sells its assets and then both it and its parent corporation liquidate completely, only one tax will be imposed and that will fall only on the parent's shareholders. This rule would be effective for sales of assets under a plan of complete liquidation adopted on or after January 1, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1320. Prepublication Expenditures

House bill.—Under present law, IRS regulations and Revenue Ruling 73-395, 1973-2 Cum. Bull. 87, deny a current deduction for research in connection with literary, historical, or similar projects. The ruling requires that publishers' prepublication expenditures must be capitalized and may be depreciated. The House bill, which applies to all open years, allows publishers to continue their customary, consistent tax accounting methods regarding prepublication expenditures without regard to Revenue Ruling 73-395 until the IRS issues new, prospective regulation.

Senate amendment.—The Senate amendment contains no provision.

Conferece agreement.—The conference agreement follows the House bill with necessary technical changes.

1321. Contributions in aid of Construction for Certain Utilities

House bill.—The House bill contains no provision.

Senate amendment.—Under a recent revenue ruling by the IRS, certain contributions in aid of costruction are treated as income rather than nontaxable contributions to the capital of a utility. The Senate amendment treats certain contributions in aid of construction to water and sewage disposal utilities as nontaxable contributions to capital if cash contributions are spent for qualifying water or sewage disposal facilities before the end of the second taxable year following the year the contribution was received. This provision is effective for contributions made after January 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment with two modifications. Under the first modification, nontaxable treatment will not be accorded to customer connection fees. Customer connection fees include any payments made by a customer to the utility for the cost of installing the connection between the customer's property and the utility's main water or sewer lines (including the cost of meters and piping) and any amounts paid as service charges for stopping or starting service.

Where a utility receives a lump-sum amount as a payment for items which qualify for nontaxable treatment under this provision and for items which do not so qualify (such as customer connection fees), then the portion which qualifies for nontaxable treatment under this provision is to be determined on a case by case basis under the facts and circumstances of each case. In addition, the mere fact that the applicable rate-making authority classifies an amount received by a utility as an amount for which nontaxable treatment is permitted is not conclusive of nontaxable treatment if such amounts actually are for items for which nontaxable treatment is not permitted.

Under the second modification, a requirement is added to insure that nontaxable treatment is accorded to only those utilities that are required to serve the public.

In providing these special rules for water and sewage disposal companies, the conferees intend that no inference should be drawn as to the proper treatment of such items by companies which are not water or sewage disposal utilities.

1322. Prohibition of Discriminatory State or Local Taxes on Generation or Transmission of Electricity

House bill.—No provision.

Senate amendment.—Under present law, any restrictions on the power of States or their political subdivisions to tax goods or services produced in the taxing State for nondomiciliary use outside the taxing State are derived from court interpretations of the interstate commerce clause of the Constitution.

The Senate amendment prohibits any State or political subdivision of a State from directly or indirectly imposing any tax on the generation or transmission of electricity which discriminates against out-of-State users. This provision is effective for taxable years beginning after June 30, 1974.

Conference agreement.—The conference agreement follows the Senate amendment.

1323. Deduction for Cost of Removing Architectural and Transportation Barriers for the Handicapped and Elderly

House bill.—No provision.

Senate amendment.—Generally, costs incurred to improve property used in a trade or business must be capitalized and may be depreciated over the useful life of the property. The Senate amendment provides an elective current deduction for the removal of architectural and transportation barriers to the handicapped and elderly in any facility or public transportation vehicle owned or leased for use in a trade or business. A second Senate amendment defines handicapped individuals to include the deaf and blind. The barrier removal must meet government standards. The maximum deduction is $25,000 per taxpayer for any taxable year. The amendment is effective for taxable years beginning after December 31, 1976, and ending before January 1, 1980.

Conference agreement.—The conference agreement follows the Senate amendment.

1324. Reports on High-Income Taxpayers

House bill.—No provision.

Senate amendment.—The Senate amendment instructs the Secretary of the Treasury to publish statistics on the tax liability of people with high total income, including the number and average income of high-income people with no income tax liability (after credits); the specific deductions, exclusions and credits used to avoid tax; the overall number of high-income individuals; and the total income and tax liability of the high-income group. Income, for this purpose, shall approximate real, economic income and shall include at least two adjustments: (1) adjusted gross income (AGI) shall be reduced by investment income and expense to the extent it does not exceed investment income; and (2) tax preference items excluded or deducted in arriving at AGI shall be added back into income for this purpose.

Also, the amendment directs the President to estimate in his annual economic report the change for the previous calendar year in the real tax burden resulting from the effect of inflation in eroding the real value of fixed dollar amounts used in determining tax rates, and to project the change for the current calendar year. This tax change is to be estimated separately for the major sources of Federal revenues.

Conference agreement.—The conference agreement follows the Senate amendment on the report on high-income individuals, although it directs the Secretary to make the adjustments for investment interest and tax preferences separately, as well as together so that there will be three definitions of "total income." The conference agreement deletes the direction to the President to make a report on the inflation-induced tax increase, but the conference committee urges the President to publish such information.

1325. Tax Treatment of Certified Historic Structures

House bill. No provision.

Senate amendment.—Under present law, the original users of depreciable real property constructed after July 24, 1969, are allowed to depreciate the property using accelerated methods of depreciation, including the 150 percent declining balance method (200 percent in the case of residential rental property). The Senate amendment provides that accelerated depreciation methods are not allowed with respect to real property constructed on a site which had been occupied by a certified historic structure which was demolished or substantially altered (other than by virtue of a certified rehabilitation). A "certified historic structure" is defined as a depreciable building or structure which is (a) listed in the National Register, (b) located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or (c) located in an historic district designated under a State or local statute containing criteria satisfactory to the Secretary of the Interior. A "certified rehabilitation" is defined to be any rehabilitaton of a certified historic structure which the Secretary of the Interior has certified as being consistent with the historic character of such property or district. The required use of straight line depreciation applies to additions to the capital account after December 31, 1975, and before June 15, 1981.

Under present law, the expenses of demolishing an old building, and the remaining undepreciated basis of the demolished building, are deductible unless the building was acquired with a view toward its demolition. The Senate amendment provides that in case of the demolition of a certified historic structure, or of any other structure in a Registered Historic District unless certified by the Secretary of the Interior prior to its demolition not to be of historic significance to the district, no deduction is to be allowed for (1) the amount expended for its demolition, or (2) any loss sustained on account of the demolition. Deductions disallowed under this provision are to be treated as chargeable to the capital account with respect to the land on which the demolished structure was located and thus are not to be includable in the depreciable basis of any replacement structure. The disallowance of deductions applies to demolitions commencing after June 30, 1976, and before January 1, 1981.

Under present law, accelerated depreciation methods are generally not allowable with respect to used property acquired after July 24, 1969. A 125% declining-balance method may be employed to depreciate used residential property with a useful life of 20 years or more at the time of acquisition. The costs of rehabilitating an existing structure must be capitalized and depreciated according to the method (straightline or 125% declining balance) used to depreciate the structure. Under the Senate amendment, taxpayers are to be allowed an election to treat for depreciation purposes "substantially rehabilitated historic property" as if they were the original users of the property (i.e., they would be allowed to use the 150% (or 200% in the case of residential rental property) declining-balance method of depreciation with respect to the entire basis of the rehabilitated property). A "substantially rehabilitated historic property" is defined to be any certified historic property if the capital expenditures incurred in the certified rehabilitation of the property during the 24-month period ending on the last day of the taxable year exceed the greater of (1) the taxpayer's adjusted basis in the structure on the first day of the 24-month period or (2) $5,000. Accelerated depreciation on substantially rehabilitated historic property applies to additions to the capital account after June 30, 1976, and before July 1, 1981.

The Senate amendment also allows taxpayers an election, in lieu of claiming the depreciation deductions otherwise allowable, to amortize over a 60-month period the capital expenditures incurred in a certified rehabilitation of an historic structure. Amortization in excess of depreciation otherwise allowable is to be recaptured as ordinary income on a sale of the property. Five-year amortization applies to additions to capital account after June 14, 1976, and before June 15, 1981.

A charitable deduction is not allowed under present law for contributions to charity (not in trust) of less than the taxpayers' entire interest in the property unless it is a contribution of an undivided interest in the property, a contribution which would have been entitled to a charitable deduction if it had been made in trust, or a contribution of a remainder interest in real property consisting of personal residences or farms. Under the Senate amendment a deduction is allowed for the contribution to a charitable organization exclusively for "conservation purposes" of (1) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration or (2) a remainder interest in real property. The term "conservation purposes" is defined to mean the preservation of land areas for public recreation, education, or scenic enjoyment, the preservation of historically important land areas or structures, or the preservation of natural environmental systems. Such contributions also qualify as charitable contributions for estate and gift tax purposes. The deductions are allowable for charitable contributions and transfers made after June 13, 1976, and before June 14, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

1326. Supplemental Security Income for Victims of Certain Natural Disasters

House bill.—No provision.

Senate amendment.—In general, an SSI recipient living in someone else's household has his benefits reduced by one-third to reflect a lower level of need. P.L. 94–331 eliminated for up to six months the one-third reduction in the case of individuals displaced as a result of a major disaster occurring between June 1, 1976 and December 31, 1976. The Senate amendment extends the period during which the one-third reduction may be suspended from six months to 18 months.

Conference agreement.—The conference agreement follows the Senate amendment.

1327. Exclusion of Countries Which Aid and Abet International Terrorists From Preferential Tariff Treatment

House bill.—No provision.

Senate amendment.—Under Title V of the Trade Act of 1974, eligible articles imported into the United States from beneficiary developing countries are duty free. Under section 502 of the Trade Act certain countries are prohibited from being designated as beneficiary developing countries. The prohibitions apply to (1) Communist countries, generally speaking; (2) members of OPEC; (3) countries which have expropriated U.S. property without prompt, adequate, and effective compensation; (4) countries which do not cooperate with the United States to prevent narcotics from unlawfullly entering the United States; (5) countries which do not eliminate reverse preferences; and (6) countries which do not recognize arbitral awards to U.S. citizens. Prohibitions (4), (5) and (6) may be waived by the President if he determines that such a waiver will be in the national economic interest of the United States.

Under the Senate amendment, a new prohibition is added to the definition of beneficiary developing country which provides that a country may not be designated if it aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. This prohibition may be waived by the President if he determines that the waiver will be in the national economic interest of the United States.

Conference agreement.—The conference agreement follows the Senate amendment.

1328. Net Operating Loss Carryovers for Cuban Expropriation Losses

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer may carry over a net operating loss attributable to Cuban expropriation to each of 15 taxable years following the taxable year of the loss. The Senate amendment extends the carryover period for five years to 20 taxable years following the loss (all losses were claimed prior to December 31, 1965).

Conference agreement.—The conference agreement follows the Senate amendment. The conferees state that this is to be the final extension of the provision.

SECTIONS OMITTED FROM SENATE AMENDMENT NO. 26

Study of Tax Treatment of Married and Single Persons

House bills.—No provision.

Senate amendment.—Under the Senate amendment, the Joint Committee Staff is to study the tax treatment of married and single persons, as well as heads of households, to suggest changes toward improving equity in treatment. The study is to be completed by September 30, 1977.

Conference agreement.—The conference agreement omits this provision because the Joint Committee staff is studying this subject for the Ways and Means Task Force and will deliver its report to the Senate Finance Committee as well.

Prohibition of State-Local Taxation of Certain Vessels, Barges, or Other Craft

House bill.—No provision.

Senate amendment.—Under present law, Congress has not limited the power of States or of their political subdivisions to tax vessels using navigable waterways in interstate commerce. The Senate amendment prohibits any State or political subdivision of a State from taxing any vessel, barge, or other craft using navigable waters of the United States in interstate commerce. This prohibition, however, is not to be effective as to barges, vessels, or other craft incorporated under the laws of the taxing State; owned by individuals, partnerships, or corporations domiciled in, or residents of, the State; or having their home port in the State. The prohibition is also not to apply if the entire use of the craft takes place in a single State. This provision applies to taxable years ending after June 30, 1976.

Conference agreement.—The conference agreement omits this provision. Instead, conferees request that the Advisory Commission on Intergovernmental Relations study this area and report to the Congress its findings and recommendations.

SENATE AMENDMENT NUMBERED 27

CAPITAL GAINS

1401. Capital Loss Offset Against Ordinary Income

House bill.—Under present law, capital losses are deductible in full against capital gains. For individuals, the excess of capital losses over capital gains can be deducted against up to $1,000 of ordinary income each year, with an unlimited carryover to future years.

The House bill increases the amount of ordinary income against which capital losses may be deducted to $2,000 in 1976, to $3,000 in 1977, and $4,000 in 1978 and subsequent years.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement raises the amount of ordinary income against which capital losses may be offset to $2,000 in 1977, and to $3,000 in 1978 and subsequent years.

1402. Holding Period for Long-Term Capital Gains

House bill.—Under present law, gains or losses on capital assets held for more than six months are considered long-term capital gains or losses. For individuals, 50 percent of the excess of net long-term capital gains over net short-term capital losses is deductible from income. Individuals may elect to have their first $50,000 of net long-term capital gains taxed at an alternative rate of 25 percent. Corporations have the option of paying an alternative tax of 30 percent on net long-term capital gains.

The House bill increases the holding period for long-term capital gains from six months to eight months for 1976, to 10 months for 1977, and to one year for 1978 and subsequent years, except for gains on agricultural commodity futures contracts.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement lengthens the holding period defining long-term capital gains to 9 months in 1977 and one year in 1978 and subsequent years. Agricultural commodity futures contracts will retain the 6-month holding period in accordance with the House bill. In addition the requirement of present law that certain timber be treated as sold on the first day of the calendar year in which that timber is cut is deleted.

1403. Capital Loss Carryover for Mutual Funds

House bill.—The House bill extends the capital loss carryover period for mutual funds from 5 years to 8 years.

Senate amendment.—The Senate amendment is identical to the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

SENATE AMENDMENT NUMBERED 28

PENSION AND INSURANCE TAXATION

1501. Individual Retirement Account (IRA) for Spouse

House bill.—No provision.

Senate amendment.—Under present law, the IRA deduction is limited to $1,500 or 15 percent of compensation (whichever is less), so that a person without earned income is not allowed an IRA deduction. The IRA deduction is not allowed to a person for a contribution to the IRA of another person.

Under the Senate amendment, an individual with compensation (and who is eligible to deduct IRA contributions) can contribute up to $2,000 to an IRA that he and his nonemployed spouse own jointly, or he can contribute up to $1,000 to his own IRA and $1,000 to an IRA separately owned by his spouse. The deduction is limited to 15 percent of compensation. Both spouses must consent to a distribution from a joint IRA. The $2,000 and the $1,000 IRAs would be alternatives to the $1,500 IRA allowed under present law. Contributions to the $2,000 and $1,000 IRAs would be offset by employer contributions under the rules for limited employee retirement accounts (under sec. 1502 of the House bill). The amendment would apply to taxable years beginning after 1976.

Conference agreement.—The conference agreement follows the Senate amendment except that a $1,750 limit ($875 for each spouse) was agreed to in lieu of the $2,000 limit. Also, the conference agreement provides that the deduction is allowed for contributions to separate IRAs for each spouse or to an IRA which has one subaccount for the husband and another for the wife. (The single account with two subaccounts could be considered a common investment fund.) Under the agreement, although the spouses own separate subaccounts, each could have a right of survivorship with respect to the subaccount of the other. The conference agreement does not permit a deduction for a contribution to an IRA which the husband and wife own jointly; but where a single IRA with subaccounts is used, each spouse could have a right of survivorship with respect to the subaccount of the other. Under the conference agreement, an IRA deduction is allowed under the new rules or the present rules (but not both).

1502. Limitation on Contributions to Certain H.R. 10 Plans

House bill.—No provision.

Senate amendment.—Under present law, a self-employed individual can set aside up to $750 of self-employment income in an H.R. 10 plan without regard to the usual rule limiting H.R. 10 plan contributions to 15 percent of self-employment income. However, due to a technical problem, a plan is disqualified if the contribution exceeds 25 percent of the individual's self-employment income.

The Senate amendment allows a self-employed individual to set aside up to $750 of self-employment income in an H.R. 10 plan without regard to the usual 15-percent limitation or the 25-percent limitation. The exception would only apply if the individual's adjusted gross income does not exceed $15,000. The amendment applies to years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1503. Retirement Deductions for Members of Armed Forces Reserves and National Guard

House bill.—No provision.

Senate amendment.—Present law provides that a participant in a governmental plan is not allowed a deduction for an IRA contribution so that the deduction is not allowed to members of the Armed Forces Reserves and National Guard covered by the military retirement plan. The Senate amendment allows a member of the Armed Forces Reserves or National Guard to qualify for an IRA deduction for a year (if otherwise qualified) despite his participation in the military retirement plan if he has 90 or fewer days of active duty (other than for training) during the year. The Senate amendment applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1504. Tax-Exempt Annuity Contracts in Closed-End Mutual Funds

House bill.—No provision.

Senate amendment.—Under present law, amounts contributed by certain tax-exempt organizations and educational institutions to provide annuities for employees are not included in the income of the employees if the contributions are used to purchase annuity contracts or are invested in open-end mutual funds. (An open-end mutual fund is a regulated investment company which issues redeemable shares.) The Senate amendment allows contributions for tax-sheltered annuities to be made to closed-end investment companies as well as to open-end mutual funds and annuity contracts. (A closed-end investment company is a regulated investment company which issues non-redeemable shares.) The amendment applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1505. Pension Fund Investments in Segregated Asset Accounts of Life Insurance Companies

House bill.—No provision.

Senate amendment.—Under present law, a segregated asset account can serve as an investment account and reserve for an insurance contract providing for annuities under which the premiums or benefits depend on the performance of the assets in the account. The Senate amendment clarifies present law by allowing a qualified pension plan to invest in an insurance contract with a segregated asset account even though the contract does not provide annuities. A pension fund can invest assets in such an account in lieu of a trust if the investment is otherwise permitted under law. The amendment applies for taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment, and clarifies the treatment of pension fund investments in nonsegregated accounts.

1506. Study of Salary Reduction Pension Plans

House bill.—No provision.

Senate amendment.—On December 6, 1972, the IRS issued proposed regulations which would have changed the tax treatment of salary reduction, cafeteria, and cash or deferred profit-sharing plans. In order to allow time for congressional study of these areas, section 2006 of ERISA provided for a temporary freeze of the status quo until December 31, 1976. Under the Senate amendment the temporary freeze of the status quo (under which plans established before June 27, 1974, are governed by the law in effect prior to the 1972 proposed regulations) would be extended until January 1, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

1507. Consolidated Returns for Life and Mutual Insurance Companies

House bill.—No provision.

Senate amendment.—Under present law, life insurance companies cannot file consolidated returns with non-life companies. In addition, mutual casualty insurers are effectively precluded from filing consolidated returns with other types of companies. The Senate amendment allows life insurance companies and other mutual insurance companies to file consolidated returns with other companies under rules limiting the amount of non-life losses applied against life company income to one-half the loss or one-half of life company income, whichever is less. Non-life losses could not be carried back against life company income. Consolidated filing is allowed for taxable years beginning after 1977.

Conference agreement.—The conference agreement follows the Senate amendment but with substantial modifications. First, it postpones for five years, or until 1981, any consolidation of life insurance company returns with non-life insurance company returns. Second, in 1981 and subsequent years consolidated returns may be filed by a life company and another company only where they have been affiliated for the preceding 5 years. Third, the amount of any non-life company loss which may be so applied against life company income in 1981 and the proportion of the life insurance company income which may be so offset in 1981 is limited to 25 percent. Fourth, in 1982 the percentage referred to above is to be 30 percent, and thereafter the percentage is to be 35 percent.

1508. Guaranteed Renewable Life Insurance Contracts

House bill.—No provision.

Senate amendment.—Under present law, a life insurance company can deduct 10 percent of the increase in its reserves for nonparticipating contracts for a taxable year or, if greater, 3 percent of the premiums for the year (excluding the portion of the premiums which is allocable to annuity features) attributable to nonparticipating contracts (other than group contracts) if the policies are issued or renewed for at least 5 years. The Senate amendment provides that the time for which a policy is issued or renewed includes the period for which the insurer guarantees that the policy is renewable by the policyholder. The amendment applies to taxable years beginning after 1957.

Conference agreement.—The conference agreement follows the Senate amendment.

1509. Study of Expanded Participation in Individual Retirement Accounts

House bill.—Under present law, an individual who is an active participant in a qualified pension, etc., plan, a tax-sheltered annuity, or a governmental plan cannot make deductible contributions to an IRA. The House bill allows an IRA deduction to a participant in a qualified plan or tax-sheltered annuity. The deduction is allowed for a contribution to the plan (if the plan was in existence when the 1974 Pension Act was enacted) or to an IRA. The deduction is not allowed to a participant in a governmental plan. The usual IRA limits are reduced by forfeitures and amounts actually contributed to a defined contribution plan by an employer. Under a defined benefit plan, the limitation is reduced by the level cost of the plan benefits or the cost of benefits accruing during the year. Employers would report these amounts to employees. In addition, the bill provides that the special penalty tax imposed on excess contributions to an IRA does not apply if the contribution does not exceed $1,500 and the excess contributions are withdrawn before the tax return for the year is due.

Senate amendment.—The Senate amendment adopts provisions under which a participant in a governmental plan would be permitted to make deductible contributions to an IRA (but only if a provision like that in the House bill becomes effective for a participant in a *private* qualified plan). If the government employee-type IRA becomes effective, the IRA limits on deductions would continue to apply, but they would be reduced by the amount of the employer contributions under the regular pension plan allocable to the employee.

Conference agreement.—The conference agreement omits both the House provision and the Senate amendment. However, the conference agreement provides that the staff of the Joint Committee on Taxation is to study the LERA concept and report its findings to the Ways and Means Committee of the House and the Finance Committee of the Senate.

SECTION OMITTED FROM SENATE AMENDMENT NO. 28

TAX-FREE ROLLOVER IN EVENT OF PLAN TERMINATION

House bill.—The bill permits tax-free rollover of a distribution from a tax-qualified plan to an individual retirement account (IRA) or to another qualified plan in the event of plan termination. (Provisions substantially similar to the House bill were enacted on April 15, 1976 (Public Law 94-267).)

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits the provision (because of the enactment of Public Law 94-267).

SENATE AMENDMENT NUMBERED 29

REAL ESTATE INVESTMENT TRUSTS

1601. Deficiency Divided Procedure

House bill.—Under present law, a REIT is provided the same general conduit treatment that applies to a mutual fund. If a trust qualifies as a REIT, income of the REIT which is distributed to investors is taxed to them and not to the REIT. A REIT must distribute at least 90 percent of its REIT taxable income in the year earned or next succeeding year. Failure to meet the distribution requirement results in loss of REIT status.

The House bill provides for a deficiency dividend procedure which permits qualifying distributions to be made in subsequent years where an adjustment occurs that either increases the amount which the REIT is required to distribute to meet the 90-percent test or decreases the amount of dividends previously distributed for that year. This deficiency dividend procedure is available only if the entire amount of the adjustment was due to reasonable cause. A penalty is imposed where the deficiency dividend procedure is adopted based on the total amount of the adjustment.

Senate amendment.—The Senate amendment is the same as the House bill except that it (1) modifies the House bill to make the procedure available only where the entire amount of the adjustment was not due to fraud with intent to evade tax or willful failure to file an income tax return and (2) modifies the House bill to base the penalty on the amount of the adjustment to the extent that the deficiency dividend deduction is allowed.

Conference agreement.—The conference agreement follows the Senate amendment.

1602. Failure To Meet Income Source Tests

House bill.—Under present law, a REIT is required to derive annually at least 90 percent of its gross income from certain passive sources and at least 75 percent of its gross income from certain real estate sources. Failure to meet these requirements results in disqualification. Under the House bill, failure to meet the 75-percent or 90-percent requirements as a result of a determination will not result in disqualification if the REIT had reasonable grounds to believe and did believe that it met the 75-percent and 90-percent tests. In addition, the House bill imposes a tax at normal corporate rates (48 percent) on the *net* income attributable to the amount by which the REIT fails the 75-percent or 90-percent requirements.

Senate amendment.—The Senate amendment modifies the House bill to provide that failure to meet the 75-percent or 90-percent requirements will not result in disqualification if (1) the REIT sets forth the source and nature of its gross income in its return, (2) the inclusion of any incorrect information in this schedule is not due to fraud with intent to evade tax, and (3) the failure to meet the income source requirements is due to reasonable cause and not due to willful neglect. In addition, the Senate amendment imposes a 100-percent tax on the *net* income attributable to the *greater* of the amount by which the REIT fails the 75-percent or 90-percent requirements.

Conference agreement.—The conference agreement follows the Senate amendment.

1603. Treatment of Property Held for Sale to Customers

House bill.—Under present law, a REIT is not permitted to hold any property (other than foreclosure property) primarily for sale to customers in the ordinary course of its trade or business. Failure to meet the requirement results in disqualification. The House bill permits a REIT to derive one-percent of its gross income from property (other than foreclosure property) held for sale to customers without disqualification. In addition, the House bill imposes a tax at normal corporate rates (48 percent) on the net income from such property, up to one-percent of its gross income, and at twice the normal corporate rates (96 percent) on the net income from such property in excess of one-percent of its gross income.

Senate amendment.—The Senate amendment removes entirely the prohibition against holding property for sale to customers. Instead, it imposes a 100-percent tax on the net income from such property.

Conference agreement.—The conference agreement follows the Senate amendment.

1604(a). Increase in 90-Percent Gross Income Requirement to 95 Percent

House bill.—Under present law, in order to qualify for real estate investment trust status, the trust must derive at least 90 percent of its income from certain passive sources. The House bill increases the percentage of gross income that must be derived from certain passive sources from 90-percent to 95-percent.

Senate amendment.—The Senate amendment follows the House bill, except that the increase applies to taxable years beginning after 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1604(b). Change in Definition of "Rents From Real Property"

House bill.—Under present law, "rents from real property" qualify for both the 75-percent and 90-percent requirements. "Rents from real property" does not include (1) amounts received for customary services if separate charges are made for such services, (2) amounts attributable to the rental of personal property even if incidental to the rental of real property, and (3) amounts which are contingent upon the net income or profits of anybody deriving income from property.

The House bill modifies the definition of "rents from real property" to include (1) amounts received for customary services even if separate charges are made for such services and (2) amounts attributable to personal property incidental to the rental of real property if the amount allocable to personal property is less than 15 percent of total rent.

Senate amendment.—The Senate amendment follows the House bill. In addition, the Senate amendment provides that where a REIT leases to a prime tenant with a rent based on a percentage of the prime tenant's gross receipts and the prime tenant subleases to a subtenant with a rent based on a percentage of the subtenant's net income or profits, only a portion of the rent received from the prime tenant does not qualify as "rents from real property."

Conference agreement.—The conference agreement follows the Senate amendment.

1604(c). Change in Distribution Requirements

House bill.—No provision.

Senate amendment.—Under present law, in order to qualify for REIT status, a trust must distribute 90-percent of its REIT taxable income. If a trust qualifies for REIT status, the nonqualifying income is not subject to tax at the REIT level if such income is distributed to its shareholders.

The Senate amendment deletes the tax on nonqualifying income. Instead, the Senate amendment increases the distribution requirement from 90 percent to 95 percent for taxable years beginning after 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1604(d). Termination or Revocation of Election

House bill.—No provision.

Senate amendment.—Under present law, a REIT which loses its status as a REIT in one year can requalify in the next subsequent year even if the REIT purposefully did not qualify in the preceding year. The Senate amendment provides that a REIT which voluntarily disqualifies itself from REIT status cannot requalify for 5 years.

Conference agreement.—The conference agreement follows the Senate amendment.

1605. Excise Tax on Distributions Made After Taxable Year

House bill.—Under present law, a REIT can elect to treat dividends paid during one year as qualifying distributions for the next preceding year even though the REIT's shareholders are not taxed until the distribution is received. The House bill imposes an excise tax on a REIT to the extent that it fails to distribute 75-percent of the income it is required to distribute during the year the income is earned.

Senate amendment.—The Senate amendment follows the House bill, except that it delays the application of the excise tax to taxable years beginning after 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1606. Allowance of Net Operating Loss Carryover

House bill.—No provision.

Senate amendment.—Under present law, a REIT is not allowed to use a net operating loss carryover to reduce its taxable income and distribution requirements. The Senate amendment allows the net operating loss deduction to a REIT for carryovers but not carrybacks.

Conference agreement.—The conference agreement follows the Senate amendment.

1607. Alternative Tax in Case of Capital Gains

House bill.—No provision.

Senate amendment.—Under present law, a REIT is taxed on its net capital gains less amounts of net capital gain distributed to shareholders at a flat 30-percent rate. It cannot reduce its net capital gains by ordinary losses as is permitted ordinary corporations. The Senate amendment permits a REIT to reduce its net capital gains by its ordinary losses if it does not use the alternative tax (30 percent) on net capital gain.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 30

RAILROAD PROVISIONS

1701(a). Railroad Ties

House bill.—Under present law, railroads generally use retirement-replacement depreciation for track costs under which original track costs are capitalized and later replacements are entirely or partly deducted currently.

The House bill allows a current deduction for costs of replacing one type of railroad tie with another type of tie. The provision applies to amounts paid or incurred after December 31, 1974.

Senate amendments.—A committee amendment allows a deduction of costs for an improved type of tie to the extent of the current costs for the type of tie which is replaced, effective for amounts paid or incurred after December 31, 1975. Under a floor amendment, the full cost of replacement ties could be deducted currently.

Conference agreement.—The conference agreement adopts the Senate floor amendment.

1701(b). Investment Credit Limitation for Railroads

House bill.—No provision.

Senate amendment.—Present law provides that investment credits which may be used are generally limited to 50 percent of tax liability for the taxable year. Public utilities, however, are allowed to use their credits up to 100 percent of tax liability for taxable years ending in 1975 and 1976, and in percentages which are reduced annually by 10 percentage points for later years until 1981, when the limitation returns to 50 percent.

The Senate amendment allows railroads to take credits up to 100 percent of tax liability for 1976 and 1977 with annual reductions of 10 percentage points thereafter until the limitation returns to 50 percent in 1982. The amendment applies to tax years ending after December 31, 1975.

Conference agreement.—The conference agreement adopts the Senate amendment but moves the effective date forward one year so that it will begin to apply in taxable years ending after December 31, 1976, and the limitation will return to 50 percent in 1983. In addition, the conferees specified that only a railroad, and not a lessor of railroad property, is entitled to this temporary increase in the investment credit limitation.

1702. Amortization of Railroad Grading and Tunnel Bores

House bill.—Domestic railroad common carriers may presently amortize railroad grading and tunnel bores placed in service after 1968 on a straight-line basis over a 50-year period. The House bill extends this same treatment on an elective basis to railroad grading and tunnel bores placed in service before January 1, 1969.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1703. Investment Credit Limitation for Airlines

House bill.—No provision.

Senate amendment.—Present law provides that investment credits which may be used are generally limited to 50 percent of tax liability for the tax year. Public utilities, however, are allowed to use their credits up to 100 percent of tax liability for taxable years ending in 1975 and 1976, and in percentages which are reduced annually by 10 percentage points for later years until 1981, when the limitation returns to 50 percent. The Senate amendment allows airlines to take credits up to 100 percent of tax liability for 1976 and 1977 with annual reductions of 10 percentage points thereafter until the limitation returns to 50 percent in 1982. The amendment applies to taxable years ending after December 31, 1975.

Conference agreement.—The conference agreement adopts the Senate amendment but moves the effective date forward one year so that it will begin to apply in taxable years ending after December 31, 1976, and the limitation will return to 50 percent in 1983. The conferees also decided to include all common carrier airlines as eligible for this temporary increase in the limitation and it was specified that only an airline, and not a lessor of airline property, is entitled to the increased limitation.

SECTION OMITTED FROM SENATE AMENDMENT NO. 30

Amortization of Track Accounts

House bill.—No provision.

Senate amendment.—Under present law, railroads generally use retirement-replacement depreciation for track costs under which original track costs are capitalized and later replacements are entirely or partly deducted currently.

The Senate amendment allows domestic railroads 10-year amortization on capitalized costs for railroad track materials and installation. A deduction under this provision is to be deferred to the extent it causes a taxpayer to have a loss from its railroad operations. The Senate amendment applies to costs of track materials placed in service after December 31, 1975.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 31 (OMITTED)

TAX CREDIT FOR GARDEN TOOLS

House bill.—The House bill provides a new 7-percent tax credit for the first $100 of home garden tool purchases. It is effective for expenses paid in taxable years beginning after December 31, 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 32

REPEAL AND REVISION OF OBSOLETE, ETC., PROVISIONS OF CODE

1900–1907; 1951–52. DEADWOOD PROVISIONS

House bill.—The House bill repeals or modifies obsolete and rarely used provisions of the Internal Revenue Code of 1954. It also makes simplifying changes in Code terminology.

Senate amendment.—The Senate amendment generally is the same as the House bill, with certain conforming changes. However, the Senate amendment modifies the House bill's definition of the term "or his delegate" as it is used in the Code in references to powers exercised by the Secretary of the Treasury or his delegate.

Conference agreement.—The conference agreement generally follows the "Deadwood" provisions as modified by the Senate amendment. However, the conference agreed to the House bill's definition of the term "or his delegate", with the understanding that the definition is not to have any impact with respect to existing delegations of authority.

SENATE AMENDMENT NUMBERED 33 (OMITTED)

ENERGY-RELATED PROVISIONS

House bill.—No provision.

Senate amendment.—The Senate amendment includes a series of energy-related provisions. It includes a (1) residential insulation credit, (2) residential solar and geothermal energy equipment credit, (3) residential heat pump credit, (4) credit for wind-related residential energy equipment, (5) business insulation credit, (6) business solar and geothermal equipment credit, (7) investment credit for wind-related energy equipment used in the production of electricity, (8) 12-percent investment credit for certain energy conversion and production equipment (including equipment for waste conversion, organic fuel conversion, railroads, deep coal mining and shale oil conversion), (9) deduction for geothermal energy development costs, (10) denial of investment credit for portable air conditioners and heaters, (11) study of recycling incentives, (12) repeal of excise tax on buses and bus parts, (13) revision of excise tax treatment of rerefined lubricating oil, (14) exemption from excise tax on special motor fuels in certain nonhighway use, and (15) duty-free exchange of crude oil.

Conference agreement.—The conference agreement omits the provisions in the Senate amendment, as the Finance Committee has reported the Senate amendment in a separate House-passed bill (H.R. 6860).

SENATE AMENDMENT NUMBERED 34

TAX-EXEMPT ORGANIZATIONS

2101. Modification of Foundation Self-Dealing Rules in 1969 Act Relating to Leased Property

House bill.—No provision.

Senate amendment.— Under present law, self-dealing rules generally prevent sales, exchanges, or leases of property between private foundations and disqualified persons. There are transitional rules for certain sales of excess business holdings by foundations and continuation of certain leases. There is no transition rule which permits a sale of leased property by a foundation to a disqualified person. The Senate amendment permits a foundation to sell, exchange, or otherwise dispose of certain property to a disqualified person where the property is now being leased to the disqualified person (pursuant to a binding contract which was in effect on October 9, 1969) if the foundation receives no less than fair market value for the property. This provision applies to disposition made after the date of enactment and before January 1, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

2102. Private Foundation Set-Asides

House bill.—No provision.

Senate amendment.—Under present law, an amount "set aside" by a foundation for a special project may be treated as a qualifying distribution for the payout requirements only if approved in advance by the IRS. The foundation must establish that set-asides will be paid out for a specific project within 5 years and that the project can better be accomplished by a set-aside than by immediate payment. As an alternative to present set-aside rules, the Senate amendment permits set-asides without advance IRS approval under temporary, relaxed rules which require principally that—

(1) the set-aside be for a project which will not be completed before the end of the year;

(2) the foundation distributes in each year after 1975 (or if later, after the end of the fourth taxable year following its creation) not less than the required payout; and

(3) during the 4 years prior to the first taxable year beginning after 1975 (or if later, after the end of the fourth taxable year following its creation) the foundation has distributed an aggregate amount not less than the sum of a percentage of the regular, required payout increasing by 20% annually. The amendment applies to taxable years beginning on or after January 1, 1975.

Conference agreement.—The conference agreement follows the Senate amendment, and also adds a technical amendment to hold the statute of limitations on assessments and collections open during the extended payout period.

2103. Mandatory Payout Rate for Private Foundations

House bill.—No provision.

Senate amendment.—Under present law, a private foundation must distribute for charitable purposes the greater of (1) all its adjusted net income or (2) an annually determined variable percentage of its noncharitable assets. The percentage is set at 6.75 percent for taxable years beginning in 1976. The Senate amendment reduces the mandatory payout requirement to 5 percent and provides that this percentage is to be permanent. The amendment applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment and also establishes certain explicit rules for valuing a private foundation's noncharitable assets in determining the required charitable expenditures (minimum investment return). In determining the value of securities for minimum charitable expenditures purposes, their fair market value (determined without regard to any reduction in value) shall not be reduced unless, and only to the extent that, the private foundation establishes that as a result of (1) the size of the bloc of such securities, (2) the fact that the securities are securities in a closely held corporation, or (3) the fact that the sale of such securities would result in a forced or distress sale, the securities could not be liquidated within a reasonable period of time except at a price less than fair market value. Any reduction in value for any of the three reasons shall not in the aggregate exceed 10 percent of the fair market value of the securities.

2104. Extension of Time To Amend Charitable Remainder Trust Governing Instruments

House bill.—Under the Tax Reform Act of 1969, in order for an estate tax charitable deduction to be allowable for the bequest of a remainder interest to charity, the remainder interest must be in the form of a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund. Present law also contains special transitional rules which permit post-death modifications of wills and trusts created before September 21, 1974, which contain bequests of remainder interests to charity, to conform to the new requirements of the Tax Reform Act of 1969, if the modifications were made before December 31, 1975. The House bill did not contain a provision on this issue. However, the House has already passed a two-year extension of these transitional rules in H.R. 9889 to permit modifications until December 31, 1977.

Senate amendment.—The Senate amendment extends the time for modification of wills and trusts which contain bequests of remainder interests to charity to qualify for an estate tax charitable deduction until December 31, 1977, and also allows wills and trusts created after September 21, 1974, and before December 31, 1977, to qualify for the extension.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees state that this is to be the last extension of these transitional rules.

2105. Unrelated Trade or Business Income of Trade Shows, State Fairs, etc.

House bill.—No provision.

Senate amendment.—Under present law, tax-exempt organizations are taxed on their "unrelated business taxable income". "Unrelated business taxable income" has been interpreted to include certain income from fairs and expositions sponsored by tax-exempt organizations and rental income from display space leased at a convention or trade show if the exhibitor is permitted to sell his wares at the convention or trade show. The Senate amendment exempts from the unrelated business income tax the income from fairs and expositions of an exempt charitable, social welfare, or agricultural organization, which operates a public entertainment activity that meets certain conditions. In order to qualify for the exemption, the organization must also regularly conduct, as one of its substantial exempt purposes, a fair or exposition which is both agricultural and educational. Where the exemption applies, the conducting of qualified public entertainment activities will not affect the tax-exempt status of the sponsoring organization.

In addition, the Senate amendment exempts from the unrelated business income tax the income from conventions and trade shows of certain exempt organizations (generally, unions and trade associations) which regularly conduct as one of their exempt purposes conventions or trade show activity which stimulates interest in, and demand for, an industry's products in general. There are also a series of conditions which must be met by a qualifying convention and trade show activity. Where the exemption applies, the conducting of qualified convention or trade show activities will not affect the tax-exempt status of the sponsoring organization.

The amendment applies to income from fairs and expositions in taxable years after 1962 and to income from conventions and trade shows in taxable years beginning after 1969.

Conference agreement.—The conference agreement follows the Senate amendment, except that it deletes the portion of the amendment which provides that the tax-exempt status of a union or trade association will not be affected by its conducting of qualified convention or trade show activities. The deletion of this provision insures that the union or trade association must have substantial exempt activities other than its conducting a convention or trade show. In addition, the conference agreement modifies the effective date of the Senate amendment to make the exemption for conventions and trade shows applicable to taxable years beginning after the date of enactment. However, no change is made in the effective date of the provisions of the Senate Amendment concerning fairs and expositions.

2106. Declaratory Judgments Regarding Tax-Exempt Status of Charitable, etc., Organizations

House bill.—Under present law, the Tax Court can hear declaratory judgment suits only on the tax status of employee retirement plans. In no other case may an individual or an organization seek a declaratory judgment as to an organization's tax-exempt status. Under the House bill, the Federal district courts and the United States Tax Court are granted jurisdiction in a suit brought by an organization in an actual controversy in a case involving an IRS determination (or failure to make a determination) with respect to the organization's status as tax exempt, as a qualified charitable contribution donee, as a private foundation, or as a private operating foundation. This provision applies to pleadings filed more than 1 year after the date of enactment but only with respect to IRS determinations (or requests for determinations) made after the date of enactment.

Senate amendment.—The Senate amendment is the same as the House bill, except that jurisdiction is granted only to the Federal district court for the District of Columbia, the U.S. Court of Claims, and the U.S. Tax Court, and the amendment applies to pleadings filed more than 6 months after the date of enactment but only with respect to IRS determinations (or requests for determinations) made after January 1, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

SECTIONS OMITTED FROM SENATE AMENDMENT NO. 34

Reduction of Private Foundation Excise Tax on Investment Income

House bill.—No provision.

Senate amendment.—Under present law, a 4-percent tax is imposed on the net investment income of private foundations. The Senate amendment reduces the rate of tax from 4 percent to 2 percent, effective for taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement omits this provision.

Alcoholism Trust Fund

House bill.—No provision.

Senate amendment.—Under present law, excise taxes are imposed on alcohol, wine and beer, but there is no provision for any trust fund.

The Senate amendment establishes a trust fund to pay 50 percent of the cost of occupational alcoholism programs for employed persons by HEW through the National Institute for Alcohol Abuse and Alcoholism. Any organization applying may receive at most matching funds for new programs. Up to 10 percent of the fund is allowed for administration, and the remaining funds may be used for treatment and prevention of underserved populations. The funds are to be provided by appropriation acts, as no specific revenues are earmarked.

Conference agreement.—The conference agreement omits this provision.

Exclusion of Certain Companion Sitting Placement Services from Employment Tax Requirements

House bill.—No provision.

Senate amendment.—Under present law, certain tax payment and reporting requirements are placed upon employers in regard to F.I.C.A. (social security) and F.U.T.A. (unemployment) taxes and withholding at the source on wages. The Senate amendment excepts companion sitter placement services from the definition of "employer" for purposes of Federal employment taxes if the service does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis. The provision applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement omits this provision. The conferees note that the Joint Committee staff is studying for the Senate Finance Committee the overall definitions of "independent contractor" and "employee" for Federal tax purposes. This subject will be included in the study. The conferees urge that the Service withdraw its Revenue Ruling 74–414 on babysitting placement services.

Minimum Distribution Requirements to Include Miscellaneous Distributions

House bill.—No provision.

Senate amendment.—Under present law, qualifying distributions of private foundations include only amounts expended in furtherance of charitable purposes. A private foundation must exercise expenditure responsibility with respect to grants or contributions to organizations other than public charities. Expenditure responsibility requires a foundation to exert all reasonable efforts and to establish adequate procedures to see that these grants are properly used, to obtain reports on these grants, and to make reports to the Internal Revenue Service. Also, if an amount is spent for a purpose other than a charitable purpose, it will be a taxable expenditure.

The Senate amendment provides that qualifying distributions include contributions to an unincorporated association or other organization by a private foundation for charitable, civic, or community activities to the extent such contributions do not exceed $200 per donee organization and the amount contributed is not to defray the expense of an activity which is illegal or in violation to public policy. The Senate amendment also provides that in determining whether expenditure responsibility has been exercised, the size of the grant is to be taken into account. These provisions apply to taxable years beginning after date of enactment with respect to contributions made after such date.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 35

ESTATE AND GIFT TAX PROVISIONS

House bill.—No provision.

Senate Amendment.—The Senate amendment included a series of modifications in the estate and gift tax provisions.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 36

Other amendments

2301. Outdoor Advertising Displays

House bill.—The House bill contains no provision.

Senate amendment.—Present law provides that if real property is involuntarily converted as the result of a condemnation, and the taxpayer uses the proceeds to obtain "like kind" replacement property, gain on the conversion is not recognized. There is conflicting authority as to whether billboards and other outdoor advertising displays qualify as real property for purposes of this nonrecognition rule. Under the Senate amendment, an irrevocable election is provided for taxpayers to treat qualifying outdoor advertising displays as real property. In addition, replacement real property will be considered as "like kind" even though the replacement property is a different type of real property interest than the taxpayer held in an outdoor advertising display which was involuntarily converted. The amendment is effective for taxable years beginning after 1970.

Conference agreement.—The conference agreement follows the Senate amendment. In addition, the conferees specified that the availability of this election to treat outdoor advertising displays as real property should not be interpreted to prevent owners of such displays from treating them as personal property.

2302. Excise Tax Treatment of Large Cigars

House bill.—No provision.

Senate amendment.—Present law provides a bracket system of excise taxes on certain cigars, under which the rate varies depending on the amount of the intended retail price of the cigar. The maximum tax is $20 per thousand on cigars retailing for 20 cents or more each. The Senate amendment changes the bracket system to an ad valorem tax of 8½ percent of the wholesale price (retaining the $20 per thousand maximum). The change is to be effective on the first month which begins more than 90 days after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

2303. Gain From Sales or Exchanges Between Related Parties

House bill.—No provision.

Senate amendment.—Under present law, gain from a sale or exchange of depreciable property is denied capital gain treatment if the sale is between a husband and wife, or between an individual and a corporation if over 80 percent of the value of the corporation's stock is owned by the individual, his spouse, and his minor children or grandchildren. The courts have held that this provision does not apply to gain from the sale of depreciable property between 2 corporations controlled by the same individual (or his family).

The Senate amendment strengthens present law in two principal ways: (1) the amendment broadens the scope of this provision to cover a sale or exchange of depreciable property between commonly controlled corporations; and (2) the amendment broadens the constructive ownership rules which trigger the restrictions under this provision to include the taxpayer's parents, his adult children, and any trust, estate or partnership of which the taxpayer is a beneficiary or partner. In addition, the Senate amendment makes this provision apply where an individual owns 80 percent or more (rather than only over 80 percent) of a corporation. These rules apply to sales or exchanges after the date of enactment, except sales or exchanges made pursuant to a binding contract entered into before the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

2304. Armed Forces Health Professions Scholarships

House bill.—No provision.

Senate amendment.—Under IRS rulings, amounts received under the Armed Forces Health Professions Scholarship Program (and similar programs) are taxable as compensation for future employment (because a special 3-year legislative exemption ended December 31, 1975). The Senate amendment excludes from income in 1976, 1977, 1978 and 1979 amounts received under the Armed Forces Health Professions Scholarship Program (and similar programs) by a member of a uniformed services participating in the programs in 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

2305. Exchange Funds

House bill.—Under present law, a group of investors may not pool appreciated stocks or other property in a new corporation without payment of capital gains tax on the appreciation. This rule was added in 1966. Present law is silent on the possibility of using a partnership or a trust as the vehicle to pool and diversify investments tax-free. On April 28, 1975, the Internal Revenue Service issued a private ruling holding that an exchange fund can be formed tax-free (under present law) as a publicly syndicated limited partnership.

The House bill contains no provision dealing with this subject. However, on May 2, 1976, the Hounse passed H.R. 11920, which:

(1) Amends the partnership rules to make taxable the contribution of property to an exchange fund formed as a partnership (general or limited);

(2) Makes taxable a merger or other reorganization involving an undiversified investment company (such as a merger of a personal holding company owning a limited group of stocks with a widely-diversified mutual fund); and

(3) Makes taxable any future transactions where similar diversification of investments is sought through a trust or a common trust fund.

Senate amendment.—The Senate amendment is generally the same as the provisions of H.R. 11920, except for—

(1) an exception for family partnerships; and

(2) a later effective date for partnership exchange funds.

Under the family partnership exception, a family group may share income from a pool of stocks if—

(1) the partnership is a general partnership,

(2) over 95 percent of the partnership is owned by the same family, and

(3) gain on a sale of stock is taxable to the partner who originally contributed the property to the partnership.

The amendment has the same effective dates as H.R. 11920, except that in the case of partnerships, certain transfers after February 17, 1976, are excepted if before March 27, 1976, the partnership either filed a request for a private letter ruling from the Service or filed a registration statement with the SEC.

Conference agreement.—The conference agreement follows the Senate amendment (including the effective date provisions thereof), except that the family partnership exception is deleted.

2306. Distributions by Subchapter S Corporations

House bill.—No provision.

Senate amendment.—Under present law, the shareholders of a subchapter S corporation are taxed each year on the income of the corporation regardless of whether the income is distributed to the shareholders. The undistributed taxable income may be subsequently distributed tax-free to the shareholders. However, an earnings and profits rule (concerning accelerated depreciation) generally applicable to corporations may cause a distribution to be a taxable dividend rather than a distribution of previously taxed income. The Senate amendment allows a subchapter S corporation's previously taxed income to be distributed to the shareholders tax free even though as a result of accelerated depreciation the corporation has undistributed earnings and profits. The amendment is effective for taxable years beginning after December 31, 1975.

Conference action.—The conference agreement follows the Senate amendment.

SECTIONS OMITTED FROM SENATE AMENDMENT NO. 36

Tax Counseling for the Elderly

House bill.—No provision.

Senate amendment.—The Senate amendment authorizes the IRS to enter into agreements with private organizations to provide training and technical assistance to prepare volunteers as tax consultants for the elderly. It authorizes tax-free reimbursement to volunteers for transportation, meals and other expenses. The Secretary would be authorized to hire retiree-annuitants who would work up to 720 hours a year without losing their pensions. The provision also authorizes Secretary to provide publicity for tax provisions of particular importance to the elderly.

Conference agreement.—The conference agreement omits this provision.

Commission on Value Added Taxation

House bill.—No provision.

Senate amendment.—The Senate amendment establishes a 20-member Commission to study the effects of a value-added tax on Government finance, savings, consumption, capital formation and international trade policy, as well as considering the tax as an alternative revenue source for social security financing. A final report is due to the President and to Congress not later than December 31, 1977. Up to $1,000,000 is authorized for the Commission.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 37

United States International Trade Commission

2401-2406. U.S. International Trade Commission

House bill.—No provision.

Senate amendment.—Under present law (section 330(d) of the Tariff Act of 1930), if a majority of the Commissioners on the International Trade Commission voting on an escape clause or market disruption case under section 201 or 406 of the Trade Act of 1974, respectively, cannot agree on an injury determination or a remedy finding or recommendation, then the President may consider the "findings" agreed upon by one-half the number of Commissioners voting to be the "findings" of the Commission. If the Commission is equally divided into two groups, the President may consider the finding of either group to be the finding of the Commission. Also under present law, a Commissioner must leave office on the day his term expires whether or not his successor is ready to take office.

The Senate amendment provides that the President must consider as the finding of the Commission on remedy the remedy finding agreed upon by a plurality of the Commissioners voting on an escape clause or market disruption case if there is no majority finding on remedy. If the Commission is divided on the remedy question into two or more equal groups, the President must consider the finding of one group as the finding of the Commission on remedy. The Senate amendment does not change present law with respect to the vote on injury, but only those Commissioners voting affirmatively on injury may vote on the remedy question. For purposes of the Congressional override in sections 202 and 203 of the Trade Act of 1974, the plurality finding on remedy and the finding chosen by the President in the case of a tie vote on remedy are considered to be the findings of the Commission.

Under the Senate amendment, a Commissioner may continue to serve until his successor takes office. The Senate amendment also increases the membership of the Commission from six to seven members, and makes certain procedural and organizational changes in the Commission.

Conference agreement.—Under the conference agreement, if a majority of the Commissioners voting on an escape clause or market disruption case cannot agree on a remedy finding, then the remedy finding agreed upon by a plurality of not less than 3 Commissioners shall be treated as the remedy finding of the Commission for the purposes of the Congressional override in sections 202 and 203 of the Trade Act of 1974. If the Commission is tied on the remedy vote, and each voting group includes not less than 3 Commissioners, then (1) if the President takes the action recommended by one of those groups, the remedy finding agreed upon by the other group shall, for purposes of the Congressional override, be treated as the remedy finding of the Commission, or (2) if the President takes action which differs from the action agreed upon by both such groups, the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission for purposes of the Congressional override. It is the intention of the conferees that this apply only for purposes of implementing the Congressional override in sections 202 and 203 of the Trade Act of 1974. It is not intended that this provision affect in any way the rules of procedure of the International Trade Commission.

Further, the conferees strongly urge the Commissioners to reach majority agreement on all determinations, findings, and recommendations in all cases.

Under the conference agreement, a Commissioner may continue to serve as a Commissioner after the expiration of his term of office until his successor is appointed and qualified.

SENATE AMENDMENT NUMBERED 38

Additional miscellaneous amendments

2501. Certain Disability Payments for Injuries Resulting From Acts of Terrorism

House bill.—No provision.

Senate Amendment.—Present law contains no special provision for disability payments to civilian government employees resulting from acts of terrorism. The committee amendment allows disability payments for injuries to civilian government employees resulting from acts of terrorism the same exclusion as combat-related injuries which are provided for in a separate amendment. The amendment applis to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

2502. Contributions of Certain Government Publications

House bill.—No provision.

Senate amendment.—In most situations, Government publications received by taxpayers without charge (e.g., copies of the Congressional Record received by Members of Congress) or at a reduced price are treated as capital assets under current law. One consequence of that treatment is that taxpayers can claim a deduction for the full fair market value of any Government publication which they contribute to a charity (such as a library or a university) for a use related to the charity's exempt purpose. Under the Senate amendment U.S. Government publications which are received by any taxpayer from the Government without charge or below the price at which they are sold to the general public are no longer to be treated as capital assets in the hands of the taxpayer receiving the publications. This treatment is also to apply to any Government publication held by a taxpayer in whose hands the basis of that publication is determined by reference to its basis in the hands of a person receiving it free or at a reduced price. This provision applies to sales, exchanges, and contributions made after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

2503. Lobbying by Public Charities

House bill.—Under present law, an organization is not exempt from income tax and cannot receive deductible contributions as a charity unless "no substantial part of the activities of [the organization] is carrying on propaganda, or otherwise attempting, to influence legislation."

There is no provision in this bill. However, H.R. 13500, as passed by the House, allows public charities (other than churches, conventions and associations of churches, and certain support organizations) to elect to come under a new expenditures test for lobbying. The new test establishes sliding scale limitations for overall lobbying and grass roots lobbying. An excise tax is imposed on minor violations; loss of exemption is reserved for sustained excessive violations. H.R. 13500 requires disclosure of lobbying expenditures by electing organizations. An organization eligible to elect cannot become exempt under section 501(c)(4) (social welfare organizations) if it loses its section 501(c)(3) charitable exemption because of excessive lobbying. H.R. 13500 prohibits persons from duducting out-of-pocket expenditures on behalf of any charity if the expenditures are made to influence legislation. H.R. 13500 generally applies to taxable years beginning after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 13500, except that rules disallowing deductions for out-of-pocket expenditures made to influence legislation do not apply to expenditures of organizations that are not eligible to elect the new expenditures tests. This provision is generally effective for taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees observe that, although this provision of the Senate amendment is identical to H.R. 13500 (except that rules disallowing deductions for out-of-pocket expenditures made to influence legislation do not apply to expenditures of organizations that are not eligible to elect the new expenditures tests), the report of the Commiittee on Finance on this provision (S. Rept. 94-938, pt. 2, p. 79) is an abbreviated version of the report of the Committee on Ways and Means accompanying H.R. 13500 (H. Rept. 94-1210). The conferees do not wish the passage of this provision to be construed as a rejection of the matters contained in the House Committee Report accompanying H.R. 13500 and therefore specifically incorporate the additional matters contained in such report and not in the report of the Committee on Finance by reference, except for the following paragraph contained in the House report accompanying H.R. 13500 with respect to which the conferees specifically take no position:

"Your committee's bill excludes from the new rules not only churches and conventions or associations of churches, but also integrated auxiliaries of churches or of conventions or associations of churches. Because proposed regulations have recently been published regarding the meaning of the term "integrated auxiliary" and because that term is used in this bill your committee wishes to make it clear—in agreement with the conclusions of the proposed regulations—that theological seminaries, religious youth organizations, and men's fellowship associations which are associated with churches would generally constitute integrated auxiliaries. Your committee also intends (in agreement with the conclusions in the proposed regulations) that hospitals, elementary grade schools, orphanages, and old-age homes are organizations which frequently are established without regard to church relationships and are to be treated for these purposes the same as corresponding secular charitable, etc., organizations that is, such entities are not to be regarded as "integrated auxiliaries." (See H. Rept. 91–782, p. 286, the conference report on H.R. 13270, the Tax Reforme Act of 1969.) However, in a given case, a hospital, school, orphanage, or home may nevertheless be excluded from election under this bill because it is a member organization of an affiliated group which includes a church. Members of affiliated groups which include churches, et cetera, are treated the same as churches, et cetera, for purposes of this bill." (H. Rept. 94–1210, pp. 15–16.)

2504. Tax Liens, etc., Not To Constitute Acquisition Indebtedness

House bill.—No provision.

Senate amendment.—Generally, under present law, an exempt organization is taxed on investment income only to the extent there is "acquisition indebtednes" on the investment property generating the income. The Internal Revenue Service has taken the position that special assessments (payable in installments) imposed by a State or local government unit constitute acquisition indebtedness.

The Senate amendment provides that amounts of indebtedness for taxes or special assessments by State or local governmental units and secured by a lien on property are not acquisition indebtedness until, and to the extent that, the amounts become due and payable and the organization has had an opportunity to pay them. This provision applies to all taxable years ending after December 31, 1969.

Conference agreement.—The conference agreement follows the Senate amendment.

2505. Extension of Private Foundation Transitional Rule For Sale of Business Holdings

House bill.—No provision.

Senate amendment.—Under present law, the self-dealing rules for private foundations contain a transition rule which expired on January 1, 1975. This rule permitted private foundations to sell, exchange, or otherwise dispose of, certain "nonexcess" business holdings to disqualified persons.

The Senate amendment extends the period for application of this transitional rule. This provision applies to dispositions occurring after the date of enactment and before January 1, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

2506. Private Operating Foundations; Imputed Interest

House bill.—No provision.

Senate amendment.—Under present law, private operating foundations, including libraries and museums, normally are required to spend annually for charitable purposes an amount equal to at least two-thirds of their minimum investment return. The Senate amendment reduces the amount that a private operating foundation must spend for charitable purposes to 3 percent of its noncharitable assets.

Present law also requires each private nonoperating foundation to distribute annually an amount equal to the greater of the foundation's adjusted net income or its minimum investment return. Adjusted net income includes imputed interest. The Senate amendment excludes from a private foundation's adjusted net income amounts of imputed interest on sales made prior to January 1, 1970.

Under present law, all private foundations pay an excise tax equal to 4 percent of their net investment income. The Senate amendment exempts libraries and museums from the tax on net investment income if the library or museum elects to spend for charitable purposes an amount equal to 5 percent of its noncharitable assets.

Conference agreement.—The conference agreement follows the Senate amendment on the exclusion of imputed interest from the adjusted net income of a private foundation. However, the conference agreement deletes the portion of the Senate amendment reducing the required payout for private operating foundations and exempting libraries and museums from the tax on net investment income in certain cases.

2509. Study of Tax Incentives by Joint Committee

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Joint Committee to study, in consultation with Treasury, tax incentives, especially as used to provide stimulus to the economy during recession. A report is to be made to the Senate Finance Committee and the House Ways and Means Committee no later than September 30, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 39

Other miscellaneous amendments

2601. Group Prepaid Legal Services

House bill.—No provision.

Senate amendment.—Under present law, depending on the structure of the specific group legal services plan, an employee must pay tax on either (1) his share of employer contributions to the plan on his behalf, or (2) the value of legal services or reimbursements received by him under the plan. The Senate amendment excludes from an employee's income both (1) employer contributions and (2) benefits received under qualified group legal services plans. It applies to plans established to provide personal legal services for employees, their spouses and dependents through prepayment of, or advance provision for, legal fees. Plans must be organized through tax-exempt organizations or trusts (or established through insurance companies). To qualify, plans must be nondiscriminatory with respect to enrollment and benefits. Limitations are placed on amounts contributed to provide benefits for employee-shareholders or owners. A transition period is provided for existing plans to meet the statutory requirements. The amendment applies to taxable years beginning after December 31, 1973.

Conference agreement.—The conference agreement follows the Senate amendment, except that it applies prospectively only for five taxable years beginning after December 31, 1976, and ending before January 1, 1982. The conference agreement also requires a study of the provision by the Departments of the Treasury and of Labor, with final reports to be submitted to the House Committee on Ways and Means and to the Senate Committee on Finance not later than December 31, 1980.

2602. Certain Hospital Services

House bill.—No provision.

Senate amendment.—Under present law, income received by tax-exempt hospitals from providing services to other tax-exempt hospitals is taxed as "unrelated business taxable income." The Senate amendment exempts from the tax on unrelated business income the income that a tax-exempt hospital receives for providing certain services to other small tax-exempt hospitals each serving 100 or fewer inpatients.

Conference agreement.—The conference agreement generally follows the Senate amendment, with one modification. Under that modification, the exemption from the unrelated business income tax is provided only to the extent that the services are provided at a fee or other charge that does not exceed the actual cost of providing those services plus a reasonable amount for a return on the capital goods used in providing those services. For this purpose, the actual cost of providing the services includes straight-line depreciation. The conferees intend that the IRS not require that hospitals providing the services keep detailed records to substantiate compliance with this new requirement, so long as the fees charged for the services provided by the hospital reasonably approximate the cost of providing those services.

2603. Clinical Services of Cooperative Hospitals

House bill.—No provision.

Senate amendment.—Under present law, cooperative organizations providing certain specified services for tax-exempt hospitals are also tax-exempt organizations. The specified permissible services do not include clinical services. The Senate amendment adds clinical services to the specified services permitted to be performed by a tax-exempt cooperative service organization.

Conference agreement.—The conference agreement follows the Senate amendment.

2604. Certain Charitable Contributions of Inventory

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer's deduction for contributions of appreciated ordinary income property, such as inventory, is limited to the taxpayer's basis in the property. The Senate amendment generally allows corporations a deduction for the basis plus one-half of the appreciation of ordinary income property, such as inventory, but the deduction in no event is to exceed twice the basis of the contributed property. The new provisions apply only to property donated to a public charity or private operating foundation for use in its exempt purpose for the care of the ill, the needy, or infants and do not apply to amounts treated as ordinary income because of "recapture" rules. Also, property which does not satisfy the relevant requirements of the Federal Food, Drug, and Cosmetic Act is not eligible for an increased deduction under these provisions. These provisions apply to contributions made after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

SECTIONS OMITTED FROM SENATE AMENDMENT NO. 39

Credit for Certain Education Expenses

House bill.—No provision.

Senate amendment.—The Senate amendment provides a credit for certain educational expenses paid by an individual for himself, his spouse, or his dependents. It applies to tuition, fees, books and supplies in regard to college programs leading to undergraduate degrees and to vocational courses leading to program certificates, but only for full-time students. The credit is limited to $100 in 1977, $150 in 1978, $200 in 1979, and $250 in 1980 and following years.

Conference agreement.—The conference agreement omits this provision.

The conferees on the part of the House state that every effort will be made to give the House of Representatives an opportunity to consider this provision in separate legislation.

Interest on Certain Governmental Obligations for Hospital Construction

House bill.—No provision.

Senate amendment.—Under present law, public hospitals operated by governmental units may be financed with tax-exempt bonds. Private hospitals are not included among exempt activities for which tax-exempt industrial development bonds may be issued without limit. Thus, private hospitals are not eligible for tax-exempt industrial development bonds, except under the $1 million or $5 million small issue exemption. The Senate amendment increases the $5 million small issue exemption to $20 million for private hospitals which are certified as necessary by appropriate State agencies. The amendment applies to obligations issued after December 31, 1976, in taxable years beginning after that date.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 40

House bill.—No provision.

Senate amendment.—The Senate amendment is the heading "Title XXVII".

Conference agreement.—The conference agreeemnt follows the Senate amendment.

ADDITIONAL SENATE AMENDMENTS

SENATE AMENDMENT NUMBERED 41

2701. Employee Stock Ownership Plan Regulations

House bill.—No provision.

Senate amendment.—The Senate amendment prohibits retroactive application of Treasury and Labor Department regulations under the Internal Revenue Code of 1954, title I of the 1974 Pension Act, and the Tax Reduction Act of 1975 relating primarily to employee stock ownership plans.

Conference agreement.—The conference agreement reaffirms Congressional intent with respect to employee stock ownership plans and expresses concern that administrative rules and regulations may frustrate Congressional intent. In this connection, it has come to the attention of Congress that proposed regulations issued by both the Department of the Treasury and the Department of Labor on July 30, 1976, may make it virtually impossible for ESOPs, and especially leveraged ESOPs, to be established and function effectively. The following areas are of specific concern to the conferees.

(1) *Independent third party.*—The proposed rules would prohibit loans (or loan guarantees) by fiduciaries to employee stock ownership plans unless the loans are arranged and approved by an independent third party. These rules would, for example, prevent a bank which serves as trustee for an ESOP from making a loan to the plan and would prevent the employer-fiduciary who established the plan from providing a loan guarantee.

In view of other rules presently in effect, which require that the interest rate for any such loan be reasonable, that the loan be primarily for the benefit of participants or their beneficiaries, and that the only collateral the plan can give the lender is the employer's stock purchased with the loan proceeds, the requirement of an independent third party is unduly burdensome. Consequently, the conferees believe that the regulations should deal directly with possible abuses which may occur in the administration of plans rather than attempting to require a plan to incur the burden of dealing through an independent third party. Similarly, the conferees believe that an independent third party should not be required to arrange and approve a sale of stock between an employer (or shareholder of the employer) and an ESOP. The conferees have not considered whether the principles applicable to ESOPs in connection with loans to the plan or sales of employer stock should apply in the case of ther exemptions from the prohibited transaction rules and, accordingly, no inference should be drawn regarding those other exemptions.

(2) *Put option.*—The proposed regulations would require that an employer provide each employee who receives stock from a leveraged ESOP or an investment credit ESOP with a 2-year "put option" if the stock is not listed on an exchange.

Although the conferees agree that a market should be provided for employer stock distributed by an ESOP to an employee, the conferees believe that a put option for a period considerably shorter than two years will properly protect employees and that a put under which the employer must pay for tendered stock over too short a period would effectively deny the employer the benefits of capital formation Congress sought to provide it under an ESOP. On the contrary, the conferees believe that the payment by the employer could be made in substantially equal installments payable over a reasonable period, taking into account the need to protect employees and the need of the employer for capital.

(3) *Stock purchased with loan proceeds.*—Under the proposed regulations, employer stock held by an ESOP which is purchased with the proceeds of a loan is to be placed in a suspense account from which it is to be released under a formula which is not in accordance with the common business practice under which the stock is released from the account as loan principal is amortized.

The conferees believe that the regulations should allow the stock to be released as the loan principal is repaid if (a) the principal is amortized over a reasonable period (taking into account the facts and circumstances, including the interests of plan participants and the employer's need for capital), and (b) the employees are adequately informed regarding their rights to employer stock held by the plan.

(4) *Allocation of stock.*—Under the proposed regulations, employer stock acquired by an ESOP with loan proceeds must be allocated to plan participants as it is released from the suspense account discussed in (3) above.

The conferees believe that the regulations should permit the allocation of stock to be made in accordance with a formula more similar to that provided for ESOPs in the Trade Act of 1974 (19 U.S.C. § 2373(f)(4)).

(5) *Voting rights.*—The proposed regulations would require that employees be permitted to direct the voting of employer stock allocated to their accounts under a leveraged ESOP even though other types of employee plans need not provide employees with these rights. (The Tax Reduction Act of 1975 requires that employees be permitted to direct the voting of employer stock allocated to their accounts under an investment credit ESOP but not by other ESOPs.)

The conferees believe that the regulations should not distinguish between leveraged ESOPs and other employee plans in this regard.

(6) *Dividend restrictions.*—Under the proposed regulations, employer stock held by an ESOP must have unrestricted dividend rights. Dividend restrictions are commonly required in connection with loans. Consequently, the conferees believe that such restrictions should be permitted if they are required in connection with a loan to the ESOP for the purchase of employer securities (but only if the restrictions terminate when the loan is repaid) or if they apply also to a significant portion of the employer stock not held by the ESOP.

(7) *Right of first refusal.*—The proposed regulations prohibit a leveraged ESOP from acquiring with the proceeds of a loan employer stock subject to a right of first refusal. Because the shareholders of many corporations (especially smaller businesses) believe that a right of first refusal is necessary to protect their interests, the conferees believe that the prohibition will have a chilling effect upon the establishment of ESOPs and should not be prescribed.

(8) *Treatment of sale as redemption.*—Under the proposed regulations, the sale of stock by a corporate shareholder to the corporation's ESOP could, depending upon the facts and circumstances, be treated as a redemption of the stock by the corporation. If the sale is treated as a redemption, the proceeds of the sale could be considered dividend income rather than capital gain. The conferees believe if such a rule is authorized and proper, its application should not be restricted to ESOPs.

(9) *Nonvoting common stock, etc.*—The proposed regulations impose special rules on ESOPs which limit the extent to which the plan can acquire employer securities, other than voting common stock with unrestricted dividend rights, with the proceeds of a loan. (The Tax Reduction Act of 1975 does not allow the additional investment credit for nonvoting employer stock.) The conferees believe that the usual rules applicable to employee plans properly protect the interests of plan participants and that these special rules are not needed.

(10) *Prepayment penalty.*—The proposed regulations specifically prohibit any loan made to an ESOP from containing a provision for a prepayment penalty. The conferees believe that the question of such penalties should be a matter of negotiation between the ESOP and the lender and that prepayment penalties should not be prohibited in all cases (they shall not be allowed, of course, if for example, payment of a penalty would be imprudent).

(11) *No calls or other options.*—The proposed regulations prohibit stock acquired with an ESOP loan from being subject to any calls or other options. There is no provision for restrictions which may be required by State law. The conferees believe that in the limited situation where restrictions are imposed by law, stock in an ESOP should be permitted to have restrictions necessary to comply with the law.

(12) *Comparability.*—The proposed regulations do not permit an ESOP and another plan to be considered a single plan for purposes of determining whether the plans meet the anti-discrimination requirements of the tax law. Although the conferees agree that an ESOP and another type of plan should not be considered a single plan for this purpose, the conferees believe that this rule should not be applied to disqualify a plan already in existence and that two or more ESOPs can be considered as a single plan in testing the coverage and contributions or benefits under the plans.

As stated in the Report of the Senate Finance Committee on the bill, an ESOP is designed to "build equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes." (Sen. Rept. No. 94-938, page 180.) The conferees understand that under the proposed regulations, an ESOP could be integrated with the social security system so that employer stock would not be allocated to employees substantially in proportion to their compensation. The conferees believe that social security integration is not consistent with the purposes of an ESOP. The conferees believe, however, the prohibition on integration should not apply to ESOPs which are now integrated.

(13) *Inferences.*—Although the conferees have commented on the merits of the proposed regulations, these comments should not be taken as inferring approval or disapproval of the provisions not commented upon.

SENATE AMENDMENT NUMBERED 42 (OMITTED)

Expenses of Amateur Athletes Engaging in National or International Competition

House bill.—No provision.

Senate amendment.—Presently, there is no tax credit for expenses of amateur athletes. The Senate amendment allows a tax credit for 20 percent of the first $2,500 of an amateur athlete's nonreimbursed expenses of engaging in certain national or international sports competition, such as in Olympic or

Pan American games or trials, world championships, or national championships in the United States. The portion of the credit not used by an athlete can be claimed by the athlete's parent (if the athlete is a dependent) or spouse, with certain limitations, for his expenditures on behalf of the athlete. This provision applies to expenses paid or incurred in taxable years beginning after the date of enactment.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 43

2702. Exemption of Certain Amateur Athletic Organizations From Tax

House bill.—No provision.

Senate amendment.—Under present law, organizations which teach youth or which are affiliated with charitable organizations may be exempt under section 501(c) (3) and may receive tax-deductible contributions. Other organizations which foster national or international amateur sports competition may be exempt from taxation under other provisions (such as 501(c) (4) or (6)) but often do not qualify to receive tax-deductible contributions.

The Senate amendment permits an organization the primary purpose of which is to foster national or international amateur sports competition to qualify as an organization described in section 501(c)(3) and to receive tax-deductible contributions. This provision applies after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment but provides that, to qualify for tax exemption as a charitable organization and for the receipt of deductible contributions, the organization must not make available athletic equipment or facilities. This restriction is intended to prevent the allowance of these benefits for organizations which, like social clubs, provide facilities and equipment for their members. This provision is not intended to adversely affect the qualification for charitable tax-exempt status or tax deductible contributions of any organization which would qualify under the standards of existing law.

SENATE AMENDMENT NUMBERED 44

2703. Taxable Status of Pension Benefit Guaranty Corporation

House bill.—No provision.

Senate amendment.—Under present law a corporation organized under an Act of Congress is not generally exempt from Federal taxation unless that Act so provides. The Pension Benefit Guaranty Corporation was not specifically exempted from Federal taxation by ERISA (the Employee Retirement Income Security Act of 1974). The Senate amendment amends ERISA to clarify the intent of Congress that the Pension Benefit Guaranty Corporation is to be exempt from all Federal taxation except taxes imposed under the Federal Insurance Contributions Act (social security taxes) and the Federal Unemployment Tax Act (unemployment taxes). The exemption applies from September 2, 1974 (the date of enactment of ERISA).

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 45

2704. Level Premium Plans Covering Owner-Employees

House bill.—No provision.

Senate amendment.—Under present law an owner-employee covered by an H.R. 10 plan may contribute each year an amount in excess of the general H.R. 10 percentage limit (15 percent of earned income, but not in excess of $7,500 in any case) to a plan funded with level payment annuity contracts, if the fixed payment does not exceed $7,500 and does not exceed the owner-employee's three-year average of deductible amounts. The amount in excess of 15 percent of the owner-employee's earned income is not deductible. A separate provision for all qualified plans limits contributions to 25 percent of earned income. The Senate amendment allows the owner-employee to make such level payments without regard to the overall 25-percent limitation. The new rule applies for years beginning after 1975 (the effective date of the overall limitation).

Conference agreement.—The conference agreement follows the Senate amendment but adds rules regarding the treatment of contributions under the anti-discrimination rules applicable to pension plans.

SENATE AMENDMENT NUMBERED 46

270. Lump-Sum Distributions From Pension Plans

House bill.—No provision.

Senate amendment.—Under present law, the part of a lump-sum distribution earned before 1974 is treated as capital gain and the post-1973 part is taxed, if the taxpayer elects, as ordinary income in a "separate basket," with 10-year income averaging. If the election is not made, the post-1973 part of the distribution is taxed as ordinary income under the usual rules.

Under the Senate amendment a taxpayer may irrevocably elect to treat all of a lump sum distribution as if it were earned after 1973 so that it will be taxed as ordinary income in a separate basket, with 10-year income averaging. The election applies to distributions made after 1975 in taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 47 (OMITTED)

Deductions for attending Foreign Conventions

House bill.—No provision.

Senate amendment.—The Senate amendment affirms that Internal Revenue Service regulations relating to foreign travel for business purposes accurately reflect the intent of Congress and represent a responsible limitation on the deduction of foreign travel expenses paid or incurred in connection with the attendance at business meetings and conventions held outside the United States.

Conference agreement.—The conference agreement omits this provision. (This matter is dealt with in connection with section 602, Senate Amendment number 19.)

SENATE AMENDMENT NUMBERED 48

2706. Tax Treatment of the Grantor of Certain Options

House bill.—Under present IRS rulings, gain from the lapse of an option and gain or loss from a closing transaction in options is generally treated as ordinary income or loss. The House bill contains no provision in this area. However, House-passed H.R. 12224 provides that gain from the lapse of an option and gain or loss from a closing transaction in options is to be treated as short-term capital gain or loss.

Senate amendment.—The Senate amendment is the same as H.R. 12224.

Conference agreement.—The conference agreement adopts the Senate amendment. The provisions, which apply to options granted after September 1, 1976, are the same as those of H.R. 12224, and the conferees agree with the interpretation of those provisions in House Report 94–1192.

In addition, the conferees clarify the intent that income from a closing transaction in options, as well as income from the lapse of an option, is to be treated as qualifying income. For purposes of section 851(b) (4), the "issuer" of an option is the corporation whose stock or securities underlie the option (even though the option may be written by an options exchange, for example).

The conferees understand that a question exists under present law as to whether a corporation realizes income when warrants to purchase the corporation's stock expire unexercised. This issue was not considered by the Congress in connection with this amendment, and no inference is intended (for the past or for the future) with respect to whether the expiration of warrants issued by a corporation for its own stock should, or should not, result in recognition of taxable income to the corporation.

SENATE AMENDMENT NUMBERED 49

2707. Exempt-Interest Dividends of Regulated Investment Companies

House bill.—No provision.

Senate amendment.—Under present law, distributions by a regulated investment company (commonly called a mutual fund) from capital gains recognized by it may be treated as capital gain to its shareholders (i.e., the character of the capital gain is "flowed-through" to the shareholders). Under certain conditions, similar flow-through treatment is provided for dividend income. However, there is presently no flow-through treatment for tax-exempt interest and, consequently, distributions of tax-exempt interest by a regulated investment company are taxable income to its shareholders. The Senate amendment permits, in certain cases, the character of tax-exempt interest distributed by a regulated investment company to flow-through as tax-exempt interest to its shareholders. The new rules apply to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 50 (OMITTED)

Amortization of Replacement Railroad Ties

House bill.—No provision.

Senate amendment.—The amendment would permit railroads which currently use the retirement-replacement method of depreciating track costs to deduct currently the full cost of replacement ties.

Conference agreement.—The conference agreement omits this provision. (This matter, however, is dealt with in section 1701(a), Senate amendment numbered 30.)

SENATE AMENDMENT NUMBERED 51 (OMITTED)

Commission on Tax Simplification and Modernization

House bill.—No provision.

Senate amendment.—The Senate amendment establishes a 9-member Commission on Tax Simplification and Modernization to study the modernization and simplification of the Internal Revenue Code, including possible reduction in rates by modifying or eliminating deductions, exemptions, credits, etc. The Commission is to begin on February 1, 1977, with appointments to be made within 30 days. A final report to the President and Congress is to be made not later than August 1, 1978. An appropriation of up to $1 million is authorized.

Conference agreement.—The conference agreement omits this provision. The Treasury Department is currently conducting a study on this subject, and is expected to submit its study in January 1977. In addition, the conference agreement (see No. 507 above) directs the Joint Committee on Taxation to make a study on tax simplification and to report by June 30, 1977.

SENATE AMENDMENT NUMBERED 52

2708. Common Trust Fund Treatment of Certain Custodial Accounts

House bill.—No provision.

Senate amendment.—Under present law, banks may hold in a common trust fund assets held by the bank in its capacity as trustee, executor, administrator or guardian. The Senate amendment extends common trust treatment to cover custodial accounts, such as uniform gifts to minors act accounts.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 53

Business Use of the Home

House bill.—No provision.

Senate amendment.—The amendment includes as a business use of the home the use of the home in connection with the management, conservation, or maintenance of property held for the production of income if that is the substantial business of the taxpayer.

Conference agreement.—The conference agreement omits this provision. (The provision is dealt with in connection with section 601. Senate amendment numbered 19.)

SENATE AMENDMENT NUMBERED 54

2709. Transfers of Oil and Gas Property Within the Same Controlled Group or Family

House bill.—No provision.

Senate amendment.—The Senate amendment permits percentage depletion to be retained on property which is transferred by individuals, corporations and other entities, all of which are part of the same controlled group after the transfer (and thus must continue to combine oil production to determine the maximum number of barrels of oil eligible for percentage depletion). However, if any transferee ceases to be part of the same controlled group as the transferor at some later time, percentage depletion is to be disallowed with respect to the transferred property as of that date (in order to prevent a proliferation of the limited exemption from the repeal of percentage depletion). This provision is effective January 1, 1975, and is applicable to taxable years ending after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 55

2710. Support Test for Dependent Children of Separated or Divorced Parents

House bill.—No provision.

Senate amendment.—Under present law, the noncustodial parent receives an exemption for a child (of separated or divorced parents) if (1) he or she contributes at least $1,200 for support of all the children, and (2) the custodial parent does not clearly establish more support for the child than the noncustodial parent. Otherwise, the custodial parent receives the exemption. The Senate amendment allows the noncustodial parent to receive an exemption for a child if he or she contributes at least $1,200 for *each* of the children (in addition to the other requirements in present law). The amendment is effective after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment and is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT NUMBERED 56

2711. Study of Expanded Stock Ownership

House bill.—No provision.

Senate amendment.—The Senate amendment establishes a 15-member Commission on Expanded Stock Ownership to study broadening stock ownership through employee stock ownership plans (ESOPs) and other means. A final report is to be made to the President and the Congress not later than March 30, 1978.

Conference agreement.—The conference agreement omits the Senate amendment: however the conference agreement changes the name of the existing Joint Pension Task Force to the Joint Pension. Profit-sharing and Employee Stock Ownership Plan Task Force, and provides that the Task Force is to study employee stock ownership plans. The Task Force, which may consult others who have information concerning employee stock ownership plans, is to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance by March 31, 1978.

SENATE AMENDMENT NUMBERED 57 (OMITTED)

Definition of Low and Moderate Income Housing

House bill.—No provision.

Senate amendment.—For purposes of the provision permitting 5-year amortization of certain low-income rental housing rehabilitation expenditures, the amendment expands the definition of low-income housing in a manner consistent with the definition presently established for leased housing under section 8 of the Housing Act of 1937.

Conference agreement.—The conference agreement omits this provision. (However, this provision is dealt with in connection with section 201, Senate amendment numbered 4.)

SENATE AMENDMENT NUMBERED 58

2712. Deferral of Gain on Involuntary Conversion of Real Property

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer can elect to defer any gain realized on the involuntary conversion of real property held for productive use in a trade or business (and not stock in trade or other property held primarily for sale) if the converted property is replaced by property of a like kind. However, in order to qualify, the converted property must be replaced no later than two years after the close of the first taxable year in which any of the gain is realized. If the taxpayer makes the election, the statutory period for assessment of a deficiency does not expire until 3 years after notice of replacement or notice of intent not to replace.

The Senate amendment removes the limits on the types of real property eligible for deferral by eliminating the requirement that the replacement property be similar or related in service or use to the converted property. The amendment extends the period for replacement to four years after the close of the first taxable year in which any of the gain from the conversion is realized. It extends the statutory period for assessment of a deficiency to 5 years after notice of replacement or notice of intent not to replace. The provision applies to dispositions of property after 1974 unless condemnation proceedings began prior to the date of enactment.

Conference agreement.—The conference agreement does not remove the limits on the types of eligible real property. However, it follows the Senate amendment in extending the replacement period but the extension is only to three years.

SENATE AMENDMENT NUMBERED 59

2713. Sale of Residence by Elderly

House bill.—No provision.

Senate amendment.—Under present law, if a taxpayer who has attained age 65 sells his principal residence, he may exclude from income the entire gain on the sale if the adjusted sales price is $20,000 or less. However, if the adjusted sales price exceeds $20,000, he may exclude only that portion of the gain which $20,000 bears to the adjusted sales price. The Senate amendment increases the $20,000 amount to $35,000. It applies to taxable years beginning after 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 60 (OMITTED)

Valuation of Certain Property for Purposes of the Federal Estate Tax

House bill.—No provision.

Senate amendment.—The requirements in existing estate tax laws which (1) allow historical sites to be valued at current use (rather than at highest and best use) if the value is at least 25 percent of the decedent's adjusted gross estate, (2) permits all open space real property to be eligible for current use valuation, and (3) allows both the time the decedent owned the property and the time a member of his family owned the property to count for purposes of satisfying the ownership and qualified use requirements under the special valuation rules.

Conference agreement.—The conference agreement omits this provision. (This provision is discussed in connection with Senate amendment numbered 35.)

SENATE AMENDMENT NUMBERED 61 (OMITTED)

Exemption From Taxation for Certain Mutual Deposit Guarantee Funds

House bill.—No provision.

Senate amendment.—Under present law, nonprofit mutual corporations or associations organized before September 1, 1957, for the purpose of providing reserve funds for, and insurance of, shares or deposits in savings and loan associations, cooperative banks, or mutual savings banks are exempt from income tax. The Senate amendment extends the exemption to cover organizations organized before January 1, 1969, and permits qualifying organizations to provide reserve funds for, and insurance of, shares or deposits in credit unions. This provision applies to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 62

2714. Additional Changes in Subchapter S Shareholder Rules

House bill.—No provision.

Senate amendment.—Under present law, a corporation is required to have 10 or fewer shareholders in order to elect and maintain subchapter S treatment. A trust may not be a shareholder in a subchapter S corporation. Also, a husband and wife are treated as one shareholder where the stock is community property or held jointly by them. All shareholders must consent to an election or revocation of subchapter S status. However, a subchapter S election will be terminated if any new shareholder fails to consent to the election, generally within a period of 30 days.

The Senate amendment provides that where either husband or wife, or both, die, the estate of the deceased will be treated as one shareholder with the surviving spouse (or her estate) if husband and wife were treated as one shareholder while both were living and the stock continues to be held in the same proportions as before death. In addition, grantor trusts and voting trusts are to be eligible shareholders; and, any type of trust which receives stock under a will is to be an eligible shareholder, but only for a period of 60 days. Finally, a subchapter S election will not be terminated unless a new shareholder affirmatively refuses to consent to the election within 60 days. The Senate amedment is effective for tax years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 63

2715. Individual Retirement Accounts for Volunteer Firefighters

House bill.—No provision.

Senate amendment.—Under present law an active participant in a governmental plan in a taxable year is not allowed a deduction for a contribution to an individual retirement account (IRA) for that year. For taxable years beginning after 1975, the Senate amendment extends the deduction for contributions to an IRA to a person who would be eligible for an IRA but for membership in a volunteer fire department or in a governmental plan for volunteer firemen.

Conference agreement.—The conference agreement follows the Senate amendment, but limits the deduction to firefighters who have not accrued an annual benefit in excess of $1,800 (when expressed as a single life annuity payable at age 65) under a firefighters' plan.

SENATE AMENDMENT NUMBERED 64 (OMITTED)

Exemption From Items of Minimum Tax Preference

House bill.—No provision.

Senate amendment.—The amendment provides that any preference for construction period interest for purposes of the minimum tax on individuals is not to apply to moderate-income housing (defined as housing which rents for 120 percent of fair market rental as determined by HUD) and to housing held as inventory for sale. In addition, any preference for excess investment interest is not to apply to amounts paid with respect to moderate-income housing if the property is acquired or contracted pursuant to a binding, written contract, or financing contract entered into before 1982.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 65

Certain Sales of Low-Income Housing Projects: Recapture of Depreciation on Real Property; Section 167(k)

House bill.—No provision.

Senate amendment.—The amendment expands the definition of low-income housing for purposes of certain sales of low-income housing projects, recapture of depreciation, and rapid amortization of rehabilitation expenditures, by including moderate-income housing (which is defined as housing the rent for which does not exceed 120 percent of fair market rental as determined by HUD).

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 66

2716. Livestock Sold on Account of Drought

House bill.—No provision.

Senate amendment.—Under the Senate amendment, a cash method taxpayer may elect to include in the taxable year following the taxable year of sale or exchange income from the sale or exchange of livestock sold on account of drought. This treatment is limited to income from the sale or exchange of livestock (1) the number of which is in excess of usual business practice, and (2) which would not have been sold but for the drought. Also, the drought must occur in an area which is designated as eligible for Federal assistance. The election is effective for taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment, but the election is available only to a taxpayer whose principal trade or business is farming.

SENATE AMENDMENT NUMBERED 67 (OMITTED)

Sense of the Senate Regarding Revenue Loss From the Bill

House bill.—No provision.

Senate amendment.—The Senate amendment provides that it is the sense of the Senate that the conference on the part of the Senate shall, to the extent practicable, reduce the revenue loss from the Act for the fiscal year 1977 to $15.3 billion.

Conference agreement.—The conference agreement does not include the Senate amendment.

APPENDIX A:

APPENDIX ON AMENDMENT NUMBERED 35 (RELATING TO ESTATE AND GIFT TAX REFORM)

In the accompanying conference report, Senate amendment numbered 35 is reported in disagreement. The text of the amendment which will be offered in the House of Representatives and the Senate is as follows:

SEC. 2201. UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES; UNIFIED CREDIT IN LIEU OF SPECIFIC EXEMPTIONS.

(a) CHANGES IN ESTATE TAX.—

(1) IMPOSITION OF TAX; RATE SCHEDULE.—Section 2001 (relating to rate of tax) is amended to read as follows:

"SEC. 2001. IMPOSITION AND RATE OF TAX.

"(a) IMPOSITION.—A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

"(b) COMPUTATION OF TAX.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (c) of the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) the aggregate amount of tax payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976.

For purposes of paragraph (1)(B), the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(c) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $10,000	18 percent of such amount.
Over $10,000 but not over $20,000	$1,800, plus 20 percent of the excess of such amount over $10,000.
Over $20,000 but not over $40,000	$3,800, plus 22 percent of the excess of such amount over $20,000.
Over $40,000 but not over $60,000	$8,200, plus 24 percent of the excess of such amount over $40,000.
Over $60,000 but not over $80,000	$13,000, plus 26 percent of the excess of such amount over $60,000.
Over $80,000 but not over $100,000	$18,200, plus 28 percent of the excess of such amount over $80,000.
Over $100,000 but not over $150,000	$23,300, plus 30 percent of the excess of such amount over $100,000.
Over $150,000 but not over $250,000	$33,800, plus 32 percent of the excess of such amount over $150,000.
Over $250,000 but not over $500,000	$70,800, plus 34 percent of the excess of such amount over $250,000.
Over $500,000 but not over $750,000	$155,800, plus 37 percent of the excess of such amount over $500,000.
Over $750,000 but not over $1,000,000	$248,300, plus 39 percent of the excess of such amount over $750,000.
Over $1,000,000 but not over $1,250,000	$345,800, plus 41 percent of the excess of such amount over $1,000,000.
Over $1,250,000 but not over $1,500,000	$448,300, plus 43 percent of the excess of such amount over $1,250,000.
Over $1,500,000 but not over $2,000,000	$555,800, plus 45 percent of the excess of such amount over $1,500,000.
Over $2,000,000 but not over $2,500,000	$780,800, plus 49 percent of the excess of such amount over $2,000,000.
Over $2,500,000 but not over $3,000,000	$1,025,800, plus 53 percent of the excess of such amount over $2,500,000.
Over $3,000,000 but not over $3,500,000	$1,290,800, plus 57 percent of the excess of such amount over $3,000,000.
Over $3,500,000 but not over $4,000,000	$1,575,800, plus 61 percent of the excess of such amount over $3,500,000.
Over $4,000,000 but not over $4,500,000	$1,880,800, plus 65 percent of the excess of such amount over $4,000,000.
Over $4,500,000 but not over $5,000,000	$2,205,800, plus 69 percent of the excess of such amount over $4,500,000.
Over $5,000,000	$2,550,800, plus 70 percent of the excess of such amount over $5,000,000.

"(d) Adjustment for Gift Tax Paid by Spouse.—For purposes of subsection (b)(2), if—

"(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

"(2) the amount of such gift is includible in the gross estate of the decedent.

any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent."

(2) Allowance of unified credit.—Part II of subchapter A of chapter 11 (relating to credits against the estate tax) is amended by inserting before section 2011 the following new section:

"Sec. 2010. Unified Credit Against Estate Tax.

"(a) General Rule.—A credit of $47,000 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) Phase-in of $47,000 Credit.—

"In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$47,000' the following amount:
1977	$30,000
1978	34,000
1979	38,000
1980	42,500

"(c) Adjustment to Credit for Certain Gifts Made Before 1977.—The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

"(d) Limitation Based on Amount of Tax.—The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001."

(3) Termination of credit for gift tax.—Section 2012 (relating to credit for gift tax) is amended by adding at the end thereof the following new subsection:

"(e) Section Inapplicable to Gifts Made After December 31, 1976.—No credit shall be allowed under this section with respect to the amount of any tax paid under chapter 12 on any gift made after December 31, 1976."

(4) Repeal of specific exemption.—Section 2052 (relating to exemption for purposes of the estate tax) is hereby repealed.

(5) Adjustments for gifts made within 3 years of death.—Section 2035 (relating to transactions in contemplation of death) is amended to read as follows:

"Sec. 2035. Adjustments for Gifts Made Within 3 Years of Decedent's Death.

"(a) Inclusion of Gifts Made by Decedent.—Except as provided in subsection (b), the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

(b) Exceptions.—Subsection (a) shall not apply to—

"(1) any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) any gift excludable in computing taxable gifts by reason of section 2503(b) (relating to $3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513(a).

"(c) Inclusion of Gift Tax on Certain Gifts Made During 3 Years Before Decedent's Death.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decendent or his estate on any gift made by the decedent or his spouse after December 31, 1976, and during the 3-year period ending on the date of the decendent's death."

(b) Changes in Gift Tax.—

(1) Rate of Tax.—Subsection (a) of section 2502 (relating to rate of gift tax) is amended to read as follows:

"(a) Computation of Tax.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

"(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over

"(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters."

(2) Unified credit.—Subchapter A of chapter 12 (relating to determination of gift tax liability) is amended by adding at the end thereof the following new section:

"Sec. 20505. Unified Credit Against Gift Tax.

"(a) General Rule.—In the case of a citizen or resident of the United States, there shall be allowed as a credit against the tax imposed by section 2501 for each calendar quarter an amount equal to—

"(1) $47,000 reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

"(b) Phase-in of $47,000 Credit.—

"In the case of gifts made:	Subsection (a)(1) shall be applied by substituting for '$47,000' the following amount:
After December 31, 1976, and before July 1, 1977	$6,000
After June 30, 1977, and before January 1, 1978	30,000
After December 31, 1977, and before January 1, 1979	34,000
After December 31, 1978, and before January 1, 1980	38,000
After December 31, 1979, and before January 1, 1981	42,500

"(c) Adjustment to Credit for Certain Gifts Made Before 1977.—The amount allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the individual after September 8, 1976.

"(d) Limitation Based on Amount of Tax.—The amount of the credit allowed under subsection (a) for any calendar quarter shall not exceed the amount of the tax imposed by section 2501 for such calendar quarter."

(3) Repeal of specific exemption.—Section 2521 (relating to specific exemption in the case of the gift tax) is hereby repealed.

(c) Technical, Clerical, and Conforming Changes.—

(1) Changes in estate tax.—

(A) Credit for state death taxes.—Section 2011 (relating to credit for State death taxes) is amended—

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

"For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by $60,000.";

(iii) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate"; and

(iv) by adding at the end thereof the following new subsection:

"(f) Limitation Based on Amount of Tax.—The credit provided by this section shall not exceed the amount of the tax imposed by section 2001, reduced by the amount of the unified credit provided by section 2010."

(B) Credit for gift tax.—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out "provided by section 2011" and inserting in lieu thereof "provided by section 2011 and the unified credit provided by section 2010".

(C) Credit for tax on prior transfers.—

(i) The first sentence of section 2013(b) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(ii) Subparagraph (A) of section 2013(e)(1) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds".

(D) Rate of tax in case of nonresidents not citizens.—Section 2101 (relating to tax imposed in the case of estates of nonresidents not citizens) is amended to read as follows:

"Sec. 2101. Tax Imposed.

"(a) Imposition.—Except as provided in section 2107, a tax is hereby imposed on the transfer of the taxable estate (determined as provided in section 2106) of every decedent nonresident not a citizen of the United States.

"(b) Computation of Tax.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the amount of the adjusted taxable gifts.

"(c) Adjustments for Taxable Gifts.—

"(1) Adjusted taxable gifts defined.—For purposes of this section, the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503 as modified by section 2511) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(2) Adjustment for certain gift tax.—For purposes of this section, the rules of section 2001(d) shall apply.

"(d) Rate Schedule.—

"If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $100,000	6% of such amount.
Over $100,000 but not over $500,000	$6,000, plus 12% of excess over $100,000.
Over $500,000 but not over $1,000,000	$54,000, plus 18% of excess over $500,000.
Over $1,000,000 but not over $2,000,000	$144,000, plus 24% of excess over $1,000,000.
Over $2,000,000	$384,000, plus 30% of excess over $2,000,000."

(E) Credit in case of estates of nonresidents not citizens.—

(i) Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection:

"(c) Unified Credit.—

"(1) In general.—A credit of $3,600 shall be allowed against the tax imposed by section 2101.

"(2) Residents of possessions of the United States.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit under this subsection shall be the greater of—

"(A) $3,600, or

"(B) that proportion of $15,075 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(3) Phase-in of paragraph (2)(B) amount.—In the case of a decedent dying before 1979, paragraph (2)(B) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$8,480' for '$15,075',

"(B) in the case of a decedent dying during 1978, by substituting '$10,080' for '$15,075',

"(C) in the case of a decedent dying during 1979, by substituting '$11,680' for '$15,075', and

"(D) in the case of a decedent dying during 1980, by substituting '$13,388' for '$15,075'.

"(4) Limitation based on amount of tax.—The credit allowed under this subsection shall not exceed the amount of the tax imposed by section 2101.

"(5) Application of other credits.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010."

(ii) Subsection (c) of section 2107 (relating to expatriation to avoid tax) is amended to read as follows:

"(c) Credits.—

"(1) Unified credit.—

"(A) In general.—A credit of $13,000 shall be allowed against the tax imposed by subsection (a).

"(B) Limitation based on amount of tax.—The credit allowed under this paragraph shall not exceed the amount of the tax imposed by subsection (a).

"(2) Other credits.—The tax imposed by subsection (a) shall be credited with the amounts determined in accordance with subsections (a) and (b) of section 2102. For purposes of subsection (a) of section 2102, sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under paragraph (1) were allowed under section 2010."

(F) Repeal of specific exemption.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is hereby repealed.

(G) Credit for foreign death taxes.—Paragraph (2) of sction 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof "sections 2010, 2011, and 2012".

(H) Liability of life insurance beneficiaries.—The first sentence of section 2206 (relating to liability of life insurance beneficaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

(I) Liability of recipients of certain property.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

(J) Return by executor.—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended—

(i) by striking out "$60,000" in paragraph (1) and inserting in lieu thereof "$175,000";

(ii) by striking out "$30,000" in paragraph (2) and inserting in lieu thereof "$60,000"; and

(iii) by adding at the end thereof the following new paragraphs:

"(3) Phase-in of filing requirement amount.—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'.

"(4) Adjustment for certain gifts.—The amount applicable under paragraph (1) and the amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

"(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

"(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976."

(K) Revocable transfers.—

(i) Paragraph (1) of section 2038(a) (relating to revocable transfers) is amended by striking out "in contemplation of decedent's death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(ii) Paragraph (2) of section 2038(a) (relating to revocable transfer) is amended by striking out "in contemplation of his death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(L) Property within the United States.—Subsection (b) of section 2104 (relating to revocable transfers and transfers in contemplation of death) is amended by striking out "And Transfers in Contemplation of Death" in the subsection heading and inserting in lieu thereof "And Transfers Within 3 Years of Death".

(M) Prior interests.—Section 2044 (relating to prior interests) is amended by striking out "specifically provided therein" and inserting in lieu thereof "specifically provided by law".

(N) Clerical amendments.—

(i) The item relating to section 2001 in the table of sections for part I of subchapter A of chapter 11 is amended to read as follows:

"Sec. 2001. Imposition and rate of tax."

(ii) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Unified credit against estate tax."

(iii) The table of sections for part III of subchapter A of chapter 11 is amended by striking out the item relating to section 2035 and inserting in lieu thereof the following new item:

"Sec. 2035. Adjustments for gifts made within 3 years of decedent's death."

(iv) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(2) Changes in gift tax.—

(A) Taxable gifts for preceding years and quarters.—Subsection (a) of section 2504 (relating to taxable gifts for preceding years and quarters) is amended by striking out "except that" and all that follows and inserting in lieu thereof "except that the specific exemption in the amount, if any, allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of calendar years or calendar quarters ending before January 1, 1977, for purposes of computing the tax for any calendar quarter."

(B) Clerical amendments.—

(i) The table of sections for subchapter A of chapter 12 is amended by adding at the end thereof the following new item:

"Sec. 2505. Unified credit against gift tax."

(ii) The table of sections for subchapter C of chapter 12 is amended by striking out the item relating to section 2521.

(d) Effective Dates.—

(1) The amendments made by subsections (a) and (c)(1) shall apply to the estates of decedents dying after December 31, 1976; except that the amendments made by subsection (a)(5) and subparagraphs (K) and (L) of subsection (c)(1) shall not apply to transfers made before January 1, 1977.

(2) The amendments made by subsections (b) and (c)(2) shall apply to gifts made after December 31, 1976.

Sec. 2202. Increase in Limitations on Marital Deductions; Fractional Interests of Spouse.

(a) Increase in Estate Tax Marital Deduction.—Paragraph (1) of section 2056(c) (relating to limitation on marital deduction) is amended to read as follows:

"(1) Limitation.—

"(A) In general.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—

"(i) $250,000, or

"(ii) 50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).

"(B) Adjustment for certain gifts to spouse.—If a deduction is allowed to the decedent under section 2523 with respect to any gift made to his spouse after December 31, 1976, the limitation provided by subparagraph (A) (determined without regard to this subparagraph) shall be reduced (but not below zero) by the excess (if any) of—

"(i) the aggregate of the deductions allowed to the decedent under section 2523 with respect to gifts made after December 31, 1976, over

"(ii) the aggregate of the deductions which would have been allowable under section 2523 with respect to gifts made after December 31, 1976, if the amount deductible under such section with respect to any gift were 50 percent of its value.

"(C) Community property adjustment.—The $250,000 amount set forth in subparagraph (A)(i) shall be reduced by the excess (if any) of—

"(i) the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2)(B), over

"(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2)(B)."

(b) Increase in Gift Tax Marital Deduction.—Subsection (a) of section 2523 (relating to deduction for gift to spouse) is amended to read as follows:

"(a) Allowable of Deduction.—

"(1) In general.—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to its value.

"(2) Limitation.—The aggregate of the deductions allowed under paragraph (1) for any calendar quarter shall not exceed the sum of—

"(A) $100,000 reduced (but not below zero) by the aggregate of the deductions allowed under this section for preceding calendar quarters beginning after December 31, 1976; plus

"(B) 50 percent of the lesser of—

"(i) the amount of the deductions allowable under paragraph (1) for such calendar quarter (determined without regard to this paragraph); or

"(ii) the amount (if any) by which the aggregate of the amounts determined under clause (i) for the calendar quarter and for each preceding calendar quarter beginning after December 31, 1976, exceeds $200,000."

(c) Fractional Interest of Spouse.—

(1) In general.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection:

"(b) Certain Joint Interests of Husband and Wife.—

"(1) Interests of spouse excluded from gross estate.—Notwithstanding subsection (a), in the case of any qualified joint interest, the value included in the gross estate with respect to such interest by reason of this section is one-half of the value of such qualified joint interest.

"(2) Qualified joint interest defined.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—

"(A) such joint interest was created by the decedent, the decedent's spouse, or both,

"(B)(i) in the case of personal property, the creation of such joint interest constituted in whole or in part a gift for purposes of chapter 12, or

"(ii) in the case of real property, an election under section 2515 applies with respect to the creation of such joint interest, and

"(C) in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants."

(2) Amendment of related gift tax provision.—Subsection (c) of section 2515 (relating to election with respect to tenancies by the entirety) is amended to read as follows:

"(c) Exercise of Election.—

"(1) In general.—The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety as a transfer by gift, to the extent such transfer constitutes a gift (determined without regard to this section), in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).

"(2) Subsequent additions in value.—If the election provided by subsection (a) has been made with respect to the creation of any tenancy by the entirety, such election shall also apply to each addition made to the value of such tenancy by the entirety.

"(3) Certain actuarial computations not required.—In the case of any election under subsection (a) with respect to any property, the retained interest of each spouse shall be treated as one-half of the value of their joint interest."

(3) Clerical amendment.—Section 2040 is amended by striking out "The value" and inserting in lieu thereof the following:

"(a) General Rule.—The value".

(d) Effective Dates.—

(1)(A) Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) If—

(i) the decedent dies after December 31, 1976, and before January 1, 1979,

(ii) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before January 1, 1977, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(iii) the formula referred to in clause (ii) was not amended at any time after December 31, 1976, and before the death of the decedent, and

(iv) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

(3) The amendments made by subsection (c) shall apply to joint interests created after December 31, 1976.

Sec. 2203. Valuation for Purposes of the Federal Estate Tax of Certain Real Property Devoted to Farming or Closely Held Businesses.

(a) General Rule.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

"Sec. 2032A. Valuation of Certain Farm, etc., Real Property.

"(a) Value Based on Use Under Which Property Qualifies.—

"(1) General Rule.—If—

"(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

"(2) Limitation.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $500,000.

"(b) Qualified Real Property.—

"(1) In general.—For purposes of this section, the term 'qualified real property' means real property located in the United States which, on the date of the decedent's death, was being used for a qualified use, but only if—

"(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

"(i) on the date of the decedent's death, was being used for a qualified use, and

"(ii) was acquired from or passed from the decendent to a qualified heir of the decendent.

"(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C).

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such real property was owned by the decedent or a member of the decedent's family and used for a qualified use, and

"(ii) there was material participation by the decedent or a member of the decedent's family in the operation of the farm or other business, and

"(D) such real property is designated in the agreement referred to in subsection (d)(2).

"(2) Qualified use.—For purposes of this section, the term 'qualified use' means the devotion of the property to any of the following:

"(A) use as a farm for farming purposes, or

"(B) use in a trade or business other than the trade or business of farming.

"(3) Adjusted value.—For purposes of paragraph (1), the term 'adjusted value' means—

"(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053(a), or

"(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).

"(c) Tax Treatment of Dispositions and Failures To Use for Qualified Use.—

"(1) Imposition of additional estate tax.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(A) the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

"(B) the qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent.

then there is hereby imposed an additional estate tax.

"(2) Amount of additional tax.—

"(A) In general.—The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

"(i) the adjusted tax difference attributable to such interest, or

"(ii) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).

"(B) Adjusted tax difference attributable to interest.—For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as—

"(i) the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

"(ii) a similar excess determined for all qualified real property.

"(C) Adjusted tax difference with respect to the estate.—For purposes of subparagraph (B), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(D) Partial dispositions.—For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion—

"(i) the value determined under subsection (a) taken into account under subparagraph (A)(ii) with respect to such portion shall be its pro rata share of such value of such interest, and

"(ii) the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.

"(3) PHASEOUT OF ADDITIONAL TAX BETWEEN 10TH AND 15TH YEARS.—If the date of the disposition or cessation referred to in paragraph (1) occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.—In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or (A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

"(5) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or cessation referred to in paragraph (1).

"(6) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(7) CESSATION OF QUALIFIED USE.—For purposes of paragraph (1)(B), real property shall cease to be used for the qualified use if—

"(A) such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the property qualified under subsection (b), or

"(B) during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating 3 years or more during which—

"(i) in the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business, and

"(ii) in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

"(d) ELECTION; AGREEMENT.—

"(1) ELECTION.—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

"(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir' means, with respect to any property, a member of the decendent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For puropses of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(3) CERTAIN REAL PROPERTY INCLUDED.—In the case of real property which meets the requirements of subparagraph (C) of subsection (b)(1), residential buildings and related improvements on such real property occupied on a regular basis by the owner or lessee of such real property or by persons employed by such owner or lessee for the purpose of operating or maintaining such real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

"(4) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

"(5) FARMING PURPOSES.—The term 'farming purposes' means—

"(A) cultivating the soil or raising or harvesting any agricultural or horiticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;

"(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

"(C)(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market.

"(6) MATERIAL PARTICIPATION.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

"(7) METHOD OF VALUING FARMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of a farm for farming purposes shall be determined by dividing—

"(i) the excess of the average annual gross cash rental for comparable land used for farming purposes and located in the locality of such farm over the average annual State and local real estate taxes for such comparable land, by

"(ii) the average annual efftctive interest rate for all new Federal Land Bank loans.

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the 5 most recent calendar years ending before the date of the decedent's death.

"(B) EXCEPTION.—The formula provided by subparagraph (A) shall not be used—

"(i) where it is established that there is no comparable land from which the average annual gross cash rental may be determined, or

"(ii) where the executor elects to have the value of the farm for farming purposes determined under paragraph (8).

"(8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.—In any case to which paragraph (7)(A) does not apply, the following factors shall apply in determining the value of any qualified real property:

"(A) The capitalization of income which the property can be expected to yield for farming or closely held business purposes over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors,

"(B) The capitalization of the fair rental value of the land for farmland or closely held business purposes,

"(C) Assessed land values in a State which provides a differential or use value assessment law for farmland or closely held business,

"(D) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price, and

"(E) Any other factor which fairly values the farm or closely held business value of the property.

"(f) STATUTE OF LIMITATIONS.—If qualified real property is disposed of or ceases to be used for a qualified use, then—

"(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or cessation shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or cessation, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(g) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUST.—The Secretary shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b))."

(b) SPECIAL LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

"SEC. 6324B. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.

"(a) GENERAL RULE.—In the case of any interest in qualifitd real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B) shall be a lien in favor of the United States on the property in which such interest exists.

"(b) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified farm real property—

"(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

"(c) CERTAIN RULES MADE APPLICABLE.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) SUBSTITUTION OF SECURITY FOR LIEN.—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section."

(c) Credit for Tax on Prior Transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Additional Tax Imposed Under Section 2032A.—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A(c) before the date which is 2 years after the date of the decedent's death, for purposes of this section—

"(1) the additional tax imposed by section 2032A(c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

"(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property."

(d) Clerical Amendments.—

(1) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

"Sec. 2032A. Valuation of certain farm, etc., real property."

(2) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

"Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation."

(e) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2204. EXTENDING OF TIME FOR PAYMENT OF ESTATE TAX.

(a) General Rule.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by redesignating section 6166 as section 6166A and by inserting after section 6165 the following new section:

"SEC. 6166. ALTERNATE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

"(a) 5-Year Deferral, 10-Year Installment Payment.—

"(1) In general.—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 65 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

"(2) Limitation.—The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

"(A) the closely held business amount, bears to

"(B) the amount of the adjusted gross estate.

"(3) Date for payment of installments.—If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than 5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

"(4) Eligibility for election.—No election may be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent.

"(b) Definitions and Special Rules.—

"(1) Interest in closely held business.—For purposes of this section, the term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or busines, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(2) Rules for applying paragraph (1).—For purposes of paragraph (1)—

"(A) Time for testing.—Determinations shall be made as of the time immediately before the decedent's death.

"(B) Certain interests held by husband and wife.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common.

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) Indirect ownership.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(3) Farmhouses and certain other structures taken into account.—For purposes of the 65-percent requirement of subsection (a)(1), an interest in a closely held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(4) Value.—For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

"(5) Closely held business amount.—For purposes of this section, the term 'closely held business amount' means the value of the interest in a closely held business which qualifies under subsection (a)(1).

"(6) Adjusted gross estate.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

"(c) Special Rule for Interests in 2 or More Closely Held Businesses.—For purposes of this section, interests in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 20 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate.

"(d) Election.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

"(e) Proration of Deficiency to Installments.—If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a)(2) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(f) Time for Payment of Interest.—If the time for payment of any amount of tax has been extended under this section—

"(1) Interest for first 5 years.—Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

"(2) Interest for periods after first 5 years.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time, as, and as a part of, each installment payment of the tax.

"(3) Interest in the case of certain deficiencies.—In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

"(4) Selection of shorter period.—If the executor has selected a period shorter than 5 years under subsection (a)(3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.

(g) Acceleration of Payment.—

"(1) Disposition of interest; withdrawal of funds from business.—

"(A) If—

"(i) one-third or more in value of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a)(1), made with respect to such interest, equal or exceed one-third of the value of such trade or business.

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

"(i) subparagraph (A)(i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and

"(ii) subparagraph (A)(ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a)(3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

"(C) Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as an interest qualifying under subsection (a)(1).

"(D) Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) Undistributed income of estate.—

"(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

"(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

"(i) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deduction for distributions, etc.);

"(ii) the amount of tax imposed for the taxable year on the estate under chapter 1; and

"(iii) the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

"(3) Failure to pay installment.—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(h) Election in Case of Certain Deficiencies.—

"(1) In general.—If—

"(A) a deficiency in the tax imposed by section 2001 is assessed,

"(B) the estate qualifies under subsection (a)(1), and

"(C) the executor has not made an election under subsection (a),

the executor may elect to pay for deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(2) Time of election.—An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) Effect of election on payment.—If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a)(2) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date of payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

"(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary to the application of this section.

"(j) Cross References.—

"(1) Security.—

"For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

"(2) Lien.—

"For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

"(3) Period of limitation.—

"For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

"(4) Interest.—

"For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601."

(b) 4-Percent Interest Rate.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) 4-Percent Rate on Certain Portion of Estate Tax Extended Under Section 6166.—

"(1) In general.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) 4-percent portion.—For purposes of this subsection, the term '4-percent portion' means the lesser of—

"(A) $345,800 reduced by the amount of the credit allowable under section 2010(a); or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

"(3) Treatment of payments.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 4-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 4-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 4-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166."

(c) Reasonable Cause Substituted for Undue Hardship in Determining Eligibility for Extension of Payment of Estate Tax.—

(1) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

"(2) Estate Tax.—The Secretary may, for reasonable cause, extend the time for payment of—

"(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

"(B) any part of any installment under section 6166 or 6166A (including any part of a deficiency prorated to any installment under such section),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

(2) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:

"(b) Amount Determined as Deficiency.—

"(1) Income, gift, and certain other taxes.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.

"(2) Estate Tax.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

"(3) No extension for certain deficiencies.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax."

(3) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or remainder interest) is amended to read as follows:

"(b) Extension for Reasonable Cause.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a)."

(4) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163, 6166, or 6166A".

(d) Special Lien for Estate Tax Deferred Under Section 6166.—

(1) In general.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by

inserting after section 6324 the following new section:

"Sec. 6324A. Special Lien for Estate Tax Deferred Under Section 6166 or 6166A.

"(a) General Rule.—In the case of any estate with respect to which an election has been made under section 6166 or 6166A, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) Section 6166 Lien Property.—

"(1) In general.—For purposes of this section, the term 'section 6166 lien property' means interests in real and other property to the extent such interests—

"(A) can be expected to survive the deferral period, and

"(B) are designated in the agreement referred to in subsection (c).

"(2) Maximum value of required property.—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

"(A) the deferred amount, and

"(B) the aggregate interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151 (a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

"(3) Partial substitution of bond for lien.—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

"(c) Agreement.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

"(1) consenting to the creation of the lien under this section with respect to such property, and

"(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or 6166A or this section.

"(d) Special Rules.—

"(1) Requirement that lien be filed.—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323 (f) has been filed by the Secretary. Such notice shall not be required to be refiled.

"(2) Period of lien.—The lien imposed by this section shall arise at the time of executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

"(3) Priorities.—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

"(A) Real property tax and special assessment liens.—To the extent provided in section 6323(b)(6).

"(B) Real property subject to a mechanic's lien for repairs and improvements.—In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

"(C) Real property construction or improvement financing agreement.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h).

"(4) Lien to be in lieu of section 6324 lien.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

"(5) Additional lien property required in certain cases.—If at any time the value of property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g) or 6166A(h).

"(6) Lien to be in lieu of bond.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

"(e) Definitions.—For purposes of this section—

"(1) Deferred amount.—The term 'deferred amount' means the aggregate amount deferred under section 6166 or 6166A (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(2) Aggregate interest amount.—The term 'aggregate interest amount' means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(3) Deferral period.—The term 'deferral period' means the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A.

"(4) Application of definitions in case of deficiencies.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A."

(2) Discharge of executor from personal liability.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(c) Special Lien Under Section 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166 or 6166A) shall be treated as the furnishing of bond with respect to the amount for which the time for payment has been extended under section 6166 or 6166A."

(e) Amendments of Section 303.—

(1) Extension of period for distribution.—Paragraph (1) of section 303(b) (relating to distributions in redemption of stock to pay death taxes) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or ", and by adding at the end thereof the following new subparagraph:

"(C) If an election has been made under section 6166, or 6166A and if the time prescribed by this subparagraph expires at a later date than the time prescribed by subparagraph (B) of this paragraph, within the time determined under section 6166 or 6166A for the payment of the installments."

(2) Relationship of stock to decedent's estate.—

(A) Subparagraph (A) of section 303(b) (2) is amended to read as follows:

"(A) In general.— Subsection (a) shall apply to a distribution by a corporation only if the value (for Federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent's gross estate exceeds 50 percent of the excess of—

"(i) the value of the gross estate of such decedent, over

"(ii) the sum of the amounts allowable as a deduction under section 2053 or 2054."

(B) The first sentence of subparagraph (B) or section 303(b)(2) is amended by striking out "the 35 percent and 50 percent requirements" and inserting in lieu thereof "the 50 percent requirement."

(3) Relationship of shareholder to estate tax.—Subsection (b) of section 303 is amended by adding at the end thereof the following new paragraphs:

"(3) Relationship of shareholder to estate tax.—Subsection (a) shall apply to a distribution by a corporation only to the extent that the interest of the shareholder is reduced directly (or through a binding obligation to contribute) by any payment of an amount described in paragraph (1) or (2) of subsection (a).

"(4) Additional requirements for distributions made more than 4 years after decedent's death.—In the case of amounts distributed more than 4 years after the date of the decedent's death, subsection (a) shall apply to a distribution by a corporation only to the extent of the lesser of—

"(A) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which remained unpaid immediately before the distribution, or

"(B) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which are paid during the 1-year period beginning on the date of such distribution."

(4) Stock with substituted basis.—Subsection (c) of section 303 (relating to stock with substituted basis) is amended by striking out "limitation specified in subsection (b)(1)" and inserting in lieu thereof "limitations specified in subsection (b)".

(f) Technical, Clerical, and Conforming Changes.—

(1) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166 or 6166A."

(2) Section 7403(a) (relating to action to enforce lien or to subject property to payment of tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any acceleration of payment under section 6166

(g) or 6166A(h) shall be treated as a neglect to pay tax."

(3) Paragraph (2) of section 2011(c) (relating to credit for State death taxes) is amended by striking out "section 6161" and inserting in lieu thereof "section 6161, 6166 or 6166A".

(4) The last sentence of section 2204(b) is amended by striking out "has not been extended under" and inserting in lieu thereof "has been extended under".

(5) The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6166 and inserting in lieu thereof the following:

"Sec. 6166. Alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.

"Sec. 6166A. Extension of time for payment of estate tax where estate tax consists largely of interest in closely held business.".

(6) Subsections (a) and (b) of section 2204 (relating to discharge of fiduciary from personal liability) are amended by striking out "or 6166" and inserting in lieu thereof "6166 or 6166A".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2205. CARRYOVER BASIS.

(a) GENERAL RULE.—

(1) AMENDMENT OF SECTION 1014.—Subsection (d) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(d) DECEDENTS DYING AFTER DECEMBER 31, 1976.—In the case of a decedent dying after December 31, 1976, this section shall not apply to any property for which a carryover basis is provided by section 1023."

(2) CARRYOVER BASIS.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

"SEC. 1023. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 1976.

"(a) GENERAL RULE.—

"(1) CARRYOVER BASIS.—Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decendent, further adjusted as provided in this section.

"(2) LOSS ON PERSONAL AND HOUSEHOLD EFFECTS.—In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value.

"(b) CARRYOVER BASIS PROPERTY DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'carryover basis property' means any property which is acquired from or passed from a decedent (within the meaning of section 1014(b)) and which is not excluded pursuant to paragraph (2) or (3).

"(2) CERTAIN PROPERTY NOT CARRYOVER BASIS PROPERTY.—The term 'carryover basis property' does not include—

"(A) any item of gross income in respect of a decedent described in section 691;

"(B) property described in section 2042 (relating to proceeds of life insurance);

"(C) a joint and survivor annuity under which the surviving annuitant is taxable under section 72, and payments and distributions under a deferred compensation plan described in part I of subchapter D of chapter 1 to the extent such payments and distributions are taxable to the decedent's beneficiary under chapter 1;

"(D) property included in the decedent's gross estate by reason of section 2035, 2038, or 2041 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of chapter 1;

"(E) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includible in gross income under section 422(c)(1), 423(c), or 424(c)(1); and

"(F) property described in section 1014(b)(5).

"(3) $10,000 EXCLUSION FOR CERTAIN ASSETS.—

"(A) EXCLUSION.—The term 'carryover basis property' does not include any asset—

"(i) which, in the hands of the decedent, was a personal or household effect, and

"(ii) with respect to which the executor has made an election under this paragraph.

"(B) LIMITATION.—The fair market value of all assets designated under this subsection with respect to any decedent shall not exceed $10,000.

"(C) ELECTION.—An election under this paragraph with respect to any asset shall be made by the executor not later than the date prescribed by section 6075(a) for filing the return of tax imposed by section 2001 or 2101 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes as—

"(1) the net appreciation in value of such property, bears to

"(2) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(d) $60,000 MINIMUM FOR BASES OF CARRYOVER BASIS PROPERTIES.—

"(1) IN GENERAL.—If $60,000 exceeds the aggregate bases (as determined after any adjustment under subsection (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subsection (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

"(A) the net appreciation in value of such property, bears to

"(B) the net appreciation in value of all such property.

"(2) SPECIAL RULE FOR PERSONAL OR HOUSEHOLD EFFECT.—For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market values of such property.

"(3) NONRESIDENT NOT CITIZEN.—This subsection shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

"(e) FURTHER INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAX PAID BY TRANSFEREE OF PROPERTY.—If—

"(1) any person acquires appreciated carryover basis property from a decedent, and

"(2) such person actually pays an amount of estate, inheritance, legacy, or succession taxes with respect to such property to any State or the District of Columbia for which the estate is not liable,

then the basis of such property (after any adjustment under subsection (h), (c), or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such persons as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property acquired by such person which is subject to such taxes.

"(f) SPECIAL RULES AND DEFINITIONS FOR APPLICATION OF SUBSECTIONS (c), (d), AND (e).—

"(1) FAIR MARKET VALUE LIMITATION.—The adjustments under subsection (c), (d), and (e) shall not increase the basis of property above its fair market value.

"(2) NET APPRECIATION.—For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subsection (h)). For purposes of subsection (d), such adjusted basis shall be increased by the amount of any adjustment under subsection (c), and, for purposes of subsection (e), such adjusted basis shall be increased by the amount of any adjustment under subsection (c) or (d).

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c), the term 'Federal and State estate taxes' means—

"(A) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

"(B) any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia.

"(4) CERTAIN MARITAL AND CHARITABLE DEDUCTION PROPERTY TREATED AS NOT SUBJECT TO TAX.—For purposes of subsection (c) and (e), property shall be treated as not subject to a tax—

"(A) with respect to the tax imposed by section 2001 or 2101, to the extent that a deduction is allowable with respect to such property under section 2055 or 2056 or under section 2106(a)(2), and

"(B) with respect to State estate taxes and with respect to the State taxes referred to in subsection (e)(2), to the extent that such property is not subject to such taxes.

"(5) APPRECIATED CARRYOVER BASIS PROPERTY.—For purposes of this section, the term 'appreciated carryover basis property' means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

"(g) OTHER SPECIAL RULES AND DEFINITIONS.—

"(1) FAIR MARKET VALUE.—For purposes of this section, when not otherwise distinctly expressed, the term 'fair market value' means value as determined under chapter 11.

"(2) PROPERTY PASSING FROM THE DECEDENT.—For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

"(3) DECEDENT'S BASIS UNKNOWN.—If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown to the person acquiring such property from the decedent, such basis shall be treated as being the fair market value of such property as of the date(or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

"(4) CERTAIN MORTGAGES.—For purposes of subsections (c), (d), and (e), if—

"(A) there is an unpaid mortgage on, or indebtedness in respect of, property, "(B) such mortgage or indebtedness does not constitute a liability of the estate, and

"(C) such property is included in the gross estate undiminished by such mortgage or indebtedness,

then the fair market value of such property to be treated as included in the gross estate shall be the fair market value of such property, diminished by such mortgage or indebtedness.

"(h) Adjustment to Basis for December 31, 1976, Fair Market Value.—

"(1) Marketable bonds and securities.—If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then, for purposes of determining gain, the adjusted basis of such property shall be increased by the amount of such excess.

"(2) Property other than marketable bonds and securities.—

(A) In general.—If—

"(i) the adjusted basis immediately befor the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

"(ii) the value of such carryover basis property (as determined with respect to the estate of the decedent without regard to section 2032) exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection),

then, for purposes of determining gain, the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection) shall be increased by the amount determined under subparagraph (B).

"(B) Amount of increase.—The amount of the increase under this subparagraph for any property is the sum of—

"(i) the excess referred to in subparagraph (A) (ii), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

"(ii) the adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such propertty which occurs before January 1, 1977.

"(C) Applicable fraction.—For purposes of subparagraph (B) (i), the term 'applicable fraction' means, with respect to any property, a fraction—

"(i) the numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and

"(ii) the denominator of which is the total number of days in such holding period.

"(D) Substantial improvements.—Under regulations prescribed by the Secretary, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

"(E) Definitions.—For purposes of this paragraph—

"(i) The term 'marketable bond or security' means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.

"(ii) The term 'holding period' means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under section 1223; except that such period shall end on the date of the decedent's death.

"(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(3) Amendment of section 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(23) to the extent provided in section 1023, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976."

(4) Amendments of section 691.—

(A) Section 691(c) (2) (A) (relating to deduction for estate tax in case of income in respect of decedents) is amended to read as follows:

"(A) The term 'estate tax' means Federal and State estate taxes (within the meaning of section 1023(f) (3))."

(B) Section 691(c) (2) (C) is amended to read as follows:

"(C) The estate tax attributable to such net value shall be an amount which bears the same ratio to the estate tax as such net value bears to the value of the gross estate."

(5) Repeal of section 1246(e).—Section 1246 (relating to gain on foreign investment company stock) is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(b) Nonrecognition of Gain Where Certain Appreciated Carryover Basis Property Is Used in Satisfaction of a Pecuniary Bequest.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"Sec. 1040. Use of Certain Appreciated Carryover Basis Property to Satisfy Pecuniary Bequest.

"(a) General Rule.—If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in section 1023(f) (5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11.

"(b) Similar Rule for Certain Trusts.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with carryover basis property to which section 1023 applies.

"(c) Basis of Property Acquired in Exchange Described in Subsection (a) or (b). The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange."

(c) Limitation of Increases in Basis for Gift Tax Paid to That Portion of Gift Tax Attributable to Net Appreciation in Value.—Subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for gifts made after December 31, 1976.—

(A) In general.—In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

"(i) the net appreciation in value of the gift, bears to

"(ii) the amount of the gift.

"(B) Net appreciation.—For purposes of paragraph (1), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift."

(d) Information Requirement.—

(1) In general.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039 the following new section:

"Sec. 6039A. Information Regarding Carryover Basis Property Acquired From a Decedent.

"(a) In General.—Every executor (as defined in section 2203) shall furnish the Secretary such information with respect to carryover basis property to which section 1023 applies as the Secretary may by regulations prescribe.

"(b) Statements To Be Furnished to Persons Who Acquire Property From a Decedent.—Every executor who is required to furnish information under subsection (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item."

(2) Penalties.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6694. Failure to File Information With Respect to Carryover Basis Property.

"(a) Information Required To Be Furnished to the Secretary.—Any executor who fails to furnish information required under subsection (a) of section 6039A on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of $100 for each such failure, but the total amount imposed for all such failures shall not exceed $5,000.

"(b) Information Required To Be Furnished to Beneficiaries.—Any executor who fails to furnish in writing to each person described in subsection (b) of section 6039A the information required under such subsection, unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of $50 for each such failure, but the total amount imposed for all such failures shall not exceed $2,500."

(e) Clerical Amendments.—

(1) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1023 and inserting in lieu thereof the following:

"Sec. 1023. Carryover basis for certain property acquired from a decedent dying after December 31, 1976.
"Sec. 1024. Cross references."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following:

"Sec. 1040. Use of certain appreciated carryover basis property to satisfy pecuniary bequest."

(3) The table of sections for part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039 the following:

"Sec. 6039A. Information regarding carryover basis property acquired from a decedent."

(4) The table of sections for subchapter B

of chapter 68 is amended by adding at the end thereof the following:

"Ses. 6694. Failure to file information with respect to carryover basis property."

(f) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

(2) The amendment made by subsection (c) shall apply to gifts made after December 31, 1976.

Sec. 2206. Certain Generation-Skipping Transfers.

(a) Imposition of Tax.—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

"Subchapter A. Tax imposed.

"Subchapter B. Definitions and special rules.

"Subchapter C. Administration.

"Subchapter A—Tax Imposed

"Sec. 2601. Tax imposed.

"Sec. 2602. Amount of tax.

"Sec. 2603. Liability for tax.

"Sec. 2601. Tax Imposed.

"A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

"Sec. 2602. Amount of Tax.

"(a) General Rule.—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in section 2001(c) (as in effect on the date of transfer) on the sum of—

"(A) the fair market value of the property transferred determined as of the date of transfer (or in the case of an election under subsection (d), as of the applicable valuation date prescribed by section 2032),

"(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferer to which this chapter applied.

"(C) the amount of the adjusted taxable gifts (within the meaning of section 2001 (b)) made by the deemed transferor before this transfer, and

"(D) if the deemed transferor has died at the same time as, or before, this transfer, the taxable estate of the deemed transferor, over

"(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B), (C), and (D) of paragraph (1).

"(b) Multiple Simultaneous Transfers.—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur by reason of the same event, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to—

"(1) the amount of the tax which would be imposed by section 2601 of the aggregate of such transfers were a single transfer, as

"(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

"(c) Deductions, Credits, Etc.—

"(1) General rule.—Except as otherwise provided in this subsection, no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

"(2) Charitable deductions allowed.—The deduction under section 2055, 2106(a) (2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

"(3) Unused portion of unified credit.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the credit under section 2010(a) (relating to unified credit) which exceeds the sum of—

"(A) the tax imposed by section 2001, and

"(B) the taxes theretofore imposed by section 2601 with respect to this deemed transferor.

shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

"(4) Credit for tax on prior transfers.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601. For purposes of the preceding sentence, section 2013 shall be applied as if so much of the property subject to tax under section 2601 as is not taken into account for purposes of determining the credit allowable by section 2013 with respect to the estate of the deemed transferor passed from the transferor (as defined in section 2013) to the deemed transferor.

"(5) Coorination with estate tax.—

"(A) Adjustments to marital deduction.—If the generation-skipping transfer occurs at the same time as, or within 9 months after, the death of the deemed transferor, for purposes of section 2056 (relating to bequests, etc., to surviving spouse), the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

"(B) Certain expenses attributable to generation-skipping transfer.—If the generation-skipping transfer occurs at the same time as, or after the death of the deemed transferor, for purposes of this section, the amount taken into account with respect to such transfer shall be reduced—

"(i) in the case of a taxable termination, by any item referred to in section 2053 or 2054 to the extent that a deduction would have been allowable under such section for such item if the amount of the trust had been includible in the deemed transferor's gross estate and if the deemed transferor had died immediately before such transfer; or

"(ii) in the case of a taxable distribution, by any expense incurred in connection with the determination, collection, or refund of the tax imposed by section 2601 on such transfer.

"(C) Credit for state inheritance tax.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, there shall be allowed as a credit against the tax imposed by section 2601 an amount equal to that portion of the estate, inheritance, legacy, or succession tax actually paid to any State or the District of Columbia in respect of any property included in the generation-skipping transfer, but only to the extent of the lesser of—

"(i) that portion of such taxes which is levied on such transfer, or

"(ii) the excess of the limitation applicable under section 2011(b) if the adjusted taxable estate of the decedent had been increased by the amount of the transfer and all prior generation-skipping transfers to which this subparagraph applied which had the same deemed transferor, over the sum of the amount allowable as a credit under section 2011 with respect to the estate of the decedent plus the aggregate amounts allowable under this subparagraph with respect to such prior generation-skipping transfers.

"(d) Alternate Valuation.—

"(1) In general.—In the case of—

"(A) 1 or more generation-skipping transfers from the same trust which have the same deemed transferor and which are taxable terminations occurring at the same time as the death of such deemed transferor; or

"(B) 1 or more generation-skipping transfers from the same trust with different deemed transferors—

"(i) which are taxable terminations occurring on the same day; and

"(ii) which would, but for section 2613(b) (2), have occurred at the same time as the death of the individuals who are the deemed transferors with respect to the transfers;

the trustee may elect to value all of the property transferred in such transfers in accordance with section 2032.

"(2) Special rules.—If the trustee makes an election under paragraph (1) with respect to any generation-skipping transfer, section 2032 shall be applied by taking into account (in lieu of the date of the decedent's death) the following date:

"(A) in the case of any generation-skipping transfer described in paragraph (1)(A), the date of the death of the deemed transferor described in such paragraph, or

"(B) in the case of any generation-skipping transfer described in paragraph (1)(B), the date on which such transfer occurred.

"(e) Transfers Within 3 Years of Death of Deemed Transferor.—Under regulations prescribed by the Secretary, the principles of section 2035 shall apply with respect to transfers made during the 3-year period ending on the date of the deemed transferor's death. In the case of any transfer to which this subsection applies, the amount of the tax imposed by this chapter shall be determined as if the transfer occurred after the death of the deemed transferor and appropriate adjustments shall be made with respect to the amount of any prior transfer which is taken into account under subparagraph (B) or (C) of subsection (a)(1).

"Sec. 2503. Liability for Tax.

"(a) Personal Liability.—

"(1) In general.—If the tax imposed by section 2601 is not paid, when due then—

"(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

"(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).

"(2) Limitation of personal liability of trustee who relies on certain information furnished by the secretary.—

"(A) Information with respect to rates.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceed the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may responsible be expected to be taxed.

"(B) Amount of remaining exclusion.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

"(i) the amount furnished by the Secretary to the trustee as being the amount of the exclusion for a transfer to a grandchild of the grantor of the trust which may reasonably be expected to remain with respect to the deemed transferor, is less than

"(ii) the amount of such exclusion remaining with respect to such deemed transferor.

"(3) Limitation of personal liability of distributee.—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property received by the distributee in the distribution.

"(b) Lien.—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

"Subchapter B—Definitions and Special Rules

"Sec. 2611. Generation-skipping transfer.
"Sec. 2612. Deemed transferor.
"Sec. 2613. Other definitions.
"Sec. 2614. Special rules.

"SEC. 2611. GENERATION-SKIPPING TRANSFER.

"(a) GENERATION-SKIPPING TRANSFER DEFINED.—For purposes of this chapter, the terms 'generation-skipping transfer' and 'transfer' mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

"(b) GENERATION-SKIPPING TRUST.—For purposes of this chapter, the term 'generation-skipping trust' means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

"(c) ASCERTAINMENT OF GENERATION.—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

"(1) an individual who is a lineal descendant of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor.

"(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described and an individual who has been at any time married to the grantor shall be assigned to the grantor's generation,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood.

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having an indirect interest or power in the trust through such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under this foregoing provisions of this subsection.

"(d) GENERATION-SKIPPING TRUST EQUIVALENT.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) EXAMPLES OF ARRANGEMENTS TO WHICH SUBSECTION RELATES.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (but are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) REFERENCES TO TRUST INCLUDE REFERENCES TO TRUST EQUIVALENTS.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"SEC. 2612. DEEMED TRANSFEROR.

"(a) GENERAL RULE.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) DETERMINATION OF RELATIONSHIP.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

"SEC. 2613. OTHER DEFINITIONS.

"(a) TAXABLE DISTRIBUTION.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary. For purposes of the preceding sentence, an individual who at no time has had anything other than a future interest or future power (or both) in the trust shall not be considered as a younger generation beneficiary.

"(2) SOURCE OF DISTRIBUTIONS.—If, during the taxable year of the trust, there are distributions out of the income of the trust (within the meaning of section 643(b)) and out of other amounts, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generations.

"(3) PAYMENT OF TAX.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) CERTAIN DISTRIBUTIONS EXCLUDED FROM TAX.—The term 'taxable distribution' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by subsection (b)(6), and

"(B) any transfer to the extent such transfer is subject to tax imposed by chapter 11 or 12.

"(b) TAXABLE TERMINATION.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust. Such term does not include a termination of the interest or power of any person who at no time has had anything other than a future interest or future power (or both) in the trust.

"(2) TIME CERTAIN TERMINATIONS DEEMED TO OCCUR.—

"(A) WHERE TWO OR MORE BENEFICIARIES ARE ASSIGNED TO SAME GENERATION.—In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such bneficiary shall be treated as occurring at the time when the last such termination occurs.

"(B) SAME BENEFICIARY HAS MORE THAN 1 INTEREST OR POWER.—In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.

"(C) UNUSUAL ORDER OF TERMINATION.—

"(i) IN GENERAL.—If—

"(I) but for this subparagraph, there would have been a termination (determined after the application of subparagraphs (A) and (B)) of an interest or power of a younger generation beneficiary (hereinafter in this subparagraph referred to as the 'younger beneficiary'), and

"(II) at the time such termination would have occurred, a beneficiary (hereinafter in this subparagraph referred to as the 'older beneficiary') of the trust assigned to a higher generation than the generation of the younger beneficiary has a present interest or power in the trust,

then, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to the younger beneficiary shall be treated as occurring at the time when the termination of the last present interest or power of the older beneficiary occurs.

"(ii) SPECIAL RULES.—If clause (i) applies with respect to any younger beneficiary—

"(I) this chapter shall be applied first to the termination of the interest or power of the older beneficiary as if such termination occurred before the termination of the power or interest of the younger beneficiary; and

"(II) the value of the property taken into account for purposes of determining the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the younger beneficiary shall be reduced by the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the older beneficiary.

"(D) SPECIAL RULE.—Subparagraphs (A) and (C) shall also apply where a person assigned to the same generation as, or a higher generation than, the person whose power or interest terminates has a present power or interest immediately after the termination and such power or interest arises as a result of such termination.

"(3) DEEMED TRANSFEREES OF CERTAIN TERMINATIONS.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, except to the extent provided in regulations prescribed by the Secretary, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.

"(4) TERMINATION OF POWER.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).

"(5) Certain terminations excluded from tax.—The term 'taxable termination' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by paragraph (6), and

"(B) any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

"(6) $250,000 limit of exclusion of transfers to grandchildren.—In the case of any deemed transferor, the maximum amount excluded from the terms 'taxable distribution' and 'taxable termination' by reason of provisions exempting from such terms transfers to the grandchildren of the grantor of the trust shall be $250,000. The preceding sentence shall be applied to transfers from one or more trusts in the order in which such transfers are made or deemed made.

"(7) Coordination with subsection (a).—

"(A) Terminations take precedence over distributions.—

If—

"(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and

"(ii) such occurrence also requires the distribution of part or all of such property in distribution which would (but for this subparagraph) be a taxable distribution, then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

"(B) Certain prior transfers.—To the extent that—

"(i) the deemed transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer.

"(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer, and

"(iii) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer, the terms 'taxable termination' and 'taxable distribution' do not include this later transfer.

"(c) Younger Generation Beneficiary; Beneficiary.—For purposes of this chapter—

"(1) Younger generation beneficiary.—The term 'younger generation benficiary' means any beneficiary who is assigned to a generation younger than the grantor's generation.

"(2) Time for ascertaining younger generation beneficiaries.—A person is a younger generation beneficiary of a trust with respect to any transfer only if such person was a younger generation beneficiary of the trust immediately before the transfer (or, in the case of a series of related transfers, only if such person was a younger generation beneficiary of the trust immediately before the first of such transfers).

"(3) Beneficiary.—The term 'beneficiary' means any person who has a present or future interest or power in the trust.

"(d) Interest or Power.—For purposes of this chapter—

"(1) Interest.—A person has an interest in a trust if such person—

"(A) has a right to receive income or corpus from the trust, or

"(B) is a permissible recipient of such income or corpus.

"(2) Power.—The term 'power' means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

"(e) Limited Power To Appoint Among Lineal Descendants of Grantor Not Taken Into Account in Certain Cases.—For purposes of this chapter, if any individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual, then such individual shall be treated as not having any power in the trust.

"(f) Effect of Adoption.—For purposes of this chapter, a relationship by legal adoption shall be treated as a relationship by blood.

"Sec. 2614. Special Rules.

"(a) Basis Adjustment.—If property is transferred to any person pursuant to a generation-skipping transfer which occurs before the death of the deemed transferor, the basis of such property in the hands of the transferee shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer. If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time, as or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1976, fair market value).

"(b) Nonresidents Not Citizens of the United States.—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States and—

"(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

"(2) if the deemed transferor has died at the same time as, or before, the transfer there shall be taken into account only property which would be taken into account for purposes of chapter 11.

"(c) Disclaimers.—

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

"Subchapter C—Administration

"Sec. 2621. Administration.

"Sec. 2622. Regulations.

"Sec. 2621. Administration.

"(a) General Rule.—Insofar as applicable and not inconsistent with the provisions of this chapter—

"(1) if the deemed transferor is not alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

"(2) if the deemed transferor is alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

"(b) Sections 6166 and 6166A Not Applicable.—For purposes of this chapter, sections 6166 and 6166A (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) shall not apply.

"(c) Return Requirements.—

"(1) In general.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

"(A) the person who is required to make such return shall be—

"(i) in the case of a taxable distribution, the distributee, and

"(ii) in the case of a taxable termination the trustee; and

"(B) the return shall be filed—

"(i) in the case of a generation-skipping transfer occurring before the death of the deemed transferor, on or before the 90th day after the close of the taxable year of the trust in which such transfer occurred, or

"(ii) in the case of a generation-skipping transfer occurring at the same time as, or after, the death of the deemed transferor, on or before the 90th day after the last day prescribed by law (including extensions) for filing the return of tax under chapter 11 with respect to the estate of the deemed transferor (or if later, the day which is 9 months after the day on which such generation-skipping transfer occurred).

"(2) Information returns.—The Secretary may by regulations require the trustee to furnish the Secretary with such information as he determines to be necessary for purposes of this chapter.

"Sec. 2622. Regulations.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts."

(b) Technical, Clerical, and Conforming Changes.—

(1) Clerical change.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

"Chapter 13. Tax on certain generation-skipping transfers."

(2) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Tax Imposed on Certain Generation-Skipping Transfers.—If any property was transferred to the decedent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

"(1) such property shall be deemed to have passed to the decedent from the deemed transferor;

"(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

"(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer."

(3) Income in respect of a decedent.—Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for generation-skipping transfers.—For purposes of this section—

"(A) the tax imposed by section 2601 or any State inheritance tax described in section 2602(c)(5)(C) on any generation-skipping transfer shall be treated as a tax imposed by section 2001 on the estate of the deemed transferor (as defined in section 2612(a));

"(B) any property transferred in such a transfer shall be treated as if it were included in the gross estate of the deemed transferor at the value of such property taken into account for purposes of the tax imposed by section 2601; and

"(C) Under regulations prescribed by the Secretary, any item of gross income subject to the tax imposed under section 2601 shall be treated as income described in subsection (a) if such item is not properly includible in the gross income of the trust on or before the date of the generation-skipping transfer (within the meaning of section 2611 (a)) and if such transfer occurs at or after the death of the deemed transferor (as so defined)."

(4) Special rules for generation-skipping transfers.—Section 303 is amended by adding at the end thereof the following new subsection:

"(d) Special Rules for Generation-Skipping Transfers.—Under regulations prescribed by the Secretary, where stock in a corporation is subject to tax under section 2601 as a result of a generation-skipping transfer (within the meaning of section 2611 (a)), which occurs at or after the death of the deemed transferor (within the meaning of section 2612)—

"(1) the stock shall be deemed to be included in the gross estate of the deemed transferor;

"(2) taxes of the kind referred to in subsection (a) (1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of the deemed transferor's death (and for this purpose the tax imposed by section 2601; shall be treated as an estate tax);

"(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and

"(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer."

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.

(2) Exceptions.—The amendments made by this section shall not apply to any generation-skipping transfer—

(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, or increasing the amount of, any generation-skipping transfer.

For purposes of subparagraph (B), if the decedent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.

(3) Trust equivalents.—For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection (d) shall apply.

SEC. 2207. ORPHANS' EXCLUSION

(a) General Rule.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. BEQUESTS, ETC., TO CERTAIN MINOR CHILDREN

"(a) Allowance of Deduction.—For purposes of the tax imposed by section 2001, if—

"(1) the decedent does not have a surviving spouse, and

"(2) the decedent is survived by a minor child who, immediately after the death of the decedent, has no known parent,

then the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value or any interest in property which passes or has passed from the decedent to such child, but only to the extent that such interest is included in determining the value of the gross estate.

"(b) Limitation.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) with respect to interests in property passing to any minor child shall not exceed an amount equal to $5,000 multiplied by the excess of 21 over the age (in years) which such child has attained on the date of the decedent's death.

"(c) Limitation in the Case of Life Estate or Other Terminable Interest.—A deduction shall be allowed under this section with respect to any interest in property passing to a minor child only to the extent that a deduction would have been allowable under section 2056(b) if such interest had passed to a surviving spouse of the decedent. For purposes of this subsection, an interest shall not be treated as terminable solely because the property will pass to another person if the child dies before the youngest child of the decedent attains age 21.

"(d) Definitions.—For purposes of this section—

"(1) Minor child.—The term 'minor child' means any child of the decedent who has not attained the age of 21 before the date of the decedent's death.

"(2) Adopted children.—A relationship by legal adoption shall be treated as replacing a relationship by blood.

"(3) Property passing from the decedent.—The determination of whether an interest in property passes from the decedent to any person shall be made in accordance with section 2056(d)."

(b) Clerical Amendment.—The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Bequests, etc., to certain minor children."

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2208. ADMINISTRATIVE CHANGES.

(a) Furnishing of Statement Explaining Estate or Gift Valuation.—

(1) In general.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7517. FURNISHING ON REQUEST OF STATEMENT EXPLAINING ESTATE OR GIFT EVALUATION.

"(a) General Rule.—If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapters 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination.

"(b) Contents of Statement.—A statement required to be furnished under subsection (a) with respect to the value of an item of property shall—

"(1) explain the basis on which the valuation was determined or proposed,

"(2) set forth any computation used in arriving at such value, and

"(3) contain a copy of any expert appraisal made by or for the Secretary.

"(c) Effect of Statement.—Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary."

(2) Conforming and clerical amendments.—

(A) Section 2031 (defining gross estate) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For executor's right ot be furnished on request a statement regarding any valuation made by the Secretary within the gross estate, see section 7517."

(B) Section 2512 (relating to valuation of gifts) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For individual's right to be furnished on request a statement regarding any valuation made by the Secretary of a gift by that indiivdual, see section 7517."

(C) The table of sections for chapter 77 is amended by adding at the end thereof the following:

"Sec. 7517. Furnishing on request of statement explaining estate or gift valuation."

(b) Special Rule for Filing Returns Where Gifts in Calendar Quarter Total $25,000 or Less.—Subsection (b) of section 6075 (relating to gift tax returns) is amended to read as follows:

"(b) Gift Tax Returns.—

"(1) General rule.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

"(2) Special rule where gifts in a calendar quarter total $25,000 or less.—If the total amount of taxable gifts made by a person during a calendar quarter is $25,000 or less, the return under section 6019 for such quarter shall be filed on or before the 15th day of the second month after—

"(A) the close of the first subsequent calendar quarter in the calendar year in which the sum of—

"(i) the taxable gifts made during such subsequent quarter, plus

"(ii) all other taxable gifts made during the calendar year and for which a return has not yet been required to be filed under this subsection.

exceeds $25,000, or

"(B) if a return is not required to be filed under subparagraph (A), the close of the fourth calendar quarter of the calendar year.

"(3) Nonresidents not citizens of the united states.—In the case of a nonresident not a citizen of the United States, paragraph (2) shall be applied by substituting '$12,500' for '$25,000' each place it appears."

(c) Public Index of Field Tax Liens.—

(1) Initial filing of notice.—

(A) Section 6323(f) (relating to filing of notice of lien) is amended by adding at the end thereof the following new paragraph:

"(4) Index.—The notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in a public index at the district office of the Internal Revenue Service for the district in which the property subject to the lien is situated."

(B) Paragraph (2) of section 6323(f) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (4)".

(2) Refiling of notice.—Section 6323(g)

(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if such notice of lien is refiled in the office in which the prior notice of lien was filed and the fact of refiling in entered and recorded in an index in accordance with subsection (f)(4); and".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a)—

(A) insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1954, shall apply to the estates of decedents dying after December 31, 1976, and

(B) insofar as they relate to the tax imposed under chapter 12 of such Code, shall apply to gifts made after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

(3) The amendment made by subsection (c) shall take effect—

(A) In the case of liens filed before the date of the enactment of this Act, on the 270th day after such date of enactment, or

(B) in the case of liens filed on or after the date of enactment of this Act, on the 120th day after such date of enactment.

SEC. 2209. MISCELLANEOUS PROVISIONS.

(a) INCLUSION OF STOCK IN DECEDENT'S ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS.—Subsection (a) of section 2036 (relating to transfer with retained life estate) is amended by adding at the end thereof the following end sentence:

"For purposes of paragraph (1), the retention of voting rights in retained stock shall be considered ot be a retention of the enjoyment of such stock."

(b) DISCLAIMERS.—

(1) AMENDMENT OF GIFT TAX PROVISIONS.—Subchapter B of chapter 12 (relating to transfers for purposes of the gift tax) is amended by adding at the end thereof the following new section:

"SEC. 2518. DISCLAIMERS.

"(a) GENERAL RULE.—For purposes of this subtitle, if a person make a qualified disclaimer with respect to any interest in property, this substitle shall apply with respect to such interest as if the interest had never been transferred to such person.

"(b) QUALIFIED DISCLAIMER DEFINED.—For purposes of subsection (a), the term 'qualified disclaimer' means an irrevocable and unqualified refusal by a person to accept an interest in property but only if—

"(1) such refusal is in writing.

"(2) such writing is received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates not later than the date which is 9 months after the later of—

"(A) the day on which the transfer creating the interest in such person is made, or

"(B) the day which such person attains age 21,

"(3) such person has not accepted the interest or any of its benefits, and

"(4) as a result of such refusal, the interest passes to a person other than the person making the disclaimer (without any direction on the part of the person making the disclaimer).

"(c) OTHER RULES.—For purpose of subsection (a)—

"(1) DISCLAIMER OF UNDIVIDED PORTION OF INTEREST.—A disclaimer with respect to an undivided portion of an interest which meets the requirements of the preceding sentence shall be treated as a qualified disclaimer of such portion of the interest.

"(2) POWERS.—A power with respect to property shall be treated as an interest in such property."

(2) AMENDMENT OF ESTATE TAX PROVISIONS.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end thereof the following new section:

"SEC. 2045. DISCLAIMERS.

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518."

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 12 is amended by adding at the end thereof the following:

"Sec. 2518. Disclaimers."

(B) The table of sections for part III of subchapter A of chapter II is amended by adding at the end thereof the following:

"Sec. 2045. Disclaimers."

(4) TECHNICAL AND CONFORMING CHANGES.—

(A) Paragraph (2) of section 2041(a) (relating to release of general powers of appointment) is amended by striking out the second sentence thereof.

(B) The first sentence of subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by striking out "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)".

(C) The second sentence of subsection (a) of section 2055 is amended—

(i) by striking out "an irrevocable" and inserting in lieu thereof "a qualified", and

(ii) by striking out "such irrevocable" and inserting in lieu thereof "such qualified".

(D) Section 2056 (relating to bequests, etc., to surviving spouse) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(E) Subsection (a) of section 2056 is amended by striking out "subsections (b), (c), and (d)" and inserting in lieu thereof "subsections (b) and (c)".

(F) Subsection (b) of section 2514 (relating to powers of appointment for purposes of the gift tax) is amended by striking out the second sentence thereof.

(c) CERTAIN RETIREMENT BENEFITS.—

(1) EXCLUSION FROM GROSS ESTATE OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(e) EXCLUSION OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—Notwithstanding the provisions of this section or of any other provision of law, there shall be excluded from the value of the gross estate the value of an annuity receivable by any beneficiary (other than the executor) under—

"(1) an individual retirement account described in section 408(a),

"(2) an individual retirement annuity described in section 408(b), or

"(3) a retirement bond described in section 409(a).

If any payment to an account described in paragraph (1) or for an annuity described in paragraph (2) or a bond described in paragraph (3) was not allowable as a deduction under section 219 and was not a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term 'annuity' means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death."

(2) EXCLUSION FROM GROSS ESTATE OF SELF-EMPLOYED PLANS.—The fifth sentence of section 2039(c) (relating to exemption of annuities under certain trusts and plans) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent."

(3) EXCLUSION INAPPLICABLE IN CASE OF LUMP SUM DISTRIBUTIONS.—The first sentence of subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out "other payment receivable by any beneficiary" and inserting in lieu thereof "other payment (other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A)) receivable by any beneficiary)".

(4) GIFT TAX TREATMENT OF ELECTIONS UNDER CERTAIN RETIREMENT PLANS.—

(A) INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(i) Subsection (a) of section 2517 (relating to certain annuities under qualified plans) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) an individual retirement account described in section 408(a), an individual retirement annuity described in section 408(b), or a retirement bond described in section 409(a)."

(ii) Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by striking out "other than paragraph (4)" and inserting in lieu thereof "other than paragraphs (4) and (5)".

(iii) Subsection (c) of section 2517 (defining employee) is amended by adding at the end thereof the following new sentence: "In the case of a retirement plan described in paragraph (5) of subsection (a), such term means the individual for whose benefit the plan was established."

(B) SELF-EMPLOYED PLANS.—The last sentence of section 2517(b) (relating to transfers attributable to employee contributions) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of an individual while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) of subsection (a) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than such individual and, to the extent not so allowable, shall be considered to be made by such individual."

(5) GIFT TAX TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Section 2517 (relating to certain annuities under qualified plans) is amended by redesignating subsection (c) (as amended by paragraph (4)(A)(iii)) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXEMPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made—

"(1) by his employer or former employer under a trust or plan described in paragraph (1) or (2) of subsection (a), or toward the purchase of a contract described in paragraph (3) of subsection (a), which under subsection (b) are not considered as contributed by the employee, or

"(2) by the employee to a retirement plan described in paragraph (5) of subsection (a), a transfer of benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(A) is attributable to such contribution or payments, and

"(B) arises solely by reason of such spouse's interest in community income under the community property laws of the State."

(d) Income Tax Treatment of Certain Expenses of Estate.—Section 642(g) (relating to disallowance of double deductions) is amended by inserting after "shall not be allowed as a deduction" the following: "(or as an offset against the sales price of property in determining gain or loss)".

(e) Effective Dates.—

(1) For subsection (a).—The amendment made by subsection (a) shall apply to transfers made after June 22, 1976.

(2) For subsection (b).—The amendments made by subsection (b) shall apply with respect to transfers creating an interest in the person disclaiming made after December 31, 1976.

(3) For subsection (c).—

(A) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to the estates of decedents dying after December 31, 1976.

(B) The amendments made by paragraphs (4) and (5) of subsection (c) shall apply to transfers made after December 31, 1976.

(4) For subsection (d).—The amendment made by subsection (d) shall apply to taxable years ending after the date of the enactment of this Act.

Sec. 2210. Credit Against Certain Estate Taxes.

(a) In general.—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LeVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest.

(b) Amount of Credit.—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed (and interest thereon) by chapter 11 of the Internal Revenue Code of 1954.

(c) Deed Requirements.—The provisions of this section shall apply only if the executrixes of the estate execute a deal (in accordance with the laws of the State in which such real estate is situated) transferring title to the United States which is satisfactory to the Attorney General or his designee.

(d) Acceptance as National Forest.—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) Interest.—Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reason of the provisions of this section for any period before the date of such transfer.

(f) Effective Date.—The provisions of this section shall be effective on the date of the enactment of this Act.

Statement of Managers for Amendment No. 35

ESTATE AND GIFT TAX PROVISIONS

Joint Explanatory Statement of the Committee of Conference

The House bill (H.R. 10612) did not contain revisions to the estate and gift taxes, and as a result Senate amendment numbered 35 will be taken back to the House of Representatives and Senate in technical disagreement. The amendment which will be offered in the House of Representatives and Senate relating to estate and gift taxes substantially modifies the Senate amendment and adopts many of the provisions contained in H.R. 14844. In those cases where the proposed amendment follows H.R. 14844, the conferees agree with and incorporate the explanation of those provisions contained in House Report 94–1380 (the Ways and Means Committee Report on H.R. 14844), except as modified in this statement.

Unified Credit

H.R. 14844.—Under present law, the estate of each decedent who was a resident or citizen of the U.S. is entitled to an exemption of $60,000 for estate tax purposes and a donor who is not a nonresident alien is entitled to an exemption of $30,000 for gift tax purposes. H.R. 14844 provides a unified credit in lieu of the present exemptions for estate and gift taxes. The amount of the credit is $30,000 for gifts made in, and for estates of decedents dying in, 1977 and increases $5,000 each year until 1979 when the credit is $40,000 (equivalent to an exemption of $153,750).

Senate amendment.—The Senate amendment provides a credit in lieu of the present exemption for estate tax purposes, but retains the present gift tax exemption. The amount of the credit is $30,000 for estates of decedents dying in 1977 and increases $5,000 each year until 1981 when the credit is $50,000 (equivalent to an exemption of $197,667).

Conference agreement.—The conference agreement provides a unified credit of $47,000 (equivalent to an exemption of $175,625) in lieu of the present exemptions for estate and gift taxes. The credit is to be phased-in over a 5-year period. Subject to a transitional rule for certain gifts, the amount of the credit is $30,000 for gifts made in, and decedents dying in, 1977, $34,000 in 1978, $38,000 in 1979, $42,500 in 1980, and $47,000 in 1981.

The unified credit allowable is to be reduced by an amount equal to 20 percent of the amount allowed as a specific exemption under present law for gifts made after September 8, 1976, and before January 1, 1977. However, the unified credit is not to be reduced for any amount allowed as a specific exemption for gifts made prior to September 9, 1976. As a transitional rule for gift tax purposes, only $6,000 of the unified credit can be applied with respect to gifts made after December 31, 1976, and prior to July 1, 1977.

Unification of Estate and Gift Tax Rates

H.R. 14844.—Under present law, an estate tax is imposed upon transfers at death and a gift tax is imposed on gifts during lifetime. Each tax has a separate rate schedule with the gift tax rate schedule being three-fourths of the estate tax rate schedule for corresponding brackets.

H.R. 14844 provides a unified rate schedule for estate and gift taxes. The lowest effective rate (after taking into account the unified credit) is 32 percent. The highest rate is 70 percent for cumulative tax able transfers in excess of $5 million. This provision applies to estates of decedents dying after December 31, 1976, and gifts made after that date.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows H.R. 14844.

The conference agreement modifies the method of determining the tax imposed on transfers of U.S. property by a decedent who was a nonresident alien. Since a separate schedule with reduced rates is provided for estates of nonresident aliens, the deathtime credit, or "offset," for tax on lifetime transfers, which is applied against the tax computed on cumulative lifetime and deathtime transfers, is to be determined under the same rate schedule that is applicable at death rather than the schedule that applies to the lifetime transfers of all donors.

Transfers Made Within 3 Years of Death

H.R. 14844.—Under present law, transfers made within 3 years of death are presumed to be made in '"contemplation of death" and included in the decedent's gross estate unless the executor can prove to the contrary.

H.R. 14844 eliminates the contemplation of death presumption and provides for the inclusion in the decedent's gross estate of all gifts (in excess of the $3,000 annual exclusion) made within the 3-year period prior to the decedent's death.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

This provision applies to gifts made after December 31, 1976.

Gross-up for Gift Taxes

H.R. 14844.—Under present law, the tax paid with respect to a gift is not included in the estate or gift tax base. Thus, an amount equal to the gift tax will be removed from a decedent's gross estate and also allowed as a credit against estate tax if the gift is included in the gross estate even though the transfer is a "death-bed transfer." However, if the transfer had not been made during lifetime, the entire amount would be included in the decedent's gross estate.

H.R. 14844 requires the gift tax on gifts made within 3 years of the decedent's death to be included (or "grossed-up") in the decedent's gross estate.

This provision applies to gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Increase in Estate Tax Marital Deduction

H.R. 14844.—Under present law, the estate of each decedent is permitted a deduction for property passing to a surviving spouse up to one-half of the adjusted gross estate.

H.R. 14844 increases the maximum estate tax marital deduction to the greater of $250,000 or one-half of the decedent's adjusted gross estate.

This provision applies to estates of decedents dying after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844.

Conference agreement.—The conference agreement follows both H.R. 14844 and the Senate amendment.

Increase in Gift Tax Marital Deduction

H.R. 14844.—Under present law, in the case of gifts, the maximum allowable deduction is one-half of the value of the property transferred to the spouse.

H.R. 14844 provides an unlimited marital deduction for the first $100,000 of lifetime transfers to a spouse. Thereafter, the deduction allowed is 50 percent of gifts in excess of $200,000.

This provision applies to gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Joint Interests

H.R. 14844.—Under present law, the entire value of property owned in joint tenancy is included in the decedent's gross estate except for the portion of property which is attributable to the consideration furnished by the survivor.

H.R. 14844 replaces the "consideration furnished test" with a fractional interest rule in certain cases where property is held by husband and wife with rights of survivorship. Under the fractional interest rule, where a joint tenancy is created by a transfer subject to gift tax at the time of creation, the property is then treated as belonging 50 percent to each spouse for estate tax purposes.

This provision applies to joint interests created after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Special Valuation for Certain Property

H.R. 14844.—Under present law, the value of the property included in the gross estate of the decedent is its fair market value at the date of the decedent's death (or at the alternate valuation date). One of the most important factors in determining fair market value is the "highest and best use" to which the property can be put.

H.R. 14844 provides that, if certain conditions are met, the executor may elect to value qualified real property included in the decedent's gross estate on the basis of such property's value in its current use rather than on the basis of its highest and best use. Qualified real property includes property used for farming or other closely held business use. This special valuation may not be used to decrease the value of the decedent's gross estate by more than $500,000. Also, H.R. 14844 provides specific valuation methods for qualifying real property.

In general, the tax benefits derived from the special valuation are recaptured if the property is disposed of to nonfamily members or ceases to be used for farming or closely held business purposes within 15 years after the death of the decedent (with a phase-out of the amount recaptured over the last 5 years).

This provision applies to estates of decedents dying after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844 except that (1) the special valuation is available for woodland, open pastoral space and historical sites in addition to farms (but not other closely held businesses), (2) the special valuation can reduce the value of the decedent's gross estate by $1 million rather than $500,000, and (3) specified valuation methods for qualifying real property are not provided.

The Senate amendment provides for recapture similar to H.R. 14844 but shortens the recapture period to 10 years (with a phase-out of the amount recaptured over the last 8 years).

A Senate floor amendment (1) modifies the requirements for historical sites to allow an historical site to qualify if the value is at least 25 percent of the decedent's adjusted gross estate, (2) strikes "pastoral" from open pastoral space, and (3) allows both the time the decedent owned the property and the time a member of his family owned the property to count for purposes of satisfying the ownership and qualified use requirements (5 out of the 8 years preceding the decedent's death).

Conference agreement.—The conference agreement follows H.R. 14844. The conferees intend to make it clear that the rules for special valuation apply to property which passes in trust. Trust property shall be deemed to have passed from the decedent to a qualified heir to the extent that the qualified heir has a present interest in that trust property.

Extension of Time for Payment of Estate Tax

H.R. 14844.—Under present law, the estate tax generally must be paid nine months after the decedent's death. However, there are two provisions which permit the estate tax to be paid over a period of up to 10 years. In order to qualify under the first provision (sec. 6166), the value of the closely held business must exceed 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent. In order to qualify under the second provision (sec. 6161), the executor must show that payment on the original due date would cause "undue hardship."

H.R. 14844 modifies the first provision discussed above (sec. 6166) by providing for extended payments during a 15-year period for the estate tax attributable to a farm or other closely held business (including a trade or business of being an artist, craftsman, etc.) In order to qualify, the farm or other closely held business must constitute at least 65 percent of the adjusted gross estate. No tax (i.e., only interest) must be paid during the first 5 years and thereafter the tax is payable in equal installments over the next 10 years. A special 4 percent interest rate is provided for the estate tax attributable to the first $1 million of farm or other closely held business property.

H.R. 14844 substitutes a "reasonable cause" standard for the ten-year discretionary extension of estate tax instead of the existing "undue hardship" standard.

A special lien is provided for payment of the deferred taxes and, where this lien procedure is followed, the executor is discharged from personal liability.

This provision applies to estates of decedents dying after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844 except that (1) in order to qualify, the value of the farm or closely held business must exceed 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent, (2) the tax is payable in 12 annual installments beginning at the end of the third year following the due date for the estate tax return, and (3) the special interest rate is 6 percent.

Conference agreement.—In general, the conference agreement makes 4 changes to existing law.

First, the conference agreement follows both H.R. 14844 and the Senate amendment which substitute a "reasonable cause" standard for the "undue hardship" standard under present law in the case of the ten-year discretionary extension for payment of estate tax (sec. 6161(a)(2)). For this purpose, the term "reasonable cause" is to have the same meaning as under present law for granting discretionary extensions up to twelve months (regs. § 20.6161-1(a)).

Second, the conference agreement retains the present ten-year extension for payment of estate tax (sec. 6166) where the value of a closely held business exceeds 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent.

Third, the conference agreement adopts the 15-year extension contained in H.R. 14844 as an alternative provision for extending the payment of estate tax attributable to a closely held business that constitutes 65 percent of the decedent's adjusted gross estate.

Fourth, the conference agreement provides a special lien procedure for payment of the estate tax deferred under either of the two extensions for closely held businesses. The executor will be discharged from personal liability where this special lien procedure is followed.

Carryover of Basis of Property

H.R. 14844.—Under present law, the cost or other basis of property acquired from or passing from a decedent generally is "stepped-up" to its fair market value at the date of death (or the alternative valuation date). However, where property is transferred by gift, the basis of the property in the hands of the donee is generally the same as the donor's basis (i.e., the donor's basis is "carried over" to the donee).

H.R. 14844 provides that the basis of most property acquired from or passing from a decendent who dies after December 31, 1976, is to be the same as the decendent's basis immediately before his death (with certain adustments). The aggregate basis of all carryover basis property may be increased to a minimum of $60,000. In addition, a $10,000 exemption is provided for household and personal effects of the decendent. The provision is effective for property passing from decedents dying after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844 with one modification. Under this modification, the adjusted basis of property which the decendent is treated as holding on December 31, 1976, is increased, for purposes of determining gain (but not loss), by the amount by which the fair market value of property on December 31, 1976, exceeds its adjusted basis on that date. However, the basis cannot be increased above its estate tax value. In essence, this modification continues existing law with respect to appreciation in property accruing before January 1, 1977, and provides everyone with a "fresh start."

The "fresh start" rule is applicable to any property held by the decedent which reflects the basis of that property on December 31, 1976. Thus, property held by the decedent at his death which he acquired in a nontaxable exchange with other property which the decedent held on December 31, 1976, is eligible for the "fresh start" provision. Likewise property acquired by the decedent as a gift or from a trust (see discussion below) qualifies for the "fresh start" treatment if the donor or trustee held the property on December 31, 1976. The Treasury Department is to issue regulations providing rules where the decedent has property which reflects the basis of property held on December 31, 1976, to which the decedent has made capital improvements or other additions to the basis of the property.

In order to avoid the necessity of obtaining an appraisal on all property held on December 31, 1976, the conference agreement contains a provision which requires that all property other than securities for which market quotations are readily available, is to be valued under a special valuation method. The special rule is to be used where the carryover basis property is property whose basis does not reflect the basis of property which, on

December 31, 1976, was a marketable bond or security. In general, the special rule determines the adjustment by assuming that any appreciation occurring since the acquisition of the property until the date of the decedent's death occurred at the same rate over the entire time that the decedent is treated as holding the property.

Under the special rule, the amount of the increase in basis is equal to the sum of (1) the amount of all depreciation, amortization, or depletion allowed or allowable with respect to the property during the period the decedent is treated as holding the property prior to January 1, 1977, and (2) the portion of the appreciation on the asset since its purchase that is assumed to have occurred during the period that the decedent is treated as holding the property prior to January 1, 1977.

The appreciation treated as occurring before December 31, 1976, is determined by multiplying the total amount of appreciation over the entire period during which the decedent is treated as holding the property by a ratio. The ratio is determined by dividing the number of days that the property is considered to be held by the decedent before January 1, 1977, by the total number of days that the property is considered to be held by the decedent.

The total amount of appreciation is computed by subtracting from the fair market value of the property on the date of the decedent's death a recomputed basis, which is basically equal to the purchase cost of the property. For purposes of this rule, the fair market value of property on the date of the decedent's death is to be determined under the special valuation rule for farms or other closely held businesses if that rule is elected for estate tax purposes (sec. 2032A), but determined without regard to the alternate valuation rule (sec. 2032).

The special valuation method must be used for all property other than marketable bonds or securities. Thus, the special valuation method must be used even though the executor or beneficiary of the decedent can establish that the fair market value of the property on December 31, 1976, is other than the value determined under the special valuation method.

Where the decedent (or his predecessor) made a substantial improvement to any property, the Treasury Department is to issue regulations under which that substantial improvement is treated as a separate property for purposes of this special rule.

Under the conference agreement, the December 31, 1976, value of marketable bonds or securities must be determined by their market value on December 31, 1976. Marketable bonds or securities are securities which are listed on the New York Stock Exchange, the American Stock Exchange, or any city or regional exchange in which quotations appear on a daily basis, including foreign securities listed on a recognized foreign national or regional exchange; securities regularly traded in the national or regional over-the-counter market, for which published quotations are available; securities locally traded for which quotations can readily be obtained from established brokerage firms; and units in a common trust fund. The value of such securities is to be determined using the normal methods of valuation for estate and gift tax purposes.

Where the "fresh start" rule applies, the amount of the increase in basis that is permitted under the "fresh start" rule is not to be reduced even though the property is subject to depreciation, depletion, etc. The Treasury Department is to issue regulations determining the application of the "fresh start" rule where gain from the sale of the property is subject to special rules taxing all or a portion of the gain as ordinary income (sec. 306, 1245, 1250, etc.) and where the property is held by a trust or partnership in which the decedent was a beneficiary or a partner.

Any increase in basis permitted by the "fresh start" rule is made before any other adjustments are made to the property's basis for Federal and State death taxes and minimum basis.

The carryover basis provision is effective for property acquired from, or passing from, a decedent after December 31, 1976.

Generation-Skipping Transfers

H.R. 14844.—Under present law, a gift or estate tax is generally imposed upon the transfer of property by gift or by reason of death. However, the termination of an interest of a beneficiary (who is not the grantor) in a trust, life estate, or similar arrangement is not a taxable event unless the beneficiary under the trust has a general power of appointment with respect to the trust property. H.R. 14844 imposes a tax in the case of generation-skipping transfers under a trust or similar arrangement. An exclusion is provided for transfers to a grandchild of a grantor of the trust to the extent that the total transfers per child of the grantor do not exceed $1 million.

Senate amendment.—The Senate amendment is basically the same as H.R. 14844 except that no exclusion is provided for transfers to a grandchild of the grantor.

Conference agreement.—The conference agreement generally follows the rules of the House bill with respect to technical matters, and the conferees agree with the explanation of these provisions appearing at pages 46–59 of House Report 94–1380 (the Ways and Means Committee Report on H.R. 14844), except as modified in this report. Under the conference agreement, the exclusion for transfers to a grandchild of the grantor is $250,000.

The conference agreement also includes several technical amendments to H.R. 14844.

As under H.R. 14844, the basis of property which is subject to tax as a generation-skipping transfer is to be increased (but not above the value of this property used in determining the amount of the tax) by an amount equal to the tax imposed with respect to the appreciation element in the value of the property (determined as of the applicable valuation date). Property in a generation-skipping trust is also to receive the benefit of the "fresh start" based on a December 31, 1976 valuation date, which is provided, under the conference agreement, for property passing or acquired from a decedent (in connection with the rules under the conference agreement concerning "carryover basis"). Of course, this "fresh start" is only to be available to the extent that property passing through the trust is subject to the tax on generation-skipping transfers and the taxable transfer occurs at or after the death of the deemed transferor. Where these conditions are satisfied, property held in a generation-skipping trust, or by the grantor of a generation-skipping trust, on December 31, 1976, is to receive an adjustment to basis equal to the excess (if any) of the fair market value of the property on that date over the basis of the property in the hands of the trust or its grantor, for purposes of determining gain but not loss. Other issues in this area are to be determined under regulations and, to the extent practicable, the rules with respect to carryover basis in the case of property which is subject to the tax on generation-skipping transfers are to be similar to the rules which apply in the case of other property passing or acquired from a decedent. Of course, the trust is not to be eligible for the $60,000 minimum basis or the $10,000 exclusion for personal or household effects. (Even if these provisions were applicable, they would be fully utilized by the estate of the deemed transferor in almost every case.)

The conference agreement provides that the alternate valuation date is to be available where a taxable termination occurs at the death of the deemed transferor. In this case the election to use the alternate valuation date is to be made by the trustee of the generation-skipping trust (who is also the person liable for the tax under these circumstances) and it is not required that the executor of the deemed transferor's estate also elect the alternate valuation date (since different persons are liable for the tax and the estate and the trust may have a different investment experience during the 6-month period). The trustee is required to make a timely filing of the tax return (including any extensions) in order to receive the alternate valuation date. Each trustee of a trust in which there is a taxable termination may elect the alternate valuation date for the property subject to tax, regardless of whether any trustee of any other trust as to which there is a taxable termination upon the death of the deemed transferor also elects the alternate date. However, where more than one taxable termination occurs in the same trust at the same time, the trustee must select the same valuation date for all the transferred property.

As explained in the Ways and Means Committee Report (p. 50), where two or more members of the same generation have present interests in the same trust, a taxable termination generally does not occur until the last of these interests terminates. Under the conference agreement, the alternate valuation date is also to be available in these circumstances. For example, if a trust is created providing discretionary distribution of income to the grantor's children, A, B, and C, with the remainder to be distributed to the grantor's great-grandchildren, then upon the death of the survivor of A, B, and C, the trustee could elect to use the alternate valuation date (6 months from the death of the survivor) with respect to all of the trust assets.

In addition, the conference agreement modifies the rule on terminations to cover cases where members of several different generations have a present interest or power in the same trust. Under these circumstances, if the interest of the member (or members) of the younger generation terminate first (because of an unusual order of death, or for some other reason, tax is to be postponed until the interest of the older generation also terminates. For example, assume that a discretionary trust is created providing the income for life to the grantor's spouse and his two children, A and B, with the remainder to be distributed to their grandchildren. Under the conference agreement if A and B both predecease the spouse, no taxable termination would occur until the death of the spouse, at which time a taxable termination would occur. (A and B would be the deemed transferors, and the tax base would be determined at the time of the taxable termination, i.e., the death of the spouse.)

These rules concerning postponed terminations apply where two or more persons hold present interests or powers in the trust simultaneously, and also apply where a beneficiary who is a member of the same (or a higher) generation as the beneficiary whose interest has terminated holds a present interest or power in the trust immediately after the termination. For example, assume that the trust provides income for life to the grantor's nephew, subject to a limited power of appointment exercisable by the nephew upon his death, with the principal to be distributed to the nephew's issue. If the nephew exercises the power by providing that the trust income is to be paid to his wife for life, before the distribution of principal to his issue, tax is postponed until the death of the wife. (Of course, only one tax is imposed at that time, the nephew is the deemed transferor, and the tax base is computed as of the date of the death of the nephew's spouse.)

In certain cases, the rule under the conference agreement may cause several taxable terminations to occur at the same time. For example, assume a trust is created for the benefit of the grantor's nephew and his nephew's son for life, with the remainder to be distributed to the nephew's grandson. If the nephew's son dies before the nephew, no tax would be imposed at that time; upon the death of the nephew, however, a tax would be imposed on the termination of the nephew's interest. The amount of this tax would then be deducted from the tax base (the value of the trust assets) and the tax which had been postponed upon the death of the nephew's son would then be imposed. (The reason for deducting the tax imposed on the nephew's interest is to avoid a double tax; the net result under the conference agreement is that the generation-skipping tax will be essentially the same, even where there is an unusual order of death.)

The conference agreement also provides that in connection with the credit for previously taxed property, the value of the property subject to the tax on generation-skipping transfers which is not taken into account for purposes of the estate tax (e.g., the excess over the actuarial value of the deemed transferor's life interest taken into account under present law) is to be taken into account for purposes of the credit allowed for the generation-skipping transfer tax. Minor technical changes are made with respect to the marital deduction, and the deduction for losses and expenses of the trust. The conferees intend that any permitted increase in the amount of the marital deduction by reason of a generation-skipping transfer occurring after the death of the decedent is not to be treated as a terminable interest solely by reason of the fact that the maximum amount of the deduction is not known as of the date of the decedent's death. The conference agreement also provides that, where certain rights to income are subject to the tax on generation-skipping transfers, the income tax treatment of so-called "income in respect of a decedent"' will apply to certain types of income. Thus the recipient of this income (whether the trustee or a beneficiary of the trust) is entitled to a deduction (in computing the income tax on this income) for the generation-skipping tax in the same way as the recipient is allowed a deduction for the estate tax under present law (sec. 691(c)). Also, under the conference agreement, where a generation-skipping transfer which is subject to tax occurs after the death of the deemed transferor, section 303 treatment is to be available. The trust and the actual estate of the deemed transferor are to be treated separately for purposes of the section 303 qualification requirements.

The conference agreement also provides that where the deemed transferor dies within three years after a generation-skipping transfer, the transfer is to be brought back for purposes of the tax on generation-skipping transfers. (This is closely analogous to the estate tax treatment of gifts made within 3 years of the decedent's death under the conference agreement for estate tax purposes.) In other words, the generation-skipping transfer is to be taxed, under these circumstances, at the deemed transferor's transfer tax rate taking amount his cumulative lifetime and deathtime transfers (and not just his adjusted taxable gifts as of the date of the generation-skipping transfer).

The conferees also wish to clarify that for purposes of the new disclaimer rules (sec. 2518), the event which triggers the 9-month period allowed for an effective disclaimer is the generation-skipping transfer (either a taxable termination or a taxable distribution).

Under the conference agreement, returns are to be filed in accordance with regulations. To the extent practicable, the regulations are to provide that the return is to be filed by the trustee in the case of a taxable termination, and by the distributee in the case of a taxable distribution. In the case of a generation-skipping transfer occurring before the death of the deemed transferor (generally a taxable distribution), the return is not due until 90 days after the close of the taxable year of the trust in which the transfer occurs. In the case of a transfer occurring or after the death of the deemed transferor, the return is due at the later of (1) 90 days after the estate tax return of the deemed transferor is due, or (2) 9 months after the generation-skipping transfer occurs. (Rule (2) will generally be used in cases where a taxable termination is postponed because there are several present interests in the same trust.) The Treasury Department is given regulatory authority to require the filing of such information returns as may be needed. The conferees intend that the Service will establish procedures whereby the person required to file a return in connection with any generation-skipping transfer may receive information from the Service concerning the deemed transferor's marginal transfer tax rate base, and other information which is necessary in order to properly prepare the return (or any refund claim).

Under the conference agreement, generation-skipping transfers are generally subject to the procedural rules of Subtitle F which are applicable to gift and estate taxes but, of course, the specific provisions of the conference agreement override this general rule in the area of filing requirements. However, where not inconsistent with the conference agreement, the provisions of Subtitle F apply and the Internal Revenue Service, for example, may grant an extension of up to 6 months for filing any return required with respect to a generation-skipping transfer, where reasonable cause can be shown (sec. 6081), or grant an extension for the payment of the tax (sec. 6161).

The conferees also wish to clarify several additional points.

The conference agreement provides that transfers to the grandchild of the grantor of a trust are not to be treated as taxable transfers except to the extent that the total amount of the transfers exceed $250,000 for each deemed transferor (i.e., the child of the grantor who is the parent of the grandchild receiving the transfer). This exclusion is to be available in any case where the property vests in the grandchild (i.e., the property interests will be taxable in the grandchild's estate) as of the time of the termination or distribution, even where the property continues to be held in trust for the grandchild's benefit, and regardless of whether the grandchild receives his interest under the express terms of the trust, or as the result of the exercise (or lapse) of a power of appointment with respect to the trust.

Under the conference agreement, the Treasury Department is given authority to prescribe "separate share" rules, to determine whether a trust in which there are several interests should be treated as one trust, or as two or more separate trusts. For this purpose, it is expected that the regulations will, to the extent practicable, prescribe rules which are substantially similar to those which apply presently to the income taxation of trusts (under Subchapter J).

Under the conference agreement, where a beneficiary has more than one interest or power in a generation-skipping trust, the imposition of the generation-skipping tax is generally delayed until the termination of the last power or interest of that beneficiary in the trust. For example, where an individual is entitled to receive all of the trust income until the individual dies or reaches age 35 and also has a power commencing at age 35 to withdraw 5 percent of the trust corpus for life, the generation-skipping tax will be imposed at the death of the individual and not when the individual reaches age 35.

However, the amount subject to tax at that time is the cumulative value (not in excess of 100 percent of the value of the trust assets determined as of the time of the termination or the alternate valuation date) subject to these interests and powers. In this case, the individual held a full income interest in the trust until age 35, so the tax base is the value of the trust assets (determined as of the time of the taxable termination, i.e., the individual's death). If the individual had held only a power to withdraw 5 percent of the trust corpus annually (or $5,000, whichever is greater), the tax base equals the value of the trust corpus determined as of the date of the individual's death (i.e., the date of the taxable termination) because the entire trust was "subject to the power." (This is the result regardless of the number of years for which the power was held, exercised, or allowed to lapse, and regardless of the average value of the trust during this period.)[1] Likewise, if the individual were a beneficiary under a power to invade corpus subject to an ascertainable standard relating to his health, education, support or maintenance, the tax is to be the value of the trust corpus (determined as of the date of the termination) because the full trust is subject to the power.

The assignment of a beneficiary's interest in a generation-skipping trust is not to be treated as a taxable termination. For example, assume a trust provided that the income was to be paid to the grantor's nephew for life, with the remainder to be distributed to the nephew's son upon his death. If the nephew assigned his life income interest (with or without receiving consideration), this would not constitute a termination of that interest for purposes of the tax on generation-skipping transfers. However, the death of the nephew would constitute a taxable termination and the tax would be imposed based upon the value of the trust at that time.

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[1] The interpretation given to this provision by the example appearing in the first full paragraph on page 54 of the Ways and Means Committee Report is inconsistent with the intent of the conferees. Under the conference agreement, the full value of the trust corpus is to be treated as the tax base. (In the example appearing on page 54, the tax base equals $90,000 plus any appreciation accumulated at the end of the 15-year period, and subject to any adjustments chargeable to corpus.)

In the case of a taxable distribution, the "transferee" for purposes of the tax on generation-skipping transfers is, of course, the person receiving the distribution. In the case of a taxable termination the "transferee" is generally any person who has a present interest or power in the trust or trust property after the termination.[2] For example, assume that a trust is created for the benefit of the grantor's nephew for life, then to the nephew's son for life and, upon the death of the nephew's son, the entire trust is to be distributed to the issue of the nephew's son, *per stirpes*. Upon the death of the nephew, the nephew's son is the transferee with respect to the entire trust (because he is entitled to all of the trust income). Upon the death of the nephew's son, each of his issue entitled to receive a portion of the trust assets is to be treated as a transferee to the extent of that portion. The same result would follow in the case of a trust which provided that upon the death of the nephew the income was to be distributed, on a discretionary basis, to the nephew's son and the son's issue with the principal to be distributed to the issue of the nephew's son upon the son's death; in this case the nephew's son would be the transferee of the entire trust upon the death of the nephew.[3] Upon the death of the nephew's son, his issue would become the transferees.

The term "transferee" is to be further defined in regulations. The conferees intend that these regulations will prevent situations where attempts are made to minimize tax through the use of nominal transferees.

Under the conference agreement, as under H.R. 14844 (Ways and Means Committee Report, p. 53) there are rules designed to prevent the imposition of a second tax "to the extent that" the value of the property in the trust has already been taxed once to a particular generation. For example, assume that a trust provides income for life to the grantor's nephew, then to the nephew's son for life, then to the grantor's niece for life and upon her death the principal is to be distributed to her daughter. Assume that all of these transfers in fact occur, and that upon the death of the nephew the value of the trust assets subject to tax is $100,000; upon the death of the niece the value of the trust assets is $200,000. Under the conference agreement, only $100,000 is to be subject to tax upon the death of the niece, because $100,000 of value was previously subject to generation-skipping tax upon the death of the nephew.

Also, under the conference agreement, these rules preventing the imposition of a second tax (where there are two or more deemed transfers of the same trust property attributable to the same generation) are not to be applied where this would have the effect of avoiding the tax with respect to any other transfer.

The conference agreement generally follows the rule of the Senate bill with respect to the effective dates with certain modifications. Thus, the tax does not apply in the case of transfers under irrevocable trusts in existence on April 30, 1976, or in the case of decedents dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and which was not amended (except in respects which do not result in the creation of, or increase the amount of, a generation-skipping transfer) at any time after that date. The 1982 date is extended in certain cases where the testator is incompetent to change his will.

For purposes of this transitional rule, a change of trustee is not a change creating or increasing the amount of a generation-skipping transfer. Also, an amendment changing the beneficiaries, or a change in the size of the share used for the benefit of a particular beneficiary, does not disqualify the trust under the transition rule, so long as the number of younger generations provided for under the trust (or the potential duration of the trust in terms of younger generation beneficiaries) is not expanded and the total value of the interests of all beneficiaries in each generation below the grantor's generation is not increased. For example, assume a revocable trust was created prior to April 30, 1976, for the benefit of the grantor's nephews. A, B, and C, in equal shares for life, with the remainder to be distributed to the children of A, B, and C. A becomes disabled and the trust is modified to increase his share of the income; this does not disqualify the trust because it does not create or increase the amount of a generation-skipping transfer. Likewise, if the trust is amended to include nephew D as an income beneficiary, this would not disqualify the trust under the transition rules. However, if the trust were amended so that the income was to be held in trust for the lives of the children of A, B, and C, with the remainder distributed to the nephews' grandchildren, this would increase generation-skipping (by increasing the number of generations skipped) and would disqualify the trust. An amendment creating a power of appointment would also disqualify the trust if there were any possibility, under the power of appointment, of increasing the number of generations which might be skipped.

In some cases, a trust which is irrevocable on April 30, 1976, might also be subject to a power of appointment under which it might be possible for the property to continue to be held in trust for the benefit of new beneficiaries, some of whom might be members of the generation younger than any beneficiaries expressly covered under the trust prior to the exercise of the power. Under the conference agreement the grandfather provision will apply to such a trust which includes a limited power of appointment, so long as the exercise of the power (including the creation of a new trust) cannot result in the creation of an interest which postpones, or a new power which can be validly exercised so as to postpone, the vesting of any estate or interest in the trust property for a period ascertainable without regard to the date of the creation of the trust.

Redemption of Stock to Pay Estate Tax

H.R. 14844.—Under present law, stock in a closely held corporation that is redeemed within 4 years of the decedent's death is taxed as capital gain rather than as dividend income. To qualify, the value of the decedent's stock in the closely held business must be either 35 percent of the gross estate or 50 percent of the taxable estate. The value of the redeemed stock qualifying for this treatment cannot exceed the sum of all death taxes plus funeral and administration expenses.

H.R. 14844, requires that, in order to qualify for capital gains treatment, the value of the decedent's stock of the closely held corporation must exceed 65 percent of the value of the adjusted gross estate. The stock that can qualify for capital gains treatment is limited to stock which is redeemed from a shareholder whose interest in the estate is reduced (either directly or through a binding obligation to contribute) by the payment of the death taxes and funeral and administration expenses. In addition. H.R. 14844 extends the time for redemption to 15 years in cases where an election has been made for the deferred payment of taxes.

This provision applies to decedents dying after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844, except that the 65-percent limit is reduced to 50 percent.

Orphans' Exclusion

H.R. 14844.—There is no provision under present law which allows an estate tax deduction for the value of any interest in property which passes or has passed from a decedent to an orphaned child.

H.R. 14844 provides an estate tax deduction for amounts which pass to a child of the decedent if the child is under 21 years of age and there is no surviving spouse (or known surviving parent) of the decedent. The maximum deduction under this provision is $5,000 for each year the child is under age 21. This provision applies to estate of decedents dying after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Requirement That IRS Furnish a Statement Explaining Estate or Gift Valuation

H.R. 14844.—Under present law, the IRS can require that the executor submit a copy of any appraisals he has obtained in determining the value of property included in the decedent's gross estate. However, there is no administrative provision which provides an affirmative requirement on the part of the IRS to disclose the method or basis used by the IRS in arriving at its determination of value.

H.R. 14844 provides that if the IRS makes a determination of the value of any item of property for purposes of the estate or gift tax laws or the generation-skipping tax, the executor or donor may request that the IRS furnish a written statement explaining the basis on which the valuation was determined. This provision applies to estates of decedents dying after December 31, 1976, and gifts and generation-skipping transfers occurring after December 31, 1976.

Senate amendment.—No provision.

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[2] Generally the person would receive his present interest immediately after the taxable termination. However, in certain cases, there might be an intervening interest in a person (i.e., a charity) which is not a transferee (sec. 2611(c)(7)). In this case, the transferee is the person having the next succeeding interest. (In the example which appears in the text, the nephew's son would be the transferee upon the death of the nephew, even if the trust provided that the income was to be paid to charity for 10 years after the date of the nephew's death. Of course, if the nephew's son died before the expiration of the 10-year intervening interest, no taxable termination would occur upon his death under the conference agreement because the nephew's son would never have held anything other than a "future interest" in the trust (sec. 2613(b)(1)).)

[3] The nephew's son has an income interest in the entire trust, he represents the oldest generation then having a present interest or power and, for purposes of determining who is a transferee, it is presumed under the conference agreement that any discretion with respect to the trust will be exercised *per stirpes* (sec. 2613(b)(3)).

Conference agreement.—The conference agreement follows H.R. 14844.

Gift Tax Returns

H.R. 14844.—Under present law, gift tax returns generally must be filed for each calendar quarter in which a donor transfers by gift an amount in excess of the annual $3,000 exclusion per donee.

H.R. 14844 provides that a gift tax must be filed on a quarterly basis only when the sum of (1) taxable gifts made during the calendar quarter plus (2) all other taxable gifts made during the calendar year for which a return has not been filed, exceeds $25,000. This provision applies to gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Public Index of Filed Tax Liens

H.R. 14844.—Under present law, a Federal tax lien generally takes priority over other interests in property subject to the lien which are held by purchasers, holders of security interests and certain other persons if notice of the tax lien has been appropriately filed before such interests were acquired.

H.R. 14844 provides that a Federal tax lien is not effective over other interests unless the fact of filing is entered and recorded on a public index at the place of filing in such a manner that a reasonable inspection would disclose the existence of the lien. This provision is effective on the 90th day after enactment in the case of notices filed on or after the date of enactment. The provision is effective on the 180th day after enactment in the case of liens filed before the date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement provides that a notice of a lien is not to be treated as meeting the filing requirements unless a public index of the lien is maintained at the district Internal Revenue Service office in which the property subject to the lien is situated. For this purpose, an index of liens affecting real property would be maintained in the district office for the area in which the real property is physically located. In the case of liens affecting personal property, the index would be maintained in the district office for the area in which the residence of the taxpayer is located at the time the notice of lien is filed.

The conferees understand that the Internal Revenue Service also will use its best efforts to make follow-up checks on the recordation or indexing of notices of lien which are filed after date of enactment with offices designated under local law as the place for filing notices of lien.

The conference agreement is effective on the 120th day after enactment in the case of notices filed on or after the date of enactment. In the case of liens filed before the date of enactment, the conference agreement is effective on the 270th day after enactment.

Inclusion of Stock in Decedent's Estate Where Decedent Retained Voting Rights

H.R. 14844.—Under present law, an inter vivos transfer made by the decedent is included in his gross estate if he retained for his lifetime either the right to possess or enjoy the property or the right to designate the person who will possess or enjoy the property. In *U.S.* v. *Byrum,* the U.S. Supreme Court held that the retention of the power to vote stock in a closely held corporation did not require the stock to be included in the decedent's gross estate.

H.R. 14844 requires the inclusion of stock in the gross estate of the decedent if the decedent retained the voting rights in the stock. This provision also applies to transfers made after June 22, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Disclaimers

H.R. 14844.—Under present law, there are several estate and gift tax provisions which provide rules governing the tax consequences of an effective disclaimer. However, the provisions do not contain uniform rules on what constitutes an effective disclaimer for estate and gift tax purposes.

H.R. 14844 provides a single set of definitive rules for disclaimers for purposes of estate, gift, and generation-skipping transfer taxes. This provision generally applies to transfers creating an interest in the person disclaiming made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

The conferees intend to make it clear that the 9-month period for making a disclaimer is to be determined in reference to each taxable transfer. For example, in the case of a general power of appointment where the other requirements are satisfied, the person who would be the holder of the power will have a 9-month period after the creation of the power in which to disclaim and the person to whom the property would pass by reason of the exercise or lapse of the power would have a 9-month period after a taxable exercise, etc., by the holder of the power in which to disclaim. Similarly, in the case where a lifetime transfer is included in the transferor's gross estate because he had retained an interest in the property (e.g. sec. 2038), the person who would receive an interest in the property during the lifetime of the grantor will have a 9-month period after the original transfer in which to disclaim and a person who would receive an interest in the property on or after the grantor's death would have a 9-month period after the grantor's death in which to disclaim if the other requirements of the provision are satisfied (e.g., that person had not accepted the interest or any of the benefits attributable to the interest before making the disclaimer).

Estate and Gift Tax Exclusions for Qualified Retirement Benefits

H.R. 14844.—Under present law, the value of a survivor's interest in an annuity purchased by the decedent is included in the decedent's gross estate. However, an exclusion for estate and gift tax purposes is provided for the value of the portion of a survivor's annuity attributable to employer contributions to a qualified retirement plan.

H.R. 14844 excludes from the gross estate a survivor's interest in an H.R. 10 plan and an individual retirement account. This bill removes the exclusion for all lump-sum distributions of the survivor's interest. This provision applies to decedents dying and gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows H.R. 14844.

The conference agreement modifies the provisions of H.R. 14844 to make it clear that a distribution from an individual retirement account to a beneficiary does not have to be in the form of a typical commercial annuity contract to qualify for the exclusion. Generally, the exclusion is to be available in situations where a liquidity problem might exist because the schedule of payments to be made from the account will not provide current funds to pay the estate tax. Under the conference agreement, the exclusion will be available if the distribution from an individual retirement account to the beneficiary consists of an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death. For this purpose, payments under an annuity contract are to be considered to be "substantially equal" under a variable annuity if the variance in payments are not solely attributable to tax avoidance motives. Of course, the annuity or other arrangement need not provide payments for the life of the beneficiary. Generally, satisfaction of the 3-year payment standard will be based on the payment provisions of the account or the settlement options, if any, elected no later than the earlier of the date the estate tax return is filed or the date on which the return is required to be filed (including extensions of time to file).

Gift Tax Treatment of Certain Community Property

H.R. 14844.—Under present law, in community property States, no portion of a survivor annuity in a qualified plan attributable to employer contributions is includible in the gross estate of the employee's spouse if the spouse predeceased the employee. However, for gift tax purposes, if an employee predeceases his spouse in a community property State, the surviving spouse is treated as having made a gift of one-half of any benefits payable to other beneficiaries.

H.R. 14844 provides a gift tax exclusion (similar to the existing estate tax exclusion) for the value, to the extent attributable to employer contributions, of any interest of an employee's spouse in a specified annuity contract, or retirement plan payments. This provision is effective for calendar quarters beginning after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844.

Conference agreement.—The conference agreement follows H.R. 14844 and the Senate amendment.

Income Tax Treatment of Certain Selling Expenses of Estates and Trusts

H.R. 14844.—Under present law, an estate or trust is not permitted to deduct any item for income tax purposes if that same item is deducted for estate tax purposes. However, a number of courts have held that items which reduce the sales price, such as selling expenses, can be deducted for estate tax purposes as well as reduce the sales price for income tax purposes.

H.R. 14844 provides that an item may not be used to offset the sales price for income tax purposes if the same item is deducted for estate tax purposes. This provision applies to taxable years ending after the date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Estate Tax Credit for Payment In Kind

H.R. 14844.—No provision.

Senate amendment.—Under present law, in addition to legal tender, it is lawful for the Secretary of the Treasury to accept checks or money orders in payment of tax liability. There is no provision authorizing the Secretary of the Treasury to accept other forms of payment, such as the conveyance of real property.

The Senate amendment allows the Secretary of the Treasury to accept conveyance of real property located within the boundaries of the Toiyable National Forest as payment of estate tax imposed on the estate of LaVere Redfield. This provision is effective on the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment but provides that interest will accrue if the property is not conveyed expeditiously.

APPENDIX B

APPENDIX B: REVENUE ESTIMATES ON HOUSE, SENATE, AND CONFERENCE VERSIONS OF H.R. 10612

TABLE 1.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS, SUMMARY AND BY TITLE[1]

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
SUMMARY															
Tax reform	1,692	1,761	2,034	2,227	2,474	−262	−783	−930	−764	−842	1,593	1,719	2,038	2,118	2,470
Estate and gift tax							−1,042	−1,367	−1,688	−2,006		−728	−921	−1,134	−1,449
Extension of tax cuts	−8,827	−7,631	−6,765	−7,088	−5,889	−17,326	−14,820	−11,668	−12,171	−12,747	−17,326	−13,776	−7,966	−8,348	−7,212
Total	−7,135	−5,870	−4,731	−4,861	−3,415	−17,588	−16,645	−13,965	−14,623	−15,595	−15,733	−12,785	−6,849	−7,364	−6,191
BY TITLE															
I and II—Limitation on artificial losses and other amendments related to tax shelters	783	584	664	718	826	184	110	116	152	203	417	395	501	488	527
III—Minimum and maximum tax	1,083	1,188	1,302	1,416	1,544	819	979	1,129	1,235	1,353	1,095	1,283	1,464	1,603	1,758
IV—Extensions of individual income tax reductions	[3] −5,851	−3,148	−3,305	−3,471	−3,645	−14,350	−9,293	−5,802	−5,975	−6,162	−14,350	−9,293	−4,506	−4,731	−4,968
V—Tax simplification in the individual income tax	−486	−437	−452	−473	−494	−693	−727	−766	−807	−855	−409	−442	−457	−478	−499
VI—Business-related individual income tax provisions	229	241	282	309	346	214	226	268	301	310	215	231	273	306	315
VII—Accumulation trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
VIII—Capital formation	−1,325	−3,321	−3,470	−3,627	−2,244	−1,765	−3,957	−4,242	−4,531	−4,826	−1,457	−3,593	−3,796	−4,000	−2,499
IX—Small business provisions	[3] −1,676	−1,177				−1,676	−2,221	−2,406	−2,579	−2,771	−1,676	−1,177			
X—Changes in the treatment of foreign income	104	26	51	84	88	283	191	223	302	378	150	108	182	197	198
XI—Amendments affecting DISC	500	598	614	636	694	78	347	530	566	688	468	553	559	598	728
XII—Administrative provisions	107	71	71	71	71	−13	97	53	53	53	88	55	55	55	55
XIII—Miscellaneous provisions	−108	−57	−57	−42	−42	−107	−23	−144	−250	−374	−100	1	−92	−168	−251
XIV—Treatment of certain capital losses; holding period for capital gains and losses	−31	−2	46	36	17	−13	−21	−25	−34	−51	−2	35	104	98	83
XV—Pension and insurance taxation	−414	−396	−435	−476	−502	−9	−51	−83	−78	−70	−8	−19	−20	−22	−22
XVI—Real estate investment trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
XVII—Railroad provisions	−26	−18	−18	−18	−18	−92	−149	−134	−119	−108	−87	−139	−118	−98	−80
XVIII—Tax credit for home garden tools	−24	−22	−24	−24	−26										
XX—Energy related provisions						−311	−505	−441	−76	−67					
XXI—Tax-exempt organizations						−8	−45	−41	−42	−43	−5	−5	(2)	(2)	(2)
XXII—Estate and gift taxes							−1,042	−1,367	−1,688	−2,006		−728	−921	−1,134	−1,449
XXIII—Other amendments						−17	−15	−10	−1	−5	−17	−15	−15	−9	−7
XXIV—U.S. International Trade Commission															
XXV—Additional miscellaneous provisions						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
XXVI—Other miscellaneous amendments						−27	−500	−756	−980	−1,174	−24	−30	−38	−45	−57
XXVII—Additional Senate floor amendments						−85	−46	−67	−72	−78	−31	−5	−24	−24	−23
Total	−7,135	−5,870	−4,731	−4,861	−3,415	−17,588	−16,645	−13,965	−14,623	−15,595	−15,733	−12,785	−6,849	−7,364	−6,191

[1] Does not include Title XIX—Repeal and Revision of Obsolete, Rarely Used, Etc., Provisions.

[2] Less than $5,000,000.

[3] This reflects the House passed version of H.R. 10612 after eliminating the effect of the Revenue Adjustment Act of 1975.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS

PART I. TAX REFORM

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLES I AND II															
Tax Shelters															
Real estate provisions:															
Limitation on deductions (LAL)	99	114	200	231	261										
Limitation on deductable losses of limited partners						5	6	23	54	90					
Amortization of real property construction period interest and taxes											102	126	190	152	149
Recapture of depreciation on real property	9	18	28	38	56	7	14	21	29	42	9	18	28	38	56
5 year amortization of low income housing	−1	−3	−3	−3	−4	−1	−4	−8	−8	−7	−1	−4	−8	−8	−7
Farming provisions:															
Limitation on deductions (LAL)	99	36	37	39	40										
Limitation on deductions to amount at risk	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on deductions for farming syndicates						79	31	31	33	34	86	32	32	33	34
Accrual accounting for farm corporations	44	30	30	30	30						8	18	18	18	18
Termination of additions to excess deductions account	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Oil and gas provisions:															
Limitation on deductions (LAL)	220	80	25	15	28										
Limitation on deductions to amount at risk	(2)	(2)	(2)	(2)	(2)	50	18	6	3	6	50	18	6	3	6
Recapture of intangible drill-costs	7	14	42	51	65						7	14	42	51	65
Movie provisions:															
Limitation on deductions (LAL)	33	32	33	33	33										
Limitation on deductions to amount at risk	(2)	(2)	(2)	(2)	(2)	1	8	12	16	17	3	10	14	17	18
Capitalization rules						29	19	9	4	4	29	19	9	4	4
Equipment leasing provisions:															
Limitation on deductions (LAL)	12	17	21	22	17										
Limitation on deductions to amount at risk						6	14	17	17	14	4	14	17	17	14

Footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLES I AND II—Continued															
Tax Shelters—Continued															
Sports franchise provisions:															
Limitation on deductions (LAL)	1	2	4	4	5										
Allocation of basis to player contracts	1	4	6	6	8	(2)	(2)	(2)	(2)	(2)	1	4	6	6	8
Recapture of depreciation on player contracts	6	5	5	5	6	7	6	7	7	7	7	6	7	7	7
Partnership provisions:															
Partnership syndication and organization fees	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Retroactive allocations of partnership income or loss	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Partnership special allocations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(1)	(2)
Limitation on deductable losses of limited partners						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on additional first year depreciation for partnerships	12	10	10	10	10	12	10	10	10	10	12	10	10	10	10
Interest provisions:															
Prepaid interest	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on deduction of nonbusiness interest	241	225	226	237	271						100	110	130	140	145
Repeal present law limitation on interest deduction						−11	−12	−12	−13	−14					
Other provisions: Scope of waiver of statute of limitations in case of hobby loss elections	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total, titles I and II	783	584	664	718	826	184	110	116	152	203	417	395	510	488	52
TITLE III															
Minimum Tax and Maximum Tax															
301—Minimum tax for individuals	1,083	1,188	1,302	1,416	1,544	756	831	914	1,005	1,106	1,032	1,135	1,249	1,373	1,511
Minimum tax for corporations						59	124	185	194	204	59	124	185	194	204
302—Maximum tax amendments						4	24	30	36	43	4	24	30	36	43
Total	1,083	1,188	1,302	1,416	1,544	819	979	1,129	1,235	1,353	1,095	1,283	1,464	1,603	1,758
TITLE V															
Tax Simplification in the Individual Income Tax															
501—Revision of tax tables for individuals															
502—Deduction for alimony allowed in determining adjusted gross income	−47	−44	−49	−54	−59	−7	−44	−49	−54	−59	−7	−44	−49	−54	−59
503—Revision of retirement income credit	−391	−340	−340	−340	−340	−391	−340	−340	−340	−340	−391	−340	−340	−340	−340
504—Credit for child care expenses	−379	−363	−399	−439	−483	−414	−398	−434	−474	−518	−384	−368	−404	−444	−488
505—Changes in exclusion for sick pay and certain military, etc., disability pensions	380	357	387	417	450	129	122	131	142	152	380	357	387	417	450
506—Moving expenses	−49	−47	−51	−57	−62	−10	−67	−74	−81	−90	−7	−47	−51	−57	−62
507—Tax revision study by Joint Committee															
Total	−486	−437	−452	−473	−494	−693	−727	−766	−807	−855	−409	−442	−457	−478	−499
TITLE VI															
Business Related Individual Income Tax Provisions															
601—Deductions for expenses attributable to business use of homes, rental of vacation homes, etc	213	212	241	276	313	207	206	235	268	305	207	206	235	268	305
602—Deductions for attending foreign conventions	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
603—Change in tax treatment of qualified stock options	10	24	36	28	−2	7	20	33	33	5	7	20	33	33	5
604—Legislators, travel expenses away from home	(2)	(2)	(2)	(2)	(2)	(4)	(4)	(4)	(4)	(4)	(5)	(5)	(5)	(5)	(5)
605—Deduction for guarantees of business bad debts to guarantors not involved in business	6	5	5	5	5						1	5	5	5	5
Total	229	241	282	309	316	214	226	268	301	310	215	231	273	306	315
TITLE VII															
Accumulation Trusts															
701—Accumulation trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
TITLE VIII															
Capital Formation															
801—(See Part III of this table)															
802—First-in, first-out treatment of investment credit amounts (For extension of 10-percent credit see Part III of this table)						(2)	(2)	−5	−20	−40	(2)	(2)	−5	−20	−40
Extension of expiring investment credit						−9	−20	−11							
803—Employee stock ownership plans						−385	−584	−717	−837	−917	−107	−257	−303	−332	−189
804—Investment credit in the case of movie and television films	[6] −25	[6] −15	[6] −10	[6] −10	(2)	[6] −45	[6] −20	[6] −15	[6] −15	−5	[6] −37	[6] −18	[6] −13	[6] −13	−3
805—Investment credit in the case of certain ships						−26	−23	−29	−37	−45	−13	−12	−15	−18	−23
806—Additional net operating loss carryover years; limitations on net operating loss carryovers						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
807—Small fishing vessel construction reserves						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Donations of works of art by artists to charitable organizations							−4	−5	−5	−5					
Total	−25	−15	−10	−10	(2)	−465	−651	−782	−914	−1,012	−157	−287	−336	−383	−255

Footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE X															
Changes in the Treatment of Foreign Income															
Part I—Foreign tax provisions affecting individuals abroad:															
1011—Income earned abroad by U.S. citizens living or residing abroad	9	21	34	48	48	33	28	28	28	28	44	38	38	38	38
1012—Income tax treatment of nonresident alien individuals who are married to citizens or residents of the United States	−6	−5	−5	−5	−5	−21	−5	−5	−5	−5	−1	−5	−5	−5	−5
1013—Foreign trusts having one or more U.S. beneficiaries to be taxed currently to grantor	12	10	10	10	10	2	10	10	10	10	12	10	10	10	10
1014—Interest charge on accumulation distributions from foreign trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1015—Excise tax on transfers of property to foreign persons to avoid Federal income tax	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Part II—Amendments Affecting Tax Treatment of Controlled Foreign Corporations and Their Shareholders:															
1021—Amendment of provision relating to investment in U.S. property by controlled foreign corporations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1022—Repeal of exclusion for earnings of less developed country corporations for purposes of section 1248	14	10	10	10	10	14	10	10	10	10	14	10	10	10	10
1023—Exclusion from subpart F of certain earnings of insurance companies	−14	−10	−10	−10	−10	−14	−10	−10	−10	−10	−14	−10	−10	−10	−10
1024—Shipping profits of foreign corporations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on definition of foreign base company sales income in the case of certain agricultural products	−14	−10	−10	−10	−10										
Part III—Amendments Affecting Treatment of Foreign Taxes:															
1031—Requirement that foreign tax credit be determined on overall basis	51	35	39	45	45	73	50	50	50	50	51	35	39	45	45
Recapture of foreign losses	2	8	14	22	28	2	8	14	22	28	2	8	14	22	28
1033—Dividends from less developed country corporations to be grossed up for purposes of determining United States income and foreign tax credit against that income	80	55	55	55	55	80	55	55	55	55	80	55	55	55	55
1034—Treatment of capital gains for purposes of foreign credit	14	10	10	10	10	14	10	10	10	10	14	10	10	10	10
1035—Foreign oil and gas extraction income	−10	−10	−7	−3		4	33	60	60	60	−6	23	50	50	50
1036—Underwriting income						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(1)	(2)	(2)
1037—Third tier foreign tax credit when section 951 applies						−4	−1	−10	−10	−10	−4	−10	−10	−10	−10
Part IV—Money or Other Property Moving Out of or into the United States:															
1041—Portfolio debt investments in United States of nonresident aliens and foreign corporations	−55	−115	−125	−135	−145	−55	−115	−125	−65		−55	−115	−125	−135	−145
1042—Changes in ruling requirements under section 367; certain changes in section 1248	(2)	(2)	(2)	(2)	(2)	(1)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1043—Contiguous country branches of domestic life insurance companies	−12	−8	−8	−8	−8	−12	−8	−8	−8	−8	−12	−8	−8	−8	−8
1044—Transitional rule for bond, etc., losses of foreign banks	(2)					(2)					(2)				
Part V—Special Categories of Foreign Tax Treatment:															
1051—Tax treatment of corporations conducting trade or business in Puerto Rico and possessions of the United States	14	10	10	10	10	6	10	10	10	10	6	10	10	10	10
1052—Western Hemisphere trade corporations	19	25	34	45	50	19	25	34	45	50	19	25	34	45	50
1053—Repeal of provisions relating to China Trade Act corporations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Part VI—Denial of Certain Tax Benefits on International Boycotts and Bribe-produced Income						142	100	100	100	100	2	32	70	70	70
Total, title X	104	25	51	84	88	283	191	223	302	378	150	108	182	197	198
TITLE XI															
Amendments affecting DISC															
—Amendments affecting DISC	500	598	614	636	694	78	347	530	566	688	468	553	559	598	728
TITLE XII															
Administrative provisions															
1207—Withholding:															
Withholding of Federal tax on gambling winnings	107	71	71	71	71		110	66	66	66	101	68	68	68	68
Withholding of Federal tax on certain individuals engaged in fishing[7]						−13	−13	−13	−13	−13	−13	−13	−13	−13	−13
1212—Abatement of interest when return is prepared for taxpayer by the Internal Revenue Service						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Award of costs to prevailing taxpayer						(2)	(2)	(2)	(2)	(2)					
Total	107	71	71	71	71	−13	57	53	53	53	88	55	55	55	55

Footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE XIII															
Miscellaneous Provisions															
1301—Tax treatment of certain housing associations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1302—Treatment of certain disaster payments	-48	-42	-42	-42	-42	-48	-42	-42	-42	-42	-48	-42	-42	-42	-42
1303—Tax treatment of certain 1972 disaster losses	-60	-15	-15			-60	-15	-15			-60	-15	-15		
1304—Tax treatment of certain debts owed by political parties, etc., to accrual basis taxpayers	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1305—Tax-exempt bonds for student loans						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1306—Personal holding company income amendments						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1307—Work incentive program expenses						-3	-7	-11	-14	-17	-3	-7	-11	-14	-17
1308—Repeal of excise tax on light-duty truck parts						-3	-3	-3	-3	-3	-3	-3	-3	-3	-3
1309—Exclusion from excise tax on certain articles resold after modification						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1310—Franchise transfers						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1311—Employees' duties in connection with the recording and reporting of tips						(2)	(2)	(2)	(2)	(2)	(2)	(2)			
1312—Treatment of certain pollution control facilities						52	78	-34	-152	-275	59	102	18	-70	-160
1313—Clarification of status of certain fishermen's organizations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1314—Change in subchapter S. rules						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1315—Application of section 6013(e) of the Internal Revenue Code of 1954						(2)	(2)				(2)	(2)			
1316—Amendments to rules relating to limitation on percentage depletion in case of oil and gas wells						-24	-10	-10	-10	-10	-24	-10	-10	-10	-10
1317—Implementation of Federal-State Tax Collection Act of 1972															
1318—Cancellation of certain student loans						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1319—Treatment of gain or loss on sales or exchanges in connection with simultaneous liquidation of a parent and subsidiary corporation						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Taxation of certain barges prohibited															
1320—Regulations relating to tax treatment of certain prepublication expenditures of publishers															
1321—Contributions in aid of construction for certain utilities						-16	-11	-11	-11	-11	-16	-11	-11	-11	-11
1322—Prohibition of discriminatory State taxes on production and consumption of electricity															
1323—Allowance of deduction for eliminating architectural and transportation barriers for the handicapped						-4	-10	-10	-6		-4	-10	-10	-6	
1324—High income taxpayer report															
1325—Tax incentives to encourage the preservation of historic structures						-1	-3	-8	-12	-16	-1	-3	-8	-12	-16
1326—Amendment to Supplemental Security Income Program															
1327—Trade Act of 1974 Amendments						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1328—Extension of carryover period for Cuban expropriation losses						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Study of tax treatment of married and single persons															
Total	-108	-57	-57	-42	-42	-107	-23	-144	-250	-374	-100	1	-92	-168	-251
TITLE XIV															
Treatment of Certain Capital Losses; Holding Period for Capital Gains and Losses															
1401—Increase in amount of ordinary income against which capital loss may be offset	-175	-245	-306	-322	-339						-22	-162	-248	-260	-273
1402—Increase in holding period required for capital gain or loss to be long term	157	264	377	392	407						33	218	377	392	407
1403—Allowance of 8-year capital loss carryover in case of regulated investment companies	-13	-21	-25	-34	-51	-13	-21	-25	-34	-51	-13	-21	-25	-34	-51
Total	-31	-2	46	36	17	-13	-21	-25	-34	-51	-2	35	104	98	83
TITLE XV															
Pension and Insurance Taxation															
Tax-free rollover of certain amounts distributed on account of termination of pension, etc., plan [8]	-60	-70	-70	-70	-70										
1501—Retirement savings for certain married individuals						-3	-21	-23	-24	-25	-2	-14	-15	-17	-17
1502—Limitation on contributions to certain pension, etc., plans						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Participation by Government employees in individual retirement accounts, etc.[9]															
Limited employee retirement accounts [9]	-414	-396	-435	-476	-502										
1503—Participation by members of reserves or national guard in individual retirement accounts, etc						-6	-5	-5	-5	-5	-6	-5	-5	-5	-5
1504—Certain investments by annuity plans															
1505—Segregated asset accounts															
1506—Study of salary reduction pension plans															

Footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE XV—Continued															
Pension and Insurance Taxation—Continued															
1507—Consolidated returns for life and other insurance companies						−25	−55	−49	−40						
1508—Treatment of certain life insurance contracts guaranteed renewable						(2)	(2)	(2)	(2)	(2)					
1509—Study of expanded participation in IRAs															
Total	−414	−396	−435	−476	−502	−9	−51	−83	−78	−70	−8	−19	−20	−22	−22
TITLE XVI															
Real Estate Investment Trusts															
1601—1608—Real estate investment trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
TITLE XVII															
Railroad Provisions															
1701—Certain provisions relating to railroads	(2)	(2)	(2)	(2)	(2)	−34	−76	−81	−74	−69	−29	−66	−65	−53	−41
1702—Amortization over 50-year period of railroad grading and tunnel bores placed in service before 1969	−26	−18	−18	−18	−18	−26	−18	−18	−18	−18	−26	−18	−18	−18	−18
1703—Certain provisions relating to airlines						−32	−55	−35	−27	−21	−32	−55	−35	−27	−21
Total	−26	−18	−18	−18	−18	−92	−149	−134	−119	−108	−87	−139	−118	−98	−80
TITLE XVIII															
Tax Credit for Home Garden Tool Expenses															
Tax credit for home garden tool expenses	−24	−22	−24	−24	−26										
TITLE XX															
Energy Related Provisions [11]															
001— Insulation and other energy-conserving alteration of principal residence:															
Insulation of residence						−208	−320	−272							
Insulation of ducts						−14	−29	−25							
Burners and igniters						−34	−66	−56							
2002—Residential solar and geothermal energy equipment:															
Solar energy and geothermal equipment equipment tax credit						(2)	(2)	−4	−29	−31					
Heat pump tax credit						−3	−5	−6							
Qualified wind-related tax credit						(2)	(2)	(2)	(2)	(2)					
2003—Investment tax credit changes relating to energy conservation and production:															
Providing investment credit of 19% on qualified business insulation placed in existing structures during 1977 and 1978						−11	−26	−15							
20% investment credit on solar, wind-related, and geothermal energy equipment in business structures through 1980 and 10% in 1981						(2)	(2)	(2)	(2)	(2)					
Increasing investment credit to 12 percent [10] on:															
Waste conversion equipment						(2)	(2)	(2)	(2)						
Organic fuel conversion equipment						(2)	(2)	(2)	(2)						
Railroad equipment						−2	−5	−5	−3						
Deep mining coal equipment						−4	−11	−12	−8						
Coal processing equipment						(2)	(2)	(2)	(2)	(2)					
Shale of conversion equipment						−2	−5	−6	−3						
2004—Depletion of geothermal energy sources						−7	−15	−16	−18	−21					
2005—Changes in investment credit relating to air-conditioning and space heaters						(2)	(2)	(2)	(2)	(2)					
2006—Study of recycling incentives															
2007—Repeal of excise tax on buses and bus parts						−22	−20	−21	−12	−12					
2008—Re-refined lubricating oil						−4	−3	−3	−3	−3					
2009—Nonhighway use of special motor fuels						(2)	(2)	(2)	(2)	(2)					
2010—Duty-free exchange of crude oil															
Total [11]						−311	−505	−441	−76	−67					
TITLE XXI															
Tax Exempt Organizations															
2101—Disposition of private foundation property under transition rules of Tax Reform Act of 1969						(2)	(2)				(2)	(2)			
2102—New private foundations set-asides						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2103—Minimum distribution amount for private foundations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2104—Extension of time to amend charitable remainder trust governing instrument						−5	−5				−5	−5			
Reduction of private foundation investment income excise tax						(2)	−35	−36	−37	−38					

Footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE XXI—Continued															
Tax Exempt Organizations—Continued															
2105—Unrelated trade or business income of trade shows, State fairs, etc.:															
Charitable organizations not subject to an unrelated business income tax on rental income from trade shows						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
County fairs not subject to an unrelated business income tax						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2107—Declaratory judgments with respect to section 501(c)(3) status and classification															
Alcoholism Trust Fund															
Individuals providing companion sitting placement services						−3	−5	−5	−5	−5					
Minimum distribution requirements to include consideration of miscellaneous distributions						(2)	(2)	(2)	(2)	(2)					
Total						−8	−45	−41	−42	−43	−5	−5	(2)	(2)	(2)
TITLE XXIII															
Other Amendments															
2301—Outdoor advertising displays															
2302—Tax treatment of large cigars						−7	−7	−7	−7	−7	−7	−7	−7	−7	−7
2303—Treatment of gain from sales or exchanges between related parties						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2304—Application of section 117 to certain education programs for members of the uniformed services[12]						−10	−8	−8	−2		−10	−8	−8	−2	
Tax counseling for the elderly						(2)	(2)	(2)	(2)	(2)					
Commission on value added taxation															
2305—Exchange funds						(2)	(2)	5	8	12	(2)	(2)	(2)	(2)	(2)
2306—Distributions by subchapter S corporations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total						−17	−15	−10	−1	5	−17	−15	−15	−9	−7
TITLE XXIV															
United States International Trade Commission															
TITLE XXV															
Additional Miscellaneous Provisions															
2501—Certain disability income															
2502—Contributions of certain government publications						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2503—Lobbying by public charities						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2504—Tax liens, etc., not to constitute acquisition indebtedness						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2505—Extension of self-dealing transition rules for private foundations						(2)					(2)				
2506—Imputed interest						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2507—Tax incentives study															
Total						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
TITLE XXVI															
Other Miscellaneous Amendments															
Credit for certain expenses incurred in providing education							−467	−711	−926	−1,103					
Interest on certain governmental obligations for hospital construction						−1	−3	−7	−9	−14					
2601—Prepaid legal expenses						−7	−8	−16	−21	−33	−5	−8	−16	−21	−33
2602—Certain hospital services						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2603—Clinical services of cooperative hospitals						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2604—Special rule for certain charitable contributions of inventory and other property						−19	−22	−22	−24	−24	−19	−22	−22	−24	−24
Total						−27	−500	−756	−980	−1,174	−24	−30	−38	−45	−57
TITLE XXVII															
Additional Senate Floor Amendments															
2701—Employee stock ownership plans															
Expenses of amateur athletes engaging in national or international competition						(2)	(2)	(2)	(2)	(2)					
2702—Exemption of certain amateur athletic organizations from tax						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2703—Taxable status of pension benefits guaranty corporation															
2704—Level premium plans covering owner-employees						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2705—Lump-sum distributions from qualified pension, etc., plans						−10	−10	−9	−9	−8	−10	−10	−9	−9	−8
2706—Tax treatment of the grantor of options of stock, securities, and commodities						5	10	10	10	10	3	10	10	10	10
2707—Exempt-interest dividends of regulated investment companies						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)

Footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE XXVII—Continued															
Additional Senate Floor Amendments—Continued															
Commission on tax simplification and modernization															
2708—Common trust fund treatment of certain custodial accounts															
2709—Transfers of oil and gas property within the same controlled group or family						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2710—Support test for dependent children of divorced, etc., parents															
2711—Study of expanded stock ownership															
2712—Involuntary conversions of real property						—34	—15	—15	—15	—15	(2)	(2)	(2)	(2)	(2)
2713—Sale of residence by elderly						—4	—25	—25	—25	—25	—4	—25	—25	—25	—25
Valuation of certain property for purposes of the Federal estate tax						(2)	(2)	(2)	(2)	(2)					
Exemption from taxation for certain mutual deposit guarantee funds						(2)	(2)	(2)	(2)	(2)					
2714—Additional changes in subchapter S shareholder rules						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2715—Participation by certain volunteer firefighters in individual retirement accounts						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Exemption from items of minimum tax preference						—22	—26	—28	—30	—34					
Certain sales of low-income housing projects; recapture of depreciation on real property; section 167(k)								(2)	—3	—6					
2716—Livestock sold on account of drought						—20	20				—20	20			
Sense of the Senate with respect to reduction of revenue loss from bill in conference															
Total						—85	—46	—67	—72	—78	—31	—5	—24	—24	—23
Total for Part I, Tax Reform	1,692	1,761	2,034	2,227	2,474	—262	—783	—930	—764	—842	1,593	1,719	2,038	2,118	2,470

PART II. ESTATE AND GIFT TAX

	House 1977	House 1978	House 1979	House 1980	House 1981	Senate 1977	Senate 1978	Senate 1979	Senate 1980	Senate 1981	Conference 1977	Conference 1978	Conference 1979	Conference 1980	Conference 1981
TITLE XXII															
Estate and Gift Taxes—Total[13]							—1,042	—1,367	—1,688	—2,006		—728	—921	—1,134	—1,449

PART III. EXTENSION OF TAX REDUCTIONS

	House 1977	House 1978	House 1979	House 1980	House 1981	Senate 1977	Senate 1978	Senate 1979	Senate 1980	Senate 1981	Conference 1977	Conference 1978	Conference 1979	Conference 1980	Conference 1981
TITLE IV															
Extension of Individual Income Tax Reductions															
401—Extensions of individual income tax reductions:															
(a) Per capita tax credit						—9,509	—3,462				—9,509	—3,462			
(b) Standard deduction	[14]—5,851	—3,148	—3,305	—3,471	—3,645	—4,146	—4,481	—4,506	—4,731	—4,968	—4,146	—4,481	—4,506	—4,731	—4,968
(c) Earned income credit						—695	—1,350	—1,296	—1,244	—1,194	—695	—1,350			
402—Refunds of earned income credit disregarded in the administration of Federal programs and federally assisted programs															
Total	—5,851	—3,148	—3,305	—3,471	—3,645	—14,350	—9,293	—5,802	—5,975	—6,162	—14,350	—9,293	—4,506	—4,731	—4,968
TITLE VIII															
Capital Formation															
801—Extension of $100,000 limitation on used property for the investment credit	—38	—142	—149	—156	—118	—38	—142	—149	—156	—164	—38	—142	—149	—156	—118
802—Extension of 10 percent investment credit	—1,262	—3,164	—3,311	—3,461	—2,126	—1,262	—3,164	—3,311	—3,461	—3,650	—1,262	—3,164	—3,311	—3,461	—2,126
Total	—1,300	—3,306	—3,460	—3,617	—2,244	—1,300	—3,306	—3,460	—3,617	—3,814	—1,300	—3,306	—3,460	—3,617	—2,244
TITLE IX															
Small Business Provisions															
901—Small business provisions	[14]—1,676	—1,177				—1,676	—2,221	—2,406	—2,579	—2,771	—1,676	—1,177			
Total for Part III, Extension of Tax Reductions	—8,827	—7,631	—6,765	—7,088	—5,889	—17,326	—14,820	—11,668	—12,171	—12,747	—17,326	—13,776	—7,966	—8,348	—7,219
Grand total, Parts I, II, and III	—7,135	—5,870	—4,731	—4,861	—3,415	—17,588	—16,645	—13,965	—14,623	—15,595	—15,733	—12,785	—6,849	—7,364	—6,191

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[1] This table has omitted Title XIX—Repeal and Revision of Obsolete, Rarely Used, Etc., Provisions.

[2] Less than $5 million.

[3] The revenue impact of this provision cannot be estimated until the Internal Revenue Service determines the deduction level.

[4] The revenue impact of this provision cannot be estimated until the Bureau of Labor Statistics determines the deduction level.

[5] The revenue impact of this provision will not be very great; its magnitude, however, is not determinable because of lack of information regarding the practices of the state legislators during the period covered by the provision.

[6] Reflects liability of prior years.

[7] It is estimated that this provision will decrease budget receipts by $65,000,000 in the aggregate over the next 5 fiscal years.

[8] This provision has been enacted into law; the estimates, therefore, are not included in the total for Title XV.

[9] The LERA provision of the House bill was not adopted by the Senate Finance Committee however, a provision was adopted which would permit a participant in a Government plan to make deductible IRA contributions if the LERA provision should be adopted.

[10] From 10% to 12%.

[11] House provisions on energy are contained in House-passed H.R. 6860. The conference agreement omits the provisions in the Senate amendment as the Finance Committee has reported the Senate amendment in separate House-passed bill (H.R. 6860). The section numbers shown under this title are those under Title XX of the Senate version of the bill.

[12] There is also an estimated $2,000,000 decrease in budget receipts for fiscal year 1976 under this provision.

[13] While the House version of the Tax Reform Act of 1976 does not include estate and gift tax provisions, the Estate and Gift Tax Reform Act of 1976 as reported by the Ways and Means Committee is estimated to reduce fiscal year receipts as follows: 1977, $15 million; 1978, $616 million; 1979, $805 million; 1980, $982 million; and 1981, $917 million.

[14] This reflects the House passed version of H.R. 10612 after eliminating the effect of the Revenue Adjustment Act of 1975.

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DAN ROSTENKOWSKI,
PHIL M. LANDRUM,
CHARLES A. VANIK,
H. T. SCHNEEBELI,
BARBER B. CONABLE, Jr.
Managers on the Part of the House.
RUSSELL B. LONG,
HERMAN TALMADGE,
ABE RIBICOFF,
LLOYD BENTSEN,
MIKE GRAVEL,
W. D. HATHAWAY,
FLOYD K. HASKELL,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD P. HANSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 10339, FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1975

Mr. VIGORITO submitted the following conference report and statement on the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers:

CONFERENCE REPORT (H. REPT. No. 94-1516)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: On page 1, lines 4 and 5 of the Senate engrossed amendments, strike out "September 30, 1978, and September 30, 1979" and insert in lieu thereof *and September 30, 1978*.

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

EMERGENCY HAY PROGRAM

SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977.

And the Senate agree to the same.

JOSEPH P. VIGORITO,
BOB BERGLAND,
GEORGE E. BROWN, JR.,
FREDERICK W. RICHMOND,
PAUL FINDLEY,
JAMES P. JOHNSON,
Managers on the Part of the House.
HERMAN TALMADGE,
GEORGE MCGOVERN,
HUBERT H. HUMPHREY,
WALTER D. HUDDLESTON,
DICK CLARK,
ROBERT DOLE,
MILTON R. YOUNG,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

(1) *Short title* (Amdt. No. 1)

The *Senate* amendment amends the short title of the *House* bill to reflect the present calendar year.

The *Committee of Conference* adopted the *Senate* amendment.

(2) *Authorization of appropriations* (Amdt. No. 2)

The *House* bill authorizes appropriations for technical assistance in implementing the direct marketing program for only the 1977 fiscal year.

The *Senate* amendment extends the authorization for appropriations through the 1979 fiscal year.

The *Commitee of Conference* agreed to an authorization of appropriations through the 1978 fiscal year.

(3) *Emergency hay program* (Amdt. No. 3)

The *Senate* amendment adds a new section which requires the President—in carrying out any emergency hay program under section 305 of the Disaster Relief Act of 1974—to direct the Secretary of Agriculture, at the option of the farmers and ranchers, to either—

(a) purchase hay in areas where it is plentiful, transport it into the area where the farmers or ranchers are located, and sell it to them at no more than $40 a ton; or

(b) pay the costs of transporting a farmer's or rancher's cattle from the emergency area to a location where adequate grazing land is available and then back to the stricken area within a reasonable time after grazing conditions there have improved sufficiently to support the cattle. No farmer or rancher would be prohibited from selling or otherwise disposing of livestock after they have been transported outside the emergency area; however, if he does so, no return transportation payment will be made.

The new section added by the *Senate* amendment also provides that—

(i) hay is to be made available under section 305 of the Disaster Relief Act to help farmers and ranchers maintain their cattle herds during any period such assistance is needed as the result of an emergency or major disaster (as those terms are defined in section 102 of the Disaster Relief Act. Prior to a determination by the President that such a situation exists, a request must be made by the Governor of the affected State);

(ii) a farmer or rancher may purchase hay under the program sufficient to permit the maintenance of up to 180 days' supply. However, the quantity of hay sold under the program may not exceed 40 pounds a cow per day in the case of dairy cows; 20 pounds a cow per day in the case of replacement heifers; and 20 pounds a head per day in the case of beef cattle; and

(iii) the Secretary may utilize the facilities of the Commodity Credit Corporation in carrying out any emergency livestock feed program under section 305 of the Disaster Relief Act.

The House bill contains no comparable provision.

In lieu of the language proposed to be inserted by the *Senate* amendment, the *Committee of Conference* agreed to a provision requiring the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to disaster or emergency areas where farmers or ranchers are located. The new section will expire on October 1, 1977. Under the present hay transportation assistance program being conducted under section 305 of this Disaster Relief Act, the Government is providing up to two-thirds of the actual cost to transport hay (not to exceed $27 per ton) to drought-affected areas in Minnesota, North Dakota, South Dakota, and Wisconsin. Except for the increase in the transportation assistance, the new section of the bill does not affect the existing program.

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A REORGANIZATION OF THE INTELLIGENCE COMMUNITY AND A PERMANENT HOUSE INTELLIGENCE COMMITTEE

The SPEAKER pro tempore (Mr. LLOYD of California). Under a previous order of the House, the gentleman from Illinois (Mr. MCCLORY) is recognized for 30 minutes.

Mr. MCCLORY. Mr. Speaker, today I am introducing two pieces of legislation which incorporate portions of the product of my work in the House Select Committee on Intelligence. The long hours of hard work by the committee members on both sides of the aisle should not be recalled as a fruitless exercise which will be forgotten simply because a member of the news media obtained an unauthorized copy of the select committee's final report.

I supported the establishment of the select committee pursuant to House Resolution 138 in February 1975. In fact, I do not believe that the committee could have carried out its mandate or would have been reestablished in July 1975, had it not been for the bipartisan work of myself and the gentleman from Missouri (Mr. BOLLING). The select committee was reconstituted by House Resolution 591, and the investigation went forward. Initially, we progressed rapidly in a spirit of cooperation. In total, over 77,000 classified documents—approximately 90 lineal feet—of classified material was received from the CIA alone. I advocated and fully supported receiving all the classified material which the select committee requested.

When the flow of information from the intelligence agencies to the select committee reached an impasse, I personally delivered to the President a memorandum in which I urged that the committee's subpenas, which were past the return date, should be complied with. Thereafter, joined by a few distinguished Members of the House—the Speaker, the minority leader (Mr. RHODES), and the chairman of the select committee (Mr. PIKE), I went to the Oval Office on September 26, 1975, and urged the President, the Vice President, Dr. Kissinger, and Mr. Colby to instruct the various intelligence agencies to supply the select committee with the secret and other classified information which we needed in order to carry out the mandate given to it by the House in House Resolution 591. I do not believe the select committee would have received the information if it had not been for the efforts of myself and the others who went to the President and promised to institute procedures for protection of the classified materials.

The agreement we made with the President, which was adopted by a majority vote of the select committee on October 1, 1975, provided that the select committee would receive classified material pursuant to a promise that it would remain confidential unless the committee determined by majority vote that the information should be released to the public. Furthermore, the agreement provided that the intelligence agencies would be afforded the opportunity to explain to the committee the reasons they believed the material should remain classified. If there were disagreements between the intelligence agencies and the select committee, the President himself could indicate that he saw no harm by the release of the information, or in the alternative certify that the release could jeopardize the national security. If the committee disagreed with the President's determination, we could go to court to resolve the differences between the two branches of the Government.

Until we began to consider the final report, this solemn procedure was respected by the committee and by the executive branch. In four instances the committee voted to release brief synopses of particular intelligence projects which the intelligence agencies felt would be harmful to our national security. The President exercised his judgment, pursuant to the provisions of our agreement, and after careful study, determined that these reports could be dangerous to the security of the Nation. The committee adhered to the President's determination, complied with the provisions of the agreement, and withheld the classified information. However, with respect to the publication and filing of the final report, some of the members of the committee felt the agreement with the President was inapplicable. Eventually, the House, by a vote of 246 to 124, decided to respect to agreement with the executive branch and, thus, fulfill our solemn promise to the President.

The Congress of the United States and, particularly, the committees of the House and Senate charged with the responsibility of overseeing the intelligence activities of this country should be able to receive and safeguard highly sensitive and classified information. However, before this can be accomplished, mutual trust and appropriate mechanisms for conveyance must be established. The President and the intelligence agencies exhibited its trust in this select committee and the Congress by delivering numerous classified documents to the select committee during its investigation. To assume, however, that the receipt of this vast volume of material from the intelligence agencies gave the select committee or the House of Representatives a license to release or publish the information was inconsistent with the terms under which the material was received.

As the ranking minority member of the Select Committee on Intelligence, I did not agree with all of the positions advocated by the majority of the committee. I did, however, fully support the subpenas issued by the select committee, and I protested when the information was not delivered punctually or the subpenas were not fully complied with. Our committee was successful in receiving this necessary information, but it was never my view that this committee or the Congress has the unilateral right to release to the public the highly classified and sensitive information which we received from the intelligence agencies. My dissenting views on this and other actions of the committee are outlined in my additional views to the final report; which, like the remainder of the report, are in the custody of the clerk of the House. However, the portion of the report entitled "Recommendations of the Final Report of the Select Committee on Intelligence (H. Rept. 94-833)" contained no classified information and was published. Some of these recommendations are unworkable, and, quite frankly, not well thought out. But, if implemented, many could offer a significant improvement for the efficient operation of the intelligence community.

INTELLIGENCE COMMUNITY REORGANIZATION ACT OF 1976

After a period of reflection on the series of missteps and errors committed by the select committee, I have decided that some of the conclusions drawn from evidence compiled during the vigorous investigation should not be allowed to lie dormant with the impounded report. Therefore, I have prepared the Intelligence Community Reorganization Act of 1976, which incorporates several of my recommendations to the House. The recommendations in this bill are based on a careful study of the evidence derived during the course of this investigation. Some of the changes are long overdue. Some will probably be opposed by the intelligence community, but the overriding conclusion based on the evidence gathered by the select committee makes it clear that the community would be more efficient and better prepared to carry out its vital role throughout the world if these changes were adopted.

Several of the major changes are highlighted hereinafter. First, the National Security Agency shall be removed from the auspices of the Defense Department. The agency would be reestablished as an independent agency in the executive branch. All functions and records would be transferred to this independent agency, but the Director, who would be subject to Senate confirmation, could hold no other civil or military office. This would not preclude active duty military personnel from serving in the Agency, but it does insure that the Director will be independent from the Pentagon and subject to Senate confirmation.

Second, the bill creates a new position which shall be known as the Director of Central Intelligence. The Director will be the chief foreign intelligence officer of the United States and will supervise and control all foreign intelligence agencies. The Director will not carry out the function of supervising day-to-day operations of the CIA, but will be responsible for coordinating CIA activities with other foreign intelligence operations. In addition, he will appoint an Inspector General for all intelligence activities to insure effective internal oversight.

The Director of Central Intelligence will be required to inform the appropriate Committees of Congress of the extent, purpose, and risks of any covert action involving a significant risk within 48 hours of initiation of the project. The Director must report annually to the Congress on efforts to eliminate duplication and shall investigate any and all intelligence failures and report the findings to the Congress.

Third, the Defense Intelligence Agency will be abolished and all functions shall be transferred to the control of the Assistant Secretary of Defense for Intelligence. Originally established in 1961 pursuant to Department of Defense Directive 5105.21, the Defense Intelligence Agency—DIA—was supposed to help coordinate military intelligence among the respective services. During the course of the investigation by the Select Committee, we learned that the opposite result is, in fact, the case. The DIA has proved to be duplicative and wasteful. Rather than coordinating the product of intelligence gathered by the branches, the agency pursues its own mission and exists as an encumbrance to effective analysis and coordination.

Fourth, the audit authority of both the CIA's internal audit staff and the GAO is clearly defined. The CIA internal audit staff is authorized access to all financial records of the Agency, and must audit each overseas station, proprietary and procurement mechanism at least annually. The GAO will have the power to conduct full and complete financial audits of all agencies and departments engaged in foreign intelligence operations.

Finally, the bill grants any committees of the Congress with jurisdiction over intelligence matters the authority to enforce subpenas in the appropriate U.S. district court. Jurisdiction to enforce compliance with such subpenas by the district courts is also established in the bill.

PERMANENT HOUSE COMMITTEE ON INTELLIGENCE

The second piece of legislation I am introducing today is a House resolution to establish a permanent House Committee on Intelligence and to regulate and control the release of information from the new committee.

The committee shall consist of 13 members who shall be appointed by committee chairmen from various standing House committees, as outlined in the resolution. This selection process will insure a cross section of members with various expertise on matters relating to intelligence. No member may serve on the committee during more than three Congresses and employees will be limited to a similar 6-year term of service. Finally, the committee will have oversight and legislative jurisdiction with respect to all agencies and departments engaged in foreign intelligence operations.

Release of information from the committee will be prohibited unless strict procedures are followed. The committee must consult with the head of the department or agency of the United States which has classified any material within the possession or control of the committee before such material—including transcripts or minutes of the committee relating thereto—may be released to the public. After such consultation, the committee may, by an affirmative vote of a majority of its members, transmit to the President the material proposed to be released. If, within 15 calendar days after receipt of such material, the President certifies, in writing, that disclosure would be detrimental to the national security of the United States, the material shall not be disclosed, except pursuant to an order of an appropriate district court of the United States. If the President does not so certify within such 15-day period, then the committee may release such material.

Employees of the committee will be prohibited from release of any information and will be required to have appropriate security clearances.

It is particularly important, in light of the hearings currently being conducted by the Committee on Standards of Official Conduct on the unauthorized release of the final report of the Select Committee on Intelligence, that the House of Representatives carefully weigh the importance of establishing a new committee. Of course, we will never be able to insure that a similar incident will not again occur. But, with a carefully selected membership and staff, the procedures established pursuant to this resolution will severely limit the likelihood of an unauthorized release.

It is the responsibility of the House to assure that the activities of the intelligence agencies of the United States conform with our laws and the Constitution. It is time for the House to act in order to insure that there is vigilant oversight of all U.S. intelligence activities.

The following is a section-by-section analysis of the Intelligence Community Reorganization Act of 1976.

SEC. 2. NSA AS INDEPENDENT AGENCY

This section gives the National Security Agency (NSA) a statutory basis. As thus constituted, it would be an independent agency within the executive branch. The head of the agency, who would be appointed by the President, subject to Senate confirmation, is barred from holding any other civil or military office. The functions of the present agency of the same name—created by Presidential directive in 1952 as a separately organized agency within the Department of Defense—together with its records, are to be transferred to its statutory successor.

SEC. 3. PROHIBITION OF FUND TRANSFERS

The bill's third section amends various provisions of existing law which generally delegate to the Central Intelligence Agency (CIA) greater discretion in regards to transferring funds and expending appropriations than is normally enjoyed by other Government agencies. Specifically subsection (a) would repeal section 5 (sic) [1] (a) and (b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403 f) and redesignate the unaffected portions, namely, paragraphs (c), (d), and (e), as (1), (2), and (3), respectively. Paragraph (a) of the existing law which would be repealed by the bill authorizes the CIA to transfer to and receive from other Government agencies (and vice versa) such funds by the Bureau of the Budget (now the Office of Management and Budget (OMB)) for the performance of its prescribed powers and duties and the functioning of its advisory committees (50 U.S.C. 403, 405) regardless of statutory limitations otherwise applicable thereto.

Paragraph (b) of the present law which also would be repealed permits the CIA to exchange funds without regard to 31 U.S.C. 543. The latter generally prohibits disbursing and other government officers from making such exchanges.

Section 3(b) of the bill would modify the provisions of existing law (50 U.S.C. 403j (a)) which allow the CIA to expend funds derived from "appropriations or otherwise" "for purposes necessary to carry out its functions" "notwithstanding any other provisions of law." Also repealed would be that Agency's present authority to expend funds "without regard to the provisions of law and regulations" and to account for expeditures for "objects of a confidential, extraordinary, or emergency nature" "solely" on the certificate of the director.

SECTION 4. DIRECTOR OF CENTRAL INTELLIGENCE

This section reconstitutes the office of the Director, outlines his roles, imposes various specific requirements and limitations, and makes a number of necessary conforming changes in existing law. Subsection (a) would continue the existing law (50 U.S.C. 403) which rests appointment of a Director of Central Intelligence (sic) [2] in the President, subject to Senate confirmation. The Director would be the Nation's Chief foreign intelligence officer and "as such" would be required to supervise and control all U.S. agencies engaged in foreign intelligence. However, it is expressly provided that he would be separate from any operating or analytic intelligence agency (¶ 1).

The Director could not hold "any" other office, civil or military, under the United States. (¶ 2).

The Director would be required to appoint an Inspector General and establish an Office of Inspector General for all U.S. foreign intelligence activities, civil and military. (¶ 3). The Director also would appoint all staff necessary to carry out the functions of the Office of Inspector General as well as the functions of his own office. (¶ 4).

The Director would be authorized to delegate his functions and those of the Office of Inspector General. (¶ 5).

The Director would be responsible for preparing the budget for all U.S. foreign intelligence activities. (¶ 6).

The Director would be charged with coordinating foreign intelligence activities among the various operating and analytic agencies, eliminating duplication, and making an annual report to the Congress with respect to these activities. (¶ 7).

Within 48 hours after initiating "any" covert action involving a "significant risk," the Director would be required to submit a written report to the appropriate Congressional committees, outlining in detail "the nature, extent, purpose, risk, and costs of such actions." (¶ 8).

Finally, the Director would be required to make a "comprehensive" investigation of "every" intelligence failure and report to the Congress the "causes" thereof. The Director would be allowed one year (from commencement to completion) to finish the required report. (¶ 9).

Section 4 (b), (c), (d) and (e) proposed conforming changes to existing law which are required by the foregoing requirements. Subsection (b) would amend section 101 of the National Security Act of 1947. (50 U.S.C. 402) to make the Director of Central Intelligence (sic) [3] a number of the National Security Council. Subsection (C) would amend section 102 of the 1947 Act (50 U.S.C. 403) to change the designation of the Director and Deputy Director of Central Intelligence to Director and Deputy Director of the Central Intelligence Agency as appropriate. Subsection (d) [4] makes a similar change with respect to the Director's designation in the Central Intelligence Agency Act of 1949. 50 U.S.C. 403 (a) et seq. Subsection (e) would place the post of Director in level II of the Executive Schedule which presently calls for an annual salary of $44,000. See E. O. 11833, 40 F.R. 47091 (1975).

SEC. 5. INTERNAL FINANCIAL MANAGEMENT

This section would give the Agency's internal audit staff access to "all" financial records of the Agency, and empower it to audit "each" overseas station, "each" proprietary activity and "each" procurement mechanism "at least" once a year.

SEC. 6. FULL DISCLOSURE TO CONGRESS

This section would amend section 102(d) (3) (50 U.S.C. 403(d) (3)) so as to make it clear that the injunction against the Director's making unauthorized disclosures does not prevent the disclosure of "any" information to the Congress or "any" instrumentality of the Congress which lawfully demands it.

SEC. 7. DEFENSE INTELLIGENCE AGENCY

Section 7 of the bill would abolish the Defense Intelligence Agency (DIA) and transfer its functions to the Assistant Secretary of Intelligence and Director of the Central Intelligence Agency. The latter are enjoined from delegating these functions except to entities under the direct supervision of the Assistant Secretary.

The DIA was established as an agency of the Department of Defense by DOD Directive 5105.21, dated August 1, 1961. DIA, under provisions of the National Security Act of 1947, as amended, operates under the direction, authority, and control of the Secretary of Defense. The chain of command runs from the Secretary of Defense, through the Joint Chiefs of Staff to the Director.

Under its Director DIA is responsible for producing and disseminating defense intelligence to satisfy the intelligence requirements of the Secretary of Defense, the Joint Chiefs of Staff, and major components of the Defense Department. It accomplishes this either by use of internal resources; through the management, control and coordination of the intelligency functions of other Defense Department activities; or through cooperation with other intelligence organizations.

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[1] Reference should be to section 6 of the 1949 Act.

[2] Should read Director of the Central Intelligence Agency to conform to change proposed in subsection (c).

[3] Ibid.

[4] See preceding two asterisks notes.

DIA reviews and coordinates those Department functions retained by or assigned to the military services. It also develops guidance for the conduct and management of such functions for review, approval, and promulgation by the Secretary of Defense.

DIA also has the responsibility of supervising the execution of all approved plans, programs, policies, and procedures for those Department general intelligence functions and activities for which DIA has management responsibility. It assists in obtaining maximum economy and efficiency in the use of Department intelligence resources. U.S. Govt. Manual 1975/1976, pp. 207–208.

SEC. 8. RESTRICTION OF POLICE TRAINING

This section would add a new provision to Chapter 93 of the Federal Criminal Code (18 U.S.C.) to generally prohibit police training by certain intelligence officers. This section would subject to a maximum imprisonment of 5 years, or a maximum fine of $10,000, "or both," any person who, while engaged in the duties of an agency of the United States which is principally occupied in foreign intelligence, participates directly or indirectly in the training or supplying of a policy agency [Federal, State or non-foreign public entity].

The caption line of the proposed new penal provision would be included in the table at the beginning of Chapter 93.

SEC. 9. PROHIBITION OF ASSASSINATIONS

This section would make it a crime to perpetrate certain homicides by a person who is engaged in intelligence operations. The penal sanction proposed by section 9 would make it a federal crime, "except in time of war," for any person who is engaged in the duties of an intelligence operation of the Government of the United States, to willfully kill any person. Violation of this section would be punished by imprisonment of at least 1 year.

The caption line of the proposed new crime would be included in the table at the beginning of Chapter 45 of the Federal Criminal Code. (18 U.S.C.).

SEC. 10. G.A.O. BUDGET AUTHORITY

This section would define the General Accounting Office's (G.A.O.) audit authority with respect to U.S. foreign intelligence operations. As such, the G.A.O. would be limited to the making of "full and complete" financial audits.

SEC. 11. COMMITTEE SUBPOENA POWER

This section would provide that any subpoena issued under the authority of either House of Congress by one of its committees having intelligence jurisdiction to any person involved in U.S. intelligence operations may be enforced in the appropriate Federal district court by such committees acting through its counsel. The district courts would have jurisdiction to compel compliance with the subpoena and to punish disobedience as contempt of court.

In addition I am attaching the following section-by-section analysis of a proposed resolution to amend the rules of the House of Representatives to establish a Committee on Intelligence.

SECTION-BY-SECTION ANALYSIS OF A PROPOSED RESOLUTION TO AMEND THE RULES OF THE HOUSE OF REPRESENTATIVES TO ESTABLISH A COMMITTEE ON INTELLIGENCE

The first section of the proposed resolution "resolve[s]" the clause[1] of Rule X of the House Rules relating to establishment and jurisdiction of standing committees of the House be amended in order to establish a Committee on Intelligence. Paragraphs (j) through (v) would be redesignated paragraphs (k) through (w). The purpose of this redesignation is to permit insertion of the proposed Committee on Intelligence in proper alphabetical arrangement as paragraph (j).

New paragraph (j)(1) established a "five" (sic)[1] Member Committee to be drawn as follows"

(A) two Members who are members of the Committee on Appropriations;

(B) two Members who are members of the Committee on Armed Services;

(C) two Members who are members of the Committee on International Relations;

(D) two Members who are members of the Committee on the Judiciary;

(E) two Members who are members of the Committee on Government Operations; and

(F) three Members who are not members of any of the aforementioned Committees.

The Members whose eligibility for service on the new Committee derives from their service on the specified committees are to be appointed by the chairman of each of the latter committees. In making these appointments, the Chairman concerned shall select one member who belongs to the majority party and one member who belongs to the minority party. The latter are to be appointed upon the recommendation of the ranking minority member of each such committee. The three Members who are drawn because of their service on committees other than those specifically enumerated are to be appointed by the Speaker who in appointing the one required minority party member shall do so in accordance with the recommendation of the minority leader (¶(j)(2)(A))

The majority and minority leaders of the House would be *ex officio* members of the proposed Committee on Intelligence. As such, they have no vote in the Committee and they would not be counted for purposes of a quorum. (¶(j)(2)(B))

The proposed Committee's initial chairman is to be designated by the Speaker. (¶(j)(2)(C))

Except for any service on the proposed Committee on Intelligence during the 94th Congress, no one could be a Member of that Committee during more than three Congresses. The term of service on the proposed Committee would be staggered "to the greatest extent practicable" commencing with each Congress after the 95th Congress. Within this general requirement and after the specified time, one-third of the membership of the Committee is to consist of the Members without any prior service thereon. (¶(j)(2)(D))

The proposed Committee on Intelligence is to have jurisdiction over "all" proposed legislation, messages, petitions, memorials, "and other matters" relating to—

(A) The Central Intelligence Agency and the Director of Central Intelligence.[2]

(B) Intelligence activities of "all" other departments and agencies of the Government, "including but limited to," the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and "other" agencies of the Departments of Defense, State, and Treasury.

(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving the intelligence activities.

(D) Authorizations for appropriations, "both direct and indirect," for the following:

(i) The Central Intelligence Agency and the Director of Central Intelligence.[3]

(ii) The Defense Intelligence Agency.

(iii) The National Security Agency.

(iv) The intelligence activities of "other" agencies and subdivisions of the Department of Defense.

(v) The intelligence activities of the Department of State.

(vi) "Any" department, agency, or subdivision which is the successor to the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency; and the activities of "any" department, agency, or subdivision which is the successor to "any" department, agency, bureau, or subdivision of the intelligence activities of the Department of Defense or the State Department to the extent that the activities of such successor department, agency, or subdivision are activities included in the Department of Defense or the State Department. (¶(j)(2)(D))

Section 2 of the resolution makes various selective exceptions (viz., "except for matters within the legislative jurisdiction of the Committee on Intelligence") to the jurisdictions of standing committees to accord with the mandate of the proposed committee. This exception (viz., "except for matters within the legislative jurisdiction of the Committee on Intelligence") would affect in this regard the House Committee on Armed Services relative to (1) Common defense generally, (2) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally, and (10) Strategic and critical materials necessary for the common defense (Rule X, Clause 1(c); the House Committee on International Relations relative to (1) Relations of the United States with foreign nations generally (Rule X, Clause (k); the House Committee on the Judiciary relative to (4). Civil liberties (Rules X, Clause m)). In other words, the specified committees jurisdictions in the enumerated areas would not include "matters within the legislative jurisdiction of the Committee on Intelligence."

Section 3 would amend House Rule XI relating to Committee Rules to make various additions thereto strictly applicable to the proposed Committee. This new matter designated Clause 7 would be captioned "Release of Information From the Committee on Intelligence." Clause 8 would deal with security procedures applicable to committee employees.

Paragraph (a) of Clause 7 would prohibit any "member or employee" of the proposed Committee from releasing "any" classified material within the control or possession of the Committee or executive session transcripts or minutes of the Committee relating thereto other than as provided by Clause 7.

Paragraph (b) would require the Committee to consult with the head of the department or agency which has classified any material within the possession or control of the Committee (including transcripts or minutes relating thereto) before releasing it to the public. After such consultation, the Committee, by an affirmative vote of a majority of its members, may transmit to the President the material proposed to be released. Thereafter, the President would have fifteen calendar days to make written certification that disclosure would be detrimental to the national security. Any material so certified could not be released "except pursuant to an order of an appropriate court of the United States." The President's failure to make the necessary certification during the allotted time would enable the Committee on Intelligence in its discretion to release the material in question.

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[1] 13.

[2] Note that under the proposed "Intelligence Community Reorganization Act of 1976" that officer is renamed the Director of the Central Intelligence Agency. 4(c).

[3] Ditto.

Paragraph (a) of proposed Clause 8 to House Rule XI required that before an employee of the Committee on Intelligence ("by contract or otherwise") who performs services for or at the request of the Committee may be given access to "any" classified information he or she must have (A) agreed in writing to be bound by the rules of the House and of the Committee as to the security of such information *during and after* the period of his employment (or contractual agreement); and (B) received an appropriate security clearance as determined by the Committee in consultation with the Director of Central Intelligence.[4] The type of security clearance required "shall, within the determination of the Committee in consultation with the Director of Central Intelligence,[4] be commensurate with security of the classified information to be handled.

Paragraph (b) would make it a condition of employment with the Committee that an applicant waive any legislative immunity which he or she "might have" with respect to a prosecution under chapter 37 ("Espionage and Censorship") of the Federal Criminal Code (18 U.S.C.) arising out of his or her employment by the Committee. (The Speech or Debate Clause immunity granted by Art. I, § 6, cl. 1 of the Constitution "applies not only to a Member but also to his aides insofar as the conduct of the latter would be protected by legislative act if performed by the Member himself." *Gravel* v. *United States,* 403 U.S. 606, 618 (1972).

Mr. McCLORY. Mr. Speaker, I ask unanimous consent to attach to my remarks a section-by-section analysis of the bill and the resolution which I am introducing today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Speaker, I yield back the remainder of my time.

THE GREAT BEARGRASS CREEK BOONDOGGLE AND BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. SNYDER) is recognized for 15 minutes.

Mr. SNYDER. Mr. Speaker, for a few minutes I would like to discuss a proposed Corps of Engineers project in the Fourth District of Kentucky.

To put the project in proper perspective, let me tell my colleagues that in my opinion this project represents a real boondoggle and bailout of special interests.

First of all, let us examine the merits of the project itself.

I was first drawn into the controversy because the people of Houston Acres, which lies in my congressional district, objected to the plan for a dry-bed reservoir which would directly affect them while allegedly benefiting people downstream in the Third District.

The city of Houston Acres, in fact, adopted unanimously a resolution in opposition to this proposed dry-bed reservoir because they do not want the muck, junk, debris, and health hazard associated with the reservoir immediately adjacent to them.

As a matter of fact, the Jefferson County Board of Health wrote a letter to the corps in which they indicated the reservoir would be a major breeding ground for mosquitoes. Additionally, the board of health stated that it had no money to deal with the consequent mosquito control problem; that it was, in fact, overtaxed by present mosquito problems without the addition of still another one. In a season of widespread national and local concern over encephalitis, to ignore this health hazard approaches criminal callousness.

Let us look at the cost. It is proposed that the corps spend $3.9 million initially to build the project, with a $264,000 annual cost after that. This will provide a 40 percent protection from flooding for the area affected, at best—reducing the damages resulting from a 100-year frequency flood occurring in 1990 by only 11 percent. Moreover, the accuracy of this prediction is seriously undermined by the fact that the proposed dam will control only 2.6 of the total fork basin area of 17.2 miles. To spend the taxpayers' money on such a questionable project is not to my liking—never has been.

Furthermore, the dry bed reservoir proposal would decrease oxygen levels even more in water the corps already calls a direct threat to public health. This would be compounded by the fact that the corps officially recognizes that the area in which the dam would be built already has a major septic tank problem. At least 44 percent of the trees in the area would be destroyed as well.

Clearly, the proposed project does not merit serious consideration—especially if there are alternatives; and there are. No one has thought to ask me, with my position and experience on the House Public Works Committee, about these alternatives. Scurrilous attacks and a few comical lobbying efforts were preferred.

I have had the feasibility of the project studied. The so-called nonstructural plan mentioned by the corps—including flood proofing, flood insurance, flood plain zoning regulations and other similar proposals—offers possibly significant reductions in flood plain damages with a minimum of cost, and with no adverse environmental impacts, and no dislocation of existing land use. Yet these proposals were dismissed by the corps without even subjecting them to a cost-benefit analysis. The corps just shrugged it off, which is still more than any of my critics even bothered to do.

The local authorities responsible for maintenance of the creek have apparently neglected this maintenance almost totally—anyone can go and see that. I have photographs showing debris, logs, et cetera. Would it be better in the future if the project were built?

If anyone had bothered to look at the feasibility study, as I did, before commenting, they would have found in the map on plate 10 and subsequent plates that the creek has several highly restrictive areas, places where a large amount of debris collects due to the restrictive nature of the channel and bridge openings. The level of water in case of flooding could be reduced to the same level, I am confident, if the alternative of widening and deepening the inadequate channel, proper maintenance and enlargement of restrictive bridge openings were adopted. This would avoid the heavy disadvantages of the alternative now being naively pushed, with lesser expenditure of tax moneys and without adversely affecting the people upstream who are not in any way at fault for whatever problems may really exist downstream.

It is important to recognize another point in this regard. The U.S. Environmental Protection Agency has stated on March 1974, that more than 430,000 gallons of secondarily treated sewage per day are discharged into the upper forks of the creek. This, in addition to the septic tank effluent, would flow into the drybed reservoir and stay there.

Even a half-hearted examination of the facts of the case, had anyone taken the time to do it before running out into the streets frothing at the mouth, would have revealed not only that the dam drybed reservoir proposal is faulty in the extreme, but that feasible alternatives exist which are preferable in all the ways I have mentioned.

Why, then we may ask ourselves, is such a blatantly destructive, hazardous, inefficient, and stupid proposal being put forth with such vigor by these politicians and their stooges in the media. And why the vitriolic and rabid attacks on me for being against it?

Let us consider the following:

In about December of 1975, it became publicly known through newspaper articles that the Paul Semonin Co. and/or development companies with interlocking leadership was in serious financial difficulty and was on the verge of defaulting on several commitments.

At the same time, the Four Seasons Land Co. owned property along Beargrass Creek.

The president of the Four Seasons Land Co. is Elam A. Huddleston, one of the vice presidents of the Paul Semonin Co. The secretary of Four Seasons Land Co. is Jamie Swyers, wife of the local politico Walter Swyers. Other politicos, Alderman Creighton Mershon and Danny Briscoe, had an ownership in Four Seasons.

The Four Seasons Land Co. was listed as owner-developer of the property in question on Beargrass Creek and the Paul Semonin Co. was listed as realtor.

By resolution passed February 17, 1976, Fiscal Court of Jefferson County—with Commissioner Tom Helm, another vice president of Paul Semonin Co., voting—agreed to purchase this land, approximately 2,400 feet of Beargrass Creek and about 225 feet on either side of it, for the sum of $185,000—at $5,000 per acre and $26,300 for severance damages.

Payment was actually made and the deed from the Four Seasons Land Co. to Jefferson County was recorded in

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[4] Ibid.

Deed Book 4838, page 420, February 24, 1976. The land purchased was basically unusable for building houses.

The $185,000 spent by the county to purchase land from Four Seasons Land Co. occurred before the Corps of Engineers' proposals were ready for acceptance. Neither the final feasibility report nor final environmental impact statement had been issued.

Furthermore, the purported purpose of the project is to provide upstream ponding in the event of heavy rains. Despite this, Jefferson County permitted the filling in of a large natural ponding area which existed at the corner of Hurstbourne Lane and Taylorsville Road. This ponding area was upstream from the proposed dam site and for years has provided a natural holding area for excessive rainfall. After the ponding area was filled in, a large sign was erected advertising it for sale by the Paul Semonin Co., as "prime commercial property."

I ask, does it smell?

You bet it does. The taxpayers are apparently being asked to bail out a number of shady operatives with strong local political ties; the burden of the bailout is being shifted toward the taxpayers. I will not stand for that because I vowed years ago to represent the taxpayers in Congress. They are being asked to participate in this dirty scheme and also sacrifice their health and the health of their children, as well as many other things, in the "bargain." This is the worst kind of cynical manipulation of the people for narrow and greedy interests, and represents the very questionable expenditure of funds at a time when both our teachers and our police officers are being told there is no money to give them.

The astonishing thing is that they were able to gain so many allies in this attempt to do the people in. In the case of the local newspapers and the Bingham television and radio stations, it is understandable—it is the same old case of their doing anything they can to get me because I will not toe their line. I am surprised only that they did it this time more blatantly and incompetently than usual.

INFANT FEEDING RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, today, I am pleased to announce that 27 colleagues in the House have joined me in reintroducing the infant feeding resolution, a joint resolution to study the marketing and misuse of infant formula as a substitute for mother's milk in the developing world. Such support represents a concerted response to the unfortunate rise in infant malnutrition, illness, and higher infant mortality which has resulted from the increased use of infant formula in developing nations. A thorough examination of infant formula use and misuse and of the role played by the three large U.S. manufacturers in the promotion of these products is long overdue. In addition, nutritionists and pediatricians have strongly encouraged in recent years the practice of breastfeeding as the preferred alternative for women in developing nations. For the benefit of my colleagues, I am inserting in the RECORD the complete text of the resolution, as originally introduced:

H.J. RES. 1095

Whereas there is a broad consensus among nutritionists and other knowledgeable experts that, especially in developing nations, breast-feeding, given its nutritional, economical, hygienic, and immunological qualities, is preferable for most infants to the use of infant formula as a replacement;

Whereas the preferability of breast feeding is supported by studies showing that the large majority of people in developing nations lack sufficient economic, educational, and sanitary resources necessary for the healthful use of infant formula products;

Whereas studies strongly suggest that formula feeding of infants under these less than optimum conditions in developing countries is a major cause of malnutrition and high infant mortality among such infants;

Whereas breast-feeding cannot indefinitely fulfill all the nutritional needs of infants in developing countries and should therefore be part of a comprehensive approach to family health and nutrition which includes the use of supplementary weaning foods necessary in later infancy;

Whereas United States businesses are involved in the manufacturing, marketing, or selling of infant formula in numerous developing nations, employing advertising and other promotional practices which contribute to the use of infant formula, even though such use often does not best serve the nutritional needs and overall health of children in such nations;

Whereas the above business practices undercut the concern which the Congress has expressed for the nutrition, health, and general welfare of people in developing nations through multilateral and bilateral assistance programs, including those programs conducted by the Agency for International Development; and

Whereas many such businesses have adopted voluntarily a code of ethics which includes an affirmation that "product labelling will affirm breast-feeding as the first choice for the nutrition of normal infants": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That this joint resolution may be cited as the "Infant Feeding Resolution".

SEC. 2. The Agency for International Development shall devise and carry out in partnership with developing nations a multifaceted strategy designed to promote breast feeding within the context of integrated programs of nutrition and health improvement for mothers and children. This strategy shall focus on reversing the trend toward early weaning by using educational, promotional, mass-media, or community outreach programs as appropriate in each developing nation. It shall be aimed at reaching families, professional and paraprofessional health care personnel, and policy makers. In addition, the Agency for International Development shall provide technical, financial, and material support to individuals or groups at the local level for the promotion of breast feeding and sound maternal and child nutrition within their own countries. The Agency shall build on its past and current efforts as appropriate in developing a comprehensive strategy toward these objectives.

SEC. 3. It is the sense of the Congress that the United States based businesses, and United States subsidiaries of foreign based businesses, involved in the manufacturing, marketing, or selling of infant formula have a responsibility to conduct their overseas activities in ways which do not have adverse effects on the nutritional health and well-being of people in developing nations.

SEC. 4. (a) The President shall conduct a detailed study into the nature, scope, and extent of the effects of infant formula use in developing nations. The study shall include specific information on the following items with respect to developing nations:

(1) Estimates by region of—

(A) the numbers of mothers and children using infant formula, including their socio-economic status and literacy levels;

(B) the extent to which such formula is necessary to supplement available mother's milk and locally produced and available low-cost weaning foods; and

(C) the nutritional and health effects of infant formula use under existing local conditions.

(2) The names of all businesses involved in infant formula manufacturing, marketing, or selling, and information on sales volume, profits, advertising and promotional expenditures, type of ownership, and home country of each such business.

(3) The advertising and promotional techniques employed by United States businesses and United States subsidiaries of foreign based businesses and the degree to which these practices contribute to early weaning trends.

(4) The extent and types of direct and indirect support provided by any United States Government agency to businesses involved in infant formula manufacturing, marketing, or selling.

(5) The nature and extent to which bribes and other illegal payments may have been made by such businesses to secure markets for and to promote their products in developing nations.

(b) Not later than the end of the one year period beginning on the date of enactment of this joint resolution, the President shall transmit to the Congress a report on the results of the study conducted pursuant to subsection (a). Such report shall contain specific findings and recommendations with respect to—

(1) ways in which bilateral and multilateral nutrition and health programs might more effectively address the problems created or exacerbated by the manufacturing, marketing, or selling of infant formula in developing nations;

(2) ways of strengthening efforts to deal with such problems by international organizations such as the United Nations Protein-Calorie Advisory Group, the United Nations Children's Fund, the World Health Organization, the World Food Council, and the Organization for Economic Cooperation and Development;

(3) appropriate remedies including legislation or administrative action; and

(4) areas for further study and monitoring.

PROPOSED MEDICARE-MEDICAID AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am today, in collaboration with the

Honorable PAUL ROGERS, chairman of the Commerce Committee's Subcommittee on Health and the Environment, introducing a bill containing provisions aimed at combating some of the more flagrant abuses of the medicaid and medicare programs. We are introducing this bill, which is identical to a bill just introduced by Senator TALMADGE, in the belief that it warrants intensive public examination and discussion to assure that the Congress is embarking on the proper course. My distinguished colleague from Florida has indicated his intent to hold a public hearing on this bill. I fully endorse such action. The possibility that the provisions of this bill may be included in amendments to a House-passed bill now pending in the Senate, and, thus, be returned to the House for resolution in conference, is a compelling reason to provide an opportunity for public comment.

The recent disclosures of widespread fraud and abuse in the medicaid and medicare programs by unscrupulous practitioners and organizations have emphasized the need for appropriate congressional action to curb these abuses. As Members know, I have consistently maintained the position that fraud and abuse, as well as ineffective administration, have contributed to the inflation of program costs and impaired public confidence in these programs. I have, therefore, consistently supported proposals for effective reforms—the Ways and Means Subcommittee on Health has, in fact, been actively engaged in a major assessment of a number of more basic reforms in medicare.

The bill we are introducing today—despite certain drafting imperfections—provides for the implementation of some immediate measures which, I believe, warrant careful consideration as first steps toward the more thoroughgoing reforms that are needed. But, I must emphasize that I do have reservations about the adequacy and potential consequences of some of this bill's provisions. I believe they need to be carefully weighed before we act on them. It is my hope that by introducing this bill now attention can be immediately focused on the wisdom and effectiveness of these several measures. The critical analysis and comments of Members, as well as the public, will be vital to us in preparing for the conference on these provisions, should that contingency arise, and for House consideration of any bill that may come before it which aims at curbing fraud and abuse in medicaid and medicare.

I am including in the RECORD at this time a brief discussion of the purpose and provisions of the bill prepared by Senator TALMADGE:

PROPOSED TALMADGE MEDICARE AND MEDICAID ANTI-FRAUD AMENDMENTS

The initial section of the bill establishes within the Department of Health, Education and Welfare an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate and make policy with respect to fraud and abuse monitoring and investigation at all organizational levels in Medicare and Medicaid. Unit personnel could also initiate and conduct investigations of alleged fraud and abuse.

To meet the needs of U.S. Attorneys and State prosecutors, the unit, at the request of prosecutors, would be required to provide all appropriate investigative support and assistance, including temporary assignment of Federal personnel to assist U.S. and State prosecutors in the development of fraud cases arising out of Medicare and Medicaid.

The bill clarifies that the prohibition against assigning Medicare and Medicaid claims to third parties, such as factoring firms, also applies to situations where a hospital or doctor tries to bypass the prohibition by using a power of attorney. This is a problem which has been highlighted in recent hearings with respect to Medicaid mills in New York City, as well as in Medicaid activities in Illinois.

The bill would require disclosure by providers and suppliers of services under Medicare and Medicaid—including so-called Medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities; those sharing in the proceeds or fees; business dealings between the reports.

This section would also require the Secretary and the States to have agreements with independent laboratories, independent pharmacies and independent durable medical equipment suppliers, who are paid directly with Government funds, under which such organizations would agree to provide access to their books and records pertaining to billing and paying for goods and services. This is similar to the type of information which hospitals and nursing homes are now required to provide. Additionally, Federal personnel and the Comptroller General would have direct access to provider records under Medicaid on a basis similar to the access which State Medicaid program people now have.

These provisions will facilitate the identification of exploitive and self-dealing arrangements. It will enable Federal and State investigative personnel and prosecutors to secure under law information indicating the presence or absence of a fraudulent or abusive financial arrangement.

Currently the penalties for fraudulent acts and false reporting under Medicare and Medicaid are defined as misdemeanors subject to fines of up to $10,000 and not more than one year imprisonment. A section of the bill changes these penalties to define such crimes as felonies punishable by up to five years' imprisonment and $10,000 fines.

Professional Standards Review Organizations (PSRO's) are required under present law to review hospital care. However, under law, where a PSRO requests responsibility for review of other types of health services under Medicare or Medicaid, the Secretary of HEW is authorized to delegate that responsibility to the PSRO. To date, because of delays in program funding and implementation, operating PSRO's are almost wholly concentrated in reviewing inpatient hospital care. A section of the bill would require the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities"—the so-called Medicaid mills. The Secretary would give highest priority to requests from PSRO's in areas with substantial concentrations of these "shared health care facilities". The effect of having the PSRO voluntarily assume this responsibility for "shared facility" review might well result in determinations by the physicians of the PSRO that the care or patterns of practice of given practitioners do not meet professional standards or that care and services being provided are not medically necessary. Such findings by the PSRO preclude payment of Federal funds for the care and can also result in PSRO recommendation of suspension of eligibility to participate in Medicare or Medicaid. These latter provisions are sanctions available to the PSRO under present law which would be available in their review of care in "shared health care facilities." The PSRO would also be authorized, in cases where it encounters possible fraud, to refer such cases to appropriate State and Federal law enforcement agencies as well as to the Secretary of HEW.

The provision further clarifies that, where the Secretary has delegated review responsibility to a PSRO, this review is binding for both Medicare and Medicaid; all other duplicative review requirements under other provisions of law terminate; and reiterates the legislative intent that the costs of PSRO operation are to be financed wholly by the Federal Government with respect to Medicare and Medicaid review activities.

REMARKS BY GOV. JIMMY CARTER, B'NAI B'RITH CONVENTION, SEPTEMBER 8, 1976, WASHINGTON, D.C.

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, last week Governor Carter addressed the B'nai B'rith 1976 Biennial International Convention held here in Washington. I would like to insert the text of his speech in the RECORD.

The remarks follow:

REMARKS BY JIMMY CARTER

TO PROMOTE HUMAN RIGHTS IN OUR IMPERFECT WORLD

It is a special pleasure to be here today, because I believe we share a common heritage, and a common commitment, that brings us together.

In 1843, B'nai B'rith was founded by a small group of immigrants who sought to preserve for themselves and others the religious and personal liberty they had been denied abroad.

So it was with those who founded my church in this country, to insure liberty of conscience.

I am proud to meet with a group of men and women with whom I share a total commitment to the preservation of human rights, individual liberty, and freedom of conscience.

I would like to talk to you about my view of how our nation should encourage and support those priceless qualities throughout the world.

BALANCE REALISM AND IDEALISM

This is, as you know, a difficult question. It requires a careful balancing of realism and idealism—of our understanding of the world as it is, and our vision of the world as it should be.

The question, I think, is whether in recent years our highest officials have not been too pragmatic, even cynical, and as a consequence have ignored those moral values that had often distinguished our country from the other great nations of the world.

We must move away from making policies in secret: without the knowledge and approval of the American people.

I have called for closer ties with our traditional allies, and stronger ties with the state of Israel. I have stressed the necessity for a strong defense—tough and muscular, and adequate to maintain our freedom under any conceivable circumstances.

But military strength alone is not enough. Over the years, our greatest source of strength has come from those basic, priceless values which are embodied in our declaration of independence, our constitution, and our bill of rights: our belief in freedom of religion—our belief in freedom of expression—our belief in human dignity.

These principles have made us great, and unless our foreign policy reflects them, we make a mockery of all those values that we have celebrated in this bicentennial year.

PURSUE POLICIES CONSISTENT WITH PROCLAIMED VALUES

We have not always lived up to our ideals, but I know of no great nation in history that has more often conducted itself in a moral, unselfish, generous manner abroad, and provided more freedom and opportunity to its own citizens at home.

Still, in recent years, we have had reason to be troubled. Often there has been a gap between the values we have proclaimed and the policies we have pursued. We have often been overextended, and deeply entangled in the internal affairs of distant nations. Our government has pursued dubious tactics, and "national security" has sometimes been a cover-up for unnecessary secrecy and national scandal.

We stumbled into the quagmires of Cambodia and Vietnam, and carried out heavy-handed efforts to destroy an elected government in Chile. In Cyprus, we let expediency triumph over fairness, and lost both ways.

We responded inadequately to human suffering in Bangladesh, Burundi, the Sahel, and other underdeveloped nations.

We lessened the prestige of our foreign service by sending abroad ambassadors who were distinguished only by the size of their political contributions.

We have allowed virtually unlimited sales of U.S. arms to countries around the world—a policy as cynical as it is dangerous.

ARAB BOYCOTTS VIOLATE OUR STANDARDS

I find it unacceptable that we have in effect condoned the effort of some Arab countries to tell American businesses that in order to trade with one country or company, they must observe certain restrictions based on race or religion. These so-called "Arab boycotts" violate our standards of freedom and morality.

I regret that a senior official of the Ford Administration, and Assistant Secretary of the Treasury, last week told Congress that efforts should not be made to address this basic issue of human rights.

Moreover, according to a recent House Subcommittee report, the Department of Commerce has shut its eyes to the boycott by failing to collect information on alleged offenses, and failing to carry out a firm policy against the boycott.

If I become President, all laws concerning these boycotts will be vigorously enforced.

HUMAN FREEDOM MUST NOT BE DENIED

We also regret our government's continuing failure to oppose the denial of human freedom in Eastern Europe and the Soviet Union.

The Republican Administration, with the Sonnenfeldt statement, has shown a lack of sensitivity to the craving of the Eastern European people for greater independence. That is unacceptable.

Only 13 months ago, President Ford and Henry Kissinger travelled to Helsinki to sign the treaty of comprehensive security and cooperation in Europe. It was supposed to lead to greater personnel freedom for the peoples of Eastern Europe and the Soviet Union, including greater freedom to travel, to marry, and to emigrate. But since that elaborate signing ceremony in Finland, the Russians have all but ignored their pledge—and the Ford Administration has looked the other way.

Similarly, the American government has failed to make serious efforts to get the Russians to permit greater numbers of people to emigrate freely to the countries of their choice, and I commend those members of Congress and others who have demonstrated a strong personal concern and commitment to that goal.

Despite our deep desire for successful negotiation on strategic arms and nuclear proliferation, we cannot pass over in silence the deprivation of human rights in the Soviet Union. The list of Soviet prisoners is long, and includes both Christians and Jews. I will speak only of two: Vladimir Bukovsky and Vladimir Slepak. Bukovsky, a young scientist, has been imprisoned most of the last 13 years for criticisms of the Soviet regime. Slepak, a radio engineer in Moscow, applied for an exit visa for Israel in April of 1970. The visa was denied, and since 1972, he has been denied the right to hold a job.

I ask why such people must be deprived of their basic rights, a year after Helsinki. And if I become President, the fate of men like Bukovsky and Slepak will be very much on my mind as I negotiate with the Soviet Union.

Liberty is curtailed in non-Communist countries, too, of course. There are many cases of political persecution in Chile and reports of brutal torture that are too well documented to be disbelieved.

There are those regimes, such as South Korea, which openly violate human rights, although they themselves are under threat from Communist regimes which represent an even greater level of repression.

USE OUR INFLUENCE TO INCREASE FREEDOM

Even in such cases, however, we should not condone repression or the denial of freedom. On the contrary, we should use our influence to increase freedom in those countries that depend on us for their very survival.

Denials of human rights occur in many places and many ways. In Ireland, for example, violence has bred more violence, and caused untold human suffering which brings sorrow to the entire civilized world.

I do not say to you that these are simple issues.

I do not say that we can remake the world in our own image. I recognize the limits on our power, and I do not wish to see a swing from one extreme of cynical manipulation to the other extreme of moralistic zeal, which can be just as dangerous.

But the present administration has been so obsessed with balance of power politics that it has often ignored basic American values and a proper concern for human rights. The leaders of this administration have rationalized that there is little room for morality in foreign affairs, and that we must put self-interest above principle.

I disagree strongly.

FOREIGN POLICY MUST REFLECT OUR NATIONAL IDEALS

Ours is a great and powerful nation, committed to certain enduring ideals, and those ideals must be reflected in our foreign policy.

There are practical, effective ways in which our power can be used to alleviate human suffering around the world.

We should begin by having it understood that if any nation, whatever its political system, deprives its people of basic human rights, that fact will help shape our people's attitude toward that nation's government.

If other nations want our friendship and support, they must understand that we want to see basic human rights respected.

Our power is not unlimited, but neither is it insignificant, and I believe that if we are sensitive and if we are concerned, there can be many instances when our power can make a crucial difference to thousands of men and women who are the victims of oppression around the world.

We must be realistic. Although we believe deeply in our own system of government and our own ideals, we do not and should not insist on identical standards or an identical system in all other nations. We can live with diversity in governmental systems, but we cannot look away when a government tortures people, or jails them for their beliefs, or denies minorities fair treatment or the right to emigrate.

GOVERNMENT CAN ACT ON BEHALF OF HUMAN RIGHTS

Let me suggest some actions our government should take in the area of human rights.

First, we can support the principle of self-determination by refraining from intervention in the domestic politics of other countries, but obviously, we are going to protect our interests and advance our beliefs in other nations.

We should not behave abroad in ways that violate our own laws or moral standards. You and I would not plot murder, but in recent years officials of our government have plotted murder, and that is wrong and unacceptable.

In giving trade advantages or economic assistance to other governments, we should make sure that such aid is used to benefit the people of that country. There will be times when we will want to help those who must live under a repressive government. We may refrain from giving general economic aid or military assistance to a government, yet wish to provide food, health care, or other humanitarian assistance directly to the people.

The United States should lend more vigorous support to the United Nations and other public and private international bodies in order to attract world attention, to the denial of freedom. These bodies are limited in power, but they can serve as the conscience of the world community, and they deserve far more support than our government has given them in recent years.

Insofar as they comply with our own constitution and laws, we should move toward Senate ratification of several important treaties drafted in the United Nations for the protection of human rights. These include the Genocide Convention that was prepared more than 25 years ago, the Convention against racial discrimination that was signed during the Johnson administration, and the covenants on political and civil rights, and on economic and social rights. Until we ratify these covenants, we cannot participate with other nations in international discussions of specific cases involving freedom and human rights.

We should quit being timid and join Israel and other nations in moving to stamp out international terrorism!

LEADERSHIP CONCERNED WITH ALL PEOPLE

These are some of the things our nation can do for a change to promote human rights in our imperfect world. The basic question is one of leadership. We have not had that kind of leadership in recent years. In foreign affairs, as in domestic affairs, we need leaders who are not only concerned with the interests of the powerful, but who are especially concerned with the powerless, with the weak, with the disenfranchised, and with other victims of oppression.

If I am elected President, I intend to provide it.

STATEMENT BY GOV. JIMMY CARTER, NEWS CONFERENCE, COLUMBUS, OHIO, SEPTEMBER 9, 1976

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am pleased to insert in the RECORD a statement made by Gov. Jimmy Carter in support of sunset legislation. Governor Carter delivered his remarks last week at a news conference in Columbus, Ohio.

The text of the statement follows:

STATEMENT BY GOV. JIMMY CARTER

CAN GOVERNMENT BE MADE TO WORK FOR US?

Many Americans have begun to question whether government can be made to work at all—whether we can serve basic human needs without proliferating wasteful, bloated bureaucracies.

The challenge before the nation is to cut the bureaucracy down to size and reverse this corrosive decline of confidence. The question before the voters is whether they can depend on the same people and the same administration who helped create the mess to do anything about it.

If I win the people's support in November I hope I will be remembered as a man who came to Washington and put the government's house in order.

For decades we have heard politicians denounce "big government" in campaign speeches. But the actions of some of those same politicians have failed to live up to their rhetoric.

In recent years, the process of proliferation has seemed to move forward with greater and greater speed and less and less control or direction. One extensive study reports that from 1969 through 1973 a total of 80 separate new organizations were added within the Executive Branch, excluding the Department of Defense. For the previous eight years the comparable total was 61.

AN EXPLOSION OF REGULATIONS AND RED TAPE

Accompanying the growth of governmental programs and agencies has been an explosion of regulations and red tape. The Federal Register, which publishes government regulations, increased from a staggering 29,000 pages in 1973 to more than 60,000 last year.

The 1976 Catalogue of Federal Domestic Assistance lists 1,030 programs—302 in health, 189 in income security and social service programs. There are more than 1,200 federal advisory boards, committees, commissions and councils, and more than 400 quasi-governmental units such as law enforcement planning regions and comprehensive area-wide planning agencies.

Only last week we learned that as much as 7½ billion dollars of Medicaid funds is wasted or stolen every year.

THE PERPETUATION OF AGENCIES

There is an old slogan in Washington—if you want to get along, go along. Too many bureaucrats learn the hard way to accept the creed. Unfortunately, so do some elected officials. They dedicate themselves to survival.

That is why, even though government agencies do grow old—sometimes a few years or even months after their birth—they never die. They never fade away.

The agencies gather about them special interests, powerful pressure groups, which quietly benefit from agency policies. In exchange, these interests form determined lobbies. They funnel fees into the coffers of lawyers and public relations artists who fight to assure their favorite agencies' survival.

The powerful few who benefit from waste and confusion, and their political allies are the loudest voices raised in protest, whenever someone suggests that an agency has had its day and should be retired.

YES, GOVERNMENTAL REFORM CAN SUCCEED

Can we stop this process? Can we cut obsolete agencies and wasteful programs out of the federal budget?

There are some people in this country, especially in Washington, who are cynical. They think the answer to these questions is no—so they refuse to try.

I disagree. I think we can confine government to its proper role and make it an effective, efficient instrument of human needs. We can make the government of the United States deserve the trust and admiration of our people.

Only two things are needed.

First, leadership is needed that is beholden to no one but the people.

Second, our leaders must be willing to adopt and implement the stern measures needed to bring the bureaucracy in line.

In the following weeks, I will be discussing a number of specific individual issues relating to governmental reform.

SUNSET LEGISLATION DESERVES STRONG SUPPORT

One such measure called "sunset" legislation requires that an agency will die on a date certain after its birth, unless Congress and the President affirmatively act to recreate it.

I have followed with considerable interest the work of Senator Muskie and the Senate Government Operations Committee and Ohio's own Senator John Glenn on sunset legislation. The current bill, the Government Economy and Spending Reform Act of 1976, stipulates that all tax expenditures, and authorizations for most federal programs would terminate every five years, unless specifically reenacted by Congress. Programs that were part of the same functional area would expire at the same time, to make the Congressional review more systematic.

The Republican Administration, despite campaign rhetoric about controlling government waste, has testified against enactment of sunset legislation before both houses of Congress. Its spokesmen asserted that legislation is not necessary and that the Executive Branch can reform itself. But as Senator Muskie has emphasized, we have heard 18 years of rhetoric about program review by the Executive, with no action. A strong prod is needed from the outside.

Up to the present time, I have not taken a position on this issue. Today, I have decided to do so. Halfway measures are not enough. The instinct for bureaucratic survival, the political inertia which keeps old agencies afloat, is too strong to be overcome except by drastic procedures.

If elected, I will actively support a strong sunset law, covering most of the bureaucratic establishment and covering virtually all tax expenditures as well.

I want a law which will shut down outdated agencies and programs once and for all. I intend to secure enactment of such a law.

CONGRESS MUST ENACT SUNSET LAW

I believe this legislation from the Congress would complement zero based budget which will be immediately implemented in the Executive Branch if I am elected.

The American people should know that despite campaign talk about efficiency, this Republican Administration has so actively opposed sunset legislation.

Some parts of the federal government do require continuity and permanence. Sunset legislation generally should not and does not affect legislation securing fundamental human or economic rights, our civil rights laws, or contributory programs, such as pensions, social security, unemployment compensation, or minimum wage. The specific provisions and timetable of the sunset bill must be worked out by Congress, so they would be compatible with the other duties Congress must discharge.

But after a century of new agencies, new programs, and new spending, it is time to ask the most basic questions. Do our programs work? How can we make them work better? Which ones do we need?

Like other significant innovations, sunset legislation will present some practical problems. But I am confident the benefits of systematic review will outweigh the inconveniences.

SENATOR WALTER F. MONDALE SPEAKS AT THE UNIVERSITY OF NOTRE DAME

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I was pleased to have been present on September 10, 1976, when the distinguished senior Senator from Minnesota, the Honorable WALTER F. MONDALE, Democratic nominee for Vice President of the United States, delivered an eloquent address at the University of Notre Dame, in the congressional district I have the honor to represent.

Senator MONDALE was introduced on this occasion by the distinguished president of the university, the Rev. Theodore M. Hesburgh, C.S.C.

Mr. Speaker, I insert at this point in the RECORD two articles on Senator MONDALE's address, both published on September 11, 1976, one in the New York Times and the other in the Washington Post.

The articles follow:

[From the New York Times, Sept. 11, 1976]

MONDALE CITING KENNEDY IN 1960, BIDS VOTERS NOT MISJUDGE CARTER

(By Linda Charlton)

SOUTH BEND, IND.—Senator Walter F. Mondale reminded a University of Notre Dame audience today that John F. Kennedy had been held suspect by some voters in 1960 because of "region, accent, religion." Mr. Mondale said later that he hoped that would not happen to Jimmy Carter.

The Democratic Vice-Presidential nominee did not mention Mr. Carter's name during his 30-minute speech, which was largely an attack on what Mr. Mondale termed the "expediency" of American foreign policy. But he said later that he had meant his reference to Mr. Kennedy's campaign to serve as a parallel to that of Mr. Carter, whose Southern background and Baptist religion are believed to make some voters, particularly Roman Catholics, wary.

Toward the end of his speech, shortly after he told the audience that he "came to the Congress in the same year as Bobby Kennedy" and was "proud that we together spoke and worked all over this country for people who had not been listened to," Mr. Mondale turned abruptly to talk of the 1960 Presidential campaign.

In his home state of Minnesota, Mr. Mondale said, many voters in 1960 were wary of Mr. Kennedy because of his accent—"He pronounced Minnesota 'Minnesoter,'" Mr. Modale interjected—and because he came from a different part of the country. "He had a different religion than most of the citizens of my state," Mr. Mondale continued. "Some of them were worried about that."

Despite what he called the "irrelevant" differences of "region, accent, religion, the rest," Mr. Mondale said, Minnesotans ultimately realized that "what really counted was the candidate and his principles." And he added that the Kennedy Administration "is a symbol of what we need again," a statement that the youthful audience endorsed with applause.

The entire speech was enthusiastically received by the audience, who interrupted several times with applause, and by the Rev. Theodore M. Hesburgh, the president of the university, who thanked Mr. Mondale for taking the student audience seriously.

Senator Mondale's appearance at this best-known of the nation's Roman Catholic universities took on increasing importance as the abortion issue flared up in recent days. Last night, on his arrival here from Kansas City, Mo., the Senator dined privately with Father Hesburgh, an influential and outspoken churchman.

A FRIENDLY ATMOSPHERE

In his introduction of Mr. Mondale this morning, Father Hesburgh noted that the Minnesota Senator's father was a minister, then added, "and I think the Senator comes by his moral concerns quite naturally." Mr. Mondale underlined the friendly atmosphere by replying, "Thank you, Father Ted," before beginning his speech.

Neither Mr. Mondale nor Father Hesburgh commented on their evening meeting, but one staff member described the discussion as a "good" one. Nor would the Senator or his staff say beforehand whether they planned to discuss the abortion issue, although it was unofficially conceded that it would certainly be one of the topics discussed.

Today's friendly reception at Notre Dame, and polls showing that the abortion issue is apparently not influencing voters beyond the small core of fervent opponents, appeared to have eased the fears haunting the Carter-Mondale campaign in recent days.

NO OPEN HOSTILITY

These were that the abortion issue might become a vehicle for persuading voters that the Carter-Mondale ticket is anti-Catholic—the one thing, a staff member said, that could produce a unified Catholic bloc vote.

The influence of Catholics such as Father Hesburgh could be invaluable in containing the issue, but the help of such Catholic liberals cannot be courted too openly. "We're damned if we do and damned if we don't," a Mondale aide said.

Thus far, Mr. Mondale has not encountered any open hostility from the anti-abortion forces similar to that plaguing Mr. Carter. Mr. Mondale's speech today, which dealt with the morality—or lack of it—of American foreign policy, seemed designed in part to assert that abortion is not the only moral issue, nor perhaps the most important, and that the Democratic platform adheres more closely in most issues to recent Catholic thinking about social justice.

Mr. Mondale also attempted to link United States foreign policy with what he called "the lawlessness of the Watergate era," saying that the formation of the "plumbers" group in the Nixon White House was prompted by a desire to prevent the American people from finding out what the United States was actually doing in Southeast Asia.

[From the Washington Post, Sept. 11, 1976]

Mondale Assails Foreign Policy as Tainted by "Watergate Era"

(By Warren Brown)

South Bend, Ind.—Democratic vice presidential nominee Walter F. Mondale told 2,500 students here today that President Ford's administration is pursuing foreign policies tainted by the "recklessness and lawlessness of the Watergate era."

Mondale's statements at the University of Notre Dame marked his toughest attack on President Ford in a five-day, cross-country campaign tour that ended here today.

The Minnesota senator called his speech a "very significant" attempt to outline differences between Republican and Democratic approaches to foreign relations. He also said he was trying to show in his statements that the attitudes that spawned official illegalities at home, of the sort disclosed in the Watergate scandals, have adversely affected American policies abroad.

"As a result of those policies, our government is aiding those (foreign governments) who would impoverish and oppress their own people and is aggravating local (overseas) conflicts," Mondale said.

He added: "Each day, the danger increases that world powers will be drawn into these conflicts."

Recent American actions in Chile, Greece and Angola were plagued with the "expediency and deceit" that characterized Watergate and the Vietnam war, Mondale said.

"It (Vietnam) was a war begun by a Democratic President, continued by a Republican President, and a war, I regret to say, I once supported," Mondale said.

"But even now that the war is over, there is still no genuinely new direction in American foreign policy. . . . We still do not have a government that recognizes that power alone is not enough, that principle must govern our actions overseas," he said.

In Chile, through actions initiated under President Nixon, American intervention helped to overthrow a "democratically elected government," Mondale said. He said the "result of that covert intervention was the creation of one of the most brutal and harsh military dictatorships in the world."

Mondale was referring to the Chilean coup of Sept. 11, 1973, which led to the overthrow and death of Marxist President Salvador Allende. A four-man, right-wing, military junta took control of the country after Allende's death.

The United States, under Presidents Nixon and Ford also "supported and attempted to legitimize the military junta in Greece," and recently "plunged into another furtive and covert intervention in Angola, as if the most important lesson of Vietnam had never been learned," Mondale said.

That lesson is that there is "no conflict between principle and national security," the senator said.

"A government that believes in itself and is believed in abroad has the most important security of all," said Mondale. He added: "No international expediency will achieve security if security is not based on principle.

When we have a foreign policy operating abroad that is inconsistent with the beliefs of the American people, our adversaries know that it is not credible and that it cannot endure," he said.

Mondale was scathingly critical of American arms sales.

"At a time when regional military tensions are increasing, America, I regret to say, has become the world's largest supplier of conventional arms."

The senator said he and Democratic presidential nominee Jimmy Carter, if elected, will have a foreign policy that "will not indiscriminately make tanks and guns available to every country which seeks them."

Nor will a Carter-Mondale administration use the country's intelligence agencies "to topple freely elected foreign governments," he said. "In southern Africa," said Mondale, "we will champion full equality between the (black and white) races and seek to end the evils of racial discrimination."

He added that, under a Democratic administration, America would support Latin American governments that want "lawful, democratic and progressive government, and (that) are on the side of (poor) people who want long overdue economic justice."

Mondale received a lengthy, standing ovation after this speech—the third such ovation he received in his 40-minute address.

There had been some apprehension on the part of the candidate's staff that he would be the target of anti-abortionists at the university, which has a 90 per cent Catholic student population. Carter, on his current trip, has often been picketed by "right-to-life" supporters. However, no anti-abortion sentiments were seen or heard.

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I insert in the Record at this point a statement regarding several recorded votes I missed on Thursday, September 9, 1976, and Friday, September 10, 1976, and an indication of how I would have voted had I been present.

SEPTEMBER 9, 1976

Rollcall No. 704, a vote on a motion offered by Mr. Mahon of Texas to recede and concur in Senate amendment 100 to the conference report on H.R. 14262, Department of Defense Appropriations for fiscal 1977, to waive the prohibition on CHAMPUS payments for counseling services in cases where the counseling had been recommended by a physician. The motion was agreed to by a vote of 342 to 4. Had I been present, I would have voted for the motion.

Rollcall No. 706, a vote on an amendment offered by Mr. Rooney of Pennsylvania to H.R. 10498, Clean Air Act amendments, to substitute language for the section of the bill on new construction in air quality control regions exceeding national ambient air quality standards. The amendment was rejected by a vote of 103 to 198. Had I been present, I would have voted against the amendment.

Rollcall No. 707, a vote on an amendment offered by Mr. SATTERFIELD of Virginia to H.R. 10498, Clean Air Act amendments, to strike language in the bill providing for local government involvement in the designation process. The amendment was rejected by a vote of 32 to 263. Had I been present, I would have voted against the amendment.

Rollcall No. 708, a vote on an amendment offered by Mr. CARTER of Kentucky to H.R. 10498, Clean Air Act amendments, to restore the 100-percent level for primary air quality standards set by the Administrator in more heavily polluted areas. The amendment was rejected by a vote of 100 to 183. Had I been present, I would have voted against the amendment.

SEPTEMBER 10, 1976

Rollcall No. 710, a vote on final passage of the conference report on H.R. 8603, Postal Reorganization Act amendments. The report was agreed to by a vote of 276 to 33. I was paired for the report and had I been present, would have voted in favor of it.

Rollcall No. 711, a vote on final passage of the conference report on S. 327, Land and Water Conservation Act amendments. The report was agreed to by a vote of 281 to 3. I was paired for the report and had I been present, would have voted in favor of it.

NOTICE TO ALL MEMBERS: READ WHY WE MUST PASS H.R. 6684, WEDNESDAY

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, the soft drink industry has existed for over 75 years as a territorial franchised industry. As a result there are about 2,300 local plants throughout the country competing with one another, contributing to the local economies. Soft drinks have increased in price less than any food item in America in the past 30 years.

Soft drink plants manufacturing the same trademarked product do not compete with one another for sales of that product. Just as no manufacturer of a brand name product competes with himself. Instead, the franchisor issues trademark franchise rights to manufacture its beverage to independent businessmen, one to a "territory." This does not deny competition to the consumer, because each manufacturer sells to thousands of retailers who compete for the consumer's favor. And, of course, each distinct beverage competes with every other at both the manufacturing and the retail level.

In 1971, the Federal Trade Commission asserted that this 75-year-old system should be declared illegal and replaced. The FTC staff took its case to a hearing before the Commission's administrative law judge and lost. The judge said:

> 1. The system is thoroughly competitive.
> 2. To tear down the system would
> a. reduce competition by increasing concentration
> b. increase prices to consumers.

The FTC staff has appealed its case to the full Commission, suggesting that the Commission may find against the industry on a per se basis; that is, disregarding the competitiveness of the industry and simply declaring it illegal because it exists.

H.R. 6684 does not shield the soft drink industry from any antitrust statute or from antitrust scrutiny by any agency or court. H.R. 6684 simply states that if the 75-year-old system is to be found to violate the antitrust laws it must be so found from the facts, and not by a per se declaration. The full effect of H.R. 6684 is to permit a soft drink manufacturer an opportunity to defend himself in court on the merits of his business conditions. If he cannot, he will be found guilty of an antitrust violation.

We will be voting on H.R. 6684 Wednesday. I urge all Members—particularly from the 14 States having primary elections tomorrow—to return to Washington Wednesday in time to support this vital bill.

U.S. POLICY TOWARD THE REPUBLIC OF SOUTH AFRICA

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to share with my colleagues an excellent paper written on "U.S. policy toward the Republic of South Africa." The author, Brian Shefferman, of Walter Johnson High School, was one of 38 students in my 1976 high school intern program. This paper was the product of an intense 3-week research effort, and represents Brian's analysis and proposed solutions:

WHAT SHOULD UNITED STATES POLICY BE TOWARD THE REPUBLIC OF SOUTH AFRICA?

When considering United States policy toward the Republic of South Africa one must always keep in mind this fact: In South Africa a minority of some four million whites rule over a majority of nearly 18 million blacks and two million "coloreds" and Asians, robbing them of most of their basic human rights.

There are two basic concerns facing the United States in setting a foreign policy toward South Africa. One concern is the protection of human rights, the other is the concept of non-intervention in other countries' internal affairs. It is unfortunate that either of these has to be sacrificed, but it is obvious that in regard to South Africa one must be violated. If the United States refrains from pressuring the South African government into dropping its apartheid policies, blacks there will continue to be oppressed, but to uphold human rights, clearly, meddling must occur.

Thus, the United States must decide which is more important in South Africa's case. In making that decision one must consider what this country is supposedly based upon: that "all men are created equal," that to secure the rights of "life, liberty and the pursuit of happiness . . . governments are instituted among men, deriving their just power from the consent of the governed". If the United States is to be consistent with its own theories of justice, protection of human rights should be the primary concern and non-intervention secondary—but not totally abandoned. Just because a people happened to be born within the boundaries of a country called "South Africa" is no reason to neglect their rights. Freedom and equality know no nationality.

Whenever the South African issue is raised in Congress opponents of increasing pressure argue that human rights are being similarly violated in the communist countries and in many African states. They ask: "Why single out South Africa?" It is true that South Africa is not uniquely evil, but the distinction is a real one, for South Africa is one of the few contemporary societies where racism is the law. It should be added that in other areas where the United States has found it difficult to countenance the policy of a particular country, it has adjusted its relationship accordingly. That is why there are trade restrictions with regard to Eastern European countries, the Soviet Union, China and Cuba. Now it is essential that the United States adjust its relationship with South Africa. So, facing the United States is the question: "What should and can we do to insure that the nonwhite majority obtain their just rights?"

Some people advocate violent overthrow of the government as a means for the blacks to obtain liberty. After all, the United States obtained its independence through violent revolution when it became obvious that peaceful avenues of change had been blocked. Clearly, blacks in South Africa today are more oppressed than were white Americans in the Colonial period.

But at this time a revolt is not the best answer to the problems of South Africa. First, it is doubtful that it could succeed. Militarily, South Africa is very powerful. It would only lead to the death of many blacks and whites and increase racial tensions. Second, even if it did succeed, a very unstable South Africa would result. Unlike the American rebels of the 1770's, South African blacks have not obtained enough experience or knowledge to organize and run a government. Zaire obtained independence with a total of 12 college graduates. Immediately the nation was split into several warring factions, each attempting to assume power. It resulted in the loss of many black lives and a military dictatorship. The same is likely to happen in South Africa. Third, the whites in South Africa could be either expelled from the country or killed in the event of successful revolution.

Although a successful rebellion is not the best answer to South Africa's problems, it would unchain the blacks from the manacles of apartheid. This, at least, would give them the opportunity to determine their own destiny—an opportunity that does not exist now. Yet, the longer blacks are oppressed, the more possibility there is for violence and communist intervention, as occurred in Angola. In South Africa this was illustrated in the recent riots, which began as a protest against the compulsory teaching of the Afrikaans language and were escalated largely by harsh police tactics, including firing point blank into crowds. The rioting took the fearful toll of at least 176 dead, of whom two were white, 1,139 injured, and 1,298 arrested—all black.[1] There is also little evidence to support the claim that South Africa is changing. In a recent meeting between South African Prime Minister John Vorster and Secretary of State Henry Kissinger, Vorster defended apartheid.[2] Therefore, to prevent more violence, it is imperative that the United States immediately seek out and apply peaceful solutions to this problem. If the United States continues its policy of condemning the South African regime, but in reality supporting its status quo, the revolution is inevitable. And when that majority regime eventually comes to power, it will certainly be hostile to the United States and indebted to the Soviet Union or Cuba or whomever, but not the United States.

This has been the experience of the United States in Vietnam, Mozambique, and in Angola. The relatively new Frelimo government in Mozambique is utterly hostile to the United States. It is going to take a great deal of resourceful policy by the United States to overcome that fully understandable attitude of hostility.

There are other drawbacks to supporting the status quo of the South African government. It says the confidence of, first, black South Africans; second, black Americans; and third, the entire third world in the integrity of the United States, because of this difference between rhetoric and reality. It is not wise for the United States to ignore the interests of the Third World countries and their increasing muscle. On the African continent alone, Nigeria and the Congo are major suppliers of crude oil to the United States.[3] These countries could react adversely to overt or covert support by a Western government of a racist regime.

One of the most important facets of American policy toward South Africa is its business involvement there. It is the behavior of this business, not words, that establishes much of the United States' true foreign policy. As of December 1974 the State Department did not have "enough information on the employment practices of each of the individual U.S. firms operating in South Africa"[4] to determine if their treatment of blacks was fair. But it is clear from the testimony of experts on this matter before the House and Senate that, although some companies have adopted fair employment practices, many have not. South Africa's belief in apartheid is strengthened by this American discrimination toward blacks.

American firms operating in South Africa are in a unique position, for they possibly can bring about change from within South Africa. Business should try to push to the limits of tolerance in order to break down apartheid by increasing the welfare of black workers, seeing to their training, job promotions, and the education of their children, providing the opportunity for collective bargaining by recognizing black employee groups, giving equal pay for equal work, instituting pension, life, health, and disability insurance plans for nonwhites, providing legal assistance to employees who cannot afford it and assisting them to obtain decent housing, medical care, loans and transportation. If the self-confidence, organizational skills and financial resources of the South African nonwhites can really be improved, would not these changes increase the capacity of the South African majority to claim their just rights—even if they fail to convert the white rulers into true democrats willing to transfer power to the nonwhites?

Businessmen often say that even if they wanted to do these things, it would not be allowed by the South African government. It is not at all clear that this is the case. NASA has adopted many enlightened employment practices.[5] This action is testing, in a small way, the limits of South African tolerance. Others should join NASA to probe these limits and continue to press toward ever higher standards of justice for their nonwhite employees.

With increased technological developments the number of white skilled labor is not meeting the demands of South Africa's modern industrial organization. More and more black people are acquiring skills, and it is in the economic interest of white industrialists and the white community to let that process continue. American business can train this necessary black skilled labor.

Furthermore, over the last several years black labor has staged a series of more or less spontaneous strikes in various parts of South Africa. Whereas a decade or so ago the police would have trampled upon these strikers and the government would have made no concessions to them, now the South African regime has found it expedient, indeed necessary, to attempt to conciliate black labor. Again, this is a key area where American business can be effective in breaking down apartheid. The more dependent South Africa's economy becomes upon black skilled labor the more effective a strike will be. The blacks could strike not only for economic freedom but political as well.

Some businessmen believe, though, that the South African government will, eventually, reach a point where it will stop United States firms from continuously increasing the opportunities and welfare of nonwhite employees and will force United States business to retreat from the reforms or withdraw from South Africa entirely. At that point, complete withdrawal is best. If United States business cannot be a force for continuous change and ever more effective assaults on apartheid, then it should withdraw.

There are a number of people, particularly concerned, young black Americans, who call for immediate withdrawal. But that course of action, although better than the United States' present policy, would discard an important potential tool for achieving meaningful change within South Africa before it is even tried out. Before American firms are pressured to withdraw, they should be converted into a force to break down apartheid. Most of those who advocate immediate withdrawal honestly doubt that United States business could ever become a force for real change within South Africa even if it had the will. Perhaps they are right. But no one will know for certain until some companies have tried. It that does not result in meaningful changes, then the United States should pull out in the hopes that that will have some greater impact. However, it must be borne in mind that those two strategies cannot be tried in the reverse order: United States business cannot first withdraw and later try to work within South Africa.

Although withdrawal is not the best course to follow at this time it does have its merits. In the first place, it would be eloquent testimony of our national determination to oppose apartheid. The world in general, and concerned people in the United States might begin to believe that this country has not lost its capacity for moral outrage. They might feel we are willing to make some sacrifices to match our denunciations of apartheid. Perhaps even more important than terminating the "appearance of approval" which United States business presence gives to the South African system, would be that when the revolution does come, the United States will not be drawn into that conflict on the wrong side because of our economic ties with the present regime. The United States government does "encourage" American companies to adopt enlightened employment practices, but this does not guarantee that those firms will comply. Therefore, Congress should prohibit operation of any American firm in South Africa unless that company follows radically improved employment policies regarding their nonwhite employees. Congress should prohibit any United States company from remaining in South Africa that the South African government orders out of the country. Congress should also prohibit operations in South Africa of any American business if, after two years although that company has adopted employment practices to the required level, the rights of nonwhites have not been significantly improved.

The United States also has business investments in Namibia. The International Court of Justice and the United Nations have declared South Africa's occupation of Namibia illegal. That position is supported by the United States. Yet, American companies operating there pay taxes to the South African government.[6] Since Namibia is officially under UN supervision Congress should require all American firms operating in Namibia to pay its taxes to the UN.

Uranium is exported to South Africa from the United States.[7] Although it is agreed the nuclear material will be used in a peaceful manner, considering South Africa's precarious position in the world it could be tempted to build nuclear weapons. In fact, South Africa has not ratified the Nuclear Proliferation Treaty.[8] Therefore, Congress should ban the sale of all nuclear materials to South Africa.

Since 1963 the United States has officially imposed an arms embargo on South Africa. The United States, though, sells the Lockheed Hercules C–130 and a light aircraft called Cessna to South Africa.[9] The International Institute for Strategic Study's annual report, a study of the world's military might, lists C–130's and Cessna's as part of the South African air force. These aircraft could be used at any time to suppress any black attempt to oppose continued white, minority rule. Therefore, Congress should ban the sale of all aircrafts to South Africa excluding large passenger airliners.

In short, all American support of South African apartheid policies should cease immediately, for it encourages oppression of

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Footnotes at end of article.

the black majority and can only lead to violence.

FOOTNOTES

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[1] *Time*. July 5, 1976, p. 44.

[2] *Newsweek*. July 4, 1976, p. 89.

[3] *U.S. Policy Toward Southern Africa*. Senate Hearings. p. 316.

[4] *Review of State Department Trip Through Southern and Central Africa*. House Hearings. p. 17.

[5] *U.S. Business Involvement in Southern Africa;* Part 3. House Hearings. pp. 187–191.

[6] *U.S. Policy Toward Southern Africa*. Senate Hearings. p. 270.

[7] Ibid. p. 268.

[8] Ibid.

[9] Ibid. p. 372.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1977

(Conference report filed September 11, 1976, pursuant to its previous order on Senate Concurrent Resolution 139, reads as follows:)

CONFERENCE REPORT (H. REPT. No. 94–1502)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the United States Government for the fiscal year 1977, having met, after full and free conference, have been unable to agree.

BROCK ADAMS,
THOMAS P. O'NEILL, Jr.,
LUD ASHLEY,
PARREN J. MITCHELL,
JAMES G. O'HARA,
OMAR BURLESON,
ROBERT N. GIAIMO,
NEAL SMITH,
ROBERT L. LEGGETT,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
FRANK E. MOSS,
ERNEST F. HOLLINGS,
ALAN CRANSTON,
HENRY BELLMON,
J. GLENN BEALL, Jr.,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 139) revising the congressional budget for the United States Government for the fiscal year 1977, report that the conferees have been unable to agree. This is a technical disagreement, necessitated by the fact that the deficit figure in the substitute language agreed to by the conferees is less than either the House or the Senate provision.

It is the intention of the conferees that the managers on the part of the Senate will offer a motion in the Senate to recede and concur in the House amendment to the Senate-passed resolution with an amendment (in the nature of a substitute) consisting of the language agreed to in conference, and that upon the adoption of such amendment in the Senate the managers on the part of the House will offer a motion in the House to concur therein.

The managers on the part of the House and the Senate submit the following joint statement in explanation of the action agreed upon by the managers:

The substitute language which is to be offered as described above (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows: That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,300,000,000;

(2) the appropriate level of total new budget authority is $451,550,000,000;

(3) the appropriate level of total budget outlays is $413,100,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $50,600,000,000; and

(5) the appropriate level of the public debt is $700,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category is as follows:

(1) National Defense (050):

(A) New budget authority, $112,100,000,000.

(B) Outlays, $100,650,000,000.

(2) International Affairs (150):

(A) New budget authority, $8,900,000,000.

(B) Outlays, $6,900,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $4,600,000,000.

(B) Outlays, $4,500,000,000.

(4) Natural Resources, Environment, and Energy (300):

(A) New budget authority, $18,200,000,000.

(B) Outlays, $16,200,000,000.

(5) Agriculture (350):

(A) New budget authority, $2,100,000,000.

(B) Outlays, $2,200,000,000.

(6) Commerce and Transportation (400):

(A) New budget authority, $17,200,000,000.

(B) Outlays, $17,400,000,000.

(7) Community and Regional Development (450):

(A) New budget authority, $9,550,000,000.

(B) Outlays, $9,050,000,000.

(8) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $24,000,000,000.

(B) Outlays, $22,200,000,000.

(9) Health (550):

(A) New budget authority, $40,500,000,000.

(B) Outlays, $38,900,000,000.

(10) Income Security (600):

(A) New budget authority, $155,900,000,000.

(B) Outlays, $137,200,000,000.

(11) Veterans Benefits and Services (700):

(A) New budget authority, $20,300,000,000.

(B) Outlays, $19,500,000,000.

(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,500,000,000.

(B) Outlays, $2,600,000,000.

(13) General Government (800):

(A) New budget authority, $3,600,000,000.

(B) Outlays, $3,500,000,000.

(14) Revenue Sharing and General Purpose Assistance (850):

(A) New budget authority, $7,600,000,000.

(B) Outlays, $7,700,000,000.

(15) Interest (900):

(A) New budget authority, $39,600,000,000.

(B) Outlays, $39,600,000,000.

(16) Allowances:

(A) New budget authority, $700,000,000.

(B) Outlays, $80,000,000.

(17) Undistributed Offsetting Receipts (950):

(A) New budget authority, −$16,800,000,000.

(B) Outlays, −$16,800,000,000.

BUDGET AGGREGATES

Revenues.—The House resolution provided for Federal revenues in the amount of $362.500 billion; and to achieve that level it provided that revenues should be decreased by $15.300 billion. The Senate resolution provided for Federal revenues in the amount of $362.0 billion; and to achieve that level it provided that revenues should be decreased by $15.8 billion.

The conference substitute provides for Federal revenues in the amount of $362.5 billion; and to achieve that level it provides that revenues should be decreased by $15.3 billion. This revenue level assumes a full fiscal year extension of the temporary tax reductions, first enacted in 1975, at a cost of $17.3 billion, partially offset by a net increase of $1.6 billion in revenues from elimination or modification of tax expenditures, and an increase in unemployment compensation taxes of $400 million to reflect an increase in the taxable wage base effective January 1, 1977.

Budget Authority.—The House resolution provided for total new budget authority in the amount of $452.583 billion. The Senate resolution provided for new budget authority in the amount of $447.5 billion. The conference substitute provides for total new budget authority in the amount of $451.55 billion.

Outlays.—The House resolution provided for total outlays in the amount of $413.240 billion. The Senate resolution provided for outlays in the amount of $412.8 billion. The conference substitute provides for total outlays in the amount of $413.1 billion.

Deficit.—The House resolution provided for a budget deficit in the amount of $50.740 billion. The Senate resolution provided for a deficit in the amount of $50.8 billion. The conference substitute provides for a budget deficit in the amount of $50.6 billion.

Public Debt.—The House resolution provided for a public debt level of $700.000 billion. The Senate resolution provided for a public debt level of $701.0 billion. The conference substitute provides for a public debt level of $700.0 billion.

ECONOMIC OBJECTIVES ASSUMPTIONS

The fiscal policy contained in the conference report reaffirms the budget priorities in the first budget resolution. Enactment of the legislation assumed in the totals, together with a supportive monetary policy, will move the nation closer to full economic recovery. The economic assumptions underlying the revenue and spending ceilings contained in the conference report are as follows:

[*Calendar years; dollars in billions*]

Item	1976	1977
Gross national product:		
Current dollars	1,692	1,885
Constant (1972) dollars	1,265	1,338
Incomes:		
Personal income	1,382	1,542
Wages and salaries	893	995
Corporate profits	153	177
Unemployment rate:		
Calendar year average	7.5	6.5
End of year	7.2	6.2
Consumer price index	5.7	5.3
Interest rate, 3-month Treasury bills	5.3	5.8

050: NATIONAL DEFENSE

The Senate resolution provided budget authority of $112.1 billion and outlays of $100.7 billion. The House amendment provided budget authority of $112.086 billion and outlays of $100.606 billion.

The conference agreement provides budget authority of $112.1 billion and outlays of $100.65 billion.

These amounts assume achievement of nearly all the proposed sales of materials from the strategic stockpile and absorption in amounts for pay raises in line with past experience.

150: INTERNATIONAL AFFAIRS

The Senate resolution provided budget authority of $9.1 billion and outlays of $6.9 billion. The House amendment provided budget authority of $8.770 billion and outlays of $6.763 billion.

The conference agreement provides budget authority of $8.9 billion and outlays of $6.9 billion.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

The Senate resolution provided budget authority of $4.6 billion and outlays of $4.5 billion. The House amendment provided budget authority of $4.595 billion and outlays of $4.505 billion.

The conference agreement provides budget authority of $4.6 billion and outlays of $4.5 billion.

300: NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

The Senate resolution provided budget authority of $18.2 billion and outlays of $16.0 billion. The House amendment provided budget authority of $17.923 billion and outlays of $16.227 billion.

The conference agreement provides budget authority of $18.2 billion and outlays of $16.2 billion.

The conferees, without prejudice, have not assumed any budget authority in this function for the proposed Nuclear Fuel Assurance Act because the budgetary impact of this bill is impossible to determine at this time. Should the authorization and subsequent appropriation be adopted, they will result in budget authority and the Budget Committees would consider the possibility of a Third Budget Resolution to cover this requirement, taking account of the total budgetary situation at that time.

350: AGRICULTURE

The Senate resolution provided budget authority of $1.6 billion and outlays of $2.0 billion. The House amendment provided budget authority of $2.317 billion and outlays of $2.239 billion.

The conference agreement provides budget authority of $2.1 billion and outlays of $2.2 billion.

The increase over the Senate level in budget authority in the conference substitute was provided for net realized losses of the Commodity Credit Corporation and the increase over the Senate level in outlays was provided for the short-term export credits program.

400: COMMERCE AND TRANSPORTATION

The Senate Resolution provided budget authority of $15.2 billion and outlays of $17.4 billion. The House amendment provided budget authority of $17.699 billion and outlays of $16.984 billion.

The conference agreement provides budget authority of $17.2 billion and outlays of $17.4 billion. The managers assume that these totals include $2 billion in budget authority for the Emergency Mortgage Purchase Assistance program of the Government National Mortgage Association, and $0.5 billion in both budget authority and outlays for an additional payment to the Postal Service.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The Senate resolution provided $7.5 billion in budget authority and $9.0 billion in outlays. The House amendment provided $9.584 billion in budget authority and $9.078 billion in outlays.

The conference agreement provides $9.55 billion in budget authority and $9.05 billion in outlays. It assumes that the Public Works Employment Act will be fully funded in Fiscal Year 1977. Should the pending Public Works Employment Appropriation bill be enacted during the Transition Quarter, $2.0 billion in budget authority assumed for fiscal 1977 in this budget resolution would not be required since it would have been charged to the Transition Quarter. If this occurs, the conferees believe that the $2.0 billion in budget authority should not be used for any other purpose in Fiscal Year 1977.

500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

The Senate resolution provided budget authority of $24.0 billion and outlays of $22.3 billion. The House amendment provided authority of $23.884 billion and outlays of $22.187 billion.

The conference agreement provides budget authority of $24.0 billion and outlays of $22.2 billion.

550: HEALTH

The Senate resolution provided budget authority of $40.5 billion and outlays of $38.8 billion. The House amendment provided budget authority of $40.527 billion and outlays of $38.960 billion.

The conference agreement provides budget authority of $40.5 billion and outlays of $38.9 billion.

600: INCOME SECURITY

The Senate resolution provided $156.2 billion in budget authority and $137.3 billion in outlays. The House amendment provided budget authority of $155.872 billion and outlays of $137.000 billion.

The conference agreement provides $155.9 billion in budget authority and $137.2 billion in outlays.

It provides $0.2 billion in outlays over the amounts in the House resolution due to a re-estimate of current policy costs for unemployment compensation. The estimates assume elimination of the one percent kicker. They also assume enactment of the Supplemental Security Income (SSI) Amendments (H.R. 8911) and the extension of Special Unemployment Assistant (SUA).

700: VETERANS BENEFITS AND SERVICES

The Senate resolution provided budget authority of $20.3 billion and outlays of $19.5 billion. The House amendment provided budget authority of $20.323 billion and outlays of $19.539 billion.

The conference agreement provides budget authority of $20.3 billion and outlays of $19.5 billion.

750: LAW ENFORCEMENT AND JUSTICE

The Senate resolution provided budget authority of $3.5 billion and outlays of $3.6 billion. The House amendment provided budget authority of $3.490 billion and outlays of $3.571 billion.

The conference agreement provides budget authority of $3.5 billion and outlays of $3.6 billion.

800: GENERAL GOVERNMENT

The Senate resolution provided budget authority of $3.6 billion and outlays of $3.5 billion. The House amendment provided budget authority of $3.556 billion and outlays of $3.534 billion.

The conference agreement provides budget authority of $3.6 billion and outlays of $3.5 billion.

850: REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

The Senate resolution provided budget authority of $7.6 billion and outlays of $7.7 billion. The House amendment provided budget authority of $7.617 billion and outlays of $7.657 billion.

The conference agreement provides budget authority of $7.6 billion and outlays of $7.7 billion.

900: INTEREST

The Senate resolution provided budget authority of $39.6 billion and outlays of $39.6 billion. The House amendment provided budget authority of $40.400 billion and outlays of $40.400 billion.

The conference agreement provides budget authority of $39.6 billion and outlays of $39.6 billion.

ALLOWANCES

The Senate resolution provided budget authority of $0.7 billion and outlays of $0.8 billion. The House amendment provided budget authority of $0.860 billion and outlays of $0.910 billion.

The conference agreement provides budget authority of $0.7 billion and outlays of $0.8 billion.

The agreement assumes absorption in amounts for pay raises in line with past experience.

950: UNDISTRIBUTED OFFSETTING RECEIPTS

The Senate resolution provided budget authority of −$16.8 billion and outlays of −$16.8 billion. The House amendment provided budget authority of −$16.920 billion and outlays of −$16.920 billion.

The conference agreement provides budget authority of −$16.8 billion and outlays of −$16.8 billion.

FISCAL YEAR 1977 BUDGET AUTHORITY

[In billions of dollars]

		Senate	House	Conference
050	National defense	112.1	112.086	112.1
150	International affairs	9.1	8.770	8.9
250	General science, space and technology	4.6	4.595	4.6
300	Natural resources, environment and energy	18.2	17.923	18.2
350	Agriculture	1.6	2.317	2.1
400	Commerce and transportation	15.2	17.699	17.2
450	Community and regional development	7.5	9.584	9.55
500	Education, training, employment and social services	24.0	23.884	24.0
550	Health	40.5	40.527	40.5
600	Income security	156.2	155.872	155.9
700	Veterans benefits and services	20.3	20.323	20.3
750	Law enforcement and justice	3.5	3.490	3.5
800	General government	3.6	3.556	3.6
850	Revenue sharing and general purpose fiscal assistance	7.6	7.617	7.6
900	Interest	39.6	40.400	39.6
	Allowances	.7	.860	.7
950	Undistributed offsetting receipts	−16.8	−16.920	−16.8
	Total	447.5	452.583	451.55

FISCAL YEAR 1977 OUTLAYS

[In billions of dollars]

		Senate	House	Conference
050	National defense	100.7	100.606	100.65
150	International affairs	6.9	6.763	6.9
250	General science, space and technology	4.5	4.505	4.5
300	Natural resources, environment and energy	16.0	16.227	16.2
350	Agriculture	2.0	2.239	2.2
400	Commerce and transportation	17.4	16.984	17.4
450	Community and regional development	9.0	9.078	9.05
500	Education, training, employment and social services	22.3	22.187	22.2
550	Health	38.8	38.960	38.9
600	Income security	137.3	137.000	137.2
700	Veterans benefits and services	19.5	19.539	19.5
750	Law enforcement and justice	3.6	3.571	3.6
800	General government	3.5	3.534	3.5
850	Revenue sharing and general purpose fiscal assistance	7.7	7.657	7.7
900	Interest	39.6	40.400	39.6
	Allowances	0.8	0.910	0.8
950	Undistributed offsetting receipts	−16.8	−16.920	−16.8
	Total	412.8	413.240	413.1

ALLOCATIONS OF BUDGET AUTHORITY AND OUTLAYS TO HOUSE AND SENATE COMMITTEES

Pursuant to section 302 of the Congressional Budget Act, the conferees make the following estimated allocation of the appropriate levels of total new budget authority and total budget outlays for fiscal year 1977 among the committees of the respective Houses:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlement programs requiring appropriation action[1]	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	295.1	277.8		
Aeronautical and Space Sciences		(2)		
Agriculture and Forestry	1.5	.2	8.1	8.5
Armed Services	−.5	−.6	8.4	8.4
Banking, Housing and Urban Affairs	3.6	−.9	.1	.1
Commerce	1.0	.1	.2	.2
District of Columbia	(3)	(3)		
Finance	172.6	168.7	35.7	29.1
Foreign Relations	7.1	6.7	.1	.1
Government Operations	(2)	(2)		
Interior and Insular Affairs	.8	.7	.1	(4)
Judiciary	(4)	(5)	.3	.3
Labor and Public Welfare	3.7	3.9	2.6	2.5
Post Office and Civil Service	20.8	13.6	(6)	(6)
Public Works	3.6	1.0	.2	.1
Rules and Administration	(4)	(3)		
Veterans' Affairs	1.0	.4	14.6	13.8
Joint Committee on Atomic Energy	(6)	(6)		
Not allocated to committees	−58.7	−58.6		
Total	451.55	413.1	70.3	63.1

[1] These amounts are included as part of the direct spending jurisdiction of the Appropriations Committee.

[2] Less than $5,000,000.

[3] Less than $50,000,000.

[4] Less than $45,000,000.

[5] Less than $30,000,000.

[6] Less than $500,000.

Note: Details may not add to totals due to rounding.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a)

[In millions of dollars]

		Budget authority	New entitlement authority	Outlays
	AGRICULTURE COMMITTEE			
300	Natural resources, environment and energy	122		114
350	Agriculture	93		61
450	Community and regional development	137		(1)
600	Income security	12		−4
850	Revenue sharing and general purpose fiscal assistance	37		37
	Total	400		207
	APPROPRIATIONS COMMITTEE			
050	National defense	113,327		102,203
150	International affairs	6,846		7,490
250	General science, space, and technology	4,599		4,500
300	Natural resources, environment, and energy	19,890		17,051
350	Agriculture	2,059		2,192
400	Commerce and transportation	12,002		18,385
450	Community and regional development	9,285		8,920
500	Education, training, employment, and social services	23,474		22,236
550	Health	23,438		23,198
600	Income security	45,245		35,463
700	Veterans' benefits and services	19,837		19,595
750	Law enforcement and justice	3,504		3,611
800	General government	6,780		6,716
850	Revenue sharing and general purpose fiscal assistance	399		458
	Allowances	700		800
	Total	291,388		272,820

See footnote at end of table.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a)

[In millions of dollars]

		Budget authority	New entitlement authority	Outlays
	ARMED SERVICES COMMITTEE			
050	National defense	−861	(75)	−860
400	Commerce and transportation	(1)		(1)
700	Veterans benefits and services	(1)		(1)
800	General government	(1)		(1)
	Total	−861	(75)	−860
	BANKING, CURRENCY AND HOUSING COMMITTEE			
050	National defense			(1)
150	International affairs	2,647		
400	Commerce and transportation	870		−900
450	Community and regional development	28		31
500	Education, training, employment and social services			7
550	Health			(1)
600	Income security	6		−3
700	Veterans benefits and services			−9
800	General government	4		3
900	Interest	8		8
	Total	3,561		−863
	DISTRICT OF COLUMBIA COMMITTEE			
450	Community and regional development	1		1
750	Law enforcement and justice	6		6
850	Revenue sharing and general purpose fiscal assistance	40		40
	Total	47		47
	EDUCATION AND LABOR COMMITTEE			
500	Education, training, employment, and social services	24	(468)	1
600	Income security	3		3
	Total	27	(468)	4
	GOVERNMENT OPERATIONS COMMITTEE			
800	General government	1		1
850	Revenue sharing and general purpose fiscal assistance	8,316	(4,991)	8,359
	Total	8,317	(4,991)	8,360
	HOUSE ADMINISTRATION COMMITTEE			
250	General science, space, and technology	(1)		(1)
500	Education, training, employment, and social services	4		4
800	General government	35		
	Total	40		4
	INTERIOR AND INSULAR AFFAIRS COMMITTEE			
300	Natural resources, environment, and energy	119		36
450	Community and regional development	242		238
800	General government	2		2
850	Revenue sharing and general purpose fiscal assistance	179		179
	Total	543		456
	INTERNATIONAL RELATIONS COMMITTEE			
050	National defense	6,916		6,588
150	International affairs	81		84
400	Commerce and transportation	4		5
600	Income security	119		82
	Total	7,120		6,758
	INTERSTATE AND FOREIGN COMMERCE COMMITTEE			
400	Commerce and transportation	13		13
550	Health	2		2
600	Income security	3,670		3,887
850	Revenue sharing and general purpose fiscal assistance	4		1
	Total	3,689		3,902
	JUDICIARY COMMITTEE			
300	Natural resources, environment, and energy	(1)		(1)
600	Income security	17	(2)	4
750	Law enforcement and justice		(4)	−6
800	General government	23		23
	Total	40	(6)	20
	MERCHANT MARINE AND FISHERIES COMMITTEE			
150	International affairs	2		2
300	Natural resources, environment, and energy	105		93
400	Commerce and transportation	327		−37
850	Revenue sharing and general purpose fiscal assistance	4		4
	Total	439		63
	POST OFFICE AND CIVIL SERVICE COMMITTEE			
400	Commerce and transportation	5		5
550	Health			−68
600	Income security	16,603	(−39)	9,434
800	General government	4,194		4,194
	Total	20,802	(−39)	13,564
	PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
300	Natural resources, environment, and energy	34		976
400	Commerce and transportation	4,048		−2
450	Community and regional development	29		33
	Total	4,110		1,007
	SCIENCE AND TECHNOLOGY COMMITTEE			
250	General science, space, and technology	3		3
300	Natural resources, environment, and energy	16		15
	Total	19		17
	SMALL BUSINESS COMMITTEE			
450	Community and regional development	1		1
	VETERANS AFFAIRS COMMITTEE			
700	Veterans benefits and services	975	(1,397)	426
	WAYS AND MEANS COMMITTEE			
500	Education, training, employment, and social services	546		
550	Health	23,100		21,810
600	Income security	96,787	(182)	94,895
800	General government	4		4
850	Revenue sharing and general purpose fiscal assistance	344		344
900	Interest	43,696		43,696
	Total	164,477	(182)	160,749
	UNASSIGNED			
050	National defense	−7,282		−7,282
150	International affairs	−677		−677
250	General science, space and technology	−2		−2
300	Natural resources, environment, and energy	−2,086		−2,086
350	Agriculture	−53		−53
400	Commerce and transportation	−69		−69
450	Community and regional development	−173		−173
500	Education, training, employment, and social services	−48		−48
550	Health	−6,040		−6,040
600	Income security	−6,561		−6,561
700	Veterans benefits and services	−513		−513
750	Law enforcement and justice	−9		−9
800	General government	−7,443		−7,443
850	Revenue sharing and general purpose fiscal assistance	−1,723		−1,723
900	Interest	−4,104		−4,104
950	Undistributed offsetting receipts	−16,800		−16,800
	Total	−53,583		−53,583
	JOINT ATOMIC ENERGY COMMITTEE			
300	Natural resources, environment, and energy	(1)		(1)
450	Community and regional development			(1)
	Total	(1)		(1)

Note: Detail may not add to totals due to rounding.

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[1] Less than $500,000.

BROCK ADAMS,
THOMAS P. O'NEILL, Jr.,
LUD ASHLEY,
PARREN J. MITCHELL,
JAMES G. O'HARA,
OMAR BURLESON,
ROBERT N. GIAIMO,
NEAL SMITH,
ROBERT L. LEGGETT,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
FRANK E. MOSS,
ERNEST F. HOLLINGS,
ALAN CRANSTON,
HENRY BELLMON,
J. GLENN BEALL, Jr.,
PETE V. DOMENICI,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET ON TOMORROW DURING 5-MINUTE RULE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may be permitted to meet tomorrow, Tuesday, September 14, 1976, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us if the minority leadership has agreed to this?

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, this has been agreed to by the ranking minority member, the gentleman from Alabama (Mr. DICKINSON).

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's response.

Mr. THOMPSON. Mr. Speaker, I appreciate the gentleman's inquiry.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATIONS

Mr. MIKVA. Mr. Speaker, due to a series of longstanding commitments in my district, I was unable to be present in the House for the latter part of the Thursday, September 9, session or for the Friday, September 10, session.

Had I been present on Thursday, I would have voted "yes" on rollcall 704 to concur with the Senate amendments to the conference report on H.R. 14262 the fiscal year 1977 Department of Defense appropriations. And, I would have voted "no" on rollcalls 706, 707, and 708, three amendments to H.R. 10498, the Clean Air Act Amendments, designed to weaken the bill's clean air standards.

On Friday, I would have voted "yes" on rollcall 710, the conference report on H.R. 8603, the Postal Reorganization Act, and "yes" on rollcall 711, the conference report on S. 327 to establish the National Historic Preservation Fund.

Mr. Speaker, I was unable to be present for the opening of the session of the House of Representatives of Monday, September 13, 1976, because I was speaking to a senior citizens conference in Chicago. As a result, I was absent for the votes on three rules providing for consideration of H.R. 13958, the Defense Officer Personnel Management Act; H.R. 13615, the CIA Retirement Act; and, H.R. 3605, to reduce beer tax for small brewers. Had I been present, I would have voted "yes" on all three rules votes.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–606)

The SPEAKER pro tempore (Mr. MCFALL) laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning, without my approval, H.R. 8800, the "Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976."

This bill would establish a five-year, $160 million research, development and demonstration project within the Energy Research and Development Administration (ERDA) to promote the development of an electric vehicle that could function as a practical alternative to the gasoline-powered automobile. One of the major objectives of the project would be the development and purchase by the Federal government of some 7,500 demonstration electric vehicles. Such development would cover some of the areas private industry stands ready to pursue.

It is well documented that technological breakthroughs in battery research are necessary before the electric vehicle can become a viable option. It is simply premature and wasteful for the Federal government to engage in a massive demonstration program—such as that intended by the bill—before the required improvements in batteries for such vehicles are developed.

ERDA already has adequate authority under the Energy Reorganization Act of 1974 and the Federal Non-nuclear Energy Research and Development Act of 1974 to conduct an appropriate electric vehicle development program. Under my fiscal year 1977 budget, ERDA will focus on the research areas that inhibit the development of practical electrical vehicles, for wide-spread use by the motoring public. Included is an emphasis on advanced battery technology.

Even assuming proper technological advances, the development of a completely new automobile for large-scale production is a monumental task requiring extensive investment of money and years of development. While the Government can play an important role in exploring particular phases of electric vehicle feasibility—especially in the critical areas of battery research—it must be recognized that private industry already has substantial experience and interest in the development of practical electric vehicle transportation. I am not prepared to commit the Federal government to this type of a massive spending program which I believe private industry is best able to undertake.

GERALD R. FORD.

THE WHITE HOUSE, *September 13, 1976.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal and, without objection, the message and bill will be printed as a House document.

There was no objection.

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that further consideration of the veto message be postponed until Thursday, September 16, 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MYERS of Pennsylvania. Mr. Speaker, reserving the right to object, will the gentleman repeat the date? Will the gentleman kindly inform the House again what the date is?

Mr. TEAGUE. Mr. Speaker, the date is September 16, 1976.

Mr. MYERS of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. COTTER (at the request of Mr. O'NEILL) for today, on account of official business.

Mr. MATSUNAGA (at the request of Mr. O'NEILL), for this week on account of official business.

Mr. PEPPER (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. YOUNG of Florida (at the request of Mr. RHODES), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MYERS of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.

Mr. MCCLORY, for 30 minutes, today.

Mr. SNYDER, for 15 minutes, today.

Mr. DON H. CLAUSEN, for 15 minutes, today.

(The following Members (at the request of Mr. KRUEGER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HARRINGTON, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PERKINS and to include extraneous matter.

Mr. DICKINSON to revise and extend his remarks in the general debate immediately following the remarks of Mr. O'BRIEN.

(The following Members (at the request of Mr. MYERS of Pennsylvania) and to include extraneous material:)

Mr. COHEN.

Mr. FORSYTHE.

Mr. ANDERSON of Illinois.

Mr. SNYDER.

Mr. DERWINSKI in two instances.

Mr. WIGGINS.

Mr. PAUL.

(The following Members (at the request of Mr. KRUEGER) and to include extraneous matter:)

Mr. CLAY.

Mr. ANNUNZIO in six instances.

Mr. BROWN of California in 10 instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. MINETA.

Mr. DE LUGO.

Mr. BOWEN.

Mr. HUNGATE.

Mr. GAYDOS.

Mr. MINISH in two instances.

Mrs. KEYS.

Mr. ROSENTHAL.

Mr. OTTINGER.

Mr. ROGERS.

Mr. JACOBS.

Mr. JONES of Tennessee in three instances.

Mr. MCDONALD in three instances.

Mr. ALEXANDER.

Mr. EVINS of Tennessee in four instances.

Mr. MAZZOLI.

Mr. MEZVINSKY.

Mr. BRECKINRIDGE.

Mrs. SPELLMAN in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. MINETA.

Mr. KOCH.

Mr. HARRINGTON.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3669. An act to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 21 minutes p.m.), the House adjourned until Tuesday, September 14, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4006. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of September 1, 1976, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 94–607); to the Committee on Appropriations and ordered to be printed.

4007. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassador-designate Melissa Wells, Patricia M. Byrne, and Charles A. James, and their families, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

4008. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Tunisia (transmittal No. 7T–52), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4009. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to the Philippines (transmittal No. 7T–53), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4010. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Spain (transmittal No. 7T–54), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4011. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Israel (transmittal No. 7T–55), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4012. A letter from the Director, Defense Assistance Agency, transmititng notice of the intention of the Department of the Army **to offer to sell certain defense articles to** Israel (transmittal No. 7T–56), pursuant to section 36(b) of the Arms Export Control Act; **to the Committee on International Relations.**

4013. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Kuwait (transmittal No. 7T–57), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4014. A letter from the Under Secretary of Health, Education, and Welfare transmitting the fifth annual progress report of the 5-year plan for family planning services and population research, pursuant to section 5 (c) of Public Law 91–572; to the Committee on Interstate and Foreign Commerce.

4015. A letter from the Secretary of Commerce, transmitting the second annual report on the implementation of the Federal Fire Prevention and Control Act of 1974, covering calendar year 1975, pursuant to section 16 of the act; to the Committee on Science and Technology.

4016. A letter from the General Counsel, General Accounting Office, transmiting a report that the budget authority which the Comptroller General previously reported as being deferred by the Department of Transportation (H. Doc. No. 94–571) has been released for obligation (H. Doc. 94–608); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 9, 1976 the following report was filed*]:

Mr. ADAMS: Committee of Conference. Conference report on S. Con. Res. 139 (Rept. No. 94–1502). Ordered to be printed.

[*Submitted September 13, 1976*]

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 14418. A bill to establish a pilot program to compensate persons who suffer loss or damage from predation by endangered species; with an amendment (Rept. No. 94-1511). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. H.R. 15081. A bill to authorize the disposal of various materials from the national stockpile and the supplemental stockpile, and for other purposes (Rept. No. 94-1512). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 9019 (Rept. No. 94-1513). Ordered to be printed.

Mr. PERKINS: Committee of conference. Conference report on H.R. 12987 (Rept. No. 94-1514). Ordered to be printed.

Mr. ULLMAN: Committe of conference. Conference report on H.R. 10612 (Rept. No. 94-1515). Ordered to be printed.

Mr. VIGORITO: Committee of conference. Conference report on H.R. 10339 (Rept. No. 94-1516). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAZZOLI: Committee on the Judiciary. H.R. 3377. A bill for the relief of Mrs. Helen Wolski, Michael Wolski, and Steven Wolski (Rept. No. 94-1503). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 4480. A bill for the relief of Gary Daves and Marc Cayer; with an amendment (Rept. No. 94-1504). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. H.R. 6511. A bill for the relief of certain employees of the Naval Ordnance Systems Command; with an amendment (Rept. No. 94–1505). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 7522. A bill for the relief of Robert H. Glazier; (Rept. No. 94–1506). Referred to the Committee of the Whole House.

Mr. PATTISON of New York: Committee on the Judiciary. H.R. 11349. A bill for the relief of M. Sgt. William E. Boone, U.S. Army, retired (Rept. No. 94–1507). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 13940. A bill for the relief of Mr. and Mrs. Aaron Wayne Ogburn (Rept. No. 94–1508). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 13964. A bill for the relief of Jeanette Green, as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased; and for the relief of Mary Jane Baker Nolan, individually, and as widow and administratrix of the estate of John William Baker, deceased (Rept. No. 94–1509). Referred to the Committee of the Whole House.

Ms. JORDAN: Committee on the Judiciary. S. 2830. An act for the relief of Gary A. Broyles (Rept. No. 94–1510). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 1761. A bill for the relief of Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi; with an amendment (Rept. No. 94–1517). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1404. An act for the relief of Mrs. Kyong Chu Stout (Rept. No. 94–1518). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1477. An act for the relief of Beatrice Serrano-Toledo (Rept. No. 94–1519). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1787. An act for the relief of Maria Lisa R. Manalo and Rogena R. Manalo (Rept. No. 94–1520). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2322. An act for the relief of Lee Mee Sun (Rept. 94–1521). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2481. An act for the relief of Oscar

Rene Hernandez Rustrian (Rept. No. 94–1522). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2668. An act for the relief of Arturo Moreno Hernandez (Rept. No. 94–1523). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2770. An act for the relief of Anthony Augustus Daley and Beverly Evelyn Daley (Rept. No. 94–1524). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2956. An act for the relief of Teresa Marie Salman (Rept. No. 94–1525). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 3485. An act for the relief of Orlando Garzón; with an amendment (Rept. No. 94–1526). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLOUIN (for himself, Mr. DU PONT, and Ms. COLLINS of Illinois):

H.R. 15529. A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence; to the Committee on Government Operations.

By Mr. COHEN (for himself, Mr. GUDE, Mr. HEINZ, Ms. HOLTZMAN, Mr. HUGHES, Mrs. KEYS, Mr. MATSUNAGA, Mr. PEPPER, Mrs. PETTIS, Mr. STOKES, and Mr. SARASIN):

H.R. 15530. A bill to provide for quality assurance and utilization control in home health care under the medicare, medicaid, and social services programs in accordance with a plan to be developed by a commission specifically established for that purpose; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DANIELSON (for himself, Mr. WIGGINS, Mr. HUNGATE, Ms. HOLTZMAN, Mr. DRINAN, and Mr. HYDE):

H.R. 15531. A bill to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. WINN, Mr. STEPHENS, Mr. BROOKS, Mr. WHITEHURST, Mr. REUSS, Mr. WHALEN, Mr. ABDNOR, Mr. LUNDINE, Mrs. MEYNER, and Mr. SOLARZ):

H.R. 15532. A bill granting the consent of Congress to retired members of the uniformed services, members of reserve components of the Armed Forces, and members of the Public Health Service Reserve Corps to accept employment with foreign governments; to the Committee on International Relations.

By Mr. HALL of Texas:

H.R. 15533. A bill to authorize construction of the Little Cypress Lake and Reservoir, Tex.; to the Committee on Public Works and Transportation.

By Mr. MELCHER (for himself, Mr. UDALL, Mr. ALEXANDER, Mr. BOLLING, Mr. DELLUMS, Mr. DRINAN, Mr. FLOOD, Mr. ICHORD, Mrs. PETTIS, Mr. RONCALIO, Mr. SEIBERLING, Mr. STARK, and Mr. WIRTH):

H.R. 15534. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mrs. MINK:

H.R. 15535. A bill to assure American consumers of a stable and adequate supply of sugar by assuring the continued existence of a viable domestic sugar industry; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. ROGERS (for himself and Mr. ROSTENKOWSKI):

H.R. 15536. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. SLACK:

H.R. 15537. A bill to provide a special program for financial assistance to opportunities industrialization centers and other nonprofit community-based organizations of demonstrated effectiveness, in order to provide 1 million new jobs and job training opportunities, and for other purposes; jointly, to the Committees on Education and Labor, and Ways and Means.

By Mr. BENNETT:

H.R. 15538. A bill to provide for the administration of title III of the Legislative Reorganization Act of 1946 by the Comptroller General of the United States, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. BREAUX (for himself, Mr. GINN, and Mr. TREEN):

H.R. 15539. A bill to amend the act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37 United States Code; and, sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code; jointly, to the Committees on Armed Services, Merchant Marine and Fisheries, and Ways and Means.

By Mr. GOLDWATER (for himself, Mr. BURGENER, Mr. EDWARDS of California, Mr. HANNAFORD, Mr. HOWE, Mr. JOHNSON of California, Mr. MOORHEAD of California, Mr. WON PAT, Mr. PATTERSON of California, Mrs. PETTIS, Mr. REES, Mr. ROYBAL, and Mr. VAN DEERLIN):

H.R. 15540. A bill to provide for the establishment of the Santa Monica Urban Park in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. HECKLER of Massachusetts:

H.R. 15541. A bill to amend the Federal Meat Inspection Act for the purpose of imposing labeling requirements on meat products containing mechanically deboned meat; to the Committee on Agriculture.

By Mr. MCCLORY:

H.R. 15542. A bill to reorganize and reform the intelligence community; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SYMINGTON, Mr. CARNEY, Mr. MAGUIRE, Mr. BROYHILL, Mr. HEINZ, and Mr. MADIGAN):

H.R. 15543. A bill to amend the Public Health Service Act to establish a national commission for the protection of human subjects of biomedical and behavioral programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SHARP (for himself, Mr. DINGELL, Mr. MCFALL, Mr. BRODHEAD, Mr. FITHIAN, and Mr. MOFFETT):

H.R. 15544. A bill to amend the Federal Power Act to provide for interim modification of the Federal Power Commission's procedures for considering proposed electric utility rate increases, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE:

H.J. Res. 1092. A resolution designating the composition known as "The Stars and Stripes Forever" as the national march of the United States; to the Committee on Post Office and Civil Service.

By Mr. MINETA:

H.J. Res. 1093. A resolution authorizing the President to proclaim the 28th day of September 1976 as "Teacher's Day"; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself, Mrs. CHISHOLM, Mr. CONTE, Mr. DIGGS, Mr. FRASER, Mr. BERGLAND, Mr. COHEN, Mr. MCHUGH, Mr. MCCLOSKEY, Mr. BAUCUS, Mr. BONKER, Mr. BROWN of California, Mrs. COLLINS of Illinois, Mr. DRINAN, Mr. KOCH, Mr. LONG of Maryland, Mrs. MEYNER, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. RICHMOND, Mr. ROSENTHAL, Mrs. SCHROEDER, Mr. SIMON, Mr. SOLARZ, and Mrs. SPELLMAN):

H.J. Res. 1094. A resolution with respect to the promotion and use of infant formula in developing nations as it relates to basic nutrition in such nations; to the Committee on International Relations.

By Mr. HARRINGTON (for himself, Mr. STOKES, Mr. SYMINGTON, and Mr. WOLFF):

H.J. Res. 1095. A resolution with respect to the promotion and use of infant formula in developing nations as it relates to basic nutrition in such nations; to the Committee on International Relations.

By Mr. ANDERSON of Illinois:

H. Res. 1536. A resolution to permit all employees of the House of Representatives to contribute, through payroll withholdings, to charitable organizations in coordination with the Combined Federal Campaign and other fundraising in the executive branch of the Federal Government; to the Committee on House Administration.

By Mr. DENT:

H. Res. 1537. A resolution authorizing an investigation by the Committee on Education and Labor relating to chronically unemployed workers; to the Committee on Education and Labor.

By Mr. MCCLORY:

H. Res. 1538. A resolution to amend the Rules of the House of Representatives to establish a Committee on Intelligence; to the Committee on Rules.

By Mr. MOORE:

H. Res. 1539. A resolution relating to voluntary restraints on subsidized palm oil production and to the negotiation of voluntary restraints on palm oil imports into the United States; jointly, to the Committees on Banking, Currency and Housing, and International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

458. By the SPEAKER: A memorial of the Legislature of the State of California, relative to student financial aid; to the Committee on Education and Labor.

459. Also, a memorial of the Legislature of the State of California, relative to old-age, survivors, and disability insurance; to the Committee on Ways and Means.

460. Also, a memorial of the Legislature of the Commonwealth of Kentucky, relative to the exemption of teachers' retirement pay from Federal income tax; to the Committee on Ways and Means.

461. Also, a memorial of the Legislature of the State of California, relative to nuclear proliferation; to the Joint Committee on Atomic Energy.

462. Also, a memorial of the Legislature of the State of California, relative to the Federal motor vehicle fuel excise tax; jointly, to the Committees on Ways and Means, and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HAMILTON introduced a bill (H.R. 15545) for the relief of Zohair Moghrabi, which was referred to the Committee on the Judiciary.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of

House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 10, 1976, page 29778:

HOUSE BILLS

H.R. 15191. August 10, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15192. August 10, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 15193. August 10, 1976. Appropriates funds for the District of Columbia for fiscal year 1977 for specified uses. Sets guidelines and limitations for the expenditure of such funds.

H.R. 15194. August 12, 1976. Appropriates specified sums to the Department of Commerce, the Department of the Treasury, and the Environmental Protection Agency for public works employment projects under the Public Works Employment Act of 1976 during fiscal year 1977.

H.R. 15195. August 23, 1976. Public Works and Transportation. Modifies the Noyo Harbor project in California to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct necessary breakwaters and additional channel improvements.

H.R. 15196. August 23, 1976. Judiciary. Redefines "destructive devices" under the Omnibus Crime Control and Safe Streets Act of 1968 and the National Firearms Act to include certain electric weapons for purposes of regulation of the sale, manufacture, importation, transportation, and taxation of such weapons.

H.R. 15197. August 23, 1976. Agriculture. Amends the Agricultural Act of 1949 to eliminate prevented planting payments to cotton farmers who are able to plant nonconserving crops other than cotton on their cotton allotments.

H.R. 15198. August 23, 1976. Ways and Means. Amends the Tariff Schedules of the United States to limit the importation of mushrooms.

H.R. 15199. August 23, 1976. Judiciary; Standards of Official Conduct. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 15200. August 23, 1976. Public Works and Transportation. Terminates the authorization of the navigation study and survey of the Wabash River in Indiana by the Secretary of the Army, acting through the Chief of Engineers.

H.R. 15201. August 23, 1976. Judiciary. Authorizes individuals to whom the proceeds of a child support order are payable to register such order in any court in any State in which the individual responsible for making such payments resides.

Allows courts in which such an order is registered to entertain contempt proceedings against an individual who fails to comply with the support order in the same manner as if such court originally issued the order.

H.R. 15202. August 23, 1976. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 15203. August 23, 1976. Judiciary. Imposes additional reporting requirements on persons transporting cigarettes into States which tax their sale or use. Prohibits the transportation of more than 4,000 cigarettes into a State in violation of State law imposing a tax on the sale or use of cigarettes.

H.R. 15204. August 23, 1976. Interstate and Foreign Commerce. Prohibits the operation of a passenger motor vehicle in interstate commerce or the registration of such vehicle by a State unless such vehicle meets specified safety inspection, liability insurance, and transfer of title requirements.

H.R. 15205. August 23, 1976. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to require the preparation of annual reports and distribution statements by issuers of municipal securities.

Requires that such statements be maintained at a designated location for examination by the public.

H.R. 15206. August 23, 1976. Interstate and Foreign Commerce. Directs the Federal Communications Commission to amend its rules and regulations with respect to the Fire Radio Service to permit the transmission of communications of a nonemergency nature relating to official fire department business over frequencies available to the Fire Radio Service.

H.R. 15207. August 23, 1976. Ways and Means. Establishes on the books of the Treasury a fund to be known as the "United States Olympic Fund." Allows an individual taxpayer to designate that $1 of any overpayment of his tax, or $1 of any contribution which he makes with his return be available to such fund.

Provides that amounts in the fund shall be available as stated in appropriations Acts, to the United States Olympic Committee, for specified purposes.

H.R. 15208. August 23, 1976. Ways and Means. Authorizes any taxpayer to elect to have any portion of any overpayment of tax or any contribution in money which the taxpayer forwards with the return for such taxable year, under the Internal Revenue Code, be available, as the taxpayer may designate on such return, for the National Endowment for the Arts or the National Endowment for the Humanities.

H.R. 15209. August 23, 1976. Banking, Currency and Housing. Directs the Secretary of the Treasury to strike a medal commemorating the anniversary of the drafting of the Virginia Statute for Religious Freedom.

H.R. 15210. August 23, 1976. Ways and Means. Amends the medicare program of the Social Security Act to specifically include under the supplementary medical insurance program under such title payment for wheelchairs and other durable medical equipment such as iron lungs and hospital beds which are furnished on a lease-purchase basis.

H.R. 15211. August 23, 1976. Ways and Means. Amends the Internal Revenue Code to increase the deduction allowed for contributions to individuals retirement accounts.

Eliminates the present prohibition of such deduction by taxpayers who are participants in other retirement plans.

H.R. 15212. August 23, 1976. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such act for the solar heating or cooling of residential structures on family farms.

H.R. 15213. August 23, 1976. Banking, Currency and Housing. Increases the amount of loans which may be made, insured, or purchased by specified housing programs if such loan concerns a dwelling unit which is heated or cooled by solar energy. Amends the National Housing Act to provide for the increase in amount of home improvement loans which may be insured if the loan is used to acquire a solar energy system.

Amends the Housing and Community Development Act to authorize the use of community development block grants to encourage community development activities related to the use of solar energy in residential housing.

H.R. 15214.—August 23, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to make loans and loan guarantees to veterans for the purchase of solar heating and cooling systems to be used in any dwelling or farm residence to be owned and occupied by the veteran as his home.

H.R. 15215.—August 23, 1976. Ways and Means. Amends the Medicare and Medicaid programs of the Social Security Act to include rural health facilities of 50 beds or less within the definition of the term "hospital."

H.R. 15216.—August 23, 1976. Agriculture. Amends the Agricultural Act of 1949 to provide increased disaster relief benefits to farmers who plant wheat, feed grains, cotton or rice in excess of their allotments with respect to the 1976 and 1977 crops of such commodities.

H.R. 15217.—August 23, 1976. Public Works and Transportation. Requires that the benefit to cost ratio for the uncompleted portions of the Alabama-Coosa River project in Alabama authorized under the River and Harbor Act of 1954 include regional economic development benefits.

H.R. 15218.—August 23, 1976. Agriculture. Directs the Secretary of Agriculture to formulate five-year goals in specified areas of rural development and to include in an annual report to Congress the progress made or anticipated in meeting such goals.

Requires the appointment of a new Assistant Secretary of Agriculture for Rural Development within 60 days if a vacancy should occur in such position.

H.R. 15219.—August 23, 1976. Public Works and Transportation. Renames East Lake Park, located within the West Point Lake project on the Chattahoochee River, Georgia, as R. Shaefer Heard Park.

H.R. 15220.—August 23, 1976. Judiciary. Prohibits the operation of a passenger motor vehicle in interstate commerce or the registration of such vehicle by a State unless such vehicle meets specified safety inspection, liability insurance, and transfer of title requirements.

EXTENSIONS OF REMARKS

BICENTENNIAL

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mrs. SPELLMAN. Mr. Speaker, the Belair-Bowie Lions Club, of Prince Georges County in conjunction with the President's Bicentennial Committee of Belair-Bowie have chosen a most intriguing way to celebrate our Bicentennial. On September 20, 1976, these organizations will sponsor the burial of a "time capsule" which will not be opened until the coinciding date in the year 2076. As part of the memorabilia to be included in the time capsule, they have been gracious enough to ask me to also contribute an item for posterity. In response to this request, I would like to include the publication in which these words appear. Therefore, I feel it would be appropriate to extend on behalf of my colleagues and myself a greeting to our descendants of the year 2076.

To you who are now reading this text 100 years hence, we are history. As such, the accomplishments and failures of our generation are part of the foundation on which your generation rests. The pages of this volume testify to our attempts to resolve the many problems confronting this Nation in the 200th year of America's independence. We hope that time has not revealed these efforts as folly, and that our legacy is not one of misdirection and mistakes. Rather, we hope our role in history is assessed as a continuation of bringing this Nation a step closer to the ideals conceived by our Founding Fathers.

We of this century can only guess at the type of world in which you of the 21st century live. Indeed, we wonder if the planet Earth is the only planet you inhabit. And we speculate as to the attitudes of the people of your century. Have you learned to live with each other in peace? Have you learned to love your fellow beings? Have you learned to protect and to preserve your environment for your children and your children's children?

We wish for you so many things we have not known in our century—nothing grandiose, just simple peace and justice; ample food, clothing, and shelter for all; Brotherly and Sisterly love; clean waters and pure air. And we wish for you wisdom far greater than our own.

May God be with you.

IS THE PRESIDENT OF MEXICO A "CLOSET CONSERVATIVE"?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. McDONALD. Mr. Speaker, I would like to call to the attention of my colleagues the valuable material which has been inserted into the RECORD by Senator EDWARD KENNEDY on August 24—pages 27316–27320. Most of it consists of New York Times and Washington Post coverage of the takeover of the Mexico City daily, Excelsior, by government-encouraged "strongarm tactics." Before actually reading these articles, I would advise the reader that they are in reverse chronological order, and that the final article has nothing whatever to do with the subject under discussion.

It will undoubtedly mystify many Members to find those on opposite ends of the ideological spectrum in agreement. The explanation probably lies in the fact that, in keeping with the New York Times view of the world, the "good guys" in the white hats are always "liberals" and the black hats, therefore, just have to be "conservatives." As a result, the Times persistently identifies those who strongarmed their way into control of the newspaper as "conservatives." Those with longer memories may recall that Stalinists were also identified as "conservatives" to readers of the Times, when the alleged "liberalization" of the Soviet Union was supposed to be taking place.

At any rate, we must probably credit the distinguished Senator's concern over events in Mexico with his misperception of the present Chief Executive of Mexico as a "conservative."

We do not claim him as one of our own.

FRANK A. ENGLAND, JR., AUTOMOTIVE DEALER OF THE YEAR, TIME MAGAZINE QUALITY DEALER AWARD

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. BOWEN. Mr. Speaker, this week a close friend and constituent of mine, Mr. Frank A. England, Jr., of Greenville, Miss., will receive a national award here in Washington for his professional and career achievements and his unselfish contributions of time and service to his community and State.

Frank England will be honored at a luncheon in the Vandenberg Room of the U.S. Capitol by Time magazine and the National Automobile Dealers Association as the national winner of the Quality Dealer Award, signifying the best business and civic qualities of all the franchised new car dealers of America. He was nominated for this signal national award by the Mississippi Automobile Dealers Association.

With justifiable pride, all of us from Mississippi are pleased at Frank England's achievement, and I know I speak for my colleagues in our delegation when I say that we are doubly proud of the favorable image he has generated for our State as a progressive, civic-minded businessman and community leader.

Frank England is also an example of what opportunity and hard work can do in this country. He began his automotive career not at the top but as a lubrication man at his father's dealership in Greenville, and worked his way up the ladder through service and sales, to his current position as president of England Motor Co. This week, he will be honored as the 17th spokesman for the Quality Dealer Award program sponsored by Time and the National Automobile Dealers.

He graduated with honors in 1941 from Southwestern University in Memphis, with a bachelor's degree in economics. He also served as student body president and was a member of Kappa Sigma fraternity. Later, he attended Harvard Business School.

During World War II, he served his country in the U.S. Army until 1946, returning home with the rank of captain to work in his father's dealership, just in time to help with the move from a downtown location to a suburban area, where facilities have since been renovated and expanded until it is one of the top Ford and Mercedes-Benz agencies in the South.

He has been very active professionally in automotive work, serving as president, treasurer, and director of the Mississippi Automobile Dealers Association and has been prominent in leadership of area and national automotive associations.

Frank England has been even more generous with his time and service to his community. He is a past president of the Greenville Chamber of Commerce and was the first chairman of the Greenville Industrial Foundation. He has also served as president of the Greenville Lions Club, head of the Greenville United Fund, and chairman of the Washington County Red Cross, and on the board of directors of the local Salvation Army and YMCA programs.

Mr. England has served on the Greenville School Board, and was president of the board in 1968–69, providing firm, responsible leadership during a time of great change and readjustment in school systems throughout Mississippi and the South. One measure of his leadership during this era of change is that today the Greenville school system is regarded nationally as a model for other communities who face similar problems. He has also served on the board of trustees of his alma mater, Southwestern University.

He has been a dedicated member of the Presbyterian Church serving as an elder and Sunday School teacher, and as a member of the Committee on Assembly Operations of the Presbyterian Church in the U.S.A.

He is the father of two married sons and daughters, has several grandchildren, and I know he is especially proud that his sons, Frank III and Perry N., have joined him in working at the family dealership.

I would be remiss as his friend and as a spokesman for our State, if I did not say that all of us, friends, family and business associates, can only wish that his devoted wife, Myrt, could be here with him to share this momentous occasion. Her untimely death recently was a saddening shock to all of us and a great personal loss for Frank England and his family.

I am confident that Frank England will not rest on his laurels. He will continue to work as a progressive, enlightened businessman and leader for his community, his State and his Nation. Additional honors will no doubt come his way in the future.

But this week he reaches a pinnacle in his career and his life, and it is with great pleasure that I salute him on behalf of his home State. America needs more men, more leaders such as Frank England. He is eminently worthy of the honor being paid him nationally.

PLIGHT OF THE SMALL POST OFFICE

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. MEZVINSKY. Mr. Speaker, on Sunday, September 12, I met in Mount Pleasant, Iowa, with a number of postmasters who supervise small Iowa post offices. I wanted to have the benefit of their experiences with the practical effects of recent Postal Service directives. What I learned did not surprise me. Along with mail handlers, letter carriers, and the public at large, these Postmasters are convinced that Washington-level management decisions have weakened their capability to provide quality mail service to their patrons.

In the face of threatened post office closures, the possible elimination of Saturday counter service, and the reduction of working hours, the small postmaster is unfairly taking the blame for deteriorating service.

The postmasters told me that at an August postal convention, Postmaster General Benjamin Bailar told them that more mail was processed last year with fewer employees than ever before. They feel that this is being done at the sacrifice of quality service. As a result, the public is justifiably irate about paying more and more money for poorer and poorer service.

Most of the postmasters stated a strong interest in increased congressional control over the operations and policies of the Postal Service. I think the need for more supervision is clear. I would not support the reinstatement of a postal system that mixed partisan politics with the delivery of the Nation's mail. It does seem apparent, though, that a middle-ground position of more congressional supervision over a semi-independent Postal Service would help us along the road to improved service and controlled costs.

The postmasters think it is necessary for a basic decision to be made. Should the Postal Service operate as a business, on a profitmaking or break-even basis; or should it be designed as a public service with adequate support from the Congress? I think we owe the public serious consideration of those options.

The Postal Reorganization Act is a step in the right direction. I hope we will continue moving toward the establishment of a more responsive system of delivering the mail.

OFFSHORE MINERAL RIGHTS

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. DE LUGO. Mr. Speaker, last Friday, I introduced legislation, H.R. 15516 that will give to the Virgin Islands, Guam, and American Samoa control over all the mineral rights in their offshore waters.

These rights were granted to the States by the Submerged Lands Act of 1953. The purpose of the act was to provide a vehicle for local exploitation of mineral rights, particularly oil, in the offshore waters. To explore, and develop these minerals without local control was, and is, unthinkable. It is no less true of the territories than the States.

In 1974 we in Congress enacted legislation which gave to the Virgin Islands, Guam, and American Samoa local control over the submerged lands and some of the mineral rights. These consisted only of sand coral, and gravel because at that time there was not sufficient support in the House to turn over all the mineral rights to the territories. Now, however, it is my hope that my colleagues here in the House will lend their support to this bill.

In the case of the Virgin Islands, this bill would be particularly beneficial because of the fragility of our environment. With the recent advances in technology, mining, and exploitation of the sea have become possible. But this does entail environmental costs. Mining of the seabed causes turbulence which can upset the ecological balance in the sea. The construction of oil platforms can be an eyesore in an otherwise unspoiled setting, as well as increasing the chances for a fouling of the waters. The people of the territories, through their local governments should be the ones to decide upon the necessity of such environmental and industrial trade-offs since they are impacted the hardest.

Mr. Speaker, it is for that reason that I introduced H.R. 15516.

THE PUBLIC WORKS EMPLOYMENT BILL

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Monday, September 13, 1976

Mr. MATHIAS. Mr. President, on Friday morning, September 10, I met with 10 mayors from across the country concerning the proposed implementation of the EDA local public works program contained in the public works employment bill. I think it important to call to my colleagues' attention some of the concerns those mayors expressed about EDA proposed regulations to carry out title I.

Their principal concern was that the proposed EDA regulations set up many obstacles for towns and cities who have unfunded capital projects "on the back burner" waiting to begin construction.

EDA's proposed weighting system of criteria, according to those mayors, places at a disadvantage those towns and cities with serious unemployment in the construction industry who have proposed projects waiting to be built.

Perhaps one of the most telling dichotomies between this bill's intent and the EDA regulation lies in the types of jobs to be generated.

As the committee report notes:

> The funds included in the bill are intended to provide increased employment opportunities—especially in the hard hit construction industry where unemployment now stands at 17.7 percent of the work force.

Yet, one of the EDA factors in the selection of projects, the "labor intensity" factor, places greater stress on the number of jobs generated rather than the type of job.

Because construction jobs are skilled jobs with commensurate wages, there will be fewer of those types of jobs generated per dollar of EDA public works money. EDA proposes to get more bang for the buck by awarding funds for projects generating low-paying, but numerous, jobs. This will not help the construction industry, which was intended by the Congress to be one of the principal beneficiaries of this program.

It is my understanding that EDA is listening to the concerns of those mayors and is adjusting its regulations accordingly. I will be monitoring this matter closely to insure that the final version of the regulations faithfully carries out the legislative intent of the Congress.

ADDRESS BY LANE KIRKLAND, SECRETARY-TREASURER, AFL-CIO

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. PERKINS. Mr. Speaker, on August 24, 1976, Lane Kirkland, Secretary-Treasurer of the AFL-CIO, addressed the International Association of Bridge & Structural Workers on the occasion of their 35th convention. Mr. Kirkland's comments on the political scene and the economic situation should, I think, be of interest to all the Members of the House, particularly at this time.

The address follows:

ADDRESS BY LANE KIRKLAND, SECRETARY-TREASURER, AFL-CIO

It is a pleasure for me to bring the fraternal greetings of the AFL-CIO to this 35th Convention of the Iron Wokers, and to convey President Meany's warm regards and best wishes for a successful convention.

I have been privileged to work with your great president Jack Lyons for a good many years now—on the AFL-CIO Executive Council and on various committees and commissions dealing with a variety of problems and issues—and it makes me realize how time flies. Jack is now the first in seniority among the vice presidents of the Building and Construction Trades Department and the Metal Trades Department. He is sixth in seniority among the 33 vice presidents of the AFL-CIO, and four of the five ahead of him are on their last terms by virtue of retiring from office in their unions. It just goes to show that a good man with the constitution of an Iron Worker can outlast anybody.

This union is fortunate in having such leadership and Jack's leadership has made a tremendous contribution, not only to Iron Workers, but to the trade union movement at large.

My good friend Juel Drake likewise is a great asset to labor. He is a leading figure in the AFL-CIO Secretary-Treasurers' Conference and one of the truly outstanding trade union nickel-nursers of our time.

In a few days, the AFL-CIO General Board will meet in Washington to consider the Executive Council's endorsement of Jimmy Carter and Walter Mondale for President and Vice President of the United States, and to plan a campaign to assure the strongest possible labor participation in the national election.

When the Council met in Washington on July 19 and unanimously endorsed the Carter-Mondale ticket, the nature of the choice was clear and present.

One the one hand there was the Republican options, far right or extreme right, Ford or Reagan.

Ford was campaigning for anti-labor Republican delegates on the strength of his biggest broken promise, his veto of the situs picketing bill.

Reagan, meanwhile, was boasting that he, alone, had scared the President of the United States into that breach of promise and that veto, just as he had frightened him into dumping Nelson Rockefeller to the wolves.

So now Kansas City is past and we see the inevitable product: A Ford running with a Dole on a Reagan platform—a ticket with its back turned to the working people of America, and devoted to the faithful service of the rich and the powerful. As George Meany once said of John Connally—they have no poor friends.

In Governor Carter and Senator Mondale, on the other hand, we found a genuine concern for the problems of workers and for plain people—for the unemployed, for the poor, for the powerless and for the America that ought to be.

In their platform we found a solid blend of idealism, optimism, vision and common sense. It offers a program for progress that parallels our own.

And above all, we found the opportunity to end the frustration, decay and stagnation of the last 8 years—a condition that has shown only that America can somehow limp and stagger along, for a while at least, without a head—under a Congress without leadership nullified by a President without purpose or initiative.

This election is the only chance we will have for four more years to bring leadership, a sense of direction and purpose, and renewed progress to our national life and to this country's role in the world. We cannot afford to blow that chance now.

While Mr. Ford is really very, very fuzzy on the issues, it seems that he has decided to run against inflation, deficit-spending, and the record of the man who made him, Richard Nixon. Evidently he believes that a pardon washes out all debts of gratitude to his patron and sponsor.

Ford campaigning against inflation and deficit-spending—not to mention Nixon—is really like a hangman running against rope.

Let's take the matter of deficits. During the last 8 years of the Nixon-Ford Administration, the Federal budget deficit amounted to $173 billion, or about 3 times as much as during the previous 8 years of the Kennedy-Johnson Administration. In fact, the deficits for 1969 through 1976 are higher than the total deficit accumulated between 1944 and 1969—25 years covering three periods of costly war.

Blotting out the purely Nixon, or nonperson years, as Ford apparently wants to do, the fact remains that about $110 billion of that deficit—or about two-thirds of it—happened during the last two years, under Gerald Ford—making him the biggest and fastest debt-monger in the history of the American Presidency.

But even that is only part of the story of what the Nixon-Ford Administration has done to this country.

These deficits are the direct result of massive unemployment deliberately contrived and perpetuated by the economic policies of the last 8 years. Each percentage point of unemployment costs the Federal government—in lost revenues and added costs—about $16 billion a year. The entire deficit is the consequence of this policy of managed unemployment—designed to "fight inflation" by making workers fearful, docile and hungry.

Over and above the Federal budget deficit, this Nixon-Ford policy has cost the nation—businessmen, farmers, shopkeepers, workers, everyone—a loss of $546.2 billion in Gross National Product over this 8 year period—measured against what would have been produced and sold if there has been anywhere near full employment, even at a 4 percent unemployment rate. I do not have to tell you what this has meant to the construction industry.

Think of the colossal waste of manpower, productivity, money, talent, opportunity and human hopes and dreams that these figures entail. And when Gerald Ford denounces those who seek ways to break this trend and end these losses as "big spenders", then surely it is fair to label him as the "great waster" of all time.

Here again, most of that loss occurred, not under Nixon (when it was bad enough), but in the last two years under Gerald Ford.

The last 8 years have seen unemployment rise from 3½ percent in 1969 to the present official level of 7.8 percent.

If we agree with Ford that Nixon is a nonperson whom he never met or served and look at only the last 2 years—the record is, if anything, even more damning. Since Gerald Ford took office in August 1974, official unemployment rose from 5½ percent of the labor force (or 5,987,000) to 7.8 percent (or 7,577,000). In two years, he presided over a 50 percent increase in unemployment.

What about inflation? You all know that the conventional academic wisdom blames all inflation on labor, and that old doctrine is the gospel of the Ford Administration. Weaken unions, hold down wages and foster unemployment and economic insecurity and you have the problem licked.

Economists have a name for this formula. They call it the Phillips Curve. It meets all the tests of academic wisdom—except the tests of reality and common sense.

A casual examination of the Consumer Price Index will show that the inflation of the last 8 years stemmed from four main sources:

(1) The highest interest rates in more than a century—driving up costs and stifling enterprise throughout the economy—particularly in housing and other construction.

(2) The sky-rocketing cost of all forms of energy, following the Arab oil embargo.

(3) Food prices—aggravated by the last great Russian grain robbery.

(4) Medical care—made far more onerous by the continuing absence of any national system for the control and prepayment of costs.

To these key factors you can add the effects of two Nixon devaluations of the dollar, driving up the dollar costs of imports and raw materials of a host of products.

None of these elements of this inflation is affected in any significant way by workmen's wages or labor costs. Labor is not the culprit. The true culprits are running for reelection to the White House, the Federal Reserve Board, the Council of Economic Advisers and the Treasury Department under the shaggy banner of Ford and Dole.

These simple obvious facts underscore the idiocy of the continuing dedication of the Ford Administration to the proposition that inflation can be curtailed by unemployment, restrictions on labor, tighter money, higher interest rates and uncontrolled increases in gas and oil prices.

These facts explain why unemployment and inflation have soared hand-in-hand over the past 8 years, in contradiction of the economists' neat little Phillip Curve, and the vaporous theories of Arthur Burns, William Simon and Alan Greenspan.

This Administration is responsible for the persistence of heavy unemployment, deficit spending and inflation, resisting as it has, every effort by the Congress to find a way to grapple with real problems.

In the fact of a continuing—if hidden—energy crisis, our dependence on foreign oil has grown from 29 percent at the time of the Arab embargo in October 1973, to 44 percent today, and it is rapidly getting worse. And the Ford White House continues to tell us that everything is rosy.

The record and role of the Nixon-Ford Administration in these events is a continuing disaster, marked by maladministration, obstruction and negligence.

They have dismantled constructive programs and they have imposed the most onerous burdens upon the plain people of America.

They have left this nation increasingly vulnerable and exposed to attack and they have not told the people the truth about those things they must know in order to rise to the defense of their country.

They have been weighed in the balance and found wanting.

We cannot and ought not endure the risk or pay the price of four more years of Ford and Company.

For our members and our country's sake, they must be removed from the seat of executive power and sent to the dignity of retirement and to the preparation and purveyance of stately memoirs and commentaries.

This election is not somebody else's fight. As representatives of workers, it is ours; it goes with the territory.

To that end, the trade union movement must strive. With your help, and with the help of every international and local union, and of every state and local central body, we shall prevail.

LONG-TIME LATIN AMERICAN SCHOLAR AT UT HONORED

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. PICKLE, Mr. Speaker, for many years, the University of Texas has justly enjoyed a reputation in the academic community as being one of the leading universities for the study of Latin America. In its formative stage, this movement was spearheaded by Prof. Eugene Barker and in the modern era Prof. Nettie Lee Benson has carried on this tradition. Recently, Dr. Benson was honored for her singular achievements in this field.

Dr. Benson is a name that all serious students of Latin American history know, and the university has been very fortunate to have her services for more than 30 years.

I am enclosing an article from the September 6, 1976, Austin Citizen describing the ceremony which saluted her:

SCHOLARLY CONTRIBUTIONS—UNIVERSITY HONORS DR. BENSON

Dr. Nettie Lee Benson was honored at "an evening of appreciation" at The University of Texas for her contributions to scholarly studies on Latin America.

Dr. Benson was director of the University's world-renowned Latin American Collection from 1942 to 1975. She is a former professor in the Graduate School of Library Science and continues to teach in the History Department.

After her retirement from administrative duties in the Latin American Collection, the UT System Board of Regents named it the Nettie Lee Benson Latin American Collection. In making the recommendations to the Regents, UT Austin President Lorene Rogers said:

"I think that this is an appropriate honor to the woman who for many years has been the single guiding influence in the establishment and development of this preeminent collection."

The "evening of appreciation" was arranged under auspices of the Office of the President, assisted by the Institute of Latin American Studies and the Benson Collection, now directed by Ms. Laura Gutierrez-Witt.

Dr. Thomas F. McGann, UT history professor and Latin Americanist, was master of ceremonies for the program in the East Campus Lecture Hall, which was followed by a reception at the LBJ Library.

Speakers paying tribute to Dr. Benson's historical activities and bibliographical activities were Dr. Mary Kahler. chief of the Latin American, Portuguese and Spanish Division of the Library of Congress, and Dr. Romeo Flores Caballero, head of the division of international affairs in the Ministry of National Patrimony of the Mexican government.

Dr. Flores is a former student of Dr. Benson and wrote his Ph.D. dissertation under her direction. A number of her other former students also attended the event, along with colleagues from the history field in the U.S. and Mexico, members of the University community and associates in such organizations as the Seminar on the Acquisition of Latin American Library Materials and the Conference of Latin American History of the American Historical Association.

During the program, presentations were made by Dr. Stanley R. Ross, vice president and provost of UT Austin, and a group of Mexican historians.

Dr. Benson continues her interest in the Latin American Collection, and has several research projects in progress. She is still available to answer questions that stump other members of the staff, and Ms. Gutierrez says, "she is our ultimate resource."

HOLY TRINITY LODGE 146, CFU TO MARK ANNIVERSARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. GAYDOS. Mr. Speaker, among the thousands of immigrants who came to the United States from Europe at the close of the 19th century were the strong sons and daughters of Croatia.

They, as did others who sought refuge and a new life here, found themselves facing many obstacles: A new language, new customs, new laws. They were a hardworking, industrious people and they took their place in the mines, mills, foundries, and factories of their adopted country.

However, their ties with home were strong and, consequently, they found themselves banding together to help themselves, each other and to perpetuate cherished memories and traditions of their people. Out of this kinship was conceived the desire to find a means of providing care and comfort for themselves and their loved ones in times of sickness or death.

In August 1894, the desire became a reality. The Croatian Association was founded for the mutual protection and benefit of members. Within a few years, lodges were established in other areas, especially in the Pittsburgh region.

One such lodge was Holy Trinity Lodge No. 146, located in the small communiay of Versailles Borough in my 20th Congressional District. Founded on February 24, 1901, Holy Trinity Lodge will observe its 75th anniversary at a banquet scheduled for Sunday, October 3.

At this event, the officers and members of the lodge will pay tribute to 10 individuals who have belonged to the lodge for 50 years. These honored guests are Mijo Lugaric, Mary Stanich, Mildred Zalac, Catherine Billy, Ann Stanisic, Kata Kralj, Mary Obranic, Frances Puhala, Joseph Zalac, and Steve Horvatincic.

These men and women have witnesed many changes in their lodge since the original 14 founding fathers agreed a hall was needed for the new group's meetings and social activities. The first hall was constructed in 1917 when the lodge had only 60 members but by 1936 membership had grown to 204 and the hall could not accommodate all their needs. It has since undergone other renovations as necessary for today lodge membership totals 758 adults, 345 juniors, and 1,500 social members.

It is fitting and proper, therefore, Mr. Speaker, that recognition be given the founders of Lodge 146: Josip Zagudovic, Janko Zalac, Grga Prtljaga, Mijo Zalac, Mijo Puskar, Janko Zalac, Vinko Zalac, Mijo Majsak, Stejpan Skor, Vinko Skor, Ivan Kovacic, Ante Dupin, Kazimir Selebaj and Juro Radovic.

On behalf of my colleagues in the Congress of the United States, I extend our official congratulations on the 75th anniversary of this organization to the present officers of Lodge 146, CFU: Mary Balun, president; John Stanich, vice president; John Rednak, financial secretary; Kathryn Pavlic, recording secretary; William Kercell, treasurer; Joseph Zalac, nest manager, and Mary Stanich, Josephine Cindric, John Stanish, and Ann Bunda, trustees.

CONSUMERISM

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. HUNGATE. Mr. Speaker, in a frenzy of consumerism, we passed the original Real Estate Settlement Procedures Act, only to find out that those people who are engaged in the day-to-day operation of banks, real estate agencies, law offices and the like actually do know something about how their businesses work. Accordingly, many of us were pleased that the original Real Estate Settlement Procedures Act was amended. The September 1976 issue of the Illinois Bar Journal has a helpful article on the amended act.

The Amended RESPA—"Requiem for a Lightweight"

(By Fred I. Feinstein and Michael J. Baker)

The Real Estate Settlement Procedures Act of 1974 (RESPA) was enacted as a consumer protective measure requiring certain advance disclosure by federal lenders of settlement costs involved in the sale of residential real property units designed principally for the occupancy of from one to four families. The original RESPA and Regulations posed significant problems for practicing attorneys and lenders many of which were outlined in detail in an article entitled, "How to Live With RESPA and Regulation X." As a result of substantial lobbying by various interest groups, RESPA was amended January 2, 1976 to alleviate many of the difficulties caused by the original Act. Pursuant to the provisions of the amended Act, revised RESPA regulations have been promulgated and the full text may be found beginning at page 22702 of the Friday, June 4 and page 23673 of the Friday, June 11, 1976 Federal Register. For all practical purposes, the original impact of RESPA and most of the previous problems for the real estate practitioner and the lender have been eliminated. For example, eliminated is the prohibition against the lender issuing a commitment without the seller's disclosure of the previous selling price of the property. In addition, the advance disclosure of settlement costs provision has been substantially modified, and Section 6 of the original RESPA was repealed, apparently eliminating any criminal or civil remedies against the lender for failure to provide the advance disclosure statement.

The most significant portions of the newly revised Act are: (1) required use of the Uniform Settlement Statement (Form HUD-1), (2) required distributions of HUD "Settlement Costs" special information booklets at the time of loan application (3) good faith estimates of settlement charges at time of loan application (4) required availability of settlement cost information on the day before closing if the borrower asks to see it (5) prohibition against kickbacks and fees other than for services actually rendered (6 limitation on lender's tax and insurance escrows, and (7) consideration of a national land recordation system.

Coverage of RESPA: While there have been no material changes in the manner in which federal jurisdiction over this subject is obtained, substantial clarification of the types of loans covered by the Act have been made. Specifically excluded from RESPA's coverage are loans to finance the purchase of 25 or more acres, home improvement loans, loans to refinance, loans to purchase a vacant lot where no proceeds are to be used in construction, assumptions and novations financing of construction where the underlying lot is already owned by the borrower, and loans to finance the purchase of property where the primary purpose is for resale. Loans which would be covered only because of their eligibility for purchase by FNMA, GNMA, or FHLMC are covered only if the originating lender *intends* to sell the loan to these agencies. Installment sales contracts continue to be outside RESPA except that a loan to finance acquisition of legal title by the contract purchaser is covered.

Special information booklets: At the time of the written loan application, or within three business days of the receipt thereof by the lender, each prospective borrower must be given the information contained in the Special Information Booklet found at Page 23620 of the Thursday, June 10, 1976 Federal Register Note that this requirement is now only triggered by a "written" application. There is no requirement that the booklet be given to the seller and it should be noted by attorneys that the information booklets are still being received by borrowers too late to affect contractual obligations which have, no doubt, already been fixed by the terms of the real estate sales contract. An alternative would be to require that every real estate broker furnish a copy of a revised and expanded booklet to every seller prior to signing the listing agreement and to every prospective buyer by any seller prior to signing the "Offer to Purchase" or the sales contract. The Special Information Booklet only mildly impresses upon sellers and buyers the seriousness of the real estate sales contract, the fact that it fixes the rights and obligations of the parties and that they may wish to consult an attorney *before* signing it. It is HUD's hope that these booklets will receive such wide distribution that most people will read them before signing the contract.

Good faith estimates: Lenders must furnish loan applicants with good faith estimates in a dollar amount or range of each charge for a settlement service which the borrower is likely to incur. The estimates must be furnished not later than three business days after the written loan application is received and may be given in Section L of Form HUD–1. Where a lender requires the borrower to select a certain provider of services, it must provide substantial information to the borrower, including a statement as to whether or not each such provider has a business relationship with the lender. The absence of a definition of "business relationship" will no doubt cause lenders new problems since lenders and title companies, of necessity, are in daily contact with each other. HUD informally says it presently considers "business relationship" to mean "any" business relationship. This section points up, once again, a recurring problem in Cook and surrounding counties in which the purchaser's lender will choose the title company and order the commitment on the seller's behalf, notwithstanding the underlying terms of the contract between the seller and the purchaser. Sellers are well advised to carefully consider the terms of the contract in relation to procedures actually carried out in these counties and to take such steps as they deem necessary to insure that the seller is not in technical default under the contract because of the failure of the lender to choose the correct title company or deliver the commitment within the time dictated by the contract.

One-day advance disclosure and use of Form HUD–1 at closing: Note that the obligation of the settlement agent to make the advance disclosure on Form HUD–1 the business day immediately preceding settlement is to be triggered by the request of the borrower, and the agent's sole obligation is to make available only that information which is known to him at the time Form HUD–1 must be used as the uniform settlement form and must be delivered to the borrower and seller at or before settlement unless the *borrower* waives this requirement in writing at or before settlement in which case Form HUD–1 must be mailed or delivered to the borrower and seller as soon as practicable after settlement.

Form HUD–1 has been greatly improved. The secret in using the form is to work from the back to the front. Recognizing the right to privacy, it is no longer necessary for the seller's costs to appear on the buyer's copy and vice versa. While there is no provision for signature lines on Form HUD–1 there is no prohibition against their insertion. Obtaining the parties' signatures would appear to be good practice so the lender can support the fact that delivery of the form has been properly accomplished.

Seller's settlement costs ignored by new RESPA and regulations: The seller is liable for some closing costs, either by virtue of local custom or by the terms of the sales contract. However, it is possible that the seller will not even get a look at Form HUD–1 until after the closing has occurred. Under 24 CFR 3500.6 the lender must only give a copy of the Special Information Booklet to the borrower, not the seller. Under 24 CFR 3500.7, the lender must only give good faith estimates of closing costs to the borrower. Under 24 CFR 3500.10(a), it is *only* the borrower who is entitled to inspect Form HUD–1 one business day before closing, and, under 24 CFR 3500.10(c), the borrower can waive both the borrower and *seller's* right to receive Form HUD–1 at the closing. Sellers do not appear to get much protection under the 1975 RESPA even though sellers usually have more substantial closing costs than buyers since they usually pay any broker's fees and have higher title charges than the buyer.

Illinois land trusts: It would appear that HUD is still ignoring the Illinois land trust. Since the beneficial interest in an Illinois land trust is personalty and not real estate, it would appear that the holder of the beneficial interest can transfer or encumber his beneficial interest outside the application of RESPA. See RESPA § 3(1)(a) and 24 CFR 3500.5(b)(2) which talk about the Act covering a loan secured by a first lien on residential *real property* and 24 CFR 3500.5(b)(1) which requires a purchase or transfer of "legal title" of the mortgage property.

Exempt transactions: The Regulations exempt from the use of Form HUD–1 those RESPA transactions in which the borrower is not required to pay any settlement charges or adjustments or where the total amount the borrower is required to pay at settlement is a fixed amount and the buyer has been so informed at the time of loan application. This again ignores the fact that the seller may have substantial closing costs.

Conclusion: The 1975 amended RESPA went into effect June 30, 1976. It appears to be concerned only with settlement costs affecting buyers (borrowers) and neglects protection for the sellers. Lenders are in compliance if they mail out the Special Information Booklet and good faith estimates not later than three business days after receiving the loan application. If the borrower waives the right to delivery of the completed Form HUD–1 and fails to exercise his right to one day advance inspection, then Form HUD–1 is mailed out to borrower and seller as soon as practicable after closing. Otherwise, the borrower may get a one day advance look at it, and buyer and seller will receive a copy at the closing. For lenders, RESPA has been transformed from a complex set of deadlines, disclosures, and penalties to a minor inconvenience. For real estate brokers, the amended Section 8 appears to validate former methods of referral fee splitting regardless of services performed while lawyers and title companies must actually perform services to be entitled to a portion of a split fee. While RESPA continues to provide information to the consumer too late to be of any practical value, at least buyers and sellers do not have to wait out the twelve day "shop-around" period which was the earlier RESPA's contribution to the motel and furniture storage industry.

THE CONSUMER PROTECTION ISSUE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. FORSYTHE. Mr. Speaker, the Federal Government has played an increasing role in our private lives. The size of the bureaucracy has, as a direct result, grown to be so large as to become unmanageable. The ultimate result is that the manufacturers are being led by the Government toward certain goals. This has left the consumer in an awkward position. He is no longer determining what he wants. It is imperative, therefore, that the Government review its policies toward helping the American consumer. It is my belief, then, that before we proceed on a path toward more agencies for consumer protection, we should look at what we already have. I will continue to vote against the creation of new agencies until we make our present ones more effective.

Unfortunately, some of my colleagues feel that the best way to help their constituents is to set up blue-ribbon panels or to create new agencies to act as a guardian of consumer rights without examining what agencies are already present to provide these functions. The end product is another Federal agency with unclear goals and functions that overlap with the duties of other agencies. It is the consumer, having to deal with this overlapping bureaucracy, who is left confused and unaided. Also, creating Federal agencies does little to help the consumer at the local level without becoming embroiled in massive letter writing campaigns and long delays.

Primarily for those two reasons, I felt compelled to vote against creating an Agency for Consumer Protection (H.R. 7575). I felt that by creating this new agency we would be bypassing already existing agencies whose function it is to monitor consumer complaints. Furthermore, its creation would only increase the size of the bureaucracy while adding little to its efficiency. Second, I felt that H.R. 7575 would not offer any additional protection for individual consumers in their local communities nor would it help in providing manpower to investigate consumer complaints at the local level.

Again, I feel that it would simply be another classic example of the expansion of the Federal bureaucracy invading our private lives with little promise of achievement.

I have, however, striven to support legislation that would have a direct effect on our daily lives. With the increasing necessity for legal aid, there has also occurred a large increase in legal fees. Many people have become caught in the middle and have not been able to afford legal aid, thereby jeopardizing their ability to maintain credit ratings and their future. In this regard, I have continued to vote for legislation requiring legal aide services to spend more money on their clients' problems and less on trying to advance social causes.

Furthermore, in response to the Ocean County Consumer Affairs Department, I have strongly supported legislation prohibiting surcharges on purchases made with credit cards. With money being as tight as it is today for the consumer, I feel that any help that I can give in making credit cards more beneficial is worthwhile. I have also, therefore, supported legislation that would clarify laws designed to help consumers hold down settlement charges when buying homes or when selling them. Again, any help in making the dollar go farther is something that I have been trying to support in the Congress, provided, of course, that it is a sound method and anti-inflationary.

In addition, I have also been very aware of the inequities inherent in our tax laws. However, I refuse to become involved in the partisan battles on tax reform and I will continue to urge a slow, thoughtful approach toward restructuring our tax system so as to eliminate tax loopholes. In this vein, I voted to direct the House Ways and Means Committee to establish procedures for eliminating $3 billion of tax loopholes. I wholeheartedly disagree with the notion that some reform is better than no reform. It is precisely this type of thinking that results in shoddy and unclear legislation which very often ends up in creating more, unforeseen tax loopholes.

My attitudes concerning big government and bureaucracy have, to a major degree, affected my positions on consumer protection issues. While we all want to make sure that we, as consumers, are not being shortchanged. I refuse to believe that more governmental agencies and more Federal subsidies are the answer. We already have agencies designed to aid the consumer. Why should not we refine them and help them perform the functions that they were created to perform. It is senseless to create a new agency because the old one is being improperly administered. One must not forget that consumer protection means protection not only from manufacturers and industries, but protection from wasteful Government as well.

I have, therefore, taken strong stands toward making existing consumer protection agencies more efficient and responsive to the public. But more importantly, I have not tried to undermine the important role of the State in aiding its citizens. In fact, I have consistently tried to prevent the Federal Government from intervening into another aspect of our private lives. I am not against consumer protection, but I am against wasteful Government spending in this area when all it produces are inefficiencies and delays.

MRS. LUCY BROWN WARR TO RECEIVE THE BROTHERHOOD AWARD

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mrs. SPELLMAN. Mr. Speaker, the Prince George's National Conference of Christians and Jews recently selected Mrs. Lucy Brown Warr to receive their "Brotherhood Award" in the field of human relations. I have been fortunate to know Mrs. Warr for many years and her selection is a well-deserved tribute to Mrs. Warr's unceasing efforts to improve the quality of life for the citizens of Prince Georges County and the Washington metropolitan area.

Currently, Mrs. Warr is executive director of the United Communities Against Poverty, Inc. Under her leadership several programs have been created to better the living conditions of many residents. They include:

Legal Services for the disadvantaged, the young, gifted, and beautiful company project designed to give youth an opportunity to develop their talents in the arts, consumer education programs, and under UCAP's "umbrella", the agency is the prime sponsor of a consortium of five agencies funded by HEW to sponsor an Emergency School Aid Act project.

Mrs. Warr has worked with the Prince Georges County Public Schools as a vision and hearing screening technician and a nurse-aide. She served as a den mother for Cub Scouts; a leader and delegate to area council meetings for the Girl Scouts; president of her local cooperative kindergarten and president of her elementary school PTA; delegate to County Council of PTA's; and as Liaison for Beaver Heights PTA with the board of education.

Lucy Brown Warr served as a community coordinator to recruit, schedule time, and supervise manpower for the first two public polio clinics at the area school. She was a discussion group leader of the child study group for parents of Beaver Heights Elementary School and a discussion group coleader of child study group for parents of Fairmont Heights High School. Mrs. Warr has been an officer on the board of directors for the Family Services Agency of PGC, the vice president and interviewing committee chairman for Prince Georges County Scholarship Fund, Inc., a judge and chief judge of elections, a member of board of directors of Prince Georges County Health and Welfare Council, and an officer on the board of directors of the Child Day Care Association of PGC.

A resident of Prince Georges County for 25 years, the contributions which Mrs. Warr has made to the community are as extensive as they have been successful. Prince Georges County is by far the richer because of the effort of Lucy Brown Warr. All Prince Georgians owe her a great debt of gratitude, and in behalf of us all I extend our "Thanks."

RESULTS OF ALEXANDER 1976 CONGRESSIONAL QUESTIONNAIRE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 10, 1976

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues the results of my 1976 Congressional Questionnaire. In late May of this year, I sent a legislative questionnaire to every postal patron in the First Congressional District. To date I have received approximately 10,000 responses.

The questionnaire follows:

1976 CONGRESSIONAL QUESTIONNAIRE

[Answers in Percent]

GUN CONTROL

1. Which of the following statements is closest to your view on HANDGUN (not including rifles or shotguns) legislation under consideration in the House?

A. The private ownership of handguns should not be restricted	36.7
B. All private ownership of handguns should be prohibited	3.0
C. All handguns should be registered by their owners	31.6
D. Sale and ownership of "Saturday Night Special" type handguns should be prohibited	28.8

(Percentages may not equal 100% due to rounding and respondents who checked more than one answer.)

FOOD STAMPS

2. Do you favor denying food stamps to:

A. College students?

Yes	72.8
No	22.0
No opinion	5.2

B. Strikers?

Yes	68.0
No	17.4
No opinion	15.0

C. Those whose annual income exceeds $4,000?

Yes	61.4
No	24.0
No opinion	14.6

D. Individuals physically able to work who refuse to accept jobs with pay scales at least equal to the federal minimum wage?

Yes	72.8
No	22.0
No opinion	5.2

FOREIGN POLICY

3. The following are statements about current foreign policy issues. Please indicate if you generally agree or disagree with each statement.

A. The U.S. should restore diplomatic and economic relations with Cuba.

Agree	32.0
Disagree	55.0
No opinion	13.0

B. The U.S. has a special obligation to assist and defend Israel.

Agree	41.3
Disagree	35.1
No opinion	23.6

C. Henry Kissinger has done a good job as Secretary of State.

Agree	49.7
Disagree	36.4
No opinion	13.8

D. The U.S. should continue to play a leading role in the United Nations.

Agree	66.6
Disagree	26.0
No opinion	7.4

E. The U.S. should begin unilaterally reducing its troop commitments abroad.

Agree	41.9
Disagree	48.2
No opinion	9.9

F. The U.S. should develop closer ties with the Arab countries.

Agree	52.0
Disagree	30.5
No opinion	17.5

G. The U.S. should defend its interests in the Panama Canal Zone even if military confrontation is required.

Agree	85.4
Disagree	10.8
No opinion	3.9

H. The U.S. should continue economic assistance to friendly nations on the continent of Africa.

Agree	56.9
Disagree	30.3
No opinion	12.7

UNEMPLOYMENT

4. What action do you recommend to reduce unemployment?

A. No federal action—let the economy run its course? 33.7 percent.

B. Provide sufficient federal money for enough public service jobs to insure full employment? 15.9 percent.

C. More federal money for public works jobs? 13.4 percent.

D. Increase tax incentives for private sector? 34.7 percent.

(Percentages may not equal 100% due to rounding and respondents who checked more than one answer.)

INTELLIGENCE ACTIVITIES

5. Indicate whether you basically agree or disagree with the following statements regarding intelligence activities.

A. Congress has gone too far in investigating the FBI and the CIA.

Agree	45.5
Disagree	46.2
No opinion	8.3

B. The "leaking" of CIA and FBI information to the press is in the best interest of our nation.

Agree	20.5
Disagree	72.0
No opinion	7.4

C. The CIA's role should be restricted to collecting intelligence and other information concerning the activities of foreign powers.

Agree	68.3
Disagree	25.3
No opinion	6.3

D. In addition to intelligence gathering, the CIA should have the authority to try to influence events or policies in other nations.

Agree	27.2
Disagree	60.2
No opinion	12.5

OTHER ISSUES

6. Do you believe the investigation of President John F. Kennedy should be reopened?

Yes	38.8
No	57.9
No opinion	3.3

7. Should we continue building nuclear powerplants to meet our long-range energy needs?

Yes	84.1
No	14.6
No opinion	1.3

8. Do you favor extension of daylight saving time, in effect for 8 months in 1975, to year-round observance?

Yes	43.2
No	51.3
No opinion	5.3

9. Approximately 18 states have passed laws providing for various forms of "no-fault" automobile liability insurance. Do you favor federal legislation providing for "no-fault" automobile liability insurance?

Yes	45.5
No	38.1
No opinion	16.4

10. a. Public employees who are paid from public funds such as teachers and state and federal employees should have the right to form unions and bargain collectively for wages like other workers. Do you agree with this statement?

Yes	35.4
No	58.4
No opinion	6.2

b. Should public employees have the right to strike?

Yes	25.3
No	70.8
No opinion	3.9

c. Do you favor repeal of Arkansas' right to work law?

Yes	21.9
No	63.1
No opinion	15.0

11. Do you favor a national, compulsory health insurance program financed by higher social security taxes?

Yes	16.5
No	77.9
No opinion	5.6

12. The national debt is estimated to be $712 billion by the end of next year and interest payments on this national debt will approach $45 billion. Additionally, the federal government will spend up to $69 billion more next year than it will collect. Do you favor a tighter budget and a reduction in federal spending even if this would mean eliminating or sharply reducing some programs which you support?

Yes	92.0
No	7.0
No opinion	1.0

MEDICAID FRAUD

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. ROGERS. Mr. Speaker, I am joining today with my colleague, the Honorable DAN ROSTENKOWSKI, chairman of the Health Subcommittee of the Ways and Means Committee, to introduce in the House legislation developed by Senator TALMADGE of the Senate Finance Committee to deal with issues of fraud and abuse in the medicaid and medicare program.

Senator TALMADGE has indicated his intention to request that the Finance Committee and the full Senate add these provisions to H.R. 12961, a bill reported by the Committee on Interstate and Foreign Commerce and passed by the House which is now pending Senate action.

My colleague and I are introducing this legislation primarily because we believe Members of the House should have an opportunity to review the provisions of this Senate bill, and members of the public should have the opportunity to comment on them in a public hearing process, before any of the Members of this body are required to determine their acceptability in a conference committee report.

The problems of fraud and more particularly abuse in our publicly financed medical care programs are complex ones. They involve inadequate numbers of able personnel administering the program at the State and Federal level; woefully inadequate data systems particularly in the medicaid program; unethical providers—and let us be clear about this—they are at the heart of the problem; a reimbursement system which too often encourages overuse; and lack of alternate high-quality health facilities to serve the poor, particularly in areas of our major cities.

This bill is clearly not designed to address these deep-rooted problems in our health care financing programs. Senator TALMADGE acknowledged this himself in his statement when he introduced the bill. But it is designed to strengthen penalties for fraud, to provide the administration with a clear congressional directive to give priority to fraud and abuse activities, and to strengthen the Federal Government's access to information on providers.

I would note that several committees of the House have already independently acted on legislation in some of the areas addressed by the bill. The Talmadge proposal increases penalties for fraud, for example, and makes it a felony; the Commerce Committee has already reported a bill, H.R. 14319, which does a similar thing. Similarly, the Talmadge bill provides for a central fraud and abuse unit for medicaid, medicare, and the maternal and child health programs. I would note that the Government Operations Committee of the House has before it H.R. 15390, with action scheduled for next week, which establishes an Office of Inspector General within the Department of Health, Education, and Welfare with similar, but broader, functions. This proposal has received extensive and careful consideration by the members of the Fountain Subcommittee, and may well represent a preferable approach.

With the introduction of this bill in the House, the Subcommitee on Health and the Environment of the Interstate and Foreign Commerce Committee will proceed to hearings at the earliest possible date. We will cooperate with our Ways and Means colleagues and their staffs so that the hearing process can be of benefit to us both in dealing with our medicaid and medicare responsibilities.

Senator TALMADGE'S summary of the bill is attached.

PROPOSED TALMADGE MEDICARE AND MEDICAID ANTI-FRAUD AMENDMENTS

The initial section of the bill establishes within the Department of Health, Education, and Welfare an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate and make policy with respect to fraud and abuse monitoring and investigation at all organizational levels in Medicare and Medicaid. Unit personnel could also initiate and conduct investigations of alleged fraud and abuse.

To meet the needs of U.S. Attorneys and State prosecutors, the unit, at the request of prosecutors, would be required to provide all appropriate investigative support and assistance, including temporary assignment of Federal personnel to assist U.S. and State prosecutors in the development of fraud cases arising out of Medicare and Medicaid.

The bill clarifies that the prohibition against assigning Medicare and Medicaid claims to third parties, such as factoring firms, also applies to situations where a hospital or doctor tries to bypass the prohibition by using a power of attorney. This is a problem which has been highlighted in recent hearings with respect to Medicaid mills in New York City, as well as in Medicaid activities in Illinois.

The bill would require disclosure by providers and suppliers of services under Medicare and Medicaid—including so-called Medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities; those sharing in the proceeds or fees; business dealings between the facilities and owners, and certified cost reports.

This section would also require the Secretary and the States to have agreements with independent laboratories, independent pharmacies and independent durable medical equipment suppliers, who are paid directly with Government funds, under which such organizations would agree to provide access to their books and records pertaining to billing and paying for goods and services. This is similar to the type of information which hospitals and nursing homes are now required to provide. Additionally, Federal personnel and the Comptroller General would have direct access to provider records under Medicaid on a basis similar to the access which State Medicaid program people now have.

These provisions will facilitate the identification of exploitive and self-dealing arrangements. It will enable Federal and State investigative personnel and prosecutors to secure under law information indicating the presence or absence of a fraudulent or abusive financial arrangement.

Currently the penalties for fraudulent acts and false reporting under Medicare and Medicaid are defined as misdemeanors subject to fines of up to $10,000 and not more than one year imprisonment. A section of the bill changes these penalties to define such crimes as felonies punishable by up to five years' imprisonment and $10,000 fines.

Professional Standards Review Organizations (PSRO's) are required under present law to review hospital care. However, under law, where a PSRO requests responsibility for review of other types of health services under Medicare or Medicaid, the Secretary of HEW is authorized to delegate that responsibility to the PSRO. To date, because of delays in program funding and implementation, operating PSRO's are almost wholly concentrated in reviewing inpatient hospital care. A section of the bill would require the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities"—the so-called Medicaid mills. The Secretary would give highest priority to requests from PSRO's in areas with substantial concentrations of these "shared health care facilities." The effect of having the PSRO voluntarily assume this responsibility for "shared facility" review might well result in determinations by the physicians of the PSRO that the care or patterns of practice of given practitioners do not meet professional standards or that care and services being provided are not medically necessary. Such findings by the PSRO preclude payment of Federal funds for the care and can also result in PSRO recommendation of suspension of eligibility to participate in Medicare or Medicaid. These latter provisions are sanctions available to the PSRO under present law which would be available in their review of care in "shared health care facilities." The PSRO would also be authorized, in cases where it encounters possible fraud, to refer such cases to appropriate State and Federal law enforcement agencies as well as to the Secretary of HEW.

The provision further clarifies that, where the Secretary has delegated review responsibility to a PSRO, this review is binding for both Medicare and Medicaid all other duplicative review requirements under other provisions of law terminate; and reiterates the legislative intent that the costs of PSRO operation are to be financed wholly by the Federal Government with respect to Medicare and Medicaid review activities.

DUCKING AN ISSUE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. CLAY. Mr. Speaker, the following editorial appeared in the St. Louis Post Dispatch August 8, 1976. I think it eloquently speaks for itself. Therefore, I commend it to my colleagues:

DUCKING AN ISSUE

Democratic freshmen members of the House of Representatives want the vote of the Humphrey-Hawkins Full Employment Bill postponed until after the November elections because many of them are involved in close races and fear that a stand in favor of the measure would jeopardize their re-election. Interestingly, the day after the freshmen voted, 65 to 10, to ask the House leadership for the delay, the Department of Labor announced that unemployment in July was 7.8 per cent, the third consecutive month in which it has increased.

True, whether the bill is voted on a month before the November elections or a month after is not crucial to dealing with the unemployment problem, but neither is a postponement apt to save any congressman from defeat. If the measure is as controversial as the freshmen representatives believe, their opponents are surely going to see to it that they publicly state where they stand on it. So whether they have already voted for it or say they intend to vote for it is a distinction without a difference for most voters.

Moreover, the increase in unemployment ought to reinforce their stand in favor of the bill, for it should be plain by now that the Ford Administration's trickle-down approach to unemployment is not working and that a persistently high level of joblessness requires a fresh approach to the problem. The Humphrey-Hawkins bill seeks to do that, by requiring the Government to shape its fiscal and monetary policies and planning toward the objective of full employment, providing funds for public sector employment at the state and local levels and making the Government employer of last resort.

To be sure, the measure would be expensive, difficult to implement and perhaps inflationary, but new approaches to problems always carry risks. Besides, the legislation would not be chiseled in stone; it could be modified as experience uncovered flaws. If there is some uncertainty about the effectiveness of Humphrey-Hawkins, there can be no doubt about the Administration's lack of effectiveness.

INTRODUCTION OF A RESOLUTION HONORING OUR NATION'S TEACHERS THROUGH A "NATIONAL TEACHER'S DAY" ON SEPTEMBER 28

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. MINETA. Mr. Speaker, it is truly an honor to be once again sponsoring a resolution to honor our Nation's teachers by authorizing the President to proclaim the 28th day of September 1976, as "National Teacher's Day."

In Santa Clara County, Teacher's Day is observed annually by the cities of the county in conjunction with the San Jose Jaycees. On that day we honor those who daily meet the challenge of educating our youth, in whose hands our Nation's future surely lies.

The aims and objectives of the Santa Clara County Teacher's Day, to be held this year on September 26, are certainly worthy of consideration nationwide. They include increasing public awareness of the responsibility our teachers have in formulating the ideals and goals of our Nation's young people. We should publicly recognize and demonstrate our appreciation of the many educational achievements of our Nation's teachers and the long years of training and preparation for their profession.

Each one of us can personally attest to the profound influence our teachers have had on our lives and continue to have on the lives of our children. Surely 1 day each year we should demonstrate our recognition and appreciation of the efforts and contributions made by teachers in so essentially affecting the future of our country.

I am hopeful, Mr. Speaker, that you and my other colleagues will join me in an effort to proclaim September 28 as National Teacher's Day.

BALL ON THE TOP OF THE WORLD

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. MINISH. Mr. Speaker, it is my pleasure to call to the attention of my colleagues in the House the annual fund-raising event of the Mental Health Association of Essex County. This private nonprofit association is a citizens' organization dedicated to the community-based mental health approach that has immeasurably benefited countless lives. My own familiarity with the programs of this commendable organization prompts me to insert the following announcement of the "Ball on the Top of the World" to be held September 19 at the world's highest restaurant.

BALL ON THE TOP OF THE WORLD TO SUPPORT ESSEX COUNTY MENTAL HEALTH ASSOCIATION PROGRAMS

Arthur N. Chernin, President of the Mental Health Association of Essex County, and Alan Sagner, New Jersey Commissioner of Transportation and a Commissioner of the Port Authority of New York and New Jersey, announced the Ball on the Top of the World, to be held atop the 110-story, ½-mile high World Trade Center, in New York City, Sunday, September 19, at 7:30 p.m.

The 1976 Annual Special Event of the Mental Health Association of Essex County will take place at the world's highest restaurant, the Club, whose every seat offers the most spectacular (and unobstructed) view of the New York-New Jersey panorama.

Anthony P. Miele, President of the East Orange General Hospital, will be the Honored Guest.

Barbara Furst, West Orange, Chairlady, and Susie Kasen, South Orange, Co-chairlady, once again are teaming up for a MHA ball. In recent years, they engineered such Mental Health galas as the Great Train Ride to the Hoboken Ball, the Mayapple Ball and the historic Getaway Ball, which inaugurated the Trans World Airlines Terminal of the new Newark International Airport. Mrs. Furst's talents have been utilized by such notables as Governor Brendon T. Byrne, for whom she chaired the 1974 Inaugural Ball. She is also a member of the New Jersey State Council On the Arts.

Mrs. Kasen last year traveled to Monaco by special invitation of Princess Grace to make the display for the International Flower Show in Monte Carlo. She is a partner of Flower Fair, in Livingston, which decorated the Amerigo Vespucci, one of the Tall Ships of OpSail.

Proceeds from subscriptions and raffles advance the cause of mental health by supporting the Mental Health Association of Essex County's ongoing programs of advocacy and direct service for the mentally ill. This citizens' organization works year round for improved care and treatment of the mentally ill in psychiatric hospitals and community mental health centers. It advocates in behalf of emotionally disturbed children in the public schools and the elderly. It provides help such as counseling and in information and referral service for people in need.

Through its day center, Prospect House, the MHA provides hundreds of people with a meaningful alternative to psychiatric hospitalization. Many Prospect House graduates are fully employed, tax-paying members of the community. Finally, the MHA works to reduce the ravages of mental illness. Spokesmen often appear before legislative, judicial and other governmental panels making public policy that affects thousands of disenfranchized citizens. We support research into the causes and effects of mental illness, as well as seeking ways to prevent this disease from disrupting the lives of untold thousands of Essex County people.

Attending the Ball, or purchasing a chance on one of the lovely prizes are two very important ways in which individuals may support the work of the Mental Health Association of Essex County. For more information, call (201) 677-1540.

BRUTAL PERSECUTION OF U.S.S.R. CHRISTIANS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. McDONALD. Mr. Speaker, for some 59 years, the Soviet Government has been attempting to wipe out religion in the U.S.S.R. The attempts have been a failure. The church, particularly the underground church, in the Soviet Union is growing and the thirst for spiritual nourishment has never been greater among the Soviet people. Unfortunately, as Columnist Allan C. Brownfeld, recently pointed out, the persecuted Protestants have not received the attention their plight merited. Mr. Brownfeld's column attempts to remedy this problem and below is his column as it appeared in the Anaheim Bulletin of August 25, 1976:

BRUTAL PERSECUTION OF U.S.S.R. CHRISTIANS

For some time, the U.S. Congress has been vitally concerned with Soviet persecution of Jews. This concern did not come about because of a natural antipathy to religious prejudice and mistreatment. It came about in precisely the same manner as Congressional concern about a host of other things—school busing, abortion, veterans' pensions, farm subsidies, etc.—has manifested itself. The process is quite simple: a group of Americans, in this case Americans of the Jewish faith, put pressure upon the Congress to act in their behalf. There being no pressure from a countervailing group—in this instance, one which supports religious persecution—the Congress acts.

The Jews are to be complimented and applauded for their concern over the fate of their co-religionists in the Soviet Union. But what of American Protestants and Roman Catholics? Their faiths have been persecuted in the Soviet Union in as harsh a manner as has the Jewish faith, yet they remain silent. Some church groups, such as the National Council of Churches, repeatedly criticize their own country for its shortcomings—some real, some solely in the minds of the critics—but remain silent when it comes to the anti-Christian bias of the Soviet Union.

Finally, and without any notable concern on the part of the church groups themselves, a number of Congressmen appear ready to express themselves on this subject.

Rep. John Buchanan (R-Alabama), himself a Southern Baptist clergyman, says that he has 103 cosponsors in the House, including most of the leadership, for his resolution calling on the Soviet Government to allow christians and other religious believers to "worship God freely according to their own conscience."

The resolution also asks for the release from prison of Georgi Vins, secretary of an "illegal" Baptist group and a man whose case has been a subject of much discussion in the West. Rep. Buchanan noted that, "There has been a good deal of public attention on Soviet Jews, intellectual and political dissidents, but there is more repression than is generally realized against Christian religious expression. I believe this is the first time Congress has considered a resolution naming Christians, and I believe that evangelical Christians would be second only to Jews in the trouble they have had with the government."

A concurrent resolution has been introduced in the Senate by Senators Henry M. Jackson (D-Wash.), Hubert Humphrey (D-Minn.), Clifford Case (R-N.J.) and Red Stevens (R-Alaska).

If passed, the resolution would only express the "sense of Congress" and would not involve any legal sanctions against the Soviet Union. Rep. Buchanan, however, believes that it would put "pressure" on the Soviet Union and raise public interest in the Vins case.

Georgi Vins' difficulties began in 1960 after a Soviet government crackdown on the 535,000-member All Union Council of Evangelical Christians and Baptists, the largest organization of Soviet Protestants. Vins and others were convinced that their organization had become a tool of the atheistic government and formed their own "unauthorized" church council.

Vins has been in prison twice, first in 1966, after a demonstration by his group, the Council of Churches of Evangelical Christians and Baptists, outside the Central Committee headquarters in Moscow. He was sentenced to three years at hard labor and left prison in bad health.

In 1970, he went underground to carry on his clerical work and was again arrested in 1973. He has been sentenced to five years in prison and five years in exile for "harming the interests of Soviet citizens under a pretext of carrying out religious activity." The Soviet government refused to permit Western observers at his trial or a Western attorney for his defense. Now, although in poor health, he is forced to put in 10 hours of hard labor a day in a Siberian prison camp. Left at home in Kiev are his mother, wife and five children—with most of their possessions confiscated by the government.

In hearings conducted before a House subcommittee on international political and military affairs and international organizations on June 24 and 30, 14 witnesses testified that Vins' plight is not an isolated case and provided extensive descriptions of Soviet religious persecution.

David D. Klassen, a member of the same movement as Vins and now a resident of West Germany, testified that he had spent "100 years of imprisonment, torture and suffering in psychiatric clinics, Soviet prisons and experimental camps." He said that one tactic used by the state against churches is "physical annihilation." He said he knew one person who was "torn to pieces by dogs," another "whose tongue was torn out of his head and was branded with hot irons, and another who was drowned in the Black Sea."

The state also takes children away from their parents if the parents attempt to teach them a religious faith. The Rev. Janis Smits. a Latvian Baptist was allowed to leave his country May 25. He said that since March, 1974 he had been performing ministerial duties "for preaching the New Testament" outside his parish, "asking the believers to pray for those in prison and persecuted."

The "spirit of detente" seems not to have affected the lives of Soviet Christians. While Christians in the West look away, the most primitive forms of religious persecution continue in the Soviet Union. By making our opposition to this known, the Congress strikes at least a small blow for truth and decency.

ARAB BOYCOTT COSTS BUSINESS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. ROSENTHAL. Mr. Speaker, the House will soon be acting on two measures which are designed to end American cooperation with the Arab boycott. The conference report on H.R. 10612, the Tax Reform Act of 1976, contains a modified form of the so-called Ribicoff amendment. This provision would cut off a portion of certain tax benefits to American companies participating in the Arab boycott of Israel in violation of statutory U.S. policy.

The second blow against American complicity in the boycott is contained in H.R. 15377, extending the Export Administration Act. This bill would make illegal all American compliance with the Arab and other foreign boycotts against countries friendly to the United States.

The urgent need for these proposals was brought home again last week with the loss by an American concern of a $200 million deal, because of Arab boycott pressures. After months of negotiations, Sea Containers, Inc., called off plans to take over 23 refrigerated cargo ships owned by Maritime Fruit Carriers Co., an Israeli shipping company. James Sherwood, Sea Containers president, cited Arab boycott agitation as the reason for dropping the deal. Sea Containers conducts a substantial trade with Arab States which it was told could be in jeopardy if the Israeli deal were concluded. It now appears that many of the Israeli-owned ships will be sold to Cunard Line, Ltd., a British concern.

This development is significant for several reasons. First, it offers graphic evidence of the divisive and anticompetitive impact of the Arab boycott on American business. Second, it refutes the arguments of boycott apologists that the boycott is not hurting American business. Third, it shows the ability of foreign governments and their industries to resist the boycott pressures of the Arab States.

I hope my colleagues will keep this example in mind when voting on these crucial measures. I would also address their attention to the suplemental views to House Report 94–1469 on the Export Administration Act extension where I set forth at greater length the adverse impact of the boycott on American trade.

I also wish to draw my colleagues' attention to a recent colloquy in the Washington Post on the Ribicoff amendment. The debate took place between columnists Evans and Novak and Dave Brody, Antidefamation League Washington director. I feel it puts in better perspective the principal issue which is whether or not, in Mr. Brody's words, American businesses should be allowed to remain "pawns—of—the Arab countries in their war against Israel." The text of this exchange of views follows:

[From the Washington Post, Sept. 4, 1976]

United States Law and the Arab Boycott

In their August 30 column on the Arab boycott, Messrs. Evans and Novak misconceive what is involved in the current congressional effort to put teeth into present law, which merely discourages American business from cooperating with the boycott without expressly forbidding such compliance. If the pending legislation is enacted, Arab countries would still be free to wage economic warfare against Israel. What they would not be free to do is to involve American business firms in that fight.

The Washington Post, which has called for strong anti-boycott legislation, made this distinction clear in an editorial of January 26 when it said that the trade boycott of Israel by the Arab states is their own business but they should not expect to enlist American firms to support that boycott. The pending legislaion would simply prevent American business firms from being made pawns by the Arab countries in their war against Israel. Enactment of the legislation would mean that American business firms would then be able to make decision as to whom they wish to trade with free from foreign pressures and economic coercion.

Since American policy opposes the boycott and discourages American business from participating in it, it makes no sense to confer special tax benefits on companies which comply with the boycott. By denying these tax benefits to companies which violate the anti-boycott policy, the Ribicoff amendment would make our tax laws an instrument to implement rather than frustrate that national policy.

David A. Brody,
Director of Washington Office
Anti-Defamation League of B'nai B'rith.
Washington.

[From the Washington Post, Aug. 30, 1976]

The Battle Over the Arab Boycott

(By Robert Evans and Robert Novak)

Ignoring warnings of a new Middle East crisis, Congress appears set on a collision course with the Ford administration by passing a new law to block any cooperation by U.S. business with the anti-Israel Arab boycott.

High administration officials who have been fighting an anti-boycott amendment to the tax-reform bill all this year fear that its real objective is to satisfy Israel's growing concern over intimate commercial relationships now building between the U.S. and Arab states.

"Until the 1973 oil embargo, Israel had us all to themselves," one high official told us. "Now the Arabs are moving in and the Israelis don't like it."

Thus, Treasury Secretary William Simon recently testified on Capitol Hill that the administration has been under "pressure . . . to mount a confrontational attack on the Arab boycott." Such an attack would fail, he said; would "harden Arab attitudes"; and would reduce U.S. influence in seeking a Middle East settlement, endangering anti-boycott progress already made. That progress has come in the area of anti-Jewish religious discrimination, once a key part of the loosely-controlled Arab boycott.

But what Sen. Abraham Ribicoff of Connecticut—and nearly 400 cosponsors in both House and Senate—wants is a change in tax laws denying tax and export benefits to U.S. companies doing business with Arab states under boycott conditions. Their target: Arab discrimination against Israel, an enemy state.

Such economic pressures would short-circuit American companies doing Arab business (at a 1975 rate of $5.5 billion in exports) and reroute it elsewhere.

The reason is that even though Egypt and Saudi Arabia are quietly reducing the impact of the 20-nation Arab League boycott against Israel, they perceive the Ribicoff amendment as blatantly anti-Arab, dictated by pro-Israel domestic politics. Worse, they regard it as highly irregular interference in their right to wage economic warfare against an enemy (Israel).

The fact that Israel's economic minister here, Ze'ev Sher, has lobbied for passage of the Ribicoff amendment and other anti-boycott legislation, top officials suspect, is evidence of the deep Israeli fear over tightening U.S. Arab economic links. Yet, the Israeli campaign claims a different rationale.

"Compliance with Arab boycott rules is illegal, both under international law and under domestic law, as well as immoral and contrary to U.S. tradition and policy," Sher told a February symposium in Austin, Tex. But at that same symposium, Andreas F. Lowenfeld, former deputy legal adviser in the State Department and now a New York University Law professor, disagreed.

The U.S. itself has been "the Olympic champion in imposing political trade controls," he said, almost always with the "cooperation of foreign nations." Indeed, the U.S. has used "many of the same devices used by the Arab League—questionnaires, certificates and blacklists."

Since Congress views the boycott through political not jurisdical eyes, such clinical testimony by an authority goes unnoticed and unwanted. Likewise, Treasury officials were stupefied when Ribicoff complained privately that two of his own aides were "lobbied" recently by a high Saudi Arabian official (Hisham Nazer, the minister of planning).

Compared to the lobbying against the Arab boycott now being conducted by the Israeli embassy and American-Jewish organizations (including a federal court suit by the American Jewish Congress to end U.S.-Saudi economic cooperation) Nazer's effort was invisible.

Ribicoff told us that if his amendment stays in the tax-reform bill, now in Senate-House conference, and becomes law, the Arabs will end their boycott, because the U.S. is "the only country" supplying "what they need."

But the Treasury officials who have encouraged the fantastic rise in U.S.-Arab trade since the 1973 Arab-Israeli war flatly disagree. A U.S. law forcing Arab countries to transact business with major suppliers of Israel, they predict, would have the opposite effect: transfer the multi-billion-dollar Arab business elsewhere, reducing the flow of petrodollars back into this country at a time when Arab oil is desperately needed.

"The Israelis want this legislation to cut the economic ties between the U.S. and the Arabs," one high official told us. "This is not a religious question of anti-Jewish discrimination but hardball politics." If that view is correct, passage of a tough anti-boycott law will move the U.S. toward yet another crisis in the Middle East.

HOW KY CURRY SPENDS HIS TIME

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. JONES of Tennessee. Mr. Speaker, I want to take this opportunity to share with my fellow colleagues an article that appeared in the Cumberland Presbyterian magazine about a great man dedicated to preaching the word of God throughout Tennessee. He is Brother Ky Curry, the former pastor of my church in Yorkville, Tenn.

Brother Curry has been throughout his career a dedicated preacher of Christianity. Even today, at the age of 78, he continues to carry on this work as associate pastor of a Winchester, Tenn., church. I think that the article that I would like to enter into the Record describes, better than I ever could, his unfailing devotion to his vocation as a minister of God.

I first came to know Brother Curry when he came out of retirement to take over the Cumberland Presbyterian Church in Yorkville, of which I am a member. Since then, I have come to respect him even more and appreciate the great work that he does.

I would, then, like to enter into the Record, the following story taken from the August 1 edition of the Cumberland Presbyterian:

How Ky Curry Spends His Time

(By Charles E. Sons)

In the 30 years I have known Ky Curry I have come to respect him as I respect no other man. To me he is the father-image, one in whom I can confide my innermost secrets and come away feeling that "here is one who cares."

His parishioners and his friends are not determined by church lines, nor races, nor creeds. Rather "It's the giving and doing for somebody else. On that all life's splendor depends. And the joys of this life, when you sum them all up. . . . Are found in his many friends."

Ky Curry can make friends. He's been making friends a long time. He did in his early pastorates. He did as editor of The Cumberland Presbyterian, as pastor at Cowan, TN for a number of years and now, after retirement as associate pastor at the First Cumberland Church in Winchester.

Ministers who retire cannot be an effective associate pastor, unless they are ready to accept total commitment. They must forego many of the pleasures in life; they must be willing to sacrifice in the area of recompense and they must determine that wherein they were once total leader of the flock, they have now been retrograded to second in command.

I believe of all the inspired scripture that has been preserved for us, the following best sums up the life and teaching of Ky Curry . . . "Not that I complain of want; for I have learned, in whatever state I am, to be content. I know how to be abased, and I know how to abound; in any and all circumstances I have learned the secret of facing plenty and hunger, abundance and want. I can do all things in Him who strengthens me."

Ky and his wife Jo who has been his helpmate for 41 years, looked forward to retirement and finally when that golden hour arrived they left their Cowan (TN) pastorate of sixteen years to work his fields and tend his cattle on the family farm in Pembroke, Kentucky.

But a lifetime of rapping on doors and decorating a pulpit is not so easily set aside. He came out of retirement and accepted a call to the Yorkville (TN) church. Still the memories of rising mountains, clear streams, fertile lands and countless friends left in Franklin County haunted him.

Ky and Jo returned to Franklin County and accepted a position as associate pastor at the Winchester church. His compensation was so small, it hardly paid his car expenses. These were the days prior to Social Security's golden age of 72, but now at the age of 78 his compensation has grown. But in these years, his only complaint about a salary has been, "the church just can't afford to pay me this much."

The Rev. John Stammer Smith, pastor of the Winchester chruch, said "The work of the associate minister in this church has become a vital part of the total program. Ky supplements my work by carrying the greater part of the visitation. He makes initial contact with newcomers in our community. He does most of the routine visitation and he is constantly alerting me to situations which need my attention. He is also available at any time, if I should be out of town, to care for any emergency situation which might arise."

Brother Curry performs another vital work in the church, with the assistance of his wife, Jo, in keeping accurate attendance records of our membership. With these records he can alert the pastor to any member whose attendance record would indicate a loss of interest or concern.

"I consider one of his greatest values to me is his excellent advice when we have a particular problem. I do not hesitate to ask his opinions and I value them very highly because of his vast knowledge and experience," Rev. Smith stated.

"In our situation there are no conflicts. This does not mean we always agree on every point, but we can sit down in the study and share with one another and reach an acceptable approach to almost any program or problem.

"I will always be grateful that I have been given the opportunity of working with and being so closely associated with Ky Curry. He is one of the greatest Christians I have ever known and my life has been enriched through this relationship."

Personalities and shared goals make for the congenial atmosphere that exists between pastor and associate pastor at the Winchester church. We can conceive of situations where there might be conflicts of personalities of participants in the same program in other churches. There could be jealousies which could arise, but there do not exist in the Winchester program.

As a farm boy called to serve his country during World War I, Ky Curry had implanted on his mind, while serving aboard a battle ship, the letters "PC," and he knew that they did not mean "plow corn," but rather "Preach Christ." It became, he said, "A very personal and a very real confrontation with God."

He left the military service and commenced, with untiring zeal, the mountainous task of acquiring an education, "enrolling" as he recalls, "as a freshman in high school with mere kids."

After high school came college and seminary work. He received degrees in both fields.

He worked his way through both and it took its toll. He said, "All of my life I had heard preachers laughed at for seemingly holding out their hands for a handout, so I determined to pay my own way at whatever personal cost to stay out of that category. It is still a matter of fierce pride to me that I did pay my way totally, even though the church had a preacher-boy fund to see young ministers through school. It has always been a matter of deep satisfaction that I have been able to maintain that way of life in my church work, never getting in the class of 'preacher-begging.' "

He financed himself through school as a barber and as a staff writer on a daily paper. He served as editor for a brief time of a weekly paper and for ten years—1937 to 1948—was editor of Sunday School publications and THE CUMBERLAND PRESBYTERIAN.

Ky Curry has had few pastorates, for he has remained for lengthy stays at each. Of his work as a pastor he states, "I have always tried to work my field thoroughly. I firmly believe that there is no such thing as a church that cannot grow if the field is worked. However I never achieved anything spectacular, nevertheless, there was always some growth."

Brother Curry recalls only one situation in which he believed himself to be a misfit and he removed himself after only a few months.

Ky Curry has only two tried and proved methods. First, he surveys the field and then works it thoroughly, determining who in the neld is not being ministered to by other churches, and then extends to them the same kind of attention a pastor would extend to his own members. Second, is that of trying to do an honest day's work every day. He has never felt free to engage in any work away from his pastorate other than youth camps. He is of the firm belief that revivals rob his local church of his time which has already been purchased.

His greatest joy is pastoral work. As an associate he still tries to make over a hundred contacts each month. He is fully committed to the thought that a pastor learns more definitely the lives and needs of his people by being in their homes, talking to and listening to them about their total lives. Whatever one's general attitude toward people, a pastor learns to understand, love, and help his people through this method more than any other that has ever been worked by the ministry. One truly learns to be happy with, and to sorrow with people only through this method.

And finally, the people sense it and learn to live in the warmth of this kind of reach. They find a friend who cares.

The 78-year-old youthful associate minister declared, "And now I look back on life as a minister. Nothing outstanding has ever been accredited to me, although it was through this kind of ministry that my church honored me with a DD degree a few years ago. Yet, I feel that I have touched meaningfully lives that have been committed to me through my pastorates. It is the way I have tried to be honest with my Lord and give him an honest day's work every day of my life."

BEWARE MISGUIDED EULOGIES

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. SNYDER. Mr. Speaker, for the next few weeks we will probably be subjected to the misguided rhetoric of praise eulogizing the founder and guiding light of Communist China. We will be told of the great leadership and statesmanship he provided the world and his nation.

Before these outrageous phrases begin assailing our ears and commonsense, I would like to remind you of the accomplishments of the man named Mao.

Mai Tse-tung guided the Communist Party to total power in 1949 and in one fell swoop enslaved nearly one-fifth of the world's population. Under his guidance, the Red Chinese have exported revolution to nearly every corner of Asia and supported outright aggression in Korea and Vietnam. In his three decades as titular head of the Communists, he has proven to be master of every nuance of trickery, deceit, and treachery to sustain the stranglehold of communism on his countrymen.

The subjugation of nearly 1 billion people, the deaths of U.S. soldiers in Korea and Vietnam and a full life of ruthless treachery—these are the accomplishments of Mao.

It is generally considered best not to speak ill of the dead. This case is an exception. Mao Tse-tung deserves to be remembered and if you remember his accomplishments, only "ill" can be spoken.

SCHEUER/KOCH PROGRAM TO END THE ARAB BOYCOTT

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. SCHEUER. Mr. Speaker, on Saturday, September 11, Congressman EDWARD I. KOCH called on Presidential candidates Gov. Jimmy Carter and President Gerald Ford to endorse a four-point program to effectively end American complicity in the Arab economic boycott.

On successive days this past week both Governor Carter and President Ford went before the national convention of B'nai B'rith in Washington to declare their opposition to the Arab economic boycott. The administration's record of nonfeasance and malfeasance shows that legislative action is necessary.

First, Congress must enact title I of the Scheuer/Koch anti-boycott bill which would make it illegal for any company trading with a foreign nation to disclose the race, color, religion, sex, nationality or national origin of an employee or a member of the board of directors pursuant to a boycott request, or to refuse to do business with any other domestic concern or person pursuant to an agreement or request of a foreign agent or nation. This proposal, already passed by the Senate on August 27, has been adopted in modified form by the International Relations Committee by a 27 to 1 vote last week and awaits action by the House of Representatives.

Second, we call for the organization of an inter-agency task force on the Arab boycott including top officials from the Securities and Exchange Commission to investigate bureaucratic barriers to effective implementation of anti-boycott policy and to recommend legislative or procedural changes in the reporting requirements and in the gathering, storage, retrieval and analysis of information, the poor quality of which for the last decade have undermined vigorous implementation of anti-boycott policy.

Third, we call upon the Commerce Department to make public the names of those firms complying with boycott requests. There is no reason why a firm which flouts our national policy should be protected by a cloak of secrecy by the Commerce Department. Such a company's stockholders, its distributors, its employees, its customers, and above all, the American public, all have the right to know that the company is ignoring our national policy, and to act accordingly.

And fourth, we call upon all Americans to join in an affirmative action program which would reward those companies which have stood up tall and strong in their opposition to the boycott and as a result found themselves on the blacklist. We urge the public to use moral dollars to fight Arab petro-dollars, by purchasing products from companies which have demonstrated the corporate responsibility and integrity to resist the boycott. The following is a list of companies which have shown moral leadership and which should be encouraged by our moral dollars:

Burlington Industries, Aetna Life and Casualty, All State Insurance Co., Lord & Taylors, Belding Hemingway, Bulova Watch Co., Coca Cola.

E. J. Korvettes, Foster Grant (sun glasses), Monsanto, NBC, RCA, Sears Roebuck, Xerox.

Ford, General Tire and Rubber Co., Genesco, Helene Curtis (cosmetics), Hartz Mountain Pet Foods, House of Seagrams, Holley Carburetor.

Motorola, Miles Laboratories (Alka Seltzer), M. Lowenstein (textiles), Paul Masson, Revlon, Whirlpool, Zenith.

This past Tuesday the House Commerce Committee released a report on the Arab economic boycott which indicates that during 1974 and 1975 at least $4.5 billion worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

For the past 11 years the Commerce Department has failed to vigorously execute our foreign policy as expressed by the Congress and successive Presidents and Secretaries of State. The Commerce Department has also opposed every legislative attempt to strengthen our antiboycott stand. The report indicates that the Commerce Department, "at best, did a bare minimum to carry out the mandate of the foreign boycott provisions of the Export Administration Act" and "actually furthered the boycott by implicitly condoning activity declared against national policy," or overtly facilitated the boycott:

> Commerce Department forms on which companies receiving boycott requests were to report such actions contained language which stated that, while it was against United States policy for corporations to comply with boycott requests against nations friendly to the United States, it was not against U.S. law to do so, sending a clear signal that they didn't really mean it.
>
> These same forms made it optional for companies to declare whether they were or were not complying with boycott requests.
>
> The Commerce Department itself distributed to United States business firms Arab trade opportunities which required compliance with boycott provisions, and last March, Commerce Department officials met with American businessmen to discuss ways in which U.S. exporter firms could evade the reporting requirements of anti-boycott legislation, by setting up foreign subsidiaries, thus making the Commerce Department an active agent of the Arab boycott office.
>
> The Commerce Department's reporting system was so slipshod and inaccurate as to be misleading and to obfuscate the true effects of the boycott. Export forms were designed to make the compilation and computerization of data difficult, and analysis of thirty thousand reporting forms cumbersome.

The steps outlined above will not have a negative effect on Arab-American trade because the Arbs have repeatedly stated that they will not allow the boycott to interfere with their economic development. The report documents that since 1973, Arab trade with staunchly anti-boycott nations has increased substantially—Holland 83 percent, Sweden 93 percent, West Germany 100 percent and the United States 109 percent—while Arab trade with a nation like France which supinely acquiesces to boycott threats, increased by less than 50 percent.

EDITORIALS CALL PRESIDENT FORD'S PARK EXPANSION PROGRAM "11TH HOUR CONVERSION AND POLITICAL POSTURING"

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. EVINS of Tennessee. Mr. Speaker, the New York Times, in a recent editorial entitled, "Discovering the Parks," points out that during the 2 years of President Ford's incumbency he has sharply cut and reduced the budget for the national park service of the Department of the Interior and that just before opening his campaign for election, he calls for expenditure of $1.5 billion for expansion of the national park system.

The Washington Post of September 1, 1976, carried a similar editorial entitled "Old Faithful Presidential Politics." Both are interesting.

These editorials from the New York Times and the Washington Post are included in the RECORD for the interest of my colleagues and the country.

The editorials follow:

[From the New York Times, Sept. 2, 1976]

DISCOVERING THE PARKS

Public opinion polls consistently report that conditions in the national parks—and conservation issues generally—are of concern to a wide spectrum of voters. It is not surprising, therefore, that as President Ford seeks to win election in his own right, he should manifest a sudden enthusiasm for the national parks.

The parks, including Yellowstone which Mr. Ford visited this week, have experienced the bad as well as the good effects of the tourism explosion. Overcrowding, crime, vandalism, polluted air—the very conditions that city people journey to the national parks to escape—have become common in the more accessible and better-known sections of the park system.

The National Park Service of the U.S. Department of the Interior in recent years has repeatedly petitioned the Office of Management and Budget and the White House for additional funds to cope with these new pressures. Unfortunately, neither the O.M.B. nor the White House has been responsive to these requests. In both of the budgets he has submitted, President Ford asked for substantially less money for staffing, maintenance and land acquisition than the Park Service has sought and than conservation organizations regarded as necessary.

In fiscal 1976, for example, the Park Service asked for $397 million, the President budgeted $304 million and Congress—over Administration objections—raised that figure to $312 million. Again, in the new fiscal year beginning October 1, the President asked for $337 million, substantially less than the Park Service had requested, and Congress raised it to $355 million.

The Fish and Wildlife Service has a special fund to buy wetlands for migratory birds. Last Year, Congress appropriated $7.5 million for the fund and this year $4 million. In both years, the Ford Administration asked that nothing be appropriated for this purpose.

Against this background the President's discovery that the parks and wildlife refuge system need additional money for land acquisition seems to have more to do with Mr. Ford's political needs than with the needs of the parks, which have not changed much since January when his last budget was submitted. The same is true of his decision that the understaffed Park Service requires 1,500 more employees now than he thought then.

President Ford initially generated confusion when he asserted that his recommendations would more than double" the number of acres in the parks and wildlife refuges: the sum he mentioned for land acquisition would fall far short of that target. Interior Department officials subsequently explained that Mr. Ford was merely referring to the 32 million acres in Alaska that have been reserved for parks and refuges under the Alaskan Native Claims Act of 1971 but not yet actually established. A program authorized five years ago hardly constitutes a new initiative. It is also unclear how the President relates his land acquisition program to the far more ambitious bill now nearing enactment in Congress.

An eleventh-hour conversion is better than none at all. But President Ford's pledge would carry more conviction had he shown by word and deed in the last two years that he really cared about national parks and wildlife refuges.

[From the Washington Post, Sept. 1, 1976]

OLD FAITHFUL PRESIDENTIAL POLITICS

Out at Yellowstone National Park, Old Faithful erupted on schedule on Sunday—right in the middle of President Ford's speech proposing a 10-year, $1.5-billion "Bicentennial land heritage program." Mr. Ford no doubt viewed the geyser as a perfect prop, epitomizing all the natural treasures that he seeks to save. And that is certainly one image that could reasonably be evoked by Old Faithful on this occasion. It is, after all, splendid spectacle, beauteous to behold and well worth preserving in its natural state. But it is also vaporous and transitory, a spasmodic, passing thing of no great substance. And now that we have carefully studied the ingredients of the President's grand-sounding plan for the national parks, Old Faithful seems to us to have been the perfect prop for this occasion in a way quite different from that intended by the President's advancemen. For what, when you think about it, is older and more faithful than the time-honored tradition that impels candidates for President (and above all incumbent candidates) to spout campaign promises that dance in the sunlight and delight the multitudes—and then, predictably, evaporate into thin air? As it is with Old Faithful, so, alas, it is with the President's "new" aid program for the national parks: there may have been quite a lot of steam behind it for a brief moment or two, but the suggestion of substance is largely illusory. There is really not much there that hasn't been there all along, or that Mr. Ford couldn't have put there long before now.

So we think that in this case, at least, Jimmy Carter was entitled to let off a little steam of his own. Jody Powell, Mr. Carter's press secretary, interrupted a softball game in Plains to accuse the President of "a calculated election-year flip-flop" intended "to cover up eight years of Republican mismanagement of our nation's park system." There is considerable basis for this charge. The national parks and wildlife refuges have been sadly neglected for much of the past decade. Budgets have not kept pace with rising costs and great increases in public use. Established parks have been allowed to deteriorate for want of proper maintenance and care. New areas have been authorized but not fully acquired or adequately staffed. Although Congress must bear part of the responsibility for this, the major barrier has been the Office of Management and Budget, which has insisted on pinching pennies for several years—while allowing a billion-dollar backlog of park problems to build up.

Mr. Ford has indeed flip-flopped. His new attitude was first evident some months ago when, under growing pressure from Congress, he overrode OMB and insisted that the National Park Service's personnel ceilings be raised. His new proposals go much farther along the same constructive line: he wants more funds to carry out commitments that the federal government has already made. The $1.5 billion in supplemental funds would be spent over the next decade primarily to develop and rehabilitate existing parks and wildlife refuges, to provide more adequate staffing, and to buy some of the nearly half-million acres already designated for inclusion in various parks and refuges. The plan amounts to a declaration that the penny-pinching has to stop, and that a much larger, continuing investment must be made to protect these priceless resources against decay.

In theory, then, Mr. Ford's proposal is very sound. But in practice it is suspect in two ways. The first is timing: the plan comes very late for legislative purposes, however useful its proferring may be for the fall campaign. The second problem is the packaging. Besides attaching a superfluous and irrelevant "Bicentennial" label to the plan, the White House declared that it would "double America's heritage" of parks, refuges and historic sites. That suggests a vast expansion of acreague, a claim that is supported by the numbers only if you include almost 64 million acres in Alaska, which the administration proposed to set aside for parks and refuges almost three years ago. Such dubious arithmetic only detracts from the real merits of the new spending requests—and gives Mr. Carter another target. It also perpetuates the notion that expanding the store of parklands is more important than enhancing what we have. Doubling the acreage may sound more appealing. But the greater need is for a redoubling of efforts to safeguard and improve existing national preserves. Mr. Ford has now recognized that need, which is good news. It would have been much better news—and more persuasive, as well—if it had come to us in a proposal to Congress at the beginning of his two years in office, rather than in a strategy ceremony at the beginning of his presidential campaign.

TESTIMONY ON PROPOSED AMENDMENTS TO THE SPECIAL PROSECUTOR BILL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. HARRINGTON. Mr. Speaker, for the benefit of my colleagues, I am inserting in the Record my August 26 testimony on two amendments I proposed be added to the special prosecutor bill. The first would make it a criminal offense for executive branch officials to make intentional false statements to the Congress. The second would prohibit reprisals against those Federal employees who furnish information to the Congress.

The full text of the testimony follows:

Testimony on Amendments by the Honorable Michael J. Harrington to the Special Prosecutor Bill, H.R. 4476 Before the Subcommittee on Criminal Justice

Mr. Chairman, I am pleased to appear before the subcommittee today and endorse both the form and the intent of the Special Prosecutor bill. I commend the chairman for introducing this title of the Watergate Reorganization and Reform Act into the House; H.R. 14476 is certainly a distinguished coda to a distinguished career in Congress, and an appropriate follow-up to your effort during the impeachment proceedings two years ago. I hope that this bill will win the rapid approval of our colleagues, and that we can also produce companion measures to the other, equally important titles of S. 495, providing legal counsel for the Congress and increased financial disclosure for the entire Federal government.

My specific purpose in coming here today, however, is to urge that the subcommittee install two new sections in H.R. 14476, each of which addresses the critical problem of government lying and deception in this country. The first section would create a new criminal offense—that of making official, intentional false statements to Congress. The second section would prohibit reprisals against those federal employees who furnish information to Congress.

What we really need is an Executive-Legislative relationship based upon openness and candor, and I admit that legislative proposals by themselves cannot bring this situation about. However, a long history of Executive deception and Legislative passivity requires that a means be created to discourage the prevailing tendency to coverup and mislead. Thus, it is my belief that these new sections I am proposing today would add substantial weight to the structural reforms contained in the bill. Indeed, these provisions may very well be prerequisites to an effective Divison of Government Crimes and Special Prosecutor because, as we have learned all too well these past ten years, false statements and secrecy forge the shield behind which government corruption and abuse of power occur. We must deter the potential liar and encourage the potential whistle-blower, or else most of the cases the new prosecutors should investigate will go unnoticed. The engine which H.R. 14476 constructs simply won't run without the fuel information provides.

I think most of us recognize by now the fundamental importance of reliable information to the operation of our government. We cannot have government by consent of the governed if we don't know what we are consenting to. Elected officials do not lead by misleading. As Walter Lippmann noted. "It is sophistry to pretend that in a free country a man has some sort of inalienable or Constitutional right to deceive his fellow men." After a generation of Executive sophistry, after Vietnam, Watergate, and the CIA, this nation and the Congress deserve and demand the truth from its public servants. And I do not think it is far-fetched to assume that if the American people do not get the truth—or if they believe they're not getting the truth—then our experiment in democratic rule will soon come to an end.

My proposal is based on this fundamental principle. It is also predicated on the belief that there exists a special, Constitutional responsibility on the part of federal officials or employees to provide accurate information when they appear before Congress. Clearly, the legislative branch cannot perform the duties assigned to it by Article I of the Constitution when it is deceived by the Executive branch. It cannot advise and consent on Presidential appointments, or oversee the agencies and programs it has devised, or design new laws to meet the needs of the American people unless it receives the facts, and the Executive branch remains the primary source for most of those facts. Lying, deception, and silence subvert the separation of powers doctrine, a cornerstone of our republic, by concentrating power in the hands of those who know more than their intended equals under the tripartite system. Unchecked, arbitrary power short-circuits the democratic process.

It should be obvious that the repercussions of secret Executive actions have ranged far beyond the abstract borders of democratic theory and constitutional law. We are continually learning about what one author calls the "underside" of our recent history: an almost unbroken trail of attempted assassinations, bribes, burglaries, wiretaps and even entire wars which have been perpetrated in the American people's name without their knowledge or consent. Let me briefly cite two examples from this history.

In 1973 Senator Symington asked CIA director Richard Helms if his organization had tried to overthrow the Allende Government, if any money had been passed to the Chilean President's opponents, and if any attempt had been made to prevent his original election in 1970. Helms answered no to all three questions.

Yet the 1975 Senate Select Committee on Intelligence report on covert action in Chile makes it unmistakably clear that Helms willfully deceived Senator Symington, his colleagues in Congress, and the public at large on this matter.

Lying to Congress and avoiding legal recrimination has benefitted Harry W. Shlaudeman, Deputy Chief of Mission in Chile at the time of the coup, in a more personal way. The only consequence he has suffered for giving me answers similar to those Helms gave Symington is a promotion to Assistant Secretary of State for Inter-American Affairs. We have thus sunk to the point where a public official actually reaps rewards for falsifying his account of serious misdeeds in which he participated to those charged with monitoring his actions.

The first section of my proposed amendment is aimed, therefore, at bringing a Helms or a Shlaudeman to justice and, like most criminal laws, at deterring future officials or employees from doing what they did. I am also seeking to achieve a better balance between the legislative and executive branches, and to restore a modicum of integrity to the national government as a whole. Since the stakes are high, the punishment is severe: five to ten years in prison. I regard the willful deception of Congress as a high crime, on a par with bribery or treason, and sufficient grounds for impeachment.

Prosecution for this crime should not be initiated easily, lest it become a tool for witchhunts and more subtle forms of harassment. Hence the class of potential offenders is limited to public officials and employees of the United States, those citizens who bear the extra responsibilities associated with the privileges of public power. The range of statements covered by this provision has been narrowed in two ways. First, the matter to which the statement relates must have been learned in the course of one's official duties, and second, such statement must bear the potential to affect the course or outcome of the Congressional proceeding at which it was made. These materiality tests, I believe will screen out trivial and personal matters from the purview of the statute.

The false statement offense includes a third test for prosecution, that the accused know, at the time the remark was made, of its falsity. This forestalls the possibility of prosecution if the witness or speaker is innocently confused or ambiguous. One should not have to be convinced of a statement's veracity before being allowed to express it before Congress, for opinion and speculation are invaluable aspects of the free exchange of ideas so essential to our political process. Indeed, it is with an eye toward preserving discourse to the fullest extent possible that the proposed statute cannot apply to press statements, interviews, conferences or other public appearances. The First Amendment welcomes rhetoric and hyperbole; to try and constrain free speech would be as unconscionable as it would be impractical. I should think, however, that opinion posing as fact could conceivably be termed a lie under the proposed statute if the person delivering it did so intentionally.

I have excluded one common requirement for prosecution from this section, namely, that the false statement be given under oath. The existing perjury laws, to be candid, have shown themselves insufficient to the task at hand. Furthermore, not all congressional bodies possess the power of subpoena or care to utilize it. If a civil servant doctors statistics in a written report to the House Merchant Marine and Fisheries Committee, or if the President of the United States does the same in a State of the Union address, Congress has been deliberately misled, and I can find no rationale to condone it.

The two most popular defenses of the right to lie revolve about the need to keep national security secrets, or pressure from a superior where one's job is at stake. Neither defense, in my view, outweighs the necessary and proper clause of the Constitution. Secrecy, on the rare occasion when it is justifiable, can be maintained by invoking the Fifth Amendment or in executive session. Obeying a superior's order is similarly inadequate; while lying to Congress does not approach the Nuremberg crimes in magnitude, the principle still holds. Yet I do recognize the intricate circumstances that can develop in such a situation, and this brings me to the second section of my proposal.

I shall only highlight the whistle-blowing portion of my amendment because it seems self-explanatory. It might well have been entitled the "Ernie Fitzgerald law," after the Air Force official who lost his job after he exposed the huge cost overruns of the C-5A project. A future Fitzgerald should be allowed another option besides submission or resignation in protest, and my proposal would enable him or her to recover relief in civil court at any time. Moreover, if such civil action were instituted within one year of the informaton disclosure, the burden would be on the superior to demonstrate that the adverse action was taken for a different reason. This law would only apply to those in the competitive service, as Members of Congress retain a legally sanctioned discretionary power over their employees.

I am sure the subcommittee will give these proposals the most serious consideration and I look forward to their further refinement. While I admit that legislation is in no way sufficient to deal with the problem of Executive branch misrepresentation of the facts before Congress, I believe the proposed amendments represent a long overdue first-step in addressing the problem of Executive deception.

HOME HEALTH CARE STANDARDS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. COHEN. Mr. Speaker, today I am reintroducing legislation with cosponsors to develop a set of standards which will insure quality care and utilization control in the home health programs of the Federal Government.

Few would now dispute the necessity or the desirability of home health services. However, Congress and the administration have been reluctant to make these services available without assurance that the public dollars needed to support such care would be well-spent. My bill, unlike other home health legislation, addresses this problem from a comprehensive and positive approach—one that sets standards for quality care before these services are liberalized and the Government is forced to intervene in the crisis situations characterized by recent instances of fraud and abuse within the nursing home industry and other Federal health care programs.

The need for this legislation is best illustrated by reviewing the home health market as it now exists. Home health care, as an alternative to institutional care, is necessary if we are to provide for the full range of the elderly's health care needs. With the dramatic rise in medical care prices over the last few years, alternative mechanisms of health care delivery have been investigated. GAO recently completed a review of 20 studies dealing with the cost of home care, and 19 of those studies presented data which supports the proposition that home health care is less expensive at lower levels of impairment than institutionalization.

The cost of this unnecessary care for our elderly citizens is not only enormous in dollars and cents, but it is even more devastating to the dignity and mental well-being of the patients themselves. As a member of the House Select Committee on Aging, I have participated in hearings where elderly citizens have made it quite clear that they would prefer to remain in their own homes. Yet studies by experts indicate that between 15 percent and 40 percent of the Nation's 1 million nursing home patients remain institutionalized because of the lack of alternative forms of care. In addition, one out of six older Americans who are not in institutions need direct social and health services to manage their own affairs within their own homes and communities. In short, the provision of medical/social services designed to help elderly patients remain independent in their own homes fulfills the urgent wishes of older people themselves and is less expensive than nursing home care.

Despite the vast evidence of need, however, current policies have restricted the availability of Federal home health benefits. For example, individuals who are otherwise eligible for Federal health care assistance qualify for these services only if they have been hospitalized prior to receiving the benefits and only if they still require acute care. In any event, the patient is limited to just 100 such home visits. These barriers encourage the overuse of institutional care. In addition, many providers of home health services have been arbitrarily prevented from even participating in Federal home health programs on the basis of provider sponsorship rather than the quality of service they offer. Clearly, present controls are misdirected both in terms of patient need and suitable care. No wonder home health care accounts for less than 1 percent of Federal long-term care expenditures.

In order to assure access to home health care, it is necessary to provide appropriate incentives to encourage its growth and development. As I have indicated, there are at present many bills pending which would remove the present restrictions on the availability of home health benefits. Likewise, HEW has issued regulations freeing up some home health services under the medicaid program. Nevertheless, greater stimulation of the home health industry will not necessarily provide better care if we fail at the same time to provide a standard to identify agencies with programs that warrant public and professional confidence and to encourage those agencies to go beyond the basic standards to higher levels of excellence.

My bill accomplishes this task by creating a special commission on quality assurance and utilization control in home health care composed of individuals familiar with home health programs, both as providers and consumers; individuals familiar with the processes of accreditation; and State and Federal representatives. In addition, the commission would have the availability of whatever other expert testimony deemed necessary to insure that all interested parties are represented.

The Commission would have 1 year to conduct a full study of the present issues relating to quality care including training requirement of providers, methods of peer review, establishment of patent ombudsmen, proficiency testing of providers, the need for onsite review or certificates of need, eligibility requirements for recipients, Federal and State roles as a part of the broader home health care delivery system, the scope of benefits, and enforcement. Similar commissions have worked in the past such as the Bioethical Commission on Human Subjects, the National Fire Protection Association, and the Federal Panel on Early Childhood. The legislation further provides a procedure whereby the recommendations of the Commission will speedily come into force unless they are disapproved by either house of Congress.

This legislation, as a forerunner to the sorely needed legislation to expand these necessary services, is an essential step in the evolution of a more uniform, coordinated, and rational approach to the Federal financing of home health care. If the Government uses tax funds to encourage a system of home health care, it clearly has the responsibility to provide adequate regulation of the delivery system according to a set of stated, enforceable standards.

At this point, I am inserting a section-by-section analysis of my bill, H.R. 15257, prepared by the Congressional Research Service for the benefit of my colleagues.

ANALYSIS

Section 1: This section would amend the Medicare program (Title 18 of the Social Security Act), the Medicaid program (Title 19 of the Social Security Act), and the program of Grants to States for Social Services (Title 20 of the Social Security Act) to make all home health agencies participating under these programs and all home health services provided under these programs subject to any new and additional regulations issued by the Secretary of Health, Education, and Welfare which result from the plan and recommendations of the Commission on Quality Assurance and Utilization Control in Home Health Care established by H.R. 15257.

Section 2(a). This section amends Part C of Title 18 of the Social Security Act by adding a new section 1880, entitled "Special Commission on Quality Assurance and Utilization Control in Home Health Care."

Section 2(a)—new subsection 1880(a). This subsection establishes a new commission which is to be known as the "Special Commission on Quality Assurance and Utilization Control in Home Health Care," under the Medicare program.

Section 2(a)—new subsection 1880(b). This subsection sets forth the membership of the Commission. The Commission is to consist of 17 members appointed by the Secretary of Health, Education, and Welfare. Five members are to be representatives of professional groups with expertise in accredition; while three must be recipients of benefits under Title 18, 19, or 20 of the Social Security Act. The remaining nine must include a representative of the Federal Council on Aging, a physician with home health care experience, a third-part payor participating in the Medicare program, a nurse practitioner with home health care experience, a homemaker-home health aide, a physician therapist with home health care experience, a representative of a State survey agency, a nutritionist, and a social worker with experience in home health care. One member of the Commission will be designated as chairman by the Secretary of Health, Education, and Welfare with the advice and consent of the Senate.

This subsection also sets forth procedural rules for the Commission and provides for compensation and travel expenses for Commission members.

Section 2(a)—new subsection 1880(c). This subsection sets forth the functions and duties of the Commission. The Commission is required to study, investigate and review home health care and services provided in the United States by those home health agencies qualified to participate in the programs authorized under Titles 18, 19, or 20 of the Social Security Act, as well as those home health agencies not qualified to participate in these programs. The Commission's study, investigation, and review is to determine:

(A) the need for additional quality assurance and utilization control for home health care and services, and

(B) the manner in which current standards, conditions, and requirements of home health care programs under Titles 18, 19, and 20 of the Social Security Act should be modified in order to provide such additional quality assurance and control, including (but not limited to) those standards, conditions and requirements for (i) training home health providers, (ii) methods of peer review, (iii) methods of utilization control, (iv) methods for evaluation of care by recipients, (v) proficiency testing of home health providers, (vi) on-site review of home health agencies, (vii) certificates of need, (viii) Federal and State arrangements regarding certification, licensure, and enforcement, (ix) recipient eligibilty requirements, and (x) scope of benefits.

This subsection also requires the Commission to develop a detailed plan for home health care quality assurance and utilization control based on the results of its study, investigation, and review.

Section 2(a)—new subsection 1880(d). This subsection requires the Commission to submit a report to the Secretary of Health, Education, and Welfare and the Congress within one year after the majority of the members of the Commission are appointed. The report is to contain the plan developed by the Commission under subsection 1880 (c), as well as any related recommendations the Commission might have. The plan must incorporate the modifications to be made with respect to current home health care standards, conditions, and requirements under Titles 18, 19, and 20 of the Social Security Act, and cannot include any limitation based on sponsorship.

This subsection also requires the Secretary of Health, Education, and Welfare, within 90 days after he has received the Commission's plan, to:

(A) issue regulations, as may be necessary, implementing the Commission's plan and carrying out the Commission's recommendations, as long as the plan and recommendations are not in conflict with existing law, and

(B) submit to the appropriate Congressional Committees any of the Commission's recommendations which would require changes in existing law.

Any such regulations issued must be submitted to Congress on the day they are issued. Such regulations will take effect 90 days from that day, unless the House of Representatives or the Senate states objection.

This subsection also specifies that any regulations issued by the Secretary under subsection 1880(d) will apply to Titles 18, 19, and 20 of the Social Security Act and will supersede any existing inconsistent regulations on home health care services and agencies. Once such regulations are in effect, all agencies, organizations, and persons qualifying under the regulations as home health agencies will be considered providers of services under Titles 18, 19, and 20 of the Social Security Act and will be eligible for reimbursement under the Medicare program, the Medicaid program, and the program of Grants to States for Social Services.

This subsection also specifies that any regulations issued under subsection 1880(d) will not take effect if either the House of Representatives or Senate passes a resolution objecting to such regulations within 90 days after they are issued. Revised regulations issued by the Secretary must take into account the objections of the House of Representatives or the Senate and may, therefore, disagree with the Commission's plan and recommendations previously submitted.

Section 2(a)—new subsection 1880(e): This subsection requires the Secretary of Health, Education, and Welfare to furnish the Commission with an executive secretary and with secretarial, clerical, and consultant services as necessary for the Commission to carry out its duties and functions.

This subsection also authorizes the detail of Federal personnel to the Commission to assist the Commission in carrying out its duties. The Secretary of Health, Education, and Welfare is required to approve any Commission request for such personnel.

Section 2(a)—new subsection 1880(f). This section authorizes the Commission and its individual members, to hold hearings, take testimony, and receive evidence.

This subsection also authorizes the Commission to secure information, in connection with its duties and functions, from departments and agencies of the United States and requires heads of such departments and agencies to furnish the Commission with such information.

This subsection also requires the Administrator of General Services to provide the Commission with support services on a reimbursable basis.

Section 2(a)—new subsection 1880(g). This subsection specifies that the Commission will cease to exist on the date that regulations issued under subsection 1880(d) go into effect.

Section 2(a)—new subsection 1880(h). This section authorizes to be appropriated such sums as may be necessary to carry out the purposes of new section 1880 of the Social Security Act.

HOUSE-PASSED REVENUE SHARING BILL FLAWED: RELIGION PROVISION NEEDS TO BE CORRECTED

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. KOCH. Mr. Speaker, today the Senate is voting on its version of the Fiscal Assistance Amendments of 1976. The Senate will make its determination as to what kind of religious discrimination provision, if any, it believes ought to be included in the legislation. Last week, in my statement in the RECORD, I made it clear that the House passed Jordan antidiscrimination provision was ambiguous, could be tied up in the courts for years, and perhaps lead to the most worthwhile of religious organizations being denied revenue sharing funds. As legislative history will show, that is not the outcome the House intended, but it may nonetheless be the effect of what was done. I want to take this opportunity today to restate and clarify my position on the religious discrimination provision. It is my hope that the other body and the conference on the revenue sharing bill will rectify the situation and either adopt my amendment clarifying the ambiguity or in the alternative eliminate the word "religion" entirely from the antidiscrimination provisions.

The House passed H.R. 13367, the Fiscal Assistance Amendments of 1976, on June 10. Prior to that vote I was alerted to a problem in the bill by the Catholic Charities of the Archdiocese of New York. It was their concern that the result of the religion provision of the Jordan antidiscrimination amendment to the bill, reported out of committee and included in the legislation on the House floor, would cut church-related schools, homes for the aging and child-care institutions from revenue sharing funds or any other public support presently available. BARBARA JORDAN and I had a colloquy on the floor in which I raised this issue. I am including that colloquy at the end of my statement.

At that time I believed that Congresswoman JORDAN's explanation disposed of the conflict. However, the Catholic Charities insisted that the House religious discrimination provision would go further than existing civil rights law by prohibiting activities of religious organizations which are currently permissible. I believed at the time that the concern of the religious charities was unfounded. However, I did decide to investigate the matter further. The Congressional Research Service provided me with a memorandum which they prepared while the Senate Finance Committee was considering the legislation.

In that memorandum, it was stated that the Jordan amendment was, in fact, ambiguous on the issue and could be interpreted to have the effect the various religious organizations thought it might. I then contacted the Department of Justice raising the problem and received a letter from J. Stanley Pottinger, a copy of which I am enclosing, which supports the memorandum of the Congressional Research Service in its statement that the Jordan amendment is indeed ambiguous, and "could be read as prohibiting discrimination in services by religious organizations which provide services such as running day care centers and providing school lunches, even though such discrimination in services is not prohibited by title VI of the Civil Rights Act of 1964."

It now seems clear that the Jordan amendment is ambiguous and that the Catholic Charities representatives were correct in their belief that the provision could be much more broadly construed than Representative JORDAN intended. The Catholic Charities were correct and fortunately they persisted and I am pleased that I pursued the matter further.

In order to deal with the problem, I have prepared an amendment which I believe will remove the ambiguity so as to permit those activities heretofore conducted by religious organizations to continue unimpeded.

In my judgment, simply removing the word "religion" is not the best approach, since it would not make the enforcement provisions of the general revenue sharing legislation available to enforce the relevant sections of the existing civil rights laws.

My proposed amendment to the Fiscal Assistance Amendments of 1976 would read as follows:

(Based on Senate Finance Committee's bill)

Insert, after the first full sentence of Section 122(a)(1) the following sentence:

The prohibitions against discrimination on the basis of religion contained in the Civil Rights Act of 1964 and in Title VIII of the Civil Rights Act of 1968, shall be applicable to any program or activity subject to the provisions of this paragraph.

The purpose of this amendment is to incorporate in the Revenue Sharing Act the prohibitions against discrimination on the grounds of religion contained in the Civil Rights Act of 1964, and the Civil Rights Act of 1968.

The kinds of religious discrimination in employment, education, and housing which are prohibited by the Civil Rights Act of 1964 and 1968 should, in my view, also be prohibited in programs or activities receiving federal assistance under the Revenue Sharing Act. The purpose of my amendment is to make such discrimination unlawful under the Revenue Sharing Act.

The amendment is careful to avoid any inference that we seek to prohibit the kinds of activities which are permitted by existing civil rights legislation. In my judgment, therefore, the purpose of this provision is in accord with the other civil rights provisions of this bill—that is to secure broader coverage and more effective enforcement of existing rights, rather than to bring about substantive changes in the kinds of rights protected by Federal civil rights law.

A copy of my initial colloquy with Congresswoman JORDAN along with my correspondence with Assistant Attorney General Pottinger follow:

COLLOQUY

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to my colleague, the gentleman from New York.

Mr. KOCH. Mr. Chairman, I received, as I think a number of Members did, a letter from the Rev. Msgr. James J. Murray, executive director of the Catholic Charities of the Archdiocese of New York in which he raises a question with respect to a provision in the bill and how it would affect church-related schools. That question arises from language that the gentlewoman from Texas (Ms. JORDAN) placed in the bill. I have talked with the gentlewoman from Texas about it.

I would like to have the gentlewoman's comments now, so as to reassure those who have raised the question, as the gentlewoman has reassured me, that their rights are not in any way impaired.

The letter I received raising the issue is as follows:

CATHOLIC CHARITIES
OF THE ARCHDIOCESE OF NEW YORK,
New York, N.Y., June 4, 1976.

Re Anti-discrimination Provisions in Revenue Sharing—H.R. 13367

Hon. Edward I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: The House Committee on Government Operations has reported H.R. 13367 to continue the Federal Revenue Sharing Program in 1977. The bill as reported includes a new non-discrimination provision (Sec. 122) which, among other changes, adds the word "religion". This word presently is not contained in either Title VI of the Civil Rights Act of 1964 or the present non-discrimination section of the Revenue Sharing Act.

The effect of these provisions would be substantial in New York. Many church-related schools, homes for the aged and child care institutions in New York participate in federal, state and local health, education and welfare programs. Title VI discrimination prohibitions on racial and national origin have been applied to all church-related institutions participating in health, education and welfare programs. Title VI of the Civil Rights Act, however, permits these church-related schools and institutions to grant preference on the basis of religion. This would be prohibited under H.R. 13367 as reported.

I support application of the existing provisions of Federal non-discrimination laws to state or local government programs and activities, whether or not financed by Revenue Sharing funds. However, I oppose adding a new non-discrimination requirement on the ground of "religion" to existing non-discrimination laws regarding federally assisted programs and activities.

I urge your strong support for a technical amendment during floor consideration of H.R. 13367 to make clear its intent and to limit the non-discrimination restrictions on state and local programs and activities to the same non-discrimination restrictions as now apply to Federal programs and activities under Title VI of the Civil Rights Act.

Sincerely yours,
Rev. Msgr. JAMES J. MURRAY,
Executive Director.

Would the gentlewoman please respond.

Mr. ROSENTHAL. I yield to the gentlewoman from Texas.

Ms. JORDAN. I thank the gentleman for yielding.

Let it be well understood that the addition of the category "religion" in the antidiscrimination bill under the general revenue-sharing law were not intended, are not intended, should not be interpreted as an amendment to title 6 of the 1964 Civil Rights Act. The phrase "religion in terms of an area where discrimination is prohibited" is used in only three civil rights statutes. Title 6 is not one of those three.

When this bill, general revenue sharing, says that the term "religion" is to be interpreted in accordance with already existing civil rights laws, that means ipso facto, those civil rights laws in which the term "religion" is already used. So, since the word "religion" is not in title 6, we cannot inferentially amend a major title of a civil rights law by simply writing antidiscrimination in an act called general revenue sharing.

Mr. KOCH. I thank the gentlewoman.

AUGUST 25, 1976.

Hon. J. STANLEY POTTINGER,
Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C.

DEAR MR. POTTINGER: I have received a number of inquiries concerning the effect of the addition of the word "religion" to the anti-discrimination provisions of the Revenue Sharing Act. I understand that your office has been asked by other members of Congress to appraise the effect of this new provision. I would like to bring to your attention a memorandum prepared by David M. Ackerman, a legislative attorney at the American Law Division of the Library of Congress on this subject. Mr. Ackerman concludes that there is indeed a substantial problem contained in this provision for those chuch-affiliated organizations which receive some public funds to perform functions such as running day care centers or providing school lunches.

I hope this memorandum will be of interest to you and your staff. And I wonder if you agree with it. I would very much appreciate your opinion on the effects of this provision as soon as the analysis is completed.

All the best.

Sincerely,
EDWARD I. KOCH.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 7, 1976.

Hon. EDWARD KOCH,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: Please refer to your letter of August 25, 1976 concerning the effect of the addition of the word "religion" to the anti-discrimination provisions of the general Revenue Sharing Act, as passed by the House of Representatives [H.R. 13367].

As passed by the House the anti-discrimination provisions of the Act (§ 122(a)) prohibit any kind of discrimination on the grounds of religion in any program or activity of a state or unit of local government funded directly or indirectly by the Act. The second sentence of that paragraph states, however, that the anti-discrimination provisions should be interpreted in accordance with the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 with respect to discrimination on the basis of race, color, religion, sex and national origin.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, generally prohibits discrimination on the grounds of race, color or national origin in any federally funded program or activity. Title VI does not however prohibit discrimination in religion in federally funded programs or activities. Other provisions of those civil rights acts prohibit discrimination on grounds of religion with respect to employment, housing and public education. As presently written, therefore, H.R. 13367 could be construed as prohibiting only those kinds of discrimination prohibited in the Civil Rights Act of 1964. On the other hand, because of the broad provisions of the first sentence of Section 122(a), the Act could be read as prohibiting discrimination in services by religious organizations which provide services such as running day care centers and providing school lunches, even though such discrimination in services is not prohibited by Title VI of the Civil Rights Act of 1964.

While legislative history on the floor of the House of Representatives might be referred to by the Courts to resolve the ambiguity, it would in our view be preferable to have the ambiguity resolved in the statute itself, rather than awaiting the results of what may be years of litigation. We would therefore, hope that the ambiguity could be resolved during the remainder of the legislative process.

Sincerely,
J. Stanley Pottinger,
Assistant Attorney General, Civil Rights Division.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today on September 13, 1776, the special committee appointed to confer with Lord Howe about a possible reconciliation with Great Britain gave the Continental Congress a verbal report of its finding. On the basis of the report, Josiah Bartlett, delegate from New Hampshire, wrote to another delegate:

> On the whole all the terms he [Lord Howe] had to propose were, that we first of all lay down our arms and return to our allegiance; and then, he said, the King and Parliament would consider the acts we formerly complained of, and if they judged it proper would alter or amend them. They told him that General Sullivan said, that his Lordship in conversation told him that the King and Parliament would give up the right of taxation and of intermeddling with the internal police of the Colonies, and desired to know what authority he had to say it. Lord Howe replied, that General Sullivan must certainly have misunderstood him, as he had no right to say any such thing, nor did he believe the Parliament would give up those claims. The Committee are about to publish the whole affair, which I hope will stop the mouths of the weak and credulous, who have had great hopes of peace from the supposed great powers entrusted with Lord Howe as a Commissioner for that purpose. . . .

CROOKS AND COMPUTERS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. HUNGATE. Mr. Speaker, as we progress further into the computer age, deficiencies such as those in this article from Trial magazine should be kept in mind.

Crooks and Computers

(By August Bequai)

Several years ago, the chief teller at one of New York's most prestigious banks was charged with stealing more than $1 million with the aid of the bank's computer. To meet vast debts he owed underworld "bookies," he transferred "electronic money" from legitimate accounts in the computer files to fraudulent accounts and then withdrew real money. At quarterly interest-payment times, to balance all accounts correctly, he "redeposited" the "electric money." Across the street, at another bank, a clerk embezzled his employer out of more than $30,000. The embezzler had the aid of an accomplice who received checks sent to him by the bank's computer. The clerk had instructed the computer to issue dividend checks in the names of former shareholders who had sold their stock in companies for which the bank acted as transfer agent. After the issuance of the checks, the computer was instructed to erase all records of the dividend checks having been issued. These two cases highlight the need for members of the legal profession to have some basic understanding of a serious and rapidly growing crime problem that, experts estimate, costs us $100 million each year.

Computers have become the workhorse of many financial centers. They vary in complexity and size, but there are five stages that are fundamental to every computer operation. Understanding these will facilitate the understanding of computer crime itself.

The first step in a computer operation is the "input device." Here data is translated into signals that the computer understands. The different types of input devices include card readers, magnetic tape units, optical scanners, and remote terminals. During this phase of operation, the criminal can easily introduce false data into the computer. Many frauds depend on the undetected manipulation of input data. The two cases just discussed made use of such false entries into computers. It's imperative that those with access to this stage be screened and, also, that security measures be taken to ensure that this phase is safeguarded.

The second stage consists of "programming." This phase involves supplying the computer with a logical sequence of step-by-step instructions for the solution of problems. The computer will perform only those operations the program directs it to do. Criminal elements can easily alter, modify, or even destroy programs and substitute them with theirs.

A third step is the "central processing unit" (CPU). This is the central nervous system of the computer—the brain. It guides the computer, based on instructions it receives from the program. It retrieves the necessary data and directs the computer to perform the appropriate functions. The major threat to the CPU lies in wiretapping, browsing, and "piggyback entry." Criminal elements can penetrate the CPU using any of these three methods and either steal or alter the data in the CPU.

The fourth step is the "output device." Data is received from the CPU and translated into an intelligible form. The output stage lends itself to theft of data. The final stage, "data communication," involves use of telephonic circuits to transmit data back and forth between computers. The threat here lies in the form of "telephonic penetration." Data may be intercepted and stolen, or modified and altered, to meet the needs of the manipulator. Computer crimes may involve any one or more of these different stages.

KEY CATEGORIES OF COMPUTER CRIME

One of the chief offenses involving computers falls under the category of "financial crime." This category usually involves the theft of money or negotiable instruments. It's performed best where the computer is used for financial processing, including payrolls and storage and maintenance of financial data. This form of crime usually makes use of the manipulation of the input and programming steps of the computer operation. The classic case is that of Equity Funding, the giant West Coast insurance conglomerate, where more than 60,000 of a total of 97,000 policies were allegedly created and recorded in the invisible computer files assigned to "Department 99." The "99" designation enabled the computer billing programs to skip the bogus policies when bills were sent to policyholders. The scandal was revealed by neither an audit nor state or federal investigators, but rather by a discharged employee.

A second category involves "property crime." A criminal may make use of a computer to obtain property or merchandise rather than money. For example, in a case involving the Pacific Telephone and Telegraph Company, a ring of criminals stole more than $1 million in supplies from its warehouses. However, unlike traditional criminals they made use of a computer. They had obtained company documents listing the secret access code to the computer and also the company's computerized ordering system. Using a touch-tone telephone and the access code, they would place orders for various items with the company's computer.

The thieves also knew, from the company's documents, that the firm allowed for a certain amount of quarterly loss for each delivery location. Keeping the level of orders within this loss confine, the thieves were able to continue their operation for a number of years. It was only when a disgruntled member of the ring "blew the whistle" that both the company and authorities became aware of what had been going on under their very noses. The head of the ring was sentenced to 40 days in a minimum-security facility in Malibu, California. Much of the property was never recovered.

A third category of computer crime involves "information thefts." This usually involves the programming, CPU, or output stages of the computer operation. Criminals can penetrate the system either electronically or through an insider and steal valuable data. An example of the latter involved the Encyclopedia Britannica several years ago. Three of its computer operators were accured of copying nearly three million names from a computer file containing the company's most "valued customer" list. The list was then sold to a competitor. The company estimated it to be worth $3 million.

In another instance, involving BOAC, it's said that insiders stole that company's five-year marketing plans and sold them to a competitor. No one was ever prosecuted, nor has the company itself ever admitted the theft. This raises a serious problem for law enforcement: firms are reluctant to tell they've been "had" for fear of alienating investors and clients. Information crimes may also be done by outsiders tapping directly into the telephonic lines to and from the computer, thus intercepting and recording valuable data being transmitted to and from the system. Such interceptions usually take the form of industrial espionage.

A final category is that of "vandalism." This takes the form of direct or indirect attacks against the computer system itself. The attacker can vary. He may be a disgruntled employee, or a competitor engaged in industrial sabotage. In one case involving the former, an angry computer operator removed all the labels from more than 1,000 reels of tape, an act that cost the company thousands of dollars and many days of work to re-identify the data. Experts estimate that a firm with more than 80% of its data computerized can easily be crippled by industrial sabotage aimed at its computer facility. Criminals and political extremists may also decide to hold the system or parts of it for ransom. In a West Coast case involving the Bank of America, Los Angeles branch, robbers stole some computer reels and demanded $1 million in ransom.

CONCLUSION

The computer criminal is a product of our technology. He is not found in our ghettoes, but rather in our universities and corporations. He is young, motivated, and educated. The odds that law enforcement will uncover his crime are 100 to 1 in his favor. Even if discovered, punishment is no more than a slap on the wrist. He does battle with law enforcement agencies that are highly fragmentized and ill-trained to deal with him. Prosecutors fare no better.

Even once he is apprehended and brought to trial, his prosecution is hampered by our rules of evidence. Few courts will allow computer-generated evidence into trial against him. Even those that admitted such evidence have failed to clarify the type of testimony needed to provide an adequate foundation for such evidence. In addition, no case to date has dealt with the difficult problem of laying a proper foundation to demonstrate the reliability of a computer that arrives at a complex, independently-contrived conclusion. To highlight the seriousness of this problem, one recent study concluded that computer losses average more than $1 million, or about ten times the average loss from all other types of embezzlement. However, as things presently stand, the computer criminal can, with impunity, steal and scoff at society. As one expert put it, "Computer crime does pay."

PERSONAL EXPLANATION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. PAUL. Mr. Speaker, on September 9 and 10, I was unavoidably absent from some votes on the floor. Had I been here, this is how I would have voted:

Rollcall No. 704—"Aye" to concur with Senate amendments to H.R. 14262, Department of Defense appropriation.

Rollcall No. 706—"Nay" on the Rooney amendment to H.R. 10498, the Clean Air Act amendments.

Rollcall No. 707—"Aye" on the Satterfield amendment to H.R. 10498.

Rollcall No. 708—"Aye" on the Carter amendment to H.R. 10498.

Rollcall No. 710—"Nay" on the conference report to H.R. 8603, Postal Service reorganization.

Rollcall No. 711—"Nay" on the conference report to S. 327, Land and Water Conservation Fund Act amendments.

SHEDDING LIGHT ON A SOLUTION TO OUR ENERGY PROBLEMS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. OTTINGER. Mr. Speaker, the Washington Post this Sunday printed two excellent articles on "Sun, Wind and Power" on the front page of the Outlook section.

I am here inserting for the RECORD the lead story, "The Solar Solution" written by the director of the Center for the Biology of Natural Systems at Washington University in St. Louis, Mo., Mr. Barry Commoner.

I urge the Members of Congress to read with care Mr. Commoner's evaluation of the faulty economics of a national program based on investments in capital intensive nonrenewable energy sources which produce relatively small amounts of energy and, indeed, require a staggering amount of energy for an uneconomic production, he concludes:

> The capital cost (per unit of energy produced) of coal conversion and shale oil processes is about 10 times that of coal mining itself and well above the capital cost of even intensified petroleum production.

In this article Mr. Commoner puts into perspective the reasons for the development of solar energy and the reasons for strongly opposing the ERDA reliance on technologies which yield so little energy for gigantic investments of capital:

THE SOLAR SOLUTION

(By Barry Commoner)

For the first time in history the U.S. economy now confronts a sharp and continuing rise in the relative price of energy. This is painfully apparent to householders; many suddenly find themselves paying more for fuel and electricity than they do for their mortgage.

The overall data, which are readily computed from * * * Department of Commerce statistics that go back to 1811, are unequivocal: In the entire history of modern industrial and agricultural development in the United States—up to 1973—relative energy prices (that is, relative to the average price of all commodities) have either decreased or remained essentially constant. In 1973 the trend suddenly changed. In that year the energy price index stood at 72 per cent of the commodity price index, having slowly and steadily declined from a value of 77 per cent in 1950. In 1974 energy prices jumped to 94 per cent, in 1975 to 100 per cent, and in the first quarter of 1976 to 104 per cent of the commodity price index.

The immediate cause was, of course, the 1973 embargo, and the rise in the price of oil imposed by the Organization of Petroleum Exporting Countries (OPEC). However, the prices has since then continued to rise with no sign of abatement. This reflects the basic fact that the sources of energy on which we largely depend, especially petroleum and natural gas, are nonrenewable and therefore are certain, at some point, to increase in price at an accelerating rate. The OPEC actions served only as an abrupt means of anticipating the inevitable inflationary impact of the nonrenewability of oil on world oil prices.

The basic energy problem we now face is to learn how to slow the unprecedented rise in the price of energy, and to stabilize it.

Can this be done? The present U.S. energy program (if it can thus be dignified) offers no grounds for optimism. By perpetuating our massive dependence on nonrenewable fuels, and forcing us to rely on new, immature energy technologies, the present program would continue the present rise in energy prices.

There is an alternative, Solar energy is renewable, and its costs, rather than rising, are ready to become economically competitive as its technologies are brought into wider use. All that is required is a national commitment to invest enough capital to bring down the costs of solar energy so that it can begin to offset the continuing rise in the prices of other forms of energy.

The flaws in the U.S. government's present approach are evident from the most detailed description of the federal energy program, the ERDA National Plan for Energy Research and Development (1976). In the near term ("now to 1985 and beyond") the ERDA plan proposes to rely on enhanced recovery of domestic oil and gas and increased production of nuclear power. Enhanced recovery of these fuels is subject to the law of diminishing returns and relying on them is simply a guarantee of escalating prices.

In the near term ERDA also proposes to promote the growth of fission nuclear power, which—once more—means a sharp increase in future energy prices because of the technological immaturity of the nuclear industry. One sign of its immaturity is the escalation of the price of power from nuclear plants resulting from the rapid rise in their capital costs.

In the mid-term ("1985 to 2000 and beyond") the ERDA plan proposes to rely on coal conversion and shale oil to provide the synthetic liquid and gaseous fuels that would be essential (particularly in vehicles) to replace petroleum imports and dwindling domestic production of petroleum and natural gas, but the capital cost (per unit of energy produced) of coal conversion and shale oil processes is about 10 times that of coal mining itself and well above the capital cost of even intensified petroleum production. This means that the introduction of coal conversion and shale oil products would involve a sharp increase in fuel prices that would worsen progressively if these products were to increasingly take over the present functions of natural gas and petroleum.

The only conventional energy technology that could be used in the near and mid-term to stabilize energy prices is the direct combustion of coal. Coal reserves are so large (they represent a 400-year or more supply) and laterally dispersed that production costs may remain free of the effect of diminishing returns for some time—perhaps 100 or more years. (The present rise in the price of coal is more a response to rising oil prices than to increased production costs.) Since direct combustion (as in coal-fired power plants) is a mature technology, coal can for the time being contribute to the stabilization of energy prices. Further environmental safeguards are needed, in strip mines and power plants. But these are well known, mature technologies and adopting them would not lead to a continuous escalation in price.

In the long term ("2000 and beyond") the ERDA plan emphasizes breeder-based nuclear power and fusion on the grounds that these techniques meet the necessary requirement for resource inexhaustibility. Breeder technology is confronted with a number of very severe, unsolved problems. As to fusion, there is no evidence as yet that the basic physical process actually works.

Even if we accept ERDA's optimistic expectations that the breeders will actually breed and that the program can be safely introduced, it cannot become mature, in the sense of producing power at a stable price, before 2040. Thus, the ERDA plan, as a whole, could not possibly establish an energy system capable of meeting national needs, on a continuous basis, at stable prices, in less than 60 to 70 years. Long before then, the economy is likely to collapse under the strain of steadily rising energy prices.

THE SOLAR ALTERNATIVE

One of the most striking features of the technologies on which the ERDA energy plan would rely is that they yield so little energy in return for the invested capital. For example, the capital productivity of shale oil production (that is, the rate of energy production achieved per dollar of invested capital) is one-fortieth of that experienced in current oil production. The capital productivity of the manufacture of synthetic crude oil from coal is about one-eighth of the capital productivity of coal mining itself. The capital productivity of nuclear power is significantly inferior to that of coal-fired power, and becoming progressively worse.

All this explains the rather startling economic innovation proposed by the Ford administration as a means of financing its energy plan. The Energy Independence Authority Bill, which is now before Congress, would apply $100 billion of public funds, as capital, to private enterprise for the development of precisely those energy production technologies that are most wasteful of capital: nuclear power, synthetic oil from coal and shale oil. The rationale is that these technologies are so demanding of capital (because of their low capital productivity) and so risky (because of their technological immaturity) that private entrepreneurs are unwilling to invest their own capital.

Now that Mr. Ford has led the way in proposing to use such a magnificent sum of public funds ($100 billion is, after all, almost equal to the annual military budget) for the development of a national energy program that would only worsen the present, disastrous rise in energy prices, it is appropriate to think of a better way of investing it. There is a better way: solar energy.

Contrary to the myth that solar technologies are only distant, exotic hopes, most of them have been tried out and are known to work. For example, even one of the more elaborate solar technologies—photovoltaic cells—originally developed to power satellites at a cost of about $200 per watt sold for $50 per watt in 1973, and are now available at $12–$14 per watt. While the price is still to high to be competitive, the falling price is clear evidence that the technology is sufficiently mature to avoid unpleasant future surprises that raise its cost. The same is true of every other solar technology now being developed, including the energy storage techniques that are essential to most applications of solar energy.

Particularly important is the rapid development of practical hydrogen-based technologies, since the hydrogen is not only a convenient way to store solar-generated electric power, but is also a means of delivering solar energy in a form that is usable in transportation The feasibility of the direct use of hydrogen to fuel cars and buses, with only a minor modification of the gasoline engine, is well estabished; a hydrogen-fueled bus is operating in Provo, Utah. Once hydrogen is in hand, hydrocarbon fuels—for exampe, to operate jet aircraft—are fairly simple to produce as well.

Solar energy has some distinctive characteristics: Sunlight falls on every square inch of the earth's surface, it can be captured only where it falls, and the capture of one sunbeam has no effect on our ability to capture another one. As a result, many solar devices can be built on any desired scale at about the same cost per energy unit. This contrasts sharply with conventional energy technologies, where economies of scale are so large that only power plants in the billion-dollar range are economicaly competitive.

The introduction of solar technologies into the national energy system will need to be planned to coincide with the expected time at which their costs become equal to or less than the conventional technologies that they are to replace. One major solar technology—the production of space heat and hot water—is expected to be economically competitive with natural gas within a year. Both of these technologies are ready to be introduced now, as the first steps toword stable energy prices. The remaining solar technologies are at various stages of economic development, but most of them could be introduced and contribute to energy price stabilization in the next 15 years.

In sum, it is possible, beginning at once to slow down the present escalation of energy prices and to move toward stabilization by relying on coal-fired power production in the near and mid-term, and introducing the various solar technologies as they become economically competitive, beginning at once with solar heat and methane installations. In this way, it should be possible to gradually approach approximate energy price stabilization over the next 20 to 25 years—a period which is, in any case, the minimum time in which all the huge productive enterprises could be completed.

The common response to such an account—or even to the simple assertion that solar technologies really exist in practical, usable forms—is that if all this is true, why is solar energy so little used?

The answer lies, once more, in the realm of economics. Specifically, the problem is that we have failed, thus far, to take advantage of a very special, powerful economic characteristic of solar technology. Because fuel prices are escalating, a capital investment that produces energy without purchased fuel has a value which will itself grow exponentially with time. Because of the nature of the energy crisis itself, such a capital investment (if technologically mature) can solve it. Solar technology is precisely such an investment. In an era of energy-induced inflation, it becomes the ideal hedge against inflation. The initial capital costs can be readily recovered in fuel savings.

All that stands in the way of making practical use of this opportunity is the cost of the initial investment. However, now that the Ford administration proposes to invest $100 billion of public funds in an effort—albeit technologically and economically misguided—to solve the energy crisis, we can look at what solar energy could do with that magnificent sum.

At the Center for the Biology of Natural Systems we have recently estimated the impact of investing $100 billion in residential and commercial solar space heaters on national energy savings and on the cost of heat to the consumer. We adopted the following approach: Between now and 1980, the U.S. government would loan a total of $100 billion to homeowners and commercial establishments to purchase solar heaters, on an interest-free basis. In return each year, for a 10-year period, the latter would pay back to the government the amount of money saved in fuel costs. The saving is computed in terms of the 1980 price, so that, to the extent to which solar energy is used, the consumers' heat costs remain constant from year to year, thus, to this extent, accomplishing the sought-for energy price stabilization. The money paid back to the government is to go into a rotating fund to provide loans for further solar installations, thus expanding the overall program. At the end of 10 years, all of the solar heating systems would still be saving fuel costs, and these savings would also be returned to the government, in subsequent annual payments, until all of the original $100 billion is recovered.

15-YEAR PAYOFF

One set of calculations was based on a currently available solar space heating system which in most parts of the country could provide 60 per cent of the heat load for a single family dwelling at an initial cost of $7,500 (including extra insulation). At the end of the 10-year period, 75 per cent of the single-family dwellings and 40 per cent of the commercial floor space in the United States (exclusive of the South, where heating needs are minimal), would be receiving 60 per cent of their heat from the sun and 40 per cent from conventional sources. In every successive year starting with the 10th, the fuel saved would be sufficient to reduce oil imports by 20 per cent. In the 10th year and thereafter, a total of $6.52 billion per year would be saved in fuel costs (based on a price fixed at the 1980 level) so that the initial $100 billion investment could be paid back in the next 15 years.

A new combined solar heating/electric generation system developed by Drs. Roy Kaplow and Robert Frank of MIT could yield even better results. Based on current cost estimates, over a 10-year period the $100 billion loan fund could be used to install such solar systems to provide 80 per cent of the required heat and a considerable fraction of the electric power in 75 per cent or more of the single-family dwellings and all of the commercial establishments in the United States. At the end of 10 years the fuel saved per year would amount to 58 per cent of oil imports. The annual fuel savings would be about $21 billion, so that the $100 billion investment could be paid back in five years.

It should be added that such a massive program would go a long way toward reducing unemployment. It would require considerable labor—by sheet metal workers, carpenters, plumbers, electricians—spread over most of the country.

The purpose of this exercise is not so much to specify in detail how such a program could be carried out, but to demonstrate, by a simple example, the immediate, powerful economic capabilities of the application of existing solar technology. Using the same principle—the temporary investment of government funds to provide the capital needed to purchase solar equipment and the reinvestment of the resulting savings in fuel expenditures—additional solar technologies could be introduced, step by step, as they become economically feasible.

Here, then, is the real meaning of solar energy. It is a way of ending our short-sighted dependence on nonrenewable fuels. It is a way of ending the risks, to our security, to our lives and to the quality of the environment, of nuclear power. It is a way of ending the economic tyranny of centralized power production. It is the only way to slow down the escalating costs of energy and halt the forced march toward economic catastrophe.

Solar energy is the way to end the energy crisis and to begin a new era in the nation.

INDIVIDUAL FREEDOMS IN OUR SOCIETY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. BINGHAM. Mr. Speaker, it gives me great pleasure to insert in the RECORD a prize-winning essay by Miss Lois Refkin entitled "Why We Must Maintain Individual Freedoms in Our Society and How We Can Do So." Miss Refkin participated in a Bicentennial awards program sponsored by the Wells Fargo Bank in cooperation with the Smithsonian Institution, and her thoughtful and provocative essay won third place out of over 2,500 entries in the 18-and-under division.

What is more surprising, Miss Refkin is only 14 years old. The maturity of thought and felicity of expression certainly belie her years; I am proud to have her as a constituent.

The essay follows:

WHY WE MUST MAINTAIN INDIVIDUAL FREEDOMS IN OUR SOCIETY AND HOW WE CAN DO SO

(By Miss Lois Refkin)

America's third century will probably encounter in the world political instability, wars, and a persistent effort by dictatorial rulers to overthrow democratic governments. We see these problems presently in the world—in Angola, Lebanon, Argentina, and numerous other countries. We see Idi Amin of Uganda, the Hitler admirer, rising to power. Such was also the global state when President Franklin Delano Roosevelt gave his famous message to Congress on January 6, 1941.

In this message, President Roosevelt emphasized that any settlements made after World War II should be based on the freedom of speech for all, the freedom of worship for all, the freedom from want for all, and the freedom from fear for all. In his own words:

"In the future days, which we seek to make secure, we look forward to a world founded upon four essential human feedoms."[1]

Unfortunately, all the world did not follow President Roosevelt's advice. It is those countries—the aforementioned nations—that are politically unstable or involved in wars—that denied their countrymen these four basic freedoms. The United States has, however, kept up its policy of allowing these rights for its citizens, and that is perhaps why the United States is still politically stable and not a country in which there is civil war. We have remained a nation all through civil rights riots, peace riots, and the resignation of a President. And perhaps we have done this because we allowed the people of our country to voice their opinions on these matters.

By this we saved ourselves from a revolt led by these people so as to be heard. We have had no civil wars over religious matters—because we allow for freedom of worship. We know of no great poverty because of our welfare, unemployment insurance, social security for the elderly, and numerous other benefits for those who are unemployed or cannot work. And although we do know of some fear, at least we know that our country is working for an end to the arms race with the Russians.

Why do people revolt when they do not have these rights? Let's take for example the Americans. We have the four freedoms defended in our courts and upheld by our Constitution. These four rights distinguish us as a happy people, as compared to those who have no freedom. As the famous English poet, William Cowper, who studied law, said:

"Freedom has a thousand charms to show that slaves, howe'er contented, never know."[2]

Therefore, those who have these "thousand charms" obvious to them will be happier than those who do not have them—just as the deprived child is not as happy as the child who has all of the comforts of life.

How can these people be happy? They are slaves to their government, slaves to the voice they hear that tells them not to do as they truly wish. They are imprisoned in the four walls representing slavery, and all digging or tunneling simply leads them to the same room; but with the walls moved much closer together.

Thus, the people are not happy. History proves that when the people are not happy, the government will not remain stable for long. A perfect example was the reigns of the last few Russian czars. During their reigns, the masses never knew of freedom to voice their opinion—those who spoke as they wished were locked in cells to spend the rest of their lives in misery. The Jews were forced to assimilate, had their synagogues plundered and their religious leaders murdered. They never knew of freedom of worship. The peasants who struggled to earn money while the rich partied yearned for freedom from want. And all the people who tried to overcome one of these lacks of rights always lived with the fear of the knock on the door at night, or that their fields and possessions would be taken away.

The first large "petition," or Bloody Sunday, was remembered bitterly by all Russians. The government refused to even listen. In 1917, the people were so furious that they were able to organize a revolution. They did, and they won.

Thus, in order for us to remain stable while much of the world will not be, we must remember to keep these four freedoms in our policies. They have helped us reach our 200th birthday as a free people, and they will help us reach our 300th birthday.

Now I would like to examine each freedom separately, and suggest ways that we can make sure that these freedoms will be ensured for us and for our future generations.

FREEDOM OF SPEECH AND PRESS

Americans all through history have shown how much they love the freedom to speak or express themselves in publications. John Peter Zenger, the newspaper publisher who risked his career by criticizing the British in his newspaper, was acquitted by an American jury. Colonial patriots carried in their hearts this universal ideal as they went to the bloody battlefields of the American War for Independence. This basic freedom meant so much to our founding fathers that they incorporated it into the first Amendment of our Bill of Rights:

"Congress shall make no law . . . abridging the freedom of speech, or of the press . . ."[3]

There are many reasons for us to keep up our belief in freedom of speech and press for all. The first one can use a modern, present-day example. When the United States was engaged in the Vietnamese War, countless Americans expressed great distress at our involvement. This public pressure—the people who spoke their opinions—eventually led Congress and the President to analyze the situation and conclude that it was best for us to draw out of Vietnam. This public pressure has also led to Congress' decision to remain out of Angola—which most experts have acknowledged as the best choice for America.

In the future, there will be situations in which the Congress feels that Americans are too outspoken. But they will have to examine each possibility and suggestion just as they did in the past. And just as they made the best decisions in the past, so can they make the best decisions in the future. If we do not allow for freedom of speech and press, Congress will have little importance. The representatives in our House and Senate will not know how the constituents they represent feel about legislation up for debate. Laws will be passed that will benefit only pressure groups and the complete United States' system of democracy will become a farce.

An absolute dictatorship grants no one the right to speak on affairs. History proves that dictatorships have never been popular or successful for a long time. King Louis XVI of France was overthrown by the French pepole. King John of England was forced to sign the Magna Carta. Even Russia now is becoming less and less popular as even the Third World realizes what tyranny exists there.

We cannot let our country become a dictatorship. All through our history we have fought it. Our present system of democracy has given us new and better ideas, and has kept us popular and prevented us from making tragic mistakes. Congress must exercise its check powers to make sure that we never allow an absolute President to abuse his powers. We must bring to trial all those who try to abolish this right for others.

Therefore, as America moves into its Tricentennial, we must look forward to a continued policy of freedom of speech and press for all.

FREEDOM OF WORSHIP

The right for a man to worship as he pleases is the second essential human right that President Roosevelt told us we must keep in our policies in order to remain secure. And perhaps for this freedom man has fought the most.

In the days of Ancient Rome, Christian martyrs withstood the tortures of the arena to worship God as they wished. The Jews all through history have fought religious intolerance. Perhaps not all attempts were carried out overtly, as we see in the clandestine underground groups of World War II. However, they still kept on fighting. Huguenots led riots against the French Catholics who denied them unalienable rights. Puritans in England fought the Stuart kings who denied them freedom of worship in the Puritan Revolution. Even now, we see American Jews revolting in sometimes violent demonstrations against the religious intolerance in the U.S.S.R.

Why does man fight for his religion? Why has he in many cases given up all social and political life so that he can worship according to the dictates of his conscience? The answer is that his prayers, belief, and place of worship give him the comfort that God is with him. Man knows that God sees how he lives and will grant him whatever he lacks now when he reaches Heaven. Prayer gives man courage when he knows that God is listening. Perhaps historian Will Durant sums this up when he says:

"The poetry of their man's worship redeems the prose of their daily toil; the prayers they pray are secret summonses to their better selves; the songs they sing are shouts of joy in their refreshened strength . . . This little church is the first and final symbol of America."[4]

It is heartening to know that for over three hundred years America has been a home of those who wish for the freedom to worship as he wishes. Indeed the Puritans and Pilgrims from England who settled this land were religious outcasts. For centuries we have housed immigrants from countries all over the world who left their homelands for the lack of this basic freedom.

Nor will man ever give up his freedom to worship. Man knows that he can give up his freedom of speech just so long as in his house of worship be it synagogue, church or mosque that he can feel God's presence and know that He sees his plight—and that He will make up for it with a justifiable life in Heaven. And now, in these times of recession and financial troubles people turn to religion to comfort, console, and give themselves hope.

America cannot survive if it will bar this freedom from its people. It will not survive

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Footnotes at end of article.

just as Hitler's Germany did not survive. No matter how great an effort by the government, nothing can suppress man's love of worship—according to his conscience's dictates. Russia has not been able to suppress religion, as is seen in the hidden church and synagogues found in that powerful country. Neither will the United States be able to. We must bring to trial all those who try to stop people from exercising this freedom.

We must keep this basic freedom in our midst as we face our third century.

FREEDOM FROM WANT

President Roosevelt's third freedom is that from want. But in order to attain this for all people of the United States, we must look at this on a domestic and global scale.

To start on a domestic scale, we should look at the problems with welfare. Many able-bodied people now living on welfare have a very easy life—having money fill their pockets while they do no work. The money to pay for this easy life comes from the taxpayers—many of whom fear losing their own jobs. They cannot bear to see their taxes going into the hands of those who do nothing but fill out a welfare form.

We cannot let this present, inefficient system continue. We hear the gloomy forecasts of continuing increased unemployment rates for the future. In this situation, more men lose jobs and the government gets less taxes. If the government gets less taxes, how will they be able to support all the rising numbers of people who receive welfare or unemployment insurance?

What I suggest to make the dark future brighter is a "New Deal" approach. Franklin Roosevelt created thousands of jobs, paid for by the government, when he came to be President during the terrible Depression. "Priming the pumps" gave jobs to the 25% of the population who were unemployed. People began to save their earnings, investment and consumption were encouraged, and people were able to support themselves. If we take this approach now, we will be able to beautify our cities, attract more tourists, and get this country out of its rundown mood. Much of the Art Deco splendor of New York City arose from Roosevelt's "New Deal". Likewise, so can America once more display its present style of architecture.

There are also other benefits of a New Deal. People can be trained to do jobs such as inspection of environmental controls or helping businesses become less environmentally hazardous. Companies can certainly not complain about the high cost of pollution controls when the Federal government pays for the workers. Eventually, the companies may be able to pay for the workers themselves, once the controls are established. In fact, the Federal government should work towards such an adoption of laborers.

To summarize, if we continue this policy, we will increase production, clean up our cities, build parks and murals, and make for a more environmentally safe world. In addition, we will eventually lift the welfare burden from the government as people will start working again.

Also on a domestic level, we cannot follow the advice of those who wish to end Medicaid, Medicare, and other such necessary programs. In the future, experts tell us that medical costs will rise. We cannot let the elderly and the poor—who often need doctors badly—hesitate when they hear of the costs of a necessary operation or doctor visits. To do that would be indirect murder. Nor should the government shift the programs to the state or city budgets. Most states and cities can hardly afford to keep up their regular programs. To make these hard-pressed governments also take over all these costs would cause either a ruination of their regular programs or of the Medicare and Medicaid programs. Therefore, if the poor and the elderly are really going to know of freedom from want, the Federal government cannot hand the responsibility of these vital programs over to the local governments without totally funding them.

We must also follow the same policy with Social Security and free school lunches if the poor and elderly will be able to keep going financially. I also feel that we should revise laws that give tax loopholes to the rich.

To secure the freedom from want for our people, we must look at our international relationships. We must remember that the international outlook goes hand in hand with unemployment and America as a powerful nation.

In many areas, we find countries completely dependent on one or two crops or minerals for their support. Only a system of interdependencies between countries can provide them with other basic necessities. Markets must be open to them and a fair price for our and their products guaranteed. According to Maurice Strong, Secretary General of the UN Conference on the Human Environment:

"Creation of a new international economic order in which civilization is characterized by a network of interdependencies, global in scale, can save the future."[5]

Exports account for over 3½ million American jobs, and 25% of all crops harvested in the United States depend on foreign consumers. We cannot run the risk of a growing unemployment rate or of all the surplus food dumped on the American market, lowering the prices disastrously for American farmers.

In order to show the world that we are prepared to supply them with food we must increase our yields. We must adopt climatical control systems to save ourselves from drought. Scientists who met in West Germany agreed that if we ignore the cooling trend in the world's climate we will risk great suffering and mass starvation. Also, according to Science News magazine, the breadbasket regions of the U.S. are about to undergo drought. Israel has made great progress in increasing farm yields in its programs, and we must increase the funding of our national programs.

We also must implement new technology to meet our new needs. However, we must only use it to the extent that we do not ruin our environment. As has been seen in Haiti, too much fertilizer usage can lead to erosion of soil that will leave farmers without any soil or water with which to irrigate. It is better to have a slightly smaller yield for many years than to have an enormous yield in one year and no yield for many years. We also cannot let our machinery completely take over the jobs of workers, as the overly abundant use of technology will.

No matter how much fertilizer we do need, we cannot lead ourselves to dependence on the Organization of Petroleum Exporting Countries. In the United States, where cattle and other ruminant animals are in abundance, we can make far more efficient use of roughage. The OPEC nations, realizing that their oil supply will not last eternally, are engaged in a mad last-minute rush for money. We must make them realize that we are not so dependent on their oil that we give in to every wish and want of the oil producers.

Some critics of the counter-cartel, the IEA, say that it is incapable of bringing about the demise of the OPEC cartel. They suggest an international organization composed of consumers and producers in order to make prices more feasible for the consumers. However, such a plan could never work. The U.S. and the petroleum exporters are both against it. S. David Freeman, director of the Energy Policy Project of the Ford Foundation tells us in his book Energy, The New Era:

"The US has taken the lead in urging closer cooperation among consuming countries as a response to the remarkable solidarity shown thus far by the producing countries."[6]

About the Arabs, Robert Tucker, professor of International Relations at Johns Hopkins University, says in the January 1975 issue of Commentary magazine:

"The Arab states to date have shown no disposition at all to cooperate in any plan which involves the developing countries taking collective action to guarantee that all countries can afford oil imports."[7]

In order to protect our automobile industry and our gasoline consumers from knowing of want, we must bring an end to the terribly high price of gasoline and increase the economy and number of energy efficient cars. People will buy more cars and save the automobile industry if they know that in the long-term they will save money. Also, we will reduce our consumption of oil and thus save money also. To lower the price of gasoline, we must show OPEC by developing our alternate energy sources of our Alaska pipeline that we can get on without their oil and are preparing for it. If we can urge gasoline companies to use more of our own oil and coal, which will be cheaper, we will show OPEC that we do not have to take from them the high prices.

The Congress has been good enough to give a sizable sum of money for energy research. We must continue expanding this research. Critics of solar, nuclear, geothermal, and coal-based sources of energy tell us that at the present rate of their development we will not be able to practically use alternate energy sources for fifteen years. However, if we increase the amount of research that is already being carried on at federal laboratories and universities like MIT, we will make these energy sources more feasible sooner.

FREEDOM FROM FEAR

In these uncertain times of detente, and yet an increasing arms race, we never know if our military and political energy is following the rules of treaties signed during negotiations or whether they are spending sums of money on arms and missiles of all types.

And yet, we must, somehow, end the arms race. For man to be free from the fear of a nuclear attack is a very basic, necessary condition of life. I can remember feeling terrified of every airplane that flew overhead after reading the book Fail-Safe. The fear that each plane was a bomber shook me up so much that I wished all bombers be destroyed and that I could get over my terrible fear.

No one who lived through any war can ever forget the scary feeling that any moment a bomb would land on their home. We must end the chance of any wars so that no person will ever have the need to feel that their loved ones are to be cruelly murdered by any sort of weapon.

As a nation, we must continue negotiating with the Russians and other countries who are not our allies. If we do not, we will become engaged in another Cold War. It was during this period of great tension that we were engaged in the Bay of Pigs affair and the Cuban missiles crisis. During the Cold War Americans were ever fearful of a nuclear attack.

We unfortunately must also rely basically on mutual trust. However, we must make better use of our satellites just to give us a greater assurance than we have now that arms buildups are not occurring.

We must also work so that we will have less crime in the streets. It is horribly unfair that people must give up cultural and social pursuits just because they are afraid to go outside at night or even during the day.

Footnotes at end of article.

By the gradual reduction in our defense spending due to our reduction of military equipment production, we can allocate some of this extra money to increased police protection. We can also increase policemen's salaries so that they will not feel the need to take bribes and thus keep our chances of catching drug dealers and other people suspected of crime.

Man, to remain happy, must know that he can walk the streets without fear. No person is truly happy when he feels a shiver up and down his spine because of the sound of footsteps behind him. We must let our people have the right to live without fear as much as possible. Otherwise, the crime rates will skyrocket instead of just increase as they are doing now. The U.S. government has been under great attack by its citizens due to its apparent inability to control crime, and its former reluctance to join in strategic arms negotiations with the Russians. Manpower and resources must be allocated to the solution of these twin problems.

CONCLUSION

As America faces its third century, we will be able to look forward to a happy, truly wonderful hundred years if we incorporate our basic four freedoms into everything we do. Of course, there can also be taken into account other intrinsic freedoms—the right to petition, the right to a trial by jury. But I have chosen to deal with the other four.

Freedom is the beautiful dawn to which each man in the US should always rise to. Freedom can be a realm in which all people are equal and happy. In this beautiful land the white dove with an olive branch is the most honored citizen. Understanding and love would be the dove's closest friends—but his arms would reach out to all—old, young, Jew, Catholic, Negro, White, all—as we are all created equal—to join in his tender embrace.

But this beautiful vision of a land full of love, understanding and peace may never be envisioned by all people. Their governments force them to take a road of unhappiness, slavery, cruelty, and hatred.

"Two roads diverged in a yellow wood—And I—I took the road less traveled by. And that has made all the difference."[8]

Even if these people must take the road less traveled by, they have still filled part of the world with misery—"and that has made all the difference" in the world's amount of happiness.

We can borrow President Abraham Lincoln's words to express how we should handle our third century:

"It is rather for us to be here dedicated to the great task remaining before us . . . that this nation, under God, shall have a new birth of freedom . . ."[9]

FOOTNOTES

[1] Message to Congress, President Franklin Delano Roosevelt, January 6, 1941.

[2] William Cowper, from his poem "Table Talk", published c. 1788.

[3] Amendment I, The Constitution of the United States.

[4] Durant, Will, "Freedom of Worship" Article, Saturday Evening Post, February–March, 1943, Republished, March–April, 1973, p. 136.

[5] Saturday Review World, Dec. 14, 1974, pp. 7–11. Maurice Strong, Secretary General of the U.N. Conference on the Human Environment.

[6] Freeman, S. David, *Energy, The New Era* New York: Walker Publishing Company 1974, 386 pages.

[7] Commentary, March 1975, p. 48.

[8] Poem—"The Road Not Taken", by Robert Frost.

[9] Gettysburg Address, 1863.

THE NATIONAL LAWYERS GUILD: ADVOCATES FOR TERRORISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Mr. McDONALD. Mr. Speaker, the National Lawyers Guild — NLG — was formed in 1936 with the assistance of the Comintern and has been cited by both the Senate Internal Security Subcommittee and the House Committee on Un-American Activities as a Communist front. Since the 1960's, the NLG has recruited large numbers of Castroite Communists, New Left revolutionaries and Maoists who can control their political differences to unite on programs attacking our constitional form of government and our institutions. Nevertheless, basic NLG policies are controlled by the Communist Party, U.S.A.—CPUSA—working in close coordination with the Castroites.

The National Lawyers Guild serves as a resource center and coordinating body in support of domestic and international Soviet and Cuban-supported terrorist groups. NLG members act as supporters, defenders, contacts, and couriers for such terrorist groups as the Palestine Liberation Organization—PLO—the Weather Underground Organization—WUO—the Black Liberation Army — BLA — the FALN associated with the Puerto Rican Socialist Party, and many others.

The NLG remains an active member of the International Association of Democratic Lawyers—IADL—an international Soviet-directed Communist front. The NLG recruits young lawyers and others to serve as contacts and informal, unregistered agents of Communist governments, such as Cuba. Some of the recruits have U.S. Government jobs.

A main area of National Lawyers Guild work has been to set legal precedents which justify terrorism and violence on the grounds that "the system"—by which the NLG means our government, laws, economic system, and institutions—are so "oppressive" that terrorism and revolutionary "armed struggle" are the only appropriate response. This was the thrust of the NLG defense teams during the trials of rioting Attica prisoners and during the prosecutions of leaders and participants in the American Indian Movement's armed occupation of Wounded Knee.

The National Lawyers Guild operates a speakers bureau to help raise money for its activities and spread its views.

The NLG has described its activities in the following terms:

> * * * Our members were intimately involved in the formation and defense of working people's organizations in the 1930s; the fight against fascism at home and abroad in the '40s; the battle against McCarthyism and the related political trials of the '50s; the civil rights, anti-war and student movements of the 1960s; and the Attica and Wounded Knee defenses in the '70s. It has been Guild attorneys who have provided the defense in every political trial in this country from the Rosenberg case to the Panther 21, Chicago, Pentagon and Berrigan cases.
>
> The Guild has done pioneering work in the areas of electronic surveillance, First Amendment rights, prison litigation and has, over the last five years, developed a strategy of resistance to government abuses of the grand jury process.

The NLG Speakers Bureau also notes the organization's close connection with Communist governments, stating that:

> Guild attorneys have represented the governments of Chile under the Communist/Socialist coalition government of Salvador Allende, Cuba, China, Vietnam, the Soviet Union and other socialist countries.

In view of the close ties between the former Allende regime in Chile and the Cuban Communists, it is not surprising that Michael Krinsky of Rabinowitz, Boudin and Standard served as the agent for the Allende Marxist-Leninist government. Rabinowitz, Boudin and Standard have been Cuba's agents for some 15 years. Victor Rabinowitz, long active in Communist Party, U.S.A. professional circles, refused on three separate occasions to deny or affirm membership in the Communist Party on fifth amendment grounds. Leonard Boudin, who never took formal membership in the CPUSA, has defended Soviet espionage operatives. Michael Standard, scion of a prominent Stalinist family and in age bridging the gap between the Old and New Left, also never joined the Communist Party but has been active in several of its fronts.

It is noted in passing that Michael Krinsky and Leonard Boudin have been serving as attorneys to the Trotskyist Communist Socialist Workers Party—SWP—the U.S. section of the Fourth International, in lawsuits against the FBI, CIA, and other U.S. intelligence gathering agencies. The Cubans have been the only Communist regime willing to deal directly with Trotskyite Communists. The first Trotskyite cadres from Latin America were sent to Cuba for training in guerrilla warfare and terror tactics in 1962.

The National Lawyers Guild's speakers programs and participants include:

> INTERNATIONAL POLITICAL/LEGAL DEVELOPMENTS:
>
> "Observers of political trials in Greece, Chile, the Dominican Republic and trials of workers and lawyers in Spain will discuss these events. Also speakers on the legal and social systems of Chile, Cuba, China, Vietnam, the Soviet Union and other socialist countries.
>
> "Recent political/legal changes in Portugal, Spain, Cyprus, Angola and Argentina, and anti-colonialist movements in the Middle East, Asia, Africa and Latin America will be analyzed with an emphasis on the impact of U.S. foreign policy, military presence and intervention."
>
> Adamantia Pollis—Professor of political science, author, political theorist; internationally known expert on Cyprus, Greece and Turkey.
>
> Eric Schmidt—Attorney; executive secretary, U.S. Committee for a Democratic Spain; [and one of the planners of the riots at the 1968 Democratic National Convention in Chicago].
>
> Martin Popper—Attorney with Wolf, Popper, Ross, Wolf & Jones, representing the Soviet Union, China and other socialist

countries; recently returned from the Middle East, [former NLG president and identified Communist Party, U.S.A. member].

Michael Krinsky—Attorney with Rabinowitz, Boudin and Standard; counsel to the Allende government of Chile and the government of Cuba.

Jose Lugo—Attorney in New York and Puerto Rico; counsel at East New York Legal Services.

ABUSES OF THE GRAND JURY

The emergence of the grand jury as a government tool for the harassment of individuals and the repression of progressive movements.

Guild lawyers will discuss their experiences in dealing with federal and state grand juries, such as those connected with the search for Patty Hearst, the investigation of the Weather Underground, the New York Black Liberation Army cases, Puerto Rican Socialist Party. * * *

Jim Reif—Attorney with the Brooklyn Community Law Office, formerly staff attorney with the Center for Constitutional Rights, speaker and author on grand jury matters.

Rhonda Copelon—Attorney with the Center for Constitutional Rights; represented WBAI and Jill Raymond in grand jury matters.

Kristin Booth Glen—Attorney representing Terri Turgeon and Ellen Grusse in the Susan Saxe investigation; attorney for WNCN.

Martin R. Stolar—Attorney with Stolar, Alterman & Gulielmetti; represented Attica, BLA [Black Liberation Army], Camden 28 defendants, and Lureida Torres (PSP member, investigation of FALN bombings].

Morton Stavis—Attorney, Center for Constitutional Rights; director, Constitutional Litigation Clinic, Rutgers Law School.

PRISON IN AMERICA

Daniel Alterman—Attorney with Stolar, Alterman & Gulielmetti; prosecuting the Brooklyn House of Detention suit alleging discrimination against indigents awaiting trial; Attica attorney.

Daniel Pochoda—Attorney; executive director, N.Y. State Commission of Correction; formerly with Prisoners' Rights Project, Legal Aid Society; Attica defense attorney.

Sharon Krebs—Ex-convict [N.Y. Crazies bank bombing conspiracy], former teacher of Women in Prison at the New School; social worker, the Legal Aid Society; secretary, Assata Shakur (Joanne Chesimard) Defense Committee [which is a front for the Weather Underground's Prairie Fire Organizing Committee].

Elizabeth Fink—Attorney; coordinator, Brooklyn House of Detention Project of the Center for Constitutional Rights; Attica defense attorney.

THE LABOR SCENE/EMPLOYEE RIGHTS

Bob Lewis—Staff counsel, United Electrical Workers.

David Scribner—Attorney, rank and file challenge to "Big Steel" Pact [and identified Communist Party, U.S.A. (CPUSA) member].

Harry Weinstock, I. Philip Sipser, Richard Dorn, Jerry Tauber—Attorneys representing Local 1199, the Association of Legal Aid Attorneys, the Boston Symphony Orchestra, Rheingold Brewery workers and others.

Gene Eisner, Richard Levy—Attorneys representing District 65, Taxi Rank and File Coalition and others.

Amy Gladstein—Attorney with the Brooklyn Community Law Office, formerly with the National Labor Relations Board.

Carol Arber—Attorney with the women's law collective of Lefcourt, Kraft & Arber; * * *

CRIMINAL LAW

Robert Bloom—Attorney, Panther 21 and BLA [Black Liberation Army] cases.

Sanford Katy—Attorney; represented the Panther 21, Henry Brown [Black Liberation Army] and other political-criminal cases.

Dan Meyers—Attorney for Tony Maynard; former counsel to the Young Lords Party.

William Mogulescu—Attorney; represents defendants in BLA and narcotics cases.

Margaret Ratner—Attorney for Attica Brother Dacajeweiah (John Hill) and Micki Scott [with other NLG members including Peter Weiss, William Kunstler, William Schaap and with Ramsey Clark applied to represent the Baader-Meinhof terrorists on trial in West Germany. Micki Scott is the wife of Jack Scott, a figure in the SLA fugitive investigation].

Ollie Rosengart—Former professor of law at NYU Criminal Law Clinic; author of Busted: A Handbook for Lawyers and the Rights of Suspects.

Elliott Wilk—Attorney with the Legal Aid Society * * *; Attica defense lawyer.

POLITICAL LEGAL HISTORY

Marshall Perlin—Attorney; representing Morton Sobell from 1955 to the present; the National Committee to Re-open the Rosenberg Case.

Arthur Kinoy—Noted appellate lawyer; professor of law, Rutgers Law School; vice-president, Center for Constitutional Rights.

Sam Neuberger—Attorney, Smith Act cases; involved in early labor struggles.

Ralph Shapiro—Labor attorney; represented victims of McCarthy era repression; lawyer for many labor unions.

Robert Boehm—Cooperating attorney, Center for Constitutional Rights; co-founder, Lawyers Committee Against the War in Vietnam.

Peter Weiss—Attorney; chairman of the board, Institute for Policy Studies; former president, American Committee on Africa.

REPRESSION

Governmental misconduct; FBI burglaries, CIA conspiracies, IRS investigations, SWAT, Red Squads and other special police units, COINTELPRO, surveillance and other political harassment. * * * Freedom of Information Act. What it is and how to use it.

Paul Chevigny—Staff attorney *NYCLU* (New York Civil Liberties Union); Attica defense lawyer; author of Police Power; Cops and Rebels and numerous articles on jazz.

Fred Cohn—Attorney for the 26th Army Band; *the Fort Dix 38, the Fort Hood 43* [armed forces mutineers] and numerous draft resisters; co-counsel for Shoshana/Pat Swinton [a fugitive for many years on bombing charges; apprehended; tried; acquitted and now a leader of the Weather Underground's Prairie Fire Organizing Committee Vermont chapter].

Bonnie Brower—Past president of the New York City Chapter of the National Lawyers Guild; former Legal Aid attorney for 3 years; curently working on *Meeropol* v. *Levi* (suit by the sons of Julius and Ethel Rosenberg for release of FBI files), a Freedom of Information Act case, and researching the documents that have been released.

Walter Goodman wrote in the New York Times Magazine (August 22, 1976):

"There is a body of theory—call it the William Kunstler or Mark Lane school—which holds that anyone convicted in this country of a crime with political overtones cannot be guilty if he or she shares the political predilections of the beholder, or can be made to serve them. Much of the fervor which continues to animate efforts on behalf of the Rosenbergs and of Alger Hiss is an expression of this faith."

Both Lane and Kunstler, it should be noted, are active in the National Lawyers Guild.

Michael Ratner—Attorney for Venceremos Brigade, BLA and Puerto Rican Socialist Party; expert on electronics surveillance litigation.

Jeffrey Segal—Staff writer for the Guardian, formerly on the staff of the Center for Constitutional Rights, author and lecturer on Senate Bill No. 1.

Speakers on "Racism and the Law" which includes "the Black Power Era; representation of the Black Panther Party and the Black Liberation Army; * * * the American Indian Movement; Wounded Knee; * * * continuing U.S. colonization of Puerto Rico; the independence movement" are:

Haywood Burns—Attorney, author and professor of law, NYU Law School; past executive director, National Conference of Black Lawyers.

Ken Kimmerling—Staff attorney with the Puerto Rican Legal Defense and Education Fund.

William Kunstler—Lawyer for H. Rap Brown, Carlos Feliciano (confessed and sentenced for possession of explosives and now president of the Puerto Rican Nationalst Party which led the 1950 armed uprising in Puerto Rico), Wounded Knee defendants and Attica Brothers.

Alan Schulman—New York City schoolteacher; steering committee member, People Against Racism in Education (which is a front for the Weather Underground's Prairie Fire Organizing Committee).

Lewis Steel—Former staff attorney with the NAACP; observer at Attica during the 1971 uprising; attorney for Rubin "Hurricane" Carter and John Artis.

Other NLG attorneys and "legal workers" are available on topics including environmental law, women and the law, education, rights of juveniles, mental health, housing and tenants rights.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1976

Ms. KEYS. Mr. Speaker, on Friday, September 10, 1976, I was unavoidably absent for Rollcall No. 711, on agreeing to the conference report on S. 327, to amend the Land and Water Conservation Fund Act of 1965. Had I been present, I would have voted "yea."

HOUSE OF REPRESENTATIVES—*Tuesday, September 14, 1976*

The House met at 12 o'clock noon.

Rev. R. Beverly Watkins, Arlington United Methodist Church, Arlington, Va., offered the following prayer:

O God our Father, we unite in prayer for Your blessings upon us today. We know that You care.

We come with thankful hearts, remembering all Your blessings. We are thankful for the strength to carry on, and for those with whom we can work honorably and faithfully for the common good.

We pray for the Members of this Congress, and for their families. Help them to be sufficiently free from anxiety that they may give their best to their awesome responsibilities.

Help us that we may make America the channel for the doing of Your will, for we pray in the name of the Redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on September 13, 1976, the President approved and signed a bill of the House of the following title:

H.R. 8410. An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13655) entitled "An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 327) entitled "An act to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 3283. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3348. An act to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes, and

H.R. 10192. An act to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2212) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McCLELLAN, Mr. PHILIP A. HART, Mr. EASTLAND, Mr. KENNEDY, Mr. ROBERT C. BYRD, Mr. HRUSKA, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. WILLIAM L. SCOTT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3420) entitled "An act to authorize appropriations to the International Trade Commission," agreed to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. FANNIN, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3790. An act for the relief of Camilla A. Hester.

The message also announced that the Vice President, pursuant to Public Law 94–399, appointed Mr. EAGLETON, Mr. CHILES, and Mr. MATHIAS to be members, on the part of the Senate, of the Temporary Commission on Financial Oversight of the District of Columbia.

APPOINTMENT OF CONFEREES ON H.R. 14260, APPROPRIATIONS FOR FOREIGN ASSISTANCE FOR FISCAL YEAR 1977

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and appoints the following conferees: Messrs. PASSMAN, LONG of Maryland, ROUSH, OBEY, BEVILL, CHAPPELL, KOCH, CHARLES WILSON of Texas, MAHON, SHRIVER, CONTE, COUGHLIN, and CEDERBERG.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT TO FILE CONFERENCE REPORT ON H.R. 15194, PUBLIC WORKS EMPLOYMENT APPROPRIATIONS FOR FISCAL YEAR 1977

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRIBUTE TO REV. R. BEVERLY WATKINS

(Mr. FISHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, I would like to thank the Reverend R. Beverly Watkins for offering today's prayer. Reverend Watkins is the pastor of the Arlington United Methodist Church in south Arlington, Va.

Born in Poquoson, Va., Mr. Watkins is a southern gentleman who was educated in York County and Randolph Macon College. In 1940 he received a master of divinity degree from the Candler School of Theology of Emory University, Atlanta.

He has devotedly served congregations in Norfolk, Richmond, Alexandria, Newport News, and Arlington and has also served a term as superintendent of the Portsmouth district.

Reverend Watkins has been with the Arlington United Methodist Church since 1972. He is married to the former Maxine Hines of Williamsburg and they have two sons, a daughter and a granddaughter. I am pleased to welcome him into this Chamber along with his family and friends.

CONGRESS 2½ WEEKS AWAY FROM FAILURE ON FINANCIAL DISCLOSURE AND LOBBYING REFORM BILLS

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Speaker, this Congress is about 2½ weeks away from adjournment—and we are just that far away from a significant failure. Some of the reform legislation which should have been passed in this Congress may well be shelved due to the lack of time.

If ever there was a time when reform legislation was needed, it has been during the term of the 94th Congress. If ever a Congress was given a mandate for reform, it was the 94th Congress.

And yet the financial disclosure and lobbying reform bills—measures that could have put an end to conflict of interest and other such abuses in Congress—still linger in committees on the brink of extinction.

Even harder to understand is how the Committee on Standards of Official Conduct—the Ethics Committee—can be holding up these vital bills. Surely this committee, above all others, should understand the urgency of financial disclosure and lobbying reform and should give the bills speedy consideration.

Instead, we see continued delays and roadblocks.

Mr. Speaker, the people of the United States are fed up with the inaction of

Congress on this vital issue. They are fed up with indictments, stories of corruption and tawdry scandals on Capitol Hill.

I ask for immediate action by the House on these urgent bills. I intend to leave here on October 2 and tell the people of my district where I stood on these two pieces of legislation. I hope I do not have to tell them that I stood in the minority.

DESIGNATING VETERANS' ADMINISTRATION HOSPITAL IN MADISON, WIS., AS "WILLIAM S. MIDDLETON MEMORIAL VETERANS' HOSPITAL"

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9811) to designate the Veterans' Administration hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital", and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Part 2, after line 4, insert:

SEC. 3. (a) In order to assist the Secretary of Health, Education, and Welfare in carrying out the National Swine Flu Immunization Program of 1976 pursuant to subsection (j) of section 317 of the Public Health Service Act (42 U.S.C. 247b), as added by Public Law 94-380, Ninety-fourth Congress (August 12, 1976), the Administrator of Veterans' Affairs, in accordance with the provisions of such subsection (j), may authorize the administration of vaccine, procured under such program and provided by the Secretary at no cost to the Veterans' Administration, to eligible veterans (voluntarily requesting such vaccine) in connection with the provision of care for a disability under chapter 17 of title 38, United States Code, in any health care facility under the jurisdiction of the Administrator. In carrying out such program, the Secretary may provide the Administrator with such vaccine at no cost to the Veterans' Administration.

(b) Notwithstanding the provisions of subsection (k) of such section 317, any claim or suit for damages for personal injury or death, in connection with the administration of vaccine as authorized by subsection (a) of this section, allegedly arising from the malpractice or negligence of personnel granted immunity under section 4116 of such title 38 while in the exercise of their duties in or for the Department of Medicine and Surgery of the Veterans' Administration, shall be considered and processed in accordance with the provisions of such section 4116, and the recovery authority provided the United States under paragraph (7) of such subsection (k) shall not be applicable to such claims or suits.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield to the distinguished chairman to explain the legislation.

Mr. ROBERTS. Mr. Speaker, H.R. 9811 would designate the Veterans' Administration Hospital in Madison, Wis., as the "William S. Middleton Memorial Veterans' Hospital." The bill passed the House on April 5, 1976.

The Senate amendment would permit the Veterans' Administration health care facilities to participate in the national swine flu immunization program.

Under present law, the VA is only authorized to treat disabilities and diseases; authority is not generally provided for the VA to carry out any preventive health measures such as immunizations. The amendment would specifically allow the VA to participate in the swine flu immunization program by authorizing VA employees to administer the vaccine to veterans otherwise receiving care at VA health care facilities. The amendment requires that the vaccine be provided at no cost to the VA by the Secretary of HEW and makes clear the Secretary's authority to provide it at no cost. The cost of the incidental supplies—such as syringes, alcohol, and cotton—to administer the immunizations may also be provided by the Secretary under Public Law 94-380 using funds provided by Public Law 94-266, but under the Senate amendment the VA could absorb some or all of these incidental costs. The VA cost of supplies will not exceed $150,000 even if all 2,900,000 veteran patients who receive care each year at VA health care facilities were to receive the immunization.

The amendment specifically includes the following elements:

First, the VA's participation in the program is expressly conditioned on its receiving the vaccine at no cost from HEW, and HEW's authority to provide it at no cost is made explicit.

Second, the duration of the VA authority is made coextensive with the program authority in Public Law 94-380, until August 1, 1977.

Third, as was made clear in the legislative history surrounding enactment of Public Law 94-380, the vaccine will be administered to only those voluntarily requesting it.

Fourth, only veterans otherwise receiving care in VA health care facilities would be eligible to receive the vaccine.

Fifth, the VA would be charged with administering the swine flu vaccine in accordance with the provisions of the basic national swine flu immunization program.

Sixth, subsection (b) in the amendment provides that claims allegedly arising from the malpractice or negligence of VA personnel, granted immunity from suit and liability under present section 4116 of title 38, United States Code, while in the exercise of their official duties in the Department of Medicine and Surgery, will be considered and processed in accordance with that existing procedure under which the VA assumes any liability for those acts of its agents and immunizes those employees. Hence, the amendment expressly supersedes the HEW claim processing and litigation procedure established in Public Law 94-380—subsection (k) added to section 317 of the Public Health Service Act—but only as to such claims for the alleged malpractice and negligence of the section 4116-immunized VA personnel.

As to any claim for personal injury or death, in connection with the VA's vaccination of a veteran, against the United States arising out of the alleged failure of any manufacturer or distributor of the vaccine to carry out any obligation or responsibility assumed by it under a contract with HEW, or the alleged negligence on the part of such manufacturer or distributor, or any other claim cognizable under subsection (k) other than a section 4116 claim, the provisions of Public Law 94-380 would apply in full, and claims would be processed by HEW and any eventual litigation would arise pursuant to the new subsection (k).

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I support the gentleman's motion to concur with the Senate amendment to H.R. 9811.

This measure originally passed the House of Representatives on December 15, 1975. It provided that the Veterans' Administration hospital at Madison, Wis., be designated as the "William S. Middleton Memorial Veterans Hospital" in honor of the distinguished former Chief Medical Director of the Veterans' Administration, the late Dr. Middleton.

The Senate amendment adds to the House-passed bill a provision authorizing the Veterans' Administration to participate in the swine flu immunization program soon to be undertaken.

Specifically, the amendment will permit Veterans' Administration personnel to administer the vaccine to veterans receiving care in Veterans' Administration health care facilities. It will be given only to those veterans who voluntarily request it. The costs of the program will be borne by the Department of HEW on a reimbursement basis. The Veterans' Administration estimates that it will provide swine flu immunization to approximately 600,000 veterans under this program.

Mr. Speaker, it is entirely fitting that the facilities of the Nation's largest health care delivery system be utilized in this nationwide preventive health maintenance program. I support the amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

AMENDING TITLE 38, UNITED STATES CODE, TO PROVIDE HOSPITAL AND MEDICAL CARE TO CERTAIN MEMBERS OF THE ARMED FORCES

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, after line 20, insert:

SEC. 2. Any person who served during World War II as a member of the Women's Air Forces Service Pilots shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services under chapter 17 of title 38, United States Code, to the same extent as if such service had been performed in the active military service.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I would take the reservation to receive comments from the distinguished chairman on this particular piece of legislation.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, on July 21, 1975, the House passed and sent to the Senate, H.R. 71. As passed by the House, the bill would provide that any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States, and has been a citizen of the United States for at least 10 years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services from the Veterans' Administration to the same extent as if such service had been performed in the Armed Forces of the United States.

On Friday, September 10, 1976, the Senate passed the bill, amended. The Senate passed bill is identical to the House bill except for one provision. An amendment offered by the distinguished Senator from Arizona (Mr. GOLDWATER) and adopted by the Senate, would extend hospital and domiciliary care and medical services to any person who served during World War II as a member of the Women's Air Force Pilots—WASP.

Mr. Speaker, although these civilian women contributed to our war effort, they were, in fact, civilians and not members of the military forces.

Numerous bills are pending before the Committee on Veterans' Affairs to grant various benefits to not only the WASP's but many other similar groups as well. Examples of such groups are the Women's Army Auxiliary Corps and the merchant marines. Although individuals serving in these organizations also contributed much to our war effort, they are not entitled to veterans benefits for such civilian service.

Mr. Speaker, we know there are thousands of Americans who performed most notable and significant service to the Nation in civilian employment of the Armed Forces. No civilian forces attached to the military during wartime are now entitled to veterans benefits. To approve the Senate amendment would be an invitation for civilians, including many wartime personnel in our vital defense plants and factories, to request the Congress to be treated equally with the WASP's should this legislation be enacted.

We have held no hearings on bills to provide medical benefits to civilians who served during these wartime periods. We would certainly want to hold hearings before making any decision to grant such entitlements.

Finally, Mr. Speaker, the Senate amendment is strongly opposed by the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars. Therefore, for the reasons I have outlined, I ask that the House disagree to the Senate amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, I join the distinguished chairman of the Committee on Veterans' Affairs in supporting H.R. 71 as it was passed by the House on July 21, 1975.

I believe that the provisons of this bill should be limited to members of the Polish and Czechoslovakian armed services who have been citizens of the United States for at least 10 years. These persons engaged in armed conflict against enemies of the United States during World War I and World War II.

Mr. Speaker, I object to the amendment to H.R. 71 offered by the distinguished Senator from Arizona (Mr. GOLDWATER). The amendment would extend hospital and domiciliary care and medical services to persons who served as Women's Air Force Service Pilots—WASP's—during World War II.

As a Member who served in the Army Air Corps during the Second World War, I remember the WASP's. I recognize and respect the service they provided our Nation.

But the WASP's served as civilians, not as members of the armed services. They are not entitled to veterans' benefits for civilian service. If they are given such entitlement, then the doors to medical eligibility will be open to various civilian groups who contributed to our wartime effort.

Mr. Speaker, I have not polled the minority members of the Committee on Veterans' Affairs. These members have not had the opportuniy to give the concept of civilian eligibility embodied in this amendment a hearing.

Numerous bills are pending before the committee to provide certain benefits to various civilian groups, including the WASP's. I believe that the committee should have the opportunity to hold hearings on these bills before it decides, and the House decides, to grant benefits to one group or another.

The American Legion, the Disabled Veterans of America, and the Veterans of Foreign Wars have come out in opposition to the Senate amendment. I would like to hear their views, and those of such civilian groups as the Women's Army Auxiliary Corps and the merchant marines, before acting in this area.

One of the themes of this Bicentennial Year is "remember the ladies." Mr. Speaker, I remember the WASP's, with full respect and admiration. But recognition for their accomplishments does not belong in H.R. 71.

I concur with Mr. ROBERTS in asking the House to disagree to the Senate amendment.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. In other words, what will happen is that we will insist on the House version?

Mr. ROBERTS. The gentleman is correct.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the two bills just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SPACE SCIENCE AND APPLICATIONS TO MEET DURING GENERAL DEBATE ON TUESDAY, SEPTEMBER 14, 1976

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Space Science and Applications be permitted to sit this afternoon to take testimony during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON JUDICIARY TO FILE REPORT ON H.R. 13157

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent, on behalf of the Judiciary Committee, to have until midnight tonight to file a report on H.R. 13157, compensation of victims of crime.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON S. 2052, ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS

Mr. DE LA GARZA. Mr. Speaker, I call up the conference report on the Senate bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of August 11, 1976.)

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas is recognized.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the conference report on S. 3052. This bill authorizes orientation and language training for families of officers and employees of the Department of Agriculture assigned abroad or in anticipation of a foreign assignment.

The House had made a number of technical amendments to the bill as passed by the Senate. In conference these amendments were either accepted by the Senate or compromised in a manner to preserve the spirit of the House position.

The Senate bill had authorized the Department to use any appropriated funds, for the purposes of the legislation, effective upon enactment of the bill without any monetary limit on the use of such funds. The House had amended the bill to provide a specific authorization of not to exceed $35,000 annually. The conferees agreed to the merits of the House position on the desirability for a monetary limit on the authorization, but increased the annual authorization from $35,000 to $50,000 to take account of estimates of the Congressional Budget Office that the higher amount would probably be needed in the future because of inflation. The conferees also authorized the Secretary to make use of any funds appropriated to the Department, in an amount not to exceed $50,000, for the first year of the bill since the appropriation for the Department for fiscal year 1977 has already been adopted.

The Senate accepted other amendments of the House such as the amendment authorizing the use of foreign currencies generated under title I of Public Law 480 and the requirement of an annual report from the Secretary showing activities carried out under the bill. The House receded to the Senate in agreeing to make the program available to families of foreign agricultural personnel instead of limiting it to spouses. This takes account of the participation of other members of the family in representational activities abroad. With the monetary ceiling on the authorization, it is expected that the authority would be used only in meritorious situations.

Mr. Speaker, I sponsored the bill introduced in the House because I thought it important to the image of the United States that families of USDA assigned abroad have proficiency in the language of the country to which they are assigned. This is a good bill. Other departments of Government currently have the authority to provide for this language training but not the USDA. I urge the Members of the House to join me in support of the conference report.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, there is little that I can add to the explanation of this conference report as provided by Mr. DE LA GARZA, except to say that our conference was relatively brief, inasmuch as there were not what I would consider to be substantial differences between the House and Senate versions of this bill. The differences were resolved without considerable difficulty, and I believe that what we bring you today is a resolution of the differences in a manner that should be very acceptable to the House membership.

The House did recede on limiting the orientation and language training to spouses only, because the Senate argued that while there are few cases, USDA employees on foreign assignment might wish to take an older daughter or son to serve on a foreign assignment, and that it is helpful that such individual can receive the same type of language training that would be given to a spouse—and for that reason, the House receded with respect to that disagreement.

The Senate receded to the House with regard to provisions that authorized the use of foreign currencies generated under Public Law 480 to help carry out the program of language training in foreign countries to which USDA employees and their families are assigned. The Senate also receded to the House regarding a requirement that the Secretary of Agriculture submit annually to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry a detailed report showing activities carried out under this program.

Finally and most important, the committee on conference agreed to a provision that would limit appropriations not to exceed $50,000 annually, except for fiscal year 1976, for the purposes of language training for USDA employees and their families. I consider this to be a major concession on the part of the Senate in that it does limit the funds to be expended for this purpose, and it was also the agreement of the conferees that any Public Law 480 foreign currencies used for the purposes of language training would be subject to this $50,000 annual limitation.

In my opinion, the limitation on funding was the most important provision as far as the House was concerned, and I believe that $50,000 is a reasonable cap to place on these expenditures—and for that reason I urge your adoption of the conference report.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 347, nays 10, answered "present" 1, not voting 72, as follows:

[Roll No. 720]

YEAS—347

Abnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Bedell
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger

Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—10

Ashbrook
Bennett
Crane
Evans, Ind.
Landrum
Lloyd, Tenn.
McDonald
Milford
Mottl
Paul

ANSWERED "PRESENT"—1

Mazzoli

NOT VOTING—72

Abzug
Addabbo
Andrews, N.C.
AuCoin
Badillo
Beard, R.I.
Beard, Tenn.
Biaggi
Breaux
Brinkley
Burke, Mass.
Carter
Chappell
Chisholm
Conlan
Coughlin
Delaney
Dellums
Dent
Diggs
du Pont
Early
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Tenn.
Frey
Green
Hanley
Hansen
Harrington
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Howe
Jones, Okla.
Koch
McCollister
McEwen
McKinney
Matsunaga
Moakley
Moss
Murtha
O'Neill
Peyser
Riegle
Risenhoover
St Germain
Scheuer
Spellman
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Symms
Tsongas
Udall
Wampler
Waxman
Wolff
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Andrews of North Carolina.

Mr. Addabbo with Mr. Carter.

Mrs. Spellman with Mr. English.

Mr. St Germain with Mr. Peyser.

Mr. Zeferetti with Mr. Brinkley.

Mr. Young of Georgia with Mr. Steelman.

Mr. Moakley with Mr. du Pont.

Mr. Delaney with Mr. James V. Stanton.

Mrs. Chisholm with Mr. Symms.

Ms. Abzug with Mr. Esch.

Mr. Chappell with Mr. Scheuer.

Mr. Breaux with Mr. Conlan.

Mr. Badillo with Mr. Stephens.

Mr. Hanley with Mrs. Holt.

Mr. Koch with Mr. Eshleman.

Mr. Matsunaga with Mr. Steiger of Arizona.

Mr. Moss with Mr. Coughlin.

Mr. Murtha with Mr. Jones of Oklahoma.

Mr. Evans of Colorado with Mr. Ford of Tennessee.

Mr. Helstoski with Mr. Howe.

Mr. Burke of Massachusetts with Mr. Stuckey.

Mr. Biaggi with Mr. Green.

Mr. Dent with Mr. Harrington.

Mr. Dellums with Mr. McCollister.

Mr. Early with Mr. Fish.

Mr. Risenhoover with Mr. Hébert.

Mr. Diggs with Mr. Wampler.

Mr. Riegle with Mr. Henderson.

Mr. Steed with Mr. Waxman.

Mr. Stratton with Mr. McEwen.

Mr. Udall with Mr. Frey.

Mr. Wolff with Mr. Hansen.

Mr. AuCoin with Mr. Heinz.

Mr. Beard of Rhode Island with Mr. McKinney.

Mr. Tsongas with Mr. Beard of Tennessee.

Mrs. LLOYD of Tennessee changed her vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REVISED DEFERRAL FOR SOCIAL SECURITY ADMINISTRATION'S LIMITATION ON CONSTRUCTION ACCOUNT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–610)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I report a net increase of $11.1 million in the amount previously deferred for the Social Security Administration's Limitation on construction account.

The details of the revised deferral are contained in the attched report.

GERALD R. FORD.

THE WHITE HOUSE, *September 14, 1976.*

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report on S. 3052 just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT DURING 5-MINUTE RULE TODAY

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may be permitted to sit today for the purpose of taking testimony and receiving evidence only during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman by his statement has assured us that it is primarily for hearings and investigative purposes only?

Mr. FLYNT. During the 5 minute rule, that is correct.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. TREEN. Further reserving the right to object, Mr. Speaker, I would ask the gentleman from Georgia what the committee will be receiving testimony on?

Mr. FLYNT. Mr. Speaker, if the gentleman will yield, this is on the investigation directed by the House pursuant to the provisions of House Resolution 1042 relating to the Select Committee on Intelligence.

Mr. TREEN. And that would be the only purpose?

Mr. FLYNT. During the 5 minute rule, that is correct.

Mr. TREEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ANNOUNCEMENT OF FIRST MEETING OF COMMISSION ON ADMINISTRATIVE REVIEW

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I would like to announce to my colleagues that the first meeting of the Commission on Administrative Review will be held on Friday, September 17, 1976, at 9 a.m. in room 1302 of the Longworth Building.

PROVIDING FOR CONSIDERATION OF H.R. 15319, HABEAS CORPUS RULES

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1535 and ask for its immediate consideration.

The clerk read the resolution as follows:

H. RES. 1535

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 15319) to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit with or without instructions.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. Anderson) and I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1535 provides for the consideration of H.R. 15319, habeas corpus rules, to promulgate certain amendments to the rules of procedure for use in cases and proceedings arising under title 28, United States Code, sections 2254 and 2255. The resolution provides for an open rule, with 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The habeas corpus rules legislation makes certain changes in the rule of procedure in section 2254 providing that a person being held in State custody may apply to a Federal court for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." The bill also makes certain changes in section 2255 providing that a person who is held in Federal custody may, by motion, seek release from that custody "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

H.R. 15319 amends, in both sections 2254 and 2255, Supreme Court rule 2, petitions; rule 8, evidentiary hearings; rule 9, delayed or successive petition; and rule 10, powers of magistrates.

Most of the changes made in the bill are technical or clarifying changes, with one exception relating to rule 9. As promulgated by the Supreme Court, rule 9 provided that petitions and motions for relief filed 5 years after judgment created a presumption of prejudice to the government. The petitioner or movant had the burden of overcoming this presumption. The bill deletes this rebuttable presumption in order to conform the rules to existing statutory and case law. Also, rule 9 as promulgated by the Supreme Court permitted dismissal of a successive petition or motion alleging new grounds for relief if the court found that the failure to raise those grounds previously was "not excusable." The bill changes this standard to permit the court to dismiss if it finds that the failure constituted an abuse of the writ or the procedures.

Mr. Speaker, I urge adoption of House Resolution 1535 so that we may proceed to the consideration of the changes in the habeas corpus rules, H.R. 15319.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 1535 would make in order the consideration of the bill, H.R. 15319, the so-called habeas corpus rules. This resolution provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary. The bill would then be read for amendment under the 5-minute rule. In short, this is a straight, 1-hour open rule with no limitation on germane amendments and no waivers.

Mr. Speaker, the bill which this rule would make in order makes some eight amendments in all to the two sets of Supreme Court habeas corpus rules promulgated on April 26, 1976. Those two sets of rules deal with the conditions and procedures under which prisoners held in State or Federal custody may apply to a Federal court seeking release from that custody. Those rules were to have taken effect on August 1, 1976, under the terms of the "Rules Enabling Acts," but that effective date was postponed until 30 days after this Congress adjourns sine die by Public Law 94-349 which passed this House on June 7, 1976, and was signed into law on July 8.

Mr. Speaker, the habeas corpus bill was reported from Judiciary by a voice vote on August 31; there are no minority or dissenting views in the report. This rule was likewise reported by voice vote in the Rules Committee. I am informed that the administration has no objection to this bill. I urge adoption of this rule and passage of the bill it makes in order.

Mr. Speaker, I have no requests for time, and I reserve the remainder of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. McFall). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. PEPPER. Mr. Speaker, will the gentleman withhold his request?

Mr. ROUSSELOT. What is there to withhold?

Mr. PEPPER. We were going to handle three rules that were noncontroversial. We have two more to handle, and I would hope that the gentleman would let us dispose of those rules more rapidly before we have a quorum call.

Mr. ROUSSELOT. I think we call this a vote, but I am willing to discuss it. Does the gentleman want to have a vote on just one?

Mr. PEPPER. We have already had one. We have two more. They are noncontroversial rules, and I would hope that we might be able to dispose of those three rules. They are noncontroversial rules.

Mr. ROUSSELOT. This is not a quorum call; this is a vote.

Mr. PEPPER. I beg the gentleman's pardon.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 0, answered "present" 1, not voting 70, as follows:

[Roll No. 721]

YEAS—359

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage

Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Studds
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—0

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—70

Abzug
Addabbo
Andrews, N.C.
AuCoin
Badillo
Beard, R.I.
Biaggi
Breaux
Brinkley
Burke, Mass.
Carter
Chappell
Chisholm
Conlan
Coughlin
Delaney
Diggs
Dingell
du Pont
Early
English
Esch
Eshleman
Evans, Colo.
Fish
Fisher
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Howe
Johnson, Colo.
Jones, Okla.
Koch
Leggett
McCollister
McKinney
Matsunaga
Moakley
O'Neill
Peyser
Riegle
Risenhoover
St Germain
Sarbanes
Scheuer
Spence
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symms
Tsongas
Udall
Wampler
Wolff
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Fish.

Mr. Burke of Massachusetts with Mr. Riegle.

Mr. Addabbo with Mr. Stephens.

Mr. AuCoin with Mr. Udall.

Mr. Harrington with Mr. Wampler.

Mr. Breaux with Mr. Risenhoover.

Mr. Chappell with Mrs. Sullivan.

Mr. Badillo with Mr. Stuckey.

Mrs. Chisholm with Mr. du Pont.

Mr. Delaney with Mr. Scheuer.

Mr. Evans of Colorado with Mr. McCollister.

Mr. Biaggi with Mr. Peyser.

Mr. Hanley with Mr. Spence.

Ms. Abzug with Mr. Green.

Mr. Dingell with Mr. Hansen.

Mr. Beard of Rhode Island with Mr. McKinney.

Mr. St Germain with Mr. Coughlin.

Mr. Diggs with Mr. Esch.

Mr. English with Mr. Symms.

Mr. Ford of Tennessee with Mr. Henderson.

Mr. Hébert with Mrs. Holt.

Mr. Helstoski with Mr. Moakley.

Mr. Leggett with Mr. James V. Stanton.

Mr. Koch with Mr. Steiger of Arizona.

Mr. Matsunaga with Mr. Early.

Mr. Jones of Oklahoma with Mr. Howe.

Mr. Sarbanes with Mr. Heinz.

Mr. Steed with Mr. Conlan.

Mrs. Spellman with Mr. Eshleman.

Mr. Tsongas with Mr. Fisher.

Mr. Wolff with Mr. Johnson of Colorado.

Mr. Young of Georgia with Mr. Carter.

Mr. Zeferetti with Mr. Brinkley.

Mr. Stratton with Mr. Andrews of North Carolina.

Mr. BAFALIS changed his vote from "nay" to "yea."

The resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WHITE. Mr. Speaker, on July 1, I voted against the motion on House Resolution 1372 to recommit the measure with instructions to report it back with a substitute to rescind the authority given to the House Administration Committee by the 92d Congress, retroactive to June 23, 1976. The Congressional Record of July 1, 1976, incorrectly shows me as "not voting" on rollcall No. 502. I ask unanimous consent that this statement appear in the permanent Record to reflect this error.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14940, IMPLEMENTATION OF THE TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES AND SPAIN

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1519 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1519

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14940) to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 14940, the House shall proceed to the consideration of the bill S. 3557, section 402 of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, and it shall be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions of H.R. 14940 as passed by the House.

The SPEAKER pro tempore. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1519 provides for the consideration of H.R. 14940 to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The resolution would permit the House to consider the legislation under an open rule with 1 hour of general debate to be divided and controlled in the customary manner. The rule also makes it in order to call up the bill S. 3557 for the purpose of substituting the House-passed language, and waives points of order which could be raised under section 402 of the Congressional Budget Act—Public Law 93-344.

Section 402 prohibits consideration of authorization bills for fiscal year 1977 unless they were reported by May 15, 1976. S. 3557 was reported in the Senate, after the May 15 deadline, on June 11 and was passed in the Senate on June 18, 1976. Earlier that day, Senate Resolution 464, making it in order for the Senate to consider the authorization bill, was adopted.

H.R. 14940 does not violate the Budget Act. The bill was made necessary by Section 507 of the International Security Assistance and Arms Export Control Act of 1976—Public Law 94-329, which actually constitutes the only legal authorization of the security assistance appropriations needed to implement the treaty for fiscal year 1977. That act authorized such sums as may be necessary to implement the Spanish Bases Treaty, subject to a hold on the obligation and expenditure of these funds until approved by the Congress in subsequent legislation such as H.R. 14940.

The need for legislation to release the funds grew out of the House request of the Senate to consider the inclusion of a reservation to any Senate consent to the treaty which would retain for the House its constitutional and historic prerogative of legislative authorization of appropriations to fulfill security treaty commitments. The executive branch viewed provisions in the treaty as constituting authorization in law for the appropriations necessary to implement the treaty, and this constituted an unprecedented attempt by the executive branch to authorize security assistance appropriations by means of a treaty provision, rather than by legislation.

We are calling up the Senate bill, S. 3557, solely for the purpose of inserting the House-passed language and, therefore, the waiver does not violate the Budget Act. This assurance was provided to the Committee on Rules by the Budget Committee which has no objection to the waiver.

Mr. Speaker, the hope has been expressed that this new treaty between the

United States and Spain will further Spain's progress toward free institutions and toward greater participation in the institutions of Western European political and economic cooperation.

I urge adoption of House Resolution 1519 so that we may proceed to the consideration of H.R. 14940.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1519 would make in order consideration of the bill, H.R. 14940, which authorizes the obligation and expenditure of funds to implement in fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain. This rule provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on International Relations. Following general debate, the bill will be read for amendment under the 5-minute rule.

Mr. Speaker, the only difference between this and any other 1-hour open rule is that provision is made, after passage of the bill, to take up the Senate version, S. 3557, and insert the language of the House-passed bill. In order to do this, it is necessary to waive section 402 (a) of the Budget Act against consideration of the Senate bill. Section 402 of the Budget Act prohibits House consideration of any measure authorizing new budget authority unless it has been reported in the House on or before May 15 preceding the beginning of the fiscal year in which that new budget authority is to take effect. Our Rules Committee did receive a letter from Chairman Adams of the Budget Committee agreeing to the budget waiver since it is technical in nature only. There is no language in the House bill which is violative of the Budget Act and the waiver is only necessary in order to insert the House language under the Senate number. I therefore urge the adoption of this rule.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 2371, REGULATION OF MINING IN AREAS OF THE NATIONAL PARK SYSTEM

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1520 and ask for its immediate consideration.

The Clerk read the resolution as follows:

> H. Res. 1520
>
> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1520 is an open rule providing 1 hour of general debate on the bill S. 2371, providing for the regulation of mining activity within areas of the national park system.

Mr. Speaker, S. 2371 passed the other body in February and was referred in the House to the Committee on Interior and Insular Affairs which reported the bill by a vote of 34 to 5. The bill as reported deals only with mining activity at six units of the national park system. These six units are currently open to mineral entry under the provisions of the mining law of 1872. Enactment of the bill as reported would close five of these areas and a portion of the sixth, subject to valid existing mining rights. The bill would also impose restraints on continued production from existing operations and place a 4-year moratorium on new operations at three of the areas. Finally, the bill requires certain studies by the Secretary of the Interior and provides the Secretary with specific authority to regulate mining activity permitted under the bill.

Mr. Speaker, I urge the adoption of House Resolution 1520 so that we may proceed to the consideration of S. 2371.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from California (Mr. Sisk), this rule provides for 1 hour of general debate on S. 2371, regulation of mining in areas of the national park system, and that the bill shall be open to all germane amendments.

The primary purpose of S. 2371 is to close five units of the national park system, plus part of a sixth, to further mineral entry, subject to valid existing rights.

The five units closed to further mineral entry are, first, Crater Lake National Park; second, Mount McKinley National Park; third, Death Valley National Monument; fourth, Coronado National Monument; and, fifth, Organ Pipe Cactus National Monument. The sixth unit, which is partly closed to further mineral entry is Glacier Bay National Monument.

The bill also includes specific authority for the Secretary of the Interior to regulate the exercise of the valid mineral rights existing within the national park system.

The administration has no objection to this bill as reported.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 0, not voting 70, as follows:

[Roll No. 722]

YEAS—360

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.

Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stephens
Stokes
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—0

NOT VOTING—70

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Biaggi
Breaux
Brinkley
Burke, Mass.
Carter
Chappell
Chisholm
Conlan
Coughlin
Delaney
Diggs
Dingell
du Pont
Early
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Harsha
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Howe
Jeffords
Jones, Okla.
Koch
McCollister
McHugh
McKinney
Matsunaga
Moakley
Murphy, N.Y.
O'Neill
Peyser
Rees
Riegle
Risenhoover
St Germain
Sarbanes
Scheuer
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stratton
Stuckey
Studds
Sullivan
Symms
Tsongas
Udall
Wilson, Tex.
Wolff
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr Hébert.

Mr. Chappell with Mr. Fish.

Mr. Addabbo with Mr. Jeffords.

Mrs. Chisholm with Mr. du Pont.

Mr. Biaggi with Mr. Harsha.

Mr. Matsunaga with Mr. McCollister.

Mr. Delaney with Mr. Hansen.

Mr. Beard of Rhode Island with Mr. James V. Stanton.

Mr. Badillo with Mr. Moakley.

Mr. St Germain with Mr. Henderson.

Mr. Wolff with Mr. Peyser.

Mr. AuCoin with Mrs. Sullivan.

Mr. Harrington with Mr. Steiger of Arizona.

Mr. Evans of Colorado with Mr. Jones of Oklahoma.

Mr. Hanley with Mr. McKinney.

Ms. Abzug with Mr. Dingell.

Mr. Diggs with Mr. Heinz.

Mr. Koch with Mr. Coughlin.

Mr. Zeferetti with Mr. Carter.

Mr. Young of Georgia with Mr. Charles Wilson of Texas.

Mr. Tsongas with Mr. Esch.

Mr. English with Mr. Conlan.

Mr. Burke of Massachusetts with Mr. Studds.

Mr. Stratton with Mr. Steelman.

Mr. Riegle with Mr. Eshleman.

Mr. Udall with Mr. Murphy of New York.

Mr. Risenhoover with Mr. Helstoski.

Mr. Green with Mr. Symms.

Mr. Early with Mr. Steed.

Mr. Howe with Mrs. Holt.

Mr. Brinkley with Mr. Scheuer.

Mr. Breaux with Mr. Stuckey.

Mr. McHugh with Mr. Sarbanes.

Mr. Ford of Tennessee with Mr. Rees.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON WATER AND POWER RESOURCES TO SIT THIS AFTERNOON

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water and Power Resources have the right to sit in hearing this afternoon, on hearings only.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HABEAS CORPUS RULES

Mr. HUNGATE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15319) to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15319, with Mr. COTTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Missouri (Mr. HUNGATE) will be recognized for 30 minutes and the gentleman from California (Mr. WIGGINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I rise in support of the bill H.R. 15319. At the outset, I should like to say that the bill has been drafted with bipartisan support and I know of no opposition to it.

BACKGROUND

Statutes known as the Rules Enabling Acts empower the Supreme Court to promulgate rules of practice and procedure for use in civil and criminal cases and proceedings. The Enabling Acts require that rules so promulgated be reported to the Congress by May 1 of each year, and they further provide that any rules so reported cannot take effect for 90 days. The purpose for the 90-day wait is to give Congress an opportunity to review the substance of whatever rules the Supreme Court may promulgate.

On April 26 of this year, the Supreme Court promulgated numerous rules of practice and procedure. These rules were to become effective on August 1, 1976, and they covered a wide area—including procedure in bankruptcy cases, procedure in criminal cases, and procedure in postconviction cases and proceedings. The rules promulgated by the Court, together with explanatory notes, were printed in House Document No. 94–464. In all, the rules and notes take up some 600 printed pages.

It became apparent that there was some controversy concerning the criminal procedure rules and the postconviction rules, which I shall refer to as the habeas corpus rules. Consequently, the Congress enacted legislation deferring the effective date of these rules—Public Law 94–349. The effective date of the habeas corpus rules was delayed from August 1 of this year until 30 days after the 94th Congress adjourns sine die. The effective date of the criminal procedure rules was delayed for 1 year because more of them were controversial.

The reason for delaying the effective date was to give Congress an adequate amount of time to study the substance of the proposed rules. H.R. 15319 is the result of a careful study of the habeas corpus rules.

THE HABEAS CORPUS RULES

There are two different statutes dealing with postconviction remedies in the nature of habeas corpus. One, 28 U.S.C. section 2254, deals with the situation where a person is held in State custody. It provides that the person may apply to a Federal court for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States."

The other statute, 28 United States Code, section 2255, deals with the situation where a person is held in Federal custody. Section 2255 provides that the person may, by motion, seek release from that custody "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

The Supreme Court's April 26 order promulgated a set of rules of procedure for cases and proceedings under each statute. The procedures that they establish are very similar. H.R. 15319 approves in toto the majority of the rules; only four rules in each set are amended by the legislation.

Perhaps the most noteworthy change is in rule 9 of each set of rules. As promulgated by the Supreme Court, rule 9 permitted a court to dismiss a petition for a writ of habeas corpus under 28 United States Code, section 2254 or a motion to set aside a sentence under 28 United States Code, section 2255 if the delay in filing the petition or motion prejudiced the United States or the State in its ability to respond. Further, it provided that—

> If the petition is filed more than five years after the judgment of conviction, there shall be a presumption, rebuttable by the petitioner, that there is prejudice to the state. When a petition challenges the validity of an action, such as revocation of probation or parole, which occurs after judgment or conviction, the five-year period as to that action shall start to run at the time the order in the challenged action took place.

H.R. 15319 changes these provisions so that rule 9 will not impose upon a person a rebuttable presumption of prejudice after 5 years. It is our belief that it is not sound policy to put such a burden on the petitioner or movant. Those facts that can prove or disprove prejudice are readily ascertainable by the United States or the State. It is not easy, and perhaps in some instances not possible, for a prisoner to ascertain those same facts. Further, the legislation will bring rule 9 into conformity with other provisions of law—especially those provisions embodied in congressionally enacted statutes.

Rule 9, as promulgated by the Court, also permitted a judge to dismiss a second or successive petition, or motion, even if the petition or motion alleged new and different ground for relief, if the judge found that the failure to assert those grounds in a prior petition or motion was "not excusable." H.R. 15319 deletes the "not excusable" language and amends the rule to permit dismissal if the judge finds that the failure to assert the new grounds in a prior petition or motion constituted an abuse of the writ or the procedures of the rule.

The Committee believes that the "not excusable" language created a standard that was new and undefined, one that gave a judge too broad a discretion to dismiss second or successive petition. The "abuse of writ" standard, on the other hand, brings rule 9(b) into conformity with existing law. A congressionally enacted statute, 28 United States Code section 2244(b), provides that a judge may deny a second or successive petition for a writ of habeas corpus which alleges new grounds only if the judge is satisfied that the petitioner deliberately withheld these grounds "or otherwise abused the writ." The Supreme Court used the same phrase in the case of *Sanders* v. *United States*, 373 U.S. 1, 17 (1963).

Other amendments to the rules were made by H.R. 15319. These changes were deemed to be more housekeeping in nature. Rule 2 was amended to make it clear that a petitioner or movant need only substantially comply with the new forms. The rule as promulgated was felt to put too much emphasis on strict compliance with the forms.

Rule 2 was also amended by H.R. 15319 to provide that if a petition or motion "does not substantially comply with the requirements of rule 2 or rule 3, it may be returned to the petitioner—or movant—if a judge of the court so directs." The change was made to insure that it is a district court judge who makes such a decision and not the court clerk.

Rule 8 of both sets of rules was amended to clarify that a judge, in his discretion, could appoint counsel, at an earlier or later time than the evidentiary hearing states if the "interest of justice so requires."

Rule 10 gives magistrates the authority to exercise certain powers under these rules, if the district court permits such action by local rule. H.R. 15319 amends rule 10 to require that the district courts first establish "standards and criteria" for the performance of any duties delegated to the magistrate by these rules.

The changes outlined are the only ones made by the bill. All the other rules were approved in their entirety.

Mr. Chairman, I urge the passage of this bill and reiterate that the bill has been drafted and reported out of the Judiciary Committee with bipartisan support. We feel it represents both an improvement of the original rules and a positive congressional input.

Mr. Chairman, at this time I express appreciation to the committee for their bipartisan effort. The Members on both sides of the aisle have contributed greatly to the study and understanding and improvement of these rules.

Mr. Chairman, I also express thanks to our staff, without whom we would not have reached this point.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I am happy to concur in the remarks of the distinguished gentleman from Missouri and associate myself with the gentleman's comments. I commend the gentleman for his leadership in this matter.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I would like to compliment the gentleman from Missouri, the chairman of the subcommittee (Mr. HUNGATE), for his enormous skill in bringing this bill forward today, a bill that will go far to protect the prerogatives of the Congress and insure the fair administration of justice in the courts.

The bill before us, H.R. 15319, concerns rules and forms to be followed in habeas corpus actions in the Federal district courts.

The writ of habeas corpus is a fundamental guarantee of liberty in our democratic system. It is the ultimate means by which a prisoner can test the legality of his or her imprisonment. Restricting the availability of the writ imperils, therefore, the freedoms we cherish.

Nonetheless, the proposed rules of habeas corpus, promulgated by the Supreme Court, contain provisions that not only appear to suspend the writ of habeas corpus, but also seriously to narrow the availability of the writ.

The subcommittee's action removes most of the restrictions that have been unwisely placed on the use of the writ, and therefore, substantially improves the proposed rules regarding habeas corpus.

Rule 9, as proposed by the Supreme Court, would have for the first time imposed a 5-year time limitation on filing of habeas corpus petitions by creating a prejudicial presumption for petitions filed later. The original rule 9 would have also seriously restricted a prisoner from raising new grounds in a second habeas corpus petition. The committee bill removed the time limit and lifted the overly stringent ban on successive petitions.

The committee's bill also deletes the proposed requirement that a prisoner's petition for habeas corpus strictly conform to a specific form. Instead the bill requires substantial compliance, thus permitting persons to seek the writ of habeas corpus without dotting every "i" and crossing every "t".

The committee bill revises rule 8 to clarify the authority of the judge to appoint counsel, not only for evidentiary hearings, but whenever justice so requires. Rule 10, as revised by the committee, makes clear that functions performed by a magistrate with respect to habeas corpus petitions must conform to standards and criteria established by the district court.

I support these revised rules, and I am glad that, as a member of the Criminal Justice Subcommittee, I was able to participate in improving the rules as promulgated. I regret, however, that time does not remain in this Congress to revise the procedure by which these rules were promulgated.

This bill marks the third time in 3 years that the Congress has had to revise rules, supposedly "promulgated" by the Supreme Court, but in fact written by the Judicial Conference and rubber stamped by the Court without independent analysis. Congressional review of these rules, and previously of the rules of evidence and rules of criminal procedure, revealed serious problems in the proposals requiring remedial legislation.

In my judgment, there are serious deficiencies in the rulemaking procedure. Despite the fact that the Judicial Conference proposes rules that profoundly affect the administration of justice in our Federal courts, it does not hold hearings or publicize adequately its proposed actions. Unless legislation is enacted, the rules automatically go into effect.

I hope in the next Congress that the Rules Enabling Act will be reviewed, and this rulemaking procedure revised.

Mr. HUNGATE. Mr. Chairman, I thank the gentlewoman for those kind remarks.

Mr. Chairman, this is a case where the Congress is having an influence on the course of law.

Mr. Chairman, I have no further requests for time.

Mr. WIGGINS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I, too, rise in support of H.R. 15319.

The Committee on the Judiciary has examined extensively the rules of procedure governing habeas corpus (28 U.S.C. 2254 and 2255) promulgated earlier this year by the U.S. Supreme Court. The committee received the opinions of numerous lawyers, scholars, and public officials. The result of the committee's examination has been an improvement which received bipartisan support.

Since these Supreme Court rules governing habeas corpus will go into effect 30 days after the sine die adjournment of the 94th Congress, if no legislative action is taken, it is important that improvements such as these be approved as expeditiously as possible.

Together with its rules, the Supreme Court also promulgated a set of forms to be followed by those petitioning for habeas corpus relief. In accord with the spirit of habeas corpus, H.R. 15319 provides that the petition be only in substantially the form prescribed so as not to penalize persons for minor mistakes. In dealing with delayed petitions, the Supreme Court's rules established 5 years as the point at which prejudice to the State is presumed and authorized dismissal of the petition for that reason. Although prejudice to the State occasioned by a delay in filing a habeas corpus is certainly to be considered, it was felt that deletion of the arbitrary 5-year period more accurately states existing case law and places the burden of proving prejudice on the proper party.

In dealing with successive petitions for habeas corpus, the Supreme Court rules permitted judges to dismiss if the petitioner asserted new grounds for relief and his failure to raise them in an earlier petition was "not excusable." H.R. 15319 deletes "not excusable" and inserts "constituted an abuse of the writ" to bring the section into conformity with existing case law and to present as clear a standard as possible.

H.R. 15319 also modifies the rules to emphasize that counsel may be appointed for indigent persons at any time during any stage of the case "if the interest of justice so requires."

Finally, the bill changes the proposed rules to specify that magistrates cannot be delegated duties under the rules unless empowered by district court rule and only "to the extent that the district court has established standards and criteria for the performance of such duties."

Mr. Chairman, this bill, so far as I know, was unanimously supported by the members of the Committee on the Judiciary and by the subcommittee, which gave it careful consideration. I know of no amendments to be offered to the bill, save perhaps some technical amendments. I urge adoption of the bill.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. WIGGINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE), a member of the subcommittee.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding to me. I wish to support everything that has been said thus far on this important legislation, and to pay tribute to the Criminal Justice Subcommittee. It is a great pleasure to work with such fine legal minds, who are not only lively and thoughtful in approaching these problems, but extremely skilled.

We have a great staff, headed by Tom Hutchison, who is the chief counsel to the majority; and Bob Lembo, who is assistant minority counsel; Ray Smietanka and M. Douglass Bellis, who serve our subcommittee on the legislative council.

Mr. Chairman, I also want to pay a special tribute to the chairman of the subcommittee, the gentleman from Missouri (Mr. HUNGATE), who brings not only an incisive legal mind to these problems, but a sense of dispatch and great humor which is unique in this body. So, it is a great pleasure to have served on the subcommittee, and I think this is a product vastly superior to what was submitted to us by the Judicial Conference and the Supreme Court.

Mr. Chairman, I urge its prompt adoption.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding to me. I listened attentively and have been very much impressed by what has been said. I gather that the net result of this act has been to enlarge the ambiance, or nexus, or context of the procedures which the Supreme Court and the Conference have produced.

Is there any area in this measure in which there are procedural restrictions not found in the Conference or Supreme Court recommendations?

Mr. HUNGATE. I will reply—and my colleagues will correct me as I err—that the Supreme Court sent these rules over under the Rules Enabling Act, with which the gentleman is familiar, and if we do nothing, we get it. So we did take action to postpone this habeas corpus change because we feared some of them might be too restrictive and if no action should be taken here today, 30 days after the Congress adjourns we will have new rules with which the Congress had nothing to do.

So what we sought to do is, the courts seemed to us in the Conference to be concerned with an escalating number of writs of habeas corpus and a plethora, if that is a clean word, over and over and over, and being tied down with frivolous conditions might keep them tied down with matters of no substance and delay them in reaching more serious meritorious matters.

But we did not want to expedite the people in jail out of business. We did not want them to be tied too tightly to a strict form. If a man got the form substantially correct, we said that should be enough, substantially. We tried to make it so that it would not be presumed against him simply because he did not get to file a writ of habeas corpus for 5 years, that he was automatically presumed to be wrong. The Court will still be in a position to probably handle its business more expeditiously, and we believe the Judicial Conference thinks so too.

But we submit we have taken a step for the individual who might need this great writ, which ranks with the Magna Carta and is much cheaper to visit.

Mr. GONZALEZ. I thank the distinguished chairman. I am in wholehearted agreement with him. I might add that has been the philosophical intent on the part of the committee and the subcommittee. I agree with the chairman and the other Members in this action, and I congratulate the gentleman on the expeditious nature of the action.

Mr. HUNGATE. I thank the gentleman, and I thank my colleagues for their customary generosity. I know of no abler group of men with whom I have had the privilege of working in this Congress than the present Members of that subcommittee, and that almost includes Dave Dennis, so that is as high a praise as I can give. As a matter of fact, had I known how kind they were to be, I might have quit years ago.

Mr. WIGGINS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HUNGATE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rules governing section 2254 cases in the United States district courts and the rules governing section 2255 proceedings for the United States district courts, as proposed by the United States Supreme Court, which were delayed by the Act entitled "An Act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court" (Public Law 94–349), are approved with the amendments set forth in section 2 of this Act and shall take effect as so amended, with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977.

SEC. 2. The amendments referred to in the first section of this Act are as follows:

(1) Rule 2(c) of the rules governing section 2254 cases is amended—

(A) by inserting "substantially" immediately after "The petition shall be in"; and

(B) by striking out the sentence "The petition shall follow the prescribed form.".

(2) Rule 2(e) of the rules governing section 2254 cases is amended to read as follows:

"(e) RETURN OF INSUFFICIENT PETITION.—If a petition received by the clerk of a district court does not substantially comply with the requirements of rule 2 or rule 3, it may be returned to the petitioner, if a judge of the court so directs, together with a statement of the reason for its return. The clerk shall retain a copy of the petition.".

(3) Rule 2(b) of the rules governing section 2255 proceedings is amended—

(A) by inserting "substantially" immediately after "The motion shall be in"; and

(B) by striking out the sentence "The motion shall follow the prescibed form.".

(4) Rule 2(d) of the rules governing sec-

tion 2255 proceedings is amended to read as follows:

"(d) RETURN OF INSUFFICIENT MOTION.—If a motion received by the clerk of a district court does not susbtantially comply with the requirements of rule 2 or rule 3, it may be returned to the movant, if a judge of the court so directs, together with a statement of the reason for its return. The clerk shall retain a copy of the motion.".

(5) Rule 8(c) of the rules governing section 2254 cases is amended by adding at the end: "This rule does not limit the appointment of counsel under section 3006A of title 18, United States Code, at any stage of the case if the interest of justice so requires.".

(6) Rule 8(c) of the rules governing section 2555 proceeding is amended by adding at the end the following: "This rule does not limit the appointment of counsel under section 3006A of title 18, United States Code, at any stage of the proceeding if the interest of justice so requires.".

(7) Rule 9(a) of the rules governing section 2254 cases is amended by striking out the second and third sentences.

(8) Rule 9(b) is amended by striking out "is not excusable" and inserting "constituted as abuse of the writ".

(9) Rule 9(a) of the rules governing section 2255 proceedings is amended by striking out the final sentence.

(10) Rule 9(b) of the rules governing section 2255 proceedings is amended by striking out "is not excusable" and inserting "constituted an abuse of the procedure governed by these rules".

(11) Rule 10 of the rules governing section 2254 cases is amended by inserting ", and to the extent the district court has established standards and criteria for the performance of such duties" immediately after "rule of the district court".

(12) Rule 10 of the rules governing section 2255 proceedings is amended by inserting ", and to the extent the district court has established standards and criteria for the performance of such duties," immediately after "rule of the district court".

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

Mr. HUNGATE. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, that the reading of the committee amendments be dispensed with, and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 3, line 12, strike out "This rules does" and insert in lieu thereof "These rules do".

Page 3, beginning in line 13, strike out "section 3006A of title 18, United States Code," and insert in lieu thereof "18 U.S.C. § 3006A".

Page 3, line 16, strike out "2555" and insert in lieu thereof "2255".

Page 3, beginning in line 16, strike out "proceeding" and insert in lieu thereof "proceedings".

Page 3, beginning in line 17, strike out "This rules does" and insert in lieu thereof "These rules do".

Page 3, beginning in line 18, strike out "section 3006A of title 18, United States Code," and insert in lieu thereof "18 U.S.C. § 3006A".

Page 3, line 25, insert "in lieu thereof" immediately after "inserting".

Page 4, line 5, insert "in lieu thereof" immediately after "inserting".

Page 4, line 14, strike out "atfer" and insert in lieu thereof "after".

Page 4, line 14, insert a comma immediately after "duties".

The committee amendments were agreed to.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. COTTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 15319) to approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code, pursuant to House Resolution 1535, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 4, not voting 66, as follows:

[Roll No. 723]

YEAS—360

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—4

Grassley
Kelly
Mottl
Paul

NOT VOTING—66

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Biaggi
Boggs
Breaux
Brinkley
Burke, Mass.
Carter
Chappell
Chisholm
Conlan
Danielson
Delaney
Diggs
du Pont
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Howe
Jones, Okla.
Koch
Leggett
McCollister
McKinney
Matsunaga
Moakley
O'Neill
Peyser
Rees
Rhodes
Riegle
Risenhoover
St Germain
Sarbanes
Scheuer
Steed
Steelman
Steiger, Ariz.
Stratton
Stuckey
Studds
Sullivan
Symms
Tsongas
Udall
Wolff
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Fish.
Mr. Breaux with Mr. du Pont.
Mr. Chappell with Mr. Riegle.
Mr. Addabbo with Mr. Helstoski.
Mrs. Chisholm with Mr. Esch.
Mr. Biaggi with Mr. McCollister.
Mr. Matsunaga with Mr. Hansen.
Mr. Delaney with Mrs. Holt.
Mr. Beard of Rhode Island with Mr. Eshleman.
Mr. Badillo with Mr. Henderson.
Mr. St Germain with Mr. Peyser.
Mr. Wolff with Mr. Steiger of Arizona.
Mr. AuCoin with Mr. Jones of Oklahoma.
Mr. Harrington with Mr. McKinney.
Mr. Evans of Colorado with Mr. Heinz.
Mr. Hanley with Mr. Danielson.
Ms. Abzug with Mr. Carter.
Mr. Diggs with Mr. Conlan.
Mr. Koch with Mr. Steelman.
Mr. Zeferetti with Mr. Symms.
Mr. Young of Georgia with Mr. Stuckey.
Mr. Tsongas with Mr. Evins of Tennessee.
Mr. English with Mr. Hébert.
Mr. Burke of Massachusetts with Mr. Howe.
Mr. Stratton with Mr. Leggett.
Mr. Udall with Mr. Rees.
Mr. Green with Mrs. Sullivan.
Mr. Risenhoover with Mr. Steed.
Mrs. Boggs with Mr. Sarbanes.
Mr. Brinkley with Mr. Studds.
Mr. Ford of Tennessee with Mr. Scheuer.
Mr. Moakley with Mr. Rhodes.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2710

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 271) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, with Senate amendments to the House amendments, disagree to the Senate amendments, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees: Messrs. JONES of Alabama, ROBERTS, WRIGHT, ROE, JOHNSON of California, ANDERSON of California, BREAUX, HARSHA, DON H. CLAUSEN, and CLEVELAND.

IMPLEMENTATION OF TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES AND SPAIN

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14940) to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14940, with Mr. COTTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 14940, which constitutes the implementing legislation for the Treaty of Friendship and Cooperation between the United States and Spain. The treaty is widely known as the Spanish Bases Treaty although it contains a number of provisions which are not related to defense.

H.R. 14940 has three main purposes. The chief purpose is to authorize the obligation and expenditure of funds to implement the Spanish Bases Treaty for fiscal year 1977. The total cost of H.R. 14940 is estimated by the Committee on Internal Relations to be approximately $36 million.

It should be noted that this is only a 1-year authorization, although the treaty commitment runs for 5 years.

A second purpose is to authorize several other actions by the executive branch necesary to implement the treaty, such as to allow the sale to Spain of four minesweepers without an additional report to the Congress and to use the proceeds from the lease of F–4E aircraft to Spain for the repurchase of F–4C aircraft from Spain.

The bill's third purpose is to express a policy statement by the Congress of concern for the evolution of domestic processes in Spain.

Mr. Chairman, this bill, R.H. 14940, is a necessary follow-up to section 507 of the International Security Assistance Act of 1976, H.R. 13680, which authorized the appropriation of such funds as may be necessary to implement the provisions of the Spanish Bases Treaty for fiscal year 1977. Section 507 prohibited the obligation and expenditure of these funds until further implementing legislation for the base agreement with Spain, such as this bill, has been approved by the Congress.

This somewhat unusual procedure, involving two separate authorizing actions, was used in order both to meet the May 15, reporting deadline for authorizing legislation and to give the International Relations Committee the time required for a thorough scrutiny of the details of the treaty and the required implementing legislation.

This bill, together with section 507 of the International Security Assistance Act, H.R. 13680, constitutes the necessary legislation to allow the executive branch to spend the funds, once they are appropriated, to implement the Spanish Treaty. Chairman MORGAN is to be commended for his efforts to protect the full authorization prerogatives of his committee and this body. It is another example of the kind of responsible leadership typical of his distinguished tenure as chairman of the Committee on International Relations. I fully share his view that the Congress must retain its full power of the purse over the security assistance programs, including those related to international agreements.

Mr. Chairman, H.R. 14940 would free $35 million for obligation and expenditure in fiscal year 1977 as follows:

Fifteen million dollars for grant military assistance;

Two million dollars for grant military training;

Seven million dollars in security supporting assistance for cultural, education, scientific and technological programs; and

Twelve million dollars to provide guaranties for up to $120 million in military sales credits.

In addition, the bill would permit transfer of naval vessels which Spain may wish to purchase from the United States, and

Would permit the United States to go forward with a lease of aircraft to Spain at a possible cost to the United States of $2 million.

Finally, the bill contains a policy statement of the Congress expressing concern for the evolution of democratic institutions in Spain. It is similar to language in the Senate's resolution of advice and consent expressing the intent of the Congress that the treaty will serve to support and foster Spain's progress toward free institutions and toward Spain's greater participation in Western European political and economic cooperation. This policy statement makes it clear that the treaty does not create a mutual defense commitment to Spain or an expansion of the U.S. commitment to the North Atlantic Treaty Organization in that area, but that the Congress does look forward to the development of such an expanded relationship between Western Europe and a democratic Spain which would be conducive to fuller Spanish cooperation with NATO.

Mr. Chairman, this bill, H.R. 14940, has been carefully drafted and marked up in the Committee on International Relations and thoroughly scrutinized. I hope the House sees fit to pass this bill and to thereby endorse both the authorization prerogatives of the House relating to security assistance programs and the treaty commitments of the United States toward Spain.

Mr. Chairman, should the House adopt the language of H.R. 14940 I intend to bring up S. 3557, the companion Senate bill, and move to strike out all after the enacting clause and insert in lieu thereof the text of H.R. 14940 as it has passed the House.

Mr. MITCHELL of Maryland. Will the gentleman yield for a question?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, with reference to the second major objective of the bill, another purpose is to authorize several other actions by the executive branch necessary to implement the treaty. May I raise a question about the extent to which, if any, the treaty allows for Central Intelligence operations from our country in Spain.

Mr. FASCELL. It does not provide anything.

Mr. MITCHELL of Maryland. Does it preclude those operations at all?

Mr. FASCELL. It does not even discuss them. That is not the purpose of the agreement at all.

Mr. MITCHELL of Maryland. If the gentleman will yield further, I would like to explain why I am raising the questions. As the gentleman knows, there is a tremendous struggle going on on the African Continent as several of the black African nations are seeking their independence. We have seen from time to time that there has been CIA involvement with one faction or another in the various African nations that are struggling for independence.

In addition to that, there have been reports indicating that those CIA operations were based in certain parts of the world, and one mentioned was Spain. That is the reason I am raising the question.

The gentleman is assuring me that, No. 1, there is no such arrangement made between the Central Intelligence Agency in Spain in this bill?

Mr. FASCELL. Mr. Chairman, in this bill there is absolutely nothing for the CIA. The other purposes the bill refers to, which brings the question in the first instance, are very particularly spelled out in the bill.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for yielding.

Mr. FASCELL. Mr. Chairman, that basically covers the principal purposes of the bill. I did want to talk about the policy statement for a moment, but I will leave that for another member of the committee whose amendment was involved in that policy statement. I think it is a very important one.

Mr. Chairman, I reserve the balance of my time at this moment.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. Chairman, I rise on behalf of H.R. 14940, and join my colleague, the distinguished chairman of the Subcommittee on International Political and Military Affairs, in urging the House to act favorably on this historic and vital legislation. I would like to commend Mr. FASCELL for his handling of the legislation in committee and his clear explanation of the bill just now. While I do not need to repeat his comments, I would like to emphasize a point or two I think important.

Mr. Chairman, this legislation is historic, because we are standing with the Spanish at a turning point in their history. When we began our security arrangements with Spain in 1953, we did so by means of executive agreements with a dictatorship. While this arrangement was somewhat distasteful to many Americans, it served our national interest well during a period when we needed to secure the southern flank of Europe against a Soviet thrust. Now, a quarter of a century later, we have concluded a treaty to the same purpose with a moderate Spanish Government. It is appropriate that we elevate the importance of our Spanish relations, because the current fledgling government of Spain needs our encouragement far more than Franco's regime ever did, and for that matter we need Spain far more than we ever did before. This new set of agreements can only strengthen the moderates in the Spanish Government, by providing a comprehensive set of ties between our countries in a variety of field—economic, cultural, education, and scientific, to name part of the list.

Mr. Chairman, this legislation is also vital, because it supports the treaty package which is strategically invaluable to the United States. In the past year our relations with our eastern Mediterranean allies have deteriorated, Italy reflected sizable Communist gains in their last election, and the Soviets meanwhile have massively increased their naval presence in the Mediterranean.

We cannot afford the luxury of dismissing our ties with Spain as a holdover from the Cold War. In my opinion, we should retain the closest of ties with Spain. Further, when Spain enters NATO, as it must in a very few years, it will behoove us to be in a close relationship with that country.

Mr. Chairman, I am also a sponsor of H.R. 14940 because we need to assure that the Congress has an appropriate role in implementing the treaty package. Without such legislation the treaty itself would be the only authorizing authority, and I do not believe that we should permit that state of affairs to develop. The precedent would clearly be a dangerous one. While I think that execution of foreign policy is constitutionally a matter for the executive branch, I am sure that no diplomacy can be successful without the support of the people through their elected representatives in Congress. There is a clear division of responsibility in this matter, and we should make it clear that we are going to carry out our part.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the Treaty of Friendship and Cooperation between the United States and Spain. Let me explain, very briefly, why I think this treaty is important to the security of this country and to the stability of the entire Mediterranean area.

It is difficult these days to be optimistic about the security situation in the Mediterranean. We can no longer take for granted the continued vitality of NATO, the keystone of our alliance system. NATO's southeast flank has been crippled by the bitter, intractable Cyprus dispute and our allies have added the issue of air and mineral rights in the Aegean to their agenda of grievances.

Further to the East the situation in Lebanon is disquieting and has demonstrated on at least two occasions the importance of an American naval presence in the area. The Arab-Israeli dispute, quiet for almost a year, still retains the potential to erupt again in violence. We have seen the Italian Communist Party make significant gains in the most recent elections, raising long-term questions about Italian participation in NATO. President Tito of Yugoslavia is ailing, and we must begin now to consider the complex and dangerous question of succession in that nation.

In this troublesome environment, there is an oasis of stability, an important area in which U.S. forces and bases have not become an embarrassment or an impossibility. The treaty we discuss today would make it possible for this Nation to maintain important security installations on Spanish territory and, at the same time, would demonstrate our determination to foster the best possible relations with the Spanish Government and people as King Juan Carlos attempts to redress problems created by more than 35 years of authoritarian rule.

There are those who will argue that King Juan Carlos is not moving fast enough in the direction of democratic reform; there will be suggestions that we withhold the approval implicit in this treaty until we have a clearer idea where Spain is heading. I respectfully disagree. Most of us had the privilege of hearing King Juan Carlos when he was in this country recently, and I, for one, was impressed and convinced of his determination to relax the restrictions that have stifled freedom in Spain for almost four decades.

The Spanish people need the friendship and support of the United States as they dismantle the apparatus of totalitarianism and move in the direction of democracy. By working together as partners we may be able to hasten developments that will produce a democratic, stable, and prosperous Spain sensitive to American security interests in the Mediterranean.

The treaty before us is not an American gratuity to the Spanish Government. In the political language of today, it is indeed a two-way street. Access to air and naval installations in Spain is vital to a continued strong American presence in the Mediterranean area, a presence that serves the interests of this country, of Spain, and of the Western democracies.

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 14940—Treaty of Friendship and Cooperation between the United States and Spain—and wish to commend the members of the committee for their positive contribution to America's defense as represented in this bill. This Treaty of Friendship and Cooperation between the United States and Spain provides for continued American use of military facilities on Spanish territory with their strategic importance for North Atlantic and Mediterranean security. The build-up of Soviet naval forces, the instability in the eastern Mediterranean and the uncertainty of access to military bases in Greece and Turkey give added significance to passage of this bill. It supports Spain's role in North Atlantic defense and contributes to its possible future role in NATO. While these provisions do not form a commitment to defend Spain, they do recognize its continuing role in the security of the west.

This treaty also gives recognition and encouragement to Spain's commitment to political and social development and liberalization. To reaffirm the friendly and cooperative relationship which exists between our two countries, Mr. Chairman, I urge passage of this bill.

Mr. WINN. Mr. Chairman, I reserve the balance of my time, but as of now I have no further requests for time.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Chairman, this bill, H.R. 14940 authorizes the obligation and expenditure of funds for fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation with Spain, otherwise known as the Spanish Bases Treaty. Although the treaty commitments cover a 5 year period this bill covers only 1 year, fiscal year 1977.

The authorization for the appropriation of these funds was contained in section 507 of the International Security Assistance and Arms Export Control Act of 1976.

Section 507, at the same time, prohibited the obligation and expenditure of these funds until further legislation implementing the base agreement with Spain has been enacted into law.

Mr. Chairman, there is an important principle involved in H.R. 14940. The Spanish Bases Treaty, as originally submitted to the Senate by the executive branch, would have authorized the appropriation of funds to implement the Treaty.

I and other Members of the Committee on International Relations found this unacceptable in that it would have eliminated the Committee and the House from the authorization of a security assistance program. Mr. ZABLOCKI is especially to be commended for his persistent efforts to resist this move by the executive branch.

Such a procedure is unprecedented and was of considerable concern to us.

I, therefore, wrote to Senator SPARKMAN, chairman of the Senate Foreign Relations Committee, protesting the attempt by the executive branch to authorize security assistance appropriations through a provision in the Spanish Bases Treaty, rather than by legislation coming before the authorizing committee under normal procedures.

In response to my letter, Senator SPARKMAN expressed his agreement with the position of the International Relations Committee.

As a result, the Senate Resolution of advice and consent contained a declaration which said, and I quote:

> The sums referred to in the Supplementary Agreement on Cooperation Regarding Materiel for the Armed Forces and Notes of January 24, 1976, appended to the Treaty, shall be made available for obligation through the normal procedures of the Congress, including the process of prior authorization and annual appropriations, and shall be provided to Spain in accordance with the provisions of foreign assistance and related legislation.

This bill is pursuant to that declaration. It is not in any way intended to constitute congressional approval of the treaty itself, but rather as implementing legislation.

Mr. Chairman, the United States has had access to military bases in Spain since 1953 in return for economic and military assistance from the United States. This present treaty will help insure U.S. access to useful military facilities at a reasonable cost, and will help to provide a solid base for expanded future cooperation with Spain.

Mr. Chairman, I hope that the Members of this body will approve this bill which has been carefully drawn by the Committee on International Relations. It is a good bill, one which will contribute to the security of the United States and to Western Europe.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority member of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 14940. My remarks shall be brief and are intended only to reaffirm my particular concern over one important aspect of this legislation.

It is an issue already addressed by the distinguished and respected chairman of the House International Relations Committee (Dr. MORGAN) and our esteemed colleague from Florida (Mr. FASCELL), chairman of the Subcommittee on International Political and Military Affairs. Their wholehearted support of my concern has been reassuring.

Briefly and to the point, I have consistently voiced apprehension and disappointment over executive branch procedures in negotiating this treaty and what, in turn, that conduct reflects as their attitude toward the Congress.

Specifically, I refer to the alarming disregard of the Executive toward the power of the purse granted to Congress in the Constitution. What the negotiating record of this treaty reflects is an unprecedented attempt by the Executive to authorize the appropriation of security assistance funds by treaty provision, rather than by authorizing legislation as has always been the case in the past.

All of this suggests that the executive branch looks upon the legislative authorization process as something which can be separated from the essential spending power of the Congress.

By their reckoning, that constitutional prerogative is something which can be dispensed with at will and replaced with a treaty provision when it so pleases the treaty makers.

Attempts by Chairman MORGAN to diminish that assertion and halt that usurpation of power have gone far toward minimizing the lasting negative impact which could have been created. I am hopeful that any similar executive branch efforts will be resisted in the future.

On that understanding, and with the expressed determination to have that understanding prevail in the future, I shall vote in favor of H.R. 14940 and urge my colleagues to do likewise.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I want to commend the gentleman from Wisconsin for his leadership in this effort. There are several things of note which I think ought to go in the RECORD because of the gentleman's concern and his followup on the matter with the chairman of the full committee and with the committee in the other body.

First of all, as the gentleman knows, the arrangements with Spain in the past have been executive agreements and, as a result of the interest and concern of the gentleman from Wisconsin, and others, the administration agreed at this time the matter would be submitted to the Congress by way of a treaty. Then the question arose, after the treaty was signed and presented to the other body, as the gentleman knows, as to whether or not the treaty itself would be the authorizing vehicle for the funds necessary to implement the treaty. And there, of course, the gentleman from Wisconsin and the chairman stepped in and, as a result, now we have the authorizing and appropriations process in the regular order. I think that this procedure is something which ought to be followed in the future. So this bill sets a very fine precedent in maintaining the oversight by the House in these matters and it is also one of the rare occasions in which the House has had an opportunity to involve itself in the treaty, in its actual substance. So I want to commend the gentleman for his efforts.

The final thing that was accomplished by these efforts is that we took the implementing legislation on a 1 year basis, instead of taking all 5-years for the entire treaty, so that the Congress, and the House specifically, in authorizing the appropriations would have oversight on this matter.

Mr. ZABLOCKI. I want to thank the gentleman from Florida for his kind remarks. I want to point out that it was not only the work of the gentleman from Wisconsin, or any one Member, but it was the fine work and persistence of the chairman of our committee, who had written the chairman of the Foreign Relations Committee in the other body, Senator SPARKMAN, and the chairman of the subcommittee which made it possible that this legislation would be on a 1-year basis, which really locks in and demands for the House a necessary role in the authorization process.

Mr. FASCELL. Mr. Chirman, I yield such time as he may consume to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I rise in support of this bill. I would like to address myself very briefly to what seems to me to be the most serious objection which was raised during the course of our hearings on this measure to the treaty with Spain itself. There were a number of Members of the House, for whom the triumph of fascism and the defeat of the Republican cause during the Spanish Civil War 40 years ago was one of the most critical events of our century, who thought it would be a mistake for us to link ourselves so closely with Spain before democracy took firmer root in that country. I have to say that there is a measure of validity to that concern.

On the other hand, it was the clear conscious of the Senate, which adopted this treaty overwhelmingly, as well as the International Relations Committee, which considered this legislation very carefully, that the defeat of this legislation authorizing funds for 1 year to implement the treaty with Spain would objectively serve to discourage the development of democracy in Spain. And the reason for this is that those forces within Spain which are most prominently associated with this treaty also happen to be the forces which are most actively committed to the development of the full flowering of democracy in that country. We were deeply concerned that if this legislation were defeated, instead of encouraging the development of democracy in Spain, it would objectively serve to discourage it.

At the same time, I think it is also very important to point out that the reservation put into the treaty, as a consequence of the letter sent by the distinguished chairman of the International Relations Committee to the Senate Foreign Relations Committee, providing that the adoption of the treaty was in no way meant to obviate the necessity for the annual authorization and appropriating procedures in the House, as well as the Senate, that if in fact this treaty does not lead to the development of democracy in Spain, this House and the other body retain the right in the future, depending on circumstances, not to appropriate the money called for by the treaty.

Mr. Chairman, in conclusion, I want to point out to my colleagues on the Committee that section 3 of this bill, as the result of an amendment adopted in our committee, specifically provides that the Congress "intends that the treaty will serve to support and foster Spain's progress toward free institutions and toward Spain's participation in the institutions of Western Europe political and economic cooperation."

I would suggest to Members of the Committee that the adoption of this amendment and the legislative history of this bill, based on the hearings in our committee, the debate in the Senate, and the debate today in the House, make it abundantly clear that we expect this treaty to encourage the development of democracy. We do not simply hope it will encourage the development of democracy; we expect it to do that, and if it does not, we retain the right not to provide the funds called for in the treaty.

On that basis, Mr. Chairman, I think there is every reason to support this legislation, and then after it is passed, we can take a close look at what happens in Spain in the coming year before deciding whether to authorize and appropriate the funds called for by the treaty next year.

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. I have no further requests for time, but I would like to take this opportunity while I have the attention of the House and have possession of the microphone to pay tribute to the chairman of the full Committee on International Relations (Dr. MORGAN) who is retiring at the end of this session of Congress.

It has been a great pleasure for me personally to work with the gentleman from Pennsylvania (Dr. MORGAN). He has been fair, and he has been interested in every one of the bills and in every piece of legislation that has not only come through this subcommittee but from the entire committee. He has counseled the Members on both sides of the aisle, and he is one of the fine negotiators in this Congress. I take this time specifically to pay tribute to him and say that we will miss him. I hope he will not be very far away.

Mr. BURKE of Florida. Mr. Chairman, as a cosponsor of H.R. 14940—as well as being a member of the Committee on International Relations—I rise in support of this bill (H.R. 14940) which will authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship between the United States and Spain signed at Madrid on January 24, 1976. Unquestionably, the implementation of this treaty is an act of great significance to the United States and those forces of freedom scattered throughout the North Atlantic and Mediterranean region.

First, let me say that this treaty places the relationship between the United States and Spain on a much more solid basis. Ever since September 1953, our relationship with Spain has rested on the more fragile basis of executive agreements, as distinct from a treaty relationship. The most recent of these agreements—entered into effect in 1970 for a period of 5 years—was extended in September 1975 for 1 year and is thus due to expire this coming September. With a view to extending the U.S. basing rights in Spain, negotiators from the two countries began discussions in late 1974.

However, during the period of discussion, an event of far-reaching consequence occurred in Spain—the death of Generalissimo Francisco Franco, whose Fascist reign had dominated Spanish life since the victory of his Nationalist forces in the savage civil war of the late 1930's. For Spain, Franco's death unquestionably marks the beginning of a new era, opening the opportunity for a progressive liberalization of Spanish political life and expanded relations between Spain and the other nations of Western Europe.

With the implementation of this treaty, it can be anticipated that the next step will be further consideration by the members of NATO—who have until now looked askance at Spanish participation in any regional agreement having to do with the military defense of Western Europe—to allow Spain to become a member of the North Atlantic Treaty Organization. I think that she would fit in very well geographically and militarily. And with the political reforms that are presently set in motion, I would judge that Spain would also fit in politically.

Mr. Chairman, this treaty comes to us at a time when events and trends in world affairs cannot on balance be said to offer the United States much grounds for encouragement. Peace in the Middle East remains as ever as elusive dream. The tragedy that has been visited upon the people of Lebanon continues. The Soviet Mediterranean Fleet—already outnumbering the U.S. Sixth Fleet by a dozen ships—has been reinforced by a major strategic aircraft carrier with two more on the way. Throughout the entire Eastern Mediterranean region, the United States finds that its strategic position has eroded to such an extent that it is becoming necessary to reevaluate whether or not a strong presence in this area will be possible in the not too distant future.

In the meantime, the problems within NATO continue unabated. The conflict between Greece and Turkey over Cyprus remains unresolved. The uncertainty over the political future of Italy and the instability of events in Portugal are constant reminders of an alliance in disintegration. Upcoming elections raise doubts about the continuity and direction of power in both France and Germany whereas in England the new government under the leadership of James Callahan face problems seemingly insurmountable.

In the North Atlantic region, Soviet pressure on Norway over the Spitzburgen Island group continues and the course of diplomatic negotiations leaves one little reason to be sanguine about the outcome. Against this backdrop, therefore, the Treaty of Cooperation and Friendship with Spain—and particularly the hoped for evolution toward democracy in that country—becomes an especially bright light and source of encouragement.

In the first instance, this treaty enhances the military dimension of our national security. By affording the United States access to the three airbases at Torrejon, Zaragosa, and Moron and the naval base at Rota, our overall security posture in Western Europe, the Mediterranean, and the North Atlantic is strengthened. The truth of this becomes particularly pronounced as the Soviet conventional buildup in this area continues. For unless the United States has facilities from which to be able to project conventional power into areas of national concern, it will soon find that increased Soviet pressure will assume an increasingly commanding role in the direction which events will take. These naval and airbases are essential ingredients in the successful employment of American power in this vital area of the world.

However, our national security cannot be measured in military terms alone. There is also a political and an economic dimension. Of greater significance than the economic—greater because it gives direction and meaning to trade and commerce—are the political factors. In addition to countering a growing Soviet military presence, the stationing of American military contingents in the Iberian peninsula will help to promote Spain's progress toward free and democratic institutions and a more liberal and progressive philosophy of government. It will help it to stand in opposition to those forces of totalitarianism both on the right from its fascist groups and on the left from both the Communist Party and groups even more radical. This promotion of Spain's deliberate and steady evolution toward the institutionalization of democratic principles will serve to enhance the security of the United States.

Mr. Chairman, the basic rationale underlying this conclusion is very clear. American security in large part depends upon our ability to defend ourselves from foreign aggression. This largely explains the presence of the American alliance system around the world. However, the national defense requires more than a military capability and willingness to use that capability. In addition it is important to consider the international political climate and the kinds of values and political institutions which exist in it throughout the strategic areas of the world. For we can be successful in deterring military aggression and yet, at the same time, see a kind of international political structure come into existence which will be inimical to our own political life and values. And if we are forced to interact with an international environment totally opposed to our way of life, then, it will only be a matter of time before we become like that which we formerly opposed.

Hence, it is imperative that we make every effort to preserve those democratic institutions presently existing around the world and to encourage by the presence of our full commitment those which are beginning to emerge. For apart from a world order conducive to American institutions, the United States will have no environment in which to express itself as a nation and will eventually succumb to the multiplicity of forces with which it is fundamentally at odds. The long-term survival of the United States and those European nations with which it is aligned are inextricably bound together. Europe cannot hope to remain independent without the United States and the United States cannot preserve its integrity without the appropriate environment in which to interact.

Mr. Chairman, on August 4, 1914, just days after Germany had declared war on Russia and France, Edward, Viscount Grey of Fallodon, standing at the windows of his room in the Foreign Office watching the lamplighters extinguish the lights in St. James' Park, solemnly declared:

> The lamps are going out all over Europe; we shall not see them lit again in our lifetime.

Thus, in a brief but poignant statement was expressed the future destiny of Europe. Grey saw that Europe, which during his day had been the cultural, social, political, military, and economic center of the world, was to be reduced to a second-rate power status. No longer was it to be allowed the opportunity of controlling those events which would determine its own fate. Instead it was moving toward a new world configuration, a configuration as yet unknown at that time. Let us make certain that the same will not be said of the United States at some point in the not too distant future.

I urge that the U.S. House of Representatives give its approval to the implementation of this Treaty of Friendship with Spain. It will not only strengthen the friendship between our two countries and help to maintain peace and stability throughout Western Europe, by giving support to those forces of democracy in Spain, it will also enhance our own national security.

Mr. SIKES. Mr. Chairman, I am glad to add my support to H.R. 14940, a bill to implement the Treaty of Friendship and Cooperation between the United States and Spain.

The close ties between our nations go back many years. They began during the American Revolution when Spanish forces successfully engaged the British in Mobile and in Pensacola. These and other activities in the Caribbean and in the Gulf of Mexico helped to hold British and Indian forces in check when they otherwise would have been engaged against the struggling American colonies. The relations between our two countries and our peoples have grown even closer in recent years. The confrontation for the world leadership between Communist dictatorships and the Western Powers has emphasized the need for both friendship and for mutual cooperation in trade and defense.

The agreement to be implemented by H.R. 14940 is the result of many months of discussions between officials of the two governments. By adopting this version of the implementation mechanism, we will accomplish several very important things for ourselves, our allies, and for the cause of world peace.

First, we will be expressing our support of the democratic processes now underway in Spain. The bill is, in part, a policy statement by the Congress that we are concerned about freedom everywhere in the world.

Second, the bill provides a continuation of the agreement for the use of military bases and facilities in Spain by American forces stationed in Europe or who may be sent to Europe on training or other exercises.

Finally, the bill provides a method whereby we can compensate the Spanish people and government for the use of these facilities as well as assisting them in defending themselves against attack should such equipment be required for that purpose.

All who have studied the application of military power in Europe know how important our facilities in Spain are to our own security and to the security of our friends in NATO. While it is regrettable that the important submarine base at Rota will not be available for U.S. based Poseiden submarines, the base will continue to be an important facility for use for training and other purposes.

The air base at Torrejon will be used for a fighter wing as well as for a headquarters function, storage of war materiel, and for other purposes. Zaragoza will be used by the United States as will Moron. In addition, there are about 18 other smaller facilities which will be available to U.S. forces as a result of this agreement including vital weather, communications, and storage facilities.

In return, the United States, through this agreement, will provide certain assistance for the life of the treaty—5 years.

This treaty in no way constitutes a defense agreement as such. It serves only to provide the United States with badly needed military facilities abroad at reasonable cost. This is particularly important when we consider that many areas have been closed to our forces in recent years. A very important consideration is the fact that this agreement provides us a welcome opportunity to work toward bringing Spain into closer association with the NATO alliance.

Mr. Chairman, this body should be fully aware of the importance of the warm relationship and mutual understanding which exists between the Government and people of the United States and Spain. The continuation of our relationship with Spain may be the key to peace in the Mediterranean. The Spanish want peace even as we do. They want security for their homes and their loved ones. They want our support and help in their own efforts toward economic and political stability.

For these reasons, I fully support this legislation. It serves well the national interests of the United States and our friends, and it will help a special ally, Spain, move with us toward our common goals.

I urge support of H.R. 14940.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to carry out the programs and activities provided for in the Treaty of Friendship and Cooperation between the United States of America and Spain, signed at Madrid on January 24, 1976, including its Supplementary Agreements and the exchange of notes related to those Supplementary Agreements (hereafter in this Act referred to as the "treaty"), of the amounts authorized to be appropriated for fiscal year 1977 under section 507 of the International Security Assistance and Arms Export Control Act of 1976, not to exceed the following amounts shall be available for obligation and expenditure to carry out the treaty:

(1) For military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, $15,000,000.

(2) For security supporting assistance under chapter 4 of part II of such Act, $7,000,000.

(3) For international military education and training under chapter 5 of part II of such Act, $2,000,000.

(4) For guaranties under section 24 of the Arms Export Control, $12,000,000.

(b) For purposes of section 507 of the International Security Assistance and Arms Export Control Act of 1976, this Act satisfies the requirement of subsection (b) of such section with respect to funds appropriated under such section to carry out the treaty.

SEC. 2. (a) Except as provided in subsection (b), foreign assistance and military sales activities carried out pursuant to the treaty shall be conducted in accordance with provisions of law applicable to foreign assistance and military sales programs of the United States.

(b) Section 620(m) of the Foreign Assistance Act of 1961 shall not apply with respect to the programs and activities described in subsection (a).

(c) In carrying out the provisions of article VI of Supplementary Agreement Number 7 (relating to modernizing, semiautomating, and maintaining the aircraft control and warning network in Spain), the United States contribution of not to exceed $50,000,000 shall be financed from Department of Defense appropriations made for that purpose.

(d) This Act satisfies the requirements of section 7307 of title 10 of the United States Code with respect to the transfer of naval vessels pursuant to Supplementary Agreement Number 7.

(e) In order to carry out the provisions of article X of Supplementary Agreement Number 7 (relating to lease and purchase of aircraft), the proceeds from the lease of aircraft to Spain under that article shall be available only for appropriation for the purchase of aircraft by the United States for the purposes of that article.

SEC. 3. (a) The Congress, recognizing the aspiration of Spain to achieve full participation in the political and economic institutions of Western Europe, and recognizing further that the development of free institutions in Spain is a necessary aspect of Spain's full integration into European life, intends that the treaty will serve to support and foster Spain's progress toward free institutions and toward Spain's participation in the institutions of Western Europe political and economic cooperation.

(b) The Congress, while recognizing that the treaty does not expand the existing United States defense commitment in the North Atlantic Treaty area or create a mutual defense commitment between the United States and Spain, looks forward to the development of such an expanded relationship between Western Europe and a democratic Spain as would be conducive to Spain's full cooperation with the North Atlantic Treaty Organization, its activities and mutual defense obligations.

(c) The Congress, recognizing that the treaty provides a framework for continued nuclear cooperation for peaceful purposes with Spain, looks forward to a continued relationship in this field commensurate with steps taken by Spain toward becoming a party to the Treaty on the Non-Proliferation of Nuclear Weapons or placing all of its nuclear facilities under safeguards administered by the International Atomic Energy Agency.

SEC. 4. The authorities contained in this Act shall become effective only upon ratification of the treaty and shall continue in effect only so long as the treaty remains in force.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. COTTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14940) to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, pursuant to House Resolution 1519, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 34, not voting 65, as follows:

[Roll No. 724]

YEAS—331

Abdnor
Adams
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hannaford
Harris
Harsha
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stephens
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob

Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—34

Allen
Burke, Calif.
Burton, John
Carney
Carr
Cochran
Conyers
Davis
Dellums
Drinan
Edgar
Emery
Gaydos
Goodling
Haley
Hall, Tex.
Hechler, W. Va.
Holtzman
Jacobs
Johnson, Colo.
Kastenmeier
Miller, Calif.
Mills
Mitchell, Md.
Moffett
Montgomery
Mottl
Nolan
Paul
Pressler
Roush
Roybal
Stark
Stokes

NOT VOTING—65

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Beard, Tenn.
Biaggi
Breaux
Brinkley
Burke, Mass.
Carter
Chisholm
Conlan
Delaney
Diggs
du Pont
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Mich.
Ford, Tenn.
Green
Hanley
Hansen
Harkin
Harrington
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Howe
Jones, Okla.
Koch
Long, Md.
McCollister
McKinney
Matsunaga
Milford
Moakley
Nedzi
O'Neill
Passman
Peyser
Riegle
Risenhoover
St Germain
Scheuer
Steed
Steelman
Steiger, Ariz.
Stratton
Stuckey
Studds
Symms
Tsongas
Udall
Wiggins
Wilson, C. H.
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Hébert.
Mr. Hanley with Mr. Harrington.
Mr. Addabbo with Mr. Passman.
Mr. Evans of Colorado with Mr. Milford.
Mr. Koch with Mr. Beard of Tennessee.
Mr. Zeferetti with Mr. Badillo.
Mr. Beard of Rhode Island with Mr. Biaggi.
Mr. Breaux with Mr. du Pont.
Mr. Delaney with Mr. Esch.
Mr. Matsunaga with Mr. Fish.
Mr. Moakley with Mr. Brinkley.
Mr. Nedzi with Mr. Wiggins.
Mr. Ford of Michigan with Mr. Symms.
Mr. Diggs with Mr. Conlan.
Mr. Green with Mr. Scheuer.
Mr. Helstoski with Mr. Peyser.
Mr. Jones of Oklahoma with Mr. English.
Mr. Stratton with Mr. Henderson.
Mr. Tsongas with Mr. Studds.
Mr. Udall with Mr. Long of Maryland.
Mr. Charles H. Wilson of California with Mr. Eshleman.
Mr. Riegle with Mrs. Holt.
Mr. Risenhoover with Mr. Steiger of Arizona.
Mr. Ford of Tennessee with Mr. Young of Georgia.
Mr. Burke of Massachusetts with Mr. Stuckey.
Mrs. Chisholm with Mr. Howe.
Ms. Abzug with Mr. McCollister.
Mr. Harkin with Mr. Heinz.
Mr. Steed with Mr. Steelman.
Mr. St Germain with Mr. McKinney.
Mr. AuCoin with Mr. Hansen.

Messrs. JACOBS and HECHLER of West Virginia changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 1519, the Committee on International Relations is discharged from further consideration of the Senate bill S. 3557, to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. FASCELL: Strike out all after the enacting clause of S. 3557 and insert in lieu thereof the provisions of H.R. 14940, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, and was read the third time, and passed.

The title of the Senate bill was amended so as to read: "To authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14940) was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR THE REGULATION OF MINING ACTIVITY WITHIN, AND REPEALING THE APPLICATION OF MINING LAWS TO, AREAS OF THE NATIONAL PARK SYSTEM, AND FOR OTHER PURPOSES

Mr. TAYLOR of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 2371, with Mr. CORMAN in the chair.

The Clerk read the title of the Senate bill.

By unanimous consent, the first reading of the Senate bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. TAYLOR) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, S. 2371 is an important and controversial measure, but it is also one on which the House should act this year.

S. 2371 is the product of public hearings, a field investigation, and careful consideration by the Subcommittee on National Parks and by the full Interior Committee. It addresses a situation affecting six units of our national park system.

Designation as a unit of this system has always been considered to be the most secure form of protection which can be given to any Federal land. The 300 areas comprising our national park system are to be protected from development, and preserved for the benefit and enjoyment of the people of the United States.

Yet six of these areas are open to mineral entry under the Mining Law of 1872. These areas are:

Mount McKinley National Park, Alaska.

Crater Lake National Park, Oreg.

Death Valley National Monument, California and Oregon.

Glacier Bay National Monument, Alaska.

Organ Pipe Cactus National Monument, Ariz.; and

Coronado National Memorial, Ariz.

Except for part of Glacier Bay National Monument in Alaska, S. 2371 would close these areas to any further mineral entry under the mining laws, subject to valid existing rights. This would mean that no new claims could be filed for minerals in these areas.

Valid claims and patented rights, however, would still be subject to mining activity. The bill as reported directs the Secretary of the Interior to make studies of these rights and report back to the Congress with estimates of the costs of their acquisition, as well as an assessment of the consequences of allowing mining of the consequences of allowing mining to continue. He may even recommend boundary adjustments to exclude mineralized areas, if he sees fit. In this way, if Congress should determine at some future date that some or all of these existing rights should be purchased, the factual material needed to make a decision will be available.

Finally, in the case of three of the areas—Death Valley, Mount McKinley, and Organ Pipe Cactus—the bill restrains mineral production to its existing levels where additional surface area is to be disturbed. Any opening of new mines is precluded until Congress has the opportunity to receive the acquisition study and make an informed decision.

Mr. Chairman, we visited Death Valley National Monument last May. In that area increased mining activity with modern earth moving machinery in recent years is making dramatic changes. The provision adopted by the committee will permit existing mining operations to continue in Death Valley while the Secretary makes his study and report to Congress. At the same time, new mining operations would be delayed from starting in the valley, so we would not have new areas altered during this period.

This legislation has generated tremendous public interest, as many people were made aware for the first time that mining can take place in these areas. I believe S. 2371 as amended offers the Congress an opportunity to make a reasonable first step toward resolving these conflicting uses. We can close these areas to further mineral entry, protect the holders of valid existing rights, and direct that the necessary information be gathered to allow Congress to make informed choices in the future.

There has been some misunderstanding of the effect of this legislation. S. 2371 will permit continued operations where they now exist in Death Valley. The bill would even permit the opening up of new mines in Glacier Bay and two of the other areas, so long as they were located on valid existing claims. We are not going to cause any great economic dislocation here.

This bill stops new claims from being established but permits existing operations to continue. It directs a 4-year study and prohibits the opening of new mines on existing claims during the 4-year study period. Hopefully, after the study is completed we can find a way to give these areas the same protection now enjoyed by all other units of the National Park System.

I urge my colleagues to join me in passing this worthwhile measure.

Mr. SEBELIUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when it came to my attention a number of months ago that several of our National Park System units were wide open to mining and prospecting. I was both shocked and alarmed. I suppose my reaction was typical of that of many other Members whom I have heard express the same surprise.

National Park System status is generally the highest order of protection that can be bestowed on the federally owned lands of this Nation. In nearly all cases, these lands have been set aside—predominantly by specific act of the Congress itself—because of their special, unique and superlative national significance of natural, historic and/or scenic values. Yet it is a fact that there remain six areas of our National Park System which are open to the prospective desecration which can be brought by mining and prospecting activities. It is this situation which this bill is designed to correct.

I want to point out that, while it might appear to be desirable to abruptly and permanently halt any activity which could harm these sensitive environments, this bill does not and can not go quite that far.

This bill, as amended by the committee, will repeal application of the 1872 mining law to all six areas except for for Glacier Bay National Monument. By so doing, all new prospective destructive exploration activity will be halted. However, valid claims and rights which already exist may continue to operate and extract under certain controls and conditions as outlined by the bill. Moreover, for those extractive activities, the Secretary will be expected to tightly, but reasonably, control them so as to maximize protection of the environment. The only exception to these provisions is part of Glacier Bay National Monument, where, under the committee amendment, roughly a half million acres would remain open to further exploration and possible extraction. This is designed to accommodate some known and prospective further deposits of nickel.

Mr. Chairman, I and other members of the Interior Committee recently had the opportunity to inspect the mining activity at Death Valley National Monument in California. It is my feeling that there is indeed some mining activity there which has unduly scarred the landscape, and there is more that could occur there, without the enactment of this bill, which could cause much further damage. On the other hand one of the mining operations observed was operated in quite admirable fashion. Overall, however, this bill constitutes a very fair and equitable way to get a handle on the problem there.

I would point out that there was not opportunity for the committee to inspect the Glacier Bay National Monument problem, and in the absence of that, the ranking minority member of the full committee (Mr. SKUBITZ) and I planned an inspection trip there in July which was disapproved by the majority. So unfortunately, no committee member has had the opportunity to assess that important situation on-site and all decisions are being made by remote influences.

Mr. Chairman, this bill, as amended, has gone through a lot of debate and refinement by the committee, and its basic thrust is good and still remains close to the action taken by the Senate.

I urge the adoption of this bill by the House so that we can add a very needed and important measure of increased protection to these six units of the National Park System.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, seldom have I seen such immediate and overwhelming public response to legislation as last year when I introduced the bill to prohibit mining in the national park system. People all over the country were shocked to learn that mining is still allowed in some of our greatest national parks and monuments, areas that have been set aside to preserve intact our Nation's greatest natural and historical resources for present and future generations.

Out of nearly 300 units of the national park system, all but 6 are already closed to mining. But Glacier Bay, Death Valley and Organ Pipe Cactus National Monuments, Crater Lake and Mount McKinley National Parks, and Coronado National Memorial are not.

The bill I originally introduced, H.R. 9799, would have simply banned new mineral entry in the parks, subject to valid existing rights. The Senate-passed version of the bill, S. 2371, made a number of improvements in the details of the legislation, including provisions to more closely regulate existing mining. It was this bill that the House Interior Committee acted on and the one that is before us today.

There have been a number of misconceptions about this bill. In fact, the legislation will do less than the proponents want and less than the opponents fear. The bill would allow present mining to continue, thus protecting both existing jobs and production levels. It would, on the other hand, ban for 4 years any new surface disturbance on land in three of the areas, including Death Valley, that have not yet been mined. Most important, it would call a halt to the staking of new claims and thereby prevent even wider devastation in the future.

Although the legislation will benefit all parks, there are two which are of special concern, Death Valley and Glacier Bay, because they are the most threatened by mining activities. They have also been the focus of most of the interest in this bill.

Death Valley National Monument in California is a 2 million acre park famous for its rugged terrain and the magnificent desolation of its landscape. It is the lowest, hottest, driest place in the Western Hemisphere, and also one of the most fragile. Scars on the desert floor last forever. Reclamation, as we know it, is all but impossible.

Today the ancient and lone prospector with his mule and pick and shovel is gone and replaced by giant bulldozers that are stripping the surface of the land. Pictures which I took in May, when the subcommittee took its field trip, are over on the left side of the room on a placard for the Members to look at, as are pictures of Glacier Bay. In the early 1970's, underground mining was replaced by strip mining, when Tenneco started its large open pit borate mine. Now all the talc mines, except one, are surface mines, and some of the old underground mines have been made into strip mines. The only mineral commodities produced in the valley today are talc and borates.

The indications are that there are ample supplies outside of the national parks to meet needs. Colemanite, one of the borates being mined, is chemically interchangeable with other borates which are found in large quantities outside the monument. They may add a little bit to the cost sometimes, but they are chemically usable and interchangeable. The largest known borate reserve in the world is held by U.S. Borax at Boron, Calif., outside the monument. On the other hand, Tenneco, which has massive strip mining operations in the monument, produced only 5.4 percent of the total U.S. borate production. Indeed, half of our Nation's borate production is exported.

Talc is a particularly common mineral, occurring in many States in the United States, with California, the whole State, ranking fifth in production.

I cannot stress too much the fact that

this bill will not close any active mines in Death Valley. It will not curtail existing production, and it will not put anyone out of a job. Indeed, if the monument is massively defaced by strip mining, it will lose the very qualities which have attracted hundreds of thousands of visitors each year.

The monument itself has generated more jobs over the years than the mining companies. The companies employ about 60 persons, whose jobs are not in jeopardy by the bill. The National Park Service, its concession at Scotties Castle, and the motels on private land in the monument employ over 90 people in the summer and upward of 300 in the winter.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 4 additional minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Furthermore, Mr. Chairman, the payments-in-lieu-of-taxes bill, which passed the House in August by a wide margin, would provide Inyo County, which contains much of Death Valley, with an estimated $472,000 a year in Federal payments. Thus, even if all the mining in Death Valley ceased, which would not result from this bill, Inyo County would receive more than double what it is currently receiving in the $200,000 in tax revenues generated by the mining interests.

To temporarily suspend mineral entry for 4 years, as the amendment suggested by the gentleman from California (Mr. KETCHUM) would do, would be a meaningless gesture, and worse yet, it would gut the legislation. I will, therefore, vigorously oppose this amendment.

Mr. Chairman, let us turn to Glacier Bay. A not-too-funny thing happened on the way to the floor with this bill. The Committee on Interior and Insular Affairs, by a very close vote, deleted the western coast of Glacier Bay National Monument from the protection of the bill. I think this was a serious mistake, and so do a large number of other Members who joined me in filing separate views. Therefore, I intend to oppose that amendment.

The bill would protect all valid existing rights in Glacier Bay National Monument even without that amendment. No mining is occurring there now, and none would be prevented by this legislation, that is, none on existing claims. Inclusion of the western coast would not have any significant effect on the Nation's supply of minerals or on our Nation's economy.

Indeed, to include the entire National Park System while deleting the mineralized portions of Glacier Bay would make a mockery of this bill. We would be, in effect, saying that mining is off limits in all but one-fifth of one of our national parks.

The western coast of Glacier Bay contains spectacularly beautiful, pristine wilderness. It has our largest protected coastal wilderness. It is in fact the only wild, completely protected land/sea interface within the entire Pacific rim.

The minerals in Glacier Bay will always be there if we should need to mine them, but a wilderness once destroyed can never be reborn.

Both my original bill and the Senate-passed version included all of Glacier Bay. Both bills would allow the mining of existing claims and would have merely stopped the staking of new claims.

At present anyone with a pick and shovel—or, more likely, a bulldozer—can go into Glacier Bay and stake a claim. To compound the problem, the archaic mining laws would give the owner of a patented claim not only the right to the minerals, but actual title to the land. Although no mining has yet occurred, 20 claims have already been patented in Glacier Bay.

Before we expand mining in our parks, Mr. Chairman, we should first utilize those other areas where the same minerals exist. Nickel is the major mineral in Glacier Bay, and it is estimated to contain only 1 percent of our Nation's nickel resources. While it may or may not be of high quality, the fact is that it is not considered economically mineable, and, therefore, it cannot be considered a reserve.

Mr. Chairman, the U.S. Bureau of Mines estimates the nickel resources in Minnesota to be 6½ million tons, compared to 200 million tons estimated in Glacier Bay. The Office of Technology Assessment lists Minnesota as having 88 percent of the nickel resources, and Alaska as a whole as having only about 3.6 percent. The OTA further states: "Minnesota is the most promising area for exploration. The estimated size of this State's nickel resources is enormous."

Statistics alone, however, do not give the whole picture. This legislation would not prevent the mining of the 200 million tons of nickel in Glacier Bay now under claim. It will not cut off anything from anybody who has valid rights in the monument. What the bill would do is to preserve the future of this monument, on the same grounds and for the same purposes that we have preserved the rest of our national park system.

Mr. Chairman, the protection contained in this bill is as much needed in Glacier Bay as it is in Death Valley or in any of our great national parks.

Mr. SEBELIUS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to associate myself with the remarks of the gentleman from Ohio (Mr. SEIBERLING), who has just spoken.

I think it was a terrible shock to all of us in my constituency, where we have a large number of people who are very much concerned about the future of this country and its resources, to find that mining is allowed in our national parks. It was an enormous surprise to me and to all of us in the conservation and ecology movement, to discover that this was possible, not only that it was possible to allow it to continue, but that it was going on at all.

Mr. Chairman, I hope very much that the Alaska area can be kept as it is now, with no more than the patented claims which are valid. I hope that in Death Valley we can do the same.

Mr. KETCHUM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, may I ask the gentlewoman from New Jersey (Mrs. FENWICK) whether she has ever been to Death Valley?

Mrs. FENWICK. I have never been to Death Valley.

Mr. KETCHUM. Mr. Chairman, I hope the gentlewoman from New Jersey will listen to my presentation.

Mrs. FENWICK. Mr. Chairman, it seems to me that if there were matters concerning national security with which we were dealing, that would be another question. Furthermore, if there were no other reserves or no other places from which these minerals could be obtained, that would be another question. However, if there are large reserves right outside of the national parks, how on earth can we in this House consider ripping up the national parks? For what purpose, Mr. Chairman?

Since we have larger supplies outside of these areas which are supposed to be preserved, how can we justify the development in ways that are damaging to the enviromnent of these particular areas? That, to me, is the question, not how do we justify this bill, but how do we justify anything contrary to it, and how do we justify the exemption that has been given to the Glacier Bay area in Alaska?

Mr. SEBELIUS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Alaska (Mr. YOUNG), who is vitally interested in Glacier Bay.

Mr. YOUNG of Alaska. Mr. Chairman and Members of the House, I have the privilege of representing the whole State of Alaska, and I am representing here today the position of the State of Alaska.

My colleagues, it disturbs me at times when my good colleagues, the gentleman from Ohio (Mr. SEIBERLING) and the gentlewoman from New Jersey (Mrs. FENWICK), stand up and tell me what is right for the State of Alaska.

If I am not right, then the people will not send me back here.

Mr. Chairman, let us keep that in mind as this dialog is carried forth today.

One of the Members spoke about a funny thing that happened in committee, saying there was an amendment adopted by a two vote margin. Although that is not a large margin, it is a majority. That amendment was adopted in the committee because the Governor of the State of Alaska supports that amendment.

Mr. Chairman, that amendment, as adopted, separates 452,000 acres of land from the other 2,400,000 acres of land exempted from the mining laws. It allows the Department of the Interior to finish their study of the amount of minerals that are thought to be in that area.

We know today that there is the largest single nickel deposit in Glacier National Monument. We know today that the United States imports 90 percent of the nickel consumed. We know that this deposit of nickel alone is worth $1.2 billion. We also know, through the Bureau of Mines, that there is a large deposit of chrome, a large deposit of magnesium, a large deposit of iron ore. We do not know for sure, but we think they are there.

Mr. Chairman, my good friend, the gentlewoman from New Jersey (Mrs. Fenwick), said that this is not a national security question.

I cannot remember how many times we have argued on this floor as to whether we should import Rhodesian chrome. Yet, we have the possibility of chrome in Alaska. We know we have nickel.

Mr. Chairman, if any of the Members are from industrial areas, if any of them are familiar with the construction of automobiles, tractors, and so forth, let any Member show me one thing that does not have a percentage of nickel in it, and I will show him a piece of junk.

Mr. Chairman, we have to have that nickel to have properly manufactured goods for the consumer in the United States.

People talk about the great and glorious wilderness area at Glacier Bay National Monument, and I agree. However, there are 2,400,000 acres over here. I have a small picture. I did not have the privilege of having the Park Service pictures that the gentleman from Ohio (Mr. Seiberling) had.

I did not have those pictures, but I have small pictures that were taken approximately 20 miles from where any tourist ever was, and the mining site would be 40 miles beyond, and you cannot see it.

Furthermore, in mining the nickel, the nickel is in a nugget approximately 10,000 feet underground, under Brady Glacier, not Glacier Bay. This will be mined by a deep shaft mine. There will be no surface mining. We have the estimates that once the mining begins there will be only 34 acres disturbed in the whole mining process, 34 acres out of 3,800,000 acres.

Yet despite that, certain people on the floor of this House, and certain special interest groups across the United States, say we are destroying this vast wilderness. That is poppycock; it is not the truth.

The truth of the matter is that under this bill, and I support the bill, we have excluded 2,400,000, acres left it in the park inviolate, where there will be no mining, but we have taken out 400,000 acres to allow the Department of the Interior to carry on their continuing studies, and to allow the 20 claims to be valid.

The statement was made that under the present bill, or under the bill that will try to be amended, that there will be no taking away of the rights of claims in Glacier Bay National Monument land, and that the claims are valid. They are right, the claims are valid, but they forget to recognize that under the provisions there is no access to the claims. Can anyone tell me how they are going to mine 1 billion 200 million tons of nickel without access to it? I would like to hear about it. They must build a 10-mile road.

Some people have said the Park Service will allow us to have access. I say that is not true. The Park Service has never in its history allowed an access to any claims; McKinley is an example of where it did not. The claims are valid. They are patented, but they are absolutely useless.

So, Mr. Chairman, I am saying for the benefit of this Nation, and with the Governor's support, and the support of the Secretary of the Interior, and I have here Mr. Kleppe's letter and the support of the legislature of the State of Alaska, we can do this.

Let me read to you from the statement of the Assistant Secretary of the Interior for Fish and Wildlife and Parks, Nathaniel P. Reed, before the Subcommittee on National Parks and Recreation of the House Committee on Interior and Insular Affairs:

> The Department's position on this issue is that all units of the National Park System should be withdrawn from new locations of mining claims, subject to valid existing rights, except for Glacier Bay National Monument. The reason for this exception is that Glacier Bay is thought to contain large deposits of nickel and copper, critical minerals which are in short supply. Until a mineral survey of this National Monument has been conducted, we recommend that no final decision on its withdrawal be made. The Bureau of Mines and the U.S. Geological Survey have undertaken this survey, and their report is due in 1978.

My good friends, all I say to you, as I did in my opening remarks, is that I represent the State of Alaska and that I am trying to provide to this Nation vitally needed minerals, and also recognizing that this is one of the most beautiful spots in the United States, Glacier Bay. I am allowing 2,400,000 acres to remain, to be pristine, but I am taking out 400,000 acres to be studied by the Department of the Interior so that they may be utilized by the people, the consumers, of this great United States.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman from Alaska mentioned that this area was in his district and not my district. I might add that of course it belongs to the people of the United States, it is a national monument, it is a part of the National Park System. Further, I do not believe the gentleman from Alaska has any constituents living in Glacier Bay.

Mr. YOUNG of Alaska. That strengthens my point. There have been no visitors there, including myself.

Mr. SEIBERLING. There have been about 60,000 visitors who went there last year.

Mr. YOUNG of Alaska. They were in this section over here in the bay area and not down here. Those 60,000 visitors were over 40 miles away, where the real visitation area exists.

The further fact is, and let us be realistic about 60,000 visitors, they have never seen Brady Glacier.

Mr. SEIBERLING. If no one visited it, then how does the gentleman account for the pictures on the left side of the room over here?

Mr. YOUNG of Alaska. Those pictures were taken by the Park Service from their helicopter and were distributed to the gentleman from Ohio, not to me.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Nevada (Mr. Santini).

Mr. SANTINI. Mr. Chairman, I think we are being treated in microcosm this afternoon to the inevitable and continuing confrontation that is going to labor this body for years to come between the nonrenewable and the renewable resources. When I originally embarked upon this legislative foray some 20 months ago, I came with the naive expectation that there would be a fair, reasoned and analytical appreciation of the importance of the mineral resources to the economic and human betterment of this Nation. Unfortunately, it has been my experience, at least in some quarters and with some mentalities, that the mineral industry is such a convenient and easy target for outrageous distortion and misrepresentation for the purpose of playing to a much larger theater of voter reaction that it is often impossible to sort out accurate facts and figures within all the emotional colloquy. For those that have honestly involved themselves in examination of issues relative to the understandable difference of opinion between those responsible for protecting the renewable resource and those responsible for trying to communicate the importance of our nonrenewable resource this sort of rank political posturing is nonproductive.

Nickel happens to be the mineral resource that is in issue here this afternoon. This nation is presently importing 73 percent of our nickel. The principal importing nation is Canada, our ally across the northern border, who it is asserted would always deal fairly with us on the subject of the value of nickel. We have the interesting precedent of how fairly they have dealt with this Nation on the price of natural gas at the wellhead, which they have increased in 2½ years from 54 cents to $1.52, three times in violation of existing contractual relationships with American distributors. I have no doubt that if an economic impetus suggests a similar kind of hijacking when it comes to the price of nickel, we will get treated the same way.

I think we must fairly assess that prospect in examining the merits of the proposed legislation. My good friend, the distinguished legal scholar, eminent authority upon many complex issue areas with which this House must deal, the gentleman from Ohio (Mr. Seiberling) has made a case in part based upon substantial fact and in part based upon his own sources of misinformation. The distinguished gentleman from Ohio does not come before the body with the intention of misleading the body; he does come before the body with totally erroneous or only partially accurate information. I will address myself to those inaccuracies and then invite the gentleman from Ohio to respond in specific.

First of all, in somewhat more rhetorical than substantive sense he asserts that anyone with a pick and shovel, or more likely a bulldozer, can go into Glacier Bay and can stake a claim. That simply is not a fair assertion. Entries of any kind, even for prospecting, must be preceded by a permit issued by the Monument Superintendent. Never in the history of Park Service activity has bulldozing in the national parks been permitted by a monument superintendent. The claim is overstated and unfounded.

The distinguished author on matters related to environment and mines and mining and sincere protector of the environment has asserted that the archaic mining laws give the owner of a patent claim not only the right to minerals but actual title to the land itself.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. Chairman, will the gentleman yield for a question?

Mr. SANTINI. Mr. Chairman, I yield to the gentleman from North Carolina. I have a series of questions I would like to share with the gentleman.

Mr. TAYLOR of North Carolina. Mr. Chairman, did the gentleman state that never in the history of this country has bulldozing taken place in national parks?

Mr. SANTINI. For the purpose of extracting minerals.

Mr. TAYLOR of North Carolina. We went to Death Valley and we saw where the shovels and equipment, much heavier than bulldozers, were being used to extract minerals in the national park area.

Mr. SANTINI. But that was not with the consent of the National Park Service. I think the law is eminently clear that they had the authority as a condition precedent for occupation of the national park use to preclude irrational disturbance or unsightly surface and the chairman's point is well taken. There was irresponsibility in the Death Valley National Park by some of those engaged in the removal of talc.

To continue my point that the archaic mining laws give the owner of a patent claim not only the actual claim but also title to the land itself, this is not, I repeat, an actually correct assertion. We have limited the right to locate and enter patented mineral deposits and exclusive of the land containing them. The law is clear. The assertion of the gentleman from Ohio is unfounded.

He further contended that none of the existing claims has yet been mined. Well, this too is not true. The G.S. Bulletin 1058–B describes the LeRoy Mine on the side of Mount Parker in the monument. It had a mill for concentrating purposes under the same regulations as are currently in force.

We have several other points of unintentional misrepresentation that I would be happy to discuss at further length with the gentleman from Ohio when the amendment comes in issue, but I think it is important for Members of this body to recognize and realize that we are dealing with a mineral resource, nickel, that is in critically short supply in this country, and we are dealing with deposits that represent 1.1 billion pounds of nickel and 600 million pounds of copper. Converting pounds to tons, it is more accurate to say the deposit in question is 250 percent of the entire United States reserve of nickel. That is 250 percent of the entire United States reserve of nickel.

It is a question involving a vital national resource and I hope my colleagues will examine all of these facts and figures in a careful and unemotional light.

Mr. SEBELIUS. Mr. Chairman, I yield to the gentleman from California (Mr. KETCHUM), in whose district most of the Death Valley Monument is.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Kansas for yielding me this time.

Much has been said here today about to whom this land belongs, and there is absolutely no question, the land belongs to the people of the United States of America, and we the elected representatives are the people who are sent by our districts to represent to the best of our ability their interests in that particular area.

I have listened to a great deal that has been said about the desecration that occurs in Death Valley, and I hope that the gentlewoman from New Jersey is listening because this concerns her and I share her concern. Since she told me in response to a question that she has never visited Death Valley, let me attempt to paint for the gentlewoman a picture of Death Valley, the lowest spot in the United States.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield when the time permits?

Mr. KETCHUM. I know the pictures are there, yes, and I also know how those pictures were taken. They were taken from a helicopter, which is the only way one can find that mining in Death Valley.

The Valley is 160 miles long, and that is 160 miles of the most tortured landscape God has ever put on the face of this globe. I would challenge the gentlewoman from New Jersey or any Member of this body to drive the length of Death Valley and find a mine for me.

The temperature when we visited there in May, it was a lovely spring day, was about 93°. Everything in the park closes down about the first of June.

Now, the only really incompatible thing that we saw in Death Valley, oddly enough, was Furnace Creek Inn and Death Valley's Scotty's Castle. I do not think the rest of the tour had an opportunity to see that, but if one wanted to see something incompatible with the landscape of Death Valley that desecrates it for those that like to see land like this was, guess, a golf course—a golf course in Death Valley. If the prospectors years ago had an opportunity to see a golf course and the green grass, that would have been the end. They would never put a pick and shovel in it and they would have stayed there and thanked the Lord for the golf course.

Over the years Death Valley has been the scene of many mining experiences; the burro, the prospector, the canteen, all very lovely, all very picturesque, and I might add, all gone.

Mr. Chairman, this bill is absolutely unnecessary under the law. The law which we are talking about here today will repeal the Death Valley Mining Act of 1933. All I am going to try to do, instead of repeal, is suspend it for 4 years. Let us see what we are going to suspend. Here is the law. It says that the mining laws of the United States are extended to the area included within the Death Valley National Monument in California or as it may hereafter be extended, subject, however, to the surface use of entries, locations, or patents under general regulations to be prescribed by the Secretary of the Interior.

How broad an interpretation can we get?

Mr. Chairman, I agree with the gentleman from Nevada (Mr. SANTINI) when the gentleman says that the Secretary had this authority all along and he has not exercised it. I do not say he, the present Secretary, but all of them since 1933.

So we really do not need this act. He could at any time have taken a claim that was either unpatented or one that was invalid and tossed it out.

Mr. Chairman, what do people come to Death Valley for? The people come to Death Valley, most of them, to take pictures of this rather interesting landscape and they come, for of all things, to see the mines.

We have been told that this will not affect employment. I am telling this House that 97 people have already been laid off in Death Valley because the mining companies presently mining there do not know what the outcome of this legislation will be.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

Mr. SEBELIUS. Mr. Chairman, I yield 3 additional minutes to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Kansas for yielding this additional time.

Mr. Chairman, there are individuals presently working in Death Valley, about 197. The population of all of Inyo County is slightly over 16,000, so what we are talking about is a little over 2 percent of the total population. If we want to throw them all out of work, this is a good way to do it.

Now, as far as strategic materials for the national defense, and again I address myself to the gentlewoman from New Jersey, 12 percent of this Nation's talc, which is of a quality that cannot be matched, as well as its critical borate materials, colemanite and ulexite, and let me say that all colemanite and ulexite comes from National Monument.

Now, what is colemanite and what is ulexite and who cares? Well, colemanite is used in the production of fiberglass. Fiberglass is used in the production of insulation. Insulation saves energy and I think that is in the national interest.

Mr. Chairman, let me also point out the only other source of colemanite in the world that we know of comes from Turkey. If we want to do to ourselves what we have just managed to squeak through in oil, and we are not through with that yet, then, of course, we should pass this bill. Then we can become dependent upon Turkey and I am sure some time in the not too distant future our Greek friends will rise again and we will have a Greek-Turkish confrontation, such as we had on this floor some two and a half years ago.

The amendment which I will offer simply suspends the mining laws for 4 years while a study is conducted, and then let the Congress act in its wisdom.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Nevada.

Mr. SANTINI. In verification, I think, for those Members of the House interested in our comparative efforts in legislative futility you might be interested in title 16, section 447, relating to the Death Valley National Monument. It is provided therein that the Secretary has the authority to curtail any undesirable surface use; and I quote:

> Those surface uses or locations, entries or patents under the general regulations to be prescribed by the Secretary of the Interior.

The legal reality, I believe, is that the Secretary of the Interior right now has the authority to impose any of the proscriptions he desires such as those suggested by the gentleman from Ohio in his advocacy of the action of the bill. Are we simply engaged in a process of administrative buck passing? I believe what is being requested is, "Please give us the authority to do what we already have the authority to do."

Mr. KETCHUM. The gentleman is entirely correct.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. KETCHUM. I thank the gentleman.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The gentleman emphasizes a golf course which is being operated in Death Valley. Does the gentleman realize that the golf course is on privately owned land, that it is privately financed and privately operated, and operated in connection with Furnace Creek Inn?

Mr. KETCHUM. Certainly, I am aware of that.

Mr. TAYLOR of North Carolina. It is not part of the park.

Mr. KETCHUM. No, but it is within the monument, as the gentleman well knows. It cannot really be construed as being compatible, although I can tell the gentleman that it is a great golf course to play.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, several statements have been made to the effect that I am woefully misinformed, and have inaccurate information. Let me just make a couple of observations here.

First of all, with respect to Death Valley, the gentleman from California has made the statement that 12 percent of the Nation's talc comes from Death Valley. He also made the statement that all of the Nation's colemanite and ulexite come from Death Valley. With respect to talc, it is a common substance with huge reserves outside the national monument area. In fact, New York State supplies the highest amount, followed by Montana, Georgia, Texas, and California. Twenty-five States have ample supplies of talc.

Let us go to colemanite and ulexite. Huge amounts are available at the U.S. Borax mine at Ryan, Calif., outside the monument. As a matter of fact, the estimates are that they have 2½ times as much colemanite and ulexite as are in Death Valley. So, again we are not talking about any shortage of supply as far as minerals in Death Valley are concerned. If Turkey were to shut off the supply altogether, the United States could supply its own needs of boron compounds for 50 years. So, that issue is just out of the picture.

Let me make one other point about Glacier Bay. The gentleman from Alaska said that my information was not accurate. He has also said that the Governor of Alaska——

Mr. YOUNG of Alaska. Mr. Chairman, what did the gentleman just state?

Mr. SEIBERLING. That my information was not accurate.

Mr. YOUNG of Alaska. That is true.

Mr. SEIBERLING. Let me just say that is not correct. In the first place, Office of Technology Assessment states that the place where we should be mining nickel is in Minnesota, where 88 percent of the resources are located.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio.

Mr. SEIBERLING. Let me say in the second place that the gentleman from Alaska states that the Governor of Alaska supports his amendment. That is inaccurate.

I have here a letter of March 23, from the Governor of Alaska, the Honorable Jay S. Hammond, which I will ask unanimous consent, when we get back in the House, to include in the RECORD. And it states that he supports excluding only 187,000 acres from this bill, whereas the gentleman's amendment would exclude 530,000 acres. So how is that for accuracy?

MARCH 23, 1976.

Hon. DON YOUNG,
Congressman for Alaska, House of Representatives, Longworth Office Building, Washington, D.C.

DEAR DON: I am pleased to respond to your letter of February 20, 1976, concerning proposed mining in Glacier Bay National Monument. As you are aware, this issue has generated interest in Alaska since before the establishment of the Monument in 1925, and I welcome the opportunity to state my position.

As I understand the situation, the present legislation proposes to eliminate mining in several national park areas, including Glacier Bay National Monument, and an effort will be made to amend the provision as it affects this specific area, thus allowing mining to continue, possibly until the results of further resources studies are known and analyzed.

Given the present economic situation in Southeast Alaska, and the need for new and diversified economic activities in this region, this is an issue which is of great importance to me, and the Administration has spent considerable time studying the issue. My position is based on balance between the economic potential and needs in this area and the objective of insuring that minimum environmental conflicts be allowed to occur within units of the park and monument system.

Based on this policy, I would support an exclusion from the mining prohibition legislation which would cover the following described area:

"Beginning at the northwest corner of Taylor Bay at the terminus of Brady Glacier; thence north-northwesterly, along the easterly limits of the rock outcrops and nunataks on the west side of Brady Glacier, to the large rock outcrop at the divide between Brady Glacier and Reid Glacier; thence westerly along this divide to divide of the Fairweather Range; thence southerly along this divide to Mount La Perouse; thence southerly along the ridge at the head of Finger Glacier to a small lake at the head of Kaknau Creek; thence down Kaknau Creek to Palma Bay near Icy Point; thence following the coastline easterly, southeasterly, northeasterly, and northwesterly to the point of beginning."

This area, covering approximately 187,000 acres along the west flank of Brady Glacier, includes the large mineral potential location in that area which is seriously suggested for development. Although it is less than the total area proposed in the largest proposals this Administration has examined, it nonetheless offers development of the key potential in the area, and avoids conflicts in others. In view of the opposition in the Senate to an exclusion for mining activity, it is my belief that such a proposal may be more acceptable because it deals with the specific area of crucial concern and strategic mineral potential.

I am hopeful this will be of help and interest to you as you address this issue. It is important, and please let me know if we can be of further assistance.

Sincerely yours,
JAY S. HAMMOND,
Governor.

No shortage of any mineral is going to be caused by this bill if the Young amendment is defeated and no shortage if the amendment offered by the gentleman from California is defeated. Furthermore, if we ever need the minerals in a national emergency, then the best way to make sure of that is to keep them in the ground so that we can mine them when we need them, instead of ripping them off as fast as possible so that someone can make a profit right here today, and when a shortage comes there will be none left.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I thank the gentleman for yielding.

How can the gentleman contend, from his extensive hearings, background information and exploration, that it takes 5 to 10 years to get on production with a resource such as Glacier Bay? The war would be over by the time we got it out.

Mr. SEIBERLING. The Office of Technology Assessment says that the place to be mining minerals is in Minnesota, which is far closer to the centers of production in this country than Glacier Bay, where undoubtedly it will be shipped to Japan.

Mr. SANTINI. Does the gentleman know that it has 225 percent of our known reserves in this country at this time?

Mr. SEIBERLING. It is not even known whether there are any deposits in Glacier Bay that are classifiable as reserves, since to be so classified they must be economically exploitable.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, there is one other thing I want to get in the RECORD.

The gentleman's amendment will not permit the building of roads or other facilities to exploit this particular mineral that he is so solicitous of. They will still have to get permission of the National Park Service, whether the amendment stays in the bill or whether it does not stay in the bill. However, we know what the next bill will be. They will come in and want to build not just a road or port, but they will want to build a smelter at Glacier National Monument.

Mr. YOUNG of Alaska. If the gentleman will yield, the gentleman knows that is not true. There is not a word of truth in it. They want a company to ship it out. They do not want a smelter plant.

Mr. SEIBERLING. Is it not true that they have been considering asking to build a smelter?

Mr. YOUNG of Alaska. That is not true.

Mr. SEIBERLING. That was my information.

In any event, they want to build a milling plant in one of the great pristine wildernesses in one of our national parks.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

On the matter of our relative resources in Minnesota and Glacier Bay, the information I have from the Department—and I speak to our friend, the gentleman from Nevada—is that the Glacier Bay Monument contains but a tiny fraction of our Nation's nickel. It is estimated at 200 million tons, compared to 6½ billion tons in Minnesota.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of S. 2371, which provides for the regulation of mining activities within the areas of the National Park System.

At present there are only six areas of the National Park System in which mineral development is permitted under the Mining Law of 1872. These are: Crater Lake and Mt. McKinley National Parks; Death Valley, Glacier Bay, and Organ Pipe Cactus National Monuments; and the Coronado National Memorial. These exceptions to the general rule—which closes all National Park System areas to mineral development—were created by congressional acts which were premised on conditions no longer relevant. The time has come to eliminate these anomalies by repealing the special laws which are now endangering the unique values of these national treasures.

The bill now before us would do three things. First, it would repeal the seven acts of Congress which extented the Mining Law of 1872 to these six units of the National Park System.

Second, it would provide express and broad authority for management by the Secretary of the Interior of mineral development on patented and unpatented mining claims which exist within the National Park System; and, finally, it would impose a 4-year moratorium on further surface disturbance within the Death Valley and Organ Pipe National Monuments and the Mt. McKinley National Park. This would give the Secretary of the Interior an opportunity to determine the validity of existing mining claims and give the Congress an opportunity to decide whether to acquire any valid mineral rights in order to prevent further damage to these areas.

This legislation is needed, and urgently needed, because even as we discuss the matter the spectacular scenic and natural values of these six areas—and particularly of the Death Valley National Monument—are being threatened by ongoing mineral development. These national park system lands were opened to mining because the Congress believed, years ago, that the exploration and mining techniques of that time would not have significant impact on the scenic and other values. Today, however, changes in technology and mining techniques have resulted in a very real threat to these values.

In particular, strip mining operations in Death Valley have attracted extensive national attention and mounting concern for the future of this irreplaceable national treasure. The extent of the present mining activities in each of the six areas under discussion has been reported to the Congress by the Department of the Interior. That report may be summarized as follows:

In Death Valley National Monument—a number of companies are presently mining borates and talc, and the stripping activities have been stepped up substantially since legislation such as the bill under debate was first introduced. In 1974, about 3 percent of the Nation's annual domestic production of boron minerals was carried out in Death Valley. In addition, about 100,000 tons of talc were mined from the National Monument—less than 1 percent of annual domestic production. At present there are an estimated 50,000 unpatented mining and milling locations, and 267 patented mining claims within the monument. The patented claims alone cover more than 7,000 acres.

Since legislation such as this bill was first introduced into this Congress, the mining companies actively producing in the Death Valley National Monument have stepped up their activities. According to the Department of the Interior, this substantial increase in strip mining means that the longer Congress delays the more likely it is that irreparable damage will be done to areas such as Gower Gulch and the view from Zabriskie Point. Among the talc producers, Pfizer has increased its stripping rate about 2.5 times over what it was between January 1972, and October 1975. The National Park Service reported late last year that Pfizer had gone from an on-and-off schedule to a 6-day workweek; the Cypress company at the same time had gone to a 7-day workweek. Johns Mansville was reported planning to open a new mining area; and other companies are also active.

In Mt. McKinley National Park, although there are no patented mining claims, the Interior Department estimates that there are some 300 unpatented claims. One surface mine produces antimony in the amount of some 100 tons of ore per year, with a gross value of about $60,000. Park Service reports indicate that there is a certain amount of exploratory activity being carried out, with sometimes very marked environmental impacts.

In the Glacier Bay National Monument, there are 20 patented claims and some 270 unpatented claims. There are estimates that claims within the monument contain resources of a 200 million tons of nickel and 600 million pounds of copper; but there has been little production of minerals from these properties in the past, and no mining is now taking place. The Newmont Mining Corp. has been exploring for mineral deposits in the area; and the U.S. Geological Survey and Bureau of Mines are making mineral surveys of the national monument.

In the Organ Pipe Cactus National Monument, there are some 3,000 unpatented mining and millsite locations, but no patented claims. There is some exploration apparently going on, but no production of minerals. One firm is reported to be drilling in a search for copper ore of sufficient value to justify an underground mine.

There are no claims, patented or unpatented claims or locations in either Coronado National Monument or Crater Lake National Park, and no mining activity in these areas—which, however, remain open to the operations of the mining law of 1872: A loophole which should be closed now.

Given this pattern of activity, what result will enactment of this bill have on the national economy and the supply of minerals? The answer is, very little, if any—certainly not enough of an impact to justify continued destruction of the priceless values of these park lands.

Most attention has, rightly, been focused upon the strip mining going on in the Death Valley National Monument. That mining is being done to produce borates and talc. In 1974, according to the Department of the Interior, about 3 percent of our domestic production of borates was the result of mining in the area of the Death Valley National Monument. In particular, about 80 percent of domestic production of colemanite comes from the Death Valley area. Boron compounds are used in manufacturing glass, vitreous enamel, soaps, cleansers, detergents, and in fertilizers, weed killers, alloy steels, radio tubes and solar batteries, plaster products, including control elements for nuclear reactors. Colemanite is a less common grade of borate, containing calcium as well as boron, and is preferable for certain products, although other borates are largely interchangeable with it through modifications of the manufacturing processes.

According to the Bureau of Mines, the U.S. boron industry is well established and we have reserve adequate for 84 to 120 years, at established rates of growth in demand. Borates can be recovered from bedded deposits—as in the case of the Death Valley strip mining operations—or from underground brines or brine lakes. The latest figures available show that we imported some 21,214 short tons of colemanite from Turkey in 1974, at a cost of about $852,000; at the same time, we were exporting, in crude or refined form, over $70 million worth of borates, mostly to Western Europe and Japan.

As for talc, it is used in making ceramics, paint, paper, refractories, building materials, insecticides, rubber products, toilet applications, and in a few other ways. Over the years, our production has increased steadily, and by 1974 had doubled over 1955. At the same time, our exports have grown even more rapidly—the 1974 figure was about six times that for 1955.

According to the Department of the Interior, in 1974 there were over 30 producing companies, with Vermont, New York, Texas, and Montana all producing more talc than California. Talc is produced in nine other States as well.

Clearly, protecting Death Valley from further strip mining will not damage our economy, nor threaten the supply of critical materials.

Mr. Chairman, I believe Glacier Bay National Monument should be included in this bill, because unless the 1936 act which opened the monument to the mining laws is repealed, the Secretary of the Interior has no authority to withdraw any areas within the monument from entry under the mining law.

Similarly, under the law as it stands now, new claims within the monument can be located without restriction, creating the possibility of additional inholdings even in the most environmentally sensitive areas of the monument, and greatly impeding efforts to manage the monument in a manner befitting its status as part of the national parks system.

Finally, it should be noted that this bill will not affect the 20 patented claims located on the Brady Glacier nickel deposit, nor any other patented claims within the areas covered by the bill. Thus, there is no interference with rights which are now held by the owners of these patented claims.

In conclusion, Mr. Chairman, I urge adoption of this legislation, which in my view is vitally needed if we are to preserve for future generations the irreplaceable scenic, environmental, and recreational values of these six units of the national parks system.

Mr. SEBELIUS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of S. 2371, the mining in the national parks bill.

I share the widespread concern over the future of our national parks and monuments that prompted the introduction of this legislation and the immediate consideration it received by the Subcommittee on National Parks and Recreation and the full House Interior and Insular Affairs Committee of which I am a member.

Hearings were held during which the key issues involved were discussed, debated, and clarified. I commend my colleagues, the gentleman from North Carolina (Mr. Taylor), chairman of the National Parks Subcommittee, and the gentleman from Kansas (Mr. Sebelius), the ranking minority member, for their willingness to understand and consider the concerns of everyone effected.

The first national park, the Yellowstone National Park, was created in 1872. The National Park Service was later established in 1916. Since that time approximately 300 national parks have been created to help preserve the scenic beauty of our land, natural and historic objects and the wildlife found in these parks for the enjoyment of everyone and for generations to come.

Most of these national parks and monuments are established by legislation which specifically forbids mining of any sort as this activity is not considered to be compatible with the reasons for establishing the parks. There are only six exemptions to this general rule.

These exemptions were made for two basic reasons. One, to allow the picturesque and historically significant prospector and burro type of mining to continue and; secondly, to insure the availability of valuable and essential mineral reserves found in these areas.

In my opinion, this legislation is a reasonable and responsible solution to the need to regulate the uses of lands within the National Park System.

The bill provides for the protection of all valid existing rights and allows mining currently going on to continue under Federal regulations. At the same time, the bill prevents any staking of new claims to insure that our parks are not threatened with expanded mining in the future.

The bill was reported out of the House Interior and Insular Affairs Committee by the overwhelming vote of 34 to 5 which clearly demonstrates the concern of the members of the committee for the effects of strip mining in our national parks.

I urge my colleagues to join us in supporting this legislation.

Mr. SEBELIUS. Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming (Mr. Roncalio).

Mr. RONCALIO. Mr. Chairman, this is one of the more difficult decisions I have had to make in committee. I came down on the side of the majority, and I did so reluctantly, considering the views of the gentleman from Alaska (Mr. Young) and my good friend, the gentleman from Nevada (Mr. Santini), whose States have problems so parallel to mine.

I think the problems are too complex and there are so many national parks in so many States, that we must set the rules right now regarding mining activities in the national park and national park areas.

I feel strongly about our overriding responsibility to the millions of our constituents and to future generations of Americans. I believe we must abide with the committee majority to preservation and protect our lands in national parks.

Mr. KETCHUM. Mr. Chairman, I include the following for the information of the membership:

DISSENTING VIEWS

S. 2371, as reported by the Committee, contains restrictions on future mineral exploration and mining in Death Valley National Mounment which can only be construed as an environmental overkill that will ultimately hurt the country. Many advocates of a mining ban in the Monument evidently do not appreciate the size of the area that would thus be withdrawn from further mineral productivity—an area larger than the total combined acreage of all five California National Parks: Yosemite, Sequoia, Kings Canyon, Lassen Volcanic, and Redwood. Minerals currently being removed from the Monument constitute a significant contribution to the American economy, and prohibition of their continued production will inevitably lead to increased costs to the consumer and to increased dependence on foreign mineral supplies. Data received from the U.S. Bureau of Mines reflects the seriousness of our dependence on imports of the mineral colemanite from Turkey. At the present time, we import approximately 35 per cent of our domestic consumption of colemanite from Turkey but as a result of the prohibition which will ultimately become effective in the Monument, the U.S. will be importing 100 percent of its colemanite in the reasonably near future. In addition, the other critical borate mineral, ulexite, which is also currently being produced solely from the Monument will be precluded from satisfying domestic consumptive demands. Where do we go from here?

The withdrawal of the opportunity to mine on public lands is an accelerating phenomenon that must be slowed or reversed if the United States is to continue to supply a significant proportion of its own mineral resources. It is a serious matter to carry out withdrawals of the public lands without adequate knowledge of the values being lost. It is an incomparably greater mistake to enact legislation which would sacrifice, not merely the possible existence, but indeed the known existence, of valuable mineral resources that are essential to maintaining the delicate balance between mineral supply and demand in this country.

We do not support this legislation and encourage our colleagues, should it reach the floor of the House, to reject it.

STEVE SYMMS,
DON YOUNG,
SAM STEIGER.

Mr. ANDERSON of California. Mr. Chairman, I rise in strong support of S. 2371, the mining in our national parks legislation, including Death Valley in my own State of California.

Historically, Death Valley has been associated with prospecting for gold, silver, and later borax—"the white gold of the desert."

Today, the romantic image of the lone pick-and-shovel prospector has been replaced by the reality of massive strip mine operations in Death Valley.

Mr. Chairman, Death Valley is a fragile part of the desert, both beautiful and unique. It includes the lowest point in the Western Hemisphere, 282 feet below sea level.

Death Valley's stripmining troubles resumed in 1933 when Congress restored the rights to mining.

Of course, in 1933, the law reflected a concern for the pick-and-shovel operator—with his 20-mule-team wagon traveling the searing desert miles to Mojave, Calif. That may have been fine in 1933; present reality is quite different. Open-pit mining long ago replaced the lone prospector figure, and the damage modern stripmining technology has wreaked on this unique national monument is nothing short of amazing.

Death Valley has yielded two minerals—talc and borate. I understand that the 180,000 tons of borate previously taken out of Death Valley each year amounts to less than 10 percent of total domestic production of that mineral. Moreover, for each 10,000 tons of borons mined, an acre of the surface is destroyed. Talc mining is even more destructive, each 10,000 tons of that material means that six surface acres are eliminated.

Borates are used principally in making glass. To a lesser extent, borates are used in detergents, pharmaceuticals, and herbicides. Talc from Death Valley is used in paints and ceramics.

Already, permament damage has been inflicted on Death Valley less than 8 miles away from Zabriskie Point, one of the hauntingly beautiful parts of the monument. Waste dumps from this borax pit are over 150 feet high. In another scenic location, Galena Canyon, a talc mine high on the south side is visible for 35 miles.

Earlier, I cosponsored a bill (H.R. 9937) introduced by a distinguished member of the Committee on Interior and Insular Affairs, Mr. SEIBERLING. Our bill sought to prohibit mining in any national park area, including Death Valley National Monument. Thus, I am enthusiastically endorsing S. 2371. It is my feeling that this legislation balances the competing interests of mining and preservation.

I would, however, mention that the need to protect national lands from destructive mining does not end with this legislation, worthy as it may be. In California, mining claims have been made on Las Padres National Forest lands lying virtually next door to the two reserves in which the California condor has found its last refuge. Only 50 of the great birds still exist, and there is a strong possibility that open-pit mining so close to their homes may prove to be the final blow to their existence. Los Padres is under the administration of the National Forest Service, and I have been informed an amendment protecting the condor would not apply to this bill.

However, many of us remain keenly interested in protecting this endangered species. The legislation before us today is highly commendable, but the need to withdraw other parcels of land from mineral exploitation remains apparent.

I hope that need is reflected in future legislation. But, the bill before us today deserves strong support, and I urge my colleagues to join with me in giving S. 2371 an affirmative vote.

Mr. SKUBITZ. Mr. Chairman, I rise in support of S. 2371, a bill to regulate mining activity, in certain units of the national park system.

I was one of the first to react when I read a story in the Washington Evening Star that reported heavy strip mining going on in Death Valley National Monument.

Like many, I felt a strong irritation that one of our national resource treasures was being irreparably damaged.

My first action was to immediately introduce legislation banning all mining in our national parks.

This bill you have before you does not go that far.

It is a good bill in that it is tempered by the knowledge this committee has obtained from those who are actually mining within the parks.

The bill is a compromise.

It permits the mineral resource in Death Valley, for example, to continue to be mined at the rate it has been mined over the last 3 years.

Over the next few years we can determine the best way to preserve the park.

We have learned that Glacier Bay may contain a nickel deposit valued at $1.2 billion.

This bill attempts to preserve this beautiful area and yet allow a method for future recovery of this valuable ore.

It will not be surface mined.

It is a controversial bill.

Not all of those here would agree with the compromise.

But the bill was supported by large majorities in both subcommittee and full committee.

It is strongly supported by the administration.

Perhaps there will be amendments today offered by those who cannot agree with S. 2371.

I know there are Members who believe we have gone too far, and I know there are Members who believe we have not gone far enough.

I hope a majority will support the bill as reported to you by our committee.

We need to get this quickly resolved. It is a matter, I am afraid, which the longer we put off, the more damage could be done to our national parks and monuments.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(a) the level of technology of mineral exploration and development has changed radically in recent years and continued application of the mining laws of the United States to those areas of the National Park System to which it applies, conflicts with the purposes for which they were established; and

(b) all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values, and, in certain areas of the National Park System, surface disturbance from mineral development should be temporarily halted while Congress determines whether or not to acquire any valid mineral rights which may exist in such areas.

SEC. 2. In order to preserve for the benefit of present and future generations the pristine beauty of areas of the National Park System, and to further the purposes of the Act of August 25, 1916, as amended (16 U.S.C. 1) and the individual organic Acts for the various areas of the National Park System, all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the National Park System shall be subject to such regulations prescribed by the Secretary of the Interior as he deems necessary or desirable for the preservation and management of those areas.

SEC. 3. Subject to valid existing rights, the following Acts are amended or repealed as indicated in order to close these areas to entry and location under the Mining Law of 1872:

(a) the first proviso of section 3 of the Act of May 22, 1902 (32 Stat. 203; 16 U.S.C. 123), relating to Crater Lake National Park, is amended by deleting the words "and to the location of mining claims and the working of same";

(b) section 4 of the Act of February 26, 1917 (39 Stat. 938; 16 U.S.C. 350), relating to Mount McKinley National Park, is hereby repealed;

(c) section 2 of the Act of January 26, 1931 (46 Stat. 1043; 16 U.S.C. 350a), relating to Mount McKinley National Park, is hereby repealed;

(d) the Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447), relating to Death Valley National Monument, is hereby repealed;

(e) the Act of June 22, 1936 (49 Stat. 1817), relating to Glacier Bay National Monument, is hereby repealed;

(f) section 3 of the Act of August 18, 1941 (55 Stat. 631; 16 U.S.C. 450y–2), relating to Coronado National Memorial, is amended by replacing the semicolon in subsection (a) with a period and deleting the prefix "(a)", the word "and" immediately preceding subsection (b), and subsection (b); and

(g) The Act of October 27, 1941 (55 Stat. 745; 16 U.S.C. 450z), relating to Organ Pipe Cactus National Monument, is hereby repealed.

SEC. 4. For a period of four years after the date of enactment of this Act, the surface of any land included within any patented or unpatented mining claim which is located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not be disturbed for purposes of mineral exploration or development: *Provided, however,* That the provisions of this section shall not apply to surface disturbance caused by extraction of minerals from lands the surface of which had been significantly disturbed for the purpose of mineral extraction prior to September 18, 1975.

SEC. 5. The requirements for annual expenditures on mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any claim subject to section 4 of this Act during the time such claim is subject to such section.

SEC. 6. Within two years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States.

Sec. 7. Within four years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Crater Lake National Park, Coronado National Memorial, and Glacier Bay National Monument, and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States.

Sec. 8. All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) which lie within the boundaries of units of the National Park System shall be recorded with the Secretary of the Interior within one year after the effective date of this Act. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this Act, or which becomes invalid thereafter. Within thirty days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

Sec. 9. (a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(b) The Council shall within two years from the effective date of this section submit to the Congress a report on the actual or potential effects of surface mining activities on natural and historical landmarks and shall include with its report its recommendations for such legislation as may be necessary and appropriate to protect natural and historical landmarks from activities, including surface mining activities, which may have an adverse impact on such landmarks.

Sec. 10. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Sec. 11. The holder of any patented or unpatented mining claim subject to this Act who believes he has suffered a loss by operation of this Act, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the Senate bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 14, strike out "repealed;" and insert in lieu thereof: "repealed except with respect to the following described area of such monument: the area which is between the following described line on the east and the Pacific Ocean on the west, comprising approximately five hundred and thirty-one thousand acres: the area bounded on the east by a line extending north-northwesterly from the west shoreline of Taylor Bay, along the easterly limits of the rock outcrops and nunataks on the west side of Brady Glacier, to the large rock outcrop (elevation 4148) at the divide between Brady Glacier and Reid Glacier; thence westerly to Mount Bertha; thence west northwesterly to Mount Orville; thence northwesterly and northerly along the divide of the Fairweather Range to Mount Wilbur, Lituya Mountain, Mount Salisbury, and Mount Quincy Adams;"

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SEIBERLING. Mr. Chairman, in order to attempt to eliminate this amendment, it is only necessary to call for a vote, and then the Members may vote yes or no on the committee amendment; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the committee amendment.

Mr. Chairman, I believe we have had an ample discussion as to this committee amendment. This is the amendment which was adopted by a 2 vote margin in the committee. It is the amendment which was offered by the gentleman from Alaska (Mr. Young). The amendment excludes 531,000 acres of the Glacier Bay National Monument from the operation of this bill.

Mr. Chairman, I will ask the Pages to bring the placard which is to my left around to the front of the well so that I may point out a couple of matters with respect to this amendment.

The committee amendment which I am opposing and on which I will ask for a vote would exclude the entire Pacific Coast Rim of the Glacier Bay National Monument. This is the entire rim of the Glacier Bay National Monument that fronts on the Pacific. Under the amendment this area would be excluded from the bills' ban on future mineral entry, which means that anyone who goes through the procedural requirements to stake out a claim can go in here and end up owning the land.

If we take a quick look at these pictures—and they are keyed to this map—we will see that this is a magnificent, wild coastline, with glaciers going right down into the Pacific Ocean and with huge mountains rising up from the very ocean shore which are starkly visible from the sea. On the coast in front of those mountains the Newmont Mining Company would like to place a port and a mill, as the gentleman from Alaska (Mr. Young) has indicated.

This coast contains old gold mining claims, but they do not mine gold with a pan and a pick and shovel any more; they go in with huge machine dredges, and they suck up all the earth after having first cut down the trees. These machines spew out the earth and leave miles and miles of barren gravel. If any of the Members want to see what that looks like, I have some pictures in my office that I took in Alaska showing what a riverbed looks like after a mining dredge has gone through.

Mr. Chairman, I would ask the Members whether they believe the people of this country are going to go along with Congress in opening up the only de facto wilderness area on the entire Pacific Coast, one contained in a magnificent national park, and expose it to that kind of depredation.

All of us know full well that the answer to that question is "No." If it were clear that that is what is going to happen, then they would rise up in righteous indignation and denounce those who authorized that kind of monstrosity.

However, that is not the way the mining interests work. They creep along and get little wedges here and there through the kind of amendment that the gentleman has offered; and then after it is in the law, before we know it, they are already in and the place is messed up. That has already happened to parts of Death Valley National Park.

Mr. Chairman, now is the time to save Glacier Bay, a national park of unequaled splendor and unequaled wild character, before that sort of thing happens there.

That is all my amendment does. It does not prevent anyone who owns a mine, a valid mining claim, from exploiting that claim. It does not help him exploit the claim. It leaves him as the law leaves him now. But it does say that there will be no new claims opened up in this marvelous national park, and that is all it does.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of his position and in opposition to the amendment.

I would like to commend him for the care with which he has gone into these various problems connected with this legislation.

I think it should also be pointed out—and I am sure the gentleman would mention this—that the amendment we are talking about here was adopted in committee by a very close margin, 22 to 19.

On pages 18 to 20 of the committee report appear the supplemental views of those Members who opposed the committee position and support the gentleman's position.

Mr. Chairman, I suppose I am one of those who naively supposed that there was no mining in national parks. I was astonished, as the gentleman from Ohio mentioned, when he first introduced this legislation to prohibit new mining in national parks. It seemed to me utterly incompatible with the whole concept of the national park system. Therefore, what we are talking about here today is stopping new mining, and I applaud the gentleman from Ohio (Mr. SEIBERLING) for his position.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I find myself in somewhat of a dilemma at this point. As floor manager of the bill, I am obligated to present the committee position, but I voted against the amendment in the committee. I feel that I must do so again.

Mr. Chairman, the entire purpose of this bill is to insure that no more new claims will be filed for minerals on national park lands, and this amendment would do just the opposite.

The situation that worries me is this: The Department of the Interior is presently conducting a mineral survey of the western area of this monument. When the draft of this survey is made public, any mineralized areas identified by the study will almost certainly be quickly staked out by mining companies. Then we will be back in the position of having to buy out these private owners unless we insist, at some time in the future, upon stopping mining in this park.

Mr. Chairman, let us keep in mind this, that the Brady Glacier nickel deposit would not be protected from future development anyway, even if this amendment is defeated. The claims are already in place; and if it is economical to mine it, this bill does not in any way stop them from proceeding with their mining operations.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the committee bill as reported out of committee.

Mr. Chairman, there has been much said about this question already. I think those on the floor heard my previous presentation.

This is a decision that must be made by this body on whether we are going to have the use of a known nickel deposit, about 500,000 tons of nickel, based in a nugget about that size, located in 10,000 feet of stone and ice.

It is going to be a tunnel mine. It will disturb a total of 34 acres of land. That includes the road, the small town site, the mill site, and the tunnel itself, 34 acres.

Mr. Chairman, with respect to my amendment that was adopted by the majority in the committee, let me stress that again: The majority in the committee adopted it, and this has been discussed, discussed, and discussed, because, in its wisdom, the majority saw the validity of the amendment, the need of the United States for this resource, and the need to take and mine a known mineral deposit.

Mr. Chairman, the Department of the Interior, including Secretary Kleppe, supports this amendment. The land still stays in Secretary Kleppe's jurisdiction.

As far as new mining goes, the mineral deposits were known to be there before, but they were not identified.

There will be no rush of claims. I might mention that the filing of claims today is a very difficult process. It is also a known fact that the Department of the Interior, when the study is finished, and they think it will be finished in 1978, can return the amount of land that has been defined as non-mineral back to the park. Let me stress again that the monument contains 2,400,000 acres that are excluded from the amendment adopted by the committee. That is 17 times the size of the state of New Jersey, I believe, that the gentlewoman from New Jersey (Mrs. FENWICK) was speaking about, 17 times that size. So we are not destroying a great beautiful area; we are merely taking a very small pearl of needed resources.

So, Mr. Chairman, I believe that the amendment that was adopted in the committee should be retained and should remain in the bill.

I respect the fact that my good chairman, the gentleman from North Carolina (Mr. TAYLOR) was in an awkward position, but he recognized the will of a majority of the committee and he voted against my amendment. But I also recognize the will of the total committee, after having a markup session that lasted for a number of days, they saw fit to adopt my amendment for the betterment of this nation.

So I urge my good colleagues to support the bill as reported out of the committee with all due process.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I rise in support of the amendment of the gentleman from Alaska (Mr. YOUNG), because I think, in focus and in balance, it represents the best interests of the needs of this country.

I recognize sincerely, that have compelled and motivated both, the gentleman from Ohio and the gentleman from New York in advancing their views about the preservation of our natural and renewable resources, but I think the reason that the exceptions were engrafted by previous legislative bodies for Glacier Bay and Death Valley, was in recognition, first in the instance of Death Valley that the economic salvation and survival balance of this Nation are dependent upon the vital bauxite resource within the park. I will not advance the talc resource because I believe the balance weighs against the talc.

With regard to Glacier Bay, the nickel deposits in Glacier Bay were viewed by prior legislative bodies as worthy of their exemptions status because in the balance it was in the best interests of this Nation to recognize the vital importance of nickel to the future economic security of this Nation and its people.

It may be a personal exercise in futility to urge balanced reasoning and unemotional judgment when it comes to emotional fervor, appeal and rhetorical attraction such as the label National Parks, apple pie, motherhood and perhaps Chevrolet. But I do hope, and I repeat, I do hope that those Members who are not disposed to conclude automatically and in a reactionary fashion, that everybody who disturbs the land should not be permitted to either associate with young children or to marry their sisters will carefully weigh all the long-range implication involved in this issue. I further urge that for those Members who are not inclined to muse into the vagaries of the future about our mineral needs and resources: For those who are not disposed to rely upon hope and aspiration that in some way and somewhere in our future whenever critical mineral resources are needed in this Nation that the great mineral fairy will descend from Nirvana bringing the mineral requirements into the reach of whoever needs them and wherever they are needed.

There is a very serious national interest that is involved. We do not need a knee jerk emotional response to an emotional appeal to resolve this serious question and I urge my colleagues to evaluate this issue in that context.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the committee amendment.

Mr. Chairman, I oppose the committee amendment as it was offered to the committee by the gentleman from Alaska (Mr. YOUNG), noting as others have already noted, that it passed in the committee by a very narrow majority.

The implications of this amendment as it has been discussed have not explained the heart of this issue. Undoubtedly, the United States is dependent upon outside sources presently for its nickel requirements. It has been contended in the debate thus far that without this exemption for one-fifth of the Glacier Bay National Monument, somehow or other this legislation was going to preclude or lock out development of such nickel resources as are found in this monument. The truth of the matter is, as it was presented quite explicitly in the hearings, that the 20 patented claims and the 270 pending unpatented claims, to the extent that they are valid, comprise the total 200 million tons of nickel deposits which constitute the reserves that are under discussion here. Consequently the passage of this bill, because it does not cover all presently patented claims and other valid existing claims, could not possibly in any way interfere with, impede, restrict, or prohibit such mining activities in these areas. There is no lockout provision whatsoever. To this extent, since I believe in preserving the integrity of national parks and national monuments and have always in this Chamber voted to prohibit mining activities altogether, I am disappointed that we have only gone this far and have not excluded all potential mining activities in this particular national monument.

I think that the committee amendment ought to be defeated. A national monument is a place which has been designated for preservation. It ought not to be opened up for new prospective mining claims. The committee has given due consideration to the existing valid claims—some 20 patented claims covering the 200 million tons of nickel deposits which might be minable in the future. I think that if this committee is going to retain the concept of preservation of these historic areas such as Glacier Bay, this amendment must be removed from the committee bill, else we will be defeating the whole purpose of this legislation. I would ask that this committee vote down this amendment.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentlewoman for yielding.

I must say that I think the gentlewoman has brought out a most important point. If the gentlewoman is correct—then the whole argument about nickel falls to the ground.

Mrs. MINK. Precisely. So I would hope in consideration of what the committee, I believe, had hoped to recommend to this House, that this amendment would be completely defeated.

Mr. SEIBERLING. Mr. Chairman, will gentlewoman yield?

Mrs. MINK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentlewoman for yielding.

Of course, the gentlewoman is the chairman of the Mines and Mining Subcommittee of the House Committee on Interior and Insular Affairs, and if there is a mineral fairy in this world, she is probably about as close as anyone can come to it.

Mr. SANTINI. Mr. Chairman, will the gentlewoman yield to permit the gentleman from Alaska to respond to the contention with respect to nickel, because I think it only fair for the record.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. SEBELIUS. Mr. Chairman, I would like to state I was present when the vote was taken and heard the arguments, and the persuasive argument of the gentleman who represents Alaska, exhibiting his own personal ability to represent the people of Alaska by presenting this position.

I think the gentleman pointed out an error of majority. I once lost a race for Congress by an error of majority. I never got here, and I found out one is never paid a salary for being second.

The committee that has sat here and listened to this will vote by a majority. I am disappointed that none of us ever got to see this place to have an opportunity to evaluate the arguments heard here between the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Alaska (Mr. YOUNG). The gentleman from Alaska has been there, and I yield to him at this time.

Mr. YOUNG. I thank the gentleman for yielding.

I would like the gentlewoman from Hawaii to be very clear on this. It is true in this bill that none of the claims that are valid now will be damaged, but it is also true none of the mining will be economical because the access will be unavailable. That is a fact. One can stand here and say the Park Service will grant a road and the Park Service will grant a townsite and the Park Service will grant a millsite. But that is not true. They have not done it in the past and they will not in the future. They may tell someone that just to get a vote. But if this is adopted there will be no mining of nickel. True, the claims are valid, but they are valueless because there is no access to those claims.

Mr. SEBELIUS. Mr. Chairman, I would state I am very much concerned about the point the gentleman from Alaska raised about whether or not there is a problem after one has obtained a claim—whether one can build a road and build a dock to aid in the extraction of this resource.

I just think we need to look at this situation very carefully. The reason the gentleman from Alaska has brought this to our attention is that it is in an unknown and inconclusive state at this time, and if we lock it up and say this is an area which cannot be further explored, then we would foreclose the option of possible further use of this imported resource.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I would like to read a section of the committee hearing and this is on the question of access. This is a colloquy between the committee staff member who is sitting beside me, Mr. Pinnix, and Mr. Edwards and Mr. Reed, both from the Department of the Interior.

The hearing reads:

> Mr. PINNIX. What about the right of access? For instance, in this case you obviously have a valid claim within the interior of a monument. Would the owner of that valid right have the ability to transport ore out of that valid claim across the closed lands?
>
> Mr. EDWARDS. It has been my understanding that the holder of a mining claim or property right has always had the right of access to get the benefits from that property.
>
> Mr. REED. In other words, we would be forced to give him the best alternative environmentally, but he would have to be given access?
>
> Mr. PINNIX. In the event the Seiberling bill were to be enacted without amendment, the nickel deposit within Glacier Bay would still not be totally precluded from development?
>
> Mr. REED. Correct, sir. It is a valid existing right.

Mr. YOUNG of Alaska. Mr. Chairman, it may be a valid existing right but there is no access. At Mount McKinley they told us the same thing as in this bill, that we would have access and we would be able to mine gold. But they did not grant those rights-of-way. It is in the discretion of the Park Service and the gentleman knows and I know we will have nothing to say about it.

Mr. TAYLOR of North Carolina. But according to this record and other information we have, the right of access is a legal right, and the owner has that right.

Mr. YOUNG of Alaska. It is at the discretion of the Park Service.

Mr. TAYLOR of North Carolina. The Park Service could make certain restrictions in regard to the route of access which the holder of a valid right could select. But they still have to give the holder a method of access to get his minerals out.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to ask the gentleman from Alaska how his amendment changes in any way, shape, or form the right of the owner of the minerals in Glacier Bay to access or anything else. How does it change that?

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, the amendment is very simple. It deletes the 400,000 acres from the Monument, thus taking them out of the park system. It retains them within the Department of the Interior, and when the study is finished, if they find the minerals are unavailable, other than nickel, they could return it to the parks. It keeps the bill pure. All it does is take out that small area of the land. I am glad to hear the gentleman say he is going to support the amendment. I am happy with the amendment. My Governor is happy with the amendment. My legislature is happy with the amendment. The State joint mining people are happy with the amendment.

The Joint Federal Land Commission is happy with the amendment. The only people unhappy with the amendment are those with very special interest groups and that is all.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, the amendment does not affect access rights for existing claims, yet it keeps part of the Monument open to filing of new claims.

Mr. YOUNG of Alaska. It does not. It keeps them under the lands——

Mr. BINGHAM. Mr. Chairman, just a minute. It is my time and I am yielding to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, the gentleman's amendment goes way beyond the question of access to existing claims and keeps the entire 531,000 acres open to new entry and new mining claims being staked. It does not in any way give the owner of existing claims any more rights than he would have in the absence of this amendment.

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 16, noes 7.

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 725]

Abzug
Addabbo
Andrews, N.C.
AuCoin
Badillo
Beard, R.I.
Bergland
Bevill
Biaggi
Blouin
Bolling
Bonker
Brademas
Breaux
Burke, Mass.
Burton, Phillip
Carney
Carter
Cederberg
Chisholm
Conlan
Conyers
Delaney
Derwinski
Diggs
Drinan
du Pont
Eckhardt
Edwards, Ala.
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gibbons
Green
Gude
Hanley
Hansen
Harrington
Harsha
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jarman
Jones, Ala.
Jones, Okla.
Karth
Kemp
Koch
LaFalce
Landrum
Long, La.
McCollister
McKinney
Madigan
Matsunaga
Meeds
Melcher
Mikva
Milford
Mineta
Moakley
Murphy, N.Y.
Neal
Nowak
O'Brien
O'Hara
O'Neill
Passman
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Railsback
Randall
Rangel
Rhodes
Riegle
Risenhoover
Roberts
St Germain
Satterfield
Scheuer
Shuster
Skubitz
Smith, Iowa
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Studds
Symms
Traxler
Tsongas
Udall
Ullman
Waxman
Wiggins
Wilson, C. H.
Wright
Young, Ga.
Young, Tex.
Zeferetti

Accordingly the Committee rose; and the Speaker pro tempore, Mr. McFALL, having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the Senate bill, S. 2371, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 314 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose there was pending the request of the gentleman from Ohio (Mr. SEIBERLING) for a recorded vote on the committee amendment.

RECORDED VOTE

Mr. SEIBERLING. Mr. Chairman, I renew my request for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 251, not voting 69, as follows:

[Roll No. 726]

AYES—110

Abdnor
Andrews, N. Dak.
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Boggs
Bowen
Brinkley
Brown, Mich.
Brown, Ohio
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Downing, Va.
Duncan Oreg.
Erlenborn
Flynt
Forsythe
Frey
Ginn
Goldwater
Grassley
Hagedorn
Hall, Tex.
Hicks
Hutchinson
Hyde
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Kazen
Kemp
Ketchum
Kindness
Lagomarsino
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDonald
McKay
Mahon
Mann
Martin
Mathis
Michel
Milford
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Paul
Pettis
Poage
Pritchard
Quillen
Rhodes
Roberts
Robinson
Rousselot
Runnels
Ruppe
Santini
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stephens
Talcott
Taylor, Mo.
Teague
Treen
Ullman
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wilson, Tex.
Winn
Young, Alaska
Young, Fla.

NOES—251

Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
Bafalis
Baldus
Baucus
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cederberg
Chappell
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Dellums
Dent
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Goodling
Gradison
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hungate
Jacobs
Jarman
Jeffords
Jenrette
Jones, N.C.
Jones Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Keys
Krebs
Krueger
LaFalce
Landrum
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McDade
McEwen
McFall
McHugh
Madigan
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Quie
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
Sarasin
Sarbanes
Schroeder
Seiberling
Sharp
Sikes
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton James V.
Stark
Steiger, Wis.
Stokes
Stratton
Sullivan
Symington
Taylor, N.C.
Thompson
Thone
Thornton
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Zablocki

NOT VOTING—69

Abzug
Addabbo
Archer
AuCoin
Badillo
Beard R.I.
Biaggi
Breaux
Brown, Calif.
Burke, Mass.
Carter
Chisholm
Conlan
Delaney
Diggs
du Pont
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jones, Okla.
Karth
Koch
Long, La.
McCollister
McKinney
Madden
Matsunaga
Melcher
Moakley
Murphy, N.Y.
Neal
Nowak
O'Neill
Passman
Peyser
Railsback
Riegle
Risenhoover
Satterfield
St Germain
Scheuer
Steed
Steelman
Steiger, Ariz.
Stuckey
Studds
Symms
Traxler
Tsongas
Udall
Young, Ga.
Young, Tex.
Zeferetti

Messrs. MAHON and KEMP changed their vote from "no" to "aye."

Messrs. QUIE, DODD, SMITH of Iowa, STEIGER of Wisconsin, and SARASIN changed their vote from "aye" to "no."

So the committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendments: Page 3, line 20, strike out "subsection (b), and subsection (b); and" and insert in lieu thereof: "subsection (b), and by repealing subsection (b); and."

Page 3, beginning on line 24, strike out all of Section 4 and insert a new Section 4 reading as follows:

"SEC. 4. For a period of four years after the date of enactment of this Act, holders of valid mineral rights located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not disturb for purposes of mineral exploration or development the surface of any lands which had not been significantly disturbed for purposes of mineral extraction prior to February 29, 1976: *Provided*, That if the Secretary finds that enlargement of the existing excavation of an individual mining operation is necessary in order to make feasible continued production therefrom at an annual rate not to exceed the average annual production level of said operation for the three calendar years 1973, 1974, and 1975, the surface of lands contiguous to the existing excavation may be disturbed to the minimum extent necessary to effect such enlargement, subject to such regulations as may be issued by the Secretary under Section 2 of this Act. For purposes of this section, each separate mining excavation shall be treated as an individual mining operation."

Page 4, line 20, strike out "States." and insert in lieu thereof: "States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands. The Secretary shall also study and within two years submit to Congress his recommendations for modifications or adjustments to the existing boundaries of the Death Valley National Monument to exclude significant mineral deposits and to decrease possible acquisition costs."

Page 5, line 2, strike out "States." and insert in lieu thereof: "States, including, the estimated acquisition cost of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands."

Page 5, at the end of line 12, add the following: "Within 30 days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in Section 3 of this Act."

Page 6, lines 14 through 18, strike out all of Sec. 10 and insert in lieu thereof the following:

"SEC. 10. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof."

Page 7, following line 4, insert a new Sec. 12 as follows:

"SEC. 12. Nothing in this Act shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the boundaries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 4 of this Act to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship."

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the remaining committee amendments be considered en bloc, and that they be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Chairman, I have two amendments to the committee amendments. Are they to be offered at this time or after the committee amendments are adopted?

The CHAIRMAN. They should be offered before the committee amendments are voted upon.

Mr. YOUNG of Alaska. Mr. Chairman, I have two amendments. I have talked to the chairman about these amendments. To my knowledge, he has no objection to the amendments. I would like to have the gentleman from North Carolina respond.

The CHAIRMAN. It will be necessary for the Clerk to report the amendments.

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA TO THE COMMITTEE AMENDMENTS

Mr. YOUNG of Alaska. Mr. Chairman, I offer amendments to the committee amendments.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska to the committee amendments: Page 6, line 11, after the word "within" insert the following: "Glacier Bay National Monument,"; line 11, after "the Monument" insert: "and the Glacier Bay National Monument".

Page 9, line 11, strike the number "4" and insert in lieu thereof number "6".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that these two amendments be considered en bloc in consideration of the committee amendments that have been asked to be adopted, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, actually, all these two amendments do is put the Glacier National Monument now in conformity with Death Valley Monument. They are both considered monuments. To my knowledge, there is no objection.

Mr. Chairman, I will yield to the gentleman from North Carolina (Mr. TAYLOR) and if there is an objection, I would like to hear it at this time. If not, I would request a vote on the amendments.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, we were studying the amendment and trying to fit it into the bill. It appears to me that the gentleman's amendment ought to be after the word "within" on page 6, line 1. We do not find the word "within" on line 3.

Mr. YOUNG of Alaska. That is agreeable to me.

Mr. Chairman, I do apologize. The amendment is poorly written. It has been done on a short notice.

It is perfectly agreeable to me if we can change that.

Mr. Chairman, I ask unanimous consent that I be permitted to modify the amendment so as to read "line 1" instead of "line 3."

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, the first amendment which the gentleman submitted would include Glacier Bay National Monument among the list of parks on which the study should be completed within 2 years.

I might state that the bill divided six parks into two groups, and the group in which active mining is taking place now, the study was limited to 2 years, and the parks in which active mining is not taking place now, the study is limited to 4 years.

But Glacier Bay National Monument, as far as mining is concerned now, is a very, very important area, and I have no objection to the gentleman's amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from North Carolina.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Alaska (Mr. YOUNG) to the committee amendments.

The amendments to the committee amendments were agreed to.

The committee amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Page 3, line 11, Section 3(d), strike "repealed;" and insert in lieu "suspended until the expiration of the four year period referenced in Section 4 of this Act, whereupon it will become automatically reinstated unless otherwise modified by an Act of Congress;".

Mr. KETCHUM. Mr. Chairman, my amendment will suspend rather than repeal the valid existing mining rights in Death Valley National Monument subject to an environmental and economic statement to be reported by the appropriate agency at the end of the 4-year moratorium. At that time, Congress should be able to make an intelligent rational decision as to the future of Death Valley, 98 percent of which lies in the 18th District that I am proud and honored to represent.

I firmly believe this decision cannot be based on a sentimental reaction to the present widespread ecological concern in this country. Blind environmental interest groups have painted a picture of the mining industry as a sinister Black Baron digging holes, stripping vegetation, ruining scenery, polluting the air and water while getting rich quick. Objectively, this is not the case. Current mining methods need not be environmentally offensive and they make it possible to take advantage of our mineral wealth with the least amount of disturbance to the pristine beauty of the land. Mining efforts are compatible with the recreational value of the Death Valley National Monument and also with its western epic "20-Mule Team Death Valley Day" lore.

The total land being used for mineral development incorporates less than 1 percent of the total area of the monument. Mining activity in Death Valley Monument is limited to nine open pits and two underground mines with one more being developed. A loss of production from the talc and borate minerals mined in Death Valley can only result in increased costs to the consumer with some products like fiber glass becoming prohibitive in cost, a loss of jobs, and a total dependence upon foreign mineral supplies. Twelve percent of the Nation's talc which is of a quality that cannot be matched industrially, as well as all of its critical borate minerals—colemanite and ulexite—come from the monument. Antimony, copper, gold, lead, silver, tungsten, zinc, asbestos, and uranium are also known to occur in Death Valley.

Colemanite and ulexite currently mined in Death Valley are relatively unknown to the public and their value is underestimated by many. Colemanite, a calcium borate, is used primarily in the manufacture of fiber-glass and insulating glass wool. Insulation is critical to our Nation's effort toward fuel conservation. The colemanite used in this country is approximately 16 percent of all boron minerals and compounds used in glass manufacturing. The loss of production from the monument would cut the known world supply by 10 percent, while the market demand for colemanite increases at a rate of 4 to 6 percent a year. As the United States and Turkey are No. 1 and 2 producers of this mineral, our dependence on Turkey for colemanite would be increased. The United States now supplies 71 percent of the world production, Turkey 18 percent, Russia 10 percent, and Argentina, Chile, and Italy 1 percent.

Other domestic boron compounds can be substituted for colemanite, but at a higher cost and a lesser quality. Other borate minerals mined in Death Valley are used in the production of glass, vitreous enamels, leather and paper, plant nutrients, and herbicides.

As well as being a national economic problem, the closure of Death Valley to mining would be an economic hardship on California's 18th District. If the assessed value presently placed on these mining operations were to be eliminated, the tax base of Death Valley would be reduced by 39 percent and that of Southern Inyo Hospital District by 7 percent. Present mining interests infuse Inyo County with over $200,000 in tax revenues while supporting a $4¼ million payroll. Needless to say, the loss of revenue and jobs for Inyo County would present serious economic consequences should Death Valley mining rights be repealed.

If mining is outlawed in Death Valley after the 4-year moratorium, it can be reasonably assumed that developers will explore public and private lands surrounding the known deposits, especially on the monument's east side. In which case, BLM would have little or no control over exploration as they would if these lands were under the National Park Service supervision. Should my amendment fail, the result would be unnecessary environmental overkill and economic neglect.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the effect of this amendment would be to eliminate one of the main purposes of this bill. The purpose of this bill is to end the shocking fact—and it is shocking to the overwhelming majority of the American people—that anyone can go into a national park in this day and age and stake out a mining claim.

It is true that the bill, even with the gentleman's amendment, would suspend that right for 4 years as far as being able to make that claim valid, but people could still go in and prospect and dig up parts of Death Valley National Monument in order to eventually, hopefully, stake a claim. Then 4 years from now, if we decide that we do not want any more claims, they will come in and say, "But I have put in all this work, and I have spent thousands of dollars of my money. I found a big deposit of ore, and, therefore, you should make an exception for me." This is the way the mining industry operates.

I think that this Congress has a perfect opportunity now to make it absolutely clear that we are not going to permit further mineral entry into any units of our national park system unless the Congress of the United States at some future time should decide that it is in the national interest to allow new mining.

Mr. Chairman, for these reasons, I think we should oppose this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to call the gentleman's attention to one section in the bill, page 9, where it says: "The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 4"—and that includes the area under discussion—"* * * to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship."

Mr. Chairman, that means that if any owner of a mining claim in Death Valley or in any other park contends that being unable to mine would create an undue hardship, the Secretary is to give prompt and careful consideration to any offer to purchase that property.

If the gentleman's amendment is adopted, this section will be of no value because his amendment would not stop the entry of any mining claims in Death Valley. It would merely suspend it for 4 years, so the owner of a mining claim who wants to claim hardship could get the Secretary to purchase his claim and then at the end of that 4 years, turn right around and reclaim it.

It appears to me that what we need to do in Death Valley—and I was the one who went out there and looked at it; and the amount of strip mining out there, mainly for talc, is amazing—it seems to me that what we need to do is to close this area to new claims during this 4-year study period, not just suspend the claims for 4 years.

Mr. SEIBERLING. To continue, Mr. Chairman, I would like to point out to the Members here that on the left side of the Speaker's platform are some photographs of the Death Valley area which I took myself when the subcommittee went out there in May. The Members will see some of the mines, which are talc mines, that result in a huge white scar on the landscape. Those are visible from as far as 40 miles away in the clear air of Death Valley.

Mr. Chairman, this is one of the most magnificent national parks in the whole system. It is an area of unsurpassed, spectacular scenic beauty; and even to contemplate allowing future mining claims to be filed in this area would be selling short the American people, it seems to me.

The interesting thing is, though, that as the law is presently written, without this bill, even if the Secretary should buy out a mining claim, someone else can go in and file a new claim. And this process can be repeated endlessly unless we pass this bill as it is presently written.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for taking this time and for yielding to me.

Mr. Chairman, we are talking about prospecting. The gentleman from Ohio (Mr. SEIBERLING) has indicated that this is really going to tear up the land to prospect. Prospecting is done by borings today. It is not done by moving in earthmoving equipment and tearing things apart.

The amendment simply suspends, rather than repeals, the mining law. If we repeal the mining law, not in a million years will we ever open it back up again, even if we need it.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KETCHUM

Mr. DUNCAN of Oregon. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon as a substitute for the amendment offered by Mr. KETCHUM: Page 3, line 11, section 3(d), strike "repealed;" and insert in lieu "repealed with respect to talc and suspended until the expiration of the four year period referenced in Section 4 of this Act with respect to all other minerals, whereupon it will become automatically reinstated unless otherwise modified by an Act of Congress;".

Mr. DUNCAN of Oregon. Mr. Chairman and members of the committee, I am constrained to offer this amendment in the nature of a substitute because of the debate we have heard here on the floor this afternoon. And, because of a hearing which the Subcommittee on Interior and Related Agencies of the Committee on Appropriations held on this precise question on September 30, 1975. I am particularly constrained to offer the amendment because of the comments of the gentleman from Ohio (Mr. SEIBERLING) and the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR), that the primary offenders in Death Valley National Monument are those who are mining for talc.

I am myself further constrained to support the amendment offered by the gentleman from California (Mr. KETCHUM) because I agree with the gentleman from Ohio and the chairman of the subcommittee that there may be overwhelming reasons of national interest why we might want to produce minerals from the national monument of Death Valley as they point to the powers the committee bill gives to the Secretary of the Interior. For this reason my amendment repeals the mining laws in Death Valley with regard to the mineral talc.

I am as outraged as anybody else that we would dispoil national parks and national monuments for the production of a mineral which by no stretch of the imagination can be related to national survival or national interest. The mineral is available in copious quantities at many, many other locations.

But with respect to these two particular varieties of borax that we have been talking about, or borate, I guess it is, particularly colemanite, I cannot help but recall, and I will read, for the benefit of the committee, the words of Assistant Secretary Reed, the man who is the head of the national parks and who bows to no one in his desire to protect the environment. I will read his testimony with respect to how essential this commodity is to the national interest, and I will paraphrase his testimony in part.

He stated that the closure of these mines, that is the colemanite mines, would put an estimated 150 employees out of work and eliminate an estimated $4 million of mineral production yearly.

I am not so concerned about that, although, of course, in times of unemployment we cannot disparage it. But Mr. Reed goes on and says that there are 400,000 tons of colemanite-bearing rock existing in this property. He says that the impact of the closure of these mines would be far greater than the current dollar value.

He states that Death Valley contains the only known significant domestic reserves of this specific high-grade borate mineral, colemanite.

Get that, the only known significant domestic reserve. It supplies 80 percent of our domestic colemanite used principally in the manufacture of filament-grade fiberglas, used for the production and conservation of energy, and there is a 100-year supply at this site.

The only other known source is right on the border of Lake Mead National Recreation Area. Who in this committee is going to support the opening of a mine on the border of Lake Mead? There is not a member who would.

The only other major supplier of colemanite is Turkey, but the grade shipped to the United States is inferior to that which we produce in Death Valley. We would become dependent, if these mines are closed, upon Turkey, and a grade and pricing situation could develop over which we would have no control.

One other purpose in producing this particular borate is that we are close to 85 percent dependent upon foreign sources of fluorspar which is used as a fluxing agent in the production of steel. In the event our steel mills have to switch to colemanite instead of fluorspar, we could become further dependent upon foreign sources.

Mr. Chairman, I recommend the adoption of the substitute amendment and the adoption of the Ketchum amendment as amended. It would eliminate talc as a principal offender.

If the Members will look at the pictures over here, they will see that the principal offender is talc. This will leave the national interest intact with respect to the production of other commodities.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Oregon (Mr. DUNCAN). I think his remarks have been very well taken. I would urge the members of the committee to support the substitute offered by the gentleman from Oregon (Mr. DUNCAN) to the amendment offered by the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding. I certainly have no objection to the amendment to the amendment. I also thank the gentleman from Oregon for presenting his comments regarding the distinguished Assistant Secretary of the Interior, Mr. Reed, in his discussion of the amendment.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Oregon (Mr. DUNCAN) and want to commend the gentleman for his recognition of the balance that is so inherent and so necessary here, if we are going to reach, as a legislative body in 1976, the balance that must be struck in recognition of our national interests.

It is my sincere hope that the gentleman from Ohio (Mr. SEIBERLING) will join in support of the substitute offered by the gentleman from Oregon (Mr. DUNCAN).

The CHAIRMAN. The time of the gentleman has expired.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment one might call the Tenneco amendment because Tenneco is the principal owner of colemanite deposits in Death Valley National Monument. I happen to have been to the Tenneco mine and even have a sample of colemanite sitting on my desk in the Longworth Building. Colemanite is one form of borate. There is another form called ulexite, and there are other forms. Colemanite happens to be the cheapest kind of boron compound for use for certain purposes because one can dig it out of the ground and dump it right into the glass-making furnace without any further processing. So it is a lot cheaper than some of the others that have to be put through the mill or refined in some other way.

The fact is, and I am now reading from information furnished by the Department of the Interior, colemanite and ulexite are available in huge amounts at the U.S. Borax Mine in Ryan, Calif., which is outside of the monument. It is estimated the amounts are 2½ times the Death Valley reserves. If Turkey were shut off altogether, the United States could supply its own needs for 50 years through the substitution of borax alone, which is still another form and which may be used interchangeably as far as industrial uses are concerned, though not as cheaply as colemanite.

Another interesting fact is that the colemanite deposits are very limited in Death Valley National Monument. As a matter of fact, if we go on mining for another few years, they are going to be all gone, so then we will be back where we really would be dependent on other deposits. U.S. Borax owns 25 valid patented claims in Death Valley but has not found it necessary to open them for 25 years and has no plans to do so for the next 40 years because it is using its borate deposits outside of the valley.

The U.S. Bureau of Mines defines colemanite, ulexite, boron, borax, and talc as nonstrategic minerals, so that the alleged basis for this amendment just does not exist in the world of practicality, and I urge defeat of the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I thank the gentleman for yielding.

What we are trying to do here is to stop the filing of new claims. This amendment would violate the intention of the bill which, again, is to stop the filing of new claims. The bill as written does not stop the mining in Death Valley. This mining that is now going on would continue at the existing level, but every time a new claim is filed, it may mean that the Government one of these days is going to have to buy it out and the taxpayers will lose that extra amount of money.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

The gentleman suggested, I understand, that I was in the pocket of Tenneco.

Mr. SEIBERLING. No; I called it the Tenneco amendment because it is obviously in their interest.

Mr. DUNCAN of Oregon. I would like to disabuse both the gentleman from Ohio and the Members of this House that this is a Tenneco amendment. I do not know who Tenneco is; I hold no stock in Tenneco. I wrote the amendment in the front seat of that pew just a few minutes ago, and I wrote it not to give any advantage to Tenneco, U.S. Borax Twenty-Mule Team, or anybody else. The statistics I read were not figments of my imagination but were from the testimony of Nat Reed of the National Park Service that this is an essential commodity to the American survival, and I offered the amendment for that purpose and not for any purpose of protecting Tenneco.

Mr. SEIBERLING. I know the gentleman well, and I am sure he would not be under anybody's thumb. I certainly did not mean to suggest that. But whatever the reasons for this amendment, it is going to benefit one entity, and that is Tenneco, because they happen to be the ones who own the colemanite deposits in the Death Valley National Monument.

The interesting thing is that the Department of the Interior, of which Mr. Reed is Assistant Secretary, says that colemanite is not a strategic mineral, and they have supplied us with materials indicating that the deposits outside of Death Valley are much greater. Also Mr. Reed testified before the Committee on the Interior in support of the Death Valley features of this bill, so that was the Department's position.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, the Secretary, Mr. Reed, was presenting the departmental position on Death Valley mining on page 4 of the committee report. I read directly from his testimony. I do not know where the gentleman's figures come from, but this was Secretary Reed's position on September 30.

Mr. SEIBERLING. I will only say he presented the Department's position which was in support of this bill insofar as Death Valley was concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DUNCAN) as a substitute for the amendment offered by the gentleman from California (Mr. KETCHUM).

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 43, noes 29.

RECORDED VOTE

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 240, not voting 66, as follows:

[Roll No. 727]

AYES—124

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Bennett
Bowen
Breaux
Brinkley
Brown, Mich.
Broyhill
Burleson, Tex.
Butler
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Ginn
Goodling
Grassley
Hall, Tex.
Hammerschmidt
Hicks
Hightower
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Landrum
Latta
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
Mahon
Mathis
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murtha
Myers, Ind.
Oberstar
Passman
Patten, N.J.
Paul
Poage
Pritchard
Quillen
Randall
Regula
Roberts
Robinson
Rousselot
Runnels
Santini
Schneebeli
Schulze
Shipley
Shuster
Sisk
Slack
Spence
Stanton, J. William
Stephens
Talcott
Taylor, Mo.
Treen
Ullman
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—240

Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, Tenn.
Bedell
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Dellums
Derrick
Dingell
Dodd
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Keys
Krebs
LaFalce
Lagomarsino
Lehman
Lent
Long, Md.
Lujan
Lundine
McDade
McFall
McHugh
Madigan
Maguire
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Obey
O'Brien
O'Hara
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Quie
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Schroeder
Sebelius
Seiberling
Sharp
Shriver
Sikes
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stark
Steiger, Wis.
Stokes
Stratton
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, Tex.
Wirth
Wolff
Wydler
Yates
Zablocki

NOT VOTING—66

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Biaggi
Burke, Mass.
Carter
Chisholm
Conlan
Delaney
Diggs
Downey, N.Y.
du Pont
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Tenn.
Green
Hanley
Hansen
Harrington
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jones, Okla.
Karth
Koch
Long, La.
McCollister
McKinney
Madden
Matsunaga
Moakley
Murphy, N.Y.
Neal
Nowak
O'Neill
Peyser
Railsback
Riegle
Risenhoover
St Germain
Satterfield
Scheuer
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Studds
Symms
Tsongas
Udall
Wilson, C. H.
Young, Ga.
Young, Tex.
Zeferetti

Mr. HARSHA and Mr. FINDLEY changed their votes from "aye" to "no."

So the substitute amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KETCHUM).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 9, after line 15, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 13. (a) Each officer or employee of the Secretary of the Interior who—

"(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

"(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System;

"shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) the Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment is an amendment which does not prohibit or prevent or in any way penalize any official who has financial holdings. It merely provides that such financial holdings be published and publicized, such as similar amendments that have been offered and adopted on the floor of the House to 10 pieces of legislation which we have considered. This amendment is cosponsored by Representative GARY A. MYERS of Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to my colleague, the gentleman from Pennsylvania (Mr. MYERS) who is the cosponsor of this amendment.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield ?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from West Virginia (Mr. HECHLER) and I have offered this amendment to a number of other bills. It substantially requires a disclosure of financial interests or conflicts of interest.

Mr. Chairman, I rise in support of the amendment and ask for its adoption.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Chairman, I only have one question I wish to ask.

Does the gentleman know of any interest at the present time where this amendment would be a help? In other words, does the gentleman know of any instance of any park employee or anybody else in a similar capacity who owns a mining interest of this sort at this time?

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

The purpose of the amendment is to reveal those instances that may exist. There is no requirement presently for disclosure of conflicts of interest. It is a simple amendment, and that is the only objective of the amendment.

Mr. SEBELIUS. Mr. Chairman, if the gentleman will yield further, I do not have any objection to the amendment. I will agree to it as far as my part in this is concerned, but I was wondering whether or not there has been anything that brought this about which would explain why the gentleman wanted to offer the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, it is my understanding that an employee of the Government cannot now hold any mining claim; is that not right?

Mr. HECHLER of West Virginia. The gentleman is correct, I believe, insofar as certain employees of the Department of the Interior are concerned.

Mr. TAYLOR of North Carolina. I could conceive that a person might hold an indirect interest or he might hold stock in a company that does have a mining claim, and he might not even have knowledge of that fact.

I know that an amendment such as this has been added to other bills, and I know it is introduced here with good intentions. However, I cannot help but believe that it would be preferable to introduce it as a separate bill and let us hold hearings and determine the full effect of it.

Mr. HECHLER of West Virginia. Mr. Chairman, I will say to my friend, the gentleman from North Carolina, that this provides no prohibition against anyone holding such direct or indirect interests. It merely provides for publication. In this sense it is a "sunshine" amendment which has been attached to other legislation, and I believe it would be beneficial in this instance.

OTHER BILLS INCLUDING "SUNSHINE" AMENDMENTS

This is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94-163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. On June 11, 1976 the House added it to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program and on June 3, 1976, to H.R. 9560 for EPA employees administering the water pollution program. On July 22, 1976, the House also added it to H.R. 13777, the public lands bill, for employees of Interior and on July 28, to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees. On August 4, it was added to H.R. 8401, the Nuclear Assurance bill, for ERDA employees. On August 23, it was added to H.R. 14032, the Toxic Substances bill and on September 8, to H.R. 10498, the Clean Air Act, for EPA employees, and on September 2, to H.R. 13636, the LEAA bill.

In addition, it is included in H.R. 12112, as reported by three committees, for ERDA employees and in H.R. 14496 for EPA employees.

COVERAGE OF AMENDMENT

My amendment requires officers and employees of the Interior Department who perform any function under the bill to file annually statements of any known financial interest in the persons subject to this bill or who receive financial assistance under the bill. Such statements would be available to the public and would have to be reviewed by Interior. Positions within Interior and the National Park Service that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the Secretary.

My amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Interior and other Federal agencies require their employees who are at the GS-13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

GENERAL ACCOUNTING OFFICE COMMENTS

The use of the GS-13 level as a classification for determining who must file is an administrative practice convenient to the Federal agencies, but is not relevant to the degree of responsibility of the position as the General Accounting Office has noted. This amendment, like the one in the above bills, seeks to abandon the practice and force a position-by-position review by the agency.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found deficiencies in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of problems associated with the statements. In a March 3, 1975, report, the GAO said:

> Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.

To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:

Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.

Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.

Require the Bureau counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.

Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.

Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.

Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.

Require the USGS counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.

Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,100 were below the GS-13 level.

The GAO made similar findings in eight other studies since late 1974.

DEFINITION OF "KNOWN FINANCIAL INTEREST"

My amendment makes it clear that the Secretary of the Interior must periodically look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for the Administrator to define what a "known financial interest" is. Indeed, an example of such a definition, Interior published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94-163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trust," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

Mr. Chairman, I urge adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 2371) to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes, pursuant to House Resolution 1520, he reported the Senate bill back to the House with sundry amendments adopted by the Committee on the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. SEBELIUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 352, nays 9, not voting 69, as follows:

[Roll No. 728]

YEAS—352

Abdnor
Adams
Alexander
Allen
Ambro
Anderson,
  Calif.
Anderson, Ill.
Andrews, N.C.
Andrews,
  N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clausen,
  Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-
  schmidt
Hannaford
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hefner
Hicks
Hightower
Hillis
Holland
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead,
  Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson,
  Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stauton,
  J. Williams
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler

Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—9

Burleson, Tex.
Crane
Ketchum
McDonald
McKay
Paul
Rousselot
Santini
Young, Alaska

NOT VOTING—69

Abzug
Addabbo
AuCoin
Badillo
Beard, R.I.
Biaggi
Burke, Mass.
Carter
Chisholm
Conlan
Delaney
Downey, N.Y.
du Pont
English
Esch
Eshleman
Evans, Colo.
Fish
Ford, Tenn.
Giaimo
Green
Hanley
Hansen
Harrington
Hawkins
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holt
Holtzman
Howe
Jones, Okla.
Karth
Koch
Long, La.
McCollister
McKinney
Mathis
Matsunaga
Moakley
Murphy, N.Y.
Neal
Nowak
O'Neill
Peyser
Railsback
Richmond
Riegle
Risenhoover
St Germain
Satterfield
Scheuer
Stanton,
James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Studds
Symms
Teague
Tsongas
Udall
Wilson, C. H.
Young, Ga.
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Railsback.
Mr. Addabbo with Mr. Carter.
Mr. Burke of Massachusetts with Mr. Symms.
Mr. Harrington with Mr. Heinz.
Mrs. Chisholm with Mrs. Holt.
Mr. Delaney with Mr. Conlan.
Mr. Hanley with Mr. Hansen.
Mr. Helstoski with Mr. Karth.
Mr. Young of Georgia with Mr. McCollister.
Mr. St Germain with Mr. du Pont.
Mr. Murphy of New York with Mr. Hébert.
Ms. Abzug with Mr. Howe.
Mr. Matsunaga with Mr. McKinney.
Ms. Holtzman with Mr. Esch.
Mr. Moakley with Mr. Peyser.
Mr. Biaggi with Mr. Steelman.
Mr. Beard of Rhode Island with Mr. Steiger of Arizona.
Mr. Jones of Oklahoma with Mr. Green.
Mr. Charles H. Wilson of California with Mr. Eshleman.
Mr. Tsongas with Mr. Hawkins.
Mr. Koch with Mrs. Heckler of Massachusetts.
Mr. Risenhoover with Mr. Giaimo.
Mr. Udall with Mr. Long of Louisiana.
Mr. Zeferetti with Mr. Stuckey.
Mr. Scheuer with Mr. Mathis.
Mr. AuCoin with Mr. Nowak.
Mr. Badillo with Mr. Studds.
Mr. Steed with Mr. Richmond.
Mr. Ford of Tennessee with Mr. Henderson.
Mr. Evans of Colorado with Mr. Satterfield.
Mr. Downey of New York with Mr. James V. Stanton.
Mr. Neal with Mr. Riegle.
Mr. English with Mr. Teague.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 745. Concurrent resolution correcting the enrollment of S. 327.

The message also announced that the Senate had passed with amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such code.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDING SECTION 584 OF INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO TREATMENT OF AFFILIATED BANKS FOR PURPOSES OF COMMON TRUST FUND PROVISIONS OF SUCH CODE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5071) to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such code, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2 after line 5, insert:

SEC. 3. WITHHOLDING; ESTIMATED TAX PAYMENTS.

(a) WITHHOLDING.—

(1) IN GENERAL.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

(2) TECHNICAL AMENDMENT.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

(b) ESTIMATED TAX PAYMENTS BY INDIVIDUALS.—Section 6153(g) of such Code (relating to installment payments of estimated income by individuals) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

(c) ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154(h) of such Code (relating to installment payments of estimated income by corporations) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I yield to the gentleman from Oregon (Mr. ULLMAN) so he may explain this to the House.

Mr. ULLMAN. Mr. Speaker, the House passed the bill H.R. 5071 on the unanimous-consent calendar. The Senate has agreed to that bill exactly as it was passed by the House with an amendment. That is a very simple amendment which extends through September 30 the existing withholding rates that are scheduled to expire at midnight tonight. They will expire tonight at midnight unless we act.

This provision will extend those withholding schedules through September 30.

This will give the Congress time to act on the comprehensive tax reform bill and also give the President time to act on that bill. It is coming up on Thursday. We expect to pass it in both the House and the Senate on that date, but there is a great a deal of work involved in enrolling a bill of this magnitude and we want to have time to do that and also give the President enough time in which to sign the bill. Therefore we are extending the withholding through September 30.

Mr. CONABLE. Mr. Speaker, I think the chairman has very well summarized the necessity for the extension of the withholding tables which otherwise expire today. In the absence of this legislation the withholding would increase tomorrow.

Mr. Speaker, the further extension is necessary, despite anticipated action on the tax reform conference report this Thursday, because, as the chairman has indicated, it will take some time to enroll the tax reform bill, get it to the White House and give the President an opportunity to review the thousand-page-plus bill that has resulted from the protracted conference held by the House and Senate conferees.

Now, let me say, Mr. Speaker, also, that this is an amendment to a bill of mine to permit the treatment of common trust funds for affiliated banks. There was no controversy about that particular measure, which applies to only a few States in which branching has not been permitted. There is, instead, holding company affiliation type bank proliferation, which under the present law has not permitted small banks to participate in common trust funds.

Mr. Speaker, the measure passed by a substantial margin and it is my belief that it should not be an issue or a matter of debate issue at this time. Rather, it is only a vehicle for the extension of the withholding tables.

Mr. Speaker, I have no further requests for time at this point and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

DISAPPROVING CERTAIN REGULATIONS PROPOSED BY THE GENERAL SERVICES ADMINISTRATION IMPLEMENTING SECTION 104 OF THE PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

Mr. BRADEMAS. Mr. Speaker, pursuant to section 104(d)(5)(E) of Public Law 93-526, I move that the House proceed to the consideration of House Resolution 1505.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 1505

Resolved, That, pursuant to section 104 (b)(1) of the Presidential Recordings and Materials Preservation Act (44 U.S.C. 2107 note), the House of Representatives hereby disapproves section 105–63.104(b) of title 41 of the Code of Federal Regulations, section 105–63.401 of such title, section 105–63.401–2 (g) of such title, section 105–63.402–1(b) of such title, section 105–63.402–1(b) of such title, section 105–63.402–2(b) of such title, and section 105–63.404 of such title, as proposed by the Administrator of General Services in a report submitted to the House of Representatives on April 13, 1976.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) to consider H. Res. 1505.

The motion was agreed to.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 1505 was approved by the Committee on House Administration by a voice vote on August 31, 1976.

The purpose of this resolution is to disapprove certain regulations proposed by the General Services Administrator providing for public access to Mr. Nixon's Presidential materials.

On October 15, 1975, the General Services Administration submitted revised regulations pursuant to the 1974 Presidential Recordings and Materials Preservation Act. Under the provisions of the statute, proposed regulations automatically become effective 90 legislative days after submission unless either House of Congress adopts a resolution of disapproval within that period.

However, on January 21, 1976, Congress was notified by the GSA Administrator, that at the request of the Justice Department, he was withdrawing the October 15 proposed regulations pending a review of their constitutionality. A letter dated February 5, 1976, from Chairman RIBICOFF and Ranking Minority Member PERCY of the Senate Government Operations Committee and me informed the GSA Administrator that under the statute he had no legal authority to withdraw the October 15 proposed regulations.

On April 8, 1976, the Senate adopted Senate Resolution 428, disapproving seven of the October 15 proposed regulations. Since the Senate decided by its action on April 8 that the GSA Administrator had no authority to withdraw regulations, all regulations which were submitted to Congress on October 15, 1975 which were not specifically disapproved by Senate Resolution 428 became effective, under the terms of the statute, upon the expiration of 90 legislative days after submission.

Notwithstanding the Senate action on April 8, 1976, disapproving only seven provisions of the October 15 regulations and ignoring the letter from Senators RIBICOFF and PERCY and me, the GSA Administrator submitted an entirely new set of regulations on April 13, 1976. Since, however, most of these regulations had already become effective upon the expiration of 90 legislative days following October 15, 1975, only those regulations submitted by the Administrator on April 13, 1976 covering the seven provisions that were disapproved by the Senate are properly before Congress for review.

Following a complete review of only those new regulations covering the seven previously disapproved sections, the Committee on House Administration has concluded that only the provision dealing with the procedure to be followed by the Administrator in considering petitions to protect certain legal and constitutional rights by limiting access to specified materials is acceptable.

House Resolution 1505 was reported by the Committee on House Administration to disapprove those new regulations covering the remaining six provisions that were disapproved by Senate Resolution 428. These provisions involve the definition of private or personal materials; the composition of the Presidential Materials Review Board, which is responsible for the final archival decisions regarding the disposition of the tapes and other materials; the adequacy of the provisions giving notice to affected individuals prior to the opening of these files to the public; the procedures for allowing reproduction of the Nixon tapes; and two provisions relating to the restrictions of the materials which are of a personal nature or which would result in defamation of character.

Mr. Speaker, I would anticipate that upon passage of this resolution, the Administrator of the General Services Administration will submit new regulations to cover the ones disapproved in House Resolution 1505.

At this point, Mr. Speaker, I would yield to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman for yielding to me. As the gentleman from Indiana has said, this is a relatively noncontroversial matter which was unanimously agreed to by the Committee on House Administration. For the information of the Members, the new regulations from GSA will be considered by the committee, and we will have 90 legislative days to do that.

For the further information of the Members, I think perhaps the most interesting of the several issues involved with these regulations will be a notification to third parties who may be involved in Presidential papers or tapes. In fact, that has been one of the essential points of difference between some members of the House Administration Committee.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman, and I want to express my appreciation to the gentleman from New Hampshire for his cooperation on this matter.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. LEVITAS) for an observation.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding to me. I am very pleased that we have got the opportunity today to participate in this action which is exercising a legislative veto over bureaucratic regulations by the adoption of a resolution of one House of the Congress, which is something many Members of this House have voted for in amendments to other legislation, over the last year and a half. Many Members on both sides have cosponsored with me bills similar to H.R. 12048 which provides for a congressional veto of regulations. Today we do an act of congressional veto that has great significance as a precedent for the future.

I would like to observe, if I might, that the authority under which we are acting was a bill that was signed into law in, I believe, December of 1974, by President Ford. However, and inconsistently, he has recently vetoed another bill that was passed by the Congress on FIFRA, and said that he vetoed that bill solely because it provided for a legislative veto.

The bill we are now operating under the authority of in exercising a legislative veto was signed by President Ford. He was right the first time. He was wrong on FIFRA.

I thank the gentleman for yielding to me.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, the only comment I would like to make is that I am not sure the gentleman from Georgia, in his remarks, distinguished between the legislative veto, which is exercised by two Houses—the House and Senate—and the legislative veto in this legislation, which can be exercised by one of the branches of Congress. I see that he is asking for recognition from the gentleman from Indiana.

Mr. BRADEMAS. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman. That is precisely the point I wish to make, that this resolution is a one-House veto; H.R. 12048, the legislation which has been pending before the Congress, out of Judiciary and in the Rules Committee, for a number of months also provides for a one-House veto. The FIFRA legislation, which was vetoed by President Ford, also provided for a one-House veto. I suggest that there is some inconsistency in this.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. I thank the gentleman for yielding.

Mr. Speaker, is it the opinion of the gentleman from Georgia (Mr. LEVITAS) that the so-called one-House veto may be unconstitutional?

Mr. LEVITAS. Mr. Speaker, if the gentleman from Indiana will yield, I will say that I think it is very clearly constitutional.

There is a case now pending before the courts which will resolve the matter involving the one-House congressional veto under the Federal Election Commission law, which the President also signed. The only dicta that did come down was by Justice White, in Buckley against Valeo, which, as the gentleman knows, Mr. Justice White, in that case, said it is clearly within the lawful discretion of Congress to provide for and exercise a one-House veto, which we are about to do, and I think this is a very important and symbolic act of constitutional and historic significance. We are about to do the very thing President Ford said is unconstitutional in his FIFRA veto message and we are doing it under the provisions of a bill which he earlier signed. Nevertheless, we are doing it. That is good. I urge my colleagues to exercise their constitutional right of congressional veto at this time.

Mr. BRADEMAS. Mr. Speaker, I appreciate the remarks of the gentleman from Georgia (Mr. LEVITAS) and the response of the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. Speaker, I believe that this one-House veto is not a partisan matter. Members on both sides of the aisle have offered such amendments to bills before.

Unless the gentleman from New Hampshire has something further to say, Mr. Speaker, I will move the previous question on the resolution.

Mr. CLEVELAND. If the gentleman will yield, no, I have no further comments. I just wanted to clarify whether the gentleman from Georgia had referred specifically to the so-called one-House veto, as compared with a legislative veto by both branches. There is apparently some doubt in this area. As we who believe in a more active role by Congress in this area, I hope it is resolved soon.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution (H. Res. 1505) just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore (Mr. McFALL) laid before the House the following resignation as member of the Committee on the Budget:

WASHINGTON, D.C.,
September 14, 1976.

Hon. CARL ALBERT,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: The House Budget Committee has completed its work for this Congress and the fiscal principles upon which it was created and under which it has functioned are relevant, correct and essential if the legislative process is to succeed in meeting the demand for budgetary control.

While disappointed in the final result this year and our apparent inability to cope with continuing deficit spending, I am totally and unequivocally committed to the concept of Congressional Budgetary responsibility and the process that makes it practicable. It has been a privilege to serve on the committee from its inception. The chairmen who have served have been dedicated, and I commend Chairman Brock Adams for his even-handed fairness in the administration of the committee operations. He has demonstrated a comprehensive grasp of the committee's purpose and objective, and the Minority has enjoyed a high standard of impartial treatment from Mr. Adams.

It is, therefore, with some personal reluctance that I find it necessary to resign from the Budget Committee effective immediately.

Very truly yours,

DEL CLAWSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation will be accepted.

There was no objection.

JACKSON STATE UNIVERSITY TO CELEBRATE ITS CENTENNIAL

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Mississippi (Mr. COCHRAN) is recognized for 60 minutes.

Mr. COCHRAN. Mr. Speaker, between September 14, 1976, and October 23, 1977, Jackson State University in Jackson, Miss., will celebrate its centennial. It is highly appropriate, and I believe significant, that this celebration coincides with the celebration of our Nation's Bicentennial. As our State's largest predominately black educational institution, it is a university in which we can, with ample justification, take great pride.

Jackson State University had its origins in the wake of the most turbulent and troubled era in our history. The Civil War had left Mississippi, like most of its southern sister States, prostrate and devastated. Thousands of its young men lay dead on the field of battle, and its economy was shattered. Many obstacles, social, political, and economic, had to be overcome before Jackson State University could become a reality.

The institutoin was first organized and founded on October 23, 1877, as the Natchez Seminary, a private church school in Natchez, Miss. Earlier, in April 1876, the American Baptist Home Mission Society had petitioned the Congress to authorize the Secretary of the Treasury to confirm the purchase of the Marine-hospital building and grounds at Natchez for the establishment of the Natchez Seminary. In August of that same year, the 44th Congress approved a joint resolution which authorized and directed the Secretary of the Treasury, the Honorable Lott W. Merrill, to confirm the sale of this facility to the Baptist Home Mission Society for the sum of $5,000. This was done, and the Natchez Seminary was born. The young institution grew and prospered in Natchez until 1883.

In that year, the seminary was moved to Jackson, the State capital, for reasons of space and a more central location. Subsequently, the institution was transferred from the Baptist Home Mission Society to the State of Mississippi, and it is now supported by the State and controlled by the board of trustees, Institutions of Higher Learning for the State of Mississippi. Its name was changed to Jackson State College.

Since 1883, the growth of Jackson State has been steady and uninterrupted. Established for the purpose of educating free men, the institution has continued to provide educational opportunity for men and women, especially those persons from disadvantaged circumstances. While the university today is open to students of all races, it continues its identity as a predominately black institution concerned with developing new opportunities for the black citizens of Mississippi.

Jackson State University is the fourth largest university in the State of Mississippi. At a time when educational institutions all over the country are increasingly hard pressed for funds and support, Jackson State has prospered. It enjoys one of the highest rates of growth of any institution in the United States.

In the fall of 1972, Jackson State employed 688 faculty and staff with a student enrollment of 5,100. By the fall of 1975, there were 7,718 students and over 830 faculty and staff. The university has continued its dedication to providing quality education at a reasonable cost.

The campus is a beautiful 94-acre tract located in Jackson, Mississippi's capital city. Jackson, with a population of 310,200 people, has been identified as a growth city in the deep South. This hand in hand growth of Jackson and Jackson State University is not coincidental. Thousands of the graduates of Jackson State are now living and working in our capital city and the surrounding area. They are contributing substantially to the economic development of Jackson and the State of Mississippi.

Mr. Speaker, there are far too many people who have contributed to this growth to name. There is one, however, who deserves specific recognition. He is Dr. John A. Peoples, Jr., the president of Jackson State University. Dr. Peoples has presided over the administration of Jackson State during one of the most difficult and trying periods in its existence. It has been a period in which the institution has been making the transition from college to university and from an all black enrollment to open admissions. Due in large part to his enlightened leadership, Jackson State has met and survived many crises. Dr. John A. Peoples, Jr. is truly a credit to Jackson State University and to the State of Mississippi.

The university has identified a number of centennial objectives, and I take pleasure in listing them here:

CENTENNIAL OBJECTIVES

1. To chronicle the first century of progress of the University.
2. To give prominence to those events which were pivotal with respect to the significant changes in the directions of the University.
3. To focus on those persons who played salient roles in advancing the Institution towards its destiny.
4. To involve the constituency of the Uni-

versity in commemorative activities which depict and dramatize the University's record of service.

5. To bring community, state, and national attention and support to the current thrust of the University.

6. To analyze past and present achievements as a foundation upon which philosophical and operational directions for the future may be built.

7. To determine new dimensions of teaching and learning on the basis of which the University may better carry out its mission.

8. To take definite and positive steps toward launching the University into its second century of service.

Mr. Speaker, it is a source of pride to me that I have the honor to represent the district in which Jackson State University is located. I have benefited from its presence in the community in which I grew up, and I am privileged to have the opportunity to work with its officials in insuring its continued growth and development.

A NEED FOR ADEQUATE DEFENSE SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, there is a direct correlation between the strength of our Armed Forces and our foreign policy. That is why we should not make any moves which would undermine the combat effectiveness of our fighting forces and their ability to halt aggression.

Investment in national defense is a solid investment in and commitment to world peace. If we fail to maintain vigilance against any threat to our security, we are inviting potential aggressors to dictate to us on foreign policy. In keeping our fighting forces strong, we blunt the potential for international blackmail.

Our defense policy must emphasize the proper utilization of all military resources. That entails a blend of land, air and sea power and strategic nuclear forces.

There is a continuing need for a combat-ready conventional ground force which can move swiftly to back up our military and political commitments to our allies. There also is an obvious need for maintaining freedom of movement in international sea lanes. That means our Navy must be the best in the world. Our Air Force must be able to support our sea and land forces and quickly gain the upper hand in any fight.

Similarly, we must have strategic nuclear forces capable of retaliating in the event of a nuclear attack. I am convinced such a force is an effective deterrent to nuclear aggression.

The Amerian public is ahead of some Members of Congress in recognizing the need for truly adequate defense spending. A Harris public opinion poll last April showed that 76 percent of the American people believed the President should give high priority to keeping our military defense strong. The Congress should concur in this policy.

LEGISLATION AMENDING MEAT IMPORT ACT OF 1964

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SHRIVER) is recognized for 5 minutes.

Mr. SHRIVER. Mr. Speaker, I am today introducing legislation amending the Meat Import Act of 1964.

Currently, Australia and New Zealand are "dumping" their excess meat on U.S. markets by having it processed in the Free Trade Zone in Mayaguez, Puerto Rico. This year, over 28 million pounds of meat have been shipped through Mayaguez into the United States as of September 1.

When I became aware of this situation I cosigned a letter to President Ford, along with many of my fellow colleagues, asking that this practice be halted. I was subsequently informed that New Zealand had stopped their shipments, and that Australia was about to follow suit. However, within a few days of this I learned that lawyers for the Mayaguez meat packers had obtained a court order for the Secretary of Agriculture to "show cause" why Puerto Rico should not be granted a 50-million-pound meat quota of their own.

The Secretary flatly denied this request, and I sent him and President Ford a telegram of support for this stand.

It is now my understanding that the U.S. Department of Agriculture, after consultation with the Department of State, is about to backdown from its previous position. If this is true, I am very disappointed.

It is difficult to keep track of the number of times I have stood before this body and talked about how regulations alter or ignore the spirit or intent of legislation passed by Congress. In this case, an apparent loophole has been found allowing the intent of the Meat Import Act to be ignored. My legislation will close this loophole.

This is the second time this same situation has occured in the past 6 years, and both times it has involved Australia and New Zealand.

In 1972, these two countries were "dumping" their excess meat on U.S. markets, by first shipping it to Canada, and Canada would in-turn ship it to the United States. After the State Department finished negotiating with Canada and the other two countries, Canada decided to sell the imported meat on their domestic market, and ship their better grade of meat into the United States. This, to my knowledge, is still going on and is not exactly what I call an equitable settlement.

I am fully aware of the advantages of free trade to the U.S. taxpayer and to our economy, and I support these principles. However, I am not interested in establishing good will or assisting another country's economy to the detriment of our own.

Therefore, I am introducing the companion to a bill introduced by Senator CURTIS of Nebraska, putting an end to the activities in Mayaguez. I hope it will receive the support of the House, and that action can be taken on it before the House adjourns.

TIMBER HARVEST LEVELS IN NATIONAL FORESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MCKAY) is recognized for 20 minutes.

Mr. MCKAY. Mr. Speaker, one of the most controversial provisions of S. 3091 as passed by the Senate on August 25 is section 11 which deals with timber harvest levels on the national forests. This provision would require that sale of timber from each national forest be limited to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis.

Under this provision, allowable harvest today could be set no higher than the long-term sustained-yield level based on the projected growth rate of the forest when it is in a fully managed condition.

In effect, the ultimate sustained-yield level of the forest is set as a ceiling above which harvest levels cannot be permitted to rise. Opponents of section 11 note that it is inappropriate for the old-growth forests of the West. They pointed out that by requiring that the sustained-yield level be established as a ceiling the Forest Service will be prevented from effective utilization of timber volumes which are surplus to sustained-yield needs.

Proponents claim that the language of section 11 would only put into law what is current Forest Service policy. This claim has been brought into serious question in a recent study done by Dr. K. Norman Johnson, assistant professor in the Department of Forestry and Outdoor Recreation of Utah State University. Dr. Johnson has been analyzing timber harvest alternatives as part of a detailed Forest Service study of the issue due to be released soon.

Dr. Johnson's study showed that under the wording of section 11 of S. 3091 timber harvest levels on the Umpqua National Forest in Southwestern Oregon would be lower than presently planned under current Forest Service nondeclining yield policies. More importantly, the study showed that significant timber volumes will be needlessly foregone on the Umpqua under either present Forest Service nondeclining yield policies or the language of section 11.

Using the sustained-yield level as a floor below which harvests could not be permitted to go, rather than a "ceiling" as is required by section 11, Professor Johnson found that on the Umpqua up to an additional 1.3 billion board feet could be made available during the first decade and up to 6 billion board feet could be made available over the first 10 decades without jeopardizing future forest productivity or ever dropping below the sustained-yield floor. Six billion board feet is enough wood to house 18 million people. This is made possible by more rapid utilization of old-growth volume which would otherwise be lost to insects and disease and by replacing these old, slow-growing forests with young, faster-growing stands at a more rapid rate than would be possible under nondeclining yield constraints. It goes without saying that this timber harvest would need to be done in a manner which protects or enhances all multiple use values of the forest, including wildlife, recreation, watershed and soils and other values.

I ask unanimous consent that this important study be made a part of the RECORD.

THE HUMPHREY BILL WORDING ON SUSTAINED YIELD: IMPLICATIONS FOR A NATIONAL FOREST IN THE DOUGLAS-FIR REGION

(By K. Norman Johnson)

ABSTRACT

Section 11 of the Humphrey Bill states that "The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such a forest annually in perpetuity on a sustained-yield basis." The Umpqua National Forest in western Oregon was examined to determine what impact this wording would have on allowable cut in a Forest that contains a significant amount of old growth.

Under a low level of management intensity, it was found that (1) a 33 percent reduction in harvest would be immediately required, and (2) an allowable cut calculated under a "nondeclining yield policy" would not be permitted because it would allow a harvest level above the "sustained-yield" level. Reliance on intensified management to prevent a harvest decline was questioned because of wording in the Bill that may increase the difficulty of taking credit for gains from intensified management.

Additional harvest trajectories were developed for the Umpqua which allowed a more gradual decline to the "sustained-yield" level. Under these trajectories (1) up to an additional one billion board feet of timber would be available for harvest during the first 10 years, (2) up to an additional six billion board feet of timber would be available during the first 100 years, and (3) the disruptive impact on local economies of a sudden decline in harvest level, as could be caused by the Humphrey Bill, would be minimized.

In interpreting these results, it should be remembered that they reflect a case study on a single National Forest. For other National Forests to show similar results, they must have, at a minimum, stands heavily stocked with slow-growing old growth and an allowable cut above that permitted by Section 11. Many National Forests, especially those outside the Douglas-fir Region, may not meet these conditions. Even those that do may, for one reason or another, not show the same results. Analyses of more National Forests are needed before we can tell how pervasive these results are for the national Forest System.

In the amended version of S. 3091, the "Humphrey Bill," Section 11 states, "The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis" (Journal of Forestry, 1976). At least two questions have arisen about the implication of this definition of permitted harvest level for the National Forests: Does this wording reflect current Forest Service policy? Will it force the Forest Service to forego significant amounts of volume that it otherwise could have harvested? This paper addresses these two questions in a case study of the Umpqua National Forest, considered typical of the Douglas-fir Region.

The Umpqua National Forest, located in southwest Oregon has Douglas-fir as the predominant species and is characterized by an abundance of old growth. Its annual allowable cut is currently 357 million board feet or 71 million cubic feet; in recent years, harvests have been at or near this level. As the Umpqua was a sample forest in the recent Forest Service Harvest Issues Study, data on inventory and yields were readily available.

The Harvest Issues Study considered two levels of management intensity for the Umpqua: low investment and high investment. The low investment option involved planting cutover lands and the nonstocked backlog with normal stock, commercial thinning, and regeneration harvest. The high investment option involved planting cutover lands and the nonstocked backlog with genetically improved stock, stocking control, commercial thinning, and regeneration harvest. Current management intensity on the Umpqua is close to the low investment level. Personnel on the Umpqua are doing a limited amount of precommercial thinning, but increased funding would be necessary to carry out the management envisioned by the high investment option. Therefore, the low investment option will be emphasized in this paper.

CURRENT POLICY MAY NOT BE CONSISTENT WITH THE WORDING

To decide whether Forest Service policy is consistent with the Bill, we must first estimate "the quantity which can be removed annually in perpetuity on a sustained-yield basis." After the old growth is gone and the forest is regulated, the Umpqua can sustain a harvest of 47.4 million cubic feet under the low investment option (hereafter called the sustained-yield or S–Y level).[1] This is the point where growth equals harvest, after conversion of the old growth and was calculated by dividing total yield at culmination of mean annual increment by the number of years needed to reach culmination. Assuming this is the "quantity" referred to in the Humphrey Bill, the allowable cut on the Umpqua, under low investment, must immediately drop to this level from the current level of 71 million cubic feet; a 33 percent reduction in allowable cut.

The allowable cut level of 71 million cubic feet resulted from an allowable cut calculation completed a decade ago under different allowable cut guidelines, multiple use considerations and data bases than exist today. Using the data base and multiple use constraints from the Harvest Issues Study and current Forest Service allowable cut policy, a new allowable cut was calculated for the Umpqua.

The Pacific Northwest Region of the Forest Service interprets their mandate for "nondeclining yield" as follows: maximize first decade harvest subject to nondeclining yield for the conversion period and the average yield for the post-conversion period being at least as high as the yield for the last decade of the conversion period.[2] Harvest age for regenerated timber is set at culmination of mean annual increment. Calculation of timber harvest for the Umpqua under this interpretation of nondeclining yield, at the low investment level, results in an annual allowable cut of 51.4 million cubic feet for the forthcoming decade (Figure 1);[3] a 28 percent reduction from the current allowable cut. This reduction is in keeping with reductions calculated for nearby forests in the Douglas-fir Region. As an example, the Draft Environmental Impact Statement for the Wilamette (USDA Forest Service, 1974) shows a decrease in allowable cut of nearly 35 percent under the low investment option. However, even with this substantial decrease, the policy is not consistent with the Bill's wording because it allows a harvest level for the Umpqua that, especially in the post-conversion period, is above the sustained-yield level.

Would a policy be permitted that required nondeclining yield for the entire 30-decade planing horizon? To find a feasible solution under these additional harvest flow constraints, we would have to allow regenerated timber to be harvested at a number of ages in addition to the age of culmination. We also must add constraints on the ending inventory to ensure that an adequate inventory is left at the end of the planning horizon. Using a model developed at Utah State University, this approach was applied to the Umpqua with a resulting allowable cut of 48.6 million cubic feet per year for all 30 decades (Figure 1).[4] As with current Forest Service policy, this policy is not consistent with Section 11 because it allows an allowable cut above the S-Y level.

That a policy requiring nondeclining yield for 30 decades can have an allowable cut level above the S-Y level is especially interesting. By metering out the old growth over 30 decades, we can keep the harvest above the S-Y level for the entire planning horizon. At the end of 30 decades the harvest will drop to about this S-Y level. Similar results can be expected on other Forests in the Douglas-fir Region that have heavily stocked old-growth stands and are managed at the low investment level.

In summary, the current allowable cut (71 million cubic feet), the new allowable cut under Forest Service guidelines (51.4 million cubic feet) and the nondeclining yield for 30 decades allowable cut (48.6 million cubic feet are all above the sustained yield level (47.4 million cubic feet) under low investment. Therefore, none would be permitted, at this investment level, under the wording of Section 11.

Reliance on management intensification to maintain the harvest may encounter difficulties

If the Humphrey Bill is passed with the current wording in Section 11, the argument over allowable cut levels for the Umpqua and similar Forests in the Douglas-fir Region will not go away. It will just shift from focusing on harvest policy to (1) what yields can be obtained from timber managed under any intensity and (2) what level of management intensity is economically justifiable and socially desirable. With the harvest controlled by the predicted S–Y level, the energies of people who want the cut higher or lower will be directed there.

With high investment, the S–Y level on the Umpqua is 85 million cubic feet, 20 percent higher than the current allowable cut of 71 million cubic feet and 80 percent higher than the S–Y level low investment of 47.4 million cubic feet. Implementing this high investment level would enable the allowable cut to be maintained or increased. However, in addition to some people decrying "turning our National Forests into tree farms," two problems arise from relying on intensified management to continue current harvest levels in the face of Section 11.

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[1] This sustained yield level is calculated on the basis that all land currently in the allowable cut base will remain there. Section 5 of the Humphrey Bill has a provision which requires the Forest Service to "assure that timber production is not a goal on lands where estimated costs of production will exceed estimated economic return." On the Umpqua, this could result in 1) some land being removed from the allowable cut base, and 2) "economic," i.e. shorter, rotations being used on the remaining land base. Both of these reactions to Section 5 would lower the sustained-yield level.

[2] Actually, a decline of one-tenth of one percent is allowed from decade to decade during the conversion period.

[3] All acres in the commercial forest base are used in the runs. The results have been multiplied by a Multiple Use Adjustment Factor of .88 to give the numbers reported here.

[4] No decline, not even one-tenth of one percent, was allowed from period to period.

First, money must be obtained from Congress to implement the intensification. If past Congressional willingness to provide money for intensive management is any indication, this is no small problem.

Second, as stated in Section 5 of the Humphrey Bill, "increases in allowable harvests based on intensified management practices such as reforestation, thinnings, or tree improvement shall be made only upon demonstration that such practices justify increased allowable harvests, and that the outputs projected are being secured" (Journal of Forestry, 1976). If this clause remains in the Bill, the 80 percent increase in the S–Y level predicted for management intensification on the Umpqua must meet the test implied by it.

This 80 percent increase in the S–Y level can be partitioned into a 68 percent increase due to stocking control and a 12 percent increase due to tree improvement.[5] However, these projected increases appear to be based more on professional judgement than on "demonstrations that such practices justify increased allowable harvests." After consulting the published and unpublished literature, Beuter, Johnson, and Scheurman (1976) estimated increases from stocking control at less than 25 percent for sites similar to the Umpqua. Curtis et al. (1974) estimated these gains at less than 30 percent for Site III. While the foresters who made the estimates for stocking control on the Umpqua may be correct (after all they probably know more about the Umpqua's growth potential than anyone else), it is arguable whether the gains from such practices can be considered "demonstrated." The estimates for tree improvement are even more speculative.

In addition, literal interpretation of the last part of the clause, that it must be shown "that the outputs projected are being secured" before we can increase harvests on the basis of intensified management, could essentially wipe out any immediate allowable cut effect from management intensification. It could be interpreted to mean that the allowable cut cannot be raised until the fiber resulting from the intensified management is actually being harvested.

All in all, this clause, or similar ones, could considerably increase the difficulty of using management intensification to justify increased timber harvests.

HARVEST VOLUME MAY BE FOREGONE UNDER THE CURRENT WORDING

The harvest flow provisions of the Humphrey Bill will ensure we do not plan a harvest pattern on the Umpqua that allows such a high harvest in the immediate future that harvest must subsequently go below the S–Y level. However, this can be ensured in another manner which will make more timber available for harvest. Rather than a sustained-yield "ceiling" over harvests as is required by the current wording of the Bill, a sustained-yield "floor" could be placed under timber harvests. Harvests would be permitted above the S–Y level as long as they did not prevent maintenance of the S–Y level in the future.

Allowable cuts were calculated for the Umpqua under this latter approach at the low investment level (Figure 2). Declines during the planning horizon of 1, 2.5, and 5 percent per decade were allowed for the harvest from decade to decade subject to constraints 1) that the harvest would not drop below the sustained-yield level during the planning horizon and 2) that the inventory left at the end of 30 decades would enable production at the S–Y level from then on. By varying the rate of decline permitted in harvest, the Forest Service can come as close to the current harvest level as it wishes, and yet never drop below the sustained-yield floor. Under any permitted decline, extra volume is produced (Table 1) during the first decade, the first 10 decades, and over the entire planning horizon. Up to an additional 260 million cubic feet (1.3 billion board feet) could be made available during the first decade and up to 1.2 billion cubic feet (6 billion board feet) could be made available over the first 10 decades. This extra volume is made possible by replacing slow-growing old growth with faster-growing young growth at an increased rate.

Under the low investment option on the Umpqua, any harvest policy will result in an eventual decrease in harvest from the current level because the current allowable cut is above the S–Y level. Under the current provision of the Humphrey Bill, this drop will occur in the first period. Under other options, such as shown here, the decline can be spread over a longer period of time with the result that more volume will be produced, while reducing the disruptive influence of harvest declines on local employment and tax revenue.

With a good possibility that private harvests will sharply decline over the next 30 years, in the timbersheds adjacent to the Umpqua National Forest (Beuter, et al., 1976), Forest Service harvest policy for the Umpqua becomes a critical factor in determining the economic health of southwestern Oregon. The wording of the Humphrey Bill on this subject should be carefully examined to assess whether it gives the flexibility in harvest policy needed for the Forest Service to best respond to this issue and to the nation's demand for softwood timber.

TABLE 1.—*Total volume available for harvest, at the low investment level, under different harvest policies on the Umpqua National Forest. (Current allowable cut is 710 million cubic feet per decade)*

Harvest policy	Total volume available for harvest 1st decade	 1st 10 decades	 30 decades
	[Million cubic feet]		
Harvesting restricted to sustained yield level as specified in Section 11 of the Humphrey Bill__	474	4740	14230
Harvesting permitted to decline 1 percent per decade but not go below sustained yield level_	568	5424	15078
Harvesting permitted to decline 2.55 percent per decade but not go below sustained yield level_	642	5749	15273
Harvesting permitted to decline 2.5 percent per decade but not go below sustained yield level_	735	5906	15396

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[5] This assumption for stocking control is not dissimilar to the assumptions made for the Gifford Pinchot National Forest where a 52 percent gain was assumed (Final Environmental Impact Statement, Timber Management Plan, Gifford Pinchot National Forest).

STATEMENT IN SUPPORT OF BILL TO RESTORE FOREIGN BANK ACCOUNT QUESTION TO THE FORM 1040 AND OTHER TAX RETURNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, today, I am introducing a bill to require the Secretary of the Treasury and the Commissioner of Internal Revenue to restore an important weapon in the government's war against tax cheats who hide billions of taxable income in secret bank accounts. Such accounts have served as a financial underpinning of organized crime, have permitted Americans to evade taxes and securities regulations, and have served as an essential ingredient in frauds against the United States.

LEGISLATION TO RESTORE THE FOREIGN BANK ACCOUNT QUESTION TO THE BASIC RETURN

Under the bill I am presenting, the Internal Revenue Code of 1954 would be amended to require that any income tax return—individual, fiduciary, partnership, corporate, or other—contain on the first page a question with respect to whether the filer, during the taxable year—

> * * * had any interest in, or signature or other authority over, any bank, securities, or other financial account in a foreign country (other than such an account in a United States military facility) which is operated by a financial institution which is a United States person.

This bill, in essence, would require every taxpayer to state on the first page of an income tax return whether he or she has a foreign bank account or authority over one. From 1970 through 1974, such a question was asked of every taxpayer filing a return. The question was aimed primarily at narcotics traffickers and other practitioners of organized and white-collar crime who, more and more, were making secret foreign bank accounts a haven for their illicit profits. The question was also seen to be useful to ferret out illegal income derived from stock market manipulation, corporate bribes and slush funds.

Without such legislation, it seems unlikely that either the present Secretary of the Treasury or the present Commissioner of Internal Revenue will act voluntarily to restore this important investigative tool. Without such legislation, those individuals and corporations who use foreign bank accounts to evade taxes will continue to get a free pass. They are less likely to be discovered and even less likely to get the punishment they deserve.

The bill would put teeth in the law to insure compliance. Not only would a civil penalty be imposed for failing to answer the question at all, but anyone giving a false answer could be sentenced to a fine up to $5,000 or imprisonment up to 3 years, or both.

In addition, the bill provides that the taxpayer's interest, if any, in a foreign account must appear on the first page of the return. Studies have shown that when the question appeared on the first page of the Form 1040, the individual return, almost 95 percent of persons filing individual tax returns answered the foreign bank account question. But when the question was placed on the back page of the return, not many more than one-third answered.

I had believed that the law and the regulations required that the foreign bank account question appear on the basic tax return. I was shocked and dismayed when the IRS removed the question. Certainly, this was not the intent of Congress.

When Congress first considered the foreign bank account question, we were led to believe that the administration would require, by regulation, that the question be asked on the basic return. Thus, during the course of House debate on Public Law 91-508, the Bank Secrecy Act, my distinguished colleague, Representative **THOMAS L. ASHLEY** of Ohio, commented:

> * * * [T]he Treasury Department has endorsed the idea behind this legislation. In addition, it was their proposal to add a question to our personal income tax forms, form 1040, asking whether the taxpayer maintains a foreign bank account. On May 11, the Internal Revenue Service announced its intention to include the question on next year's income tax forms.
>
> This new Treasury regulation coupled with the recordkeeping requirements imposed by title IV, will give Treasury important new tools in enforcing our tax laws.

The regulation that was issued as a result of this legislative history reads as follows:

> Each person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) having a financial interest in, or signature or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship as required on his Federal income tax return for each year in which such relationship exists, and shall provide such information concerning each such account as shall be specified in a special tax form to be filed by such persons.

It would appear that this Treasury regulation requires that the question be placed on the basic return. Unfortunately, the Treasury Department has construed the language otherwise. They have removed this valuable investigative tool from the return. Thus, the only course to take in order to assure that the foreign bank account question be restored to the first page of the Form 1040 and other basic tax returns is the bill I am presenting here today.

THE IMPORTANCE OF THE FOREIGN BANK ACCOUNT QUESTION

The Commissioner of Internal Revenue has minimized the importance of the foreign bank account question in his public statements. But it is the actions of the IRS which have led to the squandering of this important investigative tool.

IRS officials have noted that the number of taxpayers failing to answer the question rose from a low of about 3 million in 1971 and 1972 to an astonishing 38 million in 1974. In a classic case of illogic, they then figuratively throw up their hands and say, in effect, that with so many people not bothering to answer the question, we might as well take it off the return.

What the IRS management is not telling us is why they allowed non-compliance with respect to the foreign bank account question to shoot up at the rate it did between 1972 and 1974. Nor are they telling us why the IRS did not try to find out how many of those 38 million taxpayers failing to answer the question did have secret foreign bank accounts and how much taxable income these accounts represented. When the question was moved to the second page in 1973, the number of those not responding shot up. No effort was made to correct the problem on the 1974 return. In that year, the non-compliance figure was about the same as in 1973.

In addition to failing to vigorously enforce compliance with the foreign bank account reporting requirement, the IRS failed to use the information it obtained. For example, after a successful 1968 mail watch of individuals doing business with Swiss banks, nothing was done to match a 1971 mail watch with responses to the foreign bank account question. Recommendations to include the foreign bank account information as a factor in DIF scoring—a system for computer selection of returns—and to distribute printouts containing foreign bank account responses to IRS field offices were not carried out. The IRS has done nothing, systematic or otherwise, to follow up on the mass of foreign bank account data collected during the years the question appeared on tax returns.

I am fearful that the Commissioner's comments minimizing the value of the question may be misconstrued by the courts. Evidence so far developed in history's biggest tax evasion investigation, Project Haven, indicates that some wealthy Americans suspected of hiding taxable income in offshore accounts failed to acknowledge such accounts or lied about ownership on their tax returns of recent years. They include known criminals as well as so-called "pillars of society." Some of these people will be prosecuted for making a material misstatement on their tax returns. Their lawyers will point to the Commissioner's statements as evidence that the IRS does not consider the question important.

In my opinion, Congress considers the failure to answer or a negative answer to the foreign bank account question a very material misstatement. Without a truthful answer to this question, it becomes administratively difficult, if not impossible, for the Government to determine whether the amount of tax reported is accurate.

In the course of the 1970 debate on the Bank Secrecy Act, my colleagues expressed fear that our unique system of voluntary compliance with the tax laws was seriously threatened by the general knowledge that criminals as well as seemingly respectable businessmen use foreign accounts to evade taxes. The foreign bank account question was considered to be an important investigative tool by Congress. For example, the gentleman from Illinois, Representative **FRANK ANNUNZIO**, spoke of the frustration that IRS agents and other law enforcement officers experience when they—

> * * *can't even begin to find out about a crooked business deal because it is hidden behind an iron curtain of foreign secrecy laws.
>
> This bill will not put a guaranteed stop to these so-called white-collar crimes. It will, however, pierce the secrecy laws to the extent that it requires Americans to keep records of their dealings and relationships with foreign secret financial institutions.
>
> * * * * *
>
> To me, it is an outrage against our honest and law-abiding American citizens for this Government to permit wealthy Americans, businessmen and otherwise, who can afford the $50,000 or $100,000 it takes to do business in these so-called secrecy jurisdictions, to so easily avoid payment of their just taxes and our American securities laws.
>
> This bill goes after the big businessman, the big stock market manipulator, the embezzler, and other white collar criminals who deal in amounts of money which stagger the imagination.

And Mr. **ASHLEY**, in continuing his statement quoted above, stated:

> As far back as 1968, the Internal Revenue Service has been concerned about the ever-growing number of Americans who dodge their income taxes by using secret foreign bank accounts. * * *
>
> * * * * *
>
> Financial manipulators and petty criminals have found secret accounts an easy and safe way to cover up wrong doing or avoid taxes.
>
> It is high time the Congress acted. This bill may not be the perfect remedy. But it will be a giant first step in serving notice of lawbreakers that the secret account is no longer a shelter from law enforcement.

I think that these statements of my colleagues accurately reflect the tenor of Congress. The high level of voluntary compliance with our tax laws that this Nation enjoys is seriously threatened by the general knowledge that certain criminally oriented individuals and seemingly respectable businessmen use foreign accounts to evade their taxes. The foreign bank account question is an important investigative tool needed to deter this practice.

THERE IS ROOM FOR THE FOREIGN BANK ACCOUNT QUESTION ON THE FORM 1040

The IRS management would have us believe that recent congressional enactments forced a host of new items onto the Form 1040, leaving no space for the foreign bank account question. In congressional testimony on October 6, 1975, Commissioner Alexander said the question was being dropped because of what he called "some of the ornaments in the Tax Reduction Act of 1975" and the Census Bureau's requirement for revenue-sharing information. A "fact sheet" issued by the IRS last February cited these same two elements. It said the 1975 space limitations were brought on not only by the revenue-sharing item but also by adding eight new lines to reflect the changes brought about by the Tax Reduction Act of 1975.

While the law does require the revenue sharing item to appear on the tax return, the IRS statements concerning the Tax Reduction Act are misleading. I am advised by the Comptroller General that the Tax Reduction Act of 1975 contains only one provision directing an addition to the 1040. This provision relates to the credit for the purchase of a new home. But, as the Comptroller General points out, this part of the act does not mandate that the information be on the face of the return itself. All it requires is that a certificate be attached to the 1040 if the housing credit is claimed.

As for the other new items on the 1975 form 1040, my research indicates that they were put there at the discretion of the IRS, not because of any requirement in the Tax Reduction Act or any other law, for that matter. There is no legal requirement that the 1040 be the place where the taxpayer reports such information as:

Item 40b: "Payments to an individual retirement arrangement," or

Item 41: "Forfeited interest penalty for premature withdrawal," or

Item 58: "Tax on premature distributions," or

Item 62: "Excess contribution tax."

Most if not all of the items added to the 1975 Form 1040 fall into the category of tax breaks: adjustments to income, credits, and the like. The issue is not whether these items are worthwhile. The issue is whether the IRS and the Treasury Department, given their broad discretion in devising forms, possess the ingenuity to devise a 1040 or other forms that accommodate these tax breaks without scrapping so important an item as the foreign bank account question.

THE REMOVAL OF THE FOREIGN BANK ACCOUNT QUESTION FROM THE FORM 1040 AND OTHER BASIC RETURNS WILL MAKE CONVICTIONS MORE DIFFICULT FOR TAX YEARS COMMENCING AFTER 1974

Prosecutions for the failure to disclose a secret foreign account would ordinarily be brought pursuant to 26 Unites States Code 7206(1). This statute makes it a felony to make a false statement on a tax return as to a material matter. The statute reads in pertinent part:

> **§ 7206. Fraud and false statements.**
>
> Any person who—
>
> (1) Declaration under penalties of perjury.—Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter;
>
> * * * * *
>
> shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution.

Among the elements which must be proved by the Government is that the misstatement or omission is both willful and material. Since 1974, taxpayers have only been required to file a supplemental document, Form 4683, concerning possible secret accounts. It will be more difficult for the government to establish, in prosecutions of taxable years subsequent to 1974, that the failure to disclose a secret account was willful. The taxpayer might argue that he or she failed to read the instruction booklet and, consequently, was unaware of the requirement to file the additional form. Some courts and juries may be sympathetic to this argument. It may also be more difficult for the Government to establish that the failure to file an obscure supplemental schedule is material false statement on a tax return.

CONCLUSION

It is my hope that the Secretary of the Treasury and the Commissioner of Internal Revenue will return the foreign bank account question to the basic tax return by administrative ruling. However, an administrative action will not be sufficient. A regulation thought to require the question was administratively interpreted to the contrary. Only the force of statute can insure that this important investigative tool will be returned to the basic tax return which each taxpayer files.

THE NATIONAL FOREST MANAGEMENT ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 10 minutes.

Mr. STOKES. Mr. Speaker, my remarks will be brief and to the point.

I am concerned about the Nation's supply of wood and the price that the consumer, particularly minorities and all persons with low incomes, must pay for paper and wood products, as well as other basic commodities.

I am concerned about the cost of housing, which is basically a product of trees. I am concerned about the availability of paper and wood products as it affects the black mother trying to feed her family on an inadequate income. I am concerned about the impact on her children who are trying to get an education and need school notebooks, writing papers and workbooks, which are also products of trees.

This week the House will be asked to vote on a measure that will determine whether the national forests are left largely in their natural state or whether they will be brought under modern scientific management.

The national forests supply about 27 percent of all the softwood sawtimber harvested annually in the United States for the manufacture of lumber and plywood used in homebuilding and other construction. A sharp drop in the supply of such construction materials, which could result from amendments to limit timber supply, would not only deny housing to the Nation's poor people, but it would hit them doubly hard on employment. Many of the lower income breadwinners, when they do find work, find it now in construction labor—and that employment would certainly be hurt. Once again the people at the bottom would get kicked twice as hard as the more fortunate. And it takes them longer to recover from such blows because they have no cushion, few options, and little recourse.

Much discussion of H.R. 15069, the proposed National Forest Management Act of 1976, may concentrate on the impact of timber cutting on natural beauty and on the traumatic effect this has on those people who are fortunate enough to be able, frequently, to camp, backpack, birdwatch and otherwise enjoy the wonders of nature in our great national forests.

But H.R. 15069 is also of concern to the black community, as it is to all consumers. In discussing H.R. 15069, little is likely to be said about the needs of the urban dwellers, especially lower-income families, and their dependence on the timber supply from these forests. The needs of our urban population—the thousands who are ill-housed everywhere in this Nation and who carry their meager purchases home from the neighborhood grocery store in a paper bag—must also be recognized.

Houses and paper bags, and books and school tablets, and food packages, pencils and bathroom tissue, and thousands of things every city dweller and consumer has to have every day—whether rich or poor—come out of these Federal forests.

Therefore, I rise to point out that H.R. 15069 is a bill for people, as well as a bill for the forests. It is a bill that protects the interests of all the people, including consumers and outdoorsmen.

Low-income families, whether they live in urban centers or in rural areas, have to be concerned about how much there is of any basic commodity. If there is not enough of anything, it is bound to cost them more.

If it costs more to build a house, because lumber and plywood cost more when there are too few trees harvested to make those products, then the people at the bottom end of the economic ladder suffer the most.

As I indicated, the price of basic commodities, whether it is for corn, wheat, sugar, salt, wood, coal or any other item which moves in bulk, is of vital concern to those who can least afford to pay. We tend to be most familiar with the budget impact of food prices and their fluctuations. But a rise in wood prices hits us in urban areas precisely the same way.

Eighty to 90 percent of all single family homes in the United States are of wood frame construction using lumber and plywood.

Most foods are packaged in wood fiber-based containers.

It is almost impossible to count the ways in which every citizen throughout every day depends upon paper in its infinite forms.

The threat of higher prices for such daily necessities has come from court interpretations of the archaic 1897 organic act for management of the national forests. These suits were brought by individuals and organizations who saw in the outdated language of the Act, which became law before there was a single forestry school in the United States, a means to limit forest management on Federal timberlands, a way of curtailing timber harvesting and a means to insure their own recreational use of these forests in perpetuity.

As this legislation evolved, all parties were afforded a complete hearing of the issues, including those who urged restrictive limitations on the forests. Restrictive and limiting bills were considered and rejected by the Forests Subcommittee of the Agriculture Committee. Prescriptive amendments to the pending bill, H.R. 15069, were thoroughly debated and rejected by the full committee as detailed in the committee report on pages 33 to 38. The committee reported the bill by a vote of 37 to 1. Now I understand some of these same amendments will be offered on the floor during debate this week. They should be rejected again. Prescriptive amendments serve only the few at the expense of the many and violate the very concept of Gifford Pinchot's dream for the national forests—the greatest good for the greatest number over the long run.

I make no pretense to be an authority on resource management. I do, however, know the relationship between those resources which are renewable and those which are not. Our Nation's forests, so long as the land is retained in public ownership, can be harvested and replanted and harvested again in an endless cycle. To do this requires dedication and care by people qualified to apply science to assist nature. This opportunity is provided in H.R. 15069, indeed the opportunity is mandated in the act through its reforestation requirements.

There is another resource in America which needs the same kind of loving care. It is renewable too. That resource is our urban and rural working families, our lower income families, our poor people. They deserve a break—a job, a decent home, education in a trade or profession, enough food, a suit of clothes, and a few bucks in their pocket. Maybe a yard with some grass and a tree. But the tree comes last—the people come first. And we shouldn't forget it when we act on H.R. 15069.

It is the duty of Congress, as I see it, to use public resources to serve the needs of all the people in an even-handed and responsible way. The Forests Subcommittee and the House Agriculture Committee, in my view, have done a remarkable job of assessing all of the evidence with respect to the role of the national forests in our economic and social system. They have developed a bill that deserves the support of both urban and rural interests in the Congress. I propose to support H.R. 15069, as reported, and urge all my colleagues who have constituents with low and middle incomes to join me.

"BRAINWASHING" OF MEMBERS OF RELIGIOUS CULTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Giaimo) is recognized for 10 minutes.

Mr. GIAIMO. Mr. Speaker, a number of my constituents have children who are members of one of the various seemingly religious cults which have emerged in this country in recent years. Recently I met with several of these parents who insisted that "brainwashing" techniques are being employed to keep many of these young people in these cults.

At their request, I wrote to Attorney General Levi and asked him to meet with two experts who understand "brainwashing." In addition, 23 of my colleagues expressed their support for this meeting in communications with the Justice Department.

On September 9, I received a reply from the Justice Department. Before such a meeting could take place, Assistant Attorney General Thornburgh informed me, the Department would want to review the information which would be offered. After this review, the Department would advise me as to its views on the "appropriateness of such a meeting."

For the present time, I will comply with the request of the Justice Department. I also want to emphasize that, unlike the Assistant Attorney General, I am convinced of the appropriateness of such a meeting, and I will insist on its taking place.

Since my initial letter was sent to the Attorney General, I have received many inquiries about the purpose and scope of the proposed meeting. I am now including copies of my correspondence with the Justice Department on this subject. I hope that my colleagues will find them helpful in answering communications from their own constituents:

August 11, 1976.

Hon. Edward H. Levi,
Attorney General,
Department of Justice,
Washington, D.C.

Dear Mr. Attorney General: For quite some time I have been interested in and most concerned about complaints which I have received from constituents regarding the involvement of young Americans in pseudo-religious cults. I am particularly concerned about the allegations of "brainwashing" which have been advanced by several people who have left these cults.

There is a general reluctance on behalf of officials at the Justice Department to investigate these charges. Perhaps this reluctance occurs in part because officials have not had the benefit of the assessment of "brainwashing" by leading authorities on the subject.

Two qualified experts in this field are willing to discuss this matter with you or your principal deputy. Professor Robert J. Lifton of Yale University is recognized as one of the world's authorities on brainwashing. Professor Richard Delgado of the University of Washington School of Law has concentrated his activities in the legal aspects of brainwashing. I believe that their comments would provide invaluable information on this problem. Professors Lifton and Delgado have indicated that they would be able to discuss "brainwashing" and these cults with you sometime in the first three weeks of September. I would appreciate your advising me promptly as to when you or your principal deputy would be able to meet with them.

In a related matter, I have yet to receive a reply to my April 13 letter to you on this matter. I yield to nobody in my support for those freedoms protected by the First Amendment. But, what am I to say to the parents of young people who are convinced that their children are unwilling members of these cults? Is there any way, short of "kidnapping" their own children, that these parents can talk to these young people? Am I to tell them that their government can or will do nothing?

I eagerly await your reply to this letter.

Sincerely yours,

Robert N. Giaimo,
Member of Congress.

House of Representatives,
Washington, D.C., August 30, 1976.

Hon. Edward H. Levi,
Attorney General, Department of Justice,
Constitution Avenue, Washington, D.C.

Dear Mr. Attorney General: On August 11, Congressman Robert N. Giaimo sent you a letter requesting that an appointment be arranged between you or your principal deputy and Professors Robert J. Lifton and Richard Delgado. The purpose of this meeting would be a discussion of "brainwashing" and its possible application by the various pseudo-religious cults which have emerged in this country in recent years.

We are concerned about the activities of these cults. While we recognize that their actions are protected by the Bill of Rights, we cannot overlook the allegations of brainwashing which have been advanced by people who have left the cults.

We hope that you will meet with Professors Lifton and Delgado. Following this meeting, we would hope that you would advise us of what you intend to do in response to the allegations of "brainwashing."

We beseech you to honor this request.

Sincerely yours,

Gary A. Myers, M.C., 25th District, Pennsylvania; Robert A. Roe, M.C., 8th District, New Jersey; Robert N. Giaimo, M.C., 3rd District, Connecticut; Ken Hechler, M.C., 4th District, West Virginia; Matthew J. Rinaldo, M.C., 12th District, New Jersey; G. Wm. Whitehurst, M.C., 2nd District, Virginia; George Miller, M.C., 7th District, California; Richard Bolling, M.C., 5th District, Missouri; Joshua Eilberg, M.C., 4th District, Pennsylvania; Richardson Preyer, M.C., 6th District, North Carolina; Thomas J. Downey, M.C., 2nd District, New York; H. John Heinz, III, M.C., 18th District, Pennsylvania; George E. Brown, Jr., M.C., 36th District, California; Max Baucus, M.C., 1st District, Montana; Richard L. Ottinger, M.C., 24th District, New York; Norman F. Lent, M.C., 4th District, New York; Gerry E. Studds, M.C., 12th District, Massachusetts.

September 3, 1976.

Hon. Edward H. Levi,
Attorney General, Department of Justice,
Washington, D.C.

The following Members of Congress have advised me that they would like to be added to the list of co-signers of my letter to you of August 30:

Representative James L. Oberstar, 8th District—Minnesota.

Representative William R. Cotter, 1st District—Connecticut.

Representative Bill Frenzel, 3rd District—Minnesota.

Representative Leo J. Ryan, 11th District—California.

Representative Leo C. Zeferetti, 15th District—New York.

Representative Martha Keys, 2nd District—Kansas.

Representative Clarence J. Brown, 7th District—Ohio.

We would appreciate a prompt and favorable response to our request.

Representative Robert N. Giaimo.

Department of Justice,
Washington, D.C., September 7, 1976.

Hon. Robert N. Giaimo,
House of Representatives,
Washington, D.C.

Dear Congressman Giaimo: Your letter to the Attorney General dated August 11, 1976 and your letter to Assistant Attorney General Uhlmann dated August 23, 1976, have been referred to the Criminal Division. A search of Criminal Division files failed to disclose receipt of your letter of April 13, 1976.

Your letter of August 11, 1976 expresses concern about allegations of "brainwashing" of members of religious cults and notes a reluctance on the part of the Department of Justice to investigate these allegations. You further suggest in both letters a meeting between certain experts in the field of "brainwashing" and a representative of the Department of Justice.

The Department of Justice, of course, cannot conduct a general inquiry into the activities of a religious organization. There first must be an allegation of a violation of Federal law.

As you know, we have received numerous letters from the parents of cult members alleging that their adult children are the victims of "brainwashing". Consideration has been given to the possibility that the imposition of mental restraints upon the freedom of movement of a cult member might constitute a violation of the Federal kidnaping statute, 18 U.S.C. § 1201. In *Chatwin* v. *United States*, 326 U.S. 455, the Supreme Court recognized that an unlawful restraint could be achieved by mental as well as by physical means. However, the restraint must be against the person's will and with a willful intent to confine the victim. It seems clear that the court will not construe the statutory language of § 1201 so as to punish one individual who induces another individual to leave his surroundings to do some innocent or illegal act of benefit to the former, state lines subsequently being crossed, 326 U.S. at 464.

We have also considered the possibility that these allegations amount to violations of other Federal criminal statutes pertaining to peonage and slavery. 18 U.S.C. § 1581 prohibits holding or returning any person to a condition of peonage. The gravamen of this offense is the holding of another to labor in satisfaction of a debt. *United States* v. *Gaskin,* 320 U.S. 527. This clearly does not apply to the situation in which a cult member is induced to work for a religious group. With regard to 18 U.S.C. §§ 1583, 1584, which prohibit slavery and involuntary servitude the victim must have or believe that he has no way to avoid continued service or confinement. If the victim has a choice between freedom and confinement, even if the choice of freedom entails what he believes to be serious consequences, then there is no violation. See *United States* v. *Shackney,* 333 F.2d 475 (1964) (2nd Cir.).

In order to initiate a Federal criminal investigation under the kidnaping statute or under 18 U.S.C. §§ 1583, 1584, of individuals alleged to have subjected cult members to "brainwashing", there must be information or an allegation that the victim was actually deprived of his liberty against his will by physical or mental restraints. Allegations that the victim was induced, persuaded, proselytized, or brainwashed to continue his association with the cult would be insufficient. In the case of a kidnaping investigation, there also would have to be information or an allegation that the victim was being held for ransom, reward, or otherwise and that the jurisdictional element of interstate travel was present.

I am informed that some parents of cult members have had success in pursuing civil remedies involving court appointments as conservators or guardians for their adult children. Additionally, in a case entitled *Helander* v. *Unification Church, et al.,* Case No. HC7–75, Superior Court for the District of Columbia—Family Division, the parents of a cult member petitioned for a writ of Habeas Corpus. Although the court held that there was insufficient evidence to establish that the cult member had been restrained from her lawful liberty by the Unification Church, it seems clear that with a sufficient showing, Habeas Corpus is yet another remedy in these situations. In view of the more stringent burden of proof required in criminal prosecutions, it seems clear that aggrieved parents would have a greater likelihood of success in pursuing civil remedies rather than requesting criminal prosecutions.

With regard to your proposal for a meeting with Professors Lifton and Delgado, I believe that before such a meeting took place, we should have the benefit of reviewing their publications or other works in the field of "brainwashing". If you wish to submit any such publications to the Department, we would be happy to review them and advise you as to our views of the appropriateness of such a meeting.

Thank you for your interest in this matter.

Sincerely,

Richard L. Thornburgh,
Assistant Attorney General,
Criminal Division.

NATIONAL ACADEMY OF SCIENCES REPORT ENDORSES CONGRESSIONAL ACTION ON OZONE PROTECTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Brown) is recognized for 10 minutes.

Mr. BROWN of California. Mr. Speaker, the headlines in the morning papers dealt with a subject that has been of much interest to the Congress, and to the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology in particular. Now that I and my staff have had an opportunity to review the published reports by the National Academy of Sciences, I can say that the legislation that was reported by the Committee on Science and Technology, H.R. 3118, as amended, and included in section 107 of the Clean Air Act amendments, H.R. 10498, is totally consistent with the recommendations of the Academy scientists.

The two reports, "Halocarbons: Environmental Effects of Chlorofluoromethane Release" and "Halocarbons: Effects on Stratospheric Ozone" are excellent examples of the type of careful work that can be done in considering controversial subjects. While I believe the Congress acted as carefully and deliberately as the Academy did in the development of its reports, it is always encouraging to see two independent groups, operating under different circumstances and pressures, and with different backgrounds, come to the same conclusions regarding public policy.

The main findings of the Academy study are that the early reports of ozone depletion from the use of certain aerosol propellants were accurate, and the danger to the world ecosystem is sufficient to recommend regulation within the next 2 years. H.R. 3118, and section 107 of H.R. 10498 do just this. In addition the Academy recommended an extensive research program similar to that authorized in the legislation mentioned above.

In order to share with my colleagues the major recommendations of the Academy report, I wish to insert in the Record some excerpts from the just published report.

The material follows:

National Academy of Sciences,
Washington, D.C., September 10, 1976.

Hon. George Brown,
Chairman, Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, House of Representatives, Washington, D.C.

Dear Mr. Brown: Knowing of your concerns about the release of halocarbons into the environment, I am pleased to transmit for your information a copy of the National Research Council's report entitled "Halocarbons: Environmental Effects of Chlorofluoromethane Release."

This report was prepared by the Committee on Impacts of Stratospheric Change, a committee of the Assembly of Mathematical and Physical Sciences of the National Research Council. The committee and study projects were chaired by Professor John W. Tukey of Princeton University and Bell Laboratories; the report is based in considerable measure on the findings presented to the committee in a report, also attached, of the Panel on Atmospheric Chemistry, chaired by Professor H. S. Kutowsky of the University of Illinois. The study was sponsored jointly by the National Science Foundation, National Oceanic and Atmospheric Administration, National Aeronautics and Space Administration and Environmental Protection Agency.

Sincerely yours,

Philip Handler,
President.

National Academy of Sciences,
Washington, D.C., September 10, 1976.

Hon. H. Guyford Stever,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C.

Dear Dr. Stever: I am pleased to present the report "Halocarbons: Environmental Effects of Cholorfluoromethane Release." This report was prepared by the Committee on Impacts of Stratospheric Change, a committee of the Assembly of Mathematical and Physical Sciences of the National Research Council. The committee and study projects were chaired by Professor John W. Tukey of Princeton University and Bell Laboratories; the report is based in considerable measure on the findings presented to the committee in a report, also attached, of the Panel on Atmospheric Chemistry, chaired by Professor H. S. Gutowsky of the University of Illinois. The study was sponsored jointly by the National Science Foundation, National Oceanic and Atmospheric Administration, National Aeronautics and Space Administration and Environmental Protection Agency.

The report sets out what is known and, as best it can be judged, with what amount of uncertainty it is known. The report concludes that the selective regulation of chlorofluoromethane uses and releases is almost certain to be necessary at some time and to some degree. Neither the needed timing nor the needed degree can reasonably be specified today because of remaining uncertainties. However, measurement programs now underway promise to reduce these uncertainties quite considerably in the near future. The prospect for narrowing uncertainty and the finding that the rate of ozone reduction is relatively small engender in the committee the conclusion that a one- or two-year delay in actual implementation of a ban on regulation would not be unreasonable. Meanwhile, so that the government may be positioned to function in these regards, it seems highly desirable that the appropriate statutory basis for regulation be enacted at this time.

The uncertainties yet remaining suggest that a reexamination of these circumstances take place at periodic intervals. The National Research Council would be pleased to continue their cooperation in following these developments.

Finally, may I utilize this opportunity publicly to express to Dr. Tukey, Dr. Gutowsky and their colleagues our deep appreciation for their tireless and devoted efforts.

Sincerely yours,

PHILIP HANDLER,
President.

EXCERPTS FROM HALOCARBONS, ENVIRONMENTAL EFFECTS OF CHLOROFLUORMETHANE RELEASE—COMMITTEE ON IMPACTS OF STRATOSPHERIC CHANGE, ASSEMBLY OF MATHEMATICAL AND PHYSICAL SCIENCES NATIONAL RESEARCH COUNCIL; NATIONAL ACADEMY OF SCIENCES, WASHINGTON, D.C., 1976.

CONCLUSIONS

Selective regulation of CFM uses and releases is almost certain to be necessary at some time and to some degree of completeness. Neither the needed timing nor the needed severity can be reasonably specified today. Costs of delay in decision are small, not more than a fraction of a percent change in ozone depletion for a couple of years' delay. Measurement programs now under way promise to reduce our uncertainties quite considerably in the near future.

RECOMMENDATIONS

Accordingly

1. As soon as the inadequacies in the bases of present calculations are significantly reduced, for which no more than 2 years need be allowed, and provided that ultimate ozone reductions of more than a few percent then remain a major possibility, we recommend undertaking selective regulation of the uses and releases of CFMs on the basis of ozone reduction.

2. We recommend that, as soon as appropriate legislative authority is in place, as well as every three to five years thereafter, our current knowledge of the importance and the certainty or uncertainty of the direct climate effect be reviewed, so that appropriate decisions can be taken about regulation of CFM uses and releases on the basis of this effect. In so doing, the effects of CFM increases should be considered in the light of the effects of CO_2 increases with which they are inevitably combined.

3. Whenever regulation is undertaken, we recommend that it should be selective, treating one use differently from another, both as to whether a particular use is to be excepted from regulation or not and as to the time allowed for compliance with regulation. (See also Chapter 4 and especially Appendix A.)

4. Legislative authority may not now be adequate among other things to (a) regulate the uses of CFMs selectively, (b) regulate the handling of CFMs (as in repairing auto-air conditioners, for example), and (c) regulate CFMs on the basis of threats to plants and animals important to human life (either through DUV increase or climate changes) rather than on the basis of threats to human health. We recommend that immediate steps be taken, first to determine what inadequacies in legislative authority exist and then to eliminate, through additional legislation, those that exist.

5. Since carefully informative labeling would allow consumers an opportunity to distinguish, for example, CFM-propelled aerosols from aerosols using other propellants, we recommend that legislation be enacted requiring labeling of all products containing the CFMs F–11 and F–12 and not intended to remain under seal during use. (Aerosol cans and refill containers for air conditioners and refrigerators would then require labels; automobiles and refrigerators themselves would not.) Labeling should in no sense be regarded as a substitute for regulation but rather as an aid to consumer self-restraint in the use of CFMs and to consumer preparation for possible later regulation.

6. In view of the present inadequacies in the bases of our calculations, in view of the reduction in these inadequacies promised by ongoing measurement programs, and in view of the small changes in ozone reductions following from a year or two delay, we wish to recommend against decision to regulate at this time. (See also The Problem of Regulation, below.)

7. When and if regulation is decided upon by the United States, similar action by other countries should be encouraged by whatever appropriate means are most likely to be effective.

We also make the following recommendations:

8. Since both further laboratory studies and especially, well-enough planned measurements in the atmosphere, can do much over the next few years to improve the basis for well-chosen regulation, we recommend that laboratory studies and atmospheric measurements should be given an appropriately high priority. (See also Chapter 2.)

9. Since there are at least two important areas: 9(a) The mechanisms of climate determination and climatic change; 9(b) The effects of increased (or decreased) biologically active ultraviolet radiation on plants and animals; where we still lack an adequate scientific foundation, and since adequate foundations cannot be constructed by short-term "crash" programs, longer-term research programs, extending over several years and guided by the consensus of the best scientific minds available, should be established and adequately funded in each such area as a matter of urgency. (See also Chapter 2.)

10. Since learning to identify population groups with drastically higher susceptibility to melanoma (and to other skin cancers) will greatly increase the efficiency and effectiveness with which individuals can be taught to protect themselves, it is urgent to undertake a program of learning better to identify such susceptible groups. (See also Chapter 2 and Appendix E.)

11. Information about the relative releases of CFMs from different uses would be so essential, if and when control of CFM release becomes appropriate, that vigorous efforts should be made to provide such information on a continuing basis.

12. Since ultraviolet-induced skin cancer will continue to present a serious health hazard, we need to study possible preventive medicine actions carefully, without regard to the effectiveness of CFMs in reducing ozone or decisions about their regulation. (See also chapter 2 and Appendix E.)

THE PROBLEM OF REGULATION

This report makes two things clear. The impact on the world of waiting a couple of years before deciding whether or not to regulate the uses and releases of F–11 and F–12 is small although we are uncertain just how small. The impact on industry of a ban on uses of F–11 or F–12 in most types of spray cans would be appreciable. Against a background of a possible, although very small, change in world climate, however, the industrial impact does not loom large.

This Committee in meeting its responsibilities to assess what is scientifically known has focused on uncertainty about the adequacy of the bases of our calculation and recommended a brief delay before decision. Some scientists, emphasizing the possible critical importance of even small effects on climate and the relative unimportance of many spray-can uses, might well urge immediate decision to regulate, although authority to regulate on the basis of climate effects seems still to be lacking.

The report sets out what is known and, as best as this can be judged, with what amount of uncertainty it is known. The choice of when to make decisions about regulation is a political one in the highest sense of that word. The ultimate balance—between increased impact on industry and on spray-can uses, on the one hand, and possibly climatic impacts and more certain skin cancer increases, both very small for a short delay, on the other—has inevitably to be made by those who decide for the whole of each country concerned, in the United States by its Congress and President.

The report stresses the fundamental importance, clearly illustrated in this case but much more widely applicable, of conducting such regulation use by use. It is not sufficient to label a substance "good" or "bad." We often need, as we do here, to look use by use to see how important each is to human living—often, as here, to human health—and compare this with the size of the unfavorable impacts from that use. To begin to do this is not easy, but our world is complex enough to force us to face such difficulties more and more frequently.

Having laid open the facts as best it can and stressed the fundamental importance of regulation use by use, the scientific community as represented through the National Academies of Sciences and Engineering and the National Research Council, can, we believe, properly leave decisions about timing, in this country, to the Congress of the United States. (Individual scientists and engineers will no doubt wish to participate in the debate from a variety of points of view.)

U.S. FOOD POLICY AND THE THREAT OF EXPORT EMBARGOES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, the scheduled convocation of the International Soybean Fair of 1976 on Tuesday, September 21, in the Caucus Room of the Cannon House Office Building gives us an opportunity to reflect on the value of food, the contribution of the American farmer, and the present shortcomings of American food policies.

The American farmer has long earned and deserved the respect and appreciation of the American people for his ability to produce the food and fiber the Nation needs. Now, people around the world look to his productivity to supply the balance of their food needs as well.

However, our farmers have not received fair and equitable treatment by Government policies under the Ford and Nixon administrations. When they have produced to their full capacity in response to Government encouragement, they have run up against administration policies that have prevented them from earning a fair return on their investments of time, money, and effort. An example is the moratorium on grain sales to Russia and Poland that the Ford administration imposed last summer and fall. It was unnecessary and very costly to our farmers.

The Government cannot continue to adopt disruptive measures that work against the efforts of our farmers such as the grain embargoes and export restrictions of the past few years and expect to be able to meet the world's food needs. Those needs are critical and ever increasing. Export embargoes and other such measures threaten our farmers as well as food consumers worldwide.

Today it is estimated that there are 4 billion people on the earth. There will likely be between 6.5 and 7 billion by the year 2000. At present, more than 440 million malnourished human beings are seeking food. The need is evident—we must achieve a policy of full food production.

The future offers the opportunity for expansion of food production and the establishment of markets abroad. In the September issue of the highly respected publication, Scientific American, the entire copy is devoted to the problems of food and agriculture. The lead article by Sterling Wortman, president of the International Agricultural Development Service, and recipient of last year's award for international service in agronomy from the American Society of Agronomy, makes clear that nothing less than full and increasing agricultural production in both the rich and poor countries will prevent future famine.

Worldwide demand for food is increasing at a rate of between 2 and 3 percent yearly—but food production and supplies are not keeping pace. Food production worldwide must increase 75 percent during the next 25 years just to maintain present food/population ratios.

World food reserves have declined from over 150 million metric tons of grain in 1972 to just over 80 million tons at the beginning of 1976. There is presently less than a 60-day supply of grain available and this year's grain crop will be no larger than the 1973 crop by all predictions I have seen. Our farmers can and will produce more, but only if they are assured that the markets they have and the risks they have taken are not undermined by Government actions such as embargoes.

Despite new recognition of the importance of American agriculture in the context of a continuing world food crisis, we as a nation still do not have a policy of full food production that serves the interests of both farmers and consumers and will be workable in the long run.

Rather, the record of the Ford and Nixon administrations in the past 7½ years has been one of shortsighted and clumsy reaction to shortages and pressures with no vision of where the country as a whole or its farmers are going. With the present stop-and-go policy and the record of relying on grain embargoes at regular intervals, the goal of a workable food production policy cannot be achieved or maintained.

The prospect of full food production interrupted by Presidential embargoes is a breach of faith with the American farmers.

I want to recommend that Congress and the executive branch begin immediately to create a comprehensive and workable full food production policy capable of providing the guarantees of adequate price, market, and credit that will allow our farmers to produce at a maximum and ever increasing volume. This is the most important step that can be taken in meeting the world food crisis.

A full production policy can only be accomplished by assuring our farmers that they will not be forced to assume the entire burden of investment, risk, and loss if the conditions that led to past embargoes arise again. Make no mistake about it, nothing has been more destructive to the plans and performance of the American farmer in the recent past than export embargoes.

We all know that, in one form or another, the Ford and Nixon administrations placed restrictions on grain exports in 1973, 1974, and 1975. In each case, the market price for the embargoed commodities was shattered and our farmers lost millions of dollars. They alone absorbed the loss. The consumers did not lose and the grain companies maintained their profit margins. None of them offered to share the loss with the farmers—nor did the Government.

We cannot establish and maintain a policy of full food production under these conditions. The American farmer is willing to compete and take his risks in the marketplace, but not under conditions and rules that continually put all the risks, costs, and losses on him. The continued use of embargoes and moratoriums is the single most destructive action affecting full food production and threatens farmers with economic disaster.

Therefore, we as a nation must squarely confront the issue of embargoes. Both President Ford and Governor Carter have recently gone on record as, in principle, against grain embargoes. Both also say that, of course, they would act to preserve our food supply in times of national disaster and would use embargoes in extreme emergencies or crop failures at home.

Farmers understand this. There may be times when Presidents have no choice. But, if we are to adopt such measures, they must be infrequent, not yearly as President Ford and President Nixon have done.

Furthermore, and most important, our farmers must not be forced to shoulder the burden and losses alone at such times. A national policy and appropriate mechanisms must be created that will distribute the costs in a way that will achieve fairness for farmers and will not harm the overall goal of full agricultural production. Under the present rules, this cannot be done.

There are two possible and alternative solutions that could provide immediate relief to farmers fearing the reimposition of embargoes. I would strongly recommend that each of these be given thorough consideration by all persons concerned with maximizing the ability of our farmers to produce and with increasing the world's available food supplies.

One promising change would be the automatic imposition of a price-freeze on commodities at preembargo levels. This would prevent the drastic decline that past embargos have caused in market prices. All commercial and governmental buyers would be required to pay the preembargo price when the embargo was lifted. If it is in the national interest for the President to impose an embargo, then the burden of the embargo should be shouldered by the nation-at-large rather than just by the farmers.

An alternative that would not require the use of price controls would be for the Government to pay the difference between the preembargo price and any postembargo price declines, based on some formula that takes into consideration the shock effect of the embargo and projected prices, had the embargo not occurred.

Each of these measures would require that Congress change the present law. If we had more decisive national leadership on these or similar measures involving future food policy, I am certain that there would be a strong and enthusiastic response from our farmers that would carry over into Congress.

An additional aspect of present agricultural policy must be considerably modified if we are to insure the long-term financial security of our farmers and assure their ability to produce the food the world needs. We must have a means of controlling or compensating for cost inflation in agriculture.

Both the general public and public officials should have impressed upon them the fact that appearances of present farm prosperity are false and illusory. Financial risks have never been greater and costs continue to escalate. Beef and dairy farmers continue into the fifth year of their depression with no end in sight. Grain farmers face ruin if there is any interruption of export markets. The historical pattern of low returns on large investments continues for most farmers.

Inflation in costs of production must be taken into consideration in the writing of a new farm bill and in the establishment of loan levels. Price increases for seed, fertilizer, services, labor, taxes, and other fixed costs must be taken into account.

Agricultural programs must be refined to more accurately reflect the costs the farmer faces and will expect to face in the future. A crop loan program that can maintain the incentive to produce while providing greater assurances against crop losses during intervals of slack demand will do more to stabilize and expand agricultural production than all the speeches by Secretary Butz about full production and planting from fence post to fence post.

I want to conclude by saying that I do not think this country will be faced by any set of decisions that will be more important than food policy for our long-term security and for the long-term well being of the people on this planet.

Food is America's most valuable product and the farmer is the linch-pin of human survival. The farmer's success can no longer be taken for granted and his security can no longer remain at the bottom of Government priorities. This will be both the challenge and the opportunity of the new era that is upon us.

SOLARZ URGES PRESIDENT NOT TO EXTEND DIPLOMATIC RECOGNITION TO THE TRANSKEI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 10 minutes.

Mr. SOLARZ. Mr. Speaker, on October 26, 1976, the Republic of South Africa intends to declare the territory of the Transkei independent. This step is the first part of a plan to create 10 separate homelands or bantustans in South Africa to which all blacks in the country would be assigned.

The homelands policy, which is the major prop in the whole foundation of the repressive apartheid policy, is designed to safeguard the supremacy and survival of the white regime by enabling the Government of South Africa to deprive the blacks of the rights to which they otherwise would be entitled on the grounds that they are visitors in, rather than citizens of, South Africa. This policy would affect all blacks, even those who have lived and worked in South Africa all their lives.

Under the homelands policy, the blacks of South Africa, who constitute over 70 percent of the total population, would be assigned to citizenship in areas which comprise only 13 percent of the land area of the country—and, I might add, land which is generally far from the major areas of industrial or mineral wealth. What is more, there has never been a referendum to determine if the blacks want citizenship in the homelands to which they would be assigned, let alone whether they favor the homelands policy itself.

A recent newspaper report has suggested that Secretary of State Kissinger, as part of his current round of negotiations concerning southern Africa, might be prepared to offer U.S. recognition to the Transkei as part of a package of incentives for South African Prime Minister Vorster to encourage him to aid in a peaceful transition to majority rule in Namibia and Rhodesia. I believe that such a policy would be a disastrous mistake, both diplomatically and morally.

A more detailed discussion of the issue is contained in a report filed by the International Relations Committee to accompany a resolution I introduced to urge the President not to extend diplomatic recognition to the Transkei territory.

Mr. Speaker, I include the report in the RECORD followed by a New York Times article of September 8, 1976 discussing the Transkei situation:

URGING THE PRESIDENT NOT TO EXTEND DIPLOMATIC OR OTHER RECOGNITION TO THE TRANSKEI TERRITORY

PURPOSE

The principal purpose of the resolution is to encourage the President not to extend diplomatic recognition to the Transkei territory, the first of the bantustans or homelands in South Africa slated for independence, when the Republic of South Africa declares the territory independent on October 26, 1976.

COMMITTEE ACTION

On August 31, 1976, Stephen J. Solarz introduced House Resolution 1509 to urge the President not to extend diplomatic or other recognition to the Transkei territory. The resolution was also sponsored by 13 other members of the International Relations Committee, including Mr. Biester, Mr. Bingham, Mr. Buchanan, Mr. Diggs, Mr. Fascell, Mr. Findley, Mr. Fraser, Mr. Harrington, Mrs. Meyner, Mr. Nix, Mr. Riegle, Mr. Ryan, and Mr. Studds. The resolution was referred to the Committee on International Relations.

The Committee on International Relations considered House Resolution 1509 in an open markup session on September 1, 1976, and by voice vote ordered it reported favorably to the House.

The House International Relations Subcommittee on International Resources, Food, and Energy under Chairman Charles C. Diggs previously had held hearings May 25, June 8 and 9 on "Resource Development in South Africa and U.S. Policy."

BACKGROUND

On October 26, 1976, the Republic of South Africa intends to declare the territory of the Transkei independent. This move would be the first part of the South African plan to create 10 separate homelands or bantustans in South Africa to which all blacks within the country would be assigned on the basis of ethnic origin. The homelands policy, which is the major prop in the whole foundation of apartheid, is intended by the South Africa Government to "solve" its simmering black-white confrontations over the apartheid policy which has brought virtually total condemnation from the rest of the world.

Under the apartheid system, blacks within South Africa have no representation in Parliament, cannot leave their own community for more than 72 hours, and cannot live with their own families unless they have resided in the area in which they work all their lives or have worked there continuously for at least 15 years. For millions of black contract laborers in South Africa, this means they can only see their families for several weeks a year. There is little doubt that the black South Africans are among the most repressed people in the world. Yet the economy of South Africa, which has achieved a high degree of wealth in the country as a whole, has been built with the vital ingredient of black labor.

The policy of apartheid has not only brought down upon the South African Government virtually universal disapproval from other countries but has also caused widespread bitterness among South African blacks. The growing sense of rage and frustration was openly exhibited in the riots that recently swept Soweto and other black townships within South Africa.

To compound the problems of the Government of South Africa, the buffer of white-ruled states that helped to insulate the country from the black nationalism which has swept the African continent has begun to disappear with the fall of the colonial regimes in Angola and Mozambique, the likely collapse of the Smith government in Rhodesia, and the future independence of Namibia, or South-West Africa.

The South African Government's response to the pressure building against its social and political system has been to reaffirm its commitment to the homelands policy. In theory, the independence of black-ruled areas might be welcomed as a victory for self-determination. In reality, however, the establishment of the homelands is designed to safeguard the supremacy and survival of the white regime by enabling the Government to deprive the blacks of the rights to which they otherwise would be entitled on the grounds that they are visitors in, rather than citizens of, South Africa—even though they may have lived and worked in South Africa all their lives.

There are, in this regard, several reasons why the implementation of the homelands policy is a step backward rather than forward:

(1) The black population of South Africa, which constitutes over 70 percent of the total population, would be assigned citizenship in areas which constitute only 13 percent of the land area of the country.

(2) The land assigned to the bantustans is far removed from the major areas of industrial or mineral wealth within South Africa.

(3) The South African Government intends to deprive blacks living in white areas of South Africa, even if they continue to work and live thereof, of their South African citizenship once their tribal homelands are declared independent. Even the approximately 6 million urban blacks who constitute the backbone of the industrial labor force will lose their South African citizenship, thus becoming foreigners in their own native country.

(4) The South African Government has never conducted a referendum to determine if the blacks want citizenship in the homelands to which they are assigned rather than in South Africa, let alone whether they favor the homelands policy itself.

THE TRANSKEI

The Transkei territory would be the first territory made independent under the South African policy. The territory stretches westward from the Kai River to Natal and northward from the Indian Ocean to Lesotho and the Orange River. The three parts to the territory cover nearly 17,000 square miles, or an area roughly the size of Denmark. The freed area would provide citizenship for about 3 to 4 million people, and will include the Xhosa-speaking people. The Transkeian authorities have reported that in 1973 there were 64,700 people employed within the Transkei.

Chief Minister Kaiser Matanzima of the Transkei and his political party are supporting the South African policy for independence in the territory. However, Matanzima maintains his control in the territory with the help of an emergency proclamation issued in 1960 which gives him authority to ban meetings, to detain people indefinitely without trial, and to deny free speech or movement. Matanzima used his extraordinary powers recently to arrest the leading members of the opposition party in the Transkei who oppose independence. The urban Xhosas who live and work in areas of South Africa far removed from the Transkei have not been asked if they favor independence for the territory "assigned" to them, nor has there been any attempt to determine if the rural Xhosas within the Transkei desire independence.

After the South African Government announced its policy to set October 26, 1976 as the date of independence, the United Nations General Assembly special political committee in November of 1975 adopted by 100 to 0, with 8 abstentions, a resolution condemning "the establishment of bantustans as designed to consolidate the inhuman policies of apartheid, to perpetuate white minority domination and to dispossess the African people of South Africa of their inalienable rights in their country." The resolution further calls on "all Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them."

The complete text of the resolution follows:

"BANTUSTANS

"Text of resolution 3411 D (XXX) adopted by the United National General Assembly on 29 November 1975

"The General Assembly,

"Recalling its resolution 2775 E (XXVI) of 29 November 1971 and subsequent resolutions by which it condemned the establish-

ment of bantustans by the racist régime of South Africa,

"*Taking note* of the manoeuvers of the racist régime of South Africa to proceed with the establishment of bantustans in the Transkei and other regions,

"*Reaffirming* the legitimacy of the struggle of the South African people, under the leadership of their national liberation movements, by all means possible, for the total eradication of *apartheid* and for the exercise of their right to self-determination,

"1. *Again condemns* the establishment of bantustans as designed to consolidate the inhuman policies of *apartheid*, to perpetuate white minority domination and to dispossess the African people of South Africa of their inalienable rights in their country;

"2. *Reaffirms* that the establishment of bantustans is a measure essentially designed to destroy the territorial integrity of the country in violation of the principles enshrined in the Charter of the United Nations;

"3. *Calls upon* all Governments and organizations not to deal with any institutions or authorities of the bantustans or to accord any form of recognition to them."

The Organization of African Unity has likewise declared its firm opposition to the independence of the Transkei. The Council of Ministers of the Organization of African Unity meeting in late June and early July of 1976 rearmed this policy and urged all governments "not to accord recognition to any Bantustan, in particular, the Transkei whose so-called independence is scheduled for the 26 October 1976."

The complete text of this resolution follows:

"CM/RES. 493(XXVII)

"RESOLUTION ON NON-RECOGNITION OF SOUTH AFRICAN BANTUSTANS

"The Council of Ministers of the Organization of African Unity meeting in its Twenty-Seventh Ordinary Session in Port Louis, Mauritius, from 25 June to 3 July 1976,

"*Considering* that the Pretoria régime is accelerating its policy of Bantustanization, the cornerstone of *Apartheid* designed to ensure the balkanization, tribal fragmentation and fratricidal conflict in South Africa to the benefit of white supremacy.

"*Reaffirming* the OAU's sacred commitment to the principles of territorial and national integrity of all territories under foreign domination and fighting for liberation and self-determination.

"*Recalling* previous resolutions of the OAU the non-aligned movement and the United Nations against the Bantustan policy,

"1. Rearms the OAU's condemnation and rejection of the Bantustan policy and urges all Member States to refrain from establishing contact with the emmissaries of the so-called Bantu Homelands;

"2. Invites all States and in particular Member States of the OAU in their totality not to accord recognition to any Bantustan, in particular, the Transkei whose so-called independence is scheduled for the 26 October 1976;

"3. Declares that violation of this collective commitment by any Member State will be seen as a betrayal of not only the fighting people of South Africa but the entire continent;

"4. Commits the OAU through the General Secretariat the African Group to the United Nations and African diplomatic representatives throughout the world to wage a concerted campaign to dissuade all UN Member States from recognizing this fraudulent pseudo-independence."

The fate of the Transkei is a test case for the whole Bantustan policy. If the Transkei fails to gain international recognition after October 26, 1976, there is a possibility that the South African Government will not proceed to the establishment of the other nine homelands.

The United States has so far refrained from formally endorsing or opposing the granting of independence to the Transkei. However, Secretary of State Henry Kissinger recently enunciated a new American policy toward Southern Africa in which he called for the elimination of apartheid and is presently engaged in a series of delicate negotiations to find a peaceful resolution to the conflicts over Rhodesia and Namibia. Since U.S. recognition of the Transkei would objectively serve to legitimize the very policy which Secretary Kissinger has said "is incompatible with any concept of human dignity," it seems fair to say that the establishment of diplomatic relations with the Transkei would undermine our own policy objectives in the area.

United States recognition of the independence of the Transkei after October 26 would also cause severe damage to America's standing in black Africa and potentially could endanger our current efforts to secure the support of the black African governments for a negotiated transition from minority to majority rule in Rhodesia. It would, in short, be a moral miscalculation and diplomatic disaster of incalculable proportions.

House Resolution 1509 attempts to avoid the pitfalls of such a policy by expressing the sense of the House of Representatives that the President should refrain from according diplomatic or any other kind of recognition to the Transkei. It also makes it clear to the people of Africa, as well as the rest of the world, that the House of Representatives is firmly opposed to the discredited policy of apartheid and this transparent effort, through the independence of the Transkei, to prop it up.

[From the New York Times, Sept. 8, 1976]

TRANSKEI, AS IT PREPARES FOR INDEPENDENCE, FINDS ITSELF TO BE OUTCAST AMONG NATIONS

(By John F. Burns)

UMTATA, SOUTH AFRICA, Sept. 6.—When the bull-crested banner of the Transkei is raised here on Oct. 26, signifying the independence of Africa's newest country, the band will strike up "Nkosi Sikeleli Afrika," or "God Bless Africa." But Africa, and most of the world, will be looking the other way.

The new country, carved out of South Africa, will cover 14,300 square miles, making it nearly as big as Denmark. It will have a population of three million, comparable to that of Israel. Its terrain, as beautiful and fertile as any in Africa, will be enhanced by a 155-mile coastline on the Indian Ocean. Compared with many countries of the third world, its economic potential will be strong.

The Transkei, however, will be a pariah. Already, its black leaders are diplomatic lepers, shunned in Europe and North America, ridiculed in debate at the United Nations. By present indications, the only foreign dignitaries who will attend the independence celebrations in Umtata, the market town that is hastening to make itself into a capital, are the ones at the heart of the territory's diplomatic problems, the white rulers of South Africa.

For Prime Minister John Vorster, the fluttering of the blue, white and orange flag above the bunga, or seat of the government, will represent the fulfillment of a political ideal. With the territory independent, he will have a showcase for his policy of separate development, which hinges on the creation of a series of ethnic ministates like the Transkei.

In its old guise, apartheid, South African policy was largely a matter of subordinating blacks. When this became indefensible, the Government added a compensatory dimension by offering blacks emancipation in areas called homelands, or bantustans, carved out of the old tribal domains.

When the Government carried the policy to its logical extension in 1973, offering the homelands independence, the Transkei accepted. Of the eight other territories only one, Bophutatswana, agreed to follow suit. The remainder have rejected nationhood, demanding equal rights for their citizens in South Africa as a whole.

The Organization of African Unity has demanded that the world shun the Transkei, on the ground that recognition would constitute acceptance of apartheid. The territory's leaders have countered by arguing that for three million of South Africa's 18 million blacks, at least, independence signifies escape from racial humiliation.

The Transkeians have also made much of historical argument. They point out that the Transkei existed as loosely organized tribal community as early as the 16th century, and that this territorial integrity was acknowledged by special political arrangements from the time that the British annexed the territory in 1879.

TOO RICH A PRIZE

Chief Kaiser Matanzima, scheduled to become prime minister at independence, notes that similar historical antecedents led the British to set aside three territories as protectorates when the Union of South Africa came into being in 1910. These protectorates subsequently gained independence in their own right as Lesotho, Swaziland and Botswana, all members of the United Nations.

The failure of the British to give the Transkei protectorate status—and thus set it on the road to uncontested independence—was, Chief Matanzima argues, a matter of political expediency. The Transkei, large, lovely, and encompassing some of the most coveted land in the country, was too rich a prize to deny the South Africans, he says.

The arguments have won some favor among Western diplomats, including some in the State Department. But United States officials conceded early on that recognition of the Transkei was out of the question so long as black Africa stood solidly against it, and whatever chance there was of a break in the African front died when antiapartheid fervor erupted this summer in Soweto.

The status of blacks living outside the homelands is a major factor in the diplomatic equation, for the theory of separate development holds that each of them—10 million in all—belongs to the homeland assigned to his ethnic or language group. To hammer this policy home, the Government insists that they will all eventually become citizens of their respective homelands, whether they have ever been there or not.

TO LOSE CITIZENSHIP

In the case of the Transkei, the law authorizing its independence specifies that all blacks with language ties to the territory will lose their South African citizenship on independence day. In theory, the provision strips 1.3 million blacks who speak Xhosa—the "click" language made famous by the singer Miriam Makeba—of any claim to rights as South Africans.

"We're in a real bind, aren't we?", says Mhlaleni Njisane, who is scheduled to be the Transkei's first ambassador to South Africa, probably the only diplomatic post the country will have. "For us, independence is a chance to break the shackles of apartheid. If we reject it, to show that we reject apartheid, the shackles could last forever."

Mr. Njisane, who became a United States citizen during a 16-year teaching stint at American colleges, makes another argument for international recognition of the territory: that an independent Transkei will be a beachhead for the antiapartheid forces. "I can see people saying to Vorster, 'What kind of Frankenstein monster have you created,' he says. "Well, if we have to be a Frankenstein monster in that sense, we'll have to be."

Mr. Njisane is quick to add that the anti-apartheid measures he envisages will be restricted, at least initially, to verbal assaults. "We'll have to go all out to make South Africa understand where we stand," he says. "We may have to pay a price for it, but if South Africa begins to understand that her nearest neighbor stands four-square against apartheid, it may very well assist the process of change."

THE RULE TO BE REQUESTED FOR CONSIDERATION OF TITLE II OF H.R. 9067

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the Record.)

Mr. ULLMAN. Mr. Speaker, title II of H.R. 9067 amends the Internal Revenue Code to extend the present 11 percent excise tax on firearms and prefabricated ammunition so as to apply to ammunition component parts.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for consideration of title II of H.R. 9067 on the floor of the House. On September 14, 1976, the Committee on Ways and Means instructed me to request the Committee on Rules to grant a closed rule for consideration of title II of H.R. 9067 which would provide for committee amendments which would not be subject to amendment, and which would provide for 30 minutes of general debate, to be equally divided. No waiver of points of order on title II is requested.

It is our intention to request a hearing before the Committee on Rules concurrently with the Committee on Merchant Marine and Fisheries.

OUTER CONTINENTAL SHELF LEGISLATION

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, in the little time which remains during this session of the 94th Congress, a number of important bills still require our serious consideration. One of the most critical pieces of legislation still pending is S. 521, a bill which would establish a modern regime for the management of the oil and gas resources on our Outer Continental Shelf. Soon, at the request of the Senate, we will convene a conference committee to reconcile the differences between the House and Senate versions of the bill.

As my colleagues know, the House bill, H.R. 6218, was fashioned by a special committee created by this body to cut through potential conflicts among a number of committees with jurisdiction over the OCS. The Ad Hoc Select Committee on Outer Continental Shelf has established an extremely strong record over the last 18 months, during its careful deliberations on this complex issue.

During the many phases of the committee's work, the members and staff have made concerted efforts to cooperate in good faith with the administration and, in particular, the Department of the Interior. We have worked diligently with representatives of the Department to find as much common ground as possible so that the Congress and the administration together could revise OCS oil and gas leasing policies for the good of the American people. The extent to which the Congress has fulfilled its responsibility can be seen from the strong support given to this legislation in the Senate—67 to 19 vote—and in the House—247 to 140 vote.

Unfortunately, the administration continues to make every effort possible to obstruct the progress of the OCS legislation—while superficially indicating its willingness to cooperate with Congress.

In this regard, there are a number of interesting similarities between S. 521 and S. 391, the Federal Coal Leasing Amendments Act of 1975, which the Congress recently enacted overriding a Presidential veto. A detailed comparison of the coal leasing and OCS bills, with an enumeration of the negotiations with the administration on both pieces of legislation, can be found in the Congressional Record of August 9, 1976.

The strong congressional override of the coal leasing amendments veto, with a 316 to 85 vote in the House and a 76 to 17 margin in the Senate, is a clear manifestation of the intent of this Congress to update and rationalize the management of our Nation's critical energy resources. Unfortunately, as the August 9 issue of the Record points out, and the veto override makes clear, the Congress must frequently establish new statutory regimes for the efficient and equitable management of our energy resources despite—not with the assistance of—the administration.

During the development of the OCS bill, for example, a number of letters were received by the committee from Secretary of the Interior Thomas S. Kleppe on this matter. A February 19, 1976. correspondence listed 14 changes in H.R. 6218 which "might make the bill acceptable." In our effort to operate in good faith, nine of his recommendations were accepted in full and five others were accepted in part.

This was followed by an April 22, 1976, letter in which the Secretary stated his concern about provisions on which I did not comment in my earlier letter. At a subsequent meeting with representatives of the Interior Department, 10 additional demands were made and this was followed by the submission of 39 more amendments by the administration.

I proposed, as amendments on the floor, 15 of these changes in total and six more in part. Additionally, I opposed attempts to incorporate other provisions that Secretary Kleppe had earlier indicated were unacceptable.

But the Interior Department was not finished yet. After passage of the House bill on July 21, the staff requested further comments. It was not until August 26, 1976, in a letter to Senator Jackson that we heard from the Department—and 13 "must" and other "noncritical" changes were listed.

It appears, therefore, that for every stage in the legislative process through which the OCS bill passes, the administration has a new package of amendments to submit. Obviously this could go on ad infinitum so that Congress is forced to adjourn before considering this important legislation. The net result would be a continuation of the Interior Department's antiquated method of leasing and managing this Nation's OCS oil and gas resources—a result which appears to be what the administration really desires.

To document the series of efforts made by the committee to reach an equitable resolution of this issue, I am inserting in the Record a copy of Secretary Kleppe's letter of August 26 to Senator Jackson and my response to it. Supporting evidence, including an item-by-item discussion of each issue in question, is also included.

After reviewing these documents, I know that the Members of this body will agree that the Congress has made every conceivable effort to accommodate the major conecrns of the Interior Department. If the administration continues to oppose the bill both during and after the conference committee, its "good faith" in negotiating with us will be highly suspect. As with the coal leasing amendments, Congress has the power to respond to such obstructionism.

The material follows:

U.S. Department of the Interior,
Washington, D.C., August 26, 1976.

Senator Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Senator Jackson: The Congress is now considering final action on S. 521, amendments to the Outer Continental Shelf Lands Act, which was passed by the Senate and amended by the House of Representatives. I wish again to emphasize the Administration's strong opposition to provisions of these bills. We have objected consistently to these provisions in our formal reports and testimony, in repeated letters, and in many staff conversations. In addition, we have supplied detailed amendments with an indication of which ones we considered to be essential. Unfortunately, most essential amendments have not been adopted, and as a result I must again register the Administration's strong opposition to passage of the bills as now written.

The Senate version is objectionable to the Administration in almost every section. Its deficiencies are so many and so serious that only complete revision would make it acceptable. The House amendment, while omitting certain provisions of the Senate version, contains a number of provisions which would be wasteful, unwise and disruptive of orderly and balanced development of the nation's offshore oil and gas resources. These provisions would extend the period of time from initial leasing until production thereby delaying the availability of oil and natural gas as well as significantly reducing the value of revenues to the Federal Government.

These House provisions include the following:

1. *Development plan disapproval and lease cancellation* provisions which rule out any consideration of the advantages of continued operation.

2. *Bidding system experimentation* requirements rigidly set at excessive and costly levels and including a one-house approval procedure which would infringe on the Con-

stitutional responsibilities of the Executive Branch.

3. *State information requirements* which ignore considerations of availability, relevance, and damage to competitive position.

4. *Joint leasing with States* of Federal lands, thereby overturning the basic jurisdictional tenets of the OCS Lands Act.

5. *Alterations in health and safety regulation* which fragment responsibility and require uneconomical over-regulation of industry.

6. *Recommendations of Governors and Regional Advisory Board* are required to be accepted except when in conflict with national security or overriding national interest.

7. *Baseline and monitoring studies* are shifted from Interior, where they are now managed to serve the priorities of the OCS leasing program, to the Department of Commerce.

8. *Coast Guard marking of obstructions* is made mandatory rather than discretionary as it is under present law.

9. *Due diligence* is required on *all* leases held by an applicant for award or extension of any single lease.

10. *Citizen's suit provisions* could offer opportunities for nuisance suits not possible under similar provisions in other Acts.

11. *Mandatory on-structure stratigraphic testing* before leasing in each frontier area.

12. *Congressional review of rules and regulations* which would permit a veto by either House—an unconstitutional infringement.

I will elaborate briefly on each of these provisions whose change is essential to achieving an acceptable bill.

1. The provisions for disapproval of development or cancellation of a lease permit consideration only of the advantages of such action, not of the disadvantages. This failure to permit the balancing of the gains and losses from cancellation or disapproval may force cancellation of leases even though countervailing advantages of continued operation make it clearly in the public interest not to do so. Furthermore, the provisions do not require that the hazards which justify disapproval of development or lease cancellation must have been unanticipated by the Secretary at the time the lease was issued.

2. The bill requires that one-third of all frontier acreage be devoted to new untested bidding systems unless one House of Congress approves a waiver. The Department of Justice has consistently found that such a procedure is an unconstitutional infringement of the responsibilities of the Executive Branch. Our analysis indicates that experimentation with new bidding systems can be extremely costly both to the government and to the energy-consuming public. We have no objections to being directed to conduct experiments as we have done in the past, but it would be irresponsible to devote more acreage to them than necessary to test the effectiveness of new systems. The requirement now in the bill goes far beyond what is necessary and makes approval of a waiver by Congressional action very unlikely. The result could well be the needless loss of a substantial amount of public revenue and a substantial volume of oil and gas, and waste in the form of delays, inefficient exploration and development methods, and added administrative expense.

3. The bill sets up an impractical and unlimited requirement for provision to States of information which may be proprietary, regardless of consequences to companies which may be injured thereby. The Secretary must provide a State with "all information" concerning lands within three miles of the State, regardless of whether the information is relevant, whether the Secretary possesses it, or whether its provisions would be barred under confidentiality rules elsewhere in the bill. Furthermore, a State must be given access to privileged information gathered by companies regardless of the effects which the access would have on the competitive positions of these companies. Maintenance of proper incentives to explore adequately the OCS is totally dependent on proper protection of the legitimate proprietary interest of the companies doing and paying for the exploration. These provisions would seriously undermine those incentives, reduce competition, and hamper our learning about the presence and value of significant OCS oil and gas resources.

4. The bill permits States to become "joint lessor" with the Federal Government of the first three miles of Federal waters. The joint lease concept results in the States acquiring control over the leasing of those lands when it becomes joint lessor of them. This raises major problems in that it potentially upsets the basic division of Federal-State jurisdiction which was enacted in the original passage of the OCS Lands Act. The Administration has offered fully adequate substitute language which protects States from loss of revenue due to drainage of their lands by developments on adjacent Federal lands, but does not involve the troublesome concept of joint leasing.

5. The bill totally confuses the assignment of responsibility for regulation of safety and health by giving the same duties to two and sometimes three separate agencies. Further, it includes restrictive, unnecessary and unwise requirements on the degree of safety that must be included in new regulations and on use of the best available and safest technology.

6. The bill requires that recommendations made by Governors and Advisory Boards be accepted except when in conflict with national security or overriding national interest. This would place a burden upon the administration of the OCS leasing program which is inconsistent with the balanced objectives of the Act and could seriously hamper the achievement of the national benefits of developing this federally owned resource by making its management subservient to regional and local interests.

7. The transfer of responsibility for baseline and monitoring studies from Interior to Commerce (NOAA) would not significantly improve the scientific validity of these studies because NOAA currently provides advice concerning their design and helps in their conduct. It would, however, isolate control of the studies from decisions that must be made during the course of leasing and development.

8. Requiring marking of all obstructions to navigation on the OCS would result in an excessive deployment of navigational aids and marks which is costly and confusing to the navigator. The requirement would also expose the government to damage claims whereas the discretionary authority under present law does not.

9. The bill would condition the issuance or extension of a lease upon the applicant's due diligence on other leases. This provision will not add substantially to the requirements for due diligence on individual leases though it may create legal problems regarding the status of joint leases.

10. The citizen suits provisions, unlike those included in other Acts, grant standing to persons whose interests "can be" affected by administration of a government program. This could increase the number of nuisance suits which would unproductively burden both the courts and the Department.

11. By requiring that permits for constructure stratigraphic drilling be offered before sale of leases, the bill would increase pressures for government exploration to be conducted before the sale in those cases in which oil was found. Such a program would be unnecessarily costly and disruptive and would unnecessarily inject the federal government into a basic industrial role.

12. The congressional review of rules and regulations would effectively permit either House of Congress to veto regulations issued under the Act. This is similar to provisions in other legislation which the executive branch has opposed because the Department of Justice has consistently found that they infringe on the Constitutional responsibilities of the executive branch. Such provisions are contrary to the concept of separation of powers embodied in Article I, section 7 of the Constituion.

The specific elements of our objections to the bills are well known to the Congress, and have been provided in detail in writing. In particular the Administration's position on H.R. 6218 as reported by the Ad Hoc Committee on the Outer Continental Shelf was indicated on May 11, 1976, in a package of 39 suggested amendments, 19 of which were listed as critical. The objections raised above cover individually or in groups those 14 of the 19 critical amendments which were not adopted by the House, plus our concern with the added provisions for Congressional review of regulations. I am enclosing an update of our May 11th package of proposed amendments which further details our concerns with an recommended improvements to S. 521 as passed by the House and also includes 8 of the 20 non-critical amendments that have not been accepted. Our position has been and remains that the bills are unacceptable without substantial change along the lines we have urged.

In addition to the OCS Lands Act amendments discussed above, the Administration is still concerned about the oil spill liability provisions of Title III and has expressed its views both in connection with this OCS legislation and separate liability measures, including H.R. 9294 and S. 2162, the Administration proposals. As passed by the House, S. 521 requires unlimited liability for the clean-up costs incurred when oil is spilled from an off-shore facility or vessel. This places an undue burden and an uninsurable risk on the facility or vessel owner. This burden is especially heavy on smaller companies and is therefore anti-competitive. As an alternative, the Administration would support a limitation on liability for clean-up costs and damages similar to that provided by H.R. 14862, the "Comprehensive Oil Pollution Liability and Compensation Act of 1976," which has been reported by the House Merchant Marine and Fisheries Committee.

I would like to emphasize, as I have done repeatedly on earlier occasions, that the law under which OCS leasing now takes place is a fundamentally sound one and the program is operating effectively, efficiently and in the public interest. Some changes were made prior to current Congessional consideration and in addition some suggestions which have been made during the Congressional consideration of this subject have also been adopted by the Department and the Administration. We are willing to support acceptable legislation on these. The Administration remains open to suggestion for improvement but we cannot responsibly accept the serious disruptions to the leasing program which would further defer domestic energy sufficiency and which would occur if these bills as now written become law.

The Office of Management and Budget has advised that there is no objection to the submission of this report and that enactment of either bill in its present form would not be in accord with the program of the President.

Sincerely,

THOMAS S. KLEPPE,
Secretary of the Interior.

(Identical letter sent to Senator Fannin, Congressman Murphy, Congressman Fish).

ADMINISTRATION AMENDMENTS TO S. 521 AS AMENDED BY THE HOUSE*

(*Page and line numbers refer to the Committee Print comparing the Senate version of S. 521 with the House amendments. Amendment numbers correspond to those used in the May 11, 1976 set of Administration Amendments to H.R. 6218.)

*AMENDMENT 1: SUSPENSION, CANCELLATION OF LEASE, DISAPPROVAL OF DEVELOPMENT PLAN, AND COMPENSATION

In Section 5(a)(2), strike page 150 line 21 through the first comma in line 4, page 151, and substitute therefor the following:

(2) for the cancellation of any lease by the Secretary in his discretion, if (because of a high probability of severe harm or damage unanticipated in kind or degree by the Secretary at the time such lease was issued, arising from exceptional geologic conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances) the Secretary determines that operations under the lease would cause harm or damage sufficiently severe to be unacceptable after taking into consideration the advantages of continuing such operations,

In Section 25(g)(1)(C), strike lines 1–5 on page 139, and substitute therefor the following:

(C) if (because of a high probability of severe harm or damage unanticipated in kind or degree by the Secretary at the time such lease was issued, arising from exceptional geologic conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances) the Secretary determines that the plan cannot be modified to reduce the potential for harm or damage sufficiently to make it acceptable after taking into consideration the advantages of development and production from the lease.

Rationale

This amendment makes two key changes in the provisions now in the bill for lease cancellation, development plan disapproval, and compensation. (1) The test for cancellation or disapproval allows a comparison of the hazard with the advantages of continued operations. (2) The hazards must have been unanticipated by the Secretary at the time the permit or lease was issued.

First, no lease should be cancelled, or development plan disapproved, without full consideration of *both* the advantages and disadvantages of doing so. The provisions now in the bill would permit consideration of only the advantages.

Second, a lease should not be in jeopardy of cancellation because of a hazard which was anticipated at the time the lease was issued. Under the provisions now in the bill, a lease could be cancelled even though no new information had appeared, and even though a decision had been made to issue the lease in full anticipation of the hazard.

*AMENDMENT 2: CONGRESSIONAL ACTION ON WAIVER OF LIMITATION ON BONUS BIDDING

Section 205 (Section 8(a)(6)(C)(ii)) line 15, page 110: After the word "limitation" strike the words "if either the Senate and House of Representatives passes a resolution of approval of the Secretary's finding" and insert in lieu thereof the words "unless the Secretary's finding is disapproved by joint resolution of Congress."

On page 113, after line 16, add a new subparagraph (xii) as follows: "(xii) The Secretary shall experimentally offer tracts for lease under the systems authorized in subparagraphs (B), (C), (D), (E), (F), (G) or (H) of paragraph (1) of this section as necessary to gain information on the merits of these systems, provided that in the case of each experimental offering he determines that the value of the information expected to be gained is sufficient to warrant any likelihood of inefficient exploration or production, delay of development, reduction of return to the treasury, or addition to administrative cost."

Rationale

This amendment would permit the Secretary to exceed the 66-⅔ percent limit on use of the bonus-bid, fixed-royalty system unless, by joint resolution, Congress disapproved. At the same time, it would direct the Secretary to experiment with other authorized bidding systems, provided he determined that the value of the information to be gained was sufficient to warrant the risks involved.

Interior has no objection to being directed to experiment with new bidding systems, provided it is not forced to do so when the risks are excessive in comparison to the information to be gained. However, the present language of the bill would compel the offer of 1.5 million acres or more per year under novel systems whose effectiveness is unproven, and it would offer no reasonable chance that the Secretary could obtain Congressional waiver of the requirement if later evidence made it appear unwise. The outcome of experiments is always uncertain, otherwise they would not be experiments. The costs of leasing a tract worth $100 million or more under an experimental system that turns out badly could be very high, and it is a serious mistake to take risks of this kind in the absence of a case-by-case finding that they are warranted.

The defect in the bill is especially serious in light of the likelihood that in Conference the 66-⅔ percent limitation could be reduced in compromise with the Senate provision, which is 50 percent.

*AMENDMENT 3: INFORMATION CONCERNING LANDS WITHIN THREE MILES OF THE SEAWARD BOUNDARY OF A STATE

Section 205(f)(1)(B), lines 14 and 15, page 121: Strike subparagraph (B) and substitute therefor the following:

"(B) all relevant information in his possession concerning the geographical and geological characteristics of such lands, subject to the provisions of Section 26 of this Act."

Rationale

The purpose of subsection 205(f) is to resolve problems created by possible drainage of oil and gas from under State lands. This amendment restricts the provision of information to the Governor under this subsection to data relevant to that purpose, and it conforms the section to the confidentiality requirement of Section 26. As presently written, the subsection requires that "all information" be provided, regardless of its relevance, whether the Secretary has it in his possession, or whether its provision is barred under the confidentiality rules of Section 26.

*AMENDMENT 5: STATE INSPECTION OF PRIVILEGED INFORMATION

Section 26(d)(2), page 29, lines 1–9: Strike all but the final sentence of paragraph (2) and substitute the following:

"(2) The Secretary shall permit inspection by an appropriate State official designated by the Governor of any adjacent coastal State, at a regional location which the Secretary shall designate, of any privileged information received by the Secretary about leased lands and regarding any activity adjacent to such State, provided the Secretary determines that such inspection would not unduly damage the competitive position of a lessee."

Rationale

This amendment applies the test of undue damage to the competitive position of a lessee to the inspection of privileged information by States. This test was originally in Committee Print No. 2 of H.R. 6218. The current language of the bill would provide no discretion to the Secretary concerning such inspection. This is particularly undesirable in the case of geological interpretations which the Secretary may have received from lessees, the confidentiality of which is of great importance, since they reveal information not merely about the lease tract, but in particular about the interpretive techniques practiced by the lessee. These interpretive techniques are trade secrets of extreme value, and the Secretary should be granted discretion to withhold them from inspection if he feels such inspection would be unduly injurious to the lessee's competitive position.

*AMENDMENT 6: FEDERAL LEASES POTENTIALLY DRAINING STATE LANDS

Section 205(f), page 121, line 4 through page 122 line 25: Strike paragraphs (2), (3) and (4) of subsection (f), and insert in lieu thereof the following:

(2) In the case of any lease issued after the date of enactment of this Section on which production may in the Secretary's judgment drain oil or gas from State lands, the Secretary shall either

(A) seek to establish an agreement for unitary development and production of the Federal and State properties, whenever such State properties have been or are about to be leased or otherwise committed to development and production by the affected State; or,

(B) whenever the State has not or is not about to so commit such properties to development and production, (i) include a term in the lease making the lessee a party to any suit for equitable division of proceeds from the lease among the lessee, the State, and the Federal government, and (ii) initiate such suit whenever he finds that drainage from State lands is occurring, except that no such term shall be included, or suit initiated, unless the State agrees to insert a similar term and to initiate similar suits concerning its own properties, where oil or gas operations on State lands may drain Federal lands.

Rationale

This amendment fully protects States from loss of revenue by drainage, and at the same time, avoids the serious difficulties inherent in the "joint lease" concept now in the bill. For a State to become "lessor" of OCS lands, it would have to acquire rights over those lands, rights which it does not now possess under the Act. The joint lease concept therefore is tantamount to extending State jurisdiction beyond three miles.

* AMENDMENT 7: RECOMMENDATIONS OF GOVERNORS AND ADVISORY BOARDS

Section 10(d), page : Strike lines 5–18 of page 91, and substitute therefor the following: "the Secretary shall fully consider such recommendations in light of national security, the desirability of obtaining oil and gas supplies in a balanced manner, and the policies, findings, and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Board or such Governor the reasons therefor."

Rationale

The present language of the bill assumes that except in case of conflicts with national security or overriding national interest, wherever there is a disagreement between a Governor and the Secretary over the size, timing or location of a lease sale or over a development plan, the Governor is always right and the Secretary is always wrong. This is a fundamentally dangerous assumption for development decisions regarding a federally owned resource whose benefits are nationally distributed and which does not lie within the territorial boundaries of any State. It is the Secretary, responsible to the President, who has a National, not a regional viewpoint which enables him to balance the benefits and costs of one region against those of others. No Governor or regional group of Governors can be expected to judge such issues in a National perspective. Therefore, there should be no presumption that, after giving them full consideration in light of Federal policy as embodied in the Act, the secretary must accept Governors' recommendations.

Given the protections available to coastal States under the Coastal Zone Management Act, which are reaffirmed and strengthened in this bill, and given Governors' full opportunity at important points to comment on OCS decisions, there is no need for the language this amendment removes.

*AMENDMENT 8: BASELINE AND MONITORING STUDIES

Section 20, page 85: Strike the following: Page 85, (a) (1), line 9 and 10, "of Commerce, in cooperation with the Secretary".

Page 85, (a) (2), lines 22 and 23, "of Commerce".

Page 86, (a) (3) in its entirety.

Page 86, (b), line 13, "of Commerce".

Page 87, (c), line 1, "of Commerce"; line 7, "of Commerce".

Page 87, line 9, "of Commerce"; line 13, "of Commerce".

Page 88, (d), lines 4 and 5, "of Commerce, and "to the Secretary and"

At the end of Section 20, add the following new subsection:

"(f) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization or entity with funds appropriated to the Secretary of the Interior pursuant to this act."

Rationale

This amendment provides that responsibility for design and direction of baseline and monitoring studies would remain where it is now, in the Department of the Interior. However, it also directs the Secretary where practicable to execute such studies through the Department of Commerce.

The Committee's intent in this Section appears to be to utilize the scientific expertise of NOAA for baseline and monitoring studies. However, the present language of the bill does so at the cost of depriving the Secretary of the Interior of control over the content, timing, and coordination of those studies. Since the purpose of the studies is primarily to provide information for Interior's decision-making needs, it would be a serious mistake to remove them from Interior's control. This amendment would provide both for utilizing NOAA's scientific expertise and for control of content, coordination and timing by Interior.

The amendment would also make clear that the Secretary of Commerce would utilize the expertise of its contractors in carrying out the studies if appropriate, and would clarify the Department of Commerce's authorization to do so under the Economy Act.

*AMENDMENT 9: SAFETY AND HEALTH

Section 208 should be amended so as to delete the proposed new Section 21 of the Outer Continental Shelf Lands Act and to substitute the following:

"Section 21 safety regulations

"(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production and development of natural resources, with respect to the Outer Continental Shelf. The results of this study shall be submitted to the Congress, together with a plan of action which each Secretary proposes to take, working alone and in consultation with the other, under their respective authorities under this or other Acts, to promote safety and health in the exploration, production and development of natural resources of the Outer Continental Shelf.

"(b) In exercising their respective responsibilities for floating, temporarily fixed or permanently fixed structures for the exploration, production and development of the natural resources of the Outer Continental Shelf, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require the use of the best available and safest technology which the respective Secretary determines to be economically achievable, taking into account the incremental costs and benefits of utilizing such technology, wherever failure of equipment would have a significant effect on safety, health, or the environment, on all new drilling and production operations and, wherever practicable, on existing operations.

"(c) Nothing in this section shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety."

Section 208 should be further amended so as to delete the proposed new Section 22 of the Outer Continental Shelf Lands Act and to substitute the following:

"Section 22 enforcement of environmental and safety regulations

"(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to Subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d) (1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation."

Section 208 should be further amended, in conformity with the above amendments, as follows: Page 78, lines 13 and 14 in Section 23(a) (1), strike the present text and insert "his own behalf against any person, including the United".

Page 79, lines 1–4, delete Section 23(a) (1) (B).

Page 79, lines 5 and 6—delete the present text and insert:

"(2) No action may be commenced under subsection (a) (1) of this section—"

Page 80, lines 1–9, delete Section 23(a) (2) (B).

Page 83, line 3 in Section 24(a), strike the words "Secretary of Labor".

Page 83, line 18 in Section 24(c), strike the words "Secretary of Labor".

Page 84, line 4 in Section 24(c), delete the words "occupational or public".

Rationale

Section 21 and 22 of the reported bill contain a number of provisions which are objectionable and the proposed amendment includes the changes necessary to make these sections acceptable.

First, the present allocation of agency responsibility for safety and health on the OCS has been developed over time and is fundamentally satisfactory. This bill would alter in either undesirable or uncertain manner the present jurisdictional pattern. The amendment makes clear that present Labor, Coast Guard, Environmental Protection Agency and Interior responsibilities would continue.

Second, section 21(c) (1) of the bill provides that no new safety regulation shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect. Environmental regulations frequently must be promulgated on the basis of incomplete information. This provision as written would not allow revision based on better information, if the revision would reduce the degree of protection. If applied to new regulations, such a provision might discourage promulgation of desirably strong regulations based on incomplete information. In any event, the fact that the increment of protection provided by existing regulations was extremely costly to the Nation, if that were the case, could not be considered. The proposed amendment permits the Secretary to consider whether the incremental costs incurred are buying enough additional protection to make them worthwhile.

The amendment also makes clear that the appropriate Secretary's judgment is to be determinative on the question of economic achievability of technology required by section 21(a) (2) (which has been included in the proposed amendment as section 21(b)). The Administration is of the view the appropriate Secretary should consider the cost to the lessee and indirectly to others of requiring the technology, in relation to the advantage of the increased safety resulting from its use. The legislative history should clearly reflect that this is intended.

Several serious problems occur in the section 22 enforcement provisions. Section 22 (g) contains detailed requirements which are both extremely burdensome and inconsistent with section 15, which requires an annual report calling for only a summary of enforcement activities. Traditional oversight procedures can provide sufficient check on enforcement activities, if the summary in the annual report is insufficient. There is no need for reporting the number of violations alleged by a particular person. The meaning of "proven violations" is unclear.

Section 22(c) (1) requires physical observations at least twice a year on all installations. The proposed amendment changes this to once a year, which is adequate for regular visits in view of the provision for periodic inspections in section 22(c)(3) of the bill (section 22(c)(2) of the proposed amendment) and of current and planned Coast Guard regulations for facilities.

The Administration opposes compensation to lessees whose leases are cancelled after repeated violations of safety regulations. Section 22(h) of the bill is unclear in this regard. In deleting section 22(h), it is intended that cancellation be in accordance with revised section 5(c) and (d) of the OCS Lands Act (which would be added by section 204 of the bill) which do not provide for compensation.

If this amendment is adopted, amendments 10, 11, 12, and 13 are unnecessary.

*AMENDMENT 10: NO REDUCTION IN SAFETY OR PROTECTION TO THE ENVIRONMENT

Section 21(c)(1): Page 33, on line 19: Delete the period at the end of the sentence and add ", unless the Secretary shall compare the two regulations and find that the difference between them in costs to the Nation is sufficient to justify the difference between them in the degree of safety or protection to the environment."

Rationale

The current language of the bill says that no new safety regulation shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect. Environmental regulations frequently must be promulgated on the basis of incomplete information. This provision as written would not allow revision based on better information if the revision would reduce the degree of protection. The fact that the increment of protection provided by the existing regulations was extremely costly to the Nation, if that were the case, could not be considered. The proposed amendment permits the Secretary to consider whether the incremental costs incurred by the Nation are buying enough additional protection to make them worthwhile.

If amendment #9 is adopted, this amendment is unnecessary.

*AMENDMENT 11: BEST AVAILABLE TECHNOLOGY

Section 21(a)(2), on page 34, line 14, before the words "economically achievable" insert the words "which the Secretary determines to be".

Rationale

This amendment will make it clear that the Secretary's judgment is to be determinative on the question of economic achievability. The Administration has a further concern, however, that conflicting interpretations of that term may exist. It is therefore the Administration's position that it will oppose enactment of this provision unless Conference Committee report language clearly indicates that the Secretary may consider the cost to the lessee and indirectly to others of requiring the technology, in relation to the advantage of the increased safety resulting from its use.

If amendment #9 is adopted, this amendment is unnecessary.

AMENDMENT 12: REPORT OF SAFETY VIOLATIONS

Strike subsection 22(g), pages 40 and 41.

Rationale

The annual report required by Section 15 calls for only a summary of enforcement activities. The detailed requirements of Section 22(g) are inconsistent with Section 15, and in addition would be extremely burdensome. The traditional oversight procedure can provide sufficient check on enforcement activities, if the summary in the annual report is insufficient. There is no need for reporting the number of violations alleged by a particular person. The meaning of "Proven violations" is unclear. Proven by whom, an agency finding or by successful collection of a penalty?

If amendment #9 is adopted, this amendment is unnecessary.

AMENDMENT 13: ENFORCEMENT OF REGULATIONS

Section 22(6), page 38, lines 8–10; Strike existing paragraph (1) and insert in lieu thereof:

(1) physical observation, at least once each year, of all fixed installations

Rationale

Mobile drilling rigs are currently regulated by the Coast Guard and are subject to periodic inspection as vessels. The Coast Guard is currently preparing regulations for other types of semi-permanent drilling rigs, such as jack-up rigs. With the provision for periodic, unannounced inspection in clause (3), once a year is adequate for regular visits.

If amendment #9 is adopted, this amendment is unnecessary.

AMENDMENT 17: COAST GUARD AUTHORITY TO MARK OBSTRUCTIONS

Section 203(f): page 166, line 18: strike "shall" and insert in lieu thereof, "may".

Rationale

This will restore the status quo, leaving the Coast Guard with discretionary authority to mark obstructions to navigation. This is consistent with existing Coast Guard authority for all other aids to navigation. In many cases, due to the close proximity of OCS structures, not all such structures need be marked. In fact, marking them all can confuse the navigator. In addition, a mandatory duty to mark will expose the government to damage claims under the FTCA.

AMENDMENT 24: ATTORNEY GENERAL AND FTC REVIEW

Section 205(c), page 120, line 3: After the word "information" insert the words "available to the Secretary".

Rationale

This section of the bill requires thirty-day notice to the Attorney General and FTC of proposed lease issuance or extension, along with transmission of such information as they may require. If this requirement is to delay leasing for no more than 30 days in the normal case, the information should be limited to that information available to the Secretary.

*AMENDMENT 25: ISSUANCE OR EXTENSION OF LEASES UNDER DUE DILIGENCE REQUIREMENT

Strike Section 205(d), page 120, line 22 through page 121 line 3 and reletter succeeding subparagraphs accordingly.

Rationale

Section 205(d) bars issuance or extension of a lease if the applicant has not been duly diligent on *other* leases. This provision is unnecessary, since other provisions require diligence on each lease individually. In addition, it is unworkable, since it may lead to cancellation of a lease held jointly by several parties, one of whom was not duly diligent on a different lease held by himself or with entirely different partners. This presents constitutionality problems with respect to those part-owners of the cancelled lease who have been guilty of no lack of diligence elsewhere.

Diligence requirements should be applied only lease-by-lease, not lessee-by-lessee.

AMENDMENT 27: LIMITATIONS ON EXPORT

Section 28, pages 97–98: Pages 97, 98. Delete subsections (b), (c) and (d) and strike "(a)" from line 2.

Rationale

While it may be desirable to apply the Export Administration Act of 1969 to exports of oil and gas, additional requirements such as the requirement of findings by the President described in subsection (b) and Congressional review thereof as allowed by subsection (c) constitute an undesirable restriction on the exercise of executive powers and normal operation of the Export Administration Act of 1969.

*AMENDMENT 28: CITIZENS SUIT PROVISION

Section 23(a)(1), page 78:

1. lines 11–12, Delete the words "or can be"

2. line 16, Between the words "agency" and "for", insert "(to the extent permitted by the Eleventh Amendment to the Constitution)".

3. lines 17–19, Strike the comma at the end of line 17 and change the remainder of this phrase to read "the issuance of which by the Secretary under this Act is not discretionary; and".

Rationale

This section is apparently modeled after similar provisions in the Clean Air Act, the Safe Drinking Water Act and the Federal Water Pollution Control Act.

Point 1. None of the citizen's suit provisions in the three aforementioned acts contains the phrase "or can be". Its inclusion here may raise questions on the issues of standing and ripeness which could lead to nuisance suits.

Point 2. All three of the aforementioned acts contain the suggested parenthetical phrase. Its omission here could support an inference which is presumably not intended.

Point 3. The effect of this change is to omit the reference to permits and leases and limit the reference to regulations to those which are not discretionary. Inclusion of permits and leases could be read to suggest that third parties have a private cause of action as a result of an alleged violation in some provision in a permit or lease. While it may be desirable to allow private citizens to sue on the basis of, or to prevent a violation of, the Act or regulations required by the Act, it appears unwise and unnecessary to treat leases and permits in the same fashion. An adversely affected plaintiff can presumably sue on the basis of the facts creating that situation whether or not the action causing such harm is also a violation of a permit, lease or discretionary regulation.

*AMENDMENT 29: ON-STRUCTURE STRATIGRAPHIC TESTING

Section 206, Section 11(g): Strike subsection 11(g), page 23.

Rationale

This amendment would strike the subsection directing the Secretary to offer permits for on-structure stratigraphic tests in frontier areas. The Administration strongly opposes this requirement. Such tests, whenever allowed, should be carried out in the locations which, all things considered, best serve the purposes of the oil and gas leasing program. Requiring them to be placed on-structure would increase unacceptably the pressure for follow-on government exploration in the event of a discovery, which would not be in the public interest. It also ignores the success of the past program of off-structure drilling, which has attracted industry applicants and has served the interests of all parties in enhancing the level of pre-sale geologic knowledge.

AMENDMENT 34 (REVISED): REIMBURSEMENT FOR DATA REPRODUCTION

Strike Sec. 26(a)(1)(C), on p. 26, lines 14–24, and substitute:

(C) Whenever any data are provided to the Secretary, pursuant to subparagraph (A) of this paragraph, the Secretary shall pay the Government's share of the reasonable cost of processing such data, and the reasonable cost of reproducing such data for provision to the Secretary, pursuant to such regulations as he may prescribe.

Rationale

Permittees and lessees are compensated differently for data provided to the Secretary, as the bill is now worded. This amendment would make compensation the same for both.

AMENDMENT 35: PRICE AT WHICH LEASES UNDER SO-CALLED "PHILLIPS SYSTEM" ARE AWARDED

Section 205(a) Section 8(a): Page 101, lines 18 through 21, and page 102, lines 3 through 6, delete the words "at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area" in each case where they occur and insert in their place "on the basis of the value of the bid per share."

Delete all from line 6, page 114 through line 26, page 115 and insert in lieu thereof: "(5)(A) In the event bids are accepted for less than 100 per centum of the lease area offered under such subparagraph (G) or (H), the Secretary may re-offer the unleased portion for such period of time as he determines to be reasonable."

Page 116, line 1, change (C) to (B).

Page 105, line 14, change (D) to (C).

Rationale

Requiring bidders to pay more than they bid, if they bid less than the average, could cause serious administrative problems for this bidding system. Many such bidders would drop out. Re-offer of the remaining shares at the average price might or might not result in sale of 100 percent of the working interest. While this problem could also arise under the Phillips plan as originally conceived, it is far less likely to do so.

The Committee apparently felt, in adopting the average-price language, that it was somehow unfair to lessees to sell a one percent interest to different people at different prices. However, this is a business phenomenon that occurs regularly, and is a generally accepted practice wherever auctions or bargaining take place. No unfairness, either actual or apparent, exists as long as participants are aware of the rules by which the sale will be conducted, and can adjust their bidding strategies accordingly.

The Phillips plan, as originally conceived, is promising enough to warrant experimentation. However, the bill as now written would handicap it seriously.

AMENDMENT 37: DEFINITION OF "AFFECTED STATE"

Section 201(f)(5): Page 158, line 5: Insert "which was extracted from the outer Continental Shelf" following "oil or gas"

Rationale

This amendment is intended to make it clear that the risk of serious damage from an oilspill has to be associated with OCS development, similar to the limitations in the previous clauses. As written it could include risk of damage from oil from other sources.

*AMENDMENT 40: RULE AND REGULATION REVIEW

Strike Section 406, page 171 in its entirety.

Rationale

Section 406 provides that any rule or regulation issued under the OCS Lands Act can be disapproved by a resolution of either House. This provision encroaches upon the powers of the Executive Branch under separation of powers and is probably unconstitutional.

WASHINGTON, D.C.,
September 2, 1976.

Hon. THOMAS S. KLEPPE,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: It was with great concern and disappointment that I received a copy of your August 26, 1976, letter to Senator Jackson concerning the Outer Continental Shelf Lands Act Amendments of 1976 (S. 521). This letter confirms my fears that, despite the Ad Hoc Committee's efforts at good faith cooperation, the Interior Department never really intended to work with Congress but rather only feigned cooperation in order to delay or stop passage of necessary reforms to our present offshore leasing system.

Your letter is particularly troubling in light of the history of the Ad Hoc Committee's continuous consultation with the Interior Department and full consideration of the Administration's views. Representatives from the Interior Department were invited to attend, and did attend, most of our nationwide hearings. In addition, representatives of the Interior Department presented its views to the Committee on *five* different occasions.

Prior to the preparation of the first staff working draft of then H.R. 6218, members of Committee staff met with your staff to work out possible provisions. In a letter dated February 19, 1976, you recommended 14 changes in H.R. 6218 which "might make the bill acceptable." As a result of meetings and negotiations on these proposals, nine of your recommendations were accepted in full, and five others were accepted in part. These changes were then incorporated, at my request, in the final staff draft.

The Interior Department, however, did not accept this attempt at a good faith compromise. On April 22, 1976, you sent another letter expressing further displeasure over different provisions and I quote, "on which I did not comment in my earlier letter." This was followed by a meeting with your representatives specifically raising ten more objections. This was then followed by a submission of 39 additional amendments. Staff reviewed these amendments meeting on numerous occasions with your representatives, and then recommended changes. I then successfully proposed, as amendments on the Floor, 15 of these changes in total and six additional in part. In addition, in keeping with my good faith efforts at a reasonable compromise, I opposed attempts to incorpoarte other provisions that you had earlier indicated were unacceptable.

After passage of the House version of S. 521 on July 30, 1976, I had my staff contact your representatives for further comment on the bill. No response was received until your letter of August 26, 1976. It is important to note that the Department was told of the need for prompt action in light of the heavy legislative schedule of both Houses and that your most recent letter was sent after the Department was told of a possible House/Senate compromise on an acceptable version of S. 521.

It is apparent that S. 521 is already the product of compromise with your Department and is a carefully balanced and responsible reform of the Outer Continental Shelf Lands Act. A review of the provisions of the bill indicates that it accommodates most Administration concerns and enacts important aspects of your own leasing, environmental and safety programs. It is also apparent that the Committee's good faith attempts to work with your Department have been met with stubborn resistance. Obviously, negotiations and compromise have become a one way street. We are asked to accept your suggestions and you offer nothing in return.

In your letter you list 13 "must" and other "non-critical" changes that are to be incorporated in the bill without which the bill would be "unacceptable."

I am attaching specific responses to your proposed amendments in a final attempt to seek your support for passage of S. 521. These responses indicate the fears and concerns expressed in your letter are unwarranted. It is time to end this conflict and to begin cooperating with the Congress in good faith. The present OCS bill, with the joint Senate/House amendments, is more than a reasonable compromise—it is an attempt to satisfy most of your requests and recommendations, and also to balance the various considerations presented by the more than 300 witnesses who testified before the House Ad Hoc Committee and the host of witnesses before the Senate Interior Committee.

Congress has acted responsibly and properly by detailing needed reforms in our federal offshore leasing system. We urge that you, and the Administration, also so act in the best interests of the United States.

Sincerely,

JOHN M. MURPHY,
Member of Congress.

DISCUSSION OF PROPOSED AMENDMENTS

MUST AMENDMENTS

1. Lease cancellation and development plan disapproval

Prior to House passage of S. 521, you proposed new standards for cancellation and disapproval, a mandated suspension period prior to cancellation, and a new provision as to cancellation compensation. By Floor amendment, the House accepted two out of three of your recommendations. Now you seek to make cancellation totally discretionary. By misreading the bill's provisions, you complain that there is no opportunity for a weighing of risks and benefits; that there is an undue limitation on discretion; and that it places an unfair risk burden on the lessee.

(a) *Cancellation*—As the bill is now worded, the Secretary is given the authority to prepare cancellation regulations to determine if continued activities actually *"would cause"* not just harm but *"serious harm or damage"*; which he finds *"would not decrease over a reasonable period of time."* The bill grants Interior Department its requested mandated suspension period to making these determinations.

By definition, a determination of "serious harm or damage" necessarily involves a weighing of the severity of harm or damage with the national interest. By limiting the weighing to harm against "the advantages of continuing such operations," you would open up the procedure to possible abuse. Advantages are based on estimates of resource, which surely should not be the sole criterion. A more objective standard for the balancing is necessary.

By definition again, a finding that activities "would cause" such serious harm or damage involves an expert evaluation of the risks—recognized by the Committee as being traditionally determined by the courts to be left to the administering agency. A finding that the harm or damage must be one that "would not decrease over a reasonable period of time" indicates that the probability of such harm or damage must be quite high to allow cancellation.

The exact meaning of these terms and the exact circumstances of application of this provision are to be, as provided in the bill, determined by regulations.

Finally, you seek to limit cancellation only to those cases where the harm or damage is "unanticipated". The occasions when the Secretary might find that activity would cause and not just *threaten* serious harm or damage will be sufficiently *rare* to avoid having leases unnecessarily cancelled. To limit your ability to cancel a lease when you find that such harm or damage would in fact occur, is, at best, unwise.

(b) Disapproval—As the bill is now worded, the Secretary is to determine if "exceptional" circumstances indicate that a development and production plan "cannot" after attempts, "be modified" to "insure a safe operation." Like the cancellation provision, the Interior Department is to have a five-year period to make these determinations. By definition, a determination of "exceptional circumstances" necessarily involves a weighing; a finding that a plan "cannot be modified" involves an expert evaluation; and the determination of what is or is not a "safe operation," in light of amended section 3(6) [Section 202 of the bill], is to be determined by the Secretary based on high probabilities of real risks.

2. Bonus bidding limitations—waiver

In your original suggested amendment, you opposed the provision providing for two House approvals prior to going below the mandated requirements of use of new bidding systems. I was able on the Floor to change this provision to one House approval, with an expedited consideration of any requests. Now you again seek to require two House disapprovals of any waiver of the limitation. The House and Senate have tentatively agreed to exempt the first year from the approval procedure. In addition, under the bill, if bids are too low, the Department retains its power to not accept the bid. Finally, the bill only requires leases to be "offered" using new systems. Ample opportunities are thus given to allow you to demonstrate the ineffectiveness of other systems and secure a waiver.

The Committee, and both Houses, of course, disagree with your premise of total faith in the bonus bid system. Your two most recent sales, primarily using the bonus bid system, indicate that you are either not receiving full value for your resources (exceptionally low bids in California) or are granting leases only to the larger oil companies (80 percent to the top seven and their groups in the Baltimore Canyon sale).

Nevertheless, your fears as to the effect of this provision are groundless. If the alternate systems are bad, then no one will believe in the new systems, and thus will not bid—and your offer will go unaccepted. If the government is not assured an adequate return, then you need not accept the bids.

3. Information to States relative to adjacent State lands

In your original 39 amendments and now again, you misread the provision giving information to states having lands adjacent to federal lands with possible common pools of hydrocarbons. As discussed in the Committee Report, the provisions on confidentiality of information and supplying information to states with such adjacent lands are consistent. "Knowledge so obtained would be subject, under Section 26, to applicable federal confidentiality provisions."

4. State inspection of information

In your 39 amendments, and now again, you raise needless concerns about confidentiality of information provisions as it relates to states. The OCS Committee adopted the Minority proposal granting access to a state to all information, after a lease sale. The section also details stringent limitations on the release of knowledge about confidential or privileged information by state representatives. States are not "competitors" of lessees and therefore their access to information and the restrictions on release by them of such information cannot damage the competitive position of a lessee.

5. Joint Federal/State leasing

In response to an original Administration recommendation, an amendment was adopted on the Floor which makes it even more clear that a state will not control federal OCS lands. If the Secretary "concludes" that a common structure or trap (of oil or gas) exists, he is to allow the state to jointly lease such area, but subject to the terms of a lease prepared by the Department, and consistent with applicable federal regulations. The purpose of the joint lease is to assure no loss of state revenue and coordinated development in border areas. The lease terms and administration remain within the Department, for if terms are not accepted by the state, the Secretary of Interior is free to lease these areas on his own.

Despite these changes, in conformity with your concerns, you now seek a total substitute for the whole subsection. This is not compromise: it is intransigence.

6. Regulations

In a joint Senate/House proposed amendment, all regulatory power is given to the Department of the Interior and, as heretofore, where appropriate to the Coast Guard and Army. However, in light of the concerns expressed concerning workers' safety, the **Department of Labor must concur in regulations** for occupational safety and health. This compromise should satisfy most of your objections relative to an unworkable regulatory scheme.

In addition, the joint amendments provide for inspections at least once a year instead of twice and a technical amendment provides for, as was the Committee's intent, no loss of regulatory power while new regulations are promulgated or old ones repromulgated.

7. State and regional board recommendations

In your original request to the Committee, you expressed concern as to the power of Boards and States over OCS activities. Pursuant to that concern, the Committee changed its section on State and Board input to provide that recommendations can be overridden by the Secretary if necessary to comply with the Act, and to assure oil and gas supplies are obtained in a balanced manner. In addition, the joint proposed amendments would provide that the overriding of a recommendation by the Secretary is final and not to be reversed unless it is determined to be arbitrary or capricious. Again, this is, I believe, a workable compromise, which should be supported by you.

8. Baseline and monitoring studies

Both the Senate and the House adopted provisions transferring baseline and monitoring studies to the Department of Commerce. The Secretary of Commerce would utilize NOAA within Commerce, and as required by the bill, would work together with the Department of the Interior. As you have indicated, NOAA often performs these operations now. Your statement that this would "isolate control" of studies from decisions on activities presumes a total lack of coordination in the Executive Branch, a surprising statement if true. Moreover, the bill specifically provides studies to be forwarded to you prior to approval of a development and production plan—which assures coordination as contact must be made relative to the supplying of information at the proper time. Moreover, the general regulatory provision of the bill provides for coordination and interagency contact.

9. Marking of obstructions

You suggest that requiring the marking of obstructions is "excessive" and "costly." As indicated by Administration representatives, the owner of an artificial island, installation or device, is now required to mark obstructions. Only when he does not so mark, in violation of applicable regulations, does the Coast Guard act. No additional burdens are added by this provision. Rather, it assures that owners comply with applicable regulations by requiring the Coast Guard to enforce compliance. Moreover, marking is to be "for the protection of navigation" and discretion is given to the Coast Guard to determine how, where, and when the marking is to occur by the owner or by the Coast Guard for such protection.

10. Due diligence

You suggest that the section of the bill requiring due diligence on other leases is "unnecessary" and "unworkable". At the time of original consideration of this section, you expressed the concern that this might lead to cancellation of a lease held jointly by several parties. In response, an amendment was accepted by the House providing a remedy to a non-negligent or innocent party if a lease is cancelled because of lack of due diligence by another party. Applying diligence requirements only lease-by-lease would provide an insufficient opportunity to review the activities of a lessee in totality. A company which is acting improperly on one lease should know that it cannot get away with it long enough to secure another lease. This subsection insures adequate enforcement of diligence regulations and secures compliance with such regulations.

11. Citizens' suits

You criticize the citizens' suits provision alleging it would increase the number of "nuisance" suits and thus "burden" the courts and the Department. This section is patterned on numerous provisions in other statutes that have a long and well-established judicial history. The only change made by the Committee, and accepted by the House, was to provide a limit on such suits by providing that only those showing a "probability" rather than a "possibility" of having an interest adversely affected can sue.

As to your other suggestions, clearly any statute is limited by the Constitution, and a provision to this effect is unnecessary. In addition, your suggestion that citizens' suits should be limited to challenges only of required regulations, and not be allowed as to terms of leases or permits, would severely and negatively affect the intent of this section. The section provides a detailed unitary and complete procedure for challenges by citizens, and any limitations on the effect and scope of those procedures would result in law suits filed outside the scope of the section, thus increasing litigation and thereby delaying activities.

12. On-structure stratigraphic drilling

You suggest that the provision for on-structure drilling would result in "government exploration". Through one of the joint amendments, it is made clear that the Secretary is to seek qualified applicants only during an established time limit. If no applicants are forthcoming, the burden is satisfied. If applicants are forthcoming, this limit (once per area) would not interfere in any way with the discretion of the Secretary to determine how best to explore proposed OCS lease areas.

You and your representatives have consistently testified that you believe present law gives you the discretion to conduct all types of exploration, governmental or non-governmental, pre-lease or post-lease. That discretion is not affected by the on-structure drilling provision. In addition, one of the proposed joint amendments again restates that you, as Secretary of the Interior, are given the "discretion" to conduct government drilling by contract

I fail to see how the granting, explicitly, of the discretion you now claim to have anyway, and the suggestion that a limited number of pre-lease on-structure exploratory permits be granted in any way, "injects the federal government into a basic industrial role [of exploration]".

13. Congressional veto of regulations

This provision was added to the bill during Floor consideration. The proposed Senate/House joint amendments would eliminate this provision.

NON-CRITICAL AMENDMENTS

Each of the "non-critical amendments" suggested by you are either unnecessary or have already been modified in accordance with your prior request.

For example, the provision on "report of safety violations" no longer requires the listing of any particular person and no longer requires someone to determine whether a violation has been "proven".

The provision as to "Attorney General and FTC review" presently provides that the Attorney General and the Federal Trade Commission are to secure information from the Secretary, at the time of a lease sale or a lease extension, as they "may require . . ." You suggest limiting the information to go to the Attorney General and the FTC to that available to you. Again, your suggestion presupposes that there is no coordination between the various departments of the Executive Branch. I fail to understand why you, the Attorney General and the FTC could not work out what information would be suitable for all needs. This should not involve any delay as regulations would be prepared in advance relative to what information would be required, prepared, and forwarded.

You suggest that permittees and lessees should be equally compensated for processing and reproducing data. The present bill provides for compensation to a permittee and a lessee for reproducing data. In addition, compensation is to be provided for the processing of data by a permittee, who has received no rights to any hydrocarbons because of his activities.

A lessee must and can be treated differently. In return for certain payments, and in agreeing to comply with certain regulations, a lessee obtains the right to extract oil and gas. The bill would provide that the data, which he had already prepared for his own use, is to be forwarded to the Secretary. If the Secretary makes additional requests for certain kinds of processed data, not otherwise prepared by the lessee, the lessee would be paid for such processing. I fail to see how any burdens are thus placed on a lessee. If he prepares the data on his own, the government pays for reproduction. If he prepares it at your request, the government pays for processing and reproduction. This provision is reasonable, and not objected to by potential lessees, or by the geologists.

You object to averaging out of prices under the "Phillips System". This provision was carefully worded after meetings with your staff, various oil and gas companies, and the majority and minority staff. It was felt that there would be inadequate participation for a real test of the system unless the procedure presently in the bill was adopted. Rather than "handicapping" experimentation, it would enhance it.

You complain of the definition of "affected state", as you believe it is not sufficiently limited to states affected by OCS activities. Under the bill, the term "affected state" only applies to activities undertaken pursuant to the OCS Lands Act, which means it only applies to OCS activities. Thus, the provision that allows the Secretary to define an "affected state" based on effects of a possible oil spill necessarily means that application is limited to cases where the possible spill would result from OCS activities.

MAO TSE-TUNG

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, I submit for the Record the following two articles published on the occasion of the death of Mao Tse-tung in China. I recommend them as important reminders of the very human quality of a leader and a people we have from time to time misunderstood:

[From the Wall Street Journal, Sept. 10, 1976]

In China at Mao's Death

(By Robert L. Bartley)

Peking.—The moment was already incongruous enough, with former Defense Secretary James Schlesinger reviewing the troops of the People's Liberation Army after a rifle and hand grenade throwing exhibition at the Third Garrison Division base an hour and a half northeast of Peking.

A loudspeaker in the background sounded the notes of the "Internationale." An instant later we learned that the "Internationale" was played not for Mr. Schlesinger but for the death of Chairman Mao Tse-tung, leader of the Chinese Communist revolution and for the last 27 years ruler of one fourth of mankind.

The procession of cars started back over the North China plain, away from the mountains and toward Peking. In one car Ma Yu-chen, head of the information department of the Chinese Foreign Ministry, turned from his slumped position in the front seat and started to translate for two American journalists the broadcast of the official announcement.

The mouth organ of the party, the government and the army announced with "extreme grief," that Chairman Mao had died at 10 minutes after midnight the preceding morning. The announcement was broadcast at 4 p.m. after a 3:30 p.m. bulletin announcing an upcoming development. It was rebroadcast throughout the night.

At first, the peasants lining the road seemed not to know. A young girl in a red-checked blouse waved gaily to an acquaintance. Nothing seemed unusual until gradually you recognized that the road was filling with a somber procession. Against the fields of corn and sorghum ready for harvest there came lines of bicycles, some with pigs or bundles of fodder strapped over back platforms. There were lines of carts pulled by the two-wheeled, hand-driven motor-powered tractors that represent agricultural modernization in China. There were carts pulled by horses and mules and an occasional truckload of peasants. The workers were being hauled back from the fields.

Those who had not yet joined the procession stood idly in the fields. Oxen were tethered near the road, their tethers nearly motionless. A team of ditch-diggers stood blankly with picks and shovels in hand. In villages where sunflowers peeked over courtyard walls, workers squatted in circles.

For miles of gravel and narrow asphalt road the outgoing traffic continued to mount. The endless bicycles were joined by peasants with yokes dangling wild grass from straps on either side, a mother pushing her child in a two-wheeled cart, children carrying empty harvest baskets, whole classes of school children in orderly groups.

CHAIRMAN MAO'S ACHIEVEMENTS

Mr. Ma continued his translation of the official announcement. Chairman Mao founded and led the revolution and the army, he overcame left and right opportunists—a list starting with obscure personages of the 1930s and ending with Teng Hsiao-ping, deposed as China's premier last April. He announced the historic theory that the bourgeoisie exist within the party, fought revisonism and provided a new and fuller experience of world significance.

It is now time to "turn grief into strength," the announcement continued, by carrying out Mao's last will—continuing the struggle against Teng Hsiao-ping, continuing the class struggle of unifying around the Central Committee of the Communist Party to be prepared against foreign aggression, "liberating" Taiwan, never seeking hegemony or "becoming a superpower." The statement concluded, "long live Chairman Mao—immortal."

Mr. Ma returned to his slump, only occasionally turning to volunteer something and earning too many questions as a reward.

As the procession neared Peking, the road suddenly cleared. No one was any longer heading to the communes back in the countryside. But on turning into the four-lane road that begins a few miles out of Peking, one lane was full of cyclists heading into the city, a vast river of blue and gray, contrasting with the more varied hues of the farm workers.

At 5:35 p.m. on the outskirts of the city, the first black armband appears, worn by a middle-aged woman cycling into town. Soon two more armbands appear and through our drive their numbers grow. Those with white shirts wear bands; those with dark clothing wear white cloth flowers. The street sounds subdued. Normally cyclists ignore motor cars with abandon and the cars honk furiously, but now silence, broken only by an occasional decorous beep.

The procession arrives at the Peking Hotel and the Americans offer condolences to the Chinese. No one seems sure what to do next. Correspondents grab Charles Benoit, the language expert of the Schlesinger party, change from field dress into more respectful jackets and ties and walk the two blocks to Tien An Men Square, the heart of Peking.

By 7 p.m. a harvest moon is rising over the square. Chairman Mao died only 10 minutes after the end of the mid-autumn festival, the fullest moon of the year. The darkness gathers, accenting the huge portrait of Mao over the gate to the Forbidden City, the palaces built for the emperors of China in the early 1400s. His portrait is flanked by Chinese inscriptions that say "Long Live the Chinese Peoples Republic," "Long Live the Solidarity of the People of the World," and "Long Live Chairman Mao."

The crowd of a few thousand far from fills the huge square but gathers in clumps and knots, diminished and replenished by passing cyclists. The biggest group is in front of the Forbidden City. One gray-clad youth, ignored by white-jacketed traffic policemen standing in front of the crowd, goes to the foot of the bridge through the gate and bows from the waist. He advances halfway across the bridge, bows again and retires without turning his back.

A mother in pigtails stands with an arm around her daughter in pigtails. A younger couple sits side by side, holding hands, a sight almost unknown in this city.

BOWED HEADS AND WREATHS

Across the street from the gate a man stands rigidly and silently with his head stiffly bowed. A bit behind him are two more in the same regimen. Near the other end of the square a group sits in a circle listening to a radio broadcast of the announcement. Beyond it is the "Monument to the People's Heroes," rows ascending and descending. At the top four wreaths already have been laid. A soldier pulls a low chain across the entrance to the monument, which stops no one.

At the reporters' urging, Mr. Benoit tries to strike up a conversation by offering condolences to a young man. Within three seconds a circle of 50 people has gathered and the questioners beat a hasty retreat. They pass two men sobbing openly. Two of the three rigid head-bowers are still in their positions.

At the hotel, the schedued trip to Tibet and Sinkiang is off and what should be done with the travelers is not yet decided. The Chinese invitation to Mr. Schlesinger to visit certain military facilities was intended in part to dramatize China's concerns about the Soviet military presence along its borders. Western and Chinese members of the trip happen to converge at the elevator, Mr. Ma is coughing with sobs. James Schlesinger appears, white haired and dignified, wearing a black armband over his white shirt. Mr. Ma sobs contained, offers a car to the telegraph office later in the night. By 11:15 p.m., after the unofficial curfew, the crowd in Tien An Men square has dwindled to perhaps two dozen on the bridge before the portrait.

What Mao's death may portend for the Chinese people we will learn another day. The Chinese themselves talk of constant struggle against "capitalist roaders." And the succession of Premier Chou En-lai was decided only after a riot of 100,000 people in Tien An Men Square.

Let the superstitious recall that the Chinese regarded earthquakes like those this year as portending changes in the "mandate of heaven" and a new dynasty. Let the China watchers weigh, uselessly, if experience is any guide, the nuances of the official proclamation. In political terms only a fool would venture any certainty.

But in human terms, the emotions in the faces seen in Peking in the hours after the announcement of Mao Tse-tung's death were last seen by this writer some 13 years ago as a cub reporter. The assignment was to go into streets and ask the American people what they thought of the assassination of John F. Kennedy.

[From the New York Times, Sept. 10, 1976]

Recollections of Talks With Mao in Yenan in 1944

(By John S. Service)

Berkeley, Calif.—Mao Tse-tung, when I first met him in 1944, was 51 years old. For four months I saw a good deal of him, certainly two or three times a week; perhaps 50 occasions in all under all sorts of circumstances, official and relaxed—private conversations, group discussions, meals, theater and other entertainments, public speeches, and even Saturday night dances during warm summer evenings on the packed earth of an orchard.

I was attached to the staff of Lieut. Gen. Joseph W. Stilwell and a member of the first United States Army Observer Group to visit Yenan and establish direct contact with the Communist Party leadership.

My job was to report the views and statements of Chairman Mao and other leaders of the party. How Mao looked, his mannerisms and the impression he made, the general conversation—all these seemed hardly relevant to official reports and were largely omitted. But Mao Tse-tung was not a person one forgets.

When one first met him there was not quite that feeling of immediate warmth and almost instant rapport that one experienced with Chou En-lai. Mao was large for a Chinese but not heavily fleshly as he later became. He moved somewhat slowly, and there was an air of gravity and dignity about him. It was not pomposity though. He was courteous and cordial. Perhaps it was a sort of shyness and reserve; one got a little of the feeling that he was sizing you up.

Things changed, of course, when one became better acquainted with him. Lacking perhaps some of the suavity and urbanity of Chou, Mao could also be more lively and spontaneous. Conversations were likely to sparkle with witticisms, Chinese classical allusions and sharp and surprising statements. Apt and obvious conclusions were snapped out of the air before they seemed logically to have been reached. Conversations also wandered in unexpected and wildly diverse directions. There were few subjects in which he was not interested and few about which his omnivorous reading had not given him some knowledge.

It was normal, I suppose, that he usually seemed to be leading the conversation. You felt at times that it was you who was being interviewed. Yet this was done with a great deal of finesse. He did not monopolize the conversation, there was no "hard sell" and you were not being overpowered. In fact, in group meetings he was usually meticulous that each person present had a chance to join in and express himself. Very often, Mao would then sum up the sense of the meeting. Whenever I saw this done, his summarization was masterfully fair, complete and succinct.

Mao's clear and undisputed leadership of the party had only fairly recently been achieved. But there was an easy and relaxed atmosphere among the top Communist leaders that amazed those of us who had had contact with the Chungking Government leader, Chiang Kai-shek, and saw the tension he created among all below him.

Deference was paid to Chairman Mao, and it was clear that he was the first among equals. He seemed to be, for instance, the only leader who lived in a small separate cottage outside of the various institutional complexes.

But among a group of the old-time Long March comrades, there was no obsequiousness, no standing at attention, but rather an easy give-and-take, some joking and banter about shared events of the past, and even a willingness to differ in opinion—though not in front of foreign guests on any issues of basic policy.

Policy was what chiefly occupied Mao's time and thought: policy in best winning the support of the peasants in the guerrilla areas behind the Japanese lines; policy in using the strength derived from this peasant support in the inevitable coming contest for power against Chiang-Kai-shek's one-party dictatorship; policy that might persuade the United States to take an evenhanded or neutral role in this Chinese domestic contest.

These were subjects, in all their aspects and ramifications, that Mao preferred to talk about. Details, day-to-day affairs, the routine of governing he was content to leave to others. Capable associates, as Chou En-lai or Chu Teh, for instance, were not lacking.

But if I wanted more detail than he was interested in, or felt able to give, he would regularly refer me to some other leader. He sent me, for instance, to Liu Shao-chi to talk about party affairs, strength and organization. Po Ku, one of the Soviet-trained leaders and one of Mao's former rivals within the party, was the man he picked to talk to me about postwar economic policies. A Japanese Communist leader in exile was Mao's nominee to talk to me on the Chinese party's views about the question of the future of the Japanese Emperor.

This willingness to delegate responsibility and his obvious trust and reliance on associates were but one of the many contrasts with what I had observed in Chungking, where few decisions could seemingly be made without Chiang Kai-shek.

Since our group in Yenan was an Army one and charged with assessing the military potential of the Communist forces in the war against Japan, our first meeting dealt with setting up detailed briefings and procedures. But it was known to the Communists that I was a civilian and reporting both to General Stilwell and the State Department.

As one of the early meetings broke up and Mao could speak to me privately, he said with a quizzical half-smile that he assumed I wanted to have a talk with him but that he also wanted to talk with me. However, he went on, he thought our talk would be more mutually useful if we both first had a chance to get acquainted and if we Americans were able to see something of the Communists.

It was not until just a month later, then, that I was invited for my first real talk with Mao alone. With a break for supper, when Chiang Ching, his wife, joined us, it went on for eight hours. Other talks followed but none of so strenuous a length. The groundwork had been laid.

One of the things that struck me most about that talk was that Mao's characteristic calm air of strength and serenity was not a pose. He was absolutely confident of the eventual success of his cause and the Communist Party. The contrast with their actual circumstances in the Yenan caves at the time was overwhelming. It took us Americans some time to adjust to it, and another considerable period to come to the conclusion we finally reached: that Chairman Mao was right in that confidence.

When I was able to revisit China, in 1971, it was remarkable how many of the themes stressed and restressed by Mao in those 1944 talks in Yenan seemed still alive and full of meaning.

The party, he had said, must serve the people, and accept (as in the Cultural Revolution) the criticism of the people. Intellectuals must learn something of manual work, and education must be practical, not excessively theoretical. China could develop itself only through self-reliance. The peasants were capable of great creativity and prodigous accomplishments when motivated. China should fear no dangers and difficulties. The spirit is superior to the machine. And all is possible to patience and firm persistence.

Some subjects, such as relations with the Soviet Union, were less sharply dealt with by him. We are first of all, he always insisted, Chinese. We seek friendly relations, but we take nobody's dictation. We will always make our own decisions and always apply Marxism according to the actual circumstances of China. And, he was obviously thinking even then that a friendly United States was China's necessary balance to an overbearing Soviet Union.

Not all that Chairman Mao thought and fought for has of course been accomplished. Since those early probings in 1944, for instance, Chinese-American relations are still in an unsatisfactory twilight zone. But on the whole, what man has accomplished more in a lifetime! China has stood up in the world. The face of the country has been transformed. And its people have been led through a long, still-unended revolution forging a new egalitarian society that has brought the great mass of the people a sense of purpose, confidence, security and well-being that most of them could never have dreamed of.

I used to ask Chinese Communist friends why they thought Mao had won out over his many rivals and become the acknowledged leader. The answer was always the same. It boiled down to one phrase: "He saw far."

NATIONAL GOVERNORS' CONFERENCE DOES NOT ENDORSE AUGUST 26, 1976, SYNFUELS SUBSTITUTE FOR BIG OIL SHALE PROJECTS

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, the National Governors' Conference has been a potent and important force in the shaping of synthetic fuels legislation insofar as oil shale is concerned. Repeatedly, the Governors' conference has recommended that the legislation specifically not authorize the commercialization of oil shale. The conference stressed the need to limit oil shale to the so-called modular approach.

Today's the Governors' conference advised Representative Richard Ottinger of New York and myself that the Governors once again repeat their earlier recommendation of support for the oil shale provisions of the Commerce Committee's version of H.R. 12112.

When the Committee on Science and Technology reported its version of H.R. 12112, on May 15, 1976, Representative Barry M. Goldwater, Jr., Republican of California, quite properly pointed out in his "Dissenting Views" that H.R. 12112 contained what he described as a "rainbow" rider, which he said was a "giveway to the oil shale industry."

The Banking, Currency and Housing Committee did not change this rider, but the House Interstate and Foreign Commerce Committee did. The Commerce Committee, through the efforts of Representative Timothy Wirth, eliminated the "rainbow" and limited assistance for the oil shale industry to modular facilities only.

GOVERNORS FAVOR MODULAR APPROACH

On August 24, 1976, Govs. Thomas P. Salmon of Vermont and Richard D. Lamm of Colorado wrote to Chairman

Teague that they urge the Governors of this Nation to support H.R. 12112, as amended by the oil shale language as contained in the Interstate and Foreign Commerce version of the bill.

However, on August 26, 1976, a substitute amendment was introduced to H.R. 12112 and printed in the Congressional Record—page 27908. The substitute amendment does not include the Commerce Committee "language." We were interested in clarifying the intent of the Governors. Therefore, Representative Ottinger and I wrote the Governors as follows:

The "oil shale language . . . contained" in the Commerce Committee's version of H.R. 12112 quite clearly limits the financial assistance for oil shale to modular facilities and cuts back the cost-sharing provision to that now provided for by ERDA policy under Public Law 93–577 for other demonstrations to 50–50. It also specifies that the price support provisions would not be available to that modular facility or, for that matter, any oil shale development. Thus, the Commerce oil shale version is, as you have noted, consistent with the Governors' Conference earlier statements on this subject.

However, on August 26, 1976, Chairman Teague offered an amendment in the Congressional Record (p. 27908) to H.R. 12112 in the nature of a substitute which, in the case of oil shale, does not conform with your above-quoted recommendation.

Chairman Teague's amendment, which is supported by Chairman Reuss, would authorize:

A loan guarantee and/or 75% direct cost-sharing for a modular facility, plus price supports for that facility; and

A loan guarantee for the commercial size oil shale facility, once the modular proves successful, plus price supports for that facility.

In addition to the incentives in this amendment, the oil shale facility would be eligible, under the tax bill passed by the Senate, to a 12 percent investment tax credit, and, if located on one of the Federal lease tracts in Utah or Colorado, to a credit for two-fifths of its bonus payment as an offset against development.

In light of your August 24 joint recommendation and prior statements, we assume that you oppose these more extensive incentives to so-called big oil companies which, according to ERDA, are primarily interested in shale-oil projects. We would appreciate, however, your providing to us before September 8, 1976, confirmation of this.

GOVERNORS OPPOSE HUGE OIL SHALE PROJECTS

Today, we received the September 14, reply from Govs. Thomas P. Salmon of Vermont and Richard D. Lamm of Colorado. Once again they endorsed the "modular approach with regard to the development of oil shale resources with Federal support in the form of loan guarantees." They again endorse the Commerce Committee's oil shale language which clearly does not contain the vast "Rainbow" features of the substitute offered, which was never considered by any committee. The Governors added:

We advocate this type of approach because of the relatively unknown nature of the social, environmental and economic impacts of an oil shale industry, and believe that a full scale commercialization program can only be undertaken when more knowledge is gained as to these impacts.

As you are well aware, the rush to push new technologies to commercialization has often resulted in impeding development because of unforeseen impacts that adversely affected the public. It is the national interest to explore oil shale development and if we proceed in an intelligent and studious manner we will achieve our goals and not be stymied midcourse by unexpected adverse impacts.

It therefore is our policy recommendation that oil shale development proceed at levels so as to obtain necessary knowledge as to these impacts.

Our estimate of the size of facility that would provide necessary information is that of a single retort plant producing between 6,000 and 10,000 barrels of oil a day. Therefore, we believe it to be inappropriate to concur with the amended oil shale language that would allow projects to exceed the 6,000–10,000 barrel-a-day range.

We hope we have answered your questions with respect to the oil shale amendments offered by Chairman Teague.

I urge my colleagues to vote down this legislation which Representative Goldwater properly called a "giveaway to the oil shale industry" which is composed of such oil corporations as Shell, TOSCO, Ashland, Union, Sunoco, and others.

The entire text of the letter follows:

Washington, D.C.,
September 14, 1976.

Hon. Ken Hechler,
U.S. House of Representatives,
Washington, D.C.
Hon. Richard L. Ottinger,
U.S. House of Representatives,
Washington, D.C.

Dear Congressmen Hechler and Ottinger: Thank you very much for your letter of August 30, 1976, bringing to our attention the amendments to H.R. 12112 offered by Chairman Teague.

As noted in our earlier correspondence the NGC Committee on Natural Resources and Environmental Management endorses a "modular" approach with regard to the development of oil shale resources with federal support in the form of loan guarantees.

We advocate this type of approach because of the relatively unknown nature of the social, environmental and economic impacts of an oil shale industry, and believe that a full scale commercialization program can only be undertaken when more knowledge is gained as to these impacts.

As you are well aware, the rush to push new technologies to commercialization has often resulted in impeding development because of unforeseen impacts that adversely affected the public. It is the national interest to explore oil shale development and if we proceed in an intelligent and studious manner we will achieve our goals and not be stymied midcourse by unexpected adverse impacts.

It therefore is our policy recommendation that oil shale development proceed at levels so as to obtain necessary knowledge as to these impacts.

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We hope we have answered your questions with respect to the oil shale amendments offered by Chairman Teague. If you wish any clarification please contact the NGC Energy Program staff (202–785–5605).

Sincerely,

Richard D. Lamm,
Governor of Colorado, Chairman, Task Force on Synthetic Fuels.
Thomas P. Salmon,
Governor of Vermont, Chairman, NGC Committee on Natural Resources and Environmental Management.

CONFERENCE REPORT ON H.R. 15194

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 15194) "making appropriations for public works employment for the period ending September 30, 1977, and for other purposes:

Conference Report (H. Rept. No. 94–1537)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15194) "making appropriations for public works employment for the period ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$480,000,000"; and the Senate agree to the same.

George H. Mahon,
Edward P. Boland,
Joe L. Evins,
George E. Shipley,
J. Edward Roush,
Bob Traxler,
Max Baucus,
Louis Stokes,
Yvonne Brathwaite Burke,
Joseph M. McDade,
C. W. Bill Young,
Managers on the Part of the House.

John O. Pastore,
John L. McClellan,
J. Bennett Johnston,
Walter D. Huddleston,
Charles McC. Mathias, Jr.,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15194) making appropriations for public works employment for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report:

TITLE I

Environmental Protection Agency

Amendment No. 1: Appropriates $480,000,000 for construction grants, instead of $200,000,000 as proposed by the House and $700,000,000 as proposed by the Senate.

Amendment No. 2: Deletes language proposed by the House relating to the allocation of funds as proposed by the Senate. The Committee of Conference agrees that the funds provided will be allocated in the same proportion as established by the formula incorporated by reference in Public Law 94–369.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1977 and the transition period recommended by the committee of conference, with comparisons to the budget estimates, and the House and Senate bills for 1977 and the transition period follow:

Budget estimates of new (obligational) authority, fiscal year 1977	---------------
Transition period	---------------
House bill, fiscal year 1977	$1,138,300,000
Transition period	2,314,133,000
Senate bill, fiscal year 1977	1,638,300,000
Transition period	2,314,133,000
Conference agreement	1,418,300,000
Transition period	2,314,133,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	+1,418,300,000
Transition period	+2,314,133,000
House bill, fiscal year 1977	+280,000,000
Transition period	---------------
Senate bill, fiscal year 1977	−220,000,000
Transition period	---------------

George Mahon,
Edward P. Boland,
Joe L. Evins,
George E. Shipley,
J. Edward Roush,
Bob Traxler,
Max Baucus,
Louis Stokes,
Yvonne Brathwaite Burke,
Joseph M. McDade,
C. W. Bill Young,
Managers on the Part of the House.

John O. Pastore,
John L. McClellan,
J. Bennett Johnston,
Walter D. Huddleston,
Charles McC. Mathias, Jr.,
Henry Bellmon,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Addabbo (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Carter (at the request of Mr. Rhodes), for week of September 13, 1976, on account of illness in the family.

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

Mrs. Holt (at the request of Mr. Rhodes), for today, on account of a death in the family.

Mr. McKinney (at the request of Mr. Rhodes), for today, on account of attending a funeral in Wilmington, Del.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Myers of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. Derwinski for 5 minutees, today.

Mr. Shriver, for 5 minutes, today.

(The following Members (at the request of Mr. Oberstar) to revise and extend their remarks and include extraneous material:)

Mr. McKay, for 20 minutes, today.

Mr. Vanik, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Stokes, for 10 minutes, today.

Mr. Giaimo, for 10 minutes, today.

Mr. Brown of California, for 10 minutes, today.

Mr. Alexander, for 60 minutes, today.

Mr. Solarz, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Murphy of New York, to extend his remarks in the body of the Record, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $2,002.

Mr. Seiberling to include extraneous matter in remarks made in the Committee of the Whole today.

(The following Members (at the request of Mr. Myers of Pennsylvania) and to include extraneous matter:)

Mr. Ketchum.

Mr. Derwinski in two instances.

Mr. Moore.

Mr. Rhodes in two instances.

Mr. Wiggins.

Mr. Goodling.

Mr. McClory.

Mr. Paul.

Mr. Johnson of Pennsylvania.

Mr. Findley.

Mr. Mosher in two instances.

(The following Members (at the request of Mr. Oberstar) and to include extraneous material:)

Mr. Mazzoli.

Mr. Stark.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Jones of Tennessee.

Mr. Bingham in 10 instances.

Mr. Santini.

Mr. Early in two instances.

Mr. Rangel.

Mr. McDonald in four instances.

Mr. Jacobs.

Mr. Rodino.

Mr. Dingell.

Mr. Howard.

Mr. Corman in five instances.

Mr. Reuss.

Mr. Thompson.

Mr. Breckinridge.

Mr. Patten.

Mr. Murphy of New York.

Mr. Richmond.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3790. An act for the relief of Camilla A. Hester, to the Committee on Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13655. An act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes; and

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that the committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 13, 1976:

H.R. 5465. An act to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes.

H.R. 8603. An act to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes; and

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

On September 14, 1976:

H.R. 13655. An act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes; and

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 21 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 15, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4017. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Agriculture for the food stamp program for fiscal year 1977 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes; to the Committee on Appropriations.

4018. A letter from the Deputy Secretary of Defense, transmitting the initial allocation of the fiscal year 1977 authorized civilian strength of the Department of Defense among the various military departments and defense agencies, pursuant to section 501(b) of Public Law 94–361; to the Committee on Armed Services.

4019. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Wat T. Cluverius IV, Ambassador-designate to Bahrain, and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

4020. A letter from the Chairman, Federal Power Commission, transmitting copies of various publications of the Commission; to the Committee on Interstate and Foreign Commerce.

Received From the Comptroller General

4021. A letter from the Comptroller General of the United States, transmitting a report on the adequacy and effectiveness of

United States and international controls over peaceful nuclear programs; jointly, to the Committee on Government Operations, and the Joint Committee on Atomic Energy.

4022. A letter from the Deputy Comptroller General of the United States, transmitting his review of the proposed rescission of budget authority for the Legal Services Corporation contained in the message from the President dated July 29, 1976 (H. Doc. No. 94–569), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. No. 94–611); to the Committee on Appropriations and ordered to be printed.

4023. A letter from the Deputy Comptroller General of the United States, transmitting notice that initiation of legal action will not be necessary regarding the proposed rescission of budget authority by the President (R76–33) on Health Services Administration programs, pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee on Post Office and Civil Services. H.R. 14830. A bill to provide for a 50-percent reduction of the burden on respondents in the censuses of agriculture, drainage, and irrigation taken in 1979 and thereafter, and for other purposes; with an amendment (Rept. No. 94–1527). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN. Committee on Ways and Means. H.R. 14970. A bill to extend the special unemployment assistance program for 1 year, and for other purposes (Rept. No. 94–1536). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Services. H.J. Res. 1008. Joint resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week" (Rept. No. 94–1528). Referred to the House Calendar.

Mr. MAHON: Committee of conference. Conference report on H.R. 15194 (Rept. No. 94–1537. Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 2286. An act to amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex. (Rept. No. 94–1538). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes, (Rept. No. 94–1539). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10072. A bill to direct the Secretary of the Interior and the Administrator of General Services to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.; with amendments (Rept. No. 94–1540). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12213. A bill to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla. (Rept. No. 94–1541). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 14227. A bill to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona; with amendments (Rept. No. 94–1542). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on International Relations. H. Con. Res. 737. Concurrent resolution expressing the sense of the Congress that every person throughout the world has a right to a nutritionally adequate diet and that the United States should increase substantially its assistance for self-help development among the world's poorest people; with amendments (Rept. No. 94–1543, pt. I). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3818. A bill to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co. (Rept. No. 94–1544). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12574. A bill to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068); with an amendment (Rept. No. 94–1545). Referred to the Committee of the Whole House.

Mr. HUNGATE: Committee on the Judiciary. H.R. 13157. A bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; with amendments (Rept. No. 94–1550). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 9543. A bill for the relief of Eupert Anthony Grant; with an amendment (Rept. No. 94–1529). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 9908. A bill for the relief of Daniel Crowley; with an amendment (Rept. No. 94–1530). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 10962. A bill for the relief of Olive M. V. T. Davies and her children; with an amendment (Rept. No. 94–1545). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 11387. A bill for the relief of Patrick Andrew C. Laygo and Christina Socorro C. Laygo; with an amendment (Rept. No. 94–1532). Referred to the Committee of the Whole House.

Mr. DODD: Committee on the Judiciary. H.R. 11724. A bill for the relief of Mrs. Amelia Doria Nicholson (Rept. No. 94–1533). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 12831. A bill for the relief of Mo Chong-Pu; with an amendment (Rept. No. 94–1534). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 866. An Act for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin; with amendments (Rept. No. 94–1535). Referred to the Committee of the Whole House.

Mr. DODD: Committee on the Judiciary. H.R. 2106. A bill for the relief of Marlene Pyle; with amendments (Rept. No. 94–1546). Referred to the Committee of the Whole House

Mr. FISH: Committee on the Judiciary. H.R. 3376. A bill for the relief of Natividad Casing and Myrna Casing; with an amendment (Rept. No. 94–1547). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 10757. A bill for the relief of Nora L. Kennedy; with an amendment (Rept. No. 94–1548). Referred to the Committee of the Whole House.

Mr. COHEN: Committee on the Judiciary. H.R. 11229. A bill for the relief of Carmelline Leonora Mariano Barzaga; with amendments (Rept. No. 94–1549). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRADEMAS (for himself, Mr. Fithian, Mr. Roush, Mr. Hillis, Mr. Evans of Indiana, Mr. Myers of Indiana, Mr. Hayes of Indiana, Mr. Hamilton, Mr. Sharp, and Mr. Jacobs):

H.R. 15546. A bill to designate the "Ray J. Madden Post Office Building"; to the Committee on Public Works and Transportation.

By Mr. CONTE:

H.R. 15547. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. DOMINICK V. DANIELS:

H.R. 15548. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 15549. A bill to amend the Older Americans Act of 1965 to provide a national meals-on-wheels program for the elderly, and for other purposes; to the Committee on Education and Labor.

By Mr. MOORE (for himself and Mr. Florio):

H.R. 15550. A bill to amend section 2 of the Clayton Act to prevent discriminatory pricing practices by suppliers of competing marketers; to the Committee on the Judiciary.

By Mr. NOLAN:

H.R. 15551. A bill to assure American consumers of a stable and adequate supply of sugar by assuring the continued existence of a viable domestic sugar industry; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. RODINO (for himself, Mr. Hungate, Mr. Mann, Mr. Wiggins, and Mr. Hyde):

H.R. 15552. A bill to amend title 18, United States Code, to implement the Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 15553. A bill to grant a Federal charter to the American GI Forum of the United States; to the Committee on the Judiciary.

By Mr. SHRIVER:

H.R. 15554. A bill to amend section 2 of the act of August 22, 1964, to provide that articles which are produced or manufactured in Foreign-trade zones from foreign meat shall, upon their entry into the customs territory of the United States, be subject to certain import restriction; to the Committee on Ways and Means.

By Mr. SLACK:

H.R. 15555. A bill to require that any person holding a federally related home mortgage shall provide certain services and follow certain procedures before instituting foreclosure proceedings with respect to such mortgage; to the Committee on Banking, Currency and Housing.

By Mr. STEED (for himself, Mr. Conte, Mr. Abdnor, Mr. Baucus, Mr. Cleveland, Mr. Crane, Mr. Fascell, Mrs. Heckler of Massachusetts, Mr. Jenrette, Mr. Kasten, Mr. Ketchum, Mr. Lagomarsino, Mr. Latta, Mrs. Lloyd of Tennessee, Mr. Pressler, Mr. Quie, Mr. Roberts, Mr. Ruppe, Mrs. Smith of Nebraska, Mr. Snyder, Mr. Talcott, Mr. Bob Wilson, and Mr. Zablocki) (by request):

H.R. 15556. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplication, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself, Mr. Mills, Mr. Martin, Mr. Pickle, Mr. Burleson of Texas, Mr. Clancy, Mr. Rostenkowski, Mr. Ketchum, Mr. Vander Veen, Mr. Conable, Mr. Gibbons, and Mr. Jacobs):

H.R. 15557. A bill to amend the Internal Revenue Code of 1954 to extend the duration of certain provisions relating to members of the Armed Forces of the United States and civilian employees who are missing in action or hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. Brown of Ohio, Mr. Byron, Mr. Don H. Clausen, Mr. de Lugo, Mr. Drinan, Mr. Howe, Mr. Johnson of California, Mr. Kastenmeier, Mr. Lagomarsino, Mr. Meeds, Mrs. Mink, Mr. Ottinger, Mr. Sebelius, Mr. Seiberling, Mr. Simon, Mr. Tsongas, and Mr. Won Pat):

H.R. 15558. A bill to authorize the study of certain areas by the Secretaries of Agriculture and the Interior; to the Committee on Interior and Insular Affairs.

By Mr. TRAXLER:

H.R. 15559. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. VANIK:

H.R. 15560. A bill to amend the Internal Revenue Code of 1954 to change the method used to determine the rate of interest on tax deficiencies and overpayments; to the Committee on Ways and Means.

H.R. 15561. A bill to amend the Internal Revenue Code of 1954 to require taxpayers to provide on the first page of any income tax return certain information with respect to their interests in foreign bank accounts; to the Committee on Ways and Means.

By Mr. MIKVA:

H.R. 15562. A bill to require the Social Security Administration, the Veterans' Administration, and the Immigration and Naturalization Service to provide, in connection with any response to any person requesting information or assistance from any of such agencies, a card suitable for mailing inquiring into the opinion of such person concerning the promptness, courtesy, and fairness with which such request was handled by such agency, and for other purposes; jointly, to the Committees on Ways and Means, Veterans' Affairs, and the Judiciary.

By Mr. TAYLOR of North Carolina:

H.R. 15563. A bill to amend the act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 460–17 (c)), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MINK (for herself, Mr. Mineta, and Mr. Charles H. Wilson of California):

H. Con. Res. 748. A resolution to commemorate the 35th anniversary of the founding of the Military Intelligence Service Language School, and to command Justice John Fujio Aiso for his distinguished contributions to the school; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. Downing of Virginia, and Mr. Fauntroy):

H. Res. 1540. A resolution creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of any others the select committee shall determine; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HORTON:

H.R. 15564. A bill for the relief of Dr. Ming Derek Chan, Belle May Chan, Evelyn Chan, and Jeannie Chan; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 15565. A bill for the relief of GFM Co.; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. MYERS of Pennsylvania:

Section 310 is amended by adding immediately after line 24 on page 331:

"(c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease."

Renumber succeeding sections accordingly.

By Mrs. SCHROEDER:

Page 297, line 12, after "(a)" insert "(1)".

Page 297, strike out line 19 and all that follows down through line 4 on page 298 and substitute: "with altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effect of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made."

Page 298, strike out line 5 and all that follows down through line 17 and insert in lieu thereof the following:

"(b)(1)(A) Upon submission of any new motor vehicle or motor vehicle engine to the Administrator for purposes of obtaining a certificate of conformity under section 206(a)(1), the manufacturer shall submit to the Administrator instructions providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes. If the Administrator does not disapprove such instructions on or before the issuance of the certificate of conformity for the vehicle or engine, such instructions shall be treated as approved for purposes of this section.

"(B) In the case of any model year beginning after the date of enactment of this section, instructions respecting vehicles or engines manufactured during such model year which have been approved by the Administrator, shall be included in the instructions required under section 207(c)(3) and shall, not later than the date on which a class or category of motor vehicles or motor vehicle engines first becomes available for sale to the general public, be made available to any person upon request.

"(C) In the case of any model year beginning before the date of enactment of this section, instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted to the Administrator not later than 6 months after the date of the enactment of this section. If the Administrator does not disapprove such instructions on or before the date 8 months after such date of enactment, such instructions shall be treated as approved for purposes of this section.

"(D) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than 60 days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(2) Any violation by a manufacturer of paragraph (1) shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205."

H.R. 12112

By Mr. BLOUIN:

(Amendment to amendment by Mr. Teague.)

On pages 27912–27913 of the Congressional Record of August 26, 1976, strike all of subparagraphs (1) through (4), inclusive, of subsection (z).

On page 27912 of the Congressional Record of August 26, 1976, at the end of subsection (z)(1) insert the following new sentence: "Such price guarantee contracts shall be subject to the provisions of section 7(c)(1) through (6) inclusive, of this Act."

On page 27913 of the Congressional Record of August 26, 1976, strike all of subsection (z)(3) and insert therein the following:

"(3) Subsections (c)(5), (c)(7), (d), (e), (i), (k), (m), and (p) through (y) shall apply to agreements or contracts under this subsection."

On page 27913 of the Congressional Record of August 26, 1976, at the end of subsection (z)(2), insert a new sentence to read as follows: "The Administrator may not enter into any agreement under this subsection with any person who receives any other financial assistance under this section or sections 7 and 8 of this section without specific authorization by Congress enacted after the date of enactment of this section."

By Mr. ECKHARDT:

(Amendment to amendment by Mr. TEAGUE.)

On pages 27912-27193 of the CONGRESSIONAL RECORD of August 26, 1976 **strike all of subsection (z), and on page 27913, after** section 2, add a new section to read as follows:

"SEC. 3. The Federal Nonnuclear Energy Research and Development Act of 1974 is further amended by adding a new title at the end thereof as follows:

" 'TITLE I—PRICE GUARANTEES AND PURCHASE AGREEMENTS FOR CERTAIN DEMONSTRATION FACILITIES

" 'PURPOSE

" 'SEC. 101. Is is the purpose of this title to authorize a limited program of price guarantees and purchase contracts with respect to the output of certain demonstration facilities for the conversion of domestic coal and certain other domestic resources into synthetic fuels.

" 'DEFINITION

" 'SEC. 102. For purposes of this title—

" '(1) The term "synthetic gas" means gas manufactured from coal or other hydrocarbon-containing materials (other than from crude oil, residual fuel oil, refined petroleum products, natural gas, or natural gas liquids).

" '(2) The term "Administrator" means the Administrator of the Energy Research and Development Administration.

" 'PRICE GUARANTEES FOR NONREGULATED SYNTHETIC GAS

" 'SEC. 103. (a) The Administrator may enter into a price guarantee agreement with any person proposing to construct a demonstration facility, within the United States for the production of synthetic gas, the sale of which to the ultimate user is not subject to price regulation under State or Federal law. Such agreement shall provide that if such person enters into a contract to supply such gas at a price which is initially fixed in the contract, but which decreases in proportion to any reduction (after the date of execution of the contract) in the average price of imported crude oil, then the United States will pay to such producer an amount which is specified in the agreement and which is not greater than the product of such decrease in the price of the synthetic gas produced times the number of units produced. The terms and conditions of such agreement and of contracts to which such agreement relates shall be prescribed by the Administrator by rule.

" '(b) The aggregate production to which agreements under this section apply may not at any time exceed 125,000 barrels of crude oil equivalent per day.

" 'PURCHASE AGREEMENTS FOR CERTAIN SYNTHETIC FUELS

" 'SEC. 104. (a) The Administrator may enter into a purchase contract with any person proposing to construct a demonstration facility within the United States to produce synthetic fuels (other than from oil shale). Under such contract, the Administrator may agree to purchase all or part of the output of such facility from such person—

" '(1) in the case of a demonstration facility producing liquid synthetic fuel, at a price which does not exceed the average price of imported crude oil (determined as of the date of execution of such contract), and

" '(2) in the case of a demonstration facility producing synthetic gas, at a price which does not exceed the average Btu equivalent price of imported crude oil (determined as of the date of execution of such contract)

" '(b) Synthetic fuels obtained under subsection (a) may—

" '(1) be resold by the Administrator at their market value (without regard to their acquisition cost),

" '(2) to the extent authorized by law (A) be consumed by departments and agencies of the United States, or (B) in the case of liquids, be acquired for storage in the Strategic Petroleum Reserve established by part B of title I of the Energy Policy and Conservation Act.

The Administrator may enter into a contract to exchange synthetic gas obtained under subsection (a)(2) for crude oil, residual fuel oil, or refined petroleum products. Such exchange shall be on a Btu equivalency basis, or on terms more favorable to the United States.

" '(c) The aggregate production to which contracts under this section apply may not at any time exceed 57,000 barrels of crude oil equivalent per day.

" 'GENERAL PROVISIONS

" 'SEC. 105. (a) To the maximum extent practicable, this title shall be administered in a manner consistent with the guidelines under paragraphs (1), (2), (4), and (5) of section 7(c) of the Federal Non-nuclear Energy Research and Development Act of 1974. Agreements and contracts under sections 103 and 104 shall be entered into on the basis of competitive bidding, in the manner similar to that described in section 7(c)(3) of such Act.

" '(b) No agreement under section 103 or contract under section 104 may extend for a period in excess of 20 years from the date such agreement or contract was entered into and may not be renewed.

" '(c) For purposes of this title, the average price of imported crude oil, average Btu equivalent price of imported crude oil, crude oil equivalent, and Btu equivalency shall be determined, by rule, by the Administrator of the Federal Energy Administration. Such rules shall specify the manner in which transportation costs shall be taken into account.

" '(d) Subsections (c)(5), (c)(7), (e), (k), (s), (t), (v), and (w) through (z) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall apply to agreements or contracts under this title.

" '(e) Authority under this section to enter into price guarantee agreements under section 103 and purchase contracts under section 104 shall be effective only to the extent provided in appropriations Acts enacted after the date of enactment of this Act.

" '(f) The Administrator may not enter into contracts or agreements under this title which result in—

" '(1) an aggregate contingent liability of the United States in any fiscal year under contracts or agreements executed under this title during the fiscal year ending September 30, 1977, which exceeds $250,000,000; and

" '(2) an aggregate contingent liability of the United States in any fiscal year under contracts or agreements executed under this title after the fiscal year ending September 30, 1977, which exceeds $250,000,000.

" 'PROHIBITION ON DUPLICATION OF ASSISTANCE

" 'SEC. 106. The Administrator may not enter into any price guarantee agreement under section 103 or enter into any purchase contract under section 304 with any person who receives any financial assistance under section 7, 8, or 19 of the Federal Nonnuclear Energy Research and Development Act of 1974.

" 'EXPIRATION DATE

" 'SEC. 107. The Administrator's authority to enter into price guarantee agreements under section 303 of the Administrator's authority to enter into purchase contracts under section 304 shall expire on September 30, 1986.' "

By Mr. GOLDWATER:

On page 105 (which is part of the Banking, Currency and House Committee amendment) strike all of subsection (aa), beginning on line 17 through line 26, page 106.

On page 106 (which is part of the Banking, Currency and House Committee amendment), line 2 strike the period and insert in lieu thereof , "*: Provided,* **That a recipient of** a loan guarantee under this section shall not be eligible to receive assistance in the form of a price guarantee contract under this subsection and, conversely, a recipient of assistance in the form of a price guarantee contract under this subsection shall not be eligible for a loan guarantee under this section."

On pages 27912 and 27913 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE'S substitute), strike subsection (Z) in its entirety.

On page 27912 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE'S substitute), strike the period at the end of subsection (Z)(1) and insert in lieu thereof, "*: Provided,* That a recipient of a loan guarantee under this section shall not be eligible to receive assistance in the form of a price guarantee contract under this subsection and, conversely, a recipient of assistance in the form of a price guarantee contract under this subsection shall not be eligible for a loan guarantee under this section."

On page 34 (which is part of the Science and Technology Committee amendment), line 4, strike subsection (5)(B) through line 21, and insert in lieu thereof:

"(B) Any modular facility with respect to which assistance is provided under a cooperative agreement entered into pursuant to subparagraph (A) shall not be eligible for a loan guarantee under this section as a full size facility or for purposes of expansion to a full size facility."

On page 27909 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE'S substitute), strike subsection (5)(B), and insert in lieu thereof:

"(B) Any modular facility with respect to which assistance is provided under a cooperative agreement entered into pursuant to subparagraph (A) shall not be eligible for a loan guarantee under this section as a full size facility or for purposes of expansion to a full size facility."

On page 32 (which is part of the Science and Technology Committee amendment), **line 14, after the last comma, insert, "(k),".**

On page 27908 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE'S substitute), insert, "(k)," between "(h)," and "(n)," in the proviso at the end of subsection (b)(1) in the third column of that page.

On page 33 (which is part of the Science and Technology Committee amendment), line 8, after the period, insert the following: "In no case shall the bonds, debentures, notes, and other obligations guaranteed under this section be purchased or financed with Federal funds, through the Federal Financing Bank or otherwise, except as provided in subsection (n)."

On page 27909 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE'S substitute) at the end of subsection (b)(3) in the first column, after the period, insert the following: "In no case shall the bonds, debentures, notes, and other obligations guaranteed under this section be purchased or financed with Federal funds, through the **Federal Financing Bank** or otherwise, except as provided in subsection (n)."

By Mr. HARKIN:

(Amendment to amendment by Mr. TEAGUE.)

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike the fourth sentence which begins with the words, "The authorized indebtedness to be guaranteed" of subsection (b)(1), and insert therein the following new sentence: "The authorized indebtedness to be guaranteed under clauses (A), (B), and (C) of this paragraph shall be allocated by the Administrator so that no

more than 50 per centum is for high-Btu gasification and related community assistance under subsection (k), no more than 30 per centum is for other fossil based synthetic fuels and biomass, which shall include, but is not limited to, animal and timber waste, urban and other waste, and sewage sludge, and related community assistance under subsection (k), and no less than 20 per centum for renewable resources and for industrial energy conservation and related community assistance under subsection (k)."

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike the second sentence beginning with the words, "The amount of obligations" of subsection (b)(1) and insert therein the following new sentence: "The amount of obligations authorized for any guarantee or commitment to guarantee under this subsection is $2,000,000,000:"

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, strike the words "initiated by the Governor" in subsection (e)(1).

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, at the end of subsection (e)(1), insert the following new sentence: "Nothing in this section shall be deemed to restrict the right of any person to obtain judicial review under Federal or State law, as appropriate, of any Federal agency action or State agency action."

On pages 27912–27913 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of the subparagraphs (1) through (4), inclusive of subsection (2).

By Mr. HAYES of Indiana:

(Amendment to amendment by Mr. TEAGUE.)

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976 strike paragraph (9) of subsection (b) and insert therein the following new paragraph:

"(9) the obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

On page 75 (which is part of the Banking, Currency and Housing Committee amendment, line 14, strike all through the period on line 6, page 76, and insert in lieu thereof the following:

"(9) the obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

On page 36 (which is part of the Science and Technology Committee Amendment) between line 12 and 13 insert the following:

"(8) the obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the demonstration facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the *Federal Register*. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies."

By Mr. HECHLER of West Virginia:

(Amendment to the amendment by Mr. TEAGUE.)

On page H9183 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (s) and insert the following:

"SUNSHINE IN GOVERNMENT

"(s)(1) Each officer or employee of the Administrator and the Secretary of the Treasury who—

"(A) performs any function or duty under this Act; and

"(B) has any known financial interest (i) in any person subject to such Act, or (ii) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

shall, beginning on February 1, 1977, annually file with the Administrator or said Secretary, as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator and said Secretary shall—

"(A) act within ninety days after the date of enactment of this section—

"(i) to define the term 'known financial interest' for purposes of paragraph (1)(B) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) of this subsection will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator and said Secretary of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator and said Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

By Mr. MOFFETT:

On page 104 (which is a part of the Banking, Currency and Housing Committee amendment), after the period on line 12, insert the following:

"No more than 75 percentum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 53 (which is part of the Science and Technology Committee amendment), after the period on line 9 insert the following:

"No more than 75 percentum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 60 (which is part of the Science and Technology Committee Amendment), between lines 23 and 24, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 101 (which is part of the Banking, Currency and Housing Committee Amendment), after line 26, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 43 (which is part of the Science and Technology Committee amendment), line 18, change the period to a colon and insert therein the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 84 (which is part of the Banking, Currency and Housing Committee amendment), line 8, change the period to a colon and insert therein the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 36 (which is part of the Science and Technology Committee amendment), line 25, insert a period after the word "so" and strike all thereafter thru the period on line 2, page 37.

On page 76 (which is part of the Banking, Currency and Housing Committee amendment), line 22, insert a period after the word "so" and strike all thereafter thru the period on line 24.

(Amendments to amendment by Mr. TEAGUE.)

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (c) (2) and insert the following:

"(2) the amount guaranteed with respect to any demonstration facility may not at any time exceed 75 per centum of the total cost incurred as of such time with respect to such facility (as determined by the Administrator), except if the total cost incurred with respect to a demonstration facility exceeds the project cost estimated by the Administrator at the time the loan guarantee was issued, the amount guaranteed may not exceed 75 per centum of such estimated project cost and 60 per centum of such excess. In determining the cost incurred with respect to a facility—

"(A) there shall be excluded any cost incurred for facilities and equipment used in the extraction of a mineral to be converted to synthetic fuel, unless the Administrator determines that such facilities and equipment are not capable of producing any marketable fuel other than synthetic fuel.

"(B) property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the cost to the borrower or fair market value, whichever is less;".

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (b) (3) and insert therein the following:

"(3) Prior to issuing a guarantee or commitment to guarantee with respect to any facility under this section, the Administrator shall submit to the Secretary of the Treasury a full and complete report on the proposed facility and the guarantee, including the impact of the guarantee on the capital market and other persons seeking financing without the aid of guarantees. The Secretary of the Treasury shall—

"(A) insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of each guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets, and

"(B) impose such conditions on the issuance of each guarantee, after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility, and the regulatory actions associated with the facility, as may be necessary to assure that investors having an ownership or profits interest in the facility bear a substantial risk of after-tax loss in the event of default;

"and the guarantee or commitment to guarantee shall not be issued unless (i) its timing, interest rate, and substantial terms and conditions (as described in subparagraph (A)) are concurred in by the Secretary, and (ii) it meets the conditions imposed by the Secretary under subparagraph (B) of this paragraph. Such report, including the analysis, shall be included in the report required to be made to Congress pursuant to subsection (m) of this section."

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976, at the end of subsection (s) insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 60 (which is part of the Science and Technology Committee amendment), between lines 23 and 24, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On page 101 (which is part of the Banking, Currency and Housing Committee amendment), after line 26, insert a new paragraph to read as follows:

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

(Amendment to amendment by Mr. TEAGUE.)

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976 after the period at the end of subsection (x) insert the following new sentence:

"No more than 75 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 104 (which is a part of the Banking, Currency and Housing Committee amendment), after the period on line 12, insert the following:

"No more than 75 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

On page 53 (which is part of the Science and Technology Committee amendment), after the period on line 9 insert the following:

"No more than 75 per centum of the aggregate amount of obligations authorized to be guaranteed under this section may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000."

(Amendment to amendment by Mr. TEAGUE.)

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976 change the period at the end of subsection (p) (2) and insert the following: "*Provided*, That it is established by a certificate filed with the Administrator that not less than 90 per centum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 58 (which is a part of the Science and Technology Committee amendment), line 5, change the period to a colon and insert: "*Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 99 (which is a part of the Banking, Currency and Housing Committee amendment), line 6, change the period to a colon and insert: "*Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 124 (which is a part of the Interstate and Foreign Commerce Committee amendment), line 3, change the period to a colon and insert: "*Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

By Mr. OTTINGER:

On page 84 (which is part of the Banking, Curency and Housing Committee amendment), line 8, change the period to a colon and insert therein the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 43 (which is part of the Science and Technology Committee amendment), line 18, change the period to a colon and insert therein the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

(Amendment to the amendment by Mr. TEAGUE.)

On page 27910 of the CONGRESSIONAL RECORD of August 26, 1976, strike the period at the end of the first sentence of subsection (i) and insert therein a colon and the following: "*Provided*, That the Administrator shall not receive or approve any applications for financial assistance under this section until after March 1, 1977."

On page 32 (which is part of the Science and Technology Committee amendment) strike line 6 through the period on line 9 and insert the following: "submitted to the Speaker of the House of Representatives and the President of the Senate."

On page 70 (which is part of the Banking, Currency and Housing Committee amendment), strike line 7 through the period on line 10 and insert the following: "of each such study is submitted to the Speaker of the House of Representatives and the President of the Senate."

(Amendment to amendment by Mr. TEAGUE.)

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, in subsection (b)(1) strike the words "and the House Committee on Science and Technology" and the words "and the Senate Committee on Interior and Insular Affairs" and insert a period after the word "Senate".

On page 94 (which is part of the Banking, Currency and Housing Committee amendment), after the word "and" on line 1, strike all through the period on line 3, and insert the following: "to the President of the Senate."

On page 52 (which is part of the Science and Technology Committee amendment), strike line 24 through the period on line 2, page 53, and insert the following: "and to the President of the Senate."

(Amendment to Amendment by Mr. Teague.)

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976, in paragraph (3) of subsection (1) strike the words: "and the House Committee on Science and Technology" and the words "and the Committee on Interior and Insular Affairs of the Senate" and insert a period at the end of the paragraph.

On page 94 (which is part of the Banking, Currency and Housing Committee amendment), strike line 7 through the word "Senate" on line 9 and insert therein the following: "Speaker of the House of Representatives and the President of the Senate".

On page 53 (which is part of the Science and Technology Committee amendment), strike line 6 through the word "Senate" on line 8 and insert therein the following: "Speaker of the House of Representatives and the President of the Senate".

(Amendment to Amendment by Mr. Teague.)

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976 in subsection (m) strike the words: "Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate" and insert therein "Speaker of the House of Representatives and the President of the Senate".

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976, strike the first sentence of subsection (n)(2) and insert the following:

"(2) There are authorized to be appropriated in fiscal year 1977 $2,000,000 for administrative expenses."

On page H9180 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of subsection (b)(5) and insert therein the following:

"(5)(A) The Administrator shall not enter into any guarantee or commitment to guarantee with respect to any obligation for any facility for the demonstration of conversion of oil shale into synthetic fuels unless such facility is a modular facility, the production of which is not less than 6,000 and not more than 10,000 barrels per day. No such modular facility may receive both loan guarantees under this section and any direct or indirect financial assistance under any other section of this Act.

"(B) The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), (x), (y), and (z) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels.

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act,

in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section."

On page 27912 of the CONGRESSIONAL RECORD of August 26, 1976, after "(r)" insert "(1)" and after subsection (r) insert the following:

"(2) The Administrator shall require, as a condition of issuing one or more guarantees with respect to a project which guarantees in the aggregate exceed $20,000,000, that the applicant for such guarantee agree (or obtain any agreements necessary to assure) that any proprietary or patented process (other than a process to which paragraph (1) applies)—

"(A) which is used in the project,

"(B) which is necessary for general commercial application of the technology utilized in the project, and

"(C) which is known to the Administrator or the applicant at the time such obligation is entered into,

shall be available for general commercial application in similar projects in the United States at such fee and on such other terms and conditions as the Administrator determines are reasonable. Such fee, or the manner for determining it, and such terms and conditions shall be specified in the guarantee agreement or in a separate agreement (executed before the guarantee is issued) with the persons controlling the rights to use such process."

On page 27908 of the CONGRESSIONAL RECORD of August 26, 1976, strike the first proviso in the last sentence of subsection(b)(1) and insert a new proviso as follows: "*Provided*, That paragraphs (2) through (4) of this subsection, and subsections (c)(1), (4), (8) and (9), (d), (g) (2) through (4), (m), and (n) through (y) of this section shall also apply to such guarantees:"

On page 27911 of the CONGRESSIONAL RECORD of August 26, 1976, strike the proviso in subsection (m) and insert the following new proviso: "*Provided,* That where the cost of such demonstration or modular facility exceeds $200,000,000, such guarantee or commitment to guarantee or cooperative agreement and price guarantee contract shall not be finalized except as specifically authorized by legislation hereafter enacted by Congress."

On page 27909 of the CONGRESSIONAL RECORD of August 26, 1976, between the first and second sentences of subsection (e)(2), insert the following new sentence: "The Administrator shall consult with the Environmental Protection Agency in making this review and giving such approval."

H.R. 15069

By Mr. HECHLER of West Virginia:

"On page 35, after line 20, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 14. (a) Each officer or employee of the Secretary of Agriculture who—

"(1) performs any function or duty under this Act, or any Acts amended by this Act, concerning units of the National Forest System; and

"(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a permit, contract, or other instruments for the use and occupancy, including, but not limited to, the sale of timber, of National Forest System lands;

"shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) the Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 13, 1976, page 30189.

HOUSE BILLS

H.R. 15221. August 23, 1976. Judiciary. Deletes the provisions of the Immigration and Nationality Act which limit to two the number of petitions for preference status which may be granted to a petitioner on behalf of an alien orphan immigrating to the United States for adoption.

H.R. 15222. August 23, 1976. Public Works and Transportation. Authorizes the States to perform certain functions delegated to the Secretary of the Army and the Chief of Engineers with respect to public works and dredging projects on intrastate waters.

H.R. 15223. August 23, 1976. Armed Services. Authorizes the Secretary of the military department concerned to conduct safety investigations of aircraft accidents involving aircraft within such department.

Prohibits the release of information contained in specified parts of such a safety investigation report outside the armed force concerned without the authorization of the Secretary concerned and stipulates that such information may not be subject to discovery.

Prohibits the use of such information as evidence in any disciplinary action or judicial or administrative proceeding arising from the accident being investigated.

H.R. 15224. August 23, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to develop a river system management plan for the Upper Mississippi River, in the format of the "Great River Study."

H.R. 15225. August 23, 1976. Judiciary; Standards of Official Conduct. Requires lobbyists to: (1) register with the Federal Election Commission; (2) make and retain certain records; and (3) file reports with the Commission regarding their activities.

Requires certain officials of the executive branch to record their communications with lobbyists. Repeals the Federal Regulation of Lobbying Act.

H.R. 15226. August 23, 1976. Education and Labor; Ways and Means. Directs the Secretary of Labor to enter into contracts with Opportunities Industrialization Centers, Incorporated, and with any other nonprofit community based organization for the provision of specified employment and training services for unemployed persons, especially unemployed youth. Directs that priority be given to such organizations to provide similar services under enumerated public works and revenue sharing programs.

Amends the Comprehensive Employment and Training Act to authorize the Secretary of Labor to provide financial assistance for year-round jobs for economically disadvantaged youths.

Amends the Internal Revenue Code to qualify wages paid to specified previously unemployed persons for the work incentive program expenses credit.

H.R. 15227. August 23, 1976. Education and Labor. Amends the Service Contract Act of 1965 to extend its applicability to contracts performed on the Canal Zone.

H.R. 15228. August 23, 1976. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule.

Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 15229. August 23, 1976. Ways and Means. Amends the Internal Revenue Code to provide a single unified rate schedule for estate and gift taxes. Repeals the estate and gift tax exemptions. Substitutes for such exemptions a credit against estate and gift taxes.

H.R. 15230. August 23, 1976. Ways and Means. Amends the Internal Revenue Code to provide a single unified rate schedule for estate and gift taxes. Repeals the estate and gift tax exemptions. Substitutes for such exemptions a credit against estate and gift taxes.

H.R. 15231. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15232. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15233. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15234. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15235. August 23, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from the termination of the claimant's employment status with the Department of the Navy.

H.R. 15236. August 23, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15237. August 24, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15238. August 24, 1976. Interstate and Foreign Commerce. Directs the Federal Communications Commission to take steps as may be necessary to increase the channels available for use in the citizens radio service to 46 channels.

H.R. 15239. August 24, 1976. Public Works and Transportation. Authorizes the Secretary of the Army acting through the Chief of Engineers, to acquire lands, easements, rights-of-way, and complete relocations associated with Canyons 1 and 2 at Wenatchee, Washington.

H.R. 15240. August 24, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief-of-Engineers, to conduct hydrographic surveys of the Columbia River in Washington, for the purpose of identifying navigational hazards.

H.R. 15241. August 24, 1976. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to require that employees of a prime sponsor who perform services relative to the manpower services program under such Act to be assured of working conditions and benefits comparable to those of other employees of such sponsor.

H.R. 15242. August 24, 1976. Veterans' Affairs. Directs that the premiums on National Service Life Insurance be waived during any time after which the insured has attained the age of 65 and has paid premiums on the insurance for not less than 25 years.

H.R. 15243. August 24, 1976. Post Office and Civil Service; House Administration. Expands the prohibition of the employment by any public official of any relative of such public official in an agency in which such official serves or over which such official exercises jurisdiction or control to cover the Legislative branch.

H.R. 15244. August 24, 1976. Interior and Insular Affairs. Requires that electric power in the southwestern power area be sold at agreed points of delivery and at uniform, nondiscriminatory rates. Stipulates that agreed points of delivery shall not be changed unilaterally by the Secretary of the Interior.

H.R. 15245. August 24, 1976. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to revise the criteria under which States and local governments are to be given priority in making public works grants during periods when the national unemployment rate exceeds six and one-half percent.

H.R. 15246. August 24, 1976. Education and Labor. Amends the Service Contract Act of 1965 to redefine "service employees" for purposes of Federal service contract labor standards.

H.R. 15247. August 24, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to grant reasonable litigation costs, including attorneys' fees, to any employer who successfully contests a citation or proposed penalty before the Occupational Safety and Health Review Commission or an order of the Commission before an appropriate United States court of appeals.

H.R. 15248. August 24, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that no compensatory charge for or in connection with interstate or foreign communication by wire or radio may be found to be unjust or unreasonable because it is too low.

H.R. 15249. August 24, 1976. Armed Services. Permits the enlistment of Vietnamese and Cambodian alien refugees into the U.S. Armed Forces.

H.R. 15250. August 24, 1976. Judiciary. Permits the Attorney General, under the Immigration and Nationality Act, to adjust the status of any alien from Indochina to permanent resident without regard to immigration quotas or lack of possession by such alien of specified required immigration documents. States that such alien need only be eligible to receive an immigrant visa to qualify for such change of status.

SENATE—*Tuesday, September 14, 1976*

The Senate met at 11 a.m. and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou whose word instructs us "to commit thy way unto the Lord; trust also in Him: and He shall bring it to pass," we commit this day and its labor to Thee. We ask not that our burdens be removed from us but for strength to carry them. We pray in this place for one another that together we may concert our best endeavors for the Nation. Make us wise craftsmen in the art of government that the people be well served and Thy kingdom set forward. Keep us humble and watchful and prayerful, growing each day in the ways of the Master, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 14, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 13, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1139, 1143, and 1144.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITION OF THE SALT CAIRN SITE TO THE FORT CLATSOP NATIONAL MEMORIAL

The Senate proceeded to consider the bill (S. 828) to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes.

Mr. HATFIELD. Mr. President, I strongly support S. 828, which would include the site of the salt cairn utilized by the Lewis and Clark Expedition, located at Seaside, Oreg., as a part of the Fort Clatsop National Memorial.

The availability of salt was of the utmost importance to the Lewis and Clark Expedition. The journals of the expedition tell us that during the preparations for the journey and on the trip itself the leaders were greatly concerned about having enough salt for their men. It was necessary because the strenuous physical activity involved in such an endeavor resulted in the loss of body salt, as well as to make their food more palatable.

When the expedition arrived at Fort Clatsop, Oreg., in December of 1805, it was imperative that their salt supply be replenished. Capt. William Clark wrote:

> We having fixed on this Situation as the one best Calculated for our Winter quarters I deturmin'd to go as direct a Course as I could to the Sea Coast which we could here roar and appeared to be at no great distance from us, my principle object is to look out a place to make salt.

That place was found and a group of men spent 2 months producing 20 gallons of salt by a continuous process of boiling sea water in five "kittles." The site of that salt cairn is located in what is now Seaside, Oreg. The land is presently owned by the Oregon Historical Society which is willing to give it to the National Park Service as a satellite of the Fort Clatsop National Memorial.

Both the Oregon Lewis and Clark Trail Heritage Foundation Committee, headed by Dr. E. G. Chuinard, and the Oregon Historical Society strongly support S. 828.

Mr. President, the site of the salt cairn is presently not being cared for in an adequate fashion. Inclusion as a satellite site of the Fort Clatsop National Memorial will insure the protection that this area deserves.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to include within the Fort Clatsop National Memorial the site of the historic salt cairn utilized by the Lewis and Clark Expedition while encamped at Fort Clatsop, which salt cairn and its related function of salt making were an integral part of the history, operation, and significance of Fort Clatsop, section 2 of the Act of May 29, 1958 (72 Stat. 153; 16 U.S.C. 450mm-1), is amended to read as follows:

"SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led overland from the fort to the coast: *Provided,* That the total area so designated shall contain no more than one hundred and thirty acres.".

GEN. DRAZA MIHAILOVICH MONUMENT

The Senate proceeded to consider the bill (S. 2135) to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 4, strike out:

> Such monument shall be located on public land within the District of Columbia, to be located according to plans approved by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

And insert in lieu thereof:

> Such monument shall be of appropriate design and shall be located on Federal public land within the District of Columbia or environs. The design and location of the monument shall be subject to approval by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

So as to make the bill read:

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of this bill, the Secretary of the Interior shall permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain a monument to General Draza Mihailovich, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II, as described in such committee's petition to Congress concerning the authorization of such monument. Such monument shall be of appropriate design and shall be located on Federal public land within the District of Columbia or environs. The design and location of the monument shall be subject to approval by the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior.

SEC. 2. The National Committee of American Airmen Rescued by General Mihailovich shall accept private funds which shall be the sole source for the construction and maintenance of such monument. The Secretary of the Interior shall only permit such committee to begin the construction of such monument when he determines that such committee has sufficient funds to complete such construction and to provide for such maintenance; except that such committee must have such funds no later than two years after the date of enactment of this Act.

Mr. THURMOND. Mr. President, I am pleased to rise in support of S. 2135, my bill to authorize the National Committee of American Airmen Rescued by Gen. Draza Mihailovich to erect a monument in Washington, D.C.

The monument is to be erected by funds solicited from the general public and will not cost American taxpayers one penny.

During World War II, the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia, led by Gen. Draza Mihailovich. Due to a tragic combination of errors and mistaken information, the Allies withdrew their support from Mihailovich at the end of 1943 and threw their weight behind the Communist resistance movement under the leadership of Marshal Tito.

Despite his abandonment by the Allies, and despite the merciless war waged against him by both the Communists and the Nazis during 1944, General Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were shot down over Yugoslavia. Most of these men were safely evacuated to Italy in a series of dramatic air rescue missions, which picked them up from the heart of Nazi-occupied Yugoslavia and flew them to Italy.

President Harry S. Truman in 1948 posthumously awarded the Legion of Merit to General Mihailovich for his services in rescuing American airmen, and for his larger services to the Allied cause. Unfortunately, the State Department kept the award to Mihailovich classified "secret" for almost 20 years, for fear of offending the sensitivities of the Yugoslavia Communist Government.

Now, more than 30 years after their rescue, a group of American airmen have organized themselves into a National Committee of American Airmen Rescued by General Mihailovich and have launched a movement to build a memorial in Washington, D.C., dedicated in gratitude to the man who saved their lives.

It is my understanding that the monument will be a simple one, bearing on one side a plaque listing the names of 500 American airmen rescued by General Mihailovich, and on the other side the text of President Truman's citation in awarding the Legion of Merit to General Mihailovich.

I want to pay particular tribute to a former colleague who has shown special interest in General Mihailovich, my good friend, former Senator Frank J. Lausche of Ohio, a son of Yugoslavian immigrant parents.

Mr. President, Senator Lausche wrote a foreword to a recent book about General Mihailovich, and I ask unanimous consent to include it in the RECORD at the conclusion of my remarks, as it sets into historical perspective the great debt we owe General Mihailovich.

Mr. President, I also want to thank the cosponsors of this bill: Senators CANNON, HUGH SCOTT, HATHAWAY, DOMENICI, STEVENS, FANNIN, and GOLDWATER. I also want to pay particular tribute to the distinguished chairman of the Rules Committee (Mr. CANNON), who was of great assistance in moving this matter through committee.

Mr. President, I urge my colleagues to support this most worthy piece of legislation.

There being no objection, the foreword was ordered to be printed in the RECORD, as follows:

FOREWORD

(By the Honorable Frank J. Lausche)

(NOTE.—The Honorable Frank J. Lausche, the son of a Slovenian immigrant, has been a man of almost legendary stature in modern American politics. His qualities of leadership and statesmanship are reflected in his record as an elected representative of the people of Ohio for over 36 years.

(As a judge, he served 9 years in the municipal court of the City of Cleveland, and in Cuyahoga County Court (1932–41). He then served two terms as Mayor of Cleveland, from 1941 to 1944.

(Elected Governor of Ohio in 1945, he served through five terms in this office. This remarkable record of public trust in an elected office was unexampled in the history of Ohio—since the founding of the Republic no other governor has served more than three terms. When General Mihailovich was captured in March 1946, Frank J. Lausche, as Governor of Ohio, not only joined the Committee For a Fair Trial to Draza Mihailovich, but, at his own request, for the purpose of displaying his concern and indignation, he served on the Board of Directors of the Committee.

(Elected to the United States Senate in 1956, Senator Lausche served with distinction for 12 years, making a mighty mark both in the Senate chamber and in the Senate Foreign Relations Committee, of which he was a member. Sometimes described as a maverick, Senator Lausche has been a man whose absolute independence and integrity has commanded the respect of his foes as well as his friends. When he left the Senate in 1969, one of his many friends in the Senate said that it was "as though a mighty oak has fallen.")

In bringing together this historical documentation on General Draza Mihailovich, I believe the Serbian National Committee is serving the cause of history, the cause of America, and the larger cause of world freedom, as well as the cause of the Serbian people.

I was, therefore, honored by the invitation to write a brief foreword to the record that appears in the following pages.

I write this foreword out of a sense both of duty and of shame.

As an American, I bow my head in shame whenever I think of the terribly mistaken policy which led the Allied leaders in World War II to abandon General Draza Mihailovich and throw their support instead to the communist cohorts of Marshal Josio Broz Tito. It was an unbelievable aberration of policy and of justice perpetrated by the Allies.

Mihailovich was the first insurgent in Europe. It was he who first raised the flag of resistance to the Nazi occupier—and by his action he inspired the formation of resistance movements in all the subjugated countries.

He resisted the Nazis at the time when the Soviet Union and the communists were still collaborating with them—and his early resistance, by slowing down the Nazi timetable, was probably responsible for preventing the fall of Moscow.

The contributions of Mihailovich to the Allied cause were the subject of tributes by General Eisenhower, General De Gaulle, Field Marshall Lord Alexander, Admiral Harwood, Anthony Eden, President Truman, and, at later date, of President Richard Nixon. For example, on August 16, 1942, three top ranking British officers, Admiral Harwood, General Auchinleck, and Air Marshal Tedder, sent the following joint wire to Mihailovich "With admiration we are following your directed operations which are of inestimable value to the Allied cause."

Today no informed person takes seriously the communist charges that Mihailovich collaborated with the Germans, or the proceedings of the communist show trial in Belgrade which resulted in his execution. The communists made the nature of their justice clear when they announced, in advance of the trial, that Mihailovich would be executed after a fair trial. And they also made it clear when they refused to take the evidence of the American officers who served with him or of the American airmen who were rescued by him.

Colonel Robert H. McDowell, chief of the American mission to General Mihailovich, and perhaps the most experienced intelligence officer to serve with either side in Yugoslavia during World War II, took the time after the War to go through the German intelligence files on Yugoslavia. Not only did he find no evidence that Mihailovich collaborated with the Nazis, but he found numerous statements establishing that Hitler feared the Mihailovich movement far more that he did the Tito movement.

The communists also feared Mihailovich more than they did any other man. And that is why, when they executed him, they disposed of his shattered body in a secret burial place, so that those who followed him and revered him would not be able to come at night to drop tears and flowers on his grave and tenderly offer a few words of prayer in gratitude to General Mihailovich for his heroism and sacrifice.

But despite all of the abuse and all the precautions of the communists, the truth about Mihailovich—now grown to the proportions of a legend—still persists among the Serbian people. Evidence of this is the remarkable article on Mihailovich which Mihaijo Mihajlov wrote for The New Leader, just before Tito's courts sentenced him to seven years at hard labor in early March of this year.

I think that it is fitting that we in the free world who are aware of the truth should also do everything in our power to set the record straight and to bring about the ultimate vindication before the bar of history—of one of the noblest figures of World War II.

Draza Mihailovich, in addition to being an outstanding soldier and a great national leader was a man who stood for everything that we in America believe in, He was a true believer in the rights enshrined in our own Declaration of Independence—the right to think and speak and pray in accordance with one's own religious, political, economic and social beliefs, without government restraint or repression.

The publication of this historical documentation is a first step in the direction of historical vindication. The next logical step—and one which, it seems to me, is dictated by simple decency—is that the United States Congress should accede to the petition of the American airmen that they have been authorized to erect in Washington, with publicly subscribed funds, a monument which they would dedicate, in gratitude, to "General Draza Mihailovich, Savior of American Airmen."

Beyond this, there is still a larger debt which the free world owes to the memory of General Draza Mihailovich. It is my hope that this debt will some day be repayed in full through the liberation of his people from communist tyranny.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REMOVAL OF LIMITATION ON APPROPRIATIONS

The Senate proceeded to consider the bill (S. 2946) to amend the act of July 2, 1940, as amended, to remove the limit on appropriations, which had been reported from the Committee on Rules and Administration with an amendment at the beginning of line 5, strike out "striking the phrase ", not to exceed $350,000,"." and insert "striking out "$350,000," and inserting in lieu thereof "$600,000,"."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of July 2, 1940 (20 U.S.C. 79e), as amended by Public Law 89–280, be further amended by striking out "$350,000," and inserting in lieu thereof "$600,000,".

SEC. 2. The amendment made by the first section of this Act shall become effective on October 1, 1977.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER INDEFINITELY POSTPONING CONSIDERATION OF S. 3712 AND S. 3727

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1167, S. 3712, a bill authorizing the extension of the American Canal at El Paso, Tex., and for other purposes, and Calendar No. 1168, S. 3727, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Allen Camp unit, Pit River division, Central Valley project, California, and for other purposes, both be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the executive calendar under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of David Robert Macdonald, of Illinois, to be Under Secretary of the Navy.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

(Later the following occurred:)

Mr. GRIFFIN. Mr. President, earlier today the Senate voted to confirm David Robert Macdonald to be Under Secretary of the Navy. As in executive session I ask that the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it s so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senate minority leader is recognized.

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. RIBICOFF) is recognized for not to exceed 15 minutes.

MISMANAGEMENT OF THE FEDERAL ENERGY ADMINISTRATION'S REGULATORY PROGRAMS

Mr. RIBICOFF. Mr. President, the Government Operations Committee has recently completed a review of the activities of the Federal Energy Administration to determine whether to extend the agency's mandate. The resulting legislation—the Energy Conservation and Production Act—extended the agency for a period of 18 months. During the course of our review, the committee uncovered some disturbing evidence of mismanagement of the FEA's regulatory programs.

As I am sure my colleagues well remember, the FEA was established at the time of the Arab embargo—a crisis which threatened the economic well-being and security of this Nation. The ramifications of the embargo were far reaching. The Nation needed an agency to implement programs to alleviate the impact of the shortage on the people of this country and to assure them that there would be equitable distribution and pricing of the available energy supplies. Thus, the FEA was established—its primary role was regulatory.

The Federal Energy Administration was to implement regulatory programs to assure the Nation of adequate energy supplies in the short term and long term. The problems inherent in the FEA's regulatory programs, however, cast serious doubts about their effectiveness in meeting the energy goals which were set by Congress. The FEA has the responsibility to develop regulations, implement regulatory programs and resolve regulatory cases.

There are two major problems in the Federal Energy Administration's program implementation and both problems stem from a lack of leadership and serious commitment by the present Administration. First, FEA's procedures and processes for the development of its regulations are confused at best, and are arbitrary, capricious and deliberately slow at worst.

Second, the FEA has experienced severe problems in the enforcement and compliance area of its regulatory programs. The FEA has inadequate enforcement procedures and guidelines; has misdirected a limited number of staff; has confused and obscured the lines of authority and communication; has issued unclear and confusing regulations; and has mismanaged the regulatory caseload.

The problems in the agency's compliance efforts have resulted in a weak enforcement program. There has been little uniformity in enforcement policy and practice; the agency has been discriminatory in its enforcement actions—overzealous in its efforts toward smaller firms. The agency has made it extraordinarily difficult for industry to comply with its regulations, because of completely incomprehensible language and procedures, which are constantly being revised. The agency has a notorious reputation for lengthy delays in processing exceptions and appeals cases. FEA has been charged with conducting superficial and inadequate audits—at all levels of review.

Let us examine, as one example of mismanagement by the agency, FEA's auditing record. Shortly after the agency was established the General Accounting Office prepared for the Government Operations Committee several reports on this important matter. The GAO reported that the FEA had conducted almost no direct audits of crude oil producer operations. GAO found that the FEA had concentrated its audits at the retail level, in spite of evidence of significant violations at the wholesale level where little audit effort had been directed. FEA's audits of refiner operations were found to be uncompleted. GAO found that substantive issues relating to the adequacy of regulations were unresolved which necessitated constantly changing regulations. Finally, the GAO reported that organizational disputes within FEA hindered the refinery audit effort.

One year later the Subcommittee on Administration Practice and Procedure held hearings on FEA's enforcement of petroleum price regulations. The subcommittee hearings revealed the FEA had done little to correct serious problems in the development and implementation of its enforcement programs. The subcommittee's report stated:

> FEA's compliance efforts as of the time of the subcommittee hearings must be characterized as woefully inadequate, confused, and and ineffective.

In the subcommittee's judgement, FEA's enforcement program was so overwhelmed by problems that it was rendered virtually ineffective. In effect, the FEA was still not doing an adequate job of investigating and processing the audit requirements of price regulation.

Government Operations Committee's review—1 year later—confirmed that many of the weaknesses of FEA audit activities still exist. The agency continues to demonstrate that enforcement of price regulations is a low priority by failing to correct the administrative and programmatic difficulties which the programs have experienced since their initial implementation. Further, the agency has never allocated adequate personnel to do an adequate job.

It is important for us to look at who suffers, because of this mismanagement and lack of concern by the Federal Energy Administration. Most of the policies established by Congress, which the FEA is required to enforce, were enacted in order to promote stability in energy prices for consumers and to assure consumers that unreasonable profits would not result from supply shortages. The inadequate enforcement of regulations assures no one that the oil industry is playing by the rules.

The Federal Energy Administration is an agency to which Congress has given critical responsibilities. These responsibilities affect the economic well-being and security of this Nation. The proper implementation of these responsibilities is crucial to the Nation's energy future. Without proper management and serious commitment to solving our energy problems, this Nation will remain in the position of struggling for its energy independence.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

MISMANAGEMENT, FRAUD, AND ABUSE IN MEDICAID AND MEDICARE

Mr. MOSS. Mr. President, the American people will be deciding over the next 6 weeks what kind of leadership our country will have, both in the Congress and in the White House. We do not need a crystal ball to tell us what the future holds if one party or the other is chosen to forge the policies that will lead America next year. An examination of the record is all we need—past performance is a good indicator of future directions.

But even before specific policy is set, there is a very important part of the ability to lead, and that is the ability to provide sound management.

We on this side of the aisle are the perennial targets of the administration when it comes to spending and wisely administering programs. They claim it is they who are the most knowledgeable in sound management, but Mr. President, this is a myth, for the present administration has set a clear record of mismanagement for the American public to see.

Mr. President, today my distinguished colleague Senator RIBICOFF has spoken and Senator HATHAWAY and Senator

CHILES will follow in talking about the administration's record of mismanagement in a wide range of areas—health care, energy, budget and management, and alcoholism and drug abuse. I think it is very important to point to the record, for in it the public will see a better picture of the clear choice of leadership that is before it.

As chairman of the Subcommittee on Long-Term Care of the Senate Special Committee on Aging, I have been acutely aware of the need for important reforms silmilar to those introduced by Senator TALMADGE last week in his Medicare and Medicaid Antifraud Act.

The record has been all too clear. Since July of 1969, my subcommittee has conducted some 27 hearings dealing with fraud and abuse in the nursing home field. We have drafted the bulk of a 12-volume report with our recommendations, which we have presented to Congress.

Since last September, we have had a number of hearings which investigated fraud and abuse in areas of the medicare and medicaid programs associated in one way or another with long-term care. From all of these hearings, it is my conclusion that fraud and abuse are present in both these programs and rampant in the medicaid program. But even more important is the fact that the reprehensible system of dual-track medicine, which provides one standard of care for the rich or comfortable and another for the poor, still exists. Yet medicare and medicaid were enacted precisely for the purpose of making quality health care available to all Americans regardless of their age, their location, or their economic status.

Federal responsibility for mismanagement, fraud, and abuse in the medicaid program has been of continuing concern to several committees of the Congress. My own subcommittee has been critical of the enforcement of nursing home standards by the Department of Health, Education, and Welfare, and has chided the department for its failure to head off fraud and abuse among clinical laboratories. The Oversight Subcommittee of the House Interstate and Foreign Commerce Committee, under the chairmanship of Representative JOHN MOSS of California, has been critical of the department's failure to withhold funds from those States which have not established effective utilization review procedures. Senator TALMADGE, of course, has expressed his concern with his recent introduction of a Medicare and Medicaid Antifraud Act which proposes to create a central fraud and abuse control unit and increase the department's ability to prevent and prosecute fraud. Senator SAM NUNN, as chairman of the Oversight Subcommittee of the Senate Government Operations Committee, has also revealed his misgivings about the administration of some aspects of the medicaid program. Finally, Representative L. H. Fountain and his Subcommittee on Intergovernmental and Human Resources of the House Government Operations Committee have studied this matter in detail.

Not surprisingly, all of these groups have had findings with much in common. The management of the medicaid program leaves much room for improvement. Michigan, New Jersey, California, and a few other States seem to be doing an excellent job. Most States, however, are not. HEW has been either unwilling or unable to require these States to meet their responsibilities under the medicaid law, which places responsibility for policing fraud and abuse squarely on the shoulders of the States themselves.

These problems are not new. In fact, the operation of New York State's medicaid program alone has been the subject of more than 100 reports in the last 10 years. These reports have been largely ignored on both the Federal and State levels, and the weaknesses they detailed have continued or progressed. The Division of Social and Rehabilitation Services of the Department of Health, Education, and Welfare has taken the position in the past that the States should be acting to detect and prosecute fraud and abuse. However, a report of the General Accounting Office, issued in April of 1975, correctly pointed out that HEW has responsibilities of its own. Specifically, the Department can withhold funds, or, under certain conditions, impose less severe monetary penalties if States do not comply with Federal requirements.

The GAO report added the following facts. First, between October 1, 1969, and September 30, 1974, HEW regions reported 2,300 cases in which States failed to comply with medicaid requirements. However, HEW had yet to impose any monetary penalty against any State. Second, 20 States had never referred a suspected medicaid fraud case to State or Federal law enforcement agencies for appropriate action. The report noted that improved coordination of State medicaid fraud and abuse investigations with medicare was necessary. A combined medicare-medicaid investigative unit, it concluded, would improve HEW's ability to investigate fraud and abuse in both programs.

In January of this year, Representative FOUNTAIN's subcommittee released its findings based on lengthy hearings held in April, May, and June of 1975. Among the conclusions cited in the report were the following:

First, that HEW is currently responsible for about 300 separate programs involving annual expenditures exceeding $118 billion. Because of the size and complexity of its activities and the lack, in many instances, of direct control over expenditures, HEW's operations present an unparalleled danger of enormous loss through fraud and abuse;

Second, that HEW officials responsible for detention and prevention of fraud and abuse lack reliable information concerning the extent of losses from such activities;

Third, that fraud and abuse in HEW programs are undoubtedly responsible for the loss of many millions of dollars each year;

Fourth, that HEW units whose responsibility it is to detect and prevent fraud and abuse are not organized in any coherent pattern designed to meet the overall needs of the Department;

Fifth, that personnel in most fraud and abuse units of HEW lack necessary independence and are subject to potential conflicts of interest, because they report to officials directly responsible for managing the programs those units are investigating;

Sixth, that under current organizational arrangements, there are little or no guarantees that the Secretary will be kept informed of serious fraud and abuse problems, or that action necessary to correct such problems will be taken;

Seventh, that the resources HEW devotes to prevention and detection of fraud and program abuse are extremely inadequate. I should add here that I am not impressed by the recent decision of our well-meaning Secretary to employ the bulk of the some 100 new medicaid investigators in a series of lightning raids on various States to root out evil and then move on. I suggest that we need an aggressive and continuous pressure exerted against those who would abuse the system rather than this kind of transitory foot patrol.

Finally, the Fountain report concluded that there are serious deficiencies in the procedures used by HEW for the prevention and detection of fraud and program abuse. The subcommittee's investigation disclosed instances in which it took as long as 5 years or more for HEW to take corrective action after deficiencies in its regulations became known. Part of the blame can be attributed to cumbersome procedures for changing regulations; however, some delays were so lengthy as to indicate the almost total lack of any sense of urgency.

In February of this year, the General Accounting Office issued another relevant report, this one analyzing the factors behind the rising costs in the medicare and medicaid programs during their 10-year history. The report stated that—

> Congress passed two important acts to help control Medicare and Medicaid costs—the 1967 and 1972 Amendments to the Social Security Act. HEW has been slow in issuing regulations and carrying out many of the provisions of these acts.

The current administration's record on medicare and medicaid has been singularly unimpressive. Despite repeated criticism of HEW from a wide variety of sources, no action has been taken. With regard to medicare, the President, in his 1976 state of the Union message, proposed to the Congress a program of catastrophic health insurance for the elderly. Essentially, the proposal called for increasing the out-of-pocket payments of medicare beneficiaries. Senator FRANK CHURCH, chairman of the Special Committee on Aging, noted in his response that the President's plan would add nearly $1.3 billion to the out-of-pocket payments of aged and disabled participants. He also pointed out that the overall impact of such a proposal would serve to benefit less than 3 percent of the users of the medicare program.

Dr. Mary Mulvey, vice president of the National Council of Senior Citizens, told a Senate hearing that the President's catastrophic proposal—

> . . . imposes upon the elderly $2 billion more than they are paying now, and provides a paltry $500 rebate in the form of catastrophic coverage, the result being a Federal budget savings of $1.5 billion at the expense of the elderly, sick, and disabled. Implications are that the Federal budget will be balanced on the backs of the elderly, sick, and poor.

I think it is time to change this pattern of inaction, of shirking responsibility, of "passing the buck." We are talking about health care for millions of Americans. An estimated 28 million are eligible for benefits under medicaid alone. We can no longer tolerate administrative attempts to place the burden of a faulty system on those who should be receiving the benefits of that system. The medicare and medicaid plans were supposed to make certain that all Americans received the finest health care possible regardless of their age or their ability to pay for that care. To date, they have not done so. We must see that they do so in the future.

Mr. President, I think that the programs that we authorize in Congress and for which we appropriate money should be managed with efficiency and dispatch and with care. I think we have not been having that sort of management in the health care field, or the health care for the elderly field. For this reason, I think there must be a change made in the administration so we can get that kind of efficient management.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized.

THE ADMINISTRATION'S MANAGEMENT PROBLEMS

Mr. CHILES. Mr. President, we hear a lot of talk today about big government and bureaucracy running wild. The issue I want to address is, "What is the Ford administration doing about these management problems?"

We all know how important the continuing pressure for efficiency from the President's management arm can be in controlling the tendency of individual Federal agencies to grow and balloon at the expense of everybody else and the Government as a whole.

Increasingly, I hear from the Nation's Governors, the mayors, the State and local officials—including those in my home State of Florida—that President Ford's management arm, the White House Office of Management and Budget—OMB—

Is not managing;

Is not coordinating; and

Is not controlling the way different Federal agencies go about sticking duplicative regulations and redtape requirements on Federal assistance programs.

Repeatedly, the question I hear asked is, "Where is the "M" in President Ford's OMB?"

I think I know the answer—it is being suffocated. And if Congress does not keep up its diligent oversight, it will be abandoned completely. Effective management requires a strong Executive at the top, and that is something we are sorely lacking in this administration.

Mr. President, the Federal Government now spends over $60 billion a year in Federal grants to State and local governments to meet a wide range of national objectives—in law enforcement, civil rights, environmental protection, transportation, education, housing, and health.

The programs now number over 1,000.

With increased spending and number of programs comes increased bureaucracy. It is this piecemal, never-ending, incremental growth of bureaucratic actions that produces regulations, promotes redtape, and overwhelms our citizens.

Some regulation is necessary for accountability purposes. But the seemingly uncontrolled irrationality that we have today is unreasonable. It is a major cause for cynicism and distrust of government. Steps have been taken to restore confidence.

This is a theme that both Presidential candidates are taking. I noted last January that Mr. Ford talked to the Mayors Conference about the benefits of consolidating categorical grant programs.

He told the Governors at the Governors Conference last February:

> We must clarify and we must simplify the complex, frustrating and inefficient regulations in categorical grant rigidity that invite abuses and rip-offs.

The President is proposing block grants as the whole answer. In theory, we all think the concept of block grants is good. State and local managers do need more flexibility to meet local needs. The categorical nature of many grant programs is one problem.

But there is so much more that can be done. We must go beyond the surface approach of saying, "Consolidate programs and all your problems will be solved."

The essential need, the gut question, is executive leadership and better governmentwide management. In Mr. Ford's White House, there is little central management concern with the discretionary action of Federal bureaucrats in the executive branch that promote much of the incredible redtape we see in both block-grant and categorical programs. Instead we have confusion, complexity, and chaos with no guiding light to lead us out of the morass.

Let me give an example of what I am talking about. In recent hearings before my Subcommittee on Federal Spending Practices, I asked a number of State witnesses from different Governors' offices whether they found themselves still stuck with unnecessary redtape and regulations under block-grant programs.

The unequivocal answer from each of them was—

> Yes, we continue to struggle with same types of problems we have in categoricals.

Governor Askew has showed me the stack of regulations for the "block-grant" law enforcement program, LEAA. The stack goes clear to the ceiling.

The State witnesses stressed the need to have the Federal Government, the executive branch, manage itself and not to have the different agencies going off in their own divergent ways.

Their message was clear: Mr. Ford's OMB does not have any interest in taking a leadership role in managing the Federal agencies.

That is what is needed to cut the redtape and headaches that our State and local governments face. That is why our citizens feel overburdened with Federal grant programs. Lack of leadership translates directly as unresponsive government.

Let me quote what one of our Nation's Governors—Gov. Phil Noel of Rhode Island—said in testimony before this Congress:

> I would like to point out what I believe may be the root of the continuing problem: That is, the general lack of concern on the part of the U.S. Office of Management and Budget for actually managing the Federal Government . . . after years of talking about the problem with the establishment of the Office of Management and Budget, and a Federal Government-wide effort to identify and correct duplicative, burdensome, and unnecessary red tape, we still see:
>
> No evidence of a concern for on-going management oversight of the agencies by OMB.
>
> Lack of follow-up or enforcement of already existing Federal management directives.
>
> No evidence of a central clearance point for approval and coordination of new procedures, rules and regulations.
>
> No apparent system to make use of the numerous study reports and management recommendations published from time to time by the General Accounting Office.

Let me quote further from a recent newspaper column written by Mr. Neil Pierce, entitled "Recolonizing America:

> Most of the State and cities criticism of Washington is attributable to the Federal Government itself—a product of the inertia in the bureaucracy and Federal mismanagement of the intergovernmental affairs.

Mr. Ford's OMB has the authority to correct this mismanagement problem. Under his leadership, it is not being done—and the Governors and mayors of this country know it, the people sense it.

It sounds like whether there is an "M" in OMB is a political issue in a campaign year. What is going on in the Ford administration is a classic example of, "Listen to what we say but don't watch what we do."

Mr. Ford cannot have it both ways. When he campaigns on bureaucratic inefficiency and the need to cut redtape and simplify grant programs to State and local governments it is time we remind him about what is not getting done in his own house. The voters in this country want results, not rhetoric.

Mr. President, Mr. Ford's mismanagement of intergovernmental affairs and the $60 billion-plus grant program to our State and local governments is just one case.

In the $70-billion-a-year Federal procurement program, where Federal agencies buy for their own use items that range from paperclips to multibillion dollar weapon programs, it was this Democratic Congress which insisted on putting an "M" in OMB. By legislation which the White House opposed, kicked, and screamed about, the 93d Congress created an Office of Federal Procurement Policy in OMB and laid out a set of reform objectives for the Administrator. Through oversight hearings and the pressure exerted by this Democratic Congress some genuine progress is being made in—

Controlling the Federal agencies;

Eliminating bureaucratic duplication;

Cutting redtape; and

Saving the taxpayer money.

Steps have been taken to modernize purchasing specifications, enhance competition, and improve the Federal Government's behavior toward its private sector suppliers—it should not take, as it does today, 2 pounds and 120,000 words worth of specs to sell Uncle Sam a mousetrap.

Steps have been taken to combine the domestic and defense procurement regulation systems into one streamlined system—the businessman should not have to deal with two overlapping systems.

Most importantly, steps are being taken to reform the buying of our major system acquisitions, such as our multibillion dollar weapon systems. We are going to require the bureaucracy to play by a set of rules that will—

Let the Congress in on the front end of decisionmaking before commitments get made;

Require better hardware competition; and

Make for fewer escalating cost overruns.

The potential for savings here is in the billions.

If it were not for the Congress, which passed the law, created the mandate, and pressured for action, none of these steps would be taken.

Much remains to be done. But we need an administration that does more than just talk about "management"—we need one that understands what it is and moves forward with ability and leadership.

The present administration displays neither. Instead, the "M" in Mr. Ford's OMB is being ignored unless we push.

It is time for a Chief Executive who makes management a priority.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

Under the previous order, the Senator from Maine (Mr. Hathaway) is recognized for not to exceed 15 minutes.

ALCOHOLISM AND DRUG ABUSE

Mr. HATHAWAY. Mr. President, I am certain that all of my colleagues on this side of the aisle have noted with pride and gratitude the periodic efforts of our distinguished majority leader, Senator Mansfield, to summarize the achievements of the 94th Congress. We are all the more grateful to him, because so many of those achievements have been attained precisely because of this expert leadership and guidance. He will be sorely missed by all of us who have served with him in the past—and perhaps even more so by those who will not begin to serve in this body until after he has retired.

At this stage in the 94th Congress, I believe it is incumbent upon more of us to take a moment out of our schedules to follow the example of the distinguished Senator from Montana and to summarize for our colleagues and for the public those things which have transpired legislatively in our own particular areas of expertise.

This becomes increasingly true because of the impending election, the brief, but intense, flurry of charges and countercharges that mark a Presidential campaign more often tend to distort genuine governmental accomplishments than to extoll them. When the person making the charges is the President of the United States, then reality too often disappears forever in the tangled undergrowth of political rhetoric. And when that President has attempted to rule by political rhetoric for his entire term in office, it is time for an angry Congress to stand up to him and remind him of a few facts.

It is for that reason I have agreed to participate in this ongoing colloquy this morning.

The subject matter for my brief remarks will be the fields of alcoholism and drug abuse. At the beginning of this Congress, I assumed chairmanship of the Subcommittee on Alcoholism and Narcotics of the Labor and Public Welfare Committee. At that time, I had no idea that this area was such a prime subject for political and rhetorical abuse. As I said in my first appearance before Senator Magnuson's Labor-HEW Appropriations Subcommittee, I came to this field with considerable enthusiasm, in the belief that "the quality of a society may be measured in terms of its attention to its least fortunate members." Within a matter of months, however, I became disabused of any such illusions.

For it rapidly became apparent that this administration was adept at talking out of both sides of its mouth on both issues—alcoholism and drug abuse—and that the recent history of administration policy leadership in both fields has been a dismal one.

With regard to drug abuse, for example, both the Nixon and Ford administrations had made many of the right moves and decisions—but for all the wrong reasons.

"Crime in the streets" and addiction and drug abuse among returning Vietnam veterans—also, indirectly, a crime-fear issue—were cited as the two principal reasons for the greatly increased attention to drug abuse treatment by Nixon in the early 1970's. Thus, the approach taken to treatment, research, and education against drug abuse was predicated from the beginning upon fear, rather than upon concern for an individual's health.

This resulted in a scare-tactic, law-enforcement approach to drug abuse treatment that remains the administration's policy today, even though it has been substantially discredited in other quarters.

This approach was summarized last September in the President's own Domestic Council White Paper on Drug Abuse, which said:

> The availability of treatment gives the drug user who finds drugs becoming scarce and expensive an alternative. The problems this creates for users by high prices, impure drugs, uncertain doses, arrests, and victimization by other drug users can be reduced by making a range of treatment easily available to users.

Treatment needs are defined largely in terms of fallout resulting from stricter enforcement. The result is a thinly disguised bias toward the criminal approach—a bias that even the White Paper's authors admit was discredited in the 1950's and 1960's.

Most recently, that approach has been discredited still another time in the State of New York, whose tough, enforcement oriented law was the clear model for the President's current policy. Only 3 days ago, the Washington Post, in a tough nononsense editorial, said:

> Little by little, evidence is accumulating that harsh penalties for drug addicts and low level street sellers is not the answer some had hoped it would be to the narcotics problem.

In point of fact, far from discouraging drug users, such laws seem only to thrust them into positions of greater defiance of social and legal norms. Continues the Post editorial:

> Even if a jurisdiction could sweep all its addicts into jail, the experience suggests that another generation of thrill-seekers and reality-escapees would find its way to this insidious drug.

Indeed, one recent study would seem to bear this out, by isolating this alarming fact: In addition to the estimated 400,000 heroin addicts present in the country today, there also appear to be upward of 4 million individuals who buy and use heroin regularly without becoming physically addicted, much as individuals have come to use drugs like cocaine or hallucinogens.

Yet notwithstanding evidence piling up of the inadequacy of an enforcement-biased drug abuse policy, the President—out of political expediency—presses ahead with his effort to sell bits and pieces of this policy, such as the mandatory minimum penalties bill he is promoting at this time.

I ask that the full text of the Post editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATHAWAY. Meanwhile, actual drug abuse treatment policies are themselves treated to a healthy dose of the bureaucratic mumbo-jumbo which marks the reality, rather than the rhetoric, of this administration's approach.

While the Drug Abuse White Paper admitted that "conditions are worsening, and the gains of prior years are being eroded," for example, and called for "increased efforts on every front," the actual solution proposed was to achieve "greater efficiency" in managing drug abuse treatment programs and to achieve a greater commitment of—and I quote—the "enormous potential resources" of State and local governments to this area.

I do not know which State or local governments Ford has been visiting recently—but none in my experience have access to what I would even remotely call enormous potential resources. And in fact, the opposite is more often the case—particularly in our largest cities, where the drug abuse problem is worst.

That recommendation is only the most obvious example of the vacuum that exists in effective drug abuse policy leadership in this administration. Yet congressional recommendations for filling that vacuum have fallen on deaf ears. They have been met with the obdurate response that it is sufficient to leave things as they are—with a fractious profusion of Cabinet committees and task forces and strategy councils, responsive neither to Congress nor to the public, with hard policies made ultimately by low-level functionaries in OMB, with red pencils and pocket calculators.

Congress has chosen not to accept the perpetuation of this system, in which drug abuse policy is made and carried out by individuals with no degree of personal accountability.

Congress has chosen instead to require the President to set up an Office of Drug Abuse Policy, to provide centrally accountable coordination of both the drug supply and drug abuse demand reduction efforts. This is no large-scale bureaucracy we have set up—it is intended instead to produce a system where policies are made in the daylight, and are argued and debated and discussed by, with and for the people who would be legislating those policies—as well as the people in State and local governments, who would ultimately be carrying them out.

We had such an office—the Special Action Office for Drug Abuse Policy—SAODAP—until it went out of existence last year, at the insistence of President Ford. But while we agree that there is no need in the Office of the President for the type of programmatic administration SAODAP had, the recent lack of response to congressional decisionmakers of current OMB and Domestic Council drug abuse policy personnel led us to the inescapable conclusion that a new, publicly responsible leadership—

One which can be called before Congress to explain his activities;

One which cannot sit in a back room at the White House refusing to come out—as the authors of the white paper have done since last October when the Committees on Labor and Public Welfare and Government Operations jointly demanded that they come and testify on their white paper report.

So Congress proceeded to enact such an office last spring, as part of legislation extending our federally funded drug abuse treatment programs. But while the President signed that measure, he made it clear that he wanted no part of this increased accountability for his policy measure. In what sounded to me suspiciously like an unlawful item veto, Ford announced that he would not implement the congressional mandated office.

And when Congress actually appropriated money for that office, in its final 1976 supplemental appropriations bill, the President simply refused to spend it, sending instead a rescission message to reiterate his obstinacy. And that is where the situation stands today—with Congress thus far refusing to permit the rescission—but, as a practical matter, with enlightened, coordinated drug abuse policymaking dead for the remainder of this administration.

Mr. President, I realize that I am exceeding the time allotted to each Senator for participation in this colloquy this morning, even with this relatively brief summary of administration mismanagement of Federal drug abuse policy. Thus, while I had intended to explore mismanagement of alcoholism programs in this statement as well, I will limit myself to a brief statement on this subject at this time. I have made many statements on this subject this year. I refer my colleagues more specifically to my statements in the RECORDS of March 29, at page 8395, and June 29, at page 21243.

If this administration's approach to drug abuse policy has been marked with inconsistency, its efforts to contend with the far wider health problem of alcoholism has been more a product of callous indifference.

Federal alcoholism treatment, prevention, and research programs have only been in existence since the early 1970's—and they only came about at that time through the stubborn persistence of my distinguished colleagues, including Senators HAROLD HUGHES, JACOB JAVITS, and HARRISON WILLIAMS.

But while there are many more alcoholics and alcohol abusers than drug addicts in America today, there has been even less support and greater mismanagement of these programs within the central White House policymaking bodies than there has in drug abuse. I cannot help but ask cynically whether this might not be due to the greater "sex appeal" of drug abuse as a campaign issue, rather than to any consciously coordinated decision to highlight drug abuse and downgrade alcoholism.

Briefly, alcoholism treatment, prevention, and research has been funded over the past 5 years only with the greatest reluctance by this administration. Budget requests in this area have averaged over $50 million less than actual appropriations in each of those years. In fiscal 1972, for example, the President's budget request was $34.7 million, while the final appropriation was $84.6 million. In fiscal 1973, the budget request was $75.8 million, while the final appropriation was $156.4 million.

The escalations in both categories were due, not to any fiscal irresponsibility on the part of either branch of Government, but rather to the wide-eyed amazement of the Federal Government at the breadth and scope of this terrible health problem.

By 1973, the administration had further compounded its mismanagement by unlawfully impounding a huge chunk of the HEW alcoholism budget. When Congress, through lawsuits, finally forced the expenditure of that money, it was with the requirement that it all be spent quickly, making effective policy direction even more difficult, and creating management problems that persist even until today.

This roller-coaster funding approach has taken its toll on the effectiveness of our Federal alcoholism efforts. The development of alcoholism prevention programs has been effectively sidelined for lack of consistent support. Research has been downgraded and exiled to a medical Siberia in a broken-down, unaccredited mental hospital, with a total annual budget less than 1 percent the size of the budgets for the other two leading medical problems in the Nation—cancer and heart disease.

And this lack of support is evident in budget requests made as recently as last week, when the President asked for just $100 million to fund programs budgeted at $155 million during the previous fiscal year. Ford's theory in presenting this request is that the rest of the support is expected to come from his thoroughly discredited health block grant proposal, which stands no chance at all of congressional enactment.

Mr. President, I ask that an earlier statement I made regarding the inadequacy of this block grant proposal be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the RECORD of March 29, 1976]

One major proposal considered and rejected by the committee was put forward by administration witnesses and involved the incorporation of funding for alcoholism activities into a $10 billion block grant to States. The purpose of this proposal is to consolidate many health programs currently administered by the Federal Government into one lump sum block grant to the States.

Alcoholism programs would be funded from the 5 percent of the grant required to be set aside for a number of community and environmental health programs, including mental health, maternal and child care, rat control, lead-based paint programs, venereal disease programs, and others.

The administration testified that their block grant proposal "will include the present alcoholism program with a number of other categorical authorities as part of a single administration initiative in the health care area. It would seem reasonable that—the States and localities are ready and able to deal with the problem at their levels—in the context of the regular community care system, through the financial assistance for health care program."

The administration pointed to the success of the NIAAA as a reason for shifting responsibility to State and local governments. Stated Deputy Assistant Secretary for Health, James F. Dickson III:

"The accomplishments listed above reinforce our belief that States and localities are ready to assume responsibility for addressing the problem, especially since the stigma associated with alcoholism has decreased. States have enacted the Uniform Act and treatment and rehabilitation programs have greatly expanded."

There is an element of irony in the administration's glowing assessment of NIAAA accomplishments, since for the past 3 years this same administration has sought vigorously to destroy the Institute through impoundments, understaffing, and starvation level budget requests. As the committee report states, we are relieved to hear that the long congressional struggle to keep the Federal alcoholism effort alive has finally convinced the administration that there have been Federal successes in this area. The committee hopes that future administration support for the Institute and its programs will reflect this new found enthusiasm.

Mr. HATHAWAY. Fortunately, Mr. President, Congress has consistently rejected the administration's efforts to shortchange alcoholism treatment, prevention, and research. This year, for example, we wrote legislation extending Federal programs for 3 years, and improving them in several major ways—as we did last spring for drug abuse treatment. And with alcoholism, as with drug abuse, the President once again had no choice but to sign the legislation, despite his apparent opposition to an adequately funded program. And notwithstanding the wholly inadequate budget request, I believe Senator MAGNUSON, who chairs the Labor-HEW Appropriations Subcommittee, will continue to do the fine job he has always done in insuring that these programs will not shrivel and die, as they would if Ford and his OMB henchmen get their way.

EXHIBIT 1

[From the Washington Post, Sept. 11, 1976]

DRUG ABUSE AND DRUG LAWS

Little by little evidence is accumulating that harsh penalties for drug addicts and low-level street sellers is not the answer some had hoped it would be to the narcotics problem. In September 1973 Vice President Rockefeller, then governor of New York, signed into law the harshest anti-drug statute in the country. Its mandatory life sentence for persistent pushers was the provision that made the headlines. But the law was rich in other punitive provisions. Today, three years later, the New York drug law appears to have had no effect on New York's drug traffic; indeed, the tentative conclusions of the most careful study of the law available suggest that its enactment may have made things worse. There are fewer people being convicted for drug offenses in New York today than there were before the law was passed. It has cost $55 million so far to administer. And its greatest impact appears to be on addicts who are going before the courts for the first time.

The New York Drug Law Evaluation Project, which has been studying the impact of the law, says there have been "fewer dispositions, convictions and prison sentences" for drug violations since the law was enacted. With a bit of ballyhoo, New York State set up a special court system to deal with drug crime. Now, according to the staff of the drug evaluation project, the productivity of those drug courts is below that of the courts whose notorious overcrowding they were created to avoid.

The reason is that given the nature of the law—no plea bargaining allowed, fixed sentences upon conviction—practically everyone prosecuted under it insists on a jury trial. The demand for jury trials in the drug courts has more than doubled over such demands under the old laws. And defendants' court appearances have risen 50 percent, with most defendants now appearing 20 times between indictment and disposition. Because the defendants know that conviction means a certain—and harsh—prison sentence, they use every tactic of delay at their disposal.

There has to be a better way to cut the demand for drugs than by resort to draconian remedies, especially since they don't appear, on the basis of this record anyway, to work especially well. Even if a jurisdiction could sweep all its addicts into jail, the experience suggests that another generation of thrill-seekers and reality-escapers would find its way to this insidious drug. A better place to focus attention would be on the sources of supply. There are those who doubt the efficacy of such an effort, but no one can doubt that going after supply makes more sense than spending $55 million to put away people who have been arrested for the first time on drug charges.

For many years, public officials have been promising a crackdown on the "major sources of supply," as it is often put. But so far there has been no plan put into effect that touched those "kingpins" who import the heroin, wholesale it and make the huge profits. Until that very large element of profit has been removed from the drug trade, addicts will flock to the dealers and to the jails, and nothing will change.

QUORUM CALL

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Would it be in order to move that the Senate adjourn sine die at this time?

The PRESIDING OFFICER. It would be in order.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 745—CORRECTING THE ENROLLMENT OF S. 327

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 745.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

> House Concurrent Resolution 745, correcting the enrollment of S. 327.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 745) was considered and agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The unfinished business is H.R. 13367.

ORDER TO VITIATE REMAINING SPECIAL ORDER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remaining special order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m.

There being no objection, the Senate, at 11:49 a.m., recessed until 1 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Allen).

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from the State of Alabama, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, what is the pending business?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

APPROVAL OF BILLS

A message from the President of the United States announced that on September 13, 1976, he approved and signed the following bills:

S. 5, an act to provide that meetings of Government agencies shall be open to the public, and for other purposes.

S. 2862, An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974.

INCREASE IN DEFERRAL—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Finance:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I report a net increase of $11.1 million in the amount previously deferred for the Social Security Administration's limitation on construction account.

The details of the revised deferral are contained in the attached report.

Gerald R. Ford.

The White House, *September 14, 1976.*

MESSAGES FROM THE HOUSE

At 11:02 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Mahon, Mr. Boland, Mr. Evins of Tennessee, Mr. Shipley, Mr. Roush, Mr. Traxler, Mr. Baucus, Mr. Stokes, Mrs. Burke of California, Mr. Cederberg, Mr. Talcott, Mr. McDade, and Mr. Young of Florida were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 3605. An act to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer);

H.R. 13615. An act to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes;

H.R. 15276. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police force; and

H. Con. Res. 745. A concurrent resolution correcting the enrollment of S. 327.

At 1:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 71) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Passman, Mr. Long of Maryland, Mr. Roush, Mr. Obey, Mr. Bevill, Mr. Chappell, Mr. Koch, Mr. Charles Wilson of Texas, Mr. Mahon, Mr. Shriver, Mr. Conte, Mr. Coughlin, and Mr. Cederberg were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 2:10 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 13655. An act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Report of the Comptroller General

A letter from the Deputy Comptroller General informing the Senate that no legal atcion is forthcoming relating to the release of budget authority proposed for rescission in the President's tenth special message for fiscal year 1976; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Labor and Public Welfare, and ordered to be printed.

Report of the Secretary of Defense

A letter from the Secretary of Defense transmitting, pursuant to law, a report entitled "Reductions in Fiscal Year 1977 Civilian Manpower" (with an accompanying report); to the Committee on Armed Services.

Publications of the Federal Power Commission

A letter from the Chairman of the Federal Power Commission transmitting copies of the following publications: "Gas Turbine Electric Plant Construction Cost and Annual Production Expenses, 1973"; "Hydroelectric Plant Construction Cost and Annual Production Expenses, 1973"; and "The National Power Survey, The Adequacy of Future Electric Power Supply: Problems and Policies" (with accompanying reports); to the Committee on Commerce.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Assessement of U.S. and International Controls over the Peaceful Uses of Nuclear Energy" (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes (Rept. No. 94–1237).

TAX REFORM ACT OF 1976—CONFERENCE REPORT (REPT. NO. 94–1236)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the conference report on H.R. 10612, a bill to reform the tax laws of the United States, along with the joint statement of the managers, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau, and to the Republic of Cape Verde.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Melissa Wells.

Post: Guinea-Bissau.

Contributions; amount; date; and donee:

Self: Melissa Wells, none.

Spouse: Alfred Wells, none.

Children and spouses: Christopher Wells, none; Gregory Wells, none.

Parents: Miliza Korjus Shector, none; Kuno Foelsch (deceased).

Grandparents: Deceased.

Brothers and Spouses: Ernest Foelsch, none; Jacque Foelsch, none. Richard Foelsch, none.

Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

MELISSA WELLS.

Ronald D. Palmer, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Ronald D. Palmer.

Post: Lome.

Contributions; amount; date; and donee:

Self: None.

Spouse: None.

Children and Spouses: None.

Parents: None.

Grandparents: None.

Brothers and Spouses: None.

Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

RONALD D. PALMER.

Davis Eugene Boster, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

POLITICAL CONTRIBUTIONS STATEMENT

As requested in reftel, following is new completed form regarding political contributions which I have certified in the presence of the acting head of our consular section, Ronald E. Hagen, acting in his capacity as a notary:

Nominee: Davis Eugene Boster.

Post: Amembassy Dacca, Bangladesh.

Contributions; amount; date; and donee:

Self: none.

Spouse: Mary S. Bosten. Children and spouses: Barbara A. Roster, none; Mr. and Mrs. Davis E. Boster, Jr. none; Mr. James Boster, none; Mr. Thomas Roster, none; Mr. and Mrs. Robert Curtis, none.

Parents: deceased.

Grandparents: deceased.

Brothers and spouses: none.

Sisters and spouses: none.

Wife's brothers and sisters-in-law:

Mr. and Mrs. William Shilts, $125, 1973, Ohio Republican Party.

Mr. and Mrs. William Shilts, $125, 1974, Ohio Republican Party.

Mr. and Mrs. William Shilts, $125, 1975, Ohio Republican Party.

Mr. and Mrs. William Shilts, $125, 1976, Ohio Republican Party.

Mr. and Mrs. Edgar F. Shilts, none.

Mr. and Mrs. Allan R. Shilts, none.

Wife's sister and brother-in-law: Mr. and Mrs. Jack Fursey, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

DAVIS EUGENE BOSTER.

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Walter J. Stoessel, Jr.

Post: Bonn.

Contributions; amount; date; and donee:

Self; none.

Spouse: Mrs. Walter J. Stoessel, Jr., none.

Children and Spouses: Katherine, none; Suzanne, none; Christine, none.

Parents: Mrs. Walter J. Stoessel, Jr., none.

Grandparents: not living.

Brothers and Spouses: Mr. and Mrs. James H. Stoessel, James H. Stoessel, $10, 1972, Republican National Committee; $5, 1974, Republican Committee California; $10, 1975, Republican National Committee.

Sisters and Spouses: Mr. and Mrs. Charles Embree, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge the information contained in this report is complete and accurate.

WALTER J. STOESSEL, Jr.

Francois M. Dickman, of Wyoming, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Francois M. Dickman.

Contributions; amount; date; and donee:

Self: none.

Spouse: none.

Children and Spouses: none.

Parents: Henriette L. Dickman, Adolphe J. Dickman (deceased).

Grandparents: (deceased).

Brothers and Spouses: none.

Sisters and Spouses: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

FRANCOIS M. DICKMAN.

T. Frank Crigler, of Arizona, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: T. Frank Crigler.

Post: Kigali.

Contributions:

Self:

April 26, 1976, Udall '76 Committee, $25.

February 16, 1976, Udall '76 Committee, $25.

August 8, 1974, McGovern for Senate, $10.

August 8, 1974, Arlington Dem. Campaign Committee, $10.

October 22, 1973, Howell for Governor, $10.

October 22, 1973, Arlington Cty. Dem. Committee, $10.

July 20, 1973, Sam Ervin Fan Club, $10.

October 20, 1972, Udall Campaign Committee, $15.

October 20, 1972, McGovern for President, $25.

August 31, 1972, McGovern for President $25.

June 10, 1972, McGovern for President, $25.

Spouse: Bettie Ann Crigler, none.

Children and Spouses: Jeffrey, Lauren, and Jeremy Crigler, none.

Parents: Mrs. Elsie M. Crigler, none.

Grandparents: None.

Brothers and Spouses: Robert R. (and Shirlie Lynn) Crigler, Jr.—Unknown (on extended business trip at present; supplementary information will be submitted when available).

Sisters and Spouses: Alice E. (and Edwin A.) Richards, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

FRANK CRIGLER.

Charles A. James, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Niger.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Charles A. James.

Contributions; amount; date; and donee: (If none, write none)

Self: None.

Spouse: None.

Children and Spouses: Jane James, none; Donald James, none; Dennis James, none; Peter James, none; Karen James, none.

Parents: None.

Grandparents: None.

Brothers and spouses: None.

Sisters and spouses: Gladys Hawes and Ernest Hawes, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

CHARLES A. JAMES.

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

POLITICAL CONTRIBUTION STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Patricia M. Byrne.

Post: Bamako, Mali.

Contributions; amount; date; and donee: (If none, write none).

Self: None.

Spouse: N/A.

Children and Spouses: N/A.

Parents: N/A.

Grandparents: N/A.

Brothers and Spouses: N/A.

Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

PATRICIA M. BYRNE.

Julius L. Katz, of Maryland, to be an Assistant Secretary of State.

(The foregoing nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 13615. An act to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes; to the Committee on Armed Services.

H.R. 15276. An act to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the U.S. Park Police force; to the Committee on the District of Columbia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PACKWOOD (for himself and Mr. RIBICOFF):

S. 3811. A bill to amend the Internal Revenue Code of 1954 with respect to amounts received on certain loans of securities. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 3812. A bill to grant a Federal charter to the American GI Forum of the United States. Referred to the Committee on the Judiciary.

S. 3813. A bill to authorize the Administrator of Veterans' Affairs to pay to female veterans of World War II and the Korean conflict certain educational benefits on the same basis that such benefits were paid to male veterans. Referred to the Committee on Veterans' Affairs.

S. 3814. A bill for the relief of T. Sgt. Herman F. Baca, U.S. Air Force. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 3815. A bill providing for reinstatement and validation of U.S. oil and gas leases Nos. U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, and U–12881. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONTOYA:

S. 3816. A bill to amend the Internal Revenue Code of 1954 to allow a credit for amounts which are paid for natural gas used for farming purposes and which are attributable to the recent increase in rates for natural gas established by the Federal Power Commission. Referred to the Committee on Finance.

By Mr. HATFIELD:

S. 3817. A bill for the relief of Robert E. Saries and Alice J. Saries of Merlin, Oreg. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself and Mr. RIBICOFF):

S. 3811. A bill to amend the Internal Revenue Code of 1954 with respect to amounts received on certain loans of securities. Referred to the Committee on Finance.

LOANS OF SECURITIES BY TAX EXEMPT ORGANIZATIONS

Mr. PACKWOOD. Mr. President, this bill changes the unrelated business income tax to provide that exempt organizations will not be taxed on income from securities loans. The purpose of the bill is to help exempt organizations increase the yield from their investments, and to facilitate the mechanical aspects of buying and selling securities. The Department of the Treasury and the Securities and Exchange Commission favor this legislation.

CURRENT SITUATION

Frequently, a securities dealer is committed to deliver a block of stocks, corporate bonds, or U.S. bonds on a fixed date. For example, the dealer may sell stocks or bonds on the owner's instructions, but the owner fails to deliver the property to the dealer in time for him to deliver it to the market or purchaser to whom he sold it. In such case, the securities dealer is obligated to "borrow" an identical block of stock from a bank or other large fund.

The lender with the largest volume of securities loans is the Federal Reserve Board. In addition, the Comptroller of Currency allows national banks to make securities loans, and has held that such loans are proper activity for trust accounts managed by national banks.

The lending of securities does not cause any material risk of loss to the lender. This is because borrowers post collateral with fair market value equal to that of the securities loan, with adjustments of collateral required on a daily basis. The loan arrangements also provide the loan may be terminated by a lender at any time on 5 days notice, and that in the event of failure of return on demand, the borrower is liable for the amount that the purchase price of the replacement securities and commissions exceed the value of the collateral. The borrower is paid at a rate of 1½ to 3 percent annual rate—for the use of the securities. It continues to receive any interest or dividends paid on the securities during the time the securities are loaned.

PROBLEM

Exempt organizations, such as charities and pension funds are discouraged from engaging in securities loans because of the risk that they will be subject to the tax on unrelated business income. If income from lending securities is "dividends, interest and royalties" the exempt organization would not be subject to tax. If, in contrast, it is the conduct of an unrelated trade or busines, they would be subject to income tax. The Internal Revenue Service has not ruled on this issue.

PACKWOOD AMENDMENT

This amendment provides that the "rental fee" from loans of securities is to be treated like "interest, dividends, and royalties" and exempt from the tax on unrelated business income. This amendment applies only if the securities loan is fully collateralized as described above. The amendment makes some technical changes as well, such as to provide that if the organization making securities loans is a private foundation, that the income from the securities loans is to be subject to the tax on investment income, like other investment income received by a private foundation.

REVENUE EFFECT

Apparently, the Internal Revenue Service has never applied the unrelated business income tax to income paid for securities loans. This means there is no actual loss of revenue.

ADMINISTRATION POSITION

Treasury and the Securities and Exchange Commission support this amendment.

Mr. President, I request unanimous consent that a copy of this bill and the letter from the Treasury Department be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 512(a) of the Internal Revenue Code of 1954 (relating to the definition of unrelated business income) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PAYMENTS ON SECURITIES LOANS.—The term 'payments on securities loans' shall include all amounts received in respect of a security (as defined in section 1236(c)) loaned by the owner thereof to another person, whether or not title to the security remains in the name of the lender, including amounts in respect of dividends or interest thereon, fees computed by reference to the period for which the loan is outstanding and the fair market value of the security during such period, income from collateral security for such loan, or income from the investment of collateral security provided that the agreement between the parties provides for:

(a) reasonable procedures to implement the obligation of the borrower to furnish collateral to the lender with a fair market value on each business day during the period the loan is outstanding at least equal to the fair market value of the security at the close of business on the preceding business day, and

(b) termination of the loan by the lender at any time on notice of no more than five business days, whereupon the borrower is required to return certificates for the borrowed securities to the lender."

(b) Section 509(e) of the Internal Revenue Code of 1954 (relating to the definition of gross investment income) is amended by inserting "payments on securities loans (as defined in section 512(a)(5))," after "dividends,".

(c) Section 512(b)(1) of the Internal Revenue Code of 1954 (relating to modifications of the definition of unrelated business taxable income) is amended by striking out "and annuities," and inserting in lieu thereof "annuities, and payments on securities loans (as defined in paragraph (5) of subsection (a))),".

(d) Section 851(b)(2) of the Internal Revenue Code of 1954 (relating to limitations on the definition of a regulated investment company) is amended by inserting "payments on securities loans (as defined in section 512(a)(5))," after "interest,".

(e) Section 4940(c)(2) of the Internal Revenue Code of 1954 (relating to the definition of private foundation gross investment income) is amended by striking out "and royalties," and inserting in lieu thereof "royalties, and payments on securities loans (as defined in section 512(a)(5)),".

(f) EFFECTIVE DATE.—The amendments made by this Act shall apply to amounts received after December 31, 1975.

DEPARTMENT OF THE TREASURY,
Washington, D.C., September 14, 1976.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: You have requested our views on the attached draft bill, which would allow exempt organizations to lend their securities certificates to brokers and other persons and not subject the income that such organizations would receive from such loans to the unrelated business income tax.

To qualify for such treatment, the lender would have to require the borrower to provide collateral equal to the full fair market value of the loaned securities, and supplement it with sufficient additional collateral on any business day when the value of the securities rose above the value of the collateral currently on hand. In addition, the loans would have to be subject to termination on five business days notice. Under those circumstances, the fees that the lender would receive for loaning the certificates, as well as the income paid over by the borrower to the lender during the period of the loan, would be treated as passive income exempt from the unrelated business income tax. In the case of private foundations, however, this income would be subject to the 4% excise tax on its net investment income.

The bill would afford similar treatment to regulated investment companies, allowing them to pass through the fees and other income that they receive from such loans to their shareholders tax-free.

The draft bill would provide such passive income treatment for amounts received by exempt organizations and regulated investment companies after December 31, 1975.

Such a bill would allow exempt organizations to maximize the income that they could derive from their portfolio investments without jeopardizing these investments. We understand that the safeguards required in the draft bill for such loans are the same as those required by the Securities and Exchange Commission for such loans when they are made by a regulated investment company. Since these loans are fully secured, we think that they constitute an appropriate investment activity for exempt organizations, and one that should be encouraged. Furthermore, such loans are less speculative than the granting of options on portfolio securities, and Congress recently allowed exempt organizations to engage in the latter activity without incurring any unrelated business income tax. In the case of both exempt organizations and regulated investment companies, the income from such loans should be treated the same as other investment income.

In addition, we understand that the SEC would support such a draft bill because it would help relieve the chronic shortage of securities certificates, by encouraging pension funds and other institutional investors to loan their securities certificates to brokers. Brokers frequently need to borrow certificates to cover short sales and the failures of sellers to make timely delivery of certificates they have sold. The securities currently being borrowed from customers' margin accounts are apparently not sufficient to meet current needs, and institutional investors, who hold a large percentage of securities, are reluctant to loan out their certificates because they are concerned about the potential adverse tax consequences. The draft bill would eliminate such adverse tax consequences where the loans contain adequate safeguards.

The revenue effect of this draft bill is expected to be negligible.

The Treasury Department would support such a draft bill. However, the committee reports should make clear that no inference is to be drawn with respect to the active or passive classification of income from securities loans that lack the prescribed safeguards, both for purposes of the unrelated business income and for other income tax purposes, e.g., personal holding company income.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

CHARLES M. WALKER.

By Mr. MONTOYA:

S. 3812. A bill to grant a Federal charter to the American GI Forum of the United States. Referred to the Committee on the Judiciary.

THE AMERICAN GI FORUM OF THE UNITED STATES

Mr. MONTOYA. Mr. President, I am today introducing a bill which would grant a Federal charter to the American GI Forum of the United States. My good friend, Congressman EDWARD R. ROYBAL of California, is introducing an identical measure in the House of Representatives.

The American GI Forum was created to combat discrimination against Spanish-speaking veterans. It has been in existence since March 26, 1948, when it was first granted a charter from the State of Texas. Today there are 30 chartered States across the country, including chapters in Germany and England. The GI Forum has reached international prominence for their work to bring equality to all citizens. The granting of a Federal charter would insure that the GI Forum receives further recognition and, most importantly, enjoys continued success in promoting civil rights for Spanish-speaking groups.

We have put much emphasis on cultural heritage and history in this Bicentennial year. There is a changing spirit in America and in the Spanish-speaking minority. The concept of Americans as a homogenized people with one culture and one history is fading. Instead, there is an accent on the value of variety as each group is encouraged to develop its own cultural heritage.

The American GI Forum has led the way in creating a recogniton of the needs of the Spanish-speaking. The Forum has fought and continues to fight for equal employment, equal educational opportunities, and equal representation in government. These are the principles on which our country was founded. Therefore, I urge swift consideration of this bill as a way of recognizing that Spanish origin Americans, and especially the American GI Forum of the United States, are a vital part of our Nation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3812

A bill to grant a Federal charter to the American GI Forum of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INCORPORATION

SECTION 1. Orlando Romero, Phoenix, Arizona, Joe Avila, Pico Rivera, California, Ivan Vasquez, Loveland, Colorado, Mario Lugo Baez, Bridgeport, Connecticut, Miss Maria Nina Hall, Pensacola, Florida, Antonio Ochoa, Caldwell, Idaho, Jesse Perez, Moline, Illinois, John Rivera, Fort Wayne, Indiana, Augustine Olvera, Davenport, Iowa, Jesse Magana, Kanapolis, Kansas, Thomas Tellez, Silver Spring, Maryland, Skip Alvarado, Detroit, Michigan, Herman Davila, Kansas City, Missouri, Clemente Aguilar, Lincoln, Nebraska, Carlos E. Mares, Las Vegas, Nevada, Pedro F. Jimenez, Santa Fe, New Mexico, Fortino Guerra, Port Clinton, Ohio, John Gonzales, Oklahoma City, Oklahoma, Manuel Casanova, San Antonio, Texas, Rick Martinez, Salt Lake City, Utah, Wayne Aragon, Tacoma, Washington, Alex Cruz, Racine, Wisconsin, Jess Frescas, Cheyenne, Wyoming, Eduardo Perrones, Washington, D.C., Mrs. Calvin W. McGhee, Atmore, Alabama, Frank Johnson, Fort Smith, Arkansas, Jose Garza, Alexandria, Virginia, and their associates and successors, are created a body corporate by the name of the American GI Forum of the United States and by such name shall be known and perpetually succeeded. The corporation shall have the powers and be subject to the limitations established by this Act.

COMPLETION OF ORGANIZATION

SEC. 2. Any individual named in section 1 may, in person or by written proxy, engage in any act necessary to complete the organization of the corporation.

PURPOSE OF CORPORATION

SEC. 3. The purposes of the corporation shall be—

(1) to preserve and advance religious and political freedom, equality of social and economic opportunity, and other fundamental principles of democracy for all United States citizens;

(2) to secure and protect for veterans of active United States military, naval, or air service discharged under conditions other than dishonorable, and the families of such veterans, regardless of race, color, religion, sex, or national origin, the rights and privileges granted to them by the Constitution and laws of the United States;

(3) to advance understanding among United States citizens of differing national origins and religious beliefs in order to develop an enlightened citizenry and a greater Nation;

(4) to develop the leadership abilities of United States citizens of Mexican origin or ancestry by encouraging their participation in community civic and political affairs;

(5) to combat juvenile delinquency by teaching discipline, good sportsmanship, the value of teamwork, and respect for law and order and by encouraging participation in the Youth GI Forum program operated by the corporation;

(6) to assist students desiring to attend institutions of higher learning through the award of scholarships;

(7) to uphold and maintain loyalty to the Constitution and flag of the United States;

(8) to preserve and defend the United States from all enemies; and

(9) to assist needy and disabled veterans of active United States military, naval, or air service discharged under conditions other than dishonorable.

CORPORATE POWERS

SEC. 4. Except as otherwise provided by this Act, and subject to any applicable law of the United States, or of any State in which the corporation conducts any activities, the corporation may—

(1) sue and be sued and complain and defend in any court of competent jurisdiction;

(2) adopt, alter, and use a corporate seal, badge, and emblem;

(3) adopt, alter, and amend a constitution and bylaws not inconsistent with the charter granted by this Act;

(4) enter into contracts and other agreements;

(5) acquire, control, hold, lease, and dispose of such real, personal, or mixed property as may be necessary to carry out any corporate purpose;

(6) choose any officer, manager, agent, or employee necessary to carry out any corporate purpose;

(7) incur debt for any corporate purpose, issue bonds in connection with such debt, and secure such debt by mortgage or otherwise.

(8) establish, regulate, and dissolve subordinate State and regional organizations and local chapters of the corporation;

(9) publish a newspaper, magazine, or other publications; and

(10) take any other action necessary to carry out any corporate purpose.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and any rights and privileges of such membership shall, except as provided by this Act, be as provided by the constitution or bylaws of the corporation.

GOVERNING AUTHORITY OF CORPORATION

SEC. 6. (a) The Corporation shall have a national board of directors, which shall be constituted as provided by the constitution or bylaws of the corporation. The first board of directors shall be: Antonio G. Morales, National Chairman, Fort Worth, Texas, Exequiel Duran, Vice Chairman, Albuquerque, New Mexico, Louis P. Tellez, Executive Secretary-Treasurer, Albuquerque, New Mexico, Jessie Flores, Women's Chairperson, El Paso, Texas, Paula Martinez, Youth Chairperson, Denver, Colorado, Tom Zuniga, Sergeant at Arms, Saginaw, Michigan, Jose Ramos, Veterans' Officer, Fort Worth, Texas, Jose Cavazos, Jr., Communications and Development Officer, Detroit, Michigan, The Rev. Msgr. Erwin Juraschekl, Chaplain, Falls City, Texas, and all of those listed in Section 1 of the Act.

(b) The manner of selection and qualification of directors on the board, the terms of office of such directors, and the powers and responsibilities of the board and such directors shall be as provided by the constitution or bylaws of the corporation.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the manner of election, terms of office, powers, and responsibilities of such officers, shall be as provided by the constitution or bylaws of the corporation.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 8. (a) The principal office of the corporation shall be in Fort Worth, Texas, or in any other place the corporation may determine, but the activities of the corporation may be conducted in such locations as may be necessary to carry out any corporate purpose.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent shall be considered service upon, or notice to, the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of any asset or income of the corporation shall inure to any member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection shall be construed to prevent the payment to any corporate officer of reasonable compensation or reimbursement for actual necessary expenses in any amount approved by the board.

(b) The corporation shall not make any loan to any member, officer, director, or employee of the corporation.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation and any officer or director of the corporation, as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

LIABILITY FOR ACTS OF OFFICERS, EMPLOYEES, AND AGENTS

SEC. 11. The corporation shall be liable for any act of any officer, employee, or agent of the corporation which is within the scope of the authority of such officer, employee, or agent.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall not have the power to issue any share of stock or to declare or pay any dividend.

BOOKS AND RECORDS; INSPECTION

SEC. 13. (a) The corporation shall keep books and records of account and shall keep minutes of any proceeding of the corporation involving any member of the corporation, the board, or any committee having authority under the board. The corporation shall keep at its principal office a record of the name and address of any member entitled to vote.

(b) All books and records of the corporation may be inspected by any member entitled to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102, 1103), shall apply with respect to the corporation.

USE OF ASSETS UPON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of any outstanding obligation or liability of the corporation, any remaining asset of the corporation may be distributed in accordance with any determination of the board in compliance with this Act, any other applicable Federal or State law, and the constitution and bylaws of the corporation.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the exclusive right to use the name American GI Forum of the United States and any emblem, badge, or seal adopted, altered, or used by the corporation under section 4(2).

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 17. The right of the Congress to alter, amend, or repeal the charter granted by this Act is expressly reserved.

DEFINITIONS

SEC. 18. For purposes of this Act—

(1) the term "corporation" means the American GI Forum of the United States;

(2) the term "board" means the national board of directors of the corporation which is required to be established under section 6; and

(3) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

By Mr. MONTOYA:

S. 3813. A bill to authorize the Administrator of Veterans' Affairs to pay to female veterans of World War II and the Korean conflict certain educational benefits on the same basis that such benefits were paid to male veterans. Referred to the Committee on Veterans' Affairs.

EDUCATIONAL BENEFITS FOR FEMALE VETERANS

Mr. MONTOYA. Mr. President, today I am introducing a bill to make retroactive payments to female veterans of World War II and Korea, who were not treated equally with their male counterparts.

At the present time, Veterans' Administration education assistance benefits for both male and female veterans are paid on the same basis. However, this was not always the case. Just within this past year, the Veterans' Administration administratively granted retroactive payments back to June 1, 1966.

This bill gives the VA the authority needed to go back even further than 1966 and finish the job. I am sure my colleagues will agree that female veterans, who served their country well and when needed, should not have been discriminated against. My legislation corrects this situation.

I ask unanimous consent that a letter from the Honorable Richard L. Roudebush, Administrator of the Veterans' Administration, and the text of my bill, be printed in the RECORD.

There being no objection, the bill and letter was ordered to be printed in the RECORD, as follows:

S. 3813

A bill to authorize the Administrator of Veterans' Affairs to pay to female veterans of World War II and the Korean conflict certain educational benefits on the same basis that such benefits were paid to male veterans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Administrator of Veterans' Affairs is authorized and directed to pay to any female veteran who pursued a program of education or training under part VIII of Veterans Regulation Numbered 1(a), the Servicemen's Readjustment Act of 1944, or the Veterans' Readjustment Assistance Act of 1952 and who was married at the time she was pursuing such program, but was not paid on education and training allowance based on having a dependent husband, shall, upon application made to the Administrator within one year after the date of enactment of this Act, pay to such veteran an amount equal to the difference between the amount of education and training allowance such veteran was actually paid and the amount such veteran would have been paid had her entitlement to such allowance been determined in the same manner and on the same basis as if she had been a male veteran.

(b) As used in subsection (a), the term "education and training allowance" includes subsistence allowance or other comparable payment made to eligible veterans by the Veterans' Administration while pursuing a program of education or training under one of the provisions referred to in subsection (a).

(c) Payments authorized to be made under this Act shall be made by the Administrator of Veterans' Affairs out of any funds available for the payment of educational assistance allowances under chapter 34 of title 38, United States Code.

VETERANS' ADMINISTRATION,
WASHINGTON, D.C., *July 12, 1976*.
Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: In response to your letter of June 28, 1976, I am pleased to report that educational assistance benefits for female veterans are currently paid on the same basis as those granted male veterans.

Until the enactment of Public Law 92-540, effective October 24, 1972, the dependency allowance of a female veterans based on her husband could only be paid to her if her husband was incapable of self-maintenance and permanently incapable of self-support. This change in law was favored by the Veterans Administration. I would point out that they were always allowed benefits for their children. The limitation cited here only applied to the spouse.

It was recognized by the Veterans Administration that there were many female veterans who had previously been denied this dependency benefit and for that reason I had published in the Federal Register of July 1, 1975, a notice stating that it was the policy of the Veterans Administration to make retroactive payment of educational assistance benefits to such female veterans providing they filed an application within 1 year from that date. Claims were allowed retroactively as far back as June 1, 1966, the date the current educational program came into being.

Your interest in this matter is greatly appreciated.

Sincerely,
RICHARD L. ROUDEBUSH,
Administrator.

By Mr. MONTOYA:

S. 3816. A bill to amend the Internal Revenue Code of 1954 to allow a credit for amounts which are paid for natural gas used for farming purposes and which are attributable to the recent increase in rates for natural gas established by the Federal Power Commission. Referred to the Committee on Finance.

Mr. MONTOYA. Mr. President, recently, the Federal Power Commission made a change in the rate structure for interstate natural gas prices. The substantial increase will drastically and adversely affect all consumers in the United States, and it is, indeed, unfortunate that the Commission did not delay the introduction of this new rate structure until Congress had completed its work on pending natural gas legislation.

The impact of this natural gas price increase will be strongly felt by the farmers of this country. It will badly hurt farmers and ranchers in New Mexico who must use natural gas for irrigation.

This agricultural segment of our population has a direct effect on all Americans—and an important task to fulfill for all Americans. The task of providing an adequate amount of food for the American public is one our farmers have been accomplishing effectively, even though they have been hampered by rising production costs. With the increased price of natural gas, the farmers of America will be facing escalating energy and production costs that will either hamper production or set off a substantial increase in food costs to all citizens. We must relieve our farmers from these growing energy costs, not only for the benefit of American agriculture, but for the good of the total economy. Through any relief we can provide the farmers with energy costs—we will be holding back any additional production costs the farmer would pass through to the consumer.

For this reason, I have introduced this legislation to allow a tax credit for farm use of natural gas up to a limit of $500. The best available sources have computed the average cost farmers may face when the increased price for natural gas takes effect, and $500 is the figure suggested. By giving agricultural producers this energy credit, we will be easing the effect of the recent FPC natural gas rate increase on the average American farmer, protecting consumers at the same time. I urge my colleagues, here in the Chamber, and in committee, to take expeditious action on this legislation to enable the provisions of this bill to provide relief for farmers as soon as possible.

ADDITIONAL COSPONSORS

SENATE RESOLUTION 524

At the request of Mr. JAVITS, the Senator from Utah (Mr. GARN), the Senators from Delaware (Mr. ROTH and Mr. BIDEN), the Senator from South Carolina (Mr. THURMOND), the Senator from North Dakota (Mr. YOUNG), the Senator from Oregon (Mr. HATFIELD), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. WEICKER), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of Senate Resolution 524, a resolution relating to the terrorist attack at Istanbul Airport.

AMENDMENT NO. 2219

At the request of Mr. MUSKIE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

SENATE CONCURRENT RESOLUTIONS 202 THROUGH SENATE CONCURRENT RESOLUTION 207—SUBMISSION OF CONCURRENT RESOLUTIONS OBJECTING TO PROPOSED SALE OF WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. NELSON submitted the following concurrent resolutions:

S. CON RES. 202

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of helicopters to Israel (transmittal number 7T-55), transmitted on September 13.

S. CON. RES. 203

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Israel (transmittal number 7T-56), transmitted September 13.

S. CON. RES. 204

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of howitzers to the Philippines (transmittal number 7T-53), transmitted on September 13.

S. CON. RES. 205

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Spain (transmittal number 7T-54), transmitted on September 10.

S. CON. RES. 206

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missile defense systems and missiles to Tunisia (transmittal number 7T-52), transmitted on September 10.

S. CON. RES. 207

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of armored personnel carriers to Kuwait (transmittal number 7T-57), transmitted on September 10.

Mr. NELSON. Mr. President, I send to the desk six concurrent resolutions of objection by the Congress to the proposed sales of weapons and defense articles to Kuwait, Tunisia, Spain, Israel, and the Philippines, pursuant to section 36(b) of the Arms Export Control Act.

Last Tuesday I submitted resolutions of objection to each of 37 foreign military sales proposed by the executive branch September 1. Notice of the Executive's intent to conclude these transactions was contained in a single packet of proposals which, in one fell swoop, obligates the United States to transfer over $6 billion worth of arms to 11 different countries. To put this dollar value in some perspective, approval of the administration's Labor Day packet would commit the equivalent of nearly 14 percent of all foreign military sales made by the United States over the last 25 years.

Under section 36(b), the Congress may veto the proposed sale of any major defense equipment exceeding $7 million in cost, but must act within 30 calendar days of its notification. Unfortunately, these latest proposals came only within the last several days. There are only 18 days left to this 94th Congress, and of course the press of other legislative business is greatest right now.

In objecting to these additional proposals, I seek to add them to the overall group of 37 which I would hope will serve as subject matter for hearings of the Committee on Foreign Relations.

Mr. President, the administration continues to peddle our most sophisticated armaments to a great variety of countries, including those in the most sensitive areas on the globe. It does so at a rate exceeding the combined efforts of all other major arms suppliers. And such critical decisions are made without benefit of substantive policy guidelines—without even a basic statement of our goals and objectives.

The scope and magnitude of these foreign military sales raise serious foreign policy implications. The Congress has a fundamental oversight responsibility with regard to U.S. arms transfers. In my judgment, the Congress must act through this mechanism to develop responsible guidelines and examine our Nation's arms transfers in the light of stated policy objectives. It is time to slow down the runaway weapons train.

AMENDMENTS SUBMITTED FOR PRINTING

INVESTMENT ADVISERS ACT AMENDMENTS OF 1976—S. 2849

AMENDMENTS NOS. 2289 AND 2290

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA. Mr. President, I send to the desk two amendments to S. 2849, a bill to amend the Investment Advisers Act of 1940 to authorize the Securities and Exchange Commission to prescribe standards of qualification and financial responsibility for investment advisers, and for other purposes.

I ask unanimous consent that they be ordered to lie on the table and to be printed, it being my intention to propose them in timely order upon consideration of this bill in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I ask unanimous consent also that the text of these amendments be printed at the conclusion of my remarks, in each instance to be accompanied by a brief explanatory statement of purposes.

There being no objection, the material was ordered to be printed in the RECORD as follows:

AMENDMENT No. 2289

Beginning with page 13, line 3, strike out all through page 14, line 4.

On page 14, line 5, strike out "(d)" and insert in lieu thereof "(c)".

On page 14, line 19, strike out "(e)" and insert in lieu thereof "(d)".

On page 15, line 13, strike out "(f)" and insert in lieu thereof "(e)".

On page 15, line 14, strike out "(c), (d), and (e)" and insert in lieu thereof "(c) and (d)".

EXPLANATION OF AMENDMENT No. 2289

This Amendment would delete Section 10 (c) of this bill appearing on Page 13 of the bill. The SEC has advised Committee staff Members that it, the SEC, may conduct whatever studies it wants whenever it wants. Therefore, this Section is not necessary for the SEC to conduct a study of the subject matter set out in this Section.

The deletion of this Section, therefore, would indicate that Congress is not mandating a study, with the concomitant implication that the same is needed. However, the SEC would be free to make this study if they deemed it advisable.

A study for the purpose of determining whether the "umbrella should be enlarged" is essentially a study to see whether lawyers, bankers, accountants, insurance agents, and other persons whose investment advice is incidental to their business should be regulated by the SEC pursuant to the provisions of this Bill. Such an inclusion has serious implications, not the least of which are questions as to the point wherein the regulation of causal investment advisers contravenes First Amendment rights.

AMENDMENT No. 2290

On page 13, line 17, after "include" insert "(1)".

On page 13, line 24, before the period insert "; and (2) an analysis of the extent to which the inclusion of additional persons in the definition of 'investment adviser' will (A) add to the burdens and costs of doing business, (B) result in higher fees for the investment advisery client, (C) lessen competition by discouraging smaller businesses from continuing investment advisery services, or (D) attenuate the ability of such additional persons to provide complete and thorough service to their clients and customers if they should cease rendering investment advice because of an unwillingness or inability to meet the qualifications and standards established under this title and the rules and regulations of the Commission promulgated hereunder".

EXPLANATION OF AMENDMENT NO. 2290

It is not entirely clear what "additional persons" the SEC has in mind in requesting this study. However, it is feared that the enlargement of the regulatory umbrella will include such professionals as lawyers, accountants, life insurance agents, and bank trust departments. The SEC certainly does not deny it is leaning toward such an inclusion. This being the case, the added analysis set out in the above amendment would be most timely and useful to the Congress in determining whether added inclusions would be wise or prudent.

H.R. 8656—DUTY-FREE IMPORTATION OF LOOSE GLASS PRISMS

AMENDMENT NO. 2291

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 8656) to amend the Tariff Schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets.

S. 3421—EXCLUSIVE TERRITORIAL ARRANGEMENTS

AMENDMENTS NOS. 2293 THROUGH 2299

(Ordered to be printed and to lie on the table.)

Mr. MANSFIELD (for Mr. ABOUREZK) submitted seven amendments intended to be proposed to the bill (S. 3421) to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful.

D.C. COMMITTEE HEARINGS

Mr. EAGLETON. Mr. President, the District of Columbia Committee wishes to announce that it will hold hearings on H.R. 14971, to continue Treasury borrowing authority for the District of Columbia, H.R. 10826, a bill to prohibit the unauthorized use of a motor vehicle, S. 3796 and H.R. 15276, bills to grant the U.S. Park Police the cost-of-living increase given other Federal workers, and S.3807, a bill to authorize the District government to pay over to colleges and universities any proceeds of revenue bonds which may be isued on behalf of such colleges and universities.

The hearings will take place on Wednesday, September 22, 1976, at 9:30 a.m. in room 6226 Dirksen Senate Office Building. Persons wishing to testify on any of these bills should contact Mr. Robert Harris, at the D.C. Committee office, 6222 Dirksen Senate Office Building by noon Monday, September 20, 1976.

ADDITIONAL STATEMENTS

U.S. AGRICULTURE

Mr. GARN. Mr. President, most of us are familiar with the humorously sage observation of the comedian, a few years ago, who said he had known poverty and he had realized wealth and could definitely assert to any remaining doubters that "being rich is better."

In a far more critical and totally unfunny area of concern—food—a similar choice faces much of the world today. It is the choice of having enough food or of starving. Incredible as it may seem, a great many well-intentioned but appallingly misguided people are seriously advancing policies which suggest, in effect, that "going hungry is better."

These people espouse in the extreme the appealing cause of environmentalism. They generally view themselves as idealists. Most of them apparently are convinced that they are campaigning, in the public interest, for the best interests of humanity. Not one of them, I am sure, would wish to be held responsible for the agony of the innocent whose bodies are deformed, whose minds are warped or whose lives are irreparably shortened and lost every day by the awful pangs of hunger.

Yet, Mr. President, these overzealous, avowed advocates of consumerism, champion every restraint and interference with the growth of our capacity to meet the escalating demands for energy and food. They utilize every forum to prevent the use of new technology. They employ every legal device and the current activism of some of our courts to delay, to regulate, to deny us the means to cope with the rising demands on agriculture and industry. In the alleged public interest, they advocate negative programs which, unchecked, may lead to the ultimate catastrophe of mass starvation among millions of the world's least fortunate people.

In the process of trying to save our environment and natural resources for posterity, they are making an impossible mockery of our very real capability to save those who are the only guarantors that there will even be a posterity.

In particular, some of these self-proclaimed environmentalists are frustrating both the effort and will of those most apt to be the "last, best hope" for preserving the future for all of us: America's farmers and ranchers. What we see is a substantial number of supposedly intelligent citizens of our country literally biting the hands that feed them.

Do they know what an impact their eagerness and enthusiasm for preventing progress in energy resource development is having on American agriculture? Do they even appreciate the magnitude of their activities with respect to undermining the marvel of our agriculture? I prefer to think they do not. Otherwise one must conclude that their definition of the "public interest" is that the public be damned.

The United States is, in fact, the bread basket of the world. We not only produce ample quantities of food, fiber and forestry products in the greatest variety and finest quality sufficient to meet domestic requirements. We also supply a vitally significant percentage of the world's needs.

Seventy percent of what the people of the world eat is derived from grain. Ninety percent of the food consumed is produced where the food is consumed; but the vital 10 percent that may well represent the margin of survival is derived from surplus-producing countries; and 80 percent of the exportable surplus of grain comes from the United States and Canada.

Between 1965 and 1973, American farmers supplied 80 percent of all food assistance to the needy countries of the globe. In that period, we donated $8.8 billion worth of food, four times the amount contributed by all other developed countries combined. Many of the nations which live precariously on the edge of a food-deficient disaster are dependent on the farming know-how and success of producers in our American corn and wheat belts.

Dire scientific predictions that a weather change is in the making which would sharply reduce growing seasons in the more northern grain producing regions of China, Russia, and Canada by the year 2000, are coupled with projections that world population will double, probably even triple or quadruple present-day levels in another 50 years or less. There are some experts who now believe the only world surplus grain producer available by year 2000 may be the United States.

Whether or not such an ominous prospect actually develops, there is every reason to believe that international dependence on U.S. agriculture will steadily increase in the last decades of the century and the first years of the next. It is, therefore, very much in the public's interest, that we not tamper with or endanger the productive capacity of American agriculture.

Agriculture, including forestry, is our Nation's biggest industry. From production input to the ultimate sale to consumers, it employs more than a fifth of our work force—some 18 to 20 million people. Remarkably, less than 5 million of that total are actually engaged in production. On 2.8 million farms are 3.3 million farm operators and family workers plus a million hired hands. A half million more are engaged in forestry and miscellaneous agricultural pursuits.

This phenomenally low manpower requirement and high degree of efficiency is made possible by the fact that U.S. agriculture is the most energy-intensive industry in the world. No other nation uses so much energy in its food production system.

The National Council of Farmer Cooperatives recently noted that between 1940 and 1973, while the U.S. population increased by 60 percent, on-farm employment declined by 6½ million people. In the same period, the number of workhorses and mules dropped from 14½ million to an inconsequential fraction of that number and the number of acres required to sustain animal power declined from 43 million to less than 1 million. The substitute for both human and animal power was, of course, energy. Between 1940 and 1972, tractor horsepower jumped sixfold, on-farm fuel consumption climbed fourfold, and petroleum expenditures rose fivefold. By 1975, America's farmers were spending $3 billion a year on fuel.

At the same time, farmers became heavily dependent on agricultural chemicals for the protection of their production and on fertilizers for soil-building nutrients. The source of 95 percent of all nitrogen fertilizers is anhydrous ammonia which is produced from natural gas. Some 450 billion cubic feet of gas is used to produce the 12 million tons of anhydrous ammonia required by American agriculture annually. The fertilizer thus made available is considered to be responsible for up to 30 percent of all farm output. Many of the 300 basic pesticide chemicals are synthesized from petroleum, and many more use petroleum products as a delivery medium.

On the Btu basis, petroleum products and natural gas provide 90 percent of the energy need of our food and fiber industries. In contrast, the United States as a whole relies on these two sources for 75 percent of its energy. Fifteen percent of America's energy supplies are consumed each year by agriculture. Of that, 22 percent is for farm production, 28 percent for processing, 20 percent for input manufacturing, 18 percent for marketing and distribution, and 12 percent for farm family living.

Don Paarlberg, Director of Agricultural Economics for the U.S. Department of Agriculture, has testified that American farmers use "more energy than the total petroleum imported in 1974." He asserted quite validly that:

> Agriculture's energy needs must continue to be supplied if this industry is to maintain its vital role as supplier of the basics of life to U.S. consumers and its secondary role of generating foreign exchange to permit continued imports of such products as petroleum.

It should be noted that in 1974, agricultural exports of food, fiber, and forest products amounted to over $26 billion, or a billion more than the cost of our petroleum imports. Some 8 billion gallons of fossil fuel per year presently produce our food and fiber. This is accounted for by 3.5 billion gallons of gasoline; 2.6 billion gallons of diesel fuel; 1.7 billion gallons of liquified petroleum—LP—gas, half of which is used in crop drying; 140 billion cubic feet of natural gas, primarily for power for irrigation pumps; and 42 billion kilowatt-hours of electricity for pumping irrigation water.

However, Mr. President, the most critical need farmers have for energy is assurance of its constant availability. Agriculture is not an industry that can withstand cutbacks or curtailments of energy—even for relatively short periods. It is unique in this regard. Agriculture simply must be able to produce when the climate is suitable during the growing season. If energy supplies are interrupted, production collapses and will not resume for another year. There is no way to recover lost time in planting, tilling, and harvesting. By the same token, crop and livestock products must be promptly processed for consumption. They are perishable and cannot be set aside pending the outcome of a court decision or a hearing examiner's evaluation of a regulatory decision.

Furthermore, farmers require adequate leadtime for planting. So many variables are involved that it is almost impossible to mak last minute readjustments to comply with a halt in the use of a fertilizer or pesticide or an injunction on the use of available water supplies.

In addition, farmers are committed to exceedingly long and difficult hours of work. They cannot be expected to spend additional time in extensive paper work beyond the recordkeeping, accounting, and form filing they are presently obliged to do. The bureaucratic workload imposed by the myriad Government programs and regulations now in effect already poses a staggering burden on farm producers.

Just one example is provided by the profile prepared by a member of the staff of the American Farm Bureau Federation:

> Today's farmer is required, as a minimum,

to comply with the following direct paper work requirements:

He needs to secure a National Pollution Discharge Elimination System permit (NPDES) for each of his point sources of water pollution. The requirement to secure this permit and comply with its conditions is imposed by the Environmental Protection Agency (Section 402 of the Federal Water Pollution Control Act.)

If the farmer engages in any soil moving activity in a low-lying section of his farm, he is required, thanks to a "public interest lawsuit" which forced expanded application of the Act, to obtain a "dredge or fill" permit from the Army Corps of Engineers (Section 404 of the Federal Water Pollution Control Act). Each of these individual permits must be obtained prior to the initiation of such activities as drainage ditch construction, stream bank maintenance and improvement, pond construction, flood water diversion practices, dike construction and fish stream improvement. Fifty to sixty thousand such activities are conducted annually in the United States.

If the farmer wishes to control pests on his farm, and essentially all farmers do, he must become a "certified applicator of restricted use pesticides," in accordance with the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, implemented by EPA. Obtaining such a permit, in addition to the filing fee, would necessitate attendance at a mandatory training session, or completion of a test, or some equivalent procedure.

Under authority of the same law, EPA also requires each farmer who intends control of "nontarget pests" (i.e., to use a pesticide on a crop for which it is labelled against a pest not (specifically named on the label) to obtain written permission and retain record thereof from a knowledgeable expert. Following application of that pesticide, under EPA authority, the farmer must post each field as having been sprayed or otherwise warn his employees of any reentry risk.

Additionally, any farmer is required to register with the Department of Labor and file reports as required by the Farm Labor Contractor Registration Act in conjunction with agricultural employment.

Workers Compensation posters must be prominently displayed.

Social Security taxes must be withheld and reported and, of course, they must meet the comprehensive requirements of the Internal Revenue Service.

Records must be maintained showing either compliance with minimum wage requirements or justifying an exemption.

Agricultural census reports must be completed and returned.

Complying with the reporting requirements may be the smallest part of the federal burden placed on farmers and ranchers. All farmers with employees are subject to the requirements of the Occupational Safety and Health Act. As a minimum this requires the display of an OSHA poster and the filing of accident reports with OSHA. OSHA requires, in addition to the display of the poster, that each farmer be familiar with the technical language of the OSHA regulations with relation to rollover protection standards, machinery guarding, farm labor housing and other requirements which occupy dozens of pages in the Federal Register, a publication with which farmers are not intimately familiar.

The farmer must be available to accompany an OSHA inspector at any time as he tours the farm looking for violations of these technical regulations. It has been estimated that the publication by OSHA of reporting requirements, rules, regulations, explanations, etc., would create a file 17 feet tall. It is absurd to imagine that any farmer might be familiar with those portions of that 17 foot file with which he must legally comply.

EPA requirements imposed on agriculture under the Federal Water Pollution Control Act and the FIFRA are equally complex and technical.

Mr. President, American agriculture is currently swamped by environmental controls and regulations. Depending, of course, on geographical location, farmers may be subject, for instance, to the provisions of the Federal Water Pollution Control Act—already alluded to—the Migratory Marine Game Fish Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Environmental Policy Act, the Coastal Zone Management Act and the Fish and Wildlife Act of 1956.

Farmers, in the manner of all good citizens, wish to be law abiding. Each of these laws with which agriculture must comply, taken singly, probably has merit. The Nation's farmers and ranchers could and would comply with any of them. However, taken collectively, they become so complex and so numerous that there is neither time nor the will for total compliance.

Mr. President, as that brief summary suggests, we are literally smothering the agricultural producer in paperwork.

Some of you may be familiar with the carefully documented case of the Washington State potato farmer who decided to combine a piece of desert land with his water supply and, through irrigation, make his desert land productive. This highly laudable goal was accomplished with the help of experts. In the process, however, that potato farmer had to obtain 47 permits and spend $87,000 to reach his objective of helping to keep us well fed.

Do the Members of this great Senate of the United States believe that progress, the public interest, or the environment are served by requiring 47 permits to irrigate desert land where potatoes may be grown? Talk about the waste of energy and the misuse of our resources. Mr. President, we have passed so many acts, authorized so many regulations and controls and witnessed so many additional restraints by activist environmentalists and activist courts that the very future of the agriculture to which we owe so much is actually in jeopardy today.

Let me cite another example of how the obstructionists of environmentalism are impeding our food producers. On July 25, 1975, the Corps of Engineers of the United States launched a comprehensive regulatory program under section 404 of the Federal Water Pollution Control Act.

The objective of the act is commendable. It seeks to restore and maintain the integrity of our waters. As explained by former U.S. Senator Allen Ellender of Louisiana, the long-time chairman of the Senate Agriculture Committee, section 404 "simply retains the authority of the Secretary of the Army to issue permits for the disposal of dredged materials." This seemed quite acceptable since the Army Secretary is responsible for the maintenance of our navigable waters and the improvement of channels for commerce in our waterway systems.

When the Water Pollution Act was approved by Congress, the Corps of Engineers was regulating some 50,000 centerline miles of river and 50,000 miles of lake shoreline. Until the filing of a so-called "public interest," lawsuit, there was no suggestion that Congress wanted to change that situation. However, such a suit was filed against the Corps of Engineers which the corps and the Justice Department vigorously fought. The suit demanded that the Corps of Engineers be responsible for policing every Department of Agriculture conservation program activity by requiring that a corps permit be obtained in each instance.

As a result, the corps was forced to issue regulations providing that:

First. Corps of Engineers' responsibility is escalated to cover 3.5 million miles of river centerline and 4.7 million miles of lake shoreline. In terms of river miles that amounts to a 70 fold increase; in lake shore miles, a 90 fold increase.

Second. Congress, which never authorized funding or increases in corps manpower for such an expansion of regulatory authority must, presumably, now find an additional $5.3 million for an added 1,750 corps employees.

Third. Such an expansion of authority, never intended by Congress, and never requested by the Corps of Engineers, will require an estimated 60,000 more permits annually, based on USDA calculations of conservation program activity.

Fourth, It will take 6 months to a year to process each conservation program permit, meaning of course that the very pollution problems conservation programs are intended to abate will be aggravated by delays resulting from the bureaucratic red tape required.

The obvious burdens on smaller agricultural units caused by these proposed regulations produced a call for legislative action, and proposals were introduced in both houses of Congress to correct the misinterpretation the courts had put on the Water Pollution Control Act. The House of Representatives did act to correct the situation, but unfortunately, the Senate, by one vote, refused to follow suit. What the Senate did is accept what has been billed as a compromise, but which is actually the worst of all possible worlds. Under the "compromise" voted by the Senate, the Corps of Engineers has been relieved of authority over smaller streams, but the Environmental Protection Agency will be in charge. It is not immediately clear that that is an improvement. At this point we can only hope that the House position will prevail in conference.

At the outset of this statement, I cited the dependence of the American agriculture on energy. The issue has become crucial with the proposed divestiture legislation which would break up vertically integrated firms in the petroleum industry.

Farmers are convinced such legislation would be ruinous to their business—perhaps even catastrophic. It is obvious that the forced separation of functions in the petroleum industry which would be required by legislation reported by the

Judiciary Committee, could cause chaos in the oil business. It would certainly be likely to cause a disastrous upheaval in the present, relative stability of the farming business. In the first place, any separation of production, refining, transportation and marketing functions would inevitably lead to major supply and distribution problems. That would be a certainty over the short term. It would be likely to continue over the long term.

Farmers maintain an on-farm storage capacity of 32 million barrels of gasoline, diesel fuel, and kerosene. Even if this storage was full at planting time, many farmers would require added supplies, to get in the harvest.

Any divestiture-caused disruption to the availability of supplies would not only have an extremely adverse impact on the farm. It would severely upset the entire food and feed marketing system and the chain reaction would ultimately lead to skyrocketing Consumer Price Index. This, in turn would trigger sharply increased demands for higher wages and pensions.

I have heard no advocate of divestiture seriously argue that the proposed legislation would improve oil deliveries or secure them at lower prices. I have seen no evidence that such legislation could be enacted without disrupting the normal pattern of farm production and marketing.

Agriculture's energy consumption by 1980 is expected to be between 10 and 20 percent greater than it was in 1970. Every knowledgeable indication is that divestiture will interrupt growth in the petroleum industry, and that means farmers could not expect the larger fossil fuel supplies needed to meet their consumption requirements.

The seven largest oil companies today supply about one-third of all on-farm fuel sold in the United States. Farmer cooperatives supply a similar amount. The coops buy 85 percent of their crude oil and 30 percent of their refined needs from other oil companies which would be affected by divestiture. Thus, tampering with major petroleum companies and their supply lines would clearly work a hardship on the farm producers and their cooperatives.

A conservative estimate has been made that divestiture would so discourage capital expenditures and exploration risk investments in the oil industry that domestic production would decline by 2.5 to 4 million barrels a day. Based solely on today's consumption levels, agriculture's energy needs will require added imports in 1985 of $15 billion worth of foreign oil—if the price remained constant with today's levels.

Without such an additional investment in imported petroleum, energy supplies for America's farms will decline by 5 percent in less than a decade. Iowa State University researchers tell us a 5 percent energy reduction in agricultural production means a 13-percent increase in food costs. It is hard for me to believe, Mr. President, that the American consumer is so anxious to break up the vertical integration of the oil industry that he would willingly spend 13 percent more for the week's groceries.

But then, of course, the people who so readily advocate such programs of industry dislocation as divestiture probably never stopped to consider the effect on a specific industry, such as agriculture.

According to the National Council of Farmer Cooperatives, since onfarm fuel sales represent only 3 percent of the total domestic market, no rural market enjoys more than two to four major suppliers. Divestiture might very well persuade the "majors" to withdraw from rural markets where distribution costs reduce profit margins as compared with many urban outlets. This would greatly exacerbate the farmer's problem in maintaining a steady source of fuel supplies.

In yet another area, that of nuclear power development, there is a persistent campaign by activist environmentalists to retard or scuttle development. The National Rural Electric Cooperatives Association is particularly alarmed. NRECA, in the same critical search for less expensive and more efficient generating power that private utilities are conducting, is concerned lest the rising power consumption so vital to agriculture be frustrated and curtailed, NRECA, for so long the champion of getting the power to the farmsteads of America where private utilities hestitated to go, finds its own future capacity to meet agriculture's needs in serious jeopardy if the antinuclear power lobby prevails in its delaying and crippling tactics. Where then, Mr. President, will farmers turn?

Where, in fact, may farmers now look for assistance in supporting the lifelines of agriculture? Who is there to help counter the blindly obstructionist, cause-bent, activist-dominated campaign to stop progress in the name of protecting the environment?

It is quite obvious that a proliferating number of activists in the public interest arena have determined that political issues should be made legal issues and that our judicial establishment is a most convenient and obliging substitute for the traditional legislative and executive arms of our system of government. This is the process that Paul H. Weaver, editor of Fortune, has characterized as "adversary government."

In a speech before the board of directors of the National Association of Manufacturers last February, Mr. Leonard Theberge, president of the National Legal Center for the Public Interest, diagnosed the problem confronting both agriculture and industry and, I would add, the real public interest of the people of the United States.

He noted that traditional political disputes are now being treated as legal issues, that the normal processes for effecting policy, the legislative and executive branches of government, are being bypassed, and that the judiciary has become the convenient and obliging tool for frustrating both public policies and private initiatives which, together, spell progress.

He said that in the past decade the number of groups and organizations working on our system through the courts has exploded. An estimated 500 attorneys are now engaged in public interest activism.

Such efforts are supported by private foundations, wealthy individuals, corporations, some well-meaning citizens, and even taxpayer dollars. Total funding in this area amounts to more than $25,000,000 each year to litigate against the development of our natural resources and for restricting economic growth.

For some time neither business nor agriculture knew just how to respond to the challenge. Now, thanks to men such as Mr. Theberge, an alternative to the challenge has been found.

That alternative is, in fact, provided by the very organization Mr. Theberge heads—the National Legal Center for the Public Interest and its affiliated regional foundations of truly responsible public interest lawyers.

Though NLCPI considers itself as playing the role of providing "last resort" assistance, certainly it may help counter some of the ills that presently plaque our farmers.

The National Legal Center for the Public Interest had its genesis, in a sense, in a memorandum to the U.S. Chamber of Commerce in 1971. The memo was written by attorney Lewis F. Powell, Jr., prior to his being named to the Supreme Court of the United States. He advised the chamber:

> Under our Constitutional System, especially with an activist-minded Supreme Court, the Judiciary may be the most important instrument for social, economic and political change. Other organizations and groups, recognizing this, have been far more astute in exploiting judicial action than American business. Perhaps the most active exploiters of the system have been groups ranging in political orientation from liberal to the far left. Their success, often at business' expense, has not been inconsequential.

The California Chamber of Commerce heeded the warning and named a task force to study creation of an organization to combat extremists in the courtroom. Out of this emerged, in 1973, the Pacific Legal Foundation, the first public interest law firm in the Nation to advocate a balanced view of the environment and government action. Of particular interest to U.S. agriculture is the fact that one of PLF's most noteworthy initial successes was in arguing for the use of DDT to combat the tussock moth in the timber-producing stands of the Pacific Northwest.

PLF, as a result of this and other victories, convinced many clearheaded Americans that public interest action on the side of reason and responsibility should be undertaken more extensively across the Nation. In April 1975, the NLCPI was established in Washington, D.C., to expand the effectiveness of responsible public interest law.

NLCPI is a nonpartisan, privately funded and not-for-profit corporation. It seeks to represent traditional American values as opposed to collectivism, favoring the individual and supporting limited constitutional government, private property, the competitive free enterprise system and the protection of individual freedoms with responsibility. I might add that it is especially reassuring to me, as it should be to the other Members of this Senate, to have someone in the field of public interest law stress the importance, constantly, of the terms "responsible" and "responsibility." Many of the most active public interest groups seem to have dropped these terms from their lexicon.

NLCPI has been instrumental in setting up the Mid-America Legal Foundation in Chicago, the Southeastern Legal Foundation in Atlanta, and is now organizing the Great Plains Legal Foundation in Kansas City under the direction of Mr. Arch Booth, retired president of the U.S. Chamber of Commerce.

Next year, plans call for additional litigation foundations in the Rocky Mountain, Middle Atlantic and Northeastern regions of the Nation. Such a network would then provide every State and community with access to a sound, sane, responsible and effective public interest law group. Such a group may then counter the cacophony of extremists in legal activist circles whose efforts are designed to vitiate our vitally important growth in the private sector and to defeat efforts both by government and private industry to achieve a reasonable degree on energy independence.

NLCPI is as dedicated as any of us to the intelligent protection and utilization of our national environment and natural resources. But unlike many in the public interest arena, it wants to maintain an equilibrium between resource development, agricultural and industrial growth and consumer demand. In the manner of blind justice balancing the scales, NLCPI, offers Americans a reasonable and effective alternative to extremism and potential disaster.

Farmers and ranchers, so long harassed, threatened and demoralized by efforts among extremists and regulatory bureaucrats which might cripple their unparalleled ability to feed us, may now take hope.

AMERICAN JOURNALISM AND MAO'S DEATH

Mr. GOLDWATER. Mr. President, with the death of Mao, we have seen an example of American journalism at one of its darkest hours, at least in the opinion-building centers of the east coast. The press in its major news articles related to the death of Mao has thus far failed completely in its task of informing the public. It has spread a mantle of darkness across the news in one of the most blatant efforts of historical revisionism I have ever come across.

To give just one example will prove my point. How any member of the press could fail to condemn Mao's censorship of the press itself and fail to defend the writer's own institution is beyond me. And yet, in not one of several long articles following the death of Mao did I see a specific reference to the lack of freedom of speech and the press in Mao's China.

Mr. President, I cannot be strong enough in expressing my disappointment with the way major American newspapers have presented the death of Mao to the American people. The utterances of the press in this case have been totally removed from fact. Their glorification of Mao has run to massive extremes.

Mr. President, one prominent article in the Washington Post of September 12 informs the American public that Mao restored the "dignity" of the Chinese. The same article asserts, under the heading, "A Moral Community," that Mao possessed "well-known concerns with education, with culture, with creating a moral community."

Now, this is turning truth on its head as much as it can be. The answer of how Mao can be credited with seeking a moral society and with commanding a "moral force" is in the never-never land of some writer's mind and certainly does not exist in reality.

How can the utter lack of respect for human life by the Mao regime be called moral? How can the execution of millions upon millions of innocents be called moral? How can the cruel suppression of all religion be called moral?

Mao is the man who obliterated religion across the most heavily populated area of the world. Imagine the immensity of this deed. In a land of some 800 million persons, Mao has for all practical purposes accomplished the complete wiping out of all Christianity, of all Buddhism, of all Taoism, indeed of all open profession of faith in a Divine and good Supreme Being.

Oh, some temples are kept in operation—for secular meeting places. Yes, there is one active Catholic Church in Communist China, with one weekly service. In fact, it is usually attended by as many as 30 persons—mostly foreigners. This means that a church which in 1949 had 3.2 million active believers has now been reduced to some 30 worshippers—most of them non-Chinese.

The truth is that Mao has created a giant swath across a quarter of the population of the globe where devotion to God is punishable as a crime—where priests and clergy have been brutally tortured and exterminated—where symbols of goodness are banned and the mere possession of a cross may give cause for criminal punishment or for being treated as insane. And yet, in the American press, Mao is hailed for his efforts to create a "moral community."

Mr. President, the evil of Chairman Mao is virtually unparalleled in scope in the entire history of mankind. Perhaps, Adolph Hitler and Joseph Stalin may be considered in the same terms, but one would be hard put to think of other figures of the 20th century who visited such terror, human suffering and tragedy upon enormous numbers of human beings.

But where in the press is the voice of sanity? Where can we find the voice of God in the writings of the Mao apologists?

Turning to another of Mao's alleged accomplishments, that of education, let us examine what kind of education we are talking about. For we are most certainly not talking about education as we know it, a process for helping youth to think critically and independently. It is not an education where children are taught to seek knowledge for the sake of knowledge. It is not an education where persons are educated to develop their own God-granted abilities to the fullest potential.

No, under Maoism, one is educated to believe that individual freedom is a selfish indulgence. One is taught to submit his will to the dictates of the party rulers. A Maoist education is one in which the entire educational process from infancy to death is politicized.

Indoctrination is the hallmark of education as Mao imposed it. Political reliability is the criteria for advancement, not personal skills. Obedience at every step of the way and conformity to the arbitrary and changing directions of Communist party rulers are the route to advancement, not one's intellect or true abilities. One must have a very distorted definition of education, indeed, to claim that Mao's ambition was to produce a better educated youth.

Next, let us look at the claim that Mao brought "dignity" to the Chinese people. The only kind of dignity that Mao brought to the Chinese is that of the grave. The number of persons murdered by the Communist Chinese under Mao is on the order of 50 to 60 million human beings.

Graves have been plowed up in the Maoist attack on the veneration of ancestors. Members of families are taught to denounce each other for lack of complete acceptance of the party line. Truck loads of individuals, who have dared to display a spark of self-independence, have been herded like animals to public execution grounds where large crowds have been mobilized to applaud their slaughter. Upwards of 30 million innocent Chinese are being arbitrarily imprisoned today as political prisoners in so-called "Reform Through Labor" and "Education Through Labor Camps," both of which are nothing short of being slave labor institutions.

Such is the substance of the "dignity" which Mao has given the Chinese!

But wait. The accomplishments of Mao are virtually unlimited, according to the press. We are told in the Washington Star of September 9 that Mao "provided the spark that lifted almost a quarter of the world's people from the stagnant, weak and divided wreckage of imperial greatness to vital, strong and united international power."

Now here is a collosal example of rewriting history if there ever was one. Imagine Mao being attributed as leading the Chinese from centuries of imperial dominance. I had always thought that it was the 1911 revolts which brought an end to the imperial system and the collapse of rule by the Manchus. Have today's journalists never heard of Sun Yat-sen, the great intellectual and activist leader of the real Chinese revolution?

It was Dr. Sun's revolution that succeeded in 1911, not Mao's. And it was Chiang Kai-shek who extended Dr. Sun's revolution, not Mao. For it was President Chiang who assumed leadership after the death of Dr. Sun and who achieved the political unification of China.

It is Mao who betrayed the true Chinese revolution. It is Mao who interferred with the courageous Chinese defense against the Japanese invaders and who brought a tragic civil war upon the Chinese people.

What a cruel joke on history to acclaim Mao for the achievements of Dr. Sun and Chiang Kai-shek, achievements which were undermined by Mao. It was always Dr. Sun's deep faith that the entire modern world would benefit by the rejuvenation of China, but Mao sidetracked this goal by imposing an oppressive tyranny over the Chinese living on the Mainland.

Mr. President, the list could go on and on, but I will not go into any further details of the terrible distortions of truth which have appeared in news reports following the death of Mao. I can only regret that there appears to be a disease in the press, a sickness in which truth is reversed 180 degrees whenever Communist China is concerned. I just hope that the writers who have thus far failed to put an accurate, historical perspective into their stories on China will correct their error before the press loses credibility in the eyes of the American people.

PHI SIGMA DELTA DANCERS AGAINST CANCER MARATHON

Mr. BAYH. Mr. President, the Phi Sigma Delta fraternity of the University of Maryland will sponsor their seventh annual dance marathon this fall. Proceeds of this year's event will go to the American Cancer Society. The dedicated members of this fraternity donated the $108,000 raised during the last three marathons to the society. Their efforts have contributed to the fight against cancer, a disease which strikes one out of every four Americans and kills more than 350,000 citizens each year. As an individual who is intimately familiar with the ravages of cancer, I wholeheartedly congratulate Phi Sigma Delta for assisting in the fight to end this dreaded disease.

The fraternity has also contributed to efforts to conquer muscular dystrophy. The $93,000 raised during the first three dance marathons went to the Muscular Dystrophy Association of America. The 325 chapters and 96 clinics of this organization help many of the 200,000 people who are afflicted by muscular dystrophy. Two-thirds of these individuals are between 3 and 13 years of age. The organization also sponsors $2 million worth of research every year. Phi Sigma Delta's efforts on behalf of the Muscular Dystrophy Association should be commended.

I am pleased to applaud the Phi Sigma Delta Andrew Estroff Dancers Against Cancer Marathon. I hope my colleagues will join me in hoping for the success of this effort.

LIFE ON MARS

Mr. GOLDWATER. Mr. President, one of the most exciting events that has ever occurred in the history of man was when *Viking 1* landed on Mars. I do not believe it is possible for the average American to even comprehend the almost impossible problems that faced this venture. Imagine trying to place a manmade device from Earth some place on Mars and landing it with a pressure of only a few ounces on its landing pedestal. Imagine the ability to make the electronic devices work after so long in space in reaching the target. These are truly remarkable tributes to our scientists and to those who actually engaged in the construction of the Viking and its concept. We hope that sometime around 1980 a third Viking can be launched to do further exploration on Mars. There is ample evidence that water has been on this planet and may be there yet, and what we need to do is provide more experiments so that we can make better decisions. I believe the whole subject of space is now beginning to enthrall the American people, and I believe that the moneys that we have invested in space will come back many, many times to help the Americans who so gladly financed these hazardous, seemingly almost impossible ventures. I ask unanimous consent that an editorial from the New York Times of Tuesday, August 31, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 31, 1976]

Life on Mars

When Viking 1 was sent on its long journey to look for life on Mars, there were few who took this goal seriously. Indeed, many viewed the exploit as a waste of the billion dollars the project required.

Even late last month, after the Viking 1 lander had arrived on Mars and begun its planned explorations, it was easy to get estimates among scientists working on Viking that the odds against finding life on Mars were at least 1 million to one.

Now, all has changed. Sensible people have stopped quoting long odds against finding life on Mars. Viking Project scientists are actually urging the public to understand that there is yet no proof that life has been found on Mars, while they themselves cannot entirely resist the temptation to wonder whether the impossible has not happened, whether the very first effort to detect life on Mars has not been incredibly successful.

The reason for this remarkable reversal is that the instruments in the Viking lander's ingenious, compact laboratories have sent back the most improbable news. The biologists now concede that Martian soil is unexpectedly "active." They stress, however, that the chemical tests sent to Mars to detect life could, under some circumstances, be fooled by non-biological factors. Moreover, the data obtained up to now are in part seemingly contradictory.

The fascinating mysteries posed by the first results of Viking's biochemical experiments for the moment remain just that. All that is now clear is an appreciable possibility that Martian life has been discovered, even if perhaps not life as inhabitants of Earth understand it.

Viking 1 will undoubtedly produce additional valuable results, but Viking 2 is already circling Mars and this week will send down its lander. The issue is no longer a blind search for possible life of Mars, but rather checking whether life has actually been found there, and the area where that may have happened is well known.

The need now is for a program to follow up the challenge of a historic triumph. The Viking rover, a mobile machine that might cover many miles and make many tests, is the logical next step in the exploration of Mars. Scientists used to call exobiology—the study of non-Earth life—a science in search of a subject. Now, there is a real possibility—though still no certainty—that exobiology may have found its first subject.

THE GENOCIDE CONVENTION AND "MENTAL HARM"

Mr. PROXMIRE. Mr. President, article II of the Genocide Convention, which lists those acts constituting genocide, states that the crime of genocide shall include acts "causing seriously bodily or mental harm" to members of a group, with the intent to destroy, in whole or in part, a national ethnical, racial or religious group.

One objection often raised by opponents of the convention is the alleged vagueness of the term "mental harm." In order to allay any misconceptions about the meaning of these words, the Committee on Foreign Relations has recommended to the Senate the understanding to this article:

> That the U.S. Government understands and construes the words "mental harm" appearing in article II(b) to mean permanent impairment of mental facilities.

The implementing legislation recently introduced by the Senator from Pennsylvania (Mr. Hugh Scott) further defines "mental harm" as:

> The permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members.

There can no longer be any doubt as to the meaning of the term "mental harm." One need only recall the atrocities of Nazi Germany to find deplorable examples of mental torture. We must act now to prevent a recurrence of these crimes against humanity. I urge swift approval of the Genocide Convention.

A BRUTAL ACT

Mr. THURMOND. Mr. President, our Nation recently experienced a tragic shock when two U.S. Army officers, while supervising a tree-pruning task, were brutally murdered in an unprovoked attack by North Koreans in the demilitarized zone.

This blatant and inhumane act was another of many grim reminders since 1953 that the Korean war has not really ended. The reckless and premeditated barbaric actions by North Korea are designed in their irrational minds to sustain tensions and embarrass the United States to force our withdrawal. In reality, such actions reinforce our resolve to resist their aggressions.

Americans everywhere were not only united in their condemnation of this cowardly attack, they shared the grief of the families, friends, and relatives of Lt. Mark T. Barrett of Columbia, S.C., and Maj. Arthur G. Bonifas of Newburgh, N.Y. The U.S. Army and the Defense Department made an all-out effort to bring these dedicated officers home with honor and dignity to help ease the burden and despair of their loved ones.

Mr. President, I had the honor of meeting Mrs. Mark T. Barrett at the funeral of her fine husband. She is a brave and courageous lady. Her recent letter to the Honorable Martin R. Hoffmann, Secretary of the Army, reflects her strong character and a dedicated spirit equal to her husband's.

During a period of unbearable bereavement, Mrs. Barrett took the time on August 26, 1976, to write Secretary Hoffmann to express her sincere appreciation for the way the Army brought Lieutenant Barrett home with "honor and dignity." Her spirit and her letter, which Secretary Hoffmann provided to me, impressed me very much. Mrs. Barrett did not object to my sharing her thoughts with my distinguished colleagues and others whose hearts went out to her and Mrs. Bonifas.

Mr. President, I ask unanimous consent that the letter from Mrs. Mark T. Barrett to Secretary Martin Hoffmann, dated August 26, 1976, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 26, 1976.

Martin R. Hoffmann,
Secretary of the Army,
Pentagon, Washington, D.C.

Dear Mr. Hoffmann: I would like to express my deepest appreciation to the Department of the Army for its assistance to me during this time of tragedy. My heart aches to think that my Mark, a kind and gentle man, died on foreign soil in such an inhuman manner.

Nothing can bring him back to me. Nothing can ease my pain. Nothing can quell my sobs. I cannot understand the "why" of it all, and I doubt that I ever will. But the support and aid that I have received from Captain John Usher, Major General Richard Prillaman, and so many others from the Fort Jackson community have lessened the burden of the necessary business matters. I am grateful to the Army for bringing Mark home to me with dignity and honor, and I know that he too would thank you for helping me through this sad and difficult time. Truly, it can be said that the Army "takes care of its own."

Mark's murder and the murder of Major Bonifas are beyond my comprehension. I feel only the grief and despair of my own personal loss. But I know that the confidence and pride that Mark had in the United States was not unfounded. Mark loved his country deeply. He joined the Army out of a sense of duty and responsibility to me and to all Americans. I do not understand the United States' involvement in Korea. But Mark did. He was proud to serve with the United Nations Command; and I was proud of him.

I hope with all my heart that this conflict which is not called a "war," but which kills like "war" will be resolved before another husband or son or brother returns to us in a flag draped coffin. I pray that my husband's cruel death was not in vain, and that it will serve as a catalyst to an honorable resolution to what I understand is a difficult political situation. May God guide those to bear the responsibility for making meaningful decisions so that a senseless tragedy like this will never happen again.

Again, thank you for your kindness.

Sincerely,

Mrs. Mark T. Barrett.

AN EXTRAORDINARY PUBLIC SERVICE BY SENATOR MOSS AND STAFF

Mr. CHURCH. Mr. President, I wish to commend two members of the Capitol Police Force who performed outstanding service while assigned temporarily to the Senate Special Committee on Aging within recent months.

Their assignment was to work with temporary investigators and other staff of the Senate Committee on Aging in a recent investigation and hearings related to medicaid fraud and abuse in New York and in three other States. Their specific responsibility was undercover work as "shoppers" at medicaid mills in New York City and in cities in three other States.

Their findings were so startling that Senator Frank Moss, chairman of the Subcommittee on Long-Term Care of the Committee on Aging, decided to see for himself. After visits to three medicaid mills in New York City, he confirmed that the practices described by the investigators were alarming, costly, and intolerable.

As chairman of the Committee on Aging, I take a great deal of pride in the achievements which earned such widespread attention at hearings on August 30 and 31.

The two Capitol Hill policemen who participated in the investigation are Privates James A. Roberts, Jr., and Darrell R. McDew. At this point I would like to give my personal thanks to Police Chief James C. Powell and Senate Sergeant-at-Arms F. Nordy Hoffmann for making it possible to assign the two officers for this work. Privates Roberts and McDew visited more clinics than anyone else in the investigation, gave more blood for "tests," and bore up doggedly despite the wide number of illnesses diagnosed for them. I might add that they had received a complete physical and were pronounced physically fit before the shopping began.

Mr. President, the investigation in which the two police officers participated was significant not only for the specific wrongdoings they uncovered, but also for its ramifications as to the entire operations of medicaid. In an editorial, the New York Times called the investigation—and in particular, Senator Moss' personal role in it—"an extraordinary public service." I agree with that estimate. I also ask that the Times editorial, along with several other commendatory editorials from other newspapers, be printed at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 31, 1976]

Medicaid Scandals—The New York Story

Rumors and suspicions about abuses of Medicaid funds have been rampant for so long that the public, expecting the worst, may not react with adequate anger and disgust to disclosures by the Senate Subcommittee on Long-Term Care. Without the outrage these findings so clearly call for, there is small hope that the revelations will be quickly followed, not only by essential reforms but by criminal prosecution of those who have enriched themselves at the expense of the taxpayers and of the poor for whom the funds are intended.

High on the agenda of any prosecution of Medicaid profiteers ought to be the recovery of the stolen money and its return to the local, state and Federal treasuries. At the same time, every effort must be made to prevent Medicaid abuses from generating popular and political opposition to the sound and necessary concept of Medicaid—the vital Federal-state program that provides medical aid payments to the aged, blind and disabled.

Senator Frank E. Moss, Democrat of Utah, as the subcommittee's chairman, and other members of his staff performed an extraordinary public service by personally posing as indigent patients as they sought to uncover widespread Medicaid irregularities. What they found is a catalogue of flagrant breaches of the law and medical ethics. The compendium of thievery, which resembles more nearly the kind of revelations ordinarily associated with the Mafia than with members of a respected profession, includes the following carefully documented charges:

Individual physicians collected huge Medicaid payments, as illustrated by a list in New York State that cites more than 100 physicians whose Medicaid payments last year ranged from $100,000 to nearly $800,000.

Medicaid "mills" are flourishing in poverty areas, designed to defraud rather than serve the poor, while fly-by-night operators share the profits with greedy doctors.

Unnecessary diagnostic tests and X-rays are being routinely administered for only one discernible purpose—to enrich the laboratories, cooperating physicians and pharmacists, the latter in payment for unnecessary and therefore possibly harmful prescriptions.

A high incidence of false diagnoses arising from these practices poses a ready threat of physical damage to unsuspecting patients. Senator Moss himself displayed evidence in the form of bruises he suffered in the course of batteries of blood tests.

Although New York figured prominently in the Senate investigation of Medicaid abuses, the study, which also dealt with operations in Newark, Passaic and Paterson, N.J., Chicago, Detroit, Los Angeles and Oakland, leaves no room for doubt that the scandal is nationwide. The New York experience nevertheless provides, against the background of the state's and the city's strained finances, a particularly poignant insight into the nature and the impact of these crimes.

At issue is not the sort of rip-off that might be explained away as growing pains of a relatively new program. By conservative estimate, a one-year $300 million loss in public funds has been identified by New York State authorities, much of it concentrated in New York City. The misappropriation of that much money has thus contributed directly to the city's and the state's fiscal plight, which in turn led to the firing of thousands of municipal employees.

By calling in more than 1,000 of the city's physicians to discuss questionable billings and referrals, the State Department of Social Services has hinted at the start of a massive clean-up. Here and elsewhere, the Moss committee's disclosures ought to be followed up quickly with a variety of essential actions. These include legislation to tighten the administration of Medicaid and eliminate loopholes which made it too easy to exploit a highly desirable social program; effective auditing at all levels; prosecution of those who have illegally enriched themselves or are otherwise guilty of unlawful medical practices; and efforts to recover the misappropriated funds.

Organized medicine has a special responsibility to give support to administrative and legal actions against unscrupulous practitioners. Spokesmen for medical associations are technically correct in pointing out that existing laws stand in the way of more effective self-policing by the professions; but whatever obstacles prevent the direct imposition of sanctions against unethical physicians ought not to deter the medical profession from cooperating to the fullest in governmental and judicial efforts to rid its ranks of practitioners who, by their disregard of law and ethics, have forfeited the protection and respect of their peers.

[From the Miami Herald, Aug. 31, 1976]

Medicaid Becomes a Racket and Billion-Dollar Ripoff

Members of a U.S. Senate panel working to draft reforms of the Medicaid program have their work cut out for them.

Medicaid could have been the model for a workable system of national health care, something that has steadily gained support as medical costs have soared beyond the means of average working folk. But in just 10 years, the program has been racked by massive fraud.

Investigators for the Senate subcommittee reported after a four-month study that as much as one-half of the program's $15 billion annual cost is wasted through fraud and mismanagement.

Fueled by greed for easy government money, a whole new industry grew up around Medicaid, the investigators found. Doctors, dentists, optometrists and chiropractors made working partnership with real estate and land interests and created money-mill clinics.

Perfectly healthy federal undercover agents who visited hundreds of these clinics were run through what they called "ping pong" testing, being bounced from one office to another, as the bills mounted. Despite their complaints about suffering only minor colds, the "patients" wound up being given—and billed for—electrocardiograms, hearing tests, blood examinations and TB exams. They got "bushels" of costly pills.

Sen. Frank Moss of Utah, who chairs the subcommittee, went undercover to see the problem for himself. In addition to getting the unneeded exams and prescriptions, Sen. Moss wound up with bruises all over his arms from inept blood testing. He called the situation "maddening."

Obviously, the findings are a chilling indictment of the lack of decency among a segment of the business and medical communities. Criminal action has already been taken against thieves in the profession and it should be continued.

There is an even greater danger to the public good in the negative image the frauds have created. They've done enormous harm to the hope that a government-run program of health delivery services could bring aid to the poor and elderly at reasonable cost.

What is "maddening" to Sen. Moss, and ah outrage to us, is that the program is being sabotaged not by bureaucratic fumbling but by deliberate lying, cheating and stealing. In their report, investigators cited "kickbacks, finders fees" and other ripoffs as the major source of losses, even greater than ineptitude.

Columnist James Kilpatrick recently demanded to know why the American Medical Association isn't outraged and doing something to police its members. It's a question worth repeating.

If the Moss panel's report isn't enough to get the AMA outraged enough to take action, we can't imagine what it will take.

[From the Santa Barbara News-Press, Aug. 31, 1976]

Medicaid Ripoffs Exposed

The reports of blatant fraud in the nation's medicaid program in five states including California, where it is called medi-Cal, are shocking and disgraceful. The report by a U.S. Senate team headed by Sen. Frank Moss (D-Utah) would be even more shocking had not teams of investigative reporters for the press and television already conducted investigations that pointed to the same abuses.

During eight months Sen. Moss and his investigators visited more than 200 welfare clinics. They posed as patients and, in most cases, told the doctors that they "had a cold." Their experiences were so ludicrous that they evoke a bitter chuckle. One of the undercover agents, a woman who complained of the customary cold, received a three-minute inspection from a physician and was billed for $46. Another woman went to a clinic in Los Angeles, bearing a mixture of soap and cleaning powder, which she said was a sample of her urine. The clinic, after purportedly testing it, told her that it was "normal." Sen. Moss, posing as a skid row medicaid patient with a cold, was given a battery of tests and referred to several specialists.

All told, the investigators made more than 200 visits to doctors, most of whom were operating in conjunction with what is known as "medicaid mills." They took their "colds" and sore throats to 85 practitioners and were given 100 x rays and, in their own words, "bushels of prescriptions." All of the investigators, of course, had received a clean bill of health from honest doctors before they went fishing in the polluted waters of the medicaid mills. The investigators concluded that rampant fraud and abuse exist among the physicians, dentists, chiropractors, pharmacists and other health-care professionals who participate in the medicaid program. The investigation was conducted in Chicago, Detroit, New York, Los Angeles, Oakland and three cities in New Jersey.

Despite complaining of minor ailments such as the colds, the investigators were given almost every test in the book. They were tested for glaucoma, tuberculosis, poor hearing and brain disease. They received 18 electrocardiograms and came away with seven pairs of eye glasses. Of all the doctors that they saw, only one told one "patient" that there was nothing the matter with him.

The five populous states were chosen because doctors and clinics in those states receive half or more of the $15 billion a year that the nation spends for medicaid and medi-Cal, which is the federal-state program that provides health care to low-income families and individuals. The investigating committee estimated that medicaid mills, which are often shabby store-front clinics in low-income districts, are receiving 75 percent of the $3 billion paid by medicaid yearly to dentists, doctors, pharmacies and laboratories.

In fairness to doctors and health-care personnel in general, it should be stressed that the investigations were conducted in metropolitan areas. Even so, all doctors and professional health-care workers should be concerned about this cancerous sore on their professional escutcheon.

The trouble with medi-Cal and medicaid as we see it is that both state and federal governments have been running a loose ship, tolerating abuses that should not be too hard to curb. In New York City alone, the Moss committee estimated that taxpayers are being ripped off to the tune of $300 million by medicaid fraud.

Sen. Moss and his team deserve credit for this official investigation. Our only fear is that, scandalous as it is, the bureaucrats and the medicaid mills will weather the storm and still be doing business at the same old stand or one around the corner.

[From the San Francisco Chronicle, Aug. 31, 1976]

Medicaid Frauds

The medicaid program has been found by investigative patients from Senator Frank E. Moss's Special Committee on Aging to be a good deal sicker than anticipated. A quick diagnosis based on the scabrous sort of evidence they exposed would designate the ailment as a desperately wasting and debilitating one. On a less medical level "ripoff" would aptly sum up the situation.

That investigators from the Utah Democrat's committee were able to find some fraud in the program was no surprise. It was the extent of the mismanagement, waste and fraud—all those needless, badly-executed tests, that continual flouting of medical ethics—that had a numbing effect. The storefront clinics, known as "Medicaid mills," where most of the fraud occurs, receive 75 per cent of the $3 billion paid by Medicaid each year.

New York City's fiscal crisis was attributed, in part at least, to the sapping effect of such malfeasance. New York State, which accounts for one of every four Medicaid dollars, loses $444 million in Medicaid fraud each year—with $300 million of that drained out of New York City. Had the city taken prudent steps against abuse, as suggested over the last 10 years, the committee said New York's economic plunge might have been avoided.

The waste in prescribing questionable tests—electrocardiograms for a suspected cold, or urine readings that don't discriminate between soapsuds and the real thing—is appalling, both in dollars down the drain, as well as general prostitution of the aesculapian code. But what is truly shocking is the damage to health and risk of life that are concomitants of the monetary fraud.

For along with all the rapacious money-grubbing, the investigators said they saw "patients with very real and obvious medical problems that were going untreated." That is an unconscionable situation and the Moss committee has provided a valuable service in bringing it to our attention.

[From the Salt Lake City Tribune, Sept. 2, 1976]

Medicaid Abuses Challenge Health Care Professions

In 1955 President Johnson told Congress that, "We can—and we must—strive now to assure the availability of and accessibility to the best health care for all Americans, regardless of age or geography or economic status."

Congress responded by creating a Medicaid program for the needy and Medicare to aid the aged.

Some 10 years later, according to Utah's Sen. Frank E. Moss, Medicaid is so riddled by fraud and overutilization that 25 percent of its $15 billion budget is wasted.

Instead of providing needed health care the Medicaid money is enriching unscrupulous doctors, pharmacists, chiropractors and real estate operators. Worse still, says Sen. Moss, the federal government's attempt to end the abuses has been "singularly unimpressive."

Fraud in Medicare has not been documented as thoroughly but there is every reason to believe that waste and overutilization are rampant in that program, too.

Sen. Moss and staff members of his subcommittee of the Senate Committee on Aging, visited clinics in several states disguised as Medicaid beneficiaries. The subcommittee's findings reflect the sordid conditions they found which siphon off billions of dollars of health care funds each year.

Medicaid abuses spring from several sources. One is pure greed and dishonesty of the practitioners involved. Another is the nature of medical care itself which conditions a patient to meekly do what the doctor says. Enormous size of the Medicaid program, with the mountains of paperwork involved, makes strict policing almost impossible.

All of these are contributing factors. But the basic trouble with Medicaid—and we hate to say it—is that the responsibility for providing treatment is left to profit-motivated individuals and businesses. Medicaid is being stolen blind because its services are dispensed by private doctors and pharmacists instead of salaried, government employed doctors and pharmacists.

Sen. Moss is sponsoring legislation to create a central fraud and abuse unit in the Department of Health, Education and Welfare and an office of inspector general to coordinate anti-abuse efforts. The approach emphasizes treating the symptoms rather than the underlying causes.

A peer review system, pioneered in Utah and passed into law at the urging of former Utah Sen. Wallace F. Bennett, has trimmed costs and eliminated much unnecessary service in Utah. But its implementation nationally has been hampered by legal challenges and less than avid support by the health care professions in some parts of the country.

A federally-funded and administered system of health care for the needy patterned, for example, on the Veterans Administration, might produce only average quality treatment. But it would have the advantage of permitting the people, who actually put up the money, to also have firmer control over how it is spent.

Unless the health care professions can come up with a workable plan for controlling their shady and greedy practitioners, a system of government operation is inevitable. The Moss findings vividly document the challenge facing the professions.

[From the Lewiston Morning Tribune, Wednesday, Sept. 1, 1976]

The Medicaid Mills

The Medicaid mills uncovered by the Senate Committee on Aging are unconscionable on two counts: The phony treatments ordered by the clinics bilk the taxpayers. And they drive up the price of a program that is already costing the patients far more out-of-pocket cost than they can afford.

Clinic operators who become wealthy at the expense of the indigent aged are on the same moral plane with cancer quacks. It is time for the Department of Health, Education & Welfare to clean up its act. The department, which is supposed to police abuses of the medical care system, has a crime wave on its hands.

HEW Secretary David Mathews was quoted by White House Press Secretary Ron Nessen as having charged Aging Subcommittee Chairman Frank Moss of Utah with "grandstanding." Nessen said Mathews contends he is "well ahead of Moss in identifying the problem and solving it."

In what way? Where are the HEW reports to the public on these abuses? What are the solutions Mathews has in mind, and when will they be instituted?

With Mathews and HEW dodging their responsibility, it is fortunate that someone is grandstanding on the issue. Because of Moss, the other committee members and the remedial legislation they propose, the problem has been identified and some of the solutions are on the way, no thanks to HEW.

Mr. CHURCH. My commendation is directed at Privates McDew and Roberts, but I think that a few additional words are in order as to the contributions made by Senator Moss, temporary investigators and other staff of the Committee on Aging, and volunteers and internes who took part in the total effort.

The Senator from Utah, as I indicated earlier, decided to go to New York City because earlier visits by investigators had yielded reports so startling that Ted Moss had to see for himself.

Working with law enforcement authorities, Senator Moss obtained a medicaid card, put on the oldest clothing he could find, and entered two "health centers" and complained of a rather mild health problem. In each case he was "ping-ponged," or directed to one specialist after another for treatment he did not need, having been pronounced in fine physical shape just a few days before. Then, after all the examining, he was given prescriptions he did not need. All of this normally would be charged to the taxpayer. All of this took place in a city where large numbers of older persons who really need prescriptions have to do without them because medicare does not cover them and medicaid is too cumbersome or foreboding to attract them.

Senator Moss also visited a third "mill," catering to the addict community, so atrocious and unsavory that his unseen escorts on the streets outside were concerned about his safety.

The Senator's visit was dramatic, but he has stressed that it was just one event in a long and arduous effort involving many others:

Mr. Val Halamandaris, Associate Counsel of this committee, who organized the entire investigation and who made personal visits in New York City to several clinics and who maintained close working relationships with agencies and law enforcement officials in the four States—New York, California, Michigan, and New Jersey—which were visited.

Committee Investigator William Halamandaris, who bore a heavy responsibility for field operations during the "shopping" and other investigatory activities. He was assisted in this work by temporary investigator David L. Holton, who also spent many hours backing up shoppers and in related activities. They received considerable support from the home office by temporary committee staff member Thomas G. Cline.

Patricia G. Oriol, chief clerk of the Senate Committee on Aging, volunteered at the outset to become a "shopper" when it became known that all prior "shopping" conducted by medicaid regulatory agencies failed to include women among the shoppers. It was felt by Mr. Halamandaris that she could make a special contribution, and she did, visiting "mills" in all four States.

Catherine Hawes, temporary committee investigator enlisted for "shopping" about mid-way in the investigation and performed valuable service.

Volunteers Suzanne Kaufman, Debbie Galant, Edward U. Murphy and summer internes Arcola Perry and Stephanie Fidel worked around the clock at the home office on occasion to examine records and perform other tasks which made interpretation of field work findings feasible.

Here was a relatively small group of persons, including a few seasoned Senate employees and several persons very new to Capitol Hill. They improvised, performed drudge labor when it was required, and kept their poise when difficult situations arose.

In doing so, they made the point—more dramatically than it has ever been made before—that medicaid fraud, abuse, and decadence is so widespread and costly that it can no longer be tolerated. Senator Percy, ranking member of Senator Moss's Subcommittee on Long-Term Care, made that important point more than once during the hearings; and I heartily agree with him.

Mr. President, I will not go into great detail on the scope and findings of the investigation here. A fine staff report called "Fraud and Abuse Among Practitioners Participating in the Medicaid Program," was issued in conjunction with the hearings; and it gives full information.

I will, however, say that the shopping investigation was merely one element, an important one to be sure, in far more extensive effort which resulted in the report's findings. Among the other elements were: Examination of more than 100 reports about fraud or waste in medicaid, review of the records of law enforcement authorities in New York and Michigan, manual evaluation of computer records compiled from payment records of the New York City Department of Social Services, interviews and written interrogatories to dozens of public officials in New York and interviews with more than 60 physicians in the same city; conversations with would-be sellers of a health care facility, and monitoring of the operation of a storefront medical clinic established last December by Chicago's Better Government Association.

All of this effort is interwoven with long-standing and ongoing projects by the Subcommittee on Long-Term Care, including hearings and reports on nursing home problems and achievements, development of so-called alternatives to institutional care, and the overall objective: development of effective and efficient community-based "spectrums of care" to provide appropriate care to older persons in need of it.

I personally commend Privates Roberts and McDew and all concerned for the latest service they have performed for the Congress and for the people of the United States.

COMMENDATION OF CAPITOL HILL POLICE

Mr. WILLIAMS. Mr. President, I join with Senator Church in commending Privates Darrell McDew and James Roberts for their dogged and resourceful undercover investigations of medicaid fraud.

As Senator Church has said, the two police officers demonstrated courage as well as skillful investigatory techniques during a long and often trying assignment with the Senate Committee on Aging.

I take special pride in the fact that I recommended Private Roberts to his appointment with the Capitol Police Force. He is a fine man and a good law enforcement agent. His parents in Montclair, N.J., and all his friends in other parts of New Jersey join with me, I know, in that sense of pride.

Mr. President, I ask unanimous consent that an article writen by Myron Struck for the current issue of Roll Call be printed in the Record. Called "Daring Officers Go Undercover," this excellent story gives a vivid and informative account of the many difficulties encountered during the investigation. I would also like to have printed my statement at the August 30 hearing at which the investigation was discussed.

There being no objection, the material was ordered to be printed in the Record, as follows:

DARING OFFICERS GO UNDERCOVER

(By Myron Struck)

"There were times when I felt no more human than a dog," said the 34-year-old black man. He is testifying before the Senate Special Committee on Aging's subcommittee on Long-Term Care. "I was sent from doctor to doctor, test to test, without so much as an explanation."

The man is Pvt. Darrell R. "Scotty" McDew, a soft-spoken pencil-thin member of the United States Capitol Police corps. For the past four months, he—and colleague James A. "Jimmy" Roberts, Jr.—were detached from official active duty to participate in an undercover investigation with the subcommittee.

The officers, and two other subcommittee staffers, visited approximately 200 "Medicaid mills" in New York, Michigan, New Jersey and California hoping to determine the degree of fraud and abuse perpetrated by practitioners receiving $100,000 or more in the Medicaid program.

"The filth and stench in a large majority of the facilities I visited was disgusting," Pvt. McDew testified. "I found it very upsetting to see cockroaches crawling on the floor of a medical office—the walls were dirty, cigarette butts littered the floors and ashtrays were overflowing."

The participation of the Capitol Police officers was unprecedented—and it proved to be an activity that they both enjoyed "as an experience," and an effort that they believe "contributed to the reform of an abuse of a bureaucratic system."

The project was conceived in the wake of a February, 1976 study of "Fraud and Abuse among Clinical Laboratories," that focused on Chicago and was featured on a CBS "60 Minutes" segment.

Pvt. Roberts, who saw the show, offered congratulations shortly thereafter to the subcommittee's counsel Val J. Halmandaris. The counsel showed his "appreciation" by explaining a "half-baked idea" of getting a "couple of (experienced) police officers to go undercover with the investigators in Phase II."

Roberts thought about it, asked McDew to join him, and the two of them were off to "some hair-raising experiences."

The mission, Halmandaris explains, was to "present ourselves for treatment and see what they do to us." The two officers, Halmandaris and committee staffers Patricia Glidden Oriol and Catherine Hawes all underwent physical examinations. The officers, in fact, were examined by Dr. Freeman Carey, attending physician of the U.S. Capitol.

All were in "excellent health" with no medical infirmities of any kind, according to the staff report.

Through the course of the four months, the men and women entered 120 different clinics in New York, New Jersey, Michigan and California, making 200 visits. Only once was a prospective customer given a clean bill of health.

"I honestly feel that if I had a serious illness, it would remain undetected and untreated," Pvt. McDew said in his testimony. "I am saddened to think of the many people who have to endure this kind of treatment and conditions that I experienced during the investigations."

The acid test, though, was going into New York's lower east side. It's the bowels of New York where the garbage cans in "your backyard—here in Washington—are cleaner than the streets there," Roberts said.

"We were in sections of New York where I'm sure the cops wouldn't even go," Roberts continues. His usual procedure was to enter a clinic and proclaim an earache and a head cold.

The men, at all times, were under the watchful eye of the surveillance unit—composed of others in the group, plus David Holton. Using a commonplace blue van, Holton was equipped with a two-way radio, test equipment and photo equipment. During the New York portion of the probe undercover IRS agents offered additional back-up in other unmarked cars.

Holton, who is a Sam McCloud-like TV character, complete with Dennis Weaver mustache, boots and a background rooted in the Colorado Sheriff's department, explained the situations sometimes got a "little hairy."

After sitting around a Puerto Rican slum for about three hours and alternately tinkering with the carburetor and reading the paper, he noticed other "unusual characters" seemingly staking out the area. One of them leaned against the van, and he had to shut down the static-producing two-way radio. He didn't know, he says, if he was about to become a target for a mugging, a mobster or another undercover operation was going on in his presence.

Since Jimmy was still inside the 'clinic' he decided to hold the cover. "It wasn't too long before it looked like the entire New York City police department was swooping down, blocking off the street and raiding a place nearby," Holton explains. "I calmly walked up to one of the uniformed officers and showed him my Senate ID and explained the situation. Our cover remained intact."

The team found indications of ping-ponging (the unwarranted referral of patients from one practitioner to another with the facility), ganging (billing for multiple services) upgrading (billing for services more extensive than actually provided), steering (directing a patient to a particular pharmacy) and billing for services not rendered.

According to the staff report, "The key is volume. You have to have referrals and return visits. You have to get them to come back and bring their friends."

Pvt. Roberts says it another way: "Good medicine is bad business."

Throughout the four months, they did not have their cover blown once although the drug bust incident and several others were "close calls."

Roberts, a four-and-a-half-year veteran of the Capitol Police, is 29. He was appointed to his position from Montclair, N.J. by Sen. Harrison A. Williams, Jr., (D-N.J.)) He is short and sturdy, and far from being chubby. A muscular, stocky body would be more appropriate.

"We weren't scared, really," he says. "But, sometimes while we were being examined, we heard blood curdling screams.

His partner, Scotty McDew, has been on the force for 2-and-a-half years, and has in his educational background Prince George's Community College, 10 years in the Navy, and a stint as a corrections officer on the PG Sheriff's Department.

Their activities—known as "shopping"—were conducted without the intent to convince the unsuspecting practitioners that they were sick or ill. They claim they carefully said they "thought" they had a sickness or illness at all times. Often, they say, they were not even touched before medication was recommended.

Their visits averaged five minutes with a 'physician' and two to two-and-a-half hours in a waiting room.

Sen. Frank E. Moss (D-Utah), chairman of the subcommittee, was so impressed with the dedicated efforts of the investigators he personally donned a scruffy looking outfit for two days and paraded into several clinics himself.

His ID card: "F. Edward Moss" with an address that was their temporary home, the Statler-Hilton Hotel.

"When we had the Senator out there, we went into one place that had a gang war going on outside," McDew says.

Roberts adds that they had an unusual experience then, as well. Hilton was trying to take the photographs when a gang of "street dudes" came up to his van and inquired within.

"I did some quick thinking and told them I was taking stills for a prospective movie that Scotty McDew was going to star in." Holton said, "I'm sure they didn't really believe it, but they went over to Scotty and asked him." He breaks up laughing.

On September 15 the two officers—still the subject of jibes from their colleagues (although with a good bit of respect)—will go back to active duty on the 3 PM to 11 PM shift on the Senate side.

Secretary of Health, Education and Welfare David Mathews—as the situation of Medicaid mills was exposed—said Sen. Moss' filmed excursion and the efforts to show what went on in the 'mills' was "grandstanding."

A grim look crosses the faces of the officers, their colleagues and subcommittee staff director Bill Oriol at the mention of this skepticism.

"The fact that we could, with only a small amount of people, uncover this fraud is indicative that no one is doing anything," Oriol said. According to the staff report, the investigators grew to learn that most of the problems with the New York program at least were known for more than 10 years but a force of only four investigators with little funding and power, meant only a continuation of the status quo.

Besides the dramatic portrayal of the problems of the Medicaid system that have been given widespread attention, the case opened the doors to continued use of experienced law enforcement officers—like Pvts. Roberts and McDew—to aid with further investigations.

"I feel bad about what I saw," says Pvt. Roberts. "But we feel good about what we were able to do to correct a bad situation," said Pvt. McDew.

STATEMENT BY HONORABLE HARRISON A. WILLIAMS, JR.

Mr. Chairman: I am pleased to address this hearing by the Subcommittee on Long-Term Care. The hearings conducted by this Committee, chaired by Senator Moss, have been greatly informative. They have provided the Congress with valuable insights into fraud and abuse among nursing homes, clinical laboratories and other providers in the Medicaid program.

I expect today's hearings will serve the same end, that is providing the Congress with the information it needs with which to legislate.

I am proud that my State of New Jersey has been, over the years, one of the most active in terms of preventing fraud and abuse in the entire nation. According to HEW statistics, New Jersey is one of the three States with excellent "fraud detection" programs. I am glad to see that the New Jersey Special Commission on Investigation will testify today, sharing the results of their good work with this Subcommittee and with the Nation.

I think by now everyone knows my commitment to national health insurance and to expanding Medicare and Medicaid benefits for the aged, blind and disabled. I am troubled that hundreds of people may be going without the health care they need. But I am just as troubled by the increasing reports of fraud and abuse in these programs. I am hoping that these hearings will help us to redirect government moneys so as to eliminate waste and to provide greater benefits for the needy.

Finally, Mr. President, I would like to express my personal admiration for Senator Frank Moss, Chairman of the Committee's Subcommittee on Long-Term Care. While Chairman of the Committee on Aging, I had a high regard for Ted Moss's work on behalf of better care and better protection of public funds in the nursing homes and other long-term care institutions of this Nation. More recently I have been impressed by his determination to end fraud and wasteful practices in the Medicare and Medicaid programs. The most concrete expression of that concern came when he personally visited Medicaid mills in New York City this year and saw for himself that undercover investigators had not exaggerated when they reported on the flagrant profiteering and terrible conditions existing in so many of the Medicaid mills which have sprung up in so many low-income areas of our Nation. We do need care for people in these areas, and some practitioners and groups of practitioners are trying to provide quality care without robbing taxpayers' dollars. But their efforts are overshadowed and even endangered by the spectacular misdeeds of the Medicaid profiteers. To Senator Moss, Privates McDew and Roberts, and staff and volunteers who participated in this outstanding effort, my heartiest congratulations.

COMMENDATION FOR PRIVATES ROBERTS AND M'DEW

Mr. MOSS. Mr. President, I join with Senator CHURCH in commending Privates James Roberts and Darrell McDew of the Capitol Police Force for their work with my Subcommittee on Long-Term Care of the Senate Committee on Aging.

Senator CHURCH, as chairman of that committee, feels as I do that these two police officers have performed a significant service not only to the Senate but to the entire Nation. They have made a distinctly personal contribution for much-needed reform of the medicaid program, displaying skill and courage as they did so.

I appreciate the kind words said here this morning about my role in the investigation of "medicaid mills" in New York City. I thought it was important that I have a firsthand look at the outrageous conditions reported to me and I visited three mills.

But Privates McDew and Roberts bore the brunt of the day-in and day-out undercover work which made the investigation so worthwhile. Provided with official medicaid cards from law enforcement sources, they visited dozens of medicaid mills and underwent any number of indignities, trying circumstances, drudgery, and hours and hours of waiting.

Their part in the investigation would not have been possible without the all-out cooperation of their police chief, James C. Powell, and the Senate Sergeant-at-Arms F. Nordy Hoffmann. A vote of thanks is also in order to the Senate Committee on Rules and Administration, which approved of several unusual arrangements necessary for the success of the investigation.

I would also like to express a personal word of appreciation to Val Halamandaris, who planned and conducted the overall investigation, and all committee staff, volunteers, and interns who worked with him. Their work was invaluable as was the contribution of Privates Roberts and McDew. Their commendation is well-earned, and I am proud to join Senator CHURCH in this effort.

COLUMBUS JEWISH FEDERATION: HALF CENTURY OF SERVICE

Mr. GLENN. Mr. President, on Sunday, September 19, a very significant dinner will take place in Columbus, Ohio, to commemorate the 50th anniversary of the Columbus Jewish Federation.

I am pleased to have this opportunity to call my colleagues' attention to this wonderful milestone. Since Columbus is my home, I have had the chance to witness firsthand how the federation has come to the assistance of community youth, families, the aged, the infirm, and many others who need a helping hand.

Its activities, while centering on Columbus, have been national and international in scope, as well, and a significant portion of the federation's budget has gone to helping Israel develop and defend itself. More than 3,500 citizens belong to the federation, and their contributions and active participation have played a major role in making the organization a valuable community asset. I have had the privilege of joining federation members at events in the past, and I have valued these opportunities very much. There is a contagious spirit of respect and service that pervades activities of the Columbus Jewish Federation.

I am sure that the 50th anniversary "Eyewitness to History" dinner on Sunday will follow in that tradition. The guest speaker is to be the honorable Philip Klutznick, president of the World Jewish Congress, and I am sure his message will be inspirational and worth noting by us all.

May I also take this opportunity, Mr. President, to note that Sunday's dinner marks the transition of the federation presidency and that Mr. Ernest Stern will be guiding the organization for the next 2 years, succeeding Mr. Sidney Blatt.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the two notifications I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 13, 1976.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-56, concerning the Department of the Army's proposed Letter of Offer to Israel estimated to cost $9.1 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 7T-56

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act.

a. Prospective Purchaser: Israel.

b. Total Estimated Value: $9.1 million.

c. Description of Articles or Services offered: [Deleted.]

d. Military Department: Army.

e. Date Report Delivered to Congress: September 13, 1976.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 13, 1976.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-55, concerning the Department of the Army's proposed Letter of Offer to Israel estimated to cost $15.5 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 7T-55

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act.

a. Prospective Purchaser: Israel.

b. Total Estimated Value: $15.5 million.

c. Description of Articles or Services Offered:

[Deleted.]

d. Military Department: Army.

e. Date Report Delivered to Congress: September 13, 1976.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the notification I have just received.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Defense Security Assistance
Agency and Deputy Assistant
Secretary (Security Assistance). OASD/ISA,
Washington, D.C., Sept. 13, 1976.

In reply refer to: I–8429/76.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 7T–53, concerning the Department of the Army's proposed Letter of Offer to the Philippines for Howitzers estimated to cost $13.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Attachment.

[Transmittal No. 7T–53]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

a. Prospective Purchaser: Philippines.

b. Total Estimated Value: $13.2 million.

c. Description of Articles or Services Offered: Ninety-seven (97) 105mm Howitzers (M101A1) and repair parts.

d. Military Department: Army.

e. Date Report Delivered to Congress: September 13, 1976.

SENATE COMMITTEE JURISDICTION

Mr. CURTIS. Mr. President, the Senate select committee to study our committee system is at the point of considering overhaul of jurisdictional lines.

Three "starting points" have been developed by the staff of the select committee.

Starting point I would essentially retain the existing committee structure with some reapportionment of jurisdiction to equalize the workload among the committees.

Starting point II eliminates all joint, special, and select committees and reduces the number of standing committees to 12.

Starting point III is similar to starting point II except that the number of standing committees is reduced to five.

I believe the staff of the select committee has done a commendable job in preparing the "starting points."

Our colleagues have experienced considerable frustration under the existing committee system. Senators find they have to choose among several committees meeting at the same time. Moreover, sometimes there are conflicts between committee meetings and floor action further compounding the apparent chaos.

Today, the distinguished Senator from Utah (Mr. Moss) and the distinguished Senator from Arizona (Mr. Goldwater) have offered a starting point IV. It differs in some particulars from the three developed by the committee staff.

This proposal recommends that there be established 15 standing committees organized into three categories—A, B, and C—with 100 committee assignments each for a total of 300. Each Senator would have three committee assignments, one in each category. At the beginning of each Congress, the Senate can decide how many members each of the 5 committees in a category will have, but the total in each category should equal 100.

Similarly, the number of subcommittees would be held to a maximum of 100, allocated on the basis of 25, 30, and 45 subcommittees to each of the categories A, B, and C, respectively. Again, the subcommittees need not be allocated equally among the committees in any particular category, but the total number of subcommittees should not exceed the maximum number permitted for that category in order to make this suggestion workable.

I submit this proposal can accomplish much of what the select committee has set out to do. It tends to equalize the workload among the committees and reduce the number of committees and subcommittee meetings. Moreover, a rational schedule for committee meetings is inherent in this type of organization. For example, A committees could meet on Tuesdays, B committees on Wednesdays, and C committees on Thursdays. Mondays and Fridays would be open for any committee meetings, as required.

Under this proposal, Senators would acquire something approaching equality in committee asignments—equality that has been difficult to achieve under the existing system.

I ask unanimous consent that the proposal submitted by Senator Moss and Senator Goldwater be printed in the Record.

There being no objection, the proposal was ordered to be printed in the Record, as follows:

Senate Committee Organization: A Proposal

(Offered by Senator Frank E. Moss and Senator Barry Goldwater, September 13, 1976)

INTRODUCTION

Without question the staff of the Select Committee on Committees has done an excellent job in preparing three "Starting Points" for Senate committee jurisdiction. We believe another choice is desirable as a basis for thought and discussion. In this spirit, we offer "Starting Point" IV which can be viewed as a compromise between "Starting Points" I and II. "Starting Point" III, which provides for only five standing committees, we are inclined to view as too drastic in that the subcommittees would ultimately control legislation. Because of the breadth of the subject matter, full committee consideration of legislation under "Starting Point" III would closely resemble floor action on a bill or resolution.

Our proposal recommends that there be established 15 standing committees organized into three categories ("A", "B" and "C") with 100 committee assignments each for a total of 300. Each Senator would have three committee assignments, one in each category. At the beginning of each Congress, the Senate can decide how many members each of the five committees in a category will have, but the total in each category should equal 100.

Similarly, the number of subcommittees would be held to a maximum of 100, allocated on the basis of 25, 30, and 45 subcommittees to each of the categories "A", "B" and "C", respectively. Again, the subcommittees need not be allocated equally among the committees in any particular category, but the total number of subcommittees should not exceed the maximum number permitted for that category in order to make this suggestion workable.

We believe this proposal can accomplish much of what the Select Committee has set out to do. It tends to equalize the workload among the committees and reduce the number of committee and subcommittee meetings. Moreover, a rational schedule for committee meetings is inherent in this type of organization. For example, "A" committees could meet on Tuesdays, "B" committees on Wednesdays, and "C" committees on Thursdays. Mondays and Fridays would be open for any committee meeting, as required.

Under this proposal, Senators would acquire something approaching equality in committee assignments—equality that has been difficult to achieve under the existing system.

As is true with "Starting Point" II, our proposal would inevitably require more involvement of the leadership in preventing conflicts between committee action and floor action. The leadership might want to establish a rule whereby the Senate would convene at 1:00 p.m. from the opening of a session of Congress until March 31st. From April 1 to June 30th, the Senate would meet at noon. Thereafter, the work of the committees would be presumed to be largely accomplished and the Senate could meet earlier in the day.

While "Starting Point" IV does not specifically address the question of rotating committee assignments, it is easily adaptable to rotation, if that is the desire of the Senate. Under "Starting Point" IV Senators could be rotated within the three classes of committees.

From a purely arithmetical standpoint, 15 standing committees divided into three classes simplifies the making of committee assignments because 5 divides easily into 100, although the actual number assigned to any committee could be varied as long as the total number of assignments within any category did not exceed 100.

We invite any comments, modifications, or revisions.

Frank E. Moss
Barry Goldwater.

SENATE COMMITTEE ORGANIZATION: A PROPOSAL

Under this proposal, 15 standing committees would be created and organized into three categories: "A", "B", and "C". Each category would have 100 committee assignments for a total of 300. Within a category, the number of Senators assigned to each committee could be varied. Senators would have three committee assignments, one in each category. The proposed committees, alphabetically arranged, are:

Committee and category

1. Agriculture and Rural Development—A.
2. Appropriations—C.
3. Armed Services and Veterans—C.
4. Banking, Housing and Small Business—B.
5. Budget—A.
6. Commerce, Transportation and Communications—C.
7. Finance—C.
8. Foreign Relations—C.
9. Governmental Affairs—A.
10. Intelligence—A.
11. Interior and Environment—B.
12. Labor and Human Resources—B.
13. Judiciary—B.
14. Rules, Standards and Ethics—A.
15. Science and Technology—B.

Committees by category

"A." Agriculture and Rural Development.
"B." Banking, Housing and Small Business.
"C." Appropriations.
"A." Budget.
"B." Interior and Environment.
"C." Armed Services and Veterans.
"A." Governmental Affairs.
"B." Labor and Human Resources.
"C." Commerce, Transportation and Communications.
"A." Intelligence.
"B." Judiciary.
"C." Finance.
"A." Rules, Standards and Ethics.
"B." Science and Technology.
"C." Foreign Relations.

This proposal assigns legislative jurisdiction according to major functional categories. It minimizes jurisdictional overlap among the committees and equalizes committee workloads. Most importantly, it will bring greater equity to the distribution of committee assignments among Senators. While committees are organized according to functional categories, it is proposed that each committee, except the Appropriations and Budget Committees, be given legislative jurisdiction over specific departments and agencies of the government to reduce the necessity of joint and sequential referrals.

Subcommittees

It is proposed the number of subcommittees be reduced from the 174 to a maximum of 100.

It is proposed that a maximum of 25 subcommittees be permitted in the "A" category, a maximum of 30 subcommittees be permitted in the "B" category, and a maximum of 45 subcommittees be permitted in the "C" category. This would permit an average of 5, 6, and 9 subcommittees for each committee in categories "A", "B", and "C", respectively; however, the actual number permitted each committee in a category can be established by the Senate at the beginning of each Congress. For example, the category "C" committees might be permitted maximum numbers of subcommittees as follows:

Appropriations	11
Armed Services	8
Commerce	11
Finance	8
Foreign Affairs	7
Total	45

It is proposed that a rule limiting the number of subcommittee assignments for each Senator be adopted and that subcommittee chairmanships be limited to a maximum of two for each Senator.

Under this system the number of committees and subcommittees would be greatly reduced and proliferation of committee and subcommittee assignments would be controlled. Also, very few joint or sequential referrals of legislation would be required.

Appropriations and budget process

No changes are necessary in the appropriations or budget processes. Both the Appropriations and Budget Committees would be retained, exercising the same jurisdiction as at present.

Committee legislative and oversight jurisdiction

Committee legislative jurisdiction is the authority of the committee to consider and report legislation to the Senate, which bill or resolution is then placed on the Senate calendar and considered by the Senate at an appropriate time.

Committee oversight jurisdiction (sometimes called review jurisdiction and formally called the investigative function of Congress) is the authority of the committee to review, investigate, study, hold hearings, and prepare reports on any subject over which the Congress has oversight jurisdiction, but the committee cannot under the authority of its oversight jurisdiction report legislation to the Senate floor.

However, the exercise of a committee's legislative and oversight jurisdictions cannot be treated as separate and distinct functions. When a committee exercises its legislative jurisdiction it exercises oversight at the same time. The authorization process, the appropriation process, the budget process, and the preparation of a piece of legislation to be reported by the committee to the Senate floor all require extensive oversight on the part of the committee. Consequently, the legislative jurisdiction of a committee is embedded in its oversight jurisdiction but the reverse is not necessarily true.

As a result of exercising its oversight jurisdiction, a committee may prepare a piece of legislation and submit it to the Senate, but the Senate will refer that legislation to the committee which has legislative jurisdiction over the matters covered by the bill.

Committees exercise oversight jurisdiction in various ways. It is a natural and inherent part of the legislative process. To conclude that Congress has not been exercising proper oversight is deemed a distinct overstatement. A look at the record shows the Senate has exercised its oversight power. The resignation of a President, the restructuring of our intelligence activities, the exposing of illegal campaign activities, and the exposing of bribery practices of multi-national corporations by the Congress argues against the conclusion that the Congress has not exercised oversight. The argument that had Congress been exercising oversight these practices and activities would not have occurred, is fallacious. Earlier or more Congressional oversight would not have prevented these activities. The Congress does not manage the government and it does not and should not act as a conscience for the individual.

Appropriations and budget process

No changes are necessary in the appropriations or budget processes. Both the Appropriations and Budget Committees would be retained, exercising the same jurisdiction as at present.

Committees retained

There would be no, or only minor, jurisdictional changes in the following committees: Appropriations, Agriculture and Forestry, Budget, Finance, Judiciary, Foreign Relations, Intelligence (Select).

Committees modified

The jurisdictions of these committees have been modified and the names changed to more accurately reflect their new functions:

Present name and new name

Aeronautical and Space Sciences—Science and Technology.

Armed Services—Armed Services and Veterans.

Banking, Housing and Urban Affairs—Banking, Housing and Small Business.

Commerce—Commerce, Transportation and Communications.

Government Operations—Governmental Affairs.

Interior and Insular Affairs—Interior and Environment.

Labor and Public Welfare—Labor and Human Resources.

Rules and Administration—Rules, Standards and Ethics.

Committees abolished

Under this proposal the following committees are abolished and their jurisdiction transferred to one of the 15 proposed standing committees: District of Columbia, Post Office and Civil Service, Public Works, Veterans Affairs, Select Committee on Nutrition and Human Needs, Select Committee on Small Business, Select Committee on Standards and Conduct, Special Committee on Aging, Joint Committee on Atomic Energy, Joint Committee on Congressional Operations, Joint Committee on Defense Production, Joint Economic Committee, Joint Committee on Internal Revenue Taxation, Joint Committee on the Library, and Joint Committee on Printing.

Oversight

It is proposed that all 15 committees be given a major responsibility for oversight over all activities covered by their functional jurisdiction, regardless of whether or not the activities are in a department or agency over which the committee has specific legislative jurisdiction. In other words, a committee's oversight jurisdiction would extend over a larger part of government activities than its legislative jurisdiction.

Broader oversight jurisdiction is necessary, because it is not possible to categorize similar activities distributed throughout the Government into the Committee legislative jurisdictional categories. Nevertheless, when conducting oversight a committee may find it necessary to look at the sum total of government actions in order to understand the interactions of these activities. Moreover, broad oversight jurisdiction tends to limit duplication in government programs and to stimulate cooperative efforts among the Departments and Agencies.

Each standing committee would have discretionary authority to handle its oversight responsibilities. For example, a committee could establish an oversight subcommittee or it could carry on the oversight activities within the subcommittee structure of the committee or by the full committee or by some combination. Under this proposal the Appropriations and Budget Committees would have oversight responsibilities.

Staffing

The professional and clerical staff of the committees would be employed under existing Senate rules and applicable statutes.

The major staff issue is how to merge the staff members of the existing committee structure into the new committee structure. Every effort should be made to accommodate staff who would be disrupted by the jurisdictional changes. Clearly, the staffs of the Appropriations, Budget, and Intelligence Committees are not directly affected.

Leadership

Inevitably, responsibility for keeping this system working smoothly would lie with the leadership. The leadership should be expected to oppose vigorously proposals for changes to the system that would add new committees; that would permit the Senators to serve on more than three committees (except on an ad hoc basis); or an expansion of the number of subcommittees beyond that allowed by the rule.

In addition, the leadership would have to exercise its authority to keep the number of joint and sequential referrals of legislation to a minimum. It is proposed that a procedure be developed which would make joint (either joint or sequential) referrals difficult. The matter of split referrals needs further consideration.

Characteristics of proposed committee system

Reduction of the present 31 standing, select, special and joint committees to 15 standing committees.

The 15 standing committees are organized into three categories of five committees each, with 100 committee assignments in each category.

Size of committees within each category to be decided by the Senate each Congress.

Committee jurisdictions are functionally and agency-based with minimum jurisdictional overlap.

No more than one full committee chairmanship per Senator.

Equalizes workload among committees.

A limit of three committee assignments for each Senator—one in each category.

Equitable distribution of committee assignments among Senators.

A maximum of 100 subcommittees.

A limit on the number of subcommittee assignments for each Senator.

A limit of two subcommittee chairmanships for each Senator.

Fewer meeting conflicts because of fewer committees and subcommittees.

Fewer joint and sequential referrals required because jurisdictional overlap is reduced.

The recommended functional legislative jurisdiction for each of the 15 committees is given on the following pages.

This part of the proposal requires further refinement and definition.

The functional legislative jurisdictions given here are taken from the staff report and therefore from the existing rules. Often this write-up does not state in a precise and concise way the legislative jurisdiction of the committee. An example is the Committee on Labor and Human Resources. The jurisdiction presented as transferred from the present Committee on Labor and Public Welfare deals almost entirely with labor; yet, the Committee's responsibilities to human resources other than labor are at least as great. These legislative functional jurisdictions must be sharply defined and reflect accurately the activities intended to be covered.

The departments and agencies of the Government over which a Committee will have legislative jurisdiction must be assigned to that committee.

For each of the committees, a statement defining the committee's oversight jurisdiction must be prepared.

Finally, the jurisdiction of each committee must be codified.

Agriculture and Rural Development (successor to Agriculture and Forestry)

Functional Jurisdiction—

From Agriculture and Forestry:

Agriculture generally.

Rural development generally.

Inspection of livestock, meat and agricultural products.

Animal industry and diseases.

Pests and pesticides.

Agricultural colleges and experiment stations.

Forestry.

Agricultural economics and research.

Human nutrition and home economics.

Plant industry, soils and agricultural engineering.

Farm credit and farm security.

Rural electrification.

Agricultural production, marketing and stabilization of prices.

Crop insurance and soil conservation.

Appropriations (successor to Appropriations)

Funtional Jurisdiction—

The jurisdiction of the present Appropriations Committee is transferred intact.

Appropriation of the revenues.

Recissions of Appropriations.

New spending authority.

New advance spending authority.

Armed Services and Veterans (successor to Armed Services)

Functional Jurisdiction—

From Armed Services:

Common defense generally.

Department of Defense, Army, Navy and Air Force generally.

Soldiers' and sailors' homes.

Benefits of members of the armed services.

Selective service system.

Size and composition of the armed forces.

Forts, arsenals, military reservations, Navy yards, and depots.

Maintenance and operation of the Panama Canal and Canal Zone.

Naval petroleum and oil shale reserves.

Strategic and critical materials.

Military aerospace matters.

From Joint Atomic Energy: National security aspects of nuclear energy.

From Veterans Affairs: Veterans' measures, generally.

Banking, Housing and Small Business (successor to Banking, Housing and Urban Affairs)

Functional Jurisdiction—

From Banking, Housing and Urban Affairs:

Banking and currency generally.

Financial aid to commerce and industry.

Deposit insurance.

Housing and community development.

Federal Reserve System and monetary policy.

Gold and silver.

Issuance and redemption of notes.

Valuation of the dollar.

Control of prices of commodities, rents or services.

Urban affairs generally.

From Foreign Relations: International financial and monetary organizations.

From Small Business: All proposed legislation primarily related to the Small Business Administration.

Budget (successor to Budget)

Functional Jurisdiction—

The jurisdiction of the present Budget Committee is transferred intact.

Concurrent budget resolutions.

Title III and IV of the Congressional Budget Act of 1974.

Congressional Budget Office.

Commerce, Transportation and Communications (successor to Commerce)

Functional Jurisdiction—

From Commerce:

Commerce generally.

Regulation of interstate common carriers: railroads, buses, trucks, vessels.

Communications.

Civil aeronautics other than aerospace activities.

Merchant Marine and navigation.

Coast Guard.

Panama Canal, other than maintenance and operation; interoceanic canals generally.

Inland waterways.

From Public Works:

Flood control and improvements of rivers and harbors.

Public works, bridges and dams.

Measures relative to the construction and maintenance of roads.

From Banking: Urban mass transit.

Finance (successor to Finance)

Functional Jurisdiction—

The Finance Committee's jurisdiction would be transferred intact.

Revenue (taxation) measures generally.

Bonded debt of the United States.

Deposit of public monies.

Custom.

Reciprocal trade, tariffs and quotas.

Transportation of dutiable goods.

Revenue measures regarding insular possessions of the United States.

Revenue aspects of tariffs and import quotas.

Revenue aspects of social security.

Foreign Relations (successor to Foreign Relations)

Functional Jurisdiction—

From Foreign Relations:

Foreign relations generally.

Treaties and executive agreements, except trade.

Boundaries of the United States.

Protection of U.S. citizens and businesses abroad.

Neutrality.

International conferences.

American Red Cross.

Intervention abroad and declarations of war.

Diplomatic service.

United Nations.

Foreign assistance, generally.

Acquisition of land and buildings for Embassies.

Measures to foster foreign trade.

Governmental Affairs (successor to Government Operations)

Functional Jurisdiction—

From the District of Columbia: All measures relating to the municipal affairs of the District of Columbia.

From Government Operations:

Except as provided in the Budget and Accounting Act of 1974, budget and accounting measures other than appropriations.

Study of governmental activities at all levels.

Reports of the Comptroller General.

Intergovernmental relations.

From Post Office and Civil Service:

Federal Civil Service, generally.

Status of officers and employees of the United States.

Postal service, generally.

Census and collection of statistics, generally.

National Archives.

From Public Works:

Public buildings and grounds.

Measures concerning purchase of sites and construction of post offices, Federal courthouses, and government buildings within the District of Columbia.

Measures relating to the parks within the District of Columbia.

Measures concerning construction, maintenance, and care of the Smithsonian Institution.

Intelligence (successor to Select Committee on Intelligence)

Functional Jurisdiction—

The jurisdiction of the present Select Committee on Intelligence is transferred intact.

Studies underway and continuing studies of intelligence activities and programs.

Central Intelligence Agency.

Director of Central Intelligence.

National Security Agency.

Defense Intelligence Agency.

Intelligence activities of all departments and agencies of the government, generally.

Interior and Environment (successor to Interior and Insular Affairs)

Functional Jurisdiction.—

From Interior:

Public lands generally.

Forest reserves and national parks.

Irrigation and reclamation.

Mining schools and stations.

Petrolum and radium conservation.

Mining and mineral lands and claims generally.

Geological Survey.

From Public Works:

Water power.

Environment generally.

From Joint Atomic Energy: Nuclear Regulatory Commission.

From Commerce:

Fisheries and wildlife.

Coastal zone management.

Oil and gas production and distribution.

Labor and Human Resources (successor to Labor and Public Welfare)

Functional Jurisdiction.—

From Agriculture and Forestry:

School breakfast program.

School lunch program.

Food Stamp program.

From Interior: Indian affairs generally.

From Labor and Public Welfare:

Education, labor and public welfare generally.

Mediation and arbitration of labor disputes.

Wages and hours of labor.

Convict labor.

Child labor.

Foreign labor.
Labor statistics
Labor standards.
School lunch program.
Vocational rehabilitation.
Railway labor and retirement.
Public health and quarantine.
Welfare of miners.

Judiciary (successor to Judiciary)

Functional Jurisdiction.—

The jurisdiction of the present Judiciary Committee is transferred intact.

Judicial proceedings generally.
Constitutional amendments.
Federal courts and judges.
Local courts in territories and possessions.
Revision and codification of U.S. statutes.
National penitentiaries.
Measures concerning restraint of trade and monopolies.
Holidays and celebrations.
Bankruptcy, mutiny, espionage and counterfeiting.
State and territorial boundaries.
Meetings of Congress; attendance of Members; incompatible offices.
Civil liberties.
Patents, copyrights and trademarks.
Immigration and naturalization.
Apportionment of Representatives.
Claims against the United States.
Interstate compacts generally.

Rules, Standards, and Ethics (successor to Rules and Administration)

Functional Jurisdiction—

From Rules and Administration:

Payments of money out of the contingent fund of the Senate.
Management of the Library of Congress and the Senate Library; art for the Capitol; and Botanic Gardens; monuments to individuals.
Smithsonian Institution management.
Federal Elections generally.
Presidential succession.
Credentials and qualifications of Members of Congress.
Senate rules and procedures.
Administration of the Senate generally.
Congressional Record.

From Standards and Conduct:

Recommendations of rules to insure proper conduct by Members, officers or employees of the Senate.
Receipt of complaints of improper conduct by Members, officers or employees.
Investigation of alleged violation of law or Senate rules by Members, officers or employees.
Recommendations of disciplinary action for violations by Members, officers or employees.
Consultative authority over the use of Senators of confidential documents.
Guidance, assistance and advice concerning franked mail.
Investigation of unauthorized disclosure of intelligence information, and recommending appropriate penalties for such disclosure when allegations are substantiated.

From Public Works—

Measures relating to the Capitol Building and the Senate and House Office Buildings.
Measures concerning construction, maintenance, and care of Botanic Gardens and the Library of Congress.

Science and Technology (successor to Aeronautical and Space Sciences)

Functional Jurisdiction—

From Aeronautical and Space Sciences: Aeronautical and space activities.

From Commerce:

National Oceanic and Atmospheric Administration.
National Bureau of Standards.

From Interior: Non-nuclear energy research and development.

From Joint Atomic Energy:

Development, use and control of atomic energy.
Energy Research and Development Administration.

From Labor and Public Welfare: National Science Foundation.

Other:

Office of Science and Technology Policy.
Federal Coordinating Council for Science, Engineering and Technology.

Mr. President, the Senator from Utah and the Senator from Arizona by no means claim that their proposal is chiseled in stone. On the contrary, they welcome refinements, suggestions, and modifications.

I submit their proposal deserves serious consideration by the select committee and the Senate because it is simplicity that takes into account the inner workings of the Senate.

I compliment Senator Moss and Senator GOLDWATER on their proposal, and I intend to support it as a rational "Starting Point."

AGRICULTURAL GRAIN RESERVES

Mr. BAYH. Mr. President, since 1972 American farmers have been subjected to considerable grain price variability. Fluctuation in feed grain prices has led to a great deal of variation in the price of hogs and beef cattle as well.

Mr. B. F. Jones of the Department of Agricultural Economics, Purdue University, recently authored a comprehensive publication on grain reserves—Station Bulletin No. 124, May 1976, Agricultural Experiment Station, Purdue University—in which he presented statistics on price variability. By comparing the price differences between low- and high-priced months he was able to estimate the variability within a given year. For the years 1968–71 the average percent change from the low- to high-price month was 27 percent for corn, 18 percent for soybeans, and 13 percent for wheat. Prices during the years 1972–74 were much more variable: the average percent change from low- to high-price month was 70 percent for corn, 111 percent for soybeans, and 90 percent for wheat. Hog and beef cattle price variation was also reported to be greater during the 1972–74 time period than during the 1968–71 time frame.

It has been suggested that grain price fluctuation could be reduced by the adoption of a grain reserve program. Several questions arise about the structure of such program. In Bulletin No. 124, Professor Jones identifies three questions which concern: First, the size of the reserve and its composition; second, the set of rules to be used in acquiring and releasing stocks; and three, who would own the stocks. Professor Jones discusses these questions in a general fashion in Station Bulletin 124 and goes on to analyze a specific grain reserve program in Station Bulletin 137—August 1976.

I would like to share these excellent publications with my colleagues. Therefore, I ask unanimous consent that Station Bulletins 124 and 137, published by the Department of Agricultural Economics, Purdue University, be printed in the RECORD.

There being no objection, the bulletins were ordered to be printed in the RECORD, as follows:

GRAIN RESERVES IN AGRICULTURAL AND FOOD POLICY—STATION BULLETIN NO. 124

(By B. F. Jones)

INTRODUCTION

Since 1972, prices received by farmers for corn, soybeans, and wheat have been highly variable. One measure of the variability is the percentage change in the monthly average price measured from the low price month to the high price month within a given year. Table 1 shows the average annual change for selected prices for the 1968–71 period compared to the 1972–74 period. Monthly prices for corn varied an average of 27 percent within the year for the first period. From 1972–74, the average variation was 70 percent. Monthly prices for soybeans and wheat show larger variations than corn for 1972–74. Daily price variation for all three commodities within a year was even greater.

The increased variability of prices for corn, other grains, and protein meal has contributed to sharply fluctuating prices for hogs and beef cattle. Monthly average prices for hogs varied within a year by 55 percent for the 1972–75 period compared to 42 percent for 1968–71. Monthly average cattle prices varied by 31 percent in the second period compared to 17 percent during 1968–71.

Consumer food prices increased 50 percent from January 1972 to December 1975. Higher farm commodity prices contributed to this increase. Food prices, while rising over time, have fluctuated less than commodity prices. Processing and distribution margins, which make up about 60 percent of total food costs, are less subject to the type of variation exhibited by commodity prices. Food prices are more subject to continually increasing cost pressures. In addition, upward price pressure in the agricultural and food sector contributed to inflationary wage and price increases in other parts of the economy due to structural characteristics such as automatic escalator clauses which are built into various types of contracts.

World grain stocks have been reduced significantly since 1969 as a result of poor crops in certain areas of the world and sharply expanded world trade in grain (Table 2). World stocks of wheat and coarse grains declined from 188 million metric tons available at the beginning of the 1969–70 year to about 100 million metric tons in 1975–76. Likewise, U.S. stocks of wheat and coarse grains declined from 68 million metric tons in 1969–70 to 23 million metric tons in 1975–76. At the beginning of the period, the U.S. held about 65 percent of the world's stocks of grain. By 1975, this had dropped to about 25 percent.

TABLE 1.—PERCENTAGE CHANGE IN MONTHLY AVERAGE PRICES RECEIVED BY FARMERS FOR CORN, SOYBEANS, WHEAT, HOGS, AND BEEF CATTLE, 1968–74

Item	Price change, low to high month	
	1968–71 average percent	1972–74[1] average percent
Corn, per bushel: Year beginning, Oct. 1	27	70
Soybeans, per bushel: Year beginning, Sept. 1	18	111
Wheat, per bushel: Year beginning, July 1	13	90
Hogs, hundredweight[2]	42	55
Beef cattle, hundredweight[3]	17	31

[1] For grains, 1972–74 are included. For livestock, average is for 1972–75.

[2] Barrows and gilts, 7 markets.

[3] Choice steers, Omaha.

Note: Change is measured from low-price month to high-price month within a given year, then averaged over the year included.

TABLE 2.—STOCKS OF GRAIN ON HAND AT THE BEGINNING OF THE YEAR, 1960-61 TO 1976-77[1]

	Million metric tons				Percent of total stocks held by the United States
		United States			
	World total grain	Total grain	Wheat	Coarse grains	
1960-61	164.0				
1961-62	176.7	115.4	38.4	77.0	65.3
1962-63	150.0	101.5	36.0	65.5	67.7
1963-64	153.2	91.0	32.5	58.5	59.4
1964-65	148.0	87.4	24.5	62.9	59.1
1965-66	151.3	71.9	22.2	49.7	47.5
1966-67	115.6	52.8	14.6	38.2	45.7
1967-68	144.6	45.3	11.6	33.7	31.3
1968-69	159.4	58.7	14.7	44.0	36.8
1969-70	188.1	67.8	22.2	45.6	36.0
1970-71	168.2	68.1	24.1	44.0	40.5
1971-72	130.5	50.7	19.9	30.8	38.9
1972-73	147.7	68.6	23.5	45.1	46.4
1973-74	108.1	42.0	11.9	30.1	38.9
1974-75	110.6	27.0	6.7	20.3	24.4
1975-76	101.9	23.2	8.7	14.5	22.8
1976-77[2]	99.4	32.2	10.8	21.4	32.4

[1] Total grains include wheat, rye, barley, oats, corn, and sorghum. Coarse grains include all grains listed except wheat.
[2] Estimated.

Source: U.S. Department of Agriculture, FAS, "World Grain Situation," FG8-75, July 15, 1975 and FG16-75, Dec. 22, 1975

Smaller grain stocks available since 1972 have been a major factor contributing to grain and livestock price fluctuations. With smaller stocks relatively small changes in world grain production or changes in consumption patterns have caused large changes in grain prices over a short period of time. World grain production only 2 to 4 percent below trend has created great concern over food supplies and has contributed to sharply higher grain prices. The higher prices have (1) brought windfall gains to grain producers during some years, (2) resulted in severe capital losses to certain livestock producers and feeders, (3) depressed the income of dairy farmers who depend upon purchased grain, and (4) generated various forms of *ad hoc* governmental intervention into grain markets each year since 1972.

The higher average level of grain prices has increased the income of grain producers. The greater variability of prices associated with the higher level has increased the incomes of livestock and grain producers who are good at speculation on prices. But, the variability makes it more difficult for producers to plan their production to efficiently use resources. Furthermore, the threat of bankruptcy is increased for some producers.

THE PROBLEM

Various proposals have been made for decreasing price variability and uncertainty emanating from the grain sector. Since production cannot be maintained with certainty because of yield variability, the alternative frequently proposed is a grain reserve. Such a reserve or stock would provide grain for smoothing out the annual variations in production and consumption. Most proposals assume publicly held stocks.

Proponents of publicly held grain stocks base their arguments on the inherently unstable characteristics of grain production. They also believe that policy for agriculture should be consistent with policy for other sectors of the economy. The non-farm sector relies on unemployment insurance and various kinds of built-in stabilizers to reduce the effects of industrial unemployment. Likewise, general monetary and fiscal policies are designed and administered to reduce the harmful effects of business cycles.

Main grain producers oppose a publicly held grain stock under present circumstances. They associate government owned stocks with the much lower prices and income of the 1950's and 1960's. They fear government manipulation of stocks to the benefit of consumers at a cost to producers.

The purpose of this bulletin is to present an analysis of stocks policy alternatives. The bulletin includes (1) analysis of the sources of price variability, (2) grain reserves and stabilization objectives, (3) possible alternative stock policies, (4) a discussion of U.S. experience with stocks, (5) a specific proposal for a U.S. held reserve, and (6) a final section on alternatives other than stocks for reducing instability in the system. Proposals are evaluated given the current state of knowledge. Additional research will be required to more fully evaluate consequences. However, embarking on a stocks policy may occur before the research job is completed.

SOURCES OF VARIABILITY

In the past 3 years, the United States has exported about two-thirds of its wheat production, about half of the soybean crop (when oil and meal are included), and about one-fourth of its corn crop. In 1975, agricultural exports exceeded agricultural imports by about $12 billion, thereby contributing significantly to the balance of trade. Even though U.S. grain production is subject to year-to-year variation, exports of this magnitude permit the U.S. a policy alternative few other countries have. The U.S. could stabilize domestic supplies and prices by controlling exports.

Stabilization of U.S. prices through export control has costs and benefits which are difficult to measure. Preliminary work by Shei indicates short-run effects can be measured.[1] But, long-run effects are less certain. Given the productive capacity and efficiency of U.S. grain production, it is important to have access to growing foreign markets. Export earnings are required to pay for imports of oil, minerals, and many other products. Experience indicates that resort to export controls stimulates self-sufficiency programs in other countries. They also encourage importers to diversify their sources of supply. Consequences of these kinds of actions are difficult to precisely ascertain because of their long-run nature. Although a large foreign market is desirable, it is the principal source of price variability in U.S. grain markets.

In the short run, demand for U.S. exports of grain is determined by crop production in other countries, cost of imported grain relative to home produced grain (production costs and exchange rates), and internal price and trade policies followed by the importing countries. Over the long run, population and income growth rates are important. Of all these factors, changes in world grain production and trade policies of other countries account for most of the variation in demand for U.S. grain. In addition to being the major sources of variation, these two are also more difficult to predict than other sources of variation.

Any stocks policy designed to lessen the effects of these variations would need to take into account the year-to-year change in world grain production. One guide to future variation is to consider historical changes in grain production. These changes can be measured in terms of deviations from trend in yields, acreages and/or total production. For purposes of calculating reserve stock alternatives, change in total production is selected as the indicator.

Use of deviations from production trend, however, is subject to several limitations which should be recognized. Acreage variation may be a result of government policy to restrict production. The amount of deviation is a function of the particular trend line which depends upon the years included. As a consequence, alternative periods which might be selected would show smaller or larger deviations from trend production. In this paper, the period selected for calculating the trend was 1960-73, a recent period which includes enough years to provide some indication.

In order to determine the amount of reserves needed to meet various conditions and objectives, a rather detailed discussion of shortfalls in production is presented. Deviations from production trend are presented for world wheat, rice, and coarse grain production (Table 3). World rice production is included because of its significance in Asian diets. When rice crops are short, wheat may be imported as a substitute in the diet, thereby affecting the price of wheat in the U.S.

TABLE 3.—TOTAL WORLD WHEAT, RICE AND COARSE GRAIN PRODUCTION: DEVIATIONS FROM TREND, 1960-73

[In million metric tons]

	Wheat	Rice	Total wheat, rice	Coarse grains[1]	Total all grains
1960	11.6	1.4	13.0	31.9	44.9
1961	−12.2	2.4	−9.8	−1.7	−11.5
1962	8.3	−3.8	4.5	0	4.5
1963	−20.4	2.1	−18.3	−5.2	−23.5
1964	6.6	7.6	14.2	−20.7	−6.5
1965	−13.5	−7.4	20.9	−18.0	2.9
1966	18.0	−15.3	2.7	−3.7	−1.0
1967	−2.1	6.4	4.3	5.2	9.5
1968	20.9	6.6	27.5	−5.1	22.4
1969	−7.2	−1.4	−8.6	3.0	−5.6
1970	−13.6	3.8	9.8	−15.4	−5.6
1971	8.9	3.8	12.7	25.9	38.6
1972	−9.9	−13.0	−22.9	−7.4	−30.3
1973	4.5	6.9	11.4	11.4	22.8
Maximum (−)	−20.4	−15.3	−22.9	−20.7	−30.3
Maximum cumulative (−)[2]	−20.8	−22.7	−22.9	−47.6	−30.3

[1] Coarse grains include rye, barley, oats, corn, and sorghum.
[2] This is the maximum cumulative amount by which production dropped below trend. For example, wheat production in 1969 and 1970 was below trend cumulating a negative deviation of 20,800,000 tons. In some cases for other grains, the shortfall in 1 year may be the maximum cumulative amount.

Source: Steele, W. Scott, "The Grain Reserve Issue," FDCD Working Paper, ERS, USDA, July 1974.

A similar table including wheat and coarse grains is presented for U.S. production (Table 4).

World production

The largest shortfall in world wheat production of 20.4 million metric tons occurred in 1963.[1] Two or more consecutive years of below trend production might require larger stocks than a large shortfall in one year. Therefore, cumulative shortfalls or deviations are also presented. The largest cumulative shortfall for wheat was 20.8 million tons.

The largest shortfall in world rice production was 15.3 million tons. The reduction was concentrated in India. The largest cumulative shortfall was 22.7 million tons.

Coarse grain production, of which corn is the major part, had a maximum shortfall of 20.7 million tons in 1964. Most of this occurred in the U.S. and was a result of U.S. policy to reduce grain production.

For wheat and rice combined, the largest shortfall was 22.9 million metric tons. The largest cumulative shortfall was the same amount. It is interesting to note that the largest shortfall for wheat and rice combined was less than the maximum for wheat plus the maximum for rice. This occurred because shortfalls for each crop are not necessarily associated. A large world wheat crop may occur in the same year as a small rice crop or *vice versa*. This possibility has implications for the size of stock necessary to even out total world deviations from trend.

U.S. production

The largest shortfall in U.S. wheat production was 4.5 million metric tons. This occurred in 1970 (Table 4). The largest cumulative shortfall was 10.1 million tons. A part of this reduction was a result of U.S. policy to restrict domestic wheat production because of large stocks on hand at the beginning of the period.

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[1] Shei, Shun-Yi, "The International Trade and Domestic Welfare Impacts of U.S. Wheat Export Controls", Unpub. M.S. Thesis, Purdue University, 1976.

[1] For purposes of this paper, trend production is considered to be the norm. Any drop below this level of production is considered to be a shortfall. A cumulative shortfall may involve one or more years in which production continues below trend.

The largest shortfall for U.S. coarse grain production was 22.3 million tons occurring in 1970. Southern corn leaf blight was a major cause. The largest cumulative shortfall was 28.7 million tons.

When wheat and coarse grains are combined, the maximum shortfall was 26.8 million tons. The largest cumulative shortfall was 31.1 million tons.

World grain imports

Positive deviations from the trend in world grain imports are an indicator of the extent to which importing countries increase their imports in response to production shortfalls. World grain imports increased above trend less than production declined for several reasons. A production shortfall in a major grain exporting country would not increase grain imports rather it would reduce export supply and possibly result in decreased grain imports in total. Importing countries can and do cut back on consumption when crops are short or prices are high due to short crops in exporting countries. Of course, this alternative is less feasible in countries where per capita consumption levels may be near minimum acceptable levels.

TABLE 4.—TOTAL U.S. WHEAT AND COARSE GRAIN PRODUCTION: DEVIATIONS FROM TREND, 1960–73

[In millions of metric tons]

	Wheat	Coarse grains	Total grains
1960	5.3	18.4	23.7
1961	1.0	−.5	.5
1962	−3.8	−2.9	−6.7
1963	−3.3	3.3	0
1964	−.5	−18.9	−19.4
1965	−.6	−1.8	−2.4
1966	−1.9	−5.5	−7.4
1967	2.7	8.0	10.7
1968	3.1	−4.2	−1.1
1969	−1.0	−2.2	−3.2
1970	−4.5	−22.3	−26.8
1971	1.8	16.8	18.6
1972	−1.1	4.6	3.5
1973	2.8	7.2	10.0
Maximum (minus)	−4.5	−22.3	−26.8
Maximum cumulative (minus)	−10.1	−28.7	−31.1

Source: Steele, W. Scott, The Grain Reserve Issue, FDCD Working Paper, ERS, USDA, July 1974.

The largest deviation above trend in world imports of wheat from 1960 through 1973 was 10.0 million metric tons (Table 5). This occurred in 1972. The largest cumulative deviation was 19.0 million tons which occurred from 1963 through 1966.

The largest deviation above trend in world imports of coarse grains was 5.1 million metric tons which occurred in 1973. The maximum cumulative deviation in imports for the period was 9.5 million tons and occurred in 1972 and 1973.

This discussion on shortfalls from trend production permits a preliminary conclusion on the amount of reserve stocks needed on a world-wide basis. If all grains are grouped together—wheat, rice, and coarse grains—and the objective is to provide enough grain to fully make up for the shortfalls in total grain production, a stock of about 30 million metric tons of grain would have been needed over the 1960–73 period. This quantity would have covered the largest cumulative shortfall during the period. An inventory of this size is equal to about 21 percent of the amount of wheat, coarse grains and rice that entered world trade channels in 1974–75.

On the other hand, if the objective were only to smooth out the increases in world grain imports, i.e., have enough grain in stock to provide for import increases which are above trend, the required stock would be smaller. A stock of about 24 million metric tons would be required assuming wheat, coarse grains, and rice as an aggregate.[1] A stock of this size is equal to about 16 percent of total grains which entered world trade channels in 1974–75.

The amount of grain stocks which would be required to offset the annual shortfalls in production and/or deviations in imports under alternative assumptions is presented in the section on "A U.S. Held Reserve".

GRAIN RESERVES AND STABILIZATION OBJECTIVES

The principal rationale underlying the current interest in publicly held grain reserves rests on the goal of greater economic stability. Supporters of reserves are usually explicitly or implicitly willing to endure greater government involvement in agricultural markets in return for enhanced stability.

Precipitious changes in grain prices lead to large shifts in relative welfare between domestic producers and consumers. These lead to great dissatisfaction which could be avoided if prices shifted more gradually in response to underlying economic trends. Changes in grain prices of the magnitude experienced over the past three years contributed to large changes in the production of livestock products with subsequent large changes in their prices. This has been of concern to consumers as well as some producers. There is also concern for the impact of large price variation on foreign consumers, especially those in low income countries.

TABLE 5.—WORLD WHEAT AND COARSE GRAIN IMPORTS: DEVIATIONS FROM TREND, 1960–73

[In million metric tons]

	Wheat	Coarse grains	Total grains
1960	−2.5	−1.4	−3.9
1961	−.9	3.1	2.2
1962	−3.5	1.4	−2.1
1963	7.8	1.3	9.1
1964	.6	0	.6
1965	8.0	2.4	10.4
1966	2.6	0	2.6
1967	−2.8	−2.1	−4.9
1968	−7.5	−5.5	−13.0
1969	−3.3	−4.9	−8.2
1970	−4.7	−3.5	−8.2
1971	−6.0	−.3	−6.3
1972	10.0	4.4	14.4
1973	2.2	5.1	7.3
Maximum (plus)	10.0	5.1	14.4
Maximum cumulative (plus)	19.0	9.5	22.7

Source: Steele, W. Scott, "The Grain Reserve Issue," FDCD Working Paper, ERS, USDA, July 1974.

A related, but different concern is the stabilization of U.S. supplies for both commercial and relief export markets. There is a widespread belief that the commercial export market for U.S. grains would be enhanced by assuring dependable supplies for foreign buyers. This would obviously require some means of shifting supplies in years of above average production to years of below average production. Similarly, the historical pattern of foreign food relief has been too subject to the vagaries of supply—relief has been large when U.S. supplies were large, but small when our supplies were tight. In essence, our relief program has been largely a surplus disposal program. A system of reducing variations in supplies is looked to for partial solution of the relief problem.

Finally, there is a desire to stabilize producers' income. This can be a difficult problem to solve, however, through use of a reserves policy alone because incomes are the product of price times volume. Since the two tend to move in opposite directions, the stabilization of one component while the other is free to vary may not enhance income stability. It may even accentuate instability.

These objectives of a stocks policy are stated in a recent report by the Committee for Economic Development, a national committee composed of some 200 leading business executives and educators. The report states:

"We recommend that the federal government assume the principal responsibility for establishing stockpiles of key foodstuff in the United States large enough to ensure an appropriate degree of stability of food prices, to encourage and take advantage of commercial trade opportunities when they arise, and to assume a fair share of the responsibility for meeting the emergency food needs of poor nations." [1]

POSSIBLE STOCKS POLICY ALTERNATIVES

Several different reserve policies have been proposed. They differ as to who would own and control the stocks. Also the various proposals have different sets of objectives. The following have been proposed:

1. U.S. participation in an international reserve to be held for stabilization of world grain prices. This would require participation by all major grain importing and exporting countries. They would agree to participate in building up a grain stock large enough to stabilize world grain prices. Stocks would be held by various countries with control over stocks exercised by an international body in which all participants would be represented. Costs would be shared by those who benefited from the stocks.

2. U.S. participation in international reserves for international relief purposes only. Organization, ownership and control of stocks would be similar to the first proposal. The quantity of stocks would be much smaller than those required for price stabilization. Costs would not be related to benefits but would be based on ability to play.

3. A U.S. reserve for international relief only. Under this approach, the U.S. would acquire and hold stocks of a size sufficient to meet its commitments to world food aid. The U.S. would decide its annual aid requirements and would bear the cost of owning stocks. The policy would be operated to meet U.S. humanitarian and foreign policy objectives.

4. A. U.S. reserve for stabilization of U.S. prices of grain. The U.S. would acquire and hold stocks of a size sufficient to meet domestic and U.S. export needs. The stocks would be managed to further U.S. interests with cost being borne by the U.S.

5. U.S. privately held stocks only. This would be a policy in which farmers, processors, grain handlers, and exporters hold all stocks without any governmental assistance. Or, it could involve assistance to private firms which would encourage them to hold larger stocks.

6. Some combination of the above.

The U.S. is currently engaged in discussion of an international reserve with the apparent objective of providing grain for relief purposes. This discussion is under the auspices of the United Nations Food and Agricultural Organization.

This paper is concerned with a stocks policy for the U.S. which would contribute to stabilization of U.S. prices of grain. (Alternative No. 4) Because of the dominant position of the U.S. in world grain trade, world grain prices would tend to be stabilized. Such a policy would not preclude participation in an international grain reserve. Also, it would contribute to the objective of having grain available for relief purposes.

U.S. EXPERIENCE WITH STOCKS

The U.S. has built up stocks of grains through price support programs six times in the past 45 years. Stock build-up was not a result of any deliberate policy of acquiring a stock of any particular size. Nor were stocks in themselves acquired to satisfy any particular set of objectives. Instead, stock buildup occurred due to prices being supported above market prices. Once acquired, stocks were used up as market prices rose above support levels. They were also diverted into food aid uses or were shipped to foreign markets under export subsidy.

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[1] All but about one million tons of the shortfall in total grain imports is due to changes in imports of wheat and coarse grains. Rice imports fluctuate very little from one year to another even though rice production may fall as much as 15 million tons below trend (1960–73 period).

[1] Committee for Economic Development, *A New U.S. Farm Policy for Changing World Food Needs*, New York, 1974, p. 27.

Stocks turned out to be useful assets 5 of the 6 times although at the time of buildup, costs of carrying them appeared burdensome. In each case, the available stocks kept prices from rising as much as they would have in the absence of stocks as demand increased sharply or short crops were experienced. But, in each case, the amount of grain which had been accumulated was not sufficient to fully satisfy demands and to keep market prices from continuing to rise once stocks were drawn down significantly. One reason for this may have been the narrow range between acquisition and release prices. In most cases, grain was put back into the market after prices had risen only about 15 percent above acquisition price.

Government held stocks were drawn upon during WWII, the Korean War, during 1965–66 when the monsoon failed in Southeast Asia, and when the U.S. corn crop was reduced in 1970 due to widespread corn blight. They were also used up in 1972–73 when world grain production was reduced and several other factors caused demand for U.S. exports to increase sharply. During the late 1950's (the one case when stocks were not an asset) stocks built up as a result of relatively high support prices and continuation of the output increasing technological revolution in U.S. grain production. These accumulated stocks resulted in large storage costs to the government. In this case, stocks were not reduced until commodity programs were changed sufficiently in the early 1960's to decrease the amount of grain going into storage.

The Agricultural and Consumer Protection Act of 1973 is not likely to lead to accumulation of stocks on a scale comparable to the past although authority exists for acquisition of grain by raising loan rates. The average price received by farmers for corn in January 1976 was $2.44 while loan rates were $1.10 per bushel. Acquisition by CCC loan takeover would require either a significant increase in loan rates or a sharp drop in corn prices. A similar situation exists for wheat. The average price received by farmers in January was $3.43 while the loan rate was maintained at $1.37 per bushel.

The relationship between market prices and loan rates has resulted in a shift of stock ownership away from government to farmers, elevators, processors, and exporters. The quantities of grain they will hold in the future will depend on expected returns to storage, the costs of holding grain, the need for cash for operating expenses and other factors. As stock ownership shifted from government to private firms, larger quantities were being carried in private hands than has been the case historically. Grain price variability and speculative activity which have occurred since 1972 have encouraged private firms to hold grain. It is uncertain whether they will continue to carry larger stocks of grain in future years.

A U.S. HELD RESERVE

Three main questions arise in developing a grain stocks policy which would meet the objectives stated above. They include (1) the size of the reserve and its composition, (2) the set of rules to be used in acquiring and releasing stocks and (3) who would own the stocks. Numerous secondary questions also arise.

Size and composition of reserves

In determining the appropriate size of reserves, it would be possible to consider all grain in the aggregate without specifying any particular composition of the reserve. Wheat tends to be substituted for rice when its production is short. In extremely tight supply situations, corn and grain sorghum may be substituted for rice. Large quantities of wheat are fed to livestock in the U.S., Western Europe and in the USSR. So, it would be possible to hold the total reserve in whichever form grains were available. This, however, would require more shifting around of grain than has historically been the case. Because of various problems anticipated, a distinction should probably be made between food and feed grains. There is reluctance to substitute among food grains as contrasted to the wider range of alternatives open to users of food grains. This suggests that a stock should consist of wheat, rice, and coarse grains.

Some reserve stock proposals include soybeans as one of the grains. It is not included here for several reasons. Many substitutes exist for both soybean oil and meal. Variability of production of soybeans and their substitutes tends to be less than exists for food and feed grains. Also, the U.S. has not had a control policy for soybeans largely because of the relatively elastic demand for soybean products. Soybean production competes for corn and cotton land which means farmers tend to adjust soybean production fairly rapidly in response to changing market conditions. Thus, it appears the shortages and high prices observed in 1973 for soybean meal were a very rare phenomenon with little relevance for general policy formulation.

If stocks were to be accumulated with the intention of fully meeting every anticipated shortfall in world grain production, large stocks indeed would need to be accumulated. They would be larger than those presented earlier if only limited substitution among grains is anticipated.

The maximum consecutive negative deviations from production trends can be considered as cumulative deficits which would need to be made up from stocks if the program had this objective. If all shortfalls in each particular grain had been made up with similar grain during the 1960–73 period, a stock of 21 million metric tons of wheat, 41 million tons of coarse grain and 23 million tons of rice would have been required[1] (Table 6). If the U.S. were to hold this stock, rice needs would probably be held in the form of wheat except for perhaps 1 million tons of rice. With this substitution, 42 million tons of wheat would have been required.

Total annual costs for carrying an inventory of this magnitude are estimated to be $1.41 billion per year (Table 7). This would cover annual storage costs and interest on investment in grain. It would not include costs of administering a storage program nor would it include possible losses from grain going out of condition. It is unlikely that the U.S. or any international organization would be willing to bear the cost. More likely, a lesser degree of protection would be preferable. This would be a policy decision.

If the U.S. were to accumulate and hold stocks sufficient to meet anticipated world deviations from trend with a 95 percent probability that stocks would be adequate, a stock would need to consist of about 29 million metric tons of wheat, 34 million tons of coarse grain and 18 million tons of rice.[2] This assumes a period like 1960–73 and that the U.S. would be the only holder of stocks to meet world grain shortfalls. For the one year in 20 when stocks would not be adequate, they would, however, make up the major part of the shortfall. Total annual cost of holding a stock of this size would be $1,510 million (Table 7). If wheat were substituted for rice, the annual cost would be $1,385 million.

TABLE 6.—ALTERNATIVE RESERVE STOCK LEVELS BASED ON ABSOLUTE DEVIATIONS FROM TRENDS IN WORLD PRODUCTION AND IMPORT DEMAND, 1960–73

	Wheat		Coarse grains		
	Production	Import demand	Production	Import demand	Rice production
	In million metric tons				
95-percent level[1]	29.4	12.4	34.2	7.4	18.3
68-percent level	13.5	5.7	15.7	3.4	8.4
Maximum shortfall, 1960–73	20.4	10.0	20.7	5.1	15.3
Maximum consecutive shortfall	20.8	19.0	[2] 41.0	9.5	22.7
	In million bushels[3]				
95-percent level	1,080	455	1,346	291	672
68-percent level	496	209	618	134	309
Maximum shortfall, 1960–73	749	298	815	201	562
Maximum consecutive shortfall	764	698	1,613	374	834

[1] See text for explanation of probability levels.

[2] Actual consecutive deviation from trend is 47,600,000 metric tons. This was adjusted to account for the reduction estimated to be due to Government action to reduce production in 1964.

[3] Coarse grains in terms of corn equivalent; i.e., 56 lb per bushel. Rice, in terms of wheat equivalent; i.e., 60 lb per bushel

Source: Steele, W. Scott, "The Grain Reserve Issue," FDCD Working Paper, ERS, USDA, July 1974.

TABLE 7.—ESTIMATED STORAGE COSTS FOR ALTERNATIVE LEVELS OF GRAIN RESERVE STOCKS (OVER AND ABOVE WORKING STOCKS)

Alternative stock to cover	Composition of reserve stock (million metric tons)			Average annual investment (millions)	Total annual cost (millions)
	Wheat	Coarse grains	Rice		
A. Maximum consecutive shortfall	21.0	41.0	23.0	$10,540	$1,580
B. Maximum consecutive shortfall with wheat for rice	42.0	41.0	1.0	9,370	1,410
C. 95 percent contingency level	29.0	34.0	18.0	10,040	1,510
D. 95 percent contingency level with wheat for rice	46.0	34.0	1.0	9,235	1,385
E. 68 percent contingency level	13.5	16.0	8.0	4,625	690
F. ½ the 95-percent level	15.0	17.0	9.0	5,085	760
G. ½ the 95-percent level with wheat for rice	23.0	17.0	1.0	4,705	705
H. Maximum import deviation	19.0	9.5	1.0	3,495	525
I. ½ the import deviation	9.5	4.8	.5	1,755	265
J. None of the shortfalls	0	0	0	0	0

Notes: Cost estimates are based on $2.35 per bushel of corn, $3.50 for wheat and $8 per hundredweight for rice. Annual storage and interests cost were assumed to be 15 percent of acquisition cost. Alternatives A, C, E, and F are included for illustrative purposes only. They are not really viable alternatives for the United States because of the large amounts of rice included. Alternative reserve stocks are over and above working levels of stocks of about 23,500,000 tons. The amount which might be held as stocks under alternative J which assumes no publicly held stocks is not known.

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[1] An inventory of this size would be equal to about 60 percent of the volume of world grain trade in 1974–75.

[2] Larger stocks of wheat and rice would be required under the 95 percent contingency level than under the maximum consecutive shortfall level. Stock requirements at the 95 percent level are based on a probability distribution calculated from the data for 1960–73. The calculations indicate a larger than actual shortfall could have occurred during the period.

If stocks were accumulated with a 68% probability of covering world deviations in production, the required stock level would drop to less than half that required at the 95 percent level (Table 6). Stocks required would amount to 13.5 million tons of wheat, 15.7 million tons of coarse grains, and 8.4 million tons of rice. Annual storage cost is estimated to be $690 million.

During the period 1972–73 to 1975–76, the U.S. provided about 45 percent of all wheat entering the export market. It shipped about 49 percent of all feed grains exported during the period. Based on the dominant position of the U.S. in world grain trade and the desire to maintain a share of the market, a reasonable approach might be for the U.S. to hold one-half of stocks required to satisfy any shortfall 95 percent of the time, assuming a period like 1960–73.

Stocks needed to meet one-half the deviation from trend assuming the 95% contingency level would consist of 15 million metric tons of wheat, 17 million tons of coarse grain and 9 million tons of rice. As indicated above, most of the reserves for rice would need to be held as wheat. Under this alternative, the U.S. might hold 23 million tons of wheat, 17 million tons of coarse grain, and 1 million tons of rice. Total grain reserves would amount to 41 million tons. Annual storage cost is estimated to be $705 million. (Although some would consider it a "reasonable" program, it could be considered as a maximum or upper bound.) This would be equivalent to about 845 million bushels of wheat, 670 million bushels of feed grains and 22 million hundredweight of rice. This would amount to 40 percent of the wheat, 9 percent of the feed grains, and 19 percent of the rice from the 1975 U.S. crops. If a working stock of 23.5 million tons were also held by private firms, the total stock of 64.5 million tons would be equivalent to the average level of stocks from 1963 to 1972 in the U.S.

Yet another approach could be based on deviations from import trends. This would take into account the kinds of adjustments which importing countries have made to shortfalls in production. These adjustments would include rationing out short supplies through higher prices or using grain from stocks or some other means.

For the limited numbers of cases during 1960–1973 when world wheat and rice production was below trend and imports increased as a result, about 53 percent of the gap was closed by imports. When wheat production was above trend, the decrease in imports was 63 percent of the increase in production.[1]

This approach would represent a type of lower bound which might be placed on stocks. The cumulative shortfalls or the 95 percent contingency level could represent an upper bound.

Based on import deviations, a 95 percent contingency level and the U.S. holding half the stock, an inventory of about 9.5 million tons of wheat, 4.8 million tons of coarse grains and 0.5 million tons of rice would be required. This would be equivalent to 349 million bushels of wheat, 189 million bushels of corn and 11 million hundred weight of rice. Estimated annual cost for this alternative is $265 million. Alternative levels of stocks could be determined under other assumptions and objectives.

Summary of size and cost comparison for reserve stocks

Historic shortfalls give some idea of the magnitude of stocks needed to even out grain availability. If prices are allowed to fluctuate over a range, the market would allocate some of the deviation from production trend. Larger deviations would be buffered by stocks. With a fairly wide price range between purchase and release price, private stocks would likely increase above minimum levels. This suggests a buffer stock substantially less than the maximum shortfall.

Table 7 lists the alternative stock levels in descending order of cost. Alternative A, C, E, and F are probably not viable alternatives because of the large amounts of rice included. Remaining alternatives can be listed in 3 groups as to high, medium and low cost. Alternatives B and D have high cost and represent large stocks. If we assume additional working stocks of 23.5 million tons, these two alternatives would represent stocks approximately equal to the maximum U.S. grain stock held in any one year during the 1960–73 period. They might be alternatives for the world, but not for the U.S. alone. Alternatives G and H have medium cost. Stocks of this quantity plus working stocks would approximate the average yearly amount of U.S. stocks held over the 1960–73 period, a period of reasonably stable grain prices.

Alternative I represents a low cost alternative. Price variation would be greater under this alternative, how much greater is unknown. However, variation during the 1972–75 period gives some indication of the amount of variation.

The data on costs of holding stocks are estimates of annual average storage costs over time assuming the stock was always at its maximum. They would vary from year to year depending on the size of the stock. Acquisition and disposal of inventory would result in annual net expenditures or receipts. In some years, the Treasury would generate a surplus by selling stocks. In other years when stocks were being accumulated, there would be a net treasury outlay.

Rules for acquiring and releasing stocks

Throughout the 1960's, the Commodity Credit Corporation acquired stocks primarily through loan take-over. Stocks were put back into the market at about 15 percent over acquisition price. Grain was exported with the help of U.S. export subsidies. Grain was released at less than the prescribed price when it appeared to be going out of condition. Prices fluctuated in a very narrow band since stocks were not completely depleted.

Maintaining prices within a very narrow band requires much larger stocks and/or use of additional control mechanisms. Limiting price movements to a narrow band distorts price signals when underlying forces of supply and/or demand are changing. When production is down, higher prices are needed to ration out the smaller supply and to encourage producers to increase production in future periods. Experience suggests a wider band is needed. Any choice is arbitrary but it would appear that a release price 50 percent higher than acquisition price would meet most of the objectives of a stocks policy without at the same time materially distorting market signals.[2] Likewise, the stocks agency would be less involved in the market over time as compared to following a policy of maintaining prices in a narrower band.

A procedure would be needed for adjusting the upper and lower bounds in response to changing economic conditions. If stocks accumulated in excess of the desired quantity, acquisition prices would need to be lowered. Likewise, if stocks were drawn down too rapidly or frequently, the upper bound would need to be increased. Ideally, the bounds would center on the long or intermediate run equilibrium level of prices.

Several proposals have recommended a quantity rule rather than price rules for acquiring and releasing stocks. A quantity rule based on variations in world grain production ignores changes in demand. It more or less assumes no response to price. Operationally, price information is more current and more readily observable than quantity. Quantity tends to be known only after the fact. Furthermore, price changes represent a consensus of many people about current and future supply and demand conditions.

Because of the need for adjusting the upper and lower price bounds, it may be more appropriate to use a combination price-quantity rule.

Rules for acquiring, disposing, and managing stocks would need to be developed and announced to producers and world buyers. Because of the tendency for manipulation of rules to attain short run political objectives probably a minimum of discretion should be left to the administrators of the program.

The main reason for stocks is to reduce uncertainty among the participants in the market under the assumption that this will increase efficiency of production and consumption. Unless adequate rules and safeguards are developed and made known to all participants, the system itself and those who control it become a source of uncertainty. Conceivably, this could become a larger source of uncertainty than the underlying forces which bring a stock policy into being.

There are disadvantages, however, of a publicly stated set of rules. A U.S. owned stock operated with a set of rules known to all would enable other countries to come in under the umbrella and perhaps manipulate the system to their advantage. Other exporters could sell grain in the world market just slightly under U.S. release prices which would tend to make the U.S. a residual supplier. However, this type action would not be counter to the overall price stabilization objective.

Problems of potential manipulation by the rest of the world would probably lead to greater interest on the part of the United States participating in an international grain reserve.

Who would own the stocks?

Stocks could be publicly or privately owned. The principal reason for a publicly owned stock is that if stock ownership is left in private hands, stocks would be too small to meet social objectives. To the extent that private individuals and firms are risk averters and have higher discount rates, this would be true. It has been argued that private firms would hold ample stocks if trade among nations were relatively free and not subject to government restriction and manipulation. In the imperfectly competitive market in which world grain trade takes place, a publicly held grain stock may serve the purpose of reducing more harmful governmental intervention of other types.

Private firms could be persuaded to hold larger stocks through appropriate government incentives. These incentives could be in the form of subsidized interest rates for construction of storage facilities and for covering the cost of carrying grain. Larger stocks held exclusively in private hands, however, would not necessarily reduce uncertainty in the market. If wide price bands are used, the opportunity for more private speculation would be present.

One of the objections to a privately held stock is that the stocks agency would not have sufficient control over stocks and could not call on them in time of need. This could be overcome somewhat by making loans only to those who would agree to deliver grain when it was called. A producer could be obligated to turn grain over to the agency when prices rose to the release price or be required to market the grain. In either case, grain would be moved out of stocks and into marketing channels.

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[1] These calculations are deviations from production trend of world wheat and rice production combined but exclude wheat production for wheat exporting countries. For imports, deviations are from trend world wheat imports.

[2] The Committee for Economic Development recommended that sales from the stock pile should not usually be made at prices less than twice the price at which stocks were acquired, p. 27.

Regardless of whether stocks are publicly owned or privately owned under government administration the question of who controls their acquisition and release is of great importance. One way to guard against manipulation of stocks for short-run political objectives would be for the Congress to establish a set of rules for operating such a program. Perhaps administration of the rules could be assigned to the Federal Reserve Banking system. The Commodity Credit Corporation would be another possible entity. However, if the CCC were to be assigned the responsibility, it would be necessary to restructure the organization so it would be less subject to political manipulation than it has been in the past. Under any system, rules could be changed only by the Congress.

How would initial stocks be accumulated?

With acquistion and release prices set in a wide band around a correctly estimated long run equilibrium price, it might be several years before any stocks were acquired. In this case, if a more rapid build-up were desired, the agency could announce a purchase price above the "normal" acquisition price prior to planting time and then agree to purchase up to a specified amount of grain.

More emphasis may be placed on the food security objective than on the price stabilization objective of a stocks policy. If security is the primary objective, it would be necessary to rebuild stocks before prices dropped to the acquisition price. As soon as grain were released from stocks, the agency could announce it would purchase a specified quantity at a price above the normal acquisition price. This would stimulate production for stock replenishment.

Who would benefit from stocks?

While stocks are being acquired, grain producers would benefit through higher prices. Consumers would pay higher prices as a result of acquisitions. Consumers would gain from the stability provided by stocks but would pay the cost of holding buffer stocks through their tax payments. Foreign buyers would gain from stability provided by the U.S. with the U.S. paying the costs.

It would be possible to get foreign buyers to share in the cost of holding the stocks by applying an export tax to grain released to the world market from the stock.[3] This would not mean that a tax would apply to all grain exported. Rather, it would apply only to sales from the stock or when grain prices were above the stock release price.

Farmers that can survive price fluctuations tend to gain less from stable prices relative to highly variable prices. On the other hand, there are some offsetting gains to farmers provided by expansion in foreign demand. Long run export growth would be enhanced to the extent that U.S. stocks discourage other countries from engaging in subsidized self-sufficiency programs or look to non-U.S. sources of supply.

STOCKS ARE NOT THE ONLY ALTERNATIVE

Greater stability in U.S. grain prices could be attained through freer trade in other countries. Policies followed by other countries include internal control of prices through price support programs coupled with regulation of imports and exports of grain. Policies of this type force a disproportionate adjustment to changing world demand and supply conditions on those countries which attempt to follow a "free" market for grain. "Remedies" to this situation would require vigorous negotiation over trading relationships among nations. Negotiations would need to include some coordination of internal farm policies.

Improved communication about world market conditions enables the market to work more efficiently. The current export monitoring system should prevent future "surprises" in the market. However, even with this information, the producer is left with uncertainty as to what government will do when proposed purchases are larger than automatically approved limits.

Another alternative would be to follow the pattern set by most other countries of the world. That would include use of import restrictions, price supports, export subsidies and use of export controls. This alternative would represent substantial governmental intervention into the market.

A stocks policy is an alternative which will contribute to stabilization, but it has costs which are not borne equally by everyone. Prospects for more liberalized trade in the current political and economic environment appear dim in view of current protectionist tendencies. The public propensity to intervene in the market when swings become too large does not seem to be diminishing. Since U.S. farmers have an important stake in maintaining export markets and forestalling inefficient self-sufficiency programs in other countries, they may come to see a stocks policy in their interests if adequate safeguards can be built into it. If such a stocks policy facilitated development of foreign markets and at the same time stabilized domestic demand for grain for livestock feeding, producers as well as consumers could benefit.

A stocks policy would not be a complete policy for the food and agricultural sector. Consumers would probably still push for some protection against sharply higher prices when grain prices exceeded the upper bound. This would likely be in the form of price controls or export controls. Producers would likely need protection against prices below the lower bound. This could be in the form of direct payments or some form of supply control. An appropriately designed stocks program should result in only infrequent use of these types of emergency programs.

A GRAIN RESERVE PROGRAM—STATION BULLETIN No. 137

(By B. F. Jones)

SUMMARY AND CONCLUSIONS

The primary purpose of this publication is to describe and analyze a specific grain reserve program. If society does desire to publicly hold grain reserves, the program described here provides a workable choice. The publication does not advocate *a* solution to the grain production instability problem but is designed to promote informed debate on program alternatives and trade-offs.

A stock of 30 million metric tons of grain held by the U.S. could be used to stabilize world grain consumption and world trade in grain around the trends which occurred from 1960 to 1973. Grain stocks would be acquired according to a prescribed set of rules and would not be accumulated beyond 30 million tons initially. (A growth factor would need to be built it.) Stocks would be returned to the market when world grain production dropped below trend according to a set of price release rules. The stock would be built back to its maximum size in the following crop year or sooner if market prices dropped below prescribed acquisition prices.

The stock would consist of 700 million bushels of wheat, 375 million bushels of feed grains and 1 million tons of rice.[1] Operation of the program would have an effect on grain prices. Grain prices would tend to be more stable than during the 1972–75 period, but would likely be less stable than during the 1960's. Prices would fluctuate since a relatively wide band is proposed between stock acquisition and release prices. This would permit market prices to continue to perform the functions of rationing grain to its various uses and guiding resource allocation by producers.

A Federal Board is proposed to acquire grain and administer its acquisition and release under a set of rules prescribed by Congress. It is anticipated that these procedures would insulate the stock from possible manipulation for short-term political considerations. Rather than hold the grain itself, the Board could administer a stock which was in the possession of farmers and the grain trade. This could be facilitated through storage payments to those who hold the stocks. Acquisition and release of stocks would need to be under control of the Board.

The stock program has the objective of insuring that grain will be available to even out variations in grain supplies as a result of fluctuations in world grain production. It is not designed to remove all price fluctuations or stabilize U.S. farm income. Price and income support, if considered to be necessary, would be a separate program operated according to its own criteria even though the various programs and objectives may be interrelated.

Any program, if it is to endure, must be logically consistent and economically feasible. It is believed the program presented here meets these criteria. Since the proposal involves trade-offs among various groups in society, it may or may not be politically acceptable; no attempt has been made to evaluate this aspect of the proposal. It is anticipated that the bulletin will be of use to policymakers and persons likely to be affected by the program as they evaluate various proposals and to students of agricultural policy.

OBJECTIVES OF THE RESERVE

The principal objective of the reserve stocks program described here is to use grain storage to compensate for the year-to-year variatons in world grain production. This would require putting grain into storage when production is above trend and releasing it when production is below trend. The program would be designed to operate as a type of insurance program which would assure that grain supplies will be available when crops are reduced below trend because of unfavorable weather or other unpredictable events.

The quest for stability in the food sector can focus on either supply availability or on prices. Prices reflect underlying demand as well as supply conditions. Various means for stabilizing prices would not necessarily make grain available to compensate for year-to-year variations in production. Price controls set at low levels would stabilize prices at least for a time, but rationing by some other means than price would be necessary. In addition, price ceilings would not make more grain available, in fact, over time they would tend to have the opposite effect. Export controls would keep domestic prices from rising, but would restrict supplies available to foreign buyers at the very time price signals are indicating more, not less grain is needed.

Wide price fluctuations signal to consumers that underlying demand or supply conditions have changed. Declining stocks create fears of running out of food. No matter how unwarranted such fears may be in the U.S., they indicate a concern over food security. If for no other reason than this concern, the food security and price stabilization objectives of a grain reserve program should be separated for analytical purposes in order to clarify the policy issues involved.

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[3] Under present rules, such a tax might be unconstitutional.

[1] Feed grains assume corn equivalent.

Ideally, all countries of the-world which buy or sell in world grain markets would participate or share in the cost of the storage program in proportion to the benefits they would receive. However, if it is not possible to secure participation of other countries on a world-wide basis, it may be in the interest of the U.S. to establish a reserve program because of its dominant position in world wheat and feed grain markets and its interest in retaining those markets.

In 1974–75, the U.S. supplied 44 percent of all wheat and 55 percent of all feed grains which entered foreign markets.[2] Because of large stocks of grain available in 1972 and the capacity to rapidly expand its production in subsequent years, the U.S. has increased its share of the export market from 29 percent of the wheat and 38 percent of the feed grain entering foreign markets in 1971–72.

This program is not designed to function as a food aid program. It is anticipated that the financing of food aid programs to benefit low income countries would be operated outside this program. With outside financing available grain would be released to the food aid agency from the reserve under the same set of rules (presented in a subsequent section) which apply to other potential users.

Furthermore, the reserve program is not designed to stabilize U.S. farm income nor put a floor under farm prices. If the stock is managed to satisfy food security objectives and is not permitted to accumulate beyond a specified size as is being suggested in this publication, market prices could decline below stock price acquisition levels.

A separation of the food security and price-income objectives would permit operating two programs, each according to its own criteria. This approach would avoid excessive accumulation of stocks, an argument frequently made in opposition to a grain reserve program. The stocks program would, however, play a significant role in price stabilization as long as stocks were greater than zero and less than the maximum size.

SIZE AND COMPOSITION OF THE RESERVE

A maximum stock of 30 million metric tons of grain would have been sufficient to compensate for all shortfalls in world grain production which occurred over the 1960–1973 period when all the major grains are considered as an aggregate.[3] This is equivalent to 1.2 billion bushels of wheat and would be equal to about 21 percent of the amount of wheat, coarse grains and rice that entered world trade channels in 1974–1975. When wheat, coarse grains and rice are grouped together, the required stock is smaller than might be expected from analyzing annual production changes for individual commodities. This is because production changes tend to average out on a world-wide basis. A small wheat or coarse grain crop may occur in the same year as a large rice crop or various other combinations may occur which cause the total world shortfall to be less than the shortfall in one particular grain.

Since wheat and rice tend to be substitute food grains, and wheat and feed grains are substitutes to a lesser degree, the stock could consist of 30 million metric tons of whichever grains were most plentiful at the time of acquisiiton. This lack of concern over composition of the stock would be feasible if free trade existed among countries and grain were free to move to where it was needed. Because of the many inflexibilities which exist in world grain production and trade, it would probably be necessary to specify a mix of commodities. The mix might vary within set limits depending upon which grains are most plentiful when stocks are being accumulated.

The mix of grains could be determined from year-to-year changes in world imports. Over the 1960–73 period when world grain production dropped below trend, a part of the shortfall was made up by increased imports. The record of deviations from the trend in grain imports suggests a mix of 700 million bushels of wheat, 375 million bushels of feed grains and 1 million metric tons of rice.

Although a stock of 30 million tons of grain would have been sufficient to compensate for the annual production shortfalls for the 1960–73 period, a larger stock would be required for the future because of the growth trend in production and world trade in grain. It is recommended that the storage stock grow from the initial target level at the same rate as the annual increase in grain production.

The stock level of up to 30 million metric tons under the control of the Board would be in addition to stocks held privately by farmers and the grain trade.

Although the prices of soybeans and their products have been more volatile than the price of grain during the 1972–75 period, it is not anticipated that the stock would include soybeans. A wide range of substitutes exist for both soybean meal and oil. Soybean production competes with both corn and cotton production. This permits farmers to rather quickly adjust soybean production to changing market demands.

In summary, a stock of 30 million tons of grain would be acquired for food security purposes. Additional grain would not be acquired by the Agency beyond the 30 million tons even though market prices might drop below the acquisition price.

WHO WILL CONTROL THE RESERVE?

Different groups in society are likely to have different perceptions of how stocks should be used for attaining food security. Thus conflicts over use of the stock would likely arise. Actions of the stock agency would tend to raise prices when grain was being accumulated but would tend to reduce prices when grain was being released. The need for an even-handed set of administrative rules suggests the stock should be under the control of a Federal Board appointed by the President subject to approval by the Congress. This would be a semiautonomous Board similar to the Federal Reserve Board.

Rules under which the Board would operate for acquiring and releasing grain should be specified by the Congress subject to periodic review. A change in the rules would require an act of Congress.

Although the Commodity Credit Corporation has over 40 years experience in administering commodity programs it is currently organized for other purposes than assuring food security. Questions might be raised as to whether it could be sufficiently insulated from short-run political considerations. Therefore, a new Federal Board would be preferred or a major reorganization of the CCC would be required with a wider range of interests represented on its board of directors than are included at present.

The reserve could be either publicly owned by the Board or it could be left in the hands of producers under the control of the Board. In the latter case, the Board would need to have sufficient control over the grain or have an appropriate set of incentives to fully control its acquisition and release.

OPERATING RULES

Although the objective of the program is to provide food security through acquisition and use of a 30 million ton stock of grain, price rules would be established for acquiring and releasing the grain. Ideally, this price range would be related to the long-run equilibrium price of grains. This would avoid excessive stimulation to production but would encourage production for stock accumulation. The acquisition price would need to be high enough to draw grain into the stock. In view of 1976 prices and production costs, acquisition prices for corn might be set at $2.50 per bushel for corn and $3.75 for wheat.[4] Prices are assumed to be average prices received by farmers for specified grades of grain, e.g., no. 2 yellow corn at local markets. Release prices would be set 50 percent higher than announced acquisition prices. This would be $3.75 for corn and $5.62 for wheat. Acquisition prices would be adjusted each year. One way to keep acquisition prices related to changing market demand and supply conditions would be to tie them to a 3- or 5-year moving average of market prices.

An alternative procedure for adjusting prices would be to tie acquisition prices to the cost of production. Because of many possible problems associated with this approach, including the fact that it does not take into account changes in demand, the approach of relating them to a moving average of market prices might be preferred.

Because the emphasis is on food security, price rules would be modified by a quantity rule. When the stock level was less than one-half the target level of 30 million tons, the acquisition price would be raised by 25 percent over the "basic" acquisition price. When stocks reached the half-way level, or 15 million tons, the acquisition price would be lowered to the "basic" acquisition price. This acquisition pricing procedure would recognize that stocks have a declining marginal value to society as more stocks are accumulated.[5]

Suggested acquisition and release prices are shown in Table 1. It would be up to the Congress to make the final decision on price levels.

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[2] Foreign Agricultural Service, U.S. Dept. of Agriculture, *Grains*, FG 5–76, March 1976 and FG 23–74, November 1974.

[3] An analysis of grain shortfalls during the period 1960–72 is reported in Station Bulletin 124 by Jones, *op. cit.* The bulletin also considers stocks of different sizes to meet alternative objectives, whereas this paper considers only one particular alternative.

Agriculture, *Grains*, FG 5–76, March 1976 and as maximum acquisition prices. The Board would make its purchases at the market or acquisition price, whichever was lower.

[5] Economic theory would suggest that the acquisition price should be a continuously declining function of the size of the stock. Operationally, this appears to be less feasible than a single, two-level acquisition price schedule. Under the continuously declining schedule, producers would be less certain of the price they would receive for grain going into the reserve.

TABLE 1.—SUGGESTED STOCK LEVELS, ACQUISITION AND RELEASE PRICES

[Dollar amounts per bushel or hundredweight]

Grain	Desired stock level	Acquisition prices		Release price
		Basic level	When stocks are less than ½ desired level	
Wheat (million bushel)	700	$3.75	$4.69	$5.62
Corn (million bushel)	375	2.50	3.12	3.75
Rich (million hundredweight)	22	11.50	14.38	17.25

It is unlikely that the Board could correctly estimate the long-run equilibrium price for grains. The stock would tend toward depletion if the release price is set too low; the stock would tend to be always at the maximum if prices are set too high. In order to avoid either extreme, the Board would have responsibility for adjusting the basic acquisition price each year.

The enabling legislation could specify that acquisition prices be related to a 3- or 5-year moving average of prices. In this case the Board would simply do the necessary calculations and adjust the acquisition and release prices each year. Prior to the planting season, the Board would need to announce acquisition prices and indicate expected purchases.

As soon as stocks are released, the Board would announce their release. This would be the signal to producers that the Board would stand ready to acquire grain to replenish stocks from the next crop year or sooner if prices dropped to acquisition prices during the current crop year.

Rules would need to be established for determining what proportion of the stocks are to be ready in any one year. If the size of the stock is currently estimated and a relatively large difference between acquisition and release prices is maintained, the stock agency should stand ready to release the entire stock when market prices are above the indicated price.

As indicated above, management of the stock should not be used to meet farm income or commodity price objectives. Rather, the stock program should be looked upon as a means of assuring food supplies. Other more appropriate means should be used for providing farm income and price stability.

WHO SHALL HAVE ACCESS TO RESERVES?

Grain stocks would be released to the market only when prices were above established release prices. When grain prices are above the release price and grain is being sold from stocks, any domestic buyer would have access to the stock. Since identity of the grain would not be maintained once it is released to the market, foreign buyers would also have access to the released stocks.

The reserve would not be used directly for food aid purposes. Indirectly it could be when market prices were above the release price and grain was moving from storage stocks to the food aid agency or any other participant in the market. When market prices are below the release price, the food aid agency would purchase grain needed for aid purposes in the market.

Management of stocks would likely require selling grain which was in danger of going out of condition, in fact a systematic rotation of stocks would probably be required. In such cases grain could be sold at less than the released price. The released grain would be replaced at the prevailing market price.

HOW SHALL COSTS BE SHARED?

If the stock is publicly owned, all taxpayers would be contributing to the cost of holding the stock. Initial acquisition of the stock would require an investment of about $4.3 billion when grain is valued at prices included in Table 1. An upper limit on overhead costs of the program would be about $700 million (Table 2). Annual overhead costs would include interest on investment in grain valued at acquisition prices and annual charges for grain storage. Experience of the Commodity Credit Corporation suggests an annual administrative cost of $45-50 million.

On the average, the annual budget needs of the Board would be less than $700 million—about $300 to $500 million—because of the profit margin made on each bushel of grain purchased and eventually sold by the Board and because the average size of the stock would be less than the maximum size. But the budget needs of the Board would vary considerably from year to year. Positive cash balances would be generated in years of substantial sales. In other years budget needs could exceed several billion dollars when substantial stock purchases needed to be made. If the entire stock were acquired in one year an investment outlay of about $4.3 billion would be required.

TABLE 2.—*Estimated Annual Overhead Costs When Stock Levels are at the 30 Million Metric Ton Level*

	Million
Interest on investment in grain	$430
Annual storage charge for facilities	222
Administrative expenses of the board	50
Total	700

Users of grain from stocks, including foreign buyers, would be paying a share of storage costs. Taxpayers would incur only the net cost of operations of the Board.

CONSEQUENCES OF THE PROGRAM

Thirty million metric tons of grain held by the U.S. would help stabilize world grain consumption around the trends which occurred from 1960 to 1973. Availability of stocks would permit U.S. trade to expand as world shortfalls occurred.

Consumers of grain, i.e., the domestic and foreign consuming public and livestock producers, would be the principal beneficiaries of the stocks because they would be assured of a supply of grain at all times. Fear of running out of grain due to unpredictable annual variation in supply would be diminished.

A grain reserve held by the U.S. with the objective of food security would facilitate holding and perhaps expanding U.S. export markets. Use of export controls or fear of low inventories encourages foreign buyers to promote self-sufficiency programs and to develop alternative sources of supply. Although it is difficult to precisely determine the long-run effects of such activities on U.S. exports analysis of current and past agricultural production and trade policies of other countries, particularly Western Europe and Japan, indicate food security is frequently an important factor in policy development.

A U.S. grain reserve held for security purposes would tend to reduce price and quantity uncertainties in grain markets which contribute to increased speculation in grain markets. Price speculation in grain markets does perform a useful function in grain marketing. However, the process of trial-and-error by which markets arrive at the correct price to ration out very small supplies can entail costly errors.

The program would facilitate giving of food aid to meet humanitarian objectives as grain would be available from storage via the market when shortfalls occur. Appropriation of funds to pay for aid would be more likely if grain were available from public stocks.

Foreign buyers would stand to benefit as well as domestic buyers. For this reason, it would be desirable to get international financial support from buying nations to contribute to the net cost of the program. Foreign buyers would be contributing to gross costs of running the program when the Board was making sales. The contribution would be indirect through export purchases which raised prices and triggered grain to be released from the stock.

Although consumers would appear to be the principal beneficiaries of the program, grain producers would benefit when grain was being acquired. On the other hand, producers would forego higher prices when grain was being released. But they would benefit by being able to hold foreign markets. In the long-run, grain producers might find the program useful in forestalling more harmful ad hoc programs hastily adopted, such as recent moratoriums on grain sales, to deal with fluctuating production and prices.

The reserve stock would contribute to more stable grain prices in the U.S. than existed in the 1972–75 period. Because of the U.S. position in world grain markets, a U.S. owned stock would add stability to world grain prices. More stable domestic grain prices would tend to stabilize domestic livestock production.

The costs and benefits of a storage program involve a number of economic relationships and assumptions which include values and beliefs held by society with respect to greater security rather than widely fluctuating prices. These intangible costs and benefits need to be taken into account in further analysis of such a program in the formulation of a public decision on a grain reserve program.

Mr. BAYH. Mr. President, the individuals who have contributed to these publications deserve to be applauded for their efforts; aside from Professor Jones, these people are: J. C. Bottum, P. L. Farris, G. L. Nelson, J. A. Sharples, and R. L. Walker. Three individuals offered review comments: Emerson Babb, Otto C. Doering III, and T. Kelley White, Jr.

Mr. President, I have had occasion in the past to call on Professor Farris, Professor Jones, and other members of the Purdue faculty for their opinions and analyses of agricultural policy. They have responded most generously with their time and expertise. Their assistance has been invaluable to me. The type of indepth, objective, and thorough research and analysis made available in Bulletins 124 and 137 is sorely needed to enable us to address constructively the problems of domestic agriculture and world hunger.

In the past I have advocated establishment of a strategic grain reserve, which I have characterized as a "national food savings account." The main purpose of a strategic reserve is to stabilize prices by protecting farmers from income depressing surpluses and from dumping, and to protect consumers from shortages which push prices out of reach. A vast amount of careful evaluation is needed to determine which type of reserve will best serve the interests of both farmers and consumers. The two publications which I have inserted in the RECORD today are an important contribution to that ongoing evaluation.

VIETNAM U.N. MEMBERSHIP

Mr. STEVENSON. Mr. President, we have learned in the morning papers that the President has instructed our Ambassador to the United Nations to cast a veto in the Security Council against the application by Vietnam for membership in the U.N. I suppose we must accept that the die is cast and that no amount of urging—at least not by individual Members of this body—will bring about a reversal of this short-sighted decision. But I must put myself on record that I do regard a veto as bad policy. It is actions such as these that are depriving us of the position of leadership which we once enjoyed in world councils, the U.N. included.

A veto is wrong because it is inconsistent with our own previously declared policies.

It is wrong because it will set back our objective of obtaining a full accounting from the Vietnamese Government for the missing-in-action.

It is wrong because it will isolate us totally on this issue from the rest of the U.N. membership, including our staunchest allies.

It is wrong because it will be perceived by all nations as an act of an administration imprisoned by domestic politics, more concerned with the ballot box than with its responsibilities as a great power.

Last year we cast a similar veto on the grounds that South Korea had been rejected by the Security Council and that we could not accept the principle of "selective universality." We proclaimed, however, our support for the principle of universality at that time. This year South Korea is not asking to be reconsidered for membership. Stripped of that handy excuse, we are now apparently no longer in favor of universality and are insisting upon criteria which are wholly related to our own personal quarrel with Vietnam. This is the sort of behavior which we would self-righteously denounce if it were exercsed by another permanent member of the Security Council, such as the Soviet Union. In fact we have done so many times.

I deplore the manner in which the Vietnamese have used the MIA issue for their own bargaining purposes. It is an act of cruelty directed at individual American families. The exchange of communications with the Secretary of State, on its face, shows that the Vietnamese hope to trade bodies for economic aid, which shows on their part a deplorable misunderstanding of the American political process. But are we not being equally callous toward the families of the MIA to shut the door so firmly in the face of a clear Vietnamese willingness to discuss the matter? Shutting the door to U.N. membership is hardly a response calculated to produce additional MIA accounting.

Mr. President, our veto of Vietnamese membership last year was followed by a resolution in the General Assembly in which 123 nations voted to have the Security Council reconsider the Vietnamese application favorably. Not one member voted against this resolution. Not one. We ourselves chose to abstain rather than vote against virtually the entire membership of this world body. This political use of the veto sets a serious precedent for blocking membership which one day may be cited in support of actions which we would oppose. This failure to accept the basic principle of universality may make it more difficult for us to defend Israel against continued attacks to banish that brave nation from the General Assembly.

Mr. President, it is time to reassert American leadership, to show ourselves as a great nation capable of rising above the disappointments of past failures such as the tragic and disastrous venture in Southeast Asia, capable of moving, in concert with our friends and allies, toward peaceful solutions of the world's tensions and ills. The veto about to be cast will be seen by those we hope to lead as mean-spirited and petty. I hope we shall soon have seen the last of such narrowminded policies.

Mr. President, I ask unanimous consent that a letter dated September 9 from Senators HATFIELD and McGOVERN to the Secretary of State be printed in the RECORD at the conclusion of these remarks. While I might hesitate to characterize the Vietnamese release of 12 names as a "good will gesture," I concur in the authors' conclusions.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 9, 1976.

Hon. HENRY A. KISSINGER,
Secretary of State,
U.S. Department of State,
Washington, D.C.

DEAR MR. SECRETARY: With the question of Vietnam membership in the U.N. coming up for debate in the United Nations Security Council as early as September tenth, we think it is time now for the United States to demonstrate a sensible commitment to a future of friendly relations with Vietnam. As you stated almost a year ago, the United States should be prepared to respond positively to any sign of good will and understanding by the Vietnamese on pressing issues of humanitarian concern.

The move by Vietnam Monday in confirming that twelve Americans previously listed as missing were killed in action is precisely the kind of gesture on the issue of MIA accounting that the U.S. government has been seeking. It is clearly a response to your own desire, expressed only last week, for concrete progress on an accounting. In that statement, you implied that such a move by Vietnam would prompt the U.S. to refrain from vetoing its membership in the United Nations. Indeed, the New York Times reported on September first that sources close to the Administration were "speculating that the United States attitude may depend on a last-minute signal from Hanoi holding out hope for progress in efforts to settle the problem of Americans missing in action".

We hope that you will recognize that Vietnam has made a good will gesture and has done so in response to a specific U.S. demand for progress on an accounting. If the U.S. does not reciprocate, at least by acquiescing in Vietnam's membership in the U.N., it would represent a rigidity toward Vietnam which could only do harm to U.S.-Vietnamese relations at a time when there is a chance to begin negotiations looking toward resolution of the MIA accounting problem. It might reduce the possibility of any future such gestures of good will by Vietnam.

Membership in the U.N. has traditionally been the right of every sovereign state. The vote of one hundred twenty-three to zero in the General Assembly last September rejecting, in effect, the U.S. veto of Vietnam's membership indicates how completely isolated the United States has been in connecting the questions of MIA accounting and United Nations membership. But regardless of the wisdom of that linkage, the Vietnamese gesture makes it even more incumbent on the U.S. side to show its good will by refraining from exercising the veto once more.

Sincerely,

GEORGE McGOVERN.
MARK O. HATFIELD.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that John Craford be granted the privileges of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I believe the Senator from Iowa is about to propose an amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES AND VIETNAM

Mr. McGOVERN. Mr. President, I regret very much the decision announced in the press today that our Government has decided to deny Vietnam admission to the United Nations. This decision, it seems to me, is based on a fundamental misunderstanding of the function of the United Nations organization. That body was never intended to be a union of nations that agree with each other. It is an international forum composed of nations of widely varying views and conflicting philosophies, but a forum which can serve as a structure for the discussion, the debate, and the possible settlement of disputes such as the Vietnam issue.

If we are seriously interested in pursuing more information about Americans missing in action in Vietnam, and I think we are serious about that, the best way to proceed is by restoring normal diplomatic relations with Vietnam. That is the way countries do business with each other. The United Nations is one forum through which nations can pursue matters at issue.

The Vietnamese have repeatedly indicated their willingness to pursue the MIA issue and other obligations of the 1973 Paris accords. They have not proceeded, obviously, as rapidly as we hoped they would. It seems to me we are not going to expedite the process but would do just the opposite by attempting to isolate them diplomatically from the world community.

We should cease our contention that the Paris accords of 1973 are no longer operative and begin the process of regular diplomatic and economic relations with Vietnam.

Mr. President, it strikes me as something of a paradox that we are pressing our claim for more information about the Americans missing in action under the agreement that was signed in Paris in 1973 and at the same time the Secretary of State and others are announcing that that agreement is no longer binding and no longer operative. I think we are arguing against our own case when we take the position that the Paris accords, signed in 1973, no longer have any validity because it is under those accords that the Vietnamese agree to provide a full accounting of Americans missing in action.

We have an opportunity, by opening up diplomatic relations with Vietnam and approving their admission to the United Nations, to encourage greater political independence on the part of this new country which has been unified, North and South, within the last year. We have an opportunity to pursue profitable trade, which is in the interest of ourselves and of the people of Vietnam, and we have the opportunity to secure a greater exchange of information on all matters by normalizing our relations with this country with which we were once at war. It is not in our interest, no matter how narrowly defined the matter of self-interest, to abandon Southeast Asia to the commercial and political interests of China, Russia, and other foreign powers.

On what basis do we assume that it is in the American national interest to leave the people of Southeast Asia with no place to turn for trade, for commerce, or for political support other than to the countries in that area?

When my wife and I visited Vietnam early this year, as a part of a trip authorized by the Committee on Foreign Relations of the Senate, we were told by Premier Pham Van Dong, Madam Binh, and other Vietnamese leaders that they would open the way for those American citizens who had been left behind in Vietnam to leave. They assured us that they would pursue the MIA question, and when I suggested that at the very least they could verify the names of those young men that they knew to be dead, they indicated they would follow that course. They pledged that they would immediately return the bodies of two Marines who had been killed in the final evacuation of Saigon. They indicated that they still regarded the Paris Accords as a valid and binding agreement, and that they were eager for economic and diplomatic relations with all nations.

Mr. President, you do not have to be an apologist or a defender of Vietnam to recognize that they have acted, at least in part, on all of those assurances that they gave us earlier this year. Surely the United States is a strong enough and great enough Nation to do no less. Let us not forget that no matter how much we suffered in Vietnam—and God knows we suffered enormously—we inflicted infinitely more suffering and destruction on the people of Vietnam, Laos, and Cambodia. No one can visit those little countries without becoming painfully aware of the enormous toll that was taken from the bombardment we delivered there. So we have some unfinished diplomatic and moral obligations in Southeast Asia.

I realize that this is an election year, but I would hope that common sense and decency do not have to disappear entirely every time we have a Presidential election.

Secretary Kissinger and President Ford deserve credit, and I think great credit, for their efforts, however belated, to resolve the explosive situation in South Africa. They deserve credit for the strenuous efforts to encourage an amicable settlement in the Middle East. They can demonstrate equal wisdom by keeping open the path to normal relations with such other trouble spots in the world as Vietnam, Cuba, and Korea.

Let me conclude, Mr. President, by saying that I am grateful that President Ford has named me as one of the American delegates to the United Nations. I realize that what I say here today puts me at odds with the official American position, and that I cannot utter sentiments of this kind in the United Nations itself as a delegate from the United States; but speaking as a Senator, as a Member of this body and a member of the Committee on Foreign Relations, I wanted to enter my strong dissent against the announced decision that we use our veto power as a country against the admission of Vietnam to the United Nations. I would like to see the day when every country in the world is a member of that body, not that I think it is always going to be a happy and harmonious situation, but because I think it is far better for diplomats to be losing their tempers on the floor of the United Nations than losing the lives of their young people on the battlefields of the world.

Mr. President, I yield the floor.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

AMENDMENT NO. 2285

Mr. HATHAWAY. Mr. President, I call up my amendment No. 2285, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), for himself and Mr. MUSKIE, proposes an amendment numbered 2285.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62, line 21, strike through line 3, page 69, and insert in lieu the following:

SEC. 11. STUDY OF REVENUE SHARING AND FEDERALISM.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"(a) STUDY.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the quality of financial control and audit procedures that exists among Federal, State, and local governments;

"(5) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions; and

"(6) the specific relationship of Federal general revenue sharing funds to other Federal grant programs to State and local governments, as well as the role of such revenue sharing funds in Federal, State, and local government fiscal interrelationships.

"(b) COOPERATION OF OTHER FEDERAL AGENCIES.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the

Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such reqeusts shall be made by the Chairman of the Commission.

"(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(c) REPORTS.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the first day on which all members of the Commission have been appointed, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".

Mr. HATHAWAY. Mr. President, the bill as reported now authorizes a study commission. As a matter of fact, this was my own amendment which was adopted by the Finance Committee. After consultation with my colleague from Maine (Mr. MUSKIE) and others, however, I have decided to modify it by not setting up a new Commission, but simply referring that study to the already established Advisory Commission on Intergovernmental Relations. This would save whatever money was needed to set up the new Commission, and also incorporate the expertise of this already established Commission.

I, being the author of the amendment in the Finance Committee, have no objection to this substitute for my amendment. I understand there is no objection on the other side of the aisle, and I suggest that we vote on it, although I understand that the Senator from Iowa (Mr. CULVER) has an amendment to my amendment which he would like to offer; and I will be glad to yield the floor so that he may do that.

UP AMENDMENT NO. 453

Mr. CULVER. I thank the Senator from Maine very much for yielding at this point, Mr. President. I do have an amendment to the Senator's amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 453 to amendment No. 2285:

On page 2, line 19, strike out "and".

On page 2, line 24, strike out the period and insert in lieu thereof a semicolon.

On page 2, after line 24, insert the following:

"(7) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments; and

"(8) the legal and operational aspects of the processes by which State and local governmental units allocate Federal general revenue sharing funds among individual projects, especially the role played in such processes by long-term planning.".

Mr. CULVER. Mr. President, the bill before us requires a study on revenue sharing and federalism in order to examine and evaluate the American Federal fiscal system. The study is mandated to inquire into a number of specific areas relating to the nature, purposes, and performance of general revenue sharing and to make recommendations to the Congress for improvement in these areas. The amendment which I have sent to the desk will single out two additional areas of inquiry which I believe are crucial for us to examine if revenue sharing is to continue to play a vital and creative role in the Amercan Federal fiscal system.

One question which the study should address would be short-term and long-term forces affecting the nature of federalism in the United States and how these forces will influence revenue sharing in the future.

Any student of American history knows that the U.S. federal system of government has not remained static over the years but has responded flexibly and adaptively to new conditions and felt necessities. Certainly this has been true in fiscal relations, and phrases with which we have grown familiar in recent years such as "the new federalism" and "creative federalism" have as their primary application the sphere of taxing and spending. I believe that it is essential that in the future, revenue sharing be capable of responding and adapting to new governmental forces as diverse as regional interstate compacts and metropolitan-wide planning councils. A study of the implications of such forces for revenue sharing seems to me to be especially appropriate.

A second question which the study ought to address is the process by which State and local governments make decisions in the allocation of revenue sharing funds. My own experience convinces me that local governments generally expend these funds wisely and prudently. Nonetheless, I believe that it would be of great benefit to examine in detail their decisionmaking steps. In particular, I believe that it would be essential to determine the extent to which prudent foresight and a long-range perspective guide their determinations. In an age in which government at all levels is criticized—and rightly so—for lurching from crisis to crisis rather than thinking ahead and acting before problems grow into emergencies, and improvements which we could encourage in the development of such foresight and careful planning would be useful. And surely, a survey of what actually is being done in this area by local governments is an important first step in the right direction.

Mr. President, I believe that careful consideration of these two areas by the study would contribute to our understanding of revenue sharing in the federal system and to our ability to make revenue sharing work as effectively as possible. I would, therefore, hope that the committee would accept this amendment.

Mr. HATHAWAY. Mr. President, I have had an opportunity to look over the amendment and discuss it with the Senator from Iowa. I think it is a helpful addition to my amendment, and I am happy to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment (No. 2285) of the Senator from Maine (Mr. HATHAWAY), as amended.

The amendment, as amended, was agreed to.

UP AMENDMENT NO. 454

Mr. CULVER. Mr. President, I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 454:

On page 69, after line 15 add the following:

SEC. 13. Economic and Technical Assistance. Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) Economic and technical assistance.—The Secretary, acting through the Director of the Office of Revenue Sharing, shall make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

Mr. CULVER. Mr. President, this amendment would direct the Secretary of the Treasury to provide economic and technical assistance to State and local governmental units in order to help them develop and implement a long-range planning capacity in their expenditure of revenue-sharing funds.

Such a capacity would make a valuable contribution to governments' ability to respond to the needs and desires of their citizens. More than ever before, American society is characterized by rapid change. If public officials are to govern effectively, it is essential that they be capable of responding not only to the immediate pressures of the moment, but also to the likely conditions which we will be facing 5, 10, or even more years ahead.

In order to do this, the development of an institutional capacity to foresee likely changes and to prepare for them is essential.

Obviously, perfect crystal ball-gazing is impossible and that is not what we should aim for. But no decision involving heavy expenditures, for example, for transportation systems should be made without some forecast or effort at projecting future traffic patterns. Similarly, it would not be wise to invest in community service facilities without attempting to have some knowledge of the demographic characteristics which would distinguish the city in the years ahead. Across the Nation experts are increasingly developing the ability to make such predictions or future scenarios.

However, very few local governments have the reservoir of technical expertise or data base to provide that capacity. And most are too strapped financially to be expected to hire consultants or gain access to data now available in the private sector. This amendment would direct the Secretary of the Treasury to make available financial, informational, and technical resources at the Federal level to local units of Government. Thus local governments could obtain the data base and the advanced methodology and forecasting techniques essential for the best use of their funds.

If adopted, this amendment would contribute greatly to insuring that Federal revenue-sharing funds are spent in the most effective and responsive way possible.

I, therefore, hope that the distinguished managers of the bill will accept this amendment.

Mr. HATHAWAY. Mr. President, will the Senator yield for a question?

Mr. CULVER. I yield.

Mr. HATHAWAY. I assume that the Senator means that this would be accomplished through the existing Office of Revenue Sharing without any additional appropriation being necessary. In view of the fact that this office now has accumulated data on 39,000 governmental units which have been receiving revenue-sharing funds over the past 5 years, there is available right now a lot of information that could be of great benefit to governmental units throughout the country. This amendment would simply require them to package something that could be sent to these units to aid them in making their decisions on spending this money. Does the Senator mean that?

Mr. CULVER. Yes; I do.

I wish to make clear that I do not envision, with the adoption of this amendment, the encouragement of an increase of bureaucratic force or staffing within the existing office. But I do hope that this amendment will do one thing. I hope that it will have the effect of creating an awareness of the need for sensible long-term foresight as to the implications of the expenditures of Federal revenue-sharing funds for certain purposes so that waste can be minimized and the most effective allocation of resources made.

It seems to me that, as difficult as it is to look ahead, we are developing increasingly methodology that permits us to ask some of the right questions in order to get a better grip on alternative probable futures. It seems to me further that if we could equip perhaps by way of technical resource packaging upon request of local governments, at least for those who had an inclination to be foresighted they could avail themselves of some of this material. With it, they could fill in the blanks, in effect, as to the kind of relevant data useful to their particular environment which they should have to make an enlightened and informed decision on how best to allocate their resources.

Mr. PACKWOOD. Mr. President, I have talked with the Senator. He used the words "on request." Does the Senator mind inserting those words on line 7 before "make available"? It is very clear it is to make available on request of State and local governments, so there is no allegation that we are trying to force this down their throat.

Mr. CULVER. I certainly am very willing to accept that. I think that very few things in life are of much value if forced on anyone. I do hope that it would be the kind of practice and concern that would develop a routine, however, and be viewed as an appropriate element in the decisionmaking process for the proper expenditure of Federal revenue-sharing funds.

Mr. PACKWOOD. Mr. President, may I ask the clerk if that may be inserted orally or do we need it in writing? That is to insert the words "on request" on line 7.

The PRESIDING OFFICER. The Senator has the right to modify his language, and it will be helpful if he will send the modification to the desk.

Mr. PACKWOOD. While that modification is being made, let me ask the Senator from Iowa one other question.

He indicated "acting through the Director of the Office of Revenue Sharing." I have no objection to those words. I wonder if the intent of his amendment would not be more readily achieved if that were stricken out so the Secretary of the Treasury was not limited to advice by having to act solely through that agency, where we have already agreed we do not wish to impose a horrendous burden. There might be a range of available talent if those words are not included.

Mr. CULVER. It seems to me that is a very constructive suggestion, and I wish to have it be a workable section in the legislation. If those additional resources could be better marshaled by enlarging the jurisdiction of the administrative authority, in this instance moving from the Office of Federal Revenue Sharing under the larger umbrella of the Secretary of the Treasury's office, generally I think that would be very useful.

Mr. PACKWOOD. In that case, if the Senator has no objection, I will not suggest modifying it now, but if we go to conference that language should be taken out. If the Senator has no objection, I shall accept the amendment on that basis.

Mr. CULVER. I might clarify this and leave it simply the Secretary of Treasury's office will provide these services.

Mr. PACKWOOD. It will read, "The Secretary shall make available, on request, to State and local units of government," the rest of the amendment as it reads.

Mr. CULVER. Should we say "utilizing the Office of Federal Revenue Sharing and any other appropriate resources," of his office?

Mr. PACKWOOD. That is fine.

I will in conference modify the amendment to that extent, and with that I am willing to accept it.

Mr. HATHAWAY. Yes. I think that is a good suggestion to add "other agency"; with those two modifications, Mr. President, I am happy to accept the amendment.

Mr. CULVER. Mr. President, for purposes of clarification, could we have the clerk read back the amendment as modified before we actually vote on it?

The PRESIDING OFFICER. The modified amendment will be stated.

The assistant legislative clerk read as follows:

On page 69, after line 15 add the following:

SEC. 13. Economic and Technical Assistance. Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) ECONOMIC AND TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Office of Revenue Sharing, shall, on request, make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment as modified.

Mr. HATHAWAY. Mr. President, let me ask the Senators from Iowa and Oregon. Did we agree we were going to put in another modification, "acting through the Director of Revenue Sharing, and whatever other agency the Secretary desires to act through?

Mr. PACKWOOD. I think we agreed on the language. I did not ask that it be amended here. I thought we could in conference. But if it is the desire of the Senator to amend it now, all right.

Mr. HATHAWAY. We may have a problem in conference explaining it. We will not have a problem knocking out words and phrases. Perhaps we should expand it here, and if we decide in conference to limit it, we will be able to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I believe that we have the amendment as amended now understood, and I wonder whether the clerk would read it.

The PRESIDING OFFICER. The modified amendment will be read.

The assistant legislative clerk read as follows:

On page 69, after line 15 add the following:

SEC. 13. Economic and Technical Assistance. Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) ECONOMIC AND TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Office of Revenue Sharing, and utilizing other appropriate resources, shall, on request, make available to State and local units of government the economic and technical assistance necessary to encourage, develop, and implement long-range planning capabilities in the allocation and expenditure of Federal revenue sharing funds.".

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. CULVER. Mr. President, I express my appreciation to the floor manager of the bill, the Senator from Maine (Mr. HATHAWAY), and to the Senator from Oregon (Mr. PACKWOOD) for their consideration and cooperation on this amendment.

Mr. HATHAWAY. I thank the Senator.

Mr. PACKWOOD. I thank the Senator.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 455

Mr. GLENN. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes unprinted amendment No. 455.

On page 55, after line 8, insert the following: "For purposes of this section, 'compliance' by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a)."

Mr. GLENN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

My amendment deals with the civil rights aspects of general revenue sharing. The amendment seeks to strengthen civil rights protections and enforcement by providing a clear administrative deterrent to discriminatory activity. The amendment specifically spells out one of the remedies that may be sought by the Secretary of Treasury in reaching a compliance agreement with recipients who have been engaged in discriminatory activity. It provides that the Secretary may seek to have a party that has discriminated in the past, pay restitution to injured parties.

Mr. President, this is a traditional legal remedy at equity, that the amendment spells out, as available at the administrative level to the Secretary of the Treasury in reaching compliance. It is also an available remedy in title VII enforcement proceedings with respect to employment. Restitution is often expressed in the civil rights area in terms of awards of back pay to victims of job discrimination. My amendment makes it clear that this very same restitution principle applies with respect to revenue sharing not only in instances of employment discrimination but to service activities that could be funded from revenue sharing. Basically, my amendment allows the Secretary to condition the resumption of revenue-sharing funds in a case where discrimination has been found and where funds have been suspended, upon a requirement that the recipient "make whole" those who have been the victims of discrimination.

Specifically, given the unique nature of possibly discriminatory services, this could mean a requirement to pave previously unpaved roads or put in street lights where there were none pursuant to an illegal discriminatory practice. In employment, it might mean a requirement of back pay to aggrieved parties. My point is that with this amendment, the Secretary would have the specific authority to require a recipient that has discriminated to do more than simply stop discriminating from the present moment. That discriminating party may now be required by the Secretary to make past victims of revenue sharing related discrimination whole as part of the agreement to resume revenue sharing payments.

Mr. President, this amendment differs from the one discussed with the managers yesterday that dealt with repayment of funds. I would have been happy with that amendment because the principle that I am driving for is the need to provide a strong administrative deterrent to discrimination. I do not believe that it is enough to say that we will simply stop funding once we find discrimination. We should say that where there has been discrimination that there might be reasonable grounds to require that past victims, be they individuals or neighborhoods, be rectified in some reasonable way.

Mr. President, I have been deeply concerned about civil rights protections in revenue sharing since I entered the Senate.

We have held hearings on this subject in the Intergovernmental Relations Subcommittee of the Government Operations Committee and earlier this year I introduced my own legislation, S. 3173, a bill designed to strengthen the antidiscrimination provisions of the Revenue Sharing Act. This summer, I was successful in adding an amendment to the Treasury Department appropriations bill that would significantly strengthen the civil rights division of the Office of Revenue Sharing's compliance staff.

I cite this history of interest and concern because of my strong feeling that we must make absolutely certain that this massive, 6-year, $42 billion Federal financial commitment to State and local government also be accompanied by a firm and unswerving commitment to full, complete and effective civil rights and antidiscrimination protection and enforcement. I am pleased that significant strengthening efforts have already been made in the Senate and House bills and I have supported those efforts wholeheartedly. Given the unique nature of revenue sharing funds with its "no strings" features and the difficulty in tracing funds once they become comingled into the general budgets of recipients, it seems to me that it is absolutely imperative that we place in the law very strong and clear deterrents to discriminatory activity. I believe that my amendment provides for that type of deterrent at the administrative level.

This has been discussed with the floor managers of the bill on both sides of the aisle. I will not call for a record vote on this unless they feel it is necessary. I will be happy to have any comment the floor managers of the bill might wish to make.

Mr. HATHAWAY. Mr. President, I have had an opportunity to look over the amendment; I think it is a good amendment, and I have no objection to it. It is a modification of what the Senator from Ohio had planned, and I think it is a sensible modification. It fits in with the entire civil rights provision very well.

Mr. PACKWOOD. Mr. President, I am in accord. I thank the Senator from Ohio for modifying his amendment of yesterday, which would have required repayment of a great bulk of revenue sharing funds if one particular person was injured. I think that might have been unfair to a whole variety of people unconnected at all with the spending of the money or the injury. But this particular provision as now worded is a normal provision of damages or restitution and equity, and I think it is a very acceptable provision. We are willing to accept it and we do not require a record vote.

Mr. GLENN. I appreciate the comments of the floor managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

UP AMENDMENT NO. 456

Mr. JAVITS. Mr. President, I send an amendment to the desk on behalf of myself and Senator McGOVERN and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MCGOVERN, proposes an unprinted amendment numbered 456:

At the end of the bill add the following new section:

SEC. —. The second sentence of Section 102 is amended to read as follows:

"In the case of entitlement periods beginning on or after January 1, 1977, such payments shall be made in monthly installments at such times during each month as the Secretary shall determine, except that, where the Secretary determines that the entitlement of a unit of local government to funds under this subtitle will be less than $4,000, the total payment shall be made not later than five days after the close of the first quarter of such entitlement period."

Mr. JAVITS. Mr. President, the amendment would provide a change in the bill to require monthly payment of revenue sharing to the various jurisdictions—about 24,000 would be involved in this amendment—instead of their being paid at the end of each quarter.

For those jurisdictions that receive less than $4,000 per entitlement for the year—that is, 9 months to begin with, but for the year—it be paid in one lump sum at the end of the first quarter.

Mr. President, the reason for this amendment starting first with the lower end of the scale is that it simply is very costly to make these small distributions.

Senator SCOTT had an amendment setting a $2,000 limit yesterday and he withdrew it after making a brief statement about it. But Senator MCGOVERN and I believe that is the right course, that it should not have been withdrawn, and that these small jurisdictions getting such a very limited amount of money should be entitled to get their payment in one check.

The whole amount involved in a $35 billion bill is $24,900,000. Therefore, it is simply much more efficient, more intelligent, more considerate of these smaller jurisdictions in terms of recipients, to get their money all at once.

As to the larger jurisdictions—24,000—the interest cost of the Federal Government making these payments monthly instead of quarterly, the extra interest cost is $40 million a year.

Today, Mr. President, what is happening is not that the public is not paying the interest. The public is. It is paying more because these jurisdictions have to borrow against their payments which come at the end of the quarter.

I have specifically ascertained the amount for New York City because this is where, naturally, we are very sensitive to any expense at all. It comes to $2.5 million a year.

The Federal Government borrows, when it does, taxable money as compared with the local jurisdictions where it is tax free.

Second, they can borrow on much less advantageous terms, paying very much higher interest rates, which costs the Treasury money because it is tax-exempt, and have much more difficulty. Some of them cannot raise any money at all on any interest basis.

It seems that if the Federal Government does wish the States and the localities to participate—and that is the whole matter of revenue sharing—then we ought to be openhanded with what we are doing. They ought to participate in the best practicable way for their purposes. That is what revenue sharing is all about.

Therefore, this amendment is entirely capable of being paid monthly except that the Treasury simply says, "Well, we will pay at the end of every quarter. That saves the United States interest."

But it does not save the people of the United States interest. They pay it. Indeed, they pay more, and in those jurisdictions which can deal with it a lot less creditably and effectively than can the United States.

Because it is, in the final analysis, de minimus in the size of this bill—which is $5, $6, $7 billion a year—$40 million—even if it is incurred, and I do not necessarily think it will be.

But this is the Treasury estimate. Even if extra interest is incurred, it will not exceed $40 to $45 million.

Mr. President, I yield to my cosponsor.

Mr. McGOVERN. Mr. President, first of all I want to say that I thank the Senator from New York for giving a very cogent explanation of this amendment. I will not take the time of the Senate to belabor the point.

This amendment really should be called the common sense amendment because it does, obviously, improve the administration of this program. It does not change the thrust or purpose of the revenue-sharing program, but it meets two categories of communities and cities at a level that is more in line with their needs.

I am especially concerned about the smaller communities. As the Senator from New York has said, we have a number of communities that are receiving less than $4,000 a year in revenue sharing. It makes no sense at all, with payments of that size, to dribble them out over a year's period of time in payments of several million dollars. It makes it difficult to do anything with the money in a practical way.

What we are talking about here with the second half of this amendment is some 15,000 small communities—15,314 to be exact. They are now receiving less than $4,000 a year. Instead of getting those payments in little dribbles over a 12-month period, they would be paid in one lump sum early in the year.

I am pleased to join with the Senator from New York in both aspects of this amendment. I hope it will be adopted.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, the committee is opposed to the amendment.

One of the grounds on which we base our opposition is that there are very few other Federal grant-in-aid programs that are not paid on a quarterly basis. Computers are already set up to pay the revenue-sharing sums on this basis.

Another objection is that the interest costs are somewhat higher than those stated by the Senator from New York. We estimate they would run about $65 to $70 million.

The argument that the Senator from New York makes is that the public is going to have to pay the costs anyway. That may apply to certain jurisdictions, maybe New York City and others, but most of the recipients for funds are financing their operations out of current revenues from taxes and do not have to go into the money market and borrow this money. Therefore, they are not imposing an interest charge upon their constituents.

Of course, the final argument is that with respect to the budget cost for fiscal 1977 it would be an increase in excess of $1 billion.

I would be happy to yield to my colleague from Maine, the chairman of the Budget Committee, to go into that in more detail.

Mr. MUSKIE. Mr. President, I understand the appeal of both facets of this amendment. The upper end of the amendment would not affect my State but the lower end would. It makes a lot of sense.

But, let me point out that the result of this amendment would be to move two-thirds of the fourth quarter payment from the beginning of fiscal year 1978 to the end of fiscal year 1977. The result of that would be to cause a bulge in the budget in 1977 which would bust the ceiling by an estimated $1 billion. These payments are now made within the first 5 days of the quarter succeeding the quarter for which the payments are provided. It is on that basis that, of course, the budget limitations of revenue-sharing were computed in the first concurrent resolution and the second concurrent resolution. To change the payments now means that the outlay effect in fiscal 1977 would be as I said, $1 billion higher than is provided by the second concurrent resolution. On that basis I have no choice but to oppose the amendment.

Mr. JAVITS. Mr. President, in answer to Senator Muskie, I would have no objection, either here or in conference to make the plan effective so that it does not interfere with the budget we have adopted for fiscal 1977. I would gladly do it now or await the conference. In other words, to make this plan effective as of the new fiscal year of 1978.

Mr. MUSKIE. I do not know how we can do that for fiscal 1977. It would have to be done in fiscal 1978. The payments are going to begin, I assume, unless I have read this incorrectly, in fiscal 1977. We would have to extend the last quarter payments until the following year.

Mr. JAVITS. Could we make it effective January 1, 1978? That would be all right then, would it not?

Mr. MUSKIE. That would pass the 1977 budget limitations.

Mr. JAVITS. But that would solve the problem; is that correct?

Mr. MUSKIE. It would.

Mr. JAVITS. I have no desire to interfere with the budget resolution.

Mr. President, I ask unanimous consent that I may modify my amendment in accordance with the modification which I send to the desk, to have the date read "January 1, 1978."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. But your modification would not solve the question of the substantial additional interest costs to the Treasury.

Mr. JAVITS. This does not in any way change anybody's allocations. The allocations remain precisely the same. It is just a question of the time of payment and the convenience and problems which are created for individual jurisdictions.

Senator HATHAWAY and I differ on the amount which is involved. We believe that the amount of $40 to $45 million is correct for this reason: We believe the figures the Senator is giving, which are quite bona fide as far as the Senator is concerned, were given in connection with our original amendment. Our original amendment was not the same as this one. It related to the payment at the beginning of the quarter. This amendment relates to monthly payments. On average, the cost to the Treasury is about half. That is why we gave our estimate of $40 to $45 million.

In orders of magnitude, of course, in a bill of this kind, whether it is $45 million or $65 million, it is not such a big deal. But I did want to make clear that our estimate was valid because we believe the figures which the Senator used were directed to an amendment which I did have and gave notice of but which is not the one that we submitted.

Finally, Mr. President, the aim of revenue sharing is to help the communities. That is the aim of doing it. So why do we play ducks and drakes with them for amounts relative to the whole which are not proportionate to the universe which we are attacking? That is what we are doing. Many of these jurisdictions in my own State, and I think the views of other Senators will bear this out, have to go out and borrow the money. They fully expect to get it but they do have to borrow it. The public is paying anyhow and it is paying more. Hence, the revenue sharing is less effective than it ought to be, and that I feel both Houses intended it should be.

For those reasons, Mr. President, I hope my amendment, as modified, will carry. I am prepared to vote.

Mr. HATHAWAY. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk is having difficulty hearing the responses of Senators. The Chair asks that the well be cleared, and that staff members take their seats.

The clerk may proceed.

The rollcall was resumed and concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) are necessarily absent.

I further anounce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 28, nays 57, as follows:

[Rollcall Vote No. 589 Leg.]

YEAS—28

Bayh
Biden
Brooke
Bumpers
Case
Chiles
Cranston
Domenici
Durkin
Garn
Griffin
Hart, Gary
Hart, Philip A.
Hatfield
Javits
Mathias
McClure
McGovern
Pastore
Percy
Ribicoff
Roth
Schweiker
Scott, Hugh
Stevens
Stone
Weicker
Williams

NAYS—57

Allen
Baker
Bartlett
Bellmon
Bentsen
Burdick
Byrd, Robert C.
Church
Clark
Culver
Curtis
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Gravel
Hansen
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Johnston
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Proxmire
Randolph
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—15

Abourezk
Beall
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Hartke
Inouye
Kennedy
Laxalt
Mondale
Pell
Taft
Tunney

So Mr. JAVITS' amendment, as modified, was rejected.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PACKWOOD. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, if I may have the attention of Senators I will give the Senate some idea as to the schedule.

The PRESIDING OFFICER. Let the Chair have order in the Senate.

The Senator may proceed.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when either Calendar No. 1054, H.R. 8401, or Calendar No. 853, S. 2053, the so-called nuclear assurance bill, is brought before the Senate, debate be limited as follows: 8 hours on the bill, 2 hours on any amendment, 1 hour on any amendment to an amendment or on any debatable motion or appeal, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. CLARK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GLENN. Mr. President, reserving the right to object, this is the whole nuclear fuel package; is that correct?

Mr. MANSFIELD. That is correct.

Mr. GLENN. I object to the time limit on that, Mr. President.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Mr. MANSFIELD. Mr. President, I understand we have one amendment by the distinguished senior Senator from South Dakota (Mr. MCGOVERN), and then final passage, if all things work according to Hoyle.

Mr. MCGOVERN. Mine will take 4 or 5 minutes.

TIME LIMITATION AGREEMENT

Mr. MANSFIELD. I ask unanimous consent that debate on the McGovern amendment, which I understand is a variation of the Javits amendment, be limited to 10 minutes, 5 minutes to a side.

Mr. HATHAWAY. That is fine.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR CONSIDERATION OF S. 3664

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, after the pending business is disposed of, the Senate then turn to the consideration of Calendar No. 973, S. 3664, a bill to amend the Securities and Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes. That is to be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, of course, I wonder if the majority leader expects that we will be in session at least until 5 p.m. today and thereafter, probably after that.

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. The reason I am asking is because there are two of our colleagues who will be back by 5 p.m. and wish to vote on final passage of the Revenue Sharing Act.

Mr. MANSFIELD. We can make arrangements.

Mr. JAVITS. Mr. President, there is one of our colleagues who has to vote in a primary, and he has been waiting for this vote.

Mr. GRIFFIN. That is what I am trying to determine. I am trying to determine whether it is going to inconvenience anyone else.

Mr. MOSS. Yes. It will inconvenience me. I have an airplane to meet.

Mr. GRIFFIN. In that case, I shall have to explain to our two colleagues who will miss the vote.

Mr. MANSFIELD. The Senator cannot win.

Mr. GRIFFIN. That is right.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 457

Mr. McGOVERN. Mr. President, I have an amendment at the desk which I offer on behalf of myself, the Senator from New York (Mr. JAVITS), and the Senator from South Carolina (Mr. THURMOND) and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself and Mr. JAVITS and Mr. THURMOND proposes an amendment.

At the end of the bill add the following new section:

SEC. —. The second sentence of Section 102 is amended to strike the period at the end and add the following: except that, when the Secretary determines that the entitlement of a unit of local government to funds under this subtitle will be less than $4,000, the total payment shall be made not later than five days after the close of the first quarter of such entitlement period."

Mr. McGOVERN. Mr. President, this amendment has the effect of picking up the second half of the amendment just offered by the Senator from New York and myself which relates to those small communities across the country that receive less than $4,000 in Federal revenue sharing and in some cases there are communities that receive only a few hundred dollars in the course of a year.

What the amendment will do is provide that in those cases involving some 15,000 small communities, those payments running less than $4,000 a year be made in one lump sum in the first quarter of the year. It is clear to me that the amendment that the Senator from New York and I offered a moment ago was rejected because it would have a substantial budget impact. This amendment would not.

I have talked to the Senator from Maine (Mr. MUSKIE) about it. We are only talking about a total payment to all these communities, over a year's time, of some $24.9 million out of a bill of approximately $6 billion. So, while it involves a great many small communities, it involves a very small amount of money.

It does not increase the amount of money those communities receive. It simply acts on the commonsense notion that, instead of dribbling out small payments of a few hundred dollars over a year's time, it would be set up for the Treasury to make those payments in a single lump sum at the beginning of the year.

I cannot anticipate any logical reason against this change in the administration of the law, and I am hopeful, in view of its almost insignificant impact on the budget, that it will be accepted.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. JAVITS. Mr. President, I am grateful to the Senator for two reasons: One, he allows me to qualify as a small town city as well as a big city Senator by joining in this amendment. Not too many people realize how many small towns and individual jurisdictions we have in a big State like mine.

Second, I think this is the very epitome of trying to be efficient and intelligent about how we handle business here. I join the Senator in understanding why some Members may have felt that they could not vote for the other amendment, but there is no such basic reason respecting this amendment, and I hope very much that it will be approved.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. NELSON. Just so I have the statistics correct, it is my understanding that, as of now, there are 39,000 jurisdictions—States and municipalities—receiving revenue sharing. Is my understanding correct that if all municipalities receiving $4,000 or less are separated out, that would be a total of some 15,000 municipalities?

Mr. McGOVERN. Yes, the Senator is correct. The exact figure is 15,314 communities that would be affected. These are the ones that receive $4,000 or less in a year's time.

Mr. NELSON. So that they would receive a check once a year instead of four times a year?

Mr. McGOVERN. That is correct. The saving in postage alone would almost pay for any additional cost.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from South Dakota for offering this amendment. This amendment should save the Government money, and it certainly will help the little towns that receive less than $4,000 a year.

What is the use of dividing that money over four different quarters when they can get $4,000 at one time and go forward with some kind of project in which they are interested?

I hope the amendment is agreed to.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I yield back the remainder of my time.

Mr. PACKWOOD, Mr. President, will the Senator yield me 2 minutes?

Mr. HATHAWAY. I yield.

Mr. PACKWOOD. Mr. President, I oppose this amendment. It is very similar to the amendment of the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT) which was offered yesterday, except that he had a $2,000 figure.

Two things are wrong with this amendment. One, it is going to cost the Treasury some slight interest because of the advancement of payments, but admittedly not significant as the previous amendment offered. Two, because we are going to have to refigure as we do these $4,000 figures each year, it means we will have to be reorganizing the computers to decide each year which towns are paid at the end of a quarter and which at the end of a year.

I think we are starting a bad precedent. If the Senate had wanted to extend an additional $10 million, $20 million, $30 million, or $40 million in revenue, we would have done so in the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. LONG. What logical basis can one offer to say that the line will be drawn at $4,000 and not $5,000 or $10,000; and then if it is $10,000, why not $20,000; and if it is $20,000, why not $21,000; and if it is $21,000, why not $25,000? So if you just go ahead and pay it out to all these governments early in the year, you wind up with the Government having a serious cash flow problem.

Mr. PACKWOOD. I think we are starting down the road of expanding it. I thought it was a bad precedent at $2,000 yesterday, and in 1 day we have gone from $2,000 to $4,000. It is a good thing we are not meeting much longer.

Mr. LONG. How can we say at one point that some community should be given one lump sum payment and at some particular point it crosses the line into those less favored, that get paid quarterly?

Mr. PACKWOOD. You have to figure your administrative costs each year, because you have to reprogram it to pay at the end of the quarter or the end of the year.

Mr. LONG. Meanwhile, the next year, the revenue sharing goes up somewhat; so instead of the town getting the lump sum payment, the town gets a check for only one-quarter of that amount, and the people cannot understand what happened.

Mr. PACKWOOD. That is right.

Mr. HATHAWAY. Not only is it true in the revenue-sharing program, but also, it opens the door with reference to the grant-in-aid programs. There is no reason to deny them the same treatment.

Under the present law, the Secretary of the Treasury does have authority, on a quarterly basis, to vary the amounts that he can pay out. So that he can do, in effect, almost what the Senator from South Dakota is trying to achieve by his amendment.

There is no logic whatever to drawing

the line at $4,000. As has been pointed out, it is going to change around the entire computer setup, which is already set up to pay out on a quarterly basis. There does not seem to be any sound, rational basis for giving certain towns one treatment and others another. I think we should stick with the committee bill, which has been the law for the last 5 years, and should continue to pay all jurisdictions on the quarterly basis.

The PRESIDING OFFICER. All time has expired.

Mr. JAVITS. Mr. President, is there a time limit on this amendment?

The PRESIDING OFFICER. There is a time limit, and all time has expired.

Mr. JAVITS. Mr. President, may I have 2 minutes and the other side have 2 minutes? I ask unanimous consent.

Mr. LONG. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 56, nays 30, as follows:

[Rollcall Vote No. 590 Leg.]

YEAS—56

Baker
Bayh
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Ford
Garn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Leahy
Magnuson
Mansfield
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Montoya
Nelson
Pastore
Pearson
Percy
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stone
Symington
Thurmond
Weicker
Williams
Young

NAYS—30

Allen
Bartlett
Bellmon
Curtis
Eastland
Fannin
Fong
Glenn
Goldwater
Hansen
Hathaway
Helms
Johnston
Laxalt
Long
McClellan
Morgan
Moss
Muskie
Nunn
Packwood
Proxmire
Randolph
Ribicoff
Scott, William L.
Sparkman
Stennis
Stevenson
Talmadge
Tower

NOT VOTING—14

Abourezk
Beall
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Hartke
Inouye
Kennedy
Mondale
Pell
Taft
Tunney

So Mr. MCGOVERN'S amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I wish to express my support for H.R. 13367, the State and Local Fiscal Assistance Act of 1976 which would reauthorize the revenue sharing program. Since its enactment in 1972, revenue sharing has become of crucial importance to our State and local governments, assuring them of a continuous flow of funds for the establishment, maintenance, and improvement of essential public services and programs. The program, which expires on December 31, 1976, has proven to be a central feature of State and local government budgets, and unless we reauthorize it, the fiscal health of these governments may be seriously impaired.

When Congress first approved revenue sharing, it was designed to accomplish several objectives. Its primary purpose was to redirect the flow of power and responsibility from Washington back to the State and local levels of government. Thus, Congress allowed wide latitude in the expenditure of revenue sharing funds so that these units of government would have greater opportunities to determine their own needs and priorities and to decide for themselves the best means of meeting them.

A second goal was to channel badly needed funds to State and local governments. In recent years, many of these governments have found that demands for services have outstripped their ability to raise revenues to support them. For example, State spending in fiscal year 1975 rose by 18.5 percent while revenues increased by only 9.8 percent. Without revenue sharing this gap would widen considerably. By the end of this year, $30.2 billion will have been distributed to about 39,000 units of State and local government.

Third, it was hoped that the program's dependence on Federal income tax revenues would shift the emphasis away from the need to rely on property and sales taxes to finance community services and projects. Many localities now use their revenue sharing funds to support regular services that would have otherwise required heavier local taxes to maintain.

Still another purpose was to insure that even smaller governments which often experience difficulty in obtaining Federal funds, could benefit from the program. This was accomplished through the automatic allocation of revenue sharing funds. Automatic entitlements have also facilitated local and State governments in the development of their budgets and in their long-range planning.

As reported by the Senate Finance Committee, H.R. 13367 would continue these important objectives. The legislation would also make a number of changes in the program that experience has shown us are necessary to improve the program's operation and administration.

The legislation would continue the revenue sharing program for another 5¾ years and would provide an entitlement for fiscal year 1977 of $6.65 billion to be increased each year thereafter by $200 million to account for inflation. For New Jersey this would mean about $1 billion in revenue sharing funds by the end of fiscal year 1982.

Except for a few minor change, H.R. 13367 retains the present method of computing entitlements. States may now choose whichever of two formulas gives them the most money—a three factor formula which combines population, general tax effort, and per capita income, urban population, and State income tax. The State governments keep one-third of the entitlement, with the rest going to the counties and municipalities. The money is apportioned to counties, cities, and towns using a formula based on population, general tax effort, and per capita income. No locality may receive less than 20 percent of a State's average per capita entitlement, nor more than 145 percent of a State's average per capita entitlement. An important provision also retained by H.R. 13367 requires that prevailing wage rates must be paid to all laborers and skilled workers when 25 percent of a construction project's costs—in projects costing $2,000 or more—are paid from revenue sharing funds.

H.R. 13367 would also eliminate two major restrictions on the use of revenue sharing entitlements. Present law prohibits entitlements from going to secure matching Federal grants. Many localities have felt that such a restriction inhibits local decisionmaking. Present law also requires operating and maintenance expenditures to fall within eight priority categories. H.R. 13367 would eliminate these eight categories.

As reported from committee, the legislation also tightens antidiscrimination provisions, encourages greater citizen participation in local decisions on the use of entitlements, and revises the reporting as well as the auditing and accounting procedures.

Through June 30, 1976, the State government of New Jersey together with about 650 units of local government had received more than $839 million in revenue sharing funds since the program was enacted in 1972. This infusion of funds has been of significant benefit to New Jersey, enabling the recipient governments to undertake projects and finance services that once were beyond their capability. New Jersey communities of all sizes have ably demonstrated their ability to use their allocations wisely and intelligently. For example, municipalities in Morris County, N.J., have used their entitlements to make important capital improvements and to defray the costs of providing a broad range of services, particularly public safety, public transportation, environmental protection, and recreation.

The city of Elizabeth has used its allocation to improve local health services, to pay the operating expenses of its public safety program, and to provide additional recreation facilities. The little borough of Woodstown has supported a child care center with a portion of its revenue sharing entitlement.

The revenue sharing program has been an enormous force for good in New Jersey, and I am confident that the same can be said of its impact on other States. It has improved the quality of local government, and thereby has improved the quality of community life. It has shortened the distance between people and the units of government that answer their needs, and it has allowed citizens to have a greater voice in the government decisions which affect them. It has created new job opportunities and it has broadened the range of public services available to our people. I am hopeful that my colleagues will join with me in supporting the extension of the revenue sharing program so that the benefits it provides may be continued.

Mr. THURMOND. Mr. President, I rise in support of H.R. 13367, the revenue sharing extension bill. Revenue sharing is one of the most responsible and responsive legislative measures adopted in the past decade. It would be futile to attempt to list all the benefits made available to the citizenry through the application of the funds. However, to demonstrate how beneficial and worthwhile I believe this program is, I would like to call to the attention of my colleagues the following facts relative to my home State of South Carolina:

Revenue sharing funds received by South Carolina and her local governments through June 30, 1976

Unit	Number of units	Amount received
The State	1	$124,998,943
Counties	46	129,961,601
Municipalities	236	114,019,761
Totals	310	368,979,305

As of June 30, 1976, the 46 counties and 236 municipalities in South Carolina have received almost $244 million in revenue sharing funds. The State itself has received nearly $125 million.

These funds have made possible great advancements, chiefly in the areas of public safety, environmental protection, and public transportation. Nearly one-half of the funds expended have gone toward capital improvements.

Mr. President, at the request of the chairman of the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, the General Accounting Office conducted case studies on general revenue sharing at 26 selected local governments throughout the country. One of the towns selected was Woodruff, S.C.

The GAO report indicates that approximately one-half of these funds were spent on much-needed capital improvements. Fire department equipment was purchased. A traffic signal system was installed. Additions to the street and sanitation equipment were made possible. Police department cars were bought. Additions were made to recreational facilities, and furnishings for a new public library were purchased. Most, if not all, of these improvements would have been impossible without revenue sharing.

Mr. President, I have always maintained that local governments should play a greater part in the role of Government. Revenue sharing makes it possible for decisions greatly affecting the welfare of the people of this country to be made on the local level. The revenue sharing extension bill would continue this most valuable program—a program which has been called the most successful Federal program of the century. I shall vote for the bill, and urge my colleagues to do likewise.

Mr. MUSKIE. Mr. President, the bill pending before the Senate would extend and amend the State and Local Fiscal Assistance Act of 1972 which established the general revenue sharing program. That program has authorized the return of $30.2 billion in funds to State and local governments, and will expire at the end of this calendar year unless it is extended.

I am and have been a strong supporter of revenue sharing. I consider it the cornerstone in meeting the needs of local governments. I support the extension of the revenue sharing program.

Today, 5 years after its enactment, general revenue sharing has proven to be a shot in the arm for our federal system of government. Throughout the country, revenue sharing funds have provided for useful, needed community projects—chosen by local officials, on the basis of local priorities.

These days, just about everything the Federal Government does is very complicated. Most of Federal programs which provide aid of one sort or another to State and local governments involve lengthy application processes and stringent rules and regulations as to how the money must be spent. Local officials in Maine are forever providing me with examples of how Federal programs are administrative nightmares for them.

In the midst of all this confusion, revenue sharing stands out as the beleaguered State or local official's dream program.

Revenue sharing also has had the healthy side effect of providing balance to a Federal grant-in-aid structure which, over the last decade, has become increasingly oriented toward narrow programatic goals with ever greater control by Washington.

By its very existence, revenue sharing is testimony to our recognition that the integrity of our federal system demands greater State and local control over the determination of local spending priorities.

I know that people in Maine welcome this recognition that we in Washington do not always know what is best for them. And I am sure that communities in every other State feel the same.

As chairman of the Senate Budget Committee I would like to comment on the budget implications of this bill.

The general revenue sharing level for fiscal 1976 was $6,355 million in budget authority. The soon-to-expire program has provided increases in revenue sharing payments of $150 million per year beginning in fiscal 1974. Under existing law, the program level for the transition quarter and the first quarter of fiscal 1977 is about $75 million in budget authority above the fourth quarter level for fiscal 1976.

The President has proposed to extend the general revenue sharing program for 5¾ years. He proposes $6,542 million for fiscal 1977—an increase of $187 million above the fiscal 1976 level. Because of the timing factors involved in extending the program, however, the President's proposal would result in lower payments in the last three quarters of fiscal 1977 than in the first quarter.

The Senate Finance Committee amended version of H.R. 13367 would extend general revenue sharing for 5¾ years and it would provide $6.65 billion in budget authority for fiscal 1977. This amount is about $110 million above the President's request.

How do these amounts relate to the congressional budget?

The Senate Budget Committee in its markup of the second budget resolution assumed in its recommended ceiling $6.65 billion in budget authority, or about $110 million above the first budget resolution assumptions. The Senate Budget Committee increased the ceiling to prevent the reduction that would otherwise occur in the last three quarters of fiscal 1977 under the President's budget request.

So I am pleased that Senator Long for the Finance Committee proposed and the Senate adopted yesterday an amendment to set the fiscal year 1977 revenue sharing level at $6.65 billion, the level assumed in the second budget resolution and provided in the House-passed bill.

I am also pleased that Senator Long's amendment, while it provides about $1.2 billion more in budget authority than the House-passed bill for fiscal years 1978, 1979, and 1980, is still about $450 million less in budget authority than the Finance Committee reported bill for those fiscal years. The Long amendment makes a total reduction of about $750 million when compared with the Finance Committee reported bill for all fiscal years.

With three-fourths of Federal spending locked into place before each fiscal year begins, I am always hesitant to increase those uncontrollable commitments, as this amendment still does. However, I feel some increase in later years is needed, and since the House-passed bill provides none, the Senate does need some leverage for negotiation with the House. Given the efforts of the Finance Committee to comply with the spending ceilings in the second budget resolution, and given the likelihood of some reduction in the later year increases, I believe the bill that will emerge from conference will have reasonable revenue sharing budget levels.

What I am saying is that we can pass a general revenue sharing bill with funds at the level proposed in this amendment, stay within the tight ceilings of the second budget resolution, and not exceed the deficit set out in the resolution.

There was another matter in the committee-reported bill which concerned me. As reported, the bill contained an authorization for appropriations for fiscal 1977 for the establishment of a National Commission on Revenue Sharing and Federalism. That authorization was in violation of the May 15 reporting date of section 402 of the Budget Act because it became effective on February 1, 1977. Moreover, the bill established a new commission to do a study which could well be done by the Advisory Commission on Intergovernmental Relations with funds already authorized. That problem has now been corrected by the amendment which Senator HATHAWAY and I offered and which has now been adopted.

Mr. President, this amendment provides some $300 million more for general revenue sharing in fiscal 1977 than State and local governments received in fiscal 1976, and that is all that can be realistically provided under the ceilings of the second budget resolution. As a strong supporter of the general revenue sharing program, I personally would like to see more money provided to State and local governments, but I am unwilling to raise the deficit of the second budget resolution.

Mr. BAYH. Mr. President, the Senate today is considering legislation to grant a 5¾-year extension of revenue sharing. Without passage of this vital measure, the revenue sharing program would end as of December 31, 1976.

Our Federal system suffers from a vertical fiscal imbalance which has been intensified by our recent economic problems. As things presently stand, the Federal Government has a greater ability than local governments to raise revenue progressively through the Federal income tax. State and local governments, on the other hand, are faced with a limited tax base, increased demands for service, and soaring costs. The revenue sharing program was designed to help ease the problem of fiscal imbalance and since its inception in 1972, it has had much success.

The legislation being considered today authorizes nearly $42 billion in entitlements until September 30, 1982. The amount available each year, under the Senate formula, is increased by $150 million to try to meet expected inflation. By knowing the amount of money available for the next 5¾ years, State and local governments can make long-term commitments to make the best possible use of their share of the entitlement.

This is particularly important due to the decrease in funding of Federal categorical grant programs. State and local governments are increasingly using their entitlements from revenue sharing to maintain the level of services in programs which used to be federally funded.

In Indiana, which has received $560,957,468 in revenue sharing moneys since 1972, these funds are used to support such varied programs and services as the purchase of fire and safety equipment, construction of new storm sewers, obtaining new library books, and instituting programs for senior citizens. All of these programs have come to rely on revenue sharing funds to fulfill vital local needs with a minimum of Federal regulation and redtape.

The legislation considered by the Senate takes some important steps to insure increased and more effective citizen participation at the local level in determining what projects will be supported by revenue sharing funds. Under the Senate legislation if a local government does not have its own hearing requirements, they will have to hold at least one hearing on proposed use 7 days prior to adoption of the budget. These hearings must take place at a time and location convenient for public attendance.

In addition, this measure strengthens and emphasizes the nondiscrimination aspects of the original revenue sharing law. While there were nondiscrimination provisions in the law, there has been much evidence that these provisions were unevenly enforced and in many cases there was no effective enforcement.

The Senate bill helps to clarify that not only can there be no discrimination on the basis of race, color, national origin, or sex in programs directly funded by revenue sharing but also there can be no discrimination in programs indirectly benefiting from revenue sharing moneys. For example, a State or local government cannot use revenue sharing funds for programs or services which are nondiscriminatory and then turn around and use its own freed-up funds to support discriminatory programs.

In amendments adopted on the floor, which I supported, the Senate included religion, age, and condition of handicap in the categories covered by the nondiscrimination provisions of the revenue sharing program.

While local and State governments should continue to have broad discretion in the use of their entitlements, the Federal Government cannot allow the use of its funds for programs which, directly or indirectly, continue historic patterns of discrimination.

I strongly support the continuation of the revenue sharing program and hope that final conference action will take place in the near future so that our State and local governments can begin to plan for the effective use of their entitlements for the next 5 years.

Mr. CULVER. Mr. President, I wish to express my support for extension of the general revenue sharing program. During the years that I served as a Member of the House of Representatives, and since the enactment of the State and Local Assistance Act of 1972, I have strongly supported the concept of general revenue sharing. I believe that it has become an invaluable source of supplemental funding for State and local governments.

The program's basic purpose is to provide an opportunity for communities to deal with problems at the local level with a measure of flexibility vital to sound governmental decisionmaking. The plain fact is that not all wisdom resides in Washington. And in particular, we in Iowa know the problems of our communities and how to go about solving them better than do the bureaucrats thousands of miles away. Revenue sharing funds enable State and local governments to better define and meet their own priorities, in combination with their own resources.

General revenue sharing was established under authority of the State and Local Fiscal Assistance Act of 1972. This legislation authorized the distribution of $30.2 billion in Federal revenues derived from individual income tax receipts, among qualifying State and local units of government. The program has been in effect for 3 years; through April 1975, quarterly payments of $18.9 billion have been disbursed by the Treasury Department to over 38,000 State and local units of government in the 50 States and the District of Columbia.

The Fiscal Assistance Amendments Act of 1976, which is due to expire December 31, extends the highly successful State and Local Assistance Act of 1972 for 5¾ additional years. This extension is essential if we are to allow government units to plan their budgets effectively.

Mr. President, general revenue sharing is one of the largest and most extensive of all domestic aid programs. It constitutes 10 percent of all current yearly expenditures for domestic grants-in-aid. Under a complex formula based on the multiplication of population, tax effort, and inverse per capita income, funds are channeled to units of government ranging in size from States and big cities to thousands of townships. Across the Nation, approximately 36 percent of the revenue sharing dollars are being used for capital expenditures. Approximately 24 percent of the funds are used in public safety and 13 percent in public transportation. An additional 22 percent are used in education and 5 percent for other community services.

In my own State of Iowa, for each of the past 2 years, we have received an average of $84 million in general revenue sharing funds to aid 1,043 units of government. For instance, Mr. President, these funds have allowed Sioux Center, Iowa, to maintain and extend paved streets, upgrade and expand airport facilities, and most recently, to purchase the old high school building for use as a community center. Marengo, Iowa, has been able to replace and repair secondary roads, obtain a public health nurse, and provide transportation for the elderly with the help of revenue sharing dollars. In Webster City, Iowa, aided by revenue sharing funds, a Federal bridge inspection was conducted on the county bridges, and a new courthouse was constructed.

I was especially impressed by the testimony given to the House Subcommittee on Government Operations by Ms. Lynn Cutler, the Chairperson of the Blackhawk County Board of Supervisors in Waterloo, Iowa. Ms. Cutler gave examples of how revenue sharing funds were used in her county to fund imaginative programs to meet human needs. These included construction of day care centers, providing portal to portal transportation for the elderly, aid to the Council on Alcoholism, and mental health assistance.

Revenue sharing funds have enabled

Iowans to have a better and more responsive government by absorbing welfare costs from local governments which can ill afford them; by decreasing or even eliminating personal property taxes through the provisions of real property tax credits for the elderly which permit them to retain ownership of their homes; and by removing the regressive sales tax on food and drugs.

Statewide, revenue sharing funds have gone to aid public transportation—22 percent, education—36 percent, public safety—13 percent, environmental protection—4 percent, health—4 percent, and other community development—21 percent.

Mr. President, I have cited only a few examples of how revenue sharing funds have aided the communities of Iowa. But Iowa is not the only State to receive benefits from general revenue sharing funding. According to a 1974 study compiled by the Library of Congress, Governors indicate that because of revenue sharing, 60 percent of the States were able to avoid new taxes. At the local government level, officials report that general revenue sharing receipts had enabled 35 percent of local units to prevent new taxes, while 34 percent reported the local taxes had been kept at prior levels. A significant number, 27 percent, report that general revenue sharing moneys had prevented imposition of new taxes.

General revenue sharing has enabled many State and local governments to avoid further additions to their burden of debt. 84 percent of State and local governments report that funds enabled them to avoid incurring new indebtedness, or reduced the level of new indebtedness.

The country's present economic plight makes continuation of this program imperative. Over the past 2½ years, the Nation has suffered the worst recession since the Great Depression. Not only the private sector has been adversely affected; the public sector has suffered as well. Rapidly rising service costs coupled with sluggish or declining tax bases have forced State and local governments to choose between increased taxes or reduced services. Spending in the States grew in 1975 by 18.2 percent while revenues grew by only 9.8 percent. The revenue sharing funds distributed over the past 3 years have helped States and communities maintain vital public services and restrained the growth of crushing tax burdens such as property and sales taxes which fall particularly hard on low income families and the elderly.

If revenue sharing payments are reduced or terminated, the adverse impacts on State and local governments would be severe, and efforts to stabilize the economy would be dealt a serious blow.

I am especially pleased that the Senate today adopted my two amendments to H.R. 13367 which I feel greatly strengthens the bill.

My first amendment directs the Secretary of the Treasury to provide upon request economic and technical assistance to State and local governments in order to help them develop and implement a long-range planning capacity in their expenditures of revenue sharing funds. Such a capacity would make a valuable contribution to the Government's ability to respond to the needs and desires of its citizens.

My second amendment addresses two questions that are to be examined by a revenue sharing and federalism study provided for in the bill. The first question to be addressed is the short term and long term forces affecting the nature of federalism in the United States and how these forces will influence revenue sharing in the future. The second question which the study should examine is the process by which State and local governments make decisions in the allocation of revenue sharing funds. Careful consideration of these two areas by the study will contribute to our understanding of revenue sharing in the Federal system and to our ability to make revenue sharing work as effectively as possible.

Mr. President, in my judgment, general revenue sharing is one innovation of government that has proven its worth as a constructive and cohesive element in our Federal-State-local system. The bill to extend it is a vital contribution to the strength of our State and local governments and I hope the Senate will act quickly and affirmatively on it.

Mr. LONG. Mr. President, might we just vote on final passage. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER (Mr. HANSEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read the third time. The bill was read a third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CURTIS (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.) the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Maryland (Mr. BEALL) and the Senator from Tennessee (Mr. BROCK) would each vote "yea."

The result was announced—yeas 80, nays 4, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—80

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—4

Helms
Mansfield
Proxmire
Scott, William L.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Curtis, against.

NOT VOTING—15

Abourezk
Beall
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Hartke
Inouye
Kennedy
McClellan
Mondale
Pell
Taft
Tunney

So the bill (H.R. 13367), as amended, was passed.

Mr. LONG. Mr. President, I hope the Chair will permit me to make three successive motions.

One, I move to reconsider the vote by which the bill was passed.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HANSEN) appointed Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. GRAVEL, Mr. HATHAWAY, Mr. FANNIN, Mr.

HANSEN, and Mr. PACKWOOD conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill (H.R. 13367) be printed with the amendment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTES ON TREATIES TOMORROW AT 1:30 P.M.

Mr. ROBERT C. BYRD. As in executive session, Mr. President, I ask unanimous consent that the votes on the treaties which were to begin at 1 p.m. tomorrow begin at 2 p.m. tomorrow instead.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(Later, the following occurred.)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the votes on the treaties which, under the order previously entered, were to begin at 2 p.m. tomorrow, begin instead at 1:30 p.m., with the first rollcall vote on treaties, which is to count for four votes, to last for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 3605

Mr. HUMPHREY. Mr. President, I simply ask that a bill that came over from the House, H.R. 3605, an act to amend the Internal Revenue Code relating to the Federal excise tax on beer, remain at the desk pending further deliberation and disposal.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

S. 3664

PRIVILEGE OF THE FLOOR

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Dick Bryan, of my staff, be accorded the privileges of the floor during the consideration of S. 3664 and any votes thereon, and also Mr. Joe Heaton, of the staff of Senator BARTLETT.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Tom Brooks, Tony Cluff, Gil Bray, Lamar Smith and Steve Paradise be granted the privileges of the floor during the consideration of S. 3664 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

GERMANENESS OF AMENDMENTS

Mr. HELMS. Mr. President, I further ask unanimous consent that all amendments in connection with this bill be required to be germane.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, reserving the right to object, it is my understanding that the Senator from Idaho (Mr. CHURCH) has two amendments which I think are germane but I am not sure. I would appreciate it very much if the Senator would withhold that request until Senator CHURCH can be notified.

Mr. HELMS. Mr. President, I will amend my request to exclude those two amendments.

Mr. PROXMIRE. The two Church amendments?

Mr. HELMS. Yes.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Calendar No. 973, S. 3664, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ken McLean, Robert Kuttner, and Howard Shuman be granted the privileges of the floor during the debate and vote on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, the bill before us this afternoon deals with a problem which troubles many Americans, the problem of bribery by multinational corporations abroad.

It is a very significant problem which has been recognized by all those who have responsibility, including the President of the United States, the Secretary of State, the Secretary of the Treasury, the committees of Congress, and many people in the business community. It is something which has been a very serious weakness of our free enterprise system.

It has been disclosed that there have been bribes paid by large American companies that have embarrassed foreign countries, that have resulted in great danger to governments in foreign countries, the danger that they may fall, and it has been a source of embarrassment and humiliation to many Americans who believe so strongly in our free enterprise system.

Mr. President, there is a broad consensus that the payment of bribes to influence business decisions corrodes the free enterprise system. Bribery short circuits the marketplace. Where bribes are paid, business is directed not to the most efficient producer but to the most corrupt. This misallocates resources and reduces economic efficiency. So our objective should be to end those bribes in the most effective way we can.

More importantly, bribery is simply unethical. It is counter to the moral expectations and values of the American public. It erodes public confidence in the integrity of the free market system. Bribery of foreign officials by some U.S. companies casts a shadow on all U.S. companies. It makes it harder for any American company to sell abroad when some of our most prominent and successful companies have engaged in that kind of activity.

It puts pressure on ethical enterprises to lower their standards and match corrupt payments, or risk losing business.

When bribery is exposed, it usually leads to sanctions both by the host government and the marketplace, against the offending company. The results have included cancellation of contracts, expropriations fines, lawsuits, and a loss of confidence in the company by investors.

Bribery of foreign officials by U.S. corporations also creates severe foreign policy problems. The revelations of improper payments invariably tends to embarrass friendly regimes and lowers the esteem for the United States among the foreign public. It lends credence to the worse suspicions sown by extreme nationalists or Marxists that American businesses operating in their country have a corrupting influence on their political systems. It increases the likelihood that when an angry citizenry demands reform, the target will be not only the corrupt local officials, but also the United States and U.S.-owned business.

Bribery by U.S. companies also undermines the foreign policy objective of the United States to promote democratically accountable governments and professionalized civil services in developing countries.

Mr. President, the question is, what is the committee recommending to the Senate of the United States to meet this problem? I might say this is a compromise bill, which was reported unanimously. Section 1 of the bill adopts the recommendations of the Securities and Exchange Commission. It requires reporting companies to create and to maintain accurate books and records.

It is essential that there be such a statute if we are to enforce the laws against bribery, and this is one of the urgent requirements recommended by the Commission.

Second, it requires internal accounting controls sufficient to assure that transactions will be executed in accordance with management's instructions, that transactions will be accurately recorded, that access to corporate assets is carefully controlled, and that the representations on company books will be compared at reasonable intervals with actual assets, and any discrepancies resolved.

The purpose of that provision, of course, is to make sure that the management of a company controls its assets, and that if people representing a company make a bribe payment, it is possible to hold the top officials of the company responsible. It is necessary to have this kind of law on the books to make sure that this responsibility is legally effective.

This section also makes it a crime for a reporting company to falsify books, records, accounts, or documents, or to deceive an accountant in connection with an examination or audit.

The second section of the bill—and there are only three sections, and I have only a couple more paragraphs—applies to corporations subject to the jurisdiction of the SEC by virtue of the reporting requirements of the Securities Exchange Act of 1934. It applies the existing criminal penalties of the securities laws—up to 2 years imprisonment and a fine of up to $10,000—for payments, promises of payment, or authorization of payment of anything of value to any foreign official, political party, candidate for office, or intermediary, where there is a corrupt purpose. The corrupt purpose must be to induce the recipient to use his influence to direct business to any person, to influence legislation or regulations, or to fail to perform an official function in order to influence business decisions, legislation, or regulations, of a government.

The other section of the bill, section 3, applies the identical prohibitions and penalties provided by section 2 to any domestic business concern other than one subject to the jurisdiction of the SEC pursuant to section 2. Violations of the criminal prohibition under section 3 by persons not subject to SEC jurisdiction would be investigated and prosecuted by the Justice Department. Violations under section 2 would normally be investigated initially by the SEC, but referred for criminal prosecution to the Justice Department.

Mr. President, I have two more arguments I would like to make before I finish.

In the first place, the arguments against the legislation seemed to the committee—certainly they seemed to this Senator—to be unconvincing.

Most witnesses before the committee denounced bribery as an intolerable practice. Yet the argument is sometimes made that U.S. companies must pay bribes in order to compete with less scrupulous foreign competitors.

How about that? Do our firms really have to pay bribes to be effective abroad? As late as 1975, a survey of senior executives of major companies revealed that nearly half condoned bribery as necessary to do business in some parts of the world.

In reality, however, many of America's leading companies have never resorted to bribery. That is, in every industry where bribery has been present, the SEC found that there were American companies that were very successful, that paid no bribes at all. Incidentally, that is a most eloquent answer to the argument that we had better go along, or we will lose trade abroad. It seems to me it shows conclusively that it is not necesary to make these bribe payments. SEC Chairman Hills told the committee in testimony May 18:

> We find in every industry where bribes have been revealed that companies of equal size are proclaiming that they have no need to engage in such policies.

Indeed, there is substantial evidence that a refusal to bribe seldom results in a business advantage for foreign competitors. As Secretary Richardson observed on behalf of the Administration Task Force:

> In a multitude of questionable payments cases—especially those involving sales of military and commercial aircraft—payments have been made not to outcompete foreign competitors, but rather to gain a competitive edge over other U.S. manufacturers.

Mr. President, the most conspicuous example of bribes, or influence by payments, I should say, is by the Lockheed Corp. There were $22 million, or close to that, in payments that were considered questionable, and may have been considered as bribes. But from the testimony, it was obvious that Lockheed was competing, not with foreign competitors, but with other American companies. We produce more than 80 percent of the aircraft similar to those Lockheed produces, and that was their method of competition.

A strong antibribery law would help U.S. multinational companies resist corrupt demands, and would enhance the reputation of U.S. business abroad. The former chairman of Gulf Oil Co., Bob Dorsey, commented in testimony before the Multinationals Subcommittee of the Senate Foreign Relations Committee:

> . . . such a statute on our books would make it easier to resist the very intense pressures which are placed on us from time to time. If we could cite our law which says that we just may not do it, we would be in a better position to resist these pressures and refuse the requests.

That comes from a man who has had the hardest, toughest, and most direct kind of practical experience in this business. His recommendation to Congress is to pass a law outlawing bribery, and he says it will not make it harder for business, but better for business if we do so.

The argument has also been made that some foreign countries might resent American attempts to export our morality and impose American standards on transactions taking place in their countries. The fact is that virtually every country has its own laws against bribery, although some are not vigorously enforced. Given worldwide outcry against the corrupting influence of some U.S.-based multinationals on foreign governments, the committee believes that most countries would welcome a greater effort by the United States to discourage offensive conduct by U.S. companies, wherever their activities may take place.

It is interesting that the attorney general of the African Republic of Botswana, a small developing country in Africa, observed as follows:

> Certainly, no self-respecting African nation would consider U.S. legislation aimed at curbing corrupt practices of American transnational enterprises in their foreign host states to be "presumptous" or in any way "an interference". On the contrary, most Third World nations would appreciate such legislation. You see, developing countries have difficulties in discovering offenses committed by U.S. corporations in so far as their bribing and corrupting of local government officials . . . Why do you think all of these disclosures are coming out of Washington and not out of the host countries? On this particular issue, most Third World countries would want to cooperate to the fullest extent possible, with the U.S. and other home countries to make sure that the offending transactional enterprise is punished. Another result of the U.S. adopting such legislation is that the Third World will acquire a healthier respect for the United States and its transnational enterprises.

Mr. President, we are not doing a disservice. We are doing a great service to other countries by prohibiting bribes by our companies abroad.

There is no way that another country can gain if they acquire products from this country through bribery. What that means, of course, is the airplane or the tank that is bought, or the other product that is purchased is an inferior product; otherwise, the bribe would not be necessary. Either it is inferior or the price is higher. The reason the bribe is necessary is to sell the product.

So it is obviously not only in the interest of this country, not only in the interest, as I pointed out in some detail, of businesses, but it is in the clear interest of the foreign countries involved, and they have told us that.

The concern has also been raised that criminal sanctions against an illegal act which takes place at least in part outside the United States, even if desirable, may be unenforceable or unconstitutional. It is a settled question of international law, of course, that a State may regulate the conduct of its citizens overseas where such conduct has consequences domestically.

There are ample legal precedents for the prosecution of criminal conduct overseas, where the illegal act is committed by a U.S. citizen or national or by a U.S. organized or controlled company, where there is a nexus between that act and acts carried out within the United States, or where the act has consequences in the United States. Examples include securities fraud, violations of the Trading With the Enemy Act, and certain antitrust violations. The report of the committee includes a legal memorandum on that point. Moreover, in the current SEC investigations of violations of the securities laws involving failure to disclose material payments, the SEC has referred cases to the Justice Department for prosecution where the alleged criminal violation involved failure to report an overseas payment.

The committee also notes that in most cases investigated by the SEC to date, investigators were able to uncover adequate evidence of overseas payments by subpenaing records, and/or interviewing witnesses with knowledge of such payments, available in the United States. Furthermore, ethical employees or competitors are often a source of information on bribes paid overseas. All of these sources will continue to be available in the prosecution of bribery cases.

Finally, while the committee recognizes that the Securities and Exchange Commission has diligently sought to enforce the securities laws provisions requiring corporate reports to disclose "material" payments, the concerns raised by the disclosure of corrupt foreign payments require a national policy against corporate bribery that transcends the narrower objective of adequately disclosing material information to investors.

There is one more argument I wish to make, Mr. President, before I yield the floor.

I fully recognize that the proposed law will not reach all corrupt payments overseas. For example, sections 2 and 3 of the bill that is before the Senate now would not permit prosecution of a foreign national who paid a bribe overseas acting entirely on his own initiative.

The committee notes, however, that in the majority of bribery cases investigated by the SEC, some responsible official or employee of the U.S. parent company had knowledge of the bribery and approved the practice. Under the bill as reported, such employees could be prosecuted. The concepts of aiding and abetting and joint participation in, would apply to a violation under this bill in the same manner in which they have applied in both SEC actions and in private actions brought under the securities laws generally.

Furthermore, any U.S. corporation subject to the accounting requirements of section 1 which made a practice of "looking the other way" in order to be able to raise the defense that they were ignorant of bribes initiated by a foreign subsidiary, could be in violation of new subparagraph (b)(2)(B) requiring issuers to devise and maintain adequate accounting controls. Under section 1, no off-the-books account or fund could lawfully be maintained, either by the U.S. parent or by its foreign subsidiary, and no improper payment could be lawfully disguised.

The committe expects that the prohibitions contained in section 2 of the bill as reported will complement the accounting provisions of section 1, which were recommended by both the SEC and the Richardson task force. The committee took note of the SEC's oft-repeated conclusion that "virtually all questionable payment matters have involved the deliberate falsification of corporate books or records, or the maintenance of inaccurate or inadequate books and records, which among other things, prevent these practices from coming to the attention of the company's auditors, outside directors, and shareholders."

The requirement to maintain accurate books, records, and management controls and the prohibition against falsifying such records or deceiving an auditor will go a long way toward eliminating improper payments, which—almost by definition—require concealment. Taken in combination with the criminal prohibition against bribery, the accounting provisions should be adequate to the task of deterring corrupt payments even where transgressors take steps to evade the intent of the law.

To sum up, Mr. President, this is a compromise bill. The committee narrowed the definition of "bribery." The disclosure provision was dropped. I objected to that, and I hope on the floor we can amend the bill to accept an amendment which I understand Senator CHURCH will offer that will provide disclosure. I think that will be a substantial strengthening and improvement of the bill.

The bill has support in its present form of the SEC. It was a bipartisan compromise reported to the Senate without dissent. Both Democrats and Republicans on the committee support the bill.

The bill simply makes it a crime to bribe a foreign official to obtain business or influence legislation. It must be a corrupt purpose. It makes it a crime to falsify company books.

Other nations need to have confidence that U.S.-based firms are not corrupting foreign governments.

We have the conspicuous and tragic example of the Japanese Lockheed case. Bribery, by a few firms like Lockheed, unfairly tarnishes the honest U.S. companies and puts pressures on the honest companies to bribe.

The Securities and Exchange Commission told us many bribes paid by U.S. companies were paid to get business away from other U.S. companies.

It is enforceable. Most existing SEC cases were brought by using records and witnesses available to the United States.

Mr. President, I yield the floor, and I am hopeful we can finish this bill tonight.

If the Senator from Texas wants to agree to any time limitation after debate has run a while, I will be happy to do that. If not, we will just see what happens.

Mr. TOWER. Mr. President, in response to the Senator from Wisconsin, I would be perfectly willing to agree on controlled time if I could know what amendments we are likely to consider. I have some concerns myself about the Church amendment.

As to the bill in its present form, I am prepared to go ahead and act on it quickly, but it is the uncertainty on amendments that causes me to be reluctant. So I will not agree to a controlled time at this point.

As we have seen this past year, improper payments to foreign government officials or their intermediaries is indeed a serious problem and one which is not taken lightly by responsible governments. It is also a problem more akin to a disease which deeply troubles proponents of our free enterprise system. We have built an economy in the United States based on vigorous, honest competition where price, quality, and service commingle with demand and supply to regulate economic transactions. Bribery poisons this system by destroying the organisms of mutual trust and voluntary cooperation so essential to the free flow of commerce. This ethical decay must be stopped.

Bribes, payoffs, or kickbacks are also unproductive and inefficient; they increase the costs of doing business while providing little or no tangible benefits. There are those that contend that bribery is a necessary part of doing business. To those individuals I defer to Benjamin Franklin who once wryly remarked:

> If the rascals knew the advantage of virtue, they would become honest men out of rascality.

The Banking Committee has approached this issue and has attempted to deal with it through S. 3664. This legislation essentially contains recommendations made by the Securities and Exchange Commission to improve corporate accountability and a narrowly defined prohibition against the payment of overseas bribes by U.S. business concerns.

Though I strongly support the intent of the legislation and believe that the direct-prohibition approach contained in S. 3664 is superior to a disclosure-based approach, I am concerned about the scant attention given to the first section of the proposal.

The first section contains the recommendations of the SEC. During the hearing and subsequently during the markup session we in the committee had the impression that the measures proposed by the Commission would simply make explicit what was implicit in the statutes. I understood that the proposal would not expand the authority of the SEC nor distort the existing system of corporate self-regulation. Since the legislation was favorably reported on June 22, 1976, serious questions have been raised as to the nature of the proposals contained in section 1.

It is unfortunate that the legislation was considered in such haste. The SEC proposal was introduced as a separate bill, S. 3418, on May 12, 1976, and hearings were then held on May 18. At that time only the Chairman and the Commissioners presented testimony; there were no private witnesses.

Mr. President, section 1 of this legislation simply has not been thoughtfully considered. The requirement that corporations devise an adequate system of internal accounting controls though laudatory in concept may prove troublesome in its implementation. It is also questionable as to whether this would significantly contribute to resolving the bribery dilemma.

Questions have also been raised as to the advisability of making it a crime to orally lie to or to mislead an auditor. It is contended that the actual effect may be to reduce the effectiveness of the independent auditing process.

I wish to make it clear that I do not oppose the intent of section 1 and I may not oppose it in its present form. I only wish to state that there are issues which have not been adequately resolved.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. William Weber, of the staff of the Committee on Banking, Housing and Urban Affairs, have the privilege of the floor during the debate and vote on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2292

Mr. CHURCH. Mr. President, I send to the desk an amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an amendment:

The amendment is as follows:

At the end of the bill add the following:

REPORTING REQUIREMENTS

SEC. 4. Section 13 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection:

"(g)(1) Every issuer of a security registered pursuant to section 12 of this title shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the proper protection of investors and to insure fair dealing in the security, periodic disclosure statements containing such information and documents (and such copies thereof), as the Commission shall deem necessary or appropriate to provide a complete accounting of any contribution, payment, gift, commission, or thing of value, as defined by the Commission, not already reported, pursuant to provisions of sections 22 or 38 of the Arms Export Control Act, paid or furnished by the issuer—

"(A) to any agent, consultant or like individual retained by the issuer to perform services outside the United States on behalf of the issuer in promoting, selling, or soliciting or securing indications of interest in any product or service produced, sold, distributed, or performed by the issuer;

"(B) in connection with any direct or indirect political contribution by that issuer to any foreign government; and

"(C) in connection with any direct or indirect payment or gift by the issuer to an official or employee of a foreign government.

"(2) Each statement required to be filed under paragraph (1) shall include—

"(A) the name and address of each person who made any such contribution, payment, gift, or who paid such commission or furnished such thing of value;

"(B) the date and amount of any such contribution, payment, gift, commission, or thing of value;

"(C) the name and address of each recipient or beneficiary, whether direct or indirect, of each such contribution, payment, gift, commission or thing of value;

"(D) a description of the purpose for which each such contribution, payment, gift, commission or thing of value was furnished; and

"(E) such other information as the Commission may require.

"(3) Each such issuer shall maintain adequate books and records relating to contributions, payments, gifts, commissions, or things of value referred to in paragraph (1) as the commission may by regulation require for a period of not less than five years.

"(4) Each such issuer shall require, as a condition of employment or retention, that each person retained by the issuer within the meaning of paragraph (1)(A)—

"(A) maintain, for not less than five years, copies of books and records in the United States; or

"(B) make available upon request by the issuer books and records,

pertaining to such issuer and indicating the ultimate recipient of any contribution, payment, gift, commission, or other thing of value furnished to such person or to or through any other person.

"(5) Each statement filed under this subsection shall be made available for examination and copying by the public, except to the extent the President determines that the disclosure of information contained in a particular statement will severely impair the conduct of the United States foreign policy, and transmits to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report stating that such a determination has been made and summarizing the information which is subject to the determination. If such a determination is made, a notation to that effect shall be entered in that part of the statement which is made available to the public.

"(6) As used in this subsection the term 'foreign government' means government of a country other than the United States or of any political subdivision thereof, any agency or instrumentality of such government or subdivision, and any official of a political party, political party, or political association within a foreign country."

CIVIL LIABILITY

SEC. 5. (a) Except as provided in subsection (b), any person who makes any payment prohibited by section 3 of this Act, section 30A of the Securities Exchange Act of 1934, or section 201 of title 18, United States Code, and thereby causes a competitor to sustain actual damages is liable to such competitor in an amount equal to the sum of not more than three times the actual damages sustained by such competitor, plus the costs of the action and reasonable attorney's fees, as determined by the court.

(b) A person has no liability in an action under this section if he can show by a preponderance of the evidence that the plaintiff in such action also made a payment in violation of any such section.

(c) Any action under this section may be brought in any United States district court or in any court of competent jurisdiction within two years from the date of the occurence of the violation.

FOREIGN POLICY ANALYSIS

SEC. 6. (a) The Secretary of State (hereinafter referred to as the "Secretary") shall provide annually to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report containing a comprehensive review and foreign policy analysis, by country, of contributions, payments, gifts, commissions, or things of value, as defined by the Commission, paid or furnished by domestic concerns (as defined in section 3(c)(1))—

(1) to any agent, consultant or like individual retained by such a concern to perform services outside the United States on behalf of the concern in promoting, selling, or soliciting or securing indications of interest in, any product or service produced, sold, distributed, or performed by the concern;

(2) in connection with any direct or indirect political contribution by that concern to any foreign government; and

(3) in connection with any direct or indirect payment or gift by the concern to an official or employee of a foreign government

(b) The report required by subsection (a) shall include—

(1) the aggregate value of such contributions, payments, gifts, commissions, or things of value, if the total amount equals or exceeds a value determined by the Secretary as having significant foreign policy consequences, an identification of the companies involved, and an analysis of foreign policy implications;

(2) a description and analysis of specific transactions the effects of which are directly or indirectly detrimental to the interests of the United States;

(3) a statement of whether the Department of State was aware of such contributions, payments, gifts, commissions, or things of value prior to their making; and

(4) such other information as the Secretary deems necessary to provide a complete analysis of the foreign policy implications for the United States of the transactions involved.

(c) The Secretary shall have access to such information in the custody of the Securities and Exchange Commission as he determines is relevant to the formulation of this report. Further, the Secretary may consult with the Securities and Exchange Commission in order to formulate additional rules and regulations for promulgation by the Securities and Exchange Commission designed to obtain information for the Secretary's report. The Secretary may also request that the Securities and Exchange Commission seek supplementary information to enable the Secretary to provide as complete a report as possible.

(d) Nothing shall prevent the Secretary from making more frequent reports or briefings, partial or complete, when deemed necessary by either the Secretary or the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House.

INTERNATIONAL EFFORTS

SEC. 7. (a) All efforts should be made by the President to obtain international agreements in as many forums as appropriate concerning the reporting and exchange of this information and the establishment of international standards and codes of conduct for the operations of business concerns.

(b) The President shall make all efforts to obtain international rules and regulations for international government procurement and sales.

(c) Not later than 18 months after the date of the enactment of this Act, the Presidetn shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on all efforts undertaken pursuant to subsections (a) and (b) of this section.

Mr. CHURCH. Mr. President, first of all, I wish to amend the pending bill, S. 3664, which undertakes to make bribes paid overseas by U.S.-based corporations illegal under U.S. law.

For more than a year and a half, the subcommittee on multinational corporations, which I chair, has held extensive hearings on political contributions paid by U.S.-based corporations to persons in other countries. The record of these investigations is well known. Lockheed, Northrop, Exxon, Gulf, and Mobil are just some of the corporations that have made questionable payments abroad.

The Securities and Exchange Commission has uncovered many more such payments. The payments were virtually never made directly to the ultimate, intended recipient. Double bookkeeping, off-the-books accounts, Swiss bank accounts, dummy or shell corporations set up in Switzerland or Lichtenstein, numerous agents or intermediaries whose existence is often kept secret, code names and code books, all hinder discovery of the direct payoff and obfuscate understanding of what is really at stake.

These practices have extremely serious consequences for both the conduct of U.S. foreign policy and the reception U.S. business receives abroad. Specifically, we found that the Lockheed Corp. had been funding, as its secret agent, Yoshio Kodama, a leader of an ultramilitarist faction in Japan whose politics the U.S. Government has opposed since World War II. In addition, my subcommittee revealed that bribes had been paid by Lockheed to highly placed ministers in the Japanese, Dutch, and Italian Governments; Northrop Corp. had made payments through its agent intended for two Saudi Arabian generals to facilitate the sales of its aircraft; Exxon, Mobil, Gulf, and Socal, among others, had joined to make contributions to Italian political parties in return for economic benefits.

This is not to say that only the corporations are at fault. For every giver there is a taker, and often the initiative comes from the foreign government official. Indeed, in some cases the initiative amounted to extortion. But too often the corporate response has been passive acquiescence, a shrug of the shoulders, and passing the added cost on to the consumer.

Congress has recognized the seriousness of this problem already. Both Houses have passed, and the President has signed into law, an amendment offered by myself and the Senator from Illinois (Mr. PERCY) requiring that corporations selling military equipment overseas report agents' fees and other payments to the U.S. Government. The information that must be reported includes the amounts and kinds of payments, and the names of sales agents and other persons receiving the payments. Recordkeeping is required to ensure proper reporting. The aim is to strip away the layers of agents, dummy corporations, and other smokescreens to determine exactly who is the ultimate recipient.

To address the problem more comprehensively, Senators CLARK, PEARSON, and myself introduced S. 3379, focusing on disclosure of fees and payments to insure that information with respect to questionable payments by all of our corporations was routinely available.

Senator PROXMIRE's bill makes overseas bribes illegal; it is my understanding that he welcomes disclosure and considers it complementary to his approach.

I am, therefore, introducing this amendment to Senator PROXMIRE's bill. The first section insures that the Securities and Exchange Commission will collect payments information parallel to that collected on foreign military sales; the focus again will be on determining the ultimate recipient. The information will be public unless the President finds that its revelation would severely impair the conduct of U.S. foreign policy. The second section creates a private right of action for those corporations who can show that they lost business as a result of a competitor's paying bribes. Our investigations have uncovered instances of competition between U.S.-based firms where payoffs have been used with abandon; the Lockheed sale of the L1011 in Japan against competition by Boeing and McDonnell Douglas is a prime example. This provision would allow the private sector to police itself—an important concept as we face burgeoning government bureaucracies.

The third section requires that the Department of State analyze the foreign policy implications of these payments and report on its findings to Congress. The final paragraphs urge the President to take appropriate international steps to bring bribery under control.

The package complements and strengthens Senator PROXMIRE's antibribery bill. It provides the reporting necessary to identify those payments, many of which may not be necessarily illegal but could have serious consequences for our foreign policy, while establishing mechanisms that allow the private sector to police itself. The combined approaches can provide the most effective remedy to the problem.

Mr. President, I commend Senator PROXMIRE and Senator TOWER and the other members of the committee for the excellent work they have done on the problem of overseas bribery. My purpose in offering this amendment is simply to supplement the bill's provision, which would make bribery illegal overseas, as it is in the United States. It would also require, should the amendment be adopted, the kind of disclosure provisions that we have already written into the military arms sales bill. A wider application of the disclosure provision is, in my judgment, necessary to make this bill do the job that I know Senator PROXMIRE wishes it to do.

Mr. PROXMIRE. Will the Senator from Idaho yield?

Mr. CHURCH. Yes.

Mr. PROXMIRE. As the Senator knows, I strongly support his proposal. I think it is a logical and sensible supplement. We had some of the same kind of measures in the bill as I proposed it in the committee. I want very much to preserve what the Senator from Idaho has developed so very well in the Committee on Foreign Relations. With a great deal of effort and a considerable amount of attention and hearings, he has undoubtedly made the biggest contribution of any Member of the Senate to an understanding of the abuse and the serious consequences of the abuse on American business, American trade, the American image abroad, and the need to act on it.

As I understand it, the Senator has proposed three things: No. 1, disclosure, not simply of bribes, but, in addition, of those payments that are not reached by our bill; that is, not made, perhaps, to an official of the Government, but to a private citizen who, in turn, might spread the money around. This would seem to be a possible loophole in the bill as it is presently presented, which would be plugged by section 1. Is that correct?

Mr. CHURCH. Yes, the Senator is correct. The disclosure provision goes to all commissions and fees paid to agents in connection with American sales abroad. Many of those fees and commissions may be perfectly legitimate. If they are, there will be some reasonable relationship between the amount paid to the agent and the sale that is sought.

On the other hand, since the law will require the disclosure of all such fees and commissions, if a company is, in fact, making large amounts of money available to an agent overseas, the disclosure requirement will alert the Government as to the possibility, the strong possibility, that the money is being improperly used to bribe foreign government agents. So this disclosure supplements the objective of the bill, which is to "illegalize" bribery abroad in the future, just as it has long been a crime when it takes place within the United States.

Mr. PROXMIRE. As I understand it, the second section of the Church amendment provides for private action so that a firm which is injured by the bribe—that is, they lose a sale, they lose the opportunity to make a profitable sale and do business because their competition is engaging in illegal bribery—can take private action which would have the desirable effect, No. 1, of dissuading such bribes; No. 2, of disclosing and enforcing prohibition of bribes in effect; No. 3, providing the kind of effective competition which all of us believe in. Is that correct?

Mr. CHURCH. Yes, the Senator is absolutely correct in his statement. We have found that, in a number of cases, monstrously unfair competition is being practiced by one American company against another. The honest company that tries to avoid under-the-table payments of millions of dollars to foreign officials wonders why it lost the sale, only to discover, months or years later, that it was because its competitor had paid off certain foreign officials to obtain the sale. Therefore, when that discovery is made, as it often is—and that has been the meat of my subcommittee's work for the last few months—the aggrieved company would have a civil cause of action for the damages it could prove resulted from the bribery.

Mr. PROXMIRE. The only other section of the amendment would require annual reports by the Department of State of the problem that these illegal and improper payments represent as far as our foreign policy is concerned?

Mr. CHURCH. The third paragraph imposes an obligation on the Department of State to make reports to Congress in connection with the bribery problem These reports are to be made so that Congress can be kept current on the progress being made in tempering these practices and reducing them.

Mr. PROXMIRE. Is there a reaction from the Department of State to this proposal to make reports?

Mr. CHURCH. The only reaction that I know of from the administration on this issue has taken the form of the administration's own proposal. That is, to the best of my knowledge, the case.

The other provision in the final paragraphs of the amendment would simply urge the President to undertake appropriate steps to secure international cooperation. That way we are not taking unilateral action in cleaning up the practices of our own companies while other governments look the other way.

Mr. PROXMIRE. How much of a burden would this represent on the part of the State Department? How difficult would it be for them to enforce this?

Mr. CHURCH. I think there is no particular problem because the requirement is clear. It has already been adopted in the arms sales bill, and I knew of no objection on the part of the Department to the bookkeeping that would be involved in that disclosure requirement. This amendment closely follows the amendment that was already adopted in Congress as part of the arms sales bill.

Mr. PROXMIRE. Mr. President, I thank the Senator. Once again I reiterate my enthusiastic support for his amendment.

Mr. TOWER. Mr. President, I have only seen the amendment a few minutes ago. I have been going through it and trying to analyze it as best I can without benefit of any counsel.

I have some concerns with it, and I think the administration might have some concerns with it.

I note that we have held no hearings on this in the Banking Committee. We have held hearings on a similar bill, S. 3379, and there were just a few people who commented on it or testified on it, really only members of the Commission. There were no representatives from private industry or from the administration who testified on this matter, and I think it could have some far-reaching implications not just for American businesses that are doing business abroad but also it could have some foreign policy implications. It could have some domestic political impact on friendly countries—perhaps even in countries that are not so friendly but, at least, are not hostile.

So I think this would be a matter that we would want to consider very carefully. I hope we can hold hearings on this as a separate measure rather than go into it as an amendment to this bill.

There has been testimony to the effect that outright prohibition by the United States of the practice of bribery, criminal prohibition, is the strongest deterrent we could have, and that is contained in the bill before us. Too, it is the strongest possible indication of U.S. policy. This provision for wide disclosure, with no specific definition of what shall be disclosed, I think, has a potential for great mischief-making.

I note that what is required here is an accounting of any contribution, payment, gift, commission, or thing of value as defined by the Commission. Now, it could be a legitimate and legal contribution or payment. It could be the kind of gift that very often businesses give to their customers at Christmastime, that kind of thing, which is not really considered to be bribery, it is considered to be good public relations. Or things of value—well, things of value could be anything.

I think what this could do is force disclosure of legitimate payments or commissions and, perhaps, cast them in an unfavorable light with a clear suggestion that, perhaps, there is something wrong with them. I think it is an invitation for witchhunting.

I might be convinced otherwise, but, at the moment, I am not convinced and, therefore, I hope that we do not act on this measure right now.

There is another provision that provides:

> Each statement filed under this subsection shall be made available for examination and copying by the public, except to the extent the President determines that the disclosure of information contained in a particular statement will severely impair the conduct of the United States foreign policy, and transmits to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report stating that such a determination has been made and summarizing the information which is subject to the determination.

Here is a further provision that I am somewhat at a loss about, which reads as follows:

> If such a determination is made, a notation to that effect shall be entered in that part of the statement which is made available to the public.

What that sounds like to me is, even if it should impact adversely on the conduct of American foreign policy, the committee could go ahead and release the statement with simply a notation that the administration has noted it is harmful to the conduct of American foreign policy.

It does not seem to me to afford any protection of any kind to the administration in an effort to prevent the disclosure of information that does adversely impact, perhaps, on a delicate international negotiation or a delicate relationship of some kind.

I hope we could hold hearings on this proposal and hear more than the witnesses we have had on a similar proposal, which consisted only of the members of the Securities and Exchange Commission.

So I would plead with my distinguished chairman to use his good offices in seeing if we cannot, perhaps, agree to take this to hearing but not act on it on the floor today. This is too important a matter, and it has too many implications, for us to legislate in a few minutes here on the Senate floor, I think, on this matter.

Certainly I do not disagree with the intent of the Senator from Idaho. I know the Senator from Idaho is well-motivated on this, and I think we would all like to see these practices stopped, the practices that are engaged in not only by American companies, I might add, but by foreign companies as well. I will not name them, but we know who they are. As a matter of fact, there was a writeup in the Washington Post this morning of a French concern that has been engaged in this kind of thing.

I think the best way to stop it will not even be this kind of unilateral legislation that we are probably going to pass here today, S. 3664 which, as the chairman of the committee pointed out, we have all agreed to. The only way to deter it, I think, is going to be through some international convention that all the major industrial nations sign, something that has the force of international law because, unilaterally by ourselves, we are not going to stop it.

MAINTENANCE OF COMMON TRUST FUND BY AFFILIATED BANKS

Mr. LONG. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TOWER. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, as of tonight the withholding tax is scheduled to go up because we need a few more days to act on the bill extending the withholding rates. So, to prevent this tax increase, we should pass this matter over to the House now so that the House can get it to the President's desk tonight.

I ask unanimous consent, Mr. President, that the pending matter may be temporarily laid aside long enough to consider Calendar No. 1116 to which I propose an amendment as to the withholding rates.

The PRESIDING OFFICER (Mr. STEVENS). Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

> Calendar No. 1116, H.R. 5071, a bill to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 459

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment No. 459:
>
> At the appropriate place, insert the following new section:
>
> SEC. . WITHHOLDING; ESTIMATED TAX PAYMENTS
>
> (a) WITHHOLDING.—
>
> (1) IN GENERAL.—Section 402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".
>
> (2) TECHNICAL AMENDMENT.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".
>
> (b) ESTIMATED TAX PAYMENTS BY INDIVIDUAL.—Section 6153(g) of such Code (relating to installment payments of estimated income by individuals) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".
>
> (c) ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154(h) of such Code (relating to installment payments of estimated income by corporations) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LONG. In just a second. Mr. President, this bill, regarding the maintenance of a common trust fund by affiliated banks, passed the House by a unanimous vote, and it was unanimously agreed to in the Senate. I am not aware of any objection to it. The significant thing is the amendment would just continue the withholding tax rates until the end of this month and, of course, by that time we will have had, I hope we would have passed, the big tax bill we have been debating in the Senate.

I yield to the Senator.

Mr. ALLEN. I concur wholeheartedly with what the Senator is doing, and I am certainly not going to object by a prolonged discussion, but I would like to inquire if possibly there are other miscellaneous bills that have been through the Ways and Means Committee and the Finance Committee that may be on the calendar or others that will come to the calendar before adjournment that we might have an opportunity to offer innocuous amendments to of a miscellaneous nature. Would the Senator assure me that is the case?

Mr. LONG. I can assure the Senator there is a hold on every revenue bill that is on the calendar. Senators have that for various reasons. Some want to offer amendments. Some, perhaps, want to inquire in greater detail into the bill. There may be something someone else might want, an amendment they might not want to agree to.

But on my part, I can assure the Senator. I cannot guarantee, as if I had the power to do so. The Senator has the right to offer an amendment.

Mr. ALLEN. Will the Senator try to recall to let the Senator from Alabama know if he is going to bring a bill up so that he might have an opportunity?

Mr. LONG. Yes; I would be happy to inform the Senator.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER (Mr. Stevens). The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5071) was read the third time, and passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The Senate continued with the consideration of the bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Church amendment.

The PRESIDING OFFICER (Mr. Curtis). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. I ask unanimous consent that the vote occur at 10 minutes to 5, the time to be equally divided.

Mr. TOWER. I object.

Mr. MANSFIELD. How much time do you want?

Mr. TOWER. I am not prepared to accept a limitation right now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leaders have been recognized Senators Biden and Cranston be recognized for not to exceed 10 minutes each, Senator Proxmire for not to exceed 15 minutes, Senator Stevenson and Senator Morgan not to exceed 10 minutes, Senator McGovern and Senator Bayh not to exceed 15 minutes; that at the conclusion of special orders, the Church amendment be laid before the Senate; that there be not to exceed 1 hour of debate on the Church amendment, to be equally divided between the Senator from Idaho (Mr. Church) and the Senator from Texas (Mr. Tower); that at the end of that time there be a vote on the Church amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRUPT OVERSEAS PAYMENTS BY U.S. BUSINESS ENTERPRISES

The Senate continued with the consideration of the bill (S. 3664) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

Mr. CHURCH. Mr. President, I ask unanimous consent to have printed in the Record an editorial which appeared in the Washington Post on August 21, 1976, endorsing my amendment, and an excellent letter written by the chairman of the Committee on Banking, Housing and Urban Affairs, Mr. Proxmire, in which he accents in principle the amendment as a welcome addition to the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Aug. 21, 1976]

Mr. Tanaka and Lockheed

First the Japanese government pitched its former premier, Kakuei Tanaka, into jail for three weeks in its investigation into the Lockheed case. Then it indicted him and released him on bail—the highest bail ever set by a Japanese court on a bribery charge. Japan is hardly unique in the excessive amounts of money drawn into its political life. But it is hard to think of any other modern democracy that has treated a man of equal rank with such dramatic severity. Even Mr. Agnew was never locked up.

As the prosecution of Mr. Tanaka proceeds, it is useful for Americans to remember that it takes two to commit bribery—and the money in the Lockheed case came originally from the United States. Both Japan and the United States will hold elections this fall. In both countries, the question of international bribery is being raised at a time when the politicians are forced to pay attention.

The drastic character of the Tanaka prosecution is related to the intense rivalries among the factions of the Liberal Democratic Party that has governed Japan for almost three decades. When Mr. Tanaka was forced to resign as premier in 1974, as a result of earlier and lesser scandals, he continued in control of one of the party's largest factions. He had always been a spectacularly successful fund-raiser, and the influence that he derived from the flow of contributions continued undiminished. He remained the most powerful man in the party, and he is not the forgiving sort.

His successor as premier, Takeo Miki, discovered last winter that either he would have to prosecute Mr. Tanaka or Mr. Tanaka would devour him. But Mr. Tanaka began to get help from some of the other party leaders—men who had had no part in the Lockheed affair but who apparently feared the effects of a thorough investigation on the party structure. In May, several of the factions joined in an attempt to oust Mr. Miki. Instead of going quietly, he hit back. He declared that he would not leave office until the Lockheed scandal had been resolved. A surge of public support sustained the premier in power and two months later Mr. Tanaka went to jail. This week he was formally charged with taking $1.7 million in bribes to persuade a domestic Japanese airline to buy 21 Lockheed Tristars.

It would have been unfortunate enough to have any American corporation involved in this kind of transaction. But Lockheed is not considered, in other countries, to be just another American company. It is the largest U.S. defense contractor, and it owes its existence to federally guaranteed loans. It is seen abroad as almost an arm of the U.S. government. Its misdeeds, thus, have done proportionately great damage to this country and its reputation.

What does the United States propose to do to prevent a repetition? Last spring Congress added a line to the military aid bill requiring defense contractors to report all foreign fees and commissions to, the State Department. That is a beginning, but a very modest one. In the Japanese case, after all, Lockheed was selling civilian aircraft.

Sen. William Proxmire (D-Wis.) has called for criminal penalties for bribing foreign officials. The Ford administration, instead, has proposed a rule of disclosure of all fees paid by American companies to promote foreign sales. At first glance the disclosure rule might seem weak, but it promises to work more effectively in practice than Sen. Proxmire's criminal sanctions. Jimmy Carter, the Democratic candidate for President, derided the administration's position the other day as "a proposal to allow corporations to engage in bribery so long as they report such illegal transactions to the Department of Commerce." But Mr. Carter hasn't yet got a good grip on the issue. International bribery is typically carried on through layers of subsidiaries and intermediaries; it's very difficult to prove criminal intent at the point at which the money leaves the United States. If a transaction takes place in Japan, it's up to the Japanese courts to decide what's illegal.

But there is one gaping defect in the administration's disclosure plan. Payments would be made public only after a delay of one full year. Why give a year's grace? The best solution comes from Sen. Frank Church, whose Subcommittee on Multinational Corporations was mainly responsible for bringing the Lockheed case to light. Sen. Church recommends full and immediate public disclosure of all fees paid on foreign sales, except for the rare exception that would severely impair national security.

Under the Church requirement, Japanese prosecutors would have been automatically alerted to the inexplicably large fees that were being paid by Lockheed on the Tristar sale. Only the Japanese government could pursue the matter beyond that point. And as Mr. Miki is demonstrating, the Japanese government is quite prepared to follow the chain to its end.

There is one heartening aspect to the squalid affair of the Tristar bribes. In both Japan and the United States, voters have been outraged and the search for effective sanctions has become a campaign issue. An accusation of bribery has suddenly become unprecedentedly dangerous to a politician—as Mr. Tanaka can testify.

[From the Washington Post, Sept. 7, 1976]

DEALING WITH CORPORATE BRIBERY

Your otherwise perceptive August 21 editorial on corporate bribery assumes erroneously that a criminal prohibition of foreign bribes versus a requirement that foreign payments be disclosed are mutually exclusive approaches to the overseas bribery problem and that disclosure is the more effective approach. Actually, both approaches are compatible and reinforce one another.

A disclosure approach can be particularly effective in deterring foreign payments of doubtful propriety but which do not meet the necessarily narrow definition of an outright bribe; for example, an abnormally large sales commission payment to the son of a foreign procurement official.

On the other hand, a direct criminal prohibition can be more effective in deterring foreign payments that are clearly bribes in the eyes of the company contemplating the payment. A disclosure approach, by itself, would not necessarily discourage the payment of bribes in those cases where a company thought that it could disguise the true nature of the payment while still satisfying its legal disclosure obligations.

For example, a company might pay a fee to a foreign marketing consultant with an implicit understanding that a portion of the payment will be channelled to a foreign official in order to obtain a contract. The disclosures would appear legitimate while concealing the true purposes of the transaction.

It could be argued that a company that failed to indicate the true purpose of a foreign payment would be in violation of the disclosure statute and thus subject to civil and possibly criminal penalties. However, in order to bring such an action, the appropriate enforcement agency would have to show what the true purpose of the payment actually was. Thus, all of the evidence needed to enforce a direct prohibition of foreign bribes would also be needed for the effective enforcement of a disclosure statute.

After carefully considering the problem, the Senate Banking Committee concluded that a direct criminal prohibition would be no more difficult to enforce than a disclosure statute. A direct prohibition also has the advantage of clearly and unequivocally declaring that foreign bribes are contrary to U.S. policy. Accordingly, an immediate consensus was formed on the committee in favor of a criminal prohibition of foreign bribes.

The committee also considered the need for a complementary disclosure program to discourage payments that are potentially improper but not necessarily illegal. There was not a consensus on the committee that the benefits from a disclosure approach would outweigh the cost of compliance imposed on U.S. companies. The committee therefore decided to defer action on the disclosure approach until better information can be obtained.

In the meantime, there is no reason why the Senate should not proceed to consider the bill prohibiting foreign bribes as reported by the Banking Committee on July 2. A complementary disclosure program can always be considered as a floor amendment or passed in the form of a separate bill at a later date. The important thing is to take some action this year while the foreign payoff issue is still fresh in the public mind.

WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Public Works be authorized to meet on September 15 to consider the Water Resources Development Act of 1976 and that the Subcommittee on Federal Spending Practices of the Committee on Government Operations be authorized to meet on September 29 concerning the Army's main tank program. This has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the the conclusion of the order for recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 5:11 p.m., the Senate adjourned until tomorrow, Wednesday, September 15, 1976, at 9:30 a.m.

CONFIRMATION

Executive nominations confirmed by the Senate September 14, 1976:

DEPARTMENT OF DEFENSE

David Robert Macdonald, of Illinois, to be Under Secretary of the Navy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

RECENT HAPPENINGS AT U.S. MILITARY ACADEMY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RHODES. Mr. Speaker, a constituent in my district has written me a very thoughtful letter, in which he expresses his concern over the recent happenings at the U.S. Military Academy.

His comments on the honor code are trenchant. He points out that this code has given the Academy its distinction as a bastion of integrity, and asks that the high moral standards be continued.

I am hopeful that my colleagues will take the time to read his commentary, a reassertion of the principles that have guided those who have attended the Academy in the past.

Malcolm E. Craig makes a strong point for retention of this historic code of honor. Text of Mr. Craig's letter is as follows:

Congressman JOHN J. RHODES,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN RHODES: It is with a

sense of deep regret I must write this letter to seek your support in an issue so important that I believe it is fundamental to the future direction of our country. The issue is the survival of the Honor Code at the United States Military Academy.

In a period of history in which we continually witness the dire consequences of a permissive society and self-serving individuals, West Point has consistently stood its ground in upholding the principles, institutions and traditions which have inspired men to live by the standard of Duty, Honor, Country. This is the reason why West Point has often been looked upon by our citizens as a shining national example of what is right with our country. I can speak only for myself, but if only one issue were to be singled out as being the most fundamental to West Point's ability to accomplish its mission, the Honor Code would certainly be it.

As a graduate of the USMA Class of 1952, it was a rare privilege for me to live for four years with 2400 other men who agreed that the absolute values of the Honor Code transcended the prerogatives of the individual. The few in my class who could not or did not accept this premise left the Academy and in so doing further strengthened the conviction of the many in the value of the honor system. We are all human and are influenced by those around us, thus the Honor Code has been instrumental in establishing an environment where the individual's desire to rise above his baser instincts is nourished by not only the Code itself but by the others who adhere to it. To consider a weakening of the Code is to ultimately destroy it. There are those who, lacking in understanding or being brainwashed that absolute values belong only to the past, are now pressuring senior Army officials and officers to modify the Code to "adapt" to our times. For the sake of our future officer corps and indeed our country, I pray that you will personally take a public stand before the Congress urging the continuation, unchanged, of that thing most precious to over 30,000 graduates of USMA, the Honor Code of the Corps of Cadets.

I am no longer a member of the Armed Forces, but am fortunate to have a son who is a commissioned officer in the Marine Corps and a son who desires to enter the USAF Academy. I am also privileged to be president of the school board of Scottsdale Christian Academy. In these endeavors, as parent and educator, as well as in my professions, both military and civilian, I have found sustenance in the values intrinsic to West Point. General of the Army Douglas MacArthur stated this most clearly when he gave his farewell address to the Corps of Cadets in 1962:

Duty, honor, country. These three hallowed words reverently dictate what you ought to be, what you can be, what you will be. They are your rallying points: to build courage when courage seems to fail; to regain faith when there seems to be little cause for faith; to create hope when hope becomes forlorn . . . The code which those words perpetuate embraces the highest moral laws and will stand the test of any ethics or philosophies ever promulgated for the uplift of mankind. Its requirements are for the things that are right; its restraints are from the things that are wrong.

Please do not allow a few misled people to rob future generations of USMA cadets of the benefits so many of us have received in the past. I urge you with all respect to speak out in support of the principles enunciated by the Superintendent and Commandant of the United States Military Academy.

Very truly yours,

MALCOLM E. CRAIG.

TRIBUTE TO REV. CARL Q. LEE OF ZION, ILL.

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McCLORY. Mr. Speaker, it is with a great deal of pride that I rise to inform my colleagues in the House of Representatives of the coming retirement of the Rev. Carl Q. Lee, general overseer of the Christian Catholic Church in Zion, Ill.

Seventy-five years ago, Dr. John Alexander Dowie turned a silver spade of earth symbolizing the founding of Zion as a home for the Christian Catholic Church. Reverend Lee is the fourth general overseer in Zion's history.

Mr. Speaker, I am proud to bring Carl Lee's career to the attention of the Members because Reverend Lee is a personal friend. He came to Zion in 1920, in part, he confides, because its location gave a boy from Minnesota a chance to see the Chicago Cubs.

With only one brief intermission, Reverend Lee has been in Zion ever since, but rarely has he had time to go to the ballpark. He has been minister to the Christian Catholic Church for 46 years, and has served as its general overseer for the last 17 years. Under his leadership, this great social and religious institution has prospered, and enriched the lives of those in the Zion community—and many thousands of others throughout the Nation.

Mr. Speaker, I recently had the opportunity to attend the Zion passion play, an annual summer event of great prominence in northern Illinois. After the play, Reverend Lee was kind enough to give me a tour of the new church facilities, a most impressive complex that was developed under his direction, and which will stand for generations as an articulate tribute to his leadership.

Mr. Speaker, the hope of the Founding Fathers for America was that it be a nation of virtuous men and women, dedicated to the common good and unselfish in their contributions toward that goal.

Since Reverend Lee's retirement occurs during the year of our Nation's Bicentennial, it is appropriate to recall that the leadership in God's Way which characterized the actions of those who established our country has been emulated by Reverend Lee during his service in the Christian Catholic Church.

Throughout his experience in Zion, Reverend Lee has had his wife Gertrude at his side, supporting and encouraging him in the good works which, in a larger sense, they have jointly performed.

It is with pleasure that I extend to Reverend Lee my warmest congratulations on his years of service and offer my best wishes to his successor, Rev. Roger W. Ottersen.

CLEAN AIR SCRUBBERS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. COLLINS of Texas. Mr. Speaker, the clean air bill means additional expenses and higher rates for utilities. Down in Dallas we have a most efficient power and light system in our area. They are now contesting the Clean Air Act provisions that relate to scrubbers. I would like to quote a section of a speech by Mr. Louis Austin, who is president of the Texas Power & Light Co. I am proud they are testing present EPA provisions because these regulations mean higher utility rates with no economic beneficial improvements to the community. Here is the section of Louis Austin's speech speaking for Texas Power & Light plus those of us who want to keep lower light bills:

The first is unreasonable and unnecessary regulations that are restricting the use of our domestic energy resources. The government is pushing energy independence with one hand and throwing up roadblocks to the development of our energy resources with the other. I could cite numerous examples—the Alaskan pipeline delay, natural gas regulation, restraints on offshore drilling, regulations that restrict coal mining operations, and the ever-increasing safety regulations and threat of moratoriums affecting nuclear plant construction and operations.

All of these add to energy costs. Many are necessary. Many have been passed that sound great, but cannot be justified in terms of costs and benefits received. We realize we need environmental laws, but we must also look at the cost to society.

Let me cite one specific example—the Clean Air Act which is requiring us to install expensive scrubbers on our new lignite units to remove sulfur dioxide. On just one of these units, the cost is $36 million and the equipment will increase the cost of every kilowatt-hour produced by the unit by 15%-20%. We are being ordered to install this equipment?

In spite of the fact that sulfur dioxide has never been proven harmful in stack emissions;

In spite of the fact that we have monitored the air all around two of our lignite plants for years and have never exceeded EPA ground level requirements for SO_2 from the plant operations;

In spite of the fact that the reliability of the equipment has never been proven; and

In spite of the fact that the waste products from scrubber operations create an environmental problem.

Because this regulation makes no sense to us, we have told the Texas Air control Board that we would not install the scrubber on this particular unit. We believe, in the interest of our customers, we must draw the line somewhere. The matter is now before the courts, and we hope to prove the EPA regulation is invalid.

NEW TENNESSEE ATTORNEY GENERAL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. JONES of Tennessee. Mr. Speaker, the State of Tennessee has just appointed a new attorney general to replace the present attorney general, Ray Ashley, who has resigned to go back to his private law practice. The new attorney general will be Brooks McLemore, a very capable and able member of the legal profession for many years in my congressional district.

Mr. McLemore has served as a chancellor in Madison County's Chancery Court and as executive secretary of the Tennessee State Supreme Court. I cannot think of anyone in Tennessee whose experience and ability are better suited for the job of attorney general.

I would like to take this opportunity to insert into the RECORD a newspaper article from the Jackson Sun which appeared after Mr. McLemore had received the appointment from the State's supreme court justices:

NEW STATE ATTORNEY GENERAL

(By John Parish)

Brooks McLemore is a busy man. He has three jobs.

The newly appointed state attorney general is still winding up some cases in Chancery Court, is deeply involved in ongoing programs as executive secretary to the Supreme Court and is preparing to take over next month as the state's chief legal officer.

No specific date has been set for the Jackson jurist to take the oath as attorney general, but McLemore said here Saturday that he expects it to be before mid-October. Atty. Gen. Ray Ashley, who has resigned to return to private law practice in Dyersburg, wants to leave office by Sept. 30.

"I would like to have 30 days rather than 20," McLemore said. "I have talked to Gen. Ashley and he has agreed to stay a little longer if necessary."

McLemore already has talked with members of the Supreme Court about naming his successor and he expects that to be done very shortly. He did not reveal any name for the job, but there has been some speculation that Chancellor Paul Summers of Somerville may be in line for the executive secretary post.

McLemore said he will continue his interest and involvement in a study he has initiated to make recommendations to the 1977 Constitutional Convention that will consider rewriting the judicial articles of the 1870 charter. Part of that document deals with the method for choosing the state attorney general.

Although he was widely quoted as defending the present system of having the attorney general appointed by the Supreme Court, he is not opposed to some alternative method. "It wouldn't make sense for me to criticize the system that made me attorney general," he explained.

McLemore, in an interview here Saturday, was careful not to suggest that he was coming to the attorney general's office with a lot of ideas about how it should be changed and improved. He said he has no plans to make any staff changes.

"It would be presumptious for me to start talking about changes in the staff when I don't know what they are doing," he pointed out. "I am going to them with Gen. Ashley to talk about what they are doing and to find out where the problems are."

McLemore also made it clear that he intends to be an active attorney general and promises that there will not be any complaints about the office being hesitant to act where it should be involved.

Noting that there has been a lot of talk in the General Assembly about creating the position of solicitor general and making the attorney general a ceremonial office to meet constitutional requirements, McLemore observed:

"There won't be any solicitor general if I can get by this first General Assembly."

It is unlikely that there will be any pressure to pass a solicitor general bill in 1977 with a new attorney general and a convention coming up later in the year to consider changes to the constitution.

McLemore, who has been active in court modernization and reorganization since 1960, said he intends to continue this interest and will have the attorney general's office involved in making recommendations to the constitutional convention on any changes affecting that office.

He views his primary responsibility as attorney general as the chief counsel for the State of Tennessee, but he recognizes that because of the size of the job it has become more administrative and executive.

"It will be hard for me to stay out of the courtroom," he conceded, "but I may find out that I cannot do as much of that as I would like."

As a former state senator and unofficial lobbyist for the judiciary with a good record for success, McLemore plans to personally take care of the liaison with the legislature on the budget of his new office and other matters involving the work of the attorney general.

He voiced some concern about the abuse by some legislators in requesting legal opinions from the attorney general's office for political purposes, but McLemore said he cannot visualize any conflict between the lawmakers and himself.

Although the duties of the office will keep him in Nashville five days a week, McLemore plans to retain his official residence in Jackson and will have an apartment in the capital city. He had a similar arrangement while he was acting executive secretary and more recently when he took the job on a full-time basis.

He has come to regret one decision he made as executive secretary for the Supreme Court. Ashley had asked for six parking places for his staff at the Supreme Court Building in Nashville, which is several blocks away from the attorney general's office.

"I wouldn't give him but three," he laments." Now I am stuck with that decision.

Technically, McLemore is a retired chancellor with his retirement benefits suspended while serving as executive secretary to the Supreme Court and receiving the salary of an associate justice.

His new job will pay $46,000 a year for a term expiring in 1982.

McLemore served three terms in the State Senate and was nominated for a fourth term before he was appointed Madison County chancellor in 1960 by the late Gov. Buford Ellington. He resigned that office in July to take the job with the Supreme Court after serving as acting executive secretary from September 1975 to May of this year.

He is a native of Medina, was educated in the public schools here and attended West Tennessee Business College and Union University. He received his law degree from Vanderbilt University.

"I am real happy and very humble," McLemore summed up his reaction Saturday. And very busy, we would add.

UNIVERSITY OF TEXAS SCIENTISTS TO BUILD LASER DEVICE WITH NASA GRANT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. PICKLE. Mr. Speaker, the University of Texas Astronomy Department has proved itself over the years one of the preeminent schools in the country in its particular field of inquiry. No doubt the McDonald Laboratory in far west Texas has been a valuable asset to the department and to the Nation.

In recognition of its achievement and potential for further groundbreaking research, the University of Texas was recently awarded a $1.3 million contract from the National Aeronautics and Space Administration to construct a 3-ton mobile telescope. This is a noteworthy award and deserves our attention and recognition.

I am enclosing an article from the University of Texas News Service about this grant:

UT NEWS

AUSTIN, TEX.—The University of Texas has received a $1.3 million National Aeronautics and Space Administration contract to construct a mobile lunar laser ranging station, which could help determine the exact rates of movement between continents and help geophysicists understand earthquakes.

Dr. Harlan Smith, chairman of the UT Astronomy Department, says that scientists at the University's McDonald Observatory in West Texas are obtaining data at this time which tells them the distance of the moon from the earth.

Dr. Smith, also director of McDonald Observatory, says that the measurements made at the observatory are already being applied in a number of fields, and will make possible the study of continental drift.

Most geophysicists now believe that the land masses of earth were once part of one super-continent which broke up and began drifting apart several hundred million years ago.

Though the historical trends of continental drift are generally known, geophysicists are concerned with modern rates of drift, the understanding of which could lead to such valuable developments as the prediction of earthquakes.

Since 1969, when Apollo 11 astronauts left the first of several reflectors on the moon, scientists at McDonald have been bouncing laser beams off the reflectors regularly, and by measuring the round-trip travel time of the light have been able to measure the exact distance to within a few inches at each time of firing.

Scientists use the 107-inch McDonald telescope to transmit and receive the reflected beams of laser light and have collected essentially all of the world's scientifically useful lunar distance measurements.

For exact measurements of continental drift, scientists need a mobile station which can make measurements from selected points on earth and return several months later to determine how far the point has moved in relation to the fixed stations.

"Dr. Eric Silverberg has been in charge of the lunar laser ranging project since it began seven years ago," Dr. Smith says, "and he has designed and will be in charge of construction for the mobile station which we hope will be operating in 1978."

Though continental drift is currently of interest to science and is the main purpose of the mobile ranging station, the ability to measure variations in distance from a source to a reflector with such a degree of accuracy has a number of applications.

"Lunar ranging data that has been gathered so far reveals the rate at which the earth and moon are wobbling on their axes," Dr. Smith says. "Figure skaters vary their rates of rotation by varying the extension of their arms, or in effect redistributing their mass. Changes in rotation of any body indicate changes in the distribution of mass and allow us to 'look' into the interior of an object."

He explains that lunar ranging will indicate changes in the earth's inner core, and knowledge of the moon's core will help scientists understand the origin, which in turn will lead to a better understanding of the history of the solar system.

"What is probably the most profound application of lunar range data is to test fundamental concepts of cosmology and physics," Dr. Smith says.

"If Einstein's Theory of Relativity is indeed correct then it should precisely predict the orbit of the moon, and already lunar laser data has shown that Einstein was correct within a few inches in the case of the moon's orbit."

According to the astronomer, the result has deep implications for scientists attempting to understand other phenomena which can not be observed, such as the beginning of the universe or the regions of space known as "black holes" in which time, space and matter behave in ways not explainable by traditional physics.

Another cosmological problem, Dr. Smith says, which possibly could be solved by lunar ranging is whether or not, as some theories suggest, the force of gravity between two masses becomes weaker as the universe expands.

"If the theory is correct, the decrease in gravity would cause the moon to recede from the earth about one-half inch per year," Dr. Smith says, "and within a few years the lunar laser ranging experiment will measure this change if it is occurring."

Three times daily, for 45 minutes, three weeks each month, the laser ranging crew uses the giant McDonald telescope which also is used for a number of other projects.

Hitting the reflectors is not a simple matter of dialing their location into a computer and hitting a button. Success depends to a great extent on the skill of the operator, and one successful shot in 10 is considered excellent.

The telescope concentrates the laser beam to a pencil-thin beam as it leaves, but by the time it reaches the moon a quarter-million miles away it has spread out to cover about four square miles and on its return it spreads out again, so that only one photon, or light particle, of every ten thousand million billion sent to the moon is detected by the telescope on its return.

But that is enough. Sophisticated electronic detectors and analyzers perform the calculations which allow the exact lunar distance to be determined. The data is made available to the international scientific community through the National Space Science Data Center at NASA's Goddard Space Flight Center.

Dr. Smith describes the use of the telescope to send light to the moon rather than receive it as a "man-bites-dog inversion of ordinary astronomy."

He adds: "It is remarkable that by sending light to the moon that scientists can study basic properties of space-time and gravity, and at the same time understand better the motions of the planet beneath our feet."

THE FIRST ANNIVERSARY OF THE CANONIZATION OF SAINT ELIZABETH SETON

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MURPHY of New York. Mr. Speaker, 1 year ago today, September 14, an event took place in St. Peter's Basilica, Rome, in which every American took pride. On this day, 1 year ago, Pope Paul VI canonized Elizabeth Ann Seton—the first native born American to receive such recognition.

This was a great religious and historic occasion. In honor of the canonization, the Congress overwhelmingly passed a joint resolution declaring September 14, 1975, as "National Saint Elizabeth Seton Day."

Elizabeth Seton was born on Staten Island, N.Y., in 1774, married and widowed at a young age and by 1803 settled with her five young children in Emmitsburg, Md., where she founded the Sisters of Charity in St. Joseph. Elizabeth Seton accomplished much in both religion and education. Her name will be remembered as the founder of over 20 community-based Sisters of Charity orders in America. Today, her 7,500 spiritual daughters, the American Sisters of Charity, are found throughout the Western Hemisphere and in many distant nations. The Sisters of Charity, since their inception, have been active in both charitable and educational work and under the leadership of Elizabeth Seton founded the first parochial school in the United States, many of our first orphanages as well as establishing vitally needed hospital facilities. During her lifetime she was deeply involved in the problems of the poor and disadvantaged of all faiths. Her schools, hospitals, and welfare institutions were open to everyone in need, regardless of race, nationality, or creed.

Through her work, and the work of her followers, Elizabeth Seton has done much to strengthen the religious and moral fiber of this country. Her contributions place her among the most outstanding women in American history.

The adoption of our resolution last year was an appropriate means by which to recognize the historic event of Mother Seton's canonization. On the first anniversary of this event, it is fitting that we should reflect on the remarkable accomplishments of this woman and know that the charity and hope she symbolized is still reflected in the lives and works of her followers.

THE ATTACK ON GOLD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. PAUL. Mr. Speaker, on September 15, the International Monetary Fund is scheduled to sell another 780,000 ounces of gold. In the past I have often made the point that such sales are illegal and that they only go to finance a back-door foreign aid scheme. Another aspect of this sale, however, is the continued war against gold being waged primarily by the U.S. Treasury. Secretary Simon, for whatever reason, seems determined to destroy the monetary value of gold. This has had the effect of seriously undermining the efforts of many foreign governments to stem the rising tide of paper money throughout the world by restoring some of the discipline of gold to international monetary affairs.

I believe that this attitude is both false and foolish and I would like to commend to my colleagues an article from the Wall Street Journal which illustrates this:

[From the Wall Street Journal, Sept. 13 1976]

Review of Current Trends in Business and Finance

London.—It is historical folklore time at Peoples Interplanetary Academy No. 999EN6J, a satellite of the earth (northern) school district. The precocious youngsters hush as the teacher begins a tale from that strange period of a millenium earlier, the Twentieth Century.

"Once upon a time, there was a magical money. It could charm fair maidens, and embolden men to great adventures. Every child believed it could be found at the end of a rainbow, yet it was usually invisible to grown-up tax collectors. Most wonderfully of all, the more terrible the things which happened on our planet, the more precious it became. They called it gold."

Twittering with excitement, several children ask in unison, "Whatever became of gold?"

"Oh, it must have lost its magic. The ancient rulers used to say it could never go down in value. And there were gnomes then, too, who said it would go up forever. Somehow, it started going up and down."

The class groans. Most lose interest, but one boy asks, "Why?"

"Inflation had a lot to do with it. Back when money was paper, the kindly rulers would print lots of it when they wanted people to be able to buy more things, or when they wanted to buy weapons to kill other rulers' people. But the more money there was, the fewer things each bit of paper money would buy, so more people tried to keep up with inflation by buying gold.

"The worse inflation became, though, the higher interest rates the banks had to pay. Many people decided it was better to collect interest than to pay a bank to keep their gold in a vault, so the price stopped going up so fast. Then the opposite happened. Inflation was so scary that the people stopped buying things, so the rulers decided it was silly to print so much money. Once people knew this, they bought even less gold and its price went down."

"If it was that simple, it's boring," frets a little girl.

"Well, that's all I was programmed to say, but I'm not so sure," confides the teacher; "I've heard some rulers hated gold, and plotted against it." Ears perk up again.

"Even official history shows that the International Monetary Fund, sort of a bank for almost all the governments there used to be, sold a lot of its gold. The idea was to sell it at a high price to rich people so the IMF would have money to give to the poor people, who were very numerous and restless then. It seemed like a nice thing to do.

"But the more gold the IMF sold, the lower the price went, so there wasn't much money for the poor. Some people thought the IMF knew all along that this must happen because of a law they had then, the law of supply and demand. People in a place of small rich countries, called Europe, were suspicious because the IMF lived in the biggest rich country called America. So they thought America told the IMF what to do.

"Now, the American rulers probably weren't bothered, at least, that the poor people were getting less money. They believed the main reason the gold price was going down was less inflation, which meant the poor countries would be able to buy more things with their own money. Anyway, they knew a lot of the poor nations wouldn't love America no matter what the price of gold was.

"And America certainly didn't love gold. For years the American treasury would sell gold to hold down the price, and always promised that it would never let it go up. But finally it did let it go up a teeny bit, so nobody knew what to believe anymore. That's when people bought lots of gold and made it go up and up.

"Then, the Americans could argue that gold was too unsteady to be important in the earth's money system. Enough Europeans agreed, and gold did become less important. When people saw that America had the power to get its wish against gold, many gave up owning it and its price fell down like humpty-dumpty. Yes, I know why you are raising your hands, but to this day no one really knows why America didn't love gold.

"There were rumors, of course. Most people in a European country called France loved gold, and under their rulers loved to tease America. They played a game in which France would cash in chips for American gold, and then tell everybody the score, which America wanted to be secret. So America loved to tease France back by dropping out of the game and by making France's gold less precious. They couldn't do this without making everybody's gold less precious.

"I don't think the American loved the two countries which dug the most gold out of the ground, either; oh, yes, that's where it really came from and some Americans thought it was just silly to dig it all up and then bury it again somewhere else. Americans were often afraid of the big country called Russia, and they didn't like the way the one named South Africa treated its black people. So they might have tried to keep down the gold price to keep those countries from getting richer.

"The American treasury didn't love those gnomes, either, because they hid Americans' gold and even their paper money in mountains where the treasury couldn't find it. But one day the treasury played a very big trick on the gnomes, by saying it would no longer put Americans in jail for owning gold. Human nature being what it was back in those primitive times, that took all the fun out of owning gold, and scarcely any Americans wanted it after that."

"Teacher, is that when everybody stopped playing with gold forever?"

"Frankly, I doubt that it was that early. All we know is that the last records show that there was more gold in the American treasury than anywhere else on the planet, and that the Twentieth Century was a time of much change and upheaval before the . . . sit still now, surely you've seen a rainbow before."—RICHARD F. JANSSEN.

TRIBUTE TO PAUL GASKINS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. KETCHUM. Mr. Speaker, I consider myself very privileged to represent an individual who has gone out of his way to make an extremely dedicated personal contribution to our Bicentennial commemorative. Mr. Paul Gaskins, of Lancaster, Calif., is the gentleman in question; it is with pleasure that I share his Bicentennial "gift" with my colleagues here today.

Last year, at a dinner commencing the annual Antelope Valley, Calif., Fair, Mr. Gaskins delivered a very moving and patriotic speech utilizing his impressive knowledge of our Nation's history. For emphasis, Mr. Gaskins wore an authentic George Washington costume for the occasion. His presentation was so well received that an idea was born: he would travel beyond Lancaster, sharing his love for and knowledge of his country with others. By now, Mr. Gaskins has become well-known not only in his own area but throughout four Midwestern States: Indiana, Illinois, Ohio, and Michigan. Maintaining a somewhat grueling schedule, he made many personal appearances, sometimes as many as four per day. Perhaps the most astonishing thing about Paul Gaskins' one-man effort is the fact that he celebrated his 82d birthday while touring the country. An enthusiastic crowd of 7,000—the largest he has addressed—demonstrated its admiration for him by singing "Happy Birthday."

Paul Gaskins is an inspiration to all he meets, and most particularly to our senior citizens. The State of Indiana Commission on Aging and Aged presented Paul with a tribute honoring his colorful portrayal of the Father of our Country. I doubt he has missed a single Bicentennial celebration in his own Antelope Valley, and he has truly stimulated the young minds of students in many schools with his vibrant description and portrayal of our history.

In his 82 years, Paul Gaskins has gained a wealth of knowledge about his beloved country, and the years have not daunted him from assuring that others develop this national pride. Perhaps the most appropriate tribute to Paul Gaskins was that printed in the Antelope Valley Press:

> Although he may not truly be the father of his country, Paul Gaskins loves America like a son.

I know that my colleagues will join with me in recognizing the commendable addition to our 200th birthday celebration which Paul Gaskins represents.

SOWETO: PHONY REVOLUTION; BLACK DISASTER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McDONALD. Mr. Speaker, it was manifestly apparent to some that the recent disturbances in Soweto in South Africa were not all they appeared to be—particularly, as to their timing. A recent on-the-spot report by Rev. Lester Kinsolving on this score is most illuminating. This below account appeared in the Politics & Religion section of the Fairfax County Globe on September 9, 1976. I commend it to the attention of my colleagues who may be more than a little confused about the matter:

[From the Fairfax (Va.) County Globe, Sept. 9, 1976]

SOWETO: PHONEY REVOLUTION; BLACK DISASTER

When American black militants lit up the skies in the sixties by first looting and then burning the homes of their fellow blacks in places like Watts, Detroit, Newark and Washington, few Americans in general took seriously the demand that whites be evacuated from four southern states which were designated as the "Republic of New Africa."

In South Africa, however, any urban unrest is heralded by most of the world's press as evidence that the revolution—of the 75% of the black population who are black—has surely arrived.

This assumption is absurd on a number of counts. First, no black revolution against whites is successful when it results in nearly 300 black deaths as compared to the death of two whites.

Then the vast majority of these dead in Soweto are quite conclusively due not to police bullets but to black storekeepers defending their property against the horde of husky juvenile delinquents engineered by the far left wing to create mau mau sound effects for the first Kissinger-Vorster meeting.

These are young thugs of the type which can be found in droves in any city in the United States, and in any color. But they made the terrible mistake of attacking Zulu adult men on their way to work—as well as setting fire to a Zulu hostel.

The Zulu comprise 20% of the South African population. During the 19th century the Zulu recurrently terrorized all other black tribes under such genocidal chiefs as Chaka and Dingane—until they clashed with the Boers and the British.

But the same Zulu Impi (warrier) battle cries reverberated throughout the million-member black township of Soweto, as the Zulus began a wild retaliation, not only beating or killing every teenager in sight but tearing up homes as well. (By striking contrast we were able to visit a Zulu township near Durban called Umlazi, where everyone was most congenial.)

The Anti-South African Government English language press reported accusations that the police, both black and white, encouraged the Zulus to teach these "tsotsis" (juvenile delinquents) a lesson.

But we have interviewed numerous blacks from Soweto, including the tragic figures of those who slept on the streets of downtown Johannesburg, because they were afraid to go home. I interviewed one of South Africa's leading black clergy, the equivalent of a bishop, who saw two of his parishioners kneel weeping at the body of their teenage son—

while the police held off, by shooting bird shot, a mob of Zulus who would have torn them to pieces.

This, ladies and gentlemen, is the horrifying side of the arrival of the black power movement in South Africa—a phoney revolution that accomplished nothing except hundreds of black corpses, ruined homes and burned out schools—along with a renewed determination of South Africans in general that their land will never become an Angola or a Congo.

NONDECLINING YIELD ISSUE IN FOREST MANAGEMENT LEGISLATION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. SYMMS. Mr. Speaker, there is no question that this country is in need of forest management legislation. The forest industry people are urging prompt action. So is the Forest Service and numerous environmental and conservation groups throughout the Nation. At the same time, we must bear in mind that we are dealing with a complex subject that could have an adverse and irreversible impact on the environment of our national forests and our national economy. Section 11 of S. 3091, as passed by the Senate, is one major area that could have a most harmful and detrimental affect on national forest management.

Section 11 of S. 3091 was considered by the Committee on Agriculture during its lengthy consideration of the forest management legislation (H.R. 15069) which will be before the House this week. It was rejected by a 26–9 vote in committee. However, a floor amendment may be offered to H.R. 15069 to restore this provision to the bill. I believe inclusion of this language in H.R. 15069 would be unwise. However, I understand the intense interest in this provision and felt my colleagues should have a better understanding of exactly what is involved in this complicated subject before voting.

Section 11 of S. 3091 deals with determining annual timber harvest rates from the national forests. It would require that sale of timber for each national forest be limited to "quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis." In other words, it would prohibit the sale now of more timber than ultimately will be grown yearly once the national forests are put into a fully managed condition.

I would like to place in the RECORD a paper prepared by the National Forest Products Association on this issue, which is known as nondeclining yield. The paper was researched and written by professional foresters and avoids emotionalism and jargon. The statement focuses attention on what section 11 means and the implications it has on land resource development and management. The two main areas the paper centers on are: First, how enactment of S. 3091 as amended would prevent effective utilization of the surplus growing stock present in most national forests of the West; and, second, how this section would extend appreciably the amount of time needed to bring these forest areas into a managed condition for sustained yield and would foreclose consideration of alternative management systems by locking nondeclining yield into law and, thus, forcing the needless waste of billions of board feet of timber.

The paper follows:

THE NONDECLINING YIELD ISSUE

THE NATIONAL EFFECTS OF SECTION 11

Section 11 of S. 3091 or H.R. 13832 would lock into law a variation of recently adopted Forest Service administrative policy known as "non-declining yield." It would require that sale of timber from each National Forest be limited to a "quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis."

Under this policy, allowable harvest today is set no higher than the sustained-yield level based on the projected growth rate of the forest when it is in a fully managed condition. In effect, the ultimate sustained-yield level of the forest is set as a "ceiling" above which harvest levels cannot be permitted to rise.

SETS LIMITS

Although limiting harvest by setting it no greater than the projected future growth rate of the forest seems a logical and reasonable policy on the surface, it is entirely inappropriate when applied to old-growth forests which predominate in most western National Forests. This is because these old-growth forests contain significantly more timber volume than will be present when the forest is under sustained-yield management. The timber volume has accumulated over much longer periods of time than will be planned for in the future. Current rotation ages on the National Forests range from 90 to 120 years.

Using the sustained-yield level as a ceiling, language of Section 11 would result in needless waste of a valuable timber resource. In old-growth forests (due to the surplus timber volume), harvest levels can be permitted to exceed the projected long-term growth rate of the managed forest for a period of time without ever jeopardizing long-term sustained-yield levels or causing overcutting of the National Forests.

INCREDIBLE WASTE

If Section 11 is enacted, much of this overmature, old-growth timber, because it is highly susceptible to decay, insects and disease, will never become available for harvesting. On a national scale, more than 180 billion board feet of old-growth timber could be lost if it is not harvested in an orderly manner over the next fifty to eighty years. Instead of this timber going to build homes and help America meet its need for wood and paper products, this surplus old-growth of timber will be lost to fire, insects, wind and disease.

Furthermore, application of the policy mandated in Section 11 is so inappropriate to old-growth forests in the West and other areas, that in many cases, in order to avoid a possible reduction in harvest in the next century, this policy in some cases will mandate a definite decrease in allowable harvest today.

VALIDITY OF PREVIOUS PRACTICES

This decrease in allowable harvest is in sharp contrast to the previous method of setting harvest levels in forests with surplus timber volumes. In the past, normal practice has been to set harvest levels initially at a rate greater than the rate that forest growth can sustain over the long run. This accelerated harvest rate would continue until the decadent stands—those that were contributing little in terms of net growth—were replaced by new, young trees.

In effect, previous Forest Service policy treated the sustained-yield level of the forest as a "floor" below which planned harvests would not be permitted to drop. Current policy treats the sustained-yield level as a "ceiling" above which harvest levels cannot be permitted to rise, thereby wasting timber volume surplus to sustained-yield needs.

Under the previous policy, once the "surplus" old growth timber has been removed, the harvest level would be lowered to a point that can be sustained by the annual growth of new wood fiber under current or planned forest management practices. This conversion from old to new is in keeping with the principles of sustained-yield management. These higher initial harvest rates do not jeopardize forest productivity. Only the volume which is surplus to sustained-yield requirements is removed. Harvest levels need never drop below the long-term sustained-yield levels which would occur if harvest levels on the forest are constrained by the non-declining yield policy.

RECAP

If Section 11 is enacted it would have the effect of making over 180 billion board feet of timber unavailable to serve the needs of the American people for housing and a myriad of other wood product needs. This huge amount of timber, worth more than $9 billion, could provide enough lumber and plywood materials to build approximately 15 million single-family homes. It approaches the total volume of timber harvested from the National Forests since their establishment.

It must be emphasized that this 180 billion board feet is not timber which will merely be delayed in becoming available for harvest. It is timber which will never become available if Section 11 is enacted. This is because old-growth timber is subject to loss through insects, disease, decay, and other natural factors which make its susceptibility to death and decay much greater than a young forest. The 180 billion board feet represents the volume of timber which will be lost to natural causes due to the extended period that it must be carried before it can be harvested under the constraint imposed by Section 11. Also contributing to the loss are significant foregoing growth opportunities resulting from productive forest areas being occupied by relatively unproductive old-growth timber.

PERSPECTIVE

One billion board feet would provide enough building material to construct over 80,000 single family homes—enough to replace all the residential housing in a city the size of Richmond, Virginia.

RAPID LIQUIDATION OF OLD GROWTH NOT PROPOSED

Proponents of Section 11 contend that it is necessary to prevent pressure from the forest industry to liquidate all old-growth timber within a very short period of time—less than ten years. However, there is no responsible segment of the industry proposing such rapid liquidation. The industry, however, does want the Forest Service to have adequate flexibility to reduce surplus old-growth timber volumes over a reasonable period (fifty to eighty years) as long as it is consistent with reasonable protection of all multiple use values and can be done without jeopardizing future sustained-yield levels.

HARVEST LEVELS SHOULD BE ESTABLISHED THROUGH PLANNING PROCESS

Rather than being the subject of rigid prescriptions mandated by law, National Forest harvest levels are more properly established through the land use planning process which requires full consideration for the protection and enhancement of watershed, wildlife, recreation and other multiple use values. Forest Service timber goal levels, as well as the goals for other National Forest resource outputs and uses, are subject to periodic Congressional review as part of the process established by the Forest and Rangeland Renewavle Resources Planning Act. This law, as well as H.R. 15069 and S. 3091 as passed, mandates extensive public involvement in the National Forest land resource planning process, in addition to that already required by the National Environmental Policy Act (NEPA).

Example

The following example illustrates the problems inherent in the present Forest Service policy (and in Section 11 if enacted). Although these hypothetical examples are admittedly simplistic and generalized, the numbers reflect actual growth rates and volumes under the described assumptions:

WASTED TIME AND TIMBER

A 100-acre Douglas-fir forest west of the Cascades in Washington or Oregon consists of uniform old-growth timber having an average net volume of 50,000 board feet per acre. Assume that this Douglas-fir forest is of average quality for growing timber in this area and has a relatively uniform productivity. Under a given set of planned management activities (assumed management intensities), it is reasonable to expect that in a managed condition this forest would yield an average annual growth of 350 board feet per acre a year at the assumed rotation age of 100 years (the average age at which trees are scheduled for harvest is termed the rotation). This would amount to a yield of 35,000 board feet per year on the 100-acre forest which would correspond to the sustained-yield level identified in Section 11 of the S. 3091—the "quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis."

However, to bring this 100-acre forest into a fully managed condition, a forest manager would like to be able to harvest an average of one acre per year for each year in the 100-year rotation, so that when the last old-growth timber has been harvested, one acre of 100-year old trees will mature for harvest annually. But, under the language of Section 11 he would be prohibited from doing so since that would involve harvesting 50,000 board feet per year (the average per acre volume of the existing old-growth forest). Under the language of Section 11, he would be forced to harvest no more than somewhat greater than one-half acre per year—almost doubling the time required to bring the forest into a managed condition. In addition, significant volumes of old-growth timber would die and become unavailable due to the extended period that these old stands would need to be held while awaiting harvest.

DETRIMENTAL RESULTS OF SECTION 11

The results of Section 11 would be twofold:

1. It would fail to take advantage of significant growth capacity due to the extended period over which slow growing old-growth stands would occupy growing sites which could be more productively utilized.

2. Significant losses would occur in old-growth stands carried for such periods due to mortality, defect, rot, etc.

Although the above example is, indeed, simplistic, the principle holds true for all National Forests which have any significant component of old-growth timber—virtually all National Forests in the West.

What we stand to lose—the Lassen lesson

The impact of current Forest Service non-declining yield policy was recently shown on the Lassen National Forests in California by the Western Timber Association using Forest Service assumptions on growth, management intensities, and other data and the Forest Service's computer program (Resource Allocation Model). The harvest level planned by the Forest Service is 150 million board feet per year on the Lassen. This represents the sustained-yield or growth that the ultimate managed forest would have (in 360 years).

IMPACT

Under the non-declining yield policy, the Forest Service must use 150 million board feet as a ceiling above which harvest levels cannot go, since to exceed that level would ultimately mean a later decline to the sustained-yield level. Using this 150 million board foot figure as a floor, the Western Timber Association found that the allowable harvest could be increased to 190 million board feet between 1974 and the year 2000, at which time it would drop down to the 150 million board foot level and continue out in an identical manner to that presently planned by the Forest Service. By utilizing the surplus growing stock, over one billion board feet of timber could be harvested and put to use which would otherwise be lost under the present Forest Service policy (which would be set into law by Section 11 of the S. 3091).

It should be noted that at no time did allowable harvest levels, with the non-declining yield constraint removed, ever drop below the harvests presently planned by the Forest Service with that constraint intact. Environmental policies were assumed to be equal for both cases.

CHANGES FORTHCOMING

Pending Forest Service study may indicate alternatives

For the past several years the Forest Service has been intensively studying various harvest scheduling alternatives and their possible implications for the future management of the National Forests. The Service plans to release its study to the public in the very near future. From all indications, the study could very well recommend alternatives to the present policy.

According to the Forest Service it "will use this report after further review by interested members of the profession and interest groups, to reassess these policies and either reaffirm or initiate change, whatever the case may be." (page 309 of "A Recommended Renewable Resource Program—as required by the Forest and Rangeland Renewable Resources Planning Act of 1974.")

With the report due to be released soon, it seems counter-productive to lock the policy mandated by Section 11 into law given the fact that the Forest Service might have changes to initiate over present policy.

The most advisable course of action at this time would be to refrain from legislative prescriptions such as those contained in Section 11 until the full implications of various harvest regulation alternatives can be explored through public participation and review by technical specialists.

ENVIRONMENTAL SAFEGUARDS

Nontimber values need not be jeopardized

Defenders of non-declining yield policies contend that this constraint is necessary to insure protection of non-timber multiple use values such as wildlife, watershed protection, and visual values. There is no question that these values are highly important and need adequate protection. However, setting non-declining yield into law is not the way to insure this protection. The National Forest land use planning process is the proper forum for the identification of multiple use management needs on individual National Forest areas.

Land use planning must be done in accordance with the National Environmental Policy Act which provides for public input, the Multiple Use-Sustained Yield Act, and the principles set forth in the Forest and Rangeland Renewable Resources Planning Act.

It is during this process that cutting methods and rates should be adjusted to insure the protection or enhancement of the various values of the forest. Blanket management prescriptions such as contained in Section 11 are not the way to fulfill this objective.

FALLACIES

Forest Service community stability justifications questionable

One of the arguments the Forest Service uses to justify its present policy is to insure "community stability." This community stability argument becomes less compelling given modern transportation systems. At the present time, it is not uncommon for logs to be hauled over 100 miles from woods to mill—making it very difficult to plan sustained levels which promote the stability of any single community.

An additional fallacy in this argument results from the failure of the agency to consider non-National Forest land in the forest land base used to calculate non-declining yield levels. The Forest Service admittedly cannot control timber harvest on lands it does not administer. However, relatively reliable estimates of removals from these lands can be made based upon forest inventory characteristics, projected market prices, and other criteria. Failure to consider these lands, in many cases, runs counter to the agency's community stability objectives since it ignores the significant contributions these lands will make when combined with National Forest lands.

A recent study by John Beuter of Oregon State University analyzed the timber supply situation in Oregon and discussed the implications of various assumed alternatives to timber supply in that state (OSU Research Bulletin 19, January 1976). All ownerships, including federal, state, forest industry, and small private lands, were analyzed. This study projected that if present land-owner policies continue there will be a 22 percent decline in timber supply in Oregon between 1980 and the year 2000. However, if certain policies are changed (including the present federal non-declining yield policies), there is no reason for any decline in harvest levels at all—either now or as far into the future as can be seen.

Proposed solution

The best course of action would be to defer the legislative prescriptions contained in Section 11 and amend the section to require that allowable harvest levels be set through the interdisciplinary planning process and the establishment of goals approved by Congress as part of the Forest and Rangeland Renewable Resources Planning Act of 1973. This policy should not be fixed in law, especially without the release of the Forest Service study, so that the full implications of various harvest regulation alternatives can be explored through public participation and review by technical specialists.

More specifically, Section 11 should be amended to strike the phrase "a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis." In its place should be substituted:

"The quantity established by timber management plans developed pursuant to Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by Section 2 and amended by Sec-5 of this Act."

In addition, a new subsection should be added to Section 11 as follows:

"(c) The Secretary shall study timber inventory management alternatives to determine whether changes from present practices in timber havest scheduling would yield greater net benefits to the Nation and shall report his findings to the Congress prior to 1978."

Under the proposed amendments, timber harvesting schedules would be constrained by the requirements of the Multiple Use-Sustained Yield Act of 1960, the National Environmental Policy Act of 1969, and the amended Forest and Rangeland Renewable Resources Planning Act of 1974 requirements for an interdisciplinary team approach and public participation.

The language would require no change in present Forest Service harvest regulation policies, but would require the Agency to make available the results of its present study on harvest regulation alternatives for the consideration of Congress and the public.

Any management plan is subject to many assumptions. The Program document prepared under the Resource Planning Act is no exception. The present Forest Service non-declining yield policy was a major assumption of all the alternatives presented in the Program submitted to Congress in March 1976. These assumptions should be subject to periodic Congressional review as provided by the Resources Planning Act and to review by the Forest Service itself every five years when the new Program is due. Everyone will lose if this policy is locked into law now.

THE CHAMBER OF COMMERCE

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I would like to make a few comments today in praise of the chamber of commerce's valuable role in our society. The chamber of commerce is an organization that is supported from the grassroots level; it is supported by business men and women, firms and organizations whose professional leaders speak on behalf of American business. The chamber is truly representative of the business community as a whole because its membership cover the spectrum from the smallest proprietor to the largest corporations, as well as State, local, and regional chambers of commerce, the American Chambers of Commerce Abroad, and trade and professional associations.

The chamber of commerce's stated goal is to foster individual initiative and self-reliance and to improve and protect the competitive market economy, for the long-range good of the country. It seeks to maintain and strengthen freedom of choice, the right to private property, and the private enterprise system, and to preserve, improve, and create a greater understanding of our form of representative self-government.

The chamber of commerce's work began on April 23, 1912, and today it is recognized as a preeminent representative of the private enterprise system. It is constantly acting on problems and issues that are of timely importance and general in application to all business. In consistently trying to establish and carry out policy concerning the most important issues affecting the market system, the chamber truly represents the business community as a whole.

At this time, I would like to express my deep appreciation to the chamber of commerce for its valuable role it has played in the business community, the Congress, and the Nation.

PCB'S AND KEPONE IN MOTHERS' MILK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. DINGELL. Mr. Speaker, the House recently approved an amendment which Congressman Gilbert Gude and I offered to H.R. 14032, the Toxic Substances Control Act, to phase out the production and use of polychlorinated biphenyls—PCB's—which are highly toxic chemicals widely distributed throughout the environment. I am placing in the Congressional Record an article which appeared in the August 28, 1976, issue of the Washington Post newspaper reporting on a study which found PCB's present in mothers' milk in 10 States. This article points to the urgent need for enactment of legislation to control hazardous industrial chemicals like PCB's.

I am placing, also, in the Record a report in the February 27, 1976, issue of the Washington Post on the discovery of traces of the pesticide Kepone in mothers' milk. It is worth noting, further, that other reports have found traces of other pesticides such as DDT, Aldrin and Dieldrin present in samples of mothers' milk. The presence of one of these chemicals—all of which are either proven or suspected to be capable of causing cancer—is disturbing; however, what about the effects of a combination of these chemicals in mothers' milk? Has a study been done to identify the entire range of chemical contaminants in mothers' milk?

Finally, I am inserting a copy of an article which appeared in the September 13, 1976, edition of the Washington Post newspaper which links PCB's to liver cancer.

[From the Washington Post, Aug. 28, 1976]

Mothers' Milk in Ten States Found to Contain Toxic Chemical PCB

(By Victor Cohn)

Polychlorinated biphenyls, poisonous industrial chemicals that have fouled the nation's waterways have been discovered in mothers' milk in 10 states in what a federal official yesterday called "worrisome" amounts.

The description came from Dr. David Rall, director of the National Institute of Environmental Health Sciences, who chaired a special meeting at the Department of Health, Education and Welfare called to discuss what he called "this potentially serious problem."

PCBs form a class of colorless and tasteless compounds with a thousand industrial uses as insulators, sealers, heat transfer fluids and ingredients of inks, paints, lubricants and plastics.

The first findings in a national survey by the Environmental Protection Agency showed measurable amounts of PCBs in 48 of 50 samples of mothers' milk tested in Maryland, Virginia, Michigan, North Carolina, New Jersey, Alabama, Florida, Georgia, Pennsylvania and South Carolina.

The findings were called "preliminary" and "unconfirmed" by George Wirth, chief of the special chemicals branch in EPA's Office of Toxic Substances.

But another official who asked to remain anonymous said "the figures come from a laboratory in which I have a great deal of confidence." He added that "other figures we're getting from the Midwest show the same levels or higher. Before long we should have the picture for the whole country."

Rall, who heads HEW's main environmental laboratories, said after the meeting, "I don't think I'd tell nursing mothers to make any changes in their breast-feeding now. But we're going to have to get more EPA and independent data . . . so we can have a better idea what to advise."

He added, "I don't think pregnant or nursing mothers should eat any fish from the Great Lakes or Hudson River," waters where commercial but not sports fishing has been halted because of PCB contamination.

Dr. Arthur Selikoff, a noted environmental chemist at Mount Sinai Medical Center in New York, said he was "loathe to have any children exposed—this is an unpleasant piece of news we didn't expect."

Selikoff was one of a group of consultants who met with the HEW committee and heard reports of serious disease, brain and nervous disorders, stunted growth and deaths in the nursing infants of rhesus monkeys fed PCBs. Some of the monkey mothers' milk fat contained around 3 parts per million of PCBs.

This is "in the same ballpark" as the measurements in the human mothers' milk, said Dr. J.R. Allen of the University of Wisconsin, who conducted the monkey studies.

The average measurement in the 48 mothers' milk fat was 2.1 ppm. The highest single measurement—officials did not say in what state—was 10 ppm, a figure so high it made some wonder if it would be accurate except in a case of serious industrial poisoning.

The four highest averages were in women from North Carolina, with 2.6 ppm; Maryland, 2.5; New Jersey, 2.3, and Michigan, 2.1.

The Food and Drug Administration has set a "provisional tolerance level" of 2.5 ppm for PCBs in the fatty part of whole milk on grocers' shelves. Anything higher is considered unsafe.

With new knowledge of PCB effects, "we're considering lowering these tolerances," John R. Wessel of the FDA reported.

"Numbers like these may sound very low to the average person," Selikoff said. "But the child is going to store this stuff in its fat tissue, so if it takes it in every day, you have a buildup. And it says in the body for years."

FDA officials said other studies show that recent PCB levels in cows' milk and infant formulas have been showing sharp drops in the past two years, which they said was encouraging in case some breast-feeding should be curtailed.

Still, health officials might have to compare the levels in mothers' milk and cows' milk state by state, because state figures vary, Wessel said.

If the EPA figures are confirmed and found widespread, committee members and consultants said, a simple way might be developed to test a mother's milk for contaminants or reports might be made to mothers on alternative foods low in risky chemicals.

Since 1966, when PCBs were first found to have crept into the environment, they have been found in drinking water, fish, other foods, wildfowl and other birds, human body fat and breast milk in several other countries—though only in scattered instances in U.S. mothers' milk.

In the early 1970s chickens and eggs contaminated by industrial PCBs were destroyed by the millions. Monsanto Co., this country's only producer of PCBs, halted sales in 1971 except for sealed machinery such as electrical transformers.

However, millions of pounds of imported PCBs have continued to pour into the country, in part because of congressional failure over the past several years to agree on a toxic substances control act. Such a bill, with a clause that could bar such imports, is before a Senate-House conference committee. On Monday night the House passed an amendment to it that would outlaw all PCB manufacture within two years.

Some 750 million pounds in use and 450 million pounds in landfills, water, soil and the air are expected to remain a problem for generations, however.

PCBs are chemically related but are different compounds from a group of fire retardants known as PBBs—polybrominated biphenyls. In the last few years PBBs have contaminated tons of Michigan livestock feed, and last week Michigan health officers reported finding PBBs in amounts as high as .5 ppm in the milk fat of 22 Michigan mothers.

[From the Washington Post, Feb. 27, 1976]

9 Mothers Have Trace of Kepone

The Environmental Protection Agency said Thursday it has found minute traces of Kepone pesticide in mother's milk from nine women living in seven cities in Alabama and North Carolina.

An EPA spokesman said the nine were among 298 in nine southeastern states whose milk was tested for Kepone, an ant and roach poison, within the past six months. Milk samples from all the other women were free of Kepone, he said.

The amount of the substance found in each woman was minuscule, ranging from less than one to 5.8 parts per billion, the spokesman said. He said Kepone levels recently found to have caused serious illness in Hopewell, Va., where the pesticide formerly was produced, were about 1,000 times higher.

The spokesman said the EPA is unsure where the pesticide found in the milk originated, although it might have been formed by the degradation of another poison called Mirex, or "what hazards, if any" are posed by such small amounts of Kepone.

He said he did not know whether any of the nine women, who all had given birth days before the milk samples were taken, were nursing their babies.

[From the Washington Post, Sept. 13, 1976]

Industrial Chemical PCB Is Linked to Liver Cancer

(By Morton Mintz)

Cold Spring Harbor, N.Y., Sept. 12.—A toxic industrial chemical that recently was found in the milk of 65 of 67 tested American nursing mothers was linked to liver cancer in humans today by a leading Japanese scientist.

The chemical polychlorinated biphenyls (PCBs), is believed to be present in the fatty tissue of nearly every person in the United States, Japan and possibly other industrialized countries.

The association of PCBs with human liver cancer—which is always fatal generally within a year—developed from an episode in which about 1,000 persons in Yusho, Japan, over a period of a few weeks in 1968, ate rice oil accidentally contaminated with a total of 0.5 to 6.0 grams of PCBs.

Varying but apparently extremely high amounts of PCBs persisted in some of the victims' bodies. Many still report fatigue, headaches, fever, coughs, numbness in the limbs, severe skin eruptions, and digestive and menstrual disorders. Some infants born to victims had PCBs in their tissues at birth, and also had severe skin discolorations.

PCBs, extremely stable chemicals, are used in electrical equipment, paints, printing ink, adhesives and other products. They have been used widely for 45 years but were not regarded as environmental contaminants until 1966.

Dr. Tjkeshi Hirayama, a specialist in tracing the causes of human disease at the National Cancer Center Research Institute in Tokyo, told an international conference on cancer at Cold Spring Harbor Laboratory that five of the Yusho victims died of liver cancer within five years after eating the contaminated cooking oil. This figures out to a rate of 500 per 100,000, compared with the expected rate of 31 per 100,000.

Hirayama, in an interview later, said that the association between PCBs and liver cancer was definite in two cases and possible or probable in the remaining three. The two definite cases alone translate into a rate six times higher than normal, while all five cases translate into a 16-fold higher incidence, he said.

Hirayama's presentation followed a report by pathologist James R. Allen of the University of Wisconsin, who warned that "any level" of human exposure to PCBs "may be injurious to human health."

The Yusho rates—reinforced by data on brain changes in monkeys and other adverse effects in animals cited by Allen—suggest a "high possibility" that PCBs caused the liver cancers, Hirayama said.

As for the hundreds of millions of persons who have ingested much smaller amounts of PCBs, mainly in their food, Hirayama said, "I am concerned about the implications for people everywhere ... There is no question the problem is serious."

Although Hirayama previously had reported the liver cancer risk calculations in Japan, they came as a surprise to several attending scientists who specialize in causes of environmental cancer.

Hirayama's disclosure "is one of the most worrisome sets of data that we have recently seen," said one of those scientists, Dr. Irving J. Selikoff of the Mount Sinai School of Medicine in New York City.

The Environmental Protection Agency recently reported that PCBs had been found in tests of milk of mothers who live in 10 states. EPA and Department of Health, Education and Welfare officials have set Sept. 23 for a meeting with obstetricians and pediatricians about how to advise mothers about breast feeding.

The concentration of PCBs in the mothers' milk fat was highest, 10.6 parts per million, in a Michigan woman, while it averaged 1.4 ppm in 18 Virginia women. Overall, the average was 1.7 ppm.

The temporary maximum allowed by the Food and Drug Administration is 0.2 ppm for infant and junior food, but is 2.5 ppm for cow's milk on grocer's shelves.

In recent studies reported by pathologist Allen, female monkeys that consumed PCBs at a rate of 2.5 ppm had much higher concentrations—up to 16 ppm—in their milk fat. Exposed to this "severe toxicity," Allen said, their breast-fed infants developed skin discoloration, acne, loss of eyelashes, and swelling and congestion of the eyelids.

The infants improved when weaned from milk containing PCBs, but, Allen said, a 1976 study showed that "behavioral and learning deficits" had persisted for at least a year and may still continue.

Allen recalled that the first indication that PCBs may be linked to cancer came from a Japanese study of mice in 1972. In a study of rats reported in 1975, 92 per cent of PCB-fed rats developed apparently malignant liver growths.

Not yet knowing of Hirayama's calculations of the human liver cancer increase at Yusho, Allen based his concern that PCBs may be carcinogens on animal data, saying, "There are only suggestions that a higher incidence of cancer occurs in persons exposed to PCB."

IN SUPPORT OF THE 55-MILE-PER-HOUR SPEED LIMIT

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. HOWARD. Mr. Speaker, since Congress enacted what is now commonly referred to as the 55-mile-per-hour speed limit law, there has been some grumbling and moaning about the wisdom of that law; indeed, every now and then a Member will introduce a bill to repeal the law or to so amend it as to increase the speed limit. As more people become aware of the tremendous gains in the savings of life and in energy conservation effected by that law, the moaning and grumbling has materially decreased. That decrease is due to the increasing recognition that, as Lt. Gen. Benjamin O. Davis stated, the 55-mile-per-hour speed limit is the "single most important safety measure ever enacted or implemented. All the efforts of the National Safety Council for decades never produced the results this one law did."

For the benefit of the few of my colleagues who may not know who General Davis is, may I point out that he was born in Washington, D.C., in 1912. He attended the University of Chicago and graduated from the U.S. Military Academy in 1936. In June 1937, after a year as commander of an infantry company at Fort Benning, Ga., he enrolled as a student at the infantry school there, graduated a year later and assumed duties as professor of military science at Tuskegee Institute, Tuskegee, Ala. In May 1941, he entered advanced flying school at nearby Tuskegee Army Air Base and received his wings in March 1942. He is rated a command pilot. After transferring to the Army Air Corps in 1942, General Davis served in North Africa, Sicily, and Italy. After attending the Air War College in 1949–50, he was assigned to the Deputy Chief of Staff for Operations, Headquarters, USAF, Washington, D.C., and served in various capacities. In 1965, General Davis assumed command of the United Nations Command and U.S. Forces in Korea. He commanded Clark Air Base. General Davis has received many awards from this and other countries. After a distinguished military career, General Davis became director of public safety in Cleveland in 1970. From 1971 to 1975, General Davis served as Assistant Secretary of Transportation for Environment, Safety, and Consumer Affairs. After his second retirement, he returned to the Department of Transportation to become Special Advisor to the Secretary on the 55-mile-per-hour speed limit in April of 1976. Ben Davis had devoted his life to the security and protection of his country and his fellow man.

On July 14, General Davis, in his capacity as Special Advisor to the Secretary of Transportation on the 55-mile-per-hour speed limit, delivered a speech on the benefits of the speed limit to the National Committee on Uniform Traffic Laws and Ordinances. As the author of the bill which introduced the speed limit concept, I am pleased to be able to bring to your attention General Davis' remarks, and I am sure they will inspire our colleagues to renew their efforts in explaining the advantages of the law and in urging conformance:

BENEFITS OF THE 55-MILE-PER-HOUR SPEED LIMIT

(By Lt. Gen. Benjamin O. Davis)

I bring you greetings from Secretary Coleman who asked me to convey his high regard for the Committee and his appreciation for its dedicated work on behalf of highway safety and better traffic laws.

I am particularly pleased to talk today about the 55 mile per hour speed limit law. The Department of Transportation has been charged with furthering enforcement and compliance with this law.

Before I became a Special Advisor on 55, I did not realize what had been done. Like every one else, I experienced drivers speeding by me on Interstate 95.

I assumed everyone was disobeying the law. There are people flouting the law today; but there are fewer today than there were a couple of years ago when the 55 law was first enacted.

The 55 law and its results are not understood very well. It is probably the most unpopular law since prohibition.

Recently, I spoke at four regional meetings of the International Association of Chiefs of Police and I learned a lot from them. We recently gave awards to Kansas, Massachusetts, Maryland, Arizona, California, Georgia, and Rhode Island for their efforts in enforcing the 55 law.

I strongly believe that the combination of education and enforcement will produce voluntary compliance with the 55 law. There are not enough police to get every person to comply. We must convince people that the 55 law is worthwhile.

There are critics of the law who say it is a gimmick and that reducing speeds to 55 is illogical. Let's look at our experience with the law. We need you to convey this information to your constituencies—this is the difference between continued success of this law or its termination.

We began building interstates to accommodate cars moving at 70 mph. We built great automobiles capable of speeds over 100 mph. We assumed that we could increase speeds without increasing deaths. We were wrong. We lacked proof of just how unsafe a fast driver is. The great bulk of casualties involve young people. They are not as safe as we would like to think the cars and roads make them. With safer cars and roads, we accepted the notion that prevailing speeds of 65 and higher were tolerable.

The 55 law came about to save fuel. Reduced speed did save fuel. Then, as a startling surprise to everyone, there came an extra dividend—saving a large number of lives.

From 1967 through 1973, highway deaths had been rising about one percent or 500 lives a year. In 1973, there were 54,000 deaths. Then, all of a sudden, the fatalities dropped to 45,000 because of the 55 law. Traffic in 1975 rose but fatalities remained at 45,000. It would have been 56,000 or 57,000 without the 55 law. There were 9,000 fewer deaths in 1974 and 1975—a 17% drop in fatalities. The number of deaths also went down on local roads where the limit had never been as high as 55. There also were 190,000 fewer injuries because of the 55 law.

Nine thousand fewer deaths came as a pleasant shock to everyone. Eighty-eight percent of the reduction occurred on rural roads, including the high speed interstate highways, the ones that were thought to be our safest. In 1974, truck fatalities also dropped by 573 or 19%. Truck injuries went down by 23%. The improvement continued in 1975, and so far in 1976 (except for one month), it has continued in 1976.

Why did all this happen? The reductions were largely the result of two factors. In 1973, there were 4,000,000 tickets issued. In 1975, there were over 7,000,000. The average speed on rural interstate and primary highways in 1973 was 60.3 but it dropped to 55.8 mph in 1975. Though it may be difficult to prove that declining deaths result from increased enforcement, deaths went down by 36% in Arizona after tickets went up by 900%. There are a lot of people in this country complying with the 55 law. This may come as a surprise to you as it did to me but it is true.

Our high speed rural roads with 62% of all the traffic account for 88% of the fatality reduction since 1973. These roads are the ones most affected by the reduced speed limit. Average speed declined by almost five miles per hour.

The National Safety Council has found that the death rate was 40% lower on turnpikes. The facts are indisputable: The lower speed limit of 55 has made our highways safer.

Critics of the 55 law contend that safer cars and safer highways have produced the decrease in deaths. These improvements have helped, but it is the 55 law that has served as the catalyst.

There are several components necessary for the 55 law to succeed. It must have the support of state officials, particularly the governor. This support is necessary for enforcement officers. You must also have community support. We must overcome the thinking which elevates the reasons for going 80 mph over saving lives. In states where there has been a better than average reduction, there have been special efforts to enforce the law and sell the 55 limit in terms of its benefits. Maryland used innovative enforcement techniques. Initially, 80% of the mail to officials in Maryland opposed enforcing the 55 law. When the reduction in deaths and injuries became apparent after three months, 80% favored enforcement. People drive more slowly on the Maryland portion of the Beltway than they do on other parts.

A recent study of highway safety in NATO countries has revealed substantial reductions in deaths because of mandatory use of seat belts. However, the 55 law was found to be the single most important safety measure ever enacted or implemented. All the efforts of the National Safety Council for decades never produced the results this one law did.

Another unexpected dividend of the 55 law was a substantial reduction in spinal cord injuries. After the 55 law, the number dropped 70% and no longer is the auto the primary cause of spinal cord injury in one hospital study.

A law which has decreased the average speed from 60.3 to 55.8 is good news. A law which has reduced the difference in speed between cars and trucks from five mph to less than two miles per hour is great news. When most traffic moves between 50 and 60 miles per hour, as opposed to 60 to 90 mph, accidents are less frequent and less severe. The 55 law does work to save lives and reduce crippling injuries. It does make our highways demonstrably safer.

As to the energy conservation objective which prompted our adopting the 55 limit, the world is running out of oil. I personally think we are facing the gravest crisis since World War II as far as fuel availability is concerned. Since transportation uses about half the total oil the U.S. consumes—and motor gasoline is about three-fourths of that total—the individual driver must be shown that his role in energy conservation is important . . . perhaps critical.

We need to understand the facts ourselves and it's difficult to communicate the facts to the people. The present comfortable feeling people have about our potential oil supply from Alaska or the continental shelf should not be euphoric. Crude oil is being discovered at a decreasing rate. If we tried to use all our known domestic reserves, including Alaskan oil, at present rates of consumption, our supply would be exhausted in just six years.

We put great faith in research—in the promise, for instance, of solar energy. Yet there are no guaranteed alternative sources of energy yet developed that we know will be economically or environmentally desirable in the long run. If world oil prices rise substantially, much of our domestic production—including Alaskan—would be less economic. If there is slower growth than anticipated in domestic coal, nuclear, or gas production, we will need additional imported oil. These are all grave problems.

Today we import more than 6 million barrels of petroleum a day—and that will be 10 million a decade from now. About three-quarters of the Free World's oil reserves are in the volatile Middle East. The United States today imports nearly one-half its oil requirements—paying nearly $75 million every day to foreign oil producers. By the end of 1977 we will be paying OPEC Nations some $35 billion annually—equivalent to every U.S. family sending $500 abroad—capital so desperately needed at home to provide jobs or to help our failing cities.

I think we urgently need to overcome the attitude of many people that, because gasoline today is plentiful at the pump, there is no energy crisis. I think government has a problem, too: other things always seem more important than energy considerations that may not be felt for another few years. I remember President Nixon's speech on November 7, 1973, which indicated the need for Project Independence—we need to reread that speech and go to work on it. We probably need to instill in the American people a conservation ethic comparable to that existing in World War II—when Americans saved everything from gasoline to tin cans and bacon fat. Energy conservation must become a personal, individual concern. I wish OPEC, or barrels of oil, or billions sent abroad, were more easily comprehended. We need simpler language to convey hard truths.

Indeed the energy crisis is difficult to explain. But the facts need to be known. Perhaps we can start by pointing out that the 55 mph speed limit is saving fuel, but potentially can save 200,000 barrels—or 8.8 million gallons—of gasoline every single day. That amounts to nearly 3 billion gallons a year saved—enough to keep all the cars in Indiana and Arizona—more than 3½ million cars—running for one year. Or, if simpler language (and an appeal to the taxpayers' interests) is needed to get the message across, we might point out that a million barrels of oil per day conserved is better than the same amount produced or imported—since we don't have to pay for it.

But when it is all said and done, we know that 55—is not just a good idea, it's the law, with tickets and fines and all the rest, like any other law. As a federal requirement imposed on the states, it is resented. We hope the savings in lives and fuel will cause people to understand that the 55 law is beneficial.

The Department of Transportation, working with the Advertising Council, is conducting a national advertising campaign. We are supplying the states with guidelines for 55 mph campaigns and promotional materials, like posters and bumper stickers, which point up the benefits of 55 mph in saving lives and fuel. We are assisting states with information and education efforts, and the National Highway Traffic Safety Administration has available enforcement and technical people to assist states and communities. But we need the support of private organizations, like yourselves, to spread the message and encourage more widespread adherence to the 55 mph limit.

Three things police officers told me must be mentioned. The judicial system is not prosecuting many drivers who get tickets. Some legislators threaten to reduce the state police budget if the 55 law is enforced. Where the educational effort has been undertaken effectively, such officials change their attitude.

And let's not kid ourselves. It's a tough sell. Behind the wheel—cruising down one of our magnificent superhighways—it's hard for the lone individual to realize that his is the key role in the success of 55. He's got to be sold, sold hard, and sold permanently, to refrain from pushing down on that accelerator—and breaking the law—and, as experience shows us, endangering his own life and the safety of others.

In short, we are battling for people's attention and understanding—for there must be enlightened public understanding of the 55 mph law and the benefits it brings if, in the long run, it is to continue to succeed.

You can help us immensely. I hope you will. You communicate with large and important constituencies and you have the people and resources to reach many Americans. We ask you to join us and give us all the assistance you can in spreading the word.

I hope you will agree that 55 is a good law that can do the country a lot of good. It is a cause worthy of our best efforts.

AMERICA'S BICENTENNIAL

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RHODES. Mr. Speaker, one of the success stories of this year was America's celebration of its Bicentennial. Some 50,000 projects, programs and special events have been successfully coordinated into a nationwide observance. While preserving their colorful local flavor, these events were a part of a national theme.

Much of the credit for the smooth functioning of our 200th anniversary events belongs to the American Revolution Bicentennial Administration and its Administrator, John W. Warner. He took over the reins in 1974, when the program was experiencing difficulties and challenges. By hard work and extensive travel Mr. Warner put together an effective organization.

Our Bicentennial brought to the American people a reawakening, and awareness of the heritage of freedom and liberty that makes our country unique in the world. Our birthday celebration was a source of pride for all of us, and I join my fellow Americans in expressing gratitude to the ARBA and Mr. Warner for a job well done.

"THE DISARMING OF CITIZENS": A CRITIQUE BY PENNSYLVANIA REPRESENTATIVE ALBERT W. JOHNSON

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. GOODLING. Mr. Speaker, my friend and colleague, Congressman ALBERT JOHNSON, who has been a strong voice in the House of Representatives against Federal gun control legislation, recently critiqued an article I wrote, "The Disarming of Citizens." This critique appeared in a publication of the National Rifle Association.

I highly recommend Mr. JOHNSON's critique to my colleagues with the hope that it will contribute to their understanding of the complex issues of crime, gun control, and the second amendment freedoms of the people.

Mr. Speaker, Congressman JOHNSON's critique follows:

"THE DISARMING OF CITIZENS": A CRITIQUE BY PENN. REP. ALBERT JOHNSON

As Congress once again struggles with the gun control issue, and some Members are perhaps uncertain as to how they will vote, it is important that both legislators and private citizens delve beyond the rhetoric and ask themselves the simple question, "When has a gun law curbed crime?"

My colleague and fellow Pennsylvanian, Hon. William Goodling, deals with this and many other fundamental questions in his article, "The Disarming of Citizens" in *The Case Against the Reckless Congress*, a book recently released by some of my colleagues.

In eight pages of hard-hitting, no-nonsense prose, Goodling counters the most common arguments employed by anti-gun advocates. He dismisses the utility of gun control as a crime control measure by simply citing the case of New York City, which has had the nation's strictest gun control law on its books since 1911. Despite this, New York still has one of the highest gun crime rates, higher than those of most states without restrictive laws. As Goodling states, "If gun control has anything to do with crime control, one would expect the reverse to be true."

Further discussing the possible relationship between firearms and the crime problem, he states that while the FBI does not even list gun ownership among factors causing crime, conversely, the utility of privately owned firearms in preventing crime has often been demonstrated. "It is distinctly possible," Goodling says, "that confiscation of guns may serve only to increase the crime rate. The criminal intending to burglarize a home or store would hesitate, knowing the likelihood of encountering an owner in possession of a firearm. However, given increased assurances by gun control legislation that the owner would be defenseless, it would be possible to find ourselves with an appalling increase in theft, assault, and armed robbery."

While law-abiding citizens would be disarmed by gun confiscation laws, Goodling maintains that criminals would not give up their guns. By citing Haynes v. U.S., a 1969 case in which the Supreme Court declared it a violation of Fifth Amendment rights to compel people illegally possessing firearms to turn them in, Goodling shows that it would indeed be impossible to disarm the criminal element by legislative fiat.

Illustrating the downright folly of such an effort, and the absolute waste of tax dollars that it would entail, Goodling describes Baltimore's ill-fated "Operation Pass," of two years ago in which bounties of $50 were paid to everyone turning in a gun and $100 to everyone giving a tip leading to the confiscation of an illegal firearm. At the end of the program only 13,400 firearms were collected, at a cost to taxpayers of $675,000. Despite the noble and lofty intentions of the city government, even the police commissioner was forced to admit that during the first 39 days of the program, gun related murders rose 50 percent.

Goodling offers the obvious, but frequently ignored thesis that perhaps criminals rather than objects which might be their tools, are the real cause of crime. This philosophy—that individuals are responsible for their own conduct—was fundamental to the establishment of the American republic, and is the basis of our criminal justice system. Consistent with this principle, that individuals by free will determine their own actions, Goodling urges a greater emphasis on punishing criminals for their misdeeds, rather than punishing the majority of law-abiding citizens who, as "society" are held by some to be collectively responsible for social ills. As a means of shifting responsibility back to the wrongdoer, he advocates mandatory penalties for violent crimes committed with firearms. This makes especially good sense at a time when FBI statistics show that 65% of crimes are committed by repeat offenders. Obviously, if criminals could be assured of a stiff sentence, this would serve as some deterrent, and would also detain the potential repeater longer. Unfortunately, modern justice is often a "revolving door."

Correlative to individual responsibility, and equally basic to the American system is the concept of human rights. One of the rights guaranteed by the Constitution is the right to keep and bear arms. As this right suffers repeated attacks from those who insist that it applies only to a collective right, it becomes increasingly important to examine the reasons behind its inclusion in the Bill of Rights, and its applicability not only to the situation 200 years ago, but to modern society.

According to Goodling, the Second Amendment actually precludes the federal government from regulating firearms except in clearcut cases involving interstate commerce. Any regulation must instead come from the states under their traditional police power. Says Goodling, "The Second Amendment never implied federal jurisdiction over firearms. The Bill of Rights emphasized state control of individual freedoms in sensitive areas. The Bill of Rights excludes federal powers in these categories; in does not invite meddling. Why would there be an amendment giving the federal government power to regulate a militia when the same document (Article 1, Section 8) has already given the federal government authority to 'raise and support armies'?"

Quoting Senator Barry Goldwater, he writes, "The Founding Fathers conceived of an armed citizenry as a hedge against tyranny from within as well as from without, that they saw the right to keep and bear arms as basic and perpetual, the one thing that could spell the difference between freedom and servitude." It is especially important in this Bicentennial year that we study the foundations of our democratic system—a system which has guaranteed us freedom for two hundred years. It is then up to the citizens, and to those who make the laws, to determine whether these foundations will be abandoned, or whether Congress will take steps to insure that America can safely embark on its second two hundred years of freedom.

SEPTEMBER 1976 NEWSLETTER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. PATTEN. Mr. Speaker, periodically I mail legislative newsletters to my constituents, in order to keep them informed of my legislative work.

Although the 94th Congress is not scheduled to adjourn until early October, I believe it has compiled a good legislative record so far—and that more will be achieved before it completes its work. The contents of the newsletter follows:

Congressman Edward J. Patten's Washington Report

EMPLOYMENT AND "SUNSHINE" BILLS HIGHLIGHT 94TH CONGRESS

Although the present 94th Congress (1975–76) is not scheduled to adjourn until early October, it has already achieved a responsive legislative record—from strengthening the economy to making open government a reality instead of merely a goal.

Because high unemployment is one of the most serious economic problems facing my congressional district, the State, and Nation, I helped sponsor into law the Public Works Employment Act. Under this measure, communities with an unemployment rate of 6.5% or more are eligible to receive 100% Federal construction grants.

JOBLESS AND COMMUNITIES WILL BE HELPED

These U.S. awards will not only help create jobs in Middlesex County, where an estimated 30,000 persons are out of work (350,000 in N.J. and about 7.4 million in the Nation), but will also help communities by financing capital improvement projects—from library additions to municipal buildings. Twenty communities in the county have filed applications with the Economic Development Administration (EDA) and I've expressed support for them—and others—in a letter to the EDA regional director.

President Ford vetoed this bill twice, but Congress finally succeeded in overriding his second veto. I voted to override both times. Unfortunately, many applications filed by communities for the grants may be rejected by the EDA because the funds authorized in the original bill were cut by one-third after the President's first veto. The Public Works Employment Act will not solve the serious unemployment problem, but will provide some help to those who want to work, and cannot find a job due to the recession. Despite our present economic malaise, however, my confidence in the future is deep and strong. Our intrinsic wealth is vast, our standard of living is the wonder of the world, and above all, we are free. Wherever there is freedom, there is always hope. So I'm certain that America's economic future will be bright, prosperous, and secure.

"SUNSHINE" BILL TO PROVIDE OPEN GOVERNMENT

Another bill I co-sponsored would require approximately 50 Federal regulatory agencies to conduct all business neetings in open session, with the public and press allowed to attend. In the past, Federal agencies held most of their important meetings affecting the public behind closed doors. With some exceptions, that was wrong and unfair, for during my entire public life, I have always believed that meetings and conferences involving the public interest should be open to people who want to attend.

The Government in the Sunshine Act, which was headed for signing when this newsletter went to press, would apply to such important U.S. agencies as the Federal Trade Commission, the Interstate Commerce Commission, the Federal Power Commission, and other agencies with regulatory and rule-making powers. The only time agencies would be permitted to close their meetings to the public would be when sensitive subjects are scheduled in areas like defense, foreign policy, criminal investigations, trade secrets, etc.

Years ago, I was one of the sponsors of the Freedom of Information Act, because one of my strongest convictions is that people have the right to know what their government is doing—right or wrong. The proposed "Sunshine" bill is related to the 1965 "Freedom" law. Lord Acton did not exaggerate when he warned that, "Everything secret degenerates, even the administration of justice; nothing is safe that does not show it can bear discussion and publicity." I'm pleased that Congress passed "Sunshine" legislation after years of discussion. It's one of the major achievements of the 94th Congress and as a co-sponsor, I'm especially proud of it.

OTHER ACCOMPLISHMENTS AND BILLS HEADED FOR PASSAGE OR SIGNING . . .

The present Congress, one of the hardest working in history in terms of bills passed, hours in session, and votes taken, passed a wide variety of other measures besides the Public Works Employment and the "Sunshine" legislation. A few of the bills I voted for which were signed into law, include: the biggest tax cut in history, which helped the purchasing power of consumers in the fight against inflation; extension and improvement of the Nurse Training and Health Services Act, the Voting Rights Act, the School Lunch program, and the Older Americans measure which means so much to our senior citizens. Some of the other bills I supported which were signed or destined for signing, are: Increasing the present 12-mile limit to 200 miles to protect our fishing industry from foreign exploitation; medical device amendments to oversee the safety and effectiveness of medical items; revenue sharing, which has aided most communities in Middlesex and Union counties; rail revitalization, improving major rail system; Federal election reforms; energy legislation, encouraging increased supplies and conservation; an additional 13 weeks of unemployment benefits to aid the jobless; and numerous other programs—from helping New York City in its fiscal crisis, to equal credit opportunity for all. Many other bills were being considered when this newsletter was written: comprehensive tax reform; creation of a Consumer Protection Agency; national health insurance; increased funds to states for day care centers: food stamp reform; the goal of full employment; a liberalized student loan program; reform of regulatory agencies to make them more responsive to public needs; amendments to the Law Enforcement Assistance Administration and Clean Air Acts; legislation to control toxic substances; and other measures in various stages of legislative consideration. The 94th Congress compiled a good record. Its work, of course, is never really completed, for the needs of America and its people are extensive. Our problems are varied and complex and there are no easy solutions.

RESULTS OF ANNUAL LEGISLATIVE QUESTIONNAIRE

Thousands of constituents responded to the annual legislative questionnaire I mailed to every postal stop in the 15th district. Three questions were devoted to domestic areas and three to foreign affairs. I'm grateful to those who participated, because I'm always interested in the views of my constituents. The six questions and the results follow:

Which of the following areas do you believe should be given the greatest attention by Congress?

(a) Inflation, 54 percent;

(b) Unemployment, 35 percent;

(c) High interest rates, 11 percent.

Would you prefer to return control of the present U.S. Postal Service to Congress?

	Percent
Yes	66
No	34

Regarding auto emission control standards, should Congress:

(a) Retain present emission control standards schedule? 29 percent;

Support the Administration's request to keep standards as they are for 5 more years? 41 percent;

Keep standards as they are for another 2 or 3 years, and then tighten-up controls? 30 percent.

Do you favor tighter controls on the Central Intelligence Agency (CIA) by Congress;

	Percent
Yes	54
No	46

Should America give up its control over the Panama Canal?

	Percent
Yes	18
No	82

Do you think that the United States should increase its trade with countries like Poland, Rumania, Hungary, and other Communist-influenced nations?

	Percent
Yes	51
No	49

HAPPY BIRTHDAY, AMERICA; MAY YOU LIVE FOREVER!

Like all nations, America has its share of problems. Our economy is not vigorous, crime continues to increase, and divisions exist. Despite our problems, there is great hope—for a Nation to be prosperous and secure, with real brotherhood in our hearts. That brotherhood was so obvious to me when we observed America's 200th birthday on July 4th. Every person I saw was proud and grateful to be an American. I've been in many different countries and believe me, there is no Nation in the world like ours. I love America, I love its people, and I love its flag, for it symbolizes our inevitable goal: "liberty and justice for all." The Declaration of Independence and the Constitution of the United States are living documents.

CONSTITUTIONAL GUARANTEES JEOPARDIZED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RANGEL. Mr. Speaker, as we celebrate our Bicentennial it is quite disturbing to me to see that the House is acting in a manner inconsistent with the intentions of our Founding Fathers. One of the most fundamental rights upon which our Republic was founded, the right to a free press, is being given short shrift by the House Ethics Committee, currently conducting an investigation of Daniel Schorr and his release of a committee report.

Currently the Ethics Committee is attempting to persuade Mr. Schorr to release the name or names of those from the Select Committee on Intelligence who gave to him the final report of the committee's investigation. Mr. Schorr has continuously refused to provide his information to the committee and thus he faces possible contempt of Congress citations which could eventually result in a jail sentence for him.

The significant question here is not whether Mr. Schorr violated the will of the House by releasing this report, as the committee in question voted overwhelmingly to release the report since they did not believe that it raised any national security issues and thus it should be available to the public. The relevant question is what effect this investigation, whatever the results, will have upon other journalists who seek to bring to the public's attention matters of importance.

The case of Daniel Schorr is receiving the most publicity as he is a reporter of national prominence. However there are countless other cases where reporters are in a similar situation because they too refuse to release the identity of their sources. Clearly such action by reporters would most assuredly jeopardize their efforts to bring information to the public's attention, as other informants would be reluctant to talk without the assurance of being able to remain anonymous. A classic example of a lesser known case is taking place in Fresno, Calif., where four reporters are currently in jail as a result of their refusal to give to the court the names of their informants surrounding a bribery case of a local official. In my mind, the Constitution should be read in this case to protect the public's right to know and not to invoke criminal penalties on reporters.

I would hope that my colleagues in the House would carefully review Tom Wicker's remarks which appeared in Tuesday's New York Times. His column on the Daniel Schorr case raises quite succinctly the important questions in this controversy. If we are to remain guided by the principles of our Founding Fathers, that is to provide the American people with open access to information under a theory of the right to know, then we must halt these punitive and suspect actions against the press. The article follows:

A Far Greater Danger

(By Tom Wicker)

For everybody but Daniel Schorr and the so-called House Ethics Committee, the story was a quick trip in and out of the headlines. Last winter, by a bipartisan 9-to-4 majority the Select Committee on Intelligence—which had been investigating the Central Intelligence Agency for almost a year—voted that its final report did not disclose national security secrets, and could therefore be published. But the full House of Representatives, acting under the pressure of C.I.A. and Administration charges that the report did endanger national security, voted 246 to 124 to keep the report secret.

Predictably enough, a text was nevertheless published in The Village Voice of New York, and detailed accounts of the report's contents also appeared in The New York Times and other newspapers, as well as in Mr. Schorr's CBS broadcasts. After first denying it, Mr. Schorr conceded that he had made a text of the report available to The Voice.

The House then authorized its Ethics Committee—which had never investigated anything much before, least of all the conduct of the House members it had been established to monitor—to find out where Mr. Schorr had obtained the text that ultimately appeared in The Voice. Since he considers the identity of his source privileged under the First Amendment to the Constitution, he is ethically and professionally obliged to protect that identity; but if the committee demands that he name his source, it could hold him in contempt of Congress and have him jailed for refusing to answer.

But it is a dubious proposition indeed that the House had the right to vote to keep secret a document compiled by elected officials who had used public funds to conduct an investigation of a Government agency. The House may not have been required to publish the document itself, but under what authority did it have the right to nullify the First Amendment and decree that no one could publish it?

Nevertheless, after a seven-month investigation, or something, during which Mr. Schorr has been suspended from CBS News, the Ethics Committee has subpoenaed the correspondent to testify this week about the release of the report. Since not only his livelihood and freedom but the public's right to know what its Government is doing are at stake in this inquiry, Mr. Schorr's attorney, Joseph A. Califano, has properly raised important questions in response:

Will the committee please, he wrote Chairman John J. Flynt of Georgia, "identify precisely those portions of the final report, if any, that it believes would harm or have harmed the national security?" Will it provide documents from the C.I.A., or any other agency "that identify those portions of the final report, if any, release of which would harm or have harmed the national security?" Will the committee also provide "any concrete evidence . . . which demonstrates harm to our national security as a result of its publication?"

The point is obviously—did publication of the report in fact justify the fears of the House that national security would be endangered? Were those fears realistic or hysterical? And if no damage to national security can be shown, what is the purpose of further Government inquiry into Mr. Schorr's sources and journalistic activities?

These questions are important because the records of the last few years are replete with efforts on the part of the Government to cover mistakes, embarrassments, misdeeds, political actions and self-serving policies with the label of "national security"—just as the Nixon White House tried to stop the F.B.I. inquiry into the Watergate burglary by falsely claiming that C.I.A. operations might be undermined or exposed.

Just this summer, for one shocking example, a Freedom of Information suit exposed the Government's pitifully weak attempt to justify, in 1971, its claim that publication of the Pentagon Papers endangered national security. In a secret hearing before Federal Judge Gerhard Gessell, officials offered the following "evidence";

"One contact that I personally had in Hanoi . . . dried up," said a deputy assistant secretary of defense dealing with American prisoners in North Vietnam; no further details were given.

Canadian officials "expressed concern" about what the Canadian people would think about Canadian efforts to help the United States reach a peace settlement in Vietnam.

The Prime Minister of Australia found publication of the Pentagon Papers "appalling."

Did Daniel Schorr's action in releasing the House Intelligence Committee report cause or risk even such minuscule consequences as those? If so, no one has as yet demonstrated what those consequences were. By comparison, the chances seem overwhelming that the Ethics Committee hearing will damage Mr. Schorr, impair the public's right to know and chill the future activities of inquiring journalists.

AFRICAN ATROCITY: THE TYRANT OF UGANDA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McDONALD. Mr. Speaker, Idi Amin Dada, the tyrant of Uganda, appears as a nightmare character who wandered out of some think tank's "worst possible case" scenario on possible consequences of hasty African decolonization.

Idi Amin has misruled Uganda since 1971. He has tortured and slaughtered by the most barbaric methods more than 100,000 Ugandans. This has gone almost unreported in the Western press, which is in some measure due to Amin's censorship. Nevertheless Ugandan survivors have reported the horrors and have been ignored. Yet the press is full of the threats and claims of terrorist movements in Rhodesia and South West Africa who denounce "passes"—which are the I.D. cards whites and blacks all carry as adults—and property and educational qualifications for voter enrollment.

Idi Amin's crimes have included mass deportation of 40,000 Indian merchants and their families which wrecked the Ugandan economy; the active participation and support of the Arab and German terrorists who hijacked an Air France jet to Entebbe in July; the strangulation murder at Amin's orders of Mrs. Dora Bloch, the 72-year old Israeli hijack victim; and August attempt by Ugandan air force planes to force down another Air France jet in retribution for the Israeli Entebbe raid: and the August 5 murder of more than 100 students at Makerere University in Kampala who were protesting food shortages brought about as a direct result of Amin's disastrous policies.

Yet Amin has not suffered censure from most of the black dictatorships and one party states in Africa. The totalitarian autocrats who rule countries where basic freedoms are unknown do not find it expedient to criticize Idi Amin. Indeed, these countries supported the selection of Amin to head the Organization of African Unity—OAU—which is arming and funding Marxist terrorist movements based in Angola, a Soviet puppet state; Zambia; and Mozambique.

While the principal support for the terrorists in South West Africa and Rhodesia comes from the Soviet Union and from Communist China, the OAU and its member states are also aiding in plans for a major escalation of terrorist operations in Rhodesia this fall. The OAU's United Nations office in New York is working with U.S. revolutionaries to organize money for the "armed struggle" from U.S. religious institutions.

Mozambique is ruled by the Marxist-Leninist Frelimo party under Samora Machel. Machel, with massive Soviet support, has expelled foreign newsmen, expelled missionaries, abolished most forms of private property including houses and apartments, and set up slave labor camps whose inmates are principally members of black ethnic groups other than Machel's.

Agostinho Neto, Lucio Lara and Lopo do Nascimiento in Angola are moving in a similar direction. "News" on Angolan events is currently provided to the United States only by a Castroite correspondent for Liberation News Service and by the well-known KGB agent Wilfred Burchette in the Guardian. Lara, with assistance from half a dozen Cuban instructors, is currently running indoctrination classes for Angolan "journalists."

The liberal press has expressed shock and outrage over the shooting of black rioters rampaging in Soweto or years ago in Sharpesville. At long last a chronicle of Idi Amin's crimes has appeared in the Observer by David Martin which has been reprinted in the New York Review, September 16, 1976:

II: AMIN'S BUTCHERY

(By David Martin)

"I am not a politician but a professional soldier. I am therefore a man of few words and I have been brief throughout my professional career." Those were the first recorded words of *Idi Amin Dada* after he seized power in a military *coup d'état* in Uganda in January 1971. Since then, it seems, he has hardly stopped talking.

From a private in the cookhouse of the colonial King's African Rifles, Amin has become a self-appointed field marshal. His giant frame, six feet four inches and 240 pounds, seems to bend under the weight of a chest full of medals, including the Victoria Cross, Distinguished Service Order, and Military Cross, all self-awarded. He has applauded Hitler's extermination of six million Jews and once declared his intention to build a monument to the Nazi leader. While threatening to attack neighboring Tanzania he has talked of his love of President Julius Nyerere, and said he would marry him if he was not a man. To an ex-finance minister who warned him that Uganda was on the brink of bankruptcy because of excessive military spending, Amin simply barked, "Well, print more money."

Amin, in characteristic manner, has taken African belief in the occult to ridiculous lengths. A Ghanaian mystic, who claimed he could raise people from the dead, was flown to Uganda by Amin, who subsequently claimed he had talked to a man the Ghanaian had resurrected. Amin said that his decision to expel the Asians and launch his so-called "Economic War" had come to him in dreams, and when a journalist sarcastically asked him if he often had such dreams, Amin blandly replied, "Only when necessary."

His unending stream of idiocies has made him a comic figure to much of the white world. A "gentle giant" was one of the earliest descriptions in the Western press of the one-time Ugandan heavyweight boxing champion. "Idi was a splendid chap, though a bit short on the gray matter," observed one of his former British colonial officers.

The truth is that there was never anything splendid or gentle about "Big Daddy." Perhaps it takes an experience like the expulsion of 40,000 Asians or the disappearance and certain death of the Israeli hijack hostage. Mrs. Dora Bloch, to wake up the West to the realities of Amin. In Uganda, where at least 100,000 people have been savagely butchered since he came to power, the reality has long been known.

Amin was born in Koboko County, the smallest in Uganda's West Nile district, which roughly encompasses his 50,000-member Kakwa tribe. His father was a Kakwa who had spent much of his life in the southern Sudan, and his mother was from the neighboring and ethnically related Lugbara tribe. These tribes are often described as Sudanic-Nubian, and the earliest members of them in Uganda came south as mercenaries in the colonial conquests of the region. They brought with them the Islamic faith, and Amin, like his parents, became a Muslim. The Nubians enjoy the unenviable reputation of having one of the world's highest homicide rates; a background which no doubt helped to prepare Amin for the slaughter he has conducted during the past five and a half years.

Amin joined the King's African Rifles in 1946 as an assistant cook. Since coming to power he has said he fought in Burma during the Second World War; and he uses this patently untrue claim to justify the medals that he awards to himself. He served with the KAR in Mauritius, where he was one of the ring-leaders of a mutiny which had to be put down by the police. According to a former British officer, "In 1955 there was only one blot on his copybook. His records showed that he had had venereal disease, which made him ineligible for a good conduct stripe."

But by far the most serious and significant incident in Amin's early military career occurred in Kenya in 1962. By then he was a lieutenant and commanded a platoon of "C" Company of the fourth KAR. The company was assigned to try to stamp out cattle rustling among the semi-nomadic Turkana tribesmen. After his men visited one Turkana village investigations were made as a result of complaints from the tribesmen.

Several bodies were exhumed from shallow graves in the village. Some had been tortured and buried alive. Others had been beaten to death.

By rights Amin should have faced a civilian court or a military court martial, charged with murder or manslaughter. The evidence was clear, witnesses existed, and he would have faced a lengthy prison sentence or possibly death. But history conspired to cover up his mini My Lai, Sir Walter Coutts, then British governor of Uganda, admits he argued that six months before the country's independence it would be politically disastrous for the colonial administration to bring to trial one of Uganda's two black officers. Sir Walter got his way, and consulted the then prime minister, Dr. Milton Obote.

In a letter three years ago from exile in Tanzania, Dr. Obote said, "I advised that Amin be warned—severe reprimand! After I had given my advice Sir Walter told me that an officer like Lieutenant Idi Amin was not fit to remain in the KAR; the case against him should have had a sentence of at least imprisonment, and that I was wrong to advise that Amin should not be dismissed. Then Sir Walter added, 'I warn you, this officer could cause you trouble in the future.'" Four years later, after Uganda's independence, Sir Walter, during a visit to the country, repeated his warning.

What is important about the Turkana massacre is that when the British government so warmly welcomed Amin to power in January 1971, they were in a position to be fully aware of the true nature of the man.

The trigger for the military takeover which brought Amin to power was set on December 19, 1969. Obote was shot, but not seriously, as he walked out of a party conference of the ruling Uganda Peoples Congress (UPC) after introducing his "Move to the Left" policy—Britain's reason for welcoming the *coup d'état* thirteen months later.

In the hospital while awaiting an emergency operation. Obote asked for various people to be called, including Amin. A group of soldiers went to fetch Amin from his house. But, apparently fearing there had been a *coup d'état,* he had fled bare-footed over a barbed-wire fence behind his house. At an officers' meeting attended by Obote on January 17, Brigadier Pierino Okoya, the deputy army commander, publicly accused Amin of being a coward and said his actions had made it appear that the army was involved in the attempted assassination. The heated meeting was finally adjourned until January 26. But at eleven PM on the night before it was to reconvene, Brigadier Okoya and his wife were found shot dead at their home.

Months later detectives investigating an armed holdup arrested a gang of *kondos*—the Ugandan word for armed robbers. During interrogation, one of them admitted taking part in killing the brigadier, on instructions indirectly from Amin.

Whether Amin would have been charged with murder will never be known. All the police officers who investigated the case were killed after he came to power. The *kondo* gang were released from detention but they, too, were subsequently killed.

With the murder inquiry apparently closing in on Amin, President Obote made a last fateful mistake. On the eve of leaving for the Commonwealth Prime Ministers' Conference in Singapore, he ordered Amin and the defense minister, Felix Onama, to explain in writing before his return the disappearance of £2,500,000 in army funds, and the disappearance of guns from armories, which the police had found in the hands of *kondos*. Then Obote flew to Singapore. He had loaded the gun and pointed it at his own head. If Amin were to survive he had no choice but to pull the trigger.

Obote had been warned there might be an attempted *coup d'état* during his absence. But he believed the army would remain loyal. He did not realize that Amin had been systematically recruiting southern Sudanese, former Anyanya guerrillas, and Nubians as well as members of his own Kakwa tribe. Their control over the armories to this day remains the reason why Amin has survived.

What was to become clear afterward was the active involvement of Israel. Obote had been shifting away from his once strong links with Tel Aviv, which included supplying and training sections of the army and air force. Amin had done his parachute training in Israel and was very close to the head of the Israeli military mission in Uganda, Colonel Bolka Bar-Lev, whom he was to telephone continuously in Israel during the recent Palestinian hijacking of an Air France airbus and the subsequent Israeli rescue of the hostages.

Obote tried desperately to get back into Uganda to turn the tide after the January 25 *coup d'état*. But he was balked by Kenya; and although the bulk of the army remained loyal they had the weapons neither to stage successfully a *coup* nor to suppress an attempted one.

The British government was delighted. Edward Heath had clashed angrily with Obote at Singapore just a week before his downfall over Heath's proposal to sell arms to South Africa. One of Amin's first acts was to denationalize the British businesses taken over by Obote. Less than two years later he expropriated them himself, without the compensation Obote had promised.

Israel was equally delighted, because her close ties with Uganda were ensured. Yet little more than a year later, after the Israelis had discovered their mistake and refused to supply him with arms, Amin went to the Arab world, broke relations with Israel and expropriated all Israeli property in Uganda. So misunderstood were the implications of Amin's takeover that the *New Statesman* observed: "So far as Britain is concerned, Amin will undoubtedly be easier to deal with than the abrasive Obote."

The slaughter in Uganda began immediately. One of the first to die was Brigadier Suleiman Hussein, the army chief of staff who had led attempts to prevent the *coup d'état*. He was beaten and hideously mutilated by Nubian soldiers in Upper Luzira maximum security prison. A servant at the "command post," as Amin's house is known, said later that Hussein's severed head was brought to Amin, who put it on a table and spoke to it, then kept it in his refrigerator overnight. Of the twenty-three officers with the rank of lieutenant-colonel and above at the time, fourteen are known to have been murdered and two escaped into exile. Several were among a group of thirty-two officers who were crammed into a tiny cell at Makindye prison in Kampala and blown up with dynamite on March 5, 1971.

About half of the 9,000-man army came from the northern Acholi and Langi tribes, who had traditionally favored military service. At least two-thirds of those soldiers were killed during Amin's first year in power. Yet in that period few people believed the stories of what was happening in Uganda. The exceptions were the press in Tanzania and Zambia, where both governments had refused to recognize Amin, Tanzania's President Nyerere had gone so far as to describe Amin as a murderer, saying he would never sit with him.

At that time I was working as a journalist in Tanzania and I also doubted the stories, emanating mainly from exile sources. On New Year's Day, 1972, I received a telephone call from a near-hysterical relative of Obote. He said that several hundred Ugandan soldiers had been transferred from a prison in the capital, Kampala, to another on the Tanzanian frontier. There they were all to be killed, and the caller said Amin would claim it had happened in an attack on the prison by Tanzanian artillery and ground troops. I was skeptical about the story. But only a month later I was to interview nineteen of the twenty-one survivors of what became known as the Mutukula prison massacre. In all, 555 people were murdered. Most had their throats cut.

Throughout 1971 and 1972 the killings swept the country. The Acholi and Langi, seen as principal supporters of Obote, suffered worst. Right across the country members of Obote's UPC were also slaughtered.

At the time of the *coup d'état* journalists visiting Kampala had seen the people there vigorously welcoming Obote's downfall. Few of the correspondents realized that Kampala was in the heartland of the Baganda, whose differences with Obote were such that they were willing to welcome anyone. So, from the outset, Amin's popularity was badly misjudged. Elsewhere in the country the mood was very different.

Edward Rugumayo, an able young technocrat who became Amin's minister of education and fled into exile two years later, issued a 5,000-word statement condemning Amin. He described eight methods of killing used at Makindye prison. These involved making prisoners line up and ordering the first to smash the second man's head with a hammer. This process was repeated down the line until the last man was shot. Another method was to cut flesh from a victim and force him to eat it until he died. Rugumayo said it was estimated that 80,000 to 90,000 people died in Amin's first two years in power; but he admitted that this might be a conservative figure.

Amin created three other killer squads in 1971 to assist the military police; they are still directly under his command. They are euphemistically called the Public Safety Unity, the Bureau of State Research, and the Presidential bodyguard. Most of their members are southern Sudanese, Nubians, or Kakwa. All four of these units are still slaughtering Ugandans. The most feared is the Public Safety Unity (PSU) which has its headquarters at Naguru Barracks, a former police training college in Kampala.

A young businessman now in exile recently spent forty-four days in Naguru, and saw twenty-two prisoners killed. To protect his relatives and friends still inside Uganda his name cannot be given; but his account of conditions at Naguru, corroborated by others who have also survived and fled, forms part of the latest evidence that the International Commission of Jurists (ICJ) has submitted to the secretary general of the United Nations, Dr. Kurt Waldheim.

Part of this evidence reads:

"The most revolting form of torture described by the businessman, and every former Naguru detainee, occurred after the guards shot an inmate. One or two prisoners would be called from their cell after the shooting and would be ordered to beat the dead person's head into an unrecognizable pulp with a car axle. Then the prisoner would be ordered to lie down in the blood and gore of the dead person."

This happened to the businessman.

He described how people were murdered for the most trivial of alleged offenses. One man, Mohammed Mukasa, was killed in Naguru after being found in possession of a toy pistol. The principal killer at Naguru, said the businessman, was a corporal named Oola:

"The people doing the killing seem to get enjoyment from them. They were delighted when someone was going to die. First they would drink a lot of *waragi;* a local gin. I recall that Oola, when he knew someone was going to die, would come to the prison and say, *"Leo iko kazi, leo iko kazi"* (which means in Swahili "Today there is work"). Then he would go and get drunk. He would come back at night; that was when they killed people."

On one occasion the businessman's sister, a former nun and a deeply religious woman, tried to take food to him at Naguru. She was blindfolded and raped. Later she found she was pregnant.

Two of the most infamous areas in Uganda are the once-picturesque Mabira and Namanve Forests. Early in 1975 a young Ugandan schoolmaster fled into exile with a seemingly unbelievable story. He told of being kept in a forest concentration camp where the only food for the prisoners was the flesh of other prisoners who were killed. His personal nightmare lasted five days. In a cell before being transferred to the forest, he and other prisoners were forced to kill twenty-seven badly mutilated prisoners in another cell: "For me, the shameful score was three brothers. I killed them with a total of eight blows with the hammer. The soldiers laughed, abused us and locked us up with the corpses," he said in a fourteen-page sworn statement.

He described how one of the prisoners complained to the guards that he was hungry. The prisoner and one other were called forward by the guard and beheaded. Then the blood from the bodies was collected in a bucket and two more prisoners were ordered to butcher the corpses. The meat from the bodies was cooked over a fire.

"We were hungry, angry and ashamed," the teacher said in his statement, "but because of the guns we had to do it. One soldier announced the food was ready and we ate shamefully." Those who vomited were kicked and beaten with rifle butts. The remains of the corpses were thrown into a trench. On the following day eight more prisoners were selected, beheaded, butchered, and eaten. The teacher finally escaped after paying a guard the equivalent of thirteen dollars.

It is impossible to describe the reign of terror which prevails in Uganda. Every village, clan, and family has lost relatives and friends. The faces and names of the killers are known; but no one acts. It is as if Uganda is paralyzed by fear.

The vibrations of Amin have been felt by neighboring countries. Kenya, which virtually welcomed his advent to power, is the latest to suffer.

That Amin has survived is a mystery to most people. There have been several uprisings in the army and several attempted assassinations. This year he was slightly wounded by a bullet; in another attempt three grenades thrown at him killed many bystanders and a bodyguard. Palestinians plan his security, and when he moves he frequently changes cars, a ploy which has paid off on at least two occasions when his official car was riddled with machine-gun fire and all the occupants killed.

In a memorandum to African leaders after fleeing into exile, the former education minister, Edward Rugumayo, said:

"Too many nations regard what is happening in Uganda as an internal matter. Is systematic genocide an internal matter or a matter for all mankind? The Sharpeville massacres were condemned by the entire civilized world, but nobody has yet condemned the wholesale killings and disappearances of innocent people in Uganda. It is high time the OAU, the Commonwealth and the United Nations condemned the murders being perpetrated by Amin in Uganda. It should be the concern of mankind."

The Rugumayo appeal expressed the sentiments of many Ugandans. They wonder why their plight is ignored while those of Mrs. Dora Bloch and the British university lecturer Denis Cecil Hills, who was sentenced to death then reprieved last year, merit appeals from the Queen, Dr. Waldheim, the Archbishop of Canterbury, and other prominent international figures. It is not that the evidence is not known. Could it be, they ask, that one white life is more important than the lives of 100,000 blacks?

A TRIBUTE TO MRS. RHODA M. OWEN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. STARK. Mr. Speaker, Montaigne said:

> He who does not live some degree for others hardly lives for himself.

That is a statement with which one of my constituents, Mrs. Rhoda M. Owen would certainly agree—for a large part of her life has been devoted to public service.

On August 31, 1976 Mrs. Owen retired from her position of district clerk of the Valley Community Services District. With her retirement Dublin loses its longest term public employee—and one of its most dedicated.

Her presence with the district will be much missed not only because of her personality and expertise but also because she really was with the district from its beginning. She began her work on October 15, 1960 as its second paid employee. And it was Mrs. Owen who processed the first applications for water and sewer services for the new community. Over the years she watched with pride as the staff grew to its present size of 65 full-time employees.

On September 24 her colleagues will be honoring her at a luncheon. I know my colleagues will join me in paying tribute to Mrs. Rhoda Owen at this milestone in her life.

GUN CONTROL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. JACOBS. Mr. Speaker, this letter from Howard D. Thomas II of Indianapolis, Ind., expresses a point worthy of general attention:

HOWARD D. THOMAS & CO.,
CERTIFIED PUBLIC ACCOUNTANTS,
Indianapolis, Ind., August 27, 1976.

Representative ANDY JACOBS, Jr.,
Longworth Office Building,
Washington, D.C.

DEAR ANDY: Thank you for taking time to answer my letter concerning H.R. 11193 (your letter dated August 17, 1976). . . .

In response to your request for my further comment, please consider the following thoughts:

First, the bill now has the complexion of a consumer protection measure instead of a crime control measure. I am most concerned with gun reliability and safety, and therefore have no ideological objection to the safety criteria portion of the bill. However, merely constructing a gun from steel, or a high tensile strength alloy stops short of a requirement for gauge or thickness of metal or specifications as to how the gun will be held together (rods, pins, etc.). A much simpler and more exacting standard would be to require all domestic and imported handguns to be constructed using the manufacturing standards now used by Colt or Smith & Wesson, which (as you know) are very high quality domestic firearms. Not only would quality and safety features be maintained at the highest levels, but the "cheap" Saturday night special would become obsolete without further legislation. If this part of the bill were to remain, accidental deaths with handguns would, no doubt, decrease. My feeling, however, is that little ground would be gained in fighting violent crimes involving firearms.

Next, I still object to the $50.00 and $125.00 fees for retailers and wholesalers. I feel that many perfectly legitimate small dealers (mainly, small town hardware stores and the like) would be forced to drop handgun sales in areas of few gun crimes. Private sale and trade would go unhindered and still supply a ready market for a quick gun to rob the local fried chicken joint on Saturday night.

No legitimate sportsman or competitor would object to the fourteen day waiting period for records checks and the like, providing, of course, that such checks would actually be made. My feeling is that the current three day period serves as little more than a "cooling off" period. Criminal records checks should be mandatory.

The last point you mention is that the use of a gun in the commission of a crime would become a Federal felony. This paragraph is the only one in the bill which takes a step in the direction of actually stopping gun crimes. It is a very weak paragraph, however, because it does not limit plea bargaining, nor does it include mandatory sentences. My contention has always been that gun control, registration, or confiscation will not effectively stop gun crimes, but only reduce the ability of the victim to resist. Instead, "criminal control" should be the objective of any new legislation, and effective control cannot be obtained as long as accepted avenues are open (such as plea bargaining and suspended sentences) by which the repeating criminal may commit the same gun crimes time and time again with no fear of certain and meaningful punishment. I realize that any current surge of softheartedness on the part of our criminal judges will make this idea difficult to achieve, but unless we are headed in the direction of mandatory sentences, we are spinning our wheels.

As an interesting sidelight, I notice that gun legislation has been pushed back until after the election. Could it be that many pro-control congressmen realize that such a stand is unpopular with the majority of people?

I hope you will consider my views on this legislation and, if possible, provide me with a complete copy of the bill as it emerges from committee.

Sincerely,

HOWARD D. THOMAS II.

FINALLY, THEY ARE A FAMILY ONCE MORE

HON. FRANK THOMPSON, JR.

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. THOMPSON. Mr. Speaker, those of us who are privileged to serve in this body occasionally experience that marvelous sense of satisfaction when through some special effort it is possible to accomplish a good deed. Quite recently, I was in the fortunate position to be of assistance in obtaining exit permits for the children of Miklos and Gizela Mihalik, former Hungarian nationals who now reside in my district. This truly heartwarming story of a family being reunited after a 4-year separation is recounted in the following news stories which appeared in the Evening Times of Trenton and the Trentonian. I could not conclude this account without expressing my personal gratitude to His Excellency Ferenc Esztergalyos, the Hungarian Ambassador and Dr. Karoly Kovacs, Charge d'Affaires of the Embassy. It was through their good offices that exit permits were granted to the Mihalik children.

Mr. Speaker, the following news accounts eloquently speak for themselves:

[From the Trenton (N.J.) Evening Times, Sept. 10, 1976]

FINALLY, THEY'RE A FAMILY ONCE MORE

(By Michael Norman)

The waiting was agony. Miklos Mihalik could barely control himself. His wife, Gizela, was nauseous. There was nothing they could do to stop it.

KLM flight 643 left Amsterdam on schedule yesterday. Its estimtaed time of arrival in New York was 8 p.m. It would take approximately two hours to drive from the Mihalik house on Fifth Street in Hamilton Township to JFK International Airport. Miklos kept checking his watch: 4:05 p.m. . . . 4:10 p.m. . . . 4:15 p.m. . . .

Gizzy, as she is called, fiddled with two passport size photos. They were pictures of two melancholy-faced boys, the sons they had left behind when they fled Hungary in 1972, now two small small passengers on flight 643.

"Wait . . . wait . . . wait," grumbled Miklos to no one in particular. "The last week has been the hardest of the four years." Neither husband nor wife had been able to sleep. She wept at the slightest provocation. He fed milk to his ulcer.

The Hungarians have a word for a homecoming, a special family reunion. They call it "Oromnap" or happy day. Miklos and Gizzy could barely force a smile.

The Hungarian village of Szogliget is nestled in a valley near Lake Balaton. Most of the homes and shops are stone. Just outside the village, there is a 12th Century castle called Saadvar. It is a sort of a landmark to 800 or so people who live in Szogliget.

Miklos and Gizela Mihalik were born in the village. She was quiet, petite. He was the archetypal hot-blooded Hungarian, according to some who knew him; restless, unpredictable.

For as long as he can remember, Miklos was a man possessed by one single idea—get out of Hungary; somehow, some way, get to America. He was neither a revolutionary nor a Freedom Fighter. During the uprising in 1956, he was 13 years old. He simply wanted a more comfortable way of life and the money to pay for it.

When he was a teenager, he tried to convince an old man who was leaving to take him along. "You are too young," Miklos remembers the elder saying. "Leave me alone."

When he was 20, he applied for a visa. The police turned him down. He married Gizela when he was 23. They had two sons, Miklos Jr. and Zoltan. By then, he had a house and a tractor. He worked as a mechanic on a communal farm. He was still restless and unpredictable. He still wanted to leave. This time he had a plan.

In the early fall of 1972, he applied for a vacation visa and passport to Vienna, Austria. He told the authorities that he and his wife wanted a holiday. "Will you take your children?" he remembers them asking. "Oh, no," he assured them, "we will only be gone for four or five days."

Other families had fled Hungary on vacation visas and Miklos knew that if he asked the state to let the entire family leave, they would be denied the papers. So he and his wife would go first, then, once they were safe-in America, they would somehow bring their boys over. Meanwhile, the children would live with their grandparents.

"I was determined," he says now. "I didn't have any life. They didn't have any life. I figured to try everything to get them over, and if they couldn't come, I'd go back and take the consequences."

On Wednesday, Oct. 25, 1972, Miklos packed a single suitcase. At 2 a.m., his relatives gathered in his house to say goodbye. The couple crept into their sons' room for a last look. One of the boys woke up, "Where are you going?" he asked. "To bed," his parents answered. "Go back to sleep." Gizela was almost distraught. Miklos was shaken.

They took a train to Budapest and made a connection to Vienna. An official on the train checked their papers. Miklos remembers that he kept coming back to their compartment, maybe five or six times asking questions until they crossed the border.

They spent seven months in Austria in a camp for displaced persons. Finally the American consulate gave them asylum in the United States. A cousin from Robbinsville sponsored their entry so they moved to Trenton.

Three weeks after they arrived, they asked Congressman Frank Thompson to help them get their sons. The Hungarian government denied four official requests for exit visas. Gizela prepared to return to Hungary. Miklos began to question his original resolve to come to the United States. Then, earlier this month, they received word: the boys would be permitted to leave.

The yellow sedan edges along in the post rush hour traffic on the Bay Parkway. 7 p.m.: "How much farther?" Miklos asks a passenger. "About 10 or 15 minutes," comes the answer. The traffic slows almost to a stop. Miklos sighs. Gizela leans back in her seat. She turns pale. Miklos senses trouble. He gives her half a piece of gum. The crisis passes.

They have not eaten all day. Gizzy wonders if Miklos Jr., now 11 and Zoltan, 10, still like chicken soup. She plans to make it for them. She hopes it is still their favorite.

7:05 p.m.: another snarl of cars. "Oh my god," Gizzy half cries. "Don't worry," Miklos comforts her, "Don't worry honey."

Miklos had only worked half a day at his five-dollar-an-hour job at Dinger Brothers Iron Works. He would work the next day and take Saturday off. He wants to take his sons to see a special place. It will be the first thing he shows them—Bamberger's in the Quaker Bridge Mall. "That's really something," he proclaims.

Gizzy doesn't listen. She keeps looking. 7:10 p.m.: a sign reads "Kennedy Airport." Everyone at last smiles.

The International Arrivals Building is swarming with passengers and people waiting for flights. KLM 643 is due at 7:50 p.m. Miklos gets a glass of milk. Gizzy cries and laughs and cries and laughs. Miklos preens.

The family is paged to the KLM desk. A television camera crew is waiting. A long-legged blond explains she is a TV reporter and wants to record the "happy event" on film. The welder and his wife and their two sons and a gaggle of relatives are about to become instant celebrities—at least for the 11 o'clock news.

The couple moves toward the doors to the customs area. The entourage follows. Suddenly, the doors burst open and there stand two little boys surrounded by a phalanx of police, customs men and airline assistants.

The small crowd waiting to greet their own relatives senses something special is happening. They seem to enjoy the temporary tableau. Miklos Jr. and Zoltan are hugged and kissed and kissed and hugged and told to answer the long-legged blond who shoves a microphone at them and says "Welcome to America." They mumble something and she turns bewildered to her camera man and tells him, "I guess that's all. They don't speak much English."

The car seems to glow on the trip back to Hamilton. Miklos is almost serene. Gizzy is radiant. The boys watch the traffic and marvel at super highways and large cars. What are the first English words they want to learn? Miklos asks them. "I'm hungry," one of them answers.

They want chicken soup.

[From the Trentonian, Sept. 10, 1976]

Family Ends Its 4-Year Vigil

(By Jack Knarr)

New York.—Two young Hungarian boys walked through a set of double doors at the U.S. Customs Registration desk here at Kennedy Airport last night right into the arms of their tearful, happy parents and into the hearts of American immigrants everywhere watching on ABC–TV.

The sons of Miklos and Gizela Mihalik of 45 Fifth St. Hamilton Township—Miklos, 11, and Zoltan, 10—were swept away by their parents, relatives and friends in what promises to be a long and gleeful celebration of freedom.

"I feel so much better now," the boys' father, a 33-year-old welder, said as he held tight his oldest under the bright, hot television lights. "They are happy to see me and their mother. He says he likes me very much."

The family had been separated four years ago when the Mihaliks went as "tourists" to Vienna without the Hungarian government's permission to take their children. They went on to America, seeking the good life, and only years of diplomatic pleas and a last-minute push by U.S. Rep. Frank Thompson Jr. (D-Trenton) resulted in exit visas for the boys.

It was a joyous, human reunion as the parents kissed and hugged their children and held them proudly for the world to see. The tears and agony over their decision to escape Hungary were gone now. A beautiful bedroom loaded with toys, bicycles, shopping sprees, a new car, a home of their own, and a pool table in the basement awaited the little guys. Plus four years' worth of stored-up love.

The trip down the hectic N.J. Turnpike was the end of a long trip from halfway around the world, including nine hours in the air over the Atlantic, and the finish of perhaps the deepest kind of sacrificial love story you'll ever hear.

It started in summer of 1972, with the Mihalik family living in a small village of about 800, Szogligat, bound by poverty with little hope of advancement or success.

"I have no life, they have no life," Miklos said earlier last night as he sped toward the airport. "We do this to give them nice life over here. They come over here, they have nice life. Over there, too expensive everything and the people don't make money."

He and Giza applied for a passport and were investigated by police who seemed convinced the Mihaliks were, indeed, only planning a vacation in Vienna in October, 1972. Police were shown blueprints to a home Miklos planned to build.

But visas for the boys were denied.

The thinking was, no doubt, that the Mihaliks would certainly come back.

But they knew they had to go.

"It was 2 a.m. and the kids were in bed on the 25th of October, a Wednesday," Miklos Mihalic remembered. "They got awake and said, 'Where you gonna go?' I said, 'We want to go into bed.' "

"They went back to bed, and everybody (the Mihaliks and all the gathered relatives who knew they were leaving) cried. My brother-in-law, he knew what we were going to do. He said, 'You do this too hard.' "

The escape was a storybook success with one huge snag.

The Mihaliks settled in Trenton and Miklos' cousin, John Mihalik, got Miklos a job. They bought a home, a new car, saw Niagara Falls, and were pleased with American success.

But there were always the tears, the sleepless nights, the $50 phone calls once a year to the boys and Gizi's parents who were raising them in Szogligat, where there was no plumbing, outhouses, and only recently electricity.

And frustration with the diplomats. No one would grant the boys exit visas.

In the car, Miklos vowed, "I don't do anymore like this. If we have piece of bread, give to the whole family, share, and when there is no more we die together.

"Never break up family again."

A telegram last week from the boys' grandparents said the children had been given passports. The Mihaliks cried. Across the ocean in Hungary, an old couple cried as well. . . .

"The plane to Holland will take the boys too far from me. I cried the first day I heard they would get passports. The house, the garden, the property will be empty with the boys gone."

Miklos Mihalik was paraphrasing his father-in-law's words.

"My mother-in-law says she feels sorry. Four years is a long time. 'Everything going to be empty when boys are gone.' " He was now quoting letters from the guardians.

"They gave to them half life (raised the boys for half their lives), and he love them. I'm 33 years old," Miklos said, "but I read the papers (letters) he sent, and I cry."

"This was a long wait," Gizi, his pretty wife, said, sitting nervously in the back seat of the car, awaiting the reunion. "I don't sleep, I just cry, I don't know why."

But it was a night for happiness, for rejoicing, and Miklos wore a light blue suit and black pants and white shirt and black and white shoes and Gizela was beautiful in her grey pantsuit and brilliant red blouse and they stood near the double doors, finally waiting nervously in the hot television lights and soon two little boys in suits walked through and were mobbed.

They kissed and hugged and then stood cheek-to-cheek for the photographer, young Zoli in glasses, smiling, and Miklos clutching his Mickey, and pretty blond Joan London from ABC crouched and shook hands with them.

Her question, "How did you like your flight?" was translated by John Mihalik, and they said in Hungarian that it had been an awful long flight over the ocean. The meals were good, and someone had written a note and put it in a pocket. The note was in Hungarian. It said the boys were good.

Joan London said, "Welcome to America," and John Mihalik whispered to the boys in Hungarian and they smiled and said, together, "Hello, Ah-mary-ca!"

IN PRAISE OF SENATOR MATHIAS' PRIVACY STANCE

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MOSHER. Mr. Speaker, last month Senator Charles McC. Mathias delivered a speech to the national convention of the American Bar Association. His topic was, "The Fourth Amendment in the Electronic Age."

Those of us who had the privilege of working with Mac Mathias when he was here in the House, and anyone who is familiar with Mac's record—not only as a Member of the House and Senate, but also as attorney general of the State of Maryland—must surely be aware of his commitment to the principles of individual rights and civil liberties.

Senator Mathias' remarks to the ABA underscore his lifelong dedication to the principles embodied in our Bill of Rights and, more importantly, help to remind us all that the battle to preserve and protect our rights to privacy is especially important and, particularly difficult, in this electronic age.

Mr. Speaker, I am privileged to be the coauthor, with Senator Mathias, of the Bill of Rights Procedures Act, cited in the House as H.R. 214. That bill deals with the very real problems of: protecting bank, credit, and other "third party" records from unwarranted snooping by Federal agents, preventing abuse of the "mail cover" surveillance technique, and guarding against invasions of privacy by those who conduct "service monitoring" of telephone lines.

On April 2, the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice approved H.R. 214—in amended form—by a vote of 5 to 0. Unfortunately, the full Judiciary Committee has not yet been able to complete its consideration of the bill.

We especially appreciate the thorough hearings that were held on H.R. 214 by the Kastenmeier subcommittee, and I want to note the great bipartisan support we have had in perfecting the legislation. The subcommittee amendments to our bill have resulted in a successful translation of our statement of principle into a potentially effective piece of legislation.

Senator Mathias and I are very encouraged by the strong support that our proposal has attracted from the banking industry, the news media, labor unions, consumer groups, and statements from the Republican Party. We do expect that the Bill of Rights Procedures Act has a good chance of being enacted during the 95th Congress.

Well, what got me started on this was Senator Mathias' excellent speech to the American Bar Association. I believe this is a document that all citizens should have an opportunity to read and study. Consequently, I am inserting his speech into the Congressional Record at this point:

The Fourth Amendment in the Electronic Age

(By Senator Charles McC. Mathias, Jr.)

In 1817 former President John Adams wrote to a friend who had asked him to recall the genesis of the American Revolution. Age had not dimmed Adams' passion, or his memory of the events that had liberated his country from England. He went straight to the first of the great dramas in our long advance toward libertarianism. Richard Harris, in his New Yorker essay on the fourth amendment, has given us a detailed account of that drama, and those events. Today I'd like to touch the highlights.

"The scene", Adams wrote, "is in the council chamber in the month of February, 1761 . . . in this chamber, round a great fire, were seated five judges, with lieutenant-governor Hutchinson at their head, as chief justice, all arrayed in their new, fresh, rich robes of scarlet English broadcloth; in their large cambric bands, and immense judicial wigs".

John Adams was a young lawyer of 25. He and every other member of the bar of Middlesex County and Boston sat in the chamber that day, also arrayed in the gowns and wigs of English tradition. Adams took notes, and 57 years later resurrected the scene, which echoes today as powerfully as ever, vital in our law and heritage.

At issue were the general warrants called writs of assistance, a legacy of the repressive court of star chamber. The writs authorized officers of the crown to search homes and property for smuggled goods, and to compel any British subject to assist in the search. They did not specify whose property, or what evidence was to be looked for.

The merchants of Boston demanded a hearing. They asked James Otis, Jr. of the Bay Colony to represent them, and offered him a generous fee. Otis accepted the job and declined the fee. "In such a cause", he said, "I despise all fees".

The Revolution had found one of its first heroes, a man usually overlooked in the liturgies of the Bicentennial. Otis resigned as advocate general of the admiralty court, a position with promise of wealth and advancement, and went to work for the Colonists against the writs of assistance.

John Adams never forgot Otis' 5-hour performance that day. According to Adams, Otis wove a spellbinding mix of classical allusion, history, legal precedent, constitutional law, and prophecy. When he was done, opposition to the writs was unalterably set in the minds of the Colonists, and one of the fundamental principles of English common law had been indelibly written in our history.

"I will to my dying day", Otis began, "oppose with all the powers God has given me all such instruments of slavery on the one hand and villainy on the other, as this writ of assistance. It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law that ever was found in an English lawbook. . . ."

A warrant, he said, must designate the place to be searched, the evidence to be looked for, and the person in question. It can be issued only upon a sworn complaint. A general warrant, in Otis' view, was in dead conflict with the British constitution.

"One of the most essential branches of English liberty", he said, "is the freedom of one's house. A man's house is his castle, and whilst he is quiet he is as well guarded as a prince in his castle".

It was America's first defense of the right to privacy; a first glimmer of the notion that a citizen has the right to be let alone.

After Otis' peroration, the colonists followed events in England, where in 1763 a pamphleteer named John Wilkes was arrested and his home ransacked on the authority of a general warrant. Wilkes sued the officer for trespassing, claiming that a general warrant was illegal under the unwritten constitution. The jury found in his favor.

At the same time another incendiary writer, John Entick, was arrested on a warrant that did bear his name but ordered the seizure of all his books and papers, without specifying any particular ones. Entick sued and won. The Government appealed, and the Court of Common Pleas found unanimously in Entwick's favor. "Papers", wrote Lord Camden, "are the owner's goods and chattels: they are his dearest property, and are so far from enduring a seizure that they will hardly bear an inspection". Soon afterwards, the House of Commons declared general warrants illegal.

William Pitt the elder, the Great Prime Minister who was dismissed by George III for his sympathy toward American grievances, put it most eloquently of all: "the poorest man may in his cottage bid defiance to all the force of the crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter, the rain may enter,—but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement!"

In 1791, the Founding Fathers compressed these events and utterances, and the tradition that shaped them, into the succinct injunction of the fourth amendment: "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized".

To procure this right was one of the overriding aims of the American Revolution. It is a right no despotism can accommodate. It is a right no free society can be without.

It is fair, I think, to suppose that Madison and his colleagues were satisfied that they had guaranteed the people from intrusion, search and seizure beyond all doubt. The Bill of Rights was written to clarify. It drew lines around the individual freedoms, intended to be unalterable and plainly visible.

But the Founding Fathers could not foresee the electronic age. They could not foresee telephones, wiretaps, bugging devices, computers and data banks. Technology has cluttered the domain of the constitution. It has confused things. It has made our homes and our private lives accessible, even when our doors are locked and our shades are drawn. It has created a new kind of intrusion: invisible, unannounced, often untraceable.

Unauthorized intrusions have almost always been a temptation to police in search of evidence, and to governments troubled by national security. With the electronic age, the temptations have proliferated. The meaning of privacy has become blurred in many minds, and in the confusion, electronic prying has outrun the restraints of the fourth amendment.

In 1928, the Supreme Court dealt for the first time with wiretapping in Olmstead versus United States. The plaintiffs were bootleggers who had been convicted on the evidence of recorded telephone conversations. They claimed that the use of such evidence violated the fourth and fifth amendments. The Supreme Court upheld the convictions. Chief Justice William Howard Taft wrote the opinion. Wiretapping, he ruled, was not a search and seizure and not an illegal entry, because the tap had been placed outside. Only the spoken word had been seized, and the spoken word was not protected by the fourth amendment.

In spite of Taft, the Olmstead case produced an historic definition of privacy: the famous dissent by Mr. Justice Brandeis. "The makers of our constitution", he wrote, "sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment".

Nonetheless, Taft's unimaginative pronouncement stood for 39 years, until the court decided in Katz versus New York that warrantless wiretapping had to be construed a violation of the fourth amendment. "The fourth amendment", the court ruled, "protects people, not places". One did not have to be at home to be intruded upon.

The Katz decision vindicated Brandeis' 1928 dissent. And I believe the fourth amendment bears no other interpretation. What did the Founding Fathers intend to confer, if not the right to be let alone—the right to speak in private, the right to think in private?

Jefferson once warned that "the natural process of things is for Liberty to yield and Government to gain ground." In our 200-year history, we have resisted that tendency. Armed with the Constitution, we have fought infringements of our liberties, and on balance have squeezed out enough victories to bring civil liberties alive and well to the present day. The courts have stood by our right to privacy in some areas, such as the right to read as one chooses in the privacy of one's home. But the courts have not guarded us as well against intrusion and surveillance—nor has the Congress or the legal profession. And where we have turned our backs. Government has exceeded its rightful powers, almost without fail. Liberty has yielded, and Government has gained ground.

This past year, when it began to emerge that executive power had been used over nearly four decades in routine, secret disregard of the fourth amendment, the Senate finally interceded with the creation of the Select Committee on Intelligence. I was a member of that committee. The revelations that came in more than a year of testimony astounded even the most seasoned members of the committee.

The FBI, as we learned, made hundreds of warrantless, surreptitious break-ins. Bugging devices were installed in offices and bedrooms. Private papers were photographed.

Phones were tapped.

FBI and CIA computers were fed a prodigious diet of names and organizations. Nearly a quarter of a million first-class letters were photographed to compile a CIA computerized index of one and a half million names. Some 300,000 persons were indexed in a CIA computer system; files were collected on about 7,200 Americans and more than a hundred domestic groups in the CIA's operation chaos. Army intelligence kept files on an estimated 100,000 persons. The Internal Revenue Service kept files on more than 11,000 persons and started investigations for reasons of politics, not taxes. More than 26,000 persons were catalogued by the FBI. Whose intention was to imprison them all summarily in the event of a national emergency.

The revelations went on and on, with scarcely a dull moment. We learned that quarrels among black groups had been aggavated with forged letters, inciting violence, marriages were disrupted, again with forged letters.

As James Otis put it, "What a scene does this open." But in 1761, the violations were flagrant, and dressed in the formality of the writs of assistance. Today's intrusions on privacy dispense with all formality. They are soundless, and unseen. No doors are broken down, no papers carried away. Instead of seizure, there is photography and a computerized file. Instead of an ear to the door, there is a bugging device inside the room.

These intrusions were seldom detected and so seldom challenged. Unchallenged, they multiplied. The fourth amendment was being flouted by those whom it was meant to bind and by those who were meant to enforce it; the American people stood by, indifferent or unaware.

The blame belongs many places.

For 25 years, Congress has routinely appropriated funds for intelligence, knowing little about how the money would be used and not troubling to find out. From time to time, we attempted to set mild restrictions that were ignored, and then failed to insist on compliance.

The courts have hesitated to meet the intelligence community head-on. The Supreme Court conceded in 1972 that warrantless electronic surveillance had been permitted by Presidents without "guidance by the Congress or a definitive decision of the courts."

And the legal establishment, the American Bar Association and the State and city bar associations, might have guessed how deep the disease ran, and met every lawyer's obligation to protest. The secrecy spun by Presidents and Government agents was thick but not impenetrable. Now and then a voice was raised, in fear or indignation. These complaints might have been looked into. What the press finally did, we might have done ourselves.

The recommendations of the Select Committee were designed to establish supervision, to check and balance the intelligence agencies as required by the Constitution. We advised, simply, that intelligence-gathering be brought within the bounds of law.

We proposed that there be no electronic surveillance without judicial warrant.

We proposed that no homes be entered, no mail be opened, without a warrant.

The Permanent Oversight Committee, which the Select Committee created when it finished its business, will have sentinel duty. It will alert the Congress and the country, let us hope, the moment the law is violated. For the moment, order and the rule of law have been restored.

But something in America has been dimmed in these decades of official lawbreaking. James Otis understood what it was when he spoke of "the liberty of every man."

It is more than an abstraction. It is more than a syllogism stating that if the liberty of one is taken away, then the liberty of any other can be taken just as easily. The fact is, it can be taken from some much more easily than from others. But wherever one man's liberty is violated, the liberty of every man, the transcendent aim of our law, is diminished.

The Socialist Workers Party, an ardent, possibly naive, undoubtedly peaceful group of Americans, as the FBI has admitted, was spied on and its offices broken into for years. Forged letters were sent to spouses and employers in attempts to wreck marriages and ruin jobs. In those abuses, the liberty of every man was diminished.

The late Martin Luther King, Jr., an apostle of non-violence and integration, was hounded by FBI spies and technicians whose instructions were to "destroy" him. In that crude campaign, the liberty of every man was diminished.

When the FBI concocted letters designed to instigate murder between the Black Panthers and a Chicago street gang, the liberty of every man was diminished as surely as if those agents tampered in your lives, or mine.

And as long as the Government intrudes illegally in the private life of so much as a single ragtag student demonstrator, the liberty of every man will be diminished.

No conscientious lawyer can be indifferent to the scars of these past years, or to the neglect that made them possible.

Today, a new test of the fourth amendment appears to be pending, brought along in the stealthy evolution of the computer.

The computer has become indispensable in commerce, industry, and government. Increasingly, information is shared from computer to computer, covering vast distances in seconds. Law enforcement has become automated; the law enforcement assistance administration, created in 1968, recommended the development of computerized information systems, and the FBI, a year earlier, unveiled its national crime information center, a monster computer in Washington, accessible on the instant to law enforcement agencies all over America.

Business and commerce now hum to computer rhythms. The bank, credit, medical, and business records of almost every one of us are stored away in some electronic memory. Computers do not discard information, unless ordered to. They do not forget it. They amass it, they retain it, they produce it indiscriminately at the touch of a button.

The capacity of men in power to wreck civil liberties and subvert laws was amply demonstrated in the Watergate affair, and by the intelligence community in every administration from Roosevelt to Nixon. Computers have only begun to demonstrate their potential. Men and computers, in collaboration, edge closer and closer to the innermost precincts of our private lives.

Two years ago I introduced the Bill of Rights Procedures Act, which was designed to reinforce the fourth amendment. The bill would require court approval, upon a show of probable cause, before the Government could wiretap, bug, open mail, or dig into telephone, credit, medical, or business records. Court approval would have to be put in writing. Any Federal agent who proceeded to these measures without a court order would be subject to criminal prosecution.

Congress was created for the most part to make law, not enforce it. But where the Constitution is made to seem ambiguous by modern technology, or where it is assailed by Federal agents and overreaching presidents or where the courts are dilatory, then Congress does have the power to intercede. The Bill of Rights Procedures Act would reiterate the fourth amendment and insist by statute that it be enforced.

Over the years, the United States Supreme Court has been a primary guardian of our civil liberties. The court has traditionally exercised vigilance in its decisions defining the scope of the privacy protections afforded under the fourth amendment's prohibitions against unreasonable searches and seizures.

In recent months, however, the Supreme Court has signalled a retreat from its position as the protector against governmental intrusion. In a series of recent decisions—ranging from its ruling in United States against Miller that a citizen's banking records are not his private papers so as to come under the protections of the fourth amendment, to its holding in South Dakota against Opperman, approving sweeping inventory searches of automobiles in police custody, the court has taken a much narrower view of the fourth amendment. In dissent, Justices Marshall and Brennan have leveled unusually harsh criticisms of these recent decisions. As Justice Brennan, joined by Justice Marshall, wrote in dissent in United States against Martinez-Fuerte, that case was "the ninth this term marking the continuing evisceration of fourth amendment protections against unreasonable searches and seizures."

I join in the eloquent dissents of Justices Brennan and Marshall and hope that this trend will be reversed in the coming term of the Court.

Against this background, I believe it is essential that the Congress and State legislatures—who apparently have been lulled into passivity by the dominant role played by the Supreme Court—reevaluate their usual practice of stepping aside to allow the courts to determine the breadth of the privacy safeguards in the Constitution. Even when Congress has had the opportunity to delineate the scope of these protections, it has either failed to do so or specifically left such determinations to the courts. Typical of its abdication to the judiciary are the following:

In the 1968 Omnibus Crime Control and Safe Streets Act, Congress expressly disclaimed reaching a decision regarding the constitutional limitations on the President's power to order wiretaps without judicial warrants;

In the Bank Secrecy Act, Congress authorized surveillance into the bank records of millions of Americans without making clear whether these administrative powers were subject to the prohibitions in the fourth amendment;

In the border search statute, Congress permitted searches of individuals within 100 miles of the border without declaring whether the fourth amendment was applicable to governmental actions of this nature.

The time is at hand when the Congress and its State counterparts must enact legislation to protect the privacy which is essential to our democratic society.

In the advance of computer technology, the words of James Otis bristle once more. The writ of assistance, he said, "Is a power that places the liberty of every man in the hands of every petty officer." To prevent this, our fourth amendment was written. It was written to guarantee the privacy of the home and personal papers, and the right to be let alone. It was written to place the liberty of every man out of the reach of every petty officer, every Federal agent, every Attorney General, and every President, and to lock it securely within the rule of law.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, to stem the loss of badly needed arms and supplies, on September 14, 1776, the Continental Congress resolved that upon the completion of their term of service and before they returned to their homes, continental troops and militia were to return all continental arms and supplies. Pay was to be withheld from those who refused to comply with these new instructions, and each

State was urged to take appropriate actions against those who had already been paid but had failed to return the arms and supplies.

THE BALANCE(S) OF POWER: IV (VI) STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. BRECKINRIDGE. Mr. Speaker, strategic attack assessment capabilities, always of great importance, become even more crucial as national strategic policy shifts toward a limited counterforce stance. For this and other reasons, the North American Air Defense Command—NORAD—is in the process of upgrading its systems for detecting and tracking enemy ICBM's and sea-launched ballistic missiles. While reducing its air defense forces, NORAD will continue to maintain basic capabilities in this field in order to retain an option for full-scale deployment if that becomes necessary in the future.

To continue my discussion of the strategic defensive balance in my series on the "Balance(s) of Power," I wish to insert an assessment made by Edgar Ulsamer, senior editor of Air Force magazine, that presents the case for strategic attack assessment capabilities in terms of the overall U.S. surveillance posture as expressed in an article, "Strategic Warning, Cornerstone of Deterrence," that appeared in the May 1974, issue of Air Force magazine.

The article follows:

STRATEGIC WARNING, CORNERSTONE OF DETERRENCE

(By Edgar Ulsamer)

The North American Air Defense Command (NORAD) and its Air Force component, the Aerospace Defense Command (ADC), are shifting their primary concerns from air to space, and from defense to surveillance, warning, and attack assessment. While the NORAD continues to guard the North American airspace, its Commander in Chief, USAF Gen. Lucius D. Clay, Jr., emphasizes that changes in the potential Soviet threat and in US defense policy have elevated the Command's other mission—that of providing warning and assessment of aerospace attacks—to a position of "obvious primacy."

Referring to recent cuts in the Command's air defense forces (the phasing out of forty-eight Nike-Hercules batteries and the reduction in the US air defense interceptor strength from 486 to 336 aircraft), General Clay, who also serves as Commander in Chief of the Continental Air Defense Command (CONAD) and as ADC Commander, said "NORAD is in the throes of a major realignment. While we have been instructed to retain basic defense capabilities against manned bomber forces, our primary defense mission is surveillance and warning" regarding ballistic missiles.

This new tilt, he said, "is perhaps less glamorous than manned air combat, but it is expensive, complex, sophisticated, and crucial to our ability to deter nuclear war." The drop in air defense forces is balanced out by boosts ICBM warning and surveillance systems, and thereby NORAD's annual budget has stayed at a "reasonably steady level of about $2.7 billion over the past few years. We are now spending more on warning systems, in terms of R&D and procurement, than on manned systems," General Clay told Air Force magazine.

INSTANT, UNAMBIGUOUS WARNING

In the uncertain world of nuclear strategy, where perception may be more decisive than fact, one requirement is certain and central: The need to know with electronic instancy and mathematical precision what a potential aggressor is doing. The tool is real-time warning and surveillance. This requirement becomes acute when the potential adversaries agree to limit their antimissile defenses (ABM) to token levels, as specified by the treaty portion of the SALT I accord. Knowing that the U.S. would be almost instantly aware that it is being attacked, and by whom and in what manner, and that it is, therefore, capable of launching any part of its own strategic forces before they might be damaged or destroyed, will deter any rational aggressor, at least as much as the actual might of the U.S. strategic forces. NORAD's array of interlinked warning systems has clearly demonstrated that "we can give meaningful warning, under all circumstances, to the National Command Authorities in time to take whatever steps are deemed necessary prior to the arrival of the attacking force," according to General Clay.

NORAD relies on four separate but fully interlinked systems to keep track of Soviet missile launches; one of these systems is optimized for the detection of submarine-launched ballistic missiles. The systems augment each other in terms of speed, range, and the type of information that they produce through "multiphenomenology." The latter term denotes that each system looks for different phenomena associated with a missile launch and operates in different ranges of the frequency spectrum. The result is greater reliability of the warning mechanism. Spurious signals that might deceive one system are likely to be filtered out by the others. Also, the enemy's countermeasures are likely to blind or deceive only one or two but not all the U.S. systems. (Recent MIRV testing of Soviet ICBMs can be expected to enhance their ECM capabilities and provide them with options to deploy decoys in the future.)

SATELLITE-BASED EARLY WARNING SYSTEM

The newest and most rapid means for ballistic missile launch detection and warning is NORAD's satellite surveillance system, including Early Warning Satellites and the Surveillance and Warning System.

At this time, it consists of at least three satellites operating in a synchronous orbit. These provide coverage of much of the earth's surface. Improvements of the system are planned and presumably will involve an increase in the number of satellites fully dedicated to the early warning role.

So far as ICBM launches are concerned, the Early Warning Satellite System "can be expected to provide unambiguous warning in the envelope of weapons that we see in the Soviet inventory at present," according to General Clay. The satellite surveillance and warning system operates in the infrared (IR) range and measures the energy content of the plume of a missile's rocket engine.

The surveillance and warning system is capable of detecting nuclear explosions in "all current areas of potential interest," according to Air Force Systems Command spokesmen. While the system, as presently constituted, provides reliable warning against missiles fired from Soviet territory, it does not furnish precise impact assessment.

"We have been trying to get improved capability for impact assessment into the inventory, but the program was dropped by congressional action. The objective was to develop a capability to correlate surveillance information from diverse systems and improve the quality of assessments on the nature and extent of an attack. This would allow the National Command Authorities to determine in advance whether an impending attack is directed against military targets, population centers, or a combination of both," General Clay told Air Force Magazine.

Funds requested for the Attack Assessment System in the FY '74 budget were reduced, however, and associated industrial contracts terminated, he added. In the interim, the Air Force was directed to conduct in-house studies and research on means for developing attack-assessment capabilities, according to General Clay. The need for such a system would appear to be especially pronounced in light of Soviet MIRVing.

The effectiveness of NORAD's surveillance and warning system could be degraded but not negated by the introduction of mobile ICBM systems into the Soviet inventory, according to General Clay. "Right now we know, of course, where the Soviet missile fields are and, as a result, can tell automatically that we are dealing with an ICBM launch because it involves the right spot. A mobile system, on the other hand, would introduce some ambiguity, especially if it were launched from a point close to an international border," he said. (Development of a mobile Soviet ICBM system appears to be in progress according to Defense Secretary James R. Schlesinger's Annual Report.)

Maj. Gen. Otis C. Moore, Commander of the Fourteenth Aerospace Defense Force, ADC, told AIR FORCE Magazine that while the capacity of the satellite warning and surveillance system is "not infinite, it is not limited in a practical sense." The number of individual launches the system can keep track of before it becomes saturated is sufficiently high to indicate that the United States is under full-scale attack, and anything beyond this point becomes, of course, academic, General Moore said.

The surveillance and warning system is optimized to deal with ICBMs, but "has considerable capability regarding SLBM launches. Its coverage is, however, not complete" for information about sea-launched ballistic missiles, according to General Clay. (Also, because of the limited number of satellites used by the system, predictable blind spots occur when the sun, moon, and earth are aligned in a certain way and affect offshore locations likely to be used by enemy submarines. This condition prevails infrequently, but in a practical sense is sufficiently severe to require supplementary coverage by other means.)

Department of Defense spokesmen have disclosed also that "there are certain geographic gaps, esentially in the northern regions, of potential attack that are not covered by the satellites from their synchronous orbits." Other problems, according to DoD, are caused by the sun's rays hitting the tops of clouds, causing a "signal that will look to the satellite as if it were an IR reading from a missile plume."

In terms of the technological state of the art, the Air Force's surveillance and warning system "represents the best that is available. We know of no emerging technique that could do a better or faster job," General Moore told this magazine.

THE SATELLITE SURVIVABILITY QUESTION

"Technically, it is not too difficult to attack a satellite if a nuclear kill mechanism is available for the task. The treaty banning the use of nuclear weapons in space, of course, precludes the legal use of such a system," General Clay said. Explaining that many military satellite systems are in fixed orbits, he pointed out that Soviet space-rendezvous capabilities appear to be sufficiently sophisticated to perform a successful intercept, "although the practical merits of such an attack may well turn out to be highly dubious." Since an attack on the US military satellite systems is likely to be construed—whether intended as such or not—as a precursor of a nuclear attack, such an action would "be extremely risky from the attacker's point of view and signal his punches."

(A surprise attack on satellites in synchronous orbit is difficult to mount since the interceptor, if fired from the ground, requires several hours to reach geosynchronous altitude. It is possible, however, to place spacecraft, with either a nuclear or conventional kill capability in high-altitude orbits and keep them there in a dormant state until they are directed to attack. There is evidence that the Soviets have tested systems employing nonnuclear kill mechanisms successfully.)

Because of the risks inherent in any attack on the US early warning system, it is more likely that attacks on military satellite systems will be directed selectively against nonvital systems outside of the command and control area. "A potential aggressor might go after systems that, once destroyed, would deprive us of capabilities he does not want us to have. In the process, the attacker would produce a low-level crisis, which may serve his political end, yet he would avoid a situation that would be interpreted automatically as a precursor of a nuclear attack on the United States," General Moore said.

(Air Force Secretary John L. McLucas told Air Force Magazine that USAF started development of a nuclear-armed antisatellite system, known as Program 437, on orders from former Defense Secretary Robert S. McNamara almost ten years ago. Theoretically, this capability is still in existence, but is not usable in a practical sense because the US is a signatory of the treaty barring use of nuclear weapons in space.)

General Clay commented that "in a military sense it is always necessary to maintain capabilities that can cope with each element of the enemy's threat."

OVER-THE-HORIZON WARNING SYSTEM

The most effective means for assuring the survivability of the US ICBM warning system is through redundancy. Even in the unlikely event of a successful attack on US satellite warning systems, the nation's warning mechanism would be curtailed only slightly. The reason for this is the Warning System 440L, a forward-scatter, over-the-horizon system that detects missile launches from the northern tier of the Eurasian land mass.

The system relies on signal reflections between the ionosphere and the ground, meaning that signals from the transmitters are bounced back and forth between the ground and the ionosphere until they reach the receiving stations.

The 440L system, General Clay explained, serves a vital augmentation of the other components of NORAD's ICBM warning apparatus. The ionosphere extends to altitudes between ninety and 150 miles, depending on weather conditions.

The 440L system has two weaknesses, according to General Moore: "It provides only an approximation of what is happening, and it can't track. Also, because it depends on both transmitter and receiver sites on foreign territory, it is subjected to the vagaries of international relations. While it is our long-term objective to come up with a system that eliminates these vulnerabilities, we are years away from reaching that goal."

BMEWS: THE MOST PRECISE WARNING SYSTEM

NORAD's oldest ICBM warning system is BMEWS, for Ballistic Missile Early Warning System, which consists of a series of radars covering the northern approaches to the continental U.S. BMEWS provides fifteen to twenty-five minutes of warning of an impending ICBM attack and can predict impact areas through very precise radar tracking. BMEWS is also used to warn of IRBM (intermediate-range ballistic missile) attacks against Great Britain and to keep track of satellites in low orbit. (High-orbit satellites are outside the range of ground-based radars.) The system uses three sites—one in Alaska, another in Greenland, and a third in England.

The BMEWS warning net uses two types of radar—detection radar (DR) and tracking radar (TR). The first is a pulsed system that emits two beams of different but fixed elevation, scanned in azimuth in the manner of fans. The "fans" are arranged one on top of the other so that any penetrating missile has to go through both of them. The tracking radar is a mechanically scanned pulse radar that tracks individual missiles, after they have been detected by the DR fans. BMEWS detection range extends out to distances of 3,000 miles from each site.

BMEWS computers, collocated with the radars, process the sensor signals to establish trajectory information about objects within the system's range and to determine whether or not they are in fact enemy ICBMs. The data-processing system issues warnings to NORAD's Combat Operations Center on the second floor of the hardened Cheyenne Mountain complex in Colorado.

BMEWS dates back to the early 1960s and, according to General Clay, "is still a highly effective system." In order to increase U.S. attack assessment capabilities, the Air Force is, however, exploring means for modifying BMEWS. "We want to be able to get more accurate information about the missiles as they pass through the fans—in the main, by extracting larger data samples. We are examining specific means for achieving this goal," according to General Moore.

SLBM WARNING SYSTEMS

Because they probably will be launched from positions close to the US shoreline and because of their trajectories, SLBMs require a specialized warning system, in addition to the Early Warning Satellite System. For the time being, SLBM warning is provided by seven converted height-finder radars of the FSS-7 type. This system is augmented by a more advanced FPS-49 tracking radar installation in New Jersey and a sophisticated phased-array radar system of the AN/FPS-85 type at Eglin AFB, Fla., the principal mission of which is satellite detection and tracking.

These radars search out sectors of space just above the ocean horizon and can provide trajectory measurements. The warning times this system can provide depend on the location of the launching submarine. This system, in the view of Generals Clay and Moore, is antiquated and should be replaced, an assessment concurred in by Secretary Schlesinger.

In his current Posture Statement, the Defense Secretary has urged development of a "more effective and reliable" SLBM warning radar system. Dr. Schlesinger disclosed that the present SLBM warning system has "limitations against Soviet SLBMs, particularly the new longer-range [4,200 nautical mile] SS-N-8, [because] it does not fully encompass all of the areas from which the SS-N-8 could be launched.

Some time ago, NORAD proposed a new system of phased-array radars to replace the FSS-7s; Congress denied funding in FY '74 for that program. DoD has reinstated this program in the FY '75 budget request by asking for $50 million—of a total estimated cost of $100 million—for acquisition of two phased-array radars, one each for the east and west coasts.

Dr. Schlesinger informed the Congress that a phased-array SLBM system, operating in conjunction with the two satellites of the surveillance and warning system positioned above the Western Hemisphere, "would provide highly credible warning of a Soviet SLBM launch against the US. First warning of such an attack would come from the satellites, and, within a very short interval, which increases with the distance of the launching submarine from our coast, verification of the attack would come from the SLBM phased-array radars."

The radars, Dr. Schlesinger explained, "would not only verify the signals received from the satellites, but would also fill in any gaps that may occur in the satellite coverage as a result of solar reflections."

Phased-array radars differ from conventional systems in that their solid-state systems steer search beams electronically rather than mechanically; they don't use either the familiar moving dish antennas or the large bubble-shaped domes of older systems. The AN/FPS-85 installation at Eglin AFB can track nearly simultaneously about 200 objects over extended ranges. The radar transmitters and receivers are built into the face of a building that is a city block long and thirteen stories high. The more than 5,000 radar transmitters of the AN/FPS-85 are controlled by a computer, and the direction of their scanning beams can be changed in a fraction of a second. Radar-beam steering is accomplished by varying the way energy is fed to the antennas of a phased-array radar ssytem.

General Clay rated deployment of such a system "one of the most pressing NORAD requirements."

NORAD'S SPACE DETECTION AND TRACKING SYSTEM

NORAD's surveillance and warning mission includes the job of detecting, assessing, and keeping track of space satellites. This is the task of the Command's Space Defense Center, which is operated by ADC's Fourteenth Aerospace Defense Force. The Center's computers process information from NORAD's Space Detection and Tracking System (SPADATS), the principal component of which is ADC's Spacetrack System, also operated by the Fourteenth Aerospace Force.

"We attempt to track everything that goes into space and then, through SOI [space object identification], establish the nature and purpose of the object as soon as possible," according to General Moore.

At the time of this writing, SPADATS was tracking 3,137 space objects, including 352 US and 233 Soviet active satellites. Identification is performed by analyzing radar returns from a space object to deduce its size, shape, and type of motion. The information resembles an electrocardiogram and provides precise clues about the object under examination. (During the initial troubles of NASA's Skylab space station, SPADATS rapidly established that a solar panel had failed to deploy.) The system also acts as an air traffic controller in space by predicting conflicting orbits as well as projecting decaying orbits, reentry of space objects into the atmosphere, and forecasts of where they will fall to earch (important because it reduces the chance of false ICBMW-launch alarms).

Spacetrack's radar network is augmented by Baker-Nunn ten-foot-high telescopic cameras, located at five sites, which can photograph light reflected from an object the size of a basketball out to about 20,000 miles in space, a distance well beyond the limits of radar coverage.

In its FY '75 budget request, DoD provides for improved SPADATS capability. Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, told the U.S. Senate, "We are now working on detectors, target discrimination techniques, data processing, and other critical components in both the visual optical and radar portions of the spectrum, with the goal of demonstrating the feasibility of a near-real-time, ground-based capability to detect, track, and identify all objects. We are also developing technology to determine whether a space-based surveillance system would be cost-effective."

WEST'S DOUBLE STANDARD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. McDONALD. Mr. Speaker, the so-called liberal spokesmen who spend a great deal of time complaining about Chile and South Korea as regards lack of democratic rights have not even deigned to take notice of the atrocities being carried on in Southeast Asia since American participation in the conflict ended there. This is particularly true as regards the sickening things taking place in Cambodia. Columnist Allan Brownfeld recently wrote about this "selective morality" in his syndicated column and I include it here for the RECORD as it appeared in the Lima News of August 24, 1976:

WEST'S DOUBLE STANDARD

(By Allan C. Brownfeld)

The United States walked away from Southeast Asia, proclaiming that it had achieved a "peace with honor." The agreement negotiated by President Nixon and Secretary Kissinger with the Viet Cong was totally one-sided on the face of it, even if the other side had kept the bargain, which it was clear that it would not and which it did not.

The U.S. withdrew all of its troops from South Vietnam and granted the North Vietnamese the right to keep all of its troops in place. The collapse of the Saigon government was inevitable. Nixon's fondest hope, that the collapse would come after he was re-elected and not before, came true.

Since the Communist takeover of South Vietnam, Cambodia and Laos, the West has ignored the tales of horror emerging from these countries. Why do we ignore them? Perhaps we feel guilty about the manner in which we delivered these people to their enemies and wish not to be reminded. Perhaps we simply don't care.

Life in Vietnam itself is deteriorating. An Italian journalist, Tiziano Terzani, who spent four years covering the war for Der Spiegel, the West German news magazine, recently visited Saigon and noted that for most people, particularly those in the cities, daily life is worse now than during the war. He writes, "It is worse in terms of food, in terms of commodities, in terms of comfort . . . There are enormous economic problems . . . They are suffering very much from lack of medicine."

Terzani reports that the Vietnamese countryside looks like "a huge construction site," with people everywhere working on bridges, patching the road and rail lines. Laborers perform what is called "socialist work" and were impressed into labor by party officials who moved through the villages with bullhorns.

There are, in addition, many reports of persecution and imprisonment of any who do not fall in line with the new regime. People of an entire social class of perhaps a million people have been dispossessed, stripped of their jobs, their housing and their savings. The only choice for those who have not been imprisoned is to go to the "new economic zones" which have been set up in the countryside.

In Cambodia, the documentation of real horror and mass murder is worse. According to reports from the few who have escaped to neighboring Thailand, between 500,000 and 600,000 people—one tenth of the nation's population—have perished from political reprisals, starvation or disease.

Whole villages have been executed, by bullet, club, suffocation and burial. The victims have included not only supporters of the Lon Nol Government but many other groups—students, teachers and religious leaders. Some were shot simply for objecting to being uprooted from their homes to work in the rice fields. Thousands of others died when the inhabitants of the cities—including infants, the sick and the elderly—were forced to march into the countryside.

The French newspaper Le Monde, which has a center-left political orientation, recently published two detailed articles on Cambodia. Le Monde puts the casualties from the organized slaughter at close to 800,000. One of the slogans about Catholic priests which is being circulated among the Cambodian population is: "There is no benefit in keeping them alive and no loss in making them disappear."

The Le Monde report has been confirmed by another description of the horror in Cambodia by Time magazine. "In recent months," Time notes, "the pogrom has been extended to include anyone with an education, such as school teachers and students. Whole families and sometimes entire villages have been massacred . . . Refugees tell tales of people being clubbed to death to save ammunition. Others have been bound together and buried alive by bulldozers or suffocated by having plastic bags tied over their heads."

The stories are among the most shocking ever recorded in the history of man's inhumanity to man: Khmer Rouge soldiers using dried palm leaves to saw through the flesh and cut the throats of their victims; the mouths of men, women and children being stuffed with grass to prevent them from screaming as throat slitters move down the line like workmen in a slaughterhouse; bands of starving dogs eating the old and sick who had fallen along the road. By direct order of Khieu Samphan, any young Cambodian who went to school was killed because he had enjoyed a privilege which others had not had. Khieu Samphan was himself educated in France.

Where are the voices of protest from the United Nations, which so comfortably and so regularly decries the actions of Israel, South Africa and Rhodesia? Where is Clergy and Laity Concerned, the "peace" group which called for American withdrawal from Vietnam and characterized the Diem government as "brutal" and "dictatorial?" This group has issued no statement about Cambodia. A staff member, Janice Stern, says it is convinced that the stories are false. What of Women's Strike for Peace? When queried, it replied that it was "not into that area any more," yet it has continued to promote posters celebrating the "victories of the Indochinese people."

In an important article in New America, the voice of the Social Democrats of the U.S., Stuart Elliott declares, "One of the most total dictatorships in history has been imposed upon the Cambodians and the evidence of a bloodbath . . . is as substantial and convincing as one could expect under the circumstances. The refusal of the peace groups and American liberals to condemn the terror, or at least to demand that the Cambodians allow an impartial international group to investigate the charges, is a betrayal of moral and political responsibility. The time has surely come to condemn the Gulag Archipelago in Cambodia."

DISPOSAL OF UNOBLIGATED BALANCES FROM TERMINATED INDOCHINA ACCOUNTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues information concerning the status of funds appropriated for economic and development aid to Indochina.

A recent General Accounting Office study prepared for the Special Subcommittee on Investigations of the House International Relations Committee on the status of funds appropriated for economic and food aid to Indochina prior to the collapse of the Thieu and Lon Nol regimes indicated that there was nearly $30 million in deobligated funds for which final disposition was not completed.

Inquiries on this matter to the Agency for Internal Development and Department of Defense show that $25.7 million was scheduled for return to the Defense Department because the obligational authority represented by these funds was provided to AID by the Defense Department in previous years to finance projects for which AID was designated the implementing agent. The remaining $4.2 million was returned to the security supporting assistance account and will be used probably in the Middle East. Congress receives appropriate notification of the uses of funds in the security supporting assistance account although the specific uses of this $4.2 million will be difficult to determine.

Similarly, the funds that were returned to the Department of Defense were credited to general Army and Air Force appropriations accounts for operations and maintenance, and their end uses will be difficult to determine.

Although the circumstances surrounding our departure from Indochina were unique and the records of our assistance programs were complicated by our abrupt exit, the return of some $29.9 million to AID and the Defense Department for uses other than those intended by the Congress should not go unnoticed. Without completely removing all flexibility in funding, Congress should create better and more systematic procedures for finding out about such changes in the use of funds.

There can be no other conclusion than the fact that the fall of Indochina in 1975 gave the bureaucracy a nearly $30 million free ride, even though the end use of these funds may, in fact reflect important congressional priorities.

I enclose for my colleagues a copy of my correspondence with the Defense Department and the Agency for International Development:

APRIL 26, 1976.

Hon. DANIEL PARKER,
Administrator, Agency for International Development, Department of State, Washington, D.C.

DEAR MR. PARKER: The General Accounting Office recently prepared for the Special Subcommittee on Investigations a brief study of the status of funds appropriated for economic and food aid to Indochina.

In its report, the GAO said that as of January 16, 1976 your Agency had identified about $112 million as unobligated balances from terminated Indochina programs and that $83 million was being held for obligation adjustments or for return to the Treasury the end of the current fiscal year. The report went on to say:

"Disposition of the other $29 million . . . had not been completed . . . However, the Agency had earmarked part of the funds for return to the Department of Defense and the remainder for reprogramming in Agency Middle East programs."

I would like to know how much of these funds will be returned to the Defense Department, under what authority and for what specific purposes. I would also like to know to what countries other funds are being reprogrammed, in what amounts and for what purposes.

Two other questions are raised by this report which I would like to address. First, can the Agency furnish Congress with a plan for closing out all Indochina activities and can the Agency tell us precisely how long this process will take? Second, can the Agency tell us how and when the U.S. share of Cambodian Exchange Support Fund assets will be retrieved and returned to the Treasury?

I would appreciate your consideration of the matters mentioned in this letter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF STATE, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., May 29, 1976.

Hon. LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter dated April 26 in which you requested information concerning the status appropriated for economic and food aid to Indochina.

Of the $29,380,000 in deobligated funds referred to in the GAO Report for which final disposition was not completed, $25,180,000 is scheduled for return to the Department of Defense. The obligational authority represented by these funds was provided to AID by DOD over the period FY '67–FY '74 to finance certain projects for which AID was designated the implementing agent. With the demise of Indochina the projects were terminated. Inasmuch as the funds were provided through DOD appropriation accounts, they are not available to AID to reprogram for foreign assistance activities.

The AID controller is now processing a voucher to return the obligational authority to DOD. In addition to this amount, other DOD funds will be deobligated as appropriate and returned to DOD. As of March 31, 1976, for example $7,395,000 in DOD funds still remain unliquidated in terminating AID contracts. AID is negotiating settlement with contractors and as DOD-funded contracts are closed out, all surplus funds will be returned to DOD.

Of the $4,200,000 deobligated funds remaining, $4,021,000 was in the supporting assistance appropriation account. Like other Indochina SA funds, these will be reprogrammed in the Agency's worldwide SA account with appropriate congressional notification. An additional $146,000 is the Title X, population account, $31,000 in narcotics, and $2,000 in administrative expenses which will be reprogrammed in the operating expenses account.

The specific projects for which these particular funds will be reobligated are not necessarily identifiable, since all recoveries count rather than a part of specific projects. become a part of a specific appropriation ac- Pursuant to the Foreign Assistance Appropriations Act, the House and Senate Appropriations Committees are notified prior to reobligation of all prior year grant recoveries.

With regard to your second question on our plans for closing out Indochina activities, pursuant to Section 4(B)(3) of the Indochina Migration and Refugee Assistance Act of 1975, AID is providing quarterly reports to Congress on this subject. As of February 27, 1976. 130 claims totaling $11.9 million have been received from a total of 141 contractors whose contracts were cancelled at the termination of AID programs in Vietnam and Cambodia. We are actively engaged in the orderly termination of all contracts, grants, and procurement actions associated with the Indochina program as quickly as possible. Because of the large number of U.S. suppliers who must be given an opportunity to recover monies due them and the fact that under U.S. government regulations, a supplier may delay action up to a year or more, it is not possible at this time to establish an accurate date for termination of all activities.

The closing procedures for these contracts involve review and approval of a number of documents whose facts require verification. Obviously this is an extremely difficult task given the nature of our programs in Indochina and the extant circumstances surrounding the termination of these programs. It is not possible, therefore, to predict with any accuracy the time required to complete all negotiations with regards to these contractors.

With regard to your final question on the Cambodian Exchange Support Fund (ESF), we are making every effort to resolve this matter. The ESF which was created in 1972 by a government decree and extended annually by a note from the Government of Khmer Republic formally expired on December 31, 1975.

Contributions to the fund were made pursuant to an Agreement between the U.S. and the Government of the Khmer Republic. The Agreement provided for its termination upon expiration of the ESF and, upon termination, for the remaining assets to be divided among all contributing governments in proportion to their actual contribution.

On January 6, 1976, AID wrote to the Irving Trust Company, the sole depository of the U.S. contributions to the ESF, requesting release of $1,404,805.71 which represented the U.S. equity remaining in the ESF, as determined by a draft audit report conducted by Price Waterhouse and Company. AID further requested that these funds be transferred to an interest bearing account pending their distribution. Irving Trust Company formally responded on April 15, 1976 stating that it was unable to comply with AID's request for a release of the U.S. funds. It stated that assets held for the account of the ESF should be distributed only upon receipt of satisfactory evidence of the concurrence of each member of the Working Group. The bank did, however, agree to transfer the funds to an interest bearing account, and this was established on March 22, 1976.

The Working Group was composed of representatives of each of the contributing governments and the Governmet of the Khmer Republic. It provided policy and operational guidance in managing the ESF. Concurrence of the Working Group as required by Irving Trust Company includes concurrence of the Cambodian Government.

As we do not have diplomatic relations with the Cambodian Government, the prospect of obtaining a release of the U.S. share in the ESF in the near future is limited unless the bank were to change its position. We are currently exploring alternative positions together with the Departments of State and Treasury in order to once again approach Irving Trust Company on the release other options are open to the United States of these funds. If Irving Trust Company remains unwilling to release these funds in its ESF account without full concurrence of the Working Group, we will consider what at that time. It should be noted that since the ESF accounts are frozen under the Foreign Assets Control Regulations of the Department of Treasury, any disposition of funds in these accounts will require a license from that Department. We will advise the Subcommittee of the eventual resolution of this matter.

If I can provide you with further information, please let me know.

Sincerely yours,

DANIEL PARKER.

JUNE 7, 1976.

Hon. DONALD H. RUMSFELD,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: The General Accounting Office recently prepared for the Special Subcommittee on Investigations a brief study of the funds appropriated for economic and food aid to Indochina.

It is my understanding that about $25.18 million in unobligated balances were returned by AID to the Department of Defense. These were funds originally provided through DOD appropriations accounts.

I would like to know to which accounts these funds were returned, for what purposes they are being used, and what transfer authority existed to enable this use. If these funds remain unobligated, I would like to have notification of their end use.

I appreciate your attention to this matter.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF THE ARMY, OFFICE OF THE COMPTROLLER OF THE ARMY,
Washington, D.C., June 30, 1976.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, D.C.

DEAR MR. HAMILTON: This responds to your inquiry of 7 June 1976 regarding the return of unobligated balances to the Department of Defense (DOD) by the Agency for International Development (AID).

AID returned $26.78 million to the Department of Defense rather than the amount of $25.18 million cited in your letter. This amount represents unallotted/unobligated balances resulting from cancellations of prior obligations due to the termination of the Vietnam program. The refund distribution by department is as follows:

DA $26.52 million (OMA) accounts—
FY 73 and prior $25.95 million.
FY 74, $0.57 million.
DAF $0.26 million (OMA acounts)—
FY 74, $0.26 million.

These refunds will be credited to the appropriation accounts from which advanced, e.g., refunds for FY 73 and prior will be credited to the merged OMA (21M2020) account and refunds for Army FY 74 will be credited to the OMA (2142020) account. The Air Force FY 74 refunds will be credited to the O&M, AF (5743400) account.

Prior year unobligated funds in an annual appropriation cannot be reobligated to meet subsequent year requirements, but they can be used to cover increase obligation adjustments to the respective accounts as they occur. As of 30 September 1976, any unspent balances in the FY 74 O&M accounts will lapse to the U.S. Treasury.

DA and DAF advanced funds to AID in accordance with a DOD/AID agreement to provide funds for supporting assistance such as road building and medical support. AID returned the unused funds via a check-issue basis to the respective DOD Departments. This transaction constituted an advance of funds rather than a transfer of funds, per se, therefore, no transfer authority was required.

There seems little likelihood that these funds will be used by DOD.

I trust this information will be of assistance.

Sincerely,

R. L. WEST,
Major General, GS, Director of Army Budget.

CONGRESS OF THE UNITED STATES, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, D.C., July 20, 1976.

Maj. Gen. R. L. WEST,
Director of Army Budget, Office of the Comptroller of the Army, Department of the Army, Washington, D.C.

DEAR GENERAL WEST: I appreciated your reply of June 30, 1976 to my letter of June

7th to Secretary Rumsfeld concerning unobligated Indochina program balances returned to the Department of Defense by the Agency for International Development.

Your letter raises some additional questions:

First, you state that: "Prior year unobligated funds in an annual appropriation cannot be reobligated to meet subsequent year requirements, but they can be used to cover increased obligation adjustments to the respective accounts as they occur."

I would like to know precisely what this statement means.

Second, I would like to know which specific OMA and O&M, AF accounts were credited, whether any of the returned funds were used to cover what you term are "increase obligation adjustments" and if so, how much is being used for these purposes and is Congress notified of such uses.

Third, I would like to know whether any funds of FY 1973 and prior years accounts have been returned to the U.S. Treasury. After September 30 of this year, I would like to know whether any of the FY 1974 funds were similarly returned.

I appreciate your consideration of these additional queries.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF THE ARMY, OFFICE OF THE COMPTROLLER GENERAL OF THE ARMY,
Washington, D.C., September 2, 1976.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, D.C.

DEAR MR. HAMILTON: This responds to your follow-up inquiry of 20 July 1976 regarding the return of unobligated balances to the Department of Defense (DOD) by the Agency for International Development (AID).

In response to your first question, the following explanation is provided:

The Operation and Maintenance, Army (OMA) account is a single-year appropriation that provides funds for the operation and maintenance of all organizational equipment and facilities of the Army. A high percentage of the dollar resources available to pay the day-to-day costs of installation operations is contained in this appropriation. Authority to obligate these funds expires on the last day of each fiscal year. At the end of the fiscal year, an account is established by all operating agencies for each single-year appropriation which has expired for obligation purposes. The available funds in these appropriation accounts will be used for adjusting obligations as the result of liquidating actions and cannot be used for the incurring of new obligations.

In response to your second question, the following explanation is provided:

Army OMA accounts credited were:

21M2020, $25.95 million.

2142020, $0.57 million.

Air Force OMA account credited was:

5743400, $0.26 million.

Army funds credited to the merged (21M2020) appropriation have lost their identity as to year of appropriation. These funds are available to cover increased obligation adjustments. It is impossible to positively state that any of these funds have been used to date to cover increased obligation adjustments; however, it can be said that if one assumed a first-in, first-out method of accounting for merged funds, then none of these funds have been used to cover prior year program restoration costs.

Congress is not specifically notified of the uses of these funds, but Services report monthly via departmental reports to OSD, OMB and US Treasury on the status of all appropriation accounts.

In response to your third question, the following explanation is provided:

FY 1975 and prior funds have been returned to the US Treasury in accordance with the provisions of 31 U.S.C. 701.

It can be anticipated that FY 1974 funds will be returned to the U.S. Treasury on 30 September 1976, but not later than 15 November 1976.

I trust this information will be of assistance.

Sincerely,

R. L. WEST,
Major General, GS, Director of the Budget.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House on rollcalls Nos. 710 and 711.

Had I been present for these votes, I would have voted aye on H.R. 8603, approving the conference report on the Postal Reorganization Act, and aye on S. 327, approving the conference report on the Land and Water Conservation Fund.

SAINT ELIZABETH SETON

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. RODINO. Mr. Speaker, today marks a very special anniversary, for it was exactly 1 year ago that Pope Paul VI elevated Mother Elizabeth Seton to sainthood.

We can experience renewed pride in that historic occasion when the first native-born American was canonized. It is also a very fitting time to pay tribute again to Saint Elizabeth Seton's magnificent contributions to our society in educational, health, charitable, and religious activities. Her contributions can serve as an inspiration and incentive to us, as we seek ways to help the poor and disadvantaged of our Nation, and I believe her dedicated ideals of service and love can guide us wisely in this difficult and complex undertaking.

WRONG PAY TILT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. FINDLEY. Mr. Speaker, while the goal of the Federal Pay Camparability Act is clear to me, I must take exception to the recommendation of the "Federal pay agents" that the suggested average salary increase of 4.83 percent be weighted so that higher grades receive as much as 7.92 percent while those in the lower grades receive less than 4.83 percent. It strikes me as neither appropriate nor fair. If weighting is used, it should be the reverse of that recommended.

Equity dictates that every Federal employee receive the same percentage increase. Inflation has affected not just those civil service grade classifications of GS–11 or above. In fact, higher grade employees reap many more dollars in spendable income through an across-the-board salary increase because their base is higher. To compound that windfall by giving them a higher percentage increase than those Government employees below GS–11 would be the height of perversity.

I can well understand the outrage of every Federal employee who finds that while the higher echelons will receive as much as a 7.92 percent increase, he or she must be content with an increase of 4.83 percent or less. The acrimony which will be bred by such inequity is neither necessary nor helpful to the spirit of cooperation essential to the smooth functioning of Government.

Inflation is the cruelest tax of all and the proposal you have before you is inflationary. Thanks to your determined leadership we are emerging from the recession that has plagued us. I hope you will continue your prudent and fair fiscal policy. I urge you to reject the recommendation of the "Federal pay agents" that gives special benefits to higher salaried Government employees.

END FISCAL NEGLECT

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1976

Mr. MOORE. Mr. Speaker, the message conveyed by our colleague from California (Mr. ROUSSELOT) in his introduction of a balanced budget alternative to the second concurrent resolution on the budget is one that merits thorough study by Congress. A balanced budget cannot be achieved overnight and care must be given so that necessary programs are continued. At the same time, Federal spending must be brought more in line with the amount of tax revenues received by the Treasury. The importance of this move toward fiscal responsibility was expressed in my views on the first concurrent resolution on the budget found in the CONGRESSIONAL RECORD of May 11, 1976, on page 13462.

Since then, our taxpayers have witnessed the end of a fiscal year that cost them $35.5 billion just to pay the interest on the Federal debt during the preceding 12 months. In view of this continued expense to the taxpayer, I believe it is high time Congress took hard and fast steps toward a balanced budget in order to avoid the same financial disorder that faces Britain today.